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federal register

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TAMPA, FLORIDA, WORKSHOP

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FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

WHAT: Free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 23, 1978, at 2:00 p.m.

WHERE: University of South Florida Tampa Campus, 4202 Fowler Avenue, College of Education Building, Room 302.

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H.R. 8112..... Pub. L. 95–378
To repeal chapter 27 of title 44, United States Code. (Sep. 22, 1978; 92 Stat. 723) Price: $.50
H.R. 12915 ..... Pub. L. 95–379
To amend section 2301 of title 44, relating to the National Archives Trust Fund Board. (Sep. 22, 1978; 92 Stat. 724) Price: $.50.
H.R. 13087 ..... Pub. L. 95–380
To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require. (Sep. 22, 1978; 92 Stat. 725) Price: $.50
S. 2928..... Pub. L. 95–381
To authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes. (Sep. 22, 1978; Stat. 726) Price: $.50
H.R. 9471 .....Pub. L. 95–382
To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps. (Sep. 22, 1978; 92 Stat. 727) Price: $.50
S. 3107.....Pub. L. 95–383
To amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy. (Sep. 22, 1978; 92 Stat. 729) Price: $.50

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HUD—Community Development Block Grant Program; environmental review procedures; comments by 10–19–78 ..... 42220; 9–19–78

Applications Deadlines:
HEW/HRA—Health Professions Financial Distress Grants; applications postmarked no later than 11–3–78 .... 42788; 9–21–78

Meetings:
HEW/NIH—Cancer Control Grant Review Committee; review discussion and evaluation of individual grant applications, Bethesda, Md. (partially open) 10–30 and 10–31–78 ..... 42788; 9–21–78
NSF—Physics Advisory Committee, Review of Nuclear Science Subcommittee, Washington, D.C. (closed), 10–5 through 10–7–78 ..... 42049; 9–19–78

Other Items of Interest:
NSF—Awards for analysis of science resources: personnel, funding, impacts, and outputs 42049; 9–19–78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410–02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Tokay Grape Regulation 14, Amendment 1]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Extension of Effective Period for Regulation of Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through November 30, 1978, the currently effective minimum grade and container marking requirements for Tokay grapes. These requirements are necessary to insure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: This regulation is issued under the provisions of the marketing agreement and Order No. 926 (7 CFR Part 926) which regulates the handling of Tokay grapes grown in San Joaquin County, Calif., and is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674).

On August 28, 1978, a notice was published in the FEDERAL REGISTER (43 FR 38412) that the Department was considering amendment of § 926.315, Tokay grape regulation 14 (43 FR 35259), to continue the effective date of the regulation through November 30, 1978. The notice provided interested persons the opportunity to submit written comments relative to the proposal until September 16, 1978. None was received.

Under the regulation, which is a minimum standard, Tokay grapes must meet the grade and size specifications of U.S. No. 1 table grapes and at least 30 percent of the berries in the lower 25 percent of each bunch shall show characteristic color; and each container must bear a Federal-State inspection service lot stamp number.

After consideration of all relevant matter presented, including that contained in the notice and other available information, it is hereby found that extension of the effective period of § 926.315, Tokay grape regulation 14, as hereinafter set forth, will tend to effectuate the declared policy of the act and be in the public interest.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that; (1) shipments of Tokay grapes are currently in progress and to effectuate the declared policy of the act, the regulation currently in effect should be extended without interruption for the remainder of the season; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; and (3) compliance with the regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof.

Therefore, the provisions of § 926.315(a) of Tokay grape regulation 14 are hereby amended to read as follows:

§ 926.315 Tokay Grape Regulation 14.

(a) During the period August 10, 1978, through November 30, 1978, no handler shall ship:

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 22, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78–27218 Filed 9–26–78; 8:45 am]

[3410–02]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978–79 fiscal period, to be collected from handlers to support activities of the Texas Valley Citrus Committee which locally administers the Federal marketing order covering oranges and grapefruit grown in Texas.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

§ 906.218 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1978, through July 31, 1979, will amount to $988,200.

(b) The rate of assessment for said period payable by each handler in accordance with § 906.34 is fixed at

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$0.045 per 7/10-bushel carton of oranges and grapefruit.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal period ended July 31, 1978, shall be carried over as a reserve in accordance with § 906.35.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of asessment for a particular fiscal period shall apply to all assessable oranges and grapefruit handled from the beginning of such period which began August 1, 1978. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: September 21, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27108 Filed 9-26-78; 8:45 am]

[3410-02]

PART 932—OLIVES GROWN IN CALIFORNIA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and the rate of assessment for the 1978-79 fiscal year for the functioning of the Olive Administrative Committee which locally administers a Federal marketing order regulating the handling of olives grown in California. The regulation enables the committee to collect assessments from olive handlers and use the funds for its expenses.

DATES: Effective September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and order No. 932, effective under the Agricultural Marketing Agreement Act of 1937, as amended, a notice of proposed rulemaking was published on August 30, 1978, in the FEDERAL REGISTER (43 FR 38706) regarding proposed expenses of $1,170,000 and rate of assessment of $15 per ton of olives handled. This notice allowed interested persons to submit written comments pertaining to the proposal until September 15, 1978.

An exception to the proposed amount of expenses and assessment rate was filed by Lindsay Olive Growers on the basis that its pro rata share of such expenses, together with inspection costs and that organization's own brand advertising program, would impose a substantial financial burden on the organization's financial resources in the current fiscal year. The exception asked that consideration be given to the establishment of an amount of expenses which could be supported by a $10 per ton assessment rate. The exception was carefully and fully considered. The proposed expenses and rate of assessment contained in the notice were recommended by the Olive Administrative Committee after opportunity for full discussion thereof at an open meeting. A lesser amount of expenses and assessment rate were considered at the meeting and rejected. Appropriate justification was submitted by the committee in support of its recommendation. No such justification was submitted in support of a lesser amount of expenses and a lesser assessment rate. The proposed expenses and rate of assessment would affect all olive handlers in a like manner, and the benefits derived therefrom would be equally available to all such handlers. The exception is therefore denied.

After consideration of all relevant matter presented, including that in the notice, the written comments submitted on the proposal and the information and recommendations submitted by the Olive Administration Committee, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

Therefore, a new section is added which reads as follows:

§ 932.213 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1978, through August 31, 1979, will amount to $1,170,000.

(b) *Rate of assessment.* The rate of assessment for that period, payable by each first handler in accordance with § 932.39, is fixed at $15 per ton of olives.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the marketing order require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable olives from the beginning of that year; and (2) the current fiscal year began on September 1, 1978, and the rate of assessment herein fixed will automatically apply to all assessable olives beginning with that date.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: September 21, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27109 Filed 9-26-78; 8:45 am]

[6355-01]

Title 16—Commerical Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Amendment to Standard Clarifying Definitions, Description of Test Apparatus and Test Procedures

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendment to rule.

SUMMARY: In this document, the Commission amends the safety standard for architectural glazing materials to clarify the definition of one type of "glazed panel" which is subject to the standard, and to modify the description of certain items of test apparatus and certain test procedures specified by the standard in order to clarify those descriptions and procedures. The proposed change to the accelerated environmental testing to increase the period of exposure in the xenon arc Weather-Ometer is not being issued at this time in order to await results of interlaboratory testing on the appropriate exposure period.

DATES: The amendments issued below shall become effective on October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen F. Brauninger, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6629.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1977 (42 FR 1427), the Consumer Product Safety Commission issued the safety standard for architectural glazing materials (16 CFR part 1201) with an effective date of July 6, 1977. This standard was issued under provisions of the Consumer Product Safety Act to reduce or eliminate risks of injuries associated with walking, running, or falling through or against glazing materials in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors.

The standard prescribes safety requirements for glazing materials manufactured on or after July 6, 1977, for use in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors. The standard also requires that the architectural products enumerated above which are manufactured on or after July 6, 1977, must be constructed or assembled using glazing materials that meet the requirements of the standard.

In the FEDERAL REGISTER of June 20, 1977 (42 FR 31164), the Commission amended the standard to exempt from its requirements any architectural product which would otherwise be subject to the standard if that product is manufactured between July 6, 1977, and July 5, 1978, using glazing materials manufactured before July 6, 1977, which are marked or certified to comply with ANSI standard Z97.1-1972 or -1975, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," published by American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

The standard issued by the Commission is designed to reduce or eliminate unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in the products enumerated above either will not break when impacted with a certain energy, or will break so that they are less likely than other glazing materials to present the unreasonable risks of injury detailed above.

To determine the breakage characteristics of glazing materials used or intended for use in the products which are subject to the standard, an impact test is prescribed by the standard. The impact test consists of striking the glazing material to be tested with a punching bag filled with lead shot by dropping the bag from a height of 18 or 48 inches, depending on the architectural products in which the glazing material is used.

The standard also prescribes accelerated environmental durability tests for laminated glass, organic-coated glass, and plastics which are subject to the standard to demonstrate that those glazing materials will withstand exposure to sunlight, heat, water, and other factors which, over an extended period of time, may affect their breakage characteristics.

Additionally, the standard lists and defines the architectural products incorporating glazing materials which are subject to and must comply with the standard.

In the FEDERAL REGISTER of October 3, 1977 (42 FR 53798), the Commission proposed amendments to the standard to clarify the definition of one type of "glazed panel" which is subject to the standard. The notice of October 3, 1977, also proposed amendments to modify the description of certain items of test equipment and certain test procedures prescribed by the standard. Written comments on the proposed amendments were solicited for a period of 30 days.

In response to the amendments proposed on October 3, 1977, comments were received from two manufacturers of glazing materials, two suppliers of chemicals to manufacturers of plastic glazing materials, and the Safety Glazing Certification Council (SGCC).

The issues raised by these comments, and the response of the Commission follows below.

GLAZED PANELS

Among the risks of injury which the standard is intended to reduce or eliminate are those which may result when a person walks or runs into glazing material which is mistaken for open space rather than solid matter.

To address this risk of injury, the products which are subject to the standard include any piece of glazing material in a nonresidential building which has its bottom edge within 18 inches of a floor or walking surface; an exposed surface greater than nine square feet; and walking surfaces on both sides of the glazing material. This type of "glazed panel" is described and defined in § 1201.2(a)(10)(iii).

As issued on January 6, 1977, § 1201.2(a)(10)(iii) describes the location of the walking surfaces with relation to the glazing material in the following language:

> There are walking surfaces on both sides, either of which is within 36 inches (92 centimeters) of such panel * * *.

Thus, the language of the standard which defines this type of glazed panel states that if walking surfaces are present on both sides of a piece of glazing material in a nonresidential building, and one of those walking surfaces is within 36 inches of the glazing material, the glazing material is subject to the standard no matter how far away from the glazing material the other walking surface may be located, if all other conditions described in § 1201.2(a)(10)(iii) are present.

The purpose of the amendment proposed on October 3, 1977, was to limit the applicability of the standard to pieces of glazing material with walking surfaces on both sides to those instances where each of the walking surfaces is located within 36 inches of the glazing material and all other conditions described in § 1201.2(a)(10)(iii) are present. In proposing the amendment, the Commission expressed the belief that the present language of § 1201.2(a)(10)(iii) may include some glazed panels which do not present an unreasonable risk of injury because one of the two walking surfaces is sufficiently far away from the glazing material to prevent the misperception of the glazing material as open space.

A comment from a manufacturer of glazing materials favors the proposed change to this definition of "glazed panel," but suggests the addition of language which would further restrict applicability of the standard to those pieces of glazing material which have walking surfaces "intended for public use" on both sides of the glazing material. This comment states that the additional language would clearly state that pieces of glazing material located near floors and walking surfaces intended solely for the use of the owner, occupant, or employees of the owner or occupant of a nonresidential building are not subject to the requirements of the standard.

The Commission observes that the term "walking surface" is not defined in the standard as it was issued on January 6, 1977, nor in the proposed amendment published on October 3, 1977. The Commission has received several inquiries about the meaning of the term "walking surface," and agrees that some clarification of that term is needed.

However the Commission believes that the additional language suggested in this comment may exclude some areas which should be "walking surfaces" for purposes of the definition of glazed panel which is the subject of the proposed amendment.

The comment under consideration would revise the proposed amendment by limiting the term "walking surface" to those areas which are used by the public, as distinguished from those areas which are used exclusively by the owner, occupant, or employees of the owner or occupant of a nonresidential building.

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As stated above, the risks of injury which § 1201.2(a)(10)(iii) is intended to reduce or eliminate are those which may result from the misperception of glazing material as open space rather than solid matter because walking surfaces are present on both sides of the glazing material. Whether the walking surfaces are used by the general public, or exclusively by the owner, occupant, or employees of the owner or occupant of the building is not likely to affect the misperception of glazing material as open space. Rather, it is the perception of the walking surface as a place which is obviously intended and prepared to accommodate pedestrian traffic that contributes to the risks of injury associated with pieces of glazing material having walking surfaces on both sides. In the process of attempting to cross from one walking surface to another, many persons seemingly have been unable to recognize the glazing material as solid matter, with serious injuries occuring when the glazing material is broken by human impact.

After consideration of this comment, the Commission concludes that § 1201.2(a)(10)(iii) should be amended so that the standard is applicable to pieces of glazing material in nonresidential buildings which have walking surfaces on both sides when both of the walking surfaces are within 36 inches of the glazing material and all conditions described in that section are present. In response to the request in this comment for clarification of the term "walking surface," the Commission has added language to the amendment issued below stating that the term "walking surface" includes any floor, sidewalk, pathway or similar surface which has been paved or prepared to accommodate pedestrian traffic.

The view is expressed in the comment under consideration that glazing materials located near walking surfaces not intended for public use should not be subject to the standard. The Commission observes that § 1201.1(b) of the standard limits the applicability of the standard to the glazing materials and products incorporating glazing materials listed in § 1201.1(a) of the standard, when those materials or products are produced or distributed "for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, in recreational, school, public, or other buildings or parts thereof." The terms "residential building," "recreational building," "school building," and "public building" are defined in § 1201.2(a) of the standard. The term "other buildings or parts thereof" is also defined in § 1201.2(a)(19) and includes any building other than a residential, recreational, school, or public building "in which all or part of the building is open to the public with or without specific invitation." Thus, if glazing materials are used in a building which does not fall within any of the types of buildings described in § 1201.1(b), as defined in § 1201.2(a), the glazing material is not subject to the standard.

The Commission believes that existing §§ 1201.1(b) and 1201.2(a) preclude the applicability of the standard to glazing materials in nonresidential buildings which are used exclusively by the owners, occupants, or employees of the owners or occupants of those buildings. For this reason, the Commission declines to add the specific language to modify the term "walking surface" requested in this comment.

Test Frame

As stated above, the standard prescribes an impact test in which a specimen of glazing material is struck by an impactor to determine whether it will break, and if so, if its breakage characteristics are acceptable. The glazing material to be tested is clamped inside a subframe which is held in position by an upright steel frame. This equipment is illustrated in figures 1, 2, 3, 4, and 5 of the standard, and is described in § 1201.4(b).

As issued on January 6, 1977, § 1201.4(b)(1)(iii) states: "The subframe * * * shall be reinforced at each corner." The illustration of the subframe in figure 4 of the standard depicts a subframe whose members are not reinforced at each corner.

To improve the clarity of § 1201.4(b)(1)(iii) and its consistency with figure 4, the Commission proposed to amend that section to state that the "inner subframe * * * shall be reinforced at each corner."

No comment was received on the proposed amendment of § 1201.4(b)(1)(iii). Consequently, the Commission issues the amendment of that section, below, as proposed on October 3, 1977.

As described in § 1201.4(b)(1) and illustrated in figure 3, the subframe is constructed with neoprene strips at all points where the test specimen contacts the subframe. Figure 3 states that the neoprene strips shall have a shore A, durometer hardness ranging from 30 to 45.

At the suggestion of a manufacturer of glazing materials, the Commission proposed to amend the standard by revising figure 3 to specify neoprene of a shore A durometer hardness of 30 to 50 in the amendments proposed on October 3, 1977. No comment was received on the proposed revision of figure 3. In the amendments issued below, figure 3 has been revised as proposed on October 3, 1977.

Comments from one manufacturer of glazing materials and SGCC request amendment of the standard to allow use of the test frame described in "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," issued by American National Standards Institute, ANSI standard Z97.1 These comments state that many manufacturers of glazing materials and testing laboratories have test equipment designed in accordance with ANSI standard Z97.1, and urge the Commission to modify § 1201.4 of the standard so that this existing equipment may be used by those manufacturers and laboratories without modification.

The Commission's purpose in proposing amendments to § 1201.4 of the standard on October 3, 1977, was to modify the description of the equipment and procedure used by the Commission's laboratory to determine if glazing materials meet the requirements of the standard.

The comments under consideration are concerned primarily with the testing which must be performed by manufacturers to assure that their products meet the requirements of the standard. For that reason, these comments go beyond the scope of the proposed amendment to the standard. Accordingly, the Commission declines to make the changes suggested in these comments.

Section 14(a) of the Consumer Product Safety Act requires the manufacturer of a consumer product which is subject to a consumer product safety standard to issue a certificate that the product complies with all applicable standards, and to base that certificate on either a test of each product, or on a "reasonable testing program."

In the FEDERAL REGISTER of December 16, 1977 (42 FR 63588), the Commission proposed regulations to establish requirements for a reasonable testing program to support certification of compliance with the standard for architectural glazing materials. The proposed regulations contain provisions to allow the use of some items of test apparatus and some procedures other than those prescribed by the standard in manufacturers' testing programs for purposes of certifying compliance with the standard. See proposed §§ 1201.32(a)(7), 1201.33(c)(2)(iv), 1201.33(d), and 1201.33(e)(1) at 42 FR 63593-63596. The Commission will consider these comments requiring modification of the equipment to be used to perform the impact test as part of the record of the proposed certification regulations.

The same comments also urge amendment of the standard to modify the tolerance for compression of the neoprene strips of the subframe which appears in § 1201.4(b)(1) and in figure 3. For the reasons set forth above, the Commission declines to modify the specifications for the neoprene strips set forth in the standard, but will consider whether a different tolerance should be allowed for the neoprene in the apparatus used by manufacturers for testing to support certificates of compliance with the standard.

Impactor

As stated above, the impact test is performed by striking the test specimen with a leather bag which has been filled with lead shot and covered with tape. The impactor is dropped from a height of either 18 or 48 inches (depending on the intended use of the glazing material) in order to subject the test specimen to an energy of either 150 or 400 foot-pounds.

As issued on January 6, 1977, § 1201.4(b) (2)(i) of the standard states:

> The impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with 7½ chilled lead shot to a total weight of completed assembly before taping, as shown in figure 5, of 100 pounds ±4 ounces (45.36±0.11 kilograms). [Emphasis added.]

Because the purpose of the test apparatus and procedure is to generate an energy of 150 or 400 foot pounds, the description of the impactor in § 1201.4(b)(2)(i) is slightly inaccurate in that it states that the punching bag shall weigh 100 pounds after it has been filled with lead shot but before it is taped. To correct this inaccuracy, the Commission proposed to amend this section to provide that the impactor shall weigh 100 pounds ±4 ounces after taping.

A comment from SGCC favors the proposed amendment, but suggests further revision of § 1201.4(b)(2)(i) to provide that any lifting or release bridle attached to the impactor shall be included when calculating the weight of the impactor.

The Commission observes that the impactor described in § 1201.4(b)(2) and illustrated in figure 5 of the standard does not have a lifting or release bridle, because the Commission does not use one. For this reason, the additional revision of § 1201.4(b)(2)(i) requested by this comment has not been made, even though the Commission agrees with the comment that persons employing such a lifting or release bridle should include its weight as a part of the total 100 pounds required. Section 1201.4(b)(2)(i) is amended below, as proposed on October 3, 1977.

To have the impactor descend smoothly without wobbling or oscillating, § 1201.4(b)(ii) of the standard, as issued on January 6, 1977, states:

> The impactor shall be supported as shown in figure 2. Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the pin going through its center was in line with the steel cable. The impactor shall not wobble or oscillate after its release.

In the notice published on October 3, 1977, the Commission stated that the first sentence of this section may be unduly restrictive because it permits no deviation from the support system depicted in figure 2 of the standard. The Commission proposed to amend § 1201.4(b)(2)(ii) by deleting the first sentence of that section.

In the notice of October 3, 1977, the Commission also observed that the fourth sentence of § 1201.4(b)(2)(ii) may present unnecessary difficulty to persons conducting the impact test because it absolutely prohibits the presence of any wobble or oscillation after the impactor is released. Wobble or oscillation of the impactor could occur, but to such a limited degree that its detection by the unassisted human eye would be difficult or impossible, without affecting the results of the impact test. For these reasons, the Commission proposed to amend the fourth sentence to indicate that the impactor shall be supported in a manner designed to minimize wobble or oscillation after its release.

No comment was received concerning either of the proposed amendments to § 1201.4(b)(2)(ii). Accordingly, the Commission amends that section below, as proposed on October 3, 1977.

A comment from SGCC requests further revision of § 1201.4(b)(2)(ii) to permit the use of a chain or cable instead of the threaded metal rod which passes through the center of the impactor. Additionally, this comment requests amendment of § 1201.4(d)(1) to allow a terrycloth towel to be draped in front of the impact test specimen.

The apparent purpose of the changes requested in this comment is not to modify the equipment and procedures used by the Commission laboratory for tests to determine compliance with the standard, but rather to permit manufacturers and independent laboratories to use equipment and procedures which vary in some respects from the description of the test equipment and procedure described in the standard.

Because this comment goes beyond the scope of the proposed amendment to the standard, the Commission declines to make the change requested in this comment. However, the Commission will consider the suggestions in this comment before issuing final regulations to prescribe a reasonable testing program to support certification of compliance with the standard.

Environmental Durability Tests

In addition to the impact test, the standard also requires that some glazing materials must be subjected to accelerated environmental durability tests. The materials which must be subject to environmental testing and the tests required for each such material are summarized in § 1201.4(a)(2) and Table 1 of the standard.

Table 1 states that plastics must be subjected to a simulated weathering test. This test requires exposure of specimens in a xenon arc Weather-Ometer for a period of 1,200 hours, as specified by § 1201.4(d)(2)(ii) of the standard.

When the Commission issued the final standard on January 6, 1977 (42 FR 1427), it stated that an exposure of 1,200 hours in a xenon arc Weather-Ometer had been estimated to represent the equivalent ultraviolet exposure of 2,000 hours in the twin enclosed carbon arc Weather-Ometer used by many testers, and of 375,000 langleys of solar irradiation.

On October 3, 1977, the Commission proposed an amendment of § 1201.4(d)(2)(ii) of the standard to increase the period of exposure in the xenon arc Weather-Ometer from 1,200 hours to 3,480 hours (42 FR 53798 at 53800).

The amendment was proposed in response to a petition from the Plastic Safety Glazing Committee which requested the Commission to change the environmental durability tests for plastic either by specifying use of the carbon arc Weather-Ometer, or by extending the period of exposure in the xenon arc Weather-Ometer to 3,480 hours.

At the time the Commission proposed this amendment, preliminary results of an interlaboratory testing program sponsored by the American National Standards Institute (ANSI) indicated that an exposure period of 1,200 hours in the xenon arc Weather-Ometer does not simulate 375,000 langleys of solar irradiation or produce the equivalent of 2,000 hours in the twin enclosed carbon arc Weather-Ometer.

A comment from a manufacturer of plastic glazing materials states that while an exposure period of 3,480 hours is more realistic than 1,200 hours, definitive test results are not yet available to establish that exposure of specimens for 3,480 hours in a xenon arc Weather-Ometer is the equivalent of 2,000 hours exposure in the twin enclosed carbon arc Weather-Ometer.

At this time, some work remains to be completed in the ANSI interlaboratory test program. The Commission staff is unaware of any other test results or data to establish the precise period of exposure in a xenon arc

Weather-Ometer which is equivalent to 2,000 hours exposure in the twin enclosed carbon arc Weather-Ometer.

Although information currently available to the Commission indicates that increasing the period of exposure in the xenon arc Weather-Ometer will make that exposure more nearly equivalent to 2,000 hours in a twin enclosed carbon arc Weather-Ometer, the Commission has decided not to finalize the proposed amendment to § 1201.4(d)(2)(ii) at this time.

While the Commission is not obligated to refrain from taking action on the proposal to extend the period of exposure in the xenon arc Weather-Ometer until completion of the ANSI interlaboratory test program, the Commission is concerned that the results of that study may support some period of exposure in the xenon arc Weather-Ometer other than 3,480 hours. Additionally, the Commission now has under consideration two other petitions requesting changes to the environmental durability test procedures for plastics.

Any change to the requirements of the standard will result in some cost to industries affected by that change as they determine whether products subject to the standard comply with the revised requirements; modify products to meet revised requirements; or remove products from the market which cannot meet the revised requirements. In order to avoid a series of amendments to the environmental durability test procedures for plastics, the Commission desires to act at one time on all of the changes to those provisions which have been proposed or requested. Consequently, the proposed amendment to § 1201.4(d)(2)(ii) is not included in the amendments to the standard issued below.

The Commission has not withdrawn the amendment to § 1201.4(d)(2)(ii) proposed on October 3, 1977, but rather has deferred any final action on that proposal until a later date. All comments addressed to that proposal will be considered before the Commission takes any final action on the proposed amendment of § 1201.4(d)(2)(ii).

Other Issues

Included in the comments received in response to the proposal of October 3, 1977, were suggestions for changes to provisions of the standard other than those specific sections which were the subject of the proposed amendments. Because these suggestions concern matters outside the scope of the proposed amendments, they have not been discussed in this document.

Conclusion

After consideration of the amendments proposed on October 3, 1977, and the comments received in response to the proposed amendments, the Commission concludes that the Safety Standard for Architectural Glazing Materials should be amended as set forth below. Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), Pub.L. 92-573; 15 U.S.C. 2058(e)) and the Administrative Procedure Act (5 U.S.C. 553), the Commission amends the Safety Standard for Architectural Glazing Materials by revising 16 CFR § 1201.2(a)(10)(iii), 1201.4(b)(1)(iii), 1201.4(b)(2)(i), 1201.4(b)(2)(ii) 1201.4(d)(2)(ii) and figure 3, as follows:

§ 1201.2 Definitions.

(a) As used in this Part 1201:

* * * * * *

(10) "Glazed panel" means a glazing material used in any building listed in § 1201.1(b) that is:

* * * * * *

(iii) In all buildings other than residential buildings, all panels, not described in paragraph (a)(10)(ii) of this section where:

(A) The lowest edge of the glazing material is less than 18 inches (46 centimeters) above any floor or any walking surface; and

(B) The exposed glazing material in such panel exceeds 9 square feet (0.3 square meters); and

(C) There is a walking surface on both sides, each of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other. For purposes of this § 1201.2(a)(10)(iii), the term "walking surface" shall include any floor, sidewalk, pathway, or similar surface which has been paved or prepared to accommodate pedestrian traffic.

* * * * * *

§ 1201.4 Test procedures.

* * * * * *

(b) *Test equipment*—(1) *Impact test frame and subframe.* * * *

(iii) The inner subframe (see figures 2, 3, and 4) for securing the test specimen on all four edges shall be reinforced at each corner. The material is shown as wood in figure 3, but other materials may be used provided the test specimen will contact only the neoprene strips.

* * * * * *

(2) *Impactor.* (i) The impactor shall be a leather punching bag as shown in figure 5 on this section. The bag shall be filled with No. 7½ chilled lead shot to a total weight of completed assembly as shown in figure 5, of 100 pounds ±4 ounces (45.36±0.11 kilograms). The rubber bladder shall be left in place and filled through a hole cut into the upper part. After filling the rubber bladder, the top should be either twisted around the threaded metal rod below the metal sleeve or pulled over the metal sleeve and tied with a cord or leather thong. Note that the hanging strap must be removed. The bag should be laced in the normal manner. The exterior of the bag shall be completely covered by ½ inch (1.3 centimeters) wide glass filament reinforced pressure sensitive tape. (Figure 5.)

(ii) Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the rod going through its center was in line with the steel support cable in a manner designed to minimize wobble or oscillation after its release.

(Sec. 9(e), Pub. L. 92-573, 86 Stat. 1215; (15 U.S.C. 2058(e)); (5 U.S.C. 553).)

Effective date. The amendments issued herein shall become effective on October 27, 1978.

Dated: September 22, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-27125 Filed 9-26-78; 8:45 am]

[1505-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5973, 34-15135, 35-20699, IC-10389, AS 254]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Requirements for Form and Content of Financial Statements of Bank Holding Companies and Banks

Correction

In FR Doc. 78-25887, appearing at page 41022, in the issue for Thursday, September 14, 1978, make the following changes:

(1) On page 41024, first column, under the heading "Investment Securities", the sixth line now reading "• • • been changed by revising the definition • • •", should have read "• • • been deleted entirely. The requirement for disclosure of concentration in the securities of an issuer has been changed by revising the definition • • •".

(2) In the provisions set forth under § 210.9-02, in the middle column of page 41025, paragraph (e), change the footnote and its reference now reading "4" to "1".

(3) In the provisions set forth for § 210.9-03, in the first column of page 41027, in paragraph 14, change the footnote and its reference now reading "5" to "2".

(4) In § 210.9-05, in *Schedule I*, change the footnote and its reference now reading "6" to "3".

[8010-01]

[Release No. 33-5979]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Resales of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending two rules which provide safe harbors for the resale of securities to the public. The amendments will: (1) Relax the limitations on the amount of securities that can be sold under the rules; (2) permit persons selling securities under the rules to deal directly with a market maker in lieu of engaging a broker; and (3) exempt estates and beneficiaries thereof who are not affiliates of the issuer of the securities from the requirement that all sales transactions under the rules be conducted through a broker or directly with a market maker. The amendments are being adopted in order to relax certain requirements of the rules which appear to be more burdensome than necessary.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of various amendments to rule 144 (17 CFR 230.144) and rule 148 (17 CFR 230.148) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.). The amendments are intended to reduce the burdens imposed by the above rules in a manner that is consistent with the purpose and underlying policy of the 1933 Act to protect investors. In a related action, the Commission has determined to publish a separate release in the near future inviting public comments on certain proposed amendments to rules 144 and 148 which also are designed to limit the burdensome effects of those rules.

Background

Rule 144 prescribes standards which, if met, permit holders of restricted securities [1] as well as affiliates [2] of an issuer to sell their securities publicly without registration and without being deemed underwriters [3] under the 1933 Act. Rule 148 similarly provides a safe harbor for the resale of securities acquired in bankuptcy proceedings.

At the time rule 144 was adopted, it was considered to be an experiment whose operation would be monitored by the Commission.[4] The rule now has been in existence for over 6 years and appears generally to have operated well insofar as achieving its intended purposes under the 1933 Act is concerned. It has, however, been subject in recent years to the criticism that its requirements, particularly those limiting the amount of securities that can be sold under it, are more stringent than necessary.[5]

The Commission has not been unmindful of the critical comments concerning rule 144, as evidenced by certain of its actions in recent years. for example, in release No. 33-5613 (September 11, 1975) (40 FR 44541) it relaxed somewhat the volume limits applicable to sales of exchange-traded securities under the rule. This was accomplished by permitting NASDAQ [6] volume figures to be aggregated with exchange volume figures in determining the maximum amount of such securities that could be sold under the rule. In release No. 33-5717 (June 8, 1976) (41 FR 24701) it further relaxed the volume limitations of rule 144 by permitting trading data appearing on the consolidated transaction reporting system contemplated by rule 17a-15 (17 CFR 240.17a-15) under the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq.) to be used in determining the amount of exchange-listed securities which may be sold under the rule. In addition, the Commission invited public comments in that release on the need for further modifying the volume limitations of the rule. Finally, it authorized its Directorate of Economic and Policy Research ("EPR") to conduct a study of sales under the rule to assess the market impact of the rule's volume limitations.

EPR recently completed its study and submitted its findings to the Commission.[7] The study encompassed a sample of 155 large transactions in exchange-listed securities only.[8] The study concluded that: "In the aggregate, there did not appear to be any significant adverse price impacts associated with rule 144 transactions." [9] It further stated that "• • • if the quantity limitation were relaxed, potential adverse price effects might be observed • • • [b]ut there is evidence which mutes this concern." [10]

The EPR study suggests that the volume limitations of rule 144 can be relaxed on an experimental basis. In light of that study, as well as its concern that the rule may be more restrictive than necessary in its present form, the Commission has determined to relax rule 144 in certain significant respects. Similar changes also are being made in rule 148 in line with the Commission's statement at the time it adopted the rule that if the rule 144 volume limitations were relaxed as a

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[1] The term "restricted securities" includes securities acquired in nonpublic offerings, such as those under sec. 4(2) of the 1933 Act, as well as securities acquired in offerings made in reliance upon rule 240 (17 CFR 230.240) under the Act.

[2] An "affiliate" of an entity is defined in rule 405 (17 CFR 230.405) under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the (entity)."

[3] The term "underwriter" is broadly defined in sec. 2(11) of the 1933 Act and includes persons who acquire securities "with a view to • • • distribution."

[4] See in this regard the portion of release No. 33-5223 (Jan. 11, 1972) (37 FR 591) entitled "Operation of the Rule."

[5] For example, the report of the SBA Task Force on Venture and Equity Capital for Small Business, U.S. Small Business Administration (January 1977) recommends that the requirements of the rule be relaxed somewhat. In addition, serveral persons testified at the Commission's recent hearings on small business that the rule should be modified in various respects.

[6] NASDAQ is the name of the automated quotation service of the NASD, Inc.

[7] The study is entitled "An Analysis of the Rule 144 Volume Limitations" (hereinafter the "EPR study") and is available for public inspection at the Commission's public reference room located at 1100 L Street NW., Washington, D.C.

[8] A study of the volume limitation provisions of rule 144 with respect to over-the-counter securities is currently in progress but will likely neither be as timely nor as reliable as the already completed study due to data limitations.

[9] EPR study, 21.

[10] Ibid., 22-23.

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result of the EPR study it anticipated making corresponding changes in rule 148.[11] In addition to the changes being adopted today, which are described in the next section of this release, certain additional revisions to rules 144 and 148 will, as previously noted, be proposed for public comment in a separate release.

DISCUSSION OF THE CHANGES

The provisions of rules 144 and 148 that are being revised involve the volume limitation and brokerage transaction requirements of those rules.

A. VOLUME LIMITATIONS

Prior to the amendments announced today, paragraph (e) of rule 144 provided that the amount of securities that could be sold under the rule during any 6-month period could not exceed the following: (a) For securities listed on a national securities exchange ("listed securities"), the lesser of either 1 percent of the shares or other units of the class outstanding or the average weekly trading volume during the 4-week period immediately preceding the sale; and (b) for securities not listed on an exchange ("unlisted securities"), 1 percent of the outstanding securities of the class. Rule 148 provided in paragraph (b)(1) thereof that the volume limit during any 6-month period shall be 1 percent of the sum of those securities of the class which are outstanding and those which are reserved for future issuance to settle claims and interests arising from bankruptcy proceedings.

The amendments to the above provisions announced today involve two major changes. First, the 6-month period for measuring sales under the rules has been reduced to 3 months. Second, the standard used in rule 144 to determine the amount of securities that may be sold during the measuring period has been revised to permit, for both listed and unlisted securities, the sale of the greater of 1 percent of the outstanding securities of the class or the average weekly trading volume during the 4 calendar weeks preceding the sale. A similar change also has been made in rule 148.[12] These revisions will more than double the amount of securities that formerly could be sold under the rules.[13] In addition, the changes will have the effect of eliminating the disparity that formerly existed in rule 144 between the volume standards for listed securities and those for unlisted securities.

It should be noted that in computing the average weekly trading volume for purposes of the revised volume standards, both exchange volume and NASDAQ volume will continue to be included in such computations. And, to the extent that volume figures are available through the consolidated transaction reporting system contemplated by rule 17a-15 under the 1934 Act, such figures also will continue to be considered in determining the volume limits. Of course, if volume figures are not available through an exchange, NASDAQ, or the consolidated transaction reporting system, the amount limitation for purposes of rule 144 will have to be based solely on 1 percent of the outstanding securities of the class.

In adopting the changes described above, the Commission wishes to emphasize that they are experimental in nature and are subject to review as to their effect on the marketplace. Because no one can predict in advance the point at which market disruptions due to excessive sales under rules 144 and 148 may occur, it is necessary to be somewhat arbitrary in selecting the limits for sales under the rules. While the changes announced today represent the Commission's best estimate at this time as to acceptable volume limits, the possibility exists that they may prove to be unsatisfactory. For that reason, the Commission intends to monitor their effects and may consider further amendments to the volume limits at some future date.

B. BROKERS' TRANSACTION REQUIREMENT

Rule 144 until now has required persons relying on the rule for the sale of securities to effect all such sales in brokers' transactions. The broker in turn has been prohibited by the rule from soliciting orders to buy the securities, and the seller has not been permitted to make payments in connection with the sale of the securities to any person other than the broker. Rule 148 has contained a similar requirement.

The Commission has determined to make two changes in the brokers' transaction requirement, as explained in the paragraphs which follow: (1) Transactions directly with a market maker will be permitted in lieu of brokers' transactions; and (2) estates and beneficiaries thereof who are not affiliates of the issuer will be exempted from the brokers' transaction requirement. The prohibitions against the solicitation of buy orders and making payments to any person other than the broker, however, have not been changed and therefore will continue to apply.

1. TRANSACTIONS WITH A MARKET MAKER

The brokers' transaction requirement of rules 144 and 148 was included to insure that persons selling under those rules did not solicit orders to buy the securities in connection with such transactions. Such solicitations not only are inconsistent with the effort in those rules to limit sales to "routine trading transactions" but also raise the corresponding concern whether such persons are participating in a distribution of the securities being sold. The brokers' transaction requirement appears, however, to impose unnecessary expense by requiring the interpositioning of a broker in those situations where a seller could trade directly with a market maker,[14] absent the brokers' transaction requirement. Because a market maker, by definition, holds himself out as willing to buy that particular security on a regular or continuous basis, a seller should not, for purposes of rules 144 and 148, be considered to have solicited a trade directly with a market maker. The Commission finds no policy reason why a seller should not be able to trade directly with a market maker under essentially the same circumstances that he could trade indirectly with that market maker through a broker and, accordingly, has revised rules 144 and 148 to eliminate the brokers' transaction requirement in such situations.

2. EXEMPTION FOR NONAFFILIATED ESTATES AND BENEFICIARIES

The brokers' transaction requirements of rules 144 and 148 presently apply to all securities sold under those rules, regardless of the nature of the seller. The rule has been criticized on the ground that it is not always possible for estates or beneficiaries thereof who are not affiliates of the issuer to sell blocks of restricted securities in brokers' transactions in those circumstances where the issuer is small and there is no ready market for its securities. In view of the special circumstances attendant to securities acquired by or from an estate, as well as the fact that nonaffiliated estates and beneficiaries are exempted from the holding period[15] and volume limitation[16] requirements of rule 144, the Commission has determined to provide a similar exemption from the brokers' transaction requirement as well. A corresponding change is also being made in rule 148.

TEXT OF THE AMENDMENT

I. 17 CFR 230.144 is amended to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(e) *Limitation on amount of securities sold.* Except as hereinafter provided, the amount of securities which may be sold in reliance upon this rule shall be determined as follows:

(1) *Sales by affiliates.* If restricted or other securities are sold for the account of an affiliate of the issuer, the amount of securities sold, together with all sales of restricted and other securities of the same class for the account of such person within the preceding 3 months, shall not exceed the greater of (i) 1 percent of the shares or other units of the class outstanding as shown by the most recent report or statement published by the issuer, or (ii) the average weekly reported volume of trading in such securities on all national securities exchanges and reported through the automated quotation system of a registered securities association during the 4 calendar weeks preceding the filing of notice required by paragraph (h), or if no such notice is required, the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (iii) the average weekly volume of trading in such securities reported through the consolidated transaction reporting system contemplated by rule 17a-15 under the Securities Exchange Act of 1934 during the 4-week period specified in subdivision (ii) of this subparagraph.

(2) *Sales by persons other than affiliates.* The amount of restricted securities sold for the account of any person other than an affiliate of the issuer, together with all other sales of restricted securities of the same class for the account of such person within the preceding 3 months, shall not exceed the amount specified in paragraph (e)(1)(i), (1)(ii), or (1)(iii) of this section, whichever is applicable.

* * * * *

(f) *Manner of sale.* The securities shall be sold in "brokers' transactions" within the meaning of section 4(4) of the Act or in transactions directly with a "market maker," as that term is defined in section 3(a)(38) of the Securities Exchange Act of 1934, and the person selling the securities shall not (1) solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transactions, or (2) make any payment in connection with the offer or sale of the securities to any person other than the broker who executes the order to sell the securities. The requirements of this paragraph, however, shall not apply to securities sold for the account of the estate of a deceased person or for the account of a beneficiary of such estate: *Provided,* The estate or beneficiary thereof is not an affiliate of the issuer.

* * * * *

II. 17 CFR 230.148 is amended to read as follows:

§ 230.148 Persons deemed not to be underwriters of securities issued or sold in connection with bankruptcy proceedings.

* * * * *

(b) *Securities issued under a plan.* A person or entity who acquires securities issued under a plan in a transaction exempt from the registration requirements of the Securities Act of 1933 shall not be deemed an underwriter within the meaning of section 2(11) of the Act with respect to resales of such securities if all of the following conditions are met:

(1) *Volume limitation.* The amount of securities sold for the account of such person or entity during any 3-month period shall not exceed the greater of (i) 1 percent of the sum of the number of shares or other units of the class issued and outstanding and the number of shares or units of the class reserved for future issuance in respect of claims and interests filed and allowed under the plan, as shown by the most recent report or statement published by the issuer, or (ii) the average weekly reported volume of trading in such securities on all national securities exchanges and reported through the automated quotation system of a registered securities association during the 4 calendar weeks preceding the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (iii) the average weekly volume of trading in such securities reported through the consolidated transaction reporting system contemplated by rule 17a-15 under the Securities Exchange Act of 1934 during the 4-week period specified in subdivision (ii) of this subparagraph. For the purpose of determining the limitation on the amount of securities sold, all securities of the same class sold under this rule by persons or entities acting in concert shall be aggregated.

* * * * *

(3) *Manner of sale.* The securities shall be sold in "brokers' transactions" within the meaning of section 4(4) of the Securities Act or in the transactions directly with a "market maker," as that term is defined in section 3(a)(38) of the Securities Exchange Act of 1934, and the person selling the securities shall not (i) solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transactions, or (ii) make any payment in connection with the offer or sale of the securities to any person other than the broker who executes the order to sell the securities. The requirements of this paragraph, however, shall not apply to securities sold for the account of a deceased person or for the account of a beneficiary of such estate, provided the estate or beneficiary thereof is not an affiliate of the issuer. For the purposes of this rule, the term "brokers' transactions" shall be deemed to include transactions of the type described in rule 144(g) (§ 230.144(g)) under the Securities Act.

* * * * *

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; secs. 201, 203, 209, 210, 48 Stat. 904, 906, 908; secs. 1-4, 6, 68 Stat. 683, 684; sec. 12, 78 Stat. 580 (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)).)

STATUTORY BASIS AND EFFECTIVE DATE

The amendments to rules 144 and 148 have been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 2(11), 4(1), 4(4), and 19(a) thereof. The amendments will become effective on September 25, 1978.

Because all of the amendments adopted today represent a relaxation of existing requirements that were previously published for comment pursuant to the Administrative Procedure Act (5 U.S.C. 533), the Commission finds that prior notice and public comment under the Act are not necessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 19, 1978.

[FR Doc. 27194 Filed 9-26-78; 8:45 am]

[11] Release No. 33-5918 (Mar. 29, 1978) (43 FR 14445).

[12] For purposes of rule 148, the base upon which the 1-percent standard will be computed will include, in addition to the outstanding securities of the class, the securities reserved for future issuance in settlement of claims or interests.

[13] In view of the substantial increase in the amount of securities that will now be permitted to be sold under rules 144 and 148, consideration should be given by persons who may be subject to rule 10b-6 (17 CFR 240.10b-6) under the 1934 Act to whether sales under the liberalized volume limitations of rules 144 and 148, under certain circumstances, may involve distributions for purposes of rule 10b-6.

[14] Sec. 3(a)(38) of the 1934 Act defines the term "market maker" to mean "any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an interdealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

[15] See par. (d)(4)(vii) of rule 144.

[16] See par. (e)(3)(v) of rule 144.

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[8230-01]

Title 22—Foreign Relations

CHAPTER V—INTERNATIONAL COMMUNICATION AGENCY

CHANGE TO AGENCY ACRONYM

AGENCY: International Communication Agency.

ACTION: Final rule.

SUMMARY: This document changes the Agency's acronym appearing in Chapter V.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane S. Grymes, Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency, Washington, D.C. 20547, 202-523-4454.

Wherever the term ICA appears in Title 22, CFR, Chapter V, it should be changed to read USICA.

JOHN E. REINHARDT
Director.

SEPTEMBER 20, 1978.

[FR Doc. 78-27196 Filed 9-26-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 78-14]

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

Subpart E—Highways for National Defense

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule is intended to prescribe the policies and procedures of the Federal Highway Administration (FHWA) governing the evaluation of access-road needs and the administration of related projects funded by the Department of Defense (DOD). The defense access-roads program provides a means by which the Federal Government can pay its fair share of the cost of improvements needed for adequate highway service to defense installations, replacement of highways closed by the establishment or expansion of defense installations, and repair of highways damaged by major military maneuvers or defense construction. The FHWA will serve as an independent evaluator of access-road needs and administer defense access-road projects in accordance with Federal-aid procedures.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles L. Kolsky, Office of Highway Operations, 202-426-0466; or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0799, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule defines the policies and procedures governing access-road needs evaluations and/or projects financed by the DOD and administered by FHWA under authority of 23 U.S.C. 210. All changes have been made in accordance with the objectives mandated by 23 U.S.C. 101(e).

The FHWA will serve as an independent evaluator of access-road needs while the responsibility for determining eligibility remains with the DOD or other funding agency.

The promulgation of this rule is necessary so that FHWA's responsibility in regard to roads funded with defense access funds can be clearly understood by highway officers and other concerned parties. The implemention of this regulation will assist the Washington office in resolving highway matters having defense implications. Determination of the highway agency which will accomplish the location, design, and construction of the projects covered will be made by the FHWA Division Administrator.

Anyone wishing to submit written comments related to this regulation is advised to submit them to FHWA docket No. 78-14, room 4205, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. These comments will be considered in processing future revisions to this regulation. All comments will be available for examination between the hours of 7:45 a.m. and 4:15 p.m. in Room 4205 at the above address.

This regulation codifies the policies and procedures contained in the Federal-Aid Highway Program Manual, volume 6, chapter 9, section 5,[1] formerly Policy and Procedure Memorandum (PPM) 22-1.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on September 18, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

In consideration of the foregoing, the Federal Highway Administration is amending chapter I of Title 23, Code of Federal Regulations, Part 660 by adding a new subpart E as set forth below.

Subpart E—Highways for National Defense

Sec.
660.501 Purpose.
660.503 Objectives.
660.505 Definitions.
660.507 Missile installations and facilities.
660.509 Project administration.
660.511 Standards.

AUTHORITY: 23 U.S.C. 210, 315; 49 CFR 1.48(b).

Subpart E—Highways for National Defense

§ 660.501 Purpose.

To prescribe policies and procedures governing access-road needs evaluations and administration of projects financed under the defense access roads and other defense related special highway programs.

§ 660.503 Objectives.

The defense access-roads program provides a means by which the Federal Government may pay its fair share of the cost of:

(a) Highway improvements needed for adequate highway service to defense and defense-related installations.

(b) New highways to replace those which must be closed to permit establishment or expansion of defense installations.

(c) Repair of damages to highways caused by major military maneuvers.

(d) Repair of damages due to the activities of contractors engaged in the construction of missile sites.

§ 660.505 Definitions.

(a) *Defense installation.* A military reservation or installation, defense-related industry, or source of raw materials.

(b) *Military Traffic Management Command (MTMC).* The military transportation agency with responsibilities assigned by the Secretary of Defense for maintaining liaison with the Federal Highway Administration (FHWA) and other agencies in the integration of defense needs into the Nation's highway program.

(c) *Certification.* The statement to the Secretary of Transportation by the Secretary of Defense (or such other official as the President may designate) that certain roads are important to the national defense.

(d) *Access road.* An existing or proposed public highway which is needed to provide essential highway transportation services to a defense installation. (This definition may include public highways through military installations only when right-of-way for such roads is dedicated to public use and the roads are maintained by civil authority.)

(e) *Replacement road.* A public road constructed to replace one closed by establishment of a new or the expansion of an old defense installation.

(f) *Maneuver area road.* A public road in an area delineated by official orders for field maneuvers or exercises of military forces.

§ 660.507 Missile installations and facilities.

Damage to public highways. Should damage occur to public highways as a result of construction activities, the contractor would normally be held responsible for restoring the damages. However, should the contractor deny responsibility, restoration is provided for under Section 210(h), Title 23, United States Code.

(a) *Restoration under the contract.* (1) The highway agency having jurisdiction over the road shall take appropriate actions, such as load and speed restrictions, to protect the highway. When extensive damages is anticipated and the contractor under the terms of the contract is responsible, it may be necessary to require a performance bond to assure restoration.

(2) If the contractor does not properly maintain the roads when requested in writing, the highway agency having jurisdiction over the road shall perform extraordinary maintenance as necessary to keep the roads serviceable and maintain adequate supporting records of the work performed. Claims shall be presented to the contractor for this extraordinary maintenance and any other work required to restore the roads. If the contractor denies responsibility, the claim with the required supporting document shall be presented to the contracting officer.

(b) *Restoration under section 210(h).* (1) To implement section 210(h), the Department of Defense (DOD) must make the determination that a contractor for a missile installation or facility did not include in the bid the cost of repairing damage caused to public highways by the operation of contractor vehicles and equipment. The FHWA must then make the determination that the State highway agency is or has been unable to prevent such damage by restrictions upon the use of the highways without interference with or delay in the completion of the contract. If these determinations are made, the Division Administrator will be authorized by the Washington headquarters to reimburse the highway agency for the cost of the work necessary to keep the roads in a serviceable condition.

(2) Upon receipt of a damage claim, division office representatives accompanied by representatives of the agencies that made the original condition survey will inspect the roads on which damage is claimed. The Division Administrator shall then prepare an estimate of the cost of restoring the roads to original condition as well as any documented cost for extraordinary maintenance for which reimbursement has not been received. No allowance for upgrading the roads shall be included.

§ 660.509 Project administration.

(a) Defense access-road projects shall be administered in accordance with Federal-aid procedures. No project revision may be approved by a FHWA field office which would result in exceeding the amount of defense access-road funds allocated for that project without prior authorization. Prior authorization shall also be obtained before approving any project revisions which entail substantial deviations from the design, location, or length of the project as described in the project papers upon which the certification was based.

(b) Defense access-road funds shall not be substituted for the State's matching share of the Federal-aid portion of a project.

(c) A firm commitment from the State or local highway agency, within whose jurisdiction the access-road lies, that it will accept the responsibility for maintenance of the completed facility shall be furnished before authorization of acquisition of right-of-way or construction of a project can proceed.

§ 660.511 Standards.

Access-roads to permanent defense installations and all replacement roads shall be designed to conform to the same standards as the agency having jurisdiction is currently using for other comparable highways under similar conditions in the area. In general, the design shall conform to the American Association of State Highway Transportation officials' standards. Should local agencies desire higher standards than are currently being used for other comparable highways under similar conditions in the area, they shall finance the increases in cost.

[FR Doc. 78-27205 Filed 9-26-78; 8:45 am]

[1505-01]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

Implementation of Program To Increase Contracting Participation of Minority Business Enterprises

Correction

In FR Doc. 78-260-24 appearing at page 41207 in the issue for Friday, September 15, 1978, paragraph (c) in the second column of page 41212 is part of the introduction rather than part of the required clauses and therefore should not have been printed in small type.

[4110-83]

Title 42—Public Health Service

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 62—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

AGENCY: Public Health Service, HEW.

ACTION: Interim—Final regulations.

SUMMARY: The regulations in this part are applicable to the award of scholarships under the National Health Service Corps Scholarship Program to students receiving academic training in medicine, osteopathy, dentistry, and other health professions in order to assure an adequate supply of trained health professionals for the National Health Service Corps. The National Health Service Corps is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

DATES: These regulations are effective immediately. As discussed below, comments on the regulations are invited. Comments must be received on or before November 27, 1978.

ADDRESSES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, fourth floor, Hyattsville, Md., 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the

[1] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

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above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Gary J. Wold, Chief, National Health Service Corps Scholarship Program, Bureau of Health Manpower, Health Resources Administration, Center Building, room 5-44, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6443.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, is revoking the existing Part 62 and adding a new Part 62 entitled "National Health Service Corps Scholarship Program."

The purpose of the new part is to establish regulations implementing the National Health Service Corps Scholarship Program ("Scholarship Program") authorized by section 751 of the Public Health Service Act ("Act") (42 U.S.C. 294t). Under this authority, the Secretary enters into contracts with students who are enrolled in courses of study leading to degrees in medicine, osteopathy, dentistry, or other health professions. Students who enter into the contracts agree to serve 1 year for each year of scholarship support they receive or 2 years, whichever is greater, as members of the National Health Service Corps providing full-time clinical service in federally designated health manpower shortage areas.

The following is a brief summary of the major features of the regulations:

(a) Section 62.6 sets forth the procedures for selecting individuals to participate in the Scholarship Program. First, applications will be placed in priority categories as described in § 62.6(b). First priority will be given to individuals who (1) had previously received scholarships under the Public Health and National Health Service Corps Scholarship Training Program ("PH/NHSC Scholarship Training Program") which has since been repealed, (2) receive scholarships under the current Scholarship Program, or (3) receive scholarships under section 758 of the Act for first-year students of exceptional financial need. Second priority will relate to the class year of students and will vary from school year to school year as set forth in § 62.6(b)(2). After applications are placed within categories based upon these priorities, the Secretary will evaluate the applicants in each category by applying the five criteria listed in § 62.6(c) of the regulations. These criteria express variables that indicate the potential for an applicant's successful performance as a member of the National Health Service Corps. The five criteria are:

1. Work Experience: The extent to which the applicant's work background has included salaried or volunteer experience (preferably health-related) in medically underserved urban settings;

2. Community Background: The extent to which the applicant has resided in medically underserved urban or rural areas;

3. Career Goals: The expressed intent of the applicant to enter into a primary care practice in a medically underserved urban or rural area following the completion of the period of obligated service;

4. Faculty Recommendation; and,

5. Academic Performance.

Special consideration for selection of Scholarship Program participants will be given to (1) medical and osteopathic students who intend to enter family practice, internal medicine, pediatrics, or osteopathic general practice residencies, and to (2) dental applicants who intend to undertake general practice training following graduation or who have no plans for postgraduate training. This special consideration will be given because the Secretary believes that these practitioners will be able to provide the broadest spectrum of patient care in health manpower shortage areas.

(b) Section 62.9(a) of the regulations specifies that, if a participant receives a degree from a school of medicine, osteopathy or dentistry, the Secretary will, upon request of the participant, defer the beginning date of the obligated service for a period not to exceed three years for the purpose of completing an approved graduate training program. To assure that physicians who begin their service obligations will be qualified to engage in the delivery of primary care in the National Health Service Corps, the regulations require medical and osteopathic participants who do not intend to enter training which can be completed within the maximum three year period to enter and complete at least one year of approved graduate training relating to primary care before serving the period of obligated service. The regulations further provide that if participants fail to begin or complete this graduate training, they will be subject to the § 62.10(c) default penalty.

(c) Section 62.10(c) of the regulations contains a statement of the basic payment obligation which a Scholarship Program participant must satisfy if the participant fails to begin or complete the service obligation incurred under § 62.8. Section 754(c) of the Act sets forth the formula for calculating this payment obligation. Under this formula, a Scholarship Program participant who fails to begin or complete the service obligation must pay the United States an amount equal to three times the amount of the scholarship award made to on on behalf of the participant, plus interest, at the maximum legal prevailing rate. If the participant performs a portion of the period of obligated service before the default occurs, the formula allows the participant to credit that portion toward the total period of obligated service incurred under § 62.8, thus reducing the amount of money owed. Payment of the amount must be made within 1 year of the date on which the participant failed to begin or complete the period of obligated service.

(d) Section 62.8(g) of the regulations addresses the requirement in section 753 of the Act that the Secretary release a participant from all or part of the service obligation to engage in the full-time private, clinical practice of the participant's health profession in a health manpower shortage area. Regulations implementing this private practice option are currently being prepared and will be published in the FEDERAL REGISTER as soon as possible.

(e) On October 1, 1977, the predecessor authority to the present Scholarship Program, section 225 of the Act establishing the PH/NHSC Scholarship Training Program, was repealed. Section 62.14 addresses the relationship between the PH/NHSC Scholarship Training Program and the new Scholarship Program as it pertains to individuals who received awards under the old program and who will receive awards under the new Scholarship Program. As a rule, if individuals received scholarships under the PH/NHSC Scholarship Training Program and also receive scholarship support under the new Scholarship Program, they will be subject to all of the provisions of the new Scholarship Program (see § 62.14(a) of the regulations). A number of exceptions to this general rule, however, are included in § 62.14(b) relating to carry-over of periods of obligated service, internship/residency training creditability, and default penalties.

Timely implementation is essential if students are to have adequate leadtime to make informed decisions regarding participation in the Program so that scholarships can be awarded in August for school year 1978-79. Therefore, the Secretary has determined under 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 27, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of these regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 27, 1978.

Accordingly, the existing Part 62 of 42 CFR is revoked and a new Part 62 is adopted to read as set forth below.

Dated: July 24, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Sec.

62.1 What is the scope and purpose of the National Health Service Corps Scholarship Program?
62.2 Definitions.
62.3 Who is eligible to apply for a Scholarship Program award?
62.4 To whom will Scholarship Program awards be available in addition to those individuals pursuing courses of study leading to degrees in medicine, osteopathy or dentistry?
62.5 How is application made for a Scholarship Program award?
62.6 How will individuals be selected to participate in the Scholarship Program?
62.7 What will an individual be awarded for participating in the Scholarship Program?
62.8 What does an individual have to do in return for the Scholarship Program award?
62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?
62.10 What will happen if an individual does not comply with the terms and conditions of participating in the Scholarship Program?
62.11 When can a Scholarship Program payment obligation be discharged in bankruptcy?
62.12 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?
62.13 What are the limitations on the receipt of concurrent benefits?
62.14 What are the special provisions relating to recipients of awards under the PH/NHSC Scholarship Training Program who will also receive awards under the Scholarship Program?

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); Sec. 751 of the Public Health Service Act, 90 Stat. 2281 (42 U.S.C. 294t).

§ 62.1 What is the scope and purpose of the National Health Service Corps Scholarship Program?

The regulations of this part are applicable to the award of scholarships under the National Health Service Corps Scholarship Program authorized by section 751 of the Public Health Service Act (42 U.S.C. 294t) to students receiving academic training in medicine, osteopathy, dentistry, and other health professions. The purpose of the National Health Service Corps Scholarship Program is to assure an adequate supply of trained health professionals for the National Health Service Corps. The National Health Service Corps is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

§ 62.2 Definitions.

As used in this part:

"Acceptable level of academic standing" means the level at which a full-time student retains eligibility to continue in attendance in school in accordance with the school's standards and practices.

"Act" means the Public Health Service Act, as amended.

"Approved graduate training" means those programs of graduate training in medicine, osteopathy, and dentistry which lead to eligibility for board certification or which provide other evidence of completion and which have been approved by the Liaison Committee on Graduate Medical Education, the American Osteopathic Association, or the Commission on Accreditation of Dental and Dental Auxiliary Education Programs.

"Full-time student" means a student who is pursuing a course of study leading to a degree in medicine, osteopathy, dentistry, or other health profession and who is enrolled for a sufficient number of credit hours in any semester or other academic term to enable the completion of the course of study within not more than the number of semesters or other academic terms normally required at the school. If an individual is enrolled in a school and is pursing a course of study which is designed to be completed in more than 4 years, the individual will be considered a full-time student for only the last 4 years of the course of study.

"Health manpower shortage area" means a geographic area, population group, public or nonprofit private medical facility, or other public facility which the Secretary determines has a shortage of health manpower in accordance with section 332 of the Act.

"National of the United States" means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Public Health and National Health Service Corps Scholarship Traninng Program", or "PH/NHSC Scholarship Training Program", means the program authorized by section 225 of the Act as in effect on September 30, 1977, and repealed on October 1, 1977.

"Scholarship Program" means the National Health Service Corps Scholarship Program authorized under section 751 of the Act (42 U.S.C. 294t).

"Scholarship Program participant" or "participant" means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted and signed by the Secretary.

"School" means a school of medicine, osteopathy, dentistry, or other health profession which provides training leading to a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry, or an appropriate degree for a particular health profession, and which is accredited by a recognized body or bodies approved for acceditation purposes by the Commissioner of Education. If a school is not eligible for accreditation when an application for a scholarship award is submitted under this part, the accreditation requirement will be considered satisfied if the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation requirement no later than the beginning of the school year in which the applicant will graduate.

"School year" means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in a school as a full-time student.

"Service", means the United States Public Health Service.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 62.3 Who is eligible to apply for a Scholarship Program award?

(a) To be eligible for a scholarship under this part an applicant must:

(1) Be accepted for enrollment, or be enrolled, as a full-time student in a school located in a State;

(2) Be pursing a course of study or program offered by the school leading

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to a degree in medicine, osteopathy, dentistry, or other health profession;

(3) Be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the National Health Service Corps;

(4) Be a National of the United States; and,

(5) Submit an application to participate in the Scholarship Program together with a signed contract as described in section 751(f) of the Act.

(b) Any applicant who owes an obligation for professional practice to a State or other entity under an agreement entered into before filing an application under this part, is ineligible to apply for an award unless a written statement satisfactory to the Secretary is submitted from the State or entity that (1) there is no potential conflict in fulfilling the service obligation to the State or entity and the Scholarship Program, and that (2) the Scholarship Program service obligation will be served before the service obligation for professional practice owed to the State or entity.

§ 62.4 To whom will Scholarship Program awards be available in addition to individuals pursuing courses of study leading to degrees in medicine, osteopathy, or dentistry?

The Secretary will, from time-to-time, publish in the FEDERAL REGISTER a list of those health professions in addition to medicine, osteopathy, and dentistry for which the National Health Service Corps has need and for which support is available. The Secretary will also publish any other eligibility criteria, in addition to those in § 62.3, that may be required to assure that participants can be utilized during their periods of obligated service in a manner that will best meet the needs of the National Health Service Corps.

§ 62.5 How is application made for a Scholarship Program award?

Each applicant desiring a scholarship under this part must submit an application in the form and at the time prescribed by the Secretary. When submitting the application, the applicant must sign and submit the contract required under section 751(f) of the Act.[1]

§ 62.6 How will individuals be selected to participate in the Scholarship Program?

(a) *General.* In deciding which applications for participation in the Scholarship Program will be approved, the Secretary will place the applications into categories based upon the selection priorities described in paragraph (b) of this section. The Secretary will then evaluate each applicant on the basis of the selection criteria listed in paragraph (c) of this section, giving special consideration to (1) medical and osteopathic students who indicate their intention to enter family practice, internal medicine, pediatrics, or osteopathic general practice residencies, and to (2) dental students who indicate their intention to undertake general practice training following graduation or who plan no postgraduate training.

(b) *Priorities.* (1) First priority will be given to individuals who have previously received a scholarship under the PH/NHSC Scholarship Training Program, a scholarship under this Scholarship Program, or a scholarship under section 758 of the Act, authorizing scholarships for first-year students of exceptional financial need.

(2) Second priority will be given to applications submitted by applicants who (i) for the school year beginning in calendar year 1978, are entering their first, second, or third years of study; (ii) for the school year beginning in calendar year 1979, are entering their first or second years of study; and, (iii) for each school year beginning in calendar years after 1979, are entering their first year of study.

(c) *Selection criteria.* Selection of participants will be made on the basis of the following criteria: (1) Work experience; (2) community background; (3) career goals; (4) faculty recommendation; and, (5) academic performance.

(d) *Duration of scholarship award.* Subject to the availability of funds for the Scholarship Program and the National Health Service Corps, the Secretary will award a Scholarship Program participant a scholarship under this part for a period of 1 school year. The Secretary will award a continuation scholarship if (1) the participant requests a continuation, (2) the award will not extend the total period of Scholarship Program support beyond 4 years, and (3) the participant is eligible for continued participation in the Scholarship Program.

§ 62.7 What will an individual be awarded for participating in the Scholarship Program?

(a) *Amount of scholarship.* (1) A scholarship award under this part for each school year will consist of (i) tuition, (ii) reasonable educational expenses, including required fees, books, supplies, and required educational equipment, and (iii) a monthly stipend for the 12-month perod beginning with the first month of each school year in which the individual is a Scholarship Program participant. For purposes of this section "required fees" means those fees which are charged by the school to all students pursuing a similar curriculum and "required educational equipment" means educational equipment which must be rented or purchased by all students pursuing a similar curriculum at that school.

(2) The Secretary may enter into a contract with the school in which the Scholarship Program participant is enrolled for the direct payment of tuition and reasonable educational expenses in the Scholarship Program participant's behalf.

(b) *Payment of scholarship: leave-of-absence; repeated coursework.* The Secretary will suspend scholarship payments to or on behalf of a Scholarship Program participant if the school in which the participant is enrolled (1) approves a leave-of-absence for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Secretary has previously made scholarship payments under § 62.7. However, if the repeated coursework does not delay the participant's graduation date, scholarship payments will continue except for any additional costs relating to the repeated coursework. Any scholarship payments suspended under this paragraph will be resumed by the Secretary upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated coursework and is pursuing as a full-time student the course of study for which the scholarship was awarded.

§ 62.8 What does an individual have to do in return for the Scholarship Program award?

(a) *General.* Except as provided in paragraphs (d), (f), and (g) of this section, each Scholarship Program participant is obligated to serve in the full-time clinical practice of the participant's profession as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps in the health manpower shortage area to which the participant is assigned.

(b) *Beginning of service.* Except as provided in § 62.9(d), the period of obligated service will begin as soon as possible following (1) the completion of the Scholarship Program participant's course of study leading to a degree in medicine, osteopathy, dentistry, or other health profession, and (2) appointment of the participant as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps. For purposes of this paragraph, "appointment" means only those appointments as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps made specifically for the purpose of serving the participant's period of obligated service.

(c) *Duration of service.* Except as provided in § 62.14(b)(1), the period for which the Scholarship Program participant is obligated to serve is equal to 1 year for each school year for which the participant receives a scholarship award under this part, or 2 years, whichever is greater.

(d) *Service by detail.* If the Secretary determines that there is no need in a health manpower shortage area for a member of the profession in which the Scholarship Program participant is obligated to provide service, the Scholarship Program participant may be detailed to serve the period of obligated service as a full-time member of the profession for which the participant has been trained, in any of the Department of Health, Education, and Welfare as the Secretary may determine.

(e) *Creditability of approved graduate training.* Except as provided in § 62.14(b)(2), no period of approved graduate training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program.

(f) *Service under the National Research Service Award Program.* A Scholarship Program participant who demonstrates exceptional promise for medical research may perform the period of obligated service owed under this section by participating in the National Research Service Award Program for Individual Postdoctoral Fellows authorized under section 472 of the Act. Exceptional promise for medical research will be demonstrated if the participant applies for a National Research Service Award for Individual Postdoctoral Fellows, is selected to participate in this research program, and accepts the offer of participation. A Scholarship Program participant in the National Research Service Award Program will receive credit toward satisfying the period of obligated service incurred under this section for any period of time he or she is engaged in activities which meet the service requirements of the National Research Service Award Program. If the time served under the National Research Service Award Program is less than the total period of obligated service owed under the Scholarship Program, the participant will serve the remainder of the period of obligated service as a member of the National Health Service Corps. A participant who fails to begin or complete the service requirements under the National Research Service Award Program may be subject to the default penalty under § 62.10(c) of this Part and the default penalties under the National Research Service Award Program.

(g) *Release from service obligation to engage in private practice.* The Secretary will release a participant from all or part of the service obligation if the participant applies for a release under section 753 of the Act and enters into a written agreement to engage for a period equal to the remaining period of the participant's service obligation in the full-time private clinical practice of the participant's health profession, in accordance with the requirements of section 753 of the Act.

§ 62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?

(a) If a Scholarship Program participant receives a degree from a school of medicine, osteopathy, or dentistry, the Secretary will, upon request of the participant, defer the beginning date of the obligated service for a period not to exceed three years for the purpose of completing an approved graduate training program. Each Scholarship Program participant receiving a degree in medicine or osteopathy who does not intend to enter training which can be completed within the maximum three-year period must complete at least one year of approved graduate training before the period of obligated service. This one year of training must be in (1) an allopathic flexible first-year program whose sponsorship includes approved residencies in family practice, internal medicine or pediatrics or a categorical first-year program in family practice, internal medicine, or pediatrics, or (2) a rotating internship in osteopathic medicine. Any Scholarship Program participant receiving a degree in medicine or osteopathy who fails to complete the one year of required training or an approved graduate training program will be subject to the default penalties of § 62.10(c). Participants graduating from a dental school not seeking deferment may begin the obligated service upon their graduation.

(b) If the Scholarship Program participant anticipates changing or altering the type of approved graduate training for which the deferment was granted under paragraph (a) of this section, the participant must submit a request for approval of the change or alteration to the Secretary.

(c) The Secretary may, from time to time, prescribe additional terms and conditions for deferment under paragraphs (a) and (b) of this section when in his or her judgment these additional terms and conditions are necessary to carry out the purposes of the Scholarship Program.

(d) Any Scholarship Program participant whose period of obligated service has been deferred under paragraph (a) of this section, must begin the obligated service after completing the requested or required graduate training for which the deferment was granted, and upon being appointed as a Commissioned Officer in the Regular or Reserve Corps of the Service, or as a civilian member of the National Health Service Corps.

§ 62.10 What will happen if an individual does not comply with the terms and conditions of participating in the Scholarship Program?

(a) If a Scholarship Program participant, other than one described in paragraph (b) of this section, fails to accept payment or instructs the school not to accept payment of the scholarship provided by the Secretary, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of $1,500.00 liquidated damages. Payment of this amount must be made within 30 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment.

(b) When a Scholarship Program participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, or voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under § 62.7. Payment of this amount must be made within 2 years of the date the participant becomes liable to make payment under this paragraph.

(c) If a Scholarship Program participant fails to begin or complete the period of obligated service incurred under § 62.8, including failing to comply with the applicable terms and conditions of a deferment granted by the Secretary, the participant must pay to the United States an amount determined by the formula set forth in section 754(c) of the Act. Payment of this amount shall be made within 1 year of the date that the participant failed to begin or complete the period of obligated service, as determined by the Secretary.

§ 62.11 When can a Scholarship Program payment obligation be discharged in bankruptcy?

In accordance with section 754(d)(3) of the Act, any payment obligation incurred under § 62.10 may not be discharged in bankruptcy until 5 years

[1] Applications, contracts, and instructions may be obtained from the Bureau of Health Manpower, Division of Manpower Training Support, Center Building, Room 5-44, 3700 East-West Highway, Hyattsville, Md. 20782.

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after the date on which the payment obligation is due.

§ 62.12 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?

(a) Any obligation of a Scholarship Program participant for service or payment will be canceled upon the death of the participant.

(b)(1) A Scholarship Program participant may seek a waiver or suspension of the service or payment obligations incurred under this part by written request to the Secretary setting forth the bases, circumstances, and causes which support the requested action. The Secretary may approve a request for a suspension for a period of 1 year. A renewal of this suspension may also be granted.

(2) The Secretary may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, or (ii) would involve extreme hardship to the participant and if enforcement of the service or payment obligation would be against equity and good conscience.

(c) For the purpose of paragraph (b)(2)(i) of this section, compliance by a participant with a service or payment obligation will be deemed impossible if the Secretary determines, on the basis of information and documentation as may be required, that the participant suffers from a physical or mental disability that results in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) For the purpose of paragraph (b)(2)(ii) of this section, in determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of information and documentation as may be required, will take into consideration the following:

(1) the participant's present financial resources and obligatons;

(2) the participant's estimated future financial resources and obligations; and

(3) the extent to which the participant has problems of a personal nature, such as physical or mental disability, terminal illness in the immediate family, which so intrude on the participant's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

§ 62.13 What are the limitations on the receipt of concurrent benefits?

Under section 741(f) or 836(h) of the Act, the Secretary may agree to repay a portion of an individual's educational loans in return for the individual's agreement to practice his or her profession in an area in need of health manpower. However, a Scholarship Program participant may not enter into an agreement with the Secretary under section 741(f) or 836(h) of the Act, until either (1) the participant has completed the service obligation under the Scholarship Program, (2) the Secretary has recovered from the participant an amount determined in accordance with § 62.10, or (3) any service or payment obligation has been waived in accordance with § 62.12. In no case shall a scholarship received under this part be considered an educational loan for the purposes of section 741(f) or 836(h) of the Act.

§ 62.14 What are the special provisions relating to recipients of awards under the PH/NHSC Scholarship Training Program and who will also receive awards under the Scholarship Program?

(a) Except as provided in paragraph (b) of this section, if a participant has previously received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the terms and conditions of this part will apply to the participant's entire obligation incurred under both the PH/NHSC Scholarship Training Program and the Scholarship Program.

(b) If a participant has previously received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the following conditions apply:

(1) *Period of obligated service—carry over.* The period of obligated service owed by the participant is equal to the total number of school years for which scholarship support was awarded under both the PH/NHSC Scholarship Training Program and the Scholarship Program without regard to each Program's minimum support requirement under 42 CFR § 62.7(a) (1976) as adopted on May 22, 1974 (see 39 FR 17962), and under § 62.8(c) of this part.

(2) *Creditability for internship and residency training.* (i) If a Scholarship Program participant received a scholarship under the PH/NHSC Scholarship Training Program for any school year beginning before October 12, 1976, the participant will receive credit toward satisfying the periods of obligated service incurred under the PH/NHSC Scholarship Training Program and under § 62.8 of this part for any periods of internship or residency training served in a Service or National Health Service Corps facility.

(ii) If a Scholarship Program participant received a scholarship for the first time during the 1977-78 school year under the PH/NHSC Scholarship Training Program, the participant will only receive 1 year of credit toward satisfying the period of obligated service incurred under the PH/NHSC Scholarship Training Program for internship or residency training served in a Service or National Health Service Corps facility.

(3) *Default penalties.* The PH/NHSC Scholarship Training Program default penalty will apply to a participant who fails to begin or complete the active duty service obligation incurred under that Program, and the § 62.10 default penalties will apply to a participant who fails to begin or complete the service obligation incurred under § 62.8 of this part. For purposes of determining which default penalty to apply when an individual who has received a scholarship award under both the PH/NHSC Scholarship Training Program and the Scholarship Program fails to begin or complete his service obligation, the service obligations will be deemed to have been served in the order in which they were incurred.

[FR Doc. 78-26976 Filed 9-26-78; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5647]

[CA-1]

CALIFORNIA

Partial Revocation of Executive Order No. 6009

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

Summary: This order partially revokes an Executive order which reserved public lands for navigation purposes on San Nicholas Island for use by the Coast Guard, Department of Commerce. The lands will continue to remain withdrawn under the administrative jurisdiction of the Navy Department.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6009 of January 31, 1933, which reserved public lands for use of the Coast Guard, Department of Commerce, for lighthouse purposes, is hereby revoked so far as it affects the following described lands:

SAN BERNARDINO MERIDIAN

Four plots of approximately 40 acres each and access thereto reserved for lighthouse purposes on San Nicholas Island, Calif., as shown on topographic sheet number 1523 in the archives of the U.S. Coast and Geodetic Survey. No metes and bounds description is available.

2. The revocation made by this order does not alter the jurisdiction of the Navy Department over the lands excepted in paragraph 1 above for naval purposes as provided for by Executive Order No. 6009 of January 31, 1933.

GUY R. MARTIN,
Assistant Secretary of the Interior.

SEPTEMBER 20, 1978.

[FR Doc. 78-27206 Filed 9-26-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 116d—GRANTS TO STATE EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Availability of Draft Final Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of availability of draft final regulations.

SUMMARY: Notice is given that a draft of the final regulations to implement the program authorized by section 122 of title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241c-2), is now available to the public. Section 122 provides for grants to State educational agencies to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers. The draft final regulations now available have not been adopted as official views of either the U.S. Office of Education or the Department of Health, Education, and Welfare, and have no legal effect.

The title I migrant education program is currently governed by interim final regulations published in the FEDERAL REGISTER on July 13, 1977, at 42 FR 36076. The preamble to the interim final regulations stated that interested persons would have opportunities to comment before final regulations were issued. The public responded with a large number of written comments and by participating at eight public hearings. The comment period, as announced in a notice with the interim final regulations (42 FR 36076), ran through August 29, 1977. A separate notice, extending the comment period through December 9, 1977, was published in the FEDERAL REGISTER on October 27, 1977 (42 FR 56608). The draft final regulations have been prepared in response to those public comments and are now available for informational purposes only. There is no extension to the comment period, however.

ADDRESS: Copies of these draft final regulations may be obtained by writing to: Mr. Vidal A. Rivera, Jr., Chief, Migrant Branch, Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue SW., (Room 3642G, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Vidal A. Rivera, Jr., telephone 202-245-2427.

Dated: September 21, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance No. 13.429, Educationally Deprived Children-Migrants.)

[FR DOC. 78-27212 Filed 9-26-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1335]

PART 1033—CAR SERVICE

Repair and Retirement of Freight Cars; Order to Show Cause

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order.

SUMMARY: The AAR requested that the date replies were due be extended 30 days from date of publication in the FEDERAL REGISTER. Replies are now due October 13, 1978.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided September 20, 1978.

On September 7, 1978, the Commission ordered all railroads owning plain 40-foot boxcars to show cause why they should not be required to repair and restore such cars to service within specified time periods and why certain restrictions should not be placed on the retirement of these cars. Each railroad was requested to furnish detailed information in response to 10 questions propounded by the Commission. Replies are due on September 23, 1978.

On September 13, 1978, the Association of American Railroads, on behalf of its member railroads, requested an extension of the time for the filing of replies for a minimum of thirty (30) days from the date of publication in the FEDERAL REGISTER.

The Association cites, as justification for an extension of time in which to file replies, the time required to assemble the data requested to be furnished and the necessity for certain carriers physically to examine cars set aside for repairs before meaningful replies can be submitted.

It is ordered, The time for filing replies to this order is extended until October 13, 1978.

By the Commission, Chairman O'Neal.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27217 Filed 9-26-78; 8:45 am]

[7035-01]

[S.O. No. 1339]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1339).

SUMMARY: Due to deteriorated track conditions between Maytown, and Helsing Junction, Wash., the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. is unable to continue service over that line. Service Order No. 1339 authorizes that railroad to operate over tracks of the Union Pacific Railroad Co. between Blakeslee Junction Interlocker, and Helsing Junction, Wash.

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DATES: Effective 11:59 p.m., September 22, 1978; expires 11:59 p.m., January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided September 22, 1978.

The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) between Maytown, and Helsing Junction, Wash., is inoperable because of deteriorated track conditions. MILW operations can be accomplished by use of tracks of Union Pacific Railroad Co. (UP), between Blakeslee Junction Interlocker and Helsing Junction, Wash. Operation by the MILW over these tracks of the UP is necessary in the interest of the public and the commerce of the people. The UP has consented to use of its tracks by the MILW.

It is the opinion of the Commission that an emergency exists requiring operation of MILW trains over these tracks of the UP in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1339 Service Order No. 1339.

(a) Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Co. The Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) is authorized to operate over tracks of Union Pacific Railroad Co. (UP) between Blakeslee Junction Interlocker, and Helsing Junction, Wash.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MILW over tracks of the UP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MILW over the tracks of the UP shall be the rates which were applicable on the shipments at the time of shipments as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., September 22, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27195 Filed 9-26-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Mingo National Wildlife Refuge, Mo., to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to waterfowl hunting of Mingo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 14, 1978 through January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, P.O. Box V, Puxico, Mo. 63960, 314-222-3589.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special Regulations; Migratory Game Birds; for individual wildlife refuges.

Waterfowl hunting is permitted on the Mingo National Wildlife Refuge, Mo., only on the areas designated by signs as being open to hunting. These areas comprising 2,000 acres are delineated on maps available at the refuge headquarters, the Duck Creek Wildlife Management Area, Puxico, Mo., and from the office of the Area Manager, United States Department of the Interior, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116. Waterfowl hunting shall be in accordance with all applicable Federal and State regulations subject to the following conditions:

1. Hunting hours are from one-half hour before sunrise until 1 p.m. daily.
2. All waterfowl hunters must use steel shot. Possession of lead shot in the hunting area is prohibited.
3. Each hunter must obtain a State hunting tag and enter the hunting area at designated access points.
4. Dogs may be used to retrieve downed waterfowl within the hunting area.
5. Hunting in or entering any cultivated field, pasture or diked area adjacent to the hunting area is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge area generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The United States Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 18, 1978.

GERALD L. CLAWSON,
Refuge Manager.

[FR Doc. 78-27103 Filed 9-26-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Proposed Container Requirements

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal to delete 1⅗ bushel wirebound boxes and 8-pound bags as containers authorized for handling oranges and grapefruit grown in Texas. Information indicates that a very small volume of citrus fruit is currently packaged in such containers. The proposed action is designed to effect a reduction in the number of shipping containers and therby reduce inventory costs.

DATES: Comments must be received on or before October 13, 1978. Proposed effective date: December 4, 1978.

ADDRESSES: Send two copies of comments to the Hearing Cleark, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202)'447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the committee, established under marketing Order No. 906, as amended (7 CFR part 906), regulating the handling of organges and grapefruit grown in the Lower Rio Grande Valley in Tex., effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions.

§ 906.340 [Amended]

The proposal is to delete in § 906.340 *Container, pack, and container marking regulations,* paragraph (a)(1)(v) closed wirebound wooden box with inside dimensions of 24⅛×11⅜×11⅜ inches, described in Freight Container Tariff 2G as container No. 3680; and the language referring to the 8-pound bag in paragraphs (a)(1)(v), (a)(1)(vi), and (a)(3), while authorizing handlers to use prior to July 31, 1979, existing supplies of these 2 containers in their inventories as of September 1, 1978.

Dated: September 22, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27219 Filed 9-26-78; 8:45 am]

[4410-10]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 235, 236, 242, 287, and 292a]

ALIENS; AVAILABILITY OF FREE LEGAL SERVICES PROGRAMS

Proposed Rules

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This is a notice of proposed rulemaking proposing amendments to the regulations of the Immigration and Naturalization Service which will provide that aliens under exclusion and deportation proceedings must be advised of the availability of free legal services programs, and organizations recognized pursuant to 8 CFR 292.2. The proposal also establishes procedures and criteria under which organizations offering free legal services may qualify for appearance on the Service listing of such organizations which is to be furnished to the aliens. Proposed regulations will also provide that the alien be furnished with a Notice advising him of his appeal rights.

These proposals are necessary and intended to establish procedures for informing aliens of the availability of free legal services programs to afford them full opportunity to obtain legal representation when involved in deportation or exclusion proceedings before this Service.

DATES: Representations must be received on or before November 27, 1978.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, room 7100, 425 I Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: 202-376-8373.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking proposes amendments to several sections of the Service's regulations (8 CFR 235.6(a); 236.2(a); 242.1(c); 242.2(a); 242.2(b); 242.16(a); 287.3) to provide that aliens involved in exclusion and deportation proceedings will be advised of the availability of free legal services programs and be furnished with a list of such free legal services programs and organizations recognized under 8 CFR 292.2. These proposed regulations will also provide that aliens be furnished with Form I-618, Written Notice of Appeal Rights.

The proposal also sets forth proposed rules in new 8 CFR Part 292a under which free legal services programs may qualify to appear on the listing which must be provided to the aliens under these regulations.

These proposed regulations are needed and intended to provide aliens with advice and listings of available free legal services programs and recognized organizations under 8 CFR 292.2 to enable them to fully exercise their privilege of having legal representation in exclusion and deportation proceedings, and to provide a procedure and criteria under which free legal services programs may qualify for appearance on the Service listing.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. It is proposed to revise the title of § 235.6 and to revise § 235.6(a) as set forth below:

235.6 Referral to immigration judge.

(a) *Notice.* If, in accordance with the provisions of section 235(b) of the Act, the examining immigration officer detains an alien for further inquiry before an immigration judge, he shall immediately sign and deliver to the alien a Notice to Alien Detained for Hearing by an Immigration Judge (Form I-122). If the alien is unable to read or understand the notice, it shall

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be read and explained to him by an employee of the Service, through an interpreter, if necessary, prior to such further inquiry. In addition the alien shall be advised of his right to representation by counsel of his own choice at no expense to the Government, and of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the alien is being detained. He shall also be furnished with a list of such programs.

* * * * *

PART 236—EXCLUSION OF ALIENS

2. It is proposed to amend § 236.2(a) by revising the third sentence to read as follows:

§ 236.2 Hearing.

(a) *Opening.* * * * The immigration judge shall ascertain whether the applicant for admission is the person to whom Form I-122 was previously delivered by the examining immigration officer as provided in Part 235 of this chapter; enter a copy of such form in evidence as an exhibit in the case; inform the applicant of the nature and purpose of the hearing; advise him of the privilege of being represented by an attorney of his own choice at no expense to the Government, and of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2, of this chapter located in the district where his exclusion is to be held; and shall ascertain that the applicant has received a list of such programs; and request to ascertain then and there whether he desires representation; advise him that he will have a reasonable opportunity to present evidence in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government; and place the applicant under oath.

* * * * *

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

3. It is proposed to revise § 242.1(c) by adding three new sentences to the end thereof. As revised, § 242.1(c) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

* * * * *

(c) *Service.* Service of the order to show cause may be accomplished either by personal service or by routine service; however, when routine service is used and the respondent does not appear for hearing or acknowledge in writing that he has received the order to show cause, it shall be re-served by personal service. When personal delivery of an order to show cause is made by an immigration officer, the contents of the order to show cause shall be explained and the respondent shall be advised that any statement he makes may be used against him. He shall also be advised of his right to representation by counsel of his own choice at no expense to the Government. He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. He shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights, regardless of the manner in which the service of the order to show cause was accomplished. Service of these documents shall be noted on Form I-213.

* * * * *

4. It is proposed to amend § 242.2(a) by changing the term "special inquiry officer" to "immigration judge" wherever it appears. It is proposed to further amend § 242.2(a) by adding three new sentences between the existing fourth and fifth sentences a respecting advice to aliens concerning free legal services programs. The three sentences to be added read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* * * * He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. He shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights. Service of these documents shall be noted on Form I-213. * * *

* * * * *

5. It is proposed to amend § 242.2(b) by amending the title as set forth below and by changing the term "special inquiry officer" to "immigration judge" wherever it appears. It is proposed to further amend § 242.2(b) by adding four new sentences between the existing fifth and sixth sentences pertaining to notificaiton of aliens of the availability of free legal services and appeal rights. The four sentences to be added read as follows:

(b) *Authority of immigration judge; appeals.* * * * In connection with such application the immigration judge shall advise the respondent of his right to be represented by counsel of his own choice at no expense to the Government. He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his application is to be heard. The immigration judge shall ascertain that the respondent has received a list of such programs, and the receipt by the respondent of a copy of Form I-618, Written Notice of Appeal Rights. Upon rendering a decision on an application under this section, the immigration judge (or district director if he renders the decision) shall advise the alien of his appeal rights under this section. * * *

* * * * *

6. It is proposed to revise § 242.16(a) to read as follows:

§ 242.16 Hearing.

(a) *Opening.* The immigration judge shall advise the respondent of his right to representation, at no expense to the Government, by counsel of his own choice authorized to practice in the proceedings and require him to state then and there whether he desires representation; advise the respondent of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the deportation hearing is being held; ascertain that the respondent has received a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights; advise the respondent that he will have a reasonable opportunity to examine and object to the evidence against him, to present evidence in his own behalf and to cross-examine witnesses presented by the Government; place the respondent under oath; read the factual allegations and the charges in the order to show cause to the respondent and explain them in nontechnical language, and enter the order to show cause as an exhibit in the record. Deportation hearings shall be open to the public, except that the immigration judge may, in his discretion and for the purpose of protecting witnesses, respondents, or the public interest, direct that the general public or particular individuals shall be excluded from the hearing in any specific case. Depending upon physical facilities, reasonable limitation may be placed upon the number in attendance at any one time, with priority being given to the press over the general public.

* * * * *

PART 287—FIELD OFFICERS; POWERS AND DUTIES

7. It is proposed to amend § 287.3 by changing the term "special inquiry officer" to "immigration judge" wherever it appears. It is proposed to further amend § 287.3 by revising the fourth sentence and adding two new sentences, immediately preceding the existing fifth sentence. The proposed amendments read as follows:

§ 287.3 Disposition of aliens arrested without warrant.

* * * After the examining officer has determined that formal proceedings will be instituted, an alien arrested without warrant of arrest shall be advised of the reason for his arrest and his right to be represented by counsel of his own choice, at no expense to the Government. He shall also be provided with a list of the available free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. It shall be noted on Form I-213 that such a list was provided to the alien. * * *

* * * * *

8. It is proposed to add a new Part 292a which is proposed to read as follows:

PART 292c—LISTING OF FREE LEGAL SERVICES PROGRAMS

Sec.
292a.1 Listing.
292a.2 Qualifications.
292a.3 Applications.
292a.4 Approval and denial of applications.
292a.5 Removal of an organization from list.

AUTHORITY: (Sec. 103; 8 U.S.C. 1103.)

§ 292a.1 Listing.

District directors and officers-in-charge shall maintain a current list of organizations qualified under this part and organizations accredited under § 292.2 of this chapter within their respective jurisdictions for the purpose of providing aliens in deportation or exclusion proceedings with a list of such organizations as prescribed in this chapter.

§ 292a.2 Qualifications.

An organization which seeks to have its name appear on the Service list described in § 292a.1 must show that it is established in the United States, provides free legal services to indigent aliens, and has on its staff, attorneys as defined in § 1.1(f) of this chapter who are available to render such free legal services by representation in deportation or exclusion proceedings. Bar associations which provide a referral service of attorneys who render pro bono assistance to aliens in deportation or exclusion proceedings may also qualify to have their names appear on the Service list. Listing of an organization qualified under this Part is not equivalent to recognition under § 292.2 of this chapter.

§ 292a.3 Applications.

Applications by organizations to qualify for listing under this part shall be submitted to the district director or officer-in-charge having jurisdiction over each area in which free legal services are being provided by the organization. The application shall be supported by a declaration signed by an authorized officer of the organization that the organization complies with all the qualifications set out in § 292a.2.

§ 292a.4 Approval and denial of applications.

District directors or officers-in-charge shall have the sole authority to grant or deny an application submitted by an organization under this Part, within their respective jurisdiction. If an application is denied, the applicant shall be notified of the decision in writing giving the grounds for such denial. The decision denying the application shall be final.

§ 292a.5 Removal of an organization from list.

If the district director or officer-in-charge is satisfied that an organization listed under § 292a.1 does not meet the qualifications as set out in § 292a.2, he shall notify the organization concerned, in writing, of his intention to remove its name from the Service list. The organization may submit an answer within 30 days from the date the notice was served. If, after considering the answer by the organization, in the event an answer is submitted, the district director or officer-in-charge determines that the organization does not qualify under § 292a.2, he shall remove its name from the list, and his decision shall be final.

PUBLIC COMMENTS INVITED

In accordance with 5 U.S.C. 553 the Service invites representations of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before November 27, 1978, will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner of Immigration and Naturalization at the address shown at the beginning of this notice.

Dated: September 21, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

APPENDIX

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

WRITTEN NOTICE OF APPEAL RIGHTS

YOUR APPEAL RIGHTS

READ THIS NOTICE CAREFULLY

1. You will have a hearing by an immigration judge who will enter a decision after the hearing is completed. If you are not satisfied with that decision, you have a right to appeal to the Board of Immigration Appeals, unless you waive your right to appeal.
2. A notice that you wish to appeal your case must be filed with the immigration judge within 10 days after the immigration judge announces his decision in your case. If the immigration judge mails his decision to you, you must file a notice that you wish to appeal your case within 13 days after the immigration judge has mailed his decision.
3. You must complete and file a Form I-290A, in triplicate, in order to appeal your case. These forms can be obtained from the immigration judge or an immigration officer.
4. You must pay a $50.00 fee when filing the Form I-290A unless you cannot afford this fee. Then you may apply for a fee-waiver under 8 C.F.R. Sections 3.3(b) and 103.7(c). In order to get a fee waiver you must file an affidavit asking for permission to file your appeal without a fee payment and stating why you believe you are entitled to this waiver and the reasons for your inability to pay the fee. This affidavit may be filed with the Form I-290A.
5. You may consult with an attorney in order to assist with your appeal, or you may seek legal assistance from any of the legal services programs included on the list which you have been furnished.
6. Unless you have waived your right to appeal from the immigration judge's decision to the Board of Immigration Appeals, you will not be required to depart from the United States during the time allowed for the filing of an appeal; further, you will not be required to depart from the United States while an appeal is pending before the Board or while your case is pending before the Board by way of certification.
7. If you have decided to waive your right to appeal the immigration judge's decision in your case, you may execute the following waiver:

The immigration judge has rendered a decision in my deportation case on 5————. He has explained that decision to me and has advised me of my right to appeal his decision to the Board of Immigration Appeals.

I hereby accept the immigration judge's decision and waive my right to appeal.

....
(Date) (Signature)

.....
(Signature of Interpreter) A..... .....

[FR Doc. 78-27074 Filed 9-26-78; 8:45 am]

V 43/188 SE 27 78 UMI

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 51]

LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Environmental Survey of the Uranium Fuel Cycle; correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of intent to update WASH-1248 (supporting document for table S-3, 10 CFR 51.20).

SUMMARY: The expiration date for comments which appears in the last paragraph of the Supplementary Information of the FEDERAL REGISTER notice FR Doc. 78-25075, published September 7, 1978, Vo. 43, No. 174, page 39802, should be changed from October 1, 1978, to October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

John K. Lerohl, Chief, Technology Assessment Branch 301-427-4138.

Dated at Washington, D.C., this 21st day of September 1978.

For the Nuclear Regulatory Commission.

JOHN K. LEROHL,
Chief, Technology Assessment Branch Division of Fuel Cycle and Material Safety.

[FR Doc. 78-27215 Filed 9-26-78; 8:45 am]

[3510-06]

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[15 CFR Part 806]

DIRECT INVESTMENT SURVEYS

Proposed Rulemaking

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the rules regarding the treatment of trusts in determining the existence and reporting of direct investment and to more specifically provide that information may be required to be reported by an intermediary. The present definition of trust has proved unsatisfactory because certain investments for which survey coverage is desired are technically not covered based on the present definition, and the change regarding intermediaries is to explicitly note in the subsection on intermediaries that they may be required to file reports. The effect of these changes is that certain investments not previously required to file reports will have to file.

DATE: Comments are due on or before October 27, 1978.

ADDRESS: Send comments to: U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, D.C. 20230. All comments, material, questions, etc., in response to this proposal will be available for public inspection during normal business hours, 8 a.m. to 4:30 p.m., in Room 608, 1401 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce Washington, D.C. 20230, 202-523-0657.

SUPPLEMENTARY INFORMATION: This document proposes to amend the rules regarding the treatment of trusts in determining the existence and reporting of direct investment and to more specifically provide that information may be required to be reported by an intermediary.

The treatment of trusts under the present rules (see 15 CFR 806.11(b) and (c)) primarily depends on whether the trust is revocable or irrevocable. Revocable trusts are treated as intermediaries and the existence of direct investment is determined in reference to the creator(s) and/or beneficiary(ies) of the trusts as the person(s) ultimately having ownership and control of the trust investments. As concerns irrevocable trusts, the existence of direct investment is determined by reference to the trust instrument and the trust is considered the owner as concerns any direct investment activity. This has proved to be unsatisfactory, primarily because irrevocable trusts may be short-term, and certain investments for which coverage is desired technically are not covered by the present regulations.

The proposed amendment would provide for the treatment of all trusts as intermediaries, not just revocable trusts, and contains clarifying language concerning the application of the rules to certain trusts which have been created by corporations or other organizations.

Under "Reporting requirements" (§ 806.3) it is stated that reports may be required from intermediaries.

This proposed amendment would add similar language to § 806.11(c) intermediary, to make it clear that when information required is available only to an intermediary, the intermediary may be required to report the information.

NOTE.—The department of Commerce has determined that this proposal is not a significant regulation requiring preparation of a regulatory analysis under Executive Order 12044.

It is therefore proposed to modify part 806, 15 CFR, as set forth below.

JUANITA M. KREPS,
Secretary of Commerce.

1. In § 806.7, paragraph (n) is revised to read as follows:

§ 806.7 General definitions.

* * * * * *

(n) "Intermediary" means an agent, nominee, manager, custodian, trust, or any person acting in a similar capacity.

2. In § 806.11, paragraphs (b) and (c) are revised to read as follows:

§ 806.11 Estates, trusts, and intermediaries.

* * * * * *

(b) A trust, either U.S. or foreign, is a person, but is not a business enterprise. The trust shall be considered the same as an intermediary and reporting should be as outlined in paragraph (c) of this section. For reporting purposes, the beneficiary(ies) of the trusts, or the creator(s) of the trust in the situation detailed below or if there is, or may be, a reversionary interest, shall be considered to be the owner(s) of the investments of the trust for determining the existence of direct investment. Where a corporation or other organization creates a trust designating its shareholders or members as beneficiaries, the creating corporation or organization shall be deemed to be the owner of the investments of the trust, or succeeding trusts where the presently existing trust has evolved out of a prior trust, for the purposes of determining the existence and reporting of direct investment. This procedure is adopted in order to fulfill the statistical purposes of this part and does not imply that control over an enterprise owned or controlled by a trust is, or can be, exercised by the beneficiary(ies) or creator(s).

(c) *Intermediary.* (1) If a particular U.S. direct investment abroad is held, exercised, administered, or managed by a U.S. intermediary, such intermediary shall be responsible for reporting the required information for, and in the name of, its principal or shall instruct the principal to submit the required information. Upon instructing the prinicpal, the intermediary shall be released from further liability to report provided it has informed this bureau of the date such instructions were given and the name and address of the principal, and has supplied the principal with any information in the possession of, or which can be secured by, the intermediary, that is necessary to permit the principal to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with the foreign affiliate shall be considered as accounts or transactions of the U.S. principal with the foreign affiliate. To the extent such transactions or accounts are unavailable to the principal, they may be required to be reported by the intermediary.

(2) If a U.S. person holds a foreign affiliate through a foreign intermediary, the U.S. person will be considered to own the foreign affiliate directly and all accounts or transactions of the U.S. person with the intermediary will be considered to be with the foreign affiliate.

(3) If a particular foreign direct investment in the United States is held, exercised, administered, or managed by a U.S. intermediary for the foreign beneficial owner, such intermediary shall be responsible for reporting the required information for, and in the name of, the U.S. affiliate, and shall report on behalf of the U.S. affiliate or shall instruct the U.S. affiliate to submit the required information. Upon so instructing the U.S. affiliate, the intermediary shall be released from further liability to report provided it has informed this Bureau of the date such instructions were given and the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner. To the extent such transactions or accounts are unavailable to the U.S. affiliate, they may be required to be reported by the intermediary.

(4) If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent but, when requested, must also indentify and furnish information concerning the foreign beneficial owner, if known, or if such information can be secured. Accounts or transactions of the U.S. affiliate with the foreign intermediary shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

[FR Doc. 78-27213 Filed 9-26-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

[Release No. 33-5978]

EFFECTIVE DATE OF AMENDMENTS TO REGISTRATION STATEMENT AND EXPANSION OF DEFINITIONAL RULE

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Commission is withdrawing rule proposals which would have provided a means by which certain post-effective amendments to registration statements filed on form S-8 under the Securities Act of 1933 might become effective automatically, without affirmative action on the part of the Commission or its staff. This action is taken because it appears that the proposals would not provide any significant advantage over current practice and would not be utilized by a significant number of issuers. The Commission is also deferring the possible expansion of a definitional rule which would have permitted delivery of prospectuses relating to securities registered on form S-8 which are traded in unsolicited transactions on the automated quotation system of a registered national securities association.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Granda (202-755-1750), Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announced the withdrawal of proposed rule 480 and a conforming amendment to rule 459 which were published for comment in Securities Act release No. 33-5768 (November 22, 1976) (41 FR 52701). These proposals would have provided a means by which post-effective amendments on form S-8 could be made effective automatically under certain conditions without affirmative action by the Commission or staff. Under the present procedure, section 8(c) of the Securities Act of 1933 ("Act") (15 U.S.C. 77a et seq.) requires that all amendments filed after the effective date of a registration statement shall become effective on such date as the Commission may determine.[1] Thus, affirmative action by the Commission currently is always required for a post-effective amendment to become effective.

The conditions required to be satisfied by an issuer in order for its amendment to become automatically effective were set forth in paragraph (a) of the proposed rule. They include the following: (1) Preparation of the post-effective amendment in accordance with Form S-8 under the Act; (2) selection by the issuer of any effective date not less than twenty days following the date the amendment was filed; and (3) presentation of a legend on the facing page of the amendment and compliance with the conditions described therein.

Under paragraph (b) of proposed rule 480, the post-effective amendment would not become effective if a second post-effective amendment were filed prior to the effective date specified on the first such amendment. Proposed rule 480(c) simply provided that the post-effective amendments not filed pursuant to rule 480(a) would become effective pursuant to section 8(c) of the Act.

The proposed amendment to rule 459 merely indicated the manner in which the twenty day period of proposed rule 480(a) would be computed.

While intended to eliminate the need for affirmative Commission or staff action in post-effective amendments to form S-8 becoming effective, the proposed rule, in operation, would not have altered the present process of staff review of such amendments. Moreover, the present procedures of issuing an order confirming that the amendment has become effective as well as transmittal by mail and telegram of a copy of the order to the registrant and inclusion of such order in the Commission's files would have been continued if the proposed rule had been adopted. However, any failure or delay in issuing an order to the registrant would not have prevented the amendment from becoming effective pursuant to proposed rule 480 if the registrant had met all of its conditions.

The majority of the letters of comment indicated that proposed rule 480 would not provide any significant advantage over current practice. The

[1] Section 8(c) states that: "An amendment filed after the effective date of the registration statement, if such amendment, upon its face, appears to the Commission not to be incomplete or inaccurate in any material respect, shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

view also expressed that issuers would not utilize proposed rule 480(a) unless assurance could be obtained prior to the scheduled effective date that the staff had reviewed the amendment and had no comments. The reluctance of issuers to rely on the rule without such assurance appears to be attributable to their concern over the possibility that the staff would have comments after an amendment became effective, thereby creating the prospect of reprinting and redistributing prospectuses as well as the issuance of a stop order.

The Commission believes that if the staff is to review the amendment, communicate to the issuer that it has no comments, and prepare an order confirming that the amendment has become effective pursuant to rule 480(a), there will be little substantive difference between rule 480(a) and the existing procedure for making post-effective amendments on form S-8 effective. Moreover, the issuer's ability to determine the date of effectiveness of the post-effective amendments to registration statements on form S-8 was considered by certain commentators to be of marginal benefit because of the minimum waiting period of 20 days. The Commission also notes that its staff typically is able to adhere to any reasonable schedule set forth by the registrant and that proposed rule 480 would impose the additional burden of filing and monitoring delaying amendments.

In view of the lack of any significant advantages which would be derived from proposed rule 480 and the conforming amendment to rule 459, the Commission has determined to withdraw them.

Possible Amendments to Rule 153

Comment was also specifically invited on possible amendments to expand rule 153 (17 CFR 230.153) to permit delivery of prospectuses relating to securities registered on form S-8 which are traded in unsolicited transactions on the automated quotation system of a national securities association registered under section 15A of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)).[2] Only one letter of comment addressed the possible expansion of the rule. In view of the lack of public interest and input, the Commission has decided to defer further consideration of the concept and not to propose specific amendments to rule 153 at this time.

By the Commission.

GEORGE A. FITZSIMMONS
Secretary.

SEPTEMBER 18, 1978.

[FR Doc. 78-27203 Filed 9-26-78; 8:45 am]

[2] Rule 153 provides generally that the requirements of section 5(b)(2) of the Act that a transaction be "preceded by a prospectus" may be satisfied constructively through the actual delivery of prospectuses to the national securities exchange on which the transaction is effected. The rule contemplates that such prospectuses then may be redelivered to members of such exchange upon their request.

[8010-01]

[17 CFR Part 230]

[Release No. 33-5980, File No. S7-755]

RESALES OF SECURITIES

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment a proposal to amend two rules which provides safe harbors for the resale of securities to the public. The proposed amendments would permit persons who have held securities covered by the rules for a period of 5 years or more to sell such securities without any amount limitation, provided such persons are not affiliates of the issuer of the securities. The purpose of the amendments is to relax certain requirements of the rules which may be more burdensome than necessary.

DATE: Comments must be received on or before November 20, 1978.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to file No. S7-755 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: The Commission today published for comment proposed amendments to rule 144 (17 CFR 230.144) and rule 148 (17 CFR 230.148) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.) The amendments are being proposed for the purpose of relaxing certain requirements of the rule which may be unnecessarily burdensome. In a related action, the Commission previously announced in a separate release [1] the adoption of other amendments to rules 144 and 148 which similarly are designed to reduce the burdens of those rules.

[1] Release No. 33-5979 (September 19, 1978) (43 FR 43726).

Background

Both rule 144 and rule 148 provide a safe harbor for the public resale of certain types of securities. Rule 144 applies to the resale of "restricted securities" [2] and securities held by affiliates [3] of an issuer, while rule 148 is applicable to the resale of securities acquired in bankruptcy proceedings. Both of these rules prescribe standards which, if met, permit persons who hold such securities to sell them publicly without the need for registration and without being deemed underwriters [4] under the 1933 Act.

Rule 144 was considered to be an experiment at the time of its adoption.[5] Accordingly, the Commission has monitored its operation to determine how well it is working and what changes, if any, are necessary to improve it. Generally, it is the Commission's view that the rule has operated well insofar as achieving its primary purpose, the protection of investors, is concerned. It has, however, been subject in recent years to the criticism that several of the requirements, particularly those limiting the amount of securities that can be sold under it, are more restrictive than necessary to achieve the purposes of the 1933 Act.

The Commission has given consideration to the critical comments concerning rule 144 and in the past several years has taken various steps to relax some of the rule's requirements.[6] It now proposes to take a further step in that direction by publishing for comment an amendment that would permit sales under the rule to be made without any volume restrictions: *Provided,* The seller is not an affiliate of the issuer and has held his securities for at least 5 years. A similar amendment to rule 148 also is being proposed for comment.

Discussion of the Proposal

Under the existing provisions of rule 144, a nonaffiliate who has held restricted securities for at least 2 years

[2] The term "restricted securities" includes securities acquired in nonpublic offerings, such as those under section 4(2) of the 1933 Act, as well as securities acquired in offerings made in reliance upon rule 240 (17 CFR 230.240) under the Act.

[3] An "affiliate" of an entity is defined in rule 405 (17 CFR 230.405) under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the (entity)."

[4] The term "underwriter" is broadly defined in section 2(11) of the 1933 Act and includes persons who acquire securities "with a view to • • • distribution" or who participate directly or indirectly in the distribution of a security.

[5] See in this regard the portion of Release No. 33-5223 (January 11, 1972) (37 FR 591) entitled "Operation of the Rule."

[6] For more information in this regard, see the release cited in footnote 1, infra.

may commence selling specified amounts of those securities during periods of 3 months each.[7] If, however, such a person does not sell any securities during a particular 3-month period, he is not permited to cumulate the amount that could have been sold during the period with the amount permitted to be sold during a later 3-month period. Thus, for example, a person who has held restricted securities for 5 years without making any prior sales could not sell any greater number of securities during a 3-month period than a person who has held similar securities for only 2 years.

The inability to cumulate under the rule has fostered complaints that the rule is unnecessarily restrictive. For instance, it has been urged that a person who has held his securities for 5 years has demonstrated by his lengthy holding period that he is not an underwriter within the meaning of section 2(11) of the 1933 Act. According to this line of reasoning, the lenghty holding period is an ample indication that the person did not acquire his securities "with a view to distribution." Thus, under this rationale the person with the 5-year holding period should be free to resell his securities without restriction under section 4(1) of the 1933 Act, which exempts from registration sales of securities by any person who is not an "issuer, underwriter, or dealer." Adherents of this point of view therefore argue that rule 144 should not place limits on sales of securities which have been held for lengthy periods of time.[8]

While the Commission agrees that the length of one's holding period is a major consideration in determining whether a person is an underwriter, it is not the only one which bears upon that issue. As the Commission pointed out in the release [9] which announced the adoption of rule 144, the definition of "underwriter" in section 2(11) also includes any person who participates in a distribution and this requires that other factors also be examined. Included among these other factors, which all bear upon whether a person may be engaged in a distribution, are the availability of adequate current information about the issuer and the impact on the trading market of the sale transaction.

In an effort to take into consideration all of the factors that should be considered in determining whether a person is an underwriter, while at the same time attempting to provide appropriate relief to those who have held their securities for periods of considerable length, the Commission has decided to invite public comment on the proposal briefly referred to in the preceding section. As stated therein, the proposal would permit nonaffiliates of an issuer to sell their securities under rule 144 without any volume restrictions after they have held the securities for a period of 5 or more years. This proposal not only would give major recognition to the length of one's holding period, but also would continue to take into consideration the other elements involved in section 2(11) by applying certain other provisions of rule 144, such as the public information and manner of sale requirements, to transactions covered by the proposal.

The effect of the proposal outlined above would be to exempt nonaffiliates from the volume limitations of the rule after they have held their securities for at least 5 years. All other provisions of the rule would continue to apply to such persons. In this regard, however, the Commission is interested in receiving comments on whether the notice of sale requirement of paragraph (h) of the rule should continue to be applied to nonaffiliates who might wish to avail themselves of the provision.

With respect to the holding period of 5 years contained in the proposal, the Commission also invites comments on whether it would be appropriate to consider reducing the time period requirement, depending on whether the issuer files periodic reports with the Commission under sections 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78a, et seq.] (in which case the holding period might be reduced to 4 years) or whether the issuer's securities are listed on a national stock exchange (in which case the holding period might be reduced to 3 years).

The Commission wishes to emphasize that persons who are deemed to be affiliates of an issuer would not be able to avail themselves of the new provision. The control relationship which such persons have with the issuer of the securities would appear to increase the likelihood that they might attempt to utilize the provision for distributions rather than routine trading transactions. Accordingly, the Commission does not believe it would be appropriate to make the new provision available to persons who have such a relationship with the issuer.

Text of the Proposed Amendments

(Attention: Arrows are used to indicate additions. There are no deletions.)

I. It is proposed to amend 17 CFR Chapter II by revising § 230.144 to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

• • • • • • •

(e) • • •

(1) • • •

(2) *Sales by persons other than affiliates.* The amount of restricted securities sold for the account of any person other than an affiliate of the issuer, together with all other sales of restricted securities of the same class for the account of such person within the preceding 3 months, shall not exceed the amount specified in paragraphs (e)(1)(i), (1)(ii), or (1)(iii) of this section, whichever is applicable. ►The limitation in this paragraph (e)(2), however, shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer: *Provided* The securities have been beneficially owned by the person for a period of at least 5 years prior to the sale of such securities, except that in the event such securities were purchased, the full purchase price or other consideration shall have been paid or given at least 5 years prior to the sale.◄

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II. It is proposed to amend 17 CFR Chapter II by revising § 230.148 to read as follows:

§ 230.148 Persons deemed not to be underwriters of securities issued or sold in connection with bankruptcy proceeding.

• • • • • •

(b) *Securities issued under a plan.* A person or entity who acquires securities issued under a plan in a transaction exempt from the registration requirements of the Securities Act of 1933 shall not be deemed an underwriter within the meaning of section 2(11) of the Act with respect to resales of such securities if all of the following conditions are met:

(1) *Volume limitation.* The amount of securities sold for the account of such person or entity during any 3 month period shall not exceed the greater of (i) 1 percent of the sum of the number of shares or other units of the class issued and outstanding and the number of shares or units of the

[7] In general, a person may sell during any 3-month period an amount equal to the greater of the average weekly trading volume (if available) or 1 percent of the outstanding securities of the class. See, in this regard, paragraph (e) of rule 144, as recently amended in the release cited in footnote 1, infra.

[8] It should be noted that rule 144 is not the exclusive means for selling restricted securities without registration under the Act. The rule is intended simply to be a safe harbor for establishing the availability of the exemption provided by section 4(1). Thus, sales of restricted securities which do not constitute a distribution may be made by nonaffiliates directly under section 4(1), provided they are in accordance with current interpretations of that section.

[9] Release No. 33-5223 (January 11, 1972) (37 FR 591).

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class reserved for future issuance in respect of claims and interests filed and allowed under the plan, as shown by the most recent report or statement published by the issuer, or (ii) the average weekly reported volume of trading in such securities on all national securities exchanges and reported through the automated quotation system of a registered securities association during the 4 calendar weeks preceding the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (iii) the average weekly volume of trading in such securities reported through the consolidated transaction reporting system contemplated by rule 17a-15 under the Securities Exchange Act of 1934 during the 4-week period specified in paragraph (b)(1)(ii) of this section. For the purpose of determining the limitation on the amount of securities sold, all securities of the same class sold under this rule by persons or entities acting in concert shall be aggregated. ►The limitation in this paragraph (b)(1) on the amount of securities that may be sold, however, shall not apply to securities sold for the account of a person who is not an affiliate of the issuer, provided the securities have been beneficially owned by the person for a period of at least 5 years prior to the sale of such securities, except that in the event such securities were purchased, the full purchase price or other consideration shall have been paid or given at least 5 years prior to the sale.◄

* * * * *

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; secs. 201, 203, 209, 210, 48 Stat. 905, 906, 908; secs. 1–4, 6, 68 Stat. 683, 684; sec. 12, 78 Stat. 580; (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)))

STATUTORY BASIS

The amendments to rules 144 and 148 are being proposed by the Commission pursuant to the Securities Act of 1933, particularly sections 2(11), 4(1), 4(4) and 19(a) thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 20, 1978.

[FR Doc. 78-27193 Filed 9-26-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Ch. I]

[Docket No. RM78-2; Formerly ICC Docket Ex Parte No. 308]

VALUATION OF COMMON CARRIER PIPELINES

Oral Argument; Public Hearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Oral argument—public hearing.

SUMMARY: The Federal Energy Regulatory Commission will hold a public hearing on oil pipeline regulation for the purpose of receiving comments from and exchanging views with persons interested in that subject. The issues in the particular proceeding relate to rate base and rate of return. However, the discussion will not be limited to those areas. Participants are free to discuss other topics that they deem relevant to the Commission's oil pipeline responsibilities.

DATES: The hearing will begin at 10 a.m. on October 16, 1978, and will continue on October 17, 1978. Requests to participate must be submitted on or before October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4166.

Lois D. Cashell, Assistant Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4166.

On August 30, 1978, the Association of Oil Pipe Lines filed a request for oral argument on the issues presented in docket No. RM78-2 (formerly ICC Docket Ex Parte No. 308).

The Commission, because of the significance and complexity of the matters in question, will hold a public hearing for the purpose of receiving comments from and exchanging views with persons interested in this rulemaking proceeding and in oil pipeline regulation generally. It is not the intention of the Commission to limit the discussion to rate base and rate of return. Participants in this public hearing are free to discuss other topics that they deem relevant to the Commission's oil pipeline responsibilities. However, participants should bear in mind that the Commission's action herein will be based solely on the record in this proceeding on those extra-record materials of which it can properly take administrative notice.

The Commission is aware of and has given some thought to the legal questions with respect to construction of the Valuation Act of 1913 raised in this proceeding and dealt with in *Farmers Union Central Exchange* v. *FERC*, —— F. 2d —— (D.C. Cir., June 27, 1978). However, a petition for certiorari in that case is now pending in the Supreme Court. Hence this is an inappropriate forum in which to argue the issues of statutory construction there involved.

Accordingly, participants in this hearing are asked to refrain from seeking to relitigate *Farmers* before the Commission. They should assume that the law does not preclude the Commission from making innovations in this area and should, therefore, address themselves in the main to the basic policy questions presented. Special attention should be given to the actual and potential impact of oil pipeline regulation on consumers, on competition in the oil industry, and on the Nation's energy needs and goals.

Different groups of participants in this hearing may have similar interests. In order to avoid repetitive presentations, the Commission reserves the right to limit participation in the oral argument. Parties having similar positions on issues should consolidate their efforts, to the extent possible, and make a collective appearance through a single spokesman.

To expedite the oral argument, the Commission will not require a formal brief or a position paper from the participants. If the participants wish to provide such documents, or courtesy copies of prepared texts which they plan to present at the public hearing, they may submit these materials to the Secretary prior to the hearing.

The hearing will be held in Hearing Room A on the second floor of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., at 10 a.m. on October 16 and October 17, 1978. Requests to make statements at this hearing should be submitted by mail or telephone on or before October 2, 1978, to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,D.C. 20426, 202-275-4166. Each such request should state the amount of time desired.

The Secretary will then prepare a schedule prescribing the order in which participants shall appear and the amount of time allocated to each of them.

The Commission finds: It is in the public interest to hold oral argument in this proceeding.

The Commission orders: (A) Oral argument in this proceeding shall be held in Hearing Room A, 825 North Capitol Street NE., Washington, D.C., at 10 a.m. on October 16 and 17, 1978.

(B) Requests to participate in the oral argument shall be filed on or before close of business October 2, 1978.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27126 Filed 9-26-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 975-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the South Coast Air Quality Management District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the South Coast Air Quality Management District's rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to October 27, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA region IX office at the above address and at the following locations: South Coast Air Quality Management District, 9420 Telstar Avenue, El Monte, Calif. 91731; California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95814; and Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wally Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on June 22, 1978, and July 13, 1978:

District	Date	Rule changes
South Coast Air Quality Management District (South Coast Air Basin)	June 22, 1978.....	Rule 102 Definition of terms.
		Rule 501.1 Assistance to small business.
		Rule 503 Content of petitions.
	July 13, 1978	Rule 301 Permit fees.
		Rule 302, Fees for technical reports.
		Rule 303 Hearing board fees.
		Rule 442 Usage of solvent.s
		Rule 461 Gasoline transfer and dispensing.
		Rule 465 Vacuum producing devices or systems.
		Rule 1102 Petroleum solvent dry cleaners.
		Rule 1113 Architectural coatings.

In addition, regulations were submitted concerning new source reviews. These regulations will be considered in separate FEDERAL REGISTER actions.

The State also submitted regulations concerning new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) on June 22, 1978. These NSPS and NESHAPS regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State implementation plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the South Coast Air Quality Management District under the appropriate provisions of sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before October 27, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Sec. 110, 301(a) of the Clean Air Act as amended (42 U.S.C. 7410) and 7601 (a)).

Dated: September 21, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-27067 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 974-8]

OHIO

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule is an amendment to the federally promulgated Ohio State implementation plan for sulfur dioxide. The regulation is being amended for three reasons: First, the Agency committed to the U.S. Court of Appeals for the Sixth Circuit that it would reanalyze emission limitations for sources in Summit and Butler Counties; second, 12 sources in the State of Ohio have independently petitioned the Agency to revise their emission limitations; and finally, a number of typographical errors in the regulation are being corrected here. Most of the changes in emission limitations represent relaxations, however, some of the emission limitations for sources in Summit and Butler Counties have become more stringent. Comments are being solicited on this amendment.

DATE: Comments must be received on or before November 27, 1978. A public hearing will be held on the Summit and Butler Countys emission limitations from 9 a.m. to 4 p.m. on October 25, 1978, at the Christopher Inn, 300 East Broad Street, Columbus, Ohio. The record will be held open for a 30-day period following the hearing for the purpose of submitting rebuttal or additional information. Requests for a public hearing on any of the 12 individual source revisions must be received no later than October 12, 1978. A time and place for any additional

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hearings will be published at a later date.

ADDRESSES: Comments, requests to make an oral presentation at the Columbus hearing and requests for a hearing should be submitted to: Chief, Air Programs Branch, U.S. Environmental Protection agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The technical support documents and dockets for these revisions (5A-78-1 and 5A-78-2) are on file at the above address and at: Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patricia Springer, Ohio State Specialist, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2205.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the Environmental Protection Agency (the Agency) promulgated regulations establishing the State implementation plan (SIP) for the control of sulfur dioxide (SO) for the State of Ohio (41 FR 36324, amended November 10, 1976, 41 FR 52455, and on May 31, 1977, 42 FR 27588). Following promulgation, 33 corporations and all of the investor-owned utilities in Ohio filed petitions for review with the U.S. Court of Appeals for the Sixth Circuit. See *Cleveland Electric Illuminating* v. *EPA*, 572 F. 2d 1150; *Cincinnati Gas and Electric* v. *EPA*, slip opinion issued June 29, 1978. In order to resolve some of the individual issues in that case, the Agency agreed to correct the data base for several petitioners and reanalyze emission limitations in Summit and Butler Counties. Other petitioners in that case agreed to pursue individual SIP revisions in order to resolve their issues and dismissed their challenges. Still other sources in Ohio have pursued SIP revisions in order to reflect changes in operation or different control strategies which are more economical for the source.

The amendment to the regulation proposed today includes the Agency's reanalyzed regulation for Butler and Summit Counties, the tentatively approved revisions for 12 other sources, and the correction of several typographical errors. The 12 sources which requested the SIP revisions proposed here are as follows: Aluminum Co. of America; the Hoover Co.; Wheeling-Pittsburgh Steel Corp.; Ashland Oil, Inc.; The Sun Oil Co.; The Standard Oil Co.; Koppers Co., Inc.; Bowling Green University; Oberlin College; city of Napoleon, Ohio; Erie Coke & Chemical Co.; and Republic Steel.

The Agency's reanalysis of Butler and Summit Counties is described in a technical support document (August 1978 TSD) which is included in the official docket (docket 5A-78-1). The TSD reflects the Agency's technical basis for the regulation and is incorporated herein by reference. The August 1978 TSD is available at region V's Air Programs Branch as well as at the Public Information Reference Unit in Washington.

A technical support document has also been prepared for each of the 12 individual source SIP revisions. These are also available at region V or the Public Information Reference Unit. The dockets for the 12 SIP revisions have been consolidated and designated docket 5A-78-2.

The Agency has reconsidered the appropriate attainment date and compliance schedules for those sources in Butler and Summit Counties whose emission limitations are changed by this amendment and is proposing to start the original compliance schedule over for these sources. Comments are solicited from the sources affected by this amendment as to the appropriate compliance schedule and attainment date.

Final promulgation of this amendment will follow analysis of the comments and the public hearing statements and will depend on consistency with section 110 of the Clean Air Act and the requirements of 40 CFR Part 51.

NOTE.—The Environmental Protection Agency had determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(42 U.S.C. 7410.)

Dated: September 19, 1978.

JOHN MCGUIRE,
Regional Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart KKK—Ohio

1. In § 52.1875, the attainment date for sulfur dioxide in the table is revised for several sources in Summit and Butler Counties. This revision is reflected in footnote "f" to the table.

§ 52.1875 Attainment dates for national standards.

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f. August 27, 1979 except for the companies listed in (1) which are subject to an attainment date of June 17, 1980, and the companies in Summit and Butler Counties listed in (2) which are subject to an attainment date of (3 years from final promulgation).

(1) Ashland Oil, Inc.; Youngstown Sheet & Tube Co.; PPG Industries, Inc.; Wheeling-Pittsburgh Steel Corp.; Pittsburgh-Canfield Corp.; the Timken Co.; The Sun Oil Co.; Sheller-Globe Corp.; the B. F. Goodrich Co.; Phillips Petroleum Co.; Shell Oil Co.; Federal Paper Board Co., Inc.; the Firestone Tire & Rubber Co.; Republic Steel Corp.; Chase Bag Co.; White-Westinghouse Corp.; U.S. Steel Corp.; Interlake, Inc.; Austin Powder Co.; Diamond Crystal Salt Co.; the Goodyear Tire & Rubber Co.; the Gulf Oil Co.; the Standard Oil Co.; Champion International Corp.; Koppers Co., Inc.; General Motors Corp.; E. I. duPont de Nemours & Co.; Coulton Chemical Corp.; Allied Chemical Corp., Specialty Chemicals Division; the Hoover Co.; Aluminum Co. of America; Ohio Greenhouse Association; Armco Steel Corp.; Buckeye Power, Inc.; Cincinnati Gas & Electric; Cleveland Electric Illuminating Light Co.; Columbus & Southern Ohio Electric; Dayton Power & Light Co.; Dusquesne Light Co.; Ohio Edison Co.; Ohio Electric Co.; Ohio Power Co.; Pennsylvania Power Co.; Toledo Edison Co.

(2) In Summit County: Diamond Crystal Salt; Firestone Tire & Rubber Co.; General Tire & Rubber; B. F. Goodrich, Co.; Goodyear Aerospace Corp.; Goodyear Tire & Rubber Co.; Ohio Edison Co.; RCA Rubber Co.; Chrysler Corp.; PPG Industries, Inc.; Sieberling Tire & Rubber; Terex Division of General Motors Corp.; Midwest Rubber Reclaiming; Kittinger Supply Co. In Butler County: Fisher Body Division of General Motors Corp.; Champion International Corp.; MIddletown Paperboard; Cincinnati Gas & Electric, Inc.; Crystal Tissue; Diamond International; city of Hamilton Municipal Power Plant; Inland Container Corp.; Sorg Paper; Mercy Hospital; Beckett Paper; St. Regis Paper; Armco Steel Corp.; American Cyanamid Co.

2. Section 52.1881 is amended by revising paragraph (b) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

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(b) Regulations for the control of sulfur dioxide in the State of Ohio.

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(12) In Allen County:

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(iv) The Standard Oil Co. or any subsequent owner or operator of the Standard Oil Co. facilities at Allen County, Ohio, shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 0.92 pounds of sulfur dioxide per 1,000 pounds of total feed at the stack common to the fluid catalytic cracker and the carbon monoxide boiler. The total feed is the crude input to the fluid catalytic cracker.

(B) 1.00 pound of sulfur dioxide per million Btu actual heat input at the following:

(*1*) ISO stabilizer and split heaters (OEPA B002);

(*2*) Crude II heater (OEPA B004);

(*3*) Detailer (OEPA B005)

(*4*) Crude I heater (OEPA B010);

(*5*) Coker furnace (OEPA B011);

(*6*) Vac I heater (OEPA B012);

(*7*) MEK Dewaxing Sec heater (OEPA B013);

(*8*) Furfural ErtSec heater (OEPA B014);

(*9*) BH boilers (OEPA B020).

(C) 0.15 pound of sulfur dioxide per million Btu for all other boilers and process heaters.

(v) The Clark Equipment Co. or any subsequent owner or operator of the Clark Equipment Co. facilities at Allen County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.54 pounds of sulfur dioxide per million Btu actual heat input.

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(16) In Belmont County:

(i) The Wheeling Pittsburgh Steel Co. or any subsequent owner or operator of the Martins Ferry steel plant in Belmont County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Martins Ferry facility in excess of 5.78 pounds of sulfur dioxide per million Btu actual heat input.

(17) In Butler County:

(i) No present or any subsequent owner or operator, unless otherwise specified in this subparagraph, of a by-product coke oven located in Butler County, Ohio, shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 50 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.27 pound of sulfur dioxide per million Btu actual heat input.

(ii) The present or any subsequent owner or operator of the Fisher Body Division of the General Motors Corp. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 3.25 pounds of sulfur dioxide per million Btu of actual heat input.

(iii) The present or any subsequent owner or operator of the Champion International Corp. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 2.12 pounds of sulfur dioxide per million Btu of actual heat input from the stack common to coal-fired boilers numbered B010 and B020.

(B) 1.02 pounds of sulfur dioxide per million Btu of actual heat input for all remaining boilers.

(iv) The present or any subsequent owner or operator of the Middletown Paperboard Corp. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.47 pounds of sulfur dioxide per million Btu of actual heat input.

(v) The present or any subsequent owner or operator of the Cincinnati Gas & Electric Co.-Dick's Creek Station, in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.00 pound of sulfur dioxide per million Btu of actual heat input.

(vi) The present or any subsequent owner or operator of the Diamond International Corp. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 1.37 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 205.

(B) 0.40 pound of sulfur dioxide per million Btu of actual heat input for boiler No. 109.

(vii) The present or any subsequent owner or operator of the city of Hamilton, Ohio Municipal Power Plant in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 0.31 pound of sulfur dioxide per million Btu of actual heat input for boiler No. 1.

(B) 2.59 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 6.

(C) 0.30 pound of sulfur dioxide per million Btu of actual heat input for boiler No. 7.

(D) 1.91 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 8.

(E) Boiler No. 9 is subject to new source performance standards and is limited to 1.20 pounds of sulfur dioxide per million Btu actual heat input.

(viii) The present or any subsequent owner or operator of the Inland Container Co. in Butler County, Ohio, shall not cause or permt the emission of sulfur dioxide from any stack at this facility in excess of 3.38 pounds of sulfur dioxide per million Btu of actual heat input.

(ix) The present or any subsequent owner or operator of Mercy Hospital in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.19 pounds of sulfur dioxide per million Btu of actual heat input.

(x) The present or any subsequent owner or operator of the American Cyanamid Co. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 1.28 pounds of sulfur dioxide per million Btu of actual heat input for the boiler.

(B) 67.9 pounds of sulfur dioxide per ton of 100 percent sulfuric acid produced.

(xi) The present or any subsequent owner or operator of the Crystal Tissue Co. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 1.89 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 4.

(B) 1.18 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 3.

(xii) The present or any subseuqent owner or operator of the Sorg Paper Co. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 1.90 pounds of sulfur dioxide per million Btu of actual heat input for boilers No. 1 and 2.

(B) 1.31 pounds of sulfur dioxide per million Btu of actual heat input for boilers No. 3 and 4.

(xiii) The present or any subsequent owner or operator of the Beckett Paper Co. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 0.67 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 3.

(B) 0.52 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 4.

(C) 0.63 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 5.

(xiv) The present or any subsequent owner or operator of the St. Regis Paper Co. in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 0.41 pounds of sulfur dioxide per million Btu of actual heat input for boiler No. 5.

(B) 0.74 pounds of sulfur dioxide per million Btu of actual heat input for all other boilers.

(xv) The present or any subsequent owner or operator of the Armco steel Co., Hamilton plant, in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 0.94 pounds of sulfur dioxide per million Btu of actual heat input for all boilers and process units.

(B) The Armco Steel Co. or any subsequent owner or operator of the Armco Steel-Hamilton plant, located

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in Butler County, Ohio, shall not cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 280 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess of 1.51 pounds of sulfur dioxide per million Btu actual heat input.

(xvi) The present or any subsequent owner or operator of the Armco Steel Co., Middletown plant, in Butler County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below.

(A) 0.54 pounds of sulfur dioxide per million Btu of actual heat input for stack common to boiler Nos. 15 and 16.

(B) 0.63 pounds of sulfur dioxide per million Btu of actual heat input for soaking pits of batteries numbered 1 through 8.

(C) 0.72 pounds of sulfur dioxide per ton of process weight at the open hearths.

(D) 0.60 pounds of sulfur dioxide per ton of process weight at the recycle plant.

(E) 0.94 pounds of sulfur dioxide per million Btu of actual heat input for all boilers and process units unless otherwise specified in this subparagraph.

(F) The Armco Steel Co. or any subsequent owner or operator of the Armco Steel-Middletown plant located in Butler County, Ohio, shall not cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 280 grains of hydrogen sulfide per 100 dry standard cubic feet or coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess 1.51 pounds of sulfur dioxide per million Btu actual heat input.

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(23) In Cuyahoga County • • •

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(xxi) The Aluminum Co. of America (ALCOA) or any subsequent owner or operator of ALCOA's Cleveland works in Cuyahoga County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 5.20 pounds of sulfur dioxide per million Btu actual heat input.

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(32) In Henry County:

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(ii) The present or subsequent owner or operator of the city of Napoleon power plant in Henry County, Ohio shall not cause or permit the emission of sulfur dioxide from any state at the Napoleon Power Plant in excess of 5.88 pounds of sulfur dioxide per million Btu actual heat input.

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(34) In Jefferson County • • •

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(xii) No owner or operator of a by-product coke oven shall cause or permit the combustion of by-product coke oven gas containing hydrogen sulfide in excess of 50 grains per 100 dry standard cubic feet of coke oven gas.

(xiii) The Wheeling Pittsburgh Steel Co. or any subsequent owner or operator of the Yorkville steel plant facility in Jefferson County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit stack at the Yorkville facility in excess of 5.62 pounds of sulfur dioxide per million Btu actual heat input.

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(35) In Lake County • • •

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(v) The present or any subsequent owner or operator of the Erie Coke & Chemical Co. facility in Lake County, Ohio shall not cause or permit the combustion of by-product coke oven gas for coke oven underfiring containing a total sulfur content expressed as hydrogen sulfide in excess of 450 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas. All existing boilers previously owned by Diamond Shamrock will remain at 0.0 pounds of sulfur dioxide per million Btu actual heat input.

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(38) In Lorain County • • •

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(ix) Oberlin College or any subsequent owner or operator of the Oberlin College facility in Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of the rates specified below:

(A) 6.92 pounds of sulfur dioxide per million Btu of actual heat input for oil-fired boilers No. 1 and 2.

(B) 0.35 pounds of sulfur dioxide per million Btu of actual heat input for oil-fired boiler No. 3.

(39) In Lucas County • • •

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(iv) Standard Oil Co. • • •

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(D) 0.57 pounds of sulfur dioxide per million Btu actual heat input for process heaters or fossil fuel-fired steam-generating units numbered B009, B010, B018, B020, B023, and B025.

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(viii) Gulf Oil • • •

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(F) 200 pounds of sulfur dioxide per 2,000 pounds of sulfur processed for sulfur recovery plant.

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(xiv) Sun Petroleum Products Co. or any subsequent owner or operator of the Sun Petroleum Products Co. facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emission from any stack at the Sun facility in excess of the rates specified below:

(A) Unless otherwise specified in this subparagraph, the combustion of refinery fuel gas containing a total sulfur content expressed as hydrogen sulfide in excess of 10 grains of hydrogen sulfide per 100 dry standard cubic feet of refinery fuel gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.04 pounds of sulfur dioxide per million Btu actual heat input.

(B) 0.0 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fires steam-generating units or process operation heaters numbered 502, 1901, 1902, 1903, 1904, 1905, and 1906.

(C) 3.00 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units and CO boilers connected to the same stack.

(D) 1.80 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating unit numbered 1910.

(E) 1.60 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired process heater units numbered 507 and 508.

(F) 1.50 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired process heater unit numbered 301.

(G) 1.40 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired process heater unit numbered 9401.

(H) 1.10 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired process heater units numbered 501 and 503.

(I) 0.90 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired process heater unit numbered 304.

(J) 70 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for sulfur recovery plants.

(K) Fossil fuel-fired process heater units numbered 501 and 503 will not

be operated simultaneously with fossil fuel-fired process heater unit No. 507.

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(xvi) Bowling Green University or any subsequent owner or operator of the Bowling Green University facility in Lucas County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 5.5 pounds of sulfur dioxide per million Btu actual heat input.

(40) In Mahoning County • • •

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(vii) The Koppers Co. or any subsequent owner or operator of the Koppers Co. facilities located in Mahoning County, Ohio, shall not cause or permit the emission of sulfur dioxide from the stack connected to boiler No. 3 in excess of 4.0 pounds of sulfur dioxide per million Btu actual heat input.

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(58) In Stark County:

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(vi) The present or any subsequent owner or operator of the Timken Co. facilities in Stark County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam-generating unit(s) stack at this facility in excess of the rates specified below:

(A) 3.08 pounds of sulfur dioxide per million Btu actual heat input for the stack common to the fossil fuel-fired steam-generating units B001 and B002 at the Canton plant.

(B) 0.93 pounds of sulfur dioxide per million Btu actual heat input for the fossil fuel-fired steam-generating unit B003 at the Canton plant.

(C) 0.0 pounds of sulfur dioxide per million Btu actual heat input for the fossil fuel-fired steam-generating units B003 and B004 at the Gambrinus plant.

(D) 0.67 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating units at the Gambrinus plant unless other wise specified in this subparagraph.

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(ix) The Ashland Oil Co., or any subsequent owner or operator of the Ashland Oil Co. facilities in Stark County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the emission limitations listed below:

(A) 0.025 pounds of sulfur dioxide per million Btu actual heat input for units 4-0-B-3, 4-2-B-1, 4-2-B-2, and 4-27-B-1.

(B) 1.00 pounds of sulfur dioxide per million Btu actual heat input for all process heaters and fossil fuel-fired steam-generating units unless otherwise specified in this subparagraph.

(C) 0.62 pounds of sulfur dioxide per 1,000 pounds of charging stack for catalytic cracking units.

(D) 2.00 pounds of sulfur dioxide per 100 pounds of sulfur processed for sulfur recovery plants.

(E) Only two of the following three units may be operated simultaneously: 4-16-B-1, 4-16-B-2, and 4-16-B-12.

(x) The present or any subsequent owner or operator of the Hoover Co. in Stark County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 4.2 pounds of sulfur dioxide per million Btu actual heat input.

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(59) In Summit County • • •

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(iii) The present or any subsequent owner or operator of the Diamond Crystal facility in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from coal-fired boilers at this facility in excess of 4.72 pound of sulfur dioxide per million Btu of actual heat input or the emission of sulfur dioxide from oil-fired boilers at this facility in excess of 0.30 pounds of sulfur dioxide per million Btu of actual heat input.

(iv) The present or any subsequent owner or operator of the Kittinger Supply Co. (formerly known as Akwell Industries) facility in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from oil-fired boilers at this facility in excess of 0.80 pound of sulfur dioxide per million Btu of actual heat input or the emission of sulfur dioxide from coal-fired boilers at this facility in excess of 2.38 pounds of sulfur dioxide per million Btu of actual heat input.

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(vi) The present or subsequent owner or operator of the Sieberling Rubber Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.46 pounds of sulfur dioxide per million Btu actual heat input.

(vii) The present or subsequent owner or operator of the Firestone Tire & Rubber Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 1.76 pounds of sulfur dioxide per million Btu of actual heat input from oil-fired boiler 21.

(B) 2.87 pounds of sulfur dioxide per million Btu of actual heat input from coal-fired boilers 22 and 23.

(C) Firestone Tire & Rubber Co. or any subsequent owner or operator of the Firestone Tire & Rubber facilities located in Summit County, Ohio, shall operate no more than two of the boilers, 21, 22, or 23 simultaneously.

(viii) The present or subsequent owner or operator of the B. F. Goodrich Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 0.51 pound of sulfur dioxide per million Btu actual heat input for oil-fired boiler 31.

(B) 5.54 pounds of sulfur dioxide per million Btu actual heat input for coal-fired boilers 27 and 32.

(C) The B. F. Goodrich Co. or any subsequent owner or operator of the B. F. Goodrich facilities in Summit County, Ohio, shall not operate boiler 27 simultaneously with either boiler 31 or boiler 32.

(ix) The Goodyear Tire & Rubber Co. or any subsequent owner or operator of the Goodyear facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(A) 4.47 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating unit B001 located at plant I.

(B) 0.50 pound of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generated units B002 and B003 located at plant I.

(C) 2.24 pounds of sulfur dioxide per million Btu actual heat input for all fossil fuel-fired steam-generating units located at plant II.

(D) 160 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for the sulfur recovery unit(s).

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(xi) The Ohio Edison or any subsequent owner or operator of the Ohio Edison Co.'s Beech Street power station in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Beech Street plant in excess of 2.79 pounds of sulfur dioxide per million Btu actual heat input.

(xii) The Ohio Edison Co. or any subsequent owner or operator of the Ohio Edison Co.'s Gorge plant in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Gorge plant in excess of 4.07 pounds of sulfur dioxide per million Btu actual heat input.

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(xiv) PPG Industries or any subsequent owner or operator of the PPG Industries facilities in Summit County, Ohio, shall not cause or

permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 3.80 pounds of sulfur dioxide per million Btu of actual heat input.

(B) PPG Industries, Inc., or any subsequent owner or operator of the PPG facility located in Summit County, Ohio, shall be permitted to operate in only one of the following three configurations at any given time:

(*1*) Boilers No. 11, 12 and one stoker on; the remaining five stokers off.

(*2*) Boiler No. 12 and two stokers on; boiler No. 11 and the remaining four stokers off.

(*3*) Boiler No. 11 and three stokers on; boiler No. 12 and the remaining three stokers off.

(C) In lieu of meeting subparagraph (59)(xiv) (A) or (B) of this paragraph, PPG Industries, Inc. in Summit County, Ohio, may elect, with in sixty (60) days of proposal of this regulation, to comply with the alternate emission limitations and operating conditions specified below:

(*1*) PPG Industries, or any subsequent owner or operator of the PPG facility in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of 3.96 pounds of sulfur dioxide per million Btu of actual heat input.

(*2*) PPG Industries, Inc., or any subsequent owner or operator of the PPG facility located in Summit County, Ohio, shall be permitted to operate in only one of the following three configurations at any given time:

(*i*) Boilers No. 11 and No 12 on; and all six stokers off.

(*ii*) Boiler No. 12 and two stokers on; boiler No. 11 and the remaining four stokers off.

(*iii*) Boiler No. 11 and three stokers on; boiler No. 12 and the remaining three stokers off.

(xv) PPG Industries, or any subsequent owner or operator of the PPG Industries, Inc., Columbia Cement Plant, located in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of 0.0 pounds of sulfur dioxide per ton actual process weight input for the kilns.

(xvi) The present or any subsequent owner or operator of the Midwest Rubber Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess 1.80 pounds of sulfur dioxide per million Btu actual heat input.

(xvii) The present or any subsequent owner or operator of the Terex Division of General Motors Corp. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 0.49 pound of sulfur dioxide per million Btu actual heat input.

(xviii) The present or any subsequent owner or operator of the General Tire & Rubber Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 0.46 pound of sulfur dioxide per million Btu actual heat input.

(xix) The present or any subsequent owner or operator of the Goodyear Aerospace Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at AB boilerhouse of this facility in excess of 0.92 pounds of sulfur dioxide per million Btu of actual hear input or the emission of sulfur dioxide from any stack at D boilerhouse of this facility in excess of 1.53 pounds of sulfur dioxide per million Btu of actual heat input.

(xx) The present or any subsequent owner of operator or the B.F. Goodrich Chemical Co. in Summit County, Ohio, shall not cause the emission of sulfur dioxide from any stack at this facility in excess of 5.22 pounds of sulfur dioxide per million Btu actual heat input.

(xxi) The present or any subsequent owner or operator of the Chrysler Corp. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 0.86 pound of sulfur dioxide per million Btu actual heat input for boiler No. B001.

(B) 1.19 pounds of sulfur dioxide per million Btu actual heat input for boilers Nos. B002 and B003.

(60) In Trumbull County:

* * * * *

(iii) The Republic Steel Corp. or any subsequent owner or operator of the Republic Steel facilities in Trumbull County, Ohio, shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 2.30 and 1.00 pounds of sulfur dioxide per million Btu actual heat input from fossil fuel-fired steam-generating units Nos. B001 and B002, respectively. Boiler B003 is subject to the prevention of significant deterioration regulations and will receive an emission limit consistent with best available control technology requirements that will be specified as a condition in its pending construction permit. All other fossil-fueled steam generator units are limited to 0.00 pounds of sulfur dioxide per million Btu.

(B) 1.44 pounds of sulfur dioxide per ton of product at the Sinter plant.

(C) 0.00 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas from coke ovens Nos. 1 and 2. Coke oven No. 4 is subject to the prevention of significant deterioration regulation and an emission limitation of 35 grains of sulfur dioxide per 100 dry standard cubic feet.

(iv) [Reserved]

* * * * *

3. Section 52.1882 is amended as follows:

§ 52.1882 Compliance Schedules.

* * * * *

(b) * * *

(1) Except as provided in paragraph (b)(5) of this section, the owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b) shall comply with the compliance schedule in paragraph (b)(2) of this section.

* * * * *

(3) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to § 52.1881(b) of this chapter shall comply with the applicable compliance schedule in paragraph (b)(4) of this section.

* * * * *

(6) Nothing in this paragraph shall preclude the Adminstrator from promulgating a separate schedule for any source to which the application of the compliance schedules in paragraphs (b) (2) or (4) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(c) Federal compliance schedules for sources in Summit and Butler Counties identified in § 52.1875, footnote f.

(1) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b) shall comply with the compliance schedule in paragraph (c)(2) of this section.

(2) Any owner or operator of any process equipment subject to applicable paragraphs of § 52.1881(b) of this chapter shall take the following actions to comply with the requirements of said regulation with respect to that source no later than the date specified.

(*i*) 8 weeks from promulgation: Submit preliminary control plans to the Administrator.

(ii) 25 weeks from promulgation: Submit final control plan to the Administrator.

(iii) 34 weeks from promulgation: Award contracts for emissions control systems or process modification, or issue orders for purchase of component parts to accomplish emission control or process modification and notify

the Administrator in writing that such action was taken.

(iv) 52 weeks from promulgation: Initiate onsite construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(v) 139 weeks from promulgation: Complete construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(vi) 154 weeks from promulgation: Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(3) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to § 52.1881(b) of this chapter shall comply with the applicable compliance schedule in paragraph (c)(4) of this section.

(4)(i) The owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) or process subject to § 52.1881(b) of this chapter who elects to comply with an applicable optional emission limitation specified in § 52.1881(b) of this chapter, shall notify the Administrator no later than 17 weeks after promulgation of the specific emission limitations selected. Failure to select applicable optional emission limitations shall result in the facility being subject to the single uniform emission limitation for all stacks at that facility specified in § 52.1881(b). Notice received later than 17 weeks after promulgation shall be invalid.

(ii) The owner or operator of any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter shall notify the Administrator no later than 17 weeks after promulgation of his intent to utilize either low sulfur fuel including blended or washed coal or flue gas desulfurization to comply with the requirement of said regulation.

(iii) Any owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize low sulfur fuel including blended or washed coal to comply with the requirements of said regulation shall take the following actions with respect to that source no later than the date specified:

(*a*) 17 weeks after promulgation: Submit to the Administrator a projection for 10 years of the amount of fuel by types that will be substantially adequate to enable compliance with § 52.1881(b) of this chapter, as applicable.

(*b*) 32 weeks from promulgation: Submit data demonstrating the availability of the fuel meeting the requirements projected in subparagraph (a) to the Administrator.

(*c*) 36 weeks after promulgation: Submit a statement to the Administrator as to whether boiler modifications will or will not be required. If modifications will be required, submit plans for such modification.

(*d*) 50 weeks from promulgation: Let contracts for necessary boiler modification, if applicable, and notify the Administrator in writing that such action was taken.

(*e*) 60 weeks after promulgation: Initiate onsite modifications, if applicable, and notify the Administrator in writing that such action was taken.

(*f*) 118 weeks from promulgation: Complete onsite modification, if applicable, and notify the Administrator in writing that such action was taken.

(*g*) 122 weeks from promulgation: Achieve final compliance with the emission limitation of § 52.1881(b) of this chapter, as applicable, and notify the Administrator in writing that such action was taken.

(iv) Any owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize flue gas desulfurization to comply with the requirements of said regulations shall take the following actions with respect to the source no later than the date specified.

(*a*) 17 weeks from promulgation: Let necessary contracts for construction and notify the Administrator in writing that such action was taken.

(*b*) 61 weeks from promulgation: Initiate onsite construction and notify the Administrator in writing that such action was taken.

(*c*) 145 weeks from promulgation: Complete onsite construction and notify the Administrator in writing that such action was taken.

(*d*) 156 weeks from promulgation: Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(5)(i) None of the preceding subparagraphs of this paragraph shall apply to any owner or operator of a source which is presently in compliance with the applicable subparagraphs of § 52.1881(b) of this chapter.

(ii) Any owner or operator of a source capable of emitting 100 tons of sulfur dioxide per year from all stacks at any facility who is presently in compliance with the applicable subparagraphs of § 52.1881(b) of this chapter shall so certify to the Administrator by 4 weeks from promulgation.

(iii) Any owner or operator subject to a compliance schedule in this paragraph who elects to achieve compliance by means not covered by this paragraph may submit to the Administrator no later than 6 weeks from promulgation, a proposed alternative compliance schedule. For process equipment subject to applicable subparagraph of § 52.1881(b) of this chapter no such compliance schedule may provide for final compliance after the final compliance date in subparagraph (2) of this paragraph. For any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter, which will utilize low-sulfur fuel including blended or washed coal to comply with the requirements of said regulations, no such compliance schedule may provide for final compliance after final compliance date in subparagraph (4)(iii) of this paragraph. For any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraph of § 52.1881(b) of this chapter, which will utilize flue gas desulfurization to comply with the requirement of said regulations, no such compliance schedule may provide for final compliance after the final compliance date in subparagraph (4)(iv) of this paragraph.

(iv) Any owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882(c)(c)(iii) of this chapter shall remain subject to the provisions of § 52.1882(c)(2) of this chapter until the alternative schedule is approved by the Administrator.

(v) Any owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882(c)(5)(iii) of this chapter shall remain subject to the provision of § 52.1882(c)(4) of this chapter until the alternative schedule is approved by the Administrator.

(6) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedules in paragraphs (c) (2) or (4) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(d) Monitoring and reporting requirement for nonsimultaneous operation.

(1) Any owner or operator of any source of sulfur dioxide subject to a provision of § 52.1881 of this chapter which limits the combination of point

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sources which the source may operate at any time shall, in addition to any other reporting requirements of this chapter, comply with the following:

(1) Install not later than the date by which compliance with the applicable emission limitation of § 52.1881 is required a device(s) to determine and record the time of operation of each such point source:

(2) Retain such records for at least 2 years; and

(3) Report to the Administrator within 30 days of each such occurrence any period during which point sources are operated in any combination not allowed by an applicable requirement of § 52.1881.

[FR Doc. 78-27072 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 975-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Longview State Hospital and Ohio Department of Mental Health and Mental Retardation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Ohio Environmental Protection Agency to Longview State Hospital and Ohio Department of Mental Health and Mental Retardation. The order requires the hospital to bring air emissions from its coal-fired boilers in Cincinnati, Ohio, into compliance with certain regulations contained in the federally approved Ohio State implementation plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 27, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Deborah Garber, Attorney, Enforcement Division, EPA, Region V, Chicago, Ill. 60604, 312-353-2082.

SUPPLEMENTARY INFORMATION: Ohio Department of Mental Health and Mental Retardation operates a hospital at Cincinnati, Ohio. The order under consideration addresses emissions from three coal-fired boilers at the facility, which are subject to OAC 3745-17-10 (formerly AP-3-11). The regulation limits the emissions of particulate matter, and is part of the federally approved Ohio State implementation plan. The order requires final compliance with the regulation by July 1, 1979, through installation of an electrostatic precipitator or fabric filter on the boilers, and control of quality of coal to be burned. The source has consented to the terms of the order and has waived any and all rights to seek judicial review of the order, or to seek a stay of enforcement of the order in connection with any judicial review of the Ohio implementation plan, or portion therof. Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment priod, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR part 65.

The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 15, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Region V.

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

ORDER

In the Matter of: Longview State Hospital.

Pursuant to section 3704.03(S) of the Ohio Revised Code and in accordance with section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and issues the following Orders, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

FINDINGS OF FACT

1. Longview State Hospital (hereinafter "Longview") is a mental health facility located at 6600 Paddock Rd., Cincinnati, Ohio 45216.

2. Longview owns and operates three (3) coal-fired boilers at its facility. These boilers are identified as follows:

Boiler No. 1—Application No. 1431140591 B001; Wickes, 80 MMBtu (60,000 pounds of steam per hour) chain grate stoker.
Boiler No. 2—Application No. 1431140591 B002; Wickes, 120 MMBtu (90,000 pounds of steam per hour) chain grate stoker.
Boiler No. 3—Application No. 1431140591 B003; Keeler, 80 MMBtu (60,000 pounds of steam per hour) chain grate stoker.

3. On May 11, 1977, Longview submitted applications for permits to operate the coal-fired boilers.

4. In the course of operation of said boilers, air contaminants are emitted in violation of OAC 3745-17-10.

5. Longview is unable to comply with OAC 3745-17-10.

6. On December 15, 1977, the Director proposed to deny the applications for permits to operate.

7. Potential emissions of air pollutants from the boilers are equal to or more than one hundred tons per year, and therefore these sources constitute a major stationary source as defined insection 302(j) of the Clean Air Act, as amended.

8. Longview is using and will continue to use coal of sufficiently low sulfur content to maintain its existing status of compliance with federally promulgated sulfur oxide standards (U.S. Environmental Protection Agency Sulfur Oxide Plan for Ohio, 41 FR 36324 (August 27, 1976)).

9. Implementation by Longview of interim control measures contained in the Orders below will fulfill the requirements of section 113 (d) (7) of the Clean Air Act, as amended.

10. The compliance schedule set forth in the orders below requires compliance with applicable emission regulations as expeditiously as practicable.

11. The Director's determination to issue the orders set forth below is based on his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

ORDERS

Whereupon, after due consideration of the above findings of fact, the Director hereby issues the following orders pursuant to section 3704.03(S) of the Ohio Revised Code and in accordance with section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Compliance with OAC 3745-17-10 shall be achieved no later than July 1, 1979, by the installation of a baghouse or electrostatic precipitator on the boilers, sufficient to control emissions of particulate matter from Longview to a rate of 0.15 pounds per million Btu input. This emission restriction is based upon a maximum total heat input of 280 million Btu (210,000 pounds of steam per hour).

2. Compliance with order (1) above, shall be achieved in accordance with the following schedule:

Complete engineering and submit final control plans—June 1, 1978.
Award bids—July 1, 1978.
Commence construction—August 1, 1978.
Complete construction; test equipment—June 1, 1979.
Achieve compliance with all applicable state and Federal statutes and regulations—July 1, 1979.

3. The maximum steam load for the boilers shall be 75,000 pounds of steam per hour.

4. The baghouse or electrostatic precipitator shall maintain compliance with the emission limit specified in order (1) above, from the minimum load through the range of the maximum load specified in order (3) above.

5. If Longview desires to operate the boilers at a steam load greater than 75,000 pounds of steam per hour, Longview shall apply for and obtain a permit to install from the Ohio Environmental Protection Agency (hereinafter "OEPA") in accordance with OAC 3745-31-02. Included in such application shall be the results of a stack test, conducted in accordance with procedures approved by the Director, which show that the boilers operated at the increased steam loan are in compliance with OAC 3745-17-07 and OAC 3745-17-10 (a particulate emission rate of 0.15 pounds per million Btu input). Written notification of intent to test shall be provided to the city of Cincinnati Division of Air Pollution Control thirty (30) days prior to the testing date.

6. The boilers may be operated in any combination, but the boiler turn down ratios should be considered so as to ensure compliance with OAC 3745-17-07.

7. The boilers shall be operated in compliance with OAC 3745-17-07. This shall be accomplished by operation at turn down ratios compatible with boiler design limits and sulfur dioxide dew points.

8. The boilers shall each be provided with opacity instrumentation and recorders. Oxygen analyzers and recorders shall also be provided for each of the boilers for the control of excess air for the coal-fired units. On a quarterly basis, Longview shall report to the city of Cincinnati Division of Air Pollution Control any excursions above the 20 percent opacity limitation set out in OAC 3745-17-07. Longview shall keep on file all stack monitoring data for a minimum of two years.

9. Coal analysis for boiler fuel shall be as follows: less than or equal to eight (8) percent ash; less than or equal to one (1) percent sulfur; greater than or equal to 13,500 Btu per pound of coal, as specified by the Ohio Department of Mental Health and Mental Retardation. The Ohio Department of Mental Health and Mental Retardation shall note this fuel quality requirement in any bidding document for the purchase of fuel.

10. Pending achievement of compliance with order (1) above, Longview shall use the best practicable systems of emission reduction for the period during which this order is in effect in accordance with section 113(d)(7) of the Clean Air Act, as amended. Such interim measures shall include:

a. The use of coal with an analysis of: less than or equal to eight (8) percent ash; less than or equal to one (1) percent sulfur; greter than or equal to 13,500 Btu per pound of coal.

b. Continued operation of the boiler in compliance with OAC 3745-17-07.

c. Regular maintenance of the boilers.

11. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Longview shall submit a progress report to the city of Cincinnati Division of Air Pollution Control. The person submitting these reports shall certify whether each increment of progress has been achieved.

12. Longview shall submit to the city of Cincinnati Division of Air Pollution Control an analysis of each shipment of coal burned at Longview on an as received basis.

13. Longview shall comply with any other emission monitoring and reporting required by chapter 3704 of the Ohio Revised Code and the regulations promulgated thereunder.

14. Emission tests shall be conducted upon the boilers to verify compliance with order (1) above. Such tests shall be conducted no later than the date specified in the compliance schedule in order (2) above, in accordance with procedures approved by the Director. Writtent notification of intent to test shall be provided to the city of Cincinnati Division of Air Pollution Control thirty (30) days prior to the testing date. The specific boiler or boilers to be tested will be determined at the pre-test meeting by the OEPA.

15. Longview shall apply for and obtain permits to operate the boilers in accordance with OAC 3745-35-02.

16. Longview is hereby notified that unless it is exempted under section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with order (1) above by July 1, 1979 will result in a requirement to pay a noncompliance penalty under section 120 of the Clean Air Act, as amended.

NED. E. WILLIAMS,
Director of Environmental Protection.

WAIVER

The Ohio Department of Mental Health and Mental Retardation agrees that the attached findings and orders are lawful and reasonable and agrees to comply with the attached orders. The Ohio Department of Mental Health and Mental Retardation hereby waives the right to appeal the issuance or terms of the attached findings and orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said findings and orders either in law or equity. The Ohio Department of Mental Health and Mental Retardation also waives any and all rights it might have to seek such judicial review of any approval by U.S. EPA of the attached Findings and orders or to seek a stay of enforcement of said findigs and orders in connection with any judicial review of Ohio's air implementation plan (or portion thereof).

JAMES F. MALLORY,
Authorized Representative of Ohio Department of Mental Health and Mental Retardation.

[FR Doc. 78-27066 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 975-7; Docket No. VII-78-DCO-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Cargill, Inc., Aurora, Nebr.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing approval of a delayed compliance order for Cargill, Inc., at Aurora, Nebr. This action is being taken because Cargill, Inc., is no longer in violation of the Nebraska State implementation plan provisions covered by the proposed order.

DATE: This withdrawal is immediately effective.

FOR FURTHER INFORMATION CONTACT:

Michael J. Sanderson or Peter J. Culver, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

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SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 43 FR 31044, July 19, 1978, solicited public comments on a proposed EPA approval of an administrative order issued by the Nebraska Department of Environmental Control to Cargill, Inc., at Aurora, Nebr. Cargill, Inc., has subsequently achieved compliance with the Nebraska State implementation plan regulations covered by the order. This was determined by an inspection on August 7, 1978, by the Nebraska Department of Environmental Control.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER 43 FR 31044 on July 19, 1978, entitled "Proposed Approval of an administrative order by Nebraska Department of Environmental Control to Cargill, Inc.," is hereby withdrawn.

Dated: September 18, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator, Region VII.

[FR Doc. 78-27068 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 938-6]

ENFORCEMENT AUTHORITY

State and Federal Enforcement of Implementation Plan Requirements After Statutory Deadlines

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this proposal is to withdraw a prior FEDERAL REGISTER notice proposing regulations applicable to State and Federal administrative orders which require stationary sources to comply with provisions of State implementation plans after applicable attainment dates. Because the administrative enforcement authority of EPA and the States has been amended from that reflected in the proposed regulations, EPA has determined that the proposal is no longer appropriate.

DATES: This withdrawal is immediately effective.

ADDRESSES: Questions concerning this withdrawal should be directed to Edward E. Reich, Director, Division of Stationary Source Enforcement (EN-341), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Hungerford, Attorney-Advisor, division of Stationary Source Enforcement, Environmental Protection Agency, at 202-755-2570.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 40 FR 14876 (April 2, 1975) solicited comments on a new part 65 containing proposed regulations EPA would observe when ordering a source to comply with provisions in a State implementation plan after the applicable attainment date under part 52. Proposed guidance under this new part also set forth the minimum conditions under which the Agency would defer to similar enforcement action taken by a State. The proposed regulations were designed to implement EPA's enforcement authority, as it then existed, under section 113 of the Clean Air Act, 42 U.S.C. 1857c-8.

This statutory authority was substantially altered upon enactment of the Clean Air Act Amendments of 1977 (Pub. L. 95-95, 91 Stat. 705). Substitute regulations are promulgated in today's FEDERAL REGISTER establishing the procedures to be followed by the Agency when exercising its administrative enforcement authority, as modified by these amendments, in issuing, approving, or disapproving administrative orders which permit a delay in compliance with a State implementation plan.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (40 FR 14876) on April 2, 1975, entitled "Enforcement Authority", is hereby withdrawn.

Dated: September 19, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-27069 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 975-5; Docket No. DCO-78-11]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order For Owensboro Municipal Utilities, Owensboro, Ky.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue a delayed compliance order (DCO) to Owensboro Municipal Utilities (OMU) located in Owensboro, Ky. The DCO requires OMU to bring air emissions from its coal-fired steam generating units at its Elmer Smith facility in Owensboro, Ky., into compliance with certain regulations contained in the federally approved Kentucky State implementation plan (SIP). Because OMU is unable to comply with these regulations at this time, the proposed DCO would establish an expeditious schedule requiring final compliance for (1) unit 1 at the Elmer Smith facility by December 31, 1978, and (2) unit 2 at the Elmer Smith facility by September 15, 1978. If issued by EPA, the DCO would alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on this proposed DCO.

DATES: Written comments and requests for a public hearing must be received on or before October 27, 1978. All requests for a public hearing should be accompanied by a statement as to why the hearing would be beneficial and a text or summary or any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Paul J. Traina, Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, Atlanta, Ga. 30308. Materials supporting the delayed compliance order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone number 404-881-4298.

SUPPLEMENTARY INFORMATION: OMU is located in Owensboro, Ky., and operates two coal-fired steam generating units at its Elmer Smith facility. On March 10, 1977, pursuant to section 113(a)(1) of the Act, 42 U.S.C. 7413(a)(1), the U.S. Environmental Protection Agency issued a notice of violation to OMU of the finding that units 1 and 2 at its Elmer Smith facility were operating in violation of Kentucky air pollution control regulation 401 KAR 3:060, section 3(3)(e), dealing with the control of particulate emissions from indirect heat exchangers. This regulation is part of the federally approved State implementation plan. Said violations continued beyond the 30th day after receipt of the Regional Administrator's notification to OMU, and EPA issued administrative order AO-77-253(a) on April 22, 1977. The facility is unable to comply fully with the terms of the administrative order which requires demonstration of final compliance for both units by September 15, 1978.

The proposed delayed compliance order satisfies the applicable requirements of Section 113(d) of the Act. The delayed compliance order requires final compliance with Kentucky air pollution control regulation 401 KAR 3:060, section 3(3)(e), for (1) unit 1 at the Elmer Smith facility by December 31, 1978, and (2) unit 2 at the Elmer Smith facility by September 15, 1978. The source has consented to its terms and has agreed to meet the delayed compliance order's increments during the period of this informal rulemaking. If the delayed compliance order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against this source for violations of the regulation covered by the delayed compliance order during the period the delayed compliance order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. In the event of an emergency episode the delayed compliance order shall not act to preclude the source from complying with all of the provisions of section 303 of the Act. Comments received by the date specified above will be considered in determining whether EPA should issue the delayed compliance order. Testimony given at any public hearing concerning the delayed compliance order will also be considered. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR part 65.

The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of a delayed compliance order under section 113(d) of the Act. In addition, part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: September 19, 1978.

JOHN C. WHITE,
Regional Administrator.

In consideration of the foregoing, it is proposed to amend part 65 of chapter 1, Title 40, Code of Federal Regulations as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.220 to read as follows:

§ 65.220 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the matter of Owensboro Municipal Utilities, Owensboro, Ky.; proceeding under § 113(d) Clean Air Act, as amended. Docket No. DCO-78-11.

DELAYED COMPLIANCE ORDER

This delayed compliance order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) (hereinafter referred to as the "Act"). This delayed compliance order contains a schedule and timetable for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Kentucky have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On March 10, 1977, Mr. Jack E. Ravan, regional administrator, Region IV, U.S. Environmental Protection Agency (EPA), pursuant to authority delegated to him by the Administrator, issued a notice to Owensboro Municipal Utilities (hereinafter referred to as the "Company"), that units 1 and 2 at its Elmer Smith facility were found to be in violation of the Kentucky Air Pollution Control Regulation 401 KAR 3:060, section 3(3)(e), dealing with the control of particulate emissions from indirect heat exchangers. Said violations continued beyond the 30th day after receipt of the Regional Administrator's notification to the Company, and EPA issued Administrative Order AO-77-253(a) on April 22, 1977. The facility is unable to comply fully with the terms of the administrative order which requires demonstration of final compliance for both units by September 15, 1978. The Company will be able to achieve and demonstrate final compliance of unit 2 by September 15, 1978, but final compliance of unit 1 cannot be achieved and demonstrated until September 31, 1978.

The requirements of this delayed compliance order preempt and supersede the requirements of Administrative Order AO-77-253(a) only where such requirements are inconsistent and Administrative Order AO-77-253(a) remains in full force and effect except as to requirements which are inconsistent with the provisions of this order.

After a thorough investigation and analysis of all relevant facts including the fact that the Company could not comply immediately and installation of control equipment is necessary to facilitate compliance with the applicable Kentucky air pollution regulation, EPA has determined that compliance in accordance with schedule hereinafter set forth is reasonable and as expeditious as practicable.

ORDERED

I

ABATEMENT PROGRAM

That the attached appendices governing an abatement program are incorporated into and made a part of this delayed compliance order for the control of particulate emissions at Owensboro Municipal Utilities located in Owensboro, Ky.

The appendices are designated as follows:

Appendix A: Unit 1 at Elmer Smith facility.

Appendix B: Unit 2 at Elmer Smith facility.

II

REPORTING—ADDRESSES

That all submissions of source performance test results, reports and other items required by this delayed compliance order be made to Paul J. Traina, Director, Enforcement Division, U.S. Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308 (hereinafter referred to as the "Director"), with copies to John T. Smither, Director, Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, Commonwealth of Kentucky, Capital Plaza Tower, Frankfort, Ky. 40601 (hereinafter referred to as the "Kentucky Director").

III

PROGRESS REPORTS AND MILESTONE CERTIFICATION

That the Company submit, no later than five (5) days after the end of each month, commencing with August 1, 1978, a monthly progress report for the emission points specified in part I. These reports shall contain specific information on the progress toward achieving each milestone in part I. If any delay is anticipated in meeting said milestones, the Company shall immediately notify the Director in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay shall not excuse the delay. In addition, the Company shall submit, no later than five (5) days after the deadline for completing each milestone required by part I, certification to the Director and the Kentucky Director whether such milestone has been met.

IV

NOTICE OF TESTS

That the Company provide the Director and the Kentucky Director with (20) days notice prior to the conducting of any performance tests as required by part I in order to afford an opportunity to evaluate the test procedure and to have an observer present at such testing.

The Company shall submit to the Director and the Kentucky Director a written report of the results of said performance testing within thirty (30) days after the completion of said testing.

V

MALFUNCTIONS AND BREAKDOWNS

That the Company shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions or breakdowns and to reduce emissions in excess of regulations to the maximum extent practicable. When emissions due to sudden and unforeseen malfunction of the affected facility are or may be in excess of the maximum allowable as set forth in this delayed compliance order, for greater than four (4) hours, the owner or operator shall notify the appropriate State or local agency and EPA by telephone or telegram as promptly as possible, and in no event later than twelve (12) hours following the start of such malfunction, and shall cause written notice to be sent to the Director and the

Kentucky Director no later than the end of the next working day following the start of such malfunction. Such notices shall specify the name of the affected facility, its location, the address and telephone number of the person responsible for the affected facility, the nature and cause of the malfunction, the date and time when such malfunction was first observed, the expected duration, and an estimate of the physical and chemical composition, rate, and concentration of the emission. The Company shall remedy the malfunction or breakdown as soon as possible thereafter and shall take reasonable steps to reduce emissions in excess of the interim emission limits during the malfunction or breakdown.

The Regional Administrator of EPA shall have the authority during a malfunction of breakdown to require the Company to take specific steps to reduce emissions, including process equipment modifications and/or reductions, or termination if necessary. Within ten (10) days after the termination of a malfunction or breakdown requiring the above notification, the owner shall submit:

(1) The time the excess emission began and ended;

(2) The time of the beginning and end of the breakdown or malfunction which is asserted to be the cause of the excess emission;

(3) An estimate of the physical and chemical composition, rate, and concentration of emissions which occurred, and where continuous monitoring is required or is in effect (including visible emission detector), the strip charts with plots of all emissions monitored versus time, including a summary of the monitoring instruments' written record expressed in units of the applicable standard;

(4) An explanation and, where appropriate, an engineeering analysis of the cause of the malfunction or breakdown;

(5) A description of those operating and/or maintenance procedures and practices in use prior to and during the occurrence, which were designed to prevent or minimize the extent and duration of the malfunction or breakdown;

(6) Any other steps taken to minimize the extent or duration of the malfunction or breakdown;

(7) An analysis of what steps will be taken to prevent or minimize similar occurrences in the future; and

(8) Such additional information as the Director or the Kentucky Director may require.

VI

INTERIM LIMITS

At no time shall the visible emissions from units 1 and 2 at the Elmer Smith facility, while operating singly or simultaneously, exceed 50 percent opacity prior to attainment of the last milestone. This interim emission limitation shall be effective immediately. The Company shall take all necessary precautions to assure that its emissions will not cause or contribute to a violation or violations of ambient air quality standards. The applicable State emission limitation shall apply after attainment of the last milestone.

VII

CONTINUOUS MONITORING

That the Company, as part of the control strategy and pursuant to section 113(a) of the Act, shall complete the installation of all continuous monitoring equipment as required by, and described in, part V of Administrative Order AO-77-253(a) on or before August 1, 1978.

Until the above mentioned continuous monitors are installed and functioning properly, the Company shall continue to submit on a monthly basis the 24-hour fuel sampling and analysis results for each day of operation of the Elmer Smith facility, as required by and described in part VIII of Administrative Order AO-77-253(a).

VIII

COMPLIANCE RESPONSIBILITY

Nothing herein shall relieve the source from complying with all other applicable Federal, State or local regulations.

IX

TERMINATION OF ORDER

This delayed compliance order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record after notice and hearing, that an inability to comply with Kentucky Air Pollution Control Regulation 401 KAR 3:060, section 3(3)(e) no longer exists.

X

VIOLATION OF REQUIREMENTS

Violation of any requirement of parts I through XII of this delayed compliance order shall result in one or more of the following actions:

(a) Enforcement of such requirement through the commencement of a civil action for injunctive relief and the assessment of civil penalties pursuant to section 113(b) of the Act, or a criminal prosecution pursuant to section 113(c) of the Act, or both:

(b) Revocation of this delayed compliance order, after notice and opportunity for a public hearing, and subsequent enforcement of Kentucky Air Pollution Control Regulation 401 KAR 3:060, section 3(3)(e) in accordance with sections 113 (b) and/or (c) of the Act.

XI

NONCOMPLIANCE PENALTY

Failure by the Company to achieve and certify compliance by September 15, 1978, for unit 2 and December 31, 1978, for unit 1, and maintain compliance thereafter, shall result in one or more of the actions identified in part X(a). In addition, noncompliance beyond July 1, 1979, will subject the Company to an administratively assessed noncompliance penalty pursuant to the requirements of section 120 of the Act and any rules and regulations promulgated pursuant thereto, unless the Company is exempted by section 120(a)(2) (B) or (C) of the Act. In the event of noncompliance after July 1, 1979, the Company will be formally notified of its noncompliance pursuant to section 120(b)(3) of the Act.

XII

WAIVER OF RIGHTS

That by consenting to the terms and conditions of this delayed compliance order, the Company waives any and all rights it may have to seek a stay of enforcement of this delayed compliance order in connection with any judicial review of the Kentucky State implementation plan or portion thereof.

XIII

EFFECTIVE DATE

This delayed compliance order will have full force and effect upon execution.

APPENDIX A.—*U.S. Environmental Protection Agency Delayed Compliance Order* [1]

Owensboro Municipal Utilities shall complete the following acts with respect to control of particulate emissions from unit 1 at its Elmer Smith facility located in Owensboro, Ky., on or before the dates specified:

(1) August 15, 1978—Negotiate and sign all necessary contracts for particulate emission control systems.

(2) September 1, 1978—Initiate on-site construction or modification of particulate control equipment.

(3) November 15, 1978—Complete installation or necessary modification of particulate emission control equipment.

(4) December 31, 1978—Complete shakedown operations and performance tests, also achieve compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 3(3)(e) and certify such compliance to the Director and the Kentucky Director.

APPENDIX B.—*U.S. Environmental Protection Agency Delayed Compliance Order* [2]

Owensboro Municipal Utilities shall complete the following acts with respect to control of particulate emissions from unit 2 at its Elmer Smith facility located in Owensboro, Ky., on or before the dates specified:

(1) March 31, 1978—Negotiate and sign all necessary contracts for particulate emission control systems.

(2) April 15, 1978—Initiate on-site construction or modification of particulate control equipment.

(3) July 31, 1978—Complete installation or necessary modification of particulate emission control equipment.

(4) September 15, 1978—Complete shakedown operations and performance tests, also achieve compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 3(3)(e) and certify such compliance to the Director and the Kentucky Director.

CONSENT [3]

Owensboro Municipal Utilities acknowledges that the particulate emissions from

[1] This appendix is attached to and incorporated by reference into a delayed compliance order issued to Owensboro Municipal Utilities on ——— pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

[2] This appendix is attached to and incorporated by reference into a delayed compliance order issued to Owensboro Municipal Utilities on ——— pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

[3] This consent is hereby attached to and incorporated by reference into a delayed

Footnotes continued on next page

units 1 and 2 located at its Elmer Smith facility in Owensboro, Ky., are in violation of the applicable emission limitations contained in the federally approved Kentucky State implementation plan. Owensboro Municipal Utilities has reviewed this delayed compliance order, believes it to be a reasonable and expeditious means to achieve compliance with the applicable particulate emission limiting regulations as contained in the federally approved Kentucky State implementation plan, and consents to all of the requirements and terms of this delayed compliance order.

Furthermore, Owensboro Municipal Utilities acknowledges the necessity of complying with the interim emission limitation and abatement procedures contained herein which are designed to ensure the attainment and maintenance of national ambient air quality standards for the specified pollutants and consents to said interim emission limitation and abatement procedures in order to protect the public health and welfare.

Owensboro Municipal Utilities hereby represents that it has full corporate authority and the necessary corporate approval to enter into and perform in accordance with the terms and provisions of this delayed compliance order. The signatory below represents that he has the requisite corporate authority to execute this consent on behalf of Owensboro Municipal Utilities.

Dated: July 25, 1978.

JOHN P. PACE,
Owensboro Municipal Utilities.

[FR Doc. 78-27071 Filed 9-26-78; 8:45 am]

[6560-01]

[40 CFR Part 120]

[FRL 930-6]

WATER QUALITY STANDARDS

Navigable Waters of the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes water quality standards to reestablish former use designations for 14 navigable waterways for which the State provided inadequate downgraded use designation justification and to establish use designations for 9 stream segments previously classified for lesser uses.

DATES: All written comments received on or before November 27, 1978, will be considered in the preparation of the final rule. Hearing to be held in Auburn, Ala., Oct. 18, 1978, at 7 p.m. See address below.

ADDRESSES: Written comments should be addressed to Charles W. Ferst, Water Quality Standards Coordinator, EPA, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3012. Hearing address: Room 208, Foy Union Bldg., Auburn University, Auburn, Ala.

FOR FURTHER INFORMATION CONTACT:

Charles W. Ferst, Water Quality Standards Coordinator, EPA, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3012.

SUPPLEMENTAL INFORMATION:

Statutory Requirement: Section 303(c) of the Clean Water Act, as amended (Pub. L. 92-500 (33 U.S.C. 1251 et seq.)) (hereinafter, the Act) provides that each State shall, at least once every three years, hold public hearings for the purpose of reviewing water quality standards and the adoption of revisions as appropriate. Whenever a State revises its water quality standards or adopts new standards, such standards must be submitted to EPA for approval. If EPA determines that the revised standards are not consistent with the applicable requirements of the Act, it must notify the State within ninety days and specify the changes necessary to comply with the requirements of the Act. If the State's water quality standards are not brought into compliance with the Act within ninety days after the date of notification, the EPA must promulgate water quality standards consistent with the Act after proposal and public comment.

The Agency's regulations for implementing section 303(c) of the Act are codified at 40 CFR 130.17. These regulations have been explained in Chapter 5 of EPA's "Guidelines for State and Areawide Water Quality Management Program Development" (November 5, 1976; 41 FR 48777; hereinafter the Guidelines), and in a recent FEDERAL REGISTER notice (43 FR 29588; July 10, 1978).

Background.

On October 15, 1976, and March 17, 1977, the Alabama Water Improvement Commission (hereinafter AWIC) held public hearings to receive comments on Alabama's water quality standards. At the hearings, EPA presented recommendations on water quality standards relative to the requirements of the Act, the 40 CFR 130.17 regulations and the Guidelines.

On May 30, 1977, the AWIC adopted substantive revisions to the Alabama water quality standards including changes in the antidegredation policy, mixing zone criteria, waste treatment requirements, temperature criteria, use classifications and their associated criteria, and 175 beneficial use classification assignments.

On August 29, 1977, in accordance with section 303(c)(3) of the Act, the EPA Regional Administrator, Region IV, approved the revised water quality standards adopted on May 30, 1977 except for specific use designations for 57 stream segments, and for Section V, Waste Treatment Requirements, providing further evaluation.

On September 17 and 20, 1977, EPA, Region IV, held public meetings to provide information to interested persons on the Agency's action of August 29, 1977 and to receive public comments on the sections of the water quality standards which were excepted from EPA's approval.

On September 28, 1977, the Regional Administrator approved seven stream beneficial use designations for which he had previously withheld approval. Additionally, 50 beneficial use designations were disapproved because information demonstrated that uses consistent with the national water quality goal are attainable or the State did not make a satisfactory demonstration, or made no demonstration at all, to justify downgrading waters previously classified for more restrictive beneficial uses in accordance with 40 CFR 130.17(c)(3). Section V, Waste Treatment Requirements, was also disapproved based on the Regional Administrator's determination that the revised Section V was inconsistent with the applicable requirements of the Act.

In response to EPA's September 28, 1977, disapproval, the AWIC held a public hearing on November 17, 1977, in Montgomery, Ala., to receive comments on necessary revisions specified in EPA's previous objections.

On December 19, 1977, the AWIC adopted revised beneficial use classifications for 23 stream segments to make them consistent with the Act; assigned the Agricultural and Industrial Water Supply use to Mill Creek near Oneonta, Ala.; modified Section V, Waste Treatment Requirements; and modified Section IV, Minimum Conditions Applicable to all State Waters. The AWIC also revised criteria applicable to the Agricultural and Industrial Water Supply use to provide for fish survival.

On January 5, 1978, the AWIC submitted to the Regional Administrator the revised water quality standards adopted on December 19, 1977. The AWIC also submitted justifications to EPA for 30 downgraded stream segments previously disapproved on September 28, 1977.

On February 15, 1978, the Regional Administrator approved water quality standards adopted by the AWIC on December 19, 1977, with the exception of 23 stream beneficial use classification assignments. Because of EPA's February 15, 1978 determination and because the State has failed to take appropriate action respecting the 23 stream beneficial use designations remaining disapproved, the Administrator of EPA is proposing a rule assign-

Footnotes continued from last page

compliance order issued to Owensboro Municipal Utilities on ——— pursuant to section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

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ing the Fish and Wildlife use to the stream segments listed herein in accordance with section 303(c)(4) of the Act.

The Agricultural and Industrial Water Supply classification for Pond Creek in the Tennessee River Basin was among the 23 use classifications assignments disapproved by EPA on September 28. The EPA is herewith proposing to promulgate a Fish and Wildlife use classification for this creek. On April 11, 1978, Region IV staff met with representatives of Reynolds Metals Co., Associated Industries of Alabama, and Ford Motor Co., during which information was presented to EPA regarding Pond Creek. EPA agreed to study the information submitted while continuing with the statutory proposal process.

Within ninety days of this notice the State may: (a) Submit an adequate justification, as provided by 40 CFR 130.17(c), for the use classifications disapproved by the Regional Administrator; or (b) adopt appropriate use classifications for the waters listed in this proposed rule. If the State fails to act in either manner (a) or (b), the Administrator in accordance with section 303(c)(4) of the Act and Administrative Procedure Act (5 U.S.C. 553), will promulgate the water quality standards proposed herein, or other standards which EPA determines are consistent with the requirements of the act after considering public comment.

Basis and Purpose

Section 303(c)(2) of the Act requires that State water quality standards, "• • • be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act." The purpose of water quality standards, as with the other sections of the Act, is to achieve, wherever attainable, the national goal of protecting and propagating fish, shellfish, and wildlife, and providing for recreation in and on the waters by 1983 (section 101(a)(2)).

The EPA's regulations for review and revision of water quality standards are found at 40 CFR 130.17(c) (40 FR 55321; November 28, 1975). Under the authority of section 303(c) EPA requires that:

(1) The State shall establish water quality standards which will result in the achievement of the national water quality goal specified in section 101(a)(2) of the Act, wherever attainable. In determining whether such standards are attainable for any particular segment, the State should take into consideration environmental, technological, social, economic and institutional factors.

(2) The State shall maintain those water uses which are currently being attained. Where existing water quality standards specify designated water uses less than those which presently are being achieved, the State shall upgrade its standards to reflect the uses actually being attained.

(3) At a minimum, the State shall maintain those water uses which currently are designated in water quality standards, effective as of the date of these regulations or as subsequently modified in accordance with § 130.17(c) (1) and (2). The State may establish less restrictive uses than those contained in existing water quality standards, however, only where the State can demonstrate that:

(i) The existing designated use is not attainable because of natural background;

(ii) The existing designated use is not attainable because of irretrievable man-induced conditions; or

(iii) Application of effluent limitations for existing sources more stringent than those required pursuant to section 301(b)(2) (A) and (B) of the Act in order to attain the existing designated use would result in substantial and widespread adverse economic and social impact.

EPA's judgement with regard to the Alabama use classifications was to disapprove the State's action in 23 cases. This proposed rule establishes beneficial uses consistent with the national water quality goal and 40 CFR 130.17(c)(1) for nine stream segments previously classified for less restrictive uses, and fourteen stream segments for which State demonstrations do not adequately justify the establishment of less restrictive uses as required by 40 CFR 130.17(c)(3).

The Agency's Proposed Rule

The Agency's proposed rule would establish a designated use classification of Fish and Wildlife for 23 stream segments. A significant difference exists between the water quality criteria associated with the Alabama Fish and Wildlife use classification and those associated with the Agricultural and Industrial Water Supply use. For example the dissolved oxygen (D.O.) criteria supporting the Alabama Fish and Wildlife use classification requires that:

For a diversified warm water biota, including game fish, daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times • • •

The Alabama Agricultural and Industrial Water Supply use classification provides that:

Sewage, industrial wastes, or other wastes shall not cause the dissolved oxygen to be less than 3.0 parts per million • • •

EPA's proposed rule also would result in the application of a more stringent toxic substances provision than the one assigned by Alabama for the Agricultural and Industrial Water Supply use classification. For example, the Alabama toxic and deleterious substances criteria associated with the Fish and Wildlife use classification require toxic substances attributable to sewage, industrial wastes or other wastes will not be:

• • • injurious to fish and aquatic life including shrimp and crabs in estuarine or salt waters or the propagation thereof; not to exceed one-tenth of the 96-hour median tolerance limit for fish and aquatic life • • • except that other limiting concentrations may be used when factually justified and approved.

The Agricultural and Industrial designated use requires that color, odor, and taste-producing substances, toxic substances, and other deleterious substances be restricted to:

• • • only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, and industrial process water supply purposes, and fish survival, nor interfere with downstream water uses.

These two examples illustrate that the fish and wildlife designated use requires more stringent water quality criteria and therefore more closely approaches the goals of the Act, which should be achieved where attainable in compliance with EPA's regulations.

In practice the water quality standards will be achieved by the installation of point source abatement controls; by the application of more effective operation of existing point source facilities; or by the application of best management practices for non-point pollution sources. Point source controls are regulated through the National Pollutant Discharge Elimination System permit program established in section 402 of the Act. The Act requires dischargers to reduce point source pollution loadings so as to achieve water quality standards (section 301(b)(1)(C)). Allowable discharges can be quantified by a waste-load allocation process which determines allowable loadings which will met water quality standards. For example, the Alabama Agricultural and Industrial Water Supply designated use would provide for wasteload allocations based on 3.0 mg/l D.O.; the proposed rule herein would provide for wasteload allocations based on 5.0 mg/l D.O.

Economic Impacts

The State's assessment of the economic impact of projected sewage improvements necessary to achieve water quality standards primarily was based on a comparison of the median family income for the affected communities with the estimated costs of the improvements. The State also used existing EPA guidance regarding less costly wastewater facilities for small communities.

The Region's analyses of Alabama's justifications for its proposed downgradings are contained in two disapproval letters dated September 28, 1977, and February 15, 1978. For the 23 stream segments where proposed downgradings were disapproved by Region IV, the State's justifications were found to be unacceptable for one of two reasons: (1) the plant design criteria and basin plan information were incorrectly documented by the State; or (2) the State used "1970 dollars" to represent the yearly median family income and compared them to 1977 municipal construction costs. For this proposed rulemaking, EPA used construction grants program economic data and adjusted median income figures to be comparable with current cost estimates, where necessary.

Based upon the available information, EPA determined that, of the 24 publicly owned treatment works (POTW's) potentially affected by this proposed rulemaking, eleven may be forced to resort to more sophisticated sewage treatment technology or some other cost effective treatment in order to meet water quality standards. If the State seeks funding support under section 201 of the Act, the Federal and municipal shares of the increased costs would amount to approximately $5.88 million and $1.96 million, respectively. The municipalities' share, amortized over 20 years at seven percent interest, plus "operation and maintenance" costs would amount to approximately $0.764 million per year.

Region IV found that four of the 23 stream segments listed in this proposed rulemaking received industrial discharges: Snow Creek, Conecuh River, Piney Creek, and Pond Creek. Industrial dischargers on the Conecuh River and Piney Creek will contribute dairy and poultry processing wastes to the POTW's. Thus increased treatment costs would be incurred by the municipalities. A portion of these costs may be passed on to the industrial dischargers; however, this is not expected to be significant. EPA's stream survey information on Pond and Snow Creeks indicates that the two other stream segments receiving industrial discharges are currently suitable for the maintenance and propagation of fish and wildlife. A viable community of aquatic life now exists in those streams even with present discharge levels from numerous point sources. Therefore, no additional costs to industrial dischargers on those stream segments will result from this proposed rulemaking.

Therefore, this proposed rulemaking does not trigger any of the criteria in Executive Order 12044 for performing a regulatory analysis (43 FR 12661; March 24, 1978). That order states that a regulatory analysis is not necessary if the proposed regulations will not have an effect on the economy of $100 million or more per year, nor cause a major increase in costs or prices for individual industries, State or local government or geographic regions.

Public Hearings

The Agency plans to hold a public hearing in Auburn, Ala. The hearing will be held from 7 p.m. until 10 p.m. on October 18, 1978 in room 208 of the Foy Union Building on the Auburn University campus.

Requests to make oral statements should be forwarded to Charles W. Ferst, Water Quality Standards Coordinator, EPA, 345 Courtland Street NW., Atlanta, Ga. 30308. Both oral and written comments will be accepted at the hearing. The hearing officer reserves the right to fix reasonable limits on the time allowed for oral presentations.

Availability of the Record

The entire administrative record concerning the Alabama water quality standards described in this preamble is available for public inspection and copying at the Environmental Protection Agency, Region IV office, Water Division, 345 Courtland Street NE., Atlanta, Ga. 30308, during normal business hours of 8 a.m. to 4:30 p.m. The water quality standards for Alabama, detailed analyses on each stream segment mentioned herein, the correspondence between the AWIC and Region IV, EPA, the proposed standards, and other supporting technical information are available for inspection and copying at the U.S. Environmental Protection Agency Public Information Reference Unit (room 2922), 401 M Street SW., Washington, D.C. 20460, during normal business hours of 8 a.m. to 4:30 p.m.

(Secs. 101(a)(2), 303(c), and 501, Clean Water Act, as amended Pub. L. 92-500 (33 U.S.C. 1251(a)(2)(c), 1313(c), and 1361).)

Dated: September 15, 1978.

Douglas M. Costle,
Administrator.

Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended by adding a new § 120.10. This section changes the use classification for 23 streams in the Alabama water quality standards Appendices B and C to a Fish and Wildlife use from Agricultural and Industrial Water Supply use. The Agricultural and Industrial Water Supply use for these streams was adopted by the State of Alabama on December 19, 1977. The result of this change in designated use is to require more stringent water quality criteria and to upgrade the use designation. Section 120.10 would read as follows:

§ 120.10 Alabama

(a) Water quality standards revisions adopted by the Alabama Water Improvement Commission on May 30, 1977, and amended on December 19, 1977, are contained in the documents entitled, "State of Alabama Water Improvement Commission Water Quality Criteria" and "Water Use Classifications for Interstate and Intrastate Waters of the State of Alabama." These documents will be the water quality standards for the State of Alabama except as amended in the following table. The criteria necessary to support the designated beneficial uses for these water segments are those found in Part D of the "State of Alabama Water Improvement Commission Water Quality Criteria".

Basin	Stream	From	To	Classification
Coosa	Snow Creek	Choccolocco	Its source	Fish and wildlife
Lower Tombigbee	Sycamore Creek	Chickasaw Bogue	do	Do.
Tallapoosa	Christian Creek	Oaktasasis Creek	do	Do.
	Dobbs Creek	Oaktasasis Creek	do	Do.
	Parkerson Mill Creek	Chewacle Creek	do	Do.
Tennessee	Mud Creek	Cedar Creek	Town branch.	Do.
	Pond Creek	Tennessee River	Its source	Do.
Tallapoosa	Calebee Creek	Highway 80	Persimmon Creek.	Do.
Tennessee	Flint Creek	Ala. Highway 36	Its source	Do.
	Piney Creek	County road vicinity of Woodley Springs.	do	Do.
	Swan Creek	Highway 26 crossing	Town Creek.	Do.
Warrior	Mill Creek	Chitwood Creek	Its source	Do.
Warrior	Burnt Cane Creek	County road 81	do	Do.
	Indian Creek	Lost Creek	do	Do.
Choctawhatchee	Beaver Creek	Newton Creek	do	Do.
Coosa	Buxahatchee Creek	Chilton County line	do	Do.
	Walnut Creek	Hog Creek	do	Do.
	Waxahatchee Creek	Camp Branch	Southern RR. crossing.	Do.
Lower Tombigbee	Bassett's Creek	Orphan's Creek	Its source	Do.
	Wahalak Creek	Tishiarka Creek	do	Do.

Basin	Stream	From	To	Classification
Perdido Escambia	Conecuh River	Bullock-Pike County line.	Its source	Fish and wildlife
	Indian Creek	County road crossing near Horn Hill.	...do	Do.
	Rocky Creek	Persimmon Creek	County road crossing north of Chapman.	Do.

[1] Disapproved by EPA on February 15, 1978.

[FR Doc. 78-27056 Filed 9-26-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 11279; FCC 78-663]

SUBSCRIPTION TELEVISION SERVICE

Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Order terminating proceeding in docket 11279.

SUMMARY: In docket 11279 the Commission proposed rules to regulate cable television systems carriage of the signals of broadcast subscription television stations. This order terminates the proceeding without the adoption of rules due to the staleness of the comments received in response to the original notice and because other rulemaking changes had occurred while the proceeding was pending.

EFFECTIVE DATE: Nonapplicable.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

William H. Johnson, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: September 19, 1978.

Released: September 21, 1978.

Order. In the matter amendment of part 73 of the commission rules and regulations (Radio Broadcast Services) to provide for subscription television service, docket No. 11279.[1]

1. This proceeding, relating to cable television carriage of the signals of broadcast subscription television stations, was commenced by the issuance of the Third Further Notice of Proposed Rulemaking in Docket 11279, FCC 68-1175, 15 FCC 2d 601, 33 FR 19085 (1968). By this order we are terminating this proceeding without the adoption of rules.

2. The comments filed in this docket are now stale and a number of changes in the nature of our regulations have been made since the proceeding was commenced so that the record does not provide an adequate basis for the adoption of rules. Of particular importance is the lack of a record concerning the technical details involved in cable television carriage of broadcast STV programing. Moreover, we now have in progress our inquiry in docket 21284 (65 FCC 2d 9 (1977)) in which we are gathering information concerning the overall economic relationship between cable television and broadcast television. Although that proceeding is concerned with the relationship between conventional stations and cable systems, it may also provide some additional insight into the policies that should be applied to cable STV carriage. We are aware that there are parties interested in an expedited resolution of this proceeding through the adoption of rules.[2] However, the lack of adequate comment in the record presents a procedural barrier to that action. At this point we believe the most efficacious procedure for those desiring further action would be the filing of petitions for rulemaking setting forth the rule changes requested and the public interest justification therefore. Our decision terminating this proceeding is not intended to foreclose the possibility of a new proceeding being commenced if that appears warranted.

Authority for this action is contained in section 4(i), 301, 303, and 307 of the Communications Act of 1934, as amended.

[1] See 36 FR 9519, May 26, 1971.

[2] A petition for expedited action was filed by Blonder-Tongue Broadcasting Corp. on Apr. 1, 1977.

Accordingly, *it is ordered,* That the proceeding in Docket 11279 is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27198 Filed 9-26-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1033]

[No. 36700]

CAR SERVICE

Petition Seeking Institution of Rulemaking Proceeding

AGENCY: Interstate Commerce Commission.

ACTION: Time for filing comments.

SUMMARY: On September 12, 1978, the United States Court of Appeals for the District of Columbia granted the Commission's request for a remand of the record in this proceeding and ordered that the petition which sought the institution of a rulemaking to investigate the need for regulations governing the use of automatic car identification systems, and all pertinent documents, and comments from other interested persons should be submitted to the Commission within 30 days.

DATES: The time for filing the petition seeking the institution of a rulemaking, along with all pertinent documents upon which petitioner relies, and comments of interested persons should be submitted by October 12, 1978.

ADDRESSES: Petition, with accompanying documents, and comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Washington, D.C. 20423, 202-275-7693.

This notice is issued pursuant to 49 U.S.C. § 13(6)(a).

Dated: September 19, 1978.

By the Commission, J. Patterson King, Acting Director, Office of Proceedings.

H.G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-27183 Filed 9-26-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON GRANTS, BENEFITS AND CONTRACTS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 1:45 p.m., Wednesday, October 25, 1978, in the Conference's library, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to consider the comments on the report by Professor Peter W. Martin entitled "Procedures Used in Forming and Carrying out Federal-State Agreements under the Supplemental Security Income Program," and to put its proposed recommendations into final form.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David B. H. Martin (202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

SEPTEMBER 20, 1978.

[FR Doc. 78-27139 Filed 9-26-78; 8:45 am]

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

LAUREL RIVER PARK WATER-BASED RECREATION RC&D MEASURE, DELAWARE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Laurel River Park Water-Based Recreation RC&D Measure, Sussex County, Del.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation. The planned works of improvement include the installation of a boat launching area, a paved parking area and entrance road, riverfront bulkheading, and fencing along the riverfront and around Laurel River Park. The location of the boat launching area and parking lot abuts Park Street at the western edge of the park and is adjacent to the river.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, Treadway Towers, Suite 204, 9 East Loockerman Street, Dover, Del. 19901, telephone 302-678-0750. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 27, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-27140 Filed 9-26-78; 8:45 am]

[3410-16]

MYSTIC SEAPORT CRITICAL AREA TREATMENT RC&D MEASURE, CONNECTICUT

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mystic Seaport Critical Area Treatment RC&D Measure, New London County, Conn.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W. Tipple, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include driven sheet steel piling and placed rock bulkheads. This action is considered repair and replacement and will be done in five phases.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. John W. Tippie, State Conservationist, Soil Conservation Service, Mansfield Professional Park, Route 44A, Storrs, Conn. 06268, telephone 203-429-9361. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

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No administrative action on implementation of the proposal will be taken until October 27, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

SEPTEMBER 21, 1978.

[FR Doc. 78-27141 Filed 9-26-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-9-60; Docket 31447]

PIEDMONT AVIATION, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

On September 29, 1977, Piedmont Aviation filed an application and motion for hearing to amend its certificate for Route 87 so as to add two new segments authorizing nonstop service between Dallas/Fort Worth and Greensboro/High Point (Greensboro and between Dallas/Fort Worth and Raleigh/Durham (Raleigh). Simultaneously, it moved for a hearing and requested the issuance of a show cause order why this authority should not be granted.

Piedmont proposes to operate two daily nonstop round trips in each new market, with Boeing 737 aircraft. The morning flights from Greensboro would be extensions of existing Piedmont flights from New York/Newark (with stops at Richmond); the morning flights from Raleigh would be extensions of existing flights from Norfolk; the afternoon flights from Greensboro and Raleigh would be extensions of existing flights from Washington, D.C. (with stops at Norfolk and Richmond, respectively).

In support of its application, Piedmont states that approval will produce the following service benefits: First single-plane service in four markets (Dallas/Fort Worth-Greensboro/Norfolk/Raleigh/Richmond), benefiting 120,900 passengers a year; improved single-plane service in 12 markets; and first direct on-line connecting service in 11 other markets.[1] It also contends that approval will improve connecting service between Greensboro, Norfolk, Raleigh, and Richmond and 36 cities west of Dallas/Fort Worth. It states that access to the Dallas/Fort Worth hub will contribute to its operating efficiency, since the length of hop of this extension is almost three times that of its current system, and the passenger haul is almost double. It anticipates that its new service will be profitable, permit subsidy reduction, and strengthen its route structure. It argues that its proposal will help alleviate the congestion that many Dallas/Fort Worth passengers experience at the Atlanta airport, and will not significantly harm other carriers.

Answers in support of Piedmont's application were filed by the Norfolk Port and Industrial Authority, the Commonwealth of Virginia, the Dallas/Fort Worth civic parties,[2] the North Carolina Department of Transportation, and the Greensboro-High Point Airport Authority.

American Airlines, Delta Air Lines, and Eastern Airlines answered in opposition. American urges us to require Piedmont to make at least two intermediate stops in the Dallas/Fort Worth-New York[3] and Baltimore/Washington markets, if we decide to proceed with its application. American also argues that show cause procedures are not the proper method for the grant of new route authority to an off-line point.

Delta contends that we should defer our consideration of Piedmont's application until we have acted on its own application for improved authority in the Raleigh/Greensboro-Atlanta markets[4] and on its route realignment application.[5]

Eastern answers that Piedmont is not entitled to priority of hearing under the Board's standards. It states that, with one exception,[6] Eastern provides single carrier one-stop service in all the Dallas/Fort Worth markets that Piedmont wants to serve; that the markets are not large enough to support additional service; that Piedmont's rapidly growing route system does not need any more route strenghtening; and that Piedmont would divert heavily from Eastern's existing services. Eastern also alleges that Piedmont has grossly exaggerated the traffic it would carry in order to show a profit, contending that, under more realistic assumptions, it would incur heavy losses on its Dallas/Fort Worth extension. Finally, Eastern cites the pendency of its route realignment application,[7] as another reason for us to refuse to consider this request.

On November 18, 1977, Piedmont filed a reply accompanied by a motion for permission to file. We will grant the motion.

We have tentatively concluded, on the basis of the tentative findings below, that the public convenience and necessity require the amendment of Piedmont's certificate for Route 87 so as to authorize nonstop Dallas/Fort Worth-Raleigh and Dallas/Fort Worth-Greensboro service,[8] and the removal of Eastern's stop restrictions in the Dallas/Fort Worth-Greensboro/Raleigh markets.[9]

Piedmont's application falls within the class of cases that can be handled by show-cause procedures due to the absence of any material, determinative

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[1] These are set forth in the appendix. Appendix filed as part of original document.

[2] The city of Dallas, Dallas Chamber of Commerce, City of Fort Worth, Fort Worth Chamber of Commerce, and the North Texas Commission.

[3] New York is hyphenated with Newark on Piedmont's Route 87.

[4] Application of Delta Air Lines, Inc., Docket 31259.

[5] Docket 29774.

[6] Dallas/Fort Worth-Norfolk.

[7] Docket 29983, requesting nonstop authority in the Dallas/Fort Worth-Richmond/Greensboro/Raleigh markets, among others.

[8] We tentatively find that Piedmont and Eastern are fit, willing, and able to perform the air transportation they propose and to conform to the provisions of the Act and the applicable Board rules.

On the basis of the environmental evaluation submitted by Piedmont, we tentatively find that our proposed action would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Piedmont estimated the annual fuel usage required to implement its Dallas/Fort Worth entry at 8,065,969 gallons. Since this is below the 10 million (10,000,000) gallon threshold which we adopted in our Procedural Regulations as a measure of a "major regulatory action," we tentatively find that our proposed action does not require an energy statement pursuant to § 313.4.

[9] This latter conclusion constitutes an exception to our general policy against processing restriction removals while a carrier's route realignment application is pending. We are making this exception on the grounds of equity and fairness. In Eastern's route realignment application (Docket 29983), it requested nonstop authority in these markets; since no one objected to this request, we would give it this authority when we process its realignment proposal. It would, therefore be inequitable to grant Piedmont nonstop authority in these markets while refusing to award Eastern similar authority at the same time.

In Eastern's route realignment application, it requested a waiver under Part 312 of the Board's Procedural Regulations from filing an environmental evaluation. Eastern supports its request by stating that the grant of the realignment is not likely to affect the environment because it will improve scheduling flexibility, equipment utilization, and operating efficiency. We would waive the requirements of 312 if we had Eastern's realignment before us and we will not require an environmental filing here. We tentatively agree that removal of the stop restrictions in the Dallas/Fort Worth-Greensboro/Raleigh markets will not significantly affect the environment; it will produce greater opportunities for reduction in fuel consumption, air pollution, and ambient noise levels.

issue of fact requiring resolution in a formal evidentiary proceeding. In that respect, this application is similar to Piedmont's recent Boston entry proposal and Eastern's recent Albany proposal.[10]

We find that the implementation of Piedmont's service proposal will offer significant benefits to the traveling public in many Dallas/Fort Worth markets, such as first nonstop service between Dallas/Fort Worth, on the one hand, and Greensboro and Raleigh, on the other, first single-plane service in the Dallas/Fort Worth-Norfolk and Dallas/Fort Worth-Richmond markets, and substantial first single-carrier benefits in other markets.[11] In addition, many travelers will be able to avoid making connections in Atlanta, a very congested terminal.

Further, the extension to Dallas/Fort Worth will enable Piedmont to provide additional flights in markets it already serves and will strengthen it by increasing the length of its average aircraft hop and passenger haul.

Piedmont estimates that its net operating profit as a result of implementation of operations on the Dallas/Fort Worth extension will be $3.6 million. We find that there is sufficient traffic in the markets it proposes to serve to sustain profitable operations, if not under its proposal, than then under a variation.[12a] We need not find that its precise proposal before us, or any other specific service pattern, can in fact be profitably operated.[13] If Piedmont's proposal or a variation can be operated on a profitable basis, service is likely to be provided, and we are persuaded that this has been plausibly shown here.[12b] However, even if the service is or becomes unprofitable the carrier is free, under permissive authority, to cease serving the markets. We are satisfied that nothing developed in an oral evidentiary hearing would reverse these conclusions.[13,14]

Eastern claims revenue diversion of $4.7 million.[15] This represents such a small fraction of Eastern's gross annual revenues of $2 billion that it should not threaten its ability to perform its certificate obligations, or necessarily result in termination of essential services which will not be replaced by another carrier.[15a]

As to American's request that we require Piedmont to make at least two intermediate stops between Dallas/Fort Worth, on the one hand, and New York, Washington and Baltimore, on the other, the nature of Piedmont's routes will dictate this result automatically. Its authority in the New York-Greensboro/Raleigh, Washington-Greensboro/Raleigh and Baltimore-Raleigh markets is already one-stop restricted. Since flights on Piedmont's Dallas/Fort Worth authority will be required to stop in Raleigh or Greensboro in any event, it follows that those flights going on to New York, Washington or Baltimore will have to make at least two stops between Dallas/Fort Worth and those cities.

Delta desires that we defer consideration of Piedmont's request until we have acted on its Raleigh/Greensboro-Atlanta application and its realignment application. We recently issued an order to show cause dealing with Delta's realignment;[16] we see no reason to delay action on Piedmont's request until the Raleigh/Greensboro-Atlanta application is acted upon.

Our tentative decision to remove Eastern's stop restriction in the Dallas/Fort Worth-Greensboro/Raleigh markets conforms with our general policy of eliminating or modifying certificate conditions which serve no useful purpose, impair market development, and inhibit significant improvement in the carrier's economic performance.[17] Removal of Eastern's stop restrictions will benefit the traveling public by decreasing travel time and will help to alleviate the congestion at the Atlanta airport. It is in accordance with our route realignment policy set forth in the Western Route Realignment Order 76-5101, made final by Order 77-11-74, November 17, 1977.

Interested persons will be given 30 days from the date of service of this order to show cause why these tentative findings and conclusions should not be made final. We expect their objections to be supported by detailed economic or legal arguments. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary, and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained. Answers shall be filed 10 days after the date for filing objections.

Accordingly:

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 so as to add a new segment, which is permissive and Category II subsidy ineligible, authorizing the nonstop scheduled air transportation of persons, property, and mail between the terminal point Dallas/Fort Worth, on the one hand, and the coterminal points Greensboro/High Point and Raleigh/Durham, on the other,[18] and amending Eastern's certificates for Routes 5 and 10 so that, notwithstanding the linear description of the routes in those certificates, Eastern be authorized to provide nonstop scheduled air transportation of persons, property, and mail between the terminal point Dallas/Fort Worth, on the one hand, and the terminal points Greensboro/High Point and Raleigh/Durham, on the other;

2. Any interested person objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth here shall, no later than October 23, 1978, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than November 2, 1978;

3. If timely and properly supported objections are filed, we will fully consider the issues raised before we take further action;[19]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative

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[10] By Order 78-8-97, August 17, 1978, we granted Piedmont's Boston entry; by Order 76-7-168, July 31, 1978, we granted Eastern's Albany entry.

[11] See the Appendix.

[12a] For the year ended September 30, 1977, there were 21,520 true O&D plus connecting passengers in the Dallas/Fort Worth-Greensboro market and 22,880 in the Dallas/Fort Worth-Raleigh market. Source: CAB's O&D Survey Tables 8 and 10.

[12b] See *Piedmont Boston Entry Application*, Order 78-4-69 (order to show cause): Order 78-8-97 (final order), at pp. 6-7.

[13] As noted in Order 78-4-69, our conclusion that Piedmont has made a plausible showing that service can be profitable provided is not an element of our tentative findings of public convenience and necessity, but rather of our determination to give this application priority of processing.

[14] Eastern argues that Piedmont's stimulation factors are too high in a number of respects. Even if all of Eastern's criticisms are well taken, our conclusion that proposal, or some plausible variation, could be operated on an economic basis would not be undermined.

[15] The public convenience and necessity require that Piedmont's authority be Category II subsidy-ineligible and permissive to enable it to respond to the forces of the marketplace. If its operations prove to be uneconomic it can reduce or eliminate them.

[15a] EA-7, based on its one-stop operations in the market.

[15b] To the extent that Eastern institutes nonstop service, in direct competition with Piedmont, its case for diversion is that much weaker.

[16] Order 78-4-109, April 19, 1978.

[17] See e.g., Order 78-4-67, April 14, 1978, Order 77-11-41, November 10, 1977, and orders cited in n. 9 of the latter.

[18] In view of the fact that Piedmont currently has operating authority between Greensboro/High Point and Raleigh/Durham, we propose to place those points on a single new segment as coterminals.

[19] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration.

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findings and conclusions we have set forth here;

5. We grant Piedmont's motion for leave to file an unauthorized document; and

6. We shall serve this order upon Piedmont Aviation, Airlift International, Allegheny Airlines, American Airlines, Braniff International, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Flying Tiger Line, Hughes Airwest, Texas International Airlines, Frontier Airlines, National Airlines, North Central Airlines, Northwest Airlines, Ozark Air Lines, Pan American World Airways, Southern Airways, Trans World Airlines, United Airlines, the North Carolina Department of Transportation, Division of Aeronautics, the Greensboro/High Point Airport Authority, the Carolina By-Products Co., Inc., the Virginia State Corporation Commission, the Virginia Division of Aeronautics, the Texas Aeronautics Commission, the Norfolk Port and Industrial Authority, the Airport Director, Raleigh/Durham Airport Authority, the Airport Managers, Byrd International Airport and Roanoke Municipal Airport, the cities of Dallas and Fort Worth, the Dallas Chamber of Commerce, the Mayors of Knoxville, Bristol (Virginia), Roanoke, Winston-Salem, Greensboro, Fayetteville, Richmond, Dallas, Fort Worth, and the governors of the States of North Carolina, New York, Virginia, and Texas.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[20]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27180 Filed 9-26-78; 8:45 am]

[6320-01]

[Ordered 78-9-94; Docket 33359]

TEXAS INTERNATIONAL AIRLINES, INC.

Order Providing for Further Proceedings Under Subpart M

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of September 1978.

On September 6, 1978, Texas International Airways filed an application, pursuant to Subpart M of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 82 to eliminate the stop requirement in condition (4) for services between Midland/Odessa, Lubbock, and Amarillo, Tex., on the one hand, and Los Angeles, Calif., on the other.

Continental holds nonstop authority in the Midland/Odessa market and one-stop authority in Lubbock-Los Angeles. TWA holds nonstop authority between Amarillo and Los Angeles. Continental's and TWA's nonstop authority remains unused. However, Amarillo and Lubbock receive one-stop Los Angeles service from TWA and Continental, respectively, and Midland/Odessa two-stop Los Anageles service from Continental.[1]

We find that the application is in compliance with and is suitable for processing under the provisions of Subpart M. Accordingly, we order further proceedings on it under §§ 302.1306-1310 of the Board's Procedural Regulations.

Accordingly,

1. We order that the application of Texas International Airlines, Inc. be set for further proceedings pursuant to §§ 302.1306-1310 of the Board's Procedural Regulations; and

2. We will serve a copy of this order on all parties served by Texas International in its application.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27179 Filed 9-26-78; 8:45 am]

[6320-01]

[Order 78-9-89; Docket 32873]

AMERICAN AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of September 1978.

On June 16, 1978, American filed an application and motion for hearing to amend its certificate for Route 4 so as to add a new segment authorizing nonstop service between Reno, Nevada, and Chicago, Ill. It proposes to operate three daily round trips in the Reno-Chicago market, each of which would be an extension of an existing flight (Boston-Detroit-Chicago, New York-Chicago, and Washington-Chicago). In support of its application, American alleges that the Reno-Chicago/East markets are underdeveloped compared to Las Vegas and Palm Springs; Reno has become a de facto monopoly point for United; that the market requires and can support another carrier; that American will also offer first single-plane service in the Reno-Detroit/Washington markets and improved service in the Reno-New York/Boston markets; that the broad range of its fares, including a Super Saver fare specifically modified for this market, would be available to Reno travelers for the first time; and that its proposal would result in a net operating profit of over $1 million, with diversion insufficient to impair United's certificate obligations.

An answer in support of American's motion was filed by the Reno parties (the City of Reno and the Greater Reno Chamber of Commerce). No answers were filed in opposition.

We have tentatively concluded, on the basis of the findings below, that the public convenience and necessity require the amendment of American's certificate for Route 4 so as to authorize nonstop Reno-Chicago service. We also tentatively find that American is fit, willing and able properly to perform the air transportation it proposes and to conform to the provisions of the Act and the Board's rules, and that, based on the environmental evaluation submitted by American, our proposed action would not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

American's application falls within the class of cases that can be handled by show-cause procedures, because of the absence of any material issue of law, fact or policy requiring resolution in a formal evidentiary proceeding before an administrative law judge, as described in the recent Piedmont Boston entry proposal.[1]

We find that the implementation of a service proposal such as American's would benefit the traveling public in this market by introducing the spur of competition and making certain low fares available to Reno passengers for the first time. The carrier estimates that the net operating profit of its proposed service will be over $1 million in the first year of service.[2] We need not find that its precise proposal here, or any other specific service pattern, can in fact be profitably operated. If the proposal or a variation can be operated on a profitable basis service is likely to be provided, and we are persuaded that this has been plausibly shown here. However, even if the service is or becomes unprofitable the carrier is free, under permissive authority, to cease serving the markets. We

[20] All Members concurred.

[1] Continental also provides one one-stop and one three-stop, one-way flight in the Midland-Odessa market.

[2] In the event no person files an appropriate pleading in opposition to such application which requests a public hearing, the Board may grant said application without further notice or hearing.

[3] All Members concurred.

[1] Order 78-4-69, April 14, 1978.

[2] Motion of American Airlines for expedited hearing, Exhibit AA-401: As noted in Order 78-4-69, our conclusion that American has made a plausible showing that service can be profitably provided is not an element of our tentative findings of public convenience and necessity, but rather of our determination to give this application priority of processing.

are satisfied that nothing developed in an oral evidentiary hearing would reverse this conclusion. Furthermore, as in the Piedmont Boston case, we find that the grant of this authority will not threaten the ability of any carrier to perform its certificate obligations.

Interested persons will be given 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending American's certificate for Route 4 as to add a new segment authorizing the nonstop scheduled air transportation of persons, property and mail between the terminal point Reno, Nev., and the terminal point Chicago, Ill.;

2. We require any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments no later than October 23, 1978, to file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed 10 days after;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised before further action is taken: [3]

4. If no one files objections to any part of this order, we will consider all further procedural steps relating to such part or parts waived, and the case submitted to us for further action;

5. We will serve a copy of this order upon all persons named in the service list of Docket 32873.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27178 Filed 9-26-78; 8:45 am]

[3] Since provision is made for filing objections, we will not entertain petitions for reconsideration.

[4] All Members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON AGRICULTURE STATISTICS

Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on October 19, 1978, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from agricultural respondents; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers and users of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: (1) Introductory remarks by the Director of the Census Bureau; (2) OMB and congressional action, including interest in foreign ownership; (3) status of preparation for mailing the 1978 Census of Agriculture; (4) publicity programs; (5) status of area sample survey; (6) processing plans for the 1978 census; (7) tabulation plans; (8) coverage plans; (9) review of follow-on survey requests; and (10) Committee recommendations, election of 1978-79 chairperson, and plans for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Orvin L. Wilhite, Chief, Agriculture Division, Bureau of the Census, Room 3015, Federal Building 4, Suitland, Md. (Mail address: Washington, D.C. 20233). Telephone: 301-763-5230.

Dated: September 21, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-27105 Filed 9-26-78; 8:45 am]

[3510-25]

Industry and Trade Administration

DEPARTMENT OF AGRICULTURE—PASADENA, CALIF.

Decision on Application for Dufy-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00205. Applicant: U.S. Department of Agriculture, SEA—Fruit and Vegetable Chemistry Laboratory, 263 South Chester Avenue, Pasadena, Calif. 91106. Article: Mass Spectrometer, Model MM 70/70F (127 mm radius double focusing duel electron impact-chemical ionization). Manufacturer: VG-Micromass, Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study of natural products from plant or microbial sources, or chemically modified products from these sources. The three main areas of research are: (1) Studies of the composition of plant materials and determination of the structures and quantities of the individual constituents, (2) studies of the structure-biological activity relations of plant constituents with emphasis on bitter or sweet taste responses, enzyme-substrate interactions, and bioregulatory responses of natural and synthetic effector molecules, and (3) studies of the biosynthesis, metabolism, and regulation of plant constituents to improve crop quality and yield. Experiments will be conducted to determine the chemical structure of these materials, and/or the relative or absolute amounts of the materials present in mixtures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No domestic manufacturer was both able and willing to manufacture an instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the foreign article is intended to be used, and have it availa-

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ble to the applicant without unreasonable delay in accordance with subsection 301.11(c) of the regulations, at the time the foreign article was ordered (September 29, 1977).

Reasons: A request for quota (RFQ) including a comprehensive list of the applicant's technical requirements in a mass spectrometer was sent to domestic manufacturers of instruments comparable to the foreign article. Finnigan Corp. bid on these requirements offering its Model 4000 but was not able to provide the requirement for high sensitivity at molecular weights in the vicinity of 1300. Due to the lack of high sensitivity which the Department of Health, Education, and Welfare deemed pertinent in its memorandum dated August 10, 1978, we find that the Model 4000 was not of equivalent scientific value to the foreign article at the time of order. Other domestic manufacturers indicated to the applicant that they would not bid on the RFQ. Mass spectrometers fall in the category of instruments that are produced on order. As to the domestic availability to such instruments the regulations provide:

> In determining whether a U.S. manufacturer is *able* and *willing* to produce a produced or order, or custom-made instrument, apparatus, or accessory • • • the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category. (Italics added).

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign article. Where an applicant, as in this case, extends in good faith a RFQ to domestic manufacturers and each manufacturer indicates that it does not intend to bid, it is apparent that these domestic manufacturers are either not "willing" or not "able" to produce an instrument of equivalent scientific value to the foreign article. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacturer a domestic instrument of equivalent scientific value to the foreign article for such purpose as the foreign article is intended to be used at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 76-27127 Filed 9-26-78; 8:45 am]

[3510-25]

BROOKHAVEN NATIONAL LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00248. Applicant: Brookhaven National Laboratory, Medical Department, 30 Bell Avenue, Upton, N.Y. 11973. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of biological materials, both human and experimental animal in a program on Inhalation Toxicology. Investigations will include ultrastructural studies on normal and pathological tissues by histochemical, morphometric, autoradiographic and X-ray elemental analysis techniques. Tissues will originate from experimental animals exposed to controlled environments in specially designed inhalation chambers, as well as human pathological cases.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the Department of Health, Education, and Welfare in its memorandum dated August 10, 1978 that: (1) Cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27128 Filed 9-26-78; 8:45 am]

[3510-25]

CHARLES S. WILSON MEMORIAL HOSPITAL

Consolidated Decision on Application for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C, Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00253. Applicant: Charles S. Wilson Memorial Hospital, 33-57 Harrison Street, Johnson City, N.Y. 13790. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal and human tissues and plant materials which have been embedded in plastic resins. These materials will vary in density and fragility. Biopsy materials will be studied, including kidney, skin, neoplastic tumors and hematologic specimens with the resulting observations and diagnosis used in clinical research. Also, investigational studies are planned involving ultrastructural immunohistochemistry of animal tissues, primarily kidney. An attempt will be made to identify some of the constituents in "immune complex" deposits in damaged vessels and renal glomeruli. In addition, the article will be used in informal training of

residents in pathology; i.e., to familiarize the physicians in the preparation of specimens, use of the microscope and interpretation of findings. Application received by Commissioner of Customs: June 2, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 24, 1978.

Docket No. 78-00271. Applicant: Louisiana State University and Agriculture and Mechanical College, Baton Rouge, La. 70803. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (including animal, bacteria, virus, parasite, and fungal specimens) for ultrastructural study to reveal the pathogenics and pathology involved in animal cells during infectious or metabolic disorders. Investigation of the ultrastructure of infectious agents for identification of viral agents and for determining virulence or replication properties will be conducted. In addition, the article will be used in graduate courses entitled, "Ultrastructure" and "Cytochemistry" to train graduate students in the use and application of electron miscroscopy and train various faculty researchers to use the electron microscope in solving individual research problems. Application received by Commissioner of Customs: June 12, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 24, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 50 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections are that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness, and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27129 Filed 9-26-78; 8:45 am]

[3510-25]

FREDERICK CANCER RESEARCH CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C, Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00228. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Md. 21701. Article: MM/ZABIB Ultra-High Resolution Electron Impact Ionization Mass Spectrometer with Reversed Geometry and Accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended to be used for precise mass spectrometric analysis of a wide range of substances obtained or produced by the very varied interdisciplinary carcinogenesis research programs. These will include: (1) High molecular weight potential antitumor compounds related to various antibiotics; (2) products formed by the interaction of carcinogenic polycyclic aromatic hydrocarbons (and/or metabolic derivatives) with components of DNA and RNA; (3) metabolites of bile acids, sterols, and aromatic amines which may affect tumor development; (4) metabolites and hydroxy derivatives of the carcinogen 7,12-dimethylbenz(*a*)anthracene; (5) polar antitumor drugs and metabolites; (5a) hormones and small peptides which may serve as tumor markers; (6) synthetic compounds (polycyclic aromatics, steroids, nitrosamines, etc.) prepared for use as research tools; (7) metabolites of nitrosamines; (8) alkylated purines and pyrimidines resulting from reactions with carcinogenic nitrosamines, triazenes, tetrazenes, etc.; (9) components of complex mixtures resulting from chemical studies on nitrosamine precursors.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: the foreign article provides a reversed geometry with the capability of high resolution (70,000 at 10 percent valley), in the electron impact mode of operation. The Department of Health, Education, and Welfare advises in its memorandum dated August 10, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27130 Filed 9-26-78; 8:45 am]

[3510-25]

NATIONAL CANCER INSTITUTE—NATIONAL INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00243. Applicant: National Cancer Institute—National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of animal and human specimens in the following investigations: (1) Ultrastructural studies on viruses normal and pathologic human and animal tissues, (2) cyto and histochemical studies on virus and subcellular organelle localization in cells and tissues, (3) membrane interactions at host-virus interfaces, and (4) subcellular changes in cells induced by infection with viruses. The objective of these studies is to further basic knowledge on virus, cell and tissue ultrastructure and to reveal, at the ultrastructural level, the localization and distribution of cancer viruses in cells and tissues under normal, experimental and pathological conditions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards (NBS) in its memorandum dated August 25, 1978 that (1) cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory, Import Programs Staff.

[FR Doc. 78-27131 Filed 9-26-78; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY, TUCSON, ARIZ.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00178. Applicant: National Radio Astronomy Observatory Associated Universities Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is indended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 105 to 111 gigahertz frequency range. The National Bureau of Standards (NBS) advises in its memorandum dated August 23, 1978 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Program Staff.

[FR Doc. 78-27132 Filed 9-26-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00250. Applicant: University of California, Purchasing Department, 1156 High Street, Santa Cruz, Calif. 95064. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Intended use of article: The article is intended to be used for ultrathin sectioning of tissues in the following varied research:

(1) Biochemical isolation of the organelles of the glyoxylate cycle in seeding tissues.

(2) Investigation of the effect of different fixation techniques on bacterial mesosome morphology.

(3) A study of the cellular basis for the hormone—dependent transport process.

(4) A study of the development of lower plants.

(5) A study of the structure, function and maintenance of visual photoreceptor membranes.

(6) A comparative ultrastructural study of the juvenile and adult cuticle, as well as wild type and mutant strains.

(7) Ultrastructural studies of pit connections; algal host a parasites, the method of spore attachment to various substrates.

(8) A study of the developmental genetics of *Drosophila.*

The article will also be used for educational purposes in the courses: Biology 246L, Biology 299 and Chemistry 299. Application received by Commissioner of Customs: May 30, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 24, 1978.

Docket No. 78-00265. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Tex. 78284. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations of a varjety of tissue types; e.g., the functionally normal piloid clonal cells of the anterior pituitary of the rat in culture; clonal tumor cells of the anterior pituitary of the rat; clonal cell transplanted into the hypothalamus or under the kidney capsule of the host animal. In addition, monolayer cells or implanted clonal cells fixed in glutaraldehyde or osmium will be studied. Ultrathin sections will be used to study the effects of various kinds of drugs or hormones on clonal cells in vitro. Experimentally induced tumor will also be investigated using ultrastructural cytochemical techniques. Application received by Commissioner of Customs: June 8, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 24, 1978.

Docket No. 78-00273. Applicant: University of Maryland School of Medicine, 655 West Baltimore Street, Baltimore, Md. 21201. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare specimens of neural tissues in several nonmammalian and mammalian vertebrate species for examination at the ultrastructural level. These ultrastructural studies will entail analyses of CNS tissue following experimental neuronal injury in amphibians and mammals using conventional thin section and specialized cytochemical and autoradiographic techniques. Emphasis will be focused upon pathological changes in the spinal cord following transection in mammals and a comparative examination of cellular dynamics during successful regeneration following cord interruption in lower vertebrates. The article will also be used in the training of graduate students involved in the above research. Application received by Commissioner of Customs: June 13, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 24, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27133 Filed 9-26-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA, SAN FRANCISCO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00219. Applicant: University of California, San Francisco, Departmcnt of Biochemistry and Biophysics, Third and Parnassus, San Francisco, Calif. 94143. Article: Axiomat Light Microscope and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of Article: The article is intended to be used for the following varied research projects:

(1) The study of the three-dimensional foldering pattern of polytene chromosomes in intact salivary glands,

(2) Structural study of polytene bands and interbands,

(3) Structural studies of the diploid interphase chromosomes,

(4) Genetic characterization of a homeotic locus of *Drosophila melanogaster,* engrailed (2-260),

(5) Cytological assay to permit the isolation and characterization of the enzymes and regulatory elements involved in the regulation of gene expression,

(6) Elegant tissue grafting experiments in insects, and

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(7) Identification of the molecules and sequence of the molecules and sequence of events required for synapse formation between neurons and target cells.

The article will also be used in a course in optical microscopy to teach graduate students and post doctoral fellows the theoretical and practice aspects of this area of research especially as it applies to the technique that can be used with this microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides structural stability sufficient to take a 4 minute picture with no focus or vibration change. The Department of Health, Education, and Welfare advises in its memorandum dated August 10, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27134 Filed 9-26-78; 8:45 am]

[3510-25]

UNIVERSITY OF CHICAGO

Decision on Application For Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00232. Applicant: The University of Chicago, 5801 S. Ellis Ave., Chicago, Ill. 60637. Article: 12kW Ru-200H High. Brilliance Rotating Anode X-Ray Generator with Accessories. Manufacturer: Rigaku, Japan. Intended Use of Article: The article is intended to be used in studies of the X-ray properties of molecular-sieve zeolits and amorphous semiconductors in an attempt to understand the chemical forces between the atom.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a focused spot of minimal size (0.1 mm x 1 mm) and a rotating target for maximum X-ray beam intensity. The National Bureau of Standards (NBS) advised in its memorandum dated August 11, 1978 that the capabilities described above are pertinent to the purposes for which the article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27135 Filed 9-26-78; 8:45 am]

[3510-25]

UNIVERSITY OF NORTH CAROLINA AT WILMINGTON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00215. Applicant: University of North Carolina at Wilmington, P.O. Box 3725, Azalea Station, Wilmington, N.C. 28406. Article: CD-4 Parkinson-Cowan Dry Gasometer and Accessories. Manufacturer: Barchard Engineering Ltd., Canada. Intended use of Article: The article is intended to be used for educational purposes in the course PED 316 Exercise Physiology which is concerned with human physiological response to exercise and training. The article will also be used for PED 416, Advanced Exercise Physiology as well as in various research projects involving measurement of exercise metabolism.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay within the meaning of subsection 301.11(c) of the regulations at the time the foreign article was ordered (February 4, 1977).

Reasons: Excessive delivery time is described in subsection 301.11(c) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described. In response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference between the delivery time quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course in which the article is intended to be used, and other relevant circumstances.

The applicant needed the article as a replacement for an indentical device which broke down in the middle of a semester. Only the manufacturer of the foreign article agreed to provide the replacement in time to benefit the applicant's students.

Accordingly, we find that the difference between the delivery time of the foreign article and the comparable domestic instrument to be excessive within the meaning of subsection 301.11(c) as it would seriously impair the accomplishment of the applicant's purpose at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27136 Filed 9-25-78; 8:45 am]

[3510-25]

VA. INSTITUTE OF MARINE SCIENCE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00251. Applicant: Virginia Institute of Marine Science, Route 17, Gloucester Point, Va. 23062. Article: Turbidity Monitor Marine Sensor. Manufacturer: Spectrum Electric Ltd., Canada. Intended Use of Article: The article is intended to be used for measuring the suspended sediment of thick fluid mud on the floor of estuaries and rivers which is discharged from dredge pipes. An experiment will be conducted to determine the extent, thickness and rate of movement of the fluid mud which is detrimental to ecology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article can measure a concentration of 1,000 parts per million. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used and can measure 1,000 parts per million.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27137 Filed 9-26-78; 8:45 am]

[3510-25]

VETERANS ADMINISTRATION HOSPITAL

Consolidated Decision on Applications Duty Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00323. Applicant: Veterans Administration Hospital, Department of Pathology, 130 West Kingsbridge Road, Bronx, N.Y. 10468. Article: Electron Microscope, Model EM 400 HMG, Scanning Attachment, and other Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended Use of Article: The article is intended to be used for the examination and investigation of biological materials related primarily to effects of disease or experimental conditions on living system. Experiments to be conducted will include:

(a) Studies of viral infestation as possible etiological explanations for various diseases;

(b) Examination of the intercalated disks which join myocardial cells to each other.

In addition, the article will be used to train pathologists and technical staff in the area of Scanning and Transmission Electron Microscopy. Article Ordered: January 21, 1978.

Docket No. 78-00328. Applicant: Michigan Technological University, Houghton, Mich. 49931. Article: Electron Microscope, Model JEM 100CX/SEG and accessories. Manufacturer: JEOL Ltd., Japan. Intended Use of Article: The article is intended to be used for studies of metallic and non-metallic solids in which the following phenomena will be studied:

(a) Microstructure and local chemistry, e.g., distribution and identification of phases;

(b) Defect arrangements, e.g., dislocation structures;

(c) Phase transformations, e.g., structure of partially coherent interfaces;

(d) Crystal structure;

(e) Physical and chemical identification of particulate matter. The experiments to be conducted will include:

(a) Routine bright field-centered dark field microscopy for identification of defects and particulate matter.

(b) G.b analysis of interfacial structures.

(c) Analysis of dislocations and cracks formed under microhardness identations in ceramic materials.

(d) Micro-micro diffraction for identification of small particles, fine second phases, particular matter, and defect configuration.

(e) X-Ray and electron energy loss microanalysis of phases and particulate matter.

The article will also be used in the course: MY 442—Electron microscopy (theory of operation and image formation for transmission and scanning electron microscopy with applications to the solution of scientific and engineering problems) and MY 569--Electron microscopy in materials science (theory of electron-solid interactions and the resulting application to electron diffraction and image contrast theories). ARTICLE ORDERED: February 27, 1978.

Docket No. 78-00329. Applicant: National Cancer Institute, Baltimore Cancer Research Center, 3100 Wyman Park Drive, Baltimore, Md. 21211. Article: Electron microscope, Model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended Use of Article: The article is intended to be used in a research capacity to continue studies of subcellular aspects of differentiation, neoplastic transformation of hematopoietic cells and the response of malignant and normal cells to chemotherapuetic agents. Etiologic factors of human hematopoietic dyscrasias and animal model systems of such diseases are also under investigation. Of particular importance is the search for and identification of virus like structures in human material. The article will also be used to study structural alterations in cellular components such as nucleic acid malformations (i.e., Chromosomal malformations), subcellular particle alterations (mitochondrial and microsomal) and changes in tissue organization by pharmacologic agents or appearing in the natural course of a disease. Article Ordered: April 8, 1975.

Docket No. 78-00333. Applicant: St. Mary's Hospital, 200 Jefferson Avenue SE., Grand Rapids, Mich. 49503. Arti-

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cle: Electron microscope, model H-300 and accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used in the pathology department for the following purposes: (1) To identify the presence or absence of virus in tissues and body fluids; (2) To aid in the diagnosis of specific diseases which cannot be categorized by light microscopy, e.g., kidney, muscle, nerve, G.I. tract, liver, and other degenerative diseases; (3) For more definitive classification of neoplasms as a guide to therapy; (4) For future research projects to be established after the microscope is acquired. The article will also be used by medical students and residents as an integral part of their educational experience in the pathology department. Article ordered: June 15, 1978.

Docket No. 78-00334. Applicant: Langston University, P.O. Box 550, Langston, Okla. 73050. Article: Electron microscope, model H-300 and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research involving the study on biological specimens such as biopsy and autopsy tissues, plant materials, algae, fungi, micro-organisms, and other biochemical and physical phenomena studies. Topography and morphology of micro-organisms and plant tissues will also be studied. Accumulation and degradation of toxic compounds (herbicides, insecticides, etc.), by micro-organisms and higher plants will also be included in our studies. Article ordered: April 11, 1978.

Docket No. 78-00335. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 70439. Article: Electron microscope, model EM-400 with high magnification goniometer and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the identification of metals and alloys, particularly nickel, aluminum, titanium, copper, their alloys, and other metals as well. The phenomena to be investigated will include primarily radiation damage, void microstructures, dislocation loops, cascades, etc. Other general usage will include microstructural analysis of new alloys and deformation mechanisms in materials. Experiments will be conducted to obtain a basic understanding of damage mechanisms in irradiated solids, thus contributing to reduction of associated problems in reactor materials. Article ordered: May 18, 1978.

Docket No. 78-00342. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, Ind. 47401. Article: Electron Microscope, model H-300 and accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used to investigate the morphology of various biological cells and tissues, i.e., rat myocardium, gerbil uterus, rattlesnake brain, mouse pituitary, chicken pancreas, et cetera. The article will be used in graduate level courses and in research for graduate students in anatomy, physiology, pathology, and pharmacology. It will also be used to prepare teaching materials for medical student courses in histology, neuroanatomy, and pathology. Article ordered: June 20, 1978.

Docket No. 78-00348. Applicant: Harvard Medical School, Department of Anatomy, 25 Shatuck Street, Boston, Mass. 02115. Article: Electron Microscope, model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to update an electron microscope facility for research involving localization of specific proteins in cells and tissues by scanning and transmission electron) microscopy. Specific projects to be conducted will include the following: (1) The relation of collagen and glycosaminoglycans to cells and the distribution of matrix components in developing tissues which are of importance in morphogenetic interactions between embryonic tissues; (2) Immunolabeling of the glycocalyx on Rickettsiae and host cells; (3) Localization of macromolecular secretagogues on intestinal epithelial cells; (4) Mobility and topography of cell surface glycoproteins; (5) Antigens on the surface of developing spermatogenic cells; (6) Structural analysis of the sperm flagellar axoneme and its microtubule components. The article will also be used in training postdoctoral research fellows in advanced electron microscopy. Article ordered: May 11, 1978.

Docket No. 78-00349. Applicant: Harvard University (New England Regional Primate Research Center), One Pine Hill Drive, Southboro, Mass. 01772. Article: Electron microscope, model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials, including normal and abnormal tissues from nonhuman primates as well as a multitude of infectious agents, especially viruses, isolated from nonhuman primates. Experiments will be conducted to use the nonhuman primate as a model to study specific disease problems of man with the hope of gaining a better understanding of those problems so as to benefit man. These experiments will include: 1. Fine structural analysis of new viral isolates as a crucial step in their identification and characterization; 2. Ultrastructural studies of the experimentally induced neoplastic and/or transformed cells produced by the two primate oncogenic herpeaviruses; 3. Determination of the morphological effects of new antiviral drugs on viral replication and on infected cell cultures treated in vitro; 4. Characterization of the ultrastructural lesions induced in nonhuman primates fed specific experimental diets; 5. Characterization of the ultrastructural features of certain age-related brain changes in nonhuman primates and compare them to analogous lesions found in aged human brains. In addition, the article will be used in the conduct of postdoctoral training program in comparative pathology. Article ordered: March 1, 1978.

Docket No. 78-00353. Applicant: Southern Illinois University, Center for Electron Microscopy, Carbondale, Ill. 62901. Article: Electron microscope, model H-500, goniometer stage with accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for the following research purposes: 1. Examination of thin sections of the fungus *Diplodia maydis* in corn tissue to determine the penetration mechanism; 2. Thin section examination of the mussel, *Mytilus edulis* treated with various agents affecting photoactivity to study the phenomenon of photoreception; 3. Diffraction studies of osmium complexes to determine structure; 4. High resolution studies of negatively stained DNA to determine size and shape; 5. Autoradiographic studies to localize various protein moieties in the yeast, Saccharomyces; 6. Identification of various virus preparations by negative staining to determine size and purity; 7. Cellulase localization in thin sections in various fungal pathogens; 8. Lattice structures of various crystals; 9. Morphology of fossils by replica technique; 10. Examination of thin sections of Bacillus bacterial spores to study the germination process and various agents affecting it; 11. Thin section study of the effect of osmium complexes on mammalian tissue and interferences of its use in arthritis; 12. Thin section study of amyloid content of fungal spore of Zelleromyces; 13. Bacterial typing of various species by flagellar location (shadowed preps); 14. Localization of PAS positive substances in fungal plan pathogens. In addition, the article will be used for educational purposes in the course Transmission Electron Microscopy for Research in which students are taught how to effectively use the article as a research tool and various preparation techniques depending on need. Article ordered: June 22, 1978.

Docket No. 78-00354. Applicant: University of Alabama in Birmingham, Department of Pathology, University Station, Birmingham, Ala. 35294. Arti-

cle: Electron microscope, model EM 400 with high magnification goniometer stage and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine biologic tissues which will include normal tissues from animals as well as individual organisms such as bacteria, parasites, viruses or fungi. On rare occasions, tissues of nonbiological origin may also be studied. Studies will be conducted in order to define structural alterations of tissues and to correlate these with biochemical and fungal changes in the tissue. Specific examples of the research projects include: (a) Identification of membrane integrity of cardiac muscle cells following ischemic cell damage in experimental animals; (b) Specific cell localization of amino acid precursors of protein synthesis in hearts made to hypertrophy by various different techniques; (c) demonstration of altered membrane permeability of heart muscle cells using such tracers as horse radish peroxidase and ferritin; (d) localization of specific cell surface antigens using immunologically labeled antibodies on the surface of the cell with ferritin tracers; (e) characterization of the lipid bilayer membrane of liposomes specifically constructed to carry various agents within the liposome cavity; (f) identification of immune complex structures within the basement membranes of the kidney glomerulus in animals with compliment deficient induced glomerulopathy. The article will also be used to train graduate students in the use of electron microscopy and to obtain and to interpret results obtained using this technique. Article ordered: February 7, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of eqivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27138 Filed 9-26-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-621]

GREAT LAKES-ATLANTIC STEAMSHIP CO.

Notice of Application

Notice is hereby given that Great Lakes-Atlantic Steamship Co., a Michigan corporation, has filed an application dated September 1, 1978, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended, for a 20-year operating-differential subsidy contract for operation of services on Trade Area No. 1 (Great Lakes-Western Europe).

If this application is approved, Great Lakes-Atlantic would operate a fleet of five C4-type vessels, either fully or partially containerized, between U.S. ports on the Great Lakes and St. Lawrence River, intermediate Canadian Great Lakes ports, and other ports along the general track and ports in the United Kingdom and Continental Europe.

Great Lakes-Atlantic intends to operate its proposed service during the open navigation season through the St. Lawrence Seaway. During the period when the St. Lawrence Seaway is closed, between December 15 and April 15, approximately, the applicant would provide a substituted service via the port of Albany, N.Y., with through, intermodal bills of lading issued to and from Great Lakes ports in conjunction with connecting rail carriers.

Great Lakes-Atlantic has proposed to serve (1) the Great Lakes ports of Chicago, Detroit and Montreal, and other Great Lakes ports on an inducement basis, and (2) the port of Grangemouth in the United Kingdom and the ports of Rotterdam and Bremerhaven on the continent with calls on inducement at other U.K. and continental ports. Great Lakes-Atlantic has proposed a weekly service but has not established maximum sailings.

Interested parties may inspect the application in the office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on October 10, 1978.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS).)

By order of the Martime Subsidy Board.

Dated: September 21, 1978.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

[FR Doc. 78-27098 Filed 9-26-78; 8:45 am]

[3510-15]

MOBILIZATION SHIP DEVELOPMENT

Conference

Notice is hereby given that the Maritime Administration is sponsoring a conference to publicize its efforts in developing a mobilization ship design and to facilitate and encourage the exchange of ideas by all persons and groups interested in the further design development and construction of the mobilization ship.

The major objectives of the Maritime Administration in sponsoring the conference are:

- To inform prospective shipowners, shipbuilders, and other interested parties about the versatile, efficient and commercially attractive mobilization ship design developed by the Maritime Administration.
- To inform the marine community of national defense needs in ship design, construction, operation, and maintainability.
- To learn what incentives are needed for prospective shipowners to build mobilization type ships.
- To encourage the marine industry to participate in the further design development, construction and operation of such ships that are suitable for both commercial and wartime mobilization purposes.

The Conference will be held on November 6, 1978, at the Crystal City Marriot Hotel, Arlington, Va., between 9 a.m. and 5 p.m. The registration fee is $40, if received not later than October 21, 1978. After that date the fee will be $55.

All interested persons are invited to attend.

Any person wishing to register for the conference or to obtain further information may contact: Ms. Linda M. Williams, Office of Ship Construction, Maritime Administration, Room 4059, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4538.

Dated: September 22, 1978.

By Order of the Assistant Secretary for Maritime Affairs, Maritime Administration.

ROBERT J. PATTON, Jr.
Assistant Secretary.

[FR Doc. 78-27099 Filed 9-26-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,932,390: 2-This-1, 3, 5-Triaza-7-Phosphaadamantane 2,2-Dioxide; filed April 29, 1975; patented January 13,1976.

Patent 3,939,883: Machine to Fill Insect Rearing Cells with Diet; filed October 1, 1974; patented February 24, 1976.

Patent 3,953,165: Flameproofing Resins for Organic Textiles from Adduct Polymers; filed August 22, 1974; patented April 27, 1976.

Patent 3,954,400: Phosphorus, Nitrogen, Bromine Containing Polymers and Process for Producing Flame Retardant Textiles; filed August 22, 1974; patented May 4, 1976.

Patent 3,960,477: Crossdyed Cotton Fabrics; filed January 11, 1974; patented June 1, 1976.

Patent 3,963,434: Carboxymethylated Cotton Fabric with Improved Conditioned and Wet Wrinkle Recovery by Reaction with Propylene or Ethylene Carbonate; filed July 23, 1975; patented June 15, 1976.

Patent 3,972,924: 1-(1H, 1H-Perfluorooctyl)-1, 3-Trimethylenediphosphonic Tetrachloride; filed November 10, 1975; patented August 3, 1976.

Patent 3,975,154: Process for Producing and Utilizing Durable Press Fabrics with Strong Acid Grafts; filed June 9, 1975; patented August 17, 1976.

Patent 3,976,604: Preparation of Ethyleneimine Prepolymer; filed January 30, 1975; patented August 24, 1976.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,913,599: Coil Spring Venting Arrangement; filed September 30, 1974; patented October 21, 1975.

Patent 3,920,343: Key-and-Keyway Coupling for Transmitting Torque; filed November 13, 1974; patented November 18, 1975.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,922,572: Electroacoustical Transducer; filed August 12, 1974; patented November 25, 1975.

Patent 3,934,288: Object Release Device; filed November 18, 1974; patented January 27, 1976.

Patent 3,934,482: Cable Traction Sheave; filed January 27, 1975; patented January 27, 1976.

Patent 3,939,467: Transducer; filed April 8, 1974; patented February 17, 1976.

[FR Doc. 78-27142 Filed 9-26-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,937,724: Organo-Phosphorus Compounds Containing Perfluoroalkyl Radicals and Their Application to Cellulosic Textiles; filed March 24, 1975; patented February 10, 1976.

Patent 3,939,883: Machine to Fill Insect Rearing Cells with Diet; filed October 1, 1974; patented February 24, 1976.

Patent 3,941,764: Use of Acidic Hexane to Process Oil Seeds for Protein and Oil; filed May 10, 1974; patented March 2, 1976.

Patent 3,947,613: Process for Reducing Agent Migration During Treatment of Knitted Cotton Fabric; filed August 7, 1974; patented March 30, 1976.

Patent 3,948,600: Selected Ammonium Sulfonate Catalysts for an Improved Process Utilizing Mild Curing Conditions in Durable Press Finishing of Cellulose-Containing Fabrics; filed February 27, 1975; patented April 6, 1976.

Patent 3,949,108: Process for Producing Fire Resistant Organic Textile Materials; filed June 1, 1973; patented April 6, 1976.

Patent 3,953,166: Flame Resistent Organic Textile Through Treatment with Phenols and Adduct Polymers; filed August 22, 1974; patented April 27, 1976.

Patent 3,954,968: Composition for Attracting the Cotton Boll Weevil; filed February 27, 1975; patented May 4, 1976.

Patent 3,958,932: Flame-Resistent Textiles Through Finishing Treatments with Vinyl Monomer Systems; filed August 28, 1974; patented May 25, 1976.

Patent 3,959,461: Hair Cream Rinse Formulations Containing Quaternary Ammonium Salts; filed May 28, 1974; patented May 25, 1976.

Patent 3,961,110: Treatment of Organic Textiles with Adduct Polymers and Phenols; filed August 22, 1974; patented June 1, 1976.

Patent 3,963,111: Full Flow Feeder; filed March 12, 1975; patented June 15, 1976.

Patent 3,963,433: Formulation of Urethane Crosslinks in Cellulose Ethers Incorporating Amine Groups by Use of Propylene or Ethylene Carbonate; filed July 23, 1975; patented June 15, 1976.

Patent 3,963,435: Polyester Grafts and Crosslinks to Cotton by Reaction with Heterocyclic Carbonate, Glycol, and Dibasic Acid; filed September 8, 1975; patented June 15, 1976.

Patent 3,963,570: Ultraviolet-Initiated Preparation of N, N - Dibutyl - 9(10) - dibutylphosphonooctadecanamide; filed September 26, 1974; patented June 15, 1976.

Patent 3,963,927: Detection of Hidden Insects; filed June 18, 1975; patented June 15, 1976.

Patent 3,970,424: Durable Press Treatment by Addition of Sodium Dihydrogen Phosphate to Aluminum Sulfate Catalyst; filed August 14, 1975; patented July 20, 1976.

Patent 3,972,861: Process for Producing and Edible Cottonseed Protein Concentrate; filed November 26, 1974; patented August 3, 1976.

Patent 3,975,152: Simultaneous Dyeing and Crosslinking of Cellulosic Fabrics; filed January 23, 1975; patented August 17, 1976.

Patent 3,975,343: Solubilization of Protein with Ethanol-Acetonitril-Water Solvent System; filed June 27, 1975; patented August 17, 1976.

Patent 3,975,370: Methylolated Reaction Product of a Hydroxy Carbamate and a Cellulose-Dyeing Dyestuff Containing Vinyl Sulfone Groups; filed September 17, 1974; patented August 17, 1976.

Patent 3,976,818: Polyfluorinated Amine Oil-Repellent, Stain-Release Fabric Treatment; filed July 18, 1972; patented August 24, 1976.

Patent 3,933,782: Repellants for the Confused Flour Beetle; filed August 14, 1975; patented November 23, 1976.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,914,732: System for Remote Control of Underground Device; filed July 23, 1973; patented October 21, 1975.

Patent 3,927,850: Lifting Parachute; filed December 31, 1974; patented December 23, 1975.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,921,562: Self-Depressing Underwater Towable Spread; filed October 10, 1962; patented November 25, 1975.

Patent 3,922,630: Automatic Vehicle Positioning System; filed December 3, 1964; patented November 25, 1975.

Patent 3,922,631: Underwater Intrusion Detecting System; filed June 20, 1960; patented November 25, 1975.

Patent 3,922,632: Automatic Vehicle Positioning System, filed December 14, 1965; patented November 25, 1975.

Patent 3,922,633: Insulated Conductor Detector; filed July 20, 1967; patented November 25, 1975.

Patent 3,922,634: Sonar System; filed September 29, 1965; patented November 25, 1975.

Patent 3,924,069: Helium Speech Decoder; filed October 15, 1974; patented December 2, 1975.

Patent 3,928,839: Sonar System; filed September 5, 1968; patented December 23, 1975.

Patent 3,933,097: Device to Determine Effective Target Size for Fixed Angle Fuzes; filed January 4, 1968; patented January 20, 1976.

Patent 3,935,308: Wound Covering and Method of Application; filed August 8, 1974; patented January 27, 1976.

[FR Doc. 78-27143 Filed 9-26-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are aviable from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3.915,018: Transition Section for Acoustic Waveguides; filed November 21, 1974; patented October 28, 1975.

Patent 3,918,839: Wind Turbine; November 11, 1975.

Patent 8,925,109: Precise Carbon Control of Fabricated Stainless Steel; filed January 29, 1974; patented December 9, 1975.

Patent 8,925,874: Pipe Gripper, filed July 9, 1974; patented December 16, 1975.

Patent 3,934,239: Adjustable Electronic Load-Alarm Relay, filed September 27, 1974; patented January 20, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent 3,977,312: Parachute Stopping for Mine Ventilation Use; filed October 31, 1975; patented August 31, 1976.

[FR Doc. 78-27144 Filed 9-26-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF CHINA

Further Increasing Import Restraint Levels for Certain Man-Made Fiber Textile Products

SEPTEMBER 21, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint applicable to certain man-made fiber textile products in Categories 638 (men's and boys' knit shirts) and 645/646 (sweaters), produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Paragraph 8(a)(iii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China, provides that specific levels of restraint may exceed current-year limits by a designated percentage, with the amount of the carryforward being deducted from the applicable category level in the succeeding agreement year. The Government of the Republic of China has requested the application of carryforward to the current-year levels for Categories 638 and 645/646.

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On June 16, 1978, a letter dated June 15, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (43 FR 26102), which established the levels of restraint applicable to certain specific categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of China, and exported to the United States during the twelve-month period beginning on January 1, 1978, and extending through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint established for categories 638 and 645/646 to the designated amounts.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

SEPTEMBER 21, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On June 15, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in certain specific categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Government of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on Septem-

[1]The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward up to 7.15 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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ber 21, 1978, the levels of restraint established in the directive of June 15, 1978 for Categories 638 and 645/646 to the following levels:

Category	Amended 12-month level of restraint[1]
638	1,543,543 dozen
645/646	4,315,544 dozen

[1]The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1977.

The action taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-27090 Filed 9-26-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78-11]

EYEPIECE SOLAR FILTERS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting a ban of telescope eyepiece solar filters that are alleged to shatter or crack permitting the unfiltered and concentrated rays of the sun to burn the retina of the eye and cause temporary or permanent damage. The Commission concludes that the data are insufficient to support a conclusion that a mandatory rule is necessary.

FOR FURTHER INFORMATION CONTACT:

Irwin L. Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding to issue a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

On January 31, 1978, Mr. Norman Sperling, Somerville, Mass., submitted a letter to the Commission requesting the Commission to ban unsafe eyepiece solar filters used in telescopes. The petition alleges that these filters can shatter or develop hairline cracks, permitting the unfiltered and concentrated rays of the sun to burn the retina of the eye causing temporary or permanent damage. Because the Commission lacks jurisdiction over products that are considered medical devices under the Federal Food, Drug and Cosmetic Act administered by the Food and Drug Administration (FDA), Mr. Sperling's letter was sent to the FDA for a determination of whether the filters were considered a medical device. The Commission was advised by FDA on April 3, 1978, that the eyepiece solar filters are not considered by FDA to be a medical device. Mr. Sperling's letter was treated as a petition (CP 78-11) as of April 3, 1978.

SUMMARY OF INJURY DATA

In analyzing this petition, the Commission considered injury information submitted by the petitioner, its own investigation of injury data, and engineering and economic data.

The Commission has reviewed the petitioner's injury data, including a letter from an individual whose eyepiece solar lens apparently broke resulting in a slight headache. In that case, however, it appears that the filter did not match the telescope. The petitioner's information also includes a letter from an individual whose filter cracked, causing "flash-blindness" for two weeks with eyesight returning to normal after that.

The Commission has reviewed data collected through the National Electronic Information Surveillance System, in-depth investigation reports, consumer complaints and death certificates. This data yielded one consumer complaint, which was also provided by the petitioner, from a seller of telescope equipment. The complaint alleged that Japanese-produced solar filters are not designed to vent the heat from the sun which causes the glass to expand and shatter. The complainant, however, was unaware of any injuries associated with these telescopes.

In an effort to obtain more data relating to injuries associated with eyepiece solar filters in telescopes, the Commission contacted the Optical Manufacturers Association, the Optical Society of America, the Bureau of Radiological Health, the National Eye Institute, and the Society for the Prevention of Blindness. None of these organizations was able to furnish any information relating to accidents or injuries involving solar filters used with telescopes. Two physicians whom the petitioner recommended that the Commission contact were unfamiliar with solar filters and could not provide any meaningful information relating to accidents or injuries associated with the product.

The Commission's Engineering and Science Directorate advises that while direct viewing of the sun without adequate eye protection may cause serious eye damage, that does not mean that all or even most instances of eyepiece filter breakage will result in injuries. The type and extent of damage relate to a number of variables, including the angle at which the sun is viewed, the position of the sun at the time, the length of exposure, atmospheric conditions, the type and extent of cracking in the filter, and the like. An additional factor considered by the Commission is the involuntary reflex a viewer will normally experience if a sudden shock of intense light occurs.

CONCLUSION

Based on the data submitted by the petitioner and the investigation of injuries conducted by the Commission, the Commission concluded that the data are insufficient for it to determine that solar eyepiece filters present an unreasonable risk of injury for which a mandatory safety standard is necessary. In reaching this decision, the Commission has considered the relative priority of the risk associated with the product as compared with Commission resources available for rulemaking for all consumer products.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: September 21, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-27124 Filed 9-26-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 19, 1978.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will hold meetings at the Air Force Acquisition Logistics Division (ALD), Wright-Patterson Air Force Base, Ohio on October 31 and November 1, 1978. The meetings will convene at 8 a.m. and adjourn at 5 p.m. on October 31 and from 8 a.m. to 2:30 p.m. on November 1.

The Panel will receive classified briefings on the mission and functions of the ALD. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4811.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-27145 Filed 9-26-78; 8:45 am]

[3810-70]

Office of the Secretary

CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Notice of Termination of Cost-Sharing for Certain Orthodontic Treatment

The purpose of this notice is to set forth the circumstances under which certain claims for orthodontic treatment have continued to be cost-shared under CHAMPUS after the agency determined that such treatment was not authorized under regulations governing the CHAMPUS Program for the Handicapped. This is also notice that such cost-sharing will terminate for orthodontic care received on or after November 1, 1978, and provides the rationale for the agency decision to terminate such continued expenditure of appropriated funds.

In 1967, pursuant to Chapter 55 of Title 10, United States Code, a joint Uniformed Services regulation was published implementing both the Basic Program and the Program for the Handicapped of the "Civilian Health and Medical Program of the Uniformed Services" (CHAMPUS). The regulation, as amended, was codified at 32 CFR 577.60 et seq. It was effective until various portions thereof were affected by implementation of Department of Defense Instruction 6010.8 and 6010.8-R (32 CFR Part 199) effective January 10, 1977.

The CHAMPUS Program for the Handicapped was established by enactment of the Military Medical Benefits Amendment of 1966, Pub. L 89-614 and provides financial assistance for services which are required to meet the special needs of an active duty service member's dependent who is moderately or severely mentally retarded or who has a serious physical handicap. As specifically concerns orthodonic treatment, the joint Uniformed Services regulation implementing the CHAMPUS Program for the Handicapped provided for cost-sharing orthodontia needed to correct, overcome, or aid in adjustment to, a handicapping condition.

In 1972 the Assistant Secretary of Defense for Health and Environment initiated a comprehensive review of the CHAMPUS operation. In the course of this review it was determined that the CHAMPUS benefit determination procedures were inadequate to insure exclusion of persons under the Program for the Handicapped who were not moderately or severely mentally retarded or who did not have a serious handicap. Accordingly, effective September 1, 1974, applications for benefits under the Program for the Handicapped have not been approved under the CHAMPUS Program for the Handicapped solely on the basis of a dental condition for which orthodontic treatment is appropriate. Furthermore, orthodontic treatment to be approved under CHAMPUS must meet the requirement of the adjunctive dental care rule of the CHAMPUS Basic Program and, if approved, cost-sharing under the CHAMPUS Basic Program.

For equitable reasons, an exception was granted for ongoing cases by providing that the CHAMPUS cost-sharing of orthodontic treatment under the Program for the Handicapped would be continued on and after September 1, 1974, for those patient programs which have been approved by the agency prior to that date, or approved on or after that date if the application had been received prior to September 1, 1974.

The agency has reviewed the circumstances created by the exception for the ongoing orthodontic treatment cases and has determined that 4 years is more than reasonable time in which to complete an orthodontic treatment program based solely on a dental condition for which such treatment was appropriate. Accordingly, this is notice that CHAMPUS will not cost-share claims for orthodontic treatment received by CHAMPUS beneficiaries on or after November 1, 1978, whose applications for such treatment under the CHAMPUS Program for the Handcapped were approved prior to September 1, 1974, or whose applications were received prior to that date and approved after September 1, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27096 Filed 9-26-78; 8:45 am]

[3810-70]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, on October 12, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for which applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically, Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27201 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, on October 17-18, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the

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Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electonic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27202 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014 on October 19, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C Meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision, sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27207 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014 on October 23-24, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with tactical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments proposed to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27208 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Naval Ocean Systems Center, 271 Catalina Boulevard, San Diego, Calif. 92152 on November 13-14, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically, Subparagraph (11) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27209 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014 on 8 November 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their

laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, is has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27210 Filed 9-26-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute for Defense Analyses, 400 Army Navy Drive, Arlington, Va., on December 6-7, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments will technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throuhout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 22, 1978.

[FR Doc. 78-27211 Filed 9-26-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-4614, et al.]

SOUTHLAND ROYALTY CO.

Merger and Application for Amendment of Certificates and for Redesignation of Rate Schedules

SEPTEMBER 18, 1978.

Take notice that on February 8, 1978, Southland Royalty Co. (Southland), 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102, as successor of the merger of Aztec Oil & Gas Co. (Aztec) into Southland, filed an application to amend all certificates currently held by Aztec to show Southland as certificate holder.

Effective December 31, 1977, Aztec's natural gas activities were consolidated with Southland and will be operated under the name of Southland.

Exhibit "A" attached hereto contains a listing of the various dockets in which Aztec was authorized to make sales to the various purchasers indicated thereon and pursuant to independent producer rate schedules heretofore designated as Aztec Rate Schedules numbered as shown thereon.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

EXHIBIT "A"—*Listing of Active Aztec Oil and Gas Co. Rate Schedules*

Rate schedule	Docket No.	Pipeline purchaser	Location of sale
1	G-4614	El Paso Natural Gas Co.	Blanco-Mesaverde field, San Juan and Rio Arriba Counties, N. Mex.
2	G-4614	do	Pictured Cliffs field, San Juan and Rio Arriba Counties, N. Mex.
3	G-7241 G-14453 G-14547 G-15143	do	Do.
4	G-7241 G-12715 G-14563	do	Pictured Cliffs field, San Juan County, N. Mex.
5	G-7241	do	Do.
6	G-7241	do	Jalmat field, Lea County, N. Mex.
7	G-7241 G-13103	Southern Union Gathering Co.	Blanco-Mesaverde, Basin-Dakota, Pinon-Fruitland and Pictured Cliffs fields, San Juan and Rio Arriba Counties, N. Mex.
9	G-13946	El Paso Natural Gas Co.	Aneth field, San Juan County, Utah
10	G-18371	do	Basin-Dakota field, San Juan and Rio Arriba Counties, N. Mex.
11	G-19496	do	Blue Hill field, San Juan County, N. Mex.
12	C116-924	do	West Kutz field, San Juan County, N. Mex.
14	C161-1472	do	Basin-Dakota field, San Juan County, N. Mex.
15	C164-367	Texas Gas Transmission Corp.	North Rousseau area, Lafourche Parish, La.
16	C164-367	do	Do.
17	C164-413	El Paso Natural Gas Co.	Barker Creek Dome field, San Juan County, N. Mex. and La Plata County, Colo.
18 [1]	C165-629	do	Cha Cha Gallup field, San Juan County, N. Mex.
19	C165-727	Texas Gas Transmission Corp.	North Rousseau area, Lafourche Parish, La.
20 [1]	C165-829	El Paso Natural Gas Co.	Jalmat field, Lea County, N. Mex.
22	C163-579	do	Basin-Dakota field, San Juan County, N. Mex.
23	G-7241	Northern Natural Gas Co.	Eumont Gas Pool, Lea County, N. Mex.
24	C168-1057	El Paso Natural Gas Co.	Blanco-Pictured Cliffs field, San Juan County, N. Mex.
25	G-13883	Southern Union Gathering Co.	Blanco-Mesaverde field, San Juan County, N. Mex.
26	G-13883	do	Do.
27	G-13883	do	Do.
28	G-4581	El Paso Natural Gas Co.	Blanco-Mesaverde and Basin-Dakota fields, San Juan County, N. Mex.
29	G-4581	do	Blanco-Mesaverde field, San Juan County, N. Mex.
30	C169-188	do	Do.
31	C161-760	do	Do.
33	C170-1099	do	Basin-Dakota field, San Juan County, N. Mex.
34	G-16015	do	Do.
35	C164-783	do	Blanco-Mesaverde field, San Juan County, N. Mex.
37	C175-166	Trancontinental Gas Pipe Line Corp.	Block 118, East Cameron field, Offshore La.
38	C175-403	Northwest Pipeline Corp.	Blanco-Mesaverde, Basin-Dakota, and Pinon-Fruitland fields, San Juan and Rio Arriba Counties, N. Mex.
40	C176-121	Tennessee Gas Pipeline Co.	Blocks 249 and 250, South Marsh Island, Offshore La.
41	C176-431	Natural Gas Pipeline Company of America.	East Sawyer field, Lea County, N. Mex.
42	C177-27	Colorado Interstate Gas Co.	Poison Creek area, Fremont County, Wyo.
(2)	C177-631	El Paso Natural Gas Co.	Blanco-Pictured Cliffs field, San Juan County, N. Mex.
(2)	C177-819	Tennessee Gas Pipeline Co.	Blocks 243 and 244, South Marsh Island, Offshore La.
45	C178-4	El Paso Natural Gas Co.	Strawn field, Eddy County, N. Mex.
36	G-18371	Northwest Pipeline Corp.	Dakota Formation, San Juan and Rio Arriba Counties, N. Mex.

[1] Abandoment application pending.
[2] Certificate applications pending. Filings have not been assigned rate schedule numbers. Also, certificate applications pending in docket Nos. CI78-316, CI78-341 and CI78-362.

NOTE.—National rate proceeding in which Aztec Oil & Gas Co. is a participant.

[FR Doc. 78-27019 Filed 9-26-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

SEPTEMBER 11-SEPTEMBER 15, 1978.

Notice is hereby given that during the period September 11 through September 15, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

SEPTEMBER 20, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

PROPOSED DECISIONS AND ORDERS

BOCK AND BACON OIL CO., HOUSTON, TEX., DXE-1169 CRUDE OIL

Bock and Bacon Oil Company (Bock) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit Bock to sell certain volumes of crude oil which it produces from the Champion Paper Co. Lease at market prices. On September 11, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

DAMSON OIL CORP., HOUSTON, TEX., DXE-1607 CRUDE OIL

Damson Oil Corp. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Damson to sell the crude oil produced from the Venice Beach Lease at upper tier ceiling prices. On September 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

TEXACO, INC., TULSA, OKLAHOMA, DEE-1676 CRUDE OIL

Texaco, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell crude oil which it produces from the Dolly Cain lease at upper tier ceiling prices. On September 11, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 78-27168 Filed 9-26-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 975-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL HEALTH ADVISORY COMMITTEE, STUDY GROUP ON PESTICIDE TOLERANCES

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a 3-day meeting of the Study Group on Pesticide Tolerances of the Science Advisory Board's Environmental Health Advisory Committee will be held on October 23, 24, and 25, 1978 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. The meeting will start at 9 a.m. on October 23, 1978. Adjournment will be at about noon on October 25, 1978, possibly earlier.

The principal purpose of the meeting will be (1) to identify and discuss scientific issues relating to EPA's tolerance setting system which the Study Group may wish to address in its report to the Environmental Health Advisory Committee and (2) to develop positions with regard to these issues with a view to preparing a first draft of an overall critique of EPA's tolerance setting system. As an aid in this process, the Study Group is currently reviewing and, at the meeting, will refer to a draft working paper titled, "Review of EPA's Tolerance Setting System: A Compilation of Criticisms and Suggested Alternatives", draft dated August 10, 1978, prepared by EPA staff. Single copies of the paper may be obtained by contacting the Science Advisory Board Secretariat (address below). The Agenda will also include follow-up briefings, items of current interest, and statements by members of the public.

Pertinent background information follows. In response to an Agency request to the Science Advisory Board, the Board's Environmental Health Advisory Committee established a Study Group on Pesticide Tolerances and charged it with assisting the Committee in an evaluation of the scientific basis of the Agency's system for establishing tolerances for pesticide residues in agricultural crops. This is the fourth meeting of the Study Group. At a meeting on April 5, 1978, the Study Group was briefed on and discussed various aspects of the legislative authority and mandate directly or indirectly relating to the Agency's tolerance setting system. At a meeting on May 11 and 12, 1978, the Study Group was briefed on and discussed scientific issues relating to estimates of exposure. At a subsequent meeting on June 27-28, 1978, the Study Group was briefed on and discussed scientific issues relating to toxicology data and hazard evaluation. Further meetings of the Study Group will be scheduled as needed.

The meeting will be open to the public. Any member of the public wishing to attend or present or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. October 16, 1978. Please ask for Mrs. Ilene Stein or Mr. Robert Flaak. The telephone number is 703-557-7720.

Dated: September 21, 1978.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc. 78-27065 Filed 9-26-78; 8:45 am]

[6560-01]

[FRL 974-7; OPP-42043C]

STATE OF MINNESOTA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides—Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the U.S. Environmental Protection Agency (EPA). On May 4, 1977, the Minnesota State Plan was approved contingent upon promulgation by the Minnesota Department of Agriculture (MNDA) of regulations necessary for the implementation of the Minnesota State Plan. Notice of contingent approval

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was published in the FEDERAL REGISTER on May 23, 1977 (42 FR 26241). Subsequently, on July 17, 1978, implementing regulations promulgated by the MNDA became effective. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region V, hereby gives notice that the Minnesota State Plan is now a fully approved State Plan.

Dated: September 15, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 78-27064 Filed 9-26-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-228, 78-229; File Nos. 160-M-L-67, 162-M-L-28]

NAVAJO COMMUNICATIONS CO., INC. AND JEANNINE HUNT

Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 25, 1978.

Released: July 28, 1978.

In re applications of: Navajo Communications Co., Inc., Grandview, Tex., Jeannine Hunt, Hanksville, Utah, for a Public Coast Class III-B station to serve Lake Powell, Utah.

1. The above-captioned applications are for authority to operate Class III-B Public Coast stations to serve Lake Powell in Utah. Essentially, the applicants propose to serve the same area; therefore, the applications are mutually exclusive by operation of the rules limiting duplication of services (§ 81.303). Accordingly, it is necessary to designate the applications for hearing to determine which, if any, application should be granted. Except for the issues specified herein, the applications are otherwise qualified.

2. Lake Powell was previously served by Public Coast, Class III-B radio station KTR-963 under license to The Telephone Company (TTC).[1] TTC was found to be essentially a one-man operation controlled by Arthur W. Brothers (Initial Decision, FCC 75D-41 released August 7, 1975, Docket Nos. 20155-20177 and 20211) hereinafter referred to as the Brothers' proceeding. In this proceeding, which was essentially a revocation proceeding against a number of FCC licenses held or controlled by Arthur W. Brothers, Docket No. 20158, File No. 68-M-ML-34, was concerned with an application for modification of license of station KTR-963. As a result of this proceeding which was lengthy and reviewed by the U.S. Courts of Appeals, District of Columbia Circuit, it was determined that the license for station KTR-963 expired by its terms on June 22, 1977, and no renewal application had been filed prior to expiration. Further, the application for modification was denied and the Commission stated, "We wish to emphasize that even if the license had not expired our conclusion in regard to the licensee's basic qualifications would have compelled that the license be revoked." This decision became final effective May 21, 1978. The path is now clear to consider new applications for Public Coast III-B service at Lake Powell.

3. The applications properly before us now[1] for such facilities are the applications of Navajo, and Jeannine Hunt (Hunt), file numbers as appearing in the caption. Inasmuch as the public is without service at this location it is our intention to proceed as expeditiously as possible in order that this valuable service may be reinstituted as soon as possible at Lake Powell.

4. In view of the foregoing, *it is ordered,* pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended that the above-captioned applications are hereby designated for a hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

a. To determine which applicant would provide the public with better public coast station service based on the following considerations:

(1) Coverage area and its relationship to the greatest number of potential users;
(2) Hours of operation;
(3) Rates and charges;
(4) Ability to participate actively in the safety system;
(5) Personnel available to operate the station and their experience in marine communications; and
(6) Interconnection with landline facilities.

b. To determine, in light of the evidence adduced on the foregoing issue, whether the public interest, convenience and necessity will be served by a grant of one of the subject applications.

5. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof is on each applicant with respect to its application, except issue (b) which is conclusory.

[1] Navajo filed on June 22, 1977, and Hunt on February 2, 1978. Inasmuch as the license of TTC for Public Coast III-B KTR-963 serving Lake Powell was the subject of litigation, the applications were held in a pending status until the matter of KTR-963 was finally settled, i.e., May 21, 1978. An application by Kaibab Communications, Inc. for similar facilities was dismissed prior to this designation Order because it failed to file a financial statement as requested.

6. *It is further ordered,* That to avail themselves of an opportunity to be heard, Navajo and Hunt, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special
Radio Services Bureau.

[FR Doc. 78-27161 Filed 9-26-78; 8:45 am]

[6712-01]

[BC Docket No. 78-287, et al.]

MOULTON BROADCASTING CO., INC., ET AL.

Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 12, 1978.

Released: September 20, 1978.

In re applications of Moulton Broadcasting Co., Inc. (WHIY), Moulton, Ala., BC Docket No. 78-287; File No. BP-20,171, Has: 1530 kHz, 1 kW, D. Req: 1190 kHz, 1 kW, D, Benny Carle Broadcasting, Inc., Albertville, Ala., BC Docket No. 78-288, File No. BP-20,402, Req: 1190 kHz, 1 kW, D, J. D. Buffington & R. D. Miller, d.b.a. Mississippi Broadcasting Co., Aberdeen, Miss., BC Docket No. 78-289, File No. BP-20,622, Req: 1190 kHz, 1 kW, D, for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned applications, which are mutually exclusive in that they involve interlinking prohibitive overlap.

2. Benny Carle Broadcasting, Inc. (hereinafter "Benny Carle") has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21 RR 2d 1507 (1971) (hereinafter *"Primer"*). By letter of April 10, 1978, the Commission advised Benny Carle that it had failed to interview leaders representing the following significant groups in Albertville, Alabama: industry, labor, the elderly, and youth and students.[1] By subsequent amendment, Benny Carle adequately identified industry and youth leaders that it originally interviewed. *Storz Broadcasting,* 35 RR 2d 785, 58 FCC 2d 1333 (1975); *Voice of Dixie, Inc.,* 45 FCC 2d 1027, 29 RR 2d 1127 (1974). However, the Commission concludes that Benny Carle failed to interview any leaders representing labor, students, or the elderly. Although the demographic study submitted indicates that Albertville has a wide variety of manufacturing and industrial companies, the applicant has either not properly identified or interviewed any labor leaders. *Voice of Dixie, supra.* In addition, Benny Carle failed to interview student leaders *per se.* The applicant's interviews with representatives of the local school system and the local college are not a substitute for contacts with students. *Rose Broadcasting Company,* FCC 78-496, adopted July 12, 1978, released August 11, 1978. The amendment indicates that several leaders of the elderly were surveyed. However, none of the persons listed have been shown to represent organizations of and for the elderly. *J. Sherwood, Inc.,* 60 FCC 2d 808, 38 RR 2d 297 (Rev. Bd. 1976). Accordingly, a limited ascertainment issue will be specified.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WHIY and the availability of other primary aural service (1.0 mV/m or greater in the case of FM) to such areas and populations.
2. To determine the areas and populations which would receive primary service from the proposals of Benny Carle Broadcasting, Inc. and Mississippi Broadcasting Company and the availability of other primary aural service (1.0 mV/m or greater in the case of FM) to such areas and populations.
3. To determine whether Benny Carle Broadcasting, Inc. interviewed leaders of labor, the elderly, and students in connection with its ascertainment effort.
4. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.
5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications for a construction permit should be granted.

[1] Our deficiency letter also indicated that Benny Carle had failed to interview Albertville minority and ethnic leaders. In reply, Benny Carle stated that blacks constituted less than 1 percent of the population of the community.

5. *It is further orderd,* That to avail themselves of the opportunity to be heard, the applicants, herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-27162 Filed 9-26-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 254]

NLT CORP. AND NLT CAPITAL CORP., NASHVILLE, TENN.

Extension of Comment Period on Application for Approval To Acquire Great Southern Corp., Houston, Tex.

SEPTEMBER 20, 1978.

The Federal Savings and Loan Insurance Corporation ("Corporation") has received an application from NLT Corp. and its wholly owned subsidiary NLT Capital Corp. for approval, pursuant to section 408(e) of the National Housing Act, as amended, and § 584.4 of the regulations for Savings and Loan Holding Companies, to acquire Great Southern Corp. a registered savings and loan holding company controlling State Savings & Loan Association, Salt Lake City, Utah.

By action of the Federal Home Loan Bank Board ("FHLBB"), as operating head of the Corporation, the deadline for submission of written views or comments on the subject application has been extended to the close of business September 28, 1978. All such submissions shall be directed to the Director, Office of the District Banks, FHLBB, 1700 G Street NW., Washington, D.C. 20552.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-27163 Filed 9-26-78; 8:45 am]

[1505-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

Correction

In FR Doc. 78-23645, appearing on page 42040 in the issue of Tuesday, September 19, 1978, the date in the fifteenth line of the second paragraph should have read, "September 29, 1978".

[6750-01]

FEDERAL TRADE COMMISSION

ICI AMERICAS, INC.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: ICI Americas, Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Allied Chemical Corp.'s Baton Rouge North Works vinyl chloride monomer plant. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by ICI Americas, Inc. Neither agency intends to take any action with respect to this action during the waiting period.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the act and § 803.11 of the rules implementing the act permit the two agencies, in individual cases, to terminate this waiting period prior to its expira-

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tion and to publish notice of this action in the FEDERAL REGISTER.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-27200 Filed 9-26-78; 8:45 am]

[6820-38]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-472]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a water rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission involving the application of the Illinois American Water Co. for a water rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

SEPTEMBER 12, 1978.

[FR Doc. 78-27084 Filed 9-26-78; 8:45 am]

[6820-22]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Open Meeting

SEPTEMBER 18, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, October 12, 1978, from 9 a.m. to 5 p.m., Room 3520A, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Ill. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed alterations for the U.S. Customs Cargo Inspection Facility and the USDA Animal Inspection Facility at the Ambassador Bridge Border Station, Detroit, Mich. The meeting will also include the review of the conceptual design for the proposed new U.S. Courthouse Annex, Detroit, Mich.

This meeting will be open to the public.

CLARENCE S. SOCHOWSKI,
Regional Administrator.

[FR Doc. 78-27146 Filed 9-26-78; 8:45 am]

[4110-08]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463 notice is hereby given of the meeting of the Executive Committee of the National Diabetes Advisory Board on October 12, 1978, at the Twin Bridges Marriott, U.S. 1 and I-95, Washington, D.C. The time of the meeting may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13,847, National Institutes of Health.)

SEPTEMBER 20, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-27258 Filed 9-26-78; 8:45 am]

[4110-02]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-624. This document is intended to notify the general public of their opportunity to attend.

DATES: MEETING: October 12-13, 1978.

ADDRESS: U.S. Office of Education, FOB-6, Room 4003, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB-3, 7th and D Streets SW., Washington, D.C. 20202, telephone 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools. All sessions of this meeting will be open to the public. On both days the meetings will begin at 9 a.m. and end at 4:30 p.m.

The Community Education Advisory Council has in the past expended large portions of its time on efforts to create linkages between community education agencies and other organizations at national, State, and local levels. The Council formulated, during their last meeting held in Denver, Colo., on August 8-9, 1978, a comprehensive plan of action for its work in the coming year. Significant aspects of that plan for the 1979 fiscal year will be discussed.

The Council will also discuss the findings of the evaluation final report for the community education program.

The proposed agenda includes:

(1) Federal planning, update, general administrative matters and related business;
(2) legislative matters;
(3) linkages—national and State;
(4) special projects undertaken on behalf of the Council;
(5) evaluation;
(6) school-community-home initiative;
(7) fiscal year 1979 grant application procedures;
(8) issues on regulations; and
(9) schedule of future meetings.

Records shall be kept of all Council proceedings and shall be available for public inspection in room 5622, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on September 22, 1978.

JULIE ENGLUND,
Director, Community Education Program.

[FR Doc. 78-27216 Filed 9-26-78; 8:45 am]

[1505-01]

Office of Education

DIRECT, DISCRETIONARY GRANT PROGRAMS

Closing Dates for Transmittal of Applications for Fiscal Year 1979

Correction

In FR Doc. 78-23550 appearing on page 37618 in the issue of Wednesday, August 23, 1978, on page 37628 in the 3d column, the 4th full paragraph, the last sentence should read, "Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service."

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: October 19-20, 1978.

ADDRESS: Hotel Washington, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20004. The Federal Room, October 19; the Caucas Room, October 20.

FOR FURTHER INFORMATION CONTACT:

Virginia Solt, NACVE STAFF, 425 13th Street NW., Suite 412, Washington, D.C. 20004, 202-376-8873.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, and make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The Committees and Task Forces of the Council are as follows:

BOAE Task Force.
Technical Assistance Committee.
Legislative Committee.
MERC Task Force.
Task Force on Sex Equity in Vocational Education.
Task Force on the Handicapped.

Information on meetings which may be planned for any or all of these groups may be obtained by calling the Council office as indicated.

On October 19, 1978, the National Advisory Council on Vocational Education will meet in regular session from 8:30 a.m. to 5 p.m. at the Hotel Washington in the Federal Room. The following agenda will be included in the meeting:

October 19, 1978

8:30 a.m.—Convene.
8:30 to 9 a.m.—Report of the Chairman, Approval of Minutes of August Meeting, Report of the Executive Director, Year-end Budget Report.
9 to 9:30 a.m.—Report from the National Center for Vocational Education: Dr. Robert Taylor, Director.
9:30 to 10 a.m.—Report from the American Vocational Association: Dr. James E. Bottoms, Executive Director.
10 to 10:30 a.m.—Report on the Vocational Education Study and Report on Joint NACVE/NIE Research Study: Dr. Henry David, Director.
10:30 to 12 Noon—NACVE planning session.
12 to 1:30 p.m.—Recess.
1:30 to 3 p.m.—NACVE planning session.
3 to 3:30 p.m.—Presentation, "Proposed Model Statewide Training and Placement Program for All High School Graduates, 1979-80," Hon. Pierre S. du Pont, Governor State of Delware.
3:30 to 4:30 p.m.—NACVE planning session.
4:30 to 5 p.m.—Invitation to public comment.
5 p.m.—Recess.

October 20, 1978

8:30 a.m.to Noon—NACVE planning session.
Noon—Adjourn.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of the National Advisory Council on Vocational Education, located at 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C. on September 18, 1978.

RAYMOND C. PARROTT,
Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 78-27197 Filed 9-26-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 34534]

NEW MEXICO

Notice of Application

SEPTEMBER 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 24 E.,
Sec. 18, E½SW¼;
Sec. 19, lot 3.

This pipeline will convey natural gas across 0.655 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their view should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27147 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 34527, 34529]

NEW MEXICO

Notice of Applications

SEPTEMBER 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as

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amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 5 W.,
Sec. 32, NW¼NW¼.
T. 30 N., R. 7 W.,
Sec. 30, SW¼NE¼ and SE¼NW¼.

These pipelines will convey natural gas across 0.307 of a mile of public lands in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27148 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 34526]

NEW MEXICO

Notice of Application

SEPTEMBER 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for one 4-inch pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 32 E.,
Sec. 4, E½SE¼;
Sec. 9, E½NE¼ and SW¼NE¼.

This pipeline will convey natural gas across 0.91 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27149 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 34519, 34524, 34525]

NEW MEXICO

Notice of Applications

SEPTEMBER 18, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for five 4-inch natural gas pipeline rights-of-way and related facilities within the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 10 W.,
Sec. 26, lots 3, 6, and 11.
T. 30 N., R. 11 W.,
Sec. 2, lot 5.
T. 31 N., R. 11 W.,
Sec. 35, SW¼SE¼.
T. 31 N., R. 12 W.,
Sec. 12, lot 9;
Sec. 22, lot 1;
Sec. 25, NW¼NW¼.

These pipelines will convey natural gas across 1.07 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27150 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 34492, 34507 and 34522]

NEW MEXICO

Notice of Applications

SEPTEMBER 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 11, lot 2.
T. 29 N., R. 6 W.,
Sec. 35, SE¼SW¼.
T. 30 N., R. 8 W.,
Sec. 7, E½SE¼;
Sec. 8, SW¼SW¼.
T. 32 N., R. 11 W.,
Sec. 18, NE¼NE¼.

These pipelines will convey natural gas across 0.764 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27151 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 34521]

NEW MEXICO

Notice of Application

SEPTEMBER 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 1 E.,
Sec. 19, SW¼NE¼ and NW¼SE¼.

This cathodic protection station will be used for natural gas operations across 0.212 of a mile of public land in Dona Ana County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

Management, P.O. Box 1420, Las Cruces, N. Mex. 88001.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27152 Filed 9-26-78; 8:45 am]

[4310-84]

[N-300]

NEVADA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

SEPTEMBER 14, 1978.

The Federal Aviation Administration filed application N-300 on October 10, 1966 with an amendment filed March 6, 1972, for a withdrawal in relation to the following-described lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 29 N., R. 45 E.,
A circular plot with a radius of 200 feet, the center of which is the on-site ARSR tower, located S. 87°48'W., 1,790 feet from the Mount Lewis triangulation station in the NW quarter of Section 12, containing approximately 2.9 acres.

The applicant desires the land for the continued operation and maintenance of the existing Air Route Surveillance Radar Facility known as Battle Mountain ARSR-2.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 17, 1966, Volume 31 No. 223, page 14657, Document No. 66-12452, and amended by notice published in the FEDERAL REGISTER on May 5, 1972, Volume page 9144, Document 72-6891.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below within 40 days from the date of publication of this notice. Upon determination by the State Director that a public hearing will be held, a notice will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within the 40 day period allowed.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregaion. In accordance with section 204(g) of the Federal Land Policy and Management act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All correspondence in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior; Chief Division of Technical Services, 300 Booth Street, Reno, Nev. 89509.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc. 78-27153 Filed 9-26-78; 8:45 am]

[4310-84]

[Wyoming 64973]

WYOMING

Notice of Application

SEPTEMBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 94 W.,
Sec. 10, N½SW¼.

The proposed pipeline will transport natural gas from No. 9 Siberia Ridge unit well located in the SW¼ of section 10 in a generally northwesterly direction to a point of connection with an existing line in the NW¼ of section 9, T. 21 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27154 Filed 9-26-78; 8:45 am]

[4310-84]

[Wyoming 64972]

WYOMING

Notice of Application

SEPTEMBER 19, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 93 W.,
Sec. 18, lots 8, 9, 16, and 17.

The proposed pipeline will transport natural gas from their Sinclair No. 1-18 Well located in the SW¼SW¼ of section 18 in a northwesterly direction to an existing line located in section 7, T. 17 N., R. 93 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27155 Filed 9-26-78; 8:45 am]

[4310-84]

[Wyoming 65055]

WYOMING

Notice of Application

SEPTEMBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way for one 6⅝-

inch pipeline, five 8⅝-inch pipelines, and one 4½-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 94 W.,
Secs. 18 and 30.
T. 21 N., R. 94 W.,
Secs. 4, 8, 20 and 32.
T. 22 N., R. 94 W.,
Secs. 8, 18, 20 and 32.
T. 23 N., R. 94 W.,
Sec. 32.
T. 20 N., R. 95 W.,
Sec. 12.

These pipelines are proposed in order to increase the capacity to transport a substantial amount of additional natural gas to the main lines through Colorado Interstate Gas Co.'s Wamsutter Regulator Site at a location in the N½ of section 31, T. 20 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Person submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27156 Filed 9-26-78; 8:45 am]

[4310-84]

Bureau of Land Management

IDAHO

BOISE DISTRICT

Restricted Vehicle Use Closure Order

Notice is hereby given in accordance with Title 43 CFR Group 6000—Outdoor Recreation, and in conformance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, that approximately 2,700 acres of land located within the Hagerman Fossil Beds in Twin Falls County, Idaho, are closed to motorized vehicles except on designated roads and trails.

Careful review and analysis in cooperation with other agencies, professionals in the field of paleontology, and the public has determined that uncontrolled use of this area by motorized vehicles is causing damage to scientific and natural features. Continued indiscriminate use by motorized vehicles will cause severe damage to paleontological features of international importance and to the terrain, soil, and vegetation.

All forms of motorized vehicles, including those used in mining exploration, resource management and administration, scientific investigations, farming practices, and the casual operation for outdoor recreation purposes, are excluded from the area except on designated roads and trails.

This closure applies to all public lands administered by the Bureau of Land Management within the area known as the Hagerman Fossil Beds. The area is bounded on the east by Lower Salmon Falls Rervoir on the Snake River, on the south by the paved Bell Rapids Road, on the west by developed farms, and on the north by an imaginary line through the center of section 10, T. 7 S., R. 13 E., B.M. The legal description of this area is:

Portions of Sections 9, 10, 15, 16, 17, 20, 21, 28, 29, 32, and 33, T. 7S., R. 13 E., B.M., and Sections 3, 4, and 5, T. 8 S., R. 13 E., B.M.

All Federal lands administered by the Bureau of Land Management within the above described areas are closed to vehicle use except on designated roads and trails on a year-round basis until further notice. Signs will be posted to identify the exterior boundaries and to mark trails open or closed to motorized use. A map of the closure areas is posted at the Twin Falls and Hagerman Post Offices, Twin Falls County Courthouse, and at the Boise District Office of the BLM located at 230 Collins Road, Boise, Idaho 83702. Cooperation of all will be sincerely appreciated.

D. DEA BIBLES,
District Manager.

Approved: August 11, 1978.

WILLIAM L. MATHEWS,
State Director.

[FR Doc. 78-27085 Filed 9-26-78; 8:45 am]

[4310-84]

[NM 31869]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands-Amendment; Correction

SEPTEMBER 12, 1978.

Document Volume 43, No. 163 as published in the FEDERAL REGISTER of Tuesday, August 22, 1978, on page 37225, is corrected as follows:

Second column, T. 17 N., R. 6 W., Sec. 15, now reading E½SW¼ should read E½, SW¼.

Second column, T. 22, R. 8 W., should read T. 22 N., R. 8 W.

Second column, T. 22 N., R. 9 W., Sec. 28, now reading S ½₄ should read S½.

Third column, T. 16 N., R. 11 W., Sec. 22, now reading NE¼ should read NE¼.

Third column, T. 16 N., R. 15 W., Sec. 8 now reading NE¼ should read NE¼.

Third column, T. 15 N., R. 17 W., Sec. 28 now reading NE¼ should read NE¼.

ARNOLD E. PETTY,
ACTING ASSOCIATE DIRECTOR.

SEPTEMBER 18, 1978.

[FR Doc. 78-27087 Filed 9-26-78; 8:45]

[4310-84]

Bureau of Land Management

WILDERNESS INVENTORY

Commencement and Availability of Handbook

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the commencement of wilderness inventory on public lands outside Alaska by the Bureau of Land Management and the availability of the Wilderness Inventory Handbook to guide the wilderness inventory process. The inventory, to identify the roadless areas of 5,000 acres or more of contiguous public land or roadless islands with wilderness characteristics as wilderness study areas, is the first step in the wilderness review process. The next step of the review process will be studies to determine which of these areas and islands will be recommended as suitable or nonsuitable for wilderness designation by Congress as part of the National Wilderness Preservation System. The wilderness inventory handbook is available on request from Washington, D.C., and State Offices of the Bureau of Land Management.

EFFECTIVE DATE: September 27, 1978.

ADDRESS: All Washington and State Offices. The Washington Office address is: Director (370), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:

Terry Sopher at the above address or call 202-343-9353.

SUPPLEMENTARY INFORMATION: On February 27, 1978, the Bureau of Land Management issued Draft Wilderness Policy and Review Procedures for conducting the review required by the Federal Land Policy and Management Act. That document was intensively reviewed by the public. It was discussed at more than 60 meetings held throughout the Western States, in the lake States, and in Washington, D.C. Some 5,000 letters and written

comments were sent to BLM on the proposed review procedures. The first result of that effort is the issuance of this handbook to guide BLM in its wilderness inventory process. As noted in this handbook, wilderness inventory is only the first step in wilderness review.

FRANK GREGG,
Director.

[FR Doc. 78-26990 Filed 9-26-78; 8:45 am]

[4310-84]

[Wyoming 64964]

WYOMING

Application

SEPTEMBER 15, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,
Sec. 23, S½SE¼;
Sec. 26, W½NE¼ and SE¼NW¼.

The proposed pipeline will transport natural gas from their Federal No. 23-1 well located in the SE¼ of section 23 extending in a generally northeasterly direction to a point in the SE¼ of section 26, T. 15 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Avenue, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27086 Filed 9-26-78; 8:45 am]

[4310-70]

National Park Service

LAND ACQUISITION POLICY

Extension of Public Comment Period

INTRODUCTION: In FEDERAL REGISTER, Volume 43, No. 156, published on Friday, August 11, 1978, the National Park Service announced that it is proposing revisions to the section of the Bureau's land acquisition policy entitled Program Execution, primarily as it pertains to inholding areas.

The National Park Service is interested in obtaining public participation in the formulation of official policy and public understanding of the policy which is adopted. To that end, the Bureau held a series of public hearings to receive comments about the entire policy as set forth in the above referenced FEDERAL REGISTER notice. Written and oral testimony was taken and will be considered in the further revision and clarification of National Park Service land acquisition policy.

ACTION: The National Park Service opened a public record for comments on land acquisition policy. That record, which will include the oral statements received at the scheduled hearings, was scheduled to remain open for written comments through September 20, 1978. Since the National Park Service has received indications from a number of citizens and groups that they desire to comment on the policy but need additional time to formulate their responses, it has decided to leave the public record open for an additional 30 days until October 20, 1978.

After compilation and review of the comments reviewed, the National Park Service may further revise its land acquisition policy. The intent is to have a formal effective policy on or about November 15, 1978.

Dated: September 20, 1978.

IRA J. HUTCHISON,
Deputy Director,
National Park Service.

[FR Doc. 78-27160 Filed 9-26-78; 8:45 am]

[4310-09]

Bureau of Reclamation

[INT DES 78-39]

NORTH LOUP DIVISION, NEBR.

Notice of Availability of Draft Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement for the authorized North Loup Division, Nebr. The final statement, designated INT FES 72-31, was filed with the Council on Environmental Quality and publicly distributed on September 18, 1972.

The supplement addresses the geology of the Calamus and Davis damsites, ground-water quality in the service area, wildlife impacts, and researching techniques for improving livestock and crop production without diminishing ground-water reserves by irrigation.

Written comments may be submitted to the Regional Director (address below) on or before November 13, 1978.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Department of the Interior, Bureau of Reclamation, Room 7626, Interior Building, Washington, D.C. 20240, telephone 202-343-4991.
Assistant Commissioner—Engineering and Research, Engineering and Research Center, P.O. Box 25007, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3022.
Regional Director, Bureau of Reclamation, Lower Missouri Region, P.O. Box 25247, Denver Federal Center, Denver Colo 80225, telephone 303-234-3779.
Central Nebraska Projects Office, Second and Locust Streets, Grand Island, Nebr. 68801, telephone 308-382-3660.
Libraries in Omaha, Lincoln, O'Neill, Burwell, Ord, Palmer, Taylor, Fullerton, Greeley, Scotia, North Loup, St. Paul, and Grand Island, Nebr.; and at Kearney State College, Chadron State College, Wayne State College, and the University of Nebraska at Omaha and Lincoln.

Single copies of the final statement, the supplement, and the technical appendices may be obtained on request to the Commissioner of Reclamation or the Regional Director at the addresses listed above. Copies of the final environmental statement and the supplement are available at no charge. There is a charge of $5 per copy for the technical appendices.

Dated: September 22, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27100 Filed 9-26-78; 8:45 am]

[4310-05]

Office of Surface Mining Reclamation and Enforcement

BLACK BUTTE COAL CO.

Availability of Mining Plan For Public Review

Black Butte Coal Co. of Point of Rocks, Wyo. has submitted a mine plan for a purposed surface mine under provisions of 30 CFR 211. This proposed mining operation was analyzed in the Department of the Interior's final enviornmental statement of August 31, 1978, entitled, "Development of Coal Resources of Southwestern Wyoming." Black Butte proposes to mine approximately 13,842 acres of Federal and private coal lands, in combination, located in Sweetwater County, Wyo. The Federal coal lands that would be affected by this operation are included in Coal Lease No.

Wyoming—6266 located in Township 19 North, Range 100 West, Township 18 North, Range 100 West, and Township 18 North, Range 101 West. The proposed plan has hot been revised for completeness or adequacy by the Office of Surface Mining.

A copy of the proposed mine plan is on file for public review at the Office of the Regional Director, Regions V, Office of Surface Mining. Comments are solicited from any person who may be affected by this proposal.

Comments should be filed with the Regional Director within 30 days of the date of this publication.

The address of the Regional Director is: Regional Director, Office of the Surface Mining, Room 270, Post Office Building, 1823 Stout Street, Denver, Colo. 80202.

Date: September 21, 1978.

TONEY HEAD, JR.
Acting Director, Office fo Surface Mining Reclamation and Enforcement.

[FR Doc. 78-27164 Filed 9-26-78 2:31 pm]

[7590-01]

NUCLEAR REGULATORY COMMISSION

AGREEMENT FOR COOPERATION BETWEEN THE STATE OF WASHINGTON AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION

The Commission, in mid-January 1976 adopted the policy of entering into agreements with States that have been delegated responsibility by EPA for issuance of National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the Federal Water Pollution Control Act.

Although considerable latitude is provided, generally such agreements embody the principles of the Second Nuclear Regualtory Commission/Environmental Protection Agency Memorandum of Understanding (NRC/EPA) (FR Vol. 40, No. 251, p. 60115 ff, December 31, 1975) for cooperation in the licensing of nuclear power plants.

To date, four such agreements have been consummated. Three of these agreements; those with the Virginia State Water Control Board, the New York State Board on Electric Generation Siting and the Environment, and the Department of Environmental Conservation and Public Service, and the State of South Carolina were published in the FEDERAL REGISTER Vol. 43, No. 88, p. 19485 ff, on May 5, 1978.

The fourth is a very broad agreement and is entitled "Memorandum of agreement Between the State of Washington and the U.S. Nuclear Regulatory Commission." It became effective on September 6, 1978. This agreement applies to all nuclear facilities subject to licensing by NRC or certification by the State; it applies to matters beyond water quality. The text of this agreement is published below.

FOR FURTHER INFORMATION CONTACT:

Frank W. Young, Office of State Programs, telephone 301-492—7794, or Bennett L. Harless, Division of Site Safety and Environmental Analysis, telephone 301-492-8421, U.S. Nuclear Regulatory Commission, Washington, D.C. 2055.

Dated at Bethesda, Md., this 20th day of September, 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF WASHINGTON AND THE U.S. NUCLEAR REGULATORY COMMISSION

This Memorandum of Agreement between the State of Washington (hereafter "State") and the U.S. Nuclear Regulatory Commission (hereafter "NRC") expresses the desire of the parties to cooperate in the regulation of nuclear activities; it sets forth mutually agreeable principles of cooperation between the State and NRC in areas subject to the jurisdiction of the State or the NRC or both.

This agreement is intended to provide the basis of subsequent detailed subagreements between the parties.

Close cooperation between the signatories will help assure that the goals and policies of State and Federal law and regulation will be carried out efficiently and expeditiously.

With the execution of this Memorandum, the State and NRC agree to consult regularly and cooperate in exploring and divising appropriate procedures to minimize, to the extent possible, duplication of effort and to avoid delays in decision making so that effective use will be made of the resources of the State and NRC.

PRINCIPLES OF COOPERATION

1. Toward these goals, the State and NRC agree to explore together the development of detailed subagreemetns in areas of mutual concern, including, but not necessarily limited to, environmental reviews (or portions thereof) of nuclear facilities subject to licensing by NRC or certification by the State Energy Facility Site Evaluation Council (EFSEC); siting considerations; conduct and structure/format of hearings; confirmatory radiological environmental monitoring around operating nuclear facilities; decommissioning of nuclear facilities; emergency preparedness planning; response to radiological incidents; and radioactive material transportation monitoring.

2. Subagreements under this Memorandum may provide for activities to be performed by the NRC or the State under mutually acceptable guidelines and criteria which assure that the needs of both are met.

3. For activities performed by the NRC or the State at the request of NRC or the State under specific subagreements to this Memorandum, the agency making the request will explore means by which compensation may be made available to the other agency or by which the costs may be shared.

4. NRC agrees to explore with the State the possibilitity of sharing of proprietary information in NRC's possession with the State.

5. Each agency will explore means by which its training programs may be made available to the other.

6. Nothing in this Memorandum is intended to restrict or extend the statutory authority of either NRC or the State or to affect or vary the terms of the present agreement between the State and NRC under section 274b of the Atomic Energy Act of 1954, as amended.

7. The principal NRC contact under this Memorandum shall be the Director of the Office of State Programs. The principal State contact shall be the Chairman of the Energy Facility Site Evaluation Council (EFSEC). Subagreements will name appropriate individuals, agencies or offices as contacts.

8. This Memorandum shall take effect immediately upon signing by the State and the Nuclear Regulatory Commission, and may be terminated upon 30 days written notice by either party.

For the State of Washington:

DIXY LEE RAY,
Governor.

For the United States Nuclear Regulatory Commission:

LEE V. GOSSICK,
Executive Director for Operations.

Dated at Olympia, Wash., this 6th day of September, 1978.

[FR Doc. 78-27091 Filed 9-26-78; 8:45 am]

[7590-01]

[Docket Nos. 50-237 and 50-249]

COMMONWEALTH EDISON CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

COMMONWEALTH EDISON CO. (DRESDEN NUCLEAR POWER STATION, UNITS 2 AND 3)

This action is in reference to a notice published by the Commission on August 11, 1978, in the FEDERAL REGISTER (43 FR 35763) entitled "Proposed Issuance of Amendments to Operating Licenses."

The Chairman of this Board and his address is as follows:

Edward Luton, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Linda W. Little, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, N.C. 27709.

Dr. Forrest J. Remick, 305 East Hamilton Avenue, State College, Pa. 16801.

Dated at Bethesda, Md., this 21st day of September 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-27092 Filed 9-26-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329A, 50-330A]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Order

Before the Atomic Safety and Licensing Board. Pursuant to an Order of this Board dated August 14, 1978, a conference with counsel was held on September 7, 1978, and a progress report was made concerning settlement negotiations. The report satisfied the Board that the parties were diligently pursuing negotiations and had made substantial progress since the last report toward reaching a settlement.

In order to continue monitoring the progress of negotiations and to receive further progress reports, a conference with counsel will be held at 9:30 a.m., local time, on October 12, 1978, in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East-West Towers, located at 4350 East-West Highway, Bethesda, Md. 20014.

It is so ordered.

Dated at Bethesda, Md., this 20th day of September 1978.

For the Atomic Safety and Licensing Board.

HUGH K. CLARK,
Chairman.

[FR Doc. 78-27093 Filed 9-26-78; 8:45 am]

[7590-01]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commision (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-33 issued to Tennessee Valley Authority (the licensee), which revised the technical specifications for operation of the Brown's Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Ala. The amendment is effective as of the date of issuance.

This amendment changes the technical specificiations to permit operation with one recirculation loop isolated.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 15, 1978, (2) Amendment No. 41 to License No. DPR-33, and (3) the Commisson's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-27094 Filed 9-26-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 21, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Shellfish Processor's Report, NOAA-88, 142, weekly, shellfish processors, 2,600 responses, 2,600 hours, C. Louis Kincannon, 395-3211.

Industry and Trade Administration, study of field research and data/information, collection on technology transfer, ITA-825P, single-time, firms with R&D estabs. which are owned by foreign firms, 100 responses, 125 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, report of defaulted loan (National Direct Student Loan Program), OE-574, semiannually, institutions of postsecondary education, 6,600 responses, 3,300 hours, Laverne V. Collins, 395-3214.

Public Health Service, behavioral procedures for reducing worker exposures to carcinogens, single-time, workers exposed to styrene, 600 responses, 378 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Health Resources Administration, impact evaluation of short-term training opportunities for long-term care providers questionnaire, single-time, nursing home employees, 2,306 responses, 796 hours, Richard Eisinger, 395-3214.

Public Health Service, national HMO census, annually prepaid health care plans, 175 responses, 2,626 hours, Richard Eisinger, 395-3214.

Social Security Administration, request for parent locator services, SSA-2953, on occasion, State-child support agencies, 75,000 responses, 6,250 hours, Reese B. F. 395-3211.

Office of Human Development, evaluation of the Head Start bilingual bicultural curriculum development project, other (see SF-83), bilingual bicultural curriculum teachers and teacher aides, 120 responses, 60 hours, human resources division, 395-3532.

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DEPARTMENT OF LABOR

Department and other legal identity report, 2000-7, on occasion, all coal or other mine oper. or any design indep. contr., 24,000 responses, 12,000 hours, Strasser, A., 395-6132.

Departmental and other record of individual exposure to Radon Daughters, MSHA 4000-9, annually metal/nonmetal mining and milling operations, 100 responses, 800 hours, Strasser, A., 395-6132.

REVISIONS

VETERANS ADMINISTRATION

Income—net worth and employment statement, 21-527, on occasion, veteran 174,000 responses, 174,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Economics, statistics, and cooperatives service, multiframe hog and cattle survey, quarterly, hog and cattle farmers, 185,167 responses, 45,872 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics NLS fourth followup field test, 2,422, 2,423, single-time, graduates of the high school class of 1971, 22,000 responses, 22,000 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

Alcohol, Drug Abuse and Mental Health Administration, study of the impact of family therapy treatment on client outcomes and program functioning, single-time, drug treatment program staff and clients, Richard Eisinger, 395-3214.

Health Care Financing Administration (medicare), quarterly estimates of expenditures for medical assistance payments, HCFA 65, series, quarterly, State agencies administering medical assistance per title XIX, 440 responses, 1,320 hours, Caywood, D. P., 395-3443.

Office of the Secretary, income survey development program—1978 research panel (January 1979), OS-6-78-A, quarterly, household members in national probability sample, 2,350 responses, 11,750 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Social Security Administration, application for hospital insurance, SSA-18 F4, on occasion, persons over 65 do not app. eligibility benefits, but want health insurance, 15,000 responses, 3,750 hours, Reese B. F., 395-3211.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, national crime survey basic screen questionnaire, crime incident report, nonInterview record, control card NCS-1, 2, 7, and 500, on occasion, households in 376 PSU's, 917 responses, 153 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, job vacancy information in electric appliance repair shops, 2751A, 2751B, 2752A, 753F, 2753G, 275AF, cal., 552, on occasion, established in specialized SIC's, and SMSA's; sel. firms with repair facility, 33,400 responses 100,200 hours, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF ENERGY

ERDA uniform contractor reporting guide (UCRG), DOE 533P, 533M, 534P, 534M, 535, 536, 537, and 538, other (see SF-83), DOE contractors, 99,360 responses, 74,520 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, black stem rust inspectors report (plant pest control), PPQ 543, on occasion, barberry nurserymen, 900 responses, 450 hours, Ellett, C. A., 395-6132.

Economics, Statistics, and Cooperative Service, chicken and egg report, monthly, egg producers, 51,200 responses, 5,120 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, image receptor module, FD 2578A, single-time, operators of X-ray equipment, 560 responses, 140 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Social Security Administration:

Domestic service questionnaire, SSA-7155-F4, on occasion, employers of domestic employees, 20,000 responses, 10,000 hours, Reese B. F., 395-3211.

Application for benefits for an individual in a mental institution, SSA-2333, on occasion, public mental institutions, 25,000 responses, 3,825 hours, Reese B. F., 395-3211.

Letter to employer requesting him to furnish wages earned by beneficiary, SSA-L725, on occasion, any employer who has wages to report for an employee, 263,000 responses, 21,900 hours, Reese B. F., 395-3211.

Social Security Administration, employment relationship questionnaire, SSA-7160 F4, on occasion, employees and employers who must have work relations resolved for social security, 50,000 responses, 25,000 hours, Reese B. F., 395-3211.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing management, family's dwelling unit inspection report, section 8, existing housing, HUD 52579, HUD 52580, on occasion, families participating in section 8 program, 100,000 responses, 150,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, information for the wholesale price index, 473C, 473D, monthly, electric utilities petroleum companies, 1,618 responses, 353 hours, Strasser, A., 395-6132.

Employment Standards Administration, wage transcription and computation sheet, WH-55, on occasion, individual employers, 42,000 responses, 10,500 hours, Strasser, A., 395-6132.

Bureau of Labor Statistics, work injury report, BLS-98, single-time, workers injured as a result of specified source, 3,000 responses, 500 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-27253 Filed 7-26-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 20, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; and indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

COMMUNITY SERVICES ADMINISTRATION

Survey instruments—weatherization evaluation, single-time, local CAA staff; weatherization applicant and clients, Reese, B. F., Human Resources Division, 395-3211.

DEPARTMENT OF ENERGY

A survey of users and nonusers of energy extention service programs, single-time, program users and nonusers of EES programs, 7,000 responses, 2,333 hours, Energy and Science Division, C. Louis Kincannon, 395-3810.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, cooperative study of sickle cell disease, on occasion, 6,000 responses, 2,000 hours, Richard Eisinger, 395-3214.

Public Health Service, smoking questionnaire for the development of a telephone health interview system, single-time, persons age 17+ in households with telephone in civilian noninstitutional population, 10,000 responses, 876 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, utility information authorization, BLS-CCE, 10(X), single-time, households in three test areas—Philadelphia, Akron, and Walworth City, 800 responses, 67 hours, Strasser, A., 395-6132.

REVISIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, cost estimates and loan budget for electric borrowers, REA 740C, on occasion, REA financed rural electric cooperatives, 600 responses, 6,300 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, 1979 health interview survey questionnaire, other (see SF-83), sample households representing the civilian noninstitutional population of the United States, 40,000 responses, 27,490 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, annual OSHA prenotification of recordkeeping requirements and survey, OSHA 200S and 200PRE, annually, employers in the private sector and State and local government, Strasser, A., 395-6132.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, transmittal of biological product labels, circulars and outlines for review, VS 14-15, on occasion, veterinary biological procedures, 2,605 responses, 320 hours, Ellett, C. A., 395-6132.

Economics, Statistics, and Cooperatives Service, April acreage survey, annually, farmers, 95,000 responses, 15,860 hours, Ellett, C. A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-27252 Filed 9-26-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10411; 812-4347]

A CORPORATE TRUST, SERIES 1 (AND SUBSEQUENT SERIES) AND BEAR, STEARNS & CO.

Filing of Application

SEPTEMBER 19, 1978.

Notice is hereby given that a corporate trust, series 1 (and subsequent series) ("Trust"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and its sponsor, Bear, Stearns & Co. ("Sponsor"), 55 Water Street, New York, N.Y. 10041, (collectively "Applicants"), filed an application on August 10, 1978, and an amendment thereto on September 15, 1978, for an order, pursuant to section 6(c) of the Act, exempting Trust from the provisions of sections 14(a) and 22(d) of the Act and rules 19b-1 and 22c-1 thereunder. All interested person are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Each Series of Trust ("Series") will be created under the laws of Massachusetts pursuant to a separate trust agreement ("Agreement") among Sponsor, Bradford Trust Co. as trustee ("Trustee"), Bradford Trust Co. of Boston as cotrustee, and Interactive Data Services, Inc., as evaluator ("Evaluator"). Each Agreement will contain certain standard terms and conditions of trust which will be common to each Series of Trust, and each Agreement will be executed and delivered on or before the time the registration statement filed pursuant to the Securities Act of 1933 with respect to the particular Series becomes effective.

Pursuant to each Agreement, Sponsor will deposit with Trustee debt obligations ("Debt Obligations"), which Sponsor shall have accumulated for such purpose, in a principal amount at least equal to the aggregate offering price of the units ("Units") of the Trust to be offered. Simultaneously with such deposit, Trustee will deliver to Sponsor registered certificates for the Units which will represent the entire ownership of the particular Trust. Sponsor will in turn offer these Units for sale to the public.

Applicants represent that the Debt Obligations will not be pledged or in any other way be subjected to any debt at any time after the Debt Obligations are deposited in a Trust, except for the lien of Trustee as security for certain liabilities as set forth in the Agreement. Applicants state that the Debt Obligations will be long-term debt obligations issued primarily by corporations. The assets of each Trust will consist of Debt Obligations, such debt obligations as may have been acquired in exchange for or substituted for Debt obligations or for such debt obligations, accrued and undistributed interest and undistributed cash. Applicants also state that certain Debt Obligations may be sold from time to time under special circumstances which are set forth in the Agreement or may be redeemed or may mature in accordance with their terms.

Each Unit of a Trust will represent a factional undivided interest in such Trust. The numerator of the fractional interest represented will be 1, the denominator will be the number of Units in the particular Trust then outstanding. Units will be redeemable and in the event that any Units shall be redeemed, the denominator of the fraction will be reduced and the fractional undivided interest represented by each Unit will be increased. Units will remain outstanding until redeemed or until the termination of the Agreement. The Agreement with respect to any particular Trust may be terminated by agreement of the holders of Units of such Trust ("Certificate holders") holding 67 percent of the Units then outstanding, or, if the value of the Debt Obligations in a particular Trust shall fall below 40 percent of the aggregate principal amount of the Debt Obligations originally deposited in such Trust, upon direction of Sponsor to Trustee, provided that in no event will a Trust continue beyond the earlier of the disposition of the last Debt Obligation in the Trust or the expiration of twenty years after the death of the last survivor of the six persons named in the Agreement.

Following the deposit of Debt Obligations in a Trust by Sponsor, the date upon which such Trust's registration statement under the Securities Act of 1933 becomes effective, and the date upon which clearance by the securities authorities of various states is received, Applicants state that Sponsor will offer Units of the Trust to the public at the public offering prices set forth in the prospectus for such Trust plus a sales charge of 4½ percent. Applicants also state that during the initial offering period, purchasers of 100 or more Units of each Trust will be entitled to a discount from the public offering price of $5 per Unit. Applicants represent that Sponsor intends to maintain a market for Units of each Trust and continuously to offer to purchase such Units at prices in excess of the redemption prices as set forth in the Agreement. Applicants state that in the absence of this secondary market, investors may only be able to dispose of their certificates by redeeming them.

SECTION 6(c)

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or from any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTION 14(a)

Section 14(a) of the Act provides, in substance, that no registered investment company and no principal underwriter for such company shall made a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) such company has previously made a public offering of its securities, and at the time of such offering had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than 25 responsible

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persons within 90 days, or the entire proceeds received by such company, including any sales charge, will be refunded on demand.

Applicants request an order, pursuant to section 6(c) of the Act, exempting the Trust from compliance with the provisions of section 14(a) of the Act. In support of the requested exemption, Applicants represent that Sponsor agrees (1) to refund the sales load to purchasers of Units in any Trust, if within 90 days after the registration of such Trust under the Securities Act of 1933 becomes effective, the net worth of such Trust shall be reduced to less than $100,000 or if such Trust is terminated, (2) to instruct Trustee on the date Debt Obligations are deposited in any Trust that if such Trust shall at any time have a net worth of less than 40 percent of the aggregate principal amount of the Debt Obligations originally deposited in such Trust, as a result of redemption by Sponsor of Units constituting a part of the unsold Units, then Trustee shall terminate such Trust in the manner provided in the Agreement with respect to such Trust and distribute any Debt Obligations or other assets deposited with Trustee pursuant to such Agreement as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales load to any purchaser of Units purchased from Sponsor.

SECTION 22(d)

Certificateholders of each Series of Trust will have the option to reinvest automatically and at a reduced sales charge income and principal distributions into Units of future Series ("Future Series") or, if no Future Series is available, into Units of a previously formed Series which have been purchased by Sponsor in the secondary market and with respect to which a registration statement is currently effective ("Secondary Series") (Future Series and Secondary Series are collectively referred to as "Available Series"). Each Certificateholder who elects the automatic reinvestment option ("Plan") will have his interest and principal distributions reinvested on each semiannual payment date in fractional units ("Plan Units") of the then currently effective Available Series. Applicants state that it is Sponsor's intention that an Available Series will be offered on or about each semiannual record date, which shall be June 1 and December 1 of each year. Each Available Series will be a unit investment trust similar to Trust. On or about each semiannual record date, a current prospectus relating to the semiannual record date, a current prospectus relating to the Available Series will be mailed to each participant along with a letter which will remind each participant that Plan Units are being purchased for him unless he notifies Trustee by the next semiannual payment date that he no longer wishes to participate in the Plan or in the particular transaction. If (a) Sponsor does not have a currently effective Available Series on any payment date or (b) the Available Series materially differs from the Trust in Sponsor's opinion, then Applicants state it is Sponsor's intention to suspend the Plan and distribute to each participant his regular semiannual distribution in cash. If the Plan is so suspended, it will resume with the next semiannual payment date.

Applicants state that they propose to offer the right to participate in the Plan only to Certificateholders of record in each Series of Trust who have selected the semiannual plan of distribution. Applicants state that a Certificateholder will be able to join the Plan at any time by delivering an authorization form to Trustee and that a participant may withdraw at any time upon written notice to Trustee. Once delivered to Trustee, an authorization form will constitute a valid election to participate in the Plan with respect to all Units purchased in the Trust (and with respect to Plan Units purchased with the distributions from the Units purchased in the Trust) for each subsequent distribution as long as the Certificateholder continues to participate in the Plan. However, if there should be a material change in the policies of Applicants which adversely affects Certificateholders or Plan participants, the authorization will be voided and participants will be both notified of the policy change and provided with a new authorization form which must be returned to Trustee before the Certificateholder will again be able to participate in the Plan.

Unless a Certificateholder notifies Trustee in writing to the contrary, any Certificateholder who has acquired Units through the Plan will be deemed to have elected both the semiannual plan of distribution and to participate in the Plan with respect to distributions made in connection with Units so purchased under the Plan. A Certificateholder may withdraw from the Plan with respect to distributions related to Plan Units, and remain in the Plan with respect to Units acquired other than through the Plan. All distributions made with respect to Plan Units will be accumulated with distributions generated from the Units of the Series of Trust used to purchase such additional Plan Units, but no distributions generated from Units of other Series will be accumulated with the foregoing distributions for Plan purchases. Thus, if a person owns Units of more than one Series (which are not the result of purchases under the Plan) then distributions with respect to those Units will not be aggregated for purchases under the Plan.

Under the Plan (subject to compliance with applicable State securities laws) participants will purchase Plan Units from Sponsor at a price equal to the aggregate offering price per Unit of the Debt Obligations in the Available Series portfolio divided by 100, plus a sales charge equal to 3.627 percent of the offering side evaluation of such Debt Obligations or 3½ percent of the offering price per Plan Unit, rather than the customary 4½ percent sales charge which applies to all primary and secondary sales of Units in the various Series of Trust, plus accrued interest.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus.

Applicants request an order pursuant to section 6(c) of the Act, exempting the Plan offered with respect to each Series from the provisions of section 22(d) of the Act. In support of their request, Applicants assert that applying a sales charge for Plan purchases of less than the customary 4½ percent charge is both beneficial to Plan participants, and also is warranted in light of the related cost savings. Applicants state that a charge of 1½ percent of the price per Plan Unit is a reasonable and justifiable expense to be allocated by Sponsor to the soliciting broker for his professional assistance to a participant in connection with each Available Series. For this purpose, a participant may designate the broker entitled to receive such commission. If no broker is designated in connection with a particular reinvestment, no such allocation shall be made and Sponsor will retain the commission. Applicants further assert that implementation and continuation of the Plan will create special out-of-pocket costs which should properly be borne by the Plan participants. Applicants represent that Sponsor believes that these special out-of-pocket expenses will amount to 1 percent of the price per Plan Unit. Finally, Applicants state that prior experience indicates that the normal out-of-pocket costs for establishing each Series will approximate 1 percent of the public offering price of Units of each Available Series. Applicants represent that all such costs will be covered by the proposed 3½ percent sales charge. Thus, Applicants conclude that the proposed 3½ percent sales charge for Plan purchases passes through certain cost savings to Plan participants and charges participants for reasonable expenses related to the creation of the Plan and for fees relating to periodic, professional, and financial advice.

RULE 19b-1

Applicants propose to make distributions of interest to Certificateholders either monthly or semiannually, depending upon the plan of distribution chosen by an available to each Certificateholder. In addition, Applicants state that distributions of principal, if any, will be made semiannually, and that distributions of principal constituting capital gains to Certificateholders may arise in two instances: (1) If an issuer calls or redeems an issue held in the portfolio, and (2) if Units are redeemed and Debt Obligations are sold to provide the funds necessary for such redemption. In such instances, Applicants state that a Certificateholder may receive funds which constitute capital gains, because in some cases the value of the Debt Obligations sold will have increased since the date of initial deposit. Applicants anticipate that no capital gains will arise from the sale of Debt Obligations which may occur upon default on payment of principal or interest, or the occurrence of other factors which in the opinion of Sponsor would make the retention of such Debt Obligations in the Trust detrimental to the interests of the Certificateholders.

Rule 19b-1(a) under the Act provides, in substance, that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Rule 19b-1(b) under the Act contains a similar prohibition for a company not a "regulated investment company," but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Applicants request an order, pursuant to section 6(c) of the Act, exempting the frequency of the capital gains distributions of the Trust from the provisions of rule 19b-1 under the Act. In support of their request, Applicants assert that a purpose of rule 19b-1(b) is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year, distributing them only at yearend, and that the operations of a Trust in this regard are squarely within the purpose of such provision. Applicants further assert that the dangers against which rule 19b-1 is intended to guard do not exist in the situation at hand, since neither Sponsor nor Trustee control events which might trigger capital gains. In addition, Applicants state that the amounts involved in a normal distribution of principal are relatively small in comparison to the normal interest distribution, and that such distributions are clearly identified in accompanying reports to Certificateholders as a return of principal.

RULE 22c-1

Following the initial offering period, Applicants state that Sponsor intends to offer to purchase and sell Units in the secondary market at prices based on the offering side evaluation of the Debt Obligations in a Trust, determined on the last business day of each week and effective for all purchases and sales made during the following week. Applicants represent that the pricing by Sponsor in the secondary market will in no way affect the Trust's assets, and that Certificateholders will benefit from Sponsor's pricing procedure by receiving a normally higher repurchase price for their Units without the cost burden of daily evaluations of the Unit redemption value. In addition, Applicants state that Sponsor has undertaken to adopt a procedure whereby Evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a repurchase of Units in the secondary market, if Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, then Sponsor will order a full evaluation. In case of a resale of Units in the secondary market, Sponsor agrees that if Evaluator cannot state that the previous Friday's price is not more than one-half point ($5 on a Unit representing $1,000 principal amount of underlying Debt Obligations) greater than the current offering price, a full evaluation will be ordered.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after either receipt of a tender of such security for redemption or receipt of an order to purchase or sell such security.

Applicants state that the secondary market activities of Sponsor and the manner for the acquisition by investors of new Units may be deemed to violate rule 22c-1 because of the absence of daily pricing. Accordingly, Applicants request an order, pursuant to section 6(c) of the Act, exempting the secondary market operations of Sponsor from the provisions of rule 22c-1 under the Act. In support of their request, Applicants assert that rule 22c-1 has two purposes: (1) To eliminate or to reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption, or repurchase of such securities at prices other than their current net asset values; and (2) to minimize speculative trading practices in the securities of registered investment companies.

Applicants contend that the purposes of rule 22c-1 will not be offended by Sponsor's secondary market activities. Applicants assert that the pricing of Units by Sponsor in the secondary market will in no way dilute the assets of the Trust, and that Certificateholders will benefit from Sponsor's pricing procedure in the secondary market, since they will normally receive a higher repurchase price for their Units than they would receive by redeeming their Units at the current net asset value and that this will be accomplished without the cost burden to the Trust of daily evaluations of the Unit redemption value. Applicants state that only those investors who purchase Units in the secondary market at a price which is higher than the previous Friday's price by one-half point or less may be deemed to suffer any detriment from the lack of daily pricing. However, Applicants contend that such detriment would be offset by the lower cost burden to the Trust of having evaluations made on a weekly rather than a daily basis. In addition, Applicants state that to avoid Sponsor receiving more than the specified sales charge on the resale of Units, Sponsor undertakes not to resell (including resale to the Plan) any Units which it may repurchase at a price below the offering side evaluation of the Debt Obligations in the Trust. Finally, Applicants contend that speculation in Units of any Trust is unlikely because price changes are limited in respect to the kind of Debt Obligations which will be held by such Trust.

Notice is further given that any interested person may, not later than October 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such re-

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quest shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulation promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27170 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 10413; 812-4287]

BAXTER-TRAVENOL INTERNATIONAL CAPITAL CORP.

Filing of an Application

SEPTEMBER 19, 1978.

Notice is hereby given that Baxter/Travenol International Capital Corp. ("Applicant"), One Baxter Parkway; Deerfield, Ill. 60015, a wholly owned finance subsidiary of Baxter Travenol Laboratories, Inc. ("Baxter"), filed an application on March 30, 1978, and an amendment thereto on July 18, 1978, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") and rule 6c-1(c)(2) thereunder, for an order of the Commission to permit the Applicant to issue additional shares of its convertible preferred stock, first series to be offered to purchasers in foreign countries. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, was formed by Baxter in 1971 to assist in financing the operations of Baxter and its subsidiaries outside the United States and Canada. The convertible preferred stock consists of 500,000 authorized shares, of which 375,000 were issued in November 1971, and sold to foreign investors. This stock is convertible into common stock of Baxter on a share for share basis, and as of February 14, 1978, 270,132 of the issued shares had been converted with 104,868 shares remaining outstanding. The convertible preferred stock carries with it certain dividend rights, liquidation preferences, and redemption payment privileges. The convertible preferred stock is nonvoting except in special circumstances required by law.

In 1972, Baxter and its subsidiaries outside the United States and Canada adopted a stock purchase plan ("Plan") administered by Baxter Services, A.G., a Swiss corporation ("Baxter Services") to offer to employees of certain Baxter subsidiaries operating outside of the United States and who are not nationals or residents of the United States or Canada the right to purchase shares of convertible preferred stock of the Applicant. The Applicant states that to date Baxter Services has obtained the number of shares of its convertible preferred stock needed to fulfill its obligations under the Plan by purchasing outstanding shares. However, it is asserted that the number of shares of the Applicant's convertible preferred stock outstanding is no longer large enough to permit Baxter Services to acquire the necessary shares needed under the Plan. Thus, it is proposed that the Applicant be permitted to issue to Baxter Services for offer and sale to purchasers in foreign countries the remaining 125,000 authorized shares of its convertible preferred stock, solely for the purpose of permitting Baxter Services to fulfill its obligations under the Plan.

Baxter has unconditionally guaranteed the payment of dividends on the convertible preferred stock, the payment and delivery by the Applicant of all amounts and of all shares of Baxter common stock to which holders of convertible preferred stock may be entitled upon redemption or liquidation of the Applicant, and the payment of any additional amounts, if any payable, as a result of the imposition of U.S. withholding taxes; and has agreed to deliver to holders of convertible preferred stock, upon conversion thereof, the appropriate number of shares of Baxter common stock. The common stock of Baxter into which the outstanding shares of convertible preferred stock are convertible has been registered under the Securities Act of 1933, and the common stock of Baxter into which the above shares of convertible preferred stock which are proposed to be issued will be convertible will also be registered under that Act. All convertible preferred stock heretofore issued has been, and the above shares of convertible preferred stock proposed to be issued will be deposited with the Brussels office of the Morgan Guaranty Trust Co. of New York which has issued or will issue bearer depositary receipts ("BDR's") to persons entitled thereto evidencing shares of convertible preferred stock deposited under the deposit agreement with the depositary. The BDR's evidencing outstanding shares of convertible preferred stock are listed on the Luxembourg Stock Exchange and the Applicant asserts that it will apply to said exchange for the listing of BDR's evidencing the above additional shares of convertible preferred stock which it proposes to issue.

The Applicant states that the above shares of convertible preferred stock which it proposes to issue will not be offered or sold directly or indirectly in the United States or to a person who is a national or resident of the United States or its territories or possessions. The Applicant further states that Baxter Services has agreed that none of the above shares of convertible preferred stock proposed to be issued to it by the Applicant will be converted by Baxter Services into common stock of Baxter or delivered by Baxter Services to any employee under the Plan until Baxter Services has held such convertible preferred stock for at least 6 months. Accordingly, it is asserted that no conversion of any of the shares of convertible preferred stock proposed to be issued will take place prior to 6 months from the date of issuance. Finally, the Applicant states that it has conducted its business in such a manner as to comply with all of the requirements of paragraph (b) of rule 6c-1, and it has agreed that the order requested herein may be issued subject to the condition that the Applicant continue to comply with all of the requirements of paragraph (b) of rule 6c-1.

The Applicant states that the above proposed issuance of convertible preferred stock would subject it to the provisions of the Act because the U.S. interest equalization tax has been repealed and has not been replaced by another comparable tax as required by subparagraph (c)(2) of rule 6c-1. Therefore, the Applicant seeks a Commission order to permit it to issue the remaining 125,000 authorized shares.

The Applicant represents that it should be permitted to proceed with the issuance of the remaining 125,000 authorized shares of its convertible preferred stock for, among others, the following reasons:

(1) It is unlikely that U.S. persons will be interested in investing in the convertible preferred stock because the lack of a listing on any domestic securities exchange will make acquisition of such stock by U.S. persons difficult and will discourage the development of a secondary market in the United States for the stock.

(2) Inasmuch as the payment of dividends, the liquidation preference, the redemption payment privileges and the conversion privilege on the convertible preferred stock are guaranteed by Baxter, the quality of the convertible preferred stock does not depend on the operations or investment policy of the Applicant. Accordingly, it is asserted that the public policy that led to the enactment of the Act is not applicable to the Applicant, nor do the security holders of the Applicant require the protections afforded by the Act. In this regard, the Applicant points out that holders of the above shares of convertible preferred stock proposed to be issued will have the benefit of the information made generally available by the disclosure and reporting provisions of the Securities Exchange Act of 1934 and the rules of the New York Stock Exchange, which are applicable to Baxter.

(3) The Applicant does not and will not deal or trade in securities.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act and rules and regulations thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27171 Filed 9-26-78; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5541; File No. 2-61151, 22-4884]

CAROLINA TELEPHONE AND TELEGRAPH CO.

Application and Opportunity for Hearing

SEPTEMBER 20, 1978.

Notice is hereby given that Carolina Telephone and Telegraph Co. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Bankers Trust Co. under five indentures between Bankers Trust Co. and the Applicant qualified under the Act (the "Prior Indentures") and under an Indenture between Bankers Trust Co. and the Applicant not so qualified (the "new Indenture") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Co. from acting as trustee under the New Indenture.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect (with certain exceptions), that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), such other indenture may be excluded from the operation of this provision, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures.

The Applicant alleges the following:

(1) Applicant, a North Carolina corporation with telephone operations in the State of North Carolina, and United Telephone Co. of the Carolinas, Inc., a North Carolina corporation with telephone operations in the States of North Carolina and South Carolina ("Old UTC") are wholly-owned subsidiaries of United Telecommunications, Inc. ("United"). United intends to consolidate the telephone operations of Applicant and Old UTC in the State of North Carolina. Old UTC will first transfer all of its South Carolina assets to a newly-formed corporation. Thereafter Old UTC, reduced in size and having assets only in the State of North Carolina, will merge into Applicant which will be the surviving corporation. In connection with the merger, Applicant plans to issue unsecured Debentures under the New Indenture in the approximate aggregate principal amount of $18,600,000 (the "Debentures"). Pursuant to agreements with the holders thereof (the "Debenture Agreement"), certain outstanding First Mortgage Bonds of Old UTC ("Old UTC Bonds") will be exchanged for Debentures of the Applicant. The principal amount of Old UTC Bonds surrendered in the exchange will be equal to the principal amount of Debentures issued under the New Indenture. The Old UTC Bonds were issued from time to time in sixteen series, designated Series A through P, with each series having differing interest rates, redemption provisions and maturities and each series being equally secured under Old UTC Indentures. The Old UTC Bonds issued under Old UTC Indentures were purchased by institutional investors for investment and not with a view to distribution under the exemption from registration provided by section 4(2) of the Securities Act of 1933, as amended. The Debentures of the Applicant to be issued under the New Indenture and exchanged for Old UTC Bonds will similarly consist of sixteen series, designated Series A through P, with each series having the same interest rate, redemption provisions and maturity as the similarly designated series of Old UTC Bonds and each series of Debentures will rank pari passu under the New Indenture. Copies of the proposed form of the documents setting forth the terms and provisions governing the CTT Debentures to be issued under the New Indenture are attached to Applicant's Application and consist of the following: Schedule A, Debenture Agreement; Exhibit 1, Exchange Agent Agreement; Exhibit 2, Plan of Reorganization and Asset Transfer Agreement; Exhibit 3, Fourth Supplemental Indenture; Exhibit 4, Agreement and Plan of Merger; and Exhibit 5, the New Indenture of CTT. The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, except for those changes necessary to

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provide for the issuance of serial Debentures. The New Indenture will contain all of the applicable provisions which would have been required by the Act had the New Indenture been qualified except that Applicant will not be required to file copies of reports with the Commission as required by sections 312(b), 313(d) and 314(a) of the Act and except that the New Indenture will not contain the statement required by section 318(a) of the Act. It is anticipated that the execution of the New Indenture, the merger and the issuance and delivery of the Debentures of the Applicant in exchange for Old UTC Bonds will occur in the third calendar quarter of 1978.

(2) Applicant has appointed Bankers Trust Co., a New York corporation, to act as trustee under the New Indenture.

(3) The Prior Indentures relate to five prior sales to the public of Debentures of Applicant in the original aggregate principal amount of $155,000,000 of which $147,202,000 remained outstanding as of May 31, 1978 (the "Outstanding Debentures"). Copies of the Prior Indentures to which the Application relates and other documents setting the terms and provisions governing the Outstanding Debentures issued thereunder were filed as exhibits to Applicant's Registration Statements under the Securities Act of 1933.

(4) The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, particularly insofar as the duties and responsibilities of Bankers Trust Co. are concerned. Although not qualified under the Act, the New Indenture will contain, to the fullest extent possible, all the applicable provisions which would have been required under the Act had the New Indenture been so qualified. In addition, the New Indenture and the Prior Indentures contain cross-default provisions so that an event of default under one will constitute an event of default under the others. Thus the existence of the dual trusteeship should in no way inhibit or discourage the actions of Bankers Trust Co. The only material differences between the Indentures and the rights of the holders of Debentures issued thereunder relate to principal amounts, dates of issue, maturity and interest payment dates, interest rates and redemption provisions. However, since the Debentures of the Applicant to be issued under the New Indenture and the Outstanding Debentures issued under the Prior Indentures are unsecured obligations ranking pari passu, neither the above differences nor any other provisions of the Indentures are likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any of the Debenture holders to disqualify Bankers Trust Co. from acting as trustee under such Indentures.

(5) Applicant is not in default under the Prior Indentures.

The Applicant has waived notice of hearing, hearing on the issues raised by its application and all rights to specify procedures under rule 8(b) of the Commission's rules of practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than October 9, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as to the Commission may seem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27182 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 15171; SR-CBOE-78-15]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 19, 1978.

On June 6, 1978, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Ill. 60604, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which provides that the Chairman or President of the Exchange, under certain circumstances as prescribed by section 6(d)(3) of the Act, many suspend, summarily, members or associated persons and may limit or prohibit, summarily, any person with respect to access to services offered by the Exchange.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14973, July 18, 1978) and by publication in the FEDERAL REGISTER (43 FR 32341, July 27, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27172 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 15173; SR-CBOE-78-23]

CHICAGO BOARD OPTIONS EXCHANGE INC.

Order Extending Comment Period on Proposed Rule Changes

SEPTEMBER 19, 1978.

On August 9, 1978, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Ill., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(1) (the "Act") and rule 19b-4 thereunder, a proposed rule change which would establish a system where a CBOE employee called an Order Book Official would handle the public limit order book and perform related activities in place of a member of CBOE acting as a Board Broker who now performs these functions.

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[1] On September 12, 1978, the CBOE filed an amendment to its proposed rule change to provide for notice to the Commission of any summary action taken pursuant to rule 16.1, as required by section 6(d)(3), and to provide that any person aggrieved by summary action taken pursuant to rule 16.1 may apply to the Commission for a stay of such summary action, as permitted by section 6(d)(3).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Commission Release (Securities Exchange Act Release No. 34-15081/August 21, 1978) and by publication in the FEDERAL REGISTER (43 FR 38651, August 29, 1978). The original period for the submission by interested persons of written data, views and arguments concerning the submission expired on September 19, 1978. Pursuant to the request of the Board Brokers Association of the CBOE, the Commission hereby extends the period for the submission of written data, views and arguments concerning the foregoing proposals until October 2, 1978.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27173 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 10410; 812-4341]

IDS PROGRESSIVE FUND, INC., ET AL

Filing of Application

SEPTEMBER 15, 1978.

In the matter of IDS Progressive Fund, Inc., 1000 Roanoke Building, Minneapolis, Minn. 55402, Standard Security Holding Corp., Standard Security Life Insurance, Co. of New York, 485 Madison Avenue, New York, N.Y. 10022.

Notice is hereby given that IDS Progressive Fund, Inc. ("Fund"), an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), Standard Security Holding Corp. ("Holding Company") and Standard Security Life Insurance Co. of New York ("Life Insurance Company") (hereinafter collectively "Applicants") filed an application on August 2, 1978, and an amendment thereto on August 25, 1978, pursuant to section 17(b) of the Act, for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed exchange of 93,100 shares of Life Insurance Company common stock currently held by the Fund for certain securities of the Holding Company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Fund, A Nevada corporation, invests primarily in common stocks of various companies with a view toward capital appreciation. As of December 31, 1977, the Fund had total net assets of $143,113,648.

As of the same date, the Life Insurance Company had a shareholders' equity of $14,660,679 determined on the basis of generally accepted accounting principles. The Life Insurance Company has outstanding 911,523 shares of common stock, and 150,000 shares of class A stock, for an aggregate of 1,061,523 shares of voting stock outstanding. The Holding Company was incorporated in the State of Delaware on February 10, 1976, primarily for purpose of participating in the proposed transaction described herein and thereby becoming the parent of the Life Insurance Company. The Holding Company currently has no shareholders, and no assets.

Applicants state that during the year 1969, the Fund purchased 31,800 shares of Life Insurance Company common stock at prices ranging from $22.75 to $31.50 per share. Applicants further state that the Fund purchased an additional 63,100 shares of Life Insurance Company common stock during the year 1970 at prices ranging from $9 to $24.50 per share. Applicants further assert that during this 2 year time period from 1969-1970, 1800 shares of Life. Insurance Company common stock were sold by the Fund. According to the application, the 93,100 shares of Life Insurance Company common stock currently held by the Fund were purchased at a total cost of $1,899,875 and represent 8.78 percent of the outstanding voting stock and 10.2 percent of the outstanding common stock of the Life Insurance Company. As of August 22, 1978, such shares had a market value of $786,350 based on a price for Life Insurance Company common stock on that date of $8.25 bid and $8.75 asked.

Applicants represent that the Holding Company is proposing to offer to all the shareholders of the Life Insurance Company the opportunity to exchange their shares of both the common and class A stock of the Life Insurance Company for a designated number of shares of the common and noncumulative convertible preferred stock fo the Holding Company ("Exchange Offer"). The exchange rate for the proposed Exchange Offer will be 10 shares of Holding Company common stock plus 1 share of Holding Company convertible preferred stock for each 10 shares of Life Insurance Company stock (i.e., common or class A) exchanged. The Holding Company also proposes to offer to those Life Insurance Company shareholders who accept the proposed Exchange Offer the nontransferrable privilege of subscribing for the purchase of two additional shares of Holding Company convertible preferred stock at $10 per share for each 10 shares of Life Insurance Company stock exchanged. ("Rights Offering"). Those Life Insurance Company shareholders who accept the proposed Exchange Offer will also acquire a non-transferrable over-subscription privilege to purchase additional Holding Company convertible preferred stock through exercising the subscription privilege of those Life Insurance Company shareholders who choose not to exercise their exchange privilege or, having done so, elect not to exercise their subscription privilege in whole or in part. Applicants further state that the exchange rate was determined by the board of directors of the Holding Company on an arbitrary basis, in view of the absence of any business history of the Holding Company and such directors' determination that the Life Insurance Company shareholders who elect to exchange their securities for the securities of the Holding Company should receive ten shares of the common stock and one share of the convertible preferred stock of the Holding Company and, in addition, such Life Insurance Company shareholders should have the subscription privilege to purchase two additional shares of Holding Company convertible preferred stock for each 10 shares of Life Insurance Company common stock tendered. According to the application, the Fund will receive 93,100 shares of Holding Company common stock and 9,310 shares of Holding Company convertible preferred stock pursuant to the proposed Exchange Offer. Applicants further state that the Fund does not presently intend to exercise its subscription privilege for the purchase of additional shares of Holding Company common stock with respect to the proposed Rights Offering.

Section 17(a) of the Act, in pertinent part, makes it unlawful for any affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, knowingly to sell any security or other property to, or knowingly purchase any security or other property from, such registered company (other than securities of which the investment company is the issuer) unless an application for an order exempting such proposed transaction from the provisions of section 17(a) of the Act has been filed with the Commission pursuant to section 17(b) of the Act and such application has been granted by Order of the Commission. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent

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with the policy of each registered investment company concerned, and with the general purposes of the Act.

Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person of another person to include any person owning 5 percent or more of the outstanding voting securities of such other person, or any person under common control with such other person. Since the Fund presently owns 8.78 percent of the outstanding voting stock of the Life Insurance Company, the fund and the Life Insurance Company are affiliated persons of each other within the meaning of section 2(a)(3) of the Act. Moreover, since the Life Insurance Company and the Holding Company have the same boards of directors and executive officers, the Life Insurance Company and the Holding Company may be deemed to be under "common control" and, thus, affiliated persons of each other within the meaning of section 2(a)(3) of the Act. Consequently, the Holding Company may be deemed an affiliated person of an affiliated person (i.e., Life Insurance Company) of a registered investment company. Therefore, making of the Exchange Offer and Rights Offering by the Holding Company to the Fund may be deemed to involve the sale of a security by a registered investment company to an affiliated person of an affiliated person of such investment company and, acceptance by the Fund of the Exchange Offer may be deemed to involve the purchase of a security by such investment company from an affiliated person of an affiliated person thereof. Accordingly, Applicants request an order exempting the proposed transactions from the provisions of section 17(a) of the Act pursuant to section 17(b).

In support of the relief requested, Applicants state that the proposed Exchange Offer, including the exchange rate contained therein, will be made to all Life Insurance Company shareholders on the same basis. With respect to the proposed Rights Offering, Applicants state that all Life Insurance Company shareholders will have the same opportunity to participate. Applicants further state, however, that if a Life Insurance Company shareholder does not exercise his subscription privilege contained in the proposed Rights Offering, the percentage of such shareholders' ownership in the Holding Company will be decreased and such shareholder will have also waived any possible oversubscription privilege. As noted above, Applicants represent that the Fund does not presently intend to exercise its subscription privilege and assuming that all Life Insurance Company shareholders exercise their rights under the proposed Exchange Offer and all such shareholders, except the Fund, exercise their subscription and oversubscription privileges, the Fund's voting power in the Holding Company will be reduced to approximately 7.33 percent from approximately 8.78 percent in the Life Insurance Company.

In support of the relief requested, the Fund sets forth the following reasons why it believes acceptance of the Exchange Offer is advantageous to it:

(a) Assuming all Life Insurance Company shareholders accept the proposed Exchange Offer, all the shares in the Holding Company issued by reason of the proposed Exchange Offer, all other factors being equal, should be of approximately equivalent value with the aggregate shares of the Life Insurance Company exchanged since every shareholder will have the same pro-rata shares of the Holding Company as he did in the Life Insurance Company. Of course, as stated above, the Fund's voting rights in the Holding Company will be reduced to 7.33 percent because the Fund does not propose to exercise its subscription and oversubscription privileges. However, the Fund is, in accordance with its charter, holding the Life Insurance Company common shares for investment and not for control, and therefore the slight reduction in its voting rights that will result after the proposed transactions have been effected will not be detrimental to its interests in the opinion of the Fund's management.

(b) If the Fund refused to accept the proposed Exchange Offer, the Fund would continue to be a minority shareholder in the Life Insurance Company and, as a result of the reduction in trading in the shares of Life Insurance Company common stock that will be the effect of consummation of the proposed transactions, the Fund might not be able to sell its shares at an advantageous price when it desired to do so. Also, it is alleged that if the Fund was one of a small number of remaining minority shareholders in the Life Insurance Company the Holding Company, being the majority shareholder, could take action under applicable State laws to squeeze out the remaining shareholders, which if done might occur at a time and a price disadvantageous to the Fund.

(c) If Progressive exercises its rights under the Exchange Offer and other shareholders do not, Progressive can be considered to have enhanced its position in that the other shareholders will be minority shareholders of the Life Insurance Company and subject to the disadvantages set forth in paragraph (b) above.

(d) It is the intent of the board of directors of the holding Company to pay a dividend on its convertible preferred stock issued pursuant to the proposed Exchange Offer in January of 1979, assuming that financial conditions warrant such action, and it is their further intent to continue paying dividends on the convertible preferred stock with the same restriction. If this dividend is paid, this would represent a yield to the Fund which it currently does not enjoy and for the foreseeable future could not be expected to enjoy on its Life Insurance Company common stock holdings.

Applicants submit on the basis of the foregoing that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants further represent that the proposed transactions are consistent with the Fund's investment policy and the general purposes of the Act.

Notice is further given that any interested person may, not later than October 9, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by such a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing theron. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-27174 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 10412; 812-4226]

INSURED MUNICIPALS-INCOME TRUST, ET AL

Filing of Application

SEPTEMBER 19, 1978.

Notice is hereby given that Insured Municipals-Income Trust (the "Municipal Fund"), and Investors' Corporate-Income Trust (the "Corporate Fund"), both registered under the Investment Company Act of 1940 ("Act") as unit investment trusts (together referred to herein as the "Funds"), their sponsor, Van Kampen Sauerman, Inc., 208 South La Salle Street, Chicago, Ill. 60604, and a co-sponsor of the Corporate Fund, Dain, Kalman & Quail, Inc. (collectively referred to as the "Applicants"), filed an application on July 28, 1978, and an amendment thereto on September 8, 1978, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated January 31, 1978 (Investment Company Act Release No. 10109). That order pursuant to section 6(c) of the Act exempted from the provisions of section 22(d) of the Act the offer and sale of shares of the Funds pursuant to a conversion option (the "Plan"), and pursuant to section 11 of the Act permitted the Funds to offer their units at net asset value plus a fixed dollar sales charge pursuant to the Plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Under the Plan, as currently administered, a certificate holder in either the Municipal Fund or the Corporate Fund wishing to dispose of his units in a series of either Fund for which a secondary market is being maintained has the option to convert his units into units of the opposite Fund (Corporate into Municipal, Municipal into Corporate) or the Investors' Government-Guaranteed Income Trust (the "Government Fund") of any series for which units are available for sale. Applicants state that the purpose of the Plan is to provide investors in each of the Funds a convenient and less costly means of transferring interests as their investment requirements change. Applicants state that the respective sponsors have indicated that they intend to maintain a market for the units of each series of the respective Funds; however, there is no obligation to maintain such a market. Consequently, the respective sponsors reserve the right to modify, suspend or terminate the Plan at any time without further notice to certificate holders.

Assuming a secondary market exists and units of the opposite Fund or the Government Fund are available, a certificate holder who notifies the sponsors of his desire to exercise his conversion option will be mailed a current prospectus for each series in which the certificate holder indicates interest. The certificate holder may then select the series into which he desires his investment to be converted. The conversion transaction will operate in a manner essentially identical to any secondary market transaction, except that the Applicants allow a reduced sales charge for all transactions effected under the Plan. Traditionally, units of the Municipal Fund and the Corporate Fund are repurchased by the sponsors and other underwriters of those Funds at the aggregate offering price per unit of the underlying bonds in the respective Fund Series, and are resold at that price per unit plus a sales charge of 4½ percent of such offering price. Traditionally, units of the Government Fund are repurchased by the sponsor and other underwriters of that fund at the aggregate offering price per unit of the underlying bonds in the respective Series of that Fund, and are resold at that price per unit plus a sales charge of 3½ percent of such offering price. Applicants resell units under the Plan at the unit offering price of the underlying bonds of the opposite Fund or the Government Fund plus a fixed charge of $15 per unit (or about 1½ percent of such offering price at current market values). The certificate holder receives payment for any excess funds remaining in his account after his investment in one Fund is converted into full units in the oppoiste Fund or the Government Fund.

Applicants hereby seek to extend the Plan to certificate holders of Series 1 and subsequent series (as such series may from time to time be created) of the Government Fund, a newly established unit investment trust which is sponsored by Van Kampen Sauerman, Inc. The Government Fund is comprised primarily of mortgage-backed securities of the modified pass-through type fully guaranteed as to principal and interest by the Government National Mortgage Association. Applicants propose to allow Government Fund certificate holders to use the proceeds from the sale of any Government Fund units to acquire units in any series or group of series of both or either the Municipal Fund and/or the Corporate Fund, and to have such aquisitions be based on the same terms and be subject to the same conditions as those presented in the original application, except as follows: Applicants propose that certificate holders of the Government Fund who have held their units for a period of at least 8 months be allowed to acquire Corporate or Municipal Fund units under the Plan at net asset value plus a sales charge of $15 per unit. However, Applicants propose that Government Fund certificate holders who wish to convert their units into units of the Corporate or Municipal Fund prior to the expiration of the 8 month period be allowed to exchange such units at net asset value plus a sales charge based on the greater of $15 per unit or an amount which together with the initial sales charge paid in connection with the acquisition of the units being converted equals 4½ percent of net asset value in the units of the Corporate or Municipal Fund, determined as of the date of conversion.

Applicants assert that the rationale for allowing certificate holders of the Municipal Fund and the Corporate Fund to participate in the Plan and effect Fund transactions at a reduced sales charge is equally applicable to certificate holders of the Government Fund. Thus, Applicants argue that certificate holders of the Government Fund should be allowed to participate in the Plan and convert their units into units of either the Municipal Fund or the Corporate Fund at a reduced sales charge.

Applicants state that the requirement that Government Fund certificate holders pay an adjusted sales charge as outlined above for conversions made by them under the Plan during the first 8 months in which they have held Government Fund units is appropriate since the sales charge relating to original purchases of units is 4½ percent on purchases of Corporate and Municipal Fund units and only 3½ percent on purchases of Government Fund units. They state that it could be possible under certain circumstances for a person to acquire units in the Government Fund and immediately convert such units into units of the Corporate or Municipal Fund and pay a lower total sales charge than a person purchasing Corporate or Municipal Fund units directly at the same time. The application states that under normal circumstances this situation is unlikely, since the initial sales charge on direct purchases of units of the Government Fund (3½ percent of the net asset value) plus the conversion sales charge ($15 per unit or approximately 1½ percent of the net asset value of Corporate or Municipal Fund units based on current market value) usually will exceed the sales charge related to direct purchases of Corporate and Municipal Fund units (4½ percent of the net asset value). However, Applicants state that if the price of Corporate or Municipal Fund units were to increase sharply, the $15 sales charge on conversion could represent less than 1 percent of the net asset value of such

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units, in which case the converting Government Fund certificate holder could obtain an unfair price advantage when compared to investors making direct purchases of units of the applicable Corporate or Municipal Fund. Applicants assert, however, that after a Government Fund certificate holder has held his Government Fund units for an adquate period of time this discriminatory nature of his effecting a conversion transaction is not as compelling, and thus argue that the possible abuses outlined above are not material if the converting Government Fund certificate holder has held his Government Fund units for at least an 8-month period of time.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of the Government Fund and each of the Funds for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d-1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transactions, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27175 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 10409; 811-2576]

McNEIL MONEY MARKET FUND, INC.

Application

SEPTEMBER 15, 1978.

Notice is hereby given that McNeil Money Market Fund, Inc. ("Applicant"), c/o the Robert A. McNeil Corp., 2855 Campus Drive, San Mateo, Calif. 94403, a California corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified investment company, filed an application on July 31, 1978, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant asserts that it was organized on May 7, 1975 and registered under the Act on December 1, 1975. Currently, it has no shareholders other than the Robert A. McNeil Corp. (formerly, Pacific Homes Mortgage and Investment Co.), an affiliate of McNeil Management Corp., the adviser of Applicant. Applicant further asserts that the shareholder has elected by unanimous consent to liquidate and dissolve Applicant and to distribute substantially all of its assets to its remaining shareholder, in proportion to its holdings. According to the application, Applicant has ceased all business activities and no litigation is pending or threatened against Applicant. Moreover, except for the sum of $5,000 which has been retained to cover any miscellaneous expenses, Applicant states that it has no assets. All expenses incurred in connection with the liquidation and dissolution of Applicant will be paid by its adviser.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27176 Filed 9-26-78; 8:45 am]

[8010-01]

[Release No. 10408; 812-4336]

PILGRIM FUND INC. AND PILGRIM FORMULA SHARES, INC.

Application

SEPTEMBER 15, 1978.

Notice is hereby given that Pilgrim Fund Inc. ("Pilgrim") and Pilgrim Formula Shares, Inc. ("PFS") (collectively, "Applicants" or "Funds"), 185 Cross Street, Fort Lee, N.J., 07024, both open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an Application on July 20, 1978, and an amendment thereto on September 1, 1978, for an order, pursuant to section 17(b) of the Act, exempting from the provisions of section 17(a) of the Act a proposed sale of the assets of PFS in exchange for shares of Pilgrim, and pursuant to section 17(d) of the Act and rule 17d-1 thereunder, permitting Pilgrim Management Corp. ("Management"), to pay certain expenses incurred by Applicants in the proposed transaction. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that, on June 30, 1978, the total net assets of Pilgrim were $13,641,986, and those of PFS were $3,306,530. They state that the investment objective of Pilgrim is to seek possible long-term capital appreciation. PFS seeks to increase capital during periods of stock market strength and to preserve it during periods of stock market weakness through a fixed timing formula. Applicants state that they have the same investment adviser, Management.

According to the application, Pilgrim and PFS have entered into a Plan and Agreement of Reorganization dated July 12, 1978 (the "Plan"). Under the Plan, PFS will transfer to Pilgrim all of its net assets, except an amount to pay the expenses of liquidation and dissolution of PFS and any other liabilities not assumed by Pilgrim. The assets to be transferred by PFS to Pilgrim consists primarily of cash, receivables and marketable securities. In exchange for such assets, PFS will receive shares of Pilgrim's capital stock. The number of Pilgrim shares to be issued to PFS in exchange for PFS's net assets shall be determined by dividing the aggregate market value of PFS's net assets by the net asset value of each Pilgrim share. The valuation of PFS's total net assets and the net asset value per share of Pilgrim shall be determined as of the close of business on the business day immediately preceding the closing of the acquisition, which shall be no later than seven (7) business days after the stockholders of PFS shall have approved the Plan.

Applicants represent that on the effective date of the acquisition, each outstanding share of capital stock of PFS will be converted into fractional or full and fractional shares of capital stock of Pilgrim having the same aggregate net asset value as the shares being converted, and that no sales charge will be payable upon the conversion of shares.

Applicants state that Pilgrim and PFS have capital loss carryforwards for Federal income tax purposes at June 30, 1978, of approximately $2,706,000 and $833,980, respectively, and that the Board of Directors of each Fund has determined that the net asset values are to be determined by net assets as recorded on the books without recognition of each Fund's existing capital loss carryforward, since realization on such carryforward is contingent on the future existence of capital gains, which is uncertain, and because the loss carryforwards are approximately in the same proportion as each Fund's total net assets are to each other.

Applicants represent that the Plan will be submitted to the shareholders of PFS at the annual meeting to be held on October 26, 1978, and that under applicable law, it is not necessary to submit the Plan for approval by the shareholders of Pilgrim.

The application states that the obligation of each Fund to effect the proposed transaction is subject to, among other things, the approval of the Plan by the requisite vote (at least two-thirds of all outstanding shares) of the shareholders of PFS, the grant of all necessary orders and approvals under the Act and under the securities laws generally, and the receipt of either a ruling from the Internal Revenue Service or an opinion of counsel to the effect that the transaction will constitute a tax-free reorganization and that no gain or loss for Federal income tax purposes will be recognized to the shareholders of PFS upon the exchange of shares of PFS for Pilgrim shares pursuant to the Plan, and that the basis and holding period of the shares of Pilgrim to be received by the shareholders of PFS pursuant to such exchange will be the same as the basis and holding period of the PFS shares in their hands immediately prior to the exchange. The transaction also may be abandoned at any time prior to the effective date by mutual consent of the Boards of Directors of the Applicants. The application states that dissenting shareholders of PFS will have dissenter's rights pursuant to the applicable provisions of the General Corporation Law of Maryland, and shareholders also have the right to have their shares redeemed at current net asset value in accordance with the Act before or after the effective date of the transaction.

Applicants represent that they have agreed with Management that the estimated total expenses of the transaction of approximately $13,545 will be borne as follows:

(a) PFS will pay the costs normally associated with the holding of its annual meeting, including the preparation of the proxy statement which will include the proposal to vote upon the Plan. This will include the legal and accounting fees in connection with the preparation of the proxy statement and the consummation of the exchange (estimated at approximately $4,350);

(b) Pilgrim will pay its legal and accounting fees associated with the preparation of the Plan, the consummation of the exchange, and the filing of the registration statement to cover the issuance of its shares to PFS pursuant to the Plan (estimated at approximately $4,350); and

(c) Management will pay the additional costs of printing and mailing the proxy statement and registration statement to the shareholders of PFS to the extent such costs would not normally be borne by PFS as part of its annual meeting of shareholders (estimated at approximately $4,845).

The application states that the investment management agreements between PFS and Management and Pilgrim and Management both require Management to reduce its management fee to the extent that the aggregate operating expenses of the respective Fund (including the management fee but excluding taxes, interest, brokerage commissions, and certain extraordinary expenses) exceed the allowable expense limitations of the State in which shares of that Fund are registered for sale having the most stringent expense reimbursement provision. As of June 30, 1978, the most stringent expense limitation applicable to both PFS and Pilgrim, was two (2) percent of the first $10 million of average net assets, one-and-one-half (1½) percent of the next $20 million of assets, and one (1) percent of average net assets in excess of $30 million.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, or any affiliated person of such a person, knowingly to sell to such registered investment company any security or other property. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state that the Applicants may be

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deemed to be affiliated persons of one another because each has investment advisory agreements with Management and because the Applicants have certain officers and directors in common with one another and with Management. Section 17(b) of the Act provides, in pertinent part, that the Commission upon application, shall exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Applicants have requested an order pursuant to section 17(b) of the Act exempting the proposed transaction from the provisions of section 17(a) of the Act.

Applicants submit that the terms of the proposed exchange are reasonable and fair and do not involve overreaching on the part of any person concerned since Pilgrim will be issuing shares to PFS at an exchange ratio based on their relative net asset values and without the payment of any commission. The application states that due to an excess of redemptions over sales of new shares, PFS has experienced over the past several years a decline in outstanding shares and net assets, that the directors believe this trend may continue, and that the combined assets of Pilgrim and PFS will keep the expense ratio from rising as fast as it otherwise might. Applicants represent that the Board of Directors recognizes that the management fee paid by Pilgrim to Management will be at a higher rate (¼ of 1 percent) than currently paid by PFS on the first $25 million of net assets, thus benefiting Management. Applicant submits that in considering how the proposed acquisition of the assets of PFS by Pilgrim would be finanially beneficial to both Funds, the Board of Directors of each Fund estimated the net reduction in costs expected to result from the exchange to be approximately $14,825 per annum, based on the then current size of the Funds, or approximately 5.4 percent of the actual combined expenses of Applicants for the last fiscal year. The application states that while the Directors of PFS and Pilgrim did not obtain independent advice of counsel regarding the proposed merger, they were aware of the alternatives available to PFS, including liquidation of the Fund and finding a new investment manager, and unanimously determined that under all circumstances the transaction was fair and in the best interest of PFS's shareholders. Applicants submit that the Directors of each Fund reviewed the current portfolio of both Funds, determining that many securities are of similar nature and quality, and meet the investment policies and criteria for both Funds. Applicants estimate that it will be necessary to sell portfolio securities of PFS equivalent to less than five (5) percent of the net assets of PFS in order to be acceptable to Pilgrim, and any brokerage expenses incurred by PFS in effecting the exchange of its assets will be minimal. Applicants submit that, if approved by the shareholders of PFS, the proposed exchange will be consistent with the policies of the Applicants and the general purposes of the Act.

Section 17(d) of the Act and rule 17d-1 thereunder prohibit, in pertinent part, any affiliated person of a registered investment company, acting as principal, from effecting any transaction in which such investment company is a joint participant, unless an application has been filed with the Commission and has been granted by order. In passing upon such applications, the Commission will consider whether the participation of such registered company in such arrangement, on the basis proposed, is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants. Applicants have requested an order pursuant to section 17(d) of the Act and rule 17d-1 thereunder to permit Management to pay certain of the expenses incurred by Applicants in the proposed exchange. Applicants and Management submit that the cost-sharing arrangements, summarized above, are reasonable and fair to the parties after taking into account the relative benefits to each party, and have been approved by the noninterested directors of the Applicants.

Notice is further given that any interested person may, not later than October 10, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27177 Filed 9-26-78; 8:45 am]

[8010-01]

[Release 34-15172; File No. SR-NASD-78-11]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub L. 94-29, 16 (June 4, 1975) notice is hereby given on September 15, 1978, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission a proposed rule change as follows:

THE NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE-

The NASDAQ, Inc., Board of Directors and the NASD Board of Governors have determined that a reduction of NASDAQ subscription rates by means of a refund of 10 percent of total billings for levels 1, 2, and 3 service for the fiscal year ending September 30, 1978, be dispersed to each NASDAQ subscriber.

THE NASD'S STATEMENT ON PURPOSE OF PROPOSED RULE CHANGE

Section G of part IV of schedule D of the association's bylaws provides that "The Board of Governors may, at any time, refund to subscribers any charges or portion of charges that it deems appropriate." The Board of Governors determined at its meeting in September 1978 to refund 10 percent of total billings for levels 1, 2, and 3 service for fiscal year 1978 to each NASDAQ subscriber

THE NASD'S STATEMENT ON BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

THE NASD'S STATEMENT ON COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS 'ON THE PROPOSED RULE CHANGE

Comments from the membership were not solicited nor received.

THE NASD'S STATEMENT ON BURDEN ON COMPETITION

It is felt that no burden on competition is imposed by the proposed rule change.

THE NASD'S STATEMENT ON BASIS FOR ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The association requests that pursuant to section 19(b)(2) of the Act the Commission approve this proposed rate reduction prior to the 30th day after the date of publication in the FEDERAL REGISTER and suggests that the Commission has good cause for doing so.

NASDAQ, Inc., is on the accrual method of accounting for tax purposes and we have been advised by tax counsel that unless all events necessary to establish the refund are accomplished prior to fiscal year end, September 30, 1978, there is a potential tax liability of up to 48 percent of the funds to be utilized for the refund should NASDAQ, Inc., be determined to be a taxable company. Tax counsel further advises that because Commission approval is required for the rate reduction, the failure to obtain such approval prior to September 30, 1978, may prevent any such reductions from being accrued as a deduction against potential fiscal 1978 income tax.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER (November 1, 1978), or within such longer period: (1) As the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (2) as to which the above-mentioned self-regulatory organization consents, the Commission will: (a) By order approve such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 19, 1978.

[FR Doc. 78-27169 Filed 9-26-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.101]

REGIONAL DEVELOPMENT OFFICER, FIJI

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Regional Development Officer, Fiji, the authority to sign U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $25,000 or local currency equivalent.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Regional Development Officer in an acting capacity.

This redelegation of authority is effective immediately.

Dated: September 18, 1978.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc. 78-27158 Filed 9-26-78; 8:45 am]

[4710-02]

RESEARCH ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on October 31-November 1, 1978, at the Pan Amerian Health Organization Building, 23d Street and Virginia Avenue NW., Conference Room "C" to review, appraise, and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition, rural development and health. The meeting will begin at 9 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Robert C. Simpson, Director, Office of Program, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Mr. Simpson, 1601 North Kent Street, Arlington, Va. 22209, or call area code 202-235-8898.

Dated: September 19, 1978.

ROBERT C. SIMPSON,
A.I.D. Representative, Research Advisory Committee.

[FR Doc. 78-27159 Filed 9-26-78; 8:45 am]

[4710-09]

Office of the Secretary

[Public Notice 629]

DETERMINATION UNDER SECTION 5(a) OF THE ATLANTIC TUNA CONVENTIONS ACT OF 1975

Pursuant to section 5(a) of the Atlantic Tuna Conventions Act of 1975 (16 U.S.C. 971c(a)), the Secretary of State, with the concurrence of the Secretaries of Commerce and Transportation, has determined that the purposes of the International Convention for the Conservation of Atlantic Tunas (TIAS 6767) would be served by bringing into effect with respect to the United States on August 9, 1978, the recommendation of the International Commission for the Conservation of Atlantic Tunas to extend for 2 years to August 10, 1980, the recommendation of the Commission which calls on the parties to the Convention to limit the fishing moratality of Atlantic bluefin tuna to "recent levels".

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Dated: September 21, 1978.

MARY ELIZABETH HOINKES,
Assistant Legal Adviser for Oceans, Environment, and Scientific Affairs.

[FR Doc. 78-27097 Filed 9-26-78; 8:45 am]

[4710-07]

[CM-8/109]

ADVISORY COMMITTEE ON INTERNATIONAL INTELLECTUAL PROPERTY

Notice of Meeting

The International Industrial Property Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on October 30, 1978, at the Department of State in Conference Room 1105, from 9:30 a.m. to 1 p.m.

The purpose of this open meeting will be to discuss the following topics.

1. The revision of the Paris Industrial Property Convention;
2. The U.N. Conference on Science and Technology for Development;
3. The UNCTAD Code of Conduct on Transfer of Technology;
4. Miscellaneous industrial property matters.

The public attending may, as time permits and subject to the instructions of the Chairman, participate in the discussions or may submit their views in writing to the Chairman prior to or at the meeting for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation, and address to Mr. Steven Brattain, Office of Business Practices, Department of State, telephone 202-632-3491 prior to October 26, 1978. All non-Government attendees at the meeting should use the C Street entrance to the building.

Dated: September 20, 1978.

HARVEY J. WINTER,
Executive Secretary.

[FR Doc. 78-27157 Filed 9-26-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-6]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING AND ITS TECHNICAL SUBCOMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I 10(a)(2)), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging and its Technical Subcommittee will be held on November 2, 1978, at the Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C., Room 4033, beginning at 9:30 a.m. (e.s.t.).

The Advisory Committee and its Technical Subcommittee will discuss detailed proprietary, scientific, and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of 5 U.S.C. 552b(c)(4). Accordingly, the meeting of the Advisory Committee and its Technical Subcommittee will, under authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. I 10(d)), not be open to the public.

All communications regarding this meeting of the Advisory Committee and its Technical Subcommittee should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, Room 8233.

Signed: September 19, 1978.

JOHN S. KROZMAN,
Acting Director.

[FR Doc. 78-27040 Filed 9-26-78; 8:45 am]

[4810-31]

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF PURSUANT TO SECTION 925(c), TITLE 18, UNITED STATES CODE

Notice is hereby given that pursuant to 18 U.S.C. section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Bandy, Earlund E., 6134 So. 32nd Street, Omaha, Nebr., convicted on April 26, 1971, and on November 22, 1971, in the Douglas County District Court, Nebr.

Beltran, Augustine G., 222 E. Mitchell Street, San Antonio, Tex., convicted on March 1, 1971, in the 175th Judicial District Court, Bexar County, Tex.; and on October 15, 1965, in the 144th Judicial District Court, Bexar County, Tex.

Biddle, Clyde A., 2838 Margate Circle, Flint, Mich., convicted on May 12, 1948, and on January 16, 1951, in the Circuit Court of Genesee County, Mich.

Blitz, Eric T., 624 N. G Street, Tacoma, Wash., convicted on May 29, 1975, in the United States District Court, Southern District of New York.

Burgard, Robert A., 410 South First Street, Las Vegas, Nev., convicted on March 12, 1976, in the United States District Court, Northern District, Toledo, Ohio.

Cammack, James E., 123 Hazel Drive, Florence, Ky., convicted on June 22, 1970, in the Court of General Sessions, Beaufort County, S.C.

Carswell, Boyce L., Route 1, Mill Springs, N.C., convicted on November 17, 1949, and on November 17, 1952, in the United States District Court, Asheville, N.C.

Crowell, Hughey G., 1349 Mill, Poplar Bluff, Mo., convicted on June 22, 1948, in the Madison County Circuit Court, Fredericktown, Mo.

Davis, James, 1400 Bryant Street, Newport, Ark., convicted on February 11, 1942, in the Jackson County Circuit Court, Jackson County, Ark.

De Raleigh, Marcel V., 4513 Mont Eagle Place, Los Angeles, Calif., convicted on June 1, 1967, in the United States District Court, Eastern District, Flint, Mich.

Dickens, Carrol L., 3326 W. 30th, Anchorage, Alaska, convicted on April 14, 1964, in the Superior Court for the State of Alaska, Third Judicial District at Anchorage.

Donaldson, John W., 1561 N. Union Street, Decatur, Ill., convicted on February 5, 1963, in the Sixth Judicial Circuit Court, Macon County, Ill.

Donnelly, John V., 204 Hillcrest, Elizabethtown, Ky., convicted in April, 1969, in the Warren County Circuit Court, Bowling Green, Ky.

Donovan, Theodore J., 8715 Brentwood Plaza, No. 18, Omaha, Nebr., convicted in February, 1961, in the District Court of Washington County, Nebr.

Dooley, Randall G., SRA Box 500A, Chugiak, Alaska, convicted on December 22, 1971, in the United States District Court, Western District of Texas, Del Rio Division.

Elliott, Roger D., 7044 28th Street, North Highlands, Calif., convicted on September 2, 1969, and on September 25, 1969, in the Superior Court of California, Sacramento, Calif.

Engevik, Clifford A., 555 Asbury Street, St. Paul, Minn., convicted on or about December 8, 1931, and on or about March 31, 1933, in the Faribault County District Court, Minn., and on or about March 26, 1936, in the Winnebago County District Court, Minn.

Esslinger, Wilbur D., R.R. No. 3, Box 195A, Crown Point, Ind., convicted on December 17, 1945, in the Court of Quarter Sessions, County of Philadelphia, Pa.

Feist, Clifton L., Ludlow, S. Dak., convicted on June 24, 1971, in the United States District Court for the District of Wyoming.

Files, Edward L., Route 3, Berry, Ala., convicted on November 27, 1967, in the United States District Court for the Northern District of Alabama; and in April, 1964, in the United States Federal Court, Jaspar, Ala.; and on December 16, 1974, in Fayette County Circuit Court, Ala.

Finklestein, Joseph S., 4132 Carmichael Road, Montgomery, Ala., convicted on October 17, 1973, in the United States District Court, Middle District of Ala.

Forster, Robert A., 24301 Aetna Street, Woodland Hills, Calif., convicted on September 16, 1970, in the California Superior Court, Santa Barbara County.

Frenyea, Winfred T., 15210 Runnymede Street, Van Nuys, Calif., convicted on August 31, 1964, and on May 29, 1970, in the Superior Court, Los Angeles County, Calif.

Gay, Dewey, Jr., Route No. 1, Box 470, Oneida, Ky., convicted on November 23, 1969, in the United States District Court, London, Ky.

Gibson, Coy, 1218 Christian Street, Philadelphia, Pa., convicted on August 19, 1963, in the Court of Common Pleas, Philadelphia, Pa.

Glazier, Gary J., 1369 Southside Drive, Elko, Nev., convicted on September 17, 1973, in the 27th Judicial District Court, Bell County, Tex.

Goble, Roy E., 15 Jonesboro Street, McDonough, Ga., convicted on September 11, 1962, in the United States District Court, Northern District of Georgia, Atlanta, Ga.

Godfrey, Shirley E., 541 Burroughs Street, Morgantown, W. Va., convicted on June 13, 1972, in the United States District Court, Northern District, Parkersburg, W. Va.

Gray, Weaver L., P.O. Box 148, Route 3, Hamptonville, N.C., convicted on November 17, 1947, November 22, 1955, and on November 30, 1960, in the United States District Court, Wilkesboro, N.C.

Griffith, Edward M., 3605 State Road, Drexel Hill, Pa., convicted on October 3, 1966, in the Court of Common Pleas—Criminal, Delaware County, Pa.

Hall, Keith E., 7607 E. 112th Terrace, Kansas City, Mo., convicted on March 4, 1974, in the Circuit Court of Jackson County, Mo.

Hammond, Robert J., Route No. 8, Box 485, Lot 29, Leesburg, Fla., convicted on July 27, 1961, and on July 2, 1962, in the Criminal Court of Record for Dade County, Fla.

Hancotte, James T., 2221 Coral Street, Philadelphia, Pa., convicted on August 1, 1959, in the Magistrate Court for the County and City of Philadelphia, Pa.

Hoag, Bill D., 3110 S. Wichita, Wichita, Kans., convicted on September 10, 1973, in the United States District Court, Northern District of Illinois, Eastern Division.

Housden, Gregory J., Route No. 1, Box 426-A, Stanley, Va., convicted on October 14, 1975, in the United States District Court, Western Judicial District of Virginia, Harrisonburg, Va.

Hunter, Clinton D., 1145-B Whitehaven, Dallas, Tex., convicted on January 7, 1959, in the Yell County Circuit Court, Dardenell District, Ark.

Ivie, Edward H., 64004 Deschutes Road, Bend, Oreg., convicted on December 13, 1957, in the Glenn County Superior Court, Willows, Calif.

James, Robert E., 1004 Laramie, Alliance, Nebr., convicted on February 14, 1973, in Lincoln County District Court, North Platte, Nebr.

Johnson, Arthur R., R.R. No. 1, Salem, Ill., convicted on March 31, 1964, in the 78th Judicial Circuit, County of Owen, Spencer, Ind.

Jonn, Steven G., 6250 Holabird Street, Apt. 4, San Diego, Calif., convicted on May 1, 1968, in the Superior Court of the State of Washington for Chelan County.

Kaplan, David L., 6388 Stefani, Dallas, Tex., convicted on April 26, 1948, in the United States District Court, Northern District of Texas, Dallas Division.

Keaton, Judith R., 705 Lennox Street, Anderson, Ind., convicted on September 17, 1968, Madison Circuit Court, Anderson, Ind.

Kennsion, Jerry W., Route No. 7, Box 163, Denham Springs, La., convicted on December 4, 1969, in the Nineteenth Judicial District Court, Baton Rouge, La.

Koons, William H., 1006 Londonderry Drive, Belair, Md., convicted on March 30, 1973, in the District Court of Maryland, Baltimore, Md.

Koonts, James F., 248 Garden Road, Columbus, Ohio, convicted on August 14, 1970, in the Franklin County Court of Common Pleas, Columbus, Ohio.

LaDart, Joseph D., Jr., 2307 Whitney Drive, Monroe, La., convicted on September 5, 1974, in the Fourth Judicial District Court, Ouachita Parish, La.

LePage, Philip E., 1173 West Avenue P-1, Palmdale, Calif., convicted on March 4, 1971, in the Municipal Court of Antelope Judicial District, County of Los Angeles, Calif.

Liston, Glenn D., P.O. Box 1137, Morgantown, W. Va., convicted on June 13, 1972, in the United States District Court for the Northern District of West Virginia.

Lytle, Robert T., R.D. No. 2, Box 379, Shamokin, Pa., convicted on November 23, 1977, in the United States District Court for the Middle District of Pennsylvania at Williamsport.

Madden, Richard A., 36 Fox Avenue, San Jose, Calif., convicted on June 23, 1967, in the Common Pleas Court of Richland County, Ohio.

Maki, Rudolph S., R.R. No. 3, Box 93, Wadena, Minn., convicted on May 19, 1967, in the District Court, Fourth Judicial District, Hennepin County, Minn.

Mathis, Howard, Route No. 6, Box 340-A, North Wilkesboro, N.C., convicted on November 26, 1951, and on May 24, 1957, in the United States District Court, Wilkesboro, N.C.; on May 19, 1965, in the United States District Court for the Middle District, North Carolina, Wilkesboro Division; and on September 17, 1964, and November 13, 1969, in the County Special Court, Wilkes County, N.C.

McCoy, Larry D., 2008 Bakers Lane, Mobile, Ala., convicted on March 20, 1972, in the United States District Court for the Southern District of Texas, Laredo Division.

McCullough, James R., 140-A Springdale Road, Birmingham, Ala., convicted on July 10, 1967, in the United States District Court, Northern District of Alabama, Birmingham, Ala.

McCurdy, Donald J., II, 1873 Goodrich Avenue, St. Paul, Minn., convicted on May 17, 1968, in the Ramsey County District Court, St. Paul, Minn.

McKay, Ronald D., P.O. Box 161, Chambers, Nebr., convicted on December 4, 1973, in the District Court, Buffalo County, Kearny, Nebr.

McKinney, William, 5215 Vancouver, Detroit, Mich., convicted on May 5, 1953, in the Recorders Court for the City of Detroit, Mich.

McWilliams, James N., 22238 Avenue 152, Porterville, Calif., convicted on September 24, 1964, in the United States District Court for the Western District of Louisiana, Lake Charles Division.

Miller, Samuel S., Jr., 61 Ranch Avenue, Lancaster, Pa., convicted on January 9, 1970, and on June 19, 1972, in the Court of Common Pleas, Lancaster County, Pa.

Moss, Bernard H., 205 Eastlawn Drive, Danville, Va., convicted on July 22, 1955, in the Circuit Court of Pittsylvania County, Va.

Napolitano, Michael A., 45 Olmstead Street, East, Hartford, Conn., convicted on March 23, 1960, and on January 18, 1962, in the Court of Common Pleas, Hartford, Conn.

Parcell, Walter F., Jr., Star Route, Alphine, Tenn., convicted on August 24, 1956, in the Criminal Court, Broward County, Fla.

Perry, Manuel E., 498 Windsor Parkway, Hampton, Ga., convicted on February 25, 1966, in the Court of Common Pleas, Lamar County, Ga.; on April 24, 1969, in the United States District Court, Northern District of Georgia, Newnan Division; and on October 29, 1971, in the United States District Court, Middle District of Georgia, Macon Division.

Phillips, Bobby J., 1044 Kittitas Street, Wenatchee, Wash., convicted on September 14, 1973, in the Superior Court, State of Washington, County of Chelan.

Piatek, Terrence, P.O. Box 21, Guys Mills, Pa., convicted on November 16, 1971, in the Court of Common Pleas, Allegheny County, Pa.

Rago, Joseph J., 401 Buse Street, Ridley Park, Pa., convicted on September 13, 1966, in the United States District Court, Eastern District, Pennsylvania; and on March 5, 1968, in the Court of Common Pleas, Philadephia County, Pa.

Rayburn, William H., 600 Berger Road, Paducah, Ky., convicted on November 2, 1976, in the United States District Court, Western District, Paducah, Ky.

Scott, Terry A., 449 E. Center, Madisonville, Ky., convicted on November 14, 1973, in a General Court Martial, Carswell Air Force Base, Fort Worth, Tex.

Shrader, Harry W., 61 Elizabeth Street, Hagerstown, Md., convicted on March 31, 1956, in the Court of Oyer and Terminer of the Peace for the County of Franklin, Pa; and on April 11, 1956, in the Circuit Court, Washington County, Md.

Sodos, Morris, 3635 Glencairn Lane, Indianapolis, Ind., convicted on February 21.

1946, in the United States District Court, Southern District of New York.

South, Duane L., 821 N. Lincoln, Marshall, Mo., convicted on January 24, 1969, and on January 9, 1971, in the Circuit County of Saline County, Mo.

Stinchfield, William B., Sr., 23 Cottage Street, Elmwood, Mass., convicted on February 10, 1944, in the Plymouth County Superior Court, Plymouth, Mass.

Tuschel, Patrick A., R.R. No. 1, Box 60, Cato, Wis., convicted on November 11, 1975, in the County Court, Branch No. 2, Manitowoc County, Wis.

Walker, Elmer A., 3704 Bamboo Road, Portsmouth, Va., convicted on November 12, 1973, in the United States District Court, Eastern District of Virginia, Norfolk Division.

Washington, David W., 810 Bashford Lane, Apt. 311, Alexandria, Va., convicted on December 7, 1971, in the Circuit Court of Page County, Va.

White, John P., 2252 Orchard Street, Lincoln, Nebr., convicted on January 30, 1973, in the District Court for Lancaster County, Nebr.

Wilfong, Rodney E., Route No. 619, Winchester, Va., convicted on March 26, 1973, in the Winchester, Va., Circuit Court.

Williams, Danny N., P.O. Box 84, Higbee, Mo., convicted on January 6, 1972, in the 14th Judicial Circuit Court, Randolph County, Moberly, Mo.

Wimbs, Brister, 163-38 145th Road, Jamaica, N.Y., convicted on March 12, 1957, in the United States District Court, Southern District of New York.

Womack, Harold R., 3637 Wates Street, Lancaster, Tex., convicted on March 27, 1967, in the Circuit Court of Madison County, Ark.

Wood, Paul J., 2912 E. McKellips, No. 53B, Mesa, Ariz., convicted on October 29, 1969, in the Criminal Court of Shelby County, Memphis, Tenn.; and on January 14, 1971, in the Maricopa County Superior Court, Phoenix, Ariz.

Signed at Washington, D.C., this 19th day of September 1978.

JOHN G. KROGMAN,
Acting Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 78-27165 Filed 9-26-78; 8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 5]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS; CORRECTION

In FR Doc. 78-18299 appearing in the issue of Monday, July 3, 1978, on page 28883, the underwriting limitation listed for American Fidelity Fire Insurance Company of $371,000 should be corrected to read $532,000.

Questions concerning this correction notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634-5978.

Dated: September 20, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-27088 Filed 9-26-78; 8:45 am]

[4810-40]

Office of the Secretary

[Public Debt Series—No. 22-78]

TREASURY NOTES SERIES T-1980

Interest Rate

The Secretary of the Treasury announced on September 20, 1978, that the interest rate on the notes designated Series T-1980, described in Department Circular—Public Debt Series—No. 22-78, dated September 14, 1978, will be 8⅝ percent. Interest on the notes will be payable at the rate of 8⅝ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-27095 Filed 9-26-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 21]

DECISION-NOTICE

Correction

In FR Doc. 78-23368 appearing at page 37311 in the issue of Tuesday, August 22, 1978 and corrected on page 42057 in the issue of Tuesday, September 19, 1978, on page 42057, in the sixth line, "(Sub-279F)", should read "(Sub-270F)".

[7035-01]

[Notice No. 718]

ASSIGNMENT OF HEARINGS

SEPTEMBER 22, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142059 (Sub-29F), Cardinal Transport, Inc., now being assigned for pre-hearing conference, October 30, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 61264 (Sub-30F), Pilot Freight Carriers, Inc., now being assigned for pre-hearing conference, November 6, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 113855 (Sub-427F), International Transport, Inc., now being assigned for pre-hearing conference, November 20, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 19227 (Sub-M1F), Leonard Bros. Trucking Co. Inc., now being assigned for hearing November 28, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 143629 (Sub-1F), R. E. Oerman, DBA Oerman Road Service, & Towing, now being assigned for hearing November 30, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 21866 (Sub-98F), West Motor Freight, Inc., now being assigned for hearing December 5, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 139917 (Sub-5), Searail, Inc., now being assigned for hearing on November 28, 1978 (9 days), at New Orleans, LA, in a hearing room to be later designated.

MC 119226 (Sub-103F), Liquid Transport Corp., now assigned for October 17, 1978, at Chicago, IL is canceled and reassigned for November 28, 1978 (1 day), at Nashville, TN, in a hearing room to be later designated.

MC 115826 (Sub-295F), W. J. Digby, Inc., now assigned for hearing on November 29, 1978, at Denver, CO is canceled and transfered to Modified Procedure.

MC 117792 (Sub-8F), J. C. Jackson, Jr., DBA Farm Products Co., transferred to Modified Procedure.

MC 138178 (Sub-6F), Heflin Industries, Inc., transferred to modified procedure.

MC 135874 (Sub-108F), LTL Perishables, Inc., now assigned October 12, 1978, at Chicago, IL is postponed indefinitely.

MC 123115 (Sub-19F), Packer Transportation Co., now assigned for October 2, 1978, at Carson City, NV is postponed indefinitely.

MC 95350 (Sub-8F), R. W. Jones Trucking Co., now assigned October 16, 1978, at Salt Lake City, UT, is cancelled and reassigned to October 16, 1978, (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 51146 (Sub-590F), Schneider Transport, Inc., MC 114457 (Sub-379), Dart Transit Co., MC 118989 (Sub-186F), Container Transit, Inc.

MC 119726 (Sub-124F), N. A. B. Trucking Co., Inc., MC 123255 (Sub-153F), B & L Motor Freight, Inc., MC 126276 (Sub-190F), Fast Motor Service, Inc., and MC 134922 Sub-254, F. B. J. McAdams, Inc., now being assigned pre-hearing conference October 31, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 35321 (Sub-1F), Henry S. Erschen, Inc., transferred to Modified Procedure.

MC 60014 (Sub-57), Aero Trucking, Inc., now assigned for hearing on November 14, 1978, at St. Louis, MO is cancelled and application dismissed.

MC 57697 (Sub-14), Lester Smith Trucking, Inc., now assigned for hearing on December 4, 1978, at Denver, CO is cancelled and application dismissed.

MC 111812 (Sub-550), Midwest Coast Transport, Inc., now being assigned for continued hearing on November 1, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC. MC-F-13463, The Lake Shore Motor Freight Co.—Purchase—Olsen Express, Inc., and MC 13569 Sub-34 and 35, Lake Shore Motor Freight Co., now being assigned October 24, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC, and continued to November 14, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC-F-2787, Evanston Fireproof Warehouse, et al—control—Allied Van Lines, Inc., petition to reopen record was denied. MC-C-9886, Vanpac Carriers, Inc., v. Allied Van Lines, Inc., dismissed.

MC 143578 (Sub-1), Wilson Bus Co., Inc., and MC 143578 (Sub-2F), Wilson Bus Co., Inc., now being assigned for continued hearing on November 2, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27185 Filed 9-26-78; 8:45 am]

[7035-01]

[Docket No. AB-19(Sub-36)

BALTIMORE & OHIO RAILROAD CO.

Abandonment Near Willard and Sandusky—and Abandonment of Operations—Over Line Jointly Owned With Norfolk & Western Railway Co. and Trackage Rights Over Consolidated Rail Corp. Near Sandusky in Huron and Erie Counties, Ohio; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on March 1, 1978, and the decision of the Commission, Division 2, served August 8, 1978, as modified, adopted the decision of the administrative law judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.-Abandonment Goshen, 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment by the Baltimore & Ohio Railroad Co. (1) of a proton of its Sandusky Branch between valuation station 4637+00 at or near Willard, Ohio, and valuation station 6113+51.5 at or near Sandusky, a distance of approximately 29.22 miles, (2) to abandon its operations over a line jointly owned with the Norfolk & Western Railway Co. between valuation station 6116+56.6 and valuation station 6141+62 at or near Sandusky, Ohio, a distance of approximately 0.47 mile, and (3) to abandon trackage rights over Consolidated Rail Corp. line between valuation station 6113+51.5 and valuation station 6116+56.5 at or near Sandusky, Ohio, a distance of approximately 0.06 mile. A certificate of abandonment will be issued to the Baltimore & Ohio Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice (October 27, 1978), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquistion and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27190 Filed 9-26-78; 8:45 am]

[7035-01]

[Docket No. AB-19 (Sub-27)[1]

BALTIMORE & OHIO RAILROAD CO.

Abandonment Between Flora and Sangamon Junction, in Clay, Effingham, Fayette, Shelby, Christian and Sangamon Counties, Illinois; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered June 8, 1978, a finding, which is administratively final, was made by the Commission, Division 1, acting as an appellate division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 ICC 584 (1978), the present and future public convenience and necessity permit abandonment by the Baltimore & Ohio Railroad Co. of its line of railroad between Flora and Sangamon Junction, from station 3961+17 to station 3415+49, a distance of approximately 103.29 miles in Clay, Effingham, Fayette, Shelby, Christian, and Sangamon Counties, Illinois.

A certificate of abandonment will not be issued to the Baltimore & Ohio Railroad Co. based on the above-described finding of abandonment until final determination of the proceeding by the U.S. Court of Appeals. During the interim, however, the procedures specified in section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in position to issue a certificate of abandonment 30 days after publication of this notice (October 27, 1978) unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(20 It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or

[1] This proceeding is pending review in the U.S. Court of Appeals for the Seventh Circuit, entitled *Illinois Department of Transportation v. United States of America and Interstate Commerce Commission*, No. 78-2020.

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entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27188 Filed 9-26-78; 8:45 am]

[7035-01]

[Docket No. AB-18 (Sub-17)]

CHESAPEAKE & OHIO RAILWAY CO.

Abandonment of Portion of Greenbrier Branch Between North Caldwell and Durbin in Greenbrier and Pocahontas Counties, WV; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on December 15, 1977, and the decision of the Commission, served August 16, 1978, as modified, adopted the decision of the administrative law judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment by the Chesapeake & Ohio Railway Co. of a portion of its Greenbrier branch between valuation station 161+43 at or near North Caldwell and valuation station 5021+22 at or near Durbin all in Greenbrier and Pocahontas Counties, WV, a distance of approximately 92.04 miles. A certificate of abandonment will be issued to the Chesapeake & Ohio Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice (October 27, 1978), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acqisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27184 Filed 9-26-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

SEPTEMBER 20, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 9, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 32882 (Sub-E-7), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Commodities* which by reason of size or weight, require special handling or the use of special equipment, and commodities (except motor vehicles and motor vehicle cabs and bodies, and except classes A and B explosives), which do not requre special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled vehicles*, weighing 15,000 pounds or more, transported on trailers and related machinery, tools, parts, and supplies moving in connection therewith; (3) *iron and steel articles* as described in appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766; (4) *pipe and pipe fittings* (except iron and steel); and (5) *construction materials* (other than forest products, lumber, lumber products, and wood products, and commodities in bulk) between points in CO, on the one hand, and, on the other, points in OR and WA. (Gateway eliminated: Points in UT.)

MC 32882 (Sub-E-8), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Commodities*, the transportation of which, by reason of size or weight, requires the use of special equipment and *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to, and which move in the same shipment and on the same bill of lading, the transportation of the commodities authorized above,

between points in Sedgwick County, CO, on the one hand, and, on the other, points in Washoe County, NV, and points in Humboldt County, NV, on and west of U.S. Hwy 95. (Gateways eliminated: Points in UT and points in Lake County, OR.)

MC 32882 (Sub-E-9), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Machinery or contractor's equipment* when also self-propelled articles, weighting 15,000 pounds or more, transported on trailers between points in ID, in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E10), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Lumber*, (2) *building materials which are wood products or lumber products*, (3) *building materials which are also iron and steel articles* as described in appendix V to the Commission's report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and (4) *pipe and tubing* (other than iron and steel) when also building materials, between points in Sedgwick County, CO, on the one hand, and, on the other, points in Washoe County, NV, and points in Humboldt County, NV, on and west of U.S. Hwy 95. (Gateways eliminated: Lake County, OR, in parts (1) and (2), and the gateways of Lake County, OR, and UT in parts (3) and (4).)

MC 32882 (Sub-E11), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Commodities*, which by reason of size or weight require special handling or the use of special equipment and *related machinery parts and related contractor's materials and supplies* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment, between points in ID in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E12), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Iron and steel articles* as described in appendix V to the Commission's Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, between points in CO, on the one hand, and, on the other, points in Washoe, and Douglas Counties, NV, and points in Humboldt, Pershing, Storey, Churchill, Lyon, and Mineral Counties, NV, on and west of U.S. Hwy 95. (Gateways eliminated: Points in UT and OR.)

MC 32882 (Sub-E13), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Commodities* which by reason of size or weight, require special handling or the use of special equipment and *related machinery parts and related contractors' materials and supplies*, which do not require special handling or the use of special equipment when moving in the same shipments on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment, between Lookout Pass, MT, on the one hand, and, on the other, points in Prowess, Brent, Otero, Baca, Kiowa, Los Animas, Cheyenne, and Kit Carson Counties, CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E14), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Construction materials*, between points in ID in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E15), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Forest products and lumber* when also construction materials, from points in ID in and west of Owyhee, Elmore, Boise, Valley, Idaho, Clearwater, Shoshone, Bonner, and Boundary Counties, to points in CO. (Gateways eliminated: Points in UT, OR, and WA.)

MC 32882 (Sub-E16), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Commodities*, which by reason of size or weight, require special handling or the use of special equipment, and commodities (except motor vehicles and motor vehicle cabs and bodies, and classes A and B explosives), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, weighing 15,000 pounds or more, transported on trailers; (3) *iron and steel articles* as described in appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766; (4) *pipe* (except iron and steel); and (5) *construction materials*, between points in Moffat, Routt, Jackson, Larimer, Weld, Morgan, Logan, Sedgwick, and Phillips Counties, CO, and points in San Luis Obispo, Santa Barbara, Kings, Tulare, and Kern Counties, CA. (Gateways eliminated: Points in UT and OR.)

MC 32882 (Sub-E17), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Iron and steel articles* when also construction materials, between Lookout Pass, MT, on the one hand, and, on the other, points in Prowess, Brent, Otero, Baca, Kiowa, Los Animas, Cheyenne, and Kit Carson Counties, CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E18), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Pipe and tubing* (except iron and steel) when also construction materials, between points in ID in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E19), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Iron and steel articles* when also commodities which by reason of size or weight require special handling or the use of special equipment; and *related machinery parts and related contractors' materials and supplies* which are iron and steel articles when their transportation is incidental to the transportation of the commodities authorized above, between points in ID in and north of Idaho County, on the one hand, and, or the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E20), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Commodities* which by reason of size or weight, require special handling or the use of special equipment, and commodities (except motor vehicles and motor vehicle cabs and bodies, classes A and B explosives, and household goods as defined by the Commission) which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, weighing 15,000 pounds or more, transported on

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trailers; (3) *iron and steel articles,* as described in appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61MCC 209 and 766; (4) *pipe* (except iron and steel); and (5) *construction materials,* between points in CO, on the one hand, and, on the other, points in CA in and north of Monterey, Fresno, Madera, Tuolumne, and Alpine Counties. (Gateways eliminated: Points in UT and OR.)

MC 32882 (Sub-E21), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Machinery or contractors' equipment* when also commodities which by reason of size or weight require special handling or the use of special equipment and commodities (except motor vehicles and motor vehicle cabs and bodies, and classes A and B explosives), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which be reason of size or weight require special handling or the use of special equipment, between points in ID in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E22), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Iron and steel articles* when also construction materials, between points in ID in and north of Idaho County, on the one hand, and, on the other, points in CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E23), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Machinery or contractors' equipment* when also commodities which by reason of size or weight require special handling or the use of special equipment and commodities (except motor vehicles and motor vehicle cabs and bodies, and except classes A and B explosives) which do no require special handling or the use of special equipment when moving the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment, between Lookout Pass, MT, on the one hand, and, on the other, points in Prowess, Brent, Otero, Baca, Kiowa, Las Animas, Cheyenne, and Kit Carson Counties, CO. (Gateways eliminated: Points in UT and WA.)

MC 32882 (Sub-E24), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Machinery* and (2) *building materials* restricted in (1) and (2) to commodities which by reason of size or weight require special handling or the use of special equipment and commodities (except motor vehicles and motor vehicle cabs and bodies, and classes A and B explosives), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which be reason of size or weight require special handling or the use of special equipment, between points in Sedgwick County, CO, on the one hand, and, on the other, points in Washoe County, NV, and points in Humboldt County, NV, on and west of U.S. Hwy 95. (Gateways eliminated: Points in UT and Lake County, OR.)

MC 83539 (Sub-E572), filed May 31, 1977. Applicant: C & H TRANSPORTATION CO., INC., 2010 West Commerce Street, P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Heavy machinery,* between points in AL, on the one hand, and, on the other, points in CT. Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft and missiles, and parts thereof. (Gateways eliminated: Philadelphia, PA, points in VA and NC.)

MC 106644 (Sub-E49), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight, or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), (a) between OK, on the one hand, and, on the other, points in GA, NC and SC and (b) between points in OK (except points in OK east and south of a line beginning at the OK-AR State line extending west along OK Hwy 9 to junction U.S. Hwy 81, then north along U.S. Hwy. 81 to the TX-OK State line), on the one hand, and, on the other, points in FL east of the Apalachicola River. (Gateways eliminated: Points in MO on and east of U.S. Hwy 61, and points in TN.)

NOTE—The purpose of this republication is to state the correct carrier's name, territorial description, and include an omission (part c).

MC 106644 (Sub-E50), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), between points in OK, south of a line beginning at Interstate Hwy 44, then along Interstate Hwy 44 to junction Interstate Hwy 40, then west along Interstate Hwy 40 to the OK-TX State line, on the one hand, and, on the other, points in AL south of a line beginning at U.S. Hwy 55 to the AL-FL State line; (c) between points in OK (except points east and south of a line beginning at the OK-AR State line extending along OK Hwy 1 to junction OK Hwy 7, then along OK Hwy 7 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the OK-TX State line), on the one hand, and, on the other, points in AL (except points on and south of U.S. Hwy 82). (Gateways eliminated: Points in MO on and east of U.S. Hwy 61 and points in TN.)

NOTE.—The purpose of this republication is to state the correct carrier's name, territorial description, and include an omission (part c).

MC 106644 (Sub-E50), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), between points in OK, on the one hand, and, on the other, points in AL (except points south of a line beginning at the OK-MO State line extending along Interstate Hwy 44 to Interstate Hwy 40, then west along Interstate Hwy 40 to the OK-TX State line), on the one hand, and, on the other, points in AL (except points south of a line beginning at the AL-MS State line extending along U.S. Hwy 84 to junction AL Hwy 55, then south along AL Hwy 5 to the AL-FL State line); (b) between points in OK, south of a line beginning at Interstate Hwy 44, then along Interstate Hwy 44 to junction Interstate Hwy 40, then west along Interstate Hwy 40 to the OK-TX State line, on the one hand, and, on the other, points in AL south of a line beginning at U.S. Hwy 55 to the AL-FL State line; (c) between points in OK (except points east and south of a line beginning at the OK-AR State line extending along OK Hwy 1 to junction OK Hwy 7, then along OK Hwy 7 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the OK-TX State line), on the one hand, and, on the other, points in AL (except points on and south of U.S. Hwy 82). (Gateways eliminated: Points in MO on and east of U.S. Hwy 61 and points in TN.)

NOTE—The purpose of this republication is to state the correct applicant's name, insert the commodity description omitted in previous publication, and correct the territorial description.

MC 106644 (Sub-E51), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), between points in OK, on the one hand, and, on the other, points in MA, NJ and RI. (Gateways eliminated: Points in MO on and east of U.S. Hwy 61, and points in TN and a specified point in NC.)

NOTE.—The purpose of this republication is to state the correct applicant's name and add the second part of the commodity description.

MC 106644 (Sub-E54), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, servicing, and dismantling of pipelines and the stringing or picking up thereof), between points in OK, on the one hand, and, on the other, points in NY (except points in NY west of a line beginning at St. Regis, NY, and extending southwest along U.S. Hwy 11 to junction NY Hwy 58, then southeast along NY Hwy 58 to junction NY Hwy 3, then southwest along NY Hwy 3 to junction NY Hwy 26, then along NY Hwy 26 to the NY-PA State line). (Gateways eliminated: Points in MO on and east of U.S. Hwy 61, and points in TN and a specified point in NC.)

NOTE.—The purpose of this republication is to state the correct applicant's name, insert the second part of the commodity description, and correct the territorial description.

MC 107478 (Sub-E14), filed May 8, 1978. Applicant: OLD DOMINION FREIGHT LINE, P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, Esq., 1000 16th Street NW., Washington, DC 20036. *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and those injurious or contaminating to other lading), between all points within 50 miles of Wilson, NC, on and east of a line extending from Lewjston, NC, along NC Hwy 11 to Greenville, NC, then along U.S. Hwy 13 to junction NC Hwy 242 near Spivey's Corner, NC, on the one hand, and, on the other, points in GA. (Gateway eliminated: Wilmington, NC.)

MC 107478 (Sub-E15), filed May 8, 1978. Applicant: OLD DOMINION FREIGHT LINE, P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, Esq., 1000 16th Street NW., Washington, DC 20036. *General commodities* (except those of unusual value, classes A and B explosives, commodities requiring special equipment, household goods as defined by the Commission, and those injurious or contaminating to other lading), between all points within 50 miles of Wilson, NC, on and east of a line extending from Spring Hill, NC, along U.S. Hwy 258 through Tarboro, NC, to junction NC Hwy 222 at Fountain NC, then along NC Hwy 222 through Saratoga, NC, to junction U.S. Hwy 117 at Fremont, NC, then along U.S. Hwy 117 through Goldsboro, NC, to junction U.S. Hwy 13, then along U.S. Hwy 13 through West Cross Roads (Spivey's Corner), NC, to

lanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), between points in OK, on the one hand, and, on the other, points in OK east and south of a line beginning at the OK Hwy 1, then west along OK Hwy 1 to junction OK Hwy 7, then west along OK Hwy 7 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to the OK-TX State line), on the one hand, and, on the other, points in VA (except points in VA west of U.S. Hwy 52). (Gateways eliminated: Points in MO and east of U.S. Hwy 61, points in TN and specified points in NC.)

NOTE—The purpose of this republication is to state the correct commodity, applicant's name and territorial description.

MC 106644 (Sub-E52), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (except in (1) and (2) above, pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, and servicing and dismantling of pipelines and the stringing or picking up thereof), between points in OK, on the one hand, and, on the other, points in MD. (Gateways eliminated: Points in MO and east of U.S. Hwy 61, and points in TN and NC.)

NOTE—The purpose of this republication is to state the correct applicant's name, add the second part of the commodity description and correct the territorial description.

MC 106644 (Sub-E53), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Commodities,* the transportation of which, because of size, weight or shape require the use of special equipment or handling, (2) *self-propelled articles,* each weighing 15,000 pounds or more

junction I Hwy 95, on the one hand, and, on the other, all points on and south of a line in GA extending from the GA-AL State line at Cedartown, GA, along U.S. Hwy 278 to junction GA Hwy 113 at Rockmart, GA, then along GA Hwy 113 to junction GA Hwy 293 at Cartersville, GA, then along GA Hwy 293 to junction GA Hwy 92 at Acworth, GA, then along GA Hwy 92 to juncton GA Hwy 120, then along GA Hwy 120 to Duluth, GA, through Alpharetta, GA, then along GA Hwy 120 to junction U.S. Hwy 29 at Lawrenceville, GA, then along U.S. Hwy 29 to junction U.S. Hwy 78 at Athens, GA, then along U.S. Hwy 78 to junction GA Hwy 17 at Thomson, GA, then along GA Hwy 17 to junction GA Hwy 80 at Wrens, GA, then along GA Hwy 80 to junction U.S. Hwy 25 at Waynesboro, GA, then along U.S. Hwy 25 to junction GA Hwy 21 at Millen, GA, then along GA Hwy 21 to junction U.S. Hwy 301 at Sylvania, GA, then along U.S. Hwy 301 to the GA-SC State line. (Gateway eliminated: Wilmington, NC.)

MC 112304 (Sub-E628), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in IL. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E629), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Porage Counties, OH, to points in WI. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E630), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in AL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E632), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Portage, Mahoning, Trumbull, Ashtabula, Lake, and Geauga Counties, OH, to points in FL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E633), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in MS. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E634), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in LA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E635), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in AR. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E636), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in MO. Limitation: The certificate in MC 112304 (Sub-65) shall be of no futher force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E637), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representatives: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in IA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E638), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in AL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E640), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH to points in LA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E641), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH to points in MN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E642), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Lucas, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie, Huron, and Lorain Counties, OH, to points in WI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E643), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Wyandot, Crawford, Richland, Ashland, Medina, Wayne, Marion, Morrow, Knox, Holmes, Delaware, Franklin, Licking, and Coshocton Counties, OH, to points in AR. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E644), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Wyandot, Crawford, Richland, Ashland, Medina, Wayne, Marion, Morrow, Knox, Holmes, Delaware, Franklin, Licking, and Coshocton Counties, OH, to points in MO. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E645), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Wyandot, Crawford, Richland, Ashland, Medina, Wayne, Marion, Morrow, Knox, Holmes, Delaware, Franklin, Licking, and Coshocton Counties, OH, to points in IA. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E646), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Wyandot, Crawford, Richland, Ashland, Medina, Wayne, Marion, Morrow, Knox, Holmes, Delaware, Franklin, Licking, and Coshocton Counties, OH, to points in MN. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E647), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Wyandot, Crawford, Richland, Ashland, Medina, Wayne, Marion, Morrow, Knox, Holmes, Delaware, Franklin, Licking, and Coshocton Counties, OH, to points in WI. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 115826 (Sub-E51), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from those points in CO on, east and north of a line beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to the western boundary of Larimer County, then along the western boundaries of Larimer and Boulder Counties to the northern boundary of Gilpin County to junction CO Hwy 119, then along CO Hwy 119 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the western boundary of Jefferson County, then along the western and southern boundaries of Jefferson County and the southern bondary of Douglas County to CO Hwy 67, then along CO Hwy 67 to junction U.S. Hwy 24 at Woodland Park, then along U.S. Hwy 24 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Pueblo, then east along U.S. Hwy 50 to the CO-KS State line, to those points in CA on and west of a line beginning at the U.S.-Mexico International Boundary line and extending along CA Hwy 111, then along CA Hwy 111 to Indio, then along I Hwy 10 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 66, then along U.S. Hwy 66 to Barstow, then along CA Hwy 58 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the NV-CA State line. (Gateway eliminated: Denver, CO.)

MC 115826 (Sub-E52), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Fresh and frozen meats, fish, eggs, butter, fruits* (except bananas) *and vegetables, frozen and dressed poultry and processed eggs*, between points within 100 miles of Lubbock, TX, including Lubbock, TX, on the one hand, and, on the other, points on and north of a line beginning at the UT-CO State line, then along U.S. Hwy 6 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, then along CO Hwy 71 to junction I Hwy 76, then along I Hwy 76 to the CO-NE State line.

RESTRICTION.—The authority granted in the next preceding paragraph to transport fresh and frozen meats and butter is restricted to the transportation of traffic which originates at, or is destined to, points within 100 miles of Lubbock, TX, including Lubbock, TX, on the one hand, and, on the other, originates at or is destined to points in CO. (Gateway eliminated: Boulder, CO and points within 50 miles thereof.)

MC 115826 (Sub-E76), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Frozen fruits and vegetables*, from points in CO on and north and west of a line beginning at the CO-UT State line, and extending along U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 50 at Grand Junction, then along U.S. Hwy 50 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction U.S. Hwy 24 at Limon, then along CO Hwy 71 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6 at or near Sterling, then along U.S. Hwy 6 to junction U.S. Hwy 138, then along U.S. Hwy 138 to junction CO Hwy 113, then along CO Hwy 113 to the NE-CO State line. (Gateway eliminated: Denver, CO.)

MC 115826 (Sub-E77), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Frozen fruits and vegetables*, from points in CO on and north and west of aline beginning at the CO-UT State line, and extending along U.S. Hwy 6, then along U.S. Hwy 6 to junctin U.S. Hwy 50, then along U.S. Hwy 50 to junction with the eastern boundary of Chaffee County, then along the eastern boundary of Chaffee County to junction

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U.S. Hwy 24, then along U.S. Hwy 24 to Colorado Springs, then along U.S. Hwy 24 to Limon, then along CO Hwy 71 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6 at or near Sterling, then along U.S. Hwy 6 to junction U.S. Hwy 138, then along U.S. Hwy 138 to junction CO Hwy 113, then along CO Hwy 113 to the NE-CO State line, to Austin, Dallas, Houston, Longview, and San Antonio, TX. (Gateway eliminated: Denver, CO.)

MC 115826 (Sub-E79), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza and pizza pie ingredients,* from those points in CO beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to Boulder, then along CO Hwy 93 to Golden, then along CO Hwy 26 to junction Jefferson County Road 145, then along Jefferson County Road 145 to junction CO Hwy 74, then along CO Hwy 74 to junction CO Hwy 8, then along CO Hwy 8 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 75, then along CO Hwy 75 to junction CO Hwy 85, then along CO Hwy 85 to junction CO Hwy 470, then along CO Hwy 470 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, then along CO Hwy 71, to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6 near Sterling, then along U.S. Hwy 6 to junction CO Hwy 14, then along CO Hwy 14 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-WY State line, to points in OK on and east and south of a line beginning at the OK-MO State line, and extending along I Hwy 44, then along I Hwy 44 to junction U.S. Hwy 66, then along U.S. Hwy 66 to Oklahoma City, then along U.S. Hwy 62 to the OK-TX State line; those points in TX on and south and west of a line beginning at the TX-OK State line, and extending along U.S. Hwy 62 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the TX-NM State line (except El Paso, TX); and points in NM on and south and west of a line beginning at the TX-NM State line, and extending along U.S. Hwy 66, then along U.S. Hwy 66 to junction NM Hwy 39, then along NM Hwy 39 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction I Hwy 25, then along I Hwy 25 to the NM-CO State line, except points in NM on U.S. Hwy 85. (Gateway eliminated: Denver, CO.)

MC 1152826 (Sub-E80), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, suite 501, 1730 M Street, NW., Washington, DC 20036. *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza and pizza pie ingredients,* from points in CO beginning at the CO-WY State line, and extending along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to Boulder, then along CO Hwy 93 to Golden, then along CO Hwy 26 to junction Jefferson County Road 145, then along Jefferson County Road 145 to junction CO Hwy 74, then along CO Hwy 74 to junction CO Hwy 8, then along CO Hwy 8 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 75, then along CO Hwy 75 to junction CO Hwy 85, then along CO Hwy 85 to junction CO Hwy 470, then along CO Hwy 470 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, then along CO Hwy 71, to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6 near Sterling, then along U.S. Hwy 6 to junction CO Hwy 14, then along CO Hwy 14 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-WY State line, to points in OK on and east and south of a line beginning at the OK-MO State line, and extending along I Hwy 44, then along I Hwy 44 to junction U.S. Hwy 66, then along U.S. Hwy 66 to Oklahoma City, then along U.S. Hwy 62 to the OK-TX State line; those points in TX on and south and west of a line beginning at the TX-OK State line, and extending along U.S. Hwy 62 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the TX-NM State line (except El Paso, TX); and points in NM on and south and west of a line beginning at the TX-NM State line, and extending along U.S. Hwy 66, then along U.S. Hwy 66 to junction NM Hwy 39, then along NM Hwy 39 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction I Hwy 25, then along I Hwy 25 to the NM-CO State line, except points in NM on U.S. Hwy 85. (Gateway eliminated: Denver, CO.)

MC 1152826 (Sub-E81), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, suite 501, 1730 M Street, NW., Washington, DC 20036. *Frozen fruits, frozen vegetables, and frozen fish,* in packages, when moving in the same vehicle with frozen fruits and frozen vegetables, from points in CA on and west and south of a line beginning at CA-NV State line, and extending along I Hwy 80, then along I Hwy 80 to junction CA Hwy 20, then along CA Hwy 20 to junction CA Hwy 70, then along CA Hwy 70 to junction CA Hwy 149, then along CA Hwy 149 to junction CA Hwy 99, then along CA Hwy 36, then along CA Hwy 36 to junction I Hwy 5, near Red Bluff, CA, then along I Hwy 5 to the CA-OR State line, to points in CO within 50 miles of Boulder, CO, including Boulder, which are east and south of a line beginning at the junction of the 50-mile radius of Boulder and U.S. Hwy 85 near Castle Rock, CO, then along U.S. Hwy 85 to junction U.S. Hwy 6 then along U.S. Hwy 6, to junction CO Hwy 93 near Golden, CO, then along CO Hwy 93 to junction Co Hwy 119, then along CO Hwy 119 to junction U.S. Hwy 287, then along U.S. Hwy 287 to Fort Collins, CO, then along CO Hwy 14 to junction with the 50-mile radius of Boulder, CO. (Gateway eliminated: Pueblo, CO.)

MC 115826 (Sub-E82), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Meat used as ingredients of animal food, fish and poultry, and fish and poultry byproduct,* used as ingredients of animal food, in vehicles equipped with mechanical refrigeration, from points in CO on and east of a line beginning at the CO-NM State line, and extended along U.S. Hwy 285, then along U.S. Hwy 285 to junction with the western boundary of Jefferson County, then along the western boundary of Jefferson County to junction with the northern boundary of Jefferson County, then along the northern boundary of Jefferson County to junction CO Hwy 93, then along CO Hwy 93 to Boulder, CO, then along CO Hwy 119 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction CO Hwy 14, then along CO Hwy 14 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the CO-WY State line, to Logan, UT. (Gateway eliminated: Greeley, CO, a point within 50 miles of Boulder, CO.)

MC 115826 (Sub-E84), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza and pizza pie ingredients,* from points in CO on and north and west of a line beginning at the CO-UT State line and extending along U.S. Hwy 6 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-WY State line, to points in OK; those points in TX on and east of a line beginning at the U.S.-Mexico International Boundary line at Presidio, TX, then along U.S. Hwy 67 to junction

U.S. Hwy 385, then along U.S. Hwy 385 to junction U.S. 62, then along U.S. Hwy 62 to NM-TX State line; and those points in NM on and east and north of a line beginning at TX-NM State line, and extending along U.S. Hwy 62 to junction NM Hwy 18, then along NM Hwy 18 to Tucumcari, then along U.S. Hwy 54 to junction NM Hwy 39, then along NM Hwy 39 to junction U.S. Hwy 56 then along U.S. Hwy 56 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the NM-CO State line, except those points in NM on U.S. Hwy 85. (Gateway eleminated: Denver, CO.)

MC 123407 (Sub-E356), filed June 18, 1978. Applicant: SAWER TRANSPORT, INC., South Haven Square, U.S. Hwy 6 Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above) *Building materials* (except commodities in bulk and commodities requiring special equipment) In containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between TN points on and west of U.S. Hwy 51, on the one hand, and, on the other, points in the Upper Peninsula of MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E357), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between KY points on and west of I Hwy 65, on the one hand, and, on the other points in the Upper Peninsula of MI points west of U.S. 41. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E358), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in MI, on the one hand, and, on the other, points in and east of Caddo, DeSoto, Natchitocher, Radider, Evangeline, St. Landry, Iberbille, West Baton Rouge, Baton Rouge, Assumption and Terrebonne Parishes, LA. (Gateway eliminated: Warren, IL.).

MC 123407 (Sub-E359), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in LA, on the one hand, and, on the other, points in MI in or north of Berrien, Van Buren, Alleyon, Kent, Montcalm, Isabell, Midland, Bay, and Huron Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E360), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between MI north of Interstate Hwy 94 (except Berrien and Van Burien Counties), on the one hand, and, on the other, points in AR in and west or south of Benton, Washington, Franklin, Johnson, Pope, Yell, Perry, Pulaski, Jefferson, Lincoln, Drew, and Chicot Counties. (Gateway elimainated: Warren, IL.)

MC 123407 (Sub-E361), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in AR, on the one hand, and, on the other; points in the Upper Peninsula of MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E362), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in Carr, Jackson, Clay, Platte, Buchanan, Clinton, Holt, Andrew, DeKalb, Atchison, Nodaway, Gentray, Worth, Harrison, Grundy, Mercer, Putnam, Sullivan, Adair, Schuyler, Cotland, Knox, Lewis, and Clark Counties, MO, on the one hand, and, on the other, points in MI, PA and Lucar, Wood, Seneca, Sandusky, Ottawa, Richland, Huron, Erie, Lorain, Medina, Ashland, Wayne, Stark, Summit, Cuyahoga, Carroll, Jefferson, Columbiana, Mahoning, Portage, Trumbull, Geauga, Lake, and Ashtabula Counties, OH. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E363), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in TX on and west of a line beginning at the Gulf of Mexico at Port Lavaco extending along U.S. Hwy 87 to Cuero to junction U.S. Hwy 183, then along U.S. Hwy 183 to Lampasas, then along U.S. Hwy 281 to the OK-TX State line, on the one hand, and, on the other, PA points in and north of the counties of Lawrence, Butler, Armstrong, Indiana, Clearfield, Centre, Mifflin, Snyder, Northumberland, Columbia, Luzerne, Carbon, and Monroe. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E364), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in TX on and west of U.S. Hwy 75, on the one hand, and, on the other, points in Lucas, Ottawa, Erie, Lorain, Cuyahoga, Lake, and Ashtabula Counties, OH. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E365), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in the Lower Peninsula of MI, on the one hand, and, on the other, points in TX on and west and south of a line beginning at the OK-TX State line extending along U.S. Hwy 75 to Huntsville, TX, then along U.S. Hwy 190 to the TX-LA State line. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E366), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities

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requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in TX, on the one hand, and, on the other, points in the Upper Peninsula of MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E367), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in TX on and west of a line beginnig at the TX-OK State line extending along U.S. Hwy 75 to junction TX Hwy 105, at or near Conroe, TX, then east along TX Hwy 105 to the TX-LA State line, on the one hand, and, on the other, points in IN on or north of U.S. Hwy 12. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E368), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in ID, on the one hand, and, on the other, points in IN, OH, and PA. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E369), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in OR (except Wallowa and Union Counties), on the one hand, and, on the other, points in MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E370), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in WA, on the one hand, and, on the other, points in MI in, east and south of Dickinson and Marquette Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E371), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in WA and OR, on the one hand, and, on the other, IN, OH and PA. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E372), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in ID on the one hand, and, on the other, points in MI in and east and south of Dickinson, Menominee, Delta, Schoolcraft, and Luce Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E373), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in IN in and north of Warren, Fountain, Montgomery, Boone, Marion, Shelby, Decatur and Franklin Counties, on the one hand, and, on the other, points in CO in and north and west of Las Animas, Otero, Crowley, Lincoln and Kit Carson Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E374), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in AZ on and south and west of a line beginning at the AZ-NM State line extending along U.S. Hwy 60 to junction U.S. Hwy 180, then along U.S. Hwy 180 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the AZ-UT State line, on the one hand, and, on the other, points in IN on and north of a line beginning at the IN-IL State line extending along U.S. Hwy 50 to Shoals, then southeast along U.S. Hwy 50 to the IN-KY State line. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E375), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in CO, on the one hand, and, on the other, points in OH and PA. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E376), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in AZ, on the one hand, and, on the other, points in OH and PA. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E377), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in MI, on the one hand, and, on the other, points in CA, NV, UT, CO, and AZ. (Gateway eliminated: Warren IL.)

MC 123407 (Sub-E 378), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in MI in and east of Marquette and Dickinson Counties, on the one hand, and, on the other, points in WY. (Gateway eliminated: Warren IL.)

MC 123407 (Sub-E 379), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in OK in and west of Washington, Tulsa, Omulgee, Ofurkee, Pontotoc, Johnson, and Choctaw Counties, OK, on the one hand, and, on the other, points in OH in and north of Defronce, Henry, Wood, Sandusky, Huron, Lorain, Medina, Summit, Portage, and Mahoning Counties, OH. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E 380), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in NM west of I Hwy 25, on the one hand, and, on the other, points in IN on and north of I Hwy 74. (Gateway eliminated: Warren IL.)

MC 123407 (Sub-E381), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in MI, on the one hand, and, on the other, points in KS and NM. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E382), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in KS, on the one hand, and, on the other, points in IN on and north of U.S. Hwy 6 and points in OH on and north of a line beginning at the IN-OH State line extending along U.S. Hwy 6 to Norwalk, then along OH Hwy 18 to Akron, then along I Hwy 76 to the OH-PA State line. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E383), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in OK on and west of I Hwy 35, on the one hand, and, on the other, points in IN on and north of U.S. Hwy 6. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E385), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building Materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in OK, on the hand, and, on the other, points in MI in and north of Ottawa, Kent, Barry, Calhoun, Jackson, Washtenaw, and Wayne Counties, MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E386), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in KS, on the one hand, and, on the other, points in PA in and north of Lawrence, Mercer, Vernongo, Clarion, Jefferson, Clearfield, Centre, Mifflin, Junito, Perry, Dauphin, Lebanon, Berks, Chester, Delaware, Philadelphia, and Bucks Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E387), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings, complete, knocked down or in sections*, including all component parts, equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from Jacksonville, FL, to points in WY, except Alabany and Laramie Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E388), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Miami and Tampa, FL, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E389), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Mobile, AL, to points in Crook, Weston, Niobrara, Converse, Campbell, Sheridan, Big Horn, Washakie, Natrona, Fremont, Hot Springs, and Park Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E390), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square. U.S. Hwy 6, Valparaiso, IN 46383 Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-

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rail, or by air, from Chattanooga, TN, to points in WY, except Laramie, Goshen, Platte, Albany, Carbon, and Sweetwater Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E391), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Memphis, TN, to points in Crook, Weston, Campbell, Johnson, Sheridan, Big Horn, Washakie, and Park Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E392), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Paducah, KY, to points in Crook, Weston, Campbell, Johnson, Washakie, Hot Springs, Park, Big Horn, and Sheridan Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E393), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Covington, KY, to points in WY except those points in Laramie, Goshen, Albany, and Platte Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E394), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Louisville, KY, to points in WY except those points in Albany, Carbon, Laramie, Goshen, Platte, and Niobrara Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E395), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Owensboro, KY, to points in Park, Teton, Fremont, Natrona, Converse, Niobrara, Weston, Crook, Campbell, Johnson, Sheridan, Washakie, Hot Springs, and Big Horn Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E396), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in MI, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E398), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in CO and NM, to points in MI on and north of MI Hwy 55. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E399), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in OR, to points in the Upper Peninsula of MI on and east of Interstate Hwy 75. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E400), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in IN, to points in Park, Teton, Hot Springs, Washakie, Big Horn, Sheridan, Johnson, Campbell, Crook, and Weston Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E397), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in WA, to points in the Upper Peninsula of MI on and east of Interstate Hwy 75. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E401), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA, to points in the Upper Peninsula of MI except those in Gogebic County. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E402), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in ID except those in Boundary and Bonner Counties, to points in the Upper Peninsula of MI on and east of I hwy 75. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E403), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NV, to points in the Upper Peninsula of MI except points in Houghton, Ontonagon, Gogebic and Keweenaw Counties. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E404), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AZ, to points in the Upper Peninsula of MI. (Gateway eliminated: Facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27181 Filed 9-26-78; 8:45 am]

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[Notice No. 173]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

September 27, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. On copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 107107 (Sub-468TA) filed July 21, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC. (a Florida corporation), 12805 Northwest 42nd Avenue, P.O. Box 425, Opa-Locka, FL 33054. Representative: Ford W. Sewell, 12804 Northwest 42nd Avenue, Opa Locka, FL 33054. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perishable foods and foodstuff*, in vehicles equipped with mechanical refrigeration—maintain 35 degrees—do not freeze, from Baltimore, MD, to points in FL, GA, NC, SC, and TX for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Manor Hill Food Corp., 1200 Bernard Drive, Baltimore, MD 21223. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 112617 (Sub-401TA) filed July 21, 1978. Applicant: LIQUID TRANSPORTER, INC. Kentucky corporation), P.O. Box 21395, 1292 Fern Valley Road, Louisville, KY 40221. Representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum pitch*, in bulk, in tank vehicles, from refineries at or near Cathlettsburg, KY to AL, CT, DE, FL, GA, LA, MD, MA, MN, MS, MO, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WI, DC, OH, WV, IL, IN, MI, AR, and IA for 180 days. Supporting shipper: Ashland Petroleum Co., Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 U.S. Post Office Building, Louisville, KY 40202.

MC 114273 (Sub-416TA), filed July 21, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard corrugated boxes*, from Philadelphia, PA, to St. Paris, OH, for 180 days. Supporting shipper: Kardon Industries, 1201 Chestnut Street, Philadelphia, PA 19107. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114273 (Sub-417TA), filed July 21, 1978. Applicant: CRST, INC., P.O.

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Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives* (except in bulk), in vehicles equipped with mechanically heated and/or refrigeration from Camden, NJ, to points in IL, IN, IA, KS, MN, MO, ND, SD, OK, and WI, for 180 days. Supporting shipper: General Felt Industries, Park 80 West, Saddlebrook, NJ 07662. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114273 (Sub-418TA), filed July 21, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, nonfrozen (except in bulk, in tank vehicles), from Danbury and New Milford, CT, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Nestle Co., 100 BLoomingdale Avenue, White Plains, NY 10605. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114273 (Sub-437TA), filed July 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk, in tank vehicles), from Grand Rapids and Lake Odessa, MI, to Bettendorf, IA; Bonner Springs, KS; Chicago IL; Cumberland County, NJ; Kansas City, KS, and Richmond, VA for 180 days. Supporting shipper: Seabrook Foods, Inc., P.O. Box 500, Seabrook, NJ 08302. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 117068 (Sub-98TA), filed July 21, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., (Minnesota corporation), North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig, P.O. Box 6418, Rochester, MN 55901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock feeding systems, livestock feed bunkers, forage metering devices, animal waste spreader tanks, and parts and accessories*, for the above named commodities, over irregular routes, from De Kalb and Eureka, IL, and Elkhorn, WI, to points in MI, IN, KY, TN, MS, AL, FL, GA, SC, NC, VA, WV, MD, VT, NH, ME, and OH (except OH counties of Ashtabula, Belmont, Columbiana, Jefferson, Mahoning, Trumbull and Monroe) for 180 days. Supporting shipper: A. O. Smith Corp., P.O. Box 584, Milwaukee, WI 53201. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South Fourth Street and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 117589 (Sub-51TA), filed July 21, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and materials and supplies*, incidental to the brewing and packaging of malt beverages, in vehicles equipped with mechanical refrigeration, between Jefferson County, CO, on the one hand, and, on the other, points in WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Co., Golden, CO 80401. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, ICC, 858 Federal Building, Seattle, WA 98174.

MC 124078 (Sub-839TA), filed July 21, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay slurry*, in bulk, in tank vehicles, from points in Jefferson and Twiggs Counties, GA, and Twiggs County, GA and Aiken County, SC, to points in MA and ME, for 180 days. Supporting shipper: J. M. Huber Corp., Thornall Street, Edison NJ 08817 (F. C. Atherton). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 125433 (Sub-162TA), filed July 21, 1978. Applicant: F-B TRUCK LINE CO. (Utah corporation), 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite in 100-pound bags on pallets*, from the facilities of Dresser Minerals at Greybull, WY, to KS, OK, LA, and TX for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days for operating authority. Supporting shipper: Dresser Industries, Inc., P.O. Box 6504, Houston, TX 77005 (Steve Anders, Supervisor of Domestic Traffic, Oilfield Products), Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 125689 (Sub-1TA), filed July 21, 1978. Applicant: BEATTYVILLE TRANSPORT, INC. (a Kentucky corporation), P.O. Box 357, Catlettsburg, KY 41129. Representative: Mr. Oakie G. Ford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt*, in packages, from plantsite of Ashland Petroleum Co., at Leach, KY, to points in IN, MD, OH, PA, TN, VA, and WV for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ashland Petroleum Co., Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. Send protests to: (Mrs.) Linda Sypher, Interstate Commerce Commission, 426 U.S. Post Office Bldg., Louisville, KY 40202.

MC 126844 (Sub-52TA), filed July 21, 1978. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities utilized by Geo A. Hormel & Co. at Ottumwa, IA, to Wilkes-Barre, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: John P. Lynn, Transportation Specialists, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 133841 (Sub-5TA), filed July 21, 1978. Applicant: DAN BARCLAY, INC. (NJ corporation), P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water and air pollution control equipment and materials, equipment and supplies used in the manufacture and installation of the foregoing* (except commodities in bulk), between the facilities of Belco Polution Control Corp., Fairfield, NJ, on the one hand, and, on the other, points in the US (except AK & HI) for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Belco Polution Control Inc., 31 Fairfield Road, Fairfield, NJ 07006. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 135649 (Sub-3TA), filed July 21, 1978. Applicant: FRIEDERICH TRUCK SERVICE, INC., P.O. Box 86, 626 East State Street, O'Fallon, IL 62269. Representative: Ernest A. Brooks, II, Attorney, 1301 Ambassador Bldg., St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* such as are dealt in by retail discount stores, between the facilities of Venture Stores, Inc., located in Chicago, IL, on the one hand, and, on the other, Merrillville, IN, and Davenport, IA, under a continuing contract, or contracts with Venture Stores, Inc., a division of May Department Stores Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thomas P. Tanner, Director of Transportation, Venture Stores, Inc., a division of May Department Stores Co., 615 Northwest Plaza, St. Ann, MO 63074. Send Protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 136886 (Sub-3TA), filed July 21, 1978. Applicant: MASTERSON TRANSFER CO., INC. (NY CORP.), 3000 Pennsylvania Avenue, West, Warren, PA 16365. Representative: Kenneth T. Johnson and Ronald W. Malin, Attorney at Law, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchasdise* as dealt in by mail order houses and *such equipment, materials and supplies* used in the conduct of such business (except commodities in bulk, clothing, advertising materials, and shipping supplies) between points in the United States east of MN, IA, MO, AR, and LA (except points in PA and points in Chautauqua, Erie, and Cattaraugus Counties, NY) to points in Warren County, PA under a continuing contract or contracts with New Process Co. of Warren County, PA for 180 days. Supporting shipper: New Process Co., 220 Hickory Street, Warren, PA 16366. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 13947 (Sub-5TA), filed July 21, 1978. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING CO., P.O. Box 35, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *canned and preserved foodstuffs*, and (2) *ingredients and supplies* used in the manufacture of canned and preserved foodstuffs, from the facilities of Campbell Soup Co. at or near Worthington, MN, to the facilities of Campbell Soup (Texas) Inc. at or near Paris, TX under a continuing contract or contracts with Campbell Soup (Texas) Inc., for 180 days. Supporting shipper: Campbell Soup Co., 115 9th Street, Worthington, MN 56187. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140635 (Sub-13TA), filed July 21, 1978. Applicant: ADAMS LINES, INC., 2619 "N" Street, Omaha, NE 68107. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat* from the facilities of Palamera Beef Corp., Omaha, NE, to Wichita, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Palamera Beef Corp., 25th and Z Streets, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140869 (Sub-9TA), filed July 21, 1978. Applicant: KERRI TRUCKING INC., 130 Route 17, South, Mahway, NJ 07430. Representative: John Imbimbo, 50 Orange Terrace, Middletown, NY 10940. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal swimming pools and cabinets* from Carlstadt, NJ, to Tulsa, OK, Oklahoma City, OK, Akron, OH, Los Angeles, CA, Greenwood, IN, Elk Grove Village, IL, Columbus, OH, Harrisburg, PA, Syracuse, NY, Penn Hills, PA, Great Barrington, MA, Glen Burnie, MD, Springfield, IL, Detroit, MI, Cincinnati, OH, Garland City, TX, Atlanta, GA, Kansas City, MO, Washington, DC, Charleston, WV, Boston, MA and Covina, CA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delta Industries, Inc., 99 Kero Road, Carlstadt, NJ 07072. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 141532 (Sub-31TA), filed July 21, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., P.O. Box 4186, Federal Way, WA 98003. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum pigs, ingots, billets, and slabs*, from The Dalles, OR, to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Martin-Marietta Aluminum, Inc., 6801 Rockledge Drive, Bethesda, MD 20034. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 142916 (Sub-1TA), filed July 21, 1978. Applicant: WILLIAM DALE GAINES, Bowen, IL 62316. Representative: William Dale Gaines (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel*, from Gary, IN, to Knapheide Manufacturing Co., Quincy, IL, Interstate 80 to Interstate 55 to State Route 136 to State Route 24 into Quincy, IL for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arthur C. Cox, Jr., Secretary-Treasurer, The Knapheide Mfg. Co., 436 South 6th Street, Quincy, IL 62301. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 143233 (Sub-2TA), filed July 21, 1978. Applicant: DENNY TRANSPORT, INC. (INDIANA CORP.), 3435 Industrial Parkway, Jeffersonville, IN 47130. Representative: C. Edward Glasscock, 1600 Citizens Plaza, Louisville, KY 40202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Part I—Dry milk products* from the facilities of DMI, Inc. at Louisville, KY, to points and places in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, IA, MD, KS, LA, MA, MI, MS, MO, NE, NH, RI, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WV.

and WI: *Part II—soy flour, corn flour, and milk powder,* when transported with nonexempt commodities, from points and places in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, IA, MD, KS, LA, MA, MI, MS, MO, NE, NH, RI, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WV, and WI, to the facilities of DMI, Inc. at Louisville, KY for 180 days. Supporting shipper: DMI, Inc., 4820 Allmond Avenue, Louisville, KY 40214. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indian- apolis, IN 46204.

MC 144247 (Sub-2TA), filed July 21, 1978. Applicant: DOWNEY ENTERPRISES, INC., 31706 Coast Highway, South Laguna, CA 92677. Representative: Gregory L. Parkin, 2500 West Orangethorpe, Suite U, Fullerton, CA 92633. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Merchandise* as is dealt in by retail, wholesale, and chain grocery stores, from Cincinnati, OH; Kansas City, MO; Jackson, TN; Chicago, IL; and Momence, IL, to points in AZ, CA, OR, WA, ID, UT, and CO, for 180 days. Supporting shipper: The Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144326 (Sub-2TA), filed July 21, 1978. Applicant: RICHARDSON TRUCKING, INC. (COLORADO CORP.), 330 East 8th Street, P.O. Box 967, Greeley, CO 80631. Representative: Wm. Fred Cantonwine (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials* from Jefferson County, CO to points in IA and MO for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Co., Golden, CO 80401. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 144907 (Sub-1TA), filed July 21, 1978. Applicant: WILSON'S MILK HAULING, INC., 4971 Pleasant Ave., Hamilton, OH 45014. Representative: James R. Stiverson, Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Molasses,* in bulk, in tank vehicles, from Cincinnati, OH, to points in IL, IN, KY, MI, OH, PA, and WV for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Molasses Co., Willow Grove, PA 19090. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145089 (Sub-1TA), filed July 21, 1978. Applicant: PORTER BROTHERS, INC., Box 53, Route 40, Brownsville, OH 43721. Representative: Jerry B. Sellman, Esq., Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Oil and gas well tubular goods, accessories, and supplies* (except commodities in bulk), between points in Muskingum County, OH, and points in PA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Buckeye Supply Co., 18 Harrison Street, Zanesville, OH 43701. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27186 Filed 9-26-78; 8:45 am]

[7035-01]

[Notice No. 172]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 27, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 1263 (Sub-29TA), filed July 19, 1978. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris Avenue, Trenton, MO 64683. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Metal cans and car. ends,* from Mount Vernon and Carthage, MO to Kansas City, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carnation Co., 5045 Wilshire Boulevard, Los Angeles, CA 90036. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 2900 (Sub-338TA), filed July 3, 1978, and published in the FEDERAL REGISTER issue of September 1, 1978, and republished as corrected this issue. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32209. Representative: John Carter (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers and accessories,* from Streator, IL, to points in the State of Michigan, restricted to the transportation of shipments originating at the named origin and destined to points in the named State, for 180 days. Supporting shipper: Owens-Illinois, Inc., Box 1035, Toledo, OH 43666. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202. The purpose of this republication is to show irregular routes in lieu of regular routes as previously published.

MC 53841 (Sub-11TA), filed July 19, 1978. Applicant: W. H. CHRISTIE & SONS, INC., a New York corporation, Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Attorney at Law, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products and related advertising materials* when moving in mixed shipments with the above specified commodities (except commodities in bulk) from the facilities of Witco Chemical Corp. located in Bradford and Petrolia, PA to points in IL, IN and MI, for 180 days. Supporting shipper: Witco Chemical Corp., 77 North Kendall Avenue, Bradford, PA 16701. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 61977 (Sub-10TA), filed July 19, 1978. Applicant: ZERLE TRUCKING CO., a Ohio corporation, 2400 Eighth Avenue, P.O. Box 5628, Huntington, WV 25703. Representative: John M. Friedman,, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants and accessories* used in the installation thereof, from the Clow Corp. at Buckhannon, WV to points in CT, IL, IN, MD, MA, NY, OH, PA, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michael G. Joswiak, Manager, Rates and Services, Clow Corp. 1211 W. 22nd Street, Oak Brook, IL 60521. Send protests to: Miss Francis A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 103066 (Sub-75TA), filed July 19, 1978. Applicant: STONE TRUCKING CO., 4927 S. Tacoma, P.O. Box 2014, Tulsa, OK 74101. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 N. Classen, Oklahoma City, OK 73106. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk) from the facilities utilized by John Morrell & Co., at or near Fort Smith, AR to Chicago, IL and its commercial zone. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 South LaSalle, Chicago, IL 60604. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Court House Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

MC 105269 (Sub-67TA), filed July 19, 1978. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, Box 986, Kalamazoo, MI 49005. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, distributed, or dealt in, by manufacturers or converters of paper and paper products, except in bulk, from Chillicothe, OH to points in lower peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Mead Corp., Mead World Headquarters, Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

MC 111231 (Sub-242TA), filed July 19, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, 510 North Greenwood, P.O. Box 43, Fort Smith, AR 72902. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic film or sheeting, bags, aprons and gloves* from Griffin, GA and Dallas, TX to points in CO, for 180 days. Supporting shipper: Resinite Department of the Borden Chemical Co., Division of Borden, Inc., 1 Clark Street, North Andover, MA 01845. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 112963 (Sub-77TA), filed June 16, 1978, and published in the FEDERAL REGISTER issue of August 11, 1978, and republished as corrected this issue. Applicant: ROY BROS. INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulfuric* acid, (in bulk, in tank vehicles), from North Haven, CT, to Walpole, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kendall Co., 95 West Street, Walpole, MA 02081. Send protests to: Paul A. Roberts, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114. The purpose of this republication is to show vehicles in lieu of trailers as previously published.

MC 11445 (Sub-505TA), filed July 19, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals, chemical coatings and adhesives* (except in bulk) in vehicles equipped with mechanical refrigeration from Euless, TX to points in the United States (except AK and HI), for 180 days. Supporting shipper: Reliable Coatings, Inc., 13108 Euless Street, Euless, TX 76039. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 115215 (Sub-32TA), filed July 6, 1978, and published in the FEDERAL REGISTER issue of September 1, 1978 as MC 115214 (Sub-32TA), and republished as corrected this issue. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Poles and cross ties,* from Gainesville, FL, to Mobile, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Koppers Co., Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115651 (Sub-42TA), filed June 30, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer solutions,* in bulk, in tank trucks, from the facilities of Kaiser Ag-Chemical Plant at or near Cordova, IL to points in IA and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. W. Olson, Distribution Coordinator, Smith-Douglass Division of Borden Chemicals, Borden, Inc., 5100 Virginia Beach Boulevard, P.O. Box 419, Norfolk, VA 23501. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The

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purpose of this republication is to show territorial scope as previously omitted.

MC 118745 (Sub-21TA), filed July 19, 1978. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in pheumatic tank vehicles, from the facilities of the Warner Co., at or near Devault, PA to Aurora, NC, under a continuing contract or contracts with the Warner Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warner Co., 1721 Arch Street, Philadelphia, PA 19103. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 119789 (Sub-471TA), filed May 22, 1978, and published in the FEDERAL REGISTER issue of July 3, 1978, and republished as corrected this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by wholesale and retail grocery houses from the facilities of Southern States Distribution, Inc., at Memphis, TN to points in AL, AR, MS, LA, FL, TN, and KY on and west of U.S. Hwy 31E and points in MO, on and south of U.S. Hwy 66, for 180 days. Supporting shipper: Southern States Distribution, Inc., 1655 Panama Street, Memphis, TN 38108. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242. The purpose of this republication is to show MS in lieu of MA as previously published.

MC 123056 (Sub-7TA), filed July 19, 1978. Applicant: FREDONIA TRUCK LINE, INC., Highway 96 and Jackson Street, Fredonia, KS 66736. Representative: Laurel D. McClellan, P.O. Box 478, Fredonia, KS 66736. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheat midds*, from Coffeyville, KS to points in AR, MO (except St. Louis) and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Independent Mills, Inc., Suite 333, 4800 Main Street, Kansas City, MO 64112. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 129193 (Sub-4TA), filed July 19, 1978. Applicant: TARPON TRANSPORTATION, INC., 4010 Adamo Drive, Tampa, FL 33605. Representative: Richard B. Austin, Suite 214, Palm Coast II, 5255 N.W. 87th Avenue, Miami, FL 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders, between Tampa, FL, on the one hand, and on the other, Collier and DeSoto Counties, FL, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Florida-Texas Freight, Inc., 11405 Northwest 36 Avenue, Miami, FL 33167. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 133655 (Sub-115TA), filed June 26, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feed*, (except in bulk), from the facilities of Sunshine Feed Mills, Inc., at Red Bay, AL, and Tupelo, MS, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, for 180 days. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Drawer S, Red Bay, AL 35582. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101. The purpose of this republication is to show the complete scope of the application.

MC 136818 (Sub-31TA), filed July 19, 1978. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition prepared roofing* from Pittsburgh, CA to points in UT and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Johns-Manville Sales Corp., 2600 Campus Drive, San Mateo, CA 94403. Building Specialties Wholesale, 8620 Franklin Road, Boise, ID 83705. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 138875 (Sub-98TA), filed July 19, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, An Idaho Corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, Executive Vice President, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, and materials, and accessories* (except in bulk) from San Antonio, TX to points in Ada, Canyon and Elmore Counties, ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Wholesale and Supply Corporation, 2717 Fletcher, Boise, ID 83706. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise 83707.

MC 140729 (Sub-E3TA), filed May 31, 1978, and published in the FEDERAL REGISTER issue of July 21, 1978, and republished as corrected this issue. Applicant: RUSS EDIGER TRUCKING, INC., 4001 Martindale Road, Sioux Falls, SD 57107. Representative: M. Mark Menard, 5301 No. Cliff, P.O. Box 480, Sioux Falls, SD 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* as described in Section B of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and *supplies* used in the production and distribution of dairy products, between Sioux Falls, SD and points in North Dakota under a continuing contract or contracts with Terrace Park Dairy, Sioux Falls, SD, for 180 days. Supporting Shipper: Terrace Park Dairy, 1501 West Tenth Street, Sioux Falls, SD. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455 Federal Building, Pierre, SD 57501. The purpose of this republication is to show North Dakota as previously omitted.

MC 140902 (Sub-4TA), filed July 19, 1978. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL. Representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, DC 20036. Authority sought to operate as

a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, components, machinery, equipment or parts, materials, supplies, advertising materials and equipment, materials and supplies* utilized in the manufacture thereof between points in the states of AL, AR, CO, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NM, NC, ND, OK, SC, SD, TN, TX, UT, VA, WV, WI, and WY, under a continuing contract or contracts with Chrysler Corporation, Service and Parts Division, restricted to transportation of shipments moving to, from or between manufacturing, warehouses, franchised dealers, and other facilities used by Chrysler Corporation, Service and Parts Division. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Chrysler Corporation, 26311 Lawrence Avenue, Center Line, MI 48015. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 140902 (Sub-5TA), filed July 19, 1978. Applicant: DPD, INC., A Florida Corporation, 3600 N.W. 82nd Avenue, Miami, FL. 33152. Representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tire parts, inner tubes, inner tube parts, wheels;* with mounted tires or without tires and equipment, materials, and supplies used and useful in the manufacture, distribution or repair thereof between points in the states of AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI, for 180 days. The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Firestone Tire and Rubber Company. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Firestone Tire and Rubber Company, 1200 Firestone Parkway, Akron, OH 44317. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 141621 (Sub-2TA), filed July 19, 1978. Applicant: CHARLES ORTIZ, 311 Soundview Avenue, Bronx, New York 10473. Representative: John H. Caldwell, Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *bread* from the bakery of Denk Baking Corp., Brooklyn, NY to Easton, Emmaus, and Reading, PA and Wilmington, DE, and (b) return movement of *empty bread racks* from Easton, Emmaus and Reading, PA and Wilmington, DE to the bakery of Denk Baking Corp., Brooklyn, NY under a continuing contract or contracts with Denk Baking Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 30 days operating authority. Supporting shipper(s): Denk Baking Corp., 495 Flatbush Avenue, Brooklyn, NY 11225. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 144244 (Sub-3TA), filed June 29, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: CRESTON TRANSPORTATION, INC., East Highway 34, Creston, IA 50801. Representative: Frank W. Davis, Jr., 2600 Ruan Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients* from points in AR, MN, SD, ND, NE, KS, MO, and IL, to Creston and Benton, IA; (2) *Seed* from points in MN, ND, SD, NE, and MO, to Creston, IA; (3) *Fertilizer dry and fertilizer liquid*, from points in AR, MN, NE, KS, MO, and IL to Creston and Benton, IA; (4) *Liquified petroleum gas*, from points in NE, KS, and MO, to Creston, IA; and (5) *Steel products*, from points in MN, KS, and IL, to Creston and Benton, IA, under a continuing contract or contracts with Farmers Cooperative Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Cooperative Co., 1101 Westview Drive, Creston, IA 50801. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to correct part (1) to read points in AR and to correct part (3) to read AR and MN as previously published.

MC 144408 (Sub-1TA), filed July 19, 1978. Applicant: DICK HUIZENGA, d.b.a., DICK HUIZENGA TRUCKING, 2882 Pomona Boulevard, Pomona, CA 91766. Representative: Dick Huizenga (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, in bulk, from Serape, AZ to Los Angeles and San Bernardino Counties, CA, under a continuing contract or contracts with Amstar Corp., for 180 days. Supporting shipper: Amstar Corp., 50 California Street, San Francisco, CA 94111. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary,

[FR Doc. 78-27187 Filed 9-26-78; 8:45 am]

[7035-01]

[Docket No. AB-10 (Sub-No. 10)]

WABASH RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Abandonment Portion of Moberly Division and—Abandonment of Trackage Rights and Joint Trackage—Over Connecting Lines in the Counties of Brown, Adams, and Hancock, Ill., and City of Keokuk, Iowa; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on February 1, 1978, and the decision of the Commission, Division 2, served June 13, 1978, which adopted the decision of the Administrative Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees described by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Wabash Railroad Co. and Norfolk and Western Railway Co. of (1) 54.5 miles of owned railroad between railroad milepost 479.0, Versailles, and railroad milepost 553.5, Elvaston, in Brown, Adams, and Hancock Counties; (2) trackage rights over Burlington Northern Inc. (BN) between Quincy and Golden, 28.4 miles in Adams County; (3) trackage rights over the Toledo, Peoria, and Western Railroad Co. (T P. & W.) between Elvaston and Hamilton, Ill., 6.5 miles in Hancock County; (4) trackage rights over the Keokuk and Hamilton Municipal Bridge Co. across the Mississippi River, 7 miles; (5) trackage rights over the Keokuk Union Depot Co. in Keokuk, Iowa, 0.25 miles; and (6) operation over 0.58 miles of trackage in Hamilton which is jointly owned by applicants and T. P. & W. A certificate of abandonment will be issued to the Wabash Railroad Co. and Norfolk and Western Railway Co. based on the above-described finding of abandonment, 30 days after publica-

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tion of this notice (October 27, 1978), unless within 30 days from the date of publication, the Commission further finds that.

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27189 Filed 9-26-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 185, Friday, September 22, 1978, page 43083.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 26, 1978.

CHANGES IN THE MEETING:

Delete:

1. Final rule imposing of temporary moratorium on the offer and sale of leverage contracts.

2. Proposed Federal Register release seeking public comment concerning the interpretation of contracts of sale of commodity for future delivery within the meaning of the Commodity Exchange Act.

[S-1963-78 Filed 9-25-78; 2:46 pm]

[6570-06]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1929-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m. (eastern time), Tuesday, September 26, 1978.

CHANGE IN THE MEETING:

The following matter is added to the open portion of the meeting:

Private Bar Program; Recommended Grant Recipient to Administer Loan Fund.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE:

Eleanor Holmes Norton, Chairman.
Daniel E. Leach, Vice Chairman.
Ethel Bent Walsh, Commissioner.

PROPOSED: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 22, 1978.

[S-1956-78 Filed 9-25-78; 10:01 am]

[6715-01]

3

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. FR-9-1930.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, September 27, 1978 at 10 a.m.

CHANGE IN MEETING: The above scheduled meeting has been canceled.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1960-78 Filed 9-25-78; 11:19 am]

[6210-01]

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Monday, September 18, 1978. The business of the Board required that this meeting be held with less than 1 week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed legislation dealing with reserve requirements.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1957-78 Filed 9-25-78; 10:01 am]

[6210-01]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, September 29, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Proposed purchases, under competitive bidding and/or by contractual negotiation, of computer equipment within the Federal Reserve System.

3. Proposed building program for the Jacksonville Branch of the Federal Reserve Bank of Atlanta.

4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1958-78 Filed 9-25-78; 10:01 am]

[7710-12]

6

U.S. POSTAL SERVICE, BOARD OF GOVERNORS.

NOTICE OF COMMITTEE MEETING

The Committee on Postal Rates of the Board of Governors of the U.S. Postal Service, pursuant to the bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 52b), hereby gives notice that it intends to hold a meeting at 8 a.m. on Tuesday, October 3, 1978, in the

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Postal Service Conference Room, Second Floor, Room 2055, Federal Building, 151 Forest Avenue, Portland, Maine. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the Recommended Decision of the Postal Rate Commission of August 9, 1978, to reject certain proposals for separate rates for daily newspapers (Docket No. MC76-2).

LOUIS A. COX,
Secretary.

[S-1961-78 Filed 9-25-78; 2:46 am]

[7710-12]

7

U.S. POSTAL SERVICE, BOARD OF GOVERNORS.

NOTICE OF MEETING

The Board of Governors of the U.S. Postal Service, pursuant to its bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, October 3, 1978, in the Postal Service Conference Room, Second Floor, Room 2055, Federal Building, 151 Forest Avenue, Portland, Maine. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

AGENDA

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General.
(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Special Report on Christmas Mail Preparations.
(Mr. Conway, Deputy Postmaster General, will report on Postal Service preparations for the Christmas mailing season.)
4. Report of the Regional Postmaster General.
(Mr. Jellison, Regional Postmaster General, will report on postal conditions in the Northeastern Region.)
5. Report on the Portland, Maine, District, and Management Sectional Center.
(Mr. Peter P. Goodman, District Manager, Portland District, and Mr. Alfred V. Cashman, Sectional Center Manager/Postmaster, will brief the Board on performance in the District and Management Sectional Center, respectively. Informational briefings of this kind are customary at Board meetings outside of Washington, D.C. They are included on the agenda for the instant meeting for the convenience of the Board.)
6. Capital Investment Project, Long Beach, Calif.
(Mr. Biglin, Senior Assistant Postmaster General, will present a proposed project for a new General Mail Facility and Vehicle Maintenance Facility at Long Beach.)
7. Recommended Decision of the Postal Rate Commission on a proposal for changes in the Mail Classification Schedule.
(The Governors will consider the Recommended Decision of August 9, 1978, to reject certain proposals for separate rates for daily newspapers (Docket No. MC76-2).)
8. Review of Capital Investment Program.
(Mr. Biglin will review the general status of, and accomplishments under, the Postal Service's Capital Investment Program.)
9. Review of Public Affairs and Communications Program.
(Mr. Duka, Assistant Postmaster General, Public and Employee Communications Department, will report on developments in the communications area.)

LOUIS A. COX,
Secretary.

[S-1962-78 Filed 9-27-78; 8:45 am]

[6735-01]

8

SEPTEMBER 25, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., October 4, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: 1. Amendments to the Commission's interim procedural rules found in 29 CFR Part 2700; and 2. Consideration of all pending petitions for discretionary review filed between March 8 and September 7, 1978, filed with the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Philip Paschall, 202-632-4770.

JEROME WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

[S-1964-78 Filed 9 25 78; 3:55 pm]

federal register

WEDNESDAY, SEPTEMBER 27, 1978
PART II



OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

POLICIES FOR ACQUIRING COMMERCIAL OR INDUSTRIAL PRODUCTS AND SERVICES FOR GOVERNMENT USE

Proposed Policy Issuance; Invitation for Public Comment

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[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

POLICIES FOR ACQUIRING COMMERCIAL OR INDUSTRIAL PRODUCTS AND SERVICES FOR GOVERNMENT USE

Proposed Policy Issuance; Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

SUMMARY: This proposed cost comparison handbook (enclosed) would supplement OMB Circular A-76, "Policies for Acquiring Commercial or Industrial Products and Services for Government Use." It provides comprehensive guidelines for agencies when they conduct a comparative cost analysis to determine whether a particular product or service could be provided more economically by the private sector or by use of Government employees. These guidelines should assure greater accuracy, equity, and consistency in such cost analyses and contribute significantly to improved implementation of Circular A-76.

DATE: Comments must be received on or before November 15, 1978.

ADDRESS: Comments should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. William D. Russell, Deputy Assistant Administrator for Logistics, telephone 202-395-3327.

SUPPLEMENTARY INFORMATION: In the comprehensive review of OMB Circular A-76 which preceded the current revision of that circular, one of the major deficiencies noted in implementation was inaccurate, incomplete, and inconsistent cost analyses used to support both in-house and contract performance. The proposed revisions to Circular A-76, which were published for comment in November 1977, included a proposal for a detailed cost comparison handbook. This proposal was strongly endorsed by a broad range of interests responding to the notice, including Federal employee unions, private firms and associations, and Members of Congress.

This draft handbook was prepared by an interagency work group consisting of cost accounting experts from the Departments of Defense and Energy, the General Services Administration, and Veterans' Administration, and an adviser from the General Accounting Office. It is offered for review and comment by all interested parties to insure that the final version is clear, comprehensive, and adequate to insure satisfactory results.

LESTER A. FETTIG,
Administrator.

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CHAPTER I - GENERAL

Introduction

This Cost Comparison Handbook implements the cost comparison principles contained in OMB Circular A-76, "Policies for Acquiring Commercial or Industrial Products and Services for Government Use." Official use of this Handbook is prescribed in OMB Circular A-76, which directs Federal agencies to ensure that their comparative cost analyses are made in conformity with these guidelines.

Purpose

The purpose of this Handbook is to provide a detailed, simplified guide for developing comprehensive cost estimates. Such information is necessary for a valid comparison of the estimated cost to the Government of acquiring a product or service by contract or by providing it with Government in-house resources. In addition to assisting agencies in developing comprehensive cost estimates, the Handbook is intended to establish consistency, assurance that all substantive factors are considered when making cost comparisons, and a desirable level of uniformity among agencies in the handling of this determinative process.

Background

The American taxpayers have a right to expect economical performance of Federal activities. In some instances, these activities must be performed by Federal employees. In many other instances, however, they may be performed either by contractors or by Federal employees. That choice must be determined by a finding as to whether contract or in-house performance would be more economical.

Government reliance on the private sector was first enunciated by the executive branch as a general policy in 1955. Since then Federal agencies have struggled to make rational judgments as to the cost considerations that should be included in a comparative analysis to establish whether the Government's interest would be served best by contract or in-house performance. Assistance was provided by OMB Circular A-76, initially issued on March 3, 1966 and revised August 30, 1967, which contained guidelines for agencies in making those analyses.

As Government cost accounting techniques progressed, it became obvious that Circular A-76 guidelines were too general to achieve desirable uniformity, and were

insufficient as a basis for comprehensive cost studies. The need for more precise guidance in developing cost estimates and for cost comparative analyses was the most prevalent suggestion made when agency and public comments were invited for consideration in a review and subsequent revision of Circular A-76. The proposed solution, a detailed cost comparison handbook, was widely and strongly supported by the numerous respondents to OMB's request for comment on the proposed changes to Circular A-76 in November 1977.

Development of Handbook

This Handbook has been developed to provide step-by-step guidance for making a cost comparison analysis. The Handbook is addressed to readers who are not cost accountants and who may not have access to the advice of a cost accountant. The simplified guidance employed in the Handbook is not so much designed to make a difficult task easy as it is to make a complicated task understandable -- and doable by persons without prior experience in cost accounting. Such technical advice as may be needed should be available from Government financial management or comptroller personnel.

The first and most important step in making a cost comparison analysis is the development of the work statement. Chapter III explains the importance of this effort and the steps necessary to its preparation. It also explains the process by which the in-house cost estimate is placed in competition with contractor bids.

The principal chapters of the Handbook describe the steps necessary to develop entries for each of the lines on the Cost Comparison Form (Exhibit 1) and the Decision Summary Form (Exhibit 2). The location of these forms in the Handbook corresponds with their place as the end objective of every cost comparison study. The forms also serve to organize the Handbook in that each of the cost analysis chapters and sections is keyed to a line entry on the Cost Comparison Form.

The Glossary of Terms, included as an appendix, contains definitions which are consistent with those generally accepted in the cost accounting community.

CHAPTER II - POLICY

Under certain circumstances, a Government agency is authorized by OMB Circular A-76 to establish in-house capability or to continue an existing activity to provide a product or service that is obtainable from a private source. One justifying circumstance is when a comparative cost analysis, prepared as provided in this Handbook, indicates that the Government's cost would be lower than if the product or service were obtained from a commercial or other non-Federal source. Detailed guidelines for making these cost comparisons are set forth in this Handbook for application by all Federal agencies. The guidelines are based on the following policy principles:

Common Ground Rules

a. Both Government and commercial cost figures must be based on the same scope of work and the same level of performance. This requires the preparation of a sufficiently precise work statement with performance standards that can be monitored for either mode of performance.

b. Standard cost factors will be used as prescribed by the Cost Comparison Handbook and as supplemented to accommodate particular agency operations. It will be incumbent on each agency to defend any variations in costing from one case to another.

c. All significant Government costs must be considered, both for administering a contract and for direct Government performance, including allocation of indirect (overhead) costs.

d. The base period for the cost analysis will be keyed to the expected span of performance to guard against "buy-in" pricing on the part of contractors or Government activities. Prepriced options and subsequent recompetition should also be used to avoid a contract "buy-in." Except when the circumstances of the requirement dictate otherwise, the base period will correspond to the period of the proposed contract, including options.

e. Cost comparisons are to be aimed at full cost, to the maximum extent possible in all cases.

f. Ordinarily, agencies should not incur the delay and expense of conducting cost comparison analyses to justify a Government commercial or industrial activity for products or services estimated to cost the Government less than $100,000 per year. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison analysis can be conducted. Reasonable efforts should first be made to obtain satisfactory prices from existing commercial sources and to develop other competitive commercial sources.

g. The cost comparison will use the present value cost and discount rate prescribed in OMB Circular No. A-94, "Discount Rates to be Used in Evaluating Deferred Costs and Benefits," when there are significant differences in capital investment or in the timing of outlays.

Calculating Contractor Costs

The commercial cost figure must be based on a firm bid or proposal, solicited in accordance with pertinent procurement regulations. Bidders must be told that an in-house cost estimate is being developed and that a contract may or may not result, depending on the comparative cost of the alternatives.

Calculating Costs of Government Operation

a. Each agency should assure that Government operations are organized and staffed for the most efficient performance. To the extent practical and in accordance with agency manpower and personnel regulations, agencies should schedule reviews under this Circular with internal reorganizations for accomplishing the work most efficiently.

b. The Government cost factor for Federal employee retirement benefits, based on a dynamic normal cost projection for the Civil Service retirement system, will be 20.4%.

c. The Government cost factor for Federal employee insurance (life and health) benefits, based on actual cost, will be 4%.

Other Requirements

a. An existing in-house activity will not be converted to contract performance on the basis of economy unless it will result in savings of at least 10% of the estimated Government personnel costs.

b. A "new start" will not be approved on the basis of economy unless it will result in savings compared to contract performance at least equal to 10% of Government personnel costs, plus 25% of equipment and facility costs.

c. All cost comparisons must be reviewed by a qualified activity independent of the cost analysis preparation to ensure conformance to the instructions in the Cost Comparison Handbook.

CHAPTER III - PREPARATION FOR COST ANALYSIS

General

A valid comparative cost analysis under Circular A-76 requires an accurate determination of the costs of acquiring the needed products or services from the private sector and from the existing or proposed Government commercial or industrial activity. To ensure an equitable comparision, both cost figures must be based on the same scope of work, and include all significant identifiable costs that would be incurred by the Government under either alternative.

Initial Planning

The comparative cost analysis and implementation of the conclusions reached involve the responsibilities of many functional and staff offices of the agency. For best coordination of these responsibilities, a task group should be formed by representatives of the various organizations and offices concerned, such as: the functional or operational organization, the manpower and/or personnel office, the finance and accounting office, the management analysis group (if available), the budget office, the procurement office, the legal office, and other staff functions as appropriate. The task group leader should be thoroughly familiar with this Handbook.

This group should establish a plan and time schedule for orderly completion of the necessary steps to conduct the study and reach a timely conclusion to either award a contract or to continue or initiate the Government commercial or industrial activity. The schedule should allow adequate time for preparation of a comprehensive work statement, solicitation of bids or proposals, determination of in-house costs, evaluation of bids and the Government estimate, the independent audit, and review and approval of the conclusions. In this regard, close coordination with the procurement office and the personnel office is required to ensure compliance with procurement regulations and to provide maximum consideration for Government personnel who would be displaced in the event of a conversion from in-house to contract performance.

Preparation of Work Statement

The preparation of the work statement is a critical step; it must be comprehensive enough to ensure that performance by contract or in-house will satisfy the Government requirement. It must also serve as the basis for estimating both the contract and Government cost, to ensure comparability and equity in the cost analysis. The work statement should clearly state what is to be done without prescribing how it is to be done. It should also provide performance standards to ensure a comparable level of performance by both alternatives and to provide a basis for evaluation. Maximum flexibility should be permitted in staffing to permit each potential performer to propose the most efficient approach consistent with his organization and resources.

The work statement should describe all duties, tasks, responsibilities, frequency of performance of repetitive functions, and requirements for furnishing facilities and materials. Where the workload is variable, historical data for a representative period on workload, material and parts consumption, etc. will be provided, when available, along with the best estimate of future requirements. Bid solicitations will normally call for use of contractor facilities, unless performance on Government property is essential or would be more economical. When the work is currently being performed in a Government-owned facility or appropriate Government facilities are available, and contractor use of those facilities would be in the Government's interest, bids will be requested on that basis. Requirements regarding the proximity of the contractor's facility to the Government installation will be used only when clearly justified in terms of operational necessity to meet Government needs.

The work statement will be reviewed by the contracting officer to ensure that it is adequate and appropriate for a contract specification. The contracting officer will be responsible for advertising the requirement, through the Commerce Business Daily and by other means, but the functional organization will identify any known commercial sources -- this is particularly important in the case of unique products or services which have not been previously procured commercially.

Procedure

When the statement of work has been prepared and approved, firm bids or proposals will be solicited. Formal advertising, with firm fixed price bids, will be used when appropriate for the requirement. Proposals may be requested for competitive negotiations when this method would be more suitable and warranted under current procurement

regulations. Concurrent with the procurement procedure, the in-house cost estimate will be prepared, based on the same work statement that is used in the contract solicitation. If the Government staffing plan differs from the existing Government activity, it must be consistent with agency manpower and personnel regulations and must be implemented within 60 days following a determination to continue Government performance.

The in-house cost estimate will be completed and submitted to the contracting officer three days prior to opening of bids or completion of negotiations. Confidentiality of both the in-house estimate and contract prices will be maintained to ensure that they are completely independent.

The contracting officer will determine the lowest acceptable contract price, conducting preaward surveys as required to establish the lowest responsible and responsive bidder. When the proposed contract would contain flexible pricing provisions, the criteria for incentive or award fees are critical to the determination of the proper amount to be entered as the contract price. Use of the maximum incentive or award fee available would be inappropriate because it would reflect a different standard of performance from the level which provided the basis for the in-house cost estimate. It is essential that the invitation for bid or proposal provide for a common standard of performance to permit an equitable comparison of Government and contract costs for performing the same task.

When the Government and contract costs are established, the Cost Comparison Form can be completed, adding the Government costs for awarding and administering the contract and applying the appropriate cost differntial and and other considerations as provided in Chapter VI. The comparison must then be reviewed for conformance with this Handbook by a qualified party independent of the cost analysis preparation; e.g., the agency independent audit function. The results of the cost study will then be announced and the detailed analysis will be made available to any interested parties -- bidders, affected employees, and unions representing affected employees. If no significant discrepancy in the cost comparison is reported within five working days after the announcement, a contract will be awarded or the procurement action will be cancelled, as appropriate.

When a discrepancy is found in the cost analysis, every effort will be made to correct it in a time frame that corresponds to the requirement and the validity date of proposals. If the analysis is for a new start, and there is a serious defect in the in-house cost estimate, the in-house figure will be rejected and a contract will be awarded. When the analysis concerns a Government commercial or industrial activity, and the discrepancies cannot be corrected within the validity date of prposals, the procurement action may be terminated and the review rescheduled.

CHAPTER IV - DEVELOPING AN ESTIMATE OF GOVERNMENT COSTS

GENERAL

In order to develop the estimated cost to the Government for producing a product or performing a service, it is necessary to accumulate the various elements of direct and related indirect costs. The Cost Comparison Form shown as Exhibit 1 will be used for this purpose. In the following sections, definitions of the cost elements contained in this form are presented. Also included are instructions on how to estimate the amount to be included in each cost element, and on the data needed to support the estimates.

To the extent practical, the cost accounting standards published by the Cost Accounting Standards Board have been used as guides for classifying costs by elements and for distinguishing between direct and indirect costs. The following definitions, based upon Title IV, Code of Federal Regulations, Chapter III, Subchapter G, Part 400, are particularly pertinent to these determinations:

Cost Objective. A function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

Final Cost Objective. A cost objective which has allocated to it both direct and indirect costs, and, in the cost accumulation system, is one of the final accumulation points.

Direct Cost. Any cost which can be identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs which can be identified specifically with a product/service are direct costs of that product/service. All costs identified specifically with other products/services are direct costs of those products/services.

Indirect Cost. Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

It is important that the basic principles contained in the above definitions be understood to preclude the possibility of "double counting" in preparing the estimate of the Government's costs. "Double counting" results when certain costs are treated as direct costs of the product/service, while similar costs related to other products/services are treated as indirect costs and a portion thereof is also allocated to the product/service for which the estimate is being prepared. A common instance of "double counting" is the treatment of travel costs. All travel is considered as an indirect cost in typical accounting systems. However, when estimating the cost of an activity being reviewed for contracting out, the travel required of personnel whose time is accounted for as direct labor can easily be allocated to the activity under review. Since the travel costs of personnel whose time is accounted for as direct labor working for other activities is treated as indirect costs, a portion of such travel will be allocated to the activity under review. This is "double counting." The correct approach is to treat all travel as indirect costs, or to change the accounting system so that all travel costs of all personnel whose time is accounted for as direct labor are allocated as direct costs to the activities charged for the direct labor costs.

The application of these principles is demonstrated, and clarified, in the following sections.

MATERIAL COSTS

Direct Material

Direct material includes the costs of such goods as raw material, parts, subassemblies, components and supplies which are identified specifically with the product/service (the final cost objective) under review. In additon, the cost should be significant enough in amount to warrant its inclusion as a direct cost. Nominal material costs should be classified as indirect costs and allocated to applicable final cost objectives. Thus, direct material should have three general characteristics:

a. They should be essential to the performance of the service or necessary to the production of the product;

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S E 2 7 7 8

supply services provided by GSA together with mark-up rates to be applied to GSA prices to show full costs:

Wholesale and Stores Direct Delivery. This program area involves the distribution of common-use, commercially available items, to agency requisitioners worldwide, through a network of supply distribution facilities located throughout the United States. Also included is the Stores Direct Delivery Program which is designed to provide customers with the same type of items carried in stock which, because of volume orders, are procured from the vendor for direct delivery to the requisitioner in instances when delivery time is not critical.

Retail. The Retail Program provides the agency requisitioner with high demand common-use office and janitorial requirements from retail outlets located in areas of concentrated Federal activity.

Nonstores Direct Delivery and Competitive Federal Supply Schedules. This program is concerned with obtaining customer nonstock requirements through direct shipment from the vendor. Presently, agencies are ordering directly from vendors using schedules established by the GSA Federal Supply Service. Agencies pay the vendors directly for goods and services obtained.

The results of a GSA study disclosed the following add-ons to GSA material prices which must be applied to show the full cost to the Government for purposes of Circular A-76 cost studies:

Wholesale and Stores Direct Delivery	- 21%
Retail	- 36%
Nonstores Direct Delivery and Competitive Federal Supply Schedules	- 5%

Documentation

The backup for the amount shown as direct material costs must be supported by a detailed listing of all the items needed with quantities, unit prices, suppliers, details of adjustments and the source of the information. See Figure 1.

b. Their quantity and price should be significant; and
c. measurement of their quantity and cost should be relatively easy and inexpensive.

The estimate of direct material costs begins with a thorough review of the specifications for the job to be performed or the product to be furnished by the activity under review during the specified time period. Available material usage information and bills of material; i.e., a detailed listing of material for the same or similar jobs requirements and/or products will be used to estimate direct material quantities needed. Changes in the specifications between the past and proposed work effort need to be taken into consideration. Provision needs to be made for overruns, scrap, spoilage and defective work. Thus, the estimated quantity of direct materials to be costed may exceed the minimum quantity determined from the specifications or bills of material. A detailed listing of the kind of direct materials to be used by the activity under review will be developed.

Direct material costs are determined by multiplying the quantities of direct materials by the unit prices. Unit prices will be derived from current cost records to the extent they are available and applicable to the activity under review. Current costs need to be adjusted to give effect to price level changes applicable to the future periods for which the estimate is being made. If current cost records cannot be used, the supply activity (inventory control point) can estimate issue prices for its inventory and General Services Administration or other suppliers' catalogs can be used for non-stocked material. Recent purchase prices of similar items can also be used. The procurement office (purchasing department) can be asked to help estimate the purchase price of special or unusual direct material items. When purchase prices are entirely uncertain and time permits, quotes may be obtained from potential suppliers. Specific guidance on the pricing of GSA material is presented below.

Pricing of GSA Material

In most instances, the prices charged by GSA for material do not include all the costs of the acquisition and storage functions performed by GSA. Since inclusion of these costs in GSA prices is currently prohibited by law it will be necessary to adjust GSA prices for purposes of Circular A-76 cost estimates. Following is a description of the material

FIGURE 1.

Estimate of direct material for the review of contracting-out activity, _____:

Item Nomenclature (1)	National Stock Number (2)	Quantity: Quantity per Bill of Mat. or Specifications (3)	Quantity: Adjust.1/ (4)	Quantity: Final Est. Quantity (5)	Cost: Unit Purchase Price (6)	Cost: Source of Unit Price (7)	Cost: Adjust.1/ (8)	Cost: Final Est. Unit Price (9)	Direct Material Cost (5)x(9) (10)	Source of Supply (11)
Widget	6730001161618	120	30 a/	150	$11.00	GSA Cat.c/	.55 b/	$11.55	$ 693.00	GSA
Socket	None	60	5 a/	65	15.00	Pur. Dept.	.75 b/	15.75	1,023.75	PM, Inc.
Frontam	3760008161611	500	50	550	57.00	Inventory	3.30 b/	60.30	33,165.00	ABC Corp.
TOTAL COST									$38,881.75	

NOTE: 1/ Explain basis for adjustment.
a/ Normal spoilage.
b/ Estimated price change.
c/ Price list dated October 1, 1978.

In developing the cost of direct material, it is important to know how the cost of the material was determined. That is, does it include such items as transportation, procurement, storage, etc. This determination is essential to the proper application of material overhead costs as defined in the following paragraphs.

Material Overhead

In addition to the direct cost of material, the costs of material overhead -- acquiring, handling, and controlling material -- must also be included in the Government's cost estimate. Since, in most cases, it is not practical to ascertain the costs of these activities as they relate to each item of material, the related expenses should be accumulated in an indirect cost pool (intermediate cost objective) and allocated to the service/product being estimated. Brief descriptions of the functions, the costs of which are to be added to the basic material cost, are presented below:

Acquiring. Includes the efforts related to the determination of material needs, ordering, and/or purchasing material and immediate supervision of such efforts. It also includes the incoming transportation cost of the material.

Handling. Encompasses the efforts related to the physical receipt, storing, and issuing or otherwise disposing of tangible material. Included in these efforts are receiving and inspection activities, care in storage, preservation and depreservation efforts, assembly or disassembly of "sets" and "kits," and the immediate supervision of such efforts.

Controlling. This administrative function relates to the overall acquisition, handling, and distribution process and involves the monitoring of these functions. It also includes the keeping of inventory records of material on hand or on order, and the taking of physical inventories.

The costs to the Government of certain of the above functions may already be included in the price that is paid for the material. For example, the cost of material acquired from Defense stock funds generally includes the incoming transportation costs as well as a surcharge to cover estimated net stock losses on current procurements due to pilferage, damage, deterioration, physical inventory

shortages and excess arising from obsolescence and other causes. Accordingly, as mentioned in the DIRECT MATERIAL section above, it is important to ascertain the makeup of the price paid for material to preclude double costing.

The prices charged for material sold by one Government agency to another should include all significant identifiable direct and indirect applicable costs unless exempted by law. This is in accordance with Comptroller General Decision B-136318, which states in pertinent part: "Effective compliance with the reimbursement provision of 31 U.S.C., paragraph 686(a) is only achieved when all significant elements of cost are recognized and recovered in any transaction under that section. If overhead expense is significant, then like other elements of costs, it should be recognized and recovered." Accordingly, for the most part, and with the exception of GSA, as noted in the DIRECT MATERIAL section, it can be assumed that the price paid for material acquired from other Government agencies and outside vendors will include all of their costs. Under these circumstances, only those costs incurred by the acquiring agency in accomplishing the acquiring, handling, and controlling functions need be added to the material costs.

Within the acquiring agency, it will be necessary to ascertain the costs of the above functions and allocate them to the using activities on the basis of a beneficial or causal relationship. For those agencies which conduct a significant amount of interagency material transfer, appropriate rate data should be readily available in view of the above-mentioned Comptroller General's decision. For those agencies which have not developed appropriate overhead rates, the following guidance is presented.

Anticipated costs specifically identified with the functions of acquiring, handling and controlling material will be determined for the period of performance of the activity being reviewed. Costs specifically identified with the functions include assigned personnel and materials or supplies and equipment used to perform the function as well as related occupancy costs. Purchased services may also be specifically identified with the functions; for example, special tests as part of inspections of the material upon receipt or while in storage to assure acceptability and continued usability. Supervision and other indirect costs applicable to the functions will also be included.

All other costs which measurably benefit or are caused by the functions will be allocated to them. Among these should be the costs of central purchasing, requisitioning and accounting for the activity's materials. The allocation of centralized activities is discussed further under the GENERAL AND ADMINISTRATIVE COSTS section of this Handbook.

A detailed listing of the material overhead costs will be prepared and the total of such costs shown. Figure 2 is an example of such a listing. Supporting documentation for the amounts shown should be either attached to the listing or a reference made to where such data can be examined.

After the total amount of the material overhead costs is determined, it will be necessary to allocate a portion of it to the function being costed. In most cases, an equitable allocation of these costs to the function being priced can be obtained by application of a developed rate to the material costs. As illustrated in Figure 2, a material overhead rate can be developed by dividing the total material overhead expenses by the total material costs; i.e., the allocation base. It is to be noted that this base is the total for all products/services and indirect material and supplies of the entity; not just for the activity under review.

As illustrated above, the use of total material cost as the allocation base is advocated except in those situations where a specific function's beneficial or causal relationship to goods or services produced may be significantly better measured by a physical characteristic of the direct material used such as quantity, weight, or volume. Similarly, the use of one indirect cost pool for material overhead is advocated unless its use would significantly distort the resultant allocations. When material acquired from GSA is included in material costs, the additive factors as presented in the DIRECT MATERIAL section for GSA-furnished material should be added thereto as a cost, and included in the total material costs used to determine the rate.

FIGURE 2
MATERIAL OVERHEAD

Description	Estimated Cost For the Period Ending
Salaries and Wages	
Labor	$ XXX,XXX
Fringe Benefits on above	XX,XXX
Travel	XX,XXX
Operating Supplies	XX,XXX
Maintenance	XX,XXX
Stationery, Printing & Office Supplies	XX,XXX
Utilities	XX,XXX
Depreciation	XX,XXX
Rent (SLUC)	XX,XXX
Allocated Amounts of Centrally Performed Functions1/	
Purchasing	XX,XXX
Requisitioning	XX,XXX
Accounting	X,XXX
Others (list separately)	X,XXX
Total Material Overhead Expense (A)	XXX,XXX
Total Material Costs (B)	XX,XXX,XXX
Material Overhead Rate (A)÷ (B)	

1/ Attach details of allocation. That is, what rate was used and how the rate was determined.

PERSONNEL COSTS

Direct Labor

Direct labor cost is that portion of wages or salaries which can, as a practical matter, be identified with and charged only to a specific product or service (final cost objective). As stated in the Cost Accounting Standard Board's promulgations, costs are either direct or indirect only. Accordingly, labor costs similar to those treated as direct for the cost estimate must also be considered as direct costs of other final cost objectives and not included in an indirect cost pool. Conversely, no final cost objective shall have charged to it as a direct labor cost a portion of any labor costs the remainder of which is included in an indirect cost pool.

Labor shall be classified as direct when:

a. it is essentially directly related to the product or service;

b. the labor cost can be measured with reasonable effort; and

c. the labor cost is not insignificant.

Direct labor costs are composed of two factors: the first is the time it takes to do the job, and the second is the rate(s) of pay for the labor skills required. These two factors are equally important and each must be estimated as precisely as possible. For this reason, they are treated separately in the following paragraphs.

In estimating the time required to perform a service or produce a product, the starting point is the statement of work. A thorough review of the work requirements should definitize the outputs requiring labor. The time required to perform these outputs can be estimated by utilizing prior experience if it is available, engineered standards, or engineering estimates. If similar jobs have been completed, the direct labor hours of those jobs may be used as a basis for subsequent job estimating, provided appropriate adjustments are made for any scope and procedural changes. Also, when estimating the direct labor hours, include all on-the-job training which involves productive work. Time spent on all other training will be treated as indirect labor and included in the appropriate overhead pool. See OPERATIONS OVERHEAD, and GENERAL AND ADMINISTRATIVE EXPENSES.

Normally, time requirements will be expressed in man-hours. These man-hours can be converted to man-years, by dividing the total man-hours required by either the total number of working hours in a year (i.e., 52 x 40 or 2,080) or by the number of hours normally worked in a year (i.e., 2,080 less leave and holiday time). It is important to know how the man-years were developed to determine whether the labor rate to be applied to the time estimate should be increased to provide for leave and holidays to be earned and taken by the workers. If the time estimate includes a provision for leave and holidays, the rate by which such a time estimate is to be multiplied should not be increased to provide for these costs, and vice versa. Additional comments in this regard are contained in the following paragraphs dealing

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TIME ESTIMATE REPRESENTS	LABOR RATE TO USE
Estimated hours required to do the job.	Basic hourly rate increased by the factor for leave and holidays (i.e., base pay x 120%).
Estimated hours required to do the job, plus the allowance for leave and holidays (i.e., actual hours x 120%).	Basic hourly rate.
Estimated hours to be worked for a year plus leave and holidays to be taken.	Annual rate, or basic hourly rate x 2,080.

The detail necessary to support the estimate of direct labor costs will be a listing of the various labor skills required, the number of hours and rates of pay for each job or component contained in the statement of work as illustrated in Figure 3.

with the rate of pay to be applied to the time estimates and in the examples at the end of this section.

When the number of hours of each type of labor are identified, they must be multiplied by the appropriate hourly rate in order to arrive at an estimate of direct labor costs. The skill requirements determined to be needed for arriving at the time estimates will dictate the basic rates to be used. Normally, the skills required will specify a Wage Board (WB) or General Schedule (GS) level. When computing costs for an existing Government activity, use the actual rates for current employees. For positions that are not occupied, or for a proposed new start, use salary step 4 for GS positions and wage step 2 for Wage Board positions.

Wage Board rates are normally expressed as hourly rates. These are called the basic hourly rates and will be applied to all hours worked and to all hours of annual leave earned, and sick, holiday and other leave taken to ascertain the total pay of a Wage Board employee. If night and/or environmental differential pay will be required, these differentials should also be included in the direct labor cost for Wage Board employees. Premium pay for Federal civilian firefighters and law enforcement officers is also to be included. Excluded are bonuses, allowances, overtime, and holiday pay.

General Schedule rates are normally expressed as annual rates of pay. Night and post differentials are excluded from this annual rate for GS employees. In order to convert this annual rate to an hourly rate comparable to that of a Wage Board employee, it must be divided by 2,080 hours. Neither the basic hourly rate nor the annual rate contain a provision for leave and holidays.

Based on Civil Service Commission data, a factor of 20% of basic hourly or annual pay has been developed to estimate the amount of annual leave earned and sick leave, holiday, and other leave taken. In computing direct labor costs, this factor must be used. As indicated earlier, the factor may be applied to either the basic labor rate or the productive time estimate. Because of this, care must be taken that the 20% factor not be included in, or excluded from both. The following decision diagram illustrates the proper rate to be applied to the time estimate.

FIGURE 3

DIRECT LABOR REQUIREMENTS

(Examples of Typical Entries)

Line Item	Skill Required	Req. Hrs.	Basic Hourly Rate	Hourly Rate Based on Annual Salary	Annual Salary	Total Cost W/O Leave & Holiday Required Hours X Applic. Rate	Total Annual or Periodic Labor Costs**
Repair Electric Meters	Electrician W/B-4	200	$11.00	$ -	$	$2,200.00	$ 2,640.00
Install Meter Mounts	Carpenter W/B-3	100	11.50	-		1,150.00	1,380.00
Install Water Coolers	Carpenter's Helper	100	7.00			700.00	840.00
Inspection	Inspector GS 9/2	100	-	7.21 ($15,000 ÷ 2,080 hours = $7.21)		721.00	865.20
Reliability Improvement Engineering	Engineer GS 12/2	1 Man Year*	-	-	23,000	-	$23,000.00**

* Includes leave and holiday but excludes other fringe benefits.

**Annual salary already includes leave and holiday.

Fringe Benefits

Fringe benefits are allowances and services provided by the Government to its employees as compensation in addition to the wages or salaries used in determing the basic hourly rate or the annual rate of pay. For purposes of estimating the cost of a Government operation, fringe benefits will include only the normal, recurring benefit costs attributable to an on-going operation. Costs such as termination and separation allowances of Government personnel displaced by a contractor operation are not fringe benefits but rather are to be included as Termination Costs in comparing Government costs and contractor costs. Employee relocation allowances provided to Government personnel shall be included in Government start-up or termination costs, as applicable, when associated with the opening or closing of a Government-operated activity.

The following guidance has been developed to facilitate estimating fringe benefits applicable to the basic hourly pay and the annual rate of pay of General Schedule and Wage Board employees. In cases where certain employees receive fewer or additional benefits, special computations will be needed.

In determining direct labor costs, leave and holiday time is considered as being included. Therefore, they are not included in fringe benefits. Premium pay for working on holidays is discussed under "Additional Benefits."

Standard Fringe Benefit Factors. Government-wide percentage factors shall be applied to annual or periodic labor costs (C above) to determine the following fringe benefit costs:

Retirement and Disability (for employees under Civil Service Retirement)	20.4%
Health and Life Insurance	4.0%
Other Benefits (including work disability, unemployment programs, bonuses and awards, etc.)	1.9%

Additional Benefits. For Government civilian employees (normally temporary employees) who are not under the Civil Service Retirement System, the Social Security (FICA) cost factor to be applied to salary or wage costs is the actual employer contribution rate for the employees involved. When

estimating the FICA cost, care must be exercised to assure that the FICA rate is applied only to wages and salaries subject to the tax. Information regarding FICA tax rates and minimum salaries and wages to which they are applicable should be obtained from the appropriate personnel office.

If the Government employees whose time is included in the cost estimate will receive allowances for off-site pay, location allowances, hardship pay, hazardous duty pay, uniform allowances, incentive pay, cost of living differential, night differential for General Schedule employees, etc., an estimate of the actual costs thereof will be used to develop individual rates for the local area. Information needed to compute rates involved should be obtained from the cognizant personnel or payroll office. Where allowances are not uniformly distributed among all local personnel, it may be necessary to compute separate rates or amounts for individual employees or employee groupings such as General Schedule employees and Wage Board employees.

Overtime premiums and premium pay for working holidays are not included as an additional benefit. Overtime and holiday premiums are either "other direct costs" or "indirect costs." In either case, they are not included in the determination of additional benefits nor in the total annual or periodic labor costs. Overtime and holiday premiums are direct costs only when it is known that the work required to provide the product/service being estimated must be performed on overtime. Otherwise, overtime and holiday premiums are indirect costs since the incurrence of overtime provides equal benefit to all work scheduled. Night and environmental differentials are considered additional benefits for General Schedule employees, but are included in the annual or periodic labor costs for Wage Board employees. Fire fighters and law enforcement officers' premiums are also included in the annual or periodic labor costs.

Documentation. The backup material for the amount shown as fringe benefits applicable to direct and indirect labor shall be a detailed summary of each fringe benefit, supported by a schedule showing the computation of each fringe benefit cost. The computation schedule should include the base costs to which fringe benefit factors are applied and their source, as well as the rate factors and their source. Normally, a single fringe benefit factor may be used. However, if significant differences exist in their composition, different fringe benefit rates will have to be calculated separatelty for direct labor costs and for indirect cost pools. A sample schedule is shown in Figure 4.

FIGURE 4

FRINGE BENEFITS

Annual or Periodic Labor Costs

	SUBJECT TO RETIREMENT1/	SUBJECT TO FICA UNDER LIMIT	SUBJECT TO FICA OVER LIMIT	TOTAL	FRINGE BENEFIT AMOUNTS
DIRECT LABOR	$6,800,000	$170,000	$30,000	$7,000,000	
INDIRECT LABOR					
MATERIAL OVERHEAD	1,980,000	17,000	3,000	2,000,000	
OPERATIONS OVERHEAD	2,984,000	16,000	-	3,000,000	
GENERAL & ADMINISTRATIVE EXPENSE	4,000,000			$ 4,000,000	
TOTAL	$15,764,000	$203,000	$33,000	$16,000,000	
RETIREMENT AT 20.4% of $15,764,000					$3,215,856
FICA at 6.05% of $203,000					13,195
HEALTH, LIFE INSURANCE AND OTHER BENEFITS AT 5.9% of $16,000,000					944,000
TOTAL STANDARD FRINGE BENEFITS					$4,173,051
ADDITIONAL FRINGE BENEFITS LIST AND EXPLAIN					1,906,949
TOTAL FRINGE BENEFITS					$6,080,000

CALCULATION OF FRINGE BENEFIT RATE

TOTAL FRINGE BENEFITS ÷ TOTAL ANNUAL OR PERIDOIC LABOR COSTS = $ 6,080,000 / $16,000,000 = 38%

ENTRY ON COST COMPARISON

LINE 4 - $7,000,000 DIRECT LABOR x 38% = $2,660,000

LINES 2, 5, AND 7 - THE FRINGE BENEFITS TO BE INCLUDED IN THE OVERHEAD POOLS (38% of $2,000,000; $3,000,000 AND $4,000,000, RESPECTIVELY) ARE INCLUDED IN THE TOTAL SHOWN ON THESE LINES.

1/ See Subchapter S.14, "Computation of Annuities," Federal Personnel Manual.

OPERATIONS OVERHEAD

General

Operations overhead is one of the three classifications of indirect costs. The other two, material overhead and general and administrative expense, are discussed in separate sections. This section deals only with operations overhead.

Definition

Operations overhead costs are the indirect costs of an annual fiscal period which are necessarily incurred to produce or deliver the products/services being provided by a particular organizational element (hereinafter referred to as a work center). Operations overhead differs from material overhead costs which are related only to acquiring, handling, and storing material, and from general and administrative expenses which are those costs whose incurrence benefits all the activities of the organization of which the particular work center is a part.

For practical reasons, some minor costs are treated as indirect costs even though a direct cost relationship can be determined. Short-term work efforts and small, inexpensive items of material generally fall in this category. They should be included in the overhead pool which is most closely related to the nature of the costs; i.e., material overhead, operations overhead, or general and administrative expense. It is important, however, that all costs incurred for the same purpose in like circumstances be treated as either direct costs only or indirect costs only with respect to the final cost objectives (i.e., the product or service being provided by the work center).

Estimating Operations Overhead Costs

Step One. The first step in estimating operations overhead costs is to determine the work center(s) which will perform the work necessary to provide the product/service being estimated. Once this determination is made, all of the estimated costs related to the elements of expense of that work center must be classified as either direct or indirect costs. (Refer to the applicable sections for each element of expense.) The following table illustrates the final result of such a classification.

TOTAL ESTIMATED COSTS TO BE INCURRED BY WORK CENTER "A" DURING FISCAL YEAR 197X

Direct Costs		$9,000,000
Indirect Costs		
Operations Overhead	$4,500,000	
Material Overhead	-0- *	
General & Administrative Expense	-0- *	
Total Indirect Costs		4,500,000
Total Annual Costs		$13,500,000

* While it is possible to incur some of these types of costs in Work Center "A", for purposes of this illustration it is assumed that none will be.

Step Two. The summary amount of operations overhead shown in the illustration in Step One represents the total costs of the individual types of expenses involved. To arrive at this amount, it is necessary to estimate the amount of the individual types of expenses. As a general rule, where the product or service is to be provided by an existing work center, historical records of the amounts and types of indirect costs incurred by it will be available. These historical records may be used as the basis for developing an estimate of the indirect costs to be incurred during the period in which the product or service is to be provided. They should be adjusted to reflect inflation and any other changes in staffing or operations contemplated by management. If the product or service being estimated represents a new start, the statement of work will be the fundamental document on which the estimate will be predicated. Once the requirements of the statement of work are determined, it may be possible to find a work center within the organizational structure that is similar to the one required. The indirect costs of that similar work center, appropriately adjusted, would be an acceptable basis for developing the estimate of the costs of the individual elements of expense. If neither an existing nor similar work center is available, then the annual amounts of the individual items of indirect costs necessary to accomplish the statement of work should be estimated in consultation with cognizant management and technical personnel.

Types of Operations Overhead Expenses

A description of the more common types of operations overhead expenses are discussed in the following paragraphs.

Indirect Labor - This category includes all personnel costs of the work center not considered as direct labor, material overhead, or general and administrative expense, as defined in the sections dealing with those costs. The costs of supervision and administration within the work center, as well as the costs of the time of direct employees not spent in productive effort or on leave (e.g., idle time, training, etc.) should be included. Care must be taken to assure that indirect labor costs that are more appropriately classified as material overhead or general and administrative expense are not included in the operations overhead. Indirect labor costs should include all applicable fringe benefit costs (see Figure 2). Estimates of and supporting documentation for indirect labor should be prepared in much the same way as for direct labor. Essentially, positions required by the work center identified as providing the product/service are identified and designated as direct or indirect. Once the designation is made, it must be consistently followed. The salaries and wages of the indirect employees are estimated for the year(s) being studied.

Indirect Materials and Supplies - Included in this category are those items of material or supplies utilized by the work center in its operations but which are not chargeable as direct materials as defined earlier in this chapter. Examples of such items are lubricants and rags for equipment, or common use low-cost fasteners, such as wire, staples and screws. The costs of indirect materials and supplies should include their allocable share of material overhead. Estimates of indirect materials and supplies are determined in much the same manner as those for direct materials. The prices for these types of materials and supplies are estimated and total indirect material and supply costs determined.

If it is not practical to list each single item of indirect material and supplies in the documentation supporting the estimated amount, they may be aggregated into logical subgroupings and shown in total and a reference made as to where the detail can be examined. If the amounts of indirect material and supplies are estimated in some other way than by a detailed listing, a clear explanation of the method used to arrive at the estimated amount must be contained in the supporting documentation.

Depreciation - Depreciation is the method utilized to spread the cost of tangible capital assets (plant, machinery, etc.) less residual value, over their estimated useful lives in a systematic and logical manner. Note that because land has an unlimited life, it is not a depreciable asset and its cost should not be included with other asset costs that are subject to depreciation. The cost of a tangible capital asset includes the original acquisition cost plus the transportation and installation costs incurred to place the asset in use. Additions need to be added and retirements deleted to keep the costs current. Useful life has reference to the estimated period of economic usefulness of the asset in a particular operation as distinguished from its physical life. Determination of the asset's useful life should be based on actual or planned retirement and replacement practices. An asset that is still in use should not be reflected as being fully depreciated. To avoid this happening, the estimated useful lives need to be reviewed and adjusted periodically to conform to current plans. Residual value is the estimated value of the asset at the end of its useful life. Because useful life and physical life may differ, the residual value is not always equal to scrap value. Both the useful life and residual value should be estimated, based on historical records and in consultation with engineering and management personnel. For purposes of this Handbook, depreciation will be computed on a straight-line basis. That is, an equal amount of the difference between the acquisition cost of the asset and its residual value should be charged to each accounting period or unit of usage covered by its useful life.

For example, if an asset costs $1,000 and had a residual value of $100 and a useful life of 10 years, $90 should be charged to each year's operation during its useful life ($1,000 - $100 = $900 ÷ 10 years = $90/year).

If depreciation is to be based on hours of usage, the difference between the cost and residual value would be divided by the estimated number of hours the machine will be used during its useful life to arrive at an hourly depreciation rate. The amount of depreciation to be included in the operations overhead pool would be the product of the number of hours that the machine will be used during the year, multiplied by the hourly rate previously described, as illustrated below

Acquisition Cost	$1,000
Residual Value	-100
	$ 900
Estimated usage during useful life	5,000 hours
Depreciation Rate ($900 ÷ 5000 hours)	$ .18/hour
Estimated usage during year	500 hours
Depreciation to be included (500 hours x $0.18 hour)	$ 90

The annual depreciation related to all the tangible capital assets (building, plant, equipment, etc.) used by the work center in providing the product/service being estimated will be included in the work center operations overhead costs.

The indirect cost pool (material, operations, or general and administrative expense) to which it is assigned will depend on the use made of the assets.

Supporting documentation for the estimated amount of depreciation should be a detailed listing of the assets involved and the annual depreciation related to each. Where, because of the magnitude of the assets involved, it would not be practical to prepare such a list, the amount of depreciation may be supported by a listing of logical groupings by type of assets and reference made to where the detailed supporting property records may be examined. If depreciation is estimated on other than an item-by-item basis, a complete explanation of the methology used must be included in the supporting documentation.

Rent - This is a cost incurred for the use of a non-Government entity's tangible assets (land, plant and machinery, etc.) in providing the product/service being estimated. All such costs anticipated to be incurred during a fiscal year encompassing the period of performance should be included in the operations overhead pool unless the assets are used in connection with only one product/service. In the latter case, the rental amounts will be treated as a direct cost of that product/service, provided that the rental amounts of similar assets are treated consistently for all other products/services. The amount of rent and the charges included must be determined. If the rent includes a separate charge for maintenance and repair, utility charges, etc., and the amount is significant, those charges should be included in their proper expense classification, if they do not benefit all products or services in the same proportion as the rental charge.

The cost of Government ownership of an asset will normally be included under depreciation and other ownership accounts. However, where a Government-owned asset is "rented" by one Government organization, from a different Government organization, only the actual costs of ownership should be recorded as cost. If the rental amount is predicated on the market rental value, or an incremental cost basis, there may be a significant difference between the rental amount and the cost of ownership. If the rental amount to be included in the estimate represents a GSA-billed Standard Level Users Charge (SLUC) and are in excess of $50,000 annually, a determination of this difference will be made. The difference will be either added or subtracted from the "rental" costs to bring them to the actual costs to the Government. If the rental costs are based on incremental costs, the difference will be determined regardless of their amounts. If it is impractical to arrive at actual Government ownership costs by consultation with the Government lessor, a reasonable estimate of ownership costs will be included.

Maintenance and Repair - The normal costs incurred during a fiscal year for maintaining and repairing the tangible capital assets utilized by the work center providing the product or service being estimated (but not those properly classified as material overhead or general and administrative expense) will be included in the operations overhead cost pool. These costs relate only to those maintenance and repair activities that are necessary to keep the buildings and equipment in operating condition. The costs of major overhauls and repairs which add value or prolong the life of the asset should be treated as capital expenditures and depreciated over the extended or remaining useful life of the asset. The methodology used to estimate of all these costs should be contained in the supporting documentation.

Support Costs - This category includes those indirect costs incurred during the fiscal year by other organizational elements in support of the work center in which the product/service being estimated is to be performed. For example, motor pool services in support of the products or services provided by the work center would be includable in operations overhead. Support costs applicable to material overhead or general and administrative expense should not be included in operations overhead (e.g., ADP services

involving material inventory or general management information), but should be included in those accounts.

Supporting documentation for these costs should indicate the service involved and the performing organization. If significant in amount, the organization supplying the support should estimate the costs in accordance with the provisions of this Handbook and provide the estimate and supporting documentation to the recipient work center for inclusion in its estimate. If the amount is not considered significant enough to warrant preparation of an estimate as described above, the methodology used to arrive at the estimate must be clearly stated in the supporting documentation.

Utilities - This category includes charges for fuel, electricity, telephone, water and sewage services, etc. The amount of these costs applicable to the work center will be determined either on a metered or allocated basis of consumption. Proration of the amounts to the various overhead pools will be by a unit of measure that would vary directly with consumption; e.g., floor space, number of telephones, etc. Estimates of these expenses to be incurred for fiscal years encompassing the period of performance should be based on current experience appropriately adjusted for anticipated future experience. Engineering estimates should be used when experience data are not available. All estimates should be appropriately documented in supporting detail.

Insurance - Operation of any government activity involves risks and potential costs from fire and casualty losses and from liability claims. These risks are normally covered by insurance in the private sector, but the Government is primarily self-insured and must pay for such losses as incurred. Casualty losses have been estimated at .05% of the value of Government facilities, equipment, and material; liability losses at .07% of personnel costs. For a simplified estimate of insurance costs, use .06% of the sum of lines 1 through 4 plus the net book value (acquisition cost less depreciation accumulated to date) of all depreciable assets.

Overtime and Premium Pay - The amounts of overtime and other premium pay to be included as indirect costs in the operations overhead pool are those incurred in order to complete all work of the work center in a timely manner. The reason for considering the overtime or other premium portion of the salaries and wages as an indirect cost is that the scheduling of work effort is usually done on a random basis. That is, the actual work performed during overtime hours or on holidays is usually no more the basis for incurring the premium payments than the effort performed during the regularly scheduled hours. Accordingly, under these circumstances, all work performed in the work center should receive a proration of the premium costs. This is accomplished by including these costs in the overhead expense pool.

The straight time portion of such wages will be considered as Direct Labor as indicated under that section of this Handbook. If the premium pay is necessitated not by an overloading of the work center's normal capacity, but by the special demands of a single customer or client, the related premium costs should be considered as Other Direct Cost for the product or service furnished that customer or client.

Supporting documentation for the amount of overtime and other premium pay included in the indirect cost pool should indicate how the need for such payments was determined and how the amount was computed.

Other Costs - The indirect costs previously discussed are examples of the principal common types of costs which, if applicable, may be entirely or partially included in operations overhead. If further guidance is required on some unique element of cost, the cognizant accounting office should be consulted.

Developing Overhead Rates

Allocation Base - Determination of the amount of the annual operations overhead cost to be applied to the product/service being estimated requires establishment of an appropriate base for allocation of costs. Where the product/service being estimated represents the total output of the organization for the year, all of the operations overhead costs are applicable. However, where more than one product or service is provided during the year, an allocation must be made between these products and/or services. This is normally done by determining and applying an overhead rate. Overhead rates can be expressed as a percentage of one or more elements of expense; e.g., 20% of direct labor or 15% of total direct costs. Overhead rates can also be expressed as a monetary unit related to some quantitative measure; e.g., $2.00 per direct labor hour, $3.00 per machine hour, $0.50 per square foot of space used.

To illustrate the above, assume that Work Center "A" provides three products/services entitled A-1, A-2, and A-3, and a cost comparison analysis is being prepared for A-3. The following additional facts are to be assumed:

- That 300,000 direct labor hours are incurred annually on the three products/services, as follows:

A-1	150,000
A-2	90,000
A-3	60,000
Total	300,000 labor hours

- Direct labor costs for the year are $3,000,000.
- 50,000 machine hours are used to provide the three products/services.

A-1	5,000
A-2	5,000
A-3	40,000
Total	50,000 machine hours

Overhead Rates - Using these assumptions as well as those shown for Work Center "A" in Step One, the following overhead rates (and many others) can be developed:

Percentage of Direct Labor Costs

Operations Overhead ÷ Direct Labor = $4,500,000 / $3,000,000 = 150%

Percentage of Direct Costs

Operations Overhead ÷ Total Direct Costs = $4,500,000 / $9,000,000 = 50%

Rate Per Direct Labor Hour

Operations Overhead ÷ Direct Labor Hours = $4,500,000 / 300,000 = $15.00 per Direct Labor Hours

Rate Per Machine Hour

Operations Overhead ÷ Machine Hours = $4,500,000 / 50,000 = $90.00 per Machine Hour

As can be seen from the above, there are several ways of developing overhead rates. Rarely will the various rates result in the identical allocation of overhead costs to the services/products provided by the work center. Accordingly, the selection of the proper base of allocation is of extreme importance in costing product/service A-3.

A straightforward way to select the best allocation base is to chart operations overhead costs and various possible allocation bases over time. The allocation base that varies most frequently in the same direction at the same time as the operations overhead costs would be the best allocation base.

As long as it can be ascertained that indirect costs vary directly with a measure of an element of expense or activity (dollars, hours, etc.) and that all products or services furnished by the work center benefit from the same elements of expense or activity, and in the same proportion, the use of that single element as the allocation base will normally result in an equitable distribution of overhead costs. Assuming direct labor hours meet this criterion for Work Center "A," operations overhead would be allocated to the three products/services as follows:

Product/ Service	Direct Labor Hours (1)	Operations Overhead Rate Per Direct Labor Hour (2)	Overhead Allocation (1) x (2)
A-1	150,000	$15.00	$2,250,000
A-2	90,000	15.00	1,350,000
A-3	60,000	15.00	900,000
	300,000	$15.00	$4,500,000

A single base of allocation will normally not be warranted in a work center where:

- The indirect costs do not vary directly and proportionately with a single measure of expense or activity, or
- all elements of expense and activities which influence the incurrence of operations overhead costs (e.g., direct labor influences supervision, etc.) are not incurred in roughly the same proportion for the various products/services provided.

When these conditions are encountered, there are two possible solutions. The first would be to subdivide the work centers into departments and develop a separate operations overhead for each. In that case, development of the departmental operations overhead would be identical to the development of the operations overhead rate(s) for Work Center "A", as described herein. The second solution is to develop two or more overhead rates within the work center by grouping the indirect expenses in overhead pools related to the disparate functions and allocating them on appropriate bases. Obviously, the bases of allocation will not be the same.

We can illustrate the use of two rates for Work Center "A" using the assumptions previously cited. From these assumptions, it can be seen that product/service A-3 is responsible for most of the machine hours used by the work center. Specifically:

A-1 uses 5,000 machine hours;

A-2 uses 5,000 machine hours;

A-3 uses 40,000 machine hours.

Accordingly, direct labor hours would not be an appropriate allocation base because it would result in a disproportionate amount of machine shop expenses (depreciation, maintenance and repair) being allocated to products A-1 and A-2. Conversely, the use of machine hours would result in an inequitable share of the labor-related indirect expenses being allocated to product/service A-3.

Two pools for Work Center "A" may be established by segregating machine-related costs from the other operations overhead as follows:

Basic Pool	$1,500,000
Machine Pool	3,000,000
Total Operations Overhead	$4,500,000

It is determined that the best allocation base for the basic pool is direct costs and the rate is:

Basic Pool ÷ Direct Costs	$1,500,000 / $9,000,000	= 1/6 or 16.67%

Then, the $9,000,000 direct costs are determined to be charged to each product as follows:

A-1	$4,500,000
A-2	2,700,000
A-3	1,800,000
Total	$9,000,000

Therefore, the allocation of the $1,500,000 in the basic pool is:

A-1	1/6 of $4,500,000	=	$ 750,000
A-2	1/6 of $2,700,000	=	450,000
A-3	1/6 of $1,800,000	=	300,000
			$1,500,000

It is also determined that the best allocation base for the machine pool is machine hours and the rate, $60 per machine hour (machine pool $3,000,000 ÷ 50,000 machine hours). Taking the machine hour usage previously determined and this rate, the allocation is:

A-1	5,000 hours at $60	=	$ 300,000
A-2	5,000 hours at $60	=	300,000
A-3	40,000 hours at $60	=	2,400,000
			$3,000,000

Combining the two pools gives us the total allocations:

	Basic Pool	Machine Pool	Together
A-1	$ 750,000	$ 300,000	$1,050,000
A-2	450,000	300,000	750,000
A-3	300,000	2,400,000	2,700,000
Total	$1,500,000	$3,000,000	$4,500,000

The following comparison of the resultant overhead allocation by using a single rate based on direct labor hours and the two rates as illustrated above highlight the significant differences that can be achieved by utilizing different overhead allocation methods.

	One Rate (Direct Labor Hours)	Two Rates (Basic and Machine)	Difference (Substract One from Two)
A-1	$2,250,000	$1,050,000	$(1,200,000)
A-2	1,350,000	750,000	(600,000)
A-3	900,000	2,700,000	1,800,000
Total	$4,500,000	$4,500,000	$ -0-

Summary

In summary, operations overhead is a significant cost element in estimating the cost of providing a product or service. It is extremely important that elements of indirect expense included in the operations overhead pool are appropriate and the amounts thereof are carefully estimated. It must be determined by careful study whether more than one pool of expenses is required. Also, the selection of a proper base(s) for allocation is essential to accurate estimating. As illustrated above, significant differences can result from the use of different methods for allocating overhead. The choice of the appropriate method should be based on a review of the functions and their related costs within the work center. The pools and bases should be selected based on supported facts and circumstances. They should not be selected on the basis of arbitrary assumptions, or the fact that the data for a particular base are readily available. The main purpose of the overhead rate must always be kept in mind. It is developed to permit the allocation of overhead expenses to the products/services being provided on the basis of the benefits they receive from the incurrence of the cost.

Supporting Documentation

The supporting documentation needed for the amount of operations overhead allocated to product/service A-3 will be a listing of the expenses included, the base used to develop the rate(s), and the supporting detail for each. Figure 5 is an illustration of the operations overhead costs of Work Center "A."

FIGURE 5
WORK CENTER "A"
COMPUTATION OF OPERATIONS OVERHEAD RATE
FOR THE YEAR 197x

Operations Overhead Expenses	Basic	Machine	Total
Indirect Labor			
Supervision	$ 70,000	$ 300,000	$ 100,000
Clerical	700,000	300,000	1,000,000
Indirect Time of Direct Personnel	400,000	600,000	1,000,000
Indirect Materials and Supplies	30,000	370,000	400,000
Depreciation	40,000	400,000	440,000
Rent	10,000	50,000	60,000
Maintenance and Repair	40,000	385,000	425,000
Support Costs	10,000	65,000	75,000
Utilities	60,000	610,000	670,000
Insurance	10,000	20,000	30,000
Other			
Allocations Costs	127,000	168,000	295,000
Minor Direct Costs	3,000	2,000	5,000
TOTAL OPERATIONS OVERHEAD (A)	$1,500,000	$3,000,000	$4,500,000
Allocation Bases (B)			
Direct Costs		$9,000,000	
Machine Hours		50,000	
Overhead Rate (A)÷(B)=(C)	16.67% of Direct Costs	$60 Per Mach. Hour	
Application to Product/ Service A-3			
Direct Costs Applicable To A-3 (D)	$1,800,000		
Machine Hours Applicable To A-3 (D)		40,000	
Amount of Operations Overhead Allocated to A-3 (C)x(D)	$ 300,000	$2,400,000	$2,700,000

INTERAGENCY SUPPORT

In developing the estimates of Government costs, products or services which are excess to the needs of other Federal agencies should be used in preference to new procurements. The agency that will be providing the excess product or service must prepare cost estimates in accordance with this Handbook and furnish its cost data on lines 1 through 9 and its other considerations on lines 23 through 30 of the Cost Comparison Form. The Form must be signed on the "prepared by" and "audit certification" lines. The Cost Comparison Form will be submitted to the agency receiving the product or service. The receiving agency will classify the providing agency's costs as other direct costs, operations overhead, or general and administrative expense as appropriate. The other considerations will also be added to the appropriate classification. The providing agency's Cost Comparison Form will be used as supporting documentation. NOTE: Agency reimbursement charges for providing the product or service to another agency may not be used as a basis for the cost estimate unless such charges reflect all costs as provided in this Handbook.

If a decision to contract out would cause the government not to utilize available excess facilities, material or service capacity, any resulting increase in cost to the government must be included as an element in computing the total cost of contracting for the product or service. For guidance in developing and documenting such costs, see the section under OTHER CONSIDERATIONS titled, "Utilization of Government Capacity."

OTHER DIRECT COSTS

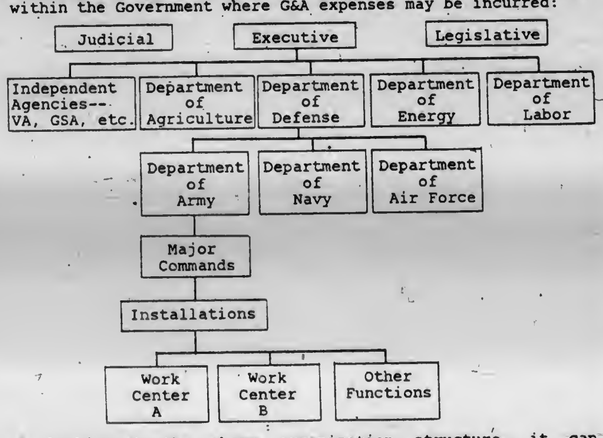
Other direct costs are the sum of all those direct costs exclusive of direct material and direct labor, which are identified as having been incurred specifically for a particular product or service (the final cost objective). Some examples of other direct cost are: service center charges (e.g., ADP service center, printing shop, etc.), travel, and purchased services.

There are certain types of effort that some organizations treat as indirect expense and others classify as direct. Examples of these costs are special travel expenses, preservation, packaging and packing, plant rearrangement, consultant's fees, certain clerical salaries, shop supplies, transportation costs, plant protection, royalties, computer expenses, and telephone and telegraph expenses. Whenever an organization decides to classify a cost as direct it normally will be included under Other Direct Cost unless it is direct material or direct labor. When an organization decides to reclassify a cost from an indirect to a direct charge, it is necessary to ascertain that the organization's accounting and estimating practices provide consistent treatment of these special costs during the period under review. To prevent duplication, it must be established that when these items of expense are treated as direct costs, similar costs are excluded from indirect costs applied to the estimate. Conversely, when an organization reclassifies a cost from direct to indirect, care must be taken to include these costs in the appropriate indirect costs pool.

Refer to the DIRECT LABOR and DIRECT MATERIALS sections of this handbook for cost estimating instructions and supporting documentation requirements which are appropriate for estimating and documenting other direct costs.

GENERAL AND ADMINISTRATIVE EXPENSES

General and administrative (G&A) expenses are those financial, management or other expenses which are incurred for the benefit of an organizational unit as a whole. They do not include expenses which should be classified as material or operations overhead expenses which have been discussed previously in this Handbook. Because of their nature, general and administrative expenses may be incurred at various levels within the Governmental structure. The following simplified diagram depicts the various levels within the Government where G&A expenses may be incurred:



By looking at the above organization structure, it can readily be seen that certain administrative expenses incurred by the executive, legislative or judicial branches of the Government are applicable to the various departments and independent agencies. Similarly, certain administrative expenses incurred at the department level would be applicable to the activities in their organization (e.g., Departments of Army, Navy, and Air Force). This flow would continue on down to the organization level. Within the organization itself, general and administative expenses may be incurred which are applicable to all the functions being performed there. This flow-down of G&A expenses will vary based on the organizational structure of each department or agency, but will exist in some form in each. A portion of the general and administrative expenses incurred above the installation level are applicable to the product or service being estimated. However, for purposes of this Handbook, only those G&A expenses which contribute directly to the actual operation of the organization will be included in the estimate. This decision is based on materiality of amount and the conclusion that the efforts involved in funding, policy-making, long-range planning, direction, etc. (commonly referred to as staff functions) would continue and be equally applicable to either contractor or Government effort.

In deciding at what level to discontinue the allocation of G&A expenses to the product or service to be provided, a self-sufficiency criterion should be used. A self-sufficient organization is one that operates as an independent unit, receiving only funds, policy direction, and guidance from the next higher organizational unit. If any general and administrative-type activities are provided at no cost or on an incremental cost basis, the organization is not self-sufficient. In these circumstances, an appropriate allocation of the applicable expenses of the incurring organization, should be included in the recipient's G&A expenses to be allocated to the products and/or services it provides.

To illustrate, assume the organization we are concerned with is a laundry. If that laundry is located on its own land, does its own maintenance, budgeting, accounting, etc., it can be considered self-sufficient and no further G&A costs will be allocated to it from the next higher organizational unit. The G&A costs incurred by the laundry itself will be allocated to the various products or services it provides. However, if that laundry was collocated on the same grounds or in the same building of another organization, say a hospital, and the hospital staff provides it with certain maintenance, budgeting and accounting effort, on a no-cost or incremental cost basis, then the laundry would not be self-sufficient. The applicable portion of the hospital's G&A expense must be allocated to the laundry. Assume further that the hospital to which the laundry is attached is located on a military base and the hospital receives certain support from the base, such as road and parking lot maintenance, security, fire protection, etc. If the hospital receives these services on a no-cost or incremental cost basis, it is not a self-sufficient unit. The allocable

portion of the costs incurred by the base that benefits the hospital should be included in the hospital's G&A expenses and an equitable amount thereof allocated to the laundry. For purposes of this illustration, we will assume that the military base is self-sufficient (they all are not); that is, it receives only funding, policy direction, and guidance from its next higher level of command. Accordingly, none of the G&A expenses incurred by the next higher level of command would be allocated to the military base.

In addition to the self-sufficiency criterion, materiality of amount must be kept in mind in determining the level above which G&A expenses will not be considered in the estimate. When the costs involved are minor in amount and their ultimate allocation to the product or service is not likely to have a bearing on the decision to contract-out or perform in-house, they may be excluded if not readily available.

The G&A rate to be used to allocate the organization's G&A expenses to its activities will be developed in much the same manner as the operations overhead rate was developed. That is, a pool of annual G&A expenses will be developed and the total divided by the allocation base.

A significant difference between general and administrative expense rate development and that for operations overhead is that G&A expenses must be accumulated in a single pool. This differs from the operations overhead where certain circumstances may require the establishment of more than one pool. The reason that only one G&A pool of expenses will be needed is the nature of G&A expenses. As previosuly stated, G&A expenses are incurred for the benefit of the organization as a whole. If an incurred expense does not meet this criterion, it should not be included in the G&A pool.

Typical examples of the types of cost to be included in the G&A expense pool are the expenses connected with the following offices or functions:

The Office of the Organization Director (Commander)
The Office of the Comptroller
The Office of the General Counsel (Judge Advocate)
Centralized Personnel Services
Centralized Administrative Services (Adjutant General)
Centralized Procurement
Public Relations
Internal Review (Audit)
Security

To develop a G&A expense pool, the costs associated with each of the functions incurred for the benefit of all products/service provided must be estimated. The cost of performing each function is the total of the expenses (indirect labor, indirect material, etc.) incurred for that purpose during the year. The nomenclature for the types of expenses to be included in G&A overhead pool are similar to those included in operations and material overhead. The characteristic which distinguishes these three types of overhead costs, one from the other, is the purpose for which it was incurred. Accordingly, the G&A pool will be made up of elements of expense similar to those for operations overhead in nomenclature but which are related to performing functions and services such as those performed by the offices listed above. The methods of estimating the amounts of these costs will be the same as those described in the Operations Overhead section and are not repeated here..

Since all G&A expenses must be incurred for the benefit of the organization as a whole, the base used to allocate these costs to the final cost objectives must be representative of the overall operations of the organization. For this reason, the total costs incurred (exclusive of G&A expenses) has been chosen as the allocation base. This base should include the cost of all the mission functions of the organization whether these are commercial, industrial or governmental functions. If, because of the use of this base, the G&A expenses allocated to any final cost objective are significantly different from the benefits it received from their incurrence, a special allocation of G&A expenses to that final cost objective should be made. The amount of the G&A expenses so allocated should be removed from the pool and the costs of the final cost objective, exclusive of G&A, should be removed from the base.

The following steps depict the development of a G&A rate:

Step 1: Develop the G&A expense pool

General and Administrative Expenses	
Executive, Professional, Technical, and Supervision Salaries	$1,450,000
Clerical and Other Salaries	1,175,000
Other Expenses (Training, Depreciation, Indirect Materials, Allocated Support Costs, etc.)	3,100,000
Total G&A Expenses	$5,725,000

Step 2: Develop the Base of Allocation (costs incurred by Organization A, exclusive of G&A expense)

Direct Costs	$42,500,000
Operations Overhead Costs	8,900,000
Material Overhead Costs	100,000
Total Cost Incurred Exclusive of G&A Expenses	$51,500,000

Step 3: Develop the Organizational G&A rate (divide the pool by the base)

$ 5,725,000 = 11.12%
$51,500,000

To estimate the amount of the annual G&A expenses applicable to the product or service being estimated, the above developed rate will be applied to the total estimated annual cost (exclusive of G&A) of providing the product or service as illustrated below:

Direct Material	$ 450,000
Material Overhead	5,000
Direct Labor	1,000,000
Fringe Benefits	250,000
Other Direct Costs	50,000
Operations Overhead	1,500,000
Subtotal	3,255,000
General & Administrative Expense ($3,255,000 x 11.12%)	361,956
TOTAL COST	$3,616,956

The detail required to support the amount of G&A expense allocated to the product or service being estimated will be a listing of the expenses related to the functions and offices classified as general and administrative expenses. The amount to be included in the pool is the annual amount of the G&A expense expected to be incurred during the year(s) in which the period of performance is encompassed. These amounts will be predicated on past experience, adjusted to provide for inflation and any change in operations. If the period of performance occurs in more than one fiscal year, a separate G&A rate will be developed for each fiscal year in which a portion of the performance will take place. For instance, if a service is to be provided for 18 consecuritve months beginning on October 1, 197X, two rates will have to be developed. The rates will be applied to the estimated cost of the service provided in each fiscal year. The base of allocation will be the total estimated cost (exclusive of G&A) expected to be incurred by the organization in each fiscal year. The supporting detail for each year will indicate the source of the estimates and where supporting documentation can be found.

INFLATION OF OUT-YEAR COSTS

In preparing the Government's estimate, all known or anticipated increases in costs to be incurred in the first year of operation should be provided for in each element of cost, as stipulated by the instructions contained in this Handbook. For all subsequent years, anticipated changes in scope of work may be added but no inflation factors will be added to the individual elements of cost. Rather, an amount equal to 4% of the preceding year's total cost (adjusted for any scope changes) will be added to each subsequent year's costs. These amounts will be entered on line 8 of the Cost Comparison Form under the appropriate year.

For example, if the first year's costs on line 9 are $150,000, then the amount on line 8 in the second year will be $6,000 (4% of $150,000); assuming there is no change in other cost elements, the amount on line 8 in the third year will be $6,240 (4% of $156,000), etc.

CHAPTER V. - DEVELOPING AN ESTIMATE OF CONTRACTING-OUT COSTS

This section of the Handbook deals with the determination of the cost to the Government of acquiring the product or service being analyzed by letting a contract. It includes determination of not only the amount to be paid to the contractor (contract price) but also the related in-house costs that will be incurred by the Government as a result of contracting out. The cost comparison form (Exhibit 1) identifies the following categories of Government cost which might be incurred in connection with contracting out:

Contract Price
Transportation
Contract Administration
Government-Furnished Property
Standby Maintenance
Other Costs
General and Administrative Expense (on the above)

Comments on each of these categories are contained in the following paragraphs.

CONTRACT PRICE

The contract price included in the cost comparison must be supported by a firm bid or proposal. The contractor's bid or proposal must be predicated on the same statement of work utilized in preparing the Government's estimate. Also, the solicitation for bids or proposals will notify the bidders or offerors that a comparison will be made between the cost of contracting the effort and performing it in-house.

In determining the amount to be recorded as the contract price, consideration must be given to the contract type. The following guidance is provided in this regard.

a. In the case of an advertised firm fixed price contract, the price of the low bidder or offeror will be entered without adjustment. If a firm fixed price contract is to be negotiated, the negotiated low bid price will be entered.

b. When fixed price contracts with flexible pricing arrangements are contemplated, e.g., fixed price incentive fee, the target price of the apparent low bidder or offeror will be entered.

c. If a contract with an award fee is proposed, the performance level comparable to that attributed to Government employees in preparing the Government's estimate will be used to estimate the amount of the fee. The estimated award fee, plus the contract costs of the apparent low bidder or offeror will be entered.

d. If a time and material or labor-hour contract is proposed, the estimated total cost of performance may be calculated and entered. Alternatively, comparable rates can be developed for the Government cost estimate and the comparison can be made on the basis of rates, rather than total costs.

e. If a cost reimbursement-type contract is required by special circumstances, the apparent low bidder or offeror's estimated costs must be subjected to a meticulous technical and cost evaluation to assure that the estimated costs are neither over nor understated. Adjustments to the bidder or offeror's estimate need to be reviewed with the bidder or offeror before the adjusted contract price is entered.

TRANSPORTATION COST

The Government may incur transportation costs whether a product/service is provided by an in-house operation or by a contractor's operation. Transportation for an in-house operation is normally associated with the applicable overhead. This section deals with the cost to the Government for transportation provided in connection with a product/service obtained by contract.

The contract documents or negotiation memoranda will indicate the additional transportation that is to be furnished by the Government. These items are usually clearly indicated. There may be some transportation in addition to that spelled out in the contracts which require an estimate. The best source for obtaining estimates of the cost of this transportation is the local transportation or purchasing office.

Typical of the transportation costs that may be incurred by the Government are:

a. Cost of transporting a contractor's employees;

b. Cost of transporting Government material, equipment, or supplies to and from a contractor's site, such as:

- Cartage cost from airport, bus, rail or marine terminals;
- The cost of special equipment, like refrigerated vans or heated containers;
- The cost of demurrage on rail cars or detention charges for trucks;
- In exceptional cases, the cost of special insurance.

The supporting documentation for these costs should describe the transportation to be provided, the mileage and/or rates utilized in arriving at the estimates, and the source from which they were obtained. If transportation costs were derived in some way other than by extending applicable mileage and rates, the methodology used to arrive at the estimate should be fully explained.

CONTRACT ADMINISTRATION

Contract administration includes the costs incurred by the Government in assuring the contract is faithfully executed by both the Government and the contractor. In addition to reviewing contractor performance and compliance with the terms of the contract, contract administration consists of processing payments, negotiating change orders, and monitoring close-out of contract operations.

The costs of contract administration will be determined by applying four percent (4%) to the contract price, line 10. The result will be entered on line 12 as the cost of contract administration.

GOVERNMENT-FURNISHED PROPERTY

When Government property is furnished to a contractor in connection with the performance of a contract, the cost connected with its use must be considered in determining the overall cost of the contract. Government-furnished property includes (1) that property that is in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor, and (2) property acquired by a contractor in accordance with the terms of the contract that does not become a part of the end item or is not consumed during contract performance and title thereto vests in the Government. Examples of Government-furnished property are land, buildings, facilities, equipment, special tooling, materials, and supplies.

The methods for determining the costs related to furnishing Government property will vary with the use made of the property. Where Government property becomes a part of the end product (material) or is consumed in providing a product or service (supplies) the full cost to the Government of acquiring and furnishing these materials and supplies must be added to the cost of contracting. When property such as land, buildings, facilities, equipment, and special tooling are provided for the contractor's use during the performance of the contract but will be returned to the Government upon contract completion, the costs of ownership of these assets by the Government during the period of contract performance, plus any other costs incurred in connection with furnishing the property to the contractor must be added to the cost of contracting. More specific guidance is contained in the following paragraphs. The sum of the costs for Government-furnished materials and supplies and for Government-furnished facilities, in accordance with these paragraphs, will be entered on line 13 of the Cost Comparison Form.

Government-Furnished Materials and Supplies

Government-furnished material and supplies (GFM&S) is property which may be incorporated into or attached to a product/service to be delivered under a contract and those supplies which may be consumed or expended in the performance of a contract. It includes, but is not limited to, such items as raw materials, parts, subassemblies, components, and manufacturing supplies. Care must be taken to exclude the cost of any material and supplies that are included in the contract price.

The instructions for estimating the costs of GFM&S are identical to those for estimating the cost of in-house material and supplies. Therefore, the sections of this Handbook entitled, "DIRECT MATERIALS" and "MATERIAL OVERHEAD" should be referenced for guidance in estimating the cost of GFM&S. See the section entitled, "TRANSPORTATION COST," for instruction on the treatment of costs that are associated with transporting GFM&S to and from the contractor's site.

The supporting documentation for GFM&S shall include a detailed listing of all the items to be furnished with

quantities, unit prices, suppliers, details of adjustments and the source of the information. See Figure 1 in the MATERIALS section of this Handbook for an illustration of the supporting documentation requirement.

Government-Furnished Facilities (Buildings and Other Land Improvements) and Equipment

The costs applicable to facilities and equipment furnished to contractors by the Government must be added to the cost of contracting out for purposes of Circular A-76 comparisons. These costs consist of depreciation of capitalized equipment or facilities, or the full expense of minor items of equipment which do not meet agency capitalization criteria. Depreciation on Government-furnished facilities and equipment shall be computed in accordance with the instructions on computing depreciation contained in the Handbook section entitled, "OPERATIONS OVERHEAD." Only the depreciation costs applicable to the proposed contract period will be considered for purposes of the cost comparison.

When the Government rehabilitates, modifies, or expands existing Government-owned facilities or equipment for the purpose of providing it to a contractor as Government-furnished property, the related costs will be treated as follows:

a. If the rehabilitation, modification or expansion of the Government facilities or equipment increases the useful life of the assets to the Government or the asset value of the property, the related costs shall be amortized over the remaining useful life of the assets. The amount to be included in the Circular A-76 cost comparison as an add-on to the contract cost shall be limited to the cost amortization applicable to the period covered by the proposed contract.

b. If the rehabilitation or modification work consists primarily of plant rearrangement, minor repairs, or other work which does not extend the useful life of the assets or does not increase the value of the property to the Government, the related costs shall be considered as additional costs of contracting out. The entire cost of such rehabilitation or modification will be charged to the first year of contract operations or spread over the contract period depending on the period the costs are determined to benefit.

c. While the acquisition cost of land is not depreciable, the costs of any improvements or alterations made to land utilized in performance of the contract, such as landscaping, special grading, etc., should be accumulated and amortized over the estimated useful life of the improvements or alteration. The add-on to the contract cost will be limited to the cost amortization applicable to the period covered by the proposed contract.

Cost estimates will be supported by a summary listing of all the above types of cost and the location of the detailed records used to determine them as follows:

Government-Furnished Facilities and Equipment

		Amount	Source
Depreciation			
Land Improvements	$ XXX		
Buildings	X,XXX		
Equipment	XX,XXX		
		$XX,XXX	
Other Expenses:			
Plant Rearrangement	X,XXX		
Minor Repairs	XXX		
Other	XXX		
		X,XXX	
Total		$XX,XXX	

Supporting data should include details on original cost, residual value, annual depreciation, etc., of the equipment and facilities.

STANDBY COSTS

When equipment and/or facilities must be held in standby status to assure contract performance, the cost of holding them must be added to the contract price. Costs related to holding equipment and facilities for any other purpose are not standby costs for purposes of this Handbook, and should not be added to the contract price. Standby costs are defined as expenses necessary for the upkeep of property in standby status which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient, operating condition or available for possible use in performance of the contract.

Standby cost is not to be confused with UTILIZATION OF GOVERNMENT CAPACITY or DISPOSAL OF FIXED ASSETS. Each of these factors is discussed separately in Chapter VI of this Handbook. Normally, Government property is disposed of or put to other use when a decision is made to obtain a product or service from the private sector instead of continuing to produce it in-house.

If it is determined that it is necessary to hold Government property in a standby status, all related costs must be estimated for inclusion in the cost comparison analysis. The estimate of standby costs begins with a determination of the facilities and/or equipment that will be placed in a standby status to support a commercial procurement action. The next step is to estimate the cost, if any, of preparing the facilities and equipment for standby status. The cost of holding the facilities or equipment in a standby status must also be estimated in order to determine the total standby maintenance cost which would result from a commercial procurement versus in-house production. These costs may be estimated by utilizing engineering estimates, prior experience, or experience of other organizations. If similar standby costs have been inccured previously, these may be used as a basis for subsequent costing provided appropriate adjustments have been made for facilities, equipment, and pricing variations. When computing the depreciation cost of property in standby status it will be necessary to review the useful life of the property since useful life may be increased by the change from production to standby status. This review will be necessary even if the depreciation is based on machine hours usage because, while wear and tear may cease, obsolescence may continue.

When the estimated standby cost is determined, as described in the previous paragraph, the total of this cost will be entered on line 14 of the Cost Comparison Form. Backup data must be included for all the cost elements associated with preparation for and maintenance in standby. See Chapter IV of this Handbook for cost estimating instructions, types of cost elements to be included, and documentation requirements. Since Government property is normally disposed of or put to another use when a product/service is procured from the private sector, a detailed justification is required for holding the Government property in standby status.

OTHER COSTS

This cost category encompasses any additional Government costs which would result from commercial procurement and which are not covered elsewhere in the cost comparison. This cost category is included to provide for unusual circumstances which may be encountered in particular cost comparisons.

Supporting data will include a complete description of the costs involved, together with cost detail as outlined for the various cost elements in Chapters IV and V of the Handbook.

GENERAL AND ADMINISTRATIVE EXPENSE

The general and administrative (G&A) expense applicable to the in-house effort related to contracting for a product or service must be included as part of the cost of contracting out. The amount of such expenses to be included will be determined by applying the G&A rate developed in Chapter IV to the total costs of the in-house effort (the sum of lines 11 through 14).

CHAPTER VI - OTHER CONSIDERATIONS

Up to this point, the Handbook has been concerned with determining the cost to the Government of acquiring a product or service either by contracting-out or by in-house performance. The decision as to which alternative to follow will not necessarily be made on the basis of the costs of providing the product or service developed in accordance with Chapters IV and V. Additional costs and other factors may have to be considered to determine the most economical of the two methods.

In order to make an informed decision, the full impact of the two alternatives on the overall cost of Government operations must be known. This will require the decision-maker to evaluate the following:

- Loss of opportunity to employ resources in other areas if performed in-house (cost of capital);
- The one-time costs that will be incurred to start or terminate a Government operation;
- The impact on remaining operations of contracting-out a portion of a work center's effort (utilization of Government capacity);
- Loss of revenue (Federal taxes) due to in-house performance;
- Any other impact of contracting-out or in-house performance that can be quantified.

Comments on the determination and application of the amounts related to the above are contained in the following paragraphs.

COST OF CAPITAL

The cost of capital is defined as an imputed charge on the Government's investment in all of the plant facilities and other assets necessary for the work center to manufacture products or to provide services. For purposes of simplifying the comparisons required by this Handbook, a distinction is being made between those assets which will be retained and those that will be disposed of if the product or service is contracted out. However, as will be noted below, all of the required assets will be considered. Determination of the amount applicable to those assets that are to be retained, regardless of whether or not the product or service is contracted out, will be determined in accordance with the provisions of the following section entitled, "DETERMINATION OF THE COST OF CAPITAL FOR RETAINED ASSETS." The amount applicable to those assets to be disposed of if the product or service is contracted out will be determined in accordance with the section entitled, "DISPOSAL OF FIXED ASSETS." Basically, the imputed charge for the cost of capital is an opportunity cost; that is, if the capital had not been devoted to the production of the current period, it could have been devoted to another use which would have provided other income or avoided interest expense; it is not an attempt to recover interest on borrowed money.

Determination of the Cost of Capital for Retained Assets

When assets are to be retained by the Government, there are four possible reasons therefor. The first and most obvious reason would be to provide the product or service being estimated by in-house effort. The second reason would be that they are to be provided to the contractor in order to perform the contract. The third reason would be that they must be held to assure performance in the event of a significant contract interruption or delay. The fourth reason is a need for the Government to retain the industrial or commerical capability to meet possible future contingencies. If the assets are retained for any of the first three reasons, consideration of the opportunity cost related thereto must be given in making the cost comparison. It is to be noted that some of the same assets may be retained for any of the first three reasons. The reason for retaining such assets governs whether the cost of capital related thereto will be added to the in-house or contracting-out effort. Since the fourth reason is not germane to the question of contracting out or in-house performance, no cost comparison consideration will be given to the Government's ownership of those assets.

In order to estimate the cost of capital, it is necessary to obtain the net book value (acquisition cost less depreciation accumulated to date) of each tangible capital asset (land, improvements, buildings, equipment, etc.) which is to be retained. The acquisition cost of land and the net book value of each depreciable tangible asset should be obtained from the accounting records. However, if the accounting records are unavailable, it will be necessary to

utilize engineering estimates, prior experience, or experience of other organizations. The cost of capital will be computed by applying an opportunity cost rate of 10% to the total net book value of the assets to be retained. If the assets involved are used solely to provide the product or service being estimated, the total amount of the cost of capital will be added. If the assets involved are used not only to provide the product or service being estimated, but other products or services as well, a proration of the cost of capital will be made.

Prorating Cost of Capital - If the cost of capital were a real rather than an imputed cost, it would be properly classified as a General and Administrative (G&A) expense. Accordingly, its proration to the product or service being estimated will be in the same proportion that the total estimated costs to be incurred (less G&A expense) for the product or service being estimated bears to the total estimated cost to be incurred (less G&A expense) for the performing organization. This latter amount is the base for allocation of the G&A expenses and should be readily obtainable from the supporting documentation. An example of this computation is shown below:

From the illustration in the G&A EXPENSE section of this Handbook the following data are obtained:

Total costs incurred (less G&A expenses) for the product/service being estimated	$ 3,255,000
Total costs incurred in Organization A (less G&A expenses)	51,500,000
Assume total annual cost of capital for assets required	250,000

Then cost of capital applicable to the product or service being estimated would be computed as follows:

$$\frac{\$\ 3,255,000}{\$51,500,000} \times \$250,000 = \$\ 15,800$$

Assigning Cost of Capital -- After the cost of capital for retained assets is determined, amounts must be assigned, as appropriate, to the cost of in-house performance and the cost of contracting out.

a. In-house Performance -- In the case of assets retained because they are required for in-house performance, the entire amount of the cost of capital for those assets (or the pro rata share when appropriate) will be added to the cost of in-house performance by entry on line 18 of the Cost Comparison Form.

b. Contract Performance -- Assets retained in connection with contract performance may include one or both of the following:

1. Assets retained in order to provide them to a contractor for use in contract performance.

2. Assets retained by the Government to assure provision of the product or service in the event of interruption of contract performance.

The total cost of capital for any assets retained for 1 and 2 above must be considered as costs of contracting. The total of these amounts will be entered on line 23 of the Cost Comparison Form.

Supporting Documentation -- Supporting documentation for the cost of capital related to the assets to be retained shall include a detailed listing of such assets and the net book value of each. If these assets have been previously listed in connection with the computation of depreciation, a reference may be made to that listing rather than duplicating it. Where, because of the magnitude of the assets involved, it would not be practical to prepare such a list, the assets may be supported by a listing of logical groupings by types of assets and reference made to where the detailed supporting property records may be examined.

Disposal of Fixed Assets

When a product/service is being performed in-house by Federal employees, a decision to contract that operation may eliminate the need for all or some portion of the fixed assets used in providing the product or service. The value to the Government of reducing this need must be included as a consideration in the comparative cost analysis. This section deals with those fixed assets which will be disposed of if a decision is made to contract for the product or service.

In determining such costs for consideration in a comparative analysis, the current market value of each of the fixed

assets must be ascertained. If the property is to be disposed of by either GSA or Defense Property Disposal Service, assistance may be obtained from them as to current market value and disposal costs. Also, for equipment items, the market value may be estimated, based on commercial publications which list sales prices of used machinery and equipment of all types. Assistance in this regard may also be available from dealers in the specific equipment for which an estimate is needed.

After an estimate is made of the current market value of the fixed asset to be disposed of, an estimate will be made of the expenses connected with the disposition; i.e., sales commission, advertising, legal fee, relocation, etc. The total expenses related to the disposal will be deducted from the estimated market value to determine the net value to the Government of the fixed asset. Note well: The book value of the asset should not be deducted from the market value to arrive at the net value to the Government. The approach taken in this section precludes the necessity of considering any gain or loss on disposal of the asset.

The net value of each fixed asset will be calculated as described above, and the net value of all fixed assets to be sold will be totalled. This total will be the base for calculating the amount to be included in the comparative cost analysis. The base figure will be multiplied by a factor of 10% representing the annual value to the Government of the amount of the net proceeds. For purposes of this cost comparison, the proceeds that could be realized by disposal of the assets are considered to be a source of additional revenue to the Government. Accordingly, the amount determined from the above calculations is considered as potential revenue to the Government and will be treated as an offset (reduction) to the cost of contracting out and entered on line 28 of the Cost Comparison Form.

ONE-TIME COSTS

In every case where the Government either starts or discontinues an in-house activity it incurs one-time costs resulting from changing the source of the product or service it uses. For new starts, the one-time costs are those associated with establishing the in-house capability and discontinuing a contract arrangement. For conversions, the one-time costs arise from terminating the in-house activity and starting a contract arrangement. Even though these costs are incurred only once and will not recur unless the mode of performance again changes, the total costs may be significant. The significance is measured in relation to the difference between the Government's costs of obtaining the product or service by contract and the Government's cost of in-house performance. The estimated savings to the Government by effecting a proposed new start or conversion must be sufficient to offset the one-time costs over a reasonable time period. As a general rule, a changeover will not be justified on the basis of a cost comparison unless the total one-time costs will be recoverable from estimated savings within five years.

Guidance for determining one time costs for new start and conversion situations is contained in the following paragraphs.

One Time Costs Related to a New Start

While a new start may require substantial new investment by the Government in facilities and equipment, these costs should be annualized in accordance with guidance contained in this Handbook concerning cost of capital and depreciation, and not be included as one-time costs under this section. The costs of acquiring the facility, however, and costs incurred for the acquisition and installation of equipment, unless included in the capitalized cost, would need to be included in one-time cost estimates. Other examples of one-time costs would include office and plant rearrangements, employee relocation expenses, and expenses which are the direct result of discontinuing an existing contract. If a contract is completed, it is not normal that any additional costs will be borne by the Government.

Determination of the full scope of the Government's one-time new start costs should be made in consultation with engineering, production, management, and procurement personnel. Supporting documentation should indicate clearly the type of new start costs anticipated and the methodology used to estimate the amounts to be incurred. The detail supporting the estimate of each element of cost should be similar to that provided for in Chapter IV. For comparison purposes, one-fifth of the total should be added to each year of the cost comparison up to and including the fifth year. The one-fifth figure should be added to the cost of in-house performance by entering it on line 19.

One-Tme Costs Related to a Conversion

When the Government discontinues an in-house activity to obtain the product or service by contract there are usually substantial one-time costs associated with the conversion. These costs are identified and discussed in the following paragraphs.

Material-Related Costs -- A conversion will normally result in certain items of material being held in inventory (either unissued material, work in process, or finished goods) becoming excess. It may be possible to transfer certain of this material to the contractor who is going to provide the product or service in the future. In this case, the material will be treated as Government-furnished material and priced in accordance with Chapter V. In other cases, the material may be diverted to other uses of the Government; in this case, only the additional costs incurred in connection with making the material available for the other use will be included as conversion costs. When neither of the above dispositions of the material is practical, the material will normally be disposed of by sale. If it is anticipated that the material will be sold, the estimated gain or loss on the sale must be considered in determining conversion costs. The estimated gain or loss will be computed by deducting from the estimated sales price the acquisition cost of the material plus material overhead (at the rate developed in Chapter IV) and all other expenses related to disposition, such as packing, shipping, etc. If the material is to be disposed of by either GSA or Defense Property Disposal Service, these agencies should be consulted in arriving at these costs. The supporting documentation for such costs should contain a listing of the items and the quantity to be disposed of, their acquisition cost, and the estimated sales price. In addition, all other expenses such as packing, shipping, disposal, etc., should be adequately supported by documentation describing how the amounts were determined.

Labor-Related Costs -- A conversion will also normally result in the incurrence of certain labor-related expenses that are considered one-time costs. These include severance pay, homeowner's assistance, grade pay retention, relocation expenses and retraining expenses. The amount of these expenses should be computed in consultation with management and personnel department employees. Historical data from the agency or from other agencies gathered from similar circumstances should be considered in arriving at the appropriate cost. The supporting documentation should contain appropriate detail and indicate how the various amounts were arrived at.

Other Costs -- A conversion will normally necessitate certain actions that would not be necessary if the activity were to be continued. For example, a special physical inventory may be necessary to ascertain the material (supplies, equipment, small tools, etc.) on hand. The cost of taking such an inventory would be a proper conversion costs. Also, it may not be possible to avoid the continuation of some costs, such as lease or rental agreements for facilities or equipment, beyond the time that they are no longer required. These types of costs are also properly includable as conversion costs. Supporting documentation for such costs should clearly state the purpose for each item of costs, and how the amount thereof was determined.

General and Administrative Expense -- An amount for general and administrative expense must be included. That amount will be determined by applying the G&A rate developed in Chapter IV to the sum of the material-related, labor-related and other costs.

Documentation and Comparison -- The amount for general and administrative expense must be added to the sum of the costs to which the G&A rate was applied to establish the total one-time costs related to a conversion. The detail supporting the estimate of each element of cost should be similar to that provided for in Chapter IV. For comparison purposes, one-fifth of the total one-time costs should be added to each year of the cost comparison up to and including the fifth year. The one-fifth figure should be added to the cost of contracting by entering it on line 25.

UTILIZATION OF GOVERNMENT CAPACITY

The potential impact on a work center of contracting out for a product or service which it currently provides must be taken into consideration before a decision is made. The decision to contract out can result in the work center becoming completely idle, operating at a reduced capacity, or operating at the same or increased capacity.

When the decision to contract out will result in the work center becoming completely idle because no other use of its capacity is planned, its facilities will either be disposed of or placed in a stand-by status. The circumstances under which the costs related to placing assets in a stand-by

status will be considered as an additional cost to contracting out are set forth in the Standby Costs portion of this Handbook. When the assets are to be disposed of, an opportunity cost will be added to the Government's in-house estimate as prescribed by the Cost of Capital section of this Handbook.

When it is planned that the efforts of the work center will not be reduced because the product or service to be contracted out will be replaced by others, consideration should be given to any savings or additional costs to the Government resulting from transferring the replacement products or services. Where the transfer of effort will rsult in the disposal of Government assets related to the replacement product or service or the avoidance of rental costs, these occurrences should be treated the same as if they were happening in the work center which currently provides the product or service being estimated. See the appropriate sections of this Handbook for further guidance in this regard.

Where the decision to contract out will result in the work center(s) operating at less than its present level of utilization, the costs attributable to this underutilized capacity must be determined. In these cases, some overhead costs allocable to the product or service being contracted out may continue. These continuing overhead costs must be absorbed by the remaining in-house activities. The additional amount to be absorbed by the remaining activities is a cost of contracting out.

For purposes of this Handbook, the cost of underutilization will be determined as follows:

Step 1: From the supporting documentation for operations overhead, determine the total operations overhead expense pool(s), the total amount of the base of allocation and the resultant overhead rate. From the example shown in discussing operations overhead, these amounts would be as follows:

	Basic Pool	Machine Pool
Overhead Expense	$1,500,000	$3,000,000
Base of Allocation	$9,000,000	50,000/mach. hours
Overhead Rate	16.67% of direct costs	60/mach. hours

Step 2: Again, from the supporting detail of the Government's estimate, ascertain the amount of the base of allocation applicable to the product or service being estimated. These amounts will then be deducted from the total base of allocation. As illustrated under the Operations Overhead section, the product/service A-3 incurred direct costs of $1,800,000 and 40,000 machine hours. Thus, we would show:

	Direct Costs	Machine Hours
Total Base of Allocation	$9,000,000	50,000 hours
Less:		
Applicable to Product/ Service Being Estimated (A-3)	$1,800,000	40,000 hours
Adjusted Base of Allocation	$7,200,000	10,000 hours

Step 3: In consultation with accounting and management personnel, ascertain the decreases in overhead expenses that can be expected to occur if the product/service is contracted out. Deduct these decreases from the appropriate overhead pool. Assume that, as a result of contracting out, the total basic overhead pool will be reduced by $500,000 and the machine pool by $2,000,000. This would result in the following:

	Basic	Machine
Total Overhead Expense	$1,500,000	$3,000,000
Less Reductions due to Contracting Out	500,000	2,000,000
Adjusted Overhead Pool	$1,000,000	$1,000,000

Step 4: Ascertain the overhead rate to be applied to the remaining effort. The overhead rate will be developed by dividing the adjusted overhead pool developed in Step 3, above, by the adjusted allocation base developed in Step 2, as follows:

	Basic	Machine
Adjusted Overhead Pool (From Step 3)	$1,000,000	$1,000,000
Adjusted Base of Allocation (From Step 2)	$7,200,000	10,000 hour
Overhead Rate (Pool - Base)	13.89%	$ 100 per hour

Step 5: Ascertain the difference between the amount of overhead costs applicable to the effort not to be contracted out in both circumstances. In our illustration, this would be done as follows:

Product/Service Portion of Allocation Base		Basic (Direct Costs)	Machine (Machine Hours)
A-1		$4,500,000	5,000 hrs.
A-2		2,700,000	5,000 hrs.
Total	(A)	$7,200,000	10,000 hrs.
Overhead Rates if Performed In-House (From Step 1)	(B)	16.67%	$60/hour
Overhead Amount if Performed In-House (A) x (B) =	(C)	$1,200,240	$ 600,000
Overhead Rates if Contracted Out (From Step 4)	(D)	13.89%	$ 100/hour
Overhead Amount if Contracted Out (A) x (D)=(E)		$1,000,000	$1,000,000
Increase (Decrease) in Overhead Charged to Remaining Products Due to Contracting Out (E) - (C)		($200,160)	$ 400,000

The increase in cost due to contracting out is the sum of the differences shown above, or $199,840 ($400,000 + ($200,160). This increased cost should be added to the cost of contracting out. The supporting documentation should contain the adjustments made to the overhead expense pool and explain how they were computed.

If the product or service being estimated represents more than 5% of the general and administrative expense allocation base (total costs incurred minus general and administrative expenses), similar computations to those above for operations overhead should also be made for the general and administrative expense rate. Similarly, the impact of contracting-out a product or service on material overhead should be determined if the material content of the product or service is 5% of the total material costs.

FEDERAL TAXES

When comparing the cost to the Government of a product or service to be obtained by contract with the cost of in-house performance, the potential Federal income tax revenues must be considered. Since contract performance would provide the contractor with income subject to tax, an estimated amount for such taxes is an appropriate deduction from the net cost to the Government of acquiring the product or service by contract.

To simplify the tax computation, a table (Figure 6) prepared by the Internal Revenue Service, provides by types of industries, appropriate tax rates in relation to business receipts. The industry groupings conform to the Enterprise Standard Industrial Classification issued by the Office of Management and Budget. To determine the amount of the estimated Federal income tax, the contract price (line 10 of the Comparative Cost Form) shall be multiplied by the tax rate, selected from Figure 6, applicable to the industry identified with the product or service under consideration. The result of this computation will be the estimated amount of Federal income tax to be entered on line 27 as a deduction from the cost of contracting.

Figure 6 ↓

↓ Figure 6 is not available at this present time but will be included in the final document.

OTHER ADDITIONS/DEDUCTIONS

Space has been provided on the Cost Comparison Form by inclusion of lines 20, 21, 26, and 29 for any other additions or deductions to the cost of in-house or contracting-out performance not specifically covered by any of the foregoing classifications of costs. Amounts entered on these lines should be supported by definition of the type of cost, the methods of its computation, and if appropriate, a detailed listing of specific cost elements included therein.

CHAPTER VII COST DIFFERENTIALS

Different cost margins have been established by OMB Circular A-76 that must be exceeded before performing a "new start" in-house, and before converting an in-house activity to a contract. Details pertaining to these cost margins and the methods by which they are to be determined are set forth in the following paragraphs.

New Start

A new start for purposes of OMB Circular A-76 and his Handbook refers to any activity not currently being done in-house at a particular location. When a comparative cost analyis is conducted for a possible "new start", a cost margin equal to 10% of the estimated personnel related costs plus 25% of the estimated cost of ownership of the required facilities and equpment must be added to the cost of in-house performance on the Cost Comparison Form. For this purpose, ownership costs will be considered to be the product's or service's prorata share of the depreciation and cost of capital that are applicable to the required assets.

The margin of 10% of estimated personnel costs is consistent with the margin favoring the status quo in studies of existing Government activities. The additional margin of 25% of the cost of ownership of the required facilities and equipment provides a tangible expression of the basic policy of the Circular; it also recognizes the risks inherent in Government investment in industrial facilities.

The method of computing the cost margin for a "new start" is illustrated in the following steps. Data from the figures provided in the OPERATIONS OVERHEAD and GENERAL AND ADMINISTRATIVE EXPENSE sections of this Handbook as they pertain to Product A-3 will be use to the extent possible. Since these examples do not contain all the data necessary to the computation (e.g., direct labor, and material overhead data) certain additional assumptions pertaining to Product A-3 are necessary. These assumptions and the steps in the computation of the cost margin are shown below:

STEP 1. Determine the amount of direct labor applicable to the product or service being estimated. This will be the amount shown on line 3 of the cost comparision form.

EXAMPLE: For product A-3, this amount is assumed to be $1,000,000 of its $1,8000,000 direct costs. Based on this assumption, the direct labor amount that would be shown on line 3 is $1,000,000.

STEP 2. Determine the prorata share of the indirect labor and depreciation contained in each overhead pool that is applicable to the product or service being estimated. The total indirect labor and depreciation contained in each overhead pool should be readily available from the detail utilized to develop the various overhead rates and which are to be included as supporting documentation.

EXAMPLE: To the extent data were availabe in the examples used in various sections of the Handbook, they have been utilized; otherwise, the assumptions made are stated.

Material Overhead Assume that $600,000 of the direct costs of $1,800,000 shown for Product A-3 in the OPERATION OVERHEAD section represent direct material costs. This would normally be obtained from line 1 of the cost comparison form. Also, assume that in the material overhead pool there are total indirect labor costs of $500,000 and depreciation costs of $100,000; also, the total material costs (direct and indirect) in the allocation base are $4,800,000. These data should normally be available from the documentation supporting material overhead. The following computation for Product A-3 then can be made:

a. Determine the rate of Product A83's direct material cost to the total allocation base:

$$\frac{600,000}{4,800,000} = 1/8 \text{ or } 12.5\%$$

b. Apply the above ratio to the total indirect labor and depreciation in the material overhead pool to arrive at the amounts thereof applicable to Product A-3:

Indirect labor, $500,000 x 12.5% = $ 62,500

Depreciation, $100,000 x 12.5% = $ 12,500

Operations Overhead From the illustration in the OPERATIONS OVERHEAD section, the following data are available:

Total indirect labor in Basic Pool	$1,170,000
Total indirect labor in Machine Pool	$ 930,000
Total depreciation in Basic Pool	$ 40,000
Total depreciation in Machine Pool	$ 400,000
Total allocation base (direct costs) Basic Pool	$9,000,000
Total allocation base (machine hours) of Machine Pool	50,000 hours
Direct costs of Product A-3	$1,800,000
Machine hours applicable to Product A-3	40,000 hours

The computations for the two pools would be as follows:

Basic Pool

a. $\frac{\$1,800,000}{\$9,000,000} = 1/5 \text{ or } 20\%$

b. Indirect labor, $1,170,000 x 20% = $ 334,000
Depreciation, $40,000 x 20% = $ 8,000

Machine Pool

a. $\frac{40,000 \text{ hours}}{50,000 \text{ hours}} = 4/5 \text{ or } 80\%$

b. Indirect labor, $930,000 x 80% = $ 744,000
Depreciation, $400,000 x 80% = $ 320,000

SUMMARY

Total indirect labor in operations overhead applicable to Product A-3 = $1,078,000

Total depreciation in operations overhead applicable to Product A- = $ 328,000

General and Administrative (G&A) Expense From the illustrations in the G&A EXPENSE section, the following data are available:

Executive, Professional, and Technical Supervision Salaries	$1,450,000
Clerical and Other Salaries	$1,175,000
Total indirect labor	$2,625,000
Total allocation base (total cost incurred, exclusive of G&A)	$51,500,000

Assume:

Depreciation included in the $3,100,000 of Other Expenses is	$ 100,000
The total incurred costs, exclusive of G&A, applicable to Product A-3 are	$4,940,000

Then the computation to determine the indirect labor and depreciation in G&A applicable to product A-3 would be as follows:

a. $\frac{\$ 4,940,000}{\$51,500,000} = 9.6\%$

b. Indirect labor, $2,625,000 x 9.6% = $ 252,000
Depreciation, $100,000 x 9.6% = $ 9,600

STEP 3. Accumulate all the labor costs applicable to the product or service being estimated as developed in STEPS 1 and 2:

EXAMPLE: Direct labor from STEP 1	$1,000,000
Indirect labor from STEP 2	
Material Overhead	$ 62,000
Operations Overhead	$1,078,000
G&A Expense	$ 252,000
Total labor applicable to Product A-3	$2,392,500

STEP 4. Apply the fringe benefits rate developed in accordance with the FRINGE BENEFITS RATE section of this Handbook to the total labor costs developed in STEP 3, above.

EXAMPLE: Assume a fringe benefit rate of 38% has been developed then.
$2,392,500 x 38% = $ 909,150

STEP 5. Combine the amounts developed in STES 3 and 4 to arrive at total personnel related costs.

EXAMPLE: $2,392,500 + $909,150 = $3,301,650

STEP 6. Compute 10% of the amount developed in STEP 5 to determine the personnel related cost margin.

EXAMPLE: $3,301,650 x 10% = $ 330,165

STEP 7. Accumulate the depreciation applicable to the product or service being estimated as developed in STEP 2.

EXAMPLE: Depreciation from STEP 2:	
Material Overhead	$ 12,500
Operations Overhead	$ 328,000
General and Administrative Expense	$ 9,600
Total depreciation applicable to Product A-3	$ 350,100

STEP 8. Determine the Cost of Capital that is applicable to the product or service being estimated. The Cost of Capital will be computed in accordance with the applicable section of this Handbook and entered on line 18 of the cost comparison form.

EXAMPLE: Assume the cost of capital applicable to the facilities and equipment required to provide Product A-3 is $ 300,000

STEP 9. Combine the amounts of Depreciation and Cost of Capital developed in STEPS 7 and 8 to arrive at the total ownership costs of the required facilities and equipment.

EXAMPLE: Amounts Applicable to Product A-3

Depreciation	$ 350,100
Cost of Capital	$ 300,000
Total ownership costs	$ 650,100

STEP 10. Compute the ownership cost margin by applying 25% to total ownership costs.

EXAMPLE: $650,100 from STEP 9 x 25% $162,525

STEP 11. Combine the personnel related margin developed in STEP 6 and the ownership margin developed in STEP 10 to arrive at the total cost margin for a new start.

EXAMPLE: Personnel margin from STEP 6	$ 330,165
Ownership margin from STEP 10	$ 162,525
Total cost margin for newstart	$ 492,690

STEP 12. Enter the cost margin developed in STEP 11 on line 31 of the cost comparison form.

CONVERSION

Conversion for purposes of OMB Circular A-76 and this Handbook concerns only the change from in-house to contract performance. The opposite change, that is, from a contract to in-house performance, is considered a "new start" and is covered by the preceding subsection. When a possible conversion is being considered, a cost margin equal to 10% of the in-house personnel related costs must be added to the cost of contracting out on the cost comparsion form. This amount is added to give consideration in the cost comparison to the loss of production, the temporary decrease in efficiency and effectiveness, and other unpredicable risks that result anytime a change is made in the method of operation from in-house to contract. It also takes into consideration the personnel turbulence that results from such a change.

Computation of this personnel-related cost margin is identical to the computation of the personnel-related portion of the cost margin for a new start. Accordingly, the personnel-related portion of STEPS 1 through 6, above, will be followed to compute the cost margin. The resulting amount will be added to the cost of contracting out by entry on line 32 of the cost comparison form.

CHAPTER VIII SUMMARY

Submission of the Government's Cost Estimate

When all the costs connected with in-house performance have been estimated (lines 1 through 9, 18 through 22, and 31, if appropriate), they should be totalled and entered on line 33 of the Cost comparison Form. This will then complete the action necessary to submit the Government's in-house cost estimate. This action should be completed in time for estimate, along with its supporting data, to be submitted to the contracting officer within the prescribed dates for bid or proposal submission. The form should be signed and dated by the person responsible for its preparation in the line entitled, "In-house Estimate Prepared By." If preparation of the form was done by a task force, the Chairman of the task force should sign, indicating that he was the Chairman.

Simplified Cost Comparison When Inhouse Costs Are Below Best Offer

After the contracting officer opens the bids or completes negotiations, he will ondicate in line 10 of the form the lowest responsible bid or proposal. He will then return the form to the preparer for completion. If the contract price that has been entered on line 10 is higher than the Government's in-house cost estimate on line 33, a simplified cost comparison can be accomplished provided the Government's estimate has been properly prepared.

When the annotated contract price (line 10) exceeds the total in-house costs (line 33) it can be assumed that the cost of in-house performance will be less than the cost of contracting-out. This assumption precludes the necessity for completing those portions of the form dealing with the cost of contracting-out. Completion of these portions would only serve to document the net additional costs which must be added to the contract ptice. Since the contract price alrady exceeds the cost of in-house performance, such information would not alter the recommendation. Therefore, there is no need to complete those portions of the form. In these circumstances, the contract ptice entered as line 10 will also be entered on line 34. The ammount by which the cost of in-house performance as shown on line 33 ia under the contract price shown on line 34 will be determined and entered on line 35. The form will then be signed, on the line entitled, "Cost Comparison Completed By,: by the Task Force Chariman or such other individual who was assigned the responsibility.

After the comparison is completed and the Form signed, it will be submitted to a qualified activity independent of the cost analysis preparation to ensure the Government's estimated costs have been prepared in accordance with the provisions of this Handbook. If no, or only minor, discrepancies are noted during the review, the reviewing activity will execute the audit certificate and return the form to the preparer for resubmission to the contracting officer.

If significant discrepancies are noted during the review, they will be reported to the party preparing the cost comparison. The reviewing agency should indicate the impact of the discrepancy or recommend that the preparer correct and resubmit its estimate. If the revised estimate results in the government's costs of in-house performance exceeding the contract price on line 10, a simplified comparison is no longer warranted. The full cost comparison as indicated below must now be performed. As indicated in Chapter III, if the procurement action pertains to a new-start and the estimated cannot be corrected in a timely manner, the in-house figure will be rejected and the contract awarded. Conversely, if the contemplated procurement pertains to an activity presently being performed in-house, and the estimate cannot be corrected within the validity date of the bids or proposals, the procurement action may be terminated and the comparison rescheduled for a later date.

When the cost comparison has been audited and, with any necessary corrections, approved by the reviewing agency, the party responsible for preparing the cost comparison will originate the Decision Summary Form, Exhibit 2, including the recommendation to award a contract or to perform the work in-house. This form and the Cost Comparison Form will be forwarded to the Contracting Officer, who will indicate the action taken to award a contracat or to cancel the procurement action, signing and dating the form where indicated.

Completion of the Cost Comparison Form

When the lowest responible bid or proposal is below the Government cost estimate, the contracting officer will advise the preparer of the Form of the amount of the low bid by inserting it on line 10 of the Cost Comparison Form and returning it for completion. The preparer will then complete lines 11 through 17, 23 through 30, and 32, if appropriate. The amounts on these lines should then be totalled and entered on line 34 of the Form. The amount to be entered in line 35 should then be computed by deducting line 34 from line 33.

After the comparison has been completed, it should be submitted, along with its supporting documentation, to an organization which is independent of the preparing organization for verification. This verification is intended to assure that all the amounts contained on the Form are predicated on the most current data available to the preparer, that the data are accurate and complete, and that it has been prepared in accordance with the provisions of this Handbook. Any discrepancies noted will be treaded in the same manner as indicated in the preceding subsection dealing with Simplified Cost Comparisons. If no discrepancies are noted (or those noted have been corrected), the audit certification will be completed. Any significant discrepancies not corrected will be reported to the preparer and the contracting officer. The prepare will originate the Decision Summary Form, submitting it to the contracting officer with the Cost Comparison Form. Based on the guidance contained in Chapter III, the contracting officer may either disqualify the Government estimate or terminate the procurement action.

When the contractaing officer receives the completed cost comparison with the audit certification and the Decision Summary Form, he will take the appropriate steps to complete the procurement action and indicate it on the Decision Summary Form. When the amount on line 35 indicates that the cost of in-house performance exceeds the cost of contracting-out. Conversely, when it is indicated that the cost of in-house performance is less than (under) the cost of contracting-out, then the recommendation should be to perform in-house.

(DEPARTMENT OR AGENCY)

COMPARATIVE COST OF IN-HOUSE AND CONTRACTING-OUT PERFORMANCE OF (PRODUCT/SERVICE)

(Date)

LINE #	Cost Element	FIRST YEAR	SECOND YEAR	THIRD YEAR	ADDITIONAL YEARS AS APPROPRIATE	TOTAL	REFERENCE
	IN-HOUSE PERFORMANCE (CHAPTER IV)	(Enter Amounts Rounded to Nearest Dollar)			(NOTE 1)		(NOTE 2)
1.	DIRECT MATERIAL						A
2.	MATERIAL OVERHEAD						B
3.	DIRECT LABOR						C
4.	FRINGE BENEFITS ON DIRECT LABOR						D
5.	OPERATIONS OVERHEAD						E
6.	OTHER DIRECT COSTS						F
7.	GENERAL AND ADMINISTRATIVE EXPENSE						G
8.	INFLATION	Not applic.					H
9.	TOTAL						
	PERFORMANCE BY CONTRACTING-OUT (CHAPTER V)						
10.	CONTRACT PRICE						I
11.	TRANSPORTATION						J
12.	CONTRACT ADMINISTRATION						K
13.	GOVERNMENT-FURNISHED PROPERTY						L
14.	STANDBY MAINTENANCE						M
15.	OTHER COSTS						N
16.	GENERAL AND ADMINISTRATIVE EXPENSE						O
17.	TOTAL						

NOTE 1: If more than four years are involved, use another form(s) to detail the annual cost of each year and enter the total here.

NOTE 2: Attach supporting documentation as prescribed for each element of cost for which an entry is made and identify it with the established reference. Pages should be separately numbered with the prescribed alphabetic reference and in numerical sequence; e.g., A-1, A-2, A-3, etc. The reference column in this column indicates the total number of pages submitted; e.g., A-1 through 14.

NOTICES

Exhibit 1

LINE #	Cost Element	FIRST YEAR	SECOND YEAR	THIRD YEAR	ADDITIONAL YEARS AS APPROPRIATE	TOTAL	REFERENCE
	OTHER CONSIDERATIONS (CHAPTER VI)						
	ADDITIONS AND (DEDUCTIONS) TO IN-HOUSE PERFORMANCE						
	ADD:						
18.	COST OF CAPITAL						P
19.	ONE-TIME NEW-START COSTS						Q
20.	OTHER COSTS						R
	DEDUCT:						
21.	OTHER COSTS	( )	( )	( )	( )	( )	S
22.	TOTAL						
	ADDITIONS AND (DEDUCTIONS) TO CONTRACTING-OUT PERFORMANCE						
	ADD:						
23.	COST OF CAPITAL ON GOV'T-FURNISHED FACILITIES						T
24.	UTILIZATION OF GOVERNMENT CAPACITY						U
25.	ONE-TIME CONVERSION COSTS						V
26.	OTHER COSTS						W
	DEDUCT:						
27.	FEDERAL INCOME TAXES	( )	( )	( )	( )	( )	X
28.	NET PROCEEDS FROM DISPOSAL OF ASSETS (ANNUAL VALUE)	( )	( )	( )	( )	( )	Y
29	OTHER COSTS	( )	( )	( )	( )	( )	Z
30.	TOTAL						
	MINIMUM COST DIFFERENTIAL (CHAPTER VII)						
31.	NEW-START						AA
32.	CONVERSION						BB
	SUMMARY (CHAPTER VIII)						
33.	ADJUSTED COST OF IN-HOUSE PERFORMANCE (LINE 9 ± LINE 22 + 31)						
34.	ADJUSTED COST OF CONTRACTING-OUT PERFORMANCE (LINE 17 ± LINE 22 + 31)						
35.	COST OF IN-HOUSE OVER (UNDER) COST OF CONTRACTING-OUT PERFORMANCE (LINE 33 - LINE 34)						

NOTICES

IN-HOUSE ESTIMATES PREPARED BY:

(Name) (Date)

(Title) (Telephone)

APPROVED BY:

(Name) (Date)

(Title) (Telephone)

PERFORMANCE RECOMMENDATION (IN-HOUSE OR CONTRACT) APPROVED BY:

(Name) (Date)

(Title) (Telephone)

COST COMPARISON PREPARED BY:

(Name) (Date)

(Title) (Telephone)

AUDIT CERTIFICATION

We have reviewed the above form and substantiated the currency accuracy and completeness of the data. We further verified that the procedures followed were in compliance with OMB Circular A-76 and the related Cost Comparison Handbook.

(Name) (Date)

(Title) (Telephone)

Exhibit 2

DECISION SUMMARY
FOR
IN-HOUSE OR CONTRACT PERFORMANCE
BASED ON
COST COMPARISON PER OMB CIRCULAR A-76

I. Department/Agency_____
Location_____
Function or Activity_____
Currently Performed In-house/by Contract_____

II. Contract Data:
Solicitation date_____ Solicitation No._____
Number of bids_____ Closing date_____

Contract proposal is for __ year(s) with options for __ year(s).
Cost comparison covered __ years, from _____, 19__ to _____, 19__.
Proposed changeover date_____

III. Total Adjusted Cost of In-House Performance (Line 33) _____

Total Adjusted Cost of Contracting-Out Performance (Line 34) _____

Cost of In-House Performance Over (Under) Cost of Contracting-Out Performance (Line 35 _____

IV. Non-Monetary Considerations (Attach Supplemental Sheets if Necessary)

V. Final Recommendation - Perform In-House _____
Contract Out _____

Prepared by:
/s/_____
(Name) (Date)

(Title) (Telephone)

Approved by:
/s/_____
(Name) (Date)

(Title) (Telephone)

VI. Action of Contracting Officer:
Perform In-House _____ Bidders Notified _____
Contract Out _____ Contract No. _____
Awarded To _____

(Name) (Date)

(Title) (Telephone)

Exhibit 2. Decision Summary Form

APPENDIX

GLOSSARY OF TERMS

The definitions presented below are taken from the text of this handbook, the Cost Accounting Standards, procurement regulations, and other authoritative publications.

ACQUISTION COST. The amount paid to acquire an asset (Chapter IV - Operations Overhead).

ACTUAL COST. An amount based on cost incurred as distinguished from estimated costs. Includes standard cost properly adjusted for applicable variance (Chapter IV - Fringe Benefits).

ALLOCATE. To assign an item of cost or a group of items of cost to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool (Chapter IV, Operations Overhead).

ALLOCATION BASE. The denominator in the fraction used to develop overhead rate. It is either the total of some element of expense (or goup thereof) or a quantitative measure that is common to all items or activities to which the indirect costs are to be allocated (Chapter IV, Material Overhead, Operations Overhead, G&A Expenses).

AMORTIZATION. The gradual extinguishment of any amount over a period of time, such as the write-off of a portion or all the cost of an asset, or the retirement of a debt over a period of years (Chapter V, Government-Furnished Facilities).

AWARD-FEE CONTRACT. A cost reimbursement-type contract with special fee provisions. It provides a means of applying incentives in contracts which are not susceptible to finite measurements of performance necessary for structuring incentive contracts (Chapter V, Contract Price).

BASIC LABOR RATE. For Wage Board employees, the basic labor rate is the hourly rate to be applied to all hours worked and to all hours of annual leave earned, and sick, holiday and other leave taken to ascertain the pay of a Wage Board employee. The General Schedule (GS) basic rate is the published annual rate of pay for the

particular GS grade and step level (Chapter IV, Direct Labor).

BILL OF MATERIAL. A detailed listing of the material requirements for performing a service or providing a product (Chapter IV, Direct Material).

CAPITALIZED COST The cost of acquiring, installing and modifying a tangible capital asset that has been added to an asset account. (Chapter VI, One-Time Costs).

CARTAGE. Transportation from a freight terminal to the point of use or consumption (Chapter V, Transportation).

CONTRACT ADMINISTRATION COSTS. The cost incurred to assure faithful execution of a contract by both the Government and the contractor (Chapter 5, Contract Administration).

CONVERSION. The transfer of work from a Government commerical or industrial activity to performance by a private commerical source under contract (Chapter VI, One-Time Costs).

COST COMPARISON. An accurate determination of whether is is more economical to acquire the needed products or service from the private sector or from an existing or proposed Government commerical or industrial activity (Chapter II, Policy).

COST DIFFERENTIALS. The cost margins established by OMB Circular A-76 that must be exceeded before performing a "new-start" in-house and before converting an in-house activity to a contract (Chapter VII, Cost Differentials).

COST ELEMENT. A basic unit of cost, such as labor or material. The accummulation of all the basic units related to a given product or service provides the total cost of that product or service (Chapter IV, General).

COST OF CAPITAL. An imputed charge on the Government's investment in all of the plant facilities and other assets necessary for the work center to manufacture products or provide services (Chapter VI, Cost of Capital).

COST OF CAPITAL COMMITTED TO FACILITIES: An imputed cost determined by applying a cost of money rate to facilities' capital (Chapter VI, Cost of Capital).

COST REIMBURSEMENT CONTRACT. A type of contract that provides for reimbursement to the contractor of allowable costs incurred in the performance of a contract, to the extent prescribed in the contract (Chapter V, Contract Price).

CURRENT COSTS. Costs incurred in the current accounting period (Chapter IV, Direct Material).

CURRENT MARKET VALUE. The amount for which an item could be sold in today's market (Chapter VI, Cost of Capital).

DEMURRAGE. The compensation paid for the delaying of a ship, freight car, etc., as by the failure to load, unload, or dispatch within the time allowed (Chapter V, Transportation Cost).

DEPRECIATION. The method used to spread the cost of tangible capital assets (plant, machinery, etc.), less residual value, over their estimated useful lives in a systematic and logical manner (Chapter IV, Operations Overhead).

DIRECT COST. Any cost which can be identfiied specifically with a particular final cost objective. Direct costs are not limited to items which are incorported in the end product as material or labor. Costs which can be identified specifically with a product/service are direct costs of that product/service. All costs identified specifically with other products/services are direct costs of those products/services. (Chapter IV, General).

DIRECT LABOR. That portion of salaries and wages which, as a practical matter, can be identified with and charged only to a specific product or service (Chapter IV, Direct Labor).

DIRECT MATERIAL. The costs of such goods as raw material, parts, sub-assemblies, components and supplies which as a practical matter, can be identified specifically with the product/service (the final cost objective) under review (Chapter IV, Direct Material).

DOUBLE-COUNTING. The treatment of certain costs as direct costs of the product/service, while similar costs related to other products/services are treated as indirect costs and a portion thereof is allocated to the

product/service for which the estimate is being prepared (Chapter IV, General).

ESTIMATING COST. The process of determing a future or past result in terms of cost, based upon information available at the time (Chapter IV, General).

FAIR MARKET VALUE. A realistic valuation of what an item could be sold for in open market (Chapter V, General).

FINAL COST OBJECTIVE. A cost objective which has allocated to it both direct and indirect costs, and, in the cost accumulation system, is one of the final accumulation points (Chapter IV, General).

FIRM-FIXED-PRICE CONTRACT. A contract which provides for a price which is not subject to any adjustment by reason of the cost experience of the contractor in performance of the contract (Chapter V, Contract Price).

FISCAL YEAR. The accounting period for which annual financial statements are regularly prepared. The Government's Fiscal Year begins on October 1, and ends on September 30 (Chapter IV, Operations Overhead).

FIXED PRICE CONTRACT WITH FLEXIBLE PRICING ARRANGEMENTS. This type of contract provides for either a firm-fixed-price for an initial period and for prospective price redeterminations at stated times furing the performance of the contract or a ceiling price and retroactive price redetermination after completion of the contract Chapter V, Contract Price).

FRINGE BENEFITS. Allowances and services provided employees as compensation in additon to basic salaries and wages (Chapter IV, Fringe Benefits).

FULL COSTS. The total of all direct and indirect costs allocable to a product or service (Chapter IV, Direct Material).

GENERAL AND ADMINISTRATIVE (G&A) EXPENSE. Any management, financial and other expense which is incurred by or allocated to an organizational unit and which is for the general management and administration of the unit as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of the unit during a cost accounting period. (Chapter IV, General and Administrative Expense).

GOVERNMENT-FURNISHED FACILITIES AND EQUIPMENT. Facilities and equipment in the possession of, or acquired directly by the Government and subsequently delivered or otherwise made available to the contractor (Chapter V, Government-Furnished Property).

INCREMENTAL COST. The increases or decreases in total cost, or the changes in specific elements of cost, that result from variations in operations (Chapter IV, Operations Overhead).

INDIRECT COST. Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective (Chapter IV, General).

INDIRECT COST (OVERHEAD) POOL. A grouping of incurred (or projected) costs identified with two or more cost objectives but not identified specifically with any final cost objective (Chapter IV, Operations Overhead).

INDIRECT LABOR. All labor that is incurred for the benefit of more than one product or service or the business as whole. It may be included as material overhead, operations overhead, or general and administrative expense (Chapter IV, Operations Overhead).

INDIRECT MATERIALS AND SUPPLIES. Includes items of materials and supplies which are not identifiable to a single product or service but which are necessary to performance of the various functions of an entity. It also includes the minor amounts of direct material for which accounting as direct costs is not practical. (Chapter IV, Material Overhead, Operations Overhead, General and Administrative Expense).

INFLATION. An increase in the amount of money in circulation resulting in a decline in its value and rise in prices (Chapter IV, Inflation of Out-Year Costs).

INSURANCE. The cost to the Government arising from liabilities and losses not covered by insurance. The costs are incurred in consonance with the Government's policy of acting as a self-insurer (Chapter IV, Operations Overhead).

INTERAGENCY SUPPORT. Products or services furnished from the capacity of another Government agency or organization to the agency which will provide the product or service being estimated (Chapter IV, Interagency Support).

LABOR HOUR CONTRACT. A variant of the time and material-type contract, differing only in that materials are not supplied by the contractor (Chapter V, Contract Price).

LABOR-TIME STANDARD. A preestablished measure expressed in temporal terms, of the quantity of labor required to perform a task (Chapter IV, Direct Labor).

MAINTENANCE AND REPAIR Cost incurred to keep buildings and equipment in normal operating condition (Chapter IV, Operations Overhead).

MATERIAL OVERHEAD COSTS. Indirect costs related to an activity or group of activities for acquiring, handling, and/or controlling required materials, until the materials are used or consumed in the production of goods and services or are sold without processing (Chapter IV, Material Overhead).

MATERIAL-QUANTITY STANDARD. A preestablished measure, expressed in physical terms, of the quantity of material required for a specific purpose (Chapter IV, Direct Material).

NET BOOK VALUE. The capitalized cost of an asset or group of assets shown in the accounting records, less accummulated depreciation or other applicable offset (Chapter VI, Cost of Capital).

NEW START. A newly established Government commerical or industrial activity, including a transfer of work from contract to in-house performance (Chapter VI, One-Time Costs).

NO-COST BASIS. The provision of a product or service without charge or remuneration (Chapter IV, General and Administrative Expense).

NOMINAL COST. Cost of a very minor amount (Chapter IV, Direct Material).

ONE-TIME COSTS. The nonrecurring costs to the Government when it either starts or discountinues an in-house activity as a result of a decision to change the source of a product or service (Chapter VI, One-Time Costs).

OPERATIONS OVERHEAD COSTS. The indirect costs which are necessarily incurred during a fiscal year to produce or deliver the products or services being provided by a particular organizational element (Chapter IV, Operations Overhead).

OPPORTUNITY COSTS. Other income, or expense avoidance, foregone by using limited resources for a particular purpose (Chapter VI, Cost of Capital).

OTHER DIRECT COSTS. All those direct costs exclusive of direct labor and direct material which are identified as having been incurred specifically for a particular product or service (Chapter IV, Other Direct Costs).

OVERHEAD RATE. A percentage, or monetary unit related to a quantitative measure, derived by dividing an indirect cost pool by an allocation base. (Chapter IV, General, Material Overhead, Operations Overhead).

OVERTIME AND PREMIUM PAY. Additional amounts added to basic salaries for working longer than the regularly scheduled hours or under unusual conditions. (Chapter IV, Operations Overhead).

PHYSICAL INVENTORY. The actual amount of material on hand (Chapter VI, One-Time Costs).

PRICING. The process of establishing the amount or amounts to be paid in return for goods or service (Chapter IV, Direct Materials).

PROPOSAL. Any offer or other submission used as a basis for pricing a contract, contract modification or termination settlement or for securing payments thereunder (Chapter V, Contract Price).

RENT. The cost incurred for the use of a non-Government entity's tangible assets (land, plant and machinery, etc.) in providing the product/service being estimated (Chapter IV, Operations Overhead).

RESIDUAL VALUE. The proceeds (less removal and disposal costs, if any) realized upon disposition of a tangible capital asset. It usually is measured by the net

proceeds from the sale or other disposition of the asset, or its fair value if the asset is traded on another asset. (Chapter IV, Operations Overhead).

STANDARD COSTS. Any cost computed with the use of preestablished measures (Chapter IV, Direct Material, Direct Labor).

STANDARD LEVEL USER CHARGE (SLUC). The amount which the General Services Administration (GSA) assesses Federal agencies for thier assigned space in GSA controlled building. This SLUC note is a composite of three ingredients:

a. The fair annual rental appraisal rate for space, utilities and normal services;

b. an escalation of this rate; and

c. an added charge for standard protection.

STANDY MAINTENANCE COSTS. The costs necessary for the upkeep of property held in a standby status to assure contract performance. This maintenance neither adds value to the property nor appreciably prolongs its useful life. Rather, the mainenance keeps the property in an efficient operating condition so that it will be available for possible use in case of nonperformances by the contractor (Chapter V, Standby Maintenance Costs).

STRAIGHT-LINE DEPRECIATION. A method of depreciating an asset by charging an equal amount of its depreciable cost (captialized cost less residual value) to each accounting period covered by its useful life, or by charging an equal amount of its depreciable cost to each hour of use, each product produced, etc. (Chapter IV, Operations Overhead).

SUPPORT COSTS. Costs incurred by one organizational unit for the benefit of another (Chapter IV, Operations Overhead).

SURCHARGE. An additional amount added to the basic charge to cover expenses incurred in providing the products or services. (Chapter IV, Direct Material; Material Overhead).

TANGIBLE CAPITAL ASSET. An asset that has physical substance, more than minimal value, and is expected to be held for continued use or possession beyond the current accounting period.(Chapter IV, Depreciation).

TIME AND MATERIAL CONTRACT. A type of contract which provides for the procurement of supplies and services on the basis of (i) direct labor hours at specified fixed hourly rates (which shall include wages, overhead, general and administrative expense, and profit) and (ii) material at cost and in addition, where appropriate, material handling costs as a part of material cost (Chapter V, Contract Price).

WORK CENTER. The lowest organizational unit at which cost are accumulated (Chapter IV, Operations Overhead).

WORK STATEMENT. A comprehensive description of what is to be done, including performance standards as appropriate. The work statement should describe all duties, tasks, responsibilities, frequency of performance of repetitive functions and requirements for furnishing facilities and materials (Chapter III, Preparation of Work Statement).

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federal register

WEDNESDAY, SEPTEMBER 27, 1978
PART III



ENVIRONMENTAL PROTECTION AGENCY

MUNICIPAL WASTEWATER TREATMENT WORKS

Construction Grants Program

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 951-8]

PART 35—STATE AND LOCAL ASSISTANCE

Subpart E—Grants For Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: This is a conformed version of regulations governing the construction grants program for municipal wastewater treatment works. The substantial changes in the regulations serve several purposes. The majority of the changes implement amendments to the Federal Water Pollution Control Act (FWPCA or the Act) as amended, contained in the Clean Water Act of 1977 (Pub. L. 95-217 or the 1977 Act). The regulations also contain a series of technical amendments that make technical, administrative, and programmatic changes to facilitate administration of and participation in the program. The regulations incorporate certain requirements and incentives to implement the pretreatment program for industries contributing to municipal wastewater treatment works. To enhance public involvement in the program, the regulations add public participation activities in the development of State project priorities as well as in the approval of State-prepared population projections in the cost-effectiveness analysis guidelines. Cost-effectiveness analysis guidelines are completely revised to reflect provisions of the 1977 Act and other major policies. Finally, in response to Executive Order 12044 on improving government regulations, we have made numerous editorial changes to make the regulations more understandable.

DATES: These final rules are effective on October 1, 1978, unless otherwise specified in particular sections. They apply to grants (including subsequent related projects) awarded on or after that date. Comments on changes proposed to § 35.936-13 will be accepted until November 30, 1978.

ADDRESSES: Comments submitted on these regulations may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C., between 8 a.m. and 4:30 p.m., on business days. EPA-prepared summaries of the comments are also available. Comments on proposed changes to § 35.936-13 should be sent (in triplicate, if possible) to Mr. Alexander J. Greene, Director, Grants Administration Division, Attention: PM-216-P "Subpart E," Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Michael B. Cook, Acting Director, Facility Requirements Division (WH-547), Environmental Protection Agency, 401 M Street SW., Room E1137D, Washington, D.C. 20460, telephone 202-426-9404.

SUPPLEMENTARY INFORMATION: Certain regulatory changes to implement the 1977 Act were published on April 25, 1978, in the FEDERAL REGISTER as interim final regulations. These included changes related to State priorities, grant eligible categories, land eligibility, user charges, industrial cost recovery, grants for individual systems, combined step 2 and 3 grants, training facility grants, Buy America, cost-effectiveness analysis and reserve capacity. We published these regulations as interim final and generally made them effective on April 25, 1978, because they implement provisions in the 1977 Act that were effective upon enactment and because they were necessary for ongoing administration of the program. Some of the technical amendments, which were published in FEDERAL REGISTER on June 2, 1978, as the proposed rules, made changes to the same sections. The provisions can be distinguished by reading the discussions in this preamble and referring back to the earlier FEDERAL REGISTER publications, where the regulatory changes are set forth section by section. The remainder of the regulatory changes that implement the 1977 Act were proposed on April 25, 1978, because, under the 1977 Act, they are not effective until October 1, 1978, or because their implementation was not crucial to the program's operation. These include provisions on innovative and alternative technologies, recreational, and open space uses, and the provision of assistance by EPA to grant recipients with respect to contracts.

EPA conducted extensive public participation activities in the development of these regulations. Prior to initial publication of any of the regulations in the FEDERAL REGISTER, EPA circulated four drafts of the regulations implementing the Clean Water Act. Also in the drafts were changes on pretreatment and public participation. We conducted numerous meetings to solicit public input. These included 4 days of open meetings in Washington, D.C., six briefings for State and local officials held at EPA regional offices, and meetings for EPA advisory groups. Three meetings were held with State representatives appointed by the National Governors' Conference and by the Association of State and Interstate Water Pollution Control Agencies. Two meetings were held with the Association of Metropolitan Sewerage Agencies, two meetings were held with the Management Advisory Group, and presentations were made at the government affairs seminar of the Water Pollution Control Federation. We consulted representatives of Federal agencies informally. During this prepublication period of 4 months we received over 1,000 written comments from State, regional, and municipal agencies; environmental and special interest groups; and the public generally. We circulated one draft of the technical amendments to 1,000 organizations and private citizens before publication in the FEDERAL REGISTER.

On April 25, 1978, EPA published proposed and interim final regulatory changes to implement the 1977 Act, to modify pretreatment requirements, and to add certain public participation activities. On June 2, 1978, EPA published technical amendments to the construction grants regulations as proposed rules. After publication of the regulations, several environmental and special interest groups coordinated five areawide conferences on the regulations in Atlanta, Chicago, Dallas, Philadelphia, and San Francisco. These meetings were attended by 1,000 people.

During June, EPA regional offices conducted 14 public meetings to solicit comments. The EPA officials responsible for development of the regulations made presentations and answered questions. The regional offices encouraged participation by a combination of press releases, mailings and telephone contacts to interested and affected organizations. EPA officials directly responsible for the regulations met informally with representatives of other Federal agencies, environmental, and special interest groups. They also answered innumerable telephone inquiries about the regulations. EPA received over 250 comments on the April 25 regulations and over 45 on the technical amendments published on June 2. These comments and summaries are available for inspection at the EPA Public Information Reference Unit at the address listed above.

Using the comments received during and after the comment period, EPA revised the April 25 regulations. We mailed the revised draft to more than 930 groups, agencies and persons that commented on prior drafts. We received quick responses from various groups and considered their comments in preparing the final regulations. Besides the revisions to the April 25 regulations, the final regulations included both revisions to the technical amendments and editorial changes.

Altogether the Agency circulated more than 60,000 copies of various drafts of the regulations. We received invaluable assistance from the organizations, agencies, and the public at large. Commenters raised a variety of issues. The major issues raised during the official comment period are discussed below under the appropriate subject area.

Various related regulations have been or will be published soon. As required by statutory deadline, EPA published two short amendments to the construction grants program regulations early this year. On January 10, 1978 (43 FR 1597), fiscal years 1978-81 authorizations were allotted. On June 29, 1978 (43 FR 28202), we published a correction of the section number for the allotment regulation. It is § 35.910-8 in this conformed regulation. On February 23, 1978 (43 FR 7426), the reimbursement grant regulations (subpt. D) were revised to extend eligibility dates. On June 26, 1978 (43 FR 27736), EPA published final pretreatment regulations as 40 CFR part 403. Those regulations establish the responsibilities of Government, industry, and the public to implement national pretreatment standards to control pollutants that pass through or interfere with treatment processes in publicly-owned treatment works or that may contaminate sewage sludge.

On August 7, 1978, we published proposed regulations on public participation in the FEDERAL REGISTER (43 FR 34794). Those regulations implement section 101(e) of the FWPCA which requires EPA to provide for, encourage, and assist public participation in EPA programs. The regulations would replace 40 CFR part 105 (Public Participation in Water Pollution Control) and 40 CFR part 249 (Public Participation in Solid Waste Management) with a new 40 CFR part 25.

References to part 25 are inserted in this regulation in anticipation of publication of final public participation regulations. In the interim any reference to part 25 in these regulations should be interpreted as referencing the current part 105 regulations. The new part 25 would establish overall public participation requirements for programs under the Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. The regulations, in addition, revise public participation requirements in 40 CFR part 35 subpart E, specifically for the construction grants program. They focus the public's attention on decisions made during the planning of the wastewater treatment facilities. They also provide the opportunity for public involvement in later stages of project development.

EPA published proposed regulations for the water quality management program in the FEDERAL REGISTER on September 12, 1978 (43 FR 40742). Those regulations replace 40 CFR parts 130 and 131 and portions of part 35 with a new 40 CFR part 35, subpart G. The regulations govern the water quality management program under sections 106, 208, and 303(e) of the FWPCA and include changes made to implement provisions of the 1977 Act. The regulations require a State/EPA agreement, which is intended to serve as the principal management tool for the water quality management program. The State/EPA agreement will integrate the planning, management, and implementation of all water quality management programs under the Clean Water Act, RCRA, and SDWA by fiscal year 1980. At a minimum, the fiscal year 1979 agreement shall cover programs authorized by sections 106, 205(g), 208, 303, and 314 of the Clean Water Act. The State/EPA agreement is distinct from the construction grant delegation agreements that may be negotiated under section 205(g) of the FWPCA, as amended by the 1977 Act. The water quality management (WQM) regulations coordinate the establishment of State and areawide WQM agencies' sewage treatment priorities with the construction grants priority system and lists. WQM plans are to provide certain facility planning related information such as planning area delineations, waste load allocations, and population projection disaggregations. Construction grant facility plans will have to be based on this information. Overall the WQM program regulations link that program and the construction grants program together much more closely.

On September 20, 1978 (43 FR 42251) we published in the FEDERAL REGISTER final regulations on State management assistance grants (subpt. F). They make funds available to States to manage the construction grants program and to hire and train staff needed to implement delegated functions.

From time to time EPA issues guidance and technical information to supplement regulations and to assist those participating and interested in EPA programs. A listing of information and copies may be obtained from the General Services Administration (8FSS), Centralized Mailing Lists Services, Building 41, Denver Federal Center, Denver, Colo. 80225. (See § 35.900(c).)

Discussion of the regulatory changes being made are grouped by subject matter. Following the discussion of each subject area, the preamble identifies those sections in the regulations related to the subject areas that are changed. For the technical amendments each section containing a change is discussed separately.

STATE PRIORITY

Sections 20 and 40 of the 1977 Act modified the policy and procedures applicable to State project priority planning and clarified the intent of Congress regarding the roles and responsibilities of the States in preparation of priority lists. These new provisions of the Act require several modifications to the procedures used by the States in managing their priority lists. Established priority rating and ranking criteria that are consistent with applicable guidance and these regulations need not be changed.

The 1977 Act gives the States exclusive authority to rank categories of projects. The categories specified in the 1977 Act are those used in the survey of the cost of needed publicly-owned treatment works (the needs survey) and have been defined in detail in previously published guidance for the survey. The regulations have been written so that no State is required to assign a different ranking to categories of projects, but it may do so on an optional basis.

States are expected to continue to use priority criteria based on the severity of the pollution problem, the existing population affected, and other related factors necessary to meet statutory requirements. All projects on the priority lists, including those benefiting from the setaside provisions, must be rated according to the priority criteria and subject to the management procedures contained in the approved State priority system. When preparing their priority lists, States must take into account the work completed by designated State and areawide agencies responsible for water quality management.

The legislative history of the 1977 Act indicates that State priority list planning and management must be closely linked to meeting unfilled treatment needs before other eligible treatment works may be funded. The 1977 Act specifically requires, with one exception, that only projects resulting in compliance with the enforceable requirements of the Act may be included on the State's priority list. Projects on the State list which do not meet this requirement are to be removed and alternate projects which do meet the requirements added to use available funds.

Several commenters on the regulations expressed concern that the section on State priorities was very long compared with the relatively short reference to priorities in the Clean Water Act. We believe that these comments result from a misunderstanding of the role of the priority system and priority

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lists in the construction grants program. The priority system and lists are the principal mechanisms in the program for selecting who will be in line for grant funds, for scheduling grants, for planning obligations and outlays of funds, and for providing information to justify congressional authorizations and appropriations. The priority system and lists are, in short, the management tools which allow the Federal, State, and local governments to plan, budget, and oversee the construction grants program.

The 1977 Act complicated the task of management by imposing new requirements for planning and set-asides which must be met for the orderly progress of the grants program. At the same time, the Congress provided for State management assistance grants to increase revenues available to States to handle added managerial responsibilities. The grants program will not be able to maintain a proper balance and an orderly flow of step 1, 2, and 3 projects at the rate necessary to utilize the $24.5 billion authorized by Congress without a sound managerial system such as that established for State priority systems and lists.

Some commenters stated that the priority system should not have to be submitted annually to EPA, but rather only when revised. EPA agrees and has changed the regulation accordingly.

Several commenters recommended additions to the criteria forming the basis for the State priority system, including national priorities, public health, economic hardship, workers' health and safety, evidence of past or present discrimination in the use of grant funds, and groundwater pollution. We believe, however, that the criteria selected are those most relevant to achieve the goals of the Clean Water Act.

The Council on Environmental Quality recommended that water improvement be reinstated as the main goal of the priority system. We agree and have changed the regulation accordingly.

Enforceable requirements. The enforceable requirements of the Act, as defined in this regulation, are limitations or conditions of a 402 or 404 permit which, if violated, could result in a civil or criminal action under section 309 of the Act. Where a permit has not been issued, the term includes any requirement that in the judgment of the Regional Administrator would be included in the permit when issued. Where a permit is not applicable the term shall include any requirement which the Regional Administrator determines is necessary to meet applicable criteria for best practicable waste treatment technology (BPWTT).

This definition covers municipal pollution of surface water and groundwater. Permits issued under section 402 of the Act incorporate surface discharge requirements imposed by sections 301, 403, and 405. Section 301, in turn, requires BPWTT or any more stringent level of treatment determined in the water quality management planning process (authorized under sections 208 and 303) to be necessary to meet water quality standards. It also requires any more stringent level of treatment found to be necessary to meet State laws or regulations (under authority preserved by section 510).

To receive construction grants, municipal treatment works are required under section 201(g)(2)(A) of the Act to provide for the application of BPWTT. Information published by the Agency on BPWTT contains criteria which must be met by grant funded projects involving land application techniques, land utilization practices and alternatives involving reuse and recycling. These criteria, designed to protect groundwater from pollution by municipal treatment facilities, are analogous to effluent limitations and conditions in permits designed to protect surface waters.

We received several comments requesting that the definition of enforceable requirements list sections 201, 208, 301, 309, 402, and 405 of the Act. Some comments also suggested a reference to section 510. We have carefully considered these comments but decided to retain the same definition used in the interim regulation. As was discussed above, our definition encompasses these other sections of the Act to the extent they are translated into specific requirements to protect and improve ground and surface water quality. To the extent they are not translated into such specific requirements, grantees, States, and EPA would have difficulty determining if a project was necessary to meet them or not.

A few commenters expressed concern that the definition of enforceable requirements adopted by EPA would exclude projects involving reuse and recycling which were not necessary to protect ground or surface waters. The Agency believes that such projects should be excluded from the definition. Federal assistance for publicly owned treatment works under the Act is intended to correct and reduce the backlog of pollution problems.

The Act and Agency policy strongly encourage reuse and recycling techniques as a means to meet pollutant discharge requirements. Reuse and recycling projects which are needed to meet the enforceable requirements of the Act should be given higher priority. The regulations have numerous provisions to encourage reuse and recycling, including changes between the interim and final versions of the cost effectiveness guidelines to allow additional projects to qualify for the 115 percent cost preference (see section 7 of appendix A).

Priority list management. Priority list management procedures have been clarified in the new regulations to assure that EPA, the States and municipalities each know which projects will be funded with available monies during the current year, and which projects may expect funding during subsequent years. In addition, the new procedures require documentation and notification to interested parties of any changes to the funding plans. The fundable portion of the priority list has been defined to include only projects planned for funding with available funds during the first year of the 5-year period. Procedures are established to allow a project on the fundable portion of the priority list to be bypassed when the State documents and notifies the grant applicant that it cannot be ready for award during the current year. Projects that are ranked highest on the planning portion of the priority list will replace the project which is not ready to proceed. In most cases, the project bypass procedure is not expected to constitute a significant revision to the priority list, and additional public participation should not be required.

An alternative to the bypass procedure was carefully considered but eventually rejected. This alternative would allow a State to include on the fundable portion all projects that could conceivably be ready for award during the funding year without regard to the limits of available allotments. Bypass procedures would be unnecessary, as all potential projects would be included on the fundable portion of the list. This approach was rejected because it would potentially allow high priority projects to go unfunded even though ready to proceed during the funding year in favor of lower priority projects. It also would create a great deal of uncertainty about which projects would be approved during the funding year and which would not.

There are other priority list management procedures required by the new regulations, most based on existing policy and guidance. The regulations require some increase to the project information included on the priority list and an improvement to the public participation process. Supplemental guidance will be issued to further define these requirements and provide the phasing necessary to avoid disruption of State operations.

A few commenters expressed concern that the bypass procedures created undue administrative difficulties for the States. We believe, however, that without such procedures, the goal of the priority list to insure that funding is first available to projects with highest priority, could easily be thwarted. One commenter stated that the bypass provisions were too vague and could be abused. We believe that they have been defined in sufficient detail for a regulation. Additional guidance could be issued if abuses develop.

One commenter stated that adding and deleting projects to an approved priority list is very difficult. We agree that such changes are not easy. Significant changes are likely to disrupt plans for one or more municipalities and should be made only after careful consideration and opportunity for public participation.

Several States recommended changes to the regulation to restrict further the role of EPA in review of the priority list. We disagree with these recommendations because the management role of the Agency has already been reduced to the minimum necessary to insure equitable implementation of the Clean Water Act and related regulations.

Five-year priority list. The interim regulations for State priority list management require a 5-year priority list to ensure that projects are planned and managed in accordance with an overall multiple-year operating strategy. In preparing the priority list, consideration must be given to the inventory of all needed publicly owned treatment works within a State. The most recent Needs Survey should be used for this purpose. Sufficient information, including cost data, is readily available from this Survey allowing the development of a long-term priority list without undue additional effort on the part of the State.

Several commenters expressed concern that excessive information was required on the priority list. EPA agrees and has revised the regulations so that requirements for the planning portion of the list will be detailed in supplemental guidance. The Agency will require only the minimum amount of information commensurate with the requirements of program management and public participation. The remaining requirements are essential to insure orderly development of projects which will utilize available funds and set-asides, while meeting the most critical needs for water pollution control.

A few commenters said that information required on the priority list is not appropriate for public review. We believe that the required information provides the essentials of what is required for the public, including an address where more information may be obtained on individual projects.

Comments were also received recommending separate priority lists for projects utilizing set-aside funds for small communities and for innovative and alternative technologies. The Agency has allowed and will continue to allow a separate priority list for small communities where desired by a State and where the splitting of funds between the list for small communities and other communities is justified on a sound basis. Our experience is that such lists are difficult to administer. The complexity would be compounded where States could not tell with certainty whether or not a project might qualify for a set-aside. The regulation does allow a higher priority to be given to projects qualifying for the set-asides.

Several commenters expressed concern about the relationship between the needs survey and the priority list. A few commenters said that EPA should not expect the States to prepare the needs survey. We would emphasize that this was not our intent. Our interest is in having the priority list prepared on the basis of the needs inventory, and to cross reference the needs inventory so that the Agency and the States can readily ascertain which needs are planned to be met and which are not. Other commenters stated that there should be no relationship between the needs inventory and the priority list. We disagree because of the critical role the needs inventory plays in the grants program. The needs inventory includes all existing and needed treatment works. This inventory is used for program planning, oversight, and evaluation. The needs are, of course, also used by Congress as a basis for allotting grant funds among the States. When preparing the priority list, States should review the needs inventory and give highest priority to those facilities with the most critical need. After a new facility is funded, the needs inventory will be revised by EPA accordingly.

Pipe-related projects. One exception to the stipulation that all projects on the priority list must meet the enforceable requirements is provided in the Act. This exception is for projects involving major sewer rehabilitation, interceptor sewers, collector sewers, and correction of combined sewer overflows. States may, at their option, include on the fundable portion of their list facilities in these categories with a combined estimated EPA share of as much as 25 percent of the available allotment. Facilities in these categories which would use funds beyond the 25-percent level may be included on the list only where they are essential to meet the enforceable requirements of the Act.

Comments on the Agency's interpretation of the 25-percent provision fell into two groups. One group stated that all projects must satisfy the test of being necessary to meet the enforceable requirements of the Act whether or not they fall into the sewer-related categories. EPA disagrees with this interpretation because it necessarily results in vitiating almost all meaning from the 25-percent provision of section 216. Moreover, it would prevent some projects, such as those necessary to protect public health but not ground or surface waters, from being retained on the priority list. Congress clearly did not intend this result.

The other group of commenters on the 25-percent provision stated that we have misconstrued the law by stating that the 25-percent was a ceiling rather than a floor for sewer-related projects in the specified categories. We would note, however, that the 25-percent ceiling is imposed in our regulations only for sewer-related projects which cannot be justified as necessary to meet the enforceable requirements of the Act. No limitation is placed upon such projects when necessary to meet the enforceable requirements of the Act so long as they are placed on the priority list in conformance with the State priority system and are found to be grant eligible.

The Agency received several comments interpreting the regulations to imply that all projects placed on the priority list are automatically eligible for funding. This is not the case. Projects should be placed on the priority list only if they are expected to be eligible. However, there may not be sufficient information available to determine its eligibility at the time the priority list is prepared. Projects later found to be ineligible should be removed from the priority list. This requirement applies to pipe-related projects placed on the priority list under the 25-percent provision as well as other types of projects. A project must ultimately be determined cost-effective as well as eligible to receive a construction grant.

New set-asides on priority list. The Act contains a number of new provisions that require States to set aside funds for specific purposes. Included in these set-asides is a reserve for alternatives to conventional treatment for communities with populations of 3,500 or less, or the sparsely populated areas of larger communities. Rural States must set aside 4 percent of their allotment for such projects. Other States have the option of setting aside no more than 4 percent of their allotments for this purpose. In addition, 2 percent of the allotment for fiscal year 1979 and fiscal year 1980 and 3 percent of the allotment

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for fiscal year 1981 must be used only for grant increases for innovative and alternative treatment processes. At least one-half of 1 percent of the allotment (part of the 2 percent) must be used for grant increases for innovative technology during these years.

Nothing in this regulation is to affect existing administrative policy for the establishment of a separate funding strategy for small communities where a State chooses to set aside a reasonable percentage of its funds for the projects of such small communities.

Several commenters recommended that a higher priority be allowed for innovative and alternative projects at the step 3 stage as well as the step 2 stage, and also for projects to pay 100 percent of the costs of replacement when an innovative or alternative project fails. EPA agrees and has revised the regulation accordingly. One commenter said that the higher priority at the step 2 stage for innovative and alternative projects should be mandatory. EPA disagrees since the 1977 Act clearly leaves it optional.

A few commenters asked for a detailed definition in the regulation of what would qualify as a sparsely populated area of a larger community. Any area where treatment works serving an individual residence or cluster of residences are cost-effective will, in all likelihood, qualify as sparsely populated.

Public participation. This provision of the new regulation has generated many comments. These comments are almost equally divided expressing both sides of the issue. Public interest groups and private citizens largely desire more and better information and express an interest in sharing in the decisions which affect their lives and the well-being of their communities, while comments from others cite the additional expense, time delay and relatively small anticipated benefits to the public that may be associated with these new requirements. This issue is of concern to the Agency. These provisions are being retained as in the interim regulation, but will be monitored to determine if they should be changed in the future. Regulatory changes related to State priority planning and management are limited to the revision to § 35.915.

Innovative and Alternative Technologies

Under the new section 201(g)(5), after September 30, 1978, grant recipients are required to analyze innovative and alternative treatment processes and techniques for use in wastewater treatment works. Section 201(i) requires the encouragement of processes that reduce energy needs. Section 202(a)(2) provides for Federal grants for 85 percent of allowable construction costs for treatment works or significant portions of treatment works that utilize innovative and alternative treatment processes and techniques. Section 202(a)(3) provides 100 percent Federal grants for replacement or modification of treatment works constructed in accordance with section 202(a)(2), under certain conditions. Section 202(a)(4) defines the eligible treatment works that can be the subject of 85-percent grants. These provisions and others in the 1977 Act that involve innovative and alternative technologies depend upon guidelines authorized by section 304(d)(3) that set forth criteria to be utilized in identifying innovative and alternative technologies.

Regulations discussed under other headings contain several important provisions relating to innovative and alternative technologies. The cost-effectiveness guidelines permit a 15-percent cost preference for treatment works that utilize innovative or alternative processes or techniques. Under the regulations on priorities a funding reserve is established to pay for the increased part of the grants for treatment works that include innovative or alternative processes or techniques. Also, States are authorized to give higher priority to treatment works utilizing innovative or alternative technologies. A 4-percent reserve of each State's yearly allotment is set aside to fund alternatives to conventional treatment works in small communities.

The Clean Water Act of 1977 and its legislative history make it clear that the provisions pertaining to innovative and alternative technologies are intended to achieve greater use of systems which reclaim and reuse water, productively recycle wastewater constituents or otherwise eliminate the discharge of pollutants, or recover energy. The principal difference between alternative and innovative wastewater treatment technologies, as viewed by the 1977 Act and its legislative history, is the degree to which they have been developed and implemented. Alternative wastewater treatment processes and techniques are those which have been proven and used in actual practice; innovative processes and techniques are developed methods which have not been fully proven under the circumstances of their contemplated use. The goal of achieving greater recycling and reclamation, however, is clearly indicated as being an objective common to both innovative and alternative technologies.

In order to carry out this mandate of the law, the regulations developed for identification of innovative technologies take distinctly different approaches with respect to systems which incorporate wastewater reclamation and energy recovery as compared to those which are based on the conventional concept of treatment by means of biological or physical/chemical unit processes and discharge to surface waters. Accordingly, treatment and discharge processes such as primary treatment, suspended-growth or attached-growth biological systems for secondary or advanced wastewater treatment, physical/chemical treatment, disinfection and sludge processing must meet rigorous criteria pertaining to cost reduction or energy reduction in order to be considered innovative. Land application and water reuse systems for the treatment and management of wastewaters and sludges as well as energy recovery systems can be classified as innovative by applying either the cost or energy reduction criterion. They can also be classified as innovative if they represent a significant advancement in terms of greater operational reliability, better management of toxic materials, increased environmental benefits, or improved methods for joint treatment and management of municipal and industrial waste. These six criteria help define innovative processes and techniques and are listed in appendix E, section 6.

Comments received since the publication of the proposed rules on April 25 have been extremely useful to EPA. Following is a summary of pertinent comments on major issues, along with EPA's decision on how to proceed.

One area of comment centered around the 100-percent Federal grant to modify or replace malfunctioning treatment works constructed under an 85-percent grant. The proposed length of time following completion of a project during which such grants would be available drew considerable response. Many commenters supported a 3- to 5-year trial period, while others proposed different time periods for alternative and innovative projects. Still others supported the proposed 2-year interval. Related to the question of the length of the period of availability is the point at which the period commences. Suggested options included the date of initial full-scale operation, the date of completion of construction, the date of final inspection, and the date of final audit.

The Agency has decided to allow 2 years beginning with the date of final inspection. This provides for a definite commencement date. Since final inspection typically occurs 6 to 12 months after completion of the treatment works and a period of plant operation, this resolution in effect allows a 2-year period of observation after the treatment works is fully operational.

Some commenters requested that the regulations spell out the procedure for applying for the 100-percent modification grant. Such procedures will be the subject of future program guidance. Grant recipients will initiate the procedures by giving written notification of failure within the 2-year period discussed above to the State and EPA. Commenters raised some questions concerning the ways in which such grants will be funded. The priority system will be used with modification grants being made from general allotment funds. We are changing the regulations on priority lists previously published to allow consideration of the need for 100-percent modification grants in the determination of State priorities.

A second major area of comment concerned the reserve to be used for increasing grants for innovative and alternative projects from 75 percent to 85 percent. Many commenters were critical of the proposed Agency interpretation of this reserve as the maximum amount of allotted funds available for such grant increases. The Agency received and studied thoughtful analyses of the issue from the State of California, the Council on Environmental Quality, the League of Women Voters of the United States and others. Contrary to the commenters, we firmly believe that a thorough analysis of all pertinent provisions of the 1977 Act and its legislative history leads to the conclusion that the reserve is the maximum to be used to increase grants from 75 to 85 percent from funds allotted for fiscal years 1979 through 1981. This conclusion is bolstered by sound policy and administrative considerations and by the Agency's understanding of the provisions based upon extensive contacts with congressional committees during the months of preparation leading to enactment of the 1977 Act.

The 1977 Act establishes what amounts to a special program within the construction grants program to fund innovative and alternative processes and techniques. The key provisions are in sections 202(a) and 205(i). They authorize 85-percent grants; establish a special fund to increase the grants from 75 to 85 percent; provide a backup "insurance" grant for failures; and define the treatment works eligible for the 85-percent grants. All of these provisions must be read together to understand congressional intent on the question. Legislative history, especially from the conference committee report, further substantiates EPA's conclusion.

Some commenters argued that treatment of the 205(i) reserve as a maximum runs counter to the promotion of innovative and alternative technologies, which should be EPA's policy. Under the 1977 Act, EPA is implementing a variety of provisions that collectively make the encouragement of innovative and alternative technologies a major thrust of the construction grants and related programs. Nevertheless, EPA must conduct its activities within the confines of its legislative mandate.

Akin to the policy argument, one commenter recommended that EPA treat the 205(i) reserve as a minimum amount available because that would promote the overall objective of the Act—to maintain the physical, chemical and biological integrity of the Nation's waters. We believe that treatment of the reserve as a maximum amount will actually do more to promote the overall objective. This is so because EPA's approach allows more communities to be given grants at the 75-percent level to deal with their water quality problems.

A few pragmatic considerations were also raised. Some commenters argued that the 205(i) reserve is insufficient to accommodate all innovative and alternative projects and that States need the financial incentive to encourage these projects. Most indications at present are that a few States may have more projects than can be funded from the reserve. Most, however, will find it difficult to use up the reserve. The time needed to plan and design projects will cut significantly into the 3-year authorization. It is in part for this reason the EPA is permitting certain 1978 grants that qualify to be supplemented by 10 percent from the 1979 reserve. In addition, there is a major incentive for States to use the 205(i) funds rather than lose them to reallotment. If a State does not use the reserve while it is available, it not only loses the unused funds, but it cannot share in the overall reallotment of construction grant funds from States that did not obligate them.

Finally, it was argued with some merit that the interpretation as a maximum could cause delays because communities that cannot get an 85-percent grant one year may wait until the ensuing year to apply. This could occur. Two things militate against it. Funds are only authorized for 3 years. Most States will have ample funds the first year, and no one can delay beyond the third year of authorization. Additionally, delay might cost a community its position on the priority list. If any risk is apparent, a community is not likely to delay.

For these reasons, EPA is retaining its interpretation that the 205(i) reserve is the maximum amount to be spent to increase grants from 75 to 85 percent for innovative and alternative technologies.

Several States and others indicated that the distribution of the 2-percent reserve according to the chronological approval of grants is too inflexible. EPA agrees. Other approaches recommended, such as use of the priority system or establishment of criteria to choose the most desirable projects, also have serious drawbacks. Recognizing that States will want to handle the matter in different ways, EPA has made chronological approval a general rule but gives States the option of establishing a different method in cooperation with the EPA Regional Administrator.

Commenter made several proposals for reallotment of any unused portion of the 2-percent reserve. Some supported the proposed return of such funds to the general pool which is divided among States that have used all their general funds. Others favored the establishment of a special reserve that would be reallotted to States that have used up their 2-percent innovative/alternative set-aside. Another proposal was that such surpluses be used to help fund 100-percent modification/replacement grants.

Unused portions of the 2-percent reserve must be reallotted under section 205(b)(1) of the Act along with all reallotted funds. The EPA Administrator has some leeway in determining the manner of distribution of the reallotted funds. Under current regulations, reallotted funds are distributed to States that used their prior year's full allotment. EPA will reallot the reserve in the same manner. It should be noted that if a State loses funds to reallotment, whether these funds are from reserves or from general grant funds, then the State cannot receive funds from the overall reallotment.

The establishment of special funds is constrained by the reallotment provisions in section 205(b)(1). Special funds would have to be established in each State that participates in any reallotment. This would require an extra set of bureaucratic procedures that would be too burdensome and unwarranted for the potential benefits.

Some questions have been raised regarding the extent of the 85-percent grants—whether they will cover the costs of an entire treatment works or just that portion of the treatment works deemed innovative or alternative. The April 25 proposed rules adopted a 50-percent cutoff rule. Under that approach, if the present worth of innovative or alternative parts of the treatment works exceeds 50 percent of the total present worth cost of the non-sewer-related part of the treatment works, then the entire treatment works would be eligible for the 85-percent grant. Otherwise, only the innovative or alternative parts would be eligible. Support for this scheme is based largely upon administrative grounds.

Many persuasive comments have argued for an incremental approach,

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under which only innovative or alternative portions of treatment works would be eligible for 85-percent funding. The costs of an entire treatment facility would be covered by such a grant only if the whole project had been deemed innovative or alternative. The relationship between present worth of innovative or alternative parts and total present worth would no longer be important in determining what portion of a project was eligible for the 85-percent grant.

There are several grounds for favoring the incremental approach. It would be only slightly more difficult to administer than would the 50-percent cutoff approach, which utilizes the incremental approach on projects below the 50-percent level. It would spread the 2-percent reserve to more innovative and alternative projects and would use the reserve only on innovative and alternative processes and techniques. It would remove the pressure on consulting engineers to make every project at least reach the 51-percent mark. It would provide incentives to engineers and grantees to use as much innovative and alternative technology as possible. For these reasons, EPA is adopting the incremental approach under which only innovative and alternative unit processes and techniques will receive 85-percent funding.

Some commenters expressed concerns related to criteria in section 6 of appendix E for identifying innovative technology. These comments principally were directed at the cost and energy reduction criteria. Specifically, the comments indicated that (1) cost and energy reduction were not among the objectives envisioned by the Congress in authorizing specific innovative and alternative technology; (2) the accuracy of cost and energy analyses in facility plans is not sufficient to allow a meaningful comparison; and (3) the 15-percent cost reduction and 20-percent energy reduction criteria are either too easy or too difficult to achieve. A related comment suggested that using the most cost-effective alternative as the basis for comparison in the case of energy reduction (paragraph 6.e.(2) of appendix E of the proposed regulations) may not result in actual energy savings if the cost-effective noninnovative alternative for a particular project happens to be energy intensive.

The Agency disagrees with the comment that cost and energy reduction are not valid criteria for innovative technology as envisioned by the Congress. There are numerous references to cost and energy reduction in the legislative history of the 1977 Act which indicate reliance on these factors for the evaluation of innovative and alternative technology.

Likewise, no change was made with respect to the percentage decrease in cost or energy necessary to qualify a project as innovative. The Agency believes that the proposed criteria set forth substantial, yet achievable, goals with respect to cost and energy reduction. In recognition of some of the comments received, several changes were incorporated into the final regulations to insure that the cost and energy benefits claimed as the basis for designating a project as innovative are not just "paper savings" but are savings actually realized by the grantee municipalities.

These changes include: (1) authority for the Regional Administrator to deny a 10-percent grant increase for step 3 projects where one or more of the criteria upon which the innovative technology designation was based are not verified by the plans and specifications prepared for the project (§ 35.930-5(b)); (2) authority for the Regional Administrator to make an initial determination on whether a project is innovative after plans and specifications prepared for the project in step 2 are sufficiently completed to verify conformance with the criteria for innovative technology (§ 35.930-5(b)); (3) a requirement that facility plans contain analyses in sufficient detail to substantiate claimed cost or energy savings when these factors are proposed as the basis for an innovative technology designation (§ 35.917-1 and paragraph 5.a of appendix A); and (4) comparison with the least net energy, noninnovative alternative as the basis for determining whether a process or technique is innovative on the basis of energy savings (paragraph 6.e.(2) of appendix E).

The Agency is also preparing detailed guidance which contains information on a wide range of presently used processes and techniques to assist in the evaluation of innovative and alternative technology. Additionally, the Agency recently published a detailed study of the operational energy requirements for municipal wastewater treatment plants. The Agency has initiated another more comprehensive energy study, which should be available next year.

Paragraph 6.a. of appendix E indicates that the Regional Administrator may consult with EPA Headquarters as to whether a particular process or technique is innovative and as to determinations made in other EPA Regions about similar processes and techniques. As part of its implementation of these provisions, EPA is considering mechanisms to provide these capabilities to the Regional Offices. One possibility being actively considered is formation of a group or groups of technical experts to assist in determinations of innovative technologies both on a national level and on a regional basis. The contemplated composition of such groups would include qualified individuals from both Government and private industry. Also being considered is a data management operation which would catalog basic technical information on the various innovative projects implemented across the country. The objective of such an operation would be to establish and give the EPA Regions access to the pertinent information on related projects under consideration or approved elsewhere. More specific information on these efforts will be forthcoming in the form of program directives issued by the construction grants program.

Paragraph (b)(3) of § 35.908 of the proposed regulations indicated that projects or portions of projects which received step 2, step 3 or step 2+3 grant awards after December 27, 1977, may receive grant increases from funds allotted for fiscal year 1979 if they meet the criteria for innovative or alternative technologies in appendix E. Comments were received that the intent of the law to foster implementation of innovative and alternative technology by providing financial and other incentives was not being achieved by allowing these incentives to be applied to projects which already have received step 2 or step 3 grants or have approved facility plans. Plainly stated, these comments indicated that additional incentives in the context of those provided by the Clean Water Act of 1977 were not necessary to implement the technology because approval and acceptance of the project had already been obtained. The Agency agrees with these comments insofar as they apply to innovative technology projects. Criteria for innovative processes and techniques are based upon the concept of advancement of technology in comparison to currently accepted systems. This comparison implies a baseline of technology against which improvements in systems will be measured. Treatment processes and techniques which have been selected through the evaluation of alternatives in the facility planning process prior to initiation of the innovative/alternative technology program will be considered the baseline of accepted technology against which candidate innovative technology projects should be compared. This applies equally to more recently developed systems already incorporated into grant projects by virtue of the fact that such systems have been successfully subjected to the scrutiny of the construction grant process in order to receive project approval. As previously indicated, the Agency is developing guidance which will aid in making comparisons of candidate innovative

technology with accepted "baseline" technology.

We proposed criteria to identify innovative projects on April 25, 1978. They become effective in final form on October 1, 1978. Projects reviewed and approved between December 27, 1977, and October 1, 1978, were not evaluated on the basis of these criteria. They were approved under then existing criteria and as such were approved as accepted conventional or alternative systems.

For these reasons, the reference to innovative technology has been deleted from § 35.908(b)(3). Eligible portions of projects that received step 2, step 3, or step 2+3 grants after December 27, 1977, from funds allotted or reallotted in fiscal year 1978, may still receive grant increases from funds allotted for fiscal year 1979 if they meet the criteria for alternative technology in appendix E. This extension of grant increases to certain alternative technology projects is based upon the fact that such projects provide for the reclamation and reuse of wastewater and wastewater constituents or recover energy in accordance with the principal objective of the innovative/alternative technology provisions of the Clean Water Act. Furthermore, designations of these projects as alternative technology projects do not in any way depend upon a baseline comparison with other technology as is the case with innovative technology. Also, allowance of supplemental grants for alternative projects avoids possible delays in applications for grants and helps States use their reserves for the 10-percent grant increase in fiscal year 1979.

The end result of the Agency's position is fairly simple. We will begin making 85-percent grants for innovative projects after September 30, 1978, with fiscal year 1979 funds. Projects utilizing alternative technology that received 75-percent grants after December 27, 1977, from funds allotted or reallotted for fiscal year 1978, may receive a 10-percent grant increase from fiscal year 1979 funds.

A number of comments were received as to whether a particular technology or piece of equipment is innovative. Similar inquiries asked whether EPA would certify specific processes and techniques as innovative. Other related questions asked how many times a technology could be funded through the construction grants program before it ceased to be innovative.

In considering the response to these questions, it is important to note that the Agency has not in the past adopted uniform standards or specified processes and designs to be used in grant projects. Project approval is made on a case-by-case basis in accordance with broad evaluation criteria developed for the program. In keeping with this overall program structure, the Agency will not designate or certify that a specific process or technique is innovative. The designation of innovative technology will be applied on a project-by-project basis. Thus, individual projects may be determined to be innovative on the basis of their conformance with the criteria set forth in section 6 of appendix E.

As stated in paragraph 6.a. of appendix E, the Regional Administrator may consider local variations in geographic or climatic conditions which affect treatment plant design or operation in making a determination on innovative technology projects. Thus a particular process or technique may be considered innovative technology in one project but not another. Similarly, it is possible that a novel combination of processes and techniques, which individually may not be considered innovative, could qualify a project as innovative if it can be demonstrated that the project contributes to the advancement of technology and otherwise achieves the basic objectives of the innovative and alternative technology provisions of the Act.

In accordance with the above discussion, it is not possible to specify how many projects of a certain type may be approved before a particular technology is no longer considered innovative. Furthermore, because the innovative/alternative technology program authorized by the Clean Water Act presently extends only for 3 years, it will often not be possible to verify the performance of certain innovative processes and techniques through actual operation during this 3-year period. For these reasons, as stated in paragraph 6.d. of appendix E, it is possible to fund a number of projects using the same type of innovative technology where the potential benefits are great in comparison to the risks.

We also received comments on the relationship of patents and bid specifications to innovative technology. Specifically, these commenters were concerned that patent and bid specification requirements may restrict the implementation of innovative technology.

The patent requirements applicable to construction grant projects are contained in 40 CFR Part 30. The Agency is presently reviewing these regulations to determine their impact on innovative technology projects. If, as a result of this evaluation, modification of part 30 appears to be advisable, such modification will be proposed separately at a later date. Otherwise, the matter of patents with respect to innovative technology will be clarified by Agency guidance to insure that no unnecessary impediments are created due to uncertainty in this area.

Section 204(a)(6) of the Act states in part, that no bid specification for construction grant projects shall be written in such a manner as to contain proprietary, exclusionary or discriminatory requirements unless such requirements are necessary to test or demonstrate a specific process or technique. Accordingly, it is possible that restrictive bid specifications may be written for innovative technology projects when sufficient justification is provided to substantiate that such specifications are necessary to test or demonstrate a specific process. We are revising §§ 35.908, 35.936-13 and program requirements memorandum 75-5, which implements this section of the Act, to clarify this point.

These new program provisions necessitated a minor revision to clause 2 (responsibility of the engineer) of appendix C-1. We have changed the reference from "advanced" technology in § 35.908 to "innovative" technology.

Regulatory changes relating to innovative or alternative technologies are made in §§ 35.908, 35.917-1(d), 35.930-5, 35.935-20, 35-936-13, appendix A, section 7, appendix C-1, clause 2, and appendix E.

Individual Systems

Section 14 of the 1977 Act authorizes grants for privately-owned treatment works serving one or more principal residences or small commercial establishments constructed prior to and inhabited on or before December 27, 1977. These systems are intended to abate an existing water pollution or public health problem. A public body (municipality) must apply on behalf of a number of such units and certify that public ownership of such works is not feasible. The public body must certify that the treatment works will be properly maintained and operated. User charges are required for cost of operation and maintenance. Commercial users must pay back the Federal share of the cost of construction with no moratorium during the industrial cost recovery study, and the 25,000 gallons per day exemption does not apply. (See discussion of industrial cost recovery below.) We have decided that nonprofit and nongovernmental institutional entities, such as churches, schools, hospitals, and charitable organizations, for purposes of this special authority generally should be treated the same as small commercial establishments. The alternative selected must be cost-effective.

This section is intended to be utilized to construct alternative or unconventional treatment works for individual residences or clusters of residences. Alternatives include, but are not limited to, septic tanks and subsur-

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face disposal systems, other on-site systems including dual systems, small systems serving clusters of households or commercial users, and pressure and vacuum sewers. Alternative sytems can be innovative. Though small publicly-owned systems for one or more homes or small commercial establishments are not covered under § 35.918, they are covered under regulations governing grants for publicly-owned treatment works and are grant eligible. Additional guidance will be issued on the conditions under which small publicly-owned systems may be funded. As alternative systems, these individual systems are eligible for the 4 percent set aside. Both publicly-owned and privately-owned individual systems, as alternatives to conventional technology, are eligible for an additional 10 percent of the eligible costs for those projects where funds are available from the set-aside for innovative and alternative technology. However, privately-owned individual systems are not eligible for the 115 percent cost preference for alternative and innovative processes and techniques in the cost-effectiveness analysis.

Acquisition of land for individual systems is not grant eligible because there is no indication in the law or legislative history that Congress intended the limited funds available to be expended for what clearly would be a windfall to private landowners. Construction of individual systems may supplement other types of wastewater treatment works, conventional and unconventional, in the same planning area as determined to be cost-effective.

A major issue arising in the course of preparing the interim regulations was to what extent monitoring should be required to ensure groundwater supplies have not been contaminated by individual systems built with construction grants. Because individual systems will often be widely scattered and in remote areas, monitoring difficulties and costs could be of large magnitude. The periodic sampling of potable water wells, selected to represent the planning area, is deemed to be a minimum requirement. Careful analysis of the source of contamination is essential since inadequate well construction can be the primary cause. Large concentrations of individual systems which have soil absorption beds will require additional monitoring from existing or test wells, depending on the geology of the area and the location of those aquifers which are, or are likely to become, drinking water sources.

The monitoring program should be planned as part of the facility plan. Criteria for best practicable waste treatment technology, published by EPA under section 304(d)(2) of the Act, shall be met for all individual systems. These discharges shall also comply with State and local requirements for control and abatement of groundwater pollution.

Other important issues which arose follow:

1. Are full construction costs, including major rehabilitation, upgrading, installing and enlarging, grant eligible?

Yes. These functions may meet water pollution control needs in the most economical and effective manner provided the work is properly done and adequate operation and maintenance procedures are arranged.

2. Should this special authority be used to construct septic tanks serving single residences when legislative history contains an indication that this ordinarily should not be done?

Several statements in the legislative history of the 1977 Act lead to the conclusion that septic tanks, with various further treatment and disposal features, are to be considered as individual systems. The optional solution, not to make them grant eligible, would be to eliminate from Federal funding one of the most frequently used and successful devices. "Septic tanks" rarely fail. It is the soil absorption field which fails if not properly designed, constructed, maintained, and operated.

Responses to comments received after issuance of the interim regulations continue below.

Several comments were received that nonprofit and nongovernmental institutional entities, such as churches, schools, hospitals, and charitable organizations, with flows of less than 25,000 gallons per day should be exempt from paying back the Federal share of the cost of construction. The 1977 Act authorizes grants to construct privately-owned treatment works only to serve principal residences and commercial establishments. Nonprofit and nongovernmental institutions are normally not residences and therefore must fall into the "commercial" category or be considered ineligible for grants to build privately-owned treatement works. The 1977 Act requires recoupment of the capital costs of construction from "commercial" users and specifically states that such users are not exempt from the moratorium during the cost recovery study. Some comments were of the opinion that it would be difficult to administer this requirement for very small facilities in very small communities. EPA believes that the one user equivalent (generally 300 gallons per day) exemption will ease the administrative burden by exempting the very small entities from cost recovery. The industrial cost recovery study now underway as required by the 1977 Act will analyze the overall impacts of cost recovery from commercial users which receive grants to construct privately-owned systems.

Comments were received on the desirability of a separate priority list for projects eligible for the 4 percent set-aside. The comments are addressed earlier in this preamble under State priority.

Several comments pointed out the impossibility of forming individual systems management districts where State laws do not exist to permit such public bodies. One commenter asked if the costs of evaluation and changes in State codes were grant eligible. Appropriate legislation has already been enacted by some States without the assistance of grant funds. Generally, legal fees for such purposes are not eligible under the 201 grant; however, some costs of such evaluation may be eligible for grants under sections 106, 205(g), or 208 of the Act. Where such organizations are legally possible, doubt was expressed as to the availability of manpower with expertise to handle such districts. The regulations state that the public body is responsible for operation and maintenance of individual systems. and the establishment of a comprehensive program for regulation and inspection of the systems. The work can be performed by contract, by commercial firm on an on-call basis, or by means other than municipal forces if desired.

One comment stated individual systems should be handled as a generic class for step 1 and specifically designed in step 2 because the planning effort required is very demanding compared with the population served. However, individual systems vary widely in design, operation, and cost, and really cannot be treated as one similar generic group. During the facilities planning stage, various types of individual systems should be evaluated for suitability of operation in the physical setting (soils, slope, etc.) and for reliability in meeting the needs of future users; a cost-effectiveness analysis should be completed for each system under consideration. The information from these and other required analyses will range greatly and should be evaluated carefully in the planning stage before determining which system should be designed and constructed.

Many comments were received objecting to the requirement for unlimited access to each individual system at all times for such purposes as inspection, monitoring, construction, maintenance, etc. The regulation has been modified to read "access . . . at all reasonable times."

Comments were received indicating a fear of costly and restrictive monitoring of groundwater programs. Other comments recommended increased monitoring requirements. Still others concurred with the requirements as written. EPA has worded the regulations to allow considerable flexibility in monitoring so that local conditions can dictate the extent of the requirement within limits designed to ensure that minimum monitoring to protect the health of the community is required.

Concern was expressed that best practicable waste treatment criteria were not defined. These criteria are defined in chapter II of "Alternative Waste Management Techniques for Best Practicable Waste Treatment," EPA-430/9-75-013, MCD-13, under alternatives employing land application techniques.

EPA received recommendations that nonprofit organizations be deemed eligible for grants and for management of on-site systems. The Act allows award of grants only to "public bodies." Nonprofit organizations with the capability and authority to plan, design, construct, and operate treatment works for public purposes would be eligible to function in that capacity under agreement with the public body. If the nonprofit organization is constituted a public body under State law, it could qualify for consideration for a grant (e.g., a citizen's association which is officially constituted as a sewer district).

One comment asked what is a "number of individual units," is there a maximum number of individual units, and if there is a dollar ceiling for individual systems. There is no absolute dollar ceiling for individual systems; the law specifically states a minimum of "one or more principal residences or small commercial establishments." The maximum number of units would be established through selection of the appropriate alternative or unconventional technology for individual residences or clusters of residences. Under the definition elsewhere in the regulation (§ 35.915-1(e)), this technology would be applied in communities of 3,500 population or less, or highly dispersed sections of larger communities.

One comment referred to the statement that all individual systems qualify as alternative systems, yet the cost-effectiveness guidelines provision for the 115 percent cost preference for innovative and alternative systems does not apply to individual systems. The law specifically states privately owned individual systems must cost less than the cost of providing a system of collection and central treatment.

Other comments recommended more coordination between EPA and the Farmers' Home Administration (FmHA). Such coordination has already been initiated; FmHA's final decision on projects is often made pending EPA approval of a grant. In addition, coordination between the two agencies in areas such as joint applications, standardization of definitions of high-cost projects, and other streamlining of administrative procedures is proceeding under the aegis of a White House working group on rural water and sewer problems. This coordination also will be extended to other Federal agencies through this group.

One comment recommended extension of grant eligibility to bathroom fixtures and plumbing utilizing flow reduction technology. Congressional intent expressed in the legislative history is quite clear that commodes or associated plumbing are not eligible for grant funding. If eligible, administrative difficulties and costs would be very large.

EPA encourages the use of the facility plan to evaluate every feasible alternative for solution of the water pollution problem whether or not such a solution involves grant ineligible facilities or methods. Assistance in grants packaging, construction supervision, planning and initial training for operations and maintenance are all generally grant eligible.

There were several requests to define terms and concepts more specifically. This will be done in separate guidance to be issued at an early date.

Regulatory changes relating to individual systems are found in §§ 35.905-23, 35.917-1(b), 35.917-2(a), 35.918, 35.918-1, 35.918-2, and 35.918-3.

Cost-Effectiveness Analysis Guidelines and Reserve Capacity

Background. On February 4, 1977, EPA published in the Federal Register proposed guidelines to amend and supplement the Cost-Effectiveness Analysis Guidelines (Appendix A to 40 CFR, Part 35, Subpart E). That proposed revision was intended to provide for cost-effective sizes of and sufficient reserve capacity for wastewater treatment works and, at the same time, to avoid overdesign. Coverage included guidance and alternative procedures for forecasting growth of population, for estimating wastewater flows, for determining cost-effective construction staging periods, and for providing extra capacity beyond that determined to be cost-effective.

Most of the commenters on the proposed revisions, while agreeing in principle with the proposal, raised questions or suggested modifications that convinced the Agency several changes were warranted. Also, additional guidance was required to implement section 16 (Cost-Effectiveness) and section 21 (Reserve Capacity) of the 1977 Clean Water Act. Accordingly, the EPA revised the Cost-Effectiveness Analysis Guidelines to incorporate these changes, and on April 25, 1978, published them as part of a set of interim regulations to implement the Clean Water Act. These interim guidelines were effective as of June 26, 1978. Commenters on the interim guidelines suggested revisions that convinced the Agency to make some additional changes.

Innovative and alternative technologies. Section 16 of the 1977 Act encourages the use of innovative and alternative wastewater treatment technologies by extending grant eligibility to such projects if the life cycle cost does not exceed that of the most cost-effective alternative by more than 15 percent. The Agency's interim guidelines called for using option 3 of the following options for calculating the cost-effectiveness preference:

1. Use the life cycle cost of the entire proposed waste treatment system as a base for calculating the cost difference;

2. Apply the 15 percent increase to innovative and alternative components (and other differing portions) as compared with corresponding portions of the least costly noninnovative alternative; or

Use, as a base, the entire proposed waste treatment system where the system primarily (more than 50 percent of its cost) involves innovative or alternative technologies. Should innovative or alternative components comprise 50 percent or less of the system cost, the calculation base would be that for option 2.

Some commenters have expressed a preference for option 2. The Agency does not concur because option 2 would be difficult to administer and would also restrict unnecessarily the number of projects qualifying for the 15 percent preference. The Agency has rewritten option 3 to state that all projects with alternative and innovative components will qualify for the preference, except for those in which alternative or innovative unit processes replace conventional processes in a treatment plant and account for less than 50 percent of the cost. This language represents a slight liberalization of option 3, allowing some additional projects to qualify for the cost preference. This revision also clarifies and simplifies the old language.

Other commenters noted that collection systems common to both the conventional option and alternative technology system should not be included in the calculation base. The Agency agrees and has modified the guidelines accordingly.

Another commenter noted that the 15 percent cost-effectiveness preference must be mandatory rather than permissive. Both the law and these regulations mandate a 15 percent monetary cost-effectiveness preference for all innovative or alternative projects

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or components thereof that meet the Agency's criterion for such projects. However, this does not mean that the grantee must adopt an option featuring innovative or alternative technologies wherever their monetary costs are less than the 15 percent ceiling because nonmonetary factors must be taken into account as well.

Discount rate. The Agency considered raising the discount rate for evaluating proposed wastewater treatment works from that used by the Agency (currently 6⅝ percent) to 10 percent. The former rate is used by the Water Resources Council (WRC) to evaluate the costs and benefits of water resources projects. EPA, as a member agency, adopted this rate in 1973 when it published the Cost-Effectiveness Analysis Guidelines (appendix A of Construction Grant Regulations), although the construction grants program is not covered by the WRC "principles and standards" for evaluating water resource projects. The latter rate (10 percent) is cited in Office of Management and Budget (OMB) circular A-94 for use in agency programs not covered by the WRC "principles and standards."

The 10-percent rate is believed to approximate the opportunity cost of capital. The "Opportunity Cost of Capital Concept" has the most theoretical economic justification for cost-effectiveness analysis. This concept suggests the proper discount rate to use for public investment projects should be based on the rate of return to private sector investment (before taxes and adjusted for inflation). This is because resources used for public investment have alternative uses in the production of private commodities which society foregoes for the sake of the public investment.

Use of the 10-percent discount rate would help produce a more economically efficient distribution of construction grant funds. The expected result is that the optimal (cost-effective) staging period (the number of years for which the treatment plant is designed to handle a community's growth in terms of sewerage discharge) will decrease from about 10-20 years to about 9-16 years. These shorter staging periods will result in slightly smaller treatment works and in smaller initial treatment expenditures for each proposed treatment system. This should permit a somewhat greater number of treatment systems to be funded.

Despite these considerations, the Agency has decided against raising the discount rate to 10 percent. The higher discount rate would have the effect of lowering the total present worth cost of facilities with high operation and maintenance costs in comparison with the total present worth cost of capital intensive facilities with low operation and maintenance costs such as land treatment and energy recovery facilities. This could largely offset the 15-percent cost-effectiveness preference given to such measures under the 1977 Act and these guidelines. It would also run counter to the President's recent decision to retain the existing discount rate for water resources projects.

Many commenters representing a wide variety of interests opposed increasing the discount rate (only one favored such action) primarily because such actions would tend to disadvantage capital intensive land treatment and energy recovery alternatives and would favor operation and maintenance cost intensive options.

The Agency has decided to retain the WRC discount rate (currently 6⅝ percent) because this rate is consistent with the President's water resources policy and the net programmatic advantages, if any, of increasing the rate are not of overriding importance.

Cost escalation. Several commenters advocated use of a salvage value for land higher than the prevailing market price as required in the interim guidelines because of the very high rate of land value appreciation. The Agency has analyzed farmland value appreciation since 1960 and since 1970 and has compared these rates with cost escalation rates for construction, energy and labor. The analysis showed that land values over both the 17-year and 7-year periods have escalated roughly 3 percent faster than costs associated with construction or operation and maintenance of a treatment works. On this basis, the final guidelines will require, in the calculation of land salvage value, a land appreciation rate of 3 percent compounded annually, unless the grantee justifies a higher or lower percentage based upon historical differences between local land cost escalation and construction cost escalation. This allowance represents the estimated difference in rates between land cost appreciation and the cost escalation of goods and services related to construction.

Several commenters suggested escalation of energy, chemical, and labor costs in the cost-effectiveness analysis to account for anticipated high increases in these costs. It should be noted that the cost effectiveness analysis procedures call for use of constant dollars based on prevailing market prices at the time of the analysis and a low discount rate which is less than the inflation-free rate based on the opportunity cost of capital concept. This approach, rather than implying no future inflation, simply assumes that the costs of all resources involved in treatment works construction and operation will increase at about the same rate on a long-term basis. The results of the cost-effectiveness analysis would be distorted, however, if the prices of certain resource inputs changed significantly over the planning period in relation to the prices of other resources. The Agency has analyzed historic data on wastewater facility construction price indexes and on prices of various operation and maintenance components, including labor, electricity, chemicals, coal, petroleum distillates, and natural gas. We also reviewed projections of future energy use prepared by the Department of Energy. Only the historic and projected increase in natural gas prices were found to significantly exceed (by nearly 4 percent) those for construction and the average of other operation and maintenance elements. Thus, the Agency has revised the guidelines to require escalation of relative natural gas prices over the planning period at a compound rate of 4 percent annually, unless the grantee justifies a higher or lower percentage based upon regional differentials between historical natural gas price escalation and construction cost escalation.

Reserve capacity. The Clean Water Act requires the Agency, in determining the amount of reserve capacity eligible for a grant, to take into account the projected population presented in a facility plan. The population must be based on the latest information available from the U.S. Department of Commerce or from the States as EPA determines appropriate. The interim guidelines called for population forecasts in facility plans to be based upon disaggregation of State population totals already developed by the Department of Commerce. Several commenters, principally 208 planning agencies, oppose this approach and contend that population forecasting is a policy matter that should best be addressed by local governmental units. Others, principally environmental groups and individuals, favor the disaggregation approach as a means of preventing excessive capacity and resultant secondary impacts.

The Agency believes the disaggregation approach should be retained because, to avoid providing excessive reserve capacity, forecasts of population and economic activities for individual small areas such as facility planning areas or designated 208 areas should be reasonably consistent with State and national projections. This approach is consonant with the President's urban policy intended to revitalize cities and discourage urban sprawl. The guidelines permit inclusion of extra capacity in a treatment works at the expense of the grantee to accommodate local growth policies. The final guidelines allow reasonable departures

from the Department of Commerce State projections and their disaggregations to designated 208 areawide planning areas, where the State or designated 208 agency has already prepared projections. The final guidelines permit use of State projections already prepared by the State if the year 2000 State projection does not exceed that of the Department of Commerce projection by more than 5 percent. The Administrator may approve State population projections that exceed the Department of Commerce projections by more than 5 percent if justified by the State. Where a designated 208 agency has already prepared a population projection for its area, it may be used if the year 2000 population does not exceed that of the disaggregation, based on the Department of Commerce projection, by more than 10 percent.

One State suggested allowing a State prepared population forecast to exceed the Bureau of Economic Analysis forecast by 10 percent without justification. The Agency does not concur because the present 5-percent departure is substantial. Also, since the State may increase its total after the 208 agencies have received their variances up to 10 percent, the total final State departure from the Bureau of Economic Analysis projection may already approach 10 percent or even more in some cases. Another State commented that States already having policies of disaggregating State totals among counties, even within designated 208 areas, should be allowed to continue to do so. The Agency agrees and has included such a provision in the final guidelines.

One commenter has suggested that population projections in 201 and 208 plans should no longer be wedded to existing zoning ordinances, which may be exclusionary and forbid immigration by lower income people. Instead he suggested that future population and the resulting reserve capacity for grant funded projects should rely on regional population projections and, in particular, regional allocations of low- and moderate-income apartment units. The Agency cannot fully comply with this suggestion because it believes that zoning and land-use decisions should be left primarily with local governmental units, and decisions on cost-effectiveness should be based on total and not partial population projections in an area. However, these regulations require the local population projections for 201 plans to fall within ceilings based on disaggregation of State and regional population totals.

Several commenters advocate a much more flexible population forecasting approach by permitting use of population projections other than the Bureau of Economic Analysis. The Agency does not concur because use of various projections would be inequitable and would lead in many instances to funding excessive reserve capacity to accommodate growth.

One commenter stated that the population disaggregation approach is too simplistic for interstate metropolitan areas where factors influencing population change go beyond State boundaries. The Agency concedes that such situations may pose difficult forecasting and disaggregation problems. Nevertheless, the Agency believes the interstate disaggregation problems can be worked out through consultations among the concerned States, designated 208 agencies and other regional planning agencies.

Some commenters pointed out the need for public involvement in the review of the State population disaggregations. The Agency agrees that the public should have an opportunity to review and comment on the disaggregation before Agency review. Accordingly, the final guidelines now require the State to hold a public meeting on its disaggregations before submitting them for Agency review.

The Agency believes that the same population projections should be used for both air and water quality planning. Appendix A now requires, as an initial step toward implementing this objective, that States, when disaggregating total State population, consult with organizations of local officials responsible for water quality and air quality planning. In many instances the organizations certified by Governors pursuant to section 174(a) of the Clean Air Act to do air quality planning are also 208 agencies.

Some commenters have objected to the per capita flow limitations of 60-80 gallons per capita per day (the second method of estimating wastewater flows) as being unrealistically low. The Agency believes that such dry weather base flow allowances are adequate for smaller communities where flow data are lacking. These allowances exclude infiltration and inflow. Residential wastewater flows nationwide average only 45 gallons per capita per day. Other commenters favor increasing future per capita flows over time. They contend that increasing per capita flows have been observed during the past 10 years and that with increasing affluence this trend will continue. The Agency agrees that per capita water usage and wastewater flows have increased in the past but believes that this trend is reversing. This can be attributed to the increase of personal water conservation habits encouraged by periodic water shortages or higher water supply and sewerage costs even in normally water rich areas. Moreover, plumbing codes, State laws and ordinances are rapidly being revised in many areas to require installation of water-saving fixtures in new dwellings, hotels, motels, and other buildings.

Section 21 of the 1977 Act requires the Agency, in approving the amount of reserve capacity for a treatment works, to take into account efforts to reduce the flow of sewage and unnecessary water consumption. The President's water resource policy features water conservation as its cornerstone and requires Federal agencies to implement appropriate conservation measures.

The guidelines require a cost-effectiveness evaluation of flow-reduction measures such as plastic toilet dams and low flow showerheads; changes in laws, ordinances, or plumbing codes requiring installation of water-saving devices in future habitations; and water pricing changes. The grantee must develop a recommended flow reduction program featuring a public information program plus cost-effective measures for which the grantee has implementation authority or can obtain cooperation from an entity with such authority. Exempted from these requirements are those communities with a population less than 10,000 or with average daily base flows, excluding infiltration/inflow and industrial flows, for treatment works design of less than 70 gallons per capita per day or with ongoing flow reduction programs.

Several commenters have suggested that small communities should be encouraged to conserve water and thus should not be exempt from the flow reduction requirements. The Agency concedes that some water conservation potential exists for smaller communities even though such communities tend to use and waste less water than the larger, more affluent cities. Nevertheless, the Agency believes that the limited cost savings obtainable in small communities from flow reduction programs may not be commensurate with the administrative burden imposed. Some commenters have pointed out that the 70 gallons per capita per day exemption criterion is too stringent and have suggested a 100 gallons per capita per day criterion. The Agency disagrees because the 70 gallons per capita per day figure, which represents an average dry weather base flow, is large enough to exempt most small communities and water-conserving larger cities. Almost all communities, including larger water users, would be exempt if the suggested 100 gallons per capita per day criterion were used.

Two commenters objected to the flow reduction requirements as being unreasonable for areas with adequate water supplies. The Agency disagrees. During the past 20 years, persistent drought and accompanying water

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shortages have plagued many supposedly water-rich areas. Moreover, the costs of water management, including water supply withdrawal and treatment, distribution, and, finally, wastewater treatment, are very substantial even in areas with plentiful water. Water conservation can markedly reduce these total water management costs over the long term.

Three commenters objected to the construction staging requirements for treatment plants, particularly noting that the 10-year period is insufficient for planning and designing future expansions in complex metropolitan areas. The Agency believes that construction of treatment facilities should be staged, particularly in high growth areas, to reduce the high construction and operational costs otherwise attributable to large amounts of idle reserve capacity. To achieve this objective, a staging period as short as 10 years does not appear unreasonable for high-growth situations. Another important related consideration is the high local cost burden for treatment facilities, especially for small communities. Limiting the treatment plant size to that reasonably necessary to accommodate future growth helps to reduce this local financial cost burden.

One commenter noted that the tabulated staging periods for small plants of 1 MGD or less capacity could lead to designing a treatment plant serving a high growth rate area for a capacity less than that for a lower growth rate area. The Agency agrees with this observation and has accordingly included in the final guidelines a 15-year staging period for the small plants to preclude this transition problem.

Several commenters objected to the required 20-year staging period for interceptors which can be increased only if justified and in compliance with approved water quality management or other environmental plans. They suggest that sizing a pipe for 40 to 50 years will cost less in the long run and will often decrease primary environmental impacts. The Agency has found that total present worth costs of sizing a pipe for 20 years and adding another pipe 20 years hence are about the same as providing 40 years of pipe capacity initially. The difference in primary environmental impacts will vary. The primary reason for limiting interceptor sizes to 20 years would be to limit the induced growth and resultant secondary environmental impacts related to larger pipes.

Interceptor planning. Two commenters have suggested changing the guidelines to permit extension of interceptors into undeveloped areas (but not environmentally sensitive areas) where consistent with growth management plans. This change would be intended to encourage growth in suitable areas. While this suggestion has some merit, the Agency believes the provisions discouraging interceptor extensions into undeveloped areas should remain unchanged because:

(1) Federal funding of interceptor extensions into undeveloped areas could induce very rapid growth with resultant adverse secondary environmental impacts,

(2) Sewering could be encouraged in cases where other approaches might be more cost-effective, and

(3) The Federal subsidization of new development would mean deferring Federal assistance for correcting existing water pollution problems elsewhere.

Useful life of a treatment works. The former guidelines included unnecessary and confusing distinctions between the definitions of "service life" and "useful life" for treatment works.

The new guidelines drop the former service life definitions and amend the useful life definition. This is now simply the estimated period of time during which a treatment works or a component of a waste treatment management system will be operated. Other regulation revisions have been made so that the rest of the regulation is consistent with this change.

These regulatory changes are made in appendix A to subpart E.

Grant Eligible Categories

On June 21, 1977, the Agency issued Program Requirements Memorandum (PRM) 77-8 concerning the review of pending new collector sewer projects. The policy defined in more detail and required rigorous implementation of then existing Agency guidance on eligibility and cost-effectiveness of collector sewer projects. It was intended to insure that the limited construction grant funds available are obligated for collector projects only when needed to correct a problem of public health or ground or surface water pollution. Specifically, that policy restricted grant eligibility of collector sewers to those areas with population densities of at least 1.7 persons per acre (one household for every 2 acres) on October 18, 1972. Population density of those areas was to be evaluated on a block-by-block basis or, where typical city blocks do not exist, by areas of 5 acres or less.

Section 36 of the 1977 Act amends section 211 of FWPCA to preclude use of the population density criterion in PRM 77-8 as a test of grant eligibility for collector sewer projects but permits use of the criterion for evaluating alternatives. The Agency revised the policy of PRM 77-8 accordingly and on March 3, 1978, issued new PRM 78-9 which supersedes PRM 77-8. PRM 78-9 was published in the Federal Register on April 7, 1978 (43 FR 14722). The new PRM retains the one household per 2-acre criterion only for identifying less closely populated areas where individual or other small wastewater treatment systems are likely to be more cost-effective than collector sewers and thus must be evaluated in detail if collector sewers are proposed for such areas. The Agency believes that use of the population density criterion in this manner will assist with and simplify the cost-effectiveness analysis for collector sewer projects.

These final regulations require, as a basis for eligibility, new collector sewer projects serve a community in existence on October 18, 1978, and define a community as including any area with substantial human habitation on October 18, 1972. Also required, consistent with PRM 78-9, is a block-by-block evaluation to identify areas with substantial human habitation on October 18, 1972. The proposed collection system must be cost-effective and the population density of the area to be served must be considered in determining the cost-effectiveness of the project. In addition, the proposed collection system must conform with approved 208 plans, applicable environmental laws, executive orders on wetlands and flood plains, and Agency policy on wetlands and prime agricultural lands.

Two commenters questioned use of a block-by-block evaluation to identify human habitations existing as of October 1972 as a test of grant eligibility and suggested that the existence of a community at that time is sufficient to pass the eligibility test. The Agency disagrees because Congress clearly intended to prohibit grant funding of collector sewers to serve new developments. The block-by-block evaluation is necessary for identifying new developments, principally in community fringe areas, that should not receive Federal grant assistance for collector sewers. One commenter suggested addition of a provision requiring use of grant conditions such as restrictions of sewer hookups where necessary to protect environmentally sensitive areas and prime agricultural lands from new development. The Agency, noting that this suggestion conforms with existing Agency guidance, has added the suggested provision to the final regulations.

Section 36 of the 1977 Act further amended section 211 of the FWPCA to prohibit the use of authorized construction grant funds for control of pollutants from separate storm sewers.

Regulatory provisions relating to grant eligible categories are in §§ 35.905-23, 35.925-13, and 35.925-21.

Land Eligibility

Section 37 of the 1977 Act amends the definition of "treatment works" under section 212(2)(A) of the FWPCA to include as eligible, under site acquisition of land that will be an integral part of the treatment process, the land used for the storage of treated wastewater in land treatment systems prior to land application. EPA has interpreted this provision to permit acquisition of land for composting sludge since such composting can be part of a treatment process. In order to implement this amendment, § 35.905-23 has been revised to include in the definition of "treatment works," the land used for composting of sludge and for the temporary storage of treated wastewater in land treatment systems. Section 35.940-3 has also been revised to include, among costs allowable if approved by the Regional Administrator, the land used for composting of sludges and for the temporary storage of treated wastewater in land treatment systems prior to land application.

Construction grants regulations promulgated on February 23, 1973, and February 11, 1974, are applicable to construction grants awarded between October 18, 1972, and December 27, 1977. The revised definition of treatment works made pursuant to the 1977 Act is applicable to all projects for which Agency approval of step 1 facility plans had not been given before December 27, 1977.

The Agency received comments supporting and opposing the eligibility of land for composting of sludge. The final regulations retain the eligibility because, by encouraging composting, it furthers the clear congressional intent to promote beneficial use of sludges on the land. Composting of sludge and storage of treated effluent are both critical stages immediately prior to land application. Land eligibility provides a very similar incentive for comparable situations.

Changes to the regulations implementing this amendment are made in §§ 35.905-23 and 35.940-3.

Recreational Use

Section 201(g)(6) requires that no wastewater treatment facilities grants be made after September 30, 1978, unless the grant applicant has satisfactorily demonstrated to the Administrator that potential recreation and open space opportunities have been analyzed in the planning of the proposed treatment works. This provision provides an opportunity for communities to obtain important recreational and open space benefits at relatively little extra cost.

Commenters generally addressed two questions. Should the analysis be required for all projects for which grants are made after September 30, 1978, or only for projects for which facility planning begins after that date? Should construction grants funds under steps 2 and 3 be used to design and build recreational facilities? Environmental, parks, and recreation groups argued that the analysis should be required of new and ongoing projects and that some funding for recreational use facilities should be available under steps 2 and 3. Other commenters argued to the contrary. Some pointed out that not all projects lend themselves to meaningful analyses of recreational use opportunities. Others indicated that recreational use considerations are beyond the scope of the water quality objectives of the program.

One overriding intention of Congress, often expressed in the legislative history of the 1977 Act, was that new planning requirements not delay ongoing projects needed to meet water quality objectives. Consequently, the recreational use analysis will be required only of new facility plans initiated after September 30, 1978. Nonetheless, EPA encourages planning for recreational and open space opportunities associated with treatment works. Grantees with ongoing projects are free to request grant amendments for extra money to carry out such recreational planning. EPA will look favorably upon such requests if they do not delay projects or raise costs significantly.

Section 201(g)(6) requires an analysis of potential recreation and open space opportunities in the planning of wastewater treatment facilities. It does not require nor authorize the funding of the design or construction of such recreational facilities. Such costs are not grant eligible under steps 2 and 3. EPA has already taken measures to prepare program guidance in coordination with the Heritage Conservation and Recreation Service and in consultation with park associations to implement this provision. We intend to aid grantees as much as possible to avail themselves of funding for recreation and open space design and construction from other sources.

The Heritage Conservation and Recreation Service recommended that the required analysis specifically mention access to water inasmuch as that is viewed as the key to deriving recreational benefits in this context. The final regulation reflects this recommendation.

The question of how recreational use and other nonwater quality considerations will be considered in cost- effectiveness guidelines will be dealt with in program guidance. In general, such factors come into play when choosing between two otherwise closely matched alternatives.

It was also suggested that the proposed portion of the facility plan describing measures taken to inform the public of potential recreation and open space opportunities be deleted and that this topic be included in the general public participation requirements. The Agency agrees with this approach and the extra requirement has been dropped.

Pertinent regulatory changes have been made in § 35.917-1(j).

Combined Grants (Step 2+3)

Under new provisions added to section 203(a) of the FWPCA by section 18 of the 1977 Act, a single grant may be awarded for the combined Federal share of the cost of step 2 (preparation of plans and specifications) and step 3 (actual construction) for communities of 25,000 or less population if the total estimated step 3 cost of the treatment works is $2 million or less—$3 million in States with unusually high construction costs. At the present time, Alaska, California, Hawaii, Illinois, Minnesota, and New York are designated as having high construction costs. Based upon needs survey standard cost curves, costs in these States were determined to be more than one standard deviation from the norm.

EPA awarded step 2+3 grants in the past, but in 1974 the General Accounting Office ruled that they were not allowed under the existing statute. In allowing this new procedure, Congress intends to accelerate the grant process. By providing limited relief from the step 1-2-3 process to small communities, the paperwork and attendant delays incurred by separate grant applications will be minimized. Ultimately, the completion time and costs for these projects should be greatly reduced. It is necessary, however, to balance the intent to streamline these smaller projects with the minimum control necessary to assure that an acceptable pollution abatement facility is built. Plans and specification approval prior to advertising for bids on step 3 construction is necessary for this purpose.

Formal comments on the step 2+3 construction grants regulations were received from a number of organizations.

One comment suggested that since existing State project priority lists were developed without the knowledge that step 2+3 grants were possible, that portion of the regulation requiring a step 2+3 project to appear on the approved priority list should be delayed to take effect for the priority list for fiscal year 1979 (FY 1979). The Agency made this provision effective upon publication of these regulations as interim final to allow States the opportunity to amend their FY 1978 pri-

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ority lists if they chose. The provision is intended to require that step 2+3 projects appear on the priority list beginning with FY 1979.

Another comment suggested that the regulations use service area population rather than the population of the applicant municipality as the criterion for determining eligibility for a step 2+3 grant. The concern was that a regional authority or grantee serving more than one municipality may exceed the 25,000 population criterion though the service area population was less than 25,000. The regulations as written use the term, "applicant municipality," as stated in the statute. Congress provided the opportunity for step 2+3 grants to applicants with limited administrative capability. The population within the jurisdiction of the applicant municipality is thought to be a better indicator of an applicant's likely administrative capability than the service area population, which could be more or less than that which is within the applicant's jurisdiction.

Another comment concerned the Agency's criterion for determining areas of high construction cost. The standard deviation was selected as a commonly used and appropriate statistical device. As mentioned above, based upon needs survey standard cost curves, six States were determined to be more than one standard deviation from the norm. (Alaska and Hawaii were two States mentioned by the congressional conferees as having high construction costs.)

A comment from a State agency suggested that the regulations should require a comparison of the cost estimates after step 2 design with those presented in the facility plan. The objective of such comparison would be the elimination of "gold-plating" which escalates project costs above those presented in the facility plan. Since plans and specifications must be reviewed for conformity with the facility plan and approved prior to commencement of step 3 work, the necessary authority and checkpoint already exist. No modification of the step 2+3 regulation was necessary.

The last portion of § 35.909(a), stating that an existing step 2 grant could be amended to change it to a step 2+3 grant, has been deleted and paragraph (b)(3) of that section has been amended. It was included in the interim regulations to supersede Program Requirements Memorandum (PRM) 78-7, which was to be effective prior to promulgation of these final regulations and prohibited amendment of existing step 2 grants for purposes of converting to a step 2+3 grant. Since that PRM is no longer effective, specific reference to allowing such amendment is no longer necessary in the regulation.

Regulatory changes on combined grants are found in §§ 35.903(b), 35.909, 35.920-3(d), and 35.930-1(a)(4). §§ 35.930-1(a)(5), 35.935-4, and 35.935-9 were deleted.

Pretreatment

Regulations implementing a comprehensive pretreatment program were promulgated as 40 CFR-Part 403 on June 26, 1978 (43 CFR 27736). These regulations relate the construction grants program to the pretreatment program. They are intended to (1) establish pretreatment program development as a grant eligible item, (2) allow funding to be accomplished by amendment of a step 1, 2, or 3 grant whichever is most appropriate to the circumstances, (3) insure uniform development of the pretreatment program by requiring that certain elements be completed before the award of a step 2 grant, and other elements to be completed prior to award of a step 3 grant, (4) withhold grant payment at the 90 percent point in step 3 if the pretreatment program is not approved by that time, and (5) provide for time phasing that insures attainment of environmental benefits of the pretreatment program without severe disruption to the construction grants program.

Many municipalities have already developed or are in the process of developing pretreatment programs either on their own initiative or in response to national pollutant discharge elimination system permit requirements. We do not intend that such work be duplicated. To the extent that previous work meets the requirements of an approvable pretreatment program under part 403, it is to be incorporated in the program development under these construction grants regulations. To the degree that additional work must be done to complete the requirements of an approvable program, it may be grant eligible. Work done prior to the effective date of the final regulations is not grant eligible.

We received a number of formal comments on the proposed construction grants pretreatment regulations. The comments fall into the basic areas discussed below.

A number of commenters expressed concern that § 35.907(e) of the proposed regulations would not allow as eligible costs studies to determine pollutant removals and tolerance of municipal treatment works. We modified these regulations to clarify the funding eligibility of these studies. Currently such studies are grant eligible when performed for the purpose of properly designing the municipal treatment works and will continue to be grant eligible for such purposes. However, when these studies are performed solely for the purpose of the municipalities seeking allowances for removal of pollutants under part 403 of this chapter, they are not grant eligible.

Other comments requested clarification of the construction grants pretreatment strategy and indicated the need for a clearer statement. The general pretreatment regulations published under part 403 of this chapter on June 26, 1978, contain a comprehensive statement of the Agency's overall pretreatment strategy. The construction grants component is summarized as follows. Section 35.907 of these regulations provides that an existing or pending step 1, 2, or 3 grant may be modified to provide for development of a municipal pretreatment program where such a program has not been provided for in a water quality management plan under section 208 of the Act. The purpose of amending an existing or pending grant is (1) to recognize that a large proportion of the total number of step 1 grants expected to be made in this program have already been awarded, and (2) to insure development of an approvable pretreatment program at the earliest possible date. Municipalities that have not yet entered the grant process will be required to develop a pretreatment program as part of the scope of their step 1 grants.

In order to prevent disruption or delay in the movement of a project from step 1 to step 2, or from step 2 to step 3 because of pretreatment requirements, these regulations allow submission of the scope of work under the original or unamended grant upon its completion independent of the status of the work to be completed under the pretreatment grant amendment. To illustrate, if an active step 1 grant at the 90 percent completion point was modified in December 1978, to provide for development of a pretreatment program, the grantee may upon completion of the final 10 percent of the original scope of work, submit that work together with a step 2 application and the step 2 could be awarded at any time prior to June 30, 1980, without any of the elements of the pretreatment work being submitted. In order for the step 2 grant to be awarded after June 30, 1980, however, the grantee must have completed and submitted the elements of the pretreatment program specified in § 35.920-3(b)(9). The situation would be similar in going from step 2 to step 3 except that in order to receive a step 3 grant after December 31, 1980, all required elements of the pretreatment program must have been submitted. The process described above provides phase-in for development of pretreatment program requirements in the construction grants program since portions of the pretreatment program must be developed during each step of the grant process to be able to meet application requirements for the subsequent step grant. It also serves to insure continuous development of a pretreatment program.

Section 35.935-19 requires that step 3 grant payments be withheld at the 90 percent point unless the pretreatment program is approved. This provision is intended to ensure that the grantee complies with the terms of the grant agreement.

One commenter objected to the required use of the user charge system in implementing an approved pretreatment program. The regulations do not require use of the user charge system if the grantee chooses to provide other funds sufficient to implement the pretreatment program.

One commenter disagreed with the position expressed in the preamble to the proposed regulations that work done on pretreatment program development prior to the effective date of these final regulations shall not be grant eligible or reimbursable. A statement of ineligibility is found on page VII-6 of the EPA Handbook of Procedures which states that costs normally associated with functions of Government are not grant eligible. The development of regulations or ordinances are specifically cited as such unallowable costs. In addition, the proposed pretreatment regulations published in the Federal Register on February 2, 1977, stated that grant funding of the development of municipal pretreatment programs was a new provision of those proposed regulations. Those written statements of eligibility reflect the Agency policy with respect to funding eligibility for work done prior to these regulations becoming final.

Comments were received requesting that costs of sampling and analysis associated with the industrial survey required under § 35.907(d)(1) be disallowed. There was concern that such costs would be extremely high and therefore take funds needed for construction of treatment facilities. Other comments indicated Federal participation in such costs is essential if effective pretreatment programs are to be developed. These final regulations reflect both concerns by adding new paragraphs (f) to §§ 35.907 and 35.940-3 which provide funds for limited sampling when prior written approval is granted by the Regional Administrator.

A comment was received concerning the need for guidance on the exact nature of the program expected to be developed by grantees. A three volume document entitled "Federal Guidelines: State and Local Pretreatment Programs" was published under section 304(f) of Pub. L. 92-500. This document should still be of assistance although it will be updated to take into account the pretreatment regulations issued as part 403 as well as these final grant regulations.

In order to provide adequate time for the States to modify their priority systems and lists, to provide funding for the pretreatment programs required under these regulations, and to allow for development and distribution of additional guidance on pretreatment program requirements, § 35.920-3 of the proposed regulations has been modified to allow an additional 6 months for submission of the required pretreatment program elements in support of a step 2 or step 3 application. Similarly, the date contained in § 35.935-19 was amended by adding 6 months to the proposed date which marks the 90 percent hold on step 3 grants awarded after that date.

Regulatory changes on pretreatment have been made in §§ 35.907, 35.915-1, 35.917-1(k), 35.920-3 (b) and (c), 35.929-2, 35.935-19, 35.940-1, 35.940-2, and 35.940-3.

Industrial Cost Recovery

Section 24 of the 1977 Act amends section 204(b) of the FWPCA to authorize the Administrator to exempt from the industrial cost recovery (ICR) requirement any industrial user which discharges the equivalent of 25,000 gallons per day or less of domestic sanitary waste. Section 24 permits grantees to develop ICR systems on a systemwide, rather than on a project-by-project basis. It also permits a portion of the ICR revenues retained by the grantee to be used for the administration of the ICR system and maintains the current authority to establish a fund for future expansion or reconstruction of the grantee's treatment works.

Section 75 of the 1977 Act directs the Administrator to conduct a study on the efficiency of and the need for ICR and to report on the study to assist Congress to take action on the future course of ICR. This study is not addressed in these regulations. However, during the period of the study, and ending 18 months after enactment of the statute (June 30, 1979), EPA may not enforce the collection of ICR payments. This is known as the "moratorium" period. At the end of the moratorium, if Congress has not acted, the requirement to make payments of ICR attributed to this period will come back into force. Any ICR obligations incurred during the moratorium will become immediately due, but payments of these obligations may be paid in a lump sum within 1 year or spread out over the remaining ICR period. PRM 78-6 on this subject was issued February 17, 1978, and published in the Federal Register on April 7, 1978 (43 FR 14722).

This section implements the legislative history of section 24 of the Act which indicates that grantees must continue to develop ICR systems during the moratorium; only ICR payments are suspended.

Section 14 of the 1977 Act, which authorizes funding of individual systems (discussed above), requires payment by commercial users of the Federal share of construction costs. We have included this aspect of the individual system amendment in the ICR regulations.

In implementing these amendments in the regulations, we have made the following changes to the regulations promulgated on February 11, 1974. The definition of industrial user in § 35.905 has been revised to include the following: (a) A nongovernmental, nonresidential user which discharges more than the equivalent of 25,000 gallons per day of sanitary waste and which is identified in the Standard Industrial Classification Manual under divisions A, B, D, E, and I; (b) a user which discharges any wastewater containing toxic pollutants or which has any other adverse effect on the treatment works; and (c) a commercial user of an individual system.

The series of sections in § 35.928 have been revised where necessary to incorporate requirements of the 1977 Act such as those relating to systemwide ICR, payments from commercial users of individual systems, and the moratorium. The regulations do not provide for the collection of ICR during the moratorium from industrial users, although grantees may collect ICR payments from industrial users during the moratorium if they so desire. Neither the moratorium nor the 25,000 gallons per day exemption applies to commercial users of individual systems as defined in § 35.918(a)(3) of the regulations.

The grant condition requiring grantee development of an ICR system, a schedule for compliance with the condition, and sanctions for noncompliance are found in a new § 35.935-15. The schedule closely tracks the user charge system schedule discussed above. After the effective date of these regulations, payments under the grant being held for noncompliance with the ICR requirements will be released until the end of the moratorium. (This does not authorize release of payments being withheld for other reasons such as lack of an approvable user charge system). After June 30, 1979, no step 3 grant will be awarded unless the grantee's ICR system has been approved.

The important comments received on the interim regulations and the EPA response are summarized below:

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1. The definition of industrial user in § 35.905 should be changed to exclude residential users or all dischargers of sanitary wastes. Preferably, the regulations should use the definition in effect in the construction grant regulations published in 1974.

In the interim regulations, we defined industrial user in part to include all users with discharges into publicly-owned treatment works of more than 25,000 gallons per day of sanitary waste or its equivalent in process waste or combined sanitary and process waste. This interpretation of the 25,000 gallons per day exemption emphasized the volume and character of waste rather than the type of user. We recognize that Congress intended for the 25,000 gallons per day exemption to reduce administrative burdens on grantees. The definition in the interim regulations would have involved less adminstrative efforts than that required under the prior definition. However, it required more administration than if the prior definition were used with the addition of the 25,000 gallons per day exemption. Also, it would have made some large commercial and residential users subject to ICR for the first time.

We have decided not to adopt the industrial user definition published in the interim regulations. Instead, we will use the prior definition with certain modifications. Industrial users are nongovernmental, nonresidential users of publicly-owned treatment works that are identified in Standard Industrial Classification Divisions A, B, D, E, and I, and that discharge more than the equivalent of 25,000 gallons per day of sanitary waste. We have added an explanation of wastes equivalent to sanitary waste. A user's domestic wastes or discharges from sanitary conveniences may be excluded before applying the 25,000 gallons per day exemption. For example, a user that discharges 6,000 gallons of process waste and 20,000 gallons of sanitary waste would not be subject to industrial cost recovery if the grantee elects to allow sanitary wastes to be excluded and the 6,000 gallons of process waste was less than the equivalent of 25,000 gallons of domestic waste.

The term "nongovernmental" as used in the definition of industrial user is to be interpreted consistently with the discussion of publicly-owned facilities in § 35.929-1(b)(4)(iii) regarding approval of user charge systems. An exception is that publicly-owned facilities which discharge nonsanitary waste, such as hospitals, would be subject to user charges but not to ICR. Industrial cost recovery was designed to collect funds from the private sector. It would therefore be inconsistent to require a publicly-owned facility used for public purposes to pay money back to the public treasury. Assessment of user charges for large governmental users with other than sanitary wastes, however, will create a strong incentive to conserve water and reduce waste water flows, thereby reducing treatment and sludge handling costs.

This definition will keep the administrative burden on grantees at a minimum. It does not expand the applicability of ICR payments. It interprets the statute strictly and essentially makes minimal changes in the ICR program until the end of the 18 month moratorium on collection of ICR payments. By that time, the congressionally mandated study of ICR will be complete. The report will address the various options considered by EPA for the industrial user definitions. The Agency will publish as a notice document in the FEDERAL REGISTER the interim recommendations of the report and receive comments before the report is made final and presented to Congress. With the report providing substantive information on ICR systems, Congress can determine whether changes are needed and what they should be.

Two other parts of the industrial user definition in the interim regulations are now promulgated substantially as they were previously published. Industrial users include nongovernmental users that discharge toxic or other pollutants that contaminate sludge, interfere with treatment processes, or create a hazard to people or animals. We added a reference to the contamination of sludge in this part of the definition. Industrial users also include all commercial users of individual systems built with grants under section 201(h) of the Act.

2. Grantees having awarded step 3 grants as of April 25, 1978, but not an approved ICR system, should be allowed to develop an ICR system using either the old or new definition of industrial user.

Several comments expressed the concern that it would be unfair and burdensome to require grantees who already were developing an ICR system under a step 3 grant prior to April 25, 1978, to follow the new definition of industrial users published in the interim regulations on April 25. Accordingly, § 35.928(b) has been revised to allow grantees awarded step 3 grants under regulations promulgated on February 11, 1974, the option to use either the old or new definition of industrial user in developing their ICR system. If the grantee chooses to use the 25,000 gallons per day exemption then it must incorporate all aspects of the new definition of industrial user into the ICR system.

3. The grantee must submit rates to the Regional Administrator in order to obtain approval on an ICR system as specified in § 35.935-15 (b) and (c). These rates cannot be developed until construction is completed, yet under the interim regulations they are required prior to step 3 grant award.

The concern has been raised that grantees would have to develop a speculative rate schedule in order to gain approval for step 3 grants but would then have to develop a more accurate rate schedule when construction is completed and the facilities are placed in operation. EPA has answered this concern by revising the regulation so that grant approval is not contingent upon ICR rate approval.

4. A grantee must calculate ICR on an industry-by-industry basis even if it will implement a systemwide ICR program. The question was raised whether EPA requires a grantee that collects ICR funds systemwide to calculate the revenue which would be received on an industry-by-industry basis for each project within that system.

EPA does not intend for this to be done. EPA wants to insure that the total moneys collected from a systemwide ICR program would neither exceed nor fall short of the funds that would be collected on a project-by-project basis. This does not necessitate an industry-by-industry calculation, nor does EPA require that the rate structure be calculated on a project-by-project basis when a systemwide ICR program is used. We revised § 35.928-1(g) to clarify this misunderstanding.

5. The wording in § 35.928-1(l) concerning inconsistent agreements places the grantee in an untenable legal position because the grantee would renege on existing contracts.

See comment 3 under the user charge system discussion in this preamble.

6. The requirements concerning the use of ICR payments unnecessarily deprive the grantees of flexibility in the use of these payments.

Several comments suggested that the incremental cost of administration should be paid first from ICR revenues before distribution of the remaining funds. EPA has accepted a modified version of this suggestion by revising § 35.928-2(a)(2) to allow grantees to use funds from their 50 percent retained share for the incremental cost of ICR administration before further dividing their 50 percent share to be used for the other purposes specified in the regulation.

7. The requirement that step 1 costs be recovered through ICR is new and unwarranted.

A few commenters urged us to delete the requirement in § 35.928-1(a) that industrial users pay their share of the step 1 grant over the recovery period. This requirement is not new and represents no change in policy. This policy is set forth in Federal guidelines, industrial cost recovery systems (MCD-45). Therefore, EPA disagrees with this comment and will not alter the requirement.

Regulatory sections affected by the ICR amendments are §§ 35.905-6, 35.905-8, 35.928, 35.928-1, 35.928-2, 35.928-3, 35.928-4, and 35.935-15.

USER CHARGES

Section 22 of the 1977 Act amended the user charge requirements in section 204(b) of the FWPCA. This amendment permits grantees to use dedicated ad valorem tax systems for the collection of operation and maintenance costs if a portion of the grantee's ad valorem taxes was dedicated for such use on December 27, 1977, and if the grantee's system results in the distribution of operation and maintenance costs proportionally among user classes. Where an ad valorem tax system is used to collect user charges, users other than residential and small nonresidential users must pay charges based upon actual use.

To implement this amendment we have made the following changes to the regulations promulgated on February 11, 1974:

The definition of user charge in § 35.905 has been revised to include as a user charge that portion of the ad valorem taxes paid by a user for his share of the cost of operation and maintenance.

A new series of sections have been added in § 35.929 which describe the requirements for acceptable user charge systems, whether based on actual use or ad valorem taxes. (Similar requirements in the previous regulations were found in § 35.935-13.) There are no substantial changes to the requirements for user charge systems based on actual use.

The requirements for a user charge system based on ad valorem taxes include five criteria for evaluating an ad valorem tax system to determine if it meets the statutory requirements of being "dedicated" on December 27, 1977.

The regulations require, in accordance with the statute, that operation and maintenance costs be distributed proportionally among the classes of users, even though ad valorem taxes may be used to collect the charge within the residential user and small nonresidential user class. Each member of the industrial and large commercial user class must pay its share of the costs of operation and maintenance based on actual use, but ad valorem taxes may be used to collect all or part of these user charges based on actual use.

In accordance with the statute, the regulations require that each user be notified at least annually of the portion of the ad valorem taxes attributable to wastewater treatment services. The regulations apply this same requirement to user charge systems based on actual use. A grantee which has obtained approval of a user charge system based on actual use may not now substitute a system based on ad valorem taxes.

The grant condition requiring grantee development of a user charge system, a schedule for compliance with the condition, and sanctions for noncompliance continue to be found in § 35.935-13. This section provides that grants awarded under the previously promulgated regulations will continue to be administered under those regulations unless the grantee proceeds to develop a user charge system based on ad valorem taxes under the new law and these regulations. If the grantee does wish to do so, it must demonstrate by July 24, 1978, that its ad valorem tax system was dedicated on December 27, 1977. If it was, any payments being held under the old regulations will be released (in accordance with the legislative history of this provision), but it must complete the user charge system and submit it to the Regional Administrator in time for approval before July 1, 1979. Failure to comply with this requirement will result in cessation of all payments under the grant, possible termination or annulment of the grant, and no new grant awards.

For grants awarded after the effective date of these regulations, grantees must obtain approval of their user charge systems (whether based on actual use or ad valorem taxes) by June 30, 1979, or similar sanctions will apply. After that date, no step 3 grant will be awarded unless the grantee's user charge system has been approved.

The important comments received on the interim regulations and the EPA response are summarized below:

1. The requirement for an annual review of the operation and maintenance charges of a user charge system is too burdensome on the grantee.

EPA agrees with the comments that such a requirement may prove financially, administratively and politically burdensome on grantees. Therefore, we have revised § 35.929-2 to require a biennial review, although we would prefer a more frequent review if possible.

2. The notification requirement of § 35.929-2(f) would impose a very difficult burden on the grantee.

We received several comments criticizing this requirement. One series of comments urged EPA to require notification only through newspapers. This approach would not adequately satisfy the congressional intent that each taxpayer be informed individually of the amount paid for wastewater treatment services. Another series of comments pointed out that a grantee may not have the power to compel tax officials to alter bills as required by this section. EPA agrees and has revised § 35.929-2(f) to permit a grantee, if it so desires, to send out its own notices coincident with the mailing of tax bills by another governmental unit.

3. The wording in §35.929-2(g) concerning inconsistent agreements places the grantee in an untenable legal position because the grantee would renege on existing contracts.

The case law is clear that a grantee's obligation to follow requirements emanating from Federal legislation takes precedence over relevant contractual obligations they may have if the two obligations are inconsistent. This regulation states EPA's previous policy concerning inconsistent agreements which has been applied to all construction grants recipients since promulgation of original user charge and industrial cost recovery regulations on February 11, 1974. The question of whether a grantee would be released from liability for inconsistent contractual obligations is a complex legal issue for which EPA is preparing guidance. In addition, if a grantee is sued under an inconsistent agreement, the grantee may request technical and legal assistance from EPA.

In order to clarify this issue, we have made a minor change in this section. In the phrase "the user charge system shall disregard any terms or conditions," the term "shall disregard" has been replaced with the words "takes precedence over."

4. The schedule requiring the submittal and approval of user charge systems is too burdensome on grantees.

Several comments have been received to the effect that EPA should not make grant awards contingent upon the submittal and approval of user charge systems, and the EPA should extend the deadline past June 30, 1979, for user charge system approval. The legislative history speaks of 1 year after enactment, but EPA has determined that as a practical matter, it is necessary to allow about 1 year after the effective date of the regulations. The June 30, 1979, date also coincides with the end of the 18-month moratorium period for the payment of industrial cost recovery.

5. If public schools are exempt from paying user charges, private schools should also be exempt.

Public schools are exempt if the grantee adopts a user charge system based on ad valorem taxes. Since they are "publicly owned facilities performing local governmental functions" supported almost entirely by general tax revenues, and generally discharge only sanitary wastes, they are distinguish-

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able from private schools, which are funded privately, or other public facilities, such as hospitals, which receive part of their income from private users or discharge other than solely domestic wastes. In order to minimize administration of accounting for the user charges due from publicly owned facilities performing local governmental functions, the regulations do not require the grantee to bill itself for user charges.

6. Clarify the submissions required and dates to obtain approval of dedicated ad valorem systems as user charge systems.

All ad valorem systems must have been dedicated on December 27, 1977, in order to be approved. To be considered dedicated, the systems must comply with the criteria in § 35.929-1(b). Grantees fall into three categories. Those with step 3 grants awarded after February 10, 1974, and before April 25, 1978, must have submitted evidence of compliance with the first three criteria in § 35.929-1(b) by July 24, 1978. Subsequently they must meet the remainder of the criteria to obtain approval. The July 24, 1978, deadline only constrains grantees in this category. Grantees with step 3 grants awarded after April 24, 1978, and before July 1, 1979, must submit evidence of compliance with all of the criteria in § 35.929-1(b) in time to obtain approval before July 1, 1979. Grantees with step 3 grants awarded after June 30, 1979, must submit evidence of compliance with all of the criteria in § 35.929-1(b) in order to obtain approval before award of the step 3 grant.

7. The requirements to show that an ad valorem system is dedicated are redundant and overly complex.

EPA disagrees with this comment. These criteria are distinct and are the minimum needed to demonstrate that an ad valorem system is dedicated. No commenter has put forth recommendations on how these criteria could be stated more clearly.

Regulatory sections affected by the user charge amendments are §§ 35.905-26, 35.929, 35.929-1, 35.929-2, 35.929-3, and 35.935-13.

Requirements for American Materials (Buy American)

Section 39 of the 1977 Act amended the FWPCA by adding a new section 215 which provides that no grant (interpreted to mean step 3 grant) for which application is received by the Regional Administrator after February 1, 1978, shall be made unless preference is given to the use of domestic construction materials in the construction of the wastewater treatment works.

A new paragraph (d) is being added to § 35.936-13 (specifications) which requires that bidding documents and construction contracts for affected projects include a Buy America provision which requires use of domestic construction material in preference to foreign construction material. (Definitions of these terms are provided.) The regulations also establish those circumstances under which the Agency may waive the provision. Domestic construction material may be given preference if the domestic material is priced no more than 6 percent higher than the bid or offered price of foreign materials. In determining whether to waive the Buy American provision, the Regional Administrator will generally use the "protest" procedures of § 35.939.

Appendix C-2 to subpart E is also amended by adding a new clause which implements the Buy American provision in construction contracts.

Comments received on the Buy American provision indicate that the final regulations for this requirement should be the same as the interim regulations published on April 25, 1978. These regulations follow the regulations of the Buy American Act of 1933 which EPA was instructed by the Congress to observe where applicable. They have the advantage of being relatively simple. Some commenters wished for additional guidance on the application of this provision. Appropriate procedures of other Federal agencies will serve to fulfill this need until initial experience provides the basis for specific EPA guidance. Some commenters suggested that a separate protest procedure for those adversely affected should be adopted; however, the designated protest procedures will resolve Buy American and other issues more expeditiously than other remedies or procedures that are available. Some commenters suggested inclusion of additional preference requirements which are contained in the Buy American provisions of some direct procurement agencies. However, most such provisions have a statutory basis other than the Buy American Act of 1933. Since EPA's statutory authority is limited to Buy American, inclusion of these provisions would not be appropriate, especially since the EPA program is a grant rather than direct procurement program. Regulatory changes on Buy American use are made in §§ 35.936-13, 35-938-9, 35-939(j) and appendix C-2, clause 17.

Local Assistance

The 1977 Act authorizes EPA to provide technical and legal assistance to grantees in the enforcement and administration of grantees' contracts related to EPA-funded wastewater treatment works.

Several commenters suggested that EPA could intervene in civil actions involving a grantee's contracts only when requested by the grantee. We have revised the regulatory language in § 35.970 to track more closely the statutory language of section 203(e) so that both assistance and intervention under this section occur only at the grantee's request. While this may be true for most civil actions which arise involving contracts in connection with federally assisted treatment works, EPA has existing authority through the U.S. Department of Justice to intervene on behalf of the Federal Government in civil actions when a Federal question arises. In revising the language we have also deleted from the regulation reference to the requirement for the Office of General Counsel's concurrence in EPA's intervention in civil actions since this involves internal EPA procedures and would occur in the normal course of events.

Two States suggested that the provision of legal assistance as well as technical assistance should be delegable to States under State management assistance grants. To the extent such assistance is for the administration of contractual matters, this is correct and the regulation has been revised to reflect this change. However, in accordance with section 205(g) of the Act, State management assistance grants are limited to administrative functions and do not extend to areas of contract enforcement or intervention in civil actions involving such contracts. Further, while States may be empowered to provide legal assistance to municipalities, to the extent that such assistance would involve representation in the Federal Court, only the U.S. Department of Justice is authorized to represent the Federal interests in such proceedings.

Questions were raised regarding the provision of assistance under this authority to grantees with projects funded prior to the implementation of this provision. The statute and legislative history of the provision do not set time limits on it. Accordingly, such assistance will be provided whenever considered appropriate to accomplish the intent of the Act without regard to the date of grant award.

The suggestion was made that funds spent as a result of this authority should be deducted from the construction grants allotments of the State in which the grantee is located and that a contractor should be reimbursed by EPA for costs incurred in resolving a dispute if the matter is resolved in the contractor's favor. Assistance and intervention under this authority will normally be provided by Federal personnel and as such will be funded out of operating budgets. To the extent that States would provide contract assistance under State management assistance grants, those funds would come from the State management assistance grants which are deducted from the State allotment. EPA does not have the authority to reimburse contractors for their costs of conducting successful litigation of contract disputes with grantees even if EPA is involved in the dispute.

One commenter suggested that the reference in the regulation permitting oral requests for assistance under this authority in emergency situations is unnecessary. It is our position that since written requests for assistance were mentioned in the regulation as the proper means of requesting assistance, it is also appropriate to mention that oral requests will be accepted on an emergency basis.

Regulatory changes on contract enforcement have been made in §§ 35.936-5, 35.936-8 and by adding a new § 35.970.

Training Grants

Section 10 of the 1977 Act amends section 109(b) of the FWPCA to increase the flexibility in the expenditure of grant funds for wastewater treatment works operation and maintenance training. It also increases the authorization for such grants from $250,000 to $500,000. Under the provision, the Administrator may exempt such grants from the priority list requirement of section 204(a)(3) of the FWPCA. Agency guidance for application and implementation of subsection 109(b) of the 1977 Act, will be distributed to EPA Regional Administrators and will be available for State use.

Changes to the regulations implementing this amendment are made in §§ 35.915(a), 35.920(e), and 35.930-1(b).

Miscellaneous Comments

The Agency has also received comments and questions on topics not covered by the categories dealt with above. One organization asked that nonprofit agencies be eligible as 201 grantees in rural areas which might otherwise be neglected by a public entity. Two sections of the Act preclude such an approach. Section 201(g)(1) provides for grants to States, municipalities or intermunicipal or interstate agencies. Section 204(b)(1)(C) requires that a grantee have certain "legal, institutional, managerial, and financial" capabilities. Without a change in the law, the Agency cannot make grants for 201 projects to nonprofit agencies.

A similar response must be made to those who suggested that the Federal share of all 201 projects be increased to 85 percent or even 100 percent. Sections 202(a)(1) and 202(a)(2) specify a Federal share of 75 percent for conventional projects and 85 percent for eligible innovative and alternative projects.

The Urban Environment Conference asked that these regulations be aligned with the work of the Agency's Task Force on Minority Business Enterprise. The task force has made policy recommendations which will apply to Agency grant programs. These recommendations will be published for comment and any decisions made thereafter will apply to the 201 program. Inclusion of task force findings would be premature at this juncture. The Urban Environment Conference also asked that 201 regulations provide for the health and safety of workers during the construction and operation of a sewage treatment plant. While the well-being of such workers is of great concern to the Agency, the promulgation and enforcement of worker safety standards is the province of the Occupational Safety and Health Administration (OSHA). The Agency is not in a position to review or enforce OSHA regulations.

The New Jersey Department of the Public Advocate called on the Agency to include a fair housing review as a component of the 201 process and to insure that population projections are not based on potentially exclusionary zoning but instead include allocations for low and moderate income housing. The Agency is sensitive to its fair housing obligations and does not want communities to use 201 policy as an excuse to perpetuate discriminatory practices. Yet, there are forceful reasons why a 201 facility plan should not become an overall community development plan. The delay inherent in the many local issues that might be thus injected would make the goals set by the Act impossible to achieve. The Agency does have guidance insuring construction grants program compliance with title VI of the Civil Rights Act of 1964. The Agency is also considering additional administrative measures to enhance compliance with title VI.

As for the use of population projections that may not include an allocation for low and moderate income housing or may be based on exclusionary zoning, it should be noted that the population projection approach outlined in the cost-effectiveness analysis guidelines is a joint Federal/State/local venture. State population figures are determined on the Federal level to insure national consistency. These figures are then broken down by State and local agencies. During this disaggregation process, local problems and trade-offs can be considered in some detail when determining population figures for a given community or region. State and local governments are in a far better position than EPA to determine the appropriate disaggregation methodologies. Consistent, overall State totals which provide for some flexibility best serve the water quality objectives mandated by the Act by avoiding plant overdesign and by spreading resources to as many eligible communities as possible.

The National Marine Fisheries Service asked that these regulations prohibit the filling of wetlands and provide for consultation with the Departments of Commerce and Interior if wetlands will be disturbed by a 201 project. Regulations for the construction grants program refer to environmental requirements in general terms because so many laws and executive orders dealing with special environmental matters apply to the program. It should be noted that Executive Order 11990, relating to wetland protection, is explicitly mentioned and followed in general EPA grant regulations published as final rules in the Federal Register on June 30, 1978 (40 CFR 30.410-5 as found on 43 FR 28486). EPA recently issued a statement of procedures defining policy for use in assessing the impacts of Agency actions on floodplains and wetlands. The construction grants program will issue its own program guidance to supplement the Agency procedures. It will also implement the requirements on wetlands that are expected to be included in the upcoming revision of 40 CFR Part 6, Preparation of Environmental Impact Statements.

Finally, it was suggested that these regulations require preparation of an economic impact analysis statement under Executive Order 12044. The Agency believes that the promulgation of these regulations does not impose economic costs large enough to necessitate such an economic impact analysis.

Technical Amendments

Technical amendments to the construction grants regulations were proposed in the June 2, 1978, issue of the Federal Register. The purpose of the technical amendments is to make, in conjunction with the final promulgation of Clean Water Act changes, other changes which are necessary to ease administration of and participation in the construction grants program. These changes include changes based upon operating experience as reflected in program requirements memoranda; changes based upon deviations from the current regulations which have been issued by the Director, Grants Administration Division; changes that correct operational problems or which appear to be administratively desirable; and changes which simplify the language and readability of the regulations.

The discussion of the major changes and the public comments which were received are presented below. We do not discuss provisions on which no

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comments were received or which remain as proposed. Nor do we discuss a number of comments of less widespread interest. A fuller discussion of all sections that were proposed and other comments can be obtained by writing to Michael B. Cook at the address listed above. This complete discussion will be mailed to all those who commented on the technical amendments.

§ 35.900. This section is promulgated substantially as proposed. A new paragragh (c) has been added to advise people of the availability of technical and guidance publications.

§ 35.901. For the reasons for the addition of this new section, see the discussion below under § 35.935-1.

§ 35.903. The second sentence of paragraph (j) is being revised to clarify which costs should be claimed in the initial request for payment. This section is promulgated substantially as proposed.

Reimbursement and "grandfathered" planning phase-out (the former § 35.905-4, and §§ 35.917, 35.925-18). Revisions to these three sections were proposed to provide for two related, new transition rules.

First, we proposed an orderly phasing out of projects previously allowed to proceed, subject to reimbursement through grant award at a later date. (See § 35.925-18.) Under the present rule, most projects do not receive such reimbursement. The proposed rule would have required those projects presently entitled to reimbursement to obtain the reimbursement through grant award by March 31, 1979, or March 31, 1980, in some cases, or be barred from obtaining the reimbursement. This change is based upon a major program change made by the 1972 amendments to the Act; while section 8 of the prior Federal Water Pollution Control Act (FWPCA) permitted funding on either a reimbursable or concurrent basis, the 1972 Amendments limited the Agency's reimbursement authority to that reimbursement authorized by section 206 of the Act.

Second, we proposed phasing out the "grandfather" provision for planning performed before the enunciation of the new statutory requirements and implementing administrative procedures now applicable to facility planning. (See § 35.917.) Under the previous rule, facility planning determined by the Regional Administrator to have been initiated before May 1, 1974, is required to comply with those facility planning requirements determined appropriate by the Regional Administrator. The proposed rule would require compliance with all the facility planning requirements before award of any step 2 or step 3 grant. There was an extension until April 1, 1979, provided for planning initiated before May 1, 1974. When the subpart first detailed facility planning requirements in 1974, the Agency did not wish to require substantial revision or abandonment of prior planning efforts, particularly since that would have entailed a dramatic slowdown in grants for necessary projects and the possible loss of funds by States through the reallotment process. The Agency now desires all grantees to achieve compliance with the administrative requirements which assure attainment of the statutory objectives. Since facility planning requirements are now more thoroughly understood and procedures streamlined, this phaseout should result in minimal delay to projects, particularly if States and municipalities take the necessary steps soon to assure funding for previously planned projects.

About 15 comments were received on this proposal. Several comments expressed support for the phasing out of the planning and reimbursement transition.

The major comments received concerned the short-time period between final promulgation of these regulations and the effective dates of the phaseout, proposed as March 31, 1979 and 1980. The major obstacle to meeting the original dates was the fact that State priorty lists for fiscal year 1979 are already complete. In States which do not utilize a reserve for step 1 or step 2 assistance, this could pose a significant problem. Also, in some cases, locally financed step 2 work is awaiting completion of facility planning. Therefore, we have decided to extend each of the proposed dates by 1 year.

In other cases, where extenuating circumstances (such as preparation of an environmental impact statement which is underway) prevent award of grant assistance by the deadline, deviation requests will be considered. In most cases, however, it is of overriding importance to bring in and complete any step 1 work still underway, so that projects necessary to meet enforceable requirements of the Act can proceed through steps 2 and 3 in a manner consistent with the requirements of titles III and IV of the Act. States should utilize the step 1/step 2 reserve to fund facility planning and design already underway where projects would not obtain priority for step 3 under the approved project priority system.

§ 35.905. This section contains the definitions of terms applicable to this subpart. Formerly, each defined term had its own section number. However, this made insertion of new definitions in alphabetical order difficult, since it necessitated renumbering the other definitions and correcting cross references. Therefore, in accordance with guidance issued by the Office of the Federal Register, the section designations have been deleted. All definitions will continue to be shown in § 35.905, with the defined term in italics. All cross-references to definitions will refer to § 35.905.

§ 35.905, definition of "ad valorem tax." Although we did not propose the addition of this definition, it is appropriate to add it given its importance in the user charge provisions.

§ 35.905, definition of "construction." This proposed amendment deletes from the definition of "initiation of construction" the different definitions which were applicable for work initiated prior to November 1, 1974.

Several commenters questioned the new definition of initiation of step 1 work, i.e., the approval of a plan of study, since that action usually takes place at the same time as step 1 award and they felt that the more common action (the grant award) should be used as the definition. It is true that the award of step 1 assistance denotes approval of the plan of study in most cases; however, there are situations where step 1 work is begun by grantees following approval of the plan of study accompanied by the reservation of funds as authorized in § 35.925-18(a)(1). We would not want to omit this circumstance from the definition, thereby making ineligible some step 1 work of these grantees. Since step 1 grant awards should never take place prior to approval of a plan of study, and since it usually is the same thing, we have retained the defintion we proposed.

Two questions were raised about the problems created in the transition before April 1, 1981, by the new definitions of initiation of step 1 and step 2 work. This section is one of the provisions where the old definition will continue to apply to phaseout situations until the transition is completed before April 1, 1981. Until then, assistance will be awarded to the transition projects under the old definition. Paragraph B.1. of appendix D will be applied to new grant awards for the transition projects under the old definition.

§ 35.905, definition of "municipality." The Agency proposed a clarification of the definition of "municipality" in this section because the current definition of the term has raised several questions regarding the eligibility of special districts for funding under this program. This revision clarifies the Agency's position by expanding the description of the types of special districts which are and are not eligible. Several comments questioned the definition as it relates to eligibility of State agencies for grants. The definition of municipality does not affect the eligibility of State agencies. States and their agencies are eligible in their own right (see § 35.920-1).

In reviewing the comments which were received on this section, we concluded that paragraphs (b)(2) and (b)(3) were redundant. Therefore, we have deleted paragraph (b)(2). The key difference between an eligible and ineligible district is whether the district provides services to the surrounding community or only for itself. If it does not serve the surrounding community, even a special district which has wastewater treatment facilities before passage of the 1972 amendments is not grant eligible.

§ 35.910-2. Paragraph (c) of this section was revised on January 10, 1978. That revision inadvertently did not distinguish between funds deobligated during their initial allotment period and funds deobligated after their reallotment date. Historically, in this program, funds deobligated prior to their reallotment date are treated as are all other funds from that allotment (i.e., they are subject to reallotment if not reobligated), and the regulation need not deal with those funds. However, we treat other deobligated funds as section 205(b)(2) of the statute requires for funds "released by the payment of the final voucher for the project." We have revised paragraph (c) to describe how to treat these deobligations.

However, it has been brought to our attention that this statutory requirement may create accounting difficulties when funds which originated in one allotment are subsequently treated as a later allotment. For this reason, we intend to examine this procedure in depth during the next several months in order to determine what changes, if any, to the regulations or statute might be desirable. Individuals (particularly States) wishing to submit their views for this study are invited to do so by sending them to: Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division (WH 547), EPA, 401 M Street SW., Washington, D.C. 20460.

§ 35.912. We have made textual changes to agree with the new program thrust of State management assistance grants and the delegation of § 35.913 (which was done with the promulgation of the interim subpart F on April 25).

35.917. One commenter questioned the revision of the final sentence in paragraph (b), which in effect defines "cost-effective" as the "most economical • • • recognizing environmental and social considerations." We do not believe the word "economical," when modified by the reference to environmental and social considerations, will mislead the public to think that the "cheapest" solution is desired. We believe that the revision of this sentence as proposed is better than the former regulation in briefly explaining what cost-effective means. Therefore, we have retained the language proposed but have added a cross-reference to appendix A to ease further interpretation.

Questions were raised about the meaning of paragraph (e) relating to water quality management and outputs. One commenter argued that we should not withhold construction grants because the State fails to produce water quality management outputs. It was argued that the provision ignores typical State/local relationships and further that the unavailability of State outputs and case-by-case determinations would delay the program. Section 208(d) of the Act requires EPA to insure that treatment works conform to approved areawide plans. The revised paragraph (e) specifies the facility-related information that must be available and used in planning treatment works. Coordination of the two programs, as mandated by the Act, will induce coordinated State and local action that will produce a better overall water quality effort.

We have deleted the old paragraph (f) which references the Agency's facility planning guidance. The new paragraph § 35.900(c) makes appropriate reference to the availability of all Agency construction grants guidance.

§ 35.917-1. The revision to paragraph (d) is to clarify the language and to add a reference to appendix A in which the cost-effectiveness guidelines are found. The revision to paragraph (d)(2) adds mention of nonstructural methods (see discussion in appendix A, cost-effectiveness analysis guidelines).

The part of paragraph (d)(5) dealing with best practicable waste treatment technology (BPWTT) has been moved into paragraph (d)(4) to better clarify the relationship between applicable effluent limitations and BPWTT. The previous reference in (d)(4) to not less than secondary treatment, although technically correct, is out-of-date in light of current BPWTT requirements.

In paragraph (e), we have eliminated the requirement for submission of the NPDES permit. A commenter suggested that this be done in accordance with our proposal to eliminate the permit submission requirement from § 35.925-6. The permit number must be provided.

Paragraph (g) has been revised to require a summary of public participation in the development of the facility plan. The previous regulation required a summary of meetings. Since public participation may be achieved through means other than meetings or hearings, particularly in accordance with the proposed new requirements in part 25, this revision is appropriate.

A new paragraph (l) incorporates the requirement for inclusion of total project costs and estimated charges to customers in the facility plan. This requirement was established in program requirements memorandum 76-3 (August 16, 1976).

We have added a new paragraph (m), based upon public comments received on § 35.920-3. The new paragraph requires a statement as to the availability and estimated costs of the proposed site(s). See additional discussion under § 35.920-3.

Some commenters also questioned the effective date of the revised facility planning requirements in this section. The effective date this section is October 1, 1978. Step 1 grants awarded after September 30, 1978, or facility planning initiated after September 30 without Federal grant assistance, are required to comply with these regulations. Note the relationship of the transition provisions to the effective dates; no step 2 grant will be awarded after March 31, 1980, if the facility planning does not comply with current requirements.

§ 35.917-3. In the interest of brevity, we have deleted paragraph (a) from this section. That paragraph was redundant with other provisions of the regulations. No change in substantive requirements is intended. In paragraph (a), we have added the statutory requirement that, after a waste treatment management agency has been designated for an area, only the designated agency may receive grants. Further mention of this requirement is also in § 35.925-2.

Several commenters felt that 208 planning agencies should be eligible to receive step 1 grants. This section allows only agencies which are eligible to receive step 2 and 3 grants to receive step 1 grants. We did not propose to change this provision. We note that where 208 agencies are the most qualified to conduct all or any part of step 1 planning, a qualified management agency may be the grantee and may pass the funds through to the 208 agency via an interagency agreement to do necessary planning.

Several commenters raised questions relating primarily to the process for designation of a management agency or agencies under the statute. The water quality management regulations are being revised and were proposed in the FEDERAL REGISTER on September 12, 1978 (43 FR 40742). Those regulations provide for designation of management agencies.

§ 35.920-3. Although we did not propose changes to paragraph (a), we have included in paragraph (a)(1)(iii), reference to the public participation program. Though the shape of the new program is not yet finalized, it is appropriate to request grantees to describe their intended program in the

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step 1 application, whether the new or old requirements are applicable.

Paragraph (b) has been rewritten to improve style, to correct references, and to add references to the existing requirements for intermunicipal agreements, allocation of costs to Federal facilities, project schedules, and sewer use ordinances. Experience has shown there are inordinate program delays unless intermunicipal agreements are obtained prior to the award of grant assistance. Inclusion of these references here will simplify compliance for grantees.

Several questions were raised concerning the requirement for a statement as to the availability of the proposed site (paragraph (a)(2)). A few commenters pointed out that a vague statement of availability is not sufficient, particularly in the case of land treatment projects where the feasibility and cost-effectiveness of the entire project may depend upon the firm availability of a particular site. On the other hand, it would not be appropriate, in most cases, to require fee simple interest at the step 2 stage, since most municipalities finance the purchase through bond proceeds which are generally not available until after step 3 award. Therefore, we have revised this paragraph to require "adequate information regarding the availability of the proposed site(s)." Regional offices and States are expected to use their judgment in determining what constitutes adequate information in the particular circumstances. The facility planning requirements have also been amended to require a statement of availability and cost of the site(s) (see § 35.917-1(m)).

Commenters raised several questions concerning the requirement for submission of proposed intermunicipal agreements at the step 2 application stage (paragraph (b)(6)). They desired to know the degree of certainty which would be required at this point. The degree of finality which is required in any particular case cannot be described with certainty in a regulation broadly applicable to all cases. We would expect, however, the proposed agreement which is submitted to represent more than just the proposal of the grantee municipality; it should represent the product of discussions between the parties concerned, even if the agreement is not yet ready to be signed. In particular cases, where there are doubts regarding the participation of municipalities in the project, the regional office may find it necessary to request more definitive arrangements. Therefore, the requirement has been worded to say, "proposed or executed (as determined appropriate by the Regional Administrator) * * *."

§ 35.925-7. Although no revisions to paragraph (e) were proposed, it has been revised to delete reference to a date which has passed and to emphasize the current requirements for BPWTT and reuse/recycle technology.

§ 35.925-8. The addition of paragraph (b) is intended to enforce decisions reached in the environmental review process, consistent with program requirements memorandum 75-26 (formerly program guidance memorandum 50, June 6, 1975).

A commenter on this section suggested EPA's denial or conditioning of award on compliance with environmental assessment conditions addressing secondary impacts is an inappropriate entry of EPA into land use and growth control. The commenter recommended that the program requirements memorandum issued in 1975 on this subject be rescinded as well. EPA is required by the National Environmental Policy Act to consider secondary impacts of its construction grants projects and we, therefore, could not accommodate his suggestion.

§ 35.925-12. See discussion under § 35.935-3, below.

§ 35.925-15. The revision of the first sentence clarifies the current regulation by making it clear that sewer projects which are solely for the purpose of handling industrial wastes are ineligible. This would affect, for example, a project to extend an interceptor solely to an industrial park, with no transport of domestic wastes along the way. We believe this is consistent with congressional policy to encourage joint treatment, since in the absence of domestic waste there is not a joint aspect to the project.

The several commenters on this section felt, for the most part, that single purpose, or almost single purpose, projects should be permitted to proceed.

Some suggested deletion of the words "almost exclusively" as being too vague. We have found other expressions unsatisfactory. We would not consider an interceptor which serves a large industrial park, but happens to pick up domestic wastes from one residence on its route, to thereby lose its industrial purpose and become eligible for the Federal grant. Therefore, we believe the term "almost exclusively" connotes limited but appropriate discretion for the Regional Administrator necessary to determine eligibility under the program.

The definition of "waste treatment system" has been deleted from this section because the phrase, "complete waste treatment system" is defined in § 35.905.

The references to the pretreatment regulations in the final sentence have been corrected. Part 403 contains the Agency's new pretreatment regulation published in the FEDERAL REGISTER on June 26, 1978 (43 FR 27736). § 35.907 is promulgated in this package.

§ 35.925-16. This section deals with costs allocable to Federal facilities. We deleted a proposed parenthetical expression referring to such facilities in the District of Columbia and other jurisdictions receiving direct congressional appropriations. The reference would create administrative difficulties that we prefer to handle through the grant deviation process. Otherwise, this section is promulgated substantially as proposed.

§ 35.925-18. Significant revisions have been made in paragraph (a) of this section relating to the phaseout of authority for reimbursement. See the discussion of this under the heading reimbursement and "grandfathered" planning phaseout, above.

We made three changes to paragraph (b). We have added a reference to engineering costs associated with advance acquisition or advance construction to clarify such costs as allowable when prior approval has been obtained. We have added the cost of acquisition of an option for the purchase of eligible land to the advanced work which may be approved. We have further clarified this paragraph so the Regional Administrator may not approve such advance step 3 work unless an environmental review has been completed.

Several commenters indicated their approval of the clarification of eligible items in paragraph (b). One commenter, however, questioned the necessity for the completion of an environmental review before the Regional Administrator may authorize advance expenditures. We are advised by counsel that the Regional Administrator's authorization is a major Federal action requiring completion of a review (either negative declaration or environmental impact statement) under the National Environmental Policy Act. However, grantees should be aware the environmental review can be narrowed down to a particular item in cases where there is no controversy over the particular item and the item is common to all alternatives.

§ 35.926. Although no changes were proposed to this section, we revised paragraph (a) and § 35.920-3 to require a value engineering commitment, rather than proposal, with the step 2 application. The actual value engineering proposal would be submitted during step 2. The requirement for a full proposal at the application stage was inappropriate.

§§ 35.927 et seq. In §§ 35.927, 35.927-1, 35.927-2, and 35.927-3 several changes were proposed to update the regulations in accordance with current program policy. EPA has deleted the specific content of the infiltration/inflow (I/I) analysis. Program requirements

memorandum 78-10, issued on March 17, 1978, established some new options to the traditional method of I/I analysis in this program. The remainder of the changes proposed in these sections complement that memorandum by providing more flexibility.

Several questions were raised about the proposed language of § 35.927(b)(3) which appeared to require the actual rehabilitation to take place during the sewer system evaluation survey, thereby establishing with certainty the amount of nonremovable I/I. We did not intend this and have revised the language of that sentence to reference only the program for rehabilitation as part of the sewer system survey.

One commenter requested the rationale for the deletion of the phrase, "in each sewer system tributary" in § 35.927-1(a), indicating that the revision implied that only the sewer system owned by an entity is subject to I/I analysis. If the analysis for nonowned systems was not conducted, the utility of the analysis which was conducted would be distorted. We deleted this phrase to eliminate the inference that each minor tributary must be analyzed separately to determine if it, individually, was subject to excessive I/I. Even if more than one jurisdiction is involved, all parts of the system are subject to some sort of analysis. The language has been retained as proposed.

The language of § 35.927-2(a) as proposed included a typographical error which inadvertently deleted the requirement for a comparison of the cost of transportation versus the cost of rehabilitation and treatment for each I/I source. We have corrected this language.

Section 35.927-3(a) has been further revised to indicate minor rehabilitation can be accomplished in any step under a grant (not just step 1) and rehabilitation work under $10,000 (small purchase) is not subject to the requirement for formal advertising. We have also revised § 35.936-14, relating to force account work, to include the requirement for the Regional Administrator's approval of force account work for sewer rehabilitation during step 1 and step 2, not just for step 3.

Two commenters questioned the policy of EPA which prohibits funding of sewer system rehabilitation beyond the "Y" fittings which convey wastewater from individual structures or private property. They suggested we consider as eligible all sewer rehabilitation costs for any part of a line lying in a public easement. EPA considers eligible for new construction only those parts of the line up to and including the "Y" fittings. Therefore, in accordance with the definition of sewage collection system in § 35.905-19, EPA cannot fund rehabilitation work beyond the "Y" fittings. However, the municipality's costs of treating the pipe beyond the "Y" fittings up to the point which the municipality must fund may be calculated on an incremental, rather than proportional, basis. A new paragraph (c) has been added to § 35.927-3 to clarify this point.

§ 35.930-4. No changes were proposed to this section. However, in the final regulation, we have deleted reference to the requirement for BPWTT, secondary treatment, and effluent limitations, because those requirements are adequately covered in §§ 35.917-1 and 35.925-7.

§ 35.935-1. EPA proposed to create new paragraphs (a) and (b) to describe the grantee's responsibilities under these grants.

Paragraph (a) states EPA's position that EPA review and approval of project plans and specifications, under section 203 of the Act, does not relieve the grantee of its responsibilities for the design, construction, or use of the treatment works.

Paragraph (b) provides an explicit basis for seeking specific performance or recoupment of funds from the grantee, if the grantee fails to make good faith efforts to meet its obligations under the grant.

Several comments on paragraphs (a) and (b) demonstrated to us the need to explicitly set forth the Agency's policy assumptions underlying the establishment of paragraphs (a) and (b). These basic assumptions are set forth in new § 35.901, and paragraphs (a) and (b) are promulgated as proposed.

§ 35.935-3. We proposed to add a new § 35.935-21 (now renumbered § 35.935-3) because there has been some misunderstanding of the applicability of the real property acquisition regulations in part 4 of title 40 to this program. Questions have also been raised about other property requirements. The addition of this section does not add any new requirements; rather, it clarifies those which have been in effect and summarizes them in one place. The provisions in the 1977 amendments relating to land treatment and eligibility for land purchases make this more important.

One commenter suggested the requirement in paragraph (b)(1) that any acquisition be conducted in accordance with 40 CFR part 4 (and hence, the Uniform Relocation Assistance and Real Property Acquisition Policies Act) represents unnecessary Federal involvment in local affairs. He felt that where displacement is not involved, procedures to acquire noneligible land should be locally determined, and EPA should require only satisfactory evidence of sufficient interest in the site prior to award. However, the Uniform Relocation and Real Property Acquisition Policies Act requires EPA to apply title III of that Act to the acquisition of any interest in real property (even easements) to be used for a federally assisted project. Therefore, EPA has no discretion in this matter and must apply the current statute.

§ 35.935-9. The revision of this section was intended to clarify EPA requirements for prompt initiation of project work and to integrate the grant requirements more closely with the NPDES permit program. The text was broken into the three paragraphs for ease of use.

The revision of paragraph (a) clarifies the term "project" to mean step 1, 2 or 3. The new second sentence applies the same sanctions to all three steps. Several commenters suggested the final sentence of (a) be revised to address completion, as well as initiation, of construction. This has been done. Reference to "any project schedule" has been revised in the final regulation to refer to "the project progress schedule."

Paragraph (b) explains the grantee's obligations under the NPDES permit program as they related to actions the grantee takes under the grant program. We received several comments on the relationship between grant dates and NPDES permit dates. One commenter suggested that grant dates rather than permit dates be the governing dates and that all other schedules requirements be secondary and subservient to grant dates. Another commenter noted the present permit regulations allow such a "floating" date mechanism to be employed by EPA and NPDES States. Since the intent of the Agency is to improve the extent of municipal compliance with NPDES permit requirements, it will be necessary to use selected, fixed dates in most municipal permits in order to ensure enforceability in the event of recalcitrance by grantees with permit deficiencies. EPA is presently drafting a policy which delineates new operating procedures designed to implement this permit/grant approach. Consequently, no change has been made to the revision as proposed.

Paragraph (c) contains the same termination requirement as the former regulation, but includes the items which the Regional Administrator must consider in making his determination. This paragraph also clarifies EPA's expectations as to the time by which invitations for bids should be issued.

We received several comments on this paragraph. One commenter objected to the statement that invitations for bids are expected to be issued within 90 to 120 days after award, because sometimes grantees postpone

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work because of too great a demend on the construction industry in a particular area. The section provides that issuance of the invitation for bids (not contract award) should occur within 90 to 120 days after award. The use of the term "should" indicates that those dates are not mandatory. However, initiation of construction on all significant elements of project work within 12 months is mandatory.

Some commenters raised questions as to the definitions of "all significant elements" and "initiation of step 3 construction." "All significant elements" is not defined because we have concluded that it is necessary to leave this to the Regional Administrator to decide on a case-by-case basis. What is essential is that work be progressing speedily toward completion of construction. The term "initiation of construction" is defined in § 35.905. For step 3, it means issuance of a notice to proceed under a construction contract for any segment of step 3 work or if notice to proceed is not required, execution of the construction contract. That definition is applicable here, except, under the terms of this section, we expect initiation of all significant elements within one year.

Two comments on paragraph (c) urged changes to give the Regional Administrator more flexibility in termination of grants. Where flexibility beyond the 6 months extension is required, for good cause, the "deviation" process (see 40 CFR 30.1000 et seq.) should be used. This will insure that the termination requirement is consistent nationwide. Where good cause has existed in the past for exceptions to the termination requirement, deviations have been granted.

§ 35.935-12. This section has been restructured in list form for clarity. Reference has been made to the NPDES permit program to indicate the relationship with that program. New paragraphs (d) and (e) implement in the regulation the class deviation which was in effect since August 24, 1977, with respect to the operation and maintenance manual payment limitations as applied to segmented projects and multiple facility projects.

Several commenters requested a provision for waiver of the 90 percent payment holding provision for good cause or where the operation and maintenance manual cannot be completed until experience during initial operation has been achieved. EPA recognizes (see program requirements memorandum 77-2) that final revisions to the O&M manual will be made after the initial start-up period. However, a manual which is satisfactory for the purpose of beginning start-up should be available for approval prior to completion of construction. If there are other "good causes" which would reasonably delay submission and approval of the manual, the deviation process must be used. EPA carefully reviews all deviations requests to insure that the situation truly justifies a waiver of the regulation. A new paragraph (b)(7) has been added to this section which provides that the plan of operation must include an operation and maintenance program for the sewer system. This requirement is in program requirements memorandum 78-10 and is included here for consistency and clarification. Existing written manuals, policy or guidance will suffice if they are adequate to meet current EPA requirements.

§ 35.935-16. This section is promulgated as proposed. Paragraphs (c) and (d) implement in the regulation the class deviation which has been in effect since August 24, 1977, with respect to the sewer use ordinance payment limitations as applied to segmented projects and multiple facility projects.

§ 35.936-13. No changes were proposed to this section. However, some changes have been made on advice of the Office of General Counsel.

In paragraph (a)(1), an addition has been made to require identification of the "salient requirements" of items of equipment when the grantee elects to procure by the two brand (or trade) names or equal procedure. In direct Federal procurement, salient requirements must be included in the specification itself. We feel that the mandatory reference to two items itself substantially identifies the salient requirements reflected in both and that while Federal rule reflects the best practice, it would be unnecessarily burdensome to grantees. However, the EPA grantee must be prepared to identify the salient requirements when an "or equal" issue arises under EPA program review or in a bid protest.

In paragraph (b), we are adding a provision relating to sole source procurement for innovative technology. See the discussion of this subject above under innovative and alternative technology. We have also added a cross-reference to § 33.500 et seq., for the applicable procedures to be followed when sole source procurement is used.

Minor revisions have been made to paragraph (c) to reflect experience obtained in program reviews, protests, and in litigation relating to grantee "experience" requirements, including bonds.

In conjunction with the final promulgation of this section, we are also proposing two additional changes for comment. The last sentence of paragraph (a)(1) relates to manufactured materials, such as pipe. The current regulation provides that if a single material is specified, the grantee must be prepared to justify this selection of only one type of material.

However, agency program reviews and determinations of protests under § 35.939 indicate that the application of this rule has not corresponded sufficiently with the basic requirement for competition (see § 35.936-3). Program requirements memorandum 75-5 (formerly PG 19A, August 8, 1975) states the interrelationship of these policies as follows:

"With regard to materials, such as pipe, it is not mandatory that two or more different types of material be specified; however, maximum competitive bidding is encouraged commensurate with sound engineering practice and requirements. * * * It is preferable to use performance specifications for materials based upon accepted nationally known standards such as AWWA, USAS, ASTM, AASHO and Federal specifications and standards."

Consideration is being given to amendment of the regulation to better achieve competition within and between types of material (particularly pipe), in the interest of affording an opportunity to compete and insuring reasonableness of prices, unless there is a sound engineering justificaton based upon specific site conditions which supports any restrictions upon competition.

In paragraph (c) we propose to add as a new final sentence the following: "No experience restriction will be permitted which unjustifiably reduces competition or innovation." This is in effect the rule which has been developed in protests decided under § 35.939. We invite public comment on this proposed addition.

We invite public comment on these two proposed changes. Comments should be addressed to the Director, Grants Administration Division, at the address given above. The deadline for receipt of comments on these issues is November 30, 1978.

§ 35.936-20. Paragraph (c) of this section was proposed to be amended to clarify that costs incurred by the grantee in complying with § 35.937-6 are allowable, even when incurred prior to award. One commenter suggested EPA should be equally explicit regarding the grantee's costs of carrying out protest procedures required by § 35.939. The paragraph has been further amended to do this.

§ 35.936-22. Bonding and insurance requirements were previously in § 35.935-3. Since the publication of the procurement regulations in § 35.936, we feel the bonding and insurance requirements are more appropriate in this section. It is promulgated substantially as proposed.

§ 35.937-2 This section is promulgated substantially as proposed.

§ 35.937-5. The proposed deletion from paragraph (b) of the reference to 40 U.S.C. 541-544 (commonly referred to as the "Brooks bill") concerned consulting engineering firms and several of their national professional societies. This amendment was suggested by the EPA Office of General Counsel on the basis of the April 25, 1978, decision by the U.S. Supreme Court in *National Society of Professional Engineers v. United States* (see especially footnote 21). In the opinion of the EPA General Counsel, the Supreme Court's decision resolved any doubt that the procurement of professional engineering services is subject to general antitrust requirements unless specifically exempted by Federal statute, e.g., the Brooks bill. The Brooks bill is applicable only to direct Federal procurement, i.e., contracts for engineering and architectural services awarded by Federal departments and agencies. There is no Federal statute which exempts Federal assistance programs from compliance with Federal antitrust laws.

The proposed amendment authorized negotiation procedures established by State or local law. This provision has been amplified to state more clearly the alternatives available to grantees. If State statutory or local code procedures exist or are adopted which are comparable to the negotiation provisions of the Brooks bill, such procedures may be utilized. Such procedures can assure reasonableness of price if the grantee has the staff capability, or otherwise acquires it (e.g., through assistance from another local or State agency) to develop an independent cost estimate to serve as the basis for price negotiations with the selected consulting engineering firm. In connection with the development of such procedures, local governments may also wish to review the March 20, 1978, U.S. Supreme Court decision in *Lafayette v. Louisiana Power and Light Company.*

The proposed amendment has also been amplified to make it clear that if no State statutory or local code procedures exist, a municipality may adopt either (1) procedures comparable to those observed by the Federal Government under the Brooks bill or (2) price-competitive procedures. If a municipality wishes to utilize a price-competitive system for negotiation of engineering fees, however, this must be based upon an objective negotiation process in which award is based upon previously announced objective evaluation factors, including price and other considerations (such as professional competence and technical merits of proposals). EPA does not require or encourage award of engineering agreements solely on the basis of price.

§ 35.937-6. No change was proposed to this section. However, from time to time, we have been asked why grantees who are required to comply with §§ 35.937-2, 35.937-3 and 35.937-4 are required to submit documentation of negotiation methodology used (negotiation is covered by § 35.927-5) when other grantees are not (see paragraph (a)(2)(i)). We have reviewed the requirement and have concluded that there is no reason for the difference. Further, all grantees are required to document the basis for selection and basis for the price under § 35.936-12. These records are available for EPA should we need them. Therefore, we have deleted the requirement for submission of the negotiation methodology used.

§ 35.937-12. We proposed a new paragraph to reference the requirement of § 35.936-5(b) regarding the status of subcontractors when the engineer is acting for the grantee in the role of construction manager. The proposed new paragraph (d) indicates that when an engineer procures items which are not covered by the provisions for architectural and engineering services procurements, the appropriate procedures of § 36.938 (formal advertising) or part 33 apply. We also modified paragraphs (a) and (b).

One comment on paragraph (d) requested we clearly indicate that professional services are excluded from the requirement of the other sections mentioned. We have specifically excluded engineering services. However, professional services other than engineering services would be procured under part 33. Clarification was also requested as to what subcontracted services might be appropriately procured under these other sections. An example of services which should be procured under part 33 regulations is accounting services for the development of user charge and industrial cost recovery systems. Sewer line cleaning or construction of a prototype unit should be procured under § 35.938 et. seq.

Revisions to paragraph (b) were proposed to clarify requirements which the engineer must comply with in awarding subcontracts. The proposed addition of (b)(3) has been revised and renumbered as (b)(7). Rather than incorporating the type of contract provisions of the entire § 35.937-1, we have included only the prohibition on the illegal types of contract (i.e., cost-plus-percentage-of-cost and percentage-of-construction-cost). Also, references have been added to the appendix C-1 clauses which are inherently (under the language of the clause) applicable to subcontracts.

§ 35.938-4(h). The addition of the phrase "for good cause" to paragraph (h)(2) is consistent with program requirements memorandum 78-8, February 13, 1978 (published in the FEDERAL REGISTER, April 7, 1978, 43 FR 14725). It is retained here.

The new paragraph (h)(5) permits award of a prime contract when there are unresolved procurement issues or protests relating only to the award of a subcontract or procurement of a subitem. This rule has been developed in the protest process. Adoption of it in the regulations will make it legally impossible to use this rule in situations not involving protest, will make it easier to enforce in the protest process, and will expedite the procurement process.

Another commenter suggested a new (h)(5)(ii) be created which would state, "Will not materially affect resolution of the protest." Although we felt this concept was implicit, we have no objection to adding it and have done so. This suggestion highlighted a problem in the proposed regulation, namely, two different subjects were being addressed. Therefore, the five items have now been rearranged into two groups—those pertaining to award of the contract and those pertaining to resolution of the protest.

One commenter asked whether the final sentence of this paragraph implies that a bid must be rejected as nonresponsive if a federally required listing or selection requirement is not met by the contractor. This sentence did not imply that. However, we have decided to delete that sentence due to current uncertainty about the future of Federal listing requirements.

§ 35.938-5. No changes were proposed to be made to this section concerning negotiation of contract amendments (change orders). However, paragraph (d)(3) indicated that detailed cost documentation may be required by EPA when a contractor is unable to certify that his costs are complete, current, and accurate, while the certification on EPA's summary format (EPA Form 5700-41) requires a contractor to certify that his cost data are complete, current, and accurate. Therefore, paragraph (d)(3) has been revised to correct this error to indicate that more detailed cost documentation may be required when a contractor is unable to certify that his cost data are complete, current, and accurate.

EPA's Office of Audit published a report in April 1978, that addressed the contract change order procedure in the construction grants program. That report recommended deletion of the reference to a provisional overhead rate in § 35.938-5(d)(3). By definition, a provisional overhead rate is a tentative percentage or dollar factor agreed upon by the grantee and the

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contractor. It is negotiated for interim reimbursement pending final settlement of the actual allowable overhead rate. Change orders should be able to "stand by themselves," and should not be renegotiated when the change order work is completed. For this reason, a final overhead rate should be negotiated for a change order instead of a provisional overhead rate. Therefore, as recommended by the EPA audit report, we have deleted the last sentence in paragraph (d)(3).

§ 35.938-6(c). This amendment was proposed to deal with a problem which was brought to our attention with regard to progress payments on specifically manufactured equipment. EPA's primary reason for encouraging progress payments to equipment manufacturers is to reduce the interest cost to the manufacturers, thereby reducing the bid price and the costs to the taxpayer.

An equipment supplier complained about the additional labor, expense and paperwork needed to comply with the recordation requirement, and asserted that this diminishes the usefulness of progress payments to the companies and increases the cost to EPA. If elimination of the recordation requirement for items valued at less than a certain amount is reasonable, we judge that considerable paperwork can be eliminated. We proposed a $200,000 cutoff level and particularly solicited comment.

Two commenters felt that $200,000 was an appropriate level for application of the recordation requirement. Two other commenters felt that 10 percent of the contract value, but not less than $300,000, would be appropriate. The amount of the contract value is not pertinent, since what is important is the absolute dollar level at which the Federal Government is willing to risk nonrecordation. In view of the comments received, we have decided to retain the $200,000 level.

Some commenters felt that even at the higher level recordation should be discretionary with the grantee. Another commenter suggested that the recordation requirement implied a lack of mutual trust and confidence. We disagree with both comments. The recordation requirement was established for the purpose of protecting the interest of the Federal Government as to the work performed (as opposed to the value of the item) when progress payments are made on large equipment purchases.

§ 35.938-7. No change was proposed to this section. However, many questions have been raised over the last several years and in comments recently received as to whether the exception for State law which is mentioned in § 35.938-6 is also applicable to § 35.938-7. We have always responded that it is. We decided to add the specific exception language to this section.

§ 35.938-9(b). This section is promulgated substantially as proposed with a corrected citation. We have also added references to the appendix C-2 clauses which are inherently (under the language of the clause) applicable to subcontracts.

§ 35.939. No changes were proposed to this section. However, we have made a series of technical changes to the language. These are identified in the supplementary discussion of the technical amendments. Also, we added a new paragraph (1) to advise the public that the EPA General Counsel periodically publishes an index of Regional Administrator protest determinations.

§ 35.940-1. Paragraph (q) was proposed to be revised to delete the reference to allowability of State agency review costs in accordance with §§ 35.912 and 35.913 because of the new authority in subpart F, and to be replaced with the eligibility of start-up services. The eligibility of a plan of operation was also specifically added. Both these additions are in accordance with program requirements memoranda issued on November 29, 1976 (PRM 77-2 and PRM 77-3).

One commenter was concerned about the deletion of eligibility of fees under § 35.913 until the fee system is completely phased-out in favor of State management assistance grants. In order to avoid the necessity of amending the regulation next April 25, the eligibility of fees has been deleted. However, States which previously instituted fee systems may continue to charge fees and the grantee's costs in paying those fees are allowable in the interim, in order to permit an orderly phasing-out of the fee system no later than April 24, 1979.

§ 35.940-2. Although no changes were proposed to this section, we have made several clarifying additions. It was brought to our attention that the fact that the plan of study is an unallowable cost should be explicitly mentioned here. We have done so. We have also explicitly stated that privately owned treatment works are unallowable, except as authorized in section 201(h) of the Act.

§ 35.940-3. In this section, we proposed to delete paragraph (d), acquisition of an operable portion of a treatment works. The "Explanation" described the limited circumstances under which such acquisitions might be approved. However, we have decided to retain paragraph (d), with clarification. Comments on this topic confirm our opinion that more detailed guidance is needed to clarify when such costs may be allowable. Since the factors used to review these requests are extensive, we have decided to issue complete guidance instead of increasing the regulations on a matter of limited and rare applicability.

§ 35.945. The first paragraph of this section is promulgated as proposed. In connection with this section and with § 35.903, it was suggested that the regulations be revised to permit use of letter of credit for construction grants. EPA is currently involved in a study concerning cash management. Feasibility of letter of credit method of payment for construction grantees is one of the items being considered.

Although no changes were proposed to the former paragraph (e), it has been broken into two paragraphs and revised. The new paragraph (e) deals only with final payment. We moved the provision dealing with assignment and release to a new paragraph (f). We deleted the requirement for submission of separate assignment and release forms. Instead, the grantee's acceptance of the final payment constitutes his agreement to the assignment and release. We expect this change to eliminate considerable unnecessary paperwork.

§ 35.960. No changes were proposed to this section. However, we have added a new paragraph to advise the public that the EPA General Counsel periodically publishes an index of grant appeals decisions.

Appendix C-2, clause 11. No changes were proposed to be made to this clause. However, it has been brought to our attention that there is an inconsistency between the first sentence of paragraph (a) of this clause and the parallel clause (clause 10) in appendix C-1. When these clauses were first drafted in 1975, they both read, "If the EPA Project Officer determines • • •" As a result of public comment, they were both supposed to be changed to read, "If the owner or EPA determines • • •" Inadvertently, this change was not made in the C-2 clause. We are making this change at this time.

Appendix D, paragraph b5. This section is promulgated as proposed with clarifying language here and in paragraphs b1, b2 and c. This policy also applies to grants awarded under Pub. L. 84-660.

Other sections. Several commenters proposed that we make changes to sections, or parts of sections, which had not been proposed to be changed. Where we felt that the changes were truly of a technical nature and could be made without prior proposal, we have done so, as is noted in the text above. In some cases, however, the suggested changes were significant and inappropriate for promulgation as final rules without prior proposal. These comments will be retained on file for consideration in any regulatory changes which may be proposed in the future.

EDITORIAL CHANGES

Throughout the regulations we have made editorial changes to simplify the language. Several should be noted. We have eliminated the phrase, "but not limited to" following the word "include" or "including." We have deleted titles of cross-referenced sections in most cases (particularly from the subagreement regulations).

We made editorial changes in appendices C-1 and C-2, which contain clauses for inclusion in subagreements with engineers and construction contractors. Except for minor changes mentioned elsewhere in the preamble, no change in meaning whatsoever is intended. Old supplies of appendices C-1 and C-2 may continue to be used. However, grantees are cautioned that when using an old edition of appendix C-2, the new clause 17 (Buy American) must be added. Some grantees or engineers may prefer to use the new version of appendix C-1, because of the corrected reference to § 35.908 in clause 2.

Effective date: This subpart will be effective on October 1, 1978, unless otherwise specified in particular sections. Good cause exists for an effective date prior to 30 days after publication in the FEDERAL REGISTER because many of the requirements are made effective by the 1977 act on October 1, 1978, and because of the need to start these interrelated requirements together to ensure program continuity.

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 35 is amended by revising subpart E to read as follows:

Subpart E—Grants for Construction of Treatment Works—Clean Water Act

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Appendix A—Cost-effectiveness analysis guidelines.
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Appendix C-1—Required provisions—consulting engineering agreements.
Appendix C-2—Required provisions—construction contracts.
Appendix D—EPA transition policy—existing consulting engineering agreements.
Appendix E—Innovative and alternative technology guidelines.

AUTHORITY: Sections 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 502, 511, and 516(b) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

§ 35.900 Purpose.

(a) This subpart supplements the EPA general grant regulations and procedures (part 30 of this chapter) and establishes policies and procedures for grants to assist in the construction of waste treatment works in compliance with the Clean Water Act.

(b) A number of provisions of this subpart which contained transition dates preceding October 1, 1978, have been modified to delete those dates. However, the earlier requirements remain applicable to grants awarded when those provisions were in effect. The transition provisions in former §§ 35.905-4, 35.917, and 35.925-18 remain applicable to certain grants awarded through March 31, 1981.

(c) Technical and guidance publications (MCD series) concerning this program which are issued by EPA may be ordered from: General Services Administration (8FFS), Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, Colo. 80225. In order to expedite processing of requests, persons desiring to obtain these publications should request a copy of EPA form 7500-21 (the order form listing all available publications), from EPA Headquarters, Municipal Construction Division (WH-547) or from any regional office of EPA.

§ 35.901 Program policy.

The primary purpose of Federal grant assistance available under this subpart is to assist municipalities in meeting enforceable requirements of the Act, particularly, applicable national pollution discharge elimination system (NPDES) permit requirements. The Regional Administrator and States are authorized and encouraged to administer this grant program in a manner which will most effectively achieve the enforceable requirements of the Act.

§ 35.903 Summary of construction grant program.

(a) The construction of federally financed waste treatment works is generally accomplished in three steps: Step 1, facilities plans and related elements; step 2, preparation of construction drawings and specifications; and step 3, building of a treatment works.

(b) The Regional Administrator may award grant assistance for a step 1, step 2, or step 3 project, or, as authorized by § 35.909, for a project involving a combination of step 2 and step 3 (step 2+3 grant). For a step 1, step 2, or step 3 grant award, a "project" may consist of an entire step or any "treatment works segment" (see § 35.905) of construction within a step. In the case of step 2+3 grant awards, a project must consist of all associated step 2 and step 3 work; segmenting is not permitted.

(c) Grants are awarded from State allocations (see § 35.910 et seq.) under the Act. No grant assistance may be awarded unless priority for a project has been determined in accordance with an approved State priority system under § 35.915. The State is responsible for determining the amount and timing of Federal assistance to each municipality for which treatment works funding is needed.

(d) An applicant will initially define the scope of a project. The State may revise this initial project scope when priority for the project is established. The Regional Administrator will make the final determination of project scope when grant assistance is awarded (see § 35.930-4).

(e) For each proposed grant, an applicant must first submit his application to the State agency. The basic grant application must meet the requirements for the project in § 35.920-3. If grant assistance for subsequent related projects is necessary, the grantee shall make submissions in the form of amendments to the basic application. The State agency will forward to the appropriate EPA Regional Administrator complete project applications or amendments to them for which the State agency has determined priority. The grant will consist of the grant agreement resulting from the basic application and grant amendments awarded for subsequent related projects.

(f) Generally, grant assistance for projects involving step 2 or 3 will not be awarded unless the Regional Administrator first determines that the facilities planning requirements of §§ 35.917 to 35.917-9 of this subpart have been met. Facilities planning may not be initiated prior to approval of a step 1 grant or written approval of a "plan of study" accompanied by a reservation of funds (see § 35.925-18 and definition of "construction" in § 35.905).

(g) If initiation of step 1, 2, or 3 construction (see definition of "construction" in § 35.905) occurs before grant award, costs incurred before the approved date of initiation of construction will not be paid and award will not be made except under the circumstances in § 35.925-18.

(h) The Regional Administrator may not award grant assistance unless the application meets the requirements of § 35.920-3 and he has made the determinations required by § 35.925 et seq.

(i) A grant or grant amendment awarded for a project under this subpart shall constitute a contractual obligation of the United States to pay the Federal share of allowable project costs up to the amount approved in the grant agreement (including amendments) in accordance with § 35.930-6. However, this obligation is subject to the grantee's compliance with the conditions of the grant (see § 35.935 et seq.) and other applicable requirements of this subpart.

(j) Sections 35.937-10, 35.938-6 and 35.945 authorize prompt payment for project costs which have been incurred. The initial request for payment may cover the Federal share of allowable costs incurred before the award except as otherwise provided in § 35.925-18. Before the award of such assistance, the applicant must claim in the application for grant assistance for that project all allowable costs incurred before initiation of project construction. An applicant may make no subsequent claim for payment for such costs. The estimated amount of any grant or grant amendment, including any prior costs, must be established in conjunction with determination of priority for the project. The Regional Administrator must determine that the project costs are allowable under § 35.940 et seq.

(k) Under section 204(b) of the Act, the grantee must comply with applicable user charge and industrial cost recovery requirements; see §§ 35.925-11, 35.928 et seq., 35.929 et seq., 35.935-13, 35.935-15, and appendix B to this subpart.

(l) The costs of sewage collection systems for new communities, new subdivisions, or newly developed urban areas should be included as part of the development costs of the new construction in these areas. Under section 211 of the Act, such costs will not be allowed under the construction grant program; see § 35.925-13.

(m) The approval of a plan of study for step 1, a facilities plan, or award of grant assistance for step 1, step 2, or step 3, or any segment thereof, will not constitute a Federal commitment for grant assistance for any subsequent project.

(n) Where justified, a deviation from any substatutory requirement of this subpart may be granted under § 30.1000 of this chapter.

(o) The Act encourages public participation in the construction grant process. EPA requires an opportunity for public participation in the development of the State water pollution control strategy and State project priority list, under § 35.915, and in the development of facilities plans, under § 35.917-5.

(p) Requirements regarding the award and administration of subagreements are set forth in §§ 35.935 through 35.939.

§ 35.905 Definitions.

As used in this subpart, the following words and terms mean:

"Act." The Clean Water Act (33 U.S.C. 1251 et seq., as amended).

"Ad valorem tax." A tax based upon the value of real property.

"Combined sewer." A sewer intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

"Complete waste treatment system." A complete waste treatment system consists of all the treatment works necessary to meet the requirements of title III of the Act, involved in: (a) The transport of waste waters from individual homes or buildings to a plant or facility where treatment of the wastewater is accomplished; (b) the treatment of the wastewaters to remove pollutants; and (c) the ultimate disposal, including recycling or reuse, of the treated wastewaters and residues which result from the treatment process. One complete waste treatment system would, normally, include one treatment plant or facility, but also includes two or more connected or integrated treatment plants or facilities.

"Construction." Any one or more of the following: Preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items. The phrase "initiation of construction," as used in this subpart means with reference to a project for:

(a) *Step 1:* The approval of a plan of study (see §§ 35.920-3(a)(1) and 35.925-18(a));

(b) *Step 2:* The award of a step 2 grant;

(c) *Step 3:* Issuance of a notice to proceed under a construction contract for any segment of step 3 project work or, if notice to proceed is not required, execution of the construction contract.

"Enforceable requirements of the Act." Those conditions or limitations of section 402 or 404 permits which, if violated, could result in the issuance of a compliance order or initiation of a civil or criminal action under section 309 of the Act. If a permit has not been issued, the term shall include any requirement which, in the Regional Administrator's judgment, would be included in the permit when issued. Where no permit applies, the term shall include any requirement which the Regional Administrator determines is necessary to meet applicable criteria for best practicable waste treatment technology (BPWTT).

"Excessive infiltration/inflow." The quantities of infiltration/inflow which can be economically eliminated from a sewerage system by rehabilitation, as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow, subject to the provisions in § 35.927.

"Industrial cost recovery." (a) The grantee's recovery from the industrial users of a treatment works of the grant amount allocable to the treatment of waste from such users under section 204(b) of the Act and this subpart.

(b) The grantee's recovery from the commercial users of an individual system of the grant amount allocable to the treatment of waste from such users under section 201(h) of the Act and this subpart.

"Industrial cost recovery period." That period during which the grant amount allocable to the treatment of wastes from industrial users is recovered from the industrial users of such works.

"Industrial user." (a) Any nongovernmental, nonresidential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A. Agriculture, Forestry, and Fishing.
Division B. Mining.
Division D. Manufacturing.
Division E. Transportation, Communications, Electric, Gas, and Sanitary Services.
Division I. Services.

(1) In determining the amount of a user's discharge for purposes of industrial cost recovery, the grantee may exclude domestic wastes or discharges from sanitary conveniences.

(2) After applying the sanitary waste exclusion in subparagraph (1) of this paragraph (if the grantee chooses to do so), dischargers in the above divisions that have a volume exceeding 25,000 gpd or the weight of biochemical oxygen demand (BOD) or suspended solids (SS) equivalent to that weight found in 25,000 gpd of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are the wastes discharged from residential users. The grantee, with the Regional Administrator's approval, shall define the strength of the residential discharges in terms of parameters including, as a minimum, BOD and SS per volume of flow.

(b) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(c) All commercial users of an individual system constructed with grant assistance under section 201(h) of the Act and this subpart. (See § 35.918(a)(3).)

"Infiltration." Water other than wastewater that enters a sewerage system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

"Infiltration/inflow." The total quantity of water from both infiltration and inflow without distinguishing the source.

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"Inflow." Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

"Interceptor sewer." A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility.

"Interstate agency." An agency of two or more States established under an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of water pollution.

"Municipality." A city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law, or an Indian tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated and approved management agency under section 208 of the Act.

(a) This definition includes a special district created under State law such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity or an integrated waste management facility, as defined in section 201(e) of the Act, which has as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes of the general public in a particular geographic area.

(b) This definition excludes the following:

(1) Any revenue producing entity which has as its principal responsibility an activity other than providing wastewater treatment services to the general public, such as an airport, turnpike, port facility, or other municipal utility.

(2) Any special district (such as school district or a park district) which has the responsibility to provide wastewater treatment services in support of its principal activity at specific facilities, unless the special district has the responsibility under State law to provide waste water treatment services to the community surrounding the special district's facility and no other municipality, with concurrent jurisdiction to serve the community, serves or intends to serve the special district's facility or the surrounding community.

"Operable treatment works." An operable treatment works is a treatment works that:

(a) Upon completion of construction will treat waste water, transport waste water to or from treatment, or transport and dispose of waste water in a manner which will significantly improve an objectionable water quality situation or health hazard, and

(b) Is a component part of a complete waste treatment system which, upon completion of construction for the complete waste treatment system (or completion of construction of other treatment works in the system in accordance with a schedule approved by the Regional Administrator) will comply with all applicable statutory and regulatory requirements.

"Project." The scope of work for which a grant or grant amendment is awarded under this subpart. The scope of work is defined as step 1, step 2, or step 3 of treatment works construction or segments (see definition of "treatment works segment" and § 35.930-4).

"Replacement." Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

"Sanitary sewer." A sewer intended to carry only sanitary or sanitary and industrial waste waters from residences, commercial buildings, industrial plants, and institutions.

"Sewage collection system." For the purpose of § 35.925-13, each, and all, of the common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive waste waters directly from facilities which convey waste water from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities which convey waste water from individual structures, from private property to the public lateral sewer, or its equivalent, are specifically excluded from the definition, with the exception of pumping units, and pressurized lines, for individual structures or groups of structures when such units are cost effective and are owned and maintained by the grantee.

"State." A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"State agency." The State water pollution control agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

"Storm sewer." A sewer intended to carry only storm waters, surface runoff, street wash waters, and drainage.

"Treatment works." Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the useful life of the works. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

"Treatment works segment." A treatment works segment may be any portion of an operable treatment works described in an approved facilities plan, under § 35.917, which can be identified as a contract or discrete subitem or subcontract for step 1, 2, or 3 work. Completion of construciton of a treatment works segment may, but need not, result in an operable treatment works.

"Useful life." Estimated period during which a treatment works will be operated.

"User charge." A charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under sections 204(b)(1)(A) and 201(h)(2) of the Act and this subpart.

"Value engineering (VE)." A specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

§ 35.907 Municipal pretreatment program.

(a) The Regional Administrator is authorized to provide grant assistance for the development of an approvable municipal pretreatment program as required by part 403 of this chapter in conjunction with a step 1, step 2, or step 3 project.

(b) The grantee is required to develop a pretreatment program if the Regional Administrator determines that:

(1) The municipal treatment works:

(i) Serves industries subject to proposed or promulgated pretreatment standards under section 307(b) of the Act, or

(ii) Expects to serve industries connecting into the works in accordance with section 301(i)(2), where these industries are subject to the section 307 (b) or (c) standards: and

(2) A work plan under a section 208 planning grant has not provided for the development of a program approvable under part 403 of this chapter.

(c) A pretreatment program may be required for municipal treatment works which receive other nondomestic wastes covered by guidance issued under section 304(g) of the Act.

(d) Development of an approvable municipal pretreatment program under part 403 of this chapter shall include:

(1) An industrial survey as required by § 403.8 of this chapter including identification of system users, the character and volume of pollutants discharged, type of industry, location (see paragraph (f) of this section);

(2) An evaluation of legal authority, including adequacy of enabling legislation, and selection of mechanisms to be used for control and enforcement (e.g., ordinance, joint powers agreement, contract);

(3) An evaluation of financial programs and revenue soufces to insure adequate funding to carry out the pretreatment program;

(4) A determination of technical information necessary to support development of an industrial waste ordinance or other means of enforcing pretreatment standards;

(5) Design of a monitoring enforcement program;

(6) A determination of pollutant removals in existing treatment works;

(7) A determination of the treatment works tolerance to pollutants which interfere with its operation, sludge use, or disposal;

(8) A determination of required monitoring equipment for the municipal treatment works;

(9) A determination of municipal facilities to be constructed for monitoring or analysis of industrial waste.

(e) Items (d)(6) and (d)(7) of this section are grant eligible if necessary for the proper design or operation of the municipal treatment works but are not grant eligible when performed solely for the purpose of seeking an allowance for removal of pollutants under § 403.7 of this chapter.

(f) Information concerning the character and volume of pollutants discharged by industry to a municipal treatment works is to be provided to the municipality by the industrial discharger under paragraph (d)(1) of this section. However, the costs of a limited amount of end-of-pipe sampling and associated analysis of industrial discharges to a municipal treatment works properly allocable to the municipality are allowable if the grantee obtains the prior written approval of the Regional Administrator; see § 35.940-3(f).

(g) The pretreatment program developed under paragraph (b) of this section is subject to the Regional Administrator's approval under § 35.935-19 and must be implemented in accordance with part 403 of this chapter.

§ 35.908 Innovative and alternative technologies.

(a) *Policy.* EPA's policy is to encourage and, where possible, to assist in the development of innovative and alternative technologies for the construction of waste water treatment works. Such technologies may be used in the construction of waste water treatment works under this subpart as § 35.915-1, § 35.930-5, appendix E, and this section provide. New technology or processes may also be developed or demonstrated with the assistance of EPA research or demonstration grants awarded under title I of the Act (see part 40 of this subchapter).

(b) *Funding for innovative and alterative technologies.* (1) Projects or portions of projects which the Regional Administrator determines meet criteria for innovative or alternative technologies in appendix E may receive 85-percent grants (see § 35.930-5).

(i) Only funds from the reserve in § 35.915-1(b) shall be used to increase these grants from 75 to 85 percent.

(ii) Funds for the grant increase shall be distributed according to the chronological approval of grants, unless the State and the Regional Administrator agree otherwise.

(iii) The project must be on the fundable portion of the State project priority list.

(iv) If the project is an alternative to conventional treatment works for a small community (a municipality with a population of 3,500 or less or a highly dispersed section of a larger municipality, as defined by the Regional Administrator), funds from the reserve in § 35.915(e) may be used for the 75 percent portion of the Federal grant.

(v) Only if sewer related costs qualify as alternatives to conventional treatment works for small communities are they entitled to the grant increase from 75 to 85 percent, either as part of the entire treatment works or as components.

(2) A project or portions of a project may be designated innovative or alternative on the basis of a facilities plan or on the basis of plans and specifications. A project that has been designated innovative on the basis of the facilities plan may lose that designation if plans and specifications indicate that it does not meet the appropriate criteria stated in section 6 of appendix E.

(3) Projects or portions of projects that receive step 2, step 3, or step 2+3 grant awards after December 27, 1977, from funds allotted or reallotted in fiscal year 1978 may also receive the grant increase from funds allotted for fiscal year 1979 for eligible portions that meet the criteria for alternative technologies in appendix E, if funds are available for such purposes under § 35.915-1(b).

(c) *Modification or replacement of innovative and alternative projects.* The Regional Administrator may award grant assistance to fund 100 percent of the eligible costs of the modification or replacement of any treatment works constructed with 85-percent grant assistance if:

(1) He determines that:

(i) The facilities have not met design performance specifications (unless such failure is due to any person's negligence);

(ii) Correction of the failure requires significantly increased capital or operating and maintenance expenditures; and

(iii) Such failure has occurred within the 2-year period following final inspection; and

(2) The replacement or modification project is on the fundable portion of the State's priority list.

(d) *Sole source procurement.* A determination by the Regional Administrator under this section that innovative criteria have been met will serve as the basis for sole source procurement (see § 35.936-13(b)) for step 3, if appropriate, to achieve the objective of demonstrating innovative technology.

§ 35.909 Step 2+3 grants.

(a) *Authority.* The Regional Administrator may award grant assistance for a step 2+3 project for the combination of design (step 2) and construction (step 3) of a wastewater treatment works.

(b) *Limitations.* The Regional Administrator may award step 2+3 grant assistance only if he determines that:

(1) The population is 25,000 or less for the applicant municipality (according to most recent U.S. Census information or disaggregations thereof);

(2) The treatment works has an estimated total step 3 construction cost of $2,million or less, as determined by

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the Regional Administrator. For any State that the Assistant Administrator for Water and Waste Management finds to have unusually high costs of construction, the Regional Administrator may make step 2+3 awards where the estimated total step 3 construction costs of such treatment works does not exceed $3 million. The project must consist of all associated step 2 and step 3 work; segmenting is not permitted; and

(3) The fundable range of the approved project priority list includes the step 2 and step 3 work.

(c) *Application requirements.* Step 2+3 projects are subject to all requirements of this subpart that apply to separate step 2 and step 3 projects except compliance with § 35.920-3(c) is not required before grant award. An applicant should only submit a single application.

(d) *Cross references.* See §§ 35.920-3(d) (contents of application), 35.930-1(a)(4) (types of projects) and 35.935-4 (grant conditions).

§ 35.910 Allocation of funds.

§ 35.910-1 Allotments.

Allotments are made on a formula or other basis which Congress specifies for each fiscal year. Except where Congress indicates the exact amount of funds which each State should receive, computation of a State's ratio will be carried out to the nearest ten-thousandth percent (0.0001 percent). Unless regulations for allotments for a specific fiscal year otherwise specify, alloted amounts will be rounded to the nearest thousand dollars.

§ 35.910-2 Period of availability; reallotment.

(a) All sums allotted under § 35.910-5 shall remain available for obligation within that State until September 30, 1978. Such funds which remain unobligated on October 1, 1978, will be immediately reallotted in the same manner as sums under paragraph (b).

(b) All other sums allotted to a State under section 207 of the Act shall remain available for obligation until the end of 1 year after the close of the fiscal year for which the sums were authorized. Sums not obligated at the end of that period shall be immediately reallotted on the basis of the same ratio as applicable to sums allotted for the then-current fiscal year, but none of the funds reallotted shall be made available to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under this subpart during any fiscal year.

(c) Sums which are deobligated after the reallotment date for those funds shall be treated in the same manner as the most recent allotment before the deobligation.

§ 35.910-3 [Reserved]

§ 35.910-4 [Reserved]

§ 35.910-5 Additional allotments of previously withheld sums.

(a) A total sum of $9 billion is allotted from sums authorized, but initially unallotted, for fiscal years 1973, 1974, and 1975. This additional allotment shall be available for obligation through September 30, 1978, before reallotment of unobligated sums under § 35.910-2.

(b) Two-thirds of the sum hereby allotted ($6 billion) represents the initially unallotted portion of the amounts authorized for fiscal years 1973 and 1974. Therefore, the portion of the additional allotments derived from this sum were computed by applying the percentages formerly set forth in § 35.910-3(b) to the total sums authorized for fiscal years 1973 and 1974 ($11 billion) and subtracting the previously allotted sums, formerly set forth in § 35.910-3(c).

(c) One-third of the sum hereby allotted ($3 billion) represents the initially unallotted portion of the amounts authorized for fiscal year 1975. Therefore, the portion of the additional allotments derived from this sum were computed in a three-step process: First, by applying the percentages set forth in § 35.910-4(b) to the total sums authorized for fiscal year 1975 ($7 billion); then, by making adjustments necessary to assure that no State's allotment of such sums fell below its fiscal year 1972 allotment, under Pub. L. 93-243; and, finally, by subtracting the previously allotted sums set forth in § 35.910-4(c).

(d) Based upon the computations set forth in paragraphs (b) and (c) of this section, the total additional sums hereby allotted to the States are as follows:

State	
Alabama	$43,975,950
Alaska	25,250,500
Arizona	18,833,450
Arkansas	39,822,700
California	945,776,800
Colorado	43,113,300
Connecticut	155,091,800
Delaware	56,394,900
District of Columbia	72,492,000
Florida	345,870,100
Georgia	117,772,800
Hawaii	51,903,300
Idaho	19,219,100
Illinois	571,698,400
Indiana	251,631,800
Iowa	100,044,900
Kansas	53,794,200
Kentucky	90,430,800
Louisiana	71,712,250
Maine	78,495,200
Maryland	297,705,300
Massachusetts	295,809,100
Michigan	625,991,900
Minnesota	172,024,500
Mississippi	38,735,200
Missouri	157,471,200
Montana	12,378,200
Nebraska	38,539,500
Nevada	31,839,800
New Hampshire	77,199,350
New Jersey	660,830,500
New Mexico	15,054,900
New York	1,045,103,500
North Carolina	110,345,300
North Dakota	2,802,000
Ohio	497,227,400
Oklahoma	64,293,700
Oregon	77,552,900
Pennsylvania	493,984,900
Rhode Island	45,599,600
South Carolina	82,341,900
South Dakota	5,688,000
Tennessee	107,351,400
Texas	174,969,850
Utah	21,376,500
Vermont	22,506,600
Virginia	251,809,000
Washington	103,915,500
West Virginia	59,419,900
Wisconsin	145,327,400
Wyoming	2,930,650
Guam	6,399,200
Puerto Rico	84,910,500
Virgin Islands	7,794,800
American Samoa	738,200
Trust Territory of Pacific	2,672,800
Total	9,000,000,000

§ 35.910-6 Fiscal year 1977 public works allotments.

(a) The $480 million appropriated by Pub. L. 94-447, 90 Stat. 1498, is available for obligation under the authority of title III of the Public Works Employment Act of 1976 (Pub. L. 94-369, 90 Stat. 999), as provided by section 301 of Pub. L. 94-369, to carry out title II of the Clean Water Act (other than sections 206, 208, and 209). Allotments of these funds shall remain available until expended. Amounts allotted are in addition to the State's last allotment under the Clean Water Act and are to be used for the same purpose.

(b) The sum of $480 million has been allotted to States identified in column 1 of the table IV of the House Public Works and Transportation Committee print numbered 94-25 based on percentages shown in column 5 of that table.

(c) The percentages referred to in paragraph (b) of this section and used in computing the State allotments set forth in paragraph (d) of this section are as follows:

State	Percent
Alabama	4.90
Alaska	.91
Arizona	4.69
Arkansas	3.74
California	0
Colorado	3.04
Connecticut	0
Delaware	0
District of Columbia	0
Florida	2.97
Georgia	5.70
Hawaii	.60
Idaho	1.06
Illinois	0
Indiana	0
Iowa	.37
Kansas	2.90
Kentucky	2.70
Louisiana	3.51
Maine	0
Maryland	1.51
Massachusetts	0
Michigan	0
Minnesota	0
Mississippi	2.65
Missouri	1.47
Montana	.63
Nebraska	.77
Nevada	.13
New Hampshire	0
New Jersey	0
New Mexico	1.13
New York	0
North Carolina	6.65
North Dakota	1.06
Ohio	0
Oklahoma	3.64
Oregon	.28
Pennsylvania	0
Rhode Island	0
South Carolina	2.92
South Dakota	.89
Tennessee	3.01
Texas	18.46
Utah	1.86
Vermont	0
Virginia	0
Washington	2.49
West Virginia	7.14
Wisconsin	2.65
Wyoming	.91
Guam	.30
Puerto Rico	1.22
Virgin Islands	0
American Samoa	.16
Trust Territory of Pacific	.98
Total	100.00

(d) Based on these percentages, the total additional sums hereby allotted to the States are as follows:

State	Allotments from funds appropriated under Pub. L. 94-447
Alabama	$23,520,000
Alaska	4,368,000
Arizona	22,512,000
Arkansas	17,952,000
California	0
Colorado	14,592,000
Connecticut	0
Delaware	0
District of Columbia	0
Florida	14,256,000
Georgia	27,360,000
Hawaii	2,880,000
Idaho	5,088,000
Illinois	0
Indiana	0
Iowa	1,776,000
Kansas	13,920,000
Kentucky	12,960,000
Louisiana	16,848,000
Maine	0
Maryland	7,248,000
Massachusetts	0
Michigan	0
Minnesota	0
Mississippi	12,720,000
Missouri	7,056,000
Montana	3,024,000
Nebraska	3,696,000
Nevada	624,000
New Hampshire	0
New Jersey	0
New Mexico	5,424,000
New York	0
North Carolina	31,920,000
North Dakota	5,088,000
Ohio	0
Oklahoma	17,472,000
Oregon	1,344,000
Pennsylvania	0
Rhode Island	0
South Carolina	14,016,000
South Dakota	4,272,000
Tennessee	14,448,000
Texas	88,608,000
Utah	6,928,000
Vermont	0
Virginia	0
Washington	11,952,000
West Virginia	34,272,000
Wisconsin	12,720,000
Wyoming	4,368,000
Guam	1,440,000
Puerto Rico	5,856,000
Virgin Islands	0
American Samoa	768,000
Trust Territory of Pacific	4,704,000
Total	480,000,000

§ 35.910-7 Fiscal Year 1977 Supplemental Appropriations Act allotments.

(a) Under title I, chapter V of Pub. L. 95-26, $1 billion is available for obligation. The allotments are to be used to carry out title II of the Act, excluding sections 206, 208, and 209. These allotments are available until expended but must be obligated by May 3, 1980. After that date, unobligated balances will be subject to reallotment under section 205 (b) of the Act (see § 35.910-2 (b)).

(b) The allotments, computed by proportionally adjusting the table on page 16 of Senate Report No. 95-38, are based on the following four factors:

(1) 25 percent on the States estimated 1975 census population;

(2) 50 percent on each State's partial needs, i.e., on the cost of needed facilities in categories I, II, and IVB (secondary treatment, more stringent treatment required to meet water quality standards, and interceptor sewers and pumping stations), as shown in table IV of the May 6, 1975, EPA report, "cost Estimates for Construction of Publicly Owned Waste Water Treatment Facilities—1974 Needs Survey";

(3) 25 percent on each State's full needs, i.e., on the cost of needed facilities in categories I, II, IIIA, IIIB, IVA, IVB, and V (secondary treatment, more stringent treatment required to meet water quality standards, infiltration and inflow correction, major sewer system rehabilitation, collector sewers, interceptor sewers, and pumping stations, and treatment of combined sewer overflows), as shown in table V of the EPA report noted in paragraph (b) (2) of this section; and

(4) An allotment adjustment to insure that no State receives less than the one-third of 1 percent of the total amount allocated.

(c) Based on paragraph (b) of this section, the total additional sums hereby allotted to the States are as follows:

State	Amount
Alabama	$10,906,000
Alaska	4,759,000
Arizona	6,345,000
Arkansas	10,807,000
California	82,391,000
Colorado	8,031,000
Connecticut	12,195,000
Delaware	3,966,000
District of Columbia	3,966,000
Florida	35,792,000
Georgia	19,929,000
Hawaii	6,940,000
Idaho	4,065,000
Illinois	52,151,000
Indiana	21,713,000
Iowa	11,005,000
Kansas	12,195,000
Kentucky	14,971,000
Louisiana	12,493,000
Maine	5,453,000
Maryland	37,874,000
Massachusetts	27,662,000
Michigan	46,897,000
Minnesota	15,070,000
Mississippi	7,535,000
Missouri	19,830,000
Montana	3,272,000
Nebraska	6,147,000
Nevada	3,272,000
New Hampshire	6,742,000
New Jersey	47,591,000
New Mexico	3,272,000
New York	105,294,000
North Carolina	20,722,000
North Dakota	3,272,000
Ohio	55,522,000
Oklahoma	13,484,000
Oregon	8,328,000
Pennsylvania	46,698,000
Rhode Island	3,966,000
South Carolina	13,088,000
South Dakota	3,272,000
Tennessee	14,872,000
Texas	43,030,000
Utah	5,057,000
Vermont	3,272,000
Virginia	22,011,000
Washington	15,368,000
West Virginia	21,614,000
Wisconsin	19,929,000
Wyoming	3,272,000
Guam	992,000
Puerto Rico	8,923,000
Virgin Islands	496,000
American Samoa	298,000
Trust Territory of Pacific	1,983,000
Total	1,000,000,000

§ 35.910-8 Allotments for fiscal years 1978-1981.

(a) Unless later legislation requires otherwise, for each of the fiscal years 1978-1981, all funds appropriated under authorizations in section 207 of the Act will be distributed among the States based on the following percentages drawn from table 3 of Committee print numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives:

State	Percentage
Alabama	1.2842
Alaska	.4235
Arizona	.7757
Arkansas	.7513
California	7.9512
Colorado	.9187
Connecticut	1.1072
Delaware	.3996
District of Columbia	.3193

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State	Percentage
Florida	3.8366
Georgia	1.9418
Hawaii	.7928
Idaho	.4952
Illinois	5.1943
Indiana	2.7678
Iowa	1.2953
Kansas	.8803
Kentucky	1.4618
Louisiana	1.2625
Maine	.7495
Maryland	2.7777
Massachusetts	2.9542
Michigan	4.1306
Minnesota	1.8691
Mississippi	.9660
Missouri	2.4957
Montana	.3472
Nebraska	.5505
Nevada	.4138
New Hampshire	.8810
New Jersey	3.5715
New Mexico	.3819
New York	10.6209
North Carolina	1.9808
North Dakota	.3107
Ohio	6.4655
Oklahoma	.9279
Oregon	1.2974
Pennsylvania	4.3616
Rhode Island	.5252
South Carolina	1.1766
South Dakota	.3733
Tennessee	1.5486
Texas	4.3634
Utah	.4457
Vermont	.3845
Virginia	1.9602
Washington	1.7688
West Virginia	1.7903
Wisconsin	1.9503
Wyoming	.3003
Guam	.0744
Puerto Rico	1.1734
Virgin Islands	.0378
American Samoa	.0616
Trust Territory of Pacific	.1530
Total	100.00

(b) Based on paragraph (a), and table 4 of the committee print, the following authorizations are allotted among the States subject to the limitations of paragraph (c) of this section:

State	For fiscal year 1978	For each of the fiscal years 1979, 1980, 1981
Alabama	$57,739,000	$64,210,000
Alaska	19,057,500	21,175,000
Arizona	34,906,500	38,785,000
Arkansas	33,808,500	37,565,000
California	357,804,000	397,560,000
Colorado	41,341,500	45,935,000
Connecticut	49,824,000	55,360,000
Delaware	17,982,000	19,980,000
District of Columbia	14,368,500	15,965,000
Florida	172,647,000	191,830,000
Georgia	87,381,000	97,090,000
Hawaii	35,676,000	39,640,000
Idaho	22,284,000	24,760,000
Illinois	233,743,500	259,715,000
Indiana	124,551,000	138,390,000
Iowa	58,288,500	64,765,000
Kansas	39,613,500	44,015,000
Kentucky	65,781,000	73,090,000
Louisiana	56,812,500	63,125,000
Maine	33,727,500	37,475,000
Maryland	124,996,500	138,885,000
Massachusetts	132,939,000	147,710,000
Michigan	185,877,000	206,530,000
Minnesota	84,109,500	93,455,000
Mississippi	43,470,000	48,300,000
Missouri	112,306,500	124,785,000
Montana	15,624,000	17,360,000
Nebraska	24,772,500	27,525,000
Nevada	18,621,000	20,690,000
New Hampshire	39,645,000	44,050,000
New Jersey	160,717,500	178,575,000
New Mexico	17,185,500	19,095,000
New York	477,940,500	531,045,000
North Carolina	89,136,000	99,040,000
North Dakota	13,981,500	15,535,000
Ohio	290,947,500	323,275,000
Oklahoma	41,755,500	46,395,000
Oregon	58,383,000	64,870,000
Pennsylvania	196,272,000	218,080,000
Rhode Island	23,634,000	26,260,000
South Carolina	52,947,000	58,830,000
South Dakota	16,798,500	18,665,000
Tennessee	69,687,000	77,430,000
Texas	196,353,000	218,170,000
Utah	20,056,500	22,285,000
Vermont	17,302,500	19,225,000
Virginia	88,209,000	98,010,000
Washington	79,596,000	88,440,000
West Virginia	80,563,500	89,515,000
Wisconsin	87,763,500	97,515,000
Wyoming	13,513,500	15,015,000
Guam	3,348,000	3,720,000
Puerto Rico	52,803,000	58,670,000
Virgin Islands	1,701,000	1,890,000
American Samoa	2,772,000	3,080,000
Trust Territory of the Pacific Islands	6,885,000	7,650,000
Total	4,500,000,000	5,000,000,000

(c) The authorizations in paragraph (b) of this section depend on appropriation. Therefore, the Regional Administrator may not obligate any portion of any authorization for a fiscal year until a law is enacted appropriating part or all of the sums authorized for that fiscal year. If sums appropriated are less than the sums authorized for a fiscal year, EPA will apply the percentages in paragraph (a) of this section to distribute all appropriated sums among the States, and promptly will notify each State of its share. The Regional Administrator may not obligate more than the State's share of appropriated sums.

(d) If supplementary funds are appropriated in any fiscal year under section 205(e) of the Act to carry out the purposes of this paragraph, no State shall receive less than one-half of 1 percent of the total allotment among all States for that fiscal year, except that in the case of Guam, the Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 percent of the total allotment shall be allotted to all four of those jurisdictions. If for any fiscal year the amount appropriated to carry out this paragraph is less than the full amount needed, the following States will share in any funds appropriated for the purposes of this paragraph in the following percentages, drawn from the note to table 3 of committee print numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives:

State	Percentage
Alaska	5.4449
Delaware	7.1459
District of Columbia	12.8612
Idaho	.3416
Montana	10.8755
Nevada	6.1352
New Mexico	8.4057
North Dakota	13.4733
South Dakota	9.0178
Utah	3.8648
Vermont	8.2206
Wyoming	14.2135
Total	100.00

§ 35.912 Delegation to State agencies.

EPA's policy is to maximize the use of staff capabilities of State agencies. Therefore, in the implementation of the construction grant program, optimum use will be made of available State and Federal resources. This will eliminate unnecessary duplicative reviews of documents required in the processing of construction grant awards. Accordingly, the Regional Administrator may enter into a written agreement, where appropriate, with a State agency to authorize the State agency's certification of the technical or administrative adequacy of specifically required documents. The agreement may provide for the review and certification of elements of: (a) Facilities plans (step 1), (b) plans and specifications (step 2), (c) operation and maintenance manuals, and (d) such other elements as the Regional Administrator determines may be appropriately delegated as the program permits and State competence allows. The agreement will define requirements which the State will be expected to fulfill as part of its general responsibilities for the conduct of an effective preaward applicant assistance program; compensation for this program is the responsibility of the State. The agreement will also define specific duties regarding the review of identified documents prerequisite to the receipt of grant awards. A certification agreement must provide that an applicant or grantee may request review by the Regional Administrator of an adverse recommendation by a State agency. Delegation activities are compensable by EPA only under section 106 of the Act or subpart F of this part.

§ 35.915 State priority system and project priorty list.

Construction grants will be awarded from allotments according to the State priority list, based on the approved State priority system. The State priority system and list must be designed to achieve optimum water quality management consistent with the goals and requirements of the Act.

(a) *State priority system.* The State priority system describes the methodology used to rate and rank projects that are considered eligible for assistance. It also sets forth the administrative, management, and public participation procedures required to develop and revise the State project priority list. In developing its annual priority list, the State must consider the construction grant needs and priorities set forth in certified and approved State and areawide water quality management (WQM) plans. The State shall hold a public hearing before submission of the priority system (or revision thereto). Before the hearing, a fact sheet describing the proposed system (including rating and ranking criteria) shall be distributed to the public. A summary of State responses to public comment and to any public hearing testimony shall be prepared and included in the priority system submission. The Regional Administrator shall review and approve the State priority system for procedural completeness, insuring that it is designed to obtain compliance with the enforceable requirements of the Act as defined in § 35.905. The Regional Administrator may exempt grants for training facilities under section 109(b)(1) of the Act and § 35.930-1(b) from these requirements.

(1) *Project rating criteria.* (i) The State priority system shall be based on the following criteria:

(A) The severity of the pollution problem;

(B) The existing population affected;

(C) The need for preservation of high quality waters; and

(D) At the State's option, the specific category of need that is addressed.

(ii) The State will have sole authority to determine the priority for each category of need. These categories comprise mutually exclusive classes of facilities and include:

(A) Category I—Secondary treatment;

(B) Category II—More stringent treatment;

(C) Category IIIA—Infiltration/inflow correction;

(D) Category IIIB—Sewer system replacement or major rehabilitation;

(E) Category IVA—New collectors and appurtenances;

(F) Category IVB—New interceptors and appurtenances; and

(G) Category V—Correction of combined sewer overflows.

(iii) Step 2, step 3 and step 2+3 projects utilizing processes and techniques meeting the innovative and alternative guidelines in appendix E of this part may receive higher priority. Also 100 percent grants for projects that modify or replace malfunctioning treatment works constructed with an 85 percent grant may receive a higher priority.

(iv) Other criteria, consistent with these, may be considered (including the special needs of small and rural communities). The State shall not consider the project area's development needs not related to pollution abatement, the geographical region within the State, or future population growth projections.

(2) *Criteria assessment.* The State shall have authority to determine the relative influence of the rating criteria used for assigning project priority. The criteria must be clearly delineated in the approved State priority system and applied consistently to all projects. A project on the priority list shall generally retain its priority rating until an award is made.

(b) *State needs inventory.* The State shall maintain a listing, including costs by category, of all needed treatment works. The most recent needs inventory, prepared in accordance with section 516(b)(1)(B) of the Act, should be used for this purpose. This State listing should be the same as the needs inventory and fulfills similar requirements in the State WQM planning process. The State project priority list shall be consistent with the needs inventory.

(c) *State project priority list.* The State shall prepare and submit annually a ranked priority listing of projects for which Federal assistance is expected during the 5-year planning period starting at the beginning of the next fiscal year. The list's fundable portion shall include those projects planned for award during the first year of the 5-year period (hereinafter called the funding year). The fundable portion shall not exceed the total funds expected to be available during the year less all applicable reserves provided in § 35.915-1 (a) through (d). The list's planning portion shall include all projects outside the fundable portion that may, under anticipated allotment levels, receive funding during the 5-year period. The Administrator shall provide annual guidance to the States outlining the funding assumptions and other criteria useful in developing the 5-year priority list.

(1) *Project priority list development.* The development of the project priority list shall be consistent with the rating criteria established in the approved priority system, in accordance with the criteria in paragraph (a)(1) of this section. In ranking projects, States must also consider the treatment works and step sequence; the allotment deadline; total funds available; and other management criteria in the approved State priority system. In developing its annual priority list, the State must consider the construction grant needs and priorities set forth in certified and approved State and areawide WQM plans. The Regional Administrator may request that a State provide justification for the rating or ranking established for specific project(s).

(2) *Project priority list information.* The project priority list shall include the information for each project that is set out below for projects on the fundable portion of the list. The Administrator shall issue specific guidance on these information requirements for the planning portion of the list, including phase-in procedures for the fiscal year 1979 priority planning process.

(i) State assigned EPA project number;

(ii) Legal name and address of applicant;

(iii) Short project name or description;

(iv) Priority rating and rank of each project, based on the approved priority system;

(v) Project step number (step 1, 2, 3, or 2+3);

(vi) Relevant needs authority/facility number(s);

(vii) NPDES number (as appropriate);

(viii) Parent project number (i.e., EPA project number for predecessor project);

(ix) For step 2, 3, or 2+3 projects, indication of alternative system for small community;

(x) For step 2, 3, or 2+3 projects, that portion (if any) of eligible cost to apply to alternative techniques;

(xi) For step 2, 3, or 2+3 projects, that portion (if any) of eligible cost to apply to innovative processes;

(xii) For step 3 or 2+3 projects, the eligible costs in categories IIIB, IV, and V (see § 35.915(a)(1)(ii));

(xiii) Total eligible cost;

(xiv) Date project is expected to be certified by State to EPA for funding;

(xv) Estimated EPA assistance (not including potential grant increase from the reserve in § 35.915-1(b)); and

(xvi) Indication that the project does or does not satisfy the enforceable requirements provision, including (as appropriate) funding estimates for those portions which do not meet the enforceable requirements of the Act.

(d) *Public participation.* Before the State submits its annual project priority list to the Regional Administrator, the State shall insure that adequate public participation (including a public hearing) has taken place as required by subpart G of this part. Before the public hearing, the State shall circulate information about the priority lis including a description of each proposed project and a statement concerning whether or not it is necessary to meet the enforceable requirements of the Act. The information on the

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proposed priority list under paragraph (c)(2) of this section may be used to fulfill these requirements. This public hearing may be conducted jointly with any regular public meeting of the State agency. The public must receive adequate and timely statewide notice of the meeting (including publication of the proposed priority list) and attendees at the meeting must receive adequate opportunity to express their views concerning the list. Any revision of the State priority list (including project bypass and the deletion or addition of projects) requires circulation for public comment and a public hearing unless the State agency and the Regional Administrator determine that the revision is not significant. The approved State priority system shall describe the public participation policy and procedures applicable to any proposed revision to the priority list.

(e) *Submission and review of project priority list.* The State shall submit the priority list as part of the annual State program plan under subpart G of this part. A summary of State agency response to public comment and hearing testimony shall be prepared and submitted with the priority list. The Regional Administrator will not consider a priority list to be final until the public participation requirements are met and all information required for each project has been received. The Regional Administrator will review the final priority list within 30 days to insure compliance with the approved State priority system. No project may be funded until this review is complete.

(f) *Revision of the project priority list.* The State may modify the project priority list at any time during the program planning cycle in accordance with the public participation requirements and the procedures established in the approved State priority system. Any modification (other than clerical) to the priority list must be clearly documented and promptly reported to the Regional Administrator. As a minimum, each State's priority list management procedure must provide for the following conditions:

(1) *Project bypass.* A State may bypass a project on the fundable portion of the list after it gives written notice to the municipality and the NPDES authority that the State has determined that the project to be bypassed will not be ready to proceed during the funding year. Bypassed projects shall retain their relative priority rating for consideration in the future year allotments. The highest ranked projects on the planning portion of the list will replace bypassed projects. Projects considered for funding in accordance with this provision must comply with paragraph (g) of this section.

(2) *Additional allotments.* If a State receives any additional allotment(s), it may fund projects on the planning portion of the priority list without further public participation if:

(i) The projects on the planning portion have met all administrative and public participation requirements outlined in the approved State priority system; and

(ii) The projects included within the fundable range are the highest priority projects on the planning portion.

If sufficient projects that meet these conditions are not available on the planning portion of the list, the State shall follow the procedures outlined in paragraph (e) of this section to add projects to the fundable portion of the priority list.

(3) *Project removal.* A State may remove a project from the priority list only if:

(i) The project has been fully funded;

(ii) The project is no longer entitled to funding under the approved priority system;

(iii) The Regional Administrator has determined that the project is not needed to comply with the enforceable requirements of the Act; or

(iv) The project is otherwise ineligible.

(g) *Regional Administrator review for compliance with the enforceable requirements of the Act.* (1) Unless otherwise provided in paragraph (g)(2) of this section, the Regional Administrator may propose the removal of a specific project or portion thereof from the State project priority list during or after the initial review where there is reason to believe that it will not result in compliance with the enforceable requirements of the Act. Before making a final determination, the Regional Administrator will initiate a public hearing on this issue. Questioned projects shall not be funded during this administrative process. Consideration of grant award will continue for those projects not at issue in accordance with all other requirements of this section.

(i) The Regional Administrator shall establish the procedures for the public notice and conduct of any such hearing, or, as appropriate, the procedures may be adapted from existing agency procedures such as § 6.400 or §§ 123.32 and 123.34 of this chapter. The procedures used must conform to minimum Agency guidelines for public hearings under part 25 of this chapter.

(ii) Within 30 days after the date of the hearing, the Regional Administrator shall transmit to the appropriate State agency a written determination about the questioned projects. If the Regional Administrator determines that the project will not result in compliance with the enforceable requirements of the Act, the State shall remove the project from the priority list and modify the priority list toi reflect this action. The Regional Administrator's determination will constitute the final agency action, unless the State or municipality files a notice of appeal under part 30, subpart J of this subchapter.

(2) The State may use 25 percent of its funds during each fiscal year for projects or portions of projects in categories IIIB, IVA, IVB, and V (see § 35.915(a)(1)(ii)). These projects must be eligible for Federal funding to be included on the priority list. EPA will generally not review these projects under paragraph (g)(1) of this section to determine if they will result in compliance with the enforceable requirements of the Act. The Regional Administrator will, however, review all projects or portions thereof which would use funds beyond the 25-percent level according to the criteria in paragraph (g)(1) of this section.

(h) *Regional Administrator review for eligibility.* If the Regional Administrator determines that a project on the priority list is not eligible for assistance under this subpart, the State and municipality will be promptly advised and the State will be required to modify its priority list accordingly. Elimination of any project from the priority list shall be final and conclusive unless the State or municipality files a notice of appeal under part 30, subpart J of this subchapter.

§ 35.915–1 Reserves related to the project priority list.

In developing the fundable portion of the priority list, the State shall provide for the establishment of the several reserves required or allowed under this section. The State shall submit a statement specifying the amount to be set aside for each reserve with the final project priority list.

(a) *Reserve for State management assistance grants.* The State may (but need not) propose that the Regional Administrator set aside from each allotment a reserve not to exceed 2 percent or $400,000, whichever is greater, for State management assistance grants under subpart F of this part. Grants may be made from these funds to cover the reasonable costs of administering activities delegated to a State. Funds reserved for this purpose that are not obligated by the end of the allotment period will be added to the amounts last allotted to a State. These funds shall be immediately available for obligation to projects in the same manner and to the same extent as the last allotment.

(b) *Reserve for innovative and alternative technology project grant increase.* Each State shall set aside from its annual allotment a specific percentage to increase the Federal share of grant awards from 75 percent to 85 percent of the eligible cost of construction (under § 35.908(b)(1)) for construction projects which use innovative or alternative waste water treatment processes and techniques. The set-aside amount shall be 2 percent of the State's allotment for each of fiscal years 1979 and 1980, and 3 percent for fiscal year 1981. Of this amount not less than one-half of 1 percent of the State's allotment shall be set aside to increase the Federal grant share for projects utilizing innovative processes and techniques. Funds reserved under this section may be expended on projects for which facilities plans were initiated before fiscal year 1979. These funds shall be reallotted if not used for this purpose during the allotment period.

(c) *Reserve for grant increases.* The State shall set aside not less than 5 percent of the total funds available during the priority list year for grant increases (including any funds necessary for development of municipal pretreatment programs) for projects awarded assistance under § 35.935–11. The funds reserved for this purpose shall be reallotted if not obligated. Therefore, if they are not needed for grant increases they should be released for funding additional projects before the reallotment deadline.

(d) *Reserve for step 1 and step 2 projects.* The State may (but need not) set aside up to 10 percent of the total funds available in order to provide grant assistance to step 1 and step 2 projects that may be selected for funding after the final submission of the project priority list. The funds reserved for this purpose shall be reallotted if not obligated. Therefore, they should be released for funding additional projects before the reallotment deadline.

(e) *Reserve for alternative systems for small communities.* Each State with a rural population of 25 percent or more (as determined by population estimates of the Bureau of Census) shall set aside an amount equal to 4 percent of the State's annual allotment, beginning with the fiscal year 1979 allotment. The set-aside amount shall be used for funding alternatives to conventional treatment works for small communities. The Regional Administrator may authorize, at the request of the Governor of any nonrural State, a reserve of up to 4 percent of that State's allotment for alternatives to conventional treatment works for small communities. For the purposes of this paragraph, the definition of a small community is any municipality with a population of 3,500 or less, or highly dispersed sections of larger municipalities, as determined by the Regional Administrator. In States where the reserve is mandatory, these funds shall be reallotted if not obligated during the allotment period. In States where the reserve is optional, these funds should be released for funding projects before the reallotment deadline.

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§ 35.917 Facilities planning (step 1).

(a) Sections 35.917 through 35.917–9 establish the requirements for facilities plans.

(b) Facilities planning consists of those necessary plans and studies which directly relate to the construction of treatment works necessary to comply with sections 301 and 302 of the Act. Facilities planning will demonstrate the need for the proposed facilities. Through a systematic evaluation of feasible alternatives, it will also demonstrate that the selected alternative is cost-effective, i.e., is the most economical means of meeting established effluent and water quality goals while recognizing environmental and social considerations. (See appendix A to this subpart.)

(c) EPA requires full compliance with the facilities planning provisions of this subpart before award of step 2 or step 3 grant assistance. (Facilities planning initiated before May 1, 1974, may be accepted under regulations published on February 11, 1974, if the step 2 or step 3 grant assistance is awarded before April 1, 1980.)

(d) Grant assistance for step 2 or step 3 may be awarded before approval of a facilities plan for the entire geographic area to be served by the complete waste treatment system of which the proposed treatment works will be an integral part if:

(1) The Regional Administrator determines that applicable statutory requirements have been met (see §§ 35.925–7 and 35.925–8); that the facilities planning related to the proposed step 2 or step 3 project has been substantially completed; and that the step 2 or step 3 project for which grant assistance is made will not be significantly affected by the completion of the facilities plan and will be a component part of the complete system; and

(2) The applicant agrees to complete the facilities plan on a schedule the State accepts (subject to the Regional Administrator's approval); the schedule shall be inserted as a special condition in the grant agreement.

(e) Facilities planning may not be initiated before award of a step 1 grant or written approval of a plan of study (see § 35.920-3(a)(1)) accompanied by reservation of funds for a step 1 grant (see §§ 35.925-18 and 35.905). Facility planning must be based on load allocations, delineation of facility planning areas and population projection totals and disaggregations in approved water quality management (WQM) plans. (See paragraph 8a(3) of appendix A.) After October 1, 1979, the Regional Administrator shall not approve grant assistance for any project under this subpart if such facility-related information is not available in an approved WQM plan, unless the Regional Administrator determines, in writing, based on information submitted by the State or the grantee, that the facility-related information was not within the scope of the WQM work program, or that award of the grant is necessary to achieve water quality goals of the Act.

(f) If the information required as part of a facilities plan has been developed separately, the facilities plan should incorporate it by reference. Planning which has been previously or collaterally accomplished under local, State, or Federal programs will be utilized (not duplicated).

§ 35.917–1 Content of facilities plan.

Facilities planning must address each of the following to the extent considered appropriate by the Regional Administrator:

(a) A description of the treatment works for which construction drawings and specifications are to be prepared. This description shall include preliminary engineering data, cost estimates for design and construction of the treatment works, and a schedule for completion of design and construction. The preliminary engineering data may include, to the extent appropriate, information such as a schematic flow diagram, unit processes, design data regarding detention times, flow rates, sizing of units, etc.

(b) A description of the selected complete waste treatment system(s) of which the proposed treatment works is a part. The description shall cover all elements of the system, from the service area and collection sewers, through treatment, to the ultimate discharge of treated wastewaters and management and disposal of sludge. Planning area maps must include major components of existing and proposed treatment works. For individual systems, planning area maps must include those individual systems which are proposed for funding under § 35.918.

(c) Infiltration/inflow documentation in accordance with § 35.927 et seq.

(d) A cost-effectiveness analysis of alternatives for the treatment works and for the complete waste treatment system(s) of which the treatment works is a part. The selection of the system(s) and the choice of the treatment works for which construction drawings and specifications are to be prepared shall be based on the results

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of the cost-effectiveness analysis. (See appendix A to this subpart.) This analysis shall include:

(1) The relationship of the size and capacity of alternative works to the needs to be served, including reserve capacity;

(2) An evaluation of alternative flow and waste reduction measures, including nonstructural methods;

(3) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to construction of new facilities;

(4) An evaluation of the capability of each alternative to meet applicable effluent limitations. (All step 2, step 3, or step 2+3 projects shall be based on application of best practicable waste treatment technology (BPWTT), as a minimum. Where application of BPWTT would not meet water quality standards, the facilities plan shall provide for attaining such standards. Such provision shall consider the alternative of treating combined sewer overflows.);

(5) An identification of, and provision for, applying BPWTT as defined by the Administrator, based on an evaluation of technologies included under each of the following waste treatment management techniques:

(i) Biological or physical-chemical treatment and discharge to receiving waters;

(ii) Systems employing the reuse of wastewater and recycling of pollutants;

(iii) Land application techniques;

(iv) Systems including revenue generating applications; and

(v) Onsite and nonconventional systems;

(6) An evaluation of the alternative methods for the ultimate disposal of treated wastewater and sludge materials resulting from the treatment process, and a justification for the method(s) chosen;

(7) An adequate assessment of the expected environmental impact of alternatives (including sites) under part 6 of this chapter. This assessment shall be revised as necessary to include information developed during subsequent project steps;

(8) For facilities planning begun after September 30, 1978, whether or not prepared under a step 1 grant, an analysis of innovative and alternative treatment processes and techniques that reclaim and reuse water, productively recycle wastewater constituents, eliminate the discharge of pollutants, recover energy or otherwise achieve the benefits described in appendix E. The provisions of this subparagraph are encouraged in all cases. They are required in facilities planning for new treatment works and for treatment works which are being acquired, altered, modified, improved, or extended either to handle a significant increase in the volume of treated waste or to reduce significantly the pollutant discharges from the system. Where certain categories of alternative technologies may not be generally applicable because of prevailing climatic or geological conditions, a detailed analysis of these categories of alternative technologies is not required. However, the reason for such a rejection must be fully substantiated in the facilities plan;

(9) For facilities planning begun after September 30, 1978, whether or not prepared under a step 1 grant, an analysis of the primary energy requirements (operational energy inputs) for each system considered. The alternative selected shall propose adoption of measures to reduce energy consumption or to increase recovery as long as such measures are cost-effective. Where processes or techniques are claimed to be innovative technology on the basis of energy reduction criterion contained in paragraph 6e(2) of appendix E to this subpart, a detailed energy analysis shall be included to substantiate the claim to the satisfaction of the Regional Administrator.

(e) An identification of effluent discharge limitations or, where a permit has been issued, the NPDES permit number, and a brief description of how the proposed project(s) will result in compliance with the enforceable requirements of the Act.

(f) Required comments or approvals of relevant State, interstate, regional, and local agencies (see § 30.305-8).

(g) A summary of public participation in the development of the facilities plan, in accordance with part 25 of this chapter.

(h) A brief statement demonstrating that the authorities who will be implementing the plan have the necessary legal, financial, institutional, and managerial resources available to insure the construction, operation, and maintenance of the proposed treatment works.

(i) A statement specifying that the requirements of the Civil Rights Act of 1964 and of part 7 of this chapter have been met.

(j) For facilities planning begun after September 30, 1978, whether or not prepared under a step 1 grant, a description of potential opportunities for recreation, open space, and access to bodies of water analyzed in planning the proposed treatment works and the recommended actions. The facilities plan shall also describe measures taken to coordinate with Federal, State, and local recreational programs and with recreational elements of applicable approved areawide WQM plans.

(k) A municipal-pretreatment program in accordance with § 35.907.

(l) An estimate of total project costs and charges to customers, in accordance with guidance issued by the Administrator.

(m) A statement concerning the availability and estimated cost of proposed sites.

§ 35.917-2 State responsibilities.

(a) *Facilities planning areas.* Facilities planning should focus upon the geographic area to be served by the waste treatment system(s) of which the proposed treatment works will be an integral part. The facilities plan should include the area necessary to prepare an environmental assessment and to assure that the most cost-effective means of achieving the established water quality goals can be implemented. To assure that facilities planning will include the appropriate geographic areas, the State shall:

(1) Delineate, as a preliminary basis for planning, the boundaries of the planning areas. In the determination of each area, appropriate attention should be given to including the entire area where cost savings, other management advantages, or environmental gains may result from interconnection of individual waste treatment systems or collective management of such systems;

(2) Include maps, which shall be updated annually, showing the identified areas and boundary determinations, as part of the State submission under section 106 of the act;

(3) Consult with local officials in making the area and boundary determinations; and

(4) Where individual systems are likely to be cost-effective, delineate a planning area large enough to take advantage of economies of scale and efficiencies in planning and management.

(b) *Facilities planning priorities.* The State shall establish funding priorities for facilities planning in accordance with §§ 35.915 and 35.915-1.

§ 35.917-3 Federal assistance.

(a) *Eligibility.* Only an applicant which is eligible to receive grant assistance for subsequent phases of construction (steps 2 and 3) and which has the legal authority to subsequently construct and manage the facility may apply for grant assistance for step 1. If the area to be covered by the facilities plan includes more than one political jurisdiction, a grant may be awarded for a step 1 project, as appropriate, to: (1) the joint authority representing such jurisdictions, if eligible; (2) one qualified (lead agency) applicant; or (3) two or more eligible jurisdictions. After a waste treatment management agency for an area has been designated in accordance with section 208(c) of the Act (see subpart G of this part) the Regional Administrator shall not make any grant for construction of treatment works within the area except to the designated agency.

(b) *Reports.* Where a grant has been awarded for facilities planning which is expected to require more than 1 year to complete, the grantee must submit a brief progress report to the Regional Administrator at 3-month intervals. The progress report shall contain a minimum of narrative description, and shall describe progress in completing the approved schedule of specific tasks for the project.

§ 35.917-4 Planning scope and detail.

(a) Initially, the geographic scope of step 1 grant assistance shall be based on the area delineated by the State under § 35.917-2, subject to the Regional Administrator's review. The Regional Administrator may make the preliminary delineation of the boundaries of the planning area, if the State has not done so, or may revise boundaries selected by the locality or State agency, after appropriate consultation with State and local officials.

(b) Facilities planning shall be conducted only to the extent that the Regional Administrator finds necessary in order to insure that facilities for which grants are awarded will be cost-effective and environmentally sound and to permit reasonable evaluation of grant applications and subsequent preparation of designs, construction drawings, and specifications.

§ 35.917-5 Public participation.

(a) Public participation in the facilities planning process shall be consistent with part 25 of this chapter. One or more public hearings or meetings should be held within the area to obtain public advice at the beginning of the planning process. All governmental agencies and other parties which are known to be concerned or may have an interest in the plan shall be invited to participate.

(b) Before the implementing governmental units adopt the facilities plan, they must hold a public hearing. This public hearing for the facilities plan may satisfy the grantee hearing requirement of part 6 of this chapter. The Regional Administrator may require the planning entity to hold additional public hearings, if needed, to more fully discuss the plan and alternatives or to give concerned interests adequate opportunity to express their views.

(c) The time and place of the public hearing shall be conspicuously and adequately announced, generally at least 30 days in advance. In addition, a description of the water quality problems and the principal alternatives considered in the planning process shall be displayed at a convenient local site sufficiently before the hearing (approximately 15 days).

(d) Appropriate local and State agencies, State and regional clearinghouses, interested environmental groups and appropriate local public officials should receive a written notice of public hearings.

(e) A request to waive the hearings on a facilities plan may be submitted to the Regional Administrator in writing prior to submission of the plan. The Regional Administrator will act on the request within 30 days. Each request must include a brief description of the alternatives, the area that will be served, the scope and dates of meetings and hearings previously held, and the reasons the grantee feels a public hearing would not serve the public interest.

§ 35.917-6 Acceptance by implementing governmental units.

A facilities plan submitted for approval shall include adopted resolutions or, where applicable, executed agreements of the implementing governmental units, including Federal facilities, or management agencies which provide for acceptance of the plan, or assurances that it will be carried out, and statements of legal authority necessary for plan implementation. The Regional Administrator may approve any departures from these requirements before the plan is submitted.

§ 35.917-7 State review and certification of facilities plan.

Each facilities plan must be submitted to the State agency for review. The State must certify that:

(a) The plan conforms with requirements set forth in this subpart;

(b) The plan conforms with any existing final basin plans approved under section 303(e) of the Act;

(c) Any concerned 208 planning agency has been given the opportunity to comment on the plan; and

(d) The plan conforms with any waste treatment management plan approved under section 208(b) of the act.

§ 35.917-8 Submission and approval of facilities plan.

The State agency must submit the completed facilities plan for the Regional Administrator's approval. Where deficiencies in a facilities plan are discovered, the Regional Administrator shall promptly notify the State and the grantee or applicant in writing of the nature of such deficiencies and of the recommended course of action to correct such deficiencies. Approval of a plan of study or a facilities plan will not constitute an obligation of the United States for any step 2, step 3, or step 2+3 project.

§ 35.917-9 Revision or amendment of facilities plan.

A facilities plan may provide the basis for several subsequent step 2, step 3, or step 2+3 projects. A facilities plan which has served as the basis for the award of a grant for a step 2, step 3, or step 2+3 project shall be reviewed before the award of any grant for a subsequent project involving step 2 or step 3 to determine if substantial changes have occurred. If the Regional Administrator decides substantial changes have occurred which warrant revision or amendment, the plan shall be revised or amended and submitted for review in the same manner specified in this subpart.

§ 35.918 Individual systems.

(a) For references to individual systems, the following definitions apply:

(1) *Individual systems.* Privately owned alternative wastewater treatment works (including dual waterless/gray water systems) serving one or more principal residences or small commercial establishments which are neither connected into nor a part of any conventional treatment works. Normally, these are on-site systems with localized treatment and disposal of wastewater with minimal or no conveyance of untreated waste water. Limited conveyance of treated or partially treated effluents to further treatment or disposal sites can be a function of individual systems where cost-effective.

(2) *Principal residence.* Normally the voting residence, the habitation of the family or household which occupies the space for at least 51 percent of the time annually. Second homes, vacation, or recreation residences are not included in this definition. A commercial establishment with waste water flow equal to or smaller than one user equivalent (generally 300 gallons per day dry weather flows) is included.

(3) *Small commercial establishments.* Private establishments normally found in small communities such as restaurants, hotels, stores, filling stations, or recreational facilities with dry weather wastewater flows less than 25,000 gallons per day. Private, nonprofit entities such as churches, schools, hospitals, or charitable organizations are considered small commercial establishments. A commercial establishment with waste water flow equal to or smaller than one user equivalent (generally 300 gallons per day dry weather flow) shall be treated as a residence.

(4) *Conventional system.* A collection and treatment system consisting of minimum size (6 or 8 inch) gravity

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collector sewers normally with manholes, force mains, pumping and lift stations, and interceptors leading to a central treatment plant.

(5) *Alternative waste water treatment works.* A waste water conveyance and/or treatment system other than a conventional system. This includes small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated waste water.

(b) A public body otherwise eligible for a grant under § 35.920-1 is eligible for a grant to construct privately owned treatment works serving one or more principal residences or small commercial establishments if the requirements of §§ 35.918-1, 35.918-2, and 35.918-3 are met.

(c) All individual systems qualify as alternative systems under § 35.908 and are eligible for the 4-percent set-aside (§ 35.915-1(e)) where cost-effective.

§ 35.918-1 Additional limitations on awards for individual systems.

In addition to those limitations set forth in § 35.925, the grant applicant shall:

(a) Certify that the principal residence or small commercial establishment was constructed before December 27, 1977, and inhabited or in use on or before that date;

(b) Demonstrate in the facility plan that the solution chosen is cost-effective and selected in accordance with the cost-effectiveness guidelines for the construction grants program (see appendix A to this subpart);

(c) Apply on behalf of a number of individual units located in the facility planning area;

(d) Certify that public ownership of such works is not feasible and list the reasons in support of such certification;

(e) Certify that such treatment works will be properly installed, operated, and maintained and that the public body will be responsible for such actions;

(f) Certify before the step 2 grant award that the project will be constructed and an operation and maintenance program established to meet local, State, and Federal requirements including those protecting present or potential underground potable water sources;

(g) Establish a system of user charges and industrial cost recovery in accordance with §§ 35.928 et seq., 35.929 et seq., 35.935-13, and 35.935-15;

(h) Obtain assurance (such as an easement or covenant running with the land), before the step 2 grant award, of unlimited access to each individual system at all reasonable times for such purposes as inspection, monitoring, construction, maintenance, operation, rehabilitation, and replacement. An option will satisfy this requirement if it can be exercised no later than the initiation of construction;

(i) Establish a comprehensive program for regulation and inspection of individual systems before EPA approval of the plans and specifications. Planning for this comprehensive program shall be completed as part of the facility plan. The program shall include as a minimum, periodic testing of water from existing potable water wells in the area. Where a substantial number of onsite systems exist, appropriate additional monitoring of the aquifer(s) shall be provided;

(j) Comply with all other applicable limitations and conditions which treatment works projects funded under this subpart must meet.

§ 35.918-2 Eligible and ineligible costs.

(a) Only the treatment and treatment residue disposal portions of toilets with composting tanks, oil-flush mechanisms or similar in-house systems are grant eligible.

(b) Acquisition of land in which the individual system treatment works are located is not grant eligible.

(c) Commodes, sinks, tubs, drains, and other wastewater generating fixtures and associated plumbing are not grant eligible. Modifications to homes or commercial establishments are also excluded from grant eligibility.

(d) Only reasonable costs of construction site restoration to preconstruction conditions are eligible. Costs of improvement or decoration associated with the installation of individual systems are not eligible.

(e) Conveyance pipes from wastewater generating fixtures to the treatment unit connection flange or joint are not eligible where the conveyance pipes are located on private property.

§ 35.918-3 Requirements for discharge of effluents.

Best practicable waste treatment criteria published by EPA under section 304(d)(2) of the Act shall be met for disposal of effluent on or into the soil from individual systems. Discharges to surface waters shall meet effluent discharge limitations for publicly owned treatment works.

§ 35.920 Grant application.

Grant applications will be submitted and evaluated in accordance with part 30 subpart B of this chapter.

§ 35.920-1 Eligibility.

Municipalities (see § 35.905), intermunicipal agencies, States, or interstate agencies are eligible for grant assistance.

§ 35.920-2 Procedure.

(a) Preapplication assistance, including, where appropriate, a preapplication conference, should be requested from the State agency or the appropriate EPA Regional Office for each project for which State priority has been determined. The State agency must receive an application for each proposed treatment works. The basic application shall meet the project requirements in § 35.920-3. Submissions required for subsequent related projects shall be in the form of amendments to the basic application. The grantee shall submit each application through the State agency. It must be complete (see § 35.920-3), and must relate to a project for which priority has been determined under § 35.915. If any information required by § 35.920-3 has been furnished with an earlier application, the applicant need only incorporate it by reference and, if necessary, revise such information using the previously approved application.

(b) Grant applications (and, for subsequent related projects, amendments to them) are considered received by EPA only when complete and upon official receipt of the State priority certification document (EPA form 5700-28) in the appropriate EPA Regional Office. In a State which has been delegated Federal application processing functions under § 35.912 or under subpart F of this part, applications are considered received by EPA on the date of State certification. Preliminary or partial submittals may be made; EPA may conduct preliminary processing of these submittals.

§ 35.920-3 Contents of application.

(a) *Step 1: Facilities plan and related step 1 elements.* An application for a grant for step 1 shall include:

(1) A plan of study presenting—

(i) The proposed planning area;

(ii) An identification of the entity or entities that will be conducting the planning;

(iii) The nature and scope of the proposed step 1 project and public participation program, including a schedule for the completion of specific tasks; and

(iv) An itemized description of the estimated costs for the project;

(2) Proposed subagreements, or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work;

(3) Required comments or approvals of relevant State, local and Federal agencies, including clearinghouse requirements of Office of Management and Budget Circular A-95, as revised (see § 30.305 of this subchapter).

(b) *Step 2: Preparation of construction drawings and specifications.* Before the award of a grant or grant amendment for a step 2 project, the applicant must furnish the following:

(1) A facilities plan (including the environmental assessment portion in accordance with part 6 of this chapter) in accordance with §§ 35.917 through 35.917-9;

(2) Adequate information regarding availability of proposed site(s), if relevant;

(3) Proposed subagreements or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work;

(4) Required comments or approvals of relevant State, local, and Federal agencies, including clearinghouse requirements of Office and Management and Budget Circular A-95, as revised (see § 30.305 of this subchapter);

(5) A value engineering (VE) commitment in compliance with § 35.926(a) for all step 2 grant applications for projects with a projected total step 3 grant eligible construction cost of $10 million or more excluding the cost for interceptor and collector sewers. For those projects requiring VE, the grantee may propose, subject to the Regional Administrator's approval, to exclude interceptor and collector sewers from the scope of the NE analysis;

(6) Proposed or executed (as determined appropriate by the Regional Administrator) intermunicipal agreements necessary for the construction and operation of the proposed treatment works, for any treatment works serving two or more municipalities;

(7) A schedule for initiation and completion of the project work (see § 35.935-9), including milestones; and

(8) Satisfactory evidence of compliance with:

(i) §§ 35.925-11, 35.929 et seq. and 35.935-13 regarding user charges;

(ii) §§ 35.925-11, 35.928 et seq. and 35.935-15, regarding industrial cost recovery, if applicable;

(iii) § 35.925-16, regarding costs allocable to Federal facilities, if applicable;

(iv) § 35.927-4 regarding a sewer use ordinance;

(v) § 30.405-2 and part 4 of this chapter, regarding compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, if applicable; and,

(vi) Other applicable Federal statutory and regulatory requirements (see subpart C of part 30 of this chapter).

(9) After June 30, 1980, for grantees subject to pretreatment requirements under § 35.907(b), the items required by § 35.907(d)(1), (d)(2), and (d)(4).

(c) *Step 3. Building and erection of a treatment works.* Prior to the award of a grant or grant amendment for a step 3 project, the applicant must furnish the following:

(1) Each of the items specified in paragraph (b) of this section (in compliance with paragraph (b)(6), the final intermunicipal agreements must be furnished);

(2) Construction drawings and specifications suitable for bidding purposes;

(3) A schedule for or evidence of compliance with §§ 35.925-10 and 35.935-12 concerning an operation and maintenance program, including a preliminary plan of operation; and

(4) After December 31, 1980, the items required by § 35.907(d)(1) through (d)(9), as applicable, for grantees subject to pretreatment requirements under § 35.907(b).

(d) *Step 2+3.* Combination design and construction of a treatment works. Before the award of a grant or grant amendment for a step 2+3 project, the grantee must furnish: (1) Each of the items specified in paragraph (b) of this section, and (2) a schedule for timely submission of plans and specifications, operation and maintenance manual, user charge and industrial cost recovery systems, sewer use ordinance, and a preliminary plan of operation.

(e) *Training facility project.* An application for grant assistance for construction and support of a training facility, facilities or training programs under section 109(b) of the Act shall include:

(1) A statement concerning the suitability of the treatment works facility, facilities or training programs for training operations and maintenance personnel for treatment works throughout one or more States;

(2) A written commitment from the State agency or agencies to carry out at such facility a program of training approved by the Regional Administrator;

(3) An engineering report (required only if a facility is to be constructed) including facility design data and cost estimates for design and construction;

(4) A detailed outline of the training programs, including (for 1-, 3-, and 5-year projections):

(i) An assessment of need for training,

(ii) How the need was determined,

(iii) Who would be trained,

(iv) What curriculum and materials would be used,

(v) What type of delivery system will be used to conduct training, (i.e., State vocational education system, State environmental agency, universities or private organizations),

(vi) What resources are available for the program,

(vii) A budget breakdown on the cost of the program, and

(viii) The relationship of the facility or programs to other training programs.

§ 35.925 Limitations on award.

Before awarding initial grant assistance for any project for a treatment works through a grant or grant amendment, the Regional Administrator shall determine that all of the applicable requirements of § 35.920-3 have been met. He shall also determine the following:

§ 35.925-1 Facilities planning.

That, if the award is for step 2, step 3, or step 2+3 grant assistance, the facilities planning requirements in § 35.917 et seq. have been met.

§ 35.925-2 Water quality management plans and agencies.

That the project is consistent with any applicable water quality management (WQM) plan approved under section 208 or section 303(e) of the Act; and that the applicant is the wastewater management agency designated in any WQM plan certified by the Governor and approved by the Regional Administrator.

§ 35.925-3 Priority determination.

That such works are entitled to priority in accordance with § 35.915, and that the award of grant assistance for the proposed project will not jeopardize the funding of any treatment works of higher priority.

§ 35.925-4 State allocation.

That the award of grant assistance for a particular project will not cause the total of all grant assistance which applicants within a State received, including grant increases, to exceed the total of all allotments and reallotments available to the State under § 35.910.

§ 35.925-5 Funding and other capabilities.

That the applicant has:

(a) Agreed to pay the non-Federal project costs, and

(b) The legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of the treatment works throughout the applicant's jurisdiction. (Also see § 30.340-3 of this subchapter.)

§ 35.925-6 Permits.

That the applicant has, or has applied for, the permit or permits as required by the national pollutant discharge elimination system (NPDES) with respect to existing discharges affected by the proposed project.

§ 35.925-7 Design.

That the treatment works design will be (in the case of projects involving step 2) or has been (in the case of projects for step 3) based upon:

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(a) Appendix A to this subpart, so that the design, size, and capacity of such works are cost-effective and relate directly to the needs they serve, including adequate reserve capacity;

(b) Subject to the limitations set forth in § 35.930-4, achievement of applicable effluent limitations established under the Act, or BPWTT (see § 35.917-1(d)(5)), including consideration, as appropriate, for the application of technology which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants;

(c) The sewer system evaluation and rehabilitation requirements of § 35.927; and

(d) The value engineering requirements of § 35.926 (b) and (c).

§ 35.925-8 Environmental review.

(a) That, if the award is for step 2, step 3, or step 2+3, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to the project step have been met. The grantee or grant applicant must prepare an adequate assessment of expected environmental impacts, consistent with the requirements of part 6 of this chapter, as part of facilities planning, in accordance with § 35.917-1(d)(7). The Regional Administrator must insure that an environmental impact statement or a negative declaration is prepared in accordance with part 6 of this chapter (particularly §§ 6.108, 6.200, 6.212, and 6.504) in conjunction with EPA review of a facility plan and issued before any award of step 2 or step 3 grant assistance.

(b) The Regional Administrator may not award step 2 or step 3 grant assistance if the grantee has not made, or agreed to make, pertinent changes in the project, in accordance with determinations made in a negative declaration or environmental impact statement. He may condition a grant to ensure that the grantee will comply, or seek to obtain compliance, with such environmental review determinations. The conditions may address secondary impacts to the extent deemed appropriate by the Regional Administrator.

§ 35.925-9 Civil rights.

That if the award of grant assistance is for a project involving step 2 or step 3, the applicable requirements of the Civil Rights Act of 1964 and part 7 of this chapter have been met.

§ 35.925-10 Operation and maintenance program.

If the award of grant assistance is for a step 3 project, that the applicant has made satisfactory provision to assure proper and efficient operation and maintenance of the treatment works (including the sewer system), in accordance with § 35.935-12, and that the State will have an effective operation and maintenance monitoring program to assure that treatment works assisted under this subpart comply with applicable permit and grant conditions.

§ 35.925-11 User charges and industrial cost recovery.

That, in the case of grant assistance for a project involving step 2 or step 3, the grantee has complied or will comply with the requirements for user charge and industrial cost recovery systems. (See §§ 35.928 et seq., 35.929 et seq., 35.935-13, and 35.935-15.)

(a) *Grants awarded before July 1, 1979.* Grantees must submit a schedule of implementation to show that their user charge and industrial cost recovery systems will be approved in accordance with the requirements of §§ 35.935-13 and 35.935-15.

(b) *Grants awarded after June 30, 1979.* The grantee's user charge and industrial cost recovery systems must be approved before the award of step 3 grant assistance.

(c) *Letters of intent.* In the case of any grant assistance for a project involving step 2 or step 3, the applicant must have received signed letters of intent from each significant industrial user stating that it will pay that portion of the grant amount allocable to the treatment of its wastes. Each such letter shall also include a statement of the industrial user's intended period of use of the treatment works. A significant industrial user is one that will contribute greater than 10 percent of the design flow or design pollutant loading of the treatment works. In addition, the applicant must agree to require all industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users.

§ 35.925-12 Property.

That the applicant has demonstrated to the satisfaction of the Regional Administrator that it has met or will met the property requirements of § 35.935-3.

§ 35.925-13 Sewage collection system.

That, if the project involves sewage collection system work, such work (a) is for the replacement or major rehabilitation of an existing sewer system under § 35.927-3(a) and is necessary to the total integrity and performance of the waste treatment works serving the community, or (b) is for a new sewer system in a community in existence on October 18, 1972, which has sufficient existing or planned capacity to adequately treat such collected sewage. Replacement or major rehabilitation of an existing sewer system may be approved only if cost-effective; the result must be a sewer system design capacity equivalent to that of the existing system plus a reasonable amount for future growth. For purposes of this section, a community would include any area with substantial human habitation on October 18, 1972, as determined by an evaluation of each tract (city blocks or parcels of 5 acres or less where city blocks do not exist). No award may be made for a new sewer system in a community in existence on October 18, 1972, unless the Regional Administrator further determines that:

(a) The bulk (generally two-thirds) of the expected flow (flow from existing plus projected future habitations) from the collection system will be for waste waters originating from the community (habitations) in existence on October 18, 1972;

(b) The collection system is cost-effective;

(c) The population density of the area to be served has been considered in determining the cost-effectiveness of the proposed project;

(d) The collection system conforms with any approved WQM plan, other environmental laws in accordance with § 35.925-14, Executive Orders on Wetlands and Floodplains and Agency policy on wetlands and agricultural lands; and

(e) The system would not provide capacity for new habitations or other establishments to be located on environmentally sensitive land such as wetlands, floodplains or prime agricultural lands. Appropriate and effective grant conditions, (e.g., restricting sewer hook-up) should be used where necessary to protect these resources from new development.

§ 35.925-14 Compliance with environmental laws.

That the treatment works will comply with all pertinent requirements of applicable Federal, State and local environmental laws and regulations. (See § 30.101 and subpart C of part 30 of this chapter and the Clean Air Act.)

§ 35.925-15 Treatment of industrial wastes.

That the allowable project costs do not include (1) costs of interceptor or collector lines constructed exclusively, or almost exclusively, to serve industrial users or (2) costs allocable to the treatment for control or removal of pollutants in wastewater introduced into the treatment works by industrial users, unless the applicant is required to remove such pollutants introduced from nonindustrial sources. The project must be included in a complete waste treatment system, a principal purpose of which project (as defined

by the Regional Administrator; see §§ 35.903(d) and 35.905) and system is the treatment of domestic wastes of the entire community, area, region or district concerned. See the pretreatment regulations in part 403 of this chapter and § 35.907.

§ 35.925-16 Federal activities.

That the allowable step 2 or step 3 project costs do not include the proportional costs allocable to the treatment of wastes from major activities of the Federal Government. A "major activity" includes any Federal facility which contributes either (a) 250,000 gallons or more per day or (b) 5 percent or more of the total design flow of waste treatment works, whichever is less.

§ 35.925-17 Retained amounts for reconstruction and expansion.

That the allowable project costs have been reduced by an amount equal to the unexpended balance of the amounts the applicant retains for future reconstruction and expansion under § 35.928-2(a)(2)(ii), together with interest earned.

§ 35.925-18 Limitation upon project costs incurred prior to award.

That project construction has not been initiated before the approved date of initiation of construction (as defined in § 35.905), unless otherwise provided in this section.

(a) *Step 1 or Step 2:* No grant assistance is authorized for step 1 or step 2 project work performed before award of a step 1 or step 2 grant. However, payment is authorized, in conjunction with the first award of grant assistance, for all preaward allowable project costs in the following cases:

(1) Step 1 work begun after the date of approval by the Regional Administrator of a plan of study, if the State requests and the Regional Administrator has reserved funds for the step 1 grant. However, the step 1 grant must be applied for and awarded within the allotment period of the reserved funds.

(2) Step 1 or step 2 work begun after October 31, 1974, but before June 30, 1975, in accordance with an approved plan of study or an approved facilities plan, as appropriate, but only if a grant is awarded before April 1, 1981.

(3) Step 1 or step 2 work begun before November 1, 1974, but only if a grant is awarded before April 1, 1980.

(b) *Step 3:* Except as otherwise provided in this paragraph, no grant assistance for a step 3 project may be awarded unless the award precedes initiation of the step 3 construction. Preliminary step 3 work, such as advance acquisition of major equipment items requiring long lead times, acquisition of an option for the purchase of eligible land, or advance construction of minor portions of treatment works, including associated engineering costs, in emergencies or instances where delay could result in significant cost increases, may be approved by the Regional Administrator after completion of environmental review, but only if (1) the applicant submits a written and adequately substantiated request for approval and (2) written approval by the Regional Administrator is obtained before initiation of the advance acquisition or advance construction.

(c) The approval of a plan of study, a facilities plan, or advance acquisition of equipment or advance construction will not constitute a commitment for approval of grant assistance for a subsequent treatment works project, but will allow payment for the previously approved costs as allowable project costs upon subsequent award of grant assistance, if requested before grant award (see § 35.945(a)). In instances where such approval is obtained, the applicant proceeds at its own risk, since payment for such costs cannot be made unless grant assistance for the project is awarded.

§ 35.925-19 [Reserved]

§ 35.925-20 Procurement.

That the applicant has complied or will comply with the applicable provisions of §§ 35.935 through 35.939 with respect to procurement actions taken before the award of step 1, 2, or 3 grant assistance, such as submission of the information required under § 35.937-6.

§ 35.925-21 Storm sewers.

That, under section 211(c) of the Act, the allowable project costs do not include costs of treatment works for control of pollutant discharges from a separate storm sewer system (as defined in § 35.905).

§ 35.926 Value Engineering (VE).

(a) *Value engineering proposal.* All step 2 grant applications for projects having a projected total step 3 grant eligible cost of $10 million or more, excluding the cost for interceptor and collector sewers, will contain a VE commitment. The VE proposal submitted during step 2 must contain enough information to determine the adequacy of the VE effort and the justification of the proposed VE fee. Essential information shall include:

(1) Scope of VE analysis;

(2) VE team and VE coordinator (names and background);

(3) Level of VE effort;

(4) VE cost estimate;

(5) VE schedule in relation to project schedule (including completion of VE analysis and submittal of VE summary reports).

(b) *Value engineering analysis.* For projects subject to the VE requirements of paragraph (a) of this section, a VE analysis of the project design shall be performed. When the VE analysis is completed, a preliminary report summarizing the VE findings and a final report describing implementation of the VE recommendations must be submitted to the project officer on a schedule approved by him.

(c) *Implementation.* For those projects for which a VE analysis has been performed in accordance with paragraph (b) of this section, VE recommendations shall be implemented to the maximum extent feasible, as determined by the grantee, subject to the approval of the EPA project officer. Rejection of any recommendation shall be on the basis of cost-effectiveness, reliability, extent of project delays, and other factors that may be critical to the treatment processes and the environmental impact of the project.

§ 35.927 Sewer system evaluation and rehabilitation.

(a) All applicants for step 2 or step 3 grant assistance must demonstrate to the Regional Administrator's satisfaction that each sewer system discharging into the treatment works project for which grant application is made is not or will not be subject to excessive infiltration/inflow. A determination of whether excessive infiltration/inflow exists may take into account, in addition to flow and related data, other significant factors such as cost-effectiveness (including the cost of substantial treatment works construction delay, see appendix A to this subpart), public health emergencies, the effects of plant bypassing or overloading, or relevant economic or environmental factors.

(b) A sewer system evaluation will generally be used to determine whether or not excessive infiltration/inflow exists. It will consist of:

(1) Certification by the State agency, as appropriate; and, when necessary,

(2) An infiltration/inflow analysis; and, if appropriate,

(3) A sewer system evaluation survey and, if appropriate, a program, including an estimate of costs, for rehabilitation of the sewer system to eliminate excessive infiltration/inflow identified in the sewer system evaluation. Information submitted to the Regional Administrator for such determination should be the minimum necessary to enable him to make a judgment.

(c) Guidelines on sewer system evaluation published by the Administrator provide further advisory information (see § 35.900(c)). Also see §§ 35.925-7(c) and 35.935-16.

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§ 35.927-1 Infiltration/inflow analysis.

(a) The infiltration/inflow analysis shall demonstrate the nonexistence or possible existence of excessive infiltration/inflow in the sewer system. The analysis should identify the presence, flow rate, and type of infiltration/inflow conditions which exist in the sewer system.

(b) For determination of the possible existence of excessive infiltration/inflow, the analysis shall include an estimate of the cost of eliminating the infiltration/inflow conditions. These costs shall be compared with estimated total costs for transportation and treatment of the infiltration/inflow. Cost-effectiveness analysis guidelines (appendix A to this subpart) should be consulted with respect to this determination.

(c) If the infiltration/inflow analysis demonstrates the existence or possible existence of excessive infiltration/inflow a detailed plan for a sewer system evaluation survey shall be included in the analysis. The plan shall outline the tasks to be performed in the survey and their estimated costs.

§ 35.927-2 Sewer system evaluation survey.

(a) The sewer system evaluation survey shall identify the location, estimated flow rate, method of rehabilitation and cost of rehabilitation versus cost of transportation and treatment for each defined source of infiltration/inflow.

(b) A report shall summarize the results of the sewer system evaluation survey. In addition, the report shall include:

(1) A justification for each sewer section cleaned and internally inspected.

(2) A proposed rehabilitation program for the sewer system to eliminate all defined excessive infiltration/inflow.

§ 35.927-3 Rehabilitation.

(a) Subject to State concurrence, the Regional Administrator may authorize the grantee to perform minor rehabilitation concurrently with the sewer system evaluation survey in any step under a grant if sufficient funding can be made available and there is no adverse environmental impact. However, minor rehabilitation work in excess of $10,000 which is not accomplished with force account labor (see § 35.936-14(a)(2)), must be procured through formal advertising in compliance with the applicable requirements of §§ 35.938 et seq. and 35.939, the statutory requirements referenced in §§ 30.415 through 30.415-4 of this subchapter, and other applicable provisions of part 30.

(b) Grant assistance for a step 3 project segment consisting of major rehabilitation work may be awarded concurrently with step 2 work for the design of the new treatment works.

(c) The scope of each treatment works project defined within the facilities plan as being required for implementation of the plan, and for which Federal assistance will be requested, shall define (1) any necessary new treatment works construction and (2) any rehabilitation work (including replacement) determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation which should be a part of the applicant's normal operation and maintenance responsibilities shall not be included within the scope of a step 3 treatment works project.

(d) Only rehabilitation of the grantee's sewage collection system is eligible for grant assistance. However, the grantee's costs of rehabilitation beyond "Y" fittings (see definition of "sewage collection system" in § 35.905) may be treated on an incremental cost basis.

§ 35.927-4 Sewer use ordinance.

Each applicant for grant assistance for a step 2 or step 3 project shall demonstrate to the satisfaction of the Regional Administrator that a sewer use ordinance or other legally binding requirement will be enacted and enforced in each jurisdiction served by the treatment works project before the completion of construction. The ordinance shall prohibit any new connections from inflow sources into the sanitary sewer portions of the sewer system and shall insure that new sewers and connections to the sewer system are properly designed and constructed.

§ 35.927-5 Project procedures.

(a) *State certification.* The State agency may (but need not) certify that excessive infiltration/inflow does or does not exist. The Regional Administrator will determine that excessive infiltration/inflow does not exist on the basis of State certification, if he finds that the State had adequately established the basis for its certification through submission of only the minimum information necessary to enable a judgment to be made. Such information could include a preliminary review by the applicant or State, for example, of such parameters as per capita design flow, ratio of flow to design flow, flow records or flow estimates, bypasses or overflows, or summary analysis of hydrological, geographical, and geological conditions, but this review would not usually be equivalent to a complete infiltration/inflow analysis. State certification must be on a project-by-project basis. If, on the basis of State certification, the Regional Administrator determines that the treatment works is or may be subject to excessive infiltration/inflow, no step 2 or step 3 grant assistance may be awarded except as paragraph (c) of this section provides.

(b) *Pre-award sewer system evaluation.* Generally, except as otherwise provided in paragraph (c) of this section, an adequate sewer system evaluation, consisting of a sewer system analysis and, if required, an evaluation survey, is an essential element of step 1 facilities planning. It is a prerequisite to the award of step 2 or 3 grant assistance. If the Regional Administrator determines through State Certification or an infiltration/inflow analysis that excessive infiltration/inflow does not exist, step 2 or 3 grant assistance may be awarded. If on the basis of State certification or the infiltration/inflow analysis, the Regional Administrator determines that possible excessive infiltration/inflow exists, an adequate sewer system evaluation survey and, if required, a rehabilitation program must be furnished, except as set forth in paragraph (c) of this section before grant assistance for step 2 or 3 can be awarded. A step 1 grant may be awarded for the completion of this segment of step 1 work, and, upon completion of step 1, grant assistance for a step 2 or 3 project (for which priority has been determined under § 35.915) may be awarded.

(c) *Exception.* If the Regional Administrator determines that the treatment works would be regarded (in the absence of an acceptable program of correction) as being subject to excessive infiltration/inflow, grant assistance may be awarded if the applicant establishes to the Regional Administrator's satisfaction that the treatment works project for which grant application is made will not be significantly changed by any subsequent rehabilitation program or will be a component part of any rehabilitated system. The applicant must agree to complete the sewer system evaluation and any resulting rehabilitation on an implementation schedule the State accepts (subject to approval by the Regional Administrator), which shall be inserted as a special condition in the grant agreement.

(d) *Regional Administrator review.* Municipalities may submit through the State agency the infiltration/inflow analysis and, when appropriate, the sewer system evaluation survey to the Regional Administrator for his review at any time before application for a treatment works grant. Based on such a review, the Regional Administrator shall provide the municipality with a written response indicating either his concurrence or nonconcurrence. In order for the survey to be an allowable cost, the Regional Administrator must concur with the sewer system evaluation survey plan before the work is performed.

§ 35.928 Requirements for an industrial cost recovery system.

(a) The Regional Administrator shall approve the grantee's industrial cost recovery system and the grantee shall implement and maintain it in accordance with § 35.935-15 and the requirements in §§ 35.928-1 through 35.928-4. The grantee shall be subject to the noncompliance provisions of § 35.965 for failure to comply.

(b) Grantees awarded step 3 grants under regulations promulgated on February 11, 1974, or grantees who obtained approval of their industrial cost recovery systems before April 25, 1978, may amend their systems to correspond to the definition of industrial users in § 35.905 or to provide for systemwide industrial cost recovery under § 35.928-1(g).

§ 35.928-1 Approval of the industrial cost recovery system.

The Regional Administrator may approve an industrial cost recovery system if it meets the following requirements:

(a) *General.* Each industrial user of the treatment works shall pay an annual amount equal to its share of the total amount of the step 1, 2, and 3 grants and any grant amendments awarded under this subpart, divided by the number of years in the recovery period. An industrial user's share shall be based on factors which significantly influence the cost of the treatment works. Volume of flow shall be a factor in determining an industrial user's share in all industrial cost recovery systems; other factors shall include strength, volume, and delivery flow rate characteristics, if necessary, to insure that all industrial users of the treatment works pay a proportionate distribution of the grant assistance allocable to industrial use.

(b) *Industrial cost recovery period.* The industrial cost recovery period shall be equal to 30 years or to the useful life of the treatment works, whichever is less.

(c) *Frequency of payment.* Except as provided in § 35.928-3, each industrial user shall pay not less often than annually. The first payment by an industrial user shall be made not later than 1 year after the user begins use of the treatment works.

(d) *Reserve capacity.* If an industrial user enters into an agreement with the grantee to reserve a certain capacity in the treatment works, the user's industrial cost recovery payments shall be based on the total reserved capacity in relation to the design capacity of the treatment works. If the discharge of an industrial user exceeds the reserved capacity in volume, strength or delivery flow rate characteristics, the user's industrial cost recovery payment shall be increased to reflect the actual use. If there is no reserve capacity agreement between the industrial user and the grantee, and a substantial change in the strength, volume, or delivery flow rate characteristics of an industrial user's discharge share occurs, the user's share shall be adjusted proportionately.

(e) *Upgrading and expansion.* (1) If the treatment works are upgraded, each existing industrial user's share shall be adjusted proportionately.

(2) If the treatment works are expanded, each industrial user's share shall be adjusted proportionately, except that a user with reserved capacity under paragraph (d) of this section shall incur no additional industrial cost recovery charges unless the user's actual use exceeded its reserved capacity.

(g) *Collection of industrial cost recovery payments.* Industrial cost recovery payments may be collected on a systemwide or on a project-by-project basis. The total amount collected from all industrial users on a systemwide basis shall equal the sum of the amounts which would be collected on a project-by-project basis.

(h) *Adoption of system.* One or more municipal legislative enactments or other appropriate authority must incorporate the industrial cost recovery system. If the project is a regional treatment works accepting waste waters from other municipalities, the subscribers receiving waste treatment services from the grantee shall adopt industrial cost recovery systems in accordance with section 204(b)(1)(B) of the Act and §§ 35.928 through 35.928-4. These industrial cost recovery systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing wastes to the treatment works.

(i) *Inconsistent agreements.* The grantee may have pre-existing agreements which address (1) the reservation of capacity in the grantee's treatment works or (2) the charges to be collected by the grantee in providing waste water treatment services or reserving capacity. The industrial cost recovery system shall take precedence over any terms or conditions of agreements or contracts between the grantee and industrial users which are inconsistent with the requirements of section 204(b)(1)(B) of the Act and these industrial cost recovery regulations.

§ 35.928-2 Use of industrial cost recovery payments.

(a) The grantee shall use industrial cost recovery payments received from industrial users as follows:

(1) The grantee shall return 50 percent of the amounts received from industrial users, together with any interest earned, to the U.S. Treasury annually.

(2) The grantee shall retain 50 percent of the amount recovered from industrial users.

(i) A portion of the amounts which the grantee retains may be used to pay the incremental costs of administration of the industrial cost recovery system. The incremental costs of administration are those costs remaining after deducting all costs reasonably attributable to the administration of the user charge system. The incremental costs shall be segregated from all other administrative costs of the grantee.

(ii) A minimum of 80 percent of the amounts the grantee retains after paying the incremental costs of administration, together with any interest earned, shall be used for the allowable costs (see § 35.940) of any expansion, upgrading or reconstruction of treatment works necessary to meet the requirements of the Act. The grantee shall obtain the written approval of the Regional Administrator before the commitment of the amounts retained for expansion, upgrading, or reconstruction.

(iii) The remainder of the amounts retained by the grantee may be used as the grantee sees fit, except that they may not be used for construction of industrial pretreatment facilities or rebates to industrial users for costs incurred in complying with user charge or industrial cost recovery requirements.

(b) Pending the use of industrial cost recovery payments, as described in paragraph (a) of this section, the grantee shall:

(1) Invest the amounts received in obligations of the U.S. Government or in obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or

(2) Deposit the amounts received in accounts fully collateralized by obligations of the U.S. Government or any agency thereof.

§ 35.928-3 Implementation of the industrial cost recovery system.

(a) When a grantee's industrial cost recovery system is approved, implementation of the approved system shall become a condition of the grant.

(b) The grantee shall maintain all records that are necessary to document compliance with these regulations.

§ 35.928-4 Moratorium on industrial cost recovery payments.

(a) EPA does not require that industrial users defined in paragraphs (a) and (b) of the definition in § 35.905

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pay industrial cost recovery for charges incurred during the period after December 31, 1977, and before July 1, 1979. Any industrial cost recovery charges incurred for accounting periods or portions of periods ending before January 1, 1978, shall be paid by industrial users. These funds are to be used as described in § 35.928-2.

(b) Grantees may either defer industrial cost recovery payments, or require industrial users as defined in paragraphs (a) and (b) of the definition in § 35.905 to pay industrial cost recovery payments for the period after December 31, 1977, and before July 1, 1979. If grantees require payment, the amount held by the municipality for eventual return to the U.S. Treasury under § 35.928-2(a)(1) shall be invested as required under § 35.928-2(b) until EPA advises how such sums shall be distributed. Grantees shall implement or continue operating approved industrial cost recovery systems and maintain their activities of monitoring flows, calculating payments due, and submitting bills to industrial users informing them of their current or deferred obligation.

(c) Industrial users as defined in paragraphs (a) and (b) of the definition in § 35.905 who are served by grantees who defer payment during the 18-month period ending June 30, 1979, shall make industrial cost recovery payments for that period in a lump sum by June 30, 1980, or in equal annual installments prorated from July 1, 1979, over the remaining industrial cost recovery period.

§ 35.929 Requirements for user charge system.

The Regional Administrator shall approve the grantee's user charge system and the grantee shall implement and maintain it in accordance with § 35.935-13 and the requirements in §§ 35.929-1 through 35.929-3. The grantee shall be subject to the noncompliance provisions of § 35.965 for failure to comply.

§ 35.929-1 Approval of the user charge system.

The Regional Administrator may approve a user charge system based on either actual use under paragraph (a) of this section or ad valorem taxes under paragraph (b) of this section. The general requirements in §§ 35.929-2 and 35.929-3 must also be satisfied.

(a) *User charge system based on actual use.* A grantee's user charge system based on actual use (or estimated use) of waste water treatment services may be approved if each user (or user class) pays its proportionate share of operation and maintenance (including replacement) costs of treatment works within the grantee's service area, based on the user's proportionate contribution to the total waste water loading from all users (or user classes). To insure a proportional distribution of operation and maintenance costs to each user (or user class), the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.

(b) *User charges based on ad valorem taxes.* A grantee's user charge system (or the user charge system of a subscriber, i.e., a constituent community receiving waste treatment services from the grantee) which is based on ad valorem taxes may be approved if it meets the requirements of paragraphs (b)(1) through (b)(7) of this section. If the Regional Administrator determines that the grantee did not have a dedicated ad valorem tax system on December 27, 1977, meeting the requirements of paragraphs (b)(1) through (b)(3) of this section, the grantee shall develop a user charge system based on actual use under § 35.929-1(a).

(1) The grantee (or subscriber) had in existence on December 27, 1977, a system of ad valorem taxes which collected revenues to pay the cost of operation and maintenance of waste water treatment works within the grantee's service area and has continued to use that system.

(2) The grantee (or subscriber) has not previously obtained approval of a user charge system on actual use.

(3) The system of ad valorem taxes in existence on December 27, 1977, was dedicated ad valorem tax system.

(i) A grantee's system will be considered to be dedicated if the Regional Administrator determines that the system meets all of the following criteria:

(A) The ad valorem tax system provided for a separate tax rate or for the allocation of a portion of the taxes collected for payment of the grantee's costs of waste water treatment services;

(B) The grantee's budgeting and accounting procedures assured that a specified portion of the tax funds would be used for the payment of the costs of operation and maintenance;

(C) The ad valorem tax system collected tax funds for the costs of waste water treatment services which could not be or historically were not used for other purposes; and

(D) The authority responsible for the operation and maintenance of the treatment works established the budget for the costs of operation and maintenance and used those specified amounts solely to pay the costs of operation and maintenance.

(ii) A subscriber's system based on ad valorem taxes will be considered to be dedicated if a contractual agreement or a charter established under State law existed on December 27, 1977, which required the subscriber to pay its share of the cost of waste water treatment services.

(4) A user charge system funded by dedicated ad valorem taxes shall establish, as a minimum, the classes of users listed below:

(i) Residential users, including single-family and multifamily dwellings, and small nonresidential users, including nonresidential commercial and industrial users which introduce no more than the equivalent of 25,000 gallons per day of domestic sanitary wastes to the treatment works;

(ii) Industrial and commercial users:

(A) Any nongovernmental user of publicly owned treatment works which discharges more than 25,000 gallons per day (gpd) of sanitary waste; or a volume of process waste, or combined process and sanitary waste, equivalent to 25,000 gpd of sanitary waste. The grantee, with the Regional Administrator's approval, shall define the strength of the residential discharges in terms of parameters including, as a minimum, biochemical oxygen demand (BOD) and suspended solids (SS) per volume of flow. Dischargers with a volume exceeding 25,000 gpd or the weight of BOD or SS equivalent to that weight found in 25,000 gpd of sanitary waste are considered industrial users.

(B) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(iii) Users which pay no ad valorem taxes or receive substantial credits in paying such taxes, such as tax exempt institutions or governmental users, but excluding publicly owned facilities performing local governmental functions (e.g., city office building, police station, school) which discharge solely domestic wastes.

(5) The grantee must be prepared to demonstrate for the Regional Administrator's approval that its system of evaluating the volume, strength, and characteristics of the discharges from users or categories of users classified within the subclass of small nonresidential users is sufficient to assure that such users or the average users in such categories do not discharge either toxic pollutants or more than

the equivalent of 25,000 gallons per day of domestic wastewater.

(6) The ad valorem user charge system shall distribute the operation and maintenance costs for all treatment works in the grantee's jurisdiction to the residential and small nonresidential user class, in proportion to the use of the treatment works by this class. The proportional allocation of costs for this user class shall take into account the total waste water loading of the treatment works, the constituent elements of the wastes from this user class and other appropriate factors. The grantee may assess one ad valorem tax rate to this entire class of users or, if permitted under State law, the grantee may assess different ad valorem tax rates for the subclass of residential users and the subclass of small nonresidential users provided the operation and maintenance costs are distributed proportionately between these subclasses.

(7) Each member of the industrial and commercial user class described under paragraph (b)(4)(ii) of this section and of the user class which pays no ad valorem taxes or receives substantial credits in paying such taxes described under paragraph (b)(4)(iii) of this section shall pay its share of the costs of operation and maintenance of the treatment works based upon charges for actual use (in accordance with § 35.929-1(a)). The grantee may use its ad valorem tax system to collect, in whole or in part, those charges from members of the industrial and large commercial class where the following conditions are met:

(i) A portion or all of the ad valorem tax rate assessed to members of this class has been specifically designated to pay the costs of operation and maintenance of the treatment works, and that designated rate is uniformly applied to all members of this class;

(ii) A system of surcharges and rebates is employed to adjust the revenues from the ad valorem taxes collected from each user of this class in accordance with the rate designated under paragraph (b)(7)(i) of this section, such that each member of the class pays a total charge for its share of the costs of operation and maintenance based upon actual use.

§ 35.929-2 General requirements for all user charge systems.

User charge systems based on actual use under § 35.929-1(a) or ad valorem taxes under § 35.929-1(b) shall also meet the following requirements:

(a) *Initial basis for operation and maintenance charges.* For the first year of operation, operation and maintenance charges shall be based upon past experience for existing treatment works or some other method that can be demonstrated to be appropriate to the level and type of services provided.

(b) *Biennial review of operation and maintenance charges.* The grantee shall review not less often than every 2 years the waste water contribution of users and user classes, the total costs of operation and maintenance of the treatment works, and its approved user charge system. The grantee shall revise the charges for users or user classes to accomplish the following:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;

(2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

(c) *Toxic pollutants.* The user charge system shall provide that each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the grantee's treatment works shall pay for such increased costs.

(d) *Charges for operation and maintenance for extraneous flows.* The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) be distributed among all users of the grantee's treatment works system based upon either of the following:

(1) In the same manner that it distributes the costs of operation and maintenance among users (or user classes) for their actual use, or

(2) Under a system which uses one of any combination of the following factors on a reasonable basis:

(i) Flow volume of the users;

(ii) Land area of the users;

(iii) Number of hookups or discharges to the users;

(iv) Property valuation of the users, if the grantee has a user charge system based on ad valorem taxes approved under § 35.929-1(b).

(e) *Adoption of system.* One or more municipal legislative enactments or other appropriate authority must incorporate the user charge system. If the project is a regional treatment system accepting waste waters from other municipalities, the subscribers receiving waste treatment services from the grantee shall adopt user charge systems in accordance with section 204(b)(1)(A) of the Act and §§ 35.929 through 35.929-3. These user charge systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing wastes to the treatment works.

(f) *Notification.* Each user charge system must provide that each user be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges or ad valorem taxes which are attributable to waste water treatment services.

(g) *Inconsistent agreements.* The grantee may have preexisting agreements which address: (1) the reservation of capacity in the grantee's treatment works, or (2) the charges to be collected by the grantee in providing wastewater treatment services or reserving capacity. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the grantee and users (including industrial users, special districts, other municipalities, or Federal agencies or installations) which are inconsistent with the requirements of section 204 (b)(1)(A) of the Act and these regulations.

(h) *Costs of pretreatment program.* A user charge system submitted by a municipality with an approved pretreatment program shall provide that the costs necessary to carry out the program and to comply with any applicable requirements of section 405 of the Act and related regulations are included within the costs of operation and maintenance of the system and paid through user charges, or are paid in whole or in part by other identified sources of funds.

§ 35.929-3 Implementation of the user charge system.

(a) When a grantee's user charge system is approved, implementation of the approved system shall become a condition of the grant.

(b) The grantee shall maintain such records as are necessary to document compliance with these regulations.

(c) Appendix B to this subpart contains guidelines with illustrative examples of acceptable user charge systems.

(d) The Regional Administrator may review, no more often than annually, a grantee's user charge system to assure that it continues to meet the requirements of §§ 35.929-1 through 35.929-3.

§ 35.930 Award of grant assistance.

The Regional Administrator's approval of an application or amendments to it through execution of a grant agreement (including a grant amendment), in accordance with § 30.345 of this subchapter, shall constitute a contractual obligation of the United States for the payment of the Federal share of the allowable project costs, as determined by the Regional Administrator. Information about the approved project furnished in accordance with § 35.920-3 shall be consid-

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ered incorporated in the grant agreement.

§ 35.930-1 Types of projects.

(a) The Regional Administrator is authorized to award grant assistance for the following types of projects:

(1) *Step 1.* A facilities plan and related step 1 elements (see § 35.920-3(b)), if he determines that the applicant has submitted the items required under § 35.920-3(a);

(2) *Step 2.* Construction drawings and specifications, if he determines that the applicant has submitted the items required under § 35.920-3(b);

(3) *Step 3.* Building and erection of a treatment works, if he determines that the applicant has submitted the items required under § 35.920-3(c); or

(4) *Step 2 & 3.* A combination of design (step 2) and construction (step 3) for a treatment works (see § 35.909) if he determines that the applicant has submitted the items required under § 35.920-3(d).

(b) The Regional Administrator may award Federal assistance by a grant or grant amendment from any allotment or reallotment available to a State under § 35.910 et seq. for payment of 100 percent of the cost of construction of treatment works required to train and upgrade waste treatment works operations and maintenance personnel and for the costs of other operator training programs. Costs of other operator training programs are limited to mobile training units, classroom rental, specialized instructors, and instructional material, under section 109(b) of the Act.

(1) Where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each State. The Federal funds awarded under section 109(b) to any State for all training facilities or programs shall not exceed $500,000.

(2) Any grantee who received a grant under section 109(b) before December 27, 1977, is eligible to have the grant increased by funds made available under the Act, not to exceed 100 percent of eligible costs.

§ 35.930-2 Grant amount.

The grant agreement shall set forth the amount of grant assistance. The grant amount may not exceed the amount of funds available from the State allotments and reallotments under § 35.910 et seq. Grant payments will be limited to the Federal share of allowable project costs incurred within the grant amount or any increases effected through grant amendments (see § 35.955).

§ 35.930-3 Grant term.

The grant agreement shall establish the period within which the project must be completed, in accordance with § 30.345-1 of this chapter. This time period is subject to extension for excusable delay, at the discretion of the Regional Administrator.

§ 35.930-4 Project scope.

The grant agreement must define the scope of the project for which Federal assistance is awarded under the grant. The project scope must include a step or an identified segment. Grant assistance may be awarded for a segment of step 3 treatment works construction, when that segment in and of itself does not provide for achievement of applicable effluent discharge limitations, if:

(a) The segment is to be a component of an operable treatment works which will achieve the applicable effluent discharge limitations; and

(b) A commitment for completion of the entire treatment works is submitted to the Regional Administrator and that commitment is reflected in a special condition in the grant agreement.

§ 35.930-5 Federal share.

(a) *General.* The grant shall be 75 percent of the estimated total cost of construction that the Regional Administrator approves in the grant agreement, except as otherwise provided in paragraphs (b) and (c) of this section and in §§ 35.925-15, 35.925-16, 35.925-17, 35.930-1(b), and paragraph 10 of appendix A.

(b) *Innovative and alternative technology.* In accordance with § 35.908(b), the amount of any step 2, step 3, or step 2+3 grant assistance awarded from funds allotted for fiscal years 1979, 1980, and 1981 shall be 85 percent of the estimated cost of construction for those eligible treatment works or significant portions of them that the Regional Administrator determines meet the criteria for innovative or alternative technology in appendix E. These grants depend on the availability of funds from the reserve under § 35.915-1(b). The proportional State contribution to the non-Federal share of construction costs for 85-percent grants must be the same as or greater than the proportional State contribution (if any) to the non-Federal share of eligible construction costs for all treatment works which receive 75-percent grants in the State.

(c) *Modification and replacement of innovative and alternative projects.* In accordance with § 35.908(c) and procedures published by EPA, the Regional Administrator may award grant assistance to fund 100 percent of the eligible costs of the modification or replacement of any treatment works constructed with grant assistance based upon a Federal share of 85 percent under paragraph (b) of this section.

§ 35.930-6 Limitation on Federal share.

The grantee must exert its best efforts to perform the project work as specified in the grant agreement within the approved cost ceiling. If at any time the grantee believes that the costs which it expects to incur in the performance of the project will exceed or be substantially less than the previously approved estimated total project costs, the grantee must notify the Regional Administrator and the State agency promptly in writing. As soon as practicable, the grantee must give the revised estimate of total cost for the performance of the project (see § 30.900 of this subchapter). Delay in submission of the notice and excess cost information may prejudice approval of an increase in the grant amount. The United States shall not be obligated to pay for costs incurred in excess of the approved grant amount or any amendment to it until the State has approved an increase in the grant amount from available allotments under § 35.915 and the Regional Administrator has issued a written grant amendment under § 35.955.

§ 33.935 Grant conditions.

In addition to the EPA general grant conditions (subpart C and appendix A to part 30 of this subchapter), each treatment works grant shall be subject to the following conditions:

§ 35.935-1 Grantee responsibilities.

(a) Review or approval of project plans and specifications by or for EPA is for administrative purposes only and does not relieve the grantee of its responsibility to design, construct, operate, and maintain the treatment works described in the grant application and agreement.

(b) By its acceptance of the grant, the grantee agrees to complete the treatment works in accordance with the facilities plan, plans and specifications, and related grant documents approved by the Regional Administrator, and to maintain and operate the treatment works to meet the enforceable requirements of the Act for the design life of the treatment works. The Regional Administrator is authorized to seek specific enforcement or recovery of funds from the grantee, or to take other appropriate action (see § 35.965), if he determines that the grantee has failed to make good faith efforts to meet its obligations under the grant.

(c) The grantee agrees to pay, pursuant to section 204(a)(4) of the Act, the non-Federal costs of treatment works construction associated with the project and commits itself to complete the construction of the operable treatment works and complete waste treatment system (see definitions in § 35.905) of which the project is a part.

(d) The Regional Administrator may include special conditions in the grant or administer this subpart in the manner which he determines most appropriate to coordinate with, restate, or enforce NPDES permit terms and schedules.

§ 35.935-2 Procurement.

The grantee and party to any subagreement must comply with the applicable provisions of §§ 35.935 through 35.939 with respect to procurement for step 1, 2, or 3 work. The Regional Administrator will cause appropriate review of grantee procurement to be made.

§ 35.935-3 Property.

(a) The grantee must comply with the property provisions of § 30.810 et seq. of this subchapter with respect to all property (real and personal) acquired with project funds.

(b) With respect to real property (including easements) acquired in connection with the project, whether such property is acquired with or in anticipation of EPA grant assistance or solely with funds furnished by the grantee or others:

(1) The acquisition must be conducted in accordance with part 4 of this chapter;

(2) Any displacement of a person by or as a result of any acquisition of the real property shall be conducted under the applicable provisions of part 4 of this chapter; and

(3) The grantee must obtain (before initiation of step 3 construction), and must thereafter retain, a fee simple or such estate or interest in the site of a step 3 project, and rights of access, as the Regional Administrator finds sufficient to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project. If a step 3 project serves more than one municipality, the grantee must insure that the participating municipalities have, or will have before the initiation of step 3 construction, such interests or rights in land as the Regional Administrator finds sufficient to assure their undisturbed utilization of the project site for the estimated life of the project.

(c) With respect to real property acquired with EPA grant assistance, the grantee must defer acquisition of such property until approval of the Regional Administrator is obtained under § 35.940-3.

§ 35.935-4 Step 2+3 projects.

A grantee which has received step 2+3 grant assistance must make submittals required by § 35.920-3(c), together with approvable user charge and industrial cost recovery systems and a preliminary plan of operation. The Regional Administrator shall give written approval of these submittals before advertising for bids on the step 3 construction portion of the step 2+3 project. The cost of step 3 work initiated before such approval is not allowable. Failure to make the above submittals as required is cause for invoking sanctions under § 35.965.

§ 35.935-5 Davis-Bacon and related statutes.

Before soliciting bids or proposals for step 3-type work, the grantee must consult with the Regional Administrator concerning compliance with Davis-Bacon and other statutes referenced in § 30.415 et seq. of this subchapter.

§ 35.935-6 Equal employment opportunity.

Contracts involving step 3-type work of $10,000 or more are subject to equal employment opportunity requirements under Executive Order 11246 (see part 8 of this chapter). The grantee must consult with the Regional Administrator about equal employment opportunity requirements before issuance of an invitation for bids where the cost of construction work is estimated to be more than $1 million or where required by the grant agreement.

§ 35.935-7 Access.

The grantee must insure that EPA and State representatives will have access to the project work whenever it is in preparation or progress. The grantee must provide proper facilities for access and inspection. The grantee must allow the Regional Administrator, the Comptroller General of the United States, the State agency, or any authorized representative, to have access to any books, documents, plans, reports, papers, and other records of the contractor which are pertinent to the project for the purpose of making audit, examination, excerpts, copies and transcriptions. The grantee must insure that a party to a subagreement will provide access to the project work, sites, documents, and records. See §§ 30.605 and 30.805 of this subchapter, clause 9 of appendix C-1 to this subpart, and clause 10 of appendix C-2 to this subpart.

§ 35.935-8 Supervision.

In the case of any project involving step 3, the grantee will provide and maintain competent and adequate engineering supervision and inspection of the project to ensure that the construction conforms with the approved plans and specifications.

§ 35.935-9 Project initiation and completion.

(a) The grantee agrees to expeditiously initiate and complete the step 1, 2, or 3 project, or cause it to be constructed and completed, in accordance with the grant agreement and application, including the project progress schedule, approved by the Regional Administrator. Failure of the grantee to promptly initiate and complete step 1, 2, or 3 project construction may result in annulment or termination of the grant.

(b) No date reflected in the grant agreement, or in the project completion schedule, or extension of any such date, shall modify any compliance date established in an NPDES permit. It is the grantee's obligation to request any required modification of applicable permit terms or other enforceable requirements.

(c) The invitation for bids for step 3 project work is expected to be issued promptly after grant award. Generally this action should occur within 90 to 120 days after award unless compliance with State or local laws requires a longer period of time. The Regional Administrator shall annul or terminate the grant if initiation of all significant elements of step 3 construction has not occurred within 12 months of the award for the step 3 project (or approval of plans and specifications, in the case of a step 2+3 project). (See definition of "initiation of construction" under "construction" in § 35.905.) However, the Regional Administrator may defer (in writing) the annulment or termination for not more than 6 additional months if:

(1) The grantee has applied for and justified the extension in writing to the Regional Administrator;

(2) The grantee has given written notice of the request for extension to the NPDES permit authority;

(3) The Regional Administrator determines that there is good cause for the delay in initiation of project construction; and

(4) The State agency concurs in the extension.

§ 35.935-10 Copies of contract documents.

In addition to the notification of project changes under § 30.900 of this chapter, a grantee must promptly submit to the Regional Administrator a copy of any prime contract or modification of it and of revisions to plans and specifications.

§ 35.935-11 Project changes.

(a) In addition to the notification of project changes required under § 30.900-1 of this chapter, the Regional Administrator's and (where necessary) the State agency's prior written approval is required for:

(1) Project changes which may—

(i) Substantially alter the design and scope of the project;

(ii) Alter the type of treatment to be provided;

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(iii) Substantially alter the location, size, capacity, or quality of any major item of equipment; or

(iv) Increase the amount of Federal funds needed to complete the project.

However, prior EPA approval is not required for changes to correct minor errors, minor changes, or emergency changes; and

(2) Subagreement amendments amounting to more than $100,000 for which EPA review is required under §§ 35.937-6(b) and 35.938-5 (d) and (g).

(b) No approval of a project change under § 30.900 of this chapter shall obligate the United States to any increase in the amount of the grant or grant payments unless a grant increase is also approved under § 35.955. This does not preclude submission or consideration of a request for a grant amendment under § 30.900-1 of this chapter.

§ 35.935-12 Operation and maintenance.

(a) The grantee must make provision satisfactory to the Regional Administrator for assuring economic and effective operation and maintenance of the treatment works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency.

(b) As a minimum, the plan shall include provision for:

(1) An operation and maintenance manual for each facility;

(2) An emergency operating and response program;

(3) Properly trained management, operation and maintenance personnel;

(4) Adequate budget for operation and maintenance;

(5) Operational reports;

(6) Provisions for laboratory testing and monitoring adequate to determine influent and effluent characteristics and removal efficiencies as specified in the terms and conditions of the NPDES permit;

(7) An operation and maintenance program for the sewer system.

(c) Except as provided in paragraphs (d) and (e) of this section, the Regional Administrator shall not pay—

(1) More than 50 percent of the Federal share of any step 3 project unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft; or

(2) More than 90 percent of the Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual.

(d) In projects where segmenting of an operable treatment works has occurred, the Regional Administrator shall not pay—

(1) More than 50 percent of the Federal share of the total of all interdependent step 3 segments unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft, or

(2) More than 90 percent of the Federal share of the total of all interdependent step 3 segments unless the grantee has furnished a satisfactory final operation and maintenance manual.

(e) In multiple facility projects where an element or elements of the treatment works are operable components and have been completely constructed and placed in operation by the grantee, the Regional Administrator shall not make any additional step 3 payment unless the operation and maintenance manual (or those portions associated with the operating elements of the treatment works) submitted by the grantee has been approved by the Regional Administrator.

§ 35.935-13 Submission and approval of user charge systems.

The grantee shall obtain the approval of the Regional Administrator of its system of user charges. (See also § 35.929 et seq.)

(a) *Step 3 grant assistance awarded under regulations promulgated on February 11, 1974.* (1) Except as paragraph (a)(2) of this section provides, the grantee must obtain the Regional Administrator's approval of its system of user charges based on actual use which complies with § 35.929-1(a). The Regional Administrator shall not pay more than 50 percent of the Federal share of any step 3 project unless the grantee has submitted adequate evidence of timely development of its system of user charges nor shall the Regional Administrator pay more than 80 percent of the Federal share unless he has approved the system.

(2) A grantee which desires approval of a user charge system based on ad valorem taxes in accordance with § 35.929-1(b) shall submit to the Regional Administrator by July 24, 1978, evidence of compliance of its system with the criteria in § 35.929-1 (b)(1) through (b)(3). As soon as possible, the Regional Administrator shall advise the grantee if the system complies with § 35.929-1 (b)(1). The Regional Administrator's determination may be appealed in accordance with Subpart J, "Disputes," of part 30 of this subchapter.

(i) *Grantees whose ad valorem tax systems meet the criteria of § 35.929-1 (b)(1) through (b)(3).* Any step 3 payments held by the Regional Administrator at 50 percent or 80 percent for failure to comply with the requirement for development of a user charge system shall be released. However, the grantee shall obtain approval of its user charge system by June 30, 1979 or no further payments will be made until the sytem is approved and the grants may be terminated or annulled.

(ii) *Grantees whose ad valorem tax systems do not meet the criteria of § 35.929-1 (b)(1) through (b)(3).* Step 3 grants will continue to be administered in accordance with paragraph (a)(1) of this section.

(b) *Step 3 grant assistance awarded after April 24, 1978, but before July 1, 1979.* The grantee must obtain approval of its user charge system based on actual use or ad valorem taxes before July 1, 1979. The Regional Administrator may not make any payments on these grants, may terminate or annul these grants, and may not award any new step 3 grants to the same grantee after June 30, 1979, if the user charge system has not been approved. The Regional Administrator shall approve the grantee's user charge or ad valorem tax rates and the ordinance required under § 35.929-2(e) and the grantee shall enact them before the treatment works constructed with the grant are placed in operation.

(c) *Step 3 grant assistance awarded after June 30, 1979.* The Regional Administrator may not award step 3 grant assistance unless he has approved the user charge system based on actual use or ad valorem taxes. The Regional Administrator shall approve the grantee's user charge or ad valorem tax rates and the ordinance required under § 35.929-2(e) and the grantee shall enact them before the treatment works constructed with the grant are placed in operation.

§ 35.935-14 Final inspection.

The grantee shall notify the Regional Administrator through the State agency of the completion of step 3 project construction. The Regional Administrator shall cause final inspection to be made within 60 days of the receipt of the notice. When final inspection is completed and the Regional Administrator determines that the treatment works have been satisfactorily constructed in accordance with the grant agreement, the grantee may make a request for final payment under § 35.945(e).

§ 35.935-15 Submission and approval of industrial cost recovery system.

The grantee shall obtain the approval of the Regional Administrator of its system of industrial cost recovery. (See also § 35.928 et seq.)

(a) *Step 3 grant assistance awarded under regulations promulgated on February 11, 1974.* (1) The grantee must obtain the approval of the Regional Administrator for the system of industrial cost recovery (see § 35.928 et seq). The Regional Administrator shall not pay more than 50 percent of the Federal share of any step 3 project unless the grantee has submitted adequate evidence of timely development of its system of industrial cost recovery nor shall the Regional Administrator pay more than 80 percent of the Federal share unless he has approved the system.

(2) Payments of grantees held under paragraph (a)(1) of this section shall be released after April 25, 1978. However, the grantee shall obtain approval of its industrial cost recovery system by June 30, 1979, or no further payments will be made until the system is approved.

(b) *Step 3 grant assistance awarded after April 24, 1978, but before July 1, 1979.* The grantee must obtain approval of its industrial cost recovery system under these regulations, except for the ordinance and rates, before July 1, 1979. The Regional Administrator shall not make any payments on these grants and shall not award any new step 3 grants to the same grantee after June 30, 1979, if the industrial cost recovery system, except for the ordinance and rates, has not been approved. The grantee shall enact the ordinance required under § 35.928-1(h) and submit the ordinance and industrial cost recovery system rates to the Regional Administrator who must approve the ordinance before the treatment works are placed in operation.

(c) *Step 3 grant assistance awarded after June 30, 1979.* The grantee must obtain the Regional Administrator's approval of the industrial cost recovery system under these regulations, except for the ordinance and rates, before grant award. The grantee shall enact the ordinance required under § 35.928-1(h) and submit the ordinance and industrial cost recovery system rates to the Regional Administrator who must approve the ordinance before the treatment works are placed in operation.

§ 35.935-16 Sewer use ordinance and evaluation/rehabilitation program.

(a) The grantee must obtain the approval of the Regional Administrator of its sewer use ordinance under § 35,927-4.

(b) Except as provided in paragraphs (c) and (d) of this section, the Regional Administrator shall not pay more than 80 percent of the Federal share of any step 3 project unless he has approved the grantee's sewer use ordinance, and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

(c) In projects where segmenting of an operable treatment works has occurred, the Regional Administrator shall not pay more than 80 percent of the Federal share of the total of all interdependent step 3 segments unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

(d) In mulitple facility projects where an element or elements of the treatment works are operable components and have been completely constructed and placed in operation by the grantee, the Regional Administrator shall not make any additional step 3 payment unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under § 35.927-5.

§ 35.935-17 Training facility.

If assistance has been provided for the construction of a treatment works required to train and upgrade waste treatment personnel under §§ 35.930-1(b) and 35.920-3(e), the grantee must operate the treatment works as a training facility for a period of at least 10 years after construction is completed.

§ 35.935-18 Value engineering.

A grantee must comply with the applicable value engineering requirements of § 35.926.

§ 35.935-19 Municipal pretreatment program.

The grantee must obtain approval by the Regional Administrator of the municipal pretreatment program in accordance with part 403 of this chapter. Prior to granting such approval, the Regional Administrator shall not pay more than 90 percent of the Federal share of any step 3 project or cost of step 3 work under a step 2+3 project awarded after October 1, 1978, except that for any such grant assistance awarded before December 31, 1980, the Regional Administrator may continue grant payments if he determines that significant progress has been made (and is likely to continue) toward the development of an approvable pretreatment program and that withholding of grant payments would not be in the best interest of protecting the environment.

§ 35.935-20 Innovative processes and techniques.

If the grantee receives 85-percent grant assistance for innovative processes and techniques, the following conditions apply during the 5-year period following completion of construction:

(a) The grantee shall permit EPA personnel and EPA designated contractors to visit and inspect the treatment works at any reasonable time in order to review the operation of the innovative processes or techniques.

(b) If the Regional Administrator requests, the grantee will provide EPA with a brief written report on the construction, operation, and costs of operation of the innovative processes or techniques.

§ 35.936 Procurement.

(a) §§ 35.936 through 35.939 set forth policies and minimum standards for procurement of architectural or engineering services as defined in § 35.937 and construction contracts as described in § 35.938 by grantees under all steps of grants for construction of treatment works. Acquisition of real property shall be conducted in accordance with part 4 subpart F of this chapter. Other procurements of goods and services shall be conducted in accordance with the provisions of part 33 of this subchapter.

(b) This subpart does not apply to work beyond the scope of the project for which grant assistance is awarded (i.e., ineligible work).

§ 35.936-1 Definitions.

As used in §§ 35.936 through 35.939, the following words and terms shall have the meaning set forth below. All terms not defined herein shall have the meaning given to them in § 30.135 of this subchapter, and in § 35.905.

(a) *Grant agreement.* The written agreement and amendments thereto between EPA and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties under § 30.345 of this subchapter.

(b) *Subagreement.* A written agreement between an EPA grantee and another party (other than another public agency) and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts and subcontracts for personal and professional services, agreements with consultants and purchase orders, but excluding employment agreements subject to State or local personnel systems. (See §§ 35.937-12 and 35.938-9 regarding subcontracts of any tier under prime contracts for architectural or engineering services or construction awarded by the grantee—generally applicable only to subcontracts in excess of $10,000.)

(c) *Contractor.* A party to whom a subagreement is awarded.

(d) *Grantee.* Any municipality which has been awarded a grant for construction of a treatment works under this subpart. In addition, where appropriate in §§ 35.936 through 35.939, grantee may also refer to an applicant for a grant.

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§ 35.936–2 Grantee procurement systems; State or local law.

(a) *Grantee procurement systems.* Grantees may use their own procurement systems and procedures which meet applicable requirements of State, territorial, or local laws and ordinances to the extent that these systems and procedures do not conflict with the minimum requirements of this subchapter.

(b) *State or local law.* The Regional Administrator will generally rely on a grantee's determination regarding the application of State or local law to issues which are primarily determined by such law. The Regional Administrator may request the grantee to furnish a written legal opinion adequately addressing any such legal issues. The Regional Administrator will accept the grantee's determination unless he finds that it does not have a rational basis.

(c) *Preference.* State or local laws, ordinances, regulations or procedures which effectively give local or in-State bidders or proposers preference over other bidders or proposers shall not be employed in evaluating bids or proposals for subagreements under a grant.

§ 35.936–3 Competition.

EPA's policy is to encourage free and open competition appropriate to the type of project work to be performed.

§ 35.936–4 Profits.

Only fair and reasonable profits may be earned by contractors in subagreements under EPA grants. See § 35.937-7 for discussion of profits under negotiated subagreements for architectural or engineering services, and § 35.938-5(f) for discussion of profits under negotiated change orders to construction contracts. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded under § 35.938 is presumed reasonable.

§ 35.936–5 Grantee responsibility.

(a) The grantee is responsible for the administration and successful accomplishment of the project for which EPA grant assistance is awarded. The grantee is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements entered into under the grant (except as § 35.936-6 provides) in accordance with sound business judgment and good administrative practice. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other related procurement matters.

(b) With the prior written approval of the Regional Administrator, the grantee may retain an individual or firm to perform these functions. Such an agent acts for the grantee and is subject to the provisions of this subpart which apply to the grantee.

(c) In accordance with § 35.970, a grantee may request technical and legal assistance from the Regional Administrator for the administration and enforcement of any contract related to treatment works that are assisted by an EPA grant. The Regional Administrator's assistance does not release the grantee from those responsibilities identified in paragraph (a) of this section.

§ 35.936–6 EPA responsibility.

Generally, EPA will only review grantee compliance with Federal requirements applicable to a grantee's procurement. However, where specifically provided in this chapter (e.g., §§ 8.8(j) and 35.939), EPA is responsible for determining compliance with Federal requirements.

§ 35.936–7 Small and minority business.

Grantees shall make positive efforts to use small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for subagreements to be performed using Federal grant funds.

§ 35.936–8 Privity of contract.

Neither EPA nor the United States shall be a party to any subagreement (including contracts or subcontracts), nor to any solicitation or request for proposals. (See §§ 35.937-9(a), 35.938-4(c)(5), and appendixes C-1 and C-2 to this subpart for the required solicitation statement and contract provisions.) However, in accordance with § 35.970 the Regional Administrator, if a grantee requests, may provide technical and legal assistance in the administration and enforcement of any contract related to treatment works for which an EPA grant was made.

§ 35.936–9 Disputes.

Only an EPA grantee may initiate and prosecute an appeal to the Administrator under the disputes provision of a grant with respect to its subagreements (see subpart J of part 30 of this subchapter). Neither a contractor nor a subcontractor may prosecute an appeal under the disputes provisions of a grant in its own name or interest.

§ 35.936–10 Federal procurement regulations.

Regulations applicable to direct Federal procurement shall not be applicable to subagreements under grants except as stated in this subchapter.

§ 35.936–11 General requirements for subagreements.

Subagreements must:

(a) Be necessary for and directly related to the accomplishment of the project work;

(b) Be in the form of a bilaterally executed written agreement (except for small purchases of $10,000 or less);

(c) Be for monetary or in-kind consideration; and

(d) Not be in the nature of a grant or gift.

§ 35.936–12 Documentation.

(a) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition if competition appropriate to the type of project work to be performed is required but is not obtained; and

(3) Basis for award cost or price.

(b) The grantee or contractors of the grantee must retain procurement documentation required by § 30.805 of this subchapter and by this subpart, including a copy of each subagreement, for the period of time specified in § 30.805. The documentation is subject to all the requirements of § 30.805. A copy of each subagreement must be furnished to the project officer upon request.

§ 35.936–13 Specifications.

(a) *Nonrestrictive specifications.* (1) No specification for bids or statement of work in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal." If brand or trade names are specified, the grantee must be prepared to identify to the Regional Administrator or in any protest action the salient requirements (relating to the minimum needs of the project) which must be met by any offeror. The single base bid method of solicitation for equipment and parts for determination of a low, responsive bidder may not be utilized. With regard to materials, if a single material is specified, the grantee must be prepared to substantiate the basis for the selection of the material.

(2) Project specifications shall, to the extent practicable, provide for maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through competitive procurement, or through standard or

proven production techniques, methods, and processes, except to the extent that innovative technologies may be used under § 35.908 of this subpart.

(b) *Sole source restriction.* A specification shall not require the use of structures, materials, equipment, or processes which are known to be available only from a sole source, unless the Regional Administrator determines that the grantee's engineer has adequately justified in writing that the proposed use meets the particular project's minimum needs or the Regional Administrator determines that use of a single source is necessary to promote innovation (see § 35.908). Sole source procurement must be negotiated under § 33.500 et seq., including full cost review.

(c) *Experience clause restriction.* The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the grantee's engineer adequately justifies any such requirement in writing. Where such justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required should not exceed the experience period specified.

(d) *Buy American.* (1) *Definitions.* As used in this subpart, the following definitions apply:

(i) "Construction material" means any article, material, or supply brought to the construction site for incorporation in the building or work.

(ii) "Component" means any article, material, or supply directly incorporated in construction material.

(iii) "Domestic construction material" means an unmanufactured construction material which has been mined or produced in the United States, or a manufactured construction material which has been manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(iv) "Nondomestic construction material" means a construction material other than a domestic construction material.

(2) *Domestic preference.* Domestic construction material may be used in preference to nondomestic materials if it is priced no more than 6 percent higher than the bid or offered price of the nondomestic materials including all costs of delivery to the construction site, any applicable duty, whether or not assessed. Computations will normally be based on costs on the date of opening of bids or proposals.

(3) *Waiver.* The Regional Administrator may waive the Buy American provision based upon those factors that he considers relevant, including:

(i) Such use is not in the public interest;

(ii) The cost is unreasonable;

(iii) The Agency's available resources are not sufficient to implement the provision, subject to the Deputy Administrator's concurrence;

(iv) The articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities or satisfactory quality for the particular project; or

(v) Application of this provision is contrary to multilateral government procurement agreements, subject to the Deputy Administrator's concurrence.

(4) *Contract provision.* Notwithstanding any other provision of this subpart, bidding documents and construction contracts for any step 3 project for which the Regional Administrator receives an application after February 1, 1978, shall contain the "Buy American" provision which requires use of domestic construction materials in preference to nondomestic construction materials.

(5) *Substitution.* If a nondomestic construction material or component is proposed for use, a bidder or contractor may substitute an approved domestic material or component (at no change in price), if necessary to comply with this subsection.

(6) *Procedures.* The Regional Administrator may use the appropriate procedures of § 35.939 in making the determinations with respect to this subsection. He shall generally observe the Buy American procedures, regulations, precedents, and requirements of other Federal departments and agencies.

§ 35.936–14 Force account work.

(a) A grantee must secure the project officer's prior written approval for use of the force account method for (1) any step 1 or step 2 work in excess of $10,000; (2) any sewer rehabilitation work in excess of $25,000 performed during step 1 (see § 35.927-3(a)); or (3) any step 3 work in excess of $25,000; unless the grant agreement stipulates the force account method.

(b) The project officer's approval shall be based on the grantee's demonstration that he possesses the necessary competence required to accomplish such work and that (1) the work can be accomplished more economically by the use of the force account method, or (2) emergency circumstances dictate its use.

(c) Use of the force account method for step 3 construction shall generally be limited to minor portions of a project.

§ 35.936–15 Limitations on subagreement award.

No subagreement shall be awarded:

(a) To any person or organization which does not meet the responsibility standards in § 30.340-2 (a) through (d) and (g) of this subchapter;

(b) If any portion of the contract work not exempted by § 30.420-3(b) of this subchapter will be performed at a facility listed by the Director, EPA Office of Federal Activities, in violation of the antipollution requirements of the Clean Air Act and the Clean Water Act, as set forth in § 30.420-3 of this subchapter and 40 CFR part 15 (Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans); or

(c) To any person or organization which is ineligible under the conflict of interest requirements of § 30.420-4 of this subchapter.

§ 35.936–16 Code or standards of conduct.

(a) The grantee must maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in the conduct of project work, including procurement and expenditure of project funds. The grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. The grantee must avoid personal or organizational conflicts of interest or noncompetitive procurement practices which restrict or eliminate competition or otherwise restrain trade.

(b) To the extent permissible by State or local law or formal institutional requirements and procedures, the standards shall provide for penalties, sanctions, or other adequate disciplinary actions to be instituted for project-related violations of law or of the code or standards of conduct by either the grantee officers, employees, or agents, or by contractors or their agents.

(c) The grantee must inform the project officer in writing of each serious allegation of a project-related violation and of each known or proven project-related violation of law or code or standards of conduct, by its officers, employees, contractors, or by their agents. The grantee must also inform the project officer of the prosecutive or disciplinary action the grantee takes, and must cooperate with Federal officials in any Federal prosecutive or disciplinary action. Under § 30.245

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of this subchapter, the project officer must notify the Director, EPA Security and Inspection Division, of all notifications from the grantee.

(d) EPA shall cooperate with the grantee in its disciplinary or prosecutive actions taken for any apparent project-related violations of law or of the grantee's code or standards of conduct.

§ 35.936-17 Fraud and other unlawful or corrupt practices.

All procurements under grants are covered by the provisions of § 30.245 of this subchapter relating to fraud and other unlawful or corrupt practices.

§ 35.936-18 Negotiation of subagreements.

(a) Formal advertising, with adequate purchase descriptions, sealed bids, and public openings shall be the required method of procurement unless negotiation under paragraph (b) of this section is necessary to accomplish sound procurement.

(b) All negotiated procurement shall be conducted in a manner to provide to the maximum practicable extent open and free competition appropriate to the type of project work to be performed. The grantee is authorized to negotiate subagreements in accordance with the applicable procedures of this subchapter (see §§ 35.937 et seq. and 35.500 et seq.) if any of the following conditions exist:

(1) Public exigency will not permit the delay incident to formally advertised procurement (e.g., an emergency procurement).

(2) The aggregate amount involved does not exceed $10,000 (see § 35.936-19 for small purchases).

(3) The material or service to be procured is available from only one person or entity. If the procurement is expected to aggregate more than $10,000, the grantee must document its file with a justification of the need for noncompetitive procurement, and provide such documentation to the project officer on request.

(4) The procurement is for personal or professional services (including architectural or engineering services) or for any service that a university or other educational institution may render.

(5) No responsive, responsible bids at acceptable price levels have been received after formal advertising, and, with respect to procurement under § 35.938-4, the Regional Administrator's prior written approval has been obtained.

(6) The procurement is for materials or services where the prices are established by law.

(7) The procurement is for technical items or equipment requiring standardization and interchangeability of parts with existing equipment.

(8) The procurement is for experimental, developmental or research services.

§ 35.936-19 Small purchases.

(a) A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one transaction does not exceed $10,000. The small purchase limitation of $10,000 applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one transaction, all items which should properly be grouped together must be included. Reasonable competition shall be obtained.

(b) Subagreements for small purchases need not be in the form of a bilaterally executed written agreement. Where appropriate, unilateral purchase orders, sales slips, memoranda of oral price quotations, and the like may be used to minimize paperwork. Retention in the purchase files of these documents and of written quotations received, or references to catalogs or printed price lists used, will suffice as the record supporting the price paid.

§ 35.936-20 Allowable costs.

(a) Incurring costs under subagreements which are not awarded or administered in compliance with this part or Part 33 of this subchapter, as appropriate, shall be cause for disallowance of those costs.

(b) Appropriate cost principles which apply to subagreements under EPA grants are identified in § 30.710 of this subchapter. Under that section, the contractor's actual costs, direct and indirect, eligible for Federal participation in a cost reimbursement contract shall be those allowable under the applicable provisions of 41 CFR 1-15.2 (Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations) and 1-15.4 (Construction and Architect-Engineer Contracts).

(c) Reasonable costs of compliance with the procurement and project management requirements of these regulations are allowable costs of administration under the grant. Costs of announcement, selection, negotiation, and cost review and analysis in connection with procurement of architectural or engineering services are allowable, even when conducted before award of the grant. Legal and engineering costs which a grantee is required to incur in a protest action under § 35.939 are allowable.

§ 35.936-21 Delegation to State agencies; certification of procurement systems.

(a) Under § 35.912 and subpart F of this part, the Regional Administrator may delegate authority to a State agency to review and certify the technical and administrative adequacy of procurement documentation required under these sections.

(b) If a State agency believes that State laws which govern municipal procurement include the same requirements or operate to provide the same protections as do §§ 35.936, 35.937 and 35.938, the State may request the Administrator to approve the State system instead of the procedures of these sections. EPA shall review the State system to determine its adequacy.

(c) If a State agency determines that an applicant's procurement ordinances or applicable statutes include the same requirements or operate to provide the same protections as do §§ 35.936, 35.937 and 35.938, the State may certify (accompanied by appropriate documentation) the adequacy of the municipality's ordinances and statutes and request the Administrator to approve the municipality's system instead of the procedures of these sections. EPA shall conduct or may request the State to conduct a review of the municipality's system to determine its adequacy.

§ 35.936-22 Bonding and insurance.

(a) On contracts for the building and erection of treatment works or contracts for sewer system rehabilitation exceeding $100,000, each bidder must furnish a bid guarantee equivalent to 5 percent of the bid price. In addition, the contractor awarded a construction contract for the building and erection of treatment works or sewer system rehabilitation must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. Construction contracts less than $100,000 shall be subject to State and local requirements for bid guarantees, performance bonds, and payment bonds. For contracts or subcontracts in excess of $100,000 the Regional Administrator may authorize the grantee to use its own bonding policies and requirements if he determines, in writing, that the Government's interest is adequately protected.

(b) Contractors should obtain such construction insurance (e.g., fire and extended coverage, workmen's compensation, public liability and property damage, and "all risk" builder's risk or installation floater coverage) as is required by State or local law or the grantee or as is customary and appropriate. Under the Flood Disaster Protection Act of 1973, a contractor must purchase flood insurance to cover his risk of loss if the grantee has not purchased the insurance (see § 30.405-10 of this subchapter).

§ 35.937 Subagreements for architectural or engineering services.

(a) *Applicability.* Except as § 35.937-2 otherwise provides, the provisions of §§ 35.937 through 35.937-11 apply to all subagreements of grantees for architectural or engineering services where the aggregate amount of services involved is expected to exceed $10,000. The provisions of §§ 35.937-2, 35.937-3, and 35.937-4 are not required, but may be followed, where the population of the grantee municipality is 25,000 or less according to the most recent U.S. census. When $10,000 or less of services (e.g., for consultant or consultant subcontract services) is required, the small purchase provisions of § 35.936-19 apply.

(b) *Policy.* Step 1, step 2, or administration or management of step 3 project work may be performed by negotiated procurement of architectural or engineering services. The Federal Government's policy is to encourage public announcement of the requirements for personal and professional services, including engineering services. Subagreements for engineering services shall be negotiated with candidates selected on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices. All negotiated procurement shall be conducted in a manner that provides to the maximum practicable extent, open and free competition. Nothing in this subpart shall be construed as requiring competitive bids or price competition in the procurement of architectural or engineering services.

(c) *Definitions.* As used in §§ 35.937 through 35.937-11 the following words and terms mean:

(1) *Architectural or engineering services.* Those professional services associated with research, development, design and construction, alteration, or repair of real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programing, conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operation and maintenance manuals, and other related services.

(2) *Engineer.* A professional firm or individual engaged to provide services as defined in paragraph (c)(1) of this section by subagreement under a grant.

§ 35.937-1 Type of contract (subagreement).

(a) *General.* Cost-plus-percentage-of-cost and percentage-of-construction-cost contracts are prohibited. Cost reimbursement, fixed price, or per diem contracts or combinations of these may be negotiated for architectural or engineering services. A fixed price contract is generally used only when the scope and extent of work to be performed is clearly defined. In most other cases, a cost reimbursement type of contract is more appropriate. A per diem contract may be used if no other type of contract is appropriate. An incentive fee may be used if the grantee submits an adequate independent cost estimate and price comparison under § 35.937-6.

(b) *Cost reimbursement contracts.* Each cost reimbursement contract must clearly establish a cost ceiling which the engineer may not exceed without formally amending the contract and a fixed dollar profit which may not be increased except in case of a contract amendment to increase the scope of work.

(c) *Fixed price contracts.* An acceptable fixed price contract is one which establishes a guaranteed maximum price which may not be increased unless a contract amendment increases the scope of work.

(d) *Compensation procedures.* If, under either a cost reimbursement or fixed price contract, the grantee desires to use a multiplier type of compensation, all of the following must apply:

(1) The multiplier and the portions of the multiplier allocable to overhead and allocable to profit have been specifically negotiated;

(2) The portion of the multiplier allocable to overhead includes only allowable items of cost under the cost principles of 41 CFR 1-15.2 and 1-15.4;

(3) The portions of the multiplier allocable to profit and allocable to overhead have been separately identified in the contract; and

(4) The fixed price contract includes a guaranteed maximum price for completion of the specifically defined scope of work; the cost reimbursement contract includes a fixed dollar profit which may not be increased except in case of a contract amendment which increases the scope of work.

(e) *Per diem contracts.* A per diem agreement expected to exceed $10,000 may be utilized only after a determination that a fixed price or cost reimbursement type contract is not appropriate. Per diem agreements should be used only to a limited extent, e.g., where the first task under a step 1 grant involves establishing the scope and cost of succeeding step 1 tasks, or for incidental services such as expert testimony or intermittent professional or testing services. (Resident engineer and resident inspection services should generally be compensated under paragraph (b) or (c) of this section.) Cost and profit included in the per diem rate must be specifically negotiated and displayed separately in the engineer's proposal. The contract must clearly establish a price ceiling which may not be exceeded without formally amending the contract.

§ 35.937-2 Public notice.

(a) *Requirement.* Adequate public notice as paragraphs (a)(1) or (a)(2) of this section provide, must be given of the requirement for architectural or engineering services for all subagreements with an anticipated price in excess of $25,000 except as paragraph (b) of this section provides. In providing public notice under paragraphs (a)(1) and (a)(2) of this section, grantees must comply with the policies in §§ 35.936-2(c), 35.936-3, and 35.936-7.

(1) *Public announcement.* A notice of request for qualifications should be published in professional journals, newspapers, or publications of general circulation over a reasonable area and, in addition, if desired, through posted public notices or written notification directed to interested person, firms, or professional organizations inviting the submission of statements of qualifications. The announcement must clearly state the deadline and place for submission of qualification statements.

(2) *Prequalified list.* As an alternative to publishing public notice as in paragraph (b) of this section, the grantee may secure or maintain a list of qualified candidates. The list must:

(i) Be developed with public notice procedures as in paragraph (a)(1) of this section;

(ii) Provide for continuous updating; and,

(iii) Be maintained by the grantee or secured from the State or from a nearby political subdivision.

(b) *Exceptions.* The public notice requirement of this section and the related requirements of §§ 35.937-3 and 35.937-4 are not applicable, but may be followed, in the cases described in paragraphs (b)(1) through (b)(3) of this section. All other appropriate provisions of this section, including cost review and negotiation of price, apply.

(1) Where the population of the grantee municipality is 25,000 or less according to the latest U.S. census.

(2) For step 2 or step 3 of a grant, if:

(i) The grantee is satisfied with the qualifications and performance of an engineer who performed all or any part of the step 1 or step 2 work;

(ii) The engineer has the capacity to perform the subsequent steps; and

(iii) The grantee desires the same engineer to provide architectural or

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engineering services for the subsequent steps.

(3) For subsequent segments of design work under one grant if:

(i) A single treatment works is segmented into two or more step 3 projects;

(ii) The step 2 work is accordingly segmented so that the initial contract for preparation of construction drawings and specifications does not cover the entire treatment works to be built under one grant; and

(iii) The grantee desires to use the same engineering firm that was selected for the initial segment of step 2 work for subsequent segments.

§ 35.937-3 Evaluation of qualifications.

(a) The grantee shall review the qualifications of firms which responded to the announcement or were on the prequalified list and shall uniformly evaluate the firms.

(b) Qualifications shall be evaluated through an objective process (e.g., the appointment of a board or committee which, to the extent practicable, should include persons with technical skills).

(c) Criteria which should be considered in the evaluation of candidates for submission of proposals should include:

(1) Specialized experience and technical competence of the candidate or firm and its personnel (including a joint venture, association or professional subcontract), considering the type of services required and the complexity of the project;

(2) Past record of performance on contracts with the grantee, other government agencies or public bodies, and with private industry, including such factors as control of costs, quality of work, and ability to meet schedules;

(3) The candidate's capacity to perform the work (including any specialized services) within the time limitations, considering the firm's current and planned workload;

(4) The candidate's familiarity with types of problems applicable to the project; and

(5) Avoidance of personal and organizational conflicts of interest prohibited under State and local law and § 35.936-16.

§ 35.937-4 Solicitation and evaluation of proposals.

(a) Requests for professional services proposals must be sent to no fewer than three candidates who either responded to the announcement or who were selected from the prequalified list. If, after good faith effort to solicit qualifications in accordance with § 35.937-2, fewer than three qualified candidates respond, all qualified candidates must be provided requests for proposals.

(b) Requests for professional services proposals must be in writing and must contain the information necessary to enable a prospective offeror to prepare a proposal properly. The request for proposals must include the solicitation statement in § 35.937-9(a) and must inform offerors of the evaluation criteria, including all those in paragraph (c) of this section, and of the relative importance attached to each criterion (a numerical weighted formula need not be utilized).

(c) All proposals submitted in response to the request for professional services proposals must be uniformly evaluated. Evaluation criteria shall include, as a minimum, all criteria stated in § 35.937-3(c) of this subpart. The grantee shall also evaluate the candidate's proposed method to accomplish the work required, including, where appropriate, demonstrated capability to explore and develop innovative or advanced techniques and designs. The grantee's evaluation shall comply with § 35.936-7.

(d) Proposals shall be evaluated through an objective process (e.g., the appointment of a board or committee which, to the extent practicable, should include persons with technical skills. Oral (including telephone) or written interviews should be conducted with top rated proposers, and information derived therefrom shall be treated on a confidential basis, except as required to be disclosed under State or local law or to EPA under § 35.937-6.

(e) At no point during the procurement process shall information be conveyed to any candidate which would provide an unfair competitive advantage.

§ 35.937-5 Negotiation.

(a) Grantees are responsible for negotiation of their contracts for architectural or engineering services. Contract procurement including negotiation may be performed by the grantee directly or by another non-Federal governmental body, person or firm retained for the purpose. Contract negotiations may include the services of technical, legal, audit, or other specialists to the extent appropriate.

(b) Negotiations may be conducted in accordance with State or local requirements, as long as they meet the minimum requirements as set forth in this section. In the absence of State or local statutory or code requirements, negotiations may be conducted by the grantee under procedures it adopts based upon Pub. L. 92-582, 40 U.S.C. 541-544 (commonly known as the "Brooks Bill") or upon the negotiation procedures of 40 CFR 33.510-2.

(c) The object of negotiations with any candidate shall be to reach agreement on the provisions of the proposed contract. The grantee and the candidate shall discuss, as a minimum:

(1) The scope and extent of work and other essential requirements;

(2) Identification of the personnel and facilities necessary to accomplish the work within the required time, including where needed, employment of additional personnel, subcontracting, joint ventures, etc.;

(3) Provision of the required technical services in accordance with regulations and criteria established for the project; and

(4) A fair and reasonable price for the required work, to be determined in accordance with the cost and profit considerations set forth in §§ 35.937-6 and 35.937-7, and payment provisions.

§ 35.937-6 Cost and price considerations.

(a) *General.* EPA policy is that the cost or price of all subagreements and amendments to them must be considered. For each subagreement in excess of $10,000 but not greater than $100,000, grantees shall use the procedures described in paragraph (c) below or an equivalent process.

(b) *Subagreements over $100,000.* For each subagreement expected to exceed $100,000, or for two subagreements which aggregate more than $100,000 awarded to an engineer for work on one step, or where renegotiation or amendment of a subagreement will result in a contract price in excess of $100,000, or where the amendment itself is in excess of $100,000, the provisions of this paragraph (b) shall apply.

(1) The candidate(s) selected for negotiation shall submit to the grantee for review sufficient cost and pricing data as described in paragraph (c) of this section to enable the grantee to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

(2) The grantee shall submit to the EPA Project Officer for review (i) documentation of the public notice of need for architectural or engineering services, and selection procedures used, in those cases where §§ 35.937-2, 35.937-3 and 35.937-4 are applicable; (ii) the cost and pricing data the selected engineer submitted; (iii) a certification of review and acceptance of the selected engineer's cost or price; and (iv) a copy of the proposed subagreement. The EPA Project Officer will review the complete subagreement action and approve the grantee's compliance with appropriate procedures before the grantee awards the subagreement. The grantee shall be notified upon completion of review.

(c) *Cost review.* (1) The grantee shall review proposed subagreement costs.

(2) As a minimum, proposed subagreement costs shall be presented on

EPA form 5700-41 on which the selected engineer shall certify that the proposed costs reflect complete, current, and accurate cost and pricing data applicable to the date of anticipated subagreement award.

(3) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed price contracts and a maximum total dollar amount of profit shall be set forth separately in the cost summary for cost reimbursement contracts.

(4) The grantee may require more detailed cost data than the form requires in order to substantiate the reasonableness of proposed subagreement costs. EPA normally requires more detailed documentation only when the selected engineer is unable to certify that the cost and pricing data used are complete, current, and accurate. EPA may, on a selected basis, perform a pre-award cost analysis on any subagreement. Normally, a provisional overhead rate will be agreed upon before contract award.

(5) Appropriate consideration should be given to § 30.710 of this subchapter which contains general cost principles which must be used to determine the allowability of costs under grants. The engineer's actual costs, direct and indirect, allowable for Federal participation shall be determined in accordance with the terms and conditions of the subagreement, this subpart and the cost principles included in 41 CFR 1-15.2 and 1-15.4. Examples of cost which are not allowable under those cost principles include entertainment, interest on borrowed capital and bad debts.

(6) The engineer shall have an accounting system which accounts for costs in accordance with generally accepted accounting principles. This system shall provide for the identification, accumulation, and segregation of allowable and unallowable project costs among projects. Allowable project costs shall be determined in accordance with paragraph (c)(5) of this section. The engineer must propose and account for costs in a manner consistent with his normal accounting procedures.

(7) Subagreements awarded on the basis of review of a cost element summary and a certification of complete, current, and accurate cost and pricing data shall be subject to downward renegotiation or recoupment of funds where the Regional Administrator determines that such certification was not based on complete, current, and accurate cost and pricing data or not based on costs allowable under the appropriate FPR cost principles (41 CFR 1-15.2 and 1-15.4) at the time of award.

§ 35.937-7 Profit.

The objective of negotiations shall be the exercise of sound business judgment and good administrative practice including the determination of a fair and reasonable profit based on the firm's assumption of risk and input to total performance and not merely the application of a predetermined percentage factor. For the purpose of subagreements under EPA grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from the firm's definition of profit for other purposes.) Profit on a subagreement and each amendment to a subagreement under a grant should be sufficient to attract engineers who possess talents and skills necessary to the accomplishment of project objectives, and to stimulate efficient and expeditious completion of the project. Where cost review is performed, the grantee should review the estimate of profit as he reviews all other elements of price.

§ 35.937-8 Award of subagreement.

After the close of negotiations and after review and approval by the EPA Project Officer if required under § 35.937-6(b), the grantee may award the contract. Unsuccessful candidates should be notified promptly.

§ 35.937-9 Required solicitation and subagreement provisions.

(a) *Required solicitation statement.* Requests for qualifications or proposals must include the following statement, as well as the proposed terms of the subagreement.

> Any contract awarded under this request for (qualifications/professional proposals) is expected to be funded in part by a grant from the United States Environmental Protection Agency. This procurement will be subject to regulations contained in 40 CFR 35.936, 35.937, and 35.939. Neither the United States nor the United States Environmental Protection Agency is nor will be a party to this request for (qualifications/professional proposals) or any resulting contract.

(b) *Content of subagreement.* Each subagreement must adequately define:

(1) The scope and extent of project work;

(2) The time for performance and completion of the contract work, including where appropriate, dates for completion of significant project tasks;

(3) Personnel and facilities necessary to accomplish the work within the required time;

(4) The extent of subcontracting and consultant agreements; and

(5) Payment provisions in accordance with § 35.937-10.

If any of these elements cannot be defined adequately for later tasks or steps at the time of contract execution, the contract should not include the subsequent tasks or steps at that time.

(c) *Required subagreement provisions.* Each consulting engineering contract must include the provisions set forth in appendix C-1 to this subpart.

§ 35.937-10 Subagreement payments—architectural or engineering services.

The grantee shall make payment to the engineer in accordance with the payment schedule incorporated in the engineering agreement or in accordance with paragraph 7b of appendix C-1 to this subpart. Any retainage is at the option of the grantee. No payment request made by the Engineer under the agreement may exceed the estimated amount and value of the work and services performed.

§ 35.937-11 Applicability to existing contracts.

Some negotiated engineering subagreements already in existence may not comply with the requirements of §§ 35.936 and 35.937. Appendix D to this subpart contains EPA policy with respect to these subagreements and must be implemented before the grant award action for the next step under the grant.

§ 35.937-12 Subcontracts under subagreements for architectural or engineering services.

(a) Neither award and execution of subcontracts under a prime contract for architectural or engineering services, nor the procurement and negotiation procedures used by the engineer in awarding such subcontracts are required to comply with any of the provisions, selection procedures, policies or principles set forth in § 35.936 or § 35.937 except as provided in paragraphs (b), (c), and (d) of this section.

(b) The award or execution of subcontracts in excess of $10,000 under a prime contract for architectural or engineering services and the procurement procedures used by the engineer in awarding such subcontracts must comply with the following:

(1) § 35.936-2 (Grantee procurement systems; State or local law);

(2) § 35.936-7 (Small and minority business);

(3) § 35.936-15 (Limitations on subagreement award);

(4) § 35.936-17 (Fraud and other unlawful or corrupt practices);

(5) § 35.937-6 (Cost and price considerations);

(6) § 35.937-7 (Profit);

(7) Prohibition of percentage-of-construction-cost and cost-plus-percent-

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age-of-cost contracts (see § 35.937-1); and

(8) Applicable subagreement clauses (see appendix C-1, clauses 9, 17, 18; note clause 10).

(c) The applicable provisions of this subpart shall apply to lower tier subagreements where an engineer acts as an agent for the grantee under a management subagreement (see § 35.936-5(b)).

(d) If an engineer procures items or services (other than architectural or engineering services) which are more appropriately procured by formal advertising or competitive negotiation procedures, the applicable procedures of § 35.938 or of Part 33 shall be observed.

§ 35.938 Construction contracts (subagreements) of grantees.

§ 35.938-1 Applicability.

This section applies to construction contracts (subagreements) in excess of $10,000 awarded by grantees for any step 3 project.

§ 35.938-2 Performance by contract.

The project work shall be performed under one or more contracts awarded by the grantee to private firms, except for force account work authorized by § 35.936-14.

§ 35.938-3 Type of contract.

Each contract shall be a fixed price (lump sum or unit price or a combination of the two) contract, unless the Regional Administrator gives advance written approval for the grantee to use some other acceptable type of contract. The cost-plus-percentage-of-cost contract shall not be used in any event.

§ 35.938-4 Formal advertising.

Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with § 35.936-18. Formal advertising shall be in accordance with the following:

(a) *Adequate public notice.* The grantee will cause adequate notice to be given of the solicitation by publication in newspapers or journals of general circulation beyond the grantee's locality (statewide, generally), inviting bids on the project work, and stating the method by which bidding documents may be obtained or examined. Where the estimated cost of step 3 construction is $10 million or more, the grantee must generally publish the notice in trade journals of nationwide distribution. The grantee should, in addition, solicit bids directly from bidders if it maintains a bidders list.

(b) *Adequate time for preparing bids.* Adequate time, generally not less than 30 days, must be allowed between the date when public notice under paragraph (a) of this section is first published and the date by which bids must be submitted. Bidding documents (including specifications and drawings) shall be available to prospective bidders from the date when such notice is first published.

(c) *Adequate bidding documents.* The grantee shall prepare a reasonable number of bidding documents (invitations for bids) and shall furnish them upon request on a first-come, first-served basis. The grantee shall maintain a complete set of bidding documents and shall make them available for inspection and copying by any party. The bidding documents shall include:

(1) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection and purchase, instead of being furnished.);

(2) The terms and conditions of the contract to be awarded;

(3) A clear explanation of the method of bidding and the method of evaluation of bid prices, and the basis and method for award of the contract;

(4) Responsibility requirements or criteria which will be employed in evaluating bidders;

(5) The following statement:

> Any contract or contracts awarded under this invitation for bids are expected to be funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is or will be a party to this invitation for bids or any resulting contract. This procurement will be subject to regulations contained in 40 CFR 35.936, 35.938, and 35.939.;

and

(6) A copy of §§ 35.936, 35.938, and 35.939.

(d) *Sealed bids.* The grantee shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening.

(e) *Addenda to bidding documents.* If a grantee desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the addenda shall be communicated in writing to all firms which have obtained bidding documents in time to be considered before the bid opening time.

(f) *Bid modifications.* A firm which has submitted a bid shall be allowed to modify or withdraw its bid before the time of bid opening.

(g) *Public opening of bids.* The grantee shall provide for a public opening of bids at the place, date and time announced in the bidding documents.

(h) *Award to the low, responsive, responsible bidder.* (1) After bids are opened, the grantee shall evaluate them in accordance with the methods and criteria set forth in the bidding documents.

(2) The grantee may reserve the right to reject all bids. Unless all bids are rejected for good cause, award shall be made to the low, responsive, responsible bidder.

(3) If the grantee intends to make the award to a firm which did not submit the lowest bid, he shall prepare a written statement before any award, explaining why each lower bidder was deemed nonresponsible or nonresponsive, and shall retain it in his files.

(4) State or local laws, ordinances, regulations or procedures which are designed or which operate to give local or in-State bidders preference over other bidders shall not be employed in evaluating bids.

(5) If an unresolved procurement review issue or a protest relates only to award of a subcontract or procurement of a subitem under the prime contract, and resolution of that issue or protest is unduly delaying performance of the prime contract, the Regional Administrator may authorize award and performance of the prime contract before resolution of the issue or protest, if the Regional Administrator determines that:

(i) Resolution of the protest—

(A) Will not affect the placement of the prime contract bidders; and

(B) Will not materially affect initial performance of the prime contract; and that

(ii) Award of the prime contract—

(A) Is in the Government's best interest;

(B) Will not materially affect resolution of the protest; and

(C) Is not barred by State law.

(6) The grantee shall not reject a bid as nonresponsive for failure to list or otherwise indicate the selection of a subcontractor(s) or equipment, unless the grantee has unambiguously stated in the solicitation documents that such failure to list shall render a bid nonresponsive and shall cause rejection of a bid.

§ 35.938-5 Negotiation of contract amendments (change orders).

(a) *Grantee responsibility.* Grantees are responsible for negotiation of construction contract change orders. This function may be performed by the grantee directly or, if authorized, by his engineer. During negotiations with the contractor the grantee shall:

(1) Make certain that the contractor has a clear understanding of the scope and extent of work and other essential requirements;

(2) Assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and

(3) Assure a fair and reasonable price for the required work.

(b) *Changes in contract price or time.* The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with paragraph (c) or (d) of this section, as appropriate. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by the method set forth in paragraphs (b)(1) through (b)(3) of this section which is most advantageous to the grantee.

(1) Unit prices.

(i) Original bid items. Unit prices previously approved are acceptable for pricing changes of original bid items. However, when changes in quantities exceed 15 percent of the original bid quantity and the total dollar change of that bid item is significant, the grantee shall review the unit price to determine if a new unit price should be negotiated.

(ii) New items. Unit prices of new items shall be negotiated.

(2) A lump sum to be negotiated.

(3) Cost reimbursement—the actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work plus an amount to be agreed upon to cover the cost of general overhead and profit to be negotiated.

(c) For each change order not in excess of $100,000 the contractor shall submit sufficient cost and pricing data to the grantee to enable the grantee to determine the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

(d) For each change order in excess of $100,000, the contractor shall submit to the grantee for review sufficient cost and pricing data as described in paragraphs (d)(1) through (d)(6) of this section to enable the grantee to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

(1) As a minimum, proposed change order costs shall be presented on EPA Form 5700-41 on which the contractor shall certify that proposed costs reflect complete, current, and accurate cost and pricing data applicable to the date of the change order.

(2) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed price change orders and a specific total dollar amount of profit will be set forth separately in the cost summary for cost reimbursement change orders.

(3) The grantee may require more detailed cost data than the form requires in order to substantiate the reasonableness of proposed change order costs. EPA normally requires more detailed documentation only when the contractor is unable to certify that proposed change order cost data are complete, current, and accurate. EPA may, on a selected basis, perform a detailed cost analysis on any change order.

(4) Appropriate consideration should be given to § 30.710 of this subchapter which contains general cost principles which must be used for the determination and allowability of costs under grants. The contractor's actual costs, direct and indirect, allowable for Federal participation shall be determined in accordance with the terms and conditions of the contract, this subpart and the cost principles included in 41 CFR 1-15.2 and 1-15.4. Examples of costs which are not allowable under those cost principles include, but are not limited to, entertainment, interest on borrowed capital and bad debts.

(5) For costs under cost reimbursement change orders, the contractor shall have an accounting system which accounts for such costs in accordance with generally accepted accounting principles. This system shall provide for the identification, accumulation and segregation of allowable and unallowable change orders. Allowable change order costs shall be determined in accordance with paragraph (d)(4) of this section. The contractor must propose and account for such costs in a manner consistent with his normal accounting procedures.

(6) Change orders awarded on the basis of review of a cost element summary and a certification of complete, current, and accurate cost and pricing data shall be subject to downward renegotiation or recoupment of funds where subsequent audit substantiates that such certification was not based on complete, current and accurate cost and pricing data and on costs allowable under the appropriate FPR cost principles (41 CFR 1-15.2 and 1-15.4) at the time of change order execution.

(e) *EPA review.* In addition to the requirements of §§ 35.935-10 (copies of contract documents) and 35.935-11 (project changes), the grantee shall submit, before the execution of any change order in excess of $100,000, to the EPA Project Officer for review:

(1) The cost and pricing data the contractor submitted;

(2) A certification of review and acceptance of the contractor's cost or price; and

(3) A copy of the proposed change order.

(f) *Profit.* The objective of negotiations shall be the exercise of sound business judgment and good administrative practice including the determination of a fair and reasonable profit based on the contractor's assumption of risk and input to total performance and not merely the application of a predetermined percentage factor. For the purpose of negotiated change orders to construction contracts under EPA grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. The grantee should review the estimate or profit as he reviews all other elements of price.

(g) *Related work.* Related work shall not be split into two amendments or change orders merely to keep it under $100,000 and thereby avoid the requirements of paragraph (d) of this section. For change orders which include both additive and deductive items:

(1) If any single item (additive or deductive) exceeds $100,000, the requirements of paragraph (d) of this section shall be applicable.

(2) If no single additive or deductive item has a value of $100,000, but the total price of the change order is over $100,000, the requirements of paragraph (d) of this section shall be applicable.

(3) If the total of additive items of work in the change order exceeds $100,000, or the total of deductive items of work in the change order exceeds $100,000, and the net price of the change order is less than $100,000, the requirements of paragraph (d) of this section shall apply.

§ 35.938-6 Progress payments to contractors.

(a) *Policy.* EPA policy is that, except as State law otherwise provides, grantees should make prompt progress payments to prime contractors and prime contractors should make prompt progress payment to subcontractors and suppliers for eligible construction, material, and equipment costs, including those of undelivered specifically manufactured equipment, incurred under a contract under an EPA construction grant.

(b) *Conditions of progress payments.* For purposes of this section, progress payments are defined as follows:

(1) Payments for work in place.

(2) Payments for materials or equipment which have been delivered to the construction site, or which are stockpiled in the vicinity of the construction site, in accordance with the terms of the contract, when conditional or final acceptance is made by or for the grantee. The grantee shall assure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures. Costs of such insurance and security are al-

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lowable costs in accordance with § 35.940.

(3) Payments for undelivered specifically manufactured items or equipment (excluding off-the-shelf or catalog items), as work on them progresses. Such payments must be made if provisions therefor are included in the bid and contract documents. Such provisions may be included at the option of the grantee only when all of the following conditions exist:

(i) The equipment is so designated in the project specifications;

(ii) The equipment to be specifically manufactured for the project could not be readily utilized on nor diverted to another job; and

(iii) A fabrication period of more than 6 months is anticipated.

(c) *Protection of progress payments made for specifically manufactured equipment.* The grantee will assure protection of the Federal interest in progress payments made for items or equipment referred to in paragraph (b)(3) of this section. This protection must be acceptable to the grantee and must take the form of:

(1) Securities negotiable without recourse, condition or restrictions, a progress payment bond, or an irrevocable letter of credit provided to the grantee through the prime contractor by the subcontractor or supplier; and,

(2) For items or equipment in excess of $200,000 in value which are manufactured in a jurisdiction in which the Uniform Commercial Code is applicable, the creation and perfection of a security interest under the Uniform Commercial Code reasonably adequate to protect the interests of the grantee.

(d) *Limitations on progress payments for specifically manufactured equipment.* (1) Progress payments made for specifically manufactured equipment or items shall be limited to the following:

(i) A first payment upon submission by the prime contractor of shop drawings for the equipment or items in an amount not exceeding 15 percent of the contract or item price plus appropriate and allowable higher tier costs; and

(ii) Subsequent to the grantee's release or approval for manufacture, additional payments not more frequently than monthly thereafter up to 75 percent of the contract or item price plus appropriate and allowable higher tier costs. However, payment may also be made in accordance with the contract and grant terms and conditions for ancillary onsite work before delivery of the specifically manufactured equipment or items.

(2) In no case may progress payments for undelivered equipment or items under paragraph (d)(1)(i) or (d)(1)(ii) of this section be made in an amount greater than 75 percent of the cumulative incurred costs allocable to contract performance with respect to the equipment or items. Submission of a request for any such progress payments must be accompanied by a certification furnished by the fabricator of the equipment or item that the amount of progress payment claimed constitutes not more than 75 percent of cumulative incurred costs allocable to contract performance, and in addition, in the case of the first progress payment request, a certification that the amount claimed does not exceed 15 percent of the contract or item price quoted by the fabricator.

(3) As used in this section, the term "costs allocable to contract performance" with respect to undelivered equipment or items includes all expenses of contract performance which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices consistently applied, and which are not excluded by the contract.

(e) *Enforcement.* A subcontractor or supplier which is determined by the Regional Administrator to have frustrated the intent of the provisions regarding progress payments for major equipment or specifically manufactured equipment through intentional forfeiture of its bond or failure to deliver the equipment may be determined nonresponsible and ineligible for further work under EPA grants.

(f) *Contract provisions.* Where applicable, appropriate provisions regarding progress payments must be included in each contract and subcontract. Grantees must use clauses acceptable to the EPA Regional Administrator.

(g) *Implementation.* The foregoing progress payments policy should be implemented in invitations for bids under step 3 grants. If provision for progress payments is made after contract award, it must be for consideration that the grantee deems adequate.

§ 35.938-7 Retention from progress payments.

(a) The grantee may retain a portion of the amount otherwise due the contractor. Except as State law otherwise provides, the amount the grantee retains shall be limited to the following:

(1) Withholding of not more than 10 percent of the payment claimed until work is 50 percent complete;

(2) When work is 50 percent complete, reduction of the withholding to 5 percent of the dollar value of all work satisfactorily completed to date, provided that the contractor is making satisfactory progress and there is no specific cause for greater withholding;

(3) When the work is substantially complete (operational or beneficial occupancy), the withheld amount shall be further reduced below 5 percent to only that amount necessary to assure completion.

(4) The grantee may reinstate up to 10 percent withholding if the grantee determines, at its discretion, that the contractor is not making satisfactory progress or there is other specific cause for such withholding.

(5) The grantee may accept securities negotiable without recourse, condition or restrictions, a release of retainage bond, or an irrevocable letter of credit provided by the contractor instead of all or part of the cash retainage.

(b) The foregoing retention policy shall be implemented with respect to all step 3 projects for which plans and specifications are approved after March 1, 1976. Appropriate provision to assure compliance with this policy must be included in the bid documents for such projects initially or by addendum before the bid submission date, and as a special condition in the grant agreement or in a grant amendment. For all previous active projects, the grantee may implement the foregoing policy through contract amendment upon written request to the grantee by the contractor upon consideration that the grantee deems adequate.

(c) Under § 30.620-3 of this subchapter, a grantee who delays disbursement of grant funds will be required to credit to the United States all interest earned on those funds.

§ 35.938-8 Required construction contract provisions.

Each construction contract must include the "Supplemental General Conditions" set forth in appendix C-2 to this subpart.

§ 35.938-9 Subcontracts under construction contracts.

(a) The award or execution of subcontracts by a prime contractor under a construction contract awarded to the prime contractor by the grantee, and the procurement and negotiation procedures used by prime contractors in awarding or executing subcontracts are not required to comply with any of the provisions, selection procedures, policies or principles set forth in § 35.936 or § 35.938 except those specifically stated in this section. In addition, the bid protest procedures of § 35.939 are not available to parties executing subcontracts with prime contractors except as specifically provided in that section.

(b) The award or execution of subcontracts by a prime contractor under a formally advertised, competitively bid, fixed price construction contract awarded to the prime contractor by the grantee, and the procurement and negotiation procedures used by such prime contractors in awarding or executing such subcontracts must comply with the following:

(1) § 35.936-2 (Grantee procurement systems; State or local law);

(2) § 35.936-7 (Small and minority business);

(3) § 35.936-13 (Specifications);

(4) § 35.936-15 (Limitations on subagreement award);

(5) § 35.936-17 (Fraud and other unlawful or corrupt practices);

(6) § 35.938-5(d) (Negotiation of contract amendments); and

(7) Applicable subagreement clauses (see appendix C-2, clauses 8, 10, 14, 15, 16; note clause 11).

(c) The award of subcontracts under construction contracts not described above in paragraph (b) of this section and the procurement and negotiation procedures of prime contractors on contracts not meeting that description must comply with paragraphs (b)(1) through (b)(4) of this section as well as the principles of § 35.938-5.

§ 35.939 Protests.

(a) *General.* A protest based upon an alleged violation of the procurement requirements of §§ 35.936 through 35.938-9 of this subpart may be filed against a grantee's procurement action by a party with an adversely affected direct financial interest. Any such protest must be received by the grantee within the time period in paragraph (b)(1) of this section. The grantee is responsible for resolution of the protest before the taking of the protested action, in accordance with paragraph (d) of this section, except as otherwise provided by paragraph (j) or (k) or § 35.938-4(h)(5). The Regional Administrator will review grantee protest determinations in accordance with paragraph (e) of this section, if a timely request for such review is filed under paragraph (b)(2) of this section. In the case of protests which he determines are untimely, frivolous, or without merit, the Regional Administrator may take such actions as are described in paragraphs (f)(7), (i)(2), and (k) of this section.

(b) *Time limitations.* (1) A protest under paragraph (d) of this section should be made as early as possible during the procurement process (for example, immediately after issuance of a solicitation for bids) to avoid disruption of or unnecessary delay to the procurement process. A protest authorized by paragraph (d) of this section must be received by the grantee within 1 week after the basis for the protest is known or should have been known, whichever is earlier (generally, for formally advertised procurement, after bid opening, within 1 week after the basis for the protest is, or should have been, known).

(i) However, in the case of an alleged violation of the specification requirements of § 35.936-13 (e.g., that a product fails to qualify as an "or equal") or other specification requirements of this subpart, a protest need not be filed prior to the opening of bids. But the grantee may resolve the issue before receipt of bids or proposals through a written or other formal determination, after notice and opportunity to comment is afforded to any party with a direct financial interest.

(ii) In addition, where an alleged violation of the specification requirements of § 35.936-13 or other requirements of this subpart first arises subsequent to the receipt of bids or proposals, the grantee must decide the protest if the protest was received by the grantee within 1 week of the time that the grantee's written or other formal notice is first received.

(2) A protest appeal authorized by paragraph (e) of this section must be received by the Regional Administrator within 1 week after the complainant has received the grantee's determination.

(3) If a protest is mailed, the complaining party bears the risk of nondelivery within the required time period. It is suggested that all documents transmitted in accordance with this section be mailed by certified mail (return receipt requested) or otherwise delivered in a manner which will objectively establish the date of receipt. Initiation of protest actions under paragraphs (d) or (e) of this section may be made by brief telegraphic notice accompanied by prompt mailing or other delivery of a more detailed statement of the basis for the protest. Telephonic protests will not be considered.

(c) *Other initial requirements.* (1) The initial protest document must briefly state the basis for the protest, and should—

(i) Refer to the specific section(s) of this subpart which allegedly prohibit the procurement action;

(ii) Specifically request a determination pursuant to this section;

(iii) Identify the specific procurement document(s) or portion(s) of them in issue; and

(iv) Include the name, telephone number, and address of the person representing the protesting party.

(2) The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest which may be adversely affected by the determination of the protest (generally, all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied or sustained) and to the appropriate EPA Regional Administrator.

(d) *Grantee determination.* (1) The grantee is responsible for the initial resolution of protests based upon alleged violations of the procurement requirements of this subpart.

(2) When the grantee receives a timely written protest, he must defer the protested procurement action (see paragraph (h) of this section) and:

(i) Afford the complaining party and interested parties an opportunity to present arguments in support of their views in writing or at a conference or other suitable meeting (such as a city council meeting),

(ii) Inform the complainant and other interested parties of the procedures which the grantee will observe for resolution of the protest;

(iii) Obtain an appropriate extension of the period for acceptance of the bid and bid bond(s) of each interested party, where applicable; failure to agree to a suitable extension of such bid and bid bond(s) by the party which initiated the protest shall be cause for summary dismissal of the protest by the grantee or the Regional Administrator; and

(iv) Promptly deliver (preferably by certified mail, return receipt requested, or by personal delivery) its written determination of the protest to the complaining party and to each other participating party.

(3) The grantee's determination must be accompanied by a legal opinion addressing issues arising under State, territorial, or local law (if any) and, where step 3 construction is involved, by an engineering report, if appropriate.

(4) The grantee should decide the protest as promptly as possible—generally within 3 weeks after receipt of a protest, unless extenuating circumstances require a longer period of time for proper resolution of the protest.

(e) *Regional Administrator review.* (1) A party with a direct financial interest adversely affected by a grantee determination made under paragraph (d) with respect to a procurement requirement of this subpart may submit a written request to the Regional Administrator for his review of such determination. Any such request must be in writing, must adequately state the basis for the protest (including reference to the specific section(s) of this subpart alleged to prohibit the procurement action), and must be received by the Regional Administrator within 1 week after the complaining party has received the grantee's determination of the protest. A copy of the grantee's determination and other documentation in support of the request for review shall be transmitted with the request.

(2) The Regional Counsel or his delegee will afford both the grantee and the complaining party, as well as any

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other party with a financial interest which may be adversely affected by determination of the protest, an opportunity to present arguments in support of their views in writing or at a conference at a time and place convenient to the parties as determined by the Regional Counsel or his delegee, and he shall thereafter promptly submit in writing his report and recommendations (or recommended determination) concerning the protest to the Regional Administrator.

(3) Any such conference should be held within not more than 10 days after receipt of the request for review and the report should be transmitted to the Regional Administrator within 10 days after the date set for receipt of the participants' written materials or for the conference. The Regional Administrator should transmit his determination of the protest with an adequate explanation thereof to the grantee and simultaneously to each participating party within 1 week after receipt of the report and recommendations. His determination shall constitute final agency action, from which there shall be no further administrative appeal. The Regional Counsel may extend these time limitations, where appropriate.

(4) The Regional Administrator may review the record considered by the grantee, and any other documents or arguments presented by the parties, to determine whether the grantee has complied with this subpart and has a rational basis for its determination.

(5) If a determination is made by the Regional Administrator which is favorable to the complainant, the grantee's procurement action (for example, contract award) must be taken in accordance with such determination.

(f) *Procedures.* (1) Where resolution of an issue properly raised with respect to a procurement requirement of this subpart requires prior or collateral resolution of a legal issue arising under State or local law, and such law is not clearly established in published legal decisions of the State or other relevant jurisdiction, the grantee or Regional Administrator may rely upon:

(i) An opinion of the grantee's legal counsel adequately addressing the issue (see § 35.936-2(b));

(ii) The established or consistent practice of the grantee, to the extent appropriate; or

(iii) The law of other States or local jurisdictions as established in published legal decisions; or

(iv) If none of the foregoing adequately resolve the issue, published decisions of the Comptroller General of the United States (U.S. General Accounting Office) or of the Federal courts addressing Federal requirements comparable to procurement requirements of this subpart.

(2) For the determination of Federal issues presented by the protest, the Regional Administrator may rely upon:

(i) Determinations of other protests decided under this section, unless such protests have been reversed; and

(ii) Decisions of the Comptroller General of the United States or of the Federal courts addressing Federal requirements comparable to procurement requirements of this subpart.

(3) The Regional Counsel may establish additional procedural requirements or deadlines for the submission of materials by parties or for the accomplishment of other procedures. Where time limitations are established by this section or by the Regional Counsel, participants must seek to accomplish the required action as promptly as possible in the interest of expediting the procurement action.

(4) A party who submits a document subsequent to initiation of a protest proceeding under paragraph (d) or (e) of this section must simultaneously furnish each other party with a copy of such document.

(5) The procedures established by this section are not intended to preclude informal resolution or voluntary withdrawal of protests. A complainant may withdraw its appeal at any time, and the protest proceeding shall thereupon be terminated.

(6) The Regional Administrator may utilize appropriate provisions of this section in the discharge of his responsibility to review grantee procurement under 40 CFR 35.935-2.

(7) A protest may be dismissed for failure to comply with procedural requirements of this section.

(g) *Burden of proof.* (1) In proceedings under paragraphs (d) and (e) of this section, if the grantee proposes to award a formally advertised, competitively bid, fixed price contract to a party who has submitted the apparent lowest price, the party initiating the protest will bear the burden of proof in the protest proceedings.

(2) In the proceedings under paragraph (e) of this section—

(i) If the grantee proposes to award a formally advertised, competitively bid, fixed-price contract to a bidder other than the bidder which submitted the apparent lowest price, the grantee will bear the burden of proving that its determination concerning responsiveness is in accordance with this subchapter; and

(ii) If the basis for the grantee's determination is a finding of nonresponsibility, the grantee must establish and substantiate the basis for its determination and must adequately establish that such determination has been made in good faith.

(h) *Deferral of procurement action.* Upon receipt of a protest under paragraph (d) of this section, the grantee must defer the protested procurement action (for example, defer the issuance of solicitations, contract award, or issuance of notice to proceed under a contract) until 10 days after delivery of its determination to the participating parties. (The grantee may receive or open bids at it own risk, if it considers this to be in its best interest; and see § 35.938-4(h)(5).) Where the Regional Administrator has received a written protest under paragraph (e) of this section, he must notify the grantee promptly to defer its protested procurement action until notified of the formal or informal resolution of the protest.

(i) *Enforcement.* (1) Noncompliance with the procurement provisions of this subchapter by the grantee shall be cause for enforcement action in accordance with one or more of the provisions of § 35.965 of this subpart.

(2) If the Regional Administrator determines that a protest prosecuted pursuant to this section is frivolous, he may determine the party which prosecuted such protest to be nonresponsible and ineligible for future contract award (see also paragraph (k) of this section).

(j) *Limitation.* A protest may not be filed under this section with respect to the following:

(1) Issues not arising under the procurement provisions of this subchapter; or

(2) Issues relating to the selection of a consulting engineer, provided that a protest may be filed only with respect to the mandatory procedural requirements of §§ 35.937 through 35.937-9;

(3) Issues primarily determined by State or local law or ordinances and as to which the Regional Administrator, upon review, determines that there is no contravening Federal requirement and that the grantee's action has a rational basis (see paragraph (e)(4) of this section).

(4) Provisions of Federal regulations applicable to direct Federal contracts, unless such provisions are explicitly referred to or incorporated in this subpart;

(5) Basic project design determinations (for example, the selection of incineration versus other methods of disposal of sludge);

(6) Award of subcontracts or issuance of purchase orders under a formally advertised, competitively bid, lump-sum construction contract. However, protest may be made with respect to alleged violation of the following:

(i) Specification requirements of § 35.936-13; or

(ii) Provisions of this subpart applicable to the procurement procedures,

negotiation or award of subcontracts or issuance of purchase orders under §§ 35.937-12 (subcontracts under subagreements for architectural or engineering services) or § 35.938-9 (subcontracts under construction contracts).

(k) *Summary disposition.* The Regional Administrator may summarily dismiss a protest, without proceedings under paragraphs (d) or (e) of this section, if he determines that the protest is untimely, frivolous or without merit—for example, that the protested action of the grantee primarily involves issues of State or local law. Any such determination shall refer briefly to the facts substantiating the basis for the determination.

(l) *Index.* The EPA General Counsel will publish periodically as a notice document in the FEDERAL REGISTER an index of Regional Administrator protest determinations. (See, e.g., 43 FR 29085, July 5, 1978.)

§ 35.940 Determination of allowable costs.

The grantee will be paid, upon request in accordance with § 35.945, for the Federal share of all necessary costs within the scope of the approved project and determined to be allowable in accordance with § 30.705 of this chapter, this subpart, and the grant agreement.

§ 35.940-1 Allowable project costs.

Allowable costs include:

(a) Costs of salaries, benefits, and expendable material the grantee incurs for the project, except as provided in § 35.940-2(g);

(b) Costs under construction contracts;

(c) Professional and consultant services;

(d) Facilities planning directly related to the treatment works;

(e) Sewer system evaluation (§ 35.927);

(f) Project feasibility and engineering reports;

(g) Costs required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621 et seq., 4651 et seq.), and part 4 of this chapter;

(h) Costs of complying with the National Environmental Policy Act, including costs of public notices and hearings;

(i) Preparation of construction drawings, specifications, estimates, and construction contract documents;

(j) Landscaping;

(k) Removal and relocation or replacement of utilities, for which the grantee is legally obligated to pay;

(l) Materials acquired, consumed, or expended specifically for the project;

(m) A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations;

(n) Development and preparation of an operation and maintenance manual;

(o) A plan of operation, in accordance with guidance issued by the Administrator;

(p) Start-up services for new treatment works, in accordance with guidance issued by the Administrator;

(q) Project identification signs (§ 30.625-3 of this chapter);

(r) Development of a municipal pretreatment program approvable under part 403 of this chapter, and purchase of monitoring equipment and construction of facilities to be used by the municipal treatment works in the pretreatment program;

(s) Costs of complying with the procurement requirements of these regulations (see § 35.936-20).

§ 35.940-2 Unallowable costs.

Costs which are not necessary for the construction of a treatment works project are unallowable. Such costs include, but are not limited to:

(a) Basin or areawide planning not directly related to the project;

(b) Bonus payments not legally required for completion of construction before a contractual completion date;

(c) Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or otherwise;

(d) Fines and penalties due to violations of, or failure to comply with, Federal, State, or local laws;

(e) Costs outside the scope of the approved project;

(f) Interest on bonds or any other form of indebtedness required to finance the project costs;

(g) Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney, except as provided in § 35.940-4;

(h) Site acquisition (for example, sewer rights-of-way, sewage treatment plantsite, sanitary landfills and sludge disposal areas) except as otherwise provided in § 35.940-3(a);

(i) Costs for which payment has been or will be received under another Federal assistance program;

(j) Costs of equipment or material procured in violation of § 35.938-4(b);

(k) Costs of studies under § 35.907 (d)(6) and (d)(7) when performed solely for the purpose of seeking an allowance for removal of pollutants under part 403 of this chapter;

(l) Costs of monitoring equipment used by industry for sampling and analysis of industrial discharges to municipal treatment works;

(m) Construction of privately-owned treatment works, including pretreatment facilities, except as authorized by section 201(h) of the Act and § 35.918;

(n) Preparation of a grant application, including a plan of study.

§ 35.940-3 Costs allowable, if approved.

Certain direct costs are sometimes necessary for the construction of a treatment works. The following costs are allowable if reasonable and if the Regional Administrator approves them in the grant agreement.

(a) Land acquired after October 17, 1972, that will be an integral part of the treatment process, or that will be used for ultimate disposal of residues resulting from such treatment (for example, land for spray irrigation of sewage effluent).

(b) Land acquired after December 26, 1977, that will be used for storage of treated wastewater in land treatment systems before land application.

(c) Land acquired after December 26, 1977, that will be used for composting or temporary storage of compost residues which result from wastewater treatment, if EPA has approved a program for use of the compost.

(d) Acquisition of an operable portion of a treatment works. This type of acquisition is generally not allowable except when determined by the Regional Administrator in accordance with guidance issued by the Administrator.

(e) Rate determination studies required under § 35.925-11.

(f) A limited amount of end-of-pipe sampling and associated analysis of industrial discharges to municipal treatment works as provided in § 35.907(f).

§ 35.940-4 Indirect costs.

Indirect costs shall be allowable in accordance with an indirect cost agreement negotiated and incorporated in the grant agreement. An indirect cost agreement must identify those cost elements allowable under § 35.940-1. Where the benefits derived from indirect services cannot be readily determined, a lump sum for overhead may be negotiated if EPA determines that this amount will be approximately the same as the actual indirect costs.

§ 35.940-5 Disputes concerning allowable costs.

The grantee should seek to resolve any questions relating to cost allowability or allocation at its earliest opportunity (if possible, before execution of the grant agreement). Final determinations concerning the allowability of costs shall be conclusive unless appealed within 30 days in accordance with the "Disputes" provisions of part 30, subpart J, of this subchapter.

§ 35.945 Grant payments.

The grantee shall be paid the Federal share of allowable project costs incurred within the scope of an approved project and which are current-

ly due and payable from the grantee (i.e., not including withheld or deferred amounts), subject to the limitations of §§ 35.925-18, 35.930-5, 35.930-6, and 35.965 (b) and (c), up to the grant amount set forth in the grant agreement and any amendments thereto. Payments for engineering services for step 1, 2 or 3 shall be made in accordance with § 35.937-10 and payments for step 3 construction contracts shall be made in accordance with §§ 35.938-6 and 35.938-7. All allowable costs incurred before initiation of construction of the project must be claimed in the application for grant assistance for that project before the award of the assistance or no subsequent payment will be made for the costs.

(a) *Initial request for payment.* Upon award of grant assistance, the grantee may request payment for the unpaid Federal share of actual or estimated allowable project costs incurred before grant award subject to the limitations of § 35.925-18. Payment for such costs shall be made in accordance with the negotiated payment schedule included in the grant agreement.

(b) *Interim requests for payment.* The grantee may submit requests for payments for allowable costs in accordance with the negotiated payment schedule included in the grant agreement. Upon receipt of a request for payment, subject to the limitations set forth in § 30.615-3 of this subchapter and §§ 35.935-12, 35.935-13, and 35.935-16, the Regional Administrator shall cause to be disbursed from available appropriated funds such amounts as are necessary so that the total amount of Federal payments to the grantee for the project is equal to the Federal share of the actual or estimated allowable project costs incurred to date, as certified by the grantee in its most recent request for payment. Generally, payments will be made within 20 days after receipt of a request for payment.

(c) *Adjustment.* At any time before final payment under the grant, the Regional Administrator may cause any request(s) for payment to be reviewed or audited. Based on such review or audit, any payment may be reduced for prior overpayment or increased for prior underpayment.

(d) *Refunds, rebates, credits, etc.* The Federal share of any refunds, rebates, credits, or other amounts (including any interest) that accrue to or are received by the grantee for the project, and that are properly allocable to costs for which the grantee has been paid under a grant, must be credited to the current State allotment or paid to the United States. Reasonable expenses incurred by the grantee for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable under the grant when approved by the Regional Administrator.

(e) *Final payment.* After completion of final inspection under § 35.935-14, approval of the request for payment which the grantee designates as the "final payment request," and the grantee's compliance with all applicable requirements of this subchapter and the grant agreement, the Regional Administrator shall pay to the grantee any balance of the Federal share of allowable project costs which has not already been paid. The grantee must submit the final payment request promptly after final inspection.

(f) *Assignment and release.* By its acceptance of final payment, the grantee agrees to assign to the United States the Federal share of refunds, rebates, credits or other amounts (including any interest) properly allocable to costs for which the grantee has been paid by the Government under the grant. The grantee thereby also releases and discharges the United States, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the grant, subject only to exceptions previously specified in writing between the Regional Administrator and the grantee.

§ 35.950 Suspension, termination or annulment of grants.

Grants may be suspended under § 30.915, or terminated or annulled under § 30.920. The State agency shall be concurrently notified in writing of any such action.

§ 35.955 Grant amendments to increase grant amounts.

Grant agreements may be amended under § 30.900-1 of this chapter for project changes which have been approved under §§ 30.900 and 35.935-11 of this subchapter. However, no grant agreement may be amended to increase the amount of a grant unless the State agency has approved the grant increase from available State allotments and reallotments under § 35.915.

§ 35.960 Disputes.

(a) The Regional Administrator's final determination on the ineligibility of a project (see § 35.915(h)) or a grant applicant (see § 35.920-1), on the Federal share (see § 35.930-5(b)), or on any dispute arising under a grant shall be final and conclusive unless the applicant or grantee appeals within 30 days from the date of receipt of the final determination. (See Subpart J of Part 30 of this subchapter.)

(b) The EPA General Counsel will publish periodically as a Notice document in the FEDERAL REGISTER a digest of grant appeals decisions.

§ 35.965 Enforcement.

If the Regional Administrator determines that the grantee has failed to comply with any provision of this subpart, he may impose any of the following sanctions:

(a) The grant may be terminated or annulled under § 30.920 of this subchapter;

(b) Project costs directly related to the noncompliance may be disallowed;

(c) Payment otherwise due to the grantee of up to 10 percent may be withheld (see § 30.615-3 of this chapter);

(d) Project work may be suspended under § 30.915 of this subchapter;

(e) A noncomplying grantee may be found nonresponsible or ineligible for future Federal assistance or a noncomplying contractor may be found nonresponsible or ineligible for approval for future contract award under EPA grants;

(f) An injunction may be entered or other equitable relief afforded by a court of appropriate jurisdiction;

(g) Such other administrative or judicial action may be instituted if it is legally available and appropriate.

§ 35.970 Contract enforcement.

(a) *Regional Administrator authority.* At the request of a grantee, the Regional Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract related to treatment works for which an EPA grant was made and to intervene in any civil action involving the enforcement of such contracts, including contract disputes which are the subject of either arbitration or court action. Any assistance is to be provided at the discretion of the Regional Administrator and in a manner determined to best serve the public interest. Factors which the Regional Administrator may consider in determining whether to provide assistance are:

(1) Available agency resources.

(2) Planned or ongoing enforcement action.

(3) The grantee's demonstration of good faith to resolve contract matters at issue.

(4) The grantee's adequate documentation.

(5) The Federal interest in the contract matters at issue.

(b) *Grantee request.* The grantee's request for technical or legal assistance should be submitted in writing and be accompained by documentation adequate to inform the Regional Administrator of the nature and necessity of the requested assistance. A grantee may orally request assistance from the Regional Administrator on an emergency basis.

(c) *Privity of contract.* The Regional Administrator's technical or legal involvement in any contract dispute will not make EPA a party to any contract entered into by the grantee. (See § 35.936-8.)

(d) *Delegation to States.* The authority to provide technical and legal assistance in the administration of contract matters described in this section may be delegated to a State agency under Subpart F of this part if the State agency can demonstrate that it has the appropriate legal authority to undertake such functions.

APPENDIX A

COST-EFFECTIVENESS ANALYSIS GUIDELINES

1. *Purpose.* These guidelines represent Agency policies and procedures for determining the most cost-effective waste treatment management system or component part.

2. *Authority.* These guidelines are provided under sections 212(2)(C) and 217 of the Clean Water Act.

3. *Applicability.* These guidelines, except as otherwise noted, apply to all facilities planning under step 1 grant assistance awarded after September 30, 1978. The guidelines also apply to State or locally financed facilities planning on which subsequent step 2 or step 3 Federal grant assistance is based.

4. *Definitions.* Terms used in these guidelines are defined as follows:

a. *Waste treatment management system.* Used synonymously with "complete waste treatment system" as defined in § 35.905 of this subpart.

b. *Cost-effectiveness analysis.* An analysis performed to determine which waste treatment management system or component part will result in the minimum total resources costs over time to meet Federal, State, or local requirements.

c. *Planning period.* The period over which a waste treatment management system is evaluated for cost-effectiveness. The planning period begins with the system's initial operation.

d. *Useful life.* The estimated period of time during which a treatment works or a component of a waste treatment management system will be operated.

e. *Disaggregation.* The process or result of breaking down a sum total of population or economic activity for a State or other jurisdiction (i.e., designated 208 area or SMSA) into smaller areas or jurisdictions.

5. *Identification, selection, and screening of alternatives.* a. *Identification of alternatives.* All feasible alternative waste management systems shall be initially identified. These alternatives should include systems discharging to receiving waters, land application systems, on-site and other non-centralized systems, including revenue generating applications, and systems employing the reuse of wastewater and recycling of pollutants. In identifying alternatives, the applicant shall consider the possibility of no action and staged development of the system.

b. *Screening of alternatives.* The identified alternatives shall be systematically screened to determine those capable of meeting the applicable Federal, State and local criteria.

c. *Selection of alternatives.* The identified alternatives shall be initially analyzed to determine which systems have cost-effective potential and which should be fully evaluated according to the cost-effectiveness analysis procedures established in the guidelines.

d. *Extent of effort.* The extent of effort and the level of sophistication used in the cost-effectiveness analysis should reflect the project's size and importance. Where processes or techniques are claimed to be innovative technology on the basis of the cost reduction criterion contained in paragraph 6e(1) of appendix E to this subpart, a sufficiently detailed cost analysis shall be included to substantiate the claim to the satisfaction of the Regional Administrator.

6. *Cost-effectiveness analysis procedures.*

a. *Method of analysis.* The resources costs shall be determined by evaluating opportunity costs. For resources that can be expressed in monetary terms, the analysis will use the interest (discount) rate established in paragraph 6e. Monetary costs shall be calculated in terms of present worth values or equivalent annual values over the planning period defined in section 6b. The analysis shall descriptively present nonmonetary factors (e.g., social and environmental) in order to determine their significance and impact. Nonmonetary factors include primary and secondary environmental effects, implementation capability, operability, performance reliability and flexibility. Although such factors as use and recovery of energy and scarce resources and recycling of nutrients are to be included in the monetary cost analysis, the non-monetary evaluation shall also include them. The most cost-effective alternative shall be the waste treatment management system which the analysis determines to have the lowest present worth or equivalent annual value unless nonmonetary costs are overriding. The most cost-effective alternative must also meet the minimum requirements of applicable effluent limitations, groundwater protection, or other applicable standards established under the Act.

b. *Planning period.* The planning period for the cost-effectiveness analysis shall be 20 years.

c. *Elements of monetary costs.* The monetary costs to be considered shall include the total value of the resources which are attributable to the waste treatment management system or to one of its component parts. To determine these values, all monies necessary for capital construction costs and operation and maintenance costs shall be identified.

(1) Capital construction costs used in a cost-effective analysis shall include all contractors' costs of construction including overhead and profit, costs of land, relocation, and right-of-way and easement acquisition; costs of design engineering, field exploration and engineering services during construction; costs of administrative and legal services including costs of bond sales; startup costs such as operator training; and interest during construction. Capital construction costs shall also include contingency allowances consistent with the cost estimate's level of precision and detail.

(2) The cost-effectiveness analysis shall include annual costs for operation and maintanance (including routine replacement of equipment and equipment parts). These costs shall be adequate to ensure effective and dependable operation during the system's planning period. Annual costs shall be divided between fixed annual costs and costs which would depend on the annual quantity of waste water collected and treated. Annual revenues generated by the waste treatment management system through energy recovery, crop production, or other outputs shall be deducted from the annual costs for operation and maintenance in accordance with guidance issued by the Administrator.

d. *Prices.* The applicant shall calculate the various components of costs on the basis of market prices prevailing at the time of the cost-effectiveness analysis. The analysis shall not allow for inflation of wages and prices, except those for land, as described in paragraph 6h(1) and for natural gas. This stipulation is based on the implied assumption that prices, other than the exceptions, for resources involved in treatment works construction and operation, will tend to change over time by approximately the same percentage. Changes in the general level of prices will not affect the results of the cost-effectiveness analysis. Natural gas prices shall be escalated at a compound rate of 4 percent annually over the planning period, unless the Regional Administrator determines that the grantee has justified use of a greater or lesser percentage based upon regional differentials between historical natural gas price escalation and construction cost escalation. Land prices shall be appreciated as provided in paragraph 6h(1). Both historical data and future projections support the gas and land price escalations relative to those for other goods and services related to waste water treatment. Price escalation rates may be updated periodically in accordance with Agency guidelines.

e. *Interest (discount) rate.* The rate which the Water Resources Council establishes annually for evaluation of water resource projects shall be used.

f. *Interest during construction.* (1) Where capital expenditures can be expected to be fairly uniform during the construction period, interest during construction may be calculated at $I = 1/2PCi$ where:

I = the interest accrued during the construction period,
P = the construction period in years,
C = the total capital expenditures,
i = the interest rate (discount rate in section 6e).

(2) Where expenditures will not be uniform, or when the construction period will be greater than 4 years, interest during construction shall be calculated on a year-by-year basis.

g. *Useful life.* (1) The treatment works' useful life for a cost-effectiveness analysis shall be as follows:

Land—permanent.
Waste water conveyance structures (includes collection systems, outfall pipes, interceptors, force mains, tunnels, etc.)—50 years.
Other structures (includes plant building, concrete process tankage, basins, lift stations structures, etc.)—30-50 years.
Process equipment—15-20 years.
Auxiliary equipment—10-15 years.

(2) Other useful life periods will be acceptable when sufficient justification can be provided. Where a system or a component is for interim service, the anticipated useful life shall be reduced to the period for interim service.

h. *Salvage value.* (1) Land purchased for treatment works, including land used as part of the treatment process or for ultimate disposal of residues, may be assumed

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to have a salvage value at the end of the planning period a least equal to its prevailing market value a the time of the analysis. In calculating the salvage value of land, the land value shall be appreciated at a compound rate of 3 percent annually over the planning period, unless the Regional Administrator determines that the grantee has justified the use of a greater or lesser percentage based upon historical differences between local land cost escalation and construction cost escalation. The land cost escalation rate may be updated periodically in accordance with Agency guidelines. Right-of-way easements shall be considered to have a salvage value not greater than the prevailing market value at the time of the analysis.

(2) Structures will be assumed to have a salvage value if there is a use for them at the end of the planning period. In this case, salvage value shall be estimated using straight line depreciation during the useful life of the treatment works.

(3) The method used in paragraph 6h(2) may be used to estimate salvage value at the end of the planning period for phased additions of process equipment and auxiliary equipment.

(4) When the anticipated useful life of a facility is less than 20 years (for analysis of interim facilities), salvage value can be claimed for equipment if it can be clearly demonstrated that a specific market or reuse opportunity will exist.

7. *Innovative and alternative wastewater treatment processes and techniques.*

a. Beginning October 1, 1978, the capital costs of publicly owned treatment works which use processes and techniques meeting the criteria of appendix E to this subpart and which have only a water pollution control function, may be eligible if the present worth cost of the treatment works is not more than 115 percent of the present worth cost of the most cost-effective pollution control system, exclusive of collection sewers and interceptors common to the two systems being compared, by 115 percent, except for the following situation.

b. Where innovative or alternative unit processes would serve in lieu of conventional unit processes in a conventional waste water treatment plant, and the present worth costs of the nonconventional unit processes are less than 50 percent of the present worth costs of the treatment plant, multiply the present worth costs of the replaced conventional processes by 115 percent, and add the cost of nonreplaced unit processes.

c. The eligibility of multipurpose projects which combine a water pollution control function with another function, and which use processes and techniques meeting the criteria of appendix E to this subpart, shall be determined in accordance with guidance issued by the Administrator.

d. The above provisions exclude individual systems under § 35.918. The regional Administrator may allow a grantee to apply the 15-percent preference authorized by this section to facility plans prepared under step 1 grant assistance awarded before October 1, 1978.

8. *Cost-effective staging and sizing of treatment works.*

a. *Population projections.* (1) The disaggregation of State projections of population shall be the basis for the population forecasts presented in individual facility plans, except as noted. These State projections shall be those developed in 1977 by the Bureau of Economic Analysis (BEA), Department of Commerce, unless, as of June 26, 1978, the State has already prepared projections. These State projections may be used instead of the BEA projections if the year 2000 State population does not exceed that of the BEA projection by more than 5 percent. If the difference exceeds this amount, the State must either justify or lower its projection. Justification must be based on the historical and current trends (e.g., energy and industrial development, military base openings) not taken into account in the BEA projections. The State must submit for approval to the Administrator the request and justification for use of State projections higher than the BEA projections. By that time, the State shall issue a public notice of the request. Before the Administrator's approval of the State projection, the Regional Administrator shall solicit public comments and hold a public hearing if important issues are raised about the State projection's validity. State projections and disaggregations may be updated periodically in accordance with Agency guidelines.

(2) Each State, working with designated 208 planning agencies, organizations certified by the Governor under section 174(a) of the Clean Air Act, as amended, and other regional planning agencies in the State's nondesignated areas, shall disaggregate the State population projection among its designated 208 areas, other standard metropolitan statistical areas (SMSA's) not included in the 208 area, and non-SMSA counties or other appropriate jurisdictions. States that had enacted laws, as of June 26, 1978, mandating disaggregation of State population totals to each county for areawide 208 planning may retain this requirement. When disaggregating the State population total, the State shall take into account the projected population and economic activities identified in facility plans, areawide 208 plans and municipal master plans. The sum of the disaggregated projections shall not exceed the State projection. Where a designated 208 area has, as of June 26, 1978, already prepared a population projection, it may be used if the year 2000 population does not exceed that of the disaggregated projection by more than 10 percent. The State may then increase its population projection to include all such variances rather than lower the population projection totals for the other areas. If the 208 area population forecast exceeds the 10 percent allowance, the 208 agency must lower its projection within the allowance and submit the revised projection for approval to the State and the Regional Administrator.

(3) The State projection totals and the disaggregations will be submitted as an output of the statewide water quality management process. The submission shall include a list of designated 208 areas, all SMSA's, and counties or other units outside the 208 areas. For each unit the disaggregated population shall be shown for the years 1980, 1990, and 2000. Each State will submit its projection totals and disaggregations for the Regional Administrator's approval before October 1, 1979. Before this submission, the State shall hold a public meeting on the disaggregations and shall provide public notice of the meeting consistent with part 25 of this chapter. (See § 35.917(e).)

(4) When the State projection totals and disaggregations are approved they shall be used thereafter for areawide water quality management planning as well as for facility planning and the needs surveys under section 516(b) of the Act. Within areawide 208 planning areas, the designated agencies, in consultation with the States, shall disaggregate the 208 area projections among the SMSA and non-SMSA areas and then disaggregate these SMSA and non-SMSA projections among the facility planning areas and the remaining areas. For those SMSA's not included within designated 208 planning areas, each State, with assistance from appropriate regional planning agencies, shall disaggregate the SMSA projection among the facility planning areas and the remaining areas within the SMSA. The State shall check the facility planning area forecasts to ensure reasonableness and consistency with the SMSA projections.

(5) For non-SMSA facility planning areas not included in designated areawide 208 areas, the State may disaggregate population projections for non-SMSA counties among facility planning areas and remaining areas. Otherwise, the grantee is to forecast future population growth for the facility planning area by linear extrapolation of the recent past (1960 to present) population trends for the planning area, use of correlations of planning area growth with population growth for the township, county or other larger parent area population, or another appropriate method. A population forecast may be raised above that indicated by the extension of past trends where likely impacts (e.g., significant new energy developments, large new industries, Federal installations, or institutions) justify the difference. The facilities plan must document the justification. These population forecasts should be based on estimates of new employment to be generated. The State shall check individual population forecasts to insure consistency with overall projections for non-SMSA counties and justification for any difference from past trends.

(6) Facilities plans prepared under step 1 grant assistance awarded later than 6 months after Agency approval of the State disaggregations shall follow population forecasts developed in accordance with these guidelines.

b. *Wastewater flow estimates.* (1) In determining total average daily flow for the design of treatment works, the flows to be considered include the average daily base flows (ADBF) expected from residential sources, commercial sources, institutional sources, and industries the works will serve plus allowances for future industries and nonexcessive infiltration/inflow. The amount of nonexcessive infiltration/inflow not included in the base flow estimates presented herein, is to be determined according to the Agency guidance for sewer system evaluation or Agency policy on treatment and control of combined sewer overflows (PRM 75-34).

(2) The estimation of existing and future ADBF, exclusive of flow reduction from combined residential, commercial and institutional sources, shall be based upon one of the following methods:

(a) *Preferred method.* Existing ADBF is estimated based upon a fully documented analysis of water use records adjusted for consumption and losses or on records of wastewater flows for extended dry periods less estimated dry weather infiltration. Future flows for the treatment works design should be estimated by determining the existing per capita flows based on existing sewered resident population and multiplying this figure by the future projected population to be served. Seasonal population can be converted to equivalent full time residents using the following multipliers:

Day-use visitor	0.1 to 0.2
Seasonal visitor	0.5 to 0.8

The preferred method shall be used wherever water supply records or wastewater flow data exist. Allowances for future increases of per capita flow over time will not be approved.

(b) *Optional method.* Where water supply and wastewater flow data are lacking, existing and future ADBF shall be estimated by multiplying a gallon per capita per day (gpcd) allowance not exceeding those in the following table, except as noted below, by the estimated total of the existing and future resident populations to be served. The tabulated ADBF allowances, based upon several studies of municipal water use, include estimates for commercial and institutional sources as well as residential sources. The Regional Administrator may approve exceptions to the tabulated allowances where large (more than 25 percent of total estimated ADBF) commercial and institutional flows are documented.

Description	Gallons per capita per day
Non-SMSA cities and towns with projected total 10-year populations of 5,000 or less	60 to 70
Other cities and towns	65 to 80

c. *Flow reduction.* The cost-effectiveness analysis for each facility planning area shall include an evaluation of the costs, cost savings, and effects of flow reduction measures unless the existing ADBF from the area is less than 70 gpcd, or the current population of the applicant municipality is under 10,000, or the Regional Administrator exempts the area for having an effective existing flow reduction program. Flow reduction measures include public education, pricing and regulatory approaches or a combination of these. In preparing the facilities plan and included cost effectiveness analysis, the grantee shall, as a minimum:

(1) Estimate the flow reductions implementable and cost effective when the treatment works become operational and after 10 and 20 years of operation. The measures to be evaluated shall include a public information program; pricing and regulatory approaches; installation of water meters, and retrofit of toilet dams and low-flow showerheads for existing homes and other habitations; and specific changes in local ordinances, building codes or plumbing codes requiring installations of water saving devices such as water meters, water conserving toilets, showerheads, lavatory faucets, and appliances in new homes, motels, hotels, institutions, and other establishments.

(2) Estimate the costs of the proposed flow reduction measures over the 20-year planning period, including costs of public information, administration, retrofit of existing buildings and the incremental costs, if any, of installing water conserving devices in new homes and establishments.

(3) Estimate the energy reductions; total cost savings for wastewater treatment, water supply and energy use; and the net cost savings (total savings minus total costs) attributable to the proposed flow reduction measures over the planning period. The estimated cost savings shall reflect reduced sizes of proposed wastewater treatment works plus reduced costs of future water supply facility expansions.

(4) Develop and provide for implementing a recommended flow reduction program. This shall include a public information program highlighting effective flow reduction measures, their costs, and the savings of water and costs for a typical household and for the community. In addition, the recommended program shall comprise those flow reduction measures which are cost effective, supported by the public and within the implementation authority of the grantee or another entity willing to cooperate with the grantee.

(5) Take into account in the design of the treatment works the flow reduction estimated for the recommended program.

d. *Industrial flows.* (1) The treatment works' total design flow capacity may include allowances for industrial flows. The allowances may include capacity needed for industrial flows which the existing treatment works presently serves. However, these flows shall be carefully reviewed and means of reducing them shall be considered. Letters of intent to the grantee are required to document capacity needs for existing flows from significant industrial users and for future flows from all industries intending to increase their flows or relocate in the area. Requirements for letters of intent from significant industrial dischargers are set forth in § 35.925-11(c).

(2) While many uncertainties accompany forecasting future industrial flows, there is still a need to allow for some unplanned future industrial growth. Thus, the cost-effective (grant eligible) design capacity and flow of the treatment works may include (in addition to the existing industrial flows and future industrial flows documented by letters of intent) a nominal flow allowance for future nonidentifiable industries or for unplanned industrial expansions, provided that 208 plans, land use plans and zoning provide for such industrial growth. This additional allowance for future unplanned industrial flow shall not exceed 5 percent (or 10 percent for towns with less than 10,000 population) of the total design flow of the treatment works exclusive of the allowance or 25 percent of the total industrial flow (existing plus documented future), whichever is greater.

e. *Staging of treatment plants.* (1) The capacity of treatment plants (i.e., new plants, upgraded plants, or expanded plants) to be funded under the construction grants program shall not exceed that necessary for wastewater flows projected during an initial staging period determined by one of the following methods:

(a) *First method.* The grantee shall analyze at least three alternative staging periods (10 years, 15 years, and 20 years). He shall select the least costly (i.e., total present worth or average annual cost) staging period.

(b) *Second method.* The staging period shall not exceed the period which is appropriate according to the following table.

STAGING PERIODS FOR TREATMENT PLANTS

Flow growth factors (20 years)*	Staging period † (years)
Less than 1.3	20
1.3 to 1.8	15
Greater than 1.8	10

*Ratio of wastewater flow expected at end of 20 year planning period to initial flow at the time the plant is expected to become operational.

†Maximum initial staging period.

(2) A municipality may stage the construction of a treatment plant for a shorter period than the maximum allowed under this policy. A shorter staging period might be based upon environmental factors (secondary impacts, compliance with other environmental laws under § 35.925-14, energy conservation, water supply), an objective concerning planned modular construction, the utilization of temporary treatment plants, or attainment of consistency with locally adopted plans including comprehensive and capital improvement plans. However, the staging period in no case may be less than 10 years, because of associated cost penalties and the time necessary to plan, apply for and receive funding, and construct later stages.

(3) The facilities plan shall present the design parameters for the proposed treatment plant. Whenever the proposed treatment plant components' size or capacity would exceed the minimum reliability requirements suggested in the EPA technical bulletin, "Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability," a complete justification, including supporting data, shall be provided to the Regional Administrator for his approval.

f. *Staging of interceptors.* Since the location and length of interceptors will influence growth, interceptor routes and staging of construction shall be planned carefully. They shall be consistent with approved 208 plans, growth management plans and other environmental laws under § 35.925-14 and shall also be consistent with Executive orders for flood plains and wetlands.

(1) Interceptors may be allowable for construction grant funding if they eliminate existing point source discharges and accommodate flows from existing habitations that violate an enforceable requirement of the Act. Unless necessary to meet those objectives, interceptors should not be extended into environmentally sensitive areas, prime agricultural lands and other undeveloped areas (density less than one household per 2 acres). Where extension of an interceptor through such areas would be necessary to interconnect two or more communities, the grantee shall reassess the need for the interceptor by further consideration of alternative wastewater treatment systems. If the reassessment demonstrates a need for the interceptor, the grantee shall evaluate the interceptor's primary and secondary environmental impacts, and provide for appropriate mitigating measures such as rerouting the pipe to minimize adverse impacts or restricting future connections to the pipe. Appropriate and effective grant conditions (e.g., restricting sewer hookups) should be used where necessary to protect environmentally sensitive areas or prime agricultural lands from new development. NPDES permits shall include the conditions to insure implementation of the mitigating

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measures when new permits are issued to the affected treatment facilities in those cases where the measures are required to protect the treatment facilities against overloading.

(2) Interceptor pipe sizes (diameters for cylindrical pipes) allowable for construction grant funding shall be based on a staging period of 20 years. A larger pipe size corresponding to a longer staging period not to exceed 40 years may be allowed if the grantee can demonstrate, wherever water quality management plans or other plans developed for compliance with laws under § 35.925-14 have been approved, that the larger pipe would be consistent with projected land use patterns in such plans and that the larger pipe would reduce overall (primary plus secondary) environmental impacts. These environmental impacts include:

(a) *Primary impacts.* (i) Short-term disruption of traffic, business and other daily activities.

(ii) Destruction of flora and fauna, noise, erosion, and sedimentation.

(b) Secondary impacts. (i) Pressure to rezone or otherwise facilitate unplanned development.

(ii) Pressure to accelerate growth for quicker recovery of the non-Federal share of the interceptor investments.

(iii) Effects on air quality and environmentally sensitive areas by cultural changes.

(3) The estimation of peak flows in interceptors shall be based upon the following considerations:

(a) Daily and seasonal variations of pipe flows, the timing of flows from the various parts of the tributary area, and pipe storage effects.

(b) The feasibility of off-pipe storage to reduce peak flows.

(c) The use of an appropriate peak flow factor that decreases as the average daily flow to be conveyed increases.

9. *State guidelines.* If a State has developed or chooses to develop comprehensive guidelines on cost-effective sizing and staging of treatment works, the Regional Administrator may approve all or portions of the State guidance for application to step 1 facility plans. Approved State guidance may be used instead of corresponding portions of these guidelines, if the following conditions are met:

a. The State guidance must be at least as stringent as the provisions of these guidelines.

b. The State must have held at least one public hearing on proposed State guidance, under regulations in part 25 of this chapter, before submitting the guidance for Agency approval.

10. *Additional capacity beyond the cost-effective capacity.* Treatment works which propose to include additional capacity beyond the cost-effective capacity determined in accordance with these guidelines may receive Federal grant assistance if the following requirements are met:

a. The facilities plan shall determine the most cost-effective treatment works and its associated capacity in accordance with these guidelines. The facilities plan shall also determine the actual characteristics and total capacity of the treatment works to be built.

b. Only a portion of the cost of the entire proposed treatment works including the additional capacity shall be eligible for Federal funding. The portion of the cost of construction which shall be eligible for Federal funding under sections 203(a) and 202(a) of the Act shall be equivalent to the estimated construction costs of the most cost-effective treatment works. For the eligibility determination, the costs of construction of the actual treatment works and the most cost-effective treatment works must be estimated on a consistent basis. Up-to-date cost curves published by EPA's Office of Water Program Operations or other cost estimating guidance shall be used to determine the cost ratios between cost-effective project components and those of the actual project. These cost ratios shall be multiplied by the step 2 cost and step 3 contract costs of actual components to determine the eligible step 2 and step 3 costs.

c. The actual treatment works to be built shall be assessed. It must be determined that the actual treatment works meets the requirements of the National Environmental Policy Act and all applicable laws, regulations, and guidance, as required of all treatment works by §§ 35.925-8 and 35.925-14. Particular attention should be given to assessing the project's potential secondary environmental effects and to ensuring that air quality standards will not be violated. The actual treatment works' discharge must not cause violations of water quality standards.

d. The Regional Administrator shall approve the plans, specifications, and estimates for the actual treatment works under section 203(a) of the Act, even though EPA will be funding only a portion of its designed capacity.

e. The grantee shall satisfactorily assure the Agency that the funds for the construction costs due to the additional capacity beyond the cost-effective treatment works' capacity as determined by EPA (i.e., the ineligible portion of the treatment works), as well as the local share of the grant eligible portion of the construction costs will be available.

f. The grantee shall execute appropriate grant conditions or releases providing that the Federal Government is protected from any further claim by the grantee, the State, or any other party for any of the costs of construction due to the additional capacity.

g. Industrial cost recovery shall be based upon the portion of the Federal grant allocable to the treatment of industrial wastes.

h. The grantee must implement a user charge system which applies to the entire service area of the grantee, including any area served by the additional capacity.

APPENDIX B—FEDERAL GUIDELINES

USER CHARGES FOR OPERATION AND MAINTENANCE OF PUBLICLY OWNED TREATMENT WORKS

(a) *Purpose.* To set forth advisory information concerning user charges based on actual use pursuant to Section 204 of the Clean Water Act, hereinafter referred to as the Act. Applicable requirements are set forth in Subpart E (40 CFR Part 35).

(b) *Authority.* The authority for establishment of the user charge guidelines is contained in section 204(b)(2) of the Act.

(c) *Background.* Section 204(b)(1) of the Act provides that after March 1, 1973, Federal grant applicants shall be awarded grants only after the Regional Administrator has determined that the applicant has adopted or will adopt a system of charges to assure that each recipient of waste treatment services will pay its proportionate share of the costs of operation and maintenance, including replacement. The intent of the Act with respect to user charges is to distribute the cost of operation and maintenance of publicly owned treatment works to the pollutant source and to promote self-sufficiency of treatment works with respect to operation and maintenance costs. The 1977 Amendments amended Section 204(b) to allow grantees to establish user charge systems based on ad valorem taxes. This appendix does not apply to ad valorem user charge systems.

(d) *Definitions.*—(1) *Replacement.* Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(2) *User charge.* A charge levied on users of treatment works for the cost of operation and maintenance of such works.

(e) *Classes of users.* At least two basic types of user charge systems are common. The first is to charge each user a share of the treatment works operation and maintenance costs based on his estimate of measured preportional contribution to the total treatment works loading. The second system establishes classes for users having similar flows and waste water characteristics; i.e., levels of biochemical oxygen demand, suspended solids, etc. Each class is then assigned its share of the waste treatment works operation and maintenance costs based on the proportional contribution of the class to the total treatment works loading. Either system is in compliance with these guidelines.

(f) *Criteria against which to determine the adequacy of user charges.* The user charge system shall be approved by the Regional Administrator and shall be maintained by the grantee in accordance with the following requirements:

(1) The user charge system must result in the distribution of the cost of operation and maintenance of treatment works within the grantee's jurisdiction to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a porportional distribution of operation and maintenance costs to each user (or user class).

(2) For the first year of operation, operation and maintenance costs shall be based upon past experience for existing treatment works or some other rational method that can be demonstrated to be applicable.

(3) The grantee shall review user charges annually and revise them periodically to reflect actual treatment works operation and maintenance costs.

(4) The user charge system must generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the grantee.

(5) The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving waste treatment services from the grantee shall have adopted user charge systems in accordance with these guidelines. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments or other appropriate authority.

(g) *Model user charge systems.* The user charge system adopted by the applicant must result in the distribution of treatment works operation and maintenance costs to each user (or user class) in approximate proportion to his contribution to the total wastewater loading of the treatment works. The following user charge models can be used for this purpose; however, the applicant is not limited to their use. The symbols used in the models are as defined below:

C_T = Total operation and maintenance (O. & M.) costs per unit of time.
C_u = A user's charge for O. & M. per unit of time.
C_s = A surcharge for wastewaters of excessive strength.
V_T = O&M cost for transportation and treatment of a unit of wastewater volume.
V_u = Volume contribution from a user per unit of time.
V_T = Total volume contribution from all users per unit of time.
B_T = Total BOD contribution from all users per unit of time.
B_u = Total BOD contribution from a user per unit of time.
B = Concentration of BOD from a user above a base level.
S_T = O&M cost for treatment of a unit of suspended solids.
S_u = Total suspended solids contribution from a user per unit of time.
S = Concentration of SS from a user above a base level.
P_T = O&M cost for treatment of a unit of any pollutant.
P_u = Total contribution of any pollutant from a user per unit of time.
P_T = Total contribution of any pollutant from all users per unit of time.
P = Concentration of any pollutant from a user above a base level.

(1) *Model No. 1.* If the treatment works is primarily flow dependent or if the BOD, suspended solids, and other pollutant concentrations discharged by all users are approximately equal, then user charges can be developed on a volume basis in accordance with the model below:

$$C_u = C_T / V_T(V_u)$$

(2) *Model No. 2.*—When BOD, suspended solids, or other pollutant concentrations from a user exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge added to a base charge, calculated by means of Model No. 1, can be levied. The surcharge can be computed by the model below:

$$C_u = [B_c(B) + S_c(S) + P_c(P)]V_u$$

(3) *Model No. 3.*—This model is commonly called the "quantity/quality formula":

$$C_u = V_c V_u + B_c B_u + S_c S_u + P_c P_u$$

(h) *Other considerations.*—(1) Quantity discounts to large volume users will not be acceptable. Savings resulting from economies of scale should be apportioned to all users or user classes.

(2) User charges may be established based on a percentage of the charge for water usage only in cases where the water charge is based on a constant cost per unit of consumption.

APPENDIX C-1—REQUIRED PROVISIONS—CONSULTING ENGINEERING AGREEMENTS

1. General
2. Responsibility of the Engineer
3. Scope of Work
4. Changes
5. Termination
6. Remedies
7. Payment
8. Project Design
9. Audit; Access to Records
10. Price Reduction for Defective Cost or Pricing Data
11. Subcontracts
12. Labor Standards
13. Equal Employment Opportunity
14. Utilization of Small or Minority Business
15. Covenant Against Contingent Fees
16. Gratuities
17. Patents
18. Copyrights and Rights in Data

1. GENERAL

(a) The owner and the engineer agree that the following provisions apply to the EPA grant-eligible work to be performed under this agreement and that such provisions supersede any conflicting provisions of this agreement.

(b) The work under this agreement is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor the U.S. Environmental Protection Agency (hereinafter, "EPA") is a party to this agreement. This agreement which covers grant-eligible work is subject to regulations contained in 40 CFR 35.936, 35.937, and 35.939 in effect on the date of execution of this agreement. As used in these clauses, the words "the date of execution of this agreement" mean the date of execution of this agreement and any subsequent modification of the terms, compensation or scope of services pertinent to unperformed work.

(c) The owner's rights and remedies provided in these clauses are in addition to any other rights and remedies provided by law or this agreement.

2. RESPONSIBILITY OF THE ENGINEER

(a) The engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the engineer under this agreement. The engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his designs, drawings, specifications, reports, and other services.

(b) The engineer shall perform such professional services as may be necessary to accomplish the work required to be performed under this agreement, in accordance with this agreement and applicable EPA requirements in effect on the date of execution of this agreement.

(c) The owner's or EPA's approval of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the engineer of responsibility for the technical adequacy of his work. Neither the owner's nor EPA's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this agreement or of any cause of action arising out of the performance of this agreement.

(d) The engineer shall be and shall remain liable, in accordance with applicable law, for all damages to the owner or EPA caused by the engineer's negligent performance of any of the services furnished under this agreement, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data or any third party. The engineer shall not be responsible for any time delays in the project caused by circumstances beyond the engineeer's control. Where innovative processes or techniques (see 40 CFR 35.908) are recommended by the engineer and are used, the engineer shall be liable only for gross negligence to the extent of such use.

3. SCOPE OF WORK

The services to be performed by the engineer shall include all services required to complete the task or Step in accordance with applicable EPA regulations (40 CFR Part 35, Subpart E in effect on the date of execution of this agreement) to the extent of the scope of work as defined and set out in the engineering services agreement to which these provisions are attached.

4. CHANGES

(a) The owner may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the engineer's cost of, or time required for, performance of any services under this agreement, whether or not changed by any order, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. The engineer must assert any claim for adjustment under this clause in writing within 30 days from the date of receipt by the engineer of the notification of change, unless the owner grants a further period of time before the date of final payment under this agreement.

(b) No services for which an additional compensation will be charged by the engineer shall be furnished without the written authorization of the owner.

(c) In the event that there is a modification of EPA requirements relating to the services to be performed under this agreement after the date of execution of this agreement, the increased or decreased cost of performance of the services provided for in this agreement shall be reflected in an appropriate modification of this agreement.

5. TERMINATION

(a) Either party may terminate this agreement, in whole or in part, in writing, if the other party substantially fails to fulfill its obligations under this agreement through no fault of the terminating party. However, no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

(b) The owner may terminate this agreement, in whole or in part, in writing, for its convenience, if the termination is for good cause (such as for legal or financial reasons, major changes in the work or program requirements, initiation of a new step) and the engineer is given (1) not less than ten (10) calendar days written notice (delivered by

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certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party before termination.

(c) If the owner terminates for default, an equitable adjustment in the price provided for in this agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the engineer at the time of termination may be adjusted to the extent of any additional costs the owner incurs because of the engineer's default. If the engineer terminates for default or if the owner terminates for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the engineer for services rendered and expenses incurred before the termination, in addition to termination settlement costs the engineer reasonably incurs relating to commitments which had become firm before the termination.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the engineer shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as the engineer may have accumulated in performing this agreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the owner may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work the owner takes over for completion will be completed at the owner's risk, and the owner will hold harmless the engineer from all claims and damages arising out of improper use of the engineer's work.

(f) If, after termination for failure of the engineer to fulfill contractual obligations, it is determined that the engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the owner. In such event, adjustment of the price provided for in this agreement shall be made as paragraph (c) of this clause provides.

6. REMEDIES

Except as this agreement otherwise provides, all claims, counter-claims, disputes, and other matters in question between the owner and the engineer arising out of or relating to this agreement or the breach of it will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the owner is located.

7. PAYMENT

(a) Payment shall be made in accordance with the payment schedule incorporated in this agreement as soon as practicable upon submission of statements requesting payment by the engineer to the owner. If no such payment schedule is incorporated in this agreement, the payment provisions of paragraph (b) of this clause shall apply.

(b) The engineer may request monthly progress payments and the owner shall make them as soon as practicable upon submission of statements requesting payment by the engineer to the owner. When such progress payments are made, the owner may withhold up to ten (10) percent of the vouchered amount until satisfactory completion by the engineer of work and services within a step called for under this agreement. When the owner determines that the work under this agreement or any specified task hereunder is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for his protection, he shall release to the engineer such excess amount.

(c) No payment request made under paragraph (a) or (b) of this clause shall exceed the estimated amount and value of the work and services performed by the engineer under this agreement. The engineer shall prepare the estimates of work performed and shall supplement them with such supporting data as the owner may require.

(d) Upon satisfactory completion of the work performed under this agreement, as a condition precedent to final payment under this agreement or to settlement upon termination of the agreement, the engineer shall execute and deliver to the owner a release of all claims against the owner arising under or by virtue of this agreement, other than such claims, if any, as may be specifically exempted by the engineer from the operation of the release in stated amounts to be set forth therein.

8. PROJECT DESIGN

(a) In the performance of this agreement, the engineer shall, to the extent practicable, provide for maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through competitive procurement, or through standard or proven production techniques, methods, and processes, consistent with 40 CFR 35.936-3 and 35.936-13 in effect on the date of execution of this agreement, except to the extent to which innovative technology may be used under 40 CFR 35.908 in effect on the date of execution of this agreement.

(b) The engineer shall not, in the performance of the work under this agreement, produce a design or specification which would require the use of structures, machines, products, materials, construction methods, equipment, or processes which the engineer knows to be available only from a sole source, unless the engineer has adequately justified the use of a sole source in writing.

(c) The engineer shall not, in the performance of the work under this agreement, produce a design or specification which would be restrictive in violation of sec. 204(a)(6) of the Clean Water Act. This statute requires that no specification for bids or statement of work shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing, or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal." With regard to materials, if a single material is specified, the engineer must be prepared to substantiate the basis for the selection of the material.

(d) The engineer shall report to the owner any sole-source or restrictive design or specification giving the reason or reasons why it is necessary to restrict the design or specification.

(e) The engineer shall not knowingly specify or approve the performance of work at a facility which is in violation of clean air or water standards and which is listed by the Director of the EPA Office of Federal Activities under 40 CFR Part 15.

9. AUDIT; ACCESS TO RECORDS

(a) The engineer shall maintain books, records, documents, and other evidence directly pertinent to performance on EPA grant work under this agreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR 30.605, 30.805, and 35.935-7 in effect on the date of execution of this agreement. The engineer shall also maintain the financial information and data used by the engineer in the preparation or support of the cost submission required under 40 CFR 35.937-6(b) in effect on the date of execution of this agreement and a copy of the cost summary submitted to the owner. The U.S. Environmental Protection Agency, the Comptroller General of the United States, the U.S. Department of Labor, owner, and [the State water pollution control agency] or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for inspection, audit, and copying. The engineer will provide proper facilities for such access and inspection.

(b) The engineer agrees to include paragraphs (a) through (e) of this clause in all his contracts and all tier subcontracts directly related to project performance that are in excess of $10,000.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The engineer agrees to the disclosure of all information and reports resulting from access to records under paragraphs (a) and (b) of this clause, to any of the agencies referred to in paragraph (a), provided that the engineer is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of the engineer.

(e) The engineer shall maintain and make available records under paragraphs (a) and (b) of this clause during performance on EPA grant work under this agreement and until 3 years from the date of final EPA grant payment for the project. In addition, those records which relate to any "Dispute" appeal under an EPA grant agreement, to litigation, to the settlement of claims arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until 3 years after the date of resolution of such appeal, litigation, claim, or exception.

10. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

(This clause is applicable if the amount of this agreement exceeds $100,000.)

(a) If the owner or EPA determines that any price, including profit, negotiated in connection with this agreement or any cost reimbursable under this agreement was increased by any significant sums because the engineer or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA form 5700-41), then such price, cost, or profit shall be reduced accordingly and the agreement shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to the remedies clause of this agreement.

(Note.—Since the agreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the engineer may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the engineer. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

11. SUBCONTRACTS

(a) Any subcontractors and outside associates or consultants required by the engineer in connection with services under this agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as the owner specifically authorizes during the performance of this agreement. The owner must give prior approval for any substitutions in or additions to such subcontractors, associates, or consultants.

(b) The engineer may not subcontract services in excess of thirty (30) percent (or ——— percent, if the owner and the engineer hereby agree) of the contract price to subcontractors or consultants without the owner's prior written approval.

12. LABOR STANDARDS

To the extent that this agreement involves "construction" (as defined by the Secretary of Labor), the engineer agrees that such construction work shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a—276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity);

and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA. The engineer further agrees that this agreement shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA form 5720-4) in effect at the time of execution of this agreement.

13. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with EPA policy as expressed in 40 CFR 30.420-5, the engineer agrees that he will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin.

14. UTILIZATION OF SMALL AND MINORITY BUSINESS

In accordance with EPA policy as expressed in 40 CFR 35.936-7, the engineer agrees that qualified small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

15. COVENANT AGAINST CONTINGENT FEES

The engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty the owner shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

16. GRATUITIES

(a) If it is found, after notice and hearing, by the owner that the engineer, or any of the engineer's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the owner, of the State, or of EPA in an attempt to secure a contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this agreement, the owner may, by written notice to the engineer, terminate the right of the engineer to proceed under this agreement. The owner may also pursue other rights and remedies that the law or this agreement provides. However, the existence of the facts upon which the owner bases such findings shall be in issue and may be reviewed in proceedings under the remedies clause of this agreement.

(b) In the event this agreement is terminated as provided in paragraph (a) hereof, the owner shall be entitled: (1) To pursue the same remedies against the engineer as it could pursue in the event of a breach of the contract by the engineer, and (2) as a penalty, in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the owner) which shall be not less than 3 nor more than 10 times the costs the engineer incurs in providing any such gratuities to any such officer or employee.

17. PATENTS

If this agreement involves research, developmental, experimental, or demonstration work and any discovery or invention arises or is developed in the course of or under this agreement, such invention or discovery shall be subject to the reporting and rights provisions of subpart D of 40 CFR part 30, in effect on the date of execution of this agreement, including appendix B of part 30. In such case, the engineer shall report the discovery or invention to EPA directly or through the owner, and shall otherwise comply with the owner's responsibilities in accordance with subpart D of 40 CFR part 30. The engineer agrees that the disposition of rights to inventions made under this agreement shall be in accordance with the terms and conditions of appendix B. The engineer shall include appropriate patent provisions to achieve the purpose of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

18. COPYRIGHTS AND RIGHTS IN DATA

(a) The engineer agrees that any plans, drawings, designs, specifications, computer programs (which are substantially paid for with EPA grant funds), technical reports, operating manuals, and other work submitted with a step 1 facilities plan or with a step 2 or step 3 grant application or which are specified to be delivered under this agreement or which are developed or produced and paid for under this agreement (referred to in this clause as "Subject Data") are subject to the rights in the United States, as set forth in subpart D of 40 CFR part 30 and in appendix C to 40 CFR part 30, in effect on the date of execution of this agreement. These rights include the right to use, duplicate, and disclose such subject data, in whole or in part, in any manner for any purpose whatsoever, and to have others do so. For purposes of this clause, "grantee" as used in appendix C refers to the engineer. If the material is copyrightable, the engineer may copyright it, as appendix C permits, subject to the rights in the Government in appendix C, but the owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so. The engineer shall include appropriate provisions to achieve the purpose of this condition in all subcontracts expected to produce copyrightable subject data.

(b) All such subject data furnished by the engineer pursuant to this agreement are instruments of his services in respect of the project. It is understood that the engineer does not represent such subject data to be suitable for reuse on any other project or for any other purpose. If the owner reuses the subject data without the engineer's specific written verification or adaptation, such reuse will be at the risk of the owner, without liability to the engineer. Any such verification or adaptation will entitle the engineer to further compensation at rates agreed upon by the owner and the engineer.

APPENDIX C-2—REQUIRED PROVISIONS—CONSTRUCTION CONTRACTS

SUPPLEMENTAL GENERAL CONDITIONS

1. General.
2. Changes.
3. Differing Site Conditions.
4. Suspension of Work.
5. Termination for Default; Damages for Delay; Time Extensions.
6. Termination for Convenience.
7. Remedies.
8. Labor Standards.
9. Utilization of Small or Minority Business.
10. Audit; Access to Records.
11. Price Reduction for Defective Cost or Pricing Data.
12. Covenant Against Contingent Fees.
13. Gratuities.
14. Patents.
15. Copyrights and Rights in Data.
16. Prohibition Against Listed Violating Facilities.
17. Buy American.

1. GENERAL

(a) The owner and the contractor agree that the following supplemental general provisions apply to the work to be performed under this contract and that these provisions supersede any conflicting provisions of this contract.

(b) This contract is funded in part by a grant from the U.S. Environmental Protec-

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tion Agency. Neither the United States nor any of its departments, agencies or employees is a party to this contract. This contract is subject to regulations contained in 40 CFR 35.936, 35.938, and 35.939 in effect on the date of execution of this contract.

(c) The owner's rights and remedies provided in these clauses are in addition to any other rights and remedies provided by law or under this contract.

2. CHANGES

(a) The owner may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes—

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the owner-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the owner, which causes any such change, shall be treated as a change order under this clause, if the contractor gives the owner written notice stating the date, circumstances, and source of the order and if the contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the owner shall be treated as a change under this clause or shall entitle the contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly. However, except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the contractor gives written notice as there required. Also, in the case of defective specifications for which the owner is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the contractor in attempting to comply with such defective specifications.

(e) If the contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the owner a written statement setting forth the general nature and monetary extent of such claim, unless the owner extends this period. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

3. DIFFERING SITE CONDITIONS

(a) The contractor shall promptly, and before such conditions are disturbed, notify the owner in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The owner shall promptly investigate the conditions. If he finds that such conditions do materially differ and cause an increase or decrease in the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in paragraph (a) of this clause, except that the owner may extend the prescribed time.

(c) No claim by the contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

4. SUSPENSION OF WORK

(a) The owner may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the owner.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the owner in administration of this contract, or by his failure to act within the time specfied in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the contractor shall have notified the owner in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

5. TERMINATION FOR DEFAULT; DAMAGES FOR DELAY; TIME EXTENSIONS

(a) If the contractor refuses or fails to prosecute the work, or any separable part of the work, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the owner may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event the owner may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and use in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the owner resulting from his refusal or failure to complete the work within the specified time.

(b) If the contract provides for liquidated damages, and if the owner terminates the contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs the owner incurs in completing the work.

(c) If the contract provides for liquidated damages and if the owner does not terminate the contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(d) The contractor's right to proceed shall not be terminated nor the contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from causes other than normal weather beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the owner in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from causes other than normal weather beyond the control and without the fault or negligence of both the contractor and such subcontractors or suppliers; and

(2) The contractor, within 10 days from the beginning of any such delay (unless the owner grants a further period of time before the date of final payment under the contract), notifies the owner in writing of the causes of delay. The owner shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension. His findings of fact shall be final and conclusive on the parties, subject only to appeal as the remedies clause of this contract provides.

(e) If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under this clause, or that the delay was excusable under this clause, the rights and obligations of the parties shall be the same as if the notice of termination has been issued under the clause providing for termination for convenience of the owner.

(f) The rights and remedies of the owner provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (d)(1) of this clause, the term "subcontractors or suppliers" means subcontractors or suppliers at any tier.

6. TERMINATION FOR CONVENIENCE

(a) The owner may terminate the performance of work under this contract in accordance with this clause in whole, or from time to time in part, whenever the owner shall determine that such termination is in the best interest of the owner. Any such termination shall be effected by delivery to the

contractor of a notice of termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a notice of termination, and except as otherwise directed by the owner, the contractor shall:

(1) Stop work under the contract on the date and to the extent specified in the notice of termination;

(2) Place no further orders or subcontracts for materials, services, or facilities except as necessary to complete the portion of the work under the contract which is not terminated;

(3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;

(4) Assign to the owner, in the manner, at the times, and to the extent directed by the owner, all of the right, title, and interest of the contractor under the orders and subcontracts so terminated. The owner shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the owner to the extent he may require. His approval or ratification shall be final for all the purposes of this clause;

(6) Transfer title to the owner, and deliver in the manner, at the times, and to the extent, if any, directed by the owner, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the notice of termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the owner;

(7) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices that the owner directs or authorizes, any property of the types referred to in paragraph (b)(6) of this clause, but the contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed and at a price or prices approved by the owner. The proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the owner to the contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the owner may direct;

(8) Complete performance of such part of the work as shall not have been terminated by the notice of termination; and

(9) Take such action as may be necessary, or as the owner may direct, for the protection and preservation of the property related to this contract which is in the possession of the contractor and in which the owner has or may acquire an interest.

(c) After receipt of a notice of termination, the contractor shall submit to the owner his termination claim, in the form and with the certification the owner prescribes. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the owner upon request of the contractor made in writing within such 1-year period or authorized extension. However, if the owner determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or extension. If the contractor fails to submit his termination claim within the time allowed, the owner may determine, on the basis of information available to him, the amount, if any, due to the contractor because of the termination. The owner shall then pay to the contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), the contractor and the owner may agree upon the whole or any part of the amount or amounts to be paid to the contractor because of the total or partial termination of work under this clause. The amount or amounts may include a reasonable allowance for profit on work done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the contractor in the event of failure of the contractor and the owner to agree upon the whole amount to be paid to the contractor because of the termination of work under this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the contractor pursuant to this paragraph (d).

(e) If the contractor and the owner fail to agree, as paragraph (d) provides, on the whole amount to be paid to the contractor because of the termination of work under this clause, the owner shall determine, on the basis of information available to him, the amount, if any, due to the contractor by reason of the termination and shall pay to the contractor the amounts determined as follows:

(1) For all contract work performed before the effective date of the notice of termination, the total (without duplication of any items) of—

(i) The cost of such work;

(ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as paragraph (b)(5) of this clause provides. This cost is exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor before the effective date of the notice of termination. These amounts shall be included in the cost on account of which payment is made under (i) above; and

(iii) A sum, as profit on (i), above, that the owner determines to be fair and reasonable. But, if it appears that the contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(2) The reasonable cost of the preservation and protection of property incurred under paragraph (b)(9) of this clause; and any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the contractor as the result of the termination of work under this contract. The total sum to be paid to the contractor under paragraph (e)(1) of this clause shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the price of work not terminated. Except for normal spoilage, and except to the extent that the owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the contractor under (1) above, the fair value, as determined by the owner of property which is destroyed, lost, stolen, or damaged, to the extent that it is undeliverable to the owner, or to a buyer under paragraph (b)(7) of this clause.

(f) The contractor shall have the right to dispute under the clause of this contract entitled "Remedies," from any determination the owner makes under paragraph (c) or (e) of this clause. But, if the contractor has failed to submit his claim within the time provided in paragraph (c) of this clause and has failed to request extension of such time, he shall have no such right of appeal. In any case where the owner has determined the amount due under paragraph (c) or (e) of this clause, the owner shall pay to the contractor the following: (1) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the owner or (2) if a "Remedies" proceeding is initiated, the amount finally determined in such "Remedies" proceeding.

(g) In arriving at the amount due the contractor under this clause there shall be deducted (1) all unliquidated advance or other payments on account theretofore made to the contractor, applicable to the terminated portion of this contract, (2) any claim which the owner may have against the contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the contractor or sold, under the provisions of this clause, and not otherwise recovered by or credited to the owner.

(h) If the termination hereunder be partial; before the settlement of the terminated portion of this contract, the contractor may file with the owner a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the notice of termination). Such equitable adjustment as may be agreed upon shall be made in the price or prices. Nothing contained herein shall limit the right of the owner and the contractor to agree upon the amount or amounts to be paid to the contractor for the completion of the continued portion of the contract when the contract does not contain an established contract price for the continued portion.

7. REMEDIES

Unless this contracts provides otherwise, all claims, counter-claims, disputes and other matters in question between the owner and the contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the owner is located.

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8. LABOR STANDARDS

The contractor agrees that "construction" work (as defined by the Secretary of Labor) shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a-276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-33);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (equal employment opportunity);

and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA. The contractor further agrees that this contract shall include and be subject to the "Labor Standards Provisions for Federally assisted Construction Contracts" (EPA form 5720-4) in effect at the time of execution of this agreement.

9. UTILIZATION OF SMALL AND MINORITY BUSINESS

In accordance with EPA policy as expressed in 40 CFR 35.936-7, the contractor agrees that small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

10. AUDIT; ACCESS TO RECORDS

(a) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR 30.605, 30.805, and 35.935-7 in effect on the date of execution of this contract. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of the cost submission required under 40 CFR 35.938-5 in effect on the date of execution of this contract for any negotiated contract or change order and a copy of the cost summary submitted to the owner. The U.S. Environmental Protection Agency, the Comptroller General of the United States, the U.S. Department of Labor, owner, and [the State water pollution control agency] or any of their authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The contractor will provide proper facilities for such access and inspection.

(b) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the contractor agrees to include paragraphs (a) through (f) of this clause in all his contracts in excess of $10,000 and all tier subcontracts in excess of $10,000 and to make paragraphs (a) through (f) of this clause applicable to all change orders directly related to project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The contractor agrees to the disclosure of all information and reports resulting from access to records under paragraphs (a) and (b) of this clause, to any of the agencies referred to in paragraph (a), provided that the contractor is afforded the opportunity for an audit exit conference, and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final EPA audit report will include written comments of reasonable length, if any, of the contractor.

(e) Records under paragraphs (a) and (b) above, shall be maintained and made available during performance on EPA grant work under this contract and until 3 years from the date of final EPA grant payment for the project. In addition, those records which relate to any "Dispute" appeal under an EPA grant agreement, to litigation, to the settlement of claims arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

(f) The right of access which this clause confers will generally be exercised (with respect to financial records) under (1) negotiated prime contracts, (2) negotiated change orders or contract amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price contract, and (3) subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract. However, this right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, such right of access may be exercised under any type of contract or subcontract (1) with respect to records pertaining directly to contract performance, excluding any financial records of the contractor, (2) if there is any indication that fraud, gross abuse, or corrupt practices may be involved or (3) if the contract is terminated for default or for convenience.

11. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

(This clause is applicable to (1) any negotiated prime contract in excess of $100,000; (2) negotiated contract amendments or change orders in excess of $100,000 affecting the price of a formally advertised, competitively awarded, fixed price contract; or (3) any subcontract or purchase order in excess of $100,000 under a prime contract other than a formally advertised, competitively awarded, fixed price contract. Change orders shall be determined to be in excess of $100,000 in accordance with 40 CFR 35.938-5(g). However, this clause is not applicable for contracts or subcontracts to the extent that they are awarded on the basis of effective price competition.)

(a) If the owner or EPA determines that any price (including profit) negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant sums because the contractor, or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA form 5700-41), then such price or cost or profit shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to the Remedies clause of this contract.

(Note.—Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

12. COVENANT AGAINST CONTINGENT FEES

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the owner shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13. GRATUITIES

(a) If the owner finds, after notice and hearing, that the contractor or any of the contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee or agent of the owner, of the State, or of EPA in an attempt to secure a contract or favorable treatment in the awarding, amending, or making any determinations related to the performance of this contract, the owner may, by written notice to the contractor, terminate the right of the contractor to proceed under this contract. The owner may also pursue other rights and remedies that the law or this contract provides. However, the existence of the facts upon which the owner makes such findings shall be in issue and may be reviewed in proceedings under the remedies clause of this contract.

(b) In the event this contract is terminated as provided in paragraph (a) of this clause, the owner shall be entitled (1) to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the owner) which shall be not less than 3 nor more than 10 times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

14. PATENTS

If this contract involves research, developmental, experimental, or demonstration work, and any discovery or invention arises or is developed in the course of or under this contract, such invention or discovery shall be subject to the reporting and rights provisions of subpart D of 40 CFR Part 30, in effect on the date of execution of this contract, including appendix B of part 30. In such case, the contractor shall report the discovery or invention to EPA directly or through the owner, and shall otherwise comply with the owner's responsibilities in accordance with subpart D of 40 CFR Part 30. The contractor agrees that the disposition of rights to inventions made under this contract shall be in accordance with the terms and conditions of appendix B. The contractor shall include appropriate patent provisions to achieve the intent of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

15. COPYRIGHTS AND RIGHTS IN DATA

The contractor agrees that any plans, drawings, designs, specifications, computer programs (which are substantially paid for with EPA grant funds), technical reports, operating manuals, and other work submitted with a proposal or grant application or which are specified to be delivered under this contract or which are developed or produced and paid for under this contract (referred to in this clause as "Subject Data") are subject to the rights in the United States, as set forth in subpart D of 40 CFR Part 30 and in appendix C to 40 CFR Part 30, in effect on the date of execution of this contract. These rights include the right to use, duplicate and disclose such Subject Data, in whole or in part, in any manner for any purpose whatsoever, and to have others do so. For purposes of this clause, "grantee" as used in appendix C refers to the contractor. If the material is copyrightable, the contractor may copyright it, as appendix C permits, subject to the rights in the Government as set forth in appendix C, but the owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The contractor shall include provisions appropriate to achieve the intent of this condition in all subcontracts expected to produce copyrightable Subject Data.

16. PROHIBITION-AGAINST LISTED VIOLATING FACILITIES

(Applicable only to a contract in excess of $100,000 and when otherwise applicable under 40 CFR Part 15.)

(a) The contractor agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Pub. L. 92-604) and section 308 of the Clean Water Act (33 U.S.C. 1251, as amended), respectively, which relate to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from the listing.

(3) To use his best efforts to comply with clean air and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this clause, including this subparagraph (4), in any nonexempt subcontract.

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) The term "Water Act" means the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

(3) The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "Clean Water Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations.

(6) The term "Facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be used in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

17. BUY AMERICAN

In accordance with Section 215 of the Clean Water Act, and implementing EPA regulations and guidelines, the contractor agrees that preference will be given to domestic construction material by the contractor, subcontractors, materialmen, and suppliers in the performance of this contract.

APPENDIX D—EPA TRANSITION POLICY—EXISTING CONSULTING ENGINEERING AGREEMENTS

A. ACCESS TO RECORDS—AUDIT

1. *Access clause.* After June 30, 1975, a construction grant for Steps 1, 2 or 3 will not be awarded nor will initiation of Step 1 work be approved under 40 CFR 35.917(e) or 35.925-18(a)(3), unless an acceptable records and access clause is included in the consulting engineering subagreement. The clause contained in appendix C-1 shall be used on or after March 1, 1976. The clause required by former PG-53 or approved as an alternate thereto may be used for all contracts under grants awarded before March 1, 1976.

2. *EPA exercise of right of access to records.* Under applicable statutory and regulatory provisions, EPA has a broad right of access to grantees' consulting engineers' records pertinent to performance of EPA project work. The extent to which EPA will exercise this right of access will depend upon the nature of the records and upon the type of agreement.

a. In order to determine where EPA shall exercise its right of access, engineers' project-related records have been divided into three categories:

(1) Category A: Records that pertain directly to the professional, technical and other services performed, excluding any type of financial records of the consulting engineer.

(2) Category B: Financial records of the consulting engineer pertaining to the direct costs of professional, technical and other services performed, excluding financial records pertaining to profit and overhead or other indirect costs.

(3) Category C: Financial records of the consulting engineer excluded from category B.

b. In all cases, EPA will exercise its right of access to Category A records. Also, where there is an indication that fraud, gross abuse, or corrupt practices may be involved, EPA will exercise its right of access to records in all categories. Otherwise, access to consulting engineers' financial records (categories B and C) will depend principally upon the method(s) of compensation stipulated in the agreement:

(1) *Agreements based upon a percentage of construction cost.* Category B and C records will not be audited. However, terms of the agreement, including the total amount of compensation, will be evaluated for fairness, reasonableness, and consistency with historical and advisory guidelines in general use and acceptable locally. These guidelines include those in ASCE manual 45 or other analyses or data which the contracting parties relied on or used in negotiation of the agreement. Such evaluation shall also consider comparable contracts for which EPA grants have been awarded.

(2) *Agreements based upon salary cost times a multiplier including profit.* Category B records will be audited. Category C records will not be audited. However, terms of the agreement, including the total amount of compensation and the multiplier, will be evaluated for fairness and reasonableness and consistency with historical and advisory guidelines in general use and acceptable locally. These guidelines include those in ASCE manual 45 or other analyses or data which the contracting parties relied on or used in negotiation of the agreement. Such evaluation shall also consider comparable contracts for which EPA grants have been awarded. Items of overhead or other indirect costs will only be audited to the extent necessary to assure that types of costs found both in overhead and reimbursable direct costs, if any, are properly charged.

(3) *Per diem agreements.* Category B records will be audited. Category C records will not be audited. Audit will be performed to the extent necessary to determine that hours claimed and classes of personnel used were properly supported. The per diem rates will be evaluated according to the ap-

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propriate portions of paragraphs A.2.b. (1) and (2) of this appendix.

(4) *Cost plus a fixed fee (profit).* All direct costs, overhead, and other indirect costs claimed will be audited to determine that they are reasonable, allowable, and properly supported by the consulting engineer's records. The amount of fixed fee will not be questioned unless the total compensation appears unreasonable when evaluated according to paragraphs A.2.b. (1) and (2) of this appendix.

(5) *Fixed price lump sum contracts.* Category B and C records will not be audited. The contract amount will not be questioned unless the total compensation appears unreasonable when evaluated in accordance with appropriate portions of paragraphs A.2.b. (1) and (2) of this appendix.

c. If an agreement covers both grant-eligible and ineligible work, access to records will be exercised to the extent necessary to allocate contract work or costs between work grant-eligible for title II construction grant assistance and ineligible work or costs.

d. Under agreements that use two or more methods of compensation, each part of the agreement will be separately audited according to the appropriate subparagraph of paragraph (b)(2) of this section.

e. Any audited firm and the grantee will be afforded opportunity for an audit exit conference and an opportunity to receive and comment upon the pertinent portions of each draft audit report. The final audit report will include the written comments, if any, of the audited parties in addition to those of the appropriate State and/or Federal agency(ies).

B. TYPE OF CONTRACT

1. The percentage-of-construction-cost type of contract, and the multiplier contract, where the multiplier includes profit, may not be used for step 1 or step 2 work initiated after June 30, 1975, when the step 1 or step 2 grant is awarded after June 30, 1975. (A multiplier type of compensation may be used only under acceptable types of contracts; see 40 CFR 35.937-1(d).)

2. Step 1 and step 2 work performed under the percentage-of-construction-cost type of contract and the multiplier contract, where the multiplier includes profit, will be reimbursed and such contracts will not be questioned where such costs are reimbursed in conjunction with a step 3 grant award within the scope of step 2 work contracted for prior to July 1, 1975. However, the current step 2 work will not be continued indefinitely for multiple, subsequent step 3 projects in order to avoid modifying the consultant agreement.

3. Where step 2 work is initiated after June 30, 1975, under contracts prohibited by paragraphs B.1. and B.2. of this appendix, EPA approval may not be given nor grant assistance awarded until the contract's terms of compensation have been renegotiated.

4. Establishing an "upset" figure (an upper limit which cannot be exceeded without a formal amendment to the agreement) under a multiplier contract, where the multiplier includes profit, is not acceptable where renegotiation of such contracts is required. In such renegotiation, the amount of profit must be specifically identified.

5. Total allowable contract costs for grant payment for a contract based on a percentage-of-construction-cost will be based on the following:

a. Where work for the design step is essentially continuous from start of design to bidding, and bid opening for step 3 construction occurs within 1 year after substantial completion of step 2 design work, the total allowable contract costs for grant payment may not exceed an amount based upon the low, responsive, responsible bid for construction.

b. Where work for the design step is not essentially continuous from start of design to bidding, or 1 year or more elapses between substantial completion of step 2 design work and bid opening for step 3 construction, the total allowable contract costs for grant payment may not exceed an amount based upon the lower of:

(1) The consulting engineer's construction cost estimate provided at the time of such substantial completion plus an escalation of this construction cost estimate of up to 5 percent, but not to exceed the consulting engineer's total compensation based on the low, responsive, responsible bid for construction, or

(2) The consulting engineer's construction cost estimate provided at the time of such substantial completion plus a consulting engineer's compensation esclation not to exceed $50,000, but not to exceed the consulting engineer's total compensation based upon the low, responsive, responsible bid for construction.

c. Where the low, responsive, responsible bid for construction would have resulted in a higher consulting engineer's total compensation than paragraph b provides, the Regional Administrator may also consider a reasonable additional compensation for updating the plans and specifications, revising cost estimates, or similar services.

d. The limitations of paragraph B5 apply to all grants awarded under subpart E except that—

(1) If the Regional Administrator had made final payment on a project before December 17, 1975, the limitations do not apply; and

(2) For other projects on which construction for the building and erection of a treatment works was initiated prior to December 17, 1975, the limitations do not apply to any request for engineering fee increases attributable to construction contract awards or change orders approved by the grantee prior to December 17, 1975.

6. Where renegotiation is required under this appendix D, such renegotiation is subject to 40 CFR 35.937-1, 35.937-6, 35.937-7, 35.937-9, and 35.937-10.

C. ANNOUNCEMENT AND SELECTION

The requirements of 40 CFR 35.937-2 through 35.937-4 shall not apply to step 1 work where the step 1 grant was awarded or the initiation of step 1 work was approved by EPA (under 40 CFR 35.917(e)) before March 1, 1976, nor to subsequent step 2 and step 3 work in accordance with 40 CFR 35.937-2(d), if the grantee is satisfied with the qualifications and performance of the engineer employed.

D. REQUIRED CONSULTING ENGINEERING PROVISIONS

Effective March 1, 1976, the subagreement clauses required under appendix C-1 must be included in the consulting engineering subagreement before grant assistance for step 1, 2 or 3 will be awarded and before initiation of step 1 work will be approved under 40 CFR 35.917(e) or 35.925-18(a) 3.

E. ENFORCEMENT

1. Refusal by a consulting engineer to insert the required access clause, or to allow access to its records, or to renegotiate a consulting engineering contract according to the foregoing requirements, will render costs incurred under such contract unallowable. Accordingly, all such costs will be questioned and disallowed pending compliance with this appendix.

2. Where the Regional Administrator determines that the time required to comply with the access to records and type of contract provisions of this appendix will unduly delay award of grant assistance, he may award the grant assistance conditioned upon compliance with this appendix within a specified period of time. In such event, no grant payments for the affected engineering work may be made until such compliance has been obtained.

APPENDIX E.—INNOVATIVE AND ALTERNATIVE TECHNOLOGY GUIDELINES

1. *Purpose.* These guidelines provide the criteria for identifying and evaluating innovative and alternative waste water treatment processes and techniques. The Administrator may publish additional information.

2. *Authority.* These guidelines are provided under section 304(d)(3) of the Clean Water Act.

3. *Applicability.* These guidelines apply to:

a. The analysis of innovative and alternative treatment processes and techniques under § 35.917-1(d)(8);

b. Increased grants for eligible treatment works under §§ 35.930-6 (b) and (c) and 35.908(b)(1);

c. The funding available for innovative and alternative processes and techniques under § 35.915-1(b);

d. The funding available for alternatives to conventional treatment works for small communities under § 35.915-1(e);

e. The cost-effectiveness preference given innovative and alternative processes and techniques in section 7 of appendix A to this subpart;

f. The treatment works that may be given higher priority on State project priority lists under § 35.915(a)(1)(iii);

g. Alternative and innovative treatment systems in connection with Federal facilities;

h. Individual systems authorized by § 35.918, as modified in that section to include unconventional or innovative sewers;

i. The access and reports conditions in § 35.935-20.

4. *Alternative processes and techniques.* Alternative waste water treatment processes and techniques are proven methods which provide for the reclaiming and reuse of water, productively recycle waste water constituents or otherwise eliminate the discharge of pollutants, or recover energy.

a. In the case of processes and techniques for the treatment of effluents, these include land treatment, aquifer recharge, aquaculture, silviculture, and direct reuse for industrial and other nonpotable purposes, horticulture and revegetation of disturbed land. Total containment ponds and ponds for the treatment and storage of waste water prior to land application and other processes necessary to provide minimum levels of preapplication treatment are considered to be part of alternative technology systems for the purpose of this section.

b. For sludges, these include land application for horticultural, silvicultural, or agricultural purposes (including supplemental processing by means such as composting or drying), and revegetation of disturbed lands.

c. Energy recovery facilities include codisposal measures for sludge and refuse which produce energy; anaerobic digestion facilities (*Provided*, That more than 90 percent of the methane gas is recovered and used as fuel); and equipment which provides for the use of digester gas within the treatment works. Self-sustaining incineration may also be included provided that the energy recovered and productively used is greater than the energy consumed to dewater the sludge to an autogenous state.

d. Also included are individual and other onsite treatment systems with subsurface or other means of effluent disposal and facilities constructed for the specific purpose of septage treatment.

e. The term "alternative" as used in these guidelines includes the terms "unconventional" and "alternative to conventional" as used in the Act.

f. The term "alternative" does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof; or major sewer rehabilitation, except insofar as they are alternatives to conventional treatment works for small communities under § 35.915-1(e) or part of individual systems under § 35.918.

5. *Innovative processes and techniques.* Innovative waste water treatment processes and techniques are developed methods which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of meeting the national goals of cost reduction, increased energy conservation or recovery, greater recycling and conservation of water resources (including preventing the mixing of pollutants with water), reclamation or reuse of effluents and resources (including increased productivity of arid lands), improved efficiency and/or reliability, the beneficial use of sludges or effluent constituents, better management of toxic materials or increased environmental benefits. For the purpose of these guidelines, innovative waste water treatment processes and techniques are generally limited to new and improved applications of those alternative processes and techniques identified in accordance with paragraph 4 of these guidelines, including both treatment at centralized facilities and individual and other onsite treatment. Treatment processes based on the conventional concept of treatment (by means of biological or physical/chemical unit processes) and discharge to surface waters shall not be considered innovative waste water treatment processes and techniques except where it is demonstrated that these processes and techniques, as a minimum, meet either the cost-reduction or energy-reduction criterion described in section 6 of these guidelines. Treatment and discharge systems include primary treatment, suspended-growth or fixed-growth biological systems for secondary or advance waste water treatment, physical/chemical treatment, disinfection, and sludge processing. The term "innovative" does not include collector sewers, interceptors, storm or sanitary sewers or the separation of them, or major sewer rehabilitation, except insofar as they meet the criteria in paragraph 6 of these guidelines and are alternatives to conventional treatment works for small communities under § 35.915-1(e) or part of individual systems under § 35.918.

6. *Criteria for determining innovative processes and techniques.* a. The Regional Administrator will use the following criteria in determining whether a waste water treatment process or technique is innovative. The criteria should be read in the context of paragraph 5. These criteria do not necessarily preclude a determination by the Regional Administrator that a treatment system is innovative because of local variations in geographic or climatic conditions which affect treatment plant design and operation or because it achieves significant public benefits through the advancement of technology which would otherwise not be possible. The Regional Administrator should consult with EPA headquarters about determinations made in other EPA regions on similar processes and techniques.

b. New or improved applications of alternative waste water treatment processes and techniques may be innovative for the purposes of this regulation if they meet one or more of the criteria in paragraphs e(1) through e(6) of this paragraph. Treatment and discharge systems (i.e., systems which are not new or improved applications of alternative waste water treatment processes and techniques in accordance with paragraph 4 of these guidelines) must meet the criteria of either paragraph 6e(1) or 6e(2), as a minimum, in order to be innovative for the purposes of these guidelines.

c. These six criteria are essentially the same as those used to evaluate any project proposed for grant assistance. The principal difference is that some newly developed processes and techniques may have the potential to provide significant advancements in the state of the art with respect to one or more of these criteria. Inherent in the concept of advancement of technology is a degree of risk which is necessary to initially demonstrate a method on a full, operational scale under the circumstances of its contemplated use. This risk, while recognized to be a necessary element in the implementation of innovative technology, must be minimized by limiting the projects funded to those which have been fully developed and shown to be feasible through operation on a smaller scale. The risk must also be commensurate with the potential benefits (i.e., greater potential benefits must be possible in the case of innovative technology projects where greater risk is involved).

d. Increased Federal funding under 35.908(b) may be made only from the reserve in § 35.915-1(b). The Regional Administrator may fund a number of projects using the same type of innovative technology if he desires to encourage certain innovative processes and techniques because the potential benefits are great in comparison to the risks, or if operation under differing conditions of climatic, geology, etc., is desirable to demonstrate the technology.

e. The Regional Administrator will use the following criteria to determine whether waste water treatment processes and techniques are innovative:

(1) The life cycle cost of the treatment works is at least 15 percent less than that for the most cost-effective alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., is no more than 85 percent of the life cycle cost of the most cost-effective noninnovative alternative).

(2) The net primary energy requirements for the operation of the treatment works are at least 20 percent less than the net energy requirements of the least net energy alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., the net energy requirements are no more than 80 percent of those for the least net energy noninnovative alternative). The least net energy noninnovative alternative must be one of the alternatives selected for analysis under section 5 of appendix A.

(3) The operational reliability of the treatment works is improved in terms of decreased susceptibility to upsets or interference, reduced occurrence of inadequately treated discharges and decreased levels of operator attention and skills required.

(4) The treatment works provides for better management of toxic materials which would otherwise result in greater environmental hazards.

(5) The treatment works results in increased environmental benefits such as water conservation, more effective land use, improved air quality, improved ground water quality, and reduced resource requirements for the construction and operation of the works.

(6) The treatment works provide for new or improved methods of joint treatment and management of municipal and industrial wastes that are discharged into municipal systems.

[FR Doc. 78-27241 Filed 9-26-78; 8:45 am]

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WEDNESDAY, SEPTEMBER 27, 1978

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PRIVACY ACT OF 1974

Annual Publication

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[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Agency: Department of Health, Education, and Welfare (HEW), Office of the Secretary

Action: Annual republication of notices of systems of records

Summary: This document is published to meet the requirements of 5 U.S.C. 552a(e)(4). This is the annual republication of the Department of Health, Education, and Welfare's notices of systems of records. The listing of notices is complete as of September 20, 1978, and does not contain any material which would require a new or altered system report as described in OMB Circular A-108. The notices do not contain any new routine uses. Nonetheless, these notices do include modifications for the purposes of completeness, clarity, timeliness and correctness. The Department published a summary of modifications on September 20, 1978. Additionally, the Department published new or altered system notices as well as new routine use notices in the Federal Register (FR) when required during the year. If any errors appear because of inadvertant oversight, we will publish additional modifications, additions and deletions in later issues of the Federal Register to correct such errors.

We note that there are certain routine uses that apply to a substantial number of HEW systems of records and we have set forth such uses in Appendix B preceding the notices. In the notices of systems of records, we refer to this appendix by the following name: Appendix B of the Departmental regulations (45CFR5b). When we cite a specific routine use in Appendix B, that routine use supplements other routine uses already mentioned in the text of the individual notices.

Dated: August 16, 1978.

Leonard D. Schaeffer,
Assistant Secretary for Management and Budget.

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09-90-0001—Telephone Directory/Locator System HEW-OS-ASMB-OMAS.
09-90-0002—Investigatory Material Compiled for Security and Suitability Purposes System, HEW/OS/ASPER
09-90-0003—Investigative Files of the Inspector General, HEW/OS/OIG.
09-90-0005—Safety Management Information System (HEW Accident, Injury and Illness Reporting System).
09-90-0006—Applicants for Employment Records. HEW/OS/ASPER
09-90-0007—Complaints and Inquiries Records—Miscellaneous. HEW/OS/ASPER
09-90-0008—Conflict of Interest Records System. HEW/OS/ASPER
09-90-0009—Discrimination Complaints Records System. HEW/OS/ASPER
09-90-0010—Employee Alcoholism, Drug Abuse and Emotional Problem Counselling and Referral Records. HEW/OS/ASPER
09-90-0011—Employee Appraisal Program Records. HEW/OS/ASPER
09-90-0012—Executive Development Records System. HEW/OS/ASPER
09-90-0013—Federal Employees Occupational Health Program Records. HEW/OS/ASPER
09-90-0014—Grievances Filed Under the Informal Grievance Procedures. HEW/OS/ASPER
09-90-0015—Grievance Records Filed Under Procedures Established by Labor-Management Negotiations. HEW/OS/ASPER
09-90-0016—HEW Motor Vehicle Operator Records. HEW/OS/ASPER
09-90-0017—Pay, Leave and Attendance Records. HEW/OS/ASPER
09-90-0018—Personnel Records in Operating Offices. HEW/OS/ASPER
09-90-0019—Special Employment Programs. HEW/OS/ASPER
09-90-0020—Suitability for Employment Records. HEW/OS/ASPER
09-90-0021—Training Management Information System. HEW/OS/ASPER
09-90-0022—Volunteer EEO Support Personnel Records. HEW/OS/ASPER
09-90-0023—Departmental Parking Control Policy. HEW/OS/ASMB/FE.
09-90-0024—Accounting Records of Payments to Individuals from Agency and Regional Financial Management and Disbursing Offices. HEW OS ASMB 1.
09-90-0025—Central Registry of Individuals Doing Business With HEW. HEW OS ASMB 2.
09-90-0026—Congressional Biographies HEW/OS/ASL.
09-90-0027—Congressional Correspondence Unit. HEW/OS/ASL.
09-90-0028—Biographies and Photographs of HEW Officials HEW/OS/ASPA.
09-90-0036—Employee Suggestion System. HEW/OS/ASPER
09-90-0037—Secretary's Correspondence Control System. HEW/OS/ES.
09-90-0038—Secretary's Official Files. HEW/OS/ES.
09-90-0039—Family Educational Rights and Privacy Act—School Recordkeeping Practices Correspondence and Complaint System. HEW/OS/ASMB/FERPA.
09-90-0041—Consumer Mailing List. HEW/OS/OCA.
09-90-0046—Consumer, Complaint Correspondence System. HEW/OS/OCA.
09-90-0047—Directory, Federal, State, County and City Government Consumer. HEW/OS/OCA Offices.
09-90-0048—Consumer Liaison Contacts. HEW/OS/OCA.
09-90-0049—Office of External Liaison—Consumer Correspondence Files. HEW/OS/OCA.
09-90-0050—Case Following System. HEW/OS/OCR.
09-90-0051—Complaint Files and Log, Office of Compliance and Enforcement, HEW-OS-OCR-CE.
09-90-0056—New Orleans Louisiana Review, HEW OS-OCR-HSS.
09-90-0058—Freedom of Information Case File and Correspondence Control Index. HEW OS-ASPA-FOIA.
09-90-0059—Federal Advisory Committee Membership Files, HEW OS-ASPER-DCMO.
09-90-0061—Claims for Damage, Injury, or Death. HEW/R03-ASD.
09-90-0062—Administrative Claims. HEW/OS/OGC.
09-90-0064—Litigation Files, Administrative Complaints, and Adverse Personnel Actions. HEW/OS/OGC.
09-90-0065—Conflict of Interest—Standards of Conduct Records. HEW/OS/OGC.
09-90-0066—OGC-Attorney Applicant Files HEW-OS-OGC.
09-90-0067—Invention Reports Submitted to the Department of Health, Education, and Welfare by its Employees, Grantees, Fellowship Recipients, and Contractors. HEW-OS-OGC.
09-90-0068—Federal Private Relief Legislation. HEW/OS/OGC.
09-90-0069—Unfair Labor Practice Records. HEW/OS/ASPER
09-90-0070—Motor Vehicle Accident Reports—HEW/OS/OGC.
09-90-0071—Social Security Code Cards. HEW/OS/OGC.
09-90-0072—Congressional Grants Notification Unit. HEW/OS/ASL.
09-90-0074—Federal Parent Locator System. HEW OCSE.
09-90-0075—MBTA Prepaid Pass Program Participants. HEW-RO1-ARD.
09-80-0002—Development Disabilities Complaints and Correspondence Files HEW HDS RSA DDO R07.
09-80-0006—National Center on Child Abuse and Neglect Mailing List. HEW HDS ACYF CB.
09-80-0007—National Center for Child Advocacy Mailing List. HEW HDS ACYF CB.
09-80-0009—ACYF Mailing List HEW HDS ACYF R10.

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09-70-0006—Medicare Enrollment Records (Statistics). HEW HCFA OPPR.
09-70-0007—Health Insurance Enrollment Statistices—General Enrollment Period. HEW HCFA OPPR.
09-70-0008—Supplementary Medical Sample Bill Summary File of Medicare Utilization (Statistics). HEW HCFA OPPR.
09-70-0009—Group Practice Prepayment Plan Line Item Sample of Medicare Utilization (Statistics). HEW HCFA OPPR.
09-70-0010—Current Medicare Survey (Statistics). HEW HCFA OPPR.
09-70-0011—Evaluation of the Impact of Surgical Screening Based upon Union Member Utilization of the Pre-Surgical Consultant Benefit. HEW HCFA OPPR.
09-70-0012—Study of Medical Use Under the United Medical Clinic Plan or the Kaiser Health Plan (Statistics). HEW HCFA OPPR.
09-70-0013—Annual 5 Percent Summary File of Services Reimbursed Under the Medicare Program (Statistics). HEW HCFA OPPR.
09-70-0014—Survey of Physicians' Administrative and Practice Costs and Medicaid Participation. HEW HCFA OPPR.
09-70-0015—Ambulatory Surgery Research Project. HEW HCFA OPPR.
09-70-0016—Medicare Hospital Discharge Validation File HEW HCFA OPPR.
09-70-0017—Health Insurance Benefit and Actuarial Sample Control System HEW HCFA OPPR.
09-70-0018—Actuarial Sample Health Insurance and Supplementary Medical Insurance (Medicare). HEW HCFA OPPR.
09-70-0019—Actuarial Sample Hospital Stay Record Study. HEW HCFA OPPR.
09-70-0020—Actuarial Sample of Supplementary Medical Insurance Payments. HEW HCFA OPPR.
09-70-1503—Cylotechnologists Proficiency Answer Sheets and Test Results (Medicare). HEW HCFA HSQB.
09-70-1504—Physical Therapists Proficiency Answer Sheets and Test Results (Medicare). HEW HCFA HSQB.
09-70-1505—Psychiatric Technician Proficiency Answer Sheets and Test Results (Medicare). HEW HCFA HSQB.
09-70-1506—Clinical Laboratory Technologists Proficiency Answer Sheets and Test Results (Medicare). HEW HCFA HSQB.
09-70-1507—Waivered Licensed Practical Nurse Proficiency Exam Answer Sheets and Test Results (Medicare). HEW HCFA HSQB.
09-70-1508—Independent Laboratory Directors Proficiency Answer Sheets and Exam Results (Medicare). HEW HCFA HSQB.
09-70-1509—Complaint Files on Nursing Homes. HEW HCFA HSQB.
09-70-1510—Professional Qualification Files. HEW HCFA HSQB.
09-70-0501—Carrier Medicare Claims Records. HEW HCFA MAB.
09-70-0502—Health Insurance Master Record. HEW HCFA MAB.
09-70-0503—Intermediary Medicare Claims Records.HEW HCFA MAB.
09-70-0504—Non-Provider Overpayment Recovery File. HEW HCFA MAB.
09-70-0505—Supplementary Medical Insurance Premiums (Buy-In Master Record). HEW HCFA MAB.
09-70-0506—Group Health Plan System. HEW HCFA MAB.
09-70-0507—Health Insurance Utilization Microfilm. HEW HCFA MAB.
09-70-0508—Reconsideration and Hearing Case Files (Part A) Hospital Insurance Program. HEW HCFA MAB.
09-70-0509—Medicare Beneficiary Correspondence Files. HEW HCFA MAB.
09-70-0510—Alphabetical Name File (Folder) of Health Insurance Program Consultants. HEW HCFA MAB.
09-70-0511—Medicare Benefit Check Records. HEW HCFA MAB.
09-70-0512—Review and Fair Hearing Case Files—Supplementary. HEW HCFA MAB.
09-70-0513—Explanation of Medicare Benefit Records. HEW HCFA MAB.
09-70-0514—Payment Record File of Supplementary Medical (Medicare) Enrollees (Statistics). HEW HCFA MAB.
09-70-0515—Chronic Renal Disease Beneficiary History. HEW HCFA MAB.
09-70-0516—Medicare Physician Supplies Master File. HEW HCFA MAB.
09-70-0517—Physician/Supplier 1099 File (Statement for Recipients of Medical and Health Care Payments). HEW HCFA MAB.
09-70-0518—Medicare Clinic Physician Supplier Master File. HEW HCFA MAB.
09-70-0520—End Stage Renal Disease (ESRD) Medical Information System. HEW HCFA MAB.
09-70-0521—Medicare Beneficiary Claims for Emergency Services. HEW HCFA MAB.
09-70-2001—Health Insurance Program Review Team Case Files. HEW HCFA MAB.
09-37-0001—Assistant Secretary for Health Correspondence Control System. HEW/OASH/OM.
09-37-0002—PHS Commissioned Officer Personnel Data System. HEW/OASH/OM.
09-37-0003—PHS Commissioned Corps Medical Records. HEW/OASH/OM.
09-37-0004—PHS Commissioned Corps Training Files and Materials. HEW/OASH/OM.
09-37-0005—PHS Commissioned Corps Officer Board Proceedings. HEW/OASH/OM.
09-37-0006—PHS Commissioned Officer Grievance; Equal Employment Opportunity; and Non-Board and Pre-Board Involuntary Retirement, Involuntary Separation and Disciplinary Files. HEW/OASH/OM.
09-37-0007—PHS Commissioned Corps General Personnel Files and Records. HEW/OASH/OM.
09-37-0008—PHS Commissioned Corps Unofficial Personnel Files and Other Station Files.
09-37-0009—Applied Statistics Training Institute Applicants and Students. HEW/OASH/NCHS.
09-37-0010—Health and Demographic Surveys Conducted in Probability Samples of the U.S. Population. HEW/OASH/NCHS.
09-37-0011—Health Manpower Inventories and Surveys. HEW/OASH/NCHS.
09-37-0012—Vital Statistics for Births, Deaths, Fetal Deaths, Marriages and Divorces Occurring in the United States During Each Year. HEW/OASH/NCHS.
09-37-0013—Health Resources Utilization Statistics. DHEW/OASH/NCHS.
09-37-0014—Curricula Vitae of Consultants to the National Center for Health Statistics. (NCHS DHEW OASH/NCHS).
09-37-0015—National Center for Health Services Research Grants Records System. HEW/OASH/NCHSR.
09-35-0005—Cycle II Dentist Survey HEW/HRA/BHM.
09-35-0007—Public Health Service Scholarship and National Health Service Corps Scholarship Program. HEW/HRA/BHM.
09-35-0009—Chattanooga Incremental Care Program. HEW/HRA/BHM.
09-35-0013—Indo-China Refugee Physicians and Medical Students. HEW/HRA/BHM.
09-35-0014—National Research Service Awards. HEW/HRA/BHM.
09-35-0016—Professional Nurse Traineeships. HEW/HRA/BHM.
09-35-0021—Disability Claims of the Nursing Student Loan Program. HEW/HRA/BHM.
09-35-0022—Disability Claims in the Health Professions Student Loan Program. HEW/HRA/BHM.

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09-80-0010—Mailing List for HDS ACYF Publications. OHD-ONAP.

09-80-0011—Consultants for Federal Technical Assistance Program. Vocational Rehabilitation Services. HEW HDS RSA.

09-80-0012—Office of Rehabilitation Services Mailing Lists. HDS ORS-R10.

09-80-0014—Runaway Youth Act Mailing Lists HEW HDS ACYF YDB.

09-80-0015—National Clearinghouse on Aging-Mailing Keys HEW HDS AOA NCA.

09-80-0016—Childrens' Bureau General Mailing List HEW HDS ACYF CB.

09-80-0017—Children Today Mailing List HEW HDS ACYF CB.

09-80-0018—Mailing Keys. HEW/HDS/RSA.

09-80-0019—Correspondence Files. HEW/HDS/RSA.

09-40-0002—Registry of Deaf-Blind Children—Regional-National. HEW E OE

09-40-0003—Student Participants in Deaf-Blind Programs Under Centers and Services for Deaf-Blind Children—HEW E OE.

09-40-0004—Parent Participants in Deaf-Blind Programs Provided by Regional Centers for Deaf-Blind Children. HEW E OE.

09-40-0005—Participant Waiting List for Projects Serving Severely Handicapped Children and Youth. HEW E OE.

09-40-0006—Participants of Projects Serving Severely Handicapped Children and Youth. HEW E OE.

09-40-0007—Participants in Workshops Concerning Severely Handicapped Children and Youth. HEW E OE.

09-40-0011—Upward Bound Information System. HEW E OE.

09-40-0012—Migration and Refugee Assistance Act of 1962—United States Loan Program for Cuban Students. HEW E OE.

09-40-0013—National Defense Direct Student Loan Program—Request for Cancellation of Loan on Ground of Permanent and Total Disability. HEW E OE.

09-40-0014—Basic Grant Application File. HEW-E OE.

09-40-0015—Basic Grant Student Eligibility Report Sub-System. HEW-E OE.

09-40-0016—Basic Educational Opportunity Grant Alternate Disbursement System. HEW E OE.

09-40-0017—Basic Educational Opportunity Grant Student Validation File. HEW-E OE.

09-40-0018—Mutual Educational and Cultural Exchange Act Teacher Exchange Participants and Applicants. HEW E OE.

09-40-0019—National Defense Education Act Foreign Language and Area Studies Fellowship Program—Fellows and Alternates. HEW E OE.

09-40-0020—Mutual Education and Cultural Exchange Act—Doctoral Dissertation Research Abroad and Faculty Research Abroad. Fellows and Alternates. HEW E OE.

09-40-0021—Bureau of Student Financial Assistance Compliance Files. HEW E OE.

09-40-0022—Bureau of Student Financial Assistance—Student Complaint Files. HEW E OE.

09-40-0023—Guaranteed Student Loan Program—Defaulted Loans Submitted to General Accounting Office. HEW E OE.

09-40-0024—Guaranteed Student Loan Program—Loan Application File. HEW E OE.

09-40-0025—NDSL Student Loan Files. HEW E OE.

09-40-0026—Guaranteed Student Loan Program—Paid Claims File. HEW E OE.

09-40-0027—Guaranteed Student Loan Program—Claims and Collections Master File. HEW E.

09-40-0028—Guaranteed Student Loan Program—Collection Letters. HEW E.

09-40-0029—Guaranteed Student Loan Program—Inactive Loan Control Master File. HEW E.

09-40-0030—Guaranteed Student Loan Program—Loan Control Master File. HEW E.

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09-40-0031—Guaranteed Student Loan Program—Pre Claims Assistance. HEW E.

09-40-0032—Record of Advances of Funds for Employees Traveling for the Office of Education—(SF-1038, application and account for advance of funds). HEW E.

09-40-0033—Office of Education Financial Management Information System. HEW E.

09-40-0034—Teacher Corps Application File. HEW E.

09-40-0036—Oral History of the Office of Education as Dictated by Former Commissioners of Education. HEW E.

09-40-0044—Guaranteed Student Loan Program Insurance Claims File. HEW E.

09-40-0045—Guaranteed Student Loan Program Collection Files. HEW E.

09-40-0048—Participants in ESEA Title VII Bilingual Education Program National Impact Evaluation of Elementary Programs—HEW/E.

09-40-0050—Presidential Scholars Files of Selected Participants. HEW E.

09-40-0070—Alcohol and Drug Abuse Education Program—List of Consultants for the Alcohol and Drug Abuse Education Project (Technical Assistance Contractor)

09-40-0075—Women in Executive Positions in Higher Education.

09-40-0077—Institutional Application to Participate in Federal Student Financial Aid Programs Regional Review Panel. HEW E.

09-40-0078—Fellowships for Indian Students—Applications and Awards. HEW E.

09-40-0079—Potential and Actual Consultant, Field Reader, and Site Visitor Files, Indexes, and Lists HEW E OE.

09-40-0080—Training and Development Awards for Vocational Education Personnel Applications and Awards. HEW E Personnel.

09-42-0004—Life Plans Study: The Impact of the Women's Movement on Educational and Occupational Behavior and Attitudes of Married Women. HEW E NIE.

09-42-0016—Northwest Regional Education Laboratory, Experienced Based, Career Education Record System—HEW E NIE.

09-42-0017—Research for Better Schools Experienced Based Career Education Record System—HEW E NIE.

09-42-0018—Appalachia Educational Laboratory Experienced Based Career Education Record System—HEW E NIE.

09-42-0019—Far West Laboratory Experienced based Career Education Records System—HEW E NIE.

09-42-0020—Educational Testing Service Experienced Based Career Education Record System—HEW E NIE.

09-42-0056—National Institute of Education, Sources and Effects of Teacher Expectations. HEW E NIE.

09-42-0065—NIE Outside Experts. HEW E NIE.

09-42-0078—Travel—Official Travel of NIE Personnel. HEW E NIE.

09-42-0079—NIE Controlled Correspondence. HEW E NIE.

09-42-0081—Compensatory Education Study. HEW E NIE.

09-42-0082—National Council on Educational Research Mailing Lists. HEW E NIE.

09-42-0083—National Council on Educational Research Current and Past Information on Members of the Council and Consultants. HEW E NIE.

09-44-0010—Support for Improvement of Postsecondary Education; Field Readers to Review Proposals for FIPSE.

09-70-0001—Medicare Second Surgical Opinion Experiments. HEW HCFA OPPR.

09-70-0002—Clinical Psychology/Expanded Ment. HEW HCFA OPPR.

09-70-0003—Lump-Sum Reimbursement Method for Physician Extenders Delivering Independent Medicare Services. HEW HCFA OPPR.

09-70-0004—Durable Medical Equipment Experiment. HEW HCFA OPPR.

09-70-0005—Medicare Bill File (Statistics). HEW HCFA OPPR.

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09-35-0023—Health Professions Student Loan Repayment Program. HEW/HRA/BHM.

09-35-0024—Health Professions Student Loan Cancellation. HEW/HRA/BHM.

09-35-0025—Physician Shortage Area Scholarship Program. HEW/HRA/BHM.

09-35-0026—Cuban Loan Program. HEW/HRA/BHM.

09-35-0027—Consultant Roster for Office of Health Resources Opportunity. HEW/HRA/OHRO.

09-35-0042—Transfer of U.S. Students in Foreign Medical Schools to U.S. Schools. DHEW/HRA/BHM.

09-30-0002—Statistical Research Data on Adolescent Runaways in Prince Georges County, Md., 1962-65. HEW/ADAMHA/NIMH.

09-30-0003—Medical Record Files of Patients Seen in Therapy in Programs of the Mental Health Study Center. HEW/ADAMHA/NIMH.

09-30-0004—Intramural Research Program Records of Research Performed on In- and Out-Patients With Various Types of Mental Illness. HEW/ADAMHA/NIMH.

09-30-0005—Saint Elizabeths Hospital Research Subjects Data Record. HEW/ADAMHA/NIMH.

09-30-0006—The Saint Elizabeths Hospital Medical-Surgical Support Program File System. HEW/ADAMHA/NIMH.

09-30-0007—Saint Elizabeths Hospital Clinical Support Services Record System. HEW/ADAMHA/NIMH.

09-30-0008—Saint Elizabeths Hospital Social Services Record System. HEW/ADAMHA/NIMH.

09-30-0009—Saint Elizabeths Hospital Multidisciplinary Raw Data Consultation Files. HEW/ADAMHA/NIMH.

09-30-0010—Saint Elizabeths Hospital Juvenile Education Monitoring System. HEW/ADAMHA/NIMH.

09-30-0011—Saint Elizabeths Hospital Central Admission Service Non-Admission File System. HEW/ADAMHA/NIMH.

09-30-0012—Saint Elizabeths Hospital Pre-Service Education Records. HEW/ADAMHA/NIMH.

09-30-0013—Saint Elizabeths Hospital Training Videotape Records. HEW/ADAMHA/NIMH.

09-30-0014—Saint Elizabeths Hospital Financial System. HEW/ADAMHA/NIMH.

09-30-0015—Saint Elizabeths Hospital General Security System. HEW/ADAMHA/NIMH.

09-30-0016—Saint Elizabeths Hospital Patients Personnel Property Record System. HEW/ADAMHA/NIMH.

09-30-0017—Saint Elizabeths Hospital Legal Office Record System. HEW/ADAMHA/NIMH.

09-30-0018—Saint Elizabeths Hospital Area D Community Mental Health Center Citizens Advisory Groups Records. HEW/ADAMHA/NIMH.

09-30-0019—Saint Elizabeths Hospital Court-Ordered Forensic Investigatory Materials File. HEW/ADAMHA/NIMH.

09-30-0020—Administrative Records on Civilly Committed Drug Abusers Under the Narcotic Addict Rehabilitation Act. HEW/ADAMHA/NIDA.

09-30-0021—Patient Medical Records on PHS Beneficiaries and Civilly Committed Narcotic Addicts Treated at the PHS Hospitals at Lexington, Kentucky and Fort Worth, Texas. HEW/ADAMHA/NIDA.

09-30-0022—National Institute on Drug Abuse Addiction Research Center Federal Prisoner and Non-Prisoner Patient Files. HEW/ADAMHA/NIDA.

09-30-0023—Records of Contracts Awarded to Individuals.

09-30-0024—Saint Elizabeths Hospital General Administrative Record Systems. HEW/ADAMHA/NIMH.

09-30-0025—Maryland Psychiatric Case Register. HEW/ADAMHA/NIMH.

09-30-0026—Saint Elizabeths Hospital Research Project Record. HEW/ADAMHA/NIMH.

09-30-0027—Grants: Research, Research, Training, Fellowships, Clincial Training, Community Services. HEW/ADAMHA/OA.

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09-30-0028—Saint Elizabeths Hospital General Medical/Clinical Records System and Related Indexes. HEW/ADAMHA/NIMH.

09-30-0029—Record of Guest Workers. HEW/ADAMHA/OA.

09-30-0030—Record of Visting Fellows. HEW/ADAMHA/OA.

09-30-0031—St. Elizabeths Hosptial Biometrics System. DHEW/ADAMHA/NIMH.

09-30-0032—Records of Research on Alcohol Abusers and Addicts. HEW/ADAMHA/NIAAA.

09-30-0033—Correspondence Files. HEW/ADAMHA/OA.

09-25-0001—Clinical Research: Patient Records. HEW/NIH/NHLBI.

09-25-0002—Clinical Research: Phonocardiogram. HEW/NIH/NHLBI.

09-25-0003—Administration: Authorized Radionuclide Users File. HEW/NIH/DRS.

09-25-0004—Administration: NIH Chemical Carcinogen Registry. HEW/NIH/DRS.

09-25-0005—Administration: NIH Library Circulation and User I.D. File. HEW/NIH/DRS.

09-25-0007—Administration: NIH Safety Classes Issuance Program. HEW/NIH/DRS.

09-25-0008—Administration: Radiation Workers Monitoring. HEW/NIH/DRS.

09-25-0009—Clinical Research: Radiotherapy Patient File. HEW/NIH/DRS.

09-25-0010—Research Resources: Registry of Microbial Agents, Tissue Cultures and Animals & Users. HEW/NIH/DRS.

09-25-0011—Clinical Research: Blood Donor Records. HEW/NIH/CC.

09-25-0012—Clinical Research: Canidate Normal Volunteer Records. HEW/NIH/CC.

09-25-0013—Clinical Research: Preadmission Medical Records. HEW/NIH/CC.

09-25-0014—Clinical Research: Student Records. HEW/NIH/CC.

09-25-0015—Clinical Research: Collaborative Clinical Epilepsy Research. HEW/NIH/NINCDS.

09-25-0016—Clinical Research: Collaborative Perinatal Project. HEW/NIH/NINCDS.

09-25-0017—Clinical Research: Epidemiology Studies Files. HEW/NIH/NINCDS.

09-25-0019—Clinical Research: Genetic Counseling. HEW/NIH/NINCDS.

09-25-0020—Clinical Research: Genetics of Neurological Disorders. HEW/NIH/NINCDS.

09-25-0021—Clinical Research: GUAM Patient/Control Registry. HEW/NIH/NINCDS.

09-25-0024—Clinical Research: Medical Neurology Branch Medical Histories. HEW/NIH/NINCDS.

09-25-0026—Clinical Research: Nervous System Studies. HEW/NIH/NINCDS.

09-25-0028—Clinical Research: Patient Medical Histories. HEW/NIH/NINCDS.

09-25-0031—Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System. HEW/NIH/NINCDS.

09-25-0033—International Activities: Fellowships Awarded by Foreign Organizations. HEW/NIH/FIC.

09-25-0034—International Activities: Scholars Program. HEW/NIH/FIC.

09-25-0035—International Activities: US Foreign Health Exchange Programs. HEW/NIH/FIC.

09-25-0036—Grants: IMPAC (Grant/Contract Information). HEW/NIH/DRG.

09-25-0037—Clinical Research: Gerontology Research Center Longitudinal Aging Study. HEW/NIH/NIA.

09-25-0038—Clinical Research: Patient Data. HEW/NIH/NIAMDD.

09-25-0039—Clinical Research: Diabetes Mellitus Research Sutdy of Southwestern Amercian Indians.HEW/NIH/NIAMDD.

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09-25-0040—Clinical Research: Southwestern American Indian Patient Data. HEW/NIH/NIAMDD.
09-25-0041—Research Resources: Hormone Distribution. HEW/NIH/NIAMDD.
09-25-0042—Clinical Research: National Institute of Dental Research Patient Records. HEW/NIH/NIDR.
09-25-0043—Clinical Research: Pharyngeal Development. HEW/NIH/NIDR.
09-25-0044—Clinical Research: Sensory Testing Research Progam. HEW/NIH/NIDR.
09-25-0046—Clinical Research: Catalog of Clinical Specimens. HEW/NIH/NIAID.
09-25-0047—Clinical Research: Cooperative Smallpox Vaccine Study. HEW/NIH/NIAID.
09-25-0048—Clinical Research: Serology-Epidemiology Parasite Research. HEW/NIH/NIAID.
09-25-0049—Clinical Research: Atlanta Federal Prison Malaria Research Projects. HEW/NIH/NIAID.
09-25-0050—Grants: Trainees Record System. HEW/NIH/NIAID.
09-25-0051—Grants: NIH Fellowship Payroll. HEW/NIH/DFM.
09-25-0053—Clinical Research: Vision Studies. HEW/NIH/NEI.
09-25-0054—Administration: Property Accounting. HEW/NIH/DES.
09-25-0055—Clinical Research: Baltimore Cancer Research Center Patients. HEW/NIH/NCI.
09-25-0057—Clinical Research: Burkitt's Lymphoma Registry. HEW/NIH/NCI.
09-25-0060—Clinical Research: DCT Clinical Investigations. HEW/NIH/NCI.
09-25-0064—Clinical Research: Japan Hawaii Cancer Studies. HEW/NIH/NCI.
09-25-0067—Clinical Research: National Cancer Incidence Surveys. HEW/NIH/NCI.
09-25-0068—Clinical Research: National Cancer Institute/American Cancer Society National Breast Cancer Screening of Antihypertensives. HEW/NIH/NCI.
09-25-0069—NIH Clinical Center Admissions of the NCI; HEW/NIH/NCI.
09-25-0074—Clinical Research: Veterans Administration Bladder & Prostate Cancer Clinical Trails. HEW/NIH/NCI.
09-25-0075—Administration: Principal Investigator Protection From Research Risks. HEW/NIH/OD.
09-25-0077—Clinical Research: Viral Oncology Human Specimen Program. HEW/NIH/NCI.
09-25-0078—Administration: Consultant File. HEW/NIH/NHLBI.
09-25-0084—Administration: Curricula Vitae. HEW/NIH/NIAMDD.
09-25-0087—Administration: Employees and Consultants. HEW/NIH/NIAID.
09-25-0088—Clincial Research: H-2 Soluble Antigen and H-2 Antisewrum. HEW/NIH/NIAID.
09-25-0089—Clincal Research: HL-A Antiserum and Tray Users. HEW/NIH/NIAID.
09-25-0091—Administration: General Files. HEW/NIH/NEI.
09-25-0093—Administration: Journal of the National Cancer Institute. HEW/NIH/NCI.
09-25-0095—Contracts: Carcinogenesis Contracts & Intramural Projects. HEW/NIH/NCI.
09-25-0096—Contracts: Contract Management System. HEW/NIH/NCI.
09-25-0097—Contracts; Division of Cancer Control and Rehabilitation. HEW/NIH/NCI.
09-25-0098—Contracts: Viral Oncology Contracts. HEW/NIH/NCI.
09-25-0099—Clinical Research: Patient Medical Records. HEW/NIH/CC
09-25-0100—Clinical Research: Neuropharmacology Studies. HEW/NIH/NINCDS.

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09-25-0102—Administration: Asociates Program. HEW/NIH/DRG.
09-25-0105—Administration: Employee Health Records. HEW/NIH/OD.
09-25-0106—Administration: Executive Secretariat, NIH. HEW/NIH/OD.
09-25-0108—Personnel: Guest Workers/Visiting Fellows/Student Scientist/Scientists Emeriti. HEW/NIH/DPM.
09-25-0111—Administration: NIH Guide to Grants & Contracts. HEW/NIH/DAS.
09-25-0112—Grants: Research, Research Training, Fellowship and Construction Applications and Awards. HEW/NIH/OD.
09-25-0113—Administration: Profesional Service Agreements (Medical/Legal Services). HEW/NIH/DAS.
09-25-0114—Contracts: Personal Services Contractors. HEW/NIH/NIGMS.
09-25-0115—Administration: Curricula Vitae. HEW/NIH/NIAID.
09-25-0116—Contracts: Professional Services Contracts. HEW/NIH/NIAID.
09-25-0117—International Activities: US-Japan Program. HEW/NIH/NIAID.
09-25-0118—Contracts: Professional Services Contracts. HEW/NIH/NCI.
09-25-0121—International Activities: Senior International Fellowships Program. DHEW/NIH/FIC.
09-25-0123—Clinical Research: Clinical Trials Dealing with Fertility Regulating Methods. DHEW/NIH/NICHD.
09-25-0124—Administration: Pharmacology Research Associates. HEW/NIH/NIGMS.
09-25-0126—Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies. DHEW/NIH/NHLBI.
09-25-0127—Clinical Research: Clinical Trials Dealing with Phototherapy for Neonatal Hyperbilirubinemia. HEW/NIH/NICHD.
09-25-0128—Clinical Research: Neural Prosthesis & Biomedical Engineering Studies. HEW/HIH/NINCDS.
09-25-0129—Clinical Research: Clinical Research Studies Dealing with Hearing, Speech and Language Disorders. HEW/NIH/NINCDS.
09-25-0130—Clinical Research: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention. HEW/NIH/NCI.
09-25-0131—Clinical Research: Clinical Epidemiologic Studies in the Division of Cancer Cause and Prevention. HEW/NIH/NCI.
09-25-0133—Clinical Research: Kidney Transplant Histocompatibility Study (KTHS). DHEW/HIH/NIAID.
09-25-0134—Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences. HEW/NIH/NIEHS.
09-25-0135—Grants: Prophet System Research Prospectuses. HEW/NIH/DRR.
09-25-0137—Medical Library Management Intern Program. HEW/NIH/NLM.
09-20-0000—Cooperative Mycoses Study. HEW/CDC/OCD.
09-20-0086—Surveillance of Persons on Isoniazid Preventive Treatment for Tuberculosis. HEW/CDC/BSS.
09-20-0087—Surveillance of Accidental Rubella Vaccination of Pregnant Women. HEW/CDC/BSS.
09-20-0088—Subacute Sclerosing Panencephalitis Surveillance. HEW/CDC/BSS.
09-20-0089—Studies of Treatment of Tuberculosis and Other Mycobacterioses. HEW/CDC/BSS.
09-20-0090—Studies of Testing for Tuberculosis and Other Mycobacterioses. HEW/CDC/BSS.
09-20-0093—Tuberculosis Prophylaxis Studies—Alaska and Puerto Rico. HEW/CDC/BSS.
09-20-0094—Tuberculosis Primary Drug Resistance Study. HEW/CDC/BSS.

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09-20-0095—Zoster Immune Globulin Records on High Risk Immunosuppressed Children Exposed to Chickenpox. HEW/CDC/BSS.
09-20-0096—Tuskegee Study of Untreated Syphilis Medical Care Program. HEW/CDC/BSS.
09-20-0097—Studies of the Effects of BCG Vaccinations for Tuberculosis. HEW/CDC/BSS.
09-20-0098—Congenital Rubella Registry. HEW/CDC/BSS.
09-20-0102—Alien Mental Waiver Program. HEW/CDC/BE.
09-20-0103—Alien Tuberculosis Follow-Up Program. HEW/CDC/BE.
09-20-0106—Specimen Handling for Testing and Related Data. HEW/CDC/BL.
09-20-0107—Dengue and Schistosomiasis Research Studies. HEW/CDC/BL.
09-20-0108—Diagnosis Program for Detection of Chromosomal Abnormalities in High Risk Patients. HEW/CDC/BL.
09-20-0109—Coronary Drug Project Files. HEW/CDC/BL.
09-20-0110—Clinical Associates Roster. HEW/CDC/BSS.
09-20-0112—CDC Exchange Visitor and Guest Researcher Records. HEW/CDC/OAM.
09-20-0113—Epidemic Investigation Case Records. HEW/CDC/BE.
09-20-0136—Epidemiologic Studies and Surveillance of Disease Problems. HEW/CDC/BE.
09-20-0137—Passport File. HEW/CDC/FMO.
09-20-0138—Epidemic Intelligence Service Officers Files. HEW/CDC/BE.
09-20-0001—Certified Interpreting Physician File. HEW/CDC/NIOSH.
09-20-0026—Respiratory Infections Study in Guyan Valley, West Virginia. HEW/CDC/NIOSH.
09-20-0027—Radiation Exposure Records for NIOSH Employees in Morgantown. HEW/CDC/NIOSH.
09-20-0040—Pennsylvania Coal Miners Study. HEW/CDC/NIOSH.
09-20-0055—Research/Demonstration, and Training Grants, Application Files. HEW/CDC/NIOSH.
09-20-0059—Division of Training Mailing List. HEW/CDC/NIOSH.
09-20-0077—Survey of Arizona Asbestos Miners and Mill Workers (1969). HEW/CDC/NIOSH.
09-20-0082—Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues Through Biochemical or Clinical Chemical Analysis. HEW/CDC/NIOSH.
09-20-0083—Diagnostic Methods for Identification of Occupational Diseases Through Biopsy and/or Autopsy Specimens. HEW/CDC/NIOSH.
09-20-0117—Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies. HEW/CDC/NIOSH.
09-20-0118—Study at Work-Sites Where Agents Suspected of Being Occupational Hazards Exist. HEW/CDC/NIOSH.
09-20-0120—Equipment Field Test Studies. HEW/CDC/NIOSH.
09-20-0134—Byssinosis Study. HEW/CDC/NIOSH.
09-20-0139—Respiratory Disease Studies Involving Persons of West Virginia Coal Mining Communities. HEW/CDC/NIOSH.
09-20-0147—DSHEFS Occupational Health Epidemiological Studies. HEW/CDC/NIOSH.
09-20-0148—Results of DBBS Hearing Studies. HEW/CDC/NIOSH.
09-20-0149—DRDS General Industry Morbidity Studies. HEW/CDC/NIOSH.
09-20-0150—DRDS Morbidity Studies in Coal Mining Activities. HEW/CDC/NIOSH.
09-20-0151—DRDS Mortality Studies in Coal Mining Activities. HEW/CDC/NIOSH.
09-20-0152—DRDS Mortality Studies in Non-Coal Mining Activities. HEW/CDC/NIOSH.
09-20-0153—DRDS General Industry Mortality Studies. HEW/CDC/NIOSH.

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09-20-0154—DRDS Medical and Laboratory Studies. HEW/CDC/NIOSH.
09-20-0155—DRDS Morbidity Studies in Metal and Non-Metal Mining Activities. HEW/CDC/NIOSH.
09-15-0001—Division of Federal Employee Health, Employee Health Records. HEW/HSA/BMS.
09-15-0002—Record of Patients' Personal Valuables and Monies. HEW/HSA/BMS.
09-15-0003—Contract Physicians and Consultants. HEW/HSA/BMS.
09-15-0004—Federal Employee Occupational Health Data System. HEW/HSA/BMS.
09-15-0005—Dental Research—Evaluation of Restorative Materials. HEW/HSA/BMS.
09-15-0006—Cooperative Research Studies System: Coronary Artery Disease. HEW/HSA/BMS.
09-15-0007—Patients Medical Record System PHS Hospitals/Clinics. HEW/HSA/BMS.
09-15-0008—Emergency Non-PHS Treatment Authorization File. HEW/HSA/BMS.
09-15-0009—Cooperative Research Studies System: Pyelonephritis. HEW/HSA/BMS.
09-15-0010—Cooperative Research Studies System: Essential Hypertension. HEW/HSA/BMS.
09-15-0018—Unofficial Vital Records Systems. HEW/HSA/IHS.
09-15-0019—Health and Medical Records Systems. HEW/HSA/IHS.
09-15-0022—Accounts Receivable DHEW/HSA/BMS.
09-15-0026—Medical Fellowships and Educational Loans. DHEW/HSA/OA.
09-15-0027—National Health Service Corps (NHSC), Bureau of Medical Services (BMS) and Indian Health Services (IHS) Pre-Applicant Recruitment and provider File. HEW/HSA/BCHS.
09-15-0028—PHS Clinical Affiliation Trainee Records. HEW/HSA/BMS.
09-15-0029—PHS Beneficiary-Contract Medical/Health Care Records. HEW/HSA/BMS.
09-10-0001—Quality Assurance Program. HEW/FDA/HFO.
09-10-0002—Regulated Industry Employee Enforcement Records. HEW/FDA/HFA.
09-10-0003—FDA Credential Holder File. HEW/FDA/HFO.
09-10-0004—Communications (Oral and Written) with the Public. HEW/FDA/HFA.
09-10-0005—State Food and Drug Official File. HEW/FDA/HFO.
09-10-0006—Radiation Registry of Physicians. HEW/FDA/HFX.
09-10-0007—Science Advisor Research Associate Program (SARAP). HEW/FDA/HFO.
09-10-0008—Radiation Protection Program Personnel Monitoring System. HEW/FDA/HFX.
09-10-0009—Individual and Household Statistical Surveys and Special Studies on FDA-Regulated Products.—HEW/FDA/HFA.
09-10-0010—Bioresearch Monitoring Information System. HEW/FDA/HFD.
09-10-0011—Certified Retort Operators.—HEW/FDA/HFF.
09-10-0012—Association of Official Analytical Chemists (AOAC) Member File.—HEW/FDA/HFS.
09-10-0013—Employee Conduct Investigative Records.—HEW/FDA/HFA.
09-10-0014—Service Contractor Employee Investigative Records.—HEW/FDA/HFA.
09-10-0015—Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research.—HEW/FDA/HFB.
09-10-0016—Cancer Patients on Laetrile and Physicians.—HEW/FDA/HFD.
09-60-0001—Commissioner's Correspondence File. HEW SSA OC.

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System Number and System Name
09-60-0002—Automated Controlled Correspondence Extraction System. HEW SSA OEA.
09-60-0003—Hearing File. HEW SSA BHA.
09-60-0004—Appeals File. HEW SSA BHA.
09-60-0005—Administrative Law Judge's File. HEW SSA BHA.
09-60-0006—Storage of Hearing Records: Tape Cassettes and Audiograph Discs. HEW SSA BHA.
09-60-0008—Administrative Law Judge's Docket. HEW SSA BHA.
09-60-0009—Hearings and Appeals Case Control System. HEW SSA BHA.
09-60-0010—Hearings and Appeals Case Control Card File. HEW SSA BHA.
09-60-0012—Listing and Alphabetical Name File (Folder) of Vocational Experts, Medical Advisors, and Medical Consultants. HEW SSA BHA.
09-60-0013—Records of Usage of Medical Advisors and Medical Consultants. HEW SSA BHA.
09-60-0014—Curriculum Vitae and Professional Qualifications of Staff Physicians, Medical Advisors, Medical Consultants, and Resume of Vocational Experts. HEW SSA BHA.
09-60-0015—List of Physicians Utilized as Readers of Black Lung X-Ray Films. HEW SSA BHA.
09-60-0017—Personnel Research and Merit Promotion Test Records. HEW SSA OMA.
09-60-0030—Employee Housing Request Files. HEW SSA OMA.
09-60-0031—Employee Production and Accuracy Records. HEW SSA OMA.
09-60-0032—Debtors, Credit Counseling and Consumer Protection. HEW SSA OMA.
09-60-0033—Requests for Review of Proposed Contracts With Experts and Consultants. HEW SSA OMA.
09-60-0034—Social Security Administration Contract Files. HEW SSA OMA.
09-60-0037—General Criminal Investigation Files. HEW SSA OMA.
09-60-0038—Employee Identification Card Files (Building Passes). HEW SSA OMA.
09-60-0040—Supplemental Security Income Quality Assurance System. HEW SSA OMA.
09-60-0042—Quality Assurance Case File. HEW SSA OMA.
09-60-0043—Daily Record of Certified Benefits. HEW SSA OPO.
09-60-0044—Initial and Continuing Disability Determination File. HEW SSA OPO.
09-60-0045—Black Lung Payment System. HEW SSA OPO.
09-60-0046—Consultative Physician File. HEW SSA OPO.
09-60-0047—Critical Case Processing Time. HEW SSA OPO.
09-60-0049—Disability Data Record. HEW SSA OPO.
09-60-0050—Completed Determination Record—Continuing Disability Determinations. HEW SSA OPO.
09-60-0051—Administrative Disallowance Records for Technical Denials. HEW SSA OPO.
09-60-0052—Disposition of Vocational Rehabilitation Report to Social Security Administration. HEW SSA OPO.
09-60-0053—Reimbursement From Trust Fund for Vocational Rehabilitation Services. HEW SSA OPO.
09-60-0055—Lag Period Between Initial Denial Notice and Reconsideration Study. HEW SSA OPO.
09-60-0056—Vocational Rehabilitation Savings Calculation. HEW SSA OPO.
09-60-0057—Quality Evaluation Data Records. HEW/SSA OPO.
09-60-0058—Master files of Social Security Number Holders. HEW SSA OPO.
09-60-0059—Earnings Recording and Self-Employment Income System. HEW SSA OPO.
09-60-0060—Correspondence File of the Bureau of Data Processing. HEW SSA OPO.
09-60-0061—Record of Earnings Information Furnished for Non-Program Purposes. HEW SSA OPO.
09-60-0063—Total Resources and Information Management (TRIM) System of Assistant Bureau Director Systems. HEW SSA OPO.
09-60-0064—Pending Social Security Number Applications. HEW SSA OPO.
09-60-0065—Direct Input Source Documents. HEW SSA OPO.
09-60-0066—Claims Development Record. HEW SSA OPO.
09-60-0069—Record of Claims (Microfiche). HEW SSA OPO.
09-60-0075—Congressional Bills File. HEW SSA OPO.
09-60-0077—Congressional Inquiry File. HEW SSA OPO.
09-60-0078—Public Inquiry Correspondence File. HEW SSA OPO.
09-60-0079—Wage Item File. HEW SSA OPO.
09-60-0080—Problem Case File. HEW SSA OPO.
09-60-0081—Problem Case File (Supplemental Security Income). HEW SSA OPO.
09-60-0082—Forced Payment File (Supplemental Security Income). HEW SSA OPO.
09-60-0083—One Time Payment File. HEW SSA OPO.
09-60-0084—Control File for Cases Before Presiding Officers. HEW SSA OPO.
09-60-0085—Claims Leads. HEW SSA OPO.
09-60-0089—Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits. HEW SSA OPO.
09-60-0090—Master Beneficiary Record. HEW SSA OPO.
09-60-0091—Social Security Administration Claims Control System. HEW SSA OPO.
09-60-0092—Antomatic Control System for Case Folders. HEW SSA OPO.
09-60-0093—Billing and Collection Master Record System. HEW SSA OPO.
09-60-0094—Recovery Accounting for Overpayments. HEW SSA OPO.
09-60-0095—Health Insurance Overpayment Ledger Cards. HEW SSA OPO.
09-60-0096—Control System for Delayed, Critical, or Sensitive Case Inquiries. HEW SSA OPO.
09-60-0097—Program Integrity Case Files. HEW SSA OPO.
09-60-0100—Litigation Activity File. HEW SSA OPO.
09-60-0101—Court Case Record File. HEW SSA OPO.
09-60-0102—Fee Ledger System for Representatives. HEW SSA OPO.
09-60-0103—Supplemental Security Income Record. HEW SSA OPO.
09-60-0104—Supplemental Security Income Claims Data. HEW SSA OPO.
09-60-0105—Claims Currently in Process File (Supplemental Security Income). HEW SSA OPO.
09-60-0107—Claims Index File (Supplemental Security Income). HEW SSA OPO.
09-60-0108—Advance Payment File (Supplemental Security Income). HEW SSA OPO.
09-60-0109—Overpayment File (Supplemental Security Income). HEW SSA OPO.
09-60-0110—Supplemental Security Income File of Refunds. HEW SSA OPO.
09-60-0111—Debit Voucher File (Supplemental Security Income). HEW SSA OPO.
09-60-0114—State Data Exchange System (Supplemental Security Income). HEW SSA OPO.
09-60-0115—Supplemental Security Income Audit Trail Microfiche. OPO.
09-60-0117—Age at First Payment of Retirement Insurance Benefit. HEW SSA OPP.
09-60-0118—Non-Contributory Military Service Reimbursement System. HEW SSA OPP.
09-60-0119—Special Age 72 Benefit Trust Fund Transfer Project. HEW SSA OPP.

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System Number and System Name
09-60-0128—Retirement, Survivors and Disability Insurance Claims Study. HEW SSA OPP.
09-60-0129—Adjudication of Supplemental Security Income Claims Study. HEW SSA OPP.
09-60-0130—Quality of Service Measurement Program Based Upon Consumer Opinions. HEW SSA OPP.
09-60-0148—Matches of Internal Revenue Service and Social Security Administration Data With Census Survey Data (Joint Social Security Administration/Census Statistics Development Project). HEW/SSA-OPP.
09-60-0149—Matches of Internal Revenue Service and Social Security Administration Data (Joint Social Security Administration/Treasury Department Statistics Development Project). HEW/SSA/OPP.
09-60-0159—Continuous Work History Sample (Statistics). HEW SSA OPP.
09-60-0183—Matches of Social Security Administration, Department of Defense and Veterans Administration Data Relating Earnings History to Armed Forces Training Experience. (Statistics). HEW/SSA/OPP.
09-60-0184—Hearing Office Master Calendar. HEW SSA BHA.
09-60-0186—Litigation Master Record File. HEW, SSA, OPP.
09-60-0194—Direct Deposit Survey (Statistics). HEW SSA OPP.
09-60-0196—Disability Studies Survey Records (Statistics). HEW, SSA, OPP.
09-60-0197—Disability Studies Records and Extracts (Statistics)—HEW/SSA/OPP.
09-60-0198—Extramural Research Administrative File—HEW/SSA/OPP.
09-60-0199—Extramural Surveys (Statistics). HEW/SSA/OPP.
09-60-0200—Retirement and Survivors Studies Survey Records (Statistics)—HEW/SSA/OPP.
09-60-0201—Retirement and Survivors Studies Records and Extracts (Statistics). HEW/SSA/OPP.
09-60-0202—Old Age, Survivors and Disability Beneficiary and Worker Records and Extracts (Statistics). HEW/SSA/OPP.
09-60-0203—Supplementary Security Income (SSI) Studies Survey Records (Statistics). HEW/SSA/OPP.
09-60-0204—Supplementary Security Income (SSI) Studies Records and Extracts (Statistics). HEW/SSA/OPP.
09-60-0205—Indochina Refugee and Sponsor System, HEW-OS-IRTF (Indochina Refugee Task Force) Volag Billing and Validation System, Volag Program Progress Reporting System, HEW/SRS Refugee Financial Assistance System. HEW SSA OFA.
09-60-0206—Repatriate Records System. HEW SSA/OFA.
09-60-0207—Cuban Refugee Registration Records. HEW SSA/OFA.
09-60-0208—Program Integrity Management Information and Control System. HEW SSA OPO.
09-60-0209—Readership Surveys of the Office of Research and Statistics. HEW SSA OPP.

APPENDIX B OF DEPARTMENTAL REGULATIONS (45 CFR Part 5b)

Routine Uses Applicable To More Than One System of Records Maintained by HEW

(1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

(3) In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(4) A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(5) In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(6) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(7) Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization.

(8) Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

(9) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such reeords.

(10)-(99) (reserved)

(100) To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

(101) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(102) To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

(103) Disclosures in the course of employee discipline or competence determination proceedings.

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System name: HEW-09-90/0001 Telephone Directory/Locator System HEW-OS-ASMB-OMAS

Security classification: None

System location: Operating offices and Facility Complexes of the Department—Employee Locators and Offices of Administative or Management Services.

Categories of individuals covered by the system: Current employees of the Department and vendor or other Federal employees located in Department operating offices and facility complexes.

Categories of records in the system: Name, title, agency office address, agency mailing address telephone number, standard administrative code, and social security number.

Authority for maintenance of the system: 5 USC 301, 40 USC 486 (c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to develop and maintain current employee locator and director listings. The locator listings are use by the HEW information centers, mail rooms, and other specifically for the purpose of locating employees and for routing of mail. The directory listings are used to produce departmental telephone directories on an as needed basis. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Variously stored in card files, computer printouts, paper forms, magnetic tape.

Retrievability: Alphabetically by employee name, in certain instances also by agency and/or title. Some large systems use the SSN as control to update, change or delete information on individuals no longer within this system of Records.

Safeguards: Only authorized personnel have access to master lists which contain social security numbers.

Retention and disposal: Retained as long as individual is employed by or associated with the Department, then information deleted from files by appropriate method.

System manager(s) and address: Telecommunications management officials of the Departement—See Appendix

Notification procedure: Direct inquiries to the appropriate systems manager identified in Appendix.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual employee

APPENDIX:

Department policy coordinator:
Telecommunications Management Officer
Department of Health, Education, and Welfare
Office of the Assistant Secretary for Management and Budget
Office of Management Analysis and Systems
200 Independence Avenue S.W.
Washington, DC 20201

Operating System Managers:
Office of the Secretary
Telecommunications Management Officer
Office of Administration
330 Independence Ave. S.W.
Room 1271R
Washington, DC 20201

Office of Human Development Services
Chief, General Services Branch
200 Independence, Ave. S.W. Room 309B
Washington, DC 20201

Office of Education
Communications Management Officer
400 Maryland Avenue, S.W.
Washington, DC 20202

National Institute of Education
Chief, General Services Division
1200 19th Street, N.W. Room 639D
Washington, DC 20208

Public Health Service
Chief, Communications Section
Administrative Services Center
5600 Fishers Lane
Rockville, MD. 20857

Public Health Service
Center for Disease Control
Chief, Real Property and Communications Management Branch
Atlanta, GA 30333

Public Health Service
Food and Drug Administration
Chief, Services Management Section
Division of Management Services
5600 Fishers Lane
Rockville, MD. 20857

Public Health Service
Chief General Services Branch
Bureau of Medical Services
6525 Belcrest Road
Hyattsville, MD. 20782

Public Health Service
Chief, General Services Branch
USPHS Hospital
3100 Wyman Park Drive
Baltimore, MD 21211

Public Health Service
Chief, General Services Branch
USPHS Hospital
77 Warren Street
Boston (Brighton), MA 02135

Public Health Service
Chief, General Services Branch
USPHS Hospital
Carville, LA 70721

Public Health Service
Chief, General Services Branch
USPHS Hospital
4400 Avenue N
Galveston, TX 77550

Public Health Service
Chief, General Services Branch
USPHS Hospital
210 State Street
New Orleans, LA 70118

Public Health Service
Chief, General Services Branch
USPHS Hospital
6500 Hampton Blvd.
Larchmont, Norfolk, VA 23508

Public Health Service
Chief, General Services Branch
USPHS Hospital
15th Avenue and Lake Street
San Francisco, CA 94118

Public Health Service
Chief, General Services Branch
USPHS Hospital
1131 14th Avenue South
Seattle, WA 98144

Public Health Service
Chief, General Services Branch
USPHS Hospital
Bay Street and Vanderbilt Avenue
Staten Island, NY 10304

Public Health Service
Director, USPHS Outpatient Clinic
1600 Clifton Road, N.E.
Atlanta, GA 30333

Public Health Service
Director, USPHS Outpatient Clinic
Switzer Building
4th and C Streets, S.W.
Washington, DC

Health Care Financing Administration
Chief, Facilities Management Branch
330 C Street, SW.
Washington, DC 20201

Social Security Administration
Communications Systems Branch
6401 Security Boulevard Room 1217—Annex
Baltimore, MD 21235

Region I
HEW Director, Division of Administrative Services
JFK Federal Building
Boston, MA 02203

Region II
HEW Director, Division of Administrative Services
26 Federal Plaza
New York, NY 10007

Region III
HEW Director, Division of Administrative Services
3535 Market Street
Philadelphia, PA 19101

Region IV
HEW Director, Division of Administrative Services
101 Marietta Tower Suite 1502
Atlanta, GA 30323

Region V
HEW Director, Division of Administrative Services
300 South Wacker Drive
Chicago, IL 60606

Region VI
HEW Director, Division of Administrative Services
601 East 12th Street
Kansas City, MO 64106

Region VIII
HEW Director, Division of Administrative Services
1961 Stout Street
Denver, CO 80202

Region IX
HEW Director, Division of Administrative Services
50 United Nations Plaza
San Francisco, CA 94102

Region X
HEW Director, Division of Administrative Services
1321 Second Avenue
Seattle, WA 98101

09-90-0002

System name: Investigatory Material Compiled for Security and Suitability Purposes System, HEW/OS/ASPER

Security classification: None for the system; however, a portion of the records within the system are classified at the level of Confidential, Secret, and Top Secret.

System location:
Division of Security
Room 523B, Humphrey Building
U.S. Department of Health, Education, and Welfare
200 Independence Avenue, S.W.
Washington, DC 20201
Regional Federal Record Center

Categories of individuals covered by the system: Applicants, employees, former employees and others doing business with the Department.

Categories of records in the system: Security investigations case index card file.

Authority for maintenance of the system: Executive Orders 10450 and 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records may be used as follows:

a. See Appendix B Departmental Regulations (45 CFR Part 5b) Items 1, 4, 5.

b. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

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Storage: The records are maintained in security type vaults or safes or lock bar file cabinets with manipulation proof combination locks.

Retrievability: The records are alphabetically indexed by name and date of birth of the individual subject of the file or by cross reference to another file. Access within HEW is limited to the Secretary, and on a need-to-know basis other officials having the program management responsibility.

Safeguards: Direct access is restricted to authorized Division of Security staff. Access to the safes in which the records are stored is limited to those Division of Security employees with appropriate security clearances and the lock combination.

Retention and disposal: Security investigative records on individuals who occupy sensitive positions are maintained during the term of their employment. Other security investigative records are maintained for ten years if subject to EO 10450. All other files are destroyed after three years.

System manager(s) and address:

Director, Division of Security
Room 523B, Humphrey Bldg.
U.S. Department of Health, Education, and Welfare
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: System Manager; for general inquiries, include name, date of birth, and employment or other affiliation with the Department.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Federal, state or local agencies maintaining civil, criminal, suitability, or other relevant enforcement information or other pertinent information, correspondence and material or data obtained during the course of the conduct of the investigations.

Systems exempted from certain provisions of the act: Individuals will be provided information from this record system except when in accordance with the provisions of 5 USC 552a(k)(5): 1. disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or 2. if the information was obtained prior to September 27, 1975, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11).

09-90-0003

System name: Investigative Files of the Inspector General, HEW/OS/OIG

Security classification: None.

System location:

Office of Inspector General, DHEW
Room 5246, North Bldg.
330 Independence Ave. SW.
Washington, D.C. 20201
Office of the Inspector General, DHEW
Room 4044, ROB 3
7th & D Streets SW.
Washington, D.C. 20201

Categories of individuals covered by the system: Employees, former employees, grantees, contractors, sub-contractors, carriers, State agencies, State employees, providers and recipients under DHEW programs, providers and recipients under State programs funded by the Department and others doing business with the Department.

Categories of records in the system: Criminal Investigation Files.

Authority for maintenance of the system: 28 U.S.C. 535(b); 18 U.S.C.; P.L. 94-505, Oct. 15, 1976.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix B Departmental regulations (45 CFR Part 5b), Items (l)(4), (5). Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain a record relevant to a Department decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records, which take the form of index cards, computer tape files, and computer printed listings, are maintained in security type safes or lock bar file cabinets with manipulation proof combination locks.

Retrievability: The records are retrieved by manual search of alphabetical index and cross-index cards listing individuals, companies and organizations.

Safeguards: Direct access is restricted to authorized staff members of the Office of Inspector General. Access within DHEW is limited to the Secretary, Under-Secretary, Inspector General and other officials and employees on a need-to-know basis. Intra-agency transfers are made in accordance with the statement of Organization, Functions and Delegations of Authority as set out in a notice concerning the Office of Inspector General (42 F.R. 17531, April 1, 1977). All computer files and printed listings are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual, A5-10-3.

Retention and disposal: Investigative files are retained for 5 years after completion of the investigation and/or actions based thereon. Index and cross-reference cards are retained permanently. In instances of computer matching of files, only those records which meet predetermined criteria for investigation are maintained. All records which do not meet these criteria are destroyed. All original source computer tapes are returned or destroyed once computer matching has been accomplished.

System manager(s) and address:

Inspector General/Deputy Inspector General
Room 5262, North Building
U.S. Department of Health, Education, and Welfare
330 Independence Avenue S.W.
Washington, D.C. 20201

Notification procedure: Exempt, however consideration will be given requests addressed to the system manager. For general inquiries include the name and date of birth of the individual.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sught. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Departmental and other federal, state and local government records; intervierws of witnesses; documents and other material furnished by non-government sources. Souces may include confidential sources.

Systems exempted from certain provisions of the act: General exemption (j)(2), this system was formerly known as the Investigatory materials compiles for Law Enforcement Purposes system. Pursuant to 45 C.F.R. 5b.11, (b)(2)(i)(B), 40 F.R. 47413 (Oct. 8, 1975) this system is exempt from the following subsections of the Act (c)(3), (d)(1)-(4), (e)(3), and (e)(4) (G) (H).

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09-90-0005

System name: Safety Management Information System (HEW Accident, Injury and Illness Reporting System). HEW/OS/ASMB/OFE/OSOH

Security classification: None.

System location: At Departmental Regional and Headquarters facilities (see Appendix 1).

Categories of individuals covered by the system:

1. HEW Employees, including both civilian and commissioned corps personnel, who are involved in an accident which arises out of and in the course of their employment whether occurring on HEW premises or not and results in:
   a. A fatality.
   b. Lost workdays beyond the day in which the accident occurred.
   c. Nonfatal injuries which result in transfer to another job, termination of employment, medical treatment other than first aid, loss of consciousness or restriction of work or motion.
   d. A possible tort claim.
   e. A claim for compensation.
   f. Property damage in excess of 50.00.
   g. Interrupts or interferes with the orderly progress of work of other employees.
   h. Radiation over exposure.
   i. Biological exposure resulting in lost time or accidental release of biologicals where the public may be over-exposed.
2. Visting scientists, contractor personnel, hospitalized patients, out-patients, employees of other Federal agencies, state or local governments or members of the public who suffer injury, illness or property damage on or in HEW premises or as a result of HEW activities.

Categories of records in the system: This system consists of a variety of information and supporting documentation resulting from the reporting and investigation of accidents which have resulted in injury, illness, property damage or the interruption or interference with the orderly progress of work. The records contain information about individuals involved in or experiencing accidents including but not limited to the severity of the injury, whether consciousness was lost, the type of injury, culmination of any injury, days lost from work if any, the nature of the injury, illness or disease, the body part affected, causal factors, weather factors, agency of accident, whether unsafe mechanical, physical, or personal acts or factors were involved, the accidents area of origin and if fire was involved, the type and form of materials involved. Property damage (both public and private) is noted through the property sequency number, who owned the property involved, property damaged and actual or estimated monetary loss, the HEW installation number if appropriate and the year of manufacture or construction if appropriate. Identifiers relating to a particular accident include the organization, case number assigned, date and time of occurrence, state or territory, site, type and classification of accident, estimated amount of tort claims if appropriate, name of individual(s) involved, the social security number, sex, age, grade series and level, CSC series, address, other Departments notified of accident, duty status, activity at time of accident and time on duty before accident. Management's evaluation and corrective action taken or proposed is also noted.

Authority for maintenance of the system: Section 19 of the Occupational Safety and Health Act of 1970 (PL 91-596); 5 U.S.C. 7902; 29 CFR Part 1960; Executive Order No. 11807

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. See Appendix B, Departmental Regulations (45 CFR Part 5b) Items 01,5
b. To request from a Federal, state, local agency or private sources information relevant to the investigation of an accident and/or corrective action.
c. To respond to an inquiry from a member of Congress made on behalf of a constituent.
d. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are or may be maintained on magnetic tapes, punchcards, lists, forms, discs, computer storage, in file folders, binders and index cards.

Retrievability:

1. At the Departmental level, the system is completely computerized with no other records normally maintained or retained in the Office of Safety and Occupational Health. While individual identifiers such as name, case number, and social security number are within the computer storage banks, special programming would be required to extract individual records. Normal output consists of statistical reports and surveys including those required by the Department of Labor and Statistical Analysis in support of the Departmental occupational safety and health program for dissemination to the Principal Operating Components, Regions and Staff Offices.
2. The Principal Operating Components of the Department, their sub-components, Regional Offices and Staff Offices may maintain original or copies of the accident reports and supporting documentation by name, social security number, case number or cross reference.
3. Establish a written record of the causes of accidents.
4. Provide information to initiate and support corrective or preventive action.
5. Provide statistical information relating to accidents resulting in occupational injuries, illnesses, and/or property damage.
6. Provide management with information with which to evaluate the effectiveness of safety management programs.
7. Provide the means for complying with the reporting requirements of Section 19 of the Occupational Safety and Health Act of 1970 and such other reporting requirements as may be required by legislative or regulative requirements.
8. Provide such other summary descriptive statistics and analytical studies as necessary in support of the function for which the records are collected and maintained including general requests for statistical information without personal identification of individuals.
9. Information in these records is used by or may be disclosed to: a. The Office of Safety Management, Office of the Secretary, HEW in the review of accident experience data to determine the adequacy of corrective actions, the effect of codes, standards and guides, the consolidation, summarization and dissemination of accident experience data throughout HEW and other Government Departments and agencies as needed or required. b. The supervisor, administrative officer or other official initiating an accident report, including each succeeding reviewing official in the chain of command through which the report passes to insure that corrective action, as needed and appropriate, is taken. c. Appropriately appointed Safety Directors, Officers, or others with safety responsibilities within the Department in the verifying, assembling, analyzing, summarizing and disseminating data concerning the accident experience in their areas of responsibility and the initiation of appropriate corrective action.

Safeguards: Access to and use of these records is made available to those personnel having a legitimate need for the information (those whose duties require review or access) including inspecting or evaluating personnel. Records, which under the law, may not be disclosed such as information pertinent to national security or trade secrets are maintained separately, adequately safeguarded and released only in accordance with the law. When there is doubt regarding the release

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of information, the matter will be referred, in advance of release, to the Office of the General Counsel, HEW.

Retention and disposal: All accident reports, records, logs, and other information relating to an accident are retained by the Principal Operating Components and their agencies, the Regional Offices and the Office of the Secretary for at least five years following the end of the calendar year in which the accident occurred. Specific occupational safety and health standards (such as the standards covering the handling of carcinogenic chemicals) may be required to be kept for up to twenty years. Records may be retained indefinitely.

System manager(s) and address:

Director
Office of Safety and Occupational Health
Department of Health, Education, and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Individuals wishing to inquire whether this system of records contains information about them should address their inquiries to one of the following as appropriate:

1. If employed or formerly employed in HEW Regional Office, the Regional Occupational Safety and Health Manager of the Region involved (see list and addresses under appendix).
2. If employed or formerly employed in a HEW Principal Operating Component or sub-agency, a staff office or the Office of the Secretary, the Occupational Safety and Health Manager of the component where employed with the exception of the Food and Drug Administration (see list and addresses under appendix). The contact for the Food and Drug Administration is:

Privacy Act Coordinator
Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20852 Individuals requesting information about this system of records should provide their full name, social security number, name and address of office and agency in which currently or formerly employed and the accident(s) case number if known.

Record access procedures: Individuals wishing to gain access to or contest their records should contact the following in person or writing as appropriate; with the exception of Food and Drug Administration, See "Notification" above. 1. If employed or formerly employed in a HEW Regional Office, the Regional Occupational Safety and Health Manager of the Region involved (see list and addresses under appendix). 2. If employed or formerly employed in a HEW Principal Operating Component or sub-agency, a staff office or the Office of the Secretary, the Occupational Safety and Health Manager of the component where employed. (see list and addresses under appendix). Individuals requesting information in this system of records should provide their full name, social security number (on a purely voluntary basis), case number if known, time and brief description of the accident in which they were involved and the name and address of office in which employed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information in this system is obtained from the following sources: 1) the individual to whom the record pertains; 2) witnesses to the accident; 3) investigating officials (Federal, state, local); 4) medical personnel seeing the individual as a result of the accident; 5) supervisory personnel; 6) reviewing officials; 7) personnel offices; 8) investigative material furnished by Federal, state, or local agencies; 9) on site observations.

Appendix

Region I:
HEW Regional Safety and Occupational Health Manager
John F. Kennedy Federal Building—Room 1503
Government Center
Boston, Massachusetts 02203

Region II:
HEW Regional Safety and Occupational Health Manager
Federal Building—Room 3835
26 Federal Plaza
New York, New York 10007

Region III:
HEW Regional Safety and Occupational Health Manager
3535 Market Street
Philadelphia, Pennsylvania 19101

Region IV:
HEW Regional Safety and Occupational Health Manager
50 7th Street, N.E.—Room 447
Atlanta, Georgia 30323

Region V:
HEW Regional Safety and Occupational Health Manager
300 South Wacker Drive—35th Floor
Chicago, Illinois 60606

Region VI:
HEW Regional Safety and Occupational Health Manager
1114 Commerce Street—Room 1025
Dallas, Texas 75202

Region VII:
HEW Regional Safety and Occupational Health Manager
601 East 12th Street—Room 566
Kansas City, Missouri 64106

Region VIII:
HEW Regional Safety and Occupational Health Manager
1961 Stout Street—Room 11037
Denver, Colorado 80202

Region IX:
HEW Regional Safety and Occupational Health Manager
Federal Office Building—Room 8
50 Fulton Street
San Francisco, California 94102

Region X:
HEW Regional Safety and Occupational Health Manager
Arcade Plaza—Room 6003
1321 Second Avenue
Seattle, Washington 98101

Office of Education:
Safety Officer
FOB 06—Room 1175
400 Maryland Avenue SW.
Washington, D.C.

National Institute of Education:
Safety Officer
1200 19th Street NW.
Washington, D.C. 20208

Health Care Financing Administration:
Safety Officer
Room 5006—Switzer Building
300 C Street SW.
Washington, D.C. 20201

Social Security Administration:
Director, Occupational Health Management
Room 3205 Annex
6401 Security Boulevard
Baltimore, Maryland 21235

Office of the Secretary, HEW
Safety Officer
Room 507B South Portal Building
Department of Health, Education, and Welfare
200 Independence Avenue SW.
Washington, D.C. 20201

Public Health Service:
Director, Division of Health Facilities Planning
Room 18-42—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Alcohol, Drug Abuse, and Mental Health Administration:
Safety Officer
Room 6-105—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Center for Disease Control:
Chief, Office of Biosafety
Building 8—Room 232
1600 Clifton Road NE.
Atlanta, Georgia 30333

Food and Drug Administration:
Privacy Act Coordinator
5600 Fishers Lane
Rockville, Maryland 20852

Health Resources Administration:
Safety Officer
Room 10A-19—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

National Institutes of Health:
Associate Director, Environmental Health and Safety, Division of Research Sciences
Room 4051—Building 12A
9000 Rockville Pike
Bethesda, Maryland 20014

09-90-0006

System name: Applicants for Employment Records. HEW/OS/ASPER.

Security classification: None.

System location: This system is located in personnel offices and other offices of the Department authorized to receive applications for employment. See Appendix 1.

Categories of individuals covered by the system: Persons who have applied for Federal employment or are employed in the Federal service.

Categories of records in the system: These records contain information relating to the education and training; employment history and earnings; appraisal of past performance; convictions and offenses against the law; results of written tests; appraisal of potential; honors, awards or fellowships; military service; veteran preference, birthplace; birth date; social security number; and home address of persons who have applied for Federal employment or are employed in the Federal service; and correspondence related thereto. These records may also include information concerning the date of application, qualification status, employment consideration, priority grouping, and

other information relating to the consideration of the individual for employment.

Authority for maintenance of the system: 5 U.S.C. 1302, 3301, 3302, Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records may be used: 1) to respond to requests for information from the Civil Service Commission, Members of Congress, or other inquirers from outside the Department, to the extent their request is compatible with the purpose for which the records are maintained; 2) See Appendix B Departmental Regulations (45 CFR Part 5b), Items 01,3,4,5,6,7,8,9; 3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, discs, drums, punched cards, microfiche, cards, lists, and forms.

Retrievability: Records are indexed by any combination of name, birth date, social security number and identification number. Records are used to refer applicants to officials of the Department for placement in positions for which applicant has applied and is qualified.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: Records are retained until the applicant is selected for a position, or for two years. After the applicant is selected for a position, the records are filed in the Official Personnel Folder which is retained until the employee leaves the Department. If the applicant is not selected for a position within two years, the records are destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 15.)

System manager(s) and address: Personnel Officers of the Department. See Appendix 1.

Notification procedure: Personnel office to which application is made (see Appendix 1). Individual should provide name, date of birth, social security number, approximate date of record and title of position for which application was made.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories: Information in this system of records is provided by the individual to whom it applies; is derived from information he or she supplied; or is obtained from information supplied by others.

Systems exempted from certain provisions of the act: None.

Appendix 1

Personnel Offices in Department of Health, Education, and Welfare

Department Staff Personnel Office:

Deputy Assistant Secretary for Personnel and Training
Office of Personnel and Training

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Assistant Secretary for Personnel Administration
Office of the Secretary
Department of Health, Education, and Welfare
330 Independence Avenue, SW., Transpoint Bldg.
Washington, D.C. 20201

Headquarters Personnel Offices:

Personnel Officer
Division of OS Personnel
Office of the Secretary
Department of Health, Education, and Welfare
Room 4361—4th Floor
330 Independence Avenue, SW.
Washington, D.C. 20201

Personnel Officer
Personnel and Training Division
Office of Education
Department of Health, Education, and Welfare
Room 1087—FOB06
400 Maryland Avenue, SW.
Washington, D.C. 20202

Personnel Officer
Personnel Division
National Institute of Education
Department of Health, Education, and Welfare
Room 642, Brown Bldg.
1200 19th Street, NW.
Washington, D.C. 20208

Personnel Officer
Division of Personnel
Health Care Financing Administration
Department of Health, Education, and Welfare
Room 2500
330 C Street, S.W.
Washington, D.C. 20201

Personnel Officer
Office of Human Development
Department of Health, Education, and Welfare
Room 347D, South Portal Building
200 Independence Ave., SW.
Washington, D.C. 20201

Personnel Director
Office of Personnel Management
Public Health Service
Department of Health, Education, and Welfare
Room 18A-55—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Director
Division of Personnel Management
Alcohol, Drug Abuse, and Mental Health Administration
Department of Health, Education, and Welfare
Room 1295—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Personnel Officer
Saint Elizabeths Hospital, ADAMHA
Department of Health, Education, and Welfare
Room 120—E Building
2700 Martin Luther King Avenue, SE.
Washington, D.C. 20032

Personnel Director
Division of Personnel Management
National Institutes of Health
Department of Health, Education, and Welfare
Room 21—Building 1
9000 Rockville Pike
Bethesda, Maryland 20014

Personnel Officer
Personnel Office
National Library of Medicine
Department of Health, Education, and Welfare
8600 Rockville Pike, Room M-105
Bethesda, Maryland 20014

Chief
Personnel Management Branch
National Cancer Institute
Department of Health, Education, and Welfare
Room 3A32—Building 31
9000 Rockville Pike
Bethesda, Maryland 20014

Chief
Personnel Management Branch
National Heart and Lung Institute
Department of Health, Education, and Welfare
Room 5A32—Building 31
9000 Rockville Pike
Bethesda, Maryland 20014

Director
Division of Personnel Management
Health Resources Administration
Department of Health, Education, and Welfare
Room 9-22, FCB 02
3700 East-West Highway
Hyattsville, Maryland 20782

Director
Office of Personnel
Health Services Administration
Department of Health, Education, and Welfare
Room 14A-20—Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Personnel Director
Food and Drug Administration
Department of Health, Education, and Welfare
Room 4B-06—Parklawn Building HFA-400
5600 Fishers Lane
Rockville, Maryland 20852

Personnel Officer
Bureau of Health Manpower
Department of Health, Education, and Welfare
Room 5B-44—Building 31
9000 Rockville Pike
Bethesda, Maryland 20014

Personnel Officer
Office of the Assistant Secretary for Health
Department of Health, Education, and Welfare

Room 4-36, Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20852

Regional Personnel Offices:

Regional Personnel Officer
Region I
Department of Health, Education, and Welfare
John F. Kennedy Federal Building
Government Center—Room 1503
Boston, Massachusetts 02203

Regional Personnel Officer
Region II
Department of Health, Education, and Welfare
Federal Building
26 Federal Plaza
New York, New York 10007

Regional Personnel Officer
Region III
Department of Health, Education, and Welfare
3535 Market Street, Room 9460
Philadelphia, Pennsylvania 19101

Regional Personnel Officer
Region IV
Department of Health, Education, and Welfare
Suite 1601
101 Marietta Tower
Atlanta, Georgia 30323

Regional Personnel Officer
Region V
Department of Health, Education, and Welfare
31st Floor
300 S. Wacker Drive
Chicago, Illinois 60606

Regional Personnel Officer
Region VI
Department of Health, Education, and Welfare
10th Floor
1200 Main Tower Bldg.
Dallas, Texas 75202

Regional Personnel Officer
Region VII
Department of Health, Education, and Welfare
Room 468
601 E. 12th Street
Kansas City, Missouri 64106

Regional Personnel Officer
Region VIII
Department of Health, Education, and Welfare
Room 10410
Federal Office Building
1961 Stout Street
Denver, Colorado 80294

Regional Personnel Officer
Region IX
Department of Health, Education, and Welfare
50 Fulton Street
San Francisco, California 94102

Regional Personnel Officer
Region X
Department of Health, Education, and Welfare
Room 6039 Arcade Plaza Building
1321 Second Avenue, Mail Stop 627
Seattle, Washington 98101

Chief, Personnel Office
Cleveland Branch Office
Region V
Department of Health, Education, and Welfare
14600 Detroit Avenue, Room 500
Cleveland, Ohio 44107

Other Servicing Personnel Offices:

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
Carville, Louisiana 70721

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
4400 Ursuline
Galveston, Texas 77550

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
1131 14th Avenue South
Seattle, Washington 98114

Personnel Officer
U.S. Public Health Service Hospital
Office of Personnel
Department of Health, Education, and Welfare
Bay and Vanderbilt Streets
Staten Island, New York 10304

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
15th Avenue and Lake Street
San Francisco, California 94118

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
77 Warren Street
Boston, Massachusetts 02135

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
210 State Street
New Orleans, Louisiana 70118

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section

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Department of Health, Education, and Welfare
6500 Hampton Boulevard
Larchmont
Norfolk, Virginia 23508

Personnel Officer
U.S. Public Health Service Hospital
Personnel Management Branch
Department of Health, Education, and Welfare
3100 Wyman Park Drive
Baltimore, Maryland 21211

Personnel Officer
Indian Health Service
Personnel Management Branch
Department of Health, Education, and Welfare
P.O. Box 2143
Billings, Montana 59101

Personnel Officer
U.S. Public Health Service Hospital
Personnel Section
Department of Health, Education, and Welfare
4005 Federal Office Building
500 Gold Avenue, S. W.
Albuquerque, New Mexico 87101

Personnel Officer
Indian Health Service
Personnel Management Branch
Department of Health, Education, and Welfare
405 Citizens Building
115 4th Avenue, SE.
Aberdeen, South Dakota 57401

Personnel Officer
Indian Health Service
Personnel Management Branch
Department of Health, Education, and Welfare
801 East Indian School Road
Phoenix, Arizona 85014

Personnel Officer
Indian Health Service
Personnel Branch
Department of Health, Education, and Welfare
388 Old Post Office and Courthouse
Oklahoma City, Oklahoma 73102

Personnel Officer
Alaska Area Office
Indian Health Service
Department of Health, Education, and Welfare
P.O. Box 7-741
Anchorage, Alaska 99501

Personnel Officer
Indian Health Area Office
Office of Personnel
Department of Health, Education, and Welfare
Room 200
921 SW. Washington Street
Portland, Oregon 97205

Personnel Officer
Indian Health Service
Office of Personnel
Department of Health, Education, and Welfare
P.O. Box G
Window Rock, Arizona 86515

Director
Office of Human Resources, OMA
Social Security Administration
Department of Health, Education, and Welfare
Room 734, Altmeyer Bldg.
6401 Security Boulevard
Baltimore, Maryland 21235

Personnel Officer
Bureau of Hearings and Appeals
Social Security Administration
Department of Health, Education, and Welfare
3833 N. Fairfax Drive
Arlington, Virginia 22203

Chief, Personnel Branch
Mid-Atlantic Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
P.O. Box 12837
Philadelphia, Pennsylvania 19108

Chief, Personnel Branch
Northeastern Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
96-05 Horace Harding Expressway
Flushing, New York 11368

Chief, Personnel Branch
Southeastern Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
2001 12th Avenue, North
Birmingham, Alabama 35285

Chief, Personnel Branch
Western Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
P.O. Box 2000
Richmond, California 94802

Chief, Personnel Branch
Great Lakes Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
165 North Canal Street
Chicago, Illinois 60606

Chief, Personnel Branch
Mid-America Program Service Center
Social Security Administration
Department of Health, Education, and Welfare
P.O. Box 15186
Kansas City, Missouri 64106

Personnel Officer
Albuquerque Data Operations Center
Social Security Administration
Department of Health, Education, and Welfare
P.O. Box 4429, Station 'A'
Albuquerque, New Mexico 87106

Personnel Officer
Salinas Data Operations Center
Social Security Administration
Department of Health, Education, and Welfare
100 East Alvin Drive
Salinas, California 93906

Personnel Director
Personnel Management Office
Center for Disease Control
Department of Health, Education, and Welfare
Building 1, Room 153A
1600 Clifton Road, NE.
Atlanta, Georgia 30333

Personnel Officer
Addiction Research Center
National Institute of Drug Abuse, ADAMHA
Department of Health, Education, and Welfare
P.O. Box 12390
Lexington, Kentucky 40511

Personnel Officer
National Institute for Occupational Safety and Health
Department of Health, Education, and Welfare
Room 540
U.S. Post Office and Courthouse
5th and Walnut Street
Cincinnati, Ohio 45202

Personnel Officer
National Institute of Environmental Sciences
Department of Health, Education, and Welfare
P.O. Box 12233
Research Triangle Park, North Carolina 27709

09-90-0007

System name: Complaints and Inquiries Records—Miscellaneous. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and offices of operating officials in organizational units serviced by those personnel offices, in which employees are employed.

Categories of individuals covered by the system: Current and former employees of the Department.

Categories of records in the system: This system consists of records relating to an individual's employment status or conduct while employed by the Department. Examples of these records include: correspondence from employees, Members of Congress, and members of the public alleging misconduct by an employee of the Department, miscellaneous complaints not covered by the Department's formal or informal grievance procedure, informal complaints handled by labor union officials, and miscellaneous debt correspondence received from creditors.

Authority for maintenance of the system: Executive Orders 11222, 10561 and 11491.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used: a) In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01,3,4,5,6,7,8,9; b) by the Civil Service Commission in carrying out its functions; c) to respond to Members of Congress and members of the public with regard to complaints or inquiries presented by them; d) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; e) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed in folders and index cards.

Retrievability: Records are filed by name. Records are used to take action on and respond to a complaint about a HEW employee; to produce summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained and for related personnel management functions or pay studies; and for other purposes compatible with the intent for which the records system was created.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Records are retained until there is no further administrative need for them, the individual leaves the Department, or one year has elapsed, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-2, item 7.)

System manager(s) and address: Personnel Officers shown in Appendix 1 to Applicants for Employment Records, HEW System 09900006, who service organizational units in which individuals are employed.

Notification procedure: Operating officials in organizational unit in which employee is employed or personnel offices shown as systems managers in Appendix 1 Applicants for Employment Records, HEW System 09900006,. Individuals should provide name, organization in which employed, and date of birth.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is obtained: 1) directly from the individual, or 2) derived from information supplied by the individual, or 3) from information supplied by members of the public, other employees, Members of Congress, Department management officials, or 4) from police and court records relevant to the complaint about the employee.

09-90-0008

System name: Conflict of Interest Records System. HEW/OS/ASPER.

Security classification: None.

System location: Personnel Offices of the Department (See Applicants for Employment Records, HEW System 09900006, Appendix 1) or levels of approving officials to be identified by those Personnel Offices.

Categories of individuals covered by the system: Incumbents of Department positions the duties of which are of such a nature that incumbent's outside activities may come in conflict with the incumbent's official duties.

Categories of records in the system: The Conflict of Interest Records System consists of a variety of records relating to an employee's conduct and outside activities. In addition to the name of the employee, position title, grade, salary, pay plan, and employing organization, the system includes information about outside employment, outside compensation and related information.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be used: a) by the Civil Service Commission in carrying out its functions; b) In accordance with Appendix B of the Departmental regulations (45 CFR Part 5b), Item 1,4,5,6,9; c) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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d) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Conflict of Interest Records are maintained in file folders.

Retrievability: Records are retrievable by name. They are used for the purpose of determining whether an employee's financial interest, conduct or outside activities are in conflict with the employee's duties as a Federal official. They also may be used for production of summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained and for other purposes compatible with the intent for which the records system was created.

Safeguards: These records are treated as controlled for Official Use Only and made available only to persons specifically authorized to receive them.

Retention and disposal: Records are retained until 2 years after the individual discontinues the activity for which approval was required, or until the individual leaves the Department, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 25.)

System manager(s) and address: Personnel Offices of the Department shown in Appendix 1 to Applicants for Employment Records, HEW System 09900006.

Notification procedure: For incumbents who are in position under the Executive Schedule; Office of the Secretary Staff Office Heads; or Principal Regional Officials, contact:

Deputy Assistant Secretary for Personnel and Training
Office of Personnel and Training
Department of Health, Education, and Welfare
330 Independence Avenue, SW.
Washington, D.C. 20201

For incumbents of positions in the Food and Drug Administration, contact:

Director, Policy Management Staff, HFA-20
Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857

For incumbents of other positions included in this records system, contact the Personnel Office shown in Appendix 1 to Applicants for Employment Records, HEW System 09900006, which services the organizational units in which the individual is employed. The individual should indicate name, position title, grade and series, and organization in which located.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by Department officials or other persons such as trustee, attorney, accountant, relative.

09-90-0009

System name: Discrimination Complaints Records System. HEW/OS/ASPER.

Security classification: None.

System location:

Office of Equal Employment Opportunity, HEW
330 Independence Avenue, S.W.
Washington, D.C. 20201

Offices of designated EEO Officers in Principal Operating Components, Office of the Secretary, Health Agencies, Education Agencies and Regional Offices. See Appendix 1 for exact locations.

Categories of individuals covered by the system: Individuals or organizations which have consulted an EEO Counselor regarding discrimination on the basis of race, color, religion, sex, national origin or age because of a determination or decision made by a Department official or which have filed a third-party allegation of discrimination.

Categories of records in the system: This system of records contains information or documents concerning pre-complaint processing and third-party allegations of discrimination. The records consist of counselors' reports, the initial allegations, letters or notices to the individual or organization, materials placed into the record to support or refute the decision or determination, statements of witnesses, investigative reports, instructions about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

Authority for maintenance of the system: Executive Order 11478, 42 USC 2000e and 29 USC 633a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used:

a. To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance;
b. To refer to CSC in connection with an appeal or review;
c. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01, 3, 4, 5, 6, 7, 8, 9.
d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
e. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders, binders, and index cards.

Retrievability: These records are indexed by the names of the individuals or organizations on whom they are maintained. They may be used: to adjudicate an appeal, complaint, or grievance; to provide a basis for a corrective action related to the discrimination situation; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; and to locate specific individuals for personnel research or other personnel management functions.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: The records on third-party allegations of discrimination are retained for four years after final disposition, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 26a(1).)

System manager(s) and address: See Appendix 1 for General Coordinator and appropriate Immediate System Manager.

Notification procedure: Individuals and organizations which consulted an EEO counselor or filed a third-party allegation of discrimination are aware of that fact. They may write the appropriate immediate system manager indicated above, or the general coordinator if the immediate system manager is unknown, regarding the existence of such records pertaining to them. The inquirers, as appropriate, should provide their name, date of birth, agency in which employed

or agency in which the situation arose if different from employing agency, the approximate date, and the kind of action taken, when making inquiries about records.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories:

a. Individual to whom the record pertains
b. Department or other officials
c. Statements from employees or other witnesses
d. Official documents relating to the counseling or third-party allegation
e. Correspondence from specific organizations or persons.

Appendix 1

List of Locations and System Managers for EEO Matters

Department of Health, Education, and Welfare (General Coordinator)

Director, Equal Employment Opportunity Staff
Room 4766
330 Independence Avenue, SW.
Washington, D.C. 20201

Immediate Locations and System Managers

Office of the Secretary, Washington
EEO Officer, OS
Room 2038
330 C Street, SW.
Washington, D.C. 20201

Regional Offices of the Secretary

REGION I

EEO Officer
Room 1500
JFK Federal Building
Boston, Massachusetts 02203

REGION II

EEO Officer
Room 3838-D
26 Federal Plaza
New York, New York 10007

REGION III

EEO Officer
Room 9200
3535 Market Street
Philadelphia, Pennsylvania 19101

REGION IV

EEO Officer
19th Floor
101 Marietta Tower
Atlanta, Georgia 30323

REGION V

EEO Officer
35th Floor
300 S. Wacker Drive
Chicago, Illinois 60606

REGION VI

EEO Officer
Room 904
1114 Commerce Street
Dallas, Texas 75202

REGION VII

EEO Officer
Room 616D
601 East 12th Street
Kansas City, Missouri 64106

REGION VIII

EEO Officer
Room 13001, Federal Office Building
1961 Stout Street
Denver, Colorado 80294

REGION IX

EEO Officer
Room 413
50 Fulton Street
San Francisco, California 94102

REGION X

EEO Officer
Room 6132, Arcade Plaza Building
1321 Second Avenue, Mail Stop 629
Seattle, Washington 98101

Principal Operating Components and Agencies

Social Security Administration

EEO Officer
Room 739, Administration Building
6401 Security Boulevard
Baltimore, Maryland 21235

Health Care Financing Administration

EEO Officer
Room 2213
330 C Street, SW.
Washington, D.C. 20201

Office of Education

EEO Officer
Room 2117
400 Maryland Avenue, S.W.
Washington, D.C. 20202

National Institute of Education

EEO Officer
Room 639

1200 19th Street, NW.
Washington, D.C. 20208

Assistant Secretary for Health

EEO Officer
Room 18-07, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Health Resources Administration

EEO Officer
Room 10-22, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Health Services Administration

EEO Officer
Room 14-18, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Food and Drug Administration

EEO Officer
Room 16-B-07, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Alcohol, Drug Abuse & Mental Health Administration

EEO Officer
Room 17-C-20, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20208

National Institutes of Health

EEO Officer
Room 2-B-40, Building 31
National Institutes of Health
Bethesda, Maryland 20014

Center for Disease Control

EEO Officer
Room 2405, Building 1
1600 Clifton Road, NE.
Atlanta, Georgia 30333

Office of Human Development
EEO Officer
Room 330E, South Portal Building
200 Independence Ave., SW.
Washington, D.C. 20201

09-90-0010

System name: Employee Alcoholism, Drug Abuse and Emotional Problem Counseling and Referral Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 or designated offices performing counseling functions for employees in organizational units serviced by those personnel offices, including the Public Health Employee Assistance Program offices listed in Appendix 1 of this notice.

Categories of individuals covered by the system: Department employees who have been counseled for work adjustment, personal or emotional health problems and/or the abuse of alcohol or drugs.

Categories of records in the system: This system contains records of employees who have been referred but not counseled; records of employees who have been counseled for work adjustment, personal or emotional problems, and/or alcohol or drug abuse; and records of members of employees' families who have been counseled. Examples of information which may be found in this record system include the employee's name, SSN, date of birth, grade, job series, job title, leave record, service computation date, home address, home phone number, supervisor's name, name and address of the individual's personal physician, social history, educational background, and performance appraisals. Other documents which may also be found in the counselor's file are notes made by the counselor, copies of admonishments and reprimands received by the employee and a record of the supervisor's referral (if the employee was referred by the supervisor).

Authority for maintenance of the system: 44 U.S.C. 3101, 42 U.S.C. 4561, 21 U.S.C. 1180, and 5 U.S.C. 7901.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In unusual circumstances, it may be appropriate to disclose information from this system of records: 1) In accordance with Appendix B Departmental Regulations (45 CFR Part 5b), Items 9, 101, 102; 2) To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of components of the Department in connection with such individual. 3) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Such disclosures will be restrictively made; in particular, disclosures of information pertaining to an individual with a history of alcohol or drug abuse will be limited in compliance with the restrictions of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Employee records are maintained in file folders and on index cards.

Retrievability: Records are filed by name or by case number cross indexed with the employee's name. The records are used to document the nature of the individual's problem and progress and when necessary to refer individuals to appropriate community or private resources for treatment or rehabilitation. Anonymous information from these records may also be used to produce summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained.

Safeguards: During the employment of the individual, records are maintained in confidential files separate from the Official Personnel Folder and are located in lockable metal containers or in secured rooms with access limited to those whose official duties require access. Disclosure of the contents of records which pertain to an individual's alcohol or drug abuse is restricted under the provisions of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR, Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended by P.L. 93-282. To the extent possible, identical restrictions will be applied to the disclosure of the contents of records pertaining to individuals with other problems who are participating in the Public Health Employee Assistance Program.

Retention and disposal: Records are retained until three years after the individual has ceased contact with the counselor, or until the individual leaves the Department, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 27a.)

System manager(s) and address: For records of individuals participating in the Public Health Employee Assistance Program conducted by the Public Health Service: The responsible administrator shown in Appendix 1 below. For other individuals' records: The Personnel Officer servicing the installation in which counseling was provided,

as shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Notification procedure: Inquiries should be addressed to the system manager at the office where counseling was provided. Individual should provide name, grade, organization in which employed, date of birth, and location and approximate date of counseling. When applicable, the special procedures for access to medical records will be followed. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). When the records pertain to an individual's alcohol or drug use, the procedures in 42 CFR 2.40 will also be followed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) supplied by a member of the individual's family, or 3) derived from information supplied by the individual, or 4) supplied by sources to whom the employee has been referred for assistance, or 5) supplied by Department officials, or 6) supplied by program counselors.

Systems exempted from certain provisions of the act: None.

Appendix 1 Officials of Public Health Employee Assistance Program (Public Health Service)

Administrator
ADAMHA Employee Assistance Program
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Administrator
Public Health Employee Assistance Program
Personnel Management Office
Center for Disease Control
Atlanta, Georgia 30333

Administrator
Public Health Employee Assistance Program
Food and Drug Administration
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Administrator
Health Resources Administration Employee Assistance Program
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Administrator
Health Services Administration Employee Asistance Program
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Administrator
Public Health Employee Assistance Program
Office of Occupational Health
National Institutes of Health
Bethesda, Maryland 20010

Administrator
Public Health Employee Assistance Program
Office of the Assistant Secretary for Health
330 Independence Avenue, SW.
Washington, D.C. 20201

09-90-0011

System name: Employee Appraisal Program Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and operating offices in organizational units serviced by those personnel offices.

Categories of individuals covered by the system: Current Federal employees of the Department.

Categories of records in the system: This system contains information which includes employee's name, SSN, employing organization, grade, title, series, and materials relating to the evaluations of employee's performance. For purposes of the annual performance rating required by law and for promotion consideration purposes.

Authority for maintenance of the system: 5 U.S.C. 4302, 5 U.S.C. 3301, 5 U.S.C. 3302, Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

1. By the Civil Service Commission in carrying out its functions.
2. In accordance with Items 1,3,4,5,6,7,8,9 of Appendix B of the Departmental Regulations (45 CFR, Part 5b).
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, on magnetic tape, and on punch cards.

Retrievability: Records are retrievable by name or social security number. They may be used as a basis for reduction-in-force, adverse actions, decisions regarding retention of employees during probationary period, recognition, promotions, reassignments and other personnel actions compatible with the purpose for which the record was collected.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Appraisals and satisfactory ratings are retained until a new appraisal or rating is issued, 2 years have elaped, or the individual leaves the Department, and are then destroyed. Unsatisfactory and outstanding ratings are filed in the Official Personnel Folder which is retained until the individual leaves the Department. (See HEW Personnel Instruction 293-1, Exhibit X293-1-2, item 10.)

System manager(s) and address: Personnel Officers shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Notification procedure: Same as above. Employee should provide name, social security number and organization in which employed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These

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procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories: Information in this system of records is provided by the individual, derived from information supplied by the individual or supplied by Department officials.

09-90-0012

System name: Executive Development Records System. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Categories of individuals covered by the system: All supergrade employees (GS-16-18) and equivalents, incumbents of managerial positions and employees in grade GS-13-15 designated as high potential employees.

Categories of records in the system: The Executive Development Records System consists of a variety of records relating to an employee's application for, and participation in, the executive development program. In addition to the employee's name, the system contains the employee's title, grade and salary, Social Security Account Number, organization in which employed, date of entry into the Executive Development Program, training needs while participating in the program, individual's development plan, basis for participation in the Executive Development Program.

Authority for maintenance of the system: 5 U.S.C. 4101 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records is used:

a. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01, 3, 4, 5, 6, 7, 8, 9.

b. By the Civil Service Commission in the performance of its functions.

c. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

d. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system of records is maintained in file folders, magnetic tape, punch cards, and forms.

Retrievability: Records are indexed by name and Social Security Account Number. Records are used by operating officials in carrying out their personnel management responsibilities. They may be used by those officials in connection with promotions, transfer or reassignment of the individual and as base for preparing management, budgetary or statistical reports to support organizational planning or manpower utilization studies.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: Records of an unsuccessful applicant are retained for 60 days after notification that he or she was not selected for participation, and are then destroyed. Records of a participant are retained for 5 years after the individual has ceased to participate in the program, and are then destroyed.

System manager(s) and address: Heads of personnel offices which service the organizational unit in which the individual is employed. See Applicants for Employment Records, HEW System 09900006, Appendix 1.

Notification procedure: Same as Above. Individuals should include their name, grade, title, and organization when contacting the system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by Department officials.

09-90-0013

System name: Federal Employees Occupational Health Program Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and designated offices performing occupational health services for employees in organizations serviced by those personnel offices.

Categories of individuals covered by the system: Current Federal employees of the Department.

Categories of records in the system: This system consists of a variety of records relating to an employee's participation in the Federal Occupational Health Program at units other than those operated by the Division of Federal Employee Health, Public Health Service. Examples of information which may be included in this system are the employee's name, SSN, date of birth, weight, height, medical history, blood type, nature of injury or complaint, type of treatment/medication received, examination findings, and laboratory results.

Authority for maintenance of the system: 5 U.S.C. 7901 et. seq., P. L. 79-658.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be used:

1. By authorized medical personnel in connection with the performance of their official duties.
2. By the Civil Service Commission in connection with the performance of its functions.
3. By the Department of Labor in connection with a claim filed by an employee for compensation for a job-related injury or disease.
4. By private contractors engaged in providing medical services under Federal contract.
5. In accordance with Items 1,3,4,5,6,7,8,9 of the Departmental Regulations (45 CFR part 5b), Appendix B.
6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
7. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders, punch cards and data tape.

Retrievability: Records are retrievable by name, date of birth, and SSN. They are used to document an employee's visit to a health unit and contain information such as a summary of the nature of a complaint, a record of the employee's participation in a voluntary screening program, a record of an employee's participation in a voluntary blood donor program, and a record of any treatment administered by the health unit. Information from this system may be used by Department officials in connection with fitness for duty examinations and

for preparing statistical or summary reports about the employee participation in the Federal Occupational Health Program.

Safeguards: During the employment of the individual, medical records are maintained in files separate from the Official Personnel Folder and are located in lockable metal containers or in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Records are retained until the individual leaves the Department. If they have no long-term value they are destroyed at this time. If they have continuing value they may be combined with the Official Personnel Folder which is forwarded to the Federal Personnel Records Center or to the new employing agency, as appropriate.

System manager(s) and address: Personnel Officers shown in Applicants for Employment Records, HEW System 09900006, Appendix 1. who service organizational units in which the individual is employed.

Notification procedure: Same as above. The individual should include name, SSN, title and organization. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual or 3) supplied by the medical officer or nurse providing treatment or medication, or 4) supplied by the individual's private physician.

09-90-0014

System name: Grievances Filed Under the Informal Grievance Procedures. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices, or offices of the immediate supervisors and the first officials within the Department excluding the immediate supervisor, with line authority to decide on the matter grieved. Such offices are located within the organizational units serviced by personnel offices shown in Applicants For Employment Records, HEW System 09900006, Appendix 1.

Categories of individuals covered by the system: Department employees individually or as a group who have requested personal relief in a matter of concern or dissatisfaction which is subject to the control of Department management.

Categories of records in the system: Information or documents relating to the grievance and personal relief sought; documented materials used in consideration of the grievance, and correspondence related to disposition of the grievance.

Authority for maintenance of the system: 5 U.S.C. 1302, 3301, 3302; Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be used:

a. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01,3,4,5,6,7,8,9.

b. By the Civil Service Commission in carrying out its functions.

c. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

d. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders, binders and index cards.

Retrievability: Records are indexed by name of individual filing the grievance. Records are used to consider and resolve informal grievances and to provide background data to further consideration of grievances if later pursued through formal grievance procedures.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: Records are retained for 3 years after the grievance case is closed, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 31a.)

System manager(s) and address: Heads of personnel offices which service organizational units in which employees who submit informal grievances are located. See Applicants for Employment Records, HEW System 09900006, Appendix 1.

Notification procedure: Individuals who have filed grievances are aware of that fact and have been provided information in writing concerning the disposition of the grievance. They may contact the official who signed the written notice, or the System Manager indicated above. They should provide their name, organization in which employed and date of birth and approximate date of the filing of the informal grievance.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by Department officials.

09-90-0015

System name: Grievance Records Filed Under Procedures Established by Labor-Management Negotiations. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and offices of operating officials in organizational units serviced by those personnel offices.

Categories of individuals covered by the system: Current Federal employees of the Department covered by a collective bargaining agreement.

Categories of records in the system: This system of records consists of a variety of records relating to an employee's grievance filed under procedures established by labor-management negotiations. Examples of information which may be included in this system of records are the employee's name, SSN, grade, job title, testimony of witnesses, material placed into the record to support the decision, the arbitrator's decision, the arbitrator's report, and a record of an appeal to the Federal Labor Relations Council.

Authority for maintenance of the system: Executive Order 11491 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system may be released to:

1. The Civil Service Commission in carrying out its functions.
2. In accordance with Departmental Regulations, (45 CFR Part 5b), Appendix B. See Items 01,3,4,5,6,7,8,9.

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3. The Department of Labor.
4. The Federal Labor Relations Council.
5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are retrievable by name. They are used to make a determination on and to document a decision made on a grievance filed by an employee under the negotiated grievance procedures. Information from this system may be used by Department officials for preparing statistical, summary or management reports.

Safeguards: Records maintained by management are stored in secured rooms with access limited to those whose official duties require access.

Retention and disposal: As negotiated by the local parties to the contract.

System manager(s) and address: Personnel Officers shown in Applicants for Employment Records, HEW System 09900006, Appendix I who service the organizational unit in which the individual is employed.

Notification procedure: Same as above. Individuals should include their name, grade, title and organizational unit when contacting the system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by testimony of witnesses, or 4) supplied by union officials, or 5) supplied by Department officials.

Systems exempted from certain provisions of the act: None.

09-90-0016

System name: HEW Motor Vehicle Operator Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel offices of the Department shown in Applicants For Employment Records, HEW System 09900006, Appendix I. Issuing Officers for Motor Vehicle Operator Identification Cards within the organizations serviced by the above personnel offices.

Categories of individuals covered by the system: All Department employees who are required to operate motor vehicles regularly or incidentally in carrying out their official duties.

Categories of records in the system: The HEW Motor Vehicle Operator Records system consists of a variety of records related to the issuance of a Government Motor Vehicle Operator's permit. In addition to the name of the employee, the system includes information about the employee's birthplace, SSN, employing organization, number of years driven, type of vehicles operated, current driver's license number, state issuing driver's license, date license expires, restrictions on state license, sex, date of birth, color of hair, color of eyes, weight, height, record of arrests, and record of accidents. These records also include expiration dates of Motor Vehicle Operator permit, any limitations imposed on its use and the results of the annual review of each driving record.

Authority for maintenance of the system: 40 U.S.C. 471.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be used:

a. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01,3,4,5,6,7,8,9.
b. By the Civil Service Commission in carrying out its functions.
c. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
d. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in Official Personnel Folder and in file folders and index cards.

Retrievability: Records are retrievable by name. Information is used as a basis for issuing a SF-46 "U.S. Government Motor Vehicle Operator's Identification Card" and evaluating its use. It may also be used for production of summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained and for related personnel management functions.

Safeguards: Access to and use of these records are limited to personnel whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: Records are retained for three years after the individual's government motor vehicle operator's permit expires, or the individual leaves the Department, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-1, item 24.)

System manager(s) and address: Personnel Officers of the Department shown in Applicants for Employment Records, HEW System 09900006, Appendix I.

Notification procedure: Issuing officers in organizational units in which employed or systems managers shown above. Individual should provide name and organization in which employed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information contained in this system of records is obtained: 1) from information supplied by the individual, or 2) derived from information supplied by the individual, or 3) from information supplied by officials of the Department.

Systems exempted from certain provisions of the act: None.

09-90-0017

System name: Pay, Leave and Attendance Records. HEW/OS/ASPER.

Security classification: None.

System location:

Division of Central Payroll and Reports Processing
Department of Health, Education, and Welfare
330 Independence Avenue, SW.
Washington, D.C. 20201

Payroll Liaison Representatives. See Appendix 1. Timekeepers in organizational units serviced by Payroll Liaison Representatives shown in Appendix 1. Personnel offices shown in HEW System 09900006, Applicants for Employment Records, Appendix 1.

Categories of individuals covered by the system: All paid employees of the Department of Health, Education, and Welfare including PHS Commissioned Corps Personnel.

Categories of records in the system: This system consists of a variety of records relating to pay and leave determinations made about each employee of the Department of Health, Education, and Welfare. In addition to the name of the employee, the system includes information such as the employee's date of birth, social security number, home address, grade or rank, employing organization, timekeeper number, salary, Civil Service Commission retirement fund contributions, pay plan, number of hours worked, annual and sick leave accrual rate and usage, annual and sick leave balance, FICA withholdings, Federal, state and city tax withholdings, Federal Employees Government Life Insurance withholdings, Federal Employees Health Benefits withholdings, garnishment documents, savings allotments, union and management association dues withholdings allotments, savings bonds allotments, and combined Federal Campaign allotments; for Commissioned Corps personnel, information such as the following is included: years of service, payroll number, base pay, incentive pay, hazardous pay, allowances and Servicemen's Group Life Insurance.

Authority for maintenance of the system: 5 U.S.C. 5501 et seq., 5525 et seq., 6301 et seq.; 42 U.S.C. 201 et seq.; and P.L. 90-83.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records is used or may be used:

a. To prepare W-2 Forms to submit to the Internal Revenue Service and to disclose to state and local government agencies having taxing authority pertinent records relating to employees, including name, home address, social security number (in accordance with Section 7 of Public Law 93-579), earned income, and amount of taxes withheld.
b. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01, 3, 4, 5, 6, 7, 8, 9.
c. By the Civil Service Commission in the performance of its functions.
d. By the Department of Labor to make compensation determination in connection with a claim filed by the employee for compensation on account of a job-connected injury or disease.
e. To respond to court orders for garnishment of an employee's pay for alimony or child support.
f. To respond to orders from IRS for garnishment of an employee's pay for Federal income tax purposes.
g. To the Department of Treasury for the purposes of preparing and issuing employee salary and compensation checks and U.S. Savings Bonds.
h. By state offices of unemployment compensation in connection with claims filed by former HEW employees for unemployment compensation.
i. When an individual to whom a record pertains dies, to disclose information in the individual's record to heirs, executors and legal representatives of beneficiaries.
j. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
k. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, microfilm, punch cards and forms.

Retrievability: Records are maintained by pay period and are retrievable by name, SSN and Timekeeper number within each pay period. They are used to insure that each employee receives the proper pay and allowances; that proper deductions and authorized allotments are made from the employee's salary; that the employee is credited and charged with the proper amount of sick and annual leave. Records are also used to produce summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained and for related personnel management functions or pay studies, and for other purposes compatible with the intent for which the records system was created.

Safeguards: Access to and use of these records are limited to personnel whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: Records submitted by the individual, such as allotment authorization forms, home address forms, and tax withholding forms, are retained until superseded by new forms or until the individual leaves the Department. Most of these records are then destroyed. Some of these records must be retained for an additional period, or forwarded to the new employing agency. Time and attendance records are retained for five years and are then destroyed. The automated payroll master record, established when the individual is first employed and continually updated throughout the period of his or her employment, is retained until the individual leaves the Department.

System manager(s) and address:

Director, Division of Central Payroll and Reports Processing
P. O. Box 1825
Washington, D.C. 20013

Notification procedure: An individual may contact the system manager. An individual also may contact, as appropriate, Payroll Liaison Representatives in Appendix 1 or Personnel Officers shown in HEW System 09900006, Applicants for Employment Records, Appendix 1. Provide name, social security number, timekeeper number and pay period about which inquiring.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by timekeepers and other Department officials.

Systems exempted from certain provisions of the act: None.

Appendix 1

OS

Payroll Liaison Officer
Office of the Secretary
Room 4317 - HEW North Bldg.
330 Independence Avenue, S. W.
Washington, D. C. 20201

OE

Payroll Liaison Officer
Office of Education
Room 3092 - E, FOB 06
400 Maryland Ave., S. W.
Washington, D. C. 20202

NIE

Payroll Liaison Officer
National Institute of Education

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Room 711 - Marsh Bldg.
1832 M Street, N. W.
Washington, D. C. 20208

HCFA

Payroll Liaison Officer
Health Care Financing Adminsitration
Room 1219
330 C Street, S. W.
Washington, D. C. 20201

Social Security Administration Headquarters

Payroll Liaison Officer
SSA Headquarters
Room 1M10, Annex Bldg.
6401 Security Blvd.
Baltimore, Maryland 21235

SSA, ORS

Payroll Liaison Officer
Universal Bldg., Room 930
1875 Connecticut Ave., N. W.
Washington, D. C. 20009

Social Security Administration Program Service Centers

MID ATLANTIC

Payroll Liaison Officer
SSA, HEW Program Service Center
P. O. Box 12807
Philadelphia, Pennsylvania 19108

NORTH EASTERN

Payroll Liaison Officer
SSA Program Service Center
9605 Horace Harding Expressway
Flushing, New York 11368

SOUTH EASTERN

Payroll Liaison Officer
Birmingham Program Service Center
P. O. Box 1031
Birmingham, Alabama 35201

GREAT LAKES

Payroll Liaison Officer
Chicago Program Service Center
165 North Canal Street
Chicago, Illinios 60606

MID-AMERICAN

Payroll Liaison Officer
SSA Program Service Center
601 East 12th Street - Room 1459
Kansas City, Missouri 64106

WESTERN

Payroll Liaison Officer
San Francisco Program Center
P. O. Box 2000
Richmond, California 94802

Boston, SSA

Payroll Liaison Officer, SSA
John F. Kennedy Federal Bldg.
Government Center
Boston, Massachusetts 02203

New York, SSA

Payroll Liaison Officer, SSA
26 Federal Plaza
Room 737
New York, New York 10007

Philadelphia, SSA

Payroll Liaison Officer, SSA
P. O. Box 8788
Philadelphia, Pennsylvania 19101

Atlanta, SSA

Payroll Liaison Officer, SSA
Suite 1601
101 Marietta Tower
Atlanta, Georgia 30323

Cleveland, SSA

Payroll Liaison Officer, SSA
Room 100
14725 Detroit Ave.
Cleveland, Ohio 44107

Chicago, SSA

Payroll Liaison Officer, SSA
300 South Wacker Drive
Chicago, Illinois 60606

Kansas City, SSA

Payroll Liaison Officer, SSA
601 E. 12th Street
Kansas City, Missouri 64106

Dallas, SSA

Payroll Liaison Officer, SSA
Room 624
1114 Commerce Street
Dallas, Texas 75202

Denver, SSA

Payroll Liaison Officer, SSA
Federal Office Bldg.
19th and Stout Streets
Denver, Colorado 80202

Seattle, SSA

Payroll Liaison Officer
HEW Regional Personnel Office
Arcade Plaza Bldg. 1321 Second Avenue
Seattle, Washington, 98101

San Francisco, SSA

Payroll Liaison Officer
HEW Personnel
50 Fulton Street
San Francisco, California 94102

BHA

Payroll Liaison Officer
Room 335 - Webb Bldg.
801 N. Randolph Street
Arlington, Virginia 22203

Regional Offices

Boston

Payroll Liaison Officer
HEW Personnel
Room 1503
JFK Federal Bldg.
Boston, Massachusetts 02203

New York

Payroll Liaison Officer
Room 937
26 Federal Plaza
New York, New York 10007

Philadelphia

Payroll Liaison Officer
Financial Management
P. O. Box 13716
Philadelphia, Pennsylvania 19101

Atlanta

Payroll Liaison Officer
Room 404
50 7th Street, N. E.
Atlanta, Georgia 30323

Chicago

Payroll Liaison Officer
HEW Personnel
300 S. Wacker Drive
Chicago, Illinois 60606

Dallas

Payroll Liaison Officer
Region VI Personnel Office
HEW, Main Tower Bldg.
1200 Main Street
Dallas, Texas 75202

Kansas

Payroll Liaison Officer
Office of Regional Director, HEW
601 East 12th Street
Kansas City, Missouri 64106

Denver

Payroll Liaison Officer
Room 9019
Federal Office Bldg.
19th and Stout Street
Denver, Colorado 80202

San Francisco

Payroll Liaison Officer
HEW Personnel
50 Fulton Street
San Francisco, California 94102

Seattle

Payroll Liaison Officer
Regional Personnel Office
Arcade Plaza Bldg., MS 627 1321 Second Avenue
Seattle, Washington 98101

Cleveland

Payroll Liaison Officer
Room 500
14600 Detroit Ave.
Cleveland, Ohio 44107

Data Operations Center, SSA

Payroll Liaison Officer
Data Operations Center
P. O. Box 2247
Albuquerque, New Mexico 87103

U. S. Public Health Service Hospitals

San Francisco, PHS

Payroll Liaison Officer
USPHS Hospital
15th and Lake Street
San Francisco, California 94118

Seattle, PHS

Payroll Liaison Officer
USPHS Hospital
P. O. Box 3145
Seattle, Washington 98114

Staten Island, PHS

Payroll Liaison Officer
USPHS Hospital
Bay and Vanderbilt Street
Staten Island, New York 10304

Saint Elizabeths, PHS

Payroll Liaison Officer
St. Elizabeths Hospital
Room 120, E Bldg.
2700 Martin Luther King Ave., S.E.
Washington, D. C. 20032

Baltimore, PHS

Payroll Liaison Officer
USPHS Hospital

3100 Wyman Park Drive
Baltimore, Maryland 21211

Boston, PHS

Payroll Liaison Officer
USPHS Hospital
77 Warren Street
Boston, Massachusetts 02135

Carville, PHS

Payroll Liaison Officer
USPHS Hospital
Carville, Louisiana 70721

Galveston, PHS

Payroll Liaison Officer
USPHS Hospital
4400 Avenue N
Galveston, Texas 77550

New Orleans, PHS

Payroll Liaison Officer
USPHS Hospital
210 State Street
New Orleans, Louisiana 70118

Norfolk, PHS

Payroll Liaison Officer
USPHS Hospital
6500 Hampton Blvd.
Norfolk, Virginia 23508

Indian Health Service

Aberdeen

Payroll Liaison Officer
PHS Indian Health Service
Room 300 - Citizens Bldg.
Aberdeen, South Dakota 57401

Albuquerque

Payroll Liaison Officer
Albuquerque Indian Health Service
Federal Office Bldg. and U. S. Courthouse
Room 4006
500 Gold Avenue
Albuquerque, New Mexico 87101

Anchorage

Payroll Liaison Officer
Alaska Native Medical Center
P. O. Box 7-741
Anchorage, Alaska 99501

Billings

Payroll Liaison Officer
Indian Health Area Office
P. O. Box 2134
Billings, Montana 59103

Oklahoma

Payroll Liaison Officer
Oklahoma City Area
Indian Health Service
388 Old Post Office and Courthouse Bldg.
Oklahoma City, Oklahoma 73102

Saratoga

Payroll Liaison Officer
Indian Health Service
1970 Main Street
Saratoga, Florida 33577

Phoenix

Payroll Liaison Officer
Phoenix Area Indian Health
801 E. Indian Medical Center
Phoenix, Arizona 85021

Phoenix

Payroll Liaison Officer
Phoenix Indian Medical Center
4212 North 16th Street
Phoenix, Arizona 85016

Tucson

Payroll Liaison Officer
IHS - HPSC
P. O. Box 11340
Tucson, Arizona 85734

Public Health Service

CDC

Payroll Liaison Officer
Center for Disease Control
Financial Management
1600 Clifton Road, N. E.
Atlanta, Georgia 30330

NIH

Payroll Liaison Officer
National Institutes of Health
Room B1B, Bldg. 11
9000 Rockville Pike
Bethesda, Maryland 20014

FDA

Payroll Liaison Officer
FDA Payroll Liaison Section
Accounting Branch
CA-130, Room 11057, Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20852

NIOSH (CDC)

Payroll Liaison Officer
HEW, CDC, NIOSH
Financial Mgmt. Branch

Parklawn Bldg.
DANAC 3 - 32 F
5600 Fishers Lane
Rockville, Maryland 20852

NIH, NIEHS

Payroll Liaison Officer
National Institute of Environmental Health Sciences, NIH
P. O. Box 12233
Research Triangle Park
North Carolina 27709

HSA, HRA, ASH

Payroll Liaison Officer
PHS
Room 1649 - Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20852

ADAMHA

Payroll Liaison Officer
ADAMHA
Room 1399 - Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20852

HEW HSA FHPS

Payroll Liaison Officer
Administrative Asst.
6525 Belcrest Road
West Hyattsville, Maryland 20782

09-90-0018

System name: Personnel Records in Operating Offices. HEW/OS/ASPER.

Security classification: None.

System location: Operating Offices of the Department at the organizational level of the individual's employment. Such offices are located within organizational components serviced by personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Categories of individuals covered by the system: Current employees of the Department.

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed. These records may contain information about an individual relating to name; birth date; home address; telephone number; emergency addressee; social security number; veterans preference; tenure; work connected injuries; handicap code; employment history; qualifications background; past and present salaries, grades and position titles; training; awards and other recognition; counseling; performance appraisal; conduct; pay and leave; and data documenting reasons for personnel actions, decisions or recommendations made about an employee; and background data and documentation leading to an adverse action being taken against an employee.

Authority for maintenance of the system: 5 U.S.C. 1302, 2951, 4118, 4308, 4506, 7501, 7511, 7521 and Executive Order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

1. By an agency of the Federal Government having oversight or review with regard to Civil Service Commission activities.
2. In the event an appeal is made outside the Department, records which are relevant may be referred to the appropriate agency charged with rendering a decision on the appeal.
3. In accordance with Appendix B of the Departmental Regulations (45 CFR, Part 5b) Items 1, 3, 4, 5, 6, 7, 8, 9.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and index cards.

Retrievability: Records are indexed by any combination of name, birth date, social security number, or identification number. Records are used by operating officials in carrying out their personnel management responsibilities. They may be used in this connection in recommending or taking personnel actions such as are related to appointments, transfers, promotions, reassignments, adverse actions; as a base for employee development, training, recognition, reprimands, and disciplinary actions; for making decisions on employee complaints; and as a base for staffing and budgetary planning and control, organizational planning, and for manpower utilization purposes, and for preparing statistical or summary reports. They may also be used by appropriate officials in making decisions on grievances, appeals and adverse actions.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Records are retained until there is no further administrative need to retain them, or the individual leaves the Department, and are then either destroyed, or, if appropriate, are combined with the Official Personnel Folder, which is forwarded to the National Personnel Records Center.

System manager(s) and address: Personnel Officers of the Department. See Applicants for Employment Records, HEW System 09900006, Appendix 1.

Notification procedure: Immediate supervisors of individuals or the administrative offices of the organizational units in which employed. The system manager shown above may also provide further information concerning the existence of this system of records. Individuals should provide their name, social security number, and organization in which employed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records either comes from the individual to whom it applies, is derived from information supplied by the individual, or is provided by Department officials.

Systems exempted from certain provisions of the act: None.

09-90-0019

System name: Special Employment Programs. HEW/OS/ASPER.

Security classification: None.

System location: Personnel Offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and operating offices in organizational units serviced by those personnel offices, in which employees are employed.

Categories of individuals covered by the system: Current Federal employees of the Department who are participating in special employment programs.

Categories of records in the system: This system consists of a variety of records relating to an employee's participation in special

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employment programs such as the Upward Mobility College, START, STRIDE, ACCESS, Worker Trainee Opportunity, Junior Fellows, Management Intern, Personnel Intern and the HEW Fellows Program. Examples of information which this records system may contain include the employee's name, SSN, program enrolled in, employing agency, grade, job title, job series, sex, date of birth, status, educational background, handicap code, application for employment, position description, assignment evaluations, Veterans preference, job counselling records, and letters of reference and recommendations.

Authority for maintenance of the system: 5 U.S.C. 1301, 3301, and 7151 et. seq., Executive Order 11813.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system may be used:

1. By the Civil Service Commission in carrying out its functions.
2. In accordance with Items 1, 3, 4, 5, 6, 7, 8, 9 of the Departmental Regulations, (45 CFR Part 5b), Appendix B.
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system of records is maintained in file folders, data tape and punch cards.

Retrievability: Records are retrievable by name and SSN. Records are used by personnel offices and operating officials to monitor the progress of the individual in the special program, for career planning, and for taking personnel actions.

Safeguards: Access and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Records are retained for two years after the individual's participation in a special placement program ends, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-2, item 9.)

System manager(s) and address: Personnel Officers shown in Applicants for Employment Records, HEW System 09900006, Appendix 1, who service organizational units in which the participant is employed.

Notification procedure: Same as above. Individuals should include their name, SSN, grade, title and organization when contacting the system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by Department officials.

Systems exempted from certain provisions of the act: None.

09-90-0020

System name: Suitability for Employment Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel Offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Categories of individuals covered by the system: Federal employees of the Department, and applicants for employment.

Categories of records in the system: This system consists of a variety of records relating to an individual's suitability for employment in terms of character, reputation and fitness, including letters of reference, responses to pre-employment inquiries, National Agency Checks and Inquiries material received from the Civil Service Commission relating to non-sensitive positions, qualifications and character investigations, and other information which may relate to the suitability of the individual for the position.

Authority for maintenance of the system: 5 U.S.C. 3301, 3302, 7301; Executive Order 10577; Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

a. By the Civil Service Commission in carrying out its functions.
b. In accordance with Appendix B, Departmental Regulations (45 CFR Part 5b) Items 01, 3, 4, 5, 6, 8, 9.
c. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
d. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by any combination of name, birth date, Social Security Number, or identification number. Information in these records is used by designated appointing and selecting authorities to determine an individual's suitability for employment by consideration of factors present in such records.

Safeguards: Records are maintained in confidential files and are located in lockable metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Records from the Civil Service Commission concerning applicants for or incumbents of non-sensitive positions, are retained until a decision is reached on whether to hire or retain the applicant or incumbent, and are then destroyed. Other records in this system are retained until there is no further administrative need for them, the individual leaves the Department, or one year has elapsed, and are then destroyed. (See HEW Personnel Instruction 293-1, Exhibit X293-1-2, items 1 and 2.)

System manager(s) and address: Heads of personnel offices which service organizational units in which individual is employed or in which he/she applied for employment. See Applicants For Employment Records, HEW, System 09900006, Appendix 1.

Notification procedure: Same as above. Individuals should indicate name, Social Security Number, date of birth, and organization in which employed, or to which they applied for employment.

Record access procedures: Current Department employees or applicants should contact the appropriate system manager shown above. Former Department employees who are employed by the Federal Government who wish to gain access or contest the records maintained on them while employed by the Department should contact the appropriate official of their current employing agency in accordance with the appropriate records system notice of that agency. Former Department employees who have separated from Federal service should direct a request to:

National Personnel Records Center
General Services Administration
111 Winnebago Street
St. Louis, Missouri 63118

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being

sought. (There access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information contained in the system is obtained from the categories of sources:

Applications and other personnel and security forms furnished by the individual.
Information furnished by other Federal agencies.
Information provided by sources such as employers, schools, references, former employers.

Systems exempted from certain provisions of the act: Individuals will be provided information from the above record system except when in accordance with the provisions of 5 U.S.C. 552a(k)(5); 1. disclosure of such information would reveal the identity of a source who furnished information to the Government under a express promise that the identity of the source would be held in confidence, or 2. if the information was obtained prior to the effective date of Section 3, P. L. 93-579, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11)

09-90-0021

System name: Training Management Information System. HEW/OS/ASPER

Security classification: None.

System location:

Office of Personnel and Training
Department of Health, Education, and Welfare
330 Independence Avenue, S.W.
Washington, D. C. 20201
Personnel offices shown in Applicants for Employment Records, HEW System 09900006, Appendix 1.

Categories of individuals covered by the system: All employees who receive training in a course which was more than 8 hours in length and which was authorized under the authority of the Government Employees Training Act.

Categories of records in the system: The Training Management Information System consists of a variety of records relating to training received by an employee. In addition to the name of the employee, the system includes information about the employee's Social Security Account Number, position title, grade, salary, pay plan, series, tenure, years of continuous service, nature of training taken, cost of training and dates of training.

Authority for maintenance of the system: 5 U.S.C. 4101 et. seq.; Executive Order 11348.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records is used:

a. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01, 3, 4, 5, 6, 7, 8, 9.
b. By the Civil Service Commission in carrying out its functions.
c. To other Federal agencies or private organizations to authorize training.
d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
e. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data tape.

Retrievability: Records are indexed by any combination of name, birth date, SSN or transaction number. Information is used to maintain a history of training of the individual during his employment with the Department, as a basis for determining future training needs of the individual, for evaluating the Department's training program, for auditing and budgetary planning purposes and for related analytical and operational personnel management functions.

Safeguards: The information is available only to authorized personnel. Personnel screening is used to prevent unauthorized disclosure.

Retention and disposal: Records are retained in the automated data file until the individual leaves the Department.

System manager(s) and address:

Deputy Assistant Secretary for Personnel and Training
Office of Personnel and Training
Department of Health, Education, and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Contact the Deputy Assistant Secretary for Personnel and Training or the personnel office shown in Applicants for Employment Records, HEW System 09900006, Appendix 1, which services the organizational unit in which the individual is employed. The individual should indicate name, position title, grade and series and organization in which located.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of record is: 1) supplied directly by the individual, or 2) derived from information supplied by the individual, or 3) supplied by Department or by source of training officials.

Systems exempted from certain provisions of the act: None.

09-90-0022

System name: Volunteer EEO Support Personnel Records. HEW/OS/ASPER.

Security classification: None.

System location:

Office of Equal Employment Opportunity, HEW
330 Independence Avenue, S.W.
Washington, D.C. 20201
Offices of the designated EEO Officers in Principal Operating Components, Office of the Secretary, Health Agencies, Education Agencies and Regional Offices. See Discrimination Complaints Records System, HEW System 09900009, Appendix 01 for exact locations.

Categories of individuals covered by the system: Individuals who have volunteered or have been proposed for duty as EEO Counselors and discrimination complaint investigators on a part-time basis.

Categories of records in the system: This system of records contains information or documents concerning personal characteristics of EEO counselors and investigators. The records consist of the name and other identifying data, title, location, training received, information concerning qualifying background, case assignments, and evaluations of EEO counselors and investigators serving on a part-time basis, and related information.

Authority for maintenance of the system: Executive Order 11478, P. L. 92-261, P. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used:

a. To provide resource to another Federal agency, in response to its request for loan of investigators or counselors.
b. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b), Items 01, 3, 4, 5, 6, 7, 8, 9.

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c. By the Civil Service Commission in carrying out its functions.

d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders, binders and index cards.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained. They may be used: for identification, location and determination of availability of volunteer counselors and investigators for assignment to counsel complainants and to investigate complaints; to respond to inquiries regarding availability of counselor resources or determination regarding location and the jurisdictional propriety of an investigator resource; for determining training needs of EEO counselors and investigators; to provide information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; and to locate specific individuals for personnel research or other personnel management functions.

Safeguards: Access to and use of these records are limited to those persons whose official duties require access.

Retention and disposal: The records are maintained up to one year after volunteer has terminated his services, at which time they are destroyed.

System manager(s) and address: See Discrimination Complaints Records System, HEW System 09900009, Appendix 1 for General Coordinator and appropriate Immediate System Manager.

Notification procedure: Individuals who have volunteered or been proposed as counselors or investigators are aware of that fact and the information contained in the record. They may, however, write the immediate system manager or coordinator indicated above regarding the existence of such records pertaining to them. The inquirers, as appropriate, should provide to the immediate system manager or coordinator, their name, agency in which they were proposed or served when making inquiries about records.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories:

a. Individuals to whom the record pertains

b. Department or other officials

c. Official documents relating to appointments and case assignments as counselors and investigators

d. Correspondence for specific persons or organizations

e. Formal reports submitted by the individual in the performance of official volunteer work.

Systems exempted from certain provisions of the act: None.

09-90-0023

System name: Departmental Parking Control Policy. HEW/OS/ASMB/FE

Security classification: None.

System location:

Director, Office of Facilities Engineering and Property Management
Room 4193 North Building
HEW/Office of the Secretary
330 Independence Ave., S.W.
Washington, D.C. 20201

Offices of Manager for Parking Control at HEW facilities where HEW parking is provided.

Categories of individuals covered by the system: All HEW employees as well as any carpool member utilizing DHEW parking facilities.

Categories of records in the system: This system includes the following information on all persons applying for a parking permit: Name, office room number, office phone number, agency, home address, and automobile license number.

Authority for maintenance of the system: 63 Stat. 377;41 CFR 101-20.111

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in binders in file cabinets.

Retrievability: Records are filed alphabetically. The purpose of the Departmental Parking Policy is to provide standards for apportionment and assignment of parking spaces on Department-managed and Department-controlled property and on property assigned to the Department by GSA or any other Agency and to allocate and check parking spaces assigned to government vehicles, visitors, handicapped personnel, key personnel, car-pools, and others.

Safeguards: Access to and use of these records are limited to personnel whose official duties require such access.

Retention and disposal: Superseded policy materials are maintained by the Director, Office of Facilities Engineering and Property Management for historical purposes; Records at other HEW locations are maintained until the Parking Control purpose has been met, and the records are then destroyed.

System manager(s) and address:

Director, Office of Facilities Engineering and Property Management
Room 4193 North Building
HEW/Office of the Secretary
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Access to these records may be obtained by request in writing to:

Office of Manager for Parking Control at HEW facility where HEW parking is provided.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system comes from reports from OS Staff, POC's and Regions, GSA-Federal Management circulars and Federal Property Management Regulations.

Systems exempted from certain provisions of the act: None.

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09-90-0024

System name: Accounting records of Payments to Individuals from Agency and Regional Financial Management and Disbursing Offices. HEW OS ASMB 1.

Security classification: None.

System location: See appendix 1.

Categories of individuals covered by the system: Persons authorized to travel on official HEW business; persons awarded an HEW grant, contract or loan; persons authorized emergency salary advances; and consultants furnishing administrative and miscellaneous services.

Categories of records in the system: Name, identification number, address, purpose of payment, accounting classification and amount paid.

Authority for maintenance of the system: Budget and Accounting Act of 1950 (P.L. 81-784).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Treasury Department for check preparation; to members of Congress on behalf of a constituent or concerning a federal financial assistance program; See Departmental Regulations (45 CFR Part 5b), Appendix B, 3, 4, 6, 7, 8. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office made from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy documents are manually filed at agency and regional office sites; and on disc pack and magnetic tape at central computer sites.

Retrievability: This varies according to the particular operating accounting system within the Agency and Regional Office. Usually the hard copy document is filed by name within accounting classification. Computer records may be indexed by social security number and voucher number. Intra-departmental uses and transfers concern the validation and certification for payment, and for HEW internal audits.

Safeguards: Minimum safeguards to insure integrity of records, and that required to provide protection against loss by accident of carelessness; these records are classified as public information and are available through the Freedom of Information Act.

Retention and disposal: Records are purged from automated files once the accounting purpose has been served; printed copy and manual documents are retained and disposed of in accord with General Accounting Office principles and standards.

System manager(s) and address: See appendix 2.

Notification procedure: Inquiries are to be made, either in writing or in person, to the organizations listed under 'Location' in appendix 1, with the exception of Food and Drug Administration contact:

FDA Privacy Coordinator (HF-50)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20852

Give name and social security number, purpose of payment (travel, grant, etc.) and, if possible, the agency accounting classification.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are i accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Travel vouchers submitted by the individual; grant, contract or loan award document; consultant invoice of services rendered; and application for travel advance.

Systems exempted from certain provisions of the act: None.

Appendix 1 Location

Payments to Individuals records are located at the following HEW Regional Offices:

Regional Office 01
John F. Kennedy Federal Bldg.
Government Center
Boston, MA 02203

Regional Office 02
26 Federal Plaza
New York, NY 10007

Regional Office 03
Post Office Box 12900
Philadelphia, PA 19108

Regional Office 04
50 Seventh Street, N.E.
Atlanta, GA 30323

Regional Office 05
300 South Wacker Drive
Chicago, IL 60606

Regional Office 06
1114 Commerce Street
Dallas, TX 75202

Regional Office 07
Federal Office Bldg.
601 East 12th Street
Kansas City, MO 64106

Regional Office 08
19th & Stout Streets
Denver, CO 80202

Regional Office 09
50 Fulton Street
San Francisco, CA 94102

Regional Office 010
Arcade Plaza Bldg.
1319 Second Avenue
Seattle, WA 98101

Payments to Individuals records are located at the following HEW Agency Headquarters and Field Offices:

Office of the Secretary (to include Office of Human Resources records)
Div. of Accounting Operations
Washington, DC 20201

Office of Education
Accounting Operations Section
Federal Office Bldg. 06
Washington, DC 20202

National Institute of Education
Finance Division, Room 710
1200 14th Street N.W.
Washington, DC 20208

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Health Services Adm.
Office of Fiscal Services
Parklawn Bldg.
5600 Fishers Lane
Rockville, MD 20852

Health Services Adm.
U.S. Public Health Service Hospital
77 Warrent Street Brighton
Boston, MA 02135

Heatlh Services Adm.
U.S. Public Health Service Hospital
Bay and Vanderbilt Streets - Stapleton
Staten Island, NY 10304

Health Services Adm.
U.S. Public Health Service Hospital
3100 Wyman Park Drive
Baltimore, MD 21211

Health Services Adm.
U.S. Public Health Service Hospital
6500 Hampton Boulevard - Larchmont
Norfolk, VA 23508

Health Services Adm.
Addiction Research Center
Leestown Pike - Box 2000
Lexington, KY 40501

Health Services Adm.
U.S. Public Health Service Hospital
Carville, LA 70721

Health Services Adm.
U.S. Public Health Service Hospital
210 State Street
New Orleans, LA 70118

Health Services Adm.
U.S. Public Health Service Hospital
4400 45th Avenue North
Galveston, TX 77550

Health Services Adm.
PHS Indian Health Area Office
Federal Office Bldg. & U.S. Court House
500 Gold Avenue, S.W.
Albuquerque, NM 87101

Health Services Adm.
PHS Indian Health Area Office
338 Post Office & Court House Bldg.
Oklahoma City, OK 73102

Health Services Adm.
Aberdeen Area Office
Indian Health Service
Federal Bldg.
Aberdeen, SD 57401

Health Services Adm.
03 At 7th West Central Avenue
Post Office Box 2143
Billings, MT 59103

Health Services Adm.
U.S. Public Health Service Hospital
15th Avenue & Lake Street
San Francisco, CA 94118

Health Services Adm.
PHS Indian Health Area Office
801 East Indian School Road
Phoenix, AZ 85014

Health Services Adm.
U.S. Public Health Service Hospital
1131 14th Avenue, South
Post Office Box 3145
Seattle, WA 98114

Health Services Adm.
Alaska Area Native Health Service
Post Office Box 7-741
Anchorage, AK 99510

Public Health Service
Center for Disease Control
1600 Clifton Road
Atlanta, GA 30333

Public Health Service
Nat'l Institute for Occupational Safety & Health, CDC
532 U.S. Post Office & Courthouse Bldg.
Cincinnati, OH 45202

Food and Drug Adm.
HFA-120
5600 Fishers Lane
Rockville, MD 20852

Food and Drug Adm.
880 W. Peachtree St., N.W.
Atlanta, GA 30309

Food and Drug Adm.
585 Commercial Street
Boston, MA 02109

Food and Drug Adm.
599 Delaware Avenue
Buffalo, NY 14202

Food and Drug Adm.
Room 700 - Federal Office Bldg.
850 3rd Avenue (At 30th Street)
Brooklyn, NY 11232

Food and Drug Adm.
20 Evergreen Pl.
East Orange, N.J. 07018

Food and Drug Adm.
Room 1204, U.S. Customhouse
2nd & Chestnut Streets
Philadelphia, PA 19106

Food and Drug Adm.
900 Madison Avenue
Baltimore, MD 21201

Food and Drug Adm.
P.O. Box S-4427
San Juan, P.R. 00905

Food and Drug Adm.
Room 1222 Main Post Office Bldg.
433 West Van Buren Street
Chicago, IL 60607

Food and Drug Adm.
1560 East Jefferson Avenue
Detroit, MI 48207

Food and Drug Adm.
1141 Central Parkway
Cincinnati, OH 45202

Food and Drug Adm.
240 Hennepin Avenue
Minneapolis, MN 55401

Food and Drug Adm.
3032 Bryan Street
Dallas, TX 75204

Food and Drug Adm.
Room 222 U.S. Customhouse Building
423 Canal Street
New Orleans, LA 70130

Food and Drug Adm.
National Center for Toxicological Research
Jefferson, AR 72079

Food and Drug Adm.
1009 Cherry Street
Kansas City, MO 64106

Food and Drug Adm.
Room 1002 U.S. Courthouse & Customhouse Building
1114 Market Street
St. Louis, MO 63101

Food and Drug Adm.
Room 573 New Customhouse Building
721 19th Street
Denver, CO 80202

Food and Drug Adm.
Room 518 Federal Office Building
50 Fulton Street
San Francisco, CA 94102

Food and Drug Adm.
1521 West Pico Boulevard
Los Angeles, CA 90015

Food and Drug Adm.
5003 Federal Office Bldg.
909 First Avenue
Seattle, WA 98174

National Institutes of Health
Operations Accounting Branch
Bldg. 31, Room B1B07
9000 Rockville Pike
Bethesda, MD 20014

National Institutes of Health
Rocky Mountain Laboratory
Hamilton, MT 59840

National Institutes of Health
Public Health Hospital
15th Avenue & Lake Street
San Francisco, CA 94118

Alcohol, Drug Abuse, & Mental Health Administration
Saint Elizabeths Hospital
Finance Office, Administration Bldg.
Washington, DC 20032

Social Security Administration
Administration, Program and Fiscal Operations Offices
1227 Annex Social Security Bldg.
Baltimore, MD 21235

Social Security Administration
Bureau of Supplemental Security Income
4-M-5 Annex Bldg.
Baltimore, MD 21235

Social Security Administration
Bureau of Disability Payments
1506 Woodlawn Drive 1J2
Baltimore, MD 21241

Social Security Administration
Northeastern Program Center
96-05 Horace Harding Expressway
Flushing, NY 11368

Social Security Administration
Midatlantic Program Center
401 North Broad Street
Philadelphia, PA 19108

Social Security Administration
Southeastern Program Center
225 Third Avenue North
Birmingham, AL 35285

Social Security Administration
Great Lakes Program Center
165 North Canal Street
Chicago, IL 60606

Social Security Administration
MidAmerica Program Center
601 East 12th Street
Kansas City, MO 64106

Social Security Administration
Western Program Center
Post Office Box 100
San Francisco, CA 94101

Health Care Financing Administration
Room 1219 HEW South Building
330 C Street, S.W.
Washington, DC 20201

For Payments to Individuals records at the following central payment office for grants and contracts:

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Office of the Secretary
Federal Assistance Financing Branch
5600 Fishers Lane, Rm. 833
c/o Rockwell Building
Rockville, Maryland 20852

Appendix 2 System Manager

Departmental principles and standards concerning the system of records are the responsibility of:

Department of Health, Education and Welfare
Assistant Secretary for Management and Budget
Office of the Secretary
Room 510A, Humphrey Building
Washington, DC 20201

Operational responsibilities are as follows:

For Payments to Individual records at Departmental and Regional Offices:

HEW, Office of Secretary and Regional Offices

Office of Secretary
Deputy Assistant Secretary, Finance
Room 705D1, Humphrey Building
Washington, DC 20201

For Payments to Individual records at Principal Operating Component Offices:

Education (OE, NIE, ASE)

Office of Education (For OE and ASE)
Deputy Commissioner for Management
Room 4169 FOB-6
Washington, DC 20201

National Institute of Education
Associate Director for Administration and Management
Room 639 Brown Building
1200 14th Street, N.W.
Washington, DC 20208

Health (HSA, CDC, FDA, NIH, ADAMHA, HRA, ASH)

Public Health Service
Director, Division of Financial Management
Room 18-17, Parklawn Building
5600 Fishers Lane
Rockville, MD 20852

Social Security Administration

Social Security Administration
Director, Office of Financial Management
Room 840 Annex Social Security Bldg.
Baltimore, MD 21235

Office of Human Development

Office of Human Development
Director, Office of Administration and Management
Room 1107 Donohoe Building
400 6th Street, S.W.
Washington, DC 20201

Health Care Financing Administration
Assistant Administrator for Financial Management
Room 5082, HEW-S
330 C Street, S.W.
Washington, DC 20201

09-90-0025

System name: Central Registry of Individuals Doing Business With HEW. HEW OS ASMB 2.

Security classification: None.

System location:
Division of Financial Operations and Fiscal Procedures
Room 739D1, Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Categories of individuals covered by the system: Individuals who are the recipients of Federal Domestic Assistance Grants, or of contracts awarded by HEW.

Categories of records in the system: An index of names, addresses and identification number (SSN) of the individual doing business with HEW. No other personally identifiable data are maintained. The index is termed public information since data relative to Federal Domestic Assistance and Contracts are public information.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Departmental Regulations (45 CFR Part 5b), Appendix B, 3, 4, 6, 7, 8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy code booklets are manually filed at agency and regional office sites; and on disc pack and magnetic tape at central computer sites.

Retrievability: Record may be found in the Code Book by either name or social security number; record in disc pack and on magnetic tape is indexed by social security number. The Code Book provides a listing of data processing numbers for grant, contract and financial transactions. These numbers are used to access the name and address of the individual in the Automated Library (Central Registry). The information is used for check preparation, reports, mailings, etc.

Safeguards: Minimum safeguards to insure integrity of records, and that required to provide protection against loss by accident or carelessness.

Retention and disposal: Records are purged from the automated file each two years; only persons actively dealing with HEW remain on file. Code Books are replaced each year. Inactive books are destroyed.

System manager(s) and address:
Deputy Assistant Secretary, Finance
Department of HEW, Office of the Secretary
Room 705D1, Humphrey Building
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Inquiries are to be made, either in writing or in person, to the organization listed under 'location'. Give name and social security number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Grant and Contract documents. Names, social security numbers and addresses are provided by the individual when applying for a grant or contract from the Department.

09-90-0026

System name: Congressional Biographies HEW/OS/ASL

Security classification: None.

System location:
Room 425H Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Members of Congress indexed by name.

Categories of records in the system: Personal biographies supplied by Members' offices and picture.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Biographies are maintained in ring-binders.

Retrievability: Biographies are indexed alphabetically by Member's name. Information is used for briefing Agency officials prior to meetings with respective Members of Congress or prior to giving testimony before Congressional Committees.

Safeguards: These biographies are public information, provided by the Members' offices.

Retention and disposal: Biographies are updated after each Congressional election.

System manager(s) and address:
Director, Congressional Liaison Office
Office of the Assistant Secretary for Legislation
Room 425H South Portal Bldg.
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Offices of the Members of Congress.

Systems exempted from certain provisions of the act: None.

09-90-0027

System name: Congressional Correspondence Unit. HEW/OS/ASL

Security classification: None.

System location:
Room 435G Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Members of Congress indexed by name.

Categories of records in the system: Correspondence copies of direct inquiries and referrals of constituents' inquiries from Members of Congress, and responses to those inquiries, regarding the Department's activities, including, but not necessarily limited to: a. general program activities of the Department; b. individual case problems of named persons, families or institutions; c. employment or appointment interests. Control slips identifying the correspondent, the constituent on whose behalf the inquiry is made, the constituent's social security number if inquiry relates to a social security case, and a summary of the subject matter of the inquiry.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Inquiries which do not pertain to HEW, but fall under the jurisdiction of another Federal Agency, are transferred to that Agency with a request that a direct response be provided to the correspondent. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files are maintained in standard file cabinets.

Retrievability: Records are indexed alphabetically by name of the Members of Congress. Inquiries are forwarded to the HEW Agency which has jurisdiction over the subject matter for preparation of a response.

Safeguards: Records are kept in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are reviewed biannually. Correspondence which reflects final disposition of an inquiry dated one year previous is discarded. Control slip files for intra-Agency transfers are discarded after two calendar years. Control slip files for inter-Agency transfers are discarded after five years.

System manager(s) and address:
Director, Congressional Liaison Office
Office of the Assistant Secretary for Legislation
Room 435G South Portal Bldg.
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: System Manager; address same as above. The name of the person who corresponded with the Department with reference to the constituent and the approximate date of that correspondence must be provided.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information in CCU files is provided by the correspondent and by the agency which prepares the final response.

Systems exempted from certain provisions of the act: None.

09-90-0028

System name: Biographies and Photographs of HEW Officials HEW/OS/ASPA

Security classification: None.

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System location:

Office of the Assistant Secretary for Public Affairs
Public Information Division
Room 638E, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201 (See Appendix 1 following).

Categories of individuals covered by the system: HEW employees in key management and technical positions, such as the Secretary, Under Secretary, Assistant Secretaries, Deputy Assistant Secretaries, Commissioners, Regional Directors, Deputy Regional Directors, Agency Heads, Unit Managers.

Categories of records in the system: Biographical files consist of approved, printed personal and professional resumes and standard portrait pictures and biographical and professional questionnaires providing name, title, office location, telephone number, date of appointment to HEW, home address, home telephone, date of birth, place of birth, marital status, spouse's name, children's names, children's date of birth, education, military service, professional career data, professional affiliations, publications and articles authored, awards, citations, prizes and honors received, civic, social and fraternal associations, outside interests, such as hobbies, sports, recreation.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual and combined files and stored in standard five-drawer file cabinets in the offices listed under System Location.

Retrievability: Records are indexed by the name, in alphabetical order, of those in higher management and technical positions with the remainder combined in a 'miscellaneous' folder or folders. Made available to staff of the Department who have a need for photos or background information on these officials.

Safeguards: Files are maintained in the offices of Public Affairs and requests are honored on a 'need to know' basis only.

Retention and disposal: Records are periodically updated as circumstances warrant relative to promotions, reassignment, resignations, death.

System manager(s) and address: Same as in Location above and Appendix 1.

Notification procedure: Contact System Managers in areas where individual is employed. Addresses same as above, with the exception of Food and Drug Administration, contact:

FDA Privacy Coordinator (HF-50)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information contained in the biographies comes from the individuals whose biographies they form and from other material furnished by agency public information offices. The biographies are cleared with the individuals whose biography they represent prior to release to the public and the news media.

Systems exempted from certain provisions of the act: None.

Appendix 1

Public Affairs Officer
Alcohol, Drug Abuse, and Mental Health Administration
Room 6C-15, 5600 Fishers Lane
Rockville, Maryland 20852

Public Affairs Officer
Center for Disease Control
Room 2067, Building 1
1600 Clifton Road
Atlanta, Georgia 30333

Public Affairs Officer
Food and Drug Administration
Room 15B41, 5600 Fishers Lane
Rockville, Maryland 20857

Public Affairs Officer
Health Resources Administration
Room 1030, Center Building
3700 East-West Highway
Rockville, Maryland 20782

Public Affairs Officer
Health Services Administration
Room 14A55, 5600 Fishers Lane
Rockville, Maryland 20857

Public Affairs Officer
National Institute of Education
Room 718, Brown Building
1200 - 19th Street, N.W.
Washington, D.C. 20208

Public Affairs Officer
National Institutes of Health
Room 309, Building 01
9000 Rockville Pike
Bethesda, Maryland 20014

Public Affairs Officer
Office of Education
Room 2097, FOB 06
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Public Affairs Officer
Health Care Financing Administration
Room 5221, Mary E. Switzer Building
330 C Street, S.W.
Washington, D.C. 20201

Public Affairs Officer
Social Security Administration
Room 944, 6401 Security Boulevard
Baltimore, Maryland 21235

Public Affairs Officer
Department of Health, Education, and Welfare
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

Public Affairs Officer
Department of Health, Education, and Welfare
Federal Building
26 Federal Plaza
New York, New York 10007

Public Affairs Officer
Department of Health, Education, and Welfare
3535 Market Street
Philadelphia, Pennsylvania 19101

Public Affairs Officer
Department of Health, Education, and Welfare
101 Marietta Towers
Suite 1403
Atlanta, Georgia 30323

Public Affairs Officer
Department of Health, Education, and Welfare
300 South Wacker Drive
Chicago, Illinois 60606

Public Affairs Officer
Department of Health, Education, and Welfare
1200 Main Tower Building, 11th Floor
Dallas, Texas 75202

Public Affairs Officer
Department of Health, Education, and Welfare
601 East 12th Street
Kansas City, Missouri 64106

Public Affairs Officer
Department of Health, Education, and Welfare
1961 Stout Street
Denver, Colorado 80202

Public Affairs Officer
Federal Office Building
50 United Nations Plaza
San Francisco, California 94102

Public Affairs Officer
Department of Health, Education, and Welfare
Arcade Plaza
1321 Second Avenue
Seattle, Washington 98101

09-90-0036

System name: Employee Suggestion System. HEW/OS/ASPER

Security classification: None.

System location: This system is located in employee suggestion offices at the Department. See Appendix 1 for exact locations.

Categories of individuals covered by the system: Individuals who have made suggestions in OS and in Principal Operating Components of the Department; and/or suggestions made by individuals in other Federal Departments requiring an HEW evaluation.

Categories of records in the system: Evaluations of suggestions, name and address of individuals submitting suggestions, other identifying information such as salary and grade, including position title, and, optionally, a social security account number.

Authority for maintenance of the system: 5 U.S.C. 4501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To CSC for information, possible award. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in standard sized file cabinets.

Retrievability: The records are indexed in alphabetical order by the name of the employee submitting the suggestion. Records are available to Suggestion Coordinator's Staff having as part of their duties processing of suggestions. Control records are used by staff to log in suggestions, route suggestions, follow-up suggestions, and to adjudicate suggestions receiving awards. In addition, control cards are used to facilitate preparation of the annual report for the Department. Records may be disclosed for evaluation purposes to officials in program areas affected by the suggestions.

Safeguards: Direct access restricted to authorized staff.

Retention and disposal: Suggestions records are maintained for two years, and sent to Federal Record Center.

System manager(s) and address: See Appendix 1 for overall system manager and immediate system managers.

Notification procedure: Contact the appropriate system manager indicated in Appendix 1.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming suggestions, responses and other material obtained during course of adjudication.

Appendix 1

List of System Managers and Locations for Employee Suggestion Matters.

Overal System Manger:

Employee Suggestion Officer
Room B428, Trans Point Building
330 Independence Avenue, S.W.
Washington, D.C. 10101

Immediate System Managers:

Employee Suggestion Officer
Social Security Administration
Annex Building, Room 3-N-6
Baltimore, Maryland

Employee Suggestion Officer
Health Care Financing Administration
Room 2500
300 C Street
Washington, D.C. 20201

Employee Suggestion Officer
Office of Education
400 Maryland Ave. SW., Room 1167
Washington, D.C., 20201

Employee Suggestion Officer
National Institute of Education
Brown Building, Room 642B
1200 19th Street NW.
Washington, D.C. 20208

Employee Suggestion Officer
Office of Human Development Services
Humphrey Building, Room 345D
200 Independence Ave. SW.
Washington, D.C. 20201

OASH Employee Suggestion Officer
17-18 Parklawn Building
Rockville, Maryland 20857

CDC Employee Suggestion Officer
1600 Clifton Road NE.
Building 1, 6062
Atlanta, Georgia 30333

FDA Employee Suggestion Officer
5600 Fishers Lane, Room 957
Rockville, Maryland 20857

HRA Employee Suggestion Officer
Center Building, Room 927
3700 East-West Highway
Hyattsville, Maryland 20782

HSA Employee Suggestion Officer
Room 14A.40 Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

ADAMHA Employee Suggestion Officer
12C-15 Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

NIH Employee Suggestion Officer
Building 31, Room 3-B-07
Bethesda, Maryland 20014

Regional Employee Suggestion Officer
Region I
Department of Health, Education, and Welfare
John F. Kennedy Federal Building
Government Center—Room 1503
Boston, Massachusetts 02203

Regional Employee Suggestion Officer
Region II
Department of Health, Education, and Welfare
Federal Building, Room 3838-H
26 Federal Plaza
New York, New York 10007

Employee Suggestion Officer
Region III
Department of Health, Education, and Welfare
3535 Market Street, Room 9400
Philadelphia, Pennsylvania 19101

Employee Suggestion Officer
Region IV
Department of Health, Education, and Welfare
101 Marietta Towers, Room 1601
Atlanta, Georgia

Employee Suggestion Officer
Region V
Department of Health, Education and Welfare
27th Floor
300 S. Wacker Drive
Chicago, Illinois 60606

Employee Suggestion Officer
Region VI
Department of Health, Education, and Welfare
1200 Main Towers, Room 1000
Dallas, Texas 75202

Employee Suggestion Officer
Region VII
Department of Health, Education, and Welfare
Room 468
601 E. 12th Street
Kansas City, Missouri 64106

Employee Suggestion Officer
Region VIII
Department of Health, Education, and Welfare
Federal Office Building, Room 419
1961 Stout Street
Denver, Colorado 80294

Employee Suggestion Officer
Region IX
Department of Health, Education, and Welfare
Federal Office Building, Room 419
50 Fulton Street
San Francisco, California 94102

Employee Suggestion Officer
Region X
Department of Health, Education, and Welfare
Arcade Plaza, Room 6039
1321 Second Avenue
Seattle, Washington 98101

09-90-0037

System name: Secretariat Correspondence Control System. HEW/OS/ES

Security classification: None.

System location:
Room 602C Humphrey Building
200 Independence Avenue SW.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals who have contacted the Secretary or the Under Secretary or who have been contacted in writing by them.

Categories of records in the system: Hard Copies of the Secretary's and Under Secretary's correspondence computer printout, tape, and interactive control system of records of that correspondence.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets. The control records are maintained in hard copy, computer tape and computer disk files for on-line interactive processing.

Retrievability: Records are indexed chronologically by date of correspondence and also by name, subject and numerical control number. Records are available to staff responsible for preparation of responses to inquiries and to the staff of the Executive Secretariat. Records are used for control and reference purposes in staffing out issues and correspondence of concern to the Secretary or the Under Secretary.

Safeguards: Direct access is limited to the staff of the Executive Secretariat and POC staff (05) control personnel. Access to the records is limited during non-working hours to individuals with keys to both the file cabinets and to the room in which the records and/or computer terminals are located.

Retention and disposal: Hard Copy records are retired to the National Archives after two years. Control records are maintained indefinitely. Computer records are purged after correspondence is finalized for 60 days.

System manager(s) and address:
Executive Secretary to the Department
Room 636G, South Portal Bldg.
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Inquiries should be addressed to the System Manager. The inquirer should indicate the individual with whom the Secretary or Under Secretary corresponded, the date of the incoming correspondence and the date of the outgoing correspondence from the Secretary or the Under Secretary. Address is same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Computer records are derived from the incoming correspondence for the Secretary and the Under Secretary.

09-90-0038

System name: Secretary's Official Files. HEW/OS/ES

Security classification: None.

System location:
Room 636G, Humphrey Building
200 Independence Avenue S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals who have contacted the Secretary or the Under Secretary or who have been contacted in writing by them.

Categories of records in the system: Hard copies of documents signed or initialed by the Secretary or the Under Secretary.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard copy filed in standard file cabinets.

Retrievability: Records are indexed by subject, name and organization. Records are available to the staff of the Executive Secretariat for reference purposes in staffing out issues of concern to the Secretary or the Under Secretary.

Safeguards: Direct access is limited to the staff of the Executive Secretariat. Access is limited during non-working hours to individuals with keys to the file room.

Retention and disposal: Records are maintained for two years and are then sent to the National Archives.

System manager(s) and address:
Executive Secretary to the Department
Room 636G, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Inquiries should be addressed to the system manager at the above address. The inquirer should indicate the subject matter of the issue involved, the date of the subject documents, and the author and/or addressees.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records are derived from documents signed or initialed by the Secretary or the Under Secretary.

09-90-0039

System name: Family Educational Rights and Privacy Act—School Recordkeeping Practices Correspondence and Complaint System. HEW/OS/ASMB/FERPA.

Security classification: None.

System location:
Room 526F Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals who have made inquiries or who have filed complaints alleging violations of the provisions of the Family Educational Rights and Privacy Act of 1974; and those who have commented to the Department on its proposed rules and practices.

Categories of records in the system: Name and address of individuals submitting correspondence, responses and exchanges of material associated with investigations of complaints.

Authority for maintenance of the system: The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 123g(g)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Members of Congress who inquire on behalf of a constituent; to an educational agency or institution against which a complaint has been made. See Appendix B of Departmental Regulations (45 CFR Part 5b), Items: 1, 3, 8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard lockable file cabinets.

Retrievability: For the most part records are indexed by name of individual signing incoming correspondence; when indexed chronologically, or by organization, they are cross-indexed by name of individual signer. Records are available to FERPA staff involved in correspondence and investigative processes, including members of the Office of General Counsel. Occasionally, personnel with special expertise in other program areas may be given records for the purpose of assisting FERPA staff in resolution of issues.

Safeguards: Direct access is restricted to authorized FERPA staff; access to rooms in which files are maintained is limited during nonworking hours to those with keys to rooms and the main files are left in local file cabinets when not in use.

Retention and disposal: Inquiry records are maintained a minimum of three years; complaint and investigative records are maintained a minimum of five years past date of case closing.

System manager(s) and address:
Head, FERPA Office
Room 526F Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: System manager; for general inquiries, name and date of previous correspondence, if known; for complaint/inves-

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tigative material, name and any I.D. number assigned. Address is same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming correspondence, responses and material obtained during course of any investigation.

Systems exempted from certain provisions of the act: None.

09-90-0041

System name: Consumer Mailing Lists. HEW/OS/OCA

Security classification: None.

System location:

624 Reporters Bldg.
7th and D Sts., S.W.
Washington, D. C. 20201

Categories of individuals covered by the system: Individual consumers, business and government officials.

Categories of records in the system: Names and addresses of individuals requesting consumer information.

Authority for maintenance of the system: Executive Order 011583 of February 24, 1971 and Reorganization Plan 01 of 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the OCA Public Affairs staff to distribute information on current consumer topics to consumers, business, government and the media. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Conventional file cabinets, addressograph plates, and computers.

Retrievability: By name.

Safeguards: Personnel screening during working hours and secured building after working hours.

Retention and disposal: Files are updated quarterly and disposed of through normal trash and erasure of computer tapes.

System manager(s) and address:

Director, Public Affairs
624 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Notification procedure:

Director, Administrative Management & Finance
626 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Correspondence and telephone calls from individual consumers, business and government officials.

Systems exempted from certain provisions of the act: None.

09-90-0046

System name: Consumer Complaint Correspondence System HEW/OS/OCA

Security classification: None.

System location:

Room 612 Reporters Building
7th and D Sts., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individual Consumers.

Categories of records in the system: Correspondence concerning consumer complaints.

Authority for maintenance of the system: Executive Order 011583, February 24, 1971; Reorganization Plan 01 of 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Resolution of individual citizen complaints through referral to other Federal agencies, non-Federal governments, voluntary groups and private business firms; to meet requests for specific statistical data on consumer complaints requested by the Congress and the Office of Management and Budget, White House Office, and from other Federal agencies as well as the media (e.g. requests for information on availability of canning jar lids); and to make records available when discovery service incident to a regular action is presented to the Office of Consumer Affairs. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual files in cabinets, and statistical information maintained in computer system.

Retrievability: Data acquired through sequential identification numbers. Primary usage is development of internal statistical data for office management purposes particularly in identifying trends in consumer complaints.

Safeguards: Personnel screening during working hours and secured building after working hours.

Retention and disposal: Records prior to August 1, 1974 have been shipped to the Presidential Library System for permanent retention. Records received subsequent to August 1, 1974 are retained for not less than one nor more than two fiscal years. Computerized records limited to six-month period.

System manager(s) and address:

Director, Administrative Management & Finance
626 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Notification procedure: System manager. Address is same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These

procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Correspondence and telephone calls from individual consumers.

Systems exempted from certain provisions of the act: None.

09-90-0047

System name: Directory, Federal, State, County and City Government Consumer HEW/OS/OCA Offices.

Security classification: None.

System location:

600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: List of Federal agency consumer liaison contacts, directors of state, county, and city government consumer offices and branch offices, plus office addresses and phone numbers.

Categories of records in the system: Names, addresses, office telephone numbers; correspondence, publications, copies of speeches, and reports from the offices.

Authority for maintenance of the system: Executive Order 011583 of February 24, 1971; Reorganization Plan 01 of 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Serves as source basis for annual Office of Consumer Affairs publication of Directory, Federal, State, County and City Government Consumer Offices which is for sale by the Superintendent of Documents to the general public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Correspondence file in file folders; names of office directors, office addresses and office phone numbers on card file; addresses on addressograph plates also.

Retrievability: Indexed by state, county, and city; by office title. Used by OCA staff for general information and update compilations of Directory annually; serves as communication link with these offices and as source material for semi-annual publication of State Consumer Action, which reports activities of these offices.

Safeguards: Routine office personnel screening; names, addresses, and office phone numbers are published annually as a free access government document unless specifically requested not to publish by office and/or individual involved. Correspondence not revealed unless requesting party can adequately prove identity as sender, need for data and intended use are valid, and sender provides OCA with verbal or written approval.

Retention and disposal: Records maintained as long as information is valid; destroyed periodically through regular disposal channels.

System manager(s) and address:

Director, External Liaison
600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Notification procedure:

Director, Administrative Management & Finance
626 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information comes from the offices concerned or from other public documents.

Systems exempted from certain provisions of the act: None.

09-90-0048

System name: Consumer Liaison Contacts. HEW/OS/OCA

Security classification: None.

System location:

600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Governmental and non-governmental consumer leaders.

Categories of records in the system: Names, addresses, telephone numbers and other pertinent background information relating to individual participation in consumer activities.

Authority for maintenance of the system: Executive Order 011583, February 24, 1971; Reorganization Plan 01 of 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by OCA staff as resource list to insure input from consumer leaders in significant consumer issues and in development of and recommendations for appointments to advisory bodies and other consumer related positions. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper files in standard file cabinets.

Retrievability: Alphabetical listing by name and by geographical locations.

Safeguards: Personnel screening during working hours and secured building after working hours.

Retention and disposal: Files screened not less than annually and disposed of by common office trash.

System manager(s) and address:

Director, External Liaison
600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Notification procedure:

Director, Administrative Management & Finance
626 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information supplied from leaders directly, upon request by OCA staff, or memoranda and letters submitted by others suggesting individuals for consideration.

Systems exempted from certain provisions of the act: None.

09-90-0049

System name: Office of External Liaison—Consumer Correspondence Files. HEW/OS/OCA

Security classification: None.

System location:
600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individual consumer educators and consumer leaders.

Categories of records in the system: Inquiries and correspondence files relating to consumer issues.

Authority for maintenance of the system: Executive Order 011583 of February 24, 1971; Reorganization Plan 01 of 1953.

Routine uses of records maintained in the system, including categories of usera and the purposes of such uses: Internal reference and resource for sharing information on consumer issues with individual consumers and consumer leaders. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Conventional file cabinets.

Retrievability: Alphabetically by name.

Safeguards: Personnel screening during working hours and secured building after working hours.

Retention and disposal: Files screened annually and retained not more than three years. Disposed of with common office trash.

System manager(s) and address:
Director, External Liaison
600 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Notification procedure:
Director, Administrative Management & Finance
626 Reporters Bldg.
7th and D Sts., S.W.
Washington, D.C. 20201

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The bulk of the information contained in these files consists of letters and memoranda sent to or received from individual consumers and consumer leaders.

Systems exempted from certain provisions of the act: None.

09-90-0050

System name: Case Following System HEW OS/OCR.

Security classification: None.

System location: See Appendix 1.

Categories of individuals covered by the system: Persons filing complaints with the Office of Civil Rights.

Categories of records in the system: Name, characteristics of the complaint and critical events in OCR's processing of the complaints.

Authority for maintenance of the system: Title VI of the Civil Rights Act of 1964, Title IX and VII of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Services Act, Executive Order 11246, Section 504 of the Rehabilitation Act of 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Report on current status of complaint processing. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape.

Retrievability: Records are indexed by case or complaint number, but may be recalled by name, address, or any other characteristic by OCR staff engaged in compliance activities.

Safeguards: The physical data processing storage is controlled by a private company under a GSA contract which includes appropriate security measures. This agency references data through communication terminals with access controlled by passwords.

Retention and disposal: Indefinite retention. Disposal by electronic erasure.

System manager(s) and address:
Assistant Director (Administration and Management)
Office for Civil Rights
330 Independence Ave., S.W.
Room 5460 - North Building
Washington, D.C. 20201

Notification procedure: System Manager (above). Provide name, address, and name of institution, contractor, or HEW program with which individual has contact.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in complaint investigation files.

Systems exempted from certain provisions of the act: None.

Appendix Number 1 System Locations

This system is located at HEW offices in the following cities:

HEW, Office for Civil Rights
330 Independence Avenue, S.W.
Washington, D.C. 20201

Region I, Regional CR Director
140 Federal Street
Boston, Massachusetts 02110

Region II, Regional CR Director
26 Federal Plaza
New York, New York 10007

Region III, Regional CR Director
3535 Market Street, Post Office Box 13716
Philadelphia, Pennsylvania 19101

Region IV, Regional CR Director
101 Marietta Street
Atlanta, Georgia 30303

Region V, Regional CR Director
300 South Wacker Drive, 8th Floor
Chicago, Illinois 60606

Region V, Regional CR Director
Plaza Nine Building, 55 Erieview Plaza
Cleveland, Ohio 44114

Region VI, Regional CR Director
1200 Main Tower Building
Dallas, Texas 75202

Region VII, Regional CR Director
12 Grand Building, 1150 Grand Avenue
Kansas City, Missouri 64106

Region VIII, Regional CR Director
Federal Building, 1961 Stout Street
Denver, Colorado 80294

Region IX, Regional CR Director
100 Van Ness Ave.
San Francisco, California 94102

Region X, Regional CR Director
1321 Second Avenue, MS/508
Seattle, Washington 98101

09-90-0051

System name: Complaint Files and Log, Office of Compliance and Enforcement, HEW-OS-OCR-C&E.

Security classification: None.

System location: See Appendix 1 to Case Following System HEW. OS/OCR SYSTEM 01.

Categories of individuals covered by the system: Individuals who file complaints with the Department concerning discrimination under Executive Order 11246, Title VI, Title IX, PHSA, and Section 504.

Categories of records in the system: Complaint allegation, results of investigation of the allegation, correspondence related to the complaint.

Authority for maintenance of the system: Executive Order 11246 as amended; Title VI of the 1964 Civil Rights Act; Title IX of the Education Amendments of 1972; Emergency School Assistance Act; Titles VII & VIII of the Public Health Service Act; Section 504 of the 1973 Rehabilitation Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are maintained to record the results of the investigation so that OCR can determine if there was discrimination as charged in the original complaint. Files are routinely reviewed by the Office of General Counsel, HEW, and may be referred, as necessary, for similar purposes to the Departments of Justice, and Labor or the Equal Employment Opportunity Commission. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Categories of users include OCR investigators, team leaders, branch chiefs, division directors, PRMs unit staff, Office of Compliance and Enforcement staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and file cards.

Retrievability: By name, for use by OCR staff in complaint investigations.

Safeguards: Printed materials are filed in lockable cabinets. The Department's Regulations (IPS PUB 3) govern the control.

Retention and disposal:
Director, Division of Operational Planning and Support
Office for Civil Rights
330 Independence Avenue, SW.
Room 5460, North Building
Washington, D.C. 20201

Notification procedure: System manager (above). Include name and address of complainant, a copy or summary of allegations contained in the original complaint, name of the institution against which the allegation was filed, and the date of the original allegation.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Complaint information filed with the Department by or on behalf of the individual complainant, also data provided by the alleged discriminator and other parties.

Systems exempted from certain provisions of the act: None.

09-90-0056

System name: New Orleans Louisiana Review, HEW OS-OCR-C & E-H.

Security classification: None.

System location: See Appendix 1 To Case Following System HEW, OS, OCR-01.

Categories of individuals covered by the system: Physicians in New Orleans referring patients to hospitals.

Categories of records in the system: Individual physician's name and address.

Authority for maintenance of the system: Title VI of the Civil Rights Act of 1964 (42 USC 2000d, 45 CRF Part 80), under court order.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Departmental Regulations (45 CFR Part 5b) Appendix B. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards in Room 4528-G HEW North.

Retrievability: Card file is used in data processing.

Safeguards: Card file is in locked room.

Retention and disposal: Indeterminate.

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System manager(s) and address:
Director Division of Operational Planning and Support
Office for Civil Rights
330 Independence Avenue, S.W.
Room 5460 - North Building
Washington, D.C. 20201

Notification procedure: System Manager (above).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data were provided by New Orleans, Louisiana Hospitals.

Systems exempted from certain provisions of the act: None.

09-90-0058

System name: Freedom of Information Case File and Correspondence Control Index. HEW OS-ASPA-FOIA.

Security classification: None.

System location:
Room 118F Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201
(See Appendix 1 following)

Categories of individuals covered by the system: Individuals or organizations requesting access to inspect and/or copy records of the Department under provisions of the Freedom of Information Act.

Categories of records in the system: Name, address, and other individually identifying information about the requestor and the records sought.

Authority for maintenance of the system: Freedom of Information Act, P.L. 93-502 (5 U.S.C. 552) HEW Public Information Regulation (45 CFR, 5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information will be released for the purposes cited in HEW proposed regulations, Appendix B, parts 3, 8, and 9. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original or copy of incoming request and written response maintained in case file jackets and corresponding control log.

Retrievability: For the most part records are indexed by name of individual requestor. Records are available to FOI staff involved in correspondence and investigative processes, including appeals officials and members of the of the Office of General Counsel.

Safeguards: Records are maintained in Conserva-File cabinets in the offices of the Freedom of Information Officers and public affairs officers throughout the Department with limited access.

Retention and disposal: Individual case files are maintained for two years and then disposed of.

System manager(s) and address:
Freedom of Information Officer, PA
Room 118F, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201
(See Appendix 1 following)

Notification procedure: System Managers. Addresses same as above with the exception of Food and Drug Administration, contact:
FDA Privacy Coordinator (HF-50)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Record access procedures: Access to these records may be obtained by request in writing or in person to FOI Officer and public affairs officers throughout the Department, addresses same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals and organizations making requests under the Freedom of Information Act or from components of the Department reporting on the handling of such requests for inclusion in the annual report to Congress.

Systems exempted from certain provisions of the act: None.

Appendix 1

Public Affairs Officer
Alcohol, Drug Abuse, and Mental Health Administration
Room 6C-15, 5600 Fishers Lane
Rockville, Maryland 20852

Public Affairs Officer
Center for Disease Control
Room 2067, Building B
1600 Clifton Road
Atlanta, Georgia 30333

Public Affairs Officer
Food and Drug Administration
Room 15B41, 5600 Fishers Lane
Rockville, Maryland 20852

Public Affairs Officer
Health Resources Administration
Room 1030, Center Building
3700 East-West Highway
Rockville, Maryland 20782

Public Affairs Officer
Health Services Administration
Room 14A55, 5600 Fishers Lane
Rockville, Maryland 20857

Public Affairs Officer
National Institute of Education
Room 717, Brown Building
1200 - 19th Street, N.W.
Washington, D. C. 20208

Public Affairs Officer
National Institutes of Health
Room 309, Building 01
9000 Rockville Pike
Bethesda, Maryland 20014

Public Affairs Officer
Office of Education
Room 2097, FOB 06
400 Maryland Avenue, S.W.
Washington, D. C. 20202

Public Affairs Officer
Health Care Financing Administration
Room 5221, Mary E. Switzer Building
330 C Street, S.W.
Washington, D.C. 20201

Public Affairs Officer
Social Security Administration
Room 944, 6401 Security Boulevard
Baltimore, Maryland 21235

Public Affairs Officer
Department of Health, Education, and Welfare
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

Public Affairs Officer
Department of Health, Education, and Welfare
Federal Building
26 Federal Plaza
New York, New York 10007

Public Affairs Officer
Department of Health, Education, and Welfare
3535 Market Street
Philadelphia, Pennsylvania 19101

Public Affairs Officer
Department of Health, Education, and Welfare
101 Marietta Tower, Suite 1403
Atlanta, Georgia 30323

Public Affairs Officer
Department of Health, Education, and Welfare
300 South Wacker Drive
Chicago, Illinois 60606

Public Affairs Officer
Department of Health, Education, and Welfare
1200 Main Tower Building, 11th Floor
Dallas, Texas 75202

Public Affairs Officer
Department of Health, Education, and Welfare
601 East 12th Street
Kansas City, Missouri 64106

Public Affairs Officer
Department of Health, Education, and Welfare
1961 Stout Street
Denver, Colorado 80202

Public Affairs Officer
Federal Office Building
50 United Nations Plaza
San Francisco, California 94102

Public Affairs Officer
Department of Health, Education, and Welfare
Arcade Plaza
1321 Second Avenue
Seattle, Washington 98101

09-90-0059

System name: Federal Advisory Committee Membership Files, HEW. OS-ASPER-DCMO.

Security classification: None.

System location: System location is determined by nature of advisory committee. See Appendix 1.

Categories of individuals covered by the system: Individuals who have been or are presently members of or are being considered for membership on advisory committees within the jurisdiction of the Department of Health, Education, and Welfare. Additionally the system of records contains information about members of the public who have requested that they receive various publications through the inclusion of their names and addresses on various mailing lists.

Categories of records in the system: Information maintained on those individuals who have requested participation on mailing lists is limited to name and mailing address. Information maintained on individuals who are past, present, or recommended members of advisory committees subject to this notice consists of one or more of the following: name, title, sex, place and date of birth, home address, business address, organizational affiliation, phone number, degrees held, general educational background, ethnic background, resume, curriculum vitae, dates of term on advisory committee, status on advisory committee, reason for leaving advisory committee, previous or current membership on other advisory committees, special qualifications of the individual for the advisory committee membership, source who recommended the individual for membership on advisory committee and miscellaneous correspondence. Additionally, memoranda justifying the individual's selection are included in the file in cases in which the individual has served repetitively on advisory committees, has not had a one-year break in service on advisory committees, or where various statutory or other requirements for advisory committee membership cannot be met.

Authority for maintenance of the system: Federal Advisory Committee Act (5 U.S.C. App. I et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Annual Report to the President; administrative reports to OMB and GSA. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Items 01, 3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in hard-copy filed in file cabinets, on index cards, on magnetic tape, or in computer storage.

Retrievability: For the most part records are maintained in an alphabetical index by name of the individual. Certain files are based on other factors, e.g. Advisory Committee name, with a cross index based on an alphabetical listing of individuals. Certain other records are retrievable by individually identifiable computer identification codes. Certain of the mailing lists which are maintained are indexed by ZIP Code and within zone by alphabetical listing by name of the individual. Records from the system are available to the staffs of the respective Advisory Committees, the Committee Management Officers, the Departmental Committee Management Officer and other Departmental staff on a need-to-know basis. Uses include special administrative reports; quarterly alphabetical listings of past, present, and recommended members of Advisory Committees; computer lists of vacancies, acceptances, separations, active members, statistical reports by sex, youth, geographic location, etc; documentation of nominations; and other administrative needs.

Safeguards: Direct access to records is restricted to authorized personnel through locked files, rooms, and buildings as well as building pass and security guard sign-in systems. Certain facilities are also protected by closed circuit television systems. Computer systems are secured through locked magnetic tape libraries as well as lockword-password computer access systems.

Retention and disposal: Retention is variable from one year to permanent retention depending upon the type of record, e.g., names of former members of advisory committees are retained permanently. Certain records are disposed of by referral to the Federal Records Center. Others are disposed of as trash by the system manager or office of security depending upon the confidentiality of the information contained on the record.

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System manager(s) and address: See Appendix 1. Federal Advisory Committee Membership Files.

Notification procedure: Same as above with the exception of Food and Drug Administration, contact:

FDA Privacy Coordinator (HF-50)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20852

Verification of identification of individuals inquiring as to information contained in this System of Record shall be in accordance with the procedures outlined in regulations published by the Department of Health, Education, and Welfare to implement the Privacy Act.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The vast majority of information contained in records on individuals is obtained directly from the individual. Other information in the form of references and recommendations is obtained from other private individuals, program personnel, biographical reference books, private organizations, former employers, regional offices of HEW, Members of Congress, and other government sources.

Appendix Number 1 Federal Advisory Committee Membership Files

Department of Health, Education, and Welfare
Department Committee Management Officer
Departmental Policy Coordinator
Room 4357N
330 Independence Avenue, S.W.
Washington, D.C. 20201

Alcohol, Drug Abuse, and Mental Health Administration
Office of the Administrator
Committee Management Officer
Room 13-103
5600 Fishers Lane
Rockville, Maryland 20857

Center for Disease Control
Committee Management Officer
Management Analysis Branch
Room 111 PFY
255 E. Paces Ferry Road, N.E.
Atlanta, Georgia 30305

Food and Drug Administration
Office of Science
Committee Management Office
Room 1137
5600 Fishers Lane
Rockville, Maryland 20857

Health Care Financing Administration
Records Committee Management Officer
Room 4200-B, M.E. Switzer Building 330 C Street, S.W.
Washington, D.C. 20201

Health Resources Adminstration and
Health Services Administration
Division of Management Services
Committee Management Officer
Room 9-50
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

National Institutes of Health
Committee Management Officer
National Institutes of Health,
Building 01, Room 303
Bethesda, Maryland 20014

Office of Education
Office of Management
Committee Management Officer
Committee Management Staff
Room 2135
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Social Security Administration
OMA, Management Policy and Programs Branch
Committee Management Officer
Room 828, Altmeyer Building
6401 Security Boulevard
Woodlawn, Maryland 21235

National Institute of Education
Committee Management Officer
Room 639-B, Brown Building
1200 19th Street, N.W.
Washington, D.C. 20208

Office of the Assistant Secretary for Education
Committee Management Officer
Room 314-G, HHH Building
200 Independence Ave., S.W.
Washington, D.C. 20201

Office of the Assistant Secretary for Health
Committee Management Officer
Room 17B-20
5600 Fishers Lane
Rockville, Maryland 20852

Office of the Assistant Secretary for Planning and Evaluation
Committee Management Officer
Room 405-F, HHH Building
200 Independence Ave., S.W.
Washington, D.C. 20201

Office of the Assistant Secretary for Human Development Services
Committee Management Officer
Room 308-E, HHH Building
200 Independence Ave., S.W.
Washington, D.C. 20201

09-90-0061

System name: Claims for Damage, Injury, or Death. HEW/RO3/ASD

Security classification: None.

System location:

Department of Health, Education, and Welfare
Regional III
Room 3300
3535 Market Street
Philadelphia, Pennsylvania 19104

Categories of individuals covered by the system: Federal employees and non-Federally employed individuals submitting claims for financial remuneration due to damage, injury or death which are Government related.

Categories of records in the system: 1. Personal information about claimant: name, address, age, marital status, name and address of spouse, insurance coverage. 2. Data relative to incident generating claim: date, time and place of occurrence. Type of incident (property damage, personal injury). Name of witnesses and other information relating to the case.

Authority for maintenance of the system: E.O. 11807, 11654, P.L. 91-596, Section 19(a), Section 7902, Title 5 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To claimant's insurance representative and/or legal counsel. In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Item 1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by the name of the individual claimant. Records may be accessed by Regional Claims Officer and Office of General Counsel.

Safeguards: Maintained in a locked metal cabinet.

Retention and disposal: Records are destroyed after a five (5) year retention period.

System manager(s) and address:

Regional Engineer
HEW/Region III
Room 5400, Gateway Bldg.
3535 Market Street
Philadelphia, Pa. 19104

Notification procedure: For inquiries: system manager and address as above. Identification needed. For retrieval: name, relationship to claim/claimant.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Claimant, investigative reports and statement of witnesses.

Systems exempted from certain provisions of the act: None.

09-90-0062

System name: Administrative Claims. HEW/OS/OGC.

Security classification: None.

System location: See Appendix.

Categories of individuals covered by the system: HEW employees; recipients of Federal assistance under HEW funded programs, and members of the public who have a claim against HEW or against whom HEW has a claim—Federal Torts Claims Act, Military Personnel and Civilian Employees Claims Act, Federal Claims Collection Act, Federal Medical Care Recovery Act, Act for Waiver of Overpayment of Pay.

Categories of records in the system: Information that is pertinent to the particular claim being asserted, including accident reports, hospital records, charges for medical services; certifications of overpayments, audits of payroll accounts during periods of overpayments, earning and leave statements; claims officers memorandum, final determinations made on claims, identity of debtors and information pertaining to how debts arose.

Authority for maintenance of the system: Federal Tort Claims Act, 28 U.S.C. 2671-2680, 1346(b); Waiver of Overpayment of Pay Act, 5 U.S.C. 5584; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240 et seq.; Federal Claims Collection Act, 31 U.S.C. 951-953; Federal Medical Care Recovery Act, 42 U.S.C. 2651-2653.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses of these records are primarily for adjudicating claims between the U.S. and private parties. Records are used in communicating with, among others, Federal, State, and local law enforcement agencies, private individuals, private and public hospitals, allegedly negligent parties, private attorneys, insurance companies, the United States Attorney and other Federal officials and agencies, individual law enforcement officers, and tribal officials. These communications are all for the purpose of investigating, settling, or litigating claims. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. See also Appendix B, of Departmental Regulations, (45 CFR Part 5b), items: (1), (3), (4), (5), (8), (100).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal size files in filing cabinets.

Retrievability: Retrieved by name of the non-Government party, whether claimant, plaintiff, or alleged debtor. In some instances, these records are retrievable by cross reference to index cards, containing name of the party involved and the subject matter.

Safeguards: Office buildings in which files are kept are locked after the close of the business day. These files are only accessible to General Counsel staff.

Retention and disposal: The records are maintained for an indefinite duration.

System manager(s) and address: The agency official responsible for the system policies and practices outlined above is:

The General Counsel
Department of Health, Education, and Welfare
Office of the General Counsel
Room 722A, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be addressed to the System Manager. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information in this system comes from a number of sources including private individuals, private and

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public hospitals, doctors, law enforcement agencies and officials, private attorneys, accident reports, third parties, claimants or beneficiaries and their relatives, other Federal agencies, State and local governments, agencies and instrumentalities.

Appendix

Office of the General Counsel—Headquarters Offices.
Department of Health, Education, and Welfare
Humphrey Building, Room 722A
200 Independence Avenue, S.W.
Washington, D.C. 20201

Office of the General Counsel
Regional Attorney - Region I
Department of Health, Education, and Welfare
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

Office of the General Counsel
Regional Attorney - Region II
Department of Health, Education, and Welfare
Room 3914
26 Federal Plaza
New York, New York 10007

Office of the General Counsel
Regional Attorney - Region III
Department of Health, Education, and Welfare
P. O. Box 13716
Philadelphia, Pennsylvania 19104

Office of the General Counsel
Regional Attorney - Region IV
Department of Health, Education, and Welfare
Room 323 (Location); Room 131 (Mailing)
Peachtree Seventh Street, N. E.
Atlanta, Georgia 30323

Office of the General Counsel
Regional Attorney - Region V
Department of Health, Education, and Welfare
300 South Wacker Drive
18th Floor
Chicago, Illinois 60606

Office of the General Counsel
Regional Attorney - Region VI
Department of Health, Education, and Welfare
Room 1330
1200 Main Tower Building
Dallas, Texas 75202

Office of the General Counsel
Regional Attorney - Region VII
Department of Health, Education, and Welfare
Room 601
601 East 12th Street
Kansas City, Missouri 64106

Office of the General Counsel
Regional Attorney - Region VIII
Department of Health, Education, and Welfare
Room 11443
Federal Office Building
19th and Stout Streets
Denver, Colorado 80294

Office of the General Counsel
Regional Attorney - Region IX
Department of Health, Education, and Welfare
50 Fulton Street
San Francisco, California 94102

Office of the General Counsel
Regional Attorney - Region X
Department of Health, Education, and Welfare
MS 624 Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

09-90-0064

System name: Litigation Files, Administrative Complaints, and Adverse Personnel Actions. HEW/OS/OGC

Security classification: None.

System location: See Appendix on the Administrative Claims system, 09900062.

Categories of individuals covered by the system: The individuals on whom records are maintained in this system are individuals who are involved in litigation with the Department or the United States (regarding matters within the jurisdiction of the Department) either as plaintiffs or as defendants in both civil and criminal matters, and individuals who either file administrative complaints with the Department or are the subjects of administrative complaints initiated by the Department, except claims which are the subjects of records maintained in the Administrative Claims System, 09900062.

Categories of records in the system: These records contain information pertaining to the subject matter of the litigation, administrative complaint, or adverse personnel action. Such records would include complaints, litigation reports, administrative transcripts, various litigation documents, investigative materials, correspondence, briefs, court orders and judgments, and in cases where personnel injury is involved, principally malpractice cases, evaluations by physician specialists (Public Health Service, Armed Forces, Institute of Pathology).

Authority for maintenance of the system: The authority for maintaining this system are the various statutes, regulations, rules or orders pertaining to the subject matter of the litigation, administrative complaint or adverse personnel action, (e.g., Public Health Service Act, Social Security Act, Civil Rights Act, Federal Food, Drug and Cosmetic Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. See Appendix B, Departmental Regulations, (45 CFR Part 5b), items: (1), (3), (4), (5), (8), (100).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records consist of legal size files stored in file cabinets.

Retrievability: These records are retrievable by name of the plaintiff or the first plaintiff if there is more than one, or by the name of the first defendant if the plaintiff is the United States. In the case of adverse personnel actions, records are retrievable by name of the individual involved.

Safeguards: Office buildings in which these records are maintained are locked after the close of the business day. These records are only accessible by General Counsel staff.

Retention and disposal: These records are maintained for an indefinite duration.

System manager(s) and address: The agency official responsible for the system policies and practices outlined above is:

The General Counsel
Department of Health, Education, and Welfare
Office of the General Counsel
South Portal Building, Room 722A
200 Independence Avenue, S. W.
Washington, D. C. 20201

Notification procedure: Any inquiries regarding these systems of records should be addressed to the System Manager. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information for this system is obtained through a number of sources including the exchange of legal pleadings, documents, formal and informal discovery, program offices and component agencies, private attorneys, State and local governments, their agencies and instrumentalities, and officers of other Federal agencies and the individuals involved.

09-90-0065

System name: Conflict of Interest - Standards of Conduct Records. HEW/OS/OGC

Security classification: None.

System location: See Appendix on the Administrative Claims system— 09900062.

Categories of individuals covered by the system: Information about current and past HEW employees who are or have been the subject of conflict of interest or standards of conduct inquiries or determinations.

Categories of records in the system: These records include information relating to acceptance or offer of gifts, entertainment and favors, outside employment; financial interests; use of government funds, property or official information; partisan political activity; or other matters relating to ethical standards of conduct.

Authority for maintenance of the system: 18 U.S.C. 202, 203, 205, 207, 208, 209; Executive Order 11222; and, 5 CFR 735.104, 45 CFR Part 73.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. See Appendix B, Departmental Regulations (45 CFR Part 5b) items: (1), (3), (4), (5), (8), (100).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are kept in legal size files in filing cabinets.

Retrievability: These records are retrievable by name in most cases. In some instances, these records are retrievable by cross reference to index cards containing the name of the party involved and the subject matter.

Safeguards: These records are only accessible to General Counsel staff. Office buildings in which these records are maintained are locked after the close of the business day.

Retention and disposal: The records are maintained for an indefinite duration.

System manager(s) and address: The agency official responsible for the systems policies and practices outlined above is:

The General Counsel
Department of Health, Education, and Welfare
Office of the General Counsel
Humphrey Building, Room 722A
200 Independence Ave., S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information contained in this system comes from the individuals involved and from appropriate Department officials.

09-90-0066

System name: OGC-Attorney Applicant Files HEW-OS-OGC.

Security classification: None.

System location: See Appendix on the Administrative Claims System - 09900062

Categories of individuals covered by the system: Current Attorney Applicants for positions in the Office of the General Counsel.

Categories of records in the system: The Attorney Applicant system consists of a variety of records relating to persons applying for attorney positions. These records contain information about an individual's birth date; home address; telephone number; social security number; educational background (e.g., law schools attended and grades); past work experience; writing samples furnished on request; recommendations from past employers and academic officials.

Authority for maintenance of the system: 5 U.S.C. 3301 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders, alphabetized by name, and in some cases the records are separated by individual law school affiliation and by the date the application is received. In some instances records are located in lockable conserva-file cabinets and in a locked secured room with access limited to those officials whose duties require access. In other instances records are maintained in file rooms or with other Office of the General Counsel files.

Retrievability: These records are retrievable by name.

Safeguards: Access is limited to those HEW officials whose duties require access.

Retention and disposal: These records are retained in a current system for one year, and in some instances two years, after which time they are discarded.

System manager(s) and address: The agency official responsible for the systems policies and practices outlined above is:

The General Counsel
Department of Health, Education, and Welfare
Office of the General Counsel
Humphrey Building, Room 722A
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records comes from the individual to whom it applies, law school officials and past employers.

09-90-0067

System name: Invention reports submitted to the Department of Health, Education, and Welfare by its employees, grantees, fellowship recipients, and contractors. HEW-OS-OGC.

Security classification: None.

System location:

Office of the General Counsel
Patent Branch
Westwood Building - Room 5A03
5333 Westbard Avenue
Bethesda, Maryland 20016

Categories of individuals covered by the system: Department employees, investigators funded under HEW research grants, fellowship awardees, investigators funded under HEW research contracts.

Categories of records in the system: Invention reports.

Authority for maintenance of the system: 45 CFR Parts 6-8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Justice Claims Section for purpose of defending the Government in ligitation.

Scientific personnel, both in this agency, and other Government agencies, and in non-Governmental organizations (such as Universities), who possess the expertise to understand the invention and evaluate its importance as a scientific advance.

Contract patent counsel and their employees and foreign contract personnel retained by the Department for patent searching and prosecution in both the United States and foreign Patent Offices.

All other Government agencies whom we contact regarding possible use, interest in, or ownership rights in our inventions.

Prospective licensees or technology finders who may further make the invention available to the public through sale, use or publication.

Parties, such as supervisors of inventors, whom we contact to determine ownership rights, and those parties contacting us to determine the Government's ownership.

The United States and foreign Patent Offices for our filing of patent applications. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are kept in individual file folders.

Retrievability: Indexed by both inventor's name and case identification number.

Safeguards: During normal business hours a member of the staff of the Patent Section regulates the availability of the files. During evening and weekend hours, the building is closed, with a guard at the front entrance, and only personnel authorized to be in the building are permitted entry.

Retention and disposal: The records are maintained here for the life of any patent issued (seventeen years), for seven years for any invention which is not patented, and they are sent to the Federal Records Center for retention when they are no longer required here.

System manager(s) and address:

Patent Counsel
Department of Health, Education, and Welfare
Westwood Building - Room 5A03
5333 Westbard Avenue
Bethesda, Maryland 20016

Notification procedure: An individual is required to provide his own name together with that of any other individual who contributed to the making of an invention, on which the system contains a record. Any inquiries regarding these systems of records should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information comes from the inventors, their supervisors, other scientists with expertise in the particular area of the invention, scientific publications, newspapers, contract patent counsel who have searched and/or prosecuted the invention, and commercial organizations.

09-90-0068

System name: Federal Private Relief Legislation. HEW/OS/OGC.

Security classification: None.

System location: This system is located in the:

Division of Legislation
Office of the General Counsel
Office of the Secretary
Room 427 D, Humphrey Building
Department of Health, Education, and Welfare
200 Independence Ave., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Private individuals, groups, or institutions for whom a United States Congressman or Senator has introduced a private relief bill.

Categories of records in the system: Background which gives rise to the individual's, group's, or institution's claim for private relief legislation.

Authority for maintenance of the system: 5 U.S.C. 301; OMB Circular A-19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information is used to prepare reports to the Congress, most commonly to the Judiciary Committees of the Senate and the House of Representatives, which reports are thereafter made available to the public under the provisions of 5 U.S.C. 552. In connection with the preparation of those

reports, the information contained in this system of records will, as a routine use, be disclosed to officers and employees of the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at various stages of the legislative coordination and clearance process as set forth in that Circular, and may, as a routine use, be disclosed to officers or employees of agencies (as defined in 5 U.S.C. 551(i) and 552(e)) other than the agency that maintains the record. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders kept in legal size filing cabinets.

Retrievability: By bill number using card systems maintained by name and by subject.

Safeguards: Immediate access to these records are only by authorized staff. Building is locked at close of business.

Retention and disposal: Retained indefinitely either at System Location or at Federal Record Center where files are sent on a regular, predetermined schedule.

System manager(s) and address:

Chief, Legislative Reference and Control Service
Division of Legislation
Office of the General Counsel
Department of Health, Education, and Welfare
Room 427 D, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding the records in question should be made to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information in this system comes from the principal operating components of the Department, the Public Health Service Agencies, the Education Agencies, the Office of the Secretary, Congressional Committees, individual Congressmen and Senators, and, in some cases, the subject individual, group, or institution.

Systems exempted from certain provisions of the act: None.

09-90-0069

System name: Unfair Labor Practice Records. HEW/OS/ASPER.

Security classification: None.

System location: Personnel Offices of the Department shown in Applicants for Employment Records, HEW System 09900006, Appendix 1 and offices of operating officials in organizational units serviced by those Personnel Offices.

Categories of individuals covered by the system: Current HEW employees and union officials.

Categories of records in the system: This system of records consists of a variety of records relating to an unfair labor practice charge. Examples of information which may be included in this system are the employee's name, Social Security Number, grade, job title, employment history and a variety of work and personnel records associated with the charges and required under proceedings established by Executive Order 11491 and Department of Labor Regulations.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system may be released to:

1. The Department of Labor.
2. In accordance with Items 1,3,4,5,6,7,8,9 of Departmental Regulations, (45 CFR Part 5b), Appendix B.
3. The Federal Labor Relations Council.
4. To the Civil Service Commission in carrying out its functions under Executive Order 11491.
5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are retrievable by name. They are used to make a determination on and to document a decision made on an unfair labor practice charge filed by an employee or union official. Information from this system may be used by Department officials for preparing statistical summary or management reports.

Safeguards: When not in use by authorized persons, these records are stored in lockable metal file cabinets. Access to and use of these records are limited to personnel who have a need for the records in performance of official duties.

Retention and disposal: The case files are maintained as long as they may be pertinent for purposes of precedent or as management information devices. When no longer useful for such purposes, they are destroyed.

System manager(s) and address: Personnel Officer shown in Appendix 1 of Applicants for Employment Records, HEW System 09900006, who services the organizational unit in which the individual is employed.

Notification procedure: Contact the systems manager and provide name, approximate date of record, the unfair labor practice charge as specified by the complainant, and management component in which the charge was filed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in this system of records is:

1. Supplied directly by the individual, or
2. Derived from information supplied by the individual, or
3. Supplied by testimony of witnesses, or
4. Supplied by union officials, or
5. Supplied by Department officials.

Systems exempted from certain provisions of the act: None.

09-90-0070

System name: Motor Vehicle Accident Reports - HEW/OS/OGC.

Security classification: None.

System location:

Office of the Regional Attorney
Department of Health, Education, and Welfare
19th and Stout Streets
Denver, Colorado 80294

Categories of individuals covered by the system: Individuals involved in automobile accidents concerning Federal motor vehicles or while on Federal business; this includes both Federal and non-Federal employees.

Categories of records in the system: The information in this record relates to the circumstances of the accident.

Authority for maintenance of the system: 44 U.S.C. Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses include requests to law enforcement agencies and officers for accident reports, to public or private hospitals, to private attorneys and insurance companies, to private citizens involved in the accident, to other Federal agencies, to State and local governments, their agencies and instrumentalities, all for purposes incident to resolution of responsibility for the accident. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are kept in legal size files in filing cabinets.

Retrievability: Retrievable by name. Records are used to determine the appropriate cause of action in ascertaining the responsibility and liability for the accident in question.

Safeguards: Offices in which these files are kept are locked after the close of the business day.

Retention and disposal: Retained indefinitely at system location or at Federal Records Center where files are sent on a regular predetermined schedule.

System manager(s) and address: The agency official responsible for the system policies and practices outlined above is:

Regional Attorney
Department of HEW
19th and Stout Streets
Denver, Colorado 80294

Notification procedure: Any inquiries regarding the records in question should be made at the above address where the records are kept. Required identifying information will be in keeping with Department requirements.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Federal Motor Vehicle Accident Reports, accident reports from law enforcement agencies and officers, hospital and insurance company reports, statements from employees and private parties.

Systems exempted from certain provisions of the act: None.

09-90-0071

System name: Social Security Code Cards. HEW/OS/OGC.

Security classification: None.

System location:

Office of the Regional Attorney
Department of Health, Education, and Welfare
19th and Stout Streets
Denver, Colorado 80294

Categories of individuals covered by the system: Individuals referred to in this system are Social Security claimants or wage-earners who have been the subject of Social Security precedent opinions.

Categories of records in the system: The information in this system consists of the name of the individual on a 3 x 5 card and a code which cross-references to the location of the actual opinion. These cards are separate and distinct from the digest cards which are distributed nationally by the Office of the General Counsel.

Authority for maintenance of the system: 44 U.S.C. Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The subject information is kept on 3 x 5 cards which are kept in an office locked after the close of the business day. The opinions which are cross-referenced by the cards are kept in the files in the same office.

Retrievability: Retrievable by name. These cards are used to enable the researcher to obtain the appropriate social security precedent opinion which may then be cited in subsequent opinions distributed within OGC and SSA.

Safeguards: Office locked at the close of the business day.

Retention and disposal: Retained indefinitely at system location or at Federal Records Center where files are sent on a regular predetermined schedule.

System manager(s) and address: The agency official responsible for the system policies and practices outlined above is:

Regional Attorney
Department of HEW
19th and Stout Streets
Denver, Colorado 80294

Notification procedure: Any inquiries regarding the records in question should be made at the above address where the records are kept. Required identifying information will be in keeping with Departmental requirements.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information on the cards is gleaned from precedent opinions nationwide as well as those issued from Region VIII.

Systems exempted from certain provisions of the act: None.

09-90-0072

System name: Congressional Grants Notification Unit. HEW/OS/ASL

Security classification: None.

System location:

Room 435G Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Members of Congress.

Categories of records in the system: Notification form of grants or contract awards made by HEW. The form contains the name and address of the project director, the purpose of the grant or contract, and the HEW program involved.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files are maintained in standard file cabinets.

Retrievability: Files are indexed by State Congressional Districts with the name of the Congressional Representative of that District on the file. Records are retrieved by name, The staff uses this system for the following purposes: 1) To answer questions in the short term about amounts of HEW grant funds going into areas of the country according to congressional districts. 2) To verify that actual notification to members offices of awards has been made.

Safeguards: These records are public information and available on request.

Retention and disposal: Grant notification files are discarded after two calendar years.

System manager(s) and address:

Director, Congressional Liaison
Office of the Assistant Secretary for Legislation
Room 435G South Portal Bldg. Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Same as above. The Congressional District or name of the Congressional Representative of that district and the approximate date of the award must be provided.

Record access procedures: Address same as above.

Contesting record procedures: Address same as above.

Record source categories: Agencies within the Department making the grant/contract awards.

Systems exempted from certain provisions of the act: None.

09-90-0074

System name: Federal Parent Locator System. HEW OCSE.

Security classification: None.

System location:

Office of Child Support Enforcement
Department of Health, Education, and Welfare
330 C. Street, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Records are maintained on parents being sought for the purpose of establishing or enforcing support obligations against such a parent.

Categories of records in the system: Name of Absent Parent, Social Security Number (when available), date of birth, place of birth, mother's maiden name, father's full name, State case identification number, local identification number (State use only), State originating request, date of origination, type of case (AFDC, non-AFDC full service, non-AFDC locate only), type of military service (Army, Navy, Marines, Air Force, Coast Guard, not in service), retired military (yes or no), Veteran's Benefits (yes or no), Federal employee (yes or no), court order (yes or no), recent employer's address, known alias (last name only), date requests sent to Federal departments (SSA, IRS, DOD, NPRC, VA), date of Federal departments' responses, and indication of the type of information received; such as last home or employer address was returned, and/or a Social Security Number was returned from the Social Security Administration, or no address information was returned. The actual information returned pursuant to a request retained in a separate file long enough to communicate that information to the State. (See Retention and Disposal section below).

Authority for maintenance of the system: Public Law 93-647.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Federal Parent Locator Service will use the records maintained in the system to: (1) Request the most recent home address and/or place of employment from any department, agency, or instrumentality of the Federal government or State which might have such records in its files; (2) Provide the most recent home address, most recent place of employment, and Social Security Number to the appropriate IV-D agency for its use in locating absent parents to establish or enforce a child support obligation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: PLS records are maintained on disk and magnetic tape, and hard copy. The record is defined as a request for address information.

Retrievability: System records can be accessed by either a State assigned case identification number or Social Security Number.

Safeguards: All requests must be certified by the State IV-D Agency such that: (1) they are being made to locate an absent parent for the purpose of establishing paternity or securing child support and for no other purpose; (2) the State IV-D agency has made diligent and reasonable efforts to find the absent parent and cannot locate the person. (See 45 CFR 303.3); (3) the State IV-D agency has in effect protective measures to safeguard the personal information being transferred and received from the Federal Parent Locator Service; and (4) the State IV-D agency will use or disclose this information for the purposes prescribed in 45 CFR 302.18. All personnel, Federal employees and contractor, are required to take a nondisclosure of information oath. All input documents will be inventoried and accounted for. All inputs and outputs will be stored in a locked receptacle in a locked room. All outputs will be labeled 'For Official Use Only' and treated accordingly. Operations control will be vested under a single system manager. Every State using the system will be verified via three levels of user ID's. All data files will be protected by unique passwords and security codes. Remote users have 'read only' system access capabilities. They cannot read any master file or perform any other function on the system. The system complies with the security measures in IPS PUB 3 and has been reviewed by the HEW ADP Systems Security Task Force.

Retention and disposal: Records of address information provided in response to requests from IV-D agencies are maintained only long enough to communicate them to the State. After this time they are destroyed. A record of the request only which includes information provided by the State, Federal agencies contacted, and an indication of the type of information so returned is stored on a history tape and hardcopy. All history data will be retained for five years.

System manager(s) and address:

Director, Parent Locator Service Division
Office of Child Support Enforcement
Department of Health, Education, and Welfare
330 C. Street, S.W.
Washington, D.C. 20201

Notification procedure: Contact the system manager in writing at the above address and provide your name and address. Additional information, such as your Social Security Number, date of birth or mother's maiden name, may be requested by the system manager in order to distinguish between individuals having the same or similar names.

Record access procedures: Same as above.

Contesting record procedures: Individuals that feel the information provided through the above procedures is inaccurate should inform the Federal Parent Locator Service at the address listed for Notification Procedures. The Federal Parent Locator Service will acknowledge this request within ten (10) work days and indicate one of the following: a) the error has been corrected; b) the State child support agency that submitted the original information; c) other steps the individual must follow to correct the inaccuracy.

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Record source categories: Information is obtained from departments, agencies, or instrumentalities of the United States or of any State.

Systems exempted from certain provisions of the act: None.

09-90-0075

System name: MBTA Prepaid Pass Program Participants. HEW-ROI-ARD.

Security classification: None.

System location:

HEW, Office of Director for Administrative Support Center
Room 2411, JFK Federal Building
Boston, Massachusetts 02203

Categories of individuals covered by the system: Any HEW employee who is participating in the MBTA Pass Program.

Categories of records in the system: Name, Department, SSN, Credit Union Account Number, Type of Plan, Sex, Signature of Employee, and Pass Number.

Authority for maintenance of the system: Executive Order 011491.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Used as basis of requesting MBTA Pass and as a control of Pass numbers in case of replacement by Massachusetts Bay Transportation Authority, Forrest Hills Station, Boston, Massachusetts. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Storage—3x5 cards in file box.

Retrievability: Retrievability—By name.

Safeguards: Safeguards—Office doors locked during non-working hours.

Retention and disposal: Retention and disposal—Kept as long as employee is a participant in the Program. Cancellation cards are kept for six months after month cancelled; then destroyed.

System manager(s) and address:

Secretary to Director for Administrative Support Center
HEW, Room 2411, JFK Federal Building
Boston, Massachusetts 02203

Notification procedure: Address: Same as above. Identifying Information: Name, Social Security Number (on a purely voluntary basis).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Supplied by employee.

Systems exempted from certain provisions of the act: None.

09-80-0002

System name: Developmental Disabilites Complaints and Correspondence Files HEW HDS RSA DDO RO7.

Security classification: None.

System location:

Room 384
601 East 12th Street
Kansas City, Missouri 64106

Categories of individuals covered by the system: Individuals who have made inquiries regarding complaints or requested information regarding services from Developmental Disabilities program; and those who have commented to the Department on its proposed rules and practices.

Categories of records in the system: Name and address of individuals submitting correspondence, responses and exchanges of material associated with investigations of complaints or relaying information to appropriate State or local Developmental Disabilities agencies.

Authority for maintenance of the system: Developmental Disabilities Services and Construction Act (P.L. 94-103).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To members of Congress who inquire on behalf of a constitutent; to a State or local agency or institution against which a complaint has been made; See Departmental Regulations, (45 CFR Part 5b) Appendix B Items 1,8. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: For the most part records are indexed according to State and within each State by alphabetical name of inquirer. Records are available to DDO staff involved in correspondence and investigative processes, including members of the Office of General Counsel. Occasionally, personnel with special expertise in other programmatic areas or responsible persons at State or local agencies may be given records for the purpose of assisting DDO staff in resolution of issues.

Safeguards: Direct access is restricted to authorized DDO staff; access to room in which file cabinets are maintained is limited during non-working hours to those with keys to room.

Retention and disposal: Inquiry records are maintained three years; complaint and investigative records are maintained five years past date of case closing and then sent to Federal Records Center.

System manager(s) and address:

Director, Developmental Disabilities Office
601 East 12th Street, 3rd Floor
Kansas City, Missouri 64106

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations, (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming correspondence, responses and material obtained during course of any investigation, individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0006

System name: National Center on Child Abuse and Neglect Mailing list. HEW HDS ACYF CB.

Security classification: None.

System location:

Room 5564
400 - 6th Street, S.W.
Washington, D. C. 20201

Categories of individuals covered by the system: Persons interested in the National Centers publications, interested in making grant applications, project directors, social workers and others interested in information on child abuse and neglect.

Categories of records in the system: Names, titles, addresses.

Authority for maintenance of the system: P.L. 95-266, The Child Abuse Prevention and Treatment Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates, paper files.

Retrievability: Indexed alphabetically. Various categories of institutions, agencies, organizations are cross-indexed.

Safeguards: Available only to authorized personnel.

Retention and disposal: Names are kept indefinitely; may be removed on request.

System manager(s) and address:

Communications Specialist
Room 5564
400 - 6th Street, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations, (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Grant applications, letters, telephone calls, other OCD mailing lists, individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0007

System name: National Center for Child Advocacy Mailing list. HEW HDS ACYF CB.

Security classification: None.

System location:

Room 5819
400 - 6th Street, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Persons interested in Child Advocacy activities including social workers, foster parents, juvenile court judges, Community Coordinated Child Care program directors, various Federal staff and members of the general public who have requested information.

Categories of records in the system: Names, titles, addresses.

Authority for maintenance of the system: Childrens' Bureau Act of 1912.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plate, paper file.

Retrievability: Indexed alphabetically, cross-indexed by area of subject interest.

Safeguards: Available only to authorized personnel.

Retention and disposal: Names kept on file indefinitely; may be removed on request.

System manager(s) and address:

Chief, Program Development & Innovation Division
Room 5819
400 - 6th Street, S.W.
Washington, D. C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations, (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Other ACYF mailing lists grant applications, letters, telephone calls, individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0009

System name: ACYF Mailing List HEW HDS ACYF R10.

Security classification: None.

System location:

Administration for Children, Youth & Families
1921 2nd Avenue, MS 622
Seattle, Washington 98101

Categories of individuals covered by the system: ACYF grantees, affiliates, persons requesting information on ACYF programs.

Categories of records in the system: Mailing Key contains persons' names, titles, and addresses only.

Authority for maintenance of the system: Community Services Act of 1974 (42 U.S.C. 2701).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On 3 x 5 index cards and metal plates.

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Retrievability: Indexed by code using letters and numbers; used for correspondence, to distribute program information.

Safeguards: Access by authorized personnel only.

Retention and disposal: List is continually updated. Information is kept as long as accurate and persons are still interested in receiving information, then they are destroyed.

System manager(s) and address:
Head, ACYF
Region X
1921 2nd Avenue, MS 622
Seattle, Washington 98101

Notification procedure: Any inquiry regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register. October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Source of information is directly from grantees and interested persons wanting to receive information.

Systems exempted from certain provisions of the act: None.

09-80-0010

System name: Mailing list for ANA publications. HDS ANA

Security classification: None.

System location:
Room 357G Humphrey Building
200 Independence Ave., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals, organizations or grantees who request information on Native American Programs.

Categories of records in the system: Name and address of individuals, grantees or organizations who request information

Authority for maintenance of the system: P.L. 93-644 'Headstart, Economic Opportunity, and Community Partnership Act, 1974', Title VIII—Native American Programs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The addresses are kept in card index file box.

Retrievability: Indexed by individual or organizational name.

Safeguards: Access to authorized personnel only.

Retention and disposal: List is a permanent mailing list, but is updated periodically.

System manager(s) and address:
Public Information Officer
Room 357G Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201.

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register. October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming correspondence, individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0011

System name: Consultants for Federal Technical Assistance Program, Vocational Rehabilitation Services. HEW HDS RSA.

Security classification: None.

System location:
Room 3325
330 C Street, S.W.
Washington, D.C. 20201.

Categories of individuals covered by the system: Technical Assistance Consultants.

Categories of records in the system: Name, address, education, experience (general business resume of qualifications).

Authority for maintenance of the system: P.L. 93-112, Sec. 304C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, standard metal file cabinets.

Retrievability: Indexed alphabetically.

Safeguards: Access limited to RSA staff.

Retention and disposal: Files maintained for two years then retired to Federal Records Center.

System manager(s) and address:
Rehabilitation Program Specialist
Room 3325,
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-80-0012

System name: Office of Rehabilitation Services Mailing Lists. HDS-ORS-R10

Security classification: None.

System location:
Department of Health, Education, and Welfare
Office of Rehabilitation Services
Room 615, Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

Categories of individuals covered by the system: Providers of rehabilitation services in Region X, individuals who have requested that they receive program information, grantees, grant applicants.

Categories of records in the system: Name, address, title, phone numbers.

Authority for maintenance of the system: P.L. 93-112:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card files.

Retrievability: Indexed by name. Used by ORS staff to disseminate program information.

Safeguards: Access by authorized personnel only.

Retention and disposal: Retained indefinitely and updated periodically.

System manager(s) and address:
Director, Office of Rehabilitation Services
HDS, HEW, MS 622
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register. October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals themselves, from grant applications.

Systems exempted from certain provisions of the act: None.

09-80-0014

System name: Runaway Youth Act Mailing Lists HEW HDS ACYF YDB.

Security classification: None.

System location:
Print Shop
Room 320G, North Bldg.
330 Independence Avenue, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals who make inquiries regarding publications, grant programs and other matters related to the Runaway Youth Act.

Categories of records in the system: Names, addresses and titles of individuals and agencies.

Authority for maintenance of the system: 42 U.S.C. 5701.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To members of Congress; to agencies in the youth field; to Colleges and to other Federal agencies on request. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates.

Retrievability: Mailing lists are indexed with OYD code numbers and indexed alphabetically.

Safeguards: Direct access restricted to authorized OYD staff.

Retention and disposal: Mailing lists are maintained indefinitely.

System manager(s) and address:
Director, Youth Development Bureau
3065 North Bldg.
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register. October 8, 1975, page 47410.).

Contesting record procedures: Contact the officials at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From individuals requesting by phone or letter to be placed on list.

Systems exempted from certain provisions of the act: None.

09-80-0015

System name: National Clearinghouse on Aging-Mailing Keys HDS AOA NCA.

Security classification: None.

System location:
4553 North Building
330 Independence Avenue, S.W.
Washington, D. C. 20201

Categories of individuals covered by the system: Individuals interested in the field of aging.

Categories of records in the system: Name, title, and address of individual or organization.

Authority for maintenance of the system: Older Americans Act of 1965, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in

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his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in a card index file and computer storage. A listing of the various lists by type of organization or purpose and the number of addresses on each list, plus the number of copies to be distributed, is maintained.

Retrievability: Indexed by name of individual or organization used by staff for mailing AOA publications, fact sheets, and press releases.

Safeguards: Card index may be inspected on demand but general use restricted to authorized personnel.

Retention and disposal: Lists are circularized yearly as required by the Joint Committee on Printing, and individuals not responding are dropped from list.

System manager(s) and address:
Director, Office of Public Information
4553 North Building
330 Independence Avenue, S.W.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From Individuals themselves, professional directories, grant files.

Systems exempted from certain provisions of the act: None.

09-80-0016

System name: Childrens' Bureau General Mailing list HEW HDS ACYF CB.

Security classification: None.

System location:
Room 3853
400 - 6th Street, S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Individuals interested in Children's Bureau programs, ACYF consultants.

Categories of records in the system: Names, addresses, titles.

Authority for maintenance of the system: Childrens' Bureau Act of 1912.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates, paper files.

Retrievability: Indexed alphabetically by name.

Safeguards: Available only to authorized personnel.

Retention and disposal: Records kept indefinitely. Names are removed on request.

System manager(s) and address:
Director, Public Education Division
ACYF
Room 3853
400 - 6th St., SW.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0017

System name: Children Today Mailing List HEW HDS ACYF CB.

Security classification: None.

System location:
Room 3836
400 - 6th Street SW.
Washington, D.C. 20201

Categories of individuals covered by the system: Subscribers and contributors to Children Today

Categories of records in the system: Names and addresses of subscribers and contributors.

Authority for maintenance of the system: Childrens' Bureau Act of 1912.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates, paper files.

Retrievability: Indexed alphabetically by name.

Safeguards: Available to authorized persons only.

Retention and disposal: Records are retained indefinitely, names removed by request.

System manager(s) and address:
Editorial Assistant
Room 3836
400 - 6th Street SW.
Washington, D. C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department

Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming correspondence, telephone calls, individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0018

System name: Mailing keys. HEW/HDS/RSA.

Security classification: None.

System location:
Executive Assistant to the Commissioner
Room 3000, MES Building
330 C Street SW.
Washington, D.C. 20201

Categories of individuals covered by the system: State vocational rehabilitation agencies (general and blind), rehabilitation facilities, persons interested in statistics, persons interested in the deaf.

Categories of records in the system: Name of agency or individual, and address.

Authority for maintenance of the system: The Rehabilitation Act of 1973 (P.L. 93-112) and the Rehabilitation Amendments of 1974 (P.L. 93-516).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: IBM Master Cards are stored in file drawers.

Retrievability: These IBM cards are filed by key number, City and State and Zip Code.

Safeguards: Only authorized persons allowed access.

Retention and disposal: Maintained as long as necessary and then destroyed.

System manager(s) and address:
Executive Assistant to the Commissioner
Room 3000, MES Building
330 C Street SW.
Washington, D.C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From agencies or individuals themselves.

Systems exempted from certain provisions of the act: None.

09-80-0019

System name: Correspondence Files. HEW/HDS/RSA.

Security classification: None.

System location:
Room 3000, MES Building
330 C Street SW.
Washington, D. C. 20201

Categories of individuals covered by the system: Members of Congress, The White House, departments and agencies of Federal, State and local government, private voluntary groups and the general public.

Categories of records in the system: Name and address of individuals submitting correspondence, responses and exchanges of information associated with the Federal-State vocational rehabilitation program.

Authority for maintenance of the system: The Rehabilitation Act of 1973 (P.L. 93-112) and the Rehabilitation Amendments of 1974 (P.L. 93-516).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file cabinets.

Retrievability: Congressional correspondence filed by name of Congressman. Other correspondence filed in alphabetical order by name of signer.

Safeguards: Access to authorized indivuals only.

Retention and disposal: Inquiry records are maintained five years and sent to the Federal Records Disposal Center.

System manager(s) and address:
Executive Assistant to the Commissioner
Room 3000, MES Building
330 C Street, S. W.
Washington, D. C. 20201

Notification procedure: Any inquiries regarding these systems of records should be in writing and should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Incoming correspondence, responses and material provided by individual.

Systems exempted from certain provisions of the act: None.

[4110-02]

09-40-0002

System name: Registry of Deaf-Blind Children—Regional-National. HEW E OE.

Security classification: None.

System location: See Appendix 1.

Categories of individuals covered by the system: Deaf-blind children enrolled in Title VI-C supported programs or for whom services are being planned by each state under the 10 regional deaf-blind centers are indicated in the registry by name, or code as determined by state and local regulations. The registry contains information on children by sex, demographic data, and service status of child.

V 4 3 / 1 8 8

Categories of records in the system: Name, address, service category, i.e., service being provided to the child, fiscal data such as state, local, or federal funding received by each program under the regional deaf-blind center.

Authority for maintenance of the system: 20 U.S.C. 1422.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized staff of regional deaf-blind centers, state and local education agencies and participating agencies for the purpose of planning and developing appropriate programs to meet short and long term needs of deaf-blind children have access to statistical aggregate data only through authorized center staff. Registry data will be coordinated with a joint national registry in cooperation with the National Center for Deaf-Blind Youths and Adults. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card index, paper files in metal file cabinets in each regional center office, computer discs and magnetic tapes under management of one regional center and the National Deaf-Blind Center.

Retrievability: Registries are indexed by name, or code, for each child reported by programs serving deaf-blind children and maintained only by the regional center staff. Statistical aggregate data is available for planning purposes to center staff, regional advisory committee members, state and local education agencies, participating agencies and National Center for Deaf-Blind Youth and Adults.

Safeguards: Direct access to regional registries is controlled by each regional center and statistical data are made available only to authorized officials as indicated above. Regional and national registries maintained under lock and key, and code for data on computer tapes known only to authorized staff responsible for their management. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Regional and national registries are maintained throughout educational and rehabilitation lifetime of the individual, or removed upon request by parents or the client.

System manager(s) and address:
Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue
Washington, D.C. 20202

Notification procedure: System manager for general inquiries; for specific information contact regional center serving state which child is from. See Appendix 1. Provide child's name and/or any I.D. number or code assigned to regional center.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Parents, referrals by states and participating agencies serving deaf-blind children, to the regional deaf-blind center. All data are provided on a voluntary basis.

Systems exempted from certain provisions of the act: None

09-40-0003

System name: Student Participants in Deaf-Blind Programs under Centers and Services for Deaf-Blind Children—HEW E OE.

Security classification: None.

System location: See Appendix 1.

Categories of individuals covered by the system: General intake data including name and address of child, medical, sociological and educational data relevant to the child in order to determine child's eligibility for services and plan prescribed program to meet child's needs.

Categories of records in the system: Name, address, general intake data as described above and maintained in file record of program in which child is enrolled. All information is provided by consent and knowledge of parents of child.

Authority for maintenance of the system: 20 U.S.C. 1422.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized officials and staff of immediate program in which child is enrolled, Regional Center staff for planning short and long term program alternatives for the child. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files stored in file cabinets of individual programs in which child is enrolled. Only authorized staff have access to records with approval of administrative official of said program.

Retrievability: Files are indexed by child's name and are retrievable only by authorized staff of program in which child is enrolled, and by parent of child.

Safeguards: Files are maintained under lock and key and cannot be removed without approval of authorized official of program in which child is enrolled. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Files are maintained as long as child is enrolled in program. File may follow child, as child moves to another program or state.

System manager(s) and address:
Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue
Washington, D.C. 20202

Notification procedure: System manager for general inquiries; for specific information see Appendix 1. Provide child's name and/or code number for information regarding specific program child is enrolled in. Regional Center will provide name and address from which parent can request specific information.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Parents of child enrolled in program; all data are provided on a voluntary basis.

09-40-0004

System name: Parent participants in deaf-blind programs provided by Regional Centers for Deaf-Blind Children. HEW E OE.

Security classification: None.

System location: See Appendix 1.

Categories of individuals covered by the system: Parents of deaf-blind children enrolled in programs provided by Regional Centers for Deaf-Blind Children.

Categories of records in the system: Name, address, general intake data as determined by administrative officials of programs in which

child is enrolled. All information requested is provided with knowledge and consent of the parent.

Authority for maintenance of the system: 20 U.S.C. 1422.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized officials and staff of immediate program in which child is enrolled to communicate with parents regarding child's progress. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files stored in file cabinets of individual program in which child is enrolled. Only authorized staff have access to records with approval of administrative official of said program.

Retrievability: Files are indexed by child's name and are retrievable only by authorized staff of program in which child is enrolled; and, by parent of child.

Safeguards: Files are maintained under lock and key and cannot be removed without approval of authorized official of program in which child is enrolled. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Files are maintained as long as child is enrolled in program. File may follow child, as child moves to another program or state.

System manager(s) and address:
Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager for general inquiries; for specific information see Appendix 1. Provide child's name and/or code number for information regarding specific program child is enrolled in. Regional Center will provide name and address from which parents can request specific information.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Parents of child enrolled in programs all data are provided on a voluntary basis.

APPENDIX 1 (for 09—40—0002, 09—40—0003, 09—40—0004)
PROGRAMS FOR DEAF/BLIND CHILDREN AND YOUTH

ALABAMA—Program

Alabama Institute for the Deaf and the Blind
Southeast Regional Deaf-Blind Center
P.O. Box 698
Talladega, Alabama 35160

ALASKA—Program

Alaska Department of Education
Alaska State Center for Deaf-Blind Children
Pouch F—Alaska Office Building
Juneau, Alaska 99811

CALIFORNIA—Program

California State Department of Education
Southwestern Regional Deaf-Blind Center
721 Capitol Mall
Sacramento, California 95814

COLORADO—Program

Colorado Department of Education
Colorado State Center for Deaf-Blind Children
State Office Building, 201 E. Colfax
Denver, Colorado 80203

Mountain Plains Regional Center for Services to Handicapped Children
165 Cook Street
Suite 304
Denver, Colorado 80206

ILLINOIS—Program

Illinois Office of Education
Department of Specialized Educational Services
Illinois State Center for Deaf-Blind Children
100 North First Street
Springfield, Illinois 62777

MASSACHUSETTS—Program

Perkins School for the Blind
New England Regional Deaf-Blind Center
175 North Beacon Street
Watertown, Massachusetts 02172

MICHIGAN—Program

Michigan Department of Education
Midwest Regional Deaf-Blind Center
P.O. Box 30008
Lansing, Michigan 48909

NEW YORK—Program

New York Institute for the Education of the Blind
Mid Atlantic Regional Deaf-Blind Center
999 Pelham Parkway
Bronx, New York 10469

NORTH CAROLINA—Program

North Carolina Department of Public Education
South Atlantic Regional Deaf-Blind Center
306 Educational Building
Raleigh, North Carolina 27611

OHIO—Program

Ohio Department of Education
Ohio State Center for Deaf-Blind Children
Division of Special Education
933 High Street
Worthington, Ohio 43085

OREGON—Program

Teaching Research
Division of Oregon State System of Higher Education
Oregon State Center for Deaf-Blind Children
Monmouth, Oregon

SE 27 78

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97361
PENNSYLVANIA—Program

Pennsylvania Department of Education
Pennsylvania State Center for Deaf-Blind Children
Box 911
Harrisburg, Pennsylvania 17126

TEXAS—Program

International Research Institute
5000 East Bee Cave
Austin, Texas 78746

Texas Educational Agency
Division of Special Education
Texas Center for Deaf-Blind Children
201 East Eleventh Street
Austin, Texas 78701

WASHINGTON—Program

Washington State Office of Public Instruction
Washington State Center for Deaf-Blind Children
Olympia, Washington 98504

09-40-0005

System name: Participant waiting list for projects serving severely handicapped children and youth. HEW E OE.

Security classification: None.

System location: See Appendix II.

Categories of individuals covered by the system: Severely handicapped children and youth waiting to be included in services provided by project.

Categories of records in the system: Name, address, and telephone numbers of children and youth; student educational, social, psychological and relevant medical information.

Authority for maintenance of the system: Education of the Handicap Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To State and local educational agencies for coordinating services to potential participants; to other relevant State and local public and private agencies providing services to such potential participants, for coordination of services; to members of the project advisory boards and parent-teacher type organizations for coordinating and augmenting services to potential participants. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is in folders and stored in file cabinets.

Retrievability: Filed alphabetically by potential student surname. Records are cross indexed with listings of students by county/district. Records are available to project staff involved in planning for services to be provided.

Safeguards: Direct access is restricted to authorized project staff; access to room in which file cabinets are maintained is limited during non-working hours to those with keys to room. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Student files are maintained in potential student category until the enrollment of a student, or for two years following possible enrollment age of student. Disposal—records put into trash.

System manager(s) and address:

Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, provide name and possible matriculation date of student. Address is project director as cited in Appendix II.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Names and addresses referred from public and private educational and health agencies. Student information provided through review of records available on potential students from other public and private agencies.

09-40-0006

System name: Participants of Projects Serving Severely Handicapped Children and Youth. HEW E OE.

Security classification: None.

System location: See Appendix II.

Categories of individuals covered by the system: Severely handicapped children and youth participating in Special Services Branch-funded projects, and the parents of such children and youth.

Categories of records in the system: Name, address, and telephone numbers of children, youth and their parents; student educational, social, psychological and relevant medical information; student attendance, progress and testing records.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To State and local educational agencies for coordinating services to participants; to other relevant state and local public agencies providing services to such participants, for coordination of services to them; to members of project advisory boards and parent-teacher type organizations for coordinating and augmenting services to participants. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files maintained in standard file cabinets.

Retrievability: Filed alphabetically by student/parent surname. Records are cross-indexed with listings of students by county/school district. Records are available to project staff involved in the provision of services to the students/parents. Occasionally, personnel in State and local educational departments may be given some information from the files for the purpose of coordinating and strengthening services to the students/parents.

Safeguards: Direct access is restricted to authorized project staff; access to room in which file cabinets are maintained is limited during non-working hours to those with keys to room. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Student and parent files are maintained for two years following the participation of a student. Disposal—records put into trash.

System manager(s) and address:

Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and matriculation dates of students. Address is project director as cited in Appendix II.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Names and addresses referred from public and private educational and health agencies. Student information provided through review of records of students previously receiving services from other agencies.

APPENDIX II (for 09—40—0005 and 09—40—0006)

PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN AND YOUTH

ARIZONA—Program
Arizona Department of Health Services
Bureau of Child Development
200 N. Curry Road
Tempe, Arizona 85281

CALIFORNIA—Program

California State Department of Education
Diagnostic School for the Neurologically Handicaped
Los Angeles, California 90012

Frederick Burke Foundation
San Francisco State University
1600 Holloway Avenue
San Francisco, California 94132

CONNECTICUT—Program

Oak Hill School
120 Holcomb Street
Hartford, Connecticut 06112

HAWAII—Program

University of Hawaii at Manoa
1776 University Avenue
Honolulu, Hawaii 96882

INDIANA—Program

Indiana University Foundation

Developmental Training Center
Bloomington, Indiana 47401

ILLINOIS—Program

University of Illinois at Chicago Circle
Box 4348
Chicago, Illinois 60608

Northern Illinois University
DeKalb, Illinois 60115

IOWA—Program

The University of Iowa
Division of Child Psychiatry
Iowa City, Iowa 52240

KANSAS—Program

University of Kansas—Public Schools
Lawrence, Kansas 66045

University of Kansas
Parsons Hospital and Training Center
Parsons, Kansas 67357

LOUISIANA—Program

Lafayette Parish School Board
P.O. Drawer 2158
Lafayette, Louisiana 70502

MAINE—Program

Elizabeth Levinson Center
159 Hogan Road
Bangor, Maine 04401

MARYLAND—Program

JFK Institute
Baltimore, Maryland 21205

Holly Center
P.O. Box 2358
Snow Hill Road
Salisbury, Maryland 21801

MASSACHUSETTS—Program

Psycho-Educational Center
Beverly School for the Deaf
6 Echo Avenue
Beverly, Massachusetts 01915

MICHIGAN—Program

Muskegon Public Schools
Vanderlass School
756 Emerald Avenue
Muskegon, Michigan 49440

MINNESOTA—Program

St. Paul Independent School No. 625
Special Education Department
360 Colborne Street
St. Paul, Minnesota 55102

MISSOURI—Program

University of Missouri—Columbia
Department of Special Education
515 South 6th Street
Columbia, Missouri 65211

NEW YORK—Program
New York University
Washington Square Center
New York, New York 10003

Syracuse University
Division of Special Education and Rehabilitation
Syracuse, New York 13210

New York University
Deafness, Research and Training Center
80 Washington Square East
New York, New York 10003

OHIO—Program

The Children's Hospital of Akron
Buchtel at Bowery
Akron, Ohio 44308

OREGON—Program

Oregon State Teachers Research Division
Oregon State Systems of Higher Education
Monmouth, Oregon 97361

Portland State University
Portland, Oregon 97207

University of Oregon
1591 Willamette
Eugene, Oregon 97403
Teaching Research
345 Monmouth Street
Monmouth, Oregon 97361

PENNSYLVANIA—Program

Upsal Day School for Blind Children/Center for the Blind
220 West Upsal Street
Philadelphia, Pennsylvania 19119

The Pennsylvania State University
212 J. O. Keller Building
University Park, Pennsylvania 16802

The Developmental Center for Autistic Children
120 North Street
Philadelphia, Pennsylvania 19139

Luzerne Intermediate Unit No. 18
Kingston, Pennsylvania 18704

Appalachia Intermediate Unit No. 8
Cresson Center
Cresson, Pennsylvania 16630

RHODE ISLAND—Program

Meeting Street School
667 Waterman Avenue
E. Providence, Rhode Island 02914

SOUTH CAROLINA—Program

Department of Mental Retardation
Whitten Village Piedmont Center
P.O. Drawer 239
Clinton, South Carolina 29235

TEXAS—Program

Capitol Area Rehabilitation Center
919 West 28-1/2 Street
Austin, Texas 78705

The Governor's Coordinating Office for the Visually Handicapped
Suite 1004, Westgate Station
1112 West Colorado
Austin, Texas 78711

University of Texas at Dallas
Richardson, Texas 75080

UTAH—Program

Utah State University
Logan, Utah 84322

VIRGINIA—Program

Fairfax County Public Schools
Fairfax, Virginia 22030

WASHINGTON—Programs

Washington State Department of Public Instruction
Olympia, Washington 98504

University of Washington
Seattle, Washington 98105

WEST VIRGINIA—Program

Shawnee Hills Regional Center
Department of Mental Health
P.O. Box 338
Institute, West Virginia 25112

WISCONSIN—Program

University of Wisconsin
427 Education Building
Department of Behavioral Disabilities
Madison, Wisconsin 53706

09-40-0007

System name: Participants in Workshops Concerning Severely Handicapped Children and Youth. HEW E OE.

Security classification: None.

System location:
Room 4046 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Professionals and non-professionals attending BEH sponsored or supported national and regional workshops which deal with severely handicapped children and youth.

Categories of records in the system: Name and address of workshop participants.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To national organizations of professionals working with severely handicapped children and youth for sharing of information and coordination of activities; to State and local educational agencies directing attention to this special field of services. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinet storage, paper files.

Retrievability: Indexed and filed by name of conference-workshop location of conference, and topic(s) discussed. Cross-indexed by name of participant in alphabetical listings.

Safeguards: Direct access is restricted to authorized program staff; access to room in which file cabinets are maintained is limited during non-working hours to those with HEW passes to building. Exception: Subject to the disclosure requirements of the Privacy Act.

Retention and disposal: Workshop Participants files are maintained for two years following the completion of a conference/workshop. Disposal—records put into trash.

System manager(s) and address:
Chief, Special Services Branch/BEH
Room 4046 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and address of participant. Address is Program Officer, cited above.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Names and addresses obtained from the participants attending national or regional meetings concerning severely handicapped children and youth.

09-40-0011

System name: Upward Bound Information System. HEW E OE.

Security classification: None.

System location:
Room 3319-C, GSA—Regional Office Building No. 3
7th & D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Current and former participants in the Upward Bound Program.

Categories of records in the system: The student's: name, system identifier number, social security number, sex, date of birth, ethnoracial background, home address, dates of entry into and departure from Upward Bound, income eligibility data, need for program services, veteran's status, current enrollment status and grade level, high school and expected date of graduation, high school academic program and grade point average at times of and departure from the program, Scholastic Aptitude Test and American College Test Score data (if applicable), reason for leaving program, and postsecondary school enrollment data or reason for not pursuing a postsecondary education.

Authority for maintenance of the system: Title IV-A of the Higher Education Act of 1965, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape files at OE's contractor site, 5185 MacArthur Blvd., N.W., Washington, D.C. 20016.

Retrievability: Records are accessed primarily by a student number assigned by the Upward Bound computer system. Individual student information is used by program officers for program monitoring and for verifying student eligibility. Summary statistics, excluding any personal information, are produced to develop profile information regarding program participants for program evaluation, planning, and reporting purposes. Summary statistics concerning the postsecondary placement, enrollment and graduation of former participants are produced for project and program monitoring and evaluation. Exception: Subject to disclosure requirements of Privacy Act.

Safeguards: Only designated personnel are authorized to have access to the files.

Retention and disposal: Current records are maintained indefinitely.

System manager(s) and address:
Chief, Information Systems and Program Support Branch
Division of Student Services and Veterans Programs, BHCE
Room 3514, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and student number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is submitted by the institution's program director who obtains it directly from the individual students. Information regarding the enrollment and graduation of former participants is also obtained from college registrars.

09-40-0012

System name: Migration and Refugee Assistance Act of 1962—United States Loan Program for Cuban Students. HEW E OE.

Security classification: None.

System location:
7th & D Streets, S.W. Room 4007
Washington, D.C. 20202

Categories of individuals covered by the system: Cuban refugees who have borrowed money under the program to finance their education at eligible institutions of higher education.

Categories of records in the system: (1) All individual student files contain the following personal data: name, address, institution, OE ID No.; sex, date of birth, marital status, dependents; place of birth, immigration status, Social Security number; name and address of parents and relatives; employment record for past five years; educational pursuits, career objective; financial information (relatives); date of separation, total amount borrowed; repayment schedule, collections, deferments, cancellations; (2) Additional information on those who request a postponement of repayment on ground of hardship: place of employment, income; regular expenses, lists of debts giving name and address of creditor, nature of indebtedness, total cost, balance owed, frequency of payment and amount of each payment; (3) Additional information on those who request cancellation of loan on ground of permanent and total disability: nature of disability, date symptoms first appeared; name, address of doctor or hospital providing examination(s) and treatment; history of disability, present condition, diagnosis, treatment, progress, prognosis.

Authority for maintenance of the system: Migration and Refugee Assistance Act of 1962, Section 2, Public Law 87-510 (22 U.S.C. 2601).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractor providing billing and collection services for purposes of maintaining accurate and current records of participating students; to students who request a record of their account; to Internal Revenue Service and Immigration and Naturalization Service for purposes of skip-tracing lost borrowers; and to the General Accounting Office or the Department of Justice for legal action against delinquent borrowers and for the routine uses set forth in Appendix B to 45 Code of Federal Regula-

tions Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in hard-copy filed in a lektriever and standard (locked) filed cabinets.

Retrievability: Records are indexed by individual name and OE identification number. Records are available to DPO staff involved in correspondence with Cuban refugee borrowers, contractor personnel if necessary and members of the Office of General Counsel. Records are available to Public Health Service for determinations on requests for medical postponement of repayment of loan or permanent and total disability.

Safeguards: Direct access is restricted to authorized program officials and contractor personnel. Physically safeguarded by use of lektriever and standard file cabinets which are locked during nonworking hours. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records maintained indefinitely.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, GSA - Regional Office Building
7th & D Streets, S.W.
Washington, D.C. 20202

Notification procedure: System manager (see above) will respond to inquiries. Inquiries must contain system identification number and system name; name and address of borrower concerned; and date of previous correspondence, if any.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Original information is submitted by the institution's program director who obtains it directly from the individual students; additional information in the case of requests for hardship postponements or cancellations on the grounds of total and permanent disability is obtained from the student, a doctor and/or a hospital; and if a borrower dies before completion of repayment, proof of death is obtained from appropriate source.

09-40-0013

System name: National Defense Direct Student Loan Program—Request for Cancellation of Loan on Ground of Permanent and Total Disability. HEW E OE.

Security classification: None.

System location:

Room 4007 GSA - Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Student borrowers under the National Defense Direct Student Loan Program requesting loan cancellation because of permanent and total disability.

Categories of records in the system: Information on borrowers requesting disability cancellation of loans includes name, address, Social Security number, medical records, name and address of lending institution, and other information needed to process such cancellation requests.

Authority for maintenance of the system: Title IV-E of the Higher Education Act of 1965, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in hard copy form are maintained in standard file cabinets.

Retrievability: Records are accessed by individual's name only. Program officials use the records to secure appropriate information on which the Commissioner of Education may make a determination to cancel a National Defense Direct Student Loan for reasons of permanent and total disability. Public Health Service physicians serve as the Program's Medical Review Board to make final determinations as to the validity of claims.

Safeguards: Only program officials are authorized to have access to the files. Exception: Subject to disclosure requirements of the Privacy Act.

Retention and disposal: The file is a cumulative one. To date, all individual case records are maintained as initially filed; none have been deleted, removed, or stored elsewhere.

System manager(s) and address:

Director, Division of Program Operations
Room 4636 ROB
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: System manager will respond to inquiries as to whether the system contains an individual's record. Inquiries must contain system identification number and system name; name and address of borrower concerned; and date of previous correspondence if any.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is submitted by the borrower requesting cancellation and by his physician(s), through the lending institution.

09-40-0014

System name: Basic Grant Application File. HEW-E OE.

Security classification: None.

System location:

Room 4920
GSA-Regional Office Building No. 3
Washington, D.C. 20202

Basic Grant Processing Center
Iowa City, Iowa 52240

Categories of individuals covered by the system: Students applying for and receiving Basic Grant assistance.

Categories of records in the system: Name, address, birthdate, Social Security number, and financial data necessary to identify applicants and calculate their eligibility index for Basic Grants.

Authority for maintenance of the system: Title IV-A, of the Higher Education Act of 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identifying information and eligibility index of applicants is provided to those institutions of postsecondary education in which the applicants plan to enroll or are enrolled. The same data are provided to State scholarship agencies having agreements with the Commissioner for purposes of coordinating State aid with the Basic Grant Program. On request, information is provided to Members of Congress who inquire on behalf of a constituent and for the routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original applications are maintained in standard file cabinets in Basic Grant processing center. Micro-fiche records are maintained in Washington office in standard file cabinets.

Retrievability: Records are indexed by name of applicant with a cross-index file by Social Security number. Records are available to all Division of Basic and State Student Grant staff (including appropriate contract support).

Safeguards: Only designated program officials and contract staff have access to file. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Original records are maintained until end of academic year and then stored in Federal Records Center.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information may be provided directly to the Office of Education by applicants, or, at the request of an applicant, may be provided by the following agencies:

American College Testing Program
Iowa City, Iowa 52240

Pennsylvania Higher Education Assistance Agency
Harrisburg, Pennsylvania 17102

Educational Testing Service
Princeton, New Jersey 08540

Educational Testing Service
Berkeley, California 94701

The purpose of this approach is to permit students to apply for Basic Grant Assistance without being required to submit a Basic Grant Application, but instead to provide the data needed by the Basic Grant program on other forms by which they apply for State and/or institutional aid.

09-40-0015

System name: Basic Grant Student Eligibility Report Sub-system. HEW-E OE.

Security classification: None.

System location:

Room 4920
GSA-Regional Office Building No. 3
Washington, D.C. 20202

Categories of individuals covered by the system: Basic Grant recipients.

Categories of records in the system: Name, address, birthdate, Social Security number, financial data and status of award for Basic Grant recipients.

Authority for maintenance of the system: Title IV-A, of the Higher Education Act of 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prepare annual student validation roster for submission to schools in order to verify payments made to students. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original Student Eligibility Reports and hard copy are maintained in standard file cabinet.

Retrievability: Records are indexed by institution and by name and Social Security number within school. Records are used to verify and reconcile institutional expenditures.

Safeguards: Direct access is restricted to authorized staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Original copies are maintained until fiscal year funds are closed out and then stored at Federal Records Center.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Student Eligibility Report.

09-40-0016

System name: Basic Educational Opportunity Grant Alternate Disbursement System. HEW E OE.

Security classification: None.

System location:

Room 4920
GSA-Regional Office Building No. 3

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Washington, D.C. 20202

Categories of individuals covered by the system: Eligible applicants who are paid directly by Federal government since they are enrolled in eligible non-participating schools.

Categories of records in the system: Name, address, birthdate, Social Security number, financial data, and enrollment status of Basic Grant recipients paid through this system.

Authority for maintenance of the system: Title IV-A, of the Higher Education Act of 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in standard file cabinet.

Retrievability: Records are indexed by name of applicant. Records are available to Division of Program Operations staff.

Safeguards: Direct access is restricted to authorized staff.

Retention and disposal: Original copies are maintained until fiscal year funds are closed out and then stored at Federal Records Center.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Student Eligibility Reports and Requests for Payment from applicants.

09-40-0017

System name: Basic Educational Opportunity Grant Student Validation File. HEW E OE.

Security classification: None.

System location:

Room 4669 Regional Office Bldg. No.—3
Washington, D.C. 20202

Basic Grant Validation Center
Silver Spring, MD 20904

Categories of individuals covered by the system: Basic Educational Opportunity Grant student recipients.

Categories of records in the system: Basic Educational Opportunity Grant application information.

Authority for maintenance of the system: Title IV-A, of the Higher Education Act of 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the routine uses, set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in locked file cabinet.

Retrievability: Records are indexed by name and are available only to specifically designated staff involved in validation process.

Safeguards: Access is restricted to authorized staff only and files are maintained in locked cabinet. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained until resolved and then stored in Federal Records Center.

System manager(s) and address:

Director, Division of Certification and Program Review
Room 4669, ROB-3
7th and D St. SW
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Application data, incoming correspondence and related material, obtained during course of investigation.

09-40-0018

System name: Mutual Educational and Cultural Exchange Act Teacher Exchange Participants and Applicants. HEW E OE.

Security classification: None.

System location:

Room 3069, Regional Office Building
7th and D. Streets, S.W.
Washington, D. C. 20202

Categories of individuals covered by the system: Individuals who have been selected to teach abroad under the Teacher Exchange Program. Individuals who have applied to teach abroad under the Teacher Exchange Program.

Categories of records in the system: Name, address, telephone number, date and place of birth, citizenship, dependents, educational background, employment background, languages, membership in clubs and organizations of the individuals, personal references including reports of interviews, administrative approval, and language proficiency when required.

Authority for maintenance of the system: The Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. U.S. binational commissions, the Board of Foreign Scholarships and concerned country educational authorities to determine suitability of candidate for teaching position in their country. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: Records are accessed by individual names only by authorized OE staff for the purposes of determining eligibility for teacher exchange opportunities, for selection of teacher exchange participants, and to develop profile information regarding recipients of grants for program evaluation, planning, and reporting purposes.

Safeguards: Direct access is restricted to authorized OE staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained for three years.

System manager(s) and address:

Division Director, Division of International Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Information is submitted by the individual on approved application forms.

09-40-0019

System name: National Defense Education Act Foreign Language and Area Studies Fellowship Program—Fellows and Alternates. HEW E OE.

Security classification: None.

System location:

7th and D Streets SW., Room 3727
Washington, D.C. 20202

Categories of individuals covered by the system: Individuals who have been nominated by their institution of higher education to be a recipient or alternate recipient of a fellowship.

Categories of records in the system: Name, address, telephone number, citizenship, career goal, language competency, educational background, oath or affirmation of allegiance, previous awards held and statement of crimes on all individuals.

Authority for maintenance of the system: National Defense Education Act of 1958, as amended, Title VI, Section 601(b); Title X, Section 1001(f)(1), (2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: Records are accessed by individual names or by educational institution only by authorized OE staff members for the purposes of determining eligibility for fellowships, for establishing allowances for stipends and dependents, and for developing profile information regarding recipients of fellowships for program evaluation, planning, and reporting purposes.

Safeguards: Direct access is restricted to authorized OE staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained three years.

System manager(s) and address:

Division Director, Division of International Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Information is submitted by the individual on approved application forms.

09-40-0020

System name: Mutual Educational and Cultural Exchange Act—Doctoral Dissertation Research Abroad and Faculty Research Abroad, Fellows and Alternates. HEW E OE.

Security classification: None.

System location:

7th and D Streets SW., Room 3727
Washington, D.C. 20202

Categories of individuals covered by the system: Individuals who have been selected to be a recipient or alternate recipient of a fellowship.

Categories of records in the system: Name, address, educational institution, date and place of birth, veterans status, educational background, health statement, language references, personal references for all individuals, project descriptions. In addition, the annualized salary figure for all faculty fellows and alternates.

Authority for maintenance of the system: The Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b, U.S. embassies, binational commissions, the board of foreign scholarships, and in some cases foreign governments, and to Field Readers, to determine eligibility and suitability to undertake research abroad. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: Records are accessed by individual names and educational institution only by authorized OE staff and Field Readers for the purposes of determining eligibility and suitability to undertake research abroad, establishing allowances for travel, maintenance, and dependents, and for developing profile information regarding recipients of fellowships for program evaluation, planning, and reporting purposes.

Safeguards: Direct access is restricted to authorized OE staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained three years.

System manager(s) and address:

Division Director, Division of International Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager.

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Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Information is submitted by the individual on approved application forms.

09-40-0021

System name: Bureau of Student Financial Assistance—Compliance Files. HEW E OE.

Security classification: None.

System location:

Room 513, Reporters Building
7th and D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Applicants for, and recipients of, Title IV student financial assistance; personnel of BSFA; officials, employees or agents of regional offices, participating schools, and lenders, who are involved in complaints or allegations of program irregularities, noncompliance with regulations, misconduct, fraud or abuse.

Categories of records in the system: Contains written documentation of the alleged or proven act(s) of misconduct including name, address, social security and claim numbers (if appropriate) of the complainant, name of the student borrower, school or lender, and the results of investigative action, prosecution or non-prosecution intent and results.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV, as amended (20 U.S.C. 1070 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To schools and lenders for investigative activities. For uses 1,3,4,5,6,8 and 103 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: The records are filed and indexed alphabetically by name and address. Intradepartmental users of these records are the HEW Office of General Counsel (OGC), HEW Office of Inspector General (OIG), and the OE Regional Offices (OERO). OGC usage is for the purpose of providing background data in obtaining legal rulings and opinions. OIS usage is for the purpose of obtaining documentation necessary for the investigation. OERO usage is for the purpose of coordinating actions between various regional offices.

Safeguards: Direct access is restricted to authorized Division of Compliance staff; file cabinets are locked. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained three years; compliance and investigative records are maintained five years past date of case closing. Destroyed by maceration.

System manager(s) and address:

Director, Division of Compliance
Room 513, RPT
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and date of previous correspondence, if known; for compliance/investigative material, name and any I.D. number assigned. Address is same as above.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Incoming correspondence, responses and material obtained during course of any investigation.

Systems exempted from certain provisions of the act: None.

09-40-0022

System name: Bureau of Student Financial Assistance—Student Complaint Files. HEW E.

Security classification: None.

System location:

Room 4654, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Applicants for, and recipients of, Title IV student financial assistance who have made complaints or allegations of irregularities by schools or lenders, or their officials, employees, or agents.

Categories of records in the system: Contains written documentation of student complaints including name, address, social security and claim numbers (if appropriate) of the complainant, name of school and lender.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 U.S.C. 1071-1087-1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To schools and lenders for investigative activities. For uses 1,3,5,6,8 and 103 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Regulations (45 Code of Federal Regulations Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets.

Retrievability: The records are filed and indexed alphabetically by name and address. Authorized intradepartmental employees review action taken.

Safeguards: Direct access is restricted to authorized GSLP staff; file cabinets are locked. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained three years; complaint and investigative records are maintained five years past date of case closing. Destroyed by maceration.

System manager(s) and address:

Director, Division of Training and Dissemination
Room 4654, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and date of previous correspondence, if known; for complaint/investigative material, name and any I.D. number assigned. Address is same as above.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Incoming correspondence, responses and material obtained during course of any investigation.

09-40-0023

System name: GSLP Defaulted Loans Submitted to General Accounting Office. HEW E.

Security classification: None.

System location:

Room 4636, GSA-Regional Office Building
7th and D Street, S.W.
Washington, D.C. 20202

Room 5471, 441 G Street, N.W.
Washington, D.C. 20548

Categories of individuals covered by the system: Student borrowers for whom defaulted claims have been paid on Federal Insured Student Loans and subsequently submitted to General Accounting Office (GAO) for further action.

Categories of records in the system: Contains borrower's name, demographic background, educational and lender information, family financial information, credit data, and collection history.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. For uses 1, 3, 4, 5, 6, 8, and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on microfilm filed in standard file cabinets.

Retrievability: Data indexed by name and date. Data utilized by collection staff to compile GSLP statistics and management reports; to implement write-off of files transferred to GAO; to provide additional information in response to GAO/Justice Department inquiries.

Safeguards: Direct access is restricted to authorized GSLP staff; file cabinets are locked. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Held indefinitely.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and date of previous correspondence if known; for defaulted loans submitted to General Accounting Office, name, social security number and any I.D. number assigned. Address is same as above.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence and reports from borrowers and their families, lenders, schools, employers, credit agencies, and governmental agencies.

Systems exempted from certain provisions of the act: None

09-40-0024

System name: Guaranteed Student Loan Program—Loan Application File. HEW E.

Security classification: None.

System location:

Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

5700 Thurston Ave.
Virginia Beach, VA 23455

Categories of individuals covered by the system: Student borrowers who have applied for educational loans under the Guaranteed Student Loan Program.

Categories of records in the system: Contains written documentation of application including demographic background, loan and educational status, name of guarantor and lender and data on credit and family.

Authority for maintenance of the system: Higher Education Act of 1965, as amended (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To contractors for updating computer records and correction of errors. For uses 1, 3, 5, 6, 8, and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy or microfilm and are filed in standard records cartons.

Retrievability: Records are indexed by borrower's name. Used by GLSP personnel either to retrieve needed information on an individual, a school, a lender or as part of a random statistical sampling or review.

Safeguards: Direct access is restricted to authorized GLSP staff and contract employees; stored in records cartons in rooms locked during non-business hours. Exceptions: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records of individual loans are destroyed three years after final repayment of loan. Destroyed by maceration.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th & D Streets, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Incoming application forms from guaranteed agencies and private non-profit profit agencies approved by the Commissioner. Information supplied by student, student's family and lender.

Systems exempted from certain provisions of the act: None.

09-40-0025

System name: NDSL Student Loan Files. HEW E.

Security classification: None.

System location:
Room 4613, Regional Office Building 03
7th and D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Student borrowers who have obtained loans under the National Direct (formerly Defense) Student Loan Program from institutions which are either endorsing defaulted notes to the U.S. government or which are no longer in operation.

Categories of records in the system: Contains borrower's name, demographic background, educational and lender information, family financial information, borrower credit and financial data, and collection history.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-E as amended (20 USC 1087aa-ff).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For uses 1, 3, 4, 5, 6, 8, and 9 in Appendix B of the Departmental Regulations (45 CFR 5b). To various billing services under contract with OE for continued servicing of loans from institutions no longer in operation. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy and microfilm filed in standard file cabinets.

Retrievability: Data indexed by name. Data utilized to compile NDSL statistics and management reports for NDSL staff; and used by the collection staff to collect monies owed to U.S. Government.

Safeguards: Direct access is restricted to authorized O.E. staff. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Hard copies destroyed by maceration after microfilming; microfilm maintained three years after repayment or cancellation of loan, and destroyed by chemical processing.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, Regional Office Building 3
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Information is obtained from applications, correspondence and reports submitted by borrowers and their families, institutions of postsecondary education, employers, credit agencies, and governmental agencies.

09-40-0026

System name: Guaranteed Student Loan Program—Paid Claims File. HEW E.

Security classification: None.

System location:
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Student borrowers for whom claims have been paid on Federal Insured Student Loans.

Categories of records in the system: Contains borrower's name, demographic background, educational and lender information, family financial information, credit data, loan data, legal documents, medical reports, and collection history.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B as amended (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To contractors for issuance of collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to Internal Revenue Service for last known address; to Postal Service for last known address; to General Accounting Office for possible pre-litigation collection service and audit; to Department of Justice for possible legal action; to Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureau of Vital Statistics for verification of death; to mortgage companies for credit checks; to educational agencies or institutions against which a complaint has been made; to other lenders in the program making inquiries about the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to the State Department for last known address abroad; to contractors to update records and correct errors; to state guarantee agencies requesting student borrower information; and for uses 1, 3, 4, 5, 6, 8, and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the

Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in standard file cabinets and lektriever.

Retrievability: Data indexed by name. Claims classified into special categories: bankruptcies; death; disabilities; repurchases by lenders; paid-in-full; and defaulted claims. Defaulted claims are separated into sub-categories: skip files, suspension files, foreign files, forbearance files, and prison files. Data utilized to compile GSLP statistics and management reports for system manager; used by collection staff to collect monies owed to U.S. Government and to perform post-audits on paid claims; to provide data to the Office of Inspector General in cases of possible fraud and irregularities; and to provide data to compliance staff associated with violation of the laws.

Safeguards: Direct access is restricted to authorized GSLP staff; file cabinets and lektriever are locked. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records destroyed by maceration after microfilming; microfilm maintained three years after repayment or cancellation of loan, and destroyed by chemical processing.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: Systems manager; for general inquiries, name and date of previous correspondence, if known; for paid claim, name, social security number and any I.D. number assigned. Address is same as above.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence and reports from borrowers and their families, acquaintances, lenders, schools, employers, credit agencies, and governmental agencies.

Systems exempted from certain provisions of the act: None.

09-40-0027

System name: Guaranteed Student Loan Program—Claims and Collections Master File. HEW E.

Security classification: None.

System location:
115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Categories of individuals covered by the system: Defaulted student borrowers for whom the claims have been paid on Guaranteed Student Loans.

Categories of records in the system: Contains names, social security numbers, addresses of defaulted borrowers. Contains claim numbers, amounts of claim to include interest and lender/school identifications.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended, (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To contractors for issuance of collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to Internal Revenue Service for last known address; to Postal Service for last known address; to General Accounting Office for possible pre-litigation collection service and audit; to Department of Justice for possible legal action; to Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureau of Vital Statistics for verification of death; to mortgage companies for credit checks; to educational agencies or institutions against which a complaint has been made; to other lenders in the program making inquiries about the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to the State Department for last known address abroad; to contractors to update files and correct errors; to state guarantee agencies requesting student borrower information; and for uses 1, 3, 4, 5, 6, 8, and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The file is maintained on magnetic tape/disk packs in a library room area at the above named locations.

Retrievability: The file is indexed by social security number. Data are utilized to provide GSLP staff with statistical and managerial reports; to provide the DHEW - Office of General Counsel and the DHEW - Office of Inspector General with data in possible cases of fraud or irregularities. Other uses by GSLP staff are to identify student borrowers indebted to the U.S. Government who have defaulted on their student loan; reimburse lending institution for claim against a guaranteed student loan; generate and maintain financial records for OE Finance Division; maintain accounting records of collection activity for borrowers repaying loans to U.S. Government; generate managerial and statistical reports; determine a borrower's default status; verify payments applied toward defaulted student loans; update file and correct errors.

Safeguards: Direct access is restricted to authorized GSLP staff or contracted personnel.

Retention and disposal: Retained indefinitely.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th and D Street, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager for general inquiries supplying name, social security number and date of birth (at the above address).

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, lenders, schools, medical reports, employers, credit agencies, and Federal and State governmental agencies.

Systems exempted from certain provisions of the act: None.

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09-40-0028

System name: Guaranteed Student Loan Program—Collection Letters. HEW E.

Security classification: None.

System location:
115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Categories of individuals covered by the system: Defaulted student borrowers for whom claims have been paid on Guaranteed Student Loans.

Categories of records in the system: Contains names, social security numbers, addresses of defaulted borrowers. Contains claim numbers, amounts of claim to include interest and lender/school identifications.

Authority for maintenance of the system: Higher Education Act of 1975, Title IV-B, as amended, (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To contractors for issuance of collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to Internal Revenue Service for last known address; to Postal Service for last known address; to General Accounting Office for possible re-litigation collection service and audit; to Department of Justice for possible legal action; to Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureau of Vital Statistics for verification of death; to mortgage companies for credit checks; to educational agencies or institutions against which a complaint has been made; to other lenders in the program making inquiries about the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to the State Department for last known address abroad; to contractors to update records and correct errors; to state guarantee agencies requesting student borrower information; and for uses 1,3,4,5,6,8 and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The file is maintained on magnetic tape/disk packs in a library room area at the above named locations.

Retrievability: The file is indexed by social security number. Data are utilized to provide GSLP staff with statistical and managerial reports; to provide the DHEW - Office of General Counsel and the DHEW - Office of Inspector General with data in possible cases of fraud or irregularities. Other uses by GSLP staff are to identify defaulted claims in delinquent status; to contact defaulted borrowers to encourage repayment of claim disbursed by U.S. Government; to take follow-up action on delinquent defaulted accounts; to update records and correct errors.

Safeguards: Direct access is restricted to authorized GSLP staff or contracted personnel.

Retention and disposal: Retained indefinitely.

System manager(s) and address:
Director, Division of Program Operation
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager for general inquiries supplying name, date of birth and social security number (at the above address).

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, acquaintances, lenders, schools, medical reports, employers, credit agencies, and federal and state governmental agencies.

Systems exempted from certain provisions of the act: None.

09-40-0029

System name: Guaranteed Student Loan Program—Inactive Loan Control Master File. HEW E.

Security classification: None.

System location:
115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Categories of individuals covered by the system: Students having participated in Guaranteed Student Loan Program and purged from primary Loan Control Master File.

Categories of records in the system: Contains name, social security number, demographic background, educational status, loan status and family financial information of individual for whom the record was maintained.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended, (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To contractors for issuance of collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to Internal Revenue Service for last known address; to Postal Service for last known address; to General Accounting Office for possible pre-litigation collection service and audit; to Department of Justice for possible legal action; to Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureau of Vital Statistics for verification of death; to mortgage companies for credit checks; to educational agencies or institutions against which a complaint has been made; to other lenders in the program making inquiries about the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to the State Department for last known address abroad; to requesting student borrower information; and for uses 1,3,4,5,6,8 and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The file is maintained on magnetic tape/disk packs in a library room area at the above named locations.

Retrievability: The file is indexed by social security number. Data are utilized to provide GSLP staff with statistical and managerial reports. Other uses by GSLP staff are to obtain loan data on former student loan borrowers; update records and correct errors.

Safeguards: Direct access is restricted to authorized GSLP staff or contracted personnel.

Retention and disposal: Retained indefinitely.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager for general inquiries supplying name, date of birth, and social security number (at the above address).

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, acquaintances, lenders, schools, medical reports, employers, credit agencies, and Federal and State governmental agencies.

Systems exempted from certain provisions of the act: None.

09-40-0030.

System name: Guaranteed Student Loan Program—Loan Control Master File. HEW E.

Security classification: None.

System location:
115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Categories of individuals covered by the system: Students who have applied for guaranteed student loans, or received, educational loans under the provisions of the Guaranteed Student Loan Program.

Categories of records in the system: Contains name, social security number, demographic background, educational status, loan status and family financial information of individual for whom the record is maintained. Contains lender and school identification.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To schools and lenders for loan status information and record reconciliation; to borrowers and applicants for status of loan applications; to contractors for updating program records and processing documents; to State Guarantee Agencies for loan status information. To an educational agency or lending institution against which a complaint has been made; and for uses 1, 3, 4, 5, 6, 8 and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The file is maintained on magnetic tape/disk packs in a library room area at the above named location.

Retrievability: The file is indexed by social security number. Data are utilized to provide GSLP staff with statistical and managerial reports. Other uses by GSLP staff are to identify students participating in the Guaranteed Student Loan Program; determine eligibility of loan application; reflect eligibility for interest benefits; determine loan status of borrower; compute insurance premium for Federally Insured Loans; compile and generate managerial and statistical reports; research records for inquiry responses; reflect interest rates for individual loans; update file and correct errors.

Safeguards: Direct access is restricted to authorized GSLP staff or contracted personnel.

Retention and disposal: Retained indefinitely.

System manager(s) and address:
Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name and social security number.

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, lenders, schools, medical reports, employers, credit agencies, and Federal and State governmental agencies.

Systems exempted from certain provisions of the act: None.

09-40-0031

System name: Guaranteed Student Loan Program—Pre Claims Assistance. HEW E.

Security classification: None.

System location:
903 S. Hyland St.
Arlington, Va. 22204

115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Categories of individuals covered by the system: Student borrowers under the GSLP whose lending institutions have reported them to be delinquent in their repayments, or of unknown present addresses.

Categories of records in the system: Contains name of student, social security number, address, amount of outstanding loans including interest. Name and address of parent or nearest relative, record of actions taken.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 U.S.C. 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with

program regulations, or to locate a delinquent or defaulted borrower. To contractors for issuance of collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to Internal Revenue Service for last known address; to Postal Service for last known address; to General Accounting Office for possible pre-litigation collection service and audit; to Department of Justice for possible legal action; to Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureau of Vital Statistics for verification of death; to mortgage companies for credit checks; to educational agencies or institutions against which a complaint has been made; to other lenders in the program making inquiries about the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to the State Department for last known address abroad; to contractors to update records and correct errors; to State Guarantee Agencies requesting student borrower information; and for uses 1, 3, 4, 5, 6, 8 and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The file is maintained on magnetic tape/disk packs in a library room area at the above named locations.

Retrievability: The file is indexed by social security or other I.D. number. Data are utilized to provide GSLP staff with statistical and managerial reports; to provide the DHEW—Office of Inspector General with data in possible cases of fraud or irregularities. Other uses by GSLP staff are to identify delinquent borrowers; locate and contact delinquent borrowers; maintain current address of delinquent borrowers; assist lending institutions in having delinquent borrowers commence repayment of educational loan; update records and correct errors.

Safeguards: Direct access is restricted to authorized GSLP staff or contracted personnel.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Director, Division of Program Operations
Room 4636, GSA-Regional Office Building
7th and D Streets, S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager for general inquiries supplying name with date of birth and social security number (at the above address).

Record access procedures: If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure above.

Contesting record procedures: If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described above in the notification procedure, identify the specific items to be changed, and provide a written justification for the change.

Record source categories: Information is obtained from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, lenders, schools, medical reports, employers, credit agencies, and Federal and State governmental agencies.

Systems exempted from certain provisions of the act: None.

09-40-0032

System name: Record of advances of funds for employees traveling for the Office of Education—(SF-1038, Application and Account for Advance of Funds). HEW E.

Security classification: None.

System location:

Room 3105, Federal Office Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Employees of the Office of Education (including consultants) who have requested advances of funds for travel on official business.

Categories of records in the system: Name, social security number, home and/or business address, amount of travel advance requested, amount actually paid, and unliquidated balance, if any.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For audit by U.S. General Accounting Office (GAO). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in card format and are stored in file cabinets.

Retrievability: Records are indexed by name of individual requesting advance of funds. Records are available to employees of the Finance Division, Office of Education in performance of accounting functions and to the individual to whom funds were advanced.

Safeguards: Direct access is restricted to authorized agency staff in performance of official duties. Maintained in locked file cabinets. Exception: Subject to disclosure requirements of the Privacy Act.

Retention and disposal: Retained four years or until audit by the U.S. General Accounting Office, whichever is earlier. Disposed of by maceration.

System manager(s) and address:

Director, Finance Division
U.S. Office of Education
Room 3105, Federal Office Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System Manager (see above) will respond to inquiries.

Record access procedures: Same as above.

Contesting record procedures: Contact system manager, above.

Record source categories: Travelers who complete Form OE 1038. (see system name, above).

Systems exempted from certain provisions of the act: None.

09-40-0033

System name: Office of Education Financial Management Information System. HEW E.

Security classification: None.

System location:

Room 3105, Federal Office Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Office of Education employees, consultants, contractors, advisory committee members and other individuals performing personal services for the Office.

Categories of records in the system: Name, address, social security number of individuals and employer identification number of companies; indicating the cost of service(s) provided.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape and microfilm and stored in file cabinets.

Retrievability: Records are indexed by social security and employer identification number. Records are available to employees of the Finance Division, Office of Education in performance of accounting-related functions.

Safeguards: Direct access restricted to authorized agency staff in performance of official duties. Exception: Subject to disclosure requirements of the Privacy Act.

Retention and disposal: File constantly updated. Records maintained for ten years.

System manager(s) and address:

Director, Finance Division
U.S. Office of Education
Room 3105, Federal Office Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System Manager (see above) will respond to inquiries.

Record access procedures: Same as above.

Contesting record procedures: Contact System Manager, above.

Record source categories: Office of Education employees and others, including consultants, performing personal services for the Office.

Systems exempted from certain provisions of the act: None.

09-40-0034

System name: Teacher Corps Application File. HEW E.

Security classification: None.

System location:

311 South Spring Street
Los Angeles, California 90013

2978 West Grand Boulevard
Detroit, Michigan 48202

1411 K Street N.W., Suite 420
Washington, D.C. 20005

Categories of individuals covered by the system: People who submit applications to be members (interns and team leaders) of Teacher Corps projects.

Categories of records in the system: An application form containing basic demographic data, education and employment histories and motivation statements, and any other information provided by the applicant is filed alphabetically by name in the Center to which it is sent by the applicant.

Authority for maintenance of the system: 20 U.S. Code, Sections 1101 through 1107a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Teacher Corps project grantees who are considering the applicants for selection as interns or team leaders. To State departments of education for verification of eligibility of the applicant for teacher certification programs. When requested by applicant, to potential employers or managers of other teacher training or social service programs. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The profile sheets are kept in a file cabinet.

Retrievability: Files are established when each application is received and placed alphabetically in file cabinets. Recruitment Center staff analyze the data on the application forms, prepare a summary sheet, and either notify applicant of ineligibility for Teacher Corps membership, or refer them to the local selection panels for which they would qualify. These Center staff refer to these files in answering subsequent inquiries concerning application status from Teacher Corps projects and from applicants.

Safeguards: Direct access is limited to Recruitment and Technical Resources Center staff and to national office Teacher Corps staff. Access to room in which file cabinet is maintained is limited during non-working hours to those with keys to the room. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Applications are held for one year, being disposed of when selections are completed annually by all new Teacher Corps projects. Disposal is through regular refuse services.

System manager(s) and address:

Chief, Management Branch, Teacher Corps
U.S. Office of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager (see above) will respond to inquiries, or applicants can write directly to the Center to which the application was originally sent. Requesters should list their name and address and the date of their application for membership in Teacher Corps.

Record access procedures: See above.

Contesting record procedures: See above.

Record source categories: All information on the application form is provided by the applicant.

Systems exempted from certain provisions of the act: None.

09-40-0036

System name: Oral History of the Office of Education as dictated by former Commissioners of Education. HEW E.

Security classification: None.

System location:

400 Maryland Avenue, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Living former U.S. Commissioners of Education.

Categories of records in the system: Information about the individual's life as commissioner and about OE during his term of office.

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To those involved in publishing (including the Government Printing Office) for production of final document; to the Department of Justice for Freedom of Information Act consultation; under subpoena by any administrative agency. To answer inquiries from the National Archives, and from government libraries. For uses 1, 2, 3, 5, 6, 8, 9, 101, 102 in Appendix B of the Departmental Regulations (45 Code of Federal Regulations Part 5b). Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the

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operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on paper and on magnetic tape and are filed in a standard file cabinet.

Retrievability: By name by the system manager or staff for the purpose of obtaining the approval of former commissioners; after approval and release by former commissioners the records may be retrieved as historical documents by system manager or staff.

Safeguards: Records may be placed in the National Archives under seal upon threat of disclosure. Exceptions: Subject to disclosure requirements of Privacy Act.

Retention and disposal: All background material will be disposed of 5 years after publication of the final document. The records may be destroyed by maceration, burning, or other appropriate means.

System manager(s) and address:

Assistant Commissioner for Legislation
Office of Legislation
400 Maryland Avenue, SW, Room 4131
Washington, D.C. 20202

Notification procedure: System manager (see above) will respond to inquiries. Individual must provide system I.D. number and name.

Record access procedures: Contact system manager.

Contesting record procedures: Same as above.

Record source categories: Information provided by the individual himself and records and documents provided by him during interviews. Information is transcribed as approved by individual.

Systems exempted from certain provisions of the act: None.

09-40-0044

System name: Guaranteed Student Loan Program. Insurance Claim File HEW E OE.

Security classification: None.

System location: See Appendix EOE 2.

Categories of individuals covered by the system: GSLP student loan borrowers on whose accounts the Federal Government has been requested to pay a claim by lenders, because of default, bankruptcy, death or disability.

Categories of records in the system: Loan history, including name, social security number, and last known address of borrower, date borrower ceased at least half-time study, reason for claim, date first payment due, date and amount of loan, and amount of claim. Loan documents, including promissory notes, disclosure statements, repayment agreements, payment history, student loan application and copies of correspondence between lender and borrower.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 USC 1071-1087-4)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To the Department of Justice for possible legal action, to the Department of Justice for Freedom of Information Act consultation; and to General Accounting Office auditors checking program operation. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in paper files, in file cabinets.

Retrievability: By name and batch number the files are used by the Claims Examiners to provide documentation on insurance claims by lenders on the Federal Government. The copies are retained for recordkeeping and cross-referencing purposes. Records are available to regional collection staff to aid them in locating borrowers and setting up repayment schedules. They are also available to HEW auditors checking program operation.

Safeguards: Records are stored in locked file cabinets or in locked rooms after working hours with access by authorized agency personnel. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Claim files are retained pending payment of claims which usually takes 60 to 90 days. When paid, the files are transferred to the collection staff in the appropriate regional office, depending on the present location of the borrower. The alphabetical and batch files are retained for five (5) years beyond payment of claim. Disposal by maceration.

System manager(s) and address: See Appendix EOE 2.

Notification procedure: See System manager; address as indicated to Appendix EOE 2, inquiries should be addressed to the System Manager in the region in which the inquirer resides (e.g., Florida resident will address Region IV System Manager). Provide System ID number and System name. Also provide the name, address and social security number of the individual inquiring about his/her record.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Participating lenders and individual borrowers.

Systems exempted from certain provisions of the act: None.

APPENDIX E OE 2

Guaranteed Student Loan Program, Claim and Collection Record Location and System Manager

Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
P. O. Box 8370
Boston, Massachusetts 02114

Region II: New Jersey, New York, Puerto Rico, Virgin Islands

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
26 Federal Plaza Room 406
New York, New York 10007

Region III: Delaware, Maryland, Pennsylvania, Virginia, Washington, D.C., West Virginia

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
3535 Market Street Room 16200
Philadelphia, Pennsylvania 19104

Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
101 Marietta Tower, Third Floor
Atlanta, Georgia 30323

Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
300 South Wacker Drive, 32nd Floor
Chicago, Illinois 60606

Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
1200 Main Tower Building
Dallas, Texas 75202

Region VII: Iowa, Kansas, Missouri, Nebraska

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
Federal Office Building, Room 360
601 East 12th Street
Kansas City, Missouri 64106

Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
11037 Federal Office Bldg.,
19th and Stout Streets
Denver, Colorado 80294

Region IX: Arizona, California, Hawaii, Nevada, American Samoa, Trust Territory of the Pacific, Guam, Wake Islands

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW, Room 240
50 United Nations Plaza, Rm 234
San Francisco, California 94102

Region X: Alaska, Idaho, Oregon, Washington

Assistant Regional Administrator
Division of Claims and Collections
Bureau of Student Financial Assistance
Office of Education/DHEW
Arcade Plaza Building, Room 515
1321 Second Avenue
Seattle, Washington 98101

09-40-0045

System name: Guaranteed Student Loan Program Collection Files. HEW E.

Security classification: None.

System location: See Appendix EOE 2.

Categories of individuals covered by the system: Defaulted borrowers under the Guaranteed Student Loan Program by regional office.

Categories of records in the system: Name, address, social security number, postsecondary school, student application, collection and repayment history with both lender and Office of Education, skip tracing information, borrower's financial ability and willingness to pay, claim for insurance reimbursement, disclosures, forebearance and deferment documents, promissory notes; correspondence between lender and borrower, borrower and OE, borrower and school, OE and school, and between OE and relatives; collector's notes, Department of Motor Vehicles reports, IRS listing of last known address, and reports of credit investigations.

Authority for maintenance of the system: Higher Education Act of 1965, Title IV-B, as amended (20 USC 1071-1087-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower. To computer contractors for issuance of computerized collection letters; to credit company contractors for skip tracing, in-file history information, assets and ability to pay; to U.S. Internal Review Service for last known address; to U.S. Postal Service for last known address; to U.S. General Accounting Office for possible pre-litigation collection service; to U.S. Department of Justice for possible legal action; to U.S. Federal Bureau of Investigation in performance of investigation into possible fraud cases; to State Department of Motor Vehicles for last known address; to State Bureaus of Vital Statistics for verification of death; to mortgage companies for credit checks, to educational agencies or institutions against which a complaint has been made; to other guaranteed student loan lenders making inquiries concerning the defaulted students who may have been denied additional loans; to other Federal agencies requesting information as to the repayment history of the defaulted account; to General Accounting Office for discharge of authorized functions and routine uses as set forth in Appendix B 1, 3, 4, 5, 6, 7, 8, 9, and 103, 45 Code of Federal Regulations, Part 5 B. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files; stored in file cabinets.

Retrievability: By name. Records are available to GSLP staff for administration of collection responsibilities, used as feeder information in skip tracing, available to HEW Auditors for possible audit, to HEW Counsels on resolving legal questions, to HEW Investigator for investigation of fraud possibilities.

Safeguards: Records are stored in locked file cabinets or in locked rooms after working hours with access by authorized agency personnel. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Records are maintained five (5) years beyond the closing of the case. Disposal by maceration.

System manager(s) and address: See Appendix EOE 2.

Notification procedure: See System manager; address as indicated in Appendix EOE 2, inquiries should be addressed to the System Man-

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ager in the region in which the inquirer resides (e.g. Florida resident will address Region IV System Manager). Provide System ID number and System name. Also provide the name, address and social security number of the individual inquiring about his/her record.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: From the original lender, student loan application, school attended and the student borrower.

Systems exempted from certain provisions of the act: None.

09-40-0048

System name: Participants in ESEA Title VII Bilingual Education Program National Impact Evaluation of Elementary Programs—HEW/E.

Security classification: None.

System location:

P.O. Box 1113
1791 Arastradero Road
Palo Alto, California 94302

Categories of individuals covered by the system: Elementary school students in grades 2, 3, 4, 5, and 6 during school year 1975-76 (and possibly 1976-77) in schools participating in the evaluation of ESEA Title VII bilingual elementary programs.

Categories of records in the system: Name, school, grade, name of teacher, school district, scores of pre- and/or post tests in English language, Spanish language, and mathematics, and attitudes/motivation.

Authority for maintenance of the system: Section 417 of the General Education Provisions Act as amended (20 USC 1226b) and Section 731(c) of the Bilingual Education Act (20 USC 880 b-10c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use 9 in Appendix B of the Departmental Regulations (45 CFR 5b). Student achievement test scores to appropriate school districts for their own internal project evaluation. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on paper and on magnetic tape and are stored in locked metal filing cabinets.

Retrievability: Student name and ID number are kept in one file. In a separate file, the data base itself is kept; data are indexed by Student ID number only. These data contain further identifiers based on district, school building, grade and classroom. A separate file will indicate what kinds of data were collected on the total student population at different points in time. The data base file consists of computer tapes. Test instruments will be kept stored separately, indexed by type of data, district, school building, grade and classroom. Retrieval by Contractor for purposes of analysis and further data collection. Retrieval may be done by Contractor for System Manager for purposes consistent with this evaluation and the Privacy Act.

Safeguards: The student name and ID number "link" file is kept separately from the data base. Access to this file, which is kept under lock, is restricted to the data base manager and to senior project staff, i.e., the project director and the principal investigator. The "link" file will be utilized only during the data-collection and data-analysis phases and will be destroyed once the data analysis for the study has been completed. Exception: Subject to disclosure requirements of the Privacy Act. Before any data are released by the Contractor to the Government, not only will the link file be destroyed, but entirely new randomly assigned code numbers will be applied to each student data record. It will be done in such a way that not even the district from which the student's record comes will be identifiable. This will eliminate any possible remaining connection between student name on the one hand and the student records provided to the Government on the other hand.

Retention and disposal: All data will be destroyed upon completion of contract requirements. Paper files will be destroyed by maceration and magnetic tapes will be erased.

System manager(s) and address:

Program Officer
Bilingual Impact Evaluation
U.S. Office of Education
Room 3044 FOB-6, 400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager (see above) will respond to inquiries. Individual must provide student name, district name, school, name of teacher, dates on which student was a participant in project, system name and ID number.

Record access procedures: Contact System Manager.

Contesting record procedures: Contact system manager.

Record source categories: Data are obtained from tests administered to students.

Systems exempted from certain provisions of the act: None.

09-40-0050

System name: Presidential Scholars Files of Selected Participants. HEW E.

Security classification: None.

System location:

Room 3831 Donohoe Building
6th and D, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Selected Participants for the Presidential Scholars Program 1964 to present.

Categories of records in the system: Name, address, biographical information supplied by student.

Authority for maintenance of the system: Executive Order No. 11155, Sec. 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Commission on Presidential Scholars for historical archives and current data to be used for annual selection of scholars; to authorized agency officials and employees as well as contracting officers which change yearly for arrangements for Presidential Scholars activities during their visit to Washington, D.C. to authorized agency officials and employees for public affairs, press releases, etc. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file cabinets in paper files.

Retrievability: By name, state, and year of selection.

Safeguards: Used only by authorized personnel for specific purposes with permission of individual whose name is on file.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address:

Deputy Director, Office of Gifted and Talented
Office of Education
Room 3831 Donohoe Building
400 Maryland Avenue S.W.
Washington, D.C. 20202

Notification procedure: Contact system manager. Requester should provide name, address, system I.D., and system name.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Individual data subject himself by questionnaire. Records of College Entrance Examination Board containing information about the data subject individual from their test performance and their answers to questionnaires. Recommendations from school principal with permission of data subject. References are submitted on approved forms.

Systems exempted from certain provisions of the act: None.

09-40-0070

System name: Alcohol and Drug Abuse Education Program—List of Consultants for the Alcohol and Drug Abuse Education Project (Technical assistance contractor)

Security classification: None.

System location: Academy for Educational Development (AED) 1414 Twenty-Second Street, N.W. Washington, D.C. 20037

Categories of individuals covered by the system: Experts in the field of drug and alcohol education who are available to provide technical assistance to USOE projects, upon request from the Alcohol and Drug Abuse Education Project.

Categories of records in the system: Name, address and title of individual, brief description of area of special expertise.

Authority for maintenance of the system: Alcohol and Drug Abuse Education Act, P.L. 91-527 as amended (20 U.S.C. 1001).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use of records maintained in the system, including categories of users and the purposes of such uses: For uses 1, 3, 5, 6, 8 and 9 of Appendix of Routine Uses. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The list of consultants is maintained in a paper file in a standard file cabinet.

Retrievability: On the roster, names are listed alphabetically. The list is available to in-house program staff involved in correspondence with, and monitoring of National Action Committee contract.

Safeguards: Direct access is limited to Alcohol and Drug Abuse Education Program Staff; access to room in which file cabinet is maintained is limited during non-working hours to those with keys to the room.

Retention and disposal: List of consultants is updated annually; names of individuals no longer available to act as consultants are no longer maintained.

System manager(s) and address:

Director, Alcohol and Drug Abuse Education Program
Room 2049, FOB 6
400 Maryland Avenue, S. W.
Washington, D. C. 20202

Notification procedure: System manager will respond to inquirers.

Record access procedures: See above.

Contesting record procedures: Contact system manager above.

Record source categories: Individuals are contacted by the AED project director to determine their interest and willingness to act as consultants. All data are submitted voluntarily by those interested individuals.

Systems exempted from certain provisions of the act: None.

09-40-0075

System name: Women in Executive Positions in Higher Education.

Security classification: None.

System location:

Room 3060
GSA-Regional Office Building 03
Washington, D. C. 20202

Categories of individuals covered by the system: Possible consultants and position applicants.

Categories of records in the system: Records include: vitae on all women who qualify for positions in or concerning higher education.

Authority for maintenance of the system: Title IX, Education Amendments of 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations, Part 5b. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in hard copy in standard file cabinets.

Retrievability: Records are indexed by name and by academic field and are available only to specifically designated staff.

Safeguards: Access is restricted to authorized OE Staff.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address:

Director, College and University Unit
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: Contact System Manager.

Record access procedures: Contact System Manager.

Contesting record procedures: Contact System Manager.

Record source categories: Information is obtained directly from individuals wishing to be included in the Directory.

Systems exempted from certain provisions of the act: None.

09-40-0077

System name: Institutional Application to Participate in Federal Student Financial Aid Programs Regional Review Panel HEW-E.

Security classification: None.

System location:

26 Federal Plaza, Rm. 3954
New York, New York 10007

Categories of individuals covered by the system: Practicing Financial Aid Officers and other Experts in the field of Student Financial Aid.

Categories of records in the system: Field Reader Contracts, Vitas and Travel Vouchers.

Authority for maintenance of the system: Higher Education Act of 1965, as amended 20 USC 1070b-3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Convene for purposes of review of applications submitted by post-secondary institutions and submitting recommendations to the Regional Office. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party,

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provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files maintained in standard file cabinet.

Retrievability: Name. By authorized Program Officers.

Safeguards: Stored in locked room.

Retention and disposal: Destroyed at the end of two (2) year panelists service cycle.

System manager(s) and address:
Senior Program Officer, Student Financial Aid
U.S. Office of Education
26 Federal Plaza
New York, NY 10007

Notification procedure: System manager (see above) will respond to inquirers.

Record access procedures: (See above).

Contesting record procedures: System Manager.

Record source categories: Educational Institutions.

Systems exempted from certain provisions of the act: None.

09-40-0078

System name: Fellowships for Indian Students—Applications and Awards. HEW E.

Security classification: None.

System location:
Room 2158, FOB-6
7th and D Streets SW
Washington, D.C. 20202

Categories of individuals covered by the system: American Indians who have been accepted by institutions of higher education in a program leading to a professional or graduate degree in law, medicine, engineering, business, forestry, or a related field, and who have applied to OE's Office of Indian Education for a fellowship.

Categories of records in the system: Name, address, phone number, date and place of birth, tribal affiliation, tribal roll number, social security number, sex, marital status, citizenship, names of dependents, educational background, employment background, educational transcripts, references, income information, admission test scores.

Authority for maintenance of the system: Indian Education Act of 1972, as amended, P.L. 92-318, Part B, Section 423.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be released to members of the National Advisory Council on Indian Education. For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b, numbers one through nine; for Field Readers for the purposes of determining eligibility and recommending awardees; selected data for developing brochures describing the fellows and their career goals for public information purposes; and to congressional offices in response to inquiries from those offices made at the request of individuals on whom records are kept. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in locked standard file cabinets.

Retrievability: Records are accessed by individual names only by authorized OE staff and Field Readers for the purposes of: determining eligibility; selecting fellows; establishing allowances for stipends, dependents, tuition, and other expenses; determining continued eligibility; and developing profile information regarding recipients of fellowships for program evaluation, planning, reporting and publicity purposes.

Safeguards: Direct access is restricted to authorized OE staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records on fellowship holders are sent to the Federal Records Center six months after final payment. They are destroyed by the Federal Records Center three years after final payment. Records on alternatives are maintained for two years. They are then sent to the Federal Records Center where they are destroyed one year later. Application forms from applicants not selected as fellows or alternates are returned to the applicant. Other records on these applicants, containing information on the selection procedure, are maintained for one year, and then thrown away.

System manager(s) and address:
Director, Division of Special Projects and Programs
Office of Indian Education
400 Maryland Avenue SW
Room 2161, FOB-6
Washington, D.C. 20202

Notification procedure: Contact system manager.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record source categories: Information is submitted by the individual applicant on approved forms. References are submitted on approved forms.

Systems exempted from certain provisions of the act: None.

09-40-0079

System name: Potential and Actual Consultant, Field Reader, and Site Visitor Files, Indexes, and Lists HEW E OE.

Security classification: None.

System location: See Appendix I.

Categories of individuals covered by the system: Actual and prospective consultants, field readers, or site visitors used by the Office of Education to evaluate grant proposals, performance of grantees or contractors.

Categories of records in the system: Names of consultant, field reader, and site visitor addresses, position, institutional affiliation (if any), curriculum vitae (where necessary), social security number for reimbursement purposes reimbursement information, areas of individual expertise, tracking of assignments and appraisal of effort.

Authority for maintenance of the system: (20 USC 1221e-3). Information is provided by persons interested in participating on a voluntary basis.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To general public, on request, list of names and business addresses of potential and/or actual consultants, field readers, or site visitors. For uses 1,3,4,5,6,7,8 and 9 as stated in Appendix B, 45CFR Part 5b. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in file cabinets or card files with pertinent data, and (in limited locations) computer data base tapes and disks.

Retrievability: By name, expertise, or social security number of potential or actual consultant, reader, or site visitor. Records are used to ensure that a fair, equal, and qualified group of consultants, readers, or site visitors is selected to review proposals or evaluate performances.

Safeguards: Direct access is restricted to persons designated by systems managers to be responsible for maintenance of file or selection of panels of consultants, readers, or site visitors. Automated locations are protected by password protect and key lock on terminal.

Retention and disposal: Destroy after five years (Item 25 OE Records Control Schedule).

System manager(s) and address: See Appendix I.

Notification procedure: Contact system manager of pertinent organizational component(s). Provide name and approximate date of previous correspondence. Additional verifying data (such as birthdate, home address) may be requested.

Record access procedures: Contact system manager as above.

Contesting record procedures: Contact system manager as above.

Record source categories: Information forwarded voluntarily by individuals interested in serving as consultants, readers, or site visitors, obtained by contacting individuals with specific expertise in the pertinent discipline of each system manager.

Systems exempted from certain provisions of the act: None.

APPENDIX I

Director, Office of Gifted and Talented
Room 3831 Donohoe Building
400 Maryland Avenue; S.W.
Washington, D.C. 20202

Program Manager, Handicapped Research Program
Room 3165 Donohoe
400 6th Street, S.W.
Washington, D.C. 20202

Program Manager, Learning Disabilities Program
Room 3127 Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Administrative Officer, Bureau of Education for the Handicapped
Room 4030, Donohoe Building
400 Maryland Avenue, S.W., Washington, D.C. 20202

Director, Division of Local Educational Agency Assistance
Room 2167, FOB-6
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Division of Special Projects and Programs
Room 2161, FOB-6
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Division of Training and Facilities
Room 3066, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Division of International Education
Room 3907, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Division of Institutional Development
Room 3052, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Community College Unit
Room 3044, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Office of Environmental Education
Room 2025
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Program Operations Division
Room 2007, FOB-6
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Associate Commissioner, Equal Educational Opportunity Programs
Room 2001
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Division Director, Division of Education Replication
Room 3616, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Chief, Library Education and Postsecondary Resources Branch
Room 3622, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Chief, Library Research and Demonstration Branch
Room 3124, ROB-3
Washington, D.C. 20202

Chief, Educational Broadcasting Facilities Branch
Room 3122-A, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Director, Division of Educational Technology
Room 3116, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Executive Officer, Bureau of Occupational and Adult Education
Room 5636, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Executive Officer, Bureau of Occupational and Adult Education
Room 5636, ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Program Manager, Metric Education Program Staff
Room 5640, ROB-3
400 Maryland, S.W.
Washington, D.C. 20202

Director, Women's Program Staff
Room 3121, FOB-6
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Privacy Coordinator
P.O. Box 8370
Boston, Massachusetts 02114

Deputy Director, Office of Career Education
Room 3100
7th and D Streets, S.W.
Washington, D.C. 20202

Executive Officer
Bureau of Higher and Continuing Education
Room 4072 ROB-3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Privacy Coordinator

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Room 406
26 Federal Plaza
New York, New York 10007

Privacy Coordinator
3535 Market Street, Room 16200
Philadelphia, Pennsylvania 19104

Privacy Coordinator
Room 513
50 Seventh Street, N.E.
Atlanta, Georgia 30323

Privacy Coordinator
32nd Floor
300 South Wacker Drive
Chicago, Illinois 60606

Privacy Coordinator
1114 Commerce Street
Dallas, Texas 75202

Privacy Coordinator
Room 360, FOB
601 East 12th Street
Kansas City, Missouri 64106

Privacy Coordinator
Room 3444A, FOB
1961 Stout Street
Denver, Colorado 80202

Privacy Coordinator
50 Fulton Street
San Francisco, California 94102

Privacy Coordinator
Room 515
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

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09-40-0080

System name: Training and Development Awards for Vocational Education Personnel—Applications and Awards. HEW E.

Security classification: None.

System location:
ROB No. 3, Room 5652
7th and D Streets SW
Washington, D.C. 20202

Categories of individuals covered by the system: Persons who wish to participate in Federal vocational education fellowship programs and who voluntarily submit personal information.

Categories of records in the system: Name, address, phone number, date of birth, sex, educational background, employment background, educational transcript, references, test scores, minority group membership, ability to meet national needs, professional organization membership, State Board recommendations, communication skills; for Leadership Development Awards, special leadership qualifications, management skills, leadership potential; for Teacher Certification Awards, certification requirements, certification status, human relations skills, and vocational skills.

Authority for maintenance of the system: Vocational Education Act of 1963, Title I, Part B, Subpart 2, Section 172, as amended by the Education Amendments of 1976, P.L. 94-482, Title II.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations, Part 5b, numbers one through nine; for Field Readers for the purposes of determining eligibility and recommending awardees; selected data for developing brochures describing the fellows and their career goals for public information purposes; and to congressional offices in response to inquiries from those offices made at the request of individuals on whom records are kept. A copy of the application is forwarded for review purposes to the institution of higher education to which the awardee is assigned and to the State Board of the State in which the applicant resides. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent the employee, the Department may disclose the records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent the party, provided the disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy, filed in locked standard file cabinets.

Retrievability: Records are accessed by individual names only by authorized OE staff and Field Readers for the purposes of: determining eligibility; selecting fellows; establishing allowances for stipends, dependents, tuition, and other expenses; determining continued eligibility; and developing profile information regarding recipients of fellowships for program evaluation, planning, reporting and publicity purposes.

Safeguards: Direct access is restricted to authorized OE staff.

Retention and disposal: Records on fellowship holders are sent to the Federal Records Center six months after final payment. They are destroyed by the Federal Records Center three years after final payment. Records on alternates are maintained for two years for Teacher Certification Awards and three years for Leadership Development Awards. They are then sent to the Federal Records Center where they are destroyed one year later. Application forms from applicants not selected as fellows or alternates are returned to the applicant. Other records on these applicants, containing information on the selection procedure, are maintained for one year and then destroyed.

System manager(s) and address:
Chief, Vocational Education Personnel Development Staff
Bureau of Occupational and Adult Education
400 Maryland Avenue, S.W., ROB-3, Room 5652
Washington, D.C. 20202

Notification procedure: An individual should provide his or her name to the system manager in order to verify whether his or her application is in the system.

Record access procedures: An individual who is interested in seeing his or her application should contact the system manager, and be prepared to verify his or her identity to the system manager.

Contesting record procedures: An individual who wishes to contest the contents of an application file in this system should contact the system manager, identify the portion of the application to be changed, and provide written justification and authorization for the change.

Record source categories: Information is submitted by the individual applicant on approved forms. References are attached to applications.

Systems exempted from certain provisions of the act: None.

09-42-0001

System name: NIE Project Management System—HEW E.

Security classification: None.

System location:
Room 700-B
1200 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: Principal Investigator in any proposal submitted to NIE and on all awards.

Categories of records in the system: Data consist of name institution, Social Security number, title, mailing address, phone number, congressional district, academic discipline, present position, ethnicity, birthday, sex, per cent time of project.

Authority for maintenance of the system: Section 405(e)(1) General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for services and analysis of the records by authorized personnel. For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

09-42-0004

System name: Life Plans Study: The Impact of the Women's Movement on Educational and Occupational Behavior and Attitudes of Married Women. HEWE.-NIE.

Security classification: None.

System location:
Room 820E Brown Building
1200 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: The subjects are married women, formerly of the Boston area.

Categories of records in the system: The records consist of demographic data, including early family background and adolescent relationship with parents; educational and occupational history, plans and aspirations; a variety of attitudinal measures; present family relationships, including data on husband and children; and information on current life situation. It is a longitudinal study.

Authority for maintenance of the system: Sec. 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on disc, tape, and IBM cards.

Retrievability: The records are indexed by I.D. number. Records are used for statistical research or reporting purposes, in a non-personally identifiable format.

Safeguards: Names of individuals included in the study are stored separately from the records; are to be used solely for administering a follow-up questionnaire; and are accessible only to authorized personnel. This will also apply to the follow-up. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address:
Asst. DIR, Learning and Development Program, T & L
Room 820E Brown Building
1200 19th Street, N.W.
Washington, D. C. 20208

Notification procedure: Inquiry must be made in writing to the system manager (address above) and must include the inquirer's name, address, dates of previous correspondence, if known, and any system I.D. number and name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data were collected from wives of graduate students in the Boston area on questionnaires administered through the mail.

Systems exempted from certain provisions of the act: None.

09-42-0016

System name: Northwest Regional Educational Laboratory, Experienced Based Career Education Record System—HEW-E-NIE.

Security classification: None.

System location:
333 Oak Street
Portland, Oregon

CE2 Project Office
King City, Oregon

1947 Center Street
Berkeley, California

Categories of individuals covered by the system: Students, parents, employers, adopters, potential adopters involved with the EBCE program.

Categories of records in the system: System includes information on aptitude, achievement, student background, family background, attitudinal, interest, opinion, descriptive data on employer businesses, descriptive data on school districts, activity records.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For transfer to cooperating school districts and to program participants (individually identifiable information for themselves only). To contractors for services and analysis of records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers, punch cards and magnetic tape.

Retrievability: Records can be retrieved by name (hard copy files) or assigned ID number (computer files) and are for monitoring progress of project/product development and for research, development, evaluation, and analysis of educational materials, projects, programs, including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; locked file cabinets and building security are procedures used. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:
Asst. Dir., Home, Work, and Community, T and L
National Institute of Education
Washington, D.C. 20208

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Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, school district, employers, adopters and potential adopters of EBCE program.

Systems exempted from certain provisions of the act: None.

09-42-0017

System name: Research for Better Schools Experienced Based Career Education Record System—HEW-E-NIE.

Security classification: None.

System location:

Olney High School
Front & Duncannon Streets
Philadelphia, Pennsylvania

Career Education Program
1700 Market Street
Philadelphia, Pennsylvania

Census and Data System
Raub Hall
University of Delaware
Newark, Delaware

1947 Center Street
Berkeley, California

710 S.W. Second Avenue
Portland, Oregon

Categories of individuals covered by the system: Students, parents, employers, potential adopters involved in the EBCE Program.

Categories of records in the system: System includes information on aptitude, achievement, student background, family background, attitudinal data, interest data, opinion, descriptive data on employer businesses, descriptions of school districts, activity records.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For transfer to cooperating school districts and to program participants (individually identifiable information for themselves only). To contractors for services and analysis of records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers (hard copy), and on magnetic tape.

Retrievability: Records can be retrieved by name (hard copy file) or assigned ID number (hard copy and computer files) and are for monitoring progress of project/product development and for research, development, evaluation and analysis of educational materials, projects, programs, including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; records kept in locked cabinets and buildings with controlled access 24 hours a day. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:

Asst. Dir., Home, Work, and Community T and L
National Institute of Education
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, school districts, employers, adopters and potential adopters of EBCE Program.

Systems exempted from certain provisions of the act:

09-42-0018

System name: Appalachia Educational Laboratory Experienced Based Career Education Record System—HEW-E-NIE.

Security classification: None.

System location:

P.O. Box 1348
Charleston, West Virginia
(At both 19th & McCorkle SE and 1031 Quarrier Street address)

1947 Center Street
Berkeley, California

Research Department
Educational Testing Service
Princeton, New Jersey

710 S.W. Second Avenue
Portland, Oregon

Categories of individuals covered by the system: Students, parents, employers, visitors, adopter personnel.

Categories of records in the system: Achievement, aptitude, student and family background, attitude, interest, opinion, descriptive data on employer businesses and on school districts, student activity records.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For transfer to cooperating school districts and to program participants (individually identifiable information for themselves only). To contractors for services and analysis of records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers (hard copy), and on punch cards and magnetic tape.

Retrievability: Records can be retrieved by name (hard copy file) or assigned ID number (hard copy and computer files) and are for monitoring progress of project/product development and for research, development, evaluation and analysis of educational materials, projects, programs, including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; records kept in buildings with controlled access. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:

Asst. Dir., Home, Work, and Community T and L
National Institute of Education
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, school districts, employers, adopters and potential adopters of EBCE Program.

Systems exempted from certain provisions of the act: None.

individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers (hard copy), and on punch cards and magnetic tape.

Retrievability: Records can be retrieved by name (hard copy file) or assigned ID number (hard copy and computer files) and are for monitoring progress of project/product development and for research, development, evaluation and analysis of educational materials, projects, programs, evaluation including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; records kept in buildings with controlled access. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:

Asst. Dir., Home, Work, and Community T and L
National Institute of Education
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, school district, employers, adopters and potential adopters of EBCE program.

Systems exempted from certain provisions of the act: None.

09-42-0019

System name: Far West Laboratory Experienced Based Career Education Records System—HEW-E—NIE.

Security classification: None.

System location:

1855 Folsom Street
San Francisco, California

1947 Center Street
Berkeley, California

Human Factors Research,
Santa Barbara, California

Categories of individuals covered by the system: Students, parents, employers, potential adopters, adopters.

Categories of records in the system: Aptitude, achievement, student background, family background, attitudinal, interest, opinion, descriptive data on employer businesses, descriptive data on school districts, activity records.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For transfer to cooperating school districts and to program participants (individually identifiable information for themselves only). To contractors for services and analysis of records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers (hard copy), and on punch cards and magnetic tape.

Retrievability: Records can be retrieved by name (hard copy file) or assigned ID number (computer files) and are for monitoring progress of project/product development and for research, development, evaluation and analysis of educational materials, projects, programs, including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; records kept in locked cabinets and buildings with controlled access 24 hours a day. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:

Asst. Dir., Home, Work, and Community, T and L
National Institute of Education
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, school districts, employers, adopters and potential adopters of EBCE Program.

Systems exempted from certain provisions of the act: None.

09-42-0020

System name: Educational Testing Service Experienced Based Career Education Record System—HEW E—NIE.

Security classification: None.

System location:

1947 Center Street
Berkeley, California

Categories of individuals covered by the system: Students, parents, employers, EBCE Lab staff.

Categories of records in the system: Achievement, student background, family background, attitudinal, interest, opinion, descriptive data on employer businesses, activity records.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for services and analysis of records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in standard file containers (hard copy), on punched cards and magnetic tape.

Retrievability: Records can be retrieved by project, category and ID number (hard copy file) or assigned ID number (computer files) and are for monitoring progress of project/product development and for research, development, evaluation and analysis of educational materials, projects, programs, including study of medium and long term program effects.

Safeguards: Access limited to authorized personnel; records kept in locked cabinets and buildings with controlled access. Exception: subject to disclosure requirements of the Privacy Act.

Retention and disposal: Not yet determined how long records will be kept in individually identifiable format.

System manager(s) and address:
Asst. Dir., Home, Work, and Community, T and L
National Institute of Education
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Students, parents, employers, EBCE staff, EBCE projects.

Systems exempted from certain provisions of the act: None.

09-42-0056

System name: National Institute of Education, Sources and Effects of Teacher Expectations. HEW E—NIE.

Security classification: None.

System location:
1200 19th St., NW
Washington, D.C. 20208

Categories of individuals covered by the system: Seven first grade teachers and their 196 students in the Washington, D.C. area.

Categories of records in the system: Cross sectional and longitudinal records on teachers' expectations, background, behaviors, and students' interactions, grades, SES, parental involvement. For use in determining the effects of teacher expectations on student achievement gains.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for services and analysis of the records to authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The data are stored on magnetic tape which is stored in a locked filing cabinet.

Retrievability: The data are indexed by teachers', students' and principals' names. Identifiers are coded, and kept separate in a locked file from the master tapes. The data are used by members of the program staff to identify effective teacher behaviors. They are collected for statistical purposes only, and not for the determination of any individual's benefits or entitlements.

Safeguards: Tapes and coded list are kept in a locked room. Access is to authorized personnel only. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: List of names will be kept until study is completed in 1977 and then will be destroyed by burning.

System manager(s) and address:
Associate Director, Teaching and Learning
Room 819
1200 19th St., N.W.
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager at the address above and must include the inquirer's name and address, dates of previous correspondence and the system ID number and name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Interviews, questionnaires of participants in the sample and observations during testing. All data were furnished voluntarily.

Systems exempted from certain provisions of the act: None.

09-42-0065

System name: NIE Outside Experts. HEW E—NIE.

Security classification: None.

System location:
Room 722, Brown Building
1200 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: Individuals who have been used as outside experts.

Categories of records in the system: Name, department or title, institution, address, institutional category, academic discipline, type of work, year of birth, academic degrees and experience of individuals who have been used as outside experts, together with task(s) performed.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The data are used to prepare periodic lists of outside experts and the tasks they have performed and aggregate figures on categories of persons used. These lists and figures are used internally to monitor and improve NIE efforts to involve men and women covering a wide variety of institutions, disciplines, type of work, ethnic background, geographical location, and ages, in development and evaluation of its program. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in computer disc files, with printouts as appropriate.

Retrievability: These lists and figures may be released as a matter of public interest; lists of names that may be made public do not indicate sex or ethnicity of individuals.

Safeguards: Code number keys protect access to sensitive data. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Retained indefinitely.

System manager(s) and address:
Deputy Director for Management
Room 722, Brown Building
1200 19th Street, N.W.
Washington, D.C. 20208

Notification procedure: System manager; for general inquiries, name, system name and I.D. number and date of previous correspondence if applicable. Address is same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data compiled from published biographies or curriculum vitae provided voluntarily or as a condition for obtaining a contract or temporary personnel appointment. Sex and ethnicity are included when known.

Systems exempted from certain provisions of the act: None.

09-42-0078

System name: Travel—Official Travel of NIE Personnel. HEW-E-NIE.

Security classification: None.

System location:
National Institute of Education
Room 711 M
1832 M Street NW.,
Washington, D.C. 20208

Categories of individuals covered by the system: NIE Personnel.

Categories of records in the system: Names of personnel on official travel, including points of travel, purpose and expenses.

Authority for maintenance of the system: 405 (e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Accounting Office. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored in cabinet files.

Retrievability: Data are indexed by name. Records are available to NIE Personnel.

Safeguards: Data are for use of authorized personnel only. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Travel materials are maintained for 3 years or until auditing.

System manager(s) and address:
Chief, Financial and Data Management Division
Room 711-M
1832 M Street NW
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager at the address above and must include the inquirer's name and address, the system ID number and name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Materials obtained during course of travel pertaining to authorization of travel, expenses incurred, and other fiscal data.

Systems exempted from certain provisions of the act: None.

09-42-0079

System name: NIE Controlled Correspondence. HEW-E-NIE.

Security classification: None.

System location:
Room 722
1200 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: Members of the general public, members of Congress, members of the educational community and others who correspond on a variety of matters with the Institute.

Categories of records in the system: Correspondence on a variety of matters including general inquiries, Congressional inquiries on behalf of constituents, unsolicited proposals, requests for program information, requests for staff assistance, inquiries on employment opportunities, and other matters.

Authority for maintenance of the system: Section 405(e)(1) of the General Education Provisions Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For uses 1 through 9 of the Departmental Regulations (45 Code of Federal Regulations 5b). In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored in cardex form and in folders in file cabinets.

Retrievability: Indexed by name, by state, and by subject matter. Data are utilized by authorized staff within the Institute in the performance of their duties.

Safeguards: Access is limited to authorized personnel. Exemption: Subject to disclosure requirements of Privacy Act.

Retention and disposal: All files are retained for two years and then boxed and forwarded to the Federal Records Center.

System manager(s) and address:
Executive Secretariat
Room 722, Brown Building
1200 19th Street, N.W.
Washington, D.C. 20208

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Notification procedure: Written inquiries must be made to the system manager, and must include inquirer's name, address, dates of previous correspondence, the system name and I.D. number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data are obtained from correspondence addressed to the Institute from a variety of sources including the general public, prospective contractors, members of Congress, and others.

Systems exempted from certain provisions of the act: None.

09-42-0081

System name: Compensatory Education Study. HEW-E-NIE.

Security classification: None.

System location: See Appendix A and Appendix B.

Categories of individuals covered by the system: The subjects are school children in the elementary and intermediate grades (1-9); parents of such children; teachers and paraprofessionals involved in compensatory education programs; administrators at the local, district, state, and federal levels and lawyers and auditors involved in Title I cases. Additionally, subjects include community leaders; other teachers and administrators (i.e., principals, superintendents, analysts, evaluators) at the local, district, state and federal levels; and persons in educational research, both past and currently.

Categories of records in the system: The records consist of data regarding children's involvement in compensatory education or other school programs, including background information and achievement data; parents', teachers' and other staffs' perceptions regarding education programs and their administration; administrators' perceptions and problems regarding compensatory education programs; and researchers' views, both empirically based and intuitive.

Authority for maintenance of the system: Sec. 821 of the Education Amendments of 1974 (P. L. 93-380).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records will be available to contractors for services and analysis by authorized personnel. Achievement and other program data in personally-identifiable form will be available only to the school in which it was collected for purposes of planning and evaluation by school personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on disc, tape, IBM cards, and in hard copy filed in standard file cabinets.

Retrievability: The records are indexed by age, grade, agency, geographic location, time sequence, topics, codes, or ID number. They will be used for reporting purposes or statistical research, in a non-personally identifiable format.

Safeguards: The records are safeguarded by permission and involvement of parents, teachers, administrators, and researchers. Names of individuals are primarily stored separately from the records and are accessible only to authorized personnel. Exception: Subject to disclosure requirements of the Privacy Act.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address:

Team Leader for Compensatory Education, LPM/EPO
1200 19th Street, N.W., Room 808
Washington, D. C. 20208

Notification procedure: Inquiry must be made in writing to the system manager (address above) and must include the inquirer's name, address, dates of previous correspondence, if known, and any system ID number and name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data were collected by observation, interview, questionnaires administered both personally and through the mail, conference notes, testing, and re-analysis of previously collected data.

Systems exempted from certain provisions of the act: None.

Appendix A

District Survey I

Stanford Research Institute
Menlo Park, California

Demonstration Projects
Colorado Department of Education
Denver, Colorado

Kansas State Department of Education
Topeka, Kansas

New Mexico Department of Education
Santa Fe, New Mexico

Arizona Department of Education
Phoenix, Arizona

Oklahoma Department of Education
Oklahoma City, Oklahoma

North Carolina Department of Public Instruction
Raleigh, North Carolina

State Education Department
Albany, New York

West Virginia Department of Education
Charleston, West Virginia

Texas Education Agency
Austin, Texas

California Department of Education
Sacramento, California

Wisconsin Department of Public Instruction
Madison, Wisconsin

Massachusetts Department of Education
Boston, Massachusetts

Rhode Island Department of Education
Providence, Rhode Island

Research Syntheses

Stanford Research Institute
Menlo Park, California

Harvard Graduate School of Education
Cambridge, Massachusetts

International Reading Association
Newark, Delaware

Contract Research Corporation
Belmont, Massachusetts

Ohio State University
Columbus, Ohio

Alternative Designs to Compensatory Education

UCLA Graduate School of Education
Los Angeles, California

Stanford Research Institute
Menlo Park, California

University of Kansas Department of Human Development
Lawrence, Kansas

Fanon Research & Development Center
Los Angeles, California

Research on Demonstration Projects

Abt Associates, Inc.
Cambridge, Massachusetts

Individualized Instruction Designs

Learning Research & Development Center
University of Pittsburgh
Pittsburgh, Pennsylvania

Education Turnkey Systems
Washington, D.C.

Research for Better Schools
Philadelphia, Pennsylvania

Contemporary Research Incorporated
Los Angeles, California

Survey of Legal Standards

Lawyers' Committee for Civil Rights under Law
Washington, D.C.

Appendix B

Contractors for following projects:
Study of Individualization Implementation
Relationships between Theory & Practice in Reading
Study of State Administration, Title I and State Programs
Poverty Measures Study
Achievement Measures Study
Calculation of Effects of Eligibility Criteria
Testing Synthesis
Effects of Alternative Procedures for Allocating Title I Funds
Study of State Testing and Accountability Programs
Research on Relationship between Poverty & Achievement
Study of Subcounty Allocation
Study of Individualized Lesson Plans
Study of Teacher Training
Study of Districts with High Concentration of Funds
Study of Programs Regulations

09-42-0082

System name: National Council on Educational Research Mailing Lists. HEW-E-NIE.

Security classification: None.

System location:
Room 729, Brown Building
1200 - 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: Members of various governmental agencies and the public.

Categories of records in the system: Names and addresses of individuals receiving: minutes of Council meetings, resolutions adopted by the Council, lists of names and addresses of Council members (current), annual report of the Council, miscellaneous materials available for dissemination.

Authority for maintenance of the system: Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Dissemination of information resulting from the meetings of the National Council on Educational Research. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Correspondence files and the mailing lists are maintained in file folders in unlocked area.

Retrievability: Records are filed by name of correspondent and are used by authorized staff to disseminate information on Council activities.

Safeguards: Access to mailing lists available only to authorized personnel. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records maintained as long as mailing lists are active.

System manager(s) and address:
Chief,
National Council on Educational Research Staff
Room 729, Brown Building
1200 - 19th Street, N.W.
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From the correspondents themselves.

Systems exempted from certain provisions of the act: None.

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09-42-0083

System name: National Council on Educational Research Current and Past Information on Members of the Council and Consultants. HEW-E-NIE.

Security classification: None.

System location:
Room 729, Brown Building
1200 - 19th Street, N.W.
Washington, D.C. 20208

Categories of individuals covered by the system: Current and past members of the National Council on Educational Research and Consultants.

Categories of records in the system: Current and past records of the Council pertaining to: Personnel matters (personal records, biographical data, etc.), lists of names and addresses of members, records on Council nominees, Council fiscal records.

Authority for maintenance of the system: Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for services and analysis of the records by authorized personnel. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders and kept in locked file cabinets.

Retrievability: Records are indexed by name—some by date. Records available only to authorized personnel on a "need-to-know" basis (working files and reference, estimating future budget needs, current names and addresses of Council members provided to individuals upon request).

Safeguards: File cabinets are locked during nonworking hours. Access is limited to authorized personnel. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address:
Chief,
National Council on Educational Research Staff
Room 729, Brown Building
1200 - 19th Street, N.W.
Washington, D.C. 20208

Notification procedure: Written inquiries must be made to the system manager, address above, and must include inquirer's name, address, dates of previous correspondence, the assigned system I.D. number and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information from Council members and other areas of the agency.

Systems exempted from certain provisions of the act: None.

09-44-0010

System name: Support for Improvement of Postsecondary Education; Field Readers to Review Proposals for FIPSE.

Security classification: None.

System location:
Fund for the Improvement of Postsecondary Education
Room 3123, 400 Maryland Avenue, S.W.
Washington, D.C. 20202

Categories of individuals covered by the system: Individuals with backgrounds and experience in postsecondary education.

Categories of records in the system: Resumes indicating name, position, work experience, and general personnel information.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For uses 1 through 8 in Appendix B of the Departmental Regulations (45 Code of Federal Regulations 5b).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in cabinet.

Retrievability: The file is organized by individuals who have read for FIPSE by year, program and name; and by individuals who request to read for FIPSE by name.

The use of the file is to secure academicians and scholars as readers to evaluate and make recommendations on FIPSE proposals and as consultants to review and assess FIPSE projects already in progress.

Safeguards: Administrative use by authorized agency personnel. Exception: subject to disclosure requirements of Privacy Act.

Retention and disposal: Information is retained until an annual review of post field readers is conducted.

System manager(s) and address:
Deputy Director, FIPSE
Room 3123, 400 Maryland Avenue, S.W.
Washington, D.C. 20202

Notification procedure: System manager; for general inquiries, name and date of previous correspondence, if known; for complaint/investigative material, name and any I.D. number assigned. Address is same as above.

Record access procedures: Contact system manager, listed above.

Contesting record procedures: Same as above.

Record source categories: Information forwarded to FIPSE by individuals interested in serving as field readers; information obtained by contacting individuals with specific expertise in postsecondary education.

Systems exempted from certain provisions of the act: None.

[4110-35]

09-70-0001

System name: Medicare Second Surgical Opinion Experiments, HEW/HCFA/OPPR.

Security classification: None.

System location: Blue Cross and Blue Shield of Greater New York, 622 Third Avenue, New York, N.Y. 10017, and 3 Park Avenue, New York, N.Y. 10016, and Blue Cross and Blue Shield of Michigan, 600 Lafayette East, Detroit, Mich. 48226.

Categories of individuals covered by the system: Physicians who practice, and Medicare beneficiaries who reside in the carrier area of Blue Cross and Blue Shield of greater New York (plus Queens) or in Macomb, Oakland, or Wayne Counties for which the Medicare carrier is Blue Cross and Blue Shield of Michigan.

Categories of records in the system: Physicians: personal identification and demographic data.

Beneficiaries: personal identification, demographic data, and health status information pertinent to advisability of patient undergoing elective surgery.

Authority for maintenance of the system: Section 402(a) of the 1967 Amendments to the Social Security Act, as amended by section 222(b)(1) of the 1972 Amendments to the Social Security Act, Pub. L. 92-603.

Routine uses of records maintained in the system, including categories of users and the purpoees of such uses:

(a) Blue Cross and Blue Shield of greater New York and Blue Cross and Blue Shield of Michigan will use the data to: (1) operate referral centers to help eligible Medicare beneficiaries locate consultants and obtain second/third opinions, (2) collect information necessary to conduct referral operations and evaluate the impact of the program, and (3) modify claims processing systems to permit waiver of co-payment and deductible requirements under part B of Medicare on all second/third surgical opinion claims (i.e., physician and ancillary service costs). The Office of Policy, Planning, and Research (OPPR), HCFA, will use the information to coordinate all data collection, reimbursement, and evaluation activities. HCFA will contract via request for proposals with an independent third party which will use data in the system to evaluate the impact of the second surgical opinion programs.

(b) disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(c) In event of litigation where one of the parties is: (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hardcopy intake forms, first opinion physician/surgeon reports and consultants' reports will be stored in locked metal file cabinets in the referral centers established within the contractors' carrier offices. Completed data tapes created from hardcopy forms will be stored in the tape libraries maintained by the contractors for storage of routine Medicare claims tapes and subject to the same security precautions.

Retrievability: Hardcopy stored in referral centers will be retrievable by beneficiary name. Beneficiary information stored on tape will be retrievable by beneficiary name and health insurance claim number; provider information stored on tape will be retrievable by physician name and provider number.

Safeguards: All records will be retained in secure storage areas accessible only to authorized employees of Blue Cross and Blue Shield of Greater New York, Blue Cross and Blue Shield of Michigan, and the evaluation contractor staff. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. After the hardcopy and tapes are validated and analyzed by the evaluation contractor, they will be returned to HCFA and retained in secure storage areas until December 31, 1987. At this time, hardcopy collection forms will be destroyed and the tapes will be erased by degaussiang.

For computerized records, where appropriate, ADP systems security procedures will be instituted with reference to guidelines contained in DHEW Information Processing Standards Publication 3 (IPS PUB 3) and the National Bureau of Standards Federal Information Processing Standards Publications (FIPS PUB 41 and FIPS PUB 31) (e.g., use of password access). By taking all the aforementioned precautions, we have reduced the risk of unauthorized access to a minimum.

Retention and disposal: Hardcopy data collection forms and magnetic data tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1987. Hardcopy will be destroyed at this time.

System manager(s) and address: Director, Office of Policy, Planning and Research Health Care Financing Administration Room 5054, HEW South Building 330 C Street, S.W., Washington, D.C. 20201.

Notification procedure: Any physician or Medicare beneficiary who participates in this demonstration as a provider or recipient of service may request his data record in writing. This request should be addressed to the system manager. To obtain data on physicians, the requestor should provide the name and business address of the physician; to obtain data on a Medicae beneficiary, the requestor should provide the beneficiary's name and home address.

Record access procedures: Same as notification procedure. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department regulations (45 CFR, section 5b.5(a)(2).

Contesting record procedures: Contact the system manager at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, section 5b.7)

Record source categories: Referral Center Intake Forms are completed by a referral center analyst upon receiving a call from a Medicare beneficiary requesting a second opinion under the demonstrations. First Opinion Physician/Surgeon Report Forms are completed by the first opinion physician in the Blue Cross and Blue Shield of Michigan demonstration and by the first surgeon in the Blue Cross and Blue Shield of Greater New York demonstration. The consultant's report is completed by second/third opinion consultants who are participating in the demonstrations.

Systems exempted from certain provisions of the act: None.

09-70-0002

System name: Clinical Psychology/Expanded Ment. HEW/HCFA/OPPR.

Security classification: None.

System location:
Health Care Financing Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Colorado Blue Cross and Blue Shield
700 Broadway
Denver, Colorado 80203

Office of the Contractor, name and address not yet determined, but when the determination is made the name and address will be available from the system manager upon request.

Categories of individuals covered by the system: Beneficiaries (approximately 50 per year) who receive outpatient mental health services from independently practicing clinical psychologists in Colorado under Medicare.

Categories of records in the system: Patient's medical information, including mental health treatment, objectives, and procedures.

Authority for maintenance of the system: Section 402(a) of the 1967 Amendments to the Social Security Act, as amended by Section 222(b)(1) of the 1972 Amendments to the Social Security Act, P.L. 92-603.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) To the Colorado Psychological Association, peer review consultants, and Blue Shield of Colorado, under contract with the Social Security Administration, for the performance of research and statistical functions, and to an organization under contract with the Social Security Administration and consultants to the organization for the evaluation of the peer review process in compliance with the conditions of the agreement. (b) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. (c) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively respresent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in a locked filing cabinet.

Retrievability: By name and health insurance claim number.

Safeguards: All records will be locked up when not in use. Only authorized personnel of Colorado Blue Shield and the Colorado Psychological Association will be granted access to the documents. Colorado Blue Shield currently reviews and processes all Part B Medicare claims in Colorado, and will apply similar safeguards to the records in this system.

Retention and disposal: All materials will be retained until December 31, 1980. All identifiable material will then be destroyed.

System manager(s) and address:
Director, Office of Policy, Planning, and Research

SE 27 78 LIMI

Health Care Financing Administration
Room 5054, HEW South Building
330 C St. S.W.
Washington, D.C. 20201

Notification procedure: Provide the system manager with the name of the system, and the name, home address, and health insurance claim number of the person requesting notification. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR Sections 5b.5 and 5b.6)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR Sections 5b.5 and 5b.6)

Contesting record procedures: Contact the official at the address specified under SYSTEM MANAGER above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR Section 5b.7)

Record source categories: Provider records collected from the subject individuals by the participating psychologist.

Systems exempted from certain provisions of the act: None.

09-70-0003

System name: Lump-Sum Reimbursement Method for Physician Extenders Delivering Independent Medicare Services, HEW/HCFA/OPPR.

Security classification: None.

System location: Health Services Studies Branch (HSSB), Division of Direct Reimbursement (DDR), Health Care Financing Administration (HCFA), 6401 Security Boulevard, Baltimore, Md. 21235.

Categories of individuals covered by the system: Physicians, physician extenders, and Medicare beneficiaries who participate in the physician Extender Reimbursement Study.

Categories of records in the system: Demographic, economic and patient care data involving Medicare covered services delivered by a physician extender.

Authority for maintenance of the system: Section 402(a) of the 1967 Amendments to the Social Security Act, as amended by Section 222(b)(1) of the 1972 Amendments to the Social Security Act, Pub. L. 92-603. This amendment adds section 402(a)(1)(C), which authorizes PE reimbursement experimentation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The Division of Direct Reimbursement (DDR), HCFA, will act as a carrier making reimbursement to physician practices. The Office of Policy, Planning, and Research (OPPR), HCFA, coordinates all baseline data collection, reimbursement, and evaluation activities. System Sciences, Inc. (SSI) is under contract with HCFA for the performance of validation and evaluation functions.

(b) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(c) In event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessaary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: During the operational phase of the experiment, hard copy cost forms will be kept in secure storage spaces. Completed data tapes will be maintained in secure storage areas in the tape library in HCFA.

Retrievability: Records are retrievable in the following manner: Beneficiary information by health insurance claim number; physician information by provider number and practice number; physician extender information by PE identification number.

Safeguards (access controls): All records will be retained in secure storage areas accessible only to authorized persons within the offices of DDR and OPPR. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. After the magnetic tapes are prepared for validation and evaluation by SSI, they are to be returned to HCFA and retained in secure storage areas until December 31, 1982. At this time hard copy collection forms will be destroyed and the magnetic data tapes will be erased by degaussing.

For computerized records, where apppropriate, ADP systems security procedures will be instituted with reference to guidelines contained in DHEW Information Processing Standards Publication 3 (IPS PUB 3) and the National Bureau of Standards Federal Information Processing Standards Publications (FIPS PUB 41 and FIPS PUB 31) (e.g., use of password access). By taking all the aforementioned precautions, we have reduced the risk of unauthorized access to a minimum.

Retention and disposal: Hard copy cost collection forms and magnetic data tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1982.

System manager(s) and address:
Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: Any phsician, physician extender or Medicare beneficiary who participates in this new system as a provider or a recipient of service may request his data record in writing. This request should be addressed to the system manager, who will require the name and business address of the physician practice where the services were delivered.

Record access procedures: Same as notification procedure. Requester should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).

Contesting record procedures: Contact the system manager at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Completed cost forms are submitted by participating physician practices. Physician practices consist of one supervising physician and at least one physician extender including nurse practitioners, physician assistants, and Medexes. Billing records are submitted by participating physician practices on behalf of Medicare beneficiaries receiving physician extender services.

Systems exempted from certain provisions of the act: None.

09-70-0004

System name: Durable Medical Equipment Experiment, HEW, HCFA, OPPR

Security classification: None.

System location:
Health Care Financing Administration
Office of Policy, Planning, and Research
Office of Demonstration and Evaluation
Room 3-E-6
Meadows East Building
Baltimore, Maryland 21235

Office of the Contractor, Exotech Research & Analysis, Inc.
1200 Quince Orchard Boulevard Gaithersburg, Maryland 20760

Categories of individuals covered by the system: Medical Part B Beneficiaries acquiring durable medical equipment (DME) under Title XVIII of the Social Security Act. Geographic locations are to be determined on contract award date.

Categories of records in the system: Administrative, billing, and descriptive information involving the purchase and/or rental of durable medical equipment under Title XVIII (Medicare Part B).

Authority for maintenance of the system: Section 245 of Public Law 92-603 (Social Security Amendments of 1972).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of the records maintained in the system will be made to an organization under contract with the Social Security Administration for the performance of the research and statistical functions as prescribed by the contract. The data collected will be utilized by the Contractor for statistical purposes in determining the results of the experimental program. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic computer tape.

Retrievability: To be specified by Contractor. (Most probable idex will be individual Health Insurance Account Number and Part B Medicare Carrier Code Number.)

Safeguards: Magnetic computer tapes are to be kept in GSA approved containers with combination locks. The containers are to be located in a controlled access area where all nonemployees and nonauthorized personnel must identify themselves, state the nature of their business, and be logged in before gaining entry. All employees of the Contractor are subject to the penalties prescribed by the Privacy Act for unauthorized disclosure of personnel data. These safeguards are in accordance with Departmental standards limiting access to authorized personnel only.

Retention and disposal: All raw data, draft reports, correspondents, and reports generated during this experiment (including tapes, computer programs, position indices, etc.) shall be the property of the Government and shall be delivered to the SSA Project Officer not later than 15 calendar days after contract completion date. Should the Project Officer request any of the above-mentioned material during the conduct of the experiment, the Contractor shall present such material to the Project Officer within 30 days of a written request. The material presented by the Contractor shall be as current as possible, relevant to the request. All tapes and final reports will be delivered to the Social Security Administration and will be retained by the Social Security Administration as long as necessary for program purposes.

System manager(s) and address:
Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, SW.
Washington, D.C. 20201

Notification procedure: For purposes of notification, provide the Systems Manager with the name, address, and Health Insurance Account Number of the person requesting access.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Departmental Regulations (45 CFR, Part 5b.5(a)(2).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Departmental Regulations (45 CFR Part 5b.7).

Record source categories: Requests from Medicare Part B Beneficiaries for reimbursement for the rental/purchase of durable medical equipment under title XVIII of the Social Security Act, including charges and descriptive material from suppliers of durable medical equipment; administrative and billing information for the reimbursement of durable medical equipment from Part B Medicare Carriers.

Systems exempted from certain provisions of the act: None.

09-70-0005

System name: Medicare Bill File (Statistics) HEW, HCFA, OPPR.

Security classification: None.

System location:
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Persons enrolled in health or supplemental medical benefits parts of the Medicare program.

Categories of records in the system: Bill data; demographic data on the beneficiary; diagnosis and surgery codes on a sampling the population; hospital characteristics, when applicable, on a sample of persons treated as inpatients; skilled nursing home characteristics.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. To the Bureau of Census for use in processing research and statistical data directly related to the administration of Social Security programs. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by health insurance claim number and by hospital provider number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are maintained with identifiers as long as needed for program research.
Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: For purposes of access, write the systems manager; he will require name of system, health insurance claim number and for verification purposes, name (woman's maiden name, if applicable), social security number, address, date of birth and sex; and to ascertain whether the individual's record is in the system, utilization and date of utilization under Part A or Part B of Medicare services, home health agency, hospital (inpatient), hospital (outpatient) or skilled nursing facility.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Medicare enrollment records; Medicare bill records; Medicare provider records for a sample of persons treated as hospital patients (inpatient and outpatient) and skilled nursing facility patients.

Systems exempted from certain provisions of the act: None.

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09-70-0006

System name: Medicare Enrollment Records (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All persons enrolled for hospital or supplemental medical benefits under the Medicare program. The file contains 22 million persons including subsets of 2.4 million enrollees for whom the State has paid the premiums and 300,100 enrollees who are members of direct dealing group practice prepayment plans.

Categories of records in the system: Enrollment characteristics of the beneficiaries; demographic characteristics.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. To the Bureau of Census for use in processing research and statisitcal data directly related to the administration of Social Security programs. To an organization under contract with the Social Security Administration, information necessary to enable to the contractor to comply with the conditions of the agreement to perform research and statistical functions. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are accessible by claim number. Subfiles are indexed also by group practice pre-payment plan number or by State buy-in number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are retained with identifiers as long as needed for program research analysis.

Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C St., S.W.
Washington, D.C. 20201

Notification procedure: For purposes of access, write to the systems manager; he will require name of system, health insurance claim number, social security number, and for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, enrollment in Medicare health or supplemental medical, participation in a direct dealing group practice pre-payment plan, or payment of premium by State.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Master beneficiary record; Medicare enrollment records.

Systems exempted from certain provisions of the act: None.

09-70-0007

System name: Health Insurance Enrollment Statistics-General Enrollment Period HEW HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All persons who are eligible for Supplementary Medical Insurance coverage but have declined such coverage.

Categories of records in the system: Limited demographic data (sex, date of birth, State and county of residence).

Authority for maintenance of the system: Section 1875 of Title XVIII of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to respresent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by health insurance claim number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Tapes are retained with identifiers as long as needed for program research.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: For purposes of access, write to the Systems Manager. He will require system name and social security number and for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register.

Record source categories: Health Insurance Master Beneficiary File.

Systems exempted from certain provisions of the act: None.

09-70-0008

System name: Supplementary Medical Sample Bill Summary File of Medicare Utilization (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing

SE 27 78

6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A 5 percent sample of Medicare beneficiaries who have received any supplementary medical (Medicare) services January 1, 1975, or later.

Categories of records in the system: Physician and supplier billing information.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by claim number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are retained with identifiers as long as needed for purposes of program research.

System manager(s) and address:

Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: For purposes of access, write the systems manager; he will require name of system, health insurance claim number, and for verification purposes, name (woman's maiden name, if applicable), social security number, address, date of birth and sex, and to ascertain whether the individual's record is in the system, date (month and year) on which supplementary medical services were received.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Balitmore, Maryland 21235

Record source categories: Medicare claims submitted to carriers.

Systems exempted from certain provisions of the act: None.

09-70-0009

System name: Group Practice Prepayment Plan Line Item Sample of Medicare Utilization (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:

Office of Statistics and Data Management
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Members of the Group Practice Prepayment Plans which deal directly with the Social Security Administration; sample sizes for individual plans are based on size of the plan.

Categories of records in the system: Beneficiary identification data; type and place of service; physician specialty.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the propose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by health insurance claim number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Tapes are retained with identifiers as long as needed for purposes of program research.

System manager(s) and address:

Director, Office of Policy, Planning, and Research
Health Care Financing Admininstration
Room 5054, HEW South Building
330 C St., S.W.
Washington, D.C. 20201

Notification procedure: For purposes of access, write the systems manager; he will require name of system, health insurance claim number, and for verification purposes, name (woman's maiden name, if applicable), address, social security number, date of birth and sex, and to ascertain whether the individual's record is in the system, name of the Group Practice Prepayment Plan of which he is a member.

Record access procedures: Same as notifications procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notifications procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Data obtained from Form SSA-1590, Group Practice Plan Utilization Listing of Social Security Medical Insurance Services, and Form SSA-1591, Group Practice Plan Individual Patient Utilization Request of Social Security Medical Insurance Services.

Systems exempted from certain provisions of the act: None.

09-70-0010

System name: Current Medicare Survey (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Office of Research
6300 Security Boulevard
Baltimore, Maryland 21235
Wilkes Barre Punching Branch

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Social Security Administration, VA Building
19 N. Main Street
Wilkes Barre, Pennsylvania 18701

Bureau of Census
Washington, DC

Categories of individuals covered by the system: Sample of aged (since 1966) and disability (since 1971) beneficiaries entitled to Medicare, and interview status.

Categories of records in the system: Demographic characteristics; health services (types and costs) used by Medicare beneficiaries, and interview status.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosures from this system are made to the Bureau of the Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape and disk files. Hard copies of the interview forms through 1974 were placed on microfilm. Starting with 1975, hard copies of the interview forms will be retained for 4 years. Interview status check-in cards and tapes and disk files are also stored. Microfilm and magnetic tapes are in secured storage at SSA. Check-in cards and tapes are stored in file cabinets.

Retrievability: All interview records are identified by health insurance claim number.

Safeguards: Initial collection and processing performed by the Census Bureau. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Through 1974, hard copy was routinely destroyed six months after the record was placed on microfilm. Starting with 1975, hard copy will be retained for 3 years, and upon receipt of the fourth year data, the earliest year will be destroyed. Computer and card records and interview status check-in cards and tapes are maintained with identifiers as long as needed for purposes of program research. All records are reviewed annually for continued program need.

System manager(s) and address:
Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street SW
Washington, DC 20201

Notification procedure: For purposes of access, write the systems manager; he will require name of system, health insurance claim number and for verification purposes, name (woman's maiden name, if applicable), social security number, address, date of birth and sex, and to ascertain whether the individual's record is in the system, type of social security beneift (old age or disability) received.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Medicare beneficiary records; survey type data collected by Census Bureau for the Social Security Administration.

Systems exempted from certain provisions of the act: None.

09-70-0011

System name: Evaluation of the Impact of Surgical Screening Based Upon Union Member Utilization of the Pre-Surgical Consultant benefit (Statistics) HEW, HCFA, OPPR.

Security classification: None.

System location:
Contractor to the Social Security Administration
Cornell University Medical College
1300 York Avenue
New York, New York 10021

Categories of individuals covered by the system: Sample of those members of five unions in the Greater New York and Northern New Jersey who have used the pre-surgical consultation benefit in their union health contract.

Categories of records in the system: Demographic characteristics, medical diagnosis and surgical procedures, physician socialogical charactertistics, health insurance coverage, health status.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosures from this system are made to contractors for research and statistical activities directed by the Social Security Administration. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice ot enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Records filed in alphabetical order.

Safeguards: Safeguards are provided by contract. Identifiable data are accessible only to the contractor and members of his staff.

Retention and disposal: Records will be retained with indentifiers by the contractor only as long as is needed for purposes of program research and then destroyed.

System manager(s) and address:
Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street SW.
Washington, DC 20201

Notification procedure: For purposes of access, write the Systems Manager; he will require name of system, health insurance claim number, and, for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, the name of the union of which he is a member.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Union records retained by each union in the survey area.

Systems exempted from certain provisions of the act: None.

System name: Study of Medical Use Under the United Medical Clinic Plan or the Kaiser Health Plan (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:
Palo Alto Medical Research Foundation
860 Bryant Street
Palo Alto, California 94301

Categories of individuals covered by the system: Stanford University employees (2,800) enrolled in one of the above prepaid health plans during the period January 1971-June 1974.

Categories of records in the system: Health services utilized and expenditures for health care.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosures from this system are made to contractors for research and statistical activities directed by the Social Security Administration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders, punchcards, magnetic tape.

Retrievability: Identification number based upon a scrambled social security number.

Safeguards: All records are kept in locked cabinet within a locked room; all persons having access to the data—project director, research associate, coding coordinator, research assistant, secretary, programmer and clerk assistant—are made aware of the confidentiality requirements when dealing with public records. All records are maintained on the premises of the contractor. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Retention and disposal: Within one year after final reports are written, all identifiers will be removed.

System manager(s) and address:
Director, Office of Policy, Planning, and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street SW.
Washington, DC 20201

Notification procedure: For purposes of access, write to the Systems Manager; he will require name of system, social security number, and, for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, name of the health plan in which individual was enrolled and the dates of such enrollment.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Survey data collected under contract by Palo Alto Medical Research Foundation through West Coast Community Surveys.

Systems exempted from certain provisions of the act: None.

09-70-0013

System name: Annual 5 Percent Summary File of Services Reimbursed Under the Medicare Program (Statistics) HEW HCFA, OPPR.

Security classification: None.

System location:
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Sample of Medicare enrollees with reimbursement services prior to January 1, 1975.

Categories of records in the system: Demographic characteristics; amount of reimbursement by type of service.

Authority for maintenance of the system: Section 1875 of the Social Security Act. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by claim number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are retained with identifiers as long as needed for purposes of program research.

System manager(s) and address:
Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, SW.
Washington, D.C. 20201

Notification procedure: For purposes of access, write the system manager; he will require name of system, health insurance claim number, and for verification purposes, name (woman's maiden name, if applicable), address, social security number, date of birth and sex, and to ascertain whether the individual's record is in the system, whether any reimbursable services prior to 1974 and the date (month and year) of such services.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Medicare enrollment records; Medicare bill records.

Systems exempted from certain provisions of the act: None.

09-70-0014

System name: Survey of Physicians', Administrative and Practice Costs and Medicaid Participation HEW, HCFA, OPPR.

Security classification: None.

System location:
Abt Associates
55 Wheeler Street
Cambridge, Mass.

Categories of individuals covered by the system: A national and regional sample of 2000 office-based physicians.

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Categories of records in the system: Education, professional background, age, and demographic information about physicians, to be merged with administrative and practice cost data, practice characteristics in terms of specialty, type, size, etc., and participation in Medicaid.

Authority for maintenance of the system: Section 1875 of the Social Security Act, and section 222(a) of the Social Security Act amendments of 1972. (42 USC Sec. 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: AMA background information will be maintained on a master sheet, and individually in each interview folder. Interview information will be maintained on questionnaires prior to conversion to magnetic tape. Resulting tapes will contain no personal identifiers.

Retrievability: Until each interview is completed and verified, the contractor will maintain questionnaires and background information in folders labeled with the physician's name. After the information is removed from the folders, there can be no retrieval of individual records.

Safeguards: All identifiers will be removed from data as soon as the collection and matching is complete and verified. All persons having access to records have been notified of criminal sanctions for unauthorized disclosure of information about individuals. Since the tapes will contain no personal identifiers, no special safeguards will be required.

Retention and disposal: Master sheets will be retained indefinitely. Folder identification link will be destroyed. Tapes without personal identifiers will be maintained indefinitely.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street SW.
Washington, D.C. 20201

Notification procedure: To access AMA background master sheets, name and address are required by the system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Responses from 1000 physicians nationwide and 1000 physicians in two Census regions, both for a single time use; background information from the American Medical Association Directory of Physicians.

Systems exempted from certain provisions of the act: None.

1 09–70–0015

System name: Ambulatory Surgery Research Project HEW.

Security classification: None.

System location:

The Orkand Corporation
8630 Fenton Street
Silver Spring, Md. 20910

The Orkand Corporation
0A420
5131 North Fortieth Street
Phoenix, Arizona 82018

Categories of records in the system: Patient interview questionnaires containing demographic, financial, medical, and family information; physician questionnaires with demographic and financial information.

Authority for maintenance of the system: Section 1875 of the Social Security Act and Section 222(b) of the Social Security Amendments of 1972. (42 USC Sec 1395LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractor under contract with the Social Security Administration to perform research and statistical activities related to this study.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy questionnaires, hard copy patient identification forms, punched card decks, and magnetic tapes at contractor's locations. Magnetic tapes in non-individually identifiable form in the Bureau of Data Processing.

Retrievability: By name, indexed to case number. At completion of the study, patient identification index will be destroyed and retrieval of individual information will no longer be possible.

Safeguards: All records containing personal identifiers will be processed and handled at contractor's location. This installation has Department of Defense approval at SECRET CLEARANCE level, and has on-site security personnel 24 hours a day at primary location. The patient identifier forms will be retained in a safe at that site until they are destroyed at completion of the study.

Retention and disposal: Records will be retained only as long as required for records management purposes. All patient identification will be destroyed at the conclusion of the study. Magnetic tapes in non-individually identifiable form will be retained indefinitely.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: For purposes of notification and access, name of system and name of individual; for purposes of verification, address, sex, and date of birth. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2))

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)

Record source categories: Patient and physician interview forms; patient medical records.

Systems exempted from certain provisions of the act: None.

09-70-0016

System name: Medicare Hospital Discharge Validation File. HEW HCFA, OPPR.

Security classification: None.

System location:

Health Care Financing Administration
HEW South Bldg.
330 C St. S.W.
Washington, D.C. 20201

National Academy of Sciences
Institute of Medicine
Watergate Office Building
2600 Virginia Avenue
Washington, D.C. 20418

Categories of individuals covered by the system: Medicare beneficiaries (aged only) whose hospital bills were included in a 20 percent sample of beneficiaries during 1974 and 1975.

Categories of records in the system: Each record contains (1) patient identification data (name, HI number, sex, age) from the Medicare master enrollment file, and (2) hospitalization data (hospital name, admission and discharge date, primary diagnosis, primary surgical procedure performed) from both the Medicare hospital discharge billing file and the hospital medical record.

Authority for maintenance of the system: 42 U.S.C. Section 1395.11.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) To contractor for the performance of specific research and statistical activities directly related to the performance of this study.

(b) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(c) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record lists, completed reabstract forms, and keypunched cards are stored in locked file cabinets. Magnetic tape files of patient records are stored in a tape library. All codes for numeric data on the tape files are stored in locked file cabinets. All of these storage facilities are located in the contrator's offices.

Retrievability: By beneficiary name, HI number, and birth date.

Safeguards: The contractor will be required to comply with Departmental safeguard procedures. All persons having access to the system of records have been notified of the criminal sanctions for unauthorized disclosure of information about individuals. The contractor maintains controlled access to computer files. As tape file records are created, individuals' names are eliminated and their HI numbers replaced with anonymous assigned record numbers. The master list for the assigned numbers is stored in locked file cabinets. There is controlled access to this list as all other stored files.

Retention and disposal: All reabstract forms, filing records and other data collection forms will be returned to SSA with all patient identifiers removed. Keypunch cards and magnetic tape files will be retained by the contractor for 6 months following contract termination and will then be destroyed by standard disposal procedures.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Health Care Financing Administration
Room 5054, HEW South Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: For purposes of notification, the system manager will need to know the name of the system, and the name and health insurance number of the person requesting notification. An individual who requests notification of or access to a medical record shall, at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Sections 5b.5 and 5b.6).)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Sections 5b.5 and 5b.6).)

Contesting record procedures: Contact the official at the address specified under System Manager above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Records derived from Medicare master enrollment file. Medicare 20 percent hospital discharge record file, hospital medical records, and hospital Medicare claims forms.

Systems exempted from certain provisions of the act: None.

09-70-0017

System name: Health Insurance Benefit and Actuarial Sample Control System HEW, HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A sample of persons who have received Medicare benefits.

Categories of records in the system: Record contains a limited number of fields from bill files.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: Individual records are identified by claim account number. Data are use for statistical purposes.

Safeguards: All magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing and Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: Data are prepared monthly and magnetic tapes are returned to blank stock.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Room 5054 ME Switzer Building
330 C. Street SW.
Washington, D.C. 20201

Notification procedure: For purposes of access the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contace the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Health Insurance Master File.

Systems exempted from certain provisions of the act: None.

09-70-0018

System name: Actuarial Health, Insurance and Supplementary Medical Insurance (Medicare) HEW, NCFA, OPPR.

Security classification: None.

System location:

Office of the Actuary
6401 Security Boulevard
Baltimore, Maryland 21235

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Categories of individuals covered by the system: A 0.1 sample of persons who have received Medicare benefits.

Categories of records in the system: Health Insurance inpatient hospital and extended care admission and other health services; inpatient admission and billing—Christian Science Sanatorium; home health agency report and billing; and other documents used to support payments to providers of service. These forms contain the beneficiary's name, sex, health insurance claim number, date of admission and discharge, other health insurance data and a statement of services rendered. Supplemental medical insurance request for payment; provider billing for patient services by physician; prepayment plan for group Medicare practices dealing through a carrier; itemized bills and other similar documents required to support payments to physicians and other suppliers of Part B Medicare services.

Authority for maintenance of the system: Section 1985 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms are kept in manila folders in the Office of the Actuary (Medicare).

Retrievability: The manila folders containing forms are filed in claim account number sequence.

Safeguards: The filing system is retained behind closed doors and is accessible only to authorized persons. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: The claims folder is maintained in file until the death of the individual. Once a year the file is purged and inactive folders are stored in the Federal Record Center. No provision has been made to destroy inactive folders.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Room 5054 ME Switzer Building
330 C Street S.W.
Washington, D.C. 2020

Notification procedure: For purposes of access the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonable specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonable identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

Systems exempted from certain provisions of the act: None.

09-70-0019

System name: Actuarial Sample Hospital Stay Record Study HEW, HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A 0.1 sample of persons who have received hospital insurance benefits.

Categories of records in the system: Information is obtained from inpatient hospital and extended care admission, and inpatient admission and billing forms.

Authority for maintenance of the system: Section 1875 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: The file is indexed with claim account numbers; the data are used for statistical purposes.

Safeguards: All mag-tape files are retained in secure storage areas—accessible only to authorizing persons within the Bureau of Data Processing and Data Development, Office of Management and Administration. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: The file is updated quarterly and the old tape goes to blank stock.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Room 5054, M. E. Switzer Building
330 C Street SW.
Washington, D.C. 20201

Notification procedure: Notification procedure: For purposes of access the claim account number is required; write to systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

Systems exempted from certain provisions of the act: None.

09-70-0020

System name: Actuarial Sample of Supplementary Medical Insurance Payments HEW, HCFA, OPPR.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A sample of records for persons who have received benefits under the supplemental medical insurance provisions of the Medicare program.

Categories of records in the system: The record contains only the information included in a payment record.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 U.S.C. Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of

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that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: The file is indexed with claim account number; these data are used for statistical purposes.

Safeguards: All magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing and Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: This file is updated on a quarterly basis. The tape files are returned to blank stock after three years.

System manager(s) and address:

Director, Office of Policy, Planning and Research
Room 5054, M. E. Switzer Building
330 C Street SW.
Washington, D.C. 20201

Notification procedure: For purposes of access the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Supplemental medical insurance payment record.

Systems exempted from certain provisions of the act: None.

09-70-0501

System name: Carrier Medicare Claims Records, HEW, HCFA, MAB.

Security classification: None.

System location: Carriers under contract to the Health Care Financing Administration and the Social Security Administration (see Appendix C, Section 4.

Categories of individuals covered by the system: Beneficiaries who have submitted claims for Supplementary Medical Insurance Benefits (Medicare Part B).

Categories of records in the system: Request for Payment; Provider billing for Patient Services by Physician; Prepayment Plan for Group Medicare Practices Dealing through a Carrier; Request for Claim Number Verification; Payment Record Transmittal; Statement of Person Regarding Medicare Payment for Medical Services Furnished Deceased Patient; Report of Prior Period of Entitlement; itemized bills and other similar documents from beneficiaries required to support payments to beneficiaries and to physicians and other suppliers of Part B Medicare services.

Authority for maintenance of the system: Sections 1842 and 1874 of title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(b) Third-party contacts by the Health Care Financing Administration and the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the Medicare program when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount or reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

(c) Third-party contacts by the Health Care Financing Administration and the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

(d) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(e) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(f) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(g) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(h) Professional Standards Review Organization for utilization review (PSRO).

(i) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(j) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of provisions of the title XVIII.

(k) Contractors under contract to the Health Care Financing Administration and the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

(l) State welfare departments pursuant to agreements with the Department of Health, Education, and Welfare for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(m) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(n) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(o) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(p) Peer review groups, consisting of members of State, county, or local medical societies or medical care foundations (physicians), appointed by the medical society or foundation at the request of the carrier to assist in the resolution of questions of medical necessity, utilization of particular procedures or practices, or overutilization of services with respect to Medicare claims submitted to the carrier.

(q) Physicians and other suppliers of services who are attempting to validate individual items on which the amounts included in the annual Physician/Supplier Payment List are based.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on paper, tape, disc, and punchcards.

Retrievability: System is indexed by health insurance claim number. The record is prepared by the beneficiary and is used by carriers to determine amount of an entitlement to Part B benefits. The bills are retained by the carriers. Disclosures of physician's customary charge data are made to State audit agencies in order to ascertain the correctness of title XIX charges and payments.

Safeguards: Unauthorized personnel are denied access to the records area. Disclosure is limited.

Retention and disposal: Records are closed out at the end of the calendar year in which paid, held two additional years, transferred to Federal Records Center and destroyed after another 2 years.

System manager(s) and address:

Director, Medicare Bureau,
6401 Security Boulevard,
Baltimore, Md. 21235.

Notification procedure: Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier, the Medicare Bureau Regional Office, or to the Health Care Financing Administration, Medicare Bureau, Health Insurance Inquiries Branch, Baltimore, Md. 21235. The individual should furnish his or her health insurance claim number and the name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).)

Record access procedures:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The data contained in these records is furnished by the individual. In most cases, the identifying information is provided to the physician by the individual. The physician then adds the medical information and submits the bill to the carrier for payment.

Systems exempted from certain provisions of the act: None.

09-70-0502

System name: Health Insurance Master Record, HEW/HCFA/MAB.

Security classification: None.

System location:

Social Security Administration. Bureau of
Data Processing. 6401 Security Boulevard,
Baltimore, Maryland 21235.

Categories of individuals covered by the system: Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under title XVIII of the Social Security Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 consecutive months to disability benefits under title II of the Act or under the Railroad Retirement Act; and individuals who have been; or currently are, entitled to such benefits because they have chronic renal disease.

Categories of records in the system: The system contains information on enrollment, entitlement, Part A (Hospital) and B (Supplementary Medical) utilization, query and reply activity, health insurance bill and payment record processing, and Health Insurance Master Record maintenance.

Authority for maintenance of the system: Section 1814 and 1833 of title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

(b) State Welfare Department pursuant to agreements with the Department of Health, Education, and Welfare for determination of eligibility for Medicaid, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(c) State audit agencies for auditing State Medicaid eligibility considerations.

(d) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

(e) A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(f) Contractors under contract to the Health Care Financing Administration and the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

(g) In the event of litigation where one of the parties is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Storage: Records maintained on paper, listings, microfilm, magnetic tape disc and punchcards.

Retrievability: System is indexed by health insurance claim number, and is used to carry out the tasks of enrollment, query/reply activity, and health insurance bill and payment record processing.

Safeguards: Unauthorized personnel are denied access to the records area. Disclosure is limited to routine use. For computerized records electronically transmitted between Central Office and field office locations (including Medicare contractors), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: Records are closed out at the end of the calendar year in which paid, held 2 additional years, transferred to the Federal Records Center, and destroyed after another 6 years.

System manager(s) and address:

Director, Medicare Bureau,
6401 Security Boulevard,
Baltimore, Md. 21235.

Notification procedure: Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier or intermediary, the Medicare Bureau Regional Office, or to the Health Care Financing Administration, Medicare Bureau, Health Insurance Inquiries Branch, Baltimore, Md. 21235. The individual should furnish his or her health insurance claim number and name as shown on Medicare records.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: The data contained in these records is furnished by the individual. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

Systems exempted from certain provisions of the act: None.

System name: Intermediary Medicare Claims Records, HEW, HCFA, MAB.

System classification: Intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (See Appendix C. Section 3.)

Categories of individuals covered by the system: Beneficiaries on whose behalf claims for payment of hospital insurance benefits (Medicare Part A) have been submitted.

Categories of records in the system: Inpatient hospital and extended care admission and other health services; inpatient admission and billing—Christian Science Sanatorium; home health agency report and billing and other documents used to support payments to beneficiaries and providers of service. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, provider name, physician's name, date of admission and discharge, other health insurance and a statement of services rendered.

Authority for maintenance of the system: Section 1816 and 1874 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) Claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(b) Third-party contracts by the Health Care Financing Administration and the Social Securit Administration without the consent of the individual to whom the information pertains in situations were the party to be contacted has, or is expected to have information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the Medicare program when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual) or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.

(c) Third-party contacts by the Health Care Financing Administration and the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

(d) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(e) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(f) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(g) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(h) Professional Standards Review Organization for utilization review (PSRO).

(i) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(j) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of provisions of title XVIII.

(k) Contractors under contract to the Health Care Financing Administration and the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

(l) State welfare departments pursuant to agreements with the Department of Health, Education, and Welfare for administration of State supplementation payments for determination of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, for quality controls studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(m) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(n) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(o) In the event of litigation where one of the parties is (a) the Department, any components of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purposes for which the records were collected.

(p) Physicians and other suppliers of services who are attempting to validate individual items on which the amounts included in the annual Physician/Supplier Payment List are based.

Storage: Records maintained on paper forms, magnetic tape and microfilm.

Retrievability: The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The paid bills are forwarded to the Social Security Administration, Bureau of Data Processing, Baltimore, Md., where they are microfilmed and used to assist in responding to individual inquiries.

Safeguards: Disclosure of records is limited. The file area is closed to unauthorized personnel.

Retention and disposal: Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to the Federal Records Center and destroyed after another 6 years.

System manager(s) and address:

Director, Medicare Bureau,
6401 Security
Boulevard,
Baltimore, Md. 21235.

Notification procedure: Inquiries and requests for systems records should be addressed to the social security office nearest the requester's residence (see Appendix F.) the appropriate intermediary, the Medicare Bureau Regional Office, or to the Health Care Financing Administration, Medicare Bureau, Health Insurance Inquiries Branch, Baltimore, Md. 21235. The individual should furnish his or her health insurance number and name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, section 5b.6).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the records contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, section 5b.7)

Record source categories: The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

Systems exempted from certain provisions of the act: None.

09-70-0504

System name: Non-Provider Overpayment Recovery File HEW, HCFA, MAB.

Security classification: None

System location:

Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235

Categories of individuals covered by the system: The system contains the name of the beneficiary on whose account an overpayment has been made and the name of the physician to whom the overpayment was made.

Categories of records in the system: The file includes completed Medicare claims forms which contain patient's name, sex, claim number, address, date of birth, date of treatment, diagnosis, and

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summary of treatment rendered as well as other documents that were used in calculating the existence and amount of overpayment.

Authority for maintenance of the system: Section 3, Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to the Department of Justice when civil litigation is involved, to the Internal Revenue Service for investigation of alleged tax fraud and to Professional Standards Review Organizations and State Licensing Boards for review of unethical practices or non-professional conduct. Further, HCFA may request a credit report on certain physicians from whom repayment of an overpayment is requested. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files maintained in individual folders.

Retrievability: The system is indexed by beneficiary name and cross-indexed by physician name. The purpose of the record is to provide documentation and control of cases in which a Medicare overpayment has been made.

Safeguards: Only authorized personnel are permitted in the file area.

Retention and disposal: The files are retained indefinitely.

System manager(s) and address:

Director, Medicare Bureau.
6401 Security Blvd.
Baltimore, Maryland 21235.

Notification procedure: Inquiries and requests for system records should be addressed to the Health Care Financing Administration, Medicare Bureau Office of Program Review, Recovery Staff, E-002 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, Md. 21235.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Data in these records is obtained from carrier or intermediary billing records.

Systems exempted from certain provisions of the act: None.

09-70-0505

System name: Supplementary Medical Insurance Premiums (Buy-In) Master Record—HEW, HCFA, MAB.

Security classification: None.

System location:

Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Health insurance beneficiaries whose supplementary medical insurance benefit and/or hospital insurance benefit premiums are paid by a third-party: a State welfare agency, the Civil Service Commission, or a private organization.

Categories of records in the system: Beneficiary's name, health insurance claim number, date of birth, sex, amount of premium liability, date agency first became liable for HIB (Health Insurance Benefit) or SMIB (Supplemental Medical Insurance Benefit) premiums, last month of agency premium liability, agency identification numbers, Civil Service annuity number for Civil Service Commission recipients.

Authority for maintenance of the system: Sections 1840(d) and 1843 of title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: State welfare departments pursuant to agreements with the Department of Health, Education, and Welfare for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Storage: Magnetic tape, microfilm.

Retrievability: The system is indexed by health insurance claim number.

Safeguards: Only authorized personnel have direct access to information in the third-Party Master Record. In addition, all personnel are advised that this information is confidential.

Retention and disposal: Tape records are retained for 90 days, filed for 1 year, then erased. Correspondence files are retained for 1 year, then discarded. Monthly microfilm records are destroyed after 1 year.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for system records should be addressed to the Health Care Financing Administration, Bureau of Health Insurance, Division of Systems, Beneficiary Procedures Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on medicare record.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information contained in these records is obtained from third-party agencies, the Master Beneficiary Record, and the Health Insurance Master Record.

Systems exempted from certain provisions of the act: None.

09-70-0506

System name: Group Health Plan System HEW, HCFA, MAB.

Security classification: None.

System location:

Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Recipients of Part A (Hospital Insurance) and Part B (supplementary medical) Medicare services.

Categories of records in the system: The system contains information about a beneficiary's health insurance entitlement and supplementary medical benefits usage.

Authority for maintenance of the system: Sections 1866 and 1876 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and paper listing.

Retrievability: The system is indexed by health insurance claim number.

Safeguards: Only authorized personnel have direct access to information in the Group Health Plan system. In addition, Group Health Plan personnel are advised that information is confidential.

Retention and disposal: Health insurance materials used to support the accuracy of the charge per service billed by the plan are retained for 3 years, then destroyed.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for system records should be addressed to the Health Care Financing Administration, Medicare Bureau Division of Direct Reimbursement, Group Practice Prepayment Plan Branch, Baltimore, Maryland 21235. The individuals should furnish his or her health insurance claim number as shown on social security records.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information contained in these records is obtained from the group health plans (which obtained the data from the individual concerned).

Systems exempted from certain provisions of the act: None.

09-70-0507

System name: Health Insurance Utilization Microfilm HEW, HCFA, MAB.

Security classification: None.

System location:

Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Records are maintained of all transactions for individuals who are entitled or have been entitled to Medical benefits.

Categories of records in the system: The system contains transactions accepted or rejected, and the reason for such rejection. Transactions are maintenance type as well as utilization.

Authority for maintenance of the system: Section 1814 and 1833 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm.

Retrievability: The system is indexed by health insurance claim number. It is used primarily to document the Health Insurance master file and to respond to inquiries. The Health Insurance Utilization Microfilm is the history (audit) trail of Health Insurance/Supplementary Medical Insurance.

Safeguards: Requests for microfilm must be submitted to the Bureau of Data Processing.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for system records should be addressed to the Health Care Financing Administration, Health Insurance Inquiries Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on social security records.

Record access procedures: The individual can obtain information on the procedures for gaining access to and contesting records from the most convenient social security office (see Appendix F), or from the Health Care Financing Administration, Bureau of Health Insurance, Health Insurance Inquiries Branch, Baltimore, Maryland 21235. Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Sec. 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information contained in these records is obtained by the provider of services from the individual, from the individual himself or herself, or from suppliers of services (e.g., physicians).

Systems exempted from certain provisions of the act: None.

09-70-0508

System name: Reconsideration and Hearing Case Files (Part A) Hospital Insurance Program HEW, HCFA, MAB

Security classification:

System location:

Health Care Financing Administration
Medicare Bureau
Division of Special Operations, Reconsideration Branch
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individuals dissatisfied with an initial determination as to the amount of benefits payable on the beneficiary's behalf under the hospital insurance program who have filed either an expressed or implied request for reconsideration.

Categories of records in the system: Reconsideration development and case summary; Part A - review action; complaint sheet; HA-501, Request for Hearing; SSA-561 Request for Reconsideration; and comparable forms and evidence furnished by beneficiaries or their representatives, intermediary action, correspondence, Social Security Administration determination, Administrative Law Judges' decisions, original bills, Appeals Council decisions and related correspondence.

Authority for maintenance of the system: Sections 1812, 1814, and 1816 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is

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(a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file cabinets.

Retrievability: The system is indexed by health insurance claim number.

Safeguards: The file is closed to unauthorized personnel. Disclosure of records is limited to routine uses.

Retention and disposal: Records are placed in inactive file when final action is taken on the case and closed out at the end of the calendar year in which final action was taken. They are held 2 additional years, transferred to the Federal Records Center and destroyed after 5 years.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for system records should be addressed to the Health Care Financing Administration, Bureau of Health Insurance, Reconsideration Branch. The individual should furnish his or her health insurance claim number and name as shown on social security records. The individual can obtain information on the procedures for gaining access to and contesting records from the most convenient social security office or from the Health Care Financing Administration, Medicare Bureau, Health Insurance Inquiries Branch, Baltimore, Maryland 21235

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The information contained in these records is furnished by the beneficiary, his representative, or other person requesting a review of the claim and from the reviewing authority (the supplementary health insurance carrier).

Systems exempted from certain provisions of the act: None.

09-70-0509

System name: Medicare Beneficiary Correspondence Files HEW, HCFA, MAB

Security classification: None.

System location:
Health Care Financing Administration
Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

All Health Insurance Regional Offices (see Appendix C, Section 2).
Intermediaries and carriers (see Appendix C, Sections 3 and 4).

Categories of individuals covered by the system: Beneficiaries and others who correspond with the Social Security Administration, Bureau of Data Processing or Health Care Financing Administration, Medicare Bureau and/or its carriers and intermediaries.

Categories of records in the system: Correspondence containing inquiries, complaints, or suggestions received by the Social Security Administration district offices, Central Office, regional offices, intermediaries, and carriers, and Medicare Regional Offices.

Authority for maintenance of the system: Section 1872 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file cabinets.

Retrievability: The system is indexed by health insurance claim number. If the correspondent has not furnished his claim number, the correspondence is filed alphabetically, using the last name of the correspondent. It is used to control correspondence in connection with Medicare.

Safeguards: The file area is closed to unauthorized personnel.

Retention and disposal: Correspondence is destroyed 1 year after the close of the year in which the records are dated; except where records are required to document a specific claim, reconsideration, appeal, or similar case, the files are treated in accordance with the instructions for the specific file.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and request for records should be directed to the same address as that with which the correspondence was initiated. The individual can obtain information on the procedures for gaining access to and contesting records from the Health Care Financing Administration, Medicare Bureau (Health Insurance Inquiries Branch) Baltimore, Maryland 21235.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The initial correspondence in these records is prepared by the beneficiary or other inquiries; the response is prepared by the appropriate Social Security Administration component.

Systems exempted from certain provisions of the act: None.

09-70-0510

System name: System name: Alphabetical Name File (folder) of Health Insurance Program Consultants HEW, HCFA, MAB.

Security classification: None.

System location:
Health Care Financing Administration Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individuals who have contracted to provide consultant services to the Bureau.

Categories of records in the system: Each folder contains the consultant's name, social security number, mailing address, city and state, ZIP Code. Total amount of the consultant's contract and the amount of money billed each month for his service.

Authority for maintenance of the system: Social Security Act, Section 1874(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folder.

Retrievability: Name—Comparing actual expenditures against budget.

Safeguards: Office is locked during nonworking hours.

Retention and disposal: Retention and disposal: Retain 1 year, then discard.

System manager(s) and address:
Director, Division of Management
Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:
Chief, Financial Mangement Branch
Division of Management, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235
Identification will be required.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Administrative Services Section, Division of Management, Bureau of Health Insurance; copy of original contract: amount of consultants' billings per month from the consultant.

Systems exempted from certain provisions of the act: None.

09-70-0511

System name: Medicare Benefit Check Records HEW, HCFA, MAB.

Security classification: None.

System location: Intermediaries and carriers (see Appendix C, Sections 3 and 4).

Categories of individuals covered by the system: Beneficiaries, physicians, and providers of services under Medicare.

Categories of records in the system: Cancelled checks that have been paid to beneficiaries, physicians and providers of services under Medicare.

Authority for maintenance of the system: Sections 1816, 1842, and 1874 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cancelled check files.

Retrievability: Indexed by health insurance claim number. The cancelled checks are retained by the carriers and intermediaries to establish that payment has been made.

Safeguards: The file area is closed to unauthorized personnel.

Retention and disposal: Closed out at the end of the calendar year in which paid or voided, held 1 additional year and transferred to Federal Records Center. Destroyed after 5 years retention there.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for cancelled or voided check information should be directed to the most convenient social security office (see Appendix F), or to the carrier or intermediary who made the payment.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR Section 5b.7).)

Record source categories: The checks originate in the offices of the carriers and intermediaries to which they are returned after having been negotiated.

09-70-0512

System name: Review and Fair Hearing Case Files—Supplementary Medical Insurance Program HEW, HCFA, MAB.

Security classification: None.

System location: Carriers (see Appendix C, Section 4).

Categories of individuals covered by the system: Beneficiary, physician, provider or other supplier of service who is dissatisfied with the carrier's determination denying a request for payment, or with the amount of the payment, or with the length of time being taken to process the claim for payment.

Categories of records in the system: Claimants' requests for review, relevant written statements or evidence, notices of adverse informal review decisions, requests for hearings to protest adverse decisions, hearings proceedings, hearings officers' final decisions and comparable papers.

Authority for maintenance of the system: Sections 1812 and 1842 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file cabinets.

Retrievability: The records are indexed by health insurance claim number.

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Safeguards: Disclosure of records is limited to routine uses. The files are closed to unauthorized personnel.

Retention and disposal: Records are closed out at the end of the calendar year in which the action (reconsideration, hearing, court review) is completed, held 2 more years, transferred to Federal Records Center and destroyed after another 6 years.

System manager(s) and address:
Director, Medicare Bureau.
6401 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for records should be directed to the most convenient social security office or to the Health Care Financing Administration Bureau of Health Insurance, Reconsideration Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on social security records. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a reponsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR Section 5b.6).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The information contained in these records is furnished by the beneficiary requesting reconsideration or his authorized representative and from the reviewing authority.

Systems exempted from certain provisions of the act: None.

09-70-0513

System name: Explanation of Medicare Benefit Records HEW, HCFA, MAB.

Security classification: None.

System location: Intermediaries and carriers (see Appendix E, Sections 3 & 4).

Categories of individuals covered by the system: All recipients of Medicare services and supplies.

Categories of records in the system: Medicare hospital insurance benefits record; Part B home health benefits record; Medicare hospital insurance benefits record. These are notices of utilization and explanation of Medicare benefits. They also advise beneficiaries of remaining hospital insurance benefits and the hospital and supplementary medical deductible status.

Authority for maintenance of the system: Sections 205, 226, 1811, and 1832 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Copies of forms sent to beneficiaries are retained in file cabinets.

Retrievability: The records are indexed by health insurance number. These records are used to advise the beneficiary of the payments made on his or her behalf and where applicable, the benefits remaining.

Safeguards: Disclosure of records is limited. The file area is closed to unauthorized personnel.

Retention and disposal: Closed out at the end of the year in which the benefit was paid or denied; held 1 year, transferred to the Federal Records Center where record is destroyed after 5 years.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for system records should be addressed to the most convenient social security office (see Appendix F), or to the carrier or intermediary who issued the notice.

Record access procedures: Same as notification procedures. Requesters hould also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: The identifying information is furnished by the beneficiary when requesting payment; the medical procedures are funished by the physician or provider and the amount of payment and remaining benefits are funished by the intermediary or carrier.

09-70-0514

System name: Payment Record File of Supplementary Medical (Medicare) Enrollees (Statistics) HEW, HCFA, MAB.

Security classification: None.

System location:
Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Supplemental medical (Medicare) enrollees who have met the deductible in any calendar year and have supplemental medical reimbursement, beginning July 1, 1966.

Categories of records in the system: Beneficiary demographic characteristics, physician and supplier billing information, including charges and amount reimbursed; physician characteristics.

Authority for maintenance of the system: Section 1875 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: All records are indexed by health insurance claim number. They are recorded in segments based on month they were processed.

Safeguards: All magnetic tape files are retained in security storage areas accessible only to authorized persons within the Bureau of Data Processing. Data are accessible only to individuals within the Division of Health Insurance Studies. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: Records are retained with identifiers as long as needed for purposes of program research.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: For purposes of access, write to the systems manager; he will require name of system, health insurance claim number, and for verification purposes, name (woman's maiden name, if applicable), social security number, address, date of birth and sex, and to ascertain whether the individual's record is in the system, year Part B deductible was met.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Medicare enrollment, Medicare payment record.

Systems exempted from certain provisions of the act: None.

09-70-0515

System name: Chronic Renal Disease Beneficiary History File HEW, HCFA, MAB.

Security classification: None.

System location:
Bureau of Data Processing
6401 Security Boulevard (magnetic tape)
Baltimore, Maryland 21235

Office of Research and Statistics
1500 Woodlawn Drive (hard copy)
Baltimore, Maryland 21241.

Categories of individuals covered by the system: All individuals with identified end-stage renal disease with Medicare coverage.

Categories of records in the system: Health and supplemental medical Medicare billing information, including charges and amounts reimbursed; physician characteristics; demographic data on beneficiaries; medical data.

Authority for maintenance of the system: Section 1875 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records stored on magnetic tape with a hard copy back-up also available.

Retrievability: All records are indexed by health insurance claim number.

Safeguards: All magnetic tape files are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. Data are accessible only to individuals within the Division of Health Insurance Studies, and hard copy records are stored in secure areas with access limited to authorized individuals.

Retention and disposal: Records are retained with identifiers as long as need for purposes of program research.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: For purposes of access, write the systems manager; he will require name of system, health insurance claim number, and for verification purposes, name (woman's maiden name, if applicable), social security number, address, date of birth and sex, and to ascertain whether the individual's record is in the system, date (month and year) on which treatment cost were first reimbursed under Medicare. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with the Department Regulations (45 CFR Section 5b.7).)

Record source categories: Master beneficiary record; Medicare enrollment records; Medicare bill records; Medicare payment records.

Systems exempted from certain provisions of the act: None.

09-70-0516

System name: Medicare Physician Supplier Master File HEW, HCFA, MAB.

Security classification: None.

System location: Carriers under contract to the Health Care Financing Administration and the Social Security Administration. (See Appendix C, Section 4).

Categories of individuals covered by the system: Physicians and suppliers who provide medical services or supplies to Medicare beneficiaries.

Categories of records in the system: A compilation of all charges submitted by a physician or supplier for services and supplies to: (1) derive "reasonable charge" information; (2) determine economic indexes; and (3) to substantiate the basis for payment to beneficiaries, physicians, suppliers and hospitals.

Authority for maintenance of the system: Sections 1833, 1835, 1842 and 1874 of title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records from this system may be disclosed to a provider, the claimant or a prospective claimant, the name of a physician who has been found ineligible to submit claims under Section 1814(h) (Payment for Posthospital Extended Care Services) or Section 1814(i) (Payment for Posthospital Home Health Services) of Title XVIII of the Social Security Act. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Disclosure may be made to the title XIX State agency or the title XIX fiscal agents of the customary and prevailing charge screens and whatever other information is contained in the file and would be required to determine "reasonable charges" as required under section 1903(i)(1) of the Social Security Act. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, microfilm, and hard copy paper.

Retrievability: The records are indexed by physician provider numbers and supplier EIN (employer's identification number). The rec-

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ords are prepared and updated daily by carriers as a basis for determining reasonable charges and area prevailing charges.

Safeguards: Disclosure of records is limited to carrier personnel on a need-to-know basis. The files are closed to unauthorized personnel. The determination as to which personnel are authorized will vary slightly in different carrier installations. All carriers have guards at the building entrance to prevent intrusion by individuals not employees or not having business with the carrier. One or more of the following security measures are used within the building: color coded identification cards are used to establish the right of an employee to be in a specific area; cipher locks are used to protect files and computer areas; magnetic identification cards are used to gain access to security sensitive areas; videomonitoring of sensitive areas is constant.

Retention and disposal: Records are closed out the first quarter following the close of the previous calendar year. Files are retained indefinitely.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for records information should be directed to the carrier servicing the physician's or supplier's geographical area. Individuals who want to determine if they have a record in this system must provide their full name and address.

Record access procedures: Disclosure may be made in a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Contesting record procedures: In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Record source categories: Information contained in these records is furnished in part by the individual physician or supplier and in part abstracted from Medicare Part B billing records.

09-70-0517

System name: Physician/Supplier 1099 File (Statement for Recipients of Medical and Health Care Payments) HEW, HCFA, MAB.

Security classification: None.

System location: Carriers and intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (see Appendix C, Section 3, and Section 4.)

Categories of individuals covered by the system: Physician/suppliers to whom Medicare payments have been made by carriers or intermediaries.

Categories of records in the system: A record of total Medicare payments made to physicians and suppliers during each calendar year. It contains the name, address and social security number of the physician/provider number of supplier EIN (employer identification number).

Authority for maintenance of the system: 26 U.S. Code 6041 (Internal Revenue Code).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This record is disclosable to the Internal Revenue Service in connection with the determination of the individual's self-employment income. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, microfilm, and hard copy paper.

Retrievability: The records are indexed for individual identification by clinic physician provider numbers and supplier EIN (employer's identification number). The records are prepared and updated daily by carriers as a basis for determining reasonable charges and area prevailing charges.

Safeguards: Disclosure of records to carrier personnel is limited to a need-to-know basis. The files are closed to unauthorized personnel. The determination as to which personnel are authorized will vary slightly in different carrier installations. All carriers have guards at the building entrance to prevent intrusion by individuals not employees or not having business with the carrier. One or more of the following security measures are used within the building: Color coded identification cards are used to establish the right of an employee to be in a specific area; cipher locks are used to protect files and computer areas; magnetic identification cards are used to gain access to security sensitive areas; videomonitoring of sensitive areas is constant.

Retention and disposal: Records are closed out the first quarter following the close of the previous calendar year. Files are retained indefinitely.

System manager(s) and address:

Director, Medicare Bureau
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries and requests for records information should be directed to the carrier servicing the clinic physician's or supplier's geographical area. Individuals who want to determine if they have a record in this system must provide their full name and address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5 and 5b.6).)

Contesting record procedures: Contact the official at the address specified under System Manager above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations.) Note: (45 CFR Section 5b.7) erroneously deleted. Please leave as is.

Record source categories: Information contained in these records is furnished in part by the individual clinic physician or supplier and in part abstracted from Medicare Part B billing records.

Systems exempted from certain provisions of the act: None.

09-70-0520

System name: End Stage Renal Disease (ESRD) Medical Information System (Registry) HEW, HCFA, MAB.

Security classification: None.

System location:

Office of Data Development
Division of Health Insurance Data
6401 Security Boulevard
Baltimore, Maryland 21235 and
Bureau of Data Processing
Division of Health Insurance Systems
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individuals receiving ESRD Medicare Benefits including successful kidney transplant patient three year post-surgery.

Categories of records in the system: Health and medical records data (2) VA Patients (3) Successful transplant patients beyond three year entitlement.

Authority for maintenance of the system: Social Security Act Section 226(9) (42 U.S.C. 426(g)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1) Development and support for improved Federal ESRD activities; coordination and monitoring of Federal/State ESRD programs; support for State and local ESRD program activities; review of appropriateness of care and services provided to ESRD patients; assurance that all identified and potential patients have access to necessary services; review of quality of care being provided to ESRD patients; planning for ESRD services and facilities and determination that existing services and facilities are effectively utilized; support for organizations and institutions conducting ESRD research and providing services to ESRD patients; projection of equipment and supply requirements for ESRD patients. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. See Appendix B of the Department Regulations (45 CFR, Part 5b), items 3, 9, 101, and 102.

2) Purpose: To meet and operationalize statutory requirements of Sec. 2991, P.L. 92-603; to support State and local ESRD programs and legislative requirements; to support non-Federal research and service programs and effective State, local and other planning activities.

3) Users: Local Medical Review Boards; ESRD Network Coordinating Councils; organizations and institutions conducting ESRD research and providing services to ESRD patients; State and local governments; other Federal agencies involved in ESRD activities (Department of Defense, Veterans Administration and Office of Management and Budget); equipment manufacturers and suppliers.

4) Disclosures may be made to: a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; in accordance with the following numbered items in Appendix B of Department regulations (42 CFR Part 5b):

(101) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(102) To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and disc, hard copy forms, microfilm (anticipated).

Retrievability:

HEW uses:

1) Uses: Program monitoring, planning and evaluation; support for clinical studies and infection control programs; validation of accuracy of reported information; respond to Congressional inquiries; budget preparation; support for local review Boards and ESRD Councils; support for quality of ESRD card review, support for patient rehabilitation programs; support for Federally operated dialysis and transplant services and programs.

2) Purpose: To meet statutory requirements of Sec. 2991, P.L. 92-603 and P.L. 95-292 and requirements of DHEW regulations and policies.

3) Users: All DHEW units involved in the operation, evaluation and support of the national ESRD program including; Health Services Administration, Health Resources Administration; Social Security Administration, Social and Rehabilitation Services; National Institutes of Health; Center for Disease Control.

4) Retrievability: Data indexed by Health Insurance Claim number, patient name and facility number. Individual patient and statistical data provided to Health Care Financing Administration, the National Institutes of Health and local Medical Review Boards, statistical data provided to other governmental units and the general public.

Safeguards: Restricted access to all areas where data are maintained and processed, hard copy data stored in locked files in secured area, terminal access controlled by user ID and keywords. Access to personal data restricted to those authorized to work with those data. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Hard copy retained 1 year; all other information, indefinitely. Hard copy destroyed by shredding; all other information, to be determined.

System manager(s) and address:

Health Care Financing Administration
End Stage Renal Disease Program

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Division of Special Operations
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Same as system manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Applications for Medicare, ESRD benefits, patient records at ESRD treatment facilities, Health Care Financing Administration Medicare Master Files

Systems exempted from certain provisions of the act: None.

09-70-0521

System name: Medicare Beneficiary Claims for Emergency Services HEW, HCFA, MAB

Security classification: None.

System location:
Health Care Financing Administration
Medicare Bureau
Division of Special Operations
Reconsideration Branch
6401 Security Boulevard
Baltimore, Md. 21235

Categories of individuals covered by the system: Medicare beneficiaries who file for Medicare Part A emergency claim reconsideration desiring coverage of nonparticipating hospital charges.

Categories of records in the system: Medical information and associated charge data.

Authority for maintenance of the system: Social Security Act Sections 1814 (d) and (f) (42 U.S.C. 1395F (d) and (f)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made in accordance with Appendix B of the Departmental Regulations (45 CFR, Part 5b) item 3: In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, log book—in emergency claims file drawers.

Retrievability:

HEW uses:

1) Uses: Track file folders (which include Medicare emergency claims with associated medical record information) received from and returned to Health Care Financing Administration, Medicare Bureau regional offices; maintain sufficient information to indicate the decisions and rationale to handle future inquiries and coordinate handling of subsequent claims by the same beneficiary for other emergency service claims; identify problems which can be corrected administratively. The Public Health Service regional offices handle the information file folders on initial consideration of the claims. Copies of documentation of case and claim decision are returned with the information file folders for both PHS and HCFA regional offices, to indicate the claim decision and justification for the decision.

2) Purpose: Determine whether services were medically necessary on an immediate emergency basis.

3) Users: Information is used by fiscal intermediaries for the Medicare Program to reimburse hospitals and beneficiaries. Both information files and the documentation of case and claim decision are used by Administrative Law Judges in cases of claims appeals.

4) Retrievability: Beneficiary name, health insurance claim number, name of hospital and dates of services appear in all categories of records (information file folders which include Medicare emergency claims with associated medical record information; documentation of case and claim decision; claims review status log), and are used to identify an individual's specific claim. All records are kept in the emergency claim file drawers. The information file folders and entries in the log are in the order of receipt in the office. The documentation of case and decision are alphabetized by name.

Safeguards: Records are in locked file drawers. Personnel are instructed on information confidentiality. Access to claim folders restricted to authorized personnel.

Retention and disposal: Number of years held at HSA: information file folders are held one week to six months before being returned to originating source. Other records kept indefinitely. Number of years held at Federal Records Center before disposal: not applicable.

System manager(s) and address:
Director, Medicare Bureau
6401 Security Blvd.
Baltimore, Md. 21235

Notification procedure: Same as system manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Medicare claim forms and supporting information; portions of medical records from nonparticipating hospitals; other pertinent medical and emergency room records; physician statements; statements of HEW personnel authorized to handle the claims; information and requests from representatives of the beneficiaries for reconsideration of claims decisions.

Systems exempted from certain provisions of the act: None.

Appendix C Health Insurance Claims
1 Central Office Address
Medicare records are maintained by the:
Medicare Bureau
6401 Security Blvd.
Baltimore, Maryland 21235
Office Hours are 8:15-4:45

Records are also maintained by private insurance organizations who share in administering provisions of the health insurance program. These private insurance organizations, referred to as carriers and intermediaries, are under contract to the Social Security Administration and the Health Care Financing Administration to preform specific tasks in the Medicare program. Addresses for the intermediaries may be found under section 3, and for the carriers under section 4 below.

Health insurance records of the Medicare program can be accessed through a regional representative of the Medicare Bureau.

2. Health Insurance Regional Office Addresses:

BOSTON REGION—Connecticut, Maine, Massachusetts, New Hamphire, Rhode Island, Vermont
John F. Kennedy Federal Building
Room 1211
Boston, Massachusetts 02203
Office Hours: 8:30-5:00

NEW YORK REGION—New Jersey, New York, Puerto Rico, Virgin Islands
26 Federal Plaza—Room 715
New York, New York 10007
Office Hours: 8:30-5:00

PHILADELPHIA REGION—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
P.O. Box 8460
Philadelphia, Pennsylvania 19101
Office Hours: 8:30-5:00

ATLANTA REGION—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee
101 Marietta Street
Suite 702
Atlanta, Georgia 30323
Office Hours 8:00-4:30

CHICAGO REGION—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
175 W. Jackson Blvd.
Suite A-824
Chicago, Illinois 60604
Office Hours: 8:15-4:45

DALLAS REGION—Arkansas, Louisiana, New Mexico, Oklahoma, Texas
1200 Main Tower Building
Dallas, Texas 75202
Office Hours: 8:00-4:30

KANSAS CITY REGION—Iowa, Kansas, Missouri, Nebraska
New Federal Office Building
601 East 12th Street—Room 436
Kansas City, Missouri 64106
Office Hours: 8:00-4:45

DENVER REGION—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Federal Office Building
1961 Stout St—Room 11037
Denver, Colorado 80294
Office Hours: 8:00-4:30

SAN FRANCISCO REGION—American Samoa, Arizona, California, Guam, Hawaii, Nevada
Federal Office Building
100 Van Ness Avenue
20th Floor
San Francisco, California 94102
Office Hours: 8:00-4:30

SEATTLE REGION—Alaska, Idaho, Oregon, Washington
1321 Second Avenue—Room 615
Mail Stop 211
Seattle, Washington 98101
Office Hours: 8:00-4:30

3. Intermediary Addresses (Hospital Insurance)

Medicare Coordinator
Blue Cross/Blue Shield of Alabama
930 South 20th Street
Birmingham, Alabama 35205

Medicare Coordinator
Assoc. Hospital Service of Arizona
P.O. Box 13466
321 West Indian School Road
Phoenix, Arizona 85002

V.P. for Medicare and Medical Services
Arkansas Blue Cross/Blue Shield
P.O. Box 2181
601 Gaines Street
Little Rock, Arkansas 72203

Medicare Claim Administrator
Aetna Life & Casualty
2600 Wilshire Boulevard
Los Angeles, California 90057

Medicare Coordinator
Blue Cross of Southern California
P.O. Box 70000
Van Nuys, California 91470

Supply Supervisor
Blue Cross of Norther California
1950 Franklin Street
Oakland, California 94659

Medicare Coordinator
Kaiser Foundation Health Plan Inc.
1956 Webster Street, Room 310A
Oakland, California 94612

Aetna Life & Casualty
Medicare Claim Administration
97 San Marin Drive
Novato, California 94947

Assistant Vice-President
Colorado Hospital Service
700 Broadway
Denver, Colorado 80203

Medicare Administrator
Aetna Life & Casualth
151 Farmington Avenue
Hartford, Connecticut 06115

Medicare Coordinator
Connecticut Blue Cross
370 Bassett Rd.
North Haven, Connecticut 06473

Administrator, Medicare Claims Office
Aetna Life & Casualty
P.O. Box 329
270 Farmington Avenue
Building 4, 2nd Floor
Farmington, Connecticut 06032

Medicare Administrator
Travelers Ins. Co.
One Tower Square
Hartford, Connecticut 06115

Connecicut General Life Ins. Co.
Medicare Claim Office
200 Pratt Street
Meriden, Connecticut 06450

Medicare Coordinator
Blue Cross/Blue Shield of Delaware
201 West 14th Street
Wilmington, Delaware 19899

Medicare Coordinator
Group Hospitalization Inc.
550 12th Street, S.W.
Washington, D.C. 20024

Medicare Coordinator
Blue Cross of Florida, Inc.
P.O. Box 1798
Jacksonville, Florida 32231

Medicare Claim Administrator
Aetna Life & Casualty
The Taylor Building
121 North Osceola Avenue
Clearwater, Florida 33515

Coordinator, Provider Administration
Blue Cross of Georgia/Columbus
P.O. Box 7368

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2357 Warm Springs Rd.
Columbus, Georgia 31904
Blue Cross of Georgia/Atlanta
3348 Peachtree St., N.E.
P.O. Box 4445
Atlanta, Georgia 33302
Administrative Vice-President
Hawaii Medical Service Administration
P.O. Box 860
1504 Kapiolani Boulevard
Honolulu, Hawaii 96808
Medicare Coordinator
Idaho Hospital Service, Inc.
P.O. Box 7408
1501 Federal Way
Boise, Idaho 83707
Health Care Service Corp.
233 North Michigan Avenue
Chicago, Illinois 60601
Medicare Claims Administration
Aetna Life & Casualty
P.O. Box 1702
Peoria, Illinois 61603
Medicare Coordinator
Blue Cross Hospital Service
120 West Market Street
Indianapolis, Indiana 46204
Medicare Administrator
Blue Cross of Iowa
Ruan Building
636 Grant Avenue, Station 28
Des Moines, Iowa 50307
Blue Cross of Western Iowa and S. Dakota
Third and Pierce Street
Sioux City, Iowa 51102
Medicare Administrator
Kansas Hospital Association, Inc.
1133 Topeke Avenue, P.O. Box 239
Topeka Kansas 66601
Director, Medicare Division
Blue Cross Hospital Plan, Inc.
9901 Linn Station Road
Louisville, Kentucky 40223
Medicare Coordinator
Louisiana Health Service & Indemnity Co.
P.O. Box 15699
Baton Rouge, Louisiana 70895
Medicare Coodinator
Maine B/C-B/S
100 Free Street
Portland, Maine 04101
Medicare Coordinator
Maryland Blue Cross, Inc
700 East Joppa Road
Baltimore, Maryland 21204
Medicare Claims Admin.
Aetna Life & Casualty Co.
400 Mechanics National Tower
Worcester, Massachusetts 01608
Medicare Coordinator Part A
Massachusetts Hospital Service, Inc.
100 Summer Street
Boston, Massachusetts 02106
Asst. Vice Pres. Govern. Aff. Dept.
Michigan Medical Services
600 Lafayette East
Detroit, Michigan 48226
Medicare Coordinator
Minnesota Hospital Service Assoc.
3535 Blue Cross Road
St. Paul, Minnesota 55165
Medicare Coordinator
Mississippi Hospital & Medical Service
P.O. Box 1043
Jackson, Mississippi 39205
Vice-President Government Programs
Blue Cross of Kansas City
P.O. Box 169
Kansas City, Missouri 64141
Vice-President
Blue Cross Hospital Service Inc.
4444 Forest Park
St. Louis, Missouri 63108
Medicare Coordinator
Blue Cross of Montana
P.O. Box 5017
3360 10th Avenue, South
Great Falls, Montana 59405
Asst. Vice-Pres. Health Ins. Benefits
Mutual of Omaha Ins. Co.
Box 456 Downtown Station
Omaha, Nebraska 68101
Medicare Coordinator
Nebraska Blue Cross Hosp. Serv, Assn.
P.O. Box 3248
Main Post Office Station
Omaha, Nebraska 68103
Medicare Claims Administrator
Aetna Life & Casualty
P.O. Box 7290
Reno, Nevada 89510
Medicare Coordinator
New Hampshire Vermont Phys. Serv.
2 Pillsbury Street
Concord, New Hampshire 03301
Medicare Coordinator
Hospital Service Plan of New Jersey
33 Washington Street
Newark, New Jersey 07102
Medicare Coordinator
Prudential Ins. Co. of America
P.O. Box 471
Millville, New Jersey 08332
Hospital Service, Inc.
12800 Indian School Rd., N.E.
Albuquerque, New Mexico 87112
Medicare Coordinator
Rochester Hospital Service
41 Chestnut Street
Rochester, New York 14604
Hospital Plan, Inc.
5 Hopper St.
Utica, New York 13501
Medicare Coordinator
Blue Cross of Western New York, Inc.
298 Main Street, Blue Cross Building
Buffalo, New York 14202
Medicare Coordinator
Blue Cross of Central New York, Inc.
P.O. Box 271

344 South Warren Street
Syracuse, New York 13202
Hospital Service Corp. of Jerrerson Co.
P.O. Box 570
158 Stone Street
Watertown, New York 13602
Medicare Coordinator
B/C-B/S of Greater New York
622 Third Avenue
New York, New York 10017
Chautauqua Region Hospital Service Corp.
306 Spring Street
Jamestown, New York 14701
Medicare
Blue Cross of N.E. New York, Inc.
P.O. Box 8650
Albany, New York 12208
Vice-President Medicare
North Carolina B/C-B/S
P.O. Box 2291
Durham, North Carolina 27702
Medicare Coordinator
Blue Cross of North Dakota
301 Eight St., South
Fargo, North Dakota 58102
Associated Hospital Service, Inc.
2400 Market Street
Youngstown, Ohio 44507
Medicare Coordinator
B/C of N.W. Ohio
P.O. Box 943
Toledo, Ohio 43656
Medicare Coordinator
B/C of N.E. Ohio
2066 East Ninth Street
Cleveland, Ohio 44115
Medicare Coordinator
B/C of S.W. Ohio
1351 William Howard Taft Road
Cincinnati, Ohio 45206
Medicare Sys. & Proc. Div.
Nationwide Insurance Co.
P.O. Box 57
Columbus, Ohio 43216
Medicare Coordinator
B/C of Central Ohio
P.O. Box 16526
255 East Main Street
Columbus, Ohio 43216
Director, Medicare Operations
Blue Cross Association
1215 South Boulder
Tulsa, Oklahoma 74102
Medicare Coordinator
B/C of Oregon
P.O. Box 1271
100 S.W. Market Street
Portland, Oregon 97201
Director, Medicare Division
Blue Cross of Greater Philadelphia
1333 Chestnut Street
Philadelphia, Pennsylvania 19107
Project Staff Medicare
Blue Cross of Western Pennsylvania
One Smithfield Street
Pittsburgh, Pennsylvania 15222
Medicare Coordinator
B/C of N.E. Pennsylvania
Blue Cross Building
70 North Main Street
Wilkes Barre, Pennsylvania 18711
Medicare Coordinator
Blue Cross of Lehigh Valley
1221 Hamilton Street
Allentown, Pennsylvania 18102
Medicare Coordinator
Capital Blue Cross
100 Pine Street
Harrisburg, Pennsylvania 17101
Aetna Life & Casualty
Medicare Claim Administrator
500 Office Center Building
P.O. Box 548
Fort Washington, Pennsylvania 19034
Cooperativa de Seguros de Vida de Puerto Rico
G.P.O. Box 3428
San Juan, Puerto Rico 00936
Blue Cross of Rhode Island
444 Westminister Mall
Providence, Rhode Island 02901
Medicare Coordinator
Blue Cross Blue Shield of S.C.
Drawer F Forest Acres Branch
Columbia, South Carolina 29206
Medicare Coordinator
Memphis Hosp. Serv. Surg. Assn.
P.O. Box 98
Memphis, Tennessee 38101
Medicare Coordinator
B/C—B/S of Tennessee
801 Chestnut Street
Chattanooga, Tennessee 37402
Medicare Administrator
Aetna Life & Casualty
Union Square Building
7670 Union Avenue
Suite 606
Memphis, Tennessee 38112
Office Services
Group Hospital Services, Inc.
P.O. Box 22146
Dallas, Texas 75222
Medicare Coordinator
B/C of Utah
P.O. Box 3270, Medicare A
2455 Parleys Way
Salt Lake City, Utah 84125
B/C—B/S of S.W. Virginia
P.O. Box 13047
3959 Electric Rd., S.W.
Roanoke, Virginia 24045
Manager, Government Programs
Blue Cross and Blue Shield
2015 Staples Mill Road, P.O. Box 27401
Richmond, Virginia 23279
Medicare Coordinator
B/C Washington/Alaska, Inc.
15700 Dayton Avenue, North
P.O. Box 327
Seattle, Washington 98111

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Medicare Administration
Aetna Life and Casualty Co.
P.O. Box C19046
Seattle, Washington 98109
Medicare Coordinator
Parkersburg Hosp. Serv., Inc.
P.O. Box 1948
Parkersburg, West Virginia 26101
Medicare Coordinator Blue Cross
Hospital Service Inc.
Commerce Square, P.O. Box 1353
Charleston, West Virginia 25325
Director of Fed. Programs
West Virginia Hospital Service, Inc.
20th and Chapline Streets
Wheeling, West Virginia 26003
Medicare Coordinator
Assoc. Hosp. Serv., Inc.
401 W. Michigan Street
Milwaukee, Wisconsin 53203
Medicare Coordinator
B/C—B/S of Wyoming
400 House Avenue
P.O. Box 2266
Cheyenne, Wyoming 82001
Health Care Financing Administration
Medicare Bureau
Director, Div. of Direct Reimbursement
6401 Security Boulevard
Room 1-A-5 East Building
Baltimore, Maryland 21235
Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
4. Carrier Addresses (Supplementary Medical Insurance)
Medicare Coordinator
Blue Cross Blue Shield of Alabama
930 South 20th Street
Birmingham, Alabama 35205
Medicare Claim Administrator
Aetna Life & Casualty
3010 West Fairmount Avenue
Phoenix, Arizona 85017
Vice President for Medicare and
Medical Services
Arkansas Blue Cross Blue Shield
601 Gaines Street
Little Rock, Arkansas 72203
Medicare Coordinator
California Blue Shield
P.O. Box 7968
Rincon Annex
San Francisco, California 94120
Medicare Coordinator
Occidental Life Insurance Company of California
P.O. Box 54905 Terminal Annex
Los Angeles, California 90054
Assistant Vice President
Blue Shield of Colorado
700 Broadway
Denver, Colorado 80203
Medicare Administrator
Travelers Ins. Co.
One Tower Square
Hartford, Connecticut 06115

Medicare Administrator
Aetna Life & Casualty
151 Farmington Avenue
Hartford, Connecticut 06115
Medicare Coordinator
Connecticut General Life
Insurance Company
200 Pratt Street
Meriden, Connecticut 06450
Medicare Coordinator
Blue Cross Blue Shield of Delaware
201 West 14th Street
Wilmington, Delaware 19899
Medicare Coordinator
Medical Service of D.C.
550 12th Street, SW
Washington, D.C. 20024
Medicare Coordinator
Blue Shield of Florida, Inc.
P.O. Box 1798
Jacksonville, Florida 32201
Group Health, Inc.
1320 South Dixie Highway
Coral Gables, Florida 33146
Medicare Administrator
Prudential Insurance Company of America
P.O. Box 95466
57 Executive Park Station
Atlanta, Georgia 30347
Medicare Claim Administrator
Aetna Life Casualty
100 Bishop Street, P.O. Box 3947
Honolulu, Hawaii 96812
Medicare
The Equitable Life Assurance Society
P.O. Box 8048, Hillcrest Plaza Shop.
Boise, Idaho 83707
Continental Casualty Company
Medicare Benefits Division
P.O. Box 910
Chicago, Illinois 60690
Health Care Service Corporation
233 North Michigan Avenue
Chicago, Illinois 60601
Assistant Vice President Medicare Dept.
Blue Shield of Indiana
120 West Market Street
Indianapolis, Indiana 46204
Assistant Executive Director
Blue Shield of Iowa
Ruan Building, 636 Grand Avenue
Station 28
Des Moines, Iowa 50307
Medicare Administrator
Kansas Medical Association, Inc.
1133 Topeka Blvd., P.O. Box 239
Topeka, Kansas 66601
Manager
Metropolitan Life Insurance Co.
1218 Harrodsburg Road, Suite 300
Lexington, Kentucky 40504
Manager, Medicare Liaison
Pan American Life Insurance Co.
P.O. Box 60450
New Orleans, Louisiana 70160

Blue Shield of Massachusetts/Maine
Medicare Claims Office
477 Congress Street
Portland, Maine 04111
Medicare Coordinator
Maryland Blue Shield, Inc.
700 E. Joppa Road
Baltimore, Maryland 21204
Medicare Coordinator Part B
Massachusetts Blue Shield
100 Summer Street
Boston, Massachusetts 02106
Asst. Vice Pres. Govern. Aff. Dept.
Michigan Medical Services
600 Lafayette East
Detroit, Michigan 48226
Blue Cross Blue Shield of Minn.
3535 Blue Cross Road
St. Paul, Minnesota 55165
Vice President Government Programs
Blue Shield of Kansas City
P.O. Box 169
Kansas City, Missouri 64141
Director, Medicare Administration
General American Life Ins. Corp.
P.O. Box 505
St. Louis, Missouri 63166
Montana Physicians Service
404 Fuller Avenue
P.O. Box 2510
Helena, Montana 59601
Assistant Vice President
Health Insurance Benefits
Mutual of Omaha Insurance Co.
Box 456, Downtown Station
Omaha, Nebraska 68101
Medicare Claims Administrator
Aetna Life & Casualty
P.O. Box 7290
Reno, Nevada 89510
Medicare Coordinator
New Hampshire Vermont Phys. Serv.
2 Pillsbury Street
Concord, New Hampshire 03301
Medicare Coordinator
Prudential Insurance Co. of America
P.O. Box 471
Millville, New Jersey 08332
Medicare
The Equitable Life Assurance Society
P.O. Box 3070
Station D
Albuquerque, New Mexico 87110
Director of Medicare Part B
Blue Shield of Western New York, Inc.
298 Main Street
Buffalo, New York 14202
Medicare Coordinator
Group Health Insurance, Inc.
326 West 42nd Street
New York, New York 10036
Medicare Coordinator
Genesee Valley Medical Care, Inc.
41 Chestnut Street
Rochester, New York 14604

Medicare Coordinator
Blue Cross Blue Shield of Greater N.Y.
622 Third Avenue
New York, New York 10017
Medicare Coordinator
The Equitable Life Assurance Society
1285 Avenue of the Americas
New York, New York 10019
Manager
Metropolitan Life Insurance Co.
P.O. Box 393
276 Genesee Street
Utica, New York 13503
Senior Vice President
Metropolitan Life Insurance Co.
One Madison Avenue
New York, New York 10010
Medicare Coordinator, B Division
Prudential Life Insurance Company
P.O. Box 2126
High Point, North Carolina 27261
Medicare Coordinator
Blue Shield of North Dakota
301 South Eight Street
Fargo, North Dakota 58102
Medicare Systems & Proc. Div.
Nationwide Insurance Company
P.O. Box 57
Columbus, Ohio 43216
Department of Institutions
Social & Rehabilitative Services
Box 25352 State Capital Station
Oklahoma City, Oklahoma 73125
Medicare Claims Admin.
Aetna Life & Casualty
Glenbrook Center, 1140 N.W. 63rd St.
Oklahoma City, Oklahoma 73116
Medicare Claim Admin.
Aetna Life & Casualty
1500 S.W. First Avenue
Crown Plaza
Portland, Oregon 97201
Medicare Coordinator
Pennsylvania Blue Shield
Blue Shield Building
Camp Hill, Pennsylvania 17011
Chief, Internal Operations
Seguros de Servicio de Salud de
Puerto Rico, Inc.
G.P.O. Box 3628
San Juan, Puerto Rico 00936
Medicare Coordinator
R.I. Medical Society Physicians Serv.
444 Westminster Mall
Providence, Rhode Island 02901
Medicare Coordinator
Blue Cross Blue Shield of S.C.
Drawer F Forest Acres Branch
Columbia, South Carolina 29206
Assistant Executive Director
South Dakota Medical Service, Inc.
1601 West Madison
Sioux Falls, South Dakota 57104
The Equitable Life Assurance Society
P.O. Box 1465

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Nashville, Tennessee 37202
Offices Services
Group Medical & Surgical Service
P.O. Box 22147
Dallas, Texas 75222
Manager, Part B
Blue Shield of Utah
P.O. Box 3270
2455 Parleys Way
Salt Lake City, Utah 84125
Assistant Administrator
Washington Physicians Service
4th & Battery Building—6th Floor
2401 4th Avenue
Seattle, Washington 98121
Medicare Coordinator, Surgical Care
The Medical Society of Milwaukee County
401 West Michigan Street
Milwaukee, Wisconsin 53203
Director, Medicare Claims Dept
Wisconsin Physicians Service
330 E. Lakeside Street, P.O. Box 1109
Madison, Wisconsin 53701
Field Director
Equitable Life Assurance Society
P.O. Box 628
102 Indian Hills Shopping Center
Cheyenne, Wyoming 82001
Health Care Financing Administration
Medicare Bureau
Director, Div. of Direct Reimbursement
6401 Security Blvd.
Room 1A5 East Building
Baltimore, Maryland 21235
Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

09-70-1503

System name: Cytotechnologists Proficiency Answer Sheets and Test Results (Medicare) HEW/HCFA/HSQB.

Security classification: None.

System location:
Test Results:
Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857
and Regional Federal Records Center
Answer Sheets:
Professional Examination Service
475 Riverside Drive
New York, N. Y. 10029

Categories of individuals covered by the system: Cytotechnologists.

Categories of records in the system: Answer Sheets. Examination scores.

Authority for maintenance of the system: Social Security Act Sections 1123 (42 U.S.C. 1320a-2).

Routine uses of records maintained in the system, including categories of usera and the purposes of such uses:

Uses outside HEW:
(1) Uses—Lists showing by States the names and addresses of individuals who passed or failed are sent to the HCFA Regional Director. They are instructed to make the lists available to the appropriate State Health Department. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; and in accordance with item 3 in Appendix B of Department regulations (42 CFR Part 5b): In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
(2) Purpose—These answer sheets indicate examination results and the lists indicate only pass or fail, and are used to advise an individual who failed the exam when the next examination will be given.
(3) Users—State Health Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer generated listings are filed by discipline, by State, in file folders.

Retrievability:
(1) Uses—Answer sheets are retained for revalidation and one record of all examinees is maintained for the purpose of responding to an individual examinee.
(2) Purpose—(1) Pass—To re-issue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request). (2) Fail—To re-advise what their scores were by subject upon written request, or when they can take the next examination.
(3) Users—Systems Manager and project officers.
(4) Retrievability—Listings and answer sheets are by examination, State, examinee's name and address, and examination number.

Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1979. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy by incineration or shredding. Answer sheets are retained until completion of contract and then destroyed.

System manager(s) and address:
Health Standards and Quality Bureau
Room 5127 ME Switzer Building
330 C Street SW.,
Washington, D.C. 20201

Notification procedure: Same as system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Scored examinations.

Systems exempted from certain provisions of the act: None.

09-70-1504

System name: Physical Therapists Proficiency Answer Sheets and Test Results (Medicare) HEW/HCFA/HSQB

Security classification: None.

System location:
Test Results:
Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Answer Sheets
Psychological Corporation
757 3rd Avenue
New York, N.Y. 10017

Categories of individuals covered by the system: Physical Therapists.

Categories of records in the system: Answer Sheets. Examination scores.

Authority for maintenance of the system: Social Security Act Section 1123 (42 U.S.C. 1320a-2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Uses—Answer sheets are used to score results of the examination and if applicable to revalidate results. Lists showing by States the names and addresses of individuals who passed or failed are sent to Regional Health Care Financing Administrators. PHS, Regional Offices. They are instructed to make the lists available to the appropriate State Health Department. Pursuant to Department Regulations (42 CFR 5b) Appendix B, Item (3): In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual in the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.
(2) Purpose—These answer sheets indicate examination results and the lists indicate only pass or fail, and are used to advise an individual who failed the exam when the next examination will be given.
(3) Users—State Health Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer generated listings are filed by discipline, by State, in file folders.

Retrievability:
(1) Uses—Answer sheets are retained for revalidation and one record of all examinees is maintained for the purpose of responding to an individual examinee.
(2) Purpose—(1) Pass—to re-issue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request). (2) Fail—re-advise what their scores were by subject upon written request, or when they can take the next examination.
(3) Users—Systems Manager and project officer.
(4) Retrievability—Listings and answer sheets are by examination, State, examinee's name and address, and examination number.

Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1978. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy by incineration or shredding. Answer sheets are retained until completion of contract and then destroyed.

System manager(s) and address:
Health Standards Quality Bureau
Room 5217, M. E. Switzer Building
330 C St. SW.
Washington, D.C. 20201

Notification procedure: Same as system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Scored Examinations.

Systems exempted from certain provisions of the act: None.

09-70-1505

System name: Psychiatric Technician Proficiency Answer Sheets and Test Results (Medicare) HEW/HCFA, HSQB

Security classification: None.

System location:
Test Results:
Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857
and Regional Federal Records Center
Answer Sheets
National League of Nursing
10 Columbus Circle
New York, N.Y. 10019

Categories of individuals covered by the system: Psychiatric technicians.

Categories of records in the system: Answer Sheets Examination scores.

Authority for maintenance of the system: Social Security Act Section 1123 (42 U.S.C. 1320a-2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Uses—Lists showing by States the names and addresses of individuals who passed or failed are sent to Acting Director, Health Standards Quality Bureau. They are instructed to make the lists available to the appropriate State Health Department. Pursuant to Department regulations (42 CFR Part 5b) Appendix B, Item (3): In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
(2) Purpose—These answer sheets indicate examination results and the lists indicate only pass or fail, and are used to advise an individual who failed the exam when the next examination will be given.
(3) Users—State Health Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer generated listings are filed by discipline, by State, in file folders.

Retrievability:
(1) Uses—One record of all examinees is maintained for the purpose of responding to an individual examinee and answer sheets are retained for revalidation.
(2) Purpose—(1) Pass—to re-issue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request). (2) Fail—re-advise what their scores were by subject upon written request, or when they can take the next examination.
(3) Users—Systems Manager and project officer.
(4) Retrievability—Listings and answer sheets are by examination, State, examinee's name and address, and examination number.

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Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1978. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy by incineration or shredding.

System manager(s) and address:
Health Standards Quality Bureau
Room 5127 M. E. Switzer Building
330 C St. SW.
Washington, D.C. 20201

Notification procedure: Same as system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Scored Examinations.

Systems exempted from certain provisions of the act: None.

09-70-1506

System name: Clinical Laboratory Technologists Proficiency Answer Sheets and Test Results (Medicare) HEW/HCFA/HSQB.

Security classification: None.

System location:
Test Results:
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
and Regional Federal Records Center
Answer Sheets:
Professional Examination Service
475 Riverside Drive
New York, New York 10027

Categories of individuals covered by the system: Clinical laboratory technologists.

Categories of records in the system: Answer sheets. Examination scores.

Authority for maintenance of the system: Social Security Act Section 1123 (42 U.S.C. 1320a-2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Answer sheets are used to score results and if applicable to revalidate results. Lists showing by States the names and addresses of individuals who passed or failed are sent to the Health Care Financing Regional Director. They are instructed to make the lists available to the appropriate State Health Department. Pursuant to Department regulations (42 CFR 5b) Appendix B, Item (3): In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(2) Purpose—These answer sheets indicate examination results and the lists indicate only pass or fail, and are used to advise an individual who failed the exam when the next examination will be given.
(3) Users—State Health Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Storage—Computer generated listings are filed by discipline, by State, in file folders.

Retrievability:

(1) Uses—One record of all examinees is maintained for the purpose of responding to an individual examinee and answer sheets are retained for revalidation.

(2) Purpose—(1) Pass—to re-issue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request). (2) Fail—re-advise what their scores were by subject upon written request, or when they can take the next examination.

(3) Users—Systems Manager and project officers.

(4) Retrievability—Listings and answer sheets are by examination, State, examinee's name and address, and examination number.

Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1980. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy them by incineration or shredding.

System manager(s) and address:
Health Standards and Quality Bureau
Room 5127 ME Switzer Building
330 C Street SW.,
Washington, D.C. 20201

Notification procedure: Same as system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Scored Examinations.

Systems exempted from certain provisions of the act: None.

09-70-1507

System name: Waivered Licensed Practical Nurse Proficiency Exam Answer Sheets and Test Results (Medicare) HEW/HCFA/HSQB.

Security classification: None.

System location:
Test Results:
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
and Regional Federal Records Center
Answer Sheets:
National League of Nursing
10 Columbus Circle
New York, New York 10019

Categories of individuals covered by the system: Licensed Practical Nurses.

Categories of records in the system: Answer sheets. Examination scores.

Authority for maintenance of the system: Social Security Act Section 1123 (42 U.S.C. 1320a-2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Uses—Answer sheets are used to score results of the examination and if applicable to revalidate results. Lists showing by States

the names and addresses of individuals who passed or failed are sent to the Regional Health Care Financing Administrators, PHS, Regional Offices. They are instructed to make the lists available to the appropriate State Health Department. Pursuant to Department regulations (42 CFR 6b) Appendix B, Item (3): In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(2) Purpose—These answer sheets indicate examination results and the lists indicate only pass or fail, and are used to advise an individual who failed the exam when the next examination will be given.
(3) Users—State Health Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer generated listings are filed by discipline, by State, in file folders.

Retrievability:

(1) Uses—One record of all examinees is maintained for the purpose of responding to an individual examinee and answer sheets are retained for validation.

(2) Purpose—(1) Pass—to re-issue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request). (2) Fail—re-advise what their scores were by subject upon written request, or when they can take the next examination.

(3) Users—Systems Manager and project officers.

(4) Retrievability—Listings and answer sheets are by examination, State, examinee's name and address, and examination number.

Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1978. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy them by incineration or shredding. Answer sheets are retained until completion of contract then destroyed.

System manager(s) and address:
Health Standards and Quality Bureau
Room 5127, ME Switzer Building
330 C Street, S.W.
Washington, D.C. 20201

Notification procedure: Same as system manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Scored examinations.

Systems exempted from certain provisions of the act: None.

09-70-1508

System name: Independent Laboratory Directors Proficiency Answer Sheets and Exam Results (Medicare). HEW/HCFA/HSQB.

Security classification: None.

System location:
Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857
and Regional Federal Records Center

Categories of individuals covered by the system: Independent laboratory directors.

Categories of records in the system: Examination scores. Answer Sheets.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Uses—Lists showing by states the names and addresses of individuals who passed or failed examinations were made available to the appropriate State Health Department. Pursuant to Department regulations (42 CFR 5b), Appendix B, Item (3): In the event the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice. Disclosure may be made to a congressional office from the record of an individual in reponse to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. (2) Purpose—Lists indicated only pass or fail, and were used to advise an individual who failed the exam when the next examination would be given. (3) Users—State Health Department. Because of the length of time that has elapsed since the last examination was given in 1970, it is not known if State Health Departments still retained unscored records of examinees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer generated listings are filed by discipline, by State, in file folders.

Retrievability: Retrievability—Listings are by examination, State examinee's name and address, and examination number. (1) Uses—One record of all examinees is maintained for the purpose of responding to an individual examinee. (2) Purpose—(1) Pass—to reissue a new card to those who pass, for reasons they have lost their card, or have changed their name (upon written request) (2) Fail—re-advise what their scores were by subject upon written request. (3) Users—Systems Manager and project officers.

Safeguards: Files are maintained in a combination lock file cabinet, in a locked room area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Lists are to be retained through FY 1978. They will then be filed at Federal Records Center for a period of three years. If at the expiration of that time the records are no longer of use, FRC will be authorized to destroy by incineration or shredding.

System manager(s) and address:
Health Standards and Quality Bureau
Room 5127, M E Switzer Building
330 C St. S.W.
Washington, D.C. 20201

Notification procedure: Same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These

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procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Scored Examinations.

Systems exempted from certain provisions of the act: None.

09-70-1509

System name: Complaint Files on Nursing Homes. HEW/HCFA/HSQB/DLT.

Security classification: None.

System location: Boston
Health Standards and Quality
DHEW Region I, Room 1211
John F. Kennedy Federal Office Building
Boston, Massachusetts 02203

New York
Health Standards and Quality
DHEW Region II, Room 4009
26 Federal Plaza
New York, New York 10007

Philadelphia
Health Standards and Quality
DHEW Region III
P.O. Box 8450, Dartuse Street
Philadelphia, Pennsylvania 19101

Atlanta
Health Standards and Quality
DHEW Region IV, Room 754
50 Seventh Street, N.E.
Atlanta, Georgia 30323

Chicago
Health Standards and Quality
DHEW Region V
175 West Jackson, Room 941
Chicago, Illinois 60604

Dallas
Health Standards and Quality
DHEW Region VI, Room
1200 Main Tower Building
Dallas, Texas 75202
Kansas City
Health Standards and Quality
DHEW Region VII
601 East 12th Street
Kansas City, Missouri 64106

Denver
Health Standards and Quality
DHEW Region VIII
1961 Stout Street
Denver, Colorado 80294

San Francisco
Health Standards and Quality
DHEW Region IX, 20th Floor
100 Van Ness Avenue
San Francisco, California 94102

Seattle
Health Standards and Quality
DHEW Region X, Arcade Plaza
1321 Second Avenue, Mail Stop 506
Seattle, Washington 98101

Categories of individuals covered by the system: Persons who make complaints on nursing homes certified under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act.

Categories of records in the system: Correspondence from complainant, copies of HEW response, or notation of referral to relevant State agency.

Authority for maintenance of the system: Titles XVIII and XIX, Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In accordance with Appendix B Departmental Regulations (45 CFR Part 5b) Item 05. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its comnponents; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Indexed alphabetically by name of complainant. Used by staffs of the Office of Long Term Care Standards and Enforcement to answer correspondence, to check on complaints, and to initiate corrective action as necessary. Statistical information submitted to SSA, Baltimore.

Safeguards: Authorized personnel only.

Retention and disposal: Retained two years or until complaint file closed, whichever is longer. Destroyed by shredding or incinerating

System manager(s) and address:
Director
Division of Long Term Care
Office of Standards and
Certification, HSQB
Room 12-A52 Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure: Same as above. Individual should contact Regional Office serving State in which nursing home about which a complaint was filed is located.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Letters from complainants, state agencies handling follow-up, staff investigative reports on nursing home.

09-70-1510

System name: Professional Qualification Files. HEW/HCFA/HSQB.

Security classification: None.

System location: (1) Regional Medicare Directors (See Appendix C, Sect. 2, Federal Register, September 20, 1976, page 41053).

(2) The State Agencies listed below for the indicated file categories:

Department of Public Health
State Office Building
Montgomery, AL 36130 (1)(2)(9)

Department of Health and Social Services
Pouch H, Space 06-G
Juneau, AK 99811
(1)(2)

Department of Health Services
1740 West Adams
Room 201
Phoenix AZ 85007
(1)(2)(3)

Bureau of Health Facilities Services
4815 West Markham
Little Rock, AR 72201
(1)(2)

Department of Health
2151 Berkeley Way
Berkeley, CA 94704
(1)(3)

State Department of Health
4210 East 11th Street
Denver, CO 80220
(1)(2)(11)

State Department of Health
79 Elm Street
Hartford, CT 06115 (1)(16)

Division of Public Health
2634 Kirkwood Highway
Newark, DE 19711
(1)(2)(3).

Department of Health and Rehabilitative Services
P.O. Box 210
Jacksonville, FL 32201
(1)(3)

Standards and License Unit
618 Ponce de Leon Avenue, NE
Atlanta, GA 30308
(1)(2)(3)(8)

State Department of Health
P.O. Box 33787
Honolulu, HI 96801
(1)(3)(4)

Department of Health and Welfare
Statehouse
Boise, ID 83707
(1)(2)

Office of Health Facilities and Quality of Care
525 West Jefferson Street
Springfield, IL 62706 (1)(2)

Medical Care Administration
1330 West Michigan
Indianapolis, IN 46202
(1)(2)

Division of Health Facilities
State Office Building
Des Moines, IA 50319
(1)(2)(3)(4)

State Department of Health and Environment
Topeka, KS 66620
(1)(2)

Louisiana Health and Human Resources Administration
P.O. Box 3767
Baton Rouge, LA 70821
(1)(2)(3)

Department of Human Services
221 State Street
Augusta, ME 04333
(1)(2)(3)

Department of Public Health
80 Boylston Street
Boston, MA 02116
(1)(2)

Division of Laboratory Improvement
3500 North Logan
Lansing, MI 48914
(1)(3)

Division of Health Facilities
717 Delaware Street SE
Minneapolis, MN 55440 (1)(2)(3)

State Board of Health
2423 North State Street
Jackson, MS 39205

State Division of Health
State Office Building
Jefferson City, MO 65102 (1)(3)

Department of Health and Environmental Services
Capitol Station
Helena, MT 59601
(1)(2)(4)(5)(6)(7)(8)(9)(12)(13)(14)

State Health Department
1000 O Street
Lincoln, NE 68508
(1)(2)

Bureau of Health Facilities
505 East King Street
Carson City, NV 89710
(1)(2)(3)(5)

Division of Public Health Services
61 South Spring Street
Concord, NH 03301
(1)(2)(3)

Department of Health
Room 401
Box 1540
Trenton, NJ 08625
(2)

State Health and Social Services Department
725 St. Michael's Drive
Santa Fe, NM 87503
(1)(2)(3)

Department of Health
Tower Building
Empire State Plaza
Albany, NY 12237
(1)(3)

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State Department of Health
1200 Missouri Avenue
Room 302
Bismarck, ND 53508
(1)(2)(9)

Department of Health
450 East Town Street
Columbus, OH 43215
(1)(2)

Licensure and Certification Division
Northeast 10th and Stonewall
Oklahoma City, OK 73105
(1)(2)(3)

State Health Division
P.O. Box 231
Portland, OR 97207
(1)(2)

Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201
(1)(2)(3)(7)(8)(10)(14)

Department of Public Health
Nashville, TN 37219
(1)(2)

State Department of Health Resources
4902 Grover Street
Austin, TX 78756
(1)(2)(3)

Division of Health
44 Medical Drive
Salt Lake City, UT 84113
(1)(2)(4)(5)(6)(7)(8)(9)(14)(15)

Department of Health
115 Colchester Avenue
Burlington, VT 05401
(1)(2)(4)(5)(6)(7)(8)(9)

Department of Health
James Madison Building
109 Governor Street
Richmond, VA 23219
(1)(2)(3)

Department of Social and Health Services
P.O. Box 1788
Olympia, WA 98504
(3)

State Health Department
601 Morris Street
Suite 305
Charleston, WV 25301
(1)(2)

Division of Health
One West Wilson Street
Madison, WI 53703
(1)(2)

Categories of individuals covered by the system: Certain professional individuals who are employed in hospitals and clinical laboratories, or who are self-employed providing therapy and medical services who have taken HEW proficiency examinations.

Categories of records in the system: The system contains information on the academic and experience qualifications and social security numbers of individuals working in hospitals or clinical laboratories; the names, addresses, and license numbers of professional self-employed persons providing therapy and other medical services and their eligibility to participate in the Medicare program; whether individuals who took HEW proficiency examinations have passed or failed. Records maintained differ from State to State. The State agencies listed under System Location are followed by numbers indicating which of the following categories are recorded.

Physical Therapists (1).
Chiropractor (2).
Laboratory Personnel (3).
Licensed Practical Nurses (4).
Licensed Administrators (5).
Registered Nurses (6).
Occupational Therapists (7).
Dieticians (8).
Consultant Physicians (9).
Pharmacists (10).
Clinical Psychologists (11).
Audiologists (12).
Speech Pathologists (13).
Social Work Consultants (14).
Dentists (15).
Portable X-Ray Providers (16).

Authority for maintenance of the system: 42 U.S.C. 1395 x and 42 U.S.C. 1320 a-2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) To contractors under contract to SSA for the performance of specific research and statistical activites directly related to the Social Security Act.

(b) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(c) To State officials and employees to the extent necessary or appropriate to carry out their functions under agreements with the Social Security Administration. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on paper files in metal filing cabinets.

Retrievability: System is indexed by name of individual, listed alphabetically.

Safeguards: Disclosure of records is limited to State agency and Medicare personnel on a need-to-know basis. The files are closed to unauthorized personnel. File cabinets where records are stored are locked when not in use and at close of business. Keys are kept by authorized personnel only.

Retention and disposal: Records are maintained for 5 years after becoming inactive, and are then destroyed.

System manager(s) and address:
Health Standards Quality Bureau
Room 5127 M E Switzer Building
330 C St. S.W.
Washington, D.C. 20201

Notification procedure: Inquiries and requests for records should be directed to the Regional Medicare Director (See Appendix C, Section 2) or the appropriate State agency (See System Location). The individual should furnish his or her name, address, social security number, and the specific category file he wishes to access. Information on the procedures for gaining access to and contesting records may be obtained from the Regional Medical Director.

Record access procedures: Same as notification procedures. (These access procedures are in accordance with the Department Regulations (45 CFR, Section 5b.5(a)(2)

Contesting record procedures: Contact the official at the address specified under notification procedures, above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with the Department Regulations (45 CFR, Section 5b.7)

Record source categories: The information contained in these records is furnished by the individual or his employing entity (hospital or medical clinic).

Systems exempted from certain provisions of the act: None.

09-70-2001

System name: HCFA Health Insurance Program Review Team Case Files HEW HCFA OPI

Security classification: None.

System location:
Health Care Financing Administration
Office of Program Integrity
6401 Security Boulevard
Baltimore, Md. 21235 or
HCFA Regional Offices
(See Appendix C, Health Insurance Claims)

Categories of individuals covered by the system: Beneficiaries whose medical treatment in connection with Title XVIII of the Social Security Act (Medicare) is suspected as being unnecessary, harmful, or inferior or whose charges are substantially in excess of customary.

Categories of records in the system: Statements, medical records, payment records, complaints from beneficiaries and others, including correspondence and forms, to document complaints and reports of medical review committees.

Authority for maintenance of the system: Section 205, Title II of the Social Security Act, Section 1106 and 1107, Title XI. Sections 1862 and 1866, Title XVIII.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure to program review teams. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files maintained in locked file cabinets.

Retrievability: Filed alphabetically by last name of subject within region of investigation.

Safeguards: File cabinets are kept locked and are located in a room that is locked after office hours. Access to the files is limited to Program Integrity Staff members.

Retention and disposal: Records are placed in inactive file after final action on the case. The inactive file is closed out at the end of the calendar year in which final action was taken, held 2 additional years, transferred to the Federal Records Center, and destroyed after 3 additional years.

System manager(s) and address:
Health Care Financing Administration
Office of Program Integrity
6401 Security Boulevard
Baltimore, Md. 21235

Notification procedure: Inquiries should be directed to SSA, Bureau of Health Insurance Program Integrity Branch, Baltimore, Maryland 21235. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible respresentative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2).)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

Record source categories: Complainants, other informants, statements of subject, investigative records, utilization review committee reports, peer review committee reports.

Systems exempted from certain provisions of the act: None.

[4110-85]

Categories of individuals covered by the system:

09-37-0001

System name: Assistant Secretary for Health Correspondence Control System HEW/OASH/OM

Security classification: None

System location:

Public Health Service
Room 17-60
5600 Fishers Lane
Rockville, Md. 20857

Categories of individuals covered by the system: Individuals who have contacted the Assistant Secretary for Health or have been contacted in writing by him.

Categories of records in the system: Hard copies of the Assistant Secretary for Health's correspondence and computer printout and tape control system records of that correspondence.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Correspondence records maintained in hard copy, control records maintained on computer printout, tape, and disc.

Retrievability: Hard copy records indexed alphabetically by name and date of outgoing correspondence and also by subject. Detailed cross-referencing on computer.

Safeguards: Records are maintained in file cabinets in a secure location. Access to computer system limited to specific individuals through use of passwords. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Hard copy records are retired to Archives after two years; control records are retired at the same time.

System manager(s) and address: Director, Executive Secretariat, Public Health Service (address as above).

Notification procedure: Inquiries should indicate the name of the individual with whom the Assistant Secretary for Health corresponded, the date of the incoming correspondence and the date of the outgoing correspondence. Inquiries should be addressed to the Director, Executive Secretariat, at the address above.

Record access procedures: Same as notification procedures. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Records are derived from incoming correspondence and the outgoing correspondence of the Assistant Secretary for Health.

Systems exempted from certain provisions of the act: None.

09-37-0002

System name: PHS Commissioned Officer Personnel Data System. HEW/OASH/OM

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Commissioned Officers, former commissioned officers, and applicants to the Commissioned Corps of the Public Health Service, with dependents and survivors of the above.

Categories of records in the system: ADP tapes covering training, personnel actions, payroll, applicant and officer qualifications, minority group designator files, references, medical data, and similar personnel data.

Authority for maintenance of the system: Public Health Service Act Section 201 et seq (42 U.S.C. 202 et seq.). Social Security Act Section 301 et seq. (42 U.S.C. 410(m) et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information from these records may be transmitted for official purposes: to Office of Management and Budget for budgetary or management oversight purposes; and to Federal agencies and departments to which information may be provided from the records system entitled 'PHS Commissioned Corps General Personnel Files and Records' (09-37-0007), for the same purposes stated there.

Disclosed to prospective employers or other organizations, at the request of the individual.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Variously on disc, magnetic-tape, and some hard copy reports.

Retrievability: Alphabetically by name, by Public Health Service serial number, and by social security number in accordance with Section 7(a)(2)(B) of the Privacy Act. Used by HEW employees who process personnel operations and in the preparation of the Commissioned Officer Roster and Promotion Seniority.

Safeguards: Physical systems are in restricted areas with building guard protection. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Indefinite retention.

System manager(s) and address: Director, Commissioned Personnel Operations Division (see system location).

Notification procedure: Write System Manager giving Social Security Number, if known, and name of the Officer.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: From individual officers, references and applicants; and from personnel files.

Systems exempted from certain provisions of the act: Individuals will be provided information from the above record system except, when in accordance with the provisions of 5 U.S.C. 552a(k)(5), 1) disclosure of such information would reveal the identity of a source

who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or 2) if the information was obtained prior to the effective date of Section 3, P. L. 93-579, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11)

09-37-0003

System name: PHS Commissioned Corps Medical Records. HEW/OASH/OM.

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Commissioned Officers; applicants to the Commissioned Corps; deceased officers; retired and terminated officers; annuitants from the Commissioned Corps of the Public Health Service.

Categories of records in the system: Medical files and records on individuals covered; medical board records; death case files and supporting documents; and correspondence relating to the above.

Authority for maintenance of the system: Public Health Service Act 201 et seq. (42 U.S.C. 202 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provided to Veterans Administration in event of post-service claims or continued medical care while still on active duty. These records or information therefrom may also be provided to Department of Defense to assure continuity of medical care.

Copies of medical and personnel records may be provided to Department of Justice, Department of Transportation, Department of State, Environmental Protection Agency and other agencies covering Commissioned Officers assigned to those agencies.

Copies of medical records may be provided to private physicians in emergency situations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Locked Lektriever and Conserv-a-Files
Federal Records Center

Retrievability: By name of officer or applicant listed alphabetically and by social security number in accordance with section 7(a)(2)(B) of the Privacy Act. Death case file used in social security processing. Used by HEW employees who make eligibility decisions; adjudications of entitlements; budgetary estimates; statistical data; and provide continuity of care between medical facilities.

Safeguards: Locked containers and building guard system.

Retention and disposal: Medical records retained indefinitely; non-selected applicant files destroyed after five years.

System manager(s) and address: Director, Commissioned Personnel Operations Division (See System location above).

Notification procedure: An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). Notification requests should be addressed to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: From individual officers; applicants; private and governmental physicians; hospitals and clinics; investigative reports; official personnel folder; death certificates and reports of death; from survivors and executors of estates and other Commissioned Corps officials.

Systems exempted from certain provisions of the act: None.

09-37-0004

System name: PHS Commissioned Corps Training Files and Materials. HEW/OASH/OM.

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Commissioned Officers and applicants to the Commissioned Corps of the Public Health Service.

Categories of records in the system: Applications for and records of continued professional training; applications for and records of Commissioned Officers Student Training and Extern Programs (COSTEP), Commissioned Officer Residency Deferment Program (CORD), and Delayed Call To Active Duty Program (DCAD); references; and correspondence relating to the above.

Authority for maintenance of the system: Public Health Service Act section 218a and Section 201 et seq. (42 U.S.C. 202 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in locked metal file cabinets in locked room.

Retrievability: By officer's name in alphabetical order and by social security number in accordance with Section 7(a)(2)(B) of the Privacy Act. Used by HEW employees who process these records for the purposes of eligibility review, record maintenance, budgetary estimates, and statistical data.

Safeguards: Locked containers and locked room, protected by building guard force.

Retention and disposal: Files retained in permanent PHS Commissioned Corps files and transferred to Official Personnel Folder when employee becomes inactive. Files maintained permanently within PHS.

System manager(s) and address: Director, Commissioned Personnel Operations Division (See System location above).

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Notification procedure: Write to System Manager to determine if a record exists.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: From officers and applicants concerned, from references, and from official personnel folders.

Systems exempted from certain provisions of the act: Individuals will be provided information from the above record system except, when in accordance with the provisions of 5 U.S.C. 552a(k)(5), 1) disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or 2) if the information was obtained prior to the effective date of Section 3, P. L. 93-579, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11)

09-37-0005

System name: PHS Commissioned Corps Officer Board Proceedings. HEW/OASH/OM.

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Commissioned Officers and applicants to the Commissioned Corps of the Public Health Service.

Categories of records in the system: Commissioned Officers Awards Board files consisting of nominations, citations and related documents. Records of board proceedings relating to appointment, promotion, separation, reduction in grade, retirement, and special pay (Variable Incentive and Continuation Pay) and supportive material.

Authority for maintenance of the system: Public Health Service Act Section 201 et seq. (42 U.S.C. 202 et seq.); 5 USC 4501.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Metal file cabinets in locked room.

Retrievability: Alphabetical files by names of persons. Used by HEW employees who process or participate in Board actions which recommend or decide on appropriate actions in the categories listed and in the preparation of the Commissioned Officer Roster and Promotion Seniority.

Safeguards: Building guard force.

Retention and disposal: Indefinitely retained.

System manager(s) and address: Director, Commissioned Personnel Operations Division (See System location above).

Notification procedure: Write to System Manager to determine if a record exists.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: From individuals themselves or their service records, including efficiency and progress reports, from references, and from supervisors.

Systems exempted from certain provisions of the act: Individuals will be provided information from the above record system except, when in accordance with the provisions of 5 U.S.C. 552a(k)(5), 1) disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or 2) if the information was obtained prior to the effective date of Section 3, P. L. 93-579, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11) Pursuant to 5 U.S.C. 552a(k)(6) all material and information in this system of records about an individual that meet the criteria stated in 5 U.S.C. 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f) relating to access and contest, making an accounting of disclosure to the individual named in the record, maintenance of information in records, publication annually in the ————————————————, and provisions regarding agency rules in that portions of this system relate to testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the U.S. Public Health Service Commissioned Corps. The specific material that is exempted is as follows:

a. Answer keys.
b. Ratings given for the purpose of validating examinations.
c. Rating sheets.
d. Rating schedules, including crediting plans.
e. Transmutation tables.
f. Test booklets.
g. Test item files. (45 CFR 5b.11)

09-37-0006

System name: PHS Commissioned Officer Grievance; Equal Employment Opportunity; and Non-Board and Pre-Board Involuntary Retirement, Involuntary Separation and Disciplinary Files. HEW/OASH/OM.

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
except for equal employment opportunity files for covered individuals, see Public Health Service listings in Personnel Appendix 1 to System Notice 09-90-0009.

Categories of individuals covered by the system: Commissioned officers and applicants to the Commissioned Corps of the Public Health Service.

Categories of records in the system: Files concerning grievances filed by or against commissioned officers; disciplinary actions, involuntary retirements and involuntary separations (non-board or pre-board actions) taken against commissioned officers; EEO complaints filed by commissioned officers; and correspondence related thereto.

Authority for maintenance of the system: Public Health Service Act Section 201 et seq. (42 U.S.C. 202 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked metal cabinet.

Retrievability: Alphabetically by officer's name Used by HEW officials who decide or process grievances, Equal Employment Opportunity complaints, involuntary retirements, involuntary separations, or disciplinary actions or those assisting in these actions.

Safeguards: Locked cabinet in area under building guard surveillance.

Retention and disposal: Grievance files destroyed after two years. Others kept indefinitely.

System manager(s) and address: Director, Commissioned Personnel Operations Division, except for equal employment opportunity files (see System locations above).

Notification procedure: Write to System Manager to determine if a record exists.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: From the individuals themselves, from reports of investigations by Commissioned Personnel Operations Division, and from reports of review boards.

Systems exempted from certain provisions of the act: None.

09-37-0007

System name: PHS Commissioned Corps General Personnel Files and Records. HEW/OASH/OM.

Security classification: None.

System location:

Office of the Director, Commissioned Personnel Operations Division
Office of Personnel Management/OM/PHS
Room 4A-15, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Commissioned Officers, former Commissioned Officers, applicants to the Commissioned Corps of the Public Health-Service with dependents and survivors of the above.

Categories of records in the system: These records contain information such as application forms for appointment, references and other documents relating to qualifications or suitability for appointment and assignment; Service Record Cards (summarizing personnel actions); efficiency and progress reports; career development and training records; documents relating to promotion, retention, separation, and other personnel actions; applications and records of Service action relating to pay, travel, and allowances (including overseas educational allowances for dependents); applications and records of Service action relating to Commissioned Officer Residency Deferment Program (CORD) and Commissioned Officer Student Training and Extern Programs (COSTEP); survivor benefits; selection system applications; non-board terminations and reprimands, after final administrative action; identification and privilege card records; leave records; awards and authorizations; Official Personnel Folders; and correspondence relating to the above.

Authority for maintenance of the system: Public Health Service Act Section 201 et seq. (42 U.S.C. 202 et seq.). E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records may be disclosed as indicated below: To prospective employers or other organizations at the request of the individual; to other Federal agencies in the event of appointment of former officers; to other Federal agencies to the extent necessary to obtain suitability and security investigation reports; to DOD in the event of national emergency. FHA and VA may obtain the information in event of employment claims and benefits; Bureau of Prisons (Department of Justice), Coast Guard (Department of Transportation), and Environmental Protection Agency may obtain copies of personnel documents relating to Commissioned Officer assignments to those agencies.

Records may be disclosed to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research (45 CFR, Part 5b, Appendix B, Item 101).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in lektrievers and Conserv-a-Files in secured area. Derogatory information kept in locked safe.

Retrievability: Alphabetically indexed by name of person and by social security number in accordance with Section 7(a)(2)(13) of the Privacy Act. Used by HEW officials for the purpose of review in connection with determining qualifications and suitability for appointment, selection, career development and training, transfers, promotions, obligations, retention, eligibility for rights, benefits and privileges, and other personnel actions; and in the preparation of the Commissioned Officer Roster and Promotion Seniority.

Safeguards: Secured area, safes, and building guard force.

Retention and disposal: Applicant files destroyed after two years if not used; other files retained indefinitely. Identification and privilege cards and records disposed of when officer is no longer entitled to use.

System manager(s) and address: Director, Commissioned Personnel Operations Division. (See System location above.).

Notification procedure: Write only to System Manager to determine if a record exists.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact System Manager.

Record source categories: Information furnished by subject, references, reports of supervisors and other officials, personnel actions, and doctors.

Systems exempted from certain provisions of the act: Individuals will be provided information from the above record system except, when in accordance with the provisions of 5 U.S.C. 552a(k)(5), 1. disclosure of such information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or 2) if the information was obtained prior to the effective date of Section 3, P. L. 93-579, disclosure of such information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence. (45 CFR 5b.11)

09-37-0008

System name: PHS Commissioned Corps Unofficial Personnel Files and Other Station Files.

Security classification: None.

System location: Operating Offices of the Department responsible for the individual's employment.

Categories of individuals covered by the system: Commissioned Officers, former Commissioned Officers, with their dependents assigned to the subject installation.

Categories of records in the system: Duplication of any personnel records contained in 09-37-0007. In addition, there may be training records, billet descriptions, financial management documents, specialty board examination requests, medical residency (intern) evaluations, leave records, and identification and privilege card records. Correspondence relating to individuals covered.

Authority for maintenance of the system: Public Health Service Act Section 201, et seq., (42 U.S.C. 202 et seq.); 10 U.S.C. 1071 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in secured area.

Retrievability: Alphabetically indexed by name of person. Used by DHEW officials who conduct personnel operations for the Commissioned Corps.

Safeguards: Records kept in secured area.

Retention and disposal: Station personnel files destroyed after two years if not used; leave records destroyed five years after separation; other files retained indefinitely. Identification and privilege cards and records disposed of when officer is no longer entitled to use.

System manager(s) and address: Administrative Officers where individual is employed.

Notification procedure: Individuals should contact their supervisors or the administrative offices of the organization unit in which employed regarding records pertaining to them.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: Information furnished by reports of supervisors and other officials, personnel actions, and the individual.

Systems exempted from certain provisions of the act: None

09-37-0009

System name: Applied Statistics Training Institute Applicants and Students. HEW/OASH/NCHS

Security classification: None.

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Applicants for and students of concentrated, intensive short-term courses related to health statistics. They are employees of Federal, State, and local governments and other persons in health-related fields engaged in collecting and analyzing vital and health statistics.

Categories of records in the system: Applied Statistics Training Institute applicant form which contains brief education information, current employment and courses in which applicant is interested.

Authority for maintenance of the system: Public Health Service Act Section 304(6)(1) (42 USC 242b)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Alphabetically filed in file cabinet.

Retrievability: Used to set up courses, notify applicants of acceptance or non-acceptance, acceptance for a future course if necessary, and to plan for future courses not currently given in order to meet statistical needs of the health and health-related fields. Used exclusively within the NCHS. Retrievable by name.

Safeguards: Routine building security.

Retention and disposal: File destroyed six months after each course is completed.

System manager(s) and address:

Director
National Center for Health Statistics
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a) (2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: Voluntary submission of Application Form by person wishing to take the ASTI courses.

Systems exempted from certain provisions of the act: None

09-37-0010

System name: Health and Demographic Surveys Conducted in Probability Samples of the U.S Population HEW/OASH/NCHS.

Security classification: None.

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Individuals and members of households selected by probability sampling techniques to be representative of the civilian noninstitutionalized population of the United States.

Categories of records in the system: Statistical records containing information on: (1) the incidence of illness and accidental injuries, prevalence of diseases and impairments, the extent of disability, the utilization and cost of health care services, and other health characteristics of individuals obtained in household interviews and from their named health care providers and insurers; or (2) the nutritional status, prevalence levels of specially defined chronic diseases, growth and development patterns and distributions of various health related measurements and related data obtained in a survey involving health examinations, tests, and other measurement procedures; or (3) marital and child bearing history and intended future births, the use of prenatal care, and the family planning practices of individual women obtained by interview. Demographic and socioeconomic characteristics such as age, marital status, education, occupation, and family income are also obtained for individuals in this system of statistical records.

Authority for maintenance of the system: Public Health Service Act Section 306(b) (42 U.S.C. 242k).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The data are disseminated for purposes of statistical research and analysis outside HEW in forms which do not permit the identification of individuals, such as publications of statistical tables, specially requested tabulations, and public use computer tapes. These are communicated to interested persons outside HEW, such as members of Congress and their staffs, other executive branch agencies, universities, States, cities, private foundations, etc. The findings are used by demographers, sociologists, health statisticians, epidemiologists, other scholars and concerned citizens, to evaluate health matters, make determinations on needs for legislation, appropriations, new service programs, and the like.

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records (45 CFR Part 5b, Appendix B, item (9)):

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are transferred onto magnetic tapes without name and address information and are maintained on magnetic tapes for an indefinite period.

Retrievability: A serial number tied to the selection process of successively smaller geographic areas is assigned to each record on magnetic tape This serial number also appears on the original record. Each magnetic tape containing records in this system has a unique identification number and title. Original survey records are reviewed for accuracy, edited, and data (without personal identifiers such as name or SSN) are transferred to magnetic tape. Then the original records and/or microfilms are stored at the Federal Records Center. The tape is used for statistical purposes only. These uses include the preparation of aggregated data in the form of statistical tables for publication, analysis, and interpretation, to meet the legislative mandates of P.L. 93-353, to determine levels of illness and disability and their effects on the population, the use of health care facilities, trends in family formation and dissolution, and the like. Users consist of health planners, statisticians, epidemiologists, demographers, and others concerned with the problems of health and health care.

Safeguards: All employees of NCHS, as a condition of employment, sign an affidavit binding them to nondisclosure of identifiable individual information. Since the magnetic tapes have no name and address information, users of the tape could only identify specific individuals by relating the serial number on the tape to the original record. Only employees of NCHS are permitted access to the magnetic tapes with the serial numbers described above or to the files containing the original records or microfilms. Magnetic tapes with personal identifiers of individual records removed are made available for public use.

Retention and disposal: The original records are retained in office files of NCHS until the process of conversion to magnetic tape and verification of information is completed. This process is completed within approximately nine months. The original records are then sent to the Federal Records Center where they are stored for 5 years for interview survey records and 10 years for examination records. Microfilm copies of examination records are retained at the Federal Records Center for 40 years

System manager(s) and address:

Director
National Center for Health Statistics, OASH
Center Building
3700 East West Highway
Hyattsville, Maryland 20782

Notification procedure: None.

Record access procedures: None.

Contesting record procedures: None.

Record source categories: Respondents included in the survey samples.

Systems exempted from certain provisions of the act: With respect to this system of records, exemption has been granted from the requirements contained in subsections 552a(c)(3), (d)(1) through (4), and (e)(4)(G) and (H) in accordance with the provision of subsection 552a(k)(4) of the Privacy Act of 1974. The reason this system has been exempted is that this system contains only records required by statute to be maintained and used solely as statistical records.

09-37-0011

System name: Health Manpower Inventories and Surveys. HEW/OASH/NCHS.

Security classification: None.

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Individuals trained in specific health occupation, such as dentists, nurses, pharmacists, optometrists, dental hygienists, and other providers of health care services.

Categories of records in the system: Statistical records containing information on educational attainment, place of education, activity status, place and setting of employment or practice, place of residence, date of birth, sex, and marital status.

Authority for maintenance of the system: Public Health Service Act Section 306(b) (42 U.S.C. 242k).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The data are made available to Health Systems Agencies and the State Agency designated under P.L. 93-641 for statistical purposes only for developing and evaluating health plans and to the Bureau of Health Manpower for providing information and analyses that could be used in developing alternative strategies for the education of health manpower.

The data are also disseminated for purpose of statistical research and analysis outside DHEW in forms which do not permit the identification of individuals, such as publication of statistical tables, specially requested tables, and public use magnetic tapes. These are communicated to interested persons outside DHEW, such as members of Congress, other executive branch agencies, professional associations, universities, States, cities, private foundations, etc. The statistical summaries are used by health manpower researchers, legislators, statisticians and concerned citizens to evaluate the Nation's health manpower resources, make determinations on needs for legislation, new health manpower training program, and the like.

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records (45 CFR Part 5b, Appendix B, item (9)).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such

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party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are transferred onto magnetic tapes with name and address information and are maintained for an indefinite period.

Retrievability: Name and address, date of the inventory or survey, and other identifiers permit the retrieval of a computer record of the individual's information contained on magnetic tape. Original records of information are reviewed by the contractor and/or NCHS staff for accuracy, edited, and data with personal identifier (such as name and address) are transferred to magnetic tape. The records are then matched by personal identifiers to produce an unduplicated file of individuals in a health occupation. The original records are then stored at either the State licensing boards, with the health professions association, or at the NCHS data processing center in Research Triangle Park, North Carolina. The tape is used for statistical purposes only. These uses include the preparation of aggregated data in the form of statistical tables for publication, analysis, and interpretation to meet legislative mandates of P.L. 93-353, such as an annual report on health resources, including a description and analysis of the statistics included under Section 306(b)(1)(G). In addition, probability samples of individuals are selected by NCHS for statistical research purposes. Tables, magnetic tapes, and statistical samples of individuals are provided for statistical purposes only to the Bureau of Health Manpower for their use in determining health manpower scarcity areas, for loan forgiveness, and developing and evaluating educational and training programs for health manpower. Users consist of health manpower researchers, planners and statisticians.

Safeguards: All employees of NCHS, as a condition of employment, sign an affidavit binding them to nondisclosure of identifiable individuals information. Agreements are also obtained from the recipients of individual identifiable data described above which bind them to nondisclosure of information which permits the identification of individuals and limits the use of the data to statistical research and analysis Similarly, as a provision of the contract, a contractor acting as a data collection and processing agent of NCHS assures that the confidentiality of the records will be maintained.

Retention and disposal: The original records are retained in the offices of national professional associations and/or State boards of licensure, or the NCHS data processing facility until the process of conversion to magnetic tape and verification of information is completed and a subsequent inventory or survey is initiated. For these reasons the records may be retained for a period of up to five years before disposal.

System manager(s) and address:

Director
National Center for Health Statistics, OASH
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: None

Record access procedures: None

Contesting record procedures: None

Record source categories: Health practitioners, state licensing agencies, or professional associations.

Systems exempted from certain provisions of the act: With respect to this system of records, exemption has been granted from the requirements contained in subsections 552a(c)(3), (d)(1) through (4), and (e)(4)(G) and (H) in accordance with the provision of subsection 552a(k)(4) of the Privacy Act of 1974. The reason that the system has been exempted is that this system contains only records required by statute to be maintained and used solely as statistical records.

09-37-0012

System name: Vital Statistics for Births, Deaths, Fetal Deaths, Marriages and Divorces Occurring in the United States during Each Year. HEW/OASH/NCHS

Security classification: None

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Individuals who are born and their parents; individuals who die; individuals who are married or divorced; and parents experiencing fetal deaths.

Categories of records in the system: The records include microfilm images of State records or machine-readable data prepared by the State from records collected under the laws of each State for births, deaths, fetal deaths, marriages and divorces. The records contain the demographic characteristics of individuals associated with each event. In addition, the birth records include information on the characteristics of each live birth, the health status of the infant, and socioeconomic characteristics of the parents. The death records contain medical information relating to cause of death and to socioeconomic characteristics of the deceased; the fetal death record contains medical information relating to cause of death and socioeconomic characteristics of the parents. Marriages and divorces include demographic and socioeconomic characteristics of both parties to the event and legal information regarding the event.

Periodically the National Center for Health Statistics conducts followback surveys; collecting information on random samples of births and deaths through mail questionnaires The followback surveys are designed primarily to expand the scope of data that can be collected from the national registration system, to make the registration system more responsive to changing needs for data, and to evaluate the quality of data collected on the birth and death records. The content of questionnaires for the followback surveys varies Past surveys have collected information on such topics as hospital utilization in the last year of life, smoking habits of the deceased, health status of infants, and pregnancy and employment histories of mothers.

Authority for maintenance of the system: Public Health Service Act Section 306(h) (42 USC 242 k).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The processed data are disseminated for public use in forms that do not permit identification of individuals, such as published statistical tables, special unpublished tabulations, and public use computer tapes, which carry no individual identifiers. They are used by members of Congress and their staffs, other executive branch agencies, State and city governments, public and private research institutions, life insurance companies, faculty and students of universities, physicians, workers in health information, newspaper reporters and feature writers, etc The findings are used to make determinations on needs for legislation, appropriations, and programs in the health field; to pinpoint health problems, measure progress of national health programs, and make population estimates; for epidemiological studies, marketing research, sociological studies, and studies of the family; and for other research directed at understanding our society.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are transferred onto magnetic tapes without name and address information and are maintained on magnetic tapes for an indefinite period.

Retrievability: The State file number is assigned to each record on magnetic tape linking it to the original certificate on file in the State vital statistics office Data from the microfilm copies of certificates of births, deaths, fetal deaths, marriages and divorces submitted by some States are transferred to magnetic tape in coded form (without names or addresses) and are merged with the machine-readable data tapes furnished by States providing data through the Cooperative Health Statistics System. The tape is used for statistical purposes only. These uses include the preparation of aggregated data in the form of statistical tables for publication, analysis, and interpretation, to meet the legislative mandates of Public Law 93-353, i.e., to determine the extent and nature of illness and disability of the population of the U.S., including life expectancy and levels of infant and maternal mortality, environmental and other health hazards, trends in family formation, growth, and dissolution, and other related matters. Users consist of health planners, statisticians, epidemiologists, demographers, and others concerned with the problems of health, health care, and health hazards.

Safeguards: All employees of NCHS, as a condition of employment, sign an affidavit binding them to nondisclosure of identifiable individual information. Only employees of NCHS or employees of contractors who have signed similar affidavits are permitted access to the magnetic tapes containing the certificate numbers or to the files containing the microfilm copies of the certificates. The certificate numbers of the individual records and the geographic code identification of cities with less than 250,000 population are removed before the data tapes are released for public use. No identifying number appears on the public use tape that would link a record on that tape to any individual, to the NCHS master tape, to the microfilm file, or to the original certificate in the State vital statistics office.

Retention and disposal: The microfilm copies of the records are retained in office files of NCHS until the process of conversion to magnetic tape and verification of information is completed. The death records are sent to the Federal Records Center ten years after tabulation for deaths occurring during the three-year period surrounding census years and one year after tabulation for other years. They are held until disposed of, 15 years after tabulation for deaths of the censal years, and five years after tabulation for other years. Records of births, fetal deaths, marriages, and divorces are disposed of two years after tabulation. The questionnaires for the followback surveys are destroyed after conversion to magnetic tape, tabulation, and analyses have been completed.

System manager(s) and address:

Director
National Center for Health Statistics, OASH
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: None.

Record access procedures: None.

Contesting record procedures: None.

Record source categories: Vital statistics records are obtained from state vital statistics offices or, in rare instances, from other state or county repositories of marriage or divorce data. Information in follow-back surveys is obtained from hospitals, physicians, or relatives of the infants or the deceased.

Systems exempted from certain provisions of the act: With respect to this system of records, exemption has been granted from the requirements contained in subsections 552a(c)(3), (d)(1) through (4), and (e)(4)(G) and (H), in accordance with the provision of subsection 552a(k)(4) of the Privacy Act of 1974. The reason that the system has been exempted is that this system contains only records required by statute to be maintained and used solely as statistical records.

09-37-0013

System name: Health Resources Utilization Statistics. DHEW/OASH/NCHS.

Security classification: None.

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Recipients of medical care included in statistical surveys and reports of the National Center for Health Statistics (NCHS), including: (1) staff and residents of nursing homes selected by random sampling techniques to be representative of nursing homes in the U.S.; (2) physicians providing office based medical care and patients visiting such physicians, (3) medical records from selected short-stay hospitals; and (4) persons visiting the family planning facilities participating in the National Reporting System for Family Planning Services.

Categories of records in the system: Statistical records containing information on: (1) the utilization of nursing home care through data on residents (demographic and social characteristics, health status, and charges paid for care) and the facility (general characteristics, certification, services offered, and expense); (2) the demographic characteristics, medical and other problems of persons visiting physicians' offices, and the physicians' diagnoses, treatment, and disposition decisions made during such visits as obtained from physicians during randomly assigned one-week survey periods; (3) the demographic characteristics, administrative information (admission and discharge dates, discharge status, and medical record number), and medical information (diagnoses and surgical procedures abstracted from the face sheet of short stay hospital medical records); and (4) family planning medical services provided by the clinics participating in a nationwide sample survey reporting system, the demographic and socioeconomic characteristics, including education and welfare status, of the recipients of these services, and the extent to which these services (excluding physicians' offices) are funded by Federal grants. In many cases, these records do not contain individual identifiers when they come under control of the National Center for Health Statistics; they carry only sequence numbers, which only the originating agency would be able to translate into a personal identifier--and even then, not in all cases. Names of residents and staff of nursing homes and patients of physicians are listed on separated forms for sampling purposes only and are not included in the final statistical records.

Authority for maintenance of the system: Public Health Service Act, Section 306(b)(42 U.S.C. 242k).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The data are disseminated for: (1) purposes of statistical research and analysis, and in the case of family planning statistics, for executing national family planning programs; (2) outside of DHEW in forms which do not permit the identification of individuals, such as publications of statistical tables, specially requested tabulations, and public use computer tapes. These are communicated to interested persons outside DHEW, such as members of Congress and their staffs, other executive branch agencies, universities and medical schools, State and local health planning agencies, private foundations, etc. The findings are used by demographers, sociologists, health statisticians, epidemiologists, medical educators, health planners, other scholars, and concerned citizens, to evaluate health matters, make determinations on needs for legislation, appropriations, new service programs, and the like.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are transferred onto magnetic tapes without name and address information and are maintained on magnetic tapes for an indefinite period.

Retrievability: Data are retrieved by individual identifier only in the editing stage of data processing and only for the purpose of correcting errors in the recording of information. Original survey records are reviewed for accuracy and edited, then data (without personal identifiers such as name or social security number) are transferred to magnetic tape. The original records are stored at the Federal Records Center. The tape is used for statistical purposes only, as specified by statute, Section 308(d) of Public Law 93-353. These uses include the preparation of aggregated data in the form of statistical tables for publication, analysis and interpretation to meet the legislative mandates of Public Law 93-353, i.e., collection of statistics on the utilization of health services, including the utilization of: (1) nursing home facilities to determine levels of illness and disability, effects on the institutionalized population, and the costs of care; (2) ambulatory health services by specialties and types of practice of the health professionals providing such services; (3) short-stay hospitals to determine characteristics of patients, length of stay, diagnosis and surgical operations, and patterns of use of care in hospitals of different size and ownership; (4) family planning facilities to provide statistics on the size of and services dispensed by these facilities, the numbers and characteristics of family planning patients, the overall proportion of the target

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population' which is being reached by family planning programs on a national scale; and the like. The family planning data are distributed to the Deputy Assistant Secretary for Population Affairs, DHEW, the Bureau of Community Health Services, and others for the purpose of executing national family planning programs.

Safeguards: All employees of the National Center for Health Statistics, as a condition of employment, sign an affidavit binding them to nondisclosure of identifiable individual information. Since the magnetic data tapes have no name and address information, users of the tape could only identify specific individuals by relating the identification number on the tape to the original record. Only employees of NCHS, NCHS contractors, the agency supplying the information in the first instance, or third parties with the written permission of the agency supplying the information are permitted access to the magnetic tapes with the identifying numbers described above or to the files containing the original reporting instruments. Magnetic tapes with identification numbers removed are made available to the public for statistical uses.

Retention and disposal: The original records are retained in office files of NCHS or NCHS contractors for two years. The procedure for family planning records differs in that the original documents are retained in office files for only two months. In all instances, the original records are then sent to the Federal Records Center where they are stored for five years.

System manager(s) and address:
Director, National Center for Health Statistics, OASH
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: None

Record access procedures: None

Contesting record procedures: None.

Record source categories: Hospitals, physicians, clinics, nursing homes, and other providers of health care.

Systems exempted from certain provisions of the act: With respect to this system of records, exemption has been granted from the requirements contained in Subsections 552a, (c)(3), (d)(1) through (4), and (e)(4)(G) and (H), in accordance with provisions of Subsections 552a (k)(4) of the Privacy Act of 1974. The reason for this exemption is that this system contains only records required by statute to be maintained and used solely as statistical records.

09-37-0014

System name: Curricula Vitae of Consultants to the National Center for Health Statistics (NCHS DHEW OASH/NCHS).

Security classification: None

System location:
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782
In offices of contractors employed to develop and maintain curricula vitae on consultants to NCHS. Contractor location will be available upon request directed to the System Manager.

Categories of individuals covered by the system: Persons who are current or potential consultants to NCHS. These are persons with special expertise who may be able to assist NCHS on a consultant basis in the planning and conducting of surveys, studies, statistical reporting programs, statistical analyses of data, or in providing training and technical assistance, or assisting in conducting conferences.

Categories of records in the system: Information relating to the professional training and experience of the consultant. This includes address, current position, employer, duties, place, time, and length of education, degrees received, honors received, former positions and work experiences, memberships in professional organizations, special committee and task force assignments, offices held, publications, references, health condition, availability for, and interest in travel and accepting certain assignemtns, compensation required, etc.

Authority for maintenance of the system: Public Health Service Act, Section 304(b) (42 U.S.C. 242b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The following routine uses from Appendix B of the Department Regulations (45 CFR Part 5b) are applicable to this system of records:

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto (Item (1)).

Where federal agencies having the power to subpoena other federal agencies records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available (Item (6)).

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records (Item (9)).

To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (Item (100)).

To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research (Item (101)).

To organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review (Item (102)).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is contained on paper records although computer-readable tape may be employed in the future.

Retrievability: Information is retrieved by name, address, specialty, and by other characteristics. The data is used by staff of NCHS or its contractors for selecting consultants to assist in projects or conducted or sponsored by NCHS.

Safeguards: Records are kept in locked metal cabinets or in a locked room when not in use. Records will be used only by staff authorized to use them for the purpose for which they were obtained. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are maintained indefinitely. Records may be removed and destroyed upon the consultant's death, disability for consultant work, or request that his/her records be removed from the file.

System manager(s) and address:
Director, National Center for Health Statistics
Center Building
3700 East-West Highway Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.
Information needed consists of name of individual. This notification procedure is in accordance with Department Regulations (45 CFR, Part 5b.5).

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR, Part 5b.5(a)(2)).

Contesting record procedures: Write to the Official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance Department Regulations (45 CFR, Part 5b.7)).

Record source categories: Records are obtained from the consultants themselves, except that references may be obtained from present and former employers or supervisors of the consultants, or from individuals given as references by the consultants.

Systems exempted from certain provisions of the act: None.

09-37-0015

System name: National Center for Health Services Research Grants Records System HEW/OASH/NCHSR.

Security classification: None.

System location:
National Center for Health Services Research, OASH, HEW
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782
and Regional Federal Records Center

Categories of individuals covered by the system: Principal Investigators and associated research and administrative personnel.

Categories of records in the system: Grant files, summary reports.

Authority for maintenance of the system: Public Health Service Act Sections 304, 305, 308, and 1205 (42 U.S.C. 242b, 242c, 242m, and 300d-4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records. (45 CFR, Part 5b, Appendix B, Item 8).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: Retrievable by name and grant number. The information in this system is used for review and analysis for planning and policy formulation by NCHSR staff members and by other components of DHEW.

Safeguards: Locked file cabinets; general building security.

Retention and disposal: Approved grant applications and their respective files are retained at NCHSR for two years beyond the termination date of the project. Rejected grant applications are held for one year. The grant files are then maintained at a Federal Records Center indefinitely.

System manager(s) and address:
Chief, Grants Administration Branch
Center Building
Room 7-41
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories: Applications from research community.

Systems exempted from certain provisions of the act: None. /*

Categories of individuals covered by the system: 0d4110-83d

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09-35-0005

System name: Cycle II Dentist Survey HEW/HRA/BHM.

Security classification: None.

System location:
Division of Computer Research and Technology, Building 12
9000 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: All U. S. Dentists.

Categories of records in the system: 1. Name; 2. Practice location; 3. Practice characteristics; 4. Professional history.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: The system is used to study the supply and distribution of dentists in each State. System is indexed by name within state.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA: indefinitely.

System manager(s) and address:
Chief, Manpower Analysis Branch, DD
Center Building
Room 3-22
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: American Association of Dental Examiners.

Systems exempted from certain provisions of the act: None.

09-35-0007

System name: Public Health Service Scholarship and National Health Service Corps Scholarship Program HEW/HRA/BHM

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Security classification: None.

System location:
Center Building
Room 5-44
3700 East-West Highway
Hyattsville, Maryland 20782
Div of Computer Research & Tech.
Bldg 12
Bethesda, Md 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Students - Health Professionals as specified in 42 CFR 62 and 42 U.S.C. 294t 1) Applicants, 2) Recipients.

Categories of records in the system: Application and associated forms; recipient records also contain progress reports, payroll forms, deferment and placement data, Social Security Number

Authority for maintenance of the system: P.L. 92-585, and 42 U.S.C. 294t (section 751, PHS Act)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Name of scholarship recipient, professional school he or she is attending, and date of graduation are made available to health professions associations and other interested health professions groups who have responsibility for coordinating funds paid to students from Federal and other sources.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

To individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item(101))

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinets; ADP - Tapes.

Retrievability: The records in this system are used in the following manner: 1) Application - for the selection process by HRA and HSA 2) Recipient - Payroll, tuition and fees, tracking, deferment, defaults, & placement by HRA, HSA, central payroll and PHS claims office. Retrievability: Name, Award No., University, or by Social Security Number in accordance with section 7 (a)(2)(B) of the Privacy Act.

Safeguards: Locked file units.

Retention and disposal: Number of years held at HRA: 12. Number of years held at Federal Record Center before disposal: 3. How destroyed: shredder (non-selected applicant files destroyed: after six months from deadline due date).

System manager(s) and address:
Acting Chief, Health Service Scholarship Branch/DMTS
Center Building
Room 5-44
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories:
Evaluation forms from school faculty - requested by student applicant
Educational Institution attended
Internship and/or residency training site
HSA and CPOD, OPM/H

Systems exempted from certain provisions of the act: None.

09-35-0009

System name: Chattanooga Incremental Care Program HEW/HRA/BHM.

Security classification: None.

System location:
Division of Computer Research and Technology
NIH Bldg.12
9000 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: Elementary School Children under treatment in Dental Care Program.

Categories of records in the system: Patient's Dental Records.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: Provide timely, accurate, and easy-to-use response to program managers in Tennessee. Retrievable by system assigned I.D. Number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA: indefinitely.

System manager(s) and address:
Chief, Delivery Systems Branch, D.D.
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Tennessee Department of Public Health.

Systems exempted from certain provisions of the act: None.

09-35-0013

System name: Indo-China Refugee Physicians and Medical Students HEW/HRA/BHM.

Security classification: None.

System location:
Division of Computer Research and Technology
9000 Rockville Pike
Bethesda, Md. 20014

Division of Medicine
Center Building
Room 4-42
3700 East West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Indo-China physicians and medical students seeking certification on the Educational Commission for Foreign Medical Graduates or the National Board of Medical Examiners.

Categories of records in the system: Education and Demographic data.

Authority for maintenance of the system: 22 USC 2601.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To establish qualification regarding the ECFMG and the National Board of Medical Examiners exams to be used by persons responsible for admittance of these candidates to training courses.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files and magnetic tape.

Retrievability: To establish credentials and eligibility for training. To be used by individuals assisting refugee physicians and medical students to obtain qualifications re the ECFMG and the National Board of Medical Examiners examination. Indexed by names.

Safeguards: Locked file cabinet. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Held for three years then sent to Federal Records Center.

System manager(s) and address:
Chief, International Programs Office
Center Building
Room 4-42
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: Same as above..

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Questionnaires completed by Indo-China physicians and medical students.

Systems exempted from certain provisions of the act: None.

09-35-0014

System name: National Research Service Awards HEW/HRA/BHM.

Security classification: None.

System location:
Center Building
Room 3-50
3700 East-West Highway
Hyattsville, Maryland 20782
and Regional Federal Records Center

Categories of individuals covered by the system: Applicants for fellowships, recipients of fellowships.

Categories of records in the system: Biographical data, education & employment history, reference reports, research background, progress of res. training, transcripts.

Authority for maintenance of the system: Public Health Service Act Section 472(42 U.S.C. 2891-1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: The purpose of the information in this file is for review and evaluation for fellowship support. Data is retrieved by name and application number.

Safeguards: All records are kept in locked files in a room locked during non-business hours. Only authorized personnel have access.

Retention and disposal: Number of years held at HRA: 3 after termination. Number of years held at Federal Records Center before disposal: 20 (recommended; approval pending). How destroyed: Standard disposal methods of FRC.

System manager(s) and address:
Chief, Nursing Research Br., DN
Center Building
Room 3-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants; references (supplied by applicant); sponsoring faculty member.

Systems exempted from certain provisions of the act: None.

09-35-0016

System name: Professional Nurse Traineeships -- HEW/HRA/BHM.

Security classification: None.

System location:
Center Building
Room 3-50
3700 East-West Highway
Hyattsville, Maryland 20782

Division of Computer Research and Technology

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Bldg. 12, 9000 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: Registered nurses who have received traineeship awards.

Categories of records in the system: U.S. citizenship verification; nursing licensure verification; education & employement history; post-traineeship employment.

Authority for maintenance of the system: Public Health Service Act Section 821 (42 U.S.C. 297).

Information requests from participating schools regarding length of allowable support for a particular applicant.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tapes.

Retrievability: The purpose of the information in this file is for the preparation of statistical tables and reports, and program review and evaluation. Data may be retrieved by name and I.D. number.

Safeguards: All records are kept in locked files in a room locked during non-business hours. Only authorized personnel have access. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA; 3 after termination of program. How destroyed: Standard disposal methods of FRC. Number of years held at Federal Records Center before disposal: 20 (recommended; approval pending).

System manager(s) and address:

Chief, Nursing Education Branch
Center Building
Room 3-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Participating school only.

Systems exempted from certain provisions of the act: None.

09-35-0021

System name: Disability Claims of the Nursing Student Loan Program--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Applicants for cancellation due to disability.

Categories of records in the system: Letter requests claiming disability, correspondence, payment determinations and medical records or reports.

Authority for maintenance of the system: Public Health Service Act Section 836(42 U.S.C. 297b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files. Medical records or reports are temporarily held during medical evaluation and then returned to and retained by nursing schools upon final determination of claim validity.

Retrievability: Determination of validity of claims. Retrieved by name.

Safeguards: Locking file cabinets with access by authorized personnel only; general building security.

Retention and disposal: Number of years held at HRA: Indefinitely.

System manager(s) and address:

Acting Chief, Student and Institutional Assistance
Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual claimants.

Systems exempted from certain provisions of the act: None.

09-35-0022

System name: Disability Claims in the Health Professions Student Loan Program--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Applicants for cancellation due to disability - medicine, dentistry, osteopathy, optometry, pharmacy, podiatry, veterinary medicine.

Categories of records in the system: Letter requests claiming disability e correspondence, payment determinations and medical records or reports.

Authority for maintenance of the system: Public Health Service Act Section 741(42 U.S.C. 294a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files. Medical records or reports are temporarily held during medical evaluation and then returned to and retained by nursing schools upon final determination of claim validity.

Retrievability: Determination of validity of claim. Retrieved by name.

Safeguards: Locking file cabinets with access by authorized personnel only; general building security.

Retention and disposal: Number of years held at HRA: Indefinite.

System manager(s) and address:

Acting Chief, Student and Institutional Assistance
Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual claimants.

Systems exempted from certain provisions of the act: None.

09-35-0023

System name: Health Professions Student Loan Repayment Program--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Applicants for repayment of health professions educational loans - medicine, dentistry, osteopathy, optometry, pharmacy, podiatry, veterinary medicine.

Categories of records in the system: Application and related documents, correspondence.

Authority for maintenance of the system: Public Health Service Act Section 741(f)(42 U.S.C. 294a(f)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files and computer tapes.

Retrievability: Justification of educational loans, certification of shortage area, legal agreement, payment, and completion of agreement. Retrieved by name.

Safeguards: Locking file cabinets with access by authorized personnel only; general building security. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA: Indefinite.

System manager(s) and address:

Acting Chief, Student and Institutional Assistance
Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicant's health professions school, lending institutions.

Systems exempted from certain provisions of the act: None.

09-35-0024

System name: Health Professions Student Loan Cancellation--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Applicants for health professions student loan cancellation.

Categories of records in the system: Application and related documents, correspondence.

Authority for maintenance of the system: Public Health Service Act Section 741(f)(42 U.S.C. 294a(f)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is

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likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: The system is used for approval, statistical and audit purposes. Retrieved by name.

Safeguards: Locking file cabinets with access by authorized personnel only; general building security.

Retention and disposal: Number of years held at HRA: Indefinitely.

System manager(s) and address:

Acting Chief, Student and Institutional Assistance Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicant, school and State Health Authority.

Systems exempted from certain provisions of the act: None.

09-35-0025

System name: Physician Shortage Area Scholarship Program--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Div. of Computer Research & Tech.
Building 12
Bethesda, Md. 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Applicants and recipients of Physician Shortage Area grants. Medicine and osteopathic students.

Categories of records in the system: Physician shortage area, grant applications, awards, and correspondence.

Authority for maintenance of the system: Health Professions Educational Assistance Act of 1976, Section 409(b) (42 USC 295g)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files and computer storage

Retrievability: This system is utilized for awarding, tracking, and placement to fulfill service obligation. Retrieved by name and program I.D. number.

Safeguards: Locking file cabinets with access by authorized personnel only; general building security. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA: 12 Number of years held at Federal Records Center before disposal: 3 How destroyed: by Federal Records Center.

System manager(s) and address:

Acting Chief, Student and Institutional Assistance Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants' health profession school

Systems exempted from certain provisions of the act: None.

09-35-0026

System name: Cuban Loan Program--HEW/HRA/BHM.

Security classification: None.

System location:

Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland
and Regional Federal Records Center

Categories of individuals covered by the system: Applicants and recipients of Cuban Loan for medical students.

Categories of records in the system: Application and related documents, correspondence.

Authority for maintenance of the system: 5 U.S C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual file.

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Retrievability: This system is used for awarding and tracking and collection of student loan. Retrieved by name.

Safeguards: Files are stored in locking file cabinets with access by authorized personnel only; general building security.

Retention and disposal: Number of years held at HRA: 10. Number of years held at Federal Records Center before disposal: 5. How destroyed: by Federal Records Center.

System manager(s) and address:

Acting Chief, Fiscal Services Branch/DMTS
Center Building
Room 5-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Applicant's health profession school.

Systems exempted from certain provisions of the act: None.

09-35-0027

System name: Consultant Roster for Office of Health Resources Opportunity -- HEW/HRA/OHRO.

Security classification: None.

System location:

Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Categories of individuals covered by the system: Private citizens employed as consultants by OHRO.

Categories of records in the system: Name, address, phone number, academic history, period of appointment, duties to be performed for OHRO.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape.

Retrievability: Resource list to be used by OHRO employees when consultants are needed. Retrievable by name.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HRA indefinitely.

System manager(s) and address:

Administrative Officer, OHRO
Center Building, Room 10-50
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists write to the System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals, peer referrals, previous employers, meetings.

Systems exempted from certain provisions of the act: None.

09-35-0042

System name: Transfer of U.S. Students in Foreign Medical Schools to U.S. Schools-DHEW/HRA/BHM

Security classification: None.

System location:

International Programs Staff
Division of Medicine
Bureau of Health Manpower
Center Building, 4th Floor
3700 East-West Highway
Hyattsville, Md. 20782

Categories of individuals covered by the system: Citizens of the United States enrolled in foreign medical schools before October 12, 1976.

Categories of records in the system: The names and addresses of U.S. citizens enrolled in foreign medical schools who wished to be identified by the Secretary for transfer to U.S. medical schools.

Authority for maintenance of the system: Section 771(b)(3) of the Public Health Service Act (42 U.S.C. 295f-1) as amended by P.L. 95-215.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to U.S. medical schools which apply for capitation grants under section 770 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files and computer tape.

Retrievability: Data will be retrieved by student name or assigned ID number. The records in this system will be disclosed, as described under Routine Uses, to medical schools that need to enroll U.S. citizens in foreign medical schools in order to receive 'capitation' grants under section 770 of the Public Health Service Act.

Safeguards: Manual files in this system of records will be stored in locking file units. Only authorized personnel will have access. For computerized records, safeguards established in accordance with Departmentment standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

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Retention and disposal: The records in this system will be held by the Health Resources Administration until December 31, 1978. They will then be destroyed.

System manager(s) and address:

Chief, International Programs Staff
Division of Medicine
Bureau of Health Manpower
Center Building, 4th Floor
3700 East-West Highway
Hyattsville, Maryland 20782

Notification procedure: To determine if a record exists, write to the System Manager.

Information needed consists of name of individual. This notification procedure is in accordance with the Department Regulations, as published in the Federal Register of October 8, 1975, page 4710 (45 CFR, Part 5b.5).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410.)

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Part 5b.7) Federal Register, October 8, 1976, page 47411.)

Systems exempted from certain provisions of the act: None. /*

Categories of individuals covered by the system: 0d4110-88d

[4110–88]

09-30-0002

System name: Statistical Research Data on Adolescent Runaways in Prince Georges County, Md., 1962-65 - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Mental Health Study Center
2340 University Boulevard, East
Adelphi, Maryland 20783

Categories of individuals covered by the system: Adolescent runaways in Prince Georges County, Md., 1962-65.

Categories of records in the system: Information obtained from interviews with subject individuals and parents or guardians.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Field notes, transcribed interviews, audio tapes of interviews, and punch cards.

Retrievability: Retrieved by number. Used for research purposes only by researcher.

Safeguards: Kept in locked filing cabinets. Indexes kept in separate locked cabinet. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Chief, Mental Health Study Center
2340 University Boulevard, East
Adelphi, Maryland 20783

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above. The request should include the name of the researcher, if possible.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From the subject individuals themselves, and their parents or guardians, with their approval, cooperation and participation.

Systems exempted from certain provisions of the act: None.

09-30-0003

System name: Medical Record Files of Patients Seen in Therapy in Programs of the Mental Health Study Center - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Mental Health Study Center
2340 University Boulevard, East
Adelphi, Maryland 20783
and at contractor facilities. A list of contractor locations is available from the system manager.

Categories of individuals covered by the system: Patients seen in therapy in programs of the Mental Health Study Center.

Categories of records in the system: Consultation Record Form, intake questionnaire, progress notes, Patient Service Record Form, psychophysiologic and developmental tests, medical and social histories, physical examinations, clinical and behavioral observations and interview questionnaires, correspondence with community agencies, professionals on cases, and consent forms.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Medical record forms, case notes, logs, files and indexes.

Retrievability: Retrieved by case number and name. Used for clinical intervention by therapists and, with individual consent, for behavioral and basic research.

Safeguards: Only authorized research and service staff have access to records which will be kept in locked file drawers. Index records kept in separate locked cabinets. Contractors will comply with the provisions of the Privacy Act and with the Departmental Regulations.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Chief, Mental Health Study Center
2340 University Boulevard, East
Adelphi, Maryland 20783

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above. The request should include the name of the researcher, as well as the name of the study, if it is a named study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designate will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From the patients themselves with their approval, cooperation, and participation.

Systems exempted from certain provisions of the act: None.

09-30-0004

System name: Intramural Research Program Records of Research Performed on In- and Out-Patients with Various Types of Mental Illness - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

National Institutes of Health
9000 Rockville Pike
Bethesda, Maryland 20014

Saint Elizabeths Hospital
Washington, D. C. 20032

Categories of individuals covered by the system: In- and out-patients with emotional, psychiatric, and neurophysiological disability, normal subjects, and research subjects.

Categories of records in the system: Research data of wide variety including biochemical measures, psychophysiological and psychological tests, questionnaires, clinical and behavioral observations and interviews, physical examinations, and correspondence.

Authority for maintenance of the system: Public Health Service Act Sections 301, 302, and 303 (42 USC 241, 242, 242a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to approved collaborating national, state, international, and non-government researchers.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In original state; files, indexes, magnetic and other tapes.

Retrievability: Retrieved by name (coded). These records are used for diagnosis and treatment of patients with neuropsychiatric illnesses, and behavioral research relating to the causes, diagnoses, and treatment of neuropsychiatric disorders, and basic research on behavioral processes and personality development.

Safeguards: Only authorized medical and research staff have access to these records. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Intramural Research Program
National Institute of Mental Health
Building 36, Room 1A-07
9000 Rockville Pike
Bethesda, Maryland 20014

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the system manager identified above. The request should include as much of the following information as possible: (a) Full name; (b) Nature of illness (if any); (c) Ward or laboratory; (d) Title of study; (e) Name of researcher conducting study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designate will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information gathered from individuals under study, either patient or normal subject, contract surveys, hospital records, medical and nursing staff notes.

Systems exempted from certain provisions of the act: None.

09-30-0005

System name: Saint Elizabeths Hospital Research Subjects Data Record - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Saint Elizabeths Hospital
Washington, D. C. 20032
and Federal Records Center
Suitland, Maryland

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Categories of individuals covered by the system: Persons participating in approved research studies at Saint Elizabeths Hospital in the following categories: 1) in-patients, out-patients, former patients, and relations of patients; 2) hospital staff including stipended trainees; and 3) non-hospital related subjects.

Categories of records in the system: Record categories include: data from interviews, medical and non-medical test and laboratory data, self-report information, informant observation data, and data from previous records. These data are contained in written documents, photographs, audio tapes, video tapes, and computerized records.

Authority for maintenance of the system: Public Health Service Act Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records are routinely disclosed to the following third parties outside HEW: 1) authorized researchers for purposes of basic research, program evaluation, and historical research; and 2) qualified physicians for the purpose of obtaining medical background data.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and filing cabinets; audio and video tape reels and storage cabinets.

Retrievability: System is filed by name, code, and/or hospital case number of subject, dates when research was conducted, research program area, and primary investigator. Immediate purposes include: data analysis, case study illustration, hypothesis generating study, and subject reimbursement. Long-range purposes include: diagnosing and treating mental disorders, and improving diagnostic and treatment methods; generating new knowledge about the nature and causes of mental and emotional illnesses, and about rehabilitating the mentally ill; generating new knowledge about human behavior; program evaluation and assessment; and historical research.

Safeguards: Records are maintained in monitored offices and are only available to persons authorized to use records for purposes for which they were collected. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Hoffman Division of Research
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: Individuals in this system of records may have access to their records upon written request, with notarized signature if request is by mail, or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Director, Hoffman Division of Research
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following data must be provided when requesting access:
(a) Full name, and date and place of birth;
(b) Inclusive dates of participation in the research study;
(c) Type of research study;
(d) Location of the unit where research was conducted;
(e) Name or primary investigator;
(f) The status of the requestor with respect to the hospital, e.g., in-patient, out-patient, former patient, staff or trainee, or non-hospital related subject;
(g) If possible, in the case of patients, the hospital number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director, Hoffman Division of Research, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b.7).

Record source categories: Information is obtained from research subjects, observers, previous records, and test results.

Systems exempted from certain provisions of the act: None.

09-30-0006

System name: The Saint Elizabeths Hospital Medical-Surgical Support Program File System - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Saint Elizabeths Hospital
Medicine & Surgery, and Laboratory Branches
Washington, D.C. 20032

Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: All present and past patients and employees of Saint Elizabeths Hospital who received medical treatment and laboratory services.

Categories of records in the system: The Division of Medical-Surgical Support Programs is made up of two branches: (1) Medicine and Surgery Branch; and (2) Laboratory Branch. Listed below are records and logs peculiar to the Division of Medical-Surgical Support Programs only (not used outside the Division). The Medical-Surgical Support Program File System does not include any material which is located in a patients medical record.

Medicine and Surgery Branch Records
1. Dental Department: X-ray films
2. Neurology Department: electroencephalographs and echoencephalographs
3. Department of Ophthalmology: photographs of eyes, interesting cases (card file)
4. Department of Radiology: X-ray films
5. Department of Surgery: cancer registry
6. Department of Rehabilitation Medicine: physical therapy treatment files and blind rehabilitation records

Medicine and Surgery Branch Logs
1. Evening-Night Physicians' Logs: Abstract of the cases handled during the tour of duty 5:00 p.m. to 8:30 a.m.
2. Death Information Book: Abstract of information regarding death of patient, notification of relatives, medical examiner and/or other third party.
3. Clinic Appointment Logs: Patients, employees, and (casually) visitors with identifying number and reason for appointment to 15 specialty clinics.
5. Admission and Transfer Logs in Eldridge Building and in Rehabilitation Medicine Building: identifies patient by name, case number, psychiatric service, date of admission, ward admitted to, date of discharge, and psychiatric service returned to.
6. X-ray Admission and Examination Log: daily record of patients examined and diagnostic findings.
7. Register of Operations: daily record of patients operated, type of surgery, participating staff, type of anesthesia, and postoperative condition.

Laboratory Branch Record Book: record of date of photograph and location of patients.

Authority for maintenance of the system: 24 USC 161, et seq.; 21 DC Code 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To insure continuity of care by providing information to outside physicians, dentists, laboratories, physical therapists, vocational rehabilitation therapists, etc. who are taking an active role in the further treatment of patients seen at the Medicine and Surgery and/or Laboratory Branches of Saint Elizabeths Hospital.

2. Information from the cancer registry is provided to the District of Columbia Cancer Registry as required by law.

3. Disclosure to members of Professional Standards Review Organization for health care evaluation.

4. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 100).

5. To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 102).

6. Disclosures in the course of employee discipline or competence determination proceedings. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

1. Dental X-ray films - file cabinets in the Main Dental Clinic Area.
2. Electroencephalographs and echoencephalograms - file cabinet in the Neurology Department Record Room.
3. Photographs of eyes of patients-file cabinet in the Eye Clinic.
4. Unusual Eye Case File - in a 5 x 3-inch card file in the Eye Clinic.
5. X-ray File Files - open shelve files and filing cabinets in the X-ray Department.
6. Cancer Registry - file cabinets in the Department of Surgery.
7. Physical Therapy Treatment Files - file cabinets in the Rehabilitation Medicine Department.
8. Blind Rehabilitation Records - file cabinets in the Rehabilitation Medicine Department.

Retrievability:

1. Dental X-ray films - hospital case number and name. For purposes of dental management and dental teaching.
2. Electroencephalograph and echoencephalograph - name, case number and date of examination. For purposes of examination and diagnosis of brain waves and lesions; teaching rounds, and graphic comparison of time of brain changes.
3. Unusual eye case file - by disease or condition name. For purposes of determination of extent of changes in eye conditions and teaching material.
4. X-ray films - patients name and case number or employee's name, social security number (terminal digit system.) For purposes of epidemiological study reference for teaching rounds.
5. Cancer Registry - name and case number. For purposes of compliance with law, management of patients, research and teaching.
6. Physical Therapy Treatment Files - name and date of evalaution. For purposes of continuity of physical therapy, treatment record and patient management.
7. Blind rehabilitation Records - name and case number. For purposes of departmental administration and planning

Safeguards:

1. Dental X-ray films - supervision by personnel during day, locked at night.
2. Electroencephalograms and echoencephalographs - locked record room.
3. Photographs of eyes of patients - personnel supervision day, locked at night.
4. Unusual eye case file - personnel by day, locked night
5. Cancer Registry - authorized personnel by day, locked night.
6. Physical Therapy Treatment Files - locked office.
7. Blind Rehabilitation Records - authorized personnel and locked office

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director of Medical-Surgical Support Programs
W. W. Eldridge Building
Saint Elizabeths Hospital
Washington, D. C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature if request is made by mail, or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Director of the Medicine and Surgery Branch
W. W. Eldridge Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access:
(a) Full name;
(b) Approximate dates of enrollment or employment at St Elizabeths Hospital;
(c) The nature of the material desired.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director of the Medicine and Surgery Branch, Eldridge Building, Saint Elizabeths Hospital, Washington, D.C. 20032 Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories:

1. Dental X-ray films - Patients: inpatients and outpatients within hospital records and/or outside facility.
2. Electroencephalographic and echoencephalographic - graphs are derived electronically from the patient's brain
3. Photographs of eyes of patients - photographs taken during internal or external examination of patients' eyes.
4. Unusual eye case file - result of examination in Eye Clinic
5. X-ray films - films obtained during patients or employees' term in hospital and/or from outside sources; i.e., private physician or hospital.
6. Cancer Registry - clinical records private physicians, outside hospital.
7. Physical Therapy Treatment Files - physical therapist's notes, doctor's notes, prescription records.
8. Blind Rehabilitation Records - staff observation of progress.

Systems exempted from certain provisions of the act: None

09-30-0007

System name: Saint Elizabeths Hospital Clinical Support Services Record System - HEW/ADAMHA/NIMH.

Security classification: None.

System location: This is a widely decentralized system of records at Saint Elizabeths Hospital. Records are kept in the offices of the various clinical support services operating at the Hospital included in this system are:

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1. Occupational Therapy Section-Atkins Hall
2. Educational Rehabilitation Unit-Atkins Hall
3. Speech and Audiology Branch-Rehabilitation Medicine Building
4. Industrial Therapy Section-Atkins Hall
5. Dance Therapy Section-William A. White Building
6. Recreational Therapy-Hagen Hall
7. Musicology Unit-Dix Pavilion
8. Chaplaincy Program-Chapel
9. Psychodrama Unit - Hitchcock Hall
10. Individual Psychotherapists Offices-In various Divisions, Saint Elizabeths Hospital, Washington D.C. 20032 Records are stored at Federal Records Center, Suitland, Maryland.

Categories of individuals covered by the system: All past and present patients of Saint Elizabeths Hospital.

Categories of records in the system: Patient demographic data; records of patient participation in each of the above-named clinical support programs; therapists' informal notes of observations and evaluations of patient activities; clinical impressions; attendance records, test results, abstracts of notes and observations taken from the patient's medical record.

Authority for maintenance of the system: 24 USC 161, et seq.; 21 DC Code 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Information is routinely disclosed to persons not employees of SEH, who have a responsibility for the examination and/or treatment of SEH patients;
2. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 100).
3. To organizations deemed qualified by the Secretary to carry out quality assessment, medcial audits or utilization review. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 102).
4. Disclosures in the course of employee discipline or competence determination proceedings. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).
5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, punchcards, record logs and file cabinets.

Retrievability: Name, hospital number, dates of activities, location of activity.

Records are used:
1. To facilitate the treatment of patients at Saint Elizabeths Hospital.
2. To assess the physical, educational, vocational, recreational and psychological needs of patients at Saint Elizabeths Hospital and to provide for those needs.
3. To evaluate the effectiveness of the clinical support programs and to provide a basis for their continuing improvement.
4. To facilitate clinical support services teaching programs and scientific research.

Indexes based on the clinical support services record system are used for the following purposes:
a. speedy identification and location of specific patients;
b. monitoring the completeness of patient records;
c. monitoring the changing status of patients either in terms of transfers within the Hospital or outside the Hospital;
d. easy identification of basic demographic data used for statistical and/or research purposes; and
e. quick review of current treatment regimen.

Safeguards:
1. Available only to properly trained and screened personnel.
2. Access limited to authorized personnel only. Enforced by security guards; rooms are locked when unoccupied.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Assistant Superintendent
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: A patient or former patient may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Assistant Superintendent
A Building
Saint Elizabeth's Hospital
Washington, D. C 20032

All of the following information must be provided when requesting access:
(a) Full name;
(b) Approximate dates of enrollment at St. Elizabeths Hospital;
(c) The name of the division where the requestor resided, or received treatment as an outpatient;
(d) The identity of the clinical support service and the approximate dates of participation in the program;
(e) If possible, the name of the individual therapist;
(f) If possible, the patient's hospital number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Assistant Superintendent, A Building, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b.7)

Record source categories: Past and present patients of Saint Elizabeths Hospital, various employees of the Hospital and the patients' medical/clinical record.

Systems exempted from certain provisions of the act: None

09-30-0008

System name: Saint Elizabeths Hospital Social Services Record System - HEW/ADAMHA/NIMH.

Security classification: None.

System location: A widely decentralized system at Saint Elizabeths Hospital. Individual records are kept in the offices of social workers responsible for patients on the rolls of the various Hospital Divisions. Social workers' offices are located in each inpatient and outpatient division or clinic at Saint Elizabeths Hospital.

Saint Elizabeths Hospital
Washington, D.C. 20032
and Federal Records Center
Suitland Maryland

Categories of individuals covered by the system: All past and present patients on the rolls of Saint Elizabeths Hospital; home sponsors; caretakers; owners and operators of facilities providing services to patients.

Categories of records in the system: Files on inpatients and outpatients containing demographic data; Social Worker's contact with families and the community including social, marital and family status, job status; identifying information containing name, address, telephone numbers, social security numbers, Medicaid numbers,

date of birth, legal status, financial information hospital number, V.A. numbersg Health Insurance numbers, Civil Service Numbers, family composition; Statement on background, names of relatives conservators with addresses and telephone numbers; correspondence sent other agencies; information regarding psychiatric and medical condition; Social histories; progress notes (carbon copies of notes placed in chart) hand written progress notes not in chart, return to hospital notes, interval histories, placement and planning notes; information regarding psychiatric and medical condition, financial resources, treatment plans, correspondence to relatives, friends other agencies, etc. Telephone interviews or conversations incident reports and copies of reportable occurrences, group therapies and individual therapies by social workers, daycare status and group activities, religious histories; intra-agency evaluative and assessment data and reports received from other sources, outside agencies that provide supportive services; essential information regarding services sought or received.

Authority for maintenance of the system: 24 USC 161, et seq.; 21 DC Code 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Information is routinely disclosed to the following sources for the purposes of obtaining financial assistance for patients, locating community recreation resources, providing job placement and training for patients, securing alternative placements in other institutions, providing education, securing living and care arrangements and aiding in follow-up care, and providing required reports to court, state government or Federal government agencies:
   a. Foster home sponsors, caretakers, owners and operators of facilities
   providing services to patients
   b. Agencies of the District of Columbia Government
   c. The Superior Court for the District of Columbia
   d. The United States District Court for the District of Columbia
   e. The Veteran's Administration
   f. The U.S. Civil Service Commission
   g. Anchor Mental Health Association
   h. State Departments of Social Services throughout the United States;
2. Information disclosed routinely to persons, who are not employees of SEH, on a need to know basis, who have a responsibility for the care and treatment of patients of SEH.
3. Under Appendix B, Departmental Regulations, 45 CFR 5(b):
   (1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsiblity of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
   (3) In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.
   (4) A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
   A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.
   (5) In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
   (6) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.
   (8) Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.
   (9) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.
   (100) To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.
   (101) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.
   (102) To organizations deemed qualified by the Secretary to carry out quality assessment, medcial audits or utilization review.
   (103) Disclosures in the course of employee discipline or competence determination proceedings.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index cards, folders, notebooks, file cabinets, desk drawers, Rolodex, Kardex, index boxes, logs, file folders, boxes, hanging desk file, manilla folders, wooden box, and vertical file.

Retrievability: By patient's name and staff's name. Records are used for:
1. Information used in planning to assess the patient's overall ability to be placed and to adjust or function in the type of environment for which he has referred.
2. Accountability to other hospital personnel and reference for recording or sharing information with staff and other necessary persons upon request.
3. To share information with team, reference for casework services and reference for completing forms.
4. To monitor patient's progress and periodically assess placement situations in outplacement facilities. To monitor outplacement facilites outside the hospital and assist in placement of patients by providing accurate up-to-date information regarding available facilities; and to determine the status of compliance of a facility with certain standards through appropriate licensing agencies. To familiarize staff with outplacement facilities. Used to assess outplacement operators, administrators or owners ability to provide the level of care needed by individual patients. To share patient's background and appropriate information with outplacement owners, operators and sponsors.

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5. To expedite family involvement in planning patient care and to expedite mobilization of community resources on behalf of the patient.
6. Resource in diagnosis, treatment, planning, prognosis goals and communication with other disciplines.
7. Resource material gathered by the social workers used to prepare narrative summaries for the patient's medical records.
8. To keep informed about social services provided patients; patients problem areas in the unit for purpose of evaluating services provided and need for action, and for reporting to the Clinical Directors or person in charge of service.
9. Identifying information concerning outplacement facilities given to patients periodically who request help in locating place to live.
10. Resource material used for purpose of diagnostic planning and implementation of treatment plan - documentation of services offered.
11. For reference in order to complete summaries for medical records; to have readily available pertinent information with which to respond to personal and telephone contacts; to provide needed information to hospital staff, officials of other agencies responsible for the provision of adjunct services.
12. Provide inservice training for continued professional development.
13. Provide Hospital staff and patients with essential information for selecting appropriate living arrangements for patients in the community.
14. To expedite family involvement in planning patient care and to expedite mobilization of community resources on behalf of patients.
15. Provide nutritional information to community placement service social workers; provide nutritional guidance and support to foster home sponsors and to advise staff of dietary practices in outplacement facilities and of nutritional (above 021) and historical purposes.
16. Provide information to placing workers of approved resources in order to facilitate the matching process of patient and outplacement operator as to insure the patient's optimum adjustment to community living.
17. A uniform system for location of staff, indication of qualification and areas of responsibility.

Safeguards: Offices locked, File cabinets locked, desk drawers locked. Material available to appropriately trained staff:

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director of Social Services
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: Active or discharged patients in this system of records may have access to their records upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Director of Social Services
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access:
(a) Full name;
(b) The approximate dates of contact with the hospital;
(c) The nature of the material desired.
(d)Hospital number, if possible.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director of Social Services, A Building, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b.7)

Record source categories: Past and present patients of Saint Elizabeths Hospital, home sponsors, caretakers, owners, and operators of facilities providing services to Saint Elizabeths patients, other employees of Saint Elizabeths Hospital, employees of various agencies of the District of Columbia and the United States

Systems exempted from certain provisions of the act: None.

09-30-0009

System name: Saint Elizabeths Hospital Multidisciplinary Raw Data Consultation Files - HEW/ADAMHA/NIMH.

Security classification: None.

System location: Widely decentralized at Saint Elizabeths Hospital. Raw data is stored according to location of the consulting discipline.

Saint Elizabeths Hospital
Washington, D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Past and present patients at Saint Elizabeths Hospital.

Categories of records in the system: Raw test data, plus a copy of formal reports based on the data which are included in patient's medical/clinical record.

Authority for maintenance of the system: 24 USC 161, et seq., 21 D.C. Code 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and index cards, file cabinets.

Retrievability: Each consulting discipline stores and manages its own files. Some are stored by patient's names alphabetized, some by patient's numbers, some by other types of categorizing, such as disease categories, year consultation was performed, referring clinical service, or an arbitrary numerical sequence. The latter usually involve a cross-indexing card file by patient name and/or patient number. Records are used for:

1. Detailed reference by consultants, following clinical requests for reassessment or more detailed information of patients previously tested.
2. Detailed comparison of test-retest results in cases where clinically indicated or requested.
3. Occasional compilations of specific clinical characteristics of statistical groupings, such as by disease entity, age, sec, etc. for clinical research and improvement of clinical reporting.

Safeguards: Files usually accessible only to qualified members of the consulting staff of the particular discipline, kept in staffed or otherwise locked offices.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Superintendent
A Building
Saint Elizabeths Hospital

Washington, D.C. 20032

Notification procedure: A patient or former patient may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of Superintendent
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access:
(a) Full name;
(b) Approximate dates of enrollment at St. Elizabeth's Hospital;
(c) The nature of the material desired;
(d) If possible, the name of the person who collected the data.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of Superintendent, A Building, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Clinical testing of patients referred for consultation.

Systems exempted from certain provisions of the act: None.

09-30-0010

System name: Saint Elizabeths Hospital Juvenile Education Monitoring System - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Administration Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Categories of individuals covered by the system: All patients under 18 years of age on rolls of Saint Elizabeths Hospital.

Categories of records in the system: Inpatient and outpatient educational records. The educational records contain identifying data, name, date, and place of birth, age, sex, race legal category, leave and residential status, admission, discharged date, identification or relative and hospital identification, educational information, current functional level, educational achievement, medical neurological and/or psychological problems with significant influence, patient adjustment to educational program, past/present academic educational plan or program. Reports or notes of others who contribute to a patients educational development.

Authority for maintenance of the system: 24 U.S.C. 161 and Mills v. Bd. of Education of the Dist. of Columbia, 348 F. Supp 866 (D.C. D.C. 1972).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosures in prepared reports for D.C. School Board personnel who are not employees of Saint Elizabeths Hospital.
3. Disclosures of information on patient's behalf in matters such as educational achievement needs to third parties whose involvement would be of benefit to the patient.
4. Disclosures in mandatory reports under Federal and local law.
5 Disclosures derived from St. Elizabeth's Hospital monitoring of educational programs for school-aged children to assure that all children are served and provided the Office of the Assistant Superintendent of the Public Schools of the District of Columbia as required under Mills v Board of Education of D.C., 348 F. Supp 866 (D.C D.C. 1972).
6. Transmittals of, information to the Department of Special Education of the District of Columbia Public School System, to assist in coordinating educational efforts as mandated by Mills v. Board of Education of D.C., 348 F. Supp. 866 (D.C. D.C. 1972).
7. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in the Administration Building. File folders with general educational record and correspondence files are kept in metal file cabinets. Index cards, monitoring cards, kardex are in their appropriate containers.

Retrievability: Index by patient's name, Hospital number division. The records are used as follows:

1. To monitor academic educational programs of patients under 18 years of age on roles of Saint Elizabeths Hospital.
2. Documentation of a patient's educational achievement to provide for continuous monitoring and distribution by division.
3. To provide a continuous educational program, both medical and psychiatric, for the individual patient, including a follow-up program for reference upon future hospitalization.
4. Use by agency personnel for periodic assessment of the quality of educational achievement review.
5. To assist the staff in providing for a patient's educational needs.
6. To occasionally provide the basis for action in the course of employee discipline or competence determination proceedings.
7. To facilitate teaching programs and scientific research; to further knowledge in the areas of diagnosis and treatment, comparative studies and special educational programs.
8. Indexes based on the educational records are routinely used for: a. speedy identification and location of specific patients; b. monitoring the completeness of patient-educational records, particularly those under 18; c. monitoring the changing status of patients, either in terms of transfers within the Hospital or outside the Hospital; d. easy identification of basic demographic data used for statistical and/or research purposes; e. quick review of current treatment regimen in individual cases.

Safeguards:

1. Available only to properly trained and screened personnel.
2. Access limited to authorized personnel only. Enforced by security personnel. Rooms are locked when unoccupied.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Associate Director for Psychology
Administration Building, Room 308
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Associate Director for Psychology
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access:
(a) Full name and home address
(b) Approximate dates of enrollment at Saint Elizabeths Hospital
(c) Division where treatment is or was provided, and education level

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(d) The nature of the material desired

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Associate Director for Psychology. A Building, Saint Elizabeths Hospital, Washington, D.C. 20032 Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C F.R. Part 5b 7)

Record source categories: Educational records a compilation of sociological, medical and historical data of a patient. The information recorded as given by the patient, his realtives, or other third persons interested in the patient, from existing records used as reference; from educational tests, such as physicians, psychiatrists, teachers, social worker; other therapists who entered their observations and assessment by means of progress notes, reports etc

Systems exempted from certain provisions of the act: None

09-30-0011

System name: Saint Elizabeths Hospital Central Admission Service Non-Admission File System - HEW/ADAMHA/NIMH.

Security classification: None

System location:

Central Admission Service
Dix Building
Saint Elizabeths Hospital
Washington, D C. 20032

Categories of individuals covered by the system: Individuals who have presented themselves at the Central Admission Service but who were not admitted to the rolls of Saint Elizabeths Hospital.

Categories of records in the system: Personal identifying data collected during admissions screening interview, information from previous hospitalizations of clinic enrollment, and information about individuals collected from telephone conversations with interested persons.

Authority for maintenance of the system: 24 USC 161, et seq., 21 D C. Code 501, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets

Retrievability: Filed alphabetically by name To provide additional screening material in cases of repeated applications for admission of the same patient.

Safeguards: Access limited to authorized personnel only, enforced by security force, rooms locked when unoccupied.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Central Admissions Service
Saint Elizabeths Hospital
Washington, D C 20032

Notification procedure: A person denied admission may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to

Privacy Act Coordinator
Office of the Director
Central Admissions Service
Saint Elizabeths Hospital
Washington, D C 20032

All of the following information must be provided when requesting access a. full name, b approximate date the person sought admission, c. the nature of the material desired

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director, Central Admissions Service, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C F R Part 5b 7)

Record source categories: Interviews with persons applying for admission but ultimately not admitted, hospital records of prior admissions, and information provided by other persons related to or interested in the person seeking admission.

Systems exempted from certain provisions of the act: None

09-30-0012

System name: Saint Elizabeths Hospital Pre Service Education Records - HEW/ADAMHA/NIMH

Security classification: None

System location:

Saint Elizabeths Hospital
Washington, D C 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Students and trainees in medical and non medical mental health education programs, including persons who receive stipends and those who do not.

Categories of records in the system: Record categories include (1) application data including transcripts, references, special health records where indicated, evaluation of prior training or education; (2) assessment and evaluation data regarding educational experiences at SEH, and (3) correspondence Data are contained in written documents, audio tapes, and video tapes

Authority for maintenance of the system: Public Service Act Section 301(42 U S C. 241)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1 Records are rountinely disclosed to the following third parties outside HEW professional certifying and credentialing organizations, other training and teaching professionals or professional groups, and authorized researchers. Purposes of disclosure are for professional reference, professional education, program evaluation

2 Also disclosures in the course of employee discipline or competence determination proceedings (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and filing cabinets; audio and video tape reels in storage cabinets

Retrievability: System is filed by name of individual, dates of training, disciplinary area in which training was received, primary supervisor, and whether the training was stipended or nonstipended Records are used for: evaluation for selection and appointment; supervisory guidance and assessment; reference requests; specialized teaching resources, program evaluation and historical research.

Safeguards: Records are maintained in monitored offices and are only available to persons authorized to use records for the purposes for which they were collected.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Overholser Division of Training
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: Individual student or trainee may have access to his/her personal pre-service education record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of Director
Overholser Division of Training, Saint Elizabeths Hospital0
SEH
Washington, D.C. 20032

All the following identifying information must be provided when requesting access: a) full name; b) inclusive dates of training; c) specific disciplinary area in which training was received and organizational unit where assigned. d) name of primary supervisor. e) status in terms of stipended or nonstipended.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director, Overholser Division of Training, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b.7)

Record source categories: Information is secured from the individual trainee or student, persons supplying reference data, supervisory and administrative personnel, and other persons directly involved with the individual's educational program.

Systems exempted from certain provisions of the act: None.

09-30-0013

System name: Saint Elizabeths Hospital Training Videotape Records - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Saint Elizabeths Hospital
Washington, D.C. 20032

Categories of individuals covered by the system: SEH patients, trainees and staff of SEH.

Categories of records in the system: Videotapes of interviews, activities, or other interactions between SEH patients and professional trainees and staff of SEH; authorizations (informed consent) signed by patients.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To approved persons and organizations for program evaluation and/or research.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Videotape reels, authorizations retained in file folders.

Retrievability: Name of patient, name of interviewer This record is used for training and education purposes.

Safeguards: Locked files in monitored offices.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Overholser Division of Training
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Office of the Director, Overholser Division of Training
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access: (a) full name; (b) approximate data of videotaping; (c) name of interviewer; (d) the capacity in which the requester had contact with the hospital; e.g., patient, staff member, trainee. (e) if possible, in the case of patients, the hospital number; (f) location of unit where videotaping occurred.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Director, Overholser Division of Training, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b.7)

Record source categories: SEH patients, trainees and staff.

Systems exempted from certain provisions of the act: None.

09-30-0014

System name: Saint Elizabeths Hospital Financial System — HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Finance Office
Saint Elizabeths Hospital
Washington, D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Present and former employees and patients.

Categories of records in the system: Deposits; receipts; disbursements; balances; NCR ledger cards; vouchers; travel; education; billings; background history; and reimbursement claims; Industrial Therapy Program data, Internal Revenue Service Form W-4 and D.C. Government Form D-4, Payroll Summary sheets and individual patient ledger cards for patients and other patient worker's Industrial Therapy (PWITP) data and indebtedness letters.

Authority for maintenance of the system: Hospitalization of the Mentally Ill Act, 21 DC Code 511 et seq.; 24 USC 165 and 166; 31 USC 66A and 628a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

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1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. To pay travel claims, educational institutions; to collect from the D.C Government and Federal agencies for care and treatment and collect for quarters, lost or damaged property & other indebtedness to the Government.

3. References for outside employment, referral source for determining if job placement meets a patient's therapeutic needs or if a referral to an outside agency is needed.

4. To determine amount of pay a patient earns for his Industrial Therapy assignment, and followup reasons for a patient's absence from his Industrial Therapy assignments.

5. Patients' Payroll for printing time sheets, payroll summary sheets, and income tax withholding forms and monthly or quarterly earnings and tax returns as required.

6. Also, Appendix B of DHEW Regulations, as follows:

(1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsiblity of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(5) In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(6) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

7. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in metal filing cabinets, index cards, and IBM cards.

Retrievability: Voucher date and number; numerically (receipts for patient's funds); alphabetically by name; Health Insurance Number and Hospital Case Number (Health Insurance records); bill number (for billings). Records are used to record expenditures and reimbursements for services and goods and all other financial transactions consistent with the management of the Hospital.

Safeguards: Access is limited to personnel who process the data respectively. Offices are locked.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Finance Officer
Administration Building
St. Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Finance Office
Saint Elizabeths Hospital Washington, D.C. 20032

All of the following information must be provided when requesting access: (a) full name; (b) dates of the contact with Saint Elizabeths Hospital; (c) the Branch, Division, or Office with which the requestor had contact; (d) the capacity in which the requestor had contact with the hospital, e.g., patient, employee, vendor, representative of professional organization, etc; (e) the nature of the material desired

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Finance Office, Saint Elizabeths Hospital, Washington, D.C. 20032 Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F R Part 5b).

Record source categories: Patient name plates, patient's accounts, receipts for patients' funds (generated when cash or other funds are accepted from a patient), patients' payroll data from the Industrial Therapy Section.

Patients' clinical records, interviews with ward staff, patient and work supervisor. Patient vouchers from patient, employees, Finance Section, Personnel Branch, Agency Cashier, patients' relatives, committees, conservators and other Government agencies. Patients' account data from the Agent Cashier.

Health Insurance data from the Patient's Medical Record, Social Security Administration, relatives and conservators, and Registrar.

Billings for care and treatment, quarters, etc. and indebtedness to the Government, Biometrics Branch, Housekeeping Section, Agent Cashier, and Administrative Services Section.

Systems exempted from certain provisions of the act: None.

09-30-0015

System name: Saint Elizabeths Hospital General Security System -- HEW/ADAMHA/NIMH

Security classification: None.

System location:

Security Headquarters
Allison-B Building
St. Elizabeths Hospital
Washington, D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Former and Current Patients and Employees, Relatives, Volunteers and Visitors.

Categories of records in the system: Identifying information including one or more of name, hospital number, photo, key number, vehicle sticker number, authorization to admit, dates and times of visits, addresses and other personal data.

Authority for maintenance of the system: 24 USC 161, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsiblity of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 1).

2. In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 5).

3. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 100).

4. Disclosures in the course of employee discipline or competence determination proceedings. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).

5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index cards, file folders, picture files.

Retrievability: Name, hospital number, sticker and key number, and chronologically. The purpose of this record is to monitor authorized access and exit of individuals and vehicles to and from Buildings and grounds of Hospital: accountability of building and room key assignments and vehicle sticker assignments; identification for search of missing persons.

Safeguards: 24 hour security guard.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Captain Security Force
St. Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: A patient, former patient, employee, former employee, relative, volunteer or visitor may have access to his/her record, upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Security Force
St. Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access: (a) full name; (b) the capacity in which the requestor had contact with St. Elizabeths Hospital; (c) the approximate dates of contact with the hospital; (d) the nature of the material desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Security Force, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Hospital Staff, Medical Records, patients and relatives.

Systems exempted from certain provisions of the act: None.

09-30-0016

System name: Saint Elizabeths Hospital Patients Personal Property Record System -- HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Patients Property Unit
Glenside Building
Saint Elizabeths Hospital
Wash., D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Former & Current Patients.

Categories of records in the system: 1. Inventory of patients private property on admission, newly acquired property, released property, and unclaimed property. 2. Comments on condition of private property, damages, lost and storage status. 3. Receipts of authorizations for purchases & vendors receipts.

Authority for maintenance of the system: 24 USC 161, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsiblity of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 1).

3. In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 5).

4. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 8).

5. Disclosures in the course of employee discipline or competence determination proceedings. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).

6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders and cards.

Retrievability: By name, alphabetized. This record is used for: documenting entries and releases of personal property; accounting and verifying documented inventories & purchases; for internal

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referrals by patient property office staff and legally appointed administrators.

Safeguards: Only patient property staff use files. At night office is locked.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:
Supervisory Storage Management Specialist
Patients Property Unit
Glenside Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: A patient or former patient may have access to his/her record upon written request, with notarized signature if request is made by mail or with a suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Property Unit
Glenside Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following data must be provided when requesting access: (a) full name; (b) approximate dates of enrollment at Saint Elizabeths Hospital; (c) if possible, the patient's hospital number; (d) the nature of the material desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Property Unit, Glenside Building, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Admission report lists, ward reports, patients' correspondence files.

Systems exempted from certain provisions of the act: None.

09-30-0017

System name: Saint Elizabeths Hospital Legal Office Record System -- HEW/ADAMHA/NIMH.

Security classification: None.

System location:
Legal Advisors Office
Administration Building
Saint Elizabeths Hospital
Wash., D.C. 20032

Categories of individuals covered by the system: Former and Current Patients and Employees.

Categories of records in the system: Information concerning the legal status and aspects of former and current patients and employees.

Authority for maintenance of the system: 42 U.S.C. 3504.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Negotiations with U.S. Attorneys Office, D.C. Courts, Mental Health Commission, Corporation Counsel, Justice Department, attorneys and other concerned with the legal considerations of patients and employees.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and index cards.

Retrievability: Patient or employee name. The purpose of this record is to determine, monitor, and follow up legal status, rights, and problems of individual employees and patients. Used as resource material in preparation for civil actions or proceedings

Safeguards: Access restricted to Legal Office staff. Locked at night.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:
Legal Advisor
Administration Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record, subject to the limitations of 5 USC 552a(d)(5), upon written request, with notarized signature if the request is made by mail or with suitable identification if request is made in person, directed to:

Privacy Act Coordinator
Legal Advisor's Office
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access: (a) full name; (b) the capacity in which the requestor had contact with St. Elizabeths Hospital; (c) the approximate dates of contact with the hospital; (d) the nature of the material desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Legal Advisor's Office, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b)

Record source categories: Patient records, commitment folders, staff reports, Auditors Office of D.C. Superior Court, Court System of D.C., Mental Health Commission U.S. Attorney's Office, Corporation Counsel and private attorneys.

Systems exempted from certain provisions of the act: None.

09-30-0018

System name: Saint Elizabeths Hospital Area D Community Mental Health Center Citizens Advisory Groups Records--HEW/ADAMHA/NIMH.

Security classification: None.

System location:
Community Mental Health Center
Saint Elizabeths Hospital
Washington, D.C. 20032

Categories of individuals covered by the system: Members of Citizens Advisory Committee, agencies, organizations, school students and citizens interested in CMHC activities.

Categories of records in the system: Names, addresses, telephone numbers, occupations, transmittal letters and various memoranda

Authority for maintenance of the system: Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Mailing lists with names and addresses are exchanged with Area D citizens groups.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards and paper tapes in cabinets.

Retrievability: By name. This is used to maintain a directory of persons and organizations and a file of communications with those who act in an advisory capacity to Mental Health Area D.

Safeguards: Access is limited to authorized personnel only.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:
Associate Director for Community Liaison and Public Education
Area D - CMHC, R Building
St. Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual in this system of records may have access to his/her record upon written request directed to:

Privacy Act Coordinator
Assoc. Director for Community Liaison and Public Education
Community Mental Health Center
St. Elizabeths Hospital
Washington, D.C. 20032

the following information must be provided when requesting access: (a) fullname; (b) capacity in which requestor had contact with the CMHC Area D Citizen Advisory group; (c) nature of information desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Associate Director for Community Liaison and Public Education, CMHC, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Information is voluntarily written on sign-in sheets at various community meetings and solicited through surveys.

Systems exempted from certain provisions of the act: None.

09-30-0019

System name: Saint Elizabeths Hospital Court-Ordered Forensic Investigatory Materials File--HEW/ADAMHA/NIMH.

Security classification: None.

System location: Active Patients:
Saint Elizabeths Hospital
John Howard Pavilion
Washington, D.C. 20032
Discharged patients: The court-ordered forensic investigatory materials files of discharged or expired patients are located in the Administration Building, Saint Elizabeths Hospital; the basement of that building; and inactive records older than four years are stored in the Federal Records Center in Suitland, Maryland.

Categories of individuals covered by the system: Past and present patients committed to Saint Elizabeths Hospital pursuant to the District of Columbia and United States Criminal Codes. Included are alleged criminal offenders sent for pre-trial examination; persons committed after having been found not guilty by reason of insanity; and mentally ill sentenced prisoners transferred from penal institutions.

Categories of records in the system: Court orders; criminal records; police reports; reports from the FBI and the Secret Service; prison records; reports from the United States Attorney and/or Corporation Counsel; correspondence from courts, defense attorneys and prosecutors; probation and parole reports; and, correspondence from Saint Elizabeths Hospital to the Courts, prosecution, defense and correctional authorities.

Authority for maintenance of the system: 24 D.C. Code Sections 301(a), 301(b), 301(d), 302; 24 U.S.C. 161 and 211 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Psychiatric evaluations based in part on this record are forwarded to referring courts, pursuant to order, with copies to defense and prosecuting attorneys.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders in file cabinets.

Retrievability: Retrieved by name and hospital number. Records are used to aid in evaluation of patients regarding their competency and criminal responsibility, to aid in treatment of criminally committed patients, and to comply with court-ordered reporting.

Safeguards: Available only to properly trained and screened personnel. Access limited to authorized individuals only. Enforced by security personnel. Rooms are locked when unoccupied.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:
Chief, Pre-trial Section or
Chief, Post-trial Section
Division of Forensic Programs
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: None.

Record access procedures: None.

Contesting record procedures: None.

Record source categories: Courts, police department, FBI, Secret Service, prisons, U. S. Attorney, Corporation Counsel, defense attorneys, prosecuting attorneys, and correctional authorities.

Systems exempted from certain provisions of the act: Exemption from notification, record access and contest provisions granted under (j)(2) of the Privacy Act. Exemption notice published in the Federal Register of August 14, 1975.

09-30-0020

System name: Administrative Records on Civilly Committed Drug Abusers Under the Narcotic Addict Rehabilitation Act--HEW/ADAMHA/NIDA.

Security classification: None.

System location:
Division of Community Assistance
National Institute on Drug Abuse
Room 9-12, Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

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Categories of individuals covered by the system: Civilly committed narcotic addicts.

Categories of records in the system: Administrative records of rehabilitation status, court orders and other legal documents.

Authority for maintenance of the system: Narcotic Addict Rehabilitation Act,Titles I and III (28 U.S.C. 290 et seq. and 42 U.S.C 3411 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records stored in file folders within open shelves.

Retrievability: Filed alphabetically by patient name. Used to monitor patient progress from time of entrance into treatment program until discharge.

Safeguards: Only authorized Federal staff have access to these files. Files are not allowed to be taken off the premises. File room is locked after business hours.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Medical Records Administrator
Division of Community Assistance
National Institute on Drug Abuse
Room 9-12, Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients; drug treatment programs; courts.

Systems exempted from certain provisions of the act: None.

09-30-0021

System name: Patient Medical Records on PHS Beneficiaries and Civilly Committed Narcotic Addicts Treated at the PHS Hospitals at Lexington, Kentucky and Fort Worth, Texas--HEW/ADAMHA/NIDA.

Security classification: None

System location:

Division of Community Assistance
Room 9-12, Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

Division of Mental Health Services
National Institute of Mental Health
Room 11-105, Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

Categories of individuals covered by the system: PHS beneficiaries treated prior to 1967 and civilly committed narcotic addicts treated after 1966.

Categories of records in the system: Medical records.

Authority for maintenance of the system: Public Health Service Act Sections 321-326, 341(a)and(c), (42 U.S.C. 248-253, 257(a)and(c)); Narcotic Addict Rehabilitation Act, Titles I and II, (28 U.S.C. 2901 et seq. and 42 U.S.C. 3411 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its compoeents; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy--file folders within file boxes; microfilm--within enclosed file cabinet.

Retrievability: Filed by patient hospital number.

Safeguards: Only authorized Federal staff trained in record retrieval are allowed access to these files. Files may not be taken off premises.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Medical Record Administrator
Division of Community Assistance
National Institute on Drug Abuse
Room 9-12, Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

Chief, Mental Health Care & Services Financing Branch
National Institute of Mental Health
Room 11-105, Parklawn Bldg.
5600Fishers Lane
Rockville, Md. 20857

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients, drug treatment programs, and courts.

Systems exempted from certain provisions of the act: None.

09-30-0022

System name: National Institute on Drug Abuse Addiction Research Center Federal Prisoner and Non-Prisoner Patient Files--HEW/ADAMHA/NIDA.

Security classification: None.

System location:

NIDA Addiction Research Center
P. O. Box 12390
Leestown Road
Lexington, KY 40511

Categories of individuals covered by the system: Federal prisoners and non-prisoner volunteers in drug addiction research program.

Categories of records in the system: Research, medical, and pharmacy records.

Authority for maintenance of the system: Public Health Service Act, Sections 301, 341(a)(42 U.S.C. 241, 257(a)); Drug Abuse Office and Treatment Act Section 501(21 U.S.C. 1191).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders within locked file cabinets.

Retrievability: Filed alphabetically by patient name and project number. Records are used to evaluate and monitor patients' health; to record results of clinical experiments for analysis, presentation and publication of statistical reports.

Safeguards: Only authorized Federal staff are allowed access to these files. Files may not leave the premises. Files and fileroom are locked after business hours.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Program Assistant
NIDA Addiction Research Center
P.O. Box 12390
Leestown Road
Lexington, KY. 40511

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above. The request should include the patient's register number and the number of years of incarceration. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designate will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients; drug treatment programs; Bureau of Prisons; case workers; psychiatrists; research laboratories; and pharmacies and hospitals. Many of these records are confidential and privileged communications as guaranteed under Section 344(d) of the PHS Act.

Systems exempted from certain provisions of the act: None.

09-30-0023

System name: Records of Contracts Awarded to Individuals.

Security classification: None.

System location:

National Institute on Drug Abuse
Contracts Management Branch
Room 10-35, Parklawn Bldg.
5600 Fishers Lane
Rockville, MD 20857

National Institute on Alcohol Abuse and Alcoholism
Contracts Management Branch
14-C-04, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857

National Institute of Mental Health
Grants and Contracts Management Branch, OPS
Room 7-C-02, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857

Categories of individuals covered by the system: Contractors and contractors' personnel.

Categories of records in the system: Curriculum vitae, salary information, evaluations of contractors by contract review committees.

Authority for mainteoance of the system: Public Health Service Act Section 301 (42 U.S.C. 241 and 41 U.S.C. 252(c)). NIDA: Drug Abuse Office and Treatment Act Sections 410 and 501 (21 U.S.C. 1177 and 1191). NIAAA: Community Mental Health Centers Act, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 Sections 101, 311 (42 U.S.C. 4551, 4577). NIMH: Public Health Service Act Section 455.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents filed in folder in enclosed file cabinets.

Retrievability: By contract number and cross-indexed by name, except for NIMH. Used by contract review committee members in assessing a proposal.

Safeguards: Released only to authorized staff. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

National Institute on Drug Abuse

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Chief, Contracts Management Branch, OPS
Room 10-35, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

National Institute on Alcohol Abuse and Alcoholism
Chief, Contracts Management Branch
Room 14-C-04, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

National Institute of Mental Health
Chief, Grants and Contracts Branch
Room 7-C-02, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure: Write to the system manager at the above address.

Record access procedures: Same as the above. Give number of contract under which employed.

Contesting record procedures: Same as the above.

Record source categories: Contract proposals and supporting documents, contract review committees, site visitors.

Systems exempted from certain provisions of the act: None.

09-30-0024

System name: Saint Elizabeths Hospital General Administrative Record Systems - HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Office of the Superintendent
Saint Elizabeths Hospital
2700 Martin Luther King, Jr. Ave. S.E.
Washington, D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Former, current, and potential patients and employees.

Categories of records in the system: (1)Data having potential legal consequences included in investigation reports; (2) letters; (3) memos; (4) minutes of meetings and conferences; (5) organizational charts and assignments; (6) copies of disclosures of medical, biographical, employment, and educational information made from said investigation reports, letters, etc.

Authority for maintenance of the system: 24 USC 161, 21 DC Code 1501; 21 DC Code 562, 5 USC 7902, Executive Order 11807, 9/28/74 and Presidential Safety Policy 10/24/1969.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Data are used for professional and medical and psychiatric consultations, examination by professional accrediting organizations, evaluation of potential patients for admission and employees for hiring, responses to Congressional requests and inquiries, reporting treatment provided pursuant to 24 USC 168a to the following federal and local agencies: the District of Columbia, The United States Bureau of Prisons, The Veterans Administration, The United States Soldiers Home, and The State Department, news releases subject to HEW guidelines, under Appendix B, Departmental Regulations 45 CFR 5(b), as follows:

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsiblity of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Item 1).

3. A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter. (Item 4).

4. In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Item 5).

5. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available. (Item 6).

6. Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization. (Item 7).

7. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Item 100).

8. To organizations deemed qualified by the Secretary to carry out quality assessment, medcial audits or utilization review. (Item 102).

9. Disclosures in the course of employee discipline or competence determination proceedings. (Item 103).

10. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

11. the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, subject record book, punch cards, mag tape, charts.

Retrievability: Chronological, name, hospital case number, grade, criminal case number. System is used to facilitate the management of the daily administrative functions within the hospital. These functions include the management of the Safety Program, the Fire Department, the House-Keeping Section, the Public Information Office, the Clinical Program; administration of medical, legal and criminal investigations, accident reports, conservator files, court calendars, evaluation and program assessment of the adequacy of the therapeutic activity, employee performance, conference procedures, organization charts, patient and employee assignments, and source material for Congressinnal and other requests approved by the record system manager.

Safeguards: Restricted access, personnel surveillance, locked files.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Superintendent
Saint Elizabeths Hospital

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Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable identification if request is made in person, directed to: Privacy Act Coordinator, Office of the Superintendent, Saint Elizabeth's Hospital, Washington, D.C. 20032. All of the following information must be provided when requesting access: (a) full name; (b) dates of the contact with Saint Elizabeths Hospital; (c) the Branch, Division, or Office with which the requestor had contact; (d) the capacity in which the requestor had contact with the hospital, e.g., patient, employee, vendor, representative of professional organization, etc; (e) the nature of the material desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of the Superintendent, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Patient and Employee records, HEW, ADAMHA, NIMH, and SEH forms, correspondence, Public Media, Staff Consultants, Relatives, Auditors Reports, Conservators, U.S. Postal Service, U.S. and D.C. Courts, Public Defenders Service, D.C. Mental Health Commission, other persons or outside Agencies and Organizations offering information or initiating requests, volunteers offering services, interviews, minutes of conferences, seminars and meetings.

Systems exempted from certain provisions of the act: None.

09-30-0025

System name: Maryland Psychiatric Case Register-HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Division of Biometry and Epidemiology
NIMH
and
Parklawn Computer Center
5600 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: Persons who received care in psychiatric facilities in Maryland, and Maryland residents who received care in psychiatric facilities in the District of Columbia during the period July 1, 1961 - June 30, 1968.

Categories of records in the system: Information contained on admission, termination, and patient movement forms reported to Maryland Department of Mental Hygiene, including demographic, social, and psychiatric data pertaining to diagnosis, nature of problem and type of treatment. Also, death data (e.g., cause) from Baltimore and State of Maryland death certificate records. Period covered: July 1, 1961 - June 30, 1968.

Authority for maintenance of the system: Public Health Service Act Sections 301, 433(a), 455(42 U.S.C. 241, 289k, 289k-1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Authorized representatives of agencies and organizations to process data for epidemiologic and service utilization research studies and analyses based on data contained within the register or by relating or matching of register data to information from other data systems; develop methodological techniques. Results of studies and analyses appear only in group data form.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes, punch cards, computer printouts.

Retrievability: By register identification number, name. The records are being used or intended for use to develop grouped statistical data relating to: (1) social security earnings; (2) information collected in a special 1963 population census of the residents of Washington County, Maryland.

Safeguards: Only authorized research and computer staff have acces to files. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Chief, Applied Biometrics Research Branch
Division of Biometry and Epidemiology
National Institute of Mental Health
5600 Fishers Lane
Rockville, Maryland 20857

Notification procedure: None.

Record access procedures: None.

Contesting record procedures: None.

Record source categories: Forms submitted by psychiatric facilities to Maryland Department of Mental Hygiene, and Maryland death certificate records. Also from (1) Social Security Administration aggregate data; (2) The Johns Hopkins University (Washington County (Md.) Census Data).

Systems exempted from certain provisions of the act: An exemption from notification access and contest as a statistical record system under Section 3 (f)(k)(4) of the Privacy Act has been granted.

09-30-0026

System name: Saint Elizabeths Hospital Research Project Record-HEW/ADAMHA/NIMH.

Security classification: None.

System location:

Behavioral Studies Building
Saint Elizabeths Hospital
Washington, D.C. 20032
and Federal Records Center
Suitland, Maryland

Categories of individuals covered by the system: Persons who seek approval or who have obtained approval to conduct research projects at Saint Elizabeths Hospital.

Categories of records in the system: Written documents pertaining to research project proposals and/or results obtained from approved research studies, research protocols, and curriculum vitae of research applicants.

Authority for maintenance of the system: 24 U.S.C. 161, Public Health Service Act Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records are routinely disclosed for purposes of program evaluation and historical research to approved investigators by the Saint Elizabeths Hospital Research Review Board.

2. Also under Appendix B, Department Regulations 45 CFR 5(b), as follows: A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit (Item 4).

3. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.(Item 100);

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4. Disclosures in the course of employee discipline or competence determination proceedings (Item 103).

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and filing cabinets.

Retrievability: System is filed by name of primary investigator, and date of research proposal submission, title of research project, and date of research completion. The purposes of this record are to: (1) evaluate research proposals for official approval; (2) disseminate results obtained from approved research studies; (3) program evaluation and historical research.

Safeguards: Records are kept in monitored offices and are only available to persons authorized to use records for the purposes for which they were collected.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Hoffman Division of Research
Saint Elizabeths Hospital
Washington, D.C.

Notification procedure: Individual may have access to his/her personal research project record upon written request with notarized signature if request is made by mail or with suitable identification if request is made in person, to Privacy Act Coordinator, Office of Director, Hoffman Division of Research, SEH, Washington, D.C. 20032. All of the following information must be provided: (a) full name; (b) dates when research project was proposed, approved or disapproved and completed; (c) staff position held in terms of staff, trainees, or outside investigator; (d) title of research project.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Privacy Act Coordinator, Office of Director, Hoffman Division of Research, Saint Elizabeths Hospital, Washington, D.C. 20032. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R. Part 5b).

Record source categories: Information is obtained from the primary research investigator, and supervisory and administrative personnel.

Systems exempted from certain provisions of the act: None.

09-30-0027

System name: Grants: Research, Research Training, Fellowships, Clinical Training, Community Services - HEW/ADAMHA/OA.

Security classification: None.

System location:

National Institute on Drug Abuse
Grants Management Branch
Room 10-42, Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20857

National Institute on Alcohol Abuse and Alcoholism
Grants Management Branch
Room 18-86, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

National Institute of Mental Health
Grants and Contracts Management Branch, OPS
Room 7C-02, Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Principal investigators, program directors, trainees, fellows, Research Scientist Development awardees, and other employees of applicant or grantee institutions.

Categories of records in the system: Grant applications and review history, including curriculum vitae, salary information, summary of review committee deliberations, progress reports, financial records, National Research Services Act awardee payback records and related documents.

Authority for maintenance of the system: NIDA: Public Health Service Act Section 301(42 U.S.C. 241); Section 251 (42 U.S.C. 2688k) Community Mental Health Centers Act Section 410 (21 U.S.C. 1177); and the Drug Abuse Office and Treatment Act of 1972. NIAAA: Public Health Service Act Section 301 (42 U.S.C. 241); Comprehensive Alcohol Abuse and Alcoholism Treatment and Rehabilitation Act of 1970 Sections 101, 311 (42 U.S.C. 4551, 4577). NIMH: Public Health Service Act Section 301, 303(a), 433(a), 455, and 472(a)(1)(A), (42 U.S.C. 241, 242a 289c, 289k-1, and 289l-1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records contained in the Official Grant File may be released:
   a. to the Smithsonian Science Information Exchange for dissemination of science information.
   b. to qualified experts for opinion during the review process.
   c. to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.
   d. to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.
   e. to the cognizant Audit Agency and the General Accounting Office for auditing.
   f. to the Department of Justice or other law enforcement agencies as required for litigation.
   g. to either House of Congress, or to the extent of matter within its jurisdiction, to any committee or subcommittee.
   h. to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.
2. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 6).
3. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 8).
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents filed in folders in enclosed file cabinets. Information on 3 x 5 cards in file cabinets.

Retrievability: By grant numbers and cross-indexed by name. Used by staff program and management specialists for purpose of awarding and monitoring grant funds. Information is also used to maintain communication with former trainees/fellows who have incurred an obligation through the National Research Award Program.

Safeguards: Only authorized personnel have access to the files and the files themselves may not leave the premises. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

National Institute on Drug Abuse
Chief, Grants Management Branch, OPS
Room 10-42, Parklawn Building
5600 Fisher's Lane
Rockville, Md. 20857

National Institute on Alcohol Abuse and Alcoholism
Chief, Grants Management Branch
Room 16-86, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

National Institute of Mental Health
Chief, Grants and Contracts Management Branch
Room 7C-02, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure: Write to the system manager at the applicable address above.

Record access procedures: Same as above. Requesters should also reasonably specify the record contents being sought, and should provide the official grant or fellowship number when possible.

Contesting record procedures: Same as above.

Record source categories: Applicants, grantees, fellows, trainees, personnel at grantee institution on whom the record is maintained, Federal advisory committees, site visitors, consultants, references.

Systems exempted from certain provisions of the act: None.

09-30-0028

System name: Saint Elizabeths Hospital General Medical/Clinical Records System and Related Indexes--HEW/ADAMHA/NIMH.

Security classification: None.

System location: This is a widely decentralized system of records. The medical/clinical records of active patients on the rolls of the Hospital, which were written after July 1, 1973, are located in the specific division where an individual patient is residing or, in the case of outpatients, at the location of the specific outpatient clinic where they receive treatment. The medical/clinicalrecords of active patients who were admitted to Saint Elizabeths Hospital prior to July 1, 1973, and which were written prior to that date, are located in A Building, Room 121 and in the basement of that building, with duplicate copies of those records located in the clinical division where the patient resided or was served as an outpatient. The medical/clinical records of discharged or deceased patients are located in A Building, Room 121 and the basement of that building, and inactive records older than four years are stored in the Federal Records Center in Suitland, Maryland. In addition to the medical/clinical records themselves, SEH maintains numerous card files which contain limited information relating to identification of past and present patients taken from the medical/clinical record and used for management and monitoring purposes. These card files are located throughout the Hospital. Records are located at Saint Elizabeths Hospital, Washington, D.C. 20032, and Federal Records Center, Suitland, Maryland.

Categories of individuals covered by the system: All past and present patients of Saint Elizabeths Hospital.

Categories of records in the system: Inpatient and outpatient psychiatric medical/clinical records. The medical/clinical record contains identifying data (name, date and place of birth, age, sex, race, marital status, legal category, social security number, leave and residential status, admission and discharge dates, identification of relatives and Hospital identification number) and medical/clinical information (physician's admission note, results of physical examinations, descriptions of patient's present and past physical and mental health, diagnosis, prognosis, consultant's opinions, social history, treatment plan, results of diagnostic tests and procedures, notes of patient's response to treatment, progress notes, nurses notes, incident reports, and reports or notes of others who contributed to a patient's treatment and/or social work efforts, and correspondence with Saint Elizabeths Hospital concerning such a patient.

Authority for maintenance of the system: 24 USC 161, et seq.; 21 DC Code 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made:
   a. To facilitate treatment of patient when admitted to other facilities; to send records to new physicians.
   b. To personnel who are not employees of the hospital for accreditation or licensure of the hospital.
   c. Of impersonal documents (i.e. with personal identifiers removed) to facilitate teaching programs and scientific research, to further knowledge in the area of diagnosis and treatment.
   d. Of reports to a referring source such as a physician or a court; to give out to authorized parties, who have legitimate interests in the patient, who are not an employeed by or connected with Saint Elizabeths Hospital.
   e. To help satisfy a patient's medicolegal needs.
   f. To be disclosed to Professional Standards Review Organizations for health care evaluation.
   g. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 100).
   h. To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 101).
   i. To organizations deemed qualified by the Secretary to carry out quality assessment, medcial audits or utilization review. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 102).
   j. In the course of employee discipline or competence determination proceedings. (Appendix B, Departmental Regulations, 45 CFR 5(b), Item 103).
   k. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

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1. At Division level (Active Patients) - File folders with general medical record and correspondence file are kept in metal file cabinets. Index cards, monitoring cards, kardex and addressograph plates are kept in their appropriate containers.

2. At Administration level (Discharged and Deceased Patients) - Clinical and correspondence records are filed in separate coded folders with unit numbering system. Patients index - 3x5 card file of all patients hospitalized or treated at SEH in a Kardveyer; Diagnostic Indexes - a 5x7 separate index card file stored in a Visu-Triver.

Retrievability:
Data to be retrieved by patient's name and hospital number.

Purposes of the system are:

1. To document a patient's illness, chief complaint, history, physical examination, diagnostic test and procedure reports, to plan treatment either as an inpatient or an outpatient.

2. To promote continuity of care for follow-up of treatment; for reference upon future treatment and care.

3. To provide basis for reports mandatory under Federal and local laws.

4. In some instances, to provide as a basis for action in the course of employee discipline or competence determination proceedings.

5. To transact hospital business in filing insurance claims, verification of patient's competency, disability, or retirement benefits, verification of leave status and residence.

6. To serve as a basis for hospital administrative planning and evaluation of its programs.

7. To serve as impersonal documents for the hospital staff continuing education and studies.

8. To be used by hospital staff for assessment of the quality of treatment, for medical audit and utilization review.

9. To be used for the legal defense of the hospital and its staff in cases where a claim is based on patient's mental or physical conditions and arising from the patient's treatment at Saint Elizabeths Hospital.

10. To be used for statistical reports, monthly analysis of clinical division services, monthly, quarterly, annual reports.

11. To serve as a basis for reports to accrediting agencies, Joint Commission on Accreditation of Hospitals, American Hospital Association, American Psychiatric Association, Medicare Licensure, etc.

12. Indexes based on the medical/clinical record are routinely used for: (a) speedy identification and location of specific patients; (b) monitoring the completeness of patient records, particularly those discharged or deceased; (c) to monitor the changing status of patients either in terms of transfers within the Hospital or outside the Hospital; (d) easy identification of basic demographic data used for statistical and/or research purposes; and, (e) quick review of current treatment regimen in some cases.

Safeguards:
1. Available only to properly trained and screened personnel.

2. Access limited to authorized individuals only. Enforced by Security personnel. Room are locked when unoccupied.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:
I. Primary (Administration)

Superintendent
Room 105, Administration Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Chief, Medical Records Librarian
Administration Building
Saint Elizabeths Hospital
Washington, D.C. 20032

II. Secondary (Division Level)

Director
Area D Community Mental Health Center
Dix Building

Director
Noyes Division
Noyes 7

Director
Forensic Division
John Howard Pavilion

Director
Godding Division
Godding 6

Director
Marr Division
Nichols Building

Director
Mental Health Program for the Deaf
L Building

Director
Medicine and Surgery Branch
W W Eldridge Bldg.

Director
O'Malley Division
Q Building

Director
Richardson Division
P Building

Clinical Director
William A. White Division
William A. White Building

Notification procedure: A patient or former patient may have access to his/her record upon written request, with notarized signature if request is made by mail or with suitable proof of identity if request is made in person, directed to, as appropriate:

Active Patients:
Privacy Act Coordinator
Office of the Director (Division where person receives treatment; see list under "System Manager")
Saint Elizabeths Hospital
Washington, D.C. 20032

Discharged Patients:
Privacy Act Coordinator
Office of Medical Records Branch
A Building
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided when requesting access: (a) full name; (b) for discharged patients, approximate dates of enrollment at Saint Elizabeths Hospital; (c) if possible, the patient's hospital number; (d) the nature of the material desired.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Same as Notification. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5.b.7).

Record source categories: Medical records are a compilation of sociological, medical, clinical and historical data of a patient. They are a complete report of an illness resulting in an accumulation of a large amount of information about a patient. The information recorded was given by the patient, his/her relatives, or other third persons interested in the patient, from existing records used as reference, from clinical tests (different departments such as lab, X-ray, EEG, etc.), physicians, psychiatrists, nurses, social workers, other therapists who entered their observations and assessments by means of progress notes, reports, etc.

Systems exempted from certain provisions of the act: None.

09-30-0029

System name: Record of Guest Workers - HEW/ADAMHA/OA.

Security classification: None.

System location:
Alcohol, Drug Abuse, and Mental Health Administration
Division of Personnel Management
5600 Fishers Lane
Rockville, Md. 20857

Categories of individuals covered by the system: Individuals using ADAMHA facilities who are not employees.

Categories of records in the system: Personal inforamtion including name, address, date and place of birth, education, employment, purpose for which ADAMHA facilities are desired, outside sponsor and ADAMHA sponsor.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to the Civil Service Commission for program evaluation purposes and to institutions providing support for subject individual.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. Records are used to document individual's presence at ADAMHA and as a record that the individual is not performing services for ADAMHA and is therefore not an employee.

Safeguards: Locked file accessible only to authorized individuals.

Retention and disposal: Retained for three years after completion of sojourn, then destroyed.

System manager(s) and address:
Director
Division of Personnel Management, ADAMHA
5600 Fishers Lane
Rockville, Md 20857

Notification procedure: Write to the system manager at the above address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Subject individual and ADAMHA sponsor.

Systems exempted from certain provisions of the act: None.

09-30-0030

System name: Record of Visiting Fellows - HEW/ADAMHA/OA.

Security classification: None.

System location:
Alcohol, Drug Abuse, and Mental Health Administration
Division of Personnel Management
5600 Fishers Lane, Parklawn Building
Rockville, Md. 20857

Categories of individuals covered by the system: Individuals undergoing training - not employees.

Categories of records in the system: Personal information including name, address, date and place of birth, education, qualifications for training.

Authority for maintenance of the system: 42 USC 241 and 42 U.S.C. 4821-1

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to the Civil Service Commission for program evaluation purposes and to the General Accounting Office for fund disbursement determinations.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. Records are used to refer candidates to selecting officials and to locate Fellow after placement.

Safeguards: Kept in locked file accessible only to authorized individuals.

Retention and disposal: Retained for three years after completion of fellowship, then destroyed.

System manager(s) and address:
Director
Division of Personnel Management, ADAMHA
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure: Write to the system manager at the above address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Fellowship applicant.

Systems exempted from certain provisions of the act: None.

09-30-0031

System name: St. Elizabeths Hospital Biometrics System - DHEW/ADAMHA/NIMH

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Security classification: None.

System location:

Biometrics Branch
St. Elizabeths Hospital
Administration Building
Washington, D.C. 20032

Categories of individuals covered by the system: Former & Current Patients.

Categories of records in the system: Patient name, hospital number, demographic and individual characteristics, tracking or patient movement and billing information.

Authority for maintenance of the system: 24 USC 161, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Information is disclosed to D.C. Mental Health Areas for continuity of care, after care and community follow-up.
2. Data is provided to researchers when approved by the Superintendent and the legal office.
3. Data is also provided to volunteers involved in the treatment process of the Hospital.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: St. Elizabeths Hospital Forms, File Folders, punch cards and magnetic tape.

Retrievability: Hospital case number; name, pre-determined codes. Some subsystems kept in chronological order. This record is used for distribution of publications. Patient billing. To generate special and recurring reports for Administrators, Health Professionals, Managers, and Researchers for program management, Planning, Analysis, Evaluation and Research.

Safeguards: Employee training; restricted access, locked at night.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Biometrics Branch
St. Elizabeths Hospital
Wash., D.C. 20032

Notification procedure: A patient or former patient may have access to his/her record upon written request, with notarized signature, directed to:

Privacy Act Coordinator
Biometrics Branch
Saint Elizabeths Hospital
Washington, D.C. 20032

All of the following information must be provided:

(a)Full name;
(b)Approximate dates of enrollment at Saint Elizabeths Hospital;
(c)The nature of the material desired.

Record access procedures: Same as notification. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Same as notification. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5b.7).

Record source categories: Saint Elizabeths Hospital forms prepared by staff.

Systems exempted from certain provisions of the act: None.

09-30-0032

System name: Records of Research on Alcohol Abusers and Addicts. HEW/ADAMHA/NIAAA.

Security classification: None.

System location:

Laboratory of Basic Alcohol Sciences, Division of Extramural Research
National Institute on Alcohol Abuse and Alcoholism
Rm. 493, Wm. A. White Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Categories of individuals covered by the system: Alcohol abusers and addicts.

Categories of records in the system: Case studies, medical records of individuals involved in studies between 1969 and 1973 in the Intramural Research Laboratory pertaining to alcohol abuse and alcoholism; medical, non-medical, test and laboratory data, observation data, data from interviews, data from previous records, data from epidemiological, biochemical, and behavioral areas, and other data from investigations in medical and related sciences. This includes material contained on video tapes.

Authority for maintenance of the system: Public Health Service Act, Sections 301,303 (42 U.S.C. 241, 242(a), 4551).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (Appendix B, Departmeatal Regulations, 45 CFR 5(b), Item 101).
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents filed in metal file cabinets and in cardboard boxes.

Retrievability: By case study number and/or by patient's last name.

Safeguards: Only authorized personnel have access to the files and the files themselves may not leave the premises.

Retention and disposal: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The disposal standard for these records may be obtained by writing the system manager at the address below.

System manager(s) and address:

Director, Laboratory of Basic Alcohol Sciences, Division of Extramural Research
National Institute on Alcohol Abuse and Alcoholism
Rm. 493, Wm. A. White Building
Saint Elizabeths Hospital
Washington, D.C. 20032

Notification procedure: An individual may have access to his/her record upon written request, with notarized signature, addressed to the System Manager identified above. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designate will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Directly from the individual and from observation during research studies.

Systems exempted from certain provisions of the act: None.

09-30-0033

System name: Correspondence Files - HEW/ADAMHA/OA

Security classification: None.

System location:

ADAMHA Executive Secretariat
Room 12-C-04, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Executive Secretariat, National Institute on Drug Abuse
Room 10A-23 Parklawn Bldg.
5600 Fishers Lane
Rockville, Md. 20857

Executive Secretariat, National Institute of Alcohol Abuse and Alcoholism
Room 16-C-02, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Executive Secretariat, National Institute of Mental Health
Room 17C-10, Parklawn Building
5600 Fishers Lane
Rockville, Md. 20857

Categories of individuals covered by the system: Individuals who request information on ADAMHA programs.

Categories of records in the system: Correspondence.

Authority for maintenance of the system: 21 U.S.C. 1191; 42 U.S.C. Sections 289k-1, 3511, 4551

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders, enclosed in steel file standing cabinets.

Retrievability: Retrieved alphabetically by name. Used by Institute staff for reference purposes, and to assure correction of problems and follow-up.

Safeguards: Maintained in steel cabinets and accessed only by Executive Secretariat personnel.

Retention and disposal: Retained for two years (current year and preceding one), then destroyed.

System manager(s) and address: Same as location.

Notification procedure: Same as location. Write to the system manager at the above address and give name and approximate date of data requested.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Records are derived from incoming and outgoing correspondence.

Systems exempted from certain provisions of the act: None. /*

Categories of individuals covered by the system: 0d4110-08d

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09-25-0001

System name: Clinical Research: Patient Records. HEW/NIH/NHLBI.

Security classification: None.

System location:

Building 10, NIH
9000 Rockville Pike
Bethesda, Md 20014

Categories of individuals covered by the system: Patients of the National Heart, Lung, and Blood Institute under study at NIH.

Categories of records in the system: Medical histories, diagnostic studies, laboratory data, treatment.

Authority for maintenance of the system: 42 USC 241e, 287, 287a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

Information may also be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card index, laboratory books, computer memory.

Retrievability: Indexed by name or patient number. HEW use: These records are used by physicians in the evaluation and treatment of patients under study at the NIH.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards

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established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:
Administrative Officer, DIR, NHLBI
Building 10, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:
Privacy Coordinator, NHLBI
Building 31, Room 5A50, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring physicians, hospitals and medical centers, patients and families, results of procedures and tests on NIH patients.

Systems exempted from certain provisions of the act: None.

09-25-0002

System name: Clinical Research: Phonocardiogram. HEW/NIH/NHLBI.

Security classification: None.

System location:
Building 10, Room 6N258, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Heart surgery patients in the NIH Clinical Center with Prosthetic valves implanted.

Categories of records in the system: Medical records.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on magnetic tapes, in log books, and in file folders.

Retrievability: They are retrieved by name. HEW use: For research to develop non-invasive diagnostic techniques for detecting prosthetic valve dysfunction.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:
Senior Surgeon, Surgery Branch, NHLBI
Building 10, Room 6N256
9000 Rockville Pike
Bethesda, Md. 20014

Notification procedure:
Privacy Act Coordinator, NHLBI
Building 31, Room 5A50
9000 Rockville Pike
Bethesda, Md. 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: NIH patient records.

Systems exempted from certain provisions of the act: None.

09-25-0003

System name: Administration: Authorized Radionuclide Users File. HEW/NIH/DRS.

Security classification: None.

System location:
Building 21, Room 116, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Research Investigators within NIH and outside holding NIH-NRC Broad License for radioactive material.

Categories of records in the system: Radioactive material users.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Training and experience information transferred to place of new employment.

Personnel exposure data transferred to place of new employment.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file cabinet.

Retrievability: They are retrieved by name. HEW use: Establish training and experience in the use of radioactive material and to estimate radiation dose to workers.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:
Chief, Radiation Safety Branch
Building 21, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Individual, previous employers and educational institutions.

Systems exempted from certain provisions of the act: None.

09-25-0004

System name: Administration: NIH Chemical Carcinogen Registry. HEW/NIH/DRS.

Security classification: None.

System location:
Building 12
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Researchers, laboratory workers and NIH employees potentially exposed to chemical carcinogens.

Categories of records in the system: Certain chemical carcinogens, work station locations, kinds of facilities.

Authority for maintenance of the system: 5 USC 7902; 29 USC 654.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on computer tapes.

Retrievability: They are retrieved by name. HEW use: To determine location of work using chemical carcinogens so that a comprehensive surveillance program can be maintained and to provide information for medical examinations.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 20. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:
Chief, Environmental Industrial Hygiene Section, ESB
Building 13, Room 3K-04, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Employee and supervisor.

Systems exempted from certain provisions of the act: None.

09-25-0005

System name: Administration: NIH Library Circulation and User I.D. File. HEW/NIH/DRS.

Security classification: None.

System location:
Building 10, Room 1L25B, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: NIH employees.

Categories of records in the system: Library records.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 1.).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on computer tape and file cards.

Retrievability: They are retrieved by name. HEW use: Used by Library staff for library material control.

Safeguards: For manual records, access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:
Chief, Reader Service Section
Building 10, Room 1L21, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

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Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, NIH Library ID card data.

Systems exempted from certain provisions of the act: None.

09-25-0007

System name: Administration: NIH Safety Glasses Issuance Program. HEW/NIH/DRS.

Security classification: None.

System location:

Building 13, Room 2E41, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Applicants for safety glasses.

Categories of records in the system: Explanation of eye impact hazard occupation.

Authority for maintenance of the system: 5 USC 7902, 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: Request for safety glasses form used for proper distribution of safety glasses and for proof of delivery.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: Retained until employee terminates hazardous occupation.

System manager(s) and address:

Chief, Occupational Safety and Health Activities Section, ESB
Building 13, Room 2E41
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Employee, supervisor, and eye examination data.

Systems exempted from certain provisions of the act: None.

09-25-0008

System name: Administration: Radiation Workers Monitoring. HEW/NIH/DRS.

Security classification: None.

System location:

Building 21, Room 134, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: NIH workers using radioactive materials or radiation producing equipment.

Categories of records in the system: Radiation exposure incident reports, film badge exposure reports, urine & whole body counting reports.

Authority for maintenance of the system: 5 USC 7902.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Transfer radiation exposure history to new employer or to Nuclear Regulatory Commission on their request.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in card file.

Retrievability: They are retrieved by name and group number. HEW use: Requirement of Nuclear Regulatory Commission to maintain internal and external radiation exposure data and any radiation incident follow-up reports.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Radiation Safety Officer
Building 21, Room 108, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Previous employer and education institutions, laboratory supervisor, NIH.

Systems exempted from certain provisions of the act: None.

09-25-0009

System name: Clinical Research: Radiotherapy Patient File. HEW/NIH/DRS.

Security classification: None.

System location:

Building 21, Room 139, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: NIH patients who have received radiotherapy doses.

Categories of records in the system: Radiotherapy patient records.

Authority for maintenance of the system: 5 USC 7902; 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Nuclear Regulatory Commission upon its request.

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file cabinet.

Retrievability: They are retrieved by patient name. HEW use: Establish a record of patients receiving radiotherapy doses. Record quantity of material given, type of material, workers involved in patient handling and any radiation exposure received by workers.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Radiation Safety Branch
Building 21, Room 108, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Clinical Center NIH, Radiopharmacy NIH, individual patient.

Systems exempted from certain provisions of the act: None.

09-25-0010

System name: Research Resources: Registry of Microbial Agents, Tissue Cultures and Animals & Users. HEW/NIH/DRS.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Individuals potentially exposed to biohazardous microbial agents.

Categories of records in the system: Microbial agents registry.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on magnetic tape.

Retrievability: They are retrieved by name and SSN for verification where the latter is voluntarily provided. HEW use: To serve as a base for organizations involved in day-to-day operation of the program. To identify scientists and laboratories with expertise in the use of particular biological agents. To identify potential hazards. To determine needs for educational programs. To provide an information base for investigators on specific programs and hazards.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: Indefinitely.

System manager(s) and address:

Chief, Biological Control Section
Building 13, Room 3K04, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Supervisor and employee.

Systems exempted from certain provisions of the act: None.

09-25-0011

System name: Clinical Research: Blood Donor Records. HEW/NIH/CC.

Security classification: None.

System location:

Building 10A, Room 1E33, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Donors of blood and blood components to be used in the NIH Clinical Center for patient transfusions.

Categories of records in the system: Past donations, blood types, phenotype.

Authority for maintenance of the system: 42 USC 263.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of

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its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in a computer file and on donor cards.

Retrievability: They are retrieved by name and SSN for verification when the latter is voluntarily provided. HEW use: Permanent medical history of all donors for the transfusion record of each blood unit. Laboratory results on each unit-record are hepatitis B antigen testing, serologic reactions on all blood samples, donations of blood or blood components.

Safeguards: For manual records, access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 7. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Chief, Blood Bank, CC
Building 10A, Room 1E33, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures:

Director, Clinical Center
Building 10, Room 1N212, NIH
9000 Rockville Pike
Bethesda, MD 20014 Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to the official at the address specified under ACCESS procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data are collected from the individual.

Systems exempted from certain provisions of the act: None.

09-25-0012

System name: Clinical Research: Candidate Normal Volunteer Records. HEW/NIH/CC.

Security classification: None.

System location:

Building 10, Room 7D50, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Normally healthy individuals who volunteer to participate in NIH studies.

Categories of records in the system: Health Questionnaire.

Authority for maintenance of the system: 42 USC 241, 263.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on index cards.

Retrievability: They are retrieved by name. HEW Uses. By Normal Volunteers Office and NIH physicians to determine suitability for admission as normal volunteers.

Safeguards: Access limited to authorized personnel. Records are maintained in a room that is locked when unattended.

Retention and disposal: Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Chief, Normal Volunteer Program
Building 10, Room 7D50, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures:

Director, Clinical Center
Building 10, Room 1N212, NIH
9000 Rockville Pike
Bethesda, MD 20014 Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to the official at the address specified under ACCESS procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Volunteer, sponsoring contractor

Systems exempted from certain provisions of the act: None

09-25-0013

System name: Clinical Research: Preadmission Medical Records HEW/NIH/CC.

Security classification: None.

System location:

Building 10, Room 1N248, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Potential patients.

Categories of records in the system: Medical history and letters from individuals and referring physicians.

Authority for maintenance of the system: 42 USC 241, 248.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center

In the event of litigation where one of the parties is (a) the Department any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in folders.

Retrievability: They are retrieved by name. HEW use: Referred to appropriate NIH Institutes for determination of appropriateness of individual for participation in research projects. HEW users: Clinical staff employed by HEW.

Safeguards: For manual records, access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Chief, Office of Clinical Reports & Inquiries
Building 10, Room 1N248, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures:

Director, Clinical Center
Building 10, Room 1N212, NIH
9000 Rockville Pike
Bethesda, MD 20014 Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to the official at the address specified under ACCESS procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring physicians, individuals, families or members of Congress.

Systems exempted from certain provisions of the act: None.

09-25-0014

System name: Clinical Research: Student Records. HEW/NIH/CC.

Security classification: None.

System location:

Building 10, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Potential and accepted associates, medical students, and other students in NIH training programs.

Categories of records in the system: Application form, transcripts, references, evaluations.

Authority for maintenance of the system: 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information may be used to respond to Congressional inquiries for constituents concerning admission to the program.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name and year. HEW use: Used by Institutes for selecting associates and medical students for elective program, and by Nursing, Social Work, Medical Records Departments in maintaining records on students in those Departments for training purposes.

Safeguards: Records are maintained in locked cabinets with access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Associate Director, CC
Building 10, Room 1N206, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures:

Director, CC
Building 10, Room 1N212, NIH
9000 Rockville Pike
Bethesda, MD 20014 Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to the official at the address specified under ACCESS procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants, universities and teachers.

Systems exempted from certain provisions of the act: None.

09-25-0015

System name: Clinical Research: Collaborative Clinical Epilepsy Research. HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Patients participating in NINCDS-sponsored clinical epilepsy research.

Categories of records in the system: Clinical data.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and on magnetic tape and discs.

Retrievability: They are retrieved by ID number. HEW Uses: Research in epilepsy including investigational new drug studies, and

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clinical neurophysiology to improve treatment of persons with seizures HEW users are NIH scientists

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel

Retention and disposal: Years at NIH 10 Years at Federal Records Center 15

System manager(s) and address:

Chief, Epilepsy Branch, NINCDS
Federal Building, Room 114
7550 Wisconsin Avenue
Bethesda, MD 20014

Notification procedure:

Head, Admin. Mgmt. Section
Building 31, Room 8A47
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories: Clinical treatment records from physicians, nurses, and other sources of care.

Systems exempted from certain provisions of the act: None.

09-25-0016

System name: Clinical Research: Collaborative Perinatal Project. HEW/NIH/NINCDS.

Security classification: None

System location:

Federal Building, NIH
7550 Wisconsin Ave
Bethesda, MD 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Women in the perinatal study of NIH during their pregnancies, their children, husbands, fathers of children and other family members.

Categories of records in the system: Medical histories and examinations

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders, on punch cards and magnetic tape, computer printouts, and on microfilm.

Retrievability: They are retrieved by identifying number assigned to the mother. HEW Use: Purpose: Statistical and case history, biomedical research with research findings published without identification of individuals. HEW User: Biomedical researchers employed by DHEW.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely. Some records are sent to the Federal Records Center and held for 3 years.

System manager(s) and address:

Chief, Developmental Neurology Branch, NINCDS
Federal Building, NIH
7550 Wisconsin Ave.
Bethesda, MD 20014

Notification procedure:

Head, Adminstration Management Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Mother, child, father, biomedical examiners, hospital & clinic records, schools.

Systems exempted from certain provisions of the act: None.

09-25-0017

System name: Clinical Research: Epidemiology Studies Files. HEW/NIH/NINCDS

Security classification: None.

System location: Regional Federal Records Center

Categories of individuals covered by the system: 1. Persons with Multiple Sclerosis in the Comanche County study of NIH.

2. Persons with Polymyositis in the NIH study.

3. Persons with Creutzfeld-Jacob Disease in the NIH study.

4. Guam Construction Workers: Admissions to hospitals with diagnosis of stroke 1972-73.

5. Persons with Multiple Sclerosis who have a twin and who are participants in the NIH study.

6. Person with Parkinson's Disease in NIH-related studies.

7. Registered nurses in the NIH study who were exposed to infectious diseases in the course of patient treatment during their pregnancies.

8. Persons with ulcers who participated in the Veterans' Administration study.

Categories of records in the system: Medical findings and outcome.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: For epidemiological analyses and research. HEW users: epidemiologists and authorized staff.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Head, Section on Epidemiology, NINCDS
Federal Building, Room 7C10A
7550 Wisconsin Ave.
Bethesda, MD 20014

Notification procedure:

Head, Admin. Mgmt. Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospital and physicians records.

Systems exempted from certain provisions of the act: None.

09-25-0019

System name: Clinical Research: Genetic Counseling. HEW/NIH/NINCDS.

Security classification: None.

System location:

Federal Building, NIH
7550 Wisconsin Ave.
Bethesda, MD 20014

Categories of individuals covered by the system: Individuals referred to NIH by their physicians for advice about genetic problems in their families.

Categories of records in the system: Family histories, medical histories, laboratory findings, physicians reports.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: To maintain record of advice given; to assess, in time, the efficacy and value of genetic counseling. HEW Users: biomedical researchers employed by DHEW.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Research Geneticist, PRB
Federal Building, NIH
7550 Wisconsin Ave.
Bethesda, MD 20014

Notification procedure:

Head, Admin. Mgmt. Section
Building 31, Room 8A44, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring physicians.

Systems exempted from certain provisions of the act: None.

09-25-0020

System name: Clinical Research: Genetics of Neurological Disorders. HEW/NIH/NINCDS.

Security classification: None.

System location:

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Federal Building, NIH
7550 Wisconsin Avenue
Bethesda, MD 20014

Categories of individuals covered by the system: Individuals with hereditary nervous system disorders and their unaffected relatives in the NIH study

Categories of records in the system: Family histories, medical histories, laboratory findings

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and on index cards.

Retrievability: They are retrieved by name and ID number HEW use Research in genetics of neurological disorders determination of mode of inheritance, epidemiologic characteristics, mutation rate, population dynamics, detection of heterozygote, metabolic defect HEW users biomedical researchers employed by DHEW

Safeguards: Access limited to authorized personnel (system manager and his staff)

Retention and disposal: Years at NIH indefinitely

System manager(s) and address:

Research Geneticist, DNB
Federal Building, NIH
7550 Wisconsin Avenue
Bethesda, MD 20014

Notification procedure:

Head, Admin. Management Section
Building 31, Room 8A44, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975 page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients, relatives, physicians, hospital records.

Systems exempted from certain provisions of the act: None

09-25-0021

System name: Clinical Research: Guam Patient/Control Registry. HEW/NIH/NINCDS

Security classification: None.

System location:

Building 36, Room 5D03, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Research patients of NIH on Guam.

Categories of records in the system: Medical and demographic data.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to Territorial authorities as required by law

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders, on punch cards, magnetic tape, index cards, and print-out sheets.

Retrievability: They are retrieved by name, ID number. HEW use: Medical research on patients.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Director, Intramural Research, NINCDS
Building 36, Room 5A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Admin. Management Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals and their families.

Systems exempted from certain provisions of the act: None.

09-25-0024

System name: Clinical Research: Medical Neurology Branch Medical Histories. HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 10, Room 10D-18, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients in the Medical Neurology Branch, National Institute of Neurological and Communicative Disorders and Stroke.

Categories of records in the system: Medical history.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders

Retrievability: They are retrieved by name, ID number and by diagnosis. HEW use: HEW user: Chief, Medical Neurology Branch, or his authorized assistants in the Branch for research purposes.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:

Chief, Medical Neurology Branch
Building 10, Room 10D-18, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Admin. Mgmt. Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring physicians.

Systems exempted from certain provisions of the act: None

09-25-0026

System name: Clinical Research, Nervous System Studies HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 36, Room 5B20, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Research patients in NIH-related studies having nervous system disorders.

Categories of records in the system: Medical and demographic data

Authority for maintenance of the system: 42 USC 241, 289a, 289c

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders, on magnetic tape, and on print-out sheets.

Retrievability: They are retrieved by name, disease and attending physician name. HEW use: Medical Research. HEW users physicians and scientists working at the Central Nervous System Studies Lab, NINCDS/NIH.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:

Chief, Central Nervous System Studies Lab.
Building 31, Room 5B20, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Admin. Management Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible

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representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From attending physicians.

Systems exempted from certain provisions of the act: None.

09-25-0028

System name: Clinical Research: Patient Medical Histories. HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 10 & Building 31, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Past and present patients of the National Institute of Neurological and Communicative Disorders and Stroke, and individuals being referred for admission to the NIH Clinical Center.

Categories of records in the system: Medical histories.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: For patient care and treatment, evaluation of therapeutic procedures.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Director of Intramural Research
Building 36, Room 5A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Administrative Mgmt. Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring and attending physicians, hospital records.

Systems exempted from certain provisions of the act: None.

09-25-0031

System name: Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System. HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 36, Room 5D04, NIH
9000 Rockville Pike
Bethesda, MD 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Patients with possible perinatal, acute or chronic diseases and normal volunteers in NIH-related studies pertaining to the central nervous system.

Categories of records in the system: Laboratory findings for viruses.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on papers and in file folders.

Retrievability: They are retrieved by name and number. HEW use: Research on role of infections and development of vaccines for CNS diseases; serological and virus data for patients.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 15.

Years at Federal Records Center: 20.

System manager(s) and address:

Chief, Infectious Diseases Branch, IR
Building 36, Room 5D04, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Admin. Management Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospital records, volunteers and laboratory data.

Systems exempted from certain provisions of the act: None.

09-25-0033

System name: International Activities: Fellowships Awarded by Foreign Organizations. HEW/NIH/FIC

Security classification: None.

System location:

Building 31, Room 2B62, NIH
9000 Rockville Pike
Bethesda, MD 20014
Regional Federal Records Center

Categories of individuals covered by the system: U.S. citizens qualified in health-related sciences submitting applications through NIH for fellowships for study abroad.

Categories of records in the system: Education and employment histories, references.

Authority for maintenance of the system: 42 USC 2421.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

After review by the operating agency review panel, the applications and all supporting documents are forwarded to the awarding agency.

In addition, such application may be made available to authorized employees and agents of the US, including the General Accounting Office, for purposes of investigations, inspections and audits, and, in appropriate cases to the Department of Justice for proper action under civil and criminal laws.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name and fellowship number. HEW use: Fogarty International Center program staff collect and review the applications, after which operating agency review committees make selections. Where applicable, information is transmitted to the Office of International Health.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 1 Number of years held at Federal Records Center before disposal: 5

System manager(s) and address:

Chief, Scholars & Fellowship Br
Building 31, Room 2B58, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Requests for notification of or access to records should be addressed to the system manager, as listed above. Verification of identity is required. (These notification and access procedures are in accordance with Department Regulations (45 CFR Part 5b.5) Federal Register October 8, 1975, page 47410).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants and persons supplying references.

Systems exempted from certain provisions of the act: None.

09-25-0034

System name: International Activities Scholars Program HEW/NIH/FIC.

Security classification: None.

System location:

Building 31, Room 2B62, NIH
9000 Rockville Pike
Bethesda, MD 20014
Regional Federal Records Center.

Categories of individuals covered by the system: Distinguished U.S. science leaders and scholars invited to accept NIH scholarships.

Categories of records in the system: Employment and education histories; references.

Authority for maintenance of the system: 42 USC 2421.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is made available to authorized employees and agents of the US, including the General Accounting Office, for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for proper action under civil and criminal laws.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and on magnetic tapes.

Retrievability: They are retrieved by name. HEW use: This program was established to facilitate the exchange of ideas among

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distinguished science leaders and scholars who spend from 3 to 12 months in residence at NIH. Biographical information and references are assembled by Fogarty International Center (FIC) program staff for use by the operating agency review committee, and invitations are extended by the Director, FIC.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 1. Number of years held at Federal Records Center before disposal: 5.

System manager(s) and address:

Chief, Scholars & Fellowships Branch
Building 31, Room 2B62, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Requests for notification of or access to records should be addressed to the system manager, as listed above. Verification of identity is required. (These notification and access procedures are in accordance with Department Regulations (45 CFR Part 5b.5) Federal Register October 8, 1975, page 47410).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from invitees, reference sources, and persons supplying recommendations.

Systems exempted from certain provisions of the act: None.

09-25-0035

System name: International Activities: US Foreign Health Exchange Programs. HEW/NIH/FIC.

Security classification: None.

System location:

Building 31, Room 2C05, NIH
9000 Rockville Pike
Bethesda, MD 20014
Regional Federal Records Center

Categories of individuals covered by the system: U.S. citizens applying for participation in international health exchange programs through NIH.

Categories of records in the system: Educational, employment, & health records.

Authority for maintenance of the system: 42 USC 2421.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Applications may be furnished selected evaluators.

Information is furnished pertinent staffs of the relevant foreign ministry for acceptance purposes.

Applications are made available to authorized employees and agents of the United States, including the General Accounting Office, for the purpose of inspections and audits, and, in appropriate cases, to the Department of Justice for proper action under civil and criminal laws.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: US citizens with backgrounds relating to the health sciences submit applications for study in countries with which the US has health exchange agreements. Fogarty International Center (FIC) staff prepares the applications for review by an operating agency review committee which makes the awards. FIC staff applies to foreign ministries for their approval. Information transmitted to Office of International Health. Reports by returnees disseminated as appropriate.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 1. FRC: 5.

System manager(s) and address:

Coordinator, US-Foreign Health Exchange Program Building 31, Room 2C05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Requests for notification of or access to records should be addressed to the system manager, as listed above. Verification of identity is required. (These notification and access procedures are in accordance with Department Regulations (45 CFR Part 5b.5) Federal Register October 8, 1975, page 47410).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from applicants and persons supplying references.

Systems exempted from certain provisions of the act: None.

09-25-0036

System name: Grants: IMPAC (Grant/Contract Information). HEW/NIH/DRG.

Security classification: None.

System location:

Westwood Building, Room 1A03B
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: Applicant and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees.

Categories of records in the system: Applications, awards, associated records and trainee appointments.

Authority for maintenance of the system: 42 USC 241c; 58 Stat. 691c & d Repealed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) To the Smithsonian Science Information Exchange for dissemination of science information (abstracts of research grants only);

(2) To the cognizant Audit Agency for auditing;

(3) To the Department of Justice as required for litigation;

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;

(5) To qualified experts not within the definition of Department employees as prescribed in Department Regulations (45 CFR, Part 5b.2) for opinions as a part of the application review process;

(6) To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter;

(7) To individuals and organizations deemed qualified by the PHS to carry out specific research related to the review and award processes of the PHS;

(8) To organizations in the private sector with whom PHS has contracted for the purpose of collating, analyzing, aggregating or otherwiserefining records in a system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

(9) To the grantee institution in connection with performance or administration under the terms and conditions of the award.

(10) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on discs and magnetic tapes.

Retrievability: They are retrieved by name, application, grant, and contract ID number. HEW use: The records are used by management and operating staff to prepare listing, tabulations, magnetic tapes and other machine processable media, microfiche and publications for administrative purposes such as fiscal operations, budgeting, program direction and planning; public information; research and analysis. Information is also used to maintain communication with former fellows who have incurred obligation through the National Research Service Award Program.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Statistics and Analysis Branch, DRG
Westwood Building, Room 1A03B, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure:

Privacy Act Coordinator, DRG
Westwood Building, Room 448, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, individual's educational institution, and references.

Systems exempted from certain provisions of the act: None.

09-25-0037

System name: Clinical Research: Gerontology Research Center Longitudinal Aging Study. HEW/NIH/NIA.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Voluntary participants in the Gerontology Research Center Longitudinal Aging Study, NIH.

Categories of records in the system: Medical histories, psychological and physical test results.

Authority for maintenance of the system: 42 USC 241, 289k-2, k-4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and on computer discs.

Retrievability: They are retrieved by ID number. HEW use: Staff collects & analyzes data as part of a longitudinal study of the human aging process.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Clinical Physiology Branch
Gerontology Research Center
Baltimore City Hospitals
Baltimore, MD 21224

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals, research staff, test results.

Systems exempted from certain provisions of the act: None.

09-25-0038

System name: Clinical Research: Patient Data. HEW/NIH/NIAMDD.

Security classification: None.

System location:

Building 10, Room 9N222, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Current & past patients of the National Institute of Arthritis, Metabolism, and Digestive Diseases.

Categories of records in the system: Patient history, demographic data, miscellaneous correspondence with patients.

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Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are available to approved or collaborating researchers, including DHEW contractors and grantees. Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and on computer tape.

Retrievability: They are retrieved by name and any data element on computer tape. HEW use: Patient data are used by scientific staff to conduct laboratory experiments, clinical treatment and care of patients, and administrative functions pertaining thereto. The records are used for statistical purposes in preparation of experimental and patient data, for analysis and eventual publication of results in non-identifiable form.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Clinical Investigations
Building 10, Room 9N222, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Administrative Officer
Building 31, Room 9A46, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975; page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Institute Clinical Records.

Systems exempted from certain provisions of the act: None.

09-25-0039

System name: Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians. HEW/NIH/NIAMDD.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Southwestern American Indians and Caucasian spouses of some who were participants in the NIH Diabetes Mellitus Research Study.

Categories of records in the system: Name, address, demographic data, patient history, and control numbers.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on computer tape.

Retrievability: They are retrieved by name or any data element. HEW use: Used by the staff of the National Institute of Arthritis, Metabolism, and Digestive Diseases to gain information on high prevalence of diabetes, arthritis, gall bladder and related diseases among Southwestern American Indians.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Phoenix Clinical Research Section
Phoenix Area Indian Hospital, Room 541
Phoenix, AZ 85016

Notification procedure:

Administrative Officer
Building 31, Room 9A46, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably

identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Institute clinical records.

Systems exempted from certain provisions of the act: None.

09-25-0040

System name: Clinical Research: Southwestern American Indian Patient Data. HEW/NIH/NIAMDD.

Security classification: None.

System location:

Phoenix Area Indian Hospital
4214 N. 16th Street, Room 541
Phoenix, AZ 85016

Categories of individuals covered by the system: Current patients of the National Institute of Arthritis, Metabolism, and Digestive Diseases being treated at the Phoenix Area Indian Hospital.

Categories of records in the system: Medical history, treatment schedules, diagnostic records.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name and patient number HEW use: Used by clinicians and support staff of Phoenix Clinical Research Section for treatment of NIAMDD patients at Phoenix Area Indian Hospital. Records are forwarded to Indian Health Service which maintains records after patient discharge.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: Records are stored and destroyed along with other medical records of the Indian Health Service at the Phoenix Area Indian Hospital.

System manager(s) and address:

Chief, Phoenix Clinical Research Section
Phoenix Area Indian Hospital
4212 N. 16th Street
Phoenix, AZ 85016

Notification procedure:

Administrative Officer, NIAMDD
Building 31, Room 9A46
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Clinicians of the Phoenix Clinical Research Section.

Systems exempted from certain provisions of the act: None

09-25-0041

System name: Research Resources: Hormone Distribution HEW/NIH/NIAMDD.

Security classification: None.

System location:

Westwood Bldg., Room 620, NIH
5333 Westbard Ave.
Bethesda, MD 20016

Categories of individuals covered by the system: Scientists requesting hormones from the National Institute of Arthritis, Metabolism, and Digestive Diseases.

Categories of records in the system: Justification for request for hormones, including requestor's competence

Authority for maintenance of the system: 42 USC 241, 263, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referred to NIAMDD contractors for distribution of various hormones to requestors

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and dispnsing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name HEW use Used by Hormone Distribution Officer to make a determination on request of hormones.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 3 Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Hormone Distribution Officer
Westwood Bldg., Rm 620
5333 Westbard Ave.
Bethesda, MD 20016

Notification procedure:

Administrative Officer
Building 31, Room 9A46, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and

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inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data is obtained from the individual.

Systems exempted from certain provisions of the act: None.

09-25-0042

System name: Clinical Research: National Institute of Dental Research Patient Records. HEW/NIH/NIDR.

Security classification: None.

System location:

Building 10, Room 1B20, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: NIH inpatients and other participants in current and past research projects of the National Institute of Dental Research.

Categories of records in the system: Medical and dental histories, dental pathologies and therapies.

Authority for maintenance of the system: 42 USC 241, 288a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name and hospital ID number. HEW use: Used by staff to record medical and dental diagnoses, therapies and research data and to evaluate treatment and research procedures.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Clinical Dental Services Section
Building 10, Room 1B20, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

NIDR Privacy Act Coordinator
Room 551, Westwood Bldg.
5333 Westbard Avenue
Bethesda, MD 20016 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, parents or guardians.

Systems exempted from certain provisions of the act: None.

09-25-0043

System name: Clinical Research: Pharyngeal Development. HEW/NIH/NIDR.

Security classification: None.

System location:

Building 31, Room 3B10
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients referred to the National Institute of Dental Research who have abnormalities of the mouth and pharynx.

Categories of records in the system: Medical records.

Authority for maintenance of the system: 42 USC 241, 288a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name and diagnosis. HEW use: Used by NIDR staff to accumulate information about diseases for clinical analysis and publication in non-identifiable form. Information is shared with Clinical Center medical records and is used in preparing the Annual Report of the institute.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Disposal methods include burning or shredding paper materials and erasing computer tapes. Years at NIH - 10.

System manager(s) and address:

Chief, Oral and Pharyngeal Development Section
Building 31, Room 3B10, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

NIDR Privacy Act Coordinator
Room 551, Westwood Bldg.
5333 Westbard Avenue
Bethesda, MD 20016 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual patient or family members, referring clinician or health agency.

Systems exempted from certain provisions of the act: None.

09-25-0044

System name: Clinical Research: Sensory Testing Research Program. HEW/NIH/NIDR.

Security classification: None.

System location:

Building 31, Room 3B08, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Infants, children and adults participating in the Sensory Testing Program of the National Institute for Dental Research.

Categories of records in the system: Test results, extracts from medical records.

Authority for maintenance of the system: 42 USC 241, 288a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and data books.

Retrievability: They are retrieved by name, date of observation, and age of subject. HEW use: Used by NIDR staff to accumulate information about normal and aberrant development and diseases for analysis and publication in non-identifiable form in the Annual Report of the institute.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: Indefinitely.

System manager(s) and address:

Research Psychologist, NIDR
Building 31, Room 3B08, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

NIDR Privacy Act Coordinator
Room 551, Westwood Bldg.
5333 Westbard Avenue
Bethesda, MD 20016 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Cooperating Clinician or Health Agency, family member.

Systems exempted from certain provisions of the act: None.

09-25-0046

System name: Clinical Research: Catalog of Clinical Specimens. HEW/NIH/NIAID.

Security classification: None.

System location:

Building 7, Room 301 and Room 202, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients, volunteers, laboratory personnel in the National Institute of Allergy and Infectious Diseases.

Categories of records in the system: Clinical specimens, attendant data and laboratory results.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in data books.

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Retrievability: They are retrieved by name, patient or study number HEW uses: Used for diagnostic and epidemiologic studies. HEW users: scientific staff of the institute.

Safeguards: Access limited to authorized personnel (system manager and his staff)

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Respiratory Viruses Section
Building 7, Room 301, NIH
9000 Rockville Pike
Bethesda, MD 20014

Chief, Hepatitis Virus Section
Building 7, Room 202, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospital records, field study records and records from collaborating scientists.

Systems exempted from certain provisions of the act: None.

09-25-0047

System name: Clinical Research: Cooperative Smallpox Vaccine Study. HEW/NIH/NIAID.

Security classification: None.

System location:

Building 10, Room 11N118, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Recipients of smallpox vaccines in Cooperative Study of the National Institute of Allergy and Infectious Diseases.

Categories of records in the system: Medical records concerning reactions to smallpox vaccine.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to researchers of the 4 collaborating institutions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

To individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (Appendix B, Department Regulations, 45 CFR Part 5b, item 101).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on magnetic tape and on punch cards.

Retrievability: They are retrieved by I.D. number. HEW uses: Information from 4 institutions is compiled and statistical analyses are made of these data for publication in scientific literature in non-identifiable form. HEW users: Professional staff of the Branch and cooperating scientists in the Intramural Program.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Development and Applications Branch
Westwood Bldg., Rm. 750
5333 Westbard Ave.
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Research investigators.

Systems exempted from certain provisions of the act: None.

09-25-0048

System name: Clinical Research: Serology-Epidemiology Parasite Research. NEW/NIH/NIAID.

Security classification: None.

System location:

Rocky Mountain Laboratory, NIH
Hamilton, MT 59840

Categories of individuals covered by the system: Blood or parasite donors participating in serology-epidemiology parasite research of the National Institute of Allergy and Infectious Diseases.

Categories of records in the system: Results of blood tests and possible case histories.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

To individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research (Appendix B, Department Regulations 45 CFR Part 5b, item 101).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of

the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW uses: Used for epidemiological studies. HEW users: scientific staff of the laboratory.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:

Administrative Officer
Rocky Mountain Laboratory, NIH
Hamilton, MT 59840

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Personal physician of donor & State Health Departments.

Systems exempted from certain provisions of the act: None.

09-25-0049

System name: Clinical Research: Atlanta Federal Prison Malaria Research Projects. HEW/NIH/NIAID.

Security classification: None.

System location:

Building 8, Room 326, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Prisoners in Atlanta Federal Prison who have volunteered to participate in malaria research studies of the National Institute of Allergy and Infectious Diseases.

Categories of records in the system: Medical history records.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Certain infectious diseases are reported to State Government as required by law.

Clinical research data are made available to individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (Appendix B, HEW Regulations, 45 CFR, Part 5b, item 101).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW uses. Used for malaria research studies. HEW users: scientific staff of the laboratory.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:

Head, Malaria Section, NIAID
Building 8, Room 326, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals, Hospital records, referring physicians, collaborating scientists.

Systems exempted from certain provisions of the act: None

09-25-0050

System name: Grants: Trainees Record System. HEW/NIH/NIAID

Security classification: None.

System location:

Westwood Building, Room 735, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: Trainees under Training Grants of the National Institute of Allergy and Infectious Diseases

Categories of records in the system: Name of trainee, grant no., amount of support, Sci. Discipline Code, level of degree, date of training

Authority for maintenance of the system: 42 USC 2891-1; 58 Stat 691d Repealed; 64 Stat. 44.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such

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records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in card files and on computer tapes.

Retrievability: They are retrieved by name. HEW uses: Used for reports on trainees. HEW users: branch staff.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Head, Data Control Section
Westwood Building, Room 733, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Report of appointment of trainee.

Systems exempted from certain provisions of the act: None.

09-25-0051

System name: Grants: NIH Fellowship Payroll. HEW/NIH/DFM.

Security classification: None.

System location:

Building 31, Room B1B07, NIH
9000 Rockville Pike
Bethesda, MD 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Recipients of NIH fellowships.

Categories of records in the system: Recipient's name, address and social security number.

Authority for maintenance of the system: 58 Stat. 691c Repealed; 42 USC 2891-1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to report income subject to tax and taxes withheld to Internal Revenue Service

The Internal Revenue Service requires the social security number to verify individual identity.

Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available. (Appendix B, HEW Regulations, 45 CFR Part 5b, item 6).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected,

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders in file cabinets.

Retrievability: They are retrieved by name. HEW use: Used by NIH staff to process fellowships stipend check to fellow each month for preparing record of taxes withheld and stipends paid to individuals.

Safeguards: The records are maintained in file cabinets with access limited to authorized personnel. Offices are locked during other than normal duty hours.

Retention and disposal: Years at NIH: 1. Years at Federal Records Center: 9.

System manager(s) and address:

Chief, Federal Assistance Accounting Bch, DFM
Building 31, Room B1B07, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Notice of Fellowship Award and individual fellow.

Systems exempted from certain provisions of the act: None

09-25-0053

System name: Clinical Research Vision Studies HEW/NIH/NEI.

Security classification: None

System location:

Building 10, Room 10N325, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients of Intramural Research Clinical Studies, National Eye Institute.

Categories of records in the system: Medical history as relevant to vision research.

Authority for maintenance of the system: 42 USC 241, 289i, 289k

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

Certain infectious diseases may be reported to State Government as required by law.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file cabinets.

Retrievability: They are retrieved by name and cross referenced by anatomical entity. HEW use: Used by NEI staff to conduct and evaluate visual research projects.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Clinical Director
Building 10, Room 10N313, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Executive Officer
Building 31, Room 6A05, NIH
9000 Rockville Pike
Bethesda, MD 20014
An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Medical examinations conducted by and under the direction of the research investigators.

Systems exempted from certain provisions of the act: None.

09-25-0054

System name: Administration: Property Accounting. HEW/NIH/DES.

Security classification: None.

System location:

Building 12A, Room 4018, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Employees of the National Institutes of Health who are issued tools, uniforms, and safety shoes.

Categories of records in the system: Property management.

Authority for maintenance of the system: 5 USC 5901; 5 USC 7903; 42 USC 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 1.).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW uses: Used for tool, uniform and safety shoe issuance and control.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Administrative Officer, DES
Building 12A, Room 4018, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data is obtained from the individual.

Systems exempted from certain provisions of the act: None.

09-25-0055

System name: Clinical Research: Baltimore Cancer Research Center Patients. HEW/NIH/NCI.

Security classification: None.

System location:

Baltimore Cancer Research Center
22 South Greenstreet
Baltimore, MD 21202

Categories of individuals covered by the system: Cancer patients treated at the Baltimore Md. Cancer Research Center.

Categories of records in the system: Medical records.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by patient number. HEW uses: Research by staff to determine survival rates based on modes of treatment.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Associate Director for Baltimore Can. Res. Cent.
Baltimore Cancer Res. Center
22 South Greenstreet
Baltimore, MD 21202

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients' personal physicians, NIH staff treating the patients or performing tests, and patients themselves.

Systems exempted from certain provisions of the act: None.

09-25-0057

System name: Clinical Research: Burkitt's Lymphoma Registry. HEW/NIH/NCI.

Security classification: None.

System location:

Building 37, Room 1B28
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients with Burkitt's Lymphoma in the registry of the National Cancer Institute.

Categories of records in the system: Clinical abstracts, pathology reports, and other laboratory correspondence with attending physicians.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders

Retrievability: They are retrieved by name HEW uses Epidemiologic research by research staff

Safeguards: Access limited to authorized personnel.

Retention and disposal: Years at NIH indefinitely

System manager(s) and address:

Head, Clinical Studies Section
Medical Officer, Laboratory of Viral Carcinogenesis
Landow Building, Room 8C18
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospitals, Pathology Reports, Medical Histories.

Systems exempted from certain provisions of the act: None.

09-25-0060

System name: Clinical Research: DCT Clinical Investigations HEW/NIH/NCI.

Security classification: None.

System location: Building 10, Room 3B18, NIH

9000 Rockville Pike
Bethesda, MD 20014
Regional Federal Record Center

Categories of individuals covered by the system: All patients who have been hospitalized in the National Cancer Institute.

Categories of records in the system: Medical records.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on magnetic tapes and on index cards.

Retrievability: They are retrieved by patient name. HEW uses: Patient care and treatment and epidemiological research.

Safeguards: Access limited to authorized personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 12
Years at Federal Records Center: indefinitely.

System manager(s) and address:

Head, Biostatistics
Building 10, Room 3B16
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospital medical records, referring physician, referring hospitals, patient contact, Central Tumor Registries.

Systems exempted from certain provisions of the act: None.

09-25-0064

System name: Clinical Research: Japan Hawaii Cancer Studies. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Hawaiians of Japanese descent who were/are patients and controls diagnosed with cancer of certain sites or with gastric ulcers.

Categories of records in the system: Medical, diet, residence & occupational history; clinical lab test results.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on magnetic tape and microfiche and in file folders and on slides.

Retrievability: They are retrieved by name or ID number HEW uses: Research into the causes of cancer, including precursor conditions and factors affecting the etiology and epidemiology of the disease.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Biometry Branch
Landow Building, Room C503, NIH
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from interview with cancer patients or their relatives, hospitalized controls, community and hospital records.

Systems exempted from certain provisions of the act: None.

09-25-0067

System name: Clinical Research: National Cancer Incidence Surveys. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Persons diagnosed as having cancer during 1969-71 in geographical areas of the US.

Categories of records in the system: Medical history, insurance and hospital cost data, and death records.

Authority for maintenance of the system: 42 USC 241, 281, 182.

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on microfiche and on magnetic tapes.

Retrievability: They are retrieved by name and study number. HEW uses: Comparison of trends in cancer incidence between the second and third national cancer surveys, i.e. between 1969-71 and 1947.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Head, Demography Section
Landow Building, Room B506, NIH
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospital medical records, death certificates.

Systems exempted from certain provisions of the act: None.

09-25-0068

System name: Clinical Research: National Cancer Institute/American Cancer Society National Breast Cancer Screening of Antihypertensives. HEW/NIH/NCI.

Security classification: None.

System location:

Landow Building, Room B506, NIH
7910 Woodmont Avenue
Bethesda, MD 20014
and Regional Federal Records Center

Categories of individuals covered by the system: Women screened for breast cancer by the National Cancer Institute/American Cancer Society-sponsored screening centers. .

Categories of records in the system: Medical history questionnaires from all individuals; treatment questionnaires from physicians of individuals on antihypertensives.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U S when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (Appendix B, Department Regulations, (45 CFR Part 5b), item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders, on computer printouts and tapes.

Retrievability: They are retrieved by patient name and number HEW uses: Epidemiological research to study factors possibly related to breast cancer. Involves collaboration of National Heart, Lung, and Blood Institute and the Food and Drug Administration

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 5. Years at Federal Records Center: 10.

System manager(s) and address:

Head, Demography Section
Landow Building, Room B506, NIH
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data is obtained from the individual, and if applicable, from the individual's physician with her permission.

Systems exempted from certain provisions of the act: None.

09-25-0069

System name: NIH Clinical Center Admissions of the NCI: HEW/NIH/NCI.

Security classification: None.

System location: Appendix 1.

Landow Building, Rm. C533,NIH,DCCP
7910 Woodmont Avenue
Bethesda, MD 20014

Building 10, Rm 3B04,NIH,DCT
9000 Rockville Pike
Bethesda, MD 20014

Building 31, Room 3A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Current and former cancer patients admitted to the NIH Clinical Center

Categories of records in the system: Medical histories, reports and correspondence.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW uses: National Cancer Institute physicians and supporting staff are involved in the diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

Safeguards: Access limited to authorized personnel (system manager and his staff)

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address: Appendix II

Head, Clinical Genetics Sec. DCCP
Landow Bldg., Rm. A521, NIH
7910 Woodmont Avenue
Bethesda, Maryland 20014

Head, Biostatistics, DCT
Building 10, Room 3B16
9000 Rockville Pike
Bethesda, MD 20014

Administrative Officer, DCBD
Building 31, Room 3A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to system manager An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patients' personal physicians, NIH staff treating the patients or performing tests, and patients themselves.

Systems exempted from certain provisions of the act: None.

09-25-0074

System name: Clinical Research: Veterans Administration Bladder & Prostate Cancer Clinical Trials. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Veterans Administration patients with bladder or prostate cancer.

Categories of records in the system: Medical & treatment history.

Authority for maintenance of the system: 42 USC 241, 281, 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in files and on computer tapes and discs.

Retrievability: They are retrieved by name. HEW uses: Research by staff comparing treatments of bladder and prostate cancer, developing statistical methodology, and tracing the natural history of disease.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Computer Systems Manager
Landow Building, Room C504, NIH
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Hospitals.

Systems exempted from certain provisions of the act: None.

09-25-0075

System name: Administration: Principal Investigators Protection from Research Risks. HEW/NIH/OD.

Security classification: None.

System location:

Westwood Building, Room 303
5333 Westbard Avenue
Bethesda, MD 20014

Categories of individuals covered by the system: Persons submitting research proposals to the National Institutes of Health involving hazards to subjects or ethical problems.

Categories of records in the system: Research protocol, identification of Principal Investigator, institution.

Authority for maintenance of the system: 42 USC 241(c) (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 1.).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored on card file.

Retrievability: They are retrieved by name of Principal Investigator. HEW use: Used to retrieve project files for monitoring of research proposals that may involve undue hazards to subjects or ethical considerations.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely

System manager(s) and address:

Director, OPRR
Westwood Building, Room 303, NIH
5333 Westbard Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b 7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Proposals submitted by individuals, but identified by employees or consultants of DHEW as possibly involving undue hazards.

Systems exempted from certain provisions of the act: None

09-25-0077

System name: Clinical Research: Viral Oncology Human Specimen Program. HEW/NIH/NCI.

Security classification: None.

System location:

Landow Bldg., Rm. C-309
7910 Woodmont Avenue
Bethesda, MD 20014

Categories of individuals covered by the system: Cancer and other patients, and normal donors seen at clinically-oriented organizations that receive procurement contracts from the National Cancer Institute to supply for research purposes by-product material such as biopsy and tumor specimens that would normally be discarded.

Categories of records in the system: Medical history and diagnostic information about the donor, information on the type of specimen, location of repository (if specimen is stored before use), and distribution record.

Authority for maintenance of the system: 42 USC 241, 281, 282

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, discs.

Retrievability: Retrieved by name of donor and cross-referenced by identifying number, procurement source, and various epidemiological characteristics. HEW Use: Used for cancer research to allow interpretation of experimental results, to project future research needs, to monitor and evaluate contractor procurement performance, and to monitor and evaluate the NCI distribution system to laboratory researchers.

Safeguards: Access limited to authorized personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Office of Program Resources & Logistics
Landow Building, Room 1005
National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Specimen Report Form filled out by the organization providing specimens.

Systems exempted from certain provisions of the act: None.

09-25-0078

System name: Administration: Consultant File. HEW/NIH/NHLBI.

Security classification: None.

System location:

Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: List of consultants available for use in evaluation of NHLBI special grants and contracts.

Categories of records in the system: Names, resumes, lists of publications.

Authority for maintenance of the system: 42 U.S.C. 241(d), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disk and file folders.

Retrievability: HEW uses: Selection and referral of experts and consultants for National Heart, Lung, and Blood Institute program reviews and evaluations.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Held at NIH indefinitely.

System manager(s) and address:

Systems Analyst, DEA, NHLBI
Westwood Building, Room 5A-15
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure:

Privacy Act Coordinator, NHLBI
Building 31, Room 5A-50, NIH
9000 Rockville Pike
Bethesda, MD 20014

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Subject individual.

Systems exempted from certain provisions of the act: None.

09-25-0084

System name: Administration: Curricula Vitae. HEW/NIH/NIAMDD

Security classification: None.

System location:

Building 31, Room 9A35, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Consultants, scientists, advisory boards, and commission members.

Categories of records in the system: Employment, education, personal and achievement histories.

Authority for maintenance of the system: 42 USC 241(d) 289a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW use: NIAMDD staff for releases, award citations, personnel actions, presentation of papers, source of information to inquiries, and promotion reviews.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 5. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Administrative Officer, NIAMDD

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Building 31, Room 9A24, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0087

System name: Administration: Employees and Consultants. HEW/NIH/NIAID.

Security classification: None.

System location:

Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Current and former key professional employees of the Institute and consultants.

Categories of records in the system: Press releases, curriculum vitae, nominations for awards and photographs.

Authority for maintenance of the system: 42 USC 241(d) 289a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW uses: For background records to provides drafts of public announcements. HEW users: staff of the office.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Of. of Research Reporting & Public Response
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals and newspaper clippings.

Systems exempted from certain provisions of the act: None.

09-25-0088

System name: Clinical Research: H-2 Soluble Antigen and H-2 Antiserum. HEW/NIH/NIAID.

Security classification: None.

System location:

Westwood Building, Room 7A03
5333 Westbard Avenue
Bethesda, Maryland 20016

Categories of individuals covered by the system: Scientific investigators concerned with histocompatibility typing who have applied for research materials.

Categories of records in the system: Applications for Research Materials.

Authority for maintenance of the system: 42 USC 241, 263, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data regarding scientific investigators may be published in reagents catalogue and may be used to respond to public inquiries.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW uses: Used to keep records of active investigators using the reagents and as a means of controlling scarce reagents. HEW users: branch staff.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Research Resources Branch
Westwood Building, Room 7A03
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0089

System name: Clinical Research: HL-A Antiserum and Tray Users. HEW/NIH/NIAID.

Security classification: None.

System location:

Westwood Building, Room 7A03
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: Scientific and clinical investigators concerned with histocompatibility typing

Categories of records in the system: Applications for Research Materials.

Authority for maintenance of the system: 42 USC 241, 263, 289a, 289c

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data regarding investigators may be published in reagents catalogue and may be used to respond to public inquiries.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders and on computer tapes.

Retrievability: Retrieved by name. HEW use: Used by NIAID staff as a record of active investigators using the research materials and as a means of controlling the scarce reagents.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Research Resources Branch
Westwood Building, Room 7A03
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, ORR and PR, NIAID
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0091

System name: Administration: General Files. HEW/NIH/NEI.

Security classification: None.

System location:

Building 31, Room 6A03, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Donors of gifts, employees, correspondents of the National Eye Institute.

Categories of records in the system: Budget, Administrative Services, correspondence.

Authority for maintenance of the system: 42 USC 289i.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name and subject area. HEW use: In the day-to-day administrative operations of the institute. (Contain records of gifts, travel, various permits, procurement, property, employee suggestions and awards, manpower studies, letters of request for service or information, mailing lists for distribution of institute information to interested outside community.)

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 1. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Executive Officer, NEI
Building 31, Room 6A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Records Management Officer
Building 31, Room 6A31, NIH
9000 Rockville Pike
Bethesda, MD 20014

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0093

System name: Administration: Journal of the National Cancer Institute. HEW/NIH/NCI.

Security classification: None.

System location:

Blair Building, Room 2A01
8300 Colesville Road
Silver Spring, MD 20910

Categories of individuals covered by the system: Authors and manuscript reviewers and members of the JNCI editorial board.

Categories of records in the system: Accepted, rejected and pending manuscripts and reviewing comments.

Authority for maintenance of the system: 42 USC 241, 281

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to qualified experts for opinions as a part of the review of manuscripts

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States

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where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name and manuscript number. HEW Use: Manuscript review by NCI staff for possible publication or oral presentations.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 1. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Managing Editor
Blair Building Room 2A01
8300 Colesville Road
Silver Spring, MD 20910

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Authors and reviewers.

Systems exempted from certain provisions of the act: None.

09-25-0095

System name: Contracts: Carcinogenesis Contracts & Intramural Projects. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Principal investigators, project officers, and contract specialists.

Categories of records in the system: Projects titles and descriptors and cost data.

Authority for maintenance of the system: 42 U.S.C. 241(g), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic tape.

Retrievability: Retrieved by name. HEW use: Used by staff for general administrative purposes in compliance with program requirements.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Coordinator, Information Activities, Technical Information Resources Branch,
Bioassay Testing Program, DCCP
Landow Building, Room A-306
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Contracts, proposals and annual reports.

Systems exempted from certain provisions of the act: None.

09-25-0096

System name: Contracts: Contract Management System. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Principal investigators, project officers, and contract specialists.

Categories of records in the system: Project titles and descriptions and cost data.

Authority for maintenance of the system: 42 U.S.C. 241(g), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is

likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic tapes and on-line discs.

Retrievability: Retrieved by name. HEW uses: Used by staff for general administrative purposes in compliance with program requirements.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 10. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Supervisory Systems Analyst
Blair Building, Room 1A-07
8300 Colesville Road
Silver Spring, MD 20910

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Negotiated Contract and NIH 1688 Form - Project Objective and Progress Report.

Systems exempted from certain provisions of the act: None.

09-25-0097

System name: Contracts: Division of Cancer Control and Rehabilitation. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Principal investigators, project officers, and contract specialists.

Categories of records in the system: Project titles and descriptions and cost data.

Authority for maintenance of the system: 42 U.S.C. 241(g), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic tapes.

Retrievability: Retrieved by name. HEW uses: Used by staff for general administrative purposes in compliance with program requirements.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 2. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Administrative Officer, DCCR
Blair Building, Room 730
8300 Colesville Road
Silver Spring, MD 20910

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Contracts, proposals and annual reports.

Systems exempted from certain provisions of the act: None.

09-25-0098

System name: Contracts: Viral Oncology. Contracts. HEW/NIH/NCI.

Security classification: None.

System location:

Building 12, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Principal investigators, project officers, and contract specialists.

Categories of records in the system: Project titles and descriptions and cost data.

Authority for maintenance of the system: 42 U.S.C. 241(g), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collatifg, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Department Regulations, (45 CFR Part 5b), item 9).

Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of

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the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on computer file and tapes.

Retrievability: Retrieved by name. HEW uses: Used by staff for general administrative purposes in compliance with program requirements.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: 5. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Head, Editorial Unit
Landow Bldg. Rm. A-913
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Contracts, proposals, and annual reports.

Systems exempted from certain provisions of the act: None.

09-25-0099

System name: Clinical Research: Patient Medical Records. HEW/NIH/CC.

Security classification: None.

System location:

Building 10, Room 1N116
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Registered Clinical Center patients. Some individuals not registered as patients but seen in Clinical Center for diagnostic tests.

Categories of records in the system: Medical treatment records.

Authority for maintenance of the system: 42 USC 241, 248.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to NIH Clinical Center.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2). Social work department gives pertinent information to community agencies.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders and computer tapes.

Retrievability: They are retrieved by unit number. HEW use: To provide medical care and treatment. To conduct bio-medical research. HEW users are physicians, nurses, and other health-care personnel; DHEW scientists conducting research; students, mainly medical and nursing, assigned to NIH for training. Diagnostic Departments (X-ray), Pathology, etc.) have some records of non-registered patients, referred for testing.

Safeguards: For manual records, access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Medical Record Department
Building 10, Room 1N116
9000 Rockville Pike
Bethesda, Md. 20014

Notification procedure:

Director, Clinical Center
Building 10, Room 1N212
9000 Rockville Pike
Bethesda, Md. 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

Systems exempted from certain provisions of the act: None.

09-25-0100

System name: Clinical Research: Neuropharmacology Studies. HEW/NIH/NINCDS.

Security classification: None.

System location:

Building 36, Room 5A06
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Patients in NIH-related studies concerning aspects of neuropharmacology.

Categories of records in the system: Medical data.

Authority for maintenance of the system: 42 USC 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Clinical research data are made available to approved or collaborating researchers, including DHEW contractors and grantees

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center

Certain infectious diseases are reported to State Government as required by law.

Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, (Appendix B, Department Regulations 45 CFR Part 5b, item 2).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in laboratory notebooks, file folders and on index cards.

Retrievability: They are retrieved by name, diagnosis, data of laboratory determination. HEW use: Medical research on patients. HEW users: limited to physicians and scientists working within the laboratory unless data formatted so that individual patient identities are not discernible.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Director, Intramural Research
Building 36, Room 5A05, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure:

Head, Admin. Management Section
Building 31, Room 8A47, NIH
9000 Rockville Pike
Bethesda, MD 20014 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Other medical, scientific and educational institutions; individual physicians in private practice.

Systems exempted from certain provisions of the act: None.

09-25-0102

System name: Administration: Associates Program. HEW/NIH/DRG.

Security classification: None.

System location:

Westwood Building, Room 2A03
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: Grants Associates Training Program Applicants.

Categories of records in the system: Application, correspondence, curriculum vitae.

Authority for maintenance of the system: 5 USC Part III; 42 USC 241c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Sent to Civil Service Commission for salary approval.

Sent to State Governments or Educational Institutions for assignment of accepted applicants to training position.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: Used by staff to review applications, conduct correspondence and manage the program.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Executive Secretary, Grants Associates Program
Westwood Building, Room 2A03, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure: Write to System Manager.

Record access procedures:

Privacy Act Coordinator
Westwood Building, Room 448, NIH
5333 Westbard Avenue
Bethesda, MD 20016

Contesting record procedures: Write to the official at the address specified under ACCESS procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, educational institution attended by individual, and references.

Systems exempted from certain provisions of the act: None.

09-25-0105

System name: Administration: Employee Health Records. HEW/NIH/OD.

Security classification: None.

System location:

Building 10, NIH
9000 Rockville Pike
Bethesda, MD 20014
and
Rocky Mountain Laboratory
Hamilton, Montana 59840
Regional Federal Records Center

Categories of individuals covered by the system: Employees, fellows, visiting scientists, relatives of inpatients, visitors, contractors working on site.

Categories of records in the system: Medical records.

Authority for maintenance of the system: 5U.S.C. 7901

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For adjudication of benefits under workman's compensation and for disability retirement and other separation actions:

To District office of OPEC, Department of Labor with copies to CSC for disability retirement and other separation actions.

Upon non-HEW agency request, examination to determine fitness for duty with copies to requesting agency and to CSC.

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Records released to family physician at request of employee.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW Use: Used by physicians and health service personnel: for medical treatment; upon researcher request, and with employee's written permission, release of record for research purposes to medical personnel; upon request by DHEW personnel offices: determination of fitness for duty, with copies to DHEW personnel offices and the Civil Service Commission.

Safeguards: Records are maintained in locked cabinets with access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH in Bethesda: 2. Years at FRC: 6. Years at Rocky Mountain Laboratory: Indefinitely.

System manager(s) and address:

Office Manager
Occupational Medical Service
Building 10, Room B5A06, NIH
9000 Rockville Pike
Bethesda, MD 20014

Administrative Officer
Rocky Mountain Laboratory
Hamilton, Montanna 59840

Notification procedure: Contact System Manager at treatment location, An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures:

Medical Director
Occupational Medical Service
Building 10, Room B5A06, NIH
9000 Rockville Pike
Bethesda, MD 20014

Administrative Officer
Rocky Mountain Laboratory
Hamilton, Montana 59840 Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data resulting from clinical and preventive services provided at treatment location. Data received from individual.

Systems exempted from certain provisions of the act: None.

09-25-0106

System name: Administration: Executive Secretariat, NIH. HEW/NIH/OD.

Security classification: None.

System location:

Building 12A, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Individuals who request information on NIH programs.

Categories of records in the system: Correspondence.

Authority for maintenance of the system: 5 USC 301 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored by computer index and on file folders.

Retrievability: They are retrieved by name, document number, date, and subject. HEW use: to locate and follow-up correspondence to assure prompt reply. Forwarded to other DHEW components when a response from them is warranted.

Safeguards: Formanual records, access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Director, Executive Secretariat
Building 1, Room 18, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Records are derived from incoming and outgoing correspondence.

Systems exempted from certain provisions of the act: None.

09-25-0108

System name: Personnel: Guest Workers/Visiting Fellows/Student Scientist/Scientists Emeriti HEW/NIH/DPM.

Security classification: None.

System location: Each NIH Personnel and Administrative Office.

Categories of individuals covered by the system: Individuals using NIH facilities who are not employees.

Categories of records in the system: Personal information including name, address, date and place of birth, education, employment, purpose for which NIH facilities are desired, outside sponsor, and NIH sponsor.

Authority for maintenance of the system: 42 USC 241

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made:
To CSC for program evaluation purposes;
To GAO for fund disbursement determinations;

To institutions providing support, to persons representing the subject individual;
to the U.S. State Department for matters related to its mission.
To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders

Retrievability: They are retrieved by name. HEW use: To document the individuals' presence at NIH and to record that the individual is not performing a service for the government.

Safeguards: The records are maintained in locked file cabinets with access limited to authorized personnel.

Retention and disposal: Years at NIH: 3 years after visit. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Assistant Director for Operations
Bldg 1, Rm 19
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Same As Notification Procedures.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Individual, management, institution, State Department.

Systems exempted from certain provisions of the act: None.

09-25-0111

System name: Administration: NIH Guide to Grants & Contracts. HEW/NIH/DAS.

Security classification: None.

System location:

Building 31, Rm 1C02
9000 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: Principal investigators of research proposals, consultants, research investigators of contracts, science administrators, and general public.

Categories of records in the system: Mailing list.

Authority for maintenance of the system: 42 U.S.C. 241(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape.

Retrievability: HEW use: Mailing of the NIH Guide to Grants and Contracts. Retrieved by name.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Number of years held at NIH: Indefinitely. How destroyed: names eliminated from tape.

System manager(s) and address:

Director, DAS
Bldg. 31, Rm. 1C02
9000 Rockville Pike
Bethesda, Md. 20014

Notification procedure: Write to System Manager at address above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Requests by individuals to be on the mailing list, lists received from various other components of NIH.

Systems exempted from certain provisions of the act: None.

09-25-0112

System name: Grants: Research, Research Training, Fellowship and Construction Applications and Awards. HEW/NIH/OD.

Security classification: None.

System location: See Appendix I.

Categories of individuals covered by the system: Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees.

Categories of records in the system: Grant Applications and review history, awards, financial records and progress reports and related correspondence.

Authority for maintenance of the system: 42 USC 241(c), (d), 276, 281, 287, 288, 289(a), (d), (e), (i), 289(k-2) 58 Stat. 691 (repealed).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made: To the Smithsonian Science Information Exchange for dissemination of science information (abstracts of research grants only);
(2) To the Cognizant Audit Agency for auditing;
(3) To the Department of Justice as required for litigation;
(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;
(5) To qualified experts not within the definition of Department employees as prescribed in Department Regulations (45 CFR, Part 5b.2) for opinions as a part of the application review process;
(6) To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter;
(7) To individuals and organizations deemed qualified by the PHS to carry out specific research related to the review and award processes of the PHS;
(8) To organizations in the private sector with whom PHS has contracted for the purpose of collating, analyzing, aggregating or otherwiserefining records in a system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

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(9) To the grantee institution in connection with performance or administration under the terms and conditions of the award.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders, on computer tapes and discs, cards and in notebooks.

Retrievability: Retrieved by name and grant number. HEW use: Information provided is used by NIH staff for review award and administration of grant programs. Information is also use to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program. Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

Safeguards: Access limited to authorized personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel

Retention and disposal: Years at NIH: 1 year after close out except for Construction Grants which are retained for 3 years after close-out. Years at FRC: 5 years except for National Research Service Awards, 9 years and Construction Awards, 12 years.

System manager(s) and address: See Appendix II.

Notification procedure: Write to official at the address specified in Appendix II

Record access procedures: Write to the official at the address specified in Appendix IV. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR Part 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified in Appendix II and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information submitted by applicant, supplemented by outside reviewers and internal staff.

Systems exempted from certain provisions of the act: None.

Appendix I System Location

National Cancer Institute
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 837, 10A15, 8A18, 805, 855, 809, 848

National Heart and Lung Institute
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 5A15

National Library of Medicine
Federal Building
7550 Rockville Pike
Bethesda, MD 20014
Room 916A

National Institute of Allergy and Infectious Diseases
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 722

National Institute of Arthritis, Metabolism, and Digestive Diseases
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 610

National Institute of Child Health and Human Development
Landow Building
7910 Woodmont Avenue
Bethesda, MD 20014
Room A621

National Institute on Aging
Building 31, 9000 Rockville Pike
Bethesda, Maryland 20014
Rm 5C39

National Institute of Dental Research
Westwood Building
5333 Westbard AVenue
Bethesda, MD 20016
Room 518

National Institute of Environmental Health Sciences
Building 12
Research Triangle Park, North Carolina 27709
Room 1213

National Institute of General Medical Sciences
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 938

National Institute of Neurological and Communicative Disorders and Stroke
Westwood Building
5333 Westbard Avenue
Bethesda, MD 20016
Room 748

National Eye Institute
Building 31
9000 Rockville Pike
Bethesda, MD 20014
Room 6A47

Division of Research Resources
Building 31
9000 Rockville Pike
Bethesda, MD 20014
Room 5B34

Regional Federal Records Center

Appendix II System Manager and Address

National Cancer Institute

Grants Privacy Act Coordinator
Room 848, Westwood Building
5333 Westbard Avenue
Bethesda, Maryland 20016

National Heart and Lung Institute
Administrative Officer, DEA
Room 5A15, Westwood Building

National Library of Medicine
Associate Director for Extramural Programs
Room 816A, Federal Building

National Institute of Allergy and Infectious Diseases
Administrative Officer, NIAID
Room 707, Westwood Building

National Institute of Arthritis, Metabolism, and Digestive Diseases
Grants Management Officer
Room 639, Westwood Building

National Institute of Child Health and Human Development
Chief, Office of Grants & Contracts
Room A621, Landow Building

National Institute on Aging
Grants Management Officer
Room 5C39, Building 31

National Institute of Dental Research
Grants Management Officer, NIDR
Room 518, Westwood Building

National Institute of Environmental Health Sciences
Grants Management Officer
Room 1213, Building 12

National Institute of General Medical Sciences
Grants Management Officer, NIGMS
Room 938, Westwood Building

National Institute of Neurological and Communicative Disorders and Stroke
Grants Officer, Extramural Programs
Room 738, Westwood Building

National Eye Institute
Grants Management Officer
Room 6A52, Building 31

Division of Research Resources
Director, Office of Grants and Contracts Management
Room 5B34, Building 31

Appendix III Notification Procedures

National Cancer Institute
Chief, Grants Administration Branch
Room 8A18, Westwood Building

National Heart and Lung Institute
Privacy Act Coordinator, NHLI
Room 5A50, Building 31

National Library of Medicine
See Appendix II.

National Institute of Allergy and Infectious Diseases
See Appendix II.

National Institute of Arthritis, Metabolism, and Digestive Diseases
Administrative Officer
Room 9A46, Building 31

National Institute of Child Health and Human Development
See Appendix II.

National Institute on Aging
See Appendix II.

National Institute of Dental Research
See Appendix II.

National Institute of Environmental Health Sciences
See Appendix II.

National Institute of General Medical Sciences
See Appendix II.

National Institute of Neurological and Communicative Disorders and Stroke
See Appendix II.

National Eye Institute
See Appendix II.

Division of Research Resources
See Appendix II.

Appendix IV Record Access Procedures

National Cancer Institute
Chief, Grants Administration Branch
Room 8A18, Westwood Building

National Heart and Lung Institute
See Appendix III.

National Library of Medicine
See Appendix II.

National Institute of Allergy and Infectious Diseases
Chief, Of. of Research Reporting & Public Response
Room 7A32, Building 31

National Institute of Arthritis, Metabolism, and Digestive Diseases
See Appendix III.

National Institute of Child Health and Human Development
See Appendix II.

National Institute on Aging
See Appendix II.

National Institute of Dental Research
Personnel Officer, NIDR
Room 2C23, Building 31

National Institute of Environmental Health Sciences
See Appendix II.

National Institute of General Medical Sciences
Privacy Act Coordinator
Room 9A05, Westwood Building

National Institute of Neurological and Communicative Disorders and Stroke
Head, Administration Mgmt. Section
Room 8A47, Building 31

National Eye Institute
Administrative Officer
Room 6A31, Building 31

Division of Research Resources
See Appendix II.

09-25-0113

System name: Administration: Professional Service Agreements (Medical/legal Services). HEW/NIH/DAS.

Security classification: None.

System location:

Building 31, Room 1C02, NIH
9000 Rockville Pike
Bethesda, MD 20014
Regional Federal Records Center

Categories of individuals covered by the system: Medical Consultants under contract with the NIH Clinical Center and patent attorneys who provide professional services in connection with legal patent searches for the NIH.

Categories of records in the system: Contract Administration Data.

Authority for maintenance of the system: 42 USC 241 (d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of

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the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW Use: Official business record maintenance of contractual agreements of those individuals who are providing consultative medical services to the NIH Clinical Center. HEW user: used by procurement & financial personnel.

Safeguards: Records are maintained in locked cabinets with access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 2. Years at FRC: 4.

System manager(s) and address:

Director, DAS
Building 31, Room 1C02, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0114

System name: Contracts: Personal Services Contractors. HEW/NIH/NIGMS.

Security classification: None.

System location:

Westwood Building, Room 9A09
5333 Westbard Avenue
Bethesda, Md. 20016

Categories of individuals covered by the system: Individuals under contract with NIGMS.

Categories of records in the system: Work qualifications, description of services to be performed.

Authority for maintenance of the system: 42 USC 241(d), 289e.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name of contractor. HEW use: Record of agreed upon services, reference by institute staff in monitoring contractor's performance.

Safeguards: Records are kept in locked file cabinets and access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Administrative Officer
Westwood Building Room 9A09
5333 Westbard Avenue
Bethesda, Md. 20016

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual.

Systems exempted from certain provisions of the act: None.

09-25-0115

System name: Administration: Curricula Vitae. HEW/NIH/NIAID

Security classification: None.

System location:

Building 31, Room 7A10, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Consultants and Clinical Investigators under NIAID Investigational New Drug Applications.

Categories of records in the system: Curriculum vitae.

Authority for maintenance of the system: 42 USC 241(d) 289a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in books.

Retrievability: Retrieved by name. HEW uses: For appointment of consultants and filing in Investigational New Drug Application. HEW users: branch staff.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Clinical Studies Branch
Building 31, Rm 7A49
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, Of. of Research Reporting & Public Response
Building 31, Room 7A32, NIH

9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0116

System name: Contracts: Professional Services Contracts. HEW/NIH/NIAID.

Security classification: None.

System location:

Building 31, Room 7A10, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Medical consultants under contract with NIAID.

Categories of records in the system: Administrative files, biographical data.

Authority for maintenance of the system: 42 USC 241(d) 289a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in card files.

Retrievability: Retrieved by name. HEW uses: to prepare travel orders. professional services contracts, and honorarium forms. HEW users: staff of branch.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Chief, Development and Applications Branch
Westwood Bldg., Rm. 750
5333 Westbard Ave.
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, Of. of Research Reporting & Public Response
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-25-0117

System name: International Activities: US-Japan Program. HEW/NIH/NIAID.

Security classification: None.

System location:

Westwood Building, Room 739
5333 Westbard Avenue
Bethesda, MD 20016

Categories of individuals covered by the system: Panel Members of the U.S.-Japan Cooperative Medical Science Program.

Categories of records in the system: Letters of appointment, curriculum vitae & correspondence.

Authority for maintenance of the system: 42 USC 241(d) 289a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW uses: NIAID staff in administration of program and for preparing correspondence with panel members.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 2. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Administrative Assistant, MIDP, NIAID
Westwood Building, Room 739
5333 Westbard Avenue
Bethesda, MD 20016

Notification procedure: Write to System Manager.

Record access procedures: Write to official named below. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Chief, Of. of Research Reporting & Public Response
Building 31, Room 7A32, NIH
9000 Rockville Pike
Bethesda, MD 20014

Contesting record procedures: Contact the official at the address specified under access procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Panel members.

Systems exempted from certain provisions of the act: None.

09-25-0118

System name: Contracts: Professional Services Contracts. HEW/NIH/NCI.

Security classification: None.

System location: Appendix I.

Blair Building, Room 7A07, DCCR, NIH
8300 Colesville Road
Silver Spring, MD 20910

Building 31, Rm. 6A09, DCT
9000 Rockville Pike
Bethesda, Md. 20014

Building 31, Rm. 3A22,OD

9000 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: Individuals under contract with the NCI.

Categories of records in the system: Professional Services Contracts.

Authority for maintenance of the system: 42 USC 241(d), 281.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders.

Retrievability: Retrieved by name. HEW uses: Used by staff for general administrative purposes iny compliance with program requirements.

Safeguards: Access limited to authorized personnel (system manager and his staff).

Retention and disposal: Years at NIH: 5. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address: Appendix II.

Chief, Offiice of Committee & Review Activities, DCCR
Blair Building, Room 7A07, NIH
8300 Colesville Road
Silver Spring, MD 20910

Administrative Officer, DCT
Building 31, Room 3A50, NIH
9000 Rockville Pike
Bethesda, MD 20014

Administrative Officer, OD
Building 31, Room 11A29, NIH
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Write to System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: None specified.

Systems exempted from certain provisions of the act: None.

09-25-0121

System name: International Activities: Senior International Fellowships Program. DHEW/NIH/FIC.

Security classification: None.

System location:

Bldg. 31,Room 2B62, NIH
9000 Rockville Pike
Bethesda, MD, 20014
Regional Federal Records Center

Categories of individuals covered by the system: Applicants for Senior International Fellowships.

Categories of records in the system: Employment and education histories, references.

Authority for maintenance of the system: 42 U.S.C. 242 e.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Each fellow's home institution receives a notice of award and funding for the fellowship.

Applications are made available to authorized employees and agents of the US, including the General Accounting Office for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for proper action under civil and criminal laws.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders; magnetic tapes.

Retrievability: Retrieved by name and fellowship number. HEW use: These fellowships are available to outstanding faculty members in mid career from U.S. biomedical Research And Educational institutions for study abroad. Applications are submitted to Division of Research Grants (DRG), which also performs primary review. FIC performs secondary review and awards fellowships. Necessary information is made available to Division of Financial Management (DFM) for payment of awards.

Safeguards: Access limited to authorized personnel (system manager and his staff). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at NIH: f. Number of years held at Federal Records Center before disposal: 5.

System manager(s) and address:

Chief, Scholars & Fellowships Branch
Bldg. 31, Room 2B58
9000 Rockville Pike
Bethesda, Md. 20014

Notification procedure: Requests for notification of or access to records should be addressed to the system manager, listed above. Verification of identity is required. (These notification and access procedures are in accordance with Department Regulations (45 CFR 5b.5) Federal Register, October 8, 1975, 47410.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from applicants and persons supplying recommendations through DRG.

Systems exempted from certain provisions of the act: None.

09-25-0123

System name: Clinical Research: Clinical Trials Dealing with Fertility Regulating Methods. DHEW/NIH/NICHD.

Security classification: None.

System location:

Landow Bldg., Room C625
7910 Woodmont Ave.
Bethesda, Md.

and at hospitals and medical centers under contract.

Categories of individuals covered by the system: Volunteers and patients in clinical trials dealing with male and female fertility regulating methods.

Categories of records in the system: Individuals, medical records of subjects participating in clinical trials.

Authority for maintenance of the system: 42 USC 241(g), 289d.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Certain infectious diseases are reported to state governments as required by law.

3. To the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, computer tapes or disks.

Retrievability: Name or identifier codes. HEW uses: Data analysis; program management; DHEW user (Contraceptive Development Branch, Center for Population Research) will receive data extracted by principal investigators from volunteer records describing the effects of various fertility regulating approaches in male and female.

Safeguards; The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: One year to indefinitely, depending on the requirements of the specific study Records are shredded, burned or erased.

System manager(s) and address:

Chief, Contraceptive Development Branch, Center for Population Research, NICHD, NIH
Landow Bldg., Room 7A04
7910 Woodmont Ave.
Bethesda, Maryland 20014

Notification procedure: To determine if a file exists, write to the System Manager and provide the following information:

1. Approximate dates and place of treatment.
2. Name of the study, if known.
3. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information provided by subjects and clinical investigators.

Systems exempted from certain provisions of the act: None.

09-25-0124

System name: Administration: Pharmacology Research Associates -- HEW/NIH/NIGMS

Security classification: None.

System location:

National Institutes of Health
5333 Westbard Avenue, Westwood Bldg., Room 919
Bethesda, Maryland 20016

Categories of individuals covered by the system: Applicants for positions as Pharmacology Research Associates with the National Institute of General Medical Sciences.

Categories of records in the system: Individual application forms, academic transcripts and references.

Authority for maintenance of the system: 42 USC 209.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of applicant. HEW uses: (1) for consideration of the applicant as a candidate for the Pharamacology Research Associate Training Program (PRAT). (2) for consideration of the applicant by other NIH Associate Programs at the applicant's request.

Safeguards: The records are maintained in locked cabinets with access limited to authorized personnel (system manager and his/her staff assigned to the program).

Retention and disposal: 1. Records of applicants who are admitted to the program are kept not more than 5 years. 2. Records of applicants who are not admitted to the program are kept for one year. Records are shredded. 3. All records are shredded after proper time has elapsed.

System manager(s) and address:

Executive Secretary, PRAT Program
Pharmacology-Toxicology Program
NIGMS - NIH
Westwood Bldg., Room 919
Bethesda, Maryland 20015

Notification procedure: To determine if a file exists, write to the System Manager and provide the following information: Date of Application; Applicant's Name.

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information provided by applicants, university registrars, and references.

Systems exempted from certain provisions of the act: None.

09-25-0126

System name: Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies. DHEW/NIH/NHLBI.

Security classification: None.

V 4 3 / 1 8 8 S E 2 7 7 8

System location: Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Heart, Lung, and Blood Institute, and in NHLBI facilities in Bethesda, Maryland.

Categories of individuals covered by the system: Participants in these studies include 1) individuals who have been or who are presently being treated by the National Heart, Lung, and Blood Institute, for diseases or conditions of the heart, lung, blood vessels and blood; 2) individuals whose physical, genetic, social, economic, enviornmental, behavioral or nutritional conditions or habits are being studied in relation to the incidence of heart, lung, blood vessel and blood diseases among human beings; and 3) normal volunteers who have agreed to provide control data germane to these studies.

Categories of records in the system: This system consists of a variety of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs, fingerprints, and correspondence from or about participants in these studies.

Authority for maintenance of the system: Sec. 412, 413 Public Health Service Act (42 U.S.C. 287a, 287b)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1 Research data are made available to authorized, collaborating researchers, which includes DHEW contractors and grantees.

2. See Appendix B Departmental Regulations (45 CFR Part 5b), Items: 2,3,8,9,100,101, and 102.

(2)Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

(3)In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

(8)Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

(9)The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(100)Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

(101)Disclosure may be made to individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(102)Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored in file folders, magnetic tapes or discs, punched cards, bound note books.

Retrievability: Information is retrieved by name and/or participant identification number. DHEW Uses: Summaries of data resulting from these studies are used by the National Heart, Lung, and Blood Institute to monitor and evaluate the incidence of the diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases, and for program planning and evaluation purposes.

Safeguards: Access to or disclosure of information is limited to authorized researchers, NHLBI employees whose duties require the use of such information, and subject individuals themselves whose identity has been properly verified. Data stored in computers is accessed through the use of key words known only to principal investigatores or authorized personnel. All other information will be stored in locked files.

Retention and disposal: Records are retained by NIH indefinitely, as the documentation from scientific and medical research are normally permanent records.

System manager(s) and address:

Chief, Epidemiology Branch
National Heart, Lung, and Blood Institute
Landow Building, C825
7910 Woodmont Avenue
Bethesda, MD 20014

Notification procedure:

NHLBI Privacy Coordinator
Building 31, NIH
9000 Rockville Pike
Bethesda, MD 20014

Requestors must provide the following information in writing:

1. Full name
2. Name and location of research study
3. Approximate dates of enrollment These notification procedures are in accordance with the DHEW regulations as published in the Federal Register, October 8, 1975, p.47411 (45 CFR, Part 5b.6).

Record access procedures: Same as notification. Requestors should also reasonably specify the record contents being sought. These access procedures are in accordance with the DHEW regulations as published in the Federal Register, October 8, 1975, p.47411 (45 CFR, Part 5b.6).

Contesting record procedures: System Manager as indicated above. The contestor must reasonably specify in writing the record contents at issue.

Record source categories: Information contained in these records is obtained directly from individual participants and from medical and clinical research observations.

Systems exempted from certain provisions of the act: None.

09-25-0127

System name: Clinical Research: Clinical trials dealing with phototherapy for neonatal hyperbilirubinemia--HEW/NIH/NICHD.

Security classification: None.

System location:

Bldg. 31, Room 2A-50
9000 Rockville Pike
Bethesda, Maryland 20014
And six contract sites performing the trials (See Appendix).

Categories of individuals covered by the system: Patients in clinical trials dealing with phototherapy in the newborn.

Categories of records in the system: Individual medical and laboratory records of subjects participating in the study.

Authority for maintenance of the system: 42 U.S.C. 241(g), 289d.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from that office made at the request of that individual, parents, or guardian.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be given to a primary care physician when treatment or follow-up of a condition noted during the one-year examination given each patient in the study is indicated.

4. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activity of the Public Health Service in connection with such individual. (Appendix B Departmental Regulations (45 CFR Part 5b), Item 100.)

5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, computer tapes or discs.

Retrievability: Name or identifier code. HEW Uses: Data analysis; program management; DHEW user (Office of the Scientific Director, NICHD) will receive unidentified, aggregate data extracted by the principal investigators from patient records describing the effects of phototherapy on the treatment of hyperbilirubinemia in newborns and the subsequent development of the patient.

Safeguards: The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards guidelines, e.g. security codes will be used limiting access to authorized personnel.

Retention and disposal: One year to indefinitely, depending on the length of the patient follow-up required to complete the study. Records are shredded, burned or erased.

System manager(s) and address:

Chief, Section on Human Biochemical and Developmental Genetics, NPMB
Intramural Research Program, NICHD, NIH
Bldg. 10, 13N258
9000 Rockville Pike
Bethesda, Maryland 20014

Notification procedure: To determine if a file exists, write to the System Manager and provide the following information:

1. Approximate dates and place of treatment.
2. Name of the study, if known.
3. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are in accordance with Department Regulations (45 CFR, Part 5b.6), Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information provided by subjects and clinical investigators.

Systems exempted from certain provisions of the act: None.

APPENDIX I

N01-HD-4-2818

University of Cincinnati
College of Medicine
Cincinnati, Ohio 45219

Principal Investigator:
James M. Sutherland, M.D.

N01-HD-4-2819

State University of New York
Downstate Medical Center
450 Clarkson Avenue
Brooklyn, NY 11203

Principal Investigator:
Dr. Audrey K. Brown

N01-HD-4-2820

Virginia Commonwealth University
Medical College of Virginia
1200 East Broad Street
Richmond, VA 23298

Principal Investigator:
Harold M. Maurer, M.D.

NO1-HD-4-2821

Long Island Jewish Hillside Medical Center
New Hyde Park
New York 11041

Principal Investigator:
Philip J. Lipsitz, M.D.

N01-HD-4-2822

Albert Einstein College of Medicine of Yeshiva University
1300 Morris Park Avenue
Bronx, NY 10461

Principal Investigator:
Lawrence M. Gartner, M.D.

N01-HD-4-2823

Professional Staff Association of the LAC/USC Medical Center
Women's Hospital, Room 919L
1240 Mission Road
Los Angeles, CA 90033

Principal Investigators:
Joan E. Hodgman, M.D.
Paul U. K. Wu, M.D.

09-25-0128

System name: Clinical Research: Neural Prosthesis & Biomedical Engineering Studies. HEW/NIH/NINCDS.

Security classification: None.

System location:

NIH
Federal Building, Room 120
7550 Wisconsin Ave.
Bethesda, Md 20014
and at hospitals and medical centers under contract. A list of locations is available upon request from system manager.

Categories of individuals covered by the system: Patients and normal volunteers, males and females, participating in clinical studies to determine the feasibility of neural prostheses, and in clinical studies related to the development of instrumentation for diagnosis and treatment of neurological and sensory disorders conducted under contract for the National Institute of Neurological and Communicative Disorders and Stroke.

Categories of records in the system: Clinical research data as related to studies which seek to determine the feasibility of neural prostheses and to develop instrumentation for diagnosis and treatment of neurological and sensory disorders.

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Authority for maintenance of the system: 42 U.S.C. 421, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records are made available to approved or collaborating researchers, including DHEW contractors and grantees.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to the Department of Justice or other appropriate Federal Agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged, to have arisen because of activity of the Public Health Service in connection with such individual. (Appendix B, Department Regulations (45 CFR Part 5b) Item 100.)

4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: They are retrieved by name. HEW use: research on the feasibility and development of neural prostheses, and research related to the development of instrumentation for the diagnosis and treatment of neurological and sensory disorders. Clinical research data is used by the National Institute of Neurological and Communicative Disorders and Stroke and unidentified aggregate data may be used by other NIH scientists.

Safeguards: The records are maintained in cabinets with access limited to authorized personnel (system manager and members of his staff, project officer, and contracting officer).

Retention and disposal: Years at NIH: indefinitely.

System manager(s) and address:

Director, Fundamental Neurosciences Program
Federal Building, Room 120
7550 Wisconsin Ave
Bethesda, MD 20014

Notification procedure: Write To:

Head, Administrative Management Section
Building 31, Room 8A47
9000 Rockville Pike
Bethesda, MD 20014

and ask if a file exists with your name in the Neural Prothesis or Biomedical Engineering Studies. Also, designate a responsible representative who will be willing to review the record and inform you of its contents at his/her discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Part 5b.6) Federal Register, October 8, 1975, page 47411.)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Patients, patients' families, hospital records and clinical investigators.

Systems exempted from certain provisions of the act: None.

09-25-0129

System name: Clinical Research: Clinical Research Studies dealing with Hearing, Speech and Language Disorders. HEW/NIH/NINCDS.

Security classification: None.

System location:

Federal Building, NIH
7550 Wisconsin Avenue
Bethesda, MD 20014
And at hospitals, medical centers, universities and educational settings under contract. A list of locations is available upon request from the System Manager.

Categories of individuals covered by the system: Patients and normal volunteers participating in clinical research studies dealing with hearing, speech and language disorders.

Categories of records in the system: Medical findings, clinical research data, medical and educational histories and research data on the hearing, speech, language and cognition of subjects being tested.

Authority for maintenance of the system: 42 U.S.C. 241, 289a, 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records are made available to approved or collaborating researchers, including DHEW contractors and grantees.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activity of the Public Health Service in connection with such individual (Appendix B Departmental Regulations (45 CFR Part 5b) Item 100.)

4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: They are stored in file folders.

Retrievability: Name or identifier code. HEW uses: Data analysis; program management; HEW user (Communicative Disorders Program, National Institute of Neurological and Communicative Disorders and Stroke), will receive data extracted by principal investigators from patient and normal volunteer records on the effects of various factors on hearing, speech, language, and cognition.

Safeguards: The records are maintained in cabinets in offices where access is limited to authorized personnel (principal investigator and staff assigned to the project, project officer, contracting officer).

Retention and disposal: Years at NIH: one year to indefinitely, depending on the requirements of the specific study. Following completion of a specific study all individual identification will be removed, or the records destroyed.

System manager(s) and address:

Director, Communicative Disorders Program
Federal Building, NIH
7550 Wisconsin Avenue
Bethesda, Md. 20014

Notification procedure: Write To:

Head, Administrative Management Section
Building 31, Room 8A47
9000 Rockville Pike
Bethesda, Maryland 20014

To ask if a file exists with your name in studies of Communication Disorders Program. Please supply the following information:

1. Approximate date and place of examination and/or treatment.
2. Name of the study, if known.

3. A responsible representative who will be willing to review the record and inform you of its contents at his/her discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Part 5b.6) Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures. Requests should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5b.7).

Record source categories: Information provided by patients, patients' families, hospital records, school records, and clinical investigators.

Systems exempted from certain provisions of the act: None.

09-25-0130

System name: Clinical Research: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention, HEW/NIH/NCI.

Security classification: None.

System location:

Landow Building, Room 3C07
7910 Woodmont Ave.
Bethesda, Md. 20014
and
Bldg. 12, NIH
9000 Rockville Pike
Bethesda, Md. 20014
and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. A list of locations and contracts is available upon request from the System Manager.

Categories of individuals covered by the system: Patients with cancer and related diseases, (e.g., birth defects), patients with other diseases (e.g., heart disease), normal and other persons (e.g., family members) for the purpose of making comparisons.

Categories of records in the system: Medical records, progress reports, correspondence, epidemiological computerized data and records on biological specimens (e.g., blood, tumors, urine, etc.).

Authority for maintenance of the system: 42 U.S.C. 241, and 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to DHEW contractors and collaborating researchers and their staff in the conduct of the study and in preparation of scientific reports.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Departmental Regulations, 45 CFR Part 5(b), Federal Register, October 8, 1975, page 47415, Item 9.

4. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR Part 5(b), Federal Register, October 8, 1975, page 47415, Item 100.

5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, microfilm, charts, graphs, computer tapes disks and punch cards.

Retrievability: By name and/or code number HEW uses: to determine (1) factors or substances in the environment which cause cancer; (2) ways in which these factors or substances may cause cancer; and (3) characteristics of persons who may be particularly susceptible to the environmental factor(s) or substance(s) and/or to cancer.

Safeguards: DHEW contractors and collaborating researchers will comply with the provisions of the Privacy Act and with Department Regulations. Subjects participating in a clinical study will be advised that their identity will only be known to those who are involved in conducting the study and that any published findings will be in a format which precludes individual identification. Data will be kept in secured areas with access limited to authorized personnel (system manager, project officer, contracting officer, collaborating researchers, staff, and DHEW contractors). Data transmitted to the NCI will be in a non-personally identifiable form. For computerized records the contractor will comply, where appropriate, with Department standards and National Bureau of Standards Guidelines. For example, access is controlled by the use of security codes known only to authorized personnel.

Retention and disposal: One year to indefinitely depending on the project. Hard copy burned; computer tapes and disks erased.

System manager(s) and address:

Chief, Environmental Epidemiology Branch
National Cancer Institute
Landow Building, Room 3C07
7910 Woodmont Avenue
Bethesda, Maryland 20014

Notification procedure:

To determine if a file exists write to system manager and provide the following information:

a. System name: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention
b. Complete name at time of study
c. Facility and home address at the time the study was undertaken
d. Date(s) at the time the information was provided (if known)
e. Birthdate
f. Disease type (if known)

Medical records notification procedures are in accordance with Departmental Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5b.6) (See 12 below)

Record access procedures: The same information provided above for notification is also needed for access. (1) Non-Medical Records - written requests should be made to the System Manager providing identity verification consisting of either a notarization of the request or a certification that the individual is who he or she claims to be, and understands that the knowing and willful request for acquisition of a record pertaining to the individual under false pretenses is a criminal offense under the Act, subject to

5,000 fine. (2) Medical Records access procedures are in accordance with Departmental Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.6). Individuals seeking access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

Contesting record procedures: Write to system manager and specify the record and the part(s) to be contested.

Record source categories: DHEW agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

Systems exempted from certain provisions of the act: None.

09-25-0131

System name: Clinical Research: Clinical Epidemiologic Studies in the Division of Cancer Cause and Prevention, HEW/NIH/NCI.

Security classification: None.

System location:

V 43/188 SE 27 78

Landow Building, Room A521
7910 Woodmont Ave.
Bethesda, Md. 20014
and
Bldg. 12, NIH
9000 Rockville Pike
Bethesda, Md. 20014
and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. A list of locations and contracts is available upon request from the System Manager.

Categories of individuals covered by the system: Patients with cancer and related diseases, (e.g., birth defects), patients with other diseases (e.g., heart disease), normal and other persons (e.g., family members) for the purpose of making comparisons.

Categories of records in the system: Medical records, progress reports, correspondence, epidemiological computerized data and records on biological specimens (e.g., blood, tumors, urine, etc.).

Authority for maintenance of the system: 42 U.S.C. 241, and 282.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to DHEW contractors and collaborating researchers and their staff in the conduct of the study and in preparation of scientific reports.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Appendix B, Departmental Regulations, 45 CFR Part 5(b), Federal Register, October 8, 1975, page 47415, Item 9.

4. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Departmental Regulations, 45 CFR Part 5(b), Federal Register, October 8, 1975, page 47415, Item 100.

5. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, microfilm, charts, graphs, computer tapes discs and punch cards.

Retrievability: By name and/or code number. HEW uses: to determine (1) factors or substances in the environment which cause cancer; (2) ways in which these factors or substances may cause cancer; and (3) characteristics of persons who may be particularly susceptible to the environmental factor(s) or substance(s) and/or to cancer.

Safeguards: DHEW contractors and collaborating researchers will comply with the provisions of the Privacy Act and with Department Regulations. Subjects participating in a clinical study will be advised that their identity will only be known to those who are involved in conducting the study and that any published findings will be in a format which precludes individual identification. Data will be kept in secured areas with access limited to authorized personnel (system manager, project officer, contracting officer, collaborating researchers, staff, and DHEW contractors). Data transmitted to the NCI will be in a non-personally identifiable form. For computerized records the contractor will comply, where appropriate, with Department standards and National Bureau of Standards Guidelines. For example, access is controlled by the use of security codes known only to authorized personnel.

Retention and disposal: One year to indefinitely depending on the project. Hard copy burned; computer tapes and discs erased.

System manager(s) and address:
Chief, Clinical Epidemiology Branch
National Cancer Institute
Landow Building, Room A521
7910 Woodmont Avenue
Bethesda, Maryland 20014

Notification procedure:
To determine if a file exists write to system manager and provide the following information:
a. System name: Clinical Epidemiologic Studies in the Division of Cancer Cause and Prevention
b. Complete name at time of study
c. Facility and home address at the time the study was undertaken
d. Date(s) at the time the information was provided (if known)
e. Birthdate
f. Disease type (if known)
Medical records notification procedures are in accordance with Departmental Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR Part 5b.6) (See 12 below)

Record access procedures: The same information provided above for notification is also needed for access. (1) Non-Medical Records - written requests should be made to the System Manager providing identity verification consisting of either a notarization of the request or a certification that the individual is who he or she claims to be, and understands that the knowing and willful request for acquisition of a record pertaining to the individual under false pretenses is a criminal offense under the Act, subject to

5,000 fine. (2) Medical Records access procedures are in accordance with Departmental Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.6). Individuals seeking access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

Contesting record procedures: Write to system manager and specify the record and the part(s) to be contested.

Record source categories: DHEW agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

Systems exempted from certain provisions of the act: None.

09-25-0133

System name: Clinical Research: Kidney Transplant Histocompatibility Study(KTHS) DHEW/NIH/NIAID.

Security classification: None.

System location: Records included in this system are located in hospitals, research foundations, and universities under contract, in the Naval Medical Research Institute, and in the National Institute of Allergy and Infectious Diseases facilities in Bethesda, Md. (See Appendix I).

Categories of individuals covered by the system: Patients who have received kidney transplants and donors of kidneys transplanted at participating institutions (See Appendix I) during the period January 1, 1974, through December 31, 1976.

Categories of records in the system: Clinical and medical records containing information on clinical examinations, laboratory findings, and related research records. For kidney recipients, a demographic profile is also included.

Authority for maintenance of the system: 42 U.S.C. 241(g) and 289c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activi-

ties of the Public Health Service in connection with such individual. (Appendix Bt Departmental Regulations (45 CFR Part 5b), Item 100).

3. Clinical research data are made available to authorized individuals and organizations deemed qualified to carry out specific research solely for the purpose of carrying out such research. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 101).

4. Research data may be made available to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review. (Appendix B, Departmental Regulations (45 CFR Part 5b) Item 102).

5. Certain infectious diseases are reported to state governments as required by law.

6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, punched cards, and magnetic tapes or discs.

Retrievability: Information is retrieved by name and location of study and by transplant number. HEW Uses: Summaries of the data developed in this study will be used to study the relevance of tissue typing to the outcome of kidney transplants. The influence or organ preservation techniques and various surgical and medical therapies will be similarly studied. As a regular part of these studies, clinical research data are made available to collaborating researchers who are part of the program. These are HEW employees and/or researchers employed by the contractors.

Safeguards: The records are maintained in file cabinets in offices which are locked when not attended, with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards' guidelines, e.g., security codes will be used limiting access to authorized personnel.

Retention and disposal: Records are retained for five years to indefinitely, depending on the requirements of the study. Records are burned or erased.

System manager(s) and address:
Chief, Transplantation and Immunology Branch
National Institute of Allergy and Infectious Diseases, NIH
Westwood Building, Room 750
5333 Westbard Avenue
Bethesda, Maryland, 20016

Notification procedure: To determine if a record exists, write to the System Manager and provide the following information:
1. Full name
2. Name and location of clinical trial facility
3. Approximate dates of enrollment in the research study An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are in accordance with Department Regulations (45 CFR, Part 5b.6), Federal Register, October 8, 1975, page 47411.

Record access procedures: Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager, and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories: Information contained in these records is obtained directly from individual participants and from medical records and clinical research observations.

Systems exempted from certain provisions of the act: None.

APPENDIX I - Location of Records

National Institute of Allergy and Infectious Diseases
Westwood Building, Room 750
5333 Westbard Avenue
Bethesda, Maryland 20016

Louis D. Homer, M.D., Ph.D.
Naval Medical Research Institute
National Naval Medical Center
8901 Rockville Pike
Bethesda, Maryland 20014

And in the offices of the Kidney Transplant Histocompatibility Study Registrars at the following participating hospitals:

University of Arkansas Medical Center
4301 W. Markham
Little Rock, Arkansas 72201

Children's Memorial Hospital
2300 Children's Plaza
Chicago, Illinois 60614

Rush-Presbyterian-St. Luke's Hospital
Chicago, Illinois 60612

Billings Hospital
950 E. 59th Street
Chicago, Illinois 60637

University of Illinois Hospital
840 S. Wood
Chicago, Illinois 60612

Veterans Administration Research Hospital
333 East Huron
Chicago, Illinois 60611

Veterans Administration Hospital
Hines, Illinois 60141

Loyola University Hospital
Maywood, Illinois 60153

Memorial Hospital
Springfield, Illinois 62705

Children's Hospital
300 Longwood Avenue
Boston, Massachusetts 02115

Massachusetts General Hospital
32 Fruit Street
Boston, Massachusetts 02114

Peter Bent Brigham Hospital
721 Huntington Avenue
Boston, Massachusetts

University of Minnesota Hospital
412 Union Street, SE
Minneapolis, Minnesota, 55455

Albany Medical Center
43 New Scotland Avenue
Albany, New York 12208

Downstate Medical Center
450 Clarkson Avenue
Brooklyn, New York 11203

Buffalo General Hospital
100 High Street
Buffalo, New York 14203

Meyer Memorial Hospital
462 Grider Street

V 4 3 / 1 8 8
S E 2 7 7 8

Buffalo, New York 14215

Strong Memorial Hospital
260 Crittenden Blvd.
Rochester, New York 14620

Upstate Medical Center
766 Irving Avenue
Syracuse, New York 13210

Cleveland Clinic
2050 E. 93rd Street
Cleveland, Ohio 44106

University of Oklahoma Health Sciences Center
P.O. Box 26901
Oklahoma City, Oklahoma 73190

Parkland Memorial Hospital
5201 Harry Hines
Dallas, Texas 75235

University of Texas Medical Branch
Galveston, Texas 77550

Methodist Hospital
6516 Bertner
Houston, Texas 77025

University of Texas Health Sciences Center, San Antonio
7703 Floyd Curl Drive
San Antonio, Texas 78284

Wilford Hall Hospital
Lackland Air Force Base
San Antonio, Texas 78236

University of Utah Hospital
50 North Medical Drive
Salt Lake City, Utah 84112

09-25-0134

System name: Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences. HEW/NIH/NIEHS

Security classification: None.

System location:

National Institute of Environmental Health Services
Environmental Biometry Branch
P. O. Box 12233
Research Triangle Park
North Carolina 27709

Categories of individuals covered by the system: Individuals and minors, both male and female, with known or suspected diseases, maladies, chemical or biological contaminations, as well as normal or non-suspect individuals and minors in control or study groups for the purposes of comparison. Individuals included in this system of records will normally have volunteered to participate in the study and voluntarily provided information for inclusion in the system. The participants may be, but are not limited to, patients; workers subject to specific environments; individuals selected because of social, nutritional, physical, genetic and economic conditions and behavioral characteristics; and members of the general population subject to the variety of contaminants present in the environment.

Categories of records in the system: This system consists of a variety of records pertinent to an individuals' current health status; medical history; occupational history and work environments; and selected items of personal data such as smoking habits, family size, family medical history and domiciles. Examples of information which may be included in this system, are the individual or minor's name, SSAN, date of birth, weight, height, sex, race, medical history, blood type, laboratory results, examination findings, current and previous medications received, list of employers, descriptions of the work environment, substances or compoundsroutinely handled or exposed to, and a history of current and previous residences.

Authority for maintenance of the system: 42U.S.C. 241.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Disclosure may be made to HEW contractors and collaborating researchers and their staff for the purposes of analyzing data and preparing scientific reports and articles.

2. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office, made at the request of the individual, and in the case of a minor, the minor's parent or legal guardian.

3. Other HEW routine uses as published in the Federal Register, October 8, 1975, page 47415, Appendix B and (45 CFR Part 5B) are listed below:

(2) Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

(3) In the event the Department deems if desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(8) Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from a mandatory disclosure, disclosure may be made from this system of records.

(9) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(100) Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defining claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information will be stored in one of a combination of the following mediums: file folders, data forms, punch card, magnetic tape discs.

Retrievability: Information will be retrieved by personal identifier such as name or code number. Social security numbers which are supplied on a voluntary basis also are used for retrieval. HEW USES: National Institute of Environmental Health Sciences will use the data collected to determine: factors and substances in the environment which have adverse effects on the health and well being of individuals or groups of individuals; the mechanisms by which these factors and/or substances, by themselves or in combination, produce adverse health effects; individual or group characteristics that render persons susceptible to chemical contamination, disease, or other adverse health effects from agents in the environment; general levels of environmental contamination and body burden on a national, regional, or local basis as well as within general or specific work environments; and the scientific basis for advising regulatory agencies such as the Environmental Protection Agency, the National Institute of Occupational Safety and Health and the Department of Labor on adverse health effects of substances and conditions found in the environment.

Safeguards: Access to the information will be controlled by the Project Officer or his representative at remote locations. Contractors or collaborating researchers will, by formal agreement, comply with the provisions of the Privacy Act and Department regulations. Hard copy data will be maintained in locked file cabinets at the National Institute of Environmental Health Sciences or other remote

study locations. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor in accordance with Departmental standards and National Bureau of Standards guidelines. Subjects directly participating in studies will be advised that their identity will be known only to those persons involved in conducting the study and that any published findings will be in a format which precludes individual identification.

Retention and disposal: The records will be maintained until they are no longer required for the research purpose(s) for which the record was established. The records will be destroyed by shredding, burning, or other appropriate means so as to render them illegible. Computer tapes and discs will be erased.

System manager(s) and address:

Chief, Environmental Biometry Branch
National Institute of Environmental Health Sciences
P. O. Box 12233
Research Triangle Park
North Carolina 27709

Notification procedure: Normally, individuals would know whether a file existed on the basis of their voluntary participation and provision of data. However, individuals may write to the systems manager to determine if a file exists. In writing, they should provide the following data:

a. Complete name at the time of the study.
b. Birthdate.
c. Home address at the time of the study.
d. The facility where the examination was given or information otherwise collected.
e. Date, or approximate dates when information was collected or an examination conducted.
f. Name of study if known.
g. A current name, address and telephone number where they can be reached.
h. The name, address and telephone number of a responsible representative who will be willing to review the record and inform the requester of its contents at his/her discretion, in the event the file contains medical or medically related information. The representative may be a physician, other health professional, or any other responsible individual of the person's choice. These provisions for notification regarding medical records are in accordance with Department Regulation (45 CFR Part 5b.6) published in the Federal Register, October 8, 1975, page 47411.

Record access procedures: The same information as outlined under notification procedures is needed for access to records except as noted under the provisions for access to medical records. For non-medical records, the request should be addressed to the Systems Manager and accompanied by either a notarized statement that the person is who he/she claims to be or a certification that the individual is who he/she claims to be, and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a

5,000 fine. In addition, for access to medical records, as with notification, the requester must provide the name, address, and telephone number of a responsible representative who will be willing to review the record and inform the requester of its contents at his/her discretion. The representative may be a physician, other health professional, or any other responsible individual of the person's choice. These provisions for access to medical records are in accordance with Department Regulation (45 CFR, Part 5b.6) published in the Federal Register, October 8, 1975, page 47411.

Contesting record procedures: Write to the Systems Manager and specify the record and the information to be contested.

Record source categories: HEW agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, commercial, institutions, labor and trade organizations, State agencies, international agencies, foreign governments, other U.S. Government agencies, patients and normal volunteers, physicians, researchers and other collaborating personnel.

Systems exempted from certain provisions of the act: None.

09-25-0135

System name: Grants: PROPHET System Research Prospectuses. HEW/NIH/DRR.

Security classification: None.

System location:

Bldg. 31, Rm. 6A06, NIH
9000 Rockville Pike
Bethesda, MD 20014

Categories of individuals covered by the system: Applicants for access to the facilities and services of the PROPHET System, a unique national computer resource for the study of chemical/biological interrelationships.

Categories of records in the system:

(a) descriptions of the research objectives of the applicant individuals or groups and their plans for use of the PROPHET system in support of their research
(b) biographical sketches of all key individuals associated with the prospectuses
(c) evaluation documents
(d) related correspondence

Authority for maintenance of the system: 42 U.S.C. 241(a)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made:

1. To the Smithsonian Science Information Exchange for dissemination of science information (abstracts of research grants only).

2. To the Cognizant Audit Agency for auditing.

3. To the Department of Justice as required for litigation.

4. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. To qualified experts not within the definition of Department employees as prescribed in Department Regulations (45 CFR, Part 5b.2) for opinions as a part of the application review process.

6. To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

7. To individuals and organizations deemed qualified by the PHS to carry out specific research related to the review and award processes of the PHS.

8. To organizations in the private sector with whom PHS has contracted for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

9. To the grantee institution in connection with performance or administration under the terms and conditions of the award.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: System is indexed by name of principal individual associated with the prospectus and by program identification number. HEW use: system is used exclusively in support of the Chemical/Biological Information-Handling (CBIH) Program management--i.e., technical merit review of prospectuses, allocation of PROPHET services, analysis and evaluation of ongoing activities, and program planning.

Safeguards: The records are maintained in cabinets in the office of the Program Director, CBIH. Access is limited to authorized personnel, i.e., system manager and members of his staff, review committee members.

Retention and disposal: Number of years held at NIH: 2 Disposal methods include burning or shredding paper materials.

System manager(s) and address:

Program Director
Chemical/Biological Information-Handling Program
Division of Research Resources
Bldg. 31, Rm. 6A-04

V 43/188 SE 27 78 UMI

National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20014

Notification procedure: Program Director, Chemical/Biological Information-Handling Program at address listed above and ask if a file exists with your name in the PROPHET System Research Prospectuses.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures: Write to system manager and reasonably identify the record and specify the information to be contested, in accordance with Department Regulations (45 CFR, Part 5b.7), Federal Register, October 8, 1975, page 47411.

Record source categories: The information is provided by the individuals themselves and by NIH consultants who assess the scientific and technical merit of the prospectuses.

Systems exempted from certain provisions of the act: None. I 5513

09-25-0137

System name: Medical Library Management Intern Program, HEW/NIH/NLM.

Security classification: None.

System location:
Council on Library Resources
One Dupont Circle, NW
Suite 620
Washington, D.C. 20036

Categories of individuals covered by the system: Persons applying for admission to the Medical Library Management Intern Program.

Categories of records in the system: Qualifications statements based on education, experience, and training; evaluations; correspondence; references; and the panel recommendations.

Authority for maintenance of the system: 42 U.S.C. 276(a)(6); 42 U.S.C. 280b(b)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a panel of non-Federal Employees for the purpose of evaluating the applicants.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storidg, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records will be stored in file folders.

Retrievability: By name or code number, HEW use: To determine the eligibility and desirability of applicants to the intern program. The applications will be reviewed by a panel of experts selected by the contractor.

Safeguards: The DHEW Contractor will comply with the provisions of the Privacy Act and with Department Regulations. Data will be kept in secured areas with access limited to authorized personnel.

Retention and disposal: File of unsuccessful applicants will be retained for not more than one year, then destroyed. Those of successful candidates may be maintained for up to three years.

System manager(s) and address:
Project Officer
Medical Library Management Intern Program
Office of Extramural Programs
National Library of Medicine, Federal Building
7550 Wisconsin Avenue
Bethesda, Md. 20014

Notification procedure: Write to System Manager. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.5, published in the FEDERAL REGISTER, September 29, 1977, p. 52348.

Record access procedures: Written requests should be made to the System Manager providing identity verification consisting of either a notarization of the request or a certification that the individual is who he or she claims to be, and understands that the knowing and willful request for acquisition of a record pertaining to the individual under false pretenses is a criminal offense under the Act, subject to

5,000 fine. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.5, published in the FEDERAL REGISTER, September 29, 1977, p. 52348.

Contesting record procedures: Write to System Manager and specify the record and the part(s) to be contested. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.7 published in the FEDERAL REGISTER, September 29, 1977, p. 52349.

Record source categories: Applicant and applicant's personal references.

Systems exempted from certain provisions of the act: None.

System name: Cooperative Mycoses Study - HEW/CDC/OCD.

Security classification: None.

System location:
Federal Records Center
East Point, Georgia

Categories of individuals covered by the system: Histoplasmosis, blastomycosis, coccidioidomycosis, aspergillosis, and other miscellaneous fungal infected patients who participated in the cooperative mycoses study conducted between 1947 and 1973 at the former CDC Kansas City Field Station, Ecological Investigations Division, Kansas City, Kansas

Categories of records in the system: Medical records and related papers.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Cooperating facilities as follows:
Ohio State University Hospital
Tuberculosis Service
Columbus, Ohio

San Antonio State Chest Hospital
San Antonio, Texas

East Texas Chest Hospital

Missouri State Chest Hospital
Mt. Vernon, Missouri

Mt. Vernon State Tuberculosis Sanitorium
Mt. Vernon, Illinois

Bureau of Health Services
Department of Human Resources
Frankfort, Kentucky

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and Approved FRC boxes.

Retrievability: The purpose of the study was evaluation of the treatment of systemic fungal diseases by the U. S. Public Health Service and clinicians in selected hospitals and sanitoriums. Records retrieved by name.

Safeguards: Electronic Anti-Intrusion Devices.

Retention and disposal: Schedule for disposal pending.

System manager(s) and address:
Assistant Director for Program
CDC
Bldg. 1, Room 224
Atlanta, Ga. 30333

Notification procedure: To determine if a file exists, write the Assistant Director for Program, Building 1, Room 224, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Participating hospitals and sanitoriums listed above.

Systems exempted from certain provisions of the act: None.

09-20-0086

System name: Surveillance of Persons on Isoniazid Preventive Treatment for Tuberculosis -- HEW/CDC/BSS.

Security classification: None.

System location:
TB Control Division
Building 6, Room 224, CDC
Atlanta, GA 30333
and Regional Federal Records Center

Categories of individuals covered by the system: Health Department Patients.

Categories of records in the system: Medical records.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual. Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards, file folders, and magnetic tape.

Retrievability: Statistical aggregate use. To determine extent of isoniazid-related hepatitis in persons taking isoniazid as preventive therapy against tuberculosis. Retrievable by name and I.D. number.

Safeguards: Source documents and tapes of current projects are kept in locked building with security guards during non-business hours. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Transfer to Federal Records Center when no longer needed for evaluation and analysis. Destroy when 20 years old unless needed for further study. How destroyed: paper shredded or burned; scratch tape.

System manager(s) and address:
Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or

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other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: State and Local Health Departments.

Systems exempted from certain provisions of the act: None.

09-20-0087

System name: Surveillance of Accidental Rubella Vaccination of Pregnant Women -- HEW/CDC/BSS.

Security classification: None.

System location:

Immunization Division, Building 1, Room 4054, CDC
Atlanta, GA 30333

Categories of individuals covered by the system: Women who were vaccinated against rubella immediately preceding pregnancy or accidentally vaccinated during pregnancy.

Categories of records in the system: Epidemiological and serological.

Authority for maintenance of the system: Public Health Service Act, Section 301, 361 (42 U.S.C. 244, 264).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing cabinets.

Retrievability: The data are used in the form of statistical summaries to maintain surveillance on pregnant women who receive rubella vaccine; the identifiers are used to add additional or corrective data to the master file. Records are retrievable by identifying code number.

Safeguards: Routine office and building security.

Retention and disposal: Number years held at CDC: indefinitely.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Private Physicians.

Systems exempted from certain provisions of the act: None.

09-20-0088

System name: Subacute Sclerosing Panencephalitis Surveillance -- HEW/CDC/BSS.

Security classification: None.

System location:

Immunization Division
Building 1, Room 4054, CDC
Atlanta, GA 30333

Categories of individuals covered by the system: Patients with diagnosis of SSPE.

Categories of records in the system: Epidemiological and clinical histories.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: The data are used in the form of an aggregate summary to further define the epidemiology of the disease; the identifiers are used only to complete records as additional and corrective information becomes available. Records are retrievable by identifying code number.

Safeguards: Routine office and building security. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number years held at CDC: 10 years.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Private physicians.

Systems exempted from certain provisions of the act: None.

09-20-0089

System name: Studies of Treatment of Tuberculosis and other Mycobacterioses--HEW/CDC/BSS.

Security classification: None.

System location:

TB Control Division
Building 6, Room 211, CDC
Atlanta, GA 30333
and Regional Federal Records Center

Categories of individuals covered by the system: Selected patients with TB or other mycobacterial disease being treated or observed by participating health departments, clinics, and hospitals.

Categories of records in the system: Medical records.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item (101)).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card, file folders, and magnetic tape.

Retrievability: To determine the effectiveness and safety of treatments for tuberculosis and other mycobacterial disease is the purpose of the system. Data are used in statistical, aggregate form only. Records are retrievable by name and I.D. number.

Safeguards: Source documents and tapes of current projects are kept in locked building with security guards during non-business hours. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Transfer to Federal Records Center when no longer needed for evaluation and analysis. Destroy when 20 years old unless needed for further study. How destroyed: paper shredded or burned. Tape scratched.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Individuals, Local Health Departments, Hospitals, and Clinics.

Systems exempted from certain provisions of the act: None.

09-20-0090

System name: Studies of Testing for Tuberculosis and other Mycobacterioses--HEW/CDC/BSS.

Security classification: None.

System location:

TB Control Division
Building 6, Room 255, CDC
Atlanta, GA 30333
and Regional Federal Records Center

Categories of individuals covered by the system: Study participants include patients, clientele, and employees of health departments,

hospitals, and other institutions currently observing and/or treating cases of tuberculosis and other mycobacterial disease.

Categories of records in the system: Medical Records.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Test results will be returned to the collaborating physician or responsible hospital official.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards, file folders, and magnetic tape.

Retrievability: Statistical aggregate use. To determine the appropriate concentrations and usefulness of substances to be used in skin testing, and to collect epidemiologic data regarding myobacteria. To study the effects of the first skin test on subsequent tests. Records retrievable by name and I.D. number.

Safeguards: Source documents and tapes of current projects are kept in locked building with security guards during non-business hours. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Transfer to Federal Records Center when no longer needed for evaluation and analysis. Destroy when 20 years old unless needed for further study. How destroyed: Paper shredded or burned. Tape scratched.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Individuals and hospitals.

Systems exempted from certain provisions of the act: None.

09-20-0093

System name: Tuberculosis Prophylaxis Studies - Alaska and Puerto Rico -- HEW/CDC/BSS.

Security classification: None.

System location:

TB Control Division, BSS
225 Eagle Street
Anchorage, Alaska 99501

819 27 So. Street
Las Lomas, Rio Piedras
Puerto Rico
and Alaska Activity, Bureau of Epidemiology
225 Eagle Street
Anchorage, Alaska 99501
and Regional Federal Records Center
TB Control Division, BSS,CDC
Building 6, Room 221
Atlanta, Georgia 30333

Categories of individuals covered by the system: Study participants.

Categories of records in the system: Medical records.

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards and file folders.

Retrievability: Statistical aggregate use. To determine the effectiveness and safety of isoniazid therapy in various population groups at high risk of developing tuberculosis. Records retrievable by name.

Safeguards: Source documents are kept in locked building with security guards during non-business hours. Data in Alaska is kept in a locked CDC facility during non-business hours.

Retention and disposal: Transfer to Federal Records Center when no longer needed for evaluation and analysis. Destroy when 20 years old unless needed for further study. How destroyed: shredded or burned.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Participants and/or family members of participants.

Systems exempted from certain provisions of the act: None.

09-20-0094

System name: Tuberculosis Primary Drug Resistance Study -- HEW/CDC/BSS.

Security classification: None.

System location:

TB Control Division
Building 6, Rooms 249, 259 and 243, CDC
Atlanta, GA 30333
and Regional Federal Records Center.

Categories of individuals covered by the system: Health Department Patients.

Categories of records in the system: Medical records.

Authority for maintenance of the system: Public Health Service Act, Section 301(42, U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities. Research data are made available to approved or collaborating researchers, including HEW contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tape.

Retrievability: Statistical aggregate use. To determine over time if the trends in resistant tubercle bacilli organisms of newly diagnosed and previously untreated cases of tuberculosis are changing. Records are retrievable by I.D. number.

Safeguards: Source documents and tapes of current projects are kept in locked building with security guards during non-business hours. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Transfer to Federal Records Center when no longer needed for analysis and evaluation. Destroy when 20 years old unless needed for further study. How destroyed: paper shredded or burned. Tape scratched.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: State and local Health Departments, and Laboratories.

Systems exempted from certain provisions of the act: None.

09-20-0095

System name: Zoster Immune Globulin Records on High Risk Immunosuppressed Children Exposed to Chickenpox -- HEW/CDC/BSS.

Security classification: None.

System location:

Immunization Division
Bldg. 1, Rm. 4054, CDC
Atlanta, GA 30333

Categories of individuals covered by the system: High risk immunosuppressed children who are exposed to chickenpox.

Categories of records in the system: Epidemiological and clinical histories.

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activi-

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ties of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggressing or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 9).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing cabinets

Retrievability: These data are used in an aggregate form to determine the effectiveness of ZIG in the prevention or modification of chickenpox in high-risk immunosuppressed children; the identifiers are used to add additional and corrective data to the master file as it becomes available Records are retrievable alphabetically by name

Safeguards: Metal file cabinets; routine building security.

Retention and disposal: Number years held at CDC: indefinitely

System manager(s) and address:

Director, BSS
Bldg. 1, Rm. 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3)an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7)

Record source categories: Private Physicians

Systems exempted from certain provisions of the act: None.

09-20-0096

System name: Tuskegee Study of Untreated Syphilis Medical Care Program -- HEW/CDC/BSS

Security classification: None

System location:

Bureau of State Services
Bldg. 1, Room 2047, CDC
Atlanta, GA 30333

Categories of individuals covered by the system: Participants in the study, which began in the early 1930's.

Categories of records in the system: Medical records and related study data.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

Information may be furnished to courts of competent jurisdiction and to attorneys for legal purposes.

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders.

Retrievability:

Information from the files is used by DHEW officials to:
1. Determine eligibility for medical care for those participants eligible for such services in accordance with DHEW policy;
2. Determine status of participants in litigation

Records are retrievable alphabetically by name

Safeguards: Records are kept in locked building with security guards during non-business hours. Access to management officials and staff who review and approve payments of medical costs.

Retention and disposal: Number of years held at CDC: indefinitely.

System manager(s) and address:

Director
Bureau of State Services
Bldg. 1, Rm 2047, CDC
Atlanta, Georgia 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3)an individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Participants and family members of participants entitled to medical care; Social Security Administration for Medicare information; and State Welfare Departments for information on Medicaid.

Systems exempted from certain provisions of the act: None.

09-20-0097

System name: Studies of the Effects of BCG Vaccinations for Tuberculosis. HEW/CDC/BSS

Security classification: None

System location:

TB Control Division
819 27 So. Street
Las Lomas, Rio Piedras, Puerto Rico
and
TB Control Division
Research & Development Branch
Bldg. 6 - Room 222, CDC
Atlanta, Georgia 30333
and
Program Control de Tuberculosis
Antiguo Hospital - San Patricio
Puerto Nuevo, Puerto Rico 00901

Categories of individuals covered by the system: Persons who received BCG vaccinations at county health clinics in Muscogee County, Georgia, and Russell County, Alabama, and the local public health clinic in Las Lomas, Rio Piedros, Puerto Rico.

Categories of records in the system: Medical Records.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100).

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (45 CFR, Part 5b) Appendix B Item (101).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards and file folders.

Retrievability: Statistical aggregate use. To test the effectiveness and safety of BCG vaccinations in reducing the incidence of tuberculosis in non-reactors to the tuberculin skin tests. Information from these records will be used by the National Cancer Institute to determine any relationship between BCG vaccination and cancer Records are retrievable by name.

Safeguards: All data is kept in a building that is locked during non-business hours.

Retention and disposal: Transfer to Federal Records Center when no longer needed for evaluation and analysis. Destroy when 20 years old unless needed for further study. How destroyed: Shredded or burned.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Participants and family members of participants, Commonwealth of Puerto Rico.

Systems exempted from certain provisions of the act: None.

09-20-0098

System name: Congenital Rubella Registry -- HEW/CDC/BSS

Security classification: None.

System location:

Immunization Division
Building 1, Room 4054, CDC
Atlanta, GA 30333

Categories of individuals covered by the system: Patients with diagnosis of rubella at birth.

Categories of records in the system: Epidemiological and clinical histories.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing cabinets.

Retrievability: The data are used in the form of aggregate summary to maintain surveillance on CRS and to identify changing trends of disease patterns resulting from rubella vaccine programs; the identifiers are used to add additional or corrective data to the master file as it becomes available. Records are retrievable by identifying code number.

Safeguards: Routine office and building security.

Retention and disposal: Number years held at CDC: indefinitely.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room No. 2047, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Private Physicians

Systems exempted from certain provisions of the act: None.

09-20-0102

System name: Alien Mental Waiver Program -- HEW/CDC/BE.

Security classification: None.

System location:

International Health Information and Visa Medical Activity
Quarantine Division, Building 6, Room 265
Atlanta, GA 30333
& Regional Federal Records Center

Categories of individuals covered by the system: Immigrant aliens with Mental Waivers.

Categories of records in the system: Medical history files (Forms I-601 Application for Waiver; FS-398 Medical Report).

Authority for maintenance of the system: Public Health Service Act Section 325 (42 U.S.C. 252); Immigration and Nationality Act Section 212(g) (8 U.S C. 1182(g)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of State (DOS) or Immigration and Naturalization Service (INS) obtains initial medical examinations and submits to Quarantine Division of CDC. Final diagnosis returned to submitter. Alien or sponsor furnished copy of medical file to local health care facility in U.S.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual file folders

Retrievability: Aliens granted mental waivers by U S Department of State or the Immigration and Naturalization Service, are subject to up to five years of supervision upon entering the U.S. Initial and followup reports are maintained in medical history file. Records are retrievable by name.

Safeguards: Only persons having access to files are Quarantine Division personnel. Files are maintained in that office in metal file cabinets. Any request for medical information in the case file must be made in writing, and signed by alien, parent, or sponsor.

Retention and disposal: Number years held at CDC 5. Number years held at Federal Records Center before disposal 5. How destroyed: Shredded and made into pulp.

System manager(s) and address:

Director
Bureau of Epidemiology
Room 5009, Bldg. 1, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Epidemiology, Building 1, Room 5009, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known, (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b 7).

Record source categories: Prior to alien's arrival in the U.S., medical information is submitted by Department of State and/or Justice Department (INS); after arrival, medical reports submitted by medical specialists, schools, or institutions.

Systems exempted from certain provisions of the act: None

09-20-0103

System name: Alien Tuberculosis Follow-up Program -- HEW/CDC/BE

Security classification: None.

System location:

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International Health Information and Visa Medical Activity
Quarantine Division, Building 6, Room 265
Atlanta, GA 30333

Categories of individuals covered by the system: Immigrant Aliens with Tuberculosis

Categories of records in the system: Medical history. (Forms CDC 4.451 and CDC 4.447)

Authority for maintenance of the system: Public Health Service Act Section 325 (42 U.S.C. 252); Immigration and Nationality Act Section 212(g)(8 U.S.C. 1182(g))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Statistical data may be used for Tuberculosis Conferences, meetings or publications Form CDC 4.451, 'Report on Alien with Tuberculosis Waiver,' and form CDC 4.447 'Report on Alien with Tuberculosis not considered active' are distributed from port of entry in the United States to the alien, local health department, State health department, the physician or health facility that will provide the medical care, and to the Quarantine Division of CDC.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file.

Retrievability: Purpose is to provide medical care. Retrievable alphabetically, and by week of arrival.

Safeguards: Only persons having access to files are staff members of Quarantine Division, and Tuberculosis Control Division. Files are stored in metal file cabinets.

Retention and disposal: Number months held at CDC: 3. How destroyed: shredded

System manager(s) and address:

Director, Bureau of Epidemiology
Room 5009, Bldg. 1, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Epidemiology, Building 1, Room 5009, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b-7).

Record source categories: Information obtained from alien's visa medical documents at port of entry by Quarantine Inspectors.

Systems exempted from certain provisions of the act: None.

09-20-0106

System name: Specimen Handling for Testing and Related Data -- HEW/CDC/BL

Security classification: None

System location:

Bureau of Laboratories, Scientific Services
Bldg. 4 - Room 35, CDC
Atlanta, GA 30333

Hepatitis Laboratories Division
Room 123
4402 North 7th St.
Phoenix, Ariz. 85014

Categories of individuals covered by the system: Patients whose specimens have been submitted to CDC for testing

Categories of records in the system: Results of diagnostic tests--microbiology, clinical chemistry, hematology and pathology.

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original Form - file folders; microfilm copies - computer storage

Retrievability: Test results returned to submitter. Used between specialty units for research purposes; and for epidemiological investigations for epidemic causes, prevention, family groupings of diseases, and geographical location of specific diseases; also, used by epidemiologists and researchers in determining drug resistance of specific organisms. Retrievable by: name or designated number furnished by the submitter, CDC identifying number, microfilm number.

Safeguards: Restrictive use of the terminal; without knowledge of computer access codes, no one can obtain specific patient information. Microfilm is stored in locked cabinet. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number years held at CDC: 5. How destroyed: Shredded or burned.

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System manager(s) and address:

Director
Bureau of Laboratories
Bldg. 1 - Room 1007, CDC
Atlanta, GA 30333
and
Director, Hepatitis Laboratories Division
Room 123
4402 North 7th Street
Phoenix, Ariz 85014

Notification procedure: To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Approved Public Health Laboratories, Federal Medical Facilities, some private physicians.

Systems exempted from certain provisions of the act: None.

09-20-0107

System name: Dengue and Schistosomiasis Research Studies -- HEW/CDC/BL.

Security classification: None.

System location:

San Juan Laboratories
San Juan, Puerto Rico

Categories of individuals covered by the system: Individuals living in Puerto Rico.

Categories of records in the system: Demographic and health behavioral information on individuals in study community.

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information transferred to Puerto Rico Health Department.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: IBM punch cards and computer listings.

Retrievability: Epidemiological studies for the evaluation of schistosomiasis and dengue control. Special statistical analyses are performed on information. Retrievable by code number.

Safeguards: Under lock and key - only researchers have availability. For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number years held at CDC: 10 years.

System manager(s) and address:

Director
Bureau of Laboratories
Building 1, Room 1007
San Juan Laboratories
San Juan, Puerto Rico

Notification procedure: To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5.b.7).

Record source categories: Directly from participants in the studies.

Systems exempted from certain provisions of the act: None.

09-20-0108

System name: Diagnosis Program for Detection of Chromosomal Abnormalities in High Risk Patients -- HEW/CDC/BL.

Security classification: None.

System location:

Bureau of Laboratories Pathology Division
Building 1, Room 2303, CDC
Atlanta, GA 30333
and Regional Federal Records Center

Categories of individuals covered by the system: Referred patients.

Categories of records in the system: Cytogenetic and clinical data.

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Results referred to patients' physician.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual. Disclosure may be made to the Department of Justice or other appropriate Federal

agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet

Retrievability: To provide cytogenetic services, used as source of training and quality control. Used by BL/Pathology Div and Bureau of Epidemiology Records are retrievable alphabetically and by lab number

Safeguards: Locked cabinets.

Retention and disposal: Number years held at CDC 5 Number years held at Federal Records Center before disposal 10 How destroyed. Shredded or burned

System manager(s) and address:

Director
Bureau of Laboratories
Bldg. 1, Room 1007, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b.7).

Record source categories: Directly from patient's physician.

Systems exempted from certain provisions of the act: None

09-20-0109

System name: Coronary Drug Project Files -- HEW/CDC/BL.

Security classification: None.

System location:

Clinical Chemistry Division
Building 1, Rm. 1225
and Computer Systems Branch
Building 1, Rm. 6066, CDC
Atlanta, GA 30333
and Regional Federal Records System

Categories of individuals covered by the system: Coronary Drug Project Patients

Categories of records in the system: Clinical Chemistry Test Data From Coronary Drug Project Patients.

Authority for maintenance of the system: Public Health Service Act, Section 301, 412(42 U.S.C. 241, 287a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer magnetic tape, punched cards, and hard copy. Specimen entry cards.

Retrievability: (1) Internal file reviews for verification of test data, (2) quality control studies, (3) statistical analyses of data related to risk, drug treatment, study endpoints, etc Purposes research in quality control, improvement of health care, management of heart patients, improvement of clinical laboratory science and primary study objectives Users authorized persons from Center for Disease Control of National Heart and Lung Institute associated with the Coronary Drug Project. Retrieved by numeric identifier and patient's initials.

Safeguards: Only persons trained and experienced in the workings of the Coronary Drug Project system can use the system Only authorized persons are allowed complete access. All name containing records are in long-term storage at the East Point Records Center For computerized records, safeguards, established in accordance with Department standards and National Bureau of Standards guidelines (e.g., security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number years held at CDC duration of study Number years held at Federal Records Center before disposal 10 (reviewed at 10 yrs) How destroyed fire or shredder

System manager(s) and address:

Director
Bureau of Laboratories
Building 1, Room 1007, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents

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being sought (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7)

Record source categories: (1) Information from 53 CDP Clinical Centers pertaining to the patient's blood and urine specimens, and (2) laboratory (CDC) generated chemical test data.

Systems exempted from certain provisions of the act: None

09-20-0110

System name: Clinical Associates Roster -- HEW/CDC/BSS.

Security classification: None

System location:

TB Control Division
Building 1, Room 3013
CDC
Atlanta, Ga. 30333

Categories of individuals covered by the system: Clinical associates.

Categories of records in the system: Academic, professional, and locating data

Authority for maintenance of the system: Public Health Service Act, Section 301(42 U.S C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: List is maintained as a source group of tuberculosis experts. Retrievable by name.

Safeguards: Source documents are kept in file cabinets in locked building with security guards during non-business hours. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e g security codes) will be used, limiting access to authorized personnel

Retention and disposal: Number years held at CDC: 20. How destroyed: Shredded or burned.

System manager(s) and address:

Director
Bureau of State Services
Building 1, Room 2047
CDC
Atlanta, Ga. 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4 6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7).

Record source categories: Individuals.

Systems exempted from certain provisions of the act: None.

09-20-0112

System name: CDC Exchange Visitor and Guest Researcher Records -- HEW/CDC/OAM.

Security classification: None

System location:

CDC, Personnel Management Office
Commissioned Corps & Fellow Program Section
Bldg. 1, Room 1042, CDC
Atlanta, GA 30333

Categories of individuals covered by the system:

Visiting Fellows
Visiting Associates
Visiting Scientists
Staff Fellows
Guest Researchers

Categories of records in the system: Applications, request for appointment, bibliography, curriculum vitae, letters of reference.

Authority for maintenance of the system: Public Health Service Act Section 207(g),(h), 208 and 301 (42 U.S.C. 209(g),(h), 210 and 301).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: This system is utilized by Center officials for the purpose of review of applications and supporting documents in order to award fellowships; and for the determinations regarding salary or stipend increase. The system is accessed by name of the individual, exchange visitor or guest researcher.

Safeguards: Files are kept in locked file room.

Retention and disposal: Number years held at CDC: 2. How destroyed: shredded or burned.

System manager(s) and address:

Director, Personnel Management Office
Commissioned Corps & Fellow Program
Bldg. 1, Room 1042, CDC
Atlanta, GA. 30333

Notification procedure: To determine if a file exists, write the Director, Personnel Management Office, Building 1, Room 1042, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4 6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall, at the time the request is made, designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7).

Record source categories: Secured from applicant.

Systems exempted from certain provisions of the act: None

09-20-0113

System name: Epidemic Investigation Case Records -- HEW/CDC/BE.

Security classification: None

System location:

Bureau of Epidemiology/CDC
Atlanta, Georgia 30333

Categories of individuals covered by the system: Patients with disease, their contacts, others with possible exposure and appropriate controls.

Categories of records in the system: Medical histories, case reports, line listings, hand sort cards.

Authority for maintenance of the system: Public Health Service Act, Section 301, 361(42 U.S.C. 241, 264)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are considered to be the records of State and/or local health departments and are left with them at the end of the investigations. These health departments may then identify persons with disease and/or others contacted during the investigations to control, prevent, or treat disease, or for follow up evaluation including collection of appropriate bodily specimens. CDC may or may not request duplicate copies of these records for further analysis following completion of the field investigation. Private physicians may also be supplied pertinent medical information from these records.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Collection of individual case histories, including epidemiological, medical and laboratory information is essential in virtually all epidemic field investigations. These data serve as the basis for all analyses that lead to understanding the etiology of disease occurrence and subsequent prevention and control. Retrievable alphabetically by name

Safeguards: Information is in files available only to medical epidemiologists, their clerical help, or their specifically designated paramedical personnel and only for duration of the investigation.

Retention and disposal: No. years held at CDC - 2 No. years held at FRC - 5. How destroyed - Burned.

System manager(s) and address:

Director
Bureau of Epidemiology
Bldg 1, Rm 5009, CDC
Atlanta, Georgia 30333
and
Director, Bureau of State Services
Building 1, Room 2047, CDC
Atlanta,Georgia 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Epidemiology, Building 1, Room 5009, or Director, Bureau of State Services, Building 1, Room 2047, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4 6, Federal Register, October 8, 1975, page 47411) A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7).

Record source categories: Patients, state and local health departments, and private physicians

Systems exempted from certain provisions of the act: None

09-20-0136

System name: Epidemiologic Studies and Surveillance of Disease Problems - HEW/CDC/BE

Security classification: None.

System location:

Bureau of Epidemiology
Center for Disease Control
Bldg. 1 - Room 5009
Atlanta, Georgia 30333

Categories of individuals covered by the system: Individuals with reported diseases and other preventable conditions of public health significance, also included are control group participants

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Categories of records in the system: Case reports, line listings, hand sort cards

Authority for maintenance of the system: Public Health Service Act, Sec. 301 (42 U S.C. 241)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes or file folders, lockable cabinets.

Retrievability: By name of individual identification number.

Safeguards: Personnel screening during working hours; secured building with guard after working hours.

Retention and disposal: Record copy of study reports maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed by program official. Personal identifiers may be deleted from records when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate.

System manager(s) and address:

Director, Bureau of Epidemiology
Center for Disease Control
Bldg 1 - Room 5009
Atlanta, Georgia 30333

Notification procedure: To determine if a file exists, write the Director, Bureau of Epidemiology, Building 1, Room 5009, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration; (2) name of study if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department regulations, 45 CFR, Part 5b.6, Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Individuals, private physicians, State and local health departments and other health providers.

Systems exempted from certain provisions of the act: None

09-20-0137

System name: Passport file - HEW/CDC/FMO.

Security classification: None

System location:

Financial Management Office
PFy Building, Room 210, CDC

Categories of individuals covered by the system: CDC employees.

Categories of records in the system: Status of passports.

Authority for maintenance of the system: 5 U.S C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: To show status of passports of CDC employees who travel to foreign countries on official business. Retrievable by name

Safeguards: Accessible to Financial Management Office personnel. File is in custody of designated employee

Retention and disposal: Number years held at CDC: 5. How destroyed: Shredded.

System manager(s) and address:

Director
Financial Management Office
PFy Building, Room 200, CDC
Atlanta, GA 30333

Notification procedure: To determine if a file exists, write the Director, Financial Management Office, PFy Building, Room 200, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register, October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7).

Record source categories: CDC employees

Systems exempted from certain provisions of the act: None

09-20-0138

System name: Epidemic Intelligence Service Officers Files -- HEW/CDC/BE.

Security classification: None

System location:

Bureau of Epidemiology
CDC Bldg 1, Rm 5014 (1967 to present), CDC
Atlanta, GA 30333
and Regional Federal Records Center (1954-1966)

Categories of individuals covered by the system: EIS Officers - Current, alumni & rejected applicants

Categories of records in the system: Applications, interview materials, letters of recommendations, call to duty papers.

Authority for maintenance of the system: Public Health Service Act Sections 203,207(42 U S.C 204 and 209)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets & records center

Retrievability: Used by Bureau personnel to write letters of recommendation for future employment, reference letters, and maintaining professional contact with these individuals Retrievable by name

Safeguards: Locked door

Retention and disposal: Number years held at CDC 10 Number years held at Federal Records Center before disposal 10 How destroyed shredding

System manager(s) and address:

Director
Bureau of Epidemiology
Bldg 1 Rm 5009 CDC
Atlanta GA 30333

Notification procedure: To determine if a file exists, write the Director Bureau of Epidemiology, Building 1, Room 5009, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known, (3) an individual who requests notification of or access to a medical record shall at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department Regulations, 45 CFR, Part 4.6, Federal Register October 8, 1975, page 47411). A parent or guardian who requests notification of or access to a minor's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record if any, will be sent The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b 5(a)(2) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333 Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 CFR, Part 5 b 7).

Record source categories: Educational institutions, previous employers.

Systems exempted from certain provisions of the act: None.

Categories of individuals covered by the system: 0d4110-87d

[4110–87]

09-20-0001

System name: Certified Interpreting Physician File HEW/CDC/NIOSH.

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Physicians who have been certified to interpret x-rays under the Federal Coal Mine Health and Safety Act of 1969

Categories of records in the system: Physician's qualifications

Authority for maintenance of the system: Coal Mine Health and Safety Act Section 203(30 U S.C. 843).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Name and address supplied to coal operators and x-ray facilities so that they may contact physician to do work for them
2. Name, address and social security number supplied to Department of Labor to be used in approving Title IV Benefits under the Act.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, microfilm, computer tape, computer disk.

Retrievability: The main purpose is to provide certified physicians to read x-rays Data is provided to the Social Security Administration to be used in approving Title IV Benefits under the Act. Name or social security number is the index used to retrieve records. Social security numbers which are supplied on a voluntary basis are used for retrieval.

Safeguards:

24-hour guard service in building
Locked building, locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets
Computer tapes are password protected

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel

Retention and disposal: Records are retained indefinitely unless disposal of a record is requested by the individual physician Disposal methods include erasing computer tapes and burning or shredding printouts

System manager(s) and address:

Program Management Officer, DRDS NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists, write to

Director, DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representa-

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tive's discretion (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b 6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b 7) Federal Register, October 8, 1975, page 47411).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None

09-20-0026

System name: Respiratory Infections Study in Guyan Valley, West Virginia -- HEW/CDC/NIOSH.

Security classification: None

System location:

Division of Respiratory Disease Studies, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Guyan Valley, West Virginia households

Categories of records in the system: Employment and Medical History

Authority for maintenance of the system: Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U S when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable This may be done solely for obtaining a determination as to whether or not an individual has died The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Questionnaires, computer cards, laboratory log books

Retrievability: The purpose of this system is to determine if coal miners are more susceptible to respiratory infections than the general population Case number is the index used to retrieve records from this system

Safeguards:

24-hour guard service in building
Locked building, locked rooms
Personnel screening
Locked file cabinets
Locked computer room and computer tape vaults
Computer tapes are password protected

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate Disposal methods include burning or shredding paper materials.

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg , Rm 8-05
Rockville, Maryland 20857

Notification procedure:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg Rm 8-05
Rockville, Maryland 20857

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (These notification and access procedures are in accordance with Department Regulations (45 CFR Section 5b 6) Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, page 47410)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b 7) Federal Register October 8, 1975, page 47411)

Record source categories: Information is obtained directly from the individual

Systems exempted from certain provisions of the act: None

APPENDIX I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of
Assistance Payments (Welfare) Social Services Medical Services,
Food Stamp Program, Child Support Board of Corrections Aging,
Indian Affairs, Workman s Compensation Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U S Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member .
Appropriate local newspaper (obituaries)

09-20-0027

System name: Radiation exposure records for NIOSH Employees in Morgantown -- HEW/CDC/NIOSH

Security classification: None

System location:

Division of Safety Research (DSR)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Present and past NIOSH employees located at Morgantown, W Va

Categories of records in the system: Name, X Ray exposure levels.

Authority for maintenance of the system: Occupational Safety and Health Act Section 19 (29 U S C 668)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files

Retrievability: The purpose of this system is to maintain X Ray exposure records to prevent toxic exposure to harmful rays. Name is the index used to retrieve records from this system

Safeguards:

24-hour guard service in building
Locked building, locked rooms
Personnel screening
Locked file cabinets

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate Disposal methods include burning or shredding paper materials

System manager(s) and address:

Physicist
Testing and Certification Branch, DSR, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists, write to

Director, DSR, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b 7) Federal Register, October 8, 1975, page 47411).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None

09-20-0040

System name: Pennsylvania Coal Miners Study HEW/CDC/NIOSH.

Security classification: None

System location:

Division of Respiratory Disease Studies, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Pennsylvania Coal Miners

Categories of records in the system: Demographic data medical and employment histories mortality data, including death certificates

Authority for maintenance of the system: Federal Coal Mine Health and Safety Act Section 501 (30 U S C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates and to Missing Person Location Agencies to find those individuals who cannot otherwise be located

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable This may be done solely for obtaining a determination as to whether or not an individual has died The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes, computer cards, manual files

Retrievability: The main purpose is to conduct a mortality study on Pennsylvania coal miners Survey number is the index used to retrieve records from this system

Safeguards:

Guard service in building
Locked building, locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets
Computer tapes are password protected

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate Disposal methods include erasing computer tapes and burning or shredding printouts

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg , Rm 8-05
Rockville, Maryland 20857

Notification procedure:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg Rm 8-05
Rockville, Maryland 20857

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An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b 6) Federal Register October 8 1975 page 47411).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8 1975 page 47410)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested These procedures are in accordance with Department Regulations 45 CFR, Section 5b 7) Federal Register, October 8, 1975, page 47411).

Record source categories: Information is obtained directly from the individual and from death certificates

Systems exempted from certain provisions of the act: None

APPENDIX 1 Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Follow up
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U S Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09 20-0055

System name: Research/Demonstration, and Training Grants, Application Files -- HEW/CDC/NIOSH

Security classification: None.

System location:

Division of Research Grants NIH
Westbard Bldg
Westbard Ave.
Bethesda, Maryland, 20014

Grants Administration and Review Branch
National Institute for Occupational Safety and Health (NIOSH)
Parklawn Bldg , Rm. 8-63
5600 Fishers Lane
Rockville, Maryland 20857

Division of Training and Manpower Development, NIOSH
4676 Columbia Pkwy
Cincinnati, Ohio 45226

Grants Management Officer, NIOSH
Parklawn Bldg , Rm 8 35
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Applicants for occupational safety and health research and demonstration grants, and training grants

Categories of records in the system: Draft and final Grant application and review history, awards, financial records and progress reports and related correspondence

Authority for maintenance of the system: Occupational Safety and Health Act- Sections 20 and 21 (29 U S C. 669, 670).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1)Referrals may be made of assignments of research investigations and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc. (42 CFR part 5b, Appendix B, item (2)).

(2)To the cognizant audit agency for auditing.

(3)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(4)To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

(5)To qualified experts not within the definition of Department employees as prescribed in Department regulations (45 CFR, Part 5b 2) for opinions as a part of the application review process

(6)To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter

(7)To individuals and organizations deemed qualified by PHS to carry out specific research related to the review and award processes of PHS

(8)The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in a system. Relevant records will be disclosed to such a contractor The contractor shall be required to maintain Privacy Act safeguards with respect to such records (42 CFR Part 5b, Appendix B, item (9))

(9)To the grantee institution relative to performance or administration under the terms and conditions of the award.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5X8 cards, computer tapes and discs, notebooks and file folders

Retrievability: The purpose of this system is to review grant applications for research and training and to administer funded grants This information is provided to NIH and to other components of NIOSH for review Name is the index used to retrieve information

Safeguards: The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator assigned to the project, project officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards guidelines, e.g., security codes will be used limiting access to authorized personnel.

Retention and disposal: Information is kept for one year beyond termination and then sent to the Federal Records Center for five years, after which it is destroyed. Unfunded applications are treated in the same manner. Draft applications are kept for one year or until an official application is received and then destroyed

System manager(s) and address:

Chief, Grants Section
Procurement and Grants Management Branch, (PGMP)
Office of Administrative and Management Services, (OAMS)
National Institute for Occupational Safety and Health, (NIOSH)
Room 8-35
5600 Fishers Lane
Rockville, Maryland 20857

Notification procedure: To determine if a record exists, write to
Chief, PGMB, OAMS, NIOSH
Room 8-29
5600 Fishers Lane
Rockville, Maryland 20857

Record access procedures: Contact the System Manager. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

09-20-0059

System name: Division of Training Mailing List -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Training and Manpower Development (DTMD)
National Institute for Occupational Safety and Health (NIOSH)
4676 Columbia Parkway
Cincinnati, Ohio 45226

Parklawn Computer Center
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: Persons who have taken a NIOSH Training Course or who ask to be placed on the list.

Categories of records in the system: Name and address.

Authority for maintenance of the system: Occupational Safety and Health Act, Section 21 (29 U.S.C. 670).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes, addressograph plates.

Retrievability: The purpose of this system is to advise prospective students of upcoming NIOSH training courses. Name and Student Number are the indexes used to retrieve records from this system.

Safeguards:

24-hour guard service in building
Locked building; locked rooms
Personnel screening
Locked file cabinets
Locked computer room and computer tape vaults

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Audio Visual Production Officer, DTMD, NIOSH
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists, write to:
Director, DTMD, NIOSH
4676 Columbia Parkway
Cincinnati, Ohio 45226

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

09-20-0077

System name: Survey of Arizona Asbestos Miners and Mill Workers (1969) -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Respiratory Disease Studies, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Persons working in Arizona asbestos operations in 1969.

Categories of records in the system: Medical examinations, occupational histories, demographic information, results of chest X-rays.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This data may be transferred to the Environmental Protection Agency for continued health research.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: The main purpose of this study is to assess the health status of Arizona asbestos workers. Name is the index used to retrieve records.

Safeguards:

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Locked building; locked rooms
Personnel screening
Locked file cabinets

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Printouts are discarded as trash.

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg., Rm. 8-05
Rockville, Maryland 20857

Notification procedure:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg. Rm. 8-05
Rockville, Maryland 20857 An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

APPENDIX I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09-20-0082

System name: Diagnosis of occupational disease by analysis of body fluids or tissues through biochemical or clinical chemical analysis -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Categories of individuals covered by the system: Industrial workers.

Categories of records in the system: Medical Records, information necessary to interpret the medical records, and results of clinical laboratory tests.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20(29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Test results furnished to physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: The main purpose is to identify occupational diseases. Name or code is used to retrieve records from this system.

Safeguards:

Building guards
Personnel screening

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate.

System manager(s) and address:

Chief, Clinical and Biochemical Support Section, DBBS, NIOSH,
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists, write to:

Director, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226 An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Private and Industrial physicians.

Systems exempted from certain provisions of the act: None.

09-20-0083

System name: Diagnostic methods for identification of occupational diseases through biopsy and/or autopsy specimens -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Biomedical and Behavioral Science, DBBS, National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Categories of individuals covered by the system: Industrial workers.

Categories of records in the system: Medical records, and information necessary to interpret the medical records.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20(29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Test results are furnished to the physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: The main purpose is to identify occupational diseases. Name or code is used to retrieve records from this system.

Safeguards:

Building guards
Personnel screening

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate.

System manager(s) and address:

Chief, Pathology Section, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists, write to:

Director, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Private and Industrial physicians.

Systems exempted from certain provisions of the act: None.

APPENDIX I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09-20-0117

System name: Medical and test record results of individuals involved in NIOSH laboratory studies -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Biomedical and Behavioral Sciences (DBBS)
National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Categories of individuals covered by the system: Volunteer subjects from the general population.

Categories of records in the system: Occupational history, medical history, results of medical tests, demographic data, results of psychological and psychometric tests, and data necessary to interpret the medical results.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

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In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files, computer cards, computer tapes, computer listings, microfilm.

Retrievability: The purpose of this system is to develop composite data summaries to support the development of criteria for occupational safety and health standards, and to provide other recommendations for improving worker safety and health. Name and case number are the indexes used to retrieve records from this system.

Safeguards:

Evening guard service in building
Locked building; locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Personal identifiers are destroyed as soon as they are no longer necessary for the protection of the individuals involved. Computer tapes are erased; paper records are shredded or burned.

System manager(s) and address:

Staff Assistant, DBBS NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists, write to:

Director, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

09-20-0118

System name: Study at work-sites where agents suspected of being occupational hazards exist -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Biomedical and Behavioral Science, (DBBS)
National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Categories of individuals covered by the system: Subjects employed at specific sites under study.

Categories of records in the system: Occupational history, medical history, results of medical tests, demographic data, employee records, Psychological and psychometric tests, and data necessary to interpret the medical results.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files, computer cards, computer tapes, computer listings, microfilm.

Retrievability: The purpose of this system is to determine the relationship between worker exposure to hazardous agents or stressors, and occupational disease. This information will be used to recommend procedures to reduce the incidence of occupational disease. Name and case number are the indexes used to retrieve records from this system.

Safeguards:

Evening guard service in building
Locked building; locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: Personal identifiers are destroyed as soon as the system has stabilized, and statistical summaries can be run. Computer tapes are erased; paper records are shredded or burned.

System manager(s) and address:

Staff Assistant, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists, write to:

Director, DBBS, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226 An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual and from employee records.

Systems exempted from certain provisions of the act: None.

09-20-0120

System name: Equipment field test studies -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Physical Sciences and Engineering, NIOSH
5555 Ridge Avenue
Cincinnati, Ohio 45213

Division of Biomedical and Behavioral Science, NIOSH
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

Categories of individuals covered by the system: Volunteer subjects.

Categories of records in the system: Medical history, results of medical tests, demographic data, individual's description of his experience with the equipment.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U. S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files.

Retrievability: The purpose of this study is to determine the suitability of particular pieces of personal protective equipment in the hazards of the workplace. Name and case number are the indexes used to retrieve records from this system.

Safeguards:

Evening guard service in building
Locked building; locked rooms
Personnel screening
Locked file cabinets

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: All personal identifiers are destroyed at the end of the study (which takes approximately one year). Paper records are shredded or burned.

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg., Rm. 8-05
Rockville, Maryland 20857

Notification procedure:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg. Rm. 8-05
Rockville, Maryland 20857

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with the Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

09-20-0134

System name: Byssinosis Study -- HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Respiratory Disease Studies, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Employees at cotton textile mills and a sample of people from the general population.

Categories of records in the system: Medical histories, occupational histories, results of medical tests.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (45 CFR Part 5B, Appendix B, Item 100)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files, computer tape, computer cards, computer listings.

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Retrievability: The purpose of this system is to conduct research in occupational respiratory disease. Name and case numbers are the indexes used to retrieve records from this system.

Safeguards:

24-hour guard service in building
Locked building; locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

Retention and disposal: This information will be retained for approximately seventeen years. Disposal methods include erasing computer tape and burning or shredding paper materials.

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg., Rm. 8-05
Rockville, Maryland 20857

Notification procedure:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg. Rm. 8-05
Rockville, Maryland 20857 An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information is obtained directly from the individual.

Systems exempted from certain provisions of the act: None.

APPENDIX 1 Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09-20-0139

System name: Respiratory Disease Studies Involving Persons of West Virginia Coal Mining Communities HEW/CDC/NIOSH.

Security classification: None.

System location:

Division of Respiratory Disease Studies, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505
and
Ian T. Higgins, M.D.
School of Public Health
Dept. Epidemiology
University of Michigan
109 Observatory Street
Ann Arbor, MI 48104

Categories of individuals covered by the system: Miners, nonminers, wives of miners, and wives of non-miners living in Richwood, Mullens, and Marion Counties, West Virginia.

Categories of records in the system: Medical, occupational, and smoking histories; results of medical tests; demographic data.

Authority for maintenance of the system: Federal Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (Appendix B of HEW Regulation, 45 C.F.R., part 5b, item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, computer tape, computer discs, computer cards, computer printouts.

Retrievability: The purpose of this system is to perform medical and epidemiological research and statistical analysis on the respiratory disease of coal miners and other workers in coal mining communities in West Virginia. The data is retrieved by name or case number.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

24-hour guard service in building
Locked building; locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets
Computer tapes are password protected.

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts or paper forms.

System manager(s) and address:

Director
National Institute for Occupational Safety and Health
5600 Fishers Lane, Parklawn Bldg. - Room 8-05
Rockville, Maryland 20857

Notification procedure: To determine if a file exists, write the Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Parklawn Bldg. Rm. 8-05, Rockville, Maryland 20857, and provide the following information: (1) approximate date(s) and place of treatment of questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are in accordance with Department Regulations, 45 C.F.R., Part 5b.6, Federal Register, October 8, 1975, page 47411).

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write the Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Parklawn Bldg., Rm. 8-05, Rockville, Maryland 20857. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, Federal Register, October 8, 1975, page 47411 (45 C.F.R., Part 5b.7).

Record source categories: Information is obtained directly from individuals.

Systems exempted from certain provisions of the act: None.

09-20-0147

System name: DSHEFS Occupational Health Epidemiological Studies, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Surveillance, Hazard Evaluation, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH)
4676 Columbia Parkway
Cincinnati, Ohio 45226

Southwest Ohio Regional Computer Center
Medical Sciences Building
University of Cincinnati
Cincinnati, Ohio 45202

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Industrial workers exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: 1) organic carcinogens, 2) inorganic carcinogens, 3) mucosal or dermal irritants, 4) fibrogenic materials, 5) acute toxic agents including sensitizing agents, 6) neurotoxic agents, 7) mutogenic (male and female) and teratogenic agents, 8) bio-accumulating noncarcinogen agents, and 9) chronic vascular disease causing agents.

Categories of records in the system: Physical exams, sputum cytology results, questionnaires, demographic information, smoking history, occupational histories, previous and current employment records, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, drivers license data, hearing test results, spirometry results. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241); Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files, computer files, card files, microfilm, microfiche, and other files as appropriate.

Retrievability: The purpose of these studies is to evaluate mortality and morbidity of occupationally-related diseases; to determine the cause and prevention of diseases of industrial origin, and lead toward future prevention of occupationally-related diseases. Name, assigned number, plant name, year tested are some of the indices used to retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

Safeguards: Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24 hour guard service, password protection of computerized records, limited access to only authorized personnel. The guidelines contained in FIPS Publications 31 and 41 are followed when data subject to the Privacy Act is maintained on a computer. Two or more of the safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will be followed.

Retention and disposal: Records will be maintained from three to twenty years in accordance with retention schedules. Every attempt will be made to strip personal identifiers from records and destroy the records when they are no longer needed. Any paper records which are disposed of will be shredded or burned and computer tapes will be erased.

System manager(s) and address:

Program Management Officer (PMO), DSHEFS
P-1, 4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists write to:

Director, DSHEFS
R-1, 4676 Columbia Parkway
Cincinnati, Ohio 45226

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Vital status information is obtained from Federal, State and local Governments and other available sources selected from those listed in Appendix I. Information is obtained directly from the individual and employer records, whenever possible.

Systems exempted from certain provisions of the act: None

APPENDIX I Potential Sources for Determination of Vital Status

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Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension of employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0148

System name: Results of DBBS Hearing Studies, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Biomedical and Behavioral Science (DBBS)
National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, Ohio 45226

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request from the Systems Manager.

Categories of individuals covered by the system: Workers exposed to noise at a harmful or potentially hazardous level and individuals selected as control groups.

Categories of records in the system: Physical examinations, results of laboratory tests (physiological, acceleration measures, performance tests); results of hearing tests, hearing acuity tests, occupational histories, medical history, demographic data, related anamnestic information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system: Occupational Safety and Health Act, Section 20 (29 U.S.C. 669); Federal Coal Mine Safety and Health Act (30 U.S.C. 669 Section 20) (1970)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, Item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department Employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files, computer tape, microfilm, computer cards, index audiogram files, audiogram questionnaire forms.

Retrievability: The purpose of this system is to assist in the development of standards for occupational exposure to hazards. Name, case number and study number are the indices used to retrieve records from this system.

Safeguards: 24 hour guard service in buildings, locked buildings, personnel screening, access limited to authorized personnel. In most instances information is related to individual identifiers by case numbers. The file of individual case number relationships is available to a limited group of people. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts.

System manager(s) and address:

Industrial Hygiene Engineer
Noise Section, Physical Agents Effects Branch
DBBS, NIOSH
4676 Columbia Parkway
Cincinnati, Ohio 45226

Notification procedure: To determine if a record exists write to:

Director, DBBS, NIOSH
4676 Columbia Parkway
Robert A. Taft Laboratories
Cincinnati, Ohio 45226

An individual who requests notification of or access to medical records shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b, 5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above. (These procedures are in accordance with Department Regulations 45 CFR, Section 5b.7).

Record source categories: Information is obtained directly from the individual, and employee records. Many of the hearing test results were obtained from Doctors Memorial Hospital Hearing and Speech Center, Atlanta, Ga.

Systems exempted from certain provisions of the act: None

09-20-0149

System name: DRDS General Industry Morbidity Studies, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
Morgantown, West Virginia 26505

In addition, data is occasionally at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission

forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Federal Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department. or any employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability: The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms, and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO)
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Information is obtained directly from the individual and from employee records.

Systems exempted from certain provisions of the act: None

09-20-0150

System name: DRDS Morbidity Studies in Coal Mining Activities, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Data is also occasionally located at field collection sites and contractor sites, as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Coal Mine HeSafety Act Section 501 (30 U.S.C. 9511); Section 203 (30 U.S.C. 843); Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individuals mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity: (b) The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. Some data is sent to the Mining Enforcement and Safety Administration, Department of the Interior to report incidence of pneumoconiosis.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche; X-rays, and manual files.

Retrievability: The purpose of this system is to investigage occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are

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used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO)
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, (1) designate in writing a responsible representative who will be willing to review the records and inform the subject individual of its contents at the representative's discretion, (2) name the study, if known, (3) name the industrial plants, location of the plant, and approximate date of treatment or questionnaire administration, if known. Notification procedures for medical records are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the infomation to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Information is obtained directly from the individual and from employee records.

Systems exempted from certain provisions of the act: None

09-20-0151

System name: DRDS Mortality Studies in Coal Mining Activities, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working, or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system: Public Health Service Act, Section 301 (42 U.S.C. 241). Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, item 100)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occuring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche, X-rays, and manual files.

Retrievability: The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards: Locked buildings, locked rooms, 24 hour guard service, locked file cabinets, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO)
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director, DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, (1) designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably

identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Information is obtained directly from the individual and from death certificates.

Systems exempted from certain provisions of the act: None

APPENDIX I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S.Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0152

System name: DRDS Mortality Studies in Non-Coal Mining Activities; HEW/CDC/NIOSH

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944Chestnut Ridge Road
Morgantown, West Virginia 26505

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working, or having worked at mining operations other than coal operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system: Public Health Service Act Section 301(42 U.S.C. 241); Federal Metal and Nonmetalic Mine Safety Act Section 4(30 U.S.C. 723); Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occuring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards and printouts; microfiche; X-rays; and manual files.

Retrievability: The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Program Management Officer (PMO)
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These acess procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b 7).

Record source categories: Information is obtained form the individual, company personnel records, from death certificates, and from industry and union records

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Systems exempted from certain provisions of the act: None.

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Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Adminstration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversation with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0153

System name: DRDS General Industry Mortality Studies, HEW/CDC/NIOSH

Security classification: None.

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

uthority for maintenance of the system: Occupational Safety and He.lth Act Section 20 (29 U.S.C. 669); Public Health Service Act; Section 301 (42 U.S.C. 141).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability: The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name; study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO)
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director, DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of the treatment or questionnaire adminstration. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Information is obtained directly from the individual, from employee records, from death certificates, and from industry and trade union records.

Systems exempted from certain provisions of the act: None.

APPENDIX I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments

Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services,
Food Stamp Program, Child Support, Board of Corrections, Aging,
Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0154

System name: DRDS Medical and Laboratory Studies, HEW/CDC/NIOSH

Security classification: None.

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute for Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Categories of individuals covered by the system: Individuals who have had physical examinations at DRDS or who have had biochemical tests done on various samples submitted to DRDS.

Categories of records in the system: Analysis of biochemical data, occupational and medical histories, and results of medical tests. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system: Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951), Occupational Safety and Health Act Section 20 (29 U.S.C. 669). Occupational Safety and Health Act Section 22(d) (29 U.S.C. 671(d)); Federal Coal Mine Health and Safety Act Section 427(b) (30 U.S.C. 937(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability: The purpose of this system is to perform medical and epidemiological research, statistical analyses, and to identify early indicators of occupationally-related diseases (biochemical indices). Data is given to other NIOSH units for biochemical and epidemiological studies. Name and case number are the indices used to retrieve records from this system.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Project Management Officer
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director, DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Information is obtained directly form the individual.

Systems exempted from certain provisions of the act: None.

09-20-0155

System name: DRDS Morbidity Studies in Metal and Non-Metal Mining Activities, HEW/CDC/NIOSH

Security classification: None

System location:

Division of Respiratory Disease Studies (DRDS)
National Institute For Occupational Safety and Health (NIOSH)
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system: Persons working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system: Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study

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Authority for maintenance of the system: Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Public Health Service Act Section 301 (42 U.S.C..241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR, Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability: The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

Safeguards: 24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal: Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper material.

System manager(s) and address:

Program Management Officer
DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

Notification procedure: To determine if a record exists write to:

Director, DRDS, NIOSH
944 Chestnut Ridge Road
Morgantown, West Virginia 26505

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access proccedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

Record source categories: Vital status information is obtained from Federal, State and local Governments and other available sources. Information is obtained from the individual and from employer records.

Systems exempted from certain provisions of the act: None. /*

Categories of individuals covered by the system: 0d4110-84d

[4110–84]

09-15-0001

System name: Division of Federal Employee Health, Employee Health Records HEW/HSA/BMS.

Security classification: None.

System location: See Appendix and Regional Federal Records Center.

Categories of individuals covered by the system: Federal employees enrolled in PHS/DFEH Health Units.

Categories of records in the system: Health records.

Authority for maintenance of the system: 5 USC 7901, 5 USC 8101, OMB Circular No. A-72.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Certain records may be disclosed to medical laboratories, medical consultants, or computer processing firms under a service contract agreement.

In the event of a change in sponsorship of a PHS/DFEH health care unit or in a case of mass transfer of employees covered by a PHS/DFEH health care unit to one served by a non-departmental organization, the health records will be transferred to the custodianship of the new organization.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

User: U. S. Department of Labor, Office of Worker's Compensation Program. Access will be provided to those files of persons claiming compensation benefits due to personal injury while on the job.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders.

Retrievability: Purpose: employees are provided occupational health services (on a voluntary basis). The data resulting from these services are included in the employee health records. Users: physicians, nurses, other health professionals. Retrievability: alphabetically by last name.

Safeguards: Stored in locked cabinets; access limited to authorized personnel.

Retention and disposal: Number of years held at HSA - Period of service or 6 years if inactive. How destroyed: shredded and disposed if inactive more than 6 years.

System manager(s) and address:

Director, Division of Federal Employee Health
FOB 03, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Same as above. Individuals must provide treatment location. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: See appendix for appropriate address. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a

responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) and 5b.6) Federal Register, October 8, 1975, page 47410 and 47411.).

Contesting record procedures: Write to the official at the appropriate address specified in the appendix, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data resulting from the clinical and preventive services offered by the PHS/DFEH Health Unit and data obtained from individual.

Systems exempted from certain provisions of the act: None.

Appendix Location and Access

Washington, D.C. area
Medical Officer in Charge
PHS/DFEH Health Unit
Department of Energy
Room A-075
Germantown, Maryland 20767

Nurse in Charge
PHS/DFEH Health Unit
Brown Building, Room 559
1200 - 19th Street, NW
Washington, D.C. 20036

Medical Officer in Charge
PHS/DFEH Health Unit
Bureau of Engraving & Printing
Room 320
14th and C Streets, SW
Washington, D.C. 20226

Nurse in Charge
PHS/DFEH Health Unit
Capitol Mall North Building
Room 325
500 N. Capitol Street, NW
Washington, D.C. 20549

Nurse in Charge
PHS/DFEH Health Unit
Columbia Plaza Bldg., Rm. 4061
2401 E Street, NW
Washington, D.C. 20506

Nurse in Charge
PHS/DFEH Health Unit
E Street Building, Rm. 908
1201 E Street, NW
Washington, D.C. 20226

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Bldg. 06, Rm. A-039
400 Maryland Avenue, SW
Washington, D.C. 20202

Nurse in Charge
PHS/DFEH Health Unit
FOB 07, New Executive Office Bldg.
Room 6101
726 Jackson Place, NW
Washington, D.C. 20503

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Bldg. 08, Room 1010
200 C Street, SW
Washington, D.C. 20204

Nurse in Charge
PHS/DFEH Health Unit
Franconia Warehouse, Bldg. A
Federal Supply Service, GSA
Springfield, Virginia 22150

Nurse in Charge
PHS/DFEH Health Unit
Franklin Square North Building
Room 824
1325 K Street, NW
Washington, D.C. 20225

Medical Officer in Charge
PHS/DFEH Health Unit
General Accounting Office Building
Room 1455
441 G Street, NW
Washington, D.C. 20548

Nurse in Charge
PHS/DFEH Health Unit
GSA Main Building, Rm. 1008
18th and F Streets, NW
Washington, D.C. 20405

Nurse in Charge
PHS/DFEH Health Unit
GSA Region III Building, Rm. 4114
7th and D Streets, SW
Washington, D.C. 20407

Medical Officer in Charge
PHS/DFEH Health Unit
HEW-North Building, Rm. 1165-A
4th Street & Independence Avenue, SW
Washington, D.C. 20201

Medical Officer in Charge
PHS/DFEH Health Unit
HEW-Switzer Bldg., Rm. 3050
4th and C Streets, SW
Washington, D.C. 20201

Medical Officer in Charge
PHS/DFEH Health Unit
Dept. of Housing & Urban Development
Room 7239
7th and D Streets, SW
Washington, D.C. 20410

Nurse in Charge
PHS/DFEH Health Unit
Hubert H. Humphrey Bldg.
Room G-215
200 Independence Ave., S.W.
Washington, D.C.

Nurse in Charge
PHS/DFEH Health Unit
Imperial Building, Room 202
1441 L Street, NW
Washington, D.C. 20416

Medical Officer in Charge
PHS/DFEH Health Unit
Internal Revenue Service Bldg.
Room 1302
12th and Constitution Avenue, NW
Washington, D.C. 20224

Nurse in Charge
PHS/DFEH Health Unit
Justice Department Main Bldg.
Room 1410
10th and Constitution Avenue, NW
Washington, D.C. 20530

Nurse in Charge
PHS/DFEH Health Unit
U.S. Customs Service Bldg., Rm. 5126
1301 Constitution Ave., N.W.
Washington, D.C. 20229

Nurse in Charge
PHS/DFEH Health Unit

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Lafayette Bldg., Room 369
811 Vermont Ave., N.W.
Washington, D.C. 20571

Nurse in Charge
PHS/DFEH Health Unit
Liberty Loan Building, Room 546
(Check Claims Division)
401 - 14th Street, SW
Washington, D.C. 20226

Nurse in Charge
PHS/DFEH Health Unit
'M' Street 02 Building (F.C.C.)
Room 529
1919 'M' Street, NW
Washington, D.C. 20554

Nurse in Charge
'M' Street Building
Room 2121
2000 'M' Street, NW
Washington, D.C. 20461

Nurse in Charge
PHS/DFEH Health Unit
Maiatico Building, Room 1220
806 Connecticut Avenue, NW
Washington, D.C. 20525

Nurse in Charge
PHS/DFEH Health Unit
Matomic Building (US1A)
Room 433
1717 H Street, NW
Washington, D.C. 20547

Nurse in Charge
PHS/DFEH Health Unit
National Archives & Records Service
Room G-2
8th and Pennsylvania Avenue, NW
Washington, D.C. 20408

Nurse in Charge
PHS/DFEH Health Unit
National Labor Relations Board Bldg.
Room 360
1717 Pennsylvania Avenue, NW
Washington, D.C. 20570

Nurse in Charge
PHS/DFEH Health Unit
National Technical Information Service
Room 1225
5285 Port Royal Road
Springfield, Virginia 22161

Nurse in Charge
PHS/DFEH Health Unit
Northwestern Federal Bldg., Rm. 700
1405 'I' Street, NW
Washington, D.C. 20537

Nurse in Charge
PHS/DFEH Health Unit
One McPherson Square Bldg., Rm. 1040
1425 K Street, NW
Washington, D.C. 20524

Medical Officer in Charge
PHS/DFEH Health Unit
Parklawn Building, Room 5B-16
5600 Fishers Lane
Rockville, Maryland 20857

Nurse in Charge
PHS/DFEH Health Unit
Patrick Henry Bldg., Room 5509
601 D Street, NW
Washington, D.C. 20213

Medical Officer in Charge
PHS/DFEH Health Unit
Phillips Building, Room P-132
7920 Norfolk Avenue
Bethesda, Maryland 20555

Nurse in Charge
PHS/DFEH Health Unit
Public Debt Bldg., Room 709
13th and C Streets, SW
Washington, D.C. 20226

Nurse in Charge
PHS/DFEH Health Unit
Rock-Wall Building, Room 729
11400 Rockville Pike
Rockville, Maryland 20852

Nurse in Charge
PHS/DFEH Health Unit
Pulaski Bldg., Rm 1213C
20 Massachusetts Ave., N.W.
Washington, D.C. 20545

Nurse in Charge
PHS/DFEH Health Unit
Thomas Circle - South Building
Room 605
1121 Vermont Avenue, NW
Washington, D.C. 20425

Nurse in Charge
PHS/DFEH Health Unit
Todd Building, Room 803
550 - 11th Street, NW
Washington, D.C. 20530

Nurse in Charge
PHS/DFEH Health Unit
Treasury Dept. - Main Building
Room 1445
15th and Pennsylvania Avenue, NW
Washington, D.C. 20220

Nurse in Charge
PHS/DFEH Health Unit
Twinpark Building 01, Suite 108
12720 Twinbrook Parkway
Rockville, Maryland 20852

Nurse in Charge
PHS/DFEH Health Unit
Union Center Plaza, Room 3101
825 North Capitol Street, NE
Washington, D.C. 20426

Nurse in Charge
PHS/DFEH Health Unit
Universal Building North
Room 540 (CAB Mail Room)
1875 Connecticut Avenue, NW
Washington, D.C. 20428

Nurse in Charge
PHS/DFEH Health Unit
U.S. Tax Court Bldg., Room G-64
400 Second Street, NW
Washington, D.C. 20217

Nurse in Charge
PHS/DFEH Health Unit
Washington National Records Center
Room 126
Washington, D.C. 20409

Nurse in Charge
PHS/DFEH Health Unit
U. S. Geological Survey National Center
Room 1B-418
12201 Sunrise Valley Drive
Reston Virginia 22092

Nurse in Charge
PHS/DFEH Health Unit
Veterans Administration Central Office
Room 177
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Nurse in Charge
PHS/DFEH Health Unit
Richmond Federal Building
Room 1210
400 North Eight Street
Richmond, Virginia 23240

Nurse in Charge
PHS/DFEH Health Unit
Federal Center Building 02
Room 1-17
3700 East-West Highway
W. Hyattsville, Maryland 20782

Nurse in Charge
PHS/DFEH Health Unit
Federal Trade Commission Building
Room 105
6th and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Nurse in Charge
PHS/DFEH Health Unit
Federal Depot
Basement
2800 Eastern Avenue
Middle River, Maryland 21220

Nurse in Charge
PHS/DFEH Health Unit
Union Center Plaza North Building
Room 6302
941 North Capitol Street, N.E.
Washington, D.C. 20421

Alaska

Nurse in Charge
PHS/DFEH Health Unit
Federal Building
Box A-69
709 West 9th Street
Juneau, Alaska 99802

Arizona

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 3400
230 North 1st Avenue
Phoenix, Arizona 85003

Arkansas

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building
700 West Capital Street
Little Rock, Arkansas 72201

California

Nurse in Charge
PHS/DFEH Health Unit
Federal Building and Courthouse
Room 2304
1130 O Street
Fresno, California 93721

Medical Officer in Charge
PHS/DFEH Health Unit
New Federal Building, Room 5008
300 N. Los Angeles Street
Los Angeles, California 90012

Medical Officer in Charge
PHS/DFEH Health Unit
U.S. Courthouse, Room 1005
312 N. Spring Street
Los Angeles, California 90012

Nurse in Charge
PHS/DFEH Health Unit
U.S. Courthouse and Federal Bldg.
Room 6515
650 Capitol Mall
Sacramento, California 95814

Nurse in Charge
PHS/DFEH Health Unit
FOB-Cottage Way, Room E-1720
2800 Cottage Way
Sacramento, California 95825

Nurse in Charge
PHS/DFEH Health Unit
Federal Bldg. & Courthouse
Room 5B6
880 Front Street
San Diego, California 92188

Medical Officer in Charge
PHS/DFEH Health Unit
New Federal Building
Room 5210, Box 36115
450 Golden Gate Avenue
San Francisco, California 94102

Nurse in Charge
PHS/DFEH Health Unit
Tishman Building, 32nd Floor
525 Market Street
San Francisco, California 94105

Nurse in Charge
PHS/DFEH Health Unit
Appraisers Stores Building
Room 1123
630 Sansome Street
San Francisco, California 94111

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 40
50 United Nations Plaza
San Francisco, California 94102

Nurse in Charge
PHS/DFEH Health Unit
Folger Building, Room 211
211 Main Street
San Francisco, California 94105

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Custom House
Room 1519
300 South Ferry Street
Terminal Island
San Pedro, California 90731

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 619
34 Civic Center Plaza
Santa Ana, California 92701

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 2N4
6230 Van Nuys Boulevard
Van Nuys, California 91408

Colorado

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Medical Officer in Charge
PHS/DFEH Health Unit
Denver Federal Center
Building 040
Denver, Colorado 80225

Medical Officer in Charge
PHS/DFEH Health Unit
Denver Federal Center
Building 025
Denver, Colorado 80225

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
Room 8028
1961 Stout Street
Denver, Colorado 80294

Connecticut

Nurse in Charge
PHS/DFEH Health Unit
Federal Building and U.S. Courthouse
Room G-1
450 Main Street
Hartford, Connecticut 06103

Delaware
Nurse in Charge
PHS/DFEH Health Unit
Federal Building, Rm G-105
844 King Street
Wilmington, Delaware 19801

Florida

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 1310
51 S.W. First Avenue
Miami, Florida 33130

Nurse in Charge
PHS/DFEH Health Unit
Federal Building and U.S. Courthouse - Room 459
80 N. Hughey Avenue
Orlando, Florida 32801

Georgia

Medical Officer in Charge
PHS/DFEH Health Unit
Room 2311
101 Marietta Tower
Atlanta, Georgia 30303

Medical Officer in Charge
PHS/DFEH Health Unit
Room 218
1371 Peachtree Street, NE
Atlanta, Georgia 30309

Medical Officer in Charge
PHS/DFEH Health Unit
Room 910
1720 Peachtree Street, NW
Atlanta, Georgia 30309

Medical Officer in Charge
PHS/DFEH Health Unit
Room 155
1776 Peachtree Street, NW
Atlanta, Georgia 30309

Nurse in Charge
PHS/DFEH Health Unit
DCASR - Room 211
805 Walker Street
Marietta, Georgia 30060

Idaho

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Courthouse
Box 014, Room 379
550 West Fort Street
Boise, Idaho 83724

Illinois

Medical Officer in Charge
PHS/DFEH Health Unit
Everett McKinley Dirksen Building
Room 1419
219 South Dearborn Street
Chicago, Illinois 60604

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 187
536 South Clark Street
Chicago, Illinois 60605

Nurse in Charge
PHS/DFEH Health Unit
Wacker Building, Room 2046
300 South Wacker Drive
Chicago, Illinois 60606

Nurse in Charge
PHS/DFEH Health Unit
John C. Kluczynski Federal Bldg.
Room 360
230 S. DEarborn Street
Chicago, Illinois 60604

Indiana

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 614
575 Pennsylvania Street
Indianapolis, Indiana 46204
Iowa

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 711
210 Walnut Street
Des Moines, Iowa 50309

Louisiana

Nurse in Charge
PHS/DFEH Health Unit
Hale Boggs Federal Building and U.S. Courthouse
500 Camp Street
New Orleans, Louisiana 70130

Nurse in Charge
PHS/DFEH Health Unit
F. Edward Hebert Federal Bldg. Rm 240
600 South State Street
New Orleans, Louisiana 70130

Massachusetts

Nurse in Charge
PHS/DFEH Health Unit
Post Office & Court House Building
Room 1805
Boston, Massachusetts 02109

Medical Officer in Charge
PHS/DFEH Health Unit
John F. Kennedy Building, Room E-120
Government Square
Boston, Massachusetts 02203

Nurse in Charge
PHS/DFEH Health Unit
Waltham Federal Center
424 Trapelo Road
Waltham, Massachusetts 02154

Michigan

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building and U.S. Courthouse, Rm. 1050
231 W. Lafayette Street
Detroit, Michigan 48226

Nurse in Charge
PHS/DFEH Health Unit
Patrick V. McNamara Federal Bldg.
Room 1170
447 Michigan Avenue
Detroit, Michigan 48226

Minnesota

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Rm. 248
Fort Snelling, Minnesota 55111

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
Room 167
316 Robert Street
St. Paul, Minnesota 55101

Missouri

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Office Building, Rm. 1211
911 Walnut Street
Kansas City, Missouri 64106

Nurse in Charge
PHS/DFEH Health Unit
Federal Building (GSA)
Corridor 16, Sub-basemer
1150 East Bannister Road
Kansas City, Missouri 64131

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Building, Room 901
601 E. 12th Street
Kansas City, Missouri 64106

Nurse in Charge
PHS/DFEH Health Unit
U. S. Geological Survey Bldg.
Room 902
1400 Independence Road
Rolla, Missouri 65401

Nurse in Charge
PHS/DFEH Health Unit
210 North 12th Boulevard Building
Room 1045
210 North 12th Boulevard
St. Louis, Missouri 63101

Nurse in Charge
PHS/DFEH Health Unit
Crown Center Office Building
Room 603
2460 Pershing Road
Kansas City, Missouri 64108

Nurse in Charge
PGS/DFEH Health Unit
Federal Complex
Building MO-OSO1AE
601 Hardesty Road
Kansas City, Missouri 64124

Montana

Nurse in Charge PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
316 North 26th STreet
Billings, Montana 59101

Nebraska

Nurse in Charge
PHS/DFEH Health Unit
Federal Building, Room 8408
215 N. 17th Street
Omaha, Nebraska 68102

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Courthouse, Rm 249
100 Centennial Mall North
Lincoln, Nebraska 68508

New Jersey

Nurse in Charge
PHS/DFEH Health Unit
Building T-2
Belle Mead Depot
Belle Mead, New Jersey 08502

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 905
970 Broad Street
Newark, New Jersey 07102

New Mexico

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
Room 5206
500 Gold Avenue, SW
Alburquerque, New Mexico 87101

New York

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Building, 8th Floor
29th Street and Third Avenue
Brooklyn, New York 11232

Nurse in Charge
PHS/DFEH Health Unit
Federal Building, Room 915
111 W. Huron Street
Buffalo, New York 14202

Nurse in Charge
PHS/DFEH Health Unit
Astor Plaza Building
Room 3210
1515 Broadway
New York, New York 10036

Medical Officer in Charge
PHS/DFEH Health Unit
U.S. Customs Court & Federal Bldg.
Foley Square
26 Federal Plaza
New York, New York 10007

Nurse in Charge
PHS/DFEH Health Unit
Leo W. O'Brien Federal Building
Room B-39
Clinton Avenue & N. Pearl Street
Albany, New York 12207

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Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U. S. Courthouse
Room 709
100 S. Clinton Street
Syracuse, New York 13202

North Carolina

Nurse in Charge
PHS/DFEH Health Unit
Building D, Room 100
Environmental Protection Agency
Research Triangle Park, North Carolina 27711

Ohio

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Courthouse
Room 260
2 South Main Street
Akron, Ohio 44308

Nurse in Charge
PHS/DFEH Health Unit
National Institute for Occupational Safety and Health
Room SB-47
4676 Columbia Parkway
Cincinnati, Ohio 45268

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 1515
550 Main Street
Cincinnati, Ohio 45202

Nurse in Charge
PHS/DFEH Health Unit
Environmental Protection Agency
Room 357
26 West Saint Clair Street
Cincinnati, Ohio 45268

Nurse in Charge
PHS/DFEH Health Unit
Federal Building, Room 517
234 Summit Street
Toledo, Ohio 43604

Oklahoma

Nurse in Charge
PHS/DFEH Health Unit
Federal Building, U.S. Courthouse
200 N. W. 4th Street
Okalhoma City, Oklahoma 73101

Oregon

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 1173
1220 S. W. Third Avenue
Portland, Oregon 97204

Pennsylvania

Nurse in Charge
PHS/DFEH Health Unit
U.S. Customs House & Federal Building
Room 111
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106

Nurse in Charge
PHS/DFEH Health Unit
William J. Green, Jr. Federal Bldg.
Room 4306/4310
600 Arch Street
Philadelphia, Pennsylvania 19106

Nurse in Charge
PHS/DFEH Health Unit
Gateway Building, Room 1320
3535 Market Street
Philadelphia, Pennsylvania 19104

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building
12th Floor
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Nurse in Charge
PHS/DFEH Health Unit
Federal Building - Room 386
228 Walnut Street
Harrisburg, Pennsylvania 17108

Puerto Rico

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Courthouse, Rm. 402
Avenida Carlos Chardon
Hato Rey, Puerto Rico 00918

Tennessee

Nurse in Charge
PHS/DFEH Health Unit
Clifford Davis Federal Building
167 North Main Street
Memphis, Tennessee 38103

Texas

Medical Officer in Charge
PHS/DFEH Health Unit
Earle Cabell Federal Bldg.
Room 9-E1
1100 Commerce Street
Dallas, Texas 75242

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Building, Room 13A25
819 Taylor Street at 10th
Fort Worth, Texas 76102

Medical Officer in Charge
PHS/DFEH Health Unit
Federal Center
P.O. Box 6567
Fort Worth, Texas 76115

Nurse in Charge
PHS/DFEH Health Unit
Federal Building
Room G-159
300 East 8th Street
Austin, Texas 78701

Nurse in Charge
PHS/DFEH Health Unit
Main Tower Building
Room 1201
1200 Main Street
Dallas, Texas 75202

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & Courthouse
Room B-305
515 Rusk Avenue
Houston, Texas 77002

Utah

Nurse in Charge
PHS/DFEH Health Unit
Federal Office Building, Room 3103
125 South State Street
Salt Lake City, Utah 84138

Washington

Nurse in Charge
PHS/DFEH Health Unit
Arcade Plaza Building, Room 5051
1321 Second Avenue
Seattle, Washington 98101

Nurse in Charge
PHS/DFEH Health Unit
Federal Center South Building
Room 184
4735 E. Marginal Way
Seattle, Washington 98134

Nurse in Charge
PHS/DFEH Health Unit
New Federal Building, Room 570
915 Second Avenue
Seattle, Washington 98104

Nurse in Charge
PHS/DFEH Health Unit
GSA Building 010, Room 1020
15th and C Streets, SW
Auburn, WAshington 98002

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
Room 481
920 W. Riverside Avenue
Spokane, Washington 99201

Wisconsin

Nurse in Charge
PHS/DFEH Health Unit
Federal Building & U.S. Courthouse
Room 420
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

09-15-0002

System name: Record of Patients' Personal Valuables and Monies HEW/HSA/BMS.

Security classification: None.

System location: Financial Management offices - per appendix.

Categories of individuals covered by the system: Individuals admitted to PHS Hospital.

Categories of records in the system: Valuables and monies checked in for safe keeping.

Authority for maintenance of the system: Public Health Service Act Section 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in locked safe.

Retrievability: Purpose: safe keeping of patients' valuables. Users: cashier, HEW Audit Agency. Retrievability: by name and hospital record number.

Safeguards: Physical security. Access limited to authorized employees only.

Retention and disposal: Number of years held at HSA: Until audited. Number of years held at Federal Records Center before disposal: None. How destroyed: incinerator.

System manager(s) and address:

Chief, Financial Management Branch, BMS
11th Floor, Federal Center Bldg. 03
6525 Belcrest Rd., W. Hyattsville, MD 20782

Notification procedure: Financial Management offices - as listed in appendix.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patient.

Systems exempted from certain provisions of the act: None.

Appendix

Address all correspondence to, Director, USPHS Hospital, attn: Chief, Financial Management, at the appropriate locations:

USPHS Hospital
3100 Wyman Park Drive
Baltimore, MD 21211

USPHS Hospital
77 Warren St.
Boston (Brighton) Mass. 02135

USPHS Hospital
Carville, La 70721

USPHS Hospital
4400 Avenue N
Galveston, Texas 77550

USPHS Hospital
210 State St.
New Orleans, La 70118

USPHS Hospital
6500 Hampton Blvd., Larchmont
Norfolk, Va 23508

USPHS Hospital
1131 14th Ave., South
Seattle, Wash., 98114

USPHS Hospital
Bay Street and Vanderbilt Avenue
Staten Island, New York 10304

USPHS Hospital
15th Ave. & Lake St.
San Francisco, Calif. 94118

09-15-0003

System name: Contract Physicians and Consultants HEW/HSA/BMS.

Security classification: None.

System location:

6525 Belcrest Road, Room 1100, Presidential Building
Hyattsville, Maryland 20782
and 9 USPH Hospitals per appendix

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Categories of individuals covered by the system: Medical and allied health professionals (physicians, nurses, physical therapists, etc.) who have contracted with the Bureau of Medical Services or its Divisions to provide services to beneficiaries.

Categories of records in the system: Duplicate of original contract and personal data qualifications.

Authority for maintenance of the system: Public Health Service Act Sections 321, 322 (42 U.S.C. 248, 249).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (42 CFR Part 5b, Appendix B, item (5)).

Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization. (42 CFR Part 7b, Appendix B, item (5)).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders.

Retrievability: Purpose: Contract compliance, review of credentials, statistical and other information required to manage the program. Users: Professional and administrative staff of the Bureau of Medical Services, its Divisions and field stations. Retrievability: Name and contract number.

Safeguards: Access limited to professional and administrative staff of the Bureau of Medical Services, its Divisions and field stations who need to know in order to perform their official duties.

Retention and disposal: Number of years held at HSA - 1-3 years dependent upon renewal. Number of years held at Federal Records Center before disposal - copy not held. How destroyed: shredded.

System manager(s) and address:

Chief, General Services Branch
HEW/HSA/Bureau of Medical Services
6525 Belcrest Road, Room 1100
Hyattsville, Maryland 20782

Notification procedure:

Director, Bureau of Medical Services, Att:
Chief, General Services Branch
6525 Belcrest Road, Room 1100, Presidential Building
Hyattsville, Maryland 20782
and List as under location

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Physicians/consultants.

Systems exempted from certain provisions of the act: None.

Appendix

Director, USPHS Hospital, attn:
General Supply Officer
3100 Wyman Park Drive
Baltimore, Maryland 21211

Director, USPHS Hospital, attn:
General Supply Officer
77 Warren Street
Boston (Brighton), Mass. 02135

Director, USPHS Hospital, attn:
General Supply Officer
Carville, Louisiana 70721

Director, USPHS Hospital, attn:
General Supply Officer
4400 Avenue N
Galveston, Texas 77550

Director, USPHS Hospital, attn:
Office Services Manager
210 State Street
New Orleans, Louisiana 70118

Director, USPHS Hospital, attn:
Supply Officer
6500 Hampton Boulevard
Norfolk, Virginia 23508

Director, USPHS Hospital, attn:
General Services Officer
15th Avenue and Lake Street
San Francisco, California 94118

Director, USPHS Hospital, attn:
General Supply Officer
1131 14th Avenue, S.
Seattle, Washington 98114

Director, USPHS Hospital, attn:
Supply Management Officer
Bay Street & Vanderbilt Avenue
Staten Island, N.Y. 10304

09-15-0004

System name: Federal Employee Occupational Health Data System HEW/HSA/BMS.

Security classification: None.

System location:

FCB 03, Room 330
6525 Belcrest Road
W.Hyattsville, Maryland 20782

Categories of individuals covered by the system: Federal employees enrolled in PHS/DFEH Health Units. (See appendix to Division of Federal Employee Health (DEFH) Employee Health Records System to determine covered employees).

Categories of records in the system: Health Records.

Authority for maintenance of the system: 5 USC 7901, 5 USC 8101, OMB Circular No. A-72.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

U.S. Department of Labor, Officer of Worker's Compensation Program, may be given access to files of those persons claiming compensation benefits due to personal injury while on the job.

Certain records may be disclosed to medical laboratories, medical consultants, or computer processing firms under service contract agreement. In the event of a change in sponsorship of a PHS/DFEH health care unit or in a case of mass transfer of employees covered by a PHS/DFEH health care unit to one served by a non-departmental organization, the health records will be transferred to the custodianship of the new organization.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, and disc.

Retrievability: Purpose: The system is designed to provide improved information to DFEH management while simultaneously reducing the administrative workload on the medical professionals in the health units. Users: physicians, nurses, other health professionals. Retrievability: name, SSNs which are supplied on a voluntary basis are used for retrieval.

Safeguards: Access to information limited to authorized DFEH personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Number of years held at HSA - Indefinitely or until 5 years after record becomes inactive. Purged from computer and stored on computer tape for a period of 5 years after file becomes inactive.

System manager(s) and address:

Director
Division of Federal Employee Health
FCB 03 6526 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Data resulting from the clinical and preventive services offered by the PHS/DFEH Health Units and data obtained from individual.

Systems exempted from certain provisions of the act: None.

09-15-0005

System name: Dental Research - Evaluation of Restorative Materials HEW/HSA/BMS.

Security classification: None.

System location:

USPHS Hospital
15th Avenue and Lake Street
San Francisco, California 94118
and Regional Federal Records Center

Categories of individuals covered by the system: Patients in PHS Hospital participating in research project.

Categories of records in the system: Dental history and treatment.

Authority for maintenance of the system: Public Health Service Act, Section 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and file folders.

Retrievability: Purpose: study to improve dental restorative material. Users: PHS Dental researchers. Information transferred to NIH and FDA. Retrievability: patient study number.

Safeguards: Secured in locked file cabinets; only research staff has access.

Retention and disposal: Number of years held at HSA - 10 years. Number of years held at Federal Record Center before disposal - 5 years.

System manager(s) and address:

Director, USPHS Hospital
Attention: Research Coordinator
Division of Hospitals and Clinics
15th Avenue and Lake Street
San Francisco, California 94118

Notification procedure: Inquiries should be addressed to the System Manager. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patient and Dental care team.

Systems exempted from certain provisions of the act: None.

09-15-0006

System name: Cooperative Research Studies System: Coronary Artery Disease HEW/HSA/BMS.

Security classification: None.

System location:

USPHS Hospital
3100 Wyman Park Dr.
Baltimore, Md. 21211

Categories of individuals covered by the system: Patients at Public Health Service Hospitals who have agreed to participate in the project.

Categories of records in the system: Medical data.

Authority for maintenance of the system: Public Health Service Act, Sections 301, 321 (42 U.S.C. 241, 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research (42 CFR Part 5b, Appendix B, item (101))

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents, magnetic tape, punch cards.

Retrievability: Purpose: medical research. Users: qualified research personnel. Retrievability: name, medical record number.

Safeguards: Locked files, limited access by other than research personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Retained for life of the study. Destroyed by shredding.

System manager(s) and address:

Director, Division of Hospitals and Clinics
Federal Center Bldg. 03, 6525 Belcrest Rd.
Hyattsville, Md. 20782

Notification procedure:

Director: USPHS Hospital
Attention: Chief, Cardiology Service
3100 Wyman Park, Dr.
Baltimore, Md. 21211 An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patient and medical care system.

Systems exempted from certain provisions of the act: None.

09-15-0007

System name: Patients Medical Record System PHS Hospitals/Clinics HEW/HSA/BMS.

Security classification: None.

System location: See appendices 1 and 2 and Regional Federal Records Center.

Categories of individuals covered by the system: Individuals examined/treated at Public Health Service Hospitals and Clinics.

Categories of records in the system: Medical examination, diagnostic and treatment data, information for proof of eligibility, social data, disease registers, treatment logs, statistical summaries, correspondence.

Authority for maintenance of the system: Public Health Service Act, Section 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to: (1) any community health organization, government agency, private physicians and/or company which had requested or arranged for an examination, treatment or care of an individual by the Bureau of Medical Services; (2) Navy, Air Force for reports of uniformed service personnel and their dependents examination/treatment; (3) Coast Guard for reports of uniformed service personnel and their dependents; (4) and for reports of American seamen found to be suffering from conditions that render them hazardous to themselves or to others aboard ship; (4) NOAA for reports of uninformed service and other personnel of that agency; (5) INS for reports of aliens examined and treated for and in behalf of that agency; (6) Bureau for Prisons for reports of examination and treatment of patients examined and/or treated for and on behalf of the BP; (7) Department of Health or other agency of a state or its subdivision for reports required under state law or regulation; (8) U.S. Department of Labor, Office of Workers Compensation Programs, for persons claiming compensation benefits due to personal injury while employed by the government; (9) Health professions students serving an affiliation at the institution and Non-agency physicians or laboratories for continued care of the patient; (10) Veterans Administration to assist uninformed service personnel, retirees and veterans obtain medical care or benefits.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (42 CFR Part 5b; Appendix B, item (9))

Disclosure may be made to individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item (101))

Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review. (42 CFR Part 5b, Appendix B, item (102))

Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, child abuse, births, deaths, alcohol or drug abuse, etc. as may be required to be disclosed by health providers and facilities generally by the law of the State in which the facility is located. Such disclosures of information pertaining to an individual treated or referred for treatment of alcohol or drug abuse will be limited in compliance with the restrictions of the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR, Part 2.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, punch cards, microfilm.

Retrievability: Purpose: communication for patient care by health care team and related personnel. Administrative use for facility management and medical care evaluation, by medical and related staff, administrative staff of the facility. Educational uses to educate and train medical and allied health personnel. Research, study of disease cause, treatment and methods of care delivery. Users: health care team, other medical and allied medical personnel. Medical and allied health students. Administrative personnel for determination of eligibility for care and facility management. Reports of examination/treatment of individuals at request of DHEW-OP, CPOD. Reports of adverse drug reaction and medical device malfunction to FDA. Recover cost of care - PHS Claims Officer. Retrievability: indexed by name, register number, number control register, disease and operation, uniformed services service number which is the social security number. Those records indexed by SSN are retrieved in accordance with 7 (a) (2) (B) of the Privacy Act.

Safeguards: Locked storage area, personnel training and instruction, PHS Policy on release of information, job description responsibility for individual employees. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Numbers of years held at HSA (since 1970) - 5 years after last activity. Number of years held at Federal Record Center before disposal - 50 years active duty uniformed service personnel, 25 years all others. Microfilmed records prior to 1970 - permanent. How destroyed: According to FRC policy.

System manager(s) and address:

Director, Division of Hospitals and Clinics
Federal Center Building 03, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Same as system location, but not including Regional Federal Records Centers. Individual must contact appropriate facility directly. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, health care personnel, other hospitals and physicians, employers, social agencies, maritime unions, shipping companies.

Systems exempted from certain provisions of the act: None.

Appendix 1

Director, USPHS Hospital
3100 Wyman Park Drive
Baltimore, Maryland 21211

Director, USPHS Hospital
77 Warren Street
Boston (Brighton), Massachusetts 02135

Director, USPHS Hospital
4400 Avenue N
Galveston, Texas 77550

Director, USPHS Hospital
210 State Street
New Orleans, Louisiana 70118

Director, USPHS Hospital
6500 Hampton Boulevard
Larchmont
Norfolk, Virginia 23508

Director, USPHS Hospital
15th Avenue and Lake Street
San Francisco, California 94118

Director, USPHS Hospital
Box 3145 or
1131 14th Avenue South
Seattle, Washington 98114

Director, USPHS Hospital
Bay Street and Vanderbilt Avenue
Staten Island, New York 10304

Director, USPHS Hospital
Carville, Louisiana 70721

Appendix 2

Director
USPHS Outpatient Clinic
1600 Clifton Road, N.E.
Atlanta, Georgia 30333

Director
USPHS Outpatient Clinic
50 High Street, R. 609
Buffalo, New York 14203

Director
USPHS Outpatient Clinic
214 Federal Building
334 Meeting Street
Charleston, S. C. 29403

Director
USPHS Outpatient Clinic
1439 S. Michigan Avenue
Chicago, Illinois 60605

Director
USPHS Outpatient Clinic
P. O. and Courthouse Building
5th and Walnut Street
Cincinnati, Ohio 45202

Director
USPHS Outpatient Clinic
New P. O. Building, West 216 3rd Street and Prospect Ave
Cleveland, Ohio 44113

Director
USPHS Outpatient Clinic
14700 Riverside Drive
Detroit, Michigan 48215

Director
USPHS Outpatient Clinic
Box 1410 or
591 Ala Moana Boulevard
Honolulu, Hawaii 96807

Director
USPHS Outpatient Clinic
204 U. S. Customs Building
701 San Jacinto Street
Houston, Texas 77002

Director
USPHS Outpatient Clinic
Box 4788 or Room 328
Post Office Bldg
311 West Monroe Street
Jacksonville, Florida 32201

Director
USPHS Outpatient Clinic
969 Madison Avenue
Memphis, Tennessee 38104

Director
USPHS Outpatient Clinic
51 S. W. 1st Avenue, Room 712
Miami, Florida 33130

Director
USPHS Outpatient Clinic
125 Federal Building
Mobile, Alabama 36602

Director
USPHS Outpatient Clinic
245 West Houston Street
New York, New York 10014

V 4 3 / 1 8 8

Director
USPHS Outpatient Clinic
Room 700
US Customs House
2nd & Chestnut Sts
Philadelphia, Pa. 19106

Director
USPHS Outpatient Clinic
U. S. Post Office and Courthouse
7th Avenue and Grant Street
Pittsburgh, Pa. 15219

Director
USPHS Outpatient Clinic
209 Federal Office Building
5th Street and Austin Avenue
Port Arthur, Texas 77640

Director
USPHS Outpatient Clinic
331 Veranda Street
Portland, Maine 04103

Director
USPHS Outpatient Clinic
220 Courthouse
Broadway and Main Street
Portland, Oregon 97205

Director
USPHS Outpatient Clinic
1520 Market Street
St. Louis, Missouri 63103

Director
USPHS Outpatient Clinic
2105 Fifth Avenue
San Diego, California 92101

Director
USPHS Outpatient Clinic
Box 3788
or 8 1/2 Fernandez Juncos Avenue
San Juan, Puerto Rico 00904

Director
USPHS Outpatient Clinic
Box 831
or 825 S. Beacon Street
San Pedro, California 90731

Director
USPHS Outpatient Clinic
P. O. Box 9625
or 1602 Drayton Street
Savannah, Georgia 31402

Director
USPHS Outpatient Clinic
P. O. Box 1611
or 601 Florida Avenue
Tampa, Florida 33601

Director
USPHS Outpatient Clinic
Switzer Bldg.
4th and C Streets, S.W.
Washington, D. C. 20201

09-15-0008

System name: Emergency Non-PHS Treatment Authorization File HEW/HSA/BMS.

Security classification: None.

System location: See Appendices 1 and 2 to Patients Medical Record System PHS Hospitals/Clinics System

Categories of individuals covered by the system: Individuals who are eligible for emergency care paid for by the Public Health Service at non-Service medical facilities and have had such care.

Categories of records in the system: Eligibility information and reasons for emergency care.

Authority for maintenance of the system: Public Health Service Act, Section 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to non-PHS providers of medical care for the purpose of providing emergency treatment to eligible individuals.

Disclosure may be made to insurance companies for third party reimbursement.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Document files.

Retrievability: Purpose: to determine eligibility for medical care by the PHS; used to document expenditure of public funds; review and evaluation of medical care. Users: DHEW administrative officials; DHEW physicians or other DHEW health care professionals. Financial officers of the Division of Hospitals and Clinics, BMS. Retrievability: name.

Safeguards: Retained in files of authorized administrative personnel only.

Retention and disposal: Number of years held at HSA - indefinite.

System manager(s) and address:
Director, Division of Hospitals and Clinics
FOB 03, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Same as system location. Individual must contact appropriate treatment facility directly.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual or someone acting in his behalf, and providers of medical care.

Systems exempted from certain provisions of the act: None.

09-15-0009

System name: Cooperative Research Studies System: Pyelonephritis HEW/HSA/BMS.

Security classification: None.

System location: Appendix 1 to Patients Medical Record System PHS Hospitals/Clinics System.

Categories of individuals covered by the system: Patients at Public Health Service Hospitals who have agreed to participate in the project.

Categories of records in the system: Medical data.

Authority for maintenance of the system: Public Health Service Act, Section 321 (42 U.S.R. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item (101))

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (42 CFR Part 5b, Appendix B, item (9))

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents, magnetic tape, punch cards.

Retrievability: Purpose: medical research. Users: qualified research personnel Retrievability: study number, name, hospital register number.

Safeguards: Locked files, access to study number control limited to research project personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Retained for life of research project.

System manager(s) and address:
Director, Division of Hospitals and Clinics
Federal Center Building 0 3, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Give treatment location. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual and medical care system.

Systems exempted from certain provisions of the act: None.

09-15-0010

System name: Cooperative Research Studies System: Essential Hypertension HEW/HSA/BMS.

Security classification: None.

System location: System location: Appendix 1 to Patients Medical Record System PHS Hospitals/Clinics System.

Categories of individuals covered by the system: Patients at Public Health Service Hospitals who have agreed to participate in the project.

Categories of records in the system: Medical data.

Authority for maintenance of the system: Public Health Service Act, Section 321 (43 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item (101))

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records. (42 CFR Part 5b, Appendix B, item (9))

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents, magnetic tape, punch cards.

Retrievability: Purpose: medical research. Users: qualified research personnel. Retrievability: study number, name, hospital register number.

Safeguards: Locked file. Access to study number control and record limited to research project personnel. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Retained for the life of the research study.

System manager(s) and address:
Director, Division of Hospitals and Clinics
Federal Center Building 0 3, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Same as above. Individuals must provide treatment location. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual and medical care system.

Systems exempted from certain provisions of the act: None.

09-15-0018

System name: Unofficial Vital Records System. HEW/HSA/IHS.

Security classification: None.

System location: Indian Health Service Area and Program Offices.

Categories of individuals covered by the system: American Indians and Alaskan Natives.

Categories of records in the system: Birth information.

Authority for maintenance of the system: Public Health Service Act Section 321 (42 U.S.C. 258, 2001 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

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Disclosure may be made to a congressional office from the unofficial birth record of an individual in response to an inquiry from the congressional office made at the request of that individual. Such disclosure will be made in conjunction with notification that the birth record is an unofficial copy of the State Record, thus it must be verified by the State Health Department from which the record came.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in file cases; microfilm reels, computer cards and tapes.

Retrievability: Purpose: Used in health care program development, analysis, and evaluation. Birth record is an unofficial copy of the State record which is used internally for aggregate statistical and planning purposes. Users: Authorized agency personnel including maternal and child health personnel, health planners, statisticians, epidemiologists, demographers, and others concerned with problems of health, health care, and health hazards. Retrievability: Indexed by calendar year of event.

Safeguards: Locked areas.

Retention and disposal: Number of years held at IHS: Varies by IHS area from 1 year to indefinite. How destroyed: Burned or shredded.

System manager(s) and address: See Appendix.

Notification procedure: An individual or his designee who requests notification of or access to subject record is referred to State or other jurisdiction from which the record originated. Official certification of the document and contents can only be made by the State or other jurisdiction. These notification and access procedures are in accordance with Department Regulations. (45 CFR, Section 5b.5 and 5b.6, Federal Register October 8, 1975, pages 47410 and 47411).

Record access procedures: Same as notification procedures. Subject individual and/or his designee will have access to own record by supplying date of birth, father's name, mother's maiden name, and place of birth. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5 (a) (2) Federal Register, October 8, 1975, page 47410.

Contesting record procedures: Write to the official at the address specified and reasonably identify the record and specify the information to be contested. The information contested may only be changed in the unofficial vital records system and the State must be notified separately to change the official documents.

Record source categories: Records are obtained from State vital statistics offices and other jurisdictions.

Systems exempted from certain provisions of the act: None.

Appendix

Director
Aberdeen Area Indian Health Service
Federal Building
115 Fourth Avenue, S. E.
Aberdeen, South Dakota 57401
Attn: Chief, Maternal and Child Health Branch

Director
Albuquerque Area Indian Health Service
Room 4005, Federal Office Building
500 Gold Avenue, S.W.
Albuquerque, New Mexico 87101
Attn: Chief, Program Analysis & Statistics Br.

Director
Alaska Area Native Health Service
P.O. Box 7-741
Anchorage, Alaska 99510
Attn: Chief, Office of Systems Development

Director
Billings Area Indian Health Service
P.O. Box 2143
Billings, Montana 59103
Attn: Area Program Planning and Statistics Office

Director
Navajo Area Indian Health Service
P.O. Box G
Window Rock, Arizona 86515
Attn: Chief, Maternal and Child Health Br.

Director
Oklahoma City Area Indian Health Service
388 Old Post Office and Court House Bldg.
Oklahoma City, Oklahoma 73102
Attn: Chief, Program Analysis & Statistics Br.

Director
Phoenix Area Indian Health Service
801 East Indian School Road
Phoenix, Arizona 85014
Attn: Director, Office of Program Planning

Director
Portland Area Indian Health Service
Room 476 Federal Building
1220 Southwest Third
Portland, Oregon 97204
Attn: Chief, Program Planning & Statistics

Program Director
United Southeastern Tribes
Indian Health Service
Oak Towers Bldg.
1102 Kermit Drive 1101
Nashville, Tenn. 37217
Attn: Privacy Act Coordinator

Director
Tucson Program Area
Indian Health Service
P.O. Box 11340
Tucson, Arizona 85734
Attn: Chief, Community Health Status Surveillance

Director
Sacramento Program Area
Indian Health Service
2800 Cottage Way, E-1831
Sacramento, Calif. 95825

09-15-0019

System name: Health and Medical Records Systems. HEW/HSA/IHS.

Security classification: None.

System location: Indian Health Service Service Units, Area and Program Offices, and Regional Federal Records Centers.

Categories of individuals covered by the system: Individuals examined/treated at Indian Health Service facilities, and by contract providers including hospitals, physicians, and other health providers.

Categories of records in the system: Health and medical information incuding examination, diagnostic and treatment data, information for proof of eligibility, social data; disease registers, commitment registers, communicable diseases, special program and/or discipline patient profiles and research studies, statistical summaries, correspondence, etc.

Authority for maintenance of the system: Public Health Service Act Section 321 (42 U.S.C. 248); 42 U.S.C. 2001; Self Determination Act (25 U.S.C. 450); Indian Sanitation Facilities Act (42 U.S.C. 20040); Synder Act (25 USC 13); Health Care Improvement Act (25 USC 1601); and Construction of Community Hospitals (25 USC 2005).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records in part or total may be disclosed:

To state, local or other authorized organizations which provide health services to American Indians and Alaskan Natives for the purpose of planning for or providing such services; billing third parties for the payment of care, and reporting results of medical examination, care and treatment.

To individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research. (42 CFR Part 5b, Appendix B, item (101))

To federal and non-federal school systems which serve American Indian and Alaskan Native children for the purpose of student health maintenance and to the Bureau of Indian Affairs and their contractors for the identification of American Indian and Alaska Native handicapped children in support of P.L. 94-142, the Education for All Handicapped Children Act of 1975.

To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review. (42 CFR Part 5b, Appendix B, item (102))

To authorized organizations or individuals for conduct of analytical and evaluation studies sponsored by the Indian Health Service.

To a Congressional office in response to an inquiry from that office made at the request of the subject individual.

Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, child abuse, births, deaths, alcohol or drug abuse, etc. as may be required to be disclosed by health providers and facilities generally by the law of the State in which the facility is located. Such disclosures of information pertaining to an individual treated or referred for treatment of alcohol or drug abuse will be limited in compliance with the restrictions of the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR, Part 2.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, ledgers, card files, microfiche, microfilm, computer cards and tapes, and automatic or open shelf files, automated tapes and disc files.

Retrievability:

Purpose: Medical history of the total health care and medical treatment received, supplemental health records and indexes. To assist in planning further care of patient, to serve as basis for planning future health and related programs, to serve as means of communication among members of health care team, to serve as a legal document of health care rendered, to serve as a tool in evaluating quality of health care rendered, to use in research and education, to compile aggregated statistics.

Users: Authorized agency personnel and authorized contractors, researchers and medical audit personnel, health care team members.

Retrievability: Indexed by name and record number and social security number and cross indexed. SSN is supplied on a voluntary basis.

Safeguards: Training of authorized personnel and locked areas. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel. Disclosure of the contents of records which pertain to patient identity, diagnosis, prognosis or treatment of alcohol or drug abuse is restricted under the provisions of the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations 42 CFR, Part 2, as authorized by 21 USC 1175 and 42 USC 4582, as amended by P.L. 93-282. To the extent possible, identical restrictions will be applied to the disclosure of the contents of records pertaining to individuals with other programs who are participating in Public Health Employee Assistance Programs.

Retention and disposal: Active records maintained in facility and basic source statistical documents maintained in Area and program offices identifinitely. Inactive records held at the facility providing services from 3 to 7 years and then transferred to the Federal Records Center for disposal - 50 years active duty uniformed services personnel, 25 years all others. How destroyed: According to Federal Record Center practices.

System manager(s) and address: See Appendix.

Notification procedure: Submit to system location but not including Federal Record Center. Individual must contact appropriate facility. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.)

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Patient and/or family members, provider of health and related services.

Systems exempted from certain provisions of the act: None

Appendix

Director
Aberdeen Area Indian Health Service
Federal Building
115 Fourth Avenue, S.E.
Aberdeen, South Dakota 57401
Attn: Chief, Health Records Branch

Director
Albuquerque Area Indian Health Service
Room 4005, Federal Office Building
500 Gold Avenue, S.W.
Albuquerque, New Mexico 87101
Attn: Chief, Health Records Branch

Director
Alaska Area Native Health Service
P.O. Box 7-741
Anchorage, Alaska 99510
Attn: Chief, Health Records Branch

Director
Billings Area Indian Health Service
P.O. Box 2143
Billings, Montana 59103
Attn: Area Program Planning and Statistics Office

Director
Navajo Area Indian Health Service
P.O. Box G
Window Rock, Arizona 86515
Attn: Chief, Health Records Branch

Director
Oklahoma City Area Indian Health Service
388 Old Post Office and Court House Bldg.
Oklahoma City, Oklahoma 73102
Attn: Chief, Records Librarian Consultant

Director
Phoenix Area Indian Health Service
801 East Indian School Road
Phoenix, Arizona 85014
Attn: Chief, Health Records Branch

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Director
Portland Area Indian Health Service
Room 476, Federal Building
1220 Southwest Third
Portland, Oregon 97204
Attn: Chief, Health Records Branch

Program Director
United Southeastern Tribes
Indian Health Service
Oak Towers Bldg.
1101 Kermit Drive
Nashville, Tenn. 37217
Attn: Privacy Act Coordinator

Director
Tucson Program Area
Indian Health Service
P.O. Box 11340
Tucson, Arizona 85734
Attn: Director, Sells Service Unit

Director
Sacramento Program Area
Indian Health Service
2800 Cottage Way, E-1831
Sacramento, Calif. 95825
Attn: Privacy Act Coordinator

Service Unit Director
Belcourt Indian Hospital
Belcourt, N.D. 58316

Service Unit Director
Eagle Butte Indian Hospital
Eagle Butte, S.D. 57625

Service Unit Director
Fort Yates Indian Hospital
Fort Yates, N.D. 58538

Service Unit Director
Pine Ridge Indian Hospital
Pine Ridge, S.D. 57770

Service Unit Director
Rapid City Indian Hospital
Rapid City, S.D. 57701

Service Unit Director
Rosebud Indian Hospital
Rosebud, S.D. 57570

Service Unit Director
Sisseton Indian Hospital
Sisseton, S.D. 57262

Service Unit Director
Wagner Indian Hospital
Wagner, S.D. 57380

Service Unit Director
Winnebago Indian Hospital
Winnebago, Neb. 68071

Service Unit Director
Chamberlain Indian Health Center
Chamberlain, S.D. 57325

Service Unit Director
Fort Totten Indian Health Center
Fort Totten, N.D. 58335

Service Unit Director
Newtown Indian Health Center
Newtown, N.D. 58763

Service Unit Director
Cass Lake Indian Hospital
Cass Lake, Minn. 56633

Service Unit Director
Red Lake Indian Hospital
Red Lake, Minn. 56671

Service Unit Director
White Earth Indian Health Center
White Earth, Minn. 56591

Director
PHS Alaska Native Medical Center
Box 7-741
Anchorage, Alaska 99510

Service Unit Director
Barrow Alaska Native Hospital
Barrow, Alaska 99723

Service Unit Director
Bethel Alaska Native Hospital
Bethel, Alaska 99559

Service Unit Director
Kanakanak Alaska Native Hospital
Kanakanak, Alaska 99576

Service Unit Director
Kotzebue Alaska Native Hospital
Kotzebue, Alaska 99752

Service Unit Director
Mt. Edgecumbe Alaska Native Hospital
Mt. Edgecumbe, Alaska 99835

Service Unit Director
Tanana Alaska Native Hospital
1638 Cowles Street
Fairbanks, Alaska 99777

Service Unit Director
Albuqnerque Indian Hospital
801 Vassar Dr., N.D.
Albuquerque, N.M. 87106

Service Unit Director
Mescalero Indian Hospital
Mescalero, N.M. 88340

Service Unit Director
Santa Fe Indian Hospital
Cerrillos Road
Santa Fe, N.M. 87501

Service Unit Director
Zuni Indian Hospital
Zuni, N.M. 87327

Service Unit Director
Browning Indian Hospital
Browning, Mont. 59417

Service Unit Director
Crow Indian Hospital
Crow Agency, Mont. 59022

Service Unit Director
Harlem Indian Hospital
Harlem, Mont. 59526

Service Unit Director
Box Elder Indian Health Center
Box Elder, Mont. 59521

Service Unit Director
Fort Washakie Indian Health Center
Fort Washakie, Wyo. 82514

Service Unit Director
Lame Deer Indian Health Center
Lame Deer, Mont. 59043

Service Unit Director
Poplar Indian Health Center
Poplar, Mont. 59255

Service Unit Director
St. Ignatius Indian Health Center
St. Ignatius, Mont. 59865

Service Unit Director
Intermountain School Health Center
P.O. Box 602
Brigham City, Utah 84302

Service Unit Director
Claremore Indian Hospital
Claremore, Okla. 74017

Service Unit Director
Clinton Indian Hospital
Clinton, Okla. 73601

Service Unit Director
Lawton Indian Hospital
Lawton, Okla. 73501

Service Unit Director
Pawnee Indian Hospital
Pawnee, Okla. 74058

Service Unit Director
W. W. Hastings Indian Hospital
1120 Grand
Tahlequah, Okla. 74464

Service Unit Director
Talihina Indian Hospital
Talihina, Okla. 74571

Service Unit Director
Holton Indian Health Center
Holton, Kansas 66436

Service Unit Director
Shawnee Indian Health Center
Shawnee, Okla. 74801

Service Unit Director
Tishomingo Indian Health Center
Tishomingo, Okla. 73460

Facility Director
Haskell Junior College
Indian School Health Center
Lawrence, Kansas 66044

Service Unit Director
Keams Canyon Indian Hospital
P.O. Box 98
Keams Canyon, Ariz. 86034

Service Unit Director
Owyhee Indian Hospital
P.O. Box 212
Owyhee, Nev. 89832

Service Unit Director
Parker Indian Hospital
Route 1, Box 12
Parker, Ariz. 85344

Service Unit Director
Phoenix Indian Medical Center
4212 North 16th St.
Phoenix, Ariz. 85016

Service Unit Director
Sacaton Indian Hospital
Sacaton, Ariz. 85247

Service Unit Director
San Carlos Indian Hospital
San Carlos, Ariz. 85550

Service Unit Director
Schurz Indian Hospital
Schurz, Nev. 89427

Service Unit Director
Whiteriver Indian Hospital
Whiteriver, Ariz. 85941

Service Unit Director
Fort Yuma Indian Hospital
P.O. Box 1368
Yuma, Ariz. 85364

Service Unit Director
Uintah and Ouray Indian Health Center
P.O. Box 967
Rossevelt, Utah 84066

Service Unit Director
Colville Indian Health Center
Nespelem, Wash. 99155

Service Unit Director
Fort Hall Indian Health Center
P.O. Box 317
Ft. Hall, Idaho 83203

Service Unit Director
Neah Bay IHS Health Center
P.O. Box 408
Neah Bay, Wash. 98357

Service Unit Director
Northern Idaho Indian Health Center
P.O. Drawer 0367
Lapwai, Idaho 83540

Service Unit Director
Northwest Washington Service Unit
P.O. Box 241
Marietta, Wash. 98268

Service Unit Director
Taholah Indian Health Center
P.O. Box 1148
Taholah, Wash. 98587

Service Unit Director
Warm Springs Indian Health Center
Warm Springs, Ore. 97761

Service Unit Director
Wellpinit Indian Health Center
P.O. Box 62
Wellpinit, Wash. 99040

Service Unit Director
Yakima Indian Health Center
Route 1, Box 77
Toppenish, Wash. 98948

Service Unit Director
Umatilla Indian Health Center
P.O. Box 159
Pendleton, Ore. 97801

Service Unit Director
Puget Sound Indian Health Loc.
1212 So. Judkins
Seattle, Wash. 98144

Service Unit Director
Chemawa Indian School Health Center
5545 Chugach St., NE
Salem, Ore. 97303

Service Unit Director
Crownpoint Indian Hospital
Crownpoint, N.M. 87313

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Service Unit Director
Fort Defiance Indian Hospital
Ft. Defiance, Ariz. 86504

Service Unit Director
Gallup Indian Hospital
Gallup, N.M. 87301

Service Unit Director
Shiprock Indian Hospital
Shiprock, N.M. 87420

Service Unit Director
Tuba City Indian Hospital
Tuba City, Ariz. 85045

Service Unit Director
Winslow Indian Health Center
Winslow, Ariz. 86047

Service Unit Director
Chinle Indian Health Center
Chinle, Ariz. 86503

Service Unit Director
Kayenta Indian Health Center
Kayenta, Ariz. 86033

Service Unit Director
Sells Indian Hospital
Sells, Ariz. 85634

Service Unit Director
Cherokee Indian Hospital
Cherokee, N.C. 28719

Service Unit Director
Philadelphia Indian Hospital
Philadelphia, Miss. 39350

Service Unit Director
Hollywood Indian Health Center
Hollywood, Fla. 33024

Program Director
Bemidji Program Office
203 Federal Building
Bemidji, Minn. 56601

09-15-0022

System name: Accounts Receivable DHEW/HSA/BMS

Security classification: None.

System location: Financial Management Offices - see attached list.

Categories of individuals covered by the system: Patients, Employees, Attorneys.

Categories of records in the system: Billing to individuals.

Authority for maintenance of the system: Public Health Service Act Section 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information may be provided to any government agency which had requested or arranged for treatment or care of an individual by the BMS.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Retrievable by name. Purpose: To collect funds due Federal Government. Uses: Billing and collecting. Users: Billing clerk, cashier, HEW Audit Agency, HEW Claims Officer.

Safeguards: Physical security - financial management personnel have access.

Retention and disposal: Number of years held at HSA - Until audited. How destroyed: Incinerator.

System manager(s) and address:

Chief, Financial Management Branch, BMS
11th Floor, Federal Center Bldg. 03
6525 Belcrest Rd., W. Hyattsville, Md. 20782

Notification procedure: Financial Management Offices - as listed under location.

Record access procedures: Requesters Should contact the appropriate office listed under System Location and reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to an appropriate Financial Management Officer under System Location and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From individual via the medical record Hospital Administrative Department.

Systems exempted from certain provisions of the act: None.

Address all correspondence to:

Chief, Financial Management, at the appropriate location

USPHS Hospital
3100 Wyman Park Drive
Baltimore, Md. 21211

USPHS Hospital
77 Warren St.
Boston (Brighton) Mass. 02135

USPHS Hospital
Carville, La. 70721

USPHS Hospital
4400 Avenue N
Galveston, Texas 77550

USPHS Hospital
210 State St.
New Orleans, La. 70118

USPHS Hospital
6500 Hampton Blvd., Larchmont
Norfolk, Virginia 23508

USPHS Hospital
1131 14th Ave. South
Seattle, Wash. 98114

USPHS Hospital
Bay Street and Vanderbilt Avenue
Staten Island, New York 10304

USPHS Hospital
15th Ave. & Lake St.
San Francisco, Calif. 94118

USPHS Outpatient Clinic
Switzer Bldg.
4th & C Sts., SW
Washington, D. C. 20201

USPHS Outpatient Clinic
1600 Clifton Rd., NE
Atlanta, Georgia 30333

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09-15-0026

System name: Medical Fellowships and Educational Loans. DHEW/HSA/OA.

Security classification: None.

System location:

DHEW/HSA/OA/OFS - Rm. 16-23
Parklawn Bldg.
5600 Fishers Lane Rockville, Md. 20857
and Regional Federal Records Center.

Categories of individuals covered by the system: Private Citizens (Loan Applicants).

Categories of records in the system: Fellowship, Grants and Loans Applications.

Authority for maintenance of the system: Public Health Service Act Section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Retrievable by name. Purpose: To support HSA accounting records. Users: HSA Accounting Clerks, Accountants and Auditors.

Safeguards: File cabinets and normal Government building security.

Retention and disposal: Number of years held at HSA: 2 yrs. 1 yr warehouse. Number of years held at Federal Records Center before disposal: 7 yrs. How destroyed: in accordance with current regulations.

System manager(s) and address:

HSA-OA (HQ) Chief Accounting & Finance Section
5600 Fishers Lane - Parklawn Bldg. Rm. 16-23
Rockville, Md. 20857

Notification procedure:

Director, Office of Management Policy, HSA
Rm. 13A32
5600 Fishers Lane
Rockville, Md. 20857

Record access procedures: Same as System Manager. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Write to the System Manager and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Promissory note signed by the individual receiving the loan.

Systems exempted from certain provisions of the act: None.

09-15-0027

System name: National Health Service Corps (NHSC), Bureau of Medical Services (BMS) and Indian Health Services (IHS) Pre-Applicant Recruitment and Provider File HEW/HSA/BCHS.

Security classification: None.

System location:

Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857

Categories of individuals covered by the system: NHSC applicants and their spouses, if any, who wish to be assigned to critical health manpower shortage areas; applicants who wish to be assigned to the Public Health Service Bureau of Medical Services; individuals who indicate an interest in an assignment at an Indian Health Service location.

Categories of records in the system: Employment data and preference for site-selection, personal and professional background information.

Authority for maintenance of the system: Public Health Service Act Section 329 (42 U.S.C. 254b); Section 321, 322 (42 U.S.C. 248, 249); Public Law 83-568 (42 U.S.C. 2001).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked file cabinets and computer tape.

Retrievability:

Purpose: Matching applicant and spouse, if any, for assignment to critical health manpower shortage areas most suited to their interests; matching applicants for assignments to PHS hospitals or toIHS locations.
Users: Used by Regional Offices, IHS Area Offices and Service Units to pre-negotiate assignments, and used PHS-wide for recruitment programs.
Retrievability: applicant name and number.

Safeguards: Locked file cabinets and used only by Recruitment Services Branch, NHSC staff and Regional Recruiters; BMS staff; IHS staff and Area recruiters. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Maintained for three years, then destroyed.

System manager(s) and address:

Chief, Recruitment Services Branch
Division of Clinical Services, BCHS
5600 Fishers Lane
Rockville, Maryland 20857

Notification procedure: Same as above.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Letters of inquiry, NHSC Site Selection Questionnaire For Physicians, NHSC Site Selection Questionnaire For Dentists and NHSC Site Selection Questionnaire For Spouses; BMS Physician Questionnaire; IHS Medical Student and Physician Questionnaire.

Systems exempted from certain provisions of the act: None.

09-15-0028

System name: PHS Clinical Affiliation Trainee Records. HEW/HSA/BMS.

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Security classification: None.

System location: See Appendices 1 and 2 to Patients Medical Record System PHS Hospital/Clinic System.

Categories of individuals covered by the system: Students in PHS training programs or serving clinical affiliation in Public Health Service Hospitals and Clinics.

Categories of records in the system: Transcripts of past education application for training, training program staff and clinical supervisor evaluations and progress reports, course grades and evidence of completion of training requirements.

Authority for maintenance of the system: Public Health Service Act Sec. 321 (42 U.S.C. 248).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made:

To Educational Program staff of affiliated college/university to provide reports of student trainee's progress in training;

To prospective employers for professional reference;

To representatives of medical/allied health training program accreditation of PHS Training Programs;

To professional boards or associations to certify the students' progress in or completion of training as required for professional license, registration certification, etc.

To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Purpose: Communication between educational and supervisory staff for evaluation of trainee. Users: Director of Education at facility, Work and Staff Supervisors, Administration personnel. Retrievability: Alphabetically by last name.

Safeguards: Stored in locked files, access limited to authorized personnel.

Retention and disposal: Number of years held at HSA - indefinitely. How destroyed - shredded.

System manager(s) and address:

Director
Division of Hospitals and Clinics
FCB 03, 6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Same as system location. The individual should contact directly the PHS facility where training was received giving name, date of birth and approximate dates of training to allow positive identification of the record.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, clinical supervisors, instructors, training program staff and administrative personnel of facility and affiliated college/university.

Systems exempted from certain provisions of the act: None.

09-15-0029

System name: PHS Beneficiary-Contract Medical/Health Care Records. HEW/HSA/BMS.

Security classification: None.

System location:

1. Director, Division of Hospitals and Clinics
Federal Center Bldg 03
6525 Belcrest Road
Hyattsville, MD 20782
2. Director, PHS Hospital responsible for supervision of the area (See Appendix)

Categories of individuals covered by the system: Individuals (primarily American seamen) who are legally entitled to medical or health care by the Public Health Service and who have received medical or health care from health professionals or facilities under contract to the Public Health Service, Bureau of Medical Services.

Categories of records in the system: May inlcude any or all of the following medical history, diagnostic (laboratory/X-ray, etc.) and treatment data, sociologic information, eligibility data including employment history, master's certificate, uniformed services information (employing services, service numbers, duty station, etc.).

Authority for maintenance of the system: PHS Act, Sections 321, 322, 326, (42 USC 248, 249, 253) PL 88-71, Section 1 (42 USC 253a)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made:

To a non-agency physician, medical facility or laboratory for continued care of the patient;

To Department of Transportation (U.S. Coast Guard), National Oceanic & Atmospheric Administration for reports of examination and/or treatment of that agency's personnel or dependents;

To the Veterans Administration to assist uniformed services personnel, retirees and veterans to obtain medical care or benefits;

To the Coast Guard for reports of American seamen found suffering from medical conditions that are hazardous to themselves.

To a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter. (42 CFR Part 5b. Appendix B, item (4))

To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in file cabinets or open shelves in locked rooms accessible only to personnel with a need-to-know.

Retrievability: Retrieved by name, uniformed service number which is SSN, and/or Z number. Those records indexed by SSN are retrieved in accordance with 7(a) (2) (B) of the Privacy Act. Used by contract professionals to provide medical care to the beneficiary and to report results of examination and/or treatment used by PHS personnel to verify eligibility and to audit care provided by the contracting professionals.

Safeguards: Filed in locked files or locked rooms in the contracting professional's office/facility. Records are accessible only to contractors or PHS professionals with a need-to-know for the performance of their official duties.

Retention and disposal: Retained in the contracting professional's facility files until the contract is terminated. Then turned over to the supervisory PHS facility for transmittal to a new contracting professional or storage at a Federal Records Center. When stored in a Federal Records Center, active duty uniformed services personnel records are stored for 30 years, other beneficiaries' records for 25 years. Destruction at that time is in accordance with standard practices of the Federal Records Center.

System manager(s) and address:

Director
Division of Hospitals and Clinics
Federal Center Building 03
6525 Belcrest Road
Hyattsville, Maryland 20782

Notification procedure: Inquiries should be addressed to the PHS facility supervising the area where care has been obtained from a contract source. (See listing in Appendix). Individual must provide name, beneficiary category, date of birth, service number/Z number (if applicable) and name and location of source of contract care. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Individual, employers, other medical care providers, families and social agencies.

Systems exempted from certain provisions of the act: None.

Appendix

HOSPITAL STATES

Director, USPHS Hospital
3100 Wyman Park Drive
Baltimore, Maryland 21211

Delaware, District of Colnmbia, Illinois, Indiana, Iowa Maryland, Michigan, Minnesota, Ohio, Pennsylvania, West Virginia Wisconsin

Director, USPHS Hospital
77 Warren Street
Boston (Brighton), MA 02135

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Director, USPHS Hospital
4400 Avenue N
Galveston, TX 77550

Colorado, Kansas, New Mexico, Oklahoma, Texas

Director, USPHS Hospital
6500 Hampton Boulevard
Larchmont
Norfolk, VA 23508

Georgia, North Carolina, South Carolina, Virginia

Director, USPHS Hospital
210 State Street
New Orleans, LA 70118

Alabama, Arkansas, Canal Zone, Florida, Kentucky, Louisiana,
Mississippi, Missouri, Puerto Rico, Tennessee, Virgin Islands

Director, USPHS Hospital
15th Ave. & Lake Street
San Francisco, CA 94118

Arizona, California, Hawaii, Nevada, Utah

Director, USPHS Hospital
P.O. Box 3145 or
1131 14th Avenue South
Seattle, WA 98114

Alaska, Idaho, Montana, Nebraska, North Dakota, Oregon, South Dakato, Washington, Wyoming

Director, USPHS Hospital
Bay Street & Vanderbilt Avenue
Staten Island, NY 10304

New Jersey, New York

[4110-03]

09-10-0001

System name: Quality Assurance Program--HEW/FDA/HFO

Security classification: None.

System location: Each FDA Field/District Office and EDRO Headquarters Office (see Appendix A).

Categories of individuals covered by the system: FDA employees who conduct inspections.

Categories of records in the system: Contains name, supervisor's evaluation of inspection reports, and notes of conversations or observations.

Authority for maintenance of the system: Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) authorizes inspections; 1968 directive of Executive Director of Regional Operations, FDA, requires program to assure uniform, high quality inspections.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Not released outside the Agency, except disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders in supervisor's files.

Retrievability: Indexed by name, used to inform employee of results of the review of Establishment Inspection Reports.

Safeguards: Maintained in locked containers in secured area. Building secured when not occupied.

Retention and disposal: Records are retained as long as individual is an employee. Held 1 year then destroyed.

System manager(s) and address: Individual Supervisor (investigational) at Field/District Offices and Chief, Management Studies Staff, Associate Director for Administration, EDRO (see Appendix A).

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50) published in the Federal Register of March 22, 1977, Page 15631.).

Record source categories: Supervisor, based on review of Establishment Inspection Reports completed by individual inspector.

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Systems exempted from certain provisions of the act: None.

Appendix A--Addresses and working hours of the Food and Drug Administration Field Offices.

The following is a list of the Food and Drug Administration Field Offices, their addresses and working hours where individuals may have access to records in Food and Drug Administration Privacy Act Record Systems:

Boston District Office, Region I, 585 Commercial St., Boston, Massachusetts 02109, Office hours: 8a.m. to 4:30 p.m.

New York District Office, Region II, 850 3rd Ave., Brooklyn, New York 11232, Office hours: 8 a.m. to 4:30 p.m.

Buffalo District Office, Region II, 599 Delaware Ave., Buffalo, New York 14202, Office hours: 8 a.m. to 4:30 p.m.

Newark District Office, Region II, 20 Evergreen Place, East Orange, New Jersey 07018, Office hours: 8 a.m. to 4:30 p.m.

San Juan District Office, Region II, P. O. Box S-4427, San Juan Station, San Juan, Puerto Rico 00905, Office hours: 8:30 a.m. to 4:30 p.m.

Philadelphia District Office, Region III, 2nd and Chestnut St., Rm. 900, Philadelphia, Pennsylvania 19106, Office hours: 8 a.m. to 4:30 p.m.,

Baltimore District Office, Region III, 900 Madison Ave., Baltimore, Maryland 21201, Office hours: 8 a.m. to 4:30 p.m.

Atlanta District Office, Region IV, 880 Peachtree St., NW., Atlanta, Georgia 30309, Office hours: 8 a.m. to 4:30 p.m.

Nashville District Office, Region IV, 297 Plus Park Blvd., Nashville, Tennessee 37127, Office hours: 8 a.m. to 4:30 p.m.

Orlando District Office, Region IV, P. O. Box 118, Orlando, Florida 32802, Office hours: 8 a.m. to 4:30 p.m.

Chicago District Office, Region V, 433 W. Van Buren St., Rm. 1222, Chicago, Illinois 60607, Office hours: 8 a.m. to 4:30 p.m.

Cincinnati District Office, Region V, 1141 Central Pkwy., Cincinnati, Ohio 45202, Office hours: 8 a.m. to 4:30 p.m.

Detroit District Office, Region V, 1560 E. Jefferson Ave., Detroit, Michigan 48207, Office hours: 8 a.m. to 4:30 p.m.

Minneapolis District Office, Region V, 240 Hennepin Ave., Minneapolis, Minnesota 55401, Office hours: 8 a.m. to 4:30 p.m.

Dallas District Office, Region VI, 3032 Bryan St., Dallas, Texas 75204, Office hours: 8 a.m. to 4:30 p.m.

New Orleans District Office, Region VI, 423 Canal St., Rm. 222, New Orleans, Louisiana 70130, Office hours: 8 a.m. to 4:30 p.m.

Kansas City Field Office, Region VII, 1009 Cherry St., Kansas City, Missouri 64106, Office hours: 8 a.m. to 4:30 p.m.

Denver Field Office, Region VIII, 721 19th St., U.S. Customhouse, Denver, Colorado 80202, Office hours: 8 a.m. to 4:30 p.m.

San Francisco District Office, Region IX, 50 Fulton St., Rm. 518, San Francisco, California 94102, Office hours: 8 a.m. to 4:30 p.m.

Los Angeles District Office, Region IX, 1521 W. Pico Blvd., Los Angeles, California 90015, Office hours: 8 a.m. to 4:30 p.m.

Seattle Field Office, Region X, 909 1st Ave., Rm. 5003, Seattle, Washington 98104, Office hours: 8 a.m. to 4:30 p.m.

Winchester Engineering and Analytical Center, 109 Holton Street, Winchester, Mass. 01890, Office hours: 8a.m. to 4:30.p.m.

09-10-0002

System name: Regulated Industry Employee Enforcement Records--HEW/FDA/HFA.

Security classification: None.

System location: Administrative Services Branch, Associate Commissioner for Administration, 5600 Fishers Lane, Rockville, MD 20857 Field/District Offices (see Appendix A on Quality Assurance Program - FDA 09-10-0001 system).

Categories of individuals covered by the system: Employees of enterprises regulated by FDA and other individuals subject to FDA enforcement actions.

Categories of records in the system: Includes correspondence, memoranda, inspection reports, and other documents that are investigatory material compiled for law enforcement purposes, including criminal law enforcement purposes.

Authority for maintenance of the system: Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), the Public Health Service Act (42 U.S.C. 201 et seq.), and authority delegated to the Commissioner, 21 CFR Part 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records that indicate violation or potential violation of law may be (1) referred for investigation and possible enforcement action under the Federal, State, or foreign laws to the Department of Justice, an appropriate State food and drug enforcement health agency or licensing authority, or the government of a foreign country or (2) disclosed in administrative or court proceedings.

Records in the system may be the subject of discretionary disclosures under the Freedom of Information Act (5 U.S.C. 552).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files are maintained in letter-size folders. Part of FDA's general records on regulated establishments.

Retrievability: Indexed by company or subject, sometimes with individual name in card cross-index. There is also an automated index to this system. Records are used by FDA employees in investigations of possible violations of the law. FDA regulatory records lacking individual name indexes, such as its case file, and administrative files (AF), are not part of this system.

Safeguards: All files are stored in locked cabinets in a secured area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief, Administrative Services Branch, Associate Commissioner for Administration, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Record access procedures: Same as notification procedure (some material is exempt from access and contest). Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register March 22, 1977, page 15629).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably

identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50) published in the Federal Register of March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained, from third parties such as consumers, scientists, representatives of other companies, State agencies, or developed by FDA during investigations for law enforcement purposes.

Systems exempted from certain provisions of the act: This system is exempt from access and contest and certain other provisions of the Privacy Act (5 U.S.C. 552a(c)(3), (d)(1) to (4), (e)(3), (e)(4)(G) to (H) and (f) to the extent that it includes investigatory material compiled for law enforcement purposes, including criminal law enforcement purposes.

09-10-0003

System name: FDA Credential Holder File--HEW/FDA/HFO.

Security classification: None.

System location: FDA Employees: Services Management Section, Associate Commissioner for Administration, Rm. 4C-03, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857; Office Services Section, Associate Commissioner for Administration, Rm. B-002, FB-8, 200 C St., SW., Washington, D. C. 20204; and Administrative Branches at Field/District Offices (see Appendix A). State Employees: Division of Federal-State Relations (HFO-300), Rm. 12-57, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857 and Administrative Branches at Field/District Offices (see Appendix A on Quality Assurance Program-FDA 09-10-0001 system).

Categories of individuals covered by the system: FDA employees and State and local government employees who have been issued FDA credentials for enforcement activities.

Categories of records in the system: Contains name, job title, social security number, sex, height, weight, date of birth, color of eyes and hair, duty status, and for State and local government employees, professional qualifications.

Authority for maintenance of the system: Sections 702 to 704, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372 to 374).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Providing assurance to regulated enterprises that an individual is a duly designated enforcement officer and, in the case of State employees, an officer commissioned as an officer of the Department.

Used to gain entry to regulated establishments.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders or card files.

Retrievability: Indexed by name, used to issue or reissue credentials.

Safeguards: Masterfile is in locked containers in secured area.

Retention and disposal: Records are retained as long as individual is a duly designated or commissioned official; inactive files destroyed after 6 months.

System manager(s) and address: FDA Employees: Chief, Services Management Section, Associate Commissioner for Administration, Rm. 4C-03, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857; Chief, Office Services Section, Associate Commissioner for Administration, Rm. B-002, FB-8, 200 C St., SW., Washington, DC 20204; and Appendix A on Quality Assurance Program-FDA 09-10-0001 System). State Officers of Field/District Offices (see Appendix A on Quality Assurance Program FDA 09-10-0001 System. State Employees: Director, Division of Federal-State Relations (HFO-300), Rm. 12-57, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857 and Administrative Officers at Field/District Offices (see Appendix A on Quality Assurance System. FDA 09-10-0001).

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. State officials should provide State of employment.

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50) published in the Federal Register of March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

09-10-0004

System name: Communications (Oral and Written) With the Public. HEW/FDA/HFA

Security classification: None.

System location: Administrative Services Branch, Associate Commissioner for Administration; Office of Legislative Services; 5600 Fishers Lane, Rockville, MD 20857; FDA Field/District Offices (see Appendix A on Quality Assurance Program-FDA 09-10-0001 system).

Categories of individuals covered by the system: Individuals, other than employees of enterprises regulated by FDA, who communicate with FDA or, in some cases, are the subject of communications by others with FDA; for example, correspondence by members of Congress writing to FDA on their behalf.

Categories of records in the system: Generally initiated by individuals outside the agency. Includes correspondence from and to individuals, summaries of conversations prepared by FDA employees, and records prepared by FDA as a follow-up to consumer complaints, oral and written.

Authority for maintenance of the system: Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); the Public Health Service Act (42 U.S.C. 201 et seq.), and authority delegated to the Commissioner (21 CFR 5.1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: All correspondence to and from members of the public, members of Congress, organization or company officials, or other persons except members of the Executive Branch and special government employees is available for public disclosure except to the extent that the correspondence concerns confidential information (21 CFR 20.102); individual names are generally deleted prior to disclosure.

Records that indicate violation or potential violation of law may be disclosed in administrative or court proceedings.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(1));

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(5)).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is

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likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual files are maintained in letter-size folders.

Retrievability: Used by FDA employees in carrying out their responsibilities, e.g., responding to follow-up correspondence on complaints, requests for information, etc. Administrative Services Branch files include copies of correspondence received from public and FDA reply. Records are arranged by company or by subject. A card index gives correspondent's name, date of letter, subject and location. An automated index is being implemented. The Office of Legislative Services maintains duplicates of letters FDA sends to members of Congress and summaries of oral inquiries in files organized by members' names. The Office of Legislative Services maintains a manual control system and the Executive Secretariat, Office of the Commissioner, maintains an automated control system of pending correspondence needing reply. Field offices file consumer complaints by complainants' names. Other FDA units have correspondence files but these are not retrieved by individual name or personal identifiers.

Safeguards: All files are stored in locked cabinets in secured areas.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief, Administrative Services Branch, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; Director, Office of Legislative Services, 5600 Fishers Lane, Rockville, MD 20857; Regional or Deputy Regional Food and Drug Directors in FDA Field/District Offices (see Appendix A on Quality Assurance Program-FDA 0001.00 system).

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50) published in the Federal Register of March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained or others (generally members of Congress) who write to FDA about them.

Systems exempted from certain provisions of the act: None.

09-10-0005

System name: State Food and Drug Official File--HEW/FDA/HFO.

Security classification: None.

System location: Division of Federal-State Relations, Rm. 15 A 07, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

Categories of individuals covered by the system: State Officials who have responsibilities related to those of the Food and Drug Administration.

Categories of records in the system: Contains name, date of birth, education and professional experience.

Authority for maintenance of the system: Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders.

Retrievability: Indexed by name and State.

Safeguards: Maintained in locked files with correspondence by States.

Retention and disposal: Records are retained as long as individual is a State employee or until updated by the individual.

System manager(s) and address: Director, Division of Federal-State Relations, Rm. 15 A 07, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Provide name and State of employment.

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

09-10-0006

System name: Radiation Registry of Physicians--HEW/FDA/HFX.

Security classification: None.

System location: Division of Biological Effects, Bureau of Radiological Health, Rm. 38, Twinbrook Research Laboratory, 12709 Twinbrook Pkwy., Rockville, MD 20852.

Categories of individuals covered by the system: Radiologists and Pathologists who were members of American College of Radiology or College of American Pathologists between 1961 and 1972.

Categories of records in the system: Contains ID number, name, demographic characteristics, radiation exposure history, medical history of conditions affected by radiation, and date and cause of death, if deceased.

Authority for maintenance of the system: Section 356 of the Public Health Service Act (42 U.S.C. 263d) as amended by Pub. L. 90-602, the Radiation Control for Health and Safety Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be matched with outside agencies/educational institutions to obtain additional epidemiological, medical, and mortality information,

Information may be exchanged with qualified research scientists engaged in research involving radiation effects epidemiology.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders, magnetic tape, and punch cards.

Retrievability: Indexed by ID number. An individual identifier

index is maintained separate from the data. Used for statistical analysis of compiled data for epidemiologic studies of long term effects of chronic exposure to low levels of ionizing radiation.

Safeguards: Basic data identified by number only are stored in unlocked cabinets in a secured file area. The individual identifier index is stored in a locked cabinet.

Retention and disposal: Records are retained as long as there is a foreseeable need for additional research and data analysis.

System manager(s) and address: Chief, Biometric Section, Division of Biological Effects, Bureau of Radiological Health, Rm. 38, Twinbrook Research Laboratory, 12709 Twinbrook Pkwy., Rockville, MD 20852. Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained and death certificates.

Systems exempted from certain provisions of the act: None

09-10-0007

System name: Science Advisor Research Associate Program (SARAP)--HEW/FDA/HFO.

Security classification: None.

System location: Field Sciences Branch, Division of Field Operations, Executive Director of Regional Operations, 5600 Fishers Lane, Rockville, MD 20857

Categories of individuals covered by the system: FDA field personnel who have applied to participate in full-time research effort under the program.

Categories of records in the system: Contains name, curriculum vitae, description of research proposal, budget, and statement of career goals.

Authority for maintenance of the system: Guidelines for Implementation and Operation of the Science Advisor Research Associate Program and Field Research Program, dated July 1, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Not released outside the agency, except disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders.

Retrievability: Indexed by name, used to monitor the progress of research objectives of approved individual SARAP research projects. Used by the SARAP Committee and knowledgeable persons in the specific field. Released on a need-to-know basis to authorized personnel.

Safeguards: Files are maintained in secured file containers or in secured file area.

Retention and disposal: Records are presently retained indefinitely.

System manager(s) and address: Director, Field Sciences Branch, Division of Field Operations, Executive Director of Regional Operations, (HFO-130), Rm. 13-86, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained.

Systems exempted from certain provisions of the act: None

09-10-0008

System name: Radiation Protection Program Personnel Monitoring System--HEW/FDA/HFX.

Security classification: None.

System location: Division of Radioactive Materials and Nuclear Medicine, Bureau of Radiological Health, Rm. 320, Chapman Bldg., 1901 Chapman Ave., Rockville, MD 20857, and a selected qualified contractor who provides thermoluminescent badge service on an annual bid basis.

Categories of individuals covered by the system: Personnel in clinics, laboratories, hospitals, industrial plants, etc., who work with ionizing radiation sources required to be monitored by Nuclear Regulatory Commission regulations.

Categories of records in the system: Contains name, date of birth, social security account number, job code, period of exposure, effective date, and radiation exposure value.

Authority for maintenance of the system: Atomic Energy Act of 1954 (68 Stat. 919 et seq.). Nuclear Regulatory Commission Regulations, 10 CFR Part 20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Results are disclosed to employers, i.e., clinics, laboratories, etc., or employee.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders and on IBM cards.

Retrievability: Indexed by name and by facility. Used to monitor incremental and accumulated exposure to ionizing radiation for radiation protection purposes.

Safeguards: Filed in secured containers or in secured file area. Released on a need-to-know basis.

Retention and disposal: Records are retained as long as individual is a part of the program. Held 1 year in an inactive status. Held in storage thereafter indefinitely.

System manager(s) and address: Radiation Safety Officer, FDA, Rm. 320, Chapman Bldg. Mailing Address: 5600 Fishers Lane, Rockville, MD 20857

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with

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FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631

Record source categories: Individual on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

09-10-0009

System name: Individual and Household Statistical Surveys and Special Studies on FDA-Regulated Products--HEW/FDA/HFA.

Security classification: None.

System location: Negotiated Contracts Branch, Rm. 5B-37, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Categories of individuals covered by the system: Individuals, specialty groups, e.g., physicians, and households participating voluntarily in FDA-sponsored surveys and studies.

Categories of records in the system: Data collected vary with each survey. Normal standard information for individuals or household members could, but not necessarily, include name, age, sex, marital status, address or locale of residence, etc. Nondemographic items would relate to experience with or opinions about a particular product.

Authority for maintenance of the system: Section 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data released in statistical form only, except disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Questionnaires are filed in standard filing equipment. Statistical data are stored on magnetic tape.

Retrievability: Accessed by ID number assigned by contractor during collection process. Individual files are maintained in agency and contractor's custody until all collection procedures are completed.

Safeguards: Questionnaires are maintained in locked containers in secured area. Magnetic tapes are maintained in secure computer facility with access limited to program analysts only. All employees are subject to the restrictions, penalties, and prohibitions of applicable FDA regulations governing the confidentiality of the data.

Retention and disposal: Questionnaires are retained until all statistical problems are resolved then destroyed. Statistical records are maintained as long as they can be used validly.

System manager(s) and address: Chief, Negotiated Contracts Branch, (HFA-510), Rm. 5B-37 Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained or patient's medical records, depending on the type of survey or study.

Systems exempted from certain provisions of the act: None.

09-10-0010

System name: Bioresearch Monitoring Information System--HEW/FDA/HFD.

Security classification: None.

System location: Division of Scientific Investigations, Bureau of Drugs, Rm. 8-81, 5600 Fishers Lane, Rockville, MD 20857

Categories of individuals covered by the system: Clinical investigators who are conducting or have conducted clinical studies of new drugs under investigational new drug exemption requests.

Categories of records in the system: Automated file is maintained on all clinical investigators; contains name, education, professional qualifications, and background, and information on studies being conducted. Manual file contains, in addition to that same information, investigatory material collected or developed by FDA, during investigations of possible violations of statutes and regulations governing new drug studies.

Authority for maintenance of the system: Section 505(i)(3), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(3)); 21 CFR Part 312 (New drugs for investigational use).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records that indicate violation or potential violation of law may be (1) referred for investigation and possible enforcement action under the Federal, State, or foreign laws to the Department of Justice, an appropriate State food and drug enforcement agency or licensing authority, or the government of a foreign country where studies are being or have been conducted, or (2) disclosed in administrative or court proceedings.

Records in the system may be (1) the subject of discretionary disclosures under the Freedom of Information Act (5 U.S.C. 522) where the Commissioner finds the public interest in disclosure outweighs the impact on the investigator's personal privacy, or (2) disclosed to drug companies seeking information on whether a given investigator is qualified to receive investigational drugs.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Three hundred to five hundred files compiled of investigations of possible violations of statutes and regulations are maintained in letter-size manila folders. Automated file (approximately 30,000 investigators) is maintained on magnetic tape.

Retrievability: Indexed by name, used to provide controls to assure that investigators meet requirements of statute or regulations.

Safeguards: All files, including printout and computer output microfilm, are stored in locked cabinets in secured area. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Records output from the system for referenced printout or computer output microfilm are retained for one update cycle, or quarterly. Disposal of records is accomplished through a disintegrator.

System manager(s) and address: Director, Division of Scientific

Investigations (HFD-180), Bureau of Drugs, Rm. 8-81, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure (some material is exempt from access and contest). Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50) published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained. Some material is obtained from third parties, e.g., drug companies, publications, or is developed by FDA.

Systems exempted from certain provisions of the act: This system is exempt from access and contest and certain other provisions of the Privacy Act (5 U.S.C. 552a(c)(3), (d)(1) to (4), (e)(3), (e)(4)(G) to (H) and (f) to the extent that it includes investigatory material compiled for law enforcement purposes, including criminal law enforcement purposes.

09-10-0011

System name: Certified Retort Operators--HEW/FDA/HFF.

Security classification: None.

System location: Division of Food Technology, Bureau of Foods, Rm. 4029, FB-8, 200 C St., SW, Washington, DC 20204.

Categories of individuals covered by the system: Food industry employees who have attended courses of instruction relating to operation of retorts.

Categories of records in the system: Contains name and training records.

Authority for maintenance of the system: Section 404 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 344); 21 CFR 128b.10.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records showing that low-acid canned food establishment did not have canning operations under the supervision of certified retort operator may be (1) referred for investigation and possible enforcement action against the company and responsible officials, to the Department of Justice, or appropriate State food and drug law enforcement agencies, or (2) disclosed in administrative or court proceedings.

Most records in the system may be disclosed (1) under the Freedom of Information Act (5U.S.C. 522), or (2) a food company may be advised whether an individual has satisfied FDA requirements.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard filing equipment and magnetic tape.

Retrievability: Indexed by name, used to ascertain program progress.

Safeguards: Magnetic tapes are stored in locked containers in secured area. Individual printouts/original hard copy records are stored in regular administrative files, maintained in secured file area or secured file containers.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Division of Food Technology (HFF-400), Rm. 4029, FB-8, 200 C St., SW., Washington, DC 20204.

Notification procedure: FDA Privacy Coordinator (HFI-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations 21 CFR (21.50), published in the Federal Register, March 22, 1977, page 15631).

Record source categories: Educational institutions that conduct retort operator training.

Systems exempted from certain provisions of the act: None.

09-10-0012

System name: Association of Official Analytical Chemists (AOAC) Member File--HEW/FDA/HFS.

Security classification: None.

System location: FDA Liaison Office for AOAC, Rm. 3848, FB-8, 200 C St., SW, Washington, DC 20204.

Categories of individuals covered by the system: AOAC Committee members, Subcommittee members, Referees and Associate Referees (employed by FDA, related Federal or State agencies, universities, or regulated industry). Shows individuals involved in AOAC scientific activities, e.g., developing methods for determining adulteration of food, drugs, etc.

Categories of records in the system: Contains name, address, telephone number, and area of study.

Authority for maintenance of the system: Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)); section 301 of the Public Health Service Act (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provided to Department of Agriculture, Environmental Protection Agency, and the various State agencies that have an interest in development of official analytical methods.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter-size manila folders, card file, and magnetic tape.

Retrievability: Indexed by name, used to provide a service for AOAC on its committees. Primary use of the system is the preparation of an annual publication listing AOAC projects; used as mailing list and to identify individuals who may be asked to assist FDA.

Safeguards: Masterfile is in locked containers in secured area. Individual files are maintained with other administrative files. All information in the records is required to be disclosed under the Freedom of Information Act.

Retention and disposal: Records are retained as long as an individual is a participating member, then destroyed.

System manager(s) and address: FDA Liaison Officer for AOAC (HFS-56), Rm. 3848, FB-8, 200 C St., SW, Washington, DC 20204.

Notification procedure:
FDA Privacy Coordinator (HFI-30)
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, Page 15629.).

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, Page 15631.).

Record source categories: Individual on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

09-10-0013

System name: Employee Conduct Investigative Records - HEW/FDA/HFA.

Security classification: None.

System location:
Policy Management Staff, FDA
Room 10-90, 5600 Fishers Lane
Rockville, MD 20857

Categories of individuals covered by the system: Employees or former employees, or special Government employees of FDA who are alleged to have violated FDA or Departmental regulations and/or Federal statutes.

Categories of records in the system: This system includes records relating to correspondence concerning an individual's employment status or conduct while employed by FDA. Examples of these records include: correspondence from employees, Members of Congress, and members of the public alleging misconduct by an official of FDA. It also contains reports of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during the investigation; reports of action taken by management deciding action on any misconduct substantiated by the investigation; and reports of legal action resulting from violations of statutes referred for prosecution.

Authority for maintenance of the system: 5 U.S.C. 301; Title 18, U.S.C. (e.g., 18 U.S.C. 201, 203, 205, 207, 208, 209, 1905); 21 U.S.C. 331; 28 U.S.C. 535(b); 44 U.S.C. 3101; E.O. 10450 and 11222; 45 CFR Part 73.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(1)).

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(5)).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: Alphabetical by name. Used within FDA for providing management with information needed to take action on complaints or alleged violations. May be referred to Office of Investigations and Security, Office of the Secretary, HEW, and disclosures may be made by that office.

Safeguards: Records are maintained in locked file cabinets within a locked file room or in a safe within a secured area.

Retention and disposal: Records are retained until death of subject individual.

System manager(s) and address:
Director, Policy Mangement Staff
HFA-20, Room 10-90
Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857

Notification procedure:
FDA Privacy Act Coordinator (HFI-30)
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

Record access procedures: Same as notification procedure (some material is exempt from access and contest). Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, page 15629.

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the Federal Register, March 22, 1977, page 15631 (Some material is exempt from access and contest).

Record source categories: Information in this system of records is obtained from FDA personnel and records, subjects of investigations, complaints, witnesses, other Federal agencies, State and local agencies, and personal observation by the investigator.

Systems exempted from certain provisions of the act: This system is exempt from access and contest and certain other provisions of the Privacy Act (5 U.S.C. 552a(c)(3), (d)(1) to (4), (e)(3), (e)(4)(G) to (H), and (f)) the extent that it includes investigatory material compiled for law enforcement purposes, including criminal law enforcement purposes, or investigatory material that would reveal confidential sources compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information.

09-10-0014

System name: Service Contractor Employee Investigative Records. HEW/FDA/HFA.

Security classification: None.

System location:
Policy Management Staff, FDA
Room 10-90
5600 Fishers Lane
Rockville, MD 20857

Categories of individuals covered by the system: Employees of service contractors who must have access to FDA secured areas or FDA file material; employees of contractors who provide janitorial, guard and maintenance services for FDA facilties.

Categories of records in the system: This system includes records of pre-employment checks of individuals who will have access to FDA facilities during security hours and correspondence concerning an individual's employment status or conduct while having such access. Examples of such correspondence include Reports of Investigations to resolve allegations of misconduct or of violations of

law, with related exhibits of statements, affidavits or records obtained during the investigation; reports of action taken by management deciding action on any misconduct substantiated by the investigation; and reports of legal action resulting from violations of statutes referred for prosecution.

Authority for maintenance of the system: 5 U.S.C. 301; Title 18, U.S.C. (e.g., 18 U.S.C. 1905); 21 U.S.C. 331; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(1)).

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (45 CFR Part 5b, Appendix B(5)).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: Alphabetical by name. Used by the Food and Drug Administration to determine if the employees of service contractors shall have access to FDA facilities. Used within FDA for providing management with information to take action on complaints or alleged violations. May be referred to the Office of Investigations and Security, Office of the Secretary, HEW, and disclosures may be made by that Office.

Safeguards: Records are maintained in locked file cabinets within a locked file room or in a safe within a secured area.

Retention and disposal: Records are retained until death of subject individual.

System manager(s) and address:
Director, Policy Management Staff
HFA-20, Room 10-90
Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857

Notification procedure:
FDA Privacy Act Coodinator (HFI-30)
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

Record access procedures: Same as notification procedures (some material is exempt from access and contest). Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the Federal Register, March 22, 1977, page 15629

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. 21.50) March 22, 1977, page 15631). (These procedures are in accordance with FDA Regulations (21 CFR (Some material is exempt from access and contest).

Record source categories: Information in this system of records is obtained from industrial, employment and police records, subjects of investigations, complaints, witnesses, other Federal agencies, State and local agencies, and personal observation by the investigator.

Systems exempted from certain provisions of the act: This system is exempt from access and contest and certain other provisions of the Privacy Act (5 U.S.C. 552a(c)(3), (d)(1) to (4), (e)(3), (e)(4)(G) to (H), and (f)) to the extent that it includes investigatory material compiled for law enforcement purposes, including criminal law enforcement purposes, or investigatory material that would reveal confidential sources compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information.

09-10-0015

System name: Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research--HEW/FDA/HFB.

Security classification: None.

System location:
Histocompatibility Laboratory, Division of Blood and Blood Products
Bureau of Biologics
Food and Drug Administration
8800 Rockville Pike
Bethesda, Md. 20014

Categories of individuals covered by the system: Volunteer blood donors and patients of the National Naval Medical Center and the National Institutes of Health Clinical Center requiring tissue typing who also volunteer to be part of the system.

Categories of records in the system: Records contain name, address, phone number, sex, race, age, disease (if any), number of pregnancies, number of children, and the results of blood typing.

Authority for maintenance of the system: Public Health Service Act, section 351, 42 U.S.C. 262, which requires that all biologic products intended for human use must meet certain safety, purity and potency standards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: On occasion, the National Institutes of Health Clinical Center and the National Naval Medical Center request that the Bureau perform tissue typing for their patients. In these instances, it is, of course, necessary to provide the physician involved with precise data to properly identify the patient.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (Appendix B, Departmental Regulations (45 CFR Part 5b, Item 100)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Standard filing equipment, magnetic tapes, and disks.

Retrievability: Usually by an assigned 'cell number.' Also, alphabetically, by name. The purpose of this system of records is to provide data to be used in evaluating histocompatibility testing sera submitted by manufacturers for approval and release on the market. These records will be used only within the Agency. Any statistical data developed from the records and subsequent tissue typing may be distributed upon request, but will contain no specific reference to the individuals whose records are on file.

Safeguards: Forms in locked filing equipment. Tapes and disks in secure computer facility with access limited to individuals having knowledge of 'password' which is changed periodically.

Retention and disposal: Records are retained indefinitely.

V 4 3 / 1 8 8 S E 2 7 7 8

System manager(s) and address:

Dr. Kamal K. Mittal
Histocompatibility Laboratory
Division of Blood and Blood Products
Bureau of Biologics
8800 Rockville Pike
Bethesda, Md. 20014
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FDA Privacy Act Coordinator (HFI-30)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the FEDERAL REGISTER, March 22, 1977, page 15629.)

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the FEDERAL REGISTER, March 22, 1977, page 15631.)

Record source categories: Volunteer blood donors and patients of the National Naval Medical Center and the National Institutes of Health Clinical Center.

Systems exempted from certain provisions of the act: None.

09-10-0016

System name: Cancer Patients on Laetrile and Physicians - HEW/FDA/HFD.

Security classification: None.

System location:

Litigation and Recall Staff
Associate Directorate for Compliance
Bureau of Drugs
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Categories of individuals covered by the system: Cancer patients and their medical doctors who supervise the Laetrille treatment.

Categories of records in the system: A separate index card will be established for each terminal cancer patient and each medical practitioner, containing their name and complete address. The patient index card will also contain the name of the patient's doctor and the import entry number(s) covered by the affidavit. The doctor's card will list all patients by import entry number. The patient's card may contain other information, such as the discontinuance of the patient from the program, phone numbers, change of doctors, or any other information as appropriate to facilitate compliance with Federal court orders which permitted the importation of an unapproved experimental drug, Laetrile, upon a notarized affidavit that a cancer patient will receive it under the supervision of a doctor of medicine. Copies of the affidavits are received at the Bureau of Drugs; each affidavit contains the names of the patient and doctor, and usually the address of both.

Authority for maintenance of the system: The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 372.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records that indicate violation or potential violation of law may be (1) referred for investigation and possible enforcement action under the Federal, State, or foreign laws to the Department of Justice, an appropriate State food and drug enforcement health agency or licensing authority, or the government of a foreign country or (2) disclosed in administrative or court proceedings.

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On index cards in boxes.

Retrievability: Alphabetically, by name. The index cards will be used to record information from affidavits and then be used to spot check compliance with the court order concerning Laetrile.

Safeguards: Index cards will be kept in the work area of the Litigation and Recall Staff. This area is locked outside of normal working hours and accessible only by authorized personnel during working hours.

Retention and disposal: No longer than 3 years after the system is established; disposal will be made by shredding or tearing and dumping the residue into trash containers.

System manager(s) and address:

Associate Director for Compliance (HFD-300)
Bureau of Drugs
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Notification procedure:

FDA Privacy Act Coordinator (HFI-30)
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857

Record access procedures: Same as notification procedure. Requesters should also reasonably speciby the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the FEDERAL REGISTER, March 22, 1977, page 15629.)

Contesting record procedures: Write to the official at the address specified under 'Notification Procedure' above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Reguatlions (21 CFR 21.50), published in the FEDERAL REGISTER, March 22, 1977, page 15631.)

Record source categories: Individuals on whom the records are maintained are derived from affidavits and agency investigational reports.

Systems exempted from certain provisions of the act: None. /*

[4110-07]

09-60-0001

System name: Commissioner's Correspondence File HEW SSA OC.

Security classification: None.

System location:

Room 922 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any person or group who may write directly to the Commissioner.

Categories of records in the system: The Commissioner's incoming personal correspondence.

Authority for maintenance of the system: Section 205 of the Social Security Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file, stored in filing cabinets.

Retrievability: Indexed by the name of the correspondent.

Safeguards: Files used for answering correspondence received in the Office of the Commissioner are locked; only two people on the Commissioner's staff and the Commissioner himself have access.

Retention and disposal: Destroyed by shredding when deemed appropriate--general correspondence held 2 years.

System manager(s) and address:

Reference Aide
Office of the Commissioner
922 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Office of the Commissioner
922 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Record access procedures: Any information on a specific individual may be accessed by that individual by writing to the Office of the Commissioner, referencing the 'Commissioner's Correspondence File,' and providing return address. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories: Incoming correspondence.

Systems exempted from certain provisions of the act: None.

09-60-0002

System name: Automated Controlled Correspondence Extraction System HEW SSA OEA.

Security classification: None.

System location:

Office of Public Inquiries
6401 Security Boulevard
Baltimore, Maryland 21235

Medicare Bureau
Health Care Financing Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Bureau of Disability Insurance
Dickenson Tower Building
1500 Woodlawn Drive
Baltimore, Maryland 21241

Bureau of Hearings and Appeals
Ballston Center
Tower 2
800 North Randolph Street
Arlington, Virginia 22204

Categories of individuals covered by the system: Records are maintained for individuals who forward a request for information directly to the Commissioner of the Social Security Administration and for individuals whose requests to members of Congress, the President, etc. are forwarded to the Commissioner for response.

Categories of records in the system: Information is maintained in the system solely to aid in the control of correspondence through the various processing steps. Information in the records includes the following: name of individual involved, social security number (if given), name of third party inquirer (if present), type of correspondence, organizational component having initial responsibility for the inquiry, Congressman's name (if a congressional inquiry), address-to-code (official to whom inquiry is directed, signature code,official to whom inquriy is directed, signature code (official whose name will appear on the reply) computer identification code (10 digit code cross referred to the name of the individual), subject matter code, location of information (component within the Social Security Administration that received the inquiry and date of receipt), and response information (type and date of Social Security Administration response).

Authority for maintenance of the system: Sections 205(a) and 1631 of the Social Security Act, and Section 413 of the Federal Coal Mine Health and Safety Act (Black Lung).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on magnetic tape and computer discs.

Retrievability: The system is indexed by both name and by computer identification number, which are cross-referred. It is used to control processing of correspondence within the Social Security Administration Central Office Complex and the Bureau of Hearings and Appeals in Arlington, Virginia, and to provide management information regarding the correspondence process.

Safeguards: Magnetic tape and disc files are protected through standard security measures used for all of the Social Security Administration's computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records--limited access to social security offices, limited employee access to those that have a need to know; all employees receive instruction in Social Security Administration confidentiality rules in an initial orientation. Guidelines contained in the FIPS PUB 41, Computer Securi-

ty Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management, and FIPS PUB 3, ADP System Security Required by the Privacy Act of 1974, were taken into account in development of these safeguards.

Retention and disposal: Records are maintained on-line in the system from the time of control until 13 months after the final response is released. Tape records are then maintained on magnetic tape for an additional 24 months before being erased.

System manager(s) and address:

Director, Office of Public Inquiries
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Chief, Office of Public Inquiries Analysis Staff
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Identifying information should include the name of the person inquired
about, the person to whom the inquiry was sent, and the date of the inquiry.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Inquiries directed to the Commissioner of Social Security Administration from members of the public.

Systems exempted from certain provisions of the act: None.

09-60-0003

System name: Hearing File and Attorney Fee File. HEW SSA BHA.

Security classification: None.

System location:

Bureau of Hearings and Appeals
801 North Randolph Street
and 201 North Glebe Road
Arlington, Virginia 22203

Categories of individuals covered by the system: Claimants - Titles II, XVI, XVIII, and Black Lung.

Categories of records in the system: When present, the hearing file generally contains: request for hearing, notice of hearing, 'Appearance at Hearing' Card signed by claimant, correspondence to claimant, representative, or other source of evidence, cassette recordings of hearing, HA-503 card (case control device), decision (or dismissal order), and any material otherwise in an Appeals File. The hearing file (when present) may also contain the following information which is otherwise maintained as attorney fee file: attorney fee petition involving

1500 or more, or filed after Appeals Council action on a claim, Attorney Fee Analyst recommendation, fee authorization order, related correspondence, and control card.

Authority for maintenance of the system: Sections 205, 1631(d)

1. , and 1872 of the Social Security Act, as amended, and Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

3. To applicants, claimants, beneficiaries, other than the subject individual, authorized representatives, experts, and other participants at a hearing to the extent necessary to pursue a claim or other matter on appeal.

4. Attorney to the extent necessary to dispose of an attorney fee petition.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hearing file folder in filing cabinets (when active). Attorney fee file control card in and filing container and paper folder on filing shelves.

Retrievability: Name and social security number. In the appeals process, the hearing file was a working file for individual cases rising to the hearing level. It was created and retained in the hearing office until final action by the presiding officer, and then retained in the Bureau of Hearings and Appeals central office until all appellate actions were completed. Preparation of new hearing files was discontinued as of May 30, 1975. Hearing files prepared prior to that date are still used, when available, by bureau employees at all appropriate work stations.

Attorney fee records, which were previously retained in the hearing file, became separately maintained after hearing file use was discontinued, and are used to process attorney fee petitions and to respond to correspondence and other inquiries.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: After all actions are completed, hearing file forwarded to Federal Record Center. Attorney fee file folder destroyed after 2 years, control card after 5 years.

System manager(s) and address:

Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
Written request to Randolph 0Street address for hearing file. Contact Glebe Road address for attorney fee file in person or writing. Individual should provide name and social security number.

Record access procedures: Written request to above address (social security number must be supplied to provide identification). Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Claimant, representative, appropriate members of the public, the Social Security Administration and other Government, State, and local agencies.

Systems exempted from certain provisions of the act: None.

09-60-0004

System name: Appeals File HEW SSA BHA.

Security classification: None.

System location:

Bureau of Hearings and Appeals
801 North Randolph Street

Arlington, Virginia 22203

Categories of individuals covered by the system: Claimant - Social Security and Black Lung.

Categories of records in the system: This file generally contains: Hearing and Appeals analyst's recommendation to the Appeals Council; copies of correspondence and replies during processing of case; requests to Medical Advisory Staff and their comments, if not entered into the record; copies of Appeals Council actions on the case; notice of denial of request for review, order of remand, notice of granting review, decisions; copies of all post-adjudicative actions or correspondence; copies of transcripts when available.

Authority for maintenance of the system: Sections 205, 1631(d)

1. , and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder paper file on filing shelves.

Retrievability: Name and social security number. The appeals file is an internal working file created at the Bureau of Hearings and Appeals central office (in the absence of a hearing file) upon recommendation to or action by the Appeals Council in an individual case. Used by members of the Appeals Council and their support staff when working on cases on appeal and in handling post-adjudicative actions and correspondence.

Safeguards: Access to and use of these records limited to those persons whose official duties require such access.

Retention and disposal: Destroy 6 calendar months after appeals council final action where no court action is initiated. Destroy 4 calendar months after final court action in active court cases.

System manager(s) and address:

Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
Written request to above address. Individual should provide name and social security number for identification.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Claimant, representative, appropriate members of the public, Social Security Administration and other government, State and local agencies.

Systems exempted from certain provisions of the act: None.

09-60-0005

System name: Administrative Law Judge File HEW SSA BHA.

Security classification: None.

System location: All hearing offices (See Appendix G).

Categories of individuals covered by the system: Claimant - Social Security and Black Lung.

Categories of records in the system: File established in the hearing office of hearing actions taken on each particular case.

Authority for maintenance of the system: Sections 205, 1631(d)

1. , and 1872 of the Social Security Act, as amended, and Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder.

Retrievability: Alphabetical. Used as a reference to indicate actions taken in a particular case at the hearing level, in order to permit the administrative law judge or staff to reply to future correspondence.

Safeguards: Limited access to Social Security Administration offices; limited employee access to need to know.

Retention and disposal: File is destroyed two years after final action was taken.

System manager(s) and address:

Director, Bureau of Hearings and Appeals
Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
Contact the hearing office in person or writing, or send a written request to the above address, providing name a, address, and social security number.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Claimant, representative, appropriate members of the public, Social Security Administration and other government, State and local agencies.

Systems exempted from certain provisions of the act: None.

09-60-0006

System name: Storage of Hearing Records: Tape Cassettes and Audiograph Discs HEW SSA BHA.

Security classification: None.

System location:

V 43 1 188 SE 27 78

Bureau of Hearings and Appeals
801 N. Randolph St.
Arlington, Virginia 22203

Categories of individuals covered by the system: Claimant - Social Security and Black Lung.

Categories of records in the system: Recording of actual hearing before an administrative law judge.

Authority for maintenance of the system: Sections 205, 1631, and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cassette tape and disc storage containers.

Retrievability: The records are indexed by name and social security number. Basic record of the hearing conducted in an individual case by the administrative law judge, the source utilized in the preparation of documentary transcript; used as a working reference by Social Security Administration employees in event of subsequent correspondence and/or further appeal of the claim, and for processing of attorney fee petition when appropriate.

Safeguards: The containers are housed on racks in a secure storage area with access limited to employees. Access to the records is limited to employees with a job-related need to know.

Retention and disposal: Indefinite.

System manager(s) and address:

Director, Bureau of Hearings and Appeals
Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Contact the above office. Individual should provide name and social security number.
Written request to above address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Claimant, representative, witnesses, administrative law judge and staff.

Systems exempted from certain provisions of the act: None.

09-60-0008

System name: Administrative Law Judge's Docket HEW SSA BHA.

Security classification: None.

System location: All hearing offices (See Appendix G).

Categories of individuals covered by the system: Claimant - Social Security and Black Lung.

Categories of records in the system: A list of the cases pending before the administrative law judge.

Authority for maintenance of the system: Sections 205, 1631(d), and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder.

Retrievability: Social security number. Used to enable the administrative law judge to maintain control of his or her her caseload.

Safeguards: None specified.

Retention and disposal: As each case is disposed of, it is removed from the list.

System manager(s) and address:

Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Written request to above. Individual should provide name and social security number. supplied to provide identification).

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: administrative law judge, from information on incoming cases.

Systems exempted from certain provisions of the act: None.

09-60-0009

System name: Hearings and Appeals Case Control System HEW SSA BHA.

Security classification: None.

System location:

Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
and each of the 10 regional offices (see Appendix G)

Categories of individuals covered by the system: Claimant - Social Security and Black Lung.

Categories of records in the system: Social security number, name, type of claim, last action on case/date, location of case (office), date of receipt, hearing request (date/type/schedule date/request for review date), administrative law judge, cross reference number.

Authority for maintenance of the system: Sections 205, 1631(d) 1 , and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape with some punch card input.

Social Security Administration
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235 (computer terminus)

Retrievability: Social security number. Used to provide case location and status for individual cases.

Safeguards: Limited access to Social Security Administration offices; limited employee access to information on a need to know basis. SSA data processing security.

Retention and disposal: Until retirement to Federal Records Center, then erased and returned to stock.

System manager(s) and address:

Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203 Written request to above address.
Individual should provide name and social security number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Bureau employees.

Systems exempted from certain provisions of the act: None.

09-60-0010

System name: Hearings and Appeals Case Control Card File HEW SSA BHA.

Security classification: None.

System location:

Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Categories of individuals covered by the system: Claimants for social security and black lung benefits.

Categories of records in the system: Social security claim number; claimant-wage earner; administrative law judge /action/dates; Central Office/action/dates; codes hearing office/administrative law judge/social security office; routing.

Authority for maintenance of the system: Sections 205, 1631(d) 1. , and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape with some punchcard input.

Retrievability: Access is by social security number. This system is being replaced by the Hearings and Appeals Case Control System.

Safeguards: Data processing security site at Social Security Central Office, Baltimore, Maryland (See Appendix J(2)).

Retention and disposal: Indefinite.

System manager(s) and address:

Director, Bureau of Hearings and Appeals
Social Security Administration, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203 The individual desiring access should provide social security number, name, address, and proof of identity.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.). Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.). (Regulations should also reasonably identify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.2(a)(2)), FEDERAL REGISTER, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Prepared by Bureau employee.

Systems exempted from certain provisions of the act: None.

09-60-0012

System name: Listing and Alphabetical Name File (Folder) of Vocational Experts, Medical Advisors, and Medical Consultants HEW SSA BHA.

Security classification: None.

System location:

Bureau of Hearings and Appeals
3833 North Fair fax Drive

V 43/188

and
801 North Randolph Street
Arlington, Virginia 22203
and each hearing office (see Appendix G)

Categories of individuals covered by the system: Individuals under contract to provide expert or consultative services to the Bureau of Hearings and Appeals.

Categories of records in the system: A list of all Vocation Experts and Medical Advisors under contract, who are within the area serviced by the hearing office , and their usage. A list of all Medical Consultants under contract for services in Central Office. In addition, a folder is kept for each expert containing a copy of their contract, qualifications, travel orders, invoices, and correspondence and other written records concerning usage as an expert, renewal of contract, etc.

Authority for maintenance of the system: Sections 205, 1631(d)(1), and 1872 of the Social Security Act, as amended and Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folder in filing cabinet and computer storage devices.

Retrievability: Listing alphabetically of Vocational Experts and Medical Advisors by name is used to enable the administrative law judge to select the needed expert on a rotational basis for utilization in individual cases. Alphabeticl list of Medical Consultants used by Appeals Council or staff to select a consultant as needed in a case before the Appeals Council. Alphabetical files (folders) by expert name are used by operating officials in carrying out their administrative management responsibilities. They may be used in this connection in renewal of contract, for budgetary planning and contract services usage summary ,, analysis, and planning.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Retain for 2 years after expiration of contract at which time the record is deleted by erasing all machine readable records and destroying all paper records.

System manager(s) and address:
Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203
and each hearing office (see appendix G)

Notification procedure:
Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203 Contact the hearing office where services are provided in person or in writing or sent written request to the above address. The individual should provide name, social security number, date or birth and type of contract services.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information either comes from the individual, from information supplied by the individual , or is provided by SSA officials.

Systems exempted from certain provisions of the act: None.

09-60-0013

System name: Records of Usage of Medical Advisors and Medical Consultants HEW SSA BHA.

Security classification: None.

System location:
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Categories of individuals covered by the system: Medical Advisors and Medical Consultants.

Categories of records in the system: Records the occasions on which each Medical Advisor or Medical Consultant supplied advice or services to the administrative law judges or the Appeals Council, respectively.

Authority for maintenance of the system: Sections 205, 1631(d)(1), and 1872 of the Social Security Act, as amended, and Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders, magnetic tape and some punchcards.

Retrievability: Alphabetically by name--used for statistical purposes and to determine whether the contract for a Medical Advisor or Medical Consultant should be renewed.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Maintained as long as Medical Advisor or Medical Consultant is under contract. Incineration or trash disposal or erasure.

System manager(s) and address:
Director, Bureau of Hearings and Appeals
Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:
Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
Written request to above address. Individual should include name, social security number, and whether Medical Advisor or Medical Consultant.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Administrative law judges, Appeals Council, and supporting staffs.

Systems exempted from certain provisions of the act: None.

09-60-0014

System name: Curriculum Vitae and Resume of Vocational Experts HEW SSA BHA.

Security classification: None.

System location:
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
and each Hearing office (See Appendix G).

Categories of individuals covered by the system: Staff physicians, Medical Consultants, Vocational Experts and medical advisors.

Categories of records in the system: Curriculum vitae and professional qualifications.

Authority for maintenance of the system: Sections 205, 1631(d)(1), and 1872 of the Social Security Act, as amended, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
(3) to parties to a hearing
(4) to the claimant (who would be a third party in this instance).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in filing cabinets.

Retrievability: Alphabetically by name. Reproduction for use as an exhibit in individual cases, enables the administrative law judge or Appeals Council member to demonstrate the physician's professional background and expertise and vocational expert's professional background and expertise

Safeguards: Access to and use of these records are limited to those persons official duties require such access.

Retention and disposal: Maintained as long as staff physician is employed by the Bureau of Hearings and Appeals and medical advisor , Medical consultant, or vocation expert is under contract.

System manager(s) and address:
Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:
Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
or hearing office.
Contact the hearing office at above address in person or writing. individual should provide name, social security number, and indicate whether a staff physician, medical advisor, medical consultant, or vocational expert.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information either comes from the individual, from information supplied by the individual or medical directories.

Systems exempted from certain provisions of the act: None.

09-60-0015

System name: List of Physicians utilized as Readers of Black Lung X-Ray Films HEW SSA BHA.

Security classification: None.

System location:
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

each Hearing Office (See Appendix G)

Categories of individuals covered by the system: Physicians under contract utilized by BHA for x-ray reading in black lung cases.

Categories of records in the system: Copy of contract, professional qualifications and curriculum vitae of the physicians.

Authority for maintenance of the system: Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in filing cabinets.

Retrievability: Alphabetically by name--enable the selection of an appropriate physician for reading x-rays in individual cases.

Safeguards: Access to and use of thesse records are limited to those persons whose official duties require such access.

Retention and disposal: Indefinitely.

System manager(s) and address:
Director, Bureau of Hearings and Appeals
Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:
Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
and hearing offices.
Contact the appropriate hearing office or the above address in writing or person. Individual should provide name and social security number.

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Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from the individual.

Systems exempted from certain provisions of the act: None.

09-60-0017

System name: Personnel Research and Merit Promotion Test Records HEW SSA OMA.

Security classification: None.

System location:

Office of Human Resources, Office of Management and Administration, SSA
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: SSA employees.

Categories of records in the system: These records include tests, test scores, responses to test items and questionnaires, interview data, and special ratings of employees obtained in test validation and other research.

Authority for maintenance of the system: Title 5, U.S. Code Sec. 3301, Sec. 1303.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to the Civil Service Commission for personnel research purposes and for use of personal identifier such as employee name to identify employees included in research studies that extend over a period of time (longitudinal studies).
2. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, on punched cards, microfiche, computer tape, and computer storage.

Retrievability: Personnel Research--Personal Information can be retrieved by name or personal identifier (such as social security number) only for certain research projects such as those that involve longitudinal studies. Confidential and/or protected information such as ratings or test materials will not be disclosed. Research data are collected on a project by project basis and are used for the construction, analysis and validation of written tests; for research on personnel measurement and selection methods and techniques such as performance evaluation or productivity. No personnel decisions are made in the use of these research records. Many data are collected under conditions assuring their confidentiality. Personal information in this system of records is used by the Personnel Measurement and Research Branch in its researeh activities. Merit Promotion--Merit promotion test records are maintained by major SSA organization component, name and social security number. Merit promotion test information is used as one of the factors weighted under SSA Merit Promotion Programs. These records also may be used as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected or maintained, or for related personnel management functions or manpower studies.

Safeguards: Records are kept in locked files or locked room, and access is limited to research staff.

Retention and disposal: Indefinite.

System manager(s) and address:

Director, Office of Human Resources
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Write to the Director, Division of Policy Management and Research and provide name, name of system, identifier where required, and place of SSA employment or former employment.

Record access procedures: Same as notification procedures Requestors should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)), FEDERAL REGISTER, October 8, 1975, page 47410.

Contesting record procedures: Same as notification procedures Requestors should reasonably identify the records and specify the information to be contested. (these procedures are in accordance with Department Regulations (45 DFR, Section 5b.7), FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories: Individual SSA employees, supervisors, assessment center assessors or data from SSA personnel files and records.

Systems exempted from certain provisions of the act: Under the provisions of 5 USC 552, Sec. K (6), which provides for exempting 'testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process,' we exempt from disclosure all Social Security Administration merit promotion tests, test item files, answer keys, completed answer sheets, transmutation tables and schedules, and ratings given for the purpose of validating tests.

09-60-0030

System name: Employee Housing Request Files HEW SSA OMA.

Security classification: None.

System location:

Office of Human Resources, Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: SSA employees who have requested housing counseling services.

Categories of records in the system: This system of records contains the employee's name, home address, position, grade, work location, work telephone number, housing assistance requested and assistance given.

Authority for maintenance of the system: Executive Order 11478

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Statistical data furnished to U.S. Dept. of Housing and Urban Development. Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity, (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. (Statistical data) to U.S. Dept. of Housing and Urban Development.

4. In accordance with Appendix B of the Department Regulations (45 CFR , Part 5b) Items (3), (4), (5), (6), and (8).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Indexed by the employee's name. Information is used by housing counselors to assist employee in finding suitable housing.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are maintained for 1 year and then destroyed.

System manager(s) and address:

Director, Office of Human Resources
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the System Manager and provide name, clerk number or other identifier, and place of SSA employment or former employment.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information provided by the employee.

Systems exempted from certain provisions of the act: None.

09-60-0031

System name: Employee Production and Accuracy Records HEW SSA OMA.

Security classification: None.

System location:

Operating offices of SSA at the organizational level of the individual's employment.

Categories of individuals covered by the system: Current employees of SSA.

Categories of records in the system: Work measurement records with the following items: employee name, grade, organization unit and shift, social security number, clerk number, Supervisor's name, production data (monthly, weekly, daily), accuracy data, backlog information, error ratio, processing time data, operating and production control codes, leave usage.

Authority for maintenance of the system: 5 U.S.C. 301. ,

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. In accordance with Appendix B of the Department Regulations (45 CFR, Part 5b) Items
1. , (3), (5), (6), (7), (8), and (9).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on punch cards, magnetic tape, and on paper forms in file cabinets.

Retrievability: Indexed alphabetically and in social security number or clerk number sequence. Used by Social Security Administration management for manpower planning, production control (to identify backlogs, and systems and procedure problems, manpower utilization, budget estimations, appraisal of employees).

Safeguards: Released to employees or management who have a need to know. For computerized records, electronically transmitted between Central Office and field office location (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: Kept for two years and destroyed.

System manager(s) and address:

Associate Commissioner for Management and Administration
Room 800 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: An individual should contact his/her immediate supervisor and provide information necessary to identify the record being sought.

Record access procedures: Same as notification procedures. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)

2.) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Employee completed cards or records records completed by supervisor or control personnel, information furnished by time keeper.

Systems exempted from certain provisions of the act: None.

09-60-0032

System name: Debtors, Credit Counseling and Consumer Protection HEW SSA OMA.

Security classification: None.

System location:

Office of Human Resources, Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Employees of SSA headquarters who request services or employees about whom the administration receives written inquiries because of employees' alleged delinquency in paying taxes and just debts.

Categories of records in the system: Form SSA-3048:

Employee's name
Social Security Number
Telephone extension
Bureau, branch
Grade
Area of service
Nature of request including personal information as to finances that the employee voluntarily provides
Disposition, including employee's stated intentions
Record of letters or tax forms sent as replies and referrals made to community organizations
Copies of letters from employees to consumer agencies
Letters from creditors or their representatives and copies of our
replies
Copies of tax levies against employees.

Authority for maintenance of the system: Title 45 Public Welfare, Part 73.735-702 Standards of Conduct HEW Federal Personnel Manual, 735-4-10.B1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. In accordance with Appendix B of the Department Regulations (45 CFR, Part 5b) Items
1. , (3), (4), (5), (6), (8).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Alphabetically by name. These files are also used by staff members of Employee Relations Branch for work processing, perspective in counseling and possible disciplinary action when indicated.

Safeguards: Locked steel file cabinets.

Retention and disposal: Routine cases destroyed by shredding after period of one year except for tax review which are kept indefinitely. Ongoing cases in which there is indepth counseling may be kept up to three years from date of last contact.

System manager(s) and address:

Director, Office of Human Resources
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries should be addressed to the Director, Division of Personnel and Training Operations Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, and should include the individual's name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)

2.) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information obtained from employee, creditors, IRS, State Tax Division of various States. SSA Computer Printout 7887 Part I 'Locator' used to find telephone extension of employees.

Systems exempted from certain provisions of the act: None.

09-60-0033

System name: Requests for review of proposed contracts with experts and consultants HEW SSA OMA.

Security classification: None.

System location:

Office of Human Resources, Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individuals for whom personal service contracts are proposed.

Categories of records in the system: Form SSA-2112 Requisition for Services and related correspondence concerning review by the Division of Personnel in order to determine whether services should be obtained by the appointment or by the procurement method. Record may contain individual's name, education, work experience and qualifications, social security number, and date of birth.

Authority for maintenance of the system: 5 USC 3109.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. In accordance with Appendix B of the Department Regulations (45 CFR, Part 5b) Items
1. , (3), (5), (6), (7), (8), and (9).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Retrievable by name. Used by GAO auditors with requested information concerning the reasons for recommendations made.

Safeguards: Lockable file.

Retention and disposal: Indefinite.

System manager(s) and address:

Director
Office of Human Resources
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Director
Division of Policy Management and Research
6401 Security Boulevard
Baltimore, Maryland 21235

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)

2.) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information furnished by individual and SSA Bureau and Office Management Component.

Systems exempted from certain provisions of the act: None.

09-60-0034

System name: Social Security Administration Contract Files HEW SSA OMA

Security classification: None.

System location:

Office of Management and Administration
Supply Building
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individual consultants.

Categories of records in the system: Name, address, contract number, qualifications and the amount of the contract.

Authority for maintenance of the system: Sections 205(a), 1634 and 1842 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity;

(b) the United States where the Department determines that the claim if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name and contract number, and used by employees for post audits and reference.

Safeguards: Files are maintained in locked filing equipment.

Retention and disposal: Each file is maintained for a period of 6 years, 2 years at Social Security Administration and 4 years in a Federal Records Center where they are destroyed.

System manager(s) and address:

Associate Commissioner for Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Director,
Division of Contracting and Procruement
Supply Building
6301 Security Boulevard
Baltimore, Maryland 21235.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in the files comes directly from the individual consultant as well as bureau or office requesting the service in question.

Systems exempted from certain provisions of the act: None.

09-60-0037

System name: General Criminal Investigation Files HEW SSA OMA.

Security classification: None.

System location:

Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Reported violators of Federal and State criminal laws on Social Security Administration property.

Categories of records in the system: Investigative efforts to resolve reported crimes and evidence obtained for judicial prosecution.

Authority for maintenance of the system: Section 535 of Title 28, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. In accordance with Appendix B of the Departmental Regulations. See 45 CFR 5b, Appendix B
1. and (5).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Heavy-weight Kraft file folders in fireproof, locked, steel cabinets.

Retrievability: Indexed alphabetically by names of subject of investigation.

Safeguards: Access limited in storage area to Protective Security Section only.

Retention and disposal: Seven years, then shredded.

System manager(s) and address:

Chief
Protective Security Branch
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: An individual can determine if this system contains a record pertaining to him by sending a request in writing to the Systems Manager. The request should contain full name, date of birth, as well as work location in the Social Security Administration.

Record access procedures: Per 5 U.S.C. 552a(k)

2. , the records in this system are exempt from access by the individual named in the records. However, access to information which is a matter of public record or documents furnished by the individual will be permitted. Requestors should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)), FEDERAL REGISTER, October 8, 1975, page 47410.

Contesting record procedures: Same as notification procedures. Requestors should reasonably identify the records and specify the information to be contested. (these procedures are in accordance with Department Regulations (45 CFR, Section 5b.7),FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories: Information in files comes from interviews of persons believed knowledgeable about crimes under investigation who furnish relevant facts which can serve to identify possible violators and secure the conviction of the guilty.

Systems exempted from certain provisions of the act: Exemption of this system to the access provisions is claimed under section (k)(2) of the Privacy Act inasmuch as these records are investigatory materials compiled for law enforcement in anticipation of a criminal proceeding. (See page 47413 of Federal Register of 10/8/75, Vol. 40, No. 196, Part V).

09-60-0038

System name: Employee Identification Card Files (Building Passes) HEW SSA OMA.

Security classification: None.

System location:

Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All social security employees. Non-social security employees who require continuous access to buildings. (e.g. employees of vendors and contractors).

Categories of records in the system: Name, social security number, Bureau/Office, office telephone number, color code for type of pass.

Authority for maintenance of the system: Federal Property Management Regulations, 41 CFR 101-20. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any

employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained on Social Security Administration Forms 364 and 1860.

Retrievability: Forms are indexed by social security number. Identification cards are used for admission to Social Security buildings, and the application forms verify prior issuance in the event of loss or theft of the card.

Safeguards: Forms 364 are in locked files; forms 1860 are destroyed after forms 364 are issued.

Retention and disposal: Forms 364 are kept during the length of service of the individual and then destroyed; picture pass is forwarded to Protective Security Office, Social Security Building, 6401 Security Boulevard, Baltimore, Maryland 21235, for destruction.

System manager(s) and address:

Associate Commissioner for Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Chief
Facilities Branch
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

For replacement, individual is required to fill out Social Security Form 1860,
Request for Replacement.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in these files is received from the Division of Personnel and Training Operations as well as individual employees, contractors, or vendors.

Systems exempted from certain provisions of the act: None.

09-60-0040

System name: Quality Review System HEW SSA OMA.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Randomly selected applicants for and/or beneficiaries of:

a. Supplemental Security Income (SSI) payments under title XVI of the Social Security Act. Records of some SSI beneficiaries may have been transferred from State welfare rolls for Aid to the Aged, Blind, and Disabled.

b. Retirement, survivors, and disability insurance benefits under title II of the Social Security Act.

Categories of records in the system:

a. Supplemental Security Income Quality Review: Quality Assurance Data Base, selected casefile, contingency sample master file, designated case file, designated case transmission file, designated case extract file, and sample control list. These records may contain: social security number, State and county of residence, type of claim, information regarding federally administered supplementation payments, social security claim numbers, living arrangements and family composition, income and medical information, sex, race, resources, third party contacts, and indications of processing errors.

b. Retirement and Survivors Insurance and Disability Insurance Quality Review: These records contain information regarding Federal payments and other information listed in (a) above.

Authority for maintenance of the system: Sections 205(a), 1631(d), and 1631(e) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: With respect to SSI data, routine use disclosure may be made:

1. As noted in 45 CFR, part 5b, Appendix B-(1), (3), (6), (9), and (103)
2. To members of the community and local, State, and Federal agencies in order to locate the individual (when his or her whereabouts are unknown), to establish the validity of evidence or to verify the accuracy of information presented by the applicant/beneficiary, representative payee, legal guardian or other representative of the applicant/beneficiary
3. To State Welfare Departments pursuant to agreements with the Social Security Administration for the Federal administration of State supplementation payments.
4. State agencies for administration of the Medicaid Quality Control system
5. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

With respect to title II data, routine disclosure is made only as indicated in items 1, 2, 5, and 6.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and disks.

Retrievability: By any set of record characteristics e.g., social security number, and name.

The Quality Review Data Base is used for accumulating and tabulating data to determine the accuracy of the entitlement status of applicants/ beneficiaries and of benefit amounts paid under the retirement and survivors insurance and the disability insurance programs, and eligibility status of applicants/beneficiaries and of benefit amounts paid under the supplemental security imcome program. Title XVI data also are used to calculate the Federal fiscal liability case and gross dollar error rates for State supplementation funds administered by the Social Security Administration. Other categories of records provide data necessary to complete the data base and to provide information to the Social Security Administration's Quality Assurance Regional Offices and Field Office Staffs needed to review cases in order to obtain information on the general level of accuracy of the entire beneficiary rolls in the programs noted previously.

Safeguards: Tapes are stored in tape vault in Electronic Data Processing Operations Branch or in protected storage racks; disks in protected storage racks. The entire area is secured by guarded entrances, with admission limited to authorized personnel.

Retention and disposal: The Quality Assurance data base is retained indefinitely. Other records are erased after 30-500 days.

System manager(s) and address:

Director, Office of Quality Assurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Requests may be forwarded to the Director, Division of Quality Review, Office of Quality Assurance, 6401 Security Boulevard, Baltimore, Maryland 21235. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information in the supplemental security income quality assurance system is furnished by applicants for and beneficiaries of supplemental security income, representative payees of such individuals (where appropriate), Social Security Administration offices, other Federal and State agencies, and (with prior written permission of the applicant or beneficiary) from private sources.

Systems exempted from certain provisions of the act: None.

09-60-0042

System name: Quality Review Casefile HEW SSA OMA.

Security classification: None.

System location: Office of Quality Assurance, Office of Management and Administration, 6401 Security Boulevard, Baltimore, Md. 21235; Office of Quality Assurance , Regional (10) and Field (27), Offices (See Appendices D.3 and D.4 respectively).

Categories of individuals covered by the system: Randomly selected applilcants for and/or beneficiaries of:

a. Supplemental Security Income (SSI) payments under title XVI of the Social Security Act. Records of some SSI beneficiaries may have beeen transferred from State welfare rolls for Aid to the Aged, Blind, and Disabled.
b. Retirement, survivors, and disability insurance benefits under title II of the Social Security Act.

Categories of records in the system: The Quality Review Casefile contains information from SSA records and information obtained by Quality Specialists fro m retirement and survivors insurance, disability insurance and SSI applicants beneficiaries and from third party sources. These casefiles may contain information relating to any combination of these three programs.

Authority for maintenance of the system: Sections 205(a) 1631(d)(1) and 1631(e)(1)(B) ofthe Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: With respect to SSI data, routine use disclosure may be made:

1. As noted in 45 CFR, part 5b, Appendix B-(1), (3), (6), (9), and (103;)
2. To members of the community and local, State, and Federal agencies in order to locate the individual (when his or her whereabouts are unknown), to establish the validity of evidence or to verify the accuracy of information presented by the applicant/beneficiary, representative payee, legal guardian or other representative of the applicant/beneficiary;
3. To State Welfare Departments pursuant to agreements with the Social Security Administration for the Federal administration of State supplementation payments;
4. State agencies for administration of the Medicaid Quality Control system;
5. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

With respect to title II data, routine disclosure is made only as indicated in items 1, 2, 5, and 6.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manilla folder.

Retrievability: The Quality Review Casefiles can be retrieved by social security number. Retrieval will be speedier if the individual's State of residence, program under which benefits were received and/or applied for, and sample selection month are supplied.

Both title II and title XVI Quality Review casefiles are used for accumulating data concerning the eligibility or entitlement of applicants/beneficiaries and of benefit amounts paid under the retirement, survivors, and disability insurance programs, and the supplemental security income program. Casefiles also provide data necessary to complete the Quality Review Data Base and to provide information to the Social Security Administration's Quality Assurance Regional Offices and Field Office Staffs needed to review cases in order to obtain information on the general level of accuracy of the entire beneficiary rolls in the programs noted previously.

Data obtained from the title XVI Quality Reveiw casefiles also are used to calculate the Federal fiscal liability case and gross dollar error rates for State supplementation funds administered by the Social Security Administration.

Safeguards: With respect to title XVI , Quality Review csefiles are stored in the Quality Assurance Field Offices that have jurisdictional responsibility for review of the selected sample case. With respect to title II, Quality Review casefiles are stored in the Quality Assurance Regional Offices and where appropriate, in the Quality Assurance Field Offices that have jurisdictional responsibility by review of the selected sample case . All Quality Review casefiles are stored either in locked rooms or in space serviced by GSA guards.

Retention and disposal:

a. Title XVI Quality Review casefiles are retained for 18 months after the case was selected for quality review or until fiscal settlement (Federal fiscal liability situation) for the sample period for which the individual case was selected is reached between SSA and the individual States whichever is later.
b. Title II Quality Review casefiles are retained for 18 months after case was selected for review.

System manager(s) and address:

Director
Office of Quality Assurance
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Requests may be forwarded to the Program Review Officers (See Appendix D-3). An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably

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identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: In formation in the Quality Review casefile is furnished by applicant/ beneficiaries under the retirement, survivors insurance program, disability insurance program, and the supplemental security income program, representatives of such individuals (where appropriate), Social Security Administration offices, and other Federal , State and local agencies, and from private sources.

Systems exempted from certain provisions of the act: None.

09-60-0043

System name: Daily Record of Certified Benefits HEW SSA OPO.

Security classification: None.

System location:

Bureau of Disability Insurance
Baltimore, Maryland 21241

Categories of individuals covered by the system: Social security disability insurance and black lung beneficiaries.

Categories of records in the system: The name and address of the beneficiary(s) or the name and address of the representative payee, the social security number of the beneficiary or the individual on whose earnings record, benefits are being paid, the beneficiary identification code, the monthly benefits amount, and the amount of accrued benefits being certified via a monthly updated tape for immediate payment.

Authority for maintenance of the system: Section 223 of the Social Security Act (42 U.S.C. 423), and 5 U.S.C. 301, 30 U.S.C. 921. Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. Records are maintained daily of all benefit amounts authorized for payment and forwarded monthly to United States Treasury Department for issuance of the benefit checks.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: A duplicate of the data that is transmitted to the Treasury Department is maintained on a tape file under security measures and then transferred to a Federal record center for permanent storage.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate data and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Part of the information is derived from the individual and part from the computation of the benefit formula.

Systems exempted from certain provisions of the act: None.

09-60-0044

System name: Initial and Continuing Disability Determination File HEW SSA OPO.

Security classification: None.

System location: Each Disability Determination Services office. The name and address for each State is shown in Appendix B.

Categories of individuals covered by the system: Applicants for disability insurance and black lung benefits and applicants for Supplemental Security Income alleging a disability on whom the Disability Determination Services had made an initial determination and all such beneficiaries on whom the Disability Determination Service has made a determination of continuance (or noncontinuance) of disability.

Categories of records in the system: Name and social security number of wage earner, claimant's name and address, sex, date of birth, race, marital status, number of children (if applicable), alleged onset date of disability, diagnosis, beginning and ending of prescribed period of disability, quarters of coverage under Social Security Act, basis for determination, vocational background information, number of years in occupation, education level, reexamination date (if applicable), and date of application. Also, name and title of persons making or reviewing the determination, and certain administrative data. These records are snap-out type forms having multiple carbon copies. One of these copies, designated as the 'State Agency Copy' is retained by the Disability Determination Service (formerly known as State agencies).

Authority for maintenance of the system: 5 U.S.C. 301, 30 U.S.C. 923(b) Sections 221, 1633, or 1634 of the Social Security Act, and 42 U.S.C. 421, 1833, 1834 under which each State may enter into an agreement with the Secretary of Health, Education, and Welfare to make determinations as to disability with respect to individuals within that State.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be to:

1. Disability Determination Services claims personnel after the claims file itself has left the possession of the Disability determination Service, for responding to subsequent inquiries from the claimant, a treating physician, or a component of the Social Security Administration.
2. State vocational Rehabilitation agency or State crippled children's service agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382d.
3. State audit agencies utilizing this information for verifying proper expenditure of Federal funds by the State in support of the Disability Determination Service (DDS).
4. Veterans Administration of information requested for purposes of determinin eligibility for or amount of VA benefits, or verifying other information with respect thereto.
5. Railroad Retirement Board for administering the Railroad Unemployment Contributions Act.
6. Congressional offices from the record of an individual response to an inquiry from the congressional office made at the request of that individual.
7. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

8. In response to legal process of interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Carbon copies of Forms SSA-831 and SSA-833 are maintained in sectionalized files.

Retrievability: Filed by social security number or alphabetically by the claimant or beneficiary's name depending on Disability Determination Service preference.

Safeguards: Accessible only to Disability Determination Service personnel and subject to the restrictions on disclosures under 5 U.S.C. 552(b)(6), 21 U.S.C. 1175, 42 U.S.C. 1306.

Retention and disposal: May vary from State to State according to the preference, but generally each State destroys its files over a period varying from 6 months to 36 months unless held in an inactive storage under security measures for a longer period.

System manager(s) and address: Assistant Regional Commissioner, Disability Insurance, at the address shown in Appendix B, Federal Register, September 20, 1976, page 41049.

Notification procedure: Disability Determination Services Administrator, Disability Determination Services, c/o State in which the individual resides and/or information is likely to be maintained. See Appendix B, Federal Register, September 20, 1976, page 41049. Requester should furnish identifying information: name, social security number, address An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: These records summarize information contained in the file Folder, which was obtained from the individual or someone acting on the individual's behalf and from the individual's physician, or a physician performing a consultative examination or from hospitals and other treatment sources.

Systems exempted from certain provisions of the act: None.

09-60-0045

System name: Black Lung Payment System HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All black lung beneficiaries currently entitled to receive a black lung benefit and beneficiaries terminated because of a termination event as defined in the Federal Coal Mine Health and Safety Act.

Categories of records in the system: The Black Lung Master Records consist of a payment master record and a benefit master record which are matched once a month. The payment master record reflects the social security number and the payment identification code under which black lung benefits are awarded and payment data such as the monthly payment amount, the scheduled payment amount, offset information, the number of beneficiaries on the account as well as the number of beneficiaries in the payment, the month of accrual, the month of debit, credit information, future month of adjustment diary dates, cross-reference information, payee name and address information, direct deposit data, and statistical information. The benefit master record contains a benefit record for each beneficiary on the account which includes the social security number, the payment and benefit identification codes, the payment status, the monthly benefit amount, the beneficiary's name, type of benefit, data of birth, race, sex, offset information, credit information, date of filing, date of entitlement, representative payee information, and statistical information.

Only the latest action taken is reflected on these records. The records may be in the following form: Payment Master Record Computer File; Benefit Master Record Computer File; Treasury Payment Tape File; Microfiche Files; Payment Reference Listing; Benefit Reference Listing.

Authority for maintenance of the system: Sections 413 and 415 of Part IV of the Federal Coal Mine Health and Safety Act (Black Lung).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper.

Retrievability: By social security number. The data on the Black Lung Master Records is used by Social Security employees for responding to inquiries, computer exception processing, conversion of benefits, end of the month reconcilations, statistical studies to generate payment tapes for Treasury, and for xchange with the Department of Labor for administering provisions of the Title IV of the Black Lung Act.

Safeguards: Magnetic tape is protected through standard security measures used for all Social Security Administration computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records.

Retention and disposal: Magnetic tape records are retained up to 90 days. Paper records are usually destroyed after use, except where needed for documentation of the claims folder.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information for the Black Lung Master Records is furnished by the beneficiary at the time of filing for benefits via the application form and necessary proofs and during the period of entitlement when notices of events such as changes of address, work, marriage, etc., are given to the Social Security Administration by the beneficiary. This information is prepared for input to this system from the Black Lung claims folders.

Systems exempted from certain provisions of the act: None.

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09-60-0046

System name: Consultative Physician File HEW SSA OPO.

Security classification: None.

System location: Offices of the Disability Determination Services (DDS) of each State that may currently maintain this type of file. The names and addresses of each DDS are in Appendix B.

Categories of individuals covered by the system: Physicians who have expressed a willingness to conduct consultative examinations for the DDS and, in some instances, other physicians with whom the DDS has contact. The latter are usually treating physicians.

Categories of records in the system: Information relative to a physician's speciality, past experience with him as to the promptness with which he submits reports, general thoroughness of his reports, etc., as well as perhaps comments on the physician's own preferences (such as appointment hours, etc.).

Authority for maintenance of the system: 5 U.S.C. 301, 30 U.S.C. 923(b), Sections 221, 1633, and 1634 of the Social Security Act under which each State may enter into an agreement with the Secretary of Health, Education, and Welfare to make determinations as to disability with respect to individuals within that State.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each DDS Maintains its own records and the method of storage may vary from State to State. Generally, the information is on a file card maintained in a standard card file cabinet.

Retrievability: Records are filed alphabetically and are retrieved manually by authorized personnel. DDS personnel utilize this information when considering the need for additional medical evidence in claims under Titles II and XVI of the Social Security Act or Title IV of the Federal Coal Miners Health and Safety Act.

Safeguards: Only authorized Disability Determination Services personnel have access to these records. Personal information other than the name of the physician is subject to the disclosure restrictions of 5 U.S.C. 552(b)(6), 21 U.S.C. 1175, and 42 U.S.C. 1306.

Retention and disposal: Disability Determination Services policy as to retention and disposal varies from State to State, but generally, the file is purged upon death, retirement, or relocation of the physician.

System manager(s) and address: Assistant Regional Commissioner, Disability Insurance at the address shown in Appendix B

Notification procedure: Inquiries and requests by individuals should be addressed to:

Disability Determination Services Administrator
Disability Determination Services
C/O State in which the individual resides and/or
information is likely to be maintained.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Most information is obtained directly from the physician. Observations of Disability Determination Services personnel about the physician, such as a doctor's general promptness in filing reports, may occasionally be found in a physician's file.

Systems exempted from certain provisions of the act: None.

09-60-0047

System name: Critical Case Processing Time HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Social security disability beneficiaries or claimants whose application for disability benefits is pending.

Categories of records in the system: Social security numbers of claimants and dates requests were received and processed.

Authority for maintenance of the system: Section 221 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. Records used monthly to prepare processing time reports.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Tapes are maintained until the decision is made at which time the record is erased.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Records are prepared from control sheets showing date of requests, date request was processed and type of request.

Systems exempted from certain provisions of the act: None.

09-60-0049

System name: Disability Data Record HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Social security disability beneficiaries or claimants whose application for a disability benefit has been allowed or denied.

Categories of records in the system: Social security numbers of the claimant and other demographic and statistical information relating to the disability decision.

Authority for maintenance of the system: Section 221 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

3. to the Energy Resources Development Administration for their study of the long term effects of low-level radiation exposure.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. This tape is used for various special studies.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: Tapes are maintained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The record contains data taken from the claim file which was obtained from the individual or someone acting on the individual's behalf.

Systems exempted from certain provisions of the act: None.

09-60-0050

System name: Completed Determination Record - Continuing Disability Determinations HEW SSA QPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Allowed disability claimants on which a continuing disability issue has occurred and a decision of continuance or cessation has been approved.

Categories of records in the system: Name and social security number of the individual and other data such as date of birth, District and State Agency Code, date disability began, type of claim, reasons for reopening, continuance or cessation code, date of termination (if applicable), date of completion, etc.

Authority for maintenance of the system: Section 221 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. Used primarily to record the result of continuing disability investigations.

Safeguards: Only authothized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards, and photographs, etc.

Retention and disposal: Tapes are maintained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with De-

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partment Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8e 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: These records summarize information contained in the claims folder which was obtained from the individual or someone acting on the individual's behalf and from this individual's physician, or a physician performing a consultative examination or from hospitals and other treatment sources.

Systems exempted from certain provisions of the act: None.

09-60-0051

System name: Administrative Disallowance Records for Technical Denials HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any disability applicant whose claim has been disallowed for technical reasons, generally for failure to meet the insured status provisions at any time.

Categories of records in the system: The name and social security number of the claimant together with other pertinent data such as district office code, disallowance code, date claim filed, disallowance notice number and date processed.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. The record serves as a statistical and workload accounting source for disability decisions on applicants who never met or do not meet the insured status provisions in relation to the date disability began.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Tapes are retained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information for this record is taken from Form SSA-201B, Determination of Disallowance - Disability Claim which is completed by a Social Security Administration employee to document the reason for the determination.

Systems exempted from certain provisions of the act: None.

09-60-0052

System name: Disposition of Vocational Rehabilitation Report to Social Security Administration HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Disability claimants accepted for vocational rehabilitation services under the reimbursement provisions and now reported as closed (no longer receiving service).

Categories of records in the system: The name and social security number of the disabled beneficiary together with other statistical information such as type of claim, closure status, date of closure, State vocational rehabilitation code, date of form etc.

Authority for maintenance of the system: Section 222 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. The record serves as a statistical and accounting source for claimants involved in the vocational rehabilitation reimbursement program. The receipt of notice of closure Form SSA-853 clears the control.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Tapes are maintained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The data is extracted from Forms SSA-853 - Vocational Rehabilitation Report to Social Security Administration which is completed by State offices of vocational rehabilitation.

Systems exempted from certain provisions of the act: None.

09-60-0053

System name: Reimbursement from Trust Fund for Vocational Rehabilitation Services HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Disabled claimants referred and undergoing consideration for vocational rehabilitation services; costs of such services to be reimbursed from social security trust or general funds providing a beneficiary status exists.

Categories of records in the system: The name and social security number of the claimant as well as vocational rehabilitation state and district office code, type of claim, amount of benefit (at time of referral), date of request for status.

Authority for maintenance of the system: Sections 222 and 1615 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. Serves as a control and monitor of vocational rehabilitation referral activity in the disability program in order to validate the use of trust funds and general funds expended for services rendered.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Records are destroyed upon notification of closure from the State agency or upon expiration of five years from date record was created, whichever occurs first.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The basic record is prepared as the result of a written or teletyped request for benefit status from the State agency. Additional information is secured from the master beneficiary record and the supplementary security record files.

Systems exempted from certain provisions of the act: None.

09-60-0055

System name: Lag Period Between Initial Denial Notice and Reconsideration Study HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Social security disability beneficiaries or claimants.

Categories of records in the system: Social security numbers of the claimant, State agency code, month -year of processing, request code.

Authority for maintenance of the system: Section 221 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Tapes are maintained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents

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being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The data is extracted from the individual's claim record.

Systems exempted from certain provisions of the act: None.

09-60-0056

System name: Vocational Rehabilitation Savings Calculation HEW SSA OPO.

Security classification: None.

System location:

Office of Data Development
Office of Management and Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Disability beneficiaries reported by State vocational rehabilitation agency as no longer receiving vocational rehabilitation service.

Categories of records in the system: The name and social security number of the beneficiary and identifying information about the notice of disclosure, the date of termination or reduction in benefits, if any, amount of benefit, amount of savings and other miscellaneous data.

Authority for maintenance of the system: Section 222 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Access is by use of the social security number. The record serves primarily as a source for furnishing statistical and benefit information on the vocational rehabilitation reimbursement program.

Safeguards: Only authorized personnel having a need for this information in the performance of their official duties have access to this data under stringent security measures involving guards, identity cards and photographs, etc.

Retention and disposal: Tapes are maintained indefinitely.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager, and furnish social security number, name, approximate date and place claim was filed, type of claim (disability, black lung, supplemental security income) and return address.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information is extracted and compiled from the vocational rehabilitation closure report, the master beneficiary record and the summary earnings record.

Systems exempted from certain provisions of the act: None.

09-60-0057

System name: Quality Evaluation Data Records HEW/SSA OPO.

Security classification: None.

System location: Bureau of Disability Insurance, Baltimore, Maryland 21241

Categories of individuals covered by the system: Individuals who have filed application for Social Security Disability Benefits and/or Supplementary Security Income Benefits.

Categories of records in the system: Social security numbers of claimants, demographic, diagnostic, and other types of data generated as a result of a review of the State actions on the claim.

Authority for maintenance of the system: Section 221 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The system consists of tape, paper, and disk records.

Retrievability: The records are maintained in SSN sequence. Records are used to report monthly results of the review of the state disability determination process.

Safeguards: Records are subject to the same rules and safeguards as all other information in SSA relating to claims and beneficiary records. (See Appendix J).

Retention and disposal: The records are maintained for a period of 18 months and then destroyed in 18 months.

System manager(s) and address:

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Notification procedure: Contact the systems manager in writing and furnish social security number, name, approximate date, place claim was filed, type of claim (disability or supplemental security income) and return address. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably

identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Records are prepared from Form SSA 3094 and show decision, diagnosis and other information.

Systems exempted from certain provisions of the act: None.

09-60-0058

System name: Master files of Social Security Number Holders HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All individuals who have obtained social security numbers.

Categories of records in the system: This system contains all of the information received on original applications for social security numbers and any changes in the information on the applications that are submitted by the social security number holder. Cross-reference may be noted where multiple numbers have been issued to the same individual; and indication that benefit claim has been made under this social security number.

Authority for maintenance of the system: Section 205(a)of the Social Security Act; Section 205(c) (2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Employers are notified of the social security number of an employee in order to complete their records for reporting FICA to the Social Security Administration pursuant to the Federal Insurance Contributions Act and Section 218 of the Social Security Act.
2. State welfare agencies are notified on written request, of the social security numbers of AFDC applicants or recipients.
3. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.
4. The Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens.
5. The Department of Justice (Federal Bureau of Investigation) and the Department of Treasury (United States Secret Service) for national security matters and in connection with threats on the life of the President or other dignitaries.
6. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the railroad Unemployment Insurance Act.
7. Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure.
8. The Treasury Department for tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.
9. Contractors under contract to the SSA for the ongoing conversion of paper documents to machine readable form for entry into magnetic tape files.
10. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
11. The Department of State and the VA Regional Office, Philippines for administering provisions of the Social Security Act in foreign countries.
12. The Department of Labor for administering provisions of title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training programs to combat poverty.
13. The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration to the Social Security Administration for social security program purposes.
14. The Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.
15. Federal agencies who use the Social Security number as a numerical identifier in their recordkeeping systems, for the purpose of validating social security numbers.
16. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
17. State Audit agencies for auditing State supplementation payments and medicaid eligibility considerations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are maintained as paper forms, paper lists, punchcards, magnetic tape, microfilm, microfiche files, and disk with on-line access.

Retrievability: Records in this system are indexed both by social security number and by name. This information is used for the following purposes: by Social Security Administration as basic control for retained earnings information; by Social Security Administration as a basic control and data source to prevent issuance of multiple social security numbers; as the means to correctly identify incorrectly reported names or social security numbers on earnings reports; for resolution of earnings discrepancy cases; for statistical studies; by Health, Education, and Welfare Audit Agency for auditing benefit payments under social security programs; by Social and Rehabilitation Service (HEW) for locating deserting parents; by National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974; by Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.

Safeguards: All magnetic tapes and disks are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges issued only to authorized personnel. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: All paper forms are retained until they are filmed or are entered on tape, and the accuracy verifiied, then they are destroyed by shredding. All tape, disks, microfilm, microfiche files are updated periodically. The out-of-date magnetic tapes and disks are erased. The out-of-date microfiche is shredded by the application of heat.

System manager(s) and address:

Director
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: An individual may present a request for information as to whether this system contains records pertaining to himself by providing his name and social security number, or if the social security number is not known, date of birth, place of birth, mother's maiden name and father's name, and evidence of identity to the Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations

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(45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Social security number applicants; or individual acting on their behalf. The social security number itself is assigned to the individual as a result of internal processes of this system.

Systems exempted from certain provisions of the act: None.

09-60-0059

System name: Earnings Recording and Self-Employment Income System HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any person who has been issued a social security number and who may or may not have earnings under social security or self-employment income.

Categories of records in the system: This contains records of all social security number holders, their name, date of birth, sex, race, a summary of their yearly earnings, quarters of coverage, special employment codes (i.e., self-employment, military, agriculture, and railroad), benefit status and employer identification.

Authority for maintenance of the system: Section 205(a) of the Social Security Act and section 205(c)(2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Employers or former employers, including State social security administrators for correcting and reconstructing State employee earnings records and for social security purposes.
2. The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of social security checks and for tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code .
3. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment .
4. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.
5. The Department of Justice (Federal Bureau of Investigation) and the Department of Treasury United States Secret Service) for National security matters and in connection with threats on the life of the President or other dignitaries.
6. Energy Research and Development Administration for their study of low-level radiation exposure.
7. Congressional Office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
8. The Department of State and the VA Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.
9. The Veterans Administration for validation of the social security numbers of compensation /pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration for social security program purposes.
10. State Audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.
11. Federalagencies who use the social security number as a numerical 0 identifier in their recordkeeping systems, for the purpose of validating social security numbers.
12. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
13. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are maintained as paper forms, paper lists, punchcards, microfilm, magnetic , and disk with on-line access tape files.

Retrievability: Records in this system are indexed by social security number and name. This information is used for the following purposes: As a primary working record file of all social security number holders; as a quarterly earnings record detail file to provide full data in wage investigation cases; to provide information for determining amount of benefits; to record all incorrect or incomplete earnings items; to reinstate incorrectly or incompletely reported earnings items; to record the latest employer of a wage earner; for statistical studies; for identification of possible overpayments of benefits; for identification of individuals entitled to additional benefits; provide information to employers and former employers for correcting or reconstructing earnings records and for social security tax purposes; provide workers and self-employed individuals with earnings statements or quarters of coverage statements; provide information for locating deserting parents and for administering Cuban refugee assistance payments. To provide information to Health, Education and Welfare Audit Agency for auditing benefit payments under Social Security programs; to provide information to National Institute for Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974.

Safeguards: All magnetic tapes and disks are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: All paper forms and cards are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tapes, disks, and microfilm files are updated periodically. The out of date magnetic tapes and disks are erased. The out of date microfilm is shredded.

System manager(s) and address:

Director
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Any individual may present a request for information as to whether this system contains records pertaining to himself by providing his social security number, name, signature, or other personal identification and referring to this system to Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Social security number applicants, employers, self-employed individuals, Department of Justice (Immigration and Naturalization Service), Department of Treasury (Internal Revenue Service) master beneficiary record of Social Security Administration.

Systems exempted from certain provisions of the act: None

09-60-0060

System name: Correspondence File of the Bureau of Data Processing HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any individual requesting, reporting, or changing earnings information and/or inquiring about some aspect of the Social Security Act.

Categories of records in the system:

1. Correspondence received from individual, as well as copies of the
replies to the correspondence concerning:
(a) general questions about the Social Security Act and/or
(b) adjustments of earnings, based on either the incoming correspondence or
internal checks of the earnings record.
2. Minister waiver forms, i.e., forms filed by the clergy for the election
or waiver of coverage under the Act.
3. Notices of deportation.

Authority for maintenance of the system: Title II, Section 205(c)(2) of the Social Security Act; Federal Records Act of 1950 (64 stat. 583).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila Folders on open shelving.

Retrievability: Alphabetical, Employer Identification Number and Social Security Number. Reference file used to: (a) assist Social Security Administration correspondents in preparing replies to subsequent inquiries; (b) house minister waiver forms thus preventing an erroneous payment of social security benefits; (c) house notices of deportation.

Safeguards: Only authorized personnel are permitted access to the files.

Retention and disposal: a. Records are maintained for periods of 1 year, 4 years or indefinitely as follows: Permanent Retention--All material which will affect the future development of claims; copies of coverage, wage and self-employment income determinations; proof documents and deportation notices. Four Years Retention--Correspondence and evidence upon which coverage, wage and self-employment income determinations are based; correspondence which must be held until statute of limitations has run. One Year Retention--General correspondence regarding returning documents to individuals, denial of confidential information, release of confidential information to a third party based on authorization and undeliverable material. b. Records are destroyed by shredding.

System manager(s) and address:

Director
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Assistant Bureau Director, Systems, BDP 6401 Security Boulevard, Baltimore Maryland 21235 Individual should provide the Social Security Administration with their full name and social security number and return address and refer to this system when requesting information.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Correspondence received from individuals, as well as copies of our replies to this correspondence. Also correspondence generated as a result of Social Security Administration internal checks of the earnings records.

Systems exempted from certain provisions of the act: None.

09-60-0061

System name: Record of Earnings Information Furnished for Non-Program Purposes HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any individual or his survivor, or the legal representative of the individual or his estate, requesting earnings information for a non-program purpose.

Categories of records in the system: 1. Correspondence and/or related documents as well as copies of replies to the correspondence concerning earnings information from an individual's record. 2. Annotated index cards indicating individual case disposition.

Authority for maintenance of the system: Section 205 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila Folders and Index Card File.

Retrievability: Index Card - Alphabetical; Manila Folders - Quarterly, by Social Security Number.

Safeguards: Only authorized personnel are permitted access to the files.

Retention and disposal: No specific authority. Records are maintained as a working file for a period of three to six months or until final action has been taken on the request, and then destroyed.

System manager(s) and address:

Director
Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: a. Assistant Bureau Director (Systems), Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

b. Individual should provide the Social Security Administration with his full name and social security number when obtaining information from the system.

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Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Correspondence received from individuals or their legal representatives, and copies of subsequent replies to this correspondence.

Systems exempted from certain provisions of the act: None

09-60-0063

System name: Total Resources and Information Management (TRIM) System of Assistant Bureau Director Systems HEW SSA OPO.

Security classification: None

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All Employees of Assistant Bureau Director Systems.

Categories of records in the system: All systems employees by clerk number; developmental project plans subdivided into tasks; task records include clerk number of the responsible employee (not all employees are assigned this type of work); operational project plans subdivided into tasks records which usually include clerk number of project manager; administrative functions (or projects) subdivided into task records do not include any clerk numbers; all employees by clerk numbers which are only used for printing names and reports.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Online data bases - magnetic tape.

Retrievability: The system is used to plan and control work within the organization. In support of this function it prepares lists of current work assignments for employees and supervisors in due date order. Information is extracted each week and furnished to employees assigned to developmental work. Regular progress reports each week by project leader are basis for updating and/or correcting information. Programs permit retrieval of information by many parameterss including clerk number.

Safeguards: Information distributed only to employee and supervisor.

Retention and disposal: Records are accessible only when active After that time they are retained on magnetic tape.

System manager(s) and address:

Assistant Bureau Director
Systems, Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: An individual may contact the Chief, TRIM Staff, Systems, 6401 Security Boulevard, Baltimore, Maryland 21235, providing his name and clerk number.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These aecess procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is obtained from the individual or internal systems managers.

Systems exempted from certain provisions of the act: None.

09-60-0064

System name: Pending Social Security Number Applications HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Individuals requesting social security numbers and replacement cards for lost social security numbers.

Categories of records in the system: Photocopy of SS-5 (Application for Social Security Number) or roster containing individual's name, social security number. Also contains the name and telephone number of the third party (employer, bank, welfare agency) to whom the individual has requested his correct social security number be furnished. Not all offices maintain this record. Some annotate the SS-5 with the name of the third party to be contacted on the reverse side.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components, or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: May be photocopy of SS-5 or roster with third party's name and telephone number.

Retrievability: By name and social security number.

Safeguards: Usually available on a need to know basis.

Retention and disposal: Photocopy or roster is destroyed when the third parties are notified.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably

identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicant.

Systems exempted from certain provisions of the act: None.

09-60-0065

System name: Direct Input Source Documents HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Beneficiaries and applicants for retirement, survivors, or disability social security benefits, or health insurance benefits.

Categories of records in the system: Notices of death, annual report of earnings, change in marital status, address or student status, etc.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Documents are stored in file cabinets.

Retrievability: By name and social security number. Information from notices is transmitted by wire to central file to make changes that affect benefits of the individual. Source documents are retained in the district office 3 - 7 months.

Safeguards: Usually available only to people on a need to know basis.

Retention and disposal: Documents are retained 3 - 7 months and then destroyed.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Beneficiary.

Systems exempted from certain provisions of the act: None.

09-60-0066

System name: Claims Development Record HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Beneficiary, applicant, and inquirer for the various social security and black lung benefit programs.

Categories of records in the system: The file contains the name, address, and social security number of the individual. It also contains developmental notes concerning the requesting and receipt of documents required for processing a claim for benefits. Benefit amounts and date of entitlement may also be displayed.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 8 X 10 and a half cards filed in standard file cabinets.

Retrievability: By name and social security number. Used as an interviewing tool, record of clearance of claims, and sometimes as a log of activity pertinent to continued entitlement to benefits.

Safeguards: Usually available to personnel on a need to know basis.

Retention and disposal: Specific destruction dates established depending on whether a claim is allowed or disallowed. Generally maintained for 6 months and then destroyed.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants, inquiries, third parties.

Systems exempted from certain provisions of the act: None.

09-60-0069

System name: Record of Claims (Microfiche) HEW SSA OPO.

Security classification: None.

System location: District and branch offices, teleservice centers, and Reconciliation and Analysis Units. (see Appendix F)

Categories of individuals covered by the system: Beneficiaries and denied applicants for social security and health insurance benefits, supplemental security income payments.

Categories of records in the system: Certain individual's name, address, social security number, date of birth, payment history, pertinent information concerning entitlement to health insurance benefits, representative payee data, etc.

Authority for maintenance of the system: Sections 205(a) and 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

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1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche stored in special metal cabinets.

Retrievability: By name and social security number. Used by district, branch, and teleservice center offices to answer inquiries from beneficiaries. These offices and the Reconciliation and Analysis Unit also use it as a guide in development to determine continuing eligibility to benefits.

Safeguards: Cabinets are locked at night. Usually available to personnel only on a need to know basis.

Retention and disposal: New microfiche received every 3 months. Old microfiche destroyed by application of heat.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix).

Notification procedure: District, branch and teleservice center manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applicants.

Systems exempted from certain provisions of the act: None.

09-60-0075

System name: Congressional Bills File HEW SSA OPP.

Security classification: None.

System location:

Office of Program Evaluation and Planning
6401 Security Blvd.
Baltimore, Maryland 21235

Categories of individuals covered by the system: Members of Congress

Categories of records in the system: Listing of bills to amend the Social Security Act. Includes bill number, sponsor's name, state and party affiliation, date of introduction of bill, and a 3-digit subject code.

Authority for maintenance of the system: 5 U.S. Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. To the public upon request of information contained in the file under provisions of the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer terminal (magnetic tape), and paper listings.

Retrievability: Bill number, subject matter, name of sponsor for the purposes of (a) tracking social security legislation as it progresses in the Congress and (b) keeping a historical record and accounting of social security legislation.

Safeguards: Information is accessed on a limited need-to-know basis by staff of the Legislative Reference Office.

Retention and disposal: Retained for duration of each Congress. (Listing by subject matter is retained indefinitely.)

System manager(s) and address:

Legislative Reference Officer
Room 400 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Systems Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Congressional Record.

Systems exempted from certain provisions of the act: None.

09-60-0077

System name: Congressional Inquiry File HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Congressional representative.

Categories of records in the system: Correspondence to and from congressional representative.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in manila type folders.

Retrievability: Usually by name in alphabetical order.

Safeguards: Usually available to personnel on a need to know basis.

Retention and disposal: Generally retained for 6 months and may be retained longer.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Congressional representative.

Systems exempted from certain provisions of the act: None.

09-60-0078

System name: Public Inquiry Correspondence File HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: General public.

Categories of records in the system: Inquiries usually for benefit information.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in standard file cabinets.

Retrievability: By name. File is retained in event inquirer requests additional information or files a formal application and the correspondence from the individual can be used as a filing date for benefit purposes.

Safeguards: Usually available only to personnel on a need to know basis.

Retention and disposal: Destroyed after 1 year.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information furnished by inquirer.

Systems exempted from certain provisions of the act: None.

09-60-0079

System name: Wage item file HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Workers who paid Federal Insurance Contribution Act and Self-employment taxes.

Categories of records in the system: Notices sent to district offices concerning individual's earnings were reported (either by employer or himself) using an incorrect social security number or failing to show any number. Some notices involve coverage questions of self-employment income.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.
3. to the employer or wage earner to reconcile the data on the earnings report in order that the earnings can be credited to the correct social security number.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch cards.

Retrievability: By name and social security number.

Safeguards: Non-sensitive material, generally available only on a need to know basis.

Retention and disposal: Retained only until the data is reconciled. It is then forwarded to the Bureau of Data Processing and subsequently destroyed by shredding.

System manager(s) and address: Director, Bureau of Field Operations, 6401 Security Boulevard,

Notification procedure:

Assistant Regional Commissioner, Field Operations
(See Appendix F)

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Employers tax returns and self-employment tax return of individual.

Systems exempted from certain provisions of the act: None.

09-60-0080

System name: Problem Case File HEW SSA OPO.

Security classification: None.

System location: District and branch office (see Appendix F)

Categories of individuals covered by the system: Beneficiaries and applicants for social security benefits, health insurance, and black lung benefits.

Categories of records in the system: Beneficiary's name, address, social security number, nature of problem, and action being taken.

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Authority for maintenance of the system: Sections 205(a) of the Social Security Act, and section 413(b) of the Federal Coal Mine Health and Safety Act (Black Lung).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Material is placed in manila type folders and stored in file drawers.

Retrievability: By name, may be in alphabetical order. Notes may be kept on difficult or continuing problem cases and maintained in a separate file. (This file is maintained by only a few offices).

Safeguards: File drawers are locked at night time.

Retention and disposal: File is broken down upon completion of the development. Pertinent documentation is sent to the reviewing office for permanent filing as a part of the claims folder.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Beneficiary or authorized representative.

Systems exempted from certain provisions of the act: None.

09-60-0081

System name: Problem Case File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location: Reconciliation and Analysis Units located in regional offices (see Appendix F).

Categories of individuals covered by the system: Applicants for supplemental security income payments.

Categories of records in the system: Listing of cases with date of eligibility in 1974 contains individual's name, social security number and in some cases additional information pertaining to factors of eligibility such as income, resources, and living arrangements. Claims folder containing application and documentation of factors of eligibility may also be in the file.

Authority for maintenance of the system: Section 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Claims material is maintained in manila type folders. Also computerized paper listing.

Retrievability: By name and social security number. Complex cases requiring special expertise to process are controlled by this listing.

Safeguards: Available on a need to know basis.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: Reconciliation and Analysis Manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applications for supplemental security income as provided by applicant.

Systems exempted from certain provisions of the act: None.

09-60-0082

System name: Forced Payment File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location: Reconciliation and Analysis Units located in regional offices (see Appendix F)

Categories of individuals covered by the system: Applicants for supplemental security income payments.

Categories of records in the system: Paper listing containing name, social security number, and type of action being taken on the case.

Authority for maintenance of the system: Section 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper listing.

Retrievability: By name and social security number. Mainly used for control of cases requiring a special procedure for processing a claim for supplemental security income payments.

Safeguards: Available on a need to know basis.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: Reconciliation and Analysis Unit Manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applications for supplemental security income payments as provided by applicant.

Systems exempted from certain provisions of the act: None.

09-60-0083

System name: One Time Payment File HEW SSA OPO.

Security classification: None.

System location: Reconciliation Analysis Units located in regional offices (see Appendix F)

Categories of individuals covered by the system: Applicants for supplemental security income.

Categories of records in the system: File contains name of applicant, social security number, amount paid, months for which paid. Some records may also include other data pertaining to eligibility factors such as income, resources, living arrangement, etc.

Authority for maintenance of the system: Section 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to State audit agencies pursuant to agreement with HEW for auditing State supplementation payments.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 X 8 card, tally strips or copies of form SSA-8110 (SSI One-Time Payment). Records, except for tally strips which are housed on a large drum type holder, are kept in file cabinets.

Retrievability: By name and social security number. Used in cases where one time payments are made; to insure that duplicate payments are not made.

Safeguards: Access limited to employees on a need to know basis. Area secured at night--doors locked.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
Bureau of Field Operations
(See Appendix F).

Notification procedure: Reconciliation and Analysis Unit Manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applications for supplemental security income as provided by applicant.

Systems exempted from certain provisions of the act: None.

09-60-0084

System name: Control File for Cases Before Presiding Officers HEW SSA OPO.

Security classification: None.

System location: Reconciliation and Analysis Units located in regional offices (see Appendix F)

Categories of individuals covered by the system: Applicants for supplemental security income payments.

Categories of records in the system: Card file contains individual's name, social security number, and chronological record of case processing. Claims file (if present) contains, in addition, factors of eligibility such as income, resources, living arrangements, etc.

Authority for maintenance of the system: Section 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 X 8 card or SSA-250 (Development Worksheet). Claims material maintained in manila type folders.

Retrievability: By name and social security number. Informational purposes to answer inquiries from the applicant, social security district offices, and Bureau of Hearings and Appeals.

Safeguards: Available on a need to know basis.

Retention and disposal: Card files destroyed 4 months after effectuation takes place to make payments to applicant. Cases retained for at least 35 days from date of receipt from Presiding Officer to facilitate appeals process before forwarding for storage.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F).

Notification procedure: Reconciliation and Analysis Manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations

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(45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Applications for supplemental security income as provided by applicant.

Systems exempted from certain provisions of the act: None.

09-60-0085

System name: Claims Leads HEW SSA OPO.

Security classification: None.

System location: District and branch office (not maintained by all offices) (see Appendix F)

Categories of individuals covered by the system: Individuals potentially eligible for benefits under Titles II, XVI, XVIII of the Social Security Act.

Categories of records in the system: Leads from mental hospital admissions, welfare, Internal Revenue Service, Veterans Administration, etc., who may be eligible for benefits under the various social security programs. Lead forms generally contain name and address of individual, date of birth, existence of a mental or physical impairment, data on dependents, last date worked, etc.

Authority for maintenance of the system: Section 205(a) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Letter size forms usually maintained in manila type folders and interfiled with pending claims and postentitlement file.

Retrievability: Filed by name in alphabetical order in claims pending file. Used to initiate contact with individuals to determine their eligibility for benefits.

Safeguards: File drawers locked at night. Usually only available to personnel on a need to know basis

Retention and disposal: Leads maintained until claim is taken or 6 months from date inquirer is invited by letter to file a claim, whichever is earliest.

System manager(s) and address:

Assistant Regional Commissioner, Field Operations
(See Appendix F)

Notification procedure: District or branch manager (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Inquirer or third parties.

Systems exempted from certain provisions of the act: None.

09-60-0089

System name: Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HEW SSA OPO.

Security classification: None

System location: Retirement and Survivors Insurance Claims: Claims folders are maintained primarily in the Program Service Centers and the Division of International Operations (see Appendix A). Disability Insurance Claims: Disabled Insurance person under age 62 - Bureau of Disability Insurance (see Appendix B) or DIO (see Appendix A). Disabled person age 62 or older - RSI Program Service Center or DIO (see Appendix A). Black Lung Claims: Bureau of Disability Insurance (see Appendix B). Supplemental Security Income Claims: Claims folders are maintained in the Chicago Federal Archives Records Center.

In addition, claims folders are transferred to numerous other locations throughout the Social Security Administration, and the General Service Administration infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or Office of the General Counsel, Department of Health, Education, and Welfare). The disability claims folders are also transferred to State agencies for disability and vocational rehabilitation determinations (see Appendix B). The claims folders are generally set up in district or branch offices when claims for benefits are filed. They are retained there until all development has been completed, then are transferred to the appropriate reviewing office as set out above. Supplemental security income claims folders are held in district or branch offices pending establishment of a payment record, or until the appeal period, in a denied claim situation, has expired. The folders are then transferred to a folder-staging facility in Chicago prior to transfer to the Chicago Federal Archives Records Center. For district or branch office information, see Appendix F.

Categories of individuals covered by the system: Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

Categories of records in the system: The claims folder is established when a claim for benefits is filed. It contains applications for benefits, earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives. It may also contain data collected as a result of inquiries or complaints; and evaluation and measurement study of effectiveness of claims policies. Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to reports of changes of address, work status, and other post-adjudicative reports.

Authority for maintenance of the system: Payment of benefits is directed by the following sections: Sections 202-205, 223, 226, 228, 1611, 1631, 1818, 1836, and 1840 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses for disclosure may be to:

a. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security program when:
(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or
(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

b. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

c. A person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; that is:
(1) An award of benefits to a new claimant precludes an award to a prior claimant; or
(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

d. Employers or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment and for administering the Railroad Unemployment Insurance Act.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412, and, upon request, of information needed for determining eligibility for or amount of VA benefits or verifying other information with respect thereto.

k. The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act.

l. State social security administrators for administration of agreements pursuant to section 218 (State and local).

m. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes only.

n. State Welfare Departments pursuant to agreements with the Social Security Administration for administration of State supplementation payments, for determinations of eligibility for Medicaid per section 1634, and for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for federal administration of the supplementation provides for such an independent review.

o. State Vocational Rehabilitation agency, or State crippled children's service agency (or another agency providing services to disabled children) for consideration of rehabilitation services per U.S.C. and 1382d.

p. State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations, and expenditures of Federal funds by the State in support of the Disability Determination Section (DDS).

q. Private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social Security Administration or a State agency acting in accord with sections 221 or 1633.

r. Specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

s. Institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611e and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

t. To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive an account of benefit payments.

u. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

v. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

w. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Claims folders are maintained in file cabinets by service area as set out in Location above.

Retrievability: Filed in numerical sequence by social security number. The folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determination as to eligibility to benefits, the amount of benefits, reviewing continuing eligibility, holding hearings or administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

The claims folder constitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (black lung). Data are used to produce and maintain the master beneficiary record system (see Systems Notice) which is the automated payment system for retirement, survivors, and disability benefits; the supplemental security income automated system for the aged, blind, and disabled payments; the black lung payment process for black lung claims; and the Health Insurance and Billing and Collection Master record systems for Hospital and supplementary medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System while the claim is pending development for adjudication in the district or branch office, and by the Case Control System once the folder has been transferred to the reviewing office (program service centers, Division of International Operations, or the Bureau of Disability Insurance).

Safeguards: Claims folders are protected through limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

Retention and disposal: The claims folder is initially maintained in the reviewing office. Later, both active and inactive folders are transferred to the Federal Archives and Records Center for storage and inactive (no one is entitled to benefits) folders are scheduled for destruction. The time for retention prior to destruction is 5-year retention - no record of surviving potential beneficiaries; 20-year retention - withdrawn claims, claims disallowed or lump-sum death payments only, and 55-year retention - potential future claimants indicated in the file. When a subsequent claim is filed on the social security number, the claims file is recalled from the Records Center. Similarly, the claims files may be recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of the social security programs.

System manager(s) and address:

V 4 3 / 1 8 8

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Director
Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Director
Bureau of Disability Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the most convenient social security office (see Appendix F for address and telephone information) An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: In order to find out if this system contains information about him, an individual may contact the most convenient social security office in person or in writing. The inquirer should provide his name, social security number, identify the type of claim he filed (retirement, survivors, disability, health insurance, black lung, special minimum payments, or supplemental security income) (if more than one claim was filed, each should be identified); whether he is or has been receiving benefits; whether payments are being received under his own social security number, and if not, the name and social security number under which received; if benefits have not been received, the approximate date and the place the claim was filed; and his return address or his telephone number. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

Systems exempted from certain provisions of the act: None.

09-60-0090

System name: Master Beneficiary Record HEW SSA OPO

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in the Social Security Act; and denied and disallowed cases.

Categories of records in the system: The master beneficiary data contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases; contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable, reflects any special status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary subscript, beneficiary name, date of birth, date of entitlement, sex, race, and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form: Master Beneficiary Record Computer File; Online Data Base (Query and Response); Various Microform Files as follows: Master File - a master record in social security number order, Alpha File - an alphabetic list of beneficiaries, Transaction File - monthly supplement (accretions, deletions, and changes) to the master file, in social security number order, Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, and Returned and Cancelled Check Files, and payment reference listing, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary record. After use they are returned to stock.

Authority for maintenance of the system: Payment of benefits is directed by the following sections: Sections 202a-205, 223, 226, 228, 1818, 1836, 1840 and of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses for disclosure may be to:

a. Applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

b. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security programs when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

c. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

d. A person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verfication services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the Railroad Unemployment Insurance Act.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412, and upon request, of information needed for determining eligibility for or amount of VA benefits or verifying other information with respect thereto. k. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

l. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earning.

m. The Civil Service Commission for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

n. State social security administrators for administration of agreements pursuant to section 218 (State and local).

o. State Welfare Departments for administering Sections 205(c)(2) (B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC and Medicaid programs.

p. Energy Resources Development Administration for their study of the long-term effects of low-level radiation exposure. q. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

s. The Department of Labor, for statistical studies of the relationship of private pensions and social security benefits to prior earnings.

t. In the event litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

u. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, magnetic disk, microfilm, and paper.

Retrievability: Based on social security number on magnetic tape, disk, microfilm readers and printers, listings, and online computer terminals. Master beneficiary record data are used by a broad range of social security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and to generate payment records for Treasury. Data are received from the States regarding health insurance third party premium payment/buy-in information. Data are made available to the Inspector General for use in the performance of his duties.

Safeguards: All magnetic tapes and discs are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: Magnetic tape records are used to update the disc files and then are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, while the disc files are continuously updated and retained indefinitely. Microfilm is disposed of by shredding after periodic replacement. of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see notices for claims folders and post-adjudicative records of applicants and beneficiaries for social security benefits).

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols), and name and address must be furnished with proper identification.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information for the master beneficiary record comes primarily from the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the Social Security Administration by the beneficiary; from States regarding health insurance buy-in cases.

Systems exempted from certain provisions of the act: None.

09-60-0091

System name: Social Security Administration Claims Control System HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A control record is established when a claim(s) for Retirement, Survivors, Disability, and/or Health Insurance Benefits is filed on a particular social security number (SSN). Only one record is established for each social security number even though more than one claim may be filed simultaneously--e.g., claims for the wage earner, his wife, and children on one social security number.

Categories of records in the system: The record content is: social security number and wage earner's name; the date the application was filed--for a few cases it is not included because it is not known when the record is established; the type of action--i.e., Retirement, Survivors, Disability, and/or Health Insurance Benefits; the potential month of entitlement--for monthly benefits this will be the first month for which benefits may be paid; the code for the district office that processed the application; the district office that released the claim to the State agency or program center; the present location of the claim; the date the claim was released by one office and received by another.

Authority for maintenance of the system: Section 205q of the Social Security Act--This provision necessitates a systems control of claims to ensure payment within prescribed time pars.

SEP 27 78

V 43/188 SE 27 78

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and disk for online and offline retrieval.

Retrievability: Indexed by social security number. This record system is used to control claims from the point they originate in a district office until they are finally processed to completion and enables the Administration to identify those claims for which inordinate delays occur. Once identified, expeditious processing is initiated. Moreover, the data present in the system is useful in the reconstruction of a claim if the application were to be lost.

Safeguards: Magnetic tape and disk records protected through standard security measures used for all SSA's computer records--limited access to Social Security Administration offices--limited employee access to computer facilities based on specific authorization. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: The records on the magnetic tapes are purged when the decision of award or disallowance is made on the social security number or at 1 year from the date the record is established, whichever occurs first. The old versions of tapes are erased and returned to stock. The disk files are continuously updated and retained indefinitely.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols) and name and address must be furnished with proper identification.

Record access procedures: Same as notification procedure. The data in this system are extremely limited since the system is a mechanism used by the agency to control and expedite the processing of claims. Requesters, referencing the system, should provide name, social security number, approximate date and place claim was filed, type of claim (retirement, survivors, disability, or health insurance), and return address or phone number. (These access procedures are in accordance with Departmental Regulations (45 CFR , Section 56,5(a)(2)).

Contesting record procedures: It is maintained that little of the data in this system is contestible; however, should an individual wish to contest it upon review, he may discuss the matter with the staff of the the social security office specified under notification procedures above. If he decides to contest, he should reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR,Sec. 5b.7 Federal Register, October 8, 1975, page 47411).

Record source categories: The data are derived from the information furnished by the claimant on his application and by control data that is received as the claim is sent from the district office to other social security offices.

Systems exempted from certain provisions of the act: None.

09-60-0092

System name: Automated Control System for Case Folders HEW SSA OPO.

Security classification: None

System location: Program Service Centers (See Appendix A), Division of International Operations, Bureau of Disability Insurance (See Appendix B).

Categories of individuals covered by the system: All claimants who have a social security number, have filed a claim under Titles II, retirement, survivors, and disability insurance; XVI, supplemental security income, and XVIII, health insurance, of the Social Security Act, and whose claims have been processed through to a decision of award, disallowance, withdrawal, or termination such claims are in the adjudication process for reaching the aforementioned decisions.

Categories of records in the system: A control record by social security number containing data relative to the location of the claim serviced by one of the offices maintaining jurisdictional responsibility. Whether the claims folder is maintained in that office, temporarily or permanently transferred to another office within the Social Security Administration, a State disability, or vocational rehabilitation agency, or for storage in a Federal Records Center.

Authority for maintenance of the system: The payment provisions of the Social Security Act and Federal Coal Mine Health and Safety Act, Sections 202, 223, 226, 228, 1611, 1631, 1818, and 1836 of the Social Security Act and 411 of the Federal Coal Mine Health and Safety Act. The information for this system is derived from the claims filing process and duplicates, in fact, that set out in the Claims Folder Systems Notice.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk storage files and magnetic tape files.

Retrievability: Social security number. The record system is used by the offices to identify the location of claims as well as enabling them to associate and process incoming material in a timely fashion. The identification and exact location feature assists Social Security Administration in meeting the standards of service to the public in processing and deciding claims for benefits. Data are also used to identify where operating weaknesses are to facilitate corrective action by management. Management data is also derived from the control records to provide statistical data relative to workloads, staffing, and manpower usage.

Safeguards: Disk and tape files protected through standard security measures used for all of Social Security Administration's computer records--limited access to social security offices, and limited employee access to computer facilities based on specific authorizations.

Retention and disposal: The control records are maintained indefinitely. No provisions have been made to dispose of the control records nor is any contemplated as of now. When disk files are rewritten, the old disks are erased and returned to stock.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

1. Director for one of the program service centers (See Appendix A)
2. Director, Division of International Operations, Professional Building
for foreign claims
3. Director, Bureau of Disability Insurance, Baltimore, Maryland 21241
for disability claims

Record access procedures: Same as notification procedures. The data in this file are extremely limited since the system is a mechanism used by the agency to locate claims folders and claims in process. Write to the appropriate official set out under notification above, referencing the system, providing name, social security number and related address. (These access procedures are in accordance with Department Regulations (45CFR, Sec. 5b.5(a)(2) Federal Register, October 8, 1975, Page 47410).

Contesting record procedures: It is maintained that little of the data here is contestible; however, should an individual wish to contest it upon review, he may do so by writing to the official who was initially requested to furnish the information, indicating which data are contested, the reason it is contested, and providing social security number, name and related address. (These procedures are in accordance with Department Regulations (45 CFR,Sec5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: The control records are developed from recordings of cards containing social security numbers and coded location identifiers. Also, magnetic tape files prepared in Baltimore containing social security numbers and location identifications are provided to the jurisdictional offices to reflect the location of claims wherever located in Social Security Administration offices.

Systems exempted from certain provisions of the act: None.

09-60-0093

System name: Billing and Collection Master Record System HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Social Security Administration Program Service Centers
Division of International Operations (see Appendix A)

Bureau of Disability Insurance
Baltimore, Maryland 21241

Categories of individuals covered by the system: This system contains records of all retirement, survivors, disability, or health insurance beneficiaries entitled to hospital insurance and/or supplementary medical insurance who are, or have been, subject to direct billing for insurance premiums. This includes individuals who: (1) are currently being billed directly for insurance premiums; (2) are not currently in direct billing status but have either a premium arrearage (or overpayment) of record or were at one time in direct billing status. It does not contain a record of any hospital or supplementary medical insurance enrollee who has had premiums deducted from monthly benefits or paid through a third party payer arrangement continuously from the initial month of entitlement.

Categories of records in the system: It contains identifying information as well as information regarding entitlement to hospital or supplementary medical insurance, current address information, individual records of premium payments, premium adjustments, refunds of excess payments, and current amounts due.

Authority for maintenance of the system: Sections 1840(e) and 1871 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary record storage is by magnetic tape and disk. Monthly updates of the record are also provided to the Social Security Administration program service centers, the Division of International Operations, Bureau of Retirement and Survivors Insurance, and the Division of Benefit Payments, Bureau of Disability Insurance in microform records.

Retrievability: Magnetic tape, disk and microform records are indexed by social security number, or claim account number. It is used to: (1) generate monthly and quarterly premium billing notices; (2) record and process premium payments and adjustments; (3) refund excess premium payments; (4) terminate hospital and/or supplementary medical insurance coverage for non-payment of premiums; (5) reverse termination actions; (6) maintain a history of premium payments, adjustments, or other events which alter the billing status; (7) provide up-to-date premium and billing information to Social Security Administration clerical and electronic operations. Information is used to respond to specific beneficiary inquiries or to facilitate the proper adjustment of social security benefit payments. Information is also accessed electronically by social security benefit programs for the proper adjustment of payment amounts.

Safeguards: Magnetic tape, and disk records are protected through standard security measures used for all of Social Security Administration's computer records; microform records are subject to the same rules and security as all other information in Social Security Administration relating to claims and beneficiary records; limited access to Social Security Administration offices; limited employee access to need to know.

Retention and disposal: Microfilm and tape records can routinely be sent to the Federal Records Center after 2 years. However, since this record is updated monthly, even though the physical records are released to the Federal Records Center, current record will contain full history of all transactions. An inactive tape file, i.e., a file containing the records of cases where the enrollee has died, been in payment status for 2 or more years, etc., is maintained in each program service center. This file currently has no disposal schedule.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: In order to ascertain whether or not this system contains information about him/her, an individual should contact the most convenient social security office and provide health insurance claim number as shown on Medicare health insurance card (see Appendix F).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The identification and entitlement/termination information for this system is extracted from Social Security Administration's Master Beneficiary Record. All other information is compiled from the individual's premium billing and payment histories.

Systems exempted from certain provisions of the act: None.

09-60-0094

System name: Recovery Accounting for Overpayments HEW SSA OPO.

Security classification: None.

V 43 / 188 SE 27 78

System location:

Bureau of Data Processing,
6401 Security Boulevard
Baltimore, Maryland 21235

Social Security Administration Program Service Centers (see Appendix A)

Bureau of Disability Insurance
Baltimore, Maryland 21241

Division of International Operations
6401 Security Boulevard
Baltimore, Maryland 21235

Lists of overpaid individuals, which are produced by this computer system,
are maintained at each district or branch office (see Appendix F).

Categories of individuals covered by the system: All social security beneficiaries who received an overpayment of benefits. All persons holding conserved (accumulated) funds received on behalf of a social security beneficiary. All persons who received social security payments on behalf of a beneficiary and were found to have misused those payments.

Categories of records in the system: Identifying characteristics of each overpayment or instance of misused or conserved funds. Name and address of the individual(s) involved. Recovery efforts made and the date of each action. Planned future actions.

Authority for maintenance of the system: Section 204(a) of the Social Security Act (42 United States Code 404(a)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, magnetic disk and microfiche in the Bureau of Data Processing. Microfiche in program service centers, the Bureau of Disability Insurance and the Division of International Operations. Paper listings in district and branch offices.

Retrievability: Magnetic tape, magnetic disk and microfiche indexed by social security number. The users of this system are employees of social security district and branch offices, as well as selected personnel of the Social Security Administration Program Service Centers, the Bureau of Disability Insurance, and the Division of International Operations. The data are used to maintain control of overpayments and misused or conserved funds from the time of discovery to the final resolution and for the proper adjustments of payment and refund amounts. Data also used to produce accounting and statistical reports at specified intervals.

Safeguards: Magnetic tape, magnetic disk, microfiche and paper records are protected through standard security measures used for all of the Social Security Administration's records--limited access to Social Security Administration offices--limited access to files to employees on a need to know basis.

Retention and disposal: Magnetic tape files are updated daily and retained for 10 days, after which the tapes are erased and returned to stock. The magnetic tape file produced in the last operation of the month is retained in security storage for a period of 30 days, after which the tapes are erased and returned to storage. The microfiche records are updated monthly, retained for one month after the month they are produced, and then destroyed by application of heat. Paper listings are destroyed when overpayment issue is resolved or updated listing is received. The disk files are continuously updated and retained indefinitely.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: In order to find out if this system contains information about him, an individual may contact the most convenient social security office (See Appendix F) or program center (See Appendix A). Provide name, social security number, the address, reference this system, and any other information which will assist in locating the materials (e.g., data about a prior or current overpayment).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information for the computer files is received directly from beneficiaries, from district and branch offices, and as the result of earnings enforcement operations. The paper listings are updated as a result of the computer operations.

Systems exempted from certain provisions of the act: None.

09-60-0095

System name: Health Insurance Overpayment Ledger Cards HEW SSA OPO.

Security classification: None.

System location:

Social Security Administration
Program Service Centers

Division of International Operations (See Appendix A)

Bureau of Disability Insurance
6401 Security Boulevard
Baltimore, Maryland 21241

Categories of individuals covered by the system: All social security health and supplemental medical insurance enrollees who received incorrect medicare payments or services, who are determined liable, and against whom it is not possible to adjust subsequent Part A (Hospital) or Part B (Supplementary Medical) benefits.

Categories of records in the system: A clerical record of each overpaid medicare benefit, name and address of the individual(s) involved. Recovery efforts made and the date of each action. Planned future actions.

Authority for maintenance of the system: Sections 1814, 1833 and 1870 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card stock in metal cabinets.

Retrievability: By social security number. The users of this system are selected employees of both social security program service centers as well as Division of International Operations and Bureau of Disability Insurance. The information recorded by the program service centers is used to maintain control of medicare overpayments referred to the program service center from Health Care Financing Administration for recovery action. In these cases, Health Care Financing Administration is unable to recoup the overpayment by adjusting subsequent medicare benefits. The information on the ledger cards is also used to produce periodic accounting, management, and statistical reports.

Safeguards: Records protected through standard security means for all of the Social Security Administration's clerical records, limited access to buildings and limited access by employees on a need to know basis.

Retention and disposal: Retained in the program service center for a period of one year after collection efforts terminated and then transferred to the Federal Records Center where they are retained for 3 years, then destroyed.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure:

Social Security Administration Program Service Centers

Division of International Operations (See Appendix A)

Bureau of Disability Insurance
6401 Security Boulevard
Baltimore, Maryland 21241

Record access procedures: Same as notification procedures. A n individual may access any information maintained about him in this system. He should write to the appropriate office (based on social security number) as set out in Appendix A, providing his social security number, and referencing this system of records. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Sec.5b.5(a)(2) Federal Register, October 8, 1975, page 47410).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information is received indirectly from the providers of Medicare services through the Health Care Financing Administrationand directly from the Health Care Financing Administration as a result of their audit procedures.

Systems exempted from certain provisions of the act: None.

09-60-0096

System name: Control System for Delayed, Critical, or Sensitive Case Inquiries HEW SSA OPO.

Security classification: None.

System location:

Bureau of Retirement and Survivors Insurance, Critical Case Staff
6401 Security Boulevard
Baltimore, Maryland 21235

Inquiry and Expediting Staffs of the Social Security Administration
Program Service Centers (see Appendix A for addresses)
the Division of International Operations' Sensitive Case Staff
6401 Security Boulevard
Baltimore, Maryland 21235

Copies of individual files are also maintained by the district or branch
office at which an inquiry of this nature originates (see Appendix F).

Categories of individuals covered by the system: Social security beneficiaries or persons inquiring on their behalf who are reporting failure to receive a check or checks which they believe are due or are inquiring about other matters which have been determined to be of a critical or sensitive nature (e.g., failure to receive a check).

Categories of records in the system: The name and social security number of the individual and identifying information about the source of the inquiry (e.g., the individual, congressman, authorized representatives), the problem involved, and its subsequent resolution.

Authority for maintenance of the system: Section 205(q) of the Social Security Act (42 U.S.C. 405(q)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to the inquirer; may include contact with the Treasury Department to determine if payment was issued or check returned for cash.

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(3) Respond to the inquirer.

(4) The Treasury Department to determine if payment was issued or check returned for cash.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Control cards and inquiry sheets; copies of letters to individuals or persons writing on their behalf (e.g., congressmen, authorized representatives) advising them of the resolution of their inquiries.

Retrievability: By name and/or social security number. The users of this system are selected employees of social security program service centers, the Division of International Operations, and field offices. The information is used to issue a check to a beneficiary who reports failure to receive a check or checks which he believes is due tor to expedite action on other requests of a critical or sensitive nature.

Safeguards: The control records are subject to the same rules and safeguards as all other information in Social Security Administration relating to claims and beneficiary records--limited access to the Social Security Administration offices, and limited employee access based on need to know.

Retention and disposal: Control cards are maintained for 6 months after which they are destroyed by shredding. Inquiry sheets are destroyed after 1 year by shredding. Letters are maintained for 2 years and then destroyed by shredding, except those originating in the program service centers and the Division of International Operations. They are maintained in the claims folder as part of the file. District and branch office copies are destroyed after the investigation has been completed.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: In order to ascertain whether or not this system contains information about him/her, an individual should contact the most convenient social security office and provide the system name, social security number, and return address, or phone number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

(These procedures are in accordance with Department Regulations (45 CFRr Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information is derived from the individual or someone on his behalf, the individual's claims record, and the contacts within the Social Security Administration or outside the Social Security Administration (e.g., Treasury Department) needed to obtain the information.

Systems exempted from certain provisions of the act: None.

09-60-0097

System name: Program Integrity Case Files HEW SSA OPO.

Security classification: None.

System location:

Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235
and its program service centers (see Appendix A)

Bureau of Disability Insurance
Baltimore, Maryland 21241
its regional office locations (see Appendix B)

Regional Commissioners Office (see Appendix D.2.)

Categories of individuals covered by the system: Persons suspected of having violated the criminal provisions of the Social Security Act where substantial basis for criminal prosecution exists, and defendants in criminal prosecution cases.

Categories of records in the system: Information maintained in each record includes the identity of the suspect, the nature of the alleged offense, documentation of the investigation into the alleged offense, and the disposition of the case by the Social Security Administration or the United States Attorney.

Authority for maintenance of the system: Sections 206, 208, 221, 222, 1106, 1107, 1631(d)(3), 1632, 1633, 1816, 1842, 1872, 1874, 1876, 1877 of the Social Security Act, and sections 413 and 427 of the Federal Coal Mine Health and Safety Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to officers or employees of State governments as well as the CHAMPUS program for use in conducting investigations of possible fraud or abuse against the title XIX or CHAMPUS programs.
2. To States Attorneys in connection with State programs involving the Social Security Administration.
3. In cases involving fraudulent tax returns or forgery of social security checks are disclosed to the Treasury Department.
4. To the U.S. Postal Service for investigating alleged forgery or the theft of social security checks.
5. To State and local police authorities for the purpose of investigating the loss, theft, and/or forgery of Medicare checks.
6. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
7. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual system, records maintained in manila folders and stored in filing cabinets.

Retrievability: Records are indexed and retrieved by social security number or by name of the subject of the investigation. The information in this record system pertains to suspected violations and fraud investigations. Cases may move through several levels of the Social Security Administration organization at the district, regional and/or central office locations during the course of documenting a suspected fraudulent situation. Material in this system of records is routinely used by SSA staff to determine if a violation of the penal provisions of the Social Security Act or related provisions of the United States Code has been committed. If so, such material is used as the basis for referral of the case to the Department of Justice for consideration of prosecution, and is disclosed to that agency. The material is also used to determine the direction of investigation of potential fraud situations, which includes contact with third parties for the purpose of establishing or negating a violation.

Safeguards: Records are maintained in locked filing cabinets and are accessed only by employees with a job-related need for the information.

Retention and disposal: Records may be retained 3 - 5 years after final disposition of the case. At the end of the retention period, the records are destroyed by shredding. (Supplemental security income cases are scheduled for 5 year retention, all others 3 years; once experience has been gained with the former types of case, it may be possible to reduce it to 3 years.)

System manager(s) and address: For Supplemental Security Income records, the Regional Commissioner Offices (see Appendix D. 2.)

Director
Bureau of Disability Insurance
Baltimore, Maryland 21241

Director,
Bureau of Retirement and Survivor's Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: An individual can determine if this system contains a record pertaining to him by requesting such information in writing from the appropriate program center for retirement and survivors cases (see Appendix A); Bureau of Disability Insurance for disability, black lung, or Supplemental Security Income disabled or blind cases; Regional Commisioner Office for Supplemental Security Income (see Appendix D. 2.). The request should include the individual's name and social security number, any social security number on which he has filed for or received benefits, the type of such claim, and current claim status. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Per 5 United States Code 522a (k)(2), the records in this system are exempt from access by the individual named in the records. However, access to information which is a matter of public record or documents furnished by the individual will be permitted.

Contesting record procedures: Same.

Record source categories: The information contained in this record system is the result of criminal investigation and may be derived from such sources as the suspect, witnesses, or Social Security Administration employees with a knowledge of the case.

Systems exempted from certain provisions of the act: Exemption of this system to the access provisions is claimed under section k(2) of the Privacy Act inasmuch as these records are investigatory materials compiled for program (law) enforcement in anticipation of a criminal proceeding. (See page 47413 of Federal Register of 10/8/75, Vol. 40, No. 196,Part V).

09-60-0100

System name: Litigation Activity File HEW SSA OPO.

Security classification: None.

System location:

Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Plaintiffs who have filed court actions against the Secretary of HEW.

Categories of records in the system: Basically, the file is used as a reference and control vehicle for analysts involved in litigation activity. The records contain documentation concerning specific litigation cases. For example, documentation includes copies of suggested replies to interrogatories and factual summaries, copies of memoranda to implement court decisions, requests for information from Office of General Counsel and in response to the Office of General Counsel's requests for information, etc. Also included is documentation regarding telephone calls, personal contacts, and letters concerning routine activity on a particular litigation case.

Authority for maintenance of the system: Section 205(g) of the Social Security Act, 42 U.S.C. 402(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file cabinets.

Retrievability: File maintained in alphabetical order by plaintiff's last name, and is used by analysts working with the Office of the General Counsel and the reviewing offices for maintaining knowledge of the status of individual court cases.

Safeguards: Limited access based on need to know.

Retention and disposal: Files are maintained until all final actions are completed. After final actions are completed, files are destroyed by shredding.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the systems manager in writing, and provide name, social security number, return address, and system name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is recorded from the complaint received from the Office of General Counsel and other correspondence, decisions, recommendations, etc.

Systems exempted from certain provisions of the act: None.

09-60-0101

System name: Court Case Record File HEW SSA OPO.

Security classification: None.

System location:

Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Plaintiffs who have filed court actions against the Secretary of HEW.

Categories of records in the system: Record contains: Plaintiff's name, wage earner's name, Social Security number, the date the complaint was filed, the issue involved (e.g., plaintiff contesting HEW's date of birth determination), action taken on complaint, cross reference to litigation folder (see systems notice regarding Litigation Activity File).

Authority for maintenance of the system: Section 205(g) of the Social Security Act, 42 U.S.C. 402(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards are stored in a file cabinet.

Retrievability: They are filed alphabetically by plaintiff's last name. Also, these cards are used as reference cards and locator cards to find the litigation material.

Safeguards: Limited access to Social Security Administration offices; limited employee access based on need to know.

Retention and disposal: Never destroyed. Closed cases after litigation report is completed are placed in boxes in alphabetical order.

System manager(s) and address:

Director
Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the systems manager in writing and provide name, social security number, return address, and systems name.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is recorded from the complaint received from the Office of the General Counsel and other correspondence, decisions, recommendations, etc.

Systems exempted from certain provisions of the act: None.

09-60-0102

System name: Fee Ledger System for Representatives HEW SSA OPO.

Security classification: None.

System location: Records pertaining to representatives in retirement, survivors, disability, health insurance, supplemental security income and black lung benefit claims are maintained at the following locations:

Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235
(For all claims involving retirement, survivors, and supplemental security for the aged)

Bureau of Disability Insurance
6401 Security Boulevard
Baltimore, Maryland 21241
(For all claims involving disability benefits, black lung and supplemental security income for the blind and disabled)

V 43 / 188 SEP 27 78 UMI

Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203
(For all claims that involve a hearing for disability, retirement, survivors benefits, health insurance, black lung, or supplemental security income)

Categories of individuals covered by the system: Attorneys and non-attorney representatives of claimants before the Social Security Administration.

Categories of records in the system: Name and address of representative, firm affiliation, if any, claimant's social security number, fee requested by representative, amount of fee approved by the Social Security Administration, amount withheld from claimant's past-due benefits, date the fee was approved, type of services rendered, reviewing and approving offices.

Authority for maintenance of the system: Sections 206 and 1631(d) of the Social Security Act, and section 413(b) of the Federal Coal Mine Health and Safety Act of 1969.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The central reference files are maintained by the Bureau of Retirement and Survivors Insurance on ledger cards, and kept in metal file cabinets. In addition, when the ledger cards are destroyed, an alphabetic listing, which is manually maintained, is prepared to indicate that the representative has appeared before the Social Security Administration in the past. The Bureaus of Disability Insurance, Health Insurance, and Supplemental Security income may maintain carbon copies of the Petition to obtain approval of a fee for representing a social security claimant. These copies, when maintained, may include a copy of the Social Security Administration's authorization to charge and receive a fee, and are filed in metal filing cabinets; in the case of the Bureau of Hearings and Appeals, they are maintained in file books.

Retrievability: Records are generally indexed alphabetically by name of the representative. If the representative is an attorney and no specific name is furnished the record is filed according to the name of the firm. The Bureau of Hearings and Appeals, however, maintains its file based on social security number of the claimant.

Safeguards: Normal security measures are imposed. Only those Social Security Administration employees with a job-related need for the information can have access to the records in this system.

Retention and disposal: Ledger records are retained for a period of 5 years from the date of the latest entry. If no entries are recorded within this period the record is destroyed. When the ledger is destroyed, the name, address of the representative, and at least one social security number of an involved claim, is recorded and indexed for indefinite retention. Copies of the representatives petition are maintained in the Bureau of Retirement and Survivors Insurance until pertinent data are transferred to the ledger cards; then the copies are destroyed by shredding. Records in the Bureaus of Disability Insurance, Supplemental Security Income, and Hearings and Appeals are maintained indefinitely.

System manager(s) and address: See location for appropriate manager to contact.

Director, Bureau of Retirement and Survivors Insurance
6401 Security Boulevard
Baltimore, Maryland 21235

Director, Bureau of Disability Insurance
6401 Security Boulevard
Baltimore, Maryland 21241

Director, Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Notification procedure: An individual can determine if this system contains a record pertaining to him by writing to the appropriate system manager. When the appropriate manager cannot be identified , the individual may contact the Director, Bureau of Retirement and Survivors Insurance. All request s should include the representative's name and address, type of claim, date the fee was approved, and social security number under which the claim was filed.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

Record source categories: All information is extracted and compiled from forms SSA-1560, Petition to Obtain Approval of a fee for Representing a Social Security Claimant, which is completed by the representative and form SSA-1560A, Authorization to Charge and Receive a Fee, which is prepared by the Social Security Administration.

Systems exempted from certain provisions of the act: None.

09-60-0103

System name: Supplemental Security Income Record HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235
District Offices, Branch Offices and BSSI Regional Offices
(See Appendices D and F)

Categories of individuals covered by the system: This file contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system: This file contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism or drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for SSI payments.

Authority for maintenance of the system: Section 1631 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure from this record may be made to:

1. the Treasury Department to prepare supplemental security income benefit checks.
2. the States to establish the minimum income level for computation of State supplement;
3. the following Federal and State agencies to prepare information for verification of benefit eligibility under section 1631(e):
   a. Bureau of Indian Affairs
   b. Civil Service Commission
   c. Department of Agriculture
   d. Department of Labor
   e. Immigration and Naturalilzation Service
   f. Internal Revenue Service
   g. Railroad Retirement 00Board
   h. State Pension Funds
   i. State Welfare Offices
   j. State Workmen's Compensation
   k. Department of Defense
   l. United States Coast Guard
   m. Veterans Administration
4. a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. State Vocational rehabililtation Agency, or State crippled children's agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. and 1382d.
6. contractors under contract to the Social Security Administration or under contract to another agency with funds provided by SSA for the performance of research and statistical activities directly relating to Social Security Act.
7. State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration;
8. Veterans Administration information requested for the purposes of determining eligibility for or amount of VA benefits or verifying other information with respect thereto
9. the Railroad Retirement Board for administering the Railroad Unemployment Insurance Act.
10. In the event of litigation where one of the parties is (a) the Department, any component of the Department , or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, microfiche.

Retrievability: Magnetic tape and microfiche indexed by social security number. Supplemental security income records begin in the social security district office where an individual files an application for supplemental security income payments. This application contains data which may be used to prove the identity of the applicant determine his eligibililty for SSI payments and in cases where eligibility is determined, to compute the amount of the paymeat. Information from the application in addition to data used internally to control and process SSI cases is used to create the Supplemental Security Income Record. The Supplemental Security Income Record is also used as a means of providing a historical record of all activity on a particular indi ividual. In addition, statistical data is derived from the Supplemental Security Income Record for actuarial and management information purposes.

Safeguards: All magnetic tapes are within an enclosure attended by security guards. Any one entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic tape records are subject to the penalties of the Privacy Act. The microfiche are stored in locked cabinets.

Retention and disposal: Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefinitely although these are processed as received and incorporated into processing tapes which are updated to the master supplemental security income tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631 (e) are retained, in in accordance with the Privacy Act accounting requirements, for at least 5 years or the life of the record, whichever is longer.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235
Social Security District Offices and Branches Offices
(see Appendix F).

Notification procedure: Social Security District Offices and Branch Offices (See Appendix F), an individual who requests notificationof or access to a medical record shall , at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information contained within the Supplemental Security Record is obtained for the most part from the applicant for SSI payments and is derived from the claims folder.

Systems exempted from certain provisions of the act: None.

09-60-0104

System name: Supplemental Security Income Claims Data HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Proecssing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: This file contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system: This file contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism or drug addiction data (if applicable), income data, resource, payment amounts and living arrangements for all persons who have applied for SSI payments.

Authority for maintenance of the system: Sections t602,1611, 1612, 1613, 1614, 1615, 1631, 1633, and 1634 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. 3. to State vocational rehabilitation agencies for rehabilitation services.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc.

Retrievability: Magnetic disc indexed by social security number. The online claims data are used to expeditiously provide supplemental security income data, upon request, to social security field offices around the nation.

Safeguards: The magnetic disc records are protected through standard security measures used for all computer records housed within the Social Security Administration--limited employee access to specific authorization by individual. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal: The online claims data are retained for an indefinite period.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
6401 Security Boulevard

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Baltimore, Maryland 21235

Notification procedure: Social security district offices and branch offices (see Appendix F). An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: From materials in the appropriate claims file.

Systems exempted from certain provisions of the act: None.

09-60-0105

System name: Claims Currently in Process File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: This file contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system: The Cases Currently In Process File contains eligibility, alcoholism and drug addiction data (if applicable), case folder location and appellate decisions.

Authority for maintenance of the system: Sections 1602, 1611, 1615, 1616 and 1631 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Magnetic tape records are indexed by social security number. The Cases Currently In Process file is created from the supplemental security income master record. It contains primarily eligibility and case folder location data for internal control purposes within the Social Security Administration.

Safeguards: The magnetic tape records are protected through standard security measures used for all computer records housed within the Social Security Administration--limited employee access for specific authorization on an individual basis.

Retention and disposal: Data contained within the Cases Currently In Process file are retained indefinitely.

System manager(s) and address:

Director
Bureau of Supplemental Security Income
6401 Security Boulevard

Baltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, identify the systems name, and pertinent information about your case. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information contained within the cases currently in process file is derived from the supplemental security income master record which for the most part, is provided by applicants for supplemental security income payments.

Systems exempted from certain provisions of the act: None.

09-60-0107

System name: Claims Index File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: The Claims Index File contains a record for each identifying number relating to any aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system: The Claims Index File contains identifying data including type of eligibility, internal location data and social security numbers which may be used to identify a particular individual.

Authority for maintenance of the system: Section 1631 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: Magnetic Tape indexed by social security number. Since many records enter the supplemental security income system under an identifying number other than the correct supplemental security income case number, the system must have the capability of locating the correct case number in order to properly process the case. The Index File provides this capability in addition to eliminating the possibility of the accretion of duplicate numbers on the supplemental security income master record.

Safeguards: The magnetic tape records are protected through standard security measures used for all computer records housed

within the Social Security Administration--limited employee access to specific authorization by individual.

Retention and disposal: Magnetic tape records are maintained for an indefinite period.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, identify the systems name, and pertinent information about your case.

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The claims index file contains information which is provided by applicants for supplemental security income payments on the initial/claims applications.

Systems exempted from certain provisions of the act: None.

09-60-0108

System name: Advance Payment File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: The Advance Payment File contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments and has requested an advance payment.

Categories of records in the system: The Advance Payment File contains identifying data including the type of eligibility, internal location data and the amount and date of the advance payment.

Authority for maintenance of the system: Sections 1602, 1611, and 1631(a) of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc.

Retrievability: Magnetic disc is indexed by social security number. The Advance Payment File is used as a preventive measure against the issuance of duplicate advance supplemental security income payments to an individual.

Safeguards: The magnetic disc records are protected through standard security measures used for all computer records housed within the Social Security Administration--limited employee access by specific authorization on an individual basis.

Retention and disposal: The Advance Payment File is retained for an indefinite period.

System manager(s) and address:

Director
Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, identify the systems name, and pertinent information about your case.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The advance payment file contains information which is provided by applicants for supplemental security income advance payments.

Systems exempted from certain provisions of the act: None.

09-60-0109

System name: Overpayment File (Supplemental Security Income) HEW SSA OPO.

Security classification: None

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Any supplemental security income payment recipient having a potential supplemental security income overpayment.

Categories of records in the system: The Supplemental Security Income Overpayment File contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism and drug addiction data (if applicable), income data, resources, payment amounts, overpayment amounts, and living arrangements for all persons who have applied for supplemental security income payments.

Authority for maintenance of the system: Sections 1602 and 1631(b) of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to State audit agencies pursuant to agreements with HEW for auditing state supplementation payments.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: The Supplemental Security Income Overpayment File is used to maintain a historical record of overpayment data for all supplemental security income recipients, and in processing bills to the respective States for their share of supplemental security income overpayments.

Retrievability: Magnetic tape is accessed by social security number. Within the Social Security Administration, the file is used to alert the social security district offices of potentially overpaid supplemental security income recipients.

Safeguards: The magnetic tape records are retained in secure storage areas accessible only to authorized persons within the Bu-

reau of Data Processing. The storage area is controlled by Marshalls responsible for insuring that only authorized personnel are admitted. Official identification badges or passes are required to gain entrance to the storage area. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: The Supplemental Security Income Overpayment File is retained for an indefinite period.

System manager(s) and address:

Director
Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, identify the systems name, and pertinent information about your case. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The data contained within the supplemental security income overpayment file is derived from the supplemental security income master record which, for the most part, is provided by applicants for supplemental security income payments.

Systems exempted from certain provisions of the act: None.

09-60-0110

System name: Supplemental Security Income File of Refunds HEW SSA OPO.

Security classification: None.

System location:

Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: This file contains refund records for any aged, blind, or disabled individual who was overpaid or not entitled.

Categories of records in the system: This file contains information about refunds sent in by persons who were overpaid or not entitled to Supplemental Security Income payments they received. Specific information is name of individual, social security number, date of refund, and amount of refund.

Authority for maintenance of the system: Sections 1602, 1611, and 1631 of Title XVI of the Social Security Act. Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any compoeent of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected. (3) State audit agencies pursuant to agreements with HEW for auditing State supplementation payments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The source document is filed in standard filing cabinets by bank deposit schedule number. The cross reference listing, in social security number sequence, by month is maintained in binders. This information is keyed directly onto tape which is kept in SSA'S tape library. The tapes are used to prepare the cross reference listings and to input the information into the system. The manual file is maintained in social security number sequence so that inquiries and refunds from district offices can be answered.

Retrievability: The file is established after the money received has been recorded and deposited in the Federal Reserve Bank. The money refunded is brokendown0 into Federal share and State share for accounting purposes. The information is input to the electronic system to be matched against the same information being entered by district offices . This serves as an audit.

Listings are referenced by social security number.

Safeguards: The source documents and listings are kept in an area which is secured at night--doors locked. Information is only furnished to other Social Security Administration components with limited access by employees on a need-to-know basis. The magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing. The storage area is controlled by marshalls responsible for insuring that only authorized personnel are admitted. Official identification badges or passes are required to gain entrance to the storage area. All employers having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: The source documents and listings are being held indefinitely. Eventually they will be retired to the Federal Record Center. The tapes are stored in the Social Security tape library.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
Social Security Administration
6401 Security Boulevard
BAltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, the systems name, and pertinent information about your case.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The receipt form completed by an employee in the social security district office plus the actual check, money order, etc., used to remit the money.

Systems exempted from certain provisions of the act: None.

09-60-0111

System name: Debit Voucher File (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location:

Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: The file contains a record for aged, blind, or disabled individuals who have negotiated two checks for the same month incorrectly.

Categories of records in the system: The GFO-5504, Debit Voucher, is sent to the Bureau of Supplemental Security Income from the Department of Treasury billing the Social Security Administration for additional monies expended on their behalf. It contains the identification of the individual, name and social security number, and amount of money involved.

Authority for maintenance of the system: Sections 1602, 1611 and 1631 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(3)To State audit agencies pursuant to agreements with HEW for auditing State supplementation payments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets and binders.

Retrievability: After the Bureau of Supplemental Security Income has paid the Department of Treasury the requested funds, the overpayment data are entered into the electronic system. The original documents (photocopies of erroneously negotiated checks sent by Treasury as well as copies of bounced checks submitted by individuals in payments of overpayments) are filed for future reference by the Social Security District and Branch Offices when they attempt to collect the money from the individual . A cross-reference listing on the social security number is maintained . The money amount is allocated to the Federal share and State share for accounting purposes. The listings is in social security number sequence.

Safeguards: Access limited to employees on need to know basis. Area secured at night--doors locked.

Retention and disposal: The records are being held indefinitely. They will eventually be retired to the Federal Records Center.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Contact the Systems Manager and provide name, social security number, identify the systems name, and pertinent information about your case.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Bureau of Government Financial Operations of the Department of the Treasury.

Systems exempted from certain provisions of the act: None.

09-60-0114

System name: State Data Exchange System (Supplemental Security Income) HEW SSA OPO.

Security classification: None.

System location: State Data Exchange files are maintained by all State welfare agencies (see Appendix D). In addition, backup files (magnetic tape) are maintained for a limited period of time (90 days) within the Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235. Printed copies of the State Data Exchange record are located in some district and branch offices.

Categories of individuals covered by the system: The State Data Exchange file contains a record for each public welfare recipient who has applied for supplemental security income payments.

Categories of records in the system: The State Data Exchange file for each State contains data regarding eligibility, medicaid eligibility, eligibility for other benefits, alcoholism and drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for supplemental security income payments who reside in that particular State.

Authority for maintenance of the system: Sections 1611, 1612, 1615, 1616, 1631(e), 1633, and 1634 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosures may be made:

1. to the States for timely exchange of ddta between them and the Social Security Administration to establish and maintain State supplementation of supplemental security income payments, and medicaid rolls
2. to the States of California , Nevada, and New York for use in the food stamp program, to locat e potentially eligible individuals and to make determinations of eligibility.
3. to a congressional office the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, microfilm, paper listings.

Retrievability: Magnetic tape, microfilm and paper listings are all indexed according to social security number, State welfare identification number, category (aged, blind or disabled), county, or surname in order to supply information to the States in accordance with program administration agreements, and for the Social Security Administration management purposes. The printed copy of the State Data Exchange is used by district and branch office personnel for reference purposes and for answering inquiries. The State Data Exchange file is created from the supplemental security income master record. It is comprised of eligibility and payment information obtained by the Social Securityu Ad ministration in the administration of the supplemental security income program. Magnetic tape, microfilm and paper listings are all indexed according to social security number, State welfare identification number, category (aged, blind or disabled), county, or surname in order to supply information to the States in accordance with program administration agreements, and for the Social Security Administration management purposes. The printed copy of the State Data Exchange is used by district and branch office personnel for reference purposes and for answering inquiries.

Safeguards: All State Data Exchange records are protected according to agreements made between the Social Security Administration and the respective States regarding confidentiality, use, and redisclosure. Paper copies are accessible only to employees on a need to know basis.

Retention and disposal: Instructions provided to the States call for duplication by the States of files provided by the Social Security Administration. The period of retention of State Data Exchange files by the States is determined by the respective States.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Social Security District Offices and Branch Offices (see Appendix F); or contact State official (see Appendix D). An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the

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representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information contained on the State Data Exchange files is derived from data on the supplemental security income master record which is obtained for the most part from applicants for supplemental security income payments. Additionally, the various States provide a limited amount of data.

Systems exempted from certain provisions of the act: None.

09-60-0115

System name: Supplemental Security Income Audit Trail Microfiche OPO.

Security classification: None.

System location: Bureau of Data Processing, Supplemental Security Income Payment Record Data Branch.

Categories of individuals covered by the system: This file contains a record for each aged, blind and disabled individual who has applied for supplemental security income payments.

Categories of records in the system: This file contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism or drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for supplemental security income payments. In addition, changes which are subsequently received which have an effect on any of the above categories are also maintained within this record.

Authority for maintenance of the system: Sections 1602 and 1631 of Title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to State audit agencies pursuant to agreements with HEW for auditing State supplementation payments.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche.

Retrievability: The microfiche is indexed by social security number. The Supplemental Security Income Audit Trail Microfiche is used to provide complete historical data for each Supplemental Security Income master record. This data includes transactions which effectuate changes to the Supplemental Security Income master record.

Safeguards: The microfiche records are stored in locked file cabinets, and are accessible to employees on a need to know basis.

Retention and disposal: The Supplemental Security Income Audit Trail Microfiche is retained for an indefinite period.

System manager(s) and address:

Director, Bureau of Supplemental Security Income
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: Inquiries should be addressed to the system manager, and should include the individual's full name and social security number. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: The information contained within the Supplemental Security Income Audit Trail Microfiche is derived from the Supplemental Security Income master record which for the most part, is obtained from the applicant for Supplemental Security Income payments.

Systems exempted from certain provisions of the act: None.

09-60-0117

System name: Age at First Payment of Retirement Insurance Benefit HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Recently entitled retirement insurance beneficiaries.

Categories of records in the system: Payment history and demographic information.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: Individual records are identified by claim account number for statistical uses.

Safeguards: All magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing and Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: This system is updated infrequently and magnetic tapes are returned to blank stock.

System manager(s) and address:

Deputy Chief Actuary, Short-Range Estimates
Office of the Actuary, Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: For purposes of access the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Master benefit record.

Systems exempted from certain provisions of the act: None.

09-60-0118

System name: Non-Contributory Military Service Reimbursement System HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: A sample of beneficiaries who have non-contributory military service credits.

Categories of records in the system: Covered earnings, benefit and payment status.

Authority for maintenance of the system: Section 217, 229, and 231 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: The file is indexed with claim account numbers; the data are used for statistical purposes.

Safeguards: All mag-tape files are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing and Data Development, Office of Management Administration and Office of the Actuary. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals.

Retention and disposal: This system is updated annually. At this time, we have no provision for the disposal of individual records.

System manager(s) and address:

Deputy Chief Actuary, Short-Range Estimates
Office of the Actuary, Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: For purposes of access, the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Social Security Administration master beneficiary record, Social Security Administration summary earnings record, Social Security Administration claims folder.

Systems exempted from certain provisions of the act: None.

09-60-0119

System name: Special Age 72 Benefit Trust Fund Transfer Project HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Includes all individuals entitled under the Prouty amendments.

Categories of records in the system: Benefit entitlement, demographic information, and earnings records.

Authority for maintenance of the system: Section 223 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: Individual records are identified by claim account number. To determine an amount of money to be transferred from General Revenue to the Old Age and Survivors Insurance Trust Fund.

Safeguards: All magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing and Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosures of information on individuals.

Retention and disposal: This system is updated periodically and magnetic tapes are eventually returned to blank stock.

System manager(s) and address:

Deputy Chief Actuary, Short-Range Estimates
Office of the Actuary, Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: For purposes of access the claim account number is required; write to the systems manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record, and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Master beneficiary record, earnings record.

Systems exempted from certain provisions of the act: None.

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09-60-0128

System name: Retirement, Survivors and Disability Insurance Claims Study HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Evaluation and Measurement Staff
6300 Security Blvd.
Baltimore, Md. 21235

Social Security Administration Program Service Centers
and Division of International Operations (see Appendix A).

Bureau of Disability Insurance
Baltimore, Maryland 21241

Categories of individuals covered by the system: National stratified probability sample of individuals allowed or denied benefits, as well as those awarded lump sum death benefits, beginning November 1964 for retirement and survivors claims, May 1966 for disability claims.

Categories of records in the system: Demographic characteristics of beneficiary, description of allegations, evidence and findings, and case control data.

Authority for maintenance of the system: Section 205 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contacting third parties for verification of information given by claimants. Disclosure may be made:

(1)to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information is recorded on magnetic tape and claims folders are returned to program centers.

Retrievability: Identification sequence number. This is a study to evaluate the effectiveness of retirement, survivors, and disability insurance program policies. Data from this study are compiled for evaluative purposes, and subsequently stored in the claims folders. Adverse data received in the conduct of this study may be used to review earlier claims or post adjudicative decisions.

Safeguards: All folders are kept in secure areas, accessible only to Evaluation and Measurement Staff personnel (i.e. statisticians, analyst and programmer). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Disposal of file folders is conducted in accordance with Social Security Administration guidelines for Title II claims, while magnetic tapes are held for 5 years before being erased.

System manager(s) and address:

Chief, Evaluation and Measurement Staff, OPP
Social Security Administration
6300 Security Boulevard
Baltimore, Md. 21235

Notification procedure: For purposes of access, write the systems manager, he will require name of system, social security number, and, for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, the month and year in which the individual was allowed or denied benefits (retirement or disability).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Master beneficiary record, summary earnings record, supplemental security record, Title II claims folders, survey data collected by Social Security Administration employees.

Systems exempted from certain provisions of the act: None.

09-60-0129

System name: Adjudication of Supplemental Security Income Claims Study HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Evaluation and Measurement Staff
Office of Research and Statistics
6300 Security Boulevard
Baltimore, Maryland 21235
Social Security Administration Program Service Centers
and Division of International Operations (see Appendix A)

Bureau of Disability Insurance
Baltimore, Maryland 21241

Categories of individuals covered by the system: National stratified probability sample of individual allowed or denied supplemental activity income benefits since January 1975.

Categories of records in the system: Demographic characteristics of the beneficiary, description of allegations, evidence and findings, and case control data.

Authority for maintenance of the system: Sections 205 and 1631 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contacting third parties for verification of information given by claimants. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are stored on magnetic tape.

Retrievability: Identification sequence number. This is a study to evaluate the effectiveness of supplemental security income program policies. Data from this study are compiled for evaluation purposes and subsequently stored in the claims folders. Adverse data received in the conduct of this study may be used to review earlier claims or post adjudicative decisions.

Safeguards: All folders are kept in secure areas, accessible only to Evaluation and Measurement Staff personnel (i.e. statisticians, analyst and programmer). For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Disposal of file folders is conducted in accordance with Social Security Administration guidelines for Title XVI claims, while magnetic tapes are held for 5 years before being erased.

System manager(s) and address:

Chief, Evaluation and Measurement Staff, OPP
Social Security Administration
6300 Security Boulevard
Baltimore, Md. 21235

Notification procedure: For purposes of access, write the systems manager; he will require name of system, social security number, and, for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, the month and year in which the individual was allowed or denied supplemental security income benefits.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Master beneficiary record, summary earnings record, supplemental security record, Title II, XVI claims folders, survey data collected by Social Security Administration employees.

Systems exempted from certain provisions of the act: None

09-60-0130

System name: Quality of Service Measurement Program Based Upon Consumer Opinions HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: This system will contain data to be taken at periodic intervals from samples of recipients of social security (including Medicare) and supplemental security income benefits, applicants for benefits, and visitors and callers to the social security local offices and teleservice centers.

Categories of records in the system: Consumer opinions and perceptions of services provided to the public.

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractor for performance of research and statistical operations as required by contract.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records on magnetic tape, sample listings, and questionnaires.

Retrievability: Records will be indexed by social security number or name.

Safeguards: For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: Identifiers will be removed from all records as soon as data collection process is complete.

System manager(s) and address:

Chief, Evaluation and Measurement Staff, OPP
Social Security Administration
6300 Security Boulevard
Baltimore, Md. 21235

Notification procedure: For purposes of access, write the systems manager; he will require name of system, social security number, and for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, an indication of whether or not the individual had ever filed for social security benefits and if so, when, and whether the individual had ever contacted local social security offices or telecenters.

Record access procedures: Same.

Contesting record procedures: Same.

Record source categories: Master beneficiary record; supplemental security record; administrative disallowance list prepared within the program center; denial record (831); continuing disability investigation form (833); data to be collected by contractor; case folders

Systems exempted from certain provisions of the act: None.

09-60-0148

System name: Matches of Internal Revenue Service and Social Security Administration Data with Census Survey Data (Joint Social Security Administration/Census Statistics Development Project) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W
Washington, D.C. 20009

Bureau of the Census
Suitland, Maryland 20233

HEW Data Management Center

330 Independence Avenue, S.W
Washington, D.C. 20201

Categories of individuals covered by the system: Samples of United States civilian population and those Armed Forces personnel residing with their families as of March 1973, 1975, 1976 and subsequent periods to be determined.

Categories of records in the system: Basic demographic characteristics from Census survey-labor force, work experience and income items from the survey; Social Security Administration earnings and benefit record information; selected Internal Revenue Service tax return items.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902), Title 13 U.S. Code (authority for Census Participation)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. (through the Census Bureau) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Records are indexed by social security number during the matching steps at the Social Security Administration and Census but identifiers are not retained at the Social Security Administration after matching is completed.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. During those matching steps which occur at the Social Security Administration, identifiable data is solely under the control of a limited number of social security employees who are sworn to uphold the Census and IRS statutes as well as the confidentiality restrictions of the Social Security Administration. Similar provisions are made for the handling of identifiable data from the project at the census Bureau. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Following the match, all identifiers are removed from the records kept at the Social Security Administration. The Census Bureau retains identifiers for possible longitudinal updating. Records with identifiers will be held in secure storage areas at the Census Bureau and will be disposed of as soon as they are determined to be no longer needed for Census or SSA analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration

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Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Social Security Administration master beneficiary record; Social Security Administration earnings recordings and self-employment income system; Internal Revenue Service tax returns; Census surveys; Social Security Administration Supplemental Security Income record.

Systems exempted from certain provisions of the act: None.

09-60-0149

System name: Matches of Internal Revenue Service and Social Security Administration Data (Joint Social Security Administration/Treasury Department Statistics Development Project) HEW/SSA/OPP.

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Treasury Department
15th & Pennsylvania Ave., N.W. Washington, D.C. 20220

HEW Data Management Center
330 Independence Ave., S.W.
Washington, D.C. 20201

Categories of individuals covered by the system: Samples of persons filing Federal Income Tax returns for 1970, 1972, 1975, and selected subsequent years

Categories of records in the system: Social Security Administration demographic data; Social Security Administration earnings and benefit record information; tax return data.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902) and Treasury Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. (through the Treasury Department) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. to the Treasury Department in connection with statistical studies conducted for Social Security Administration and Treasury Department purposes.
3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Records are indexed by social security number during the matching steps at the Social Security Administration, but identifiers are not retained at the Social Security Administration. The major matching step is carried out entirely at Treasury.

Safeguards: Safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers.

Retention and disposal: Identifiable data are retained by the Social Security Administration only during the match process. Once matching is complete all computer tapes are turned over to the Treasury Department. A matched SSA-Treasury file is provided to Social Security for its research use. The Social Security Administration does not have detailed Internal Revenue Service data with identifiers at any point in the matching process. The minimum amount of Internal Revenue Service data with identifiers needed to validate the processing is used by the Social Security Administration. Identifiers may be retained on the Treasury copies of intermediate and matched files. The retention of these identifiers is needed for possible further matching: for example, with similar data for different years.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Social Security Administration master beneficiary record; Social Security Administration earnings recordings and self-employment income system; Internal Revenue Service Federal tax returns.

Systems exempted from certain provisions of the act: None.

09-60-0159

System name: Continuous Work History Sample (Statistics) HEW SSA OPP.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Bureau of Census
Washington, DC 20233

Categories of individuals covered by the system: A sample of persons with social security numbers issued through the cutoff date of the file. Included are those working for the Federal government and those covered by the Railroad Retirement Act, as well as those covered under social security.

Categories of records in the system: Demographic characteristics; employer information; type of work information; earnings information; self-employment information; insured status information; benefit status; geography information (residence).

Authority for maintenance of the system: Section 702 of the Social Security Act. (42 USC Sec. 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure;
2. Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act and for studies on the effectiveness of training programs to combat poverty;
3. Civil Service Commission for the study of the relationship of civil service annuities to minimum social security benefits; and the effects on the trust fund;
4. Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act;
5. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;
6. A Federal or State agency (or its agent) lawfully charged with the administration of a Federal or State unemployment compensation law or contribution or tax levied in connection therewith, for the purpose of such administration but solely for use in compiling statistics to be used in aggregated or anonymous forms.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data are stored on magnetic tape.

Retrievability: The file is indexed with social security numbers.

Safeguards: Initial processing is performed by Census Bureau. During the matching steps which occur at the Social Security Administration, identifiable data is under the control of a limited number of social security employees who have sworn to uphold the Census statute. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

Retention and disposal: This is a longitudinal sample. Records with identifiers will be retained as long as needed to permit addition of future earnings and other Social Security Administration program data for individuals in sample.

System manager(s) and address:

Assistant Commissioner, Office of Research and Statistics
Social Security Administration, Room 1121
1875 Connecticut Avenue, NW
Washington, D.C. 20009

Notification procedure: For purposes of access, write the system manager; he will require name of system, social security number, and for verification purposes, name (woman's maiden name, if applicable), address, date of birth and sex, and to ascertain whether the individual's record is in the system, years during which covered earnings were reported and years of self-employment, if any.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Master beneficiary record; earnings summary record; quarterly earnings items file; employer identification file; 'Notification of Personnel Action' (SF-50); Railroad Retirement Board master file; Internal Revenue Service name and address file.

Systems exempted from certain provisions of the act: None

09-60-0183

System name: Matches of Social Security Administration, Department of Defense and Veterans Administration Data Relating Earnings History to Armed Forces Training Experience (Statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Categories of individuals covered by the system: Samples of enlisted men who separated from active duty during fiscal 1969 after having satisfactorily completed one term of service.

Categories of records in the system: Social Security Administration earnings information, selected Department of Defense sociodemographic and post-service data, and limited Veterans Administration program participation information

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made: the record

(1)to a congressional office from of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Records are indexed by social security number during the matching steps at the Social Security Administration Identifiers are not made available outside SSA.

Safeguards: Safeguards established in accordance with Department standards and National Bureau of Standards guidelines are being employed (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel. Employees having access to identified records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers.

Retention and disposal: Computer records with identifiers will be held in secure storage areas and will be disposed of (by degaussing) as soon as they are determined to be no longer needed for SSA analysis. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name, address, and date of birth

Record access procedures: Same as notification procedures Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b 5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Social Security Administration earnings recordings and self-employment income system and Department of Defense Manpower Research and Data Analysis Center post-service file; veterans entitlement and program participation data from VA.

Systems exempted from certain provisions of the act: None

09-60-0184

System name: Hearing Office Master Calendar HEW SSA BHA

Security classification: None.

System location: All Hearing Offices (See Appendix G)

Categories of individuals covered by the system: Claimants - Titles II, XVI, XVIII, and Black Lung

Categories of records in the system: A list of all cases pending in the hearing office

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Authority for maintenance of the system: Sections 205, 1631(d)(1) and 1872 of the Social Security Act, as amended, and Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in filing cabinets.

Retrievability: Social security number. Enables the hearing office to ascertain location of case within the office and maintain control of the pending case load.

Safeguards: Limited access to SSA offices; limited employee access to need to know.

Retention and disposal: As each case is disposed of, it is removed from the master calendar.

System manager(s) and address:

Director
Bureau of Hearings and Appeals, Room 402
3833 North Fairfax Drive
Arlington, Virginia 22203

Notification procedure:

Social Security Administration
Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Written request to above address. Individual should provide name and social security number.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411).

Record source categories: Hearing office personnel, from information on incoming cases.

Systems exempted from certain provisions of the act: None.

09-60-0186

System name: Litigation Master Record File--HEW,SSA,OPP.

Security classification: None.

System location:

Social Security Administration
OPR Litigation Staff
Room 4-H-6 WHR
Baltimore, MD 21235

Categories of individuals covered by the system: Individuals who are involved, as plaintiffs or defendents, in civil litigation concerning one or more of the programs administered by SSA.

Categories of records in the system: Complaints filed by individuals against the Secretary, HEW. Court orders and decisions regarding cases in litigation. Related litigation materials.

Authority for maintenance of the system: Section 205(a) Social Security Act (42 USC 405(a)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made: the record of an

(1)to a congressional office from individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On paper files in filing cabinets.

Retrievability: The records will be stored alphabetically by plaintiff's name. Records maintained by the OPR Litigation Staff will be used by the Staff in the course of their responsibilities for formulating and coordinating responses to interrogatories and recommendations regarding the appeal of adverse court decisions. The records will also be maintained to enable Staff personnel to review and analyze court decisions and to direct the implementation of interim and final court orders.

Safeguards: The file will be maintained in locked file cabinets and staff personnel will limit access only to authorized personnel. All personnel having access to the records will be informed of criminal sanctions for unauthorized disclosure on individuals.

Retention and disposal: Normally, records will be retained for two years after the expiration of the appeal period. Certain cases in which constitutional/policy issues are involved (e.g., Supreme Court cases) will be retained indefinitely by Litigation Staff. All other records will be transferred to OPR Reference Room to be retained for history purposes.

System manager(s) and address: Director, Office of Policy and Regulations

Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: For purposes of access, write the system manager: he will need name, and for verification purposes, social security number, address, date of birth, and sex. Furnishing the SSN is voluntary, but it will make searching for the individual's record easier and avoid delay.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.)

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories: The social security claims folder, the Master Beneficiary Record, the Supplemental Security Record, the Social Security Administration Data Access and Retrieval System, plaintiff's complaints, court orders, court decisions, and court directives.

Systems exempted from certain provisions of the act: None.

09-60-0194

System name: Direct Deposit Survey (Statistics). HEW SSA OPP.

Security classification: None.

System location:

Evaluation and Measurement Staff
Office of Program Policy & Planning
6300 Security Blvd.
Baltimore, Maryland 21235

Bureau of Data Processing

6401 Security Blvd.
Baltimore, Maryland 21235

Contractor Site--unknown--when known, this information will be available from Systems Manager upon request.

Categories of individuals covered by the system: A sample of individuals from these groups:

a. Individuals who are receiving social security benefits and having them deposited directly in financial institutions.

b. Individuals receiving social security benefits who have not elected to have their benefits deposited directly in financial institutions.

c. Individuals receiving social security benefits who had elected the direct deposit option but who subsequently elected to stop using it.

Categories of records in the system: Selected Survey Responses reflecting individuals' knowledge of and experience with the Direct Deposit option; Social Security Administration program benefit and demographic data.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 U.S.C., Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to: a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; An organization under contract with the Social Security Administration of inforamtion necessary to enable the contractor to comply with the conditions of the agreement to perform research and statistical functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Completed data tape and questionnaire hard copy with identifiers will be kept by EMS Project Officer: The questionnaire hard copy in a locked file; the tape in a secure computer facility.

Retrievability: Records from the survey data tape and questionnaire hard copy will be retrievable by name and social security number until after merger with SSA program data; i.e., until end of calendar year 1979.

Safeguards: During field survey and editing, identification of tapes and documentation of tape data contents are restricted to the SSA Project Staff and the contractor's project staff. Hard copy of questionnaires are kept in locked storage cabinets located in locked rooms and can only be accessed with the permission of the project manager. All persons using tape data or having access to hard copy are notified of criminal penalties for unauthorized disclosures of information about individuals. Similarly, the contractor's staff operates under the same sanctions. Contractor transmits all survey data to SSA Project Staff at the end of field survey. Access to completed data tape is controlled by the SSA Project Officer. Security measures have been incorporated in the software specifications of the system that were designed to prevent accidental and intentional unauthorized disclosure.

Retention and disposal: Questionnaire hard copy and completed tape with identifiers will be retained until the end of calendar year 1979 at which time both will be destroyed. Retrieval will then no longer be possible.

System manager(s) and address:

Chief, Evaluation and Measurement Staff, OPP
6300 Security Blvd.
Baltimore, Maryland 21235

Notification procedure: Provide system manager with name of system, name and social security account number, on a voluntary basis.

Record access procedures: Same as notification procedure. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with DHEW Regulations (45 CFR, Section 5b.5(a)(2)), Federal Register, October 8, 1975, page 47410.

Contesting record procedures: Contact the systems manager at the address specified, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7), Federal Register, October 8, 1975, page 47411.

Record source categories: Interview data completed with individuals in the survey sample. SSA program information and demographic data from social security records.

Systems exempted from certain provisions of the act: None.

09-60-0196

System name: Disability Studies Survey Records, (Statistics) HEW.SSA.OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Bureau of the Census
Washington, D.C.
Jeffersonville, Indiana

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Sample groups of adults who are current or potential recipients of Social Security disability payments.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics, attitudes, earnings and employment history, benefits, and use of medical and rehabilitative services.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy questionnaire forms, microfiim, punch cards, magnetic tape, disc, or printouts.

Retrievability: Files based on SSA sample populations are indexed by SSA-assigned case numbers or social security numbers. Files based on Census sample populations are indexed by Census-assigned case numbers cross-referenced to social security numbers.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes for use outside of the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked files, etc.) restricting access to authorized personnel.

Retention and disposal: Hard copy questionnaires will be destroyed when survey reports are completed. Records with identifiers will be held in secure storage areas and will be retained only as long as needed for SSA analysis. Identifiers will be removed at the earliest possible time after data collection is completed. The need to retain identifiers will be evaluated at the time each survey is completed. Records with identifiers will be disposed of as soon as they are determined to be no longer needed. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention. In longitudinal studies, working files are stripped of identifiers and given randomly assigned case numbers. A separate link file will be maintained in secure storage for updating with individual identifiers.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

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Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: SSA administrative records (Master Beneficiary Record, earnings recordings and self-employment income system, disability case folders, etc.) and/or survey data collected by contractor. Bureau of the Census records may be used to create sampling frame.

Systems exempted from certain provisions of the act: None

09-60-0197

System name: Disability Studies Records and Extracts (Statistics) - HEW/SSA/OPP

Security classification: None

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Contractor sites: Addresses may be obtained by writing to the systems manager (see below)

Categories of individuals covered by the system: Samples of applicants and recipients of disability benefits, including specifically selected subsets of each category; also applicants/participants in State Vocational Rehabilitation Programs.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics, earnings, employment history, benefits, and use of medical and rehabilitative services.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Sec.902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy forms, microfilm, magnetic tape, disc, punch cards, or printouts.

Retrievability: Files are indexed by social security number. Data are used within the Office of Research and Statistics for program planning and evaluation purposes such as participation in and relative effectiveness of rehabilitation programs, determination of the characteristics of program applicants and benefit recipients, etc.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Records with identifiers will be held in secure storage areas and will be disposed of as soon as they are determined to be no longer needed for SSA analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purpose of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also, to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with DHEW Regulation (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Master beneficiary record, earnings recordings and self-employment income system, disability claims folder, disability data record, case service reports of the Vocational Rehabilitation Agencies (R-300), Bureau of Hearings and Appeals record locator, Health Insurance Master File and related files, and SSA Administrative Awards File.

Systems exempted from certain provisions of the act: None.

09-60-0198

System name: Extramural Research Administrative File - HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Personnel described in research project proposals submitted for grant or contract consideration.

Categories of records in the system: Professional qualifications and other relevant information about project personnel. Direct or indirect information on individual salaries may be included.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC 902); Section 1110 of the Social Security Act (42 USC 1310).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To the court or to a party in connection with any civil or criminal action to which the Secretary is a party or otherwise involving a program administered by the Social Security Administration.
3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy forms, magnetic tape, disc, punch cards, or printouts.

Retrievability: Files are indexed by HEW-assigned number. Data are used within HEW for administrative analyses

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Records with identifiers will be held in secure storage areas and will be disposed of as soon as they are determined to be no longer needed for analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Bldg./Rm.1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the systems manager. He will need to know the project title and number, name of contractor or grantee organization and the name of the person requesting notification.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with DHEW Regulation (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Project proposals submitted for grant or contract consideration.

Systems exempted from certain provisions of the act: None.

09-60-0199

System name: Extramural Surveys (Statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Samples of individuals who are current or potential recipients of benefits from Social Seucrity and related programs; personnel administering SSA and related programs.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics; attitudes concerning subjects such as health, work experience, and family relationships; earnings and employment history, benefits, use of medical and rehabilitative services.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902) Section 1110 of the Social Security Act (42 USC, Section 1310).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy questionnaire forms, microfilm, punch cards, magnetic tape, disc, or printouts.

Retrievability: Files based on SSA sample populations are indexed by SSA-assigned case numbers or social security numbers. Files based on contractor sample populations are indexed by contractor-assigned case numbers which may be cross-referenced to social security numbers.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes for use outside of the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked files, etc.) restricting access to authorized personnel.

Retention and disposal: Hard copy questionnaires will be destroyed when survey reports are completed. Records with identifiers will be held in secure storage areas and will be retained only as long as needed for analysis. Identifiers will be removed at th earliest possible time after data collection is completed. The need to retain identifiers will be evaluated at the time each survey is completed. Records with identifiers will be disposed of as soon as they are determined to be no longer needed. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention. In longitudinal studies, working files are stripped of identifiers and given randomly assigned case numbers. A separate link file will be maintained in secure storage for updating with individual identifiers.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Survey data obtained by the contractor; SSA administrative records.

Systems exempted from certain provisions of the act: None.

09-60-0200

System name: Retirement and Survivors Studies Survey Records (Statistics) - HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Bureau of the Census
Washington, D.C.
Jeffersonville, Indiana

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Sample groups of adults or children who are current, past or potential recipients of Social Security payments, or pension or survivor benefits from public or private sources.

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Categories of records in the system: Socio-economic, demographic, medical, insurance, welfare, attitudes, earnings, employment, and benefits.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the prformance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy questionnaire forms, microfilm, punch cards, magnetic tape, disc, or printouts.

Retrievability: Files based on SSA sample populations are indexed by SSA-assigned case numbers. Files based on Census sample populations are indexed by Census-assigned case numbers. Cross-reference to social security numbers may exist during data collection.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of inforamtion about individuals. Microdata files prepared for research purposes for use outside of the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked files, etc.) restricting access to authorized personnel.

Retention and disposal: Hard copy questionnaires will be destroyed when survey reports are completed. Records with identifiers will be held in secure storage areas and will be retained only as long as needed for SSA analysis. Identifiers will be removed at the earliest possible time after data collection is completed. The need to retain identifiers will be evaluated at the time each survey is completed. Records with identifiers will be disposed of as soon as they are determined to be no longer needed. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention. In longitudinal studies, working files are stripped of identifiers and given randomly assigned case numbers. A separate link file will be maintained in secure storage for updating with individual identifiers.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: SSA administrative records (e.g. Master Beneficiary Record, earnings recordings and self-employment income systems and/or survey data collected by contractor. Bureau of the Census records may be used to create sampling frame.

Systems exempted from certain provisions of the act: None.

09-60-0201

System name: Retirement and Survivors Studies Records and Extracts (Statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Sample groups of adults or children who are current, past, or potential recipients of Social Security payments, or pension or survivor benefits from public or private sources.

Categories of records in the system: Socio-economic, demographic, medical, insurance, welfare, earnings, employment, benefits.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Sec.902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an indivdual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrievlog, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy forms, microfilm, magnetic tape, disc, punch cards, or printouts.

Retrievability: Files are indexed by social security number. Data are used within the Office of Research and Statistics for program planning and evaluation purposes, to identify changes in the beneficiary populations, and to evaluate benefit adequacy, etc.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Records with identifiers will be held in secure storage aareas and will be disposed of as soon as they are determined to be no longer needed for SSA analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purpose of access, write to the system amanger. He will request name of the system and social security number (on a voluntary basis). Also, to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with DHEW Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Master beneficiary record, earnings recordings and self-employment income system.

Systems exempted from certain provisions of the act: None.

09-60-0202

System name: Old Age, Survivors and Disability Beneficiary and Worker Records and Extracts (Statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Groups of applicants for and recipients of social security old age, survivors, disability and black lung benefits; persons with taxable earnings; persons issued social security numbers. Most files are samples of selected subgroups.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics, earnings, employment history, benefits, and use of medical and rehabilitative services.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy forms, magnetic tape, microfilm, disc, punch cards, or printouts.

Retrievability: Files are indexed by social security number. Data are used within the Office of Research and Statistics for statistical purposes related to the administration and evaluation of old-age, survivors, disability and black lung benefit programs.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Records with identifiers will be held in secure storage areas and will be disposed of as soon as they are determined to be no longer needed for SSA analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also, to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with DHEW Regulation (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. . (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Master beneficiary record, earnings recordings and self-employment income system, and other SSA records related to earnings and applications for, or payment of benefits. For selected employers, lists of persons working in covered employment.

Systems exempted from certain provisions of the act: None.

09-60-0203

System name: Supplementary Security Income (SSI) Studies Survey Records (Statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Bureau of the Census
Washington, D.C.
Jeffersonville, Indiana

Contractor sites: Addresses may be obtained by writing to the system manager (see below)

Categories of individuals covered by the system: Sample groups of persons and families receiving or potentially eligible to receive welfare assistance under the SSI and related Federal/State welfare programs, including Aid to Families with Dependent Children, General Assistance, Emergency Assistance and Food Stamps; other persons or families, regardless of SSI or poverty status, for use within the same system of records for comparison purposes with persons or families in the above categories; Federal/State personnel responsible for the administration of SSI and related welfare programs.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics, living conditions, attitudes, earnings and employment history, benefits, use of medical and rehabilitative services, participation on SSI and related Federal/State welfare programs.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy questionnaire forms, microfilm, punch cards, magnetic tape, disc, or printouts.

Retrievability: Files based on SSA sample populations are indexed by SSA-assigned case numbers or social security numbers. Files based on Census sample populations are indexed by Census-assigned case numbers cross-referenced to social security numbers.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes for use outside of the research staff will be stripped of personal identifiers.

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For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked files, etc.) restricting access to authorized personnel.

Retention and disposal: Hard copy questionnaires will be destroyed when survey reports are completed. Records with identifiers will be held in secure storage areas and will be retained only as long as needed for SSA analysis. Identifiers will be removed at the earliest possible time after data collection is completed. The need to retain identifiers will be evaluated at the time each survey is completed. Records with identifiers will be disposed of as soon as they are determined to be no longer needed. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention. In longitudinal studies, working files are stripped of identifiers and given randomly assigned case numbers. A separate link file will be maintained in secure storage for updating with individual identifiers.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Room 1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: SSA administrative records (e.g. the Supplemental Security Income Record, SSI applications, Master Beneficiary Record, earnings recordings and self-employment income system, disability case folders, etc.), program records for related Federal/State welfare programs, and/or survey data collected by contractor. Bureau of the Census records may be used to create sampling frame.

Systems exempted from certain provisions of the act: None.

09-60-0204

System name: Supplementary Security Income (SSI) Studies Records and Extracts (Statistics) HEW/SSA/OPP

Security classification: None

System location:

Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Social Security Administration
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009
Contractor sites: Addresses may be obtained by writing to the systems manager (see below)

Categories of individuals covered by the system: Samples of applicants and recipients of benefits under the SSI program; samples of applicants and recipients of welfare assistance under related programs, including Aid to Families with Dependent Children (AFDC), General Assistance, Emergency Assistance and Food Stamps; specially selected subsets of applicants/recipients from the above programs.

Categories of records in the system: Socio-economic, demographic, medical and disability characteristics; earnings, employment history, participation in and benefits received under the SSI and related welfare programs, and use of medical and rehabilitative services.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 USC, Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To contractor under contract to the Social Security Administration (SSA), or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy forms, microfilm, magnetic tape, disc, punch cards, or printouts.

Retrievability: Files are indexed by social security number. Data are used within the Office of Research and Statistics for program planning and evaluation purposes such as participation in and relative effectiveness of the SSI and related welfare programs, determination of the characteristics of program applicants and benefit recipients, etc.

Safeguards: Magnetic tapes or other files with personal identifiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes outside the research staff will be stripped of personal identifiers. For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used, (such as the use of passwords, locked-files, etc.) restricting access to authorized personnel.

Retention and disposal: Records with identifiers will be held in secure storage areas and will be disposed of as soon as they are determined to be no longer needed for SSA analysis. Means of disposal will be appropriate to the record storage medium, e.g., erasure of tapes, shredding of printouts, etc. As long as identifiable records exist, a periodic review will be made at least every two years to determine the need for their retention.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building/Rm.1121
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Notification procedure: For purposes of access, write to the system manager. He will request name of the system and social security number (on a voluntary basis). Also, to verify identity, provide name (woman's maiden name, if applicable), address, date of birth, and sex.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Supplemental Security Income Record, SSI applications, State supplied SSI data, program records of other Federal/State welfare programs, master beneficiary record, earnings recordings and self-employment income system, disability claims folder, disability data record, Health Insurance Master file and related files, and other SSA administrative records; case service reports of the Vocational Rehabilitation Agencies.

Systems exempted from certain provisions of the act: None.

09-60-0205

System name: Indochina Refugee and Sponsor System, HEW-OS-IRTF (Indochina Refugee Task Force) VOLAG Billing and Validation System, VOLAG Program Progress Reporting System, HEW/SRS Refugee Financial Assistance System HEW SSA OFA.

Security classification: None.

System location:

Donohoe Bldg., HEW/SSA/OFA/Special Programs Staff
400 6th Street., S.W.

Washington, D.C. 20201
and at HEW/SSA/ODD, Operations Bldg.
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: Individuals who are refugees from Indochina as defined in the authorizing legislation and individuals and voluntary resettlement agencies (VOLAGS) who have sponsored refugees.

Categories of records in the system: Names and addresses of individuals and voluntary resettlement agencies (VOLAGS) who sponsored refugees. Names of refugees, resettlement camp ID Numbers, INS Alien Number, Age, Sex, English-speaking capability, Education, Occupational skills, Health status, and Administrative data (e.g., arrival date, camp assignment, camp departure date, destination). VOLAG billing and validation data including progress reports on status of refugees, HEW/SRS refugee financial assistance data.

Authority for maintenance of the system: The Indochina Migration and Refugee Assistance Act of 1975 (P.L. 95-145).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. As listed in Departmental Regulations (45 CFR, Part 5b), Appendix B, items 1, 3, 4, 5, 6, 8, and 9.
2. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Regulations (45 CFR Part 5b), Appendix B, items 1, 3, 4, 5, 6, 8, 9.
3. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in electromagnetic form (disk and tape) in a dedicated IBM 370/165 computer located at:

HEW/SSA/ODD, Operations Bldg.
6401 Security Boulevard
Baltimore, Maryland 21235
Hard copy (printouts) are maintained at:
HEW/SSA/OFA/Special Programs Staff, Donohoe Building, Room 1123
400 6th Street, S.W.
Washington, D.C.

Dept. of State, D/HA-ORM
SA 6, Room 231
1700 N. Lynn St.
Arlington, Va. 22209

Red Cross Refugee Locator Service
4th Floor
18th and D Sts., N.W.
Washington, D.C.

Retrievability: Records concerning refugees are indexed by name and cross indexed by A (Alien) number. Records are available to HEW on a need to know basis above. Hardcopy and folders are maintained in limited access space. Direct access to the computer site is restricted to authorized operating personnel.

Retention and disposal: Authorization for the program terminates on September 30, 1981; HEW/SSA/OFA/Special Programs Staff will maintain records until that date, or until work is completed, whichever comes first, at which time another component of HEW will maintain these records.

System manager(s) and address:

Director,
Special Programs Staff/OFA/SSA/HEW
Donohoe Building - Room 1124
Dept. of Health, Education and Welfare
330 Independence Ave., S.W.
Washington, D.C. 20201

Notification procedure: System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Department of State, Intergovernmental Committee for European migration (ICEM), national voluntary resettlement agencies, Inter-Agency Task Force (through Dec. 31, 1975), State welfare agencies.

Systems exempted from certain provisions of the act: None.

09-60-0206

System name: Repatriate Records System, HEW SSA/OFA.

Security classification: None.

System location:

Social Security Administration, HEW
Office of Family Assistance
Special Projects Staff
Repatriate Program
330 C. Street, S.W. Room 4115
Washington, D.C. 20201

Categories of individuals covered by the system: U.S. Citizens and their dependents returned from foreign countries by the Department of State because of mental or physical illness, destitution, war, threat of war or international crisis.

Categories of records in the system: Identifying data such as name, date and place of birth, Social Security number, resources, employment, eligibility for other Federal, State or local programs and related data. Other categories include State and Regiuonal reports, correspondence and accounting data. fund accounting data, educational data, and employment records and skills, financial reports, military service and civil and/or criminal records.

Authority for maintenance of the system: Public Law 86-571, Public Law 87-64 (Title XI of the Social Security Act, Section 1113).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made:

1. to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provides a basis for the expenditure of Federal funds. Information is used for the administration of the programs, by HEW regional staff, State and local health and welfare agencies and other private and public agencies, as required.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual case folders by program office. Records are indexed by name and stored in locked metal cabinets. Files are confidential. Records are maintained for five years prior to retirement to the Federal Records Center, Suitland, Md.

Retrievability: Records are indexed by name and are maintained in alphabetical order. Active and closed files are maintained. State expenditure funds are maintained. Provides a basis for the expendi-

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ture of Federal funds. Information is used for the administration of the programsa by HEW regional staff, State and local health and welfare agencies and other private and public agencies as required.

Safeguards: Files are stored in metal cabinets with lock and key. Files are of a confidential nature and other personnel would not normally have access to their contents.

Retention and disposal: The policy is to maintain records for five years and then send them to the Federal Records Center in Suitland, Maryland. Some records are maintained in the active files for considerably longer periods.

System manager(s) and address:

Chief, U.S. Repatriate Program
Special Programs Staff/OFA/SSA/HEW
Donohoe Building, Room 1124
330 Independence Ave., S.W.
Washington, D.C. 20201

Notification procedure: System Manager.

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, pg.47410).

Contesting record procedures: Write the system manager at the address specified above and reasonably identify the record and specify the information contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, pg.47411).

Record source categories: Information is secured from the individual or his relative and submitted to HEW by the Department of State.

09-60-0207

System name: Cuban Refugee Registration Records. HEW SSA/OFA.

Security classification: None.

System location:

U. S. Cuban Refugee Emergency Center
747 Ponce de Leon Boulevard
Miami, Florida 33134

Categories of individuals covered by the system: Cuban refugees who, on their own initiative, have registered at the Cuban Refugee Emergency Center in order to qualify for Federal benefits under the Cuban Refugee Program. (Registration is not required).

Categories of records in the system: Name, names of family members, places and dates of birth, occupation, and related data.

Authority for maintenance of the system: Migration and Refugee Assistance Act of 1962.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Voluntary resettlement agencies working under contract with Federal Government in connection with possible resettlement of refugees from Miami to other locations.

2. Florida Division of Family Services, to verify eligibility of refugee to apply for Cuban refugee assistance.

3. State welfare, health, or social services agencies to verify eligibility under Cuban Refugee Program and to enable State to claim Federal reimbursement for assistance provided.

4. HEW Regional Offices in order to provide information to State agencies.

5. Federal law enforcement and security agencies, including the Federal Bureau of Investigation and the Immigration and Naturalization Service, when requested.

6. Courts, when subpoenaed.

7. Statistical research and reporting, provided the record will be used solely as a statistical research or reporting record and is to be transferred in a form that is not individually identifiable.

8. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

9. Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and punched card.

Retrievability: Name, Center file number, alien registration number.

Safeguards: Locked areas, access only by record and data processing personnel to record areas, or accompanied by such personnel; guard service during non-office hours.

Retention and disposal: Records will be maintained permanently for the duration of the Program.

System manager(s) and address:

Director, Miami Operations
Cuban Refugee Program
P.O. Box 340188
Miami, Florida 33134

Notification procedure: System Manager.

Record access procedures: System Manager.

Contesting record procedures: System Manager.

Record source categories: Individual who is subject of record.

Systems exempted from certain provisions of the act: None.

09-60-0208

System name: Program Integrity Management Information and Control System HEW SSA OPO.

Security classification: None.

System location:

Bureau of Data Processing
6401 Security Boulevard
Baltimore, Maryland 21235

Categories of individuals covered by the system: All individuals suspected of criminal violations involving the supplemental security income (SSI) program.

Categories of records in the system: Information about the supplemental security income recipient, supplemental security income suspect, program integrity case development and information about the violation aspects of the case.

Authority for maintenance of the system: Sections 106, 208, 1106, 1107, (42 U.S.C. 1306 and 1307), 1631(D)(2) and 1632 of Title XVI of the Social Security Act and 18 U.S.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made: the record of an

(1)to a congressional office from individual in response to an inquiry from the congressional office made at the request of that individual.

(2)In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and paper listings.

Retrievability: The record of each individual is retrieved either by social security number, name, or case identification number./ Information in this system is routinely used by Office of Program Operations Intergity staff (1) to monitor the progress of development of individual suspected fraud cases to insure timely resolution; and (2) for statistical analysis purposes to identify (a) types of cases which occur with such frequency as to suggest the need for revision of policies and procedures relative to establishing eligibility for payments and (b) trends and averages with respect to the processing time of such cases and their disposition under the Federal judicial system. All information identifiable with a specific individual is protected from access by an individual other than to whom the record pertains by statute (section 1106 of the Social Security Act (42 United States Code 1306).

Safeguards: All data is encrypted on magnetic tapes. These tapes are retained in secure storage areas accessible only to authorized persons within the Bureau of Data Processing. The storage area is controlled by marshalls responsible for insuring that only authorized personnel are permitted. Official identification badges or passes are required to gain entrance to the storage area. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. Paper listings are locked in a secured area.

Retention and disposal: Six months retention for magnetic tapes. A procedure is available to select and delete any case that is deemed irrelevant.

System manager(s) and address:

Director
Office of Program Operations
6401 Security Boulevard
Baltimore, Maryland 21235

Notification procedure: A request may be forward to the Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235. The social security number /name or card identification number is needed as identifying information. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.).

Record access procedures: Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) Federal Register, October 8, 1975, page 47410.).

Contesting record procedures: Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.).

Record source categories: Information is provided by supplemental security income applicants, informants, Social Security Administration offices and other Federal, titles II and or XVI, State, or municipal agencies, by letter, telephone or in person.

Systems exempted from certain provisions of the act: None.

09-60-0209

System name: Readership Surveys of Office of Research and Statistics (ORS) Publications (statistics) HEW/SSA/OPP

Security classification: None.

System location:

Social Security Administration
1875 Connecticut Ave NW
Washington, DC 20009
Social Security Administration
6401 Security Blvd
Baltimore, MD 21235 contractor sites: addresses may be obtained by writing to the system manager (see below).

Categories of individuals covered by the system: 0Groups of readers and potential readers of ORS publications

Categories of records in the system: Type of access to publications, frequency and extent of use, revelance of publications to job and professional interests, socioeconomic and demographic characteristics, attitudes.

Authority for maintenance of the system: Section 702 of the Social Security Act (42 U.S.C.,Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made: the record

(1)to a congressional office from of an individual in response to an inquiry from the congressional office made at the request of that individual.

To contractor under contract to the Social Security Administration (SSA) or under contract to another agency with funds provided by SSA, for the performance of research and statistical activities directly related to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data may be stored on hard copy questionaire forms, microfilm, punchcards, magnetic tape, disc, or printouts.

Retrievability: files based on lists of readers are indexed by name and/or by social security number or contractor-assigned case numbers.

Safeguards: magnetic tapes or other files with personal identifiiers are retained in secure storage areas accessible only to authorized persons. Employees having access to records are notified of criminal sanctions for unauthorized disclosure of information about individuals. Microdata files prepared for research purposes for use outside of the research staff will be stripped of personal identifiers.

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines will be used (such as the use of passwords, locked files, etc.), restricting access to authorized personnel.

Retention and disposal: hard copy questionaires will be destroyed when survey reports are completed. Records with identifiers will be held in secure storage areas and will he retained only as long as needed for SSA analysis. Identifiers will be removed at the earliest possible time after data collection is completed.

The need to retain identifiers will be evaluated at the time each survey is completed. Records with identifiers will be disposed of as soon as they are determined to be no longer needed.. Means of disposal will be appropriate to the record storage medium: e.g., erasure of tapes, shredding of printouts, etc.

As long as identifible records exist, a periodic review will be made at least every 2 years to determine the need for their retention. In longitudinal studies, working files are stripped of identifiers maintained in secure storage for updating with individual identifiers.

System manager(s) and address:

Assistant Commissioner for Research and Statistics
Social Security Administration
Universal North Building, room 1121
1875 Connecticut Avenue NW Washington, DC 20009

Notification procedure: for purposes of notification, write to the system manager. He will request name of the system, and on a voluntary basis, social security number. Verification of identity may be required in accordance with Department Regulations (45 CFR 5b.5(b)(2)), FEDERAL REGISTER, October 8, 1975, page 47410.

Record access procedures: same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR 5b.5(b)(2)), FEDERAL REGISTER, October 8, 1975, page 47410.)

Contesting record procedures: write the system mamager at the address above and reasonably identify the record and specify the information to be contested. (these procedures are in accordance with Department Regulations (45 CFR, Section 5b.7), FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories: Mailling lists maintained by ORS and by the Government Printing Office and survey data collected by SSA or contractor.

Systems exempted from certain provisions of the act: None

APPENDIX A Retirement and Survivors Insurance Claims

1. Determining Appropriate Office to Contact

Records relating to retirement and survivor insurance claims are maintained primarily in six program service centers across the country. The responsibility for the payment of benefits and the

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maintenance of records is assigned to each office according to the first three digits of the social security number.

However, if the only individual entitled to survivor's monthly benefits on one claim number is also entitled to a retirement benefit on another claim number, the office which is assigned the responsibility for the retirement benefit claim also handles the survivor claim. If the only individual on the record is entitled to a survivor benefit which has been reduced because the survivor is under age 65, and the individual is also entitled to a disability benefit (which is higher), on another record, the Bureau of Disability Insurance certifies the payments and maintains both records (see Appendix B). The Bureau of Disability Insurance is also responsible for payment certification and record maintenance if the only survivor on a record is entitled as a childhood disability beneficiary and the survivor is also entitled to a disability benefit on another record.

In addition, when one of the individuals in the record resides outside the United States or its possessions, the responsibility for payment certification and record maintenance is assigned to the Division of International Operations without reference to the social security claim number or the type of benefit.

With the exceptions noted above, the appropriate program service center to contact can be determined by checking the first three (left side) digits of the social security number and comparing to the chart below. For example, if the first three digits are 076, the appropriate program service center to contact will be the Northeastern Program Service Center; similarly, if the first three digits were 437, the appropriate office would be Mid-America Program Service Center, and if they are 728, the appropriate office would be the Great Lakes Program Service Center.

If the first three digits fall within the range of:

001 - 134 contact the Northeastern Program Service Center;
135 - 222 the Mid-Atlantic Program Service Center;
223 - 231 the Southeastern Program Service Center;
232 - 236 the Mid-Atlantic Program Service Center;
237 - 267 the Southeastern Program Service Center;
268 - 302 the Great Lakes Program Service Center;
303 - 315 the Mid-America Program Service Center;
316 - 399 the Great Lakes Program Service Center;
400 - 428 the Southeastern Program Service Center;
429 - 500 the Mid-America Program Service Center;
501 - 504 the Western Program Service Center;
505 - 515 the Mid-America Program Service Center;
516 - 524 the Western Program Service Center;
525 the Mid-America Program Service Center;
526 - 576 the Western Program Service Center;
577 - 584 the Mid-Atlantic Program Service Center;
585 the Mid-America Program Service Center;
586 the Western Program Service Center;
587 the Southeastern Program Service Center; or
700 - 729 the Great Lakes Program Service Center.

2. Office Addresses

Regional Commissioner, RSI
Northeastern Program Service Center
96-05 Horace Harding Expressway
Flushing, New York 11368

Regional Commissioner, RSI
Mid-Atlantic Program Service Center
P. O. Box 3579
Philadelphia, Pennsylvania 19123

Regional Commissioner, RSI
Southeastern Program Service Center
2001 Twelfth Avenue, North
Birmingham, Alabama 35285

Regional Commissioner, RSI
Great Lakes Program Service Center
165 North Canal Street
Chicago, Illinois 60606

Regional Commissioner, RSI
Mid-America Program Service Center
601 East Twelfth Street
Kansas City, Missouri 64106

Regional Commissioner, RSI
Western Program Service Center
P.O. Box 2000
Richmond, California 94802

Director
Division of International Operations
P.O. Box 1756
Baltimore, Maryland 21203

3. Office Hours

Northeastern Program Service Center - 8:20 - 4:50
Mid-Atlantic Program Service Center - 8:30 - 5:00
Southeastern Program Service Center - 8:00 - 4:30
Great Lakes Program Service Center - 8:05 - 4:35
Mid-America Program Service Center - 8:00 - 4:30
Western Program Service Center - 8:00 - 4:30
Division of International Operations - 8:15 - 4:45

Appendix B Disability Insurance Claims

1. Central Reviewing Office Address

Records relating to claims for disability insurance are maintained primarily by the:

Bureau of Disability Insurance
Baltimore, Maryland 21241
Office Hours are: 8:20-4:50

When one of the individuals in the claim resides outside of the United States, or its possessions, the record is maintained by the Division of International Operations, P. O. Box 1756, Baltimore, Maryland 21203.

2. Disability Insurance Regional Commissioner Addresses and Office Hours.

Assistant Regional Commissioner, DI
DHEW, SSA, Room 1200
JFK Federal Building
Boston, Massachusetts 02203

Office Hours 8:30-5:00

Assistant Regional Commissioner, DI
DHEW, SSA
Federal Bldg., Room 4008, 26 Federal Plaza
New York, New York 10007

Office Hours 8:30-4:30

Assistant Regional Commissioner, DI
DHEW, SSA
P.O. Box 8788
Philadelphia, Pennsylvania 19108

Office Hours 8:30-5:00

Assistant Regional Commissioner, DI
DHEW, SSA
50 Seventh Street, NE, Room 628
Atlanta, Georgia 30323

Office Hours 8:30-4:30

Assistant Regional Commissioner, DI
DHEW, SSA
Room 712, New Post Office Building
300 South Wacker Drive, 12th Floor
Chicago, Illinois 60606

Office Hours 8:15-4:45

Assistant Regional Commissioner, DI
DHEW, SSA
Room 436, Federal Bldg.
601 East 12th Street
Kansas City, Missouri 64106

Office Hours 8:00-4:45

Assistant Regional Commissioner, DI
DHEW, SSA
1200 Main Tower Bldg.
1114 Commerce Street
Dallas, Texas 75202

Office Hours 8:00-4:30

Assistant Regional Commissioner, DI
DHEW, SSA
100 Van Ness Ave.
San Francisco, California 94102

Office Hours 8:00-4:30

Assistant Regional Commissioner, DI
DHEW, SSA
Federal Building, Room 11037
19th and Stout Street
Denver, Colorado 80202

Office Hours 8:30-4:30

Assistant Regional Commissioner, DI
DHEW, SSA
Arcade Plaza Building, M/S M-1
1321 Second Avenue
Seattle, Washington 98101

Office Hours 8:00-4:30

3. Related State Office Addresses

The disability claims files may be temporarily transferred to State Disability Determination Sections for initial or continuing disability determinations to be made. Vocational Rehabilitation Agencies in the States may also be involved with a disability claim from the training aspects. The State agency addresses are as follows:

Alabama

State Department of Education
Disability Determination Unit
Clairmont Office Plaza
2800 8th Avenue, South
Birmingham, Alabama 35233

Alaska

Disability Adjudicator
Disability Determination Unit
Office of Vocational Rehabilitation
830 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

Arizona

Disability Certification Office
Rehabilitation Services Bureau
Department of Economic Security
P.O. Box 11980
Phoenix, Arizona 85061

Arkansas

Director
Disability Determination for Social Security Administration
Suite 700
1515 West Seventh Street
Little Rock, Arkansas 72202

California

Oakland Region

Department of Health
Disability Evaluation Branch
P.O. Box 24225
Oakland, California 94623

Los Angeles North Region

Department of Health
Disability Evaluation Program
P.O. Box 3819
Terminal Annex
Los Angeles, California 90051

San Diego Region

Department of Health
Disability Evaluation Branch
P.O. Box 81326
San Diego, California 92138

Sacramento Region

Department of Health
Disability Evaluation Branch
P.O. Box 1827
Sacramento, California 95809

Fresno Region

Department of Health
Disability Evaluation Branch
P.O. Box 1072
Fresno, California 93724

Los Angeles South Region

Department of Health
Disability Evaluation Program
P.O. Box 60999
Terminal Annex
Los Angeles, California 90060

Colorado

Department of Social Services
Division of Rehabilitation
Disability Determination Unit
2015 S. Pontiac Way
Denver, Colorado 80222

Connecticut

Bureau Chief
Division of Vocational Rehabilitation
Bureau of Disability Determination
600 Asylum Avenue, 2nd floor
Hartford, Connecticut 06105

Delaware

Administrator
Disability Determination Service
P.O. Box 988
Wilmington, Delware 19899

District of Columbia

Disability Determination Division
Vocational Rehabilitation Administration
Department of Human Resources
1411 K Street, N.W., 13th Floor
Washington, D.C. 20005

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Florida

Program Director
Office of Disability Determination
Dept. of Health and Rehabilitation Services
1309 Winewood Boulevard
Tallahassee, Florida 32301

Georgia

Director
Disability Determination Unit
Division of Vocational Rehabilitation
One West Court Square, Suite 300
Decatur, Georgia 30030

Guam

Division of Vocational Rehabilitation
P.O. Box 3009
Agana, Guam 96910

Hawaii

Disability Determination Branch
Vocational Rehabilitation and Service for the Blind Division
Davies Pacific Center, Suite 1212
841 Bishop Street
Honolulu, Hawaii 96813

Idaho

Director
Disability Determination
1505 McKinney
Boise, Idaho 83704

Illinois

Deputy Director
Division of Vocational Rehabilitation
Federal Disability Program
P.O. Box 3842
Springfield, Illinois 62708

Indiana

Director
Disability Determination Division
821 Illinois Building
17 West Market Street
Indianapolis, Indiana 46204

Iowa

Assistant Director
Rehabilitation Education and Services Branch
Disability Determination Division
507 10th St., 4th Floor
Des Moines, Iowa 50309

Kansas

Supervisor
Division of Vocational Rehabilitation
State Board of Social Welfare
Disability Determination Unit
Post Office Box 5057
420 East 29th
Topeka, Kansas 66605

Kentucky

Division of Disability Determinations, Department for Human Resources
Highway 127
South Frankfort, Kentucky 40601

Louisiana

Disability Determinations
Louisiana Health and Human Resources Administration
Division of Management
P.O. Box 15932
Broadview Station
Baton Rouge, Louisiana 70815

Maine

Chief
Bureau of Vocational Rehabilitation
Division of Disability Determination
P.O. Box 949
Augusta, Maine 04330

Maryland

Assistant Director
Disability Determination Program
Division of Vocational Rehabilitation
7800 York Road, 3rd Floor
Towson, Maryland 21204

Massachusetts

Director
Massachusetts Rehabilitation Commission
Disability Determination Service
60 Batterymarch Street
Boston, Massachusetts 02110

Michigan

Chief
Disability Determination Program
Division of Rehabilitation Services
P.O. Box 1200
Lansing, Michigan 48904
Services all DO's and BO's except Detroit: Downtown (Grand River), Northwest; Pontiac and Royal Oak

Division of Rehabilitation Services
Disability Determination Program
25,900 Greenfield Road (3r Floor)
Oak Park, Michigan 48237

Division Determination Program
Division of Vocational Rehabilitation Services
P. O. Box 1200
Traverse City, Michigan 49684

Minnesota

Director
Disability Determinations Unit
Division of Vocational Rehabilitation
Metro Square Building, Suite 460
Seventh and Roberts Streets
St. Paul, Minnesota 55101

Mississippi

State Supervisor
Disability Determination Unit
State Dept. of Education
P.O. Box 1271
Jackson, Mississippi 39205

Missouri

Director
Section of Vocational Rehabilitation
Disability Determination Services
125 West Dunklin
Jefferson City, Missouri 65101

Section of Vocational Rehabilitation
Disability Determination Services
1225 N. Kings Highway
Cape Girardeau, Missouri 63701

Section of Vocational Rehabilitation
Disability Determination Services
8704 Manchester Road
St. Louis, Missouri 63144

Section of Vocational Rehabilitation
Disability Determination Services
1722J South Glenstone
Springfield, Missouri 65806

Section of Vocational Rehabilitation
Disability Determination Services
1734 East 63rd St., Room 305
Kansas City, Missouri 64110

Montana

Chief
Disability Determination Bureau
Rehabilitative Services Division
P. O. Box 4189
Helena, Montana 59601

Nebraska

Supervisor
Division of Rehabilitation Services
Disability Determination Section State Office Bldg., 6th Floor
301 Centennial Mall
South Lincoln, Nebraska 68508

Division of Rehabilitation Services
Disability Determination Section
Room 1410 City National Bank Building
Omaha, Nebraska 68102

Nevada

Bureau of Disability Adjudication
Rehabilitation Division
Department of Human Resources
505 East King St.
Capital Complex
Carson City, Nevada 89710

New Hampshire

Supervisor
Disability Determination Unit
Vocational Rehabilitation Division
P.O. Box 452
Concord, New Hampshire 03301

New Jersey

Director
Division of Disability Determinations
Department of Labor and Industry
P.O. Box 649
Newark, New Jersey 07101

New Mexico

Supervisor
Disability Determination Unit
P.O. Box 4588
Albuquerque, New Mexico 87106

New York

Director
Bureau of Disability Determination
State Department of Social Services
2 World Trade Center
New York, New York 10047

North Carolina

Director
Disability Determination Section
Division of Social Services
Post Office Box 243
Raleigh, North Carolina 27602

North Dakota

Supervisor
Disability Determination Section
Division of Vocational Rehabilitation
Russel Building, RR01, Highway 83 North
Bismarck, North Dakota 58505

Ohio

Director
Bureau of Disability Determination
Rehabilitation Services Commission
4574 Heaton Road
Columbus, Ohio 43229

Director
Bureau of Disability Determination
Rehabilitation Services Commission
9403 Kenwood Rd.
Cincinnati, Ohio 45442

Oklahoma

Director
Department of Institutions
Social and Rehabilitative Services
Attention: Disability Insurance Unit
P.O. Box 25352
Oklahoma City, Oklahoma 73125

Oregon

Director
Vocational Rehabilitation Division
Disability Determination Operations
2045 Silverton Road, N.E.
Salem, Oregon 97310

Pennsylvania

Bureau of Vocational Rehabilitation
Disability Determination Division
1314 North Seventh Street
Harrisburg, Pennsylvania 17120

Bureau of Vocational Rehabilitation
Disability Determination Division
225 Jones Street
Wilkes-Barre, Pennsylvania 18702

Bureau of Vocational Rehabilitation
Disability Determination Division
P.O. Box 2500
Greensburg, Pennsylvania 15605

Puerto Rico

Executive Director
Disability Determination Program
Call Box 71301
San Juan, Puerto Rico 00936

Rhode Island

Supervisor
Vocational Rehabilitation Services
Disability Determination Unit
24 Mason Street
Providence, Rhode Island 02903

South Carolina

Disability Determination Division
S.C. Vocational Rehabilitation
2611 Forest Drive, Suite 200
Columbia, South Carolina 229201

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Disability Determination Division
Department of Vocational Rehabilitation
615 Wesley Drive, Office Center
Charleston, South Carolina 29407

Disability Determination Division
Department of Vocational Rehabilitation
300 University Ridge, Suite 208
Greenville, South Carolina 29601

South Carolina Commission for the Blind P. O. Box 11638
Capital Section
Columbia, South Carolina 229211

South Dakota

Disability Determination Unit
Division of Vocational Rehabilitation
P.O. Box 912
Sioux Falls, South Dakota 57101

Tennessee

Coordinator
Disability Determination Section
Division of Vocational Rehabilitation
4721 Trousdale Drive
Nashville, Tennessee 37220

Texas

Texas Rehabilitation Commission
Division of Disability Determination
1 Chevy Chase
7700 Chevy Chase Drive, Austin, Texas 78752

Utah

Disability Determination Services
Division of Rehabilitation Service
Utah State Board of Education
250 East 5th South
Salt Lake City, Utah 84111

Vermont

Supervisor
Disability Determination Agency
State Office Building
Montpelier, Vermont 05602

Virgin Islands

Disability Representative
Bureau of Disability Insurance
DHEW, SSA Federal Building
St. Thomas
St. Thomas, Virgin Islands 00801

Virginia

Supervisor
Disability Determination Division
Virginia Department of Vocational Rehabilitation
200 West Grace Street
Richmond, Virginia 23220

Disability Determination Div.
Virginia Department of Vocational Rehabilitation
5205 Leesburg Pike, Suite 1000
Falls Church, Virginia 22041

Disability Determination Division
Virginia Department of Vocational Rehabilitation
965 Norfolk Square
Norfolk, Virginia 23502

Disability Determination Division
Virginia Dept. of Vocational Rehabilitation
4504 Starkey Road, S.W., Suite 100
Roanoke, Virginia 24014

Washington

Supervisor
Department of Social and Health Services
Disability Insurance Section, M/S 55-1
P.O. Box 2303
Olympia, Washington 98504

West Virginia

Assistant Director
Disability Determination Services
Vocational Rehabilitation Division
Mason Building, Second Floor
1206 Quarrier Street
Charleston, West Virginia 25301

Disability Determination Services
Vocational Rehabilitation Division
1206 Virginia Ave., East
Charleston, West Virginia 25301

Division of Vocational Rehabilitation
Disability Determination Section
160 Thompson Drive
Bridgeport, West Virginia 26330

Wisconsin

Bureau of Social Security Disability Insurance
P.O. Box 7623
Madison, Wisconsin 53707

Wyoming

Department of Health and Social Services
Division of Vocational Rehabilitation
Disability Determination Services
Boyd Building, 4th Floor
1720 Carey Avenue
Cheyenne, Wyoming 82001

Appendix D Supplemental Security Income Claims

1. Addresses for Records

Supplemental Security Income claims records are maintained in district and branch offices until a decision has been made regarding eligibility (see Appendix F). If payment has been awarded, or the appeal period has closed on claims with unfavorable determinations, the claims records are sent to the following locations:

Claims for benefits based on age are maintained in the program service centers (see Appendix A);

Claims for benefits based on disability or blindness are maintained by the Bureau of Disability Insurance (see Appendix B).

2. Regional Planning office for Supplemental Security Income

Boston Region--Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

New York Region--New Jersey, New York, Puerto Rico, Virgin Islands

26 Federal Plaza
New York, New York 10007

Philadelphia Region--Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

3535 Market Street
Philadelphia, Pennsylvania 19101

Atlanta Region--Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee

50 Seventh Street, NE
Atlanta, Georgia 30323

Chicago Region--Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

300 South Wacker Drive
Chicago, Illinois 60606

Dallas Region--Arkansas, Louisiana, New Mexico, Oklahoma, Texas

1114 Commerce Street
Dallas, Texas 75202

Kansas City Region--Iowa, Kansas, Missouri, Nebraska

New Federal Office Building
601 East 12th Street
Kansas City, Missouri 64106

Denver Region--Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Federal Office Building
19th & Stout Streets
Denver, Colorado 80202

San Francisco Region--American Samoa, Arizona, California, Guam, Hawaii, Nevada

Federal Office Building
50 Fulton Street
San Francisco, California 94102

Seattle Region--Alaska, Idaho, Oregon, Washington

1321 Second Avenue
Seattle, Washington 98101

3. Program Review Officers, Quality Assurance Regional Offices

Suite 1907
100 Summer St.
Boston, Massachusetts 02110

Service Area includes: New Hampshire, Massachusetts, Vermont and Maine

P.O. Box 7385
Corona-Elmhurst, New York 11373

Service Area Includes: Connecticut, New York, Rhode Island

P.O. Box 8788
Philadelphia, Pennsylvania 19101

Service Area Includes: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, West Virginia, Virginia

P.O. Box 662
Birmingham, Alabama 35201

Service Area Includes: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

P.O. Box 7535
Chicago, Illinois 60680

Service Area Includes: Indiana, Illinois, Michigan, Ohio, Wisconsin, Minnesota

P.O. Box 15568
Kansas City, Missouri 64106

Service Area Includes: Iowa, Kansas, Missouri, Nebraska

725 Dalworth
Grand Prairie, Texas 75050
Service Area includes: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

P.O. Box 42516
San Francisco, California, 94101

Service Area includes: Arizona, California, Colorado, Hawaii, Montana, Nevada, North Dakota, South Dakota, Utah, Wyoming

4735 E. Marginal Way, South
Seattle, Wash. 98134

Service Area includes: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

4. Quality Assurance Field Offices

a. Boston Service Area

Quality Assurance Field Staff
Suite 1907
100 Summer Street
Boston, Massachusetts 02110

b. New York Service Area

Quality Assurance Field Staff
P.O. Box 7385
Corona-Elmhurst, New York 11373

c. Philadelphia Service Area

P.O. Box 12808
Philadelphia, Pennsylvania 19108

Quality Assurance Field Staff
P.O. Box 8788
Philadelphia, Pennsylvania 19101

Quality Assurance Field Staff
2000 Century Plaza, Suite 454
10632 Little Patuxent Parkway
Columbia, Maryland 21044

Quality Assurance Field Staff
Oxford Building, Suite 419
200 Mall Boulevard
Monroeville, Pennsylvania 15146

d. Birmingham Service Area

Quality Assurance Field Staff
P.O. Box 662
Birmingham, Alabama 35201

Quality Assurance Field Staff
Suite 104
1102 Kermit Drive
Nashville, Tennessee 37217

Quality Assurance Field Staff
P.O. Box 24268
Tampa, Florida 33622

Quality Assurance Field Staff
Suite 102
3901 Barrett Drive
Raleigh, North Carolina 27609

Quality Assurance Field Staff
Suite 214-D
1568 Willingham Drive
College Park, Georgia 30337

e. Chicago Service Area

Quality Assurance Field Staff

SEP 27 1978

P.O. Box 7535
Chicago, Illinois 60680

Quality Assurance Field Staff
1084 McNamara Bldg.
477 Michigan Ave.
Detroit, Michigan 48226

Quality Assurance Field Staff
P.O. Box 44804
Indianapolis, Indiana 46244

Quality Assurance Field Staff
Federal Building
Room 658
316 Robert Street
St. Paul, Minnesota 55101

Dallas Service Area

Quality Assurance Field Staff AAA Building
3445 North Causeway Boulevard
Metairie, Louisiana 70002

Quality Assurance Field Staff
725 Dalworth
Grand Prairie, Texas 75050

Quality Assurance Field Staff
50 Penn Place Suite 1430
Oklahoma City, Oklahoma 73118

g. Kansas City Service Area

Quality Assurance Field Staff
P.O. Box 15568
Kansas City, Missouri 64106

h. San Francisco Service Area

Quality Assurance Field Staff
P.O. Box 42516
San Francisco, California 94101

Quality Assurance Field Staff
Hawthorne Building
15000 Aviation Boulevard
First Floor, Room 1-L-12
Lawndale, California 90261

Quality Assurance Field Staff
P.O. Box 2638
Salt Lake City, Utah 84110

Quality Assurance Field Staff
P.O. Box 15235
Lakewood, Colorado 80215

Quality Assurance Field Staff
Treasury State Building
Room 310
2906 Second Avenue, North
Billings, Montana 59101

Quality Assurance Field Staff
FAA Building
Suite 807
1833 Kalakaua Avenue
Honolulu, Hawaii 96815

i. Quality Assurance Field Staff
4735 E. Marginal Way, South
Seattle, Washington 98134

5. Information exchanged between Social Security Administration and the States because of the State Supplementation and Medicaid provisions of the Supplemental Security Income program is maintained at the following State Departments of Public Welfare Agency addresses:

Alabama

Director
Medical Services Administration
2500 Fairlane Dr.
Executive Park
Montgomery, Alabama 36111

Alaska

Director
Dept. of Health and Social Service
Pouch H - 350 Main St.
Juneau, Alaska 99801

Arizona

Director
Arizona Dept. of Economic Security
P.O. Box 6123
Phoenix, Arizona 85005

Arkansas

Director
Capital Mall
Welfare-ESD Building
Little Rock, Arkansas 72203

California
Director
Dept. of Benefit Payments
Tape Library MS 10-77
744 P Street
Sacramento, California 95814

Colorado

Director
Department of Social Services
1575 Sherman Street, Room 301
Denver, Colorado 80203

Connecticut

Director
Connecticut State Welfare Dept. Systems and Information
Attno Control Section Chief
110 Bartholomew Ave.
Hartford, Connecticut 06115

Delaware

Director
Administrator Payments Section
Division of Business Adm. and General Services
State Hospital Adm. Bldg.
Third Floor Annex
New Castle, Delaware 19720

District of Columbia

Director
Dept. of Human Resources
Automatic Data Processing Div.
801 N. Capitol Street, N. E.
Room 627
Washington, D. C. 20001

Florida

Chief
HRS Data Center
P.O. Box 2016
Jacksonville, Florida 32203

Georgia

Director
Dept. of Human Resources
Director, Division of Benefit Payments

Room 630-H
47 Trinity Ave.
Atlanta, Georgia 30334

Hawaii

Director
Department of Social Services
P. O. Box 339
Honolulu, Hawaii 96809

Idaho

Director
Dept. of Environmental Community Services
Attn Data Processing
State House
Boise, Idaho 83720

Illinois

Director
Illinois Dept of Public Aid
P. O. Box 1330
Springfield, Illinois 62762

Indiana

Director of Administrative Services
Indiana Dept. of Public Welfare
State Office Building
100 North Senate Ave.
Indianapolis, Indiana 46204

Iowa

Director
Dept. of Social/Rehab. Services
4th Floor
Lucas State Office Bldg.
Des Moines, Iowa 50319

Kansas

Director
Data Processing
Div. Social Rehab. Services
6th Floor Rm 622-S
State Office Bldg.
Topeka, Kansas 66612

Kentucky

Data Processing Manager
Department for Human Resources
Bureau of Administrative Opera
Division of Management Systems
Capitol Annex
Room 148
Frankfort, Kentucky 40601
Attn: DP Tape Library S D X

Louisiana

Director
State of Louisiana
Div. of Income Maintenance
P. O. Box 44065
Baton Rouge, Louisiana 70804

Maine

Director
Div. of Data Processing
Dept. of Health & Welfare
221 State Street
Augusta, Maine 04330

Maryland

Director
Dept. of Employ & Soc. Serv.
Div. of Data Processing
1100 North Eutaw Street
Room 301
Baltimore, Maryland 21201

Massachusetts

Director
Executive Office of Human Services
Information Systems and Services
Computer Center
Room 801
1 Ashburton Place
Boston, Massachusetts 02108

Director
Mass. Comm. For The Blind
110 Tremont Street
Boston, Massachusetts 02108

Michigan

Director
Department of Social Services
I/O Control Unit
4th. Floor
Lewis Cass Bldg.
Lansing, Michigan 48926

Minnesota

Director
Department of Public Welfare
Systems Division
P.O. Box 17038
St. Paul, Minnesota 55117

Mississippi

OMC
State Department of Public Welfare
Fondren Station
Box 4321
Jackson, Mississippi 39216

Missouri

Director
Department of Social Services
Attno 10 Control Center
Broadway State Office Bldg.
Jefferson City, Missouri 65101

Montana

Director
Social and Rehabilitation Services
Office of Management and Budget
Box 1723
Helena, Montana 59601

Nebraska

Director
Data Processing
Department of Public Welfare
Fourth Floor
1526 K Street
Lincoln, Nebraska 68508

Nevada

Director
Nevada State Department of Welfare
251 Jeanell
Carson City, Nevada 89701

New Hampshire

Director

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Director
State of New Hampshire
Department of Health and Welfare
Division of Welfare - Claims Processing Unit
8 Loudon Road
Concord, New Hampshire 03301

New Jersey

Director
Blue Cross - Blue Shield
Systems Division Tech Services
2nd Floor
33 Washington Street
Newark, New Jersey 07102

New Mexico

Director
Public Assistance Agency
Box 2348 - Supplemental Security Coordinator
Santa Fe, New Mexico 87501

New York

Director
New York State - Department of Social Services
Income Maintenance Section
1450 Western Avenue
Albany, New York 12203

North Carolina

Director
North Carolina Department of Human Resources
Social Services Division
Data Processing Section
325 North Salisbury Street
Raleigh, North Carolina 27603

North Dakota

Social Services Board
Capitol Grounds
Capital Building, 16th Floor
Bismarck, North Dakota 58501

Ohio

Director
Ohio Department of Public Welfare
State Office Tower - 8th Floor
30 East Broad Street
Columbus, Ohio 43215
Attention: SDX Coordinator

Oklahoma

Director
Department of Institutions
Social and Rehabilitation Services
Management Information Division
P.O. Box 25352
Oklahoma City, Oklahoma 73125

Oregon

Director
Public Welfare Division
Public Service Building
Salem, Oregon 97310

Pennsylvania

Director, Bureau of Policy
Office of Income Maintenance
Health and Welfare Building
6th and Forster Streets - Room 103
Harrisburg, Pennsylvania 17120

Rhode Island

Director
Aime J. Forand Building
600 New London Avenue
Cranston, Rhode Island 02920

South Carolina

Director
Data Processing Operations
South Carolina Department of Social Services
P.O. Box 1520
Columbia, South Carolina 29202

South Dakota

Director
State Department of Social Services
Division of Social Welfare
State Office Building No. 1
Pierre, South Dakota 57501

Tennessee

Director
Department of Public Welfare
C1-103 Central Service Building
Nashville, Tennessee 37219

Texas

Director
Department of Public Welfare
Data Processing Division
Tape Library
2800 South Interregional
Austin, Texas 78704

Utah

Director
Office of Administrative Services
EDP and Systems
231 East 4th South
Empire Building
Salt Lake City, Utah 84111

Vermont

AABD/ANFC Director
Department of Social Welfare
4 East State Street
Montpelier, Vermont 05602

Virginia

Director
Bureau of Data Systems
Data Proc. Oper. Section
Room 107 Ratcliffe Bldg.
1602 Rolling Hills Drive
Richmond, Virginia 23288

Washington

Director
Data Audit
Mailstop 16-2
P.O. Box 1788
Olympia, Washington 98504

West Virginia

Director
State of West Virginia Department of Welfare
State Office Building No. 6
1900 East Washington Street
Charleston, West Virginia 25305

Wisconsin

Director
Division of Family Services
1 West Wilson Street
Room 341
Madison, Wisconsin 53702

Wyoming

Director of Finance and Accounting
Department of Health and Social Services
State Office Building West
Chenenne, Wyoming 82002

Appendix E Federal Coal Mine Health and Safety Act Claims (Black Lung)

Black lung records are maintained by the Bureau of Disability Insurance, Baltimore, Maryland 21241. Office hours: 8:20am - 4:50pm.

Appendix F Social Security Administration Field Operations

1. Social Security District and Branch Offices

The addresses and telephone numbers of social security district and branch offices may be found listed in local telephone directories under Social Security Administration or under United States Government, Department of Health, Education, and Welfare, Social Security Administration.

Office Hours - varied.

2. Assistant Regional Commissioner (Field) Office Addresses

Boston Region--Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building
Government Center, Room 1109
Boston, Massachusetts 02203

Office Hours - 8:30 - 5:00

New York Region--New Jersey, New York, Puerto Rico, Virgin Islands

26 Federal Plaza, Room 737
New York, New York 10007

Office Hours - 8:30 - 5:00

Philadelphia Region--Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

3535 Market Street
P.O. Box 8788
Philadelphia, Pennsylvania 19101

Office Hours - 8:00 - 4:30

Atlanta Region--Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee

50 Seventh Street, NE
Room 217
Atlanta, Georgia 30323

Office Hours - 8:00 - 4:30

Chicago Region--Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

300 South Wacker Drive, Room 2719
Chicago, Illinois 60606

Dallas Region--Arkansas, Louisiana, New Mexico, Oklahoma, Texas

1200 Main Tower Bldg.
Suite 21st Floor
Dallas, Texas 75202

Office Hours - 8:00 - 4:30

Kansas City Region--Iowa, Kansas, Missouri, Nebraska

New Federal Office Building
601 East 12th Street
Kansas City, Missouri 64106

Office Hours 8:00 - 4:45

Denver Region--Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Federal Office Building
1961 Stout Street
Room 9017
Denver, Colorado 80294

Office Hours - 8:00 - 4:30

San Francisco Region--American Samoa, Arizona, California, Guam, Hawaii, Nevada

Federal Office Building
100 Van Ness Avenue, 26th Floor
San Francisco, California 94102

Office Hours - 8:00 - 4:30

Seattle Region--Alaska, Idaho, Oregon, Washington

Room 6027
1321 Second Avenue
Arcade Plaza Building MS 201
Seattle, Washington 98101

Office Hours - 8:00 - 4:30

3. Reconciliation and Analysis Units

These addresses service the regions set out in 2 above.

Room 1303
150 Causeway Street
Boston, Massachusetts 02114

Room 1014
199 Church Street
New York, New York 10007

P.O. Box 8269
3535 Market, Room 10460
Philadelphia, Pennsylvania 19101

P.O. Box 851
344 Goodwin Hamilton Bldg.
Homewood, Alabama 35209

300 S. Wacker Drive
13th Floor, South
Chicago, Illinois 60606

6th Floor
14600 Detroit Avenue
Cleveland, Ohio 44107

P.O. Box 15648
601 East 12th Street, 10th Floor
Kansas City, Missouri 64106

SE 27 78 UMI

V 4 3 / 1 8 8

Suite 420
Bruce Towers
2101 South Inter-Regional Highway
Austin, Texas 78741

Drawer 3618 7th Floor
1961 Stout St.
Denver, Colorado 80202

Second Floor
620 Folsom Street
San Francisco, California 94107

915 Second Avenue
Rm. 2344, Federal Office Bldg.
Seattle, Washington 98174

4. Teleservice Centers

Atlanta

P.O. Box 54327
Sixth Floor
730 Peachtree Street, NE
Atlanta, Georgia 30308

Berkeley

2000 Center Street
Room 420
Berkeley, California 94704

Boston

Rm. 1609
100 Summer St.
Boston, Massachusetts 02110

Chicago

4916 W. Belmont
Chicago, Illinois 60643

Cleveland

11901 Berea Road
2nd Floor
Cleveland, Ohio 44111

Ft. Lauderdale

P.O. Box 8888
308 N.E. 3rd Avenue
Ft. Lauderdale, Florida 33310

Houston

2472 Bolsover
Houston, Texas 77005

Laurel

Stewart Village Shopping Center
Route 198
Laurel, Maryland 20810

Los Angeles

2309 Daly Street
Los Angeles, California 90031

New Orleans

31st Floor
Plaza Towers
1001 Howard Avenue
New Orleans, Louisiana 70113

Lodi
2nd Floor, Merchants Mall
01 South Main Street
Lodi, New Jersey 07644

Tampa

P.O. Box 22627
4810 North Howard Avenue
Tampa, Florida 33622

Upper Darby

6801 Ludlow Street
2nd Floor
Upper Darby, Pennsylvania 19082

Phoenix

3424 North Central Avenue
P.O. Box 7370
Phoenix, Arizona 85011

San Diego

P.O. Box 81387
Suite 215
4250 Pacific Highway
San Diego, California 92138

Appendix G Bureau of Hearings and Appeals

The Bureau of Hearings and Appeals is charged with the responsibility for making decisions on appeals taken above the reconsideration level by claimants for retirement, survivors, disability, supplemental security, medicare, or black lung benefits.

Files for cases awaiting action by the Appeals Council based on the claimants' request for Council review and records of hearings decisions by Administrative Law Judges are maintained at the Bureau headquarters. The address is:

Bureau of Hearings and Appeals
801 North Randolph Street
Arlington, Virginia 22203

Files for cases awaiting hearings or decisions by Administrative Law Judges based on requests for a hearing submitted by claimants are maintained in the appropriate hearing office.

The selection of the office is based on the Region and the District Office Service Area in which the appellant claimant lives. The Regions, the addresses of the Administrative Law Judges and the District Office Service Areas from which the Judges accept cases are listed below. Correspondence should be addressed to the Bureau of Hearings and Appeals, Administrative Law Judge at the appropriate address.

In the BOSTON REGION

Room 1311
150 Causeway Street
Boston, Massachusetts 02114

For the following district offices

MASSACHUSETTS: Boston, Brockton Cambridge, Chelsea, Fitchburg, Framingham, Haverhill, Lawrence, Lowell, Lynn, Malden, Norwood, Quincy, Roxbury, Salem, Waltham, Worcester

Room 331
U.S. Post Office and Federal Building
135 High Street
Hartford, Connecticut 06101

For the following district offices

CONNECTICUT: Bridgeport, Hartford, Meriden, New Britain, New Haven, Stamford, Torrington, Waterbury

MASSACHUSETTS: Holyoke, Pittsfield, Springfield

25 Lowell Street
Manchester, New Hamsphire 03101

For the following district offices

MAINE: Augusta, Bangor, Lewiston, Portland, Presque Isle

NEW HAMPSHIRE: Concord, Littleton, Manchester, Nashua, Portsmouth

VERMONT: Burlington, Montpelier, Rutland

8th Floor, Howard Building
10 Dorrance Street
Providence, Rhode Island 02903

CONNECTICUT: New London, Willimantic

MASSACHUSETTS: Attleboro, Fall Fiver, New Bedford

RHODE ISLAND: Pawtucket, Providence

In the NEW YORK REGION

Federal Office Bldg., Room 942
One Clinton Square
Albany, New York 12207

NEW YORK: Albany, Glens Falls, Gloversville, Kingston, Newburgh, Plattsburgh, Poughkeepsie, Schenectady, Troy

Room 1201
175 Remsen Street
Brooklyn, New York 1120

NEW YORK: Brooklyn Avenue X, Boro Hall, Bushwick, East New York, Flatbush

Room 550
1 West Genesee Street
Buffalo, New York 14202

NEW YORK: Batavia, Buffalo, Jamestown, Kenmore, Niagara Falls, Olean, Rochester

Room 402, Ferry Building
1800 Davis Street, East
Camden, New Jersey 08104

NEW JERSEY: Atlantic City, Bridgeton, Camden

Room 700, Housing
Investment Building
416 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00918

MAILING ADDRESS:

G.P.O. 6042
San Juan, Puerto Rico 00936

PUERTO RICO: Arecibo, Bayamon, Caguas, San Juan

VIRGIN ISLANDS: St. Thomas

Room 704, Title Guarantee Building
90-04 161st Street
Jamaica, New York 11432

NEW YORK: Flushing, Freeport, Jackson Heights: Downtown; Jamaica

Room 6A, Western Federal Building
19 West McKinley Street
Mayaguez, Puerto Rico 00708

MAILING ADDRESS:

G.P.O. Box V
Mayaguez, Puerto Rico 00708

PUERTO RICO: Mayaguez

Room 1230
24 Commerce Street
Newark, New Jersey 07102

NEW JERSEY: East Orange, Hackensack, Irvington, Jersey City, Montclair, Morristown, Newark, Passaic, Paterson

Room 3138, Federal Building
26 Federal Plaza
New York, New York 10007

NEW YORK: Bronx: East Bronx, North Bronx, South Bronx; Manhattan: Downtown, Midtown, Uptown, Washington Heights; Staten Island

Vendrell Building
Hostos Avenue, 11 Esq. R. Power
Ponce, Puerto Rico 00731

PUERTO RICO: Ponce

Room 200, Tinker National Bank Building
180 East Main Street
Smithtown, New York 11787

NEW YORK: Huntington Station, Mineola, Patchogue

Room 212, Midtown Plaza Building
700 E. Water Street
Syracuse, New York 13210

NEW YORK: Auburn, Binghamton, Elmira, Geneva, Ogdensburg, Oneonta, Oswego, Syracuse, Utica, Watertown

Room 205, Carroll
428 E. State Street
Trenton, New Jersey 08608

NEW JERSEY: Asbury Park, Elizabeth, New Brunswick, Perth Amboy, Trenton

Room 105
237 Mamaroneck Avenue
White Plains, New York 10605

NEW YORK: New City, New Rochelle, White Plains, Yonkers

In the PHILADELPHIA REGION

Room 230, The Rotunda
711 West 40th Street
Baltimore, Maryland 21211

MARYLAND: Baltimore: Downtown, Glen Burnie, Towson

14 Piedmont Street
Bristol, Virginia 24201

TENNESSEE: Johnson City

VIRGINIA: Bristol

Room 1019, U.S. Courthouse and Federal Building
Charleston, West Virginia 25301

WEST VIRGINIA Beckley, Charleston, Logan, Parkersburg

Room 202, Citizens Commonwealth Center
300 Preston Avenue
Charlottesville, Virginia 22901

VIRGINIA: Charlottesville, Lynchburg, Staunton

1011 Sixth Avenue
Huntington, West Virginia 25701

KENTUCKY: Ashland, Pikeville

SEP 27 78

V 43/188
SE 27 78

WEST VIRGINIA: Huntington

Lobby, Suite One
1100 State St.
Erie, Pennsylvania 16501

PENNSYLVANIA: Meadville, Erie
Riverside Office Center
Bldg. No. 3--Suite H
2101 N. Front St.
Harrisburg, Pennsylvania 17110

PENNSYLVANIA: Lancaster, York, Carlisle, Harrisburg, Lebanon

Room 309, Fox Square Pavilion
Old York Road at Wyncote
Jenkintown, Pennsylvania 19046

PENNSYLVANIA: Allentown, Bristol, Easton, Norristown; Philadelphia Northeast, Reading

Room 213, Federal Building
P.O. Box 1031
Johnstown, Pennsylvania 15901

PENNSYLVANIA: Altoona, Du Bois, Greensburg, Indiana, Johnstown

1528 Walnut Street
10th Floor
Philadelphia, Pennsylvania 19107

DELAWARE: Dover, Wilmington

PENNSYLVANIA: Chester, Harrisburg, Lancaster, Philadelphia: Downtown, Germantown, West, West Chester, York

Room 2219, Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222

PENNSYLVANIA: Ambridge, Butler, Erie, McKeesport, New Castle, New Kensington, Oil City; Pittsburgh: Downtown, East, Sharon, Uniontown, Washington

WEST VIRGINIA: Clarksburg, Morgantown, Wheeling

Room 9225, Federal Building
400 North 8th Street
Richmond, Virginia 23240

VIRGINIA: Newport News, Norfolk, Petersburg, Richmond: Downtown

2601 Franklin Road, S.W.
(Side Entrance)
Roanoke, Virginia 24014

VIRGINIA: Covington, Danville, Roanoke

WEST VIRGINIA: Bluefield, Welch

Room 730
1325 G Street, N.W.
Washington, D.C. 20005

DISTRICT OF COLUMBIA: Washington: Downtown,

MARYLAND: Camp Springs, Cumberland, Frederick, Salisbury, Silver Spring

PENNSYLVANIA: Chambersburg

VIRGINA: Alexandria, Winchester

WEST VIRGINIA: FOREIGN CLAIMS except Philippine Islands.

Room 3110 Penn Place
20 N. Pennsylvania Ave.
Wikes-Barre, Pa. 18701

PENNSYLVANIA: Hazleton, Pottsville, Scranton, Sunbury, Wilkes-Barre, Williamsport

800 Delaware Ave., Room 511
Wilmington, Del. 19801

DELAWARE: Wilmington, Dover

In the ATLANTA REGION

Suite 514
25th Building
1720 Peachtree Street, N.W.
Atlanta, Georgia 30309

GEORGIA: Athens; Atlanta; Downtown, Augusta: Downtown, Decatur, East Point, Gainesville, La Grange, Marietta

Room 420, Shel-Al Building
11 West Oxmoor Road
Birmingham, Alabama 35209

ALABAMA: Anniston, Bessemer; Birmingham: Downtown, Gadsden, Tuscaloosa

285-C Meeting Street
Charleston, South Carolina 29401

GEORGIA: Savannah: Downtown

SOUTH CAROLINA:
Charleston

Suite 302
901 Elizabeth Avenue
Charlotte, North Carolina 28204

NORTH CAROLINA: Asheville; Charlotte: Downtown, Gastonia, Hickory, Salisbury, (Statesville)

SOUTH CAROLINA: Rock Hill

Suite 6300, 6300 Building
Eastgate Center
Chattanooga, Tennessee 37411

ALABAMA: Huntsville

GEORGIA: Rome

TENNESSEE: Chattanooga

Room 221, Middleburg Plaza
2712 Middleburg Drive
Columbia, South Carolina 29204

SOUTH CAROLINA: Columbia, Florence, Greenwood

Room 112, Shoals Office Building
412 South Court Street
Florence, Alabama 35630

ALABAMA: Decatur, Florence

MISSISSIPPI: Columbus, Tupelo

1200 West Bessemer Square Building
1215 West Bessemer Avenue
Greensboro, North Carolina 27408

NORTH CAROLINA: Greensboro, High Point, Winston-Salem

Suite 116, The 300 Building
University Ridge
Greenville, South Carolina 29601

SOUTH CAROLINA: Anderson, Greenville, Spartanburg

301 Humble Avenue
Hattiesburg, Mississippi 39401

MISSISSIPPI: Hattiesburg

Executive Building
802 North State Street
Jackson, Mississippi 39201

MISSISSIPPI: Greenville, Greenwood, Jackson, Meridian, Vicksburg

Room 2809, Art Museum Drive
Jacksonville, Florida 32207

FLORIDA: Gainesville; Jacksonville, Downtown, Tallahassee

GEORGIA: Thomasville, Valdosta, Waycross

East Gate Plaza
1420B East Stone Drive
Kingsport, Tennessee 37664

TENNESSEE: Johnson City

VIRGINIA: Bristol

Suite 300, Appalachian National Life Building
318 Cumberland Avenue, S.W.
Knoxville, Tennessee 37902

TENNESSEE: Knoxville

Room 206, The Bakhaus Building
1500 West Main Street
Lexington, Kentucky 40505

KENTUCKY: Corbin, Frankfort, Hazard, Lexington

Room 600, Bank of Louisville Building
510 West Broadway
Louisville, Kentucky 40202

INDIANA: New Albany

KENTUCKY: Campbellsville, Elizabethtown; Louisville Downtown

Room 813, Southern Trust Building
682 Cherry Street
Macon, Georgia 31201

GEORGIA: Albany, Columbus, Macon

407 Dermon Building
46 North 3rd Street
Memphis, Tennessee 38103

TENNESSEE: Dyersburg, Jackson; Memphis: Downtown

12th Floor, Roberts Building
28 West Flagler Street
Miami, Florida 33130

FLORIDA: Fort Lauderdale: Downtown, Hollywood, Miami Downtown, North; Miami Beach, West Palm Beach

Room 407, Commerce Building
118 North Royal Street
Mobile, Alabama 36602

ALABAMA: Mobile: Downtown

FLORIDA: Panama City, Pensacola

MISSISSIPPI: Gulfport

Room 109, McDonough Building
770 South McDonough Street
Montgomery, Alabama 36104

ALABAMA: Dothan, Montgomery, Selma

Room 816
1717 West End Avenue
Nashville, Tennessee 37203

TENNESSEE: Columbia, Cookeville, Nashville: Downtown

Room 206, Ambassador Building
5800 Diplomat Circle
Orlando, Flordia 32810

FLORIDA: Daytona Beach, Melbourne, Orlando

Building 1301 Broadway
Paducah, Kentucky 42001

ILLINOIS

KENTUCKY: Bowling Green, Hopkinsville, Owensboro, Paducah

3824 Barrett Drive, Room 200
Raleigh, North Carolina 27609

NORTH CAROLINA: Durham, Fayettesville, Goldsboro; Greenville, New Bern, Raleigh, Rocky Mount, Wilmington

707 Barnett Bank Building
1000 North Ashley Drive
Tampa, Florida 33602

FLORIDA: Clearwater, Fort Myers, Lakeland, St. Petersburg, Sarasota, Tampa: Downtown

In the CHICAGO REGION

Room 1430, Mid-Continental Plaza
55 East Monroe Street
Chicago, Illinois 60603

ILLINOIS: Aurora, Champaign; Chicago: Loop, Near Northwest, Near Southwest, South, West; Danville, Elgin, Elmwood Park, Harvey, Joliet, Kankakee, North Riverside

Room 406
2376 East 71st Street
Chicago, Illinois 60649

ILLINOIS: Chicago: East, Southeast

INDIANA: Gary, Hammond, Michigan City

MICHIGAN: Benton Harbor

Room 6409, Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

KENTUCKY: Covington

OHIO: Cincinnati: Downtown, North; Dayton, Downtown, Hamilton, Portsmouth

1919 Superior Building
815 Superior Street, N.E.
Cleveland, Ohio 44114

OHIO: Akron: Downtown, Ashtabula, Canton; Cleveland Downtown, Heights, West, East Liverpool, Loraio, Mansfield, New Philadelphia, Sandusky, Steubenville, Toledo: Downtown; Warren, Youngstown

Room 1006, LeVeque Lincoln Tower
50 West Broad Street
Columbus, Ohio 43215

OHIO: Chillicothe; Columbus: Downtown, Findlay, Lima, Marietta, Marion, Newark, Piqua, Springfield, Zanesville

Room 2600, Broderick Tower
Woodward Avenue at Grand Circus Park
Detroit, Michigan 48226

MICHIGAN: Ann Arbor, Dearborn; Detroit: Downtown, East, Southwest

Suite 490, State National Bank Building
1603 Orrington Avenue
Evanston, Illinois 60201

ILLINOIS: Chicago: North, Northwest; Evanston, Rockford, Sterling, Waukegan

Room 503, Court Bldg.
123 N.W. Fourth St.
Evansville, Indiana 47708

ILLINOIS: Carbondale, Harrisburg, Mount Vernon

INDIANA: Evansville, Vincennes

KENTUCKY

Room 810 Metropolitan Building 432 N. Saginaw St.
Flint, Michigan 48502

MICHIGAN: Bay City, Flint, Port Huron, Saginaw

Room 400, Commerce Building
127 West Berry Street
Fort Wayne, Indiana 46802

INDIANA: Elkhart, Fort Wayne, Marion, Muncie, South Bend

OHIO: Defiance

New Federal Bldg., 2nd Fl.
Indianapolis, Indiana 46204

INDIANA: Anderson, Bloomington, Columbus, Indianapolis: Downtown; Kokomo, Lafayette, Madison, Richmond, Terre Haute

Room 900, Washington Square Building
109 West Michigan Avenue
Lansing, Michigan 48933

MICHIGAN: Battle Creek, Grand Rapids, Jackson, Kalamazoo, Lansing, Mount Pleasant, Muskegon, Traverse City

The Continental Bldg.
Room 800
735 West Wisconsin Avenue
Milwaukee, Wisconsin 53133

WISCONSIN: Eau Claire, Fond de Lac, Janesville, Kenosha, La Crosse, Madison, Milwaukee: North, South; Oshkosh, Racine, Sheboygan, Waukesha, Wisconsin Rapids, Appleton, Green Bay

MICHIGAN: Escanaba, Marquette

830 Plymouth Building
12 South 6th Street
Minneapolis, Minnesota 55402

MINNESOTA: Austin, Bemidji, Duluth, Hibbing, Mankato, Marshall; Minneapolis: Downtown; Rochester, St. Cloud, St. Paul, Winona

WISCONSIN: Superior

Room 206, Leisy Building
326 S.W. Adams Street
Peoria, Illinois 61602

ILLINOIS: Bloomington, Decatur, Galesburg, Peoria, Peru, Springfield

North Park Plaza
17117 West Nine Mile Road
Southfield, Michigan 48075

MICHIGAN: Detroit: Highland Park, Northwest; Pontiac, Roseville

In the DALLAS REGION

Room 309, Patio Plaza
500 Marble Avenue, N.E.
Albuquerque, New Mexico 87110

NEW MEXICO: Albuquerque, Farmington, Roswell, Santa Fe

TEXAS: El Paso

3744 Government Street
Alexandria, Louisiana 71301

LOUISIANA: Alexandria, Lafayette, Lake Charles, Monroe, Baton Rouge: Downtown

8th Floor
1512 Commerce Street
Dallas, Texas 75201

OKLAHOMA

TEXAS: Dallas: Downtown; Lufkin

Room 270, Central Mall
5111 Rogers Avenue
Fort Smith, Arkansas 72901

ARKANSAS: Fayetteville, Fort Smith

Room 9A35, Federal Office Building
819 Taylor Street
Fort Worth, Texas 76102

TEXAS: Abilene, Fort Worth, Odessa, San Angelo, Temple, Waco

Suite 252, Royal Gardens Bldg.
108 30 North Central Expressway
Dallas, Texas 75231

TEXAS: Rawlins, West Dallas, Longview, Paris, Greenville, Tyler, Sherman

Room 209, Bellfort Square Building
6711 Bellfort Boulevard
Houston, Texas 77017

TEXAS: Beaumont, Bryan, Galveston; Houston: Downtown, Pasadena, Port Arthur

Suite 103, Tanglewood Professional Building
7509 Cantrell Road
Little Rock, Arkansas 72207

ARKANSAS: El Dorado, Forrest City, Hot Springs National Park, Jonesboro, Little Rock, Pine Bluff

104 East Carl Albert Pkwy.
McAlester, Oklahoma 74501

OKLAHOMA: McAlester, Muskogee

2nd Floor, Oil and Gas Building
1100 Tulane Avenue
New Orleans, Louisiana 70112

LOUISIANA: Houma, New Orleans: Downtown

Suite 416, 50 Penn Place
Northwest 50th and Pennsylvania
Oklahoma City, Oklahoma 73118

OKLAHOMA: Ardmore, Enid, Lawton, Oklahoma City

TEXAS: Amarillo, Lubbock, Wichita Falls

Room 222, Castle Hills Executive Plaza
1015 Jackson Keller Road
San Antonio, Texas 78213

TEXAS: Austin, Brownsville, Corpus Christi, Laredo, McAllen; San Antonio: Downtown, Victoria

3rd Floor, Columbia Building
2651 East 21st Street
Tulsa, Oklahoma 74114

OKLAHOMA: Tulsa

In the KANSAS CITY REGION

Room 621, Federal Building
210 Walnut Street
Des Moines, Iowa 50309

ILLINOIS: Rock Island

IOWA: Burlington, Cedar Rapids, Creston, Davenport, Des Moines, Dubuque, Fort Dodge, Mason City, Ottumwa, Waterloo

Room 2
8764 Manchester Road
Brentwood, MO 63144

Missouri: Cape Girardeau, Clayton, St. Louis. Southside

Room 1201, Federal Office Building
911 Walnut Street
Kansas City, Missouri 64106

KANSAS: Kansas City, Topeka

MISSOURI: Independence, Jefferson City, Joplin; Kansas City: Moberly, St. Joseph, Sedalia, Springfield

980 South 72nd Street
Omaha, Nebraska 68114

IOWA: Sioux City

NEBRASKA: Grand Island, Lincoln, Norfolk, North Platte, Omaha

Room 1427
210 North 12th Street
St. Louis, Missouri 63101

ILLINOIS: Alton; East St. Louis: Downtown, Quincy

MISSOURI: Hannibal, Poplar Bluff, St. Louis: Downtown, South Side;

102 Woodlawn Building
400 North Woodlawn
Wichita, Kansas 67208

KANSAS: Dodge City, Hays, Hutchinson, Independence, Pittsburgh, Salina, Wichita

In the DENVER REGION

Suite 502, Prudential Tower
1050 17th Street
Denver, Colorado 80202

COLORADO: Alamosa, Colorado Springs; Denver: Downtown; Grand Junction, Greeley, Pueblo

MONTANA: Billings, Butte, Great Falls, Helena, Missoula

NEBRASKA: Scottsbluff

SOUTH DAKOTA: Rapid City

WYOMING: Casper, Cheyenne

Room 200, White Building
23 Broadway
Fargo, North Dakota 58102

MINNESOTA

NORTH DAKOTA: Bismarck, Fargo, Grand Forks, Minot

SOUTH DAKOTA: Aberdeen, Huron, Sioux Falls

Room 302, Denver Building
352 Denver Street
Salt Lake City, Utah 84111

IDAHO: Boise, Pocatello, Twin Falls

UTAH: Ogden, Provo, Salt Lake City

WYOMING: Rock Springs

In the SAN FRANCISCO REGION

Room 313, Rowell Building
2100 Tulare Street
Fresno, California 93721

CALIFORNIA: Bakersfield: Downtown, Fresno: Downtown, Visalia

Room 505, Bishop Trust Building
1000 Bishop Street
Honolulu, Hawaii 96813

AMERICAN SAMOA

HAWAII: Honolulu

Room 210
115 Pine Avenue
Long Beach, California 90802

CALIFORNIA: Huntington Park, Long Beach, Los Angeles: Watts Torrance, Whittier

Room 13201
11000 Wilshire Boulevard
Los Angeles, California 90024
(West)

CALIFORNIA: Canoga Park, Inglewood, Lancaster; Los Angeles: Downtown, Monterey Park, Santa Barbara, Santa Monica, Van Nuys, Ventura

Room 930, United California Bank Building
1330 Broadway
Oakland, California 94612

CALIFORNIA: Berkeley: Downtown, Hayward, Oakland: Downtown, Walnut Creek

Suite 212, Mutual Savings Building
301 East Colorado Boulevard
Pasadena, California 91101

CALIFORNIA: Glendale; Hollywood: Downtown; Pasadena

Suite 308, Mayer Central Building
3033 North Central Avenue
Phoenix, Arizona 85012

ARIZONA: Phoenix: Downtown; Prescott

NEVADA: Las Vegas

Room E 1807
2800 Cottage Way
Sacramento, California 95825

V 43/188

CALIFORNIA: Chico, Modesto, Redding, Sacramento, Stockton

NEVADA: Reno

Suite 308, Blackstone Building
362 North Arrowhead Avenue
San Bernardino, California 92401

CALIFORNIA: Palm Springs, Pomona, Riverside, San Bernardino

Suite 207
770 B Street
San Diego, California 92101

ARIZONA

CALIFORNIA: San Diego: Downtown

Suite 320
550 Kearney Street
San Francisco, California 94108

CALIFORNIA: San Francisco: Civic Center, Parkside; San Mateo

PHILIPPINE ISLANDS

Room 404, Community Bank Building
111 West St. John Street
San Jose, California 95113

CALIFORNIA: Salinas; San Jose: Downtown; San Luis Obispo, Santa Cruz

Room 204, The Citizens Building
950 Northgate Drive
San Rafael, California 94903

CALIFORNIA: Eureka, San Rafael, Santa Rosa, Vallejo

Room 3-B, Federal Building
301 West Congress Street
Tucson, Arizona 85701

ARIZONA: Tucson: Downtown

Room 902, Federal Bldg.
34 Civic Center Plaza
Santa Ana, Calif. 92701
CALIFORNIA Anaheim, Costa Mesa,
Fullerton, Huntington Beach, Norwalk,
San Juan Capistrano, Santa Ana

In the SEATTLE REGION

Federal Bldg. & Courthouse Room 430
211 E. Seventh Ave.
Eugene, Oregon 97401

OREGON: Eugene, Klamath Falls, Medford

Room 1020, Corbett Building
430 S.W. Morrison Street
Portland, Oregon 97204

OREGON: Portland: Downtown, East, Salem

WASHINGTON: Vancouver

Room 3162-Federal Bldg.
915 Second Avenue
Seattle, Washington 98174

ALASKA: Anchorage, Juneau

WASHINGTON: Bellevue, Bellingham, Bremerton, Everett, Olympia, Seattle: Downtown; Tacoma, Yakima

830 Bon Marche Building
214 North Wall Street
Spokane, Washington 99201

IDAHO: Lewiston

OREGON: La Grande

WASHINGTON: Spokane, Walla Walla, Wenatchee

The Administrative Law Judges are independent adjudicators. However, they do need certain administrative and logistical support. This support is provided by the Regional Chief Administrative Law Judges, Bureau of Hearings and Appeals whose offices are at the following addresses:

In the BOSTON REGION

E-310 John F. Kennedy Federal Building
Boston, Massachusetts 02203

In the NEW YORK REGION

Room 4000
26 Federal Plaza
New York, New York 10007

In the PHILADELPHIA REGION

Room 8110, The Gateway Building
36th and Market Streets
Philadelphia, Pennsylvania 19101

MALING ADDRESS:

P.O. Box 8788
Philadelphia, Pennsylvania 19101

In the ATLANTA REGION

Room 641
50 Seventh Street, N.E.
Atlanta, Georgia 30323

In the CHICAGO REGION

8th Floor
300 S. Wacker
Chicago, Illinois 60606

In the DALLAS REGION

Suite 1400, Corrigan Tower Bldg.
212 North St. Paul Street
Dallas, Texas 75201

In the KANSAS CITY REGION

Room 2502, Federal Office Building
911 Walnut Street
Kansas City, Missouri 64106

In the DENVER REGION

Room 5439, Federal Office Building
1961 Stout Street
Denver, Colorado 80202

In the SAN FRANCISCO REGION

21st Floor
100 100 Van Ness Avenue
San Francisco, California 94102

In the SEATTLE REGION

Mail Stop 3100
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

APPENDIX H Bureau of Data Processing Electronic Data Centers

Bureau of Data Processing
Veterans Administration Building
19 N. Main St.,
Wilkes Barre, Pa. 18701

Bureau of Data Processing
Albuquerque Data Operations Ctr.
933 Bradbury, S.E.
Albuquerque, N.M. 87112

Bureau of Data Processing
Salinas Data Operation Ctr.
6th Floor No. 8 E. Alisal
Salinas, Calif. 93901

APPENDIX I Availability of Records, Manuals, Etc.

All administrative staff manuals of the Social Security Administration and instruction to staff personnel which contain policies, procedures, or interpretations that affect the public are available for inspection and copying. These manuals are generally not printed in a sufficient quantity to permit sale or other general distribution to the public, but many are maintained at district offices and field offices and may be inspected there (See Appendix F). A complete listing of staff manuals and instructions is published in Social Security Rulings which is available from the Government Printing Office, Washington, D.C. 20402.

The Social Security Act is codified at 42 U.S.C. 301 and the Federal Coal Mine Health and Safety Act may be found at 30 U.S.C. 901.

The Regulations relating to Federal retirement, survivors, and disability insurance and health insurance for the aged, are published in the Code of Federal Regulations under title 20, chapter III, Part 401 et seq.:

A. Part 401 contains Regulation No. 1, Disclosure of Official Records and Information.
B. Part 402, which contained Regulations No. 2, has not been published in the Code beginning with the 1949 edition since Regulations No. 2 applies only to the Social Security Act in effect before 1940.
C. Part 403, which contained Regulations No. 3, has not been published in the Code beginning with the 1965 edition since Regulations No. 3 relates to the period from 1940 to 1950. The extent to which Regulations No. 3 remains in effect is indicated in Sections 404.3(a) of Regulations No. 4.
D. Part 404 contains Regulations No. 4, Federal Old-Age, Survivors, and Disability Insurance (1950-).
E. Part 405 contains Regulations No. 5, Federal Health Insurance for the Aged and Disabled (1965-).
F. Part 410 contains Regulations No. 10, Federal Coal Mine Health and Safety Act of 1969, title IV, Black Lung Benefits (1969-).
G. Part 416 contains Regulations No. 16, Supplemental Security Income (1973-).
H. Part 422 contains Regulations No. 22, Organization and Procedures.

Title 20 of the Code of Federal Regulations (Part 400 to End, revised as of April 1, 1973), can be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Requests for accessing an individual's own records should be directed to the systems managers listed in the foregoing notices. Requests for other records and manuals may be made to: (1) the Director, Office of Information, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, or (2) the Information Center Officer, at the Regional Offices of the Department of Health, Education, and Welfare. The locations and service areas of these offices are as follows:

BOSTON REGION--Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building
Room 1100A
Boston, Massachusetts 02203

Office Hours: 8:30-5:00

NEW YORK REGION--New York, New Jersey, Puerto Rico, Virgin Islands

Federal Building
Room 745
26 Federal Plaza
New York, New York 10007

Office Hours: 8:30-5:00

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Philadelphia, Pennsylvania 19101

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Atlanta, Georgia 30323

Office Hours: 8:00-4:30

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300 South Wacker Drive,
Room 2719
Chicago, Illinois 60606

Office Hours: 8:15-4:45

DALLAS REGION--Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Room 2535 1200 Commerce Street
Dallas, Texas 75202

Office Hours: 8:15-4:45

KANSAS CITY REGION--Iowa, Kansas, Missouri, Nebraska

Federal Building, Room 431-A,
601 East 12th Street,
Kansas City, Missouri 64106

Office Hours: 8:00-4:45

DENVER REGION--Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Federal Office Building
Room 8005
1961 Stout Street,
Denver Colorado 80202

Office Hours: 8:00-4:30

SAN FRANCISCO REGION--Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Islands, American Samoa

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San Francisco, California 94102

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SEATTLE REGION--Alaska, Idaho, Oregon, Washington

Arcade Plaza Building, MS-614
1321 Second Avenue, Room 6027
Seattle, Washington 98101

Office Hours: 8:00-4:30

APPENDIX J Social Security Administration Data Security Measures

The confidentiality of records has been a cornerstone of Social Security Administration policy from the very beginning of the agency under the mandate of Title 20, Chapter III, Part 401 of the Code of Federal Regulations issued in 1937 and Section 1106 of the Social Security Act Passed by the Congress in 1939. Data security measures begin with the thorough training of employees in the restrictions against disclosure contained in the Act and the Regulations, the criminal sanctions for unauthorized disclosure, and the procedures used to assure that disclosures authorized by statute and regulation are released to the proper parties. The physical security measures established to safeguard records are discussed below:

1. Manually Maintained Records

Manually maintained records are kept in locked file cabinets or in otherwise secure areas. Access to the records is limited to those employees who require the information contained in the records to perform the duties assigned to them. In most cases, the records are selected for the employees needing access to them by other employees who are specifically charged with the maintenance of the records. This restricts the number of persons authorized to be in the storage areas and facilitates the control over the access to the information contained in the records to those who need it. Those records not handled in this manner are securely stored so that unauthorized individuals may not gain access to them.

2. Automated Records

Entry into the computer rooms in the headquarters complex located in Woodlawn, Mayland is restricted to those employees whose duties require such entry. A special pass containing the employee's photograph is issued to all personnel authorized to enter this area. Marshals are stationed at each entrance to assure that only possessors of the special passes are admitted. Magnetic tape records and records stored on other automated devices are kept in a library to which entry is further restricted by a lock whose opening combination is known only to a select few authorized to enter this area. Access to the information contained in these records is controlled by various manual and automated devices. Only employees who require the information to perform their duties may obtain it.

Some automated records are maintained in program service centers located across the country (See Appendix A). Entrance to the program service center buildings is restricted to employees with building passes. In addition, special passes identify those employees whose duties require entry into the computer rooms. Access to the information contained in these records is also controlled. Only employees who require the information to perform their duties may obtain it.

Data is transmitted from field offices and program service centers to headquarters and return. For the most part, sensitive and urgent traffic is sent over lines leased by the Social Security Administration for its sole use. The remaining traffic sent directly by wire is sent via lines leased by the Federal Government for use of all Federal agencies. Sometimes the length of the record precluudes direct wire transmission and magnetic tape stored on reels must be used. When this occurs, special procedures assure the delivery of the tape reels to the proper location.

Internal computer security is safeguarded by access codes, edit checks, data reformatting and return address codes. These assure that only authorized access to the computer system is permitted, that the particular data requested from the system can be released to the requester, and that control is maintained over the locations to which systems data may be sent.

APPENDIX K

An individual must present sufficient evidence to establish identity in order to obtain information pertaining to him from the Social Security Administration's records.

Requests for disclosure of information may be made in the following ways:

1. In Person--No special documents of identity are required if a request for disclosure of information is made in person. It is expected that documents an individual would normally carry on his person would be sufficient; the following would be acceptable although this list is not intended to be all-inclusive: credit cards, driver's license, motor vehicle registration card, building pass, voter registration cards, and selective service registration certificate. A social security number card is acceptable only when presented with other evidence.

2. Via Mail--An individual requesting disclosure of information from the Social Security Administration's records via mail must provide his name, date of birth, and address in order to establish his identity, plus any additional information required (in the system notice) to access his record within a specific system.

3. Via Telephone--An individual requesting disclosure of information via telephone must furnish the same information as listed in 2 above.

[FR Doc. 78-27123 Filed 9-26-78; 8:45 am]

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federal register

THURSDAY, SEPTEMBER 28, 1978

highlights

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October 2 and 3, 1978

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SAINT PAUL, MINNESOTA, WORKSHOPS

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: In cooperation with the Minnesota State Metropolitan Council of the Twin Cities Area, free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
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WHEN: October 2 and 3, 1978, at 9:00 a.m. (Each session identical)

WHERE: Suite 300, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Chuck McDrew, 612-291-6421.

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Title 3—The President

PROCLAMATION 4602

National Farm-City Week, 1978

By the President of the United States of America

A Proclamation

The interdependence of farms and cities is one of the basic strengths of the Nation.

Farm people and city people have long been partners in economic and social progress. Their partnership in the use of land, labor and capital is essential if this country is to have a continuing and adequate supply of safe, wholesome food and an abundance of goods and services and reasonable prices.

To achieve a better mutual understanding of the interdependence that farm and city people bring to one another, and for the strength, well-being and benefit of all Americans, our Nation has traditionally set aside one week in November as Farm-City Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the period November 17 through November 23, 1978, as National Farm-City Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-27652 Filed 9-27-78; 11:22 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-05]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Warehouse Stored Peanut Price Support Regs., Amdt. 1]

PART 1446—PEANUTS

Subpart—General Regulations Governing 1978 and Subsequent Crops, Peanut Warehouse Storage Loans and Handler Operations

CONTRACTS FOR ADDITIONAL PEANUTS FOR CRUSHING OR EXPORT

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to alleviate hardship in situations where producers of 1978 crop additional peanuts have entered into contracts with handlers for crushing or export, or both, prior to June 15, and handlers are unable to perform under the contracts. Since there is no provision in the regulations to cover this situation, the regulations are unduly restrictive and cause inequities under special circumstances where the handler is unable to perform under the contract. This amendment would authorize the parties to agree to the delivery of peanuts by the producers to other handlers under the terms of the contracts, if specifically approved by deputy administrator, State and county operations, ASCS.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS), 202-447-9224, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This amendment will be beneficial to producers since it will enable producers to work out arrangements for other handlers to take delivery of peanuts under the terms of the contracts. It is essential that this amendment be made effective as soon as possible since farmers have harvested and are now marketing 1978 crop peanuts. Accordingly, it is hereby found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, this amendment is being issued without compliance with such procedure.

FINAL RULE

7 CFR 1446.5 is amended by revising paragraph (a) to provide that contracts for additional peanuts cannot be sold or traded except as specifically authorized by deputy administrator, State and county operations, ASCS. The amended paragraph (a) reads as follows:

§ 1446.5 Contracts for additional peanuts for crushing or export.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers on form CCC-1005 to buy additional peanuts from the producers for crushing or export, or both. The type and quality of each lot of contract peanuts delivered under contract shall be determined by an inspector when such peanuts are received. All such contracts shall be completed and submitted to the county office for approval prior to June 15 of the year in which the crop is produced. Such contracts cannot be sold or traded: *Provided,* That if a handler is unable to perform under such contracts because of conditions beyond his control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producers may agree to the delivery of the peanuts to other handlers under the terms of the contract, if specifically authorized by the deputy administrator, State and county operations, ASCS. The county office shall summarize contracts and send such summary to the association through the State office. Contracts shall include at least the following provisions:

(1) Name and address of operator, State and county code, and farm serial number of the farm.

(2) Name, address of handler, and registration number.

(3) Amount of segregation 1 peanuts in pounds by type, not to exceed the difference between farm base production poundage and the sum of the farm poundage quota and the quantity of additional peanuts covered by prior contracts for additional peanuts.

(4) Contract price shown as a percentage of quota peanut support rate.

(5) Requirement for disclosure by producer of any liens on peanuts on date of delivery.

(6) A provision that the producer shall not be liable for failure to deliver against such contract above the actual production of such type and quality on the farm: *Provided,* Such physical loss of production resulted solely from an external source such as drought, fire, lightning, inherent explosion, windstorm, tornado, flood, or other acts of God.

(7) Signature of farm operator and producer if different than operator.

(8) Signature of handler or authorized agent.

(9) The following agreement by the handler:

I agree that I will either export or crush the peanuts delivered under this contract by August 31 following the calendar year in which the crop is grown or contract with another handler to export or crush such peanuts by such date, as provided in Part 1446, Subpart—General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359).)

Signed at Washington, D.C., on September 22, 1978.

RAY FITZGERALD,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-27328 Filed 9-26-78; 2:37 pm]

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[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 341—CERTIFICATE OF CITIZENSHIP

Suspension of Regulatory Provision

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule, extension of suspension of rule.

SUMMARY: This notice further suspends until April 1, 1979, the special procedure provided in 8 CFR 341.1(b) which permits certain naturalization applicants to make application for certificates of citizenship for their children who are under 16 years of age and will derive citizenship under section 320 or 321 of the Immigration and Nationality Act, in advance of the naturalization of the parents. This further suspension is necessitated by manpower considerations in the Service.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lowell R. Palmes, Deputy Assistant Commissioner for Naturalization, Immigration, and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, telephone, 202-376-8459.

SUPPLEMENTARY INFORMATION: On September 1, 1970, the Service implemented a procedure whereby applicants for naturalization who believed that their children under 16 years of age would derive U.S. citizenship under section 320 or 321 of the Immigration and Nationality Act could apply for certificates of citizenship on behalf of such children in advance of the parents' naturalization. However, due to manpower considerations which arose subsequently, it became necessary to suspend the operation of this procedure by notices published in the FEDERAL REGISTER October 21, 1974 (39 FR 37355), September 15, 1975 (40 FR 42532), March 17, 1976 (41 FR 11172), October 1, 1976 (41 FR 43393), March 28, 1977 (42 FR 16378), September 26, 1977 (42 FR 48869), and March 31, 1978 (43 FR 13494). The provisions now stand suspended to October 1, 1978.

Due to the continuing manpower considerations which resulted in the temporary suspension of the special procedure provided by 8 CFR 341.1(b) as set forth in the above-cited prior notices, it is necessary to suspend the provisions of § 341.1(b) for an additional period, until April 1, 1979, unless manpower considerations render feasible or practicable their reinstitution at an earlier date.

In the light of the foregoing, the provisions of 8 CFR 341.1(b) are hereby suspended until April 1, 1979, unless the suspension is revoked prior thereto by notice published in the FEDERAL REGISTER.

Dated: September 25, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-27360 Filed 9-27-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

[Docket No. ERA-R-77-4]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Public Hearing on Entitlements Program Adjustments for California Crude Oil and Request for Comments

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of public hearing and opportunity for submission of written comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it will hold a public hearing and receive written comments regarding the effect of the amendments to the entitlements program and other measures which were adopted in June 1978 to provide greater incentives for refiners to purchase California crude oil at prices that will enhance the potential for maximum domestic crude oil production.

DATES: Requests to speak due on or before October 10, 1978, 4:30 p.m. Hearing: October 18, 1978, 9:30 a.m. Comments due on or before October 31, 1978, 4:30 p.m.

ADDRESSES: Send requests to speak to: Department of Energy, Region IX, Attn: Robert Laffel, 111 Pine Street, Third Floor, San Francisco, Calif. 94111. Send comments to: Docket No. ERA-R-77-4, Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Long Beach City Hall, City Council Chambers, Plaza Level, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214-B, Washington, D.C. 20461, 202-254-5201.

Rue Dann (Media Relations), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-634-2170.

Edwin Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310, Washington, D.C. 20461, 202-254-7200.

Douglas McIver (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 6128-I, Washington, D.C. 20461, 202-254-8660.

Judith H. Garfield (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5136, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. *Background.*
II. *Specific comments requested.*
III. *Public hearing and comment procedures:*
A. Written comments.
B. Public hearing.

I. BACKGROUND

On June 15, 1978, we adopted certain amendments to the entitlements program with respect to crude oil produced in California (43 FR 26540, June 20, 1978). The purpose of these amendments is to provide greater incentives for refiners to purchase price-controlled California crude oil at prices that will enhance the potential for maximum domestic crude oil production, by better equalizing the afterentitlements costs to refiners of controlled California crude oil and uncontrolled crude oils. Under the amendments, refiners of lower tier and upper tier crude oil prouced in California receive additional entitlement benefits which are graduated by reference to the gravity of the crude oil so as to provide greater benefits for the lower gravity crude oils. In addition, the regulatory provisions previously in effect for California crude oil were amended to spread the burden of offsetting the increased costs associated with the entitlement benefits for California crude oil among all participants in the entitlements program on a nationwide basis.

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

At the same time, the DOE announced that it was adopting expedited procedures to provide exception relief to refiners outside California to make it economical for them to purchase California crude oil and transport it to their refineries for processing. In addition, the DOE announced that amendments would be adopted to the Department of Commerce's export regulations to allow increased export of surplus residual fuel oil on the west coast, thus allowing refineries to increase their crude oil runs. These amendments were adopted on August 16, 1978 (43 FR 36618, August 18, 1978).

These measures were the latest in a series of actions by the DOE, and previously the Federal Energy Administration (FEA), which have addressed the special problems that California crude oil producers have experienced during the period that the pricing and allocation of domestic crude oil have been regulated under the Emergency Petroleum Allocation Act of 1973 (EPAA, Pub. L. 93-159). Throughout this period, a number of factors, including the operation of the allocation and price regulations adopted under the EPAA as well as California market conditions and environmental constraints, have contributed to the disincentives for refiners to purchase California crude oil (particularly low-gravity, or "heavy" crude oil) from producers at the current maximum lawful prices. In recognition of this situation and its potential for inhibiting maximum production of domestic crude oil, the FEA and the ERA have adopted, over the past several years, certain amendments to the allocation and price regulations with respect to California crude oil, which are described briefly below.

On October 29, 1976, pursuant to section 122 of the Energy Conservation and Production Act (Pub. L. 94-385), the FEA amended the price regulations to increase the allowable ceiling price for heavy lower tier California crude oil (41 FR 48324, November 3, 1976). The purpose of these amendments was to permit the sale of heavy California crude oil at prices more nearly approximating current market valuations of gravity price differentials in order to maintain production incentives for such oil.

After the adoption of the October 1976 amendments, the FEA obtained data indicating that producers of heavy lower tier California crude oil generally were not receiving the intended benefits of the increased ceiling price and that such crude oil actually was selling for substantially less than the allowable ceiling price. To alleviate this situation, on March 17, 1977, the FEA proposed amendments to the entitlements program under which refiners purchasing heavy lower tier crude oil produced in California would have a portion of the entitlement obligation ordinarily associated with the purchase of controlled "old" crude oil reduced (42 FR 15419, March 22, 1977). The proposed measure was designed to remove any disincentives for refiners to purchase heavy lower tier California crude oil at the full ceiling price.

On December 8, 1977, we adopted amendments pursuant to the March 17, 1977, proposal that reduced refiners' entitlement obligations under the entitlements program for low-gravity (25.9° API gravity or below) lower tier crude oil produced in California by $1.74 per barrel (42 FR 62897, December 14, 1977). The intent of this adjustment was to permit the purchase price of heavy lower tier California crude oil to rise by lowering its after-entitlements acquisition cost and so encourage continued production of crude oil that otherwise was in danger of being shut in. The cost of this adjustment was offset by imposing increased entitlement burdens on imported and Alaska North Slope crude oil processed in California refineries.

In continuing to monitor developments in the California crude oil market, however, we received information indicating that, while some postings for California crude oil had increased in response to the December 8 amendments, in general prices for California crude oil remained depressed and substantial volumes of crude oil production continued to be threatened with imminent shut-in. Accordingly, on February 22, 1978, we issued a further notice of proposed rulemaking and public hearing on the issues concerning California crude oil (43 FR 8150, February 28, 1978) which led to the adoption in June of the final amendments discussed above.

II. SPECIFIC COMMENTS REQUESTED

We are issuing this notice in order to obtain comments and data concerning the effects of regulatory actions taken to date relating to the west coast crude oil situation. The information that we receive in response to this notice should enable us to evaluate the impact of these actions and determine whether they are achieving the objective of providing incentives for maximizing the production of California crude oil. Accordingly, we request that you submit any comments, views, or arguments that you may have concerning the operation of the June 15 and earlier regulatory actions. In addition, we would like to receive, insofar as possible, specific empirical data regarding the factors currently at work in the California crude oil market.

In particular, but without limiting the scope of the information requested, we solicit your views on the following questions:

1. To what extent have the price postings for California crude oil increased to ceiling or near-ceiling levels since the June 15 amendments were adopted?

2. If California crude oil prices have not reached ceiling levels, what factors are responsible for this situation?

3. What volumes of California crude oil currently are shut in or are in danger of being shut in?

4. What factors account for the fact that stripper well crude oil produced in California sells at a price substantially below that of stripper well crude oil of the same quality produced east of the Rocky Mountains?

5. To what extent have refineries increased their runs of price controlled California crude oil as a result of the reduction in entitlements penalties for such oil adopted in the June 15, 1978, rulemaking?

6. What plans or projects are in progress to increase production and refining capacity of heavy, high-sulphur California crude oil, and what regulatory obstacles remain that inhibit such expansions?

7. Are refined product supplies adequate, less than adequate, or more than adequate to meet demand?

8. What additional regulatory or nonregulatory actions should be undertaken by the DOE to further the objectives set forth in the June 15 notice?

III. PUBLIC HEARING AND COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting written views, data, or arguments with respect to the matters discussed in this notice. Comments should be submitted to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope with the designation "California Crude Oil." Twenty copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

You should identify separately any information you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

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B. PUBLIC HEARING

1. *Procedure for requesting participation.* The time and place of the public hearing are indicated in the "Dates" and "Addresses" sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding; if appropriate, why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of your proposed oral presentation.

The DOE will notify each person selected to be heard before 4:30 p.m. on October 12, 1978. Persons selected to be heard should bring 100 copies of their statement to the hearing address indicated in the "Addresses" section of this notice on the day of the hearing.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m. on October 16, 1978. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The ERA or, if the question is submitted at the hearing, the presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the ERA will retain the entire record of the hearing, including the transcript, which will be made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., on September 21, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-27421 Filed 9-27-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 6, Amdt. 20; Revision 9, Amdt. 14]

PART 120—BUSINESS LOAN POLICY

PART 122—BUSINESS LOANS

Improvements to SBA Blanket Guaranty

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: These revised rules: (1) Allow lenders to use quarterly status report, (2) initiate an automated billing system to collect guaranty fees from lenders, (3) extend the time for automatic termination of a guaranty agreement to 1 year after maturity, and (4) eliminate case-by-case notifications to SBA for uncured defaults. The circumstances which created the need for these amendments included involuntary cancellation of guaranty agreements because of inadequate time frames and misunderstandings by personnel, an outdated billing system which was incapable of proper servicing, and a notification procedure which did not work well. These amendments are intended to correct these problems.

EFFECTIVE DATE: October 1, 1978.

ADDRESS: John M. Trask, Jr., Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6632.

FOR FURTHER INFORMATION CONTACT:

Timothy F. O'Leary, Chief, Programs and Systems Division, 1441 L Street NW., Washington, D.C. 20416, 202-653-6429.

SUPPLEMENTARY INFORMATION: The Small Business Administration (SBA) has revised the guaranty agreement (deferred participation) to remedy guaranty fee problems, to place greater reliance on participating lenders and to create a simplified and effective computer supported reporting system for the lenders. Participating lenders will be permitted to make ministerial adjustments in the terms and conditions of a loan without prior consent of SBA. The revised regulations, which implement the new agreement, also provide that: (1) Lenders use an SBA generated quarterly status report instead of the staggered annual reporting system, (2) an automated billing system will be used in collecting guaranty fees from lenders, (3) the possibility of automatic involuntary cancellations will be lessened because the time for automatic termination is extended from 60 days to 1 year after maturing, and (4) case-by-case default notifications are eliminated for uncured defaults occurring on or after October 1, 1978. The new guaranty agreement will be effective for all guaranty loans on and after October 1, 1978. The amended regulation takes into account the existence of loans outstanding prior to October 1, 1978, as well as loans made on and after such date. Thus, in collecting guaranty fees and in the disbursing and servicing of guaranteed loans the regulations are separated into sections applicable to loans made and servicing actions required prior to October 1, 1978, and on and after such date.

PART 120

With respect to guaranty fees, § 120.3(b)(1)(i) retains the present rule concerning loan guarantees which were approved prior to January 1, 1973—the guaranty fee is one-fourth of 1 percent per annum. Section 120.3(b)(1)(ii) retains the present rule with respect to loan guarantees which were approved between January 1, 1973, and October 1, 1978—the guaranty fee continues to be 1 percent, payable at first disbursement of the loan by the lender. The regulation also retains the present rule with respect to short term loans, viz, those with a maturity of up to 12 months—the guaranty fee is one-quarter of 1 percent per annum of the guaranteed portion.

The new provision, § 120.3(b)(1)(iii), changes the guaranty fee payment for loans approved on and after October 1, 1978—the fee is a one-time 1 percent of the guaranteed portion payable within 90 calendar days of SBA's approval, not disbursement. If the lender does not pay the fee within this time period, an automatic billing sequence will be initiated. These are substantial changes more favorabale to the lender. Under the old rule, the lender was to pay the guaranty fee within 5 days of first disbursement. Some guarantees were canceled because of inadvertence and error. The new system will be of substantial help to participating lenders because of the positive notification procedures built into the system. Even if, with all the safeguards, the guaranty is canceled, SBA may reinstate the guaranty pursuant to the standards now published in § 120.3(b)(1)(iii); no individual notice of reinstatement will be published in the FEDERAL REGISTER. If the lender has made no disbursement, SBA, at lender's written request, will refund the guaranty fee upon the lender's written request for the refund and for cancellation of the loan authorization.

PART 122

§ 122.10(b)(1)(i) retains the notification of uncured default provisions relating to loans made prior to October 1, 1978. Thus, with respect to such loans, the 45-day notification rule concerning uncured defaults will still be applicable. SBA will not pay accrued interest to lender from the date of default to date SBA receives written notice of the default, where SBA receives written or actual notice more than 45 days from the date of uncured default. However, the regulation is clarified by defining "uncured default" so that repayments after the due date by the borrower from its own resources will cure the default on the due date. Additional borrowing from the lender to make such repayments will not constitute payment from the borrower's own resources. The regulation also retains the present rules on reliance upon postmarks.

The quarterly report system in § 122.10(b)(1)(ii) becomes effective October 1, 1978, and will be a combined listing of all outstanding guaranteed loans with each participating lender. Accurate delinquency information from the lender on the quarterly list of outstanding loans will replace the individual notice of default previously required except as to those loans with uncured default beginning before October 1, 1978. In loans where borrower's default in payment occurred before October 1, 1978, and continues uncured after that date, then the old notification requirement in § 122.10(b)(1)(i) will continue to apply. However, if payments after October 1, 1978, from the borrower's own resources cure all defaults prior to that date, then only the new reporting requirements in § 122.10(b)(1)(ii) will be applicable.

In new § 122.10(b)(1)(iv) the former contractual requirement, that the demand to purchase the guaranteed portion had to be made unpon SBA within 60 days of the loan's maturity, has been changed to permit the demand within 1 year of maturity for all guaranteed loans that mature on or after October 1, 1978. If the date of maturity occurs before October 1, 1978, the old 60-day rule will continue to apply to any such loan; otherwise the new 1 year rule will be applicable. The guaranty also continues if a request to extend the maturity is received by SBA within 1 year after maturity, even if SBA's approval of the extension request is made by SBA more than 1 year after maturity. However, if SBA rejects the extension request, the lender will have 6 months after SBA's denial within which the lender can demand purchase of the guaranteed portion.

The lender will receive additional freedom of action without the consent of SBA under the provisions of new § 122.20(c)(2). The present rule is retained in § 122.20(c)(1), and these provisions will continue to govern applicable loan administration actions by lenders prior to October 1, 1978. Loan administration actions by lenders on or after October 1, 1978, will be governed by the new § 122.20(c)(2) regardless whether the loan was approved or disbursed before or after October 1, 1978. It is the date the lender takes the servicing action (e.g., releases collateral) that determines which subsection in § 122.20(c) will be applicable. Under the new subsection (2) the lender can change, without SBA's consent, the terms of a loan instrument which are not substantial or which would not confer a preference in favor of the lender. This new subsection also greatly enlarges the lender's unilateral authority to release collateral by increasing said authority to 20 percent (cumulatively) of the original loan amount from the prior contractual limit of 10 percent of the outstanding loan balance.

Finally, the deletion of § 122.10(b)(4) is a technical correction. It states an old rule that under the blanket guaranty program the loan had to be in default 90 days before SBA had the option to purchase the guaranteed portion. This was replaced by the current rule stated in § 122.10(b)(2) that SBA has the right to purchase at any time the guaranteed portion of any loan.

SBA has determined that publication of this regulation as a proposed rule for public comment is impractical, unnecessary, and contrary to the public interest. The primary objective is to increase financial assistance to small business concerns by improving the contractual arrangements with private lenders for guaranteed loans. This requires close coordination for the development and execution of the new guaranty agreement with the effective date of the new final regulation. Furthermore, the adoption of the final rule will make the improvements in participation for private lenders effective and available at an earlier date without adversely affecting any other person or organization. Interested persons are invited to submit written comments, suggestions or objections regarding these regulations. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal.

Accordingly, pursuant to the authority of section 5(b)(6) of the Small Business Act (15 U.S.C. 634), parts 120 and 122, chapter 1, title 13 of the Code of Federal Regulations, are amended as follows:

1. Section 120.3(b) is amended to read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) *Fees and interest rates.*—(1) *Guaranty fees.* In guaranteed loans (those made by a financial institution with which SBA has entered into an agreement to guarantee as set forth in part 122 of this chapter), a guaranty fee shall be payable by the financial institution to SBA for such agreement. The guaranty fee shall be paid by the participating lender and not charged to the borrower. Receipt or acceptance of the guaranty fee by SBA shall not waive any right of SBA arising from lender's negligence, misconduct, or violation of any provision of these regulations or of the guaranty agreement.

(i) For guaranties approved prior to January 1, 1973, the guaranty fee is one-fourth of 1 percent per annum of the portion of the loan which SBA has guaranteed.

(ii) For guaranties approved between January 1, 1973, and October 1, 1978, the guaranty fee is set on a one-time basis of 1 percent of the authorized and guaranteed portion of the loan, and is payable at first disbursement by the lender. For loans made with a maturity up to 12 months, the guaranty fee is one-quarter of 1 percent of the guaranteed portion payable by the lender at the time of SBA's approval of the loan. Longer maturities or extensions are to be prorated on the basis of one-quarter of 1 percent per annum, payable to SBA at the time of SBA'a approval: *Provided, however,* That no additional guaranty fee is payable when an extension is for the sole purpose of effecting collection of the then outstanding principal balance and where there are not further loan advances.

(iii) For guaranties approved on and after October 1, 1978, the onetime guaranty fee shall be one (1%) percent of the authorized and guaranteed por-

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tion of the loan, and shall be payable by the lender within 90 calendar days of the date of the SBA's approval as stated in the loan authorization. If the guaranty fee is not paid by the lender within this time period, SBA will send the lender a written notice stating that the guaranty will be terminated if SBA does not receive the fee within the time period stated in the notice. If the lender does not pay the guaranty fee within the stated time period, then the guaranty on the loan will be automatically canceled. SBA, at its sole discretion, may reinstate the guaranty on the loan where SBA determines that the lender's failure to pay the guaranty fee before cancellation was not intentional and not part of a recurring pattern: *Provided, however,* That SBA will not reinstate the guaranty if the fee remains unpaid at the time of borrower's default in payment of principal or interest due on the loan, and if such default in payment continues uncured, or if there has been a substantially adverse change in borrower's condition. SBA shall refund the guaranty fee where the lender has not made any disbursement of the guaranteed loan and lender makes written request for the return of the guaranty fee and cancellation of the loan authorization. For loans with a maturity not in excess of 12 months, the one-time guaranty fee shall be one-quarter of 1 percent of the guaranteed portion of the loan.

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2. Section 122.10(b) is amended to read as follows:

§ 122.10 Guaranteed loans.

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(b) *Simplified blanket guaranty loans.* (1) Simplified blanket guaranteed loans are loans made by a lender under a guaranty agreement between SBA and the lender which is applicable to future loans to small business concerns as authorized by SBA. Under such a guaranty agreement, SBA is obligated to purchase not more than 90 percent of the outstanding balance of each authorized loan together with accured interest, in the event the borrower has defaulted in payment of any installment of principal or interest when due and if the default continues uncured for more than 60 calendar days, unless SBA agrees otherwise. SBA also has the right to purchase at any time the guaranteed percentage of any loan in the interest of the Government or the borrower. Any eligible loan which the lender would make only with the guaranty of SBA may be authorized by SBA under the guaranty agreement.

(i) If an uncured default occurs prior to October 1, 1978, written notification of such uncured default shall be received by SBA within 45 calendar days after such default. (Uncured default means nonpayment of principal or interest on the due date which remains uncured by subsequent payments from the borrower's own resources, but not from additional borrowing from the lender.) Where SBA receives written notice of uncured default after 45 calendar days from the date of default, the lender shall not be entitled to receive at any time accrued interest on the guaranteed portion of unpaid principal of the loan from the date of uncured default by the borrower to the date of receipt by SBA of written notice of said default: *Provided, however,* That SBA shall not purchase the guaranteed percentage unless SBA shall first determine that said delay in notification of default did not cause any substantial harm to the Government. Late receipt or nonreceipt of notice due within 45 calendar days by SBA will be excused only where written notification was sent by registered or certified mail not later than the 5th day, or by mailgram not later than the 3d day, prior to the 45th day after the original date of the uncured default. The evidence to establish the date of mailing shall be the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. The evidence to establish the date of transmission by mailgram shall be the automatic date indication appearing on the mailgram. If the postmark in the case of mail or the automatic date indication in the case of a mailgram is illegible, the notification date shall be established by the best evidence available. The lender shall be responsible to establish and to retain evidence of delivery of the required written notification to SBA.

On and after October 1, 1978, lenders shall be required to report in writing to SBA the repayment status, classification (paid in full, deferred, liquidation, etc.) and principal balance (outstanding or undisbursed) of each guaranteed loan on a quarterly basis. This quarterly report shall apply to all guaranteed loans, provided uncured default by the borrower did not begin before October 1, 1978. Where the uncured default occurred prior to October 1, 1978, and remained uncured on such date, the provisions in the preceding subparagraph (i) apply. Each lender shall complete and forward to SBA, within 20 days after the end of each quarterly period, a status report which shall list each loan guaranteed by SBA and its status as current or delinquent. SBA shall not be obligated to purchase the guaranteed percentage unless SBA shall first determine that any failure by lender to provide timely and accurate quarterly status information caused no substantial harm to the Government.

(iii) SBA shall be released from any obligation to purchase its share of a guaranteed loan if the lender has not substantially complied with all of the provisions of these regulations and the guaranty agreement. Purchase by SBA of its guaranteed share shall not waive any right of SBA arising from lender's negligence, misconduct, or violation of any provision of these regulations or of the guaranty agreement.

(iv) As to any guaranteed loan approved by SBA that matures on or after October 1, 1978, SBA shall not be obligated to purchase the guaranteed portion where the demand for such purchase, or a request to extend the loan's maturity, is not received by SBA within 1 year after maturity of the note: *Provided, however,* That if SBA rejects the request to extend the loan the lender shall have 6 months from the date of such denial to demand that SBA purchase the guaranteed portion of the loan.

• • • • •

3. Section 122.10(b) is amended by deleting subsection (4):

§ 122.10 Guaranteed loans.

• • • • •

(b) simplified blanket guaranty loans.

• • • • •

(4) [Delete]

• • • • •

4. Section 122.20(c) is amended to read as follows:

§ 122.20 Loan administration.

• • • • •

(c) In guaranteed loans:

(1) Prior to October 1, 1978, the lender shall not, without the prior written consent of SBA: (i) Make or consent to any alterations in the terms of the note or related loan instruments; (ii) make or consent to any release, substitution, or exchange of collateral, except for simplified blanket guaranty loans, as stated on SBA form 750 then in force; (iii) accelerate the maturity of the note; (iv) sell, assign, or transfer the note or related loan instruments; (v) sue upon the note or related loan instruments; (vi) waive or agree to waive any claim against borrower or any guarantor, standby creditor, or other obligor in connection with the loan; (vii) directly or indirectly charge or receive any bonus, fee, commission, or other payment or benefit in connection with the making or servicing of the loan, except reimbursement for charges or expenses incurred, or compensation for actual services rendered (see also §§ 120.3(b) (5) and (6)); or (viii) increase the amount of any prior lien held by the lender on property securing an SBA-guaranteed loan.

(2) On or after October 1, 1978, the lender shall not, without the prior written consent of SBA: (i) Make or consent to any substantial alteration in the terms of any loan instrument; (ii) make or consent to releases of collateral having a cumulative value, as reasonably determined by the holder of the note, which is more than 20 percent of the original loan amount; (iii) accelerate the maturity of any note; (iv) sue upon any loan instrument; (v) waive any claim against any borrower, guarantor, obligor, or standby creditor arising out of any loan instrument; (vi) directly or indirectly charge or receive any bonus, fee, commission, or other payment or benefit in connection with the making or servicing any loan, except reimbursement for charges or expenses incurred, or compensation for actual services rendered (see also §§ 120.3(b) (5) and (6)); or (vii) increase the amount of any prior lien held by the lender on property securing an SBA-guaranteed loan. For the purposes of this subparagraph, "substantial" includes, but is not limited to, increases in principal amount or interest rate or any action that benefits or confers a preference on the holder.

• • • • •

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans.)

Dated: September 20, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27221 Filed 9-27-78; 8:45 am]

[3510-24]

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

Extension of Time To Comply With the Private Citizen Representation Requirement

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Interim rule.

SUMMARY: This rule revises the regulation which requires certain district organizations to comply with the representation of private citizens requirement by May 1, 1978. EDA is making this change because it is currently reconsidering the amount of representation that private citizens must have on district organizations. The effect of this rule is to postpone the date by which district organizations must comply with this requirement until October 1, 1979, in order to give EDA time to conclude its deliberations.

DATES: Effective date: September 28, 1978. Comments by: October 30, 1978.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Information on Regulations: James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: EDA is currently reconsidering the requirement of 13 CFR 303.4(c)(3) that one-third of the members of the governing boards of economic development districts must be private citizens. While EDA has not decided whether to change the requirement at this time, it will continue for the next few months to reconsider the requirement along with other economic development district organizational provisions of § 303.4. Under provisions of Executive Order 12044, the "EDA Regulatory Agenda of July 15, 1978" has tentatively scheduled final revised regulations on district organizations by January 25, 1978. Currently, § 303.4(a)(2) of 13 CFR requires compliance with the one-third private citizen provision no later than October 1, 1978. In that compliance with § 303.4(c)(3) will require districts to make changes in the composition of their governing boards over the course of the next several months, EDA believes it is unfair to require them to make these changes while it is considering modifying that requirement. In order to give EDA time to reconsider this requirement and to complete the required steps for rulemaking and thereby to avoid burdening the districts with possibly needless reorganization of their boards, EDA is issuing this interim rule to extend the time of compliance of § 303.4(a)(2) until October 1, 1979.

During this stay of implementation of § 303.4(c)(3), EDA will designate new economic development districts under 13 CFR 303.2 which meet all other requirements except § 303.4(c)(3). Such designations will be made with the understanding that EDA may issue final revised regulations requiring specific percentages of private citizen representation. Should EDA issue such final regulations, EDA will allow districts a grace period of 1 year after publication to come into compliance with the requirement.

Because this rule relates to EDA grant and loan programs, it is exempted from the notice and comment procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

Due to the technical nature of this rule, EDA has determined that this document does not constitute a significant regulation under Executive Order 12044 and that it is exempt from the procedural requirements imposed on significant regulations by that order. EDA hopes to publish new proposed regulations regarding organizational requirements for economic development districts around October 27, 1978. The private citizen representation requirement, as well as all other requirements currently found at 13 CFR 303.4, will be subject to the procedural requirements of Executive Order 12044 at that time.

Accordingly, 13 CFR 303.4 is amended to read as follows:

§ 303.4 District organization.

(a) • • •

(2) Each development organization shall comply with the representation requirement set forth in paragraph (c)(3) of this section no later than October 1, 1979.

• • • • •

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: September 20, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-27315 Filed 9-27-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

V 43 / 189 SE 28 78

[Docket No. 15131; Amdt. No. 36-8]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Limits and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and Turbojet Powered Airplanes: Correction to Minimum Thrust Cutback Altitudes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects amendment 36-8 to part 36 of the Federal Aviation regulations published on March 2, 1978 (43 FR 8722). The corrected provision prescribes the minimum altitude at which thrust may be reduced during takeoff noise tests for certain airplanes powered by turbojet engines with high bypass ratios, which were previously type certificated under the stage 2 noise limits of part 36. The effect of this correction is to apply to these "Stage 2" airplanes the requirements applicable to new type design ("Stage 3") airplanes. This action only affects approvals for voluntary changes in type design which might increase noise levels of the affected Stage 2 airplanes and is necessary to avoid and unintended effect of amendment 36-8.

DATES: Effective date—September 28, 1978. Compliance date—Same as amendment 36-8 (Apr. 3, 1978).

FOR FURTHER INFORMATION CONTACT:

Richard Tedrick, Program Management Branch (AEQ-220), Environmental Technical Regulatory Division, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-9027.

SUPPLEMENTARY INFORMATION:

Synopsis

On March 2, 1978, the FAA published amendment 36-8 to the Federal Aviation regulations (FAR's), which became effective April 3, 1978 (43 FR 8722). This action corrects the applicability provisions of § C36.7(b) of appendix C of FAR part 36 (14 CFR part 36) to avoid an unintended effect of the amendment as adopted. Those provisions, as amended by that amendment, read—

(b) • • •

(1) For Stage 1 or Stage 2 airplanes the following apply:

• • • • •

(2) For Stage 3 airplanes the following apply:

• • • • •

As corrected by this action, those provisions read—

(b) • • •

(1) For Stage 1 airplanes and for Stage 2 airplanes that do not have turbojet engines with a bypass ratio of 2 or more, the following apply:

• • • • •

(2) For Stage 2 airplanes that have turbojet engines with a bypass ratio of 2 or more and for Stage 3 airplanes, the following apply:

• • • • •

Discussion

Amendment 36-8 amended the aircraft noise standards for certain civil subsonic turbojet airplanes and large transport category airplanes: (1) To prescribe amended "Stage 3" noise limits for new type design airplanes; (2) to limit noise level increases of certain older type design airplanes, that were previously type certificated under the "Stage 2" noise limits of part 36, if their designs are changed; (3) to amend the noise measuring points; and (4) to amend the minimum altitude above which power or thrust may be reduced ("minimum cutback altitudes") during the takeoff noise test. This latter provision is corrected by this action. Amendment 36-8, including this correction to that amendment, is based on proposals contained in several notices of proposed rulemaking, including notice Nos. 75-37 (40 FR 51476; Nov. 5, 1975) and 75-37C (41 FR 47375; Oct. 28, 1976). As discussed in the preamble to amendment 36-8, that amendment (and this correction) does not prejudice or prejudge FAA consideration of additional proposed rules contained in notice No. 76-22 (41 FR 47375; Oct. 28, 1976), as recommended to the FAA by the U.S. Environmental Protection Agency under § 611(c)(1) of the Federal Aviation Act of 1958, as amended.

The purpose of this action is to correct FAR § C36.7(b), as amended under amendment 36-8, to achieve the regulatory scheme intended by the FAA regarding the prescribed minimum cutback altitudes during takeoff noise tests for Stage 2 airplanes powered by turbojet engines with high bypass ratios (bypass ratios of 2 or more). While the amendment adopted the various proposals contained in one or the other of the notices, it adopted some provisions based on a combination of these proposed rules. Under the amendment, after a change in type design, Stage 2 airplanes may not exceed the Stage 2 noise levels, except that Stage 2 airplanes powered by turbojet engines with high bypass ratios may not exceed the Stage 3 noise limit by more than 3 EPNdB or the Stage 2 noise limit, whichever is lower. Notice No. 75-37C also proposed to prescribe minimum cutback altitudes for takeoff noise tests at 689 feet for airplanes with four engines, at 853 feet for those with three engines, and at 984 feet for those with one or two engines. Before amendment 36-8, the rules permitted cutback at 700 feet for airpanes with more than three turbojet engines and at 1,000 feet for all other airplanes. That proposal in notice No. 75-37C was only partially adopted under amendment 36-8.

As discussed in the preamble to amendment 36-8, the FAA agreed with several commenters who pointed out that adoption of the proposed minimum cutback altitudes could result in some unwarranted relaxation of the takeoff noise standards for some airplanes. Thus, the FAA concluded that it should not adopt that proposal for those Stage 1 and Stage 2 airplanes or for Stage 3 airplanes not powered by turbojet engines. The rationale included consideration for retaining comparability of noise measurements made before and after changes in type design of existing Stage 1 and Stage 2 airplane types for which there were no concurrent reductions in the noise levels being adopted. However, the amendment did not provide the necessary distinction for derivative versions of Stage 2 airplanes powered by high bypass ratio turbojet engines for which noise level reductions were adopted. That omission resulted in applying the minimum cutback altitude requirements of original part 36 to all Stage 2 airplanes, regardless of the bypass ratio of their engines and notwithstanding the reduction in noise limits for derivative Stage 2 airplanes powered by high bypass ratio engines. That was not an intended effect of amendment 36-8.

Further, amendment 36-8 was adopted after consideration of the economic reasonableness, technological practicability and appropriateness to the aircraft type of the proposals in accordance with § 611(d) of the Federal Aviation Act of 1958, as amended. The analysis of § 611(d) considerations performed for amendment 36-8 supported and contemplated an amendment based upon a distinction in the final rule which reflects the technological differences between engines that do not have high bypass ratios (including no bypass ratio and nonturbojets) and engines employing the quieter, more

efficient technology represented in bypass ratios of 2 or more.

This action, therefore, is necessary to correct the deficiency by amending the applicability clauses of paragraphs C36.7(b) (1) and (2) to prescribe similar minimum cutback altitude requirements for turbojet airlines powered by engines in the same regulatory class. While the FAA believes the effects of the correction on measured noise levels generally are small, the unintended nature of the potential for increased stringency for some airplanes under amendment 36-8 dictates that it should be corrected as soon as possible.

FAR § C36.7 prescribes takeoff test conditions that apply to noise tests in showing compliance with part 36 for both new type certificates and acoustical change approvals. However, under FAR amendment 36-7 (42 FR 12360; Mar. 3, 1977), an airplane for which application for a new type certificate is made on or after November 5, 1975, and issued after October 1, 1977, must meet the Stage 3 noise levels adopted in that amendment. Since there are no applications still outstanding for new type certificates for the affected airplanes for which compliance with Stage 3 noise levels is not required, this corrective amendment, in effect only applies to acoustical changes to the affected Stage 2 airplanes powered by high bypass ratio turbojet engines.

Since this action is necessary to prescribe the originally intended regulatory requirements under amendment 36-8 (which became effective Apr. 3, 1978) and since this action is corrective in nature, I find that notice and public procedure hereon are impractical and unnecessary. Further, since it would not be in the public interest or consistent with sound regulatory practice to delay making necessary corrections to the amendment, good cause exists for making this corrective amendment effective in less than 30 days. While this corrective document is effective upon its publication, the corrections it makes relate back to provisions which previously became effective. Accordingly, it would not be proper to require compliance with the uncorrected provisions of amendment 36-8 in those cases in which an applicant for an affected acoustical change approval shows compliance with part 36 in accordance with amendment 36-8, as corrected. Thus, this correction applies to affected noise tests conducted on or after April 3, 1978.

Drafting Information

The principal authors of this document are Richard Tedrick, Office of Environmental Quality, and Ronn E. Harding, Office of the Chief Counsel.

Adoption of the Corrective Amendment

Accordingly, section C36.7 of appendix C to part 36 of the Federal Aviation regulations (14 CFR, part 36, appendix C, C36.7) is corrected, effective (date of publication), by amending the introductory clauses under paragraphs C36.7(b) (1) and (2) to read as follows:

Section C36.7 Takeoff test conditions.

• • • • •

(b) • • •

(1) For Stage 1 airplanes and for Stage 2 airplanes that do not have turbojet engines with a bypass ratio of 2 or more, the following apply: • • •

(2) For Stage 2 airplanes that have turbojet engines with a bypass ratio of 2 or more and for Stage 3 airplanes, the following apply:

• • • • •

(Secs. 313(a), 601(a), 603, and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1423, and 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); title I, National Environmetal Policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, Mar. 5, 1970.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria in Executive Order 12044 and set forth in interim Department of Transportations guidelines.

Issued in Washington, D.C., on September 20, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27112 Filed 9-27-78; 8:45 am]

[4910-13]

[Docket No. 78-NW-18-AD, Amdt. 39-3307]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 369D and 369H Helicopters as Modified by Chadwick Inc. STC Nos. SH184NW and SH567NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive requires the installation of a drain hole, drain fitting, and drain line on the low side of the hydraulic pump engine mount flange, P/N 500-60405-1, installed on the Chadwick modified Hughes model 369D and 369H helicopters. The installation of a drain hole will prevent hydraulic fluid from entering the helicopter engine transmission after front seal failure of the hydraulic pump assembly, Chadwick P/N 500-60402-9.

DATE: Effective date November 2, 1978. Initial compliance as prescribed in the body of the AD.

ADDRESS: Chadwick Service Bulletin No. 500-78-01 specified in this directive may be obtained upon request from Chadwick Inc., 4375 Southwest 142d Avenue, Beaverton, Oreg. 97005. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Mark I. Quam, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2500.

SUPPLEMENTARY INFORMATION: There has been one report of hydraulic fluid entering a Hughes 369 helicopter Allison engine transmission after the front seal failed on the Chadwick hydraulic pump assembly, P/N 500-60402-9. This pump is used on the Chadwick C-500 aerial spray system, STC No. SH184NW and the Chadwick C-500 fire suppression kit, STC No. SH567NW. These installations are approved for the Hughes 369D and 369H model helicopters.

Since this condition is likely to develop in the other Chadwick C-500 aerial spray systems and the Chadwick C-500 fire suppression kits, this AD will require the installation of a drain system between the Allison Engine and the Chadwick hydraulic pump. This drain system will intercept any hydraulic fluid leaking from the pump and prevent the hydraulic fluid from entering the engine.

The 100-hour compliance time to install the hydraulic drain system has been established by the agency on the basis of safety considerations and service. The units in service have seen at least one spraying season, after which pump seal wear and failure is more likely to occur. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

HUGHES: Applies to Hughes model 369D and 369H helicopters which have either the C-500 aerial spray system, STC No. SH184NW or the Chadwick C-500 fire

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suppression kit, STC No. SH567NW installed.

To prevent hydraulic fluid from entering the engine after a seal failure of the Chadwick hydraulic motor, accomplish the following: Within the next 100 hours time in service or 30 days, whichever comes first, after the effective date of this AD, install a drain line on the engine mounting flange, Chadwick P/N 500-60405-1, in accordance with Chadwick Service Bulletin 500-78-02 dated September 1, 1978, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Chadwick, Inc., 4375 Southwest 142d Avenue, Beaverton, Oreg. 97005. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective November 2, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on September 18, 1978.

C. B. WALK, Jr.,
Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-27115 Filed 9-27-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-21, Amdt. 39-3305]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky S-61 Series Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 31, 1978, a telegraphic airworthiness directive was issued requiring repetitive inspections for cracks and replacement, if necessary, of the main rotor blade spindle on S-61 type helicopters. Cracks could lead to a failure of the spindle. The AD is hereby published in the FEDERAL REGISTER as an amendment to section 39.13 of part 39 of the Federal Aviation Regulations.

DATES: Effective date: This amendment becomes effective September 28, 1978, for all persons except those to whom it was made effective immediately by telegram dated July 31, 1978.

ADDRESS: To obtain copies of the service bulletin referenced in the AD contact Sikorsky Aircraft, Division of United Technologies Corp., Stratford, Conn, 06602.

FOR FURTHER INFORMATION CONTACT:

William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7336.

SUPPLEMENTARY INFORMATION: On July 31, 1978, a telegraphic AD was adopted and made effective immediately to all known U.S. operators of Sikorsky S-61 helicopters. This airworthiness directive required repetitive dye penetrant inspections and ultrasonic inspections. It also required replacement of cracked spindles and the reporting of cracks to the FAA.

The AD was required because of the spindle failures found in two S-61 type helicopters that were involved in recent, serious accidents. The character of the spindle damage was the same in these accidents, and in each case, there were marks left on a mating part that were also consistent. Laboratory examination indicated that an origin of fatigue existed in one of these spindles at the failed section. If a spindle fails in this way, a main rotor blade separates from the aircraft.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the airworthiness directive effective immediately to all known U.S. operators of Sikorsky model S-61 helicopters by individual telegrams dated July 31, 1978.

Since the telegraphic AD made ultrasonic inspections mandatory on August 18, 1978, the FAA has determined that there is no need for the dye penetrant inspections and accordingly these dye penetrant inspections have been eliminated from the AD as published herein.

These conditions still exist and the airworthiness directive as revised is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective 1978, by addition of the following new airworthiness directive:

SIKORSKY AIRCRAFT. Applies to S-61 series helicopters certificated in all categories, including military counterparts, equipped with P/N's S6112-23027, S6112-23025, and S6110-23325 main rotor spindles.

Compliance required as indicated.

To preclude the possibility of failure of main rotor spindles, accomplish the following:

1. Prior to further flight, unless already accomplished, and thereafter at intervals not to exceed 25 hours time in service, conduct ultrasonic inspections of all unplated P/N's S6112-23027, S6112-23025, and S6110-23325 spindles with 1,350 or more hours time in service in accordance with Sikorsky Service Bulletin No. 61B10-33 or later revision approved by the Chief, Engineering and Manufacturing Branch.

2. Prior to further flight, unless already accomplished, and thereafter at intervals not to exceed 25 hours time in service, conduct ultrasonic inspections of all nickel sulfamate plated P/N's S6112-23027, S6112-23025, and S6110-23325 spindles in accordance with the above service bulletin.

3. If a crack is found during the above inspections, replace the cracked spindle with a new spindle or a serviceable spindle prior to further flight.

4. Report in writing any cracks found during the above inspections to Chief, Engineering and Manufacturing Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Mass. 01803. Each report must include the length and location of the cracks and total time in service of the spindle (reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

5. The helicopter may be flown in accordance with FAR 21.197 to a base where the above inspections can be performed.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Stratford, Conn. 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Headquarters, Burlington, Mass.

Issued in Burlington, Mass., on September 18, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-27111 Filed 9-27-78; 8:45 am]

[4910-13]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model—DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement of the horizontal stabilizer drive chains installed on McDonnell Douglas DC-10 airplanes. This AD is needed to prevent possible damage to the horizontal stabilizer attachment structure due to stabilizer drive chain failure.

DATES: Effective October 3, 1978. Compliance required within 90 hours' time in service after the effective date.

ADDRESS: The applicable maintenance information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750 (54-60).

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: McDonnell Douglas DC-10 operators have reported finding 10 horizontal stabilizer drive chains with cracks. Two of these chains were completely failed. Each DC-10 has four chains, two to drive each side of the horizontal stabilizer. If any single chain fails, the remaining chain on that side will continue to drive the actuator without any indication of failure. Failure of both chains to an actuator assembly can result in unsymmetrical loading and serious structural damage to the stabilizer.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires initial and repetitive inspections to determine if the chain is intact, and replacement of old chains within 4,000 additional hours' time in service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F, and -40 airplanes certificated in all categories, incorporating part No. SK12280-120, SK12280A120, SK12280-220, or SK12280A220, horizontal stabilizer drive chain with 6,000 or more hours' time in service on the chain.

Compliance required as indicated.

To prevent possible damage of the horizontal stabilizer attachment structure due to stabilizer drive chain failures accomplish the following:

(a) Within 90 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 90 hours' time in service, inspect to assure that each horizontal stabilizer drive chain is intact and completely engaged on the drive sprockets. If a chain is found disengaged from the sprocket or has noticeable damage, both this and the other chain on the same side must be replaced before further flight.

(b) Within the next 400 hours' time in service after the effective date of this AD, unless accomplished within the last 800 hours' time in service, and thereafter at intervals not to exceed 1,200 hours' time in service, inspect each horizontal stabilizer drive chain as follows:

(1) With hydraulic power applied, manually position the hydraulic control valve on the aft pressure bulkhead to actuate the chain in approximately 6-inch increments.

(2) Wipe the grease from the outer surface of the upper and lower side links.

(3) Visually inspect each and every side link outer surface for fracture or link damage. Special consideration should be given to the areas directly adjacent to the link pins. Move the horizontal stabilizer as required to continue the inspection sequence until a total inspection of each drive chain is assured.

(4) If any link is found cracked or visually damaged, that chain and the other chain of the same side must be replaced before further flight.

(5) Lubricate the drive chain on the completion of the inspection.

(c) Within the next 4,000 hours' time in service after the effective date of this AD, replace chain part Nos. SK12280-120, SK12280A120, SK12280-220, or SK12280A220 with chain part Nos. SK14869-120 or SK14869-220.

(d) Inspections per paragraphs (a) and (b) may be discontinued upon accomplishment of the chain replacement specified in paragraph (c).

(e) Equivalent inspections, modifications, or parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the inspection or chain replacement required by this AD.

NOTE.—McDonnell Douglas DC-10 Alert Service Bulletin A27-163 dated March 30, 1978, Service Bulletin 27-163 dated July 6, 1978, and Telex Alert Service Bulletin A27-163R1 dated August 1, 1978, cover this same subject.

This amendment becomes effective October 3, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, Calif., September 18, 1978.

M. C. BEARD,
Acting Director,
FAA Western Region.

[FR Doc. 78-27113 Filed 9-27-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-20]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky S-61 Series Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of Airworthiness Directive.

SUMMARY: This action rescinds a telegraphic airworthiness directive issued July 7, 1978, requiring magnetic particle inspections for cracks in the spindles of Sikorsky S-61 helicopters. The need for this AD has been obviated by the issuance of a new telegraphic AD on July 31, 1978, pertaining to the same problem and requiring a different inspection.

DATES: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; 617-273-7336.

SUPPLEMENTARY INFORMATION: A telegraphic airworthiness directive

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was adopted and made effective to all known United States operators of Sikorsky S-61 helicopters on July 7, 1978, because of spindle failures found in two S-61 type helicopters that were involved in recent, serious accidents.

It required magnetic particle inspections for cracks in the spindles and the replacement of spindles found to be cracked. It also required operators to report cracks found during the inspections to the FAA.

After additional examination and engineering analysis of the spindles that failed in the accidents, a second telegraphic airworthiness directive, adopted and made effective to all known United States operators of Sikorsky S-61 helicopters, was issued on July 31, 1978, requiring repetitive dye penetrant inspections and ultrasonic inspections. It also required replacement of cracked spindles and the reporting of cracks to the FAA. The July 31, 1978, AD obviates the need for the corrective action required by the July 7, 1978, AD which may now be rescinded.

RESCISSION

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), the AD issued by telegram to all operators of S-61 helicopters on July 7, 1978, is hereby rescinded.

Issued in Burlington, Mass., on September 18, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-27118 Filed 9-27-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-6-AD; Amdt. 39-3308]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections, modification, and replacement of the leading edge outboard slat drive arms installed in McDonnell Douglas DC-10 airplanes. This AD is needed to prevent failure of an outboard slat drive arm or drum shaft allowing departure of the leading edge slats from the aircraft which may present a hazard to persons on the ground.

DATE: Effective November 7, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attn.: Director, Publications and Training, C1-750 (54-60). Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: On April 28, 1978, the FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to McDonnell Douglas DC-10 series airplanes (43 FR 20237). This AD establishes inspections, modifications, and replacement of the leading edge outboard slat drive arms. The proposal was prompted by two instances of failure of the outboard slat drive arm in flight. In one of these cases, slat system parts fell to the ground.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposal making.

One commentator stated that from a scheduling standpoint it would be desirable to accomplish McDonnell Douglas Service Bulletins 27-100 and 27-139 in conjunction with the required Service Bulletin 27-160. They suggested that Service Bulletin 27-160 be accomplished within 6,000 hours after the effective date of the AD with interim ultrasonic inspections required by Service Bulletin A27-160R2 at 1,500 hours' time in service intervals. The FAA disagrees. Service Bulletin 27-139 has been superseded by Service Bulletin 27-160 and even though it may be desirable to accomplish Service Bulletin 27-100 and 27-160 at the same time, this does not justify a 2,000-hour extension in the compliance time. Also, the ultrasonic inspections of Service Bulletin A27-160R2 are not as positive as the magnetic particle inspections of Service Bulletin 27-160.

Another commentator does not believe that there is evidence to support the contention that the ARH 0565-1 drum shaft is prone to fatigue failure. Fatigue tests have indicated that the ARH 0565-1 and -2 shafts have a limited life. This commentator also states that fatigue is not of concern with regard to the ARH 0171 arm. The FAA agrees, however, we are concerned about a possible manufacturing flaw in the ARH 0171 arm that, combined with stress corrosion, could result in failure of the arm.

Another commentator requested that the AD be revised to allow installation of a grease fitting with a modification to the fillet seal requirement. The FAA has amended the AD to allow installation of the grease fitting in accordance with Service Bulletin 27-161 in lieu of the fillet seal requirement in accordance with Service Bulletin 27-160.

The phrase "or later FAA approved revisions" has not been included in the service bulletin citations in this AD and a note has been added indicating that the cited version of the service bulletins are the only versions acceptable for demonstrating compliance with the AD under the terms of paragraphs (a) and (b).

After careful review of all available data including the comments above, the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule, with relieving substantive changes and with minor editorial and clarifying changes of nonsubstantive nature, as a final rule.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to DC-10-10, -10F, -30, -30F, and -40 airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent failure of an outboard slat drive arm or drum shaft, accomplish the following:

(a) Within the next 1,500 hours time in service after the effective date of this AD, unless the inspection and modifications specified in McDonnell Douglas DC-10 Service Bulletin 27-160, dated March 1, 1978, are already accomplished, inspect the outboard slat drive arms ultrasonically for cracks in accordance with McDonnell Douglas DC-10 Service Bulletin A27-160 revision 2, dated March 22, 1978.

(b) Within the next 4,000 hours time in service after the effective date of this AD, inspect by magnetic particle methods for cracks and modify or replace the outboard slat drive arms and drum shafts in accordance with McDonnell Douglas DC-10 Service Bulletin 27-160, dated March 1, 1978.

(1) As an alternate to applying sealant in accordance with Service Bulletin 27-160, it is permissible to install a lubrication fitting and fillet seal in accordance with McDonnell Douglas DC-10 Service Bulletin 27-161, dated March 3, 1978, and thereafter at intervals not to exceed 2,500 hours time in service apply MIL-G-81322 grease or equivalent to the ARH 7011-1 bolt assembly fitting.

NOTE.—Service Bulletin A27-160 revision 2 dated March 22, 1978, Service Bulletin 27-160 dated March 1, 1978 and Service Bulletin 27-161 dated March 3, 1978 are the only versions of the service bulletins suitable for compliance with paragraphs (a) and (b) of this AD.

(c) Any outboard slat drive arm or drum shaft found to be cracked must be replaced prior to further flight.

(d) Equivalent inspections, modifications or parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for accomplishment of inspections required by this AD.

This amendment becomes effective November 7, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, Calif., on September 19, 1978.

JAMES V. NIELSEN,
Acting Director,
FAA Western Region.

[FR Doc. 78-27119 Filed 9-27-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ANW-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Controlled Airspace, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the designation of controlled airspace in the vicinity of La Grande, Oreg. This rule designates additional 700-foot transition area to provide controlled airspace for departing aircraft executing the published departure procedure from La Grande Municipal Airport.

EFFECTIVE DATE: October 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist (ANW-533), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108, telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

HISTORY

A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on July 27, 1978, which described the proposed La Grande, Oreg., transition area. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The one comment received was from the Aircraft Owners and Pilots Association (AOPA) which voiced no objection to the proposal.

THE RULE

This amendment to part 71 of the Federal Aviation Regulations (FAR) designates additonal 700-foot transition area at La Grande, Oreg. as controlled airspace to encompass aircraft executing the published departure procedure from La Grande Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the La Grande, Oreg. transition area in § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 22, 1978, as follows:

LA GRANDE, OREG.

Add the following description to 700-foot airspace: "Within a 5-mile radius of the La Grande Municipal Airport (latitude 45°17'22" N, longitude 118°00'18" W)."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on September 15, 1978.

C. B. WALK, JR.,
Director, Northwest Region.

[FR Doc. 78-27110 Filed 9-27-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Hebbronville, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Hebbronville, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing instrument approach procedures to Jim Hogg County Airport. The circumstance which created the need for the action was the establishment of a navigation facility on the airport to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone, 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 31943) stating that the Federal Aviation Administration proposed to designate the Hebbronville, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received one objection to the proposal. The objection was received from the Department of the Navy.

DISCUSSION OF COMMENTS

The Navy informed us they have two military low altitude training routes that traverse the Hebbronville area. They pointed out that their routes had been implemented before the transition area proposal and that the airspace avoidance criteria use in the route planning would be violated should the transition area be established. They are concerned that this situation could impose restrictions on their training activity which would not be in the best interest of the Navy.

The FAA order pertaining to military training routes recognizes the possibility of such conflicts. The order reads to the effect that if practicable or to the extent practicable, controlled airspace established for terminal air traffic control purposes and route widths should avoid each other.

Flying safety will be enhanced by providing IFR separation between the IFR route activity and instrument approaches to the Jim Hogg County Airport. We are satisfied that restrictions, if any, to the Navy training activity would be minimal and denial of an in-

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strument approach capability to the airport by refusing to be establish a transition area would not be in the best interest of airspace utilization. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Hebbronville, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Jim Hogg County Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is added:

HEBBRONVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jim Hogg County Airport (Latitude 27°20'57" N., Longitude 98°44'12" W.), within 3.5 miles each side of the 326° bearing from the proposed NDB (Latitude 27°21'13" N., Longitude 98°44'38" W.) extending from the 5-mile radius to 11.5 miles northwest of the proposed NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Tex., on September 14, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27114 Filed 9-27-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns a segment of V-8 south alternate east of Grand Junction, Colo. This segment of V-8S is dually designated with a segment of V-134 which was automatically realigned one degree with the relocation of the Denver, Colo., VORTAC air navigation aid. V-8S is hereby realigned one degree to continue this dual designation and eliminate possible confusion in the use of the route segment.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign a segment of V-8S between Grand Junction, Colo., and Kremmling, Colo., via the Grand Junction 075° T (060° M) radial rather than the 074° T (059° M) radial. This one degree change is necessary to retain a single route from Grand Junction to the GLENO intersection and coincide with this segment of V-134. Because this one degree change constitutes a minor matter on which the public would have no particular interest, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (43 FR 39753) is further amended, effective 0901 G.m.t., November 2, 1978, as follows:

Under V-8, "INT Grand Junction 074° and Kremmling 228° radials," is deleted and "INT Grand Junction 075° and Kremmling 228° radials," is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on September, 18, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-27117 Filed 9-27-78; 8:45 am]

[4910-13]

[Docket No. 18313; SFAR No. 37]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Special Federal Aviation Regulation No. 37; Carriage of Candidates in Federal Elections

NOTE.—This document originally appeared in the FEDERAL REGISTER for Tuesday, September 26, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This special regulation allows persons who are not in the air transportation business to receive limited payments for carriage of candidates in Federal elections without that carriage being considered as a commercial operation. Federal Election Commission (FEC) rules require a candidate to pay for carriage in an aircraft. On the other hand, an aircraft operator must comply with the FAA's commercial operations regulations to receive compensation for a flight. This amendment will harmonize rules of the FAA and FEC consistent with the President's regulatory reform philosophy in Executive Order 12044.

DATES: Effective date—September 26, 1978. Comments by February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Under the rules of the Federal Election Commission (FEC), a candidate in a Federal election must pay for carriage in an aircraft. Ordinarily, under the Federal Aviation regulations where common carriage is not involved, receipt of payment for carriage by an aircraft operator requires an appropriate commercial operator certificate. The FAA has been advised that several instances have occurred in which individuals or corporations operating aircraft have desired to carry a candidate in a Federal election, free of charge, but the candidate would be required to make payment to those aircraft operators in order to comply with the rules of the FEC. Receipt of the payment by an aircraft operator without an appropriate commercial operator certificate could result in a violation of the Federal Aviation regulations. A situation is, therefore, created in which compliance with the regulations of one agency of the Federal Government results in a violation of the regulations of another agency.

The carriage of candidates in Federal elections is infrequent and the aircraft operator does not intend to engage in the business of an air carrier or commercial operator. The FAA has reviewed this situation and has concluded that it would be in the public interest to allow certain aircraft operators to receive payments required by the Federal Election Commission without being required to comply with the rules applicable to operations for compensation or hire. Pursuant to this regulation, the carriage of candidates would be governed by the rules of part 91. However, the regulation would not relieve part 121, 127, or 135 certificate holders of the obligation to comply with the rules under which they are certificated even if a candidate is carried and the payment is limited to the amount required by the FEC rules.

It also would not relieve an operator whose primary business is as an air carrier or commercial operator from complying with parts 121, 127, or 135.

NEED FOR IMMEDIATE ADOPTION

Since this special regulation relieves a restriction, does not impose an additional burden on any person, and is needed to avoid the possibility of aircraft operators' experiencing conflicts between the regulations of the FAA and FEC in the imminent Federal election campaigns of 1978, I find that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days. However, the FAA intends to review operating experience under this special regulation. Consequently, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this SFAR. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before February 1, 1979, will be considered by the Administrator and this SFAR may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

ADOPTION OF THE AMENDMENT

Accordingly, the following special Federal Aviation regulation is adopted, effective, September 26, 1978:

§ 1 Applicability.

Contrary provisions of parts 91, 121, 127, and 135 of the Federal Aviation regulations notwithstanding, an aircraft operator, other than one operating an aircraft under the rules of part 121, 127, or 135 of this chapter, may receive payment for the carriage of a candidate in a Federal election, an agent of the candidate, or a person traveling on behalf of the candidate, if—

(a) That operator's primary business is not as an air carrier or commercial operator;

(b) The carriage is conducted under the rules of part 91; and

(c) The payment for the carriage is required, and does not exceed the amount required to be paid, by regulations of the Federal Election Commission (11 CFR et seq.).

§ 2 Definitions.

For the purpose of this special Federal Aviation regulation, the terms "candidate" and "election" have the same meaning as that set forth in the regulations of the Federal Election Commission.

This special Federal Aviation regulation terminates June 30, 1980, unless sooner superseded or rescinded.

(Secs. 313(a), 801, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421, and 1424); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

NOTE.—The FAA has determined that this document is not significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Washington, D.C., on September 22, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27199 Filed 9-25-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

Revision of General License GIFT

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: For humanitarian reasons, the Office of Export Administration (OEA) has revised the provisions of General License GIFT to allow shipments of gift parcels to Vietnam. Previously, before exporting a gift parcel to a person in Vietnam, a donor was required to submit an application to OEA and receive specific written authorization to make the shipment. This revision removes that requirement and permits shipments of gift parcels with retail value not exceeding $200 to be made by an individual in the United States (donor) to an individual, or a religious, charitable, or educational organization (donee) located in Vietnam under General License GIFT.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, § 371.18(a)(1) of the Export Administration Regulations (15 CFR Part 371) is revised to read as follows:

§ 371.18 General license GIFT; shipments of gift parcels.

(a) *Scope.* (1) A general license designated GIFT is established, subject to the provisions of § 371.18, authorizing the export of gift parcels by an individual in the United States (donor) addressed to an individual, or a religious, charitable, or educational organization (donee) located in any destination, except North Korea and Cambodia, for the use of the donee or the donee's immediate family. The gift parcel must be provided free of charge to the donee. However, the payment by the donee of any handling charges or of any fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the

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donee for purposes of this definition of "gift parcel." [1]

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(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated Dec. 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated Dec. 4, 1977, 42 FR 64716 (1977).)

Dated: September 22, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-27277 Filed 9-25-78; 12:05 pm]

[3510-25]

PART 371—GENERAL LICENSES

PART 386—EXPORT CLEARANCE

Deletion of General License GMS

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: General License GMS was established to permit the export of commodities sold by the Department of Defense to governments of certain foreign countries under the Mutual Security Act of 1954. However, such sales are now made under the Arms Export Control Act and consist of commodities licensed for export by the Office of Munitions Control of the Department of State. Therefore, general license GMS is obsolete and is deleted from the Export Administration Regulations.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196

[1] Many foreign countries permit the entry, duty-free, of gift parcels that conform to regulations regarding contents and marking. To secure this advantage, the sender should show the words "U.S.A. Gift Parcel" on the addressee side of the package and on any required customs declarations. Information regarding the foreign postal regulations is available at local post offices. Senders of gift parcels who wish information regarding import duties of a foreign country should contact the nearest Commercial Office, Consulate, or Embassy of the country concerned.

Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are revised as follows:

Part 371 is amended as follows:

Section 371.2(c)(7) is revised to read as follows:

§ 371.2 General provisions.

• • • • •

(c) • • •

(7) The commodity is an electronic, mechanical, or other device, as described in § 376.13, primarily useful for surreptitious interception of wire or oral communications, except that such commodity may be exported under general license GUS (§ 371.13);

§ 371.2 [Reserved]

Section 371.20 is deleted and reserved.

Section 386.6 is revised by deleting references to general license GMS to read as follows:

§ 386.6 Destination control statements.

(a) • • •
(1) • • •

(ii) General license GLV, GTF-US, GTE, or GLR; or

• • • • •

(2) Exports to the Republic of South Africa and Namibia. The following destination control statement is required for all shipments to the Republic of South Africa and Namibia made under a validated license or under general license G-DEST, GLV, GTF-US, G-NNR, GLR, and GTE:

• • • • •

(c) • • •

(1) Deleted and reserved.

(2) General license shipments. For a shipment under any general license, any of the three destination control statements may be used.

• • • • •

(d) • • •

(2) • • •

(i) *General license shipments.* For a shipment under any general license:

• • • • •

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: September 22, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-27299 Filed 9-27-78; 8:45 am]

[3510-25]

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Under current regulations herbicidal or antiplant preparations containing a total of 30 percent or more by weight of certain ingredients having chemical warfare uses are subject to validated license control for national security reasons to all destinations, except Canada. The Office of Export Administration has determined, after consultation with its advisory agencies, that unless such preparations contain 80 percent or more of these chemical warfare ingredients, validated license control for national security reasons is no longer necessary. Accordingly, this rule modifies the current licensing requirement so that validated license control to all destinations, except Canada, applies to these herbicidal and antiplant preparations containing a total of 80 percent or more by weight of the chemical warfare ingredients. However, foreign policy controls remain in effect on exports or reexports of these preparations (notwithstanding the percentage of content of chemical warfare ingredients) to Southern Rhodesia, Cuba, North Korea, Vietnam, and Cambodia, and to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in South Africa or Namibia.

EFFECTIVE DATE: September 25, 1978.

Accordingly, the commodity control list, incorporated by reference in 15 CFR Part 399, is revised, as follows:

1. Entry No. 4707 subitem (b)(6) of the commodity control list.

§ 399.1 [Amended]

Section 399.1, is revised to read as follows:

Export Control Commodity Number and Commodity Description	Unit	Processing Code	Validated License Required	GLV $ Value Limits T	V	Q
4707B (a) Chemicals as follows:	Lb.	MG	QSTVWYZ	500	500	100
• • •						
(b) Synthetic organic agricultural chemicals, as follows: (1) Alkyl aryl carbamates (including isopropyl N-phenylcarbamate and isopropyl N-(3-chlorophenyl)-carbamate), (2) Aminochloropicolinic acid and its salts and esters, (3) Bromoalkyl pyrimidines, (4) Cacodylic acid, (5) Chlorophenoxyacetic and chlorofluorophenoxyacetic acids and their salts and esters, and (6) Herbicidal or antiplant preparations containing one or more of the above in amounts totaling, alone or in combination with another, 80 percent or more by weight.						

§ 399.2 [Amended]

2. In § 399.2, interpretation 24 is amended by adding the following to the commodities listed under the heading "Chemical materials and products, n.e.s., as follows:"

Herbicidal or antiplant preparations, n.e.s.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: September 22, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Industry and Trade.

[FR Doc. 78-27298 Filed 9-27-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

RESCISSION OF OBSOLETE PARTS

AGENCY: Federal Trade Commission.

ACTION: Rescission of obsolete trade practice rules.

SUMMARY: On June 21, 1977, the Commission published in the FEDERAL REGISTER a notice of proposed rescission or revision of 41 sets of trade practice rules, each of which has been codified as a separate part in this title 16, chapter I. After giving careful consideration to all comments received on the public record in response to that notice, the Commission now rescinds trade practice rules in full for 34 industries and retains rules for 7 other industries for further study.

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles H. Slayman, Jr., Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1478.

SUPPLEMENTARY INFORMATION: The Commission nears completion of its review of trade practice rules to eliminate the obsolete and keep only those provisions considered useful in obtaining compliance with laws it administers.

This document deals with further Commission action in its comprehensive review of trade practice rules for 152 industries. In previous actions, the Commission has rescinded 111 sets of such rules. This document concerns the remaining 41 sets.

In a notice on June 21, 1977 (42 FR 31457), the Commission invited comments concerning proposed rescissions or revisions of 41 listed sets of rules. Comments were received concerning 17 sets (industries). All comments were carefully considered and have been placed on the public record. The Commission found unconvincing arguments of interested persons to retain any of the 34 parts listed below.

The Commission also stated in the notice of June 21, 1977, that it intends to rescind the following provisions that may be in any of the 41 sets of rules:

(i) Group II rules because they are merely "expressions of the trade" and are not Commission interpretations of law;

(ii) Industry committee references because authority to establish such committees was rescinded in 1971;

(iii) Stereotype sections (commercial bribery, sales below cost, prohibited discrimination, etc.) because acts and practices covered are not limited to particular industries; and

(iv) Particularized sections where no convincing showing was made that they are being used in the public interest today.

Since 34 sets of rules are rescinded with this document, only 7 sets remain in operation that may still contain any of the 4 provisions above.

Trade practice rules are identified as earlier forms of industry guides. Guides are administrative interpretations of Commission administered laws. They have provided the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Noncompliance with guides may require corrective action under applicable statutes. Trade practice rules and other industry guides should not be confused with specific, directly enforceable trade regulation rules.

Rescission of trade practice rules and industry guides does not relieve anyone of the obligation to comply with laws and trade regulation rules administered by the Commission. In particular, rescission is not a green light to engage in unfair or deceptive acts or practices, or unfair methods of competition, which are proscribed by section five of the Federal Trade Commission Act, 15 U.S.C. 45.

Accordingly, the Commission hereby amends title 16, chapter I of the Code of Federal Regulations by rescinding as obsolete and removing in full the following 34 parts:

Part 26—Refrigeration and/or Air-Conditioning Contracting Industries.
Part 36—Poultry Hatching and Breeding Industry.
Part 40—Environmental Testing Equipment Manufacturing Industry.
Part 41—Metal Awning Industry.
Part 46—Work Glove Industry.
Part 54—Walnut Wood Industry.
Part 56—Pleasure Boat Industry.
Part 57—Residential Aluminum Siding Industry.
Part 61—Stationers Industry.
Part 67—Phonograph Record Industry.
Part 74—Fresh Fruit and Vegetable Industry.
Part 103—Rabbit Industry.
Part 114—Preserve Manufacturing Industry.
Part 117—School Supply and Equipment Industry.
Part 131—Shrinkage of Woven Cotton Yard Goods.
Part 142—Radio and Television Industry.
Part 146—Tuna Industry.
Part 150—Subscription and Mail Order Book Publishing Industry.
Part 157—Catalog Jewelry and Giftware Industry.
Part 160—Water Heater Industry.

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Part 162—Wood Cased Lead Pencil Industry.
Part 165—Artificial Limb Industry.
Part 175—Office Machine Marketing Industry.
Part 192—Optical Products Industry.
Part 197—Relating to the Sale and Financing of Motor Vehicles.
Part 205—Upholstery and Drapery Fabrics Industry.
Part 209—Grocery Industry.
Part 210—Commercial and Industrial Floor and Vacuum Machinery Industry.
Part 214—Hearing Aid Industry.
Part 215—Portrait Photographic Industry.
Part 216—Millinery Industry.
Part 221—Cosmetic and Toilet Preparations Industry.
Part 223—Orthopedic Appliance Industry.
Part 224—Fire Extinguishing Appliance Industry.

(Sec. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 46, 57a).)

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-27309 Filed 9-27-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Establishment of Single Level of Administrative Appeal

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendments to procedural rules.

SUMMARY: This document provides amendments to the Statement of Procedural Rules relating to the establishment of a single level of administrative appeal. These amendments are adopted to eliminate the near duplication of procedures previously existing in district and Appellate Division conferences and to make certain correlative changes in Collection and Employee Plans and Exempt Organization procedures. The amendments affect all persons desiring, and previously entitled to, a district or Appellate Division conference in the course of determining their tax or penalty liabilities, and certain employee plans and exempt organizations, and provide them with the guidance needed to comply with Internal Revenue Service procedures.

DATE: The amendments apply to conferences held after September 30, 1978. Conference cases covered by these amendments which are pending in district or regional offices as of the close of business on September 30, 1978, will be transferred to the Appeals office.

FOR FURTHER INFORMATION CONTACT:

William A. McClellan of the Appeals Division, Office of Assistant Commissioner (Compliance), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CP:AP:CM, 202-566-4468, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 3, 1978, the FEDERAL REGISTER published proposed amendments to the Statement of Procedural Rules (26 CFR Part 601) relating to the establishment of a single level of administrative appeal, 43 FR 13896. A public hearing was held on June 20, 1978. After consideration of all comments regarding the proposed amendments, those amendments are adopted as herein revised. These amendments are issued under the authority contained in 5 U.S.C. 301 and 5 U.S.C. 552.

The revisions in this document reflect, where relevant to the adoption of single level of appeal, the amendments necessary to conform the Statement of Procedural Rules to the changes made by the reorganization of the Internal Revenue Service and the Office of Chief Counsel, effective on July 2, 1978. Amendments to the Statement of Procedural Rules necessary to reflect these changes in areas not relating to the adoption of single level of appeal will be subsequently published in the FEDERAL REGISTER.

DESCRIPTION OF PROCEDURE

IN GENERAL

As described in the preamble to the notice of proposed amendments, in general, a single appeals function is established in each region headed by a Regional Director of Appeals. This new appeals organization is referred to herein as the Appeals office. The Appeals office, for the most part, has the same characteristics as the old Appellate Division, including the authority to settle cases fully. Thus, under the amendments, taxpayers will continue to enjoy all rights and opportunities previously afforded under district conference procedures and will also be afforded the benefits previously provided by the Appellate Division.

Accordingly, as proposed, the final amendments provide that in all cases in which a taxpayer was afforded a district conference, the taxpayer may have a conference in the Appeals office where full settlement authority can be exercised. Similarly, as in previous district conference procedures, no written protest will be required to obtain an Appeals office conference in an office examination case, or in a field examination case where the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed $2,500 for any taxable period. In addition, while not expressly provided in the amendments, the Internal Revenue Service will provide Appeals office conferences at all locations at which district or Appellate Division conferences were previously offered.

TECHNICAL ADVICE

The preamble to the proposed amendments indicated that, under the single level system, taxpayers would be offered, at the least, the same opportunity to seek technical advice from the National Office as previously existed under district conference procedures. The technical advice procedures applicable in cases considered by the Appeals office (other than Employee Plans and Exempt Organization cases, as explained below) are provided in new § 601.106(f)(10), added in these final amendments. Generally, these procedures parallel the technical advice procedures for cases under the jurisdiction of the district director provided in § 601.105(b)(5). Thus, in appropriate cases, the Appeals office may request technical advice directly from the National Office (§ 601.106(f)(10) (i), (ii), and (iii)), or the taxpayer may request the Appeals office to seek technical advice (§ 601.106(f)(10)(iii)(*a*)). Similarly, as under present district procedures, the taxpayer can protest the denial by the Appeals Officer to request technical advice (§ 601.106(f)(10)(iv)). In addition, similar National Office conference rights are provided (§ 601.106(f)(10)(v)). Also, the Appeals office may request reconsideration by the National Office of the conclusions expressed in a technical advice memorandum (§ 601.106(f)(10)(vii)(*a*)). Section 601.106(f)(10)(ii)(*b*) indicates that requests for technical advice should be made at the earliest possible stage of the examination process. However, if identification of an issue on which technical advice is appropriate is not made until the case is in Appeals, a decision to request technical advice should be made prior to or at the first conference. As in present district procedures, § 601.106(f)(10)(viii)(*c*) provides that the Appeals office is bound by technical advice favorable to the taxpayer. However, unlike present district procedures, § 601.106(f)(10)(viii)(*c*) also provides that, if technical advice is issued which is unfavorable to the taxpayer, the Appeals office may nonetheless

settle the issue in the usual manner under existing authority, for example, taking into account the hazards which would exist if the case were litigated.

COLLECTION CASES

The preamble to the notice of proposed amendments stated that future procedures would be issued providing that in all other cases in which a conference in the district director's office or regional office was afforded, including Collection and Employee Plans and Exempt Organization cases, an Appeals office conference would be offered. The final amendments provide for consideration by the Appeals office of these Collection and Employee Plans and Exempt Organization cases. The provisions relating to Employee Plans and Exempt Organization cases are described below. As to Collection cases previously considered only by the district director, § 601.106(a)(1)(ii)(*a*) provides that certain denials of extensions of time to pay estate tax liabilities may be appealed to the Appeals office. In addition, § 601.106(a)(1)(iii) provides that assessment of certain penalties provided under chapter 68 of the Code may be appealed to the Appeals office. Under § 601.106(a)(1)(iii), the appeal may be made before or after payment of the penalty, but shall be made before the filing of a claim for refund. Technical advice procedures do not apply to these appeals. Finally, under the single level system, Collection cases previously considered by the Appellate Division will also be considered by the Appeals office.

EMPLOYEE PLAN AND EXEMPT ORGANIZATION CASES

Under the single level system, appeals of adverse status determinations, or the impositions of taxes, in Employee Plans and Exempt Organization cases will be to the Appeals office. (§ 601.201 (n)(5), (n)(6), and (o)(6)). The certiorari appeal to the National Office previously provided in these cases is eliminated. However, a plan or organization retains the right to request technical advice from the National Office. Moreover, in Exempt Organization cases, the key district director or Appeals office must request technical advice on qualification for exemption or foundation status issues not covered by published precedent or if nonuniformity may exist. In addition, if a proposed disposition by an Appeals office is contrary to a prior National Office ruling or technical advice issued with respect to the plan or organization, the proposed disposition must be submitted to the National Office for approval. Cases in which the National Office issues technical advice with respect to an organization's or plan's qualification or an organization's status to the key district director may not be appealed to the Appeals office. The case will be disposed of in the district office in accordance with the holding in the technical advice memorandum. Similarly, if technical advice is issued to the Appeals office, the advice is binding and the case will be disposed of in accordance with the holding in the memorandum.

These amendments establish a new provision, § 601.201 (n)(9), which sets forth the technical advice procedures applicable in Employee Plans and Exempt Organization cases, whether considered by a key district director or the Appeals office. Generally, these procedures parallel the existing technical advice procedures for cases under the jurisdiction of the district director, set forth in § 601.105 (b)(5), with the differences reflecting only that the advice is requested by the key district director or the Appeals office, and is in connection with Employee Plans or Exempt Organization matters. Under these provisions, technical advice is issued by the Office of Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a case under section 521 of the Code, by the Office of Assistant Commissioner (Technical) (§ 601.201 (n)(9)(i)(*e*)). In addition, as indicated above, § 601.201 (n)(9)(ii)(*b*) provides that, in certain Exempt Organization cases, requesting technical advice by the key district director or Appeals office is mandatory rather than discretionary if the issue is not covered by published precedent or if nonuniformity may exist. Similarly, § 601.201 (n)(9)(viii)(*a*) provides that the conclusions expressed in certain technical advice memoranda are final and will be followed by the key district office or Appeals office.

NEED FOR AMENDMENTS

The Internal Revenue Service has provided taxpayers with two opportunities to appeal administratively proposed adjustments in tax liability. The Internal Revenue Service believes that, by combining this two-tier procedure into a single level of appeal, significant improvements will be made in the administrative appeal system, which will benefit both taxpayers and the Internal Revenue Service. For the taxpayer, the single appeal system will save the time, effort, and money previously required to participate in two conferences which, for the most part, were duplicate procedures. Moreover, the merged system will provide all taxpayers with the opportunity to obtain full settlement of their disputes at the first conference. In addition, having this conference under the jurisdiction of the Appeals office will maintain and emphasize the separateness and independence of the appeal function of the Internal Revenue Service from its examination function. For the Internal Revenue Service, the merged system will also conserve the resources previously used in providing this duplicative procedure, resources which can be used more effectively in the administration of the tax laws.

With the creation of a new appeals organization, the Internal Revenue Service believes it appropriate that this organization consider all appeals, including those in Collection and Employee Plans and Exempt Organization cases. The Internal Revenue Service believes that having all appeals handled by a single organization, instead of fragmented throughout the region, will provide a uniform set of standards and procedures, and will result in an efficient use of resources, with the consequent benefit both to taxpayers and the Internal Revenue Service.

EFFECTS OF AMENDMENTS

The amendments will affect taxpayers, employee plans, exempt organizations, their representatives, and the Internal Revenue Service. For taxpayers and their representatives, the amendments will provide one instead of two levels of appeals within the Internal Revenue Service. In addition, the Appeals Officer in this single level will have full settlement authority. As to employee plans and exempt organizations, the amendments, as described above, make certain changes in the procedures relating to the consideration and processing of these cases by the Internal Revenue Service. As a result, the amendments may affect the dealings of these plans and organizations (or their representatives) with the Service.

For the Internal Revenue Service, the amendments will affect the utilization of personnel as certain cases will no longer be considered by the same regional office, district conferences will no longer be held, and a large Appeals office staff will be needed to handle the resulting case load. In addition, deployment of personnel will be affected since Appeals Officers will be stationed at all locations where there was previously a full-time district conferee or regional appellate staff, and will travel to all other locations where conferences were previously offered.

ALTERNATIVE APPROACHES CONSIDERED

These amendments represent the latest attempt in the continuing effort by the Internal Revenue Service to provide for the settling of disputes administratively in the fairest, and most expeditious manner possible, and to increase the number and percentage of cases settled without resort to the courts. Other approaches considered to achieve this goal have included in-

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creasing the settlement authority of the district conferee, liberalizing the written protest requirements, and improving the opportunities for conferences by increasing the circuit riding done by district and appellate conferees. The approach chosen is considered the least burdensome of the alternatives because it will achieve to a larger extent the aforementioned goal, while at the same time preserving for taxpayers all rights and benefits enjoyed under the previous appeal structure.

PUBLIC COMMENT

Some commenters opposed the establishment of this single level system, emphasizing that the prior system worked well in settling cases. They asserted that district and Appellate Division conferences were complementary, not duplicate, procedures in that the district conference handled small, simple, and factual issues on an informal basis, while the Appellate Division, which had more formal proceedings, handled disputes involving large proposed adjustments and complex legal issues. The commenters noted that, even in cases in which both conferences were used, many issues were resolved at the district level and those that were forwarded to Appellate were refined and clarified, thereby enhancing settlement opportunities. They further asserted that the single level system would increase the cost of administrative appeal to taxpayers, would increase the time required for settlement, and would increase the number of cases going forward to litigation. However, of those opposing the proposal, some agreed that a single level system could be developed that would be fair to taxpayers.

Other commenters supported the establishment of a single level of appeal. They emphasized that it would expedite the processing of controversies, that the previous system was duplicative and created the appearance—and perhaps also the fact—of lack of independence of the district conferee, and that the cost of maintenance of the dual system was out of proportion to the benefits to be derived from according taxpayers two opportunities to argue a case.

The proposal is being adopted. It is believed that, by eliminating duplicate procedures, the single level system will be more effective than the two-tier system in settling cases. This will lessen the overall cost to taxpayers of administrative appeal. It is believed that the full and fair consideration and resolution of legal and factual issues by the Internal Revenue Service will not be diminished under the single level system. This system will provide taxpayers the opportunity to have full settlement of their disputes at the first conference by a capable conferee who is distinctly separate and independent from the examiner. As noted, taxpayers will also continue to enjoy all other rights and benefits, other than district conference, that were previously provided. It is also believed that the single level system will allow the Internal Revenue Service to use resources previously devoted to providing this duplicative procedure more effectively in the administration of the tax laws, thereby benefiting all taxpayers. In addition, the new Appeals office will also consider Collection and Employee Plans and Exempt Organization cases, thereby providing taxpayers with a uniform set of standards and procedures for all appeals cases, while also contributing to the effective use of resources by the Internal Revenue Service.

Many commenters asserted that under the single level system taxpayers must be afforded the same opportunity to seek technical advice from the National Office as existed under district conference procedures. The final amendments provide for this same opportunity to request technical advice. The technical advice provisions applicable in Appeals office and Employee Plans and Exempt Organization cases are described earlier in this preamble.

Several commenters raised the issue of the availability of conferences under the single level system. Under this system, Appeals Officers will be stationed at all locations where there was previously a full-time district conferee or regional appellate staff and will travel to all other locations where conferences were previously offered. The Internal Revenue Service will also provide sufficient numbers of Appeals Officers to assure that single level conferences will be held with the same degree of promptness as district or regional conferences were offered.

A few commenters raised miscellaneous issues concerning procedures which are applicable only in cases under the jurisdiction of the district director. One example is the availability of Rev. Proc. 70-27, 1970-2 C.B. 509, relating to changes in method of accounting. Consistent with the goal of preserving all taxpayers' rights under the single level system, § 601.106 (f)(10)(viii)(*d*) provides that taxpayers may request permission from the Assistant Commissioner (Technical) to change a method of accounting and obtain a 10-year (or less) spread of the resulting adjustments. This request should be made prior to or at the first Appeals conference. Section 601.106 (f)(10)(viii)(*d*) further provides that the Appeals office has authority to allow a change and the resulting spread without referring the case to Technical.

REPORTING/RECORDKEEPING REQUIREMENTS

The amendments provide no new reporting burdens or recordkeeping requirements which are necessary for compliance.

PLAN FOR EVALUATING EFFECTIVENESS OF AMENDMENTS

The effectiveness of these amendments will be evaluated upon periodic collection and review of comments and data from the various offices of the Internal Revenue Service involved with the administrative appeal procedure.

DRAFTING INFORMATION

The principal author of these amendments is Mark L. Yecies of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE STATEMENT OF PROCEDURAL RULES

Accordingly, the amendments to the Statement of Procedural Rules (26 CFR Part 601), as proposed, are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 601.103, as amended in paragraph 1 of the notice of proposed amendments, is amended in the following respects:

1. Paragraph (b) is amended by revising the last sentence to read as set forth below.

2. Paragraph (c)(1) is revised to read as set forth below.

§ 601.103 *Summary of general tax procedure.*

* * * * *

(b) *Examination and determination of tax liability.* * * * If the taxpayer agrees to the proposed adjustments and the tax involved is an income, profits, estate, gift, or chapter 41, 42, 43, or 44 tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105 (b)(4)), the deficiency will be immediately assessed.

(c) *Disputed liability*—(1) *General.* The taxpayer is given an opportunity to request that the case be considered by an Appeals office provided that office has jurisdiction (see § 601.106 (a)(3)). If the taxpayer requests such consideration, the case will be referred to the Appeals office which will afford the taxpayer the opportunity for a conference. The determination of tax liability by the Appeals office is final insofar as the taxpayer's appeal rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director of International Operations, exclusive settlement authority is vested in the Appeals office having jurisdiction of the place where the taxpayer requests the conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the United States, the Washington, D.C. Appeals Office of the Mid-Atlantic Region assumes jurisdiction.

* * * * *

PAR. 2. Section 601.105, as amended in paragraph 2 of the notice of proposed amendments, is amended in the following respects:

1. The heading of paragraph (b)(2)(i) is amended by deleting the phrase *"Office audit"* and inserting in its place the phrase *"Office examination"* and by deleting the phrase *"Audit Division"* and inserting in its place the phrase *"Examination Division"*.

2. Paragraph (b)(2)(i) is amended by deleting the word "audited" and inserting in its place the word "examined", and by deleting the phrase "Audit Divisions" and inserting in its place the phrase "Examination Divisions" in the first sentence, and by deleting the phrase "audit techniques" and inserting in its place the phrase "examination techniques" in the second sentence.

3. Paragraph (b)(4) is amended by deleting the phrase "Chapter 42 taxes" in the sixth to last sentence and inserting in its place the phrase "chapter 41, 42, 43, or 44 taxes".

4. Paragraph (b)(5)(i)(*e*) is revised to read as set forth below.

5. Paragraph (b)(5)(ii)(*b*) is revised to read as set forth below.

6. Paragraph (b)(5)(iii)(*a*) is revised to read as set forth below.

7. The heading of paragraph (c)(1) is amended by deleting the phrase *"Office audit"* and inserting in its place the phrase *"Office examination"*.

8. Paragraph (c)(1)(i) is amended as follows:

a. The first sentence is amended by deleting the word "audit" and inserting in its place the word "examination".

b. The third sentence is amended by deleting the phrase "the regional Appellate Division" and inserting in its place the phrase "an Appeals office".

c. The fourth sentence is amended by deleting the phrase "Appellate Division" and inserting in its place the phrase "Appeals office".

9. Paragraph (c)(1)(ii) is amended as follows:

a. The first sentence is amended by deleting the word "audit" and inserting in its place the word "examination" and by deleting the phrase "Appellate Division".

b. The second sentence is amended by deleting the phrase "Appellate Division" and inserting in its place the phrase "Appeals office".

c. The third sentence is amended by deleting the phrase "the regional Appellate Division" and inserting in its place the phrase "an Appeals office".

d. The fourth sentence is amended by deleting the phrase "Appellate Division" and inserting in its place the phrase "Appeals office".

10. The heading of paragraph (c)(2) is amended by deleting the phrase *"Field audit"* and inserting in its place the phrase *"Field examination"*.

11. Paragraph (c)(2)(i) is amended by deleting the phrase "the regional Appellate Division" in the last sentence and inserting in its place the phrase "an Appeals office".

12. Paragraphs (c)(2) (ii) and (iii) are amended by deleting the phrase "Appellate Division" each time it appears and inserting in its place the phrase "Appeals office".

13. Paragraph (d)(2)(i) is redesignated paragraph (d)(2) and is amended by deleting the phrase "Appellate Division" each time it appears and inserting in its place the phrase "Appeals office", and by deleting the phrase "audit case" each time it appears and inserting in its place the phrase "examination case".

14. Paragraph (h) is revised to read as set forth below.

15. Paragraph (l) is deleted.

§ 601.105 *Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.*

* * * * *

(b) *Examination of returns.* * * *

(5) *Technical advice from the National Office*—

(i) *Definition and nature of technical advice.* * * *

(e) The provisions of this subparagraph apply only to a case under the jurisdiction of a district director, but do not apply to an Employee Plans case under the jurisdiction of a key district director as provided in § 601.201(o) or to an Exempt Organization case under the jurisdiction of a key district director as provided in § 601.201(n). The technical advice provisions applicable to Employee Plans and Exempt Organization cases are set forth in § 601.201(n)(9). The provisions of this subparagraph do not apply to a case under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms. They also do not apply to a case under the jurisdiction of an Appeals office, including a case previously considered by Appeals. The technical advice provisions applicable to a case under the jurisdiction of an Appeals office, other than Employee Plans and Exempt Organizations cases, are set forth in § 601.106(f)(10). A case remains under the jurisdiction of the district director even though an Appeals office has the identical issue under consideration in the case of another taxpayer (not related within the meaning of section 267 of the Code) in an entirely different transaction. Technical advice may not be requested with respect to a taxable period if a prior Appeals disposition of the same taxable period of the same taxpayer's case was based on mutual concessions (ordinarily with a Form 870-AD, Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and of Acceptance of Overassessment). However, technical advice may be requested by a district director on issues previously considered in a prior Appeals disposition, not based on mutual concessions, of the same taxable periods of the same taxpayer with the concurrence of the Appeals office that had the case.

(ii) *Areas in which technical advice may be requested.* * * *

(b) District directors are encouraged to request technical advice on any technical or procedural question arising in connection with any case of the type described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable revenue ruling or other precedent issued by the National Office. This request should be made at the earliest possible stage of the examination process.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the district office to determine whether technical advice is to be requested on any issue before that office. However, while the case is under the jurisdiction of the district director, a taxpayer or his/her representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. This request should be made at the earliest possible stage of the examination process. While taxpayers are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a taxpayer may make the request orally. If, after considering the taxpayer's request, the examiner is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the taxpayer. (See subdivision (iv) of this subparagraph for taxpayer's appeal rights where the examiner declines to request technical advice.)

* * * * *

(h) *Jeopardy assessments.* If the district director believes that the assessment or collection of a tax will be jeopardized by delay, he/she is authorized and required to assess the tax immediately, together with interest and other additional amounts provided by law, notwithstanding the restrictions on assessment or collection of income, estate, gift, or chapter 41, 42, 43, or 44 taxes contained in section 6213(a) of the Code. A jeopardy assessment does not deprive the taxpayer of the right to file a petition with the Tax Court. Collection of a tax in jeopardy may be immediately enforced by the district director upon notice and demand. To stay collection, the taxpayer may file with the district director a bond equal to the amount for which the stay is desired. The taxpayer may request a review in the Appeals office of whether the making of the assessment was reasonable under the circumstances and whether the amount assessed or demanded was appropriate under the circumstances. See section 7429. This request shall be made, in writing, within 30 days after the earlier of—

(1) The day on which the taxpayer is furnished the written statement described in section 7429(a)(1); or

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(2) The last day of the period within which this statement is required to be furnished.

An Appeals office conference will be granted as soon as possible and a decision rendered without delay.

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PAR. 3. Section 601.106, as amended in paragraph 3 of the notice of proposed amendments, is amended in the following respects:

1. Paragraph (a)(1) is revised to read as set forth below.

2. Paragraph (d)(3)(iii) is amended by deleting the second sentence.

3. Paragraph (f)(5) is amended by revising the first sentence to read as set forth below.

4. Paragraph (f)(7) is amended by deleting the phrase "Appellate Division" each time it appears and inserting in its place the phrase "Appeals office".

5. A new paragraph (f)(10) is added, reading as set forth below.

§ 601.106 *Appeals functions.*

(a) *General.* (1) (i) There are provided in each region Appeals offices with office facilities within the region. Unless they otherwise specify, taxpayers living outside the United States use the facilities of the Washington, D.C., Appeals Office of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appeals offices authority to represent the regional commissioner in those matters set forth in subdivisions (ii) through (iv) of this subparagraph. If a statutory notice of deficiency was issued by a district director or the Director of International Operations, the Appeals office may waive jurisdiction to the director who issued the statutory notice during the 90-day (or 150-day) period for filing a petition with the Tax Court, except where criminal prosecution has been recommended and not finally disposed of, or the statutory notice includes the ad valorem fraud penalty. After the filing of a petition in the Tax Court, the Appeals office continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appeals offices authority to represent the regional commissioner in his/her exclusive authority to settle (*a*) all cases docketed in the Tax Court and designated for trial at any place within the territory comprising the region, and (*b*) all docketed cases originating in the office of any district director situated within the region, or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in, and his/her books and records are located or can be made available in, the region which includes Washington, D.C.

(ii) Certain officers of the Appeals offices may represent the regional commissioner in his/her exclusive and final authority for the determination of—

(*a*) Federal income, profits, estate (including extensions for payment under section 6161(a)(2)), gift, or chapter 41, 42, 43, or 44 tax liability (whether before or after the issuance of a statutory notice of deficiency);

(*b*) Employment or certain Federal excise tax liability; and

(*c*) Liability for additions to the tax, additional amounts, and assessable penalties provided under chapter 68 of the Code.

in any case originating in the office of any district director situated in the region, or in any case in which jurisdiction has been transferred to the region. The taxpayer must request Appeals consideration and, in some instances, submit a written protest to the determination of liability made by the district director. No written protest is required in an office examination case. A written protest is required in a field examination case if the total amount of proposed additional tax, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 for any taxable period.

(iii) Sections 6659(a)(1) and 6671(a) provide that additions to the tax, additional amounts, penalties and liabilities (collectively referred to in this subdivision as "penalties") provided by chapter 68 of the Code shall be paid upon notice and demand and shall be assessed and collected in the same manner as taxes. Certain Chapter 68 penalties may be appealed after assessment to the Appeals office. This postassessment appeal procedure applies to all but the following chapter 68 penalties:

(*a*) Penalties that are not subject to a reasonable cause determination (examples are additions to the tax for failure to pay estimated income tax under sections 6654 and 6655);

(*b*) Penalties that are subject to the deficiency procedures of subchapter B of chapter 63 of the Code (because the taxpayer has the right to appeal such penalties, such as those provided under section 6653 (a) and (b), prior to assessment);

(*c*) The 100-percent penalty provided under section 6672 (because the taxpayer has the opportunity to appeal this penalty prior to assessment); and

(*d*) The penalty in case of jeopardy provided under section 6658 (because there is an adequate postassessment appeal).

The appeal may be made before or after payment, but shall be made before the filing of a claim for refund. Technical advice procedures are not applicable to an appeal made under this subdivision.

(iv) The Appeals office considers cases involving the initial or continuing recognition of tax exemption and foundation classification. See § 601.201 (n)(5) and (n)(6). The Appeals office also considers cases involving the initial or continuing determination of employee plan qualification under subchapter D of chapter 1 of the Code. See § 601.201(o)(6). However, the jurisdiction of the Appeals office in these cases is limited as follows:

(*a*) In cases under the jurisdiction of a key district director (or the National Office) which involve an application for, or the revocation or modification of, the recognition of exemption or the determination of qualification, if the determination concerning exemption is made by a National Office ruling, or if National Office technical advice is furnished concerning exemption or qualification, the decision of the National Office is final. The organization/plan has no right of appeal to the Appeals office or any other avenue of administrative appeal. See § 601.201 (n)(5)(i), (n)(6)(ii)(*b*), (n)(9)(viii)(*a*), (o)(2)(iii), and (o)(6)(i).

(*b*) In cases already under the jurisdiction of an Appeals office, if the proposed disposition by that office is contrary to a National Office ruling concerning exemption, or to a National Office technical advice concerning exemption or qualification, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in section 521 cases, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.201 (n)(5)(iii), (n)(6)(ii)(*d*), (n)(6)(iv), and (o)(6)(iii).

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(f) *Conference and practice requirements.* • • •

(5) *Rule V.* In order to bring an income, profits, estate, gift, or chapter 41, 42, 43, or 44 tax case in prestatutory notice status, an employment or excise tax case, a penalty case, an Employee Plans and Exempt Organization case, a termination of taxable year assessment case, a jeopardy assessment case, or an offer in compromise before the Appeals office, the taxpayer or the taxpayer's representative should first request Appeals consideration and, when required, file with the district office, service center, of Office of International Operations a written protest setting forth specifically the reasons for the refusal to accept the findings. • • •

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(10) *Rule X—Technical advice from the National Office*—(i) *Definition and nature of technical advice.* (*a*) As used in this subparagraph, "technical advice" means advice or guidance as to the interpretation and proper application of internal revenue laws, related statutes, and regulations, to a specific set of facts, furnished by the National Office upon request of an Appeals office in connection with the processing and consideration of a nondocketed case. It is furnished as a means of assisting Service personnel in closing cases and establishing and maintaining consistent holdings in the various regions. It does not include memorandums on matters of general technical application furnished to Appeals offices where the issues are not raised in connection with the consideration and handling of a specific taxpayer's case.

(*b*) The provisions of this subparagraph do not apply to a case under the jurisdiction of a district director or the Bureau of Alcohol, Tobacco, and Firearms, to Employee Plans, Exempt Organization, or certain penalty cases being considered by an Appeals office, or to any case previously considered by an Appeals office. The technical advice provisions applicable to cases under the jurisdiction of a district director, other than Employee Plans and Exempt Organization cases, are set forth in § 601.105(b)(5). The technical advice provisions applicable to Employee Plans and Exempt Organization cases are set forth in § 601.201(n)(9). Technical advice may not be requested with respect to a taxable period if a prior Appeals disposition of the same taxable period of the same taxpayer's case was based on mutual concessions (ordinarily with a Form

870-AD, Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and of Acceptance of Overassessment). However, technical advice may be requested by a district director on issues previously considered in a prior Appeals disposition, not based on mutual concessions, of the same taxable periods of the same taxpayer with the concurrence of the Appeals office that had the case.

(*c*) The consideration or examination of the facts relating to a request for a determination letter is considered to be in connection with the consideration and handling of a taxpayer's case. Thus, an Appeals office may, under this subparagraph, request technical advice with respect to the consideration of a request for a determination letter. The technical advice provisions applicable to a request for a determination letter in Employee Plans and Exempt Organization cases are set forth in § 601.201(n)(9).

(*d*) If an Appeals office is of the opinion that a ruling letter previously issued to a taxpayer should be modified or revoked and it requests the National Office to reconsider the ruling, the reference of the matter to the National Office is treated as a request for technical advice. The procedures specified in subdivision (iii) of this subparagraph should be followed in order that the National Office may consider the recommendation. Only the National Office can revoke a ruling letter. Before referral to the National Office, the Appeals office should inform the taxpayer of its opinion that the ruling letter should be revoked. The Appeals office, after development of the facts and consideration of the taxpayer's arguments, will decide whether to recommend revocation of the ruling to the National Office. For procedures relating to a request for a ruling, see § 601.201.

(e) The Assistant Commissioner (Technical), acting under a delegation of authority from the Commissioner of Internal Revenue, is exclusively responsible for providing technical advice in any issue involving the establishment of basic principles and rules for the uniform interpretation and application of tax laws in cases under this subparagraph. This authority has been largely redelegated to subordinate officials.

(ii) *Areas in which technical advice may be requested.* (*a*) Appeals offices may request technical advice on any technical or procedural question that develops during the processing and consideration of a case. These procedures are applicable as provided in subdivision (i) of this subparagraph.

(*b*) As provided in § 601.105(b)(5) (ii)(b) and (iii)(*a*), requests for technical advice should be made at the earliest possible stage of the examination process. However, if identification of an issue on which technical advice is appropriate is not made until the case is in Appeals, a decision to request such advice (in nondocketed cases) should be made prior to or at the first conference.

(*c*) Subject to the provisions of (*b*) of this subdivision, Appeals offices are encouraged to request technical advice on any technical or procedural question arising in connection with a case described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable revenue ruling or other precedent issued by the National Office.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the Appeals office to determine whether technical advice is to be requested on any issue being considered. However, while the case is under the jurisdiction of the Appeals office, a taxpayer or his/her representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. While taxpayers are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a taxpayer may make the request orally. If, after considering the taxpayer's request, the Appeals Officer is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the taxpayer. (See subdivision (iv) of this subparagraph for taxpayer's appeal rights where the Appeals Officer declines to request technical advice.)

(*b*) When technical advice is to be requested, whether or not upon the request of the taxpayer, the taxpayer will be so advised, except as noted in (*j*) of this subdivision. If the Appeals office initiates the action, the taxpayer will be furnished a copy of the statement of the pertinent facts and the question or questions proposed for submission to the National Office. The request for advice should be so worded as to avoid possible misunderstanding, in the National Office, of the facts or of the specific point or points at issue.

(*c*) After receipt of the statement of facts and specific questions, the taxpayer will be given 10 calendar days in which to indicate in writing the extent, if any, to which he/she may not be in complete agreement. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office. Every effort should be made to reach agreement as to the facts and specific points at issue. If agreement cannot be reached, the taxpayer may submit, within 10 calendar days after receipt of notice from the Appeals office, a statement of his/her understanding as to the specific point or points at issue which will be forwarded to the National Office with the request for advice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office.

(*d*) If the taxpayer initiates the action to request advice, and his/her statement of the facts and point or points at issue are not wholly acceptable to the Appeals office, the taxpayer will be advised in writing as to the areas of disagreement. The taxpayer will be given 10 calendar days after receipt of the written notice to reply to such notice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office. If agreement cannot be reached, both the statements of the taxpayer and the Appeals office will be forwarded to the National Office.

(*e*) (*1*) In the case of requests for technical advice, the taxpayer must also submit, within the 10-day period referred to in (*c*) and (*d*) of this subdivision, whichever applicable (relating to agreement by the taxpayer with the statement of facts and points submitted in connection with the request for technical advice), the statement described in (*f*) of this subdivision of proposed deletions pursuant to section 6110(c) of the Code. If the statement is not submitted, the taxpayer will be informed by the Appeals office that the statement is required If the Appeals office does not receive the statement within 10 days after the taxpayer has been informed of the need for the statement, the Appeals office may decline to submit the request for technical advice. If the Appeals office decides to request technical advice in a case where the taxpayer has not submitted the statement of proposed deletions, the National Office will make those deletions which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*2*) The requirements included in this subparagraph relating to the submission of statements and other material with respect to proposed deletions to be made from technical advice memorandums before public inspection is permitted to take place do not apply to requests for any document to which section 6104 of the Code applies.

(*f*) In order to assist the Internal Revenue Service in making the deletions, required by section 6110(c) of the Code, from the text to technical advice memorandums which are open to public inspection pursuant to section 6110(a) of the Code, there must accompany requests for such technical advice either a statement of the deletions proposed by the taxpayer, or a statement that no information other than names, addresses, and taxpayer identifying numbers need be deleted. Such statements shall be made in a separate document. The statement of proposed deletions shall be accompanied by a copy of all statements of facts and supporting documents which are submitted to the National Office pursuant to (*c*) or (*d*) of this subdivision, on which shall be indicated, by the use of brackets, the material which the taxpayer indicates should be deleted pursuant to section 6110(c) of the Code. The statement of proposed deletions shall indicate the statutory basis for each proposed deletion. The statement of proposed deletions shall not appear or be referred to anywhere in the request for technical advice. If the taxpayer decides to request additional deletions pursuant to section 6110(c) of the Code prior to the time the National Office replies to the request for technical advice, additional statements may be submitted.

(*g*) If the taxpayer has not already done so, he/she may submit a statement explaining his/her position on the issues, citing precedents which the taxpayer believes will bear on the case. This statement will be forwarded to the National Office with the request for advice. If it is received at a later date, it will be forwarded for association with the case file.

(*h*) At the time the taxpayer is informed that the matter is being referred to the National Office, he/she will also be informed of the right to a conference in the National Office in the event an adverse decision is indicated, and will be asked to indicate whether a conference is desired.

(*i*) Generally, prior to replying to the request for technical advice, the National Office shall inform the taxpayer orally or in writing of the material likely to appear in the technical advice memorandum which the taxpayer proposed be deleted but which the Internal Revenue Service determined should not be deleted. If so informed, the taxpayer may submit within 10 days any further information, arguments, or other material in support of the position that such material be deleted. The Internal Revenue Service will attempt, if feasible, to resolve all disagreements with respect to proposed deletions prior to the time the Na-

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tional Office replies to the request for technical advice. However, in no event shall the taxpayer have the right to a conference with respect to resolution of any disagreements concerning material to be deleted from the text of the technical advice memorandum, but such matters may be considered at any conference otherwise scheduled with respect to the request.

(*f*) The provisions of (*a*) through (*i*) of this subdivision, relating to the referral of issues upon request of the taxpayer, advising taxpayers of the referral of issues, the submission of proposed deletions, and the granting of conferences in the National Office, are not applicable to technical advice memorandums described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments. However, in such cases, the taxpayer shall be allowed to provide the statement of proposed deletions to the National Office upon the completion of all proceedings with respect to the investigations or assessments, but prior to the date on which the Commissioner mails the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum.

(*k*) Form 4463, Request for Technical Advice, should be used for transmitting requests for technical advice to the National Office.

(iv) *Appeal by taxpayers of determinations not to seek technical advice.* (*a*) If the taxpayer has requested referral of an issue before an Appeals office to the National Office for technical advice, and after consideration of the request, the Appeals Officer is of the opinion that the circumstances do not warrant such referral, he/she will so advise the taxpayer.

(*b*) The taxpayer may appeal the decision of the Appeals Officer not to request technical advice by submitting to that official, within 10 calendar days after being advised of the decision, a statement of the facts, law, and arguments with respect to the issue, and the reasons why the taxpayer believes the matter should be referred to the National Office for advice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office.

(*c*) The Appeals Officer will submit the statement of the taxpayer to the Chief, Appeals Office, accompanied by a statement of the officer's reasons why the issue should not be referred to the National Office. The Chief will determine, on the basis of the statements submitted, whether technical advice will be requested. If the Chief determines that technical advice is not warranted, that official will inform the taxpayer in writing that he/she proposes to deny the request. In the letter to the taxpayer the Chief will (except in unusual situations where such action would be prejudicial to the best interests of the Government) state specifically the reasons for the proposed denial. The taxpayer will be given 15 calendar days after receipt of the letter in which to notify the Chief whether the taxpayer agrees with the proposed denial. The taxpayer may not appeal the decision of the Chief, Appeals Office not to request technical advice from the National Office. However, if the taxpayer does not agree with the proposed denial, all data relating to the issue for which technical advice has been sought, including the taxpayer's written request and statements, will be submitted to the National Office, Attention: Director, Appeals Division, for review. After review in the National Office, the Appeals office will be notified whether the proposed denial is approved or disapproved.

(*d*) While the matter is being reviewed in the National Office, the Appeals office will suspend action on the issue (except where the delay would prejudice the Government's interests) until it is notified of the National Office decision. This notification will be made within 30 days after receipt of the data in the National Office. The review will be solely on the basis of the written record and no conference will be held in the National Office.

(v) *Conference in the National Office.* (*a*) If, after a study of the technical advice request, it appears that advice adverse to the taxpayer should be given and a conference has been requested, the taxpayer will be notified of the time and place of the conference. If conferences are being arranged with respect to more than one request for advice involving the same taxpayer, they will be so scheduled as to cause the least inconvenience to the taxpayer. The conference will be arranged by telephone, if possible, and must be held within 21 calendar days after contact has been made. Extensions of time will be granted only if justified in writing by the taxpayer and approved by the appropriate Technical branch chief.

(*b*) A taxpayer is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (*c*) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division (Corporation Tax Division or Individual Tax Division) in the Office of the Assistant Commissioner (Technical), and will usually be attended by a person who has authority to act for the branch chief. In appropriate cases the Appeals Officer may also attend the conference to clarify the facts in the case. If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the taxpayer or the taxpayer's representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A taxpayer has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(*c*) In the process of review of a holding proposed by a branch, it may appear that the final answer will involve a reversal of the branch proposal with a result less favorable to the taxpayer. Or it may appear that an adverse holding proposed by a branch will be approved, but on a new or different issue or on different grounds than those on which the branch decided the case. Under either of these circumstances, the taxpayer or the taxpayer's representative will be invited to another conference. The provisions of this subparagraph limiting the number of conferences to which a taxpayer is entitled will not foreclose inviting a taxpayer to attend further conferences when, in the opinion of National Office personnel, such need arises. All additional conferences of this type discussed are held only at the invitation of the Service.

(*d*) It is the responsibility of the taxpayer to furnish to the National Office, within 21 calender days after the conference, a written record of any additional data, line of reasoning, precedents, etc., that were proposed by the taxpayer and discussed at the conference but were not previously or adequately presented in writing. Extensions of time will be granted only if justified in writing by the taxpayer and approved by the appropriate Technical branch chief. Any additional material and a copy thereof should be addressed to and sent to the National Office which will forward the copy to the appropriate Appeals office. The Appeals office will be requested to give the matter prompt attention, will verify the additional facts and data, and will comment on it to the extent deemed appropriate.

(*e*) A taxpayer or the taxpayer's representative desiring to obtain information as to the status of the case may do-so by contacting the following offices with respect to matters in the areas of their responsibility:

OFFICIAL AND TELEPHONE NUMBERS (AREA CODE 202)

Director, Corporation Tax Division, 566-4505 or 566-4505
Director, Individual Tax Division, 566-3767 or 566-3788.

(vi) *Preparation of technical advice memorandum by the National Office.* (*a*) Immediately upon receipt in the National Office, the technical employee to whom the case is assigned will analyze the file to ascertain whether it meets the requirements of subdivision (iii) of this subparagraph. If the case is not complete with respect to any requirement in subdivision (iii) (*a*) through (*d*) of this subparagraph, appropriated steps will be taken to complete the file. If any request for technical advice does not comply with the requirements of subdivision (iii)(*e*) of this subparagraph, relating to the statement of proposed deletions, the National Office will make those deletions from the technical advice memorandum which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*b*) If the taxpayer has requested a conference in the National Office, the procedures in subdivision (v) of this subparagraph will be followed.

(*c*) Replies to requests for technical advice will be addressed to the Appeals office and will be drafted in two parts. Each part will identify the taxpayer by name, address, identification number, and year or years involved. The first part (hereafter called the "technical advice memorandum") will contain (*1*) a recitation of the pertinent facts having a bearing on the issue; (*2*) a discussion of the facts, precedents, and reasoning of the National Office; and (*3*) the conclusions of the National Office. The conclusions will give direct answers, whenever possible, to the specific questions of the Appeals office. The discussion of the issues will be in such detail that the Appeals office is apprised of the reasoning underlying the conclusion. There shall accompany the technical advice memorandum a notice, pursuant to section 6110(f)(1) of the Code, of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110(d) of the Code) which the Appeals office shall forward to the taxpayer at such time that it furnishes a copy of the technical advice memorandum to the taxpayer pursuant to (*e*) of this subdivision and subdivision (vii)(*b*) of this subparagraph.

(*d*) The second part of the reply will consist of a transmittal memorandum. In the

unusual cases it will serve as a vehicle for providing the Appeals office administrative information or other information which, under the nondisclosure statutes, or for other reasons, may not be discussed with the taxpayer.

(*e*) It is the general practice of the Service to furnish a copy of the technical advice memorandum to the taxpayer after it has been adopted by the Appeals office. However, in the case of technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments, a copy of the technical advice memorandum shall not be furnished the taxpayer until all proceedings with respect to the investigations or assessments are completed.

(*f*) After receiving the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum, the taxpayer, if desiring to protest the disclosure of certain information in the memorandum, must, within 20 days after the notice is mailed, submit a written statement identifying those deletions not made by the Internal Revenue Service which the taxpayer believes should have been made. The taxpayer shall also submit a copy of the version of the technical advice memorandum proposed to be open to public inspection on which the taxpayer indicates, by the use of brackets, the deletions proposed by the taxpayer but which have not been made by the Internal Revenue Service. Generally, the Internal Revenue Service will not consider the deletion of any material which the taxpayer did not, prior to the time when the National Office sent its reply to the request for technical advice to the Appeals office, propose be deleted. The Internal Revenue Service shall, within 20 days after receipt of the response by the taxpayer to the notice pursuant to section 6110(f)(1) of the Code, mail to the taxpayer its final administrative conclusion regarding the deletions to be made.

(vii) *Action on technical advice in Appeals offices.* (*a*) Unless the Chief, Appeals Office, feels that the conclusions reached by the National Office in a technical advice memorandum should be reconsidered and promptly requests such reconsideration, the Appeals office will proceed to process the taxpayer's case taking into account the conclusions expressed in the technical advice memorandum. The effect of technical advice on the taxpayer's case is set forth in subdivision (viii) of this subparagraph.

(*b*) The Appeals office will furnish the taxpayer a copy of the technical advice memorandum described in subdivision (vi)(*c*) of this subparagraph and the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110(d) of the Code). The preceding sentence shall not apply to technical advice memoranda involving civil fraud or criminal investigations, or jeopardy or termination assessments, as described in subdivision (iii)(*j*) of this subparagraph (except to the extent provided in subdivision (vi)(*e*) of this subparagraph) or to documents to which section 6104 of the Code applies.

(*c*) In those cases in which the National Office advises the Appeals office that it should not furnish a copy of the technical advice memorandum to the taxpayer, the Appeals office will so inform the taxpayer if he/she requests a copy.

(viii) *Effect of technical advice.* (*a*) A technical advice memorandum represents an expression of the views of the Service as to the application of law, regulations, and precedents to the facts of a specific case, and is issued primarily as a means of assisting Service officials in the closing of the case involved.

(*b*) Except in rare or unusual circumstances, a holding in a technical advice memorandum that is favorable to the taxpayer is applied retroactively. Moreover, since technical advice, as described in subdivision (i) of this subparagraph, is issued only on closed transactions, a holding in a technical advice memorandum that is adverse to the taxpayer is also applied retroactively unless the Assistant Commissioner or Deputy Assistant Commissioner (Technical) exercises the discretionary authority under section 7805(b) of the Code to limit the retroactive effect of the holding. Likewise, a holding in a technical advice memorandum that modifies or revokes a holding in a prior technical advice memorandum will also be applied retroactively, with one exception. If the new holding is less favorable to the taxpayer, it will generally not be applied to the period in which the taxpayer relied on the prior holding in situations involving continuing transactions of the type described in § 601.201(l)(7) and § 601.201(l)(8).

(*c*) The Appeals office is bound by technical advice favorable to the taxpayer. However, if the technical advice is unfavorable to the taxpayer, the Appeals office may settle the issue in the usual manner under existing authority. For the effect of technical advice in Employee Plans and Exempt Organization cases, see § 601.201(n)(9)(viii).

(*d*) In connection with section 446 of the Code, taxpayers may request permission from the Assistant Commissioner (Technical) to change a method of accounting and obtain a 10-year (or less) spread of the resulting adjustments. Such a request should be made prior to or at the first Appeals conference. The Appeals office has authority to allow a change and the resulting spread without referring the case to Technical.

(*e*) Technical advice memoranda often form the basis for revenue rulings. For the description of revenue rulings and the effect thereof, see §§ 601.601(d)(2)(i)(*a*) and 601.601(d)(2)(v).

(*f*) An Appeals office may raise an issue in a taxable period, even though technical advice may have been asked for and furnished with regard to the same or a similar issue in any other taxable period.

* * * * *

PAR. 4. Section 601.109, as amended in paragraph 5 of the notice of proposed amendments, is amended in the following respects:

1. Paragraphs (b) (1) and (3) are amended by deleting the phrase "Appellate Division" each time it appears and inserting in its place the phrase "Appeals office".

2. Paragraph (c)(1) is redesignated paragraph (c) and is amended as follows:

a. The heading is amended by deleting the phrase *"Appellate Division"* and inserting in its place the phrase *"Appeals office"*.

b. The first sentence is amended by deleting the phrase "a field office of the Appellate Division" and inserting in its place the phrase "an Appeals office".

c. The second sentence is amended by deleting the phrase "Appellate Division" and inserting in its place the phrase "Appeals office".

3. Paragraph (c)(2) is deleted.

PAR. 5. Section 601.201 is amended in the following respects:

1. Paragraph (n)(2)(ii) is amended by revising the fifth sentence to read as set forth below.

2. A new paragraph (n)(2)(iv) is added, reading as set forth below.

3. Paragraph (n)(4) is amended by revising the last sentence to read as set forth below.

4. Paragraph (n)(5) is revised to read as set forth below.

5. Paragraph (n)(6)(ii) is revised to read as set forth below.

6. Paragraph (n)(6)(iv) is revised to read as set forth below.

7. Paragraph (n)(6)(vi) is amended by deleting the words "protest and conference" from the fifth sentence.

8. Paragraph (n)(6)(viii) is revised to read as set forth below.

9. Paragraph (n)(7)(v) is revised to read as set forth below.

10. Paragraph (n)(9) is added, reading as set forth below.

11. Paragraph (o)(1) is amended by revising the last five sentences to read as set forth below.

12. A new paragraph (0)(2)(iii) is added, reading as set forth below.

13. Paragraph (o)(6) is revised to read as set forth below.

14. Paragraph (o)(7) is deleted and paragraphs (o)(8), (o)(9), (o)(10), and (o)(11) are redesignated paragraphs (o)(7), (o)(8), (o)(9), and (o)(10) respectively.

15. New paragraph (o)(7) (formerly paragraph (o)(8)) is revised to read as set forth below.

16. New paragraph (o)(8)(i) (formerly paragraph (o)(9)(i)) is amended by revising the first sentence to read as set forth below.

17. New paragraph (o)(8)(ii) (formerly paragraph (o)(9)(ii)) is amended by revising the last sentence to read as set forth below.

18. New paragraph (o)(9) (formerly paragraph (o)(10)) is revised to read as set forth below.

19. New paragraph (o)(10) (formerly paragraph (o)(11)) is amended by deleting the phrase "(11)" each time it appears and inserting in its place the phrase "(10)".

20. New paragraph (o)(10)(i) (formerly paragraph (o)(11)(i)) is revised to read as set forth below.

§ 601.201 Rulings and determination letters.

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(n) *Organization claiming exemption under section 501 or 521 of the Code.* * * *

(2) *Processing applications and requests for determination of foundation status.* * * *

(ii) * * * If a conference is requested, the conference procedures set forth in subparagraph (9)(v) of this paragraph will be followed. * * *

(iv) If the exemption application or request for foundation status involves an issue which is not covered by published precedent or on which there may be nonuniformity between districts, or if the National Office had issued a previous contrary ruling or technical advice on the issue, the key district director must request technical advice from the National Office. If, during the consideration of its application or request by a key district director, the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the district director to request technical advice from the National Office. The district director shall advice the organization of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable to these cases are set forth in subparagraph (9) of this paragraph. The effect on an organization's appeal rights of technical advice or a National Office ruling issued under this subparagraph are set forth in § 601.106(a)(1)(iv)(*a*) and in subparagraph (5)(ii) of this paragraph.

(4) *National Office review of determination letters.* * * * The referral will be treated as a request for technical advice and the procedures of subparagraph (9) of this paragraph will be followed.

(5) *Protest of adverse determination letters.* (i) Upon the issuance of an adverse determination letter, the key district director will advise the organization of its right to protest the determination by requesting Appeals office consideration. However, if the determination was made on the basis of National Office technical advice, the organization may not appeal the determination to the Appeals office. See § 601.106(a)(1)(iv)(*a*). To request Appeals consideration, the organization shall submit to the key district director, within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its position. The organization must also state whether it wishes an Appeals office conference. Upon receipt of an organization's request for Appeals consideration, the key district director will, if it maintains its position, forward the request and the case file to the Appeals office.

(ii) Except as provided in subdivisions (iii) and (iv) of this subparagraph, the Appeals office, after considering the organization's protest and any additional information developed, will advise the organization of its decision and issue an appropriate determination letter. Organizations should make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may result in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(iii) If the proposed disposition by the Appeals office is contrary to a National Office technical advice or ruling concerning tax exemption, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.106(a)(1)(iv)(*b*).

(iv) If the case involves an issue that is not covered by published precedent or on which there may be nonuniformity between regions, and on which the National Office has not previously ruled, the Appeals office must request technical advice from the National Office. If, during the consideration of its case by Appeals, the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the organization of its right to request referral of the issue to the National Office for technical advice. If the Appeals office requests technical advice, the decision of the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, the decision of the Assistant Commissioner (Technical), in a technical advice memorandum is final and the Appeals office must dispose of the case in accordance with that decision. See subparagraph (9)(viii)(*a*) of this paragraph.

(6) *Revocation or modification of rulings or determination letters on exemption and foundation status.* * * *

(ii)(*a*) If a key district director concludes as a result of examining an information return, or considering information from any other source, that an exemption ruling or determination letter should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. If the case involves an issue not covered by published precedent or on which there may be nonuniformity between districts, or if the National Office had issued a previous contrary ruling or technical advice on the issue, the district director must seek technical advice from the National Office. If the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the district director to request technical advice from the National Office. The district director shall advise the organization of its right to request referral of the issue to the National Office for technical advice.

(*b*) The key district director will advise the organization of its right to protest the proposed revocation or modification by requesting Appeals office consideration. However, if National Office technical advice was furnished concerning revocation or modification under (*a*) of this subdivision, the decision of the Assistant Commissioner in the technical advice memorandum is final and the organization has no right of appeal to the Appeals office. See § 601.106(a)(1)(iv)(*a*). To request Appeals consideration, the organization must submit to the key district director, within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its continued exemption. The organization must also state whether it wishes an Appeals office conference. Upon receipt of an organization's request for Appeals consideration, the key district office, will, if it maintains its position, forward the request and the case file to the Appeals office.

(*c*) Except as provided in (*d*) and (*e*) of this subdivision, the Appeals office, after considering the organization's protest and any additional information developed, will advise the organization of its decision and issue an appropriate determination letter. Organizations should make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may results in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(*d*) If the proposed disposition by the Appeals office is contrary to a National Office technical advice or ruling concerning tax exemption, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.106(a)(1)(iv)(*b*).

(*e*) If the case involves an issue that is not covered by published precedent or on which there may be nonuniformity between regions, and on which the National Office has not previously ruled, the Appeals office must request technical advice from the National Office. If the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the organization of its right to request referral of the issue to the National Office for technical advice.

(iv) If a key district director concludes that a ruling or determination letter concerning private foundation or operating foundation status should be revoked or modified, the organization will be advised in writing of the proposed adverse action, the reasons therefor, and the proposed new determination of foundation status. The procedures set forth in subdivision (ii) of this subparagraph apply to a proposed revocation or modification under this subdivision. Unless the effective date of revocation or modification of a ruling or determination letter concerning private foundation or operating foundation status is expressly covered by statute or regulations, the effective date generally is the same as the effective date of revocation or modification of exemption rulings or determination letters as provided in subdivision (i) of this subparagrah.

(viii) The provisions of this subparagraph relating to protests, conferences, and the rights of organizations to ask that technical advice be requested before a revocation (or modification) notice is issued are not applicable to matters where delay would be prejudicial to the interests of the Internal Revenue Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the period of limitations, or where immediate action is necessary to protect the interests of the Government).

(7) *Declaratory judgments relating to status and classification of organizations under section 501(c)(3) of the Code.* * * *

(v) An organization will in no event be deemed to have exhausted its administrative remedies prior to the completion of the steps described in subdivision (iv) of this subparagraph and the earlier of:

(*a*) The sending by certified or registered mail of a notice of final determination; or

(*b*) The expiration of the 270-day period described in section 7428(b)(2) of the Code, in a case in which the Service has not issued a notice of final determination and the organization has taken, in a timely manner, all reasonable steps to secure a ruling or determination.

(9) *Technical advice from the National Office*—(i) *Definition and nature of technical advice.* (*a*) As used in this subparagraph, "technical advice" means advice or guidance as to the interpretation and proper application of internal revenue laws, related statutes, and regulations, to a specific set of facts, in Employee Plans and Exempt Organization matters, furnished by the National Office upon request of a key district office or Appeals office in connection with the processing and consideration of a nondocketed case. It is furnished as a means of assisting Service personnel in closing cases and establishing and maintaining consistent holdings. It does not include memoranda on matters of general technical application furnished to key district offices or to Appeals offices where the issues are not raised in connection with the consideration and handling of a specific case.

(*b*) The provisions of this subparagraph only apply to Employee Plans and Exempt Organization cases being considered by a key district director or Appeals office. They do not apply to any other case under the jurisdiction of a district director or Appeals office or to a case under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms. The technical advice provisions applicable to cases under the jurisdiction of a district director, other than Employee Plans and Exempt Organization cases, are set forth in § 601.105(b)(5). The technical advice provisions applicable to cases under the jurisdiction of an Appeals office, other than Employee Plans and Exempt Organization cases are set forth in § 601.106(f)(10).

(*c*) A key district director or an Appeals office may, under this subpargraph, request technical advice with respect to the consideration of a request for a determination letter. If the cases involves certain Exempt Organization issues that are not covered by published precedent or on which there may be nonuniformity, requesting technical advice is mandatory rather than discretionary. See subparagraphs (2)(iv) and (5)(iii) of this paragraph.

(*d*) If a key district director is of the opinion that a National Office ruling letter or technical advice previously issued should be modified or revoked and it requests the National Office to reconsider the ruling or technical advice, the reference of the matter to the National Office is treated as a request for technical advice. The procedures specified in subdivision (iii) of this subparagraph should be followed in order that the National Office may consider the recommendation. Only the National Office can revoke a National Office ruling letter or technical advice. Before referral to the National Office, the key district director should inform the plan/organization of its opinion that the ruling letter or technical advice should be revoked. The key district director, after development of the facts and consideration of the arguments, will decide whether to recommend revocation of the ruling or technical advice to the National Office.

(*e*) The Assistant Commissioner (Employee Plans and Exempt Organizations) and, in section 521 cases, the Assistant Commissioner (Technical), acting under a delegation of authority from the Commissioner of Internal Revenue, are exclusively responsible for providing technical advice in any issue involving the establishment of basic principles and rules for the uniform interpretation and application of tax laws in cases under this subparagraph. This authority has been largely redelegated to subordinate officials.

(ii) *Areas in which technical advice may be requested.* (*a*) Key district directors and Appeals offices may request technical advice on any technical or procedural question that develops during the processing and consideration of a case. These procedures are applicable as provided in subdivision (i) of this subparagraph.

(*b*) Key district directors and Appeals offices are encouraged to request technical advice on any technical or procedural question arising in connection with any case described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable revenue ruling or other precedent issued by the National Office. However, in Exempt Organization cases concerning qualification for exemption or foundation status, key district directors and Appeals offices must request technical advice on any issue that is not covered by published precedent or on which nonuniformity may exist. Requests for technical advice should be made at the earliest possible stage of the proceedings.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the key district office or the Appeals office to determine whether technical advice is to be requested on any issue before that office. However, while the case is under the jurisdiction of the key district director or the Appeals office, an employee plan/organization or its representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. This request should be made at the earliest possible stage of the proceedings. While plans/organizations are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a plan/organization may make the request orally. If, after considering the plan's/organization's request, the examiner or the Appeals Officer is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the plan/organization. (See subdivision (iv) of this subparagraph for a plan's/organization's appeal rights where the examiner or Appeals Officer declines to request technical advice.)

(*b*) When technical advice is to be requested, whether or not upon the request of the plan/organization, the plan/organization will be so advised, except as noted in (*j*) of this subdivision. If the key district office or the Appeals office initiates the action, the plan/organization will be furnished a copy of the statement of the pertinent facts and the question or questions proposed for submission to the National Office. The request for advice should be so worded as to avoid possible misunderstanding, in the National Office, of the facts or of the specific point or points at issue.

(*c*) After receipt of the statement of facts and specific questions, the plan/organization will be given 10 calendar days in which to indicate in writing the extent, if any, to which it may not be in complete agreement. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division (in the district office) of the Chief, Appeals Office, as the case may be. Every effort should be made to reach agreement as to the facts and specific points at issue. If agreement cannot be reached, the plan/organization may submit, within 10 calendar days after receipt of notice from the key district director or the Appeals office, a statement of its understanding as to the specific point or points at issue which will be forwarded to the National Office with the request for advice. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office.

(*d*) If the plan/organization initiates the action to request advice, and its statement of the facts and point or points at issue are not wholly acceptable to the key district office or the Appeals office, the plan/organization will be advised in writing as to the areas of disagreement. The plan/organization will be given 10 calendar days after receipt of the written notice to reply to such notice. An extension of time must be justified by the plan/organization in writing and approved by the Chiefs, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office. If agreement cannot be reached, both the statements of the plan/organization and the key district office or the Appeals office will be forwarded to the National Office.

(*e*) (*1*) In the case of requests for technical advice subject to the disclosure provisions of section 6110 of the Code, the plan/organization must also submit, within the 10-day period referred to in (*c*) and (*d*) of this subdivision, whichever applicable (relating to agreement by the plan/organization with the statement of facts and points submitted in connection with the request for technical advice) the statement described in (*f*) of this subdivision of proposed deletions pursuant to section 6110(c) of the Code. If the statement is not submitted, the plan/organization will be informed by the key district director or the Appeals office that the statement is required. If the key district director or the Appeals office does not receive the statement within 10 days after the plan/organization has been informed of the need for the statement, the key district director or the Appeals office may decline to submit the request for technical advice. If the key district director or the Appeals office decides to request technical advice in a case where the plan/organization has not sub-

mitted the statement of proposed deletions, the National Office will make those deletions which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(2) The requirements included in this subparagraph, relating to the submission of statements and other material with respect to proposed deletions to be made from technical advice memoranda before public inspection is permitted to take place, do not apply to requests made by the key district director before November 1, 1976, or requests for any document to which section 6104 of the Code applies.

(*f*) In order to assist the Internal Revenue Service in making the deletions, required by section 6110(c) of the Code, from the text of technical advice memoranda which are open to public inspection pursuant to section 6110(a) of the Code, there must accompany requests for such technical advice either a statement of the deletions proposed by the plan/organization, or a statement that no information other than names, addresses, and identifying numbers need be deleted. Such statements shall be made in a separate document. The statement of proposed deletions shall be accompanied by a copy of all statements of facts and supporting documents which are submitted to the National Office pursuant to (c) or (*d*) of this subdivision, on which shall be indicated, by the use of brackets, the material which the plan/organization indicates should be deleted pursuant to section 6110(c) of the Code. The statement of proposed deletions shall indicate the statutory basis for each proposed deletion. The statement of proposed deletions shall not appear or be referred to anywhere in the request for technical advice. If the plan/organization decides to request additional deletions pursuant to section 6110(c) of the Code prior to the time the National Office replies to the request for technical advice, additional statements may be submitted.

(*g*) If the plan/organization has not already done so, it may submit a statement explaining its position on the issues, citing precedents which it believes will bear on the case. This statement will be forwarded to the National Office with the request for advice. If it is received at a later date, it will be forwarded for association with the case file.

(*h*) At the time the plan/organization is informed that the matter is being referred to the National Office, it will also be informed of the right to a conference in the National Office in the event an adverse decision is indicated, and will be asked to indicate whether a conference is desired.

(*i*) Generally, prior to replying to the request for technical advice, the National Office shall inform the plan/organization orally or in writing of the material likely to appear in the technical advice memorandum which the plan/organization proposed be deleted but which the Internal Revenue Service determined should not be deleted. If so informed, the plan/organization may submit within 10 days any further information, arguments, or other material in support of the position that such material be deleted. The Internal Revenue Service will attempt, if feasible, to resolve all disagreements with respect to proposed deletions prior to the time the National Office replies to the request for technical advice. However, in no event shall the plan/organization have the right to a conference with respect to resolution of any disagreements concerning material to be deleted from the text of the technical advice memorandum, but such matters may be considered at any conference otherwise scheduled with respect to the request.

(*j*) The provisions of (*a*) through (*i*) of this subdivision, relating to the referral of issues upon request of the plan/organization, advising plans/organizations of the referral of issues, the submission of proposed deletions, and the granting of conferences in the National Office, are not applicable to technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments. However, in such cases the plan/organization shall be allowed to provide the statement of proposed deletions to the National Office upon the completion of all proceedings with respect to the investigations or assessments, but prior to the date on which the Commissioner mails the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum.

(*k*) Form 4463, Request for Technical Advice, should be used for transmitting requests for technical advice to the National Office.

(iv) *Appeal by plan/organizations of determinations not to seek technical advice.* (*a*) If the plan/organization has requested referral of an issue before a key district office or an Appeals office to the National Office for technical advice, and after consideration of the request the examiner or the Appeals Officer is of the opinion that the circumstances do not warrant such referral, he/she will so advise the plan/organization.

(*b*) The plan/organization may appeal the decision of the examiner or the Appeals Officer not to request technical advice by submitting to the relevant official, within 10 calendar days after being advised of the decision, a statement of the facts, law, and arguments with respect to the issue, and the reasons why the plan/organization believes the matter should be referred to the National Office for advice. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office.

(c) The examiner or the Appeals Officer will submit the statement of the plan/organization to the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office, accompanied by a statement of the official's reasons why the issue should not be referred to the National Office. The Chief will determine, on the basis of the statements submitted, whether technical advice will be requested. If the Chief determines that technical advice is not warranted, that official will inform the plan/organization in writing that he/she proposes to deny the request. In the letter to the plan/organization the Chief will (except in unusual situations where such action would be prejudicial to the best interests of the Government) state specifically the reasons for the proposed denial. The plan/organization will be given 15 calendar days after receipt of the letter in which to notify the Chief whether it agrees with the proposed denial. The plan/organization may not appeal the decision of the Chief, Employee Plans and Exempt Organizations Division, or of the Chief, Appeals Office, not to request technical advice from the National Office. However, if the plan/organization does not agree with the proposed denial, all data relating to the issue for which technical advice has been sought, including the plan's/organization's written request and statements, will be submitted to the National Office, Attention: Director, Exempt Organizations or Employee Plans Division or Actuarial Division, or, in a section 521 case, Attention: Director, Corporation Tax Division for review. After review in the National Office, the submitting office will be notified whether the proposed denial is approved of disapproved.

(*d*) While the matter is being reviewed in the National Office, the key district office or the Appeals office will suspend action on the issue (except where the delay would prejudice the Government's interests) until it is notified of the National Office decision. This notification will be made within 30 days after receipt of the data in the National Office. The review will be solely on the basis of the written record and no conference will be held in the National Office.

(v) *Conference in the National Office.* (*a*) If, after a study of the technical advice request, it appears that advice adverse to the plan/organization should be given and a conference has been requested, the plan/organization will be notified of the time and place of the conference. If conferences are being arranged with respect to more than one request for advice involving the same plan/organization, they will be so scheduled as to cause the least inconvenience to the plan/organization. The conference will be arranged by telephone, if possible, and must be held within 21 calendar days after contact has been made. Extensions of time will be granted only if justified in writing by the plan/organization and approved by the appropriate branch chief.

(*b*) A plan/organization is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (c) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division in the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in section 521 cases, in the Office of the Assistant Commissioner (Technical), and will usually be attended by a person who has authority to act for the branch chief. In appropriate cases the examiner or the Appeals Officer may also attend the conference to clarify the facts in the case. If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the plan/organization or its representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A plan/organization has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(c) In the process of review of a holding proposed by a branch, it may appear that the final answer will involve a reversal of the branch proposal with a result less favorable to the plan/organization. Or it may appear that an adverse holding proposed by a branch will be approved, but on a new or different issue or on different grounds than those on which the branch decided the case. Under either of these circumstances, the plan/organization or its representative will be invited to another conference. The provisions of this subparagraph limiting the

number of conferences to which a plan/organization is entitled will not foreclose inviting the plan/organization to attend further conferences when, in the opinion of National Office personnel, such need arises. All additional conferences of this type discussed are held only at the invitation of the Service.

(*d*) It is the responsibility of the plan/organization to furnish to the National Office, within 21 calendar days after the conference, a written record of any additional data, line of reasoning, precedents, etc., that were proposed by the plan/organization and discussed at the conference but were not previously or adequately presented in writing. Extensions of time will be granted only if justified in writing by the plan/organization and approved by the appropriate branch chief. Any additional material and a copy thereof should be addressed to and sent to the National Office which will forward the copy to the appropriate key district director or Appeals office. The key district director or the Appeals office will be requested to give the matter prompt attention, will verify the additional facts and data, and will comment on it to the extent deemed appropriate.

(*e*) A plan/organization or its representative desiring to obtain information as to the status of its case (other than a section 521 case) may do so by contacting the following offices with respect to matters in the areas of their responsibility:

OFFICIAL AND TELEPHONE NUMBERS (AREA CODE 202)

Chief, Employee Plans Technical Branch, 566-3871.
Chief, Exempt Organizations Technical Branch, 566-3856 or 566-3593.
Director, Actuarial Division, 566-4311.

An organization or its representative desiring to obtain information as to the status of its section 521 case may do so by contacting the Director, Corporation Tax Division (202-566-4504 or 566-4505).

(vi) *Preparation of technical advice memorandum by the National Office.* (*a*) Immediately upon receipt in the National Office, the employee to whom the case is assigned will analyze the file to ascertain whether it meets the requirements of subdivision (iii) of this subparagraph. If the case is not complete with respect to any requirement in subdivision (iii) (*a*) through (*d*) of this subparagraph, appropriate steps will be taken to complete the file. If any request for technical advice does not comply with the requirements of subdivision (iii)(*e*) of this subparagraph, if applicable, relating to the statement of proposed deletions, the National Office will make those deletions from the technical advice memorandum which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*d*) If the plan/organization has requested a conference in the National Office, the procedures in subdivision (v) of this subparagraph will be followed.

(c) Replies to requests for technical advice will be addressed to the key district director of to the Appeals office and will be drafted in two parts. Each part will identify the plan/organization by name, address, identification number, and year or years involved. The first part (hereafter called the "technical advice memorandum") will contain (*1*) a recitation of the pertinent facts having a bearing on the issue; (2) a discussion of the facts, precedents, and reasoning of the National Office; and (3) the conclusions of the National Office. The conclusions will give direct answers, whenever possible, to the specific questions of the key district director or the Appeals office. The discussion of the issues will be in such detail that the key district director or the Appeals office is apprised of the reasoning underlying the conclusion. There shall accompany the technical advice memorandum, where applicable, a notice, pursuant to section 6110(f)(1) of the Code, of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110(d) of the Code) which the key district director or the Appeals office will forward to the plan/organization at such time that it furnishes a copy of the technical advice memorandum to the plan/organization pursuant to (*e*) of this subdivision and subdivision (vii)(*b*) of this subparagraph.

(*d*) The second part of the reply will consist of a transmittal memorandum. In the unusual cases it will serve as a vehicle for providing the key district office or Appeals office administrative information or other information which, under the nondisclosure statutes, or for other reasons, may not be discussed with the plan/organization.

(*e*) It is the general practice of the Service to furnish a copy of the technical advice memorandum to the plan/organization after it has been adopted by the key district director or the Appeals office. However, in the case of technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments, a copy of the technical advice memorandum shall not be furnished the plan/organization until all proceedings with respect to the investigations or assessments are completed.

(*f*) After receiving the notice, pursuant to section 6110(f)(1) of the Code, of intention to disclose the technical advice memorandum (if applicable), the plan/organization, if desiring to protest the disclosure of certain information in the memorandum, must, within 20 days after the notice is mailed, submit a written statement identifying those deletions not made by the Internal Revenue Service which the plan/organization believes should have been made. The plan/organization shall also submit a copy of the version of the technical advice memorandum proposed to be open to public inspection on which it indicates, by the use of brackets, the deletions proposed by the plan/organization but which have not been made by the Internal Revenue Service. Generally, the Internal Revenue Service will not consider the deletion of any material which the plan/organization did not, prior to the time when the National Office sent its reply to the request for technical advice to the key district director or the Appeals office, propose be deleted. The Internal Revenue Service shall, within 20 days after receipt of the response by the plan/organization to the notice pursuant to section 6110(f)(1) of the Code (if applicable), mail to the plan/organization its final administrative conclusion regarding the deletions to be made.

(vii) *Action on technical advice in key district offices and in Appeals offices.* (*a*) Unless the key district director or the Chief, Appeals Office, feels that the conclusions reached by the National Office in a technical advice memorandum should be reconsidered and promptly requests such reconsideration, the key district office or the Appeals office will proceed to process the case on the basis of the conclusions expressed in the technical advice memorandum. The effect of technical advice on the plan's/organization's case once the technical advice memorandum is adopted is set forth in subdivision (viii) of this subparagraph.

(*b*) The key district director or the Appeals office will furnish the plan/organization a copy of the technical advice memorandum described in subdivision (vi)(c) of this subparagraph and the notice pursuant to section 6110(f)(1) of the Code (if applicable) of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110(d) of the Code). The preceding sentence shall not apply to technical advice memoranda involving civil fraud or criminal investigations, or jeopardy or termination assessments, as described in subdivision (iii)(*f*) of this subparagraph (except to the extent provided in subdivision (vi)(e) of this subparagraph) or to documents to which section 6104 of the Code applies.

(c) In those cases in which the National Office advises the key district director or the Appeals office that it should not furnish a copy of the technical advice memorandum to the plan/organization, the key district director or the Appeals office will so inform the plan/organization if it requests a copy.

(viii) *Effect of technical advice.* (*a*) A technical advice memorandum represents an expression of the views of the Service as to the application of law, regulations, and precedents to the facts of a specific case, and is issued primarily as a means of assisting Service officials in the examination and closing of the case involved. In cases under this subparagraph concerning a plan's/organization's qualification or an organization's status, the conclusions expressed in a technical advice memorandum are final and will be followed by the key district office or the Appeals office.

(*b*) Unless otherwise stated, a holding in a technical advice memorandum will be applied retroactively. Moreover, where the plan/organization had previously been issued a favorable ruling or determination letter (whether or not it was based on a previous technical advice memorandum) concerning that transaction, its purpose, or method of operation, the holding in a technical advice memorandum that is adverse to the plan/organization is also applied retroactively unless the Assistant Commissioner or Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, the Assistant Commissioner or Deputy Assistant Commissioner (Technical) exercises the discretionary authority under section 7805(b) of the Code to limit the retroactive effect of the holding as illustrated, in the case of rulings, in paragraph (1)(5) of this section.

(c) Technical advice memoranda often form the basis for revenue rulings. For the description of revenue rulings and the effect thereof, see §§ 601.601(d)(2)(i)(*a*) and 601.601(d)(2)(v).

(*d*) A key district director or an Appeals office may raise an issue in a taxable period, even though technical advice may have been asked for and furnished with regard to the same or a similar issue in any other taxable period. However, if the proposal by the

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key district director or the Appeals office is contrary to a prior technical advice or ruling issued to the same plan/organization, the proposal must be submitted to the National Office. See § 601.106(a)(1)(iv)(*b*) and subdivision (i)(*d*) of this subparagraph.

(o) *Employees' trusts or plans*—(1) *In general.* • • • Paragraph (o)(6) describes the administrative appeal rights available to applicants. Paragraph (o)(7) provides for the issuance of notice of final determination. Paragraph (o)(8) describes the documents which will make up the administrative record. Paragraph (o)(9) describes the notice of final determination. Paragraph (o)(10) sets forth the actions that will be necessary on the part of applicants, interested parties, and the Pension Benefit Guaranty Corporation in order for each to exhaust the administrative remedies within the meaning of section 7476(b)(3) of the Code.

(2) *Determination letters.* • • •

(iii) If, during the consideration of a case described in paragraph (o)(2)(i) of this section by a key district director, the applicant believes that the case involves an issue with respect to which referral for technical advice is appropriate, the applicant may ask the district director to request technical advice from the National Office. The district director shall advise the applicant of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable in these cases are set forth in paragraph (n)(9) of this section. If technical advice is issued, the decision of the National Office is final and the applicant may not thereafter appeal the issue to the Appeals office. See § 601.106(a)(1)(iv)(*a*) and paragraph (o)(6) of this section.

• • • • • •

(6) *Reference of matters to the Appeals office.* (i) Where issues arise in a district director's office on matters within the contemplation of paragraph (o)(2)(i) of this section, and the key district director issues a notice of proposed determination which is adverse to the applicant, the applicant may appeal the proposed determination to the Appeals office. However, the applicant may not appeal a determination that is based on a National Office technical advice. See § 601.106(a)(1)(iv)(*a*) and paragraph (o)(2)(iii) of this section. The applicant shall notify the key district director that it intends to request Appeals office consideration by submitting the request, in writing, to the key district director within 30 days from issuance of the notice of proposed determination. The key district director will forward the request and the administrative record to the Appeals office and will so notify the applicant in writing. A failure by the applicant to request Appeals office consideration will constitute a failure to exhaust available administrative remedies as required by section 7476(b)(3) and will thus preclude the applicant from seeking a declaratory judgment as provided under section 7476. (See paragraph (o)(10)(i)(*c*) of this section.)

(ii) The request for Appeals office consideration must show the following:

(*a*) Date of application for determination letter;

(*b*) Name and address of the applicant and the name and address of the representative, if any, who has been authorized to represent the applicant as provided in paragraph (c)(6) of this section;

(*c*) The key district office in which the case is pending;

(*d*) Type of plan (pension, annuity, profit-sharing, stock bonus, bond purchase, and foreign situs trusts), and type of action involved (initial qualification, amendment, curtailment, or termination);

(*e*) Date of filing this request with the key district director and the date and symbols of the letter referred to in paragraph (o)(6)(i) of this section;

(*f*) A complete statement of the issues and a presentation of the arguments in support of the applicant's position; and

(*g*) Whether a conference is desired.

(iii) After receipt of the administrative record in the Appeals office, the applicant will be afforded the opportunity for a conference, if a conference was requested. After full consideration of the entire administrative record, the Appeals office will notify the applicant in writing of the proposed decision and the reasons therefor and will issue a notice of final determination in accordance with the decision. However, if the proposed disposition by the Appeals office is contrary to a National Office technical advice concerning qualification, issued prior to the case, the proposed disposition will be submitted to the Assistant Commissioner (Employee Plans and Exempt Organizations) and the decision of that official will be followed by the Appeals office. See § 601.106 (a)(1)(iv)(*b*). Additionally, if the applicant believes that the case involves an issue with respect to which referral for technical advice is appropriate, the applicant may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the applicant of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable to these cases are set forth in paragraph (n)(9) of this section. If technical advice is issued, the decision of the National Office will be followed by the Appeals Office. See paragraph (n)((9)(viii)(*a*) of the this section.

(iv) Applicants are advised to make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may result in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(7) *Issuance of the notice of final determination.* The key district director or Appeals office will send notice of the final determination to the applicant. The key district director will send notice of the final determination to the interested parties who have previously submitted comments on the application to the Internal Revenue Service pursuant to paragraph (o)(5)(i) (*a*) or (*c*) of this section (or to the persons designated by them to receive such notice), to the Department of Labor in the case of a comment submitted by that department upon the request of interested parties or the Pension Benefit Guaranty Corporation pursuant to paragraph (o)(5)(i)(*b*) of this section, and to the Pension Benefit Guaranty Corporation if it has filed a comment pursuant to paragraph (o)(5)(i)(*a*) of this section.

(8) *Administrative record.* (i) In the case of a request for an advance determination in respect of a retirement plan, the determination of the district director or Appeals office on the qualification or nonqualification of the retirement plan shall be based solely on the facts contained in the administrative record. • • •

(ii) • • • Any oral representation or modification of the facts as represented or alleged in the application for determination or in a comment filed by an interested party, which is not reduced to writing and submitted to the Service shall not become a part of the administrative record and shall not be taken into account in the determination of the qualified status of the retirement plan by the district director or Appeals office.

(9) *Notice of final determination.* For purposes of this paragraph (o), the notice of final determination shall be—

(i) In the case of a final determination which is favorable to the applicant, the letter issued by the key district director or Appeals office (whether or not by certified or registered mail) which states that the applicant's plan satisfies the qualification requirements of the Internal Revenue Code.

(ii) In the case of a final determination which is adverse to the applicant, the letter issued by certified or registered mail by the key district director or Appeals office, subsequent to a letter of proposed determination, stating that the applicant's plan fails to satisfy the qualification requirements of the Internal Revenue Code.

(10) *Exhaustion of administrative remedies.* • • •

(i) The administrative remedies of an applicant with respect to any matter relating to the qualification of a plan are:

(*a*) Filing a completed application with the appropriate district director pursuant to paragraphs (o)(3) (iii) through (xii) of this section;

(*b*) Compliance with the requirements pertaining to notice to interested parties as set forth in paragraphs (o)(3)(xiv) through (o)(3)(xxi) of this section; and

(*c*) An appeal to the Appeals office pursnt to paragraph (o)(6) of this section, in the event of a notice of proposed adverse determination from the district director.

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PAR. 6. Section 201.203(d), as revised in paragraph 6 of the notice of proposed amendments, is amended by deleting the phrase "the regional office of the Appellate Division" in the third sentence and inserting in its place the phrase "an Appeals office".

These amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. 301 and 5 U.S.C. 552.

JEROME KURTZ,
Commissioner of Internal Revenue.

PARAGRAPH 1. Section 601.103 is amended by revising paragraphs (b) and (c)(1). These revised provisions read as follows:

§ 601.103 Summary of general tax procedure.

• • • • • •

(b) *Examination and determination of tax liability.* After the returns are filed and processed in internal revenue service centers, some returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, ordinarily the taxpayer is afforded certain appeal rights. If the taxpayer agrees to the proposed adjustments and the tax involved is an income, profits, estate, gift, or chapter 41, 42, 43, or 44 tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105(b)(4)), the deficiency will be immediately assessed.

(c) *Disputed liability*—(1) *General.* The taxpayer is given an opportunity to request that the case be considered by an Appeals Office provided that office has jurisdiction (see § 601.106(a)(3)). If the taxpayer requests such consideration, the case will be referred to the Appeals Office, which will afford the taxpayer the opportunity for a conference. The determination of tax liability by the Appeals Office is final insofar as the taxpayer's appeal rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director of International Operations, exclusive settlement authority is vested in the Appeals Office having jurisdiction of the place where the taxpayer requests the conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the United States, the Washington, D.C. Appeals Office of the Mid-Atlantic Region assumes jurisdiction.

• • • • • •

PAR. 2. Section 601.105 is amended in the following respects:

1. Paragraph (b)(2)(i) is revised to read as set forth below.

2. Paragraph (b)(4) is amended by deleting the third sentence and by deleting the phrase "Chapter 42 taxes" in the sixth to last sentence and inserting in its place the phrase "Chapter 41, 42, 43, or 44 taxes".

3. Paragraph (b)(5)(i)(*e*) is revised to read as set forth below.

4. Paragraph (b)(5)(ii)(*b*) is revised to read as set forth below.

5. Paragraph (b)(5)(iii)(*a*) is revised to read as set forth below.

6. Paragraph (b)(5)(iii)(*b*) is amended by deleting the words "or the conferee" from the second sentence.

7. Paragraph (b)(5)(iv) is amended by deleting the words "or conferee" each time they appear in (*a*), (*b*), and (*c*) thereof.

8. Paragraph (c) is revised to read as set forth below.

9. Paragraph (d)(2)(i) is redesignated paragraph (d)(2) and is revised to read as set forth below.

10. Paragraph (d)(2)(ii) is deleted.

11. Paragraph (f) is amended by deleting the words "*and conference*" from the caption, and by deleting the words "or conference" from the second sentence.

12. Paragraph (h) is revised to read as set forth below.

13. Paragraph (l) is deleted.

§ 601.105 Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

• • • • • •

(b) *Examination of returns.* • • •

(2) *Office examination*—(i) *Adjustments by Examination Division at service center.* Certain individual income tax returns identified as containing potential unallowable items are examined by Examination Divisions at regional service centers. Correspondence examination techniques are used. If the taxpayer requests an interview to discuss the proposed adjustments, the case is transferred to the taxpayer's district office. If the taxpayer does not agree to the proposed adjustments, regular appeals procedures apply.

• • • • • •

(5) *Technical advice from the National Office*—(i) *Definition and nature of technical advice.* • • •

(*e*) The provisions of this subparagraph apply only to a case under the jurisdiction of a district director, but do not apply to an Employee Plans case under the jurisdiction of a key district director as provided in § 601.201(o) or to an Exempt Organization case under the jurisdiction of a key district director as provided in § 601.201(n). The technical advice provisions applicable to Employee Plans and Exempt Organization cases are set forth in § 601.201(n)(9). The provisions of this subparagraph do not apply to a case under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms. They also do not apply to a case under the jurisdiction of an Appeals office, including a case previously considered by Appeals. The technical advice provisions applicable to a case under the jurisdiction of an Appeals office, other than Employee Plans and Exempt Organizations cases, are set forth in § 601.106(f)(10). A case remains under the jurisdiction of the district director even though an Appeals office has the identical issue under consideration in the case of another taxpayer (not related within the meaning of section 267 of the Code) in an entirely different transaction. Technical advice may not be requested with respect to a taxable period if a prior Appeals disposition of the same taxable period of the same taxpayer's case was based on mutual concessions (ordinarily with a Form 870-AD, Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and of Acceptance of Overassessment). However, technical advice may be requested by a district director on issues previously considered in a prior Appeals disposition, not based on mutual concessions, of the same taxable periods of the same taxpayer with the concurrence of the Appeals office that had the case.

(ii) *Areas in which technical advice may be requested.* • • •

(*b*) District directors are encouraged to request technical advice on any technical or procedural question arising in connection with any case of the type described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable revenue ruling or other precedent issued by the National Office. This request should be made at the earliest possible stage of the examination process.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the district office to determine whether technical advice is to be requested on any issue before that office. However, while the case is under the jurisdiction of the district director, a taxpayer or his/her representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. This request should be made at the earliest possible stage of the examination process. While taxpayers are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a taxpayer may make the request orally. If, after considering the taxpayer's request, the examiner is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the taxpayer. (See subdivision (iv) of this subparagraph for taxpayer's appeal rights where the examiner declines to request technical advice.)

• • • • • •

(c) *District procedure*—(1) *Office examination.* (i) In a correspondence examination the taxpayer is furnished with a report of the examiner's findings by a form letter. The taxpayer is asked to sign and return an agreement if the taxpayer accepts the findings. The letter also provides a detailed explanation of the alternatives available if the taxpayer does not accept the findings, including consideration of the case by an Appeals office, and requests the taxpayer to inform the dis-

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trict director, within the specified period, of the choice of action. An Appeals office conference will be granted to the taxpayer upon request without submission of a written protest.

(ii) If, at the conclusion of an office interview examination, the taxpayer does not agree with the adjustments proposed, the examiner will fully explain the alternatives available which include, if practicable, an immediate interview with a supervisor or an immediate conference with an Appeals Officer. If an immediate interview or Appeals office conference is not practicable, or is not requested by the taxpayer, the examination report will be mailed to the taxpayer under cover of an appropriate transmittal letter. This letter provides a detailed explanation of the alternatives available, including consideration of the case by an Appeals office, and requests the taxpayer to inform the district director, within the specified period, of the choice of action. An Appeals office conference will be granted to the taxpayer upon request without submission of a written protest.

(2) *Field examination.* (i) If, at the conclusion of an examination, the taxpayer does not agree with the adjustments proposed, the examiner will prepare a complete examination report fully explaining all proposed adjustments. Before the report is sent to the taxpayer, the case file will be submitted to the district Review Staff for appropriate review. Following such review, the taxpayer will be sent a copy of the examination report under cover of a transmittal (30-day) letter, providing a detailed explanation of the alternatives available, including consideration of the case by an Appeals office, and requesting the taxpayer to inform the district director, within the specified period, of the choice of action.

(ii) If the total amount of proposed additional tax, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) does not exceed $2,500 for any taxable period, the taxpayer will be granted an Appeals office conference on request. A written protest is not required.

(iii) If the total amount of proposed additional tax, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 for any taxable period, the taxpayer, on request, will be granted an Appeals office conference, provided a written protest is filed setting forth the facts, law, and arguments upon which the taxpayer relies.

(d) *Thirty-day letters and protests.* * * *

(2) *Protests.* No written protest is required to obtain an Appeals office conference in an office examination case. However, in a field examination case, a written protest is required to obtain an Appeals office conference if the total amount of proposed additional tax, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 for any taxable period. Instructions for preparation of protests are sent with the transmittal (30-day) letter.

* * * * *

(h) *Jeopardy assessments.* If the district director believes that the assessment or collection of a tax will be jeopardized by delay, he/she is authorized and required to assess the tax immediately, together with interest and other additional amounts provided by law, notwithstanding the restrictions on assessment or collection of income, estate, gift, or chapter 41, 42, 43, or 44 taxes contained in section 6213(a) of the Code. A jeopardy assessment does not deprive the taxpayer of the right to file a petition with the Tax Court. Collection of a tax in jeopardy may be immediately enforced by the district director upon notice and demand. To stay collection, the taxpayer may file with the district director a bond equal to the amount for which the stay is desired. The taxpayer may request a review in the Appeals office of whether the making of the assessment was reasonable under the circumstances and whether the amount assessed or demanded was appropriate under the circumstances. See section 7429. This request shall be made, in writing, within 30 days after the earlier of—

(1) The day on which the taxpayer is furnished the written statement described in section 7429(a)(1); or

(2) The last day of the period within which this statement is required to be furnished.

An Appeals office conference will be granted as soon as possible and a decision rendered without delay.

* * * * *

PAR. 3. Section 601.106 is amended in the following respects:

1. Paragraph (a)(1) is revised to read as set forth below.

2. Paragraph (b) is amended by deleting the ninth sentence and by deleting the last three sentences.

3. Paragraph (d)(3)(iii) is amended by deleting the second sentence.

4. Paragraph (f)(5) is amended by revising the first sentence to read as set forth below.

5. Paragraph (f)(7) is revised to read as set forth below.

6. A new paragraph (f)(10) is added, reading as set forth below.

7. Paragraph (g)(4) is deleted.

8. Paragraph (i) is deleted.

§ 601.106 Appeals functions.

(a) *General.* (1)(i) There are provided in each region Appeals offices with office facilities within the region. Unless they otherwise specify, taxpayers living outside the United States use the facilities of the Washington, D.C., Appeals Office of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appeals offices authority to represent the regional commissioner in those matters set forth in subdivisions (ii) through (iv) of this subparagraph. If a statutory notice of deficiency was issued by a district director or the Director of International Operations, the Appeals office may waive jurisdiction to the director who issued the statutory notice during the 90-day (or 150-day) period for filing a petition with the Tax Court, except where criminal prosecution has been recommended and not finally disposed of, or the statutory notice includes the ad valorem fraud penalty. After the filing of a petition in the Tax Court, the Appeals office continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appeals offices authority to represent the regional commissioner in his/her exclusive authority to settle (*a*) all cases docketed in the Tax Court and designated for trial at any place within the territory comprising the region, and (*b*) all docketed cases originating in the office of any district director situated within the region, or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in, and his/her books and records are located or can be made available in, the region which includes Washington, D.C.

(ii) Certain officers of the Appeals offices may represent the regional commissioner in his/her exclusive and final authority for the determination of—

(*a*) Federal income, profits, estate (including extensions for payment under section 6161(a)(2)), gift, or chapter 41, 42, 43, or 44 tax liability (whether before or after the issuance of a statutory notice of deficiency);

(*b*) Employment or certain Federal excise tax liability; and

(*c*) Liability for additions to the tax, additional amounts, and assessable

penalties provided under chapter 68 of the Code.

in any case originating in the office of any district director situated in the region, or in any case in which jurisdiction has been transferred to the region. The taxpayer must request Appeals consideration and, in some instances, submit a written protest to the determination of liability made by the district director. No written protest is required in an office examination case. A written protest is required in a field examination case if the total amount of proposed additional tax, proposed over assessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 for any taxable period.

(iii) Sections 6659(a)(1) and 6671(a) provide that additions to the tax, additional amounts, penalties and liabilities (collectively referred to in this subdivision as "penalties") provided by chapter 68 of the Code shall be paid upon notice and demand and shall be assessed and collected in the same manner as taxes. Certain chapter 68 penalties may be appealed after assessment to the Appeals office. This post-assessment appeal procedure applies to all but the following chapter 68 penalties:

(*a*) Penalties that are not subject to a reasonable cause determination (examples are additions to the tax for failure to pay estimated income tax under sections 6654 and 6655);

(*b*) Penalties that are subject to the deficiency procedures of subchapter B of chapter 63 of the Code (because the taxpayer has the right to appeal such penalties, such as those provided under section 6653 (a) and (b), prior to assessment);

(*c*) The 100 percent penalty provided under section 6672 (because the taxpayer has the opportunity to appeal this penalty prior to assessment); and

(*d*) The penalty in case of jeopardy provided under section 6658 (because there is an adequate postassessment appeal).

The appeal may be made before or after payment, but shall be made before the filing of a claim for refund. Technical advice procedures are not applicable to an appeal made under this subdivision.

(iv) The Appeals office considers cases involving the initial or continuing recognition of tax exemption and foundation classification. See § 601.201 (n)(5) and (n)(6). The Appeals office also considers cases involving the initial or continuing determination of employee plan qualification under subchapter D of chapter 1 of the Code. See § 601.201(o)(6). However, the jurisdiction of the Appeals office in these cases is limited as follows:

(*a*) In cases under the jurisdiction of a key district director (or the National Office) which involve an application for, or the revocation or modification of, the recognition of exemption or the determination of qualification, if the determination concerning exemption is made by a National Office ruling, or if National Office technical advice is furnished concerning exemption or qualification, the decision of the National Office is final. The organization/plan has no right of appeal to the Appeals office or any other avenue of administrative appeal. See § 601.201(n)(5)(i), (n)(6)(ii)(*b*), (n)(9)(viii)(*a*), (o)(2)(iii), and (o)(6)(i).

(*b*) In cases already under the jurisdiction of an Appeals office, if the proposed disposition by that office is contrary to a National Office ruling concerning exemption, or to a National Office technical advice concerning exemption or qualification, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in section 521 cases, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.201(n)(5)(iii), (n)(6)(ii)(*d*), (n)(6)(iv), and (o)(6)(iii).

* * * * *

(f) Conference and practice requirements. * * *

(5) *Rule V.* In order to bring an income, profits, estate, gift, or chapter 41, 42, 43, or 44 tax case in prestatutory notice status, an employment or excise tax case, a penalty case, an Employee Plans and Exempt Organization case, a termination of taxable year assessment case, a jeopardy assessment case, or an offer in compromise before the Appeals office, the taxpayer or the taxpayer's representative should first request Appeals consideration and, when required, file with the district office, service center, or Office of International Operations a written protest setting forth specifically the reasons for the refusal to accept the findings. * * *

* * * * *

(7) *Rule VII.* Where the taxpayer has had the benefit of a conference before the Appeals office in the prestatutory notice status, or where the opportunity for such a conference was accorded but not availed of, there will be no conference granted before the Appeals office in the 90-day status after the mailing of the statutory notice of deficiency, in the absence of unusual circumstances.

* * * * *

(10) *Rule X—Technical advice from the National Office—*(i) *Definition and nature of technical advice.* (*a*) As used in this subparagraph, "technical advice" means advice or guidance as to the interpretation and proper application of internal revenue laws, related statutes, and regulations, to a specific set of facts, furnished by the National Office upon request of an Appeals office in connection with the processing and consideration of a nondocketed case. it is furnished as a means of assisting Service personnel in closing cases and establishing and maintaining consistent holdings in the various regions. It does not include memorandum on matters of general technical application furnished to Appeals offices where the issues are not raised in connection with the consideration and handling of a specific taxpayer's case.

(*b*) The provisions of this subparagraph do not apply to a case under the jurisdiction of a district director or the Bureau of Alcohol, Tobacco, and Firearms, to Employee Plans, Exempt Organization, or certain penalty cases being considered by an Appeals office, or to any case previously considered by an Appeals office. The technical advice provisions applicable to cases under the jurisdiction of a district director, other than Employee Plans and Exempt Organization cases, are set forth in § 601.105(b)(5). The technical advice provisions applicable to Employee Plans and Exempt Organization cases are set forth in § 601.201(n)(9). Technical advice may not be requested with respect to a taxable period if a prior Appeals disposition of the same taxable period of the same taxpayer's case was based on mutual concessions (ordinarily with a form 870–AD, Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and of Acceptance of Overassessment). However, technical advice may be requested by a district director on issues previously considered in a prior Appeals disposition, not based on mutual concessions, of the same taxable periods of the same taxpayer with the concurrence of the Appeals office that had the case.

(*c*) The consideration or examination of the facts relating to a request for a determination letter is considered to be in connection with the consideration and handling of a taxpayer's case. Thus, an Appeals office may, under this subparagraph, request technical advice with respect to the consideration of a request for a determination letter. The technical advice provisions applicable to a request for a determination letter in Employee

Plans and Exempt Organization cases are set forth in § 601.201(n)(9).

(*d*) If an Appeals office is of the opinion that a ruling letter previously issued to a taxpayer should be modified or revoked and it requests the National Office to reconsider the ruling, the reference of the matter to the National Office is treated as a request for technical advice. The procedures specified in subdivision (iii) of this subparagraph should be followed in order that the National Office may consider the recommendation. Only the National Office can revoke a ruling letter. Before referral to the National Office, the Appeals office should inform the taxpayer of its opinion that the ruling letter should be revoked. The Appeals office, after development of the facts and consideration of the taxpayer's arguments, will decide whether to recommend revocation of the ruling to the National Office. For procedures relating to a request for a ruling, see § 601.201.

(*e*) The Assistant Commissioner (Technical), acting under a delegation of authority from the Commissioner of Internal Revenue, is exclusively responsible for providing technical advice in any issue involving the establishment of basic principles and rules for the uniform interpretation and application of tax laws in cases under this subparagraph. This authority has been largely redelegated to subordinate officials.

(ii) *Areas in which technical advice may be requested.* (*a*) Appeals offices may request technical advice on any technical or procedural question that develops during the processing and consideration of a case. These procedures are applicable as provided in subdivision (i) of this subparagraph.

(*b*) As provided in § 601.105(b)(5)(ii)(*b*) and (iii)(*a*), requests for technical advice should be made at the earliest possible stage of the examination process. However, if identification of an issue on which technical advice is appropriate is not made until the case is in Appeals, a decision to request such advice (in nondocketed cases) should be made prior to or at the first conference.

(*c*) Subject to the provisions of (*b*) of this subdivision, Appeals Offices are encouraged to request technical advice on any technical or procedural question arising in connection with a case described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable revenue ruling or other precedent issued by the National Office.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the Appeals Office to determine whether technical advice is to be requested on any issue being considered. However, while the case is under the jurisdiction of the Appeals Office, a taxpayer or his/her representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. While taxpayers are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a taxpayer may make the request orally. If, after considering the taxpayer's request, the Appeals Officer is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the taxpayer. (See subdivision (iv) of this subparagraph for taxpayer's appeal rights where the Appeals Officer declines to request technical advice.)

(*b*) When technical advise is to be requested, whether or not upon the request of the taxpayer, the taxpayer will be so advised, except as noted in (*j*) of this subdivision. If the Appeals Office initiates the action, the taxpayer will be furnished a copy of the statement of the pertinent facts and the question or questions proposed for submission to the National Office. The request for advice should be so worded as to avoid possible misunderstanding, in the National Office, of the facts or of the specific point or points at issue.

(*c*) After receipt of the statement of facts and specific questions, the taxpayer will be given 10 calendar days in which to indicate in writing the extent, if any, to which he/she may not be in complete agreement. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office. Every effort should be made to reach agreement as to the facts and specific points at issue. If agreement cannot be reached, the taxpayer may submit, within 10 calendar days after receipt of notice from the Appeals Office, a statement of his/her understanding as to the specific point or points at issue which will be forwarded to the National Office with the request for advice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office.

(*d*) If the taxpayer initiates the action to request advice, and his/her statement of the facts and point or points at issue are not wholly acceptable to the Appeals Office, the taxpayer will be advised in writing as to the areas of disagreement. The taxpayer will be given 10 calendar days after receipt of the written notice to reply to such notice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office. If agreement cannot be reached, both the statements of the taxpayer and the Appeals Office will be forwarded to the National Office.

(*e*) (*1*) In the case of requests for technical advice, the taxpayer must also submit, within the 10-day period referred to in (*c*) and (*d*) of this subdivision, whichever is applicable (relating to agreement by the taxpayer with the statement of facts and points submitted in connection with the request for technical advice), the statement described in (*f*) of this subdivision of proposed deletions pursuant to section 6110(c) of the Code. If the statement is not submitted, the taxpayer will be informed by the Appeals Office that the statement is required. If the Appeals Office does not receive the statement within 10 days after the taxpayer has been informed of the need for the statement, the Appeals Office may decline to submit the request for technical advice. If the Appeals Office decides to request technical advice in a case where the taxpayer has not submitted the statement of proposed deletions, the National Office will make those deletions which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*2*) The requirements included in this subparagraph relating to the submission of statements and other material with respect to proposed deletions to be made from technical advice memoranda before public inspection is permitted to take place do not apply to requests for any document to which section 6104 of the Code applies.

(*f*) In order to assist the Internal Revenue Service in making the deletions required by section 6110(c) of the Code, from the text of technical advice memoranda which are open to public inspection pursuant to section 6110(a) of the Code, there must accompany requests for such technical advice either a statement of the deletions proposed by the taxpayer, or a statement that no information other than names, addresses, and taxpayer identifying numbers need be deleted. Such statements shall be made in a separate document. The statement of proposed deletions shall be accompanied by a copy of all statements of facts and supporting documents which are submitted to the National Office pursuant to (c) or (*d*) of this subdivision, on which shall be indicated, by the use of brackets, the material which the taxpayer indicates should be deleted pursuant to section 6110(c) of the Code. The statement of proposed deletions shall indicate the statutory basis for each proposed deletion. The statement of proposed deletions shall not appear or be referred to anywhere in the request for technical advice. If the taxpayer decides to request additional deletions pursuant to section 6110(c) of the Code prior to the time the National Office replies to the request for technical advice, additional statements may be submitted.

(*g*) If the taxpayer has not already done so, he/she may submit a statement explaining his/her position on the issues, citing precedents which the taxpayer believes will bear on the case. This statement will be forwarded to the National Office with the request for advice. If it is received at a later date, it will be forwarded for association with the case file.

(*h*) At the time the taxpayer is informed that the matter is being referred to the National Office, he/she will also be informed of the right to a conference in the National Office in the event an adverse decision is indicated, and will be asked to indicate whether a conference is desired.

(*i*) Generally, prior to replying to the request for technical advice, the National Office shall inform the taxpayer orally or in writing of the material likely to appear in the technical advice memorandum which the taxpayer proposed be deleted but which the Internal Revenue Service determined should not be deleted. If so informed, the taxpayer may submit within 10 days any further information, arguments, or other material in support of the position that such material be deleted. The Internal Revenue Service will attempt, if feasible, to resolve all disagreements with respect to proposed deletions prior to the time the National Office replies to the request for technical advice. However, in no event shall the taxpayer have the right to a conference with respect to resolution of any disagreements concerning material to be deleted from the text of the technical advice memorandum, but such matters may be considered at any conference otherwise scheduled with respect to the request.

(*j*) The provisions of (*a*) through (*i*) of this subdivision, relating to the referral of issues upon request of the taxpayer, advising taxpayers of the referral of issues, the submission of proposed deletions, and the granting of conferences in the National Office, are not applicable to technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments. However, in such cases, the taxpayer shall be allowed to provide the statement of proposed deletions to the National Office upon the completion of all proceedings with respect to the investigations or assessments, but prior to the date on which the Commissioner mails the notice pursuant to section 6110 (f)(1) of the Code of intention to disclose the technical advice memorandum.

(*k*) Form 4463, Request for Technical Advice, should be used for transmitting requests for technical advice to the National Office.

(iv) *Appeal by taxpayers of determinations not to seek technical advice.* (*a*) If the taxpayer has requested referral of an issue before an Appeals Office to the National Office for technical advice, and after consideration of the request, the Appeals Officer is of the opinion that the circumstances do not warrant such referral, he/she will so advise the taxpayer.

(*b*) The taxpayer may appeal the decision of the Appeals Officer not to request technical advice by submitting to that official, within 10 calendar days after being advised of the decision, a statement of the facts, law, and arguments with respect to the issue, and the reasons why the taxpayer believes the matter should be referred to the National Office for advice. An extension of time must be justified by the taxpayer in writing and approved by the Chief, Appeals Office.

(*c*) The Appeals Officer will submit the statement of the taxpayer to the chief, Appeals Office, accompanied by a statement of the officer's reasons why the issue should not be referred to the National Office. The Chief will determine, on the basis of the statements submitted, whether technical advice will be requested. If the Chief determines that technical advice is not warranted, that official will inform the taxpayer in writing that he/she proposes to deny the request. In the letter to the taxpayer the Chief will (except in unusual situations where such action would be prejudicial to the best interests of the Government) state specifically the reasons for the proposed denial. The taxpayer will be given 15 calendar days after receipt of the letter in which to notify the Chief whether the taxpayer agrees with the proposed denial. The taxpayer may not appeal the decision of the Chief, Appeals Office not to request technical advice from the National Office. However, if the taxpayer does not agree with the proposed denial, all data relating to the issue for which technical advice has been sought, including the taxpayer's written request and statements, will be submitted to the National Office, Attention: Director, Appeals Division, for review. After review in the National Office, the Appeals Office will be notified whether the proposed denial is approved or disapproved.

(*d*) While the matter is being reviewed in the National Office, the Appeals Office will suspend action on the issue (except where the delay would prejudice the Government's interests) until it is notified of the National Office decision. This notification will be made within 30 days after receipt of the data in the National Office. The review will be solely on the basis of the written record and no conference will be held in the National Office.

(v) *Conference in the National Office.* (*a*) If, after a study of the technical advice request, it appears that advice adverse to the taxpayer should be given and a conference has been requested, the taxpayer will be notified of the time and place of the conference. If conferences are being arranged with respect to more than one request for advice involving the same taxpayer, they will be so scheduled as to cause the least inconvenience to the taxpayer. The conference will be arranged by telephone, if possible, and must be held within 21 calendar days after contact has been made. Extensions of time will be granted only if justified in writing by the taxpayer and approved by the appropriate Technical branch chief.

(*b*) A taxpayer is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (*c*) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division (Corporation Tax Division or Individual Tax Division) in the Office of the Assistant Commissioner (Technical), and will usually be attended by a person who has authority to act for the branch chief. In appropriate cases the Appeals Officer may also attend the conference to clarify the facts in the case. If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the taxpayer or the taxpayer's representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A taxpayer has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(*c*) In the process of review of a holding proposed by a branch, it may appear that the final answer will involve a reversal of the branch proposal with a result less favorable to the taxpayer. Or it may appear that an adverse holding proposed by a branch will be approved, but on a new or different issue or on different grounds than those on which the branch decided the case. Under either of these circumstances, the taxpayer or the taxpayer's representative will be invited to another conference. The provisions of this subparagraph limiting the number of conferences to which a taxpayer is entitled will not foreclose inviting a taxpayer to attend further conferences when, in the opinion of National Office personnel, such need arises. All additional conferences of

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this type discussed are held only at the invitation of the Service.

(*d*) It is the responsibility of the taxpayer to furnish to the National Office, within 21 calendar days after the conference, a written record of any additional data, line of reasoning, precedents, etc., that were proposed by the taxpayer and discussed at the conference but were not previously or adequately presented in writing. Extensions of time will be granted only if justified in writing by the taxpayer and approved by the appropriate Technical branch chief. Any additional material and a copy thereof should be addressed to and sent to the National Office which will forward the copy to the appropriate Appeals Office. The Appeals Office will be requested to give the matter prompt attention, will verify the additional facts and data, and will comment on it to the extent deemed appropriate.

(*e*) A taxpayer or the taxpayer's representative desiring to obtain information as to the status of the case may do so by contacting the following offices with respect to matters in the areas of their responsibility:

Telephone numbers (Area Code 202)

Official:

Director, Corporation Tax Division—566-4504 or 566-4505
Director, Individual Tax Division—566-3767 or 566-3788.

(vi) *Preparation of technical advice memorandum by the National Office.* (*a*) Immediately upon receipt in the National Office, the technical employee to whom the case is assigned will analyze the file to ascertain whether it meets the requirements of subdivision (iii) of this subparagraph. If the case is not complete with respect to any requirement in subdivision (iii) (*a*) through (*d*) of this subparagraph, appropriate steps will be taken to complete the file. If any request for technical advice does not comply with the requirements of subdivision (iii)(*e*) of this subparagraph, relating to the statement of proposed deletions, the National Office will make those deletions from the technical advice memorandum which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*b*) If the taxpayer has requested a conference in the National Office, the procedures in subdivision (v) of this subparagraph will be followed.

(*c*) Replies to requests for technical advice will be addressed to the Appeals office and will be drafted in two parts. Each part will identify the taxpayer by name, address, identification number, and year or years involved. The first part (hereafter called the "technical advice memorandum") will contain (*1*) a recitation of the pertinent facts having a bearing on the issue; (*2*) a discussion of the facts, precedents, and reasoning of the National Office; and (*3*) the conclusions of the National Office. The conclusions will give direct answers, whenever possible, to the specific questions of the Appeals office. The discussion of the issues will be in such detail that the Appeals office is apprised of the reasoning underlying the conclusion. There shall accompany the technical advice memorandum a notice, pursuant to section 6110(f)(1) of the Code, of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications purusant to section 6110(d) of the Code) which the Appeals office shall forward to the taxpayer at such time that it furnishes a copy of the technical advice memorandum to the taxpayer pursuant to (*e*) of this subdivision and subdivision (vii)(*b*) of this subparagraph.

(*d*) The second part of the reply will consist of a transmittal memorandum. In the unusual cases it will serve as a vehicle for providing the Appeals office administrative information or other information which, under the nondisclosure statutes, or for other reasons, may not be discussed with the taxpayer.

(*e*) It is the general practice of the Service to furnish a copy of the technical advice memorandum to the taxpayer after it has been adopted by the Appeals office. However, in the case of technical advice memorandums described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments, a copy of the technical advice memorandum shall not be furnished the taxpayer until all proceedings with respect to the investigations or assessments are completed.

(*f*) After receiving the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum, the taxpayer, if desiring to protest the disclosure of certain information in the memorandum, must, within 20 days after the notice is mailed, submit a written statement identifying those deletions not made by the Internal Revenue Service which the taxpayer believes should have been made. The taxpayer shall also submit a copy of the version of the technical advice memorandum proposed to be open to public inspection on which the taxpayer indicates, by the use of brackets, the deletions proposed by the taxpayer but which have not been made by the Internal Revenue Service. Generally, the Internal Revenue Service will not consider the deletion of any material which the taxpayer did not, prior to the time when the National Office sent its reply to the request for technical advice to the Appeals office, propose be deleted. The Internal Revenue Service shall, within 20 days after receipt of the response by the taxpayer to the notice pursuant to section 6110(f)(1) of the Code, mail to the taxpayer its final administrative conclusion regarding the deletions to be made.

(vii) *Action on technical advice in Appeals offices.* (*a*) Unless the Chief, Appeals Office, feels that the conclusions reached by the National Office in a technical advice memorandum should be reconsidered and promptly requests such reconsideration, the Appeals office will proceed to process the taxpayer's case taking into account the conclusions expressed in the technical advice memorandum. The effect of technical advice on the taxpayer's case is set forth in subdivision (viii) of this subparagraph.

(*b*) The Appeals office will furnish the taxpayer a copy of the technical advice memorandum described in subdivision (vi)(*c*) of this subparagraph and the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third-party communications pursuant to section 6110(d) of the Code). The preceding sentence shall not apply to technical advice memorandums involving civil fraud or criminal investigations, or jeopardy or termination assessments, as described in subdivision (iii)(*f*) of this subparagraph (except to the extent provided in subdivision (vi)(*e*) of this subparagraph) or to documents to which section 6104 of the Code applies.

(*c*) In those cases in which the National Office advises the Appeals office that it should not furnish a copy of the technical advice memorandum to the taxpayer, the Appeals office will so inform the taxpayer if he/she requests a copy.

(viii) *Effect of technical advice.* (*a*) A technical advice memorandum represents an expression of the views of the Service as to the application of law, regulations, and precedents to the facts of a specific case, and is issued primarily as a means of assisting Service officials in the closing of the case involved.

(*b*) Except in rare or unusual circumstances, a holding in a technical advice memorandum that is favorable to the taxpayer is applied retroactively. Moreover, since technical advice, as described in subdivision (i) of this subparagraph, is issued only on closed transactions, a holding in a technical advice memorandum that is adverse to the taxpayer is also applied retroactively unless the Assistant Commissioner or Deputy Assisitant Commissioner (Technical) excercises the discretionary authority under section 7805(b) of the Code to limit the retroactive effect of the holding. Likewise, a holding in a technical advice memorandum that modifies or revokes a holding in a prior technical advice memorandum will also be applied retroactively, with one exception. If the new holding is less favorable to the taxpayer, it will generally not be applied to the period in which the taxpayer relied on the prior holding in situations involving continuing transactions of the type described in § 601.201(l)(7) and § 601.201(l)(8).

(*c*) The Appeals office is bound by technical advice favorable to the taxpayer. However, if the technical advice is unfavorable to the taxpayer, the Appeals office may settle the issue in the usual manner under existing authority. For the effect of technical advice in Employee Plans and Exempt Organization cases see § 601.201(n)(9)(viii).

(*d*) In connection with section 446 of the Code, taxpayers may request permission from the Assistant Commissioner (Technical) to change a method of accounting and obtain a 10-year (or less) spread of the resulting adjustments. Such a request should be made prior to or at the first Appeals conference. The Appeals office has authority to allow a change and the resulting spread without referring the case to Technical.

(*e*) Technical advice memorandums often form the basis for revenue rulings. For the description of revenue rulings and the effect thereof, see §§ 601.601(d)(2)(i)(*a*) and 601.601(d)(2)(v).

(*f*) An Appeals office may raise an issue in a taxable period, even though technical advice may have been asked for and furnished with regard to the same or a similar issue in any other taxable period.

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§ 601.108 [Amended]

PAR. 4. Section 601.108(a) is amended by deleting the words "district conference and" from the second sentence.

PAR. 5. Section 601.109 is amended in the following respects:

1. Paragraphs (b) (1) and (3) are revised to read as set forth below.

2. Paragraph (c)(1) is redesignated paragraph (c) and is revised to read as set forth below.

3. Paragraph (c)(2) is deleted.

§ 601.109 Bankruptcy and receivership cases.

* * * * *

(b) *Procedure in office of district director.* (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate, or gift taxes, such assessment is not made as a jeopardy assessment (see paragraph (h) of § 601.105), and the provisions of section 6861 of the Code do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6861(b) will not be mailed to the taxpayer. Nevertheless, Letter 1005 (DO) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession, or other person designated to be in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending. Such letter will state how the deficiency was computed, advise that within 30 days a written protest under penalties of perjury may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and advise that upon request an Appeals office conference will be granted with respect to such deficiency. If, after protest is filed (in triplicate) and an Appeals office conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government require otherwise, Letters 1005 (DO) are issued by the office of the district director.

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(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a conference, an Appeals office conference will be granted. Ordinarily, only one conference will be held, unless it develops that additional information can be furnished which has a material bearing upon the tax liability in which event the conference will be continued to a later date.

(c) *Procedure before the Appeals office.* If an income, estate, or gift tax case is under consideration by an Appeals office (whether before or after issuance of a statutory notice of deficiency) at the time of either: (i) The adjudication of bankruptcy of the taxpayer in any liquidating proceeding; (ii) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act) the approval of a petition of, or against, the taxpayer in any other proceeding under the Bankruptcy Act; or (iii) the appointment of any receiver, then the case will be returned to the district director for assessment (if not previously made), for issuance of the Letter 1005 (DO), and for filing proof of claim in the proceeding. Excise and employment tax cases pending in the Appeals office at such time will likewise be returned to the district director for assessment (if not previously made) and for filing proof of claim in the proceeding. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver. See section 6871(b) of the Code. However, the Tax Court is not deprived of jurisdiction where the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, occurred after the filing of the petition. In such a case, the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

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PAR. 6. Section 601.201 is amended in the following respects:

1. Paragraph (n)(2)(ii) is amended by revising the fifth sentence to read as set forth below.

2. A new paragraph (n)(2)(iv) is added, reading as set forth below.

3. Paragraph (n)(4) is amended by revising the last sentence to read as set forth below.

4. Paragraph (n)(5) is revised to read as set forth below.

5. Paragraph (n)(6)(ii) is revised to read as set forth below.

6. Paragraph (n)(6)(iv) is revised to read as set forth below.

7. Paragraph (n)(6)(vi) is amended by deleting the words "protest and conference" from the fifth sentence.

8. Paragraph (n)(6)(viii) is revised to read as set forth below.

9. Paragraph (n)(7)(v) is revised to read as set forth below.

10. A new paragraph (n)(9) is added, reading as set forth below.

11. Paragraph (o)(1) is amended by revising the last five sentences to read as set forth below.

12. A new paragraph (o)(2)(iii) is added, reading as set forth below.

13. Paragraph (o)(6) is revised to read as set forth below.

14. Paragraph (o)(7) is deleted and paragraphs (o)(8), (o)(9), (o)(10), and (o)(11) are redesignated paragraphs (o)(7), (o)(8), (o)(9), and (o)(10) respectively.

15. New paragraph (o)(7) (formerly paragraph (o)(8)) is revised to read as set forth below.

16. New paragraph (o)(8)(i) (formerly paragraph (o)(9)(i)) is amended by revising the first sentence to read as set forth below.

17. New paragraph (o)(8)(ii) (formerly paragraph (o)(9)(ii)) is amended by

revising the last sentence to read as set forth below.

18. New paragraph (o)(9) (formerly paragraph (o)(10)) is revised to read as set forth below.

19. New paragraph (o)(10) (formerly paragraph (o)(11)) is amended by deleting the phrase "(11)" each time it appears and inserting in its place the phrase "(10)".

20. New paragraph (o)(10)(i) (formerly paragraph (o)(11)(i)) is revised to read as set forth below.

§ 601.201 Rulings and determination letters.

* * * * *

(n) *Organization claiming exemption under section 501 or 521 of the Code.* * * *

(2) *Processing applications and requests for determination of foundation status.* * * *

(ii) * * * If a conference is requested, the conference procedures set forth in subparagraph (9)(v) of this paragraph will be followed. * * *

* * * * *

(iv) If the exemption application or request for foundation status involves an issue which is not covered by published precedent or on which there may be nonuniformity between districts, or if the National Office had issued a previous contrary ruling or technical advice on the issue, the key district director must request technical advice from the National Office. If, during the consideration of its application or request by a key district director, the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the district director to request technical advice from the National Office. The district director shall advise the organization of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable to these cases are set forth in subparagraph (9) of this paragraph. The effect on an organization's appeal rights of technical advice or a National Office ruling issued under this subparagraph are set forth in § 601.106(a)(1)(iv)(*a*) and in subparagraph (5)(i) of this paragraph.

* * * * *

(4) *National Office review of determination letters.* * * * The referral will be treated as a request for technical advice and the procedures of subparagraph (9) of this paragraph will be followed.

(5) *Protest of adverse determination letters.* (i) Upon the issuance of an adverse determination letter, the key district director will advise the organization of its right to protest the determination by requesting Appeals office consideration. However, if the determination was made on the basis of National Office technical advice the organization may not appeal the determination to the Appeals office. See § 601.106(a)(1)(iv)(*a*). To request Appeals consideration, the organization shall submit to the key district director, within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its position. The organization must also state whether it wishes an Appeals office conference. Upon receipt of an organization's request for Appeals consideration, the key district director will, if it maintains its position, forward the request and the case file to the Appeals office.

(ii) Except as provided in subdivisions (iii) and (iv) of this subparagraph, the Appeals office, after considering the organization's protest and any additional information developed, will advise the organization of its decision and issue an appropriate determination letter. Organizations should make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may result in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(iii) If the proposed disposition by the Appeals office is contrary to a National Office technical advice or ruling concerning tax exemption, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.106(a)(1)(iv)(*b*).

(iv) If the case involves an issue that is not covered by published precedent or on which there may be nonuniformity between regions, and on which the National Office has not previously ruled, the Appeals office must request technical advice from the National Office. If, during the consideration of its case by Appeals, the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the organization of its right to request referral of the issue to the National Office for technical advice. If the Appeals office requests technical advice, the decision of the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, the decision of the Assistant Commissioner (Technical), in a technical advice memorandum is final and the Appeals office must dispose of the case in accordance with that decision. See subparagraph (9)(viii)(*a*) of this paragraph.

(6) *Revocation or modification of rulings or determination letters on exemption and foundation status.* * * *

(ii)(*a*) If a key district director concludes as a result of examining an information return, or considering information from any other source, that an exemption ruling or determination letter should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. If the case involves an issue not covered by published precedent or on which there may be nonuniformity between districts, or if the National Office had issued a previous contrary ruling or technical advice on the issue, the district director must seek technical advice from the National Office. If the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the district director to request technical advice from the National Office. The district director shall advise the organization of its right to request referral of the issue to the National Office for technical advice.

(*b*) The key district director will advise the organization of its right to protest the proposed revocation or modification by requesting Appeals office consideration. However, if National Office technical advice was furnished concerning revocation or modification under (*a*) of this subdivision, the decision of the Assistant Commissioner in the technical advice memorandum is final and the organization has no right of apeal to the Appeals office. See § 601.106(a)(1)(iv)(*a*). To request Appeals consideration, the organization must submit to the key district director, within 30 days from the date of the letter, a statement of the facts, law, and arguments in support of its continued exemption. The organization must also state whether it wishes an Appeals office conference. Upon receipt of an organization's request for Appeals consideration, the key district office, will, if it maintains its position, forward the request and the case file to the Appeals office.

(c) Except as provided in (*d*) and (*e*) of this subdivision, the Appeals office, after considering the organization's protest and any additional information developed, will advise the organization of its decision and issue an appropriate determination letter. Organizations should make full presenta-

tion of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may result in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(*d*) If the proposed disposition by the Appeals office is contrary to a National Office technical advice or ruling concerning tax exemption, issued prior to the case, the proposed disposition will be submitted, through the Office of the Regional Director of Appeals, to the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, to the Assistant Commissioner (Technical). The decision of the Assistant Commissioner will be followed by the Appeals office. See § 601.106(a)(1)(iv)(*b*).

(*e*) If the case involves an issue that is not covered by published precedent or on which there may be nonuniformity between regions, and on which the National Office has not previously ruled, the Appeals office must request technical advice from the National Office. If the organization believes that the case involves an issue with respect to which referral for technical advice is appropriate, the organization may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the organization of its right to request referral of the issue to the National Office for technical advice.

* * * * *

(iv) If a key district director concludes that a ruling or determination letter concerning private foundation or operating foundation status should be revoked or modified, the organization will be advised in writing of the proposed adverse action, the reasons therefor, and the proposed new determination of foundation status. The procedures set forth in subdivision (ii) of this subparagraph apply to a proposed revocation or modification under this subdivision. Unless the effective date of revocation or modification of a ruling or determination letter concerning private foundation or operating foundation status is expressly covered by statute or regulations, the effective date generally is the same as the effective date of revocation or modification of exemption rulings or determination letters as provided in subdivision (i) of this subparagraph.

* * * * *

(viii) The provisions of this subparagraph relating to protests, conferences, and the rights of organizations to ask that technical advice be requested before a revocation (or modification) notice is issued are not applicable to matters where delay would be prejudicial to the interests of the Internal Revenue Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the period of limitations, or where immediate action is necessary to protect the interests of the Government).

(7) *Declaratory judgments relating to status and classification of organizations under section 501(c)(3) of the Code.* * * *

(v) An organization will in no event be deemed to have exhausted its administrative remedies prior to the completion of the steps described in subdivision (iv) of this subparagraph and the earlier of:

(*a*) The sending by certified or registered mail of a notice of final determination; or

(*b*) The expiration of the 270-day period described in section 7428(b)(2) of the Code, in a case in which the Service has not issued a notice of final determination and the organization has taken, in a timely manner, all reasonable steps to secure a ruling or determination.

* * * * *

(9) *Technical advice from the National Office*—(i) *Definition and nature of technical advice.* (*a*) As used in this subparagraph, "technical advice" means advice or guidance as to the interpretation and proper application of internal revenue laws, related statutes, and regulations, to a specific set of facts, in Employee Plans and Exempt Organization matters, furnished by the National Office upon request of a key district office or Appeals office in connection with the processing and consideration of a nondocketed case. It is furnished as a means of assisting Service personnel in closing cases and establishing and maintaining consistent holdings. It does not include memorandums on matters of general technical application furnished to key district offices or to Appeals offices where the issues are not raised in connection with the consideration and handling of a specific case.

(*b*) The provisions of this subparagraph only apply to Employee Plans and Exempt Organization cases being considered by a key district director or Appeals office. They do not apply to any other case under the jurisdiction of a district director or Appeals office or to a case under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms. The technical advice provisions applicable to cases under the jurisdiction of a district director, other than Employee Plans and Exempt Organization cases, are set forth in § 601.105(b)(5). The technical advice provisions applicable to cases under the jurisdiction of an Appeals office, other than Employee Plans and Exempt Organization cases are set forth in § 601.106(f)(10).

(*c*) A key district director or an Appeals office may, under this subparagraph, request technical advice with respect to the consideration of a request for a determination letter. If the case involves certain Exempt Organization issues that are not covered by published precedent or on which there may be nonuniformity, requesting technical advice is mandatory rather than discretionary. See subparagraphs (2)(iv) and (5)(iii) of this paragraph.

(*d*) If a key district director is of the opinion that a National Office ruling letter or technical advice previously issued should be modified or revoked and it requests the National Office to reconsider the ruling or technical advice, the reference of the matter to the National Office is treated as a request for technical advice. The procedures specified in subdivision (iii) of this subparagraph should be followed in order that the National Office may consider the recommendation. Only the National Office can revoke a National Office ruling letter or technical advice. Before referral to the National Office, the key district director should inform the plan/organization of its opinion that the ruling letter or technical advice should be revoked. The key district director, after development of the facts and consideration of the arguments, will decide whether to recommend revocation of the ruling or technical advice to the National Office.

(*e*) The Assistant Commissioner (Employee Plans and Exempt Organizations) and, in section 521 cases, the Assistant Commissioner (Technical), acting under a delegation of authority from the Commissioner of Internal Revenue, are exclusively responsible for providing technical advice in any issue involving the establishment of basic principles and rules for the uniform interpretation and application of tax laws in cases under this subparagraph. This authority has been largely redelegated to subordinate officials.

(ii) *Areas in which technical advice may be requested.* (*a*) Key district directors and Appeals offices may request technical advice on any technical or procedural question that develops during the processing and consideration of a case. These procedures are applicable as provided in subdivision (i) of this subparagraph.

(*b*) Key district directors and Appeals offices are encouraged to request technical advice on any technical or procedural question arising in connection with any case described in subdivision (i) of this subparagraph which cannot be resolved on the basis of law, regulations, or a clearly applicable rev-

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enue ruling or other precedent issued by the National Office. However, in Exempt Organization cases concerning qualification for exemption or foundation status, key district directors and Appeals offices must request technical advice on any issue that is not covered by published precedent or on which nonuniformity may exist. Requests for technical advice should be made at the earliest possible stage of the proceedings.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the key district office or the Appeals office to determine whether technical advice is to be requested on any issue before that office. However, while the case is under the jurisdiction of the key district director or the Appeals office, an employee plan/organization or its representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. This request should be made at the earliest possible stage of the proceedings. While plans/organizations are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reason for requesting National Office advice, a plan/organization may make the request orally. If, after considering the plan's/organization's request, the examiner or the Appeals Officer is of the opinion that the circumstances do not warrant referral of the case to the National Office, he/she will so advise the plan/organization. (See subdivision (iv) of this subparagraph for a plan's/organization's appeal rights where the examiner or Appeal Officer declines to request technical advice.)

(*b*) When technical advice is to be requested, whether or not upon the request of the plan/organization, the plan/organization will be so advised, except as noted in (*j*) of this subdivision. If the key district office or the Appeals office initiates the action, the plan/organization will be furnished a copy of the statement of the pertinent facts and the question or questions proposed for submission to the National Office. The request for advice should be so worded as to avoid possible misunderstanding, in the National Office, of the facts or of the specific point or points at issue.

(*c*) After receipt of the statement of facts and specific questions, the plan/organization will be given 10 calendar days in which to indicate in writing the extent, if any, to which it may not be in complete agreement. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division (in the district office) or the Chief, Appeals Office, as the case may be. Every effort should be made to reach agreement as to the facts and specific points at issue. If agreement cannot be reached, the plan/organization may submit, within 10 calendar days after receipt of notice from the key district director or the Appeals office, a statement of its understanding as to the specific point or points at issue which will be forwarded to the National Office with the request for advice. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office.

(*d*) If the plan/organization initiates the action to request advice, and its statement of the facts and point or points at issue are not wholly acceptable to the key district office or the Appeals office, the plan/organization will be advised in writing as to the areas of disagreement. The plan/organization will be given 10 calendar days after receipt of the written notice to reply to such notice. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office. If agreement cannot be reached, both the statements of the plan/organization and the key district office or the Appeals office will be forwarded to the National Office.

(*e*)(*1*) In the case of requests for technical advice subject to the disclosure provisions of section 6110 of the Code, the plan/organization must also submit, within the 10-day period referred to in (*c*) and (*d*) of this subdivision, whichever applicable (relating to agreement by the plan/organization with the statement of facts and points submitted in connection with the request for technical advice) the statement described in (*f*) of this subdivision of proposed deletions pursuant to section 6110(c) of the Code. If the statement is not submitted, the plan/organization will be informed by the key district director or the Appeals office that the statement is required. If the key district director or the Appeals office does not receive the statement within 10 days after the plan/organization has been informed of the need for the statement, the key district director or the Appeals office may decline to submit the request for technical advice. If the key district director or the Appeals office decides to request technical advice in a case where the plan/organization has not submitted the statement of proposed deletions, the National Office will make those deletions which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(*2*) The requirements included in this subparagraph, relating to the submission of statements and other material with respect to proposed deletions to be made from technical advice memoranda before public inspection is permitted to take place, do not apply to requests made by the key district director before November 1, 1976, or requests for any document to which section 6104 of the Code applies.

(*f*) In order to assist the Internal Revenue Service in making the deletions, required by section 6110(c) of the Code, from the text of technical advice memoranda which are open to public inspection pursuant to section 6110(a) of the Code, there must accompany requests for such technical advice either a statement of the deletions proposed by the plan/organization, or a statement that no information other than names, addresses, and identifying numbers need be deleted. Such statements shall be made in a separate document. The statement of proposed deletions shall be accompanied by a copy of all statements of facts and supporting documents which are submitted to the National Office pursuant to (*c*) or (*d*) of this subdivision, on which shall be indicated, by the use of brackets, the material which the plan/organization indicates should be deleted pursuant to section 6110(c) of the Code. The statement of proposed deletions shall indicate the statutory basis for each proposed deletion. The statement of proposed deletions shall not appear or be referred to anywhere in the request for technical advice. If the plan/organization decides to request additional deletions pursuant to section 6110(c) of the Code prior to the time the National Office replies to the request for technical advice, additional statements may be submitted.

(*g*) If the plan/organization has not already done so, it may submit a statement explaining its position on the issues, citing precedents which it believes will bear on the case. This statement will be forwarded to the National Office with the request for advice. If it is received at a later date, it will be forwarded for association with the case file.

(*h*) At the time the plan/organization is informed that the matter is being referred to the National Office, it will also be informed of the right to a conference in the National Office in the event an adverse decision is indicated, and will be asked to indicate whether a conference is desired.

(*i*) Generally, prior to replying to the request for technical advice, the National Office shall inform the plan/organization orally or in writing of the material likely to appear in the technical advice memorandum which the plan/organization proposed be deleted but which the Internal Revenue Service determined should not be deleted. If so informed, the plan/organization may submit within 10 days any further information, arguments, or other material in support of the position that such material be deleted. The Internal Revenue Service will attempt, if feasible, to resolve all disagreements with respect to proposed deletions prior to the time the National Office replies to the request for technical advice. However, in no event shall the plan/organization have the right to a conference with respect to resolution of any disagreements concerning material to be deleted from the text of the technical advice memorandum, but such matters may be considered at any conference otherwise scheduled with respect to the request.

(*j*) The provisions of (*a*) through (*i*) of this subdivision, relating to the referral of issues upon request of the plan/organization, advising plans/organizations of the referral of issues, the submission of proposed deletions, and the granting of conferences in the National Office, are not applicable to technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments. However, in such cases the plan/organization shall be allowed to provide the statement of proposed deletions to the National Office upon the completion of all proceedings with respect to the investigations or assessments, but prior to the date on which the Commissioner mails the notice pursuant to section 6110(f)(1) of the Code of intention to disclose the technical advice memorandum.

(*k*) Form 4463, Request for Technical Advice, should be used for transmitting requests for technical advice to the National Office.

(iv) *Appeal by plans/organizations of determinations not to seek technical advice.* (*a*) If the plan/organization has requested referral of an issue before a key district office or an Appeals office to the National Office for technical advice, and after consideration of the request the examiner or the Appeals Officer is of the opinion that the circumstances do not warrant such referral, he/she will so advise the plan/organization.

(*b*) The plan/organization may appeal the decision of the examiner or the Appeals Officer not to request technical advice by submitting to the relevant official, within 10 calendar days after being advised of the decision, a statement of the facts, law, and arguments with respect to the issue, and the reasons why the plan/organization believes the matter should be referred to the National Office for advice. An extension of time must be justified by the plan/organization in writing and approved by the Chief, Employee Plans and Exempt Organizations Division of the Chief, Appeals Office.

(*c*) The examiner or the Appeals Officer will submit the statement of the plan/organization to the Chief, Employee Plans and Exempt Organizations Division or the Chief, Appeals Office, accompanied by a statement of the official's reasons why the issue should not be referred to the National Office. The Chief will determine, on the basis of the statements submitted, whether technical advice will be requested. If the Chief determines that technical advice is not warranted, that official will inform the plan/organization in writing that he/she proposes to deny the request. In the letter to the plan/organization the Chief will (except in unusual situations where such action would be prejudicial to the best interests of the Government) state specifically the reasons for the proposed denial. The plan/organization will be given 15 calendar days after receipt of the letter in which to notify the Chief whether it agrees with the proposed denial. The plan/organization may not appeal the decision of the Chief, Employee Plans and Exempt Organizations Division, or of the Chief, Appeals Office, not to request technical advice from the National Office. However, if the plan/organization does not agree with the proposed denial, all data relating to the issue for which technical advice has been sought, including the plan's/organization's written request and statements, will be submitted to the National Office, Attention: Director, Exempt Organizations or Employee Plans Division or Actuarial Division or, in a section 521 case, Attention: Director, Corporation Tax Division for review. After review in the National Office, the submitting office will be notified whether the proposed denial is approved or disapproved.

(*d*) While the matter is being reviewed in the National Office, the key district office or the Appeals office will suspend action on the issue (except where the delay would prejudice the Government's interests) until it is notified of the National Office decision. This notification will be made within 30 days after receipt of the data in the National Office. The review will be solely on the basis of the written record and no conference will be held in the National Office.

(v) *Conference in the National Office.* (*a*) If, after a study of the technical advice request, it appears that advice adverse to the plan/organization should be given and a conference has been requested, the plan/organization will be notified of the time and place of the conference. If conferences are being arranged with respect to more than one request for advice involving the same plan/organization, they will be so scheduled as to cause the least inconvenience to the plan/organization. The conference will be arranged by telephone, if possible, and must be held within 21 calendar days after contact has been made. Extensions of time will be granted only if justified in writing by the plan/organization and approved by the appropriate branch chief.

(*b*) A plan/organization is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (*c*) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division in the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) or, in section 521 cases, in the Office of the Assistant Commissioner (Technical), and will usually be attended by a person who has authority to act for the branch chief. In appropriate cases the examiner or the Appeals Officer may also attend the conference to clarify the facts in the case. If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the plan/organization or its representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A plan/organization has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(*c*) In the process of review of a holding proposed by a branch, it may appear that the final answer will involve a reversal of the branch proposal with a result less favorable to the plan/organization. Or it my appear that an adverse holding proposed by a branch will be approved, but on a new or different issue or on different grounds than those on which the branch decided the case. Under either of these circumstances, the plan/organization or its representative will be invited to another conference. The provisions of this subparagraph limiting the number of conferences to which a plan/organization is entitled will not foreclose inviting the plan/organization to attend further conferences when, in the opinion of National Office personnel, such need arises. All additional conferences of this type discussed are held only at the invitation of the Service.

(*d*) It is the responsibility of the plan/organization to furnish to the National Officer; within 21 calendar days after the conference, a written record of any additional data, line of reasoning, precedents, etc., that were

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proposed by the plan/organization and discussed at the conference but were not previously or adequately presented in writing. Extensions of time will be granted only if justified in writing by the plan/organization and approved by the appropriate branch chief. Any additional material and a copy thereof should be addressed to and sent to the National Office which will forward the copy to the appropriate key district director or Appeals office. The key district director or the Appeals office will be requested to give the matter prompt attention, will verify the additional facts and data, and will comment on it to the extent deemed appropriate.

(e) A plan/organization or its representative desiring to obtain information as to the status of its case (other than a section 521 case) may do so by contacting the following offices with respect to matters in the areas of their responsibility:

OFFICIAL TELEPHONE NUMBERS (AREA CODE 202)

Chief, Employee Plans Technical Branch, 566-3871.
Chief, Exempt Organizations Technical Branch, 566-3856 or 566-3593.
Director, Actuarial Division, 566-4311.

An organization or its representative desiring to obtain information as to the status of its section 521 case may do so by contacting the Director, Corporation Tax Division (202-566-4504 or 566-4505).

(vi) *Preparation of technical advice memorandum by the National Office.* (a) Immediately upon receipt in the National Office, the employee to whom the case is assigned will analyze the file to ascertain whether it meets the requirements of subdivision (iii) of this subparagraph. If the case is not complete with respect to any requirement in subdivision (iii) (a) through (d) of this subparagraph, appropriate steps will be taken to complete the file. If any request for technical advice does not comply with the requirements of subdivision (iii)(e) of this subparagraph, if applicable, relating to the statement of proposed deletions, the National Office will make those deletions from the technical advice memorandum which in the judgment of the Commissioner are required by section 6110(c) of the Code.

(b) If the plan/organization has requested a conference in the National Office, the procedures in subdivision (v) of this subparagraph will be followed.

(c) Replies to requests for technical advice will be addressed to the key district director or to the Appeals office and will be drafted in two parts. Each part will identify the plan/organization by name, address, identification number, and year or years involved. The first part (hereafter called the "technical advice memorandum") will contain (1) a recitation of the pertinent facts having a bearing on the issue; (2) a discussion of the facts, precedents, and reasoning of the National Office; and (3) the conclusions of the National Office. The conclusions will give direct answers, whenever possible, to the specific questions of the key district director or the Appeals office. The discussion of the issues will be in such detail that the key district director or the Appeals office is apprised of the reasoning underlying the conclusion. There shall accompany the technical advice memorandum, where applicable, a notice, pursuant to section 6110(f)(1) of the Code, of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110 (d) of the Code) which the key district director or the Appeals office will forward to the plan/organization at such time that it furnishes a copy of the technical advice memorandum to the plan/organization pursuant to (e) of this subdivision and subdivision (vii)(b) of this subparagraph.

(d) The second part of the reply will consist of a transmittal memorandum. In the unusual cases it will serve as a vehicle for providing the key district office or Appeals office administrative information or other information which, under the nondisclosure statutes, or for other reasons, may not be discussed with the plan/organization.

(e) It is the general practice of the Service to furnish a copy of the technical advice memorandum to the plan/organization after it has been adopted by the key district director or the Appeals office. However, in the case of technical advice memoranda described in section 6110(g)(5)(A) of the Code, relating to cases involving criminal or civil fraud investigations and jeopardy or termination assessments, a copy of the technical advice memorandum shall not be furnished the plan/organization until all proceedings with respect to the investigations or assessments are completed.

(f) After receiving the notice, pursuant to section 6110 (f)(1) of the Code, of intention to disclose the technical advice memorandum (if applicable), the plan/organization, if desiring to protest the disclosure of certain information in the memorandum, must, within 20 days after the notice is mailed, submit a written statement identifying those deletions not made by the Internal Revenue Service which the plan/organization believes should have been made. The plan/organization shall also submit a copy of the version of the technical advice memorandum proposed to be open to public inspection on which it indicates, by the use of brackets, the deletions proposed by the plan/organization but which have not been made by the Internal Revenue Service. Generally, the Internal Revenue Service will not consider the deletion of any material which the plan/organization did not, prior to the time when the National Office sent its reply to the request for technical advice to the key district director or the Appeals office, propose be deleted. The Internal Revenue Service shall, within 20 days after receipt of the response by the plan/organization to the notice pursuant to section 6110(f)(1) of the Code (if applicable), mail to the plan/organization its final administrative conclusion regarding the deletions to be made.

(vii) *Action on technical advice in key district offices and in Appeals offices.* (a) Unless the key district director or the Chief, Appeals office, feels that the conclusions reached by the National Office in a technical advice memorandum should be reconsidered and promptly requests such reconsideration, the key district office or the Appeals office will proceed to process the case on the basis of the conclusions expressed in the technical advice memorandum. The effect of technical advice on the plan's/organization's case once the technical advice memorandum is adopted is set forth in subdivision (viii) of this subparagraph.

(b) The key district director or the Appeals office will furnish the plan/organization a copy of the technical advice memorandum described in subdivision (vi)(c) of this subparagraph and the notice pursuant to section 6110(f)(1) of the Code (if applicable) of intention to disclose the technical advice memorandum (including a copy of the version proposed to be open to public inspection and notations of third party communications pursuant to section 6110(d) of the Code). The preceding sentence shall not apply to technical advice memoranda involving civil fraud or criminal investigations, or jeopardy or termination assessments, as described in subdivision (iii)(f) of this subparagraph (except to the extent provided in subdivision (vi)(e) of this subparagraph) or to documents to which section 6104 of the Code applies.

(c) In those cases in which the National Office advises the key district director or the Appeals office that it should not furnish a copy of the technical advice memorandum to the plan/organization, the key district director or the Appeals office will so inform the plan/organization if it requests a copy.

(viii) *Effect of technical advice.* (a) A technical advice memorandum represents an expression of the views of the Service as to the application of law, regulations, and precedents to the

facts of a specific case, and is issued primarily as a means of assisting Service officials in the examination and closing of the case involved. In cases under this subparagraph concerning a plan's/organization's qualification or an organization's status, the conclusions expressed in a technical advice memorandum are final and will be followed by the key district office or the Appeals office.

(b) Unless otherwise stated, a holding in a technical advice memorandum will be applied retroactively. Moreover, where the plan/organization had previously been issued a favorable ruling or determination letter (whether or not it was based on a previous technical advice memorandum) concerning that transaction, its purpose, or method of operation, the holding in a technical advice memorandum that is adverse to the plan/organization is also applied retroactively unless the Assistant Commissioner or Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) or, in a section 521 case, the Assistant Commissioner or Deputy Assistant Commissioner (Technical) exercises the discretionary authority under section 7805(b) of the Code to limit the retroactive effect of the holding as illustrated, in the case of rulings, in paragraph (l)(5) of this section.

(c) Technical advice memoranda often form the basis for revenue rulings. For the description of revenue rulings and the effect thereof, see §§ 601.601 (d)(2)(i)(a) and 601.601 (d)(2)(v).

(d) A key district director or an Appeals office may raise an issue in a taxable period, even though technical advice may have been asked for and furnished with regard to the same or a similar issue in any other taxable period. However, if the proposal by the key district director or the Appeals office is contrary to a prior technical advice or ruling issued to the same plan/organization, the proposal must be submitted to the National Office. See § 601.106(a)(1)(iv)(b) and subdivision (i)(d) of this subparagraph.

(o) *Employees' trusts or plans*—(1) *In general.* • • • Paragraph (o)(6) describes the administrative appeal rights available to applicants. Paragraph (o)(7) provides for the issuance of notice of final determination. Paragraph (o)(8) describes the documents which will make up the administrative record. Paragraph (o)(9) describes the notice of final determination. Paragraph (o)(10) sets forth the actions that will be necessary on the part of applicants, interested parties, and the Pension Benefit Guaranty Corporation in order for each to exhaust the administrative remedies within the meaning of section 7476(b)(3) of the Code.

(2) *Determination letters.* • • •

(iii) If, during the consideration of a case described in paragraph (o)(2)(i) of this section by a key district director, the applicant believes that the case involves an issue with respect to which referral for technical advice is appropriate, the applicant may ask the district director to request technical advice from the National Office. The district director shall advise the applicant of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable in these cases are set forth in paragraph (n)(9) of this section. If technical advice is issued, the decision of the National Office is final and the applicant may not thereafter appeal the issue to the Appeals office. See § 601.106(a)(1)(iv)(a) and paragraph (o)(6) of this section.

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(6) *Reference of matters to the Appeals office.* (i) Where issues arise in a district director's office on matters within the contemplation of paragraph (o)(2)(i) of this section, and the key district director issues a notice of proposed determination which is adverse to the applicant, the applicant may appeal the proposed determination to the Appeals office. However, the applicant may not appeal a determination that is based on a National Office technical advice. See § 601.106(a)(1)(iv)(a) and paragraph (o)(2)(iii) of this section. The applicant shall notify the key district director that it intends to request Appeals office consideration by submitting the request, in writing, to the key district director within 30 days from issuance of the notice of proposed determination. The key district director will forward the request and the administrative record to the Appeals office and will so notify the applicant in writing. A failure by the applicant to request Appeals office consideration will constitute a failure to exhaust available administrative remedies as required by section 7476(b)(3) and will thus preclude the applicant from seeking a declaratory judgment as provided under section 7476. (See paragraph (o)(10)(i)(c) of this section.)

(ii) The request for Appeals office consideration must show the following:

(a) Date of application for determination letter;

(b) Name and address of the applicant and the name and address of the representative, if any, who has been authorized to represent the applicant as provided in paragraph (c)(6) of this section;

(c) The key district office in which the case is pending;

(d) Type of plan (pension, annuity, profit-sharing, stock bonus, bond purchase, and foreign situs trusts), and type of action involved (initial qualification, amendment, curtailment, or termination);

(e) Date of filing this request with the key district director and the date and symbols of the letter referred to in paragraph (o)(6)(i) of this section;

(f) A complete statement of the issues and a presentation of the arguments in support of the applicant's position; and

(g) Whether a conference is desired.

(iii) After receipt of the administrative record in the Appeals office, the applicant will be afforded the opportunity for a conference, if a conference was requested. After full consideration of the entire administrative record, the Appeals office will notify the applicant in writing of the proposed decision and the reasons therefor and will issue a notice of final determination in accordance with the decision. However, if the proposed disposition by the Appeals office is contrary to a National Office technical advice concerning qualification, issued prior to the case, the proposed disposition will be submitted to the Assistant Commissioner (Employee Plans and Exempt Organizations) and the decision of that official will be followed by the Appeals office. See § 601.106(a)(1)(iv)(b). Additionally, if the applicant believes that the case involves an issue with respect to which referral for technical advice is appropriate, the applicant may ask the Appeals office to request technical advice from the National Office. The Appeals office shall advise the applicant of its right to request referral of the issue to the National Office for technical advice. The technical advice provisions applicable to these cases are set forth in paragraph (n)(9) of this section. If technical advice is issued, the decision of the National Office will be followed by the Appeals office. See paragraph (n)(9)(viii)(a) of this section.

(iv) Applicants are advised to make full presentation of the facts, circumstances, and arguments at the initial level of consideration, since submission of additional facts, circumstances, and arguments at the Appeals office may result in suspension of Appeals procedures and referral of the case back to the key district for additional consideration.

(7) *Issuance of the notice of final determination.* The key district director or Appeals office will send notice of the final determination to the applicant. The key district director will send notice of the final determination to the interested parties who have previously submitted comments on the application to the Internal Revenue Service pursuant to paragraph

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(o)(5)(i) (*a*) or (*c*) of this section (or to the persons designated by them to receive such notice), to the Department of Labor in the case of a comment submitted by that department upon the request of interested parties or the Pension Benefit Guaranty Corporation pursuant to paragraph (o)(5)(i)(*b*) of this section, and to the Pension Benefit Guaranty Corporation if it has filed a comment pursuant to paragraph (o)(5)(i)(*a*) of this section.

(8) *Administrative record.* (i) In the case of a request for an advance determination in respect of a retirement plan, the determination of the district director or Appeals office on the qualification or nonqualification of the retirement plan shall be based solely on the facts contained in the administrative record. • • •

(ii) • • • Any oral representation or modification of the facts as represented or alleged in the application for determination or in a comment filed by an interested party, which is not reduced to writing and submitted to the Service shall not become a part of the administrative record and shall not be taken into account in the determination of the qualified status of the retirement plan by the district director or Appeals office.

(9) *Notice of final determination.* For purposes of this paragraph (o), the notice of final determination shall be—

(i) In the case of a final determination which is favorable to the applicant, the letter issued by the key district director or Appeals office (whether or not by certified or registered mail) which states that the applicant's plan satisfies the qualification requirements of the Internal Revenue Code.

(ii) In the case of a final determination which is adverse to the applicant, the letter issued by certified or registered mail by the key district director or Appeals office, subsequent to a letter of proposed determination, stating that the applicant's plan fails to satisfy the qualification requirements of the Internal Revenue Code.

(10) *Exhaustion of administrative remedies.* • • •

(i) The administrative remedies of an applicant with respect to any matter relating to the qualification of a plan are:

(*a*) Filing a completed application with the appropriate district director pursuant to paragraphs (o)(3) (iii) through (xii) of this section;

(*b*) Compliance with the requirements pertaining to notice to interested parties as set forth in paragraphs (o)(3)(xiv) through (o)(3)(xxi) of this section; and

(c) An appeal to the Appeals office pursuant to paragraph (o)(6) of this section, in the event of a notice of proposed adverse determination from the district director.

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PAR. 7. Section 601.203 is amended by revising paragraph (d) to read as follows:

§ 601.203 Offers in compromise.

• • • • • •

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a meeting in the office which would have jurisdiction over the offer to explore the possibilities of compromising unpaid tax liability. After all investigations have been made, the taxpayer may also request a meeting in the office having jurisdiction of the offer to determine the amount which may be accepted as a compromise. If agreement is not reached at such meeting and the district director has processing jurisdiction over the offer, the taxpayer will be informed that the taxpayer may request consideration of the case by an Appeals office. The request may be in writing or oral. If the tax, penalty, and assessed (but not accrued) interest sought to be compromised exceeds $2,500 for any return, taxable year or taxable period, a written protest is required. Taxpayers and their representatives are required to comply with the applicable conference and practice requirements. See subpart E of this part.

§ 601.403 [Amended]

PAR. 8. Section 601.403(c)(2) is amended by deleting the words "district conference," from the sixth sentence.

¶ These amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. 301 and 5 U.S.C. 552.

[FR Doc. 78-27323 Filed 9-25-78; 4:02 p.m.]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-069]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Menominee River, Wis.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Menominee, Mich., the Coast Guard is revising the regulations for the Ogden-First Street drawbridge across the Menominee River, mile 0.38, Marinette, Wis., to require the draw to open on signal from May 1 through October 31 from 11 p.m. to 7 a.m., if at least 2 hours notice is given. This change is being made because of limited requests for openings of the draw This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

EFFECTIVE DATE: This amendment is effective on October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On April 22, 1976, the Coast Guard published a proposed rule (41 FR 16826) concerning this amendment. The Commander, Ninth Coast Guard District also published these proposals as a Public Notice dated May 6, 1976. Interested persons were given until May 25, 1976 to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

No comments were received in response to the FEDERAL REGISTER request or the public notice issued by the Commander (oan), Ninth Coast Guard District. During the past 2 years, regulations, identical to this rule, were in effect for limited periods. The regulations initially caused some difficulty due to an inadequate radiotelephone system for requesting bridge openings. The city of Menominee has installed a more efficent system and has been operating it under the proposed regulations with no complaints.

In consideration of the foregoing, part 117 of title 33 of the Code of Federal Regulations is amended by revising § 117.644a(a) to read as follows:

§ 117.644a Ogden-First Street Bridge, Menominee River, Wis.

(a) The draw shall open on signal:

(1) From May 1 through October 31 from 7 a.m. to 11 p.m.

(2) From May 1 through October 31 from 11 p.m. to 7 a.m., if at least 2 hours notice is given.

(3) From November 1 through April 30 if at least 12 hours notice is given.

• • • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 21, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-27358 Filed 9-27-78; 8:45 am]

[4910-14]

[CGD 78-018]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Oklawaha River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is changing the regulations governing the operation of four drawbridges across the Oklawaha River, Marion County, Fla., to require at least 3 hours notice at all times. This change is being made because of very limited requests for openings of the draws. This action will relieve the bridge owners of the burden of having a person constantly available to open the draws while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On March 2, 1978, the Coast Guard published a proposed rule (43 FR 8560) concerning this amendment. The Commander, Seventh Coast Guard District also published these proposals as a public notice dated March 3, 1978. Interested persons were given until April 3, 1978, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

One comment was received which stated that the 3-hour notice was too restrictive. When this commenter was requested to state what, in his opinion, was reasonable, no response was received. In view of the relatively few requests for the openings of the draws of these bridges, the Coast Guard feels that the 3-hour notice is reasonable at this time.

In consideration of the foregoing, part 117 of title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(h)(25-a) immediately after § 117.245(h)(25) and by deleting § 117.434 as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

• • • • • •

(h) • • •

(25-a) Oklawaha River, Marion County, Fla. The draws of the bridges at Sharpes Ferry, Moss Bluff, Starkes Ferry, and Muclan Farms shall open on signal if at least 3 hours notice is given.

• • • • • •

§ 117.434 [Deleted]

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 21, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-27359 Filed 9-27-78; 8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-3]

PART 201—GENERAL PROVISIONS

Compulsory License for Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Amendment of interim regulations and notice of hearing.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress (1) is adopting amendments to § 201.18 and § 201.19 of its regulations, as adopted (on an interim basis) on January 1, 1978; and (2) will hold a public hearing to consider comments on the interim regulations as amended. These regulations were issued to implement section 115 of the act for General Revision of the Copyright Law. That section establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. The effect of the interim regulations, as amended, is to establish requirements governing the content and service of certain notices and statements of account to be filed by persons exercising the compulsory license.

DATES: The interim regulations, as amended, are effective on October 30, 1978.

The hearing will be held on November 28 and 29, 1978, commencing at 9:30 a.m. on November 28, 1978. Please note: Specific dates for requests to present testimony and special rules of procedure for the hearing are set forth later in this notice.

ADDRESSES: Requests to present testimony and to cross-examine, and copies of written statements, should be addressed, if by hand, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, Arlington, Va.; or, if by mail, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

The hearing will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Section 115 of 17 U.S.C. provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

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Paragraph (b)(1) of section 115 provides that a condition of the compulsory license for making and distributing phonorecords is the service or filing of a notice of intention:

(b) *Notice of intention to obtain compulsory license.* (1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content and manner of service, with requirements that the Register of Copyrights shall prescribe by regulations.

Paragraph (c) of section 115 deals with the statutory royalties to be paid to copyright owners by persons exercising the compulsory license; it provides in relevant part:

(2) • • • the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

On April 26 and 27, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), we held a public hearing to elicit information relevant to the formulation of regulations under this section. After considering the testimony given at the hearing and in supplemental statements, on December 29, 1977 (42 FR 64889), we issued interim regulations. Interested parties were given until February 10, 1978, to comment on the interim regulations. A total of six original and reply comments (all from the Recording Industry Association of America, Inc. [RIAA], the National Music Publishers Association, Inc. [NMPA], and the Harry Fox Agency, Inc. ["Fox"]) were received in response to the interim regulations. However, we deferred taking final action on the regulations to permit their full consideration by a committee of the American Institute of Certified Public Accountants ("AICPA").[1] Following a meeting of the AICPA committee on April 24, 1978, on June 20, 1978, we received a "Petition to Reopen" this proceeding from RIAA. This petition was opposed in a statement filed on June 27, 1978, by NMPA and Fox. A "Reply" to the statement of opposition was filed by the RIAA on July 6, 1978, and supplemented on July 13, 1978. Additional arguments were filed by NMPA and Fox on July 24, 1978, and by RIAA on July 27, 1978.

The documents filed since June 20, 1978, in this proceeding have been directed to those parts of the interim regulations dealing with the application of conventional accounting principles to the distribution and return of product in the recording industry. We have carefully analyzed the relevant testimony and comments of the parties on this issue and have been assisted in this area by an independent accounting consultant. These issues involve the operation of specialized accounting rules falling outside the normal competence of the Copyright Office, and we believe it desirable to have these questions fully explored in a public forum. We have therefore decided to proceed as follows:

1. By this Notice, we are immediately adopting certain amendments to the interim regulations. These amendments are based upon our consideration of all comments filed in response to our December 29th Notice, and are discussed below.

2. We will hold a public hearing, on November 28 and 29, 1978, to take testimony on the interim regulations as amended.

Members of the public desiring to testify should submit written requests to present testimony before October 20, 1978, to the address given under "ADDRESSES" above. The request should clearly identify the individual or entity requesting to testify (the "initial witness") and the amount of time desired.

A list of initial witnesses will be available through the General Counsel of the Copyright Office, at the address and phone number given under "FURTHER INFORMATION, CONTACT," above. Persons desiring to cross-examine witnesses shall submit written requests to do so, naming the initial witness or witnesses to be cross-examined, to the Copyright Office at the address given above no later than November 9, 1978. A list of persons whose requests to cross-examine have been granted by the Copyright Office (cross-examining witnesses") will also be available through the General Counsel. A particular person may be an "initial witness" and also a "cross-examining witness" at different points in the hearing.

All initial witnesses are requested to provide 10 copies of a written statement of their testimony to the address given above by November 24, 1978. The record of the proceedings will be kept open until December 29, 1978, for receipt of written statements from any interested person, including supplemental statements from initial and cross-examining witnesses.

In order to provide for the orderly conduct of the hearing, the dates set forth above will be strictly adhered to.

Rules for Conduct of Hearing

Because of the particular factors related to this proceeding and indicated above, we have decided that it will be helpful to adopt special rules, permitting cross-examination, for the November 28-29, 1978, hearing. The rules are as follows:

1. The hearing will be conducted by a Copyright Office Hearing Panel consisting of officials of the Copyright Office and an independent accounting consultant to the Office. The Chair of the Hearing will be the Register of Copyrights or a member of the Hearing Panel designated by her.

2. The Panel will hear from both "initial witnesses" (persons who asked to present testimony) and "cross-examining witnesses" (persons whose requests to cross-examine particular initial witnesses have been granted by the Copyright Office). Both types of witnesses may be accompanied by counsel and advisers and they may participate in the testimony, questions, and answers, if first recognized and permitted to do so by the Chair. A member of the Panel may, with the permission of the Chair, question any witness at any point in the proceedings.

3. The Chair will have sole discretion to determine the scope, duration, and relevance of all original testimony, cross-examination, and additional testimony, and may at any time direct a particular witness to present any further remarks in writing rather than orally.

4. The Chair will establish and announce the order of appearance of all initial witnesses, and the order in which cross-examining witnesses may question a particular initial witness. For each initial witness, the Chair will also establish and announce approximate times allotted for initial testimony, cross-examination, additional testimony, and questions by the Hearing Panel. These times may be varied at the discretion of the Chair.

5. Each initial witness will first present an oral review of his or her written statement. The statement, and the oral review of it, may cover any matter raised by the interim regulations as amended, but witnesses are strongly urged to devote the major portion of their testimony to the following: (a) the definition of "permanently parted with possession" in § 201.19(a)(4)(ii), and particularly the use of "generally accepted accounting principles" and the example given later in this Notice; and (b) the form of certification of annual statements of account set forth in § 201.19(c)(5)(ii).

6. Only those persons who have been granted permission by the Copyright Office to cross-examine an initial witness (or their counsel or advisers as authorized by the Chair) shall be permitted to participate in cross-examination. The order of appearance of two or more cross-examining witnesses shall be strictly regulated by the Chair and, once a cross-examining witness has concluded cross-examination of a particular initial witness, that cross-examination may not be reopened except under exceptional circumstances and with the express permission of the Chair. No cross-examining witness will be permitted to interject questions or comments during another cross-examining witness' appearance, and cross-questioning or other dialog among cross-examining witnesses will not be permitted at any time. During cross-examination an initial witness will not be permitted to question a cross-examining witness. However, any witness who has the floor may request the Chair to direct a particular question to any other witness, and it is within the discretion of the Chair to do so at a time it considers appropriate.

7. The questions asked during cross-examination shall be germane to matters raised in the initial witness' written statement, oral statement, or both, and the Chair may, in its discretion rule out any question as irrelevant. An initial witness (or accompanying counsel or advisers) may object to answering any question on the grounds of irrelevancy, and the Chair shall rule on any such objection. However, in no case will an initial witness be compelled to answer any question to which that witness objects for any reason.

8. After cross-examination, the initial witness will be permitted to offer additional testimony germane to any of the matters raised during cross-examination. This additional testimony may consist of a direct statement, or it may consist of answers to questions posed by the initial witness' counsel or advisers.

9. At the conclusion of the initial witness's additional testimony, if any, the Copyright Office Hearing Panel will question the initial witness. No further cross-examination of that initial witness will be permitted during the hearing. In written supplemental statements filed after the hearing, cross-examining witnesses may direct further questions to inital witnesses, but it shall be entirely optional with such initial witness whether or how to answer any such questions.

Discussion of Comment Letters and Amendments

A. *Amendments.* The following amendments have been made to the interim regulations:

1. Following a suggestion by Fox, we have amended § 201.18(c)(1)(iv) to require that a Notice of Intention include a statement of "the fiscal year of the person or entity intending to obtain the compulsory license". To avoid confusion, we have also provided that if the "fiscal year is a calendar year, the Notice shall so state".

2. We have amended §§ 201.18(c)(a)(iii)(C) and 201.19(c)(3)(iii)(C) to require that Notices of Intention and Annual Statements of Account filed by noncorporate compulsory licensees identify any "entity or individual" (instead of "any individuals") owning a specified interest in the licensee. This change, which follows a suggestion by Fox, was made to take into account the possibility that a compulsory license might be a joint venture or partnership including one or more corporate members. We have also required that additional ownership information concerning the corporation be provided in these cases. This is consistent with the general policy we have adopted, in other sections of these regulations, of requiring full disclosure of ownership interests in the case of corporations (see §§ 201.18(c)(1)(iii) (A) and (B) and 201.19(c)(3)(iii) (A) and (B)).

3. As issued, the interim regulations required that Notices of Intention and Monthly Statements of Account identify "the names of the principal recording artists" whose performances are fixed on phonorecords made under the compulsory license. RIAA argued that it would be unnecessarily burdensome to require the name of each of the individual recording artists engaged in a "group" performance. We agree, and have amended § 201.18(c)(1)(viii) (formerly (vii)), § 201.19(b)(v)(C) (formerly (B)), and § 201.19(c)(3)(vi)(G) to require the name either of the principal recording artist or of the principal recording group.

4. Fox raised the possibility that, under the statute and the interim regulations, a Notice of Intention sent by registered or certified mail to the last address for the copyright owner shown by Copyright Office records might be returned if the owner was no longer located at that address. Fox urged that in these cases, as in the case where the copyright owner's address is not on file with the Copyright Office, the compulsory licensee should be "required" to file the Notice in the Copyright Office. We agree with this suggestion; in these cases the copyright owner's address on Copyright Office records is not "an address at which notice can be served" within the meaning of 17 U.S.C. 115(b)(1). We have amended § 201.18(c) by adding a new paragraph (3) accordingly. We have also extended this provision to situations where the copyright owner refuses to accept delivery of a Notice served by registered or certified mail.

The comments on this issue did not take into account the possible effect of a wrong address (or refusal to accept delivery) on the compulsory licensee's statutory obligations to serve the Notice "before or within 30 days after making" phonorecords and before distributing them. 17 U.S.C. 115(b)(1). In order to protect a compulsory licensee in these cases, our amendment provides that if the Notice is filed with a statement of mailing and return, and evidence of proper mailing, "the Copyright Office will specially mark its records to consider the date the original Notice was mailed • • • as the date of filing."[2]

Although we believe that it would be permissible to impose a filing fee in these cases (since the satute imposes such a fee where there is *no* address in Copyright Office records), we have decided not to do so—the compulsory licensee will have already expended money in using registered or certified mail, and the necessity of later filing in the Copyright Office is caused by the copyright owner's failure to keep delivery or maintain accurate Copyright Office records of its address.

5. Section 201.19(a)(4) of the interim regulations defined "permanently parted with possession" of a phonorecord made under the compulsory license as occurring 1 year from the date on which the compulsory licensee actually parted with possession, or at the time when a sale of the phonorecord is "recognized" by the compulsory licensee, whichever occurs first. The compulsory licensee was considered to "recognize" a sale when it would be recognized in accordance with "generally accepted accounting

[1] Certain principles "as expressed by the American Institute of Certified Public Accountants" are referred to in § 201.1(a)(4)(ii) of the regulations.

[2] Under 17 U.S.C. 115(b)(1), it is not entirely clear whether the filing of a Notice of Intention in the Copyright Office must (as in the case of serving a Notice on the copyright owner) be accomplished within the period mentioned. Our amendment is not intended to resolve this question one way or the other.

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principles" or "applicable rules, regulations, and practices of the Internal Revenue Service", whichever would cause the sale to be recognized first. RIAA argued that the incorporation of Internal Revenue Service rules would virtually always result in royalties being finally payable immediately upon shipment of each phonorecord, and that this would be inconsistent with Congress intent that our regulations recognize the practice of unsold phonorecords being returned to the compulsory licensee. Upon further consideration of the applicable tax law and cases, we agree with RIAA. We have therefore amended § 201.19(a)(4)(ii) to eliminate the reference to IRS rules, regulations, and practices.

6. Section 201.19(a)(5) of the regulations makes special adjustments in the definition of "permanently parted with possession" in the case of compulsory licensees who have had a judgment or the like entered against them for failure to pay mechanical royalties. In the interim regulations, paragraph (ii) of this section applied the special rule to corporate compulsory licensees when the corporation's directors or officers, or the owner of 25 percent of the corporation's securities, had been subject to such a judgment; however, under paragraph (i) this did not apply to corporations registered with the Securities and Exchange Commission. Fox argued that although SEC-registered corporations might be treated specially for *identification* purposes under §§ 201.18(c)(1)(iii) and 201.19(c)(3)(iii), there was no real reason to exempt them from the special rules regarding prior judgments against officers, etc. We agree with this point and have amended § 201.19(a)(5) to apply to all corporations.

7. Under the interim regulations, Monthly Statements of Account were not required to identify the number of phonorecords voluntarily released, but not yet permanently distributed, during the month. Although Fox acknowledged that this information could be obtained from the Annual Statement of Account, it suggested that it would be helpful to copyright owners to have this information on a more current basis. Since this does not appear to impose any undue burden on compulsory licensees, we have revised § 201.19(b)(2)(v) to require that information. Similarly, we have revised § 201.19(b)(5) to require a Monthly Statement of Account for any month in which phonorecords are voluntarily released.

8. Fox raised the issue of the rules to be followed regarding the service of statements of account and royalty fees where the compulsory licensee does not know the address of the copyright owner,[3] or where the statement and fee are served by registered or certified mail but are returned to the sender. Fox urged that compulsory licensees be required to file the statement of account in the Copyright Office and deposit the royalty fee in the Copyright Office for the benefit of the copyright owner in these cases. RIAA did not object "in principle" to filing the statement in the Copyright Office (if no filing fee were required), but strongly opposed depositing the royalty fee with the Copyright Office.

We have concluded that it would be appropriate to open the records of the Copyright Office to the filing of Monthly and Annual Statements of Account in the cirucumstances described, and we have amended §§ 201.19(b)(5) and 201.19(c)(6) accordingly. As suggested by Fox, this would permit organizations representing copyright owners to review our records periodically and "attempt to locate the proper copyright owner • • • so that payment may be appropriately made and the address of such owner properly reflected in the Copyright Office records, thereby allowing subsequent payments and statements to be properly directed." However, we do not believe it would be proper to *require* the filing of statements of account in the Copyright Office in these cases. Such a requirement would go beyond the literal wording of the statute and could not take into account the variety of factors, and allocation of "fault", which might relate to the failure to serve a statement of account on the copyright owner. We believe that these questions, and any interpretation of the differences between paragraphs (b)(1) and (c)(1) of 17 U.S.C. 115, are best left to judicial consideration in particular cases. Thus, our amendment merely permits such filing, and expressly provides that "neither the filing of a • • • statement of account in the Copyright Office, nor the failure to file such statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction." Additionally, it is impossible for our Office, without specific statutory authority, to act as a depository for royalty fees owed to copyright owners; general government policy and the issues of accounting, retention and disposition of funds which would be raised by such a practice are prohibitive. Accordingly, the amendment provides that the Copyright Office will not accept any royalty fees submitted with statements of account. Finally, we agree with RIAA that it would not be equitable to impose a filing fee in these cases, and the amendment provides that no such fee will be required.

9. In accordance with a recommendation from a committee of the American Institute of Certified Public Accountants, we have amended § 201.19(c)(5)(A) to refine the wording of the CPA certification required to appear on Annual Statements of Account. Also, following a suggestion by Fox, we have amended that section to include the certificate number and jurisdiction of certification of the certifying accountant. However, we have required this information only where the statement is not signed "in the name of a partnership or a professional corporation with two or more shareholders."

10. The regulations as issued stated that a post office box would not be sufficient as the compulsory licensee's "address" in Notices of Intention and Statements of Account. However, in dealing with a similar issue in our regulations concerning the compulsory license for jukebox performances of music (Docket RM 77-4A; see 43 FR 37451), we found that, in some areas of the country, a post office box is the only realistic address that can be given. We have therefore amended §§ 201.18(c)(1)(ii), 201.19(b)(2)(iii) and 201.19(c)(3)(iv) of these regulations to permit the use of a post office box or similar designation when it is the only address that can be given by the licensee.

11. All parties commenting in this proceeding urged that the Copyright Office maintain a "separate registry" of documents filed under 17 U.S.C. 115. As a matter of Copyright Office practice, these documents will be separately filed in the records of the Licensing Division of the Copyright Office.

B. *Other comments.* The following comments filed in response to our December 29th notice have not been accepted:

1. Both Fox and RIAA urged the Copyright Office to develop printed forms for Notices of Intention and Statements of Account, although they differed on whether use of the forms should be required. Since we have not yet received a significant number of Notices of Intention in our Office or review of potential problems, and because we will be holding a further hearing on these regulations, the issue of forms is now premature.

2. We have not accepted RIAA's suggestion that we permit corporate "agents", as well as duly authorized corporate officers, to sign Notices of Intention. We agree with Fox's argument that requiring a corporate officer's signature "will insure to the

[3] Fox pointed out that although 17 U.S.C. 115(b)(1) requires that a Notice of Intention be served on the copyright owner if the owner is "identified" in the records of the Copyright Office and if the Copyright Office records include an "address" for the owner; but that 17 U.S.C. 115(c)(1) states that a copyright owner is entitled to royalties under the compulsory license if it is "identified" in the records of the Copyright Office, an "address" not being referred to.

copyright owner that review of [the] informaton [in the Notice] has been conducted at the appropriate level of corporate responsibility, and that the seriousness of the consequences of any misstatement is fully appreciated [and that] any slight inconvenience [to compulsory licensees] is outweighed by these considerations."

3. Section 201.19(d) of the interim regulations requires that compulsory licensees keep "all records and documents necessary and appropriate" to support the information in statements of account for a period of 3 years from the service of the Annual Statement. Fox has requested us to extend this period to 6 years to take into account the possible application of State statutes of limitations which may apply to causes of action based on fraud; however, we do not believe that the mere possibility of such actions warrants the very substantial extension proposed. Fox also requested that our regulations require that access to these records and documents be made available to the copyright owner for inspection. However, we believe that rules governing access to business records (and, by implication, the consequences of refusal) are beyond our authority to establish. In any event, judicial discovery procedures—and possible other alternatives [4]—are available to copyright owners to secure such access.

4. Section 201.18(e) of the interim regulations requires the service of Notices of Intention of the copyright owner, if the owner's address is reflected in Copyright Office records. RIAA suggested that we revise this section to require the service of Notices of Intention on copyright owners if the compulsory licensee "knows" the owner's address, whether it is reflected in Copyright Office records or not. Under RIAA's suggestion, the filing of the Notice in the Copyright Office would be required only if the compulsory licensee does not "know" the identity of the copyright owner or that owner's address, and a search of Copyright Office records does not identify the owner and the owner's address. Under the proposal, searching would be required only in cases where the compulsory licensee lacks "knowledge" of the owner's address.

This suggestion was strongly opposed by Fox, which argued that it is inconsistent with the language and purpose of the statute, that it would subject the copyright owner to the uncertainty of the licensee's "knowledge," and that it might result in the copyright owner being left unaware of the use of its works. We agree with Fox and have not made the revision recommended by RIAA. It must be remembered that a compulsory license, by definition, permits the use of a copyrighted work without the owner's consent. Although the regulations require compulsory licensees to conduct a search of Copyright Office records before serving a Notice of Intention in certain cases, we believe that this is consistent with the intention of the Act and that it does not constitute an unreasonable burden.

5. RIAA also recommended that the special rules governing the definition of "permanently parted with possession" be limited to those compulsory licensees held to have "willfully" failed to pay mechanical royalties in the past. Although we accept RIAA's assertion that record companies may inadvertently become involved in publisher-author or similar disputes over the proper recipient of mechanical royalties, we believe that to impose a condition of "willful" action would raise significant doubts about the applicability of the special rules in various cases. Recalling again that we are dealing with a situation in which the copyright owner has not had occasion to negotiate voluntary terms for the use of its work, we believe that the regulation as issued, and its application only to actions falling within a limited 3-year period, is fully consistent with Congress direction that we "prescribe situations in which a compulsory licensee is barred from maintaining reserves • • •" H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. at 111. For similar reasons, we cannot agree with RIAA's suggestion that a system of "rebates" be established in these cases.

6. RIAA also suggested that we amend § 201.19(c)(6)(ii) to "specify • • • what action shall be taken" when the licensee finds it has made over-payments during the monthy accounting periods. RIAA recommended that we "specify that the copyright owner shall rebate the difference to the compulsory licensee, or, in the alternative, that the compulsory licensee shall be entitled to credit the difference against subsequent payments to be made to the copyright owner." We agree that, as we envision how the monthly reporting requirements will work, a compulsory licensee should be able to credit overpayments for a particular monthly shipment against payments owing a copyright owner in a later month under the same compulsory license. We believe that this ability to take credits should be limited to payments owing to a particular copyright owner for a particular recording of a particular song under a particular compulsory license; in other words, the compulsory licensee should not be able to credit overpayments under a compulsory license against sums owing to the copyright owner for other works, for other recordings, or under other compulsory or voluntary licenses.

As explained in paragraph 10, below, this is how we see our definition of "permanently parted with possession" working in practice. Credit (or debit) adjustments in the accounts during the year following a shipment would be mandated and made in accordance with "generally accepted accounting principles" ("GAAP"). At the present stage of these proceedings, we do not believe any amendment of our interim regulations is necessary to accomplish this result, but we will, of course, explore the issue fully in our November hearings.

We grant that it is possible, though not likely in most cases, that a licensee would be left with an overpayment after the final accountings for all shipments under a compulsory license (for example, if sales were grossly over estimated at the outset, and total sales were insufficient to offset the initial payment). However, even assuming that such a situation could arise in reality, we do not believe that the copyright owner should be burdened by our regulations with a requirement of making a rebate. This would raise substantial procedural difficulties and problems of enforcement, particularly where a publisher-copyright owner may have already distributed royalties to its composers and lyricists. We believe that, at least as far as our regulations are concerned, the compulsory licensee must be held to the burden of making realistic estimates of net sales and of making accurate monthly adjustments in these estimates in the light of sales experience. This does not mean that copyright owners should in every case be entitled as a matter of right to retain any sums paid in excess of the compulsory licensee's ultimate obligation; however, we believe that resolution of this issue in particular uses is best left to negotiation between the parties, or application of general legal principles in the appropriate forum.

7. A committee of the AICPA recommended that the language of the CPA certification required in Annual Statements of Account be "illustrative" rather than required. We have not accepted this suggestion. To make the form of certification merely illustrative would allow the CPA to qualify his or her opinion because of lack of independence, insufficient evidential matter, restriction of audit scope by the licensee, or for some other reason. Restricting the CPA's freedom of choice to a "clean" opinion in the form required, or no opinion at all, in effect requires the CPA to state that the licensee either is or is not in com-

[4] During the 1977 hearing in this docket, Fox's own witnesses testified that there is a common law right to audit persons under a royalty obligation, and an "accepted industry practice" of record companies submitting to music publisher audits.

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pliance with the law and applicable regulations. The resulting clear and unambiguous statement fulfills Congress purpose in requiring certification of the Annual Statement.

8. Fox urged that the accountant certifying an Annual Statement of Account be required personally to verify the destruction of phonorecords asserted to have been destroyed before their permanent distribution under § 201.19(a)(4)(iii). We do not believe that such a verification should be required. The required form of accountant's certification of the Annual Statement, which presumably will be based on business records and practices satisfactory to that accountant, is sufficient protection for the copyright owner. Likewise, we believe that generally accepted auditing standards are sufficient to govern the quality of evidential matter that must be obtained by a CPA to form an opinion.

9. NMPA has again suggested that the point at which there has been a "permanent parting with possession" should be measured from the release date of a recording—that is, the date when the first phonorecord of a performance is shipped. We do not agree. As argued by RIAA earlier in this proceeding, the "release date" has little if any relevance to the return pattern of records shipped months or years after initial release (where, for example, records were shipped in response to a recent TV or concert appearance by the recording artist, or a resurgence of interest in earlier recordings of an artist, or a "seasonal surge").

10. Under the regulations as amended, a compulsory licensee will be required to pay royalties on all phonorecords made under the compulsory license of which that licensee has "permanently parted with possession." Generally, the licensee will be considered to have "permanently parted with possession" of a phonorecord (a) 1 year from the date on which the licensee actually first parted with possession of the phonorecord; or (b) at the time when revenue from a sale of the phonorecord is "recognized" by the licensee, whichever occurs first. For these purposes the compulsory licensee is considered to "recognize" sales revenue when "sales revenue would be recognized in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, whichever would cause sales revenue to be recognized first."

NMPA argued that the 1-year outside limit on "recognition" is too long, and proposed an alternative of 6 months. However, on the present record, we can find no factual justification for the 6 months suggestion, and a period shorter than 1 year would appear to impose an unjustifiable burden on compulsory licensees. RIAA's contrary suggestion—that the outside time period be lengthened or eliminated—is also unacceptable. The 1-year requirement gives the copyright owner some assurance that unreasonable reserves will not be held by the compulsory licensee.

NMPA also suggested, in cases where the compulsory licensee reports a certain number of phonorecords of which it has relinquished possession but has not yet "permanently parted with possession," that this number be subjected to a specific percentage limitation. We have not accepted this suggestion for what would in effect be a uniform reserve limitation. As we stated in our Notice accompanying the interim regulations (42 FR 64889):

> We are not persuaded on the current record that any fair basis in fact exists for the regulatory determination of a single, uniform, reserve policy for copyright purposes. The numerous factors and variables which enter into the issue of reserves (for example, configuration of phonorecord, time of year, type of music, popularity of recording artist, and sales history of producer) appear to be such as to make our determination of such a policy realistically impractical, if not impossible.

Finally, RIAA has voiced strong objections to our use of "generally accepted accounting principles" ("GAAP") to determine the point of "recognition" and permanent distribution.[5] In essence, RIAA's argument is that the use of GAAP is inappropriate for determining the point of permanent distribution because, for individual phonorecords, it cannot be used to determine the likely rate of return.

We recognize that individual phonorecords are not serially numbered, and are indistinguishable from one another. Tracking an individual record after its initial release from possession would, we agree, be realistically impracticable if not actually impossible. Our interim regulations were not intended to require any such item-by-item accounting. However, they do require tracking of *shipments* on a monthly basis.

We believe, on the current record, that as a practical matter compulsory licensees can, without radically changing their present accounting procedures: (1) Keep track of the date when each shipment is made and the total number of records in each shipment; (2) in the months following shipments made for sale, make reasonable estimates of the number of records out of the total shipped that will be "sold" (that is, in accounting terms, the number of phonorecords that will be included in "net sales" and therefore for which revenue would be "recognized"), and make royalty payments based on those estimates; and (3) no later than the 13th month following shipments made for sale, account for all records in that month's shipments as either sold or destroyed.

This system is based on a recognition of the unlimited return policies and the practices of setting up reserves now in use in the record industry. Our intention is not to force compulsory licensees to change these policies and practices; on the contrary, our interim regulations are aimed at allowing compulsory licensees to follow their ordinary business practices for the most part. We assume, as we must, that conventional reserve practices are in accord with "generally accepted accounting principles." If this is the case, most compulsory licensees would be able to follow their ordinary reserve practices under our interim regulations, with two limitations: (1) The licensee would have to report and pay monthly rather than at quarterly or other intervals; and (2) recognition of revenue could not be delayed beyond 1 year from the date of shipment.

A key element in this system is the ability of the compulsory licensee to identify shipments and track what happened to them. RIAA itself has urged that the date of shipment "of a specific phonorecord" be used to start the clock running on the determination of when phonorecords are considered permanently distributed. But if the clock starts when a particular shipment is sent, then as essential element of the system is to determine what was done with the batch of fungible records comprising the shipment: How many were sent and, from that total, how many were destroyed during the 1-year period when the clock was running. This necessarily requires some form of identification (dating, batch marking, invoice control, etc.) of the records comprising a particular shipment.

A second key element in the system envisioned by our interim regulation is the ability of the compulsory licensee to make reasonable estimates of returns and to pay royalties on the basis of these estimates. RIAA has taken the position that GAAP cannot be used to determine the likely rate of return of phonorecords within a batch, but we find nothing in the present record to support this position. Indeed, we believe that the operation of the reserve system, and the accounting practices and procedures that have grown up around it, are based entirely on estimates of returns, and it is our intention to adopt regulations that are consistent with these practices and procedures, not contrary to them. We note, in this connection, that the AICPA's "Statement of Position on Accounting Practices in the Record and Music Industry" (¶ 26) states:

> The Division believes that manufacturers and distributors in the record and music industry must be able to make a reasonable estimate of returns in order to account for shipments to customers as sales.

In our opinion, the making of reasonable estimates of returns, quite the opposite of being prevented by GAAP, is positively required by GAAP. We are therefore issuing the interim regulations on this point without substantive change, and will take further testimony on our conclusions at a public hearing. For the sake of clarification we have amended § 201.19(a)(4)(ii)(B) to refer to the recognition by the compulsory licensee of "revenue from a sale of the phonorecord" rather than merely "a sale of the phonorecord"; this amendent is intended to avoid any confusion between "net sales" and "gross sales," but is not intended to change the substantive meaning of the definition of "voluntarily distributed" in any way.

As a further explanation of the interim regulations, and to facilitate discussion of this point at the hearings, we have decided to include here one example of how we think the regulations might work in a typical case. Note that we are dealing here with the monthly accounting to a copyright owner under a compulsory license for a particular song, where phonorecords are shipped *for sale;* if records are "relinquished from possession for purposes other than sale" royalties must be paid at the point of shipment under § 201.19(a)(4)(i), regardless of returns.

December 1978. Initial release of record. 1,000 phonorecords shipped.

January 1979. Compulsory licensee sends first monthly statement of account to copyright owner and, in accordance with GAAP, estimates that 80 percent of all records made under the compulsory license and shipped for purposes of sale will be included in "net sales." Pays royalties on 800 records (1,000 (total records shipped to date) × 0.80=800). Ships 1,000 records never previously shipped.

February 1979. Second monthly statement. Compulsory licensee sticks with 80-percent estimate. Pays royalties on 800 records (2,000 (total records shipped to date) × .80=1,600 less 800 (total records on which royalties already paid) = 800). Ships 2,000 records never previously shipped.

March 1979. Third monthly statement. Disappointing reviews and retail sales reports cause revision of estimate, in accordance with GAAP, to 75 percent "net sales." Pays royalties on 1,400 records (4,000 (total records shipped to date) × .75 = 3,000 less 1,600 (total records on which royalties already paid) = 1,400). Ships 1,000 records never previously shipped.

April 1979. Fourth monthly statement. Further sales slump causes revision of estimate to 60 percent "net sales." Pays no royalties (5,000 (total records shipped to date) × .60 = 3,000 less 3,000 (total records on which royalties already paid) = 0). Ships 500 records never previously shipped.

May 1979. Fifth monthly statement. Revises estimate to 50 percent "net sales." Pays no royalties (5,500 (total records shipped to date) × .50 = 2,750 less 3,000 (total records on which royalties already paid) = <250> (previous overpayment)). Note: On May 21, 1979, after fifth monthly statement filed, record artist dies causing sudden demand. Compulsory licensee ships 5,000 records never previously shipped.

June 1979. Sixth monthly statement. Revises estimate to 90 percent "net sales." Pays royalties on 6,450 records (10,500 (total records shipped to date) × .90 = 9,450 less 3,000 (total records on which royalties already paid) = 6,450). Ships 1,000 records never previously shipped.

July 1979. Seventh monthly statement. Same 90-percent estimate. Pays royalties on 900 records (11,500 (total records shipped to date) × .90 = 10,350 less 9,450 (total records on which royalties already paid) = 900.) Ships 1,000 records never previously shipped.

August, September, October, November 1979. Eighth through eleventh monthly statements. Same 90-percent estimate, same procedures as for July, and each month ships 1,000 records never previously shipped. Royalties paid on total of 3,600 records and compulsory licensee ships total of 4,000 records never previously shipped.

December 1979. Twelfth monthly statement. Same 90-percent estimate and same procedures as for July. Pays royalties on 900 records (16,500 (total records shipped to date) × .90 = 14,850 less 13,950 (total records on which royalties already paid) = 900). As result of seasonal surge, ships 2,000 records never previously shipped.

January 1980. Thirteenth monthly statement. Same 90-percent estimate and same procedures as for July. Statement covers December *1979,* shipments and also final accounting for December *1978,* shipments showing total shipped that month and number from that month's shipments that were destroyed within 12 months from the particular shipment. Determines that, of the 1,000 records shipped in December 1978, 250 records were destroyed.

Pays on total of 1,650 records calculated as follows: (1) 18,500 (total records shipped to date) × .90 = 16,650 less 14,850 (total records for which royalties already paid) = 1,800. (2) 1,000 (total records shipped in December 1978) less 250 (records destroyed) = 750 (records shipped in December 1978, on which royalty actually payable) less 900 (records shipped in December 1978, on which royalty already paid under 90-percent estimate) = <150> (credit to be applied to amount owing for previous month's shipment) (3) 1,800 less 150 = 1,650.

(Note that this statement is entirely different from the "Annual Statement of Account" which must also be filed by the compulsory licensee. The Annual Statement is a cumulative statement covering the entire fiscal year of the compulsory licensee, and is to be filed by the twentieth day of the third month following the end of that fiscal year.)

11. RIAA has suggested that some of the terminology used in the regulations (e.g., "voluntary relinquished," "permanently parted with possession") is unduly cumbersome. Much of this language derives directly from the statute and its legislative history, and we agree that it would benefit from simplification. However, at this stage in the proceedings we believe it would be a mistake to abandon specific language in favor of loose terms or colloquialisms (such as "shipped" or "sales") which are not accurate in all cases. Later, after the hearing has opened a full exploration of the issues, and before issuing final regulations, we will review all of the terminology used.

The interim regulations are amended as set forth below.

Dated: September 20, 1978.

WALDO H. MOORE,
Assistant Register of Copyrights for Registration.

Approved:
WILLIAM J. WELSH,
The Acting Librarian of Congress.

Part 201 of 37 CFR, Chapter II is amended by revising §§ 201.18 and 201.19 to read as follows:

§ 201.18 Notice of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *General.* (1) A "Notice of Intention" is a notice identified in section 115(b) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be served on a copyright owner, or in certain cases to be filed in the Copyright Office, to obtain a compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) A separate Notice of Intention shall be served or filed for each nondramatic musical work embodied, or intended to be embodied, in phonore-

[5] As noted earlier, we have agreed to RIAA's objection to the use of Internal Revenue Service Rules as an alternative to generally accepted accounting principles, and have amended the interim regulations to eliminate this alternative.

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cords made under the compulsory license.

(3) For the purposes of this section, the term "copyright owner" in the case of any work having more than one copyright owner means any one of the co-owners. In such cases, the service of a notice of intention on one coowner under paragraph (e)(2) of this section shall be sufficient with respect to all coowners.

(b) *Form.* The Copyright Office does not provide printed forms for the use of persons serving or filing Notices of Intention.

(c) *Content.* (1) A Notice of Intention shall be clearly and prominently designated, at the head of the notice, as a "Notice of Intention To Obtain a Compulsory License for Making and Distributing Phonorecords", and shall include a clear statement of the following information:

(i) The full legal name of the person or entity intending to obtain the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(ii) The full address, including a specific number and street name or rural route, of the place of business of the person or entity intending to obtain the compulsory license. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(iii) A statement of the nature of the business organization used by the person or entity intending to obtain the compulsory license in connection with the making and distribution of phonorecords (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the person or entity intending to obtain the compulsory license is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall so state.

(B) If the person or entity intending to obtain the compulsory license is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation.

(C) In all other cases, the Notice shall include the names of any entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity intending to exercise the compulsory license. If a corporate entity is named in response to this paragraph (C), then: if that corporation is registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall so state; if that corporation is not so registered, the Notice shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of that corporation.

(iv) The fiscal year of the person or entity intending to obtain the compulsory license. If that fiscal year is a calendar year, the Notice shall so state.

(v) The title of the nondramatic musical work embodied or intended to be embodied in phonorecords made under the compulsory license, and the names of the author or authors of such work is known;

(vi) The type of all phonorecord configurations (for example, single disk, long playing disk, cassette, cartridge, reel-to-reel, or a combination of them) already made (if any) and anticipated to be made under the compulsory license;

(vii) The anticipated date of initial distribution of phonorecords already made (if any) or anticipated to be made under the compulsory license;

(viii) The name of the principal recording artist or group actually engaged and anticipated to be engaged in rendering the performances fixed on phonorecords already made (if any) and anticipated to be made under the compulsory license; and

(ix) The catalog number or numbers, and label name or names, used and anticipated to be used on phonorecords already made (if any) and anticipated to be made under the compulsory license.

(2) A "clear statement" of the information listed in paragraph (c)(1) of this section requires a clearly intelligible, legible, and unambiguous statement in the Notice itself and (subject to paragraph (c)(1)(iii)(A) of this section) without incorporation by reference of facts or information contained in other documents or records.

(3) Where information is required to be given by paragraph (c)(1) "if known" or as "anticipated", such information shall be given in good faith and on the basis of the best knowledge, information, and belief of the person signing the Notice. If so given, later developments affecting the accuracy of such information shall not affect the validity of the Notice.

(d) *Signature.* The Notice shall be signed by the person or entity intending to obtain the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person signing the Notice, and by the date of signature.

(e) *Filing and Service.* (1) If, with respect to the nondramatic musical work named in the Notice of Intention, the registration or other public records of the Copyright Office do not identify the copyright owner of such work and include an address for such owner, the Notice shall be filed in the Copyright Office. Notices of Intention submitted for filing shall be accompanied by a fee of $6. Notices of Intention will be filed by being placed in the appropriate public records of the Licensing Division of the Copyright Office. The date of filing will be the date when a proper Notice and fee are both received in the Copyright Office. A written acknowledgement of receipt and filing will be provided to the sender. Upon request and payment of an additional fee of $4, a Certificate of Filing will be provided to the sender.

(2) If the registration or other public records of the Copyright Office do identify the copyright owner of the nondramatic musical work named in the Notice of Intention and include an address for such owner, the Notice shall be served on such owner by certified mail or by registered mail sent to the last address for such owner shown by the records of the Office; it shall not be necessary to file a copy of the Notice in the Copyright Office in this case.

(3) If the Notice is sent by certified or registered mail to the last address for the copyright owner shown by the records of the Copyright Office and is returned to the sender becuase the copyright owner is no longer located at that address or has refused to accept delivery, the original Notice as sent shall be filed in the Copyright Office. Notices of Intention submitted for filing under this paragraph (e)(3) shall be submitted to the Licensing Division of the Copyright Office, and shall be accompanied by a brief statement that the Notice was sent to the last address for the copyright owner shown by the records of the Copyright Office but was returned, and by appropriate evidence that it was sent by certified or registered mail to that address. In these cases the Copyright Office will specially mark its records to consider the date the original Notice was mailed, as shown by the evidence mentioned above, as the date of filing. A written acknowledgment of receipt and filing will be provided to the sender. No filing fee will be required in the case of Notices filed under this paragraph (e)(3). Upon request and payment of a fee of $4, a Certificate of Filing will be provided to the sender.

§ 201.19 Royalties and statements of account under compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *Definition.* (1) A "Monthly Statement of Account" is a statement accompanying monthly royalty payments identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be made under the compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) An "Annual Statement of Account" is a statement identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94-553, and required by that section to be filed for every compulsory license to make and distribute phonorecords of nondramatic musical works.

(3) For the purpose of this section, the term "copyright owner" in the case of any work having more than one copyright owner means any one of the coowners. In such cases, the service of a statement of account on one coowner under paragraph (b)(5) or (c)(6) of this section shall be sufficient with respect to all coowners.

(4) A phonorecord is considered "voluntarily distributed" if the person or entity exercising the compulsory license has voluntarily and permanently parted with possession of the phonorecord. For this purpose a person or entity exercising the compulsory license shall be considered to have "permanently parted with possession" of a phonorecord made under the license:

(i) In the case of phonorecords relinquished from possession for purposes other than sale, at the time at which the person or entity exercising the compulsory license actually first parts with possession;

(ii) In the case of phonorecords relinquished from possession for purposes of sale: (A) 1 year from the date on which that person or entity actually first parted with possession; or (B) at the time when revenue from a sale of the phonorecord is "recognized" by the person or entity exercising the compulsory license, whichever occurs first. For these purposes a person or entity exercising the compulsory license shall be considered to "recognize" revenue from the sale of a phonorecord when sales revenue would be recognized in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, whichever would cause sales revenue to be recognized first; and

(iii) In any case, the destruction of a phonorecord made under the compulsory license by the person or entity exercising the license before the person or entity is considered to have "permanently parted with possession" of that phonorecord under paragraphs (i) and (ii) of this § 201.19(a)(4) shall not be considered a "distribution."

(5) The provisions of paragraph (a)(4)(ii) of this section are subject to the following qualification: In any case where, within 3 years before the phonorecord was relinquished from possession, the person or entity exercising the compulsory license has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for the benefit of creditors, or similar action, to have failed to pay such royalties, that person or entity shall be considered to have "permanently parted with possession" of a phonorecord made under the license at the time at which that person or entity actually first parts with possession. For these purposes the "person or entity exercising the compulsory license" shall mean:

(i) In the case of (any) corporation(,) the corporation or any director, officer, or beneficial owner of twenty-five percent (25 percent) or more of the outstanding securities of the corporation;

(ii) In all other cases, any entity or individual owning a beneficial interest of twenty-five percent (25 percent) or more in the entity exercising the compulsory license.

(b) *Monthly Statements of Account* (1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(2) *Content.* A monthly Statement of Account shall be clearly and prominently identified as a "Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords," and shall include a clear statement of the following information:

(i) The period (month and year) covered by the statement;

(ii) The full legal name of the person or entity exercising the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) The full address, including a specific number and street name or rural route, of the place of business of the person or entity exercising the compulsory license. A post office box or similar designation will not be sufficient for this purpose, except where it is the only address that can be used in that geographic location;

(iv) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the statement and the name of the author or authors of such work or works if known;

(v) For each nondramatic musical work embodied in phonorecords made, voluntarily relinquished from possession, or "voluntarily distributed," under the compulsory license, during the month covered by the statement and owned by the same copyright owner being served with the statement:

(A) The number of phonorecords made during the month covered by the statement;

(B) The number of phonorecords voluntarily relinquished from possession during the month covered by the statement, regardless of when made;

(C) The number of phonorecords "voluntarily distributed" during the month covered by the statement, regardless of when made, together with: (i) The catalog number or numbers, and label name or names, used on such phonorecords; and (ii) the names of the principal recording artist or group engaged in rendering the performances fixed on such phonorecords; and

(D) The playing time of each such nondramatic musical work on the phonorecords.

The information required by paragraphs (A), (B), and (C) of this § 201.19(b)(2)(v) shall be separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made.

(vi) The total royalty payable for the month covered by the statement. For these purposes, the applicable royalty as specified in section 115(c)(2) of title 17 shall be payable for every phonorecord "voluntarily distributed" during that period. In any case where the person or entity exercising the compulsory license falls within the provisions of paragraph (a)(5) of this section, the statement shall also include a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(3) A "clear statement" of the information required by paragraph (b)(2) of this section requires a clearly intelligible, legible, and unambiguous statement in the Statement of Account itself and without incorporation by reference of facts or information contained in other documents or records.

(4) *Oath and Signature.* (i) Each Monthly Statement of Account shall be accompanied by an affidavit under the official seal of any officer author-

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ized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, which shall be signed by the person or entity exercising the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person signing the affidavit or statement, and by the date of signature.

(ii) The affidavit or statement required by paragraph (b)(4)(i) of this section shall state that the person signing the affidavit or statement has examined the statement of account, and that all statements of fact contained therein are true, complete, and correct to the best of that person's knowledge, information, and belief, and are made in good faith.

(5) *Service.* (i) Each Monthly Statement of Account shall be served on the copyright owner to whom or which it is directed, together with the total royalty for the month covered by statement, by certified mail, or by registered mail on or before the 20th day of the immediately succeeding month. It shall not be necessary to file a copy of the statement in the Copyright Office.

(ii)(A) In any case where a Monthly Statement of Account is sent by certified mail or registered mail and is returned to the sender because the copyright owner is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Monthly Statement of Account, together with any evidence of mailing, may be filed in the Licensing Division of the Copyright Office. Any Monthly Statement of Account submitted for filing in the Copyright Office shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender. (B) The Copyright Office will not accept any royalty fees submitted with Monthly Statements of Account under this § 202.19(b)(5)(ii). (C) Neither the filing of a Monthly Statement of Account in the Copyright Office, nor the failure to file such statement, shall have effect other than that which may be attributed to it by a court of competent jurisdiction. (D) No filing fee will be required in the case of Monthly Statements of Account submitted to the Copyright Office under this § 202.19(b)(5)(ii). Upon request and payment of a fee of $4, a Certificate of Filing will be provided to the sender.

(iii) A separate Monthly Statement of Account shall be served for each month during which a phonorecord or phonorecords are made, voluntarily relinquished from possession, or "voluntarily distributed" under the compulsory license. The Annual Statement of Account identified in paragraph (c) of this section does not replace any Monthly Statement of Account.

(c) *Annual Statements of Account.* (1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(2) *Annual Period.* An Annual Statement of Account shall cover the full fiscal year of the person or entity exercising the compulsory license.

(3) *Content.* An Annual Statement of Account shall be clearly and prominently identified as an "Annual Statement of Account Under Compulsory License for Making and Distributing Phonorecords," and shall include a clear statement of the following information:

(i) The fiscal year covered by the statement;

(ii) The full legal name of the person or entity exercising the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) A statement of the nature of the business organization used by the person or entity exercising the compulsory license in connection with the making and distribution of phonorecords (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the person or entity exercising the compulsory license is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the statement shall so state.

(B) If the person or entity exercising the compulsory license is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the statement shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25 percent) or more of the outstanding securities of the corporation.

(C) In all other cases, the statement shall include the names of any entity or individual owning a beneficial interest of twenty-five percent (25 percent) or more in the entity exercising the compulsory license. If a corporate entity is named in response to this paragraph (C), then: If that corporation is registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Statement shall so state; if that corporation is not so registered, the Statement shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25 percent) or more of the outstanding securities of that corporation.

(iv) The full address, including a specific number and street name or rural route, or the place of business of the person of entity exercising the compulsory license. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(v) The title or titles of all nondramatic musical works embodied in phonorecords made under the compulsory license during the fiscal year covered by the statement and owned by the copyright owner being served with the statement, and the name of the author or authors of such works if known;

(vi) For each nondramatic musical work embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the statement:

(A) The number of such phonorecords made under the compulsory license through the end of the fiscal year covered by the statement, including any made during earlier years;

(B) The number of such phonorecords which have never been relinquished from possession of the person or entity exercising the compulsory license through the end of the fiscal year covered by the statement;

(C) The number of such phonorecords involuntarily relinquished from possession (as through theft or fire) of the person or entity exercising the compulsory license during the fiscal year covered by the statement and any earlier years, together with a description of the facts of such involuntary relinquishment;

(D) The number of such phonorecords voluntarily relinquished from possession of the person or entity exercising the compulsory license for purposes of sale during the fiscal year covered by the statement, but not "voluntarily distributed" by the end of that year;

(E) The number of such phonorecords destroyed during the fiscal year covered by the statement and any earlier years, by the person or entity exercising the compulsory license, before such phonorecords were "voluntarily distributed";

(F) The number of such phonorecords "voluntarily distributed" by the person or entity exercising the compulsory license during all years before the fiscal year covered by the statement;

(G) The number of such phonorecords "voluntarily distributed" by the person or entity exercising the compulsory license during the fiscal year covered by the statement, together with (1) the catalog number or numbers, and label name or names, used on such phonorecords; and (2) the names of the principal recording artists or groups engaged in rendering the performances fixed on such phonorecords;

(H) If the information given under paragraphs (A) through (G) of this § 201.19(c)(3)(vi) does not reconcile, the statement shall also include a clear and detailed explanation of the difference. For these purposes, the information given under such paragraphs shall be considered not to reconcile if, after the number of phonorecords given under paragraphs (B), (C), (D), (E), and (F) are added together and that sum is deducted from the number of phonorecords given under paragraph (A), the result is different from the amount given under paragraph (G); and

(I) The playing time of each nondramatic musical work on such phonorecords.

The information required by paragraphs (A) through (I) of this § 201.19 (c)(3)(vi) shall be separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made.

(vii) The total royalty payable for the fiscal year covered by the statement. For these purposes, the applicable royalty as specified in section 115(c)(2) of title 17 shall be payable for every phonorecord "voluntarily distributed" during the fiscal year covered by the statement. In any case where the person or entity exercising the compulsory license falls within the provisions of paragraph (a)(5) of this section the statement shall also include a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph; and

(viii) The total sum paid, under Monthly Statements of Account, by the person or entity exercising the compulsory license to the copyright owner being served with the statement during the fiscal year covered by the statement.

(4) A "clear statement" of the information required by paragraph (c)(3) of this section has the meaning set forth in paragraph (b)(3) of this section.

(5) *Signature and Certification.* (i) Each Annual Statement of Account shall be signed by the person or entity exercising the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person or entity signing the statement, and by the date of signature.

(ii) (A) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall consist of the following statement:

We have examined the attached "Annual Statement of Account Under Compulsory License For Making and Distributing Phonorecords" for the fiscal year ended (date) of (name of person or entity exercising compulsory license) applicable to phonorecords embodying (title or titles of nondramatic musical works embodied in phonorecords made under the compulsory license) made under the provisions of section 115 of title 17 of the United States Code and applicable regulations of the United States Copyright Office. Our examination was made in accordance with generally accepted auditing standards and accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The above cited law and applicable regulations published thereunder.

In our opinion the Annual Statement of Account referred to above presents fairly the number of phonorecords embodying each of the above-identified nondramatic musical works made under compulsory license and voluntarily distributed by (name of person or entity exercising compulsory license) during the fiscal year ending (date), and the amount of royalties applicable thereto under such compulsory license, on a consistent basis and in accordance with all applicable laws and regulations.

_____
(City and State of Execution)

_____
(Signature of Certified Public Accountant or CPA Firm)

_____
Certificate Number

_____
Jurisdiction of Certificate

_____
(Date of Opinion)

(B) The certificate shall be signed by an individual, or in the name of a partnership or a professional corporation with two or more shareholders. The certificate number and jurisdiction are not required if the certificate is signed in the name of a partnership or a professional corporation with two or more shareholders.

(6) *Service.* (i) Each Annual Statement of Account shall be served on the copyright owner to whom or which it is directed by certified mail or by registered mail on or before the twentieth day of the third month following the end of the fiscal year covered by the statement. It shall not be necessary to file a copy of the statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under paragraph (b)(5) of this section.

(ii) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(3)(vii) of this section is greater than the amount stated in that Statement under paragraph (c)(3)(viii) of this section, the difference between such amounts shall be delivered to the copyright owner together with service of the Annual Statement. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law.

(iii) (A) In any case where an Annual Statement of Account is sent by certified mail or registered mail and is returned to the sender because the copyright owner is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Annual Statement of Account, together with any evidence of mailing, may be filed in the Licensing Division of the Copyright Office. Any Annual Statement of Account submitted for filing shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender. (B) The Copyright Office will not accept any royalty fees submitted with Annual Statements of Account under this § 202.19(c)(6)(iii). (C) Neither the filing of an Annual Statement of Account in the Copyright Office, nor the failure to file such statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction. (D) No filing fee will be required in the case of Annual Statements of Account submitted to the Copyright Office under this § 202.19(c)(6)(iii). Upon request and payment of a fee of $4, a Certificate of Filing will be provided to the sender.

(d) *Records.* All persons or entities exercising the compulsory license shall, for a period of at least 3 years from the date of service of an Annual Statement of Account, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Statement and in Monthly Statements served during the fiscal year covered by such Statement.

(17 U.S.C. 115; 702; 708.)

[FR Doc. 78-27455 Filed 9-27-78; 8:45 am]

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[6560-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 938-7]

PART 65—DELAYED COMPLIANCE ORDERS

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The regulations promulgated below establish the procedures to be followed by EPA in issuing a delayed compliance order under the Clean Air Act. The regulations also establish procedures for EPA's Approval or disapproval of a delayed compliance order issued by a State. A delayed compliance order permits an owner or operator of a stationary source to delay final compliance with provisions contained in a State implementation plan if certain other requirements are met in the interim. The regulations will be contained in a new part 65 which will also contain sections summarizing EPA action in issuing, approving, and disapproving delayed compliance orders.

DATE: This promulgation takes effect on September 28, 1978. Written comments must be received on or before November 27, 1978. All comments received will be carefully considered and revisions to the regulations will be made where appropriate.

ADDRESS: Comments concerning this promulgation should be submitted to Edward E. Reich, Director, Division of Stationary Source Enforcement, EN-341, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Hungerford, Attorney-Adviser, by mail at the Division of Stationary Source Enforcement, EN-341, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, or by telephone at 202-755-2570.

SUPPLEMENTARY INFORMATION: Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. 7413(d), which was added by the Clean Air Act Amendments of 1977 (Pub. L. 95-95), authorizes the States and the Administrator of EPA to issue to eligible sources delayed compliance orders permitting a delay in compliance with regulations contained in federally approved State implementation plans. Section 113(d)(2) of the Act also provides that a State delayed compliance order to a major source must be approved by EPA before it is effective under section 113(d) of the Act. State delayed compliance orders to sources other than major sources become effective under section 113(d) of the Act upon issuance by the State without EPA approval. However, such orders cease to have this effect upon EPA's disapproval.

The regulations set forth below establish the procedures EPA will observe prior to: (1) The Administrator's issuance of a Federal delayed compliance order under section 113(d) (1), (3), or (4) of the Act; (2) the Administrator's approval of a State delayed compliance order issued to a major stationary source under section 113(d)(2) of the Act; and (3) the Administrator's disapproval of a State delayed compliance order issued to a major or nonmajor stationary source under section 113(d)(2) of the Act. The procedures for issuance of orders under section 113(d)(5) of the Act will be set forth in separate regulations.

The regulations promulgated below provide that the public will receive notice, through publication in the FEDERAL REGISTER, of the contents of proposed Federal delayed compliance orders, of State delayed compliance orders to major sources which have been submitted to EPA for approval, and of State delayed compliance orders to nonmajor sources which EPA proposes to disapprove under section 113(d)(2) of the Act. EPA will make available to the public information which is available to EPA concerning the basis for the order and its consistency with the requirements of the Act.

Executive Order 12044, 43 FR 12661 et seq. (Mar. 24, 1978), provides that Federal agencies will give the public 60 days to comment on proposed significant regulations. EPA has determined that actions on individual delayed compliance orders under this part do not constitute significant regulations under the Executive order. Delayed compliance orders establish schedules for individual violators to comply with existing regulations and do not alter the underlying applicable State implementation plan requirements. The maximum delay in compliance permitted by a delayed compliance order is strictly governed by the Act. In addition, State delayed compliance orders may be approved by EPA only if they were issued after public notice and an opportunity for a public hearing. In most cases, notice of State delayed compliance orders under this part will be in addition to the prior State notice. Finally, a 60-day public comment period on submitted State delayed compliante orders would be impracticable because section 113(d)(2) of the Act requires that the Administrator approve or disapprove such orders within 90 days. Therefore, EPA will provide the public 30 days in which to submit written comments concerning Federal and State delayed compliance orders noticed under this part.

Notice on proposed Federal delayed compliance orders will provide the public an opportunity to request a public hearing. Where EPA anticipates substantial public interest in holding a hearing, the notice will set the time and place of the hearing. In all other cases involving proposed Federal delayed compliance orders, the notice will provide the public a minimum of 15 days to request a hearing and to submit a brief statement supporting the need for a hearing and a summary of the information to be offered by the requesting party at the hearing. If EPA determines that a hearing should be held, a notice will be published in the FEDERAL REGISTER announcing the time and place of the hearing. The hearing will be held no less than 21 days after publication of the notice announcing the hearing.

Because the Act requires that an opportunity for a public hearing must have been offered by the State prior to its issuance of a delayed compliance order, no additional opportunity will be provided by EPA prior to action on State orders submitted for EPA approval.

At the termination of the 30-day public comment period, or after the record of any public hearing closes, EPA will assess any comments received and, where appropriate, the proposed action will be modified or withdrawn in view of such comments. The Administrator's final action on an order will be promulgated as an addition to this part. A Federal delayed compliance order or State delayed compliance order to a major source will not become effective under section 113(d) of the Act until the Administrator promulgates his final approval or issuance. Any modification to a delayed compliance order will be accomplished in accordance with the notice procedures described above.

If the Administrator's final action on a State delayed compliance order for a major stationary source is disapproval of the order, EPA will either, in accordance with Agency enforcement priorities, issue a Federal delayed compliance order to the source under the procedures expressed above or initiate a judicial action against the source under section 113(b) of the Act, unless similar action has been taken previously by EPA. If the Administrator disapproves a State delayed compliance order to a nonmajor source, EPA will issue a Federal delayed compliance order to the source under the procedures expressed above, unless such action has been taken previously by EPA. However, if the source cannot meet the statutory eligibility requirements of section 113(d) of the Act EPA will take other appropriate enforcement action.

Section 113(d)(10) of the Act provides that a Federal delayed compliance order or a federally approved State delayed compliance order precludes Federal enforcement action against the source under section 113 of the Act for violations of the State implementation plan regulation(s) covered by the order during the period the order is in effect and the source is complying with the terms of the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Section 113(d)(11) of the Act provides that an EPA approved State delayed compliance order constitutes an addition to the relevant State implementation plan. Such orders do not, however, supplant the underlying State implementation plan provision.

The Federal Government cannot enforce a State delayed compliance order to a major source unless the order has been approved by EPA in accordance with this part. Prior to approval by EPA, a State order to a major source does not insulate the source from enforcement action as provided by section 113(d) (10) and (11) of the Act and does not constitute final EPA action for purposes of section 307 of the Act.

Federal issuance, approval, and disapproval of individual delayed compliance orders will be summarized under the subpart corresponding to the State in which the affected source is located. In order to save resources, each subpart is not set forth individually today. Rather, the individual text and chart will be codified in the Code of Federal Regulations for each individual State subpart.

Since this part sets forth procedural rules for Federal approval, disapproval, and issuance of delayed compliance orders, the Agency has determined that the rules fall within the exception of 5 U.S.C. 553(b)(A) (which exempts rules of Agency procedure or practice from the informal rulemaking requirements of the Administrative Procedure Act). Therefore, the notice and comment rulemaking procedures of 5 U.S.C. 553 have not been followed prior to the promulgation of this part. In addition, under 5 U.S.C. 553(d) which allows certain Agency rules to be effective before 30 days have passed from the date of their publication), EPA has determined that the promulgation shall be effective upon publication because of the need for immediate guidance to the States and to the public.

The Agency recognizes, however, that the public may wish to comment on the procedures established herein. It is therefore soliciting public comment on these rules. Comments received on or before November 27, 1978, will be considered carefully and revisions to the procedures will be made where appropriate.

The regulations promulgated below are of nationwide scope and effect. Therefore, under section 307(b) of the Act, judicial review of the regulations may be sought only in the U.S. Court of Appeals for the District of Columbia.

(42 U.S.C. 7413, 7601.)

Dated: September 19, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing:

1. Chapter I of title 40 of the Code of Federal Regulations is amended by adding a new part 65 as follows:

Subpart A—General Provisions

Sec.
65.01 Definitions.
65.02 Introduction.
65.03 Effect of delayed compliance orders.
65.04 Public participation.
65.05 Public access to information.
65.06 Effective date of federally promulgated or approved delayed compliance orders and revisions thereto.
65.07 Submittal of State delayed compliance orders to the Administrator.
65.08 Severability of provisions.
65.09 Failure to comply with federally promulgated or approved delayed compliance orders.
65.10 Termination of delayed compliance orders.

Subpart B—Alabama

65.50 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.51 EPA approval of State delayed compliance orders issued to major stationary sources.
65.52 EPA disapproval of State delayed compliance orders.

Subpart C—Alaska

65.60 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.61 EPA approval of State delayed compliance orders issued to major stationary sources.
65.62 EPA disapproval of State delayed compliance orders.

Subpart D—Arizona

65.70 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.71 EPA approval of State delayed compliance orders issued to major stationary sources.
65.72 EPA disapproval of State delayed compliance orders.

Subpart E—Arkansas

65.80 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.81 EPA approval of State delayed compliance orders issued to major stationary sources.
65.82 EPA disapproval of State delayed compliance orders.

Subpart F—California

65.90 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.91 EPA approval of State delayed compliance orders issued to major stationary sources.
65.92 EPA disapproval of State delayed compliance orders.

Subpart G—Colorado

65.100 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.101 EPA approval of State delayed compliance orders issued to major stationary sources.
65.102 EPA disapproval of State delayed compliance orders.

Subpart H—Connecticut

65.110 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.111 EPA approval of State delayed compliance orders issued to major stationary sources.
65.112 EPA disapproval of State delayed compliance orders.

Subpart I—Delaware

65.120 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.121 EPA approval of State delayed compliance orders issued to major stationary sources.
65.122 EPA disapproval of State delayed compliance orders.

Subpart J—District of Columbia

65.130 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.131 EPA approval of State delayed compliance orders issued to major stationary sources.
65.132 EPA disapproval of State delayed compliance orders.

Subpart K—Florida

65.140 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.141 EPA approval of State delayed compliance orders issued to major stationary sources.
65.142 EPA disapproval of State delayed compliance orders.

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Subpart L—Georgia

65.150 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.151 EPA approval of State delayed compliance orders issued to major stationary sources.
65.152 EPA disapproval of State delayed compliance orders.

Subpart M—Hawaii

65.160 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.161 EPA approval of State delayed compliance orders issued to major stationary sources.
65.162 EPA disapproval of State delayed compliance orders.

Subpart N—Idaho

65.170 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.171 EPA approval of State delayed compliance orders issued to major stationary sources.
65.172 EPA disapproval of State delayed compliance orders.

Subpart O—Illinois

65.180 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.181 EPA approval of State delayed compliance orders issued to major stationary sources.
65.182 EPA disapproval of State delayed compliance orders.

Subpart P—Indiana

65.190 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.191 EPA approval of State delayed compliance orders issued to major stationary sources.
65.192 EPA disapproval of State delayed compliance orders.

Subpart Q—Iowa

65.200 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.201 EPA approval of State delayed compliance orders issued to major stationary sources.
65.202 EPA disapproval of State delayed compliance orders.

Subpart R—Kansas

65.210 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.211 EPA approval of State delayed compliance orders issued to major stationary sources.
65.212 EPA disapproval of State delayed compliance orders.

Subpart S—Kentucky

65.220 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.221 EPA approval of State delayed compliance orders issued to major stationary sources.
65.222 EPA disapproval of State delayed compliance orders.

Subpart T—Louisiana

65.230 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.231 EPA approval of State delayed compliance orders issued to major stationary sources.
65.232 EPA disapproval of State delayed compliance orders.

Subpart U—Maine

65.240 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.241 EPA approval of State delayed compliance orders issued to major stationary sources.
65.242 EPA disapproval of State delayed compliance orders.

Subpart V—Maryland

65.250 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.251 EPA approval of State delayed compliance orders issued to major stationary sources.
65.252 EPA disapproval of State delayed compliance orders.

Subpart W—Massachusetts

65.260 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.261 EPA approval of State delayed compliance orders issued to major stationary sources.
65.262 EPA disapproval of State delayed compliance orders.

Subpart X—Michigan

65.270 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.271 EPA approval of State delayed compliance orders issued to major stationary sources.
65.272 EPA disapproval of State delayed compliance orders.

Subpart Y—Minnesota

65.280 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.281 EPA approval of State delayed compliance orders issued to major stationary sources.
65.282 EPA disapproval of State delayed compliance orders.

Subpart Z—Mississippi

65.290 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.291 EPA approval of State delayed compliance orders issued to major stationary sources.
65.292 EPA disapproval of State delayed compliance orders.

Subpart AA—Missouri

65.300 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.301 EPA approval of State delayed compliance orders issued to major stationary sources.
65.302 EPA disapproval of State delayed compliance orders.

Subpart BB—Montana

65.310 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.311 EPA approval of State delayed compliance orders issued to major stationary sources.
65.312 EPA disapproval of State delayed compliance orders.

Subpart CC—Nebraska

65.320 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.321 EPA approval of State delayed compliance orders issued to major stationary sources.
65.322 EPA disapproval of State delayed compliance orders.

Subpart DD—Nevada

65.330 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.331 EPA approval of State delayed compliance orders issued to major stationary sources.
65.332 EPA disapproval of State delayed compliance orders.

Subpart EE—New Hampshire

65.340 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.341 EPA approval of State delayed compliance orders issued to major stationary sources.
65.342 EPA disapproval of State delayed compliance orders.

Subpart FF—New Jersey

65.350 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.351 EPA approval of State delayed compliance orders issued to major stationary sources.
65.352 EPA disapproval of State delayed compliance orders.

Subpart GG—New Mexico

65.360 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.361 EPA approval of State delayed compliance orders issued to major stationary sources.
65.362 EPA disapproval of State delayed compliance orders.

Subpart HH—New York

65.370 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.371 EPA approval of State delayed compliance orders issued to major stationary sources.
65.372 EPA disapproval of State delayed compliance orders.

Subpart II—North Carolina

65.380 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.381 EPA approval of State delayed compliance orders issued to major stationary sources.
65.382 EPA disapproval of State delayed compliance orders.

Subpart JJ—North Dakota

65.390 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.391 EPA approval of State delayed compliance orders issued to major stationary sources.
65.392 EPA disapproval of State delayed compliance orders.

Subpart KK—Ohio

65.400 Federal delayed compliance orders issued under section 113(d) (1), (3) and (4) of the Act.
65.401 EPA approval of State delayed compliance orders issued to major stationary sources.
65.402 EPA disapproval of State delayed compliance orders.

Subpart LL—Oklahoma

65.410 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.411 EPA approval of State delayed compliance orders issued to major stationary sources.
65.412 EPA disapproval of State delayed compliance orders.

Subpart MM—Oregon

65.420 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.421 EPA approval of State delayed compliance orders issued to major stationary sources.
65.422 EPA disapproval of State delayed compliance orders.

Subpart NN—Pennsylvania

65.430 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.431 EPA approval of State delayed compliance orders issued to major stationary sources.
65.432 EPA disapproval of State delayed compliance orders.

Subpart OO—Rhode Island

65.440 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.441 EPA approval of State delayed compliance orders issued to major stationary sources.
65.442 EPA disapproval of State delayed compliance orders.

Subpart PP—South Carolina

65.450 Federal delayed compliance orders issued under section 113(d), (1), (3), and (4) of the Act.
65.451 EPA approval of State delayed compliance orders issued to major stationary sources.
65.452 EPA disapproval of State delayed compliance orders.

Subpart QQ—South Dakota

65.460 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.461 EPA approval of State delayed compliance orders issued to major stationary sources.
65.462 EPA disapproval of State delayed compliance orders.

Subpart RR—Tennessee

65.470 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.471 EPA approval of State delayed compliance orders issued to major stationary sources.
65.472 EPA disapproval of State delayed compliance orders.

Subpart SS—Texas

65.480 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.481 EPA approval of State delayed compliance orders issued to major stationary sources.
65.482 EPA disapproval of State delayed compliance orders.

Subpart TT—Utah

65.490 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.491 EPA approval of State delayed compliance orders issued to major stationary sources.
65.492 EPA disapproval of Stated delayed compliance orders.

Subpart UU—Vermont

65.500 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.501 EPA approval of State delayed compliance orders issued to major stationary sources.
65.502 EPA disapproval of State delayed compliance orders.

Subpart VV—Virginia

65.510 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.511 EPA approval of State delayed compliance orders issued to major stationary sources.
65.512 EPA disapproval of State delayed compliance orders.

Subpart WW—Washington

65.520 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.521 EPA approval of State delayed compliance orders issued to major stationary sources.
65.522 EPA disapproval of State delayed compliance orders.

Subpart XX—West Virginia

65.530 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.531 EPA approval of State delayed compliance orders issued to major stationary sources.
65.532 EPA disapproval of State delayed compliance orders.

Subpart YY—Wiscansin

65.540 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.541 EPA approval of State delayed compliance orders issued to major stationary sources.
65.542 EPA disapproval of State delayed compliance orders.

Subpart ZZ—Wyoming

65.550 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.551 EPA approval of State delayed compliance orders issued to major stationary sources.
65.552 EPA disapproval of State delayed compliance orders.

Subpart AAA—Guam

65.560 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.561 EPA approval of State delayed compliance orders issued to major stationary sources.
65.562 EPA disapproval of State delayed compliance orders.

Subpart BBB—Puerto Rico

65.570 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.571 EPA approval of State delayed compliance orders issued to major stationary sources.
65.572 EPA disapproval of State delayed compliance orders.

Subpart CCC—Virgin Islands

65.580 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.581 EPA approval of State delayed compliance orders issued to major stationary sources.
65.582 EPA disapproval of State delayed compliance orders.

Subpart DDD—American Samoa

65.590 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.591 EPA approval of State delayed compliance orders issued to major stationary sources.
65.592 EPA disapproval of State delayed compliance orders.

Subpart EEE—Commonwealth of the Northern Mariana Islands

65.600 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.
65.601 EPA approval of State delayed compliance orders issued to major stationary sources.
65.602 EPA disapproval of State delayed compliance orders.

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AUTHORITY: Secs. 113 and 301 of the Clean Air Act, as amended, 42 U.S.C. 7413 and 7601.

Subpart A—General Provisions

§ 65.01 Definitions.

All terms used in this part but not defined herein shall have the meaning given them in the Clean Air Act and in part 51 of this chapter.

(a) "Act" shall mean the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

(b) "Administrator" shall mean the Administrator of the U.S. Environmental Protection Agency, or his authorized delegatee.

(c) "Regional Administrator" shall mean the Regional Administrator for an EPA regional office whose duties include those set forth at 40 CFR § 1.41, or his authorized delegatee.

(d) "Major stationary source" shall mean any stationary source which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant for which a national ambient air quality standard under section 109 of the Act is in effect (including any major stationary source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

(e) "Delayed compliance order" shall mean an order issued by a State or by the Administrator to a stationary source which postpones the date by which the source is required to comply with any requirement contained in the applicable State implementation plan.

(f) The term "Federal delayed compliance order" shall mean a delayed compliance order issued by the Administrator under section 113(d) (1), (3), or (4) of the Act.

(g) The term "State delayed compliance order" shall mean a delayed compliance order issued by a State or by a political subdivision of a State.

(h) "State implementation plan" shall mean the plan, including the most recent revision thereof, which has been approved or promulgated by the Administrator under section 110 of the Act, and which implements the requirements of section 110.

(i) "Stationary source" shall mean any stationary building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control), and which emits an air pollutant for which a national ambient air quality standard promulgated under section 109 of the Act is in effect.

§ 65.02 Introduction.

(a) Section 113(d) of the Act authorizes the Administrator to issue to certain sources delayed compliance orders permitting a delay in compliance with applicable regulations contained in a State implementation plan. All orders issued by the Administrator under section 113(d) (1), (3), or (4) of the Act will be issued in accordance with the procedures set forth in this part. All such federal delayed compliance orders will be summarized under the subpart corresponding to the State in which the affected source is located.

(b) Section 113(d)(2) of the Act provides that State orders issued to major stationary sources which permit a delay in compliance with applicable State implementation plan regulations must be approved by the Administrator before they have the consequences given delayed compliance orders by section 113(d) of the Act. The Administrator will approve or disapprove, in accordance with the procedures of this part, State delayed compliance orders for major stationary sources which have been submitted to EPA for review under section 113(d)(2) of the Act and § 65.07. All State delayed compliance orders approved or disapproved by the Administrator will be summarized under the subpart corresponding to the State in which the affected source is located.

(c) Section 113(d)(2) of the Act provides that State orders issued to sources other than major stationary sources which permit a delay in compliance with applicable State implementation plan regulations shall cease to be effective as delayed compliance orders under section 113(d) of the Act upon disapproval by the Administrator. The Administrator will promulgate any such disapproval in accordance with the procedures set forth in this part. All such disapprovals will be summarized in the subpart corresponding to the State in which the affected source is located.

(d) The Administrator will issue or approve a delayed compliance order only if it meets all applicable requirements of section 113(d) of the Act.

§ 65.03 Effect of delayed compliance orders

(a) *EPA approved State delayed compliance orders to major stationary sources.* A State delayed compliance order issued to a major stationary source, upon approval by the Administrator under section 113(d)(2) of the Act in accordance with this part, shall have the following effects:

(1) The order shall become part of the applicable State implementation plan for the purposes of sections 110, 304, and 307 of the Act; and

(2) The order shall preclude enforcement action against the source under sections 113 and 304 of the Act for violations of the State implementation plan provision(s) covered by the order during the period the order is in effect and the source is complying with the terms of the order.

(b) *State delayed compliance orders to nonmajor stationary sources.* A State delayed compliance order issued to a nonmajor stationary source shall, upon issuance by the State, have the effects specified in paragraph (a) of this section, and will be considered an approved order for the purposes of the part, unless the Administrator disapproves the order under section 113(d)(2) of the Act.

(c) *State delayed compliance orders not approved by EPA.* A State delayed compliance order which has not been approved by the Administrator under this part does not have the effects specified by §§ 65.03(a) and 65.04(e).

(d) *Federal delayed compliance order.* A Federal delayed compliance order issued by the Administrator under section 113(d) (1), (3), or (4) of the Act in accordance with this part precludes enforcement action against the source by EPA under section 113 and by citizens under section 304 of the Act for violations of the State implementation plan provision(s) covered by the order during the period the order is in effect and the source is complying with the terms of the order.

(e) *Source responsibilities and liabilities.* (1) The obligations of a source subject to a delayed compliance order include, but are not limited to:

(i) Compliance with the provisions of the delayed compliance order;

(ii) Compliance with applicable State, local, and Federal requirements not covered by the order;

(iii) Compliance with any requirement imposed pursuant to section 303 of the Act, or pursuant to an emergency plan provision contained in an applicable State implementation plan, during conditions which might create a period of imminent and substantial endangerment to the health of persons.

(2) Compliance with a delayed compliance order promulgated or approved under this part does not preclude enforcement actions initiated under applicable State law for violations of the State implementation plan provisions covered by the order.

§ 65.04 Public participation.

(a) *Federal delayed compliance order.* (1) The appropriate EPA Regional Administrator will provide the public an opportunity to submit written comments and to request a public hearing on any proposed Federal delayed compliance order prior to its issuance. This opportunity and the contents of the proposed Federal order will be published as a notice of proposed rulemaking in the FEDERAL REGISTER. The notice of proposed rulemaking will also provide 30 days notice to the State as required by section 113(d)(1) of the Act, unless notice to the State was given earlier. The public comment period will extend no less than 30 days from the date of the notice.

(2) A period of at least 15 days from publication of the notice described in paragraph (a)(1) of this section will be allowed for receipt of requests for a public hearing. A public hearing will be held if the EPA Regional Administrator determines that there is significant public interest in the hearing. If a hearing is held, it shall take place no less than 21 days following publication of notice in the FEDERAL REGISTER containing, at a minimum, the date, time, place, and subject of the hearing.

(3) If the EPA Regional Administrator anticipates substantial public interest in a hearing on a proposed Federal delayed compliance order, a public hearing will be scheduled by the notice described in paragraph (a)(1) of this section, and will take place no less than 21 days following publication of this notice.

(4) The record of a public hearing will remain open for 10 days after the close of the hearing (or for such other period as set forth in the notice of the hearing). Hearing participants may submit additional information to the record during this time.

(5) Due consideration will be given by EPA to all relevant public comment, whether submitted as written comment or adduced at a hearing, and where appropriate the proposed delayed compliance order will be modified or withdrawn in view of such comments.

(6) If, after the 30 day public comment period and the close of the record of any public hearing on the proposed delayed compliance order, the Administrator determines that the proposed order should be issued, he will promulgate the order in this part, through a FEDERAL REGISTER notice of final rulemaking. If the Administrator determines that a proposed Federal delayed compliance order should not be issued, he will publish a notice in the FEDERAL REGISTER withdrawing the proposal of the order.

(b) *EPA approval or disapproval of a State delayed compliance order.* (1) The Regional Administrator will provide the public with an opportunity to submit written comments on whether EPA should approve a State delayed compliance order for a major stationary source prior to EPA's final approval or disapproval of the order. Notice of the opportunity to comment will be published in the FEDERAL REGISTER. The public comment period will extend for a minimum of 30 days.

(2) The notice described in paragraph (b)(1) of this section will contain, at a minimum, a summary of the contents of the State order under consideration, including the name and location of the source, the State implementation plan regulation(s) covered by the order, a brief summary of the schedule and plan for compliance required by the order, and the date specified for final compliance with the regulation.

(3) Due consideration will be given to all relevant written public comments and, where appropriate, any proposed EPA action on the order will be modified in view of such comments.

(4) Following the public comment period, the Administrator will promulgate in this part through a FEDERAL REGISTER notice of final rulemaking EPA's final approval or disapproval of the State order under consideration.

(5) The procedures specified in this subsection shall apply to the Administrator's disapproval of a delayed compliance order issued by a State to a source other than a major stationary source.

(c) *Revisions of delayed compliance orders.* (1) EPA will follow the procedures specified in § 65.04(a) prior to any revision of a Federal delayed compliance order.

(2) EPA will follow the procedures specified in § 65.04(b) prior to approval of disapproval of any revision submitted by a State or local agency to an EPA approved State delayed compliance order.

(d) *Revocation of delayed compliance orders.* EPA will follow the procedures specified in § 65.04(a) prior to the revocation of a delayed compliance order under section 113(d)(9)(B) of the Act.

(e) *Judicial review.* Publication of the notice of final rulemaking specified in § 65.04(a)(6) and § 65.04(b)(4) will constitute final Agency action for the purposes of judicial review under Section 307(b) of the Act.

§ 65.05 Public access to information.

(a) A copy of a rule proposed under this part, and material supporting the rule, will be available for public inspection during normal business hours at the EPA Regional Office proposing the rulemaking action and at EPA's Public Information Reference Unit at 401 M Street SW., Washington, D.C. 20460. This material will be available beginning with the date notice is published in the FEDERAL REGISTER in accordance with § 65.04 (a)(1) or (b)(1).

(b) The EPA Regional Office will provide reasonable public access during normal business hours to any written comments submitted in response to a notice published under this section and to the record of any public hearing held under § 65.04(a).

§ 65.06 Effective date of federally promulgated or approved delayed compliance orders and revisions thereto.

(a) Federal delayed compliance orders and revisions to Federal delayed compliance orders promulgated in this part become effective under section 113(d) of the Act upon publication in the FEDERAL REGISTER of the notice described in § 65.04(a)(6).

(b) EPA approval of State delayed compliance orders issued to major stationary sources and revisions to such orders approved under this part become effective under section 113(d) of the Act upon publication in the FEDERAL REGISTER of the notice described in § 65.04(b)(4).

(c) A delayed compliance order issued by a State to a source other than a major stationary source and any revision to such an order becomes effective under section 113(d) of the Act upon final State action, unless the Administrator disapproves the order or revision in accordance with § 65.04(b).

§ 65.07 Submittal of State delayed compliance orders to the Administrator.

In order to obtain EPA approval of a State delayed compliance order under section 113(d)—(2) of the Act, the State shall transmit a copy of the order and a request for EPA action to the appropriate EPA Regional Office, to the attention of the Director, Enforcement Division. In order to obtain EPA approval of a delayed compliance order issued by a local agency, the order must be submitted to EPA by the local agency either through the appropriate State Air Pollution Control Agency or in accordance with procedures established by the State which allow direct submittal of the order to EPA by the local agency. The EPA Regional Offices and addresses are identified at 40 CFR 52.16.

§ 65.08 Severability of provisions.

The provisions promulgated in this part and the various applications thereof are distinct and severable. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions, or the application of such provisions to other persons or circumstances, which can be given effect without the invalid provision of application.

§ 65.09 Failure to comply with federally promulgated or approved delayed compliance orders.

(a) If the Administrator determines that a stationary source is in violation of a requirement contained in an order promulgated or approved under this part, he shall, as provided by section 113(d)(9) of the Act: (1) Enforce such requirement under section 113 (a), (b),

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Source	Location	Order Number	SIP regulation(s) involved	Date of FEDERAL REGISTER proposal	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]

4. Chapter I, title 40 of the Code of Regulations is amended by adding new §§ 65.52, 65.62, 65.72, 65.82, 65.92, 65.102, 65.112, 65.122, 65.132, 65.142, 65.152, 65.162, 65.172, 65.182, 65.192, 65.202, 65.212, 65.222, 65.232, 65.242, 65.252, 65.262, 65.272, 65.282, 65.292, 65.302, 65.312, 65.322, 65.332, 65.342, 65.352, 65.362, 65.372, 65.382, 65.392, 65.402, 65.412, 65.422, 65.432, 65.442, 65.452, 65.462, 65.472, 65.482, 65.492, 65.502, 65.512, 65.522, 65.532, 65.542, 65.552, 65.562, 65.572, 65.582, 65.592, 65.602 as follows:

EPA disapproval of State delayed compliance orders. The State orders identified below have been disapproved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has determined that it does not satisfy the applicable requirements of section 113(d) of the Act.

Source	Location	Order Number	SIP regulation(s) involved	Date of FEDERAL REGISTER proposal	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]

[FR Doc. 78-27070 Filed 9-27-78; 8:45 am]

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Title 42—Public Health

CHAPTER IV—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, HEALTH CARE FINANCING ADMINISTRATION

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility; Technical Amendments

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This amendment corrects an error contained in current regulations treating the effect of cost-of-living increases in social security benefits on medicaid eligibility in States which have imposed more restrictive eligibility requirements than the requirements under the supplemental security income (SSI) program. As a result of comments and in preparing to respond to two lawsuits which involve portions of current regulations, we became aware of an error. One of the effects of this rule is to allow certain States to increase the spend down

Source	Location	Order Number	SIP regulation(s) involved	Date of FEDERAL REGISTER proposal	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]

3. Chapter I, title 40 of the Code of Federal Regulations is amended by adding new §§ 65.51, 65.61, 65.71, 65.81, 65.91, 65.101, 65.111, 65.121, 65.131, 65.141, 65.151, 65.161, 65.171, 65.181, 65.191, 65.201, 65.211, 65.221, 65.231, 65.241, 65.251, 65.261, 65.271, 65.281, 65.291, 65.301, 65.311, 65.321, 65.331, 65.341, 65.351, 65.361, 65.371, 65.381, 65.391, 65.401, 65.411, 65.421, 65.431, 65.441, 65.451, 65.461, 65.471, 65.481, 65.491, 65.501, 65.511, 65.521, 65.531, 65.541, 65.551, 65.561, 65.571, 65.581, 65.591, 65.601, as follows:

EPA approval of State delayed compliance orders issued to major stationary sources. The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act.

Source	Location	Order Number	Date of FEDERAL REGISTER proposal	SIP regulation involved	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]

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[1] Listings for § 65.400 have already been added at 43 FR 40015, Sept. 8, 1978; 43 FR 40226, Sept. 11, 1978; and 43 FR ——, Sept. 25, 1978.

for certain recipients by the cost-of-living increase. We have adopted the rule as proposed on July 12, 1978, without change.

DATE: Effective on September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James C. Eshelman, 202-245-0534.

SUPPLEMENTARY INFORMATION: This rule corrects an error contained in medicaid eligibility regulations published on March 10, 1978 (43 FR 9810). Those regulations were designed to implement section 503 of Pub. L. 94-566 (42 U.S.C. 1396a note) which preserved medicaid eligibility for certain individuals who ceased to be eligible for SSI on account of certain cost-of-living increases in social security (OASDI) benefits. (Throughout this preamble references to SSI also include State supplementary payments described in section 1616(a) of the Social Security Act and payments of the type described in section 212(a) of Pub. L. 93-66.)

THE STATUTE

Section 503 requires that a State medicaid plan provide medicaid, after June 1977, for any individual who is entitled to a monthly OASDI benefit, and would have been eligible for benefits under the SSI program but for cost-of-living increases under OASDI, "in like manner and subject to the same terms and conditions as are applicable under (the State medicaid) plan in the case of individuals who are eligible for and receiving (SSI) benefits." The primary purpose of this provision is to prevent a person from losing his medicaid eligibility (in States which tie medicaid eligibility to receipt of SSI) because he has lost SSI eligibility due to cost-of-living increases in OASDI.

Some States, however, do not tie medicaid eligibility to receipt of SSI and have adopted more restrictive requirements for medicaid eligibility, in accordance with section 1902(f) of the Social Security Act. In these States, the receipt of SSI has no effect on medicaid eligibility unless the State also provides coverage for the "medically needy." (See 42 CFR 448.1 for a definition of "medically needed" and "categorically needy.") If an individual receives SSI in a State which has exercised its section 1902(f) option and also covers the medically needy, he may become eligible for medicaid by incurring medical expenses sufficient to reduce his income to the level of eligibility for the categorically needy. This person is then eligible for the same medicaid benefits as a person who is categorically needy. (This is called "spending down".) If this person were not eligible for SSI, he could spend down and establish eligibility for medicaid as medically needy, but could not spend down and become categorically needy.

Under section 503, in section 1902(f) States which have a medically needy program, a person who loses SSI eligibility must be permitted to "spend down" to the categorically needy eligibility level and, if he does so, is medicaid eligible as categorically needy. In 1902(f) States which do not have a medically needy program, no change in eligibility treatment for medicaid is required by section 503.

THE REGULATION

This regulation corrects an error in the existing regulations. The error permitted all OASDI recipients in States which have exercised their option under section 1902(f) to deduct certain OASDI cost-of-living increases from their income for purposes of determining their eligibility for medicaid. This result conflicts with section 503. The corrected regulation allows section 1902(f) States either to consider the amount of the person's OASDI cost-of-living increase as income or to disregard the cost-of-living increase to the same extent that it would be disregarded in States which do not exercise the section 1902(f) option. In either event, the State must treat a person who has lost SSI eligibility as categorically needy if he spends down to the medicaid eligibility income level.

COMMENTS

On July 12, we published a notice of proposed rulemaking (NPRM) within an expedited comment period of 30 days (43 FR 29970). No comments were received within the comment period. One comment was received on August 16. That comment and our response are as follows:

1. States will always choose the most restrictive option.

The commenter raised several objections to the proposed regulation. Among these was the assertion that when section 1902(f) States are given the option to choose a more restrictive standard (with regard to the cost-of-living increase) they will do so.

RESPONSE

The statutory structure of the medicaid program allows the State to make many choices in implementing the program. Among these options is the choice of whether to cover the "medically needy" (see 42 CFR 448.1 for an explanation of "medically needy") and the option under section 1902(f) to use more restrictive eligibility criteria than those of the SSI program for determining the financial eligibility of the aged, blind, and disabled for medicaid. Thus, it is consistent with the statutory structure to allow States to have choices, unless Congress has indicated that it did not desire to leave the decision to the States. There is no indication in section 503 that the State's choice is to be restricted.

2. In section 1902(f) States, the regulation does not treat individuals in a like manner to SSI recipients.

The commenter further asserted that, in those 1902(f) States in which income eligibility is considerably below the SSI level, the aged, blind, and disabled individuals who lose SSI due to cost-of-living increase will not be treated "in a like manner and subject to the same terms and conditions as a person who remains eligible for SSI."

RESPONSE

Contrary to the commenter's assertion, section 503 does not provide that a person who loses SSI eligibility due to a cost-of-living increase will be treated in like manner and subject to the same terms and conditions as a person who remains eligible for SSI. Rather, the statute provides that *"medical assistance* • • • shall be provided • • • in a like manner and subject to the same terms and conditions as are applicable (to SSI recipients)." [Emphasis supplied.]

The regulation is consistent with the statute. In section 1902(f) States, receipt of SSI does not confer automatic medicaid eligibility. Medicaid eligibility for SSI recipients is determined by comparing the recipient's income to the State's income standard. If the individual's income is below the State's standard, the individual is eligible for medicaid; if the income is greater than the standard, the individual is permitted to "spend down" to the level of medicaid eligibility. When the individual spends down, he is eligible for medicaid for a specified period.

Under the regulation, the same spend down procedure that applies to SSI recipients is applied to determine medicaid eligibility of individuals who lose their SSI eligibility by virtue of OASDI cost-of-living increases. Therefore, the regulation follows the express command of section 503.

The regulation also provides the section 1902(f) States with an option to disregard the OASDI cost-of-living increases which cause individuals to lose SSI eligibility. These States may disregard these increases to the same extent that a State which has not elected to use the section 1902(f) option. This position is consistent with our view that section 1902(f) permits States to use their criteria for financial eligibility for medicaid for the

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aged, blind, and disabled which were in effect under an approved plan on January 1, 1972, or to use criteria which are less restrictive than the 1972 standards (provided the criteria are no more liberal than those specified by SSI). Since section 503 permits States which use SSI criteria for determining medicaid eligibility to disregard OASDI cost-of-living increases in a limited manner, our regulation permits section 1902(f) States to disregard these cost-of-living increases only to the same extent as the "SSI" States.

3. The cost of living increase granted to OASDI recipients will be wiped out by the increased spend down in section 1902(f) States.

The commenter argued that, as a result of allowing section 1902(f) States the option of not disregarding the cost-of-living increases, the benefit of these increases will be wiped out by the increased spend down to which these individuals will be subjected. The commenter contends that, by virtue of inflation, the OASDI recipient will be harmed rather than benefited by the cost-of-living increases.

RESPONSE

As a general rule, the States are not permitted to disregard OASDI cost-of-living increases in setting the level of spend down for SSI recipients. Therefore, in our view, section 503 does not permit us to require section 1902(f) States to disregard treating these individuals in a like manner and subject to the same terms and conditions as SSI recipients. Section 1902(f), however, does authorize the States to exercise an option to disregard the cost-of-living increase to the extent it made the individual ineligible for SSI.

4. The proposed rule appears to be contrary to the treatment of cost-of-living increases in all earlier HEW regulations, particularly those pertaining to the August 1972 cost-of-living increase.

RESPONSE

The commenter has focused on the "pass through" treatment of the 1972 OASDI cost-of-living increase by 42 CFR 448.1(b)(3)(ii). That regulation implements the next-to-last paragraph of section 1902(a) of the Social Security Act. There is no inconsistency in our implementation of that provision and this regulation. The "1972 pass-through" statute specified that if an individual was eligible for or receiving aid or assistance under specified State plan programs for the month of August 1972, he shall be deemed to be eligible for medicaid for any month in which he would have been eligible had the 1972 OASDI cost-of-living increase not applied to him. The 1972 statute, however, predated the implementation of the SSI program and the effective date of the section 1902(f) option. In contrast to the clear mandate in the 1972 statute to disregard the 1972 OASDI increase, section 503 requires that the State treat the person who has lost SSI eligibility "in like manner and subject to the same terms and conditions" as someone who still receives SSI benefits. As discussed above, the way a section 1902(f) State treats SSI recipients is to classify them as categorically needy if they spend down to medicaid eligibility income levels. Thus, section 503 stops short of being a mandate to disregard OASDI cost-of-living increases.

5. The regulation will result in placing an additional burden on the aged, blind, and disabled who will be required to reapply for medicaid every 3 to 6 months.

The commenter complains that the regulation will result in imposing an additional burden of proof on the aged, blind, and disabled individuals, who will be required to reapply for medicaid benefits every 3 to 6 months because eligibility based on a person's spend down is limited to maximum periods of 6 months. The commenter alleges that this means that these individuals must complete new application forms and submit new documentation and verification, which can often cause delays in the processing of an application, and that this would cause a loss of medicaid benefits while the application is pending.

RESPONSE

This comment is essentially directed at the spend down provision generally, rather than to the proposed regulation. This regulation does not impose any new application requirements. Although OSADI increases will mean that more people have to spend down in order to be medicaid eligible, this is a consequence of section 503 and a matter over which we have no discretion. Our medicaid regulations will be revised as part of our medicaid recodification project and comments on the application requirements will be considered at that time.

42 CFR 448.1 is amended as set forth below:

1. Section 448.1(a)(1)(ii) is revised to read as follows:

§ 448.1 State plan requirements and options for coverage under the medical assistance program.

* * * * *

(a) *General provisions governing eligibility for medical assistance.* * * *

(1) *Categorically needy.* * * *

(ii) *States limiting coverage by returning to earlier medicaid standard.* The following rules apply to aged, blind and disabled persons in States which have exercised their option under section 1902(f) of the Act to impose eligibility conditions which are more restrictive than those required for receipt of supplemental security income (SSI) benefits under title XVI. Aged, blind, and disabled persons in those States are entitled to deduct amounts received as SSI benefits or State supplementary payments and, as specified in § 448.1(b)(3)(ii), cost-of-living increases in title II benefits and incurred medical expenses, from income in order to qualify for medicaid.

* * * * *

2. The paragraph following § 448.1(b)(2)(viii)(D) is revised to read as follows:

* * * * *

In States which exercise their option under section 1902(f) to impose more restrictive medical assistance eligibility conditions on aged, blind, and disabled persons than conditions for receipt of benefits under title XVI, persons specified in paragraph (b)(2)(viii)(A) through (D) of this section are entitled to medical assistance under the same terms and conditions as title XVI beneficiaries or supplementary payment recipients in the State. If such a person incurs medical expenses in sufficient amount to reach the income eligibility level for categorically needy recipients, he shall be treated as categorically needy. For this purpose, the State plan may provide that the cost-of-living increase under section 215(i) may be deducted from income in determining the amount of medical expense that the person must incur to become eligible for medicaid, up to the amount of the increase that resulted in loss of eligibility for title XVI and any subsequent increases.

* * * * *

(Sec. 1102, Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 14, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 24, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-27285 Filed 9-27-78;8:45 am]

[4110-35]

PART 460—PROFESSIONAL STANDARDS REVIEW

Designation of Professional Standards Review Organization (PSRO) Area in Texas

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This regulation designates Texas as a single Professional Standards Review Organization (PSRO) area. It is needed because, on January 9, 1978, a Federal district court set aside the nine PSRO areas previously designated in Texas. This regulation will enable the PSRO program to become operational in Texas.

DATE: The amendment is effective on September 28, 1978.

FOR FURTHER INFORMATION, CONTACT:

Steven a. Suard, 301-443-6477.

SUPPLEMENTARY INFORMATION: Professional Standards Review Organizations are independent physican organizations mandated under title XI, part B of the Social Security Act to review the medical necessity, appropriateness, and quality of health care and services funded through the medicare, medicaid, and maternal and child health programs. Specific PSRO areas must be designated before review activities can be undertaken. In *Texas Medical Association, et al v. Weinberger* (U.S.D.C., W.D. of Texas, No. A-74-CA-102, the United States District Court, on January 9, 1976, set aside the nine PSRO areas established March 18, 1974 (39 FR 10204) and instructed us to redesignate PSRO areas in Texas.

On July 5, 1978, we published in the FEDERAL REGISTER (43 FR 29005) a final regulation providing for the designation of a single statewide PSRO area if the following requirements are met: (1) Suitable evidence has been obtained that a majority of the physicians in the State favor a statewide area; and (2) no areas had been finally designated as of January 1, 1978. Concurrently, we published a proposal (43 FR 29016) to designate Texas as a single statewide PSRO area. That notice was based on (1) an advisory poll of Texas physicians which showed an overwhelming physician preference (86 percent) for a single statewide PSRO area designation, and (2) the court order setting aside the previous area designations.

Several reponses were received during the 60-day comment period, all in support of the amendment. No revisions were recommended and no changes have been made. Since we believe it desirable to initiate PSRO review promptly in Texas, we are adopting the amendment to be effective immediately.

42 CFR Part 460 is amended by revising § 460.48 to read as follows:

§ 460.8 Texas.

The State of Texas is designated as a single-professional standards review organization Area.

(Secs. 1102 and 1152 of the Social Security Act (42 U.S.C. 1302, and 1320c-1).)

Dated: September 13, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 22, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-27289 Filed 9-27-78; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2436]

PART 3300—OUTER CONTINENTAL SHELF LEASING; GENERAL

Subpart 3302—Issuance of Leases

HOLDING OF HIGH BIDS ON OCS SALES

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking extends the time for acceptance of leasing bids on the Outer Continental Shelf from 30 to 60 days in order to provide for an antitrust review by the Attorney General as authorized in the recently enacted Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

DATE: This rule is effective September 28, 1978.

ADDRESS: All inquiries should be directed to Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Chris Oynes, 202-343-2718.

SUPPLEMENTARY INFORMATION: The recently enacted Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372) contain provisions requiring that the Attorney General, in consultation with the Federal Trade Commission, be allowed 30 days, or a shorter period which they may agree upon, to review the results of a lease sale and comment on the likely effects on competition of issuing the leases. The current regulation in section 3302.5 of title 43 of the Code of Federal Regulations requires that the authorized officer act on the lease bids within 30 days after opening all bids or they are considered rejected. In order to allow time for the review that must be made by this Department and up to 30 days for review for antitrust purposes by the Attorney General, it is necessary to amend the existing regulations to extend the review period to cover this additional time. Although in the past the Department has not normally required the use of the full 30-day period allowed by the regulations to examine the bids, it may be necessary to use the full time in the future to be fully responsive to the provisions of the Outer Continental Shelf Lands Act Amendments. Thus, the combination of these two factors indicates the necessity for amending the regulation on bid acceptance to allow 60 days for review of the bids rather than the 30 days now provided.

This rulemaking is being published as final because the Outer Continental Shelf Lands Act Amendments are applicable to lease sale 65 which is scheduled for October 31, 1978, and the additional time will be needed to review bids on this lease sale. The exploration for oil and gas on the Outer Continental Shelf is of vital importance to the national effort to secure a sufficient energy supply. Therefore, it would not be in the national interest to delay lease sale 65 as would be necessary if the Department were to follow the normal rulemaking process for this rulemaking.

The principal author of this rulemaking is Chris Oynes of the Division of Mineral Resources, Bureau of Land Management, assisted by the Division of Legislation and Regulatory Management of the Bureau of Land Management.

It is hereby determined that the publication of this document is not a major action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044.

Accordingly, under the authority of section 205 of the Outer Continental Shelf Lands Act Amendments of 1978

V 43 / 189 SE 28 78

(Pub. L. 95-372), section 3302.5 of subpart 3302, part 3300, group 3300, subchapter C, chapter II, title 43 of the Code of Federal Regulations is amended by deleting the figure "30" in the two instances where it appears and substituting in lieu thereof the figure "60".

GARY J. WICKS,
Acting Assistant Secretary of the Interior.

SEPTEMBER 22, 1978.

[FR Doc. 78-27222 Filed 9-27-78; 8:45 am]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6800-10, Ch. 1]

PART 1050—UNIFORM FEDERAL STANDARDS

Subpart J—Payment Requirements (Uniform Federal Standard)

LETTER-OF-CREDIT

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing its final rule to inform grantees that the aggregate annual advance requiring issuance of a Letter-of-Credit has been reduced from $250,000 to $120,000. This change is required to implement Treasury Circular No. 1075. This will immediately affect organizations receiving an initial grant. Current grantees will not be affected until time of refunding.

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Maryann J. Fair, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506, telephone 202-254-5047, teletypewriter: 202-254-6218.

SUPPLEMENTARY INFORMATION: On June 14, 1978, the Community Services Administration published a proposed rule in the FEDERAL REGISTER (43 FR 25698) which proposed a policy reducing the aggregate annual advance by Treasury check for payments less than $250,000.

This final rule informs grantees of a revision to Treasury Circular No. 1075 which now requires the issuance of Letter-of-Credit for annual advances aggregating at least $120,000.

Comments were received from the public as well as grantees. In particular some CDC's have noted their concern that problems with this Letter-of-Credit would be damaging to smaller grantees, and without visible funds on depositis, bankers would refer business ventures elsewhere.

Several concerned respondents inquired whether grantees would continue to receive funds quarterly. This will continue to be the practice for those grantees who will not be on the Letter-of-Credit system, i.e., those whose aggregate annual advance is less than $120,000. The $120,000 aggregate advance level is applicable immediately to any initial fundings. However, grantees currently receiving monthly checks but whose aggregate annual level exceeds $120,000 will be converted to the Letter-of-Credit method at time of refunding.

In summary, we remind grantees that the reduction of the aggregate annual advance requiring issuance of a Letter-of-Credit is required in order to implement Treasury Department Circular No. 1075 and current grantees will not be affected until time of refunding.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).)

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Subpart J is amended as follows:

§ 1050.92 Standard [Amended].

In § 1050.92(b)(1) "$250,000" is changed to read "$120,000".

§ 1050.93 CSA Implementing Policies and Procedures [Amended].

In § 1050.93(a) "$250,000" is changed to read "$120,000", in each place it appears.

In § 1050.93(b) "$250,000" is changed to read "$120,000", in every place it appears.

In § 1050.93(c) "$250,000" is changed to read "$120,000".

[FR Doc. 78-26978 Filed 9-27-78; 8:45 am]

[6315-01]

[CSA Instruction 7000-1]

PART 1067—FUNDING OF CSA GRANTEES

Subpart—Federal Register; Access to Daily Publications

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing its final rule which will make the FEDERAL REGISTER the exclusive formal system used to communicate proposed rules to grantees and will require grantees to have access to the daily publication of the FEDERAL REGISTER either through direct subscription or a circulating copy. This is being required because the current system of mailing drafts to grantees is cumbersome, time-consuming and duplicative. This will ensure timely notification to grantees.

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Maryann J. Fair, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, telephone, 202-254-5047, teletypewriter, 202-254-6218. It should be noted that a Spanish version of this document is available upon request from the contact person, Ms. Maryann Fair.

SUPPLEMENTARY INFORMATION: The Community services Administration formally communicates with its grantees through a structured system known as the CSA issuance system which consists of CSA instructions (policy statements) CSA notices (announcements of temporary concern including interim policies), and CSA guidances (material designed to help people do their job better).

In the past the system used to get imput on draft policy statements was to print copies of the draft and mail copies to each grantee. However, because there is no inhouse capability to print, this material had to be sent to the Government Printing Office or to a private contractor and then returned to CSA's Warehouse for packaging and mailing. This proved to be a time-consuming process frequently taking up to three weeks before the draft was in the mail. Added to this was the time needed by grantees to review the draft and develop comments, plus mailing time and subsequent time required by CSA staff to analyze comments received and to revise the draft when warranted.

In an effort to resolve the time problems related to the duplicative printing and distribution of proposed rules, the Community Services Administration published a proposed rule in the FEDERAL REGISTER, (42 FR 45002) which proposed a policy which would make the FEDERAL REGISTER the exclusive formal system used to communicate proposed rules and regulations to grantees and would require grantees to have access to the daily publication of the FEDERAL REGISTER by subscription or a circulating copy.

Sixty-two comments were received from grantees. The majority of the concerns dealt with: (1) staffing, (2) storage, (3) cost and (4) whether CSA should send information regarding the publication or copies of the publication to grantees. In analyzing the above concerns we concluded that:

(1) Staffing—This would not require additional hiring. One person could review the FEDERAL REGISTER daily to screen it to see if there is any information published by CSA in that edition. (The cover of each FEDERAL REGISTER carries a "Highlight" which includes all important regulations from various agencies in that edition. There is also a table of contents which alphabetically lists agencies and the subjects of their documents being published in that edition. All regulations issued by CSA in the FEDERAL REGISTER are under the title, "Community Services Administration" and the reviewer need only turn to the page number indicated.) In addition, in order to make the review simpler, CSA will only publish its documents on specific days—Mondays and Thursdays. This will be for a 6-month trial period.

(2) Storage—Individual grantees are responsible for deciding how long they want to keep copies of the FEDERAL REGISTER. Since final rules will continue to be issied as CSA Instructions, grantees can dispose of issues immediately upon review if the wish to do so.

(3) Cost—CSA will not subscribe directly because it is too difficult to keep abreast of address changes. Grantees should note, however, that the subscription cost can be included as an additional item in the budget.

(4) Whether CSA should send information to grantees from the FEDERAL REGISTER—As noted above the current system of mailing information to grantees is cumbersome and time consuming in addition to being duplicative. Since CSA is required by statute to file all rules, regulations, instructions, guidelines and application forms in the FEDERAL REGISTER 30 days prior to their effective date, we have decided to use this system exclusively.

Concerns—some grantees appear to be focusing only on CSA issued policies and funds. For example, one grantee noted that there will be "• • • less public knowledge than the current system of sending a draft copy to all grantees." These few grantees seem unaware of the impact that they could and should have on other agencies' proposed rules and possibilities for mobilizing other Federal funds. This was well stated by the Woodbury County Community Action Agency which already subscribes to the FEDERAL REGISTER; "• • • we find this subscription to be most useful and very valuable to our CAA by assisting us in keeping abreast of CSA proposed rulemaking and CSA final rulemaking, as well as similar actions taken by other Federal agencies in which we have an interest, or with whom we have a relationship. We also keep abreast of programmatic announcements and grants availability which allows us to be more timely and more responsive in the development of programmatic proposals of service to the residents of our service area." Examples include: (1) in the July 12, 1978, issue of the FEDERAL REGISTER, the Food and Nutrition Service published a proposed rule and notice of intent regarding its, "Work Force Demonstration Project." Under this project, food stamp work registrants will be required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled. This is the type of proposed rulemaking which should be of interest to CSA grantees and on which they should make their views known to FNS. (2) HEW's Health Resources Administration published notice on October 4, 1977, that it was providing grant application information for the health career opportunity program (HCOP) through the conduct of 12 program orientation conferences. HCOP supports projects designed to assist students from disadvantaged backgrounds in entering and completing health professions training. (3) On October 7, 1977, the U.S. Civil Service Commission published notice that it was accepting proposals from eligible applicants for National IPA program grants to be made for fiscal year 1978 (commencing October 1, 1977) pursuant to section 506(a) of the Intergovernmental Personnel Act (IPA). Under the IPA, the Commission can award grants for up to 50 percent of the costs of approved projects. (4) On October 4, 1977, HEW's Health Services Administration published notice that competitive applicants were being accepted for project grants to public and private nonprofit entities for support of the development and expansion of health services.

We did receive an interesting comment from Ventura County Commission on Human Concerns and Community Development in that the Commissioner feels that CSA's requirement doesn't go far enough. They noted that "• • • the FEDERAL REGISTER system would not be complete without having the other components and that we should require grantees to subscribe to the other components which are: The Code of Federal Regulations, The Weekly Compilation of Presidential Documents, The Governmental Organization Manual, and Public Papers of the President of the United States. Having only the FEDERAL REGISTER causes an unnecessary handicap in that the critical companion, the CFR, is missing • • •." We do not intend to require purchase of the Code since our final rules (CSA instructions) will continue to be distributed to all grantees as noted above. However, any grantee wishing to purchase the CFR may do so and it will be an allowable charge against grant funds.

During the past 2 years, over 14,000 people have attended free workshops on "The FEDERAL REGISTER, What It Is and How to Use It." Conducted by the Office of the Federal Register, these sessions are aimed at providing the public with easier access to information about Federal agency actions which directly affect them. Beginning in September briefings will begin again. Interested grantees can contact the FEDERAL REGISTER at 202-523-5235 for further information or check daily the Highlight section of the FEDERAL REGISTER.

Again, we remind grantees that we are not proposing any policy changes—only how CSA proposed rules will be distributed to grantees.

In summary, we feel that having access to daily publications of the FEDERAL REGISTER will be advantageous to grantees in that it will provide efficient and timely notification of CSA's rulemaking, policy statements and notification of available grant funds in addition to those of other Federal agencies.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1067, is amended by adding a new subpart to read as follows:

Subpart—FEDERAL REGISTER; Access to Daily Publications

Sec.
1067.6-1 Applicability.
1067.6-2 Policy.
1067.6-3 Procedures.
1067.6-4 Allowable cost.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1067.6-1 Applicability.

This subpart applies to all grants funded under titles I, II, III-B, VII, and IX of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.6-2 Policy.

Since CSA publishes all proposed rules in the FEDERAL REGISTER exclusively (Monday and Thursday of each week) the Agency is requiring that grantees have access to daily publications of this document for the duration of their grants which are funded by CSA. Therefore, if grantees do not have access to the FEDERAL REGISTER either through a direct subscription or a circulating copy, they must take immediate steps to purchase a subscription.

§ 1067.6-3 Procedures.

The FEDERAL REGISTER is furnished by mail to subscribers free of postage, for $5 per month or $50 per year, payable in advance. Remit check or money order made payable to: Super-

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intendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1067.6-4 Allowable cost.

This is an allowable cost charged to grant funds. It should be included under "Other Costs" on the budget form.

[FR Doc. 78-27045 Filed 9-27-78; 8:45 am]

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-66-1; Amdt. No. 78-1]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFETY OPERATION

Lower Location of Rear Side Marker Lamps; Large Semitrailers and Full Trailers; Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendment to final rule.

SUMMARY: In FR Doc. 78-24386 appearing at page 38830 in the issue for Thursday, August 31, 1978, the effective date should be amended to read "March 1, 1979" in order to be the same as the effective date of the corresponding National Highway Traffic Safety Administration rule published on the same date at 43 FR 38832. Also, in § 393.14(c)(1) appearing at 43 FR 38831 the date "October 1, 1978" is hereby amended to read "March 1, 1979."

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48 and 301.60.)

Issued on: September 21, 1978.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc. 78-27249 Filed 9-27-78; 8:45 am]

[4910-58]

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 801—PUBLIC AVAILABILITY OF INFORMATION

Fee Schedule

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This revision sets forth price and other changes for obtaining copies of factual investigative records and other documents available from the National Transportation Safety Board (Board) under the Feedom of Information Act. Certain changes in the fee schedule are now required to reflect the terms of a new contract with the commercial reproducer and to eliminate a fee for the first hour of search time.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Fritz L. Puls, General Counsel, National Transportation Safety Board, Washington, D.C. 20594, 202-472-6033.

SUPPLEMENTARY INFORMATION: Pursuant to section (a)(4)(A) of the Freedom of Information Act (Pub. L. 93-502, November 21, 1974, amending 5 U.S.C. 552), fee schedules for document search and duplication must be published in the FEDERAL REGISTER. In 1975, after notice, the Board issued its regulations implementing this section. In an amended appendix to 49 CFR part 801, which was published at 42 FR 51584, September 29, 1977, a price list for documents published by or available from the Board was established, based on the provisions of the then current contract between the Board and the commercial reproducer. That contract terminates on September 30, 1978, and the Board has entered into a new contract.

In addition to the price changes for reproduction, the Board has determined that it is in the public interest to eliminate the minimum search fee and to provide that there will be no charge for the first hour. There will now be a fee of $5 per hour only for search time exceeding the initial hour. Based on past experience, the overwhelming majority of requests will now be processed without assessment of a search charge.

The remaining changes are minor and either update or clarify the fee schedule.

Pursuant to 5 U.S.C. 553, the Board believes that notice of proposed rulemaking is unnecessary since the changes in reproduction fees were subject to and are the result of a formally advertised procurement, and the reduction in the imposition of search fees is a substantive rule which relieves a restriction.

Accordingly, 49 CFR Part 801 is herby amended by revising the Appendix—Fee Schedule as set forth below.

APPENDIX—FEE SCHEDULE

1. Special services fees (pursuant to 31 U.S.C. 483a). Upon request, services relating to public documents are available at the following fees:

(a) Subscriptions (calendar year):

(1) Initial decisions of the administrative law judges—$40 for one subscription, $30 for each additional subscription.

(2) Board safety enforcement opinions and orders—$20 for one subscription, $15 for each additional subscription.

(3) Board aircraft accident (probable cause) reports, brief format—$40 (U.S.) and $80 (foreign).

(4) Aircraft accident reports, narrative—$40 (U.S.) and $80 (foreign).

(5) Board safety recommendations—$60

NOTE.—Send subscription orders for (a)(1), (a)(2), and (a)(5) above to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Subscription orders for (a) (3) and (4), above, should be forwarded to the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

(b) Document certification under the Board's seal—$4.

(c) Computer tapes and services for aviation accidents. Duplication of computer tapes (or a fraction thereof)—$40.

NOTE.—Computer tape requests should be addressed to the Chief, Information Systems Division, Bureau of Technology, National Transportation Safety Board, Washington, D.C. 20594.

(d) The basic fees set forth provide for ordinary first-class postage prepaid. If registered, certified, air, or special delivery mail is used, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, such costs will be added to the basic fee.

(e) Subscription fees for (a) above, reproduction fees, and search fees are waived for qualifying foreign countries, international organizations, nonprofit public safety entities, State and Federal tranportation agencies, and colleges and univeristies, after approval by the Director, Bureau of Administration. In addition, such fees may be waived or reduced for other recipients not in any of the foregoing categories, when determined by the Director, Bureau of Administration, to be appropriate in the interest of and contributing to the Board's program.

2. Reproduction fees. All documents in the Board's public files may be examined, without charge, in the Board's public reference room, located in the Public Inquires Section. A self-service duplicator in the reference room is available to the public for reproduction at a nominal cost.

Accident dockets. Reproduction of accident dockets (statements, photographs, hearing transcripts, and other material contained in the Board's accident investigation files) is accomplished by commercial contract. Requests must be forwarded to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The contractor may bill and/or collect full payment before duplicating the requested documents. Fees are subject to change depending upon the Board's annual contract award.

Current fees are:

(a) Photocopy:

Size (in inches):	
8½ by 11	$0.17
8½ by 14	.17
10 by 14	.02

(b) Photographic prints:

Size (in inches):	
8 by 10 black/white	$5.00
3½ by 5 color	2.50
5 by 7 color	3.00
8 by 10 color	4.00
2 by 2 color slide	2.00

(c) Hearing transcripts, $0.25.

(d) Regular service—Usually, two weeks' time is required to service a request for reproduction. General aviation accident files dated prior to January 1, 1964, and air carrier accident files dated prior to January 1, 1964, are no longer available. Accident files for all transportation modes, dating from January 1, 1965, through December 31, 1974, are stored at the Federal Records Center; in filling any request for reproduction of these files, approximately 2 additional weeks will be needed for retrieval.

(e) Expedited service—A 2-percent surcharge will be made for accelerated service which will be provided within 2 working days commencing when the contractor has received advance payment or when telephone arrangements have been made with the contractor. Accelerated delivery service will be handled as follows:

Step 1. Customer places telephone or written request to the Board's Public Inquiries Section for desired accident file.

Step 2. The Board forwards order form and file to contractor.

Step 3. Contractor sends advance billing invoice, which shows total cost, to customer.

Step 4. Customer calls contractor direct and verifies that he is wiring payment to contractor, as specified by contractor, or customer returns a copy of the contractor's invoice with full payment enclosed.

Step 5. Contractor copies documents and mails them to the customer.

3. Document search fee—The Board has determined that it is in the public interest to eliminate fees for the first hour of search time. For all time expended beyond the initial hour in locating documents, the fee is $5 per hour.

4. Responses to safety recommendations. Single copies of responses to safety recommendations are available without charge.

5. Documents available without commercial reproduction cost until limited supplies are exhausted.

(1) Press releases.

(2) Aircraft accident reports, narrative, and brief format probable cause reports (on request for specific accidents).

(3) Surface accident reports.

(4) Special studies.

(5) Safety Board regulations (chapter VIII of title 49, Code of Federal Regulations).

(6) Indexes to initial decisions, Board orders, opinions and orders, and staff manuals and instructions.

(7) Statistical data published by the Board.

(8) Safety recommendations.

6. Documents for sale by the Government Printing Office:

(1) Board's annual report.

(2) Volume I, National Transportation Safety Board Decisions (1967-1972).

Signed at Washington, D.C., this 25th day of September 1978.

ELWOOD T. DRIVER,
Acting Chairman.

[FR Doc. 78-27361 Filed 9-27-78; 8:45 am]

[4910-58]

PART 840—RULES PERTAINING TO NOTIFICATION OF RAILROAD ACCIDENTS

Amendment to Reporting Requirements

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment, which is based on the Board's experience, lowers the minimum damage figure for a reportable accident from $500,000 to $150,000, and specifies that the figure is to be based on "a preliminary gross estimate" of damage to railroad and nonrailroad property. These changes would broaden the scope of railroad accident reporting and require early notification of accidents.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Elmer Garner, Chief, Railroad Accident Division, Room 820G, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, telephone 202-472-6091.

SUPPLEMENTARY INFORMATION: On July 27, 1978, the Board published a proposed rule (43 FR 32441) concerning the amendment, and invited interested persons to submit written comments by August 28, 1978. Three comments were received.

The first comment suggested that the Board adopt the accident reporting requirements of the Federal Railroad Administration (FRA), and indicated that preliminary damage estimates are difficult to make, even at the $500,000 threshold level. The FRA's telephonic reporting requirements are limited to accidents which result in: (1) The death of a rail passenger or employee; or (2) death or injury of five or more persons (49 CFR 225.9). These requirements alone would not satisfy the Board's mandate to investigate any "railroad accident in which there is a fatality, substantial property damage, or which involves a passenger train" (49 U.S.C. 1903(a)(1)(C)). Moreover, the monthly reporting of accidents to FRA would be too late to serve any useful purpose in connection with the Board's investigation of accidents. In recognition of the difficulty of obtaining preliminary damage estimates, this amendment requires only a gross, or unrefined, estimate to be made. The Board can accept the first such estimate of any responsible official at the scene, such as a trainmaster or division superintendent, and has done so traditionally. The sole purpose of the Board's regulation is to assure that it is notified of all serious train accidents without undue delay.

The second comment objected to any additional burden of paperwork and cost, indicating that the lower threshold would require eight times as many reports to be made. It should be emphasized that the Board does not require a written report but rather a telephonic report (toll free) on area code 800-424-0201. (See 49 CFR 840.3(c).) Even using this eight-fold multiplier, the highest number of reports filed under the new criteria by any of the 20 railroads surveyed would be 128 per year, or an average of 11 per month. The Board does not believe that this number of telephone reports would represent a material escalation of accident costs to the railroad. To clarify a misunderstanding expressed in this comment, the Board does not need or expect detailed estimates from the mechanical, engineering, or freight claims departments of the railroads in its initial notification of the accident. The amendment will require only a "gross" approximation of the damage in the telephonic report from the first railroad official at the scene. There should be no necessity for additional personnel either to make or receive these initial notifications. Moreover, in the Board's view, the additional data provided from a greater number of accident investigations will tend ultimately to reduce the number of train accidents and, in turn, reduce the operating costs of the railroad carriers.

The third comment received raises several of the same questions addressed above concerning the Board's use of accident reports filed with the FRA, the increased number of reportable accidents at the reduced $150,000 threshold, and the additional workload of obtaining "reasonably informed estimates" from a variety of sources, such as the mechanical, freight claims and transportation de-

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partments of the carrier, before submitting an accident report. In this instance, the carrier's statistics indicate that the current annual average of 8 reports would increase to 42 accident reports at the $150,000 level. A compromise figure of $300,000 is suggested as the damage threshold, which would average out to 20 reports per year for this carrier. The Board recognizes the necessity of making the rules for accident reporting as convenient as possible for the carrier in the immediate post-accident period. The amendment is designed to relieve the carrier's burden of making precise or detailed damage estimates before notification to the Board. The FRA's criteria for telephone reports will not suffice for the Board's investigative purposes. Although the monthly reports for FRA are useful for certain statistical analyses related to railroad safety, the Board's data base depends on its own investigation of accidents. Early notification of all serious accidents is essential to provide the data base from which truly effective accident prevention recommendations and programs can be developed. The Board believes at this time that a minimum damage figure of $150,000 will embrace the requisite number of accidents to be considered for investigation. If the cost of railroad equipment and other factors should increase to the extent that the numbers of accidents reported exceeds the handling capability of its staff, the Board will then raise the damage threshold figure to the appropriate level.

Accordingly, part 840 of title 49, chapter VIII of the Code of Federal Regulations, is amended as follows:

1. In § 840.3, paragraph (a)(2) is amended to read:

§ 840.3 Notification of railroad accidents.

(a) A railroad shall notify the Board in the manner prescribed by paragraph (c) at the earliest practical moment after the occurrence of an accident which results in—

* * * * * *

(2) Damages, based on a preliminary gross estimate, of $150,000 or more to railroad and nonrailroad property; or

* * * * * *

(Pub. L. 93-633, 88 Stat. 2169 (49 U.S.C. 1903).)

Dated: September 25, 1978.

ELWOOD, T. DRIVER,
Acting Chairman.

[FR Doc. 78-25978 Filed 9-27-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1340]

PART 1033—CAR SERVICE

Regulations for the Use of Locomotives

DECIDED SEPTEMBER 21, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1340).

SUMMARY: An acute shortage of locomotives for transporting shipments of coal exists on the Louisville & Nashville Railroad Co. (LN). The Atlanta & West Point Rail Road Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co. and Western Railway of Alabama shall collectively deliver to the LN a total of 100 serviceable locomotive units suitable for road freight movements.

DATES: Effective on date of service. Expires 11:59 p.m., January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

An acute shortage of locomotives for transporting shipments of coal exists on the Louisville & Nashville Railroad Co. (LN). This company is a part of a system of railroads controlled by the Seaboard Coast Line Railroad Co. (SCL), which includes the lines of the Atlanta & West Point Rail Road Co., Clinchfield Railroad Co., Georgia Railroad, LN, SCL, and Western Railway of Alabama. The LN has leased locomotives from unaffiliated railroads, but has been unsuccessful in obtaining sufficient locomotives to move cars promptly over its lines. The effects of these shortages are highly concentrated in the movement of coal from mines served by the LN and have contributed to the critical car shortages at coal mines served by the LN. These car shortages have resulted in great economic loss and reduced employment in those coal mines, and have been particularly burdensome to single-car coal shippers.

It is the opinion of the Commission that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of locomotives are ineffective, and that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impractical and contrary to the public interest, and that good cause exists for making this order effective on less than thirty (30) days' notice.

It is ordered,

§ 1033.1340 Service Order No. 1340.

(a) Atlanta & West Point Rail Road Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co., and Western Railway of Alabama to deliver locomotives to Louisville & Nashville Railroad Co. The Atlanta & West Point Rail Road Co. (AWP), Clinchfield Railroad Co. (CRR), Georgia Railroad (Ga), Seaboard Coast Line Railroad Co. (SCL), and Western Railway of Alabama (WA) shall collectively deliver to the Louisville & Nashville Railroad Co. (LN) a total of one hundred (100) serviceable locomotive units suitable for road freight movements. This delivery shall be accomplished in accordance with the following schedule:

Total locomotive units*	To be furnished LN on or before
50	October 15, 1978.
75	November 15, 1978.
100	December 15, 1978.

*Includes locomotives leased to LN by SCL prior to, and still in service, on LN on effective date of this order The full 100 locomotives must be in service on the LN on December 15, 1978.

Locomotives delivered under this order shall be under the control of the LN and shall be used in the normal course of transporting traffic thereon.

The Family Lines may deduct one locomotive unit from each of the one hundred (100) locomotive units required by this order to be furnished to LN for each locomotive unit the LN secures from a non-Family Line railroad in addition to the ninety-four (94) such non-Family Line locomotives it was using on August 18, 1978.

AWP, CRR, Ga, SCL, and WA locomotives in use on and under the control of the LN on the effective date of this order may be deducted from the one hundred (100) locomotives SCL is required to deliver under this order, and contractual agreements for the use of locomotives delivered prior to the effective date of this order shall not be affected by this order. AWP, CRR, Ga, SCL, and WA locomotives on the LN in "run-through" services in which these railroads and the LN have each agreed to permit the other's locomotives to run through an interchange connection to a destination terminal subject to an equalization agreement may not be considered as locomotives furnished to the LN under this order.

(b) The LN shall not return to railroads other than the AWP, CRR, Ga, SCL, and WA locomotives which it has leased unless such locomotives are recalled by the owner or unless such locomotives become unserviceable.

(c) Locomotives furnished to the LN by any railroad subject to this order which become unserviceable and which cannot be restored to service by the LN within seven (7) days shall be replaced by the owner with a serviceable locomotive unit.

(d) *Substitution of new LN locomotives.* Effective with the date placed in service, the LN may return to the AWP, CRR, Ga, SCL, or WA one leased locomotive unit for each newly acquired locomotive unit placed in service by the LN.

(e) *SCL responsible.* Inasmuch as the AWP, CRR, Ga, LN, SCL, and WA comprise a single system of railroads controlled by the SCL, after the quota of locomotives to be furnished by the AWP, CRR, Ga, and WA has been determined, the SCL itself shall furnish sufficient locomotives to enable the entire group of carriers to deliver the required one hundred (100) locomotives to the LN.

(f) *Compensation to be paid.* The rates of compensation to be paid by the LN for the use of locomotives furnished by the AWP, CRR, Ga, SCL, and WA shall be those voluntarily agreed upon among the carriers, or, in the event they are unable to agree, those determined by the Commission at the request of any of the carriers named in this order.

(g) *Locomotive defined.* The term locomotive units, as used in this order, means diesel-electric locomotive power units, of 1,500 horsepower or more, each capable of being used in road freight train service.

(h) *Reports required.* 1. The LN shall report, by ownership, on the 1st and 15th day of each month the number of AWP, CRR, Ga, SCL, and WA locomotives in service on its lines which have been furnished to it under the requirements of section (a) of this order and the number of LN locomotives in service on the LN. It shall also report, by ownership, on those same dates the number of any locomotives in service on its lines which have been leased from lines not members of the Family Lines System.

2. The LN, AWP, CRR, Ga, SCL, and WA shall each report to the Commission no later than Wednesday of each week the number of trains and cars held awaiting the availability of locomotives during the previous week. Such weekly reports shall include the following data:

Date	Location	Train identification	Train consist: Loads	Empties	Tons	No. hours held

3. The LN shall report in writing no later than Wednesday of each week the following data for the immediately preceding calendar week:

(i) The name of each operating mine making single-car shipments.
(ii) The rating given each such mine.
(iii) The number of cars ordered by each such mine for each day of the period.
(iv) The number of cars furnished to each such mine for each day of the period.
(v) The total number of cars ordered for the period.
(vi) The total number of cars furnished for the period.
(vii) The percent of cars furnished to cars ordered for the period.
(viii) The percent of cars furnished to the cumulative mine rating for the period.

(i) *Effective date.* This order shall become effective on date of service.

(j) *Expiration date.* This order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed, or suspended by order of the Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission. Commissioners O'Neal, Christian, Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27442 Filed 9-27-78; 8:45 am]

[1505-01]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

Correction

In FR Doc. 78-26459 appearing at page 42960 in the issue for Thursday, September 21, 1978, make the following changes:

1. In the table on page 42968, for Williamson County, Ill., the "Season dates" for snow-white fronted geese should be "Oct. 19 to Dec. 27" only; delete the second entry which reads "Nov. 13 to Jan. 20".

2. In the table on page 42971, for the Wisconsin Canada geese in the east central zone, the bag limit for Canada geese is "2" instead of "1".

3. In the same table on page 42971, the bag limit for Canada geese for the remainder of the State is "2" instead of "1".

[4310-55]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Ill., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Gardner Division of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 17, 18, 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, 311 North Fifth Street, Suite 100, Quincy, Ill. 62301, telephone 217-224-8580.

SUPPLEMENTARY INFORMATION:

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§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Public hunting of white-tailed deer with shotgun is permitted on the Gardner Division of Mark Twain National Wildlife Refuge, Ill., only on the areas designated by signs as being open to hunting. These areas comprising 4,831 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. Permits have been issued following a May 1978 drawing.

(2) Successful hunters will be required to check their deer through the Adams County Check Station near the Division.

(3) Hunting will be from 6:30 a.m. to 3 p.m., c.s.t.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas general which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1978.

T. SCOTT BATES,
Acting Refuge Manager,
Mark Twain National Wildlife Refuge.

[FR Doc. 78-27295 Filed 9-27-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in the States of Arizona, California, New Mexico, Oklahoma, and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for certain species of upland game birds, and animals and predatory animals.

EFFECTIVE DATES: October 1, 1978 through February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

The refuge manager at the address or telephone number listed below in the body of these special regulations.

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations. Those portions of these refuges which are open to upland game and/or predator hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on hunting leaflets available at the individual refuge headquarters. Vehicular travel is restricted to designated roads and trails.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Listed upland game and predator species may be hunted on the following refuges:

ARIZONA

Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, Ariz. 85464, telephone 602-261-2619. Quail, cottontails, coyotes, gray fox, and bobcat.

Special conditions: (1) The open season for hunting quail and cottontails on the refuge extends from October 1, 1978 through February 28, 1979, inclusive. Hunting of quail and cottontails is permitted with shotguns only. (2) The open season for hunting coyotes, gray fox, and bobcats on the refuge extends from October 1, 1978 through February 28, 1979, inclusive; however, the refuge is closed to the taking of predators during any deer season on the refuge, except that a legal deer hunter may take the above-listed predators in his/her permit unit until a deer has been taken.

NOTE.—Kit (swift) fox may not be taken on the Kofa Refuge.

(3) Possession or transportation of any loaded firearm or strung bow within or on any motorized vehicle or its attachments is prohibited. A loaded firearm shall mean any firearm containing any cartridge or ammunition in its chamber, magazine, or clip. (4) Possession or transportation of any uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm shall mean any firearm not encased in a holster, scabbard, or gun case (soft or hard).

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225, telephone 714-922-4433, and

Imperial National Wildlife Refuge, Box 2217, Martinez Lake, Ariz. 85364, telephone 602-783-3400. Quail and cottontails.

Special conditions: (1) Cottontails may be taken only during quail season. (2) Weapons: Shotguns only, no larger than 10 gage and incapable of holding more than three (3) shells total, including in the chamber and magazine. (3) Possession of shotgun shells loaded with shot of greater than size "BB" or a single slug or ball is prohibited. (4) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (5) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling, 250 yards of any farmworker, or within 50 yards of any road or levee. (6) Neither hunters nor dogs are permitted to enter areas closed to hunting to retrieve game. (7) Possession of all handguns and all rimfire firearms on these refuges is prohibited. Rifled firearms that are legal for taking deer may be possessed on the refuges but only during legal big game hunting seasons for legal hunting on the individual refuges.

Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363, telephone 714-326-3853. Quail, cottontails, and jackrabbits.

Special conditions: (1) In the Arizona part of the refuge hunting area, cottontails and jackrabbits may be hunted only during the quail season. (2) In the California part of the refuge hunting area, hunting for cottontails and jackrabbits will start with the start of dove season and continue through to the end of quail season. (3) Weapons: Shotguns only, no larger than 10 gage and incapable of holding more than three (3) shells total, including in the chamber and magazine. (4) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (5) Neither hunters nor dogs are permitted to enter areas closed to hunting to retrieve game. (6) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling or concession operation or within 250 yards of any farmworker. (7) Hunters must enter the Topock Marsh hunting areas by way of designated parking lots only. (8) The portion of Topock Marsh known as the Pintail Slough Management Unit will be open to hunting only on Fridays, Saturdays, and Sundays. This unit comprises all refuge lands north of the north dike.

NEW MEXICO

Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201, telephone 505-622-6755. Quail, ring-necked and white-winged pheasants and cottontails.

Special conditions: (1) Steel (iron) shot shotgun ammunition only may be used for the taking of pheasants, quail, and rabbits on the south refuge unit (area C) during any waterfowl season. Possession of shotgun ammunition other than that loaded with steel (iron) shot is prohibited in this unit during waterfowl seasons.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone 505-835-1828. Quail and cottontails.

Special conditions: (1) Cottontails may be taken on the refuge only during quail season. (2) Access is from State Highway 1 and through the refuge main entrance at refuge headquarters. (3) Rimfire shoulder firearms may be used for hunting cottontails in designated wilderness areas only; otherwise, shotguns and falcons are the only legal means of taking upland game. (4) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving.

OKLAHOMA

Sequoyah National Wildlife Refuge, Box 398, Sallisaw, Okla. 74955, telephone 918-775-4931. Quail, cottontails, and fox and gray squirrels.

Special conditions: (1) Quail and cottontail seasons will close on the refuge at sunset on January 19, 1979. (2) Only shotguns with ammunition loaded with shot and archery tackle, other than a crossbow, may be used to take upland game. All other firearms, ammunition, and weapons are prohibited. (3) With the exception of the Kerr-McClellan Navigational Channel, where weapons must be cased or broken down, hunting weapons of any kind are prohibited in areas not posted as open to public hunting. (4) Up to two (2) dogs per hunter may be used for hunting and retrieving quail or cottontails, but dogs must be under immediate control or supervision and restrained from pursuit of protected species. (5) Possession of firearms on the refuge at night is prohibited. (6) All vehicles must be parked in designated parking areas, as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460, telephone 405-371-2402. Quail.

Special conditions: (1) Shooting hours for quail on the management unit (zones 1 and 2) will be on Tuesdays, Thursdays, Saturdays, and Sundays, from sunrise to 11:45 a.m. local time during the period November 20, 1978, through January 8, 1979. After January 9, 1978, quail hunting will be permitted daily, Sunday through Saturday, from sunrise to sunset. (2) Access is by walk-in only. (3) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (4) Hunters, upon entering or leaving the management unit, may be required to report at designated checking stations for the regulation of hunting activities and/or to furnish information pertaining to their hunt.

Washita National Wildlife Refuge, Box 100, Butler, Okla. 73625, telephone 405-473-2205. Quail and cottontails.

Special conditions: (1) Cottontail hunting is permitted only during the quail season. (2) Hunting is permitted only on Mondays, Tuesdays, Thursdays, Saturdays, and national holidays. (3) Only shotguns, using ammunition loaded with shot no larger than size "BB," are legal firearms for taking quail. Shotguns and/or archery tackle, other than a crossbow, are legal weapons for taking cottontails. Weapons and/or ammunition not covered above are prohibited on the refuge.

TEXAS

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550, telphone 512-423-8328.

Special condition: Due to low population numbers, all upland game seasons for 1978-79 will be closed on this refuge.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joshua J. Harman, Albuquerque Regional Office, telephone 505-766-2036.

SEPTEMBER 20, 1978.

GEORGE S. ROST,
Acting Regional Director,
Albuquerque, N. Mex.

[FR Doc. 78-27296 Filed 9-27-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Pinckney Island National Wildlife Refuge, S.C., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of hunting on Pinckney Island National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide an additional recreational opportunity to the public.

DATE: November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 8447, Savannah, Ga. 31402, 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Pinckney Island National Wildlife Refuge, S.C., only on the areas designated as being open to hunting. These areas comprising 2,860 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 95067, Atlanta, Ga. 30347. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting will be permitted only on November 14, 1978, on areas delineated on refuge map.

2. Participants must check in at headquarters no earlier than 5:30 a.m. and park in designated area prior to hunting. Entry by boat is prohibited.

3. White-tailed deer is the only species to be taken. Only one (1) deer (either sex) may be taken per hunter.

4. Hunting hours are according to State regulations. Hunters must be on their stands during morning and evening periods to be announced prior to the hunt. No movement during these hours will be tolerated.

5. Hunters under age 18 must be under close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case may one adult have more than two juveniles under his/her supervision.

6. Blazing, driving spikes, painting, applying tape, or damaging or destroying trees and shrubbery in any manner is prohibited. Deerstands which will damage trees are not permitted.

7. All forms of litter should be placed in trash receptacles for proper disposal.

8. Transportation is not provided on the refuge. Any movement within the refuge must be by foot.

9. A nontransferable Federal permit is required. Only hunt participants with proper South Carolina license and a refuge permit will be permitted

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on the refuge to hunt. Applications for permits may be obtained from the refuge manager or by mail. Requests for applications made by mail must be accompanied by a stamped, self-addressed envelope.

10. Only primitive weapons (longbows, compound bows, muzzle-loading rifles of .44 caliber or larger with iron sights) will be authorized during the hunt. Weapons must be unloaded and cased except during the daily hunting period.

11. Hunters must wear garments containing at least 500 square inches of daylight fluorescent orange material above the waistline.

12. Hunting will not be permitted closer than 100 yards of U.S. Highway No. 278, the refuge headquarters area, or the residence area.

13. Persons convicted of any wildlife violation or refuge regulation will have their permit suspended and may not be issued a permit for any refuge hunts for the following year.

14. The refuge will be open November 4 and 5, 1978, from 8 a.m. until 5 p.m. for the purpose of scouting. Only hunt participants with their hunt permit will be permitted on the refuge.

The provisions of this special regulation supplement those set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11494 and OMB Circular A-107.

DONALD J. HANKLA,
Area Manager,
Jacksonville, Fla.

SEPTEMBER 19, 1978.

[FR Doc. 78-27297 Filed 9-27-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Ill., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Keithsburg Division of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As set by Federal and State of Illinois laws for 1978 season.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, 311 North 5th Street, Suite 100, Quincy, Ill. 62301. Telephone 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Hunting of black, grey, and fox squirrels is permitted on the Keithsburg Division of Mark Twain National Wildlife Refuge, Ill., only on the areas designated by signs as being open to hunting. These areas comprising 1,400 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for hunting squirrels on the Keithsburg Division of the Mark Twain National Wildlife Refuge extends from September 1 through October 15, 1978, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1978.

T. SCOTT BATES,
Acting Refuge Manager,
Mark Twain National Wildlife Refuge.

[FR Doc. 78-27292 Filed 9-27-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Iowa, to Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Big Timber Division and Turkey Island Area of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As set by Federal and State of Iowa laws for 1978 season.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, 311 North 5th Street, Suite 100, Quincy, Ill. 62301. Telephone 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Big Timber Division and Turkey Island Area of Mark Twain National Wildlife Refuge, Iowa, only on the areas designated by signs as being open to fishing. These areas comprising 1,760 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Upland game hunting shall be in accordance will all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1978.

T. SCOTT BATES,
Acting Refuge Manager,
Mark Twain National Wildlife Refuge.

[FR Doc. 78-27293 Filed 9-27-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Mark Twain National Wildlife Refuge, Iowa, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Big Timber Division and

Turkey Island area of Mark Twain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As set by Federal and State of Iowa laws for 1978 season.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, 311 North 5th Street, Suite 100, Quincy, Ill. 62301. Telephone 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on Big Timber Division and Turkey Island area of Mark Twain National Wildlife Refuge, Iowa, only on the areas designated by signs as being open to fishing. These areas comprising 1,760 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Big game hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1978.

T. SCOTT BATES,
Acting Refuge Manager,
Mark Twain National Wildlife Refuge.

[FR Doc. 78-27294 Filed 9-27-78; 8:45 am]

V 43/189 SE 28 78 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Fire-Cured, Dark Air-Cured, and Virginia Sun-Cured Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (USDA) is considering the grade loan rates to be applied to the various grades of 1978 crop fire-cured, dark air-cured, and Virginia sun-cured tobacco to provide price support as required by the Agricultural Act of 1949, as amended. You are invited to submit views and recommendations concerning the proposed rates.

DATE: Written comments must be received by November 27, 1978, in order to be sure of consideration.

ADDRESS: Send comments to Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

R. P. Hieronymus, 202-447-6695.

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1978 crop of fire-cured tobacco, types 21, 22, and 23 be supported at the level of 84.6 cents per pound, and the dark air-cured tobacco, types 35 and 36, and Virginia sun-cured, type 37 at the level of 75.2 cents per pound.

It is anticipated that price support will be provided through loans to producer associations which will receive the tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances would be based on the proposed grade loan rates, which would average the required level of support when weighted by the estimated grade percentages, in accordance with section 403 of the Act. The price support advances to producers of types 22-23 and 35-36 tobacco shall be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rates. The price support advances to producers of types 21 and 37 tobacco would be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' association is authorized to deduct and to apply against overhead costs.

PROPOSED RULE

Accordingly, it is proposed that 7 CFR Part 1464 be amended by revising §§ 1464.17-1464.20 to read as follows, effective for the 1978 crop of these kinds of tobacco.

§ 1464.17 1978 Crop—Virginia Fire-Cured Tobacco, Type 21—Grade Loan Schedule.[1]

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1F	116	117	117	.....	.....
A2F	113	114	114	.....	.....
A1D	116	117	117	.....	.....
A2D	113	114	114	.....	.....
B1F	113	114	115	.....	.....
B2F	110	111	112	107	.....
B3F	104	105	106	104	86
B4F	94	95	97	94	81
B5F	79	80	82	79	71
B1D	112	113	113	.....	.....
B2D	106	107	108	103	.....
B3D	96	98	99	96	83
B4D	88	88	89	87	82
B5D	75	75	76	75	71
B3M	85	85	87	86	80
B4M	83	83	86	85	79
B5M	73	74	75	74	69
B3G	81	85	87	86	76
B4G	78	79	84	83	75
B5G	69	70	73	71	65
C1L	119	120	120	.....	.....
C2L	115	116	116	105	.....
C3L	102	105	105	95	.....
C4L	88	89	90	88	.....
C5L	78	79	84	75	.....
C1F	119	120	120	.....	.....
C2F	115	116	116	100	.....
C3F	104	105	105	91	.....
C4F	90	92	97	95	.....
C5F	79	81	83	79	.....
C2D	80	81	81	75	.....
C3D	74	75	76	72	.....
C4D	70	71	72	71	.....
C5D	64	65	66	64	.....
C3M	84	85	87	85	.....
C4M	80	82	86	84	.....
C5M	68	69	71	69	.....
C3G	72	73	74	71	.....
C4G	67	68	69	68	.....
C5G	65	66	67	65	.....

Grade	Advance Rate	Grade	Advance Rate
X1L	94	X1D	88
X2L	93	X2D	86
X3L	90	X3D	84
X4L	83	X4D	78
X5L	78	X5D	73
X1F	94	X3M	78
X2F	93	X3M	45 76
X3F	90	X4M	76
X4F	83	X4M	45 73
X5F	78	X5M	66
		X5M	45 65
X3G			78
X3G		45	75
X4G			75
X4G		45	72
X5G			64
X5G		45	63
NIL			57
N1D			54
N1G			58
N2			39

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The Association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

§ 1464.18 1978—Crop—Kentucky-Tennessee Fire-Cured Tobacco, Types 22 and 23—Grade Loan Schedule.[2]

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length
A1F	126	126	126	.....	.....
A2F	121	121	121	.....	.....
A3F	113	113	113	.....	.....
A1D	126	126	126	.....	.....
A2D	121	121	121	.....	.....
A3D	113	113	113	.....	.....
B1F	109	109	109	104	.....
B2F	104	104	104	100	.....
B3F	100	100	100	97	91
B4F	91	91	91	88	81
B5F	87	87	87	84	76
B1D	108	108	108	103	.....
B2D	103	103	103	99	.....
B3D	100	100	100	96	90
B4D	92	92	92	89	82
B5D	84	84	84	80	74
B3M	88	88	88	84	79
B4M	81	81	81	77	70
B5M	76	76	76	71	66
B3VF	86	86	86	82	75
B4VF	84	84	84	81	74
B5VF	80	80	80	77	70
B3G	86	86	86	82	74
B4G	81	81	81	77	69
B5G	74	74	74	69	64
C1L	109	109	109	105	.....
C2L	106	106	106	103	.....
C3L	100	100	100	96	90
C4L	96	96	96	93	87
C5L	93	93	93	91	84
C1F	105	105	105	101	.....
C2F	102	102	102	99	.....
C3F	99	99	99	96	89
C4F	92	92	92	89	82
C5F	90	90	90	86	79
C1D	109	109	109	104	.....
C2D	98	98	98	95	.....
C3D	92	92	92	89	83
C4D	84	84	84	82	76
C5D	79	79	79	77	70
C3M	88	88	88	85	79
C4M	82	82	82	81	75
C5M	80	80	80	76	69
C3VF	89	89	89	86	80
C4VF	86	86	86	84	78
C5VF	84	84	84	82	73
C3G	83	83	83	80	75
C4G	77	77	77	73	68
C5G	72	72	72	69	66

Grade	Advance Rate	Grade	Advance Rate
X1L	93	X1D	90
X2L	91	X2D	86
X3L	87	X3D	81
X4L	82	X4D	77
X5L	81	X5D	74
X1F	96	X3M	80
X2F	94	X4m	75
X3F	88	X5M	72
X4F	84		
X5F	82		
X3VF	81	NIL	70
X4VF	77	N1D	62
X5VF	73	N1G	58
X3G	78	N2	50
X4G	69		
X5G	65		

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

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§ 1464.19 1978-Crop—Dark Air-Cured Tobacco, Type 35 and 36—Grade Loan Schedule.[3]

LOAN RATE

(Dollars per hundred pounds, farm sales weight)

Grade	Length 47	Length 46	Length 45	Length 44
A1F	111	111	111	
A2F	107	107	107	
A3F	101	101	101	
A1R	111	111	111	
A2R	107	107	107	
A3R	101	101	101	
B1F	102	102	102	99
B2F	97	97	97	96
B3F	92	92	92	90
B4F	83	83	83	82
B5F	77	77	77	76
B1R	101	101	101	99
B2R	96	96	96	95
B3R	90	90	90	89
B4R	82	82	82	81
B5R	77	77	77	76
B1D	101	101	101	99
B2D	96	96	96	95
B3D	89	89	89	88
B4D	82	82	82	81
B5D	74	74	74	73
B3M	85	85	85	84
B4M	78	78	78	77
B5M	71	71	71	70
B3G	84	84	84	83
B4G	78	78	78	77
B5G	69	69	69	68
C1L	102	102	102	101
C2L	100	100	100	99
C3L	94	94	94	93
C4L	85	85	85	84
C5L	75	75	75	73
C1F	102	102	102	101
C2F	98	98	98	97
C3F	93	93	93	91
C4F	85	85	85	84
C5F	76	76	76	74
C1R	100	100	100	99
C2R	97	97	97	96
C3R	90	90	90	88
C4R	79	79	79	78
C5R	71	71	71	70
C3M	85	85	85	84
C4M	75	75	75	74
C5M	70	70	70	69
C3G	86	86	86	84
C4G	76	76	76	75
C5G	69	69	69	68

Grade	Grade	Grade	Grade
T3F	74	X1L 93	X3M 76
T4F	70	X2L 88	X4M 74
T5F	62	X3L 86	X5M 68
		X4L 83	
T3R	74	X5L 76	X3G 74
T4R	69		X4G 69
T5R	61	X1F 92	X5G 58
		X2F 87	
T3D	74	X3F 84	N1L 65
T4D	69	X4F 82	N2L 57
T5D	61	X5F 74	
			N1R 57
T3M	73	X1R 91	N2R 53
T4M	64	X2R 86	
T5M	59	X3R 80	N1G 54
		X4R 75	N2G 51
T3G	72	X5R 70	
T4G	65		
T5G	57	X3D 81	
		X4D 75	
		X5D 68	

[3] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accept. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such factor.

Grade	Advance Rate	Grade	Advance Rate	Grade	Advance Rate
X3D	69	X3G	74	N1G	49
X4D	65	X4G	69	N2G	37
X5D	55	X5G	65		
X3M	78	N1R	49	N1L	52
X4M	75	N2R	41	N2L	43
X5M	73				

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

§ 1464.20 1978—Crop Virginia Sun-Cured Tobacco, Type 37—Grade Loan Schedule.[4]

(Dollars per hundred pounds, farm sales weight)

LOAN RATE

Grade	Length 46	Length 45	Length 44	Grade	Length 46	Length 45	Length 44
A1	106	106	101	B3G	81	81	79
A2F	101	101	98	B4G	71	73	70
A3F	99	98	96	B5G	67	67	66
A1R	105	105	101	C1L	101	102	92
A2R	101	101	95	C2L	97	98	90
A3R	95	95	93	C3L	93	94	89
				C4L	84	85	81
B1F	104	105	95	C5L	74	75	71
B2F	100	101	96				
B3F	95	96	90	C1F	102	103	93
B4F	89	90	86	C2F	99	100	91
B5F	76	77	74	C3F	93	94	88
				C4F	85	86	83
B1R	104	105	100	C5F	75	76	75
B2R	100	101	96				
B3R	91	92	90	C1R	93	93	87
B4R	83	89	83	C2R	87	87	83
B5R	73	74	72	C3R	78	78	75
				C4R	75	75	71
B1D	101	101	95	C5R	66	66	64
B2D	98	98	93				
B3D	90	90	85	C3M	76	77	76
B4D	80	80	75	C4M	69	72	69
B5D	73	75	70	C5M	65	68	66
B3M	81	81	79	C3G	66	67	65
B4M	76	76	74	C4G	63	65	64
B5M	69	69	66	C5G	57	60	58

Grade	Advance Rate	Grade	Advance Rate	Grade	Advance Rate
T3F	68	T3M	67	X1F	84
T4F	67	T4M	64	X2F	82
T5F	61	T5M	59	X3F	78
				X4F	75
T3R	70	T3G	69	X5F	66
T4R	67	T4G	67		
T5R	62	T5G	61	X1R	81
				X1R	80
T3D	67	X1L	82	X3R	74
T4D	67	X2L	81	X4R	72
T5D	59	X3L	77	X5R	65
		X4L	73		
		X5L	66		

Grade	Advance Rate	Grade	Grade	
X3D	69	X3G	74	N1G 49
X4D	65	X4G	69	N2G 37
X5D	55	X5G	65	
X3M	78	N1R	49	N1L 52
X4M	75	N2R	41	N2L 43
X5M	73			

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

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Prior to making any determination, the Department will give consideration to comments, views and recommendations submitted in writing to the Acting Director, Price Support and Loan Division, ASCS, USDA.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741, South Building, USDA, 14th and Independence Avenue SW., Washington, D.C. 20013.

NOTE.—OCC has determined that this document does not contain a significant proposal having major economic consequences for the general economy requiring preparation of a regulatory analysis under Executive Order 12044.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an environmental impact statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C. on September 21, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 27078 Filed 9-27-78; 8:45 am]

[3410-05]

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Cigar Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (USDA), is considering the grade loan rates to be applied to the various grades of the various kinds of 1978 crop cigar tobacco to provide price support as required by the Agricultural Act of 1949, as amended. You are invited to submit views and recommendations concerning the proposed rates.

DATE: Written comments must be received by November 27, 1978, in order to be sure of consideration.

ADDRESS: Send comments to Acting Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

R. P. Hieronymus, 202-447-6695.

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1978 crop of cigar tobacco, types 42-44, and types 53-55 be supported at the level of 62.3 cents per pound, types 51-52 at the level of 86.3 cents per pound and type 46 at the level of 64.7 cents per pound. It is anticipated that price support will be provided through loans to producer associations which will receive the tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances would be based on the proposed grade loan rates, which would average the required level of support when weighted by the estimated grade percentages, in accordance with section 403 of the Act. The price support advances to producers would be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound, which the producers' associations are authorized to deduct and to apply against overhead costs.

PROPOSED RULE

Accordingly, it is proposed that 7 CFR Part 1464 be amended by revising §§ 1464.22-1464.27 to read as follows, effective for the 1978 crop of these kinds of tobacco:

§ 1464.22 1978 crop—Ohio filler tobacco, types 42–44, loan schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Crop run (stripped together):	
X1	67.0
X2	61.0
X3	56.0
X4	51.0
Nondescript: N	42.0

§ 1464.23 1978 crop—Connecticut Valley broadleaf tobacco, type 51, loan schedule.[2]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Binders:	
B1	111.0
B2	101.0
B3	90.0
B4	80.0
B5	69.0
Nonbinders: X1	55.0

§ 1464.24 1978 crop—Connecticut Valley Havana seed tobacco, type 52, loan schedule.[2]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Binders:	
B1	107.0
B2	99.0
B3	88.0
B4	79.0
B5	69.0
Nonbinders: X1	55.0

[1]Tobacco is eligible for loan only if consigned by the original producer. No loan is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade). The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against overhead and receiving costs.

[2]Tobacco is eligible for loan only if consigned by the original producer. No loan is authorized for tobacco graded "N1" or "N2" (nondescript) or "S" (scrap) or designated "No-G" (no grade). The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against overhead and receiving costs.

§ 1464.25 1978 crop—New York and Pennsylvania Havana seed tobacco, type 53, and southern Wisconsin tobacco, type 54, loan schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Crop run:	
X1	69.0
X2	62.5
X3	56.0
Farm fillers:	
Y1	49.0
Y2	47.0
Y3	44.0
Nondescript:	
N1	42.0
N2	36.0

§ 1464.26 1978 crop—Northern Wisconsin tobacco, type 55, loan schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Binders:	
B1	84.0
B2	79.0
B3	73.0
Strippers:	
C1	70.0
C2	63.5
C3	59.0
Crop run:	
X1	69.0
X2	63.0
X3	58.0
Farm fillers:	
Y1	47.0
Y2	45.0
Y3	41.0
Nondescript:	
N1	41.0
N2	35.0

§ 1464.27 1978 crop—Puerto Rican tobacco, type 46, loan schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate
Price block I (C1F and C1P)	70.0
Price block II (X1F, X1P, and X1S)	64.0
Price block III (X2T, X2F, X2P, and X2S)	57.0
Price block IV (N)	26.0

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writting to the Director, Price Support and Loan Division.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741, South Building, USDA, 14th and Independence Avenue SW., Washington, D.C. 20013.

[1]Tobacco is eligible for loan only if consigned by the original producer. No loan is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade). The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against overhead and receiving costs.

CCC has determined that this document does not contain a significant proposal having major economic consequences for the general economy requiring preparation of a regulatory analysis under Executive Order 12044.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an environmental impact statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on September 21, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-27079 Filed 9-27-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 30, 70]

RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

Domestic Licensing of Special Nuclear Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission has under consideration proposed amendments which would establish requirements to be accomplished in the event of an irretrievable well-logging source (any sealed source containing licensed material which is pulled off or not connected to the wireline downwell, and for which all reasonable effort at recovery, as determined by the Commission, has been expended). The Commission believes that uniform and adequate safety requirements are necessary to ensure that there is no damage to the source which might result in dispersal of the radioactive material.

DATE: Comments must be recieved on or before November 27, 1978.

ADDRESS: (1) Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Doda, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5946.

SUPPLEMENTARY INFORMATION: current well-logging operations involve the lowering and retrieving of measuring devices or tools, which may contain sealed radioactive sources, on a wireline into wells for the purpose of obtaining a graph or log of information on the underground strata. An irretrievable well-logging source is one which is pulled off or not connected to the wireline downwell and for which all reasonable effort at recovery, as determined by the Commission, has been expended. The determination of irretrievability will be made after a telephone request by the licensee. The proposed amendments would require each licensee to request that the Commission make a determination that the source is irretrievable (after failure of recovery efforts), to provide for sealing the source in place with a cement plug, setting a deflection device at the top of the cement plug and mounting a permanent identification plaque at the surface of the well, and to report circumstances concerning the irretrievable well-logging source to the Commission and to pertinent State agencies within thirty (30) days after the Commission determines that the source is irretrievable. Presently, licensees must indicate similar type actions in their license application and these actions are reviewed by the Commission before the license is granted.

These regulations would not be applied to operations or activities which had been started or completed prior to a selected effective date.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that the adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 30 and 70 is contemplated.

Copies of the comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. A new paragraph (x) is added to § 30.4 to read as follows:

§ 30.4 Definitions.

• • • • • •

(x) "Irretrievable well-logging source" means any sealed source containing licensed material which is pulled off or not connected to the wireline downwell and for which all reasonable effort at recovery, as determined by the Commission, has been expended.

2. A new § 30.56 is added to 10 CFR part 30 to read as follows:

§ 30.56 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with sealed sources only in wells for which the well-operator or the well-owner has previously executed a written agreement that assures the implementation, within

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thirty (30) days of an event of an irretrievable well-logging source, of the following requirements:

(1) The immobilization and sealing in place of each irretrievable well-logging source with a cement plug.

(2) The setting of a whipstock or other deflection device on the top of the cement plug, except where the cement plug and source are not accessible to any possible subsequent drilling operations.

(3) The mounting of a permanent identification plaque (containing: "Caution Radioactive Material", radiation symbol without color requirement, "Irretrievable Well-logging Source" and date of occurrence, well-owner and the city and State where his main office is located, well name and number, radionuclide and quantity of activity, source depth, plug-back depth, and appropriate warning) at the surface of the well.

(b) in the event of failure of recovery efforts for a sealed source which is pulled off or not connected to the wireline downwell, each licensee shall request by telephone, to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in appendix D of part 20 of this chapter, that the Commission make a determination that the source is irretrievable.

(c) The licensee shall, within thirty (30) days of an event of an irretrievable well-logging source, make a report in writing to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter with a copy each to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the appropriate State agencies that have authority over the particular well-drilling operations, setting forth the following information:

(1) Date of occurence;

(2) A description of the irretrievable well-logging source involved, including radionuclide, quantity, chemical, and physical form;

(3) Surface location and identification of well;

(4) Results of efforts to immobilize and seal the source in place;

(5) Depth of source;

(6) Depth of the top of the cement plug;

(7) Depth of well;

(8) Any other information (e.g., warning statement) contained on permanent identification plaque;

(9) Notifications made to State agencies; and

(10) A brief description of the attempted recovery efforts.

(d) Any licensee or applicant for a license may apply to the Commission for approval of proposed methods to be used in lieu of any of the requirements of paragraphs (a), (b), and (c) of this section for an irretrievable well-logging source.

3. A new paragraph (v) is added to § 70.4 to read as follows:

§ 70.4 Definitions.

* * * * *

(v) "Irretrievable well-logging source" means any sealed source containing licensed material which is pulled off or not connected to the wireline downwell and for which all reasonable effort at recovery, as determined by the Commission, has been expended.

4. A new § 70.60 is added to 10 CFR Part 70 to read as follows:

§ 70.60 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with sealed sources only in wells for which the well-operator or the well-owner has previously executed a written agreement that assures the implementation, within thirty (30) days of an event of an irretrievable well-logging source, of the following requirements:

(1) The immobilization and sealing in place of each irretrievable well-logging source with a cement plug.

(2) The setting of a whipstock or other deflection device on the top of the cement plug, except where the cement plug and source are not accessible to any possible subsequent drilling operations.

(3) The mounting of a permanent identification plaque (containing: "Caution Radioactive Material", radiation symbol without color requirement, "Irretrievable Well-logging Source", date of occurence, well-owner and the city and State where his main office is located, well name and number, radionuclide and quantity of activity, source depth, plug-back depth, and appropriate warning) at the surface of the well.

(b) In the event of failure of recovery efforts for a sealed source which is pulled off or not connected to the wireline downwell, each licensee shall request by telephone, to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in appendix D of part 20 of this chapter, that the Commission make a determination that the source is irretrievable.

(c) The licensee shall, within thirty (30) days of an event of an irretrievable well-logging source, make a report in writing to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter with a copy each to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the appropriate State agencies that have authority over the particular well-drilling operations, setting forth the following information:

(1) Date of occurence;

(2) A description of the irretrievable well-logging source involved, including radionuclide, quantity, chemical, and physical form;

(3) Surface location and identification of well;

(4) Results of efforts to immobilize and seal the source in place;

(5) Depth of source;

(6) Depth of the top of the cement plug;

(7) Depth of well;

(8) Any other information (e.g., warning statement) contained on permanent identification plaque;

(9) Notifications made to State agencies; and

(10) A brief description of the attempted recovery efforts.

(d) Any licensee or applicant for a license may apply to the Commission for approval of proposed methods to be used in lieu of any of the requirements of paragraphs (a), (b), and (c) of this section for an irretrievable well-logging source.

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 21st day of September 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-27214 Filed 9-27-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-EA-84]

NEWBURGH, N.Y.

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Newburgh, N.Y., control zone, over Stewart Airport, Newburgh, N.Y. This alteration will extend the operating hours of the control zone to full time. This alteration arises out of a decision to operate the Stewart Airport tower on a full-time basis.

DATE: Comments must be received on or before October 19, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before October 19, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations so as to amend the description of the Newburgh, N.Y., control zone by deleting all after "Poughkeepsie, N.Y., control zone."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 13, 1978.

LOUIS J. CARDINALLI,
Acting Director,
Eastern Region.

[FR Doc. 78-27116 Filed 9-27-78; 8:45 am]

[4910-13]

[14 CFR Part 93]

[Docket No. 18311; Notice No. 78-13]

SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

Proposed Special Air Traffic Rules for Portland International Airport Traffic Area: Pearson Airpark Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the special air traffic rules for operating aircraft to and from the Pearson Airpark which lies within the airport traffic area for Portland International Airport. The current requirement for radio communications with Portland International Airport traffic control tower would be eliminated for aircraft within specified airspace around Person Airpark. Separate traffic flows would be required for fixed-wing aircraft and for helicopters. The FAA believes the proposals, if adopted, would improve the pilot's ability to receive current flight information from Pearson UNICOM, separate helicopter from fixed-wing traffic, and enhance the safe and efficient use of the navigable airspace.

DATE: Comments must be received on or before November 28, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 18311, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Charles Stratton, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3128.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before November 28, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSED RULE

This notice proposes amendments to subpart H of part 93 of the Federal Aviation Regulations (FAR's), to exclude Pearson Airpark traffic within defined airspace from the requirement to maintain communications with Portland International Airport tower while within the Portland airport traffic area, as is now required, and to require helicopters to avoid the flow of fixed-wing aircraft operating at Pearson Airpark.

COMMUNICATIONS

The current regulation, FAR § 93.103, states that, while within the Portland Airport traffic area, each person operating an aircraft to or from Pearson Airpark "shall establish and maintain two-way radio communications with Portland International Airport Traffic Control Tower." This provision prevents those pilots operating single-radio aircraft at Pearson

Airpark from monitoring Pearson Airpark's local UNICOM radio for traffic advisories. The proposal defines certain airspace in the immediate vicinity of Pearson Airpark in which the current communications requirement would not apply. That proposal would allow Pearson Airpark traffic within the defined airspace to monitor the Pearson UNICOM radio. Those aircraft operating in the vicinity of Pearson Airpark outside the defined airspace but within the Portland Airport traffic area would continue to maintain two-way radio communications with the Portland International Airport Traffic Control Tower in accordance with the applicable provisions of FAR 91.87 or 93.103(a).

PEARSON AIRPARK TRAFFIC

This proposed rule would continue to generally require fixed-wing aircraft to enter the Pearson Airpark traffic pattern from the north at 1,000 feet MSL. However, this notice proposes separate traffic rules for helicopters. Generally, helicopters operating at an airport are not required to fly the same traffic pattern as fixed-wing aircraft. Under paragraphs §§ 91.87(e)(2) and 91.89(b), helicopters are permitted to fly any airport traffic pattern that avoids the flow of fixed-wing aircraft. However, § 93.105 requires all aircraft, including helicopters, operating at Pearson Airpark to follow the traffic pattern described in that section. The FAA believes that, due to their operating characteristics, helicopters should not conform to the flow of fixed-wing aircraft. Consequently, FAA is proposing to amend FAR § 93.105 to specifically exclude helicopters from proposed Pearson Airpark traffic pattern for fixed-wing aircraft at that airport and to require them to avoid the flow of fixed-wing aircraft that are in that traffic pattern.

THE PROPOSED RULE

Accordingly, the Federal Aviation Administration proposes to amend subpart H of part 93 of the Federal Aviation Regulations (14 CFR Part 93) as follows:

1. By revising § 93.103 to read as follows:

§ 93.103 Communications.

(a) Except as provided in paragraph (b) of this section, while within the Portland International airport traffic area, each person operating an aircraft to or from Pearson Airpark shall establish and maintain two-way radio communication with the Portland International airport control tower.

(b) Communication with Portland International Airport control tower is not required under this section when operating to or from Pearson Airpark within the airspace from the surface up to, and including, 1,000 feet MSL bounded on the south by a line overlying the southern edge of the Pearson Airpark runway, on the east by a north-south line 3,000 feet east of the eastern end of the Pearson Airpark runway, and on the northwest by the arc of a 5 statute mile radius circle centered on Portland International Airport.

2. By revising § 93.105 to read as follows:

§ 93.105 Pearson Airpark traffic.

(a) *Arriving.* Except when the VFR clearance-from-cloud rules of part 91 of this chapter require otherwise, each person piloting an aircraft, excluding helicopters, arriving at the Pearson Airpark shall enter the traffic pattern north of the airport at 1,000 feet MSL and execute a left traffic pattern for a landing to the east or a right traffic pattern for a landing to the west.

(b) *Departing.* Each person piloting an aircraft, excluding helicopters, departing from Pearson Airpark shall leave the airport traffic pattern to the north.

(c) *Helicopters.* Each person piloting a helicopter at Pearson Airpark shall enter and leave the traffic pattern north of the airport and shall avoid the flow of fixed-wing aircraft operating in the traffic pattern.

(Secs. 307, 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), and 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria specified in Executive Order 12044 and set forth in interim Department of Transportation guidelines.

Issued in Washington, D.C., on September 20, 1978.

GLEN D. TIGNER,
Acting Director,
Air Traffic Service.

[FR Doc. 78-27120 Filed 9-27-78; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4421]

NATIONAL FLOOD INSURANCE PROGRAM

Program Flood Elevation Determination for the Town of Hillsboro, Hillsborough County, N.H.

Correction

In FR Doc. 78-24049 appearing at page 38858 in the issue for Thursday, August 31, 1978, make the following changes in the table:

(1) Under Sand Brook, the elevation now reading "169 (feet)" should have read "619 (feet)".

(2) Under North Branch Brook, the elevation now reading "579 (feet)" should have read "597 (feet)".

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 78-026]

CABIN CREEK, GRASONVILLE, MD., AND WYE RIVER, WYE, MD.

Proposed Special Anchorage Areas

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Watermans' Protective Association, Inc., Grasonville, Md., the Coast Guard is proposing to establish special anchorage areas at Cabin Creek, Grasonville, Md., and Wye River, Wye, Md. The designation of these areas as special anchorages would allow the approximately 50 commercial and private fishing vessels that routinely moor at these locations to do so without displaying anchor lights. Vessels not more than 65 feet in length, when at anchor in a special anchorage area, are not required to carry or exhibit anchor lights. This proposal would establish two areas approximately 10 nautical miles apart that would safely accommodate anticipated small fishing and recreational vessels desiring to anchor without the necessity of carrying or displaying anchor lights.

DATES: Comments must be received on or before: November 13, 1978.

ADDRESSES: Comments should be submitted to and are available for examination at the Office of the Commander (mps) Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Howard E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 7th Street SW., Washington D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify the notice

(CGD 78-026) and the specific section of the proposal to which the comment applies, and give the reason for the comments. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATION

Members of the Watermans' Protective Association, Inc., Grasonville, Md. operate approximately 50 small fishing vessels in the vicinity of Cabin Creek and Wye River, Md. which rutinely anchor in the areas described in this proposal. Both areas are natural coves that are well removed from fairways and located where general navigation will not endanger or be endangered by unlit vessels. Vessels not more than 65 feet in length, when at anchor in a special anchorage, are not required to carry or exhibit anchor lights. Approval of this proposal will be in the best interest of persons desiring to anchor small vessels in these areas by eliminating the requirement for carrying and displaying anchor lights.

An environmental assessment was completed in January 1978 which determined that there would be no impact on the quality of the human environment.

This regulation has been reviewed under DOT notice 78-1 "Improving Government Regulations" (43 FR 9582) and a draft evaluation has been prepared and is available for public inspection at the project manager and the fifth district addresses indicated above.

In consideration of the foregoing, part 110 title 33 Code of Federal Regulations would be amended by adding § 110.71a and § 110.71b to read as follows:

§ 110.71a Cabin Creek, Grasonville, Md.

The waters of Cabin Creek, Md., enclosed by a line drawn from latitude 38°56'34" N., longitude 76°12'49" W., on the western shore to latitude 38°56'28" N., longitude 76°12'29" W., on the eastern shore; thence following the general line of the shore to the point of beginning.

§ 110.71b Wye River, Wye, Md.

The waters of a cove on the western shore of Wye River opposite Drum Point enclosed by a line drawn from latitude 38°53'17" N., longitude 76°11'23" W., to latitude 38°53'18" N., longitude 76°11'23" W., to latitude 38°53'18" N., longitude 76°11'13" W; thence following the shoreline to the point of beginning.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat 937; (49 U.S.C. 1655 (g)(1)(B), 49 CFR 1.46(c)(2)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 21, 1978.

R. H. SCARBOROUGH,
Vice Admiral U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-27355 Filed 9-27-78; 8:45 am]

[4910-14]

[33 CFR Part 117]

[CGD 78-120]

WAPPINGER CREEK, N.Y.

Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Consolidated Rail Corp., the Coast Guard is considering changing the regulations governing the Conrail drawbridge across Wappinger Creek by requiring that advance notice be given at all times. This proposal is being made because of limited requests for openings of the draw. This action will relieve the bridge owner of the burden of having a person available to open the draw at all times.

DATE: Comments must be received on or before October 30, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the offices of the Commander (oan), Third Coast Guard District, Governors Island, N.Y. 10004.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The draw of the Conrail bridge across Wappinger Creek is presently required to open on signal from 11:30 a.m. to 7:30 p.m. from May 15 through October 15 and at all other times if at least 12 hours notice is given. Due to limited openings, (1974—6, 1975—4, (1976 records destroyed by fire) 1977—15), the change proposed below is being offered.

In consideration of the foregoing, it is proposed that part 117 of title 33 of the Code of Federal Regulations be amended by revising § 117.190(f)(2) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.190 Navigable waters in the State of New York and their tributaries; bridges where constant attendance of draw tenders is not required.

* * * * * *

(f) * * *

(2) Wappinger Creek, N.Y.; Conrail railroad bridge at New Hamburg. The draw shall open on signal from May 15 through October 15 if at least 8 hours notice is given and from October 16 through May 14 if at least 24 hours notice is given.

* * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

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Dated: September 20, 1978.

R. H. SCARBOROUGH,
Vice Admiral U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-27356 Filed 9-27-78; 8:45]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 976-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from New Jersey to revise its State implementation plan. The State is seeking approval from the Environmental Protection Agency (EPA) of a change to its regulation limiting the emission of particulate matter from manufacturing processes. In part, this change relaxes particulate matter emission limitations applicable to the glass manufacturing industry. EPA is proposing approval of all but one part of this State implementation plan revision request. That part of the State's regulation which allows for variances from the emission limitations contained elsewhere in the regulation is proposed to be disapproved by EPA because it fails to meet certain important EPA procedural requirements. However, EPA is proposing a procedure whereby such variances granted by the State may be approved on an individual basis as a part of the State implementation plan.

DATES: Comments and requests for public hearing must be received on or before October 30, 1978.

ADDRESSES: All comments and requests for public hearing should be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, N.Y. 10007;

U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903-B, 401 M Street SW., Washington, D.C. 20460; and

New Jersey State Department of Environmental Protection, Bureau of Air Pollution Control, John Fitch Plaza, Trenton, N.J 08625.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On March 31, 1977 the State of New Jersey requested that the Environmental Protection Agency (EPA) consider a proposed revision to its State implementation plan (SIP). Additional information was provided on April 18, 1977 and November 14, 1977. The revision request was submitted in accordance with all applicable EPA requirements under 40 CFR Part 51 including a public hearing which was held in Trenton, N.J. on September 29 and 30, 1976.

The proposed revision consists of changes to the State regulation, title 7, chapter 27, subchapter 6, of the New Jersey Administrative code (N.J.A.C. 7:27-6.1 et seq.), entitled, "Control and Prohibition of Particles from Manufacturing Processes." A summary of the proposed changes to subchapter 6, a discussion of the potential air quality impact of these changes, and the process by which EPA will make a final decision on whether to approve or disapprove the proposed revision follow.

I. PROPOSED CHANGES TO SUBCHAPTER 6

A. Section 6.1—Definitions.

Definitions are provided for the terms "cullet," "glass," "glass manufacturing furnace," "lead glass," and "process weight." In addition, the present definition for the term "particles" is modified.

B. Section 6.2—Standards for the Emission of Particles.

Except for glass manufacturing furnaces used for the production of lead glass, glass manufacturing furnaces are no longer required to meet a grain loading or control efficiency standard as specified in the present subsection 6.2(a), but instead are controlled by a new production rate standard contained in the changed subsection 6.2(b). No increase in allowable emissions from the production of lead glass is proposed because of the State's concern about the toxicity of lead.

C. Section 6.3—Performance test principle.

The methods for determining actual source emissions and plume opacity are identified as being those contained in N.J.A.C. 7:27 B-1, "Air Test Method One," and 7:27 B-2, "air Test Method Two," respectively.

D. Section 6.4—Emission tests.

No changes are proposed for this section.

E. Section 6.5—Variances.

Under the proposal, the State may grant a variance from the emission limitations and opacity limitations specified in § 6.2 of the regulation to a facility for which it is adequately demonstrated that advances in the art of control for the kind and amount of particles emitted has not developed to a degree sufficient to enable the requirements of § 6.2 to be met.

Also under the proposal, the State may grant a variance from the emission limitations specified in § 6.2 to those glass manufacturing furnaces where the material being processed in the furnace consists of greater than 25 percent cullet, by weight. The maximum allowable emission rate in such situations increases as the cullet content increases above 25 percent.

The proposed § 6.5 also permits the State to grant a variance from the plume opacity limitation of 20 percent specified in subsection 6.2(d) if a glass manufacturing furnace can meet all applicable emission limitations, but cannot at the same time meet the plume opacity limitation of subsection 6.2(d).

F. Section 6.6—Permit to construct and certificate to operate.

A minor change to the wording of subsection 6.6(c) is proposed.

G. Section 6.7—Exemptions.

Subparagraph 6.7(a)(3) is deleted. This subparagraph established a schedule for compliance by certain sources required to meet the provisions of Subchapter 6. This schedule has been superseded by EPA compliance schedules established in the FEDERAL REGISTER of July 24, 1975 (40 FR 30962).

II. DISCUSSION OF IMPACT OF PROPOSED REVISION

A. CHANGE IN EMISSIONS

A comparison of the present subchapter 6 and the proposed revision indicates that the proposed revision allows more particulate matter than presently allowed to be emitted from glass manufacturing furnaces in New Jersey. However, the State expects that a reduction in actual current emissions will occur through implementation of the proposed revision. This is because many furnaces are currently not in compliance with the present emission regulation and will have to reduce emissions to achieve compliance with the revised regulation. The State also believes that those glass manufacturing furnaces which are currently operating without air pollution control equipment and have emissions either at or below the present emission limitation will not increase emissions as a result of the proposed revision.

According to the State, there are approximately 70 glass manufacturing furnaces in New Jersey. Six of these

furnaces currently have air pollution control equipment in operation and, under the proposed revision, these furnaces would be allowed to increase their present emission rates by decreasing their control equipment efficiency. Approximately 35 glass manufacturing furnaces currently do not have air pollution control equipment installed. Nevertheless, these furnaces are estimated as being able to meet the proposed emission limitations without the installation of such equipment. For the approximately 30 remaining glass manufacturing furnaces, new control measures will be necessary to comply with the proposed revision. The State expects that the emission reductions that will be obtained from these furnaces will more than offset any possible emission increases from the six glass manufacturing furnaces presently with controls.

The State estimates that the present rate of particulate emissions from New Jersey glass manufacturing furnaces is 2,800 tons per year. If all facilities were in compliance with present emission limitations, their emissions would amount to 1,100 tons per year. The adoption of the proposed revision is expected to result in a rate of particulate emissions of approximately 1,800 tons per year, or 700 tons per year more than presently allowed.

B. IMPACT ON AIR QUALITY

In its technical support document, the State utilized diffusion modeling to estimate the impact of the proposed revision on ambient air quality. The State compared the estimated change in 1975 ambient concentrations of total suspended particulates (TSP) that would result if all glass manufacturing furnaces were in compliance with the present emission regulations with the estimated change that would result if there were compliance with the proposed emission limitations. In both cases compliance was estimated to cause a decrease in TSP concentrations, but the decrease would be less for the proposed revision than for the present emission regulation.

The State in its technical support document estimated that contraventions of the primary annual national ambient air quality standard for particulate matter (75 ug/m³) at two monitoring sites and that contraventions of the secondary 24-hour national ambient air quality standard for particulate matter (150 ug/m³) at four monitoring sites would be reduced less if compliance were achieved with the proposed revision rather than if compliance were achieved with the present emission regulation. For these sites, the State estimated that, as a result of many glass manufacturing furnaces currently not being in compliance with the present emission limitation, improvement in or, in some cases, no deterioration from present air quality would occur as a result of compliance with the proposed emission limitation.

On December 5, 1977 under the provisions of section 107(d) of the Clean Air Act, as amended, the State updated the current status of air quality in New Jersey. In this evaluation of air quality, the State showed that nonattainment of the primary standard for TSP occurred only in Jersey City and Camden. For Jersey City, air quality data for the year ending June 1977 showed that the annual geometric mean concentration of TSP was 77.1 ug/m³. The Camden evaluation was based on 1975 data which showed that the annual geometric mean concentration was 84 gu/m³. The 1976 data for the Camden site was consistent with the 1975 data.

The changes in air quality at Jersey City and Camden that were calculated to result from compliance of all glass manufacturing furnaces with the present emission limitation and from compliance with the proposed emission limitation are shown in table 1. The estimates for Jersey City were based on the State's technical support document; for Camden, they were based on EPA's preliminary analysis.

TABLE 1.—*Impact on Air Quality; Total Suspended Particulates, Annual Geometric Mean* (μg/m³)

Monitoring site	Concentration	Estimated concentration through compliance with present emission limitations	Estimated concentration through compliance with proposed emission limitations
Jersey City	77.1	76.8	77.0
Camden	84.0	83.7	83.9

Widespread nonattainment of the 24-hour secondary standard was identified by the State in its December 5, 1977 assessment of air quality. EPA expects that the improvement in air quality in these nonattainment areas under conditions of compliance with the existing and with the proposed limitations would be similar to the improvement predicted for the secondary standard nonattainment monitoring sites that was predicted in the State's technical support document. The improvement in air quality predicted by the State to result from compliance with the present emission limitations was from 1 to 2 μg/m³; the improvement predicted to result from compliance with the proposed emission limitations was from 0 to 1 μg/m³.

On May 2, 1978 the State sent a letter to EPA in which it presented the results of dual sampling studies for Jersey City and Camden. These studies demonstrate that the previous monitored data had overstated TSP concentrations. Based on these studies New Jersey requested that these areas be redesignated as attainment for the primary TSP standard and nonattainment for the secondary TSP standard. The Regional Office has reviewed this request and has agreed with the State's conclusions. The revised designations will be published in the FEDERAL REGISTER.

In light of these redesignations the current proposed SIP revision for emission of particulates from the glass manufacturing industry has been shown to not result in an increase in allowable emissions in any area designated as nonattainment for the primary TSP standard.

C. AERODYNAMIC DOWNWASH

Preliminary analysis by the State indicated that ten New Jersey glass manufacturing furnaces have a potential for aerodynamic downwash, a special air quality problem involving significant plume impact near the plant due to poor dispersion. These plants are listed in table 2.

TABLE 2.—*Glass Manufacturing Furnaces Having a Potential for Aerodynamic Downwash*

Name	Location
1. Owens-Illinois, Inc	Bridgeton.
2. Star City Glass	Salem.
3. Metro Containers	Carteret.
4. Anchor Hocking Corp	Millville.
5. Owens-Illinois, Inc	North Bergen.
6. Owens-Corning Fiberglass Corp.	Barrington.
7. Certain-teed Products Corp.	Winslow Township.
8. Thatcher Glass	Wharton.
9. Kraftco	Jersey City.
10. Wheaton	Millville.

III. PRELIMINARY ASSESSMENT OF APPROVABILITY OF PROPOSED REVISION

A. IMPACT ON AIR QUALITY

Based on the State technical support document, the magnitude of current contraventions in New Jersey of the secondary air quality standards for

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particulate matter would not be reduced as much by compliance with the proposed revision as by compliance with the present regulation. The regulatory changes proposed by New Jersey increase the allowable particulate matter emissions for glass manufacturing furnaces above those contained in the existing SIP. However, the statewide emission reductions resulting from the Federal regulation which requires reduction in lead content of gasoline were not considered in the original SIP. These emission reductions are greater than the increase in allowable emissions associated with the proposed plan revision. Other emission reductions not documented in the SIP have resulted from the installation of control devices which reduce emissions below existing SIP limitations. The Regional Office has determined that the air quality impact of compliance with the proposed plan revision taken together with the emission reductions previously not considered in the SIP would be equivalent to the impact that would result from compliance with the existing regulation alone. Moreover, if it is found that other control measures are necessary to provide for attainment of standards, additional emission limitations will be adopted by the State by January 1, 1979, as required by the amended Clean Air Act. While it would be preferrable to incorporate additional control measures (or measures for which "credit" is being taken) into the SIP at the same time that we approve this revision relaxing certain TSP limitations, EPA believes that, with the exception to be discussed in part III C of this notice, the air quality improvement to be derived from replacing the existing regulation with a readily enforceable regulation such as has been proposed is justification for proposing its approval.

B. AERODYNAMIC DOWNWASH CONSIDERATION

EPA's approval of the proposed revision as it relates to the ten furnaces having a potential for aerodynamic downwash must be based on a commitment from the State that the potential downwash problems will be examined and corrected, where necessary, in as expeditious a manner as possible. The State has indicated in a letter dated February 28, 1978 that it intends to commence a stack testing program after EPA approval of this plan revision and to institute a monitoring program around the furnaces that have been identified for downwash problems. EPA is requesting that the State submit, during the public comment period, a plan elaborating on any course of action the State intends to pursue to identify and remedy all downwash problems as expeditiously as possible should the revised regulation be approved. If the State's procedure is acceptable, it will be incorporated into the final SIP revision.

C. IMPACT OF VARIANCES

EPA does find one shortcoming in subsections (a), (b), and (c) of section 6.5, "Variances," of the State's regulation. This section contains no requirement that each variance issued by the State be submitted to EPA as a SIP revision request. Section 51.34 of part 51 of chapter I, title 40, Code of Federal Regulations, requires that in order for a variance to be considered for approval as a revision to a State implementation plan, it must be submitted by the State in accordance with the requirements of section 51.6, "Revisions."

Consequently, EPA proposes disapproval of subsections 6.5 (a), (b), and (c) of the State's revision request as submitted. EPA proposes instead that each variance that the State grants under § 6.5 of N.J.A.C. 7:27, whether it be for insufficient available control technology, cullet use, or inability to meet the opacity limitation, be subject to a public hearing in accordance with the provisions of § 51.4, "Public Hearings," and that each such variance be processed as an individual SIP revision for EPA approval.

Persons wishing to comment on this proposed action may do so by submitting written comments or by requesting a public hearing within 30 days of publication of this notice.

In consideration of the foregoing, it is proposed to amend 40 CFR chapter I as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. By amending subpart FF by adding new § 52.1604 as follows:

§ 52.1604 Control Strategy and Regulations: Total suspended particulates.

(a) any variance issued by the Department under N.J.A.C. title 7, chapter 27, § 6.5, subsections (a), (b), or (c), shall not exempt any person from the requirements otherwise imposed by N.J.A.C. 7:27-6.1 et seq.; provided that the Administrator may approve such variance as a plan revision when the provisions of this part, section 110 (a)(3)(A) of the Act, and 40 CFR Part 51 (relating to approval of and revisions to State implementation plans) have been satisfied with respect to such variance.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New Jersey State implementation plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of section 110(a)(2) (A)-(K) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sec. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).)

Dated: September 22, 1978.

ECKARDT C. BECK,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 78-27220 Filed 9-27-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[46 CFR Part 508]

[Docket No. 78-33]

ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE UNITED STATES/ECUADOR TRADE

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to enact a rule pursuant to section 19(1)(b) of the Merchant Marine Act of 1920 (46 U.S.C. 876(1)(b)) in order to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States which result from discriminatory laws of the Government of Ecuador. This rule proposes to suspend, in part, tariffs on file with the Commission. The tariffs to be suspended are the Atlantic and Gulf/West Coast of South America Conference freight tariff FMC-1 and the Association of West Coast Steamship Companies freight tariff FMC-1, only as these tariffs apply to the participation of the Ecuadorian national flag carrier Transportes Navieros Ecuatorianos (Transnave) in the trade between the United States and Ecuador. The proposed suspension of Transnave's participation as a member in the trade between the United States and Ecuador in the above conference tariffs is designed to eliminate unfavorable conditions which have precluded a vessel in the foreign trade of the United States from competing in the trade on the same basis as any other vessel.

DATE: Comments (original and 15 copies) October 18, 1978.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Assistant Secretary, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 19(1)(b), Merchant Marine Act, 1920 (46 U.S.C. 876), as implemented in Commission General Order No. 33 (46 CFR Part 506), the Federal Maritime Commission, hereinafter referred to as the Commission, is authorized and directed to make rules and regulations affecting shipping in the foreign trade of the United States in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade of the United States and which arise out of, or result from, foreign laws, rules or regulations, or from competitive methods or practices employed by owners, operators, agents or masters of vessels of a foreign country.

The types of conditions which the Commission has found to be unfavorable to shipping in the foreign trade of the United States are generally set forth in 46 CFR 506.3. Among these are conditions which preclude or tend to preclude a vessel in the foreign trade of the United States from competing in the trade on the same basis as any other vessel, and those which are discriminatory or unfair as between carriers. (46 CFR 506.3 (a) and (d).)

The Commission has found that the policy of the Ecuadorian Government in implementation and enforcement of Ecuadorian Decree 7/78 appears to have created conditions unfavorable to shipping in the foreign trade of the United States.

Ecuadorian Decree No. 7/78 is a cargo preference law designed to protect the carriage of import goods on board Ecuadorian flag vessels in order to promote the development of the Ecuadorian Merchant Marine. The National Council of the Merchant Marine of Ecuador has issued a requirement that a notice be stamped on import/export licenses to enforce the cargo preference law. The stamped notice assures that the cargo is transported by Ecuadorian flag or Ecuadorian shipping enterprise, U.S. flag, or shipping enterprises associated with an Ecuadorian shipping enterprise. Recent implementation of this policy has resulted in the MV *Lionheart*, a vessel operated by Coordinated Caribbean Transport (CCT) in the trade between Miami and Ecuador being denied such stamps on that country's licenses. Further, refusal by Ecuadorian authorities to issue the required stamp and/or waiver of Decree 7/78 has resulted in delays in the transportation of goods between the United States and Ecuador which have greatly concerned and affected United States exporters.

On September 15, 1978, the Commission notified the Secretary of State of the Commission's findings in the matter and asked the Department of State to seek diplomatic resolution of the problem.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), the Commission proposes to enact Part 508, Title 46, Code of Federal Regulations, as follows:

PART 508—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE UNITED STATES/ECUADOR TRADE

Sec.
508.1 Conditions unfavorable to shipping in the foreign trade with Ecuador.
508.2 Suspension of tariffs.
508.3 Additional provisions.

AUTHORITY: Commission General Order No. 33 (46 CFR Part 506), sec. 19(1)(b), Merchant Marine Act, 1920 (46 U.S.C. 876 (1)(b)), sec. 4, Administrative Procedure Act (5 U.S.C. 553), sec. 43, Shipping Act, 1916 (46 U.S.C. 841a), and Reorganization Plan No. 7 of 1961 (75 Stat. 840).

§ 508.1 Conditions unfavorable to shipping in the foreign trade with Ecuador.

The Federal Maritime Commission has determined that the Government of Ecuador has created conditions unfavorable to shipping in the foreign trade of the United States by precluding a vessel of third flag registry operated by Coordinated Caribbean Transport, Inc. (C.C.T.) from competing in the ocean trade between the United States and Ecuador on the same basis as Ecuadorian carriers and by discriminating thereby against vessels of third flag registry in favor of the Ecuadorian carrier Trasportes Navieros Ecuatorianos (Trasnave).

§ 508.2 Suspension of tariffs.

The tariffs of the Atlantic and Gulf/West Coast of South America Conference and the Association of West Coast Steamship Companies, as these tariffs apply to the participation of Transnave in the trade between Ecuador and the United States, are suspended. These conference tariffs shall be amended to reflect the suspension of Transnave in the trade between Ecuador and the United States. The effect of this action is to suspend indefinitely all tariff rates, charges and rules as they apply to Transnave in the trade between the United States and Ecuador. Any future tariffs filed by or in behalf of Transnave in the trade between the United States and Ecuador shall likewise be suspended.

§ 508.3 Additional provisions.

Failure to comply with § 508.2 shall subject Transnave to all applicable remedies and penalties provided by law.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-27317 Filed 9-27-78; 8:45 am]

[6730-01]

[46 CFR Parts 531 and 536]

[General Order 13; Docket No. 78-301]

TIME LIMIT FOR FILING OF OVERCHARGE CLAIMS

Extension of Time for Filing Comments

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: The FMC is extending the time for filing comments on its proposed rule to prohibit any tariff rule of a common carrier by water which limits to less than the 2-year period prescribed by the Shipping Act of 1916, the time within which a shipper must submit a claim to the carrier to recover over charges based on errors in weight, measurement, or description. The extension is being granted because of requests from certain conferences. (43 FR 39399; September 5, 1978.)

DATES: Comments on or before October 6, 1978. (Original and 15 copies.)

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 202-523-5725.

SUPPLEMENTARY INFORMATION: Counsel for a number of conferences and rate agreements has requested a 30-day enlargement of time to file comments in response to the notice of proposed rulemaking in this proceeding. Counsel states that the 24-day period allowed is wholly inadequate for the member lines to consider, discuss, prepare and transmit comments concerning the proposed rules.

A 30-day period is deemed to be adequate for submission of complete comments on most matters and the instant proposed rule is no exception. The notice of proposed rulemaking in fact was intended to provide 30 days but delay in transmission of the notice to the FEDERAL REGISTER resulted in the inadvertent cutback to 24 days. Time for filing comments is therefore enlarged an additional week to and including October 6, 1978. This enlargement conforms the comment period to the Commission's original intention

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and provides counsel a portion of the time requested.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-27316 Filed 9-27-78; 8:45]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 78-13, Notice 1]

DESIGNATED SEATING POSITION

Proposed Clarification of Definition

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the definition of "designated seating position" to clarify in dimensional terms that the definition includes any position likely to be used for seating accomodation while the vehicle is in motion. The specification of dimensional parameters in the definition is considered necessary to assure proper and consistent determinations of whether a particular position is likely to be used for seating accomodation while the vehicle is in motion. The clarification is intended to insure that all positions likely to be used for seating accommodation will be equipped with occupant restraint systems for the protection of the persons using those positions.

DATES: Comments to the proposal must be received not later than November 6, 1978. The proposed effective date of the clarified definition is September 1, 1979.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Hugh Oates, Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2992.

SUPPLEMENTARY INFORMATION: On May 22, 1978, the NHTSA published a notification to vehicle manufacturers concerning the agency's interpretation of the term "designated seating position" (43 FR 21893). As pointed out in that notice, Safety Standard No. 208 (49 CFR 571.208) requires manufacturers to provide occupant crash protection for each "designated seating position" in a passenger car, and that term is defined in 49 CFR 571.3 as:

[A]ny plan view location intended by the manufacturer to provide seating accomodation while the vehicle is in motion, for a person at least as large as a fifth percentile adult female, except auxiliary seating accommodations such as temporary or folding jump seats.

The notification of May 22, 1978, was issued because of the NHTSA's concern that certain recent vehicle models have improperly designated seating capacities. these models have been designated by their manufacturers as having only two front seating positions, even though the vehicles have bench or split-bench seats that are clearly capable of accommodating three adult occupants and are being so used This situation represents a serious threat to safety since the vehicles have no restraint systems for the front center seat passenger.

The earlier notification emphasized that although under the existing definition it is the manufacturer which designates the number of seating positions in the vehicle, the manufacturer's intent will be determined by the agency on the basis of all facts and his declarations will not always be accepted by the agency if they are inconsistent with the actual vehicle design. The manufacturer's designation must be made in good faith and must conform to the basic policies and tenor of the National Traffic and Motor Vehicle Safety Act. To clarify the NHTSA's position on this subject, the notice emphasized to manufacturers that any position in the front seat of a vehicle capable of accommodating a person at least as large as a 5th percentile adult female will be considered a "designated seating position" by the agency, if the overall seat configuration and design is such that the position is likely to be used as a seating position while the vehicle is in motion.

In spite of this earlier notification to manufacturers, the agency has tentatively concluded that further action is necessary to secure greater consistency in the seating capacity designations by the manufacturers and to assure consumers contemplating buying a new vehicle that comparable vehicles are similarly designated. Several factors have led to this conclusion. First, the responses to an investigation of the criteria used by manufacturers to designate seating capacities of current models indicate that manufacturers' determinations often involve many factors which are purely marketing considerations. For example, one manufacturer stated that it changed the front and rear seating configuration on one of its models from 3/2 to 2/3 (number of positions) because competitive cars with similar dimensions for front-seat shoulder and hip room were being designated with only two front seat positions. This change was made even though the front and rear seats remained basically the same in terms of seating space.

Second, inquiries from manufacturers since the previous notification was issued indicate manufacturers are unclear about their latitude in designating seating capacities of future vehicle designs. General Motors Corp. requested that the NHTSA inspect one of its 1980 model designs to determine if the agency would accept a designation of two front seating positions for the vehicle. During inspection of this 1980 design, NHTSA personnel demonstrated that three large adult males could sit in the front bench seat, even though the seating was somewhat cramped. A small child or a 5th percentile female could sit in this center seating position with no problem, and the position would likely be so used. The NHTSA would, therefore, consider the center position to be a designated seating position, requiring a restraint system. General Motors, however, is already geared for full production of this 1980 design with only two front designated seating positions.

The fact that manufacturers have made inquiries of this sort indicates that considerations other than providing restraint systems for all possible occupants are often determinative in the manufacturer's designation of seating capacity. The manufacturers have stated that many factors are involved in designating seating capacities, including program objectives, marketing considerations, and engineering considerations. The manufacturers point to seat width, hip room, shoulder room, leg room, seat trim and seat padding among other things to demonstrate their "intent" concerning the number of positions that should be used for seating accommodation. For example, even though a particular model might have sufficient hip and shoulder room in the front seat for three passengers, the manufacturer points to seat trim and lack of comparable seat padding in the center position as evidence that the manufacturer does not intend for that position to be used. This reasoning does not take into account, however, the realities of the vehicle's actual use and what the manufacturer can expect if he has provided sufficient space for a third seat passenger, even if the center position is not as comfortable as the two outside seat positions. If there is sufficient space for a center seat passenger, and no rigid obstruction such as a console, in a bench or split-bench seat, it must be said that the manufacturer "intended" it to be used as a seating position, since the manufacturer cannot ignore the fact that the center position will likely be used by a substantial number of persons. The manufacturer's main concern should be to assure that all potential seat passengers are provided with restraint systems, and this should be the determinative factor in the number of seating positions he designates. If there is a question whether the position will be used, the manufacturer's decision should be to provide a restraint system.

Although the agency's position is embodied in the existing definition of "designated seating position" and the interpretations of that definition, the above considerations have led to the conclusion that the manufacturers have exceeded their discretion in this area. Manufacturers have apparently construed the phrase, "intended by the manufacturer," in the current definition to grant "carte blanche" in designating seating capacity, regardless of the likely or actual use that will result because of the vehicle's design. Accordingly, this notice proposes to amend the definition of "designated seating position" to remove reference to the manufacturer's "intent" and to specify criteria to assure proper and consistent designations of seating capacity.

After considering the various methods to set such minimum limits, the agency has tentatively concluded that the amount of available hip space in the seat(s) is the singlemost determinative factor in whether a center position will in fact be used for seating accommodation while the vehicle is in motion. although such factors as seat trim, leg room, head room and seat padding may influence the number of people that will use the center space in a bench or split-bench seat, if there is sufficient hip seat room, a substantial number of persons will use that center space as a seating position. These other factors become even less important in the case of small children who do not require much leg room or shoulder room. Therefore, the proposed definition sets dimensional limits on the amount of hip space that can be provided in a bench or split-bench seat unless three or more seating positions are designated by the manufacturer. The agency is interested in comments whether other dimensional criteria should be included in the caveat, such as shoulder space, for example.

In selecting the hip-space criteria for the proposed definition, the agency examined the amount of hip space in various current vehicle models in relation to the number of seating positions designated for that hip space. Interestingly, this examination demonstrated inconsistencies in current designation. It was found that several models have more hip space in the front bench or split-bench seat that in the rear seat, yet the rear seat is designated with three positions and the front seat only two. For example, one vehicle model had 56.2 inches of hip space in the front seat with only two positions designated and 48.7 inches of hip space in the rear seat with three positions designated and three sets of restraint systems provided.

Based on its investigation, the agency has tentatively concluded that the hip-space criteria should be set at 50 inches. This dimension is approximately three times the 16.5-inch hip width of a 95th percentile adult male (a male weighing 215 pounds) and would provide adequate hip space for three adults to sit side-by-side. While it may be argued that additional hip space would be necessary for reasons of comfort or to accommodate winter clothing, it is apparent that the 50 inches of hip space is more than adequate to seat most sizes of vehicle occupants three abreast, especially if the occupants are smaller than 95th percentile adult males. Therefore, the proposed definition of "designated seating position" qualifies a general meaning that is similar to the existing definition with the caveat that any bench or split-bench seat having greater than 50 inches of hip space shall have not less than three designated seating positions. While the 50-inch limit is more space than would be required for three 5th percentile females (or for small children in a center seating position), the level is specified only as a minimum. The 50-inch specification does not mean that some vehicle seats with less than 50 inches of hip space should not also have more than two designated seating positions. The specification is merely the amount of space the agency will consider as conclusive evidence that there should be at least three designated seating positions.

In response to the agency's previous notification to manufacturers concerning "designated seating positions," several comments were received stating that much more is involved than number of restraint systems if designated seating capacity is increased. The comments stated that there could also be problems with tire loading and with braking capabilities, since these aspects of vehicle design are related to vehicle weight which is affected by seating capacity. The agency's response to these concerns is that if a vehicle's actual seating capacity is greater than that designated by the manufacturer, the tire loading and braking capabilities should be adjusted to accommodate the actual occupant weight the vehicle will be carrying, just as the vehicle should be equipped with additional restraint systems.

Automobile Importers of America, Inc. also stated that the NHTSA's position has raised questions with respect to small vehicles. The AIA is concerned that "the agency may consider any seat that would accommodate a 5th percentile adult female to be a designated seating position even though not so designated by the manufacturer." As stated in the previous notice, and as specified in the proposed definition, any position that is capable of accommodating a 5th percentile adult female will be considered a designated seating position if the overall seat configuration and design is such that the position will likely be used for seating accommodation while the vehicle is in motion. This, of course, applies to small vehicles as well as large vehicles. The agency would not consider each amount of space large enough for a 5th percentile female to be a separate designated seating position, however, if the seat configuration and design were not such that the spaces would likely be used as distinct seating positions. The caveat specified in today's proposal is an automatic limit on a manufacturer's discretion, but the limit is based on a 95th percentile male and not a 5th percentile female.

The caveat specified in the proposed definition would not become effective until September 1, 1979. Manufacturers would be allowed to continue their current production plans until that date.

The proposed definition change should have no inflationary or environmental impacts, since it only clarifies the existing definition and its interpetations.

The engineer and lawyer primarily responsible for the development of this notice are Guy Hunter and Hugh Oates, respectively.

In consideration of the foregoing, it is proposed that the definition of "designated seating position" as specified in 49 CFR 571.3 be amended to read as follows:

"Designated seating position" means any plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. Any bench or split-bench seat in a passenger car, truck or multipurpose passenger vehicle with a GVWR less than 10,000 pounds, having greater than 50 inches of hip space shall have not less than three designated seating positions.

Interested persons are invited to submit comments on the proposal. It is

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requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 21, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-27046 Filed 9-21-78; 4:22 pm]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1064]

[Ex Parte MC-95 (Sub-No. 2)]

PRACTICES OF MOTOR COMMON CARRIERS OF PASSENGERS—CHECKED BAGGAGE LIABILITY PROVISIONS

Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Presently, the ICC regulations on liability coverage for checked baggage on motor common carriers is $250 minimum per adult ticket. This document proposes a rule to require motor common carriers of passengers and baggage who publish tariff provisions limiting their liability, to also permit passengers to declare a value for their baggage in excess of the minimum $250 liability at an additional chrage. This new provision would allow passengers to more fully recover the value of their baggage if damaged or lost.

DATE: Comments must be received on or before October 30, 1978.

ADDRESS: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, 202-275-7348.

SUPPLEMENTARY INFORMATION: The Commission, in docket No. MC-C-6829 (which embraced docket MC-C-6829 (Sub-1)) Limitation of Free Baggage Allowance—Greyhound, 120 MCC 719 (1974), among other matters, established regulations (49 CFR 1064.1) requiring that the minimum permissible liability for baggage per adult ticket be $250.

Subsequent to the establishment of this regulation, the bus carriers increased their limited liability per adult fare from $50 to $250, but, in many instances, did not provide for the declaration of value in excess of $250.

While the 49 CFR Part 1064 regulations are silent on this matter, it is obvious from the Commission's statements in the MC-C-6829 proceeding that the Commission intended for the carriers who do publish limited baggage liability per adult fare also to provide passengers with the opportunity to declare a value in excess of that liability. For example, the Commission stated in its interim report in the proceeding, at 118 MCC 838, page 848, the following:

> In our judgment (the rules) are reasonable in requiring that the public be given adequate notice of the liability limits to which their baggage is subject and in requiring that all passengers checking baggage have an opportunity to obtain coverage for excess value * * *.

It is therefore appropriate at this time to consider the establishment of a rule requiring the carriers, which elect to publish a limit on personal baggage liability under the adult fare, to permit passengers to obtain greater coverage.

This decision does not significantly affect the quality of the human environment.

Copies of submitted comments will be available for public use in the Office of the Secretary, 12th and Constitution Avenue NW., Washington, D.C., during the Commission's regular business hours.

Copies of this notice will be served on respondents in this proceeding.

Notification to the general public will be provided by the mailing of a copy of this notice to the Governor of every State, to the Public Utilities Commissions or boards of each State having jurisdiction over passenger bus transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission for public inspection, and by delivering a copy to the Director, Office of the Federal Register.

It is ordered that:

1. A rulemaking is instituted under the provisions of the Interstate Commerce Act and section 553 of the Administrative Procedure Act to consider whether the amendment of § 1064.1 of title 49 of the Code of Federal Regulations in the manner set forth below, is warranted.

2. All common carriers of passengers by motor vehicle are made respondents in this proceeding.

Dated: September 14, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Murphy not participating.

H. G. HOMME, JR.,
Acting Secretary.

§ 1064.1 Minimum permissible limitations for baggage liability.

Motor common carriers of passengers and baggage subject to part II of the Interstate Commerce Act may not publish tariff provisions limiting their liability for loss or damage to baggage checked by a passenger transported in regular route or special operations unless:

(a) The amount for which liability is limited is $250 or greater per adult fare, and

(b) The provisions permit the passenger, for an additional charge, to declare a value in excess of the limited amount and allow the passenger to recover the increased amount (but not higher than the actual value) in event of loss or damage. Appropriate identification must be attached securely by the passenger to each item of baggage checked, indicating in a clear and legible manner the name and address to which the baggage should be forwarded if lost and subsequently recovered. Identification tags shall be made immediately available by the carriers to passengers upon request.

[FR Doc. 78-27362 Filed 9-27-78; 8:45 am]

V 43/189 SE 28 78

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6335-01]

COMMISSION ON CIVIL RIGHTS

IOWA, KANSAS, MISSOURI, NEBRASKA ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Conference of the Regional Advisory Committees of the Commission will convene at 10 a.m. and will end at 3 p.m. on October 10, 1978, in the Holiday Inn, 11832 Plaza Circle, Kansas City, Mo.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to discuss plans for upcoming fiscal year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 25, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27303 Filed 9-27-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 11 a.m. to 2:30 p.m. on October 25, 1978, at 911 Walnut Street, Room 3100, Kansas city, Mo. 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central State Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to discuss the scope, principal issues and structure of a possible conference on desegregation.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 25, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27306 Filed 9-27-78; 8:45 am].

[6335-01]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 4 p.m. on October 20, 1978, at the Anti-Defamation League Office, 163 Madison Avenue, Detroit, Mich. 48226.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss utilization of Housing and Community Development Funds.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 25, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27305 Filed 9-27-78; 8:45 am]

[6335-01]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12 noon and will end at 3:30 p.m. on October 25, 1978, at Quincy Community School, Boston, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 25, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27304 Filed 9-27-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

ROUNDS I AND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT (LPW) PROGRAM

Closing Date for Requests for Project Modification

This notice informs recipients of assistance under rounds I and II of the LPW program of the closing date for submission of requests for certain types of amendments to their LPW projects.

All requests for changes in a project's cost must be received and accepted in the appropriate EDA regional office by C.O.B. December 29, 1978. The following is a list of EDA regional offices:

Atlantic Regional Office, 10424 Federal Building, 600 Arch Street, Philadelphia, Pa. 19106.

Southeastern Regional Office, Suite 700, 1365 Peachtree Street NE., Atlanta, Ga. 30309.

Rocky Mountain Regional Office, Suite 505, Title Building, 909 17th Street, Denver, Colo. 80202.

Midwestern Regional Office, 175 West Jackson Boulevard, Suite A-1630, Chicago, Ill. 60604.

Western Regional Office, 1700 Westlake Avenue North, Suite 500, Seattle, Wash. 98109.

Southwestern Regional Office, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Tex. 78701.

Dated: September 22, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-27291 Filed 9-27-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MID—ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting with partially closed session.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Surf clam management plan, (2) mackerel management plan, (3) squid management plan, (4) butterfish management plan, (5) position of the United States in international agreements with Canada, and (6) other administrative matters.

With the exception of the agenda item relative to the position of the United States in agreements with Canada, the meeting is open to the public. For information on changes to the agenda, please contact the Executive Director.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on September 21, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, Title 5 United States Code Appendix, that this portion of the aforementioned October 12, 1978, meeting may be closed to the public in accordance with section 552b(c)(1) of Title 5, United States Code, to protect security classified information and to insure the free discussion thereof, since this portion of the meeting is likely to "disclose matters that are (a) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (b) in fact properly classified pursuant to such Executive order." This determination was made in accordance with the provisions of 5 U.S.C. 552b(c)(1). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

DATES: The meeting will commence at 1 p.m. on October 10, 1978, and will adjourn approximately 1 p.m. on October 12, 1978. A closed session to discuss position of the United States in international agreements with Canada is scheduled for 12 noon until 1 p.m. on October 12, 1978. Only those Council members and staff having security clearances will be allowed to attend this closed session.

ADDRESS: The meeting will be held at the Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pa. 19153, phone 215-365-7000.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Del. 19901, phone 302-674-2331.

Dated: September 22, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, MID-ATLANTIC FISHERY MANAGEMENT COUNCIL; NOTICE OF DETERMINATION FOR PARTIAL CLOSURE OF THE MEETING

The Mid-Atlantic Fishery Management Council has scheduled a meeting in Philadelphia, Pa., for October 10-12, 1978. The Council has requested that the meeting be partially closed with respect to the agenda item to discuss the position of the United States in international agreements with Canada.

The Council was established pursuant to section 302 of the Fishery and Conservation Management Act of 1976 (Pub. L. 94-265). There are 19 voting members of the Council, including the Regional Director of the National Marine Fisheries Service, the principal State officials with fishery management expertise from New York, New Jersey, Delaware, Maryland, Virginia, and Pennsylvania, and 12 members appointed by the Secretary of Commerce. Nonvoting members include representatives of the U.S. Fish and Wildlife Service, U.S. Coast Guard, and Atlantic States Marine Fisheries Commission.

The Council's agenda scheduled for the afternoon session on October 12, 1978, involves a discussion of the position of the United States in international agreements with Canada. In order to protect the confidentiality of the negotiating process, these positions are generally unreleasable. Accordingly, pursuant to the authority delegated to me by the Secretary of Commerce, I find and determine pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix that this portion of the aforementioned October 12, 1978, meeting may be closed to the public in accordance with section 552(b)(c)(1) of Title 5, United States Code, to protect security classified information and to insure the free discussion thereof, since this portion of the meeting is likely to "disclose matters that are (a) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (b) in fact properly classified pursuant to such Executive order."

All other portions of the meetings will be open to the public.

Dated: September 21, 1978.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for Administration.

Dated: September 19, 1978.

ALFRED MEISNER,
Assistant General Counsel.

[FR Doc. 78-27236 Filed 9-27-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act, 5 U.S.C., appendix I, notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, established by section 302 and its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP), established by section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and separate meetings of the SSC and AP.

DATES: The SSC and AP will meet separately on November 1, 1978. The SSC will meet at 10 a.m. and the AP will meet at 9:30 a.m. The Council and its SSC and AP will meet jointly on November 2-3, 1978; convening at 8:30 a.m. and adjourning at approximately 5 p.m. on both days. The meetings may be extended or shortened depending upon progress on the agenda.

ADDRESS: On November 1, 1978, the AP will meet at the Anchorage/Westward/Hilton Hotel Commodore Room. On November 1, 1978, the SSC will meet at the Council headquarters, 333 West 4th Avenue, suite 32, Anchorage, Alaska. On November 2-3, 1978, the council, SSC, and AP will meet jointly at the Anchorage/Westward/Hilton Hotel, Third and E Streets, Anchorage, Alaska, in the Alaska Room.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: 907-274-4563.

SUPPLEMENTARY INFORMATION: All council, SSC, and AP meetings will be open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director. Proposed Agenda:

V 43 / 189 SE 28 78 LIMI

NOVEMBER 2, 1978

(1) Executive Director's Report and other council administrative business; (2) Reports from the scientific and Statistical Committee, and Advisory Panel; (3) Progress Report and update from the Council's Drafting Management Planning Teams; (4) Period for public comment; (5) Review of foreign fishing activities.

NOVEMBER 3, 1978

(1) Discussions of management plans; High Seas Salmon Fishery Off the Coast of Alaska East of 175° F. Longitude; Bering Sea clam fishery; King Crab; Bering Sea Groundfish Fishery; Tanner Crab Off Alaska; Gulf of Alaska Groundfish Fishery; Bering Sea shrimp Fishery; Halibut; and Herring; and (2) Other council business.

Dated; September 22, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-27223 Filed 9-27-78; 8:45 am]

[3510-22]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL, ATLANTIC MACKEREL, SQUID, AND BUTTERFISH

Mackerel Fishery Supplements to Final Environmental Impact Statements/Draft Fishery Management Plans; Draft Environmental Impact Statement/Draft Fishery management Plan; Hearings; Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of correction.

SUMMARY: The date for written comments on Supplements No. 1 to the Final Environmental Impact Statement/Fishery Management Plan (FEIS/FMP) for the mackerel and squid fisheries (43 FR 39166 and 39167 September 1, 1978) should be corrected to October 16 and 23, 1978, respectively instead of October 2 and 9, 1978 respectively.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Del. 19901, telephone 302-674-2331.

Dated: September 25, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-27357 Filed 9-27-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, established by section 302 and its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP), established by section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and separate meetings of the SSC and AP.

DATES: The SSC and AP will meet separately on November 29, 1978. The SSC will meet at 10 a.m. The AP will meet at 9:30 a.m. Both meetings will be held in individual meeting rooms. The Council and its SSC and AP will meet jointly on November 30-December 1, 1978; convening at 8:30 a.m. and adjourning at approximately 5 p.m. on both days. The meetings may be extended or shortened depending upon progress on the agenda.

ADDRESS: On November 29, 1978, the AP will meet at the Anchorage/Westward/Hilton Hotel Commodore Room. On November 29, 1978, the SSC will meet at the Council headquarters, 333 West 4th Avenue, Suite 32, Anchorage, Alaska. On November 30-December 1, 1978, the Council, SSC, and AP will meet jointly at the Anchorage/Westward/Hilton Hotel Kenai/Aleutian Room.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: 907-274-4563.

SUPPLEMENTARY INFORMATION: All Council, SSC, and AP meetings will be open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

PROPOSED AGENDA

NOVEMBER 30, 1978

(1) Executive Director's Report and other Council administrative business; (2) Reports from the Scientific and statistical Committee, and Advisory Panel; (3) Progress Report and update from the Council's Drafting Management Planning Teams; (4) Period for Public Comment; (5) Review of foreign fishing activities.

DECEMBER 1, 1978

(1) Discussions of management plans: High Seas Salmon Fishery Off the Coast of Alaska East of 175° E. Longitude; Bering Sea Clam Fishery; King Crab; Bering Sea Groundfish Fishery; Tanner Crab Off Alaska; Gulf of Alaska Groundfish Fishery; Bering Sea Shrimp Fishery; Halibut; and Herring; (2) and other Council business.

Dated: September 22, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-27320 Filed 9-27-78; 8:45 am]

[3510-17]

Office of the Secretary

ADVISORY COMMITTEES

Termination

Notice is hereby given of the termination of two advisory committees whose charters have expired.

The committees and their respective termination dates are:

Advisory Committee on Product Liability (June 15, 1978).
Advisory Committee to the White House Conference on Balanced National Growth and Economic Development (Oct. 1, 1978).

Dated: September 22, 1978.

GUY W. CHAMBERLAIN, Jr.,
Assistant Secretary for Administration.

[FR Doc. 78-27324 Filed 9-27-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 22, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee on ICBM Multiple Aim Point (MAP) Verification will hold meetings at the Pentagon, Washington, D.C. on October 16-17, 1978. The meetings will convene at 9 a.m. and adjourn at 5 p.m. each day.

The Committee will receive classified briefings and hold classified discussions on Strategic Verification Issues. The meetings will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-27302 Filed 9-27-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICE

Notification of Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held October 29-November 1, 1978, at The Biltmore Hotel and Governors Island, New York, N.Y.

The purpose of the DACOWITS committee is to assist and advise the Secretary of Defense on matters relating to women in the services. The committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

SUNDAY, OCTOBER 29, 1978, THE BILTMORE

12 noon to 3 p.m.—Registration.
1:30 p.m. to 3 p.m.—Briefing and coffee for new members.
3 to 4:30 p.m.—Executive committee meeting.
6 to 9:30 p.m.—Official Department of Defense and Department of Transportation formal reception and dinner (by invitation only).

MONDAY, OCTOBER 30, 1978, THE BILTMORE

8 to 11:30 a.m.—Registration.
8:45 a.m.—Official opening.
9:30 a.m.—Coffee.
10 to 11:45 a.m.—OSD/service briefings.
12:00 noon to 1:30 p.m.—Luncheon.
1:45 to 5 p.m.—OSD/service briefings and subcommittee meetings.
To be determined—Dinner—"No Host".

TUESDAY, OCTOBER 31, 1978, GOVERNORS ISLAND, N.Y.

7:30 a.m.—Enroute to Governors Island, N.Y.
To be determined—Tours and briefings to be arranged by the U.S. Coast Guard.
12 to 1:30 p.m.—Luncheon—"No Host".
To be determined—Tours and briefings to be arranged by the U.S. Coast Guard.
To be determined—Enroute to the Biltmore Hotel.
To be determined—Dinner—"No Host" or free evening.
To be determined—Theatre party (Prearranged).

WEDNESDAY, NOVEMBER 1, 1978, THE BILTMORE

8 a.m.—Executive committee and directors/senior military representatives meeting.
Presentations by members of the public.
General business session.
1 p.m.—Adjourn.

Members of the public will not be permitted to go on the field trip or attend the social functions.

The following rules and regulations will govern the participation by members of the public at this meeting:

(1) All business sessions, to include Executive committee sessions, will be open to the public.

(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the committee during the meeting.

(3) Persons desiring to make an oral presentation or submit a written statement to the committee must notify Lt. Col. Barbara J. Roy, USMC, DACOWITS, Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D324, the Pentagon, Washington, D.C. 20301, 202-697-5655-56 by October 16, 1978.

(4) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(5) Oral presentations by members of the public will be permitted only from 9 to 10 a.m. on Wednesday, November 1, 1978 before the full committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 40 copies of the presentation/statement by October 16, 1978.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into the oral discussion conducted by the committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by members of the committee.

(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, the executive committee sessions, or the final general session on Wednesday, November 1, 1978.

Additional information regarding the committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (M.R.A. & L.), The Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 25, 1978.

[FR Doc. 78-27250 Filed 9-27-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Intergovernmental and Institutional Relations

CONSUMER AFFAIRS ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs Advisory Committee will meet at 9 a.m. Tuesday, October 17, 1978, in Room 7E069, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

The purpose of the committee is to provide the Secretary of Energy with diversified expert advice from qualified individuals relating to the identification and evaluation of the impact of proposed or existing energy policies and programs on consumers, the identification of areas where new policy initiatives or program change is needed, and planning, developing, and implementing equitable energy policies and programs.

The agenda for the meeting is as follows:

1. Election of permanent subcommittee chairmen.
2. Update on domestic policy review on solar energy.
3. Update on DOE intervention funding.
4. Subcommittee reports.
5. Public comment (10-minute rule).
6. Report on commercialization task force.
7. Discussion of crisis intervention.

The meeting is open to the public. The chairman of the committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the committee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5877, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Free-

dom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 25, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27327 Filed 9-27-78; 8:45 am]

[3128-01]

CONSUMER AFFAIRS ADVISORY COMMITTEE SUBCOMMITTEES

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs Advisory Committee subcommittees will meet Monday, October 16, 1978, in Rooms 7E069A and 7E069B, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., at the time indicated below.

The objective of the subcommittees is to make recommendations to the parent committee with respect to matters concerning consumer aspects of DOE policies and programs.

The agenda and schedule of meetings is as follows:

CONSUMERS' RIGHT TO HEAT AND LIGHT

9 a.m.-12 Room 7E069A.
Agenda:
Weatherization program followup.
Review of NEA impacts on utility operations.
Discussion of regulatory intervention policy.

CONSUMERS' RIGHT TO APPROPRIATE ENERGY SOURCES

9 a.m.-12 Room 7E069B.
Agenda:
DOE appropriate technology small grants program.
Office of Consumer Affairs project with Defense Civil Preparedness Agency.
Discussion of DOE fusion policy.

FUNDED PUBLIC PARTICIPATION OF CONSUMER ORGANIZATIONS.

1 p.m.-4 Room 7E069A.
Agenda:
Preliminary report on August 4, 1978, committee request for contracts and grants information.

OVERSIGHT OF DOE

1 p.m.-4 Room 7E069B.
Agenda:
Preliminary report on August 4, 1978, committee request for information on utilities programs and policies.

The subcommittee meetings are open to the public. The chairman of each subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with a subcommittee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5877, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 25, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27326 Filed 9-27-78; 8:45 am]

[3128-01]

NATIONAL PETROLEUM COUNCIL, COORDINATING SUBCOMMITTEE AND TASK GROUPS OF THE SUBCOMMITTEE ON PETROLEUM INVENTORIES AND STORAGE AND TRANSPORTATION CAPACITIES

Meetings

Notice is hereby given that the Coordinating Subcommittee and the task groups of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities of the National Petroleum Council will meet on Tuesday, October 10, 1978, at the following times and locations at the Department of Energy, 20 Massachusetts Avenue NW., in Washington, D.C.

The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will make an analysis of the petroleum inventories, and storage and transportation capacities of the United States, and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the task groups listed in this notice, whose efforts will be coordinated by the Coordinating Subcommittee.

The Coordinating Subcommittee of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will meet in Room 8222-C at 10 a.m. Its tentative agenda is as follows:

1. Introductory remarks by R. Scott Van Dyke, chairman.
2. Briefing by Mario Cardullo, Government cochairman, on Department of Energy, Energy Transportation Projects.
3. Discussion of scope of the NPC study on U.S. Petroleum Inventories, and Storage and Transportation Capacities.
4. Discussion of the study methodology to be employed by Coordinating Subcommittee.
5. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The task groups will meet at the following times and locations.

1:30 p.m.—Petroleum pipeline: Room 4219-C.
2:30 p.m.—Gas pipeline: Room 5124-C.
3:30 p.m.—Inventories and storage: Room 7216-C.
3:30 p.m.—Waterborne transportation: Room 7225-C.
3:30 p.m.—Tank cars/trucks: Room 8234.

The agenda for the task groups sessions will be:

1. Introductory remarks.
2. Discussion of scope of the assignment of the task group.
3. Discussion of the study methodology of the task group.
4. Discussion of the timetable of the task group.
5. Discussion of any other matters pertinent to the overall assignment of the task group.

The meetings are open to the public. The chairmen of the Coordinating Subcommittee and task groups are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee or task groups will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Dr. Erik A. Svenson, Office of Policy and Evaluation, 202-376-1846, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on this 25th day of September 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27325 Filed 9-27-78; 8:45 am]

[3128-01]

Office of the Secretary

INTERNATIONAL ENERGY AGENCY INDUSTRY ADVISORY BOARD

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meeting:

A meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory board to the International Energy Agency (IEA) will be held on September 28 and 29, 1978, at the offices of Gulf Oil Corp., Gulf Building, 439 Seventh Avenue, Pittsburgh, Pa., beginning at 9 a.m. on September 28. The agenda is as follows:

1. Opening remarks.
2. Status of legal clearances required for future tests and/or real emergencies.
3. Mechanism for future tests to control tonnage available in crisis.
4. ISAG/Secretarial operations manual.
5. General reorganization of ISAG—including examination of the role of the Country Supply Group.
6. Membership changes, method/plan for providing continuity of ISAG personnel assignments; training; etc.
7. Future work program and schedule.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual 7-day notice period to be shortened.

Issued in Washington, D.C., September 26, 1978.

LYNN R. COLEMAN,
General Counsel.

[FR Doc. 78-27612 Filed 9-27-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 976-2]

SCIENCE ADVISORY BOARD; CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE

Meeting

As Required by Pub. L. 92-463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board will be held beginning at 9 a.m., November 1 and 2, 1978 in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street SW., Washington, D.C. This is the first meeting of the Clean Air Scientific Advisory Committee. The agenda includes a briefing on a timetable for preparing air quality criteria documents; presentation of an issue paper on inhalable particulate matter; presentation of plans for the development of criteria documents for sulfur oxides; a briefing on the process of setting ambient air quality standards, and a discussion of standards currently being developed. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Mr. Robert Flaak or Mr. Terry F. Yosie, Staff Officers, Clean Air Scientific Advisory Committee, 703-557-7720 by close of business October 25, 1978.

Dated: September 8, 1978.

RICHARD M. DOWD,
Staff Director Science Advisory Board.

[FR Doc. 78-27225 Filed 9-27-78; 8:45 am]

[78-2725]

[FRL-997-2]

FUELS AND FUEL ADDITIVES: GASAHOL AND ARCONOL

Suspension of Enforcement

AGENCY: Environmental Protection Agency.

ACTION: Suspension of Enforcement under section 211(f) of the Clean Air Act.

SUMMARY: Section 211(f)(3) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(3), as amended, states that any manufacturer of any fuel or fuel additive which prior to March 31, 1977, and after January 1, 1974, first introduced into commerce or increased the concentration in use of a fuel or fuel additive that would otherwise have been prohibited under section 211(f)(1) if introduced on or after March 31, 1977, shall, not later than September 15, 1978, cease to distribute such fuel or fuel additive.

The above prohibition is applicable to the following fuels or fuel additives which are the subject of waiver applications presently pending before the Agency under section 211(f)(4) of the Act:

1. Gasohol—a 10-percent ethyl alcohol and 90-percent unleaded gasoline mixture.
2. Arconol—Atlantic Richfield Co.'s trade name for a fuel additive consisting primarily of tertiary butyl alcohol blended up to 7 percent in unleaded gasoline.

The following fuel additive is prohibited under section 211(f)(1) of the Act since it was not first introduced into commerce for use in unleaded gasoline prior to March 31, 1977.

3. MTBE—methyl tertiary butyl ether blended up to 15 percent in unleaded gasoline.

A waiver application for MTBE is pending before the Agency under section 211(f)(4) of the Act.

Enforcement of the section 211(f)(3) prohibition is hereby suspended for Gasohol and Arconol until the Administrator decides to grant or deny the pending waiver requests or until the 180 day review periods end. The last day of the 180 day review period for each waiver request is as follows:

Fuel component	Waiver applicant	End of 180-day review period
Gasohol.....	Gas Plus, Inc. and Illinois Department of Agriculture.	Dec. 16, 1978.
Arconol.....	Atlantic Richfield Co.	Feb. 7, 1979.

The section 211(f)(1) prohibition against the introduction of MTBE into commerce for use in unleaded gasoline has been in effect since March 31, 1977. Since this fuel additive is not being distributed, it is not necessary to consider suspending enforcement of the prohibition. The end of the 180 day review period for the MTBE waiver application is December 27, 1978.

Enforcement of the ban against the distribution of Gasohol and Arconol is being suspended to avoid any undesirable economic impacts on the manufacturers of these fuel components during the period that decisions regarding the waiver applications are being made or until the review periods end. Since any future waiver applications will be for fuels or fuel additives prior to their distribution into commerce, no similar economic impacts are anticipated to arise in such cases.

This suspension of enforcement applies only to the two fuel components named in this notice. The prohibitions under sections 211 (f)(1) and (f)(3)

V 43/189 SE 28 78

remain in effect for all other fuels and fuel additives.

Dated: September 15, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-27251 Filed 9-27-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

ADVISORY COMMITTEE ON CABLE SIGNAL LEAKAGE

Third Meeting

Pursuant to section 10 of the Federal Advisory Committee Act, notice of a meeting of the Advisory Committee on Cable Signal Leakage is hereby given. The meeting will be at 10 a.m. on Tuesday, October 17, 1978, in Room 7327 of the Federal Communications Commission offices at 2025 M St. NW., Washington, D.C. This meeting is called in accordance with the desires of the Advisory Committee as expressed at the Second Meeting on July 20, 1978.

The agenda are as follows:

(1) Review of airspace and ground measurements made since the Second Meeting of July 20;

(2) Discussion of any modifications which may be needed for "final" airspace measurements, which are expected to take place in November.

Any member of the public may attend or file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Robert S. Powers, F.C.C., 2025 M St. NW., Washington, D.C. 20554, telephone 202-632-9797.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27364 Filed 9-27-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRSTBANCORP, INC.

Formation of Bank Holding Co.

FirstBancorp, Inc., New Haven, Conn., has applied for the Board's approval under 3(a)(1) of the Bank Holding Co. Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of First Bank, New Haven, Conn. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 20, 1978.

Board of Governors of the Federal Reserve System, September 21, 1978.

GRIFFITH L. GARWOOD
Deputy Secretary of the Board.

[FR Doc. 78-27254 Filed 9-27-78; 8:45 am]

[6210-01]

FIRSTBANCORP, INC.

Acquisition of Bank

FirstBancorp, Inc., New Haven, Conn., has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with the Connecticut Bancfederation, Inc., Hartford, Conn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 20, 1978.

Board of Governors of the Federal Reserve System, September 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27255 Filed 9-27-78; 8:45 am]

[6210-01]

HONG KONG AND SHANGHAI BANKING CORP. ET AL.

Formation of Bank Holding Companies

The Hong Kong and Shanghai Banking Corp., Hong Kong; Kellett N.V., Curacao, The Netherlands Antilles; and HSBC Holdings B.V., Amsterdam, The Netherlands, have applied for the Board's approval under § 3(a)(1) of the Bank Holding Co. Act (12 U.S.C. § 1842(a)(1) to become bank holding companies by acquiring approximately 51 percent of the voting shares of Marine Midland Banks, Inc., Buffalo, N.Y., a company that controls Marine Midland Bank, Buffalo, N.Y. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c).

These applicants have also applied, pursuant to § 4(c)(8) of the Bank Holding Co. Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire indirectly voting shares of the following subsidiaries of Marine Midland Banks, Inc.: Marine Midland Realty Credit Corp., Buffalo, N.Y., a corporation that engages in the origination, acquisition, servicing and placement of, and participation in, loans secured by real property, and provides advice on real estate investment, to the extent permitted by §§ 225.4(a)(1), (3), and (5) (iii) and (iv) of regulation Y (12 CFR §§ 225.4(a) (1), (3), and (5) (iii) and (iv)); Marine Midland Leasing Corp. and M. M. Leasing Services, Inc., Buffalo, N.Y., corporations that engage in personal property leasing activities to the extent permitted by § 225.4(a)(6)(a) of regulation Y (12 CFR § 225.4(a)(6)(i)); and American Dimensions, Inc., Irvine, Calif., a corporation that acquires, packages for sale to investors, and services real estate mortgages through its subsidiary, the Meairs Co. (d.b.a. Marine Midland Mortgage Co.), Irvine, Calif., to the extent permitted by §§ 225.4(a) (1), (3), and (4) of regulation Y (12 CFR §§ 225.4(a) (1), (3), and (4)). Notice of the applications with respect to American Dimensions, Inc., and the Meairs Co. was published on August 29, 1978, in the Arizona Republic (Phoenix, Ariz.); on August 31, 1978, in the Los Angeles Times (Los Angeles, Calif.); and on September 1, 1978, in the San Diego Union (San Diego, Calif.); and with respect to the remaining nonbank companies notice was published on August 25, 1978, in the Buffalo Evening News (Buffalo, N.Y.). The described activities have been specified by the Board in the sections of regulation Y referenced above as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 20, 1978.

Board of Governors of the Federal Reserve System, September 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27256 Filed 9-27-78; 8:45 am]

[6210-01]

WESTERN BANCSHARES, INC.

Formation of Bank Holding Co.

Western Bancshares, Inc., Van Horn, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Co. Act (12 U.S.C. 3(a)(1)) to become a bank holding company by acquiring 81 per cent or more of the voting shares of Van Horn State Bank of Van Horn, Tex., Van Horn, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 18, 1978.

Board of Governors of the Federal Reserve System, September 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27257 Filed 9-27-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

CENTRAL TELEPHONE AND UTILITIES CORP.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Central Telephone and Utilities Corp. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Acoustics Development Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Central Telephone and Utilities Corp. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the two agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-27310 Filed 9-27-78; 8:45 am]

[6750-01]

R. QUINTUS ANDERSON

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: R. Quintus Anderson is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Sperry Rand's Marietta and Reno, Ohio office systems manufacturing plants and related assets. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by R. Quintus Anderson. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the two agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-27311 Filed 9-27-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

DETERMINATION OF POPULATION OF HEALTH SERVICE AREAS

Correction

In Federal Register Document 78-25667 appearing at page 40918 in the issue for Wednesday, September 13, 1978, make the following changes:

1. On page 40919;

(a) First column, in the table, the population for Health service area 3 under Connecticut should read "499,964".

(b) Second column, the population for health service area 3 under Louisiana should read "1,082,800"; the population for Health service area 1 under Massachusetts should read "822,480"; and the fourth line under Missouri should read "11—575,000."

(c) Third column, third line under North Dakota, "157,700" should read "157,000."

[1505-01]

DETERMINATION OF POPULATION OF THE STATES

Correction

In Federal Register Document 78-25568 appearing at page 40920 in the issue for Wednesday, September 13, 1978, in the third column, the total should read "213,810,000".

V 43/189 SE 28 78 UMI

[4110-08]

National Institutes of Health

ALLERGY AND CLINICAL IMMUNOLOGY RESEARCH COMMITTEE

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on October 30 and 31, 1978, at the National Institutes of Health, Building 31, Conference Room 4, Bethesda, Md.

This meeting will be open to the public from 9 to 11:30 a.m. on October 30 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 11:30 a.m. until recess on October 30 and from 9 a.m. to adjournment on October 31 for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, room 7A32, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Allergy and Clinical Immunology Research Committee, NIAID, NIH, Westwood Building, room 706, telephone 301-496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27270 Filed 9-27-78; 8:45 am]

[4110-08]

ARTERIOSCLEROSIS AND HYPERTENSION ADVISORY COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the Arteriosclerosis and Hypertension Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the FEDERAL REGISTER on August 22, 1978, 43 FR 37219-37220.

The Committee was to have met for 2 days, October 30-31, 1978, and will now meet for 1 day, October 30. The meeting will be from 9 a.m. to 5 p.m. on Monday, October 30. The entire meeting will be open to the public on a space available basis in Conference Room 6C-01, Federal Building, 7550 Wisconsin Avenue, Bethesda, Md.

Dated: September 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27268 Filed 9-27-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, Oct. 20-21, 1978, National Institutes of Health, Bethesda, Md., Building 4, Room 102.

This meeting will be open to the public from 9:30 a.m. to 4:30 p.m. on October 20, and from 9 to 11 a.m. on October 21, and will be devoted to scientific presentations by various laboratories of NIAMDD intramural research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4:30 p.m. to closing on October 20 and from 11 a.m. to adjournment on October 21 for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institutes of Health, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, 301-496-3583, will provide summaries of the meeting and rosters of the members.

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27266 Filed 9-27-78; 8:45 am]

[4110-08]

CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, November 6, 1978, Federal Building, Conference Room 6C01, Bethesda, Md.

This meeting will be open to the public on November 6, 1978, from 9 to 10:30 a.m., when the current progress of the multiple risk factor intervention trial will be discussed. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 6, from 10:30 a.m. to adjournment, for the review, discussion, and evaluation of individual contract renewal proposals. The proposals and the discussions could reveal confidential trade secrets and personal information such as privileged unblinded medical data about individuals associated with the proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of meetings and rosters of committee members. Dr. William J. Zukel, Executive Secretary of the Committee, Federal Building, Room 4C10, Bethesda, Md. 20014, phone 301-496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27271 Filed 9-27-78; 8:45 am]

[4110-08]

MICROBIOLOGY AND INFECTIOUS DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on October 30 and 31, 1978, at the National Institues of Health, Building 31, Conference Room 6, Bethesday, Md.

This meeting will be open to the public from 8:30 until 9 a.m., and from 12 noon until 6 p.m. on October 30 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 9 a.m. until 12 noon on October 30, and from 8:30 a.m. to adjournment on October 31 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Md. 20014, 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Md. 20014, 301-496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27269 Filed 9-27-78; 8:45 am]

[4110-08]

MINORITY ACCESS TO RESEARCH CAREERS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, on November 6 and 7, 1978, 9 a.m., National Institutes of Health, Building 31C, Conference Room 7.

This meeting will be open to the public on November 6, 9 a.m. to 12 noon. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on November 6 from 1 p.m. to 5 p.m. and on November 7 from 9 a.m. until adjournment, for the review, discussion, and evaluation of individual and institutional grant applications. These applications could reveal personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, 5333 Westbard Avenue, Room 9A-05, Bethesda, Md. 20014, telephone, 301-496-7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Prince Rivers, Executive Secretary, Westwood Building, Room 9A-17, Bethesda, Md. 20014, telephone 301-496-7357.

(Catalog of Federal domestic assistance programs 13-859, 13-860, 13-861, 13-862, General Medical Sciences.)

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27272 Filed 9-27-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: Cancer Control and Rehabilitation Advisory Committee.
Dates: November 16-17, 1978; 9 a.m.-adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss current and projected programs of the Division of Cancer Control and Rehabilitation.
Executive Secretary: Mr. H. C. Noyes, Blair Building, Room 720, National Institutes of Health, 301-427-8053.

Name of committee: Clearinghouse on Environmental Carcinogens (Plenary Session).
Dates: November 30, 1978; 9 a.m.-adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss the activities of the Clearinghouse and review the NCI bioassay activities.
Executive Secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health, 301-496-5108.

Dated: September 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27274 Filed 9-27-78; 8:45 am]

[4110-08]

HEALTH STUDY SECTIONS

Amended Notice of Meetings

Notice is hereby given of a change in the meeting date or place of the following National Institutes of Health study sections which were published in the FEDERAL REGISTER on September 13, 1978 (43 FR 40921).

The Bio-Psychology Study Section was to have met October 23-26, 1978, but will meet October 24-26, 1978 at 9:30 a.m. at the Sheraton Inn, Silver Spring, Md., the same time and location for which it was originally scheduled.

The Human Development Study Section was to have meet at the Embassy Row Hotel, Washington, D.C., but will met at the Holiday Inn, Chevy Chase, Md., October 25-27, 1978, at 9 a.m., the same dates and time for which it was originally scheduled.

The Microbial Chemistry Study Section was to have met October 25-27, 1978, but will meet October 26-27, 1978, at 8:30 a.m. in Conference Room 4, Building 31, National Institutes of Health, Bethesda, Md., the same time and location for which it was originally scheduled.

These meetings will be open to the public for approximately 1 hour at the beginning of the first session of the first day of the meeting.

Dated: September 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27267 Filed 9-27-78 8:45 am]

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[4110-08]

PHARMACOLOGY-TOXICOLOGY REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pharmacology-Toxicology Review Committee, National Institute of General Medical Sciences, November 16, 1978, National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Md.

This meeting will be open to the public on November 16 from 1 to 1:30 p.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, United States Code 552b(c)(6), the meeting will be closed to the public on November 16 from 1:30 to 5 p.m. or adjournment for the review, discussion, and evaluation of individual grant applications. These applications could reveal personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Md. 20014, telephone 301-496-7301, will provide a summary of the meeting and a rooster of committee members.

Substantive program information may be obtained from Dr. Martha Panitch, Executive Secretary, Pharmacology-Toxicology Review Committee, Westwood Building, Room 953, Bethesda, Md. telephone 301-496-7585.

(Catalog of the Federal Domestic Assistant Program 13-859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health.)

Dated: September 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27273 Filed 9-27-78; 8:45 am]

[4110-08]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Bethesda, Md., on December 7-8, 1978, in Building 31-C, Conference Room 7.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on December 7, and from 9 a.m. to adjournment on December 8, to discuss research progress and ongoing plans and programs of the periodontal diseases research program. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, Md. 20014, phone 301-496-7784, will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Comestic Asssistance Program No. 13,302, National Institutes of Health.)

Dated: September 21, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27275 Filed 9-27-78; 8:45 am]

[4110-08]

NIH PUBLIC ADVISORY COMMITTEE

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following committees:

Bioanalytical and Metallobiochemistry Study Section.
Cardiovascular and Renal Study Section.
Epidemiology and Disease Control Study Section.
Experimental Therapeutics Study Section.
Experimental Virology Study Section.
General Medicine B Study Section.
Genetics Study Section.
Hematology Study Section.
Human Embryology and Development Study Section.
Immunological Sciences Study Section.
Medicinal Chemistry A Study Section.
Metabolism Study Section.
Microbial Chemistry Study Section.
Molecular Biology Study Section.
Molecular Cytology Study Section.
Neurological Sciences Study Section.
Neurology B Study Section.
Nutrition Study Section.
Pathobiological Chemistry Study Section.
Pathology A Study Section.
Pathology B Study Section.
Pharmacology Study Section.
Physiology Study Section.
Reproductive Biology Study Section.
Social Sciences and Population Study Section.
Surgery and Bioengineering Study Section.
Tropical Medicine and Parasitology Study Section.
Virology Study Section.
Visual Sciences A Study Section.
Visual Sciences B Study Section

Authority for the above committees will expire on June 30, 1980, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 15, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78 27276 Filed 9 27 78; 8:45 am]

[4110-08]

VIRUS CANCER PROGRAM SCIENTIFIC REVIEW COMMITTEE

Amended Notice of Meeting—Cancellation

Notice is hereby given of the cancellation of the meeting of the Virus Cancer Progam Scientific Review Committee, Division of Cancer Research Resources and Centers, National Cancer Institute, October 20, 1978, Landow Building, Conference Room A, Bethesda, Md., which was published in the FEDERAL REGISTER on September 13, 1978 (43 FR 40924). For further information, please contact Dr. Maurice L. Guss, Executive Secretary, Landow Building, Room 9A10, National Institutes of Health, Bethesda, Md. 20014, 301-496-4533.

Dated: September 20, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-27265 Filed 9-27 78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1978:

HEALTH CARE TECHNOLOGY STUDY SECTION.

TIME AND DATE: November 2 3, 1978, 8 a.m.

PLACE: Sheraton Inn Washington-Northwest, 8727 Colesville Road, Silver Spring, Md. 20910.

STATUS: Open November 2, 8 a.m.-9 a.m.; closed for remainder of meeting.

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

AGENDA: The open session of the meeting on November 2 will be devoted to a business meeting covering ad

ministrative matters. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301-436-6196.

Agenda items are subject to change as priorities dictate.

Dated: September 22, 1978.

WAYNE RICHEY, JR.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-27300 Filed 9-27-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Redelegation of Authority

Pursuant to the authority contained in section 1.1(a)(1) of BLM order 701, dated July 23, 1964, as amended, I hereby redelegate to the Chief, Division of Technical Services, and State Fire Management Officer, State of Idaho, certain functions of § 1.2(j) of the above cited order.

The Chief, Division of Technical Services, and State fire management officer may take emergency fire presuppression and suppression action to the degree necessary to insure:

(1) That maximum preparedness action is taken to meet anticipated needs during a period of exceptional fire load potential;

(2) That maximum fire suppression action is taken on going fires and that support is provided thereto.

This authority includes, but is not limited to, the following: Placing personnel on alert or on duty status; placement of personnel, supplies, and equipment at strategic locations prior to need; movement of personnel, supplies, and equipment by ground or air transportation; activation and employment of fire overhead teams; and coordination and direction of fire operations.

The authority above may be exercised during the following periods, and continuing thereafter until conclusion of the fire operation(s):

(1) During the activation period of the strength-of-force plan, or when fire occurrence, lightning incidence, hazard and risk factors and/or predicted or actual fire danger indices indicate the existence of a period of exceptional fire load potential.

(2) During going fires in Idaho, or upon receipt of request for support for going fires outside Idaho.

This redelegation will become effective upon publication in the FEDERAL REGISTER.

WILLIAM L. MATHEWS,
State Director.

SEPTEMBER 22, 1978.

[FR Doc. 78-27245 Filed 9-27-78; 8:45 am]

[1505-01]

OUTER CONTINENTAL SHELF, WESTERN AND CENTRAL GULF OF MEXICO

Proposed Oil and Gas Lease Sale No. 51

Correction

In FR Doc. 78-25805 appearing at page 41292 in the issue of Friday, September 15, 1978, on page 41295, first column, in track 51-56 the block number was inadvertently omitted; it should read, "17". In the second column, track "51-78" the acreage number now reading, "5,000.37" should read, "5,050.37". In track "51-101" the block number now reading, "375" should read, "337". In the third column, track "51-135" the block number now reading "89" should read, "69".

[4310-84]

[Wyoming 85035]

WYOMING

Notice of Application

SEPTEMBER 20,1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City, Okla., filed an application for a right-of-way to construct a 6⅝-inch pipeline and related anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 93 W.,
Sec. 2, N½S½.

The proposed pipeline with appurtenant anode facilities will transport natural gas from a point in the SW¼SW¼ of sec. 3, to a point of connection with Cities Service Gas Co.'s existing pipeline in the NE¼SE¼ of sec. 2, T. 19 N., R. 93 W., in Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

MARLA B. BOHL,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27246 Filed 9-27-78; 8:45 am]

[4310-84]

[NM 27237]

NEW MEXICO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

SEPTEMBER 21, 1978.

The Forest Service, U.S. Department of Agriculture, filed application serial No. NM 27237 on December 12, 1975, for a withdrawal in relation to the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

LINCOLN NATIONAL FOREST

T. 9 S., R. 11 E.,
Secs. 13 and 24, Cashier Lode Mining Claim, M.S. 639;
T. 9 S., R. 12 E.,
Secs. 13 and 14, Cashier Lode Mining Claim, M.S. 639;
T. 9 S., R. 12 E.,
Secs. 13 and 14, Grover Cleveland Lode Mining Claim, M.S. 723, portions not in conflict with M.S. 639 (Cashier Lode Mining Claim) and M.S. 568 (Diamond Crown Mining Claim).

The areas described aggregate 39.201 acres in the Nogal Mining District of Lincoln County.

The applicant desires the lands for the addition to, and the consolidation with national forest lands to permit more efficient administration thereof in the conservation of natural resources.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N. Mex. 87501, on or before October 31, 1978. If a public hearing is scheduled, a notice will be published

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in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before October 31, 1978.

The above-described land is temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N. Mex. 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27301 Filed 9-27-78; 8:45 am]

[4310-10]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—MID-ATLANTIC REGION

Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Mid-Atlantic Regional Board will meet during the period 1 p.m. to 4 p.m. October 13, 1978, at the Wintergreen, Wintergreen, Va. 22938.

The meeting will cover the following principal subjects:

1. Implementation of amendments to the OCS Lands Act.
2. Restructuring of the OCS Advisory Board
3. Status of OCS sale No. 49.
4 Status of OCS referral center.
5 Federal/State interface on OCS issues.
6. Federal consistency in the amendments to the OCS Lands Act.

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by October 6 to the Mid-Atlantic Board Chairman:

Simon F. McHugh, Jr., Executive Assistant, Office of the Governor, Annapolis, Md. 21404, 301-261-2176.

Minutes of the meeting will be available for public inspection and copying 6 weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets NW., Washington, D.C.

SEPTEMBER 22, 1978.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

[FR Doc. 78-27244 Filed 9-27-78; 8:45 am]

[4710-07]

INTERNATIONAL BOUNDARY AND WATER COMMISSION U.S. AND MEXICO

INTENT NOT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT

AGENCY: U.S. Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Intent not to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines, and the Agency's "Operational Procedures for Implementing Section 102 of the National Environmental Policy Act of 1969" dated March 5, 1974, the Agency hereby gives notice that an environmental impact statement is not found necessary for the maintenance work consisting of removal of sediment that has accumulated in the channel of the Rio Grande canalization project in El Paso County, Tex., and Sierra and Dona Ana Counties, N. Mex., and the spoiling of said sediment on dry land, taking special care not to spoil the sediment on wetlands.

The findings of the environmental assessment of this action are that it does not constitute a major Federal action which would cause significant local, regional, or national impact on the environment. As a result of these findings, Mr. J. F. Friedkin, Commissioner, has determined that the preparation and review of an environmental impact statement are not needed for this action.

FOR FURTHER INFORMATION CONTACT:

Del McNealy, Principal Engineer (Supervising), U.S. Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Tex. 79902, 915-543-7330.

SUPPLEMENTARY INFORMATION: The Rio Grande canalization project was authorized by the Act of Congress approved June 4, 1936, 49 Stat. 1463, to facilitate compliance with the convention concluded with Mexico on May 21, 1906, that provided for equitable division of the waters of the Rio Grande, and to properly regulate and control, to the fullest extent possible, the water supply for use in the United States and in Mexico. Construction of the project was completed in 1947, and since then has been maintained annually.

The Agency's maintenance activities do not include the discharge of dredged or fill material into the channel of the Rio Grande. The Agency does excavate materials from the channel of the Rio Grande by use of wheel and track driven equipment to preserve the river channel, conserve water, and to provide effective control of floods, all to comply with the 1906 Treaty and other agreements between the United States and Mexico and the laws of the United States Congress. The material removed from the Rio Grande is deposited by the section only on dry lands in the following locations: within the project floodplain, land side of the project levees, and on other lands—private and government—owned, beyond the project subject to the approval of the owners. Further, the removed material, in some cases, is made available to the private sector for utilization away from the project and the Agency may authorize such removal by the private sector in accordance with its requirements to assure the materials are not placed on wet lands.

No administrative action on implementation of the removal of the sediment will be taken until thirty (30) days after the publication of this notice in the FEDERAL REGISTER.

Signed at El Paso, Tex, this 21st day of September, 1978.

D. D. MCNEALY,
Principal Engineer (Supervising).

[FR Doc. 78-27247 Filed 9-27-78; 8:45 am]

[7020-02]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-48]

CERTAIN ALTERNATING PRESSURE PADS

Change of Commission Investigative Attorney

Mr. Robert M. M. Seto is designated Commission investigative attorney for Investigation No. 337-TA-48, Certain Alternating Pressure Pads, replacing Mr. Steven David Moskowitz. The service of all papers on the Commission investigative attorney should henceforth be served upon Mr. Seto effective September 25, 1978.

The Secretary is requested to publish this notice in the FEDERAL REGISTER.

Dated: September 22, 1978.

EARL LEVY,
Deputy Director, Office of Legal Services.

[FR Doc. 78-27395 Filed 9-27-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-41]

CERTAIN CERAMIC TILE SETTERS

Change of Commission Investigative Attorney

Mr. Robert M. M. Seto is designated Commission investigative attorney for Investigation 337-TA-41, Certain Ceramic Tile Setters, replacing Mr. Steven David Moskowitz. The service of all papers on the Commission investigative attorney should henceforth be served upon Mr. Seto effective September 25, 1978.

The Secretary is requested to publish this notice in the FEDERAL REGISTER.

Dated: September 22, 1978.

EARL LEVY,
Deputy Director, Office of Legal Services.

[FR Doc. 78-27396 Filed 9-27-78; 8:45 am]

[7020-02]

[TA-201-34]

CERTAIN FISHING TACKLE

Report to the President

SEPTEMBER 21, 1978.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation relating to certain fishing tackle.

The investigation to which this report relates (No. TA-201-34) was undertaken to determine whether snelled hooks; fishing rods and parts thereof; fishing reels and parts thereof; and artificial baits and flies; provided for in items 731.05; 731.15; 731.20 through 731.26, inclusive; and 731.60 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted the investigation under the authority of section 201(b)(1) of the Trade Act on March 29, 1978, following receipt on March 21, 1978, of a petition filed by the American Fishing Tackle Manufacturers Association and the Tackle Representatives Association, both of Chicago, Ill.

Notice of the investigation and hearing were duly given by publishing the original notice in the FEDERAL REGISTER of April 4, 1978 (43 FR 14156). Notice of a change of hearing date and notice of hearing time and site was duly given by publication in the FEDERAL REGISTER of June 12, 1978 (43 FR 25388).

A public hearing in connection with the investigation was conducted on June 27, 1978, in Chicago, Ill. All interested persons were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers and importers, and from the Commission's files, other Government agencies, and information presented at the hearing and in briefs filed by interested parties.

DETERMINATIONS, FINDING, AND RECOMMENDATION OF THE COMMISSION

DETERMINATIONS

On the basis of its investigation,

(1) the Commission[2] determines that snelled hooks; fishing rods and parts thereof; and fishing reels and parts thereof; provided for in items 731.05; 731.15; and 731.20 through 731.26, inclusive, of the Tariff Schedules of the United States (TSUS), are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles; and

(2) the commission[3] determines that, as a result of their being designated as eligible for duty-free treatment under the Generalized System of Preferences (GSP), artificial baits and flies, provided for in item 731.60 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

FINDING AND RECOMMENDATION

The Commission[4] finds and recommends that, to prevent or remedy such serious injury, it is necessary to suspend, for a period of 5 years, the designation of artificial baits and flies, provided for in item 731.60 of the TSUS, as eligible for duty-free treatment under the GSP.

Issued: September 25, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27397 Filed 9-27-78; 8:45 am]

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] Commissioner Ablondi not participating.

[3] Commissioner Bedell dissenting, Commissioner Ablondi not participating.

[4] Commissioners Bedell and Ablondi not participating.

[4410-01]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

Hearings

Notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), in accordance with Executive Order 12022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), will hold public hearings on October 17, 18, and 19, 1978 beginning at 9:30 a.m. on October 17 and 9 a.m. on October 18 and 19. These hearings will be held in Room 2228, Dirksen Senate Office Building, First Street and Constitution Avenue NE., Washington, D.C.

The purpose of these hearings is to receive testimony relevant to the Commission's study of antitrust immunities (including those afforded the insurance and trucking industries), as mandated by Executive Order 12022 and as previously discussed by the Commission at its meeting on August 15, 1978.

Interested persons are invited to submit their views in writing to the Commission on the foregoing subjects. Such submissions should be sent to the Commission office (Attention: Ms. Deana Harvell), Room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530. Those who wish their views to be made available to the Commissioners for consideration prior to these hearings should submit 50 copies to be received no later than October 5, 1978.

Dated: September 25, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-27307 Filed 9-27-78; 8:45 am]

SEP 28 1978

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[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

MUSIC ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Cmmittee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Section) to the National Council on the Arts will be held on October 16, 1978, from 9 a.m.-5:30 p.m.; October 17, 1978, from 9 a.m.-5:30 p.m.; October 18, 1978, from 9:30 a.m.-5:30 p.m., October 19, 1978, from 9 a.m.-5:30 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street Northwest, Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 18, 1978, from 9 a.m.-12:30 p.m.. The topic of discussion will be policy and guidelines.

The remaining sessions of this meeting on October 16, 1978, from 9 a.m.-5:30 p.m.; October 17, 1978, from 9 a.m.-5:30 p.m.; October 18, 1978 from 12:30 p.m.-5:30 p.m.; and October 19, 1978, from 9 a.m.-5:30 p.m. are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-27248 Filed 9-26-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting; Amendment to Agenda

The agenda for the October 4, 1978, meeting of the ACRS Subcommittee on Regulatory Activities published September 19, 1978 (43 FR 42049), has been amended to read as follows:

(3) Regulatory guide 1.104, revision 1, "Overhead Crane Handling Systems for Nuclear Power Plants." It may be necessary for the subcommittee to hold a closed session for the purpose of exploring matters involving proprietary information regarding regulatory guide 1.104.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such a session be required, it is necessary to close that session to protect proprietary information (5 U.S.C. 552b(c)(4)).

Dated: September 25, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-27278 Filed 9-27-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting Revised

Regarding the previous FEDERAL REGISTER notice (43 FR 42314, dated Sept. 20, 1978), for the meeting of the Advisory Committee on Reactor Safeguards to be held on October 5-7, 1978, in Washington, D.C., consideration of the fast flux test facility has been canceled and the notice is revised as follows:

THURSDAY, OCTOBER 5, 1978

5 to 6:30 p.m.—Executive session (open). The Committee will hear and discuss the reports of its Subcommittee on Regulatory Activities and proposed revisions to NRC Regulatory Guides.

FRIDAY, OCTOBER 6, 1978

9:45 a.m. to 12:30 p.m. and 1:30 to 6:30 p.m.—Reactor safety research (open). The Committee will hear presentations and hold discussions with ACRS consultants, representatives of the NRC Staff, the nuclear and utility industry, and the Department of Energy regarding proposed reactor safety research programs related to advanced reactor designs, radioactive waste management and disposal, and emergency core cooling systems as well as the priorities for the accomplishment of these and other reactor safety research work. Portions of this session will be closed if necessary to discuss proprietary information related to these matters.

SATURDAY, OCTOBER 7, 1978

8:30 a.m. to 2:30 p.m.—Executive session (open). The Committee will discuss its position and proposed future action regarding matters discussed during this meeting. The Committee will discuss the qualification of candidates proposed for appointment to the ACRS. This session will be closed to protect information, the release of which would represent an unwarranted invasion of personal privacy.

Dated: September 25, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-27282 Filed 9-27-78; 8:45 am]

[7590-01]

Negative Declaration Supporting Amendment Relating to the Revision of a Construction Permit Requirement, Hope Creek Generating Station, Unit Nos. 1 and 2 (CPPR-120 and CPPR-121)

[Docket Nos. 50-354 and 50-355

PUBLIC SERVICE ELECTRIC & GAS CO.

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the proposed amendments relating to the construction permits for the Hope Creek Generating Station, Unit Nos. 1 and 2 (CPPR-120 and CPPR-121), located in Salem County, N.J., issued to the Public Service Electric & Gas Co. The amendments would authorize the use of an extended aeration sewage treatment system instead of septic tanks and a temporary septic field.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the amendments, and has concluded that an environmental impact statement for this particular action is not warranted. This conclusion is based on the fact that there will be no significant environmental impacts attributable to the proposed action, and any impacts that might occur will be less than those predicted and described in the final environmental statement for the Hope Creek Generating Station Unit Nos. 1 and 2, published in February 1974.

The environmental impact appraisal is available for public inspection at the Commisson's Public Document Room, 1717 H Steet NW., Washington, D.C., and at the Salem Free Library, 112 West Broadway, Salem, N.J. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 20th day of September 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-27280 Filed 9-27-78; 8:45 am]

[7590-01]

[Docket Nos. 50-354 and 50-355]

PUBLIC SERVICE ELECTRIC & GAS CO.

Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued amendments No. 4 to construction permit Nos. CPPR-120 and CPPR-121, issued to the Public Service Electric & Gas Co. for construction of the Hope Creek Generating Station, Unit Nos. 1 and 2, located at the permittee's site in Salem County, N.J.

The amendments authorize the use of an extended aeration sewage treatment system instead of septic tanks and a temporary septic field.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of the amendment is not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the amendments to the construction permits, and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impacts attributable to the proposed action, and any impacts that might occur will be less than those predicted and described in the final environmental statement for the Hope Creek Generating Station, Units 1 and 2, published in February 1974.

For further details with respect to this action, see: (1) The application for amendments dated May 22, 1978, (2) amendments No. 4 to construction permits No. 1 and 2, and (3) the Commission's environmental impact appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the Salem Free Library, 112 West Broadway, Salem, N.J. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 20th day of September 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-27283 Filed 9-27-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.29, Revision 3, "Seismic Design Classification," describes a method acceptable to the NRC staff for identifying and classifying those features of light-water-cooled nuclear powerplants that should be designed to withstand the effects of the safe shutdown earthquake and remain functional. This guide was revised as the result of public comments and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 5552(a).)

Dated at Rockville, Md., this 20th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE
Director, Office of Standards Development.

[FR Doc. 78-27279 Filed 9-27-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-39]

ACCIDENT REPORTS: SAFETY RECOMMENDATION AND RESPONSES

AVIATION ACCIDENT REPORT

The National Transportation Safety Board has released its formal report of investigation into the crash of a Continental Air Lines Boeing 727 just after takeoff from Tucson (Ariz.) International Airport on June 3, 1977. The Board's report, No. NTSB-AAR-78-9, was made available to the public September 21.

Eighty-four passengers and a crew of seven escaped injury when the tri-jet airliner struck power lines and two 39-foot poles some 710 feet beyond and 130 feet to the left of the departure end of Runway 21 at the airport. The underside of the aircraft was substantially damaged (internal wing damage and fuel leakage) but the crew was able to return and land safely at Tucson.

By a 3-to-1 vote, the Safety Board's formal determination of probable cause of the accident was the captain's decision to take off under evident hazardous wind conditions which resulted in an encounter with severe wind shear and subsequent collision with obstacles in the takeoff path. The rate of climb of the aircraft in these conditions when flown according to prescribed operating procedures was not sufficient to clear the obstacles. However, if the aircraft's full aerodynamic capability had been used, collision with obstacles probably could have been avoided, the Board stated.

In a separate dissenting opinion, Board Member Philip A. Hogue determined that the probably cause of the accident was the pilot's failure to utilize the full 7,000 feet of runway available versus the 6,500 feet he did utilize, rather than the captain's decision to take off "under evident hazardous wind conditions."

As a result of its investigation of this accident, the Safety Board on August 8 recommended that the Federal Aviation Administration further identify runways on which displaced thresholds might be overlooked by requiring (1) footnotes on takeoff weight data pages of air carrier manuals, and (2) easily visible intersection signs noting

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displaced thresholds. (Recommendations A-78-51 and 52, reported at 43 FR 36533, August 17, 1978.)

PIPELINE ACCIDENT REPORT

Also released by the Safety Board on September 21 was the formal investigation report on the gas pipeline explosion and fire which occurred last December 15 in downtown Lawrence, Kans.

Report No. NTSB-PAR-78-4 shows that the Kansas Public Service Company inserted a 394-foot polyethylene plastic pipe in an abandoned steel gas main in 1975 and connected it to another steel gas main by a coupling. On December 15, 1977, the 2-inch plastic main pulled away from the coupling and the escaping gas filtered into two nearby buildings and exploded. Further, investigation showed that the pipeline was not in conformity with a series of Federal regulations governing pipeline installation, nor did the company have the engineers or technically trained personnel needed to understand and apply the Federal rules.

The explosion and fire destroyed one building, severely damaged another building, and broke nearby windows. Two persons were killed and three persons were injured. The Safety Board determined that the probably cause of the accident was the failure of the gas company to properly design, install, test, inspect, and anchor the installation of a 394-foot-long polyethylene plastic gas main that had been inserted in a casing and connected to a steel gas main with a compression coupling. The 2½-year-old unrestrained plastic gas main contracted 3½ inches because of cold temperatures and pulled out of the compression coupling, the resistance of which had decreased with age.

The Safety Board cited a similar pipeline accident on January 10, 1976, in Fremont, Nebr., in which 20 persons died in a gas explosion triggered when a polyethylene plastic gas main pulled away from a coupling. At the time, the Department of Transportation's Materials Transportation Bureau rejected a Safety Board recommendation to determine whether there were locations where standard couplings were unsafe. Nor did the Bureau feel it was necessary to conduct a special study on the problem. As a result of its investigation into the Lawrence accident, the Board in recommendation P-78-33 issued July 10, 1978, urged the Materials Transportation Bureau to reconsider recommendations P-76-44 and 45, issued following the Fremont accident.

Also, on July 19, the Board issued eight recommendations (Nos. P-78-25 through 32) to the Kansas Public Service Co., including requests that the company complete a review of its plastic pipe system before the 1978-79 winter season for other unanchored insertions more than 100 feet long, require engineers to review the design of the plastic pipeline system, and conduct tests on joints to which plastic pipeline is connected to insure the joint is as strong as the pipeline. Other recommendations issued July 19 were directed by the Safety Board to the American Gas Association (Nos. P-78-34 through 37), to the Dresser Manufacturing Co. (Nos. P-78-38 through 40), and to the E. I. du Pont de Nemours & Co. (Nos. P-78-41 and 42). (The complete recommendations are reproduced in the accident report; see also 43 FR 32475, July 27, 1978.)

RAILROAD SAFETY RECOMMENDATION

As a result of its investigation into the February 10, 1978, collision of a trolley car and a bus in Pittsburgh, Pa., the Safety Board has issued an additional recommendation. The accident occurred during the morning rush hour on a portion of the Port Authority of Allegheny County busway which is used both by buses and trolleys. The busdriver and three bus passengers were killed; the trolley car operator and 36 bus passengers were injured in the collision. The Safety Board found that the probable cause of the accident was the operator's inadvertent and untimely operation of an unprotected track switch, which caused the trolley to be routed into the path of the approaching bus.

Because the operation of the track switch by use of the power control pedal proved to be a crucial factor in this accident, the Safety Board on August 28 recommended that the Port Authority of Allegheny County disable this feature on its fleet of trolley cars of the Presidential Commission Car type. The Safety Board understands that other street car systems in the United States may use the same basic circuit configuration to operate electrical track switches, and, therefore, the same potential exists for an undesired operation. Accordingly, the Board on September 20 recommended that the Urban Mass Transportation Administration, U.S. Department of Transportaton:

> Inform operators of trolley car systems of the details of the Pittsburgh accident and, where applicable, have them disable the car feature that makes it possible to operate track switches by use of the power control pedal. (R-78-52)

This "Class H, Priority Action" recommedation is the fourth isued as a result of the Board's findings in connection with this accident. Recommendations issued to the Port Authority of Allegheny County, Nos. R-78-49 and 50, and to the Governor of Pennsylvania, No. R-78-51, were reported at 43 FR 39871, September 7, 1978. The formal report of investigation, No. NTSB-RTAR-78-5, was released September 6, reported at 43 FR 41101, September 14, 1978.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-89-43 and 44.—Letter of September 1 from the Federal Aviation Administration is in response to the Safety Board's recommendation letter issued July 7 concerning the numerous stall/spin accidents which occurred in the 1974-76 time period.

Recommendation A-78-43 asked the FAA to incorporate all of the essential elements of the ground and flight training increments developed in the "General Aviation Pilot Stall Awareness Training Study," or their equivalent, in FAR Parts 61 and 141. FAA indicates that action is underway to identify relevant elements and incorporate them into regulatory proposals for upgrading pilot training standards. FAA expects to complete this survey by March 1979, and, if rulemaking is indicated, regulatory projects will be established and assigned priorities.

While in agreement that the "General Aviation Pilot Stall Awareness Training Study" should be widely distributed to persons engaged in the training and certification of pilots, as recommended by A-78-44, FAA believes that a direct mailing of the magnitude suggested—namely, to all certificated flight schools and commercial flight instructors—is not likely to have the desired results. FAA says there are approximately 45,000 certificated flight instructors and over 5,000 pilot schools and other organizations offering pilot training. Since many flight instructors do no renew certificates upon expiration and there is a continuing input of newly-certificated instructors, FAA states that distribution of the complete report at approximately $10 per copy or even a portion of the report at a lesser price would not be cost effective.

Other channels for providing a wide distribution of the study would include a special printing in FAA's Flight Standards publication, General Aviation News, and dissemination of the material to flight instructors through the flight instructor revalidation clinics and the pilot examiner standardization course. Also, FAA is considering utilizing this material in certain of its training courses for agency inspectors, and expects to initiate a distribution program by the end of this year.

Highway

H-78-35 through 39.—On August 23 the Kentucky Department of Transportation answered the Safety Board's inquiry of July 26 with reference to the Department's response of June 23 to recommendations issued following investigation of the overturn in Beattyville, Ky., on September 24, 1977, of a cargo tank-semitrailer loaded with 8,200 gallons of gasoline. (See 43 FR 31250, July 20, 1978.)

The Board's July 26 letter points out that the Department failed to mention the placement of a curve warning sign and associated speed warning plate as discussed in recommendation H-78-35. The Board questioned, "Was the safe traversable speed in the curve determined?" "Was the curve sign placed as suggested?" The Board also noted that the Department did not discuss the problems of superelevation in the curve and the rough, irregular surface of the rail-highway crossing. Since these two areas were determined by the Board during its investigation to be a part of the overall hazard presented by the accident site, the Board believes that these items should be corrected if they have not been already.

The Department, in response, states that its engineers believe that the main factor limiting speed in this area is not the curve, but rather a rough crossing of irregular tracks. It was their recommendation that, instead of installing a curve sign with an advisory message, the Department should place a warning sign with the message "ROUGH CROSSING" and an advisory speed plate showing "10 MPH." District personnel of the Bureau of Highways have been instructed to install a rough crossing sign and an advisory in a location clearly visible to vehicles moving downgrade and approaching the railroad crossing.

The Department's engineers to not believe it is feasible to correct either the superelevation or the condition of the crossing at this time. The rough condition is created primarily by the steep grade crossing two adjacent tracks, the Department stated. Further, the engineers have concluded that a project to improve the curve would serve no useful purpose since they have determined that it can be safely negotiated at much higher speeds than the crossing, even under present conditions.

Accordingly, the Department does not plan any construction or other attempt to relieve these problems, beyond the signing and repaving previously described. The Department points out that it does plan, when funding becomes available, to construct a bypass route in this area, eliminating much of the truck traffic on the hill.

H-78-56 through 60.—Letter of August 23 from the Commissioner, Division of Motor Vehicles, Commonwealth of Virginia, acknowledges receipt of recommendations issued by the Safety Board last month to the Virginia Secretary of Transportation following investigation of the July 21, 1977, collision on Route 50 near Chantilly, Va., involving a dump truck loaded with 17 tons of stone and an automobile.

The Commissioner's letter states that the criteria and techniques used in the testing and licensing of classed vehicle operators are being reviewed and evaluated in light of research and the Board's recommendations. Reference is made in the response to the statement in the Board's recommendation letter: "It is doubtful that the driver could have accumulated the heavy vehicle experience he claimed since Virginia does not issue a learner's permit to drive heavy trucks." The Commissioner notes that in 1968 the Virginia Division of Motor Vehicles began issuing classed learner's permits to persons desiring to learn to operate certain types of vehicles, i.e., Class A vehicles. Also, a person may gain driving experience while driving on an off the road work environment. The Commissioner states, ". . . it appears that the referenced accident was caused by driver negligence rather than lack of knowledge and control of the vehicle."

Marine

M-77-31.—Letter of August 24 from the Federal Communications Commission is in response to a recommendation issued following investigation of the sinking of the charter fishing boat, *Pearl C*, on September 13, 1976, while being towed across the Columbia River Bar near Astoria, Oreg. The recommendation asked FCC to require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications.

After review of the Safety Board's report of the accident and conferences with the U.S. Coast Guard, FCC concludes that such a requirement should not be imposed on all charter fishing boats and like small passenger vessels. FCC does not believe that a requirement for a transceiver or extension thereof at each operation station is economically feasible, and states that the present regulations have proven sufficient in the vast majority of this type of vessel's communications needs. FCC does point out, however, that there are advantages to such installations, and reports issuance of a notice of proposed rulemaking (SS Docket No. 78-232, released August 4, 1978) giving performance criteria for over-the-counter remote control radiotelephone units. Basic functions include starting and stopping transmissions, changing channels and reducing transmitter output to one watt or less. FCC says it is likely that many small passenger vessels will voluntarily be equipped with such remote control units, and the proposed rule will insure adequate control of the transceiver from remote operating positions.

M-78-10 through 12.—Letter of August 11 from the U.S. Coast Guard is in answer to the Safety Board's inquiry of June 27 concerning Coast Guard's April 21 response to these recommendations. The recommendations were issued following investigation of the November 10, 1975, sinking of the Great Lakes bulk cargo vessel SS *Edmund Fitzgerald* in eastern Lake Superior. The Safety Board requested a description of the programs instituted by the Ninth Coast Guard District, and mentioned in the April 21 response, in the form of reports developed, directives issued, or records of problems encountered when carrying out the hatch cover, hatch coaming, and vent inspections, and when sailings are prevented or restricted due to weathertight integrity problems.

Coast Guard's August 11 letter reports that the programs were announced on September 9, 1976, and actually started on December 16, 1976, when a memorandum instruction was issued to the Great Lakes inspection offices with a special checkoff list to aid the inspectors. The program was officially called a ship-rider program, was continued in 1977, and instructions were issued to field offices on September 6, 1977. The checkoff list was further expanded to include items required by the Navigation Safety Regulations and other data needed for loading manual and hull stress studies. Coast Guard says the ship-rider program continues as an ongoing inspection control and under the same instructions. Copies of the various programs are attached to Coast Guard's letter.

To date, only one vessel has been delayed due to lack of weathertight integrity, according to Coast Guard. The circumstances surrounding this case are contained in the Marine Safety Office, Duluth, casualty report of June 22, 1978, a copy of which is attached to Coast Guard's response. The special ship-rider program, coupled with the normal certificate inspection cycle, has given Coast Guard a very comprehensive program by insuring that hatch covers, hatch coamings, and vent conditions meet the requirements for weathertight integrity.

Pipeline

P-76-73.—Letter of August 21 from the Research and Special Programs Directorate, U.S. Department of Transportation, is in response to a recommendation issued following investigation of a gas pipeline accident which

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occurred on March 27, 1976, in Phenix City, Ala. The recommendation asked that DOT in conjunction with their State agent, the Alabama Public Service Commission, monitor actions taken by officials of Phenix City to determine the degree of compliance and to institute necessary corrective action.

In response, it is noted that the Alabama Public Service Commission exercised close surveillance over the action taken by the Phenix City Utilities Board to show cause, if any, why the Board should not be penalized for failure to comply with the safety standards. The hearing resulted in a citation against the Phenix City Utilities Board wherein the Board was ordered to take corrective action, including repairing class I and class II leaks, complying with odorization requirements, updating maps, locating/servicing critical valves, and pursuing a replacement program for cast iron piping.

Further, DOT staff members, as part of their monitoring activity, have had frequent discussions with the Alabama Public Service Commission concerning this situation. The Commission is satisfied that the Phenix City Utilities Board has corrected the safety deficiencies, that an acceptable replacement program for the cast iron piping is being pursued, and that Phenix City's gas system is in a safe condition.

P-78-33; P-76-44 and 45.—As a result of its investigation of the December 15, 1977, pipeline accident in Lawrence, Kans. (see summary, above, of the investigation report), the Safety Board issued recommendation P-78-33 asking the Materials Transportation Bureau, U.S. Department of Transportation, to reconsider its responses to safety recommendations P-76-44 and P-76-45 in light of this and other accidents that have occurred with plastic pipe and "standard" compression couplings since 1977. Letter of August 9 from the Research and Special Programs Administration provides MTB's comments on the two earlier recommendations.

Recommendation P-76-44 called for revision of 49 CFR 192.281(e)(2), Mechanical Joints, to require that stiffeners be designed to be compatible with compression couplings so that pipes cannot put out of the couplings. MTB reports that it has given considerable thought to revising this regulation and believes that the present regulations are adequate. Sections 192.273(a), 192.281(a), and 192.281(e)(2) require the use of a stiffener with each compression coupling, and that each resulting plastic pipe joint be tested to assure that it is at least as strong as the pipe being joined. MTB notes that the major problem with compression couplings involves improper installation. MTB reports that the American Society for Testing and Materials (ASTM) is now developing, on a high priority emergency basis, comprehensive installation and testing criteria to prevent the faulty installation of couplings. MTB says that this criteria is expected to be finalized by ASTM and reviewed by DOT before the end of 1978, to be incorporated into subpart J of the regulations in 1979.

In response to P-76-45, which recommended that DOT determine if there are locations or circumstances where standard compression couplings are unsafe and amend 49 CFR Part 192 accordingly to prohibit their use for such applications, MTB says it plans to review available information to make such a determination. The review will include a detailed analysis of selected reports concerning gas leaks which have occurred on plastic pipe since 1972. Consideration will be given to: soil conditions, soil temperature, depth of cover, predominate type of area, structures adjacent to leak, distance to other utilities, location of leak relative to water, roads, and walking, excavation activity, etc. This analysis is expected to be completed by the end of 1978. If indicated, 49 CFR Part 192 will be amended.

P-78-34 through 37.—Also in connection with the Lawrence, Kans., pipeline accident, the American Gas Association (AGA) on August 24 responded to the four recommendations directed to AGA which called for a number of studies dealing with compression couplings and polyethylene plastic pipe.

AGA advises that the next meeing of the Gas Research Institute Plastic Pipe Research Group (GRI) will consider these recommendations for inclusion in its 1979 research program. With reference to the recommendations, AGA reports that GRI has an ongoing plastic pipe research program at Battelle Columbus Laboratories which has studied both aging and stress effects on plastic pipe systems. This work has included studies of environmental aging of plastic pipe during storage and studies of stress cracking of piping joints. Field experience and laboratory tests show that failures can be expected at joints due to stress concentrations. AGA notes that increased focus on plastic joints is a main agenda item for the next GRI meeting; also, design changes to relieve stress concentrations at joints will be considered.

Railroad

R-78-24.—Letter of August 17 from the Southern Railway System acknowledges receipt of Safety Board recommendation issued May 31 following investigation of the collision last October 8 of Southern Railway trains Nos. 1 and 152 at Spencer, N.C. The recommendation called for revision of Southern Railway operating rules to insure that they state as specifically as possible the action that is intended, and to enforce those rules pertaining to the operation of switches and the reporting of malfunctions of the signal system.

The president of the company reports that the rules mentioned in the Safety Board's report of this accident have been reviewed and it appears that the present language "is clear and unequivocal." He finds a need to emphasize in company rules classes that the rules "mean exactly what they say and that they will be strictly enforced." Steps are being taken to see that this is done.

NOTE.—The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of accient reports and the Board's recommendation letters in their entirety are available to the general public without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4.00 for service and 10 cents per page for reproduction.

All requests to the Board for copies must be in writing, identified by report of recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

SEPTEMBER 25, 1978.

[FR Doc. 78-27322 Filed 9-27-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 22, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, Survey of High School Students and Counselors, NIE No. 195 A-B, single time, high school students and counselors, 3,150 responses, 2,575 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Federal Assistance Application (Construction), LEAA 4000/4, on occasion, Federal assistance application, 250 responses, 10,000 hours, Budget Review Division, 395-4755.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Training Grant Application, PHS 2499-1, on occasion, organizations engaged in training, 1,570 responses, 7,850 hours, Ellett, C.A., 395-6132.

DEPARTMENT OF LABOR

Employment and Training Administration, Longitudinal Manpower Survey Questionnaires, LMS-1, 2, 3, 5, 102, 202, 302, 20, 90L, 19 annually, participants in ETA CETA program, 572,200 responses, 35,567 hours, Strasser, A. 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, statistics and cooperatives service, turkey and chickens tested for pollorum, monthly, State poultry improvement associations, 584 responses, 141 hours, Ellett, C.A. 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-27419 Filed 9-27-78; 8:45 am]

[3110-01]

PRIVACY ACT

New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between September 4 through September 15, 1978. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

DEPARTMENT OF TRANSPORTATION

System Name: Reserve Personnel Management Information System.
Report Date: August 30, 1978.
Point-of-Contact: Capt. K. R. Murphy, G-RA, U.S. Coast Guard, Washington, D.C. 20590.
Summary: The Coast Guard proposes to expand this system of records by adding information on special active duty for training, extended active duty, retirement points and years of service, as well as payroll data. The payroll data will be disclosed to the Treasury Department for use in preparing paychecks.

VELMA N. BALDWIN,
Assistant to the Director of Administration.

[FR Doc. 78-27420 Filed 9-27-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15177; File No. SR-MSE-78-22]

MIDWEST STOCK EXCHANGE INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 1, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Article XLII, Rule 2 is hereby amended as follows:

Brackets indicate deletions; italics indicate new material.

ARTICLE XLII

TRADING HALTS AND SUSPENSIONS

Rule 2. No change in text.
. . . Interpretatons and Policies:
.01 No change in text.
.02 No change in text.
.03 Pursuant to this rule, whenever a regulatory halt takes place on an exchange where more than 50 percent of the total volume in the underlying security over the past 6 months has been traded, trading in the option class will be halted coincident with the halt in the underlying security.

A situation may arise where a halt in the underlying security occurs and there is a delay in receiving the announcement by the proper Exchange authority. In such a situation, option transactions effected after the halt in the underlying security will be voided.

A regulatory halt includes trading halts for such reasons as dissemination of information concerning the company and suspension of trading by a regulatory body due to trading irregularities. It would not include, for instance, a trading halt due to an imbalance in orders at the specialist post.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this rule change is to clarify the timing of the implementation of a trading halt in the event of a regulatory halt in the underlying security.

The basis for this rule change is section 6(b)(5) of the Act which provides that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

The Midwest Stock Exchange, Inc. has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc., believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Per-

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sons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPEMBER 19, 1978.

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0280]

A B SMALL BUSINESS INVESTIMENT

Filing of Application for Approvel of Conflict of Interest Transaction Between Associates

Notice is hereby give that A B Small Business Investment Co., Inc. (A B), Schoolhouse Road, Cheshire, Conn. 06410, a Federal licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to section 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1978)), for approval of a conflict of interest transaction.

A B desires to provide financing in the amount of $100,000 to Mr. Edward C. Stalmann for the purpose of enabling that individual to open a supermarket which is now a vacant store located at 5 Allen Street, Hampden, Mass., to be called Hampden IGA Supermarket.

Mr. Stalmann is a sales counselor for Bozzuto's, Inc., the parent of A B, and upon completion of this transaction he will resign from Bozzutos'. However, in accordance with the definition of the term "Associate of a Licensee" set forth under section 107.3 of the Small Business Administrations' regulations, he is an associate of A B. Pursuant to the provisions of section 107.1004(b)(1) of SBA regulations, this affiliation requires A B to obtain an exemption from the SBA in order to provide the proposed financing to Mr. Stalmann.

Notice is hereby given that any person may, not later than October 13, 1978, submit written comments to SBA on the proposed financing. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published by A B in a newspaper of general circulation in Hampden, Mass.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27231 Filed 9-27-78; 8:45 am]

[8025-01]

[License No. 06/06-0198]

AFFILIATED SBIC, INC.

Issuance of License To Operate as a Small Business Investment Company

On December 28, 1977, a notice was published in the FEDERAL REGISTER (42 FR 64752) stating that an application had been filed by Affiliated SBIC, Inc., Affiliated Road and Kennedy Street, Broussard, La. 70518, with the Small Business Administration (SBA) pursuant to section 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business January 12, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued license No. 06/06-0198 on September 6, 1978, to Affiliated SBIC, Inc., to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27229 Filed 9-27-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1529]

ARKANSAS

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Pulaski and Saline counties constitute a disaster area because of damage resulting from severe storms and flooding beginning about September 13, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties and adjacent counties within the State of Arkansas. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 16, 1978, and for economic injury until the close of business on June 15, 1979, at:

Small Business Administration, District Office, 611 Gaines Street, Suite 900, Little Rock, Ark. 72201

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 20, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27230 Filed 9-27-78; 8:45 am]

[8025-01]

REGION II ADVISORY COUNCIL

Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, N.Y., will hold a public meeting at 9 a.m., on Monday, October 16, 1978, at the Syracuse Hilton Inn, 1308 Buckley Road, North Syracuse, N.Y., to discuss such matters as may be presented by members, staff of the Small Business Administration, or other present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 1073 Federal Building, 100 South Clinton Street, Syracuse, N.Y. 13260, 315-423-5371.

Dated: September 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27226 Filed 9-27-78; 8:45 am]

[8025-01]

REGION II ADVISORY COUNCIL EXECUTIVE BOARD

Meeting

The Small Business Administration Region II Advisory Council Executive Board will hold a public meeting at 9 a.m., on Friday, October 20, 1978, in Room 29-118, U.S. Federal Building, 26 Federal Plaza, New York, N.Y., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, write or call Ivan E. Irizarry, Regional Director, U.S. Small Business Administration, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1450.

Dated: September 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27227 Filed 9-27-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Cleveland, Ohio, will hold a public meeting from 9 a.m. until 12 noon, on Wednesday, October 18, 1978, at the AJC Federal Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call S. Charles Hemming, District Director, U.S. Small Business Administration, AJC Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199, 216-293-4182.

Dated: September 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27228 Filed 9-27-78; 8:45 am]

[8025-01]

TELESCIENCES CAPITAL CORPORATION

[License No. 02/02-0341]

Issuance of a License To Operate as a Small Business Investment Company

On November 16, 1977, a notice was published in the FEDERAL REGISTER (42 FR 59341), stating that Telesciences Capital Corp., 135 East 54th Street, New York, N.Y. 10022, had filed an application with the Small Business Administration pursuant to section 107.702 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business December 1, 1977, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on September 14, 1978, issued license No. 02/02-0341 to Telesciences Capital Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 20, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27232 Filed 9-27-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-122]

ADMIRAL TOWING & BARGE CO.

Registration of House Flag and Funnel Mark

1. The Commandant, U.S. Coast Guard, in accordance with the provisions of 46 CFR 67.87-5, issued under the authority of the act of May 28, 1908, as amended (46 U.S.C. 49), has registered the house flag and funnel mark of The Admiral Towing & Barge Co. as described below:

(a) House Flag—The house flag is rectangular in shape and imperial blue in color (Federal Standard Color No. 15090 from Specification No. 595). The hoist is 5 feet and the fly is 8 feet. There is a horizontal band of aviation red extending the width of the flag. The band is 20 inches in height and extends the width of the flag. The top of the band is 20 inches from the top of the flag and the bottom of the band is 20 inches from the bottom of the flag. Superimposed on the aviation red band there are four horizontal white stars. Each star is 10 inches in height and 10 inches in width. The top of each star is 5 inches from the top of the band and the bottom of each star is 5 inches from the bottom of the band. The star on the extreme left is 13 inches from the left side of the flag and the star on the extreme right is 13 inches from the right side of the flag. The distance from the center of any star to the center of any adjoining star is 20 inches.

(b) Funnel Mark—The funnel is imperial blue. There is a horizontal band of aviation red located 24 inches below the forward top edge of the funnel cowl and extending the width of the funnel. The band is 30 inches in height. Superimposed on the aviation red band there are four horizontal white stars. Each star is 18 inches in height and 18 inches in width. The top of each star is 6 inches from the top of the band and the bottom of each star is 6 inches from the bottom of the band. The distance from the center of any star to the center of any adjoining star is 36 inches.

2. Colored scale replica drawings of the house flag and funnel mark are on file with the Federal Register Division, National Archives and Records Service.

Dated: September 18, 1978.

HENRY H. BELL,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 78-26817 Filed 9-27-78; 8:45 am]

[4910-13]

Federal Aviation Administration

ANCHORAGE FLIGHT SERVICE STATION AND ANCHORAGE INTERNATIONAL FLIGHT SERVICE STATION

Combination

Notice is hereby given that on September 24, 1978, the Anchorage Flight Service Station and the Anchorage International Flight Service Station will be combined into one facility with the official name of Anchorage Flight Service Station/International Flight Service Station (ANC FSS/IFSS). There will be no change in services provided to the aviation public.

(Sec. 313(a), 72 Stat. 752; (49 U.S.C. 1354).)

Issued in Anchorage, Alaska on September 13, 1978.

DONALD T. KEIL, JR.,
Acting Director, Alaskan Region.

[FR doc. 78-27101 Filed 9-27-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

NATIONAL ACCIDENT SAMPLING SYSTEM

Meeting

Notice is hereby given of a meeting to review the progress of the National Accident Sampling System (NASS) to held October 16 and 17, 1978 in Arlington, Va. at the Ramada Inn-Rosslyn, 1900 North Fort Meyer Drive.

The agenda for this meeting is as follows:

Monday, October 16, 1978: Beginning at 8:30 a.m., staff members from NHTSA's National Center for Statistics will present and discuss progress on the various aspects of the NASS program.

Tuesday, October 17, 1978: Beginning at 8:30 a.m., invited experts outside of the NHTSA will discuss the program with NHTSA staff.

Attendance is open to the interested public but limited to the space available.

Additional information may be obtained from Mr. James Fell, National

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Center for Statistics and Analysis, National Highway Traffic Safety Administration, Room 3404A, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, telephone 202-426-4820.

Issued in Washington, D.C., on September 22, 1978.

WILLIAM H. MARSH,
Executive Secretary.

[FR Doc. 78-27321 Filed 9-27-78; 8:45 am]

[4910-60]

Office of Hazardous Materials Regulation

APPLICATIONS FOR EXEMPTIONS

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATE: Comments by October 30, 1978.

ADDRESSED TO:

Dockets Branch, Information Services Division, Materials Transportation Bureau, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW APPLICATION

Application No.	Applicant	Regulation(s) affected	Nature of application
8059-N	Acurex Aerothem, Mountain View, Calif.	49 CFR 173.302(a)(1), 175.3..	To manufacture, mark, and sell non-DOT specification, aluminum high-pressure cylinders fully overwrapped (FRP) for the shipment of compressed air and oxygen. (Modes 1, 2, 3, 4, and 5.)
8060-N	Ugine Kuhlmann, Paris, France	49 CFR 173.315(a)	To authorize shipments of certain compressed gases (refrigerants) in non-DOT specification ISO portable tanks. (Modes 1, 2, and 3.)
8062-N	Hamill Manufacturing Co., Washington, Mich.	49 CFR Parts 171-176	To qualify shipments of an explosive power device, class B or C, when shipped as an integral part of a passive restraint system, as a nonregulated material. (Mode 1.)
8063-N	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.304(a)(2)	To manufacture, mark, and sell DOT specification 4L 292 vacuum-insulated cylinders for the shipment of cold carbon dioxide and cold nitrous oxide. (Mode 1.)
8064-N	GTE Sylvania Inc., Needham Heights, Mass.	49 CFR 173.247	To authorize shipment of thionyl chloride electrolyte in DOT specification 5C containers. (Modes 1, 2, and 3.)
8065-N	U.S. Department of Energy, Washington, D.C.	49 CFR 173.65, 173.88 thru 173.95.	To authorize shipments of class A and B explosives in non-DOT specification plywood boxes. (Mode 1.)
8066-N	International Marketing Associates, Fort Lauderdale, Fla.	49 CFR 172.400	To authorize shipment of toy caps without labeling. (Modes 1, 2, 4, and 5.)
8067-N	Container Corp. of America, Wilmington, Del.	49 CFR 173.272(g), 173.346...	To authorize shipment of 95 to 98 pct sulfuric acid and class B poisons in a 15-gal specification 34 container. (Modes 1, 2, and 3.)
8069-N	Michlin Chemical Corp., Detroit, Mich	49 CFR 173.244, 173.245(a)(16).	To authorize shipment of ammonium hydroxide in an overpack complying with specification 6D, without embossment with a 2T inside container. (Mode 1.)
8070-N	Olin Corp., East Alton, Ill	49 CFR 173.93(b)	To authorize shipment of smokeless powder for small arms in water in specification 17H metal drums. (Mode 1.)
8071-N	Ethyl Corp., Baton Rouge, La	49 CFR 173.302, 172.101	To authorize shipment of sodium potassium (liquid) alloy in DOT specification 51 portable tanks. (Modes 1, and 2.)
8072-N	Mobay Chemical Corp., Kansas City, Mo	49 CFR 173.377(b)(6)	To authorize shipment of organic phosphate compound mixtures in 5- to 16-oz water soluble pouches packed in DOT specification 2D paper bags further overpacked in DOT specification 12B fiberboard boxes. (Modes 1, 2, and 3.)
8073-N	Gasynergy Inc., Denver, Colo	49 CFR 173.302(a)(3)	To authorize shipment of natural gas in DOT specification 3AAX cylinders. (Mode 1.)
8074-N	Matheson Gas Products, Lyndhurst, N.J	49 CFR 173.34(d)(1)	To authorize shipments of certain liquefied gases in DOT specification 3E-1800 cylinders without safety relief devices. (Mode 1.)
8075-N	Hercules Inc., Wilmington, Del	49 CFR 176.415	To authorize the loading of certain oxidizers aboard vessels at other than remote facilities. (Mode 3.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on September 14, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-26844 Filed 9-27-78; 8:45 am]

[4910-60]

EXEMPTIONS OR APPLICATIONS TO BECOME A PARTY TO AN EXEMPTION

Applications for Renewal

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comments by October 16, 1978.

ADDRESSED TO:

Dockets Branch, Information Services Division, Materials Transportation Bureau, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
930-X	Liquid Carbonic Corp., Chicago, Ill.	930
970-X	U.S. Department of Defense, Washington, D.C.	970
2462-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	2462
3992-X	Hooker Chemical Co., Niagara Falls, N.Y.	3992
4052-X	The Boeing co., Seattle, Wash.	4052
4393-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	4393
4453-X	Monsanto Co., St. Louis, Mo..	4453
4453-X	Austin Powder Co., Cleveland, Ohio.	4453
4612-X	MC/B Manufacturing Chemists, Inc., Norwood, Ohio.	4612
4631-X	Energy Sciences & Consultants, Inc., Biwabik, Minn.	4631
4726-X	U.S. Department of Energy, Washington, D.C.	4726
4760-X	Gardner Cryogenics, Bethlehem, Pa.	4760
4844-X	Bristol Aerojet Ltd., Avon, England.	4844
4850-X	NL McCullough/NL Industries, Inc., Houston., Tex.	4850
4990-X	Schenley Distillers, Inc., Cincinnati, Ohio.	4990
5263-X	Dow Corning Corp., Midland, Mich.	5263
5315-X	U.S. Department of Defense, Washington, D.C.	5315
5365-X	SunOlin Chemical Co., Claymont, Del.	5365
5414-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5415
5493-X	Montana Sulphur & Chemical Co., Billings, Mont.	5493
5736-X	Stauffer Chemical Co., Westport, Conn.	5736
5767-X	Amchem Products, Inc., Ambler, Pa.	5767
5972-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5972
6066-X	Union Carbide Corp., Bound Brook, N.J.	6066
6071-X	Kidde Belleville, Belleville, N.J.	6071
6117-X	Montana Sulphur & Chemical Co., Billings, Mont.	6117
6305-X	Monsanto Co., St. Louis, Mo..	6305
6305-X	IMC Chemical Group, Inc., Allentown, Pa.	6305
6349-X	Air Products & Chemicals, Inc., Allentown, Pa.	6349
6442-X	U.S. Department of Defense, Washington, D.C.	6442
6466-X	Ensign Bickford Co., Simsbury, Conn.	6466
6518-X	Stauffer Chemical Co., Westport, Conn.	6518
6518-X	Union Carbide Corp., Bound Brook, N.J.	6518
6538-X	Wonder Corp. of America, Stamford, Conn.	6538
6556-X	Castle & Cooke Foods, Honolulu, Hawaii.	6556
6563-X	Vital Air Oxygen Co., Cleveland, Ohio.	6563
6611-X	Gardner Cryogenics, Bethlehem, Pa.	6611
6653-X	Shell Oil Co., Houston, Tex...	6653
6724-X	U.S. Department of Defense, Washington, D.C..	6724
6754-X	Eaton Corp., Southfield, Mich.	6754
6794-X	FCX Inc., Raleigh, N.C	6794
6811-X	Eaton Corp., Southfield, Mich.	6811
6890-X	U.S. Department of Defense, Washington, D.C.	6890
6927-X	Great Lakes Chemical Corp., El Dorado, Ark.	6927
6929-X	U.S. Department of Energy, Washington, D.C.	6929
6944-X	U.S. Department of Defense, Washington, D.C.	6944
6949-X	FMC Corp., Philadelphia, Pa	6949
6949-X	Monsanto Co., St. Louis, Mo..	6949
6962-X	U.S. Department of Energy, Washington, D.C.	6962
6971-X	Chem Service, Inc., West Chester, Pa.	6971
6984-X	Austin Powder Co., Cleveland, Ohio.	6984
6984-X	Atlas Power Co., Dallas, Tex.	6984
7041-X	Ethyl Corp., Baton Rouge, La.	7041
7063-X	Hooker Chemical Co., Niagara Falls, N.Y.	7063
7072-X	Container Corp. of America, Wilmington, Del.	7072
7435-X	Ross Aviation, Inc., Albuquerque, N. Mex.	7435
7453-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7453
7493-X	Hugonnet S.A., Paris, France	7493
7594-X	Ameribrom Inc., New York, N.Y.	7594
7600-X	Lubbock Manufacturing Co., Lubbock, Tex.	7600
7610-X	W. R. Grace & Co., Lexington, Mass.	7610
7671-X	Hugonnet S.A., Paris, France	7671
7699-X	Union Carbide Corp., Tarrytown, N.Y.	7699
7752-X	Hugonnet S.A., Paris, France	7752
7759-X	Shell Oil Co., Houston, Tex...	7759
7773-X	Valley Chemical Co., Greenville, Miss.	7773
7773-X	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	7773
7778-X	Distilled Spirits Council of the United States, Inc., Washington, D.C.	7776
7798-X	RO-GO Chemical Co., Fresno, Calif.	7798
7802-X	Bennett Industries, Pacoima, Calif.	7802
7808-X	Whitmire Research Laboratories, Inc., St. Louis, Mo.	7808
7819-X	Hugonnet S.A., Paris, France	7819
7820-X	....do	7820
7840-X	Douglas Aircraft Co., Long Beach, Calif.	7840
4390-P	Corco Chemical Corp., Fairless Hills, Pa.	4390
5196-P	Atlantic Richfield Co., Philadelphia, Pa.	5196
6253-P	Eurotainer, Paris, France	6253
6267-P	Alden Leeds, Inc., South Kearny, N.J.	6267
6348-P	Georgia-Pacific Corp., Newport Beach, Calif.	6348
6397-P	USS Agri-Chemicals, Atlanta, Ga.	6397
6453-P	Geneal Motors Corp., Warren, Mich.	6453
6554-P	GPS Industries, Los Angeles, Calif.	6554
6969-P	Fairbanks Memorial Hospital, Fairbanks, Alaska.	6969
6969-P	Sisters of Providence, Anchorage, Alaska.	6969
7052-P	GTE Sylvania Inc., Needham Heights, Mass.	7052
7094-P	American Cyanamid Co., Wayne, N.J.	7094
7275-P	Starflight, Inc., Memphis, Tenn.	7275
7275-P	Baltimore Airways Inc., Glen Burnie, Md.	7275
7549-P	Wallach-Gracer Export Corp., New York, N.Y.	7549
7835-P	Union Carbide Corp., Tarrytown, N.Y.	7835
7924-P	Exxon Enterprises, Inc., Somerville, N.J.	7924
7936-P	Euortainer, Paris, France	7936
8005-P	Intsel Corp., New York, N.Y..	8005

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on October 14, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

FR Doc. 78-26843 Filed 9-27-78; 8:45 am]

[4910-60]

GRANTS AND DENIALS OF APPLICATIONS FOR EXEMPTIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

V 43/189 SE 28 78 UMI

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted August 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: One motor vehicle, two rail freight, three cargo-vessel, four cargo-only aircraft, five passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for emergency exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
2582-X	DOT-E 2582	Matheson Gas Products, Lyndhurst, N.J.	49 CFR 173.304(a) 175.3	To ship a certain nonflammable gas in non-DOT specification cylinders made in compliance with DOT 3E1800 with certain exceptions (Modes 1, 2, 3, and 4.)
3004-X	DOT-E 3004	U.S. Department of Defense, Washington, D.C.; Union Carbide Corp., Tarrytown, N.Y.; Airco Industrial Gases, Murray Hill, N.J.	49CFR 173.302, 175.3	To ship certain compressed gases in a non-DOT specification cylinder. (Modes 1, 2, 4, and 5.)
5122-X	DOT-E 5122	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c)	To ship a nonflammable compressed gas in DOT specification 106A500-X, 110A500-W multi-unit tank car tanks. (Modes 1 and 2.)
5557-X	DOT-E 5557	U.S. Department of Energy, Washington, D.C.	49 CFR part 173, subpart C	To ship class A explosives in non-DOT specification containers. (Mod 1.)
6080-X	DOT-E 6080	do	49 CFR 173.301(c), 173.337(a)(1).	To ship a certain class A poison in DOT specification 3A2400 or 3AA2500 cylinders. (Mode 1.)
6113-X	DOT-E 6113	Boston Gas Co., Malden, Mass.; New Bedford Gas & Edison Light Co., New Bedford, Conn., Gas Inc., Lowell, Mass.; Fitchburg Gas & Electric Co., Boston, Mass.; South Jersey Gas Co., Folsom, N.J.; Bay State Gas Co., Boston, Mass.; San Diego Gas & Electric Co., San Diego, Calif.; Northwest Natural Gas Co., Portland, Oreg.; Utility Propane Co., Elizabeth, N.J.; Process Engineering, Inc., Plainstow, N.H.; Philadelphia Gas Works, Philadelphia, Pa.; Haverhill Gas Co.; Amesburg, Mass.; UGI Corp., Reading, Pa.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank built and constructed in accordance with sec. VIII of the ASME Code. (Mode 1.)
6113-P	DOT-E 6113	Air Products and Chemicals Inc., Allentown, Pa.	49 CFR 172.101, 173.315(a)	To become a party to exemption 6113. (See application 6113-X.) (Mode 1.)
6253-P	DOT-E 6253	ACT Services, Southampton, England; Leschaco, Inc., Houston, Tex.; Containertechnik Hamburg GMBH & Co., Hamburg, West Germany.	49 CFR part 173	To become a party to exemption 6253. (See application 6253-X.) (Mode 1, 2, and 3.)
6263-X	DOT-E 6263	Amtrol, Inc., West Warwick, R.I.	49 CFR 173.302(a)(1)	To ship certain nonflammable gases in a non-DOT specification tank. (Modes 1 and 2.)
6472-X	DOT-E 6472	Thiokol Corp., Brigham City, Utah.	49 CFR 173.91	To hip a certain class B explosives in non-DOT specification polystyrene containers. (Modes 1, 2, and 3.)
6530-X	DOT-E 6530	Air Products and Chemicals, Inc., Allentown, Pa.; Chemetron Corp., Chicago, Ill.	49 CFR 173.302(c)	To ship certain flammable gases in DOT specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6563-X	DOT-E 6563	Safety Laboratories, Inc., Miami, Fla.	49 CFR 173.302(a)(1), 175.3	To ship certain nonliquefied, nonflammable compressed gases in non-DOT specification cylinders made in compliance with DOT specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6726-X	DOT-E 6726	Born Free Plastics, Inc., Gardena, Calif.	49 CFR part 173, 178.19	To manufacture, mark and sell non-DOT specification reusable blow-molded polyethylene container for shipment of corrosive liquids and oxidizers. (Modes 1 and 2.)
6746-X	DOT-E 6746	The Firestone Tire and Rubber Co., Akron, Ohio.	49 CFR 173.315(a)(1)	To ship a nonflammable gas in certain DOT specification portable tanks. (Modes 1 and 3.)
6793-X	DOT-E 6793	Sea Containers, Inc., New York, N.Y.	49 CFR part 173, 46 CFR 90.05-35, 98.35-3.	To ship certain hazardous materials in a non-DOT specification portable tank. (Modes 1, 2, and 3.)
6806-X	DOT-E 6806	Dow Chemical Co., Midland, Mich.	49 CFR 173.302(a), 175.3	To ship certain flammable gas in a DOT specification 3E-1800 cylinder. (Mode 5.)

Renewals—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6858-X	DOT-E 6858	Orval Tank Containers, Inc., Paris, France; Interpool, Ltd., New York, N.Y.	49 CFR 173.119, 173.125, 173.245, 173.346; 46 CFR 90.05-35.	To ship certain hazardous materials in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.)
6922-X	DOT-E 6922	Halocarbon Products Corp., Hackensack, N.J.	49 CFR 173.314(c), 179.300-15.	To ship a certain flammable compressed gas in DOT specification 106A500-X multi-unit tank car tanks. (Modes 1 and 2.)
7020-X	DOT-E 7020	Kerr-McGee Chemical Corp., Oklahoma City, Okla.; Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.154, 173.163(a)(7).	To ship an oxidizing material in bulk rail cars or motor vehicles identified in 49 CFR 173.163(a)(7). (Modes 1 and 3.)
7026-X	DOT-E 7026	Hydraulic Research Textron, Pacoima, Calif.	49 CFR 173.304(a)(1), 175.3, 178.47.	To manufacture, mark and sell non-DOT specification pressure vessel for shipment of a compressed gas. (Modes 1, 4, and 5.)
7457-X	DOT-E 7457	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.83	To stow class A explosives on deck adjacent to or over a hold containing cotton. (Mode 3.)
7495-X	DOT-E 7495	General American Transportation Corp., Chicago, Ill.	49 CFR 173.315(a)(1)	To manufacture, mark and sell non-DOT specification portable steel tanks for shipment of chlorine. (Modes 1, 2, and 3.)
7516-X	DOT-E 7516	Eurotainer Co., Paris, France.	49 CFR 173.119, 173.125, 173.245, 173.346; 46 CFR 90.05-35.	To ship certain flammable, corrosive poisonous, or combustible liquids in a non-DOT specification portable tank.
7520-P	DOT-E 7520	Dow Chemical Co., Midland, Mich.	49 CFR part 173; 46 CFR 90.05-35.	To become a party to exemption 7520. (See application No. 7520-X.) (Modes 1 and 3.)
7597-X	DOT-E 7597	Drexel Chemical Co., Memphis, Tenn.; Helena Chemical Co., Memphis, Tenn.	49 CFR 173.358, 173.359	To ship certain class B poisons in DOT specification 17E steel drums. (Mode 2.)
7620-X	DOT-E 7620	Eastern Mediterranean (Containers) Co., London, England.	49 CFR 173.346, 173.268, 173.247, 173.119, 173.154, 173.245; 46 CFR 90.05-35.	To become a party to exemption 7620 (see application No. 7620-X.) (Modes 1 and 3.)
7621-X	DOT-E 7621	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.353	To ship a poison B liquid in a non-DOT specification ISO portable tank. (Modes 1, 2, and 3.)
7657-X	DOT-E 7657	Welker Engineering Co., Bellaire, Tex.	49 CFR 173.302(a)(1), 173.304(a)(1), (b)(1), 175.3.	To manufacture, mark and sell non-DOT specification cylinders for shipment of compressed gases. (Modes 1 and 4.)
7682-X	DOT-E 7682	Igloo Corp., Houston, Tex	49 CFR part 173, 178.19	To manufacture, mark and sell non-DOT specification polyethylene drums for shipment of corrosive liquids. (Modes 1, 2, and 3.)
7697-X	DOT-E 7697	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.850(a)	To ship calcium oxide in DOT specification 56 portable tanks. (Mode 3.)
7700-X	DOT-E 7700	U.S. Department of Agriculture, Forest Service, Washington, D.C.	49 CFR 175.310(d)	To ship a certain flammable liquid in the baggage compartment of helicopters. (Mode 5.)
7710-X	DOT-E 7710	Midway Can Co., St. Paul, Minn.	49 CFR part 173, 178.24, 178.211.	To manufacture, mark and sell DOT 12P fiberboard boxes for shipment of corrosive, flammable, and class B poisonous liquids. (Modes 1 and 2.)
7737-X	DOT-E 7737	Parker Hannifin Corp., Eastlake, Ohio.	49 CFR 173.304(a)(1), 175.3, 178.42.	To manufacture, mark and sell non-DOT specification seamless aluminum cylinders for shipment of compressed gases. (Modes 1, 2, and 4.)
7741-X	DOT-E 7741	Bell Aerospace, Buffalo, N.Y.	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To ship a flammable liquid and compressed gas in non-DOT specification pressure vessels. (Modes 1, 3, and 4.)
7744-X	DOT-E 7744	Dow Corning Corp., Midland, Mich.	49 CFR 172.101, 173,315(a)	To ship a nonflammable gas in non-DOT specification cargo tanks. (Mode 1.)
7768-X	DOT-E 7768	Plasti-Drum Corp., Lockport, Ill.	49 CFR 173.217, 173.245b, 178.19.	To manufacture, mark and sell non-DOT specification removable head polyethylene drums for shipment of certain oxidizers and corrosive solids. (Modes 1, 2, and 3.)
7777-X	DOT-E 7777	Saunders Petroleum Co., Evans, Colo.; Ozark-Mahoning Co., Tulsa, Okla.	49 CFR 173.248	To ship a corrosive liquid in DOT specification 34 polyethylene container, DOT specification 12B corrugated fiberboard box or DOT specification 12P corrugated fiberboard box. (Modes 1, 2, and 3.)
7804-X	DOT-E 7804	Igloo Corp., Houston, Tex	49 CFR 178.35A-1	To manufacture, mark and sell inside polyethylene containers complying with DOT specification 2SL except for density range, for shipment of certain hazardous materials. (Modes 1, 2, and 3.)
7887-P	DOT-E 7887	Centuri Engineering Co., Inc., Phoenix, Ariz.	49 CFR 172.101, 173.111, 175.3	To become a party to exemption 7887. (See application No. 7887-N.) (Modes 1, 2, 3, 4, and 5.)
		New Exemptions		
7951-N	DOT-E 7951	Avoset Food Corp., Oakland, Calif.	49 CFR 173.306(b)(1), 178.33	To ship an aerosol foodstuff in a nonrefillable metal container complying with DOT 2P specification with certain exceptions. (Modes 1, 2 and 3.)
7974-N	DOT-E 7974	Koppers Co., Inc., Pittsburgh, Pa.	49 CFR 173.31(a)(4), 173.346	To ship a class B poison in DOT specification 103CW tank cars. (Mode 2.)

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New Exemptions—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7978-N	DOT-E 7978	Magnavox Government & Industrial Electronics Co., Fort Wayne, Ind.	49 CFR 172.504	To ship a flammable solid in motor vehicles without placards. (Mode 1.)
7989-N	DOT-E 7989	GTE Sylvania, Needham Heights, Mass.	49 CFR 173.247	To ship a corrosive liquid in non-DOT specification inside stainless steel containers overpacked in stainless steel drums. (Modes 1 and 3.)
7998-N	DOT-E 7998	Dow Chemical Co., Midland, Mich.	49 CFR 173.154	To ship sodium persulfate in non-DOT specification polyethylene-paper bags. (Modes 1 and 2.)
8003-N	DOT-E 8003	Pennwalt Corp., Buffalo, N.Y.	49 CFR 173.154(a)X14)	To ship organic peroxides in DOT specification 12B corrugated fiberboard boxes. (Modes 1 and 3.)
8005-N	DOT-E- 8005	Hugonnet, S.A., Paris, France.	49 CFR 173.266	To ship hydrogen peroxide solution in a non-DOT specification portable tank. (Modes 1, 2, and 3).
8008-N	DOT-E 8008	Wheaton Plasti-Cote, Co., Mays Landing, N.J.	49 CFR 173.305, 173.306(a)	To manufacture, mark and sell non-DOT specification plastic coated glass bottles for shipment of a compressed gas. (Modes 1, 2, 3, and 4.)
8010-N	DOT-E 8010	Superior Lubricant Co., Addison, Tex.	49 CFR 173.286(b) (2), 175.3.	To ship a corrosive material in a DOT specification 12A-20 corrugated fiberboard box. (Modes 1 and 4.)

Emergency Exemptions
Applications Received and Granted

EE8049-N	DOT-E 8049	U.S. Department of Defense, Washington, D.C.	49 CFR 172.407(c), 172.400(a), 46 CFR 146.05-15.	To authorize certain labeling exceptions for military explosives transported by vessel. (Modes 1, 2, and 3.)
EE8061-N	DOT-E 8061	Anchem Products, Inc., Ambler, Pa.	49 CFR 173.314	To make a one-time shipment of a partially filled tank car containing hydrogen chloride. (Mode 2.)

DENIALS

6554-X Request by Bio-Lab, Inc., Conyers, Ga.—To ship certain oxidizing materials in a removable head polyethylene container, denied August 22, 1978 as being unnecessary.

6554-P Request by Hasa Chemicals, Inc., Saugus, Calif.—To become a party to DOT-E 6554 to ship certain oxidizing materials in a removable head polyethylene container, denied August 22, 1978 as being unnecessary.

6563-P Request by Pressure Pak, East Hampton, Conn.—To become a party to DOT-E 6563 authorizing shipment of compressed gases in non-DOT specification cylinders, denied August 14, 1978.

7529-X Request by Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.—To ship helium, compressed, in non-DOT specification welded steel pressure vessels, denied August 17, 1978.

7531-P Request United Technologies Corp., Sunnyvale, Calif.—To become a party to DOT-E 7531 to ship rocket motors with initiators installed and in a propulsive state, denied August 22, 1978.

8043-N Request by Corning Class Works, Corning, N.Y.—To ship a class B poisonous solid in a foreign-manufactured steel drum, denied August 25, 1978 as being unnecessary.

EE8058-N Request by Lexazu, Scharbau & Co., Bremen, West Germany—For an emergency exemption for the shipment of tetrahydrofuran in DOT-E 7820 portable tanks, denied August 20, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-26845 Filed 9-27-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 33]

DECISION-NOTICE

Decided: September 13, 1978. The following applications are governed by special rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the

Commission's policy of simplifying grants of operating authority.

We find, with the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminary, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered, in the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Acting Secretary.

MC 2860 (Sub-172F), filed August 24, 1978. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: W. Randall Tye, 1400 Candler Building, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *canned foodstuffs*, from Canajoharie, NY, to points in IN, KY, OH, and WV. (Hearing site: Washington, DC.)

MC 5470 (Sub-155F), filed August 21, 1978. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20000. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *coke*, in dump vehicles, from Painesville, OH, to points in IN, MI, NY, PA, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 11207 (Sub-440F), filed August 2, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue West, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and fittings*, and (2) *materials* used in the manufacture and installation of plastic pipe (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between Geneva County, AL, on the one hand, and, on the other, points in AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, SC, TN, VA, and WV. (Hearing site: Jacksonville, FL, or Montgomery, AL.)

MC 19227 (Sub-242F), filed August 2, 1978. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 Northwest 20th Street, Miami, FL 33152. Representative: Robert F. McCaughey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal roofing, metal siding, and fabricated metal products*, from the facilities of Fabral, at or near (a) Lancaster, PA, (b) Gridley, IL, and (c) Jackson, GA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 27817 (Sub-143F), filed August 3, 1978. Applicant: H. C. GABLER, INC., a Delaware corporation, Route No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed, feed ingredients, and additives*, and (2) *materials and supplies* used in the manufacture and distribution of animal feeds, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in CT, DE, ME, MA, MD, NH, NY, NJ, NC, PA, RI, SC, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, at or near Mattoon, IL. (Hearing site: Washington, DC.)

MC 29910 (Sub-192F), filed August 21, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. smith, P.O. Box 43, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fencing, fencing materials, wire, and wire products*, from Van Buren, AR, to points in the United States (except AK, HI, AL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, OH, OK, TN, and TX); (2) *steel wire carriers*, from points in the United States (except AK and HI), to Van Buren, AR; and (3) *coiled steel rods*, from the facilities of Georgetown Steel Corp., at or near Beaumont, TX, to Van Buren, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 42487 (Sub-878F), filed July 26, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, a Delaware corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and automobiles), between Columbia, MO and St. Louis, MO, over Interstate Hwy 70, serving no intermediate points, as an alternate route or operating convenience only in connection with carrier's otherwise authorized regular-route operations. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 43867 (Sub-43F), filed June 26, 1978. Applicant: A. LEANDER McALISTER TRUCKING CO., a corporation, P.O. box 2214, Wichita Falls, TX 76307. Representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Equipment, materials, and supplies* used in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (2) *equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of pipe, (3) *earth drilling machinery and equipment, and* (4) *equipment, materials, and supplies* used in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in AZ, CA, CO, MT, NV, UT, and WY. (Hearing site: Denver, CO.)

MC 51146 (Sub-615F), filed July 13, 1978. Applicant: SCHNEIDER

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TRANSPORT, INC., P. O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from Jackson, TN, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 64932 (Sub-586F), filed July 26, 1978. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Chicago, IL 60453. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Texas Sulphur Products, at or near Ottawa, IL, to points in IL, IN, IA, MO, MN, WI, OH, PA, MI, KY, NE, SD, and ND. (Hearing site: Chicago, IL.)

MC 67450 (Sub-68F), filed August 18, 1978. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South La Salle Street, Chicago, IL 60603. to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk) (1) from the facilities of Campbell Soup Co., at or near Napoleon, OH, to points in PA, NY, KY, IN, WV, MI, And OH, and (2) between the facilities of Campbell Soup Co., at or near (a) Napoleon, OH, (b) Chicago, IL, and (c) Camden, NJ, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 69833 (Sub-135F), filed August 4, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW. 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *plastic articles and rubber articles*, serving the facilities of Rubbermaid, Inc., at Wooster, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: columbus or Cleveland, OH.)

MC 80653 (Sub-10F), filed August 8, 1978. Applicant: DAVID GRAHAM, CO., a corporation, P.O. Box 115, Croydon, PA 19020. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Auburn Steel Co., Inc., at Auburn, NY, to those points in NY in and south of Sullivan, Ulster, and Dutchess Counties, and points in CT, DE, MD, WV, NJ, and PA. (Hearing site: New York, NY, or Washington, DC.)

MC 95540 (Sub-1031F), filed August 21, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 95876 (Sub-247F), filed July 17, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, pipe fittings, and couplings* (except iron or steel articles and commodities which because of size or weight require the use of special equipment), and (2) *accessories* for the commodities named in (1) above, from the facilities of ARMCO Steel Corp., Metal Products Division, at or near Springfield, IL, to points in MN, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations and against the transportation of oilfield commodities as defined in *Mercer—Oilfield Commodities*, 74 MCC 459, (1946). (Hearing site: Minneapolis, MN, or Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 95876 (Sub-24F), filed July 23, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at Rock Falls and Sterling, IL, to points in IN, MI, MN, NE, ND, OH, PA, SD, WI, and those points in IA on and west of U.S. Hwy 69, and (2) *materials and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 96992 (Sub-10F), filed July 26, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., a corporation, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Suite 1102, Perry-Brooks Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except frozen foods and commodities in bulk), from Greenville, MS, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MO, OK, TN, and TX. (Hearing site: San Antonio, TX.)

MC 98327 (Sub-30F), filed August 2, 1978. Applicant: SYSTEM 99, a corporation, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael J. O'Neill (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Bakersfield, CA, and Barstow, CA, over CA Hwy 58, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: San Francisco, CA, or Reno, NV.)

MC 107403 (Sub-1107F), filed August 3, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *synthetic resin plastics* (except liquid synthetic resin plastics), in bulk, in tank vehicles, from the facilities of George Woloch Co., Inc., at or near Allentown, PA, to points in NJ. (Hearing site: Washington, DC.)

MC 108053 (Sub-146F), filed August 3, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery and hardware stores, from Ft. Madison, IA, to points in AZ, CA, CO, ID, NV, OR, UT, and WA. (Hearing site: Chicago, IL.)

MC 109692 (Sub-69F), filed July 26, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials*, and (2) *equipment and supplies* used in the installation and distribution of the commodities named in (1) above, from the facilities of the Roofing Division of the Masonite Corp., at or near Little Rock, AR, to points in IL, KS, MO, OK, and TX. (Hearing site: Jackson, MS, or Little Rock, AR.)

MC 109692 (Sub-70F), filed July 26, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from the facilities of the Celotex Corp., at or near Chicago, IL, to points in CO, IA, KS, MO, NE, and SD. (Hearing site: Chicago, IL, St. Louis or Kansas City, MO.)

MC 110420 (Sub-785F), filed August 21, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Steet NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint and paint products*, in bulk, from Bellevue, OH, and Bridgeville, PA, to Oak Creek, WI; and (2) *resin*, in bulk, from Bridgeville and South Fayette, PA, to points in WI. (Hearing site: Chicago, IL, or Pittsburgh, PA.)

MC 110420 (Sub-786F), filed August 21, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and shortenings*, in bulk, in tank vehicles, from Columbus, OH, to points in WI. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 110420 (Sub-787F), filed August 21, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor, vehicle, over irregular routes, transporting *paint and paint products*, in bulk, in tank vehicles, from Chicago, IL, to points in AL, FL, GA, IL, IN, IA, MD, MI, MO, ME, SC, PA, TX, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111320 (Sub-70F), filed August 15, 1978. Applicant: KEEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tractors* (except those designed for pulling highway trailers), *dump trucks designed for off highway use*, and (2) *parts, attachments and accessories* for the commodities named in (1) above, between the facilities of Komatsu America Corp. at points in IL, on the one hand, and, one the other, points in IA, IN, KS, MI, MN, MO, NE, ND, SD, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-438F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from Pittsburg, PA, to Minneapolis, MN, and Kansas City, MO. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-439F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals* (except in bulk, in tank vehicles), from Gibbstown, NJ, to Natrium, WV, and Washington, NJ, to Sumner, IA. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-440F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *forklift trucks and parts for forklift trucks*, from Chicago, IL, to Omaha, NE. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-441F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sausage*, in vehicles equipped with mechanical refrigerations, from the facilities of Bob Evans Farms, at or near Gaiva, IL, to Xenia, OH. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-443F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs* (except in bulk, in tank vehicles), (a) between Sharonville and Lancaster, OH, on the one hand, and, on the other, Clinton and Davenport, IA, and (b) from Columbus, OH, to Denver, CO, Kansas City, MO, Milan, IL, and Minneapolis, MN; and (2) *animal feeds* (except in bulk, in tank vehicles), from the facilities of Iams Foods, at or near Dayton, OH, to Denver, CO. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-444F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alcoholic liquors and wines*, (except in bulk, in tank vehicles), from Owensboro, KY, to Des Moines, IA, Minneapolis, MN, and Omaha, NE. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-445F), filed August 4, 1978. Applicant: CRST, INC., P.O.

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Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Auto parts*, from Wauseon, OH, to Iowa City, IA; and (2) *plastic auto parts*, from Wauseon and Canton, OH, to Oelwein, IA. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-446F), filed August 4, 1978. Applicant. CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from Grundy Center, IA, to points in OH. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-447F), filed August 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, (1) from Painsville, OH, to Chicago, IL, and (2) from Middlefield, OH, to Des Moines, IA. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-456F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products* (except in bulk, in tank vehicles), from the facilities of PPG Industries, Inc., at or near Columbus and Delaware, OH, to Amana, Davenport, and Dubuque, IA. Condition: The certificate to be issued here shall be limited to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114632 (Sub-177F), filed July 26, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum and gypsum products* and (2) *materials and supplies* used in the installation and distribution of gypsum and gypsum products (except commodities in bulk), from the facilities of Georgia-Pacific Corp., at or near Blue Rapids, KS, to points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 114725 (Sub-89F), filed August 14, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Chevron Chemical Co., at or near Friend, KS, to points in CO, NE, OK, TX, and WY. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 115904 (Sub-112F), filed July 19, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *insulation, insulated building panels, and materials and supplies used in the manufacture, distribution, and installation* of insulation and insulated building panels (except commodities in bulk), from Salt Lake City, UT, and Dallas, TX, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 116063 (Sub-151F), filed August 7, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Forth Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from Opelousas, LA, to points in AR, FL, GA, KS, MS, and TN. (Hearing site: Fort Worth or Dallas, TX.)

MC 117815 (Sub-294F), filed August 14, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Representative: Dewey Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, MO, NE, and TN, restricted to the transportation of traffic originating at the above named origin and destined to the indicating destinations. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 118696 (Sub-17F), filed July 24, 1978. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *microfoam*, from the facilities of the Du Pont Co., at or near Wurtland, KY, to points in IL, IN, MI, and WI. (Hearing site: Chicago, IL.)

MC 119654 (Sub-54F), filed July 24, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tomatoes, tomato juice, ketchup, beans, corn, peas, and sauerkraut*, in containers, (a) from Bluffton, IN, to points in KY, IL, MI, MO, OH, and WI, and (b) from Ohio City and Rockford, OH, to points in IL, IN, KY, MI, MO, and WI; and (2) *materials and supplies* used in the processing and packaging of the commodities in (1) above, (except commodities in bulk), (a) from points in IL, KY, MI, MO, OH, and WI to Bluffton, IN, and (b) from points in IL, IN, KY, MI, MO, and WI to Ohio City and Rockford, OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119656 (Sub-41F), filed July 10, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Sterling and Rock Falls, IL, to points in AR, IA, IN, KY MI, MN, MO, OH, PA, TN, VA, WI, and WV. (Hearing site: Chicago, IL.)

MC 121060 (Sub-71F), filed August 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *construction materials, and materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of The Celotex Corp., at or near Camden, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tampa, FL.)

MC 123872 (Sub-88F), filed July 26, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in CO, IA, KS, MN, NE, ND, SD, and WI. (Hearing site: Chattanooga, TN, or Washington, DC.)

MC 124170 (Sub-102F), filed August 18, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), from points in Wayne, Macomb, and Oakland Counties, MI, to points in CO, AZ, CA, UT, NV, WA, and OR. (Hearing site: Detroit, MI, or Washington, DC.)

MC 125368 (Sub-35F), filed July 13, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between the facilities of Campbell Soup Co., At Napoleon, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NJ, NY, NC, PA, VA, and WV. (Hearing site: Washington, DC, or Chicago, IL.)

MC 127187 (Sub-38F), filed July 31, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and animal and poultry feed ingredients* (except commodities in bulk, in tank vehicles), from those points in IA on south and east of a line beginning at the IA-WI State line, then along U.S. Hwy 18 to junction U.S. Hwy 59, then along U.S. Hwy 59 and ending at the IA-MO State line, to points in WI. (Hearing site: Minneapolis, MN.)

MC 128195 (Sub-3F), filed August 14, 1978. Applicant: CHIEFTAIN EXPRESS, INC., 2440 Old Logan Road, Lancaster, OH 43130. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vitrified clay products* and (2) *materials, equipment, and supplies* used in the installaion of vitrified clay products (except commodities in bulk), from Logan, OH, to those points in MD on and west of the Susquehanna River, those in NY and PA on and west of Interstate Hwy 81, and points in DC. (Hearing site: Columbus, OH, or Washington, DC.)

MC 128246 (Sub-28F), filed July 13, 1978. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box A. D., Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, and frozen meat byproducts* (except commodities in bulk); and (2) *frozen fish, frozen shellfish, frozen poultry, and frozen eggs*, which are otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities named in (1) above, from the facilities of Inland Storage Distribution Center at or near Kansas City, KS, to the facilities of Safeway Stores, Inc., at or near (a) Butte, MT, and (b) Salt Lake City, UT, under continuing contracts with Safeway Stores, Inc., of Oakland, CA. (Hearing site: Washington, DC.)

MC 128527 (Sub-120F), filed July 31, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in ID, OR, and WA to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Boise, ID, or Portland, OR.)

MC 129219 (Sub-16F), filed August 22, 1978. Applicant: CMD TRANSPORTATION, INC., 12340 Southeast Dumolt Road, Clackamas, OR 97015. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper*, in rolls, *paper toweling*, and *paper towels*, from Oregon City and Newberg, OR, to those points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, under a continuing contract with Publishers Paper Co. of Oregon City, OR. (Hearing site: Portland, OR.)

MC 133566 (Sub-117F), filed July 17, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from (a) the facilities of Deran Confectionery, a division of Borden Foods, at or near Cambridge, MA, and (b) the facilities of the C. S. Allen Division of Deran Confectionery, at or near North Grosvenordale, CT to points in AL, AR, CO, GA, IA, IL, IN, KY, KS, LA, MI, MN, MO, MS, NE, OH, OK, PA, TN, TX, and WI, restricted to the transportation of traffic originating at the named orgin facilities and destined to the indicated destinations. (Hearing site: Boston, MA, or New York, NY.)

MC 135598 (Sub-15F), filed August 18, 1978. Applicant: SHAREKY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Malt beverages*, from St. Paul, MN, to Quincy, IL. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 135797 (Sub-133F), filed July 31, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, in containers, ground waste paper, and liquid adhesives*, (except commodities in bulk, in tank vehicles), and (2) *Equipment, materials, and supplies* used in the manufacture, distribution, and application of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of National Cellulose Corp., at or near Monroe, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 135797 (Sub-134F), filed July 28, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in

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by grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, FL, LA, MI, TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south of U.S. Hwy 66. (Hearing site: Washington, DC, or Memphis, TN.)

MC 135797 (Sub-139F), filed July 31, 1978. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic houseware products, rubber houseware products, wire housewares products, and display racks*, from Wooster, OH, to points in CA (except those points in and south of San Luis Obispo, Kern and San Bernardino Counties), CO, IA, ID, KS, MN, MO, MT, NE, NV, ND, OR, SD, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 136553 (Sub-63F), filed August 7, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone feed ingredients, gypsum feed ingredients, gypsum soil conditioners*, and *limestone soil conditioners*, from points in Marion County, IA, to points in IL, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 136818 (Sub-34F), filed August 24, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, in vehicles equipped with mechanical refrigeration, from points in Jefferson County, CO, to points in MO, IA, and WA; and (2) *containers for recycling, and materials and supplies* used in the brewing of malt beverages, from points in MO, IA, and WA to points in Jefferson County, CO. (Hearing site: Denver, CO, or Phoenix, AZ.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136818 (Sub-36F), filed August 24, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass beads, glass spheres, and thermoplastic marking materials*, and (2) *equipment, materials and supplies* used in the application of the commodities named in (1) above, from Jackson, MS, to points in AZ, CO, ID, IL, IN, KS, KY, MI, MN, MO, NE, ND, NV, OH, OK, SD; TX, UT, WI, and WY. (Hearing site: Jackson, MS, or Phoenix, AZ.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138157 (Sub-79F), filed August 3, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., a California corporation d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pesticides and agricultural chemicals* (except commodities in bulk), and (2) *applicators* for the commodities in (1) above, from points in Alameda, Contra Costa, and Solano Counties, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, D.C.)

NOTE.—Dual operations are involved in this proceeding.

MC 138882 (Sub-117F), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Harrigan Lumber Co., Inc., at or near Monroeville, AL, to points in FL, GA, IL, IN, IA, KY, LA, SC, MI, MS, MO, OH, TN, TX, AR, NC, PA, WI, and AL. (Hearing site: Birmingham or Montgomery, AL.)

MC 139495 (Sub-378F), filed August 16, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, and food curing, preserving, and seasoning compounds*, (except commodities in bulk, in tank vehicles), from Aiken, SC, to points in CA, CO, GA, IL, KS, MI, MO, OR, PA, TN, and TX. (Hearing site: Washington, DC.)

MC 139577 (Sub-25F), filed August 3, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed, feed ingredients, and additives*, and (2) *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, WY, UT, and NM, restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc., at Mattoon, IL. (Hearing site: Madison, WI, or Chicago, IL.)

MC 139906 (Sub-13F), filed July 10, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 So., P.O. Box 30303, Salt Lake City, UT. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and plastic pipe fittings*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (a) between Bakersfield, Sun Valley and Santa Ana, CA, on the one hand, and, on the other, Houston and Dallas, TX, Kansas City, MO, Cleveland, OH, Stone Mountain, GA, Chicago, IL, Friedensberg, PA, Pinnellas Park, Miami, Guyanam, and Pompano Beach, FL, Oklahoma City, OK, Denver, CO, and points in IN, LA, MI, MN, NE, WI, and TX, and (b) between Cleveland, OH, on the one hand, and, on the other, Bakersfield, Sun Valley and Santa Ana, CA, Houston and Dallas, TX, Kansas City, MO, Cleveland, OH, Stone Mountain, GA, Chicago, IL, Friedensberg, PA, Pinnellas Park, Miami, Guyanam, and Pompano Beach, FL, Oklahoma City, OK, Denver, CO, and points in IN, LA, MI, MN, NE, WI, and TX. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140033 (Sub-62F), filed August 7, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent lighting fixtures and parts and accessories for fluorescent lighting fixtures*, from Bristol, PA, to points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, WY, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, GA, and FL. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143053 (Sub-4F), filed August 7, 1978. Applicant: B & B TRANSPORT, INC., P.O. Box 5310, Kent, WA 98031. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel shelving, steel cabinets, steel bookcases, steel lockers, steel shop equipment, folding tables, stacking chairs, and wire baskets*, from Los Angeles and Monrovia, CA, La Porte, IN, Aurora and Chicago, IL, Battle Creek and Detroit, MI, Canton and Marietta, OH, Allentown, PA, and Dickson, TN, to Santa Clara and Sacramento, CA, and points in ID, MT, OR, and WA, under a continuing contract with Cascade Commerical Company, of Seattle, WA. (Hearing site: Seattle, WA.)

MC 143059 (Sub-22F), filed August 21, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 5610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Ft. Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic articles, plastic pipe*, and *pipe fittings and connections*, from the facilities of Carlon Division, Indian Head Incorporated, at or near Oklahoma City, OK, to points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

MC 144083 (Sub-5F), filed August 7, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass beads, glass spheres, and thermal plastic marking materials*, and (2) *materials, equipment, and supplies* used in the installation of the commodities named in (1) above, from the facilities of Cataphote Division of Ferro Corporation, at or near Jackson, MS, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, and WY. (Hearing site: Jackson, MS, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144596 (Sub-1F), filed July 19, 1978. Applicant: BEN FRAZIER, INC., 120 East Junius Street, Fergus Falls, MN 56537. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Franklin Steel Company, at or near Franklin, PA, to those points in the United States in and west of IL, WI, MO, AR, and LA, under continuing contracts with (1) M & R Sign Company, Inc., of Fergus Falls, MN, and (2) Franklin Steel Company, of Franklin, PA. (Hearing site: Fargo, ND, or Minneapolis, MN.)

MC 144755 (Sub-1F), filed August 9, 1978. Applicant: NEVADA NATIONAL TRANSPORTATION, INC., d.b.a. Nevada National Transport, 214 South 300 West Provo, UT 84601. Representative: Harry D. Pugsley, Suite 1200, 310 South Main Street, Salt Lake City, UT. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ore concentrates*, from the facilities of Nevada National Mining Corp., near Winnemucca, NV, to points in Salt Lake County, UT; and (2) *mining machinery, mining supplies, and mining equipment*, in the reverse direction, under a continuing contract in (1) and (2) above, with Nevada National Mining Corporation, of Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 144869 (Sub-1F), filed August 7, 1978. Applicant: ICE TRANSPORT, INC., P.O. Box 9930, Little Rock, AR 72209. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting *ice*, between points in AR, on the one hand, and, on the other, points in AL, LA, MS, MO, OK, TN, and TX. (Hearing site: Little Rock, AR.)

MC 144898 (Sub-1F), filed August 18, 1978. Applicant: JACK W. BAUER, d.b.a BAUER'S TRUCKING, Route 2, Medford, WI 54451. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Millwork, window units, frames, thresholds, sills, and glass*, and (2) *parts* for the commodities named in (1) above, from Medford, WI, to points in the United States (including AK, but excluding HI); and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) and (2) above, from points in the United States (including AK, but excluding HI), to Medford, WI. (Hearing site: Madison, WI, or Minneapolis, MN.)

MC 144907 (Sub-2F), filed July 31, 1978. Applicant: WILSON'S MILK HAULING, INC., 4971 Pleasant Avenue, Hamilton, OH 45014. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in tank vehicles, from Cincinnati, OH, to points in IL, IN, KY, MI, OH, PA, and WV. (Hearing site: Washington, DC. or Cincinnati, OH.)

MC 144913 (Sub-1F), filed August 4, 1978. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, between the facilities of Atlantic Zayre, Inc., at (1) Forest Part, GA, and (2) Birmingham, AL, under a continuing contract with Atlantic Zayre, Inc., of Forest Park, GA. (Hearing site: Atlanta, GA.)

MC 144956 (Sub-1F), filed July 13, 1978. Applicant: TRANS-MUTUAL TRUCK LINES LTD., 7034 30th Street Southeast, Calgary, Alberta, Canada T2C 1N9. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from ports of entry on the international boundary line between the United States and Canada (except AK) west of the intersection of the MN State boundary line with the Ontario Provincial boundary line, to points in AR, CO, IA, IL, IN, KS, MI, MN, MO, MT, NE, OH, OK, ND, SD, TX, UT, WI, and WY, restricted to the transportation of traffic originating at points in the Provinces of British Columbia and Alberta, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Seattle or Spokane, WA.)

MC 144960 (Sub-2F), filed August 24, 1978. Applicant: MR. SALT ENTERPRISES, INC., 109 Apple Creek Lane, Rochester, NY 14612. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a

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contract carrier, by motor vehicle, over irregular routes, transporting: *Building materials*, between Rochester, NY, on the one hand, and, on the other those points in NY on and west of Interstate Hwy 81, restricted to the transportation of traffic having a prior or subsequent movement in interstate commerce, under a continuing contract with Grossman's, a Division of Evans Products, of Rochester, NY. (Hearing site: Buffalo or Rochester, NY.)

NOTE.—In view of the *Geraci* and *Toto* policies (See, e.g., 43 FR 33945) (8-2-78), applicant must satisfy the Commission that its operations will not result in objectionable private and for-hire operations.

MC 144972F, filed June 23, 1978. Applicant: MORGAN & BROTHER-MANHATTAN STORAGE CO., INC., 510 West 21st Street, New York, NY 10011. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, restricted to the transportation of shipments having a prior or subsequent movement beyond the points authorized, and further restricted to the performance of a pick-up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments, between New York, NY, points in Nassau, Suffolk, Putnam, Westchester, Rockland, and Dutchess Counties, NY, Bergen, Union, Hudson, Essex, Morris, Middlesex, Somerset, Monmouth, and Passaic Counties, NJ, and Fairfield, New Haven, Hartford, Litchfield, and Middlesex Counties, CT. (Hearing site: New York, NY.)

MC 144988 (Sub-1F), filed August 17, 1978. Applicant: WILLIE L. BECK, d.b.a. BECK HAULING SERVICE, 5160 Thistle Road, SE, Smyrna, GA 30080. Representative: Willie L. Beck (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton clothing, cotton piece goods, clothing on hangers, and accessories*, between the facilities of Norstan Industries, Inc., (1) at or near Atlanta, GA, and (2) in AL, FL, NC, SC, and TN, under a continuing contract with Norstan Industries, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 145103 (Sub-1F), filed August 4, 1978. Applicant: CALHOUN TRANSPORTATION, INC., 319 Jacet Road, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or use by manufacturers and distributers of heaters and air conditioners, and building materials, and (2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (a) between Evansville, IN, and Minneapolis, MN, on the one hand, and, on the other, points in the United States (except AK and HI), and (b) from Mineral Wells, TX, Columbus and Sidney, OH, Holland and Jackson, MI, Reading, PA, and Edison, NJ, to points in the United States (except AK and HI), under a continuing contract with National Temperature Control Centers, Inc., a subsidiary of ITT Grinnell Corp., of Providence, RI. (Hearing site: Providence, RI, or New York, NY.)

MC 145117F, filed July 25, 1978. Applicant: M. JULIEN BELLAVANCE, d.b.a. J. BELLAVANCE TRANSPORT, 100 Cote Double, Ste-Angele de Monnoir, Quebec, Canada JOL 1PO. Representative: Richard Habel, 666 Sherbrooke Street, Suite 1205, Montreal, Quebec, Canada H3A 1E7. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, from Rouses Point, NY, to the port of entry on the international boundary line between the United States and Canada, at or near Rouses Point, NY, restricted to the transportation of traffic having a subsequent movement in foreign commerce destined to the Province of Quebec, Canada, under a continuing contract with Habel Bechard Grain LTD, of Montreal, Quebec, Canada. (Hearing site: Montpelier, VT.)

NOTE.—The restriction and conditions contained in the authority granted in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145127F, filed July 31, 1978. Applicant: BESTWAY CARTAGE CORP., 5541 Northwest 82d Avenue, Miami, FL 33166. Representative: Norton F. Hight (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Monroe, Palm Beach, Broward, and Dade Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by air or water. (Hearing site: New York, NY.)

MC 145155 (Sub-2F), filed August 16, 1978. Applicant: TRANS-SWEET, INC., 3401 Rochester Road., Lakeville, NY 14480. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sweeteners*, in bulk, in tank vehicles, from Lakeville, NY, to points in CT, MA, MI, NJ, OH, PA, and RI. (Hearing site: Buffalo or Rochester, NY.)

MC 145190 (Sub-1F), filed August 10, 1978. Applicant: D.A.D. TRANSPORT CORP., 3832 New Cummings Road, Chattanooga, TN 37409. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Brock Candy Co., at or near Chattanooga, TN, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NJ, NH, NY, NC, OH, OK, PA, RI, SC, TX, VT, VA, WV, WI, and DC; and (2) *materials, equipment, and supplies used in the manufacture and distribution of confectionery*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chattanooga, TN, or Atlanta, GA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145190 (Sub-2F), filed August 21, 1978. Applicant: D. A. D. TRANSPORT CORP., 3832 New Cummings Road, Chattanooga, TN 37409. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, and gum dispensing machines and stands*, from the facilities of Leaf Confectionery, Inc., at Chicago, IL, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145230F, filed August 16, 1978. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Robert J. Gill, 29 South La Salle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by manufacturers of lawn and snow removal products* (except commodities in bulk), between the facilities of Jacobsen Manufacturing Co., a division of Sextron, at Brookhaven, MS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 145240F, filed August 21, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, and materials and supplies* used in the installation of floor coverings; (1) from points in NJ, PA, GA, and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM, and CA, under a continuing contract with L. D. Brinkman & Co., of Irving, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 145270F, filed August 21, 1978. Applicant: METRO MOVING SERVICES, INC., 14533 Grover Street, Omaha, NE 68144. Representative: Norman D. Riffel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of shipments having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pickup and delivery in connection with the packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, between points in Harrison, Pottawattamie, Fremont, Shelby, Montgomery, and Page Counties, IA and points in NE. (Hearing site: Omaha, NE.)

PASSENGER AUTHORITY

MC 52330 (Sub-1F), filed August 22, 1978. Applicant: WASHINGTON COACH LINES, INC., P.O. Box 966, Aberdeen, WA 98520. Representative: S. HARRISON KAHN, 1511 K Street, NW., Suite 733, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers, and their baggage* in same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Grays Harbor, Pacific, Mason, Lewis, Thurston, Pierce, and King Counties, WA, and extending to points in the United States (including AK but excluding HI). (Hearing site: Aberdeen or Seattle, WA.)

BROKER AUTHORITY

MC 130514F, filed July 19, 1978. Applicant: DOWNTOWN TRAVEL SERVICE, INC., 10 Post Office Square, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Building, Washington, DC 20005. To engage in operations, in interstate or foreign commerce, as a *broker*, at Boston, Dorchester, Revere, Lynn, Plymouth, and Hyannis, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, in all-expense tours, between points in the United States, (including AK and HI. (Hearing site: Boston, MA.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1954).

MC 130520F, filed August 7, 1978. Applicant: GOOD TIME TRAVEL, INC., 6841 Day Drive, Suite 404, Parma, OH 44129. Representative: J.A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To engage in operations, in interstate or foreign commerce, as a *broker* at Parma, OH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Cuyahoga, Geauga, Lake, Lorain, Portage, Stark, and Summit Counties, OH, and extending to points in the United States (including AK but excluding HI). (Hearing site: Cleveland or Columbus, OH.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauch Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1954).

[FR Doc. 27191 Filed 9-27-78; 8:45 am]

[7035-01]

[Volume No. 116]

SEPTEMBER 20, 1978.

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority Notice

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminate operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 1117 (Sub-15) (MIF) (Notice of filing for petition to modify certificate), filed June 23, 1978. Petitioner: M.G.M. TRANSPORT CORP., 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 1117 (Sub E-1), published August 12, 1974, authorizing transportation, as pertinent, over irregular routes, of: (1) *New furniture*, uncrated, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Orange, Rockland, Suffolk, Ulster, Dutchess, Nassau, Putnam, Sullivan, and Westchester Counties, NY, and New York, NY, to points in PA, MD, DE, VA, and DC which are within 350 miles of Paterson, NJ (except from New York, NY, to Newcastle County, DE, and Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and except from Orange, Rockland, Ulster, Dutchess, Westchester, Putnam, and Sullivan Counties to that portion of PA east of a line beginning at the NY-PA State line, and extending along Interstate Hwy 81 to its junction with PA Hwy 61, then along PA Hwy 61 to

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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Reading, PA, then along Interstate Hwy 176 to its junction with PA Hwy 10, then along PA Hwy 10 to the PA-MD State line, and except from Orange and Sullivan Counties to Kent and Newcastle Counties, DE, points in MD and points in PA), (2) *New furniture,* uncrated and *furniture frames,* uncrated, from Philadelphia County, PA, to points in MA, CT, RI, VT, and NH which are within 350 miles of Paterson, NJ, and (3) New furniture, uncrated, from ports of entry in NY on and east of NY Hwy 87 and west of U.S. Hwy 9 to points in DE and points in MD south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay.

By the instant petition, petitioner seeks to modify the above authority by deleting the language "uncrated" from the commodity description "New furniture, uncrated".

NOTE.—Docket No. MC 1117 (Sub-15) has been assigned this modification of an E-letter notice certificate for publication and reference purposes.

MC 1838 (Sub-11) (M1F) (Notice of Filing of Petition to Modify Permit), filed August 21, 1978. Petitioner: S & K TRANS, INC., P.O. Box 208, Akron, NY 14001. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Petitioner holds a motor *contract carrier* permit MC 1838 (Sub-11), issued August 11, 1978, authorizing transportation, over irregular routes, of (1) *building materials* (except commodities in bulk, in tank vehicles, and iron and steel articles requiring the use of special equipment), between the facilities used by MacMillan Bloedel Building Materials, located at points in the United States in and east of MN, IA, MO, AR, and LA (except Pine Hill and Opelika, AL), on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA and ports of entry on the international boundary line between the United States and Canada located in ND, MT, ID, and WA; (2) *particleboard,* from Pine Hill, AL, to points in the United States in and east of MN, IA, MO, AR, and LA, and ports of entry on the international boundary line between the United States and Canada, located in ND, MT, ID, and WA. Restriction: All of the service in (1) and (2) above to be performed under a continuing contract or contracts with MacMillan Bloedel Building Materials. By the instant petition, petitioner seeks to add as a service point under part (1) of the permit the facilities of Shepard & Morse Lumber Co. under a continuing contract or contracts with the said Shepard & Morse Lumber Co.

MC 8771 (Sub-3) (M1F) (Notice of Filing of Petition To Modify Certificate), filed July 20, 1978. Petitioner: SAW MILL SUPPLY, INC., 3599 Old Gettysburg Road, P.O. Box 41, Camp Hill, PA 17001. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Petitioner holds a motor *common carrier* certificate in MC 8771 (Sub-3), issued May 13, 1943, authorizing transportation, over irregular routes, of *machinery, machinery parts,* and *contractors' equipment* between points and places in NY, NJ, PA, DE, MA, VA, CT, RI, MD, NH, VT, ME, and DC. By the instant petition, petitioner seeks to modify the above authority to permit the transportion of *machinery, machinery parts, contractors equipment, commodities* which because of their size or weight require the use of special equipment, and *self propelled vehicles weighing more than 15,000 pounds each* between the points set forth above.

MC 19227 (Sub-69) (M1F) (Notice of Filing of Petition To Reinstate Certificate), filed May 15, 1978. Petitioner: LEONARD BROS TRUCKING CO., INC., 2515 NW. 20th Street, Miami, FL 33152. Representative: Robert McCaughey (same address as petitioner). Petitioner holds a motor *common carrier,* authority in MC 19227 (Sub-69) issued September 7, 1965, authorizing transportation over irregular routes of: *Jet Thrust units* and *acessories* used in the installation of such commodities, from Redstone Arsenal near Huntsville, AL, to the site of the Thiokol Chemical Corp. plant near Brigham City, UT, and Larson Air Force Base near Moses Lake, WA. Petitioner by the instant petition, seeks reinstatement of the previous authority, which expired September 7, 1970.

MC 36018 (Sub-1) (M1F) (Notice of Filing of Petition To Modify Territorial Description), filed August 18, 1978. Petitioner: COYMAN BROTHERS, INC., Foot of Monachie Road, Hackensack, NJ 07601. Representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 36018 (Sub-1), issued February 12, 1962, authorizing transportation, over irregular routes, as pertinent, of: *Boilers, boiler tubes, and machinery,* from North Bergen, NJ, to points in CT, MA, and RI, within 200 miles of North Bergen, NJ. By the instant petition, petitioner seeks to modify the above territorial description to read: Between North Bergen, NJ, on the one hand, and, on the other, points in CT, MA, RI, within 200 miles of North Bergen, NJ.

MC 48958 (Sub-118) (M1F) (Notice of Filing of Petition To Modify Certificate by Amendment of Commodity Description), filed August 24, 1978. Petitioner: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC 48958 (Sub-118), effective January 31, 1975, which authorizes transportation over irregular routes of: *Refined copper and commidities of unusual value,* between the facilities of American Smelting and Refining Co., located at or near Amarillo, TX, on the one hand, and, on the other, points in CA, AZ, NM, CO, WY, NE, KS, MO, IA, IL, IN, OH, and OK, restricted against tacking or joining with petitioner's other irregular-route authority. By the instant petition, petitioner seeks to amend the commodity description to read: *Copper and commodities of unusual value.*

MC 59150 (Sub-9) (M1F) (Notice of Filing of Petition To Modify Certificate), filed July 18, 1978. Petitioner: PLOOF TRUCK LINES, INC., P.O. Box 3277, 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., Gulf Life Tower, Jacksonville, FL 32207. Petitioner holds a motor *common carrier* certificate in MC 59150 (Sub-9), issued July 27, 1959, authorizing transportation over irregular routes of: *Lumber* (except plywood and veneer) from points in SC to points in FL. Petitioner by the instant petition, seeks to delete the restriction "except plywood and veneer".

MC 113666 (Sub-57) (M1F) (Notice of Filing of Petition To Modify Certificate), filed August 22, 1978. Petitioner: FREEPORT TRANSPORT, INC., 1200 Butler Road, P.O. Box 98, Freeport, PA 16229. Representative: William H. Shawn, 1730 M Street NW., Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC 113666 (Sub-57), issued June 1, 1973, authorizing the transportation of *refractory products, brick* and *materials and supplies* used in the installation and production of refractory products (except liquid commodities in bulk): (1) From Baltimore, Jennings, and Leslie, MD, East Palestine, Parral, Massillon, Negley, and Portsmouth, OH, Ludington, MI, PA, to ports of entry on the United States-Canada boundary line in ME, NH, VT, NY, MI, and MN; (2) from Newell, WV, and points in PA to ports of entry on the United States-Canada boundary line in ME, NH, VT, and MN; (3) from Philadelphia, PA, Tarentum, Childs, Claysburg, Salina, and Sproul, PA, to ports of entry on the United States-Canada boundary line in MI; (4) from Philadelphia, PA, to ports of entry on the United States-Canada boundary line in NY; (5) from ports of entry on the United States-Canada boundary line in ME, NH, VT, NY, MI, and MN, to points in ME, NH, VT,

MA, CT, RI, NY, PA, NJ, DE, MD, WV, VA, NC, TN, KY, OH, IN, IL, MI, WI, MO, IA, and MN. By the instant petition, the petitioner seeks to include NY as a port of entry in paragraph (2).

MC 114211 (Sub-181) (M1F) (Notice of Filing of Petition To Delete Restriction), filed July 11, 1978. Petitioner: WARREN TRANSPORT, INC., 210 Beck Street, Waterloo, IA 50704. Representative: Daniel Sullivan, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. Petitioner holds a motor *common carrier* certificate in MC 114211 (Sub-181), issued May 2, 1974, authorizing transportation, over irregular routes, of: (1) *Grading, paving, and finishing machinery and equipment, and contractors equipment;* (2) *parts, accessories and attachments* for the commodities in (1) above; and (3) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities described in (1) and (2) above (except commodities in bulk) between Ida Grove, IA, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The operations authorized in (1) and (2) above is to the transportation of shipments originating at Ida Grove, IA, and in (3) above to the transportation of shipments destined to Ida Grove, IA. By the instant petition, petitioner seeks to delete the above restrictions.

MC 123383 (Sub-71) (M1F) (Notice of Filing of Petition To Modify Certificate), filed August 18, 1978. Petitioner: BOYLE BROTHERS, INC., Sharp Road, Evesham Township, NJ 08055. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 123383 (Sub-71), issued September 2, 1975, authorizing transportation, over irregular routes, of: *Plastic articles, and materials and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the facilities of GAF Corp., located in Gloucester and Camden, NJ, on the one hand, and, on the other, points in LA and points in that part of the United States located on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line. Restricted: To traffic originating at named origins and destined to named destination points. By the instant petition, petitioner seeks to modify the above authority by substituting the facility location of Thorofare (West Deptford Township), NJ, for Camden, NJ.

MC 130138 (M1F) (Notice of Filing of Petition To Modify License), filed June 20, 1978. Petitioner: CHI-AM TOURS, INC., 9 Elizabeth Street, New York, NY 10013. Representative: Robert Goldstein, 8 West 40th Street, New York, NY 10018. Petitioner holds a motor carrier license as a *broker* in MC 130138, issued March 12, 1973, authorizing transportation, over irregular routes, of: *Passengers and their baggage,* in round-trip sightseeing and pleasure tours, in special and charter operations, beginning and ending in that part of New York, NY, in the Borough of Manhattan south of 14th Street, and extending to points in that part of the United States on and east of a line begining at the mouth of the Mississippi River and extending northerly along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northerly along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line. Applicant is authorized to engage in the above-specified operations as a broker at New York, NY. By the instant petition, petitioner seeks to ad broker locations at Los Angeles and San Francisco, CA.

MC 134404 (Sub-26) (M1F) (Notice of Filing of a Petition To Modify Permit), filed August 16, 1978. Petitioner: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 134404 (Sub-26), issued March 14, 1977, authorizing transportation, over irregular routes, of: *Calcium carbonate, drugs, chemicals, medicines, and toilet preparations* (except commodities in bulk), (1) from Adams, MA, to Trenton, NJ, (2) from West Haven, CT, to Gloucester City, NJ, and (3) from Trenton, NJ, to West Haven, CT, under a continuing contract(s) with Miles Laboratories, Inc., of Elkhart, IN. By the instant petition, petitioner seeks to modify the above authority by substituting Mechanicsburg, PA, for Gloucester City, NJ.

MC 136408 (Sub-31) (M1F) (Notice of Filing of Petition To Modify Permit), filed August 22, 1978. Petitioner: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Petitioner holds a motor *contract carrier* permit in MC 136408 (Sub-31), issued April 27, 1977, authorizing transportation, over irregular routes, of: *Surgical, health care, and medical products,* between the facilities of Johnson & Johnson in Middlesex County, NJ, Will and Cook Counties, IL, and Grayson County, TX, under a continuing contract(s) with Johnson & Johnson of New Brunswick, NJ. By the instant petition, petitioner seeks to modify the above authority by adding Dallas County, TX, to the territorial description.

MC 139349 (Sub-2) (M2F) (Notice of Filing of Petition To Modify Permit), filed August 18, 1978. Petitioner: EZ FREIGHT LINES, 348 Ocean Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *contract carrier* permit in MC 139349 (Sub-2), issued August 8, 1978, authorizing transportation, over irregular routes, as pertinent, of: *Lighting fixtures and lamps, and equipment, materials, and supplies* used in the manufacture and sale of lighting fixtures and lamps (except commodities in bulk), between West Orange, NJ, on the one hand, and, on the other, points in LA, MN, and TX, and those points in that part of the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line, under a continuing contract(s) with Energex Lighting Industries, of West Orange, NJ. By the instant petition, petitioner seeks to modify the above authority by (1) adding Triboro Electric Corp., and Action Tungsram, Inc. as additional contracting shippers, and (2) adding Doylestown, PA, and East Brunswick, NJ, as additional base points to the territorial description.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities

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and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 139973 (Sub-35) (Republication), filed October 27, 1977, published in the FEDERAL REGISTER issue of December 22, 1977, and republished this issue. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. A decision of the Commission, Review Board No. 3, decided August 14, 1978, and served August 31, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *foodstuffs* (except commodities in bulk), from Jacksonville, IL, to points in ME, NH, VT, MA, RI, VA, DC, CT, NY, PA, NJ, DE, MD, and WV, restricted to the transportation of traffic originating at the above-named origin and destined to points in the above-named States, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

MC 142668 (Sub-5) (Republication), filed February 9, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Representative: Kim G. Meyer, P.O Box 872, Atlanta, GA 30301. A decision of the Commission, Review Board No. 2, decided August 1, 1978, and served August 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *such merchandise* as it is dealt in by home products distributors (except commodites in bulk): (1) From Chicago, IL, to points in MI (except Huron, Sanilac, Lapeer, St. Clair, Oakland, Macomb, Wayne, Lenawee, and Monroe Counties), and (2) from Dubuque, IA, to points in ND, SD, and those points in MN on and west of U.S. Hwy 71, under continuing contracts with Stanley Home Products, Inc., of Easthampton, MA, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 115022 (Sub-32F), filed April 14, 1978, and previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main Street, Thomaston, CT 06787. Representative: Bernard J. Hasson, Jr., 927 15th Street NW, Suite 306, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Trailers*, designed to be drawn by passenger automobiles, in initial movements; (b) *buildings in sections*, mounted on wheeled undercarriages; and (c) *mobile homes*, in single and double-wide units, from points in AL, AZ, AR, CA, CO, FL, GA, IN, KS, LA, MD, MI, MS, MN, NE, NH, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, and WI, to points in the United States, including AK, but excluding HI, restricted in (b) and (c) above to the transportation of traffic originating at the indicated origins. (Hearing site: Hartford, CT or Boston, MA.)

MC 119988 (Sub-133F), filed February 6, 1978, and previously noticed in the FEDERAL REGISTER issue of March 16, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX, 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Confectionary*, between Lufkin, TX, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *machinery, equipment, materials, and supplies*, used in the manufacture and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to Lufkin, TX, restricted against the transportation of commodities in bulk and to the transportation of traffic originating at or destined to the facilities of Atkinson Candy Co. at Lufkin, TX. Hearing: September 25, 1978 (1 day), at 9:30 a.m. local time, in room 5A15-17, Federal Office Building, 1100 Commerce Street, Dallas, TX.

MC 121626 (Sub-4F), filed April 14, 1978, and previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: BAYVIEW TRUCKING, INC., 7800 Florin-Perkins Road, Sacramento, CA 95828. Representative: Ann M. Pougiales, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Such merchandise* as is dealt in by grocery and food business houses, and (b) commodities otherwise exempt under section 203(b)(6) of the Interstate Commerce Act when transported in the same vehicle with the commodities described in (a) above, in vehicles equipped with mechanical refrigeration, between points in CA, on the other hand, and, on the other, El Dorado, NV, and points in Placer, and Sierra Counties, CA, and Washoe and Douglas Counties, NV. (Hearing site: San Francisco, CA, or Reno, NV.)

NOTE.—Common control may be involved. This republication shows all points in CA as the base territory.

MC 140024 (Sub-124F), filed April 15, 1978. Applicant: J. B. MONTGOMERY, INC., 5655 East 52d Avenue, Commerce City, CO 80022. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk) from the port of entry on the International Boundary line between the United States and Canada, located at or near Champlain, NY, to Denver, CO, and points in its Commerical Zone. (Hearing site: Denver, CO.)

NOTE.—Common control may be involved.

MC 143446 (Sub-3F), filed June 21, 1978. Applicant: GARY L. McCALLISTER & MONTE A. McCALLISTER d.b.a. McCALLISTER BROS., P.O. Box 2114, Rock Springs, WY 82901. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite, barite, drilling compounds and completion materials, in sacks and in bulk, and* (2) *machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum, their products and by-products (except complete drilling rigs)*, between points in Grand, Sanpete, Utah, Wasatch, Salt Lake, Davis and Morgan Counties, UT, on the one hand, and, on the other, (1) points in CO located west of U.S. Hwy 85 and north of Interstate Hwy 70, U.S. Hwy 6-24, and (2) points in ID. Hearing: October 16, 1978 (2 weeks), at 9:30 a.m. local time at Denver, CO, in a hearing room location to be later designated.

MC 144493F, filed March 20, 1978, and previously published in the FEDERAL REGISTER issue of May 11, 1978. Applicant: DOYLE EDDINS POPE, d.b.a. D & E HAULING CO., Route 2, Box 146, Quincy, FL 32351. Representative: Doyle Eddins Pope (same address as applicant). Authority sought to operate *as a contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, from points in Grady County, GA, to points in Gadsen County, FL, under a continuing contract or contracts with Floridin Co., at Quincy, FL. (Hearing site: Quincy, FL.)

NOTE.—This republication is to indicate the applicant's actual grant of authority.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC F-13725F. Authority sought by Robert M. Constantine and William E. Constantine, Jr., individuals, 1601 Cuba Street, Baltimore, MD 21230, to control (B) Liberty Transfer Co., Inc. and (BB) Bond Transfer Co., Inc., Baltimore, MD, motor contract carriers of specific commodities. Attorney for applicants: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Operating rights sought to be controlled. (B) Liberty Transfer Co., Inc. is authorized to operate as a motor contract carrier of paperboard, canned goods, and generally such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials and supplies used in the conduct of such business, from, to, and between points in the States of MD, DE, NY, PA, NJ, and DC over regular and irregular routes. (BB) Bond Transfer Co., Inc. is authorized to operate as a motor contract carrier of such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, via irregular routes between points in portions of the States of PA, WV, MD, DE, VA, and DC, and paperboard between Baltimore, MD, on the one hand, and, on the other, named points in the Commonwealth of Pennsylvania. Robert M. Constantine does not own any stock in or operate as a carrier other than Liberty Transfer Co., Inc. William E. Constantine, Jr. does not own any stock in or operate as a carrier other than Bond Transfer Co., Inc. Applicants have filed a motion to dismiss the application. Application has not been filed for temporary authority under section 210a(b) of the Interstate Commerce Act.

MC F-13727F. Authority sought for purchase by BEAUFORT TRANSFER CO., Box 151, Gerald, MO 63037, of the operating rights of LANGER TRUCK LINE, INC., Route 2, Box 226E, Willard, MO 65781, and for acquisition by OLIN FLOTTMANN, P.O. Box 151, Gerald, MO 63037, of control of such rights through the transaction. Applicants' attorneys: Daniel Johnson, 4304 East-West Highway, Washington DC 20014, and Ernest A. Brooks II, 1301 Ambassador Building, St Louis, MO 63101. Operating rights sought to be transferred: General commodities (with specified exceptions), over specified regular routes, between Springfield, MO and Mt. Vernon, MO, serving all intermediate points; and between Mt. Vernon, Mo, and Wellsville, KS, serving no intermediate points. Vendee is presently authorized to operate as a common carrier under Certificate MC 78400 in the States of MO, AL, AR, CO, IL, IN, IA, KS, KY, LA, MN, MI, MS, NB, ND, MN, OK, SD, TX, TN, WI, and WY. Application has not been filed for temporary authority under section 210a(b).

MC F-13730F. Authority sought for purchase by KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987 of the operating rights of KUJAK BROS. TRANSFER, INC., Junction Avenue, Winona, MN 55987 and for acquisition by Hubert Kujak and Martin Kujak of control of such rights through the acquisition. Applicant's representative: John P. Rhodes, Box 5000, Waterloo, IA 50704. Operating rights sought to be purchased are those contained in MC 109449 and subs thereunder which authorizes transportation of various specific commodities between named points and places in IA, MN and WI. Vendee is a noncarrier whose stockholders are the same as those of vendor. Purpose of the transaction is to transfer the operating rights held by vendor to vendee to accomplish intercorporate simplification. Approval of the transaction will not result in dual operations or duplicating authority. Application has been filed for temporary authority under section 210a(b).

MC F-13731F. Authority sought for control by TYLER TRANSPORTATION CO., 3100 Southland Center, Dallas, TX 75201, and in turn by Tyler Corp., 3100 Southland Center, Dallas, TX 75201, of Thurston Motor Lines, Inc., 600 Johnston Road, Charlotte, NC 28206, a wholly owned subsidiary of Thurston, Inc. through acquisition of stock and purchase of other assets of Thurston, Inc. Representatives: William A. Chesnutt, 1776 F Street NW., Washington, DC 20006, and J. V. Luckadoo, 600 Johnston Road, Charlotte, NC 28206. Operating rights sought to be controlled: General commodities (with usual exceptions, including the restriction against transportation of commodities requiring special equipment) and certain specified commodities over regular and irregular routes in AL, AR, CT, DE, DC, FL, GA, KY, LA, MD, MA, MS, NJ, NY, NC, PA, RI, SC, TN, VA and WV, as more fully described in certificates MC 105457 and subs thereto, and permit MC 3582. This notice does not purport to be a complete description of all of the operating rights of Thurston Motor Lines, Inc. It is believed to be sufficient for purposes of public notice regarding the nature and extent of Thurston's operating rights without stating in full the entirety thereof. Tyler Corp., the party in control of applicant, controls C & H Transportation Co., Inc., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227, which in turn controls C & H Freightways, Inc., 406 West Watkins Road, P.O. Box 20465, Phoenix, AZ 85036. Collectively, C & H Transportation Co., Inc. and C & H Freightways, Inc. hold authority to transport principally *articles which because of size or weight require the use of special equipment or special handling*, to, from, or between all points in the United States (except HI), as more fully described in certificates MC 83539 and MC 119918 and subs thereto. C & H Transportation Co., Inc. and Thurston Motor Lines, Inc. each hold certain operating rights technically duplicative of rights held by the other within limited territories. The application proposes that the two carriers will be operated as separate and distinct, autonomous corporations. Approval of this application will not result in any splitting of operating authority. The holding by Thurston Motor Lines, Inc. of common and contract carrier authority was approved in MC F-12530. No temporary authority under section 210a(b) is being sought. This application is related to simulateously filed applications for approval under section 214 for assumption of obligation in respect of securities of others and the issuance of securities in connection with the proposed transaction.

MC F-13732F. Authority sought for purchase by ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Winnipeg, MA, Canada R2J 3K4, of a portion of the operating rights of SHERWOOD HUME TRANSPORTATION, LTD., 734 Main Street East, Milton, ON, Canada L9T 3P6, and for acquisition by Frank E. Arnold and Gerald R. Arnold, also of 851 Lagimodiere Boulevard, Winnipeg, MA, Canada R2J 3K4, of control of such rights through the purchase. Applicants' attorneys: Daniel C. Sullivan, Esq., Suite 1600, 10 South La Salle Street, Chicago, IL 60603, and Robert D. Gunderman, Esq., Suite 710, Statler Hilton, Buffalo, NY 14202. Operating rights sought to be purchased: *Agricultural machinery and implements, parts and attachments*, and *material* used in the assembly and repair of agricultural machinery, between points in IL, IN, IA, KS, MI, MN, MO, NY, OH, PA, VT, and WI, on the one hand, and, on the other, ports of entry on the United States-Canada boundary line located in MN, restricted to the transportation of shipments originating at or destined to points in Canada. Vendee is presently authorized to operate as a *common carrier* of specified commodities, including those stated in the subject authority, between various ports of entry on the United States-Canada boundary and points within the entire continental United States. Vendor is authorized to operate as a *common carrier* of specified commodities between various ports of entry on the United States-Canada boundary line and points within the Eastern and Central United States. Vendor proposes to split its authority and sell the above-noted portion. Vendor will retain that portion which authorizes the transportation of the same commodities between the ports of entry on the United States-Canada boundary line, located in ME, MI, NY and VT and points in the same destination States specified above. Application has not been filed for temporary authority under section 210a(b).

MC F-13733F. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: Pacific Motor Trucking Co., 1766 El Camino Real, Burlingame, CA 94010, and Big Pine Trucking Co., Inc., Route 4, Box 1, Bishop, CA 93514, seek to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between Los Angeles, CA, and points on U.S. Hwy 395 between Inyokern and Round Valley, CA, and points on U.S. Hwy 6 between Bishop and Benton Station, CA, excluding service at Los Angeles. Pacific Motor Trucking Co. is authorized to operate as a *common carrier* in the States of OR, CA, NV, AZ, NM, and TX. Applicants representative: John MacDonald Smith, Room 813, One Market Plaza, San Francisco, CA, 94105.

Operating Rights Application(s) Directly Related to Finance Proceedings

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 98571 (Sub-5F), filed August 11, 1978. Applicant: A & B TRANSPORTATION SERVICES, INC., 2645 Nevin Avenue, Los Angeles, CA 90011. Representative: A. David Millner, Post Office Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting as follows:

Part I

(A) REGULAR ROUTES

General Commodities (except commodities in bulk, household goods as defined by the Commission and livestock).

Between points in California, serving all intermediate points, as follows:

1. From Stockton to San Ysidro, over Interstate Hwy 5, and return over the same routes, serving as off-route points all points located in the San Diego territory, as defined in part II hereof, and Los Banos.

2. From Riverside to San Diego, over U.S. Hwy 395, return over the same route.

3. From Santa Monica to Redlands, over Interstate Hwy 10, and return over the same route, serving as off-route points all points in the Los Angles basin territory, as defined in part III hereof.

4. From Hermosa Beach to Riverside, over California State Hwy 91, and return over the same route.

5. From Los Angeles to junction with Interstate Hwy 5, near San Juan Capistrano, over California State Hwy 1, and return over the same route.

6. From Oceanside to Lake Henshaw, over California State Hwy 76, and return over the same route.

7. From Bonsall to Fallbrook, and from Fallbrook to the intersection of County Hwy S-13 and U.S. Hwy 395, over County Hwy S-13, and return over the same route.

8. From Escondido to Rincon, over County Hwy S-6, and return over the same route.

9. From the intersection of California State Hwy 78 and Interstate Hwy 5 to San Pasqual, over California State Hwy 78, and return over the same route.

10. From San Luis Obispo to Los Angeles, over U.S. Hwy 101, and return over the same route, serving as off-route points Betteravia, Guadalupe, Oceano, Orcutt, Vandenburg Air Force Base, Los Olivos, Solvang, San Ynez, Somis, and Oxnard.

11. From Los Angeles to Stockton, over U.S. Hwy 99, and return over the same route, serving as off-route points Saugus, Newhall, Rosedale, Shafter, Wasco, Hanford, Visalia, Le Grand, Castle Air Force Base, Planada, Hughson, Winton, and Empire.

12. From Oakland to the intersection of Interstate Hwy 580 and Interstate Hwy 5, over Interstate Hwy 580, and return over the same route, serving as off-route points Livermore, Pleasanton, and San Ramon.

13. From the intersection of Interstate Hwy 580 and Interstate Hwy 205 to the intersection of Interstate Hwy 205 and Interstate Hwy 5, over Interstate 205, and return over the same route, serving the off-route point of Tracy.

14. From Oakland to San Jose, over California State Hwy 17, and return over the same route.

15. From Oakland to San Francisco, over Interstate Hwy 80, and return over the same route.

16. From San Francisco to San Jose, over U.S. Hwy 101, and return over the same route, serving as off-route points all points located in the San Francisco territory, as described in part IV hereof.

(B) ALTERNATIVE ROUTE

For operating convenience only, the following alternative route shall be utilized: From San Francisco to San Luis Obispo, over U.S. Hwy 101, and return over the same route.

RESTRICTIONS

No service is authorized:

a. Between points located north of the Los Angeles basin territory and points located south of the Los Angeles basin territory, or

b. Between any two points both of which are on routes located south of the Los Angeles basin territory and north of the San Diego territory, or

c. Between any two points both of which are within the San Diego territory, or

d. Between any two points both of which are on routes located north of the Los Angeles basin territory, and south of the San Francisco territory, not including Stockton and San Luis Obispo, or

e. Between any two points both of which are within the San Francisco territory.

Part II

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following a line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Hwy 395; then following a line running southeasterly to Lakeside on State Hwy 67; then southerly on County Road S 17 (San Diego County) and its prolongation to State Hwy 94; easterly on State Hwy 94 to Jamul; then due south following a line to the California-Mexico Boundary Line; then westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

Part III

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Hwy 118, approximately two miles west of Chatsworth; easterly along State Hwy 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Hwy 38); westerly along Hill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Hwy 10; northwesterly along Interstate Hwy 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Hwy 60; southeasterly along State Hwy 60 and U.S. Hwy 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Hwy 79; southerly along State Hwy 79 to State Hwy 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Hwy 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Hwy 395; southerly along U.S. Hwy 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning including the point of March Air Force Base.

Part IV

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said Country Line to a point one mile west of the State Hwy 82; southerly along an imaginary line one mile west of and paralleling State Hwy 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Fox-

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worthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Hwy 82; northwesterly along State Hwy 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Hwy 238 (Oakland Road); northerly along State Hwy 238 to Warm Springs; northerly along State Hwy 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Hwy 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundarty line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Hwy 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. (Hearing site: Washington, DC or Los Angeles, CA.)

NOTE.—This application is directly related to MC-F-12068, Nelson Resource Corp. Control-Great Western Unifreight System, published in a previous section of the FR issue of August 3, 1978. The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity.

MC 99667 (Sub-2F), filed August 28, 1978. Applicant: SERVICE OIL CO., INC., 111 East 4th St., P.O. Box 2195, Grand Island, NE 68801. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those requiring special equipment) between Ord, NE and points within a 50 mile radius thereof, on the one hand, and, on the other, points in NE, restricted against the transportation of meat or meat products between Ord, NE, and points within a 50 mile radius thereof, on the one hand, and, Omaha, NE, on the other. (Hearing site: Omaha, NE.)

NOTE.—This application is directly related to a proceeding in Eight Way Xpress, Inc.—Control-Tri-Valley Express, Inc. and Service Oil Company docketed MC-F-13703 published in the FEDERAL REGISTER issue of August 31, 1978. The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity.

MC 115093 (Sub-16F), filed September 5, 1978. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 North Grady Avenue, Tampa, FL 33623. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority is sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between points in SC, on the one hand, and, on the other, points in NY on and north of NY Hwy 7. (Hearing site: Washington, DC.).

NOTE.—The purpose of this application is to eliminate the gateways of Athens or Sayre, PA, and is a directly related application to a section 5(2) finance proceeding docketed MC-F-13628, published in the FEDERAL REGISTER issue of June 29, 1978.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

MC 29555 (Deviation No. 24), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Building., St. Paul, MN 55104, filed September 13, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, IA, over Interstate Hwy 35 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertient service route as follows: From Des Moines, IA, over U.S. Hwy 6 to junction U.S. Hwy 275 near Council Bluffs, IA, then over U.S. Hwy 275 to junction IA Hwy 2, then over IA Hwy 2 to junction U.S. Hwy 71 near Clarinda, IA, then over U.S. Hwy 71 to Kansas City, MO, and return over the same route.

MC 96498 (Deviation No. 6), BONIFIELD BROS. TRUCK LINES, INC., P.O. Box 1216, Richmond, VA 23209, filed September 18, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities* with certain exceptions over a deviation route as follows: From junction U.S. Hwy 41 and IN Hwy 64 over U.S. Hwy 41 to Terre Haute, IN, then over IN Hwy 63 to junction U.S. Hwy 41 then over U.S. Hwy 41 to Chicago, IL, and return over same route, for operating convenience only. This notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Evansville, IN, over U.S. Hwy 41 to junction IN Hwy 64 then over IN Hwy 64 to the Wabash River Bridge, then over the Wabash River Bridge to junction IL Hwy 1, then over IL Hwy 1 to Chicago, IL, and return over same route.

MC 108449 (Deviation No. 10), INDIANHEAD TRUCK LINE, INC., Box 3355, St. Paul, MN 55165, filed September 5, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Mansfield, OH, over U.S. Hwy 30 to junction IL Hwy 1, then over IL Hwy 1 to Chicago, IL, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Mansfield, OH over U.S. Hwy 42 to junction U.S. Hwy 250, then over U.S. Hwy 250 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Toledo, OH, then over U.S. Hwy 223 to Adrian, MI, then over MI Hwy 34 to Hillsdale, MI, then over MI Hwy 99 to Jonesville, MI, then over U.S. Hwy 12 to Sturgis, MI, then over MI Hwy 66 to the MI-IN State line, then over IN Hwy 9 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, IL and return over the same route.

MC 110325 (Deviation No. 32), TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009, filed September 11, 1978. Carrier's representative, Jerome Biniasz, P.O. Box 92220, Los Angeles, CA 90009. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Hwy 894 and U.S. Hwy 41 over Interstate Hwy 894 to junction WI Hwy 15, then over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 2, then over IL Hwy 2 to junction IL Hwy 5, then over IL Hwy 5 to junction IL Hwy 2, then over IL Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 75, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From the junction of Interstate Hwy 894 and U.S. Hwy 41 over U.S. Hwy 41 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction IL Hwy 65, then over IL Hwy 65 to Aurora, IL, then over IL Hwy 31 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction IL Hwy 92, then over IL Hwy 92 to Moline, IL, then over U.S. Hwy 6 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction Interstate Hwy 80, and return over the same route.

MC 112713 (Deviation No. 53), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207, filed September 8, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Jackson, MS over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Beaumont, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Jackson, MS over U.S. Hwy 51 to junction U.S. Hwy 61, then over U.S. Hwy 61 to New Orleans, LA, then over U.S. Hwy 61 to Baton Rouge, LA, then over U.S. Hwy 190 to junction U.S. Hwy 167, then over U.S. Hwy 167 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Beaumont, TX and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Arkansas Docket No. M-11450, filed: August 28, 1978. Applicant: ARKANSAS EXPRESS, INC., 3600 East 9th Street, Little Rock, AR 72202. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities (except classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment), (1) between Little Rock, AR and Gum Springs, AR from Little Rock over U.S. Hwy 67 to Gum Springs, and return over the same route serving all intermediate points; (2) between Pine Bluff, AR and Malvern, AR from Pine Bluff over U.S. Hwy 270 to Malvern, and return over the same route serving no intermediate points; (3) between Malvern, AR and the junction of U.S. Hwy 270 and AR Hwy 171 east of Hot Springs, from Malvern over U.S. Hwy 270 to the junction of U.S. Hwy 270 and AR Hwy 51, thence over AR Hwy 51 to its junction with U.S. Hwy 270, thence over U.S. Hwy 270 to its junction with AR Hwy 171 east of Hot Springs, and return over the same route serving all intermediate points. Applicant proposes to tack all routes at common points of joinder and with existing authority.

Arkansas Docket No. M-11450, filed: August 28, 1978. Intrastate, interstate and foreign commerce authority sought. Hearing: Tuesday, December 5, 6, and 7, 1978, at 9:30 a.m., in Arkansas Transportation Commission hearing room, Justice Building, Little Rock, AR. Requests for procedural information should be addressed to Arkansas Public Service Commission, Justice Building, Little Rock, AR 72201, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. C-321, case 10, filed June 9, 1978. Applicant: PARKER MOTOR FREIGHT, INC., 1505 Steele Avenue, SW., Grand Rapids, MI 49507. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *General commodities*, (1) Between Grand Rapids and Ludington, MI, and the commercial zones thereof, as alternate route for operating convenience only. (a) From Grand Rapids over Interstate Hwy 96 to junction with U.S. Hwy 31, then over U.S. Hwy to the junction with U.S. Hwy 10, then over U.S. Hwy 10 to Ludington, and return over the same route. (2) Between Ludington and Cadillac, MI, serving all intermediate points and off-route points within 3 miles thereof, and the commercial zones of all such points. (a) From Ludington over U.S. Hwy 10 to the junction with U.S. Hwy 31, then over U.S. Hwy 31 to junction with MI Hwy 55, then over MI Hwy 55 to Cadillac, and return over the same route. (3) Between Scottville, MI, and the junction of U.S. Hwy 10 and MI Hwy 115, as an alternate route for operating convenience only. (a) From Scottsville, MI over U.S. Hwy 10 to the junction with MI Hwy 115, for joinder with other authorized routes of carrier at the termini or any intermediate point along the above-described route. (4) Between Traverse City and Manistee, MI, and the commercial zones thereof, as an alternate route for operating convenience only. (a) From Traverse City, MI over U.S. Hwy 31 to Manistee, and return over the same route. (5) Between Grand Rapids and Cadillac, MI, and the commercial zones thereof, serving no intermediate points. (a) From Grand Rapids, MI over U.S. Hwy 131 to Cadillac, MI, and return over the same route. (B)(1) Between Grand Rapids and Detroit via Interstate Hwy 96. (2) Between Cadillac and Detroit via U.S. Hwy 131 to its junction with MI Hwy 115, then via MI Hwy 115 to its junction with U.S. Hwy 10, thence via U.S. Hwy 10. (3) Between the junction of U.S. Hwy 10 and U.S. Hwy 23 and the junction of U.S. Hwy 23 and Interstate Hwy 96 via U.S. Hwy 23. (4) Between the junction of Interstate Hwy 75 and U.S. Hwy 10 and Detroit via Interstate Hwy 75. Service over the above routes in paragraph B is authorized to all intermediate points and off-route points within 3 miles thereof and including the commercial zones of such points and the termini points. Service is restricted to the transportation of traffic which carrier either originates at or delivers to its authorized points north of Clare (not including Clare) and excluding service to such points as are on and east of Interstate Hwy 75. Intrastate, interstate, and foreign commerce authority south. Hearing: November 1, 2, and 3, 1978, at 6545 Mercantile Building, Lansing, MI. Requests for procedural information should be addressed to Michigan Public Service Commission, Mercantile Building, 6545 Mercantile Way, P.O. Box 30221, Lansing, MI 48909, and should not be directed to the Interstate Commerce Commission.

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North Carolina Docket No. 78-391-T, filed August 29, 1978. Applicant: SUPERIOR MOTOR EXPRESS, INC., P.O. Box 98, Gold Hill, NC 28071. Certificate of Public Convenience and Necessity sought to operate a *freight service*, as follows: Transportation of *lumber, logs, poles, pilings, pulpwood, cores, crossties, slabs, fence posts, and chips:* Between points and places within the State of SC. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to North Carolina Utilities Commission, 430 North Salisbury Street, Dobbs Building, Raleigh, NC 27602, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 3777 (Sub-5), filed July 21, 1978. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a *freight service* as follows: Transportation of *general commodities* (except classes A and B explosives, used household goods commodities in bulk, and those requiring special equipment), between Livingston and Chattanooga, TN, as follows: (1) From Livingston over TN Hwy 42 to junction with U.S. Hwy 70, then over U.S. Hwy 70 to junction with TN Hwy 111, then over TN Hwy 111 to junction with TN Hwy 8, then over TN Hwy 8 to junction with U.S. Hwy 127, then over U.S. Hwy 127 to Chattanooga and return over the same route, serving no intermediate points except those intermediate points in Overton and Putnam Counties; (2) from Livingston over TN Hwy 42 to Interstate 40, then over Interstate 40 to junction with Interstate 75, then over Interstate 75 to Chattanooga and return over the same route as an alternate route for operating convenience only; and (3) from Livingston over TN Hwy 42 to Interstate 40, then over Interstate 40 to junction with Interstate 24, then over Interstate 24 to junction with TN Hwy 28, then over TN Hwy 28 to junction with U.S. Hwy 41, then southeast over U.S. Hwy 41 to junction with Interstate 24, then over Interstate 24 to Chattanooga and return over the same route as an alternate route for operating convenience only. All of said routes to be used in conjunction with all of the existing authority of Averitt Express, Inc. Restriction: Service at Chattanooga, TN, and its commercial zone is restricted against the handling of traffic originating at, destined to, or interchanged at Nashville and Knoxville, TN, and their respective commercial zones. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 25, 1978, at 9:30 a.m., at the Commission's Hearing Room, C-1 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 4777 (Sub-6), filed July 21, 1978. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a *freight service* as follows: Transportation of *general commodities* (except classes A and B explosives, used household goods, commodities in bulk, and those requiring special equipment) serving the plantsite facilities of Firestone Tire & Rubber Co. at or near La Vergne, TN, as an off-route point in connection with existing regular route authority to serve Nashville, TN. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 17, 1978, at 1:30 p.m., at the Commission's Hearing Room, C-1 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27192 Filed 9-27-78; 8:45 am]

[7035-01]

JAMES E. MARTIN

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 FR 8769), "Providing for the appointment of certain persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Office of the Federal Register for publication in the Federal Register, the following information showing any changes in my financial interests and business connections as heretofore reported and published (41 FR 44904, dated October 13, 1976; and 42 FR 29590, dated June 9, 1977).

Same as prior report.

Dated: September 19, 1978.

(Signed) James E. Martin.

[FR Doc. 78-27336 Filed 9-27-78; 8:45 am]

[7035-01]

[Docket No. AB-52 (Sub-No. 8)]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Abandonment Between Richmond and Oakland in Contra Costa and Alameda Counties, Calif; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on January 6, 1978, and the decision of the Commission, Division 2, acting as an Appellate Division, served September 1, 1978, as modified, adopted the decision of the Commission, Review Board No. 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka & Santa Fe Railway Co. of that portion of its line extending from milepost 0.5 in Richmond, Calif. to milepost 9.7 in Oakland, Calif., a distance of approximately 9.2 miles in Contra Costa and Alameda Counties, Calif., provided, however, that Santa Fe shall keep intact all of the right-of-way and structures underlying the track for a period of 120 days following issuance of the certificate, for the purpose of permitting any responsible public agency or other responsible person to offer to purchase all or part of such right-of-way public use. A certificate of abandonment will be issued to the Atchison, Topeka & Santa Fe Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, (October 30, 1978) unless within 30 days from the date of publication, the Commission further finds that:

A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such a period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978 at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27330 Filed 9-27-78; 8:45 am]

[7035-01]

[Docket No. AB-119 (Sub-No. 1)]

FORT WORTH & DENVER RAILWAY CO.

Abandonment Between Sterley and Silverton in Floyd and Briscoe Counties, Tex.; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on January 13, 1978, and the decision of the Commission, Division 1, acting as an Appellate Division, served August 10, 1978, as modified, adopted the decision of the Administrative Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Fort Worth & Denver Railway Co. of that portion of its line of railroad extending milepost 306.4 at Sterley, Tex., to milepost 326.11 near Silverton, Tex., a distance of 19.71 miles in Floyd and Briscoe Counties, Tex. A certificate of abandonment will be issued to the Forth Worth & Denver Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice (October 30, 1978), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation or rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978 at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. Homme, Jr.
Acting Secretary.

[FR Doc. 78-27332 Filed 9-27-78; 8:45 am]

[7035-01]

[Docket No. AB-7 (Sub-No. 36)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO., DEBTOR

Abandonment Near Marion and Menno, in Turner and Hutchinson Counties, SD; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act 49 (U.S.C. 1a) that by a Certificate and Decision dated August 14, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of The Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. of its entire line of railroad extending from railroad milepost 0.3 near Marion to railroad milepost 21.1 near Menno, a total length of 21.5 miles located in Turner and Hutchinson Counties, SD. Since the proceeding is now unopposed, a certificate of public convenience and necessity permitting abandonment was issued to Stanley E. G. Hillman, Trustee of The Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than October 13, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective November 13, 1978.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27329 Filed 9-27-78; 8:45 am]

[7035-01]

[Docket No. AB-36 (Sub-No. 6F)]

OREGON SHORT LINE RAILROAD CO.

Abandonment and Abandonment of Service by Union Pacific Railroad Co. Near Rogerson, Idaho, and Wells, Nev., in Twin Falls County, Idaho, and Elko County, Nev.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision dated August 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 584 (1978), the present and furture public convenience and necessity, the abandonment of the Oregon Short Line Railroad, and abandonment of service of the Union Pacific Railroad Co. over a line of railroad extending from railroad milepost 29.35 near Rogerson, Idaho, to the end of the line at railroad milepost 123.46 at Wells, Nev., a distance of 94.11 miles in Twin Falls County, Idaho, and Elko County, Nev., provided, that applicant shall maintain the Wells Branch basis

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of rates on traffic which prior to abandonment could have been routed and moved via the Wells Branch, unless it should develop that maintenance of that basis of rates would result in unreasonableness, unlawfulness, or discrimination. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Short Line Railroad Co. and Union Pacific Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than October 13, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective November 13, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27331 Filed 9-27-78; 8:45 am]

[7035-01]

[Finance Docket No. 28839]

SOUTHERN PACIFIC TRANSPORTATION CO. AND OREGON ELECTRIC RAILWAY CO.

Approval of a Coordination Agreement in Salem, Oreg.

Southern Pacific Transportation Co. (SPT), One Market Plaza, San Francisco, Calif. 94105, represented by Charles W. Burkett, General Solicitor, hereby gives notice that on the 29th day of August, 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision approving a coordination agreement between SPT and the Oregon Electric Railway Co. (OE) in the vicinity of the city of Salem, county of Marion, State of Oreg. This application is directly related to Docket No. AB-12 (Sub-No. 57F), *Southern Pacific Transportation Co. Abandonment at Salem in Marion County, Oreg,* filed August 29, 1978.

This application for a coordination agreement has been accepted and assigned Finance Docket No. 28839.

SPT and its rail subsidiaries own or operate properties in the States of California, Oregon, Nevada, Utah, Arizona, New Mexico, Texas, and Louisiana. Southern Pacific Co. owns 100 percent of the outstanding capital stock of Southern Pacific Transportation Co.

OE is a common carrier by railroad operating in the State of Oreg. Burlington Northern, Inc., through lease of Spokane, Portland and Seattle Railway controls all outstanding stock of Oregon Electric Railway Co.

Approval of the coordination agreement between SPT and OE will permit SPT to acquire bridge traffic rights from OE between their interchange tracks at milepost 720.73 and the beginning of the West Salem Branch at milepost 719.74. This usage by SPT is limited to the movement of freight cars in SPT's account by OE. OE would be granted rights to perform switching and car handling as SPT's agent on 2.67 miles of SPT's West Salem Branch. OE will operate the SPT's West Salem Branch between mileposts 721.41 and 719.74. This coordination agreement provides for continued rail service to West Salem if the abandonment of service sought in the directly related application is approved. The city of Salem and the State of OR requested SPT to apply for the related abandonment in order to allow the city and State to upgrade certain streets to accommodate greater volumes of highway traffic.

At the present time, SPT serves its West Salem Branch via track running through the city of Salem, which is proposed for abandonment in the related application. The West Salem Branch would be isolated from the remainder of the SPT rail system. The coordination agreement is designed to provide continued rail service to West Salem.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation (Finance Docket No. 28839), and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than November 13, 1978. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally interested persons who do not intend to participate formally in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27333 Filed 9-27-78; 8:45 am]

[Notice No. 144]

MOTOR CARRIER TEMPORARY AUTHORITY

Correction

In FR Doc. 78-23225 appearing on page 36750 in the issue for Friday, August 18, 1978, on page 36752 in the first column, second paragraph, and in the twelfth line of MC 142317 (Sub-2TA) the word "northwest" should be changed to read "northeast".

[7035-01]

ATLANTA AND WEST POINT RAILROAD CO., ET AL.

Decided: September 21, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Order to Show Cause).

SUMMARY: On August 3, 1978, the Commission entered an order requiring the above-named railroads to show cause why the Commission should not issue a Service Order requiring other members of the Family Lines to furnish a combined total of 100 diesel-electric locomotives to the Louisville and Nashville Railroad Co. (LN), and to show cause why the Commission should not issue an order requiring the Louisville and Nashville Railroad Co. to furnish cars to non-unit-train shippers of coal equal to forty percent (40%) of their daily mine ratings. A Service Order entitled *Regulations For The Use Of Locomotives* is being issued and the proposed Service Order entitled *Regulations For The Distribution Of Hopper Cars* will be postponed until further order of the Commission.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Order to show cause for Atlanta and West Point Railroad Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co., Western Railway of Alabama and Louisville and Nashville Railroad Co.

On August 3, 1978, the Commission entered an order requiring the above named railroads (collectively known as the Family Lines) all of which are owned or controlled by the Seaboard Coast Line (SCL) to show cause why the Commission should not issue a Service Order requiring other members of the Family Lines to furnish a combined total of one hundred (100) diesel-electric locomotives to the Louisville and Nashville Railroad Company (LN).

These lines were also required to show cause why the Commission should not issue another order requiring the LN to furnish cars to non-unit-train shippers of coal equal to forty percent (40%) of their daily mine ratings multiplied by the number of working days in the week.

Respondents and other interested parties were allowed ten (10) days from the date of publication in the FEDERAL REGISTER to file replies. The final date for receipt of responses was August 18, 1978. Because of the importance of this proceeding, the Commission has waived that deadline in order to accept several responses that were filed after that date and, although not required to do so, has permitted all interested parties to expand upon the material contained in their responses at an oral argument before the entire Commission on September 7, 1978.

Responses have been received from the Family Lines, from producers of coal, from receivers of coal, from shippers and receivers of other commodities, and from public officials in the States served by the Family Lines.

While exact categorizing of all replies into a favor or oppose position is difficult, the responses generally are as follows:

• • • The Family railroads are opposed to the issuance of either of the proposed Service Orders. LN principally opposes the car distribution order challenging both the jurisdiction of the Commission to enter the proposed order and the desirability of doing so. SCL principally challenges the appropriateness of ordering it and members of the Family Lines other than LN to transfer locomotives to LN. Doing so it alleges would leave other parts of the existing system short of power and create severe dislocations for other shippers, principally phosphate producers in Florida which are as dependent on SCL for transportation as are the coal mines of Eastern Kentucky upon LN.

• • • Shippers of general commodities served by the Family Line members other than the LN oppose the proposal to require delivery of 100 locomotive units to the LN because of their expressed fears that transfer of these locomotives to the LN would result in motive-power shortages on the Family railroad which serves them. These shippers generally take no position with respect to the proposed order affecting the furnishing of cars by the LN to shippers of coal.

A representative of the Florida phosphate industry served exclusively by the SCL in the area east of Tampa, Fla., and south of Lakeland, Fla., argued that transfer of locomotives from the SCL to the LN would result in delayed movements of phosphate fertilizer to the major grain growing regions of the United States, and in export traffic to the south Florida gulf ports. However, neither he nor any representative of the SCL offered any credible evidence to support these opinions.

One shipper of construction aggregates served by the LN, who utilizes the services of several of the other Family railroads as well, opposes both proposed orders. He fears impaired movements of his traffic over the lines of other Family Lines if locomotives are directed to the LN. Equally, as a major user of hopper cars furnished by the LN, he is concerned that a requirement that the LN furnish a minimum of forty percent (40%) of mine ratings to non-unit-train coal mines might deplete the presently inadequate supplies of these cars furnished to him by the LN.

The proposed locomotive order is being modified to phase the transfer of locomotives gradually over an extended period and to require the SCL to report weekly any trains and cars held because of a shortage of motive power. The Commission will closely monitor the impact of this order on the movement of the fertilizer ingredients from Florida, construction aggregates and other commodities. If locomotive shortages there or elsewhere on the Family Lines System become severe, further action may be warranted.

The opinions of the coal operators are divided. Those served by the LN are in favor of the required transfer of 100 locomotives to the LN seeing such an event as being of major significant assistance in more prompt movement of their coal and in increasing the utilization of cars used for transporting coal. These coal shippers are divided in their opinions with respect to the proposed order affecting the supply of cars to non-unit-train mines. Representatives of mines which ship both unit-train and non-unit-train coal were generally opposed to such an order, as were coal shippers who identified themselves only as unit-train coal shippers. Representatives of non-unit-train mines favored the issuance of the proposed order directly affecting car supplies to such mines.

Coal shippers served by Family Line members other than the LN oppose the transfer of locomotive units to the LN. These parties expressed no opinion on the proposed order affecting the LN's practices in furnishing cars.

Of four responses from representatives of utilities receiving coal from mines served by the LN, two favored the proposed transfer of 100 locomotives to the LN while the remaining two took no position on this issue. Three opposed the issuance of a Service Order requiring the LN to furnish cars to non-unit-train coal mines and one, the Tennessee Valley Authority (TVA) favored such an order. The three opponents receive their coal in unit-train shipments. The TVA receives both unit-train and non-unit-train shipments of coal but expects to increases its reliance on non-unit-train shippers in the future.

Public officials, including both United States Senators and two Congressmen, and the Governor of Kentucky, favored the issuance of both proposed orders. The Public Service Commission of North Carolina, the State Corporation Commission of Virginia and one of Virginia's Congressmen opposed the transfer to the LN of locomotives from portions of the Family Lines system operating in their States, but took no position with respect to the proposed order to furnish cars to the non-unit-train coal shippers.

One preliminary matter raised by counsel for LN at the argument deserves comment. At that time he complained of alleged ex parte contacts with the Commission by coal operators and members of the Kentucky Congressional delegation, generally, and of the release of two documents (the so-called Duncan Report and King Memorandum) to some of them, which LN was denied when sought under the Freedom of Information Act. With respect to its generalized complaint about ex parte contacts, LN appears to recognize that such contacts are an indispensible predicate to the Commission's exercise of its emergncy powers under 1(15) of the Act. It does not question the appropriateness of such contacts generally, but asserts that once it is recognized that an adversary process has commenced, all such contacts should be cut off. We do not believe that the process leading up to entry of car service orders can ever be fairly characterized as adversarial, even where, as here, there is a substantial difference of opinion as to how an admitted problem of car service should be dealt with by the Commission. In any event, LN does not contend, nor could it, that it has not been afforded a full and fair opportunity to present its views to the Commission at every stage of the process.

With respect to the matter of release of the Duncan Report and King Memorandum, it should be observed that these are unrelated investigative materials which, with deletions, were erroneously released to counsel for

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one of the Kentucky coal operator groups on July 11, 1978, under the Freedom of Information Act. LN's subsequent FOIA request for release of the documents was denied at the initial level of consideration, as was a subsequent request from the counsel who had previously been furnished edited copies of the documents for the material which had been deleted, on the grounds that the original release was in error and that LN was the target of the investigation. As of the time of the argument, LN had not pursued its right to appeal denial of its FOIA request. We do no believe LN has in any way been prejudiced by this denial, because, as indicated, the documents are directed to matters largely unrelated to these orders. But rather than insisting that LN pursue its right to appeal the initial FOIA request denial, we are today releasing to LN the same materials which have already inadvertently been made available to counsel for the coal operators.

The Family Lines, the representatives of the coal industry, the public utilities and the public officials of the State of Kentucky are in substantial agreement as to the existence of a severe shortage of cars for transporting shipments of coal originating at stations in eastern Kentucky served by the LN. There is also general agreement in the statements furnished by the Family Lines and those furnished by the representatives of the coal industry that non-unit-train coal shippers served by the LN in eastern Kentucky are presently receiving only about twenty percent (20%) of the cars ordered. (Response of Atlanta and West Point Rail Road Co., et al, Appendix A, page A1, and Appendix B, pages B-30 and B-31).

There is, however, as might be expected, substantial disagreement as to the significance of these figures. LN insists that the low ratio of cars supplied to orders is the result of boom conditions in the eastern Kentucky coal industry. It points to the fact that this Commission in its Adequacy of Service Investigation in 1972 (346 I.C.C. at 506) found that LN had a supply of hopper cars in excess of the immediate needs of its shippers and that it now owns more hopper cars than it did then. It also notes that it is presently supplying non-unit-train shippers of coal in Eastern Kentucky approximately the same number of cars as it was supplying in February of this year, at which time the percentage of cars supplied to ordered was 42.9. Further, LN notes that of the approximately 32,000 cars in its hopper fleet, roughly 4,000 are in service for the transportation of aggregates and other commodities, 4,200 are devoted to providing unit-train service, and the remaining 23,800 are being utilized to provide service to non-unit-train shippers of coal. LN intends to add an additional 450 hopper cars to its fleet in the near future.

Finally, LN contends that the problem of adequate supply of coal cars to mines in eastern Kentucky is a long-term problem which is only susceptible to long-range solutions. It insists that nothing can be done for the short-term because of limited track capacity in certain areas, its inability to obtain, by lease or otherwise, additional hopper cars, and its presently weakened financial condition. The only solution it proposed is a 20-30 percent increase on coal freight rates across the board, which would enable it to acquire the necessary capital to make track improvements and buy additional cars.

Shippers of coal, on the other hand, point to severe economic dislocation resulting from LN's inability to furnish them the cars necessary to get their coal to market. According to the shippers, the coal boom was not unforseeable, with the result that LN had an obligation to provide itself with the adequate equipment and facilities to handle increased tonnages of coal. They point out that LN has a transportation monopoly in eastern Kentucky and that is it providing more adequate service to shippers where competition exists. On this basis, they urge the Commission to enter the proposed orders on the ground that they represent at least a reasonable first step toward solving their most immediate and pressing problems.

We cannot accept the position of LN that no amelioration of the critical situation, which has been demonstrated on this record to exist in eastern Kentucky as a result of its continuing inability to supply an adequate number of cars to non-unit-train coal mines, is possible. We have been justly reminded by coal shippers in that area that this Commission was created to protect shippers in the sort of monopoly situation which has been demonstrated to exist with respect to eastern Kentucky coal mines. We would be remiss in our obligation to provide a safe, adequate and efficient transportation system for the benefit of all shippers as mandated by the National Transportation Policy (49 U.S.C. preceding part 1) if we were to ignore non-unit-train coal shippers' legitimate complaints that they are receiving far less than adequate car service. They are entitled to whatever reasonable assistance in obtaining a more adequate supply of equipment this Commission can appropriately afford them. As they have pointed out, the impact of car shortages is cumulative. The dislocations resulting therefrom increase geometrically in proportion to the length of the period during which adequate car service is not provided.

At the same time, we realize that the ultimate solution must of necessity be a long-term one.

We aware, as asserted by LN, that mine ratings may not be as accurate as they could be. However, that must remain a matter to be resolved in a subsequent proceeding. We have also taken into account LN's argument that a substantial increase in the rates on coal would be helpful. This again is a matter which can be fully explored upon the record of a subsequent proceeding if an application for general rate increases on coal is filed. For the near term, however, we are convinced that, for reasons discussed in the balance of this decision, the furnishing of additional locomotives to the LN will enable it to supply additional cars to the single-car shippers out of productivity increases in car utilization made possible by the additional locomotives. We believe that, if the additional locomotives are actually used to meet the needs of these shippers, the result should approximate the figure of forty percent (40%) of mine ratings, which the original show-cause order sought to achieve.

Regulations for the Use of Locomotives

One proposed Service Order would require the Atlanta and West Point Rail Road Company, the Clinchfield Railroad Company, the Georgia Railroad, the Seaboard Coast Line Railroad and the Western Railway of Alabama to furnish a combined total of one hundred (100) locomotives suitable for road-haul service to the Louisville and Nashville Railroad Company in order to assist that line in overcoming a shortage of motive power.

All of these railroads are part of a system of railroads controlled by the Seaboard Coast Line Railroad Co. (SCL) and collectively known as the Family Lines. The number of locomotive units to be furnished to the LN by each other system line is not specified, but the SCL, as the parent company, would be required to furnish sufficient of its own units to meet the required total of 100 locomotive units. No locomotives are proposed to be furnished by any railroad not a part of the Family Lines system.

In its response to various complaints of car shortages in the eastern Kentucky coal fields and of delayed movements of coal in this area and of other traffic at various points on its system, the LN has informed both the Commission and the complaining shippers that it lacks sufficient motive power to move all traffic currently.

Field investigations by the Commission's staff have disclosed substantial delays to loaded cars at various points on the LN. These have been particularly prevalent with respect to coal shipments at Corbin, Kentucky, and at Loyall, Kentucky, both major concentration points for the eastern Kentucky coal prior to main line movements to destination. A portion of these delays has been attributed by the LN to shortages of motive power with which to move these cars to destination. Delays in forwarding ranged upward to 8 days.

The delays to hoppers found by the Commission's field staff and attributed by the carrier to a lack of available motive power, resulted in the loss of substantial numbers of car days and contributed significantly to the shortages of hopper cars on the LN.

On June 23, 1978, Mr. Osborn, then President of the SCL/LN, wrote to Senator Walter Huddleston of Kentucky, informing the Senator of the actions of the LN in leasing locomotives from other railroads and in placing orders for seventy (70) new locomotives for delivery early next year. (Statement of Fred G. Karem, Counsel for Harlan County Coal Operators' Association, Exhibit 4). Although the LN, on page 20 of the respondent's reply states that it believes it presently has an adequate supply of locomotives, its actions in leasing 120 additional locomotives from other railroads and in placing orders for seventy (70) additional lcomotives, leads to serious doubts as to the foundation of that belief. In any event, the leased locomotives are subject to recall when needed by their owners, and while useful in assisting the LN to cope with its current locomotive deficiency, cannot be considered in assessing the railroad's long-time availability of motive power. The proposed service order offers a more extended solution to the LN's need for additional locomotives by providing it with a greater share of the locomotive units operated by the entire Family Lines System than it now has available.

In our discussion of the proposed order applicable to the distribution of freight cars we estimated that the LN can reasonably be expected to transport approximately 72,000 cars of originated coal per month, a level provided by the respondent itself. (Respondents reply, page 17.) The LN estimates that 1,228 locomotives would be required to transport an additional 10,000 cars of coal per month. (Respondents reply, page 22.) It also states that it presently operates 1,199 locomotives, of which 1,079 are owned (page 20) and 120 leased from other railroads (page 21). Of the leased units, 26 were furnished by the SCL and would be subject to the proposed order, while the remainder being leased from non-affiliated lines may be recalled by the owners when needed.

The proposed order requiring the other affiliated Family Lines Railroads to furnish a combined total of 100 locomotive units would credit to these affiliated lines any of their locomotives in use on the LN on the effective date. If all of the ninety four (94) presently leased locomotives owned by unaffiliated lines were called back by their owners, leaving only the 100 locomotives proposed to be supplied by the other Family Line members to supplement the LN's own fleet, that line would operate twenty fewer locomotives than it presently operates, a number that is too few to meet present traffic demands, much less allow for expansion.

While we in no way wish to minimize the favorable results realized by the lease of locomotives from railroads outside of the Family Lines System, reliance upon the continued use of locomotives leased from railroads outside of the system to overcome motive power shortages results in a locomotive supply that can only be described as precarious. Since the oral argument in this proceeding on September 7, 1978, 32 of the 94 locomotives leased by LN were recalled by the owner. Nevertheless, we will allow the SCL credit for each locomotive the LN is able to secure from non Family Lines railroads over and above the number it had leased on August 18, 1978.

There is no credible evidence offered by any participant indicating significant shortages of locomotives on any portion of the Family Lines System other than the LN. The transfer of 100 locomotives from other parts of the system would more equitably distribute motive power throughout the entire system and would tend to equalize among all users of the system the present burden of an inadequate supply of locomotives now borne almost exclusively by shippers served by the LN.

We believe, however, that an orderly and timed transfer of locomotives to the LN is preferable to transfer of the entire group of 100 locomotives within a short time as was originally proposed. Accordingly, the order is revised to provide for delivery of the locomotives to the LN at one month intervals commencing October 15, 1978, and ending December 15, 1978.

We realize that the effects on operations of this transfer of locomotives from the Family Lines to the LN is somewhat speculative. We believe that it can be accomplished without excessive harm to the operations of these lines. However, since some degree of adjusted operations is inevitable, we will require each of the Family Lines railroads to notify the Commission each week of the number of trains and cars held because of a shortage of motive power. These data will provide the Commission with timely information with which to evaluate the results of our order and will provide a basis for any changes that may be required.

We will also allow the LN to return to the other Family Lines railroads one leased locomotive for each newly acquired locomotive the LN places in service.

Finally, the respondents allege that the LN's other facilities in the eastern Kentucky coal fields are operating at peak capacity and cannot absorb the additional traffic that might be hauled by the 100 locomotives proposed to be directed to the LN. No line-by-line analysis or data is furnished other than a statement that there are extensive amounts of double track between Corbin, Kentucky, and Cincinnati, Ohio, while the line south from Corbin to Knoxville is single track. No data is supplied as to the number of trains, cars and tons operated over these lines daily, or over the major coal feeder lines, the eastern Kentucky and Cumberland Valley subdivisions. Rather, we are asked to accept on faith and without evidence, a broad general statement that the LN's lines in this area are operating at capacity.

Regulations for the Distribution of Hopper Cars

In our prior discussion we have indicated our belief that our order directing one hundred (100) additional locomotives to the LN will enable that line to improve its utilization of hopper cars sufficiently to obtain improved allocation of hopper cars to single car coal shippers approximating the levels contemplated by the proposed Service Order entitled *Regulations For The Distriction of Hopper Cars*. Consequently we will defer for the present, the issuance of our suggested order requiring the LN to furnish a minimum of forty percent (40%) of the cars ordered by single-car shippers of coal. However, we will amend the locomotive order to require that the LN furnish a weekly report showing the number of hopper cars ordered by and furnished to each single-car shipper of coal. These reports will be closely monitored by the Commission and, in the event that no significant improvement in the supply of cars to these shippers occurs, we will again give serious consideration to the issuance of a hopper car distribution order.

The Commission's Legal Authority To Issue the Service Orders

In issuing this service order, the Commission is acting under the authority of Section 1(15)(b) of the Interstate Commerce Act:

Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring imme-

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diate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: * * * (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of the disagreement, as the Commission may after subsequent hearing find to be just and reasonable * * *

For the reasons set forth above, we find that there is a severe shortage of hopper cars caused in large part, by a shortage of locomotives for transporting coal from non-unit-train coal shippers served by the LN in eastern Kentucky. This severe shortage constitutes an emergency requiring immediate action in the form of this order. By alleviating the car and locomotive shortages experienced by coal shippers, this order will promote car service "in the interest of the public and the commerce of the people."

Respondents argue that the Commission lacks legal authority to issue this service order. We disagree, and find that the Commission has such authority.

It is well settled that the Commission's authority to issue car service orders under section 1(15) is limited only by the requirement that the order be reasonably designed to meet the emergency situation which gave rise to it. (*Interstate Commerce Commission* v. *Oregon Pacific Industries, Inc.*, 420 U.S. 184 (1975), and cases cited therein.) In the absence of compelling legislative history to the contrary, it is our view that the amendment to section 1(12) of the Act cannot have been intended by Congress as a limitation upon our authority to issue emergency car service orders. Respondents' jurisdictional attack is concentrated primarily upon the proposed order for the distribution of hopper cars, which we have decided not to issue at this time.

They admit that the locomotive order seems to be more consonant with section 1(15) than does the proposed hopper car distribution order. However, they contend that the locomotive order will illegally result in a car service problem of greater scope and intensity than the present problem, and that the locomotive order lacks justification and is therefore arbitrary.

We have answered these contentions earlier in this decision. There is no credible evidence of significant shortages of locomotives on any portion of the Family Lines System other than the LN. There is no evidence that the locomotive order will create an emergency on any of the other lines. Furthermore, the gradual introduction of the locomotive transfer requirements will minimize any possible service disruptions on the other lines, and avoid harm to shippers on those lines, while still providing enough motive power to adequately respond to the emergency on the LN.

In summary, the order is a reasonable response to a genuine car-service emergency, and is entirely within the Commission's legal authority under section 1(15)(b). It should be noted that the Commission has broadly interpreted its jurisdiction and powers in the general area of car service in several recent decisions. The most recent such decision was Finance Docket No. 28412, *Winnebago Farmers Elevator Co.* v. *Chicago & North Western Transportation Co.* The entire Commission decided *Winnebago* on March 29, 1978, and denied a petition for a further hearing and a stay on August 14, 1978. The Commission in *Winnebago* found that it had jurisdiction to enforce a carrier's duty, under Section 1(4) of the Interstate Commerce Act, to provide adequate service.

In Ex Parte No. 270 (Sub-No. 2), *Investigation of Railroad Freight Service*, 345 I.C.C. 1224 (1976), the Commission found that it had jurisdiction under sections 1 (including subsections (4), (10), (11), (13), (14), and (15)), 12(1), 13, 15, and 15a of the Interstate Commerce Act, and the provisions of the National Transportation Policy (49 U.S.C. preceding Part 1), to conduct an investigation into deficiencies in rail freight service and to make appropriate findings. More specifically, it noted that Section 1(15) confers upon the Commission "summary and sweeping powers."

FINDING

We find that the respondents have failed to show cause why the proposed service order entitled *Regulations For The Use Of Locomotives* should not be issued. We further find that, until the results of the above described order can be evaluated, there is no present justification for the issuance of the proposed service order entitled *Regulations For The Distribution Of Hopper Cars.*

It is ordered. The proposed Service Order entitled *Regulations For The Use Of Locomotives* be issued, to become effective on date of service and the issuance of proposed service order entitled *Regulations For The Distribution Of Hopper Cars* be postponed until further order of the Commission.

By the Commission. Commissioners O'Neal, Christian, Brown, Stafford, Gresham and Clapp.

Chairman O'Neal and Commissioner Brown also voted to approve a service order requiring the LN to furnish the hopper cars to non-unit-train shippers of coal equal to forty percent (40%) of their mine ratings.

Commissioner Clapp also voted to approve a service order requiring the LN to furnish additional hopper cars to non-unit-train shippers.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27443 Filed 9-27-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Commission	1
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[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1929-78 and S-1956-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m. (eastern time), Tuesday, September 26, 1978.

CHANGE IN THE MEETING: The time of the meeting is changed to 1:30 p.m. (eastern time).

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, 202-634-6748.

This notice issued September 25, 1978.

[S-1965-78 Filed 9-26-78; 11:33 am]

[6740-02]

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43617, published September 26, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. to 12 noon, September 29, 1978.

CHANGE IN THE MEETING: The meeting scheduled for September 29, 1978, from 9 a.m. to 12 noon has been changed to September 29, 1978, from 1 p.m. to 4 p.m.

KENNETH F. PLUMB,
Secretary.

[S-1967-78 Filed 9-26-78; 11:33 am]

[6740-02]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43408, published September 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 27, 1978.

CHANGE IN THE MEETING: The meeting schedule for September 27, 1978, at 10 a.m. has been changed to September 28, 1978, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[S-1966-78 Filed 9-26-78; 11:33 am]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43408, published September 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 28, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-8. CP78-529, Consolidated Gas Supply Corp., et al.

KENNETH F. PLUMB,
Secretary.

[S-1973-78 Filed 9-26-78; 3:53 pm]

[6730-01]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 42852, September 21, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 27, 1978.

CHANGES IN THE MEETING: Addition of the following item:

11. Agreement No. 9984—The South Atlantic North Europe Rate Agreement—to extend the duration of the agreement.

[S-1968-78 Filed 9-26-78; 11:47 am]

[6730-01]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 4, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 9973-4: Modification of the Johnson Scanstar Combined Service Agreement to allow minibridge service to the Pacific Coast under certain conditions.
2. Informal Docket No. 405(I)—*Paramount Export Company* v. *Sea-Land Service, Inc.*—Petition for reconsideration.
3. Special Docket No. 544—*Level Export Sales Corporation* v. *Sea-Land Service, Inc.*—Discussion of the record.
4. Docket No. 73-72—Agreement No. 10056—Pooling, Sailing and Equal Access Cargo Agreement—Consideration of comments on reconsideration—Petition to intervene of Department of Justice; motion to substitute parties and to release confidential materials.
5. Docket No. 75-20—Puerto Rico Maritime Shipping Authority—Rates on Govenment Cargo—Petitions for reconsideration. Docket No. 77-18—Seatrain Gitmo, Inc.—Rates on Government Cargo and Docket No. 77-38—Sea-Land Service, Inc.—Rates on Government Cargo—Future Course of Proceedings.
6. Docket No. 77-52—Show Cause Order in reassessment of Incheon Arbitrary—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Assistant Secretary, 202-523-5725.

[S-1969-78 Filed 9-26-78; 11:47 am]

[6210-01]

7

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

V 43 / 189

TIME AND DATE: 10 a.m., Wednesday, October 4, 1978.

PLACE: Terrace level, Martin Building Annex, 20th and C Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Request by the Massachusetts Commissioner of Banks for an extension of Massachusetts' exemption under the Truth in Lending Act to cover credit transactions involving federally chartered credit unions.
2. Proposed amendments to Regulation F (Securities of Member State Banks) to maintain substantial similarity with rules of the Securities and Exchange Commission. (Proposed earlier for public comment; docket no. R-0146).
3. Authorization for the National Association of Securities Dealers, Inc., to administer professional qualification examinations for municipal securities dealer personnel.

DISCUSSION AGENDA

1. Consideration of issues relating to the Community Reinvestment Act, including:
   a. Preamble and final regulation to implement the act;
   b. Board procedures for public notice of applications for domestic deposit facilities by institutions covered by the act;
   c. Revision to the rules regarding delegation of authority for applications; and
   d. Interpretations regarding the applicability of the act to certain domestic banks and U.S. branches of foreign banks.
2. Proposed simplification of the Reports of Condition and Income for small banks.
3. Request by the Federal Trade Commission and the President's Interagency Task Force on Women Business Owners for the Board to consider amendments to Regulation B (Equal Credit Opportunity).
4. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1971-78 Filed 9-26-78; 2:28 pm]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 3, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED: Delegating authority to review boards to make final decisions in rail cases (Vice Chairman Christian); market dominance review (Deputy Director Rosenak); and section 13 investigation cases (Deputy Director Rosenak).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1974-78 Filed 9-26-78; 3:53 pm]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 42853, September 21, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, September 28, 1978 [NM-78-35].

CHANGE IN MEETING: This meeting has been canceled for lack of a quorum. Agenda items scheduled for this meeting will be rescheduled for a later date and official notice thereof will be published in the FEDERAL REGISTER.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022

[S-1972-78 Filed 9-26-78; 3:41 pm]

[8010-01]

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 2, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, October 4, 1978, at 10 a.m. Closed meetings will be held on Tuesday, October 3, 1978, at 10 a.m., and on Wednesday, October 4, 1978, immediately following the open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 3, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Chapter XI proceedings.
Formal orders of investigation.
Freedom of Information Act appeals.
Institution of injunctive action.
Personnel action.
Regulatory matter regarding reports of financial institutions.
Settlement of administrative proceeding of an enforcement nature.
Other litigation matters.

The subject matter of the open meeting scheduled for Wednesday, October 4, 1978, at 10 a.m., will be:

1. Consideration of a request by General Dynamics Corporation (1) to reverse denial by the Division of Corporation Finance to grant General Dynamics a 30-day extension of time within which to file its quarterly report for the period ended July 2, 1978, and (2) to appear before the Commission with respect thereto. For further information, please contact John Bernas at 202-376-2181.
2. Consideration of a proposed release concerning the status of brokers and dealers under the Investment Advisers Act of 1940 and Rule 206A-1(T) under the Advisers Act. For further information, please contact Michael Berenson at 202-755-1815.
3. Consideration of comments on the final proposal of the Legal Ethics Committee of the D.C. Bar Association, dealing with amendments to Cannon 9 of the Code of Professional Responsibility. For further information, please contact Myrna Siegel at 202-755-4868.

The subject matter of the closed meeting, immediately following the open meeting scheduled for Wednesday, October 4, 1978, will be:

Opinion.
Institution of injunctive action.

FOR FURTHER INFORMATION, PLEASE CONTACT: George Yearsich at 202-755-1100.

SEPTEMBER 26, 1978.

[S-1970-78 Filed 9-26-78; 2:28 pm]

SEP 28 1978

federal register

THURSDAY, SEPTEMBER 28, 1978
PART II



DEPARTMENT OF JUSTICE

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Annual Publication

V 43 / 189 SEP 28 78 UMI

[4410-01]

DEPARTMENT OF JUSTICE

(AAG/A Order No. 12-78)

PRIVACY ACT OF 1974

Privacy Act Issuances—1978 Compilation

Agency: Department of Justice.

Action: Incorporation by reference and full text publication of Privay Act Issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of records they maintain from which information can be retrieved by any personal identifier. The Department of Justice notices published last year were compiled by the Officer of the Federal Register in the "Privacy Act Issuances—1977 Compilation." Except for those republished below, notices of systems of records published in the 1977 Compilation continue in effect and are incorporated here by reference. (The Director of the Office of the Federal Register granted approval to incorporate by reference on July 13, 1978.)

The Compilation was published on September 30, 1977 (Vol. 5 of Privacy Act Issuances—1977 Compilation," page 53288; 42 FR 53288). It can be examined free of charge at Regional Depository Libraries at 50 locations around the country, at the General Services Administration Federal Information Centers, at 38 central locations around the country, and at the central headquarters of this Department. It can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 for eight dollars. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Published here are:

Part I: a table of contents listing all the systems of records published here in full text;

Part II: the full text of systems of records that the Department amended and published in the Federal Register after publication of the 1977 Compilation;

Part III: the full text of new systems of records that the Department established and published in the Federal Register after publication of the 1977 Compilation;

Part IV: the full text of systems of records which the Department now proposes to amend; and

Part V: notice deleting certain systems of records.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Bronson E. Clayton (202-739-4165).

Dated: September 8, 1978.

Kevin D. Rooney,
Assistant Attorney General for Administration.

PART I: TABLE OF CONTENTS

Composite Listing of Systems of Records Published Herein

JUSTICE/ATR-008, Freedom of Information/Privacy Requester/Subject Index File
JUSTICE/CIV-002, Civil Division Case File System; Customs Section
JUSTICE/CIV-004, Swine Flu Administrative Claim File System
JUSTICE/CRT-004, Registry of Names of Interested Persons desiring Notification of Submissions Under Section 5 of the Voting Rights Act
JUSTICE/CRT-007, Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission
JUSTICE/CRT-008, Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice
JUSTICE/CRT-009, Civil Rights Division Employees Travel Reporting
JUSTICE/CRS-001, Management Information System (MIS)
JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records
JUSTICE/DAG-002, Freedom of Information and Privacy Appeals Index
JUSTICE/DEA-005, Controlled Substances Act Registration Records
JUSTICE/DEA-007, International Intelligence Data Base
JUSTICE/DEA-008, Investigative Reporting and Filing System
JUSTICE/DEA-010, Office of Internal Security Records
JUSTICE/DEA-016, Drug Enforcement Administration Accounting System (DEAAS II)
JUSTICE/DEA-027, Drug Enforcement Administration Employee Profile System
JUSTICE/DEA-999, Drug Enforcement Administration Appendix I, List of Record Location Addresses
JUSTICE/FBI-001, National Crime Information Center (NCIC)
JUSTICE/FBI-002, FBI Central Records System
JUSTICE/FBI-003, Bureau Mailing Lists
JUSTICE/FBI-006, Electronic Surveillance (Elsur Indices)
JUSTICE/FBI-009, Identification Division Records System
JUSTICE/INS-001, Immigration and Naturalization Service Index System
JUSTICE/INS-002, Application and Petition Tracking System (APTS)
JUSTICE/INS-003, Position Accounting/Control System (PACS)
JUSTICE/LEAA-002, Law Enforcement Education System
JUSTICE/LEAA-008, Civil Rights Investigative System
JUSTICE/OMF-002, Controlled Substances Act Nonpublic Records
JUSTICE/OMF-003, Department of Justice Payroll System
JUSTICE/OMF-007, Legal and General Administration Accounting System
JUSTICE/OMF-008, Security Clearance Information system (SCIS)
JUSTICE/OMF-009, Justice Data Management Service Center Utilization Report
JUSTICE/OMF-010, Document Information System (DIS)
JUSTICE/OMF-011, Justice Data Management Service Center Tape Library System
JUSTICE/OMF-015, EEO (Equal Employment Opportunity Volunteer Representative Roster)
JUSTICE/OMF-016, Inter-Divisional Information System (IDIS) (A Non-operational, Deactivated System)
JUSTICE/OMF-017, Department of Justice Controlled Parking Records
JUSTICE/OPA-001, Executive Clemency Files
JUSTICE/PRC-001, Docket, Scheduling and Control
JUSTICE/PRC-002, Freedom of Information Act Record System
JUSTICE/PRC-003, Inmate and Supervision Files
JUSTICE/PRC-004, Labor and Pension Case, Legal File and General Correspondence System
JUSTICE/PRC-005, Office Operation and Personnel System
JUSTICE/PRC-006, Statistical, Educational and Developmental System
JUSTICE/PRC-007, Workload Record, Decision Result and Annual Report System
JUSTICE/BOP-001, Custodial and Security Record System
JUSTICE/BOP-008, Industrial Inmate Employment Record System
JUSTICE/BOP-004, Inmate Administrative Remedy Record System
JUSTICE/BOP-005, Inmate Central Records System
JUSTICE/BOP-007, Inmate Physical and Mental Health Record System
JUSTICE/BOP-008, Inmate Safety and Accident Compensation Record System
JUSTICE/BOP-009, Federal Tort Claims Act Record System
JUSTICE/USA-005, Civil Case Files

Part II

Systems of records amended after publication of the 1977 Compilation are listed below. They are reprinted in full text following the listing.

JUSTICE/CIV-002, Civil Division Case File System, Customs Section
JUSTICE/DAG-002, Freedom of Information and Privacy Appeals Index
JUSTICE/DEA-008, Investigative Reporting and Filing System
JUSTICE/DEA-016, Drug Enforcement Administration Accounting System (DEAAS II)
JUSTICE/FBI-001, National Crime Information Center (NCIC)
JUSTICE/FBI-002, FBI Central Records System
JUSTICE/FBI-009, Identification Division Records System
JUSTICE/INS-001, Immigration and Naturalization Service Index System
JUSTICE/LEAA-002, Law Enforcement Education System
JUSTICE/LEAA-008, Civil Rights Investigative System
JUSTICE/OMF-015. EEO (Equal Employment Opportunity) Volunteer Representative Roster
JUSTICE/PRC-001, Docket, Scheduling and Control
JUSTICE/PRC-002, Freedom of Information Act Record System
JUSTICE/PRC-003, Inmate and Supervision Files
JUSTICE/PRC-004, Labor and Pension Case, Legal File and General Correspondence System
JUSTICE/PRC-005, Office Operation and Personnel System
JUSTICE/PRC-006, Statistical, Educational and Developmental System
JUSTICE/PRC-007, Workload Record, Decision Result, and Annual Report System
JUSTICE/USA-005, Civil Case Files

JUSTICE/CIV-002

System name: Civil Division Case File System: Customs Section

System location: 26 Federal Plaza, New York, New York 10007, and U.S. Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Any and all parties and counsel involved in the cases handled by the Customs Section of the Civil Division will have identifying data contained in this system.

Categories of records in the system: 1. The main record of the system is the case file which is retained on each case under the jurisdiction of the Customs Section of the Civil Division and constitutes the official record of the Department of Justice thereon. All record material relating to a case is retained in the file. Each file is assigned the Customs Court number given to the summons filed in that court or, in cases filed prior to October 1, 1970, to reappraisement appeals or to protests filed with the Customs Court.

The number assigned to the file will change to the number assigned by the Court of Customs and Patent Appeals, if that case becomes the subject of an appeal before that court. In addition, the Custom Section retains a log of communications received and communications sent. The correspondence is identified thereon by court (case) number, identification of the kind of communication, and the person receiving it.

2. The case file and communication logs are physically retained at the offices of the Customs Section, 26 Federal Plaza, New York, New York 10007. From these records, the Customs Section inputs certain information for conversion into a data processing system which is maintained at the Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. Included in the information contained in the data processing system is the identity of the parties and their counsel, as well as the merchandise involved, the port of entry and the competing statutory provisions.

3. Alphabetical and numerical indices are maintained as a means of access to the proper file number by the cross-referencing of the names of non-government parties to suits with the appropriate file (court) numbers. These indices are made of index cards and maintained in the Chief Clerk's office in the Customs Section.

Authority for maintenance of the system: The Customs Section case files are maintained under the authority of 28 U.S.C. 2601(b) and 2632(e) and established in accordance with 28 C.F.R. 0.45(c) which gives the Civil Division responsibility for 'all litigation incident to the reappraisement and classification of imported goods, including the defense of all suits in the Court of Customs and Patent Appeals', and with 28 C.F.R. 0.48 which designates the Chief, Customs Section, 'to accept service of notices of appeals to the Court of Customs and Patent Appeals and all pleadings and other papers filed in the Customs Court, when the United States is an adverse Party in any customs litigation'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the Federal Bureau of Investigation and the United States Attorney offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice.

Certain information contained in the record may also be disseminated to the U.S. Customs Service, the Department of the Treasury, the International Trade Commission, the Department of State, or any other agency of the Government whose decision is being challenged in a case assigned to the Customs Section for disposition. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate Federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement; or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter, (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States

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or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy-making positions to which they were appointed by the President, in accordance with the provisions 28 CFR 17.60; (14) copies of the summons (protest and reappraisement appeals, where appropriate) and the communication logs are made available to employees of the private contractor who services the data processing system in New York for the purpose of enabling such employees to extract all pertinent information from said documents so that such information may be encoded and converted to punch card form.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) The case files utilize standard file jackets or envelopes and are maintained in standard file cabinets; (2) The alphabetical index cards are maintained in standard file cabinets; (3) The communication logs are maintained in looseleaf binders and, when not being currently referred to, are also maintained in standard file cabinets; (4) The information in the data processing system is maintained on tapes stored in the Data Services Center.

Retrievability: (1) The case files must be retrieved by number. The file number may be ascertained from the alphabetical index when the name of any non-government litigant is known. (2) The information contained in the data processing system may be retrieved through the retrieval tool activated by an attorney making a request for a report to the computer technician who codes the request on a form in the format of the retrieval language. The action words of the retrieval reports are: List-lists the case numbers of the cases which satisfy certain criteria such as plaintiff's name, counsel's name, court, number, merchandise, competing statutory provisions, Government counsel. Write—output and the full history for any case specified by case number. Write*—a limited case history for any case specified by case number. Count-tallying the number of cases in the data base contained in the request.

Safeguards: (1) Information contained in the system is unclassified. However, only attorneys in the Customs Section who have responsibility for the case may properly obtain a case file. Correspondence and telephone calls about particular cases are referred to the attorney having responsibility for the case. In the attorney's absence, another attorney covering for the absent attorney or the Chief of the Section may respond to the telephone call or correspondence. The index files and the communication logs are utilized only by the personnel of the Customs Section in locating or verifying information contained in the system. (2) Information from the data processing system may be obtained only by attorneys on the basis of requests made in writing on a proper form supplied by the Customs Section. The request is made of the computer technician. Normally these requests are mailed to the technician in charge at the Data Services Center, but occasionally the request may be related telephonically by the computer technician.

Retention and disposal: (1) Closed case files are sent to the Federal Records Center for retention in accordance with the authorized Records Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period is passed, the file is destroyed. The communication logs are sent to the Federal Records Center for retention in accordance with the authorized records disposal schedule after five years. After the designated period those records are also destroyed. The index cards, however, are not purged. (2) Periodically, the inactive cases will be purged from the main tape in the data processing system and transferred to the historical tape where the information will be retained indefinitely. There is a provision in the data processing system to delete and remove an entire case history from the main or historical tape. This may be done on request from the Chief of the Customs Section and such removed cases will not be saved or written on any other tape.

System manager(s) and address: Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to Assistant Attorney General; Civil Division, U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures: A request for information concerning the cases of the Customs Section of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include the file number and/or the names ot any non-government litigant known to the requestor. The requestor should also provide a return address for transmitting the information. Such access request should be submitted to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Assistant Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. The request should clearly state what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put on communication logs and/or index cards.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG-002

System name: Freedom of Information and Privacy Appeals Index.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses all individuals who submit administrative appeals under the Freedom of Information or Privacy Acts and initial requests for access to records located in the Office of the Attorney General, Deputy Attorney General or Associate Attorney General.

Categories of records in the system: The system contains copies of administrative requests, appeals and other related correspondence filed under the Freedom of Information and Privacy Acts and copies are filed sequentially by date of receipt based on a numerical identifier assigned to each appeal. Also included are index cards which list the name of the appellant and the numerical identifier assigned.

Authority for maintenance of the system: The system was established and is maintained to enable the Office of the Deputy Attorney General to comply with the reporting requirements set forth in 5 U.S.C. 552 and 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained for the purpose of processing administrative requests and appeals under the Freedom of Information and Privacy Acts and to comply with the reporting requirements of those Acts.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in file folders in cabinets.

Retrievability: These folders are filed by the number assigned to each.

Safeguards: These records are stored in cabinets in a lockable room.

Retention and disposal: These folders are kept indefinitely.

System manager(s) and address: Director, Office of Privacy and Information Appeals, Office of the Deputy Attorney General: United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Those individuals who submit certain requests and all appeals under the Freedom of Information and Privacy Acts.

Systems exempted from certain provisions of the act: None.

JUSTICE/DEA-008

System name: Investigative Reporting and Filing System.

System location: Drug Enforcement Administration; 1405 I Street NW.; Washington, D.C. 20537. Also, field offices. Sec. Appendix 1 for list of addresses.

Categories of individuals covered by the system:

A. Drug offenders.
B. Alleged drug offenders.
C. Persons suspected of drug offenses.
D. Confidential informants.
E. Defendants.
F. Witness.
G. Non-implicated persons with pertinent knowledge of some circumstance or aspect of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need for recall will exist. In the regulatory portion of the system, records are maintained on the following categories of individuals: (a) Individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970; (b) Responsible officials of business firms registered with DEA; (c) Employees of DEA registrants who handle controlled substances or occupy positions of trust related to the handling of controlled substances; (d) Applicants for DEA registration and their responsible employee.

Categories of records in the system: The Investigative Reporting and Filing System includes, among other things, a system of records as defined in the Privacy Act of 1974. Individual records, i.e. items of information on an individual may be decentralized in separate investigative file folders. Such records as well as certain other records on persons and subjects not covered by the act, are made retrievable and are retrieved by reference to the following subsystems.

A. The Narcotics and Dangerous Drugs Information System (NADDIS) consists of two centralized automated indexes and machine records on subjects cited in and extracted from investigative reports. The two indexes represent a name index and a number index which are used to access one or more specific records for examination. The system serves as both an index to the more voluminous written reports upon which it is based and as an autonomous means for developing investigative leads and aids in selecting source materials for studies of a strategic nature. The system is accessible by telecommunications by appropriately equipped DEA headquarters and field offices. Records which comprise the system are also accessed by special computer runs. These runs are typically generated from selection criteria which cannot be utilized (input) via the telecommunications equipment. Bulk products generated via off-line runs may be formated on computer tape, in printout or on microfiche depending on the needs of the user.

Direct references to the discrete file folders in which the source reports are filed are provided within each record. Therefore, the NADDIS records point to the more comprehensive manual reports maintained centrally at Headquarters. Records are retrievable by name and by certain identifying numbers in the on-line mode and by virtually any record data element in the off-line mode.

B. Manual name indicies covering regional and district investigative activities are maintained by DEA field offices. A residual card index is retained at DEA headquarters that predates the automated central index. The items of information on the manual index records are extracted only from investigative reports and point to the more comprehensive information in pertinent investigative file folders. The records in the field office indicies are sub-sets of the central automated and manual indicies. Records are retrievable by name only by this manual technique. Four basic categories of files are maintained within the Investigative Reporting and Filing System. DEA does not maintain a dossier type file in the traditional sense on an individual. Instead, the files are compiled on separate investigations, topics and on a functional basis for oversight and investigative support: (a) Criminal Investigative Case Files; (b) General Investigative Files, Criminal and Regulatory; (c) Regulatory Audit and Investigative Files; (d) Confidential Informant Files.

The basic document contained in these files is a multi-purpose report of investigation (DEA-6) on which investigative activities and findings are rigorously documented. The reports pertain to the full range of DEA criminal drug enforcement and regulatory investigative functions that emanate from the Comprehensive Drug Prevention and Control Act of 1970. Within the categories of files listed above, the general file category includes preliminary investigations of a criminal nature, certain topical or functional aggregations and reports of pre-registrant inspections/investigations. The case files cover targeted conspiracies, trafficking situations and formal regulatory audits and investigations. Frequently the criminal drug cases are the logical extension of one or more preliminary investigations. The distinction between the case file and general file categories, therefore, is based on internal administrative policy and should not be construed as a differentiation of investigation techniques or practices. These files, except for Confidential Informant Files, contain also adopted reports received from other agencies to include items that comprise, when indexed, individual records within the meaning of the Act. The central files maintained at DEA Headquarters include, in general, copies of investigative reports and most of the supporting documents that are generated or adopted by DEA Headquarters and field offices.

Authority for maintenance of the system: This system is established and maintained to enable DEA to carry out its assigned law enforcement and regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970. (Pub. L. 91-513), Reorganization Plan No. 2 of 1973, and to fulfill United States obligations under the Single Convention on Narcotics Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system may be used as a data source or reference facility for numerous summary, management and statistical reports produced by the Drug Enforcement Administration. Only on rare occasions do such reports contain identifiable individual records. Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purpose: (a) Other Federal law enforcement and regulatory agencies; (b) State and local law enforcement and regulatory agencies; (c) Foreign law enforcement agencies with whom DEA maintains liaison; (d) The Department of Defense and Military Departments; (e) The Department of State; (f) U.S. intelligence agencies concerned with drug enforcement; (g) The United Nations; (h) Interpol; (i) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purpose stated: (a) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; (b) To the Office of Management and Budget upon request in order to justify the allocation of resources; (c) To State and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; (d) To the news media for public information purposes; (e) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rule-making, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is subject of the record.

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Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Administration regulations include detailed instructions for the preparation, adoption, handling, dissemination, indexing of individual records, storage, safeguarding of investigative reports and the accounting of disclosure of individual records.

Storage: 1. The Headquarters central files and the field office subsets of the Investigative Reporting and Filing System are maintained in standard file folders. Standard formats are employed. Manual indicies are maintained using standard index record formats.

2. The Narcotics and Dangerous Drugs Information subset is stored electronically on the Department of Justice Information System separate from DEA Headquarters.

Retrievability: Access to individual records is gained by reference to either the automated or manual indicies. Retrievability is a function of the presence of items in the index and the matching of names in the index with search argument names or identifying numbers in the case of the automated system. Files identified from field office indices are held by the field office and Headquarters. Files identified from the automated index may not be held by the interested office, but the originators of such files are identified. In addition a number of telecommunication terminals have been added to the existing network.

Safeguards: The Investigative Reporting and Filing System is reported by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to investigative information is limited to those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

1. Physical security when investigative files are attended is provided by responsible DEA employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification, as appropriate, or the files and the extent of security guard and/or surveillance afforded by electronic means.

2. Protection of the automated index is provided by physical, procedural and electronic means. The Master file resides on the Department of Justice Computer System and is physically attended or guarded on a full-time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surreptitious access to an unattended terminal is precluded by a complex sign-on procedure. The procedure is provided only to authorized DEA employees. For certain terminals, access is further restricted by cryptological equipment.

3. An automated log of queries is maintained for each terminal. Improper procedure results in no access. Terminals are signed-off after use. The terminals are otherwise located in locked facilities after normal working hours.

4. The dissemination of investigative information on an individual outside the Department of Justice is made in accordance with the routine uses as described herein or otherwise in accordance with the conditions of disclosure prescribed by the Act. The need to know of the recipient is determined in both cases by DEA as a prerequisite of the release.

Retention and disposal: Records contained within this system except for those in general files are retained for fifty-five (55) years. Records in general files are retained for twenty (20) years.

System manager(s) and address: Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 Eye Street, NW., Washington, D.C. 20537.

Record source categories: (a) DEA personnel; (b) Cooperating individuals; (c) Suspects and defendants; (d) Federal, State and local law enforcement and regulatory agencies; (e) Other Federal agencies; (f) Foreign law enforcement agencies; (g) Business records by subpoena; (h) Drug and chemical companies; (i) Concerned citizens.

Systems exempted from certain provisions of the Act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4)(G), (H), (e) (5) and (8), (f), (g), (h) of the Privacy Act pursuant to U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/LEAA-002

System name: Law Enforcement Education System.

System location: Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531.

Categories of individuals covered by the system: Recipients of LEAA Law Enforcement Education Loans and Grants.

Categories of records in the system: LEEP Master Computer File; LEEP Promissory Note File; LEAA Form 03.

Authority for maintenance of the system: The system is established and maintained to 42 U.S.C. 3746.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for coding and statistical analysis, educational institutions for record reconcilliation, IRS and references listed on application for address verification, referees in bankruptcy for claim action, State and local agencies to verify eligibility.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on computer magnetic tape, discs and folders.

Retrievability: Information is retrievable by name of recipient and social security number.

Safeguards: Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguarded in file room which is locked after business hours. Access is limited to LEAA authorized personnel.

Retention and disposal: Computerized records are kept indefinitely. Uncollected loans/grants are transferred to GAO as soon as determined uncollectable. Cancelled or repaid loan/grants are closed at end of fiscal year, held three years, sent to Federal Records Center and destroyed in accordance with instructions from GAO.

System manager(s) and address: Comptroller; Law Enforcement Assistant Administrator, 633 Indiana Avenue NW., Washington, D.C. 20531.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name and personal identifier number Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of Information are the recipients of loans/grants and their educational institutions.

Systems exempted from certain provisions of the act: None.

Drug Enforcement Administration Accounting System (DEAA-SII). JUSTICE/DEA-016: Published at 43 Fr 25883 on June 15, 1978. No formal, final adoption notice was issued. Therefore, notice is hereby given that no comments were received and the amended system is adopted.

JUSTICE/DEA-016

System name: Drug Enforcement Administration Accounting System (DEAAS II).

System location: Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537. Also field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: All individuals who submit vouchers requesting payment for goods or services rendered, except payroll vouchers for DEA employees. These include vendors, contractors, experts, witnesses, court reporters, travelers, relocated employees, etc.

Categories of records in the system: All vouchers paid except payroll vouchers for DEA employees. In addition, all advance of funds issued to DEA travelers.

Authority for maintenance of the system: The system is established and maintained in accordance with the Budget and Accounting Procedures Act of 1950 as amended, 31 U.S.C. 66 and 31 U.S.C. 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After payment of the vouchers, the accounting data is used for the purpose of internal management reporting and external reporting to agencies such as OMB, U.S. Treasury, and the GAO.

Release of Information to the News Media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual voucher files are maintained alphabetically by payee's name. Travel advance information and other budget and accounting data are maintained by an online computerized file. Information on travel advances is stored by employee identification number; other budget and accounting data is maintained by obligation number or other program identifier.

Retrievability: Information from manual voucher files is retrieved by using the name of the payee. Travel advance information is retrieved by employee identification number; other budget and accounting data is retrieved by obligation number or other program identifier.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with organizational rules and procedures. Access to manual voucher files is restricted to employees on a need to know basis. Information that is retrievable by terminals can be retrieved only by authorized employees of the Department of Justice who have been issued user identification numbers.

Retention and disposal: The payment documents are retained at this location for three fiscal years (current and two prior years). The records are then shipped to a Federal Records Center for storage in accordance with the General Record Schedule published by the general Services Administration. In the computerized file for travel advances, only the last two transactions in any particular account are retained in the file. Old transactions are automatically purged as new transactions are entered.

System manager(s) and address: Controller, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

Record access procedures: Same as "Notification Procedure" above.

Contesting record procedures: Same as "Notification Procedure" above.

Record source categories: Submitted by the payee involved.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI-001

System name: National Crime Information Center (NCIC).

System location: Federal Bureau of Investigation; J Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

Categories of individuals covered by the system: A. Wanted Persons: 1. Individuals for whom Federal warrants are outstanding. 2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria. 3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger. 2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary. 3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger. 4. A person who is missing and declared unemanicipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

Categories of records in the system: A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File: 1. Stolen or missing license plate.

C. Stolen/Missing Gun File: 1. Stolen or missing guns, 2. Recovered gun, ownership of which has not been established.

D. Stolen Article File.

E. Wanted Person File: Described in "Categories of individuals covered by the system: A. Wanted Persons".

F. Securities File: 1. Serially numbered stolen, embezzled, counterfeited, missing securities. 2. "Securities" for present purposes of this file are currency (e.g. bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (e.g. bonds, debentures, notes) or ownership of property (e.g. common stock, preferred stock), and documents which represent subscription rights, warrants) and which are of those types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File.

H. Computerized Criminal History File: A cooperative Federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

I. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Persons".

Authority for maintenance of the system: The system is established and maintained in accordance with Title 28, United States Code, Section 534 and Title 28—Judicial Administration, Chapter I—Department of Justice (Order No. 601-75) Part 20—Criminal Justice Information Systems.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, and penal and other institutions in accordance with title 28, U.S. code, section 534. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, and Puerto Rico. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen/missing gun file, stolen article file, wanted person file, sucurities file, and boat file may be accessed by the Royal Canadian Mounted Police. Dissemination of criminal history record information is set forth in Title 28 of the Code of Federal Regulations—Judicial Administration, Chapter I—Department of Justice (Order No. 601-75)

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Part 20—Criminal Justice Information Systems, Subpart C, Section 20.33.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the NCIC system is stored electronically for use in a computer environment.

Retrievability: On-line access to data in NCIC is achieved by using the following search descriptors. 1. Vehicle file: (a) Vehicle identification number; (b) License plate number; (c) NCIC number (unique number assigned by the NCIC computer to each NCIC record). 2. License Plate file: (a) License plate number; (b) NCIC number. 3. Gun File: (a) Serial number of gun; (b) NCIC number. 4. Article File: (a) Serial number of article; (b) NCIC number. 5. Wanted Person File: (a) Name and one of the following numerical identifiers date of birth, FBI number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record), Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system), Operator's license number (driver's license number), Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record, Originating agency case number, (b) Vehicle or license plate known to be in the possession of the wanted person; (c) NCIC number (unique number assigned to each NCIC record). 6. Securities File. (a) Type, serial number, denomination of security; (b) Type of security and name of owner of security; (c) Social Security number of owner of security, (d) NCIC number. 7. Boat File: (a) Registration document number; (b) Hull serial number; (c) NCIC number. 8. Computerized Criminal History File; (a) Name, sex, race, and date of birth; (b) FBI number, (c) State identification number; (d) Social Security number; (e) Miscellaneous number. 9. Missing Person file—Same as "Wanted Person" File.

Safeguards: Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Centers: a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can access data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each state control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice use, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on the system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminals history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of that data. d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquiries with notations of individual making request for record (90 days).

Retention and disposal: Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File: a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the record. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's will remain in file for the year of entry plus 4. b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus 4.

2. License Plate File: Unrecovered stolen license plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.

3. Gun File: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.

4. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.

5. Wanted Person File: Persons not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from file after 48 hours).

6. Securities File: Unrecovered, stolen, embezzled, counterfeited or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

7. Boat File: Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.

8. Missing Person File: Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.

9. Computerized Criminal History File: When an individual reaches age of 80.

System manager(s) and address: Director, Federal Bureau of Investigation; J. Edgar Hoover F.B.I. Building, 9th and Pennsylvania Avenue N.W., Washington, D.C. 20535.

Notification procedure: Same as the above.

Record access procedures: It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to a requester. The procedures by which an individual may obtain a copy of his Computerized Criminal History are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are in file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C., by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or possibly, in the State's central identification agency.

Contesting record procedures: The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

Record source categories: Information contained in the NCIC system is obtained from local, State, Federal and international criminal justice agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)(8) (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

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System name: The FBI Central Records System.

System location: a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. 14 Legal Attaches (see Appendix).

Categories of individuals covered by the system: a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "Categories of Records in the System." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

Categories of records in the system: The FBI Central Records System—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has 204 classifications used in its basic filing system. They pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the 204 classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates that documents are no longer being filed under this heading (although information is maintained under this heading)):

1. Training Schools; National Academy Matters; FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958-962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government. Title 18, United States Code, Section 2385.

4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801-5812; Title 18, United States Code, Sections 921-928; Title 18, United States Code, Sections 1201-1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnaping. Title 18, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Sections 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue laws as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the Administrator, Drug Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act: Prostitution: Selling Whiskey Within Five Miles Of An Army Camp. 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interstate Shipment. Title 18, United States Code, Section 659; Title 18, United States Code, Section 660; Title 18, United States Code, Section 2117.

16. Violation Federal injuction (obsolete). FBI records do not provide an explanation of the nature of this classification.

17. Veterans Administration Matters. Title 18, United States Code, Sections 287, 289, 290, 371, or 1001; and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 354, 77th Congress.

20. Federal Grain Standards Act. 1920 only. Subjects were alleged violators of contracts for sale, shipment of interstate commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints receive concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration or the field component of that Agency.

22. National Motor Vehicle Traffic Act. 1922-27. Subjects possible violators of the National Motor Vehicle Theft Act; Automobiles seized by Prohibition Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of that Agency.

24. Profiteering. 1920-42. Subjects are possible violators of the Lever Act—Profiteering in food and clothing or accuse company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655-657, 1004-1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law. 1922-25. Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of pesons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Sections 2421-2424.

32. Identification (Fingerprint Matters). This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922-43. Unlawful transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the United States Civil Service Commission in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921-22. Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application For Pardon To Restore Civil Rights. 1921-35. Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship.Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1541-1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of "Smokey Bear" Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Sections 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965. Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973, Title 18, United States Code, Section 243; Title 18, United States Code, Section 244.

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government; Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. National Bankruptcy Act. Title 18, United States Code, Sections 151-155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581-1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General. These investigations can be conducted only upon such a request and consist of an indices and arrest check.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114.

53. Excess Profits On Wool. 1918. Subjects possible violators of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, D.C.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, and 607; Title 42, United States Code, Section 1973; Title 26, United States Code, Sections 9012 and 9042; Title 2, United States Code, Sections 431, 432, 433, 434, 435, 436, 437, 439, and 441.

57. War Labor Disputes Act (obsolete). Pub. L. 89—77th Congress.

58. Bribery; Conflict of Interest. Title 18, United States Code, Sections 201-203, 205-211; Pub. L. 89-4 and 89-136.

59. World War Adjusted Compensation Act. 1924-44. Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of section 704.

60. Anti-Trust. Title 15, United States Code, Sections 1-7, 12-27, and 13.

61. Treason or Misprison of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211-214, 221-224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 322, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter; Other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510-590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wage and Hour Law) (Title 29, United States Code, Sections 2010219); Conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, Title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are placed in classifications 108-113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI.

68. Alaskan Matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court. Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Indian Reservation; Inducing Conveyance of Indian Trust Land; Crime on Government Reservation; Embezzlement or Theft of Indian Property. Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act. Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations. Title 18, United States Code, Sections 1503 through 1510.

73. Application for Pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and requests for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner; Escape and Rescue; Probation Violator; Parole Violator; Mandatory Release Violator. Title 18, United States Code, Sections 751-757, 1072; Title 18, United States Code, Sections 3651-3656; and Title 18, United States Code, Sections 4202-4207, 5037, and 4161-4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Sections 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933-45. Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Sevice Life Insurance) (obsolete). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigation of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete.) This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. Federal Lending and Insurance Agencies. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1907, 1908 and 1909.

87. Interstate Transportation of Stolen Property (Fraud by Wire, Radio, or Television). Title 18, United States Code, Sections 2311, 2314, 2315, and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assulting or Killing a Federal Officer, Congressional Assassination Statute. Title 18, United States Code, Sections 111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary; Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. Anti-Racketeering; A. R., Lea Act; A. R., Interference with Government Communications System; A. R., Hobbs Act. Title 18, United States Code, Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgment obtained against him by the United States Government.

94. Research Matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureau Cases). This classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611-621; Title 50, United States Code, Sections 851-857.

98. Sabotage. Title 18, United States Code, Sections 2151-2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program where in the FBI inspected industrial plants for the purpose of making suggestions to the operators of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field.

101. Hatch Act (obsolete). Pub. L. 252. 76th Congress.

102. Voorhis Act. Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Cattle. Title 18, United States Code, Sections 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 116-119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees. 1944-55. Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Procedings (obsolete). This classification covers investigations concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S., Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by country.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146-3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011-2281; Pub. L. 93-438.

118. Applicant, intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulations of Lobbying Act. Title 2, United States Code, Sections 261-270.

120. Federal Tort Claims Act. Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in

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which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176-178 and 186.

123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th Congress). This classification covers loyalty and security investigations on personnel employed by or under consideratoin for employment for Voice of America.

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D., Agency for International Development (obsolete). This classification covers security and loyalty investigations of personnel employed by or under consideration for employment with the European Recovery Program. Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act. Title 45, United States Code, Sections 151-163 and 181-188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 266, 81st Congress.

128. International Development Program (Foreign Operations Administration). This classification covers background investigations conducted on individuals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry, Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741 to 752 and 781 to 799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act, Applicant (obsolete). Pub. L. 507, 81st Congress.

134. Security Informants. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force). This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contacts with American Legion officers.

137. Criminal Informants. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Civil Service Commission wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510-2513.

140. Security of Government Employees; S.G.E., Fraud Against the Government. Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transportation of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Matter; Broadcasting Obscene Language. Title 18, United States Code, Sections 1462, 1464 and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. Federal Housing Administration Matters. Title 18, United States Code, Sections 1010, 709, 657 and 1006; Title 12, United States Code, Sections 1715 and 1709.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Sections 31 through 35.

150. Harboring of Federal Fugitives, Statistics.

151. (Referral cases received from CSC under Pub. L. 298). Agency for International Development; Department of Energy (Civil Service Commission); National Aeronautics and Space Administration; National Science Foundation; Peace Corps; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; U.S. Information Agency. This classification covers referrals from the Civil Service Commission where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps, Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the United States Information Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241 through 1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Sections 1231, 1232 and 1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211 through 1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.

156. Welfare and Pension Plans Disclosure Act. Title 29, United States Code, Sections 1021-1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Extremist Matters; Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Pub. L. 86-257, Section 504.

159. Labor-Management Reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 503, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House, Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1084.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering Paraphernalia. Title 18, United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87-637.

170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88-201, 80th Congress.

172. Sports Bribery. Title 18, United States Code, Section 224.

173. Public Accommodations, Civil Rights Act of 1964 Public Facilities, Civil Rights Act of 1964 Public Education, Civil Rights Act of 1964 Employment, Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844

175. Assaulting the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601-3619 and 3631.

178. Interstate Obscene or Harassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891-896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business; Illegal Gambling Business, Obstruction; Illegal Gambling Business; Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961-1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duly constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117 and 1201.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606; and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Act of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of a requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identify Matters. This classification covers the FBI's study and examination of criminal elements efforts to create false identities.

192. Hobbs Act—Financial Institutions. Title 18, United States Code, Section 1951.

193. Hobbs Act—Commercial Institutions. Title 18, United States Code, Section 1951; and Title 47, United States Code, Section 506.

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing statute exists.

Files kept in FBI Field Offices—Field offices maintain certain records that are not contained at FBI Headquarters that include files, index cards, and related material pertaining to cases in which there was no prosecutive action undertaken; perpetrators of violations not developed during investigation; or investigation revealed allegations were unsubstantiated or not within the investigative jurisdiction of the Bureau. These investigations were closed in field offices and correspondence not forwarded to FBI headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in thier day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Divisions to have immediate access to pertinent information duplicative of data found in the Central Records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individual used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives);

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs;

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime;

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants;

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilitate access to documents prepared in connection with major cases.

Some of the information contained in the main files has also been extracted and placed in computer to enable various divisions to retrieve information more rapidly by avoiding the need for a manual search for information maintained in the main files. For example, since investigation of major frauds requires the Agent to collect and organize massive volumes of evidence and other investigative information, the FBI is using computers to do this in a more accurate and expeditious manner. Additionally, Agents occasionally seize evidence in computerized form and FBI computers are used to organize and sort the information in preparation for trial.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description, and use, and where maintained, i.e., FBI Headquarters and/or Field Office. The number in parenthesis in the field office column indicates the number of field offices which maintain these. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 24 separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destroy: Black Extremist Photo Index; Black Panther Party Photo Index; Black United Front Index; Communist Party Photo Album (National); Communist Party Photo Album (Regional); Fugitive Alert File; Pimp Photo Album; Reserve Index; Security Index; Security Photo Album; Top Hoodlum Album; Top Jewel Thief Index; and Wounded Knee Album.

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Title of Index	Description and use	Status of Index	Maintained at— Headquarters	Field Office
Administrative Index (ADEX)	Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they believed to constitute a potential or actual threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. The index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1976. The computer section of the FBI has in storage on computer tape all the individuals who were on ADEX when it was discontinued.	Inactive	Yes	Yes (29)
Associates of DEA Class I Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators.	Active	Yes	Yes (59)
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judge, or a high level Departmental position.	Active	Yes	No
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress.	Active	Yes	No
Bank Fraud and Embezzlement Index	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid.	Active	No	Yes (1)
Bank Robbery Album	Consists of photos of bank robbers, burglarers, and larceny subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. This index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office).	Active	No	Yes (47)
Bank Robbery Nickname Index	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order.	Active	No	Yes (1)
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the suspect has not been identified but a note was left. The note is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No
Bank Robbery Suspect Index	Consists of a control file or index cards with photos, if available, or bank robbers of burglars. In some field offices these people may be part of the bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album.	Active	No	Yes (33)
Bombing Suspect, Explosives and Incendiary Devices File.	Consists of cards in most cases on people who have the propensity for violence and the potential for using explosives or incendiary devices. It is used in investigating unknown subject bombing cases.	Active	No	Yes (27)
Car Ring Case Photo Album	Consists of photos of subject and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3)
Car Ring Case Photo Album and Index.	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. Both the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1)
Car Ring Case Toll Call Index	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap.	Active	No	Yes (2)
Car Ring Theft Working Index	Contains cards on individuals involved in car ring theft cases on which the FBI laboratory is doing examination work.	Active	Yes	No
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may repeat the offense. It is used in investigating the above violations.	Active	No	Yes (3)
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in informant reports. The index is used to facilitate the distributing or channeling of informant reports to appropriate files.	Active	No	Yes (9)
Check Circular File	Consists of fliers filed numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks.	Active	Yes	Yes (43)
Classified Alphabetical Retrieval and Reference Index.	Contains cards on foreign nationals, U.S. citizens and hostile intelligence service targets identified by highly sensitive sources. It is used only for reference and retrieval purposes.	Active	Yes	No

Title of Index	Description and use	Status of Index	Maintained at— Headquarters	Field Office
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscriber's names and addresses) alleged to have been used by extremists and revolutionaries. These numbers were matched with other telepone numbers discovered during investigations to determine possible connections with known extremists and revolutionaries. This information was gathered from telephone company toll records. The index was developed to facilitate FBI efforts to locate persons it classified as extremists and revolutionary. The FBI discontinued using this computerized information in February 1975 but the computer tapes of the following individuals and organizations are in storage: (1) Al Fatah (an Arab terrorist group), (2) Weatherman, (3) New Left, and (4) Black and other ethnic extremists.	Inactive	Yes	No
Computerized Telephone File (CTNF) Organized Crime and Gambling.	Consists of computerized listing of telephone numbers (and subscriber's name and address) utilized by organized crime and gambling figures. These numbers are matched with telephone numbers obtained through subpena in subsequent investigations, usually to determine possible connections with organized crime and gambling figures. Subscriber's name and address to telephone numbers of telephones used by known organized crime and gambling figures are retrievable through this index.	Active	Yes	Yes (27)
Confidence Game (Flim Flam) Album	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid.	Active	No	Yes (4)
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1)
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency.	Active	No	Yes (2)
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
DEA Class I Narcotics Violators Listing.	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.	Active	Yes	Yes (59)
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid.	Active	No	Yes (4)
Evidence Control Index	Consists of cards maintained by the FBI laboratory containing the names of suspects victims, etc., in matters which are currently under examination or have undergone examination within the last 3 years. The index is used to facilitate the efficient management of evidence examinations.	Active	Yes	No
Extremist Informant Index	Consists of cards with identity and background data on all inactive extremist informants. It was used as a reference to aid in the supervision of the informant program. This index has discontinued in November 1976.	Inactive	Yes	No
Extremist Photo Album	Consists of photos mounted on pages containing descriptions of known extremist fugitives and informants. All persons in the Key Extremist program were included in this album. Used for ready reference and fugitive identification. This photo album was discontinued in January 1977.	Inactive	Yes	Yes (20)
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	Active	Yes	No
False Identities Program List	Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	Active	No	Yes (31)
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	Active	No	Yes (2)
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No
Foreign Counterintelligence (FCI) Asset Index.	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid of the FCI Asset program.	Active	Yes	No
Fraud Against the Government Index	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as an investigative aid.	Active	No	Yes (1)
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43)
Fuerzas Amados De Libercion National (FALN) Index.	Consists of cards on people interviewed in connection with or suspected of belonging to this Puerto Rican nationalist terorist group which has claimed responsibility for numerous bombings. It is used to investigate bombings.	Active	No	Yes (3)
Gambling Case Listing	Consists of a listing of persons under investigation for gambling on which the FBI laboratory has provided assistance since 1969.	Active	Yes	No

Title of Index	Description and use	Status of Index	Maintained at— Headquarters	Field Office
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1)
Hoodlum License Plate Index	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such persons in the course of investigation. The one index which is not fully retrievable is maintained by a resident agency.	Active	No	Yes (3)
Identification Order Fugitive Flyer File.	Consists of fliers filed numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49)
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants: top echelon criminal informants, security informants, criminal informants, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military bases (discontinued), and potential criminal informants.	Active	No	Yes (59)
Informants in Other Field Offices, Index of.	Consists of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that may be of value to other field offices. Basic background information would also be included on the index card.	Active	No	Yes (15)
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1)
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11)
Jewish Defense League (JDL) Photo Album.	Consists of photos and basic data on JDL members. It is maintained as an investigative aid.	Active	No	Yes (1)
Key Activist Program Photo Album	Consists of photos mounted on pages containing descriptive data on selected individuals advocating civil disobedience and other unlawful and disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	Yes (47)
Key Extremist Program Listing	Contains a listing of selected individuals who were under investigation for extremist activities and on whom investigation was to be intensified. Individuals included those who traveled extensively and called for civil disobedience and unlawful or disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	No
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No
Klan Membership Index	Consists of cards of members of the United Klans of America, Inc. It is used to readily identify Klan members. One field office has destroyed its Klan index subsequent to our review.	Active	No	Yes (3)
Known Check Passers Album	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4)
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was not fully retrievable, the index was destroyed and thus is not included in the total.	Active	No	Yes (5)
La Cosa Nostra (LCN) Membership Index.	Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55)
Leased Line Letter Request Index	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid.	Active	Yes	No
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It was used for reference in preparing mail cover requests. This index was discontinued in 1975.	Inactive	Yes	No
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No
National Bank Robbery Album	Consists of fliers on bank robbery suspects filed sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject, FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42)

Title of Index	Description and use	Status of Index	Maintained at— Headquarters	Field Office
National Fraudulent Check File	Contains photographs of the signatures on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing if the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No
National Security Electronic Surveillance Card File (Institutions).	Contains cards on individuals and organizations on whom a National Security Electronic Surveillance has been instituted. It is used as an administrative and statistical aid.	Active	Yes	No
National Security Electronic Surveillance Card File (Requests).	Contains cards on individuals and organizations on whom a National Security Electronic Surveillance has been requested. It is used as an administrative and statistical aid.	Active	Yes	No
National Security Index	Consists of cards containing the writing, printing, typewriting, and foreign language writing usually of people known to be involved in revolutionary activities. This index is used to try to associate unsolved matters such as comparing a note left in a bombing, back to the file to identify a possible suspect.	Active	Yes	No
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects.	Active	Yes	No
Organized Crime Photo Album	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction.	Active	No	Yes (13)
Photospread Identification Elimination File.	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14)
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4)
Puerto Rican Socialist Part (PSP) Album.	Consists of photos of members in a leadership of influential position who are known to travel on PSP business. It is maintained as a ready reference to assist in the coverage of the travel of these individuals.	Active	No	Yes (1)
Real Estate Listings Computer Printout.	Consists of a computer printout maintained by name of (a particular city's) real estate listings in Multiple Listing Service for 1974-1975. It was used in connection with an investigation.	Inactive	No	Yes, Springfield, Ill.
Revolutionary Communist Party (RCP) Photo Album.	Consists of photos mounted on pages containing descriptions of individuals who are leaders and activists in the RCP. The RCP, formerly the Revolutionary Union, has been identified by the FBI to be a Marxist-Lenisist-Maoist revolutionary organization which calls for a violent revolution in the United States. This index is used as an investigative aid..	Active	Yes	Yes (23)
Revolutionary Union Photo Album (RU).	See description and use for RCP Album. This album was discontinued after the RU changed its name and an updated photo album was created titled (RCP).	Inactive	Yes	Yes (4)
Royal Canadian Mounted Policie (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17)
Seattle Liberation Front (SLF) Photo Album.	Consists of photos with background information on extremists who are fugitives, informants who travel in behalf of the group, members and sympathizers of the SLF. It is used for ready identification of individuals involved.	Active	No	Yes (1)
Security of Government Employees Index.	Contains cards on persons whom the FBI, for security or loyalty purposes, has investigated under Executive Orders 9835 and 10450. The index is used to facilitate the location of the subject's file.	Active	Yes	No
Security Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
Security Subjects Control Index	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1)
Security telephone Number Index	Contains cards with telephone subscriber information subpenaed from the telephone company in any security investigation. It is maintained numberically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1)
Selective Service Violators Index	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No
Skyjack Fugitive Album	Contains photographs with descriptive data of fugitives wanted for skyjacking. It is used as a reference aid in cases where the fugitive may reenter the United States.	Active	Yes	Yes (5)
Sources of Information Index	Consists of cards on individuals and organizations such as banks, motels, local governments that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10)
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibilities.	Active	No	Yes (28)
Stolen Checks and Fraud by Wire Index.	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1)

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Title of Index	Description and use	Status of Index	Maintained at— Headquarters	Field Office
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43)
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Inactive	Yes	Yes (2)
Symbionese Liberation Army (SLA) Index.	Contains cards with mixed subject entries such as individuals, weapons, vehicles, etc., thought to have a connection with the SLA. It was used to tabulate and retrieve data relating to SLA activities.	Inactive	Yes	Yes (2)
Telephone Number Index—Gamblers.	Contains information on persons identified usually as a result of a subpena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2)
Telephone Subscriber and Toll Record Check Index.	Contains cards with information on person identified as the result of a formal request or subpena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing parties identity, subscribers address, date of request from the telephone company, and file number.	Active	No	Yes (1)
Thieves, Couriers, and Fences Photo Index.	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Top Echelon Criminal Informant Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes.	Active	Yes	No
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive on the top 10 usually assures a greater national news coverage as well as nationwide circularization of the flier.	Active	Yes	Yes (44)
Top Thief Program Index	Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	Active	No	Yes (27)
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4)
Truck Thief Suspect Photo Album	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid.	Active	No	Yes (1)
Traveling Criminal Photo Album	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	No	Yes (1)
Veterans Administration (VA)/Federal Housing Administrative Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1)
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photograph, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46)
Weatherman Fugitive Lead Index	Consists of cards of individuals contacted in connection with attempts to apprehend Weatherman fugitives.	Active	No	Yes (1)
Weatherman Photo Album	Consists of photos and descriptions of individuals associated with "Weatherman" activities for use as a reference aid in "Weatherman" investigations.	Active	Yes	Yes (51)
Wheeldex	Contains the nicknames and case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1)
White-Collar Crime Index—SBA Loans.	Consists of a computer printout of individuals who received an SBA loan in one county because of a flood in 1973. This was used to help determine which loan to investigate for possible fraud.	Inactive	No	Yes, Springfield, Ill.
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such checks in view of the tight time frame usually required.	Active	Yes	No
Witness Protection Program Index	Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshal's Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	Yes (39)

Authority for maintenance of the system: Federal Records Act of 1950, the Constitution of the United States, various provisions of U.S. Code, Executive Orders and Presidential directives.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records contained in this system are utilized by the FBI in support of its mission to conduct investigations within its jurisdiction and for various administrative purposes. Information from these files is disseminated to appropriate Federal, State, local, and foreign agencies where the right and need to have access to this information exists—For example, to assist in the general crime prevention and detection efforts of the recipient agency. Information is also disseminated to these agencies and to individuals and organizations, where such dissemination is necessary to elicit information from such agencies and individuals. Information from this system is also disseminated during appropriate legal proceedings. For example, witness interviews are made available to defendants pursuant to the Jencks Act during Federal criminal trails. In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. For example, in discharging its obligations under Executive Order 10450, this agency would disseminate record information as a direct result of a name check request submitted by another government agency. A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such title. Background and descriptive information on Federal fugitives is disseminated to the general public and the news media in an effort to bring about the apprehension of these wanted individuals. News releases are also disseminated to the public and the news media concerning apprehensions of FBI fugitives and other notable accomplishments. Additionally, public source information is distributed on a continuing basis, upon request, to the general public and representatives of the media. Upon specific approval of the Director, information may be disseminated from this system to individuals in the private sector in extenuating circumstances in order to protect life or property. Information which relates to foreign counter-intelligence matters may be disseminated to individuals in the private sector with the specific authority of the Attorney General where he deems it necessary in order for the Federal Bureau of Investigation (FBI) to fulfill its statutory responsibilities to investigate espionage in the United States. The FBI has received inquiries from private citizens and Congressional offices in behalf of constituents seeking assistance in locating such individuals as missing children or heirs to estates. Where the need is acute and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the inquiring individual. Information will be provided only in those instances where it can be determined from the information at hand that the individual being sought would want the information to be furnished, e.g. an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority. The decision to make any dissemination under these circumstances can be made only by the Director, and this authority cannot be delegated.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in hardcopy form, computer tape, and microfilm.

Retrievability: The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating its "Central Records System" and, therefore, the retrieval of certain data will be accomplished by utilizing certain computer peripheral equipment such as CRT (Cathode Ray Tube) video screens, and printers. This will basically involve certain personnel information, general index information, and the abstracting system. Automation in no way changes the "Central Records System"; it only facilitates access more effectively and efficiently.

Safeguards: Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thouand-dollar fine or 10 years' imprisonment or both. Employees that resign or retire are also cautioned about divulging information acquired in the job.

Retention and disposal: The Bureau, by its investigative mandate, collects and maintains information from a wide variety of sources. The records support the Bureau's investigative and administrative needs and its obligation to act as a clearinghouse under Executive Order 10450 regarding the security of Government employees. An active destruction program includes microfilming of certain files over 10 years old and researching files, to determine whether they contain sufficient historical, research, investigative, or intelligence value to warrant their retention. The Code of Federal Regulations, Title 41, and Title 44 of the U.S. Code set forth Records Management procedures to be followed by government agencies in relation to their records. All agencies are required to retain any material made or received during the course of public business which has been preserved or is appropriate for preservation. Accordingly, disposition of records material must be in accordance with established regulations. Subsequent destruction is accomplished through authority granted by National Archives and Records Service, GSA, utilizing either the General Records Schedules or a specific request for record destruction which is approved by the Archivist. Records are also destroyed or returned to source as a result of Court Order. Subsequent to January 27, 1975, a Congressional moratorium on all destruction, and a later decision rendered on further retention of security and intelligence material, has substantially reduced the tangible effects of the destruction program.

System manager(s) and address: Director; Federal Bureau of Investigation; Washington, D.C. 20535.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should also direct their

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request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Appendix of Field Divisions for the Federal Bureau of Investigation

Field Office

502 U.S. Post Office and Court House, Albany, N.Y. 12207.
4303 Federal Office Building, Albuquerque, N. Mex. 87101.
Room 500, 300 North Lee Street, Alexandria, Va. 22314.
Room 238, Federal Building, Anchorage, Alaska 99510.
275 Peachtree Street, N.E., Atlanta, Ga. 30303.
7142 Ambassador Road, Baltimore, Md. 21207.
Room 1400-2121 Building, Birmingham, Ala. 35203.
John F. Kennedy Federal Office Building, Boston, Mass. 02203.
Room 1400-111 West Huron Street, Buffalo, N.Y. 14202.
115 U.S. Court House and Federal Building, Butte, Mont. 59701.
1120 Jefferson Standard Life Building, Charlotte, N.C. 28202.
Room 905, Everett McKinley Dirksen Building, Chicago, Ill. 60604.
415 U.S. Post Office and Court House Building, Cincinnati, Ohio 45202.
3005 Federal Office Building, Cleveland, Ohio 44199.
1529 Hampton Street, Columbia, S.C. 29201.
Room 200, 1810 Commerce Street, Dallas, Tex. 75201.
Room 18218, Federal Office Building, Denver, Colo. 80202.
Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226.
202 U.S. Court House Building, El Paso, Tex. 79901.
Kalanianaole Federal Building, Room 4307, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.
6015 Federal Building and U.S. Court House, Houston, Tex. 77002.
575 North Pennsylvania Street, Indianapolis, Ind. 46202.
800 Unifirst Federal Savings & Loan Building, Jackson, Miss. 39205.
414 U.S. Court House and Post Office Building, Jacksonville, Fla. 32202.
Room 300-U.S. Courthouse, Kansas City, Mo. 64106.
Room 800, 1111 Northshore Drive, Knoxville, Tenn. 37919.
Room 2-011, Federal Office Building, Las Vegas, Nev. 89101.
215 U.S. Post Office Building, Little Rock, Ark. 72201.
11000 Wilshire Boulevard, Los Angeles, Calif. 90024.
Room 502, Federal Building, Louisville, Ky. 40202.
841 Clifford Davis Federal Building, Memphis, Tenn. 38103.
3801 Biscayne Boulevard, Miami, Fla. 33137.
Room 700, Federal Building and U.S. Court House, Milwaukee, Wis. 53202.
392 Federal Building, Minneapolis, Minn. 55401.
520 Federal Building, Mobile, Ala. 36602.
Gateway I, Market Street, Newark, N.J. 07101.
770 Chapel Building, New Haven, Conn. 06510.
701 Loyola Avenue, New Orleans, La. 70113.
201 East 69th Street, New York, N.Y. 10021.
Room 300, 870 Military Highway, Norfolk, Va. 23502.
50 Penn Place, N.W., 50th at Pennsylvania, Oklahoma City, Okla. 73118.
1010 Federal Office Building, Omaha, Nebr. 68102.
8th Floor, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
2721 North Central Avenue, Phoenix, Ariz. 85004.
1300 Federal Office Building, Pittsburgh, Pa. 15222.
Crown Plaza Building, Portland, Oreg. 97201.
200 West Grace Street, Richmond, Va. 23220.
Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825.
2704 Federal Building, St. Louis, Mo. 63103.
3203 Federal Building, Salt Lake City, Utah 84138.
433 Federal Building, Box 1630, San Antonio, Tex. 78296.
Federal Office Building, Room 6531, 88 Front Street, San Diego, Calif. 92188.
450 Golden Gate Avenue, San Francisco, Calif. 94102.
U.S. Courthouse and Federal Building, Room 526, Hato Rey, P.R. 00918.
5401 Paulson Street, Savannah, Ga. 31405.
915 Second Avenue, Seattle, Washington 98174.
535 West Jefferson Street, Springfield, Ill. 62702.
Room 610, Federal Office Building, Tampa, Fla. 33602.
506 Old Post Office Building, Washington, D.C. 20535.
Federal Bureau of Investigation Academy, Quantico, Va. 22135.

Legal Attache (All c/o the American Embassy for the Cities Indicated):
Bern, Switzerland.
Bonn, Germany (Box 310, APO, New York 09080).
Buenos Aires, Argentina.
Caracas, Venezuela (APO, New York 09893).
Hong Kong, B.C.C. (FPO, San Francisco 96659).
London, England (Box 40, FPO, New York 09510).
Madrid, Spain (APO, New York 09285).
Manila, Philippines (APO, San Francisco 96528).
Mexico City, Mexico.
Ottawa, Canada.
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).

JUSTICE/FBI—009

System name: Identification Division Records System.

System location: Federal Bureau of Investigation: J. Edgar Hoover Bldg.; 10th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system: A. Individuals fingerprinted as a result of arrest or incarceration by Federal, State or local law enforcement agencies.

B. Persons fingerprinted as a result of Federal employment applications, military service, alien registration and naturalization purposes and individuals desiring to have their fingerprints placed on record with the FBI for personal identification purposes.

Categories of records in the system: A. Criminal fingerprint cards and related criminal justice information submitted by authorized agencies having criminal justice responsibilities.

B. Civil fingerprint cards submitted by Federal agencies and civil fingerprint cards submitted by persons desiring to have their fingerprints placed on record for personal identification purposes.

C. Identification records sometimes referred to as 'rap sheets' which are compilations of criminal history information pertaining to individuals who have criminal fingerprint cards maintained in the system.

D. An alphabetical name index pertaining to each individual whose fingerprints are maintained in the system. The criminal records and the civil records are maintained in separate files and each file has an alphabetical name index related to the data contained therein.

Authority for maintenance of the system: The system is established, maintained and used under authority granted by 28 U.S.C. 534 and P.L. 92-544 (86 Stat. 1115). The authority is also codified in 28 C.F.R. 0.85 (b), and (j).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The FBI operates the Identification Division Records System to perform identification and criminal history record information functions for federal, state, local, and foreign criminal justice agencies, and for noncriminal justice agencies, and other entities where authorized by Federal statute, state statute pursuant to Public Law 92-544 (86 Stat. 1115), Presidential executive order, or regulation of the Attorney General of the United States. In addition, identification assistance is provided in disasters and for other humanitarian purposes. Dissemination is also conducted in accordance with Public Law 94-29, known as the Securities Acts Amendments of 1975.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (MARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored manually in file cabinets either in its natural state or on microfilm. In addition, some of the information is stored electronically in converting the manual system to an automated system.

Retrievability: (1) All information in the system is retrievable by technical fingerprint classification index and positive identification is effected only by comparison of the unique characteristics obtained from fingerprint impressions submitted for search against the fingerprint cards maintained within the system.

(2) An auxiliary means of retrieval is through the alphabetical same indexes which contain names of the individuals, their birth date, other physical descriptors and the individuals' technical fingerprint classifications and FBI numbers, if such have been assigned.

(3) The name of an individual and his FBI number may assist in retrieval of information about that individual from within the system. Since July, 1971, all individuals whose fingerprints have been placed in the criminal file have been assigned unique FBI numbers. Prior to July, 1971, all individuals who had two or more fingerprint cards in the criminal file were assigned FBI numbers.

Safeguards: Information in the system is unclassified. Disclosure of information from within the system is made only to authorized recipients upon authentication and verification of the right to access the system by such persons and agencies. The physical security and maintenance of information within the system is provided by FBI rules, regulations and procedures.

Retention and disposal: (1) The Archivist of the United States has approved the destruction of records maintained in the criminal file when the records indicate individuals have reached 80 years of age and the destruction of records maintained in the civil file when the records indicate individuals have reached 75 years of age.

(2) Fingerprint cards and related arrest data in the system are destroyed seven years following notification of the death of an individual whose record is maintained within the system.

(3) Fingerprint cards submitted by state and local criminal justice agencies are returned upon requests of the submitting agencies. The return of a fingerprint card under this procedure results in the deletion from the system of all arrest information related to that fingerprint card.

(4) Fingerprint cards and related arrest data are removed from the Identification Division Records System upon receipt of Federal court orders for expunctions when accompanied by necessary identifying information. Recognizing lack of jurisdiction of local and state courts over an entity of the Federal Government, the Identification Division Records System, as a matter of comity, returns fingerprint cards and related arrest data to local and state criminal justice agencies upon receipt of orders of expunction directed to such agencies by local and state courts when accompanied by necessary identifying informations.

System manager(s) and address: Director, Federal Bureau of Investigation, 10th and Pennsylvania Avenue N.W., Washington, D.C. 20535.

Notification procedure: Address inquiries to the System Manager. The Attorney General has exempted the Identification Division Records System from compliance with subsection (d) of the Act.

Record access procedures: The Attorney General has exempted the Identification Division Records System from compliance with subsection (d) of the Act. However, pursuant to 28 C.F.R. 16.30-34, and Rules and Regulations promulgated by the Department of Justice on May 20, 1975 at 40 Fed. Reg. 22114 (Section 20.34) for Criminal Justice Information Systems, an individual its permitted access to his identification record maintained in the Identification Divison Records System and procedures are furnished for correcting or challenging alleged deficiencies appearing therein.

Contesting record procedures: Same as the above.

Record source categories: See Categories of Individuals.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (c)(1), (2) and (3), (c)(4)(G), (H), (e)(5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

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System name: The Immigration and Naturalization Service Index System, which consists of the following subsystems:

A. Agency information control record index.
B. Alien address reports index and records.
C. Alien enemy index and records.
D. Automobile decal parking identification system for employees.
E. Centralized index and records (Master Index).
F. Congressional Mail Unit Correspondence control index.
G. Document vendors and alters index.
H. Enforcement indexes.
1. Group one. (a) contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive index. (e) Suspect third party index.
2. Group two. (a) Air detail office index. (b) Anti-smuggling information centers, Canadian and Mexican borders. (c) Border Patrol Academy index. (d) Boarder Patrol sectors general index. (e) Fraudulent Document Center index.
3. Enforcement correspondence control index.
I. Examinations indexes.
1. Application and petition system.
2. Correspondence control index.
3. Service lookout system.
J. Extension training program enrollees.
K. Finance Section indexes.
1. Accounts with creditors.
2. Accounts with debtors.
L. Freedom of Information correspondence control index.
M. Intelligence indexes.
N. Microfilmed manifest records.
O. Naturalization and citizenship indexes.
1. Naturalization and citizenship docket cards.
2. Examiners docket lists of petitioners for naturalization.
3. Master docket list of petitions for naturalization pending one year or more.
P. Personnel investigations index and records.
Q. Property issued to employees.
R. Security access clearance index.
S. White House and Attorney General correspondence control index.
T. Health record system.
U. Personal data card system.
V. Compassionate cases system.
W. Emergency reassignment index.
X. Alien documentation, identification and telecommunications (ADIT) system.

System location: A. Central Office: 425 Eye Street NW., Washington, D.C. 20536.

B. Regional Offices: (1) Burlington, Vt.; (2) Fort Snelling, Twin Cities, Minn.; (3) Dallas, Tex.; (4) San Pedro, Calif.

C. District offices in the United States: (1) Anchorage, Alaska; (2) Atlanta, Ga.; (3) Baltimore, Md.; (4) Boston, Mass.; (5) Buffalo, N.Y.; (6) Chicago, Ill.; (7) Cleveland, Ohio; (8) Dallas, Tex.; (9) Denver,

Colo.; (10) Detroit, Mich.; (11) El Paso, Tex.; (12) Hartford, Conn.; (13) Helena, Mont.; (14) Honolulu, Hawaii; (15) Houston, Tex.; (16) Kansas City, Mo.; (17) Los Angeles, Calif., (18) Miami, Fla.; (19) Newark, N.J.; (20) New Orleans, La.; (21) New York, N.Y.; (22) Omaha, Nebr.; (23) Philadelphia, Pa.; (24) Phoenix, Ariz.; (25) Portland, Maine; (26) Portland, Oreg.; (27) St. Albans, Vt.; (28) St. Paul, Minn.; (29) San Antonio, Tex.; (30) San Diego, Calif.; (31) San Francisco, Calif.; (32) San Juan, P.R.; (33) Seattle, Wash.; (34) Washington, D.C.;

D. District offices in foreign countries: (1) Hong Kong, B.C.C.; (2) Mexico City, Mexico; (3) Rome, Italy.

E. Sub-offices: (1) Agana, Guam; (2) Albany, N.Y.; (3) Cincinnati, Ohio; (4) Hammond, Ind.; (5) Harlingen, Tex.; (6) Las Vegas, Nev.; (7) Louisville, Ky.; (8) Memphis, Tenn.; (9) Milwaukee, Wis.; (10) Norfolk, Va.; (11) Oklahoma City, Okla.; (12) Pittsburgh, Pa.; (13) Providence, R.I.; (14) Reno, Nev.; (15) St. Louis, Mo.; (16) Salt Lake City, Utah; (17) Spokane, Wash.;

F. Border Patrol Sector Headquarters: (1) Blaine, Wash.; (2) Buffalo, N.Y.; (3) Chula Vista, Calif.; (4) Del Rio, Tex.; (5) Detroit, Mich.; (6) El Centro, Calif.; (7) El Paso, Tex.; (8) Grand Forks, N. Dak.; (9) Havre, Mont.; (10) Houlton, Maine; (11) Laredo, Tex.; (12) Livermore, Calif., (13) Marfa, Tex.; (14) McAllen, Tex.; (15) Miami, Fla.; (16) New Orleans, La.; (17) Ogdensburg, N.Y.; (18) Spokane, Wash.; (19) Swanton, Vt.; (20) Tucson, Ariz.; (21) Yuma, Ariz.

G. Border Patrol Academy, Los Fresnos, Tex.; Federal Law Enforcement Training Center (FLETC), Glynco, Ga.

H. Charlotte Amalie, St. Thomas, V.I.

I. Sub-offices in foreign countries: (1) Athens, Greece; (2) Frankfurt, Germany; (3) Naples, Italy; (4) Palermo, Palermo, Italy; (5) Rome, Italy; (6) Tokyo, Japan; (7) Vienna, Austria.

J. El Paso Intelligence Center (EPIC), El Paso, Tex.

Addresses of offices are listed in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

Categories of individuals covered by the system: A. Agency information control record index (Location A, supra). Individuals named or referenced in documents classified for national security reasons.

B. Alien address reports index and records (Location A, supra). Aliens required to report addresses each January.

C. Alien enemy index and records (Location A, supra).

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees (Location B-4, supra). Current INS employees who have the privilege of parking their cars on government premises.

E. Centralized index and records (Master Index) (Locations A, C, D, E, and I, supra).

1. Individuals covered by provisions of the immigration and nationality laws of the United States.

2. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders, and Presidential proclamations administered by the Immigration and Naturalization Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit correspondence control index (Location A, supra).

1. Individuals named in correspondence received, including INS employees and past employees; Federal, State, and local officials; and members of the general public.

2. Individuals named in reports or correspondence received, as individuals investigated in the past or under active investigation, or suspected of violations of the criminal or civil provisions of statutes enforced by INS, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Location B-4; duplicates in several INS offices in the Western and Southern regions). Individuals who are alleged immigration law violators involved in the supply of fraudulent documents.

H. Enforcement indexes.

1. Group one (Locations A, B, C, and E, supra): (a) Contact index; (b) Informant index; (c) Anti-smuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index.

(1) Individuals who are in a position to know, learn of, and assist in locating aliens illegally in the United States; (2) individuals who have significant knowledge of foreign or domestic organizations subversive in nature and are willing to appear as Government witnesses or cooperate with INS on a continuing basis; (3) individuals who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens; who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States; and witnesses having knowledge of such matters; (4) individuals who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or leaders; (5) individuals who are known or believed to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for benefits administered by INS; or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable them to pose as citizens or to enable parents who are immigrant visa applicants to evade the labor certification requirements.

2. Group two. (a) Air detail office index (Location J. supra). Individuals who are pilots and/or owners of private aircraft flying between the United States and foreign countries; individuals who engage in or are suspected of being engaged in illegal activity such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers, Canadian and Mexican borders (Locations: northern border, F-19, supra; southern border, J, supra). Individuals who are known or suspected of being smugglers or transporters of illegal aliens.

(c) Border Patrol Academy index (Location G, supra). Students or former students at the Border Patrol Academy; INS officers attending advanced training classes at the Academy or the Federal Law Enforcement Training Center (FLETC).

(d) Border Patrol sectors general index (Locations F, supra). Past or present INS employees; individuals who are law violators, witnesses, contacts, informants, members of the general public, Federal, state, county, and local officials.

(e) Fraudulent Document Center index (Location J, supra). Individuals who are members of the general public, notaries public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives, and witnesses. Also included in the system are names and information about fictitious persons used by counterfeiters or alterers of citizenship documents.

3. Enforcement correspondence control index (Location A, supra). (a) Individuals named in correspondence received, including employees, past employees, and others; (b) individuals named in documents, reports, or correspondence as individuals under current or past investigation, suspended of violation of the criminal or civil provisions of the statutes enforced by INS, including Executive orders and Presidential proclamations, and witnesses and informants having knowledge of violations.

I. Examinations indexes (Location A supra; duplicates in some local offices):

1. Application and petition index: individuals who have filed or assisted in filing petitions to classify aliens for the issuance of immigrant visas.

2. Correspondence control index: members of the general public.

3. Service lookout system: violators or suspected violators of the criminal or civil provisions of statutes enforced by INS.

J. Extension training program enrollees (Location A, supra). INS employees and other Federal agency employees enrolled in extension training program courses administered by INS.

K. Finance Section indexes (Locations A and B, supra): (1) Accounts with creditors; (2) Accounts with debtors.

(a) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments.

(b) Employees who have received travel advances or overpayments from the United States Government, who are in arrears in their accounts, or who are liable for damage to Government property.

(c) Vendors who have furnished supplies, material, equipment, and services to the Government.

(d) Employees, witnesses and special deportation attendants who have performed official travel.

(e) Employees and other individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations A, B, C, D, E, F, G, H, and I, supra). Individuals who request access to or copies of records maintained by INS, under the provisions of the Freedom of Information Act (5 U.S.C. 552).

M. Intelligence indexes (Locations A and B, supra). Individuals who have or are suspected of having violated the criminal or civil provisions of the statutes enforced by INS.

N. Microfilmed manifest records (Locations A, C-26, C-10, C-20, and C-29, supra). Individuals who have arrived or departed by aircraft or vessel at a United States port.

O. Naturalization and citizenship indexes (Locations C and E, supra, except E-6, E-7, E-8, and E-13).

1. Naturalization and citizenship docket cards. Individuals seeking benefits under Title III of the Immigration and Nationality Act of 1958, as amended.

2. Examiners' docket lists of petitioners for naturalization. Petitioners for naturalization and their beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. Petitioners for naturalization and their beneficiaries.

P. Personnel investigations index and records (Location A, supra). Employees, former employees, other Government agency employees designated to perform immigration functions, witnesses, informants, and certain other persons having contacts with INS operations.

Q. Property issued to employees (Locations A, B, C, E, and F, supra). INS employees who have been issued property for use in performance of official duties.

R. Security access clearance index (Location A, supra). Current INS employees who have been cleared for access to documents and materials classified in the interest of national security.

S. White House and Attorney General correspondence control index (Location A, supra). Individuals named in or originating correspondence referred to INS by staff of the White House or Attorney General.

T. Health record system (Location A, supra). Persons at Location A who have requested health services or required emergency treatment.

U. Personal data card system (Locations A and B, supra). Employees and former employees of INS.

V. Compassionate cases system (Locations A and B, supra). INS employees who have requested transfers for personal reasons.

W. Emergency reassignment index (Locations B, C, E, and F, supra). INS employees who would be reassigned to other duty stations in case of emergency.

X. Alien documentation, identification, and telecommunications (ADIT) system (Location A, supra). Aliens lawfully admitted for permanent residence, commuters and other authorized frequent border crossings, and nonimmigrant persons other than transients.

Categories of records in the system: A. Agency information control record index. This system contains reference and locater data on the following kinds of documents:

1. Top secret and secret materials classified as national security information, including all copies prepared from controlled documents originated, received, or transmitted by INS officers.

2. Confidential material originated by other agencies and referred to INS, including all copies prepared from controlled documents.

3. All investigative reports, responses to security checks, and intelligence material received from sources within the Department of Justice and other Federal intelligence sources.

B. Alien address report index and records. This system contains an index and copies of Form I-53, Alien Address Report, required to be filed January 1 of each year by aliens in the United States.

C. Alien enemy index and records. This system contains a microfilm index and files containing various forms, reports, and other information.

D. Automobile decal parking identification system for employees. This System contains a list by number of each Department of Justice decal car sticker issued to local INS employees.

E. Centralized index and records (Master Index). The system consists of index records and related records and files containing various forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, statements, reports, correspondence, and memorandums. Records which may be accessed electronically are limited to index and file locater data including name, identifying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files.

F. Congressional Mail Unit correspondence control index. This system contains a locater record for each report or piece of correspondence received, reflecting the name of the individual and the number of the subject file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index. This system consists of "mug book" photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement indexes. 1. Group one. (a) Contact index; (b) Informant index; (c) Antismuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index. These systems of records are maintained on Form G-598, Contact Record; Form G-169, Informant Record; Form G-170, Smuggler Information Index Card; and other index cards containing reference and file locater data on the individuals, including in some cases biographic data, address, and a brief description of activities.

2. Group two. (a) Air detail office index. The primary record in the system is Form I-92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also index cards, forms, investigative reports, records, and correspondence on aircraft arrivals, failures to report for inspection, and known or suspected alien smuggling operations using aircraft; and microfiche indexes containing names of owners of aircraft of United States registery.

(b) Anti-smuggling information centers, Canadian and Mexican borders. This system contains Form G-170, Smuggler Information Index Card, other index cards, and correspondence relating to antismuggling activities. These indexes are in loose leaf form and are distributed to Border Patrol offices in the border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding each student's academic progress in training. The information is maintained on the following forms: SW-91, Probationary Achievement Report; SW-91A, Scholastic Grade Worksheet; SW-91B, IOBTC Achievement Report-Immigration Inspector; SW-91C, IOBTC Achievement Report-Investigator; SW-96, Class Rating Form; SW-128, Training Data; SW-282, Registration Information Form; SW-446, Conduct and Efficiency Report of Probationary Employee-5 1/2 and 10 Months Exam Grades.

(d) Border Patrol sectors general index. This system contains indexes, forms, reports, and records relating to activities of the Border Patrol, including Form I-44, Record or Apprehension of Seizure; Form I-326, Prosecution Reports; Form I-263A and I-263B, Record of Sworn Statement; Form I-195, Criminal Prosecution Control Card; Form I-263W, Record of Sworn Statement-Witness; Form I-236, Prosecution Reports; Form G-170, Smuggler Information Index Card; Form G-296, Report of Violation of Section 239, Immigration and Nationality Act; Form G-330, Notice of Action Information; Form G-445, Conduct and Efficiency Evaluation of Probationary Appointees; Form G-598, Contact Record. This system also contains copies of correspondence and memorandums between INS offices and outside agencies and individuals, as well as photographs of some violators of the immigration laws of individuals suspected of being involved in immigration law violations.

(e) Fraudulent Document Center index. This system contains birth certificates, baptismal certificates. and other identification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine; however, there are also counterfeit and altered documents in the system. Also contained in the system are cross indexes, investigative reports, and records of individuals involved in fraud schemes or whose documents have been put to fraudulent usage.

3. Enforcement correspondence control index. This system contains reference and locater information on documents, reports, and correspondence received in the offices of the Associate Commissioner, Enforcement. Records are maintained on Form G-617, Correspondence Control Card, and Form CO-147, Call-up Index—Domestic Control.

I. Examinations indexes. 1. Application and petition system. This system contains petitioners' names, date and place of birth, names of prior spouses, immigration "A" number if an alien, and date of marriage if married; beneficiarys' names, date and place of birth, immigration "A" number if any, names of spouses, and nationality code, and the names, dates, and places of birth of any children; name of the person administering the oath or preparing the form, if other than a Government employee.

2. Correspondence control index. This system contains reference and locater information on documents, reports and correspondence received in the office of the Associate Commissioner, Examinations. Records are maintained on Form G-617, Correspondence Control Card.

3. Service lookout system. This system contains names and reference data on violators, alleged violators, and suspected violators of the criminal or civil provisions of the statutes enforced by INS.

J. Extension training program enrollees. This system contains correspondence and records of each enrollee's test scores; dates of actions such as mailing of lesson materials, test results, and certificates of completion; and dates of receipt of tests.

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K. Finance Section indexes. 1. Accounts with creditors. Records are vendors' invoices, purchase orders, travel vouchers, and claims filed by appropriation for the fiscal year from which payment is chargeable.

2. Accounts with debtors. Records consist of bills for inspection services performed under the Act of March 2, 1931; fees; fines, penalties, and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. Records are kept on Form G-617, Correspondence Control Card, and include reference and locator information on each request for information received under the Freedom of Information Act.

M. Intelligence indexes. Records include reference and locator information on documents, reports, bulletins, and correspondence; records are categorized by name, violation, and activity.

N. Microfilmed manifest records. The system contains microfilmed indexes and arrival and departure manifests with brief biographical data and facts of arrival and departure. Arrival records for certain ports date from 1891, and departure records date from 1900. Records are not complete, as some records were destroyed and not microfilmed.

O. Naturalization and citizenship indexes. 1. Naturalization and citizenship docket cards. Docket cards are 3X5 or 5X8 index cards for each applicant, beneficiary, or petitioner, recording type of application, date of receipt, file and/or petition number, court number where petition for naturalization was filed, and reference number of the individual's case file.

2. Examiners' docket lists of petitioners for naturalization. Records are maintained on Form N-476, Examiner's Docket List, and record court of naturalization jurisdiction, petition number, petition filing date, court number, name of petitioner, name of beneficiary, proposed recommendation by the naturalization examiner, reasons for continuance, and reference number of the individual's case file.

3. Master docket lists of petitions for naturalization pending one year or more. Records are maintained on Form N-476, Examiner's Docket List, and contain reference and locater information on petitions pending for one year or longer.

P. Personnel investigations index and records. Index records for closed cases or cases under active investigation contain reference and locater information including names, locations, and allegations. Two relating sets of temporary work folders contain reports, documents, and correspondence.

Q. Property issued to employees. Records are maintained on Form G-570, Record-Receipt—Property Issued to Employees, which lists name, description of property, serial number, dates issued and returned, employee's initials, and supervisor's initials.

R. Security access clearance index. Records are kept on 3X5 index cards listing employee's name, dates when clearances were granted, and levels of clearance. Related records and reports are maintained by the Office of Management and Finance, Department of Justice.

S. White House and Attorney General correspondence control index. Records are maintained on Form G-617, Correspondence Control Card, and contain reference and locater information on correspondence addressed to the President and the Attorney General which has been referred to INS for appropriate attention.

T. Health record system. Records are kept on 5X7 index cards listing name, date, and treatment given.

U. Personal data card system. Records are kept on Form G-74, Personal Data Card, for each employee or former employee. Information includes name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate cases system. Records are kept on 3X5 index cards containing employees' name, position, grade, present location, date of request, date circulated to committee, disposition, and (when applicable) new location of employee. Relating records include the employee's request; Form G-410, Employee Qualification-Skills Inventory; local and regional recommendations, medical statements (where applicable), records of committee actions, and response to employee.

W. Emergency reassignment index. Records are kept on Form G-560, Emergency Activity Project Assignment. Information includes name, age, grade, title, official station, residence, telephone number, and emergeny assignment activity.

X. Alien documentation, identification and telecommunications (ADIT) system. Records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

Authority for maintenance of the system: A. General, applicable to all Service index system, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended (8 U.S.C. 1103; U.S.C. 135; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indexes, including but not limited to:

1. Executive Order 11652, and 28 CFR 17.79-Agency control information record index, and Access clearance information system.
2. 31 U.S.C. 66a—Finance Section indexes.
3. Title III of the Act, as amended (8 U.S.C. section 1401 through 1503), and the regulations promulgated thereunder—Naturalization and citizenship indexes.
4. Sections 235 and 287 of the Act, as amended (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto—Personnel investigations.
5. Section 231 of the Act, as amended (8 U.S.C. 1221)—Microfilmed manifest records.
6. 40 U.S.C. 483—Property management system.
7. 5 U.S.C. 4113—Extension training program.
8. 5 U.S.C. 552. The Freedom of Information Act requires certain record keeping; this system was established and is maintained in order to enable INS to comply with this requirement.
9. 5 U.S.C. 301—Health Record System, Personal Data Card System, and Compassionate Cases System.
10. Executive Order 11490—Emergency Reassignment Index.
11. Section 204, 214, and 290 of the Act, as amended (8 U.S.C. 1154, 1184,1360)—Application and petition system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints, and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the administration and enforcement of the immigration and nationality laws, and related statutes, including the procesing of applictions for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular progam statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

J. A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. Information contained in this system or records may be disclosed to an applicant, petitioner, or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j)) in connection with any proceeding before the Service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Generally, index records and cards are stored in manually operated index manchines, file drawers, and boxes; other information is stored manually as paper records in file folders at locations A, B, C, E, F, and H, supra. Inactive files are stored at Federal Records Centers. Exceptions are as follows:

A. Alien address report index and records: Forms I-53, Alien Address Report, are microfilmed in the order in which they are received. An index is maintained on microfiche and on computer-readable magnetic tape.

B. Alien documentation, identification, and telecommunications (ADIT) system information is stored on magnetic tape and disks. Original forms completed by the individuals are filed with other records described for the subsystem "Centralized index and records."

C. Alien enemy index: Index records are maintained on microfilm. Actual files are stored in Federal Records Centers.

D. Centralized index and records: Most records are paper documents stored in file folders. Those index records which can be accessed electronically are stored on magnetic disk and tape.

E. Enforcement indexes: Original index cards and records are stored in manually operated file drawers and machines. Some records are also maintained in the automated system published in a notice entitled "JUSTICE/DEA-INS-111, Automated Intelligence Records Systems (Pathfinder)."

F. Examinations indexes: (1) Application and petition system records are stored on magnetic media at the Department of Justice Data Management Service. Original paper forms completed by the individuals are filed with other records in the subsystem called "Centralized index and records." (2) Service lookout system records are maintained on magnetic tape and in printed looseleaf reference books at ports of entry.

Retrievability: Generally, records are indexed and retrievable by name and/or "A" or "C" file number. Exceptions are as follows:

A. Air detail office index system: Aircraft data is filed in numerical sequence, within each calendar year.

B. Intelligence indexes: Records are retrieved by name within organization, activity, or type of violation.

C. Examiners' docket lists of petitioners for naturalization, and Master docket lists of petitions for naturalization pending one year or more, are filed chronologically for each court exercising naturalization jurisdiction. Relating records are filed by petition number.

Access controls: Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Many records are stored in cabinets or machines which are locked outside of normal office hours. Access to automated systems is controlled by restricted password for use of remote terminals in secured areas.

Retention and disposal: Several general rules apply to many subsystems of records:

A. Alien registration records are retained for 100 years from the closing date or date of last action.

B. Correspondence control cards (forms G-617) are normally retained for one year following the year in which created.

C. Correspondence portions of subject files are normally retained no longer than two years. Records are then either microfilmed or destroyed by burning.

D. Records in policy portions of subject files are retained indefinitely.

E. Indexes and records not specifically mentioned are retained only so long as they serve a useful purpose.

F. Records are destroyed by shredding, burning, or as provided in disposal schedules.

Exceptions to the general practices are as follows:

A. Alien documentation, identification, and telecommunications (ADIT) system records are maintained until naturalization, death, or other material change in status of the individual, or until the registration card is relinquished.

B. Air detail office index: Forms I-92A are retained for five years.

C. Border Patrol trainee examination papers are destroyed six months after the trainee officer completes his probationary year.

D. Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed.

E. Compassionate cases system records are retained for three years after completion of action.

F. Congressional Mail Unit correspondence control index records are retained for three years.

G. Emergency reassignment index records are destroyed upon the transfer, separation, retirement, or death of the employee.

H. Enforcement indexes relating to law violators and witnesses are retained for three years. Routine investigations records are destroyed when the investigation is closed. Correspondence control records are destroyed after final action on the subject matter.

I. Examinations indexes: (1) Application and petition system records are deleted from the automated data base five years after the date of last activity. Inactive records will be stored on magnetic tape for an additional five years. (2) Service lookout system records are deleted five years after insertion, unless removed at an earlier date or reinserted by the listing agency.

J. Finance Section indexes: accounts with creditors and debtors are retained for two years from the close of the fiscal year to which they relate and then are transferred to Federal Records Centers for storage and disposition.

K. Freedom of Information correspondence control index cards and records of requests under appeal or litigation are retained until completion of the action. Other index records of FOIA requests are retained for one year following the year in which created.

L. Health records are retained for six years after the date of the last entry.

M. Intelligence indexes: records are maintained indefinitely.

N. Naturalization examiners, docket lists and master docket lists are retained for two years. Naturalization and citizenship docket cards are purged after applications are rejected, closed, granted, or denied; or petitions for naturalization are granted, denied, or nonfiled.

O. Microfilmed manifest records are retained permanently.

P. Personal data cards are retained for three years after the employee is separated (Location A, supra). In regional offices (Location B, supra), records are destroyed after the employee is separated.

Q. Personnel investigations records are destroyed at the close of the fiscal year following the year of investigation. However, Operation Clean Sweep records are being retained until the program is terminated. Records of criminal investigations are retained as long as the information serves a useful purpose.

R. Security access clearance index records are destroyed upon the separation, death, or retirement of the employee.

S. White House and Attorney General correspondence control index cards are retained for one year beyond the expiration of the term of the President.

System manager(s) and address: A. The system manager, Servicewide, is the Associate Commissioner, Management (Location A, supra).

B. The Associate Commissioner, Management, is the sole manager of the following subsystems:

1. Agency information control record index.
2. Alien address reports index and records.
3. Alien documentation, identification and telecommunications (ADIT) system.
4. Alien enemy index.
5. Centralized index and records (Master Index).
6. Congressional Mail Unit correspondence control index.
7. Document vendors and alterers index.
8. Enforcement correspondence control index.
9. Examinations indexes: (1) Application and petition system; (2) Correspondence control index; (3) Service lookout system.
10. Finance Section indexes.
11. Freedom of Information correspondence control index.
12. Health record system.
13. Intelligence indexes.
14. Micofilmed manifest records.
15. Property issued to employees.
16. Security access clearance index.
17. White House and Attorney General correspondence control index.

C. The following officials are system managers for special subsystems:

1. Automobile decal parking identification for employees: Deputy Regional Commissioner (Location B-4, supra).
2. Enforcement indexes, group one (Contact index; Informant index; Antismuggling index (general); Criminal, immoral, narcotic, racketeer and subversive indexes; Suspect third party index): the ranking Service officer of the offices in which the indexes are maintained (Locations A, B, C, and E, supra).
3. Enforcement indexes, group two: (a) Air detail office index: Deputy Director (Location J, supra). (b) Antismuggling information centers: (1) Canadian border, Chief Patrol Agent (Location F-19, supra); (2) Mexican Border, Deputy Director (Location J, supra). (c) Border Patrol Academy index: Chief Patrol Agent (Location G, supra). (d) Border Patrol sectors general index: Chief Patrol Agent (Location F, supra). (e) Fraudulent Document Center index (Location J, supra).
4. Compassionate cases system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).
5. Emergency reassignment index: Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra); Chief Patrol Agents (Location F, supra).
6. Extension training program enrollees: Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel (Location A, supra).
7. Naturalization and citizenship indexes: (a) Naturalization and citizenship docket cards, and Examiners' docket lists of petitioners for naturalization: District Directors (Location C, supra); Officers in Charge (Location E, supra, except E-6, E-7, E-8, and E-13). (b) Master docket lists of petitions for naturalization pending one year or more: The Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra, except E-6, E-7, E-8, and E-13).
8. Personal data card system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).

Notification procedure: A. Inquiries should be addressed to the system managers listed above, except for the following subsystems:

1. Finance Section indexes: address inquiries to the INS office at which business was conducted.
2. Freedom of Information correspondence control index: address inquiries to the INS office nearest the requester's place of residence, or (if known) the INS office where the record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a (j) and (k) are listed below:

1. Agency information control record index.
2. Document vendors and alterers index.
3. Emergency reassignment index.
4. Enforcement indexes, group one: (a) Contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive indexes. (e) Suspect third party index.
5. Enforcement indexes, group two: Anti-smuggling information centers, Canadian and Mexican borders.
6. Examinations indexes: Service lookout system.
7. Intelligence indexes.

Record access procedures: In all cases, requests for access to a record from any record subsystem shall be in writing or in person. If a request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and if known, the relating file number. To identify a record relating to an individual, requester should provide the individual's full name; date and place of birth; alien, citizen, or employee identification number; and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

Most of the subsystems of records contain information which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k), and records which are classified pursuant to Executive order. Each requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedures: Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office nearest his residence or to the office in which he believes a record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: Basic information contained in INS records is supplied by individuals on Department of State and INS applications and reports. Other information comes from inquiries and/or complaints from members of the general public and members of the Congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports of investigation, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other government agencies, including Federal, state, and local, and from various courts and regulatory agencies; information from foreign government agencies and international organizations; and personnel and administrative applications and forms.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G), (H), and (I); (e) (5) and (8); (f); (g); and (h) of the Privacy Act. These exemptions apply to the extent that information in the subsystems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

JUSTICE/LEAA—002

System name: Law Enforcement Education System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Recipients of LEAA Law Enforcement Education Loans and Grants.

Categories of records in the system: LEEP Master Computer File; LEEP Promissory Note File; LEAA Form 03.

Authority for maintenance of the system: The system is established and maintained pursuant to 42 U.S.C. 3746.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for coding and statistical analysis, educational institutions for record reconciliation, IRS and references listed on application for address verification, referees in bankruptcy for claim action, State and local agencies to verify eligibility.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on computer magnetic tape, discs and folders.

Retrievability: Information is retrievable by name of recipient and social security number.

Safeguards: Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguarded in file room which is locked after business hours. Access is limited to LEAA authorized personnel.

Retention and disposal: Computerized records are kept indefinitely. Uncollected loans/grants are transferred to GAO as soon as determined uncollectable. Cancelled or repaid loan/grants are closed at end of fiscal year, held three years, sent to Federal Records Center and destroyed in accordance with instructions from GAO.

System manager(s) and address: Comptroller; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name and personal identifier number. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of Information are the recipients of loans/grants and their educational institutions.

Systems exempted from certain provisions of the act: None.

JUSTICE/LEAA—008

System name: Civil Rights Investigative System.

System location: Law Enforcement Assistance Administrative; 633 Indiana Avenue NW.; Washington, D.C. 20531.

Categories of individuals covered by the system: Complaints of discrimination by individuals affected by the agency program for which the agency has compliance responsibility, grantees, subgrantees, contractors, subcontractors, employees, and applicants.

Categories of records in the system: Civil Rights Complaint Control Logs; Civil Rights Litigation Reference Files.

Authority for maintenance of the system: 42 U.S.C. 3766(c); E.O. 11246 (3 C.F.R. 173) as amended by E.O. 11375.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation of complaints and to obtain compliance with Civil Rights laws: Users of the data are State Planning Agencies, State Governors and Attorneys General, Criminal Justice Agencies, Office of Federal Contract Compliance, Equal Employment Opportunity Commission, Office of Federal Revenue Sharing, and a United States Commission on Civil Rights; Department of Health, Education, and Welfare; States Civil Rights Offices; and Law Enforcement Assistance Administration researchers for purposes of evaluation technical assistance and training.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders and on index cards.

Retrievability: Information is retrieved by name of respondent and complainants.

Safeguards: Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

Retention and disposal: Complaint control logs are destroyed upon completion of action on the inquiry or complaint. Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

System manager(s) and address: Office of Civil Rights Compliance; Law Enforcement Assistance Administration; 633 Indiana Avenue NW.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record containing civil rights investigatory material shall be made in writing with the envelope and letter clearly marked "Privacy Access Request" to the Civil Rights System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The information contained in this system was received from individual complainants, witnesses, grant files, respondents, official State and Federal records.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF-015

System name: EEO (Equal Employment Opportunity) Volunteer Representative Roster.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Department of Justice who have volunteered to serve as EEO representatives.

Categories of records in the system: The roster provides the representative's name, position, title, organization, office address and telephone number.

Authority for maintenance of the system: The roster was established and is maintained pursuant to the following authorities: 5 CFR Part 713, 28 CFR 42.2(a), and Department of Justice Order 1713.5 (October 30, 1973).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The roster is used by Department personnel and applicants for Department jobs who have filed or contemplate filing discrimination complaints based on race, color, religion, sex, national origin, age, or physical limitation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of person privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information

on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Information from the roster is retrieved by name.

Safeguards: Access to the roster is limited to those persons whose official duties require such access and to Justice Department employees and applicants for employment with the Department who have filed or contemplate filing discrimination complaints.

Retention and disposal: Information contained in the roster is retained for the duration of an individual's services as a volunteer EEO representative.

System manager(s) and address: Director Equal Opportunity Programs Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information in the file is voluntarily provided by employees who wish to serve as volunteer EEO representatives.

Systems exempted from certain provisions of the act: None.

JUSTICE/PRC—001

System name: Docket, Scheduling and Control.

System location: Records are maintained at each of the Regional Offices for inmates incarcerated in and persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addressed: United States Parole Commission, Scott Plaza II, Industrial Highway, 6th Floor, Philadelphia, Pa. 19113; United States Parole Commission, 3500 Greenbriar Parkway, Building 300, Atlantic, Ga. 30331; United States Parole Commission, 320 First Street, Washington, D.C. 20537, ATTN: National Appeals Board, United States Parole Commission, KCI Bank Building, 8800 Northwestern 112th Street, Kansas City, Mo. 64153. United States Parole Commission, 3883 Turtle Creek Boulevard, Suite I, Dallas, Tex. 75219. United States Parole Commission, 330 Primrose Drive, 5th Floor Burlingame, Calif. 94010.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General who have become eligible for parole. Former inmates includes those presently under supervision as parolees or mandatory releases and those against who a revocation warant has been issued.

Categories of records in the system: (a) Docket sheets—Each region and the National Appeals Board in Washington maintain a cumulative series of docket sheets in time sequence showing Commission action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The appeal docket includes the date and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. (b) Hearing schedules—When inmates become eligible for parole through operation of law, their names appear on an eligibility list prepared by the Bureau of Prisions, for initial parole hearings. Inmates denied parole are "continued" by the Commission to future dates for review hearings or records reviews. There is a legal requirement for record reviews of certain inmates at the one-third point of their sentences. Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for panels of examiners to process when they visit the various institutions or hold 'local' hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The dockets provide the basis of answering basic inquiries, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prision staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal users—Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External users—As noted above, on occasion employees of Federal, State and local enforcement, correctional, prosecutive, or other agencies, and courts may have access to this information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communications from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape, disk, or microfiche using ADP technology, is in the beginning stages.

Retrievability: Name, register number, date, institution, Commission action.

Safeguards: Copies of dockets and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and bureau employees on a "need to know" basis. Information therefrom may be given outside the Department as indicated in the "Routine Uses." If so, a letter will be written covering the item disclosed, date, and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

Retention and disposal: Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded.

System manager(s) and address: Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room 342; Washington, D.C. 20537.

Notification procedure: Address inquiries to Regional Director at appropriate location. For general inquiries, address system manager. The Attorney General has exempted this system from compliance with the provisions of subsection (d), under the provisions of subsection (j).

Record source categories: 1) Bureau of Prisons files; 2) Parole Commission and Bureau of Prison's employees; 3) Court Records, 4) Parole Commission inmate files.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC—002

System name: Freedom of Information Act Record System.

System location: Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, ATTN: Executive Assistant to Chairman, or to the appropriate Regional Office.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

Categories of records in the system: (1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552, and appeals from denials of data; (2) Final orders of Commission following all parole rescission and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act reading room at Commission headquarters with names and register numbers removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

Authority for maintenance of the system: 5 U.S.C 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used: (a) to maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act 5 U.S.C. 552; and make final orders available in a reading room pursuant to 5 U.S.C. 552; (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act if needed for processing contested denials of release of data; (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number. Final orders in the reading room are indexed by type, and within each type the source (Region or National Appeals Board).

Safeguards: Information is stored in file cabinets in rooms supervised by day and locked at night and are made available to Commission personnel and other Department of Justice employees on a "need to know" basis. Each requestor may see his own file. The public may use the reading room.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: General Counsel, United States Parole Commission. 320 First Street NW., Washington, D.C. 20537.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: (1) Inmates and persons on supervision; (2) Department of Justice employees.

Systems exempted from certain provisions of the act: None.

Inmate and Supervision Files, JUSTICE/PRC-003: Published at 43 FR 35404 on August 9, 1978. The U.S. Parole Commission proposed a new routine use. Comments are due by September 8, 1978.

JUSTICE/PRC-003

System name: Inmate and Supervision Files.

System location: Records are maintained at each of the Commission's Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarters Office located at 320 First Street, Washington, D.C. 20537 when used by the National Appeals Board or other Headquarter's personnel. Prior to the first parole hearing, the inmate's file is maintained at the institution at which he is incarcerated. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission, Scott Plaza II, Industrial Highway, Sixth Floor, Philadelphia, Pa. 19113. U.S. Parole Commission, 3500 Greenbriar Parkway, Building 0300, Atlanta, Ga. 30331. U.S. Parole Commission, KCI Bank Building, 8800 112th Street NW., Kansas City, Mo. 64153. U.S. Parole Commission, 3883 Turtle Creek Boulevard, Suite I, Dallas, Tex. 75219. U.S. Parole Commission, 330 Primrose Drive, Fifth Floor, Burlingame, Calif. 94010.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releasees.

Categories of records in the system: 1. Computation of sentence and supportive documentation.

2. Correspondence concerning pending charges, and wanted status, including warrants.

3. Requests from other Federal and non-Federal law enforcement agencies for notification prior to release.

4. Records of the allowance, forfeiture, withholding and restoration of good time.

5. Information concerning present offense, prior criminal background, sentence, and parole from the U.S. Attorneys, the Federal Courts, and Federal prosecuting agencies.

6. Identification Data, physical description, photograph and fingerprints.

7. Order of designation of institution of original commitment.

8. Records and reports of work and housing assignments.

9. Program selection, assignment and performance adjustment/progress reports.

10. Conduct records.

11. Social background.

12. Educational data.

13. Physical and mental health data.

14. Parole Commission applications, appeal documentation, orders actions, examiner's summaries, transcripts or tapes of hearings, guideline evaluation documents, parole or mandatory release certificates, statements of third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.

15. Correspondence regarding release planning, adjustment and violations.

16. Transfer orders.

17. Mail and visit records.

18. Personal property records.

19. Safety reports and rules.

20. Release processing forms and certificates.

21. Interview request forms from inmates.

22. General correspondence.

23. Copies of inmate court petitions and other court documents.

24. Reports of probation officers, Commission correspondence with former inmates and others, and Commission orders and memoranda dealing with supervision and conditions of parole or mandatory release.

25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The file is the "working tool" used by Parole Commission examiners to frame the ques-

tions at the inmates initial hearing. After that hearing, it is placed in the appropriate regional office where it provides the principle information source for decisions necessary during the pre-release stage (before parole), the review hearing or record review, and the post release stage (when supervision takes place). It is sent temporarily to Commission Headquarters when appeals come before the National Appeals Board or when needed by counsel and others on the Headquarters Staff. It is used by employees at all levels including Commission members to provide the information for decision making in every area of Commission responsibility. Files of released inmates are used to make statistical studies of subjects related to parole and revocation.

(b) The system is used to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties.

(c) The system is used to provide information source for disclosure of information that are matters solely of general public record, such as offense, sentence data, release date, etc. Names are not disclosed when information is so provided.

(d) The system is used to provide informational source for responding to inquiries from Federal inmates involved, their families or representatives, or Congressional inquiries.

(e) Internal Users—Employees of the Department of Justice who have a need to know information in the performance of their duties.

(f) External Users—U.S. Probation Officers, who supervise parolees and mandatory releasees and U.S. District Court judges on rare occasions when Commission action is attacked in litigation. Very rarely, to enforcement authorities outside of the Department of Justice.

(g) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(h) A record from the this system may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to current or former inmates under supervision.

(i) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(j) A record from this system may be disclosed to a person or to persons who may be exposed to harm through contact with a particular parolee or mandatory releasee if it is deemed by a Commissioner to be reasonably necessary to give notice that such danger exists.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 USC 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 USC 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on papers fastened into file jackets and a minimal amount is on cards stored in card file drawers. Active files and card indices are located in each region; inactive files are at the Washington Federal Records Center and the card index to inactive files is at Board Headquarters in Washington. An experimental program to store such data on tape, disk or microfiche using ADP technology is in the beginning stages.

Retrievability: All data is indexed by name and/or register number. When ADP technology is used in the future, such data may be available by Social Security Number, FBI identification number, or other indices.

Safeguards: Within the Department of Justice, routine use is made available to employees only on a "need to know" basis. Files are stored in rooms which are supervised by day and locked at night. Data from files for recipients outside of the Parole Commission and Bureau of Prisons is conveyed by letter so that a record exists. When files are sent they are covered by a letter with a follow-up on return of the file. Such disclosure is infrequent, and is within the Federal enforcement-prosecution-judicial area only.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

System manager(s) and address: Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room 342, Washington, D.C. 20537.

Notification procedure: Address inquiries to Regional Director at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

Record source categories: 1. Individual inmate; 2. Federal law enforcement agencies and personnel; 3. State and Federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports, and findings of institution supervisors, counselors, board and committees, Parole Commission examiners, Parole Commission Members; 10 Federal Court records; 11. U.S. Bureau of Prisons personnel and records.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 55a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC—004

System name: Labor and Pension Case, Legal File and General Correspondence System.

System location: All Labor and Pension cases, and Legal file and some general correspondence material is located at: Commission Headquarters, 320 First Street NW., Washington, D.C. 20537. The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervision System.

Categories of individuals covered by the system: All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all Congressmen inquiring about constituents.

Categories of records in the system: The Commission processes applications of persons convicted of certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 of by Employee Benefit Plans under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personnel nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and convictions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain personnel and criminal history type data regarding inmates, and internal communications among attorneys, Members and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning parole revocation and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

Authority for maintenance of the system: These files are maintained pursuant to 18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, 28 CFR Parts 2 and 4, 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Parole Commission material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigation position of the Commission. The general correspondence is used by the Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation in the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All data is on documents or other papers in bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional director. Files are in file cabinets.

Retrievability: Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

Safeguards: Material is available only to Commission employees on a "need to know" basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, Federal enforcement agencies or the Congress. Disclosure to Congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

Retention and disposal: Records are maintained for 10 years and are shredded or destroyed electronically thereafter.

System manager(s) and address: Herman Levy; Attorney/Management Analyst, United States Parole Commission, 320 First Street NW., Room 342, Washington, D.C. 20537.

Record source categories: a. Applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected with labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquiries of Commission; g. Commission Members and employees responding to inquiries, corresponding with others, preparing speeches, policy statements and other means of contact with other branches of the Federal Government, State, and local governments, and the public.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (c) (2) and (3), (4) (G) and (H), (c) (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC—005

System name: Office Operation and Personnel System.

System location: At each regional office as indicated in the "Inmate and Supervision File System Report" and at the U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

Categories of individuals covered by the system: Present and former Commission Members and employees of the U.S. Parole Commission.

Categories of records in the system: Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a Government office efficiently.

Authority for maintenance of the system: All statutory sections, CFR sections, and CSC, GSA, and OMB directives establishing procedures for government personnel, financial, and operational functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Day-to-day activity involving personnel, financial. Procurement, maintenance, recordkeeping, mail delivery, and management functions.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in paper files or on computer printouts. They are stored in operations areas of offices.

Retrievability: Data of a personal nature is in employee personnel files, used by Commission personnel on a "need to know" basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a "need to know" basis.

Safeguards: Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

Retention and disposal: Subject to applicable CSC, OMB, DOJ, and GSA regulations.

System manager(s) and address: Executive Assistant to the Chairman, U.S. Parole Commission, 320 First Street NW., room 354B, Washington, D.C. 20537.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Parole Commission employees, Office of Management and Finance. All other contributing Government agencies.

Systems exempted from certain provisions of the act: None.

JUSTICE/PRC—006

System name: Statistical, Educational and Developmental System.

V 4 3 / 1 8 9 SE 28 78

System location: Parole Commission Headquarters, 320 First Street, 3d Floor, Washington, D.C. 20537.

Categories of individuals covered by the system: Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releasees.

Categories of records in the system: All records as described in the Workload Record, Decision Result, and Annual Report System plus data on additional input forms known as Revocation Data Sheets, Parole Decision Information Sheet, certain follow-up forms and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected from the above category of individual. This data is either organized and processed by hand or is input into a computer through punchcard, and has been used to provide the following one-time reports in pamphlet-text form: a) Administrative Review of Parole Selection and Revocation decisions; b) Parole Decisionmaking, a Salient Factor Score; c) Effect of Representation at Parole Hearings; d) Parole Decisionmaking—Structuring Discretion; e) Time Served and Release Performance—A Federal Sample and certain additional reports, all available in the public reading room. The data base collected as described in this and the preceding system will be used to prepare studies on similar or related subjects in the future. It has recently been used to develop revocation guidelines similar to parole guidelines. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Internal—Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodology to select persons to be released from prison who will be less likely to recidivate.

b. External—Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is in input forms, IBM card decks and on computer tape. It is stored as described in the preceding system description. Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves, and in the public reading room.

Retrievability: Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or tape. This material is used only by authorized parole board research personnel on a "need to know" basis and is data processed only by authorized Bureau of Prisons personnel. Material is not retrieved in identifiable form except that computer produced "hard copy" may be used as a temporary expedient to prepare a report. The final pamphlet text reports and material resulting from studies are used by Commission personnel for internal purposes and the public externally. None of this material contains any reference to an individual. One source form, the Salient Factor Worksheet, which contains information retrievable as to one individual is made available to that individual if requested under the Freedom of Information Act.

Safeguards: See "Safeguards" of preceding system regarding input forms, IBM cards or tape. Reports in pamphlet form are not safeguarded.

Retention and disposal: See "Retention and Disposal" of preceding system. The studies in pamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

System manager(s) and address: Research Director, U.S. Parole Commission, 320 First Street NW., Room 366, Washington, D.C. 20537.

Record source categories: a. Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

JUSTICE/PRC—007

System name: Workload Record, Decision Result, and Annual Report System.

System location: U.S. Parole Commission Headquarters, 320 First Street, 3d Floor, Washington, D.C. 20537.

Categories of individuals covered by the system: Any inmate and parolee or mandatory releasee who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, or prior year).

Categories of records in the system: Certain original input forms indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in question. Types of decisions covered in order of the form numbers above are after hearing or record review, after recommendation, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. The data is input into a computer through punchcards and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) A quarterly report on decision results indicating, among other statistics, number and type of decisions within, above, and below guidelines broken out by examiners making the decisions; (c) Together with hand posted data on other items of statistical value, this data is being used to create the Annual Report of the Commission.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines themselves.

(b) These records are used to prepare an annual report to the Attorney General, and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a Federal, State, or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the

requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper input forms are stored in folders only until information from them is punched into cards. Data is stored principally on punch cards and plans are being developed to convert it to tape storage. Monthly and quarterly reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

Retrievability: Data in this system can be retrived by inmate's name and register number from the original input forms, IBM card decks, and planned tape substitute for card decks. It is only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability in the guideline section of the quarterly report. Except for this, there is no output from this system now produced in which any information is identifiable by the name or register number of any person. Such identification exists in the input and storage data area.

Safeguards: Data on forms and IBM cards and/or tape retrievable by individual is stored in the Research Sections Office in cabinets. Research personnel (all selected Commission employees) supervise this data by day and use it on a "need to know" basis. The room where it is stored is locked outside of office hours, and the entire Headquarters building is guarded and secured. Monthly and quarterly reports are for use of the Chairman, his Executive Assistant and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of the quarterly reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, locked at night, and are in a secured building. The Annual Report contains no information identifiable by individual and is a public document.

Retention and disposal: Completed input forms—1. Until data is keypunched into IBM cards—usually 1 month after forms are completed. They are then destroyed; 2. IBM card decks or planned tape substitute—10 years after preparation, cards will be destroyed—tape degaussed; 3. Printouts of annual and quarterly reports—10 years; 4. Annual Reports—Some copies retained perpetually in Archives.

System manager(s) and address: Executive Assistant to the Chairman, Room 354-B, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

Record source categories: (a) Commission inmate files; (b) Docket sheets; (c) Commission notices of action, orders and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (c)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA—005

System name: Civil Case Files.

System location: Ninety-four United States Attorneys' Offices (See attached Appendix).

Categories of individuals covered by the system: (a) Individuals beings investigated in anticipation of Civil suits; (b) Individuals involved in Civil suits; (c) Defense Counsel(s); (d) Information sources; (e) Individuals relevant to the development of Civil suits.

Categories of records in the system: (a) All Civil Cases Files (USA-34); (b) Docket Cards (USA-116); (c) Civil Debtor Cards—(USA-117b); (d) Civil Case Activity Card (USA-164); (e) Civil Debtor Activity Card (USA-166); (f) 3 X 5 Index Cards; (g) Caseload Printouts; (h) General Correspondence re: Civil Cases; (i) Reading Files re: Civil Cases; (j) Information Source File; (k) Attorney Assignment sheets; (l) Telephone records; (m) Miscellaneous Investigative files; (n) Lands Condemnation files (Appraisal and Negotiator Reports); (o) Tax Case Resource File; (p) Material in Civil File related to Criminal cases arising out of Civil Proceedings; (q) Search Warrants; (r) Files uniques to District; (s) Civil Miscellaneous Correspondence File.

Authority for maintenance of the system: These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law, civil, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local or foreign agency charged with the responsibility for investigating, defending or pursuing such violation, civil claim or remedy, or charged with enforcing, defending or implementing such law;

(b) in the course of investigating the potential or actual violation or civil liability of any government action or law, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such civil action, a record may be disseminated to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation or civil action trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency;

(c) a record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings;

(f) a record relating to a case or matter that has been referred by an agency for investigation, civil action, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) a record relating to a case or matter may be disseminating to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(h) a record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency or to assist in general civil matters or cases;

(i) a record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance as is required, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(j) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of types or courses of action or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(k) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in general crime prevention, the pursuit of general civil, regulatory or admin-

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istrative civil actions or to provide investigative leads to such country, or assist in the location and/or returning of witnesses and other evidence;

(l) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

(m) a record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of this record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability: Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of cathode-ray tube terminals (CRT's).

Safeguards: Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address: System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached appendix.)

Notification procedure: Address inquiries to the System Manager for the judicial district in which the case or matter is pending. (See attached appendix.)

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to examination shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager. (See attached appendix.)

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552(a) (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system include, but are not limited to investigative reports of Federal, State, and local law enforcement, civil litigation, regulatory and administrative agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of deposition and court proceedings; data, memoranda and reports from the court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

PART III

New systems of records established after publication of the 1977 Compilation are listed below. They are reprinted in full text following the listing.

JUSTICE/CIV-004, Swine Flu Administrative Claim File System

JUSTICE/CRS-001, Management Information System (MIS)

JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records

JUSTICE/INS-002, Application and Petition Tracking System (APTS)

JUSTICE/INS-003, Position Accounting/Control System (PACS)

Swine Flu Administrative Claim File System, JUSTICE/CIV-004: Published at 43 FR 38120, on August 25, 1978. If no comments are received by October 25, 1978 the new system will be adopted.

JUSTICE/CIV-004

System name: Swine Flu Admininstrative Claim File System.

System location: Civil Division, U.S. Department of Justice 521 12th Street NW., No. 804, Washington, D.C. 20530.

Categories of individuals covered by the system: Any and all parties making administrative claims for damages resulting from the administration of the swine flu vaccine, whose claims have been referred by the Department of Health, Education, and Welfare for handling by the Civil Division, will have identifying data contained in this system.

Categories of records in the system: (1) The main record of the system is the administrative claim file which is retained on each claim under the jurisdiction of the Civil Division and constitutes the official record of the Department of Justice. All record material relating to a claim is retained in the file. Each claim is assigned a number in sequential order from the date of the filing. (2) Alphabetical and numerical indices are utilized as a means of access to the proper file by the cross-referencing of the names of all claimants with the file number. Index cards are used in these indices. (3) A Docket Card Index is maintained on each claim in order to follow the progress of all swine flu claims and to obtain statistical data for periodic and fiscal reports. However, all information contained on the cards has been taken from the record material contained in the official file.

Authority for maintenance of the system: General authority to maintain the system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101. The particular system was established by authority of 28 CFR 0.77(f) which authority was delegated to the Civil Division pursuant to a memorandum from the Deputy Attorney General, dated July 17, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Any record pertaining to any swine flu administrative claim in the Civil Division may be disseminated to any other component of the Department of Justice, including the FBI and the United States Attorneys' Offices, for use in connection with the consideration of that claim or matter or any other claim, case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) a record relating to a claim or

matter that has been referred by the Department of Health, Education, and Welfare for investigation, or that involves a claim or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a claim or matter may be disseminated to such agency to notify the agency of the status of the claim or matter or any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the claim or matter; (2) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than that necessary to identify the matter and is not an unwarranted invasion of privacy or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (3) in any claim in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (4) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (5) a record relating to a claim or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (6) a record relating to a claim or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (7) a record relating to a claim or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the claim or matter, or for formal or informal discovery proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information of Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) The claim files utilize standard file jackets and are retained in standard file cabinets; (2) the alphabetical and numerical index cards, as well as the docket cards, are retained in standard file cabinets.

Retrievability: The files and docket cards must be retrieved by file number. The file number can be ascertained from the alphabetical index if the name of the administrative claimant is known.

Safeguards: Information contained in the system is unclassified. No personalized information about a claim or claimant will be given to anyone other than the claimant, his attorney, or authorized representative. Requests for such information will not be given by telephone unless the caller can provide sufficient information to identify himself as one authorized to receive personalized information. Nonpersonal or generalized information will be given to any requester. Information in the system is regarded as sensitive pursuant to Department rules and procedures. Department rules and procedures are in force to insure that only Departmental attorneys and their authorized agents have access to the information.

Retention and disposal: When a claim file is closed by the legal section, it is sent to the Federal Records Center for retention in accordance with the authorized Record Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period has passed, the file is destroyed. However, the index and docket cards are not purged and are retained for as long as practicable.

System manager(s) and address: Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure: Address inquiries to Chief, Torts Section, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Record access procedures: A request for information concerning the swine flu administrative claims of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Act Request". The request should include the file number and/or names of any claimants known to the requester. The requester should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above. Requests may also be made by telephone. In such cases the caller will be referred to the attorney of record. The attorney, in turn, may require an official written request.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: All swine flu claimants are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put onto docket and index cards.

Systems exempted from certain provisions of the act: None.

Management Information System (MIS) JUSTICE/CRS-001: Published at 43 FR 33351 on July 31, 1978. If no comments are received by September 29, 1978, the new system will be adopted.

JUSTICE/CRS-001

System name: Management Information System.

System location: Community Relations Service, U.S. Department of Justice, 550 11th Street NW., Washington, D.C. 20530.

Categories of individuals covered by the system: Conciliators and Mediators of the Community Relations Service of the U.S. Department of Justice.

Categories of records in the system: The file contains the names of CRS employees, their case assignments, and the time allocated to each assignment. In addition, information reflecting the current status and handling of the case is included within the system.

Authority for maintenance of the system: The file is established to effect the purposes of 42 U.S.C. 2000g-1, 2000g-3 (1970).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used by CRS personnel as a basis for preparing daily, weekly, and monthly activity reports for internal management. It is also used by the Administrative Office to prepare time efficiency analyses on CRS personnel. In addition, the file will be consulted in order to prepare budget requests and reports to the Associate Attorney General, the Attorney General, and to Congress.

Release of Information to the News Media and the Public: Information from the system of records may be made available to the news media and the public, unless such release would violate 42 U.S.C. 2000g-2, or would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress: Information contained in the system, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record unless such release would violate 42 U.S.C. 2000g-2.

Release of Information to the National Archives and Records Service: A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906, unless such disclosure would violate 42 U.S.C. 2000g-2.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records are maintained on magnetic disk at the Department of Justice Data Management Service, and on tape at the Community Relations Service, 550 11th Street NW., Washington, D.C.

Retrievability: Information is retrieved by a variety of key words including, but not limited to, the name of the employee, geographic location, and subject matter of the record.

Safeguards: Information maintained in the system is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only individuals specifically authorized by the Director of CRS will have access to the computer through a single terminal located in an office occupied during the day and locked at night. Access to the information in the system will be limited to those CRS employees whose official duties require such information.

Retention and disposal: Records classified by the subject's name are retained until 60 days after the record subject leaves the employment of the Community Relations Service and are then deleted from the system.

System manager(s) and address: Deputy Director, Community Relations Service, U.S. Department of Justice, Todd Building, 550 11th Street NW., Washington, D.C. 20530.

Notification procedure: Address inquiries to Office of Chief Counsel, Community Relations Service, U.S. Department of Justice, 550 11th Street NW., Washington, D.C. 20530.

Record access procedures: In all cases, requests for access to a record shall be in writing, by mail or in person. If request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request." The requester shall include a description of the record requested and, if known, the case file number(s). To identify a record relating to an individual, the requester must provide the individual's full name, date and place of birth, employee identification number, and date of employment and duty assignment station(s) while employed by the Community Relations Service.

Contesting record procedures: Any individual desiring to contest or amend information maintained in the system should direct his or her request to the Deputy Director, Community Relations Service, U.S. Department of Justice, Todd Building, 550 11th Street NW., Washington, D.C. 20530. The request should state clearly what information is being contested, the reason for contesting, and the proposed amendment to the information.

Record source categories: The records are prepared by the conciliator/mediator or, in exceptional cases, by his or her supervisor.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM-025

System name: Tax Disclosure Index File and Associated Records.

System location: U.S. Department of Justice, Criminal Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Taxpayers about whom the Criminal Division has requested and/or obtained disclosure of tax material from the Internal Revenue Service pursuant to 26 U.S.C. 6103.

Categories of records in the system: The system contains all requests for tax material, any such material provided by the Internal Revenue Service or duplicated or extracted by the Criminal Division from such material, and related records necessary to the application for and/or safeguarding of such material received on or after January 1, 1977.

Authority for maintenance of the system: This system is established and maintained pursuant to 26 U.S.C. 6103(p)(4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record (A) to any officer or employee of the Criminal Division who is personally and directly engaged in preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any matter involving tax administration; and (B) to any person outside of the Criminal Division where such dissemination is or reasonably appears to be in furtherance of proper preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any manner involving tax administration. Such dissemination shall be permittted to the extent authorized under 26 U.S.C. 6103(h), 26 U.S.C. 6103(i), 26 CFR 404.6103(h)(2)-1, 26 CFR 404.1603(i)-(1), and Rule 6(e), FR Crim. P. The above mentioned routine uses include the following:

(1) dissemination to an attorney of the Criminal Division assigned responsibility with respect to an above-mentioned proceeding or an investigation which may result in such proceeding;

(2) dissemination to an officer or employee of the Department of Justice with supervisory or clerical responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(3) dissemination to an officer or employee of another Federal agency (as defined at 5 U.S.C. 551(1)) with investigative, supervisory, or clerical responsibility working under the direction and control of such attorneys of the Department of Justice as are assigned responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(4) dissemination to a taxpayer to whom such record relates, or to such taxpayer's legal representative, to properly interview, consult, depose, or interrogate or otherwise obtain information relevant to an above-mentioned proceeding, or an investigation which may result in such proceeding, from such taxpayer or his legal representative;

(5) dissemination during the course of an investigation which may result in an above-mentioned proceeding to any witness who may be called on to give evidence in such a proceeding to properly interview, consult, depose, or interrogate or otherwise obtain relevant information from such potential witness;

(6) dissemination to any person having special knowledge or technical skills (such as handwriting analysis, photographic development, sound recording enhancement, or voice identification) to properly obtain the services of such person in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(7) dissemination to an officer or employee of the Department of Justice, another Federal agency (as defined at 5 U.S.C. 551(1)), or a foreign government to properly utilize international contacts and judicial assistance in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(8) dissemination to an officer or employee of the Internal Revenue Service to obtain additional disclosure pursuant to 26 U.S.C. 6103 in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(9) dissemination to a Federal grand jury;

(10) dissemination to an officer or employee of the Department of Justice to obtain a court order to compel testimony pursuant to 18 U.S.C. 6002 and 6003 in any above-mentioned proceeding, or an investigation which may result in such proceeding;

(11) dissemination to any party to an above-mentioned proceeding, to properly conduct negotiations concerning, or obtain authorization for, disposition of the proceeding, in whole or in part, or to obtain stipulations of fact in connection with the proceeding;

(12) dissemintion to a judicial or administrative body (such as the United States Parole Commission) in an above-mentioned proceeding or in preparation therefore, or in any post-conviction proceeding resulting from an above-mentioned proceeding;

(13) dissemination to a court reporter in an above-mentioned proceeding, or as required, in preparation therefore.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards and in file jackets.

Retrievability: A record is retrieved by name of the taxpayer in indices maintained in individual sections of the Criminal Division.

Safeguards: Records are safeguarded om accordance with Department of Justice rules and procedures. Buildings in which records are located are under security guard, and access to premises is by official identification. Records are stored in spaces which are locked outside of normal office hours and in safe type filing cabinets which are locked when not being accessed. Access to such cabinets is limited to Division personnel whose duties and responsibilities require such access and to whom access may be permitted. A record of access is kept which indicates the name of each person who gains access to material from the secured area and the date and time of each access.

Retention and disposal: Records not retained are returned to the Internal Revenue Service or rendered undisclosable in accordance with 26 U.S.C. 6103(p)(4)(f)(ii) Currently there are no provisions for disposal of records contained in this system that are not returned to the Internal Revenue Service or are otherwise rendered undisclosable.

System manager(s) and address: Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

Notification procedure: The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). Inquiry concerning the system should be addressed to the system manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Taxpayers desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Sources of information contained in this system are the Internal Revenue Service, Federal investigative agencies, Federal prosecutors, and personnel of the Criminal Division, Department of Justice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), and (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/INS-002

System name: Application/Petition Tracking System (APTS).

System location: District offices of the Immigration and Naturalization Service, as detailed in JUSTICE/INS—001.

Categories of individuals covered by the system: Individuals who have filed applications or petitions for benefits under the Immigration and Nationality Act, as amended.

Categories of records in the system: Name of applicant or petitioner, date and country of birth, alien identification number, form number of application or petition, date filed or received in INS office, control number, status, and location of relating file or records.

Authority for maintenance of the system: Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system will be used by employees of the Immigration and Naturalization Service to determine the status of the pending application or petition and to locate relating files and other records promptly. This system of records is used to serve the public by providing data for responses, when authorized, to inquiries, complaints, and so forth.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system of records is maintained on magnetic disk.

Retrievability: Records are retrieved by the name or alien identification number of the applicant or petitioner, or the control number of the application or petition. Access to the system is restricted to employees of the Immigration and Naturalization Service responsible for the control, processing, and adjudication of petitions and applications. Method of access is by keyboard terminals located in areas restricted to authorized INS personnel.

Safeguards: This system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures.

Retention and disposal: Records will be deleted from the automated data base ninety (90) days after final decision on the application or petition.

System manager(s) and address: Associate Commissioner, Management, Central Office, Washington, D.C.; District Directors in district offices in the United States where this system of records is located.

Notification procedure: Inquiries should be addressed to the District Director of the Immigration and Naturalization Service office where the application or petition was filed. If the filing location is not known, inquiries may be addressed to the Associate Commissioner, Management, Central Office, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536.

Record access procedures: In all cases, requests for access to a record from this system of records shall be in writing or in person. If request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and, if known, the relating file number. To identify a record relating to an individual, the requester should provide the individual's full name; date and place of birth; alien, citizen, or employee identification number; and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

Contesting record procedures: Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office nearest his residence or the office in which he believes a record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: All information is entered from the original application or petition forms completed by the individuals, with the addition of the date of filing or receipt by INS, a control number assigned at the time of receipt, section assignments, and status information updated by each division or unit handling the pending matter.

Systems exempted from certain provisions of the act: None.

Position Accounting/Control System (PACS), JUSTICE/INS-003: Published at 43 FR 7061 on February 17, 1978. No formal, final adoption notice was issued. Therefore, notice is hereby given that no comments were received and the new system is now adopted.

JUSTICE/INS-003

System name: Position Accounting/Control System (PACS).

System location: Central Office, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C.

Categories of individuals covered by the system: Employees of the Immigration and Naturalization Service.

Categories of records in the system: A. Position data: position number; category code; organization code; position title; pay plan; series; grade; description; accounting classification code; active/inactive code; fund control number; amount authorized; hours authorized; new program element code; input control number; input transaction code; date position created or vacated; SF-52 date; announcement date and number; Entered on Duty (EOD) date; projected vacant date; date last classified; date Position Management Committe (PMC) approved; date position last audited or reviewed; date of transaction; position appeal date, if any; union covereage code; appealed to code; position freeze code; competitive level code; remarks code.

B. Payroll data: Social Security Account Number (SSAN); pay period number; payroll subobject code; last pay period amount and hours; cumulative amount and hours; accrual amount and hours; prior month YTD amount and hours; payroll current/prior/manual (C/P/M) code.

C. Personnel data: position number; organization code; position title; payplan; series; grade; description; accounting classification code; incumbent's name, Social Security Account Number, next

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Quality Step Incrrease (QSI) date; nature of action; transaction date; FLSA exemption code; and effective date.

Authority for maintenance of the system: Section 103 of the Immigration and Nationality Act, as amended (8U.S.C. 1103); Delegation of Authority to Departments (5 U.S.C. 301); Position Management Systems and Employment Ceilings, Bureau of the Budget Circular No. A-64 (June 28, 1965; January 2, 1970).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system is used for reports to INS managers of position authorization and cost data by geographic area, organizational unit, program activity, and budget allocation, including the composition of the INS work force (on-board strength and vacancies); status of each vacancy; turnover and occupany rate statistics; aggregate position data by grade level, organization unit, program activity, type of position, etc.; actual costs for each position and projected position costs for the next fiscal year; and authorization of positions through funds control and periodic review mechanisms.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records are maintained on magnetic disk and tape at the Department of Justice Data Management Service. All other records re maintained as paper documents at the Central Office, 425 I Street NW., Washington, D.C. and four regional personnel offices.

Retrievability: Records are retrieved by position number, organization code, accounting classification code, or program element code.

Access controls: Access to the system is restricted to employees of the Immigration and Naturalization Service responsible for position accounting and management. Biweekly reports are distributed only to authorized INS personnel. Remote terminals for additional access are located in areas restricted to authorized INS personnel.

Safeguards: The data in the automated system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. Paper forms are stored in metal file cabinets which are locked outside of normal duty hours.

Retention and disposal: records are deleted from the automated data base within 60 days after termination of the position authorization. Employee personnel information in the automated data base is deleted when the position becomes vacant. The data base is updated biweekly to maintain accurate, current information on position status and characteristics.

System manager: Associate Commissioner, Management.

Notification procedure: Inquiries should be addressed to the Associate Commissioner, Management, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536.

Record access procedures: In all cases, requests for access to a record shall be in writing, by mail or in person. If request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the subject matter and, if known, the relating file number. To identify a record relating to an individual, requester should provide the individual's full name, date and place of birth, employee identification number, and, if known, position number. The requester shall also provide a return address for transmitting the information.

Contesting record procedures: Any individual desiring to contest or amend information maintained in the system should direct his request to the Associate Commissioner, Management. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: Position management data is obtained from official records in INS personnel offices. Payroll data is obtained from the computerized Department of Justice Payroll System (JUSTICE/OMF—003). Personnel management data is obtained from the Department of Justice Personnel System (JUNIPER).

Systems exempted from certain provisions of the act: None.

PART IV

Systems of records which the Department now proposes to amend are listed below. They are reprinted in full text following the listing. Interested persons are invited to submit comments to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, Washington, D.C. 20530. All comments must be received by October 30, 1978. If no comments are received within thirty days, the amendments will be adopted as set forth. No oral hearings are contemplated.

JUSTICE/ATR-008, Freedom of Information/Privacy Requester/Subject Index File
JUSTICE/CRT-004, Registry of Names of Interested Persons Desiring Notification of Submissions Under Section 5 of the Voting Rights Act
JUSTICE/CRT-007, Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission
JUSTICE/CRT-008, Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice
JUSTICE/CRT-009, Civil Rights Division Employees Travel Reporting
JUSTICE/DEA-005, Controlled Substances Act Registration Records
JUSTICE/DEA-007, International Intelligence Data Base
JUSTICE/DEA-010, Office of Internal Security Records
JUSTICE/DEA-027, Drug Enforcement Administration Employee Profile System
JUSTICE/DEA-999, Drug Enforcement Administration Appendix 1, List of Record Location Addresses
JUSTICE/FBI-003, Bureau Mailing Lists
JUSTICE/FBI-006, Electronic Surveillance (Elsur Indices)
JUSTICE/OMF-002, Controlled Substances Act Nonpublic Records
JUSTICE/OMF-003, Department of Justice Payroll System
JUSTICE/OMF-007, Legal and General Administration Accounting System
JUSTICE/OMF-008, Security Clearance Information System (SCIS)
JUSTICE/OMF-009, Justice Data Management Service Center Utilization Report
JUSTICE/OMF-010, Document Information System (DIS)
JUSTICE/OMF-011, Justice Data Management Service Center Tape Library System
JUSTICE/OMF-016, Inter-Divisional Information System (IDIS) (A Non-operational, Deactivated System)
JUSTICE/OMF-017, Department of Justice Controlled Parking Records
JUSTICE/OPA-001, Executive Clemency Files
JUSTICE/BOP-001, Custodial and Security Record System
JUSTICE/BOP-003, Industrial Inmate Employment Record System
JUSTICE/BOP-004, Inmate Administrative Remedy Record System
JUSTICE/BOP-005, Inmate Central Records System
JUSTICE/BOP-007, Inmate Physical and Mental Health Record System
JUSTICE/BOP-008, Inmate Safety and Accident Compensation Record System
JUSTICE/BOP-009, Federal Tort Claims Act Record System
Freedom of Information/Privacy Requester/Subject Index File.

JUSTICE/ATR-008: Review indicates that information of a sensitive nature cannot be accessed by individual identifier and, therefore, there is no need to exempt this system of records from the provisions of the Privacy Act.

The entire system, amended to show that this system is not exempted from any provision of the Privacy Act, is reprinted below.

JUSTICE/ATR-008

System name: Freedom of Information/Privacy Requester/Subject Index File.

System location: U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have requested information under the Freedom of Information and Privacy Acts from files maintained by the Antitrust Division and individuals about whom material has been requested under the above acts.

Categories of records in the system: This system contains an index record of every request under the Freedom of Information and Privacy Acts made to the Antitrust Division since November, 1974, including all request letters and our responses.

Authority for maintenance of the system: Authority for maintaining this system exists under 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This index is maintained for ready reference by Division personnel for the identification of the subject matter of and persons originating Freedom of Information and Privacy Act requests. Such reference is utilized in aid of access to files, maintained by the Freedom of Information and Privacy Unit, for purposes of reference to requests on appeal, questions concerning pending or terminated requests, and compliance with requests similar or identical to past requests.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on index cards.

Retrievability: Information in the system is retrieved by reference to the names of present and past requesters and names of individuals about whom information is requested undeer the Freedom of Information and Privacy Act.

Safeguards: Information contained in the system is unclassified. During duty hours access to this system is monitored and controlled by Antritrust Division personnel in the area where the system is maintained. The area is locked during non-duty hours.

Retention and disposal: Indefinite.

System manager(s) and address: Freedom of Information and Privacy Acts Control Officer, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures: Request for access to a record from this system should be made in writing and be clearly identified as a 'Privacy Access Request.' Included in the request should be the name of the individual having made the Freedom of Information request and/or the individual about whom the records were requested. Requesters should indicate a return address. Requests will be directed to the System Manager shown above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Source of the information maintained in the system are those records derived from the receipt and processing of Freedom of Information and Privacy Act requests.

Systems exempted from certain provisions of the act: None.

Registry of Names of Interested Persons Desiring Notification of Submissions Under Section 5 of the Voting Rights Act, JUSTICE/CRT-004: Revisions to this system of records effect a change in the system location and correction of a typographical error under the category entitled, "Routine uses of records. . . ." The text reprinted below reflects these modifications.

JUSTICE/CRT-004

System name: Registry of Names of Interested Persons Desiring Notification of Submissions under Section 5 of the Voting Rights Act.

System location: U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue, NW., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have requested that the Attorney General send them notice of submissions under Section 5 the of Voting Rights Act of 1965, 42 U.S.C. 1973c.

Categories of records in the system: The Registry contains the name, address and the telephone numbers of interested persons and, where appropriate, the area or areas with respect to which notification was requested by such persons.

Authority for maintenance of the system: 28 C.F.R. 51.13; 42 U.S.C. 1973c; 5 U.S.C. 301 and 28 U.S.C. 509, 510.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Registry is used to identify persons interested in receiving notice of Section 5 submissions and to comply with their requests. The Registry may be used to notify the persons listed therein of any proposed changes in the 'Procedures for the Administration of Section 5 of the Voting Rights Act of 1965,' 28 C.F.R. 51-1 et seq., and to solicit their comments with respect to any such proposed changes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Names are stored in a card file system.

Retrievability: Records in this system are retrievable by the names of interested persons or organizations.

Safeguards: Information in the system is safeguarded in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal: An individual or organizational name is retained in the Registry until such time as that person or organization requests that the name be deleted.

System manager(s) and address: Chief; Voting Section; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Record access procedures: This system contains no information about any individual other than as described in Category of Record above. Persons whose names appear on the Registry may have access thereto or have their names and other information pertaining to them deleted or modified upon a request of the same nature as indicated in 28 C.F.R. 51.13.

Contesting record procedures: Same as the above.

Record source categories: Sources of information in the Registry are those persons or organizations whose names appear therein by

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virtue of their having requested inclusion in the Registry pursuant to 28 C.F.R. 51.13.

Systems exempted from certain provisions of the act: None.

Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission, JUSTICE/CRT-007: Revisions to this system of records effect a change in the system location and clarify information concerning storage of the records. The latter change has been italicized for public convenience. The text reprinted below reflects these modifications.

JUSTICE/CRT-007

System name: Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission.

System location: U.S. Department of Justice; Civil Rights Division, 10th and Constitution Avenue NW.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons seeking employment or employed by a state or a political subdivision of a state who have filed charges alleging discrimination in employment with the Equal Employment Opportunity Commission (hereinafter EEOC) which have resulted in a determination by EEOC that there is probable cause to believe that such discrimination has occurred, and attempts by EEOC at conciliation have failed.

Categories of records in the system: The system may contain copies of charges filed with EEOC; copies of EEOC's "determination" letters, letters of transmittal from and to EECO, analyses or evaluations summarizing the charge and other materials in the EEOC file, internal memoranda, attorney notes, and copies of 'right to sue' letters issued by the Civil Rights Division.

Authority for maintenance of the system: The system is maintained pursuant to 44 U.S.C. 3101 and in order to accomplish the Civil Rights Division's responsibility under 28 CFR 0.50 to enforce Federal Statutes affecting civil rights including 42 U.S.C. 2000e-5(f) and 2000e-6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used by employees and officials of the Department to make decisions regarding prosecution of alleged instances of employment discrimination, to issue 'right to sue' letters on behalf of individuals; to make policy and planning determinations; to prepare annual budget requests and justifications; to prepare statistical reports on the work product of the Employment and Education Sections and to carry out other authorized internal functions of the Department. If the Department has determined to initiate an investigation or litigate a matter referred by EEOC, the records pertaining to that matter are not contained in this system. Such records and their routine uses are described under the notice for the system named: Central Civil Rights Division Index File and Associated Records.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored manually on index cards and file jackets which are maintained by the *Employment Section, Civil Rights Division. If the charge relates to a public educational agency or institution and was filed before September 1977, such information may be maintained by the Education Section, Civil Rights Division.*

Retrievability: Information is retrieved primarily by using the appropriate Department of Justice file number, or the name of the charging party, or the state in which the alleged discrimination occurred.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with departmental rules and procedures.

Retention and disposal: There are no provisions for the disposal of the records in the system although such procedures are under active consideration.

System manager(s) and address: Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530.

Notification procedure: Same as the above

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request.' The request should indicate the state where the alleged employment discrimination took place and the employer to which the charge was related. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Disclosure of part of the materials in this system may be prohibited by 42 U.S.C. 2000e-(e) and 44 U.S.C. 3508. Part of this system is exempted from access and contest under 5 U.S.C. 552(k)(2).

Record source categories: Sources of information in this system are charging parties, information compiled and maintained by EEOC, and employees and officials of the Department of Justice responsible for the disposition of the referral request.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice, JUSTICE/CRT-008: Revisions to this system of records effect changes in the system location, storage, and retrievability categories. The method of storing and retrieving the records has expanded to include a word processing system which will store names and dates pertaining to citizen correspondence and permit easy retrieval. The changes in the storage and retrievability categories have been italicized for public convenience. The text reprinted below reflects the modifications.

JUSTICE/CRT—008

System name: Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice.

System location: U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue NW.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons communicating in written form in person or by telephone, including complaints, requests for information or action, or expressions of opinion regarding civil rights matters.

Categories of records in the system: The system contains original correspondence regarding civil rights matters from persons, cover letters or notes from persons referring original correspondence to the Department, attorney or other employee notes regarding the correspondence, and copies of Civil Rights Division's responses to the original correspondence.

Authority for maintenance of the system: This system of records is maintained pursuant to 44 U.S.C. 3101 and in the ordinary course of fulfilling the responsibilities assigned to the Civil Rights Division under the provisions of 28 CFR 0.50.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. The system is used by employees and officials of the Department to respond to incoming correspondence, to compile statistics for use in preparing budget requests, to insure proper disposition of incoming mail, to determine the status and content of responses to correspondence, to respond to inquiries from Division personnel, Office of Legislative Affairs and Congressional offices regarding the status of correspondence, and to carry out other authorized functions of the Department.

B. Information in the system regarding individual pieces of correspondence may be provided to Members of Congress upon request in instances where the Member making the request referred the correspondence in question to the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are primarily index cards and original letters or copies thereof. They are stored manually *and by automated office equipment.*

Retrievability: Information may be retrieved through use of a card index file system *and/or automated office equipment* which is subdivided into indexes (1) arranged according to the name of citizens that corresponded with the Department and (2) arranged according to the name of Members of Congress or White House staff Members who have referred correspondence to the Department.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

Retention and disposal: There are no provisions for disposal of the records in this system although such procedures are currently under active consideration.

System manager(s) and address: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' The request should include the name of the correspondent, his address or the name of the Member of Congress or White House staff member who referred the correspondence to the Department, if known, the Department of Justice file number, if known, and the date of the correspondence. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the original correspondents, persons referring original correspondence to the Department, and employees and officials of the Department responsible for the disposition of the correspondence.

Systems exempted from certain provisions of the act: None.

Civil Rights Division Employees Travel Reporting, JUSTICE/CRT-009: Revisions to this system of records effect a change in the system location and a correction in the form number assigned to a travel authorization form in the category of records maintained. The text reprinted below reflects these changes.

JUSTICE/CRT-009

System name: Civil Rights Division Employees Travel Reporting

System location: U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Civil Rights Division who have traveled on official assignments for the Civil Rights Division.

Categories of records in the system: The system contains information, concerning travel expenditures, which was recorded by Division employees on travel authorization forms (Form OBD-1) and travel voucher forms (Form OBD-157) and submitted to the Fiscal Unit of the Civil Rights Division, from Fiscal Year 1972 to the present.

Authority for maintenance of the system: This system is maintained in the ordinary course of meeting the responsibilities assigned the Civil RIghts Division under 28 CFR 0.50, 0.51.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records in this system are used to make monthly reports to the Executive Office, Civil Rights Division, and to the Fiscal Unit, Civil Rights Division, for use in controlling and reviewing Division expenditures. Copies of individual's reports may be disclosed to the individual when appropriate forms are not submitted following a return from travel status.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are stored on magnetic tape and on computer punch cards, and on monthly reports printed on computer. Individual vouchers and travel authorization forms are stored in file jackets.

Retrievability: Records in this system are retrievable by the names of present and former Division employees who have filed travel authorization forms or travel voucher forms.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

Retention and disposal: There are no provisions for disposal of the records in the system.

System manager(s) and address: Executive Officer, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: Requests by former employees for access to records in this system may be made in writing with the envelope and letter clearly marked 'Privacy Act Request'. The request should clearly state the dates on which official travel was taken. The requestor should also provide a return address for transmitting the information. Access requests will be directed to the System Manager. Present employees may request access by contacting the System Manager directly.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information are the Civil Rights Division employees filing travel authorization and travel voucher forms.

Systems exempted from certain provisions of the act: None.

Controlled Substances Act Registration Records, JUSTICE/DEA-005: Revisions to this system of records effect changes in the retrievability and the retention and dosposal categories. The retrievability category is amended to reflect that applications are now filed by the date processed rather than by the date the application was submitted; that the names are not indexed within each batch; and that the microfiche system is now maintained by state. The retention and disposal category is amended to reflect that records retired to the Federal Records Center are now destroyed after eight years instead of after five years. The text reprinted below reflects these modifications.

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JUSTICE/DEA-005

System name: Controlled Substances Act Registration Records (CSA).

System location: Drug Enforcement Administration; 1405 I Street, NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Records are maintained on the following categories of individuals registered under the Controlled Substances Act including registrants doing business under their individual name rather than a business name: (A) Physicians and related practitioners; (B) Dentists; (C) Veterinarians; (D) Persons conducting research with controlled substances; (E) Importers of controlled substances; (F) Exporters of controlled substances; (G) Manufacturers of controlled substances; (H) Distributors of controlled substances; (I) Pharmacies.

Categories of records in the system: The Controlled Substances Act Registration Records are maintained in a manual system which contains the original of the application for registration under 224, 224a, 224b, 225, 226, 227, 268, and 363, order forms (DEA-222's) and any correspondence concerning a particular registrant. In addition, the same basic data is maintained in an automated system for quick retrieval.

Authority for maintenance of the system: The Drug Enforcement Administration is required under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) to register all handlers of controlled substances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Controlled Substances Act Registration Records produce special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated: (A) Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes; (B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes; (C) Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The automated portion of this system is maintained on magnetic tape and the manual portion is by batch.

Retrievability: The automated system is retrieved by name and registration number. The manual portion is filed in batches by date the application was processed. A microfiche system of the names by State is maintained for quick reference purposes. In addition, a number of telecommunication terminals have been added to the existing network.

Safeguards: This system of records is maintained in DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to DEA personnel on a need-to-know basis. A specific computer program is necessary to extract information. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records in the manual portion of the system are retired to the Federal Records Center after one year and destroyed after eight years. The automated data is stored in the Department of Justice Computer Center and destroyed after five years.

System manager(s) and address: Director, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration; 1405 I Street, N.W., Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration; 1405 I Street, N.W., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Information contained in this system of records is obtained from: (A) Registrants under the Controlled Substances Act (Public Law 91-513); (B) DEA Compliance Investigators.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the Federal Register.

International Intelligence Data Base, JUSTICE/DEA-007: Revisions to this system of records effect a change in the routine use of the records. The Cabinet Committee on International Narcotics Control has been deleted as a routine user. The Committee has been replaced by committees and working groups under the Strategy Council on Drug Abuse. Changes have been italicized for public convenience. The text reprinted below reflects this change.

JUSTICE/DEA—007

System name: International Intelligence Data Base

System location: Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Known and suspected drug traffickers.

Categories of records in the system: (A) Intelligence reports; (B) Investigative reports; (C) Subject files.

Authority for maintenance of the system: This system is maintained for law enforcement and intelligence purposes pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, Reorganization Plan No. 2 of 1973 and the Single Convention on Narcotic Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is maintained to further criminal investigations through the collation, analysis and dissemination of intelligence information. This system produces the following reports: a) Tactical, operational and strategic intelligence reports; b) Major organizational reports; c) Network analysis; d) Trafficker profiles; e) Intelligence briefs on prior experience with individuals, firms, countries, etc.; f) Country profiles; g) Country Intelligence Action Plans; h) Current Situational reports; i) Special reports as requests; j) Drug patterns and trends and drug trafficking from source to U.S. distributors.

In addition, information is provided to the following categories of users for law enforcement purposes on a routine basis: A) Other Federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison; D) U.S. Intelligence and Military Intelligence Agencies involved in drug enforcement; E) U.S. Department of State; F) *Committees and working groups under the Strategy Council on Drug Abuse.*

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in

records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard case files and on index cards.

Retrievability: The system is indexed by name and subject category and retrieved by use of a card file index.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, all records contained in this system are stored in GSA approved security containers. Access to the System is restricted to authorized DEA personnel with Secret Clearance or above.

Retention and disposal: The Records contained in this system are currently retained for an indefinite period.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: Same as Notification Procedure.

Record source categories: A) Other Federal Agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies; D) Confidential informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the Federal Register.

Office of Internal Security Records, JUSTICE/DEA-010: A new routine use (E) is added to provide for the release of information to Federal, state and local governmental agencies who are conducting suitability for employment investigations on current or prospective employees. The new routine use has been italicized for public convenience. The text reprinted below reflects the new routine use.

JUSTICE/010

System name: Office of Internal Security Records.

System location: Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: A) DEA employees, past and present; B) Applicants for employment with DEA; C) Drug offenders, alleged drug offenders, and persons suspected of drug offenses; D) Offenders, alleged offenders, and persons suspected of committing Federal and state crimes broadly characteristized as corruption or integrity offenses; E) Confidential informants; F) Witnesses; G) Non-implicated persons with pertinent knowledge of circumstances or aspects of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need will exist.

Categories of records in the system: A) Investigative reports with supporting memoranda and work papers relating to investigations of individuals and situations. B) General files which include, among other things, supporting memoranda and work papers and miscellaneous memoranda relating to investigations of and the purported existence of situations and allegations about individuals. C) Audit and inspection reports of inspections of DEA offices, personnel, and situations. D) Zero files containing general correspondence and memoranda relating to the subject matter of the categories of individuals covered by the system.

Authority for maintenance of the system: Reorganization Plan No. 1 of 1968 and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system is provided to the following categories of users as a matter of routine uses for law enforcement and regulatory purposes: A. Other Federal law enforcement and regulatory agencies; B. State and local law enforcement and regulatory agencies; C. Foreign law, enforcement agencies with whom DEA maintains liaison; D. The Department of State; E. The Department of Defense and Military Departments; F. U.S. Intelligence agencies concerned with drug enforcement; G. The United Nations; H. Interpol; I. To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: A. To Federal agencies for national security clearance purposes and to Federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; B. To the Office of Management and Budget upon request in order to justify the allocation of resources; C. To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; D. To the news media for public information purposes; *E. To Federal, State and local governmental agencies who are conducting suitability for employment investigations on current or prospective employees.*

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard investigation folders.

Retrievability: These records are retrieved by use of a card index maintained alphabetically by employee name.

Safeguards: These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the Office of Internal Security and upper level management officials. The records are stored in safe-type combination lock file cabinets.

Retention and disposal: These records are maintained for 55 years.

System manager(s) and address: Chief Inspector, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: Same as Notification Procedure.

Record source categories: A) DEA Investigations; B) Federal, State and local law enforcement agencies; C) Cooperating individuals.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

DEA Employee Profile System, JUSTICE/DEA-027: The system manager for this system has changed. This change is reflected in the text reprinted below.

JUSTICE/DEA-027

System name: DEA Employee Profile System (DEPS)

System location: Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

Categories of individuals covered by the system: DEA employees.

Categories of records in the system: The following eight categories of information will be maintained in the system:

1. Personal identification

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2. Work experience
3. Language & geographical areas
4. Formal education
5. Special skills
6. Record of training
7. Consideration for vacancies
8. Awards

Authority for maintenance of the system: This system is maintained to effectively place and assign employees to positions to further the mandates of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records will be used principally by the Personnel Management Division. Selected data will be forwarded by this personnel section to the Career Development Board and operational units throughout DEA for the purpose of:

1. Identifying employees with particular skills or qualifications for assignment to special projects.
2. Identification of candidates for overseas assignments who have specific language skills.
3. Insuring that the Career Development Board will be reviewing the entirety of an applicant's background.
4. Calculating DEA's human resources on hand and to project more accurately future resource needs and capabilities.

Information from this system will not be disseminated outside of DEA.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records will be maintained on magnetic tape and a disk storage device.

Retrievability: The information in this system can be retrieved by the individual's name, special skills information, special knowledge information or by some combination of the above information.

Safeguards: The records of the system will be maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those transacting business within the building who are escorted by DEA employees. In addition, the area where the tapes and disks are stored is a secured area and access is restricted to those employees who have business in the area and those non-DEA people who are transacting business within the area and escorted by a DEA employee. Inquiries to the system are only made by the written request of the Chief, Personnel Management Division.

Retention and disposal: Records in this system are retained as long as the individual is employed by DEA.

System manager(s) and address: Chief, Personnel Management Division, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: Same as Notification Procedure.

Record source categories:

1. DEA employee
2. Servicing personnel Office
3. The Justice Uniform Personnel System (Juniper)

Systems exempted from certain provisions of the act: None.

The following Drug Enforcement Administration (DEA) list of record location addresses has been revised:

JUSTICE/DEA—999

DEA Appendix 1—List of record location addresses. Copies of all or part of any system of records published by the Drug Enforcement Administration pursuant to 5 U.S.C. 552a may be maintained at the DEA field offices listed below. However, procedures for processing inquiries concerning DEA systems of records have been centralized in DEA Headquarters. Inquiries concerning all DEA systems of records should be addressed to:

Freedom of Information Unit
Drug Enforcement Administration
1405 I Street, NW.,
Washington, D.C. 20537.

Drug Enforcement Administration Field Offices

Region 1

Boston regional Office
JFK Federal Building
Room G-64
Boston, Massachusetts 02203

Portland District Office
U.S. Courthouse Building
156 Federal Street
P.O. Box 451
Portland, Maine 04111

Burlington District Office
P.O. Box 327
Essex Junction, Vermont 05452
Concord District Office
Federal Building & Post Office
55 Pleasant Street
P.O. Box 1314
Concord, New Hampshire 03301

Providence District Office
Post Office & Federal Building
Room 232
Exchange Terrace
Providence, Rhode Island 02903

Hartford District Office
450 Maine Street
Room 628-E
Hartford, Connecticut 06103

Region 2

New York Regional Office
555 West 57th Street
New York, New York 14202

Buffalo District Office
268 Main Street, Suite 300
Buffalo, New York, 14202

Long Island District Office
2 Huntington Quadrangle
Melville, New York 11746

Montreal District Office
P.O. Box 65, Postal Station Disjardins
Consulate General of the U.S.A.
Montreal, Quebec, Canada HSB 161

Rouses Point District Office
P.O. Box 38
Rouses Point, New York 12979

Albany District Office
Leo W. O'Brien Federal Building
Clinton Avenue & Pear Street,
Room 746
Albany, New York 12207

JFK Airport District Office
P.O. Box 361
JFK Airport Station
Jamaica, New York 11430

Toronto District Office
U.S. Consulate General
360 University Avenue
Toronto, Canada M5G 154

Newark District Office
Federal Office Building
970 Broad Street
Newark, New Jersey 07101

New York DEA Drug Task Force
555 West 57th Street
Suite 1700
New York, New York 10019

Region 3

Philadelphia Regional Office
William J. Green Federal Building
600 Arch Street
Room 10224
Philadelphia, Pennsylvania 19106

Pittsburgh District Office
Federal Building
1000 Liberty Avenue
Room 2306
Pittsburgh, Pennsylvania 15222

Wilmington District Office
Courthouse, Customs House & Federal Office Building
844 King Street
Room 5305
Wilmington, Delaware 19801

Baltimore District Office
955 Federal Building
31 Hopkins Plaza
Baltimore, Maryland 21201

Charleston District Office
22 Capital Street P.O. Box 1146
Charleston, West Virginia 25324

Greensboro District Office
925 West Market Street
Room 111
Greensboro, North Carolina 27401

Norfolk District Office
870 North Military Highway
Suite 301
Norfolk, Virginia 23502

Washington District Office
400 Sixth Street S.W.
Room 2558
Washington, D.C. 20024

Wilmington District Office
3909-D Oleander Drive
Lambe Young Building
Wilmington, North Carolina 28401

Region 5

Miami Regional Office
8400 N.W. 53rd Street
Miami, Florida 33166

Atlanta District Office
United Family Life Building
230 Houston Street, N.E.
Suite 200
Atlanta, Georgia 30303

Charleston District Office
334 Meeting Street
Room 630
Charleston, South Carolina 29403

Columbia District Office
2611 Forest Drive
P.O. Box 702
Columbia, South Carolina 29202

Jacksonville District Office
4077 Woodcock Drive
Suite 210
Jacksonville, Florida 32207

Orlando District Office
235 Whooping Loop
Altomonte Springs, Florida 32701

San Juan District Office
Housing Investment Building
Suite 154
416 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00919

Savannah District Office
430 Mall Boulevard
Suite C
Savannah, Georgia 31406

Tampa District Office
700 Twiggs Street
Suite 400
Tampa, Florida 33602

West Palm Beach District Office
701 Clematis Street
Room 253
West Palm Beach, Florida 33402

Kingston District Office
DEA/Justice
U.S. Embassy, Kingston, Jamaica
c/o Dept.of State
Washington, D.C. 20502

Region 6

Detroit Regional Office
357 Federal Building
231 West Lafayette
Detroit, Michigan 48226

Cleveland District Office
601 Rockwell
Room 300
Cleveland, Ohio 44114

Cincinnati District Office
Fedral Office Building
550 Main Street
P.O. Box 1196
Cincinnati, Ohio 45201

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Columbus District Office
Federal Office Building
85 Marconi Boulevard
Room 120
Columbus, Ohio 43215

Grand Rapids District Office
310 Federal Building, U.S. Courthouse
110 Michigan NW
Grand Rapids, Michigan 49502

Region 7

Chicago Regional Ofice
1800 Dirksen Federal Building
219 South Dearborn Street
Chicago, Illinois 60604

Indianapolis District Office
575 N. Pennsylvania
Room 267
Indianapolis, Indiana 46204

Milwaukee District Office
Federal Building & U.S. Courthouse
517 East Wisconsin
Room 232
Milwaukee, Wisconsin 53202

Springfield District Office
2nd Floor, Edwards Building
528 S. 5th Street
Springfield, Illinois 62701

Hammond District Office
Federal Building
507 State Street
Room 407
Hammond, Indiana 46302

Region 8

New Orleans Regional Office
1001 Howard Avenue, Suite 1800
New Orleans, Louisiana 70113

Birmingham District Office
236 Goodwin Crest
Suite 520
Birmingham, Alabama 35209

Little Rock District Office
One Union National Plaza
Suite 850
Little Rock, Arkansas 72201

Shreveport District Office
500 Fanin Street
Federal Building, U.S. Courthouse
Room 8A20
P.O. Box 105
Shreveport, Louisiana 71102

Jackson District Office
First Federal Building
525 East Capitol Street
P.O. Box 22631
Jackson, Mississippi 39205

Nashville District Office
U.S. Courthouse Annex
Room 929
8th & Broadway
P.O. Box 1189
Nashville, Tennessee 37202

Memphis District Office
Federal Building
167 North Main Street
Room 401
Memphis, Tennessee 38103

Baton Rouge Distrtict Office
4560 North Boulevard
Suite 118
Baton Rouge, Louisiana 70806

Mobile District Office
2 Office Park
Suite 216
Mobile, Alabama 36609

Region 10

Kansas City Regional Office
1150 Grand Avenue Suite 400
Kansas City, Missouri 64106

Des Moines District Office
U.S. Courthouse
P.O. Box 1784
Des Moines, Iowa 50309

Duluth District Office
Federal Building, U.S. Courthouse
515 West First Street
P.O. Box 620
Duluth, Minnesota 55801

Minneapolis District Office
Federal Building
110 South Fourth Street
Room 402
Minneapolis, Minnesota 55401

Omaha District Office
New Federal Building
215 North 17th Street
P.O. Box 661
Downtown Station
Omaha, Nebraska 68101

Fargo District Office
657 2nd Avenue
Room 225
Fargo, North Dakota 58102

Sioux Falls District Office
400 S. Philips
Room 309
Sioux Falls, South Dakota 57102

St. Louis District Office
Suite 300
Chromalay Plaza
120 S. Central Avenue
St. Louis, Missouri 63105

Wichita District Office
202 West First Street
Room 505
Wichita, Kansas 67201

Region 11

Dallas Regional Office
1880 Regal Row
Dallas, Texas 75235

Brownsville District Office
2100 Boca Chica Boulevard
Suite 305
Brownsville, Texas 78520

Corpus Christi District Office
723 Upper N. Broadway
P.O. Box 2443
Corpus Christi, Texas 78403

Del Rio District Office
3605 Highway 90, West
P.O. Drawer 1247
Del Rio, Texas 78840

Eagle Pass District Office
342 Rio Grande Street
Room 102
Eagle Pass, Texas 78852

El Paso District Office
4110 Rio Bravo
Suite 100
El Paso, Texas 79902

Houston District Office
1540 Esperson Building
815 Walker Street
Houston, Texas 77002

Laredo District Office
P.O. Drawer 2307
Laredo, Texas 78041

Midland District Office
100 East Wall Street
P.O. Drawer 2668
Midland, Texas 79701

McAllen District Office
3017 N. 10th Street
P.O. Box 338
McAllen, Texas 78501

Oklahoma City District Office
Old Federal Building
215 N.W. 3rd Street
Room 250
Oklahoma City, Oklahoma 73102

San Antonio District Office
4th Floor, 1800 Central Building
1802 N.E. Loop 410
San Antonio, Texas 78217

Tulsa District Office
333 W. 4th Street
Room 3335
Tulsa, Oklahoma 74103

Austin District Office
55 N. Interregional Highway
P.O. Box 8
Austin, Texas 78767

Lubbock District Office
3302 67th Street
Building No. 2
Lubbock, Texas 79413

Region 12

Denver Regional Office
U.S. Customs House
Room 336
P.O. Box 1860
Denver, Colorado 80201

Cheyenne District Office
Federal Center
2120 Capitol Avenue
Room 8020
Cheyenne, Wyoming 82001

Albuquerque District Office
First National Bank Building East
5301 Central Avenue, N.E.
Albuquerque, New Mexico 87108

Las Cruces District Office
P.O. Box 399
Las Cruces, New Mexico 88001

Phoenix District Office
Valley Bank Center
Suite 1980
201 North Central
Phoenix, Arizona 85073

Tucson District Office
Tucson International Airport
P.O. Box 27063
Tucson, Arizona 85726

San Luis District Office
P.O. Box 445
San Luis, Arizona 85349

Nogales District Office
P.O. Box 39
Mile Post 41/2
U.S. Highway 89
Nogales, Arizona 85621

Douglas District Office
2130 15th Street
P.O. Drawer 1119
Douglas, Arizona 85607

Salt Lake City District Office
Federal Building
125 South State Street
Room 2218
Salt Lake City, Utah 84138

Region 13

Seattle Regional Office
221 1st Avenue West
Suite 200
Seattle, Washington 98119

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Anchorage District Office
Loussac-Sogn Building
429 D Street
Room 306
Anchorage, Alaska 99501

Blaine District Office
170 C Street
P.O. Box 1680
Blaine, Washington 98230

Eugene District Office
Federal Building
211 East 7th Avenue
Room 230
Eugene, Oregon 97401

Boise District Office
American Reserve Building
2404 Bank Drive
Suite 212
Boise, Idaho 83705

Great Falls District Office
1111 14th Street South
P.O. Box 2887
Great Falls, Montana 59403

Portland District Office
Terminal Sales Building
Suite 706
1220 S.W. Morrison
Portland, Oregon 92705

Spokane District Office
U.S. Courthouse
920 W. Riverside
P.O. Box 1504
Spokane, Washington 95210

Vancouver, B.C. District Office
DEA/Justice
American Consulate General
1199 West Hastings Street
Vancouver, B.C., Canada V6E2Y4

Region 14

Los Angeles Regional Office
350 South Giguero Street
Suite 800
Los Angeles, California 90017

San Francisco District Office
Federal Building
Room 12425
San Francisco, California 94102

San Diego District Office
402 West 35th Street
National City, California 92050

Calexico District Office
640 C Imperial Avenue
P.O. Box 728
Calexico, California 92231

Las Vegas District Office
Federal Building and U.S.
Courthouse
300 Las Vegas Boulevard South
P.O. Box 16023
Las Vegas, Nevada 89101

Fresno District Office
2110 Merced Street
Room 203
Fresno, California 93721

Honolulu District Office
300 Ala Moana Boulevard
Honolulu, Hawaii 96815

Tecate District Office
Port of Entry-Tecate
P.O. Box 67
Tecate, California 92080

Sacramento District Office
P.O. Box 255097
Sacramento, California 95825

Guam District Office
P.O. Box 2137
Agana, Guam 96910

Region 15

Mexico City Regional Office
DEA/Justice
American Embassy
Apartado Postal 88 Bis
Mexico 1, D.F., Mexico

Guadalajara District Office
DEA/Justice
American Consulate General
Apartado Postal 1—1 Bis
Guadalajara, Jalisco, Mexico

Hermosillo District Office
DEA/Justice
American Consulate General
Apartado Postal 972
Hermosillo, Sonora, Mexico

Mazatlan District Office
DEA/Justice
American Consulate
Apartado Postal 321
Mazatlan, Sinaloa, Mexico

Merida District Office
SAIC Department of State
Washington, D.C. 20521

Monterrey District Office
DEA/Justice
c/o Department of State
Washington, D.C. 20521

San Jose District Office
DEA/Justice
American Embassy
APO N.Y., N.Y. 09883

Guatemala District Office
American Embassy
APO N.Y., N.Y. 09891

Region 16

Bankok Regional Office
Drug Enforcement Administration
American Embassy
APO San Francisco, California 96346

Chiang Mai District Office
Drug Enforcement Administration
Box C
APO San Francisco 96348

Hong Kong District Office
DEA/Justice
American Consulate General
Box 30
FPO San Francisco, California 96659

Kuala Lumpur District Office
DEA/Justice
Department of State
Kuala Lumpur
Washington, D.C. 20520

Vientiane District Office
DEA/Justice
APO San Francisco, California 96352

Singapore District Office
DEA/Justice
FPO San Francisco, California 96699

DEA/Justice
APO San Francisco, California 96243

Songkhla District Office
DEA/Justice
American Consulate
APO San Francisco, California 96346

Manila District Office
DEA/Justice
American Embassy
APO San Francisco, California 96528

Jakarta District Office
DEA/Justice
American Embassy
APO San Francisco, California 96356

Taipei District Office
DEA/Justice
American Embassy
APO San Francisco, California 96263

Sukiran/Okinawa District Office
DEA/Justice
P.O. Box 792
APO San Francisco, California 96331

Tokyo District Office
DEA/Justice
American Embassy
APO San Francisco, California 96503

Seoul District Office
DEA/Justice ext. 4260
American Embassy
APO San Francisco, California 96301

Region 17

Paris Regional Office
DEA/Justice
American Embassy
APO New York, New York 09777

Marseilles District Office
DEA/Justice
American Embassy (m)
APO New York, New York 09777

Vienna District Office
DEA/Justice
American Embassy Vienna
Department of State
Washington, D.C. 20520

Brussels District Office
DEA/Justice
American Embassy
APO New York, New York 09667

London District Office
DEA/Justice
American Embassy
Box 40
FPO New York, New York 09510

Ankara District Office
DEA/Justice
American Embassy
APO New York, New York 09254

Istanbul District Office
DEA/Justice
American Consulate General
APO New York, New York 09224

Izmir District Office
DEA/Justice
American Consulate General
APO New York, New York 09224

Beirut District Office
DEA/Justice
Department of State Pouch Mail
Washington, D.C. 20520

Kabul District Office
DEA/Kabul
Department of State Pouch Mail
Washington, D.C. 20520

Tehran District Office
DEA/Justice
American Embassy
Box 2000
APO New York, New York 09205

Islamabad District Office
DEA/Islamabad
Department of State Pouch Mail
Washington, D.C. 20520

New Delhi District Office
DEA/Delhi
Department of State Pouch Mail
Washington, D.C. 20520

Karachi District Office
DEA/Karachi
Department of State Pouch Mail
Washington, D.C. 20520

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Bonn District Office
DEA/Justice
American Embassy
Box 290
APO New York, New York 09080

Frankfurt District Office
DEA/Justice
American Consulate General
APO New York, New York 09757

Nice District Office
DEA/Justice
American Embassy (N)
APO New York, New York 09777

Rabat District Office
DEA/Justice
U.S. Embassy B.P. 120
Rabat, Morocco

Cairo District Office
DEA/Justice
American Embassy
Cairo, Egypt

Hamburg District Office
DEA/Justice
American Consulate General
Box 2
APO New York, New York 09069

Munich District Office
DEA/Justice
American Consultate General
APO New York, New York 09180

Rome District Office
DEA/Justice
Consulta 301
APO New York, New York 09794

Copenhagen District Office
DEA/Justice
American Embassy
APO New York, New York 09170

Milan District Office
DEA/Justice
American Consultate General
APO New York, New York 09698

The Hague District Office
DEA/Justice
American Consultate General
APO New York, New York 09159

Madrid District Office
DEA/Justice
American Embassy
APO New York, New York 09285

Barcelona District Office
DEA/Justice
American Consultate General
APO New York, New York 09285

South American Region
Caracas District Office
DEA/Justice
American Embassy
APO New York, New York 09893

Buenos Aires District Office
DEA/Justice
American Embassy
APO New York, New York 09871

Ascuncion District Office
DEA/Justice
American Embassy

Ascuncion Paraguay
Department of State Pouch Mail
Washington, D.C. 20520

Bogota District Office
DEA/Justice
American Embassy
APO New York, New York 09676

Brazilia District Office
DEA/Justice
American Embassy
APO New York, New York 09676

Guayaquil District Office
DEA/Justice
U.S. Consulate
Guayaquil, Ecuador
Department of State Pouch Mail
Washington, D.C. 20520

La Paz District Office
DEA/Justice
American Embassy
APO New York, New York 09867

Lima District Office
DEA/Justice
American Embassy
APO New York, New York 09865

Montevideo District Office
DEA/Justice
American Embassy
Montevideo, Uruguay
Department of State Pouch Mail
Washington, D.C. 20520

Panama District Office
DEA/Justice
American Embassy
P.O. Box 2016
Balboa, Canal Zone

Quito District Office
DEA/Justice
American Embassy
Quito, Ecuador
Department of State Pouch Mail
Washington, D.C. 20520

Santiago District Office
DEA/Justice
American Embassy
APO New York, New York 09869

Regional Laboratories
Special Testing & Research Lab
Watergate Research Park
7704 Old Springhouse Road
Mclean, Virginia 22101

Mid Atlantic Regional Lab
460 New York Avenue, N.W.
Washington, D.C. 20537

Northeast regional Lab
555 West 57th Street
New York, New York 10019

Southeast Regional Lab
5205 N. W. 84th Avenue
Miami, Florida 33166

North Central Regional Lab
500 U.S. Customs House
610 South Canal Street
Chicago, Illinois 60607

South Central Regional Lab
1114 Commerce Street
Room 1020
Dallas, Texas 75202

Southwest Regional Lab
410 West 35th Street

National City, Califonria 92050
Western Regional Lab

450 Golden Gate Avenue
Box 46075
San Francisco, California 92102

Ottawa Office

DEA/Justice
U.S. Embassy
100 Wellington Street
Ottawa, Ontario, Canada
K1P-5T1

Special Project Division

Aircraft Section
(Addison Texas)
DEA/Justice
P.O. Box 534

El Paso Intelligence Center

2211 E. Missouri
Suite 200
El Paso, Texas 79903

Field Offices of Inspection

Northeast Filed Office of
Internal Security
Suite 208
222 South Marginal Road

Fort Lee, New Jersey 07024

Western Field Office of Internal
Security
P.O. Box 807
Main Office

Los Angeles, California 90053

South Central Field Office of
Internal Security
P.O.Box 907

Addison, Texas 75001

North Central Field Office of
Internal Security
219 S. Dearborn
Room 422

Chicago, Illinois 60604

Southeast Field Ofice of
Internal Security
P.O. Box 660316

Miami Springs, Florida 33166

Mid-Atlantic Field Office of
Internal Security
1325 K Street N.W.
Washington, D.C. 20537

Bureau Mailing Lists, JUSTICE/FBI-003: This system is revised to more accurately describe the nature of the system. The modifications to the system notice constitute amplifications rather than an alternation or expansion of the scope of the records. The clarifications incorporated into the system notice have been italicized for public convenience. The text reprinted below reflects these modifications.

JUSTICE/FBI—003

System name: Bureau Mailing Lists.

System location: Federal Bureau of Investigation, J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, D.C. 20535, 59 field divisions and 13 Legal Attaches (See Appendix to 002).

Categories of individuals covered by the system: *With regard to lists maintained at FBI Headquarters,* individuals who have requested receipt of Bureau material and who meet established criteria (basically law enforcement or closely related areas). *With regard to lists maintained in field divisions or Legal Attaches, individuals and organizations who may be in position to furnish assistance to the FBI's law enforcement efforts.*

Categories of records in the system: Name, address and business affiliation, if appropriate.

Authority for maintenance of the system: Title 5 U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For mailing of FBI material *whenever necessary. For example, various fugitive publications are furnished to local law enforcement agencies.*

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computerized and 3 x 5 index card. *In field divisions most mailing lists are maintained on addressograph.*

Retrievability: ID number in computer, alphabetically for card index *and addressograph.*

Safeguards: *Computer records are maintained in limited access space by the Technical Services Division. Manual records are likewise maintained in limited access space and available only to FBI personnel.*

Retention and disposal: Revised on a monthly basis. *In field divisions the lists are revised at least annually and when necessary.*

System manager(s) and address: Director, FBI, Washington, D.C. 20535.

Notification procedure: Director, FBI, Washington, D.C. 20535

Record access procedures: Inquiry addressed to Director, FBI, Washington, D.C. 20535.

Contesting record procedures: Same as the above.

Record source categories: *The mailing list information is based either on information supplied by the individual or public source data.*

Systems exempted from certain provisions of the act: None.

Electronic Surveillance (Elsur Indices), JUSTICE/FBI-006: This system is revised to more accurately describe the nature of the system. The modifications to the system notice constitute amplifications rather than an alteration or expansion of the scope of the records. The clarifications incorporated into the system notice have been italicized for public convenience. The text reprinted below reflects these modifications.

JUSTICE/FBI—006

System name: Electronic Surveillance (Elsur) Indices.

System location: Federal Bureau of Investigation, J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, D.C. 20535. *Those field offices which have conducted electronic surveillances also maintain this index. See appendix to System 002.*

Categories of individuals covered by the system: Individuals who have been the targets of direct electronic surveillance coverage by the FBI, who have participated in conversations monitored by an FBI electronic installation, *or who have been known* to have owned, leased, or licensed premises on which the FBI has conducted an electronic surveillance, *and names of persons mentioned during conversations between persons being monitored. Not all field office electronic surveillance indices contain this last category of individuals.*

Categories of records in the system: The Elsur Indices are maintained on 3 x 5 cards, where set forth the name of each person monitored or the proprietor of premises on which an electronic surveillance was conducted by the FBI since January 1, 1960, a source number to identify the electronic surveillance, the date the conversation occurred, the location of the field office which conducted the monitoring, and the address and/or telephone number where the electronic surveillance occurred.

Authority for maintenance of the system: The Elsur Indices were initiated in October, 1966, at the instructions of the Department of Justice. The authority for the maintenance of these records is Title 5, Section 301, USC, which grants the Attorney General the authority

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to issue rules and regulations prescribing how Department of Justice information can be employed. Title 18, USC, Section 2519, also sets forth recordkeeping requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Elsur Indices are utilized: (1) To respond to judicial inquiries about possible electronic surveillance coverage of witnesses, defendants, or attorneys involved in Federal court proceedings, and (2) To enable the Government to certify whether a person regarding whom court-order authority is being sought for electronic coverage has ever been so covered in the past. The actual users of the indices are always *employees* of the FBI.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: a record from a system of records may be disclosed as a routine use to the National Archives and Records Service (N.A.R.S.) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: he records are maintained manually on 3 x 5 cards.

Retrievability: *Names* are indexed alphabetically. *Telephones monitored are indexed by telephone number. Locations monitored in which a person has been known to have a proprietary interest are indexed by address.*

Safeguards: They are maintained in a guarded room at all times, with a special locking system for off-duty hours when they are not in use.

Retention and disposal: Until advised to the contrary by the Department, the courts or Congress, these indices will be maintained indefinitely.

System manager(s) and address: Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Notification procedure: Same as the above.

Record access procedures: Inquiry addressed to Director, FBI, Washington, D.C. 20535.

Contesting record procedures: Same as the above.

Record source categories: See Category of Individual.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e) (5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Controlled Substance Act Nonpublic Records, JUSTICE/OMF-002: Revisions to this system of records effect editorial changes which are necessary because of a recent internal reorganization. Other minor editorial corrections are also reflected in the text reprinted below.

JUSTICE/OMF—002

System name: Controlled Substances Act Nonpublic Records.

System location: U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have been convicted for the first time of violating Section 404(a) of the Controlled Substances Act (Public Law 91-513), i.e. persons who have knowingly or intentionally possessed a controlled substance except as authorized by the act.

Categories of records in the system: Arrest records of law enforcement agencies, which include personal data, photographs, fingerprints, copies of court orders, DOJ-330 Request for Non-Public Records and/or DOJ-329 Certificate of Expungement.

Authority for maintenance of the system: This system is established and maintained in accordance with the Controlled Substances Act, Public Law 91-513 Sec. 404, 21 U.S.C. 844.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are retained by the Department of Justice and are available only to a Federal court upon a Federal court order issued to the Attorney General demanding such records for use by said court in determining whether or not a person qualified under Public Law 91-513 Sec. 404(b), 21 U.S.C. 844(b).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is detrmined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in locked file cabinets.

Retrievability: These records are indexed by the name of the offender.

Safeguards: Access to these records is restricted to the Chief, Records Maintenance and Disposition Section and the assistant to the Chief.

Retention and disposal: Although these records will ultimately be destroyed by shredding, the establishment of a disposal schedule is still pending.

System manager(s) and address: Director, Administrative Programs Management Staff, Office of Management and Finance, U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Law enforcement agencies and courts.

Systems exempted from certain provisions of the act: The Attorney General has exempted the system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Department of Justice Payroll System, JUSTICE/OMF-003: Revisions to this system of records effect changes in the system location and system manager(s) and address categories which are necessary because of a recent internal reorganization. In addition, other minor editorial changes are reflected in the text reprinted below.

JUSTICE/OMF—003

System name: Department of Justice Payroll System.

System location: Categories of records within the Payroll System of Records are kept at the following locations: (1) Justice Employee Data Service; 425 I Street, N.W.; Washington, D.C. 20530; (2) Justice Data Management Service; 425 I Street, N.W.; Washington, D.C. 20530; (3) at various time and attendance recording and processing stations around the world; (4) at computerized record off-site backup facilities; and (5) at various Federal Records Centers.

Categories of individuals covered by the system: (1) Current DOJ employees with the exception of those employed within the FBI and; (2) Many past DOJ employees with the exception of those that served within the FBI.

Categories of records in the system: A. Payroll Master Employee Records: These are machine-readable records containing information on current pay and leave status for individuals serviced by the automated payroll accounting system.

B. Bond, Allotment and Check Mailing Records: These are machine-readable records containing information on Savings Bond deductions, savings account allotments, and net check mailing requested by the employee.

C. History of Earning Records: These are machine-readable records containing information on earnings, leave and other pay related activities during a two-year period.

D. Automated Retirement Records: These are machine-readable records containing information relevant to the Civil Service Retirement System. These records will be used to automatically generate Individual Retirement Records (SF-2806) upon an employee's separation.

E. Revised Social Security Numbers Records: These are machine-readable records containing the new and old social security number for employees whose current social security number is different from that previously entered into the automated system.

F. Employee Pay Records: These are manila folders containing all source documents, correspondence and other papers in support of an active employee's pay, leave and allowances.

G. Active Retirement Records: These are manual records maintained on active employees to facilitate timely compliance with requirements of the Civil Service Retirement System. Upon separation, the original SF-2806 is forwarded to the Civil Service Commission and a copy is filed in the Employee Pay Record (F above). This category of records will eventually be replaced by the automated retirement records (D above).

H. Former Employee Pay Records: These records are the Employee Pay Records (F above) for employees that have been separated, transferred or retired. In addition to information contained in the Employee Pay Records, these records include information related to the retirement, separation or transfer.

I. Employee Death Records: These records are the Employee Pay Records (F above) for employees that died while on active duty with Department of Justice. In addition to information contained in the Employee Pay Records, these records include information related to the employee's death and the settlement of pending pay and allowances.

J. Returned Check Records: These records are a manual log for recording and controlling checks issued to employees that were returned to the Justice Employee Data Service because they were undelivered, erroneous or cancelled prior to conversion to cash.

K. Time and Attendance Report: These records contain information on an employee's attendance and use of leave in a particular pay period. They are also used to indicate leave adjustments and balances. The standard form number is DOJ-296.

Authority for maintenance of the system: The head of each executive agency is responsible for establishing and maintaining an adequate payroll system, covering pay, leave, and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a and 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose: The purpose of each use of categories of records within the DOJ Payroll System of Records is to enable the administration of the payroll function and related financial matters in accordance with applicable laws and regulations and to comply with the requirements of the Comptroller General.

System Uses:

A. Authorize, prepare and document payment to all Department employees covered by the DOJ Payroll System entitled to be paid, with consideration given to all authorized deductions from gross pay.

B. Specify and document proper disposition of all authorized deductions from gross pay.

C. Prepare adequate and reliable payroll reports needed for (1) management, (2) budget, (3) support of payments, (4) the conduct and accounting of payroll related employee services, (5) control and documentation of payroll system operation, and (6) to meet external reporting requirements.

D. Support effective communications on payroll matters between the Department of Justice and its present and former employees.

E. Support proper coordination of pay, leave and allowance operations with personal functions and other related activities.

F. Support adequate control over all phases and segments of the payroll system including leave accounting.

G. Support appropriate integration of the payroll system with the Departmental accounting system.

H. Records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement of the State, City, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, City, or other local jurisdiction and the Department of the Treasury pursuant to 5 USC 5516, 5517, and 5520 or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the System Manager listed below. The request must include a copy of the applicable statute authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. However, the social security numbers will only be provided to state or local taxing authorities which meet the criteria of the Privacy Act.

I. Provide permanent record of actions taken pertinent to the administration of pay leave and allowances.

J. Support legal investigations of suspected fraud.

Categories of Users: Records are accessed by users on a need or right to know basis. A category of users may have potential access under more than one use above.

A. Present or former employees serviced by the DOJ Payroll System.

B. Justice Employees Data Service Staff.

C. Department of the Treasury disbursing offices.

D. Department of Justice budget and accounting offices.

E. Department of Justice personnel offices.

F. Employee supervisors.

G. Employee administrative offices.

H. Federal, state and local taxing authorities.

I. Federal Employees Health Benefits carriers.

J. Employee organization offices participating in dues allotment program.

K. Financial organizations participating in savings account allotment program.

L. Financial organizations participating in net pay to checking account program.

M. State human resource offices administering unemployment compensation programs.

N. General Accounting Office and internal audit staffs.

O. Federal, state or local law enforcement agencies (in support of legal investigations of suspected fraud).

P. Other Federal agencies requiring information as specified in applicable laws or regulations, e.g., Civil Service Commission).

Q. Heirs, executors and legal representatives of beneficiaries.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service. A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Various categories of records are stored on different mediums. Categories A, B and E are on magnetic discs. Categories C and D are on magnetic tape. All other records are maintained in paper form.

Retrievability: Categories of records on magnetic media are retrievable by employee social security number which is maintained to comply with Internal Revenue requirements. Records in paper form are retrievable by employee name and social security number.

Safeguards: The principal current safeguard for payroll records is guard force screening of individuals entering buildings within which records are kept. More stringent security practices and procedures are under development.

Retention and disposal: Payroll records retention and disposal are in accordance with General Schedule 2 promulgated by the General Services Administration.

System manager(s) and address: Director; Central Management Services Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

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Notification procedure: A request for notification of the existence of records upon an individual shall be made in writing by the individual or legal designate, with the envelop and the letter clearly marked 'Privacy Notification Request'. Include in the request the name of the system of records, the individual's full name and social security number while employed with the Department of Justice, the organization within which employed (if available), and whether the individual is a current or former employee. The requestor shall include a return address for the notification response. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee. Address inquires to the System Manager.

Record access procedures: A request for access to records from this system shall be made in writing by the subject individual or legal designee, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the system of records, the legal name and social security number of the data subject, the organization within which the individual is a current or former employee. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system of records should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee.

Record source categories: Information contained within the DOJ Payroll System of Records is obtained from the following sources:

A. Subject Individual: Information collected from the subject individual generally consists of that necessary to administer allotments, deductions or other services requested by the individual.

B. Personnel Office: Information collected from the personnel office generally consists of employment status information which provides the legal basis upon which valid payments are computed.

C. Time and Attendance Clerk: Information collected from this clerk generally consists of an accounting of the individual's presence or absence from the duty station and the usage of leave.

D. Supervisor or Administrative Officer: Information collected from these officers generally consists of leave authorizations and information concerning the individual's duty station.

E. Financial Institutions or Employee Organizations: Information collected from institutions or organizations generally consists of that necessary to insure the timely and accurate forwarding to the institution or organization of monies allotted to an account at the institution or organization by the subject individual.

F. Previous Federal Employer: Information collected from the previous employer within the Federal government generally consists of leave status information at the time of separation.

G. Other Federal Agencies: Information collected from other Federal agencies generally consists of program information necessary to properly administer pay, leave, and allowances.

H. Other Officials: Information collected from other officials consists of that necessary to administer the payroll function. This may include authorization for special payments, death certificate or other documents as necessary.

Systems exempted from certain provisions of the act: None.

Legal and General Administration Accounting System JUSTICE/OMF-007: The system manager for this system has changed. This change is reflected in the text reprinted below.

JUSTICE/OMF—007

System name: Legal and General Administration Accounting System (LAGA).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All individuals who submit vouchers requesting payment for goods or services rendered, except payroll vouchers for DOJ employees. These include vendors, contractors, experts, witnesses, court reporters, travelers, relocated employees, etc.

Categories of records in the system: All vouchers paid except payroll vouchers for DOJ employees.

Authority for maintenance of the system: The system is established and maintained in accordance with the Budget and Accounting Procedures Act of 1950 as amended 31 U.S.C. 66(a) and 31 U.S.C. 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After payment of the vouchers, the accounting data is used for the purpose of internal management reporting and external reporting to agencies such as OMB, U.S. Treasury, and the GAO.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Prior to FY 76, voucher files were maintained alphabetically by payee's name. After FY 76, vouchers are filed by batch, controlled by schedule on which paid.

Retrievability: Information is retrieved primarily by using the name of the payee.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with organizational rules and procedures.

Retention and disposal: The payment documents are retained at this location for three fiscal years (current year and two prior years). The records are then shipped to a Federal Records Center for storage in accordance with the General Record Schedule published by the General Services Administration.

System manager(s) and address: Director; Financial Management Staff; Office of Management and Finance; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Submitted by the payee involved.

Systems exempted from certain provisions of the act: None.

Security Clearance Information System (SCIS), JUSTICE/OMF-008: Revisions to this system of records effect changes to the storage, retrievability, and system manager(s) and address categories. The storage and retrievability categories are revised to reflect that certain information will be stored and retrieved from a data base which has been reported by the Civil Service Commission for systems of records maintained by all Federal agencies on personnel matters. The system manager(s) and address category is revised to reflect a change which occurred as a result of a recent internal reorganization. Changes are incorporated in the text reprinted below. The changes to the storage and retrievability categories have been italicized for public convenience.

JUSTICE/OMF—008

System name: Security Clearance Information System (SCIS).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Current employees of the Department of Justice (excluding FBI) who have been investigated and cleared for employment, and for access to data classified for National Security reasons; B. Former employees of the Department of Justice (excluding FBI) who had been investigated and cleared for employment and for access to data classified for National Security reasons (maintained for a maximum of two years from date of termination).

Categories of records in the system: The system contains two subsystems; (a) a Clearance Index Reference Record for identifying the individuals in Categories of Individuals above listing the status of the investigations, the dates of clearances, level of clearances and when appropriate, dates of termination of employment; and (b) a Character File containing (1) Standard form 86 (U.S. Civil Service Commission), Security Investigation Data for Sensitive Position; (2) Copies of investigative reports from the Civil Service Commission and/or Federal Bureau of Investigation; (3) Correspondence related to the request for the investigation, results of the investigation, and clearance approvals for access to classified national security information and waivers; and (4) other information relating to the trustworthiness of the employee.

Authority for maintenance of the system: The system is established and maintained in accordance with Presidential Executive Orders 10450 (clearance for Federal employment) and 12065 (access to data classified for National Security reasons).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The investigative material compiled in this system is used for the purpose of determining the suitability, eligibility and/or qualifications of applicants for employment in the Department of Justice (except the FBI) and for sensitive positions involving access to classified information. In the event of employee tranfers to other Government Agencies, this information could be reviewed by investigators of the gaining agency to expedite the employees transfer is necessary.

(b) The clearance status of the employees is certified to security officials and investigators of other U.S. Government Agencies or Departments, for liaison purposes involving access to classified material during meetings, conferences or training courses.

(c) The personal data in the system is reviewed by Central Intelligence Agency for the purposes of granting Special Intelligence access clearances to Department employees. These clearances are within the purview of the Director, Central Intelligence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system or records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: *Information contained on the Clearance Index Reference Record has been added to the automated Department of Justice personnel data base which has been reported by the Civil Service Commission under the designation of CSC/GOVT-3 at 42 FR 48738 on September 23, 1977. In conjunction with the manual Character File, the automated data is used to certify clearances on DOJ employees.*

Retrievability: All data is retrieved by searching under the employee's name/*social security account number/organization/type of clearance.*

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the protection of personnel records.

Retention and disposal: Clearance Index Reference Record cards are maintained for the tenure of employment and for a maximum of two years after termination. An employee's Character File is maintained for the tenure of employment at which time the investigation reports are returned to the investigating agency or destroyed by shredding.

System manager(s) and address: Director; Administrative Programs Management Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue N.W., Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name, title and organization of the employee and the general subject matter of the inquiry. The requestor will also provide a return address for transmitting a reply. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are (a) applicants for employment and employees in the Department of Justice (except FBI) and (b) those individuals (informants) contacted by the Investigators for the Civil Service Commission and Special Agents of the Federal Bureau of Investigation who furnished information in the background investigation.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from sections (d)(1) of the Privacy Act pursuant to 5 U.S.C. 522a (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 533 (b), (c) and (e) and have been published in the Federal Register.

Justice Data Management Service Center Utilization Report, JUSTICE/OMF-009: Revisions to this system of records effect changes in the system name, system location and system manager(s) and address categories which are necessary because of a recent internal reorganization. In addition, other minor editorial changes are reflected in the text reprinted below.

JUSTICE/OMF—009

System name: Justice Data Management Service Center Utilization Report.

System location: Justice Data Management Service Center, 425 I Street NW., Washington, D.C. 20530.

Categories of individuals covered by the system: Personnel submitting computer jobs to run at the Justice Data Management Service.

Categories of records in the system: The data describes the recource utilization of the individual jobs submitted. Certain information is also recorded which pertains to the entire computer system rather than individual jobs.

Authority for maintenance of the system: These records are kept for adminstrative convenience pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to recover costs associated with running computer jobs, to analyze the utilization of the Justice Data Management Service computer systems, detect inefficiencies and areas having high potential benefit from optimization.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy..

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member or staff requesting the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Utilization reports are provided to a designated manager for each organization which uses the Justice Data Management Service.

Retrievability: Information may be retrieved by name of the individual submitting computer runs.

Safeguards: The machine readable (magnetic tape) data is kept in the Justice Data Management Service tape library. Utilization reports are controlled by the designated individual of each using agency.

Retention and disposal: The machine readable data is kept indefinitely. Utilization reports are controlled by the designated individual of each using agency.

System manager(s) and address: Director: Central Management Services Staff; U.S. Department of Justice; Office of Management and

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Finance; 10th and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from this system may be made in person or in writing, specifying the name of the individual submitting a computer run and the date and name of the computer run.

Contesting record procedures: Requests for correction should be addressed to the System Manager.

Record source categories: Information is collected by the IBM 360/370 Operating System and program modules developed by personnel of the Department of Justice.

Systems exempted from certain provisions of the act: None.

Document Information System (DIS), JUSTICE/OMF-010: Revisions to this system of records effect changes in the system name, system location and system manger(s) and address categories which necessary because of a recent internal reorganziation. In addition, other minor editorial changes are reflected in the text reprinted below.

JUSTICE/OMF—010

System name: Document Information System. (DIS)

System location: U.S. Department of Justice; 10th and Constitution Avenue N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Department of Justice who have been designated by the Attorney General as authorized to classify documents. Employees of the Department of Justice who have been delegated classifying authority by designation of the Attorney General. Individuals (mostly aliens) about whom documents exist which have been classified in the interest of national security.

Categories of records in the system: The system contains records of all documents classified by Department of Justice employees. The system also contains a record on all Department of Justice employees (from January 1, 1973 to present) who have or have had the authority to classify documents.

Authority for maintenance of the system: The system was established and is maintained pursuant to Executive Order 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is routinely used by the Interagency Classification Review Committee, the Department of Justice Security Staff, and the Department of Justice Review Committee.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in machine readable form on magnetic tape. A copy of the data capture form is maintained in the originating office for two weeks, then destroyed. The original data capture form is maintained at the Department until data contained therein has been successfully processed, then the form is destroyed.

Retrievability: Information is retrieved in any form for all routine uses. Information may be retrieved for non-routine uses with the approval of the Director, Central Management Services Staff, and in accordance with the provisions of the Privacy Act.

Safeguards: Access to information contained in the system is controlled by the Director, Central Management Services Staff. Access is normally limited to routine users and members of the Central Management Services Staff, on a "need-to-know" basis.

Retention and disposal: Records contained in the system are retained indefinitely. The system of records is never purged and no disposal schedule is required.

System manager(s) and address: Director, Central Management Services Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Employees of the Department who have been designated by the Attorney General as classifying officials and employees who have been delegated classifying authority.

Systems exempted from certain provisions of the act: None.

Justice Data Management Service Center Tape Library System, JUSTICE/OMF-011: Revisions to this system of records effect changes in the system name, system location and system manager(s) and address categories which are necessary because of a recent internal reorganization. In addition, other minor editorial changes are reflected in the text reprinted below.

JUSTICE/OMF—011

System name: Justice Data Management Service Center Tape Library System.

System location: Justice Data Management Service; 425 I Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Personnel submitting computer jobs which create magnetic tape data sets.

Categories of records in the system: The data describes the contents of the magnetic tape volumes.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to control and protect the data recorded on magnetic tapes.

Release of information to the news media: Information permitted to be released to news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reports can be obtained by any Justice Data Management Service user by submitting a computer job requesting the report.

Retrievability: Information can be obtained by name of the individual who submitted the job which created the tape resident data sets.

Safeguards: The machine readable data is kept within the Justice Data Management Service. Reports are controlled by the tape librarian and by the individuals receiving the reports.

Retention and disposal: Reports are controlled by the tape librarian and by the individuals receiving the reports.

System manager(s) and address: Director; Central Management Services Staff; U.S. Department of Justice; Office of Management and Finance; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access/correction to a record from this system may be made in person or in writing specifying the serial number of the tape in question. Request should be addressed to the System Manager.

Contesting record procedures: Same as the above.

Record source categories: Information is collected by the IBM 360/370 Operating System and other program modules.

Systems exempted from certain provisions of the act: None.

Inter-Divisional Information System (IDIS), JUSTICE/OMF-016 (a non-operational, deactivated system): Revisions to this system of records effect changes in the system location and system manager(s) and address categories which are necessary because of a recent internal reorganization. In addition, other minor editorial changes are reflected in the text reprinted below.

JUSTICE/OMF—016

System name: Inter-Divisional Information Systems (IDIS) (a non-operational, deactivated system).

System location: U.S. Department of Justice; 10th and Constitution Avenue NW.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who were allegedly involved or connected with civil disturbances or other activities.

Categories of records in the system: IDIS, consisted of two subsystems. The incident subsystem was used to establish a record of various events, such as meetings and demonstrations. The subject subsystem provides individual's names, biographical sketches, and organizational affiliation(s). Some cross referencing between the two subsystems exists.

Authority for maintenance of the system: The system is currently being maintained by reason of an agreement between the Department of Justice and members of the Committee on the Judiciary of the United States Senate.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no present or anticipated operational uses of IDIS records by Department of Justice personnel. IDIS material is exclusively used to respond to inquiries from citizens who are the subject of the files and also may be used by litigants involved in court proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on index cards and computer produced reports stored in locked cabinets.

Retrievability: Index cards of the subject subsystem are filed alphabetically by individual name.

Safeguards: IDIS information is maintained in secured storage devices in a locked room, rendered inaccessible for any operational use and accessible by a limited number of employees who must repond to Freedom of Information Act requests and to decrees in court proceedings.

Retention and disposal: IDIS information will be maintained until such time as the legislative and executive branches of government agree to its disposal.

System manager(s) and address: Director; Central Management Services Staff; U.S. Department of Justice; Office of Management and Finance; 10th and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: Access to information maintained in IDIS will be granted in accordance with the procedures set forth in 28 CFR 16.41. Requests for access will be directed to the System Manager.

Contesting record procedures: Requests for correction of IDIS data will be processed in accordance with the procedures set forth in 28 CFR 16.53. Requests for correction will be directed to the System Manager.

Record source categories: Information in IDIS was derived from FBI reports and teletypes; U.S. Attorney Offices; the Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of Treasury; citizen complaints; wire service clippings; and articles in periodicals.

Systems exempted from certain provisions of the act: None.

Department of Justice Controlled Parking Records, JUSTICE/OMF-017: Revisions to this system of records effect editorial changes which are necessary because of a recent internal reorganization. Other minor editorial corrections are also reflected in the text reprinted below.

JUSTICE/OMF—017

System name: Department of Justice Controlled Parking Records.

System location: U.S. Department of Justice; 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Department of Justice employees who have applied for vehicle parking space which is assigned and controlled by the Department of Justice, per Department of Justice Order 2540.2D, Dec. 20, 1977.

Categories of records in the system: This system contains copies of Form DOJ-362, Department of Justice Parking Space Application (DOJ Space), and Form DOJ-OT-60, Department of Justice Parking Space Application (DOJ Carpool Space), which have been completed and submitted by Department of Justice employees.

Authority for maintenance of the system: This system is established and maintained in accordance with Federal Energy Office (FEO) memorandum of January 17, 1974, Federal Management Circular 74-1 of January 21, 1974, and Federal Energy Office memorandum of April 5, 1974, as reflected in Federal Property Management (Temporary) Regulation D-47 of May 22, 1974. Operating procedures are contained in Department of Justice Order 2450.2D, Dec. 20, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to assign, identify and control the use of vehicle parking space for which the Department of Justice is responsible.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in a locked file cabinet.

Retrievability: These records are indexed alphabetically, by the last name of the applicant, within the organizational element.

Safeguards: Information contained in this system is unclassified and is disseminated on a need to know basis by the Office of the Director, Administrative Programs Management Staff, Office of Management and Finance.

Retention and disposal: Although these records are currently retained as long as applicants remain as employees of the Department of Justice, the establishment of a disposal schedule is still pending.

System manager(s) and address: Director; Administrative Programs Management Staff; Office of Management and Finance; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager.

Contesting record procedures: Same as System Manager.

Record source categories: Applications from employees.

Systems exempted from certain provisions of the act: None.

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Executive Clemency Files, JUSTICE/OPA—001: The Office of the Pardon Attorney proposes to add one new routine use, modify another routine use, and delete a portion of the address of the Office of the Pardon Attorney and make other minor editorial changes to the system of records.

The new routine use will enable the Pardon Attorney to refer to any governmental agency for appropriate action information from Executive clemency files which indicates a violation or apparent violation of law, whether civil, criminal or regulatory in nature. The routine use pertaining to the preparation of public notices reflecting the President's action in clemency matters has been expanded to permit the release of information concerning denial of petitions of general public interest. Recitation of the system location street address has been omitted to avoid misinformation in view of the anticipated relocation of the Office of the Pardon Attorney in the coming year. The new and modified routine uses have been italicized for public convenience.

While retained in the Office of the Pardon Attorney, U.S. Department of Justice, Executive Clemency Files are files of the President of the United States which are compiled and maintained to provide for the exercise of his constitutional responsibilities pursuant to Article II, Section 2, and are not subject to the provisions of the Privacy Act of 1974. However, in compliance with the spirit of the Act, the Office of the Pardon Attorney (1) hereby notifies the public that guidelines approved by the President for handling requests for Executive clemency and disclosure of materials submitted or furnished in connection with Executive clemency are published in 28 CFR Part I and (2) publishes the following amended system notice.

JUSTICE/OPA—001

System name: Executive Clemency Files.

System location: Office of the Pardon Attorney; U.S. Department of Justice; Washington, D.C. 20530.

Categories of individuals covered by the system: Applicants for Executive clemency.

Categories of records in the system: The system contains the individual petitions for Executive clemency (OPA-6 or 6-15) submitted by the applicants and accompanying oath and character affidavits (DOJ-1973-06), investigatory material, evaluative reports, interagency and intra-agency correspondence and memoranda relating to individual petitions for clemency. The system includes Presidential Clemency Board files transferred to the Office of the Pardon Attorney upon termination of the Board's existence on September 15, 1975.

Authority for maintenance of the system: The system is established and maintained in accordance with the United States Constitution, Article II, section 2, Executive Order of the President dated June 16, 1893, Order No. 288-62, 27 FR 11002, November 10, 1962, as codified in 28 CFR 1.1 et seq. and E.O. 11878 dated September 10, 1975.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Executive clemency files are used to (a) enable the Attorney General to investigate each petition for Executive clemency, to review each petition and information developed by his investigation thereof and to advise the President whether, in his judgment, the request for clemency is of sufficient merit to warrant favorable action by the President; (b) prepare notices to the public of the name of each grantee of clemency, date of Presidential action, nature of clemency granted, nature of grantee's offense, date and place of sentencing, description of sentence imposed, and names of character affiants and interested members of congress; *and disclose similar information to that specified above with respect to denials of general public interest if the disclosure does not constitute an unwarranted invasion of privacy;* (c) prepare bound and indexed volumes containing photocopies of the official warrent of clemency granted each recipient of clemency as a public and official record of Presidential action; (d) upon request of the President and members of his staff, to make available to them individual clemency files; (e) upon specific request, to advise the requestor whether a named person has applied for, been granted or denied clemency, the date thereof and the nature of the clemency granted or denied; (f) upon specific request, to make closed files available for historical research purposes when in the public interest and in conformity with Department of Justice policy; *and (g) upon request or otherwise, to make any information which indicates a violation or apparent violation of law, whether civil, criminal or regulatory in nature, available to the appropriate agency, whether Federal, state, local or foreign.*

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in the Office of the Pardon Attorney and in Archives.

Retrievability: Information is retrieved by reference to the file number assigned to the name of each applicant for clemency.

Safeguards: Information contained in the system is safeguarded and protected in accordance with Department of Justice Rules Governing Petitions for Executive Clemency, specifically, 28 CFR 1.6. Executive clemency files are maintained in the Office of the Pardon Attorney and are not commingled with Department of Justice records.

Retention and disposal: Records are stored in the Office of the Pardon Attorney and closed cases are transferred to the Federal Archives Records Center when five years old. Except for the "letter of advice" furnished to the President in connection with clemency applications and Presidential responses and cases designated by the Pardon Attorney as having significant public interest, records are destroyed after 25 years.

System manager(s) and address: Pardon Attorney; Office of the Pardon Attorney; Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Pardon Attorney; Department of Justice; Washington, D.C. 20530.

Record access procedures: While the Attorney General has exempted Executive Clemency files from the access provisions of the Privacy Act, requests for discretionary releases of records contained in the system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document and the name of the clemency applicant in whose file it is contained. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: While the Attorney General has exempted Executive Clemency files from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest and amendment) of records contained in this system should be directed to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the individual applicants for clemency, Federal Bureau of Investigation or other official investigatory reports, Bureau of Prisons records, armed forces reports, probation or parole reports and reports from individual or non-Federal organizations, both solicited and unsolicited.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

The following systems of records maintained by the Bureau of Prisons are revised to reflect a change in the retention and disposal periods from ten years after expiration of the subject inmate's sentence to thirty years after expiration of a sentence. The longer retention period is needed from time to time in order to continue providing information concerning former prison inmates to those former inmates, their families, governmental agencies, and under certain circumstances, to the general public. The texts reprinted below reflect this modification.

JUSTICE/BOP-001

System name: Custodial and Security Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates unde the custody of the Attorney General.

Categories of records in the system: (Conduct Records; 2) Escape Information; 3) Assault Information; 4) Disturbance Information; 5) Investigative Reports; 6) Social Data; 7) Bus Movements; 8) Transfers; 9) Emergency Plans; 10) Daily Activity Sheet; 11) Intelligence Information; 12) Segregation Reports and Log Book; 13) Special Offender List; 14) Physical Health Data; 15) Personal Property Records; 16) Identification and Sentence Data; 17) Records of Work and Housing Assignments; 18) Visiting and Mail Records; 19) Confidential Informant Information from Inmates, Staff, and Others; 20) Work and Study Release Information; 21) FBI Referral Record; 22) Rectal and X-ray Examination Record; 23) Phone Call Record.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are (a) to provide information source and documented records of the protection given Federal inmates, and security in Federal penal facilities; (b) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (c) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (d) to provide information source for responding to inquiries from federal inmates involved or Congressional inquiries; (e) to provide information source for contracting or consulting correctional agencies who provide services to federal inmates; (f) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street NW., Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Federal Law Enforcement Agencies; 3) State and Federal Probation Services; 4) Non-Federal Law Enforcement Agencies; 5) Educational Institution (Study Release); 6) Relatives, friends, and other interested community individuals; 7) Former or Future Employers; 8) Evaluation, Observations, and Findings of Institutional Staff; 9) Foreign Law Enforcement Agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—003

System name: Industrial Inmate Employment Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons; 320 First Street N.W., Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Inmate assignment records; 2) Time and Attendance Reports; 3) Work Performance Reports; 4) Payroll Records.

Authority for maintenance of the system: This system is established and maintained under authority of 31 U.S.C. 841; 18 U.S.C. 4002, 4121 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to determine compensation of inmates pursuant to 18 U.S.C. 4002, 4126, 4125, 4121 et seq.; (b) to record employment history of an inmate within the Federal Prison Industries, Inc.; (c) to record disbursement of Federal Prison Industries, Inc., funds for payroll purposes; (d) to evaluate effectiveness of industrial training of inmates; (e) to evaluate authenticity of Federal Prison Industries, inc., accounting records; (f) to provide information source to officers and employees of the Department of Justice who have need for information in the performance of their duties; (g) to provide information sources to state and federal law enforcement officials for investigations, possible criminal prosecution, civil court actions, or regulatory proceedings; (h) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards and Microfilm—Information is indexed by name and/or register number. 2) Magnetic Tape and Disk—information is indexed by Name, Register Number, Social Security Number, and FBI Number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rule governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

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Notification procedure: Address inquiries to: Director, Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) The inmate; 2) Bureau of Prisons/ Federal Prison Industries staff members; 3)U.S. Treasury Department.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—004

System name: Inmate Administrative Remedy Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) ARS records include information on the current offense and sentence; 2) Prior criminal record; 3) Social background; 4) Institution adjustment; 5) Institution program data; 6) Medical information; 7) Personal property data.

Authority for maintenance of the system: The system is established and maintained under authority of 18 U.S.C. 4042.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to maintain records of receipt, processing and responses to grievances filed by inmates; (b) to provide source of information for reconsideration or amendment of Federal Prison System policy with regard to its operation; (c) to maintain source of information as to the exhaustion of administrative remedies for purposes of civil suits filed against the Federal Prison System by inmates; (d) to provide source of information for purposes of defending civil actions. filed against the Federal Prison System by inmates; (e) to provide source of infomration for statistical reports furnished to Federal Courts for purpose of determining effectiveness of the Administrative Remedy Program in reducing the baclog of cases in Federal Court; (f) furnished to employees of the Department of Justice who have a need for the information in the performance of their duties; (g) furnished to appropriate law enforcement authorities, state and federal, for investigation and possible criminal prosecution, civil court action, or regulatory proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of reords may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group, U.S. Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director, Bureau of Prisons; 320 First Street NW., Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system shoud be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) ARS records sources include inmates, employees; 2) U.S. Department of Justice and its Bureaus; 3) U.S. Courts.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—005

System name: Inmate Central Records System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons; 320 First Street, N.W., Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Computation of sentence and supportive documentation; 2) Correspondence concerning pending charges, and wanted status, including warrants; 3) Requests from other federal and non-federal law enforcement agencies for notification prior to release; 4) Records of the allowance, forfeiture, withholding and restoration of good time; 5) Information concerning present offense, prior criminal background, sentence and parole from the U.S. Attorneys, the Federal Courts, and federal prosecuting agencies; 6) Identification data, physical description, photograph and fingerprints; 7) Order of designation of institution of original commitment; 8) Records and reports of work and housing assignments; 9) Program selection, assignment and performance adjustment/progress reports; 10) Conduct Records; 11) Social background; 12) Educational data; 13) Physical and mental health data; 14) Parole Board orders, actions and related forms; 15) Correspondence regarding release planning, adjustment and violations; 16) Transfer orders; 17) Mail and visit records; 18) Personal property records; 19) Safety reports and rules; 20) Release processing forms and certificates; 21) interview request forms from inmates; 22) General correspondence; 23) Copies of inmate court petitions.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are (a) to provide documented records of the classification, care, subsistence, protection, discipline and programs, etc., of persons committed to the custody of the Attorney General; (b) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (c) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (d) to provide information source for disclosure of information that are matters solely of general public record, such as name, offense, sentence data, release date, and etc; (e) to provide information source for disclosure to contracting or consulting correctional agencies that provide correctional services for federal inmates; (f) to provide informational source for responding to inquiries from federal inmates involved or Congressional inquiries; (g) Internal Users—Employees of the Department of Justice who have a need to know information in the performance of their duties; (h) External Users—State and Federal

law enforcement officials for the purposes of investigation, possible criminal prosecution, civil court actions, and regulatory proceedings; state correctional agencies providing services to federal inmates; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards and Microfilm—Information is indexed by name and/or register number. 2) Magnetic Tape and Disk—information is indexed by Name, Register Number, Social Security Number, and FBI Number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rule governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Individual inmate, 2) Federal law enforcement agencies and personnel, 3) State and federal probation services; 4) Non-federal law enforcement agencies; 5) Educational institutions; 6) Hospital or medical sources; 7) Relative, friends and other interested individuals or groups in the community; 8) Former or future employers; 9) Evaluations, observations, reports, and findings of institution supervisors, counselors, boards and committees.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—007

System name: Inmate Physical and Mental Health Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Medical history and examination (past and present); 2) Dental history and examination (past and present); 3) Medical information concerning deaths of inmates; 4) Offense; 5) Mental Health and Drug Abuse interview and testing data, generated in Bureau of Prisons; 6) Mental Health information generated outside Bureau of Prisons by other corrections agencies, mental hospitals, private therapists, etc.; 7) Information as per 5 and 6 above on unsentenced individuals committed under Title 18, sections 4244 and 4246; 8) Mental Health Treatment progress notes and observations made by other staff members; 9) Urine surveillance reports of drug program participants.

Authority for maintenance of the system: The system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide documented records of the diagnosis, treatment, and cure of illnesses of persons committed to the custody of the Attorney General pursuant to 18 U.S.C. 4082; (b) to provide documented records and background medical, mental; or dental history to contracting, or consulting physicians, psychologists and psychiatrists, and dentists, or other specialists, for diagnosis, treatment and cure of federal inmates; (c) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (d) to provide information source for disclosure to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (e) to provide information source for responding to inquiries from federal inmates or Congressional inquiries; (f) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials; (g) to provide medical information relevant to the treatment being provided by physicans, psychiatrists, psychologists, state and federal medical facility personnel, other medical agencies and etc., providing treatment for a pre-existing condition for ex-federal offenders.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards, and Microfilm—Information is indexed by name and/or register number—2) Magnetic Tape and Disk—Information is indexed by name, register number, social security number, and FBI number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group, U.S. Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director, Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system shoud be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemptions shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Individual; 2) Hospital and/or medical sources; 3) Pre-sentence reports; 4) Other mental health care giving agencies; 5) Observation reports from other Bureau of Prisons staff.

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Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—008

System name: Inmate Safety and Accident Compensation Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: Inmate accident/injuries data sustained by: a) Work related accidents, b) Recreational injuries; c) Vehicle accidents; d) Assaults; e) Other non-work accident/injuries.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4042, 4126.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide a documented record of inmate accidents, injuries, for the purpose of measuring safety programs effectiveness; (b) to provide information source for compliance with the Occupational Safety and Health Act; (c) to provide documented records of inmate accidents, injuries, and disabilities for adjudication of claims by inmates filed pursuant to the Inmate Accident Compensation System, 18 U.S.C. 4126; Chapter III, Federal Prisons Industries, 28 CFR, Part 301; (d) furnished to employees of the Department of Justice who require information from these records for performance of their duty; (e) to provide background information and litigation reports to United States Attorneys for purpose of defending civil actions filed against the Bureau of Prisons; (f) furnished to consultant physicians, and physicians treating inmates following release from custody for the purpose of providing prior medical history in conjunction with further treatment of the individual inmate; (g) to provide documented records for disclosure to appropriate law enforcement authorities, state or federal, for investigation and possible criminal prosecution, civil court action, or regulatory proceeding; (h) to provide information source for responding to inquiries from the inmate involved or Congressional inquiries; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff request the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group, U:S. Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director Bureau of Prisons; 320 First Street NW., Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system shoud be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemptions shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) ARS records sources include inmates, employees; 2) U.S. Department of Justice and its Bureaus; 3) U.S. Courts.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from substances (c)(3) and (4), (d), (e)(2) and (3), (3)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—005

System name: Inmate Safety and Accident Compensation Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: Inmate accident/injuries data sustained by: a) Work related accidents; b) Recreational injuries; c) Vehicle accidents; d) Assaults; e) Other non-work accident/injuries.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide a documented record of inmate accidents, injuries, for the purpose of measuring safety programs effectiveness; (b) to provide information source for compliance with the Occupational Safety and Health Act; (c) to provide documented records of inmate accidents, injuries, and disabilities for adjudication of claims by inmates filed pursuant to the Inmate Accident Compensation System, 18 U.S.C. 4126; Chapter III, Federal Prisons Industries, 28 C.F.R., Part 301; (d) furnished to employees of the Department of Justice who require information from these records for performance of their duty; (e) to provide background information and litigation reports to United States Attorneys for purpose of defending civil actions filed against the Bureau of Prisons; (f) furnished to consultant physicians treating inmates following release from custody for the purpose of providing prior medical history in conjunction with further treatment of the individual inmate; (g) to provide documented records for disclosure to appropriate law enforcement authorities, state or federal, for investigation and possible criminal prosecution, civil court action, or regulatory proceeding; (h) to provide information source for responding to inquiries from the inmate involved or Congrressional inquiries; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: Documents are indexed by name and/or register number.

Information is safeguarded in accordance with Bureau of Prisons rule governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) The inmate; 2) Bureau of Prisons staff members; 3) Medical staff members and medical consultants; 4) U.S. Probation Officers; 5) Attorneys; 6) Relatives of inmates; 7) Inquiries and replies to Congressmen; 8) U.S. Attorneys.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP-009

System name: Federal Tort Claims Act Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Administrative Tort claims and supporting documents; 2) Personal data; 3) Investigative reports; 4) Medical reports; 5) Property records; 6) Litigation reports; 7) Reports made in preparation of litigation; 8) Social and Criminal Background; 9) Employment History; 10) Correspondence; 11) Litigation Pleadings and Court Decisions.

Authority for maintenance of the system: The system is established and maintained under authority of 28 U.S.C. 2671 et seq. FTCA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide information source for purposes of adjudicating claims for personal injury and property damages pursuant to the Federal Tort Claims Act, 28 U.S.C. 2675; (b) to provide information source for purposes of preparing reports concerning litigation in United States Courts under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq; (c) to provide information source that is furnished to counsel for claimants under the Federal Tort Claims Act; (d) to provide information source that is furnished to medical officials when requested by claimants under the Federal Tort Claims Act; (e) to provide information source that is disclosed to employees of the Department of Justice who have a need for the information in the performance of their duties; (f) to provide information source to state and federal law enforcement officials for the purpose of investigations, possible criminal prosecutions, civil court actions, or regulatroy proceedings; (g) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director, Bureau of Prisons; 320 First Street NW.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system shoud be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemptions shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Department of Justice Employees; 3) U.S. Probation Service; 4) Contract and Consulting Physicians Including Hospitals; 5) Attorneys; 6) Relatives and friends of Inmates; 7) Congress; 8) State and Federal Law Enforcement Agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

Part V

Notice is hereby given that the following systems of records are deleted for the reasons stated below.

JUSTICE/ATR—009

Consumer Inquiry Index: Published at 42 FR 53396, September 30, 1977. This system is deleted because documents in this index have been rearranged so that it is no longer possible to access records by personal identifier. Therefore, the index is no longer a system of records within the scope of the Privacy Act.

JUSTICE/CRT—003

Files of Pending Applications for Clerical or Research Analyst Positions with the Civil Rights Division: Published at 42 FR 53327, September 30, 1977. This system is deleted because all applicant files for clerical or research analyst positions are now maintained in the Department's Personnel and Training Staff. The files as maintained by the Personnel and Training Staff do not constitute a system of records.

JUSTICE/CRT—005

Records Obtained by Office of Special Litigation Concerning Residents of Certain State Institutions: Published at 42 FR 53328, September 30, 1977. This system is deleted because the records have been incorporated into the Central Civil Rights Division Index File and Associated Records, JUSTICE/CRT—001.

JUSTICE/CRT—006

Files of Federal Programs Section, Civil Rights Division: Published at 42 FR 53329 on September 30, 1977. This system is deleted

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because the records have been incorporated into the Central Civil Rights Division Index File and Associated Records, JUSTICE/CRT—001.

JUSTICE/DEA—019

Specialized Automated Intelligence Files (NIMROD): Published at 42 FR 53308 on September 30, 1977. The NIMROD system is deleted because it consisted of data on microfiche generated entirely from the NADDIS index which is reported as a part of the Investigative Reporting and File System, JUSTICE/DEA—008. A search of the NADDIS index would produce the identical data. Therefore, the NIMROD system is no longer maintained as a system of records.

JUSTICE/OMF—014

Directory of Organization, Functions, and Staff for Office of Management and Finance: Published at 42 FR 53426 on September 30, 1977. This system is deleted because it is no longer operational.

[8320-01]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Notice of Incorporation by Reference

Agency: Veterans Administration.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies ar required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Mrs. Maureen diNunzio, Chief, Records Management Division (63), Veterans Administration, Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 (202-389-3648).

APPROVAL OF THE DIRECTOR

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

38VA28

System name: Veterans and Beneficiary Identification and Records Locator System-VA

System location: VA Data Processing Center, 1615 E. Woodward Street, Austin, Texas 78772, and VA Central Office, 810 Vermont Ave., N.W., Washington, D.C. 20420.

Categories of individuals covered by the system: Basic file: Veterans who have applied for VA benefits: Compensation, Pension, Education, U.S. Government Life Insurance, National Service Life Insurance, or burial allowance (under Title 38, United States Code, Chapters 11, 15, 19, 23, 31, and 34). Veterans' beneficiaries (spouse, child or parent) who are receiving VA benefits: Dependency and Indemnity Compensation. Pension or Education (under Title 38, United States Code, Chapters 13, 15, and 35). Veterans who receive pensions from Railroad Retirement Board. Veterans discharged from military service since January 1973. Service members who have established accounts from which future applications for VA educational benefits under Title 38, United States Code, Chapter 32 may be based.

Adjunct file: Microfilm copies of former manual Central Index and claim number registers; partial file of pensioners with service prior to 1930; personnel with service between 1940 and 1948 with VA insurance; and partial lists of other armed forces personnel.

Categories of records in the system: Veteran's service data, VA file numbers and records location and corss-references to beneficiaries.

Authority for maintenance of the system: Title 38, United States Code Chapter 3, Section 210(c)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Inquiry of record by the Railroad Retirement Board to obtain veteran's VA claim file number and folder location in order to get necessary information from VA Compensation, Pension or Education records in accordance with the Railroad Retirement Act of 1937 (Section 2281(i)).

2. Inquiry of record by the National Personnel Records Center (NPRC) and U.S. Army Reserve Components Personnel and Administration Center (RCPAC) to obtain the veteran's VA claim file number and folder location so that service records on file at the VA may be returned when necessary to assist in rebuilding lost military service records or for review for possible discharge up-grade or correction.

3. Inquiry of record by the National Research Council, National Academy of Sciences to obtain data for use in medical studies on veterans for VA and other agencies as approved by the Chief Medical Director.

4. Inquiry of record by the Treasury Department or the U.S. Marine Corps Finance Center to obtain veteran's claim or insurance file number and folder location in order to get necessary data to return U.S. Savings Bonds in safekeeping.

5. Inquiry of record by Federal, State and local government agencies to assist agencies in the performance of their duties and in the development of programs that will be beneficial to claimants.

6. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

7. Inquiry of record by accredited service organization representatives and other approved agents and attorneys to obtain the veteran's VA claim or insurance file number and folder location in order to aid veterans in the preparation, presentation and prosecution of claims under the laws administered by the VA.

8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. A record containing the name(s) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances: (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

10. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veteran Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

11. To the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States.

12. Disclosure may be made to NARS (National Archives and Records Service) GSA (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Basic file is on magnetic disk with security copies of data on magnetic tape. Adjunct file is on microfilm and paper.

Retrievability: Name only; name and one or more numbers (Service serial number, social security number, VA claim file number, VA insurance file number); name and date of birth or service dates; number only.

Safeguards: Access to the authorized VA Data Processing Center (DPC), Austin, Texas, is restricted to authorized Federal employees and authorized representatives of vendors. Access to the computer room within the DPC is further restricted to especially authorized Federal employees and vendor personnel. Protection is provided by an alarm system as well as guard service. Data in the system may be accessed from authorized remote terminals via a telecommunications network maintained by General Services Administration (GSA) or one dedicated for VA use. The system recognizes authorized users by a station identifier transmitted in the data message. In addition, data in the system may be accessed by machine-readable input submitted to the DPC.

Adjunct file is accessible to personnel assigned to Identification and Records Development Service, VA Central Office and to Analysis and Control Division, VA DPC, Austin, Texas, for official use only.

Retention and disposal: Records are retained permanently.

System manager(s) and address: DIRECTOR, ADMINISTRATIVE SERVICES DIVISION (23), VA Central Office, Washington, D.C. 20420.

Notification procedure: Individuals seeking information concerning the existence of a record pertaining to themselves must submit a written request or apply in person to the nearest VA Regional Office or Center. Addresses for VA regional offices and centers may be found in VA Appendix 1 at the end of this document. All inquiries

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must reasonably identify the benefit or system of records involved, i.e., Education, Compensation and Pension. Inquiries should include the individual's full name, VA file number and return address. If the VA file number is not available then as much of the following information as possible should be forwarded: branch of service, dates of service, service number, social security number and date of birth.

Record access procedures: Veterans, beneficiaries, service personnel or duly authorized representatives seeking information regarding access to and contesting of VA records may write, call or visit the nearest VA regional office or center.

Contesting record procedures: (See Record Access Procedures above.)

Record source categories: Records are obtained from VA regional offices, Railroad Retirement Board, other VA computer systems and microfilm copies of former manual central index.

49VA21

System name: Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA.

System location: Records are maintained at the VA regional offices, the Records Processing Center, St. Louis, and Federal Archives and Records Centers. Active records are generally maintained by the regional office having jurisdiction over the domicile of the claimant, and the servicing Data Processing Center at Hines, Illinois with subsidiary accounts receivable records located at the Data Processing Center at St. Paul, Minnesota. Address locations are listed in VA Appendix 1 at the end of this document.

Categories of individuals covered by the system: 1. Veterans who have applied for compensation for service-connected disability under Title 38, United States Code, Chapter 11.

2. Veterans who have applied for non-service-connected disability, under Title 38, United States Code, Chapter 15.

3. Veterans entitled to burial benefits under Title 38, United States Code, Chapter 23.

4. Widows, widowers and children who have claimed pension based on non-service-connected death under Title 38, United States Code, Chapter 15.

5. Widows, widowers and children who have claimed Death Compensation based on service-connected death under Title 38, United States Code, Chapter 11.

6. Widows, widowers and children who have claimed Dependency and Indemnity Compensation for service-connected death under Title 38, United States Code, Chapter 13.

7. Parents who have applied for Death Compensation based on service-connected death under Title 38, United States Code, Chapter 11.

8. Parents who have applied for Dependency and Indemnity Compensation for service-connected death under Title 38, United States Code, Chapter 13.

Categories of records in the system: Military service and medical information; applications for Compensation and Pension benefits; adjudicative actions taken to determine eligibility; medical information from VA and private hospitals and doctors; information relating to dependency, income, education, family and social relations and occupation; payment data and claimant or payee name and address.

Authority for maintenance of the system: Title 38, United States Code, Chapter 3, Section 210(c)(1), Title 38, United States Code, Chapters 11, 13, 15, and 23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Transfer of payment data for preparation of benefit checks to the Treasury Department for delivery of monies due VA beneficiaries.

2. Disclosure of VA records as deemed necessary and proper to accredited service organizations, agents, and attorneys recognized under a power of attorney or declaration of representation to assist in the preparation, presentation, and prosecution of claims.

3. Transfer of information to aid collection agencies in order to conduct a credit check to determine the likelihood of success in a collection action from claimants of debts owed to VA.

4. Further transfer of collection information to the General Accounting Office for obtaining a judgment against an individual debtor or otherwise collecting debts owed to the VA.

5. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

6. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

7. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

8. Transfer of statistical and other data to Federal, State, and local government agencies and national health organizations to assist in the development of programs that will be beneficial to claimants and to protect their rights under law and assure that they are receiving all benefits to which they are entitled.

9. A record containing medical history, diagnoses, findings, or treatment may be released from this system of records in response to a request from the superintendent of a State hospital for psychotic patients, a commissioner or head of a State department of mental hygiene, or head of a State, county or city health department, or any fee basis physician or institution in connection with authorized treatment as a VA beneficiary, provided that the name of the individual to whom the record pertains is given and that the information will be treated as confidential, as is customary in civilian professional medical practice.

10. A record from this system of records may be disclosed to a State unemployment compensation agency, in response to its request, to the extent required to determine eligibility for their benefit.

11. A record from this system of records may be disclosed to the following agencies relative to military or naval service and as to both current and historical benefit payments made by the VA: Departments of the Army, Navy and Air Force; Marine Corps; Department of Transportation (Coast Guard); Department of Health, Education and Welfare, PHS (Public Health Service), Commissioned Corps; Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps.

12. A record from this system of records may be disclosed to a third party to the extent necessary in the development of a potential beneficiary's claim for VA benefits (i.e., individual identifiers and other similar identifying information).

13. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances: (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

14. The amount of pension, compensation, dependency and indemnity compensation, educational assistance allowance, retirement pay and subsistence allowance, of any beneficiary, may be released from this system of records to any person who applies for such information.

15. A record from this system of records may be disclosed to a fiduciary (including those acting in a fiduciary capacity) recognized or appointed by the VA to the extent necessary to fulfill the fiduciary's function.

16. Relevant information from this system of records may be disclosed, as a routine use: In the course of presenting evidence to a Court, magistrate, or administrative tribunal in matters of guardianship, inquests, and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with Court required duties.

17. Relevant information from this system of records, including the nature and amount of a financial obligation, may be disclosed as a routine use, in order to assist the Veterans Administration in the collection of upaid financial obligations owed the VA, to a debtor's employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469).

18. Relevant information from this system of records, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, name of debtor's spouse, social security account number of debtor, VA insurance number, VA loan number, VA claim number, place of birth and date of birth of debtor, name and address of debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the U.S. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. 89-508, 31 U.S.C. 951-953) and 4 CFR Parts 101-105.

19. Release of information to a guardian ad litem in relation to his or her representation of a claimant in any legal proceeding.

20. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

21. To the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States.

22. Disclosure may be made to NARS (National Archives and Records Service) GSA (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

23. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

24. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Department of Health, Education, and Welfare, or agency thereof, or other Federal Agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

25. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

26. Information from this system of records which directly affects payment or potential payment of benefits to contesting claimants, including parties claiming an apportioned share of benefits may be coequally disclosed to each affected claimant upon rquest from that claimant in conjunction with the claim for benefits sought or received.

27. A record from this system of records may be released to the Social Security Administration, Bureau of Supplemental Security Income, as required for their determination of eligibility for or amounts of benefits, or to verify other amounts of benefits, or to verify other information with respect thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents, microfilm, magnetic tape, disk.

Retrievability: (a) All VA Compensation and Pension manual records are indexed by name and VA file number. (b) All automated records are indexed by name, VA file number, payee number and type of benefit.

Safeguards: Physical Security: Access to VA working spaces and claims folder storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Employee file records and file records of public figures or otherwise senative files are stored in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis.

Retention and disposal: Individual case folders and records are retained indefinitely.

System manager(s) and address: DIRECTOR, COMPENSATION AND PENSION SERVICE (21), VA Central Office, Washington, D.C. 20420.

Notification procedure: 1. Individuals seeking information concerning the existence of a record pertaining to themselves must submit a written request or apply in person to the nearest VA regional office. Addresses for VA regional offices and centers may be found in VA Appendix 1 at the end of this document.

2. All inquiries must reasonably identify the benefit or system of records involved; i.e., Compensation and Pension. Inquiries should include the individual's full name, VA file number and return address. If the VA file number is not available, the following information should be forwarded, if known: Veteran's full name, branch of service, dates of service, service number, social security number, and date of birth.

Record access procedures: Veterans, beneficiaries, service organization personnel or other duly authorized representatives seeking information regarding access to and contesting of VA records may write, call or visit the nearest Veterans Administration regional office or center.

Contesting record procedures: (See Record Access Procedures above.)

Record source categories: 1. The claimant, his accredited representative or his fiduciary. 2. The service department. 3. VA hospitals and doctors, or private hospitals and doctors if written authorization is obtained from th claimant. 4. Training establishments. 5. Other Federal agencies. 6. County Clerks, Courts, and other third parties, when assistance is requested by claimant.

50VA22

System name: Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Record-VA

System location: Education records are maintained at the VA regional offices, Records Processing Center and Federal Archives and Records Centers. Active records will generally be maintained by the regional office having jurisdiction over the area in which the claimant resides, and at the servicing Data Processing Center at Hines, Illinois with subsidiary accounts recivable records located at the Data Processing Center at St. Paul, Minnesota. Address locations are listed in VA Appendix 1 at the end of this document.

Categories of individuals covered by the system: 1. Veterans who have applied for VA educational benefits under Title 38, United State Code, Chapter 31 and 34.

2. Spouse or widow(er) who has applied for VA educational benefits under Title 38, United States Code, Chapter 35.

3. Children who have applied for VA educational benefits under Title 38, United States Code, Chapter 35.

4. Service members who have applied for VA educational benefits under Title 38, United States Code, Chapter 34.

5. Service members who have applied for VA educational benefits under Title 38, United States Code, Chapter 32.

Categories of records in the system: Active duty separation information, medical records relating to treatment in service, applications, education and training, marital status and dependency information, current payment data and educational status relative to VA benefits. Counseling and Rehabilitation records are also maintained as necessary.

Authority for maintenance of the system: Title 38, United States Code, Chapter 3, Section 210(c)(1) and Chapters 31, 32, 34, 35, and 36.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Transfer of payment information to the Treaury Department to ensure delivery of benefit checks to VA beneficiaries.

2. Transfer of information to collection agencies in order to conduct a credit check to determine the likelihood of success in a collection action against individuals who owe debts to the VA.

3. Further transfer of necessary collection information to the General Accounting Office, for use in procedures incident to obtaining a judgment against the individual.

4. Forwarding of computer generated VA forms to VA approved educational institutions in order to certify individual's reenrollment and allow payment.

5. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

6. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil,

criminal or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefits.

7. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

8. Transfer of information regarding the induction, reentrance and dismissal of a disabled veteran from the vocational rehabilitation program to inform the training establishment of the actions taken.

9. Written and oral disclosure to VA approved Vocational Rehabilitation Training Establishments regarding the extent and nature of a claimant's disabilities with respect to any limitations to be imposed on the vocational program to ensure that the trainee receives the maximum benefit from training. A vast amount of discretion with respect to each disclosure is practiced.

10. Transfer of statistical and other data to Federal, State and local government agencies and national health organizations to assist in the development of programs that will be beneficial to claimants, to protect their rights under law, and to assure that they are receiving all benefits to which they are entitled.

11. The transfer of payment information to officials of schools and training establishments having VA beneficiaries when it can be determined that such a request is part of a legitimate attempt to assist the veteran or other eligible person to ascertain that correct amounts were paid. However, such information will not be provided as a routine use to school officials when the request is clearly an attempt to seek assistance in collection attempts against the veteran or eligible person.

12. Transfer to schools and other training establishments of VA edcuation forms for completion by school and subsequent submission to the VA for processing of education and vocational rehabilitation training claims.

13. Transfer of VA education letters and form letters to schools and other training establishments which may, by necessity, contain identifying data about a veteran or eligible person in order to obtain further information from the school necessary to discharge VA responsibilities toward the veteran or eligible person.

14. Transfer of identifying information, such as name, file number and address to a school or training establishment official in order to obtain information necessary to pay the veteran or eligible person correct amounts in an expedited manner. (An example of the above is a telephone call to an OJT establishment to find out the number of hours worked.)

15. Transfer of necessary information concerning veterans and other eligible persons to State and local agencies and prospective employers for employment and/or training.

16. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances: (1) to any non-profit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

17. Relevant information from this system of records, including the nature and amount of a financial obligation, may be disclosed as a routine use, in order to assist the Veterans Administration in the collection of unpaid financial obligations owed the VA, to a debtor's employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469).

18. Relevant information from this system of records, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, name of debtor's spouse, social security account number of debtor, VA insurance number, VA loan number, VA claim number, place of birth and date of birth of debtor, name and address of debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the U.S. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. 89-508, 31 U.S.C. 951-953) and 4 CFR Parts 101-105.

19. A record from this system of records may be disclosed to a State unemployment compensation agency, in response to its request, to the extent required to determine eligibility for their benefit.

20. A record from this system of records may be disclosed to the following agencies relative to military, naval, or air service and as to both current and historical benefit payments made by the VA: Departments of the Army, Navy, and Air Force; Marine Corps; Department of Transportation (Coast Guard); Department of Health, Education, and Welfare, PHS (Public Health Service), Commissioned Corps; Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps.

21. A record from this system of records may be disclosed to a third party to the extent necessary in the development of a potential beneficiary's claim for VA benefits (i.e. individual identifiers and other similar identifying information).

22. Disclosure of VA records as deemed necessary and proper to accredited service organizations, agents and attorneys recognized under a power of attorney or declaration of representation to assist in the preparation, presentation and prosecution of claims.

23. A record from this system of records may be disclosed to a fiduciary (including those acting in a fiduciary capacity) recognized or appointed by VA to the extent necessary to fulfill the fiduciary's function.

24. A record containing medical history, diagnoses, findings, or treatment may be released from this system of records in response to a request from the superintendent of a State hospital for psychotic patients, a Commissioner or head of a State department of mental hygiene or head of a State, county, or city health department or any fee basis physician or institution in connection with authorized treatment as a VA beneficiary, provided that the name of the individual to whom the record pertains is given and that the information will be treated as confidential, as is customary in civilian professional medical practice.

25. Relevant information from this system of records may be disclosed, as a routine use: In the course of presenting evidence to a court, magistrate, or administrative tribunal, in matters of guardianship, inquests and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with Court required duties.

26. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

27. The amount of pension, compensation, dependency and indemnity compensation, educational assistance allowance, retirement pay and subsistence allowance, of any beneficiary, may be released from this system of records to any person who applies for such information.

28. To the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States.

29. Disclosure may be made to NARS (National Archives and Records Service) GSA (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

30. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

31. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Department of Health, Education, and Welfare, or agency thereof, or other Federal agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

32. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

33. Information from this system of records which directly affects payment or potential payment of benefits to contesting claimants, including parties claiming an apportioned share of benefits, may be coequally disclosed to each affected claimant upon request from that claimant in conjunction with the claim for benefits sought or received.

34. A record from this system of records may be released to the Social Securyt Administration, Bureau of Supplemental Security Income, as required for their determination of eligibility for or amounts of benefits, or to verify other information with respect thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents, microfilm, magnetic tape, disk.

Retrievability: (a) All VA education manual records are indexed by name and Va file number. (b) All automated records are indexed by name, VA file number, payee number and type of benefit.

Safeguards: Physical Security: Access to VA working spaces and claims folder storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Employee file records and file records of public figures or otherwise sensitive files are sorted in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis.

Retention and disposal: Education Records: Individual case folders and automated records are retained indefinitely.

System manager(s) and address: DIRECTOR, EDUCATION AND REHABILITATION SERVICE (22), VA Central Office, Washington, D.C. 20420.

Notification procedure: 1. Individuals seeking information concerning the existence of a record pertaining to themselves must submit a written request or apply in person to the nearest VA regional office. Addresses for VA regional offices and centers may be found in VA Appendix I at the end of this document.

2. All inquiries must reasonably identify the benefit or system of records involved; i.e., Education. Inquiries should include the individual's full name, VA file number and return address. If the Va file number is not available, the following information should be forwarded, if known: Branch of service, dates of service, service number, social security number, and date of birth.

Record access procedures: Veterans, beneficiaries, service personnel or duly authorized representatives seeking information regarding access to and contesting of VA records may write, call or visit the nearest Veterans Administration regional office of center.

Contesting record procedures: (See Record Access Procedures above.)

Record source categories: Educational system records are obtained from: 1. The claimant. 2. The service department. 3. Training establishments. 4. State approving agencies. 5. Other Federal agencies. 6. County Clerks, Courts, other third parties, etc. upon request for assistance by claimant.

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System name: TARGET-Compensation, Pension, Education and Rehabilitation Records-VA

System location: Records are maintained at the VA regional offices, the VA Records Processing Center, St. Louis, Missouri, and at Federal Archives and Records Centers. Active records are generally maintained by the regional office having jurisdiction over the domicile of the claimant, and the servicing Data Processing Center at Hines, Illinois with subsidiary accounts receivable records located at the Data Processing Center at St. Paul, Minnesota. Address locations are listed in VA Appendix I at the end of this document.

Categories of individuals covered by the system: 1. Veterans who have applied for compensation for service-connected disability under Title 38, United States Code, Chapter 11. 2. Veterans who have applied for non-service-connected disability, under Title 38, United States Code, Chapter 15. 3. Veterans entitled to burial benefits under Title 38, United States Code, Chapter 23. 4. Widows, widowers and children who have claimed pension based on non-service-connected death under Title 38, United States, Chapter 15. 5. Widows, widowers and children who have claimed death compensation based on service-connected death under Title 38, United States Code, Chapter 11. 6. Widows, widowers and children who have claimed dependency and indemnity compensation for service-connected death under Title 38, United States Code, Chapter 13. 7. Parents who have applied for death compensation based on service-connected death under Title 38, United States Code, Chapter 11. 8. Parents who have applied for dependency and indemnity compensation for service-connected death under Title 38, United States Code, Chapter 13. 9. Veterans who have applied for VA educational benefits under Title 38, United States Code, Chapters 31 and 34. 10. Spouse or widow(er) who has applied for VA educational benefits under Title 38, United States Code, Chapter 35. 11. Children who have applied for VA educational benefits under Title 38, United States Code, Chapter 35. 12. Service members who have applied for VA educational benefits under Title 38, United States Code, Chapter 34. 13. Service members who have applied for VA educational benefits under Title 38, United States Code, Chapter 32.

Categories of records in the system: Military service and active duty separation information; medical records relating to treatment in service; medical information from VA and private hospitals and doctors; applications for compensation, pension, education and rehabilitation benefits and training; information relating to dependency, income, education, occupation, martial status, and educational status relative to VA benefits; payment data; counseling and rehabilitation records; claimant or payee name and address.

Authority for maintenance of the system: Title 38, United States Code, Chapter 3, Section 210(c)(1) and Chapters 11, 13, 15, 23, 31, 32, 34, 35, and 36.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Transfer of payment information to the Treasury Department to ensure delivery of benefit checks to VA beneficiaries.

2. Transfer of information to collection agencies in order to conduct a credit check to determine the likelihood of success in a collection action against individuals who owe debts to the VA.

3. Transfer of necessary collection information to the General Accounting Office, for use in procedures incident to obtaining a judgment against the individual.

4. Forwarding of computer generated VA forms to VA approved educational institutions in order to certify an individual's reenrollment and allow payment.

5. Transfer of information regarding the induction, reentrance and dismissal of a disabled veteran from a vocational rehabilitation program to inform the training establishment of the actions taken.

6. Written and oral disclosure to a VA approved vocational rehabilitation training establishment regarding the extent and nature of a claimant's disabilities with respect to any limitations to be imposed on the vocational program to insure that the trainee receives the maximum benefit from training. A vast amount of discretion with respect to each disclosure is practiced.

7. Transfer to schools and other training establishments of VA education forms for completion by the school and subsequent submission to the VA for processing of education and vocational rehabilitation training claims.

8. The transfer of payment information to officials of schools and training establishments having VA beneficiaries when it can be determined that such a request is part of a legitimate attempt to assist the veteran or other eligible person to ascertain that correct amounts are paid. However, such information will not be provided as a routine use to school officials when the request is clearly an attempt to seek assistance in collection attempts against the veteran or eligible person.

9. Transfer of VA education letters and form letters to schools and other training establishments which may, by necessity, contain identifying data about a veteran or eligible person in order to obtain further information from the school necessary to discharge VA responsibilities toward the veteran or eligible person.

10. Transfer of identifying information, such as name, file number, and address to a school or training establishment official in order to obtain information necessary to pay the veteran or eligible person correct amounts in an expedited manner. (An example of the above is a telephone call to an On-the-Job-Training establishment to find out the number of hours worked.)

11. Transfer of necessary information concerning veterans and other eligible persons to State and local agencies and prospective employers for employment and/or training.

12. A record containing medical history, diagnoses, findings, or treatment may be released from this system of records in response to a request from the superintendent of a State hospital for psychotic patients, a commissioner or head of a State department of mental hygiene, or head of a State, County, or city health department, or any fee basis physician or institution in connection with authorized treatment as a VA beneficiary, provided that the name of the individual to whom the record pertains is given and that the information will be treated as confidential, as is customary in civilian professional medical practice.

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13. A record from this system of records may be disclosed to a State unemployment compensation agency, in response to its request, to the extent required to determine eligibility for their benefit.

14. A record from this system of records may be disclosed to the following agencies relative to military, naval, or air service and as to both current and historical benefit payments made by the VA: Departments of the Army, Navy, and Air Force; Marine Corps; Department of Transportation (Coast Guard); Department of Health, Education, and Welfare, PHS (Public Health Service), Commissioned Corps; Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps.

15. A record from this system of records may be disclosed to a third party to the extent necessary in the development of a potential beneficiary's claim for VA benefits (i.e., individual identifiers and other similar identifying information).

16. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances: (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 3301(f).

17. The amount of pension, compensation, dependency and indemnity compensation, educational assistance allowance, retirement pay and subsistence allowance, of any beneficiary, may be released from this system of records to any person who applies for such information.

18. Disclosure of VA records as deemed necessary and proper to accredited service-organizations, agents and attorneys recognized under a power of attorney or declaration of representation to assist in the preparation, presentation and prosecution of claims.

19. A record from this system of records may be disclosed to a fiduciary (including those acting in a fiduciary capacity) recognized or appointed by the VA to the extent necessary to fulfill the fiduciary's function.

20. Relevant information from this system of records may be disclosed, as a routine use: in the course of presenting evidence to a Court, magistrate, or administrative tribunal, in matters of guardianship, inquests, and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with Court required duties.

21. Transfer of statistical and other data to Federal, State and local government agencies and national health organizations to assist in the development of programs that will be beneficial to claimants, to protect their rights under law and to assure that they are receiving all benefits to which they are entitled.

22. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

23. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefits.

24. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

25. Relevant information from this system of records, including the nature and amount of a financial obligation, may be disclosed as a routine use, in order to assist the Veterans Administration in the collection of unpaid financial obligations owed the VA, to a debtor's employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. this purpose if consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469).

26. Relevant information from this system of records, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, name of debtor's spouse, social security account number of debtor, VA insurance number, VA loan number, VA claim number, place of birth and date of birth of debtor, name and address of debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the U.S. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. 89-508, 31 U.S.C. 951-953 and 4 CFR Parts 101-105.

27. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

28. Release of information to a guardian ad litem in relation to his or her representation of a claimant in any legal proceeding.

29. To the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States.

30. Disclosure may be made to NARS (National Archives and Records Service) GSA (General Service Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

31. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

32. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Department of Health, Education, and Welfare, or agency thereof, or other Federal agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

33. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

34. Information from this system of records which directly affects payment of potential payment of benefits to contesting claimants, including parties claiming an apportioned share of benefits, may be coequally disclosed to each affected claimant upon request from that claimant in conjunction with the claim for benefits sought or received.

35. A record from this system of records may be released to the Social Security Administration, Bureau of Supplemental Security Income, as required for their determination of eligibility for or amounts of benefits, or to verify other information with respect thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents, microfilm, microfiche, magnetic tape and magetic disk.

Retrievability: (a) Manual records are indexed by name and VA file number. (b) Automated records are indexed by name, VA file number, payee number and type of benefit.

Safeguards: 1. Physical Security: (a) Access to working spaces and claims folder file storage areas in VA regional offices and centers is restricted to VA employees on a "need to know" basis. Generally, file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Employee file records and file records of public figures or otherwise sensitive files are stored in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis. Access to data telecommunication terminals is by authorization controlled by the site secruity officer. The security officer is assigned responsibility for privacy-security measures, especially for review of violations logs, information logs and control of password and badge distribution.

(b) Access to data processing centers is restricted to center employees, custodial personnel and Federal Protective Service personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted.

2. System Security: (a) At Veterans Administration Regional Offices and Veterans Administration Centers, the terminal equipment has key locks, magnetic badge readers and audible alarms. Electronic keyboard locks are activated on security errors.

(b) At the data processing centers, identification of magnetic tape and disks containing data is rigidly enforced using labeling techniques. Access to programs is controlled at three levels: programming, auditing and operations.

Retention and disposal: 1. Individual case folders and records are retained indefinitely. 2. Automated files containing temporary working data are retained until a claim is processed to determination. 3. All other automatic files are retained indefinitely.

System manager(s) and address: DIRECTOR, COMPENSATION AND PENSION SERVICE (21) VA Central Office, Washington, D.C. 20420; DIRECTOR, EDUCATION AND REHABILITATION SERVICE (22) VA Central Office, Washington, D.C. 20420.

Notification procedure: Individuals seeking information concerning the existence of a record pertaining to themselves must submit a written request or apply in person to the nearest VA regional office. Addresses for VA regional offices and centers may be found in VA Appendix 1 at the end of this document. All inquiries must reasonably identify the benefit or system of records involved; e.g., Compensation and Pension. Inquiries should include the individual's full name, VA file number and return address. If the VA file number is not available, the following information should be forwarded, if known: veteran's full name, branch of service, dates of service, service number, soical security number, and date of birth.

Record access procedures: Veterans, beneficiaries, service organization personnel or other duly authorized representatives seeking information regarding access to and contesting of VA records may write, call or visit the nearest Veterans Administration regional office or center.

Contesting record procedures: (See Record Access Procedures above). 1. The claimant, his or her accredited representative or his or her fiduciary; 2. the military service department; 3. VA hospitals and doctors, or private hospitals and doctors if written authorization is obtained from the claimant; 4. Training establishments; 5. State approving agencies; 6. Other Federal agencies; 7. County Clerks, Courts and other third parties, when assistance is requested by claimant.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation": is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420 in room 132, the Central Office Veterans Services Unit. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Fedeal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of record appear in Volume II of the 1977 Compilation at 42 FR 49726, September 27, 1977. The price of this volume is 6 dollars and 75 cents.

Approved: September 7, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-26098 Filed 9-27-78; 8:45 am]

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THURSDAY, SEPTEMBER 28, 1978
PART III



DEPARTMENT OF AGRICULTURE

Soil Conservation Service

■

RURAL ABANDONED MINE PROGRAM

Final Rules and Regulations

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[3410-16]

Title 7—Agriculture

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—LONG-TERM CONTRACTING

PART 632—RURAL ABANDONED MINE PROGRAM

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes final Soil Conservation Service (SCS) rules and regulations for implementation of the Rural Abandoned Mine Program as authorized by Pub. L. 95-87, 91 Stat. 460 (30 U.S.C. 1236). The program provides long-term Federal technical and financial assistance to land users for the reclamation, conservation, and development of certain abandoned coal-mined lands.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David P. Overholt, Director, Conservation Operations Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, phone: 202-447-7145.

SUPPLEMENTARY INFORMATION: Title IV of Pub. L. 95-87 establishes an Abandoned Mine Reclamation Fund and provides for four reclamation programs—Federal, State, Indian, and rural lands. The Secretary of the Interior is administratively responsible for all abandoned mine programs except the rural land program. The U.S. Department of Agriculture, through the Soil Conservation Service (SCS), is responsible for the Rural Abandoned Mine Program.

Proposed rules and regulations for the Rural Abandoned Mine Program were published by SCS in the FEDERAL REGISTER on April 11, 1978 (43 FR 15312). A draft program environmental impact statement and a draft regulatory impact analysis of the proposed program also were made available for public inspection on April 14, 1978.

To maximize public benefits and treat as much of the eligible land and water as possible at minimum Federal cost, SCS intends to conduct the program in strict accord with the funding priorities specified in the law and this rule. Therefore, applications for program assistance that are of low priority will not be funded until the first priority reclamation work is completed. Reclamation work that provides the most public benefits within a priority category will have precedence over reclamation that would produce lesser public benefits. Reclamation solely for the benefit of the land owner or user will not be funded until all applications that have public benefits are funded.

SCS received 116 comments from 31 agencies and organizations on the proposed program in public hearings and letters. Seven comments definitely favored the proposed program, and none strongly objected to the program as proposed. All comments were given full consideration in developing the final rule. The full text of every comment received is on file and available for public inspection in Room 6134, South Building, U.S. Department of Agriculture, Washington, D.C.

Most comments offered specific suggestions for clarifications and improved editing. These comments were accepted and are incorporated in the final rule. In addition, SCS made several changes in the organization and content in response to comments provided by the U.S. Department of Agriculture.

These changes include total exclusion of Federal lands from program eligibility, the addition of subpriorities within each priority category, the addition of provisions to preserve or surrender crop history and allotments, and the addition of language in the cost-share rates to provide maximum flexibility in establishing rate levels that will achieve program purposes and appropriate levels of participation.

The most substantive public comments and their responses are as follows:

(1) Two comments suggested that the purpose of the Rural Abandoned Mine Program should be broadened to include reclamation of all abandoned mined lands.

Response: This suggestion was rejected because section 406 of Pub. L. 95-87 is subject to the requirements of section 404, which defines eligible lands and water as those "mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining process • • •." Only reclamation activities carried out on noncoal-mined lands under the requirements of section 409 of the law, filling of voids and sealing of tunnels, which are not applicable to this program, may be done without regard to section 404.

(2) Six comments expressed concern that the proposed rules did not provide for coordination between this program and the State reclamation programs. One of these commentators also indicated that more public participation should be required through public hearings and notices.

Response: SCS has reworded § 632.3 to clarify SCS responsibility for coordination and to expand the program areas included in the coordination. In addition, SCS believes coordination within a State will occur primarily through the State reclamation committee, which includes a representative of the State reclamation agency. Reclamation committees will also provide opportunities for public participation on both the State and local levels. However, SCS does not believe public hearings or public notices are required for every reclamation plan or contract with individual land users. Exceptions are made if an environmental impact statement is to be prepared or if reclamation is proposed by public entities. A record of SCS decisions concerning reclamation performed under the program is available for public inspection.

(3) Four comments questioned the use of remining as a reclamation technique because it appears to conflict with the requirements of title V of Pub. L. 95-87 concerning active mining operations.

Response: SCS agrees. The use of remining as a reclamation technique has been deleted from the final rules. If the surface rights of abandoned coal-mined lands are under lease or easement to be remined, they are not eligible for reclamation under this program. These lands will be reclaimed under the regulations 30 CFR, Parts 715, 716, and 717, for active mining.

(4) Fourteen comments expressed concern that the term "inadequately reclaimed" as defined and used to describe eligible lands and waters would permit the reclamation of abandoned coal-mined lands that were naturally reclaimed.

Response: SCS agrees. "Inadequately reclaimed" has been redefined to indicate that inadequately reclaimed areas must, in their present condition, be continuing to substantially degrade the environment, damage or prevent beneficial use, or create dangers to public health and safety to be eligible for reclamation.

(5) Ten comments questioned the criteria for designating States for program participation. Several also indicated that too much emphasis was placed on the SCS inventory of abandoned coal-mined lands, and one suggested that only States with approved State reclamation plans should be designated.

Response: These criteria were included in the proposed rules to provide the flexibility to implement any of the program alternatives being considered in the draft program environmental impact statement. In the final environmental impact statement, SCS has selected the alternative that allows the program to operate in all States that have eligible lands and waters. Current inventories are used only to identify the States and counties that are potentially eligible to participate in the program. However, SCS rejected the suggestion to limit the program to States having approved State reclamation plans. Some States with abandoned coal-mined lands no longer have active coal mining, other States may not be able to develop and receive approval of a State plan for several years, and some States may not have enough abandoned coal-mined lands to justify preparing a State plan. In many of these situations, except for emergency reclamation by the Office of Surface Mining, the Rural Abandoned Mine Program may be the only program available to correct continuing environmental degradation or public health and safety hazards in these States.

(6) Four comments indicated that reclamation standards were not specific enough and questioned the adequacy of SCS standards and specifications for reclamation activities.

Response: SCS standards for all conservation practices, including reclamation, are developed in consultation with universities, reasearch institutions, companies, and individuals and are based on research and practical experience (7 CFR, Part 653, § 653.2). SCS is cooperating with the Office of Surface Mining in developing standards for abandoned land reclamation. SCS technical staffs continually revise and update existing standards and specifications to insure consistency with State and Federal requirements and proven technology. These standards and specifications, as applicable, are found in SCS field office technical guides and are based on the guidelines contained in the SCS National Handbook of Conservation Practices. In addition, many conservation practices use to treat conservation problems are applicable to reclamation. SCS recognizes the need for flexibility to prepare special designs on a case-by-case basis to treat unique problems on coal-mined lands. As needed, SCS will also use professional services from the private sector to prepare special designs.

(7) One comment suggested that a section should be added to the final rules to insure adequate protection of historic properties.

Response: SCS guidelines for complying with the Advisory Council on Historic Preservation procedures are contained in 7 CFR Part 656. These apply to all SCS activities. It is not our purpose to duplicate those requirements in these rules.

(8) One comment suggested that the procedures should indicate how areas proposed for reclamation are to be evaluated for their importance to rare and endangered species and other wildlife values. Concern was also expressed that the program would reclaim abandoned lands for agricultural uses at the expense of wildlife values.

Response: SCS considers wildlife values in environmental assessments. These assessments are used to help identify acceptable treatment alternatives for the land user's consideration. The land user selects the postreclamation land use within the limits of program requirements and technical feasibility. Abandoned lands that have natural vegetation and wildlife values also will be preserved by the change in the definition of inadequately reclaimed lands. See response (4). SCS policy for considering rare, threatened, and endangered species is contained in 7 CFR, Part 650, § 650.22.

(9) Two comments suggested that new subsections be added to emphasize restoration of the visual quality of abandoned lands.

Response: SCS agrees. Restoration of visual quality is an important public benefit that can result from reclamation. Paragraph 632.15(d) has been reworded to indicate more clearly practices for improving visual quality are eligible for cost sharing.

(10) One comment indicated that the program should be subject to the requirements of the Office of Management and Budget Circular A-95.

Response: Reclamation by individual land users on private lands is excluded from A-95 notification and review. However, the A-95 procedures are applicable when reclamation is carried out by public entities on public lands. In these situatons, SCS, under existing policy, is to follow established A-95 review procedures.

(11) One comment expressed concern that the cost-share payments made to land users for carrying out reclamation activities would be taxable as income and program participation would be seriously reduced.

Response: SCS agrees. A preliminary ruling by the Internal Revenue Service indicates that cost-share payments made to land users under this program are considered to be taxable income.

(12) One comment expressed concern that prohibiting channelization would seriously limit the ability of SCS to reclaim adequately certain abandoned lands. Three other comments indicated that the definition of a stream as used in conjunction with channelization would permit channelization.

Response: It is not the intent of SCS to channelize streams under this program. Channelization is prohibited by law; however, the law does not define channelization. SCS has deleted the definition of a stream and defined channelization as the overall widening, deepening, realining, or construction of a protective lining over all or part of the perimeter of the channel of a perennial stream. This definition would permit the stabilization of eroding streambanks within the boundaries of eligible lands with vegetation or riprap and would permit the removal of excessive debris or sediment without complete disruption of the stream.

A final program environmental impact statement was made available by the Environmental Protection Agency on July 7, 1978. This environmental impact statement discloses the significant cumulative environmental impacts of the selected program alternative.

A final regulatory impact analysis of the selected program alternative was made available for public inspection and review on September 12, 1978.

Both of these documents are on file for public inspection in Room 6134, South Building, U.S. Department of Agriculture, Washington, D.C.

Dated: September 21, 1978.

B. M. DAVIS,
Administrator,
Soil Conservation Service.

Title 7 of the Code of Federal Regulations is amended by adding a new part 632 to read as follows:

Subpart A—General

632.1 Purpose and scope.
632.2 Objectives.
632.3 Responsibilities.
632.4 Definitions.

Subpart B—Qualifications

632.10 Applicability.
632.11 Availability of funds.
632.12 Funding priorities.
632.13 Eligible lands and water.
632.14 Eligible land users.
632.15 Eligible uses and treatment of reclaimed lands.
632.16 Methods of applying planned land use and treatment.
632.17 Cost-share rates.
632.18 Special projects.
632.19 Crop history and allotments.

Subpart C—Participation

632.20 Application for assistance.
632.21 Reclamation plan.
632.22 Contracts.
632.23 Access to land unit and records.

Subpart D—Cost-Share Procedures

632.30 Applicability.
632.31 Cost-share payment.

Subpart E—Appeals and Violations

632.40 Appeals.
632.41 Violations.
632.42 Violation procedures.

Subpart F—Environment

632.50 Environmental assessment.
632.51 Accord with environmental laws and orders.
632.52 Identifying typical classes of action.

AUTHORITY: Section 406, Pub. L. 95-87; 91 Stat. 460 (30 U.S.C. 1236).

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Subpart A—General

§ 632.1 Purpose and scope.

(a) The purpose of this part is to set forth the Soil Conservation Service (SCS) rules and regulations to carry out the Rural Abandoned Mine Program under section 406, Pub. L. 95-87; 91 Stat. 460 (30 U.S.C. 1236).

(b) The Rural Abandoned Mine Program:

(1) Through the SCS delivery system, assists land users to voluntarily develop reclamation plans and apply conservation treatment for the reclamation, conservation, and development of eligible coal-mined lands and water, and

(2) Provides cost sharing through long-term contracts according to an approved reclamation plan, to land users for establishing land use and conservation treatment on these lands.

§ 632.2 Objectives.

(a) The objectives of the program are to protect people and the environment from the adverse effects of past coal-mining practices and to promote the development of the soil and water resources of unreclaimed mined lands by:

(1) Stabilizing mined lands.

(2) Controlling erosion and sediment on mined areas and areas affected by mining.

(3) Reclaiming lands and water for useful purposes.

(4) Enhancing water quality or quantity where it has been disturbed by past coal-mining practices.

§ 632.3 Responsibilities.

(a) The Rural Abandoned Mine Program is administered by the U.S. Department of Agriculture (USDA) through SCS in accordance with the delegation of responsibility contained in § 601.1(h) of this chapter.

(1) The Administrator of SCS is responsible for national program management and administration and for coordinating program operations with the Office of Surface Mining (OSM), U.S. Department of the Interior.

(2) State conservationists (Responsible Federal Officials) are responsible for program operations within a State including program coordination with the State reclamation agency and the representatives of OSM.

(b) The primary public contacts for program assistance are the district conservationists located in local SCS field offices.

(c) SCS is assisted by other USDA agencies in accordance with existing authorities and agreements in carrying out the program.

(d) SCS is to coordinate Rural Abandoned Mine Program activities with SCS programs and the other reclamation programs authorized by Pub. L. 95-87 that are carried out by the Office of Surface Mining of the U.S. Department of the Interior, State reclamation agencies, and Indian tribes. Coordination includes program development, development of reclamation standards, preparation of special reports, requests for funding, and related actions required to achieve coordination between programs.

(e) SCS is to consult with State and local reclamation committees to obtain recommendations on program operation, evaluation of applications for reclamation assistance, and public participation. The SCS State Conservationist is to use existing reclamation committees or encourage the organization of a new State committee for this purpose. The State Conservationist is to serve as a member when the committee is functioning for the purposes of this program. Representatives of the Office of Surface Mining, State reclamation agency, State water quality agency, State conservation agency, and other agencies or groups are to be invited to participate as members. Individual citizens may participate through the State committee. Local committees, if needed, are to be organized on a multicounty, county, conservation district, or other appropriate area with a local membership structure similar to the State committee. The district conservationist is to be a member of a local reclamation committee organized to provide program guidance.

§ 632.4 Definitions.

Abandoned mined lands. Unreclaimed coal-mined lands that existed before August 3, 1977, and for which there is no continuing reclamation responsibility on the part of a mine operator, permittee, or agent under State or Federal law or on the part of the State as a result of a bond forfeiture. See § 632.13.

Average costs. The calculated cost, determined by recent actual costs and current cost estimates, considered necessary for a land user to carry out a conservation practice or an identifiable unit of a conservation practice.

Conservation district. A legal subdivision of State government responsible for developing and carrying out programs of soil and water conservation with which the Secretary of Agriculture cooperates under the Soil Conservation and Domestic Allotment Act of 1935.

Conservation treatment. Specific conservation or reclamation practices applied to the land according to current standards and specifications in SCS technical guides.

Contract. A binding agreement between SCS and the land user that includes the reclamation plan and provides for cost sharing the conservation treatment.

Contracting officer. The SCS official authorized to enter into and administer contracts for the Rural Abandoned Mine Program.

Cost. The monetary amount actually paid or obligated to be paid by the land user for equipment use, materials, and services for carrying out a conservation practice or identifiable unit. If the land user uses his own resources, it includes the computed value of his labor, equipment use, and materials.

Cost-share payments. Payments made to or on behalf of land users at established rates as specified in contracts for carrying out a conservation practice or an identifiable unit of such practices according to the contract.

Financial burden. The land user's cost of reclamation that cannot be expected to be recovered within the contract period and that would probably prevent participation in the program. The land user must sign a statement to substantiate financial burden.

Identifiable unit. A component of a conservation practice that can be clearly identified as a step in carrying out the conservation practice.

Inadequately reclaimed. Lands or water that are mined for coal or are affected by mining conducted before August 3, 1977, which continue in their present condition to substantially degrade the quality of the environment, prevent or damage beneficial use of land or water resources, or endanger the health or safety of the public.

Landrights. An interest acquired by fee simple title, easements, and rights-of-way to occupy or use land, buildings, structures, or other improvements.

Land user. Any person, partnership, firm, company, corporation, association, trust, estate, other entity, or agent that owns or has management control of the surface rights of the land during the contract period or owns water rights on eligible lands. Also included are State or local public entities that own or control eligible land and water.

Main benefits. The principal values or benefits that can be identified and/or quantified as a result of reclamation. Main offsite benefits are those values that accrue to surrounding land users or the public in general as a result of the reclamation. Main onsite benefits are those that accrue to the participant. Examples of principal values or benefits include but are not limited to human lives and property protected, reduction of erosion or sediment damage, elimination of public safety or health hazards, improvement of water quality, improved visual quality, improved fish or wildlife habitat, or restoration of beneficial uses of reclaimed areas.

Reclamation committee. A committee on a local or State level consisting of representatives of Federal and State agencies and other organizations or individuals that have responsibilities or interest in abandoned mine reclamation. The committee provides guidance to SCS on the operation of the Rural Abandoned Mine Program.

Reclamation plan. A conservation and development plan as referred to in Pub. L. 95-87, consisting of a written record of land user decisions on proposed use, conservation treatment, and maintenance of eligible lands and water that will protect, enhance, and maintain the resource base. A reclamation plan contains pertinent soils data, a planned land use map or drawing, a record of use and treatment decisions including a schedule of conservation treatment, and other resource data as appropriate.

Specified maximum costs. The maximum amount of cost-share money that is to be paid to a land user for carrying out a conservation practice or an identifiable unit of a conservation practice.

Standards and specifications. Requirements that establish the acceptable quality level for planning, designing, and installing a conservation practice on it achieves its intended purpose. SCS standards and specifications are contained in the SCS field office technical guides and are designed to be sound and practicable under local conditions. Technical guides are on file in local SCS field offices.

Water rights. Any interest acquired in, priority established for, or permission obtained for the use of water.

Subpart B—Qualifications

§ 632.10 Applicability.

This program applies to any county or other designated area within a State that had abandoned or inadequately reclaimed coal-mined lands within its borders before August 3, 1977.

§ 632.11 Availability of funds.

(a) The provisions of the program are subject to the annual appropriation by Congress of funds from the Abandoned Mine Reclamation Fund and the transfer of as much as 20 percent of these funds from the Office to Surface Mining to SCS for program operation.

(b) Allotments of Rural Abandoned Mine Program funds to state conservationists are to reflect the national program needs, the geographic areas from which the funds were derived, the funding priority assigned to applications for program assistance, including benefits expected to be derived, and the practicability and feasibility of the reclamation work proposed.

§ 632.12 Funding priorities.

(a) Priorities for selecting reclamation work within a State are determined by the primary purpose of the reclamation and are to be funded in the following order:

(1) *Priority 1.* Protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal-mining practices. Extreme danger means a condition that could be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are exposed.

(2) *Priority 2.* Protection of public health, safety, and general welfare from the adverse effects of coal-mining practices that do not constitute an extreme danger.

(3) *Priority 3.* Restoration of the land and water resources and the environment where previously degraded by the adverse effects of coal-mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity. First consideration in this priority is to be the reduction of offsite damage affecting the public. Second consideration is to be given to restoring to beneficial uses for the main benefit of the land user.

(b) Eligible and feasible applications for program assistance within each priority category (§ 632.12(a)) are to be funded in the following order:

(1) Individual persons or public entities who owned the eligible area before May 2, 1977, and who neither consented to nor exercised control over the mining operation.

(2) Individual persons who would actively use the area, if reclaimed, for agricultural or silvicultural purposes.

(3) All other participants.

§ 632.13 Eligible lands and water.

Lands and water eligible for reclamation are those that were mined for coal or were affected by coal-mining processes and were abandoned or inadequately reclaimed before August 3, 1977. These lands and water are not eligible if:

(a) There is continuing reclamation responsibility on the part of a mine operator, permittee, or agent under State or Federal law or on the part of the State as a result of bond forfeiture. However, if the amount of the bond forfeiture was insufficient to reclaim the area covered by the bond, the area will be considered eligible.

(b) They are under Federal ownership and control.

(c) The surface rights are under easement or lease to be remined for coal or other minerals.

§ 632.14 Eligible land users.

Landowners holding surface land and water rights, residents, tenants, or their agents who own or have management control of eligible land and/or water are eligible to participate in the program. Residents or tenants who do not own the land must have control of the land for the period of the proposed contract and have the written consent of the landowner. Land users may participate by operating as persons, partnerships, associations, corporations, estates, trusts, or non-Federal public entities, and by acting individually or jointly with other eligible land users. However, joint participation with other eligible land users is required if the primary purpose of reclamation is enhancement of water quality or quantity.

§ 632.15 Eligible uses and treatment of reclaimed lands.

(a) Reclaimed lands and water may be used for cropland, hayland, pasture land, rangeland, woodland, wildlife land, natural areas, noncommercial recreation land, and the supporting uses associated with these land uses. Other land uses proposed by public entities for public use and benefit such as open space, conservation uses, natural areas, and recreation sites may be approved by the SCS State conservationist in accordance with the priorities stated in § 632.12. However, development of public sites, such as the installation of recreation facilities, is not eligible for cost sharing.

(b) Reclaimed land use is determined by the objectives of the land user, compatibility of the land use with surrounding land use, and the practicability and feasibility of restoring the soil and water resources to support the use selected.

(c) The maximum acreage of eligible lands and water that may be offered for contract under one ownership is 320 acres for the life of the program.

(d) Conservation treatment eligible for Federal cost sharing includes the combination of practices needed and feasible to achieve:

(1) Protection of life, property, and elimination of public health and safety hazards, including land stabilization.

(2) Restoration of the environment where degraded by past mining, including water quality, visual quality, recreation resources, fish and wildlife habitat, and erosion and sediment control.

(3) A site that can be developed for a beneficial use as specified in § 632.15(a). Examples of eligible treatment that may be cost shared include but are not limited to: Land shaping and grading, critical area planting or other plantings for stabilization, improving visual quality, wildlife food

and cover, diversions or terraces, waterways or lined ditches, grade stabilization structures, sediment basins, and special practices for sealing shafts and tunnels, correcting subsidence problems, or other unusual situations. Practices not eligible for cost sharing are those that are solely applied to develop a reclamation site (including sites develped by public entities for public use), increase the production of crops, or for the recurring maintenance of applied reclamation.

(e) Applied conservation treatment is to meet the applicable Federal and State standards for the reclamation and conservation treatment of abandoned or inadequately reclaimed coal-mined lands and water. Where needed, these standards are incorporated in local SCS technical guides as the SCS standards and specifications applicable to the program. Special practices as specified in § 632.15(d) are to be developed in cooperation with appropriate State or Federal agencies having the expertise or responsibility for the practices.

(f) SCS State conservationists, in consultation with the State reclamation committee, are to:

(1) Develop a list of practices that are eligible for cost sharing, and

(2) Maintain, as applicable, lists of average costs of applying conservation treatment to eligible lands and waters.

§ 632.16 Methods of applying planned land use and treatment.

(a) Land users may arrange to apply the planned land uses and conservation treatment specified in the contract by one or more of the following methods:

(1) By performing the required treatment with his own labor and equipment.

(2) By hiring a qualified contractor to install the required treatment.

(3) By requesting SCS to award and administer a contract to perform the required treatment in accordance with 41 CFR Chapters I and IV.

(b) State conservationists are to develop criteria specifying the conditions for which SCS will award and administer a contract. Criteria will consider: Type of equipment required, type and amount of conservation treatment required, costs of the required reclamation, needs of the land user, and the applicable cost-share rate. If the Federal share is less than 100 percent, a land user must put up his estimated share of the cost before SCS awards the contract.

§ 632.17 Cost-share rates.

(a) Cost-share rates paid by the Federal Government are to be established and issued as instructions by the SCS Administrator in accordance with the following criteria:

(1) For 120 acres or less, the cost-share rate is to provide up to 80 percent of the costs of land use and conservation treatment depending on the income-producing potential of the land after reclamation. However, this rate may be increased to a level required to obtain participation if the main benefits of reclamation are offsite (in the public interest) and there is a declaration of financial burden by the participant.

(2) The rate on acreage in excess of 120 acres up to 320 acres maximum is to be reduced by up to 0.5 percent per acre. This reduced rate applies to the entire acreage offered for contract.

§ 632.18 Special projects.

(a) The SCS State conservationist may approve the following types of special projects subject to the eligibility requirements, funding priorities, and cost-share rates as stated in §§ 632.12, 632.13, 632.14, 632.15, and 632.17:

(1) Field trials or demonstration projects recommended by the State reclamation committee.

(2) Projects to enhance water quality and quantity where past coal-mining practices disturbed local water supplies and where joint action by a group of eligible land users in cooperation with Federal and State agencies is needed to restore the water resource.

§ 632.19 Crop history and allotments.

(a) Most crop history and allotments on eligible lands were discontinued at the time of mining. However, if eligible lands are classified as cropland at the time the contract is signed, the cropland crop history and allotment, if any, may be:

(1) Preserved for a period not to exceed twice the length of the contract as provided in 7 CFR, Part 719, or

(2) Voluntarily surrendered by the land user.

Subpart C—Participation

§ 632.20 Application for assistance.

(a) Land users must submit an application for program assistance through the local conservation district or SCS field office. SCS is to announce dates for receiving applications through local media. Applications are to be reviewed by the conservation district and/or local reclamation committee, which is to verify eligibility and recommend funding priorities to the SCS district conservationist. The SCS district conservationist is to assign funding priorities according to the recommendations unless he determines that applications are incomplete, ineligible, or unfeasible. Low priority applications that cannot be serviced within specific time periods established by the State conservationist are to be returned to the applicant with an appropriate explanation. These applicants may reapply at a later date if they are still interested.

(b) Eligible applicants are serviced within each subpriority according to the following criteria:

(1) The specific type, amount, and relative importance of benefits to be derived. (Public benefits and offsite environmental improvement will take precedence over onsite benefits.)

(2) Feasibility and practicability of reclaiming for the proposed uses.

(3) Land user's ability to proceed.

(4) Date of the application.

§ 632.21 Reclamation plan.

(a) *Responsibility.* Land users are responsible for developing a reclamation plan that will serve as a basis for a contract. Normally, a land user will need the technical services of SCS and the conservation district or another professional to develop an acceptable plan.

(b) *Objectives and priorities.* The reclamation plan is to provide for the appropriate program objectives and priorities as stated in §§ 632.2 and 632.12 and meet the definition of a reclamation plan as defined in § 632.4.

(c) *Review.* (1) In areas served by conservation districts, reclamation plans are to be reviewed and signed by the district board to insure that planned land use and treatment is compatible with surrounding land uses and that proposed assistance is consistent with the district plan of work and priorities. In areas not served by conservation districts, the land use compatibility review may be performed by the local reclamation committee.

(2) If reclamation plans include lands within or adjacent to Federal lands, the plan is to be reviewed with the appropriate Federal land management agency to insure that the planned land use is compatible with that of the surrounding area.

(3) Land users are responsible for insuring that the proposed land use and treatment is compatible with local land use ordinances.

(d) *Approval.* Proposed land use, conservation treatment, and sequence of application contained in the plan are to be agreed to by both SCS and the land user. The district conservationist is to sign the reclamation plan to indicate technical approval.

§ 632.22 Contracts.

(a) *Cost-sharing contracts.* A land user who has an approved reclamation plan may enter into a contract with SCS to receive Federal cost-share assistance. All land users are to sign the contract. A land user is required to furnish evidence of management control, such as a long-term lease, recorded deed, or land contract, and must have the written consent of the landowner. The SCS contracting officer is to sign the contract after determining that all documents meet program requirements.

(b) *Effect of contract.* A land user who signs a contract is obligated to apply or arrange for the application of the land use and conservation treatment as scheduled in the reclamation plan according to approved standards and specifications. A land user may request SCS to award and administer a contract to apply the conservation treatment as scheduled in the reclamation plan in accordance with § 632.16(a)(3).

(c) *Permits, landrights, and water rights.* The land user is responsible for obtaining the permits, surface landrights, and water rights that may be required to perform the planned work. SCS is to assist land users in identifying the specific permit, landright, or water right required.

(d) *Operation and maintenance.* During the contract period the land user is responsible for the operation and maintenance of applied conservation treatment. Operation and maintenance requirements are to be included in the contract.

(e) *Period of contract.* The contract period is to be no less than 5 nor more than 10 years. A contract is to extend for at least 3 years after the application of the last cost-shared conservation treatment to insure adequate establishment of vegetation and other treatment. Exceptions to the 3-year provision may be granted by the state conservationist for unusual circumstances.

(f) *Transfer of contract.* (1) If during the contract period all or part of the right and interest in the land is transferred by sale or other action, the contract is terminated on the land unit that was transferred and the land user:

(i) Forfeits all right to any future cost-share payments on the transferred land unit, and

(ii) Must refund cost-share payments that have been made on the transferred land unit not to exceed the difference between the estimated value of the land at the time of entering into the contract and at the time of transfer, unless the new land user becomes a party to the contract as provided in paragraph (f)(2) of this section.

(2) If the new land user becomes a party to the contract:

(i) He is to assume all obligations of the previous land user on the transferred land unit.

(ii) The contract with the new land user is to remain in effect with the original terms and conditions.

(iii) The contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the contracting officer, the provisions of paragraphs (f)(1) (i) and (ii) of this section apply.

(3) The transfer of all or part of a land unit by a land user does not affect the rights and obligations of other land users who have signed the contract.

(g) *Modification of contract.* (1) A contract previously entered into with a land user may be modified only with the approval of the State conservationist or as authorized under established policies. No contract may be modified unless it is determined that the modification is desirable to carry out the program.

(2) Contracts may be modified to add, delete, substitute, or reapply conservation treatment if:

(i) Applied conservation treatment failed to achieve the desired results through no fault of the land user,

(ii) Applied treatment deteriorated because of conditions beyond the control of the land user, or

(iii) Other treatment is substituted that will achieve the desired results.

(h) *Joint contract.* A land user may enter a contract jointly with other land users subject to the 320 acres maximum limitation per landowner. However, joint participation is permitted only if it will result in better land use and treatment than individual participation or if it is required by §§ 632.14 and 632.18(a)(2).

(i) *Termination of contract.* Contracts may be terminated by mutual consent of the signatories only if the State conservationist determines that the termination is authorized under established policies and is in the public interest. In this case, the State conservationist is to determine the amount of refund.

§ 632.23 Access to land unit and records.

Any authorized SCS employee or agent is to have the right of access to land under application or contract and the right to examine any program records to ascertain the accuracy of any representations made in the application or contract. This includes the right to furnish technical assistance and to inspect work done under the contract.

Subpart D—Cost-Share Procedures

§ 632.30 Applicability.

This subpart contains procedures for making cost-share payments to a land user when land use and conservation treatment is applied as specified in § 632.16(a)(1) or (2).

§ 632.31 Cost-share payment.

(a) *Amount of cost-share payment.* Cost-share payments are to be made at rates specified in the contract. The cost-share payment is to be determined by one of the following methods:

(1) Average cost.

(2) Actual cost but not more than the average cost.

(3) Specified maximum cost. If the average cost or the specified maximum cost at the time of starting the installation of a conservation practice or identifiable unit is less than the cost specified in the contract, payment is to be made at the lower rate. If the cost at the start of installation is higher, payment may be made at the higher rate. A contract modification is necessary if SCS determines that the higher cost is a significant increase in the total cost-share obligation. If costs are significant, cost-share payment is not to be made until the modification reflecting the increase is approved. If the higher costs are not significant, cost-share payments may be made if funds are available.

(b) *Time of payment.* Cost-share payments are to be made to the land user after a practice or an identifiable unit has been satisfactorily applied. The land user is to submit claims for payment to the district conservationist no later than September 30 of the year after application. Late claims require approval of the State conservationist before payment can be made. A claim is to show the proportion of each land user's contribution to the applied practice or identifiable unit.

(c) *Approval.* The district conservationist must certify that a practice or identifiable unit has been satisfactorily applied before SCS can make cost-share payments.

(d) *Ineligible claim.* A land user is not eligible to receive cost-share payments for a practice or an identifiable unit that was not carried out under program requirements.

(e) *Authorization for payment.* (1) Materials or services needed to carry out contracts are to be obtained by land users. Contracts may provide for part or all of the cost-share payment for a practice or identifiable unit to be made directly to suppliers of materials or services. The materials or services must be delivered or performed before payment is made.

(2) The contracting officer is to authorize payment for materials or services not exceeding:

(i) The cost share of the material or service used, or

(ii) The total cost share of the practices or identifiable unit if requested by the land user.

(3) The land user who purchases materials or services to carry out a contract is responsible for them until the

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district conservationist determines that the material or service was used for the intended purpose. If a material or service cost-shared by SCS is used for a purpose other than to carry out the contract, the land user is indebted to the United States for the cost of the misused material or service. This indebtedness is to be repaid to SCS as a refund or withheld from cost-share payments otherwise due the land user under the contract.

(4) SCS has the right to inspect materials or services and to take samples for testing. Inspections by SCS will not be necessary if SCS considers State inspection regulations adequate.

(5) Materials or services must meet the quality standards as specified. SCS may make exceptions for materials or services that do not meet the standards only if they will satisfactorily serve the intended purpose. SCS is to deduct from the cost-share payment the difference between the price of the materials or services specified and the actual value of the different materials or services.

(f) *Division of cost-share payments.* Federal cost-share payments made directly to suppliers of materials or services are credited to the land user who was issued the authorization. The remainder of the cost share is credited to the land user who carried out the remainder of the practice or identifiable unit. If more than one land user contributed to carrying out a practice or identifiable unit, the cost-share payment is to be divided proportionately according to the contribution made by each of the land users. Furnishing a landright or water right is not a contribution for cost-share payment purposes.

(g) *Other aid.* Non-Federal public entities may furnish all or part of the cost of applying a practice or identifiable unit with no reduction in the Federal cost share.

(h) *Assignments and claims.* Land users may not assign cost-share payments except as provided under the authority of 31 U.S.C., section 203, as amended by 41 U.S.C., section 15. Federal cost-share payments due any land user are not subject to claims for advances except as provided in this section.

Subpart E—Appeals and Violations

§ 632.40 Appeals.

(a) *Before signing a contract.* A land user may orally request the contracting officer or the district conservationist to reconsider decisions that would affect the contract before it is signed. However, requests for reconsideration of eligible conservation treatment, cost-share rate, average costs, or specified maximum costs are not to be honored.

(1) If oral agreement is not reached, the land user may make a written request within 30 days after receiving notice of the oral decision. The contracting officer or the district conservationist is to notify the land user of the decision within 30 days after receiving the written request.

(2) If a land user is dissatisfied with the decision of the contracting officer or the district conservationist, he may file a written appeal with the State conservationist within 30 days after receipt of the decision. The State conservationist's decision is final. The land user is to be notified of the decision within 30 days after the appeal is filed.

(3) If the land user fails to comply with the time limits for reconsideration or appeal as provided in paragraphs (a) (1) and (2), the decision of the contracting officer or the district conservationist is final.

(b) *After the contract is signed.* Disputes pertaining to questions of fact under a contract, except contract violations, that are not settled by written agreement are to be referred to the State conservationist for a decision within 30 days after refusal to sign the written agreement. The following applies on disputes:

(1) The State conservationist is to notify the land user, in writing, that the dispute will be considered on a specified date. This date is to be not less than 30 days after the land user receives the notice.

(2) Within 30 days after receiving the State conservationist's notice, the land user may file a request to appear and present oral and other evidence. If the land user does not request an appearance, the State conservationist is to decide the dispute on the evidence available to him. The State conservationist is to inform the land user of his decision in writing.

(3) Land users may appeal decisions of the State conservationist to the Administrator within 30 days after receiving the decision. The State conservationist is to submit the record before him, which is to include his decision, to the Administrator within 20 days after the land user's appeal is received by the Administrator. He may also file a brief or statement with the Administrator. The Administrator's decision is final. The land user is to be notified of this decision in writing.

(c) *Filing of documents.* A document is considered filed when it is received in the office of the person concerned.

§ 632.41 Violations.

(a) *Actions causing violation.* The following actions constitute violation of a contract by a land user:

(1) Knowingly or negligently damaging or causing conservation treatment to be impaired.

(2) Adopting land use or treatment that tends to defeat the program purposes during the period of the contract.

(3) Failing to comply with the terms of the contract.

(4) Filing a false claim.

(5) Misusing an authorization.

(b) *Effect of violation.* (1) *Contract to be terminated.* (i) By signing a contract, the land user agrees to forfeit all rights to further cost-share payments under a contract and to refund cost-share payments received not to exceed the difference between the estimated value of the land at time of entering into the contract and the value at time of termination, if the contracting officer, with approval of the State conservationist, determines that:

(A) There was a violation of the contract during the time the land user had control of the land, and

(B) The violation was of a nature as to warrant termination of the contract.

(ii) The land user is to be obligated to refund cost-share payments and cost shares paid under authorizations not to exceed the difference between the estimated value of the land at time of entering into the contract and the value at time of termination.

(2) *Contract not terminated.* (i) By signing a contract, the land user agrees to refund cost-share payments received under the contract or to accept payment adjustment if the contracting officer, with the approval of the State conservationist, determines that:

(A) There was a violation of the contract during the time the land user had control of the land, and

(B) The nature of the violation does not warrant termination of the contract.

(ii) Payment adjustments may include decreasing the rate of a cost share, deleting a cost-share commitment from the contract, or withholding cost-share payments earned but not paid. The land user who signs the contract may be obligated to refund cost-share payments and cost shares paid under authorizations.

§ 632.42 Violation procedures.

(a) *Scope.* This section prescribes the regulations dealing with contract violations. The Administrator reserves the right to revise or supplement any of the provisions of this section at any time if the action does not adversely affect the land user, or if the land user has been officially notified before this action is taken. No cost-share payment shall be made pending the decision on whether a contract violation has occurred.

(b) *Determination by contracting officer.* On notificaion that a contract violation may have occurred, the contracting officer is to:

(1) Determine, with the approval of the State conservationist, that a violation did not occur or that the violation was of such a nature that no penalty of forfeiture, refund, or payment adjustment is necessary. No notice is issued to the land user, and no further action is to be taken; or

(2) Determine that a violation did occur, but the land user agrees to accept the penalty. If the land user agrees in writing to accept a penalty of forfeiture, refund, payment adjustment or termination, no further action is to be taken. The land user's agreement to accept the penalty must be approved by the contracting officer and State conservationist.

(c) *Notice of possible violation.* (1) When the State conservationist is notified that a contract violation may have occurred that may warrant a penalty of forfeiture, refund, payment adjustment, or termination, he is to notify, in writing, each land user who signed the agreement of the alleged violation. This notice may be personally delivered or sent by certified or registered mail. A land user is considered to have received the notice at the time of personal receipt acknowledged in writing, at the time of the delivery of a certified or registered letter, or at the time of the return of a certified or registered letter where delivery was refused.

(2) The notice setting forth the nature of the alleged violation is to give the land user an opportunity to appear at a hearing before a hearing officer designated by the State conservationist. The land user's request for a hearing is to be submitted in writing and must be received in the SCS field office within 30 days after receipt of the notice. The land user is to be notified in writing by the hearing officer of the time, date, and place for the hearing. The land user is to have no right to a hearing if he does not file a written request for a hearing, or if he or his representative does not appear at the appointed time, unless the hearing officer, at his discretion, permits an appearance. A request for a hearing filed by a land user is considered to be a request by all land users who signed the contract.

(d) *Hearing.* A public hearing is to be conducted to obtain the facts about the alleged violation. The hearing officer is to limit the hearing to relevant facts and evidence and is not to be bound by the strict rules of evidence as required in courts of law. Witnesses may be sworn in at the discretion of the hearing officer.

(1) The land user or his representative is to be given full opportunity to present oral or documentary evidence about the alleged violation. Likewise, the United States may submit statements and evidence. Individuals not otherwise represented at the hearing may be permitted, at the discretion of the hearing officer, to give information of evidence. The hearing officer, at his discretion, may permit witnesses to be cross-examined.

(2) The hearing officer is to make a record of the hearing so that the testimony can be summarized. A summary of the testimony may be made if both the land user and the State conservationist agree. A transcript of the hearing is to be made if requested by either the State conservationist or the land user within 10 days of the hearing. If a transcript is requested by the land user, the land user may be assessed the cost of a copy of the transcript.

(3) The hearing officer is to close the hearing after a reasonable period of time if the land user or his representative is not present at the scheduled time. The hearing officer may, at his discretion, accept information and evidence submitted by others present for the hearing.

(4) The hearing officer is to furnish the State conservationist with a written report setting forth his findings, conclusions, and recommendations. The report is to include the summary of testimony or transcript made of the hearing and any other information that would aid the State conservationist in reaching his decision.

(e) *Decision by State conservationist.* The State conservationist is to make a decision after considering the hearing officer's report, including recommendations of the conservation district board if any, and any other information available to him, including, if applicable, the amount of the forfeiture, refund, or payment adjustment. The decision is to state whether the violation is of such a nature as to warrant termination of the contract. The State conservationist is to notify, in writing, each land user who signed the contract of his decision. The State conservationist may authorize or require the reopening of any hearing before a hearing officer for any reason at any time before his decision.

(f) *Appeal to Administrator.* Any land user affected by a decision of the State conservationist has the right of appeal to the Administrator. The appeal and any briefs or statements must be received in the Office of the Administrator within 30 days after the land user has received notice of the State conservationist's decision. The State conservationist is to file a brief or statement in the Office of the Administrator within 20 days after the land user's brief or statement is received there. The appeal is to be limited to the records and the issues made before the State conservationist. The Administrator's decision is final. The decision is to be determined by the record before him and the issues presented in the appeal, and the land user is to be notified in writing.

(1) If the decision provides for termination of the contract, it is to state that the contract is terminated, that all rights to further cost-share payments under the contract are forfeited, and that cost-share payments received under the contract are to be refunded, but the refund is not to exceed the difference between the estimated value of the land at time of entering into the contract and the value at time of termination. The decision is to state the amount of refund and method of payment.

(2) If the decision does not provide for termination of the contract, the land user may be required to make a refund of cost-share payments or to accept payment adjustments. The decision is to state the amount of refunds of cost-share payments or payment adjustments. In determining amounts of refund or payment adjustments, the following are to be considered:

(i) The extent of the violation.

(ii) Whether the violation was deliberate or the result of negligence or was caused by circumstances beyond the control of the land user.

(iii) The effect on the program if no refund or payment adjustment is required.

(iv) The extent to which the land user benefited by the violation.

(v) The effect of the violation on the contract as a whole.

(vi) Other considerations including the appropriateness and reasonableness of the refund or payment adjustment.

Subpart F—Environment

§ 632.50 Environmental assessment.

(a) Environmental assessment is an integral part of planning used by SCS in developing each reclamation plan under this program. Planning includes site inventory and analysis, evaluation of reasonable alternatives, and identification of significant environmental impacts. Major points in planning when SCS or the land user can make decisions concerning further action are:

(1) After an evaluation of the application for program assistance to verify eligibility, land user objectives, and priorities for funding.

(2) After a site-specific inventory and analysis to evaluate feasible treatment alternatives, costs, and environmental impacts.

(3) After development of an acceptable reclamation plan as a basis for contract.

(4) Before the signing of a mutually acceptable contract for financial cost-share assistance.

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(b) The scope and complexity of the assessment is to be consistent with the scope and complexity of the proposed reclamation.

(c) An interdisciplinary team, consisting of SCS and/or other cooperating agency personnel as needed, is used in making the assessment.

(d) The Responsible Federal Official (RFO) is to use the environmental assessment to make a decision concerning the need to prepare an environmental impact statement (EIS) in accordance with § 632.52.

§ 632.51 Accord with environmental laws and orders.

(a) A final program EIS is available in compliance with section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA). This statement discloses the cumulative program impacts that significantly affect the quality of the human environment.

(b) The program is to be conducted in accordance with other laws and Executive orders concerning environmental protection.

(c) Channelization of streams is prohibited under this program. Channelization as used herein means the overall widening, deepening, realining, or constructing a nonvegetative protective lining over all or part of the perimeter of a perennial stream channel as described in SCS Channel Modification Guidelines, Part B, Items 4, 5, 6, and 7, as published in the FEDERAL REGISTER on March 1, 1978 (43 FR 8278).

§ 632.52 Identifying typical classes of action.

(a) The RFO will analyze the environmental assessment of the proposed action to determine which of the following classes of action applies. This determination will be recorded and will be available to the public on request.

(1) *Actions not requiring a site-specific EIS.* All proposed actions and their impacts that are determined to be adequately discussed in the program EIS or determined not to be major Federal actions will not require a site-specific EIS. However, if the assessment reveals that these proposed actions will have significant adverse effects on the quality of the human environment, the RFO will:

(i) Modify the action to eliminate or mitigate the significant adverse impacts, or

(ii) Withdraw further Federal assistance if significant adverse impacts cannot be eliminated or mitigated.

(2) *Actions requiring a site-specific EIS.* A site-specific EIS is required for proposed actions if their impacts are not adequately discussed in the program EIS, and the proposal is determined to be a major Federal action significantly affecting the quality of the human environment in accordance with § 650.7(b) of this chapter. When a decision is made to prepare an EIS, a Notice of Intent will be published in the FEDERAL REGISTER. The content and format of the EIS is to be consistent with the format of the program EIS and use scoping and tiering techniques to focus on the significant environmental issues.

(3) *Actions excluded from the EIS requirements.* Those actions taken to prevent loss of life or property under the extreme danger provisions of priority 1 as described in § 632.12. These actions are determined by a limited environmental assessment that reasonably identifies the possible loss of life or property.

[FR Doc. 78-26963 Filed 9-27-78; 8:45 am]

federal register

THURSDAY, SEPTEMBER 28, 1978
PART IV



DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Health Resources Administration

■

LIST OF HEALTH MANPOWER SHORTAGE AREAS

Designated Under Section 332 of Public Health Service Act

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[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

LIST OF HEALTH MANPOWER SHORTAGE AREAS DESIGNATED UNDER SECTION 332 OF PUBLIC HEALTH SERVICE ACT

1. *Purpose.* This notice provides an updated list of those primary medical manpower shortage areas designated by the Secretary of Health, Education, and Welfare through August 31, 1978, under the authority of section 332 of the Public Health Service Act.

2. *Background.* Section 332 of the Public Health Service Act, as amended by Pub. L. 94-484 (the Health Professions Educational Assistance Act of 1976), provides that the Secretary of Health, Education, and Welfare shall designate health manpower shortage areas in accordance with criteria established under section 332(b). Health manpower shortage areas are defined in section 332(a) to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health manpower. Section 332(d) requires that the Secretary publish a list of the designated geographic areas, population groups, and facilities. Regulations implementing this authority provide that periodic updates of the list be published. The Health Resources Administration's Bureau of Health Manpower has been assigned the responsibility for designating these areas.

This is the second list of health manpower shortage areas designated under section 332. The first list was published July 17, 1978, and included six different types of manpower shortage areas (primary medical care, dental, vision care, podiatry, pharmacy, and veterinary manpower). This list represents an update for designated primary medical manpower shortage areas only, and contains all such areas which had been designated by August 31, 1978.

Public or nonprofit entities in (or with a demonstrated interest in) these areas are eligible to apply for assignment of National Health Service Corps personnel to provide health services in or to the areas. These areas are also eligible service areas for Public Health Service loan repayment and scholarship programs, and entities located in the areas are eligible to apply for (or receive preference for) certain grant programs under the Public Health Service Act.

3. *Development of list.* Criteria for the designation of health manpower shortage areas in accordance with section 332(b) were published by the Department of Health, Education, and Welfare as Interim-Final Regulations in the FEDERAL REGISTER of January 10, 1978 (43 FR 1586). Data available to the Bureau of Health Manpower on counties and small areas throughout the country were then compared with these criteria, and preliminary listings were developed of those areas which tentatively appeared to meet the criteria. These preliminary listings were submitted to the appropriate Health Systems Agencies (HSA's), State Health Planning and Development Agencies (SHPDA's) and Governors for their review and recommendations. In addition, the many requests received for designation of particular areas, population groups, or facilities were also submitted to the appropriate HSA's, SHPDA's, and Governors for review and recommendations.

Each request for designation was reviewed by the Bureau of Health Manpower together with any recommendations received concerning such designations, and a determination was made as to whether or not the areas involved met the shortage criteria. The results of these determinations were then provided by letter to the requesting agency or individual, with copies to other appropriate agencies and to interested organizations and persons. Where a review resulted in designation of one of more areas, this letter constituted the official notice of designation. The same procedure was applied in reviewing agencies' responses to the listings sent to them for review.

The list below represents, for primary medical care manpower, a compilation of those areas, population groups and facilities already formally designated by letter by the Bureau of Health Manpower between January 10 (the date of the publication of the Interim-Final Regulations and criteria in the FEDERAL REGISTER) and August 31, 1978.

4. *Format of list.* The list of areas is arranged by State. Within each State, the list is first presented by county. In those cases where a portion (or portions) of a county has been designated, the service area(s) involved are listed under the county name. Following the county listing, a list of these service areas is presented showing their component parts in terms of census tracts (C.T.), towns, townships, minor civil division (M.C.D.) or census county division (C.C.D.).

Where population groups or facilities have been designated, these are listed under the county name(s) in which the population resides or the facility is located.

Beside each designated area, the appropriate "degree of shortage" group is indicated, corresponding to the criteria for these groupings contained in the Interim-Final Regulations. (Group I represents areas with the highest degree of shortage, Group II with the next highest degree of shortage, etc.)

In addition to the specific listings shown here, all members of Indian tribes within the meaning of the definition in section 4(d) of Pub. L. 94-437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with a health manpower shortage.

5. *Supplemental list of National Health Service Corps (NHSC)—staffed sites previously designated under section 329(b).* Under section 407(c) of Pub. L. 94-484, areas which had been designated under section 329(b) of the Public Health Service Act as of September 30, 1977, and in which National Health Service Corps (NHSC) personnel were providing health services on that date, are automatically designated as health manpower shortage areas under section 332, until the end of the assignment period of those personnel. A supplementary list of such areas follows the list of primary medical manpower shortage areas designated using the new criteria.

The designation of any area listed on this supplemental list will lapse at the end of the current assignment period, unless prior to that time, it is determined that the area satisfies the new criteria and notification of redesignation under section 332 is made.

The format for this list of areas is also by State. Within each State, the name of the previously designated area is given, followed by the name of the clinic or other facility staffed, and the community and county in which the facility is located. Any facility for which the previous designation could not be identified was not included in this list.

6. *Future updates of list of designated areas.* The list below consists of those primary medical manpower shortage areas designated by August 31, 1978. Updates of the lists of dental and other shortage areas will be published at a later date. Additions to and deletions from these lists are made continuously, by letter to affected agencies and persons; further updates of all the lists will be published periodically in the FEDERAL REGISTER. (In particular, it should be noted that some additional primary medical manpower shortage areas have been designated between August 31 and the date of this notice, and the appropriate agencies and persons notified of the designation. Although officially designated, these areas are not included in the list below.)

Any designated area listed below is subject to withdrawal from designation if new information is presented to and confirmed by the Bureau of Health Manpower indicating that the situation in the area has changed, or that erroneous or incomplete data were used in making the original designation.

For further information on these designations, to request additional designations, or to request withdrawal of any designation, please contact: Division of Manpower Analysis, Bureau of Health Manpower, Health Resources Administration, Attention: Shortage Area Designation Staff, Center Building, Room 4-41, 3700 East-West Highway, Hyattsville, Md. 20782.

All requests for designation or withdrawal should be based on the criteria as published in the Interim-Final Regulations, which appeared in the FEDERAL REGISTER on January 10, 1978.

Dated: September 20, 1978.

HENRY A. FOLEY,
Administrator,
Health Resources
Administration.

HEALTH MANPOWER SHORTAGE AREAS—PRIMARY CARE

ALABAMA

County Listing

County name	Degree of shortage group
Autauga	01
Barbour	01
Bibb	04
Bullock	01
Butler	03
Calhoun:	
Service area, Etowah	04
Chambers:	
Service area, La Fayette	01
Cherokee	02
Clay	04
Cleburne	01
Coosa	01
Covington:	
Service area, Southeast Covington	03
Service area, North Covington	01
Crenshaw	03
Cullman	02
Dale	01
De Kalb	02
Elmore	02
Etowah	04
Fayette	02
Geneva	03
Greene	03
Hale	03
Henry	01
Houston:	
Service area, East Houston	01
Jackson	02
Jefferson:	
Service area, Roosevelt City	02
Lamar	03
Lawrence	02
Limestone	04
Lowndes	01
Marion	01
Mobile:	
Service area, Davis Area Community	01
Service area, Bayou La Batre	01
Pickens	01
Pike	03
Randolph	02
Talladega:	
Service area, Childersburg CCD	01
Service area, Lincoln-Estaboga CCD	03
Tuscaloosa:	
Service area, Tuscaloosa	01
Winston	02

Service Area Listing

Service area name	Degree of shortage group
Bayou La Batre	1
County—Mobile:	
Parts of county:	
C.T. 66 (parts)	
C.T. 67 (parts)	
C.T. 72 (parts)	
C.T. 73 (parts)	
Childersburg CCD	1
County—Talladega:	
Parts of county:	
Childersburg division	
Davis Area Community	1
County—Mobile:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 4.01	
C.T. 4.02	
C.T. 5	
C.T. 6	
East Houston	1
County—Houston:	
Parts of county:	
Columbia	
Gordon	
Etowah	4
County—Calhoun:	
Parts of county:	
Piedmont division	
Ohatchee division	
Webster Chapel-Alexandria division	
County—Etowah	
Greene-Hale	3
County—Greene	
County—Hale	
La Fayette	1
County—Chambers:	
Parts of county:	
Lafayette division	
Lincoln-Estaboga CCD	3
County—Talladega:	
Parts of county:	
Lincoln-Estaboga division	
North Covington	1
County—Covington:	
Parts of county:	
Red Level	
Rosehill-Gantt	
Roosevelt City	2
County—Jefferson:	
Parts of county:	
C.T. 105	
C.T. 131	
C.T. 133	
C.T. 136	
C.T. 137	
Southeast Covington	3
County—Covington:	
Parts of county:	
Florala CCD	
Tuscaloosa	1
County—Tuscaloosa:	
Parts of county:	
C.T. 0116	
C.T. 0117	
C.T. 0118	
C.T. 0119	

ALASKA

County Listing

County name	Degree of shortage group
Aleutian Islands division	01
Angoon Division	04
Barrow Division	01
Bethel Division	01
Bristol Bay Division	03
Bristol Bay Boro. Division	03
Juneau Division	04
Kobuk Division	01
Kuskukwim Division	01
Matanuska-Sustina Division	04
Nome Division	01
Outer Ketchian Division	01
Prince of Wales Division	01
Skagway-Yakutat Division	04
Upper Yukon Division	01
Valdez-Chitina-Whitt. Division	02
Wade Hampton Division	01
Yukon-Koyukuk Division	01

Service Area Listing

Service area name	Degree of shortage group
Bristol Bay	3
County—Bristol Bay division	
County—Bristol Bay Boro. division	
Juneau	4
County—Angoon Division	
County—Juneau Division	
County—Skagway-Yakutat Division	

ARIZONA

County Listing

County name	Degree of shortage group
Apache:	
Service area, south central Apache	04
Service area, White Mountain Indian Reservation	03
Cochise:	
Service area, Bowie	01
Service area, Tombstone City area	03
Gila:	
Service area, White Mountain Indian Reservation	01
Maricopa:	
Service area, South Phoenix	00
Navajo:	
Service area, Hopi Indian Reservation	01
Service area, White Mountain Indian Reservation	03
Pima:	
Service area, Marana MSA	02
Service area, El Rio	01
Pinal:	
Service area, Central/West Pinal	02
Santa Cruz	01
Yuma:	
Service area, northern Yuma	01
Service area, Somerton Clinic Target area	01

Service Area Listing

Service area name	Degree of shortage group
Benson CCD	3
County—Cochise:	
Parts of county:	
Benson CCD	
Bowie	1
County—Chochise:	
Parts of county:	
Bowie CCD	
Central/west Pinal County	
County—Pinal:	
Parts of county:	
Maricopa/Stanfield	
Casa Grande	
Elroy	
Coolidge	
Florence	
El Rio	
County—Pima:	

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Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.02	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25.01	
C.T. 37.01	
C.T. 37.02	
C.T. 37.03	
C.T. 38	
C.T. 39	
Hopi Indian Reservation	1
County—Navajo:	
Parts of county:	
Hopi division	
Marana MSA	2
County—Pima:	
Parts of county:	
Marana CCD	
Northern Yuma County	1
County—Yuma:	
Parts of county:	
Parker division	
Somerton Clinic Target area	1
County—Yuma:	
Parts of county:	
Somerton	
Wellton (parts)	
South Phoenix	2
County—Maricopa:	
Parts of county:	
C.T. 1152	
C.T. 1153	
C.T. 1154	
C.T. 1155	
C.T. 1156	
C.T. 1157	
C.T. 1158	
C.T. 1159	
C.T. 1160	
C.T. 1161	
C.T. 1162.01	
C.T. 1162.02	
C.T. 1163	
C.T. 1164	
C.T. 1165	
C.T. 1166	
C.T. 1167	
South-south central Apache County	4
County—Apache:	
Parts of county:	
Round Valley division	
St. John division	
Puerco division	
Tombstone City area	3
County—Cochise:	
Parts of county:	
Tombstone Pl. (part of Tombstone division)	
White Mountain Indian Reservation	3
County—Apache:	
Parts of county:	
Monary division	
County—Gila:	
Parts of county:	
Reservation division (part)	
County—Gila:	
Parts of county:	
Reservation division	

ARKANSAS

County Listing

County name	Degree of shortage group
Arkansas:	
Service area, Arkansas County	01
ASHLEY	02
BRADLEY	04
CALHOUN	01
Clark:	
Service area, Southern Clark Co.	02
CLAY	03
CLEVELAND	02
Howard:	
Service area, Dierks	01
Jefferson:	
Service area, Northeast Jefferson Co.	01
Service area, Northwest Jefferson Co.	01
Service area, Reydel	00
Service area, S. Arkansas Correctional Facilities	02
LAFAYETTE	01
LAWRENCE	04
LINCOLN	01
LITTLE RIVER	02
MISSISSIPPI	04
Pike:	
Service area, Dierks	01
SEVIER	
SHARP	03
STONE	02

Service Area Listing

Service area name	Degree of shortage group
Arkansas County	1
County—Arkansas:	
Parts of county:	
Chester Township	
Stanley Township	
Keaton Township	
Crochett Township	
Barton Township	
Garland Township	
Brewer Township	
Bayou Meto Township	
La Grue Township	
Prairie Township	
Point De Luce Township	
Arkansas Township	
Dierks	1
County—Howard:	
Parts of county:	
Baker Township	
Blue Ridge Township	
Burg Township	
Clay Township	
Duckett Township	
Holly Creek Township	
Madison Township	
Mountain Township	
Muddy Fork Township	
Sulpher Spring Township	
Umpire Township	
County—Pike:	
Parts of county:	
Mountain Township	
Eagle Township	
Self Creek Township	
White Township	
Muddy Fork Township	
County—Sevier:	
Parts of county:	
Jefferson Township	
Northeast Jefferson County	1
County—Jefferson:	
Parts of county:	
Barraque Township	
Bolivar Township	
Jefferson Township	
Pastoria Township	
Washington Township	
Reydel	1
County—Jefferson:	
Parts of county:	
Old River Township	
Villemont Township	
South Arkansas Correctional Facilities	2
County—Jefferson:	
parts of county:	
Tucker Prison	
Women's unit	
County—Lincoln:	
Parts of county	
Cummins Prison	
Southern Clark County	2
County—Clark:	
Parts of county:	
Missouri Township	

CALIFORNIA

County listing

County name	Degree of shortage group
Butte:	
Service area, Feather Falls	01
Del Norte	04
Fresno:	
Service area, Firebaugh-Mendota	01
Glenn:	
Service area, Orland	04
Humboldt:	
Service area, Trinidad	03
Service area, Mad River	01
Inyo:	
Service area, Death Valley	01
Kern:	
Service area, Frazier Park	02
Service area, Buttonwillow	01
Lassen:	
Service area, North Lassen	01
Los Angeles:	
Service area, Monterey Park-Rosemead	03
Service area, North El Monte-South El Monte	03
Service area, Industry-La Puente-Baldwin	02
Madera:	
Service area, Oakhurst-North Fork	02
Service area, Migrants-Spanish speaking population, Madera	01
Marin:	
Service area, Bolinas-Stinson	01
Mariposa:	
Service area, Coulterville	01
Mendocino:	
Service area, Point Arena	01
Service area, Covelo	01
Service area, Northwest Mendocino	01
Merced:	
Service area, Northern Merced	03
Service area, Migrants-Spanish Speaking Population in Greater Merced	02
Service area, Dos Palos-Los Banos	03
Modoc:	
Service area, Tule Lake-Butte Valley	01
Service area, Adin-Lookout	01
Monterey:	
Service area, Seaside	02
Service area, Soledad	01
Riverside:	
Service area, Blythe	02
San Benito	04
San Luis, Obispo:	
Service area, Nipomo-Arroyo Grande	02
Santa Clara:	
Service area, Loma Prieta School District	02
Santa Cruz:	

CALIFORNIA—Continued

County name	Degree of shortage group
Siskiyou:	
Service area, Happy Camp	04
Service area, Tule Lake-Butte Valley	01
Stanislaus:	
Service area, Migrants-Spanishing Speaking Population in S.W. Stanislaus	02
Trinity:	
Service area, Mad River	01
Ventura:	
Service area, the Developmentally Disabled in Ventura	02

CALIFORNIA

Service Area Listing

Service area name	Degree of shortage group
Adin-Lookout	1
County—Modoc:	
Parts of County:	
Adin-Lookout	
Blythe	1
County—Riverside:	
Parts of County:	
Palo Verde Division	
Chuckwalla Division	
Bolinas-Stinson	1
County—Marin:	
Parts of County:	
C.T. 1321	
Buttonwillow	1
County—Kern:	
Parts of County:	
C.T. 33.01 (Part-Blk Grp 1-3, 951)	
C.T. 37	
C.T. 42 (Part-Blk Grp 1)	
C.T. 45 (Part-Blk Grp 1-3, 5)	
Coulterville	1
County—Mariposa:	
Parts of County:	
Coulterville	
Covelo	1
County—Mendocino:	
Parts of County:	
Covelo	
Death Valley	1
County—Inyo:	
Parts of County:	
E.D. 23 of Death Valley Division	
E.D. 24 of Death Valley Division	
E.D. 25 of Death Valley Division	
E.D. 26 of Death Valley Division	
Dos Palos/Los Banos	3
County—Merced:	
Parts of County:	
Dos Palos Division	
Los Banos Division	
Feather Falls	1
County—Butte:	
Parts of County:	
Feather Falls	
Firebaugh-Mendota	1
County—Fresno:	
Parts of County:	
Firebaugh Division	
Mendota Division	
Frazier Park	2
County—Kern:	
Parts of County:	
C.T. 33.02	
C.T. 60 (Part)	
Happy Camp	4
County—Siskiyou:	
Parts of County:	
Happy Camp CCD	
Industry-La Puente-Baldwin	2
County—Los Angeles:	
Parts of County:	
C.T. 4047	
C.T. 4048	
C.T. 4049	
C.T. 4050	
C.T. 4051	
C.T. 4052	
C.T. 4069	
C.T. 4070	
C.T. 4071	
C.T. 4072	
C.T. 4073	
C.T. 4075	
C.T. 4076	
C.T. 4077	
C.T. 4078	
C.T. 4079	
C.T. 4081	
C.T. 4082	
C.T. 4083	
C.T. 4084	
C.T. 4085	
C.T. 4086	
Loma Prieta School District	2
County—Santa Clara:	
Parts of County:	
Lexington Division (Part)	
County—Santa Cruz:	
Parts of County:	
San Lorenzo Valley (Part)	
Scotts Valley Division (Part)	
Mad River	1
County—Humboldt:	
Parts of County:	
Dinsmore Division	
County—Trinity:	
Parts of County:	
Mad River Division	
Migrants-Spanish Speaking Population in S.W. Stanislaus	2
County—Stanislaus:	
Parts of County:	
Patterson	
Newman	
Migrants-Spanish Speaking Population in Greater Merced	2
County—Merced:	
Parts of County:	
Merced	
Merced Rural	
Planada-La Grand	
Migrants-Spanish Speaking Population—Madera	1
County—Madera:	
Parts of County:	
C.T. 4 (Migrant and Spanish Speaking Population)	
C.T. 5 (Migrant and Spanish Speaking Population)	
C.T. 6 (Migrant and Spanish Speaking Population)	
C.T. 7 (Migrant and Spanish Speaking Population)	
C.T. 8 (Migrant and Spanish Speaking Population)	
C.T. 9 (Migrant and Spanish Speaking Population)	
C.T. 10 (Migrant and Spanish Speaking Population)	
Monterey Park Rosemead	3
County—Los Angeles:	
Parts of County:	
C.T. 4322	
C.T. 4329	
C.T. 4336	
C.T. 4356	
C.T. 4813	
C.T. 4817	
C.T. 4818	
C.T. 4820	
C.T. 4821	
C.T. 4822	
C.T. 4823	
C.T. 4824	
C.T. 4825	
C.T. 4826	
C.T. 4827	
C.T. 4828	
Nipomo/Arroyo Grande	2
County—San Luis Obispo:	
Parts of County:	
Arroyo Grande Division	
North El Monte-South El Monte	3
County—Los Angeles:	
Parts of County:	
C.T. 4315	
C.T. 4323	
C.T. 4324	
C.T. 4325	
C.T. 4326	
C.T. 4327	
C.T. 4328	
C.T. 4331	
C.T. 4332	
C.T. 4333	
C.T. 4334	
C.T. 4335	
C.T. 4337	
C.T. 4338	
C.T. 4339	
C.T. 4340	
North Lassen	1
County—Lassen:	
Parts of County:	
Big Valley	
Madeline Plains	
Northern Merced	3
County—Merced:	
Parts of County:	
Hilmar-Irwin Division	
Livingston-Delhi	
Snelling Division	
Atwater Division	
Northwest Mendocino	1
County—Mendocino:	
Parts of County:	
Laytonville-Leggett	
Oakhurst-North Fork	2
County—Madera:	
Parts of County:	
Oakhurst-North Fork CCD	
Orland	4
County—Glenn:	
Parts of County:	
Orland CCD	
Point Arena	1
County—Mendocino:	
Parts of County:	
Point Arena	
Seaside	2
County—Monterey:	
Parts of County:	
Seaside Division	
Soledad	1
County—Monterey:	
Parts of County:	
Soledad Division	
The Developmentally Disabled in Ventura	2
County—Ventura:	
Parts of County:	
The Developmentally Disabled in Ventura	
Trinidad	3
County—Humboldt:	
Parts of County:	
North Coastal Division	
Tule Lake-Butte Valley	1
County—Modoc:	
Parts of County:	
Tule Lake	
County—Siskiyou:	
Parts of County:	
Tule Lake CCD	
Butte Valley CCD	

COLORADO

County Listing

County name	Degree of shortage group
Baca	04
Bent	04
Boulder:	
Service area, Lafayette	04
Conejos	01

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Service Area Listing—Continued

Service area name	Degree of shortage group
County name	Degree of shortage group
Costilla	01
Crowley	03
Kiowa	02
Montezuma	01
Montrose:	
Service area, Nucla	04
Ouray	01
Prowers	04
Pueblo:	
Service area, Avondale	01
San Juan	01
San Miguel	01
Sedgwick	01

Service Area Listing

Service area name	Degree of shortage group
Avondale	1
County—Pueblo:	
Parts of county:	
C.T. 30.01 (Avondale)	
C.T. 30.02 (Avondale)	
C.T. 31.02 (Avondale)	
C.T. 32 (Avondale)	
C.T. 33 (Avondale)	
C.T. 34 (Avondale)	
Lafayette	4
County—Boulder:	
Parts of county:	
C.T. 129	
Nucla	4
County—Montrose:	
Parts of county:	
Nucla division	
San Luis Valley	1
County—Conejos	
County—Costilla	

CONNECTICUT

County Listing

County name	Degree of shortage group
Fairfield:	
Service area, Southeast Bridgeport	01
Service area, Central Bridgeport	01
Service area, Southwest Bridgeport	01
Service area, North Central Bridgeport	01
Service area, Southwest Stamford	01
Service area, South Norwalk	03
Hartford:	
Service area, Enfield	02
Service area, North-North Central Hartford	04
Windham:	
Service area, Northeast Windham	03

Service Area Listing

Service area name	Degree of shortage group
Central Bridgeport	1
County—Fairfield:	
Parts of county:	
C.T. 713	
C.T. 714	
C.T. 715	
C.T. 716	
C.T. 717	
Enfield	2

Service Area Listing—Continued

Service area name	Degree of shortage group
County—Hartford:	
Parts of county:	
C.T. 4762 (Windsor Locks Town)	
C.T. 4763 (Windsor Locks Town)	
C.T. 4801 (Enfield Town)	
C.T. 4802 (Enfield Town)	
C.T. 4803 (Enfield Town)	
C.T. 4804 (Enfield Town)	
C.T. 4805 (Enfield Town)	
C.T. 4806 (Enfield Town)	
C.T. 4807 (Enfield Town)	
C.T. 4808 (Enfield Town)	
C.T. 4809 (Enfield Town)	
C.T. 4810 (Enfield Town)	
C.T. 4811 (Enfield Town)	
C.T. 4812 (Enfield Town)	
C.T. 4813 (Enfield Town)	
C.T. 4771 (Suffield Town)	
C.T. 4772 (Suffield Town)	
C.T. 4761 (Windsor Locks Town)	
Northeast Windham	3
County—Windham:	
Parts of county:	
Brooklyn	
Canterbury	
Eastford	
Killingly	
Plainfield	
Pomfret	
Putnam	
Sterling	
Thompson	
Woodstock	
North Central Bridgeport	1
County—Fairfield:	
Parts of county:	
C.T. 728	
North-North Central Hartford	4
County—Hartford:	
Parts of county:	
C.T. 5008	
C.T. 5009	
C.T. 5010	
C.T. 5012	
C.T. 5013	
C.T. 5014	
C.T. 5015	
C.T. 5017	
C.T. 5018	
C.T. 5035	
C.T. 5037	
South Norwalk	3
County—Fairfield	
Parts of county:	
C.T. 418	
C.T. 419	
C.T. 422	
C.T. 423	
Southwest Bridgeport	1
County—Fairfield:	
Parts of county:	
C.T. 702	
C.T. 703	
C.T. 704	
C.T. 705	
C.T. 706	
Southeast Bridgeport	1
County—Fairfield:	
Parts of county:	
C.T. 740	
C.T. 741	
C.T. 742	
C.T. 743	
C.T. 744	
Southwest Stamford	1
County—Fairfield:	
Parts of county:	
C.T. 222	
C.T. 223	

DELAWARE

County Listing

County name	Degree of shortage group
New Castle:	
Service area, city of Wilmington	02

DELAWARE—Continued

County name	Degree of shortage group
Service area, Odessa-Middletown-Townsend	03
Sussex:	
Service area, Milton	02

Service Area Listing

Service area name	Degree of shortage group
City of Wilmington	2
County—New Castle:	
Parts of county:	
C.T. 1	
C.T. 8	
C.T. 9	
C.T. 17	
C.T. 20	
C.T. 154	
C.T. 155	
C.T. 158	
Milton	2
County—Sussex:	
Parts of county:	
Selbyville-Frankford CCD	
Millsboro CCD	
Milton CCD	
Odessa-Middletown-Townsend	3
County—New Castle:	
Parts of county:	
Middletown Odessa CCD	

DISTRICT OF COLUMBIA

County Listing

County name	Degree of shortage group
District of Columbia:	
Service area, Anacostia service area	01

Service Area Listing

Service area name	Degree of shortage group
Anacostia service area	1
County—District of Columbia:	
Parts of County:	
C.T. 73.1	
C.T. 78.5	
C.T. 78.7	
C.T. 78.8	
C.T. 96	
C.T. 97	
C.T. 98	
C.T. 73.2	
C.T. 73.3	
C.T. 73.4	
C.T. 73.6	
C.T. 73.7	
C.T. 73.8	
C.T. 74.1	
C.T. 74.2	
C.T. 74.4	
C.T. 74.5	
C.T. 75.1	
C.T. 75.2	
C.T. 76.1	
C.T. 76.2	
C.T. 76.3	
C.T. 77.1	
C.T. 77.2	
C.T. 77.3	
C.T. 77.5	
C.T. 77.6	
C.T. 77.7	
C.T. 78.1	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 78.2	
C.T. 78.3	
C.T. 78.4	

FLORIDA

County Listing

County name	Degree of shortage group
Broward:	
Service area, Sunshine FHC Target Population	01
Service area, Sunshine Family Health Center	01
Dade:	
Service area, Southern Dade	01
Lee:	
Service area, Lee County Migrant Population	01
Palm Beach:	
Service area, Palm Beach	02

Service Area Listing

Service area name	Degree of shortage group
Lee County migrant population	1
County—Lee:	
Parts of county:	
Lee County migrant population	
Palm Beach	1
County—Palm Beach:	
Parts of county:	
C.T. 78	
Sunshine Family Health Center	1
County—Broward:	
Parts of county:	
Sunshine Family Health Center	
Southern Dade	1
County—Dade:	
Parts of county:	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106.02	
C.T. 108	
C.T. 109	
C.T. 110	
C.T. 111	
C.T. 112	
C.T. 113	
C.T. 114	
C.T. 115	
Sunshine FHC Target Population	1
County—Broward:	
Parts of county:	
C.T. 305 (Resident population)	
C.T. 305 (Migrant and seasonal farmworkers)	

GEORGIA

County Listing

County name	Degree of shortage group
Baker	04
Brooks	02
Burke	04
Butts	02
Calhoun	04
Chattahoochee	01
Cherokee	04
Clarke:	
Service area, Athens NHC target area	01

GEORGIA—Continued

County name	Degree of shortage group
Crawford	01
Dooly	03
Dougherty	03
Early	02
Elbert	04
Fayette	02
Fulton:	
Service area, Atlanta (Southside)	01
Service area, Palemetto service area	01
Glascock	01
Grady	03
Hancock	02
Henry	02
Irwin	01
Jackson	04
Jasper	01
Jefferson	03
Jenkins	03
Jones	02
Lee	04
Lincoln	04
McDuffie	04
Madison	01
Meriwether	02
Mitchell	04
Montgomery	01
Newton	03
Oigethorpe	01
Pike	01
Pulaski	03
Quitman	03
Randolph	03
Screven	04
Stewart	02
Taliaferro	02
Walker:	01
Service area, South Walker	02
Walker	01
Warren	02
Webster	01
Wheeler	03
Wilcox	03
Wilkinson	04
Worth	04

Service Area Listing

Service area name	Degree of shortage group
Athens NHC target area	1
County—Clarke:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 6	
C.T. 9	
Atlanta (Southside)	1
County—Fulton:	
Parts of county:	
C.T. 44	
C.T. 45	
C.T. 46	
C.T. 47	
C.T. 48	
C.T. 49	
C.T. 52	
C.T. 53	
C.T. 55.01	
C.T. 55.02	
C.T. 57	
C.T. 58	
C.T. 63	
C.T. 64	
C.T. 66	
C.T. 67	
C.T. 68	
C.T. 69	
C.T. 70	
C.T. 71	
C.T. 72	
C.T. 73	
Baker/Dougherty/Lee	3
County—Baker	
County—Dougherty	

Service Area Listing—Continued

Service area name	Degree of shortage group
County—Lee	
Palemetto service area	1
County—Fulton:	
Parts of county:	
C.T. 13 (Palmetto CCD)	
Pulaski/Wilcox	3
County—Pulaski	
County—Wilcox	
Randolph/Quitman	3
County—Quitman	
County—Randolph	
South Walker	2
County—Walker:	
Parts of county:	
C.T. 206	
C.T. 207	
C.T. 208	
C.T. 209	
Stewart-Webster MSA	2
County—Stewart	
County—Webster	

IDAHO

County Listing

County name	Degree of shortage group
Bannock:	
Service area, Eastern Snake River Valley migrant area	01
Bingham	
Canyon:	
Service area, Treasure Valley migrant area No. 1	04
Caribou	03
Cassia:	
Service area, Magic Valley migrant area	01
Gem:	
Service area, Treasure Valley migrant area No. 2	01
Gooding:	
Service area, Magic Valley migrant area	01
Jerome	
Lincoln	
Minidoka	
Owyhee:	
Service area, Treasure Valley migrant area No. 1	04
Payette:	
Service area, Treasure Valley migrant area No. 2	01
Power:	
Service area, Eastern Snake River Valley migrant area	01
Twin Falls:	
Service area, Magic migrant area	01
Washington:	
Service area, Treasure Valley migrant area No. 2	01

Service Area Listing

Service area name	Degree of shortage group
Eastern Snake River Valley migrant area	1
County—Bannock:	
Parts of county:	
Migrant population	
County—Bingham:	
Parts of county:	
Migrant population	
County—Power:	
Parts of county:	
Migrant population	
Magic Valley migrant area	1
County—Cassia:	
Parts of county:	
Migrant population	
County—Gooding:	

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Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
Migrant population	
County—Jerome:	
Parts of county:	
Migrant population	
County—Lincoln:	
Parts of county:	
Migrant population	
County—Minidoka:	
Parts of county:	
Migrant population	
County—Twin Falls:	
Parts of county:	
Migrant population	
Treasure Valley migrant area No. 1	4
County—Canyon:	
Parts of county:	
Migrant population	
County—Owyhee:	
Parts of county:	
Migrant population	
Treasure Valley migrant area No. 2	1
County—Gem:	
Parts of county:	
Migrant population	
County—Malheur:	
Parts of county:	
Migrant population	
County—Payette:	
Parts of county:	
Migrant population	
County—Washington:	
Parts of county:	
Migrant population	

ILLINOIS

County Listing

County name	Degree of shortage group
Alexander	02
Brown	01
Calhoun	01
Cass	04
Champaign:	
Service area, Northend-Champaign Urbana	01
Clinton	03
Cook:	
Service area, Robbins	01
Service area, Southeast Chicago	01
Service area, South Lawndale-Lower West Side	01
Service area, Uptown	01
Service area, Phoenix	01
Service area, East Chicago Heights	01
Service area, Cabrini-Green-Near North Side	01
Service area, Chicago Lawn	04
Service area, Garfield Ridge	02
Service area, Humboldt-Austin-Garfield	01
Service area, New City-West Englewood-Englewood	01
Franklin	02
Greene	04
Henderson	02
Johnson	02
Kankakee:	
Service area, Pembroke	01
Macoupin	04
Mason	04
Montgomery	03
Pope	02
Randolf	01
St. Clair:	
Service area, East Side Health District (St. Louis)	02
Scott	02
Union	02
Will:	
Service area, Joliet Correctional Institution	02

ILLINOIS—Continued

County name	Degree of shortage group
Service area, Statesville Correctional Institute	02

Service Area Listing

Service area name	Degree of shortage group
Cabrini-Green-near North Side	1
County—Cook:	
Parts of county:	
C.T. 803	
C.T. 804	
C.T. 805	
C.T. 806	
C.T. 807	
C.T. 808	
C.T. 809	
C.T. 810	
C.T. 817	
C.T. 818	
C.T. 819	
Chicago Lawn	4
County—Cook:	
Parts of county:	
C.T. 6601	
C.T. 6306	
C.T. 6307	
C.T. 6308	
C.T. 6309	
C.T. 6602	
C.T. 6603	
C.T. 6604	
C.T. 6605	
C.T. 6606	
C.T. 6607	
C.T. 6608	
C.T. 6609	
C.T. 6610	
C.T. 6611	
C.T. 6501	
C.T. 6502	
C.T. 6503	
C.T. 6504	
C.T. 6505	
C.T. 6201	
C.T. 6202	
C.T. 6203	
C.T. 6204	
C.T. 6301	
C.T. 6302	
C.T. 6303	
C.T. 6304	
C.T. 6305	
East Chicago Heights	1
County—Cook:	
Parts of county:	
East Chicago Heights	
East Side Health District (St. Louis)	2
County—St. Clair:	
Parts of county:	
C.T. 5001	
C.T. 5027	
C.T. 5028	
C.T. 5029	
C.T. 5030	
C.T. 5002	
C.T. 5003	
C.T. 5004	
C.T. 5005	
C.T. 5006	
C.T. 5007	
C.T. 5008	
C.T. 5009	
C.T. 5010	
C.T. 5011	
C.T. 5012	
C.T. 5013	
C.T. 5014	
C.T. 5015.01	
C.T. 5020	
C.T. 5021	
C.T. 5022	
C.T. 5023	
C.T. 5024.01	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 5024.02	
C.T. 5025	
C.T. 5026.01	
C.T. 5026.02	
C.T. 5026.03	
C.T. 5026.04	
Garfield Ridge	2
County—Cook:	
Parts of county:	
C.T. 5601	
C.T. 5602	
C.T. 5603	
C.T. 5604	
C.T. 5605	
C.T. 5606	
C.T. 5607	
C.T. 5608	
C.T. 5609	
C.T. 5610	
C.T. 5611	
C.T. 5612	
C.T. 5613	
Humboldt-Austin-Garfield	1
County—Cook:	
Parts of county:	
C.T. 2301	
C.T. 2519	
C.T. 2520	
C.T. 2521	
C.T. 2522	
C.T. 2523	
C.T. 2601	
C.T. 2602	
C.T. 2603	
C.T. 2604	
C.T. 2605	
C.T. 2606	
C.T. 2607	
C.T. 2608	
C.T. 2609	
C.T. 2610	
C.T. 2701	
C.T. 2702	
C.T. 2703	
C.T. 2704	
C.T. 2705	
C.T. 2706	
C.T. 2707	
C.T. 2708	
C.T. 2709	
C.T. 2710	
C.T. 2711	
C.T. 2302	
C.T. 2712	
C.T. 2713	
C.T. 2714	
C.T. 2715	
C.T. 2716	
C.T. 2717	
C.T. 2718	
C.T. 2719	
C.T. 2801	
C.T. 2802	
C.T. 2803	
C.T. 2804	
C.T. 2805	
C.T. 2806	
C.T. 2807	
C.T. 2808	
C.T. 2809	
C.T. 2310	
C.T. 2311	
C.T. 2312	
C.T. 2313	
C.T. 2314	
C.T. 2315	
C.T. 2316	
C.T. 2817	
C.T. 2818	
C.T. 2303	
C.T. 2819	
C.T. 2820	
C.T. 2821	
C.T. 2822	
C.T. 2823	
C.T. 2824	
C.T. 2825	
C.T. 2826	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 2827	
C.T. 2828	
C.T. 2838	
C.T. 2839	
C.T. 2840	
C.T. 2841	
C.T. 2842	
C.T. 2843	
C.T. 2901	
C.T. 2902	
C.T. 2903	
C.T. 2904	
C.T. 2905	
C.T. 2906	
C.T. 2907	
C.T. 2908	
C.T. 2909	
C.T. 2910	
C.T. 2304	
C.T. 2911	
C.T. 2912	
C.T. 2913	
C.T. 2914	
C.T. 2915	
C.T. 2916	
C.T. 2917	
C.T. 2918	
C.T. 2919	
C.T. 2920	
C.T. 2921	
C.T. 2922	
C.T. 2923	
C.T. 2924	
C.T. 2925	
C.T. 2926	
C.T. 2927	
C.T. 2305	
C.T. 2306	
C.T. 2307	
C.T. 2308	
C.T. 2309	
C.T. 2310	
C.T. 2311	
C.T. 2312	
C.T. 2313	
C.T. 2314	
C.T. 2315	
C.T. 2316	
C.T. 2317	
C.T. 2318	
C.T. 2508	
C.T. 2509	
C.T. 2510	
C.T. 2514	
C.T. 2525	
C.T. 2516	
C.T. 2517	
C.T. 2518	
Joliet Correctional Institution	2
County—Will:	
Parts of county:	
Joliet Correctional Institution	
New City-West Englewood-Englewood	1
County—Cook:	
Parts of county:	
C.T. 6101 (New City)	
C.T. 6705 (West Englewood)	
C.T. 6706 (West Englewood)	
C.T. 6708 (West Englewood)	
C.T. 6709 (West Englewood)	
C.T. 6710 (West Englewood)	
C.T. 6711 (West Englewood)	
C.T. 6712 (West Englewood)	
C.T. 6713 (West Englewood)	
C.T. 6714 (West Englewood)	
C.T. 6715 (West Englewood)	
C.T. 6716 (West Englewood)	
C.T. 6717 (West Englewood)	
C.T. 6718 (West Englewood)	
C.T. 6719 (West Englewood)	
C.T. 6720 (West Englewood)	
C.T. 6707 (West Englewood)	
C.T. 6801 (Englewood)	
C.T. 6802 (Englewood)	
C.T. 6803 (Englewood)	
C.T. 6804 (Englewood)	
C.T. 6805 (Englewood)	
C.T. 6806 (Englewood)	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 6807 (Englewood)	
C.T. 6808 (Englewood)	
C.T. 6809 (Englewood)	
C.T. 6810 (Englewood)	
C.T. 6102 (New City)	
C.T. 6811 (Englewood)	
C.T. 6812 (Englewood)	
C.T. 6813 (Englewood)	
C.T. 6814 (Englewood)	
C.T. 6103 (New City)	
C.T. 6104 (New City)	
C.T. 6105 (New City)	
C.T. 6106 (New City)	
C.T. 6107 (New City)	
C.T. 6108 (New City)	
C.T. 6109 (New City)	
C.T. 6110 (New City)	
C.T. 6111 (New City)	
C.T. 6112 (New City)	
C.T. 6113 (New City)	
C.T. 6114 (New City)	
C.T. 6115 (New City)	
C.T. 6116 (New City)	
C.T. 6117 (New City)	
C.T. 6118 (New City)	
C.T. 6119 (New City)	
C.T. 6120 (New City)	
C.T. 6121 (New City)	
C.T. 6122 (New City)	
C.T. 6701 (West Englewood)	
C.T. 6702 (West Englewood)	
C.T. 6703 (West Englewood)	
C.T. 6704 (West Englewood)	
Northend-Champaign-Urbana	1
County—Champaign:	
Parts of county:	
C.T. 2	
C.T. 7—blockgroups 1 and 2	
C.T. 53—blockgroups 2 and 3	
Pembroke	1
County—Kankakee:	
Parts of county:	
Pembroke Township	
St. Anne Township	
Phoenix	1
County—Cook:	
Parts of county:	
Phoenix Village	
Robbins	1
County—Cook:	
Parts of county:	
Robbins Village	
South Lawndale-Lower West Side	1
County—Cook:	
Parts of county:	
CT3001-3020	
CT3101-3115	
Southeast Chicago	1
County—Cook:	
Parts of county:	
CT3601-3605	
CT4701-3705	
CT3801-3820	
CT3901-3903	
CT4001-4008	
Statesville Correctional Institution	2
County—Will:	
Parts of County:	
Statesville Correctional Institution	
Uptown	1
County—Cook:	
Parts of county:	
C.T. 310	
C.T. 311	
C.T. 312	
C.T. 315	
C.T. 316	
C.T. 317	
C.T. 318	
C.T. 319	
C.T. 320	
C.T. 321	

INDIANA

County Listing

County name	Degree of shortage group
Brown	03
Clinton	02
Crawford	01
Fayette	03
Franklin	01
Harrison	03
Howard	02
Jay	02
Jennings	03
Lake	
Service area, Gray, area No. 1	01
Marion:	
Service area, Highland-Brookside	01
Service area, south-west Indianapolis	02
Service area, near north side (Indianapolis)	02
Service area, south central Indianapolis	02
Service area, Barrington (Indianapolis)	01
Martin	03
Ohio	01
Owen	03
Perry	04
Posey	04
Ripley	04
Rush	03
Shelby	04
Spencer	02
Starke	04
Switzerland	01
Union	02
Warren	02

Service Area Listing

Service area name	Degree of shortage group
Barrington (Indianapolis)	1
County—Marion:	
Parts of County:	
C.T. 3572	
C.T. 3573	
C.T. 3574	
C.T. 3575	
C.T. 3576	
Gary, Area No. 1	1
County—Lake:	
Parts of County:	
C.T. 127	
C.T. 128	
C.T. 129	
C.T. 102	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106	
C.T. 107	
C.T. 108	
C.T. 109	
C.T. 110	
C.T. 111	
C.T. 112	
C.T. 113	
C.T. 114	
C.T. 115	
C.T. 116	
C.T. 117	
C.T. 118	
C.T. 119	
C.T. 120	
C.T. 121	
C.T. 122	
C.T. 123	
C.T. 124	
C.T. 125	
C.T. 126	
C.T. 101	
Highland—Brookside	1
County—Marion:	
Parts of County:	
C.T. 3528	
C.T. 3527	
C.T. 3530	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 3543	
C.T. 3544	
C.T. 3545	
C.T. 3546	
C.T. 3547	
C.T. 3548	
C.T. 3549	
C.T. 3550	
Near North Side (Indianapolis)	2
County—Marion:	
Parts of County:	
C.T. 3517	
C.T. 3518	
C.T. 3519	
C.T. 3520	
C.T. 3521	
C.T. 3522	
C.T. 3528	
C.T. 3529	
C.T. 3530	
C.T. 3531	
C.T. 3532	
South Central Indianapolis	2
County—Marion:	
Parts of County:	
C.T. 3557	
C.T. 3558	
C.T. 3559	
C.T. 3560	
C.T. 3561	
C.T. 3562	
C.T. 3563	
C.T. 3567	
C.T. 3566	
C.T. 3569	
C.T. 3570	
C.T. 3571	
C.T. 3576	
C.T. 3577	
C.T. 3579	
C.T. 3580	
South-West Indianapolis	2
County—Marion:	
Parts of County:	
C.T. 3411	
C.T. 3412	
C.T. 3413	
C.T. 3414	
C.T. 3415	
C.T. 3416	
C.T. 3422	
C.T. 3423	
C.T. 3424	
C.T. 3425	
C.T. 3426	
C.T. 3427	
C.T. 3537	
C.T. 3538	
C.T. 3564	
C.T. 3565	
C.T. 3566	
C.T. 3581	

IOWA

County Listing

County name	Degree of shortage group
Adair:	
Service area, Casey area	03
Audubon	02
Benton:	
Service area, La Porte City	01
Service area, Center Point-Central City-Caggon area	03
Service area, Tama-Traer Dysart	04
Black Hawk:	
Service area, La Porte City	01
Service area, Tama-Traer Dysart	04
Boone:	
Service area, Dayton-Gowrie area	02
Service area, Polk City-Woodward	03
Buchanan:	
Service area, La Porte City	01
Service area, Center Point-Central City-Caggon area	03
Service area, Lamont area	04
Calhoun:	
Service area, Dayton-Gowrie area	02
Service area, Rockwell City Manson	02
Carroll:	
Service area, Coon Rapids area	02
Cass:	
Service area, Oakland	02
Cedar:	
Service area, Clarence-Tipton area	02
Cherokee:	
Service area, Kingsley-Anthon-Mapleton area	04
Service area, Lemars-Remsen area	02
Clarke:	
Service area, Osceola	03
Clayton:	
Service area, Lamont area	04
Service area, Elkader	04
Clinton:	
Service area, Dewitt-Grand Mound	03
Service area, Clarence-Tipton area	02
Service area, Preston	02
Crawford:	
Service area, Manilla area	04
Dallas:	
Service area, Polk City-Woodward	03
Decatur:	
Service area, Osceola	03
Delaware:	
Service area, Center Point-Central City-Caggon area	03
Service area, Dyersville area	02
Service area, Lamont area	04
Dubuque:	
Service area, Dyersville area	02
Fremont:	
Service area, Tabor	03
Service area, Shenandoah	03
Greene:	
Service area, Dayton-Gowrie area	02
Service area, Coon Rapids area	02
Greendy:	
Service area, Tama-Traer Dysart	04
Guthrie:	
Service area, Coon Rapids area	02
Service area, Casey area	03
Service area, Hubbard Service area	01
Hamilton:	
Service area, Dayton-Gowrie area	02
Hancock:	
Service area, Buffalo Center	03
Hardin:	
Service area, Hubbard Service area	01
Harrison:	
Service area, Harlan	03
Service area, Woodbine	04
Humaoedt:	
Service area, Bode	02
Ida:	
Service area, Holstein	01
Iowa:	
Service area, Brooklyn-Vector	04
Jackson:	
Service area, Preston	02
Johnson:	
Service area, Clarence-Tipton area	02
Jones:	
Kossuth:	
Service area, Buffalo Center	03
Service area, Bode	02
Linn:	
Service area, Clarence-Tipton area	02
Service area, Center Point-Central City-Caggon area	03
Lyon:	02
Madison:	
Service area, Osceola	03
Marion:	
Service area, Milo area	02
Marshall:	
Service area, Hubbard Service area	01
Mills:	
Service area, Tabor	03
Service area, Oakland	02
Monoma:	
Service area, Kingsley-Anthon-Mapleton area	04
Muscatine:	
Service area, Clarence-Tipton area	02
O'Brien:	
Service area, Sheldon area	04
Page:	
Service area, Shenandoah	03
Palo Alto:	
Service area, Bode	02
Plymouth:	
Service area, Kingsley-Anthon-Mapleton area	04
Service area, Lemars-Remsen area	02
Pocahontas:	
Service area, Rockwell City Manson	02
Polk:	
Service area, Polk City-Woodward	03
Pottawattamie:	
Service area, Harlan	03
Service area, Oakland	02
Poweshiek:	
Service area, Brooklyn-Vector	04
Ringgold:	
Service area, Lenox area	03
Scott:	
Service area, DeWitt-Grand Mound	03
Service area, Clarence-Tipton area	02
Shelby:	
Service area, Harlan	03
Service area, Manilla area	04
Sioux:	
Service area, Sheldon area	04
Story:	
Service area, Hubbard Service area	01
Taylor:	
Service area, Lenox area	03
Union:	
Service area, Osceola	03
Warren:	
Service area, Milo area	02
Wayne:	
Webster:	
Service area, Dayton-Gowrie area	02
Woodbury:	
Service area, Holstein	01
Service area, Kingsley-Anthon-Mapleton area	04

Service Area Listing

Service area name	Degree of shortage group
Bode	2
County—Humaoedt:	
Parts of County:	
Livermore Division	
Ottosen Division	
Bode Division	
Bradgate Division	
Hardy Division	
County—Kossuth:	
Parts of County:	
Luverne Division	
County—Palo Alto:	
Parts of County:	
West Bend Division	
Broklyn-Vector	4
County—Iowa:	
Parts of County:	
Victor Division	
Ladora Division	
County—Poweshiek:	
Parts of County:	
Brooklyn Division	
Malcolm Division	
Hartwick Division	
Guernsey Division	
Buffalo Center	3
County—Hancock:	
Parts of County:	
Woden Division	
Crystal Lake Division	

Service Area Listing—Continued

Service area name	Degree of shortage group
County—Kossuth:	
Parts of County:	
Sevea City Division	
Bancroft Division	
Ledyard Division	
Lakota Division	
Titonka Division	
Winnebago Division	
Casey area	3
County—Adair:	
Parts of County:	
Adair Division	
County—Guthrie:	
Parts of County:	
Casey Division	
Mento Division	
Center Point-Central City-Caggon area	3
County—Benton:	
Parts of County:	
Urbana Division	
County—Buchanan:	
Parts of County:	
Rowley Division	
Quasqueton Division	
Brandon Division	
County—Delaware:	
Parts of County:	
Ryan Division	
County—Linn:	
Parts of County:	
Central City	
Prairieburg	
Walker	
Marion	
Alburnett	
Robins	
Center Point	
Caggon	
Clarence-Tipton area	2
County—Cedar:	
Parts of County:	
Clarence Division	
Lipton Division	
Mechanicsville Division	
Lowden Division	
Stanwood Division	
Bennett Division	
West Branch Division	
County—Clinton:	
Parts of County:	
Toronto Division	
Lost Nation Division	
Wheatland Division	
County—Johnson:	
Parts of County:	
Solon Division	
County—Jones:	
Parts of County:	
Olin Division	
Oxford Junction	
Center Junction	
Onslow Division	
Morley Division	
Wyoming Division	
County—Linn:	
Parts of County:	
Lisbon Division	
County—Muscatine:	
Parts of County:	
Atalissa Division	
Wilton Division	
County—Scott:	
Parts of County:	
New Liberty Division	
Dixon Division	
Coon Rapids area	2
County—Carroll:	
Parts of County:	
Coon Rapids Division	
Dedham Division	
Templeton Division	
Glidden Division	
Ralston Division	
County—Greene:	
Parts of County:	
Scranton Division	
County—Guthrie:	
Parts of County:	
Bayard Division	
Bagley Division	
Dayton-Gowrie area	2
County—Boone:	
Parts of County:	
Boxholm Division	
Pilot Mound Division	
County—Calhoun:	
Parts of County:	
Farnhamville Division	
County—Greene:	
Parts of County:	
Paton Division	
County—Hamilton:	
Parts of County:	
Stratford Division	
County—Webster:	
Parts of County:	
Dayton Division	
Gowrie Division	
Callender Division	
Leigh Division	
Harcourt Division	
DeWitt-Grand Mound	3
County—Clinton:	
Parts of County:	
DeWitt Division	
Welton Division	
Calamus Division	
Grand Mound Division	
County—Scott:	
Parts of County:	
McCausland Division	
Dyersville area	2
County—Delaware:	
Parts of County:	
Dyersville Division	
Colesburg Division	
Greeley Division	
Hapkinton Division	
County—Dubuque:	
Parts of County:	
New Vienna Division	
Worthington Division	
Farley Division	
Luxemburg Division	
Epworth Division	
Holy Cross Division	
Peasta Division	
Cascade Division	
Bernard Division	
Elkader	4
County—Clayton:	
Parts of County:	
Boardman Township (Elkader)	
Clayton Township	
Cox Creek Township	
Farmersburg Township	
Garnaville Township	
Highland Township	
Read Township	
Volga Township	
Wagner Township	
Marion Township	
Harlan	3
County—Harison:	
Parts of County:	
Washington Township	
County—Pottawattamie:	
Parts of County:	
Layton Township	
County—Shelby:	
Parts of County:	
Cass Township	
Douglas Township	
Greeley Township	
Harlan Township	
Jefferson Township	
Shelby Township	
Union Township	
Washington Township	
Westphalia Township	
Holstein	1
County—Ida:	
Parts of County:	
Halstein Division	
Galva Division	
County—Woodbury:	
Parts of County:	
Cushing Division	
Hubbard Service area	1
County—Guthrie:	
Parts of County:	
Ellsworth Township	
Jewell Township	
Williams Township (1/2-Southern Pt)	
County—Hardin:	
Parts of County:	
New Providence Township	
Radcliff Township	
Hubbard Township	
County—Marshall:	
Parts of County:	
Albion Township (1/4-Northern Pt)	
Liscomb Township	
Clemens Township	
St. Anthony Township	
County—Story:	
Parts of County:	
Zearing Township	
Kingsley-Anthon-Mapleton area	4
County—Cherokee:	
Parts of County:	
Washta Division	
County—Monoma:	
Parts of County:	
Rodney Division	
Mapleton Division	
Soldier Division	
County—Plymouth:	
Parts of County:	
Kingsley Division	
County—Woodbury:	
Parts of County:	
Moville Division	
Pierson Division	
Correctionville Division	
Anthon Division	
Oto Division	
Smithland Division	
Danbury Division	
La Porte City	1
County—Benton:	
Parts of County:	
Bruce Township	
Cedar Township	
County—Black Hawk:	
Parts of County:	
Big Creek Township	
Cedar Township	
Fox Township	
Eagle Township	
Orange Township	
Spring Creek Township	
County—Buchanan:	
Parts of County:	
Westbury Township	
Jefferson Township	
Lamont area	4
County—Buchanan:	
Parts of County:	
Lamont Division	
Aurora Division	
Stanley Division	
County—Clayton:	
Parts of County:	
Strawberry Point Division	
County—Delaware:	
Parts of County:	
Masonville Division	
Dundee Division	
Lemars-Remsen area	2
County—Cherokee:	
Parts of County:	
Marcus Division	
Cleghorn Division	
County—Plymouth:	
Parts of County:	
Lemars Division	
Brunsville Division	
Craig Division	
Struble Division	
Merrill Division	
Remsen Division	
Oyens Division	

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V 43 / 189 SE 28 78

Service Area Listing—Continued

Service area name	Degree of shortage group
Lenox area	3
County—Ringgold:	
Parts of County:	
Diagonal Division	
County—Taylor:	
Parts of County:	
Lenox Division	
Sharpsburg Division	
Clearfield Division	
County—Union:	
Parts of County:	
Kent Division	
Manilla area	4
County—Crawford:	
Parts of County:	
Manilla Division	
County—Shelby:	
Parts of County:	
Defiance Division	
Irwin Division	
Milo area	2
County—Marion:	
Parts of County:	
Dallas Division	
Melcher Division	
County—Warren:	
Parts of County:	
Milo Division	
Lacona Division	
Oakland	2
County—Cass:	
Parts of County:	
Lewis Town	
County—Mills:	
Parts of County:	
Henderson Town	
County—Pottawattamie:	
Parts of County:	
Oakland Town	
Carson Town	
McClelland Town	
Treynor Town	
Avoca Town	
Macedonia Town	
Minden Town	
Hancock Town	
Osceola	3
County—Clarke:	
Parts of County:	
Osceola Division	
Woodburn Division	
Murray Division	
County—Decatur:	
Parts of County:	
Weldon Division	
Van Wert Division	
County—Madison:	
Parts of County:	
Truro Division	
County—Union:	
Parts of County:	
Thayer Division	
County—Warren:	
Parts of County:	
New Virginia Division	
Polk City-Woodward	3
County—Boone:	
Parts of County:	
Madrid Division	
County—Dallas:	
Parts of County:	
Woodward Division	
Bouton Division	
County—Polk:	
Parts of County:	
Jefferson	
Lincoln	
Madison (Polk City)	
Union	
Preston	2
County—Clinton:	
Parts of County:	
Goose Lake Division	
Charlotte Division	
County—Jackson:	
Parts of County:	
Preston Division	
Green Island Division	

Service Area Listing—Continued

Service area name	Degree of shortage group
Mile Division	
Sabula Division	
Spragueville Division	
Rockwell City Manson	2
County—Calhoun:	
Parts of County:	
Rockwell City Division	
Jolley Division	
Somers Division	
Rinard Division	
Manson Division	
Pomeroy Division	
Knierim Division	
County—Pocahontas:	
Parts of County:	
Palmer Division	
Sheldon area	4
County—O'Brien:	
Parts of County:	
Sheldon Division	
County—Sioux:	
Parts of County:	
Haspers Division	
Matlock Division	
Boyden Division	
Shenandoah	3
County—Fremont:	
Parts of County:	
Shenandoah Town	
Imogene Town	
Farragut Town	
County—Page:	
Parts of County:	
Essex Town	
Yorktown Town	
Coin Town	
Northboro Town	
Tabor	3
County—Fremont:	
Parts of County:	
Randolph Town	
Thurman Town	
County—Mills:	
Parts of County:	
Tabor Town	
Malnern Town	
Tama-Traer Dysart	4
County—Benton:	
Parts of County:	
Mt. Auburn Division	
Garrison Division	
County—Black Hawk:	
Parts of County:	
Laporte City	
County—Greendy:	
Parts of County:	
Tama	
Reinbeck	
Woodbine	4
County—Harrison:	
Parts of County:	
Woodbine Town	
Logan Town	
Magnolia Town	
Dunlap Town	

KANSAS

County Listing

County name	Degree of shortage group
Chase	04
Elk	03
Jackson	01
Jefferson	03
Lincoln	01
Linn	03
Miami	03
Nemaha	04
Rawlins	02
Reno	
Service area, Haven	02
Rush	02

KANSAS—Continued

County name	Degree of shortage group
Sedgwick	
Shawnee	
Service area, northeast Topeka	03
Wabaunsee	01
Washington	02
Wichita	03
Woodson	03

Service Area Listing

Service area name	Degree of shortage group
Haven	2
County—Reno:	
Parts of county:	
Haven township	
Yoder township	
Lincoln township	
Center township	
Castleton township	
Troy township	
Albion township	
Ninnescah township	
Sumner township	
County—Sedgwick:	
Parts of county:	
Greely	
Northeast Topeka	3
County—Shawnee:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 7	
C.T. 8	
C.T. 11	
C.T. 12	
C.T. 14	
C.T. 31	

KENTUCKY

County Listing

County name	Degree of shortage group
Ballard	03
Breathitt:	
Service area, Perry County	02
Bullitt	02
Butler	04
Caldwell	02
Carlisle	01
Crittenden	02
Edmonson	04
Grayson	04
Hancock	03
Hickman	02
Jefferson:	
Service area, west end	02
Knott:	
Service area, Perry County	02
Larue	04
Leslie	
Letcher	
Livingston	04
Lyon	02
Marion	02
Meade	02
Metcalfe	02
Ohio	03
Perry	02
Russell	04
Shelby	04
Spencer	02
Trigg	01
Trimble	01
Union	04
Washington	03
Webster	03

Service Area Listing

Service area name	Degree of shortage group
Perry County	2
County—Breathitt:	
Parts of county:	
Canoe division	
Haddix division	
Hardshell division	
County—Knott:	
Parts of county:	
Can Fork division	
Emmalena division	
Mousie division	
County—Leslie:	
Parts of county:	
Cutshin division	
County—Letcher:	
Parts of county:	
Blackey division	
County—Perry:	
West End	2
Parts of county:	
C.T. 1	
C.T. 27	
C.T. 28	
C.T. 29	
C.T. 30	
C.T. 31	
C.T. 32	
C.T. 33	
C.T. 34	
C.T. 35	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 5	
C.T. 6	
C.T. 7	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13	
C.T. 14	
C.T. 15	
C.T. 16	
C.T. 17	
C.T. 18	
C.T. 19	
C.T. 20	
C.T. 21	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25	
C.T. 26	

LOUISIANA

County Listing

County name	Degree of shortage group
Bienville Parish	01
Bossier Parish	01
Catahoula Parish	03
De Sota Parish	01
Grant Parish	01
Pointe Coupee	01
Vernon Parish	01
Webster Parish	02
West Carroll Parish	01

MAINE

County Listing

County name	Degree of Shortage group
Androscoggin:	
Service area, Leeds	01

MARYLAND—Continued

County name	Degree of shortage group
Aroostook:	
Service area, Northern Aroostook MSA	03
Service area, Southern Aroostook	01
Cumberland:	
Service area, Kezar Falls	01
Hancock:	
Service area, Bucksport MSA	01
Kennebec:	
Service area, Albion MSA	02
Service area, Leeds	01
Knox:	
Service area, Penobscot Bay	01
Oxford:	
Service area, Kezar Falls	01
Penobscot:	
Service area, Dexter area	03
Service area, Bradley service area	01
Piscataquis:	
Service area, Dexter area	03
Bingham:	
Service area, Bingham MSA	04
Service area, Jackman	01
Service area, Dexter area	03
Waldo:	
Service area, Albion MSA	02
Service area, Bucksport MSA	01
Washington:	
Service area, Lubec MSA	03
Service area, Eastport	03
York:	
Service area, Kezar Falls	01

Service Area Listing

Service area name	Degree of Shortage group
Albion MSA	2
County—Kennebec:	
Parts of county:	
Albion town	
Vassalboro town	
China town	
County—Waldo:	
Parts of county:	
Troy town	
Unity town	
Thorndike town	
Jackson town	
Monroe town	
Brooks town	
Knox town	
Freedom town	
Montville town	
Liberty town	
Palermo town	
Bingham MSA	4
County—Bingham:	
Parts of county:	
West Forks plantation	
Solon town	
Bingham town	
Moscow township	
Mayfield town	
Brighton town	
Pleasant Ridge plantation	
The Forks plantation	
Caratunk plantation	
Bradley service area	1
County—Penobscot:	
Parts of county:	
Bradley division	
Clifton division	
Greenbush division	
Greenfield division	
Milford division	
Bucksport MSA	1
County—Hancock:	
Parts of county:	
Dedham town	
Orland town	
Penobscot town	
Verona town	
Bucksport town	
County—Waldo:	

Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
Prospect town	
Stockton Springs town	
Dexter area	3
County—Penobscot:	
Parts of county:	
Dexter	
1670	
Exeter	
Garland	
County—Piscataquis:	
Part of county:	
Wellington	
County—Somerset:	
Parts of county:	
Athens	
Harmony	
Ripley	
St. Alban	
Eastport	3
County—Washington:	
Parts of county:	
Eastport	
Perry	
Pleasant Pt. & IR	
Pembroke (part)	
Dennysville (part)	
Edmunds (part)	
Charlotte (part)	
Robbinston (part)	
Jackman	1
County—Somerset:	
Parts of county:	
Jackman town	
Moose River town	
Dennistown plantation	
Kezar Falls	1
County—Carroll:—New Hampshire	
Parts of county:	
Effingham town	
Freedom town	
Madison town	
County—Cumberland:	
Part of county:	
Baldwin town	
County—Oxford:	
Parts of county:	
Brownfield	
Hiram town	
Porter town	
County—York:	
Parts of county:	
Newfield town	
Limerick town	
Cornish town	
Parsonfield	
Leeds	1
County—Androscoggin:	
Parts of county:	
Turner town	
Greene town	
Leeds town	
County—Kennebec:	
Parts of county:	
Wayne town	
Monmouth town	
Lubec MSA	3
County—Washington:	
Parts of county:	
Eastport city	
Charlotte township	
Robbinson township	
Lubec MSA	3
County—Washington:	
Parts of county:	
Lubec township	
Cutler township	
Whiting township	
Pembroke township	
Dennysville township	
Perry township	
Edmunds township	
Plantation No. 14	
Northern Aroostook MSA	3
County—Aroostook:	
Parts of county:	
Unorganized territory of North Aroostook	
Unorganized territory of Central Aroostook	

Service Area Listing—Continued

Service area name	Degree of shortage group
Allagash plantation	
St. Francis plantation	
Bridgewater town	
Blaine town	
Winterville plantation	
Cyr plantation	
Hamlin plantation	
Westmoreland plantation	
Nashville	
Garfield plantation	
E plantation	
Oxbow plantation	
Eagle Lake town	
Ashland town	
Frenchville town	
St. Agatha town	
Madawaska town	
Grand Isle town	
Van Buren town	
Stockholm town	
Penobscot Bay	3
County—Knox:	
Parts of county:	
Vinalhaven Island	
North Haven Island	
Matinicus Island	
Isle Au Haut	
Southern Aroostook	1
County—Aroostook:	
Parts of county:	
Unorganized territory of South Aroostook	
Weston town	
Moro plantation	
Glenwood plantation	
Reed plantation	
Macurahoc plantation	
Merrill town	
Monticello town	
Smyrna town	
Hershey town	
Dyer Brook town	
Oakfield town	
Crystal town	
Island Falls town	
Sherman town	
Benedicta town	
Amity town	
Bancroft town	

MARYLAND

County Listing

County name	Degree of shortage group
Allegany:	
Service area, Hancock service area	01
Anne Arundel:	
Service area, owensville service area	03
Caroline	04
Cecil:	
Service area, southeast Cecil	02
Charles	04
Dorchester:	
Service area, northeast Dorchester	01
Garrett	04
Kent:	
Service area, northeast Kent	01
Queen Annes	03
Somerset:	
Service area, Princess Anne	01
Washington:	
Service area, Keedysville	01
Service area, Hancock service area	01
Worcester:	
Service area, Pocomoke City	02
Baltimore City:	
Service area, north central Baltimore	01
Service area, O'Donnell Heights	01
Service area, Cherry Hill	01
Service area, Constant care service area	02
Service area, east Baltimore	02
Service area, west Baltimore	03
Service area, northwest Baltimore	01

MARYLAND—Continued

County name	Degree of shortage group
Service area, Hampden/Woodberry/Remington	03

Service Area Listing

Service area name	Degree of shortage group
Cherry Hill	1
County—Baltimore City:	
Parts of county:	
C.T. 2502.01	
C.T. 2502.02	
C.T. 2502.03	
C.T. 2502.04	
C.T. 2502.05	
C.T. 2503.01	
C.T. 2503.02	
C.T. 2503.03	
Constant care service area	2
County—Baltimore City:	
Parts of county:	
C.T. 402	
C.T. 1401	
C.T. 1402	
C.T. 1403	
C.T. 1501	
C.T. 1502	
C.T. 1601	
C.T. 1602	
C.T. 1603	
C.T. 1604	
C.T. 1701	
C.T. 1702	
C.T. 1703	
C.T. 2101	
East Baltimore	2
County—Baltimore City:	
Parts of county:	
C.T. 501	
C.T. 603	
C.T. 604	
C.T. 605	
C.T. 704	
C.T. 806	
C.T. 807	
C.T. 808	
C.T. 909	
C.T. 1001	
C.T. 1002	
C.T. 1004	
Hampden/Woodberry/Remington	1
County—Baltimore City:	
Parts of county:	
C.T. 1203	
C.T. 1206	
C.T. 1207	
C.T. 1305	
C.T. 1306	
C.T. 1308.02	
Hancock service area	1
County—Allegany:	
Part of county:	
District 1 (Orleans)	
County—Washington:	
Parts of county:	
District 4 (Clear Spring)	
District 5 (Hancock)	
District 15 (Indian Springs)	
Keedysville	1
County—Washington:	
Parts of county:	
Election district 1	
Election district 6	
Election district 8	
North central Baltimore	1
County—Baltimore City:	
Parts of county:	
C.T. 802	
C.T. 803.01	
C.T. 803.02	
C.T. 804	
C.T. 805	
C.T. 901	
C.T. 902	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 903	
C.T. 904	
C.T. 905	
C.T. 906	
C.T. 907	
C.T. 908	
C.T. 1204	
Northeast Dorchester County	1
County—Dorchester:	
Parts of county:	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 12	
C.T. 15	
Northeast Kent	1
County—Kent:	
Parts of county:	
District 1 (Massey)	
District 2 (Kennedyville)	
Northwest Baltimore	2
County—Baltimore City:	
Parts of county:	
C.T. 1612	
C.T. 1613	
C.T. 2716	
C.T. 2717	
C.T. 2718.01	
C.T. 2718.02	
O'Donnell Heights	1
County—Baltimore City:	
Parts of county:	
C.T. 2606.01	
C.T. 2606.02	
Owensville service area	3
County—Anne Arundel:	
Parts of county:	
C.T. 7012	
C.T. 7013	
C.T. 7014	
C.T. 7070	
C.T. 7080	
Pocomoke City	2
County—Worcester:	
Parts of county:	
C.T. 1	
C.T. 7	
C.T. 8	
Princess Anne	1
County—Somerset:	
Parts of county:	
C.T. 1	
C.T. 3	
C.T. 4	
C.T. 6	
C.T. 8	
C.T. 13	
C.T. 15	
Southeast Cecil	2
County—Cecil:	
Parts of county:	
District 1 (Cecilton)	
District 2 (Chesapeake City)	
West Baltimore	3
County—Baltimore City:	
Parts of county:	
C.T. 1801	
C.T. 1802	
C.T. 1803	
C.T. 1901	
C.T. 1902	
C.T. 1903	
C.T. 2001	
C.T. 2002	
C.T. 2003	
C.T. 2004	
C.T. 2005	

MASSACHUSETTS

County Listing

County name	Degree of shortage group
Barnestable:	
Service area, Provincetown	03
Essex:	
Service area, Peabody	02
Service area, Lynn	04
Franklin:	
Service area, Mohawk area	02
Hampden:	
Service area, Worthington	02
Service area, Brookfield	02
Hampshire:	
Service area, Worthington	02
Middlesex:	
Service area, east Cambridge	02
Service area, Lowell	04
Service area, north Cambridge	
02	
Norfolk:	
Service area, Wrentham	02
Service area, Hough's Neck-Germantown	01
Plymouth:	
Service area, Hull	01
Suffolk:	
Service area, Dorchester	03
Service area, Hyde Park	02
Service area, north end Boston	04
Worcester:	
Service area, south Blackstone Valley	02
Service area, Brookfield	02

Service Area Listing

Service area name	Degree of shortage group
Brookfield	2
County—Hampden:	
Parts of county:	
Brimfield town	
Holland town	
Wales town	
County—Worcester:	
Parts of county:	
Brookfield town	
East Brookfield town	
North Brookfield town	
Spencer town	
Warren town	
West Brookfield town	
Dorchester	3
County—Suffolk:	
Parts of county:	
C.T. 901	
C.T. 1003	
C.T. 1004	
C.T. 1005	
C.T. 1006	
C.T. 1007	
C.T. 1008	
C.T. 1009	
C.T. 1010	
C.T. 1011	
C.T. 902	
C.T. 903	
C.T. 904	
C.T. 905	
C.T. 906	
C.T. 907	
C.T. 908	
C.T. 909	
C.T. 910	
C.T. 911	
C.T. 912	
C.T. 913	
C.T. 914	
C.T. 915	
C.T. 916	
C.T. 917	
C.T. 918	
C.T. 919	
C.T. 920	
C.T. 921	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 922	
C.T. 923	
C.T. 924	
C.T. 1001	
C.T. 1002	
East Cambridge	2
County—Middlesex:	
Parts of county:	
C.T. 3521	
C.T. 3522	
C.T. 3523	
C.T. 3524	
C.T. 3525	
C.T. 3526	
C.T. 3527	
C.T. 3528	
C.T. 3529	
C.T. 3530	
C.T. 3531	
C.T. 3532	
C.T. 3533	
C.T. 3534	
C.T. 3535	
Hough's Neck-Germantown	1
County—Quincy:	
Parts of County:	
C.T. 4178	
Hull	1
County—Plymouth:	
Parts of County:	
Hull town	
Hyde Park	2
County—Suffolk:	
Parts of County:	
C.T. 1401	
C.T. 1402	
C.T. 1403	
C.T. 1404	
Lowell	4
County—Middlesex:	
Parts of County:	
Lowell	
Lynn	4
County—Essex:	
Parts of County:	
C.T. 2060	
C.T. 2061	
C.T. 2062	
C.T. 2063	
C.T. 2065	
C.T. 2068	
C.T. 2068	
C.T. 2071	
C.T. 2071	
C.T. 2072	
Mohawk area	2
County—Franklin:	
Parts of County:	
Monroe Division	
Rouce Division	
Ashfield Town	
Buckland Town	
Charlemont Town	
Colrain Town	
Conway Town	
Hawley Town	
Heath Town	
Shelburne Town	
North Cambridge	2
County—Middlesex:	
Parts of County:	
C.T. 3547	
C.T. 3548	
C.T. 3549	
C.T. 3550	
North End Boston	4
County—Suffolk:	
Parts of County:	
C.T. 0301	
C.T. 0302	
C.T. 0303	
C.T. 0304	
Peabody	2
County—Essex:	
Parts of County:	
C.T. 2106	
C.T. 2107	
C.T. 2108	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 2109	
Provincetown	4
County—Barnstable:	
Parts of County:	
Provincetown	
So. Blackstone Valley	2
County—Worcester:	
Parts of County:	
Blackstone Town	
Douglas Town	
Mendon Town	
Millville Town	
Northbridge Town	
Sutton Town	
Uxbridge Town	
Worthington	2
County—Hampden:	
Parts of County:	
Chester Town	
Commington Town	
Goshen Town	
Huntington Town	
Plainfield Town	
Worthington Town	
Chesterfield Town	
Wrentham	2
County—Norfolk:	
Parts of County:	
Wrentham Town	

MICHIGAN

County Listing

County name	Degree of shortage group
Alcona	02
Alger	04
Arenac	02
Baraga:	
Service area, Iron County Service area	03
Bay:	
Service area, Sterling	02
Clare:	
Service area, Clare	01
Service area, Harrison	01
Drehinson:	
Service area, Iron County Service area	03
Genesee:	
Service area, Otter Lake	02
Service area, North Central Flint	02
Gladwin:	
Service area, Sterling	02
Houghton:	
Service area, Calumet/Keweenaw	01
Service area, Iron County Service area	03
Iron	
Sabella:	
Service area, Clare	01
Keweenaw	01
Lake	01
Lapeer:	
Service area, Otter Lake	02
Livingston:	
Service area, Cohoctah	01
Mackinac:	
Service area, Mackinac Island	01
Manistee:	
Service area, Baldwin Service area	01
Marquette:	
Service area, Iron County Service area	03
Mason:	
Service area, Baldwin Service area	01
Midland:	
Service area, Clare	01
Missaukee:	
Service area, Houghton Lake	03
Monroe:	
Service area, Sumpter Service area	01
Newaygo:	
Service area, Baldwin Service area	01
Oakland:	
Service area, Milford	02
Ontonoga:	

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MICHIGAN—Continued

County name	Degree of shortage group
Service area, Iron County Service area	03
Roscommon:	
Service area, Houghton Lake	03
Saginaw:	
Service area, Chesaning	01
Service area, Saginaw City (east side)	01
St. Clair:	
Service area, Algonac	04
Service area, Brown City	01
Sanilac:	
Service area, Marlette-Kingston	02
Service area, Lexington-Croswell	01
Shiawassee:	
Service area, Cohoctah	01
Service area, Chesaning	01
Tuscola:	
Service area, Otter Lake	02
Service area, Marlette-Kingston	02
Washtenaw:	
Service area, Sumpter Service area	01
Wayne:	
Service area, Detroit Area No. 3	02
Service area, Detroit Area No. 2	01
Service area, Detroit Area No. 1	01
Service area, Wayne County Jail	02
Service area, Herman Keifer Health Complex	01

Service Area Listing

Service area name	Degree of shortage group
Algonac	4
County—St. Clair:	
Parts of county:	
Algonac City	
Casco Township	
China Township	
Clay Township	
Columbus Township	
Cottervilie Township	
East China Township	
Dra Township	
Marine City	
St. Clair City	
St. Clair Township	
Baldwin Service Area	1
County—Lake:	
County—Manistee:	
Parts of county:	
Dickson	
Norman	
County—Mason:	
Parts of county:	
Freesoil	
Meade	
Sherman	
Sheridan	
Custer	
Branch	
Eden	
Logan	
County—Newaygo:	
Parts of county:	
Troy	
Lilley	
Home	
Baron	
Beaver	
Merrill	
Monroe	
Norwich	
Goodwell	
Wilcox	
Lincoln	
Denver	
Sherman	
Everett	
Big Prairie	
Brown City	1
County—St. Clair:	
Parts of county:	
Lynn Township (part)	
County—Sanilac:	

Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
Elk Township	
Flynn Township	
Maple Valley Township	
Speaker Township	
Calumet/Keweenaw	1
County—Houghton:	
Parts of county:	
Calumet Township	
Hancock	
Osceola	
Schoolcraft	
Torch Lake	
County—Keweenaw	
Chesaning	1
County—Saginaw:	
Parts of county:	
Chapin Township	
Brady Township	
Chesaning Township	
Maple Grove Township	
County—Shiawassee:	
Parts of county:	
Fairfield Township	
Rush Township	
New Haven Township	
Hazelton Township	
Clare	1
County—Clare:	
Parts of county:	
City of Clare	
Garfield Township	
Surrey Township	
Grant Township	
Sheridan Township	
County—Isabella:	
Parts of county:	
Coldwater Township	
Gilmore Township	
Vernon Township	
Wise Township	
County—Midland:	
Parts of county:	
Coleman Village	
Warren Township	
Cohoctah	1
County—Livingston:	
Parts of county:	
Conway Township	
Cohocta Township	
Deerfield Township	
County—Shiawassee:	
Parts of county:	
Antrim Township	
Burns Township	
Perry City	
Perry Township	
Detroit Area No. 1	1
County—Wayne:	
Parts of county:	
C.T. 520	
C.T. 665	
C.T. 755	
C.T. 756	
C.T. 757	
C.T. 758	
C.T. 759	
C.T. 760	
C.T. 761	
C.T. 762	
C.T. 763	
C.T. 764	
C.T. 765	
C.T. 766	
C.T. 767	
C.T. 768	
C.T. 769	
C.T. 770	
C.T. 771	
C.T. 772	
C.T. 773	
C.T. 774	
C.T. 775	
C.T. 776	
C.T. 777	
C.T. 778	
C.T. 789	
C.T. 521	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 790	
C.T. 791	
C.T. 792	
C.T. 793	
C.T. 794	
C.T. 795	
C.T. 796	
C.T. 797	
C.T. 522	
C.T. 523	
C.T. 524	
C.T. 525	
C.T. 526	
C.T. 539	
C.T. 540	
C.T. 541	
C.T. 548	
C.T. 549	
C.T. 550	
C.T. 560	
C.T. 561	
C.T. 565	
C.T. 566	
C.T. 567	
C.T. 568	
C.T. 569	
C.T. 570	
C.T. 655	
C.T. 661	
C.T. 662	
C.T. 663	
C.T. 664	
Detroit Area No. 2	1
County—Wayne:	
Parts of county:	
C.T. 110	
C.T. 111	
C.T. 112	
C.T. 113	
C.T. 114	
C.T. 115	
C.T. 116	
C.T. 117	
C.T. 118	
C.T. 119	
C.T. 120	
C.T. 121	
C.T. 122	
C.T. 123	
C.T. 154	
C.T. 155	
C.T. 156	
C.T. 157	
C.T. 158	
C.T. 159	
C.T. 160	
C.T. 161	
C.T. 162	
C.T. 163	
C.T. 179	
C.T. 180	
C.T. 201	
C.T. 202	
C.T. 211	
C.T. 58	
C.T. 59	
C.T. 60	
C.T. 61	
C.T. 62	
C.T. 63	
C.T. 64	
C.T. 101	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106	
C.T. 107	
C.T. 108	
C.T. 109	
C.T. 11	
C.T. 12	
C.T. 13	
C.T. 15	
C.T. 16	
C.T. 51	
C.T. 52	
C.T. 53	
C.T. 54	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 55	
C.T. 56	
Detroit Area No. 3	2
County—Wayne:	
Parts of county:	
C.T. 262.02	
C.T. 263	
C.T. 264	
C.T. 302.01	
C.T. 302.02	
C.T. 302.03	
C.T. 305.01	
C.T. 305.02	
C.T. 306.01	
C.T. 306.02	
C.T. 408	
C.T. 409.01	
C.T. 409.02	
C.T. 176.02	
C.T. 176.03	
C.T. 176.04	
C.T. 209	
C.T. 251	
C.T. 252	
C.T. 253	
C.T. 254	
C.T. 255	
C.T. 257	
C.T. 258.01	
C.T. 258.02	
C.T. 259.01	
C.T. 259.02	
C.T. 260	
C.T. 261.01	
C.T. 261.02	
C.T. 262.01	
C.T. 168	
C.T. 169	
C.T. 170	
C.T. 171	
C.T. 173	
C.T. 174	
C.T. 175	
C.T. 176.01	
Harrison	1
County—Clare:	
Parts of county:	
Arthur Township	
Franklin Township	
Freeman Township	
Frost Township	
Greenwood Township	
Hamilton Township	
City of Harrison	
Hatton Township	
Hayes Township	
Lincoln Township	
Redding Township	
Summerfield Township	
Winterfield Township	
Herman Keifer Health Complex	1
County—Wayne:	
Parts of county:	
Herman Kiefer Health Complex	
Houghton Lake	3
County—Missaukee:	
Parts of county:	
Butterfield Township	
Enterprise Township	
Holland Township	
County—Roscommon:	
Parts of county:	
Denton Township	
Lake Township	
Markey Township	
Roscommon Township	
Iron County Service area	3
County—Baraga:	
Parts of county:	
Covington division	
Spurr division	
County—Florence (Wis):	
Parts of county:	
Florence Township (part)	
Long Lake Township	
County—Forest (Wis.):	
Parts of county:	
Alvin division	

Service Area Listing—Continued

Service area name	Degree of shortage group
Popple River division	
County—Drehinson:	
Parts of county:	
Sagola division	
County—Houghton:	
Parts of county:	
Dunean division	
County—Iron:	
Parts of county:	
Bates division	
Crystal Falls City	
Crystal Falls Township	
Hematite division	
Iron River City	
Iron River Township	
Mansfield division	
Mastodon division	
Stanbaugh City	
Standbaugh Township	
County—Marquette:	
Parts of county:	
Republic (point) division	
County—Vilas (Wis.):	
Parts of county:	
Conver division	
Pheips division	
County—Ontonoga:	
Parts of county:	
Irterion division	
Lexington-Croswell	1
County—Snallac:	
Parts of county:	
Briel Township	
Croswell Township	
Fremont Township	
Worth Township	
Island	1
County—Mackinac:	
Parts of county:	
Mackinac Island	
Marlette-Kingston	2
County—Sanilac:	
Parts of county:	
La Motte Township	
Marlette Township	
County—Tuscola:	
Parts of county:	
Dayton Township	
Kingston Township	
Koylton Township	
Milford	2
County—Oakland:	
Parts of county:	
Wixon City	
Commerce Township	
Milford Township	
Highland Township	
White Lake Township	
North Central Flint	2
County—Genessee:	
Parts of county:	
C.T. 4	
C.T. 5	
C.T. 6	
C.T. 7	
C.T. 20	
C.T. 19	
C.T. 21	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25	
C.T. 26	
Otter Lake	2
County—Genesee:	
Parts of county:	
Thetford Township	
Forest Township	
County—Lapeer:	
Parts of county:	
Marathon Township	
Deerfield Township	
Rich Township	
County—Tuscola:	
Parts of county:	
Arbela Township	
Millington Township	
Watertown Township	

Service Area Listing—Continued

Service area name	Degree of shortage group
Saginaw City (east side)	1
County—Saginaw:	
Parts of county:	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 5	
C.T. 6	
C.T. 7	
C.T. 8	
Sterling	2
County—Arenac	
County—Bay:	
Parts of county:	
Gibson Township	
County—Gladwin:	
Parts of county:	
Bourret Township	
Bentley Township	
Grim Township	
Sumpter Service area	1
County—Monroe:	
Parts of county:	
C.T. 303 (Ash township)	
C.T. 304 (Ash township)	
C.T. 305 (Exeter township)	
C.T. 306(London township)	
County—Washtenaw:	
Parts of county:	
C.T. 34 (Augusta township)	
County—Wayne:	
Parts of county:	
C.T. 941 (Huron township)	
C.T. 940 (Sumpter township)	
Titus Greene Health Center	2
Wayne County Jail	2
County—Wayne:	
Parts of county:	
C.T. Wayne County Jail	

MINNESOTA

County Listing

County name	Degree of shortage group
Aitkin:	
Service area: Mille Lacs	02
Beltrami	02
Cass	02
Clay:	
Service area: Barnesville	02
Cottonwood:	
Service area: Northwest Cottonwood County	04
Crow Wing:	
Service area: Mille Lacs	02
Hennepin:	
Service area: Am. Ind. in Minneapolis	01
Kanabec:	
Service area: Mille Lacs	02
Lac Qui Parle:	
Service area: Canby	04
Lake of the Woods	02
Lincoln	
Mille Lacs:	
Service area: Mille Lacs	02
Morrison	
Pine:	
Service area: Sandstone	04
Pipestone:	
Service area: Red Lake	02
Polk	
Ramsey:	
Service area: Summit/University	01
Service area: Model Cities Health Cntr (St. Paul)	01
Redwood	04
Roseau	01
Wilken:	
Service area: Barnesville	02
Yellow Medicine:	

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MINNESOTA—Continued

County name	Degree of shortage group
Service area: Canby	04

Service Area Listing

Service area name	Degree of shortage group
Am. Ind. in Minneapolis	1
County—Hennepin:	
Parts of county:	
American Indian population in Minneapolis	
Barnesville	2
County—Clay:	
Parts of county:	
Allranee Township	
Barnesville City	
Barnesville Township	
Comstock Village	
Elkton Township	
Elmwood Township	
Holy Cross Township	
Humboldt Township	
Parke Township	
Sabin Village	
Skree Township	
Tansem Township	
County—Wilken:	
Parts of county:	
Atherton Township	
Deerhorn Township	
Manston Township	
Mitchell Township	
Prairie View Township	
Rothsay Village	
Tanberg Township	
Wolverton Township	
Canby	4
County—Deuel (S. Dak.)	
Parts of county:	
Garry City	
Glenwood Town	
Herrick Town	
County—Lac Qui Parle:	
Parts of county:	
Freeland Township	
Manfred Township	
County—Lincoln:	
Parts of county:	
Marble Township	
Alta Vista Township	
County—Yellow Medicine:	
Parts of county:	
Canby City	
Florida Township	
Hammer Township	
Norman Township	
Omro Township	
Oshkosh Township	
Porter City	
St. Leo City	
Werzeland Township	
Lake of the Woods—Beltrami	2
County—Beltrami	
County—Lake of the Woods	
Mille Lacs	2
County—Aitkin:	
Parts of county:	
Idum Township	
Seavy Township	
Lakeside Township	
County—Crow Wing:	
Parts of county:	
Garrison Village	
Bay Lake Twonship	
Garrison Township	
County—Kanabec:	
Parts of county:	
Anne Lake Township	
Hillman Township	
Hay Brook Township	
County—Mille Lacs:	
Parts of County:	
Isle Village	
Wahkon Village	

Service Area Listing—Continued

Service area name	Degree of shortage group
Onamia Village	
East side Township	
Isle Harbor Township	
Lewis Township	
Onamia Township	
South Harbor Township	
Mille Lacs	2
County—Mille Lacs:	
Parts of county:	
Kathio Township	
Bradbury Township	
Dalley Township	
Mudgett Township	
County—Morrison:	
Parts of County:	
Hillman Village	
Richardson Township	
Leigh Township	
Mount Moris Township	
Model Cities Health Center (St. Paul)	1
County—Ramsey:	
Parts of County:	
Model Cities Health Center	
Northwest Cottonwood County	4
County—Cottonwood:	
Parts of County:	
Ann Township	
Highwater Township	
Westbrook Township	
Storden Township	
Amboy Township	
Rose Hill Township	
Jeffers Village	
Storden Village	
Westbrook Village	
Red Lake	2
County—Pipestone:	
Parts of county:	
Fertile Village	
Mentor	
Minger Village	
County—Polk	
Parts of County:	
Badge Township	
Garden Township	
Godfrey Township	
Grove Park Township	
Knute Township	
Tilden Township	
Winger Township	
Woodside Township	
Sandstone	4
County—Pine:	
Parts of county:	
Arline Township	
Arna Township	
Barry Township	
Askov Village Township	
Barry Township	
Bremen Township	
Bruno Township	
Clover Township	
Danforth Townskhip	
Dill Grove Township	
Finlayson Township	
Fleming Township	
Hinckley Township	
New Dorsey Township	
Ogema Township	
Park Township	
Partridge Township	
Pine Lake Township	
Sandstone Township	
Wilma Township	
Finlayson Village	
Hinckley Village	
Sandstone Village	
Summit/University	1
County—Ramsey:	
Parts of county:	
C.T 335	
C.T 336	
C.T 337	
C.T 338	
C.T 339	
C.T 340	
C.T 354	
C.T 355	

MISSISSIPPI

County Listing

County name	Degree of shortage group
Alcorn:	
Service area: Shiloh Pickwick	02
Attala	03
Carroll	02
Chickasaw	03
Claiborne	01
Coahoma	03
Covington	02
George	03
Hancock	03
Jasper	02
Leflore	03
Lowndes	03
Madison	01
Marion	04
Montgomery	02
Newton	03
Scott	02
Simpson	02
Stone	02
Tishomingo	

Service Area Listing

Service area name	Degree of shortage group
Carroll/Montgomery	02
County—Carroll	
County—Montgomery	
Shiloh Pickwick	02
County—Alcorn:	
Parts of county:	
District 2	
County—Hardin (Tenn.)	
County—McNairy (Tenn.)	
County—Tishomingo:	
Parts of county:	
District 1	
District 2	

MISSOURI

County Listing

County name	Degree of shortage group
Andrew	03
Bollinger	01
Camden	03 1093
C.T. 1094	
C.T. 1095	
C.T. 1101	
C.T. 1102	
C.T. 1103	
C.T. 1104	
C.T. 1105	
C.T. 1111	
C.T. 1112	
C.T. 1113	
C.T. 1114	
C.T. 1115	
C.T. 1201	
C.T. 1202	
C.T. 1203	
C.T. 1212	
C.T. 1213	
C.T. 1252	
C.T. 1253	
C.T. 1261	
C.T. 1262	
C.T. 1263	
C.T. 1264	
C.T. 1265	
C.T. 1121 (portion)	
C.T. 1052	
C.T. 1122 (portion)	
C.T. 1123 (portion)	
C.T. 1192 (portion)	
C.T. 1193 (portion)	

MISSOURI—Continued

County name	Degree of shortage group
C.T. 1211 (portion)	
C.T. 1214 (portion)	
C.T. 1251 (portion)	
C.T. 1053	
C.T. 1054	
C.T. 1055	
C.T. 1061	
C.T. 1062	
C.T. 1063	
C.T. 1064	
C.T. 1065	
C.T. 1066	
C.T. 1067	
C.T. 1071	
C.T. 1072	
C.T. 1073	
C.T. 1074	
C.T. 1075	
C.T. 1076	
C.T. 1077	
C.T. 1061	
C.T. 1062	
C.T. 1083	
C.T. 1084	
C.T. 1085	
C.T. 1091	
C.T. 1092	
Osage Prairie	4
County—Cedar	
County—Hickory	
County—Polk:	
Parts of county:	
Johnson division	
Flemington division	
Jefferson division	
McKinley division	
Greene division	
County—St. Clair:	
Parts of county:	
Speedwell division	
Roscoe division	
Washington division	
Collins division	
County—Vernon:	
Parts of county:	
Bacon division	
Clear Creek division	
Virgil division	
Montevallo division	
Southeast St. Louis	3
County—St. Louis City:	
Parts of county:	
C.T. 1011	
C.T. 1232	
C.T. 1233	
C.T. 1234	
C.T. 1235	
C.T. 1241	
C.T. 1242	
C.T. 1243	
C.T. 1244	
C.T. 1245	
C.T. 1173 (portion)	
C.T. 1174 (portion)	
C.T. 1175 (portion)	
C.T. 1012	
C.T. 1013	
C.T. 1014	
C.T. 1015	
C.T. 1016	
C.T. 1017	
C.T. 1023	
C.T. 1024	
C.T. 1025	
C.T. 1151	
C.T. 1152	
C.T. 1153	
C.T. 1154	
C.T. 1155	
C.T. 1156	
C.T. 1157	
C.T. 1161	
C.T. 1162	
C.T. 1163	
C.T. 1164	
C.T. 1165	
C.T. 1221	
C.T. 1222	

MISSOURI—Continued

County name	Degree of shortage group
C.T. 1224	
C.T. 1231	

MONTANA

County Listing

County name	Degree of shortage group
Big Horn	01
Blaine	03
Chouteau:	
Service area: Fort Benton	01
Fallon	03
Gallatin:	
Service area: West Yellowstone	
Glacier:	
Service area: Babb-Browning	01
Golden Valley	01
Hill:	
Service area: Chester	01
Jefferson:	
Service area: Boulder	01
Judith Basin	01
Musselshell	02
Petroleum	01
Phillips	01
Pondera:	
Service area: Babb-Browning	01
Roosevelt:	
Service area: Poplar	01
Rosebud	03
Treasure	03
Valley	04

Service Area Listing

Service area name	Degree of shortage group
Babb-Browning	1
County—Glacier:	
Parts of county:	
Browning-Glacier division	
Babb division	
County—Ponderosa:	
Parts of county:	
Valier-Dupeyer division	
Boulder	1
County—Jefferson	
Parts of county:	
Boulder division	
Chester	1
County—Hill:	
Parts of county:	
Gildford division	
Rudyard division	
Fort Benton	1
County—Chouteau:	
Parts of county:	
Fort Benton division	
Highwood division	
Geraldine division	
Petroleum—Judith basin	1
County—Judith basin	
County—Petroleum	
Poplar	1
County—Roosevelt:	
Parts of county:	
Wolf Point rural division	
Wolf Point division	
Poplar division	
Rosebud	3
County—Rosebud	
County—Treasure	
West Yellowstone	1
County—Gallatin:	
Parts of county:	
West Yellowstone	

NEBRASKA

County Listing

County name	Degree of shortage group
Antelope:	
Service area: Albion MSA	03
Arthur:	
Service area: Mullen	01
Blaine	01
Boone	03
Brown	04
Buffalo:	
Service area: Sherman	04
Cass	04
Cedar	02
Chase	02
Cherry:	
Service area: Mullen	01
Clay	01
Cuming	03
Custer:	
Service area: Arnold	01
Deuel	01
Dixon	02
Douglas:	
Service area: Northeast Omaha	03
Dundy	02
Fillmore	04
Franklin	03
Garfield	03
Gosper	01
Grant	01
Greeley:	
Service area: Albion MSA	03
Hayes	02
Hitchcock	02
Hooker	01
Keith:	
Service area: Sutherland MSA	01
Keya Paha	02
Lincoln:	
Service area: Arnold	01
Service area: Sutherland MSA	01
Logan:	
Service area: Mullen	01
Service area: Arnold	01
Loup	02
McPherson	01
Merrick	03
Nance:	
Service area: Albion MSA	03
Nemaha	04
Nuckolls	02
Perkins:	
Service area: Sutherland MSA	01
Platte:	
Service area: Albion MSA	03
Rock	02
Sherman	04
Sioux	01
Stanton	02
Thayer	04
Thomas	01
Wheeler	03

Service Area Listing

Service area name	Degree of shortage group
Albion MSA	3
County—Antelope:	
Parts of county:	
Logan	
County—Boone	
County—Greeley:	
Parts of county:	
Spaulding	
County—Nance:	
Parts of county:	
Timber Creek	
County—Platte:	
Parts of county:	
Walker	
St. Bernard	
Arnold	
County—Custer:	

Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
Hayes	
Arnold	
Cliff	
Triumph	
Elim	
Delight	
Wayne	
County—Lincoln:	
Parts of county:	
Whittier	
Garfield	
Harrison	
Table	
Cox	
Antelope	
County—Logan:	
Parts of county:	
Gandy	
Logan	
Bassett	2
County—Keya Paha	
County—Loup	
County—Rock	
Cedar—Dixon	2
County—Cedar	
County—Dixon	
Deuel-Sedgewick MSA	1
County—Deuel	
County—Sedgwick (Colo.)	
Garfield	3
County—Garfield	
County—Wheeler	
Mullen	1
County—Arthur:	
Parts of County:	
Edward	
Arthur	
Lena	
County—Cherry:	
Parts of county:	
Gillaspie	
Cleveland	
Lacey	
Wells	
Loup	
Goosecreek	
Pleasant Hill	
Calf Creek	
Mother Lake	
County—Grant	
County—Hooker	
County—Logan:	
Parts of county:	
Dort	
Stapleton	
Cody Lake	
Lone Valley	
Burt	
County—McPherson	
County—Thomas	
Northeast Omaha	3
County—Douglas:	
Parts of county:	
C.T. 8	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	
Sherman	4
County—Buffalo:	
Parts of county:	
Beaver Township	
Garfield Township	
Cherry Creek Township	
Cedar Township	
Schneider Township	
Gardner Township	
Ravenna City	
County—Sherman	
Southwest Nebraska	2
County—Chase	
County—Dundy	
County—Hayes	
County—Hitchcock	
Sutherland MSA	1
County—Keith:	
Parts of county:	
Paxton CCD	
County—Lincoln:	
Parts of county:	
Springdale CCD	
Birdwood CCD	
Rosedale CCD	
North Rosedale CCD	
Hershey CCD	
Sutherland MSA	1
County—Lincoln:	
Parts of county:	
Sunshine CCD	
Fairview CCD	
Nowell CCD	
Wallace CCD	
Hooker CCD	
Dickens CCD	
Willow CCD	
County—Perkins:	
Parts of county:	
Woodson CCD	
Yankee CCD	
Marvin CCD	

NEVADA

County Listing

County name	Degree of shortage group
Churchill	04
Clark:	
Service area: Searchlight-Davis Dam-Southpoint	01
Service area: Indian Springs	01
Service area: Virgin Valley	01
Service area: Moapa Valley	01
Service area: Lake Mead	01
Service area: Jean-Goodsprings Sandy Valley	00
Service area: Blue Diamond-Lee Canyon-Mount Charleston	01
Service area: Central/North Central Las Vegas	01
Service area: Paiute Indian Colony-Las Vegas Valley	04
Service area: Paiute Indian-Moapa Valley	04
Douglas	04
Elko:	
Service area: Wells	01
Esmeralda	01
Humboldt	03
Lander	04
Lincoln	03
Lyon	01
Mineral	04
Nye:	
Service area: Nye Co. Service Area	01
Storey	01
Washoe:	
Service area: Stead-Lemmon Valley	01
Service area: Sun Valley	01
Service area: Wadsworth	01
Service area: Gerlach/Bald Mountain	01
White Pine	04

Service Area Listing

Service area name	Degree of shortage group
Blue Diamond-Lee Canyon-Mount Charleston	
County—Clark:	1
Parts of county:	
C.T. 58 (central)	
Central/North Central Las Vegas	1
County—Clark:	
Parts of county:	
C.T. 3.01	
C.T. 3.02	
C.T. 7	
C.T. 9	
C.T. 11	
C.T. 35	
C.T. 36	
C.T. 37	
C.T. 38	
C.T. 46	
Geralch/Bald Mountain	1
County—Washoe:	
Parts of county:	
Gerlach Township	
C.T. 34	
Indian Springs	1
County—Clark:	
Parts of county:	
C.T. 59 (southwest)	
C.T. 58 (north)	
Jean-Goodsprings Sandy Valley	1
County—Clark:	
Parts of county:	
C.T. 58 (southeast)	
C.T. 57 (northwest)	
Lake Mead	1
County—Clark:	
Parts of county:	
C.T. 56 (southern Part)	
Moapa Valley	1
County—Clark:	
Parts of county:	
C.T. 56 (central/west central)	
Nye Co. Service Area	1
County—Nye:	
Parts of county:	
Tonopah Township	
Pahrump Township	
Beatty Township	
Paiute Indian-Moapa Valley	4
County—Clark:	
Parts of county:	
Paiute Indian-Moapa Valley	
Paiute Indian Colony-Las Vegas Valley	4
County—Clark:	
Parts of county:	
Paiute Indian Colony-Las Vegas Valley	
Searchlight-Davis Dam-Southpoint	1
County—Clark:	
Parts of county:	
C.T. 57 (southern part)	
Stead-Lemmon Valley	1
County—Washoe:	
Parts of county:	
C.T. 26	
Sun Valley	
County—Washoe:	
Parts of County:	
C.T. 27	
Virgin Valley	1
County—Clark:	
Parts of county:	
C.T. 56 (north)	
Wadsworth	1
County—Washoe:	
Parts of county:	
C.T. 31	
Wells	1
County—Elko:	
Parts of county:	
Wells Township	

NEW HAMPSHIRE

County Listing

County name	Degree of shortage group
Coos:	
Service Area: Upper Connecticut Valley	03
Grafton:	
Service Area: Baker River Valley	01
Rockingham:	
Service Aea: North West Rockingham County	02

Service Area Listing

Service area name	Degree of shortage group
Baker River Valley	1
County—Grafton:	
Parts of County:	
Warren Township	
Rumney Township	
Wentworth Township	
North West Rockingham County	2
County—Rockingham:	
Parts of County:	
Nottingham Town	
Deerfield	
Candia	
Raymond	
Fremont	
Epping	
Upper Connecticut Valley	3
County—Coos:	
Parts of County:	
Colebrook Township	
Columbia Township	
Stratford Township	
Stewartown Township	
Pittsburg Township	
Dixville Township	
Errol Township	
Clarksville Township	
Millsville Township	
Wentsworth Location	
Atkinson-Gilman Academy Grant	
Dix's Grant	
Second College Grant	
Odell Township	
County—Essex (Vermont.):	
Parts of County:	
Canaan Township	
Lexington Township	
Bilomfield Township	
Brunswich Township	
Averill Township	
Norton Township	

NEW JERSEY

County Listing

County name	Degree of shortage group
Camden:	
Service area: north east Camden	04
Service area: north west Camden	02
Service area: west central Camden	02
Cumberland:	
Service area: Bridgeton	04
Service area: Leesburg State Prison	01
Essex:	
Service area: Dayton service area	01
Service area: Gladys E. Dickenson service area	04
Service area: North Newark	03
Service area: Central Newark	03
Mercer:	
Service area: Trenton NHG target area	04
Middlesex:	
Service area: Med Ind/New Brunswick urban corridor	02
Service area: Family Health Center of Middlesex General Hospital	02
Ocean	04
Passaic:	
Service area: West Milford Township	02
Service area: Downtown Paterson	01
Service area: Northside neighborhood (Paterson)	01
Union:	
Service area: Westside of Plainfield	00

Service Area Listing

Service area name	Degree of shortage group
Bridgeton	4
County—Cumberland:	
Parts of county:	
Bridgeton City	
Downe township	
Fairfield township	
Greenwich township	
Hopewell township	
Lawrence township	
Shiloh borough	
Stow Creek township	
Central Newark	3
County—Essex:	
Parts of county:	
C.T. 80	
C.T. 2 (portion)	
C.T.3 (portion)	
C.T. 91 (portion)	
C.T. 62	
C.T. 63	
C.T. 64	
C.T. 65	
C.T. 66	
C.T. 80	
C.T. 81	
C.T. 82	
C.T. 83	
C.T. 31	
C.T. 39	
C.T. 84 (portion)	
C.T. 85 (portion)	
C.T. 10 (portion)	
C.T. 11 (portion)	
C.T. 14 (portion)	
C.T. 15 (portion)	
C.T. 40 (portion)	
C.T. 55 (portion)	
C.T. 56 (portion)	
C.T. 57 (portion)	
C.T. 59 (portion)	
C.T. 16 (portion)	
C.T. 34 (portion)	
Central Newark	3
County—Essex:	
Parts of county:	
C.T. 67 (portion)	
Dayton service area	1
County—Essex:	
Parts of county:	
C.T. 47	
C.T. 48.01	
C.T. 48.02	
C.T. 49	
C.T. 50	
C.T. 51	
Downtown Paterson	1
County—Passaic:	
Parts of county:	
C.T. 1814	
C.T. 1815	
C.T. 1816.01	
C.T. 1816.02	
C.T. 1817.01	
C.T. 1817.02	
C.T. 1818	
C.T. 1820	
C.T. 1822	
C.T. 1829	
Family Health Center of Middlesex General Hospital	
County—Middlesex:	
Parts of County:	
Family Health Care Center of Middlesex General Hospital	
Gladys E. Dickenson service area	4
County—Essex:	
Parts of county:	
C.T. 86	
C.T. 87	
C.T. 88	
C.T. 89	
C.T. 90	
C.T. 91	
Leesburg State Prison	1
County—Cumberland:	
Parts of county:	
Leesburg State Prison	
Med Ind/New Brunswick urban corridor	2
County—Middlesex:	
Parts of county:	
C.T. 53 (medically indigent)	
C.T. 54 (medically indigent)	
C.T. 55 (medically indigent)	
C.T. 57 (medically indigent)	
C.T. 58 (medically indigent)	
C.T. 59 (medically indigent)	
North east Camden	4
County—Camden:	
Parts of county:	
C.T. 6011	
C.T. 6012	
C.T. 6013	
North Newark	3
County—Essex:	
Parts of County:	
C.T. 92	
C.T. 93	
C.T. 94	
C.T. 95	
C.T. 96	
C.T. 97	
North west Camden	2
County—Camden:	
Parts of County:	
C.T. 6007	
C.T. 6008	
North side neighborhood (Paterson)	1
County—Passaic:	
Parts of county:	
C.T. 1803	
C.T. 1804	
C.T. 1805	
C.T. 1806	
C.T. 1807	
Trenton NHG target area	4
County—Mercer:	
Parts of county:	
C.T. 1	
C.T. 10	
C.T. 16	
C.T. 19	
C.T. 9 (part)	
C.T. 15 (part)	
C.T. 17 (part)	
C.T. 8 (part)	
C.T. 11 (part)	
C.T. 014 (part)	
C.T. 18 (part)	
C.T. 22 (part)	
West central Camden	2
County—Camden:	
Parts of county:	
C.T. 6016	
C.T. 6017	
C.T. 6018	
C.T. 6019	
West Milford township:	2
County—Passaic:	
Parts of county:	
West Milford township (C.T. 2568)	
West side of Plainfield	2
County—Union:	
Parts of county:	
C.T. 89	
C.T. 90	
C.T. 93	

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Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 94	
C.T. 95	

NEW MEXICO

County Listing

County name	Degree of shortage group
Bernalillo:	
Service area: Bernalillo	01
Colfax:	
Service area: Colfax/Harding	04
Harding:	
Service area: Quay	01
Service area: Colfax/Harding	04
Quay	
San Miguel:	
Service area: Quay	01

Service Area Listing

Service area name	Degree of shortage group
Bernalillo	1
County—Bernalillo:	
Parts of County:	
C.T. 46	
Colfax/Harding	4
County—Colfax:	
Parts of County:	
Cimarron	
Springer	
County—Harding:	
Parts of County:	
North Harding	
Quay	1
County—Harding:	
Parts of County:	
South Harding CCD	
County—Quay	
County—San Miguel:	
Parts of County:	
Conchos CCD	

NEW YORK

County Listing

County name	Degree of shortage group
Allegany:	
Service Area: Arcade	02
Service Area: Andover	04
Bronx:	
Service Area: South Bronx-Fort Apache	03
Service Area: Northeast Bronx	00
Service Area: Hunts Point (Health Area)	01
Service Area: Soundview Area	03
Service Area: Martin Luther King Service Area	04
Cattaraugus:	
Service Area: Arcade	02
Service Area: Randolph-Ellicottville	00
Cayuga:	
Service Area: Cato	01
Service Area: Aurora	02
Columbia:	
Service Area: Northeast Rensselaer	02
Cortland:	
Service Area: Marathon-Cincinnatus	02
Service Area: De Ruyter	01
Erie:	
Service Area: Lower West Side	02
Essex:	
Service Area: Southeastern Essex	03

NEW YORK—Continued

County name	Degree of shortage group
Franklin:	
Service Area: Tupper Lake	02
Genesee:	
Service Area: Bergen	02
Greene:	
Service Area: Western Greene Co.	04
Hamilton	01
Herkimer:	
Service Area: West Winfield	01
Service Area: Herkimer MSA	03
Jefferson:	
Service Area: Alexandria Bay	03
Kings:	
Service Area: East New York section of Brooklyn	01
Service Area: Bedford/Stuyvesant	02
Service Area: Gowanus/Park Slope	01
Service Area: South Williamsburg	04
Madison:	
Service Area: Hamilton	03
Service Area: De Ruyter	01
Monroe:	
Service Area: Bergen	02
Monroe:	
Service Area: West side of Rochester	03
Montgomery:	
Service Area: Western Montgomery	01
New York:	
Service Area: Lower East Side	03
Service Area: Chinatown	02
Oneida:	
Service Area: Boonville	01
Service Area: Hamilton	03
Onondaga:	
Service Area: Syracuse CHC Target Area	01
Service Area: Southern Onondaga County	02
Orleans:	
Service Area: Oak Orchard	04
Otsego:	
Service Area: Cherry Valley	02
Service Area: Western Otsego	00
Rensselaer:	
Service Area: Northeast Columbia/Southeast Rensselaer	02
Richmond:	
Service Area: Mariner's Harbor	01
St. Lawrence:	
Service Area: Tupper Lake	02
Service Area: Alexandria Bay	03
Service Area: Southern St. Lawrence County	02
Schohard:	
Service Area: Cherry Valley	02
Steuben:	
Service Area: Andover	04
Suffolk:	
Service Area: Southold/Shelter Island	03
Wayne:	
Service Area: Sodus	04
Westchester:	
Service Area: Peekskill	04
Service Area: Medically Indigent in Mount Vernon	04
Wyoming:	
Service Area: Arcade	02

Service Area Listing

Service area name	Degree of shortage group
Mariner's Harbor	1
County—Richmond:	
Parts of County:	
C.T. 223	
C.T. 231	
C.T. 239	
C.T. 319.01	
C.T. 319.02	
Alexandria Bay	3
County—Jefferson:	
Parts of County:	
Alexandria town	

Service Area Listing—Continued

Service area name	Degree of shortage group
Antwerp town	
Cape Vincent town	
Clayton town	
Lyme town	
Orleans town	
Philadelphia town	
Teresa town	
County—St. Lawrence:	
Parts of County:	
Hammond town	
Rossie town	
Andover	4
County—Allegany:	
Parts of County: Almond	
West Almond	
Ward	
Wellsville	
Willing	
Independence	
Andover	
Alfred	
County—Steuben:	
Parts of County:	
Hartsville	
Greenwood	
West Union	
Jasper	
Troupsburg	
Arcade	2
County—Allegany:	
Parts of County:	
Centerville	
Rushford	
County—Cattaraugus:	
Parts of County:	
Farmersville	
Freedom	
Machias	
Yorkshire	
County—Wyoming:	
Parts of County:	
Arcade	
Eagle	
Java	
Orangeville	
Sheldon	
Weinersfield	
Aurora	2
Conty—Cayuga:	
Parts of County:	
Genoa	
Ledyard	
Locke	
Moravia	
Niles	
Scipio	
Semponious	
Springport	
Summerville	
Venice	
Bedford/Stuyvesant	2
County—Kings:	
Parts of County:	
C.T. 201	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 285.01	
C.T. 285.02	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 295	
C.T. 297	
C.T. 299	
C.T. 301	
C.T. 303	
C.T. 307	
C.T. 309	
C.T. 311	
C.T. 365.01	
C.T. 365.02	
C.T. 367	
C.T. 369	
C.T. 371	
C.T. 373	
C.T. 375	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 377	
C.T. 379	
C.T. 227	
C.T. 381	
C.T. 383	
C.T. 385	
C.T. 387	
C.T. 229	
C.T. 231	
C.T. 233	
C.T. 235	
C.T. 237	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 259.01	
C.T. 261	
C.T. 263	
C.T. 265	
C.T. 267	
C.T. 269	
C.T. 271.01	
C.T. 273	
C.T. 275	
Bergen	2
County—Genesse:	
Part of County:	
Bergen	
Byron	
County—Monroe:	
Part of County:	
Riga	
Boonville	1
County—Oneida:	
Part of County:	
C.T. 241	
C.T. 242	
C.T. 243.02	
C.T. 243.03	
C.T. 244	
Cato	1
County—Cayuga:	
Part of County:	
Cato	
Conquest	
Ira	
Sterling	
Victory	
Cherry Valley	2
County—Otsego:	
Part of County:	
Cherry Valley	
Roseboom	
Springfield	
County—Schohard:	
Part of County:	
Sharon	
Chinatown	2
County—New York:	
Part of County:	
C.T. 47	
C.T. 7	
C.T. 8 (Part)	
C.T. 9	
C.T. 13	
C.T. 15.01	
C.T. 15.02	
C.T. 16	
C.T. 21	
C.T. 25	
C.T. 27	
C.T. 29	
C.T. 31	
C.T. 33	
C.T. 39	
C.T. 41	
C.T. 43	
C.T. 45	
C.T. 49	
C.T. 51	
C.T. 53	

Service Area Listing—Continued

Service area name	Degree of shortage group
De Ruyter	1
County—Cortland:	
Part of County:	
Cuyler Town	
County—Madison:	
Part of County:	
De Ruyter Town	
East N.Y. section of Brooklyn	1
County—Kings:	
Part of County:	
C.T. 401	
C.T. 1122	
C.T. 1124	
C.T. 1126	
C.T. 1128	
C.T. 1130	
C.T. 1132	
C.T. 1134	
C.T. 1138	
C.T. 1140	
C.T. 1142.01	
C.T. 1142.02	
C.T. 1146	
C.T. 1148	
C.T. 1150	
C.T. 1152	
C.T. 1154	
C.T. 1156	
C.T. 1158	
C.T. 1160	
C.T. 1162	
C.T. 1164	
C.T. 1166	
C.T. 1168	
C.T. 1170	
C.T. 1172	
C.T. 1174	
C.T. 403	
C.T. 1178	
C.T. 1180	
C.T. 1182	
C.T. 1184	
C.T. 1186	
C.T. 1188	
C.T. 1190	
C.T. 1192	
C.T. 1194	
C.T. 1196	
C.T. 1200	
C.T. 1202	
C.T. 1208	
C.T. 1210	
C.T. 1214	
C.T. 1220	
C.T. 405	
C.T. 407	
C.T. 409	
C.T. 411	
C.T. 413	
C.T. 437	
C.T. 904	
C.T. 906	
C.T. 908	
C.T. 910	
C.T. 912	
C.T. 914	
C.T. 1040	
C.T. 1058	
C.T. 1070	
C.T. 1078	
C.T. 1100	
C.T. 1102	
C.T. 1106	
C.T. 1110	
C.T. 1112	
C.T. 1114	
C.T. 1118	
C.T. 1120	
Gowanus/Park Slope	1
County—Kings:	
Part of County:	
C.T. 71	
C.T. 127	
C.T. 131	
C.T. 133	
Hamilton	3
County—Madison:	
Part of County:	

Service Area Listing—Continued

Service area name	Degree of shortage group
Brookfield	
Eaton	
Georgetown	
Hamilton	
Lebanon	
Madison	
County—Oneida:	
Part of County:	
Sangerfield	
Herkimer MSA	3
County—Herkimer:	
Part of County:	
C.T. 115	
Hunts Point (Health Area)	1
County—Bronx:	
Part of County:	
C.T. 5	
C.T. 81	
C.T. 81.99	
C.T. 91	
C.T. 97	
C.T. 99	
C.T. 105	
C.T. 115.02	
Lower East Side	3
County—New York:	
Part of County:	
C.T. 2.01	
C.T. 2.02	
C.T. 6	
C.T. 10.01	
C.T. 10.02	
C.T. 12	
C.T. 14.01	
C.T. 22.01	
C.T. 30.01	
C.T. 16 (Part)	
C.T. 20.02 (Part)	
C.T. 24 (Part)	
C.T. 25 (Part)	
C.T. 27 (Part)	
C.T. 30.02 (Part)	
Lower West Side	2
County—Erie:	
Part of County:	
C.T. 68	
C.T. 71.01	
C.T. 71.02	
C.T. 72.02	
Marathon-Cincinnatus	2
County—Cortland:	
Part of County:	
Taylor Town	
Cincinnatus Town	
Willet Town	
Freetown Town	
Marathon Town	
Lapeer Town	
Harford Town	
Martin Luther King Service Area	4
County—Bronx:	
Part of County:	
C.T. 87	
C.T. 181	
C.T. 182	
C.T. 187	
C.T. 189	
C.T. 193	
C.T. 195	
C.T. 197	
C.T. 199	
C.T. 201	
C.T. 211	
C.T. 213.01	
C.T. 213.02	
C.T. 219	
C.T. 221	
C.T. 223	
C.T. 89	
C.T. 119	
C.T. 121.01	
C.T. 121.02	
C.T. 123	
C.T. 125	
C.T. 127.01	
C.T. 127.02	
C.T. 129.01	
C.T. 129.02	

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Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 131	
C.T. 133	
C.T. 135	
C.T. 137	
C.T. 139	
C.T. 143	
C.T. 145	
C.T. 147	
C.T. 149	
C.T. 151	
C.T. 153	
C.T. 173	
C.T. 175	
C.T. 177	
C.T. 179	
Medically indigent in Mount Vernon	4
County—Westchester:	
Parts of County:	
Medically indigent in Mount Vernon	
Northeast Columbia/Southeast Rensselaer	2
County—Columbia:	
Parts of County:	
New Lebanon	
Austerlitz	
Canaan	
County—Rensselaer:	
Parts of County:	
Berlin	
Petersburg	
Stephentown	
Northeast Bronx	1
County—Bronx:	
Parts of County:	
C.T. 378	
C.T. 380	
C.T. 390	
C.T. 392	
C.T. 394	
C.T. 396	
C.T. 406	
C.T. 408	
C.T. 356	
C.T. 358	
C.T. 364	
C.T. 368	
C.T. 382	
C.T. 386	
C.T. 388	
C.T. 398	
C.T. 404	
C.T. 276	
C.T. 302	
C.T. 458	
C.T. 460	
C.T. 462.02	
C.T. 484	
C.T. 502	
C.T. 504	
Oak Orchard	4
County—Orleans:	
Parts of County:	
Carlton	
Gaines	
Albion	
Barre	
Clarendon	
Murray	
Kendall	
Peekskill	4
County—Westchester:	
Parts of County:	
C.T. 141	
C.T. 142	
C.T. 143	
C.T. 144	
C.T. 145	
Randolph—Ellicottville	3
County—Cattaraugus:	
Parts of County:	
Cold Spring Division	
Conewango Division	
Ellicottville Division	
Mensfield Division	
Napoli Division	
New Albion Division	
Randolph Division	
South Valley Division	

Service Area Listing—Continued

Service area name	Degree of shortage group
Sodus	4
County—Wayne:	
Parts of County:	
C.T. 201 (Ontario)	
C.T. 204 (Williamson)	
C.T. 208 (Sodus)	
C.T. 209 (Sodus)	
C.T. 215 (Huron-Wolcott)	
C.T. 218 (Rose-Butler)	
Soundview area	2
County—Bronx:	
Parts of County:	
C.T. 2	
C.T. 78	
C.T. 84	
C.T. 86	
C.T. 98	
C.T. 102	
C.T. 4	
C.T. 16	
C.T. 20	
C.T. 24	
C.T. 28	
C.T. 36	
C.T. 38	
C.T. 40.01	
C.T. 40.02	
C.T. 44	
C.T. 46	
C.T. 48	
C.T. 50	
C.T. 52	
C.T. 54	
C.T. 56	
C.T. 5860	
C.T. 62	
C.T. 64	
C.T. 66	
C.T. 68	
C.T. 70	
C.T. 72	
C.T. 74	
South Bronx—Fort Apache	3
County—Bronx:	
Parts of County:	
C.T. 161	
C.T. 155	
South Williamsburg	4
County—Kings:	
Parts of County:	
C.T. 507	
C.T. 509	
C.T. 525	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
Southeastern Essex	3
County—Essex:	
Parts of County:	
Moriah Division	
North Hudson Division	
Crownpoint Division	
Ticonderoga Division	
Southern Onondaga County	2
County—Onondaga:	
Parts of County:	
Lafayette	
Fabius	
Pompey	
Tully	
Otisco	
Onondaga Indian Reservation	
Southern St. Lawrence County	2
County—St. Lawrence:	
Parts of County:	
Claire Town	
Clifton Town	
Edwards Town	
Fine Town	
Pitcairn Town	
Russell Town	
Southold/Shelter Island	3

Service Area Listing—Continued

Service area name	Degree of shortage group
County—Suffolk:	
Parts of County:	
Shelter Island Town	
Southold Town	
Syracuse CHC Target Area	1
County—Onondaga:	
Parts of County:	
C.T. 30	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 53	
Tupper Lake	2
County—Franklin:	
Parts of County:	
Altamont Town	
County—St. Lawrence:	
Parts of County:	
Piercefield Town	
West Winfield	1
County—Kerkimer:	
Parts of County:	
C.T. 101	
C.T. 102.01	
C.T. 102.02	
Bridgewater Town (Part)	
Western Greene County	4
County—Greene:	
Parts of County:	
Ashland	
Halcott	
Hunter	
Jewett	
Lexington	
Prattsville	
Windham	
Western Montgomery County	1
County—Montgomery:	
Parts of County:	
Canajoharie	
Minden	
Palatine	
Root	
St. Johnsville	
Western Otsego	1
County—Otsego:	
Parts of County:	
Burlington Division	
Edmeston Division	
New Lisbon Division	
Pittsfield Division	
Plainfield Division	
Westside of Rochester	3
County—Monroe:	
Parts of County:	
C.T. 1	
C.T. 69	
C.T. 70	
C.T. 71	
C.T. 72	
C.T. 73	
C.T. 74	
C.T. 75	
C.T. 87	
C.T. 88	
C.T. 86 (Part)	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 16	
C.T. 17	
C.T. 18	
C.T. 19	
C.T. 20	
C.T. 21	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25	
C.T. 26	
C.T. 27	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 62	
C.T. 63	
C.T. 64	
C.T. 65	

Service area name	Degree of shortage group
C.T. 66	
C.T. 67	
C.T. 68	

NORTH CAROLINA

County Listing

County name	Degree of shortage group
Alexander	02
Anson	02
Ashe	04
Bladen	01
Buncombe:	
Service area: Bat Cave service area	01
Caldwell	04
Caswell	01
Chatham	04
Columbus	03
Cumberland	01
Davie	03
Gaston	04
Harnett	04
Henderson	
Hoke	01
Jackson	04
McDowell	03
Madon	04
Mitchell	04
Montgomery	04
Pender	01
Person	02
Randolph	03
Richmond	03
Robeson:	
Service area: Rowland service area	01
Sampson	04
Stokes	02
Swain	02
Union	03
Yadkin	01

Service Area Listing

Service area name	Degree of shortage group
Bat Cave service area	1
County—Buncombe:	
Parts of County:	
E.D. 204	
E.D. 205	
E.D. 206	
E.D. 207	
County—Henderson:	
Parts of County:	
E.D. 1	
E.D. 2	
E.D. 3	
E.D. 4	
E.D. 5	
E.D. 7	
Rowland service area	1
County—Robeson:	
Parts of County:	
Alfordsville	
Gaddy	
Rowland	
Thompson	

NORTH DAKOTA—Continued

County name	Degree of shortage group
Union	

NORTH DAKOTA

County Listing

County name	Degree of shortage group
Adams	03
Benson	02
Billings	01
Burke	03
Dunn	01
Foster	01
Grant	01
Griggs	03
Hettinger	01
Kidder	01
La Moure	04
Logan	03
McHenry	03
McKenzie	01
Mercer	02
Morton	03
Oliver	01
Sioux	01
Steele	04
Ward:	
Service Area: Kenmare	01
Wells	04

Service Area Listing

Service area name	Degree of shortage group
Kenmare	
County—Ward:	1
Parts of County:	
Kenmare Division	
Des Lacs Valley Division	
Mercer/Oliver	2
County—Mercer	
County—Oliver	

OHIO

County Listing

County name	Degree of shortage group
Adams	04
Allen:	
Service area: Putnam	04
Brown	02
Carroll	04
Clark:	
Service area: Rocking Horse	02
Clermont	03
Cuyahoga:	
Service area: Area 1—Cleveland	02
Service area: Glenville	01
Hamilton:	
Service area: East End (Cincinnati)	02
Service area: Winston Hills (Cincinnati)	01
Service area: Price Hill/Fairmont (Cincinnati)	01
Service area: Lincoln Heights (Cincinnati)	02
Highland:	
Service area: Greenfield	01
Service area: Chillocothe	02
Hocking:	
Jackson	04
Lawrence	03
Meigs	02
Monroe	02

OHIO—Continued

County name	Degree of shortage group
Montgomery:	
Service area: Dayton	03
Morgan	02
Perry	03
Pickaway:	
Service area: Chillocothe	02
Pike	02
Putnam:	
Service area: Putnam	04
Ross	02
Sandusky:	
Service area: Migrant population—Sandusky County	01
Tuscarawas	04
Vinton	01
Warren	02

Service area listing

Service area name	Degree of shortage group
Area 1—Cleveland	2
County—Cuyahoga:	
Parts of county:	
C.T. 1012	
C.T. 1015-1019	
C.T. 1022-1029	
C.T. 1031-1039	
C.T. 1041-1049	
C.T. 1051-1056	
C.T. 1079	
C.T. 1087-1089	
C.T. 1091-1099	
C.T. 1101-1103	
C.T. 1129	
C.T. 1131-1139	
C.T. 1141-1148	
Chillocothe	2
County—Highland:	
Part of county:	
Madison Township	
County—Hocking:	
Parts of county:	
Good Hope Township	
Laurel Township	
Benton Township	
Perry Township	
Salt Creek Township	
County—Pickaway:	
Parts of county:	
Perry Township	
Deer Creek Township	
Wayne Township	
Pickaway Township	
Slat Creek Township	
County—Pike	
County—Ross	
Dayton	3
County—Montgomery:	
Parts of county:	
C.T. 19	
C.T. 20	
C.T. 21	
C.T. 22	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 28	
C.T. 29	
East End (Cincinnati)	2
County—Hamilton:	
Parts of county:	
C.T. 13	
C.T. 43	
C.T. 44	
C.T. 47	
Glenville	1
County—Cuyahoga:	
Parts of county:	
C.T. 1114	
C.T. 1161-1168	
C.T. 1181-1185	
Greenfield	1
County—Highland:	
Parts of county:	
Paint Township	
Madison Township	
Fairfield Township	

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Service area name	Degree of shortage group
Lincoln Heights (Cincinnati)	2
County—Hamilton:	
Parts of county:	
C.T. 60 (Hartwell)	
C.T. 225 (Woodlawn)	
C.T. 227 (Lincoln Heights)	
C.T. 228 (Lockland)	
C.T. 229 (Arlington Heights)	
C.T. 231 (Evandale)	
Migrant population—Sandusky County	1
County—Sandusky:	
Parts of county:	
Migrant population	
Price Hill/Fairmont (Cincinnati)	1
County—Hamilton:	
Parts of county:	
C.T. 87 (Fairmont—South)	
C.T. 89 (Fairmont—South)	
C.T. 90 (Price Hill—East)	
C.T. 91 (Price Hill—Tower)	
C.T. 93 (Price Hill—East)	
C.T. 96 (Price Hill—East)	
C.T. 103 (Riverside—Selamsville)	
Putnam	4
County—Allen:	
Parts of county:	
Richland Township	
County—Putnam:	
Parts of county:	
Putnam	
Rocking Horse	2
County—Clark:	
Parts of county:	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 5	
C.T. 8	
C.T. 9.01	
C.T. 9.02	
C.T. 10	
C.T. 12	
C.T. 17	
Winston Hills (Cincinnati)	1
County—Hamilton:	
Parts of county:	
C.T. 73 (Winston Hills Place)	
C.T. 80 (Winston Hills Place)	
C.T. 257 (Elmwood Place)	
Chelsea/New Alluwe	1
County—Mayes:	
Part of county:	
Adair (part) E.D. 12	
County—Nowata:	
Part of county:	
New Alluwe (part) E.D. 14 and 15	
County—Rogers:	
Part of county:	
Chelsea E.D. 1, 2, 3, 4	
Clayton	2
County—Le Flore:	
Parts of county:	
E.D. 37-38 (Heavener)	
E.D. 46	
E.D. 47	
E.D. 48-49 (Talihina)	
E.D. 50	
E.D. 51	
E.D. 52	
County—Pushmataha:	
Part of county:	
No. Push-Mataha Division	
Del City	3
County—Oklahoma:	
Parts of county:	
C.T. 1078.01	
C.T. 1078.02	
C.T. 1078.03	
C.T. 1078.04	
C.T. 1078.05	
C.T. 1078.06	
North Central Tulsa	1
County—Tulsa:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 5	
C.T. 6	

OKLAHOMA

County Listing

County name	Degree of shortage group
Adair	02
Alfalfa	04
Blaine:	
Service area: Western Oklahoma	03
Caddo	03
Canadian	04
Choctaw	02
Comanche	03
Custer	
Dewey	03
Ellis	03
Grant	04
Harmon	02
Jackson	01
Jefferson	03
Johnston	02
Le Flore:	
Service area: Clayton	02
Logan	01
McClain	02
McCurtain	03
Mayes:	
Service area: Chelsea/New Alluwe	01
Nowata	
Okfuskee	04
Oklahoma:	
Service area: Del City	03
Service area: Oklahoma	02
Pushmataha:	
Service area: Clayton	02
Roger Mills	03
Rodgers:	
Service area: Chelsea/New Alluwe	01
Seminole	03
Sequoyah	03
Tillman	01
Tulsa:	
Service area: North Central Tulsa	01
Service area: West Tulsa	03
Washita	03
Woodward:	
Service area: Western Oklahoma	03

Service Area Listing

Service area name	Degree of shortage group
North Central Tulsa	1
County—Tulsa:	
Parts of county:	
C.T. 7	
C.T. 8	
C.T. 9	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 13	
C.T. 14	
C.T. 15	
C.T. 57	
C.T. 62	
C.T. 79	
C.T. 80	
C.T. 91.01	
C.T. 91.02	
C.T. 91.02	
Oklahoma	2
County—Oklahoma:	
Parts of county:	
C.T. 1037	
C.T. 1038	
C.T. 1039	
C.T. 1040	
C.T. 1047	
C.T. 1048	
C.T. 1049	
C.T. 1053	
C.T. 1054	
C.T. 1072	
C.T. 1072	
C.T. 1073	
C.T. 1073	

Service Area Listing—Continued

Service area name	Degree of shortage group
West Tulsa	3
County—Tulsa:	
Parts of county:	
C.T. 46	
C.T. 47	
C.T. 63.01	
C.T. 63.02	
C.T. 64.01	
C.T. 64.02	
C.T. 65.01	
C.T. 65.02	
C.T. 66	
Western Oklahoma	3
County—Blaine:	
Parts of county:	
E.D. 4, 5, 7	
County—Custer:	
Parts of county:	
E.D. 6, 7	
County—Dewey	
County—Ellis	
County—Roger Mills	
County—Woodward:	
Parts of county:	
E.D. 14, 15, 18	
County—Lipscomb (Tex.)	
Parts of county:	
Higgins CCD	

OREGON

County Listing

County name	Degree of shortage group
Baker:	
Service area: Halfway	01
Benton:	
Service area: West Benton	01
Clackamas:	
Service area: Estacada	04
Service area: Woodburn—Marion Migrant area	01
Clatsop:	
Service area: Seaside area	03
Columbia:	
Service area: Vernonia	01
Coos:	
Service area: Powers	01
Service area: Reedsport	03
Curry:	
Service area: Powers	01
Deschutes:	
Service area: La Pine	02
Douglas:	
Service area: Reedsport	03
Gilliam	02
Jackson:	
Service area: Jackson—Northeast Section	02
Service area: Rogue River—Gold Hill	02
Josephine:	
Service area: Cave Junction	01
Klamath:	
Service area: Bly	01
Service area: Chiloquin	01
Service area: La Pine	02
Lake	
Lane:	
Service area: Reedsport	03
Service area: McKenzie	01
Lincoln:	
Service area: West Benton	01
Linn:	
Service area: Sweet Home	01
Service area: Brownville	01
Malheur:	
Service area: NYSSA	03
Marion:	
Service area: Woodburn	03
Service area: West Salem	01
Service area: Woodburn—Marion Migrant area	01
Morrow	02

OREGON—Continued

County name	Degree of shortage group
Multnomah:	
Service area: Northeast Portland	01
Polk:	
Service area: Willamina	01
Service area: Woodburn—Marion Migrant area	01
Union:	
Service area: Union	01
Wallowa	
Washington:	
Service area: Washington County Migrants	04
Wheeler	02
Yamhill:	
Service area: Willamina	01
Service area: Woodburn—Marion Migrant area	01

Service Area Listing

Service area name	Degree of shortage group
Bly	1
County—Klamath:	
Parts of County:	
Langell CCD	
Brownville	1
County—Linn:	
Parts of County	
Brownville CCD	
Cave Junction	1
County—Josephine:	
Parts of County:	
Cave Junction CCD	
Chiloquin	1
County—Klamath:	
Parts of County:	
Chiloquin CCD	
Estacada	4
County—Clackamas:	
Parts of County:	
Highland CCD	
Mount Hood CCD	
Estacada CCD	
Halfway	
County—Baker:	
Parts of county:	
Halfway CCD	
Eagle Valley CCD	
Jackson—Northeast Section	2
County—Jackson:	
Parts of County:	
Prospect CCD	
Shady Cove CCD	
Butte Falls CCD	
La Pine	2
County—Deschutes:	
Parts of County:	
Sisters—Mulligan CCD South of Sunriver	
County—Klamath:	
Parts of County:	
Crescent Lake CCD	
County—Lake:	
Parts of County:	
Silver Lake—Fort Rock CCD	
McKenzie	1
County—Lane:	
Parts of County:	
C.T. 1 (McKenzie)	
Northeast Portland	1
County—Multnomah:	
Parts of County:	
C.T. 33.01	
C.T. 33.02	
C.T. 34.01	
C.T. 34.02	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 37.01	
C.T. 37.02	
C.T. 38.01	
C.T. 38.02	
C.T. 38.03	
C.T. 39.01	
C.T. 38.02	
C.T. 40.01	
C.T. 40.02	
NYSSA	3
County—Canyon (Idaho):	
Parts of County:	
Parma Division	
Wilder Division	
Notus Division	
County—Malheur:	
Parts of County:	
Adrian Division	
NYSSA	3
County—Malheur:	
Parts of County:	
NYSSA Division	
Owyhee Division	
Powers	1
County—COOS:	
Parts of County:	
Powers CCD	
County—Curry:	
Parts of County:	
Agness	
Reedsport	3
County—COOS:	
Parts of County:	
North Part of North Bayside CCD	
County—Douglas:	
Parts of County:	
Reedsport CCD	
County—Lane:	
Parts of County:	
South Part South Siuslaw CCD	
Rogue River—Gold Hill	2
County—Jackson:	
Parts of County:	
Evans Valley CCD	
Foots Creek CCD	
Seaside area	3
County—Clatsop:	
Parts of County:	
Clatsop Plains CCD	
Lewis and Clark CCD	
Seaside Rural CCD	
Seaside CCD	
Sweet Home	1
County—Linn:	
Parts of County:	
Sweet Home CCD	
South Sweet Home CCD	
West Sweet Home CCD	
North Sweet Home CCD	
Cascadia CCD	
Tri-County	2
County—Gilliam	
County—Morrow	
County—Wheeler	
Union	1
County—Union:	
Parts of County:	
Elgin CCD	
County—Wallowa:	
Parts of County:	
Town of Minam in Wallowa CCD	
Vernonia	1
County—Columbia:	
Parts of County:	
Veronia CCD	
Washington County Migrants	4
County—Washington:	
Parts of County:	
Migrant Population	
West Benton	1
County—Benton:	
Parts of County:	
Blodgett CCD	
Alsea CCD	
Philomath CCD	
County—Lincoln:	
Parts of County:	
Eddyville CCD	
West Salem	1
County—Marion:	
Parts of County:	
C.T. 51	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 52	
Willamina	1
County—Polk:	
Parts of County:	
Willamina CCD	
County—Yamhill:	
Parts of County:	
Willamina CCD	
Woodburn	3
County—Marion:	
Parts of County:	
Hubbard CCD	
Woodburn CCD	
Gervais CCD	
St. Paul CCD	
Woodburn-Marion Migrant area	1
County—Clackamas:	
Parts of County:	
Migrant population	
County—Marion:	
Parts of County:	
Migrant population	
County—Polk:	
Parts of County:	
Migrant population	
County—Yamhill:	
Parts of County:	
Migrant population	

PENNSYLVANIA

County Listing

County name	Degree of shortage group
Adams:	
Service area: North Adams	03
Allegheny:	
Service area: Homewood-Brushton	04
Armstrong:	
Service area: Armstrong-Clarion	01
Service area: Dayton Rural Valley MSA	01
Service area: Kiski Valley	02
Service area: Punxsutawney	02
Butler:	
Service Area: Butler—Northeast Portion	02
Cambria:	
Service area: South Central Clearfield Co.	03
Cameron	01
Carbon:	
Service area: Kidder	01
Service area: Snow Shoe	02
Service area: Penns Valley	04
Service area: Bellafonte/Howard	03
Chester:	
Service area: South Western Chester	03
Clarion:	
Service area: Forest-Clarion	01
Service area: Armstrong-Clarion	01
Clearfield:	
Service area: Snow Shoe	02
Service area: South Central Clearfield Co.	03
Clinton:	
Service area: Renovo	02
Service area: Bellafonte/Howard	03
Columbia:	
Service area: Benton-Millville	04
Crawford:	
Service area: East Crawford County	01
Dauphin:	
Service area: Williamstown	01
Delaware:	
Service area: City of Chester	03
Erie:	
Service area: Southern Erie	02
Service area: North East	01
Fayette:	
Service area: Greensboro	01
Forest	01
Franklin:	
Service area: Valleys Community MSA	01
Fulton	01

PENNSYLVANIA—Continued

County name	Degree of shortage group
Greene:	
Service area: Greensboro	01
Service area: West Greene	01
Huntingdon	03
Indiana:	
Service area: Indiana—North Portion	01
Service area: Punxsutawney	02
Jefferson	
Juniata:	
Service area: Juniata County Service area	03
Service area: Millerstown	01
Service area: Mount Pleasant Mills-Middleburg	04
Lackawanna:	
Service area: Moscow	02
Lancaster:	
Service area: Welsh Mountain MSA	01
Lebanon:	
Service area: Northern Lebanon Co	01
Luzerne:	
Service area: Kidder	01
Service area: Benton-Millville	04
Service area: Exeter	01
Service area: Pittston	03
Service area: Mountaintop	02
Lycoming:	
Service area: Northern Lycoming	01
Service area: Benton-Millville	04
McKean:	
Service area: Shinglehouse	01
Service area: Central McKean County	02
Monroe:	
Service area: Kidder	01
Northumberland:	
Service area: Herndon-Mandata	02
Perry:	
Service area: Millerstown	01
Service area: Western Perry County	03
Philadelphia:	
Service area: North Philadelphia	02
Service area: Covenant House area	01
Service area: South Philadelphia	04
Pike	04
Potter:	
Service area: Austin-Emporium	01
Service area: Galeton	04
Service area: Shinglehouse	01
Schuylkill:	
Service area: Herndon-Mandata	02
Service area: Tremont/Pine Grove	03
Snyder:	
Service area: Mt. Pleasant mills-Middleburg	04
Sullivan:	
Service area: Northwest Sullivan	01
Service area: Benton-Millville	04
Susquehanna:	
Service area: Barnes-Kasson	02
Tioga:	
Service area: Northern Lycoming	01
Service area: Blossburg	02
Washington:	
Service area: Burgettstown	02
Wayne	03
Westmoreland:	
Service area: Kiski Valley	02
Wyoming:	
Service area: Exeter	01
York:	
Service area: York MSA	02

Service Area Listing

Service area name	Degree of shortage group
Armstrong-Clarion	1
County—Armstrong:	
Parts of county:	
Brady's Bend Township	
Madison Township	
Perry Township	
Pine Township	
Sugarcreek Township	
Washington Township	
County—Clarion:	
Parts of county:	
Brady Township	
East Brady Township	
Madison Township	
Austin-Emporium	1
County—Cameron	
County—Potter:	
Parts of County:	
Austin Township	
Keating Township	
Portage Township	
Sylvania Township	
Wharton Township	
Barnes-Kasson	2
County—Susquehanna:	
Parts of County:	
East of U.S. Interstate 81	
Bellafonte/Howard	3
County—Centre:	
Parts of county:	
Bellefonte Borough	
Howard Borough	
Milesburg Borough	
Boggs Township	
Curtin Township	
Howard Township	
Liberty Township	
Marion Township	
Spring Township	
Walker Township	
County—Clinton:	
Parts of County:	
Beech Creek Borough	
Beech Creek Township	
Benton-Millville	4
County—Columbia:	
Parts of County:	
Benton Borough	
Benton Township	
Fishing Creek Township	
Greenwood Township	
Jackson Township	
Madison Township (Northern two-thirds)	
Millville Borough	
Mt. Pleasant Township	
Orange Township (Northern one-third)	
Pine Township	
Stillwater Borough	
Sugarloaf Township	
County—Luzerne:	
Parts of County:	
Fairmont Township	
Huntington Township	
New Columbus Borough	
County—Lycoming:	
Parts of County:	
Franklin Township (Southern one-third)	
Jordan Township	
County—Sullivan:	
Parts of County:	
Davidson Township	
Blossburg	2
County—Tioga:	
Parts of County:	
Blossburg Borough	
Bloss Township	
Covington Township	
Duncan Township	
Hamilton Township	
Liberty Borough	
Eastern Half Liberty Township	
Putnam Borough	
Union Township	
Ward Township	
Burgettstown	2
County—Washington:	
Parts of County:	
Hanover Township	
RobinsonTownship	
Smith Township	
Mount Pleasant Township	
Jefferson Township	
Cross Creek Township	
Independence Township	
Hopewell Township	
Burgettstown Borough	
Midway Borough	
McDonald Borough	
West Middletown Borough	
Butler—Northeast Portion	2
County—Butler:	
Parts of County:	
Venango Township	
Allegheny Township	
Washington Township	
Parker Township	
Concord Township	
Fairview Township	
Oakland Township	
Donegal Township	
Cherry Valley Borough	
Eau Claire Borough	
Bruin Borough	
Fairview Borough	
Petrolia Borough	
Karns City Borough	
Chicora Borough	
Central McKean County	2
County—McKean:	
Parts of county:	
Otoo Township	
Keating Township	
Hamlin Township	
Sergeant Township	
Norwich Township	
City of Chester	3
County—Delaware:	
Parts of county:	
C.T. 4051	
C.T. 4052	
C.T. 4053	
C.T. 4054	
C.T. 4055	
C.T. 4056	
C.T. 4057	
C.T. 4060	
C.T. 4048	
C.T. 4049.01	
C.T. 4049.02	
C.T. 4050	
C.T. 4058.01	
C.T. 4058.02	
C.T. 4059	
Covenant House Area	1
County—Philadelphia:	
Parts of county:	
C.T. 248	
C.T. 249	
C.T. 250	
C.T. 251	
C.T. 252	
C.T. 253	
C.T. 254	
Dayton Rural Valley MSA	1
County—Armstrong:	
Parts of county:	
Redbank Township (two-thirds western portion)	
Wayne Township	
Cowanshannock Township	
Dayton Borough	
Rural Valley Borough	
Atwood Borough	
East Crawford County	1
County—Crawford:	
Parts of county:	
Athens Township	
Bloomfield Township	
Rockdale Township	
Rome Township	
Sparta Township	
Steuben Township	
Centerville Borough	
Townville Borough	
Spartansburg Borough	
Exeter	1
County—Luzerne:	
Parts of county:	
Exeter Borough	
West Wyoming	
Franklin Township	

Service Area Listing—Continued

Service area name	Degree of shortage group
Exeter Township	
County—Wyoming:	
Parts of county:	
Exeter Township	
Falls Township	
Forest-Clarion	1
County—Clarion:	
Parts of county:	
Farmington	
Washington	
Knox	
County—Forest	
Galeton	4
County—Potter:	
Parts of county:	
Galeton Borough	
Pike Township	
Ulysses Township	
West Branch Township	
Abbott Township	
Stewardson Township	
Greensboro	1
County—Fayette:	
Parts of county:	
Point Marion Borough	
German Township	
Nicholson Township	
Springhill Township	
County—Greene:	
Parts of county:	
Dunkard Township	
Greene Township	
Monongahela Township	
Greensboro Borough	
Herndon-Mandata	2
County—Northumberland:	
Parts of county:	
Little Mahanoy Township	
Washington Township	
Upper Mahanoy Township	
West Cameron Township	
Jackson Township	
Herndon Borough	
Jordon Township	
Lower Mahannoy Township	
County—Schuylkill:	
Parts of county:	
Eldred Township	
Upper Mahantango Township	
Homewood—Brushton	4
County—Allegheny:	
Parts of county:	
C.T. 1207	
C.T. 1301	
C.T. 1302	
C.T. 1303	
C.T. 1304	
C.T. 1305	
Indiana—North portion	1
County—Indiana:	
Parts of county:	
South Mahoning Township	
East Mahoning Township	
Grant Township	
Montgomery Township	
Washington Township	
Rayne Township	
Green Township	
Pine Township	
Glen Campbell Borough	
Cherry Tree Borough	
Marion Center Borough	
Plumville Borough	
Clymer Borough	
Juniata County Service Area	3
County—Juniata:	
Parts of county:	
Mifflin Borough	
Mifflintown Borough	
Port Royal Borough	
Fayette Township	
Fermanagh Township	
Milford Township	
Turbett Township	
Walker Township	
Lack Township	
Tuscarora Township	
Beale Township	
Spruce Hill Township	
Kidder	1
County—Carbon:	
Parts of county:	
East Side	
Kidder	
Penn Forest	
Lausanne	
Lehigh	
County—Luzerne:	
Parts of county:	
White Haven Borough	
Buck Township	
Foster Township	
County—Monroe:	
Parts of county:	
Coolbough Township	
Tobyhanna Township	
Townkannock Township	
Kiski Valley	2
County—Armstrong:	
Parts of county:	
Apollo Borough	
Bethel Township	
Burrel Township	
Gilpin Township	
Kiskiminitas Township	
Leechburg Borough	
North Apollo Borough	
Parks Township	
South Bend Township	
County—Westmoreland:	
Parts of county:	
Allegheny Township	
Avonmore Borough	
Bell Township	
East Vandergrift Borough	
Hyde Park Borough	
Vandergrift Borough	
Washington Township	
West Leechburg Borough	
McKees Rocks-Stowe	1
County—Allegheny:	
Parts of county:	
C.T. 4621 (Stowe Township)	
C.T. 4622 (Stowe Township)	
C.T. 4623 (Stowe Township)	
C.T. 4624 (Stowe Township)	
C.T. 4625 (Stowe Township)	
C.T. 4631 (McKees Rocks Borough)	
C.T. 4632 (McKees Rocks Borough)	
C.T. 4633 (McKees Rocks Borough)	
C.T. 4634 (McKees Rocks Borough)	
C.T. 4635 (McKees Rocks Borough)	
C.T. 4636 (McKees Rocks Borough)	
Millerstown	1
County—Juniata:	
Parts of county:	
Greenwood Township	
Delaware Township	
Thompsontown Borough	
County—Perry:	
Parts of county:	
Tuscarora Township	
Greenwood Township	
Liverpool Township	
Liverpool Borough	
Millerstown Borough	
Moscow	2
County—Lackawanna:	
Parts of county:	
Elmhurst Township	
Moscow Borough	
Covington Township	
Springbrook Township	
Roaring Brook Township	
Madison Township	
Jefferson Township	
Clifton Township	
Lehigh Township	
Mountaintop	2
County—Luzerne:	
Parts of county:	
Dennison Township	
Wright Township	
Fairview Township	
Rice Township	
Dorrance Township	
Slocum Township	
Naungola Township	
Mount Pleasant Mills-Middleburg	4
County—Juniata:	
Parts of county:	
Monroe Township	
County—Snyder:	
Parts of county:	
Washington Township	
Union Township	
Freeburg Borough	
Beaver Township	
Beavertown Borough	
Chapman Township	
Franklin Township	
Centre Township	
Middleburg Township	
Perry Township	
West Perry Township	
North Adams	3
County—Adams:	
Parts of county:	
Menallen Township	
Tyrone Township	
Huntington Township	
Butler Township	
Arendtsville Borough	
Bendersville Borough	
Biglerville Borough	
York Springs Borough	
North East	1
County—Erie:	
Parts of county:	
C.T. 116 (North East Borough)	
C.T. 117 (Northeast and Greenfield Town)	
North Philadelphia	2
County—Philadelphia:	
Parts of county:	
C.T. 137	
C.T. 138	
C.T. 139	
C.T. 140	
C.T. 147	
C.T. 148	
C.T. 149	
C.T. 151	
C.T. 152	
C.T. 153	
C.T. 167	
C.T. 168	
C.T. 169	
C.T. 171	
C.T. 172	
Northern Lebanon County	1
County—Lebanon:	
Parts of county:	
Cold Spring Township	
East Hanover Township	
Union Township	
Swatara Township	
Bethel Township	
Jonestown Borough	
Northern Lycoming	1
County—Lycoming:	
Parts of county:	
Cogan House Township	
Jackson Township	
Pine Township	
Cummings Township (Northern two-thirds)	
Plunkett's Creek Township (northwest one-half)	
Cummings Township	
McHenry Township	
Brown Township	
Pine Township	
Lewis Township (Northern two-thirds)	
McIntyre Township	
McNett Township	
Cascade Township	
Gamble Township	
County—Tioga:	
Parts of county:	
Elk Township	
Morris Township	

Service Area Listing—Continued

Service area name	Degree of shortage group
Liberty Township (Western one-half)	
Northwest Sullivan	1
County—Sullivan:	
Parts of county:	
Forks	
Elkland	
Hillsgrove	
Fox	
Penns Valley	4
County—Centre:	
Parts of county:	
Potter Township	
Penn Township	
Greg Township	
Center Hall Borough	
Millheim Borough	
Miles Township	
Haines Township	
Pittston	3
County—Luzerne:	
Parts of county:	
Pittston Township	
Dupont Borough	
Hughestown Borough	
Pittston City	
Jenkins Township	
Duryea Borough	
Avoca Borough	
Laflin Borough	
Yatesville Borough	
Punxsutawney	2
County—Armstrong:	
Parts of county:	
Redbank Township (Eastern one-third)	
County—Indiana:	
Parts of county:	
Banks Township (Northern two-thirds)	
Canoe Township (Northern two-thirds)	
Northern Mahoning (Northern one-half)	
Smicksburg Borough	
West Mahoning Township (Northern one-half)	
County—Jefferson:	
Parts of county:	
Bell Township	
Beaver Township (Southern one-half)	
Big Run Borough	
Gaskill Township	
Henderson Township	
Oliver Township	
Perry Township	
Porter Township	
Punxsutawney Borough	
Riggold Township	
Timblin Borough	
Worthville Borough	
Young Township	
Renovo	2
County—Clinton:	
Parts of county:	
Noyes Township	
East Keating Township	
Renovo Borough	
South Renovo Borough	
Leidy Township	
Chapman Township	
South Central Clearfield County	3
County—Cambria:	
Parts of county:	
Reade Township (Western two-thirds)	
White Township	
County—Clearfield:	
Parts of county:	
Coalport Borough	
Glen Hope Borough	
Irvona Borough	
Ramey Borough	
Westover Borough	
Beccaria Township	
Bigler Township	
Chest Township	

Service Area Listing—Continued

Service area name	Degree of shortage group
Gulich Township	
Jordan Township	
Shinglehouse	1
County—McKean:	
Parts of county:	
Ceres Township	
Eldred Township	
County—Potter:	
Parts of county:	
Shinglehouse Borough	
Sharon Township	
Oswayo Township	
Oswayo Borough	
Genesee Township	
Pleasant Valley Township	
Clara Township	
Snow Shoe	2
County—Centre:	
Parts of county:	
Curtin Township	
Unionville Borough	
Snow Shoe Township	
Snow Shoe Borough	
Burnside Township	
Boggs Township	
Union Township	
County—Clearfield:	
Parts of county:	
Cooper Township (Northern two-thirds)	
Covington Township	
Karthaus Township	
South Philadelphia	4
County—Philadelphia:	
Parts of county:	
C.T. 13	
C.T. 14	
C.T. 19	
C.T. 20	
C.T. 21	
C.T. 22	
C.T. 33	
South Western Chester	3
County—Chester:	
Parts of county:	
C.T. 3062	
C.T. 3079	
C.T. 3080	
C.T. 3081	
C.T. 3082	
C.T. 3061	
C.T. 3077	
Southern Erie	2
County—Erie:	
Parts of county:	
Cranesville Borough	
Albion Borough	
Platea Borough	
Conneaut Township	
Elk Creek Township	
Franklin Township	
Springfield Township	
Tremont/Pine Grove	3
County—Schuylkill:	
Parts of county:	
Tremont Borough	
Tremont Township	
Frailey Township	
Porter Township	
Pine Grove Township	
Washington Township	
Pine Grove Township	
Hegins Township	
Barry Township	
Gibbley Township	
Tower City Borough	
Valleys Community MSA	1
County—Franklin:	
Parts of county:	
Fannet Township	
Metal Township	
Welsh Mountain MSA	1
County—Lancaster:	
Parts of county:	
Salisbury Township	
Caernarvon	
Earl	
East Earl	

Service Area Listing—Continued

Service area name	Degree of shortage group
West Greene	1
County—Greene:	
Parts of county:	
Aleppo Township	
Gilmore Township	
Gray Township	
Jackson Township	
Richhill Township	
Spinghill Township	
Center Township	
Freeport Township	
Morris Township	
Washington Township	
Wayne Township	
Western Perry County	3
County—Perry:	
Parts of county:	
Blain Borough	
Bloomfield Borough	
Carroll Township	
Centre Township	
Jackson Township	
Juniata Township	
Landisbury Borough	
N.E. Madison Township	
Saville Township	
S.W. Madison Township	
Spring Township	
Toboyne Township	
Tyrone Township	
Wheatfield Township	
Williamstown	1
County—Dauphin:	
Parts of county:	
Upper Paxton Township	
Millersburg Borough	
Mifflin Township	
Berrysburg Borough	
Washington Township	
Elizabethville Borough	
Jackson Township	
Jefferon Township	
Wayne Township	
Reed Township	
Halifax Township	
Halifax Borough	
Williamstown Borough	
Williams Township	
Lykens Township	
Gratz Borough	
Wiconisco Township	
Lykens Borough	
York MSA	2
County—York:	
Parts of county:	
C.T. 1	
C.T. 2	
C.T. 3	
C.T. 5	
C.T. 7	
C.T. 10	
C.T. 15	
C.T. 16	

RHODE ISLAND

County Listing

County name	Degree of shortage group
Providence:	
Service area: Oineyville	02
Washington:	
Service area: Hope Valley	02

Service Area Listing

Service area name	Degree of shortage group
Hope Valley	2
County—Washington:	
Parts of county:	
Charlestown:	
Exeter	
Hopkinton	
Richmond	
Oineyville	2
County—Providence:	
Parts of county:	
C.T. 16	
C.T. 17	
C.T. 18	
C.T. 19	
C.T. 20	
C.T. 21	
C.T. 22	

SOUTH CAROLINA

County Listing

County name	Degree of shortage group
Abbeville	03
Allendale	01
Beaufort:	
Service area: St. Helena	01
Berkley:	
Service area: Orangeburg	01
Calhoun	03
Charleston:	
Service area: Sea Island Comprehensive Health Care Corp	01
Chester	03
Chesterfield	04
Dorchester:	
Service area: Orangeburg	01
Edgefield	04
Fairfield	01
Florence:	
Service area: Brittons Neck	01
Horry	
Jasper	01
Laurens	04
McCormick	03
Marion	
Newberry	04
Orangeburg:	
Service area: Orangeburg	01
Service area: Richland Service Area	01
Saluda	02
York:	
Service area: Western York Co	02

Service Area Listing

Service area name	Degree of shortage group
Brittons Neck	1
County—Florence:	
Parts of county:	
Johnsonville	
County—Horry:	
Parts of county:	
Aynor South	
Aynor North CCD	
County—Marion:	
Parts of county:	
Brittons Neck CCD	
Centenary CCD	
Orangeburg	1
County—Berkley:	
Parts of county:	
Croso Division	
County—Dorchester:	
Parts of county:	
Harleyville Division	
County—Orangeburg:	

Service Area Listing—Continued

Service area name	Degree of shortage group
Parts of county:	
Elloree Division	
Bowman Division	
Holly Hill Division	
Eutaville Division	
Vance Division	
Richland Serice Area	1
County—Richland:	
Parts of county:	
C.T. 118	
C.T. 119.02	
C.T. 120	
Sea Island Comprehensive Health Care Corp	1
County—Charleston:	
Parts of county:	
C.T. 19.01	
C.T. 19.02	
C.T. 20.01	
C.T. 20.02	
C.T. 20.03	
C.T. 20.04	
C.T. 21.01	
C.T. 21.02	
C.T. 22	
C.T. 23	
C.T. 24	
C.T. 25	
St. Helena	1
County—Beaufort:	
Parts of county:	
St. Helena	
Western York County	2
County—York:	
Parts of county:	
C.T. 14	
C.T. 15	
C.T. 16	
C.T. 19	
E.D. 9 (of C.T. 17)	

SOUTH DAKOTA

County Listing

County name	Degree of shortage group
Aurora	01
Bennett	04
Bon Homme	03
Buffalo	01
Campbell	01
Charles Mix:	
Service area: Lake Andes	03
Clark	01
Clay	02
Corson	01
Custer	02
Day	01
Deuel	
Devel:	
Service area: Deuel	01
Dewey	01
Douglas	03
Edmunds	02
Faulk	04
Grant	
Gregory:	
Service area: Lake Andes	03
Haakon	01
Hamlin	01
Hanson	01
Hardin	01
Hyde	01
Jackson:	
Service area: Phillip	01
Jerauld	01
Jones	01
Lake	
Lincoln	04
Lincoln:	
Service area: South Dakota State Penitentiary	02

SOUTH DAKOTA—Continued

County name	Degree of shortage group
Lyman	01
McCook	03
McPherson	01
Mead	04
Mellette	01
Miner	02
Moody	04
Pennington:	
Service area: Phillip	01
Perkins	01
Roberts	01
Sanborn	01
Shannon	01
Spink:	
Service area: Redfield State Hospital and School	01
Stanley	01
Sully	01
Todd	03
Tripp	03
Turner	04
Union	01
Washabaugh	01
Yankton:	
Service area: Human Services Center	03
Ziebach	01

Service Area Listing

Service area name	Degree of shortage group
Buffalo-Jerauld	1
County—Buffalo	
County—Jerauld	
Deuel	1
County—Deuel:	
Parts of county:	
Altamont Town	
Altamont Township	
Antelope Valley Township	
Astoria Town	
Biom Township	
Brandt Town	
Brandt Township	
Clear Lake City	
Clear Lake Township	
Glenwood Township	
Goodwin Town	
Goodwin Township	
Grange Township	
Havana Township	
Hidewood Township	
Lowe Township	
Portland Township	
Rome Township	
Scandinavia Township	
Toronto Township	
Human Services Center	3
County—Yankton:	
Parts of county:	
Human Services Center	
Lake Andes	3
County—Charles Mix:	
Parts of county:	
Kennedy Township	
White Swan Township	
Plain Center Township	
Wagner City	
Choteau Creek Township	
Highland Township	
Lawrence Township	
Wahene Township	
Hamilton Township	
Signal Township	
Rhoda Township	
Moore Township	
Jackson Township	
Goose Lake Township	
Howard Township	
Lone Tree Township	
Ree Township	
Rouse Township	
County—Gregory:	
Parts of county:	

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Service Area Listing—Continued

Service area name	Degree of shortage group
Fairfax Township	
Pleasant Valley Township, Whetstone Township	
Schriever Township	
Star Valley Township	
Unorganized territory, Southeast Gregory	
St. Charles Township	
Unorganized territory, East Gregory	
Elliston Township	
Phillip	1
County—Haakon	
County—Jackson:	
Parts of county:	
Unorganized territory of East Jackson	
Unorganized territory of Brady	
Grandview Township	
Jewett Township	
Cottonwood Township	
Indian Creek Township	
Big Buffalo Township	
Little Buffalo Township	
Kadoka City	
Kadoka Township	
Belvidere Township	
Belvidere Town	
County—Lake:	
Parts of county:	
Unorganized territory of Northwestern Jackson	
County—Pennington:	
Parts of county:	
Peno Township	
Cowanka Township	
Wasta Township	
Lake Flat Township	
Lake Hill Township	
Lake Creek Township	
Conata Township	
Wall Town	
Quinn Township	
Imley Township	
Wasta Town	
Quinn Town	
Unorganized territory of Northeastern Pennington	
Unorganized territory of Dalzell Canyon	
Unorganized territory of Badlands	
Flat Butte Township	
Cheyenne Township	
Rainy Creek Township	
Sunnyside Township	
Ash Township	
Shyne Township	
Crooked Creek Township	
Castle Butte Township	
Cedar Butte Township	
Redfield State Hospital and School	1
County—Spink:	
Parts of county:	
Redfield State Hospital and School	
South Dakota State Penitentiary	2
County—Lincoln:	
Parts of county:	
State Penitentiary	
Turner-Lincoln	4
County—Lincoln	
County—Turner	

TENNESSEE

County Listing

County name	Degree of shortage group
Campbell	04
Cheatham	02
Chester	03
Claiborne	03
Clay	04
Cocke	01
Crockett	03

TENNESSEE—Continued

County name	Degree of shortage group
Decatur	01
Fayette	03
Fentress	03
Grainger	01
Hardeman	03
Hardin	02
Haywood	02
Henderson	04
Hickman	02
Lake	02
Lauderdale	02
McNairy	02
Macon	03
Monroe	03
Morgan	01
Pickett	02
Polk:	
Service area: West Polk County	01
Roane	04
Scott	04
Sevier	04
Stewart	02
Tipton	02
Union	01
Van Buren	02
Warren	04
Wayne	01
Weakley	03
White	03

Service Area Listing

Service area name	Degree of shortage group
West Polk County	1
County—Polk:	
Parts of County:	
Benton Division (Enumerated District 1–4)	
Parksville Division (Enumerated District 5–7)	

TEXAS

County Listing

County name	Degree of shortage group
Atascosa	04
Bandera	02
Bee	04
Bexar:	
Service area: East side (San Antonio)	02
Service area: Southern rural Bexar (San Antonio)	01
Service area: South side (San Antonio)	01
Service area: West side (San Antonio)	01
Castro	01
Collin	04
Cooke	04
Crosby	02
Dallas:	
Service area: Fair Park/White Rock Creek Industrial	01
Service area: South Dallas	02
Service area: Trinity	01
Service area: Lisbon	01
Service area: Simpson Sterat	01
Deaf Smith	04
Dickens	02
Donley	04
Ellis	04
Floyd	03
Hardin	02
Hunt	03
Jeff Davis	03
King	02
Kinney	03
La Salle	02
Liberty	04

TEXAS—Continued

County name	Degree of shortage group
Lipscomb	02
Lynn	03
Maverick	04
Medina	04
Mills	03
Montgomery	04
Newton	04
Polk	03
Presidio	01
Rains	03
Sabine	01
San Jacinto	04
San Saba	03
Trinity	04
Van Zandt	02
Walker	01
Waller	02
Webb	03
Wise	03
Yoakum	02
Zavala	

Service Area Listing

Service area name	Degree of shortage group
Dickens-King	3
County—Dickens	
County—King	
East Side (San Antonio)	2
County—Bexar:	
Parts of county:	
C.T. 1301	
C.T. 1303	
C.T. 1304	
C.T. 1305	
C.T. 1306	
C.T. 1307	
C.T. 1308	
C.T. 1309	
C.T. 1310	
C.T. 1311	
C.T. 1312	
C.T. 1313	
Fair Park/White Rock Creek Industrial	1
County—Dallas:	
Parts of county:	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	
C.T. 93.02	
C.T. 115	
Lisbon	1
County—Dallas:	
Parts of county:	
C.T. 56	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 87.01	
C.T. 87.02	
C.T. 88	
Presidio-Jeff Davis	3
County—Jeff Davis	
County—Presidio	
San Saba-Mills	4
County—Mills	
County—San Saba	
Simpson Sterat	1
County—Dallas:	
Parts of county:	
C.T. 112	
C.T. 113	
C.T. 114.01	
C.T. 114.02	
C.T. 167.01	
C.T. 167.02	
C.T. 169.01	
C.T. 169.02	
South Dallas	2
County—Dallas:	

VIRGINIA—Continued

County name	Degree of shortage group
Parts of county:	
C.T. 29	
C.T. 30	
C.T. 31.02	
C.T. 32.02	
C.T. 33	
C.T. 34	
C.T. 35	
C.T. 36	
C.T. 37	
C.T. 38	
C.T. 39.01	
C.T. 39.02	
C.T. 40	
South side (San Antonio)	1
County—Bexar:	
Parts of county:	
C.T. 1501	
C.T. 1503	
C.T. 1504	
C.T. 1505	
C.T. 1506	
C.T. 1507	
C.T. 1510	
C.T. 1601	
C.T. 1602	
C.T. 1603	
C.T. 1604	
C.T. 1605	
Southern rural Bexar (San Antonio)	1
County—Bexar:	
Parts of county:	
C.T. 1314	
C.T. 1315	
C.T. 1316	
C.T. 1318	
C.T. 1416	
C.T. 1417	
C.T. 1418	
C.T. 1419	
C.T. 1519	
C.T. 1520	
C.T. 1521	
C.T. 1522	
C.T. 1610	
C.T. 1611	
C.T. 1612	
C.T. 1619	
C.T. 1620	
Trinity	1
County—Dallas:	
Parts of county:	
C.T. 41	
C.T. 49	
C.T. 54	
C.T. 55	
C.T. 86	
C.T. 89	
West side (San Antonio)	1
County—Bexar:	
Parts of county:	
C.T. 1606	
C.T. 1607	
C.T. 1701	
C.T. 1703	
C.T. 1704	
C.T. 1707	
C.T. 1708	
C.T. 1709	
C.T. 1710	
C.T. 1711	
C.T. 1712	
C.T. 1715	
C.T. 1716	

UTAH

County Listing

County name	Degree of shortage group
Daggett	01
Piute	01
Rich	01

UTAH—Continued

County name	Degree of shortage group
Tooele	03
Wayne	01

VERMONT

County Listing

County Name	Degree of shortage group
ADDISON:	
Service area: Route 100	01
Service area: Otter Creek Valley	01
BENNINGTON:	
Service area: Londonderry MSA	03
CALEDONIA:	
Service area: Hardwick	03
ESSEX:	
Service area: Essex	03
GRAND ISLE	03
LAMOILLE:	
Service area: Hardwick	04
ORLEANS	
RUTLAND:	
Service area: Black River Valley	01
Service area: Route 100	01
Service area: Otter Creek Valley	01
WASHINGTON:	
Service area: Hardwick	03
WINDHAM:	
Service area: West River Valley	01
Service area: Londonderry MAS	03
WINDSOR:	
Service area: Black River Valley	01
Service area: Route 100	01
Service area: Londonderry MSA	03

Service Area Listing

Service area name	Degree of shortage group
Black River Valley	1
County—Rutland:	
Parts of county:	
Mount Holly Town	
County—Windsor:	
Parts of county:	
Cavendish	
Ludlow	
Reading Town	
Weatersfield Town	
Essex	3
County—Essex:	
Parts of county	
Brighton Town	
Concord Town	
East Haven Town	
Ferdinand Township	
Granby Town	
Guildhall Town	
Lewis Township	
Lunenburg Town	
Maidstone Town	
Victory Town	
Hardwick	3
County—Caledonia:	
Parts of county:	
Danville	
Peacham Town	
Hardwick	
Walden	
County—Lamoille:	
Parts of county:	
Wolcott	
Elmore	
County—Orleans:	
Parts of county:	
Greensboro	
Craftbury	
County—Washington:	
Parts of county:	
Calais Town	
Hardwick	3
County—Washington:	
Parts of county:	
East Montpelier Town	
Plainfield Town	
Marshfield Town	
Woodbury	
Cabot	
Londonderry MSA	3
County—Bennington:	
Parts of county:	
Landgrove Town	
Peru Town	
Winhall Town	
County—Windham:	
Parts of county:	
Londonderry Town	
County—Windsor:	
Parts of county:	
Weston Town	
Otter Creek Valley	1
County—Addison:	
Parts of county:	
Leicester Town	
Goshen Town	
Orwell Town	
Whiting Town	
Shoreham Town	
County—Rutland:	
Parts of county:	
Brandon Town	
Hubbardton Town	
Pittsford Town	
Sudbury Town	
Route 100	
County—Addison:	
Parts of county:	
Hancock Town	
Granville Town	
County—Rutland	
Parts of county:	
Pittsfield Town	
County—Windsor:	
Parts of county:	
Rochester Town	
Stockbridge Town	
West River Valley	1
County—Windham:	
Parts of county:	
Jamaica	
Newfane	
Stratton	
Townshend	
Wardsboro	
Windham	

VIRGINIA

County Listing

County name	Degree of shortage group
Accomack	04
Amelia	03
Bland	01
Botetourt	02
Brunswick	01
Buchanan	01
Caroline	02
Carroll:	
Service area: Hillsville	02
Charles City	01
Charlotte:	
Service area: Drakes Branch Medical Service Area	01
Craig	02
Dickenson	03
Elizabeth City:	
Service area: East End	02
Floyd	01
Franklin	04
Grayson:	
Service area: Troutdale	01
Greene	03

VIRGINIA—Continued

County name	Degree of shortage group
Hanover	04
Isle of Wight	02
King and Queen	01
King George	03
King William:	
Service area: Northern King William	01
Louisa	04
Lunenburg	01
Madison	02
Middlesex	04
Nelson	02
New Kent	01
Northampton	04
Page	03
Patrick	03
Pittsylvania	04
Powhatan	02
Richmond	02
Russell	02
Smyth	03
Southampton:	
Service area: Capron	01
Service area: Berlin-Ivor	01
Surry	02
Sussex	03
Westmoreland	03

Service Area Listing

Service area name	Degree of shortage group
Accomack/Northampton	4
County—Accomack	
County—Northampton	
Berlin-Ivor	1
County—Southampton:	
Parts of county:	
Berlin-Ivor	
Capron	1
County—Southampton:	
Parts of County:	
Capron District	
Drewrysville District	
Newsoms District	
Drakes Branch Med. Service Area	1
County—Charlotte:	
Parts of County:	
Bacon District	
Central District	
Roanoke District	
East End	2
County—Elizabeth City:	
Parts of County:	
C.T. 302	
C.T. 303	
C.T. 304	
C.T. 305	
C.T. 306	
C.T. 307	
C.T. 308	
Hillsville	2
County—Carroll:	
Parts of County:	
Laurel Fork District	
Hillsville Town	
Fancy Gap Town	
Northern King William	1
County—King William:	
Parts of County:	
Mongohick District	
Acquiton District	
Troutdale	1
County—Grayson:	
Parts of County:	
Wilson Creek	

WASHINGTON

County Listing

County name	Degree of shortage group
Adams:	
Service area: Migrants in Grant/Adams Counties	02
Service area: Otello	02
Chelan:	
Service area: Chelan-Douglas migrant area	01
Callam:	
Service area: Forks	04
Columbia:	
Service area: Migrant population in Columbia and Walla Walla	01
Cowlitz:	
Service area: Ryderwood	01
Douglas:	
Service area: Chelan-Douglas migrant area	01
Franklin:	
Service area: Otello	02
Grant:	
Service area: Migrants in Grant/Adams Counties	02
Service area: Otello	02
Grays Harbor:	
Service area: McCleary-Elma	02
Jefferson:	
Service area: Forks	04
King:	
Service area: Seattle-Central	03
Service area: South Seattle	02
Service area: Vashon-Maury Islands	02
Service area: Pike Market	04
Service area: Seattle and King Counties jails	02
Kittitas:	
Service area: Cle Elum	03
Klickitat	04
Lewis:	
Service area: Packwood	03
Okanogan:	
Service area: Oroville	01
Service area: Okanogan Valley migrant area	01
Pacific:	
Service area: Raymond/South Bend	03
Pend Oreille	02
Pierce:	
Service area: Long Branch	01
Skagit:	
Service area: Whatcom-Skagit migrant area	04
Skamania	02
Snohobish:	
Service area: Tulalip Tribe-Snohobish County	01
Service area: Darrington	01
Stevens:	
Service area: Chewelah	04
Walla Walla:	
Service area: Migrant population in Columbia and Walla Walla	01
Whatcom:	
Service area: Whatcom-Skagit migrant area	04
Yakima:	
Service area: Lower Yakima Valley migrant area	02

Service Area Listing

Service area name	Degree of shortage group
Chelan-Douglas migrant area	1
County—Chelan:	
Parts of county:	
Migrant population	
County—Douglas:	
Parts of county:	
Migrant population	
Chewelah	4
County—Stevens:	
Parts of county:	

Service Area Listing—Continued

Service area name	Degree of shortage group
CCD No. 4	
CCD No. 6	
Cle Elum	3
County—Kittitas:	
Parts of county:	
CCD No. 2	
CCD No. 3	
CCD No. 4	
CCD No. 5	
CCD No. 6	
Darrington	1
County—Snohomish:	
Parts of county:	
C.T. 537	
Forks	4
County—Callam:	
Parts of county:	
Division 5	
Division 6	
County—Jefferson:	
Parts of county:	
Division 4	
Division 5	
Long Branch	1
County—Pierce:	
Parts of county:	
E.D. 36 of C.T. 72	
E.D. 39A of C.T. 72	
Lower Yakima Valley migrant area	2
County—Yakima:	
Parts of county:	
Migrant population	
McCleary-Elma	2
County—Grays Harbor:	
Parts of county:	
CCD No. 7	
CCD No. 8	
CCD No. 9	
CCD No. 10	
Migrant population in Columbia and Walla Walla	1
County—Columbia:	
Parts of county:	
Migrant population	
County—Walla Walla:	
Parts of county:	
Migrant population	
Migrants in Grant/Adams Counties	4
County—Adams:	
Parts of county:	
Migrant population in Adams County	
County—Grant:	
Parts of county:	
Migrant population in Grant County	
Okanogan Valley migrant area	1
County—Okanogan:	
Parts of county:	
Migrant population	
Oroville	1
County—Okanogan:	
Parts of county:	
CCD No. 1	
CCD No. 2	
CCD No. 3	
CCD No. 4	
CCD No. 11	
Otello	2
County—Adams:	
Parts of county:	
Division 4 (southern one-half)	
Division 5	
Division 8 (western one-third)	
Division 9	
Division 10	
County—Franklin:	
Parts of county:	
Glonnell Division	
Kohlotus Division (northern one-half)	
County—Grant:	
Parts of county:	
Division 14	
Division 16	
Division 17	
Packwood	3
County—Lewis:	
Parts of county:	

Service Area Listing—Continued

Service area name	Degree of shortage group
CCD No. 1	
Pike Market	4
County—King:	
Parts of county:	
C.T. 71	
C.T. 72	
C.T. 80	
C.T. 81	
C.T. 82	
C.T. 83	
Raymond/South Bend	3
County—Pacific:	
Parts of county:	
CCD No. 1	
CCD No. 2	
CCD No. 3	
CCD No. 4	
Raymond CCD	
Ryderwood	1
County—Cowlitz:	
Parts of county:	
Division 3	
Seattle and King Counties, jails	2
County—King:	
Parts of county:	
Seattle and King Counties, jails	
Seattle-Central	3
County—King:	
Parts of county:	
C.T. 74	
C.T. 75	
C.T. 76	
C.T. 77	
C.T. 78	
C.T. 79	
C.T. 87	
C.T. 90	
C.T. 92	
C.T. 73	
C.T. 86	
C.T. 91	
South Seattle	3
County—King:	
Parts of county:	
C.T. 105	
C.T. 106	
C.T. 107	
C.T. 108	
C.T. 109	
C.T. 111	
C.T. 112	
C.T. 100	
C.T. 101	
C.T. 103	
C.T. 107	
C.T. 104	
Tulalip Tribe—Snohobish County	1
County—Snohobish:	
Parts of county:	
Tulalip Tribe	
Vashon-Maury Islands	2
County—King:	
Parts of county:	
Vashon-Maury Islands	
Whatcom-Skagit migrant area	4
County—Skagit:	
Parts of county:	
Migrant population	
County—Whatcom:	
Parts of county:	
Migrant population	

WEST VIRGINIA

County Listing

County name	Degree of shortage group
Boone	03
Cabell:	
Service area: Cabell	01
Calhoun	03
Clay	01
Doddridge	01

WEST VIRGINIA—Continued

County name	Degree of shortage group
Fayette:	
Service area: Fayetteville	01
Gilmer	01
Grant:	
Service area: Mountain Storm	01
Greenbrier:	
Service area: Northern Greenbrier Service area	02
Hamsphire:	
Service area: Capon Bridge	01
Hardy	02
Harrison:	
Service area: Shinnston Service area	02
Jackson	03
Jefferson	01
Kanawha:	
Service area: Kanawha	01
Lewis	01
Lincoln	03
Logan:	
Service area: Chapmanville	02
McDowell	04
Marion:	
Service area: Farmington service area	02
Marshall:	
Service area: Cameron	01
Mason:	
Service area: Mason	01
Mercer:	
Service area: Mercer	01
Mineral:	
Service area: Cabin Run	03
Mingo:	
Service area: Mingo	01
Monogalia:	
Service area: Blacksville	01
Nicholas:	
Service area: Nicholas	01
Pendleton	01
Pleasants:	
Service area: Jefferson	03
Pocahontas	01
Putnam:	
Service area: Teays Valley	02
Raleigh:	
Service area: Northwest service area of Raleigh County	01
Service area: Mountaineer service area of Raleigh County	01
Service area: Gulf service area of Raleigh County	01
Randolph:	
Service area: Middlefork	01
Tyler:	
Service area: Tyler	02
Upshur:	
Service area: Middlefork	01
Wayne	01
Webster	03
Wetzel	03
Wirt	02

Service Area Listing

Service area name	Degree of shortage group
Blacksville	1
County—Monongalia:	
Parts of county:	
Clay	
Battelle	
Cabell	1
County—Cabell:	
Parts of county:	
Gueyandotte	
Union	
Grant	
McComas	
Barboursville	
Cabin Run	3
County—Mineral:	
Parts of county:	
Frankfurt	
Cabin Run	

Service Area Listing—Continued

Service area name	Degree of shortage group
Cameron	1
County—Marshall:	
Parts of county:	
Cameron	
Capon Bridge	1
County—Hampshire:	
Parts of county:	
Bloomery	
Capon	
Sherman	
Gore	
Chapmanville	2
County—Logan:	
Parts of county:	
Guyan	
Farmington service area	2
County—Marion:	
Parts of county:	
Lincoln District	
Fayetteville	1
County—Fayette:	
Parts of county:	
Fayetteville	
Falls	
Quinnimont	
Sewell Mountain	
Nuttall	
Mountain Cove	
Gulf Service area of Raleigh County	1
County—Raleigh:	
Parts of county:	
Trap Hill MCD	
Slab Fork MCD	
Jefferson	3
County—Pleasants:	
Parts of county:	
Grant	
Jefferson	
Lafayette	
McKim	
Union	
Kanawha	1
County—Kanawha:	
Parts of county:	
Big Sandy	
Poca	
Cabin Creek	
Malden	
Chesapeake Town	
Marmet Town	
Washington	
Union	
Washington	
Mason	1
County—Mason:	
Parts of county:	
Arbuckle	
Clendenin	
Cologne	
Copper	
Graham	
Hannan	
Robinson	
Union	
Waggener	
Mercer	1
County—Mercer:	
Parts of county:	
Rock	
Jumping Branch	
Plymouth	
Middlefork	1
County—Randolph:	
Parts of county:	
Middlefork	
County—Upshur:	
Parts of county:	
Meade	
Banks	
Mingo	1
County—Mingo:	
Parts of county:	
Harvey	
Hardee	
Kermit	
Magnolia	
Lee	

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Service Area Listing—Continued

Service area name	Degree of shortage group
Mountaineer service area of Raleigh County	1
County—Raleigh:	
Parts of county:	
Shady Spring MCD	
Richmond MCD	
Mountain Storm	1
County—Grant:	
Parts of county:	
Union	
Nicholas	1
County—Nicholas:	
Parts of county:	
Jefferson	
Grant	
Wilderness	
Summerville	
Hamilton	
Northern Greenbrier service area	2
County—Greenbrier:	
Parts of county:	
Williamsburg	
Falling Springs	
Frankford	
Anthony Creek	
Meadow Bluff	
Northwest service area of Raleigh County	1
County—Raleigh:	
Parts of county:	
Clear Fork MCD	
Marsh Fork MCD	
Shinnston service area	2
County—Harrison:	
Parts of county:	
Clay District	
Eagle District	
Teays Valley	2
County—Putnam:	
Parts of county:	
Scott District	
Teays Valley District	
Tyler	2
County—Tyler:	
Parts of county:	
Centreville	
Ellsworth	
McElroy	
Meade	
Union	

WISCONSIN

County Listing

County name	Degree of shortage group
Adams	03
Brown:	
Service area: Pulaski	01
Service area: Wisconsin State Reformatory	02
Buffalo:	
Service area: Western Buffalo County	01
Service area: Whitehall/Arcadia	01
Calumet	04
Clark	02
Crawford:	
Service area: Kickapoo Valley Area	01
Dodge:	
Service area: Wisconsin Correctional Institution	02
Service area: Wisconsin State Prison	02
Florence:	
Service area: Florence	01
Forest:	
Service area: Forest	04
Jackson:	
Service area: Sparta	03
Lincoln:	
Service area: Athens MSA	01
Service area: Tomahawk	03
Service area: Lincoln Hills School	02
Manitowoc:	
Service area: Reedsville	01

WISCONSIN—Continued

County name	Degree of shortage group
Marathon:	
Service area: Athens MSA	01
Service area: Tigerton	02
Service area: Edgar	03
Service area: Birnamwood	01
Menominee	01
Milwaukee:	
Service area: Inner City North (Milwaukee)	01
Service area: Inner City South (Milwaukee)	03
Monroe:	
Service area: Sparta	03
Oconto:	
Service area: Mountain	01
Service area: Sparta	03
Service area: Pulaski	01
Oneida:	
Service area: Tomahawk	03
Portage:	
Service area: Tigerton	02
Price:	
Service area: Tomahawk	03
Racine:	
Service area: Racine (city)	04
Richland:	
Service area: Kickapoo Valley Area	01
Rusk	04
Shawano:	
Service area: Tigerton	02
Service area: Birnamwood	01
Service area: Pulaski	01
Sheboygan:	
Service area: Kettle Morain Correctional Institution	02
Taylor:	
Service area: Athens MSA	01
Trempealeau:	
Service area: Whitehall/Arcadia	01
Vernon:	
Service area: Western Vernon County	04
Service area: Kickapoo Valley Area	01
Vilas	
Washakie:	
Service area: Ethan Allen School	02
Waupaca:	
Service area: Tigerton	02

Service Area Listing

Service area name	Degree of shortage group
Athens MSA	1
County—Lincoln:	
Parts of county:	
Corning Town	
County—Marathon:	
Parts of county:	
Athens City	
Bein Town	
Halsey Town	
Hamburg Town	
Johnson	
Reitbrock Town (part)	
County—Taylor:	
Parts of county:	
Browning Town	
Deer Creek Town	
Goodrich Town	
Birnamwood	1
County—Marathon:	
Parts of county:	
Norrie Town	
Ploner Town	
Hatley Village	
County—Shawano:	
Parts of county:	
Birnamwood Village	
Birnamwood Town	
Eland Village	
Almon Town	
Anima Town	
Anima Village	
Hutchins Village	

Service Area Listing—Continued

Service area name	Degree of shortage group
Edgar	3
County—Marathon:	
Parts of county:	
Edgar City	
Reitbrock Town (southern part)	
Wein Town	
Rib Falls Town	
Cassel Town	
Fenwood City	
Ethan Allen School	2
County—Washakie:	
Parts of county:	
Waukesha	
Florence	1
County—Florence:	
Parts of county:	
East Florence Town	
Fern Town	
Commonwealth Town	
Fence Town	
Homstead Town	
Aurora Town	
Forest	4
County—Forest:	
Parts of county:	
Hiles Town	
Crandon Town	
Nashville Town	
Argonne Town	
Crandon City	
Lincoln Town	
Freedom Town	
Wabeno Town	
Laona Town	
Blackwell Town	
Armstrong Creek Town	
Caswell Town	
Ross Town	
Inner City North (Milwaukee)	1
County—Milwaukee:	
Parts of county:	
C.T. 63	
C.T. 102	
C.T. 103	
C.T. 104	
C.T. 105	
C.T. 106	
C.T. 107	
C.T. 112	
C.T. 113	
C.T. 114	
C.T. 115	
C.T. 116	
C.T. 117	
C.T. 118	
C.T. 119	
C.T. 120	
C.T. 121	
C.T. 122	
C.T. 138	
C.T. 139	
C.T. 140	
C.T. 141	
C.T. 142	
C.T. 39 (medically indigent population)	
C.T. 44 (medically indigent population)	
C.T. 45 (medically indigent population)	
C.T. 46 (medically indigent population)	
C.T. 64	
C.T. 47 (medically indigent population)	
C.T. 48 (medically indigent population)	
C.T. 61 (medically indigent population)	
C.T. 62 (medically indigent population)	
C.T. 90 (medically indigent population)	
C.T. 91 (medically indigent population)	
C.T. 96 (medically indigent population)	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 108 (medically indigent population)	
C.T. 110 (medically indigent population)	
C.T. 111 (medically indigent population)	
C.T. 123 (medically indigent population)	
C.T. 133 (medically indigent population)	
C.T. 134 (medically indigent population)	
C.T. 135 (medically indigent population)	
C.T. 136 (medically indigent population)	
C.T. 137 (medically indigent population)	
C.T. 143 (medically indigent population)	
C.T. 144 (medically indigent population)	
C.T. 145 (medically indigent population)	
C.T. 146 (medically indigent population)	
C.T. 147 (medically indigent population)	
C.T. 148 (medically indigent population)	
C.T. 149 (medically indigent population)	
C.T. 150 (medically indigent population)	
C.T. 151 (medically indigent population)	
C.T. 152 (medically indigent population)	
C.T. 65	
C.T. 66	
C.T. 67	
C.T. 68	
C.T. 69	
C.T. 70	
C.T. 71	
C.T. 72	
C.T. 79	
C.T. 80	
C.T. 81	
C.T. 82	
C.T. 83	
C.T. 84	
C.T. 85	
C.T. 86	
C.T. 87	
C.T. 88	
C.T. 89	
C.T. 97	
C.T. 98	
C.T. 99	
C.T. 100	
C.T. 101	
Inner City South (Milwaukee)	3
County—Milwaukee:	
Parts of county:	
C.T. 154 (medically indigent population)	
C.T. 180 (medically indigent population)	
C.T. 155	
C.T. 156	
C.T. 157	
C.T. 158	
C.T. 159	
C.T. 160	
C.T. 161	
C.T. 162	
C.T. 163	
C.T. 164	
C.T. 165	
C.T. 166	
C.T. 167	
C.T. 168	
C.T. 169	
C.T. 170	
C.T. 171	
C.T. 172 (medically indigent population)	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 173 (medically indigent population)	
C.T. 174 (medically indigent population)	
C.T. 175 (medically indigent population)	
C.T. 176 (medically indigent population)	
C.T. 177 (medically indigent population)	
C.T. 178 (medically indigent population)	
C.T. 179 (medically indigent population)	
Kettle Morain Correctional Institution	2
County—Sheboygan:	
Parts of county:	
Kettle Morain Correctional Institution	
Kickapoo Valley Area	1
County—Crawford:	
Parts of county:	
Haney	
Bell Center	
Gays Mills	
Scott	
Clayton	
Soldiers Grave Village	
St. Sterling Village	
Utica	
County—Richland:	
Parts of county:	
Viola	
Sylvan	
Forest	
Bloom	
County—Vernon:	
Parts of county:	
Clinton	
Webster	
Liberty	
Viola	
Kickapoo	
Readstown	
Whitestown	
Ontario	
Stark	
Lafarge	
Forest	
Lincoln Hills School	2
County—Lincoln:	
Parts of county:	
Lincoln Hills School	
Mountain	1
County—Oconto:	
Parts of county:	
Townsend	
Lakewood	
Doty	
Riverview	
Armstrong	
Breed	
Bagley	
Brazeau	
Pulaski	1
County—Brown:	
Parts of county:	
Pulaski Village	
Pittsfield Town	
County—Oconto:	
Parts of county:	
Chase Town	
County—Shawano:	
Parts of county:	
Angelica Town	
Maple Grove Town	
Racine (city)	4
County—Racine:	
Parts of county:	
C.T. 1 (medically indigent population)	
C.T. 2	
C.T. 3	
C.T. 4	
C.T. 5	
C.T. 6 (medically indigent population)	

Service Area Listing—Continued

Service area name	Degree of shortage group
C.T. 7 (medically indigent population)	
C.T. 8 (medically indigent population)	
C.T. 10 (medically indigent population)	
C.T. 11 (medically indigent population)	
C.T. 12 (medically indigent population)	
C.T. 13 (medically indigent population)	
Reedsville	1
County—Manitowoc:	
Parts of county:	
Whitelaw Village	
Maribel Village	
Cooperstown Town	
Cato Town	
Rockland Town	
Franklin Town	
Maple Grove Town	
Reedsville Village	
Sparta	3
County—Jackson:	
Parts of county:	
Melrose Town	
Melrose Village	
County—Monroe:	
Parts of county:	
Angelo Town	
Leon Town	
Little Falls Town	
New Lyme Town	
Norwalk Village	
Ridgeville Town	
Sparta Town	
Sparta City	
Wells Town	
Sheldon Town	
County—Monroe:	
Parts of county:	
Lafayette Town	
Tigerton	2
County—Marathon:	
Parts of county:	
Elderon Village	
Elderon Town	
Franzen Town	
County—Portage:	
Parts of county:	
Rosholt Village	
Alban Town	
County—Shawano:	
Parts of county:	
Wittenberg Village	
Tigerton Village	
Bowler Village	
Bartelme	
Wittenberg Town	
Morris Town	
Seneca Town	
Germania Town	
Fairbanks Town	
Grant Town	
County—Waupaca:	
Parts of county:	
Dupont Town	
Marion Village	
Big Falls Village	
Wyoming Town	
Harrison Town	
Tomahawk	3
County—Lincoln:	
Parts of county:	
Bradley Town	
King Town	
Harrison Town	
Skanawan Town	
Somo Town	
Tomahawk Town	
Tomahawk City	
Wilson Town	
County—Oneida:	
Parts of county:	
Lynne Town	
Little Rice Town	
Nokonus Town	

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Service Area Listing—Continued

Service area name	Degree of shortage group
County—Price:	
Parts of county:	
Knox Town	
Prentice Town	
Spirit Town	
Prentice City	
Western Buffalo County	1
County—Buffalo:	
Parts of county:	
Nelson	
Cochrane	
Lincoln	
Alma City	
Alma Town	
Belvedere	
Waumandee	
Cross	
Milton	
Buffalo Town	
Fountain City	
Buffalo City	
Western Vernon County	4
County—Vernon:	
Parts of county:	
Genoa Village	
Bergen	
Benow Town	
Hamburg	
Harmony	
Sterling	
Wheatland	
Chaseburg	
Desoto	
Stoddard	
Whitehall/Arcadia	1
County—Buffalo:	
Parts of county:	
Cross	
Glencoe	
Milton	
County—Trempealeau:	
Parts of county:	
Arcadia City	
Arcadia Town	
Blair City	
Burnside Town	
Chimney Rock	
Dodge	
Hale	
Independence City	
Lincoln	
Pigeon	
Pigeon Falls Village	
Preston	
Whitehall	
Wisconsin Correctional Institution	2
County—Dodge:	
Parts of county:	
Wisconsin Correctional Institution	
Wisconsin State Prison	2
County—Dodge:	
Parts of county:	
Wisconsin State Prison	
Wisconsin State Reformatory	2
County—Brown:	
Parts of county:	
Wisconsin State Reformatory	

WYOMING

County Listing

County name	Degree of shortage group
Albany:	
Service area: Carbon-Rock River	04
Big Horn:	
Service area: Big Horn	03
Carbon	04
Crook:	
Service area: Upton	01
Freemont:	
Service area: Sweetwater	01
Service area: Wind River	01

WYOMING—Continued

County name	Degree of shortage group
Service area: Shoshoni	01
Service area: Wind River Indian Reservation	01
Hot Springs	03
Lincoln	03
Notrona:	
Service area: Shoshoni	01
Niobrara	04
Platte	04
Sweetwater	04
Washakie	03
Weston:	
Service area: Upton	01

Service Area Listing

Service area name	Degree of shortage group
Big Horn	3
County—Big Horn:	
Parts of County:	
Big Horn—South Division	
County—Washakie	
Carbon—Rock River	4
County—Albany:	
Parts of County:	
Rock River Division	
Shoshoni	1
County—Fremont:	
Parts of County:	
Shoshoni Division	
County—Notrona:	
Parts of County:	
Hell's Half Acre Division	
Sweetwater	1
County—Freemont:	
Parts of County:	
Sweetwater Division	
Upton	1
County—Crook:	
Parts of County:	
Hulett Division	
Moorcroft Division	
County—Weston:	
Parts of County:	
Upton Division	
Wind River	1
County—Fremont:	
Parts of County:	
Dubois Division	
Five Mile Creek Division	
Wind River Division	
Wind River Indian Reservation	1
County—Fremont:	
Parts of County:	
Wind River Indian Reservation	
County—Hot Springs:	
Parts of County:	
Wind River Indian Reservation	

AMERICAN SAMOA

County Listing

County name	Degree of shortage group
Manu'a District	03
Eastern Tutuila District	01
Western Tutuila District	01

Service Area Listing

Service area name	Degree of shortage group
Tutuila Island	1
County—Eastern Tutuila District	

Service Area Listing—Continued

Service area name	Degree of shortage group
County—Western Tutuila District	

PUERTO RICO

County Listing

County name	Degree of shortage group
Adjuntas:	
Service area: Guarguao	01
Anasco	02
Barceloneta:	
Service area: Florida	01
Cabo Rojo	02
Ciales:	
Service area: Medically indigent in Ciales	04
Hormigueros	02
Juncos	02
Marico	02
Mayaguez	02
Penuelas:	
Service area: Guarguao	01
Guarguao	
Quebradillas:	
Service area: Medically indigent in Quebradillas	01

Service Area Listing

Service area name	Degree of shortage group
Florida	1
County—Barceloneta:	
Parts of county:	
Florida Adentco	
Florida Afuero	
Guarguao	1
County—Adjuntas:	
Parts of county:	
Portuguez	
County—Penuelas:	
Parts of county:	
Rucio	
County—Guarguao:	
Parts of county:	
Guarguao	
Mayaguez	2
County—Anasco:	
County—Cabo Rojo:	
County—Hormigueros:	
County—Marico:	
County—Mayaguez:	
Medically indigent in Ciales	4
County—Ciales:	
Parts of county:	
Medically indigent in Ciales	
Medically indigent in Quebradillas	1
County—Quebradillas:	
Parts of county:	
Medically indigent in Quebradillas	

TRUST TERRITORY—PACIFIC

County Listing

County name	Degree of shortage group
Marshall District	01
Ponape District	02
Ponape District:	
Service Area: Kosrae	01
Truk District	01
Yap District	03

Service Area Listing

Service area name	Degree of shortage groups
Kosrae	1
County—Ponape District:	
Parts of county:	
Kusaie Island	

VIRGIN ISLANDS

County Listing

County name	Degree of shortage group
St. Croix:	
Service area: Fredericksted	01

Service Area Listing

Service area name	Degree of shortage group
Fredericksted	1
County—St. Croix:	
Parts of county:	
E.D. 13	
E.D. 14	
E.D. 19	
E.D. 20	
E.D. 21	
E.D. 22	
E.D. 23	
E.D. 24	
E.D. 25	

SUPPLEMENTAL LIST OF NHSC-STAFFED PHYSICIAN SITES PREVIOUSLY DESIGNATED UNDER SECTION 329(b)

ALABAMA

Macon County—John Andrews Clinic, Tuskegee (Macon County)
Cherokee/Red Bay Service Area—West Colbert Health Clinic, Cherokee (Colbert County)
Guntersville Service Area—Guntersville Health Services, Guntersville (Marshall County)
Hobson City Service Area—Hobson City Medical Clinic, Hobson (Calhoun County)
St. Clair County—Ragland Medical Clinic (St. Clair County)

ARKANSAS

Prairie County—Prairie County Medical Center, Des Arc (Prairie County)
Lee County—Lee County Memorial Hospital, Marianna (Lee County)
Newton County—Newton County Medical Center, Jasper (Newton County)
Crawford County—Crawford County Memorial Hospital, Van Buren (Crawford County)

CALIFORNIA

Downeville Service Area—Western Sierra Medical Center, Downeville (Sierra County)
Siskiyou Service Area—Scott Valley Medical Center, Etna (Siskiyou)
Russian River-Pacific Coast Service Area—Russian River Health Center, Guerneville (Sonona County)
Yuba Foothills-Feather Falls Service Area—Yuba Feather Community Services, Brownsville (Yuba County)
Akvin-Lamont-Greenfield Service Area—Clinica Sierra Vista, Lamont (Kern County)
Morongo Basin Service Area—(1) Needles Medical Center, Needles (San Bernardino County); (2) Family Health Center, Lucerne Valley (San Bernardino County); (3) Valley Pediatric Center, Apply Valley (San Bernardino County)
Dixon Service Area—Regional Rural Health Program, Dixon (Solano County)
Delta Service Area—Delta Health Center, Walnut Grove (Sacramento County)
Westside Service Area—(1) San Joaquin Health Center, San Joaquin (Fresno County); (2) Huron-Five Points Funding, Huron (Fresno County)
Mojave Desert Service Area—Family Health Center, Barstow (San Bernardino County)
East Oakland Service Area—La Clinica de la Raga, Oakland (Alameda County)

COLORADO

Saguache County—Saguache Medical Clinic, Saguache (Saguache County)
Huerfano County—Huerfano Family Medicine, Walsenburg (Huerfano County)
Logan County—Rural Health Care Association, Sterling (Logan County)
Otero County—La Clinica del Valle, Rocky Ford (Otero County)
Lincoln County—Limon Chamber of Commerce, Limon (Lincoln County)
Las Animas County—High Plains Medical Center, Trinidad (Las Animas County)
Yuma County—Yuma Hospital District, Yuma (Yuma County)

FLORIDA

Belle Glade-Pahakeemsa Service Area—Belle Glade Health Center, Belle Glade (Palm Beach County)
Baker County—Fraser Memorial Hospital, McClenny (Baker County)
Bay County—Beaches Family Health Center, Panama City Beach (Bay County)
Madison County—Madison County Memorial Hospital, Madison (Madison County)
Jackson County)—Jackson Health Services, Marianne (Jackson County)
Bay County—Comprehensive Health Planning Council, Panama City (Bay County)

GEORGIA

Dawson County—Dawson County Board of Health, Dawsonville (Dawson County)
Bryan County—Pembroke Hospital Authority, Pembroke (Bryan County)
Banks County—Town of Homer, Homer (Banks County)

IDAHO

Valley-Boise Service Area—Horseshoe Bend Community Health, Horseshoe Bend (Boise County)
Oakley Service Area—Medical Services, Inc., Oakley (Cassia County)
Fremont County—Ashton Health Services, Ashton (Fremont County)

ILLINOIS

Mercer County—Aledo Jaycees, Aledo (Mercer County)

INDIANA

Lawrenceberg Service Area—Rural Health Activities of Southeast Indiana, Lawrenceburg (Dearborn County)

IOWA

Butler County—Parkersburg Medical Services, Parkersburg (Butler County)
Ida County—Ida County Community Health Clinic, Ida Grove (Ida County)
Tama County—North Tama Medical Center, Traer (Tama County)

KENTUCKY

Leslie County—Mary Breckinridge Hospital, Hyden (Leslie County)
Menifee County—Menifee County Health Services Council, Frenchburg (Menifee County)
Knott County—East Kentucky Health Services, Hindman (Knott County)
Letcher County—Kentucky River District Health, Whitesburg (Letcher County)
Henry County—Town of Cambellsburg, Cambellsburg (Henry County)

MASSACHUSETTS

Revere City—Revere Health Center, Revere City (Suffolk County)

NEW HAMPSHIRE

Gorham Service Area—Gorham Medical Building, Gorham (Coos County)
Hillsboro Service Area—Hillsboro Medical Building, Hillsboro (Hillsborough County)

MICHIGAN

Dowagiac Service Area—Decatur Satellite Clinic, Decatur (Van Buren County)
Roscommon County—(1) Houghton Lake Medical Center, Houghton Lake (Roscommon County); (2) Town of St. Helen (Roscommon County)
Eaton County—Hayes Green Beach Memorial Hospital, Charlotte (Eaton County)
Wakefield Service Area—Ewen Medical Center, Ewen (Ontonagon County)

MINNESOTA

Bigfork Service Area—Northern Itasca Hospital District, Bigfork (Itasca County)
Houston County—Caledonia Community Hospital, Caledonia (Houston County)
Red Lake Service Area—Red Lake Falls (Red Lake County)

MISSISSIPPI

Holmes County—Tchula Clinic, Tchula (Holmes County)
Rosedale Service Area—Levee Street Clinic, Rosedale (Bolivar County)
Baldwyn Service Area—Mississippi State of Health, Tupelo (Lee County)

MONTANA

Liberty County—Liberty County Health Planning, Chester (Liberty County)

NEW MEXICO

Rio Arriba County—La Clinica del Pueblo de Rio, Tierra Amarilla
San Miguel County—Pecos Valley Medical Center, Pecos (San Miguel County)
Carrizozo Service Area—Carrizozo Health Center, Carrizozo (Lincoln County)
Torrance County—Hope Medical Center, Estanica (Torrance County)

NEW YORK

Steuben County Service Area—Noyes Memorial Hospital, Dansville (Steuben County)
East Harlem Service Area—Union Settlement, New York (New York County)

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NORTH CAROLINA

Allegheny County—Allegheny Family Practice Center, Sparta (Allegheny County)
Allegheny County—Roanoke Medical Associates, Plymouth (Washington County)
Clay County—Haysville Family Health Center, Haysville (Clay County)
Hot Springs Service Area—Hot Springs Health Program, Hot Springs (Madison County)
Warren County—Health Co., Inc., Soul City (Warren County)
Northampton County—Northampton Medical Center, Jackson (Northampton County)
Graham County—Robbinsville Medical Center, Snow Hill (Graham County)
Greene County—Greene County Health Care, Snow Hill (Greene County)

NORTH DAKOTA

Emmons County—Linton Medical/Dental Clinic, Linton

OKLAHOMA

Osage County—Fairfax Dental Office, Fairfax (Osage County)

PENNSYLVANIA

East Lycoming Service Area—Valley Community Health Care Center, Picture Rock (Lycoming County)

SOUTH CAROLINA

Beaufort Service Area—Beaufort Jasper CHC, Ridgeland (Beaufort County)

TENNESSEE

Wilson County—(1) Lebanon Primary Care Center, Lebanon (Wilson County); (2) Watertown Primary Health Care Center, Watertown (Wilson County)
Hawkins County—Surgoinsville Medical Center, Surgoinsville (Hawkins County)
Perry County—Perry County Clinic, Linden (Perry County)

TEXAS

Limestone County—South Limestone County Health, Grosbeck (Limestone County)
Zapata County—Zapata Health Center, Zapata (Zapata County)

UTAH

Carbon-Emery Service Area—(1) Emery County Clinic, Castle Dale; (2) Four Corners Mental Health Center, Price (Carbon County)
Uintah County—Family Health Center, Vernal (Uintah County)

VIRGINIA

Grayson County—Independence Medical Center, Independence (Grayson County)
Fluvanna/Buckingham/Cumberland Tri-County Service Area—Central Virginia Community Health Center, New Canton (Buckingham County)
Lee County—St. Charles Health Center, St. Charles (Lee County)
Bedford Service Area—Moneta (Bedford County)
Lee County—Western Lee County Health Center, Ewing (Lee County)
Bedford Service Area—Big Island Medical Clinic, Big Island (Bedford County)
Chesapeake City—Chesapeake Health Systems, Ltd., Chesapeake (Chesapeake City)

WEST VIRGINIA

Monroe County—Monroe County Medical Center, Union (Monroe County)
Preston County—Preston County Health Council, Kingwood (Preston County)
Taylor County—Taylor County Health Council, Grafton (Taylor County)

WISCONSIN

Mellen-Ashland Service Area—(1) Park Falls Area Medical Corps, Park Falls (Price County); (2) Group Health Cooperative, Mellen (Ashland County)

[FR Doc. 78-27004 Filed 9-27-78; 8:45 am]

federal register

THURSDAY, SEPTEMBER 28, 1978
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

FLOODPLAIN MANAGEMENT

Policy and Protection Procedures—Interim Guidelines

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[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

FLOOD PLAIN MANAGEMENT

Policy and Protection Procedures—Interim Guidelines

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Interim Guidelines.

SUMMARY: This notice provides the Bureau of Land Management's (BLM) interim policy and interim internal procedures to implement Executive Order 11988 (flood plain management) in accordance with the U.S. water resources council flood plain management guidelines (43 FR 25317—June 9, 1978).

DATE: Comments by: October 30, 1978.

ADDRESS: Send comments to the Director (350), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240. Comments will be available for public review in room 3650 at the above address from 7:45 a.m. to 4:15 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry J. Gerke, 202-343-5994 or 343-5629.

SUPPLEMENTARY INFORMATION: The interim policy and internal procedures to implement Executive Order 11988 are applicable to all Bureau of Land Management domestic and foreign actions. It is BLM's intent, in all of its activities, to protect, restore, and maintain the natural and beneficial functions of the flood plain when:

1. Acquiring, managing, and disposing of public lands and facilities.

2. Providing federally undertaken financed actions, or assisting in construction and improvements.

3. Conducting Federal activities and programs affecting land use, including, but not limited to, water resources and regulated land resources planning, and regulating and licensing activities.

This shall be done to:

1. Provide for human safety and welfare, and to protect property.

2. Protect, maintain and restore the natural and beneficial biological, physical and environmental values and functions.

3. Minimize definable adverse impacts on the flood plain either upstream or down.

This can be achieved by:

1. Retention of public lands, including mineral and subsurface estates, within the base flood plain except:

a. If Federal, State, public and private institutions and parties have demonstrated the ability to maintain, restore and protect the flood plain functions on a continuous basis.

b. If the transfer of public lands, including minerals and subsurface estates, is mandated by legislation or Presidential Order, then such terms, covenants, conditions, and reservations as deemed necessary shall be enforced to insure proper land use and protection of the public interest, except if such restrictions are prohibited by the mandate.

2. Acquisition, or by donation or otherwise, of land within and adjacent to the base flood plain for specific actions.

The BLM policy statement and BLM manual section 7221 (flood plain management) are to be used to review and update existing BLM Manual sections.

The implementation of the flood-plain policy and internal procedures shall be primarily through the Bureau's planning system and environmental studies (assessment) system.

The planning process consists of several parts including: (1) The unit resource analysis (URA), the inventory of existing land use and developing opportunities; and (2) the management framework plan (MFP) consisting of management objectives and recommendations, analysis, conflict resolution and decision.

The URA step 2 describes the physical profile and determines and delineates the base flood plain areas. URA step 3 (present situation) shows areas where flood damage is occurring. URA step 4 contains an evaluation of activity capabilities and opportunities. Flood plains may be identified as areas of critical environmental concern in this step. The flood plain functions are quantified at this point including, but not limited to (1) flood storage, (2) flood peak reduction, (3) water velocity reduction, (4) erosion protection due to reparian vegetation, (5) areas for sediment deposition, and (6) wildlife habitat.

BLM manual section 1608 outlines the MFP. Step 1 includes recommended measures for preservation, protection, and restoration of natural flood plain functions.

The MFP step 2 contains the impact analysis and multiple-use recommendations. This part may also identify flood plain management and other activities. This step provides for the review of major conflicts and the development of alternatives. Such activity alternatives include locating out of the flood plain, changing objectives, minimizing negative impacts, and possibly taking no action.

The MFP step 3 contains the process used to arrive at management decisions. Flood plain management decisions are based upon policy statements and give final direction to the MFP. Based on the decision and constraints, the activities may then proceed with final plans and their implementation.

The BLM manual section 1790 establishes the policies and guidelines for monitoring, evaluating, and controlling BLM programs and activities to protect and improve the environment.

The BLM manual sections 1791 and 1792 describe the BLM's environmental assessment process and the process of recordation. All Bureau actions are subject to these processes. The degree of intensity is based on significance, public controversy and impacts. Documentation can be either by an environmental assessment record or an environmental statement.

Public participaton will be sought at the earliest opportunity to acquire technical data, expertise, and formulation of BLM plans, programs, and actions. The BLM will cooperate with the various Federal, State, and local agencies. Particular effort will be made to coordinate efforts with the Federal Insurance Agency, the Fish and Wildlife Service, and the Corps of Engineers.

Reserved BLM manual sections in the flood plain procedures are being developed by professional resource employees and will be made available upon completion to interested persons upon request. These sections are entitled, "Flood Plain Management Plan" and "Flood Frequency Determination."

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

SEPTEMBER 22, 1978.

7221—FLOOD PLAIN MANAGEMENT

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.01 *Purpose.* This manual section describes the policies, responsibilities, and procedures to be used to incorporate flood plain management into all Bureau activities.

.02 *Objectives.* The objectives of flood plain management are to:

A. Reduce the risk of flood loss or damage to property.

B. Minimize the impact of flood loss on human safety, health, and welfare.

C. Restore, maintain, and preserve the natural and beneficial functions of flood plains.

.03 *Authority.*

A. Federal Land Policy and Management Act of 1976, Pub. L. 94-579; (90 Stat. 2743; 43 U.S.C. 1701, et seq.)

B. Executive Order 11988, flood plain management (42 CFR Part 26951, May 25, 1977).

.04 *Responsibility.*

A. *The Director and Associate Director* are responsible for overall flood plain management and its interaction with all other Bureau programs. This responsibility is exercised through the Assistant Directors.

B. *Assistant directors* within their assigned areas of responsibility, are responsible for implementing the procedures for flood plain management and evaluating the results of the effort. This responsibility is exercised through the chiefs of the divisions and offices.

C. *The chief, division of watershed,* under the direction of the Assistant Director, Resources, is responsible for:

1. Developing the policy and establishing the procedures for implementing flood plain management.

2. Ensuring the flood plain management procedures are incorporated into all Bureau programs.

3. Evaluating the effectiveness of flood plain management.

4. Developing the guidance for the preparation of plans to protect, maintain, and restore beneficial and natural flood plains functions.

5. Providing for a review, evaluation, and guidance on flood plain legislation and regulations to insure for opportunities to protect and restore flood plain functions.

6. Providing for a systematic review and update of regulations and procedures relative to flood plain management.

D. *Other division and office chiefs* are responsible for:

1. Ensuring the incorporation of flood plain management policy and procedures into their program areas.

2. Evaluating and reviewing their own programs for compliance with the flood plain management objectives.

E. *Service center director,* under the direction of the director (350) is responsible for:

1. Providing technical assistance on flood plain management.

2. Developing and maintaining technical guides and procedures for determining the extent of the base and critical flood plains.

F. *State directors* are responsible for:

1. Ensuring compliance with the procedures for flood plain management.

2. Providing guidance or services to the district managers to implement flood plain management procedures.

3. Conducting evaluations and monitoring flood plain management.

G. *District managers* are responsible for:

1. Implementing the procedures and guidance for flood plain management.

2. Ensuring that flood plain functions and needs are considered during the preparation of land use plans through the Bureau planning system.

3. Identifying and requesting technical assistance from their respective State offices.

.05 *Definitions.* (See glossary of terms.)

.06 *Policy.* It is Bureau policy that:

A. Direct or indirect support of flood plain development shall be avoided wherever there is a practicable alternative.

B. The long and short term adverse impacts on natural and beneficial flood plain functions associated with the use and modification of flood plains shall be avoided, to the extent possible.

C. Actions causing definable adverse impacts (long or short term) to the natural and beneficial flood plain functions shall include, protection, minimization of damage, and restoration measures.

D. Actions or proposed actions shall be monitored to ensure the incorporation of the flood plain objectives.

.07 *References.*

A. Flood Plain Management Guidelines for Implementing Executive Order 11988 printed in the FEDERAL REGISTER, Volume 43, No. 29, February 10, 1978.

B. A Unified National Program for Flood Plain Management, July 1976.

C. Guideline for Determining Flood Frequency, Water Resources Council Bulletin 17A, June 1977.

.1 *Protecting and enhancing flood plain functions.* The Bureau shall evaluate the effects any proposed plan or action will have on a flood plain. The planning and evaluation of proposed actions must use existing BLM procedures whenever possible. This manual section describes the decisionmaking process for actions affecting the flood plain.

.11 *Location of the proposed action.* The Bureau shall determine whether or not the proposed action or part of the action is located in a base or critical flood plain. This determination is necessary to evaluate the impacts of the proposed action on the flood plain according to the BLM environmental assessment process and during the planning process.

A. *Identification in the Bureau planning system.* The Bureau planning system provides for the identification and delineation of the base and critical flood plain areas and limits in steps 2 and 3 of the unit resource analysis. See BLM Manual Sections 1605.35, Water Resources, and 1605.45, Watershed, for these criteria.

B. *Other means of identification.* Where existing plans do not contain flood plain identification, the appropriate official shall identify the base and critical flood plain in relation to the location of each specific proposed action. This identification shall be extended upstream and downstream beyond the boundaries of the proposed action far enough to permit an analysis of impacts the proposal may have on the flood plain functions beyond the project boundaries.

.12 *Public participation.* The public shall be involved in the decisionmaking process for all actions within a flood plain or that may affect it. The type, amount, timing, and kinds of public participation during the evaluation of projects proposed in flood plains may vary depending upon the action proposed; however, a minimum of 2 weeks shall be allowed for public comment. Public participation occurs through the Bureau environmental assessment and planning processes. BLM manual section 1127 provides guidance for preparing a plan for such participation.

A. *Early notification.* The public shall be notified as early as possible that a contemplated action or a proposed action may occur within the base flood plain or critical flood plain area. (See BLM Manual sec. 1790.) This notice shall be issued before site and alternative site identification and analysis begins. Public help shall be sought in the process of alternative site identification. Indicate, if possible, if the action may result in loss of human life, safety and welfare, property, and natural and beneficial functions.

B. *Notification of tentative decision.* When a tentative decision has been reached, a public notification shall be issued. This notification shall request comments as well as additional material and other information which was previously unknown or unavailable. The explanation and request shall be published in the FEDERAL REGISTER, newspapers, or other appropriate places. The public notice shall include:

1. A time period for receiving public comments.

2. An explanation of why the proposed action must occur in the flood plain.

3. A description of the facts considered for the proposed and alternative actions.

4. A description of how the action is designed to minimize harm, restore, and protect the flood plain.

5. A statement relating the applicability of the proposed action to State or local flood plain protection standards.

6. A statement about how the action affects natural of beneficial flood plain functions.

7. A statement listing other involved agencies and individuals.

C. *Clearinghouse notification.* The proposed action shall be brought to the attention of the State and area clearinghouses established under OMB Circular A-95. (See BLM Manual sec. 1785). At a minimum, State and area clearinghouses shall be furnished the following information:

1. A description of why the proposed action must be located in the flood plain or impact the flood plain.

2. A description of all significant facts, including alternatives, considered in making the determination.

3. A statement indicating whether the actions conform to applicable State or local flood plain protection standards.

13. *Assessing the impacts of the proposed action.* The guidance for analyzing the impacts of the proposed action is found in the Bureau's environmental assessment process (see BLM Manual sec. 1791) and Bureau Planning System (BPS) (see BLM Manual secs. 1601 through 1609). The environmental assessment shall include flood plain analyses which record the envi-

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ronmental effects of the proposed action.

A. Impacts of these alternatives. Alternatives in the procedure outlined in BLM Manual sections 1791 and 1792, and the Management Framework Plan of the Bureau Planning System (BLM Manual sec. 1608), identify and evaluate locations outside the flood plain. If a location outside the flood plain would satisfactorily accomplish the same purpose as the proposal in the flood plain, the action shall not be located in the flood plain. The alternative sites or methods shall be analyzed as thoroughly as the proposed action itself has been analyzed.

1. *Consider no-action alternative.* This alternative measures the benefits or losses derived from no action as opposed to a contemplated action.

B. Impacts of the proposed action. The possible impacts using procedures described in BLM Manual section 1791 or 1792 shall be identified and discussed for all alternative sites or methods being contemplated. Also, the impacts of an action outside the flood plain, but affecting the flood plain shall be assessed. The analysis and documentation of flood plain impacts shall be included in the same document used for environmental analysis. For any analysis, actions which may support subsequent actions shall be considered with their own impacts.

C. Possible mitigating and restoring measures. During the preparation of the environmental analysis, the special means to reduce adverse impacts and/or restore the existing environment (BLM Manual secs. 1791 and 1792) shall be identified and described. As a part of flood plain management, all measures to minimize the damage and preserve and restore the flood plain functions shall be considered. If there are alternative proposals for actions in the flood plain, each action must be complete with its own mitigating and restoring measures.

1. These measures must be:

a. Possible and practical.

b. Consistent with Bureau plans, and those of other agencies, and State and local governments.

c. Not likely to cause additional adverse impacts.

.14 *Steps in the decision process.* The impacts and mitigating and restoring measures of the proposed action and alternatives shall be analyzed. After this analysis, a tentative decision shall be made to use the proposed or the alternative action that will cause the least amount of degradation to the flood plain function(s).

B. Reevaluating the selected action. The selected action shall be reevaluated after receiving public comments (see 12B). Comments shall be incorporated into plans for the selected action. In some cases, a different action may be chosen because the public comments have provided information that was unknown or not available when the tentative selection was made. A decision document or notice shall be issued to the public explaining the final decision.

C. Implementing the decision. Immediately after issuing the decision document, other documents such as contracts or land use authorizations shall be prepared. All actions that affect flood plain functions shall be monitored and recorded according to the appropriate Manual sections. The monitoring action insures that:

1. Mitigating and restoring measures become a part of any construction documents or land use authorization terms and conditions.

2. Terms and conditions of a contract or land use authorization are satisfactorily completed.

.2 *Flood plain management plan.* The flood plain Executive Order 11988 states that all Federal agencies must provide flood plain management leadership. The Federal Land Policy and Management Act (sec. 102(a) (8) and (11)) require protection and management of the public lands. The preparation of flood plain management activity plans can assist in the accomplishment of these mandates. Activity plans to accomplish the above management shall be developed in a manner similar to other Bureau activity plans. (See BLM Manual sec. 1601.) The flood plain, for which an activity plan is prepared, shall be identified through the Bureau Planning System. The activity plan must address protection, restoration, and maintenance of the flood plain functions. It should also incorporate those measures that are necessary for the protection of human safety, life, welfare, and property.

GLOSSARY OF TERMS

A

Action. Any Federal activity for:

(1) Acquiring, managing, and disposal of Federal lands and facilities.

(2) Providing federally undertaken, financed, or assisted construction and improvements.

(3) Conducting Federal activities and programs affecting land use, including, but not limited to, water resources and related land resources planning, regulating, and licensing activities.

B

Base flood. The flood level which has a 1 percent chance of occurring in any given year (also known as a 100-year flood).

Base flood plain. The 100-year flood plain or 1 percent chance flood plain. (Also, see definition of flood plain.)

C

Critical flood. The flood level which has a 0.2 percent chance of occurring in any given year (known as a 500-year flood).

Critical flood plain. The 500-year flood plain (0.2 percent chance flood plain).

D

Development. Any land use that alters the natural and beneficial flood plain functions.

F

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood plain. Any land area susceptible to being flood-inundated from any source, including small and often dry watercourses and areas adjoining coastal waters.

Flood plain function. The natural biological, physical, ecological, and environmental actions that commonly occur in a flood plain.

Flood plain management. All actions taken to assure, carry out, or to achieve the natural and beneficial functions of flood plains and to minimize the loss of human life, and promote safety, welfare, and protect property.

Flood plain values. The beneficial uses of the flood plain by man.

M

Maintain. To keep up and to repair as necessary to retain the current biological, physical, and environmental features of a flood plain.

Minimize. To reduce to the smallest possible amount or degree.

Mitigation. Measures or tasks taken to minimize or eliminate definable adverse impacts.

P

Practicable. Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost, and technology.

Preserve. To prevent modification to the natural flood plain environment or to maintain it as closely as possible to its natural state.

R

Restore. To reestablish a setting or environment in which the natural and beneficial functions of the flood plain can again operate.

[FR Doc. 78-27224 Filed 9-27-78; 8:45 am]

federal register

THURSDAY, SEPTEMBER 28, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

ENTITLEMENT TO MEDICARE BENEFITS BASED ON END-STAGE RENAL DISEASE

V 4 3 / 1 8 9 SEP 28 78

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Entitlement to Medicare Benefits Based on End-Stage Renal Disease

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation with comment period.

SUMMARY: This regulation amends the rules concerning who is entitled to medicare benefits on the basis of having end-stage renal disease (ESRD). The amendments are necessary to implement certain legislative amendments to the ESRD program. (See Pub. L. 95-292, June 13, 1978). The amendments eliminate the requirement that a person be under 65 in order to be eligible, revise the 3-month waiting period before the start of coverage for patients who initiate training in self-dialysis or receive a kidney transplant, extend the period of entitlement to 36 months after a kidney transplant, and establish new rules concerning the resumption of coverage.

DATES: This regulation is effective October 1, 1978. Closing dates for comments: December 1, 1978.

ADDRESSES: Send comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to MAB-81-RC. Comments will be available for public inspection beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

John B. Russell, 301-594-8260.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Amendments of 1972 (Pub. L. 92-603) extended medicare entitlement to individuals under 65 who have end-stage renal disease (ESRD) and who are insured or entitled to monthly benefits under social security or the Railroad Retirement Act, or are spouses or dependent children of persons who are insured or entitled. Those amendments also authorized us to establish requirements for ESRD facilities that would be reimbursed for kidney transplant and dialysis services. Congress mandated two requirements: A minimum utilization rate for covered procedures; and a medical review board to screen the appropriateness of patients for the proposed treatment procedures.

The ESRD program became effective July 1, 1973. It was first implemented by interim regulations and instructions governing both approval of ESRD facilities and reimbursement to such facilities. The conditions that ESRD facilities must meet to be approved for coverage of ESRD services are now codified in 42 CFR Part 405, Subpart U and the provisions for reimbursement are codified in subpart E of that part. Additional provisions relating to ESRD are set forth in subparts A and B of the medicare regulations.

Statutory Purpose

Pub. L. 95-292, enacted June 13, 1978, amends titles II and XVIII of the Social Security Act to make improvements in the ESRD program. The law is intended to provide incentives for the use of lower cost self-dialysis where medically appropriate; to eliminate program disincentives to kidney transplantation; to provide for methods of incentive reimbursement to assure cost-effective delivery of dialysis services; to develop long-term national objectives for the most effective use of ESRD treatment resources; and to provide for studies of ways to improve the program. The primary purpose is to encourage the use of lower cost treatment modalities consistent with good medical practice and, more specifically, to encourage home dialysis and transplantation for the maximum number of patients who are suitable candidates for those treatment methods. The new law reaffirms policies that we have already implemented. It also makes major changes in individuals' entitlement to benefits, coverage of services and supplies, and methods of reimbursement.

This regulation implements the provision of Pub. L. 95-292 pertaining to entitlement to medicare based on end-stage renal disease. It is the first of several regulations we will be publishing to implement Pub. L. 95-292. Later regulations will deal with certification and coverage of ESRD facilities, with reimbursement, and with the ESRD networks. For the reasons discussed below, this regulation is being issued in final, without having gone through proposed rulemaking. Wherever possible, subsequent regulations will be issued as proposed rules.

The statute also authorizes the Secretary to conduct various pilot projects, experiments and studies relating to furnishing services for renal disease. Information about these projects can be obtained by writing Cliff Gaus, Office of Policy Planning and Research, Health Care Financing Administration, DHEW.

Major Provisions

The major provisions in this regulation are as follows:

(1) The requirement that an individual be under 65 in order to qualify as a renal disease beneficiary has been eliminated. This requirement had originally been adopted statutorily under the assumption that those over 65 would be eligible for medicare under the ordinary entitlement provisions. However, if the onset of renal disease was after 65 and entitlement was based on the work of another related individual, certain persons were inadvertently left uncovered. For example, a person over 65 whose entitlement would otherwise be based on the work of a 60-year-old spouse still working, would have been ineligible under the old rule; the spouse in this example might be currently insured, but not presently entitled to monthly benefits. Thus, the individual with ESRD would not have been entitled to benefits. The statute and the amended rule rectify this oversight.

(2) The statute and the amended rule make the filing of an application a condition of entitlement. However, possible hardships that might result from strict application of this rule are, for the most part, alleviated by the provision that an application will be considered to have been received 12 months before it is filed (but no sooner than the first month of eligibility). Because the amended regulation is not effective until October 1, 1978, the filing of an application is not a condition of entitlement for individuals who, before that date, have met the conditions of entitlement of the present regulation. The eligibility of these individuals will be determined under the current rules for periods prior to October 1. Thus, these individuals would be entitled to benefits for a period even more than 12 months before the date on which an application is actually filed.

(3) The statute and the amended rule make two major changes in the date on which entitlement begins in certain circumstances. As a general rule, a person who undertakes a regular course of dialysis must wait 3 months before his entitlement begins. Under the new rule, an individual who participates in a self-care dialysis training program will be entitled to

benefits from the beginning of his regular course of dialysis. However, in accordance with the intent of Congress, the waiver of the 3-month waiting period is only intended for those individuals who can reasonably be expected to complete the training program, and, on completion to enter into a self-dialysis setting. (See S. Rept. 95-714, at p. 5.) We will instruct the ESRD facility on how to certify that these requirements are met. In addition, the waiver will only be made if the person maintains dialysis throughout the waiting period.

Under the prior rule, entitlement for renal transplant patients began with the month in which the operation was performed or in the month before it. The amended rule provides that entitlement can begin in the second month before the month of the transplant. This exception to the waiting period is applicable only if the individual is admitted as an inpatient to a hospital that has been approved for participation in medicare as a renal transplantation center or a renal dialysis center. (These terms are defined in 42 CFR 405.2102.) This limitation conforms to sections 226A(b)(1)(B) and 1881(b)(1) of the Act, which require that the hospital meet whatever requirements the Secretary has prescribed for providers of renal dialysis services. We believe that this requirement will assure quality of care in kidney transplantations.

(4) The former rule provided that, for those who received kidney transplants, entitlement ended with the 12th month after the transplant. It has become clear that complications and relapses related to kidney failure frequently occur long after the 12th month and thus, the 12-month rule has come to serve as a disincentive to transplantation. Accordingly, in accordance with Pub. L. 95-292, we have amended the rule to provide for a 36-month period of entitlement after a kidney transplant. We have interpreted this statutory extension of the entitlement period to apply to persons whose entitlement began prior to October 1, 1978, a well as persons whose entitlement begins on or after October 1, 1978. Therefore, persons who received kidney transplants after September 30, 1975, will still have some period of entitlement remaining. Such a person's entitlement will end 36 months after the month of transplant, but will not include periods of time prior to October 1, 1978, which are more than 12 months after the month of transplant. Thus, an individual who received a transplant in December, 1976, and whose entitlement previously ended on December 31, 1977, would be entitled to benefits from October 1, 1978 through December 31, 1979. However, we do not believe that we have the statutory authority to extend entitlement to this individual retroactively for the period after December 31, 1977 through September 30, 1978.

(5) The former rule made no special allowance for those persons whose coverage ended, but who later initiated or resumed a regular course of dialysis. The statute and the amended rule provide that coverage for those persons begins immediately with the month in which the course of dialysis is begun; the 3-month waiting period is not applicable.

(6) A conforming technical amendment to 42 CFR 405.210(b)(1)(iii) and clarifying editorial changes in § 405.104 have also been made.

Benefits Available to Kidney Donor

Pub. L. 95-292 provides that a person who donates a kidney for transplant surgery, and who is not otherwise entitled to medicare benefits, shall be entitled to both part A and part B medicare benefits, with respect to his kidney donation. The purpose is to encourage kidney transplantation and the scope of benefits covers all reasonable preparatory, operation and post-operation expenses associated with his kidney donation, through the actual period of recovery. Moreover, the kidney donor is not required to meet the deductible, premium or coinsurance requirements of medicare.

This provision is not being implemented in this particular regulations package. It will be included in a subsequent regulation dealing with coverage issues, which we also plan to publish near October 1, 1978.

Waiver of Proposed Rulemaking

We believe there are good reasons for issuing these regulations in final, without prior notice and opportunity for public participation in the rulemaking. First, Pub. L. 95-292 provides that medicare payments for the various dialysis and transplant services, supplies, and equipment provided under the statute shall be available beginning on October 1, 1978. Second, Pub. L. 95-292 is quite specific in prescribing the expanded entitlement to dialysis and transplant services and leaves very little to the exercise of administrative interpretation. Therefore, these regulations merely conform the existing regulations to the statutory amendments. Accordingly, we find that there is good cause to waive a notice of proposed rulemaking and good cause not to have a delayed effective date.

Explanation of Effective Date

These amendments become effective on October 1, 1978. This means that they govern entitlement decisions with respect to any individual whose entitlement begins on or after that date. In addition, the extended 36-month entitlement following a kidney transplant is applicable to persons whose entitlement began before October 1. In making determinations of entitlement for periods prior to October 1, we will use the regulations previously codified in 42 CFR 405.104.

42 CFR Part 405 is amended as set forth below:

1. Section 405.104 is revised to read as follows:

§ 405.104 Entitlement to hospital insurance benefits based on end-stage renal disease.

(a) *Scope and applicability.* This section explains the conditions of entitlement to medicare, part A, based on end-stage renal disease, and specifies the beginning and end of the period of entitlement. It implements section 226A of the Social Security Act and governs entitlement to medicare benefits on or after October 1, 1978.

(b) *Definitions.* As used in this section:

"End-stage renal disease" means that stage of kidney impairment that appears irreversible, and permanent and requires a regular course of dialysis or kidney transplantation to maintain life.

"Child" or *"spouse"* means a child or spouse whose relationship to the parent or spouse meets the relationship requirements for entitlement to child's monthly social security benefits or to wife's, husband's, widow's, widower's, mother's, or father's monthly benfits, as set forth in 20 CFR Part 404, subpart L. However, the duration of relationship requirements of subpart L apply only to divorced wives. (See 20 CFR 404.1105)

"Dependent child" means a person who, on the first day he has end-stage renal disease, is unmarried and meets the dependency requirements for entitlement to child's social security benefits on the basis of a parent's earnings (see 20 CFR 404.323-404.327a) and:

(1) Is under age 22; or

(2) Is under a disability that began before age 22; or

(3) Is under age 26, is receiving at least one-half support from that parent, and has continuously received at least one-half support from that parent since the day before attaining age 22.

"One-half support" means regular contributions, in cash or in kind, that equal or exceed one-half of the child's total support.

(c) *Conditions of entitlement.* An individual is entitled to medicare, part A benefits based on end-stage renal disease if he is medically determined to have that disease and meets the following conditions:

(1) He is: (i) Fully or currently insured under the social security pro-

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gram (title II of the Act) or would be fully or currently insured if his employment (after 1936) as defined under the Railroad Retirement Act were considered "employment" under the Social Security Act; or

(ii) Entitled to monthly social security or railroad retirement benefits; or

(iii) The spouse or dependent child of a person who meets the requirements of paragraph (c)(1)(i) or (c)(1)(ii) of this section, and

(2) He has filed an application.

(3) He has satisfied the waiting period explained in paragraph (e) of this section.

(d) *Filing an application.* (1) An individual who wishes to apply for hospital insurance based on end-stage renal disease may obtain an application form and help in completing it at any social security office.

(2) If an individual is deceased or, because of poor health, or mental condition, is unable to file an application, a relative or person responsible for his affairs may file the application on his behalf. If such a person is not available, the hospital or dialysis facility that furnished treatment may file the application.

(3) An application is not valid if it is filed earlier than the third month before the month in which the individual meets all the conditions specified in this section

(4) If an application is filed within 12 months after the month in which the individual first met the other conditions of entitlement, it will establish entitlement as of that first month. An application filed more than 1 year after the month the other conditions are met will be retroactive only 12 months before the month of filing.

(e) *Beginning of entitlement*—(1) *Basic factors.* Entitlement can begin no earlier than the first month in which the individual meets the conditions specified in paragraph (c) of this section, or the 12th month before he files an application, whichever is later.

(2) *Waiting period.* Entitlement begins on the first day of the third month after the month in which the individual initiates a regular course of renal dialysis, if the course is maintained throughout the waiting period, unless entitlement would begin earlier under paragraph (e) (3) or (4) of this section. This means that if dialysis began in January, entitlement would begin April 1.

(3) *Exception: Early kidney transplant.* If the individual receives a transplant, entitlement begins with the first day of the month in which the transplant was performed. However, if the individual is admitted as an inpatient to a hospital that is an approved renal transplantation center or renal dialysis center (see § 405.2102 for procedures preliminary to transplant surgery, entitlement begins;

(i) On the first day of the month in which he initially enters the hospital, if the transplant is performed in that month or in either of the next 2 months; or

(ii) On the first day of the second month before the month of kidney transplantations, if the transplant is delayed more than 2 months after the month of initial hospital stay.

For example, if an individual enters the hospital in January, and the transplant is performed in January, February, or March, entitlement would begin January 1. However, if the transplant is perfomed in April, entitlement would begin February 1.

(4) *Exception: Self-dialysis training.* Entitlement begins on the first day of the month in which a regular course of renal dialysis began if:

(i) Before the end of the waiting period, the individual participates in a self-dialysis training program offered by a medicare approved facility;

(ii) The facility has certified it is reasonable to expect the individual will complete the training program and will self-dialyze on a regular basis; and

(iii) The regular course of dialysis is maintained throughout the time that would otherwise be the waiting period.

(f) *End of entitlement.* Entitlement ends with the earlier of the following:

(1) The end of the 12th month after the month in which a course of dialysis ends, unless the individual receives a kidney transplant during that period or begins another regular course of dialysis; or

(2) The end of the 36th month after the month in which the individual has received a kidney transplant, unless the individual receives another kidney transplant or begins a regular course of dialysis during that period.

(g) *Resumption of entitlement.* An individual who initiates dialysis more than 36 months after the month of a kidney transplant or resumes dialysis more than 12 months after the month a previous course of dialysis ended, must submit a new application but need not serve a waiting period. If he is otherwise entitled under the conditions specified in paragraph (c) of this section, and files an application, entitlement begins with the month in which dialysis is initiated or resumed.

2. Section 405.210(b)(1)(iii) is revised to read as follows:

§ 405.210 Individual enrollment; enrollment procedures.

(a) *What constitutes enrollment.* • • •

(b) *Automatic enrollment.* • • •

(1) • • •

(iii) He is entitled to hospital insurance benefits by reason of end-stage renal disease. (See § 405.104.)

(Secs. 226A, 1102, and 1837 of the Social Security Act (42 U.S.C. 426-1, 1302, and 1395(p).)
(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance and No. 13.774 Medicare-Supplementary Medical Insurance.)

Dated: September 19, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 25, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-29286 Filed 9-27-78; 8:45 am]

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Federal Register

THURSDAY, SEPTEMBER 28, 1978
PART VII

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

COACHELLA VALLEY FRINGE-TOED LIZARD

Proposed Listing and Critical Habitat Determination

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SE 28 78

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Listing and Critical Habitat Determination for the Coachella Valley Fringe-toed Lizard

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Coachella Valley fringe-toed lizard (*Uma inornata*), known only from the Coachella Valley, Calif., be listed as a threatened species. A review of the status of this lizard reveals that (1) it is restricted to sandy habitats in the Coachella Valley, Riverside County, Calif.; (2) its historical range was approximately 324 square miles; (3) by 1975 its range had been reduced to 236 square miles, 120 square miles of which was suitable habitat, including marginal areas; (4) habitat losses due to urban and agricultural growth in the Valley have occurred since 1975 and are expected to continue; (5) the lizard population has been impacted by off-road vehicle use in parts of the Valley; and (6) changes in the lizard's habitat are occurring through the planting of tamarisk wind-breaks and the invasion of Russian thistle. This rule would provide needed protection for the Coachella Valley fringe-toed lizard and its ramaining habitat.

DATES: Comments from the public and the Governor of California must be received by December 28, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 3, 1977, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (42 FR 57492) to the effect that a review of the status of 10 reptiles was being conducted. The Coachella Valley fringe-toed lizard was included as part of the review. As a result of the notice of review, responses were received from the California Department of Fish and Game, the California State office of the Bureau of Land Management, and eight professional biologists. Several agencies and individuals included a report by A. S. England and S. G. Nelson entitled "Status of the Coachella Valley fringe-toed lizard (*Uma inornata*)" which had been prepared for the California Department of Fish and Game in 1976. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

The following biologists all recommended protection for the lizard: P. A. Medica, K. S. Norris, T. R. Van Devender, D. B. Wake, H. F. Delisle, D. W. Stevens, W. W. Mayhew, and A. S. England. Habitat protection from encroaching development, off-road vehicle use, and non-native plant species were frequently cited as of being paramount importance to the continued survival of this species. Many of the biologists supplied information on the modification of the habitat and indicated that it was representative of what is happening throughout the California desert. Dr. Mayhew supplied specific information concerning areas of potential critical habitat and Dr. England clarified certain statements in his 1976 report to the State. Threatened status was recommended by most of the biologists.

Mr. John Birch, acting State director of the Bureau of Land Management in California, supplied information on the threats to the lizard, habitat modification, and a California State land acquisition request on behalf of the lizard. He recommended a threatened status under provisions of the Endangered Species Act of 1973.

Mr. J. McCormick responded for the California Department of Fish and Game. He recommended no listing although he indicated that the State will continue to "monitor this species closely in an effort to prevent its status from declining further". He also states that "We agree with the author's conclusion that this species does not now qualify as threatened or endangered." However, the authors do not say that the species should not be federally protected. On page 27 of their report, England and Nelson do say that the Coachella Valley fringe-toed lizard does not qualify as endangered under that definition in the Endangered Species Act of 1973. However, they continue: "The Federal definition of a threatened species is broad enough to conceivably include *U. inornata*, given the existing threats that we have described". In his letter dated January 25, 1978, Dr. England further states: "Based on these findings, it is clear that *Uma inornata* is likely to become an endangered species in the foreseeable future, and thus meets the threatened species criteria." Therefore, the Service believes that a proposal to list this species as threatened is justified under provisions of the Act.

The Coachella Valley fringe-toed lizard is known only from the Coachella Valley, Riverside County, Calif. Like other members of the genus *Uma*, it is adapted for living in fine wind-blown sand, and is restricted to areas where this habitat occurs in the floor of the Coachella Valley. At times, the Coachella Valley fringe-toed lizard has been considered a subspecies of the Colorado fringe-toed lizard (*Uma notata*). A recent study proposes reestablishing the single species *Uma notata* by lumping the Coachella Valley, Calif., and Mojave fringe-toed lizards, but it does not address the subject of subspecies. Based on current reproductive, physiological, and behavioral evidence, most experts agree on the existence of either three discrete species or three subspecies. The Coachella Valley fringe-toed lizard is of special interest to scientists because of its morphological and behavioral adaptations to sandy habitats, and its evolutionary relationships to other closely related species.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under the five criteria of section 4(a) of the Act. These factors, and their application to the Coachella Valley fringe-toed lizard, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The historical range of the Coachella Valley fringe-toed lizard was approximately 324 square miles. The results of a study funded by the California Department of Fish and Game indicated that by 1975 the historical range of this species had been reduced by 27 percent to 236 square miles. Further, suitable habitat, including marginal areas, comprised only 120 square miles or 51 percent of range remaining in 1975. The amount of habitat that has been lost since 1975 is not known. These losses have occurred as a result of rapid urban and agricultural growth in the Valley since 1945, and this trend is expected to continue. In 1940, the human population in the Coachella Valley was 12,000. By 1970, it had risen to over 100,000, and has been projected to reach 139,500 to 164,000 by 1990. Population projections made for the early 1970's have already proven to be too low. These predictions were only for permanent populations, and in 1971, seasonal residents represented an additional 40 percent of the total population. At the present time, none of the lizard's habitat has been permanently preserved. An analysis of city and county general plans, and county zoning has shown that all remaining habitat could eventually be developed.

Much of the habitat in the southern and eastern part of the Valley is being invaded by dense stands of Russian thistle (*Salsola iberica*), a noxious weed introduced from Europe. This is a recent phenomenon and the potential effects on Coachella Valley fringe-toed lizard populations are not known. There is heavy off-road vehicle use in parts of the Valley. Studies in other areas show that this activity can have significant negative effects on densities and biomass of vertebrate populations. Tamarisk (*Tamarix aphylla*) wind-breaks have been planted throughout the Valley to protect agricultural and urban developments. A row of 40 foot trees can create a windshadow up to 1200 feet wide on the leeward side of the windbreak, causing changes in soil movement patterns. The potential effects of these plantings on fringe-toed lizard populations are not known. An additional 15 to 20 miles of wind-breaks have been proposed, partially along Bob Hope Drive, Ramon Road, and Indian Avenue, through relatively undisturbed habitat.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Although existing regulations prohibit collecting more than two fringe-toed lizards per day without a special permit, collecting for the pet trade has continued. This is due primarily to a sharp increase in prices paid for reptiles. During the spring of 1978, several violations involving the Coachella Valley fringe-toed lizard were issued for over-collecting without a license. The extent of this problem is not known.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—To the present, nothing has been done to prevent the continued loss of Coachella Valley fringe-toed lizard habitat through conversion to urban and agricultural land uses. Although a county ordinance restricts the use of off-road vehicles on private lands without possession of written permission from the landowner, heavy use continues in certain areas and habitat conditions have deteriorated.

5. *Other natural or man-made factors affecting its continued existence.*—Not applicable.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or results in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

> "Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978 FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Coachella Valley fringe-toed lizard, the areas proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and successful incubation of eggs occurs within the proposed areas. Shelter and hibernation sites are present in the dunes and adjacent sandy habitat. Organisms on the dunes provide food for the lizards and the sand provides sufficient cover from disturbance and overheating. Sufficient areas for normal growth of both the population and individual lizards are provided within the proposed critical habitat.

Critical habitat of the Coachella Valley fringe-toed lizard, exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species, is proposed as follows:

California. Riverside County: All aeolian sand deposits present on the following sections of land (San Bernardino base and meridian):

T3S R2E Secs. 13, 14, 23, 24.
T3S R3E Secs. 7, 8, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24.
T3S R4E Secs. 1, 2, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.
T3S R5E Secs. 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.
T4S R5E Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36.
T4S R6E Secs. 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36.
T4S R7E Secs. 29, 30, 31, 32, 33.
T5S R6E Secs. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 36.
T5S R7E Secs. 1, 5, 6, 7, 8, 9, 12, 16, 17, 18, 19, 20, 21, 29, 30, 31, 32, 33.
T5S R8E Secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 20, 21.

The areas proposed do not necessarily include the entire critical habitat of this lizard, and modifications to critical habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat of the Coachella Valley fringe-toed lizard.

All Federal departments and agencies shall, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considerd likely to affect critical habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the January 4, 1978, FEDERAL REGISTER (43 FR 870-876).

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in title 50 of the Code

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of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered and threatened species. The regulations referred to above, which pertain to threatened species, are found at § 17.31 of Title 50, and are summarized below.

With respect to the Coachella Valley fringe-toed lizard, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.31, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in 50 CFR Part 17 provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of California with respect to this proposal and request his comments and recommendations before making final determinations.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Coachella Valley fringe-toed lizard;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of this species.

Final promulgation of the regulations on the Coachella Valley fringe-toed lizard will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Evnironmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.11(i) by adding, in alphabetical order under "Reptiles" the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
Reptiles:							
Lizard, Coachella Valley fringe-toed.	*Uma inornata*	NA	U.S.A. (California)	Entire	T		

§ 17.95 [Amended]

2. Also, the Service proposes to amend § 17.95(c) by adding critical habitat of the Coachella Valley fringe-toed lizard after that of the Mona ground iguana as follows:

• • • • •

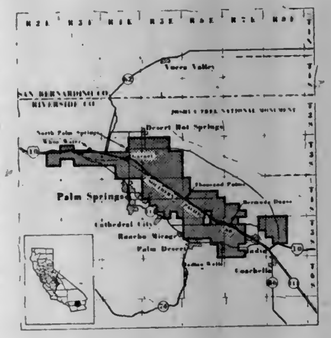
(c) *Reptiles.* • • •

Coachella Valley Fringe-Toed Lizard

(*Uma inornata*)

California. Riverside County. All aeolian sand deposits present on the following sections of land (San Bernardino base and meridian):

T3S R2E secs. 13, 14, 23, 24.
T3S R3E secs. 7, 8, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24.
T3S R4E secs. 1, 2, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.
T3S R5E secs. 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.
T4S R5E secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36.
T4S R6E secs. 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36.
T4S R7E secs. 29, 30, 31, 32, 33.
T5S R6E secs. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 36.
T5S R7E secs. 1, 5, 6, 7, 8, 9, 12, 16, 17, 18, 19, 20, 21, 29, 30, 31, 32, 33.
T5S R8E secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 20, 21.



Note.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 23, 1978.

Keith M. Schreiner,
Acting Director,
Fish and Wildlife Service.

FR Doc. 78-27313 Filed 9-27-78; 8:45 am]

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federal register

THURSDAY, SEPTEMBER 28, 1978
PART VIII



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Five Plants As Endangered Species

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[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Five Plants as Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines five plants (*Arabis macdonaldiana, Phacelia argillacea, Pogogyne abramsii, Orcuttia mucronata,* and *Cordylanthus maritimus* ssp. *maritimus*) to be endangered species. Past degradation of and potential loss of habitat due to agriculture, housing developments, filling of coastal salt marshes, road and railroad construction, off-road vehicle use, and mining operations are threatening the continued existence of these species. These plants occur in California, Utah, and northern Baja California, Mexico. This action will provide conservation measures necessary for these plants' continued sur- vival.

DATE: This rulemaking becomes effective on October 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Smithsonian Institution, in response to section 12 of the Act, presented his report to Congress on January 9, 1975. This report, designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the FEDERAL REGISTER (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical, pursuant to section 7 of the Act.

In the FEDERAL REGISTER of June 7, 1976 (41 FR 22915-22922), the Service published proposed rules which among other things:

(1) Set forth the procedural steps of determining endangered or threatened species of plants;

(2) Prescribe the prohibitions which apply to such endangered or threatened plants or to the seeds, roots, or parts thereof:

(3) Establish procedures, conditions, and criteria for the application for and issuance of permits to conduct otherwise prohibited activities.

On June 16, 1976, the Service publishes a proposed rulemaking in the FEDERAL REGISTER (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the abovementioned FEDERAL REGISTER publications.

In the June 24, 1977, FEDERAL REGISTER (42 FR 32373-32381), the Service published a final rulemaking detailing the regulations to protect endangered and threatened plant species. The rulemaking established prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstances.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the list of endangered and threatened wildlife and plants.

Official comments were received from the State of California. The California Department of Fish and Game did not offer any objections to the four California plants included in this rulemaking. Official comments were not received from the State of Utah or from Mexico. Hundreds of comments were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of endangered plants and their protection and regulation. These comments are summarized in the April 26, 1978, FEDERAL REGISTER publication of a final rulemaking to determine 13 plant species to be endangered or threatened species (43 FR 17909-17916).

The California Native Plant Society (CNPS), on contract to the U.S. Forest Service, supplied the Office of Endangered Species status reports on the four California plants included in this rulemaking. These status reports contain distribution and habitat data, endangerment factors, and management suggestions. The management suggestion for *Arabis macdonaldiana* and *Pogogyne abramsii* was that they be declared endangered species as soon as possible so that Federal agencies could preserve that portion of the species' range on public lands. The management suggestion for *Orcuttia mucronata* was that if the species ever grew in large numbers again, some of the plants could be transplanted to a protected alkaline pool or an artificial alkaline vernal pool that could be constructed on any of the waterfowl refuges in the Central Valley. The CNPS suggested that research was needed to identify currently unknown factors adversely influencing *Cordylanthus maritimus* ssp. *maritimus.*

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Arabis macdonaldiana* Eastwood, *Phacelia argillacea* Atwood, *Pogogyne abramsii* J. T. Howell, *Orcuttia mucronata* Crampton, and *Cordylanthus maritimus* Nutt. ex Benth. ssp. *maritimus* are in danger of becoming extinct throughout all or significant portions of their ranges due to one or more of the factors described in section 4(a) of the Act.

These factors and their application to the plant species contained in this rulemaking are as follows:

Arabis macdonaldiana

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Red Mountain, Medocino County, Calif., is the only known locality for this species. Approximately half of the species' range is privately owned by the Coastal Mining Co., a subsidiary of Hanna Mining Co. This company has unpatented mining claims on the remainder of the species' range, public land managed by the Bureau of Land Management. It is anticipated that this company plans to remove as much of the nickel-containing soil as is economically feasible. This operation could cover the entire top of Red Mountain and extirpate the species.

(2) *Overutilization for commerical, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* California has recently passed legislation to protect native endangered plants. This law primarily provides for the salvage of rare or endangered plants threatened by a proposed change in land use. *Arabis macdonaldiana* has not been listed as rare or endangered pursuant to State law.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Phacelia argillacea

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* The only known location of this species is in Utah County, Utah, on the Greenriver Shale Formation. As of 1977, only nine plants were counted. The loss and modification of habitat by the construction of a railroad that bisects its only known population has seriously affected this species. An access road runs along the railroad line and any expansion might extirpate this species.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Pogogyne abramsii

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Collections of this species are from vernal pools on mesas of western San Diego County, Calif. Widening of Miramar Road and use of off-road vehicles are destroying the populations on Kearney Mesa. Widening Highway 163 through lands under the jurisdiction of the Miramar Naval Air Station north of San Diego would destroy several dozen vernal pools and a sizable section of the Miramar Mounds Natural Landmark. Cloverleaf construction on Highway 52 in this same area would destroy one-third of the Miramar Mounds Natural Landmark. Vernal pools at the end of Mira Mesa Road are being lost to housing development, off-road vehicle use, and illegal dumping. Some of the historical habitat at Otay Mesa is now in agricultural use.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* California has recently passed legislation to protect native endangered plants. This law primarily provides for the salvage of rare or endangered plants threatened by a proposed change in land use. *Pogogyne abramsii* has not been listed as rare or endangered pursuant to State law.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Orcuttia mucronata

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* This species is currently known to occur only in one large (approximately 1 square mile) vernal lakebed 12 miles south of Dixon, Solano County, Calif. The site is surrounded by land used for agricultural purposes. Although the alkaline lake is not likely to be used for agricultural purposes in the near future, such use could take place in the eventual future. Housing developments have destroyed many vernal pools in this region.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* California has recently passed legislation to protect native endangered plants. This law primarily provides for the salvage of rare or endangered plants threatened by a proposed change in land use. *Orcuttia mucronata* has not been listed as rare or endangered pursuant to State law.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Cordylanthus maritimus ssp. *maritimus*

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, this species has occurred at sea level in coastal salt marshes from Carpenteria, Santa Barbara County, to San Diego County and northern Baja California, Mexico. Present distribution may be restricted to the Tijuana River estuary, San Diego County; Point Mugu, Ventura County; and northern Baja California. Filling in of coastal salt marshes has either eliminated or drastically reduced this species in its known habitats. A current proposal to restore "natural" tidal flow to the marshes of Point Mugu Lagoon could eliminate a flourishing colony of *Cordylanthus maritimus* ssp. *maritimus.*

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* California has recently passed legislation to protect native endangered plants. This law primarily provides for the salvage of rare or endangered plants threatened by a proposed change in land use. *Cordylanthus maritimus* ssp. *maritimus* has not been listed as rare or endangered pursuant to State law.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Effect of the Rulemaking

Section 7 of the act provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species or threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Provisions for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with section 7.

Endangered species regulations already published in title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to endangered and threatened plant species, are found at sections 17.61 and 17.71 of title 50 and are summarized below.

All prohibitions of section 9(a)(2) of the act would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of June 24, 1977 (42 FR 32373), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered plants are available for scientific purposes or for enhancing the propagation or survival of the species. Such permits involving threatened plants are available for scientific purposes, the enhancement of the propagation or survival of the species, economic hardship, botanical or horticultural exhibition, educational purposes, or

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other activities consistent with the purposes and policy of the act.

EFFECT INTERNATIONALLY

In addition to the protection provided by the act, the Service will review the status of these species to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendixes to that convention or whether they should be considered under other appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Mrs. Lorraine K. Williams, Washington Office of Endangered Species, 202-343-7814.

REGULATION PROMULGATION

Accordingly, § 17.12 of part 17 of chapter I of title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order by family, genus, and species, the following plants:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Brassicaceae—Mustard family:						
Arabis macdonaldiana.	McDonald's rock cress	U.S.A. (California)	Entire	E	44	NA
Hydrophyllaceae—Waterleaf family:						
Phacelia argillacea	Unnamed Phacelia	U.S.A. (Utah)	do	E	44	NA
Lamiaceae—Mint family:						
Pogogyne abramsii	San Diego pogogyne	U.S.A. (California)	do	E	44	NA
Poaceae—Grass family:						
Orcuttia mucronata	Crampton's orcutt grass.	do	do	E	44	NA
Scrophulariaceae—Snapdragon family:						
Cordylanthus, maritimus ssp., *maritimus.*	Salt marsh bird's-beak	U.S.A. (California); Mexico	do	E	44	NA

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 21, 1978.

HARVEY K. NELSON,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-27314 Filed 9-27-78; 8:45 am]

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October 27 and 28, 1978

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ALBANY, NEW YORK, WORKSHOPS

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with the Hudson Mohawk Library Association, the New York State Library, and the School of Library and Information Science at the State University of New York/Albany.

WHAT: Free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 27, 1978, at 1:00 p.m. and October 28, 1978 at 9:30 a.m. (Each session identical.)

WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Elizabeth Closson, 518–474–5943.

federal register

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

EPA—Virginia air pollution control plans; approval of revisions 38770; 8-30-78

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DOT/NHTSA—Defective and noncomplying motor vehicles and items of motor vehicle equipment 38835; 8-31-78
Interior/FWS—Ravalli National Wildlife Refuge, Montana; migratory game bird; hunting 38010; 8-25-78
SEC—Disclosure forms and regulations amendments 34402; 8-3-78
USDA/AMS—Limes grown in Florida; order amending order 39319; 9-5-78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 27, 1978]

S. 3075 ..... Pub. L. 95-384
International Security Assistance Act of 1978. (Sept. 26, 1978; 92 Stat. 730). Price: $.90.

S. 3119 ..... Pub. L. 95-385
To transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency. (Sept. 26, 1978; 92 Stat. 749). Price: $.50.

S. 3120 ..... Pub. L. 95-386
To enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia. (Sept. 26, 1978; 92 Stat. 750). Price: $.50.

S. 1103 ..... Pub. L. 95-387
District of Columbia Reciprocal Tax Collection Act. (Sept. 27, 1978; 92 Stat. 751). Price: $.50.

S. 2556 ..... Pub. L. 95-388
To change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency. (Sept. 27, 1978, 92 Stat. 753). Price: $.50.

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presidential documents

[3195-01]

Title 3—The President

Executive Order 12083 • **September 27, 1978**

Energy Coordinating Committee

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for the coordination of Federal energy policies, it is hereby ordered as follows:

1-1. *Establishment of the Committee.*

1-101. There is established an Energy Coordinating Committee, hereinafter referred to as the Committee.

1-102. The Committee shall be composed of the following, and such other members as the President may, from time to time, designate.

(a) The Secretary of Energy, who shall be the Chairman.
(b) The Secretary of State.
(c) The Secretary of the Treasury.
(d) The Secretary of Defense.
(e) The Attorney General.
(f) The Secretary of the Interior.
(g) The Secretary of Agriculture.
(h) The Secretary of Commerce.
(i) The Secretary of Labor.
(j) The Secretary of Health, Education, and Welfare.
(k) The Secretary of Housing and Urban Development.
(l) The Secretary of Transportation.
(m) The Special Representative for Trade Negotiations.
(n) The Director of the Office of Management and Budget.
(o) The Chairman of the Council of Economic Advisers.
(p) The Chairman of the Council on Environmental Quality.
(q) The Administrator of the Environmental Protection Agency.
(r) The Director of the Office of Science and Technology Policy.
(s) The Administrator of General Services.
(t) The Director of the National Science Foundation.
(u) The Assistant to the President for National Security Affairs.
(v) The Assistant to the President for Domestic Affairs and Policy.
(w) The Chairman of the Nuclear Regulatory Commission, who is invited to be a member.

1-2. *Functions of the Committee.*

1-201. The Committee shall ensure that there is communication and coordination among Executive agencies concerning energy policy and the management of energy resources.

1-202. The Committee shall, from time to time, develop and consider recommendations for improvements in the implementation of Federal energy policies or the management of energy resources that involve two or more Executive agencies.

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1-203. The functions of the Committee shall neither substitute for nor replace Executive Office of the President clearance, review, and decision-making procedures. Those procedures shall also be used for submitting to the President any of the conclusions or recommendations developed through the Committee's energy coordinating functions.

1-204. The Committee shall meet at the call of the Chairman.

1-3. *Executive Council.*

1-301. During periods when the Committee is not meeting, the functions of the Committee are delegated to an Executive Council. Meetings may be called by any regular member of the Council.

1-302. The Executive Council shall be composed of the following, and such others as may be appropriate due to the specific matters to be considered.

(a) The Chairman of the Committee, who shall be Chairman of the Executive Council.

(b) The Director of the Office of Management and Budget.

(c) The Chairman of the Council of Economic Advisers.

(d) The Assistant to the President for National Security Affairs.

(e) The Assistant to the President for Domestic Affairs and Policy.

1-4. *Revocation of a Prior Order.* Executive Order No. 11814, as amended, which provided for an Energy Resources Council, is revoked.

Jimmy Carter

THE WHITE HOUSE,
September 27, 1978.

[FR Doc. 78-27687 Filed 9-27-78; 2:36 pm]

[3195-01]

Executive Order 12084 **September 27, 1978**

Judicial Nominating Commission for the District of Puerto Rico

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to create in accord with the Federal Advisory Committee Act (5 U.S.C. App. I) an advisory committee on judicial nominations for the District of Puerto Rico, it is hereby ordered as follows:

1-1. *Establishment of the Commission.*

1-101. There is established the Judicial Nominating Commission for the District of Puerto Rico.

1-102. The Commission shall have seven members appointed by the President. The President shall designate a Chairman from among the members.

1-2. *Functions of the Commission.*

1-201. The Commission shall begin functioning when the President or his designee notifies the Chairman that the President desires the Commission's assistance in identifying persons qualified to fill a vacancy on the United States District Court for the District of Puerto Rico.

1-202. Upon receiving such notification, the Commission shall:

(a) give public notice of the vacancy, inviting suggestions as to potential nominees;

(b) conduct inquiries to identify potential nominees;

(c) conduct inquiries to identify, among the potential nominees, persons who are well qualified to serve as a United States District Judge; and

(d) report to the President, within the time specified in the notification, the results of its activities, including a list of the persons whom the Commission considers to be best qualified to fill the vacancy.

1-203. In evaluating potential nominees, the Commission shall use standards provided by the Attorney General.

1-3. *Administrative Provisions.*

1-301. Members of the Commission shall serve without compensation. While engaged in the work of the Commission, members may receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

1-302. The Attorney General shall furnish to the Commission necessary administrative support.

1-303. All necessary expenses incurred in connection with the work of the Commission, to the extent permitted by law, shall be paid from funds available to the Attorney General.

1-4. *General Provisions.*

1-401. A person who is a member of the Commission shall not, during the period of membership and for one year after that period, be considered by the Commission as a potential nominee.

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1–402. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Attorney General in accordance with the guidelines and procedures established by the Administrator of General Services.

1–403. The Commission shall terminate on December 31, 1978, unless sooner extended by the President.

Jimmy Carter

THE WHITE HOUSE,
September 27, 1978.

[FR Doc. 78-27688 Filed 9-27-78; 2:37 pm]

[3195-01]

PROCLAMATION 4603

American Education Week, 1978

By the President of the United States of America

A Proclamation

Our founders assumed that an educated electorate was essential to a strong, healthy democracy. Freedom of speech, thought and inquiry are part of the basic structure of our society, and we share a fundamental belief that education can provide the key to overcoming all our problems. We have come a long way toward providing access to schools for all our people, and we provide enormous resources for education. We can be proud of that progress, as we are proud of the progress of many of our students, both youngsters and adults. But we must also recognize that many young Americans still emerge from our schools inadequately prepared to take up the responsibilities of adult life. Others have not been sufficiently challenged to develop their full potential.

Teaching has never been easy, and inspiring students is more difficult still. Perhaps it is even harder today than in the past, but it is no less crucial to the well-being of our people and of our society.

The theme of this year's American Education Week, "Education Can Turn Things Around," expresses our faith in the power of education. We expect our teachers to provide the skills, knowledge and background for understanding that will allow all Americans to make the best use of their God-given abilities. If they are to succeed, we must support these goals for human achievement in all aspects of our society. We can do this by placing our priorities and our emphasis on the lasting instead of the trivial, by rewarding quality and accomplishment, by respecting true knowledge, by raising important questions and seeking honest answers, by valuing and nurturing the capabilities of every human being.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning November 12, 1978, as American Education Week.

It is appropriate that we honor what is right and good in education in America today—the dedicated, searching teachers who demand much of themselves and their students, who push beyond failure and discouragement to light the spark of understanding. It is appropriate, also, to recognize our responsibility as parents, grandparents, neighbors and citizens, to support the efforts of our schools to meet our high expectations, so that now and in generations to come our people may become a truly educated people.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-27830 Filed 9-28-78; 12:12 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-08]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 417—SUGARCANE CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

CORRECTIONS

AGENCY: Federal Crop Insurance Corporation.

ACTION: Corrections.

SUMMARY: In FR Doc. 78-23097 appearing at pages 36423, 36424, 36425, 36426 and 36427 of the FEDERAL REGISTER of Thursday, August 17, 1978, which provided the regulations for the insuring of sugarcane with the Federal Crop Insurance Corporation, the following corrections should be noted:

FOR FURTHER INFORMATION CONTACT:

Peter Cole, 202-447-3325.

CORRECTIONS

1. In § 417.8 The Policy, subsection 1(d) appearing on page 36425 in the middle column at the top of the page, the word "plant" in the second line and the word "stubble" at the end of the third and the beginning of the fourth lines should have been italicized for emphasis.

2. In § 417.8 The Policy, subsection 3(a) appearing on page 36425 in the right column, the third line thereof should read "sugarcane crop insured shall be sugarcane," and the fourth line thereof should read "grown for processing for sugar and for."

3. In § 417.8 The Policy, subsection 3(b) appearing on page 36425 in the right column, the words "plant" in the second line and "stubble" in the third line should have been italicized for emphasis.

4. In § 417.8 The Policy, subsection 3(c) appearing on page 36425 in the right column, the first line thereof should read "(c) The Corporation reserves the right to."

5. In § 417.8 The Policy, subsection 6(d) appearing on page 36426 in the left column, the semicolon appearing in the fourth line thereof should be deleted.

6. In § 417.8 The Policy, subsection 8 appearing on page 36426 in the right column, the words "plant" in the second line and "stubble" in the third line should have been italicized for emphasis.

7. In § 417.8 The Policy, subsection 9(a) appearing on page 36426 in the right column, the tenth line from the end thereof should read "the earliest of (1) the date harvest is com-."

8. In § 417.8 The Policy, subsection 10(b) appearing on page 36426 in the right column, the semicolon in the second line thereof should be deleted, and the third line thereof should read "(1) establish the total production of sugar-."

9. In § 417.8 The Policy, subsection 10(c) appearing on page 36426 in the right column, the semicolon appearing in the third line thereof should be deleted, the fourth line thereof should read "multiplying the insured acreage of sugar-," and the word "Provided" appearing on page 36427 in the eighth line from the end thereof should have been italicized for emphasis.

10. In § 417.8 The Policy, subsection 10(d) appearing on page 36427 in the left column, the sixth line thereof should read "made by the Corporation for (1) stubble."

11. In § 417.8 The Policy, subsection 10(g) appearing on page 36427 in the left column, the word "Provided" in the sixth line thereof should have been italicized for emphasis.

12. In § 417.8 The Policy, subsection 13(a) appearing on page 36427 in the middle column, the fifth line thereof should read "for only the smaller of (1) the amount of."

13. In § 417.8 The Policy, subsection 17 appearing on page 36427 in the middle column, the seventh line thereof should read "separate records showing the same informa-."

Dated: September 27, 1978.

JOYCE M. MCCOY,
Assistant Secretary,
Federal Crop Insurance Corporation.

[FR Doc. 27613 Filed 9-28-78; 8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 713—FEED GRAINS, UPLAND COTTON AND WHEAT

Subpart—Feed Grain, Upland Cotton and Wheat Programs for Crop Years 1978-1981

REVISION OF REGULATIONS

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the feed grain, upland cotton, and wheat program provisions for 1978-81. The authority for these programs is found in Titles IV, V, and VI of the Food and Agriculture Act of 1977. Program provisions in Parts 722 for upland cotton, 728 for wheat, and 775 for feed grains are effective only through 1977.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7633.

SUPPLEMENTARY INFORMATION: Because this rule merely incorporates determinations which have already been made public and since farmers are planting, cultivating, and harvesting their 1978 crop, it is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impractical and contrary to the public interest.

Similarly, due to the advanced stage of the 1978 growing season and the need for farmers to have these regulations effective upon publication, it is hereby found in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978) that it is not possible to publish these regula-

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tions in proposed form and allow 60 days for public comment.

FINAL RULE

7 CFR Part 713 is added to read as follows:

Sec.
713.1 Applicability.
713.2 Administration.
713.3 Definitions.
713.4 County Yields.
713.5 Farm Yields.
713.6 Notice of normal crop acreage and yields.
713.7 Reconstitution of farms.
713.8 Requirements for program participation.
713.9 Required set-aside.
713.10 Voluntary Diversion.
713.11 Wheat grazing and hay.
713.12 Designation, use, and care of set-aside and voluntary diversion acreage.
713.13 Cross Compliance and Offsetting Compliance.
713.14 Determination of compliance.
713.15 General payment provisions.
713.16 Disaster payments.
713.17 Established (target) prices.
713.18 National program acreage.
713.19 Deficiency payments.
713.20 Division of payments and additional provisions relating to tenants and sharecroppers.
713.21 Successors-in-interest.
713.22 Misrepresentation and scheme or device.
713.23 Setoffs and assignments.
713.24 Appeals.
713.25 Performance based upon advice or action of county or State committee.

AUTHORITY: Secs. 103(f), 105A, 107A, 91 Stat. 934, 91 Stat. 928, 91 Stat. 921; (7 U.S.C. 1444, 7 U.S.C. 1445c, 7 U.S.C. 1445b).

§ 713.1 Applicability.

(a) The regulations in this subpart provide terms and conditions for the feed grain, upland cotton and wheat programs for the 1978 through 1981 crops, under which producers of feed grains, upland cotton and wheat who meet the eligibility requirements in § 713.8 may qualify for payments authorized under the programs.

In accordance with section 101 of the Agricultural Act of 1970, as amended, section 101 of the Food and Agriculture Act of 1977, and the regulations in Part 795 of this chapter, as amended, the total amount of payments (excluding disaster payments) which a person shall be entitled to receive annually under the feed grain program, the upland cotton program and the wheat program shall not exceed $40,000 in 1978, $45,000 in 1979, and $50,000 in 1980 and 1981 (including such payments under the rice program in 1980 and 1981).

(c) In accordance with the regulations in Part 796 of this chapter, as amended, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(d) The programs are applicable throughout the United States.

§ 713.2 Administration.

(a) The programs will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committeee (herein called "State and county committees") and ASCS Management Field Office (MFO).

(b) State and county committees, MFO, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also (1) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

(d) No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 713.3 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires. All other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms, Part 719 of this chapter, as amended.

(a) "Annual nonconserving crop" means any annual crop intended for harvest or utilized in any feed form, except for the following:

(1) Grasses regardless of use, including sweet sorghum, millet, and sudan grass.

(2) Legumes, other than peas or beans produced for seed, grain, or processing.

(3) Immature small grains (other than barley or wheat) destroyed by any means or used for other than grain.

(b) "Barley acreage" means:

(1) Any acreage of barley harvested for grain or planted but not harvested for grain solely because of a disaster, as determined by the county committee.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is barley and such acreage meets the requirements of subparagraph (1) of this paragraph as being barley acreage.

(c) "Corn acreage" means:

(1) Any acreage planted to field corn or sterile high-sugar corn, excluding any acreage:

(i) Which failed and could have been replanted by the end of the corn planting period set by the State committee for the county but was not replanted.

(ii) Mechanically destroyed without feed or other benefit and not reported to ASCS as corn acreage.

(iii) Approved for a wildlife food plot in accordance with instructions issued by the Deputy Administrator.

(iv) Designated as set-aside or voluntary diversion.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is corn and such acreage meets the requirements of subparagraph (1) of this paragraph as being corn acreage.

(d) "Crop" means the applicable crop of barley, corn, grain sorghum, upland cotton or wheat when applied to a program crop.

(e) "Cottton acreage" means any acreage planted to cotton, and any stub cotton acreage on the farm in the current year, excluding any acreage:

(i) Which failed and could have been replanted by the end of the cotton planting period set by the State committee for the county but was not replanted.

(ii) Mechanically destroyed without benefit and not reported to ASCS as cotton acreage.

(iii) Designated as set-aside or voluntary diversion.

(f) "Current year" means the calendar year in which the crop with respect to which payment may be made under this subpart would normally be harvested.

(g) "Grain sorghum acreage" means:

(1) Any acreage planted to grain sorghums of a feed grain or dual purpose variety (including any cross which, at all stages of growth, has most of the characteristics of a feed grain or dual purpose variety), excluding any acreage:

(i) Which failed and could have been replanted by the end of the grain sorghum planting period set by the State committee for the county but was not replanted.

(ii) Mechanically destroyed without feed or other benefit and not reported to ASCS as grain sorghum acreage.

(iii) Approved for a wildlife food plot in accordance with instructions issued by the Deputy Administrator.

(iv) Designated as set-aside or voluntary diversion.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is grain sorghums and such acreage meets the requirements of subparagraph (1) of this paragraph as being grain sorghum acreage.

(h) "Marketing year" means the 12-month period beginning in the current year and ending the next year as follows:

1. *Barley and wheat.* June 1–May 31.
2. *Upland cotton.* August 1–July 31.
3. *Corn and grain sorghum.* October 1–September 30.

(i) "Rice Program" means the program authorized under title VII of the Food and Agriculture Act of 1977, part 730 of this chapter, as amended.

(j) "Wheat acreage" means:

(1) Any acreage of wheat harvested for grain or planted but not harvested for grain solely because of a disaster, as determined by the county committee.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is wheat and such acreage meets the requirements of subparagraph (1) of this paragraph as being wheat acreage.

§ 713.4 County yields.

County yields for the current year are determined for each feed grain and wheat producing county in the United States for which the need for such yields exists. They are determined on the basis of the average yields per harvested acre for the county for the 3-year period immediately preceding the year before the current year. Adjustments are made to reflect abnormal conditions during this period. County yield data for each year are obtained from the Economics, Statistics, and Cooperatives Service, USDA. The county feed grain and wheat yields for the current year are available for inspection in the county ASCS office. County yields are not established for upland cotton.

§ 713.5 Farm yields.

(a) *Barley, corn, grain sorghum and wheat—(1) Determining yields.* The bushels per acre farm yield for the current year shall be the county yield for the crop, adjusted to reflect the farm productivity for the crop and established in accordance with instructions issued by the Deputy Administrator.

(2) *Provable yields.* Notwithstanding the provisions of subparagraph (1) of this paragraph, if reliable records of the actual yield in bushels per acre on the farm for each of the 3 years immediately preceding the year before the current year are available to the county committee, the yield established for the farm shall not be less than the average of such yields.

(b) *Upland cotton.* The pounds per acre farm yield for the current year shall be the average of the actual yields per harvested acre for the farm for the 3 preceding years, adjusted in accordance with instructions issued by the Deputy Administrator when the yield in any year is abnormal because of a natural disaster or other condition beyond the producer's control. If farm yield data for any year are not available or there was no production, a farm yield shall be appraised for such year on the basis of the actual yields and established yields for similar farms in the area.

(c) *Yield reduction.* For the purposes of determining eligibility for and the amount of low-yield payment as provided for in § 713.16, the established yield for the farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year's yield which is due to causes other than a natural disaster or condition beyond the producer's control, such as a change in farming practices. Such reduced yield shall also be used for computing deficiency payments as provided for in § 713.19(c).

§ 713.6 Notice of normal crop acreage and yields.

A normal crop acreage (herein called NCA) shall be established for each farm in accordance with part 792 of this chapter, as amended, and the operator of such farm shall be notified in writing of such NCA and the yields established for the farm: *Provided,* That the notice shall not be mailed to any producer who has filed a written request that such producer not be furnished with the notice but the notice shall be filed with the producer's request in the county office. The producer may withdraw the request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of this notice.

§ 713.7 Reconstitution of farms.

(a) Farms shall be reconstituted in accordance with Part 719 of this chapter, as amended.

(b) The yield established for a crop for a combined farm shall not, except for rounding, exceed the weighted average of the yields established for the component parts, using the prior year's acreage of the crop for weighting. The weighted average of the yields established for the farms resulting from a division shall not, except for rounding, exceed the yield established for the parent farm prior to being divided.

§ 713.8 Requirements for program participation.

(a) *General.* A person is eligible for program benefits if such person is a producer on a farm which meets the requirements of paragraph (b) of this section and fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) The operator of a farm on which any producer produces one or more crops for which a set-aside requirement is in effect, is participating in voluntary diversion, or is participating in wheat grazing and hay acreage for payment must do the following:

(i) File an Intention to Participate (herein called "Form 477") in accordance with instructions issued by the Deputy Administrator.

(ii) Meet set-aside requirements.

(iii) Comply with requirements in Part 792 of this chapter, as amended.

(iv) Limit the total acreage of NCA crops, required set-aside, voluntary diversion, and wheat grazing and hay acreage for payment to the farm NCA.

(2) The operator must also file, within the period authorized by the Deputy Administrator, the following:

(i) A Report of Acreage (herein called "Form 578").

(ii) A record of production and disposition when this information is needed for program determinations.

(iii) For consideration for disaster payment purposes, a Prevented Planting Claim (herein called "Form 574-1") or an Application for Disaster Credit (herein called "Form 574").

(3) Land owned by the Federal Government shall be ineligible for participation in the program if it is occupied without a lease, permit, or other right of possession.

(c) *Producer eligibility requirements.* (1) The producer must be a person who shares in the program crop produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section, or would have shared in the crop if it had been produced on such farm in the current year, and who complies with offsetting compliance requirements provided for in Part 792 of this chapter, as amended.

(2) a minor will be eligible to participate in the program only if:

(i) The right of majority has been conferred on the minor by court proceedings.

(ii) A guardian has been appointed to manage the minor's property and the applicable documents are signed by the guardian.

(iii) A bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor

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would be liable had the minor been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

§ 713.9 Required set-aside.

(a) *1978.* The required set-aside of any crop is the following percent of the 1978 acreage of the crop, including acreage which is eligible for prevented planting credit and for which a voluntary diversion payment is approved:

(1) *Barley, corn, and grain sorghum.* 10 percent.

(2) *Upland cotton.* 0 percent.

(3) *Wheat.* 20 percent.

(b) *1979 through 1981.* to be announced by amendment to this subpart.

§ 713.10 Voluntary diversion.

(a) *1978.* (1) In order to be eligible for a voluntary diversion payment, the farm operator may elect to divert an acreage of cropland for voluntary diversion payment for any or all of the crops of barley, corn, grain sorghum, and upland cotton. Such diversion shall be equal to 10 percent of the sum of the 1978 acreage of the crop and any acreage which is eligible for prevented planting credit as determined by the county committee. This acreage for 1978 may not exceed the 1977 planted acreage of the crop (1976 planted acreage for farms with odd-even rotations), less, in the case of upland cotton, the upland cotton voluntary diversion. Voluntary diversion does not apply to wheat.

(2) The intention to participate in voluntary diversion must be recorded on Form 477, "Intention to Participate." Payment will be for all crops actually planted for harvest which meet voluntary diversion requirements.

(3) The diversion payment shall be $0.20 for corn, $0.12 for barley and grain sorghum, and $0.02 for upland cotton times the yield established for the crop as provided for in § 713.5 and times the sum of the 1978 acreage of the crop and the acreage eligible for prevented planting credit as determined by the county committee.

(4) Producers may elect to receive one-half of the diversion payment when Form 477 is filed, based upon the acreage intended to be planted to the crop.

(5) Diversion payments made to any producer which exceed the total diversion payments the producer earns under the programs with respect to any farm shall be refunded to the Commodity Credit Corporation (CCC). If for any reason such earned payments are zero, the producer shall pay interest at the rate of 7 percent per annum on the amount of the refund from the date of issuance of the CCC sight drafts to the date such payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer receives an unearned payment through no fault of the producer.

(b) *1979 through 1981.* To be announced by amendment to this subpart.

§ 713.11 Wheat grazing and hay.

(a) *1978.* (1) In order to be eligible for a wheat grazing and hay payment, the farm operator may elect to graze or cut immature wheat for (i) green chop, (ii) hay, or (iii) silage if the wheat was planted for harvest as grain. The wheat acreage intended for grazing and hay payment must be recorded on Form 477. No set-aside is required for this acreage.

(2) The acreage eligible for payment is limited to the larger of 50 acres or 40 percent of the total acreage of barley, corn, grain sorghum, upland cotton, and wheat which is intended for harvest in 1978, but not in excess of the NCA.

(3) Payment shall be the higher of the 1978 wheat deficiency rate per bushel or $0.50 times the yield established as provided for in § 713.5 times the wheat acreage eligible for grazing and hay payment. Such payment shall not be made on more acreage than that actually used for this purpose.

(4) Producers may receive one-half of the wheat grazing and hay payment when Form 477 is filed, based on $0.50 per bushel.

(5) Wheat grazing and hay payments made to any producer which exceed the total wheat grazing and hay payment the producer earns for the farm shall be refunded to CCC. If for any reason such earned payment is zero, the producer shall pay interest at the rate of 7 percent per annum on the amount of the refund from the date of issuance of the CCC sight drafts to the date such payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer receives an unearned payment through no fault of the producer.

(b) *1979 through 1981.* To be announced by amendment to this subpart.

§ 713.12 Designation, use, and care of set-aside and voluntary diversion acreage.

The regulations governing the designation, use, and care of set-aside and voluntary diversion acreage are set forth in Part 792 of this chapter, as amended.

§ 713.13 Cross compliance and offsetting compliance.

The regulations governing cross compliance on the farm and offsetting compliance between farms are set forth in Part 792 of this chapter, as amended.

§ 713.14 Determination of compliance.

(a) Acreage determinations shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the State or county committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm concerning which representations have been made on any forms filed under a program. Such entry may be for any of the following purposes:

(1) To measure acreage.

(2) To examine any records pertaining to the program.

(3) To determine otherwise the accuracy of a producer's representations and the performance of his obligations under the program.

§ 713.15 General payment provisions.

(a) *Issuance.* Payments of any amounts due the producers on a farm shall be made only after they sign an application for payment as prescribed by the Deputy Administrator and the payments are approved by the county committee or by an authorized representative thereof. An application for payment which is signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) *Failure to comply fully.* Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart, and in Part 718 of this chapter, as amended.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) *Unearned payments.* Deficiency and disaster payments made to any producer which exceed the total deficiency and disaster payments the producer earns under the program with

respect to any farm shall be refunded to CCC. If for any reason such earned payments are zero, the producer shall pay interest at the rate of 7 percent per annum on the amount of refund from the date of issuance of the CCC sight drafts to the date such payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any rice deficiency or disaster payments for the farm or receives an unearned payment through no fault of the producer.

§ 713.16 Disaster payments.

Prevented planting and low yield disaster payments are authorized only for 1978 and 1979. Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of a natural disaster or other condition beyond the producer's control. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

(a) *Prevented planting.*—(1) *Payment rate.* The prevented planting payment rate is one-third of the established price as provided for in § 713.17.

(2) *Acreage eligible for payment.* The acreage eligible for payment shall equal the smaller of:

(i) The acreage of the crop intended for harvest within program requirements but which could not be planted to the crop or other annual nonconserving crops because of a natural disaster or other condition beyond the producer's control, or

(ii) The amount by which the prior year's acreage of the crop (the acreage for the year before the prior year for farms with odd-even rotations) plus the acreage approved for prevented planting payment in such year exceeds the current year's acreage of the crop.

(3) *Payment computation.* Prevented planting payments shall be determined for each crop by multiplying the acreage for payment by 75 percent of the established farm yield as provided for in § 713.5 and by the prevented planted payment rate.

(b) *Low yield.*—(1) *Payment rate.* The low-yield payment rate is one-third for upland cotton and one-half for barley, corn, grain sorghum, and wheat of the established price as provided for in § 713.17.

(2) *Acreage for payment.* The acreage for payment shall be the current year acreage of the crop.

(3) *Payment Computation.* Low-yield payments shall be determined for each crop by multiplying the acreage for payment by 60 percent (75 percent for upland cotton) of the established farm yield as provided for in § 713.5, subtracting the determined production therefrom, and multiplying the result by the low-yield payment rate.

(i) The production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining the eligibility for the amount of low-yield payments, in accordance with instructions issued by the Deputy Administrator.

(ii) Any acreage for which the production cannot be determined shall be charged with the established yield: *Provided,* That if the county committee determines that the acreage was affected by a disaster, the acreage shall be charged with the larger of 60 percent (75 percent for upland cotton) of the established farm yield as provided for in § 713.5 or the actual average yield from the harvested acreage of the crop.

§ 713.17 Established (target) prices.

(a) *1978.* Established prices are set as follows:

(1) *Barley.* $2.25 per bushel.

(2) *Corn.* $2.10 per bushel.

(3) *Grain Sorghum.* $2.28 per bushel.

(4) *Upland Cotton.* $.52 per pound.

(5) *Wheat.* $3.40 per bushel.

(b) *1979 thru 1981.* To be announced by amendment to this subpart.

§ 713.18 National program acreage.

A national program acreage shall be established for each crop equal to the number of harvested acres the Secretary of Agriculture estimates will produce the quantity (less imports) that will be utilized domestically and for export during the marketing year for such crop. Established national program acreages may later be revised for the purpose of determining an allocation factor for use as provided for in § 713.19(b) if the Secretary of Agriculture determines that an adjustment is necessary based upon the latest information.

(a) *1978.* National program acreages are established as follows:

(1) *Barley.* 7,400,000 acres.

(2) *Corn.* 67,600,000 acres.

(3) *Grain Sorghum.* 13,700,000 acres.

(4) *Upland Cotton.* 10,248,000 acres.

(5) *Wheat.* 58,700,000 acres.

(b) *1979 thru 1981.* To be announced by amendment to this subpart.

§ 713.19 Deficiency payments.

(a) *Payment rate.* The deficiency payment rate shall be the amount by which the established price exceeds the higher of (1) the national weighted average market price received by farmers for the crop during the first 5 months of the marketing year (during the current year for upland cotton) or (2) the national average loan rate established for the crop.

(b) *Acreage for payment.* The acreage for payment shall be the current year acreage of the crop reduced by an allocation factor, when less than 100 percent, determined by dividing the national program acreage established for the crop by the estimated national current year acreage of the crop: *Provided,* That (1) the allocation factor shall not be less than 80 percent for barley, corn, grain sorghum, and wheat.

(2) the acreage for payment shall not be reduced by the allocation factor if the current year acreage of the crop on the farm is reduced voluntarily by the producer from the sum of the prior year's acreage (the acreage for the year before the prior year for farms with odd-even rotations) and the acreage credited for such year by the county commmittee for underplanting, prevented planting, set-aside, voluntary diversion, and grazing and hay for payment by the following percent:

(i) *1978.*

(A) *Barley, upland cotton, and wheat.* 20 percent.

(B) *Corn and grain sorghum.* 5 percent.

(ii) *1979 thru 1981.* To be announced by amendment to this subpart; and (3) the allocation factor shall be adjusted in accordance with instructions issued by the Deputy Administrator to provide equity for a farm for which the reduction in current year's acreage of the crop from the prior year acreage (the acreage for the year before the prior year for farms with odd-even rotation) is insufficient to exempt the farm from the application of the allocation factor.

(c) *Payment computation.* Deficiency payments shall be determined for each crop by multiplying the acreage for payment by the established farm yield as provided for in § 713.5 and by the deficiency payment rate: *Provided,* That no deficiency payment shall be made for any quantity for which a low yield payment is made.

(d) *Date of payment.* Deficiency payments will be made to producers as soon as practicable after the following dates:

(1) *Barley and wheat.* December 1.

(2) *Upland Cotton.* February 1 following the current year.

(3) *Corn and grain sorghum.* April 1 following the current year.

§ 713.20 Divison of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers are set forth in Part 794 of this chapter, as amended.

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§ 713.21 Successors-in-interest.

(a) In the case of death, incompetency, or disappearance of any producer whose name appears on the application for payment, the payment due such producer shall be made to such producer's successor, as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of the crop or would have had an interest as a producer if the crop had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after an application for payment has been filed, the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed an application for payment, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 713.22 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by such producer with respect to such farm.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall refund to the Commodity Credit Corporation all payments received by such producer with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 713.23 Setoffs and assignments.

(a) *Producer indebtedness.* The regulations issued by the Secretary governing setoffs, and withholdings, Part 13 of this chapter, as amended, shall be applicable to the programs.

(b) *Assignments*—(1) *Barley, corn, grain sorghum, and wheat.* Payments may be assigned only to the Farmers Home Administration in accordance with instructions issued by the Deputy Administrator.

(2) *Upland cotton.* Any producer entitled to any payment may assign his rights thereto in accordance with the regulations governing assignment of payment, Part 709 of this chapter, as amended.

§ 713.24 Appeals.

A producer may obtain reconsideration and review the determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 713.25 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

NOTE.—An approved final Impact Analysis Statement is available from Bruce R. Weber, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7987.

Signed at Washington, D.C., on September 20, 1978.

RAY FITZGERALD,
Administrator.

[FR Doc. 78-27107 Filed 9-28-78; 8:45 am]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. A0-231-A46]

PART 1126—MILK IN THE TEXAS MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides for changes in the present order provisions based on industry proposals considered at a public hearing held June 13-14, 1978. The amendments would relax the "dairy farmer for other markets" provision and would modify the provisions relating to diversions of milk to nonpool plants. These provisions are used to determine which dairy farmers are eligible to have their milk pooled and priced under the Federal order. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 26, 1978, published June 1, 1978 (43 FR 23725).

Partial recommended decision: Issued August 4, 1978, published August 8, 1978 (43 FR 35047).

Final decision: Issued September 1, 1978, published September 8, 1978 (43 FR 40030).

FINDINGS AND DETERMINATIONS

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the Texas order and of the previously issued amendments to it. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order[1] as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than October 1, 1978. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued August 4, 1978, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued September 1, 1978. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective October 1, 1978, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk marketed within the marketing area to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of this amended order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1126.12(b)(5) is revised as follows:

§ 1126.12 Producer.

* * * * *

(b) * * *

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during any of the immediately preceding months of September through November more than one-third of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of grade A approval or the application of § 1126.13(e) (4) and (5)), unless such pool plant was a nonpool plant during any of such immediately preceding months.

2. In § 1126.13, the introductory text of paragraph (e) immediately preceding subparagraph (1), and paragraph (e)(1) are revised as follows:

§ 1126.13 Producer milk.

* * * * *

(e) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant. If a dairy farmer loses his producer status under the order (except as a result of a temporary loss of Grade A approval), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Effective date: October 1, 1978.

Signed at Washington, D.C., on September 26, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-27640 Filed 9-28-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE;

[Lemon Reg. 166]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 1-7, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on September 26, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains good for sizes 140's and larger, but weaker on 165's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REG-

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ISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.466 Lemon regulation 166.

Order. (a) The quantity of lemons grown in California and Arizon which may be handled during the period October 1, 1978, through October 7, 1978, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 27, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27791 Filed 9-27-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

Amendment and Deletion

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding rural rental housing. This action is taken as a result of an administrative decision. The intended effect of this action is to simplify the regulations by issuing Agency forms to replace five exhibits in the present regulations and to eliminate the rider in the rental assistance agreement by use of the modified agreement.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Conn, Director, Multiple Family Housing Loan Division, 202-447-7207.

SUPPLEMENTARY INFORMATION: Exihibits J-2, R-1, R-2, R-3, and R-4 of subpart D, part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations are deleted and appropriate cross references are corrected. These exihibits were only used as a temporary measure until the approved forms were available. The forms are available for inspection at FmHA County Offices. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These deletions and amendments, however, are not published for proposed rulemaking since the purpose of the deletion is administrative in nature and does not affect the substance of the regulation.

Accordingly, Subpart D of Part 1822 is amended as follows:

1. In the Table of Contents, delete entries for exhibits J-2, R-1, R-2, R-3, and R-4.

2. Paragraph IV. B. 2. e. of exhibit J of subpart D is amended to read as follows:

EXHIBIT J—INTEREST CREDITS ON INSURED RRH AND RCH LOANS

* * * * *

IV. *Options of borrowers:*

* * * * *

B. *Plan II.*

* * * * *

2. * * *

* * * * *

e. Determine the required monthly payment on the loan at 1 percent interest and overage each month for the total units developed with any one loan. The amount of payment will be computed separately for each loan using form FmHA 444-29, "Project Worksheet for Multiple Family Housing Projects."

* * * * *

3. Exhibit J-2, "Project Worksheet For Multiple Family Housing Projects," is hereby deleted and reserved.

4. Paragraphs V A 1, C 2, IX B 1 and 2, X A 1, C 1, 2, 3, and 4, XI and XIII of exhibit R to subpart D are amended to read as follows:

EXHIBIT R—RENTAL ASSISTANCE PROGRAM

* * * * *

V. *Priority of Rental Assistance Applications.* * * *

A. * * *

1. *Existing Housing:* The State Director will distribute any units allocated to the State for existing RRH, RCH, and LH projects by considering all forms FmHA 444-25, "Request for Rental Assistance," that have been submitted by eligible borrowers. The State Director shall authorize rental assistance to projects with priority given to projects based on the earliest date that form FmHA 444-25 and other required information is submitted to FmHA in acceptable form (see paragraph X). The number of units to be granted in any project will be based on the number of tenants in the project needing rental assistance up to the maximum allowed. The National Office shall notify the State Director each year of any specific date by which all requests for rental assistance must be submitted to FmHA for consideration.

* * * * *

C. *Processing Exception Requests.* * * *

2. The State Director will maintain form FmHA 444-28, "Record of Rental Assistance Agreement." The record will include the borrower's case number, fund code, loan number, number of units in the project, number of units for rental assistance authorized and the effective date of each agreement and amendment. This information will be obtained from form FmHA 444-25, "Request for Rental Assistance Agreement," form FmHA 444-26, "Request for Obligation of Rental Assistance," and form FmHA 444-27, "Rental Assistance Agreement." Any changes which are made in the number of rental units assisted will be recorded in the Record of Rental Assistance Agreements. Form FmHA 444-28 will be used for keeping this record.

* * * * *

IX. *Terms of the Rental Assistance Agreement.*

* * * * *

B. *Term.*

1. *For New Construction.* The term of the agreement shall be for a period of twenty (20) years from the effective date of the agreement unless superseded by a modified agreement in accordance with section 4 of the Rental Assistance Agreement or terminated in accordance with conditions stated in section 8 or section 10 of the Rental Assistance Agreement. Modified agreements will extend only for the remaining period of the original agreement. (A new construction project is one in which no unit has been occupied.) Upon expiration of the twenty year period, a new agreement may be executed. If a new agreement is considered, it will be made for a period not to exceed five (5) years.

2. *For Existing Construction.* The term of the agreement shall be for a period of five (5) years from the effective date of the agreement unless superceded by a modified agreement in accordance with section 4 of the Rental Assistance Agreement or terminated in accordance with conditions stated in section 4 or section 10 of the Rental Assistance Agreement. Modified agreements will extend only for the remaining period of the original agreement. (An existing project is one in which one or more units have been occupied.) Prior to the termination date of any agreement a new form FmHA 444-25, "Request for Rental Assistance," may be submitted. If a new agreement is consummated, it will be made for a period not to exceed five (5) years.

* * * * *

X. *Processing of Rental Assistance Applications.* * * *

A. * * *

1. A borrower with an eligible project in which there are tenants paying in excess of 25 percent of their adjusted income for rent is encouraged to file form FmHA 444-25, "Request for Rental Assistance," with the County Supervisor. A separate form FmHA 444-25 will be submitted for each project. The borrower should include the following with each request.

a. Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance" with columns 1 through 12 completed for each tenant in the project.

* * * * *

C. *State Director Action on Requests for Rental Assistance.*

1. If the State Director determines that rental assistance can be granted, or a change in the number of units is needed, form FmHA 444-26, "Request for Obligation of Rental Assistance," will be prepared. Form FmHA 444-26 will be prepared and distributed in accordance with the forms Manual Insert. *The form FmHA 444-27, "Rental Assistance Agreement," will not be executed until the Request for Obligation of Rental Assistance has been returned from the Finance Office indicating that the requested number of units and funds have been obligated for the project.*

2. *Initial requests.* Once the initial request for rental assistance has been obligated by the Finance Office, the State Director will prepare an original and three copies of form FmHA 444-7, "Interest Credit and Rental Assistance Agreement," and an original and two copies of form FmHA 444-27. The State Director will keep one copy of the forms in the State Office borrower file. The original and two copies of form FmHA 444-7 and the original and one copy of form FmHA 444-27 will be sent to the County Office with a covering memorandum authorizing the County Supervisor to execute the agreements. Both originals and copies will be executed by the borrower and County Supervisor. The County Supervisor will retain the original of form FmHA 444-27 in the borrower file and the executed copy will be given to the borrower. The County Supervisor will send the original of form FmHA 444-7 to the Finance Office, retain a copy in the borrower's file and an executed copy will be given to the borrower.

3. *Modification of an existing agreement.* When a change in the number of rental assistance has been obligated by the Finance Office the form FmHA 444-27 will be prepared, signed and distributed in the same manner as provided for in paragraph X C 2 except a form FmHA 444-7 is not required.

4. If rental assistance cannot be provided, the State Director will, by letter, through the County Supervisor, inform the borrower in writing of the reasons.

* * * * *

XI. *Method of Payment of Rental Assistance to Borrower.* The borrower will prepare a separate report for the project using form FmHA 444-29. The worksheet will be prepared and distributed in accordance with the instructions for preparation or the forms Manual Insert. This information will be used by County Supervisor in preparation of form FmHA 444-9, "Multiple housing Certification and Payment Transmittal." The form must be completed in accordance with the FMI. The required payment will be transmitted with the form to the Finance Office. The rental assistance payment will be mailed by the Finance Office directly to the borrower within 15 working days of receipt of a properly completed form FmHA 444-9. Since the check will be sent directly to the borrower, the County Supervisor must be sure that the borrower's address on form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request," and 450-14, "Annual Statement of Loan Account," are correct. If the address shown on these forms is not correct, the County Supervisor will complete form FmHA 450-10, "Advise of Borrower's Change of Address or Name," prior to any request for payment of rental assistance. However, when a borrower has more than one project within a county, all checks must be sent to the same address.

* * * * *

XIII. *Forms and Exhibits.* Incorporated as a part of this regulation are Exhibit F-5A and Form FmHA 444-7.

5. Exhibits R-1, R-2, R-3, and R-4 are deleted.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: September 27, 1978.

JAMES E. THORNTON
Associate Administrator Farmers Home Administration.

[FR Doc. 78-27800 Filed 9-28-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Personnel Monitoring Reports

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to extend to all NRC specific licensees the requirement for submission of an annual statistical summary report on radiation exposure of workers. The existing requirement applies only to four categories of licensees that were considered to involve the greatest potential for significant occupational exposures, i.e., nuclear power reactors, industrial radiographers, nuclear fuel processors and reprocessors, and certain large commercial suppliers of byproduct materials. The amendments do not involve any changes in the requirements for the provision and use of personnel monitoring equipment or the records of personnel monitoring data that must be kept by licensees. The changes relate solely to reporting data already being recorded. The regulation requiring certain reports on termination of employment or work assignment in the facilities of the four categories of licensees is being amended only to change the recipient of the reports and to specify the same four categories of licensees.

Those categories are currently set out in another section and incorporated by reference in the section requiring termination reports.

EFFECTIVE DATE: December 13, 1978.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such reviews as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C, 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mr. Walter S. Cool, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 telephone 301-443-5970.

SUPPLEMENTARY INFORMATION: On May 30, 1975, the Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (40 FR 23478), a notice of proposed amendments to 10 CFR Part 20 that would extend to all NRC specific licensees the requirements of § 20.407 for the submission of an annual statistical summary report of estimated whole body radiation doses. Section 20.408 would be amended only to specify the same four categories of licensees presently required to submit reports of individual exposure to radiation and radioactive material upon termination of employment or work assignment in their facilities. Those categories are currently set out in § 20.407(a) and incorporated in § 20.408 by reference.

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By letter dated June 2, 1975, copies of the notice of proposed rulemaking were sent to all specific licensees. A majority of the 36 comments submitted in response to the notice of proposed rulemaking favored the amendments, but offered some suggestions for change. Many of the commenters who opposed the proposed amendments were medical licensees who expressed opposition to the filing of any additional reports. They noted that additional paperwork increases cost of health care delivery, and hence is inflationary. Opinions were expressed that the proposal might have theoretical value, but would not be practical, that insufficient need has been shown for another administrative requirement with low benefit/cost ratio, that occupational exposures (in medical diagnosis and therapy) are "as low as practicable", that the existing requirement (§ 20.403) for reporting overexposures is quite adequate to make licensees aware of their responsibilities in cases of overexposure and only licensees with repeated overexposures should be asked to submit annual statistical summary reports, that it is not possible to separate exposures received while working with NRC-licensed material from exposures received while working with X-ray, radium, or other radiation sources not subject to NRC regulations, and that there are inherent inaccuracies in personnel monitoring data. One commenter suggested that NRC send each licensee (1) a summary of the data collected, and (2) a reminder of the reporting requirement and a form suitable for recording the data. One commenter indicated a need for a longer time period in which to prepare the report. Some commenters misunderstood the proposed amendment to § 20.408, believing that it would extend to all licensees the requirement for reports of individual exposures upon termination of employment with a licensee or work assignment in the licensee's facility.

In view of the comments that raised questions regarding the value and impact of the proposed amendments, the Commission staff requested, by letter dated August 25, 1976, the voluntary, one-time submission of the personnel monitoring data for 1975 by all NRC specific licensees. The letter also invited the licensees to provide an estimate of the cost of their effort (1) in man-hours, and (2) in total cost of preparing the report. The distributions of the 172 responses that estimated man-hours and of the 125 responses that estimated total cost indicated a median commitment of 2.75 minutes or $0.65 per monitored individual. The personnel monitoring and cost data have been published as NUREG-0419.

The Commission is convinced, based on 9 years of experience with reports filed by four categories of licensees pursuant to § 20.407 and based on the results of the one-time submission of data for 1975 by other categories of licensees, that it is necessary to the Commission's functions to receive the annual statistical summary reports. The data are essential to the evaluation of the risk of radiation exposure associated with activities conducted in licensed facilities. The data will permit evaluation of exposure trends. They also permit some assessment of the degree of radiation protection efficiency that is being maintained, one indicator of the effectiveness of the Commission's regulatory program. The Commission recognizes the diversity of programs conducted by licensees, but believes that there is sufficient basis for comparison of exposure experience among types of licensees and among licensees within each type. The NRC believes that licensees need to develop this information for their own evaluation and action in control and direction of their radiation safety programs. Consideration of the data led to the development of Regulatory Guides 8.8, "Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Stations Will Be As Low As Is Reasonably Achievable," and 8.10, "Operation Philosophy for Maintaining Occupational Radiation Exposures As Low As Is Reasonably Achievable," and will assist in the identification of situations to be studied further in order that regulations and regulatory guides can be developed on action that should be taken in the design and operation of licensed facilities to assure that in-plant exposures are kept as low as is reasonably achievable. The data were used in the consideration of occupational exposure aspects of controlling radioactive effluent releases from nuclear powerplants in Appendix I, 10 CFR Part 50, and have been used to develop a variety of value/impact analyses. They may be used as one indicator in the assignment of priorities for inspection and enforcement actions. The data are being used to establish priorities with respect to the need for regulatory attention through consideration of the collective dose in addition to individual and average doses. In some cases, more regulatory attention may be required for licensees with larger collective doses than for licensees with larger individual doses.

It should be noted, however, that the personnel monitoring data do not permit evaluation of what occupational exposures are "as low as is reasonably achievable." Such evaluation requires study of the specific factors associated with a specific facility and activity.

The Commission has considered alternative methods of obtaining information on the number and exposure experience of individuals working in licensed facilities and found them to be unsatisfactory by reason of cost or data content. The burden on respondent licensees under the reporting requirement of § 20.407 will not be large and will, of course, be roughly proportional to the number of individuals monitored by a licensee. The Commission considers the burden well justified. However, the Commission has decided to impose the extended requirement only for a trial period of 2 years. That is, reports by all licensees are to be filed within the first quarter of calendar years 1979 and 1980, providing personnel monitoring data for the years 1978 and 1979, respectively. The Commission will evaluate the data for those 2 years, and the benefits derived therefrom and will consider whether or not to extend or otherwise modify the reporting requirement. A notice of proposed rulemaking will be published regarding any such extension or modification and opportunity for public comment will be provided. Note that the requirement for reporting by the four categories of licensees previously required to report, and now specified in § 20.408(a), as amended, will continue in any case.

The Commission does not consider it sufficient that licensees merely maintain exposures of individuals within the limits of 10 CFR Part 20, thus avoiding overexposures. Rather, § 20.1(c) states that licensees should make every reasonable effort to maintain radiation exposures, and releases of radioactive materials in effluents to unrestricted areas, as far below the limits specified in 10 CFR Part 20 as is reasonably achievable. There are, without doubt, many specific situations where occupational exposures are as low as reasonably achievable. However, because of the lack of data on exposures being experienced by a large fraction of licensees and the need to know the specific circumstances involved in order to determine when occupational exposures are as low as is reasonably achievable, the Commission believes that a categorical statement regarding any type of licensee or type of facility as achieving that goal would be premature and unfounded at this time.

The Commission recognizes the limitations of personnel monitoring devices and the possible differences between data obtained from routine monitoring programs and the actual doses received by individual workers. However, the Commission believes that current personnel monitoring measurements sufficiently characterize the radiation environment in which the individual works to provide an adequate basis for radiation protection evaluation purposes, and desires to be informed as to the estimated exposures actually being recorded.

The Commission also recognizes that statistical summary reports will not permit evaluation of the dose contribution from different types of activities within the licensee's program or identification of contributions to the total dose received during work with unlicensed sources of radiation. However, licensees are required (§ 20.1(b)) to control the possession and use of licensed material in such a manner that the total occupational dose received by individuals from both licensed and unlicensed sources in the licensee's possession does not exceed the standards in 10 CFR Part 20. Thus, licensees should monitor the individual's total occupational dose (§ 20.202), record the estimated dose in the individual's record (§ 20.401), and use the total dose estimate in preparing the annual statistical summary report required by § 20.407, as amended, and the termination report required by § 20.408, if applicable. Note that §§ 20.407 and 20.408 have been amended to change the recipient of the reports from the Director of Inspection and Enforcement to the Director of Management and Program Analysis, NRC.

The Commission has reminded each of the licensees who have been subject to the reporting requirement of the need to report each year, including a copy of the table of estimated whole body exposure ranges that may be used in filing the report. The Commission proposes to continue this practice. Licensees will be reminded that if personnel monitoring was not required to be provided to any individual (§ 20.202(a) or § 34.33(a)) during the calendar year, licensees are required to submit a simple statement to that effect, only. The Commission cannot determine from the issuance of a license whether personnel monitoring is or is not required, because radioactive material licensed for possession and use may not be procured, and licensed operations may be suspended such that monitoring is not required.

The simple negative report is included to reduce the number of cases in which followup action might be necessary in the absence of a report being filed by a licensee. The burden of a responding licensee in filing the negative report is very small. The data on personnel monitoring are summarized each year in a report to the Commission and are available to the public.

Discussions with several commercial dosimetry services indicate that there is very little need for more than 3 months in which to file the annual statistical summary report. It was indicated that sometimes delay may occur because of the late submission of dosimeters for processing, and that in some cases the exposure records are not summarized and the report prepared until after the first monitoring period in the new calendar year in an effort to include individuals whose dosimeters were not submitted on time for evaluation at the end of the year. Experience indicates that a very small number of "lost badges" and other causes of incomplete data will persist regardless of the date established for filing of the report. Further, it does not appear that the annual statistical summary report would be significantly improved by delaying the date for filing of the report. There should not be additional cost to licensees to process their data during the first calendar quarter of each year.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 20, are published as a document subject to codification.

1. Section 20.407 is revised to read as follows:

§ 20.407 Personnel monitoring reports.

Each person described in § 20.408 of this part shall, within the first quarter of each calendar year, submit to the Director of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the reports specified in paragraphs (a) and (b) of this section covering the preceding calendar year.[1] All other persons specifically licensed by the Commission shall, within the first quarter of calendar years 1979 and 1980, submit to the Director of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the reports specified in paragraphs (a) and (b) of this section covering the preceding calendar years 1978 and 1979.[1, 2]

(a) A report of either (1) the total number of individuals for whom personnel monitoring was required under §§ 20.202(a) or 34.33(a) of this chapter during the calendar year; or (2) the total number of individuals for whom personnel monitoring was provided during the calendar year: *Provided, however,* That such total includes at least the number of individuals required to be reported under paragraph (a)(1) of this section. The report shall indicate whether it is submitted in accordance with paragraph (a)(1) or (a)(2) of this section. If personnel monitoring was not required to be provided to any individual by the licensee under §§ 20.202(a) or 34.33(a) of this chapter during the calendar year, the licensee shall submit a negative report indicating that such personnel monitoring was not required.

(b) A statistical summary report of the personnel monitoring information recorded by the licensee for individuals for whom personnel monitoring was either required or provided, as described in paragraph (a) of this section, indicating the number of individuals whose total whole body exposure recorded during the previous calendar year was in each of the following estimated exposure ranges:

Estimated whole body exposure range (rems)[3]	Number of individuals in each range
No measurable exposure	
Measurable exposure less than 0.1	
0.1 to 0.25	
0.25 to 0.5	
0.5 to 0.75	
0.75 to 1	
1 to 2	
2 to 3	
3 to 4	
4 to 5	
5 to 6	
6 to 7	
7 to 8	
8 to 9	
9 to 10	
10 to 11	
11 to 12	
12+	

[1] A licensee whose license expires or terminates prior to, or on the last day of the calendar year, shall submit reports at the expiration or termination of the license, covering that part of the year during which the license was in effect.

[2] The Commission will evaluate the data obtained for 1978 and 1979 pursuant to this paragraph, and the benefits derived therefrom and may take action, including publication of notice of proposed rulemaking, to extend or otherwise modify this reporting requirement.

[3] Individual values exactly equal to the values separating exposure ranges shall be reported in the higher range.

The low exposure range data are required in order to obtain better information about the exposures actually recorded. This section does not require improved measurements.

2. Section 20.408 is revised to read as follows:

§ 20.408 Reports of personnel monitoring on termination of employment or work.

(a) This section applies to each person licensed by the Commission to:

(1) Operate a nuclear reactor designed to produce electrical or heat energy pursuant to § 50.21(b) or § 50.22 of this chapter or a testing facility as defined in § 50.2(r) of this chapter;

(2) Possess or use byproduct material for purposes of radiography pursuant to Parts 30 and 34 of this chapter;

(3) Process or use at any one time, for purposes of fuel processing, fabrication, or reprocessing, special nuclear

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material in a qantity exceeding 5,000 grams of contained uranium-235, uranium-233, or plutonium or any combination thereof pursuant to Part 70 of this chapter; or

(4) Possess or use at any one time, for processing or manufacturing for distribution pursuant to part 30, 32, or 33 of this chapter, byproduct material in quantities exceeding any one of the following quantities:

Radionuclide *	Quantity in curies
Cesium-137	1
Cobalt-60	1
Gold-198	100
Iodine-131	1
Iridium-192	10
Krypton-85	1,000
Promethium-147	10
Technetium-99m	1,000

*The Commission may require, as a license condition, or by rule, regulation or order pursuant to § 20.502, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

(b) When an individual terminates employment with a licensee describe in paragraph (a) of this section, or an individual assigned to work in such a licensee's facility but not employed by the licensee, completes the work assignment in the licensee's facility, the licensee shall furnish to the Director of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, a report of the individual's exposures to radiation and radioactive material, incurred during the period of employment or work assignment in the licensee's facility, containing information recorded by the licensee pursuant to §§ 20.401(a) and 20.108. Such report shall be furnished within 30 days after the exposure of the individual has been determined by the licensee or 90 days after the date of termination of employment or work assignment, whichever is earlier.

Effective date. These amendments become effective on December 13, 1978.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 22nd day of September, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-27242 Filed 9-28-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 78N-0256]

MANDATORY UNIFORM EFFECTIVE DATE FOR FOOD LABELING REGULATIONS

Notice to Manufacturers, Packers, and Distributors

AGENCY: Food and Drug Administration.

ACTION: Rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing July 1, 1981, as its new mandatory uniform effective date for compliance with all final food labeling regulations that are published in the FEDERAL REGISTER after September 29, 1978. Because the current effective date is less than a year away, and because sufficient lead time is required for industry to make necessary labeling changes, the Commissioner is establishing July 1, 1981 as the new mandatory uniform effective date. All final food labeling regulations published in the FEDERAL REGISTER before September 29, 1978, which have July 1, 1979 as their effective date will continue to have a mandatory compliance date of July 1, 1979. Final regulations published in the FEDERAL REGISTER which had earlier effective dates (e.g., January 1, 1978) are already in effect and are not affected by this notice.

FOR FURTHER INFORMATION CONTACT:

Bob Lake, Bureau of Foods (HFF-302), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1254.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs periodically issues various regulations for packaged food. These regulations are designed to provide the consumer with information concerning the ingredients and nutritional qualities of the packaged food and to present the information in a uniform and understandable manner. Although some of these regulations permit labeling changes on a voluntary basis, others make labeling changes mandatory. In some cases, moreover, these regulations require extensive changes in current labeling. The economic impact on the food industry and ultimately on consumers, if these changes were required on a multiple piecemeal basis, might well be substantial over a period of time.

The Commissioner, therefore, believes that he should periodically establish a single mandatory effective date to be stated in all future regulations requiring changes in food labels unless special circumstances justify a different effective date. The single future date provides for an orderly and economical industry adjustment to new labeling requirements. A uniform effective date is also in the interest of consumers because the cost of multiple piecemeal label revisions that would otherwise be required would probably be passed on to consumers in the form of higher food prices.

The current uniform effective date for new final regulations affecting the labeling of food products is July 1, 1979. Foods initially introduced into interstate commerce on or after July 1, 1979 are required to comply with new food labeling regulations which have that date as their effective date. Because this current effective date is less than a year away, and because a sufficient lead time is required for industry to make necessary labeling changes, the Commissioner is establishing July 1, 1981 as the new mandatory uniform effective date for all final food labeling regulations published in the FEDERAL REGISTER after September 29, 1978. For those final food labeling regulations published before September 29, 1978, which have July 1, 1979 as their effective date, compliance is still required by July 1, 1979. Final regulations published in the FEDERAL REGISTER which had earlier effective dates (e.g., January 1, 1978) are already in effect and are not affected by this notice. For any food labeling for which special circumstances justify a different effective date, an appropriate effective date will be specified when the regulation is issued.

Dated: September 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27437 Filed 9-28-78; 8:45 am]

[4110-03]

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Termination of Panel on Review of Hemorrhoidal Drugs

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: In accordance with the public advisory committee procedures, the Food and Drug Administration (FDA) announces the termination of the Panel on Review of Hemorrhoidal Drugs and amends the regulation listing the standing advisory committees. The Panel was terminated on August 21, 1978, because it has accomplished its intended purpose.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

SUPPLEMENTARY INFORMATION: The Panel on Review of Hemorrhoidal Drugs reviewed and evaluated available data concerning the safety and effectiveness of nonprescription hemorrhoidal drug products. Its conclusions and recommendations will be published in a future issue of the FEDERAL REGISTER.

Accordingly, the Panel is no longer needed because the purpose for which it was created has been accomplished. On August 21, 1978, the Panel was abolished by the Secretary, Department of Health, Education, and Welfare, as the Commissioner of Food and Drugs requested.

Since this is a technical conforming amendment to part 14, the Commissioner of Food and Drugs finds that notice and procedures are unnecessary and that there is good cause for the rule to be effective immediately upon publication.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), part 14 (21 CFR part 14) is amended in § 14.100 List of Standing Advisory Committees, by deleting paragraph (c)(20)(i)(*h*) and marking it reserved.

Effective date. This amendment shall be effective September 29, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27102 Filed 9-28-78; 8:45 am]

[4110-03]

[Docket No. 77C-0347]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Bismuth Citrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists bismuth citrate as a color additive for use in cosmetics that color the hair on the scalp and exempts that color additive from certification. Combe, Inc., filed a petition for that use.

DATES: Effective October 31, 1978; objections by October 30, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A petition (CAP 4C0108) was filed by Combe, Inc., 1101 Westchester Avenue, White Plains, N.Y. 10604, for bismuth citrate. The petition proposed that the color additive regulations be revised in part 73 (21 CFR Part 73) to provide for the safe use of bismuth citrate as a color additive for use in cosmetic hair dyes. The notice of filing was published in the FEDERAL REGISTER of April 7, 1978 (43 FR 14737).

The Commissioner of Food and Drugs has evaluated the data in the petition and other relevant material and concludes that bismuth citrate is safe and suitable for use, under the conditions prescribed in this regulation, in cosmetic hair dyes and that certification is not necessary for the protection of the public health.

Bismuth citrate had been provisionally listed for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)). The provisional listing was terminated in § 81.10(1) (21 CFR 81.10(1)) by a regulation published in the FEDERAL REGISTER of November 15, 1977 (42 FR 59064). Termination of listing resulted because of the failure of the petitioner to comply with the conditions attached to the postponement of the closing data in accordance with section 203(a)(2) of the transitional provisions of the color additive amendments of 1960 (title II, Pub. L. 86-618 (21 U.S.C. 376 note)). Recently, the petitioner submitted reports that satisfactorily established the safe use of bismuth citrate as a cosmetic hair dye ingredient. Therefore, with the permanent listing of bismuth citrate under § 73.2110 provided for by this amendment, the termination of provisional listing of bismuth citrate in § 81.10(1) will be deleted when this order becomes effective on October 31, 1978, unless this order is stayed by the timely filing of objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the color additive amendments of 1960 (title II, Pub. L. 86-618, sec 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), parts 73 and 81 are amended as follows:

1. Part 73 is amended in subpart C, by adding new § 73.2110 to read as follows.

§ 73.2110 Bismuth citrate.

(a) *Identity.* The color additive bismuth citrate is the synthetically prepared crystalline salt of bismuth and citric acid, consisting principally of $BiC_6H_5O_7$.

(b) *Specifications.* The color additive bismuth citrate shall conform to the following specifications and shall be free from impurities other than those named to the extent that those impurities may be avoided by good manufacturing practice:

Bismuth citrate, not less than 97 percent.
Mercury (as Hg), not more than 1 part per million.
Arsenic (as As), not more than 3 parts per million.
Lead (as Pb), not more than 20 parts per million.
Volatile matter, not more than 1 percent.

(c) *Uses and restrictions.* The color additive bismuth citrate may be safely used in cosmetics intended for coloring hair on the scalp, subject to the following restrictions:

(1) The amount of bismuth citrate in the cosmetic shall not be in excess of 0.5 percent (w/v).

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(2) The cosmetic may not be used for coloring eyelashes, eyebrows, or hair on parts of the body other than the scalp.

(d) *Labeling.* (1) The label of the color additive bismuth citrate shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(2) The label of a cosmetic containing the color additive bismuth citrate shall bear, in addition to other information required by law, the following statement, conspicuously displayed thereon:

Keep this product out of children's reach. Do not use on cut or abraded scalp. Do not use to color eyelashes, eyebrows, or hair on parts of the body other than the scalp. Wash hands thoroughly after each use.

(e) *Exemption from certification.* Certification of this color additive for the prescribed use is not necessary for the protection of the public health, and, therefore, batches thereof are exempt from certification requirements of section 706(c) of the act.

§ 81.10 [Amended]

2. In Part 81, § 81.10 Termination of provisional listing of color additives is amended by deleting paragraph (1) and marking it "reserved."

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 30, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the hearing clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective October 31, 1978, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)), and title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: September 25, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27424 Filed 9-28-78; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0118]

PART 131—MILK AND CREAM

Evaporated Milk, Sweetened Condensed Milk, Evaporated Skimmed Milk, and Sweetened Condensed Skimmed Milk; Standards of Identity; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of the final regulation of May 19, 1978, that revised the standards of identity for sweetened condensed milk and evaporated milk and established standards of identity for sweetened condensed skimmed milk and evaporated skimmed milk based on consideration of the international standards developed by the Codex Alimentarius Commission for these foods.

DATES: Voluntary compliance may have begun July 18, 1978. Mandatory compliance for all products initially introduced into interstate commerce begins July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a final regulation in the FEDERAL REGISTER of May 19, 1978 (43 FR 21668) that amended the standards of identity for sweetened condensed milk and evaporated milk (21 CFR 131.120 and 131.130, respectively), and established standards of identity for sweetened condensed skimmed milk and evaporated skimmed milk (21 CFR 131.122 and 131.132, respectively). The standards were based on the recommended international standards for evaporated milk and evaporated skimmed milk (Codex Standard No. A-3 (1971)) and sweetened condensed milk and sweetened condensed skimmed milk (Codex Standard No. A-4 (1971)) which were submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission. The new standards of identity for sweetened condensed skimmed milk and evaporated skimmed milk establish (1) requirements for mandatory ingredients, (2) provisions for optional ingredients such as stabilizers, emulsifiers, carriers for vitamins A and D, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of optional ingredients. The standards of identity for sweetened condensed milk and evaporated milk were amended to provide for the use of nutritive carbohydrate sweeteners in the optional characterizing flavoring ingredients. Further, for consistency with the international standards, the compositional requirements of these foods were amended to reduce the total solids requirement for evaporated milk from 25.5 percent to 25 percent by weight, and the milk fat requirement for sweetened condensed milk from 8.5 percent to 8 percent by weight.

No objections to the final regulation were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections were received. Compliance with the final regulation may have begun on July 18, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

Dated: September 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27422 Filed 9-28-78; 8:45 am]

[4110-03]

[Docket No. 78P-0059]

PART 131—MILK AND CREAM

Repeal of Standard of Identity for Sour Half-and-Half Dressing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document repeals the standard of identity for sour half-and-half dressing. The agency is taking this action because the name of the dressing could be misleading to consumers.

DATES: Effective November 28, 1978; objections by October 30, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 17, 1978 (43 FR 11226), the Commissioner of Food and Drugs, on his own initiative, proposed to repeal the standard of identity for sour half-and-half dressing, § 131.189 (21 CFR 131.189). Although there were no objections to the standard for sour half-and-half dressing, the Commissioner proposed this action to be consistent with a separate action, published in the same issue of the FEDERAL REGISTER (43 FR 11150), that revoked the standard of identity for sour cream dressing. Because sour cream dressing could be fabricated from milk-derived ingredients rather than from "cream," the Commissioner concluded that use of the words "sour cream" in the name of a product that would not be required to contain sour cream (as defined in § 131.160 (21 CFR 131.160)) could be misleading to the consumer. Since sour half-and-half similarly is required to be made from "half-and-half similarly is required to be made from "half-and-half," which is defined in § 131.180 (21 CFR 131.180) as a food consisting of a mixture of milk and cream, the Commissioner also concluded that the use of the words "sour half-and-half" in the name of a product that could be fabricated from ingredients other than milk and cream could likewise be misleading to the consumer. He therefore proposed that the standard of identity for "sour half-and-half dressing" should be repealed.

Interested persons were invited to submit comments on or before April 17, 1978. No comments have been received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), part 131 is amended by revoking § 131.189 sour half-and-half dressing.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 30, 1978 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the hearing clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective November 28, 1978, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: September 25, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27423 Filed 9-28-78; 8:45 am]

[4110-03]

[Docket Nos. 77F-0205; 75F-0082]

PART 177—INDIRECT FOOD ADDITIVES

Perfluorocarbon Resins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for both the use of lithium polysilicate and naphthalene sulfonic acid formaldehyde condensate, sodium salt as components of perfluorocarbon resin coatings intended for repeated use, and the use of ionizing radiation to produce a polytetrafluoroethylene resin lubricant powder. E.I. duPont de Nemours & Co. Inc., and ICI Americas Inc., filed petitions proposing such amendments. In addition, this final rule corrects an editorial error and clarifies the extraction requirements set forth in the regulation.

DATES: Effective date September 29, 1978; objections by October 30, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notices published in the FEDERAL REGISTER of February 26, 1975 (40 FR 8242) and June 16, 1975 (40 FR 25502) announced that food additive petitions had been filed by E.I. duPont de Nemours & Co. Inc., Wilmington, Del. (FAP 4B2989) and ICI Americas Inc., Wilmington, Del. (FAP 3B2861) proposing that § 177.1550 (21 CFR 177.1550) be amended to provide for the safe use of lithium polysilicate as a component of perfluorocarbon resins (FAP 4B2989) and to exempt irradiated perfluorocarbon lubricant powders from the thermal instability index specification of § 177.1550(b)(1)(iii) (FAP 3B2861).

The notice announcing filing of the duPont petition was amended to propose the use of naphthalene sulfonic acid formaldehyde condensate, sodium salt as well as lithium polysilicate as components of perfluorocarbon resins. The amended notice appeared in the FEDERAL REGISTER of April 7, 1978 (43 FR 14738).

In the FEDERAL REGISTER of March 15, 1977 (42 FR 14302) the Food and

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Drug Administration recodified and republished the food additive regulations, and transferred the subject regulation from § 121.2555 to its present designation under § 177.1550. However, the wording in paragraph (a)(2), which permits the use of substances "under applicable regulations in this part," was not appropriately revised, thus incorrectly indicating that only substances regulated in part 177 can be utilized in the production of perfluorocarbon resins. In the revision of § 177.1550 below, the Commissioner of Food and Drugs has corrected the wording (now paragraph (b)(3)) to indicate that materials listed in applicable regulations in parts 175 and 178 can also be used, subject to any limitations in those regulations.

Additionally, the Commissioner is modifying the extraction test procedures to prescribe more exactly the test conditions. There is no change in the extraction limitations.

Having evaluated data in the petitions and other relevant material, the Commissioner concludes that § 177.1550 should be amended as petitioned, except that the perfluorocarbon resin for producing irradiated lubricant powder is restricted to polytetrafluoroethylene because FAP 3B2861 deals only with that specific resin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), part 177 is amended by revising § 177.1550 to read as follows:

§ 177.1550 Perfluorocarbon resins.

Perfluorocarbon resins identified in this section may be safely used as articles or components of articles intended to contact food, subject to the provisions of this section:

(a) *Identity.* For the purpose of this section perfluorocarbon resins are those produced by the homopolymerization and/or copolymerization of hexafluoropropylene and tetrafluoroethylene. The resins shall meet the specifications prescribed in paragraph (d) of this section.

(b) *Optional components.* The resins identified in paragraph (a) of this section as well as articles or coatings made from these resins may include the following optional components:

(1) Substances generally recognized as safe (GRAS) in food or food packaging subject to any limitations cited on their use.

(2) Substances used in accordance with a prior sanction or approval, subject to any limitations cited in the prior sanction or approval.

(3) Substances authorized under applicable regulations in this part and in parts 175 and 178 of this chapter and subject to any limitations prescribed therein.

(4) The following substances, subject to any limitations prescribed:

List of substances	*Limitations*
Lithium polysilicate containing not more than 20 weight pct silica, not more than 2.1 pct lithium oxide and having a maximum mole ratio of SiO_2/Li_2O of 8.5 to 1.	For use only as a component of repeated-use coatings not exceeding 1.2 mil in thickness where the coatings are thermally cured at minimum sintering temperatures of 700° F. Lithium extractives shall not exceed 0.1 mg per square inch of coating surface when tested in accordance with par. (e)(2) of this section.
Naphthalene sulfonic acid formaldehyde condensate, sodium salt.	For use only as a component of repeated-use coatings not exceeding 1.2 mil in thickness, and at a level not to exceed 0.4 weight pct of the coating.

(c) *Optional processing.* Poly- tetrafluoroethylene resins may be irradiated by either a cobalt-60 sealed source, at a maximum dose of gamma radiation not to exceed 7.5 megarads, or an electron beam at energy levels not to exceed 2.5 million electron volts with a maximum dosage of 7.5 megarads, to produce lubricant powders having a particle diameter of not more than 20 microns for use only as components of articles intended for repeated use in contact with food.

(d) *Specifications.* (1) *Infrared identification.* Perfluorocarbon resins can be identified by their characteristic infrared spectra.

(2) *Melt viscosity.* Perfluorocarbon resins have a melt viscosity of not less than 10^4 poises at 380° C as determined by American Society for Testing Materials Method D-1238-57T,[1] which is incorporated by reference. Melt viscosity of the copolymers shall not vary more than 50 percent within one-half hour at 380° C.

(3) *Thermal instability index.* The thermal instability index of the tetrafluoroethylene homopolymer shall not exceed 50 as determined by American Society for Testing Materials Method D-1457-56T,[1] which is incorporated by reference. The requirements of this paragraph do not apply to polytetrafluoroethylene resin lubricant powders described in paragraph (c) of this section.

(e) *Limitations.*[2] (1) Perfluorocarbon-molded articles having a surface area of 100 square inches or more and at least 50 mils thick shall be extracted at reflux temperatures for 2 hours separately with distilled water, 50 percent ethanol, *n*-heptane, and ethyl acetate.

(2) Perfluorocarbon coatings shall be applied to both sides of a 1.0-mil thick aluminum foil to a thickness of 1.0 mil after thermal curing at 750° F for 10 minutes. If a primer is used, the primer plus topcoat shall equal 1.0 mil after heat curing. Coating shall be extracted at reflux temperatures for 2 hours separately with distilled water, 8 percent ethanol, and *n*-heptane.

(3) The extracted surfaces shall meet the following extractability limits:

(i) Total extractives not to exceed 0.2 milligram per square inch.

(ii) Fluoride extractives calculated as fluorine not to exceed 0.03 milligram per square inch.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 30, 1978, submit to the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective September 29, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: September 25, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

NOTE.—Incorporation by reference was approved by the Director of the Office of the Federal Register on August 3, 1978, and is on file in the Federal Register Library.

[FR Doc. 78-27428 Filed 9-28-78; 8:45 am]

[1] Copies are available from University Microfilms, Inc., 300 North Zeeb Rd., Ann Arbor, Mich. 48106.

[2] A more detailed procedure of extraction conditions is available from the Division of Food and Color Additives, HFF-330, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

[4110-03]

[Docket No. 78N-0020]

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Polyoxymethylene Homopolymer

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to remove pH limitations and to increase the maximum temperature for use of polyoxymethylene homopolymer intended for food-contact use. E. I. Dupont de Nemours & Co. filed a petition for such use.

DATES: Effective September 29, 1978; objections by October 30, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notice was published in the FEDERAL REGISTER of February 28, 1978 (43 FR 8183) that a petition (FAP 7B3331) had been filed by E. I. Dupont de Nemours & Co., Wilmington, Del. 19898, proposing that § 177.2480 *Polyoxymethylene homopolymer* (21 CFR 177.2480) providing for food contact use of polyoxymethylene homopolymer be amended to remove any pH limitations for contact foods and to increase the maximum allowable use temperature from 160° F. to 250° F.

During evaluation of the petition, it was noted that the parenthetical reference to § 177.1500 in § 177.2480(b)(1)(ii) did not adequately identify the nylon 66/610/6 terpolymer. To correct this, the proportions of the nylon polymers making up the terpolymer are set out in § 177.2480(b)(1)(ii), and the parenthetical reference to § 177.1500 is deleted.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 177.2480 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), part 177 is amended in § 177.2480 by revising paragraphs (b)(1)(ii) and (e)(2) to read as follows:

§ 177.2480 Polyoxymethylene homopolymer.

* * * * *

(b) * * *

(1) * * *

(ii) Nylon 66/610/6 terpolymer. Respective proportions of nylon polymers by weight are: 3/2/4.

* * * * *

(e) * * *

(2) Use temperature shall not exceed 250° F.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 30, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective September 29, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: September 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 78-27440 Filed 9-28-78; 8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0250]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

Doxorubicin Hydrochloride; High-Pressure Liquid Chromatographic Assay

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revises the antibiotic drug regulations to provide for an improved method for determining the doxorubicin hydrochloride content of doxorubicin hydrochloride. The new method, high-pressure liquid chromatography, replaces the spectrophotometric assay method and the microbiological agar diffusion assay method for potency determination. The microbiological agar diffusion assay method will remain in the bulk drug monograph as a measure of microbiological activity. This regulation is intended to improve drug quality.

DATES: October 30, 1978; comments by October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is revising the antibiotic drug regulations by replacing the current potency methods for doxorubicin hydrochloride with a high-pressure liquid chromatography assay. The Commissioner finds that the high-pressure liquid chromatography assay is more accurate and reliable than the microbiological agar diffusion assay and the spectrophotometric methods currently set forth in the regulations.

Since the drug is a microbiologically active product, the microbiological agar diffusion assay will remain as a measure of activity in the bulk drug monograph only.

The Commissioner advises that this revision does not affect the interim provisions published and made effective on August 26, 1977 (42 FR 43061) regarding the use of the LD_{10} toxicity test in the release of batches of doxor-

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ubicin hydrochloride. Resolution of the problems associated with the LD_{50} test as discussed in that amendment is still pending.

Because this revision improves testing procedures, and the only two manufacturers affected have agreed to the change, the Commissioner finds for good cause that notice and public procedure are unnecessary and are not in the public interest. However, an opportunity is provided for submission of comments to determine whether the regulation should subsequently be modified or revoked. A copy of the agreement with the two manufacturers is on file with the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), parts 436 and 450 are amended as follows:

1. In part 436, new § 436.322 is added to read as follows:

§ 436.322 High-pressure liquid chromatographic assay for anthracycline antibiotics.

(a) *Equipment.* A suitable high-pressure liquid chromatograph, such as a Waters Associates Model 244 [1] or equivalent equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A suitable integrator;

(6) A 30-centimeter column having an inside diameter of 4.6 millimeters and packed with a suitable reverse phase packing such as: Waters Associates, Micro-Bondapak C18.[1]

(b) *Reagents.* (1) Solvent mixture: Water: acetonitrile (69:31).

(2) Mobile phase: Water: acetonitrile (69:31) adjusted to pH 2 with phosphoric acid. Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(3) Internal standard solution: Prepare a 2.0-milligram-per-milliliter solution of 2-naphthalenesulfonic acid in the solvent mixture.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 1.5 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the reference standard that is at least 50 percent of scale. The minimum between peaks must be no more than 2 millimeters above the initial baseline.

(d) *Procedure.* Use the standard and sample solutions prepared as directed in the individual monographs for the drug being tested. Use the equipment, reagents, and operating conditions listed in paragraphs (a), (b), and (c) of this section. Inject 5 microliters of the standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of expected components (ordinarily this time is 20 minutes). After separation of the standard solution has been completed, inject 5 microliters of the sample solution into the chromatograph and repeat the procedure described for the standard solution. The elution order is: Void volume, internal standard, doxorubicin, dihydrodaunomycin, daunomycin, adriamycinone, dihydrodaunomycinone, bromodaunomycin, daunomycinone, and bisanhydrodaunomycinone.

(e) *Calculations.* Calculate the anthracycline content as directed in the individual monograph for the drug being tested.

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2. In part 450, § 450.24 is amended by revising paragraph (a)(1) (i) through (vi) and (3)(i); by redesignating paragraph (b)(1) (i) through (v) as (b)(2) (i) through (v) and revising redesignated paragraph (b)(2)(i); by adding a new (b)(1); by redesignating existing paragraph (b) (2), (3), and (4) as (b) (3), (4), and (5) and setting them forth below; by deleting paragraph (b)(6) and redesignating existing (b)(5) as (b)(6); and by revising (b)(7) to read as follows:

§ 450.24 Doxorubicin hydrochloride.

(a) * * *

(1) * * *

(i) Its doxorubicin hydrochloride content is not less than 900 micrograms and not more than 1,100 micrograms of doxorubicin hydrochloride per milligram on the anhydrous basis.

(ii) Its microbiological activity is not less than 900 micrograms and not more than 1,100 micrograms of doxorubicin hydrochloride per milligram on the anhydrous basis.

(iii) Its moisture content is not more than 4.0 percent

(iv) Its pH in an aqueous solution containing 5 milligrams per milliliter is not less than 3.8 and not more than 6.5.

(v) Its LD_{50}[2] in mice is not less than 8.0 and not more than 20.0 milligrams per kilogram.

(vi) It is crystalline.

* * * * * *

(3) * * *

(i) Results of tests and assays on the batch for doxorubicin hydrochloride content, microbiological activity, moisture, pH, LD_{50}, crystallinity, and identity.

* * * * * *

(b) * * *

(1) *Doxorubicin hydrochloride content (high-pressure liquid chromatography).* Proceed as directed in § 436.322 of this chapter, preparing the sample and standard solutions and calculating the doxorubicin hydrochloride content as follows:

(i) *Preparation of sample and standard solutions.* Accurately weigh approximately 25 milligrams of the sample and of the doxorubicin hydrochloride working standard and dissolve each in 25 milliliters of the internal standard solution prepared as directed in § 436.322(b)(3) of this chapter.

(ii) *Calculations.* Calculate the doxorubicin hydrochloride content as follows:

$$\text{Micrograms of doxorubicin hydrochloride per milligram} = \frac{R_u \times W_s \times P \times 100}{R_s \times W_u \times (100-M)}$$

where:

R_u = Area of the doxorubicin hydrochloride sample peak/Area of the internal standard peak.

R_s = Area of the doxorubicin hydrochloride standard peak/Area of the internal standard peak.

W_s = Weight of the doxorubicin hydrochloride working standard in milligrams.

W_u = Weight of the sample in milligrams.

M = Moisture content of the sample in percent.

P = Potency of the doxorubicin hydrochloride working standard in micrograms per milligram.

(2) *Microbiological activity (microbiological agar diffusion assay)*—(i) *Preparation of inoculated plates.* To a sufficient amount of medium 5 (as described in § 436.102(b)(5) of this chapter), that has been melted and cooled to 48° C. to 50° C., add the amount of test organism H (prepared as described in § 436.103 of this chapter), that gives the clearest, sharpest zones of inhibition measuring not less than 12 millimeters in diameter when tested against a solution of doxorubicin working standard containing 10 micrograms of doxorubicin hydrochloride per milliliter.

* * * * * *

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

(5) LD_{50}—(i) *Sample solution.* Dissolve an accurately weighed portion of the sample with sufficent sterile distilled water to give a concentration of 2 milligrams of doxorubicin hydrochloride per milliliter (estimated).

(ii) *Procedure.* Select 50 male mice, weighing between 18 and 22 grams, of the Flanders Research Farms ICR/FRF-2 strain. Weigh them to the nearest 0.5 gram. Use mice at each of the following dose levels: 0.08, 0.10, 0.125, 0.16, and 0.20 milliliter of sample solution per 20 grams of body weight. Calculate the volume of solution to be given to each mouse and administer the appropriate volume intravenously at the rate of 0.5 milliliter per minute. Observe the mice daily for 14 days and record times of death. Estimate the LD_{50} and its 95 percent confidence limits by the method of Carrol S. Weil, published in Biometrics Vol. 8, No. 3, pages 249-263 (1952).[3]

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(7) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the doxorubicin hydrochloride working standard.

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[1] Available from Waters Associates, Inc., Maple St., Milford, Mass. 10757.

[2] The term "LD_{50}" refers to the dosage of the drug that should be expected to kill 50 percent of the animals that receive the drug.

grams of doxorubicin hydrochloride per milliliter.

* * * * * *

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

(5) LD_{50}—(i) *Sample solution.* Dissolve an accurately weighed portion of the sample with sufficent sterile distilled water to give a concentration of 2 milligrams of doxorubicin hydrochloride per milliliter (estimated).

(ii) *Procedure.* Select 50 male mice, weighing between 18 and 22 grams, of the Flanders Research Farms ICR/FRF-2 strain. Weigh them to the nearest 0.5 gram. Use mice at each of the following dose levels: 0.08, 0.10, 0.125, 0.16, and 0.20 milliliter of sample solution per 20 grams of body weight. Calculate the volume of solution to be given to each mouse and administer the appropriate volume intravenously at the rate of 0.5 milliliter per minute. Observe the mice daily for 14 days and record times of death. Estimate the LD_{50} and its 95 percent confidence limits by the method of Carrol S. Weil, published in Biometrics Vol. 8, No. 3, pages 249-263 (1952).[3]

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(7) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the doxorubicin hydrochloride working standard.

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[3] Copies may be obtained from Managing Editor, "Biometrics," P.O. Box 5457, Raleigh, N.C. 27607.

3. In part 450, § 450.224 is amended by revising paragraphs (a)(3)(i)(*a*) and (b) (1) and (7) to read as follows:

§ 450.224 Doxorubicin hydrochloride for injection.

(a) * * *

(3) * * *

(i) * * *

(*a*) The doxorubicin hydrochloride used in making the batch for doxorubicin hydrochloride content, microbiological activity, moisture, pH, LD_{50},[2] crystallinity, and identity.

* * * * * *

(b) * * *

(1) *Doxorubicin hydrochloride content (high-pressure liquid chromatography).* Proceed as directed in § 436.322 of this chapter, preparing the sample and standard solutions and calculating the doxorubicin hydrochloride content as follows:

(i) *Working standard solution.* Accurately weigh approximately 25 milligrams of the doxorubicin hydrochloride working standard and dissolve in 25 milliliters of the internal standard solution prepared as directed in § 436.322(b)(3) of this chapter.

(ii) *Sample solution.* Prepare the sample solution by rinsing the contents of the vial into an appropriate-sized volumetric flask with a sufficient amount of internal standard solution prepared as directed in § 436.322(b)(3) of this chapter, to obtain a concentration of 1.0 milligram of doxorubicin hydrochloride per milliliter.

(iii) *Calculations.* Calculate the doxorubicin hydrochloride content as follows:

$$\text{Doxorubicin hydrochloride content per vial in milligrams} = \frac{R_u \times W_s \times V \times P}{R_s \times 25 \times 1{,}000}$$

where:

R_u = area of the doxorubicin hydrochloride sample peak/area of the internal standard peak.

R_s = area of the doxorubicin hydrochloride standard peak/area of the internal standard peak.

W_s = weight of the doxorubicin hydrochloride working standard in milligrams.

V = volume in milliliters of the internal standard solution added to the vials.

P = potency of the doxorubicin hydrochloride working standard in micrograms per milligram.

* * * * * *

(7) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section, compares qualitatively to that of the doxorubicin hydrochloride working standard.

Effective date: This amendment shall become effective October 30, 1978; however, interested persons may, on or before October 30, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the hearing clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: September 22, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-27425 Filed 9-28-78; 8:45 am]

[6560-01]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 977-7; FAP 8H5175/R40]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Bentazon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR Part 561 by establishing a feed additive tolerance for residues of the herbicide bentazon in or on spent mint hay. The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of bentazon in or on spent mint hay.

EFFECTIVE DATE: Effective on September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-2516.

SUPPLEMENTARY INFORMATION: On February 8, 1978, notice was given (43 FR 5425) that the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho, Indiana, Montana, Oregon, Washington, and Wisconsin and the U.S. Department of Agriculture, had filed a petition (FAP 8H5175) with the EPA. This petition proposed that 21 CFR Part 561 be amended by establishing a regulation permitting combined residues of the herbicide bentazon (3-isopropyl-1*H*-2,1,3 - benzothiadiazin - 4(3*H*) - one - 2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on spent mint hay with a tolerance limitation of 4 parts per million (ppm) resulting from application of bentazon to growing mint. (A related document establishing a tolerance for residues of bentazon on mint hay appears elsewhere in today's FEDERAL REGISTER.) No comments were re-

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ceived by the Agency in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.). The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding study with a no-observable-effect level (NOEL) of 350 ppm, a three-generation rat reproduction study with an NOEL greater than 180 ppm, a rat teratogenicity study with an NOEL of 66.7 milligrams (mg)/kilogram (kg) of body weight (bw), a rat oral lethal dose (LD50) study, a 90-day feeding study with an NOEL of 300 ppm and a dominant lethal mutagenicity study in the mouse (negative at 195 mg/kg bw). No additional data is considered desirable to support the proposed tolerance, except extended mutagenicity tests. The acceptable daily intake (ADI) for bentazon is calculated based on the NOEL determined in the rat 2-year feeding study and employing a safety factor of 100; the ADI is 0.175 mg/kg bw/day. Since all previous tolerances for bentazon represent theoretically less than 1 percent of the ADI, and mint and mint oil are very minor components of the human diet, the proposed tolerance can be toxicologically supported.

Tolerances have previously been established for residues of bentazon on a variety of raw agricultural commodities at levels ranging from 3 ppm to 0.02 ppm. The metabolism of bentazon is adequately understood, and an adequate analytical method (gas chromatography with flame photometric detection) is available for enforcement purposes. No regulatory actions are currently pending against the continued registration of bentazon.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 4 ppm established by amending 21 CFR part 561 will protect the public health. Therefore, the regulation is being established as proposed.

Any person adversely affected by this regulation may, on or before October 30, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 29, 1978, 21 CFR part 561 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 561, subpart A, is amended by adding the following new section:

§ 561.51 Bentazon; tolerances for residues.

A tolerance of 4 parts per million is established for combined residues of the herbicide bentazon (3 - isopropyl - 1*H* - 2, 1, 3 - benzothiadiazin - 4 (3*H*) - one - 2, 2 - dioxide) and its 6- and 8-hydroxy metabolites in or on spent mint hay resulting from application of the herbicide to growing mint.

[FR Doc. 78-27413 Filed 9-28-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 78N-0151]

PART 601—LICENSING

Amendment of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends a section of the biologics regulations to extend the time within which interested persons may submit comments on biological products review panel reports. This change is being made to provide interested persons with more time to review and to comment on the voluminous data and proposals contained in the panel reports.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The biologics regulations, § 601.25(f)(4) (21 CFR 601.25(f)(4)), provide that any interested person may, within 60 days after publication of the proposed order in the FEDERAL REGISTER, file with the Hearing Clerk of the Food and Drug Administration written comments. The Commissioner is revising § 601.25(f)(4) to extend the comment period from 60 to 90 days to give interested persons more time to thoroughly review and comment on the proposed order as well as the panel report, which contains voluminous detailed data.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), § 601.25 is amended by revising paragraph (f)(4) to read as follows:

§ 601.25 Review procedures to determine that licensed biological products are safe, effective, and not misbranded under prescribed, recommended, or suggested conditions of use.

* * * * *

(f) * * *

(4) The full report or reports of the panel to the Commissioner of Food and Drugs.

The summary minutes of the panel meeting or meetings shall be made available to interested persons upon request. Any interested person may within 90 days after publication of the proposed order in the FEDERAL REGISTER, file with the Hearing Clerk of the Food and Drug Administration written comments in quintuplicate. Comments may be accompanied by a memorandum or brief in support thereof. All comments may be reviewed at the office of the Hearing Clerk during regular working hours, Monday through Friday.

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary because the modification of § 601.25(f)(4) effected by this rule expands the opportunity for expression of public interest and thus creates no new restriction.

EFFECTIVE DATE: This regulation is effective September 29, 1978.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).)

Dated: September 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27238 Filed 9-28-78; 8:45 am]

[4410-09]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Denial of Excepted Prescription Drug Status

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final order issued by the Administrator of the Drug Enforcement Administration (DEA) to deny the application for an exception from certain provisions of the Controlled Substances Act applied for by Medics Pharmaceutical Corp. for the product, Medigesic Plus. The effect of the final order is to preserve the schedule III classification as applied to Medigesic Plus and other products of identical formulation.

EFFECTIVE DATE: Effective September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34503), proposing to deny the application for an exception from certain provisions of the Controlled Substances Act for the product, Medigesic Plus and other products of identical formulation and providing an opportunity to Medics Pharmaceutical Corp., or any other interested persons, to submit comments or objections in writing regarding this proposal on or before September 5, 1978. No comments were received in response to this proposal.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby denies the application for exception applied for by Medics Pharmaceutical Corp. for Medigesic Plus and other products of identical formulations.

Dated: September 21, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-27510 Filed 9-28-78; 8:45 am]

[4510-27]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Issuance of Certificates of Registration with Housing Authorization

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: Regulations now require that a farm labor contractor who owns or controls housing used for migrant workers and who was not issued a certificate authorizing the housing of such workers shall apply for an amended certificate not more than 60 days nor less than 30 days before use of such housing. This may cause difficulties in housing U.S. workers and may result in under utilization of the domestic work force. This change eliminates the 30 to 60 day requirement for approval of housing, and should result in improved use of U.S. migrant labor.

DATES: As this amendment releases a restriction it shall be effective September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Division of Minimum Wage and Hour Standards, Wage and Hour Division, Room S-3504, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7531.

SUPPLEMENTARY INFORMATION: Section 5 of the Farm Labor Contractor Registraiton Act, 7 U.S.C. 2044, provides safeguards for housing migrant workers by a farm labor contractor who owns or controls such housing. Certificates of registration issued to farm labor contractors may be with or without authorization to house migrant workers. Under § 40.20(b) permission to house migrant workers may be added to a certificate of registration which does not authorize such housing if an application is submitted not more than 60 days nor less than 30 days before use of such housing.

This provision in 29 CFR 40.20(b) should be, and is, changed because this subsection placed a requirement upon farm labor contractors which was burdensome and difficult to meet. This resulted in few farm labor contractors obtaining authorization to house workers. This appears to have caused difficulties in housing U.S. workers and may have resulted in under utilization of the domestic work force. It is important, and should be recognized, that with current levels of unemployment in the United States, jobs in farmwork should be first available to American citizens and barriers to their employment such as the 30-60 day requirement in 29 CFR 40.20(b) must be removed. By deleting the requirement that proof of housing safety and health be submitted between 30 and 60 days prior to actual use of the housing workers will not be adversely affected. Farm labor contractors must still adhere to the provisions of 29 CFR 40.51(e) which requires approval of such housing before its use. The Farm Labor Contractor Registration Act prohibits the use of aliens not lawfully admitted to the United States, and aliens who have not been authorized by the Attorney General to accept employment. It is contrary to the public interest that the Department maintain a rule which promotes the use of foreign nationals, when the statute was designed to alleviate employment problems encountered by American farmworkers. The rule change will allow a greater number of farm labor contractors to register housing, which will facilitate contractual agreements with users, resulting in an increase in employment opportunities for American workers.

This amendment deletes the proviso at the end of § 40.20(b) which reads:

Provided, That such proof as prescribed herein will have been submitted not more than sixty (60) days or less than thirty (30) days before actual use or occupancy of the housing facilities to the regional office which had issued the initial certificate.

I find, on the basis of the above, that it is contrary to the public interest to publish this change as a proposal, with opportunity for comment, and accordingly the change is published as a final document.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, Department of Labor.

Paragraph (b) of § 40.20 is amended, and paragraph (a) is included without amendment in order that paragraph (b) may be read in proper context as follows:

§ 40.20 Authorization to house migrant workers

(a) If an applicant for a certificate of registration is the owner of or will control facilities to be used for housing migrant workers during any period for which such a certificate is sought, said applicant shall submit—

(1) A statement identifying such facilities; and

(2) Written proof that the housing facilities comply with Federal Safety

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and health standards as prescribed in either 20 CFR 620.4 or 29 CFR 1910.142 and applicable State standards of safety and health. Such written proof may be either a statement signed by the person to whom migrant workers are furnished by a farm labor contractor attesting that the housing facilites comply with Federal safety and health standards and also with applicable State safety and health standards, or a written statement containing an attestation with equal effect and signed by the applicant, or written statements issued by an authorized State and Federal Agency.

(b) should the required written proof be unavailable at the time of filing an application, the applicant must attest in writing that migrant workers in the applicant's crew will not be housed in any facilities under the ownership or control of the applicant that do not conform to all applicable Federal and State safety and health standards. In such event, if otherwise eligible, the applicant will be issued a certificate of registration without a housing authorization. This certificate may be amended to include an authorization to house migrant workers at such time as the required written proof is forthcoming.

Signed at Washington, D.C., on this 25th day of September 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-27515 Filed 9-28-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Cooper River and Tributaries, South Carolina, Restricted Areas

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This document amends the regulations which establish restricted areas in the Cooper River and its tributaries, South Carolina. This amendment enlarges the restricted area in the vicinity of the Charleston Naval Shipyard to provide more effective security for that facility.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, 202-693-5070, or write Office of the Chief of Engineers, Forrestal Building, Attn: DAEN-CWO-N, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: The proposed revision was published in the FEDERAL REGISTER on July 24, 1978 (43 FR 31955) with the comment period expiring on August 18, 1978. We received no comments and, accordingly, pursuant to the provisions of section 7 of the Rivers and Harbors Act approved August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), the regulations in 33 CFR 207.164b are hereby amended as set forth below.

Dated: September 11, 1978.

MICHAEL BLUMENFELD,
Deputy Under Secretary of the Army.

§ 207.164b Cooper River and tributaries at Charleston, S.C.; restricted areas.

(a) The areas. (1) That portion of Cooper River beginning on the westerly shore at latitude 32°49'50", longitude 79°56'10"; thence to latitude 32°49'54", longitude 79°55'55"; thence to latitude 32°50'32", longitude 79°55'55"; thence to latitude 32°51'01", longitude 79°56'07"; thence to latitude 32°51'19", longitude 79°57'05"; thence to latitude 32°51'33", longitude 79°57'27"; thence to latitude 32°51'48.5", longitude 79°57'41.5"; thence to latitude 32°52'06", longitude 79°57'54"; thence to latitude 32°52'27", longitude 79°58'01"; thence to latitude 32°52'37", longitude 79°58'03"; and thence to the westerly shore at latitude 32°52'37", longitude 79°58'06".

(2) The reach of Shipyard Creek upstream from a line 300 feet from and parallel to the upstream limit of the improved Federal turning basin.

(3) That portion of the Cooper River beginning on the west channel edge at latitude 32°52'06", longitude 79°57'54"; thence to the easterly shore of the Cooper River at latitude 32°52'13", longitude 79°57'30"; thence proceeding along the easterly shore to latitude 32°51'37", longitude 79°56'38"; thence to latitude 32°51'19", longitude 79°57'05"; thence to latitude 32°51'33", longitude 79°57'27"; thence to latitude 32°51'48.5", longitude 79°57'41.5"; thence to latitude 32°52'06", longitude 79°57'54".

(4) That portion of Cooper River extending from the mouth of Goose Creek at Red Bank Landing, a distance of approximately 4.8 miles and the tributaries to Cooper River within the area enclosed by the following arcs and their intersections:

(i) Radius = 8255' center of radius latitude 32°55'45" N., longitude 79°45'23" W.

(ii) Radius = 3790' center of radius latitude 32°55'00" N., longitude 79°55'41" W.

(iii) Radius = 8255' center of radius latitude 32°55'41" N., longitude 79°56'15" W.

(iv) Radius = 8255' center of radius latitude 32°56'09" N., longitude 79°56'19" W.

(b) The regulations. (1) Unauthorized vessels and other watercraft shall not enter at any time the restricted areas described in paragraph (a) (1) and (2) of this section.

(2) Vessels and other watercraft entering the restricted area described in paragraph (a)(3) of this section shall proceed at normal speed and under no circumstances anchor, fish, loiter, or photograph until clear of the restricted area.

(3) Vessels and other watercraft other than those authorized by the Commanding Officer, Naval Ammunition Depot, entering the restricted area described in paragraph (a)(4) of this section shall proceed at normal speed and under no circumstances anchor, fish, or loiter in any way until clear of the restricted area. The area will be marked with suitable warning signs.

(4) The regulation in paragraphs (b) (1) and (2) of this section shall be enforced by the Commanding Officer, Southeastern Division, Naval Facilities Engineering Command, U.S. Naval Base, Charleston, S.C., and such agencies as he may designate.

(5) The regulation in paragraph (b)(3) of this section shall be enforced by the Commanding Officer, Naval Ammunition Depot, Charleston, S.C., and such agencies as he may designate.

AUTHORITY: 40 Stat. 266; 33 U.S.C. 1.

NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

[FR Doc. 78-27444 Filed 9-28-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 959-4]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Connecticut Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Connecticut State Implementation Plan (SIP) which updates chapter 8, Air Quality Surveillance, of the currently approved SIP to reflect the present configuration of the ambient monitoring network. This is an interim network to be in effect until such time as a modified SIP network may be required by revised EPA guidelines.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On June 30, 1977 the Governor of Connecticut submitted a revision to the SIP which updates chapter 8, Air Quality Surveillance, of the currently approved SIP to reflect the present configuration of the ambient monitoring network. However, since EPA's ambient monitoring guidelines are to be revised, this SIP revision is to be approved as an interim network; and any changes or relocations of monitoring instruments in the SIP network must be approved by EPA.

The revised ambient monitoring network was described in a notice of proposed rulemaking published in the FEDERAL REGISTER on April 8, 1978 (43 FR 16350) by the Regional Administrator which proposed approval of the revision. The network consists of 43 monitoring stations for total suspended particulates (TSP), 24 for sulfur dioxide (SO_2), 22 for nitrogen dioxide (NO_2), 12 for ozone (O_3), and 7 for carbon monoxide (CO).

Special features have been incorporated into the SIP network which provide for a telemetered air quality data system; "special purpose" monitoring sites for TSP; special study monitoring instruments for SO_2, CO, and O_3; continuous SO_2 sampling monitors operating year-round and SO_2 bubblers only during October through March; and collection of meteorological data.

Although there are fewer stations operating now than the number required in the original SIP, this is consistent with the draft policies established by EPA's standing air monitoring work group.

One letter of comment was received which expressed a need for expanded studies of photochemical and oxidant precursors. While this comment is beyond the scope of this revision, instruments for such special studies are available as noted in the special features of the revised network.

After evaluation of the State's submittal, the Administrator has determined that the Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Connecticut implementation plan.

Authority: Section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: September 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. A new subparagraph (8) is added in § 52.370(c) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(8) Revision to chapter 8, Air Quality Surveillance, submitted on June 30, 1977 by the Governor.

[FR Doc. 78-27401 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 970-7]

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Colorado Plan Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 5, 1977, the Governor of Colorado submitted to the Regional Administrator, Region VIII, of the Environmental Protection Agency (EPA), an addition to the Colorado State implementation plan (SIP) for the attainment and maintenance of national ambient air quality standards. Approval of the Colorado revision was proposed in the June 2, 1978, FEDERAL REGISTER (43 FR 24071). No comments on this proposal were received. The addition consists of a new Colorado Air Pollution Control Commission rule, "Procedural Rules for all Proceedings before the Air Pollution Control Commission and the Air Pollution Variance Board." The rule is a housekeeping measure for proceedings at the State level. The State submittal has been reviewed and found to be consistent with the substantive and procedural requirements of 40 CFR part 51, and the Clean Air Act. There is no impediment to approval of this revision as an addition to the Colorado SIP, and inclusion will assist the State in disseminating the rule to persons who will have interest in its requirements. Therefore, the Administrator approves the Colorado revision as set forth in this rulemaking, effective immediately upon promulgation.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale M. Wells, Technical Advisor, Planning and Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colo. 80295, 303-837-3711.

AUTHORITY: Section 110 of the Clean Air Act, as amended (42 U.S.C. 7401, et seq.).

Dated: September 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations, is amended as follows:

Subpart G—Colorado

1. In § 52.320, paragraph (c)(10) is added as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(10) Procedural rules for all proceedings before the Air Pollution Control Commission, submitted May 5, 1977, by the Governor.

[FR Doc. 78-27403 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 959-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to regulations 7 and 9 of the Regulations for the Control of Air Pollution of the Massachusetts State implementation plan (SIP). Regulation 7, Open Burning, is revised to permit open burning of brush, cane, driftwood, and forest debris under certain conditions for 2 months of the year. Regulation 9, Dust and Odor, is revised by adding a requirement that mechanized street sweeping equipment must be equipped and operated with a suitable dust collection or

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supression system. The revised regulations are applicable to all air pollution control districts in the State.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, J. F. K. Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted revisions to regulations 7 and 9 of the Regulations for the Control of Air Pollution of the State implementation plan (SIP). The revised regulations are applicable to all air pollution control districts (APCD's) in the State. The revisions to regulation 7 and regulation 9 were described in a notice of proposed rulemaking published in the FEDERAL REGISTER on June 8, 1978 (43 FR 24857) by the Regional Administrator, which proposed approval of the revision.

Regulation 7, Open Burning, of the presently approved SIP prohibits open burning of any combustible material except for certain purposes and under specifically stated conditions.

The revision adds as another permitted activity under this regulation, the open burning of brush, cane, driftwood, and forestry debris. Such burning is limited to the period from March 1 to May 1 of each year in the Berkshire APCD and from January 15 to March 15 of each year in the other APCD's. Open burning of grass, hay, leaves, and stumps, however, is specifically prohibited by this provision, and no open burning of brush, cane, driftwood, and forestry debris will be permitted in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Chicopee, Everett, Fall River, Fitchburg, Holyoke, Lawrence, Lowell, Malden, Medford, New Bedford, Newton, Pittsfield, Somerville, Springfield, Waltham, Watertown, West Springfield, and Worcester. The conditions applicable to presently permitted open burning activities will also apply to the new activity. In addition, open burning of these materials must be conducted on land proximate to the place of generation, 75 feet from any dwelling, and between 10 a.m. and 4 p.m.

Finally, the revision adds a specific prohibition against conducting open burning at any refuse disposal facility. This provision is consistent with regulation 13 of the Regulations for the Disposal of Solid Waste by Sanitary Landfill, effective April 21, 1971, as well as with a proposed revision to the sanitary landfill regulations.

The conditions under which the revised open burning must be conducted were developed by the Massachusetts department as safeguards to minimize the impact of open burning on total suspended particulate (TSP) levels. Since open burning of these materials is prohibited in those areas with violations of the national ambient air quality standards (NAAQS) for TSP, the violations will not be exacerbated. The other conditions specified in the regulation are included to insure adequate dispersion of particulate emissions and to prevent fire hazards and nuisance conditions.

Regulation 9, Dust and Odor, of the presently approved SIP prohibits air pollution resulting from dust and odor generating operations and from handling, transportation, or storage of materials. Reasonable measures are required to prevent airborne particulate matter from construction, use, repair, or demolition of buildings, roads, driveways, or open areas.

The regulation is revised by adding a requirement that mechanized street sweeping equipment be equipped and operated with a suitable dust collection or suppression system. The revision specifies that the system be maintained in good operating condition.

Although street sweeping is considered a potential control measure for reducing high TSP levels resulting from reentrained road dust, it can in fact contribute to high TSP levels and cause local nuisance conditions when the dust control system with which virtually all of the mechanized street sweepers in the State are equipped, is not properly operated.

No letters of comment were received during the public comment period.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR, part 51. Accordingly, this revision is approved as a revision to the Massachusetts implementation plan.

AUTHORITY: Section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: September 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120(c) paragraph (16), is revised to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(16) Revision to regulation 7 and regulation 9, submitted on December 9, 1977, by the Commissioner of the Massachusetts Department of Environmental Quality and Engineering.

[FR Doc. 78-27402 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 973-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

North Carolina: Approval of Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The North Carolina implementation plan is revised by adding limits for emissions of sulfur dioxide (SO_2) and sulfuric acid (H_2SO_4) mist from the roasting of spodumene ore (a lithium-bearing mineral). Also, the description of the plan in the Code of Federal Regulations is being updated by adding an item previously omitted.

EFFECTIVE DATE: October 30, 1978.

ADDRESSES: Copies of the North Carolina implementation plan and the materials submitted by the State in connection with the present revision may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, 512 North Salisbury Street, P.O. Box 27687 Raleigh, N.C. 27611.

FOR FURTHER INFORMATION CONTACT:

Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On February 9, 1978, the North Carolina Environmental Management Commission, following notice and public hearing in conformity with 40 CFR 51.4, adopted regulations governing the roasting of spodumene ore. These were submitted to EPA's region IV office as a proposed implementation plan revision on February 14, 1978. In a notice of proposed rulemaking published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19425), the Agency solicited public comment on the proposed revision. No comments were received, however.

Two facilities in the State now process the lithium-bearing ore known as spodumene: Lithium Corp. of America in Bessemer City, and Foote Minerals in Shelby. On the basis of data supplied by these two sources, the North Carolina air quality agency performed diffusion modeling to estimate the ambient impact of their SO_2 and sulfuric acid mist emissions. The results were used to set the following emission limits for spodumene ore roasting: 9.7 pounds of SO_2 and 1.0 pound of H_2SO_4 mist per ton of ore roasted. These limits are contained in a new regulation, 15NCAC 2D .0527.

The State agency's modeling results indicate that implementation of these emission limits will not jeopardize the continued maintenance of the three national ambient air quality standards for sulfur dioxide, which are currently being met throughout the State.

The Administrator concurs, and the revision is hereby approved. This action is effective October 30, 1978.

At this time, the portion of 40 CFR Part 52 dealing with the North Carolina plan is also being updated to reflect the State's request for a delegation of authority to perform the technical and administrative portions of the PSD program.

This is not related to the revision being acted on today, but is being inserted to give a more accurate description of the North Carolina plan. It was inadvertently omitted at the time the delegation was announced (December 30, 1976, 41 FR 56805).

(Sec. 110(a) of the Clean Air Act (42 U.S.C. 7410(a)))

Dated: September 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is revised as follows:

Subpart II—North Carolina

Section 52.1770(c) is revised by renumbering subparagraph (17) as (18), by adding a new subparagraph (17), and by adding subparagraph (19) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(17) Letter requesting delegation of Federal authority for the administrative and technical portions of the prevention of significant deterioration program, submitted on June 24, 1976, by the Secretary of the North Carolina Department of Natural and Economic Resources.

(18) Miscellaneous plan revisions, submitted on November 1, 1976, by the North Carolina Department of Natural and Economic Resources.

(19) Regulations governing emissions of sulfur dioxide and sulfuric acid mist from the roasting of spodumene ore, submitted on February 14, 1978, by the North Carolina Department of Natural Resources and Community Development.

[FR Doc. 78-27415 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 965-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Citizens Gas & Coke Utility, Indianapolis, Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA approve a delayed compliance order to Citizens Gas & Coke Utility issued by the Indianapolis Air Pollution Control Board. The order requires the company to bring air emissions from its coke batteries at Indianapolis, Ind., into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Citizens Gas & Coke Utility compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by this order.

DATES: This rule takes effect September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Hurwitz, Attorney, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: On April 17, 1978, the Regional Administrator of EPA's Region V office published in the FEDERAL REGISTER (43 FR 16195) a notice setting out the provisions of a proposed State delayed compliance order for Citizens Gas & Coke Utility. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. All public comments received supported issuance of the proposed order. No request for a public hearing was received in response to the proposed notice.

Therefore, a delayed compliance Order effective this date is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Citizens Gas & Coke Utility on a schedule to bring its coke batteries at Indianapolis, Ind., into compliance as expeditiously as practicable with regulations APC-3 and APC-5, parts of the federally approved Indiana State Implementation Plan. Citizens Gas & Coke Utility is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Citizens Gas & Coke Utility to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Citizens Gas & Coke Utility will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulations covered by the order which occurred before the order was approved by EPA or after the order is terminated. If the Administrator determines that Citizens Gas & Coke Utility is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 149876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Citizens Gas & Coke Utility on a schedule for compliance with the Indiana State implementation Plan.

(42 U.S.C. 7413(d), 7601.)

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Dated: September 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.191 to read as follows:

§ 65.191 EPA Approval of State delayed compliance Orders issued to major stationary sources.

The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each Order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Citizens Gas & Coke Utility	Indianapolis, Ind.	INDPLS APC-1.	Apr. 17, 1978.	Indiana APC-3, APC-5.	July 1, 1979

[FR Doc. 78-27404 Filed 9-28-78; 8:45 am]

[6560-01]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 977-8; PP 7E1976/R168]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Bentazon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide bentazon on mint. The amendment to the regulations was requested by the interregional research project No. 4. This rule establishes a maximum permissible level for residues of bentazon on mint.

EFFECTIVE DATE: Effective on September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460 202-755-2516.

SUPPLEMENTARY INFORMATION: On July 14, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 30314) in response to a pesticide petition (PP 7E1976) submitted to the Agency by the interregional research project No. 4 (IR-4) New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 technical committee and the Agricultural Experiment Stations of Idaho, Indiana, Montana, Oregon, Washington, and Wisconsin and the U.S. Department of Agriculture. This petition proposed that 40 CFR 180.355 be amended by the establishment of a tolerance for combined residues of the herbicide bentazon (3-isopropyl-1*H*-2,1,3-benzothiadiazin-4(3*H*)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodity mint at 1 part per million (ppm). (A related document establishing a feed additive regulation for residues of bentazon in or on spent mint hay appears elsewhere in today's FEDERAL REGISTER.) No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.355 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before October 30, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 29, 1978, part 180, subpart C, § 180.355 is amended by adding a tolerance for residues of bentazon on mint at 1 ppm as set forth below.

(Sec. 408(e), Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.355 is amended in paragraph (a) by alphabetically inserting a tolerance of 1 ppm on mint in the table to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

Commodity:	*Parts per million*
* * * * *	
Mint	1
* * * * *	

[FR Doc. 78-27412 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 977-3; PP 7E1999/R173]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methidathion

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide methidathion. The request was submitted by the Interregional Research Project No. 4. This regulation establishes a maximum permissible level for residues of methidathion on safflower seed.

EFFECTIVE DATE: Effective on September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-2516.

SUPPLEMENTARY INFORMATION: On July 31, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 33263) in response to a pesticide petition (PP 7E1999) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arizona, California, and Texas. This petition proposed that 40 CFR 180.298 be amended by establishing a tolerance for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodity safflower seed at 0.5 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.298 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before October 30, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 29, 1978, part 180, subpart C, section 180.298 is amended by alphabetically inserting a tolerance for methidathion on safflower seed at 0.5 ppm.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart c, § 180.298 is revised in its entirety by editorially revising the section into an alphabetized columnar listing and by alphabetically inserting the tolerance of 0.5 ppm on safflower seed, as follows:

§ 180.298 Methidathion; tolerances for residues.

Tolerances are established for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa	6
Alfalfa, hay	6
Clover	6
Clover, hay	6
Cottonseed	0.2
Grapefruit	2
Grass	6
Grass, hay	6
Lemons	2
Oranges	2
Peaches	0.05
Pecans	0.05
Potatoes	0.2
Safflower seed	0.5
Sorghum, fodder	2
Sorghum, forage	2
Sorghum, grain	0.2
Sunflower seeds	0.5
Walnuts	0.05

[FR Doc. 78-27414 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 973-7]

PART 455—PESTICIDE CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

AGENCY: Environmental Protection Agency.

ACTION: Amendments to final rule.

SUMMARY: On April 25, 1978, the Environmental Protection Agency promulgated effluent limitations guidelines for the pesticide chemicals manufacturing point source category (43 FR 17776). This amendment defines more clearly which pesticide active ingredients shall be considered in determining limitations for the organic pesticide chemicals parameter for subcategory 1 (40 CFR Part 455, Subpart A). In addition, this notice corrects an error in the appendix to the regulations regarding the number of facilities in subcategory 3 which were identified as achieving no discharge of process waste water.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Jett, Effluent Guidelines Division (WH-552), Office of Water and Hazardous Materials, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2497.

SUPPLEMENTARY INFORMATION: On April 25, 1978, EPA promulgated effluent limitations guidelines based on the application of the best practicable control technology currently available (BPT) for the pesticide chemicals manufacturing point source category (43 FR 17776; 40 CFR Part 455). Subpart A of the regulations (organic pesticide chemicals manufacturing subcategory) established limitations on the discharge of several pollutants, including pesticide chemicals. At that time, EPA believed that analytical methods were available which were capable of accurately measuring all pesticide active ingredients to levels below those in the final regulations. However, a reexamination of the record reveals that questions exist as to the reliability of some of these methods for measuring some of the chemicals. EPA is therefore amending these regulations to delete a number of active ingredients from coverage under the organic pesticide chemicals parameter. The amended regulation lists all active ingredients which shall be considered in calculating effluent limitations for organic pesticide chemicals. Calculation of effluent limitations for the remaining pollutant parameters is unaffected by this amendment, and will be based on production of all organic active ingredients not specifically excluded in 40 CFR § 455.20(a). The provisions of subparts B and C of these regulations are also unchanged.

An additional error exists in appendix B to the regulations (43 FR 17781). There, EPA stated that 44 randomly surveyed facilities in the pesticide chemicals formulating and packaging subcategory (40 CFR Part 455, Subpart C) were achieving no discharge of process waste waters. A review of the record indicates that actually 30 of these facilities are achieving no discharge. This discovery does not affect the conclusion that no discharge of process waste water represents BPT for this subcategory. All available information indicates that formulating and packaging facilities can achieve zero discharge regardless of type of process employed, geographical location, or age and size of plant. In addition to the above random survey, three independent sources of information support the conclusion that zero discharge is the predominant practice in the subcategory. Moreover, an industry survey of over 100 facilities found most achieving zero discharge.

Because these changes do not involve substantive or policy issues, but in fact refine the promulgated regulations, the Agency finds that notice and public comment are not required and that good cause has been shown for these changes to become effective upon promulgation.

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Dated: September 21, 1978.

BARBARA BLUM,
Acting Administrator.

Subpart A, part 455 of chapter I, title 40, of the Code of Federal Regulations is amended to read as follows:

Subpart A—Organic Pesticide Chemicals Manufacturing Subcategory

§ 455.20 Applicability: description of the organic pesticide chemicals manufacturing subcategory.

(a) For the purpose of calculating effluent limitations for COD, BOD5, and TSS, the provisions of this subpart are applicable to discharges resulting from the manufacture of organic active ingredients, excluding the following: Allethrin, Benzyl Benzoate, Biphenyl, Bisethylxanthogen, Chlorophacinone, Coumafuryl, Dimethyl Phthalate, Diphacinone, Endothall Acid, EXD (Herbisan), Gibberellic Acid, Glyphosate, Methoprene, Naphthalene Acetic Acid, Phenylphenol, Piperonyl Butoxide, Propargite, 1,8 Naphthalic Anhydride, Quinomethionate, Resmethrin, Rotenone, Sulfoxide, Sodium Phenylphenate, Triazine compounds (both symmetrical and asymmetrical), and Warfarin and similar anticoagulants.

(b) For the purpose of calculating effluent limitations for organic pesticide chemicals, the provisions of this subpart are applicable to discharges resulting from the manufacture of the following organic active ingredients: Aldrin, BHC, Captan, Chlordane, DDD, DDE, DDT, Dichloran, Dieldrin, Endosulfan, Endrin, Heptachlor, Lindane, Methoxychlor, Mirex, PCNB, Toxaphene, Trifluralin, Azinphos Methyl, Demeton-O, Demeton-S, Diazinon, Disulfoton, Malathion, Parathion Methyl, Parathion Ethyl, Aminocarb, Carbaryl, Methiocarb, Mexacarbate, Propoxur, Barban, Chlorpropham, Diuron, Fenuron, Fenuron-TCA, Linuron, Monuron, Monuron-TCA, Neburon, Propham, Swep, 2,4-D, Dicamba, Silvex, 2,4,5-T, Siduron, Perthane, and Dicofol.

(c) The intermediates used to manufacture the active ingredients and active ingredients used solely in experimental pesticides are excluded from coverage in this subpart. Insecticidal pathogenic organisms such as Bacillus thuringiensis, insect growth hormones, plant extracts such as pyrethrins; sex attractants and botanicals such as Rotenone are also excluded from coverage in this subpart.

§ 455.21 Specialized definitions.

(a) "Organic active ingredients" means carbon-containing active ingredients used in pesticides, excluding metalloorganic active ingredients.

(b) "Total organic active ingredients" means the sum of all organic active ingredients covered by § 455.20(a) which are manufactured at a facility subject to this subpart.

(c) "Organic pesticide chemicals" means the sum of all organic active ingredients listed in § 455.20(b) which are manufactured at a facility subject to this subpart.

§ 455.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitation set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements, and costs) which can affect the industry subcategorization and effluent levels established. It is possible, however, that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this paragraph which may be discharged from the manufacture of organic active ingredient by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
COD	13.000	9.0000
BOD	7.400	1.6000
TSS	6.100	1.8000
Organic pesticide chemicals	.010	.0018
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

NOTE.—For COD, BOD5, and TSS, metric units: Kilogram/1,000 kg of total organic active ingredients. English units: Pound/1,000 lb of total organic active ingredients. For organic pesticide chemicals—metric units: Kilogram/1,000 kg of organic pesticide chemicals. English units: Pound/1,000 lb of organic pesticide chemicals.

[FR Doc. 78-27409 Filed 9-28-78; 8:45 am]

[1505-01]

[FRL 955-8]

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

Amendment to BPT Variance Clause

NOTE.—This document originally appeared at 43 FR 43023, September 22, 1978, and is being republished today to correct several typographical errors.

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rules.

SUMMARY: EPA is issuing amended regulations under the Clean Water Act which apply to the steam electric power industry. The amendments provide, contrary to EPA's original position, that economic factors are legally relevant when considering a power-plant's request for a variance from national effluent limitations guidelines. EPA has changed its original position in order to comply with a judicial decision.

DATE: The amendments are effective on September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

A. EPA'S ORIGINAL VARIANCE CLAUSE

On October 8, 1974, EPA published regulations under the Clean Water Act setting forth best practicable control technology (BPT) effluent limitations guidelines for the steam electric power industry. 40 CFR Part 423, 39 FR 3686 et seq.

For each subcategory in the power industry category, there was a "variance clause." 40 CFR 423.12(a), 423.22(a), 423.32(a) and 423.42 (introductory paragraph). This clause allowed case-by-case variances from national guidelines where one could show that certain plant-specific factors—such as age or size of the plant—were "fundamentally different" from the factors EPA considered in setting the national guidelines. The variance clause did not specify whether plant-specific economic factors could be considered.

Essentially the same variance clause was included in the BPT effluent limitations guidelines for almost all industries. On August 20, 1974, EPA published a legal interpretation which ruled that economic factors could not be considered in applying this standard variance clause. 39 FR 30073.

B. THE FOURTH CIRCUIT'S APPALACHIAN ORDER

On July 16, 1976, the U.S. Court of Appeals for the Fourth Circuit issued an opinion in response to various legal challenges to EPA's BPT (and other) regulations for the steam electric power industry. *Appalachian Power Co.* v. *Train*, 545 F.2d 1351. The court rejected EPA's exclusion of economic factors from the steam electric BPT variance clause. A request by EPA for recall of mandate as to this portion of the Court's opinion was denied (one judge dissenting) on September 26, 1977.

C. EPA'S RESPONSE TO THE FOURTH CIRCUIT'S ORDER

After the court's opinion was issued, EPA changed its position with regard to the steam electric power industry. On March 3, 1978 (43 FR 8812), EPA proposed clarifications to the steam electric variance clause to formalize its changed position.

As proposed, the variance clause allowed the permit issuer to consider "significant cost differentials" and other economic factors applicable to the particular source involved. The clause also specified that the August 20, 1974 legal interpretation would not be applicable to steam electric power-plants.

EPA requested that written public comments be submitted by April 3, 1978. The following parties submitted comments:

1. Consumers Power Co.
2. Richard J. Criqui, Jr.
3. Duke Power Co.
4. Natural Resources Defense Council (NRDC).
5. Synthetic Organic Chemical Manufacturers Association (SOCMA).
6. Union Carbide.
7. Utility Water Act Group (UWAG).

After considering all comments carefully, EPA has decided to issue the final variance clause amendments in the same form as they were proposed.

II. RESPONSE TO PUBLIC COMMENTS

A. CONSIDERATION OF EFFLUENT REDUCTION BENEFITS

The proposed variance clause allowed case-by-case consideration of "significant cost differentials." Several commenters criticized EPA for failing to specify that "effluent reduction benefits" were to be weighed against costs in each case.

Upon examination, these criticisms are apparently derived from the commenters' desire for variances based upon receiving water quality. Such types of variances, however, are plainly not authorized by the Act. As explained in detail in the Administrator's decision *In the Matter of Louisiana—Pacific Corp.* and *Crown Simpson Pulp Co.*, 10 ERC 1841 (September 15, 1977), the Act does not allow relaxations of BPT limitations based upon case-by-case variations in water quality impact.

EPA believes that the wording of the proposed regulation is fully consistent with the *Appalachian* decision. In fact, EPA's wording was taken *verbatim* from the court's opinion:

> In requiring that EPA give weight to the relevant statutory factors in developing a subsequent variance provision, we in no way intend to imply that EPA's regulations must provide for a detailed cost-benefit analysis at the permit granting stage. As we indicated in *duPont*, * * * an overall cost-benefit analysis for each category or subcategory satisfies the mandate of § 304 in this regard. *The variance provision should, however, allow the permit issuer to consider significant cost differentials of the particular point source involved.* 545 F.2d at 1360, n. 23 (emphasis added).

B. LIMITATION TO "FUNDAMENTALLY DIFFERENT FACTORS"

UWAG argues that the proposed variance clause improperly fails to distinguish between "facts" and "factors." UWAG states in concluding its argument that "the variance clause must turn on consideration of plant-specific variables, on *facts* which are fundamentally different from those used in establishing the limitations." [UWAG's emphasis.]

It is not clear to EPA what difference of opinion exists between EPA and UWAG. If UWAG fears that plant-specific variables may not be considered, then it has misinterpreted the clause. As EPA stated in proposing the amendment:

> This clause allows case-by-case variances from national guidelines where one can show that certain *plant-specific* factors—such as age or size of the plant—are "fundamentally different" from the factors considered in setting the national guidelines. 43 FR at 8812.

Alternatively, if UWAG fears that by the use of the word "factors," EPA intended to foreclose consideration of plant-specific "facts," UWAG is mistaken. Site-specific *facts* which are fundamentally different from the facts considered by EPA in applying the relevant statutory factors (i.e., raw materials, energy requirements, size of plant), may qualify a facility for a variance. In this sense, "facts" and "factors" mean the same thing.

If, however, UWAG is arguing that any plant-specific fact—even one which does not relate to the statutory factors EPA considered in formulating the regulations—should qualify a facility for a variance, then EPA disagrees with UWAG. Such an interpretation would be incompatible with the "goal of uniformity" in industrywide BPT limitations, *duPont* v. *Train*, 97 S.Ct. 965, 975 (1977), for there are unique site-specific facts at every steam electric plant in the United States.

The *Appalachian* opinion, in fact, directs that EPA's new variance clause take into consideration the "statutory *factors*" in sections 301(c) and 304. 545 F.2d at 1360 [emphasis added]. And in another case discussing national BPT limitations, the Fourth Circuit said that "the specified *factors* [in section 304] shall be applied by the permit issuer in determining whether the presumptively valid effluent limitations should apply to a particular source of discharge." *DuPont* v. *Train*, 541 F.2d 1018, 1030 [4th Cir. 1976, emphasis added].

C. ILLEGALITY OF PROPOSAL

NRDC argued that the proposed variance clause is illegal because section 301(c), which provides the exclusive means for case-by-case economic hardship modifications, is limited by its terms to 1983–84 "best available technology" (BAT) limitations as distinguished from BPT. EPA cannot dispute this argument. As stated in the March 3 proposal at 43 FR 8813:

> EPA continues to believe that with respect to variances from national effluent limitations guidelines, economic factors may be considered only in § 301(c) proceedings to modify [BAT] requirements.

V 43 / 190 SE 29 78

Nevertheless, EPA is compelled by the court's order in *Appalachian* to include section 301(c) factors into the BPT variance clause for steam electric powerplants. The court's order relates only to the power industry, however, so EPA has rejected the arguments of SOCMA and Union Carbide that this revision be made applicable to all industries.

D. APPLICATION TO BEST AVAILABLE TECHNOLOGY ("BAT") AND NEW SOURCE PERFORMANCE STANDARDS ("NSPS")

Consumers Power Co. stated that the proposal was "deficient" because it did not apply to BAT or NSPS. (BAT and NSPS limitations are generally more stringent than BPT limitations.) The *Appalachian* Court, however, specifically rejected such an argument as to BAT. 545 F2d. at 1380. As to NSPS, the Supreme Court ruled in *duPont* v. *Train*, 97 S.Ct. 965 (1977) that variances were improper. 97 S.Ct. at 980. On September 26, 1977, the *Appalachian* Court recalled its mandate as to NSPS variances in response to the Supreme Court's decision.

E. STATES' RIGHTS

Duke Power Co. argued that EPA should require States which have a permit-issuing authority to consider economic factors when evaluating variance requests. Such a requirement would in EPA's view be inconsistent with the Act.

As noted in the March 3 proposal at 43 FR 8813, section 510 of the Act preserves the States' rights to impose more stringent limitations than required by Federal law. While one State may in its discretion refuse to relax nationally-applicable BPT regulations on the basis of site-specific economic factors, another State may allow relaxations to the fullest extent permissible under the Act. Section 510 insures that States have this freedom of choice.

Because States are free to ignore site-specific economic factors if they choose, it would be meaningless for EPA to require States to consider such factors.

III. EFFECTIVENESS

A. TRANSITIONAL PROVISIONS

Because there has been some confusion with respect to BPT variances for steam electric plants since the *Appalachian* remand, EPA agrees with UWAG that a new 60-day application period should be provided. Until November 21, 1978, any steam electric plant may apply to the appropriate permitting authority for a variance under today's amended clause. (As provided in 40 CFR 423.12(a), 423.22(a), 423.32(a), and 423.42, variances recommended by States must be approved by EPA before they become effective.)

Such an application will not automatically stay any enforcement proceeding which EPA has initiated or may initiate against the applicant. EPA will consider in each case whether a variance request is merely a procedural after-thought designed for delay. In this regard, EPA will consider whether a variance request is likely to succeed on the merits, whether the applicant was aware that EPA has been processing steam electric BPT variance requests for some time, and whether the applicant has made any effort to work out its problems with the appropriate enforcement authorities. It should be noted that any facility which is now in compliance with a BPT limitation may not rely upon a variance application as an excuse for falling out of compliance.

B. IMMEDIATE EFFECTIVENESS

In order to provide an immediate opportunity for applications under the amended regulations and to expedite final resolution of such applications, I hereby find good cause to make these amendments effective immediately.

(Sec. 501(a), Clean Water Act, 33 U.S.C. 1361(a).)

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

§§ 423.12, 423.22, 423.32, and 423.42 [Amended]

40 CFR Part 423 is amended by adding the following two sentences to the end of §§ 423.12(a), 423.22(a), 423.32(a), and 423.42 (introductory paragraph):

* * * * *

* * * In accordance with the decision in *Appalachian Power Co.* v. *Train*, 545 F.2d 1351, 1358-60 (4th Cir. 1976), EPA's legal interpretation appearing at 39 FR 30073 (1974) shall not apply to this paragraph. The phrase "other such factors" appearing above may include significant cost differentials and the factors listed in section 301(c) of the Act.

[FR Doc. 78-26582 Filed 9-21-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 462—GRANTS TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Designation of Alternate PSRO's

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule sets forth selection criteria and other conditions for the designation of alternate professional standards review organizations (PSRO's) where physician groups that qualify for designation as priority PSRO's are not available in a PSRO area. It implements section 1152(b)(1)(B) of the Social Security Act. The purpose of the criteria is to assure that the designated organization will be professionally competent to carry out PSRO responsibilities and to facilitate designation of PSRO's in every PSRO area.

DATES: Effective on September 29, 1978.

FOR FURTHER INFORMATION, CONTACT:

Beth Giebelhaus, 202-245-2196.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1152 of the Social Security Act requires the Secretary to designate qualified organizations as PSRO's. The Act specified two categories of qualified organizations. These two categories are referred to in these regulations as: (1) Priority organizations; and (2) alternate organizations.

Priority organizations are groups that are composed exclusively of physicians ("physician groups") and that meet the requirements of section 1152(b)(1)(A). Alternate organizations are public, nonprofit private, or other agencies or organizations that are not necessarily composed of physicians and that meet the less stringent organizational requirements of these regulations. Priority organizations are preferred for designation as PSRO's. Prior to January 1, 1978, the law authorized us to designate only priority organizations, except in a few PSRO areas as provided by section 108 of Pub. L. 94-182. Even now, we may not renew a grant to an alternate PSRO if a qualified priority organization (that has not been previously designated) applies and we determine that designating the priority organization will result in a substantial improvement in the performance of PSRO duties and functions in the area.

DESIGNATION OF ALTERNATE PSRO'S

There are two situations that justify the designation of an alternate PSRO. The first is a PSRO area where no priority organization has applied and been found qualified. The second is the need to replace a poorly performing priority organization, where no other priority organization applies and is qualified.

The criteria established by these regulations focus on the ability of an organization to act as a PSRO rather than on the nature of the organization itself. We want as many types of organizations as is consistent with congressional intent to be able to qualify for designation as alternate PSRO's. Applicants for designation as alternate PSRO's may be medical organizations (including, under certain circumstances, physician groups), State or local health departments, other State agencies, or medical schools. When none of these apply, carriers, intermediaries, and other health insurers will be considered.

DISCUSSION OF PUBLIC COMMENTS

On January 27, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 3796). We received comments from 15 organizations and individuals. All comments were considered in preparing the final rule. These comments, our responses to them, and the changes from the proposed rule, are discussed below. Some of the changes were the result of comments. Others were needed to eliminate ambiguity in some provisions.

1. ROLE OF MEDICAL SOCIETIES

Two commenters suggested that medical societies be eligible for designation as alternate PSRO's, which would have been prohibited by the NPRM.

We have clarified the regulation on this point. As revised, a medical society that represents the largest number of physicians in the PSRO area cannot, under any circumstances, be designated as an alternate PSRO. However, another group of physicians in the PSRO area, which might be considered to be a medical society, can be designated as an alternate PSRO under the circumstances discussed below in comment number 3. If a group of physicians is designated as the alternate PSRO, it is expected that they will work towards meeting the requirements as a priority PSRO.

Our reasons for excluding the major medical society from being an alternate PSRO are as follows:

Medical societies were clearly the organizations expected by Congress to sponsor physician groups that would qualify under section 1152(b)(1)(A). The Senate Finance Committee stated: "Physician organizations or groupings would be completely free to undertake or decline assumption of the responsibilities of organizing a PSRO. If they decline, the Secretary would be empowered to seek *alternate applicants* from among *other* medical organizations * * *" (Emphasis added. S. Rept. 92-1230, p. 259.)

We have formally requested State and local medical societies to sponsor PSRO's in their respective designated areas. We view their failure to do so as an indication of lack of interest in, or opposition to, the PSRO program. If these medical societies were permitted to apply for designation as alternate PSRO's, it might discourage them from sponsoring priority organizations. This would be contrary to the intent of the Congress to limit the role of such organizations in the PSRO program to that of sponsoring and supporting priority organizations.

2. PRIORITY OF CARRIERS, INTERMEDIARIES AND OTHER HEALTH INSURERS

The proposed rule would have given health insurers priority over other qualified organizations located outside the State in which the PSRO area is located. While one commenter suggested that health insurers be given a higher priority, several others recommended that they be designated only as a last resort.

We have reconsidered our position in the light of expressed legislative intent. The Senate Finance Committee, after listing several potential candidates for designation as alternate PSRO's, stated that "failing all else, carriers and intermediaries or other health insurers" could be sought. (S. Rept. No. 92-1230, p. 260.) Section 462.5(d) of the final rule carries out that intent by assigning the lowest priority to all health insurers.

3. DESIGNATION OF PHYSICIAN GROUPS AS ALTERNATE PSRO'S

The proposed rule would have limited designation of physician groups as alternate PSRO's to existing PSRO's and to organizations in areas where the organizations representing the largest number of doctors of medicine or osteopathy in the area had taken a formal position of opposition to, or noncooperation with, the PSRO program. Two commenters recommended that all physician composed organizations be eligible to become alternate PSRO's, regardless of whether the medical society had clearly opposed the program. This recommendation was not accepted for the following reasons. The preference for priority PSRO's established by Congress would lose its meaning if a physician group could ignore the statutory requirements for a priority PSRO and still be designated as an alternate PSRO. This can be justified only if the group's failure to satisfy the requirements for priority organizations can reasonably be attributed to the opposition of organized medicine to the PSRO program. For example, there are several physician groups that have been trying, for up to 4 years, to qualify as priority organizations, but have failed to meet the requirement that their membership include 25 percent of the physicians in their areas. It is likely that the inability to achieve the required membership is due to the active opposition of the State and local medical societies. We believe this opposition to be the major obstacle that Congress wished to overcome by requiring designation of alternate PSRO's after a period of time during which only physician groups could be designated. This congressional intent was reiterated in the 1975 amendment (sec. 108(b) of Pub. L. 94-182), which permits us to forego notification and polling of physicians before designating PSRO's in any area where the medical society has taken a formal position of opposition to the PSRO program.

4. EFFECTIVE DATE OF OPPOSITION BY MEDICAL SOCIETIES

The proposed rule did not indicate when opposition must have occurred. The final regulation makes it clear that if at *any time* the organization representing the largest number of physicians in an area formally opposed the PSRO program, a physician group may be designated as an alternate PSRO. We believe that the opposition was likely to be the major reason for there being no priority PSRO in that area, without regard to when the opposition was registered.

REDESIGNATION

The proposed rule was designated as a new part 471. Final regulations on grants to PSRO's were published on July 24, 1978 (43 FR 32084), at 42 CFR Part 462. Those regulations contain the requirements for designation of priority PSRO's. It is appropriate that the requirements for designation of alternate PSRO's be in the same part. Accordingly we have redesignated the content of the proposed part 471 as § 462.5 of 42 CFR Part 462.

42 CFR Part 462 is amended by revising the table of contents, revising § 462.3 and deleting its footnote, and adding a new § 462.5, to read as follows:

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PART 462—GRANTS TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Sec.
462.1 Scope and applicability.
462.2 Definitions.
462.3 Eligibility for grants.
462.4 Requirements for designation as a priority PSRO.
462.5 Requirements for designation as an alternate PSRO.
462.6 Application requirements for conditional designation.
462.7 [Reserved]
462.8 Conditional designation as a PSRO.
462.9 [Reserved]
462.10 Limitation on period of conditional designation.
462.11 Duration, renewal and termination of grants.
462.12 Use of grant funds.
462.13 Publications and copyrights.
462.14 Applicability of 45 CFR Part 74.
462.15 Additional terms and conditions.

AUTHORITY: Secs. 1152, 1154, and 1155(f)(2) and (3), Social Security Act, 86 Stat. 1430, 1431, 1432, 1435 (42 U.S.C. 1320c-1, 1320c-3, 1320c-4(f)(2) and (3)); sec. 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

§ 462.3 Eligibility for grants.

The following two categories of organizations are eligible for grants under this part:

(a) Organizations that meet the requirements for priority PSRO's (see § 462.4); and

(b) Organizations that meet the requirements for alternate PSRO's. (See § 462.5.)

§ 462.5 Requirements for designation as an alternate PSRO.

(a) *Absence of priority organization.* (1) The Secretary may initially designate an alternate PSRO in an area only if there is no priority organization that meets the requirements of §§ 462.4 and 462.8.

(2) The Secretary will withdraw the designation of an alternate PSRO, by not renewing its grant, if: (i) An organization that meets the requirements for priority organizations applies and is qualified for designation as a PSRO; (ii) that organization has not previously been designated as a PSRO; and (iii) the Secretary anticipates that the designation of that organization will result in substantial improvement in the performance of PSRO duties.

(b) *Organizational requirements.* To be eligible for designation as an alternate PSRO, an organization must:

(1) Have, or show that it will be able to obtain, the services of individuals with medical expertise to perform review activities competently;

(2) Demostrate its ability to perform review within the boundaries of the designated area;

(3) Be an organization other than a medical society;

(4) Be free from excessive influence by a medical society in making decisions;

(5) Not reserve board of director positions for members of a medical society;

(6) Not be an organization composed exclusively of licensed doctors of medicine or osteopathy unless it is an existing PSRO for another area, or the medical society in the area has previously taken a clear position of opposition to, or noncooperation with, the PSRO program;

(7) Not have inherent conflicts of interest that affect its role as a reviewer of health care; and

(8) Be willing to perform PSRO activities without making a profit.

For purposes of this paragraph medical society means the physician organization representing the largest number of physicians or doctors of osteopathy in the PSRO area.

(c) *Evaluation.* Before designating an alternate PSRO, the Secretary will consider the degree of support the organization has from the health care institutions, health related organizations, health care practitioners and consumers in the PSRO area.

(d) *Priorities for consideration of applicants.* If more than one organization submits an application to be an alternate PSRO for a given area, the order of priority among those found to be equally qualified will be:

(1) Organizations (excluding carriers, fiscal intermediaries and other health insurers) that are physically located or headquartered in the PSRO area;

(2) Existing PSRO's;

(3) Organizations (excluding carriers, fiscal intermediaries and other health insurers) that are located outside the PSRO area, but within the State in which the PSRO area is located;

(4) Organizations (excluding carriers, fiscal intermediaries, and other health insurers) that are located outside the State in which the PSRO is located;

(5) Carriers, fiscal intermediaries and other health insurers.

Dated: September 25, 1978.

ROBERT A. DERZON,
Administrator.

Approved: September 27, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-27643 Filed 9-28-78; 8:45 am]

[1505-01]

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 54a—GRANTS FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES AND NATIONAL ALCOHOL RESEARCH CENTERS

Correction

In FR Doc. 78-25457, appearing at page 40386 in the issue for Monday, September 11, 1978, make the following corrections:

(1) On page 40388, in the first column, in the third full paragraph, in the fourth line, the word "Shows" should be deleted.

(2) Also on page 40388, in the middle column, under the center heading "ADVISORY COUNCIL MEMBERSHIP", in the first paragraph, in the 6th line, the word "require" should read "required".

(3) On page 40392, in the first column, in the authority citation for Subpart A, in the second line, delete the quotation marks around "and 4588."

(4) On page 40392, in § 54a.101, in the last line and in the fourth from last line, delete the quotation marks.

(5) On page 40393, in the middle column, in § 54a.203(a) the formula was incorrectly set and should read as follows:

$$\text{State allotment} = \text{Population of State} \times \frac{\text{Total funds appropriated}}{\text{Population of U.S.}} \times \left(\frac{1}{2} \frac{\text{Per capita income of U.S. (3-year average)}}{\text{Per capita income of State (3-year average)}} + \frac{1}{2} \frac{\text{Need in State}}{\text{Need in U.S.}} \right)$$

(6) Also on page 40393, in § 54a.203, paragraphs (b) and (c) are reprinted below to correct several typographical errors:

(b) In making the calculation specified in paragraph (a) of this section for Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the Secretary, in the absence of income data and estimates of need specific to these areas which are, in his judgment, satisfactory, will use the highest estimate of Need in State and the highest estimate of:

Per capita income of U.S. (3-year average)/Per capita income of State (3-year average)

(c) In any fiscal year for which the amount appropriated under section 301 of the act is equal to or greater than the amount appropriated for the fiscal year ending June 30, 1976, if, after determining the amount of the allotment for each State in accordance with paragraph (a) of this section, it appears that any State (with the exception of the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands) will receive less than $200,000, the Secretary shall reduce the shares of each State which would receive more than $200,000 by an equal percentage and reallocate these sums as required to assure that every State (other than the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands) will receive at least $200,000.

(7) On page 40396, in § 54a.210(c)(2), in the third line, insert "Abuse" between "Alcohol" and "Advisory".

(8) Also on page 40396, in § 54a.211(a)(2)(i), in the third line, "areas" should be corrected to read "area".

[4110-12]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE)

Conditions for Federal Financial Participation in the Cost of Automatic Data Processing

AGENCY: Department of Health, Education, and Welfare (HEW).

ACTION: Final rule.

SUMMARY: The regulation contains requirements for the claiming of Federal matching funds for the acquisition and use of automatic data processing (ADP) equipment and services in the administration of the financial assistance, medical assistance, social services, and child support enforcement programs under the Social Security Act.

EFFECTIVE DATE: This regulation is effective on December 28, 1978, or earlier at State option.

FOR FURTHER INFORMATION CONTACT:

L. David Taylor, 202-245-6162.

SUPPLEMENTARY INFORMATION: The regulation consolidates and codifies procedures for implementing the principles of OMB Circular A-90 and the provisions of 45 CFR Part 74, Appendix C, Part II, C. 1, pertaining to the claiming of Federal financial participation for the acquisition and use of automatic data processing equipment and services. This regulation is applicable to the financial assistance, medical assistance, social services, and child support enforcement programs under titles I, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI (AABD), XIX, and XX of the Social Security Act.

45 CFR Part 74, Appendix C, Part II, C. 1, requires prior approval by grantor agencies for the costs of data processing equipment. OMB Circular A-90 requires that Federal agencies insure that systems development activities for which States are requesting Federal funding are well planned and do not involve duplication of effort and expense.

The regulation requires States, and local governments through States, to obtain prior approval from HEW of a written plan of action that contains a statement of needs and objectives, a preliminary cost/benefit analysis, a description of the scope and nature of the activities to be undertaken and the methods to be used to accomplish the activities, a proposed activity schedule, and an estimate of costs. In addition, the regulation requires prior approval for requests for proposals (RFP's) that States estimate to cost in excess of $25,000, permits HEW to require selectively prior approval of contracts that cost more than $25,000, and emphasizes the competitive procurement requirements in 45 CFT Part 74 Subpart P.

The regulation provides for subsequent HEW review of State and local agency acquired equipment and services to insure that they are used for the purpose for which Federal funds were approved.

The regulation is based on the provisions in sections 3, 403, 422, 433, 455, 1003, 1102, 1403, 1603, 1903, and 2002 of the Social Security Act; 45 CFT Part 74, Appendix C, Part II, C. 1; and OMB Circular A-90.

A notice of proposed rulemaking was published on February 24, 1976, in the FEDERAL REGISTER (41 FR 8065). The Department received comments from 15 State health and welfare departments. The comments suggested only minor changes to the proposed rulemaking. The specific comments and the Department's response are as follows:

1. *Comment:* The introductory statement on programs coverage does not agree with detailed statements in the text of this regulation.

Response: The preamble to the proposed rulemaking stated that "the program covered under this section are Federal-State programs of public assistance and medical assistance." The term "public assistance" is intended to cover the programs of cash assistance and services other than medical assistance. The preamble and 95.601 defines program coverage to include titles I, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI (AABD), XIX, and XX of the Social Security Act.

2. *Comment:* Duplication or conflict between proposed 45 CFR Part 95, Subpart F and 42 CFR 450.90 (previously 45 CFR 250.90).

Response: The Health Care Financing Administration will revise 42 CFR 450.90 to incorporate a reference to this subpart and to eliminate any existing duplication. There is no conflict between these two regulations.

3. *Comment:* Reference to the Social and Rehabilitation Service as "Service" is sometimes confusing with the definition of services, an entirely different matter.

Response: The regulation is changed to use "Department" instead of "Service." Since the publication of the notice of proposed rulemaking, the Social and Rehabilitation Service (SRS) was abolished and the responsibility for SRS programs reassigned to the Social Security Administration (SSA) for cash assistance for titles I, IV-A, X, XIV, and XVI (AABD); Office of Human Development Services (OHDS) for Social Services for titles I, IV-A, IV-B, IV-C, X, XIV, XVI (AABD), and XX; and Health Care Financing Administration (HCFA) for title XIX. To minimize coordination problems caused by the reorganization, State ADP requests are addressed to the Assistant Secretary for Management and Budget (ASMB). That office forwards requests to the appropriate offices and is responsible for coordinating requests that involve more than one HEW component.

4. *Comment:* The regulation should include a statement that relates to other titles which might become involved, particularly titles II and XVIII.

Response: Titles II and XVIII are programs administered under a separate set of regulations.

5. *Comment:* The need to obtain an approved acceptance document will require the employment of additional staff.

Response: The Department recognizes that a State may need to augment its staff to plan and monitor projects that are subject to this regulation. We consider this a requirement for good management and expect that the responsible State agency will see that this necessary function is fulfilled.

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6. *Comment:* The Department should require in the advance planning document (APD) a statement that specifies a period of time for which the systems described are to be used.

Response: The Department agrees with this comment. The definition for an APD is amended to add after the word "budget" the phrase "and a statement indicating the period of time for which the systems described are expected to be used."

7. *Comment:* The activities required to produce an APD are substantial and require the completion of studies related to project scope, feasibility, cost/benefit analysis, project plan, and budget. It is assumed that these activities do qualify for FFP and that the exemption of services that do not exceed $25,000 allows the use of ADP services in the development of the APD.

Response: Such activities do qualify for FFP at the appropriate rate, and HEW prior approval is not required if the expenditures for each study do not exceed $25,000.

8. *Comment:* The definition of ADP services appears to include services provided by State agency staff, and implies that States need prior approval for agency developed systems and ongoing maintenance.

Response: HEW requires prior approval of State agency developed systems that cost in excess of $25,000. HEW does not require separate approval of ongoing maintenance provided the system request includes the cost of ongoing maintenance.

9. *Comment:* A question was raised of the desirability of applying the proposed regulation to those situations where ADP services are provided by a State central data processing facility to other State agencies.

Response: The regulation requires that an agreement be signed by both the providing and receiving agencies when services are obtained from a central source. The purpose of this requirement is to assure that services are provided with sufficient quality at an equitable rate and that both parties are fully aware of their individual responsibilities. The Department has required such agreements since 1965.

10. *Comment:* Provider should be defined so as to exempt a State central data processing facility operating as a service center that earns (cash funds) from the requirement for prior approval.

Response: A State central data processing facility must comply with the prior approval requirements when it provides ADP services to the State agency that exceed $25,000. Specifically § 95.613 requires prior HEW approval of equipment that is acquired by the State central data processing facility primarily to support the programs covered by the regulation, and § 95.611(b) requires prior approval of the service agreement between the State agency and State central data processing facility.

11. *Comment:* "Software" and "documentation" are not necessarily the same and should be clarified.

Response: Documentation as used in definition for "software" means the detailed specification (program specification, standards, construction, coding, testing, and program management) and description of the software computer programs.

12. *Comment:* The regulation should make it clear that the proposed amount of $25,000 applies only to programs under the responsibility of HEW and that amounts under $25,000 are not subject to the Federal approval process.

Response: Section 95.601(a) specifies titles I, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI (AABD), XIX, and XX of the Social Security Act as the programs covered by this regulation. System developments or hardware acquisitions in support of other Federal programs are not subject to the requirements of this regulation. Procurements under $25,000, while not subject to prior approval, are subject to periodic review.

13. *Comment:* Does the exemption from prior approval cited in § 95.623 extend to all subitems in § 95.611(b) (1) through (5).

Response: The exemption applies to all subitems listed in § 95.611(b) (1) through (5).

14. *Comment:* What are the criteria for ascertaining when a modification or task in systems maintenance requires prior approval?

Response: Any system modification that increases the contract or service agreement by more than $25,000 requires prior approval. The cost of ongoing maintenance for approved ADP services is an identified charge in the contract or State service agreement; accordingly, HEW does not require separate approval of ongoing maintenance. If the State agency requests a contractor or State central data processing facility to provide additional ADP services, including system modification or maintenance support, that cost $25,000 more than charges covered in the contract or service agreement, then HEW requires prior approval for the additional ADP services.

15. *Comment:* The $10,000 baseline is low and should be increased to $25,000. It is not clear if the baseline amount applies separately to equipment and services or to the aggregate.

Response: The $10,000 baseline is increased to $25,000. This baseline applies to individual acquisitions of equipment or services.

16. *Comment:* The regulation should exclude ADP services to handle federally supplied data such as buy-in, Bendex, social security enumeration, and SSI data. Prior approval of administrative expenses will impede development of effective systems.

Response: Normally, system development changes of this type would not exceed a cost of $25,000 and would not require prior approval. When such efforts do exceed the $25,000 limit, prior approval is required.

17. *Comment:* It is assumed that changes are exempt from the prior approval requirement if the major system itself was implemented in conformance with these provisions.

Response: Any system modification or enhancement that exceeds $25,000 requires prior departmental approval.

18. *Comment:* The conventional keypunch service should be further defined.

Response: To clarify the regulation the definition for conventional keypunch services is eliminated and a definition is added for data input equipment. The definition includes, but is not limited to, the following types of data input equipment: Punchcard accounting machines, keypunch, key to disk, key to magnetic tape, optical character recognition, hardcopy and video display terminals, and word processing equipment primarily used to input data.

19. *Comment:* What does the $25,000 include? Total system cost? Cost per system component, etc.?

Response: The $25,000 limit applies to individual acquisitions of ADP equipment or services for the estimated or actual period of time covered by the advance planning document, RFP, contract, or service agreement. Guidelines for periodic HEW review of acquisitions of $25,000 or less will insure that several small acquisitions are not used as a substitute for a single acquisition in excess of $25,000.

20. *Comment:* HEW should limit prior approval to new applications with routine maintenance provided by a State central data processing facility explicitly exempted from prior approval provisions.

Response: Prior approval is not required unless a new individual acquisition or development task exceeds $25,000. The response to comment 14 addresses routine maintenance.

21. *Comment:* The Department should permit telephone clarification of minor technical points. The APD is a basic planning document and should not be regarded as a final design product.

Response: The Department recognizes that the APD is the initial step to a system development effort and may require amendments. The supporting guidelines to this regulation encourage the use of the telephone to clarify minor technical points; such clarification will be confirmed in writing.

22. *Comment:* The addition of the exception provided for in § 95.613 is a good one and it is realistic. The sentence in question is: "The service agreement between the State agency and the State central data processing facility is exempt from the procurement standards." This exception had not been previously provided for in 45 CFR 74.155.

Response: This provision was added because the procurement standards in subpart P of 45 CFR Part 74 do not require that State and local government agencies compete with the private sector.

23. *Comment:* Section 95.613 does not acknowledge the complexity of State procurement policy. Most States have a local centralized ADP procurement authority which limits the possibility of strict adherences to competitive bidding. A nonindustrial State finds it very difficult to locate after-the-sale service, and approach the problem through life cycle costing which includes system maintenance.

Response: The procurement standards in 45 CFR part 74, subpart P, provide States the option to use competitive negotiation if formal advertising is not practical or feasible, but under either method of procurement, States must specify all requirements needed for an acceptable bid. Where there is only one supplier of ADP equipment or services, sole source procurement may be justified.

24. *Comment:* HEW should amend the regulation to say that when sufficient justification exists to replace an ADP system prior to the time delineated in the "Advance Planning Document," the use of the system may be terminated without penalty.

Response: The final clause of § 95.619 states "* * * unless the Department determines that an elapsed shorter period of time is sufficient to justify the Federal funds invested." This paragraph provides HEW with the option to permit termination of a system in a time period shorter than originally stated in the APD when sufficiently justified.

25. *Comment:* The Department should conduct periodic onsite reviews so as to avoid disruption and assure that the appropriate staff are available.

Response: Section 95.621 now states that "where practical, the Department will develop a mutually acceptable schedule between the Department and State or local agencies prior to conducting onsite surveys and reviews."

26. *Comment:* Section 95.631 appears to invalidate previously approved cost allocation plans.

Response: The ADP equipment and services approved under § 95.611 may cause the State to change the ADP billing rates or billing methods in the approved cost allocation plan. The relationship between subpart F and the cost allocation plan is explained in § 95.631.

27. *Comment:* A recommendation was made that automatic approval be granted when the Department fails to respond to a State request within 60 days.

Response: HEW cannot grant automatic approval because the submittal may fail to meet the requirements of Federal laws and regulations. State requests that meet requirements will normally be approved in 30 days. If HEW has not communicated approval or disapproval within 30 days, the ASMB or a HEW component will notify the State regarding the status of the request for prior approval.

28. *Comment:* The regulation should specify that this approval authority relates to the technical merit of a system and not to the program policy aspects.

Response: Approvals are based on improvements in program support and the technical merits of the request. In addition, the request must comply with program policy.

29. *Comment:* The regulation should specify who has the final approval authority. In the past we have identified up to five central offices who thought they were the approval authority.

Response: Offices with authority for prior approvals required as a condition for FFP are specified in the regulation. The ASMB coordinates an HEW reply for requests that involve more than one HEW component. Requests that involve a single component are answered by that component.

Other changes made in response to review within HEW included:

1. Word order changes to make clear that matching rates are not set by the State plan (§ 95.601).

2. New subdivisions (e) and (f) to the definition of service agreement make clear that existing requirements are applicable to agreements with providers of ADP services.

3. A definition of "Department" is added.

4. A definition of "approving component" is added.

5. A definition of "State agency" is added.

6. Section 95.611 is reworded to clarify when and for what prior approval is required.

7. Editorial changes are made in § 95.615.

8. Section 95.619 is revised to clarify the time relationships.

9. Section 95.631 caption is changed to read "Relationship to the approved cost allocation plan."

10. Clarifying language is added to § 95.623.

11. The title of § 95.611(c) is made more specific.

12. A new § 95.641 specifies that the capitalization and depreciation provisions of 45 CFR 205.160(a) and 304.24 do not apply to ADP equipment provided the purchase benefits the Department and provided the Department agrees to the ADP equipment purchase. The purchase of ADP equipment is beneficial when HEW saves money as a result of the purchase.

13. A new § 95.643 is added to exempt ADP equipment and services that cost $25,000 or less from the requirement for prior approval.

14. The notice of proposed rulemaking was published under 45 CFR 204.6. As part of HEW's recodification effort the final regulation is published under 45 CFR Part 95, Subpart F.

The proposed regulation, with the changes discussed above, is hereby adopted.

(Catalog of Federal Domestic Assistance Program Nos. 13.679, Child Support Enforcement Program; 13.707, Child Welfare Services; 13.714, Medical Assistance Program; 13.724, Public Assistance State and Local Training; 13.748, Work Incentive Program—Child Care—Employment Related Supportive Services; 13.754, Public Assistance—Social Services; 13.761, Public Assistance—Maintenance Assistance (State Aid); 13.771, Social Services for Low Income and Public Assistance.)

NOTE.—The Department has determined that this document does not require preparation of an economic impact statement under Executive Order 11821 and 11949 and OMB Circular A-107.

Dated: May 12, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

FRANCIS D. DEGEORGE,
Acting Commissioner, Social Security.

LOUIS B. HAYS,
Acting Director, Office of Child Support Enforcement.

Approved: August 28, 1978.

HALE CHAMPION,
Acting Secretary.

1. Part 95, Subtitle A, Title 45 of the Code of Federal Regulations is amended by establishing a new part 95 to read as follows:

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE)

Subpart A—[Reserved]
Subpart B—[Reserved]

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Subpart C—[Reserved]
Subpart D—[Reserved]
Subpart E—[Reserved]
Subpart F—Automatic data processing equipment and services—conditions for Federal financial participation

GENERAL

Sec.
95.601 Scope and applicability.
95.605 Definitions.

SPECIFIC CONDITIONS FOR FFP

95.611 Prior approval conditions.
95.613 Procurement standards.
95.615 Access to records.
95.617 Software ownership rights.
95.619 Use of ADP systems.
95.621 ADP reviews.
95.623 Waiver of prior approval requirements.

COST ALLOCATION PLAN

95.631 Relationship to the approved cost allocation plan.

EXEMPTIONS

95.641 Exemption from 45 CFR 205.160(a) and 304.24.
95.643 Exemption from 45 CFR Part 74, Appendix C, Part II C.1.

AUTHORITY: Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302; sec. 7(b) 68 Stat. 658, 29 U.S.C. 37(b); sec. 139, 84 Stat. 1323, 42 U.S.C. 2577b; sec. 144, 81 Stat. 529, 42 U.S.C. 2678.

Subpart F—Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation

GENERAL

§ 95.601 Scope and applicability.

This subpart prescribes the conditions under which the Department of Health, Education, and Welfare will approve Federal financial participation (FFP), at the applicable rates, for the costs of automatic data processing incurred under an approved State plan for titles I, IV-A, IV-B, IV-C, IV-D, X XIV, XVI (AABD), XIX, or XX of the Social Security Act.

§ 95.605 Definitions.

"Acceptance documents" means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

"Advance planning document" or "APD" means a written plan of action to acquire the proposed ADP services or equipment. The APD must contain a statement of needs and objectives; a preliminary cost/benefits analysis; a personnel resource statement indicating availability of qualified and adequate staff, including a project director to accomplish the project objectives; a detailed description of the nature and scope of the activities to be undertaken and the methods to be used to accomplish the project; a proposed activity schedule for the project; a proposed budget; and a statement indicating the period of time the State expects to use the ADP service or equipment.

"Approving component" means an organization within the Department that is authorized to approve requests for the acquisition of ADP equipment or ADP services that exceed $25,000 in Federal and State funds; Social Security Administration (SSA) for cash assistance for titles I, IV-A, X, XIV, and XVI (AABD); Office of Human Development services (OHDS) for social services for titles I, IV-A, IV-B, IV-C, X, XIV, XVI (AABD), and XX; Office of Child Support Enforcement (OCSE) for title IV-D; and Health Care Financing Administration (HCFA) for title XIX of the Social Security Act.

"Automatic data processing" or "ADP" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

"Automatic data processing equipment" or "ADP equipment" means:

(a) Electronic digital computers, regardless of size, capacity, or price, that accept data input, store data, perform calculations, and other processing steps and prepare information output:

(b) All peripheral or auxiliary equipment used in support of electronic computers whether selected and acquired with the computer or separately;

(c) Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer and;

(d) Data input equipment that is used to enter data directly or indirectly into an electronic digital computer; peripheral or auxiliary equipment; or data transmission or communications equipment.

"Automatic data processing services" or "ADP services" means:

(a) Services to operate ADP equipment, either by private sources, or by employees of the State agency, or by State or local organizations other than the State agency; and/or

(b) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programing and system implementation.

"Data processing" means the preparation of source media containing data or basic elements of information, and the use of such source media according to precise rules of procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording, and transmitting.

"Department" means the Department of Health, Education, and Welfare.

"Feasibility study" means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems can be made to warrant the substantial investment of staff, time, and money.

"FFP" means Federal financial participation.

"Service agreement" means a document signed by the State or local agency and the State or local central data processing facility providing ADP services (provider) which;

(a) Identifies those ADP services the central data processing facility will provide;

(b) Includes, preferably as an amendable attachment, a schedule of charges for each identified ADP service, and a certification that these charger apply equally to all users;

(c) Includes a description of the method(s) of accounting for the services rendered under the agreement and computing services charges;

(d) Includes assurances that services provided will be timely and satisfactory;

(e) Includes assurances that information in the computer system as well as access, use, and disposal of ADP data will be safeguarded in accordance with provisions of 45 CFR 205.50 and 45 CFR 302.18; and

(f) Includes a clause that prohibits the provider from discriminating against employees on the basis of their race, sex, religion, and age.

(g) Requires the provider to obtain prior approval from the Department for ADP equipment and ADP services that is acquired primarily to support the titles covered by this subpart and requires the provider to comply with 45 CFR Part 74, Subpart P for procurements related to the service agreement.

"Software" means a set of computer programs, procedures, and associated documentation by which ADP equipment is used and operated.

"State agency" means the State agency administering or supervising the administration of the State plan that is required by the Department for the Social Security Act programs.

"System design" means the putting together of a new or more efficient ADP system.

"System specifications" means information about the new ADP system—such as workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data—which is required to determine the ADP equipment and software necessary to implement the system design.

"System study" means the examination of existing information flow and operational procedures within an organization. The study essentially consists of three basic phases: data gathering, investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting of the parts and relationships uncovered through the analysis into an efficient system.

SPECIFIC CONDITIONS FOR FFP

§ 95.611 Prior approval conditions.

(a) *General—$25,000 acquisition requirement.* A State must obtain prior written approval by the Department for acquisition of ADP equipment or ADP services when the acquisition cost of ADP equipment or ADP services exceeds $25,000 in Federal and State funds. The State shall submit requests for prior systems approval, signed by the appropriate State official, to the Assistant Secretary for Management and Budget (ASMB), Department of Health, Education, and Welfare. Requests from States shall indicate clearly the Social Security Act titles under which funding is requested, and the estimated amount or percent that is requested for each title. The State shall send three copies of the request for each component to the Department that must approve the request. The Department will acknowledge receipt of the State request.

(b) *Specific prior approval requirements.* The State agency shall obtain written approval of the Department:

(1) For the advance planning document or any change of the advance planning document prior to entering into contractual agreements or making any other commitment for acquisition of ADP equipment or ADP services;

(2) For the service agreement (when data processing services are to be provided by a State central data processing facility or by another State or local agency);

(3) For the request for proposal (RFP), prior to its issuance when service or equipment proposals are being solicited from commercial sources;

(4) When required, for the contract, prior to signature of the contracting officer. The Department requires approval of the contract for complex procurements, or where the grantee has a history of performance problems.

(5) When required for:

(i) The feasibility study;

(ii) The system study;

(iii) The system design;

(iv) The system specifications; and

(v) The acceptance document.

The Department will notify the State agency if such prior approval is required under paragraphs 95.611(b)(4) or (5).

(c) *Prompt action on requests for prior approval.* The ASMB will promptly send to the approving components the items specified in paragraph (b) of this section. If the Department has not communicated approval or disapproval within 30 days the ASMB or an approving component will notify the State regarding the status of the request.

§ 95.613 Procurement standards.

Procurements of ADP equipment and services are subject to the procurement standards in subpart P, 45 CFR, part 74. Those standards include a requirement for maximum practical open and free competition regardless of whether the procurement is formally advertised or negotiated. Those standards, as well as the requirement for prior approval, apply to ADP services and equipment acquired by a State or local agency, and to ADP services and equipment acquired by a State or local central data processing facility primarily to support the Social Security Act programs covered by this subpart. The service agreement between the State agency and the State central data processing facility is exempt from the procurement standards because State and local government gencies are not required to compete with the private sector.

§ 95.615 Access to records.

In accordance with 45 CFR Part 74, Subpart D, the State agency must allow the Department access to the system in all of its aspects, including design developments, operation, and cost records of contractors and subcontractors at such intervals as are deemed necessary by the Department to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

§ 95.617 Software and ownership rights.

(a) *General.* The State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under this subpart.

(b) *Exemption.* The Department reserves a royalty-free—nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to do so, such software, modification and documentation.

(c) *Proprietary software.* Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions of this subpart.

§ 95.619 Use of ADP systems.

ADP systems designed, developed, or installed with Federal financial participation shall be used for a period of time specified in the ADP, unless the Department determines that the elapsed shorter period of time is sufficient to justify the Federal funds invested.

§ 95.621. ADP reviews.

The Department will conduct periodic onsite surveys and reviews of State and local agency ADP methods and practices to determine the adequacy of such methods and practices and to assure that ADP equipment and services are utilized for the purposes consistent with proper and efficient administration under the Act. Where practical, the Department will develop a mutually acceptable schedule between the Department and State or local agencies prior to conducting such surveys or reviews, which may include but are not limited to:

(a) *Pre-installation readiness.* A preinstallation survey including an onsite evaluation of the physical site and the agency's readiness to productively use the proposed ADP services, equipment or system when installed and operational.

(b) *Post-installation.* A review conducted after installation of ADP equipment or systems to assure that the objectives for which FFP was approved are being accomplished.

(c) *Utilization.* A continuing review of ADP facilities to determine whether or not the ADP equipment or services are being efficiently utilized in support of approved programs or projects.

§ 95.623 Waiver of prior approval requirements.

ADP equipment and services acquired by a State agency prior to the effective date of these regulations may qualify for FFP provided the Department waives the prior approval requirement. The Department will waive the prior approval requirement when it determines that the ADP equipment or services would have received prior approval had a request for such approval been made by the State agency.

COST ALLOCATION PLAN

§ 95.631 Relationship to the approved cost allocation plan.

(a) *General.* The conditions of this subpart apply notwithstanding the existence of an approved cost allocation plan. States that operate with a central data processing facility shall use the approved cost allocation plan billing rates and billing methods in the service agreement with the State

agency. The State shall bill the Department, at the approved rates, for the ADP equipment and services used by the individual Department programs.

(b) *Impact on the cost allocation plan.* ADP equipment and services purchased or leased by the State central data processing facility may cause a change to the approved cost allocation plan. (For example, the lease of an additional nondedicated computer.) When a change is necessary, the State shall revise the billing rates and billing methods prior to revising the service agreement.

EXEMPTIONS

§ 95.641 Exemption from 45 CFR 205.160(a) and 304.24.

The capitalization and depreciation provisions of 45 CFR 205.160(a) and 304.24 do not apply to ADP equipment provided the purchase benefits the Department and provided the Department agrees to the ADP equipment purchase.

§ 95.643 Exemption from 45 CFR Part 74, Appendix C, Part II, C.1.

The requirment in 45 CFR Part 74, Appendix C, Part II, C.1. for prior approval of ADP equipment and services is waived for items that cost $25,000 or less.

[FR Doc. 78-27290 Filed 9-28-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of the Oxbow National Wildlife Refuge, Mass., To Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Oxbow National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1978, through January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

David Beall, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Mass. 01742, telephone No. 617-369-5518.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of woodcock and snipe on the Oxbow National Wildlife Refuge, Mass., is permitted on the area designated by signs as open to hunting.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland birds and small game on the Oxbow National Wildlife Refuge, Mass., is permitted on the area designated by signs as open to hunting.

These open areas, comprising 600 acres, are shown on maps available at refuge headquarters, Concord, Mass., or from the Regional Director, U.S. Fish and Wildlife Service, 1 Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds and upland game, subject to the following special conditions:

(1) The total number of hunters on the area will be limited to fifty (50) hunters at one time.

(2) Permits will be required daily.

(3) Hunters must check in, obtain a permit, and check out at the Fort Devens Rod and Gun Club each day.

(4) Vehicles are restricted to designated parking areas.

The provisions of this special regulation supplemental the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that Oxbow Refuge hunting season be held concurrent with the Massachusetts State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

SEPTEMBER 21, 1978.

[FR Doc. 78-27438 Filed 9-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Montezuma National Wildlife Refuge, N.Y., To Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1978, through February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Gene Hocutt, Montezuma National Wildlife Refuge, R.D. 1, Box 1411, Seneca Falls, N.Y. 13148, telephone No. 315-568-5987.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory waterfowl on the Montezuma National Wildlife Refuge, N.Y., is permitted from October 1, 1978, through December 31, 1978, on the areas designated by signs as open to waterfowl hunting. The waterfowl hunting area known as the Tschache Pool comprises 1,340 acres.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.

2. Steel shot shells will be used for all waterfowl hunting. Hunters will be limited to 15 steel shot shells each, with shot size no larger than No. 1 fine shot. No person shall have lead shot in his possession during the hunt.

3. Applications for hunting reservations must be received no later than 2 weeks before the opening date of the waterfowl season. Reservations for permits will be selected by random drawing. Hunting will be allowed on the designated days from the opening of the State season to the end of the first part of a split season or until the third Saturday in November—whichever comes first. Successful applicants must appear in person at the refuge waterfowl check station prior to 1 hour before legal shooting time on the date reserved. Unreserved and forfeited permits will be awarded by a drawing on the morning of the hunt to hunters without reservations.

4. The first two Saturdays of the season will be reserved for the young waterfowler's training program hunt. A brochure describing this program is also available.

5. A person with reservation may bring no more than one companion.

6. All hunting ends each hunting day at 12 noon local time, and all hunters must check out at the waterfowl check station no later than 1 p.m. local time.

7. Successful completion of the New York State waterfowl identification course is required to hunt on the refuge.

8. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

Administrative needs require that Montezuma Refuge migratory game bird season be held concurrent with the New York State hunting season. It is therefore found inpracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of gray squirrels, cottontail rabbits, raccoons, foxes, and unprotected mammals is permitted from December 17, 1978, through February 28, 1979, on the Montezuma National Wildlife Refuge, N.Y., except on areas designated by signs as closed.

A permit is required for night hunting of raccoon.

Hunting shall be in accordance with all State regulations governing the hunting of above mammals.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Montezuma National Wildlife Refuge, N.Y., is permitted from November 20, 1978, through December 12, 1978, except on the areas designated by signs as closed.

Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following special conditions:

1. Archery deer hunting is permitted Monday through Friday during the firearm season selected by the State.

2. Only longbows and compound bows may be used. No gun hunting will be allowed.

3. A deer of either sex may be taken.

4. Successful hunters must register their kill at refuge headquarters.

All hunting area maps are available at refuge headquarters and from the Regional Director, 1 Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

SEPTEMBER 21, 1978.

[FR Doc. 78-27439 Filed 9-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Nevada to Hunting; Correction

AGENCY: U.S. Fish and Wildlife Service, Sacramento Area Office.

ACTION: Special regulations; correction.

SUMMARY: This notice amends a special regulation for migratory game bird hunting on certain wildlife refuges in Nevada (published at 43 FR 32304, July 26, 1978) to correct an omission.

EFFECTIVE DATE: October 7, 1978 through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Patrick L. O'Halloran, Sacramento Area Office; telephone FTS 468-4771, com'l 916-484-4771.

SUPPLEMENTARY INFORMATION: FR Doc. 78-20621 appearing at page 32304 is corrected as follows:

Section 32.12, *Special regulations; migratory game birds; for individual wildlife refuge areas,* is corrected by the insertion of "Stillwater Wildlife Management Area, P.O. Box 1236, Fallon, Nev. 89406, telephone 702-423-5128" between the entries for Fallon and Paharanagat National Wildlife Refuges.

Dated: September 19, 1978.

WILLIAM D. SWEENEY,
Area Manager—California-Nevada,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27630 Filed 9-28-78; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

Provision for Fees

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Amendment of regulations.

SUMMARY: Section 7 of the Fishermen's Protective Act, as amended (22 U.S.C. 1971-1977), authorizes, among other things, the Secretary of Commerce to establish by regulation fees which shall be paid by the owners of vessels entering into guarantee agreements under section 7 of the Act. These fees established annually are credited to the Fishermen's Guarantee Fund and used to carry out the provisions of section 7 of the Act. This amendment establishes fees for the agreement year October 1, 1978, through September 30, 1979.

EFFECTIVE DATE: October 1, 1978.

ADDRESS: Financial Services Division, F25, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Services Division, F25, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7496.

SUPPLEMENTARY INFORMATION: Section 7 of the Act guarantees to owners of vessels entering into guarantee agreements payment of certain costs and losses resulting from (1) the seizure of a vessel of the United States by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States, or (2) if recognized by the United States, (a) are unrelated to fishery conservation and management, (b) fail to consider traditional fishing practices of U.S. vessels, (c) are more onerous than those which the United States applies to foreign fishing vessels in U.S. fishery conservation zone, or (d) fail to allow U.S. fishing vessels equitable access to such country's fishery conservation zone.

Regulations governing administration of section 7 of the Act, Fishermen's Protective Act Procedures (50 CFR Part 258), have annually established fees based on anticipated claims and prior experience. The purpose of

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the following amendment § 258.5 of Fishermen's Protective Act Procedures is to establish fees for the agreement year October 1, 1978, through September 30, 1979.

All parties holding guarantee agreements for the present agreement year (October 1, 1977, through September 30, 1978) who wish them extended through September 30, 1979, by amendment to such agreement, rather than entering into an entirely new agreement, must submit their fees in accordance with § 258.5(b) of the following amendment. Failure to do so will result in the termination of those agreements.

This amendment relates to matters which are exempt from the rulemaking requirements of the Administrative Procedures Act (5 U.S.C. 553). In addition, the amendment makes no substantive change in the program's conduct. The amendment follows.

Section 258.5 of Fishermen's Protective Act Procedures (50 CFR Part 258) is hereby amended by revising § 258.5 as follows:

§ 258.5 Fees.

(a) The fees are established to provide for payment of the administrative costs and a minimum of at least 25 percent of the estimated claims to be paid from the fund. They are set on the basis of anticipated losses and prior experience. In order to meet the requirements of the Act, the fees may be adjusted from time to time by amendment to this part at any time, after appropriate notice, to become consistent with claims greater or lesser than estimated.

(b) Fees to be paid by an applicant for guarantee agreements for the agreement year October 1, 1978, through September 30, 1979, shall be as follows: For each vessel $60, plus $1.62 per gross ton, as listed on the vessel's document. Fractions of a ton shall not be included. Although fees are due on October 1, 1978, all parties holding guarantee agreements (by amendment or otherwise) for the period terminating September 30, 1978, shall have until December 1, 1978 (midnight local time), to pay the fees established herein. Failure to do so will result in the necessity of entering into a new guarantee agreement which will be effective only from the date actually executed.

(c) No return of a fee or portion of a fee will be made after a guarantee agreement is executed by the Secretary.

(d) A guarantee agreement may, with consent of the Secretary, be assigned to a new owner of a vessel if the ownership of the vessel is transferred during the period in which the agreement is in force.

Dated: September 26, 1978.

JACK W. GEHRINGER,
Acting Deputy Assistant Administrator for Fisheries.

[FR Doc. 78-27450 Filed 9-28-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Johnson County in Kansas because of the existence of cattle scabies. A portion of one building on the Stanley Farm Facility of the Bayvet Division of Cutter Laboratories is being used to perform scabies research. The company will be using scabies infected animals for their study. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the area being used for research.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Johnson County in Kansas because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, in paragraph (d) relating to the State of Kansas a new paragraph (6) relating to Johnson County is added to read:

§ 73.1a Notice of quarantine.

* * * * * * *

(d) * * *

(6) The east 168 feet of building No. 1 situated on the southwest corner of the northwest ¼ of sec. 29, T. 14, R. 25, known as the Stanley Research Farm, located approximately 3 miles south of Stanley, Kans., in Johnson County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of September 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-27312 Filed 9-28-78; 8:45 am]

[3410-34]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Importation of Birds—Procedures for the Recovery of Costs of Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes procedures for the recovery of costs of services provided by Veterinary Services in conjunction with the importation of birds through approved quarantine facilities. This action is necessary in order to place in effect a practical method of collection and deposit of such funds in a manner whereby they will be available to Veterinary Services for defraying expenses involved in the service. The effect of this action establishes a system whereby costs of services provided by Veterinary Services at approved quarantine facilities for birds will be collected from the importer and deposited in a trust fund so as to be available to Veterinary Services for defraying expenses involved.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On August 9, 1978 (43 FR 35458-35459) and August 11, 1978 (43 FR 35682-35683), there was published in the FEDERAL REGISTER an Interim rule which will require importers, effective October 1, 1978, to reimburse Veterinary Services for all costs incurred in providing services required at approved quarantine facilities for the importation of birds, and a schedule of fees to be charged importers for such services.

On August 29, 1978, there was published in the FEDERAL REGISTER (43 FR 38585-38587), a proposed rule which would establish procedures for the collection of such costs from importers and for the deposit of funds so collected in a manner so as to be available to Veterinary Services for defraying expenses involved in this service. A period through September 13, 1978, was provided for receipt of comments on the proposal. A total of 16 comments were received in response to the proposal. Ten of these were from operators of approved quarantine facilities or their representatives, one was from the American Federation of Aviculture, one was from a Regional Poultry and Egg Association, one was from a congressman, and one was from a bird retailer, one was from a State Poulty Federation, one was from a representative of a collective group of 18 membership associations of animal and pet industries.

One comment from a State Poultry Federation endorsed the proposal as an excellent budgetary approach and suggested that collection of fees for service become a permanent feature of the Department's budget.

Three of the 16 comments received stated that the amendments are discriminatory. One of these stated that the proposal favors large importers because only larger importers can afford the deposit required; one comment stated that all costs should be borne by the Federal Government since other Federal agencies do not require recovery of costs for services provided; seven comments stated that the amendments are inflationary; three expressed the opinion that increased cost to the consumer will result; nine objected to the increased cost to importers on the basis that this requirement will force small operators out of business or will otherwise cause hardships for importers; one stated that the procedures proposed will adversely affect the poultry industry, importers, the economy and the general public.

The Department's response to the above comments is as follows: Federal funds which have been used to provide the required services which are associated with the maintenance and operation of approved quarantine facilities for the importation of birds will not be available to the Department as of October 1, 1978. An interim rule was published in the FEDERAL REGISTER on August 9, 1978 (43 FR 35458-35459) and on August 11, 1978 (43 FR 35682-35683) which so advised importers and other interested persons of that fact. The options considered by the Department in lieu of the procedures proposed for the recovery of costs of services provided importers at approved quarantine facilities for the importation of birds were:

1. Removal of the quarantine requirements for birds. This option was not selected in view of the estimated costs ($280 million annually) to the turkey and poultry industries should VVND be established in the United States.

2. Quarantine all imported birds in Government-owned facilities. This option was not selected because of the time and expense which would be required to provide the necessary Government-owned facilities. Further, Government-owned facilities could not be adequately expanded by October 1, 1978, to meet the current needs of bird importers. This would cause a disruption of such importations as of October 1, 1978.

3. Provide Federal services to privately owned approved quarantine facilities without cost to the owner. This option was not selected because the Department will have no appropriated funds with which to provide such service as of October 1, 1978, and the cost to taxpayers would be approximately $2.4 million in 1979 and more in subsequent years. Furthermore, it is inequitable for the general public to pay for services that benefit a small, select group of people. It is equitable for those who receive benefit from such importation to pay the full cost.

4. Prohibition of importation of birds for resale as pets. This option was not selected because this procedure was tried in 1972 and was not successful because of the public demand for a means of importing birds.

Therefore, it was determined that the procedures proposed for the recovery of costs of services provided by Veterinary Services in conjunction with the importation of birds through approved quarantine facilities is the method of choice to resolve the existing problem.

In addition to comments previously summarized, three comments requested that fees required to be deposited be reduced; three others expressed concern because of the possibility of escalating costs; two comments suggested that there will be a decrease in the number of legally imported birds and that those imported will be of poor quality and high price; two comments suggested that certain species may be eliminated from North American markets and that captive breeding programs will be interrupted; seven comments suggested that smuggling activities will increase; and eight comments stated that the placing of proposed procedures into effect will result in endangering the poultry industry.

The Cooperative and Trust Fund Agreement proposed requires that the importer deposit funds with the Deputy Administrator equal to the approximate cost to the Department in furnishing services for two 30-day quarantine periods. The cost of providing services will be continuously reviewed and will be adjusted as indicated on the basis of actual cost studies of services provided to individual importers. No decrease in the number of legally imported birds is anticipated. Some increase in the cost of birds imported will accrue, thus affecting retail prices. Historically, bird smuggling activities were a problem before approved quarantine facilities for birds were established and have continued to be a problem since that date. The overall effect of these amendments on bird smuggling activities is expected to be minimal and will be determined by many factors related to the bird industry. The increased danger of introducing disease into the poultry industry of the United States is proportionate to the illegal entry of poultry and birds and their disease status. Therefore, the degree of increased risk, if any, cannot be determined with accuracy under existing circumstances.

Three comments objected to the examination of records provision in § 92.11(f)(7)(C)(1) of the proposal.

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This provision was proposed because the Department's Administrative Regulations appeared to require it for this type of cooperative agreement. However, it has since been determined that this provision is not essential to the Department in the context of this type of cooperative agreement, and that the applicable administrative regulation does not require it in the cooperative agreement herein, and that there are no other laws or regulations requiring that the cooperative agreements herein contain it. Therefore, the examination of records provision in § 92.11(f)(7)(C)(1) of the proposal has been deleted and the subsequent sections therein have been renumbered accordingly.

One comment objected to the nondiscrimination provision contained in § 92.11(f)(7)(C)(2) and to the exclusion provision in § 92.11(f)(7)(C)(3). These provisions are retained in the Cooperative and Trust Fund Agreement as required by the Department's Administrative Regulations.

Other miscellaneous comments were received which were not relevant to the proposal.

Therefore, the proposed regulations are adopted as proposed, except for the deletion of § 92.11(f)(7)(C)(1) of the proposal and consequent renumbering of the subsequent sections therein and certain editorial changes which have been made for the purpose of clarification.

(Section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f, respectively), and the Act of July 24, 1919, and section 603(a) of the Act of August 30, 1972 (7 U.S.C. 450b and 2201).)

Accordingly, part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.11(e), the first sentence is amended by deleting the last comma and the phrase ", prior to the issuance of the permit", and a new sentence is added following the amended first sentence to read as set forth below.

2. In § 92.11(f), the introductory paragraph is amended and a new subparagraph (7) is added to read as set forth below.

§ 92.11 Quarantine requirements.

* * * * *

(e) *Birds.* * * * When approved quarantine facilities provided by the importer and approved by the Deputy Administrator are to be used, a Cooperative and Trust Fund Agreement as set forth in § 92.11(f)(7) of the regulations shall be executed by the importer and the Department and appropriate funds deposited with the Deputy Administrator pursuant to the Cooperative and Trust Fund Agreement, prior to the issuance of the permit.

* * * * *

(f) *Standards for approved quarantine facilities and handling procedures for importation of birds.* To qualify for designation as an approved quarantine facility and retain such approval, the facility and its maintenance and operation must meet the minimum requirements of subparagraphs (1) through (6) of this paragraph (f). The cost of the facility and all costs associated with the maintenance and operation of such facility shall be borne by the importer in accordance with the provisions of subparagraph (7) of this paragraph.

* * * * *

(7) *Cooperative and Trust Fund Agreement for services required by importer at approved quarantine facilities for the importation of birds.* (i) When an approved quarantine facility for the importation of birds is provided by the importer and is approved by the Deputy Administrator as provided in paragraph (e) of this section, a Cooperative and Trust Fund Agreement as set forth in subdivision (iii) of this subparagraph shall be executed by the importer and the Department and, in conjunction therewith, the importer shall deposit with the Deputy Administrator, Veterinary Services, funds adequate to cover all costs incurred by the Department in providing services required for two complete quarantine periods in accordance with the provisions of the Cooperative and Trust Fund Agreement. Amounts collected for services rendered in conjunction with this Cooperative and Trust Fund Agreement shall be deposited so as to be available for defraying the expenses involved in the service.

(ii) The Deputy Administrator is authorized to provide services required by the importer in conjunction with the importations made through approved quarantine facilities for the importation of birds when he determines that the importer has executed a Cooperative and Trust Fund Agreement specified in subdivision (iii) of this subparagraph and has deposited funds in connection therewith as provided in such agreement.

(iii) *Cooperative and Trust Fund Agreement.*

Cooperative and Trust Fund Agreement between————————(name of importer) and U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services

This Agreement is made and entered into by and between————————(name of the importer) hereinafter referred to as the Cooperator, and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, hereinafter referred to as the Service, with respect to————————(approved quarantine facility and address of facility). Whereas, the Service is authorized pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, as amended, and section 4 of the Act of July 2, 1962 (21 U.S.C. 111, 114a, and 134c, respectively), to regulate the introduction of animals into the United States in order to prevent the introduction of animal and poultry diseases into the United States; and

Whereas, the Cooperator represents parties interested in the importation of certain birds from countries presently under restrictions for such importation; and

Whereas, the Cooperator is equipped with quarantine facilities approved in accordance with part 92, 9 CFR, for use in importing birds; and

Whereas, the Cooperator has requested the Service to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of birds to insure that they meet the Department's quarantine requirements before release into the United States; and

Whereas, it is the intention of the parties hereto that such cooperation shall be for their mutual benefit and the benefit of the people of the United States;

Now therefore, for and in consideration of the promises and mutual covenants herein contained, the parties hereto do hereby mutually agree with each other as follows:

(A) *The Cooperator agrees:*

(1) To provide quarantine facilities which have been approved according to standards for approved quarantine facilities and handling procedures for importation of birds as provided in part 92 of 9 CFR.

(2) To deposit with the Service upon execution of this agreement the amount of $——— (equal to the approximate cost to the Department for two 30-day quarantine periods) to be used by the Service to defray all expenses incurred by the Service in providing services required, and as funds from that amount are obligated, monthly bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level.

(3) To provide for the maintenance and operation of the approved quarantine facility in accordance with standards for approved quarantine facilities and handling procedures for importation of birds as provided in part 92 of 9 CFR.

(B) *The Service agrees:*

(1) To furnish the services of technical and/or professional personnel needed to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of birds being imported to insure that they meet the Department's quarantine requirements before release into the United States.

(2) To provide the Cooperator on a quarterly basis, or within 30 days following receipt of a written request from the Cooperator, with an accounting of funds expended in providing services under paragraph (B)(1) of this agreement. Any unobligated balance upon termination or expiration of this agreement shall be returned to the Cooperator.

(C) *It is mutually understood and agreed:*

(1) During the performance of this cooperative work, the Cooperator agrees to be bound by the equal opportunity and nondiscrimination provisions as set forth in exhibit B and nonsegregation of facilities provisions as set forth in exhibit C, which are attached hereto and made a part hereof.

(2) No member of or delegate to Congress or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation of its general benefit.

(3) This agreement shall become effective upon date of final signature and shall continue indefinitely. This agreement may be amended by agreement of the parties in writing. It may be terminated by either party upon 30 days written notice to the other party.

Date ————————————

————————————

Cooperator

Date ————————————

————————————

Acting Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture

Since it appears that Department funds will not be available to provide the servies it presently provides approved bird quarantine facilities as of October 1, 1978, if uninterrupted service is to be provided approved bird quarantine facilities as of October 1, 1978, these regulations should be placed into effect immediately. It does not appear that further notice and public participation with respect to these amendments would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of September 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX, VMD,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-27825 Filed 9-28-78; 11:43 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 725]

FLUE-CURED TOBACCO

1979 National Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to announce the national marketing quota for flue-cured tobacco for the 1979-80 marketing year. The quota must be announced by December 1, 1978. This document invites all interested parties to comment and give pertinent information with respect to the determination of the quota and related matters.

DATE: Written comments must be received by November 13, 1978, in order to be sure of consideration.

ADDRESS: Send comments to the Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-6695.

SUPPLEMENTARY INFORMATION: The Agricultural Adjustment Act of 1938 requires the Secretary to determine and announce the amount of the national marketing quota, the national average yield goal, and the national acreage allotment for the 1979-80 marketing year by December 1, 1978.

The Act defines the "reserve supply level" as 5 percent greater than the "normal supply." The "normal supply" is defined as a normal year's domestic consumption and exports plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced, adjusted for current trends in such consumption. A "normal year's exports" is defined as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced, adjusted for current trends in such consumption.

The reserve supply level for the 1978-79 marketing year was determined to be 2,798 million pounds. This was based on a normal year's domestic consumption of 663 million pounds and a normal year's exports of 510 million pounds (42 FR 61587). The proposed reserve supply level for the 1979-80 marketing year is 2,820 million pounds, based on a normal year's domestic consumption of 658 million pounds and a normal year's exports of 531 million pounds.

The Act (7 U.S.C. 1301(b)) defines "total supply" as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1978-79 marketing year is 3,243 million pounds based on carryover of 2,046 million pounds and estimated production of 1,197 million pounds.

The Act (7 U.S.C. 1314c(a)) defines the "National Marketing Quota" for any kind of tobacco for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and exported during the marketing year, adjusted upward or downward in an amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 15 percent of estimated domestic use and exports.

The amount of flue-cured tobacco produced and utilized domestically during the 1977-78 marketing year was 605 million pounds, and the amount exported was 539 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1978-79 marketing year is 1,117 million pounds, based upon estimated domestic utilization of 645 million pounds and exports of 490 million pounds, with a downward adjustment of 18 million pounds for effecting an orderly reduction of supplies to the reserve supply level (42 FR 61587). For the 1979-80 marketing year utilization in the United States is estimated to be about 605 million pounds and exports are estimated to be about 545 million pounds. The total supply for the 1978-79 marketing year is 423 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered.

The Act (7 U.S.C. 1314c(a)) defines the "national average yield goal" for any kind of tobacco as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. The national average yield goal for the 1965-66 and each subsequent marketing year was determined to be 1,854 pounds, and no change is proposed for the 1979-80 marketing year.

The Act (7 U.S.C. 1314c(a)) defines the "national acreage allotment" as the acreage determined by dividing the national marketing quota by the national average yield goal. The national acreage allotment for the 1978-79 marketing year was determined to be 602,481.12 acres (42 FR 61587).

A national acreage factor for apportioning the national acreage allotment to old farms will be determined by dividing the national acreage allotment, less the reserve for new farms and old farms corrections and adjustments by the sum of the 1978 allotments for 1979 old farms prior to adjustments for overmarketings or undermarketings and reductions required for violations. The national acreage factor for the 1978-79 marketing year was 1.0 (42 FR 61587).

A national yield factor will be obtained by dividing the national average yield goal by the national average yield. The national average yield is computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to adjustments for overmarketings, undermarketings, or reductions required for violations, adding the products, and dividing the sum of the products by the national acreage allotment. The national yield factor for the 1978-79 marketing year was 0.9312 (42 FR 61587).

The Act (7 U.S.C. 1314c(e)) provides that for each marketing year for which acreage-poundage quotas are in effect a reserve may be established from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered produced during the immediately preceding 5 years. A reserve of 350 acres was established for the 1978-79 marketing year (42 FR 61587). A similar reserve is proposed for the 1979-80 marketing year.

The Act (7 U.S.C. 1314c(g)) provides that if the Secretary, in his discretion, determined it is desirable to encourage the marketing of grade N2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. This has never been authorized under the acreage-poundage program and is not proposed for the 1979-80 marketing year.

PROPOSED RULE

The subject and issues involved in the proposed determinations are:

(1) The amount of the reserve supply level.

(2) The amount of the national marketing quota for the 1979-80 marketing year.

(3) The amount of the national average yield goal.

(4) The amount of acreage to be reserved from the national acreage allotment for making corrections in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms.

(5) Whether the Secretary should implement the provision relating to N2 or other grades of tobacco not eligible for price support.

The amount of the national acreage allotment, the national acreage factor, and the national yield factor are not considered issues in these determinations because they result from mathematical computations based on the determinations outlined in issues (1) through (4) in the preceding paragraph.

The community average yields as computed in 1965 (30 FR 6207, 9875, 14487), will be used for the 1979-80 marketing year. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741, South Building, 14th and Independence Avenue SW., Washington, D.C.

Executive Order 12044 (43 FR 12661, Mar. 24, 1978), requires at least a 60-day public comment period on any proposed significant regulations except where the Agency determines this is not possible. Because the quota for the 1979-80 flue-cured tobacco marketing year is required by statute to be announced by December 1, 1978, it is hereby found and determined that compliance with the 60-day comment period required by Executive Order 12044 is impossible. Accordingly, comments must be received by November 13, 1978, in order to be assured of consideration.

An approved draft impact analysis statement is available from Thomas A. VonGarlem, Acting Director, Price Support and Loan Division, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on September 26, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-27494 Filed 9-28-78; 8:45 am]

[3410-05]

[7 CFR Part 729]

1979 PEANUT PROGRAM

Proposed Determinations Regarding National Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes with respect to the 1979 crop of peanuts to: a. Determine and proclaim a national poundage quota; b. determine and proclaim a national acreage allotment; and c. apportion such allotment to States. The effect of the determinations is to establish for the 1979 crop of peanuts the national poundage quota and the national acreage allotment and to apportion such allotment to States. This notice invites comments on these proposed determinations.

DATE: Written comments must be received on or before November 13, 1978, to be sure of consideration.

ADDRESS: Send comments to Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. vonGarlem (ASCS), 202-447-7954.

SUPPLEMENTARY INFORMATION:

The following determinations are required to be made by the Secretary not later than December 1, 1978, in accordance with provisions of section 358 of the Agricultural Adjustment Act of 1938, as amended, including amendments contained in the Food and Agriculture Act of 1977:

(a) *National poundage quota.* Subsection (1) provides that the Secretary shall, not later than December 1, 1978, announce a national poundage quota for 1979 crop peanuts at not less than 1,596,000 tons. It further provides tht if the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, such quota may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements.

(b) *National acreage allotment.* Subsection (k) provides that the Secretary shall, not later than December 1, 1978, announce a national acreage allotment for 1979 crop peanuts taking into consideration projected domestic use, exports, and a reasonable carryover, subject to the proviso that such allotment shall be not less than 1,614,000 acres.

(c) *Apportionment of national acreage allotment to the States.* Apportionment of the national peanut acreage allotment among the States is governed by paragraph (c)(1) which provides that apportionment among the States shall be on the basis of their shares of the national acreage allotment for the most recent year in which such apportionment was made, except for an amendment providing that the minimum allotment for the State of New Mexico shall not be reduced below the 1977 crop acreage allotment as increased pursuant to a short supply determination under paragraph (c)(2). Under this provision, the 1979 crop of peanuts will be apportioned to the States on the basis of their shares of the 1978 national acreage allotment.

PROPOSED RULE

The Secretary proposes to: (a) Determine and proclaim a national poundage quota, (b) determine and proclaim a national acreage allotment, and (c) apportion such allotment to States.

Before making final determinations, consideration will be given to any relevant data, views, recommendations, or alternative proposals which are submitted in writing to the Acting director of the Price Support and Loan Division, ASCS-USDA.

All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to

4:45 p.m., Monday through Friday, in Room 3741, South Building.

Executive Order 12044 (43 FR 12661, Mar. 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the Agency determines this is not possible or in the best interests of producers. In view of the fact that the national acreage allotment and the national poundage quota for the 1979 crop of peanuts must be announced by December 1, 1978, it is hereby found and determined that compliance with provisions of Executive Order 12044 is impossible. Accordingly, comments must be received on or before November 13 1978, in order to be sure of consideration.

NOTE.—A draft impact analysis is available from Thomas A. VonGarlem (ASCS), 202-447-7954.

NOTE.—The Agricultural Stabilization and Conservation Service, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321, et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a major Federal action significantly affecting the human environment.

Signed at Washington, D.C., on September 26, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-27493 Filed 9-28-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7CFR Part 1701]

ELECTRIC PROGRAM

Revised REA Bulletin 20-2

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Bulletin 20-2, Electric Loan Policies and Application Procedures, to require borrowers to develop energy conservation programs which will aid consumers to use energy in the most efficient manner. The change will amend the list of items required by REA in connection with a loan application by the addition of information related to the borrower's energy conservation program. The added information consists of a copy of the policy approved by the board of directors on energy conservation; a report of the efforts of the borrower to conserve electric energy in the operation of its headquarters and facilities, including the amount this program has reduced annual operating costs and the amount of capital expenditures necessary to achieve the reduction; and a report describing the efforts of the borrower to assist its consumers to make the most efficient use of energy, including a work plan and budget. Borrowers will be required to have an energy conservation program in order to be eligible for REA financing.

DATE: Public comments must be received by REA on or before November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harlan M. Severson, Assistant to the Administrator, Rural Electrification Administration, Room 4324, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-4246.

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 20-2. A copy of the proposed revision is being mailed to all REA-financed electric systems. Others may obtain copies of the proposed revision from REA at the address indicated above.

Dated: September 22, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-27611 Filed 9-28-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 436 and 446]

[Docket No. 78N-0257]

TETRACYCLINE

Revised Standard Response Line Concentrations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the standard response line concentrations for tetracycline antibiotic drugs in order to produce more accurate potency assay results. This revision is made in response to the results of a review conducted by the National Center for Antibiotic Analysis.

DATE: Comments by November 28, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The current regulations set forth in § 436.106(a) (21 CFR 436.106(a)) for the microbiological turbidimetric potency assay of the tetracyclines provide for standard response line concentrations that are 64, 80, 100, 125, and 156 percent of the reference concentration of the assay. The tetracyclines referred to in the table appearing in § 436.106(a) are: Chlortetracycline, demeclocycline, doxycycline, methacycline, minocycline, oxytetracycline, rolitetracycline, and tetracycline. The reference concentration of the assay is the midpoint concentration of the standard response line. A review of the standard response lines by FDA's laboratory, the National Center for Antibiotic Analysis, shows that variations in the assay prevent the straight line portion of the curve from extending far enough to include either the low- or high-standard response line concentrations of 64 and 156 percent. This problem can be eliminated by (a) raising the low concentration from 64 percent to 80 percent, (b) lowering the high concentration from 156 percent to 125 percent, and (c) recalculating the second and fourth standard response line concentrations. The Food and Drug Administration has determined that when the samples are diluted to concentrations within the 80- to 125-percent range, more accurate potency concentration estimates are obtained.

This proposal changes the midpoint concentration for the dose response line for minocycline from 0.100 microgram per milliliter to 0.085 microgram per milliliter. This change is necessary because FDA has found that the midpoint concentration of 0.100 microgram per milliliter results in curvature at high concentrations causing crescent-shaped dose response lines outside the limits of linearity. The proposed midpoint concentration of 0.085 microgram per milliliter produces dose response lines that are usually statistically linear. The other concentrations on the minocycline dose response lines are revised accordingly.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)); therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 446 are amended as follows:

1. Part 436 is amended in § 436.106(a) by revising the last column of the table. As revised, the table reads as follows:

§ 436.106 Microbiological turbidimetric assay.

(a) • • •

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in sec. 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in sec. 436.101(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Amikacin	Not dried		Distilled water	1 mg	2 weeks	Distilled water.	8.0, 8.9, 10.0, 11.2, 12.5 μg.
Candicidin[1]	6		Dimethyl sulfoxide	1 mg	Use same day	do	0.030, 0.043, 0.060, 0.065, 0.120 μg. (Prepare standard response line simultaneously with the sample solution.)
Capreomycin	5	Distilled water.		1 mg	7 days	do	64, 80, 100, 125, 156 μg.
Chloramphenicol	Not dried	Ethyl alcohol (10,000 μg. per ml.).		1 mg	1 mo	1	2.00, 2.24, 2.50, 2.80, 3.12 μg.
Chlortetracycline	do		0.01*N* HCl	1 mg	4 days	4	0.048, 0.054, 0.060, 0.067, 0.075 μg.
Cycloserine	1		Distilled water	1 mg	1 mo	Distilled water.	32.0, 40.0, 50.0, 62.5, 78.1 μg.
Demeclocycline	1		0.1*N* HCl	1 mg	4 days	4	0.080, 0.089, 0.100, 0.112, 0.125 μg.
Dihydrostreptomycin	5		Distilled water	1 mg	30 days	Distilled water.	24.0, 26.8, 30.0, 33.5, 37.5 μg.
Doxycycline	Not dried		0.1*N* HCl	1 mg	5 days	4	0.080, 0.089, 0.100, 0.112, 0.125 μg.
Gramicidin	1		95 pct ethyl alcohol	1 mg	30 days	95 pct ethyl alcohol.	0.028, 0.034, 0.040, 0.048, 0.057 μg.
Kanamycin	Not dried		Distilled water	1 mg	1 mo	Distilled water.	8.0, 8.9, 10.0, 11.2, 12.5 μg.
Methacycline	1		13	1 mg	7 days	4	0.048, 0.054, 0.060, 0.067, 0.075 μg.
Minocycline	Not dried		0.1*N* HCl	1 mg	2 days	4	0.068, 0.076, 0.085, 0.095, 0.106 μg.
Oxytetracycline	do		0.1*N* HCl	1 mg	4 days	4	0.192, 0.215, 0.240, 0.268, 0.300 μg.
Rolitetracycline	1		Methanol	1 mg	1 day	4	0.192, 0.215, 0.240, 0.268, 0.300 μg.
Spectinomycin	Not dried		Distilled water	1 mg	1 mo	Distilled water.	24.0, 26.8, 30.0, 33.5, 37.5 μg.
Streptomycin	1		do	1 mg	30 days	do	24.0, 26.8, 30.0, 33.5, 37.5 μg.
Tetracycline	Not dried		0.1*N* HCl	1 mg	1 day	4	0.192, 0.215, 0.240, 0.268, 0.300 μg.
Tobramycin	do		Distilled water	1 mg	2 weeks	Distilled water.	2.00, 2.236, 2.5, 2.795, 3.125 μg.
Troleandomycin	1		15	1 mg	Use same day	1	16.0, 20.0, 25.0, 31.2, 39.0 μg.
Tyrothricin[2]							
Viomycin	1		Distilled water	1 mg	7 days	Distilled water.	64, 80, 100, 125, 156 μg.

[1] Use sterile equipment for all stages of this assay.
[2] The gramicidin working standard and the gramicidin standard response line concentrations are used for the assay of tyrothricin.

• • • • • •

2. Part 446 is amended:

§ 446.60 [Amended]

a. In § 446.60 *Minocycline hydrochloride*, by revising the figure "0.100" in the last sentence of paragraph (b)(1) to read "0.085".

§ 446.160a [Amended]

b. In § 446.160a *Minocycline hydrochloride tablets*, by revising the figure "0.100" in the last sentence of paragraph (b)(1) to read "0.085".

§ 446.160b [Amended]

c. In § 446.160b *Minocycline hydrochloride capsules*, by revising the figure "0.100" in the last sentence of paragraph (b)(1) to read "0.085".

§ 446.160c [Amended]

d. In § 446.160c *Minocycline hydrochloride oral suspension*, by revising the figure "0.100" in the last sentence of paragraph (b)(1) to read "0.085".

§ 446.260 [Amended]

e. In § 446.260 *Sterile minocycline hydrochloride*, by revising the figure "0.100" in the last sentence of paragraph (b)(1) to read "0.085".

Interested persons may, on or before November 28, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with

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the Hearing Clerk, Food and Drug Administration.

Dated: September 20, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-26951 Filed 9-28-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2835]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Charlottesville, Independent City, Va.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations for the city of Charlottesville, Va., that appeared on page 18238 of the FEDERAL REGISTER, of April 5, 1977 (42 FR).

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Along Moores Creek at Meridian Street (extended) with an elevation of 353 feet.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27453 Filed 9-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4431]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Shoemakersville, Berks County, Pa., Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The proposed flood elevation determinations for the borough of Shomakersville, Berks County, Pa. (43 FR 38865, Aug. 31, 1978), was erroneously listed as the borough of Shoemakersville, Bucks County, Pa. This notice will serve as a correction of that publication.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27454 Filed 9-28-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 976-3; Docket No. 664A]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Housatonic Ever-Float Co., Shelton, Conn.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a Delayed Compliance Order for The Housatonic Ever-Float Co. at Shelton, Conn. This action is being taken because The Housatonic Ever-Float Co. is no longer in violation of the Connecticut State Implementation Plan provisions covered by the proposed Order.

DATE: This withdrawal is immediately effective.

FOR FURTHER INFORMATION CONTACT:

Mr. Sam Silverman, Attorney, Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203, 617-223-5600.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 43 FR 29805, July 11, 1978, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by The Connecticut Department of Environmental Protection to the Housatonic Ever-Float Co. at Shelton, Conn. The Housatonic Ever-Float Co. has subsequently achieved compliance with the Connecticut State Implementation Plan regulations covered by the Order. Compliance was achieved by reformulating compounds to meet Connecticut organic compound emission limitations.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER, 43 FR 29805 on July 11, 1978, entitled "Proposed Delayed Compliance Order for The Housatonic Ever-Float Co., Shelton, Conn.," is hereby withdrawn.

Dated: September 18, 1978.

WILLIAM R. ADAMS, JR.,
Regional Administrator, Region I.

[FR Doc. 78-27411 Filed 9-28-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 976-4; Docket No. 603B]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for The Turner & Seymour Manufacturing Co., Torrington, Conn.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a Delayed Compliance Order for The Turner & Seymour Manufacturing Co. at Torrington, Conn. This action is being taken because The Turner & Seymour Manufacturing Co. is no longer in violation of the Connecticut State Implementation Plan provisions covered by the proposed Order.

DATE: This withdrawal is immediately effective.

FOR FURTHER INFORMATION CONTACT:

Mr. Sam Silverman, Attorney, Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203, 617-223-5600.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 43 FR 20023, May 10, 1978, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by The Connecticut Department of Environmental Protection to The Turner & Seymour Manufacturing Co. at Torrington, Conn. The Turner & Seymour Manufacturing Co. has subsequently achieved compliance with the Connecticut State Implementation Plan regulations covered by the Order. Compliance was achieved by installation of a fabric filter emission control system.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER, 43 FR 20023 on May 10, 1978, entitled "Proposed Delayed Compliance Order for The Turner & Seymour Manufacturing Co., Torrington, Conn." is hereby withdrawn.

Dated: September 18, 1978.

WILLIAM R. ADAMS, JR.,
Regional Administrator, Region I.

[FR Doc. 78-27410 Filed 9-28-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 978-2; Docket No. VII-78-DCO-11]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Iowa Department of Environmental Quality to Interstate Power Co., Kapp Station, Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Iowa Department of Environmental Quality to Interstate Power Co., Kapp Station. The order requires the company to bring air emissions from its unit No. 2 in Clinton into compliance with certain regulations contained in the federally approved Iowa State implementation plan (SIP) by September 29, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 30, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

SUPPLEMENTARY INFORMATION: Interstate Power Co. operates an electric powerplant at Clinton, Iowa. The order under consideration addresses emissions from Kapp Station unit No. 2 at the facility, which are subject to subrule 400—4.3(2)b Iowa Administrative Code, Combustion for indirect heating. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State implementation plan. The order requires final compliance with the regulation by September 29, 1979, through installation of an electrostatic precipitator. The source has consented to the terms of the order. The source has completed increments A.1 to 5 and B.1 to 4 contained in the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The elements of the appropriate paragraphs of subsection 113(d) have been met.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 20, 1978.

KATHLEEN Q. CAMIN,
Regional Administrator, Region VII.

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR QUALITY COMMISSION, DES MOINES, IOWA

ORDER

Docket No. 77-A-050

In the Matter of Interstate Power Co., M. L. Kapp Station, Clinton, Iowa

Whereas, employees of the Department of Environmental Quality reviewed a stack emission test on unit No. 2 at Interstate Power Co.'s Kapp Station in Clinton, Iowa, and determined that the emissions from unit No. 2 exceeded the emission standards of subrule 400—4.3(2)b I.A.C.

Whereas the said subrule is a part of the federally approved implementation plan applicable to air quality control region 069 in which the Interstate Power Co. in Clinton, Iowa, is located;

Whereas Interstate Power Co. has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa code with respect to an alleged violation;

Whereas Interstate Power Co. is hereby given notice that in the event it fails to meet any requirment of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in subparagraph B-7 by July 1, 1979, it shall be required to pay a noncompliance penalty under section 120 of the Clean Air Act as amended (42 U.S.C. 7420) or under Iowa law subsequently enacted to obtain delegation under that section;

Whereas, after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply, compliance with the order below is reasonable and expeditious; and

Whereas, the company acknowledges that it is prepared to proceed as scheduled in the order to achieve the required compliance in consideration for the Air Quality Commission's agreement that for such period of time as the company is in compliance with

[1] Published in the FEDERAL REGISTER of Sept. 28, 1978.

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said schedule, this order shall stand in lieu of those administrative, legal, and equitable remedies available to the Air Quality Commission or related Iowa agencies regarding the alleged violation with respect to subrule 400-4.3(2)b.

Therefore, it is ordered, By the Air Quality Commission:

A. That Interstate Power Co. complete the following acts with respect to the unit No. 2 at its plant in Clinton, Iowa, on or before the dates specified.

1. June 1, 1977—Select flue gas conditioning supplier.
2. July 15, 1977—Receive equipment at site.
3. August 1, 1977—Complete installation of equipment.
4. March 6, 1978—Conduct particulate emission tests.
5. March 27, 1978—Submit test results and achieve final compliance with subrule 400—4.3(2)b I.A.C.

B. That Interstate Power Co. complete the following on or before the dates specified. If the flue gas conditioning program is not successful, additional electorstatic precipitator surface will be installed on unit No. 2.

1. December 15, 1977—Submit final control plan.
2. March 15, 1977—Select precipitator manufacturer.
3. May 1, 1978—Apply for permit from DEQ.
4. August 15, 1978—Start construction.
5. May 18, 1979—Complete construction.
6. May 29, 1979—Conduct particulate emission tests.
7. June 29, 1979—Submit test results to DEQ, and achieve final compliance with subrule 400—4.3(2)b I.A.C.

C. That until final compliance as specified in subparagraph B-7 is achieved, Interstate Power Co. shall comply with the following interim requirements:

In the event that part B is necessary, gas conditioning will be continued, if effective in reducing emissions, until final compliance has been demonstrated as a result of implementing the program under part B.

D. That Interstate Power Co. shall monitor such emissions and report such information as required by the Executive Director of the Department of the Environmental Quality pursuant to chapter 400—2(455B) I.A.C.

E. That Interstate Power Co., prior to the initiation of onsite construction or installation of emission control equipment required by paragraph B-4, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of the Department of Environmental Quality, as defined in subrule 400—3.1 I.A.C.

F. That Interstate Power Co. certify to the Chief of the Surveillance Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

G. That Interstate Power Co., 15 days prior to conducting the performance tests required by paragraphs A-4 and B-6, give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

H. That in the event the Air Quality Commission proposes to modify this order for any reason, the signature of the company hereon and the waiver of the company herein would not be binding on the company.

I. That this order shall be binding upon the company, its successors and assigns, and upon the Air Quality Commission, its successors and assigns.

Dated: January 19, 1978.

HERBERT L. CAMPBELL,
Chairman, Air Quality Commission.

Dated: December 20, 1977.

D. J. CARLSON,
Vice President, Interstate Power Co.

[FR Doc. 78-27405 Filed 9-28-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 978-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the State of Idaho Department of Health and Welfare to U&I Sugar, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Idaho Department of Health and Welfare to U&I Sugar, Inc. The order requires the company to bring air emissions from its sugar refinery in Idaho Falls, Idaho, into compliance with certain regulations contained in the federally-approved Idaho State Implementation Plan (SIP), by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 30, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region 10, 1200 Sixth Avenue, Seattle, Wash. 98101. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

John Pfander, EPA, Idaho Operations Office, 422 West Washington, Boise, Idaho 83702, 208-384-1450.

SUPPLEMENTARY INFORMATION: U&I, Inc. operates a sugar refinery at Idaho Falls, Idaho. The order under consideration addresses emissions from the Erie No. 2 boiler at the facility, which is subject to regulations E, G, H, and I of the rules and regulations for the Control of Air Pollution in Idaho. The regulations limit the emissions of particulate matter and visible emissions, and is part of the federally-approved Idaho State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979. The source has consented to the terms of the order and will satisfy the particular increments contained in the order. EPA is proposing to approve only those portions of the operating permit covered by 113(d) of the Clean Air Act which are necessary to make up a valid delayed compliance order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA proposes to approve the order because it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the sources for violations of the regulation covered by the order during the period the order is in effect.

Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Idaho SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: September 20, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region 10.

[FR Doc. 78-27406 Filed 9-28-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 976-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by Virginia State Air Pollution Control Board to U.S. General Services Administration

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board to the U.S. General Services Administration (GSA). The order requires GSA to bring air emissions from its Virginia heating and refrigeration plant in Arlington, Va. into compliance with certain regulations contained in the federally-approved Virginia State Implementation Plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 30, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting, material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Gross, Air Enforcement Branch, 3EN12, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, telephone 215-597-8907.

SUPPLEMENTARY INFORMATION: GSA operates a heating plant at the Pentagon Office Building in Arlington, Va. The order under consideration addresses emissions from coal-fired boiler Nos. 2, 3, 4, and 5 at the facility, which are subject to section 4.02.01 and 4.03.01 of the Commonwealth of Virginia regulations for the control and abatement of air pollution. The regulations limit the emissions of visible emissions and particulate matter, and are part of the federally approved Virginia State Implementation Plan. The order requires final compliance with the regulations by June 1, 1979, through installation of electrostatic precipitators. The schedule for compliance contained in the order was developed by GSA in cooperation with the State air pollution control board. Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. Based on the information presently available, the Agency believes the statutory requirements are met by this order. Section 18 of the State order states, "the Board may modify this order for good cause shown by GSA, or on its own motion after notice to GSA and an opportunity for hearing." In accordance with section 113(d)(2) of the Act, no such modification shall take effect until such time as the Administrator determines that such modification satisfies the requirements of the Act.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: August 21, 1978.

JACK J. SCHRAMM,
Acting Regional Administrator, Region III.

[FR Doc. 78-27408 Filed 9-28-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 344]

TERMINAL PERFORMANCE STANDARDS GOVERNING THE TRANSPORTATION OF NONPERISHABLE COMMODITIES

Porticipation Notice and Procedural Time Schedule

AGENCY: Interstate Commerce Commission

ACTION: Notice to persons interested in participating in this proceeding and procedural time schedule for filing and cross-service of pleadings.

SUMMARY: This document extends the time for filing comments; provides for the development and service of a participation list; orders all parties to cross-service their pleadings and makes provision for the filing of replies in the proceeding relating to terminal performance standards governing the transportation of nonperishable commodities published at 43 FR 33774, August 1, 1978.

DATES: Any person intending to participate actively in this proceeding shall notify the Commission by filing an original and one copy of a statement of intent to participate. Statements must be filed with the Commission on or before October 9, 1978.

Persons who have submitted comments prior to the publication of this notice are to be regarded as participants in this proceeding and do not have to file a statement of intent to participate.

The Office of Proceedings shall then send to all participants a list of names and addresses of all parties. Thereafter, all parties must serve copies of their initial comments and all subsequent pleadings upon all other parties.

The filing and service of pleadings shall be as follows: initial comments by respondents and all other partici-

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pants are due by October 16, 1978; and 20 days thereafter, replies by respondents and all other participants.

ADDRESSES: Participation statements and pleadings should be sent to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, or Harvey Gobetz, phone: 202-275-7693.

By notice of proposed rulemaking, 345 I.C.C. 2971, published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33774), the Commission instituted this proceeding to establish performance standards governing terminal operations in the transportation of nonperishable commodities. Proposed regulations were set forth in the notice. The Commission indicated that this was not an adversary proceeding. Therefore, to expedite procedures and to avoid delay and expense, the Commission ordered only the filing of comments by respondents and interested parties 30 days from the date of publication of the notice of proposed rulemaking in the FEDERAL REGISTER. The Commission further ordered that one set of these comments be made available in the Secretary's Office for public inspection during regular business hours of the Commission. By decision served August 24, 1978, and by FEDERAL REGISTER notice published on August 30, 1978 (43 FR 38736), an extension of time for the filing of comments, requested by certain railroad respondents, was granted to all parties to October 16, 1978.

On September 6, 1978, the Commission received a letter from the North Dakota Public Service Commission (NDPSC). This letter was made part of the initial comment filed in this proceeding by NDPSC on August 28, 1978. NDPSC requested the Commission to develop and serve a participation list in this proceeding; order all parties to cross-service their pleadings; and make provision for the filing of the replies to the initial comments.

In view of the importance of this proceeding, the extension of time granted for the filing of comments, and the fact that many parties do not have the ability to visit the Secretary's Office and review the comments, the requests made by NDPSC are granted.

Persons interested in participating in this proceeding shall comply with the instructions and time schedule as set forth under "Dates".

Issued in Washington, D.C., September 13, 1978.

By the Commission, Chairman O'Neal.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27665 Filed 9-28-78; 8:45 am]

[3510-22]
[4310-55]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[50 CFR Part 403]

FISH AND WILDLIFE COORDINATION ACT

Notice of Intent to Proposed Rules

AGENCY: National Oceanic and Atmospheric Administration, Commerce; Office of the Secretary, Interior.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: In his water policy memorandum dated July 12, 1978, President Carter directed the Departments of Commerce and the Interior to publish regulations to implement the Fish and Wildlife Coordination Act. The Act concerns the conservation of wildlife in projects involving the control or modification of any stream or other body of water. Public, Congressional, State, and Federal comment is requested to assist those agencies in preparing proposed rules to implement the Act. (FWCA, Pub. L. 85-624, 72 Stat. 563, 16 U.S.C. 661 et seq. (1976).)

DATE: Comments must be received by October 31, 1978. Responses will not be provided.

ADDRESS: Send written comments to William W. Garner, Office of the Solicitor, U.S. Department of the Interior, Room 6544, Washington, D.C. 20240, 202-343-2172.

FOR FURTHER INFORMATION CONTACT:

Karl F. Stutzman, Fish and Wildlife Service, U.S. Department of the Interior, Room 3251, Washington, D.C. 20240, 202-343-5715.

William W. Garner, Office of the Solicitor, U.S. Department of the Interior, Room 6544, Washington, D.C. 20240, 202-343-2172.

James R. Chambers, National Marine Fisheries Service, 3300 Whitehaven Street NW., Page Building II, Room 188, Washington, D.C. 20235, 202-634-7490.

Eric Erdheim, Office of General Counsel, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Page Building II, Room 400, Washington, D.C. 20235, 202-634-4224.

SUPPLEMENTARY INFORMATION: In a water policy memorandum dated July 12, 1978, President Carter directed that—

> The Secretary of the Interior in cooperation with the Secretary of Commerce shall promulgate regulations by March 1, 1979, defining the requirements and procedures that mut be met for fully complying with the Fish and Wildlife Coordination Act. * * * Then, not later than 3 months after promulgation of such final regulations, Federal agencies with consultative responsibilities under the * * * [FWCA] shall publish * * * separate procedures to be followed in implementing the regulations * * *. These procedures shall be reviewed, and if consistent with the regulations, approved within 60 days by the Secretary of the Interior.

The regulations referred to by the President (hereafter "rules") would be published jointly by the Secretaries of the Interior and Commerce using the rulemaking procedures for "significant rules" which are contemplated by Executive Order (E.O.) 12044.

These rules will be joint rules because of the division of FWCA jurisdiction between the Departments of Commerce and the Interior made by Reorganization Plan No. 4 of 1970 (published in the appendix to Title 5, United States Code).

THE FWCA

The FWCA requires Federal agencies (hereinafter "action agencies") which propose, or are authorized, to undertake the impoundment, diversion, deepening, or other control or modification of waters of any stream or other body of water, or which are asked to issue permits or licenses for such activity, to accord wildlife conservation equal consideration with other features of such projects throughout their planning and decisionmaking processes. It requires such agencies, or applicants to such agencies, to first consult with State and Federal wildlife agencies with a view to ascertaining what project facilities, operations, or measures may be considered necessary by those agencies to mitigate and compensate for project-occasioned losses to wildlife resources, as well as to enhance those resources.

The FWCA further requires that the reports and recommendations on the wildlife aspects of such projects which are received by action agencies shall be presented to action agency decisionmakers and (where applicable) the Congress, and that the action agencies shall give full consideration to those reports. Action agencies are required to include in project plans such means and measures for wildlife conservation as they may find justifiable to obtain maximum overall project benefits, and the costs thereof are to be considered integral to those of the project.

Subject to certain project exceptions, the FWCA itself authorizes Federal agencies which have been authorized to construct or operate water control projects, to modify or add to project structures or operations, and to acquire lands, waters, or interest therein, in order to promote the conservation of wildlife resources associated with such projects.

NEED FOR FWCA REGULATIONS

Most action agencies have not adopted procedures implementing the FWCA. Where they have, there are disparities in interpretation and program emphasis, and there is often little opportunity for the public to participate in decisions by final action agency decisionmakers as to which wildlife conservation measures will be adopted. The FWCA vests that ultimate decisionmaking authority in the action agency, or, in the case of most Federal projects, the Congress.

Despite an increasing number of legal cases raising FWCA issues, this piecemeal approach is not as effective as regulations and has not provided the comprehensive level of FWCA compliance called for by the President. These rules should also advance the President's directive that Federal agencies should coordinate and simplify environmental review requirements.

MAJOR SUBJECT MATTER TO BE INCLUDED IN FWCA RULES

It is not the purpose of this notice to describe the proposed content of the rules in any detail. However, it is anticipated that these rules will include—

(a) Interpretive rules resolving differing constructions of the FWCA and procedures for consultation on wildlife conservcation needs among State and Federal wildlife agencies, project agencies, and the Congress,

(b) Procedures for public and State participation in the FWCA planning process,

(c) Procedures for resolution of future interagency differences on interpretation of the FWCA, and of differences on what wildlife conservation measures should be included in project plans,

(d) Guidelines for determining when the discretionary decisions of project agencies to incorporate wildlife mitigation or enhancement measures at previously authorized projects should be referred to the Congress, and

(e) As directed by the President, methods for determining adequate measures to mitigate losses to fish and wildlife.

VIEWS REQUESTED

1. *Are the economic consequences of these rules likely to be such as to require preparation of a "regulatory analysis," within the meaning of E.O. 12044?* Because of the relationship of these rules to the programs of other agencies, a determination has been made that these joint rules will be "significant," within the meaning of E.O. 12044. However, a determination whether a "regulatory analysis" need be prepared has been withheld pending receipt of comments.

The President's criteria would require regulatory analyses for all rules which will result in (a) an annual effect on the economy of $100 million or more, or (b) a major increase in costs or prices for individual industries, levels of Government, or geographic regions. E.O. 12044, sec. 3(a)(1). Additional criteria have been proposed by the Department of the Interior at 43 FR 22573 (May 25, 1978), and by the National Oceanic and Atomspheric Administration at 43 FR 23188 (May 30, 1978).

The FWCA places responsibilities with budgetary consequences upon State and Federal wildlife agencies, Federal action agencies, and Office of Management and Budget (OMB) (review of budget requests). If, as a result of these FWCA regulations, action agencies incorporate wildlife conservation measures at *Federal* projects which require the expenditure of money and manpower, nonpublic parties who purchase vendible services of such projects (through which the costs of such measures are reimbursed to the U.S. Treasury) would be economically effected.

Similarly, private applicants for water-related project permits and licenses to which the FWCA rules would apply might be required to expend additional moneys to incorporate wildlife conservation measures into their project plans.

Your views are sought as to the magnitude of the foregoing categories of expenditures at present, computed on an annual basis. Concrete documentation is requested.

2. *Is there a need for guidelines for congressional review of proposals to add wildlife conservation measures to projects?* In 1962 the Solicitor of the Department of the Interior issued an opinion that section 2(c) of the FWCA constitutes a standing authority for appropriations to add wildlife conservation measures to most authorized Federal projects, and that section 3(c) of the FWCA does not require specific congressional authorization of land acquisition (in particular) which may be a part of such a proposal. 69 I.D. 224 (1962). The Solicitor found that the Congress intended to exercise control over the land acquisition aspects of such proposals through the appropriations process. There is no dispute that, subject to appropriations where required, proposals not involving land acquisition are authorized upon adoption by the construction agency head.

The underlying policy question presented is: Should not the Congress nevertheless be involved in review of such proposals? Should referrals be made to the Congress where no further appropriation is required to carry out some or all aspects of such proposals? Should the size of the necessary expenditure be a determinant of whether some or all categories of wildlife conservation measures are referred to the Congress? The Department of the Interior generally tends to favor specific congressional authorization of changes in its authorized water projects.[1] Are all these proposals really substantial enough to warrant special congressional attention?

3. *Should applicants for all, or certain categories of, Federal permits or licenses be required to first consult with wildlife agencies before submitting applications to action agencies? If so, how should these categories be defined?* One assumption advanced in favor of such a requirement is that the potential for confrontation between wildlife agencies, on the one hand, and action agencies or applicants on the other, can be avoided, if there is wildlife agency input at a flexible stage of the potential applicant's planning process. Wildlife agencies could assist action agencies and applicants in developing plans which may be less environmentally damaging, and therefore more acceptable to reviewing agencies and the public. Action agencies are now performing this public service in some cases. A countervailing consideration is the burden this places upon the manpower of wildlife agencies.

4. The President's July 12, 1978, water policy directive stated:

> As part of their annual budget submissions, for each project in the planning or construction stage, Federal agencies will submit to the Office of Management and Budget reports which demonstrate compliance with the FWCA.

Although this reporting requirement may be formalized by an OMB circular, rather than in these rules, public comment is invited on the following:

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[1] It contended (in its statement contained in the brief filed by the United States) in *Hiram Hill* v. *TVA*, —— U.S. —— (1978), that a specific form of appropriations committee action is necessary to show that congressional appropriations constitute an authorization not otherwise granted by the Congress. This contention was adopted by the Supreme Court. Provided that these formal requirements are followed, it may make no difference whether appropriations, as opposed to authorizing, committees review and accept these proposals. The determination of which committee the matter should be assigned to is, of course, the prerogative of the Congress, but the manner in which the issue is brought to the attention of the Congress by the administration often predetermines the question.

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Taking into account the difference in procedures and programs of project, licensing, and permit agencies, what aspects of FWCA compliance should be broken out for individual treatment in such reports?

5. Should FWCA studies by wildlife agencies of proposed Federal or federally licensed projects be funded out of individual project funds?

6. What factors can or should be considered by action agencies in determining what wildlife conservation measures are justifiable to obtain maximum overall project benefits?

7. What procedures for FWCA consultation should be required among State and Federal wildlife agencies and action agencies?

This notice of intent to propose rules is issued under authority of E.O. 12044, the FWCA, Pub. L. 85-624, 72 State. 563 (16 U.S.C. § 661 et seq. (1976)), and the Administrative Procedure Act, 5 U.S.C, § 552(a) (1976).

Issued this 22d day of September 1978.

RICHARD A. FRANK,
Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

DAVID F. HALES,
Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks.

[FR Doc. 78-27584 Filed 9-28-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-18]

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service

ORGANIZATION, FUNCTIONS, AND AVAILABILITY OF INFORMATION

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the Economics, Statistics, and Cooperatives Service (ESCS).

PART I—ORGANIZATION AND FUNCTION

Section 1—General. ESCS is an agency of the U.S. Department of Agriculture, and is the result of the consolidation of the Economic Research Service, the Statistical Reporting Service, the Farmer Cooperative Service, and the Economic Management Support Center. It was created on December 23, 1977 in response to Secretary's Memorandum No. 1927, of October 5, 1977, and No. 1927 Supplement 1 of December 19, 1977, entitled Reorganization of Selected Department Offices and Agencies. The specific delegations of authority from the Director of Economics, Policy Analysis and Budget to the Administrator ESCS are contained in 7 CFR 2.85.

Section 2—Organization. ESCS has its headquarters in Washington, D.C. In connection with economic research, a small staff is maintained in each of 36 States, principally at the Land Grant Colleges and Universities. Much of the research is carried out in cooperation with State agricultural experiment stations. In connection with statistical reporting, a State statistical office under the director or a statistician in charge is maintained in each of 44 States. In connection with cooperative activities, two employees are stationed in field locations.

The organization consists of the following:

- Administrator
  - Director, Information Staff
  - Director, Program Evaluation and Development Staff
- Deputy Administrator for Management
  - Director, Administrative Services Division
  - Director, Budget and Finance Division
  - Director, Personnel Division
- Deputy Administrator for Economics
  - Director, Commodity Economics Division
  - Director, National Economic Analysis Division
  - Director, Economic Development Division
  - Director, Natural Resource Economics Division
  - Director, Foreign Demand and Competition Division
  - Director, Data Services Center
- Deputy Administrator for Statistics
  - Director, Estimates Division
  - Director, Statistical Research Division
  - Director, Survey Division
  - Director, State Statistical Division
- Deputy Administrator for Cooperatives
  - Director, Cooperative Marketing and Purchasing Division
  - Director, Cooperative Management Division
  - Director, Cooperative Development Division

Section 3—Authority to act for the Administrator. In the absence of the Administrator, the following officials are authorized to act for him in the order indicated:

Deputy Administrator for Statistics
Deputy Administrator for Economics
Deputy Administrator for Cooperatives
Deputy Administrator for Management.

Section 4—Functions. ESCS has three major areas of responsibility:

(a) *Economic research.* Conduct economic and other social science research and analysis and provide public information relating to food and agriculture (nationally and internationally), natural resources, and rural people and communities in order to facilitate public and private decisionmaking. Specific functions include:

(1) Identify, measure, and explain interrelationships among economic forces, institutions, and alternative governmental policies and programs affecting nutritional well-being, food and fiber consumption and production, availability and use of natural resources, welfare of rural people and communities.

(2) Conduct research related to production, marketing, distribution, consumption, and foreign trade of food and fiber.

(3) Evaluate use, conservation, development, and control of water, land, and other natural resources as they affect economic growth, income distribution, and environmental quality.

(4) Conduct research related to rural people and communities, and their present and prospective economic adjustment problems.

(5) Make research and analytical findings available on a timely basis for use by public and private decisionmakers, including consumers, concerned with nutrition, food, agriculture, natural resources, rural people and communities.

(b) *Statistical reporting.* Carry out those broad statistical reporting and related functions of the Department which are assigned to ESCS. Specific functions include:

(1) Prepare crop and livestock estimates and administer reporting programs including estimates of production, supply, price, and other aspects of the U.S. agricultural economy and rural areas.

(2) Carry out the data collection and processing operations in connection with the crop and livestock estimating program of the Crop Reporting Board, including enumerative and objective measurement surveys.

(3) Prepare reports of the Crop Reporting Board of the Department of Agriculture covering official state and national estimates.

(4) Review, clear, and coordinate all statistical forms, survey plans, and reporting record keeping requirements originating in the Department and requiring approval of the Office of Management and Budget under the Federal Reports Act.

(5) Conduct programs involving: Research in methodology of agricultural data collection, estimation and forecasting, and special related research; surveys for other agenices; and improvement and coordination of statistics for the Department.

(c) *Cooperative activities.* Carry out economic research, analysis, technical assistance, and information programs relating to cooperatives in rural America. Specific functions include:

(1) Administer, coordinate, and implement current policies and programs to carry out broad research, technical assistance, educational, informational, developmental, and related functions and activities pertaining to cooperatives.

(2) Maintain, direct, and control applied research and technical assistance studies on cooperatives.

(3) Cooperate with Agencies in the Department and other Federal, State, and national organizations and institutions in developing and conducting programs affecting cooperatives.

(4) Design, implement, and coordinate a program to encourage develop-

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ment of new cooperatives and expanded cooperative service.

(5) Desseminate research and educational materials to promote the principles, practices, and knowledge of cooperatives.

PART II—AVAILABILITY OF INFORMATION

Section 5—General. This part is issued in accordance with the regulations of the Secretary of Agriculture in part I, subpart A, of subtitle A of Title 7, CFR (7 CFR 1.1-1.16), and appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, govern the availability of records of ESCS to the public.

Section 6—Indexes. 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials likewise be made available. ESCS does not maintain any materials within the scope of these requirements.

Section 7—Requests for records. Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determination regarding such requests in accordance with 7 CFR 1.4(c).

Section 8—Appeals. Any person whose request for records is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(e) and 1.7. All appeals shall be addressed to: Administrator, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 9—Requests for published data and related information. In Washington, D.C., published data and related information on all ESCS programs may be obtained from the director, Information Staff, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250.

In the field, published data and related information on ESCS statistical programs will be made available for public inspection and copying by the statistician in charge at each State statistical office. Addresses for these State statistical offices are:

Alabama, 831 Arnov Bldg., 474 South Court St., Montgomery, Ala. 36104.
Alaska, Hillstrom Bldg. at Chugach and Fireweed Sts., Palmer, Alaska 99645.
Arizona, 3001 Federal Bldg., Phoenix, Ariz. 85025.
Arkansas, 362 U.S. Post Office Bldg., Little Rock, Ark. 72203.
California, 1220 North St., Room 243, Sacramento, Calif. 95814.
Colorado, 2490 West 26th Ave., Room 245, Denver, Colo. 80211.
Florida, 1222 Woodward St., Orlando, Fla. 32803.
Georgia, Federal Office Bldg., 355 East Hancock Ave., Athens, Ga. 30601.
Hawaii, State Department of Agriculture Bldg., 1428 South King St., Honolulu, Hawaii 96814.
Idaho, 304 North 8th St., Room 446, Boise, Idaho 83702.
Illinois, 218 Federal Bldg., Springfield, Ill. 62705.
Indiana, Agricultural Administration Bldg., Purdue University, West Lafayette, Ind. 47907.
Iowa, Federal Bldg., Room 855, 210 Walnut St., Des Moines, Iowa 50309.
Kansas, 444 Southeast Quincy, Topeka, Kans. 66683.
Kentucky, 446, U.S. Post Office Bldg., Louisville, Ky. 40202.
Louisana, U.S. Department of Agriculture Bldg., 3727 Government St., Alexandria, La. 71301.
Maryland, P.O. Box AG, College Park, Md. 20740 (includes Delaware).
Michigan, 201 Federal Bldg., Lansing, Mich. 48904.
Minnesota, Metro Square, Suite 270, 7th and Roberts St. St. Paul, Minn. 55101.
Mississippi, Executive Bldg., 401 Mississippi St., Jackson, Miss. 39205.
Missouri, 555 VanDiver Dr., Columbia, Mo. 65201.
Montana, Room 200 McGaffick Steamboat Block, Helena, Mont. 59601.
Nebraska, Room 273, 100 Centennial Mall North, Lincoln, Nebr. 68508.
Nevada, Max C. Fleischmann Agriculture Bldg., Room 232, Reno, Nev. 89507.
New England, Room 522 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.
New Jersey, Health and Agriculture, Room 204, John Fitch Plaza, Trenton, N.J. 08625.
New Mexico, Room C 203, Second Flood, Federal Bldg. and U.S. Court House, Griggs Ave. at Church St., Las Cruces, N. Mex. 88001.
New York, Department of Agriculture and Markets, State Campus, Bldg. 8, Room 800, Albany, N.Y. 12235.
North Carolina, 216 West Jones St., Raleigh, N.C. 27611.
North Dakota, New Federal Bldg., Room 345, Fargo, N. Dak. 58102.
Ohio, New Federal Bldg., Room 608, Spring and High Sts., Columbus, Ohio 43215.
Oklahoma, 523 Old Post Office Bldg., Oklahoma City, Okla. 73102.
Oregon, 1735 Federal Bldg., 1220 Southwest Third Ave., Portland, Oreg. 97204.
Pennsylvania, Pennsylvania Crop Reporting Service, Room G-19, 2301 North Carmeron St., Harrisburg, Pa. 17120.
South Carolina, 240 Stoneridge Rd., Columbia, S.C. 29210.
South Dakota, P.O. Drawer V, 3528 South Western Ave., Sioux Falls, S. Dak. 57101.
Tennessee, U.S. Court House, Room 697, 8th and Broadway, Nashville, Tenn. 37203.
Texas, 555 Federal Bldg., 300 East 8th St., Austin, Tex. 78701.
Utah, 4432 Federal Bldg., 125 South State St., Salt Lake City, Utah 84147.
Virginia, 203 North Governor St., Room 312, Richmond, Va. 23219.
Washington, 3039 Federal Office Bldg., 909 First Ave., Seattle, Wash. 98174.
West Virginia, State Department of Agriculture, Charleston, W.Va. 25305.
Wisconsin, 801 West Badger Rd., Madison, Wis. 53713.
Wyoming, Post Office and Court House Bldg., Room 7008, Cheyenne, Wyo. 82001.

Dated: September 25, 1978.

KENNETH R. FARRELL,
Administrator.

[FR Doc. 78-27459 Filed 9-28-78; 8:45 am]

[3410-10]

Office of the Secretary

MEAT IMPORT LIMITATIONS

Fourth Quarterly Estimate

Pub. L. 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following fourth quarterly estimates for 1978 are published.

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1978 is 1,492.3 million pounds.

2. The estimated aggregate quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1978 is 1,183.9 million pounds.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, limitations for the calendar year 1978 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20) are required unless suspended by the president pursuant to section 2(d) of Pub. L. 88-482. Such limitations were imposed by Proclamation 4577 of July 4, 1978, but were suspended during the balance of the calendar year 1978.

Done at Washington, D.C., this 26th day of September 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-27514 Filed 9-28-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 33091]

FLORIDA SERVICE CASE

Further Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on October 11, 1978 (43 FR 36499, Aug. 17, 1978; 43 FR 40254, Sept. 11, 1978; 43 FR 43051, Sept. 22, 1978) is hereby further postponed to October 12, 1978 at 10 a.m. (local time) in room 1003, hearing room D, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., September 25, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-27585 Filed 9-28-78; 8:45 am]

[6320-01]

[Docket No. 21670]

FRONTIER AIRLINES, INC., SUBSIDY MAIL RATES

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on November 1, 1978, at 10 a.m. (local time), in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before October 13, 1978, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., September 20, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27586 Filed 9-28-78; 8:45 am]

[6320-01]

[Docket No. 32376]

SAN ANTONIO-DENVER ROUTE PROCEEDING

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing on October 24, 1978, at 10 a.m. (local time) in the VIP room, Henry B. Gonzales Convention Center, Market and Alamo Streets, San Antonio, Tex., before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report, served on June 28, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 25, 1978.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc. 78-27587 Filed 9-28-78; 8:45 am]

[6320-01]

[Docket No. 32126]

TWIN CITIES-KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

Postponement of Hearing

Notice is given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which is assigned to be held on October 10, 1978 (43 FR 35090, Aug. 8, 1978), is postponed to November 14, 1978, at 10 a.m. (local time), in room 1003, hearing room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., September 25, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc. 78-27588 Filed 9-28-78; 8:45 am]

[6335-01]

CIVIL RIGHTS COMMISSION

HEARING

Notice is hereby given pursuant to provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on October 31, 1978 at Commerce Auditorium, Main Commerce Building, 14th and Consitution Avenue NW., Washington, D.C. 20230. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States.

Dated at Washington, D.C., September 25, 1978.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 78-27634 Filed 9-28-78 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 12-78]

FOREIGN-TRADE ZONES AND SUBZONES—GREATER CINCINNATI AREA

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc. (GCFTZ), a nonprofit Ohio corporation, requesting authority to establish general-purpose foreign-trade zones in the Cincinnati port of entry area, at sites in Ohio and Kentucky. It also requests three special-purpose subzones in the Cincinnati port of entry area and another adjacent to the Columbus, Ohio, port of entry.

The application, which was formally filed on September 19, 1978, was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). The applicant is a nonprofit affiliate of the Greater Cincinnati Chamber of Commerce organized to apply for and establish foreign-trade zone facilities. Its authority to make the application is House Bill 200, 1977 Laws of Ohio (effective Aug. 26, 1977). The GCFTZ has been delegated authority to apply for zone sites in Kentucky by the Northern Kentucky Port Authority, an agency authorized to apply for zones in Kentucky under section 65.530 (6) of the Kentucky Revised Statutes.

The Ohio general-purpose zone facilities would be situated on two sites, of 5.6 acres and 95.2 acres, located some 25 miles north of Cincinnati in the southern portion of Butler

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County, to be developed and operated by the W. P. Butler Co.

The Kentucky general-purpose zone is to be located at two separate sites in Campbell County, about 10 miles south of Cincinnati. One would consist of a warehouse facility located on a 1.2-acre tract in Wilder, Ky., to be operated by H. J. Hosea and Sons Co., Inc. The other Kentucky site would be established on a 17-acre tract within the E. J. Knepfle Industrial Park, a site being developed by the Northern Kentucky Port Authority as part of a riverport development project.

The application contains economic data and information concerning the need for providing zone services to business firms in the greater Cincinnati area. Several firms have indicated their intention to use the general-purpose zones for warehousing, assembly, packaging, testing, and processing activities. The products involved would include industrial machinery, vacuum cleaners, conveyor parts, industrial knives, rainwear, alcoholic beverages, footwear, and machine tools.

The three Cincinnati area subzones would be established at existing facilities of the following: Cincinnati Electronics Corp., 260 Glendale-Milford Road, Hamilton County, Ohio (31.5 acres for operations involving components for airborne and vehicular UHF and VHF communications equipment, coding missiles, antennas, and airborne radar systems); Emery Industries, Inc., 4900 Este Avenue, Cincinnati (62 acres for operations involving the manufacture of specialty chemicals mostly for export); and the General Electric Co. (Evendale), I-75 and Jimson Road, Hamilton County (two buildings of over 400,000 square feet for operations involving the testing of imported engines used in aircraft produced for export).

The other proposed subzone is being requested by GCFTZ in cooperation with the State of Ohio Department of Economic and Community Development for Honda of America. Honda is developing a 214-acre tract on U.S. Route 33 in Allen Township, Union County. Subzone status is being requested for the entire tract which will initially house a 258,400-square-foot motorcycle assembly plant. The second phase of development of the subzone would include an auto assembly operation.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; Donald L. Cavanaugh, District Director, U.S. Customs Service, 55 Erieview Plaza (sixth floor, Plaza 9 Building), Cleveland, Ohio 44114; and Col. Thomas P. Nack, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, Ky. 40201.

As part of its investigation of the proposal, the Examiner Committee will hold a public hearing on October 19, 1978, beginning at 9 a.m., in the second floor presentation room of the Greater Cincinnati Chamber of Commerce, Fifth and Race Streets Tower, 120 West Fifth Street, Cincinnati, Ohio. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by October 13, notify the Board's executive secretary of their desire to be heard in writing at the address below or by phone 202-377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the executive secretary, at any time from the date of this notice through November 20, 1978. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, 10504 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: September 26, 1978.

JOHN J. DA PONTE, JR.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc. 78-27500 Filed 9-28-78; 8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Docket No. 11-78]

FOREIGN-TRADE ZONE—BOONVILLE, MO.

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign-Trade Zone, Inc., a not-for-profit Missouri corporation and grantee of Foreign-Trade Zones No. 15 and No. 17 in the Greater Kansas City area, requesting a grant of authority to establish a foreign-trade zone at Boonville, Mo., adjacent to the Kansas City, Mo., customs port of entry. The application was submitted pursuant to the provisions of he Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 19, 1978. The applicant is authorized to make this proposal under Missouri Senate bill No. 135, 78th General Assembly.

The proposal calls for a foreign-trade zone of 2.55 acres, located within the city limits of Boonville, Mo., in an industrial development area. It will be operated by the Howard-Cooper County Regional Port Authority of Boonville. The zone site is served by highway and rail and is about 4 miles from the operator's barge terminal site on the Missouri River. A 25,000 square foot warehouse-type building will be the zone's first structure.

The application contains economic data and information concerning the need for zone services in the Boonville area. Several firms have indicated their intention to use the zone for storage, processing, packaging and distribution. Among the initial zone users are firms involved in products including lumber, phosphates, bulk, cement, wines and liquors, fence wire, twine, rope, slate, and agricultural grains.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; William L. Duncan, District Director, U.S. Customs Service, 120 S. Central Avenue, Suite 408, Chromalloy Building, St. Louis, Mo. 63105; and Col. Walter C. Bell, District Engineer, U.S. Army Engineer District Kansas City, 700 Federal Building, Kansas City, Mo. 64106.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on October 17, 1978, beginning at 9 a.m., in the Council Chambers of the Boonville Municipal Building, Spring and Sixth Streets, Boonville, Mo. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by October 10, notify the Board's executive secretary of their desire to be heard, in writing at the address below or by phone 202-377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the executive secretary, at any time from the date of this notice through November 16, 1978. The submission of evidence is not desired during the post-hearing period unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 2701 Rockcreek Parkway, Suite 202, North Kansas City, Mo. 64116.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: September 26, 1978.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc. 78-27501 Filed 9-28-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 1, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 7510: Binder, Awards Certificate (IB), 7510-00-056-1927.
Class 6230: Light marker, distress (SH), 6230-00-892-5192.
SIC 0782: Grounds maintenance (SH), quarters "A", nonindustrial area, Naval Ordnance Station, Indianhead, Md.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-27456 Filed 9-28-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 29, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On May 5, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (43 FR 19430) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurment List 1978:

Class 1730: Chock Assembly, Wheel (IB)
1730-00-NIB-001A, 2" × 4" × 8".
1730-00-NIB-001B, 6" × 8" × 18".
1730-00-NIB-001C 6" × 8" × 76".
1730-00-NIB-001D, 8" × 12" (U-shaped).
1730-00-NIB-001E, 10" × 20" (U-shaped).

C. W. FLETCHER,
Executive Director.

[FR Doc: 78-27457 Filed 9-28-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

STATIONING OF THE INITIAL BATTALION OF 2D INFANTRY DIVISION

Invitation for Public Comment

Notice is hereby given that the Department of the Army, in accordance with Department of Defense policy, invites public comment on the proposed interim stationing of the 2d Battalion/9th Infantry of the 2d Infantry Division to be withdrawn from Korea.

On September 18, 1978, the Secretary of the Army made the following announcement:

The Secretary of the Army today announced plans for stationing the first units to be withdrawn from Korea under the plan announced last year by the President. These units, the 2d Battalion/9th Infantry of the 2d Infantry Division and the 833d Ordnance Company, are scheduled to leave Korea in December 1978. Because a decision on the permanent stationing of the 2d Infantry Division has been delayed, the infantry battalion will be temporarily stationed. Fort Riley, Kans., has been selected as the preferred alternative for the temporary stationing of the infantry battalion subject to the completion and evaluation of the results of appropriate environmental documentation. Environmental documentation has been completed for the ordnance company stationing and it has been decided that Seneca Army Depot, N.Y., will be the permanent base of this unit. This company, a nondivisional unit, is not a part of the 2d Infantry Division.

In order to accommodate the infantry battalion (approximate strength 500 men), the Army has conducted an analysis of division and other tactical unit installations which are not under primary consideration as part of the study of the permanent stationing of the 2d Infantry Division in the United States. As has been previously announced, four options are currently being reviewed as part of that stationing study. These options are Forts Bliss, Benning, and Drum as separate installations and a combination of Forts Dix, Devens, and Drum. Additional time will be required to make a final decision on the permanent stationing of the 2d Infantry Division in the United States.

In arriving at Fort Riley as the preferred alternative, the interim stationing analysis for the infantry battalion considered sufficiency of temporary barracks, availability of housing, adequacy of training facilities, and compatibility of a parent headquarters. Forts Carson, Colo.; Lewis, Wash.; Polk, La.; Riley, Kans.; Stewart, Ga.; Knox, Ky.; Hood, Tex.; Bragg, N.C.; Campbell, Ky.; Ord, Calif.; Richardson, Alaska; Wainwright, Alaska; and Schofield Barracks, Hawaii, were considered in this analysis.

Fort Riley, Kans., the preferred alternative for interim stationing of the infantry battalion, has over 3,200 temporary barracks spaces, most of which are used for ROTC summer camp and Reserve component training. These barracks could accommodate on a temporary basis the calendar year (CY) 1978 2d Infantry Division battalion being withdrawn from Korea, but may

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require the relocation of all or part of ROTC and Reserve component training to other Active Army bases. The selection of Fort Riley as the preferred alternative is consistent with the long-term stationing objectives of the Army.

Comments should be furnished to Headquarters, Department of the Army, Attention: DAMO-ODU, Washington, D.C. 20310, by October 20, 1978. Comments submitted to Department of the Army by the close of the public comment period will be considered, as appropriate, in the decision-making process which may be completed as early as November 1, 1978.

R. D. RENICK, Jr.,

Brigadier General, GS, Deputy Director of Operations and Readiness.

[FR Doc. 78-27452 Filed 9-28-78; 8:45]

[3810-70]

Office of the Secretary

DEFENSE SYSTEMS MANAGEMENT COLLEGE

Board of Visitors Meeting

A meeting of the Board of Visitors of the Defense Systems Management College will be held in Building 202, Fort Belvoir, Va., on Wednesday, November 15, 1978, from 8:30 a.m. until 5 p.m. The agenda will include a review of plans, resources, and course offerings and a general discussion of DSMC operations. The meeting is open to the public; however, because of limitations on space available, allocation of seating will be made on a first come, first served basis. Persons desiring to attend should call the DSMC Director, Department of Administration and Operational Support, 703-664-1175, to reserve a seat.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 26, 1978.

[FR Doc. 78-27495 Filed 9-28-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement notice for July 1978

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: July 1978 entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for July 1978.

DATES: Payments for entitlements required to be purchased under this notice must be made by September 30, 1978. The monthly transaction report specified in § 211.61(i) shall be filed with the DOE by October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461, 202-254-8660.

Fred Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for July 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production for sale in the east coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower-tier and upper-tier crude oil provided in § 211.67(a)(4); August 1978 deliveries of crude oil for storage in the strategic petroleum reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for July 1978 is calculated to be 0.183606.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of July 1978, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper-tier crude oil is equal to 0.183257 of a barrel of deemed old oil.

The issuance of entitlements for the month July 1978 to refiners and other firms is set forth in the appendix to this notice. The appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of July 1978 is hereby fixed at $8.16, which is the exact differential as reported for the month of July between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of July 1978 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of July 1978 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of July 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through June 1978 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to Mar. 30, 1978 the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al.*, 4 FEA par. 87,024 (Nov. 5, 1976).

The listing contained in the appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the July 1978 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to insure that Arizona Fuels is not relieved of its July 1978 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, Dec. 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the U.S. Government for storage in the strategic petroleum reserve, the number of barrels sold to the Government totaled 8,405,114 barrels.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the east coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 12,045,603 barrels for July 1978. For that month, imports of residual fuel oil eligible for entitlements issuances totaled 32,800,587 barrels.

On June 15, 1978, we issued a notice of proposed rulemaking which proposed certain changes to the entitlements program with respect to imported residual fuel, such changes to be effective July 1, 1978 (43 FR 26551, June 20, 1978). If the proposed changes are adopted, we will make the necessary adjustments in the first entitlement notice following promulgation of the final rule.

In accordance with § 211.67(a)(4), the number of barrels of California lower-tier and upper-tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity (degrees)
California lower-tier crude oil	9,489,111	19
California upper-tier crude oil	7,022,026	19

The total number of entitlements required to be purchased and sold under this notice is 21,441,959.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for July 1978, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes [1]
Lower tier	90,973,165	$5.96	18.6
Upper tier	90,848,071	12.62	18.6
Exempt domestic:			
Alaskan	33,379,454	13.13	6.8
Stripper	36,821,514	14.43	7.5
Naval petroleum reserve	2,901,386	13.53	0.6
Total domestic	254,923,590	10.58	52.1
Imported	233,994,623	14.49	47.9
Total reported crude oil receipts	488,918,215	12.45	100.0
Total reported crude oil runs to stills	493,865,027		

[1] Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for July 1978 must be made by September 30, 1978.

On or prior to October 10, 1978, each firm which is required to purchase or sell entitlements for the month of July 1978 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of July. The monthly transaction report forms for the month of July have been mailed to reporting firms. firms that have been unable to locate other firms for required entitlement transactions by September 30, 1978 are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate requred entitlement transactions on or prior to September 30, 1978, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before October 30, 1978.

Issued in Washington, D.C., on September 24, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-27365 Filed 9-26-78; 8:45 am]

APPENDIX

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

JULY 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
=CONSOLID=SALES	=147,795	0	0	0	0	0	147,795*
A=JOHNSON	0	140,536	0	0	0	0	140,536
ALLIED	99,434	87,084	0	0	0	12,350	0
AMER=PETROFINA	933,441	863,067	0	0	0	70,374	0
AMERADA=HESS	2,121,261	2,871,226	0	83,001	0	0	749,965
AMOCO	9,059,369	6,074,031	0	10,458	0	2,985,338	0
ANCHOR	2,719	91,259	0	0	2,565	0	88,540
ARCO	3,234,438	4,210,249	0	0	97,178	0	975,811
ARIZONA	234,410	86,615	6,145	0	2,523	147,795	0
ASAMERA	75,729	159,269	0	0	0	0	83,540
ASHLAND	1,264,417	2,002,921	0	0	0	0	738,504
ASIATIC	0	178,649	0	178,649	0	0	170,649
BASIN	247,450	196,300	0	0	81,486	51,150	0
BAYOU	47,460	59,784	0	0	0	0	12,324
BEACON	214,321	258,899	84,917	0	36,054	0	44,578
BELCHER	0	49,603	0	49,603	0	0	49,603
BI=PETRO	7,449	135,815	0	0	0	0	128,366
BP=TRADING	0	356,365**	0	0	0	0	356,365
BRUIN	35,466	127,732	0	0	0	0	92,266
CAM	86	198	0	0	0	0	112
CALCASIEU	9,601	63,991	0	0	0	0	54,390
CALUMET	20,583	29,296	0	0	0	0	8,713
CANAL	70,015	76,784	0	0	0	0	6,769
CARIBOU	88,725	96,427	0	0	0	0	7,702
CHAMPLIN	1,103,732	1,381,354	0	0	239,943	0	277,622
CHARTER	725,208	910,709	470,935	0	0	0	185,501
CHEVRON	5,678,509	6,902,134	0	46,130	266,418	0	1,223,625
CIRILLO	0	18,006	0	18,006	0	0	18,006
CITGO	2,093,305	1,400,539	0	0	0	692,766	0
CLAIBORNE	77,149	46,923	0	0	0	30,226	0
CLARK	208,619	686,235	0	0	0	0	481,616
COASTAL	224,685	1,376,051	0	29,645	0	0	1,151,166
COLONIAL	0	11,221	0	11,221	0	0	11,221
CONOCO	2,539,014	2,193,502	0	7,083	163,276	345,512	0
CORCO	0	1,048,606	177,186***	203,789	0	0	1,048,606
CRA=FARMLAND	348,086	480,698	0	0	0	0	132,612
CROSS	48,622	105,455	0	0	0	0	56,833
CROWN	340,192	608,304	0	0	0	0	268,112
CRYSTAL=OIL	121,264	163,206	0	0	0	0	41,942
CRYSTAL=REF	9,152	32,122	0	0	0	0	22,970
DELTA	210,360	312,221	0	0	0	0	101,861
DEMENNO	5,007	75,603	0	0	5,022	0	70,596
DEWAY	0	400,149**	0	0	0	0	400,149
DIAMOND	497,713	350,450	0	0	0	147,263	0
DILLMAN	0	2,435	0	0	0	0	2,435
DONCHESTER	40,677	555,046	337,105	0	0	0	514,369
DOW	90,224	97,628	0	0	0	0	7,404
E=SEABOARD	0	30,743	0	30,743	0	0	30,743
ECO	73,935	84,172	0	0	23,214	0	10,237
EDDY	43,139	43,035	0	0	0	104	0
ELM	0	6,736	0	6,736	0	0	6,736
ENERGY=COOP	0	765,895	0	0	0	0	765,895
ERICKSON	209	132,602	0	0	0	0	132,393
EVANGELINE	37,741	40,407	0	0	0	0	2,666
EXXON	8,520,338	7,881,177**	0	308,805	0	639,161	0
EZ=SERVE	12,890	38,780	0	0	20	0	25,890
FARMERS=UN	264,496	306,407	0	0	0	0	41,911
FLETCHER	2,981	182,990	0	0	341	0	180,009
FLINT	6,762	8,747	0	0	0	0	1,985
GAHY	70,683	88,911	0	0	0	0	18,228
GETTY	960,518	971,643	0	0	0	0	11,125
GIANT	34,817	59,385	0	0	0	0	24,568
GLACIER=PARK	99,065	49,574	0	0	0	49,491	0
GLADIEUX	32,289	79,226	0	0	0	0	46,937

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

JULY 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
GLENROCK	1,739	3,155	0	0	0	0	1,416
GOLDEN=EAGLE	0	149,839	0	0	0	0	149,839
GOLDEN=EAGLE=NY	0	2,613	0	2,613	0	0	2,613
GOLDKING	76,202	129,582	0	0	0	0	53,380
GOOD=HOPE	43,657	267,385	0	0	0	0	223,728
GUAM	0	273,726	0	0	0	0	273,726
GULF	6,990,363	4,511,368	0	21,471	67,595	2,478,995	0
GULF=BTS	16,539	126,333	0	0	0	0	109,794
HIRI	0	415,705	0	0	0	0	415,705
HOWELL	120,543	219,535	0	0	0	0	98,992
HUDSON=OIL	11,909	185,896	0	0	0	0	173,987
HUNT	121,944	137,745	0	0	0	0	15,801
HUSKY	548,875	548,875	234,241	0	0	0	0****
INDEPENDENT=REF	95,072	131,759	0	0	0	0	36,687
INDIANA=FARM	35,424	186,104	0	0	0	0	150,680
IRVING	0	11,705	0	11,705	0	0	11,705
JAM	50,622	52,093	0	0	0	0	1,471
KENCO	17,470	34,170	0	0	0	0	16,700
KENTUCKY	15,164	13,284	0	0	0	1,880	0
KERN	404,181	425,593	168,243	0	56,317	0	21,412
KERR=MCGEE	1,034,314	860,296	0	0	0	174,018	0
KOCH	225,924	716,017	0	13,756	0	0	490,093
LAGLORIA	437,444	254,311	0	0	0	183,133	0
LAKESIDE	24,003	27,254	0	0	0	0	3,251
LAKETON	125,659	153,788	37,396	0	0	0	28,129
LITTLE=AMER	1,274,591	957,257	517,090	0	0	317,334	0
LOUISIANA=LAND	200,598	289,861	0	0	0	0	89,263
MACMILLAN	36,398	150,509	0	0	4,278	0	114,111
MARATHON	4,486,283	2,890,232	0	0	0	1,596,011	0
MARION	108,729	206,126	0	0	0	0	97,397
METROPOLITAN	0	43,890	0	43,890	0	0	43,890
MID=AMER	85,335	38,280	0	0	0	47,055	0
MID=TEX	10,393	40,497	0	0	0	0	30,104
MOBIL	6,552,119	5,010,325	0	6,042	443,650	1,541,794	0
MOBILE=BAY	0	129,542	0	0	0	0	129,542
MOHAWK	369,125	455,101	173,604	0	64,272	0	83,976
MONOCO	0	4,950	0	4,950	0	0	4,950
MONSANTO	323,552	195,388	0	0	0	128,164	0
MORRISON	17,742	14,526	0	0	0	3,216	0
MOUNTAINEER	8,964	8,464	0	0	0	500	0
MT=AIRY	12,654	128,073	0	0	0	0	115,419
MURPHY	771,612	686,581	0	0	0	85,031	0
N=AMER=PETRO	5,394	133,233	0	0	0	0	127,839
NATL=COOP	245,888	368,163	0	0	0	0	122,275
NAVAJO	390,133	333,838	63,467	0	0	56,295	0
NEVADA	15,130	32,220	0	0	0	0	17,090
NEW=ENGINGTON	621,583	626,539	179,937	0	209,284	0	4,956
NEW=ENGL=PETRO	0	524,617	0	524,617	0	0	524,617
NEWHALL	227,549	221,028	0	0	62,419	6,521	0
NORTHEAST=PETRO	0	7,255	0	7,255	0	0	7,255
NORTHLAND	30,533	21,283	0	0	0	9,250	0
NORTHVILLE	0	24,634	0	24,634	0	0	24,634
OKC	165,340	225,724	0	0	0	0	60,384
OKLA=REF	71,053	146,132	0	0	0	0	75,079
OXNARD	5,611	23,519	0	0	5,032	0	17,908
PEMEX	0	97,786**	0	0	0	0	97,786
PENNZOIL	215,645	300,910	0	0	0	0	85,265
PESTER	154,817	200,761	0	0	0	0	45,944
PHILLIPS	2,463,914	1,556,185	0	0	=1,894	907,729	0
PHILLIPS=PR	0	271,981	0	271,981	0	0	271,981
PIONEER	39,319	58,048	0	0	0	0	18,729
PLACID	204,303	268,621	0	0	0	0	64,318
PLATEAU	135,583	156,835	0	0	0	0	83,252
POWERINE	=66,350	295,969	0	0	=13,681	0	362,319
PR=OLEFINS	0	49,901	0	49,901	0	0	49,901
PRIDE	104,205	154,832	0	0	0	0	50,627

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

JULY 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
PRINCETON	1,850	58,312	0	0	0	0	56,462
QUAKER-ST	33,392	209,428	0	0	0	0	176,036
RANCHO-REF	0	11,634	0	0	0	0	11,634
RAYMAL	654	12,819	0	0	0	0	12,165
RICHARDS	190	60,839	0	0	0	0	60,649
RICO	0	10,976	0	10,976	0	0	10,976
ROAD-OIL	0	3,262	0	0	0	0	3,262
ROCK-ISLAND	190,163	312,552	0	0	0	0	122,389
SABER-TEX	18,293	195,912	0	0	0	0	177,619
SABRE-CAL	7,700	76,572	0	0	5,613	0	60,872
SAGE-CREEK	2,254	4,437	0	0	0	0	2,183
SAN-JOAQUIN	446,834	349,828	-13,499	0	190,917	97,008	0
SEMINOLE	1,143	74,922	0	0	0	0	73,779
SENTRY	9,239	120,731	0	0	0	0	111,492
SHELL	9,959,759	6,602,958	0	0	546,919	3,356,801	0
SHEPHERD	13,822	135,428	0	0	0	0	121,606
SIGMOR	-2,650	122,455	0	0	0	0	81,768
SO-HAMPTON	46,375	128,143	0	0	0	0	658,038
SOHIO	1,475,671	2,133,709	0	18,490	0	0	28,809
SOMERSET	20,902	49,711	0	0	0	0	21,147
SOUND	36,184	57,331	0	0	17,618	0	39,866
SOUTHERN-UNION	187,281	223,147	0	0	0	0	0
SOUTHLAND	435,267	333,319	129,848	0	0	101,968	0
SOUTHWESTERN	6,832	4,167	0	0	0	2,665	0
SPRAGUE	0	34,627	0	34,627	0	0	34,627
STEUART	0	37,520	0	37,520	0	0	37,520
SUN-TRADING	0	229,507**	0	0	0	0	229,507
SUNLAND	4,937	115,274	0	0	460	0	110,337
SUNOCO	4,094,517	3,092,058	0	0	0	1,002,459	0
SWANN	0	2,744	0	2,744	0	0	2,744
T&S	5,130	81,087	0	0	0	0	75,957
TARRICONE	0	5,484	0	5,484	0	0	5,484
TENNECO	701,658	512,656	0	0	-6,754	189,002	0
TESORO	134,272	409,354	0	0	0	0	275,082
TEXACO	8,374,038	6,235,766	0	239,248	195,489	2,138,252	0
TEXAS-AMERICAN	49,789	103,040	0	0	0	0	53,251
TEXAS-ASPH	12,058	27,135	0	0	0	0	15,077****
TEXAS-CITY	706,144	357,932	0	0	0	348,212	0
THAGARD	217,496	221,759	28,161	0	68,418	0	4,263
THRIFTWAY	24,956	30,997	0	0	0	0	6,041
THUNDERBIRD	51,948	131,916	0	0	0	0	79,968
TIPPERARY	33,992	73,677	0	0	0	0	39,685
TONKAWA	29,490	53,273	0	0	0	0	23,783
TOSCO	1,725,883	1,951,211	375,203	0	552,616	0	225,328
TOTAL-PETROLEUM	262,867	366,490	0	0	0	0	103,623
UCC-CARIBE	0	160,633	0	160,633	0	0	160,633
UNION-OIL	4,202,785	2,726,423	0	0	228,057	1,476,362	0
UNION-PETRO	0	2,660	0	2,660	0	0	2,660
UNTD-IND	0	1,519	0	0	0	0	1,519
UNTD-REF	71,865	269,332	0	0	0	0	197,467
USAGO-AMER	0	366,603**	0	0	0	0	366,603
US-OIL	12,874	197,557	0	0	8,884	0	184,683
USA-PETROCHEM	21,598	205,650	0	0	6,752	0	184,052
VAL-VERDE	145	2,098	0	0	0	0	1,953
VICKERS	169,357	398,920	0	0	0	0	229,563
VULCAN	0	273,409	0	0	0	0	273,409
WALLER	0	5,508	0	5,508	0	0	5,508
WARRIOR	57,063	41,835	14,909	0	0	15,228	0
WEST-COAST	81,435	146,719	0	0	65,928	0	65,284
WESTERN	73,983	105,321	0	0	0	0	31,338
WINSTON	109,214	170,046	0	0	0	0	60,832
WINEHACK	0	667	0	0	0	0	667
WITCO	83,291	140,557	0	0	29,778	0	57,266
WYATT	0	1,836	0	1,836	0	0	1,836

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

JULY 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
WYOMING	41,707	153,224	0	0	0	0	111,517
YETTER	0	618	0	0	0	0	618
YOUNG	47,920	42,372	13,951	0	0	5,548	0
TOTAL	106,114,520	106,114,520	2,998,839	2,486,410	3,702,011	21,441,959	21,441,959

* See discussion in Notice.

** Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

*** Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

**** This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded ___F.2d ___ (No. 10-18 TECA, August 10, 1978).

***** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

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[6740-02]

Federal Energy Regulatory Commission

[Docket No. E-7777 (Phase II)]

PACIFIC GAS & ELECTRIC CO. AND SOUTHERN CALIFORNIA EDISON CO.

Extension of Time

SEPTEMBER 11, 1978.

On September 6, 1978, motions were filed by Pacific Gas & Electric Co. and Southern California Edison Co. for additional time to answer the Staff's motion filed August 25, 1978, entitled "Motion for Clarification, or in the Alternative, Request for Investigation and Consolidation." Staff filed an answer to the motions for extension of time stating that it would not oppose a 1-week extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 18, 1978, for the filing of answers to Staff's August 25, 1978, motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26375 Filed 9-28-78; 8:45 am]

[4110-03]

ENVIRONMENTAL PROTECTION AGENCY

LABORATORY ANALYTICAL SERVICES

Memorandum of Agreement With the Food and Drug Administration

CROSS REFERENCE: For a document giving notice of a Memorandum of Agreement between the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) setting forth cooperative working arrangements under which FDA will perform water quality related laboratory analytical services for EPA, see FR Doc. 78-27080 appearing elsewhere in this issue of the FEDERAL REGISTER.

[6560-01]

[PF-111; FRL 977-4]

PESTICIDE PROGRAMS

Notice of Filing of Pesticide Petitions

Pursuant to section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 8F2107. Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006. Proposes that 40 CFR 180.269 be amended by establishing a tolerance for the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyd *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites aldicarb sulfoxide and aldicarb sulfone in or on the raw agricultural commodities grain sorghum at 0.05 part per million (ppm) and fodder at 0.5 ppm. The proposed analytical method for determining residues is by gas chromatography utilizing a Melpar flame-photometric detector. PM12. (202-426-9425)

PP 8F2110. American Hoechst Corp., Agricultural Division, Route 202-206 N., Somerville, N.J. 08876. Proposes that 40 CFR 180 be amended by establishing a tolerance for the combined residues of the herbicide methyl 2-[4-(2,4-dichlorophenoxy) phenoxy] propanoate and its metabolites 2-[4-(2,4-dichlorophenoxy) phenoxy] propanoic acid and 2-4-(2,4-dichloro-5-hydroxyphenoxy) phenoxy propanoic acid in or on the raw agricultural commodity soybean seed at 0.10 ppm. The proposed analytical method for determining residues is by gas liquid chromatographic procedure using an electron capture device. PM23. (202-755-1397)

PP 8F2117. E.I. DuPont De Nemours & Co., Wilmington, Del. 19898. Proposes that 40 CFR 180.303 be amended by establishing a tolerance for the residues of the insecticide oxamyl (methyl *N'*, *N'*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodities corn grain (field, sweet, and popcorn), corn fodder, and forage at 0.1 ppm. Proposed analytical method for determining residues is by gas chromatography with sulfur sensitive flame-photometric detector. PM12.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room-401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning these petitions may be directed to the designated product manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: September 22, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-27400 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 977-5; OPP-180234]

DEPARTMENT OF THE INTERIOR

Issuance of a Specific Exemption To Use Sodium Cyanide in M-44 Device To Control Predation of Coyotes on Whooping Cranes

The Environmental Protection Agency (EPA) has granted a specific exemption to the Fish and Wildlife Service, U.S. Department of the Interior (hereafter referred to as "USDI") to use sodium cyanide-loaded M-44 devices in order to control coyotes which are threatening an endangered species, the whooping crane, in the Grays Lake National Wildlife Refuge in Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the USDI, a recovery project for restoring whooping crane (*Grus americana*) populations began in 1975 at the Grays Lake National Wildlife Refuge in Idaho. The success of this restoration project is being threatened by coyotes (*Cranis laetrans*) which prey upon eggs and hatchlings of the whooping cranes. In 1977, eight eggs and three whooping crane chicks were taken by one pair of coyotes and pups denning in the area. The USDI stated that a number of methods for coyote control have been tried (aerial hunting, calling, shooting, and trapping), but these methods have not provided adequate control of this predator. Heavy vegetative growth prevents aerial hunting from being effective at this time of the year. This species will continue to remain endangered unless additional flocks can become established.

A 1972 Presidential order (Executive Order 11643) prohibits the use of chemical toxicants, such as the sodium cyanide-loaded M-44 device, on Federal lands except in emergency conditions. One of these conditions is for the protection of one or more wildlife species threatened with extinction or likely within the foreseeable future to become so threatened. The U.S. Fish and Wildlife Service has the responsibility for the restoration of endangered species under the Endangered

Species Act of 1973. Since the whooping crane is an endangered species, there would be compliance with the Presidential order. The USDI has conformed to the provision in the Presidential order which requires that the agency involved in the use of chemical toxicants confer with the Secretaries of Agriculture, Health, Education, and Welfare, the Interior, the Administrator, EPA, before such chemical toxicants are applied. In addition, the EPA has issued a registration to the USDI for the use of the M-44 device to control coyotes, foxes, and feral dogs which prey upon livestock. Thus, issuance of the specific exemption is justified from the standpoint that the M-44 device is being employed under emergency conditions and by a qualified agency experienced in the use of this device for predator control.

Adverse effects resulting from the use of the sodium cyanide-loaded M-44 device in the Grays Lake National Wildlife Refuge area is unlikely. This refuge consists of approximately 15,000 acres of marsh and upland, and is primarily a waterfowl refuge area. The M-44 device will be placed on only 500 acres in this refuge and only for a limited period of time (120 days). Coyote control is considered necessary particularly because of the high avian population; thus, the use of the M-44 device here would also fit into the overall wildlife management program. Since refuge personnel and one grazer are the only person permitted on the site, the chances of humans accidentally discharging the M-44 devices are remote.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation involving an endangered species has been found to exist; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant environmental problems may result if the coyotes are not removed from the Grays Lake National Wildlife Refuge; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the USDI has been granted a specific exemption to use the pesticide noted above until October 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A maximum of 75 M-44 devices containing a total of 33.75 grams of sodium cyanide is authorized;

2. The M-44 devices are to be placed on 500 acres of land at Grays Lake National Wildlife Refuge in Idaho;

3. Only trained Fish and Wildlife personnel shall hand place the M-44 devices;

4. All unused sodium cyanide capsules shall be recovered at the end of the season;

5. All precautions shall be taken to avoid or minimize hazards to nontarget species that may result from this program;

6. All label precautions including the posting of warning signs must be adhered to;

7. Any adverse effects resulting from the use of M-44 devices in connection with this specific exemption must be reported to the EPA immediately; and

8. A report summarizing the results of this program must be submitted to the EPA by December 31, 1978.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-27399 Filed 9-28-78; 8:45 am]

[6560-01]

[FRL 977-6; OPP-180233]

LOUISIANA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use 2,4-D To Control Sesbania on Soybeans

The Environmental Protection Agency (EPA) has granted a specific exemption to the Louisiana Department of Agriculture (hereafter referred to as the "Applicant") to use a dimethylamine salt of 2,4-D for the control of sesbania on 40,000 acres of soybean plants in 48 parishes (counties) in Louisiana. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the weed sesbania, primarily hemp sesbania (*Sesbania exaltata*), may significantly reduce the yield of the soybean crop on 40,000 acres in Louisiana. In most previous years, satisfactory weed control has been obtained by using preplant incorporated, preemergence, and overtop herbicides. However, the Applicant stated that when high rainfall occurs, which causes dissipation of herbicides and greater weed germination, sesbania emerges through the soybean canopy and, without additional control measures, may reduce yield 50 percent or more. Yield reduction occurs as a result of the weeds taking fertilizer and water away from the soybeans, from shading resulting in the lack of adequate amounts of sunlight and by excessive harvest losses. The Applicant stated that the occurrence of this pest is particularly severe this year in portions of the rice and sugarcane producing areas of south Louisiana. The overtop sprays 2,4-DB (Butoxone and Butyrac) and Basagran are being used to control sesbania prior to bloom stage of soybean plants; however, research conducted by Louisiana State University indicates that in Louisiana these products will not control sesbania that has emerged through the soybean canopy.

The Applicant will use a single application of 2,4-D by air as an overtop foliage spray on 40,000 acres of soybeans in the 48 parishes affected. The herbicide will be applied at the rate of 4 to 8 ounces of a 4-pound-per-gallon active ingredient, amine 2,4-D, per acre. The herbicide will be applied in 3 to 5 gallons of water per acre. This is equivalent to one-eighth to one-quarter pound of 2,4-D acid equivalent per acre applied as the amine salt. In order to obtain maximum results and prevent yield reduction and excess residues in harvested beans, two conditions are necessary: The sesbania canopy cover must exceed 75 percent, and the stage of maturity of the bean must be after pod set and before beans can be felt in the pod. Best control will be obtained if the weeds are sprayed when in full bloom.

All aerial applications will be made by certified applicators who are licensed by the Applicant. To prevent damage to other susceptible crops in the area of application, special permission will be obtained from the commissioner of the Louisiana Department of Agriculture for the use of 2,4-D, except in the southwestern part of the State where cotton is not grown.

2,4-D is a widely used herbicide and tolerances have been established on foods that make up approximately 80 percent of the total average human diet. EPA has determined that soybeans with residues of 2,4-D ranging from 0.2 part per million (ppm) to a maximum of 0.75 ppm pose a negligible hazard to human health. EPA has also considered the potential for residues from nitrosamine contamination of the chemical and has calculated that such residues would be less than 1 part per billion (ppb), which level should also not pose undue hazard to the environment.

It appears that income derived from soybeans is very important to Louisiana farmers. Because of the low prices farmers are receiving for rice, many of

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them are more dependent than usual on income from soybeans. According to the Applicant unless 2,4-D can be applied, the average yield on the 40,000 acres of soybean plants infested with sesbania may be reduced by approximately 10 bushels per acre. At $6 per bushel, this represents a dollar loss of $2,400,000.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of sesbania has occurred; (b) there is no pesticide presently registered and available for use to control sesbania in soybean fields in Louisiana; (c) there are no alternative means of contol, taking into account the efficacy and hazard; (d) significant economic problems may result if the sesbania is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for the use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A dimethylamine salt of 2,4-D will be applied at the rate of from one-eighth to one-quarter pound 2,4-D acid equivalent per acre;

2. An overtop foliage, aerial application will be limited to 40,000 acres in the following 48 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Caldwell, Cameron, Catahoula, Concordia, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson Davis, Lafourche, Lafayette, Livingston, Madison, Morehouse, Natchitoches, Quachita, Pointe Coupee, Rapides, Red River, Richland, Sebine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Tensas, Terrebonne, Vernon, Vermilion, Washington, West Carroll, West Baton Rouge, and West Feliciana;

3. The total quantity of 2,4-D to be applied will not exceed 10,000 pounds of active ingredient;

4. 2,4-D is to be applied only when the following conditions exist: (a) The sesbania canopy must exceed 75 percent; and (b) the stage of maturity of the bean must be after pod set and before beans can be felt in the pods of the four uppermost nodes;

5. Aerial applications will be made by certified applicators licensed by the Louisiana Department of Agriculture;

6. Special permission will be obtained from the commissioner of the Louisiana Department of Agriculture for all applications of 2,4-D in designated restricted areas;

7. Residue levels in soybeans not exceeding 0.75 ppm of 2,4-D have been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. A 30-day interval for grazing livestock on treated soybean fields will be observed;

9. The Applicant shall continue to cooperate with the IR-4 program in order that a permanent tolerance for 2,4-D on soybeans may be obtained;

10. Precautions must be taken to avoid or minimize spray drift to non-target areas;

11. Applications will not be made to any body of water;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of 2,4-D in connection with this exemption; and

13. A report which summarizes the benefits obtained from the use of 2,4-D under this specific exemption must be submitted to the EPA by March 31, 1979.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-27398 Filed 9-28-78; 8:45]

[1505-01]

FEDERAL TRADE COMMISSION

PRIVACY ACT ISSUANCES

Incorporation by Reference

Correction

In FR Doc. 78-24579 appearing on page 40110 in the issue of Friday, September 8, 1978, on page 40113 in the 2nd column under "FTC-26", the addresses for the Cleveland and Dallas offices should read:

. . . . . .

Cleveland Regional Office
Suite 500, Mall Building
118 Saint Clair Avenue
Cleveland, Ohio 44114

Dallas Regional Office
2001 Bryan Tower, Suite 2665
Dallas, Tex. 75201

. . . . . .

On page 40116 in the right-hand column, the 2nd line should read, "Suite 500, Mall Building".

In the same column, the last line should read, "* * * exempt from mandatory disclosure under 5 U.S.C. Sec 552a (k)(2).".

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review staff, GAO, on September 25, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 17, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Form OS-C, Quarterly Report of Operating Statistics, Motive Power and Car Equipment, required to be filed by some 43 class I railroads pursuant to section 20 of the Interstate Commerce Act. Data collected by form OS-C are used for economic regulatory purposes. ICC states that no change is made in the data requirements and that the reports are mandatory and available for use by the public. ICC estimates the reporting burden for carriers averages 46 hours for line-haul and 14 hours for switching and terminal companies per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-27458 Filed 9-28-78; 8:45 am]

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting on architectural and engineering services, region 9, October 13 from 9 a.m. through 4:15 p.m., Conference Room, Construction Management Division, 31st Floor, Tishman Building, 525 Market Street, San Francisco, Calif. The meeting anticipates the review of the conceptual designs for an addition to the NARS Record Center, San Bruno, Calif.; a Federal correctional institution, Los Angeles area, California; and a Federal parking facility, Los Angeles, Calif. The meeting will be open to the public.

ROSS A. BIATEK,
Acting Regional Administrator.

[FR Doc. 78-27485 Filed 9-28-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0270]

GARDEN STATE BLOOD BANK, INC.

Revocation of U.S. License No. 320

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs revokes the establishment and product licenses of Garden State Blood Bank, Inc. (U.S. license No. 320) to manufacture source plasma (human) and whole blood (human) because of significant deviations from the biologics regulations.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The Commissioner is revoking the establishment and product licenses, issued to Garden State Blood Bank, Inc., 127 Washington Street, Newark N.J. 07102, (U.S. license No. 320) to manufacture source plasma (human) and whole blood (human).

An inspection of Garden State Blood Bank, Inc., on May 17, 18, and 22, 1978, by investigators of the Food and Drug Administration (FDA) revealed numerous deviations from the requirements of part 600 (21 CFR Part 600), including the interstate shipment of whole blood (human) without the firm having in its possession the proper test records for the presence of hepatitis B surface antigen (see § 610.40(b)(3) (21 CFR 610.40(b)(3))). This significant deviation was one of many items cited previously in an FDA inspection of the firm in November 1977 that resulted in a suspension of its operations from November 11, 1977, through March 13, 1978.

As a result of the most recent inspection and under § 601.6(a) (21 CFR 601.6(a)), the agency notified Garden State Blood Bank, Inc., in a letter dated July 18, 1978, that the agency had again suspended the firm's operations and that the agency intended to revoke U.S. license No. 320 and issue an opportunity for hearing.

In response to the July 18, 1978, letter issued to Garden State Blood Bank, Inc., the firm has requested that its establishment and product licenses be revoked and has waived the opportunity for a hearing under § 601.5(a) (21 CFR 601.5(a)). The Commissioner is granting the request. Accordingly, under § 12.38 (21 CFR 12.38), section 351 of the Public Health Service Act (42 U.S.C. 262), and the authority delegated to the Commissioner (21 CFR 5.1), U.S. license No. 320 issued to Garden State Blood Bank, Inc., and the firm's product licenses for the manufacture of source plasma (human) and whole blood (human), are hereby revoked as of the date of signature. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: September 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-27240 Filed 9-28-78; 8:45 am]

[4110-03]

MEDICAL DEVICE CLASSIFICATION PANELS

Request for Nominations for Nonvoting Representatives of Industry Interests on Public Advisory Committees; Extension of Due Date

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice extends the due date for receipt of nominations of industry representatives on public advisory committees.

DATE: Nominations should be received by Novenber 28, 1978, for vacancies indicated in the previous notice.

ADDRESS: All nominations for industry representatives must be submitted in writing to: Kay A. Levin, Bureau of Medical Devices (HFK-50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Robert S. Kennedy, Bureau of Medical Devices (HFK-401), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7900.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 30, 1978 (43 FR 28554), the Food and Drug Administration published a notice soliciting nominations for nonvoting representatives of consumer and industry interests and established a due date of July 31, 1978, for receipt of nominations. The agency has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified women and minority candidates. This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 779-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27082 Filed 9-28-78; 8:45 am]

[4110-03]

ONCOLOGIC DRUGS ADVISORY COMMITTEE

Re-Establishment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the re-establishment of the Oncologic Drugs Advisory Committee by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this Committee will expire on September 1, 1980, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

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Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27083 Filed 9-28-78; 8:45 am]

[4110-03]

[Docket No. 78N-0271]

PIONEER BLOOD SERVICE, INC.

Revocation of U.S. License No. 278

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs revokes the establishment and product licenses of Pioneer Blood Service, Inc., at the Raleigh, N.C. location (U.S. license No. 278) to manufacture source plasma (human), whole blood (human), red blood cells (human), and single donor plasma (human) at that location because of significant deviations from the biologics regulations.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The Commissioner is revoking the establishment and product licenses for the Raleigh, N.C., location (U.S. license No. 278) of Pioneer Blood Service, Inc., 30 Sherman Avenue, New York, N.Y. 10040, for the manufacture of source plasma (human), whole blood (human), red blood cells (human), and single donor plasma (human).

An inspection of Pioneer Blood Service, Inc., 108 South Wilmington Street, Raleigh, N.C. 27602, on June 20 through 22, 1978, by investigators of the Food and Drug Administration (FDA) revealed numerous deviations from the requirements of part 600 (21 CFR Part 600), including the collection of more than the maximum permissible amount of whole blood from donors during a 7-day period (see § 640.65(b)(5) (21 CFR 640.65(b)(5))). This significant deviation was one of many items cited previously in an FDA inspection of the location in 1975 that resulted in a suspension of the Raleigh location from November 12 through December 9, 1975.

As a result of this most recent inspection, the establishment and product licenses issued for that location were suspended on June 28, 1978, under § 601.6(a) (21 CFR 601.6(a)). On July 10, 1978, the agency sent a letter to Pioneer Blood Service, Inc., confirming the suspension and setting forth the grounds for the suspension and revocation.

In response to the July 10, 1978, letter issued to Pioneer Blood Service, Inc., the firm has requested that its licenses for the Raleigh location and the products manufactured at that location be revoked and has waived the opportunity for a hearing under § 601.5(a) (21 CFR 601.5(a)). The Commissioner is granting the request. Accordingly, under § 12.38 (21 CFR 12.38), section 351 of the Public Health Service Act (42 U.S.C. 262), and the authority delegated to the Commissioner (21 CFR 5.1), the Raleigh, N.C., location of Pioneer Blood Service, Inc., and the product licenses for the Raleigh location under U.S. license No. 278, are hereby revoked as of the date of signature. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: September 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27239 Filed 9-28-78; 8:45 am]

[4110-03]

[FDA 225-78-4005]

WATER QUALITY ANALYSIS

Memorandum of Agreement With the Environmental Protection Agency

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of agreement with the Environmental Protection Agency (EPA). The purpose of the agreement is to set forth cooperative working arrangements under which FDA will perform water quality related laboratory analytical services for EPA.

DATE: The agreement became effective July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of agreement:

INTERAGENCY AGREEMENT BETWEEN U.S. FOOD AND DRUG ADMINISTRATION AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Purpose: The U.S. Food and Drug Administration, 240 Hennepin Avenue, Minneapolis, Minn., will perform certain laboratory functions for the U.S. Environmental Protection Agency, 7401 Lyndale Avenue South, Minneapolis, Minn. Such performance is in accord with the August 2, 1977 announcement by administrators of these agencies that they would explore "• • • whether laboratory as well as other facilities could be shared".

Scope of work: By virtue of this agreement, the U.S. Food and Drug Administration (FDA) will perform water quality related laboratory analytical services for the U.S. Environmental Protection Agency (EPA). Such analyses would include, but not be limited to, the following chemistry parameters: 5-day biochemical oxygen demand; suspended, dissolved, and total solids; turbidity; specific conductance; pH; hexavalent chromium; sulfide; oil and grease; phenols; cyanide; and selected organic compounds. Microbiological analysis of water samples for total coliform, fecal coliform and fecal streptococcus would also be performed as requested in the attached letter (Attachment 1).[1] These analytical services will be supplied based on routine quarterly requests as well as special requests for analyses. In the case of special requests for analysis, advance mutual agreement between EPA and the appropriate FDA laboratory director is required with respect to sample delivery date, analysis needed and time necessary for analysis. The quality of the analytical data generated will be documented by the FDA and reviewed periodically by the EPA.

Provisions: In fulfilling its responsibilities with respect to this agreement, the EPA will:

1. Provide Analytical Request and Reporting Forms (Attachment 2),[1] documenting the projected dates of sample delivery and the analyses to be performed, to FDA at least 1 week prior to the beginning of each fiscal year quarter. Notification of changes will be given to FDA at least 1 week prior to the projected sampling date, except when a rare emergency situation occurs allowing for only 24 hour notice.

2. Collect and deliver the samples to be analyzed to the FDA. EPA chain of custody procedures will be followed through the delivery of samples to the FDA analyst (Attachment 3).[1] FDA custody procedures will apply for all samples after they are received by the FDA analyst.

3. Label all samples clearly with labels (see examples—Attachment 6) [1] and with appropriate sample numbers which should follow the samples on all chain of custody forms, analytical work and reporting forms, etc.

4. Provide all sample containers, both reusable and discardable. FDA will clean and return reusable sample containers to EPA.

5. On a quarterly basis, notify the FDA when analyzed samples may be discarded.

6. Provide FDA with updates to the EPA methods manual, copies of the EPA Analytical Quality Control Newsletter and reference performance samples as requested.

[1] Filed as part of the original document.

In fulfilling its responsibilities with respect to this agreement, the FDA will:

1. Advise EPA if planned sample collection dates are unsatisfactory.

2. Receive EPA samples as scheduled and log them into the sample accountability security system using FDA Form FD-421 (Attachment 5).[1] These forms will be kept by FDA for two (2) years and then be transmitted to EPA for storage or disposal.

3. Maintain accountability/custody of the samples through laboratory analytical processing and storage.

4. Perform all analyses according to EPA approved methods of analysis as required by 40 CFR [Part] 136, FEDERAL REGISTER of December 1, 1978 [sic; read "1976"] and corrected on July 20, 1977).

5. Submit reports of results of sample analysis to EPA on Form FD-431 (Attachament 7)[1] or 431A within 10 working days of receipt of samples.

6. Participate in an EPA quality assurance program as specified by the Region V, Quality Assurance Office. The program will include the analysis of reference samples, split samples, and duplicate samples with sufficient data evaluation such that a summary report documenting the precision of reported data can be prepared and submitted periodically to the Quality Assurance Office, at the request of the EPA.

7. Provide testimony in Federal litigation involving EPA samples. This testimony should support both the chain of custody and the application of EPA analytical methods. EPA will defend the methods.

Duration of agreement: This agreement will commence July 1, 1978, and will continue through fiscal year 1979. Extension of this agreement beyond fiscal year 1979 is anticipated with the terms reviewed and revised as necessary. Conversely, this agreement may be terminated at any time via a 30-day written notice submitted by either party to the other.

Reports: Analytical reports and quality assurance reports will be submitted by the FDA to the EPA on the frequency described in Provisions above. Original copies of all analytical reports should be sent to:

U.S. Environmental Protection Agency, Region V, Western District Office, 7401 Lyndale Avenue South, Minneapolis, Minn. 55423.

Single copies of all quality assurance reports should be sent to the Western District Office as well as to:

Quality Assurance Office, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Ill. 60605. 312-354-9317 (FTS).

Principle Agency Contacts: Mr. James I. Roberts, Laboratory Director, U.S. Department of Health, Education, and Welfare, Food and Drug Administration, 240 Hennepin Avenue, Minneapolis, Minn. 55401, 612-725-2121 (FTS) and Mr. John R. Helvig, U.S. Environmental Protection Agency, Region V, Western District Office, 7401 Lyndale Avenue South, Minneapolis, Minn. 55423, 612-725-3272 (FTS).

Resource Projections: A total of 1,660 hours of analytical and administrative work will be allocated by the FDA. There will be no exchange of funds between the agencies. Total anticipated manpower expenditure for services provided by the FDA will be as follows:

	Cost in hours/sample	
	First sample	*Each additional
Chemistry:		
Five-day biochemical oxygen demand; total, dissolved and suspended solids; pH, conductivity; and turbidity	11.5	4.1
Oil and grease	2.0	0.5
Phenols	3.0	0.5
Cyanide	3.0	1.0
Hexavalent chromium	3.0	1.0
Sulfide	2.0	0.5
Alkalinity	2.0	0.5
Microbiology:		
Fecal coliform	2.0	0.33
Total coliform	2.0	0.33
Fecal streptococcus	2.0	0.33

*On any given *day* when samples are scheduled to arrive in the laboratory.

Other analyses such as metals, organic scans or specific organic compound determinations may be performed by FDA at the request of EPA.

AUTHORITY: The statutory authority under which this agreement is entered into is: The Economy Act of 1932, as amended (31 U.S.C. 686).

Dated: June 23, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Environmental Protection Agency.

Dated: June 28, 1978.

LLOYD R. CLAIBORNE,
Regional Director, Food and Drug Administration.

Effective date. This Memorandum of Agreement became effective July 1, 1978.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 78-27080 Filed 9-28-78; 8:45 am]

[4110-03]

[Docket No. 78P-0287]

WIEN LABORATORIES

Request for Data and Information on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) invites interested persons to submit information, data, and views on a petition filed for reclassification of a medical device from class III (premarket approval) into class II (performance standards). The petition was submitted by Wien Laboratories, Inc., Succasunna, N.J. 07876, for a device for the quantitative determination of antidepressant drugs. Material submitted will be forwarded to members of the Clinical Toxicology Device Classification Panel who will make a recommendation on the petition to the FDA.

DATE: Information, data, and views should be submitted by October 30, 1978.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room. 4-65, 5600 Fishers Lane, Rockville, Md. 2-0857. Information, data, and views should be submitted (preferably five copies) to S. K. Vadlamudi, Executive Secretary, Clinical Toxicology Device Classification Panel (address below).

FOR FURTHER INFORMATION CONTACT:

S. K. Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION: On July 5, 1978, Wien Laboratories, Inc., Succassunna, N.J. 07876, submitted under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), a premarket notification of its intent to market a device for the quantitative determination of antidepressant drugs. The manufacturer calls the device "Tri-Cy Test Set." The product utilizes radiolabeled imipramine and charcoal separation for the quantitative determination of imipramine, desipramine, amitriptyline, nortriptyline, protriptyline, or doxepin in serum.

The Commissioner of Food and Drugs has determine that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)). On August 14, 1978, Wien Laboratories submitted, under section 513(f)(2) of the act, a reclassification petition for the device.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption

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under section 520(g) of the act (21 U.S.C. 360j(g)).

The agency reviewed the petition and determined that it is not deficient.

Section 513(f) of the act requires the Commissioner to submit the petition to a device classification panel for recommendation concerning classification. The Panel is required to make its recommendation to the Commissioner within 90 days after the petition is referred to the Panel. Ordinarily, the petition would be discussed in an open panel meeting before the Panel makes its recommendation. However, a meeting of the Clinical Toxicology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. Therefore, this petition has been mailed to the voting members of the Panel for their review and recommendation to FDA. The Panel will make its recommendation to FDA by mail.

Section 513(f) of the act also requires the Commissioner to provide an opportunity for interested persons to provide information, data, and views to the Panel before it makes its recommendation. Information, data, and views will be mailed to the Panel members for their consideration before they make their recommendation. Then each voting member will send the Executive Secretary of the Panel a completed supplemental data sheet and a completed classification questionnaire applicable to the device for which a recommendation is sought. The Panel recommendation will be published in the FEDERAL REGISTER. A period for public comment will follow, and then the Commissioner will issue a final order approving or denying the petition no more than 210 days after the submission of an adequate petition.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27081 Filed 9-28-78 8:45 am]

[4110-08]

National Institutes of Health

ETHICS ADVISORY BOARD

Meeting and Public Hearing

Notice is hereby given that the Ethics Advisory Board will hold a meeting and public hearing on the subject of the Department's support of research involving human in vitro fertilization of October 13 and 14, 1978, John F. Kennedy Building, Government Center, Boston, Mass. 02203, in conference room 2003A. The meeting and public hearing will convene at 9 a.m. on both days and will be open to the public, subject to the limitation of available space.

Any person wishing to speak at the hearing must receive prior approval from the Board. Requests must include a brief summary of the presentation, which should be limited to 5 minutes. In order to be considered for approval, requests to speak at the meeting must be received no later than October 6, 1978, at the following address: Ethics Advisory Board, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016, telephone number 301-496-7776. Written materials of any length may be submitted at any time.

The agenda for the meeting will include presentation of expert witnesses, public testimony and deliberations by the Board on whether the Department of Health, Education, and Welfare should support research involving human in vitro fertilization. In addition, the Board will consider an application for DHEW support of research involving fetal fetoscopy. Future topics for review and study by the Board may also be discussed.

Requests for information should be directed to Dr. Charles R. McCarthy, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016, 301-496-7776.

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health

[FR Doc. 78-27644 Filed 9-28-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF DICOFOL FOR POSSIBLE CARCINOGENICITY

Availability

Dicofol (CAS 115-32-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of technical-grade dicofol for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as a pesticide. Dicofol was administered in the feed, at either of two concentrations, to groups of 50 males and 50 females of each species.

Under the conditions of this bioassay, technical-grade dicofol was carcinogenic in male B6C3F1 mice, causing hepatocellular carcinomas. No evidence for carcinogenicity was obtained for this compound in Osborne-Mendel rats of either sex or in female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director, National Institutes of Health.

[FR Doc. 78-27259 Filed 9-28-78 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF TRICHLOROFLUOROMETHANE FOR POSSIBLE CARCINOGENICITY

Availability

Trichlorofluoromethane (CAS 75-69-4) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. The bioassay of technical-grade trichlorofluoromethane for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an aerosol propellant and as a refrigerant. Trichlorofluoromethane in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species.

The results of the bioassay of trichlorofluoromethane in Osborne-Mendel rats for possible carcinogenicity are not conclusive because inadequate numbers of rats survived long enough to be at risk from late-developing tumors. Under the conditions of this bioassay, trichlorofluoromethane was not carcinogenic to male or female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21. National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director, National Institutes of Health.

[FR Doc. 78-27259 Filed 9-28-78 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF M-CRESIDINE FOR POSSIBLE CARCINOGENICITY

Availability

m-Cresidine (CAS 102-50-1) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of technical-grade m-cresidine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. m-Cresidine in corn oil was administered by gavage 5 days a week at either of two dosages, to groups of 50 male and 49 or 50 female animals of each species.

Under the conditions of this bioassay, m-cresidine was carcinogenic to Fischer 344 rats, causing papillary transitional-cell carcinomas of the urinary bladder in both sexes. No convincing evidence was provided for carcinogenicity in female B6C3F1 mice. Poor survival of male B6C3F1 mice receiving m-cresidine precluded evaluation of the possible carcinogenicity of the compound in these animals.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director, National Institutes of Health.

[FR Doc. 78-27261 Filed 9-28-78; 8:45 am]

[4110-35]

Office of the Secretary

MEDICARE PROGRAM

Inpatient Hospital Deductible for 1979

Under the authority in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), I have determined and hereby announce that the medicare inpatient hospital deductible for 1979 shall be $160.

Section 1813 of the Social Security Act provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable for inpatient hospital services and post-hospital extended care services furnished an individual during a spell of illness. Section 1813(b)(2) of the act requires the Secretary to determine and publish, between July 1 and October 1 of each year, the amount of the inpatient hospital deductible for the following calendar year.

Under a formula in the law, the deductible for calendar year 1979 must be equal to $40 multiplied by the ratio of: (1) The current average rate for a day of inpatient hospital services for calendar year 1977 to (2) the average daily rate for such services in 1966. The amount so determined is rounded to the nearest multiple of $4. The average daily rates are determined by the Secretary based on the amounts paid on behalf of insured individuals to the hospitals participating in the medicare program plus the amounts withheld because of the deductible and coinsurance provisions.

Because the applicable coinsurance amounts in section 813 of the Social Secutity Act are fixed percentages of the inpatient deductible for services furnished in the same spell of illness, the increase in the deductible has the effect of also increasing the amount of coinsurance the Medicare beneficiary must pay. Thus, for spells of illness beginning in 1979, the daily coinsurance for the 61st through 90th days of hospitalization (one-fourth of the inpatient hospital deductible) will be $40; the daily coinsurance for lifetime reserve days (one-half the inpatient hospital deductible) will be $80; and the daily coinsurance for the 21st through the 100th days of extended care services (one-eighth of the inpatient hospital deductible) will be $20.

The data used to make the necessary computations of the current average daily rate for calendar years 1966 and 1977 are derived from individual inpatient hospital bills that are recorded for all beneficiaries in the records of the program. These records show, for each bill, the number of inpatient days of care and the interim cost (the sum of interim reimbursement, deductible, and coinsurance). Tabulations are prepared which summarize the data from these bills by the year in which the care was provided. The resulting average interim daily rate accurately reflects interim costs on an accrual basis.

In order to properly reflect the change in the average daily hospital cost under the program, the average interim cost (as shown in the tabulations) must be adjusted for the effect of final cost settlements made with each provider of services after the end of its accounting year to adjust the reimbursement to that provider from the amount paid during that year on an interim basis to the actual full cost of providing covered services to beneficiaries. To the extent that the ratio of final cost to interim cost for 1977 differs from the ratio of final cost to interim cost for 1966, the increase in average interim daily costs will not coincide with the increase in actual cost that has occurred.

The current average interim daily rate for inpatient hospital services for calendar year 1977, based on tabulated interim costs, is $155.26; the corresponding amount for 1966 is $37.92. These averages are based on approximately 93 million days of hospitalization in 1977 and 30 million days in 1966 (last 6 months of the year). The ratio of final cost to interim cost is approximately 1.035 for 1977 and 1.055 for 1966. Thus, the inpatient hospital deductible is $40×[(155.26×1.035)/(37.92×1.055)]=$160.67, which is rounded to $160.

Dated: September 25, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-27363 Filed 9-28-78 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6703-A and AA-6703-B]

ALASKA NATIVE CLAIMS SELECTION

Correction

In FR Doc. 78-25189 appearing at page 40063, in the issue of Friday, September 8, 1978, on page 40064, first column, the first line immediately following T10 S.R.8 W., should be corrected to read, "Secs. 19 and 20 (fractional), all".

On page 40065, second column, in the fourth line of paragraph 6 change "613(c)" to read, "1613(c)".

[4310-84]

COPPER RIVER MERIDIAN, ALASKA

Filing of Plat of Survey

SEPTEMBER 19, 1978.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10 a.m., November 10, 1978.

COPPER RIVER MERIDIAN, ALASKA

T. 10 N., R. 4 E.,
Sec. 25, lot 1, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 26, lots 1, 2, E½, NW¼, N½SW¼;
Sec. 27, all;
Sec. 34, all;
Sec. 35, lots 1 to 8 inclusive, NW¼NE¼, S½NW¼, SW¼, SW¼SE¼;
Sec. 36, lots 1 to 15 inclusive, NW¼NE¼, NE¼NW¼, SE¼.

Containing 3,574.90 acres.

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2. The lands included in the foregoing survey are located about 2½ miles northeast of Chistochina, Alaska, on the Glenn Highway, and at the confluence of the Copper and Chistochina Rivers. Access into the area is by way of the Glenn Highway and a few gravel-surfaced and unimproved dirt roads. The elevation averages about 1,950 feet above sea level with the lands lying nearly level. The area is drained by the Copper and Chistochina Rivers, Boulder Creek, and a number of small feeder tributaries. The area is forested with spruce, cottonwood, and birch timber with willow, alder, low shrubs, and grasses as ground cover. The soil is generally a loam or sandy loam with some areas of muck.

Two surveyed claims are located in the area surveyed and these with the Glenn Highway, other roads, and an airport are the only improvements noted during the course of this survey.

No evidence of mineral was noted in the area.

The observed mean magnetic declination for the area is 29°30' E.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

Dated: September 20, 1978, Division of Cadastral Survey.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc. 78-27428 Filed 9-28-78; 8:45 am]

[4310-84]

COPPER MERIDIAN, ALASKA

Filing of Plat of Survey

SEPTEMBER 19, 1978.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10 a.m., November 10, 1978.

COPPER RIVER MERIDIAN, ALASKA

T. 9 N., R. 4 E.,
Sec. 2, lots 1, 2, 3, 4, W½NE¼, W½;
Sec. 4, lots 1, 2, N½, SW¼, W½SE¼;
Sec. 5, all;
Sec. 6, lots 1, 2, 3, 4, E½, E½W½;
Sec. 7, lots, 1, 2, 3, 4, E½, E½W½;
Sec. 8, all;
Sec. 9, lots 1, 2, 3, NE¼NE¼, W½E½, W½;
Sec. 16, lots 1 to 18 inclusive, W½NW¼;
Sec. 17, lot 1, N½, SW¼, N½SE¼, SE¼SE¼;
Sec. 18, lots 1, 2, 3, 4, E½, E½W½;
Sec. 19, lots 1, 2, 3, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 20, lots 1, 2, 3, 4, 5.
Containing 6,322.93 acres.

2. The lands embraced in this survey are located, for the most part, on the north side of the Copper River near Chistochina, Alaska. The area is drained by the Copper and Chistochina Rivers, the confluence of which is in section 2. The Copper River flows southwesterly along the southern part of the survey. A number of tributaries to the rivers makes up the total drainage pattern.

Elevations in the area range from about 1,800,000 feet above sea level to over 2,150 above sea level.

Improvements noted consist of the Glenn Highway, which is the means of access to the area, and a number of buildings and a landing strip at Chistochina in section 16. There is also a gravel pit in section 16.

No evidence of mineral or mineral activity was noted, other than the gravel pit.

The area is forested with spruce, birch, poplar, cottonwood, and aspen timber; with an understory of willow, other low brush, and grasses.

The mean magnetic declination is 29°30' E.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

Dated: September 20, 1978, Division of Cadastral Survey.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc. 78-27429 Filed 9-28-78; 8:45 am]

[4310-84]

[NM 34689]

NEW MEXICO

Application

SEPTEMBER 21, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 6-inch pipeline and related facilities right-of-way across the following land:

T. 18 S., R. 27 E., N. MEX. PRIN. MER., NEW MEXICO
Sec. 7, SW¼NE¼ and SE¼SE¼;
Sec. 17, W½SW¼;
Sec. 20, NW¼NW¼.

This pipeline will convey natural gas across 0.89 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27486 Filed 9-28-78; 8:45 am]

[4310-84]

[NM 34688]

NEW MEXICO

Order Providing for Opening of Public Lands

SEPTEMBER 20, 1978.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1970), the following described land has been reconveyed to the United States:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 N., R. 4 W.,
Sec. 2. S½.

The area described contains 320 acres in Sandoval County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described above are hereby open only for the purpose of consummating an exchange with the Navajo Tribe of Indians. The exchange program is to adjust Navajo Indian Land matters, including unauthorized occupancy and to stabilize Navajo Indian and non-Indian land use.

3. Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, N. Mex. 87501.

LARRY L. WOODWARD
Associate State Director.

[FR Doc. 78-27487 Filed 9-28-78; 8:45 am]

[4310-84]

[Wyoming 65084]

WYOMING

Application

SEPTEMBER 21, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) Cities Service Gas Co. of Oklahoma City, Okla., filed an application for a 12¾-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 91 W.,
Sec. 6.
T. 18 N., R. 92 W.,
Secs. 10, 12, and 18.
T. 18 N., R. 93 W.,
Secs. 22 and 24.

The proposed pipeline will transport natural gas from a point in section 21, T. 18 N., R. 93 W., in a northeasterly direction to a point of connection with Cities Service Gas Co.'s gathering line in section 5, T. 18 N., R. 91 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27488 Filed 9-28-78; 8:45 am]

[4310-84]

[INT FES 78-22]

OUTER CONTINENTAL SHELF OFFSHORE THE MID-ATLANTIC STATES

Availability of Final Environmental Statement Regarding Proposed Oil and Gas Lease Sale No. 49

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 136 tracts consisting of 313,344 hectares (774,273 acres) of submerged lands on the OCS in the Baltimore Canyon offshore the Mid-Atlantic States (OCS sale No. 49).

Single copies of the final environmental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, N.Y. 10007, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for inspection in the following public libraries:

Massachusetts: Boston Public Library, Copley Square, Boston.
Rhode Island: Providence Public Library, 150 Empire Street, Providence.
Connecticut: Hartford Public Library, 500 Main Street, Hartford.
New York: Albany Public Library, Harmons Bleeker Building, 19 Dove Street, Albany; New York City Public Library, Fifth Avenue and 42d Street, New York; Nassau County Library System, Lower Concourse, Roosevelt Field, Garden City; and Suffolk County Cooperative Library System, 627 Sunrise Service Road, Bellport.
New Jersey: Trenton Free Library, 120 Academy Street, Trenton; Atlantic City Free Library, Illinois and Pacific Streets, Atlantic City; and Free Library of Elizabeth, 11 South Broad Street, Elizabeth.
Pennsylvania: Free Library of Philadelphia, Logan Circle, Philadelphia.
Delaware: Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach; and Wilmington Institute Free Library and Newcastle County Free Library, 10th and Market Streets, Wilmington.
Maryland: Eastern Shore Area Library, 122-126 South Division, Salisbury; and Enoch Pratt Free Library, 400 Cathedral Street, Baltimore.
Virginia: Norfolk Public Library System, 301 South City Hall Avenue, Norfolk.
North Carolina: Olivia Raney Public Library, 104 Fayetteville Street, Raleigh.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27484 Filed 9-28-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF LEASE FORM

Revision of Form

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of revised OCS lease form.

SUMMARY: On September 5, 1978, the Bureau of Land Management published a proposed revision of the Outer Continental Shelf (OCS) lease form. A revision of the form is necessary in order to make the form consistent with the OCS Lands Act Amendments of 1978 (Pub. L. 95-372), which was signed into law by the President on September 18, 1978. The Bureau of Land Management has reviewed comments it received on the proposed lease form and adopts the lease form reprinted below.

DATE: This lease form is effective immediately and will be used for OCS sale No. 65 and, unless amended by public notice, for subsequent sales.

FOR FURTHER INFORMATION, CONTACT:

Chris Oynes, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, 202-343-2718.

SUPPLEMENTARY INFORMATION: The principal authors of the lease form are Charles Findlay, Office of the Solicitor, Chris Oynes, Bureau of Land Management, and Gerald Rhodes, U.S. Geological Survey.

Comments were received from 14 companies in writing and from 3 companies by telephone. Comments were also received from three Federal agencies. Several suggestions were adopted. Significant comments, as well as points most commonly made, are discussed below.

Many comments questioned whether section 2 includes the right to remove oil and gas from the leased area as was stated in the previous lease forms. This section of the lease form has been drafted to parallel as closely as possible sections 2(c) and 8(b)(4) of the OCS Lands Act Amendments of 1978 (hereafter referred to as the Act), which specify the rights conveyed by a lease. The right to remove oil and gas from the leasehold is inherent in the right to "produce" it, as is further suggested by section 8(a)(1) of the Act which requires payment of a royalty on oil and gas "saved, removed or sold." There are some new restrictions on the disposition of production imposed by the new Act and specified in section 15 of the lease form.

Several comments suggested that section 6(b) of the lease form should contain a sentence requiring notice and opportunity for a hearing as to the Geological Survey's determination of the value of production for royalty purposes. This sentence was contained in previous lease forms and is unnecessary in view of 30 CFR Part 290 which provides for appeals of decisions of the Geological Survey.

There were a number of suggestions that, in the first sentence of 6(b) of the lease form, the determination of the value of production for royalty purposes should be determined by the regulated price, if any, or that the regulated price should be taken into consideration. While the current lease

V 43/190 SEP 29 78 UMI

form in its reference to "the price received by the lessee * * * and * * * other relevant matters" already provides that the regulated price would be a consideration, the lease form has been amended so that the regulated price is specifically taken into consideration.

Pursuant to a recommendation by the Department of Energy, the third sentence of section 6(b) of the lease form has been amended. The amendment provides that the Geological Survey may, when the lessee has received special pricing relief from otherwise applicable Federal regulatory requirements, determine a value of production for royalty purposes which is less than the lessee received from the sale of the production. To accompany this change, a new sentence has been added to specify that the value of production, for purposes of computing royalty, can never be less than the fair market value in accordance with section 18(a)(4) of the Act.

There were a number of questions about the meaning of "other payments" in section 7 of the lease form. These words are intended to mean payments that would be due pursuant to some of the alternative bidding methods should the lease be issued by means of one of those methods. In response to the concern, the words have been changed to read "any payments required by this lease" to clarify that payments means obligations designated at the time of lease issuance.

Several comments noted that the new Act does not require development and production plans for lease operations in the Gulf of Mexico and that section 9 of the lease form should be amended accordingly. The Department has not yet determined whether or not its planned revision of 30 CFR 250.34 following passage of the new Act will continue to require development and production plans for the Gulf of Mexico. Section 9 of the lease form has therefore been amended by the addition of the words "as are required by regulation" in order to account for an election of either option.

Many companies recommended deletion or revision of section 12 of the lease form entitled "Safety Requirements." This section is taken almost verbatim from section 22(b) of the new Act which gives the Department little flexibility in making changes.

There were a number of suggestions for revising section 10 of the lease form which applies to performance. Many of the suggestions were to amend the section to conform with section 3(c) of the previous lease form. Section 10 of the new lease form is based on the previous version and other performance requirements including sections 5(a)(7) and 5(g) of the new Act and section 106 of the Energy Policy and Conservation Act.

Many comments remarked that section 16 of the lease form entitled "Unitization, Pooling and Drilling Agreements" is too brief and, most important, does not provide for a specific period within which a lessee may be required to subscribe to a unit agreement. That period, and other procedural requirements relating to unitization, are specified in the regulations and OCS order No. 11.

Finally, a few comments requested that the section in the previous lease form on heirs and successors be included in the new lease form. Inclusion of that section in the new lease form is unnecessary because a similar provision already appears in the regulations, 43 CFR 3307.6.

ARNOLD E. PETTY,
Acting Associate.

SEPTEMBER 26, 1978.

Form 3300–1
(September 1978)

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT

OIL AND GAS LEASE OF SUBMERGED LANDS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

Office

Serial Number

Cash Bonus

Rental Rate

Minimum Royalty Rate

Royalty Rate

Work Commitment

Profit Share Rate

This lease is effective as of _____ (hereinafter called the "Effective Date") by and between the United States of America (hereinafter called the "Lessor"), by the _____, Bureau of Land Management, its authorized officer, and _____ (hereinafter called the "Lessee"). In consideration of any cash payment heretofore made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, and covenants contained herein, including the stipulation(s) numbered _____ attached hereto, the lessee and Lessor agree as follows:

Sec. 1. *Statutes and Regulations.* This lease is issued pursuant to the Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 462 as amended; 43 U.S.C. 1331 et seq. (hereinafter called the "Act"). The Lease is issued subject to the Act; sections 302 and 303 of the Department of Energy Organization Act, 91 Stat. 578–580, 42 U.S.C. 7152 and 7153; all regulations issued pursuant to such statutes and in existence upon the effective date of this lease; all regulations issued pursuant to such statutes in the future which provide for the prevention of waste and the conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein; and all other applicable statutes and regulations.

Sec. 2. *Rights of Lessee.* The Lessor hereby grants and leases to the Lessee the exclusive right and privilege to drill for, develop and produce oil and gas resources, except helium gas, in the submerged lands of the Outer Continental Shelf described as follows:

_____

_____

_____

containing approximately —— acres or —— hectares (hereinafter referred to as the "leased area"). These rights include:

(a) the nonexclusive right to conduct within the leased area geological and geophysical explorations in accordance with applicable regulations;

(b) the nonexclusive right to drill water wells within the leased area, unless the water is part of geopressured-geothermal and associated resources, and to use the water produced therefrom for operations pursuant to the Act free of cost, on the condition that the drilling is conducted in accordance with procedures approved by the Director, or his delegate of the United States Geological Survey (hereinafter called the "Director"); and

(c) the right to construct or erect and to maintain within the leased area artificial islands, installations and other devices permanently or temporarily attached to the seabed and other works and structures necessary to the full enjoyment of the lease, subject to compliance with applicable laws and regulations.

Sec. 3. *Term.* This lease shall continue for an initial period of —— years from the Effective Date of the lease and so long thereafter as oil or gas is produced from the leased area in paying quantities, or drilling or well reworking operations, as approved by the Lessor, are conducted thereon.

Sec. 4. *Rentals.* The Lessee shall pay the Lessor, on or before the first day of each lease year, which commences prior to a discovery in paying quantities of oil or gas on the leased area, a rental of —— per acre (—— per hectare) or fraction thereof.

Sec. 5. *Minimum Royalty.* The Lessee shall pay the Lessor, at the expiration of each lease year which commences after a discovery of oil and gas in paying quantities, a minimum royalty of —— per acre (—— per hectare) or fraction thereof or, if there is production, the difference between the actual royalty required to be paid with respect to such lease year and the prescribed minimum royalty, if the actual royalty paid is less than the minimum royalty.

Sec. 6. *Royalty on Production.* (a) The Lessee shall pay a fixed royalty of —— percent in amount or value of production saved, removed or sold from the leased area. Gas of all kinds (except helium) is subject to royalty. The Lessor shall determine whether production royalty shall be paid in amount or value.

(b) The value of production for purposes of computing royalty on production from this lease shall never be less than the fair market value of the production. The value of production shall be the estimated reasonable value of the production as determined by the Lessor, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the Lessee, to posted prices, to regulated prices, and to other relevant matters. Except when the Lessor, in its discretion, determines not to consider special pricing relief from otherwise applicable Federal regulatory requirements, the value of production for the purposes of computing royalty shall not be deemed to be less than the gross proceeds accruing to the Lessee from the sale thereof. In the absence of good reason to the contrary, value computed on the basis of the highest price paid or offered at the time of production in a fair and open market for the major portion of like-quality products produced and sold from the field or area where the leased area is situated will be considered to be a reasonable value.

(c) When paid in value, royalties on production shall be due and payable monthly on the last day of the month next following the month in which the production is obtained, unless the Lessor designates a later time. When paid in amount, such royalties shall be delivered at pipeline connections or in tanks provided by the Lessee. Such deliveries shall be made at reasonable times and intervals and, at the Lessor's option, shall be effected either (i) on or immediately adjacent to the leased area, without cost to the Lessor, or (ii) at a more convenient point closer to shore or on shore, in which event the Lessee shall be entitled to reimbursement for the reasonable cost of transporting the royalty substance to such delivery point. The Lessee shall not be required to provide storage for royalty paid in amount in excess of tankage required when royalty is paid in value. When royalties are paid in amount, the Lessee shall not be held liable for the loss or destruction of royalty oil or other liquid products in storage from causes over which the Lessee has no control.

Sec. 7. *Payments.* The Lessee shall make all payments to the Lessor by check, bank draft, or money order unless otherwise provided by regulations or by direction of the Lessor. Rentals, royalties, and any other payments required by this lease shall be made payable to the United States Geological Survey and tendered to the Director, except that filing charges, bonuses, first year's rental and other payments due upon lease issuance, shall be made payable to the Bureau of Land Management and remitted to the appropriate field office of that Bureau.

Sec. 8. *Bonds.* The Lessee shall maintain at all times the bond(s) required by regulation prior to the issuance of the lease and shall furnish such additional security as may be required by the Lessor if, after operations or production have begun, the Lessor deems such additional security to be necessary.

Sec. 9. *Plans.* The Lessee shall conduct all operations on the leased area in accordance with approved exploration plans, and approved development and production plans as are required by regulations. The Lessee may depart from an approved plan only as provided by applicable regulations.

Sec. 10. *Performance.* The Lessee shall comply with all regulations and orders relating to exploration, development, and production. After due notice in writing, the Lessee shall drill such wells and produce at such rates as the Lessor may require in order that the leased area or any part thereof may be properly and timely developed and produced in accordance with sound operating principles.

Sec. 11. *Directional Drilling.* A directional well drilled under the leased area from a surface location on nearby land not covered by this lease shall be deemed to have the same effect for all purposes of the lease as a well drilled from a surface location on the leased area. In those circumstances, drilling shall be considered to have been commenced on the leased area when drilling is commenced on the nearby land for the purpose of directionally drilling under the leased area, and production of oil or gas from the leased area through any directional well surfaced on nearby land or drilling or reworking of any such directional well shall be considered production or drilling or reworking operations on the leased area for all purposes of the lease. Nothing contained in this paragraph shall be construed as granting to the Lessee any interest, license, easement, or other right in any nearby land.

Sec. 12. *Safety Requirements.* The lessee shall (a) maintain all places of employment within the leased area in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the Lessee or of any contractor or subcontractor operating within the leased area;

(b) Maintain all operations within the leased area in compliance with regulations intended to protect persons, property and the environment on the Outer Continental Shelf; and

(c) Allow prompt access, at the site of any operation subject to safety regulations, to any authorized Federal inspector and shall provide any documents and records which are pertinent to occupational or public health, safety or environmental protection as may be requested.

Sec. 13. *Suspension and Cancellation.* (a) The Lessor may suspend or cancel this lease during the initial lease term or thereafter pursuant to section 5 of the Act, and compensation shall be paid when provided by the Act.

(b) The Lessor may, upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or President of the United States, suspend operations under the lease, as provided in section 12(c) of the Act, and just compensation shall be paid to the Lessee for such suspension.

Sec. 14. *Indemnification.* The Lessee shall indemnify the Lessor for, and hold it harmless from, any claim including claims for loss or damage to property or injury to persons caused by or resulting from any operation on the leased area conducted by or on behalf of the Lessee. However, the Lessee shall not be held responsible to the Lessor under this subsection for any loss, damage or injury caused by or resulting from:

(a) Negligence of the Lessor other than the commission or omission of a discretionary function or duty on the part of a Federal agency whether or not the discretion involved is abused; or

(b) The Lessee's compliance with an order or directive of the Lessor against which an administrative appeal by the Lessee is filed before the cause of action for the claim arises and is pursued diligently thereafter.

Sec. 15. *Disposition of Production.* (a) As provided in section 27(a)(2) of the Act, the Lessor shall have the right to purchase not more than 16⅔ percent by volume of the oil and gas produced pursuant to the lease at the regulated price, or if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the Lessor as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(b) As provided in section 27(d) of the Act, the Lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Lessor, and which is not transferred to a Federal agency pursuant to section 27(a)(3) of the Act, and shall pay to the Lessor a cash amount equal to the regulated price, or if no regulated price applies, the fair market value of the oil or gas so obtained.

(c) As provided in section 8(b)(7) of the Act, the Lessee shall offer 20 percent of the crude oil, condensate, and natural gas liquids produced on the lease, at the market value and point of delivery as provided by regulations applicable to Federal royalty oil to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(d) In the time of war, or when the President of the United States shall so prescribe, the Lessor shall have the right of first refusal to purchase at the market price all or any portion of the oil or gas produced from the leased area, as provided in section 12(b) of the Act.

Sec. 16. *Unitization, Pooling, and Drilling Agreements.* Within such time as the Lessor may prescribe, the Lessee shall subscribe to and operate under a unit, pooling or drilling agreement embracing all or part of the lands subject to this lease as the Lessor may determine to be appropriate or necessary. Where any provision of a unit, pooling or drilling agreement, approved by the Lessor, is inconsistent with a provision of this lease, the provision of the agreement shall govern.

Sec. 17. *Equal Opportunity Clause.* During the performance of this lease, the Lessee shall fully comply with paragraphs (1) through (7) of section 202 of Executive Order 11246 as revised (reprinted in 41 CFR 60–1.4(a)), and the implementing regulations, which are for the purpose of preventing employment discrimination against persons on the basis of race, color, religion, sex or national origin. Paragraphs (1) through (7) of section 202 of Executive Order 11246, as revised, are incorporated in this lease by reference.

Sec.18. *Certification of Nonsegregated Facilities.* By entering into this lease, the Lessee certifies, as specified in 41 CFR 60 1.8, that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transporta-

tion, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Lessee further agrees that it will obtain identical certifications from proposed contractors and subcontractors prior to award of contracts or subcontracts unless they are exempt under 41 CFR 60–1.5.

Sec. 19. *Reservations to Lessor.* All rights in the leased area not expressly granted to the Lessee by the Act, the regulations, or this lease are hereby reserved to the Lessor without limiting the generality of the foregoing, reserved rights include:

(a) the right to authorize geological and geophysical exploration in the leased area which does not unreasonably interfere with or endanger actual operations under the lease, and the right to grant such easements or rights-of-way upon, through, or in the leased area as may be necessary or appropriate to the working of other lands or to the treatment and shipment of products thereof by or under authority of the Lessor;

(b) the right to grant leases for any minerals other than oil and gas within the leased area, except that operations under such leases shall not unreasonably interfere with or endanger operations under this lease;

(c) the right, as provided in Section 12(d) of the Act, to restrict operations in the leased area or any part thereof which may be designated by the Secretary of Defense, with the approval of the President, as being within an area needed for national defense, and so long as such designation remains in effect no operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense. If operations or production under this lease within any designated area are suspended pursuant to this paragraph, any payments of rentals and royalty prescribed by this lease likewise shall be suspended during such period of suspension of operations and production, and the term of this lease shall be extended by adding thereto any such suspension period, and the Lessor shall be liable to the Lessee for such compensation as is required to be paid under the Constitution of the United States.

Sec. 20. *Transfer of Lease.* The Lessee shall file for approval with the appropriate field office of the Bureau of Land Management any instrument of assignment or other transfer of this lease, or any interest therein, in accordance with applicable regulations.

Sec. 21. *Surrender of Lease.* The Lessee may surrender this entire lease or any officially designated subdivision of the leased area by filing with the appropriate field office of the Bureau of Land Management a written relinquishment, in triplicate, which shall be effective as of the date of filing. No surrender of this lease or of any portion of the leased area shall relieve the Lessee or his surety of the obligation to pay all accured rentals, royalties and other financial obligations or abandon all wells on the area to be surrendered in a manner satisfactory to the Director.

Sec. 22. *Removal of Property on Termination of Lease.* Within a period of one year after termination of this lease in whole or in part, the Lessee shall remove all devices, works and structures from the premises no longer subject to the lease in accordance with applicable regulations and orders of the Director. However, the Lessee may, with the approval of the Director, continue to maintain devices, works and structures on the leased area for drilling or producing on other leases.

Sec. 23. *Remedies in Case of Default.* (a) Whenever the Lessee fails to comply with any of the provisions of the Act, the regulations issued pursuant to the Act or the terms of this lease, the lease shall be subject to cancellation in accordance with the provisions of section 5 (c) and (d) of the Act and the Lessor may exercise any other remedies which the Lessor may have, including the penalty provisions of section 24 of the Act. Furthermore, pursuant to section 8(o) of the Act, the Lessor may cancel the lease if it is obtained by fraud or misrepresentation.

(b) Nonenforcement by the Lessor of a remedy for any particular violation of the provisions of the Act, the regulations issued pursuant to the Act or the terms of this lease shall not prevent the cancellation of this lease or the exercise of any other remedies under paragraph (a) of this section for any other violation or for the same violation occurring at any other time.

Sec. 24. *Unlawful Interest.* No member of, or Delegate to, Congress, or Resident Commissioner, after election or appointment, or either before or after he has qualified, and during this continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR Part 7, shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom. The provisions of Section 3741 of the Revised Statutes as amended, 41 U.S.C. 22, and the Act of June 25, 1948, 62 Stat. 702 as amended, 18 U.S.C. 431–433, relating to contracts made or entered into, or accepted by or on behalf of the United States, from a part of this lease insofar as they may be applicable.

Lessee: _____
Authorized signature: _____
Name: _____
Title: _____
Date of signature: _____
Address of Lessee: _____

_____

United States of America, Lessor _____
Authorized signature: _____
Name: _____
Title: _____
Date: _____

If this lease is executed by a corporation, it must bear the corporate seal.

[FR Doc. 78-27511 Filed 9-28-78; 8:45 am]

[4310-84]

Bureau of Land Management

OUTER CONTINENTAL SHELF, EASTERN GULF OF MEXICO

Outer Continental Shelf Leasing Systems Sale No. 65

Sec. 8(a)(8) (43 U.S.C. 1337(a)) of the Outer Continental Shelf Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the FEDERAL REGISTER.

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

Bidding systems to be used. In OCS lease sale 65, a system employing a cash bonus bid with a constant royalty fixed at 16⅔ percent will be used on 67 tracts. This system is authorized by section 8(a)(1)(A) of the OCS Lands Act, as amended. A system employing a cash bonus bid with a royalty established according to a semilogarithmic sliding scale will be used on 22 tracts. This system is authorized by section 8(a)(1)(C) of the OCS Lands Act, as amended. The use of the sliding scale royalty system was first introduced in OCS lease sale 43 and used again in OCS Lease Sale 45, as part of the commitment by the Department of the Interior and the Department of Energy to develop and test new biding systems.

The sliding scale is designed to establish higher royalty rates for larger resevoirs with higher production rates. This is intended to reduce bonuses, which should improve competition for leases. This would also tend to reduce the likelihood of production losses that could result if royalty rates are set by other means, such as royalty bidding at levels so high that production is made uneconomic.

The sliding scale used in recent lease sales (sales Nos. 43 and 45) was linear in form. Although this form is simple to depict, it has the disadvantage of creating an incentive to slow down production on very large reservoirs. The sliding scale to be tested in sale No. 65 is semilogarithmic in form and is intended to avoid incentives to slowdowns of production which may exist in other bidding systems.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $13.236230 million, but less than or equal to $1,662.854082 million, the royalty percent due on the unadjusted value or amount of productin is given by the formula

$$R_j = b(\mathrm{Ln}(V_j/S))$$

where

R_j = The percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j
b = 10.0
V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars
S = 2.5

When the adjusted quarterly value of production is equal to or greater than $1,662.854063 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula under two different values for the quarterly price index.

V 4 3 / 1 9 0 S E 2 9 7 8

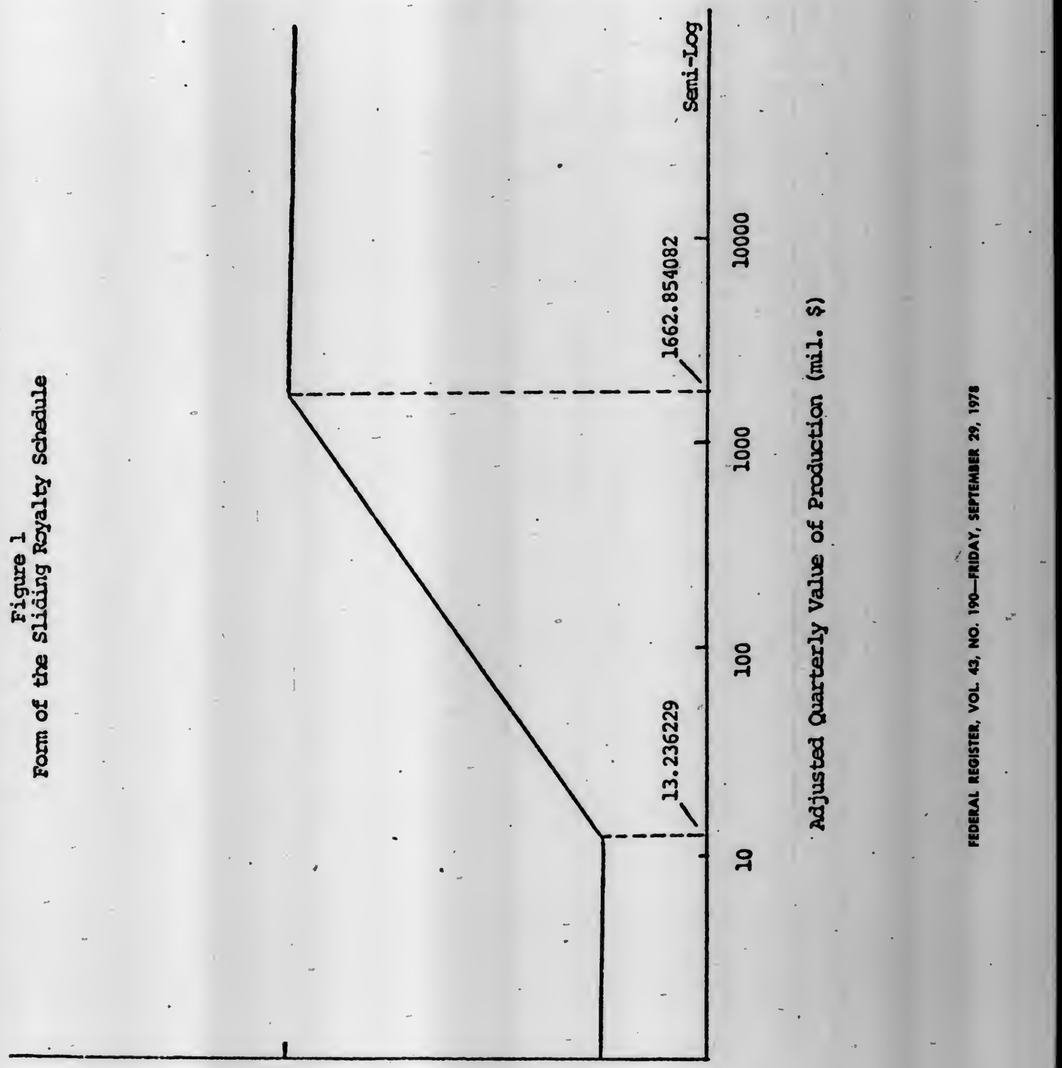


Figure 1
Form of the Sliding Royalty Schedule

TABLE 1.—*Hypothetical Quarterly Royalty Calculations*

(1) Actual value of quarterly production (millions of dollars)	(2) GNP fixed weighted price index	(3) Inflation factor [1]	(4) Adjusted value of quarterly production [2] (V_r, millions of dollars)	(5) Percent royalty rate (R_t)	(6) Royalty payment [3] (millions of dollars)
10.000000	200.0	4/3	7.500000	16.66667	666667
30.000000	200.0	4/3	22.500000	21.97225	6.592675
90.000000	200.0	4/3	67.500000	32.95837	29.662533
270.000000	200.0	4/3	202.500000	43.94449	116.650123
810.000000	200.0	4/3	607.500000	54.93061	444.937941
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	19.74081	5.922243
90.000000	250.0	5/3	54.000000	30.72693	27.654237
270.000000	250.0	5/3	162.000000	41.71306	112.625262
810.000000	250.0	5/3	486.000000	52.69918	426.863358

[1] Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).
[2] Column (1) divided by inflation factor.
[3] Column (1) times Column (5); All values are rounded for display purposes only.

The system employing cash bonus bids with a constant fixed royalty has been used extensively since the passage of the OCS Lands Act in 1953. Its use in sale No. 65 will provide data with which to compare the data from use of the sliding scale royalty system. The use of the two bidding systems in sale No. 65 is consistent with the requirements of sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

Tracts to be offered under each bidding system. The 22 tracts marked with an asterisk (*) in the following list of tracts being offered are to be offered for cash bonus bid with royalty established according to a sliding scale of semi-logarithmic form. All other tracts are to be offered for cash bonus bid with constant royalty fixed at 16⅔ percent.

OCS OFFICIAL PROTRACTION DIAGRAM, PENSACOLA NH 16-5
[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-1	882	All	5,760
65-2	883	All	5,760
65-3	884	All	5,760
65-4	885	All	5,760
65-5	886	All	5,760
65-6	926	All	5,760
65-7	927	All	5,760
65-8	928	All	5,760
65-9	929	All	5,760
65-10	930	All	5,760
65-11	970	All	5,760
65-12	971	All	5,760
65-13	972	All	5,760
65-14	973	All	5,760
65-15	974	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, DESTIN DOME NH 16-8
[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-21	313	All	5,760.00
65-22	314	All	5,760.00
65-23	357	All	5,760.00
65-24	358	All	5,760.00
65-25*	473	All	5,760.00
65-26*	474	All	5,760.00
65-27*	518	All	5,760.00
65-28*	519	All	5,760.00
65-29	529	All	5,760.00
65-30*	562	All	5,760.00
65-31*	563	All	5,760.00
65-32	573	All	5,454.72
65-33	574	All	5,760.00
65-34	618	All	5,760.00
65-35	661	All	5,760.00
65-36	662	All	5,760.00

OCS OFFICIAL PROTRACTION DIAGRAM, FLORIDA MIDDLE GROUND NH 16-12
[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-41	358	All	5,760
65-42	359	All	5,760
65-48	402	All	5,760
65-49	403	All	5,760
65-50	404	All	5,760
65-51	405	All	5,760
65-57	446	All	5,760
65-58	447	All	5,760
65-63	490	All	5,760
65-64	491	All	5,760
65-69	534	All	5,760
65-70	535	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, THE ELBOW NG 16-3
[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-71	567	All	5,134.56
65-72	609	All	5,760.00
65-73	696	All	5,760.00
65-74	697	All	5,760.00
65-75	739	All	5,760.00
65-76	783	All	5,760.00
65-77	827	All	5,760.00
65-78	871	All	5,760.00

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6
[Approved June 5, 1974; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-79*	256	All	5,760
65-80*	259	All	5,760
65-81*	302	All	5,760
65-82*	303	All	5,760
65-83	609	All	5,760
65-84	610	All	5,760
65-85	611	All	5,760
65-86	653	All	5,760
65-87	654	All	5,760
65-88	697	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, TARPON SPRINGS NH 17-10
[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-89*	233	All	5,760
65-90*	234	All	5,760
65-91*	277	All	5,760
65-92*	278	All	5,760
65-93*	279	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, ST. PETERSBURG NG 17-1
[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-94*	661	All	5,760
65-95*	662	All	5,760
65-96*	705	All	5,760
65-97*	706	All	5,760
65-98	753	All	5,760
65-99	754	All	5,760
65-100	797	All	5,760
65-101	798	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-102	143	All	5,760
65-103	144	All	5,760
65-104	145	All	5,760
65-105	187	All	5,760
65-106	188	All	5,760
65-107*	221	All	5,760
65-108	231	All	5,760
65-109*	265	All	5,760
65-110*	266	All	5,760
65-111	627	All	5,760
65-112	628	All	5,760
65-113	671	All	5,760
65-114	672	All	5,760
65-115	715	All	5,760
65-116	716	All	5,760

The selection of tracts to be offered under the sliding scale royalty system was made for the following reasons:

1. A sufficient number of tracts was needed to provide data for valid statistical analysis while limiting the risk of losses caused by unforeseen problems which could arise in the use of any new bidding system. A sample size of approximately 25 percent or 22 tracts was determined to be appropriate.

2. All tracts on an identifiable geological structure were to be offered under the same bidding system to reduce problems that could arise from managing adjacent tracts under different financial terms and to assure that bidding and production decisions

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would be clearly attributable to one bidding system or the other.

3. The range and distribution of the characteristics of sliding scale royalty tracts were to match, as closely as possible, the range and distribution of the characteristics of the tracts being offered in the sale. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the distribution of tracts across trends.

Dated: September 22, 1978.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved:

HEATHER L. ROSS,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-27233 Filed 9-28-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF—GULF OF MEXICO

Oil and Gas Lease Sale No. 65

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) as amended, and the regulations issued thereunder (43 CFR Part 3300).

Filing of bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, La. 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., October 30, 1978, or by personal delivery to the Tulane Room, Grand Hotel, 1500 Canal Street, New Orleans, La. 70140, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m. c.s.t., October 31, 1978. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., October 31, 1978. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 43 FR 15500, April 13, 1978, as corrected in 43 FR 16427, April 18, 1978.

3. *Method of bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., October 31, 1978," must be submitted for each tract. A suggested form appears in paragraph 17 of this notice. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on offical protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by casher's check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bonus bidding with a fixed sliding scale royalty.* Bids on tracts 65-25, 65-26, 65-27, 65-28, 65-30, 65-31, 65-79, 65-80, 65-81, 65-82, 65-89, 65-90, 65-91, 65-92, 65-93, 65-94, 65-95, 65-96, 65-97, 65-107, 65-109, and 65-110 must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or solid fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $13.236230 million, but less than or equal to $1662.854082 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\mathrm{Ln}\,(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 10.0

Ln = natural logarithm

V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.4

When the adusted quarterly value of production is equal to or greater than $1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be carried to five decimal places (for example, 20.17329 percent.) This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quaterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the acutal amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two differents values for the quarterly price index.

Leases awarded on the basis of a cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of $3 per acre or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under section 302(b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

Figure 1
Form of the Sliding Royalty Schedule

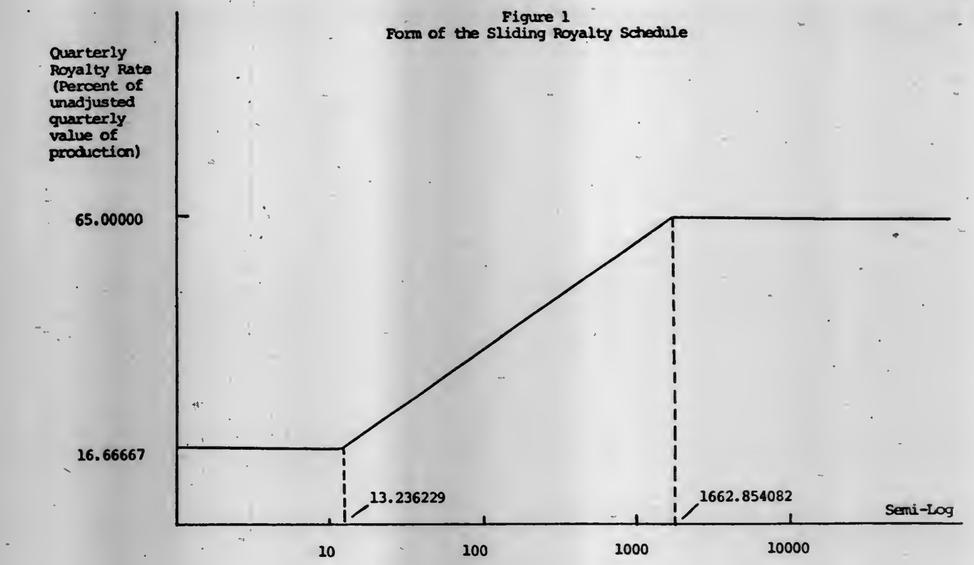


TABLE 1.—*Hypothetical Quarterly Royalty Calculations*

(1) Actual value of quarterly production (millions of dollars)	(2) GNP fixed weighted price index	(3) Inflation factor [1]	(4) Adjusted value of quarterly production [2] (y_j, millions of dollars)	(5) Percent royalty rate (R_j)	(6) Royalty payment [3] (millions of dollars)
10.000000	200.0	4/5	7.500000	16.66667	1.666667
30.000000	200.0	4/5	22.500000	21.97225	6.591675
90.000000	200.0	4/5	67.500000	32.95837	29.662533
270.000000	200.0	4/5	202.500000	43.94449	118.650123
810.000000	200.0	4/5	607.500000	54.93061	444.937941
10.000000	250.0	5/5	6.000000	16.66667	1.666667
30.000000	250.0	5/5	18.000000	19.74081	5.922243
90.000000	250.0	5/5	54.000000	30.72693	27.654237
270.000000	250.0	5/5	162.000000	41.71306	112.625262
810.000000	250.0	5/5	486.000000	52.69918	426.863358

[1] Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).
[2] Column (1) divided by inflation factor.
[3] Column (1) times column (5); all values are rounded for display purposes only.

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5. *Bonus bidding with a fixed constant royalty.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus basis with a fixed royalty of 16⅔ percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of $3 per acre or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17.

6. *Equal opportunity.* Each bidder must have submitted by 9:30 a.m., c.s.t., October 31, 1978, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid opening.* Bids will be opened on October 31, 1978, beginning at 10 a.m., c.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 31, 1978, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. *Deposit of payments.* Any cash, cashier's checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Acceptance or rejection of bids.* The United State reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. *Withdrawal of tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

11. *Successful bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5. The Secretary shall announce his decision on acceptance of bids not later than December 29, 1978.

12. *Protraction diagrams.* Tracts offered for lease may be located on the following official protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office at the address stated in paragraph 2. They sell for $2 each.

Outer Continental Shelf offical protraction diagrams:
(1) NH 16-5, Pensacola.
(2) NH 16-8, Destin Dome.
(3) NH 16-12, Florida Middle Ground.
(4) NG 16-3, The Elbow.
(5) NG 16-6.
(6) NH 17-10, Tarpon Springs.
(7) NG 17-1, St. Petersburg.
(8) NG 17-4, Charlotte Harbor.

13. *Tract descriptions.* The tracts offered for bid are as follows:

NOTE.—There may be gaps in the sequence of the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, PENSACOLA NH 16-5

[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-1	882	All	5,760
65-2	883	All	5,760
65-3	884	All	5,760
65-4	885	All	5,760
65-5	886	All	5,760
65-6	926	All	5,760
65-7	927	All	5,760
65-8	928	All	5,760
65-9	929	All	5,760
65-10	930	All	5,760
65-11	970	All	5,760
65-12	971	All	5,760
65-13	972	All	5,760
65-14	973	All	5,760
65-15	974	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, DESTIN DOME NH 16-8

[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-21	313	All	5,760.00
65-22	314	All	5,760.00
65-23	357	All	5,760.00
65-24	358	All	5,760.00
65-25	473	All	5,760.00
65-26	474	All	5,760.00
65-27	518	All	5,760.00
65-28	519	All	5,760.00
65-29	529	All	5,760.00
65-30	562	All	5,760.00
65-31	563	All	5,760.00
65-32	573	All	5,454.72
65-33	574	All	5,760.00
65-34	618	All	5,760.00
65-35	661	All	5,760.00
65-36	662	All	5,760.00

OCS OFFICIAL PROTRACTION DIAGRAM, FLORIDA MIDDLE GROUND NH 16-12

[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-41	358	All	5,760
65-42	359	All	5,760
65-46	402	All	5,760
65-49	403	All	5,760
65-50	404	All	5,760
65-51	405	All	5,760
65-57	446	All	5,760
65-58	447	All	5,760
65-63	490	All	5,760
65-64	491	All	5,760
65-69	534	All	5,760
65-70	535	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, THE ELBOW NG 16-3

[Approved Oct. 10, 1972; Revised Aug. 1, 1973; Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-71	567	All	5,134.56
65-72	609	All	5,760.00
65-73	696	All	5,760.00
65-74	697	All	5,760.00
65-75	739	All	5,760.00
65-76	783	All	5,760.00
65-77	827	All	5,760.00
65-78	871	All	5,760.00

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6

[Approved June 5, 1974; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-79	258	All	5,760
65-80	259	All	5,760
65-81	302	All	5,760
65-82	303	All	5,760
65-83	609	All	5,760
65-84	610	All	5,760
65-85	611	All	5,760
65-86	653	All	5,760
65-87	654	All	5,760
65-88	697	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, TARPON SPRINGS NH 17-10

[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-89	233	All	5,760
65-90	234	All	5,760
65-91	277	All	5,760
65-92	278	All	5,760
65-93	279	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, ST. PETERSBURG NG 17-1

[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-94	661	All	5,760
65-95	662	All	5,760
65-96	705	All	5,760
65-97	706	All	5,760
65-98	753	All	5,760
65-99	754	All	5,760
65-100	797	All	5,760
65-101	798	All	5,760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4

[Approved Oct. 10, 1972; Revised Dec. 2, 1976]

Tract No.	Block	Description	Acreage
65-102	143	All	5,760
65-103	144	All	5,760
65-104	145	All	5,760
65-105	187	All	5,760
65-106	188	All	5,760
65-107	221	All	5,760
65-108	231	All	5,760
65-109	265	All	5,760
65-110	266	All	5,760
65-111	627	All	5,760
65-112	628	All	5,760
65-113	671	All	5,760
65-114	672	All	5,760
65-115	715	All	5,760
65-116	716	All	5,760

14. *Lease terms and stipulations.* All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4, Form 3300-1 will be amended as follows:

Sec. 6. *Royalty on production.* (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $13.236230 million, but less than or equal to $1662.854082 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\mathrm{Ln}\ (V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 10.0

Ln = natural logarithm

V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars

s = 2.5

When the adjusted quarterly value of production is equal to or greater than $1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be carried to five decimal places (for example, 20.17329 percent). This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars). . . .

In the following stipulation the term Supervisor refers to the Gulf of Mexico area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale.

STIPULATION No. 1

a. The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of operations on any leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

b. (To apply only to the leases resulting from this proposed sale for tracts 65-1 through 65-15, 65-21, 65-89 through 65-93.)

For these lease tracts, falling within Cultural Resource Zones 1 and 2 as defined and plotted in the final report Cultural Resources Evaluation of the Northern Gulf of Mexico Continental Shelf (Coastal Environments, Inc., 1977), and tracts falling outside the Zones 1 and 2 in which there is reason to believe a cultural resource exists, the Supervisor shall require the lessee to comply with the following:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and to the Manager.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operations so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operations will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager, for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

STIPULATION No. 2

For the purpose of this stipulation, "Live Bottom Areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles and fishes.

a. (To apply only to leases resulting from this proposed sale for tracts 65-1 through 65-15.)

Prior to any drilling activity or placement of any fixed structures or pipelines or any other exploration or production activity, the lessee will submit to the Supervisor as part of his exploration and/or development plan a bathymetry map, prepared utilizing remote sensing survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum one-mile radius of the proposed exploration or production activity site.

b. (To apply to all leases resulting from this proposed sale.)

If it is determined that remote sensing data indicate the possibility of live bottom areas, the lessee will submit to the Supervisor photo or other documentation of the sea bottom of the proposed exploratory drilling sites or proposed platform locations or points as determined by the Supervisor.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the Supervisor will require the lessee to undertake any measures deemed economically, environmentally, and technologically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

1. The relocation of operations to avoid live bottom areas.

2. The shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas.

3. The transportation of drilling fluids and cuttings to approved disposal sites.

4. The monitoring of live bottom areas to assess the adequacy of any mitigating measures taken and the impact of lessee-initiated activities.

STIPULATION No. 3

a. (To apply only to the leases resulting from this proposed sale for tracts 65-1, 65-6, 65-11, 65-12, 65-21 through 65-28, 65-30, 65-31, 65-41 through 65-70, 65-73 through 65-78, and 65-94 through 65-116.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the

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Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Gulf Test Range, the Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, Tyndall Air Force Base or Naval Air Advance Training Command, Naval Air Station, Corpus Christi, Texas. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or ommission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmlesss the United States against and to defend at its own expense the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, and to defend at its own expense the United States against, all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate onshore military installation, i.e., Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, or Tyndall Air Force Base, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities, conducted within individual designated warning areas. Necessary monitoring control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

The lessee, when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate onshore military installation, i.e., Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, or Tyndall Air Force Base, utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

b. (To apply only to the leases resulting from this proposed sale for tracts 65-25 through 65-28, 65-30, and 65-31.)

When the activities of the Armament Development and Test Center at Eglin Air Force Base may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Secretary, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent directive from the Secretary. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

STIPULATION NO. 4

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technologically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Intergovernmental Planning Program for Leasing and Management of Transportation of Outer Continental Shelf Oil and Gas with the participation of Federal, State, and local government and the industry. Where feasible, all Department of the Interior regulated pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the completion of pipeline installations, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed:

All vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a).

STIPULATION NO. 5

To be included in any leases resulting from this proposed sale for the sliding scale royalty tracts listed in paragraph 4 of this notice.

(a) The royalty rate on production saved, removed, or sold from this lease is subject to consideration for reduction under the same authority that applies to other oil and gas leases on the Outer Continental Shelf (30 CFR 250.2(e)). The Director, Geological Survey, may grant a reduction for only 1 year at a time. Reduction of royalty rates will not be approved unless production has been underway for 1 year or more.

(b) Although the royalty rate specified in section 6(a), as amended, of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔ percent of the production saved, removed, or sold from the lease area may be taken as royalty in amount, except as provided in section 15(d); the royalty on any portion of the production saved, removed, or sold from the lease in excess of 16⅔ percent may only be taken in value of the production saved, removed, or sold from the lease area.

STIPULATION NO. 6

(To be included in any lease resulting from this proposed sale for the following tracts: 65-72 through 65-74, 65-77, 65-78, 65-82 through 65-90, 65-92, 65-93, 65-98 through 65-106, 65-108, 65-112, 65-114, and 65-115.)

Portions of these tracts may contain karst sinkholes. Exploratory drilling operations, emplacement of structures (platforms), or seafloor wellheads for the production or storage of oil or gas will not be allowed on those portions of the tract which contain karst sinkholes until the lessee has demonstrated to the Supervisor's satisfaction that exploratory drilling operations can be safely conducted or structures (platforms), casing, and wellheads can be safely designed and installed at the proposed location.

15. *Information to lessees.* The Department of the Interior will seek the advice of the States of Mississippi, Louisiana, Alabama, and Florida and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the Supervisor, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the Manager, and the States, will require the lessee to undertake any measures deemed economically, environmentally, and technologically feasible to protect live bottom areas.

In September 1978, the OCS Lands Act Amendments of 1978, hereinafter referred to as the 1978 Amendments, were enacted. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that provisions of the new OCS Lands Act Amendments shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands and all installations and other devices permanently or temporarily attached to the seabed on the Outer Continental Shelf in accordance with section 4(f) of the Outer Continental Shelf Lands Act of 1953, as modified by the 1978 Amendments.

In applying safety, environmental, and conservation laws and regulations, the Supervisor, in accordance with Sec. 21(b) of the OCS Lands Act Amendments of 1978, will require the use of the best available and safest technologies which are determined to be economically feasible. To the extent practicable, the Supervisor will consult with the relevant Federal agencies and the affected State(s) in the execution of these responsibilities.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

16. *OCS orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS orders, as of their effective date, and any other applicable OCS order as it becomes effective.

17. *Suggested bid form.* It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf Office, in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per acre	Amount of cash bonus submitted with bid
.....	.....	.....	.....

Proportionate Interest of Company(s) Submitting Bid

Qualification No ....
Company

Percent interest ....
Address

.....
Signature
(Please type signer's name under signature.)

18. *Required joint bidders statement.* In the case of joint bids, each joint bidder is required to execute a joint bidder's statement before notary public and submit it with his bid. A suggested form for this statement is shown below.

JOINT BIDDER'S STATEMENT

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature _____
(Please type signer's name under signature.)

Sworn to and subscribed before me this —— day of ——19—.

Notary Public _____
State of _____
County of _____

Dated: September 22, 1978.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: September 22, 1978.

JAMES A. JOSEPH,
Acting Secretary
of the Interior.

[FR Doc. 78-27234 Filed 9-28-78 8:45 am]

[4310-09]

Bureau of Reclamation

CASCADE RESERVOIR, BOISE PROJECT, VALLEY COUNTY, IDAHO

Public Notice of the Closing of Portions of Areas Previously Open for Off-Road Vehicle Use at Cascade Reservoir, Boise Project, Valley County, Idaho

In accordance with authorities and requirements of Executive Orders 11644 and 11989, the provisions of title 43, part 420, the off-road vehicle (ORV) use at Cascade Reservoir in the area from Poison Creek in the N½ of section 5 T. 15 N., R. 3 E. through sections 32 and 29 T. 16 N., R. 3 E. to the U.S. Forest Service boundary is hereby terminated. This area was part of an area declared as open to ORV use by public notice 42 FR 15670 published on March 23, 1977, and has since been developed as a public recreation area and is now incompatible with ORV use. This change will become effective 30 days following publication in the FEDERAL REGISTER. This change has been incorporated into the proposal and map which are on file and available for inspection at:

Bureau of Reclamation, Central Snake Project Office, 214 Broadway Avenue, Boise, Idaho 83702.
Reservoir Superintendent, Cascade Dam, Cascade, Idaho 83611.
Valley County Courthouse, County Clerk's Office, Cascade, Idaho 83611.
Cascade City Hall, City Clerk's Office, Cascade, Idaho 83611.
Donnelly City Hall, Donnelly, Idaho 83615.

FOR FURTHER INFORMATION CONTACT:

Mr. Mike Misner, Chief, Recreation Branch, Pacific Northwest Region, Bureau of Reclamation, Federal Building, 550 West Fort Street, Boise, Idaho 83724, telephone area code 208-384-1177.

Dated: September 25, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-27441 Filed 9-28-78; 8:45 am]

[4310-70]

National Park Service

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning at 7:30 p.m., e.d.t., on Thursday, October 26, and continuing until approximately 12 noon, e.d.t., Friday, October 27, 1978, at Mohican State Park, located in Ashland County, southwest of Loudenville, Ohio, reached from either State Route 95 or State Route 97.

The Commission was established by Pub. L. 93-555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the public law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mr. Roger L. Rossi
Mrs. George N. Seltzer
Mrs. Robbie Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

The meeting will be held in two segments in the meeting room of the Lodge at Mohican State Park. On Thursday, October 26, it will begin at 7:30 p.m., e.d.t., and on Friday, October 27, it will begin at 9 a.m., e.d.t.

Matters to be discussed at this meeting include:

1. Report on park operations.

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2. Report by committee on proposed historic easements.
3. Scope of transportation study.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216-653-3313. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, State Route 303, 2 miles east of Peninsula, Ohio.

Dated: September 21, 1978.

JAMES L. RYAN,
Acting Regional Director, Midwest Region.

[FR Doc. 78-27417 Filed 9-27-78; 8:45 am]

[4310-70]

[Order No. 5]

ADMINISTRATIVE ASSISTANT, ET AL., HOPEWELL VILLAGE NATIONAL HISTORIC SITE

Delegation of Authority Regarding Execution of Contracts and Purchase Orders

SECTION 1. Administrative Assistant. The Administrative Assistant, Hopewell Village National Historic Site, may execute, approve, and administer contracts not in excess of $50,000 for supplies and equipment or services, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

SEC. 2. This order supersedes Hopewell Village National Historic Site Order No. 4, dated June 2, 1977, and published in 42 FR 22642 on August 8, 1977.

Dated: September 12, 1978.

ELIZABETH E. DISRUDE,
Superintendent.

[FR Doc. 78-27418 Filed 9-27-78; 8:45 am]

[4310-70]

REVISED MANAGEMENT POLICY ON HOSTELS

The National Park Service has revised and expanded its policy on hostels to encourage the provision of hostels in areas of the National Park System, where appropriate. Copies of the new policy may be obtained after September 30 by writing the nearest regional office:

Mid-Atlantic Regional Office, National Park Service, 143 South 3d St., Philadelphia, Pa. 19106.
Midwest Regional Office, National Park Service, 1709 Jackson St., Omaha, Nebr. 68102.
North Atlantic Regional Office, National Park Service, 15 State St., Boston, Mass. 02109.
Pacific Northwest Regional Office, National Park Service, 601 4th and Pike Bldg., Seattle, Wash. 98101.
Rocky Mountain Regional Office, National Park Service, 655 Parfet St., P.O. Box 25287, Denver, Colo. 80225.
Southeast Regional Office, National Park Service, 1895 Phoenix Blvd., Atlanta, Ga. 30349.
National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242.
Western Regional Office, National Park Service, 450 Golden Gate Ave., Box 36063, San Francisco, Calif. 94102.
Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, N. Mex. 87501.

Dated: September 22, 1978.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc. 78-27416 Filed 9-28-78; 8:45 am]

[7020-02]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-36]

CERTAIN PLASTIC FASTENER ASSEMBLIES

Suspension of Investigation

Notice is hereby given that the United States International Trade Commission on September 22, 1978, affirmed the presiding officer's recommendation of August 22, 1978, and ordered, pursuant to 19 U.S.C. 1337(b)(1), the suspension of Commission investigation No. 337-TA-36 of certain plastic fastener assemblies, effective upon publication in the FEDERAL REGISTER. This suspension will continue until such time that certain physical exhibits in the custody of the U.S. District Court for the Southern District of New York, which have been received in evidence as physical exhibits in connection with the case pending therein, *Dennison Mfg. Co.* v. *Ben Clements & Sons, Inc.*, 75 Civ. 979 (CES), will become available to the presiding officer for a period of not less than five (5) months. The suspension was requested by a joint motion of the complainant, Dennison Manufacturing Co., and respondent, Ben Clements & Sons, Inc., on August 11, 1978 (motion docket No. 36-24). In addition, the Commission affirmed the presiding officer's recommendation of August 27, 1978, to grant a 30-day extension for completion of the hearing once the suspension is lifted and the investigation resumed (19 CFR 210.41(e)(1)).

Notice of institution of the investigation was published in the FEDERAL REGISTER on August 11, 1977 (42 FR 40786).

By order of the Commission.

Issued: September 26, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27614 Filed 9-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-36]

CERTAIN PLASTIC FASTENER ASSEMBLIES

Commission Order and Memorandum

PROCEDURAL BACKGROUND

On August 15, 1978, a joint motion for the termination of 11 party respondents[1] to the subject investigation was filed by the complainant, Dennison Manufacturing Co., the Commission investigative attorney, and a party respondent, Ben Clements & Sons. None of the other party respondents expressed objection to the motion for termination. The presiding officer, acting in conformity with §§ 210.51 (a) and (c) and 210.53 of the Commission's rules of practice and procedure,[2] concluded that no violation of section 337 of the Tariff Act of 1930, as amended,[3] exists with respect to the 11 respondents and, by order of August 22, 1978,[4] recommended that the 11 companies be terminated as party-respondents.

DETERMINATION AND ORDER

Having considered the motion to terminate and the reasons set forth therein, the Commission determines that Lozio et Figli S.A.S.; Tokyo Style Ltd.; Teknotex; Yoo Joh & Co.; Osabe Marking System, Dae Won Kang Up Co. Ltd.; Dong Shin Pharmaceutical Co. Ltd.; Yoo & Co.; Tong Shin Co. Ltd.; Marketing Resources Co.; and Han Sung Trading Co. are not currently in violation of section 337.

Accordingly, the Commission grants motion 36-25 and orders that the above-named companies be, and hereby are, terminated as party respondents to the instant investigation.

OPINION

The joint motion of August 15, 1978, was accompanied by a statement that

[1] Those 11 party respondents are Lozio et Figli S.A.S.; Tokyo Style Ltd.; Teknotex; Yoo Joh & Co.; Okabe Marking System; Dae Won Kang Up Co. Ltd.; Dong Shin Pharmaceutical Co. Ltd.; Yoo & Co.; Tong Shin Co. Ltd.; Marketing Resources Co.; and Han Sung Trading Co.

[2] 19 CFR 210.51 (a) and (c) and 210.53.

[3] 19 U.S.C. 1337.

[4] Recommended determination to dismiss all respondents named by the Commission in the notice of this investigation except for the respondent Ben Clements & Sons, Inc., filed Aug. 22, 1978.

the Commission should terminate its investigation as to the 11 respondents because none of the 11 is now engaged in exporting or importing into the United States products which could be affected by a remedy in this investigation. In view of this fact and because the complainant, the Commission investigative attorney, and the only active respondent all support the termination of the 11 companies as party respondents, the Commission has determined that those 11 companies are not in violation of section 337 and has granted the joint motion.

By order of the Commission.

Issued: September 26, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27615 Filed 9-28-78; 8:45]

[7020-02]

[AA1921-184]

PORTLAND HYDRAULIC CEMENT FROM CANADA

Determination of No Injury or Likelihood Thereof

On June 23, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that portland hydraulic cement from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 29, 1978, the Commission instituted investigation No. AA1921-184 under section 201(a) of said act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of treasury's determination, the term "portland hydraulic cement" refers to portland hydraulic cement, other than white nonstaining.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the FEDERAL REGISTER on July 6, 1978 (43 FR 29192). On July 26-28, 1978, a hearing was held in Washington, D.C. at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed in investigation No. AA1921-184, the Commission has determined (Commissioner George M. Moore dissenting and Chairman Joseph O. Parker and Commissioner Daniel Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established by reason of the importation of portland hydraulic cement from Canada that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Commissioner George M. Moore determined that an industry in the United States is being injured by reason of the importation of portland hydraulic cement into the United States from Canada that is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS OF COMMISSIONER CATHERINE BEDELL [1]

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being estalished,[2] and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of information obtained in this investigation, I determine that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of portland hydraulic cement from Canada, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Portland hydraulic cement other than white nonstaining, the subject of this investigation, is a major building material and is used in road and building construction. A comparable class of merchandise is produced in the United States by 57 companies at 163 plants. I consider the relevant industry in this investigation to consist of those facilities in the United States devoted to the production of portland hydraulic cement but where the possible impact of LTFV sales is on the producers serving the northeast regional market.[3]

LTFV SALES

The Treasury investigation covered sales during the period April 1, 1977, to August 31, 1977. The investigation was limited to four companies who together accounted for about 84 percent of all sales of portland hydraulic cement from Canada to the United States. Comparisons were made on about 72 percent of the portland hydraulic cement sold for export to the United States by the four producers investigated. Treasury found LTFV margins on the following percentages of sales by these manufacturers: 100 percent of the sales by Miron Co., Ltd.; 51 percent of sales by Lake Ontario Cement, Ltd.; 78 percent of the sales by Canada Cement Lafarge, Ltd.; and 99 percent of the sales by St. Lawrence Cement Co. Treasury found the weighted average of the four Canadian producers to be 50.1 percent.

INDUSTRY "REGIONAL" IN CHARACTER

The statue requires the Commission to make its determination based upon "an industry in the United States." It is recognized, however, that an industry may be considered "regional" in character particularly where: (1) Domestic producers of an article are located regionally and serve a particular regional market predominantly or exclusively, and (2) the LTFV imports are concentrated primarily in the regional market.[4] In this case, both criteria are met as respects the northeast market. first, transportation costs tend to prohibit shipments of portland hydraulic cement for sale at competitive prices more than 300 mile from the producing plant. Second, LTFV sales were reported by Treasury only as to those shipment to this market, over 80 percent of imports from Canada being to this market; price comparisons also were made by Treasury only on the four firms that shipped the major part of their exports to the northeast market.

The cement industry singularly has been one of those with respect to which it has been well-recognized that there are separate geographical marketing areas. In a 1978 publication of the Portland Cement Association,[5] it is stated in part:

Cement manufacture is a regional industry primarily because of the low value-to-weight ratio of the product. Cement plants tend to be located 150 to 200 miles of their principal markets. Beyond that distance, overland transportation costs become excessive in relation to the value of the product.

The regional character of the industry tends to be diluted to some extent

[1] Commissioner Italo H. Ablondi concurs in the result.

[2] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

[3] The northeast market includes the States of New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

[4] U.S. Senate, report of the committee on finance to accompany H.R. 10710, trade Act of 1974, S. Rept. No. 93-1298 (93d Cong., 2d Sess.) 1974 at pp. 180-81.

[5] The U.S. Cement Industry an Economic Report, p. 6.

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by shipments made much greater distances than 200 or 300 miles in circumstances where prices are favorable and demand is great or water transportation facilities are available to the producer. Nevertheless, the evidence in this case is generally supportive of the regional market concept of the cement industry at this time, and most careful consideration has been given to this matter in this determination. The regional market concept was recognized by the Commission in previous cement antidumping determinations.

INJURY TO U.S. INDUSTRY NOT CAUSED BY LTFV SALES

Whatever injury the domestic industry is suffering, it is not by reason of imports sold at LTFV.

DOMESTIC INDUSTRY—CONDITIONS AS A WHOLE

The U.S. cement industry as a whole is prospering throughout the United States with the exception of certain geographical areas such as the northeast market. Production, prices, plant utilization, and employment are increasing; wages are high in comparison to other industries. There are severe shortages in various parts of the United States and all economic predictions are that the shortage will become more acute in the near future. The indications are that shortages are even being felt in some of the geographical market areas in which economic conditions relating to the use of cement are depressed.

Employment in the hydraulic cement industry, labor productivity, and average earnings of production and related workers all increased markedly during the 1975–77 period. The average earnings increased 25 percent during this period compared with an 11 percent increase for construction workers and 16 percent for all manufacturing workers.

Plant utilization increased nationally from 62.9 percent to 75 percent during the 1975–77 period based on total annual grinding capacity. In 1977, the industry had increased the grinding output to a total of 76 million short tons; the total grinding capacity of the U.S. plants is 104 million short tons.

NORTHEAST MARKET CONDITIONS

Economic Recession

U.S. consumption in the northeast market decreased annually during the 1975–77 period from 4.8 million tons to 4.5 million tons. Consumption in the January-March 1978 period in the northeast market increased 2 percent over the same period in 1977, an indication that economy recovery is beginning in this market. Concrete and concrete products are essential in practically all construction and demand for cement as a raw material for concrete is heavily dependent on construction activity. All indications are that much of the United States recovered much more quickly than the northeast area and that there have been and are severe shortages of cement in many other areas. In fact, shortages are beginning to appear presently in some local areas of the northeast market.

Severe Competition in the Northeast Market

The large number of domestic facilities selling in the northeast market where consumption was decreasing resulted in severe competition, especially since some of the facilities were situated so their sales were restricted to this market while others were situated to enable some sales to adjacent markets. There was no substantial evidence that the Canadians were the leaders to decrease the price of cement. Two instances were found where a lower price for the Canadian product was considered as one of the factors in the decision to purchase. All other indications were that the prices in some city areas in the northeast market were lower for the domestic product and in other city areas the Canadian product was lower-priced. There did not appear to be any indication of a predominance of one or the other type of circumstance. There were, however, several incidents of domestic producers cutting the price and holding the line on such price when increases were announced either by other domestic companies or Canadian importers. By and large, the sellers of Canadian cement were within the range of prices of a local area.

Many of the purchasers of cement in the northeast market have been using Canadian cement for many years, others stated that the shortage in 1973 resulted in the purchase of the Canadian product as the prime or alternate source of supply of cement. Many purchasers asserted better service and delivery of the Canadian product.

"White" Sale of Inventory of Closed Plant

Subsequent to the announcement of the closing of the Universal Atlas plant at Hudson, N.Y., in september 1976, there was an inventory disposal sale at discount prices which resulted in fairly widespread price decreases. The majority of the cement customers contacted with respect to possible lost sales by the domestic industry to Canadian cement contended that the domestic industry overreacted to happenings and reduced prices prematurely. The inventory disposal sale resulted in fairly widespread price decreases.

No Tangible Evidence of Price Suppression

It has not been established that the presence of the LTFV cement in the northeast market caused a suppression of price. Although New York City in this case has been considered to be a part of the northeast market, little or no Canadian cement actually entered into the city's market. Prices, nevertheless, were less during the 1975–1977 period than in most areas of the United States. Again, in Philadelphia, which was not considered to be a part of the northeast market, and where there was little or no Canadian cement in the market, prices were more depressed than in the northeast market.

Increased Fuel and Environmental Costs

Although separate figures are not readily available as to fuel and environmental costs in the northeast area, the cement industry as a whole has been particularly adversely affected by increasing fuel and power prices. Energy costs represent about 40 percent of the cost of finished cement.

The domestic cement industry has estimated that $500 million was spent by cement producers during the period 1971–77 in order to comply with air, water-control and land-use regulations.

Employment

One of the most important factors in considering whether there is injury to a domestic industry is what the employment situation is in the industry. Counsel for the Glen Falls Division of the Flintkote Co., which initially presented information to the Treasury Department resulting in the antidumping investigation, remarked in his opening statement at the Commission hearing that the Commission was not going to find that employees were laid off,[6] and our investigation provided no statistics to support a finding of lessened empoyment in the northeast market.

Utilization of Production Facilities Increased

Capacity utilization in the northeast market from the period 1975–77 increased from 62 percent to 77 percent, the largest percentage increase of the various geographical markets for the entire U.S. cement industry. One of the main reasons for the increased utilization in the northeast area was that there were three cement plant closings, apparently old facilities which were not in compliance with environmental regulations.

FINDINGS OF NO PRESENT INJURY

Due to the particular circumstances in the industry as a whole in the United States, there is no possibility of finding injury by reason of sales at LTFV if consideration is given to the industry and its national market. It is also most evident from the facts and circumstances that even taking cognizance of a geographical market area, referred to as the northeast market, there is no present injury.

[6] Transcript of the hearing, p. 12.

NO LIKELIHOOD OF INJURY BY REASON OF LTFV SALES

I also determine that there is no likelihood of injury to the domestic industry producing portland hydraulic cement that sells a substantial part of its output in the northeast market. Increased apparent consumption and recent price increase announcements are an indication that demand for cement is on the upswing even in the northeast market. Indeed, much evidence has been recently submitted indicating that the cement shortage already evident in many other areas of the country is beginning to appear in the northeast. The four Canadian companies found by Treasury to be making LTFV sales, and other Canadian producers, are receiving purchase orders from many areas of the United States and are finding it difficult to keep up with the growing demand for their output.

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[7] and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of information obtained in this investigation, I determine that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of portland hydraulic cement from Canada, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Portland hydraulic cement other than white nonstaining, the subject of this investigation, is a major building material and is used in road and building construction. I consider the relevant industry in this investigation to be those facilities in the United States devoted to the production of portland hydraulic cement. In 1977, portland hydraulic cement was produced by 57 companies in 163 plants.

LTFV SALES

The Treasury investigation covered sales during the period April 1, 1977, to August 31, 1977. The investigation was limited to four companies who together accounted for about 84 percent of all sales of portland hydraulic cement from Canada to the United States. Comparisons were made on about 72 percent of the portland hydraulic cement sold for export to the United States by the four producers investigated. Treasury found LTFV margins on the following percentages of sales by these manufacturers: 100 percent of the sales by Miron Co., Ltd.; 51 percent of sales by Lake Ontario Cement, Ltd.; 78 percent of the sales by Canada Cement Lafarge, Ltd.; and 99 percent of the sales by St. Lawrence Cement Co. Treasury found the weighted average margin of the four Canadian producers to be 50.1 percent.

THE ISSUE OF A NATIONAL OR REGIONAL INDUSTRY

It was urged by the petitioners and other domestic industry representatives that the Commission look at injury to a regional market, namely the northeast.

The statute requires the Commission to make its determination based upon "an industry in the United States". The industry may be considered "regional" in character, particularly where: (1) Domestic producers of an article are located in and serve a particular regional market predominantly or exclusively, and (2) the LTFV imports are concentrated primarily in the regional market.[8] In this investigation, both criteria are met.

The Senate Finance Committee in discussion of the Trade Act agreed with the principle of geographic segmentation in antidumping cases. However, the Committee further agreed that there might be instances where application of the principle might be inappropriate—

> • • • , the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury, to regional producers always constitutes injury to an industry.[9]

I believe this case is one of those "unique" instances where application of the regional concept is inappropriate. My belief is based on the major impact a dumping finding would have on the entire U.S. market where shortages clearly exist. Evidence presented to the Commission attests to the current shortage of portland hydraulic cement, particularly in the Western half of the United States, and to the distinct indication that such shortages are growing throughout the country. High prices in areas of short supply are encouraging transportation over much longer distances than are normally economical in this industry. I could well have found the regional industry is not being injured and is not likely to be injured. However, the legislative history makes it clear that the Commission must analyze the appropriateness of regional injury on a case by case basis. While the criteria for such analysis have been met here, I believe that, due to the reasons stated, consideration on national basis is more apropriate in this investigation.

THE QUESTION OF INJURY OR LIKELIHOOD THEREOF BY REASON OF LTFV SALES

Imports and market share.—Imports from Canada from 1975 through 1977 increased by 254 thousand tons, an increase of $14 million in value. Canada's share of total U.S. imports increased from 45 to 57 percent in the same time frame. From 1975 through June, 1978, imports from Canada have represented 1.6 percent of apparent U.S. consumption.

Capacity utilization.—From 1975 through 1977, U.S. producers' capacity utilization increased by slightly more than 19 percent.

U.S. producers' shipments.—Shipments of portland hydraulic cement from 1975 through 1977 increased from 66 million tons to 76 million tons, a value increase of $700 million. This increase in shipments reflects an increase in most types of construction.

Consumption.—U.S. consumption exhibited a steady upward climb in the amount of 9 million tons from 1975 through 1977. There is evidence that consumption will continue to increase in 1978.

Employment.—The average number of production and related workers in the U.S. hydraulic cement industry increased slightly from 1975 through 1977. Average hourly earnings for this group increased by $1.59.

Profits.—Data obtained in Commission questionnaires with regard to financial performance showed that the ratio of net profit to net sales increased from 5.7 percent in 1975 to 11.2 percent in 1977.

Prices.—Prices of both U.S. and Canadian portland hydraulic cement varied from 1975 through June, 1978, but generally moved upward while remaining relatively close to each other.

Lost sales.—In checking allegations of lost sales, the Commission found many U.S. purchasers began purchasing the Canadian product in 1973–74 when domestic producers were unable

[7] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

[8] U.S. Senate, Report of the Committee of Finance to accompany H.R. 10710, Trade Act of 1974, S. Rept. No. 93-1298 (93d Cong., 2d Sess.) 1977 at pp. 180–181.

[9] Senate Report, supra, at pp. 180–181.

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to meet their needs and had continued buying cement from Canada since then. In most instances, the purchase price for both U.S. and Canadian cement was virtually the same.

Summary.—Based on the growth of domestic shipments, capacity utilization, consumption, employment, a reasonable profit picture, stable prices, and little evidence of lost sales due to prices, I conclude the domestic industry producing portland hydraulic cement is not being injured and is not likely to be injured by reason of LTFV imports from Canada.

DISSENTING VIEWS OF COMMISSIONER GEORGE M. MOORE

DETERMINATION

On the basis of information developed during this investigation, which is outlined in the accompanying report, I have determined that an industry in the United States is being injured by reason of the importation of portland hydraulic cement from Canada, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at less than fair value (LTFV).

LTFV SALES

The Treasury investigation covered domestic sales of portland hydraulic cement imports from April 1, 1977 to August 31, 1977. Treasury limited its investigation to four Canadian companies. For all four of these companies all U.S. sales were found at LTFV. These companies accounted for about 84 percent of all sales of imports of portland hydraulic cement to the United States from Canada and for nearly 100 percent of Canadian imports of such cement into the Northeast market area.[10] Thus Treasury found that all sales that occurred in the Northeast market were at LTFV. The four Canadian manufacturers were: Miron Co., Ltd.; Lake Ontario Cement, Ltd.; Canada Cement Lafarge, Ltd.; and St. Lawrence Cement Co. Treasury found that the weighted average LTFV margins of the four Canadian producers were over 50 percent.

THE U.S. INDUSTRY INJURED BY LTFV IMPORTS

The four Canadian producers included in Treasury's investigation shipped nearly all of their exports into the Northeast market during the period of Treasury's investigation. Therefore, in measuring the impact of the LTFV sales I have determined that the affected domestic market is in the northeast section of the United States.

[10]The northeast market includes the States of New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

The Antidumping Act of 1921, as amended, requires the Commission to make its determination based upon injury to an industry in the United States. However, the legislative intent of the Act shows clearly that the Commission has the discretion, upon the discovery of appropriate economic facts and circumstances, to make its injury determination based on geographical regional segments or market areas within the United States.

The legislative history of the Trade Act of 1974 provides explicit support for the Commission's treatment of "regional markets" in antidumping investigations:

> A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. (S. Rept. No. 93-1298, 93d Cong., 2d Sess. 180-181 (1974).)

Economic conditions in the northeast United States require that shipments of portland hydraulic cement to that geographical section must be produced in or near that area. Since LTFV sales from Canada were found only in the northeast market, it is clear that this market area is the only one in which there is competition between LTFV imports and the domestically produced cement.

INJURY BY REASON OF LTFV SALES

Portland hydraulic cement imports from Canada into the northeast market increased in 1977 over 1975, and also increased in the January-March 1978 period as compared to the January-March 1977 period. These increases resulted in a penetration into the domestic market by LTFV Canadian imports of 23.2 percent in 1977 as compared to 17.3 percent in 1975. This penetration into the northeast increased to 31.7 percent in the first quarter of 1978.

Idle capacity.—During the period of rising LTFV imports idle capacity of the domestic plants that ship to the northeast market remained at all times over 23 percent.

U.S. producers' shipments.—Annual shipments by U.S. producers into the northeast market declined from 3.7 million tons in 1975 to 3.3 million tons in 1977. This decline coincided with the increase in LTFV imports and continued into the first 3 months of 1978.

Net losses of U.S. industry.—The domestic plants supplying the northeast market reported operating losses throughout the 1975-June 1978 period. The ratio of net loss to net sales ranged from a low of 5.5 percent in 1976 to a high of 21.9 percent during the first half of 1978. In 1977, losses were almost 16 percent of net sales. Evidence developed by the Commission indicates that the domestic producers in the Northeast are not able to operate at even a reasonable level of profit, because they are forced to compete with LTFV sales of Canadian imports.

Suppressed prices and lost sales.—Delivered prices for portland hydraulic cement in the northeast market during the period 1975-78 were suppressed by sales of LTFV imports, and, after correction for transportation costs, they were appreciably lower than in other areas of the United States. For example, in the last quarter of 1977, domestic prices of such cement were $44.72 per ton in Seattle, Wash., and $50.15 in Grand Forks, N.D. In the Northeast United States, however, prices ranged from $31.30 per ton in Albany, N.Y., to $37.84 in Syracuse, N.Y. while, at the same time, LTFV import prices remained below or about the same as domestic prices. This suppression in the northeast market caused by LTFV imports prevented the domestic producers from recovering costs or earning an adequate return on their investments.

In several cases, the Commission found evidence that customers of portland hydraulic cement changed from domestic to Canadian suppliers because of the lower price of the Canadian cement.

CONCLUSION

In my opinion, the injury to the domestic industry in the northeast market area caused by LTFV sales is more than trivial or inconsequential. This is all that is required for an affirmative determination by the Commission under the Antidumping Act of 1921 as amended. Based upon the above considerations, I have determined that the U.S. industry producing portland hydraulic cement is being injured by reason of the importation of such cement from Canada which is being sold at LTFV in the northeast U.S. market area.

Issued: September 26, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 27618 Filed 9-28-78; 8:45 am]

[4410-09]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Proposed 1978 Revised Aggregate Production Quota and Establishment of an Interim Aggregate Production Quota—Thebaine For Conversion

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggegate production quotas for all controlled substances in schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On August 11, 1978, a notice of the proposed revised aggregate production quota for 1978 for thebaine for conversion was published in the FEDERAL REGISTER (43 FR 35758). All interested parties were invited to comment on or object to the proposed aggregate production quota on or before September 15, 1978. One comment was received. Mallinckrodt, Inc. of St. Louis, informed DEA that it desired to produce nalbuphine, a non-controlled substance derived from thebaine, in 1978. In order to allow Mallinckrodt to produce nalbuphine in 1978, the aggregate production quota must be further increased above the 1,397,000 grams proposed on August 11, 1978.

To provide for the legitimate needs for this substance in 1978, the Drug Enforcement Administration hereby establishes an interim 1978 aggregate production quota for thebaine for conversion of 1,397,000 grams expressed as anhydrous base. In addition, based upon consideration of the request made by Mallinckrodt, Inc., the Administrator of the Drug Enforcement Administration does hereby propose that the aggregate production quota for thebaine for conversion in 1978 be established at 2,217,000 grams, expressed as anhydrous base.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by October 30, 1978. If a person believes that one or more issues raised by him warrants a full adversary-type hearing, he should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

The establishment of the interim aggregate production quota for thebaine for conversion is effective September 29, 1978.

Dated: September 22, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-27497 Filed 9-28-78; 8:45 am]

[4410-09]

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By Notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35123), Research Technology Branch, Division of Research, NIDA, Room 9-42, 5600 Fishers Lane, Rockville, Md. 20857, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below to be imported for research proposes only:

Drug:	Schedule
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Buprenorphine (9064)	II

No comments or objections having been received, and, pursuant to section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above for research purposes only.

Dated: September 21, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-27496 Filed 9-28-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility. The act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

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Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 25th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 22, 1978

Name of Applicant, Location of Enterprise, and Principal Product or Activity

Mercer Mall, Mercer County, W. Va., Shopping mall.
Suwannee Valley Production & Marketing Corp., Lake City, Fla., Processing of dried poultry waste into nitrogenous products.
Holiday Inn., Wisconsin Dells, Wisc., Motel.
Chase Resorts, Inc., Lake Ozark, Mo., Resort and conference hotel.
Bosarge, O'Brien, Wadsworth & Lewis, Frisco, Colo., Motel with restaurant, lounge, and meeting rooms.
Big Boy Restaurants of Alaska, Inc., Fairbanks, Alaska, Fast food restaurant.
Carter Enterprises, Inc., Olive Hill, Ky., Production and sales of moderate-priced prefabricated housing, and lumber and building and building supplies.
Monfort of Kansas, Inc., Oakley, Kans., Beef slaughter and fabrication.
Quality Mushrooms, Inc., Ephraim, Utah, Mushroom plant.
Tag Services, Inc., St. Mary Parish, La., Rental of oilfield drilling equipment and operators.
Showell Farms, Inc., Queen Annes and Caroline, Counties, Md., Integrated poultry facility.
Top Flite Development Corp., Kodak, Tenn., Truck stop-motel, restaurant, and convenience store.
Campbell Manufacturing Co., Walthill, Nebr., Manufacture of field sprayers, agricultural wagons, and plastic tanks.
Hamilton, Inc., Wewahitchka, Fla., Operation of offshore service supply vessels.

[FR Doc. 78-27237 Filed 9-28-78 8:45 am]

[4510-30]

FUNDS UNDER COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

Allocation Methodology

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides the methodology for the allocation of funds under title VI of the Comprehensive Employment and Training Act in fiscal year 1979. The purpose of this notice is to advise all interested parties of this allocation methodology.

DATE: Comments must be received on or before October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert T. Jones, Director, Office of Community Employment Programs, Room 5402, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6366.

SUPPLEMENTARY INFORMATION: To assure an equitable distribution of title VI funds in fiscal year 1979 and to provide for the continuation of title VI programs, the Secretary of labor, pursuant to his reallocation authority under section 606 of CETA and his allocation authority under section 603 of CETA shall implement an allocation procedure which would apply to available unspent carry-in funds as of October 1, 1978, and new title VI obligational authority (NOA) for fiscal year 1979. With such a procedure the fiscal year 1979 allocation formula would be applied to the sum of title VI carry-in funds and NOA for fiscal year 1979. Each prime sponsor would then receive the difference between its allotment, computed under this method, and its carry-in funds. Under this method no prime sponsor would receive less total funds (NOA plus carry-in) than it would have received if the allocation formula were applied only to fiscal year 1979 NOA.

This procedure would combine two administrative processes, the reallocation of unspent carry-in funds and the allocation of fiscal year 1979 funds, and thus provide a programmatically efficient means of attaining the program goals without the administrative burdens and time difficulties that an ordinary reallocation of unspent funds may experience. The end result of this method would be the receipt of the same amount of funds as if the carry-in funds were reallocated and prime sponsors received their regular fiscal year 1979 allotments.

Signed this 19th day of September 1978, at Washington, D.C.

ROBERT J. MCCONNON,
Deputy Assistant Secretary.

[FR Doc. 78-27512 Filed 7-28-78; 8:45 am]

[4510-30]

INDIAN AND NATIVE AMERICAN PROGRAMS

Creek Nation of Oklahoma Added as Prime Sponsor Under Section 302 of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the designation of an additional fiscal year 1979 Indian and Native American prime sponsor of employment and training programs funded under the Comprehensive Employment and Training Act (CETA) of 1973, as amended. The Creek Nation of Oklahoma, P.O. Box 1114, Okmulgee, Okla. 74447 is the added prime sponsor.

FOR FURTHER INFORMATION CONTACT:

Herman E. Narcho, Chief, Policy, Program Design, and Administration, Division of Indian and Native American Programs, Office of National Programs, 601 D Street NW., Room 6414, Washington, D.C. 20213, telephone 202-376-7279.

Signed at Washington, D.C., this 7th day of September 1978.

ALEXANDER S. MACNABB,
Director, Division of Indian and Native American Programs, Office of National Programs.

[FR Doc. 78-27517 Filed 9-28-78; 8:45]

[4510-30]

LABOR SURPLUS AREA CLASSIFICATIONS UNDER DEFENSE MANPOWER POLICY NO. 4A AND EXECUTIVE ORDERS 12073 and 10582

Notice of Quarterly List of Labor Surplus Areas

The labor market areas described below have been classified by the Assistant Secretary of Labor for Employment and Training as labor surplus areas for purposes of Defense Manpower Policy No. 4A (DMP-4A) and Excutive Orders 12073 and 10582.

DMP-4A is implemented by regulations of the Federal Preparedness Agency of the General Services Administration at 32A CFR Part 134. Under DMP-4A, firms which agree to perform most of the work in labor surplus areas are given priority in the award and execution of Federal procurement contracts, grants, and agreements. To carry out this policy, DMP-4A assigns to the Secretary of Labor responsibility for classifying labor surplus areas and disseminating this information on a timely basis to Federal departments and agencies.

Executive Order 12073 also requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is also responsible under this Order for classifying and designating labor market areas which are labor surplus areas.

Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, *Provided*, That the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment, as defined by the Secretary of Labor. Areas of substantial unemployment are defined by Department of Labor regulations as labor surplus areas.

The Department's labor surplus area classification procedures are set forth at 20 CFR Part 654. These regulations require that the Assistant Secretary for Employment and Training publish quarterly a list of labor surplus areas together with corresponding geographic descriptions. Accordingly, the following list of labor surplus areas is published for the use of all Federal departments and agencies in directing procurement activity and locating new plants or facilities.

Quarterly List of Labor Surplus Areas for Eligibility Quarter Beginning October 1, 1978

Labor surplus area	Geographic description
Alabama:	
Anniston SMSA	Calhoun County.
Camden	Wilcox County.
Carrollton	Pickens County.
Centreville	Bibb County.
Choctaw County	Choctaw County.
Clanton	Chilton County.
Eutaw	Greene County.
Geneva	Geneva County.
Greensboro	Hale County.
Haleyville	Winston County.
Jackson	Clarke County.
Marion	Perry County.
Mobile SMSA	Baldwin and Mobile Counties.
Moulton	Lawrence County.
Ozark	Dale County.
Roanoke	Randolph County.
Russellville	Franklin County.
Scottsboro	Jackson County.
Selma	Dallas County.
Talladega	Talladega County.
Alaska:	
Angoon Divison	Angoon Division.
Barrow-North Slope Division.	Barrow-North Slope Division.
Bethel Division	Bethel Division.
Bristol Bay Borough Division.	Bristol Bay Borough Division.
Bristol Bay Division	Bristol Bay Division.
Cordova-McCarthy Division.	Cordova-McCarthy Division.
Fairbanks Division	Fairbanks Division.
Haines Division	Haines Division.
Juneau Division	Juneau Division.
Kenai-Cook Inlet Division.	Kenai-Cook Inlet Division.
Ketchikan Division	Ketchikan Division.
Kobuk Division	Kobuk Division.
Kodiak Division	Kodiak Division.
Kuskokwim Division	Kuskokwim Division.
Matanuska-Susitna Division.	Matanuska-Susitna Division.
Nome Division	Nome Division.
Outer Ketchikan Division.	Outer Ketchikan Division.
Prince of Wales Division.	Prince of Wales Division.
Seward Division	Seward Division.
Sitka Division	Sitka Division.
Skagway-Yakutat Division.	Skagway-Yakutat Division.
Southeast Fairbanks Division.	Southeast Fairbanks Division.
Upper Yukon Division	Upper Yukon Division.
Valdez-Chitina-Whittier Division.	Valdez-Chitina-Whittier Division.
Wade Hampton Division.	Wade Hampton Division.
Wrangell-Petersburg Division.	Wrangell-Petersburg Division.
Yukon-Koyukuku Division.	Yukon-Koyukuku Division.
Arizona:	
Douglas	Cochise County.
Globe	Gila County.
Kingman	Mohave County.
McNary	Apache County.
Nogales	Santa Cruz County.
Pinal County	Pinal County.
Safford	Graham County.
Winslow	Navajo County.
Yuma	Yuma County.
Arkansas:	
Blytheville	Mississippi County.
Chicot County	Chicot County.
Clinton	Van Buren County.
Conway	Faulkner County.
Des Arc	Prairie County.
Forrest City	St. Francis County.
Fulton County	Fulton County.
Hardy	Sharp County.
Heber Springs	Cleburne County.
Huntsville	Madison County.
Jasper	Newton County.
Marianna	Lee County.
Marshall	Searcy County.
Mena	Polk County.
Mountain View	Stone County.
Newport	Jackson County.
Ozark	Franklin County.
Piggott	Clay County.
Pocahontas	Randolph County.
Rison	Cleveland County.
Russellville	Pope and Yell Counties.
Searcy	White County.
Waldron	Scott County.
Walnut Ridge	Lawrence County.
California:	
Alpine County	Alpine County.
Angels Camp	Calaveras County.
Bakersfield SMSA	Kern County.
Chico-Oroville	Butte County.
Colusa County	Colusa County.
Crescent City	Del Norte County.
El Centro	Imperial County.
Eureka	Humboldt County.
Fresno SMSA	Fresno County.
Grass Valley	Nevada County.
Hanford	King County.
Hollister	San Benito County.
Jackson	Amador County.
Lakeport	Lake County.
Los Angeles-Long Beach SMSA.	Los Angeles County.
Loyalton	Sierra County.
Madera	Madera County.
Mariposa	Mariposa County.
Merced	Merced County.
Mosesto SMSA	Stanislaus County.
Oxnard-Simi Valley-Ventura SMSA.	Ventura County.
Placerville	El Dorado County.
Quincy	Plumas County.
Red Bluff	Tehama County.
Redding	Shasta County.
Sacramento SMSA	Placer, Sacramento, and Yolo Counties.
Salinas-Seaside-Monterey SMSA.	Monterey County.
San Diego SMSA	San Diego County.
Santa Cruz SMSA	Santa Cruz County.
Santa Rosa SMSA	Sonoma County.
Sonora	Tuolumne County.
Stockton SMSA	San Joaquin County.
Susanville	Lassen County.
Ukiah	Mendocino County.
Vallejo-Fairfield-Napa SMSA.	Napa and Solano Counties.
Visalia	Tulure County.
Weaverville	Trinity County.
Willows	Glenn County.
Yreka	Siskiyou County.
Yuba City	Sutter and Yuba Counties.
Colorado:	
Antonio	Conejos County.
Blanca	Costilla County.
Center	Saguache County.
Delta	Delta County.
Eagle	Eagle County.
Garfield County	Garfield County.
Lake County	Lake County.
Moffat County	Moffat County.
Ouray County	Ouray County.
Pagosa Springs	Archuleta County.
Pitkin County	Pitkin County.
Pueblo SMSA	Pueblo County.
Routt County	Routt County.
Telluride	San Miguel County.
Trinidad	Las Animas County.
Walsenburg	Huerfano County.
Connecticut:	
Ansonia	Towns of Ansonia, Oxford, and Seymour.
Bridgeport SMSA	Towns of Bridgeport, Derby, Easton, Fairfield, Milford, Monroe, Shelton, Stratford, and Trumbull.
Waterbury SMSA	Towns of Beacon Falls, Bethlehem, Chesire, Middlebury, Naugatuck, Prospect, Southbury, Thomaston, Waterbury, Watertown, Wolcott, and Woodbury.
Delaware:	
Dover	Kent County.
Wilmington SMSA	New Castle County, Del.; Cecil County, Md.; Salem County, N.J.
Florida:	
Apalachicola	Franklin County.
Bristol	Liberty County.
Brooksville	Hernando County.
Chipley	Washington County.
Fort Pierce	St Lucie County.
Fort Walton Beach	Oklaloosa County.
Dey West	Monroe County.
Lafayette County	Lafayette County.
Lakeland-Winter Haven SMSA.	Polk County.
Leesburg	Lake County.
Melbourne-Titusville-Cocoa SMSA.	Brevard County.
Miami SMSA	Dade County.
Moore Haven	Glades County.
Panama City SMSA	Bay County.
Port St. Joe	Gulf County.
Sebring	Highlands County.
Vero Beach	Indian River County.
Georgia:	
Albany SMSA	Dougherty and Lee Counties.
Atlanta SMSA	Butts, Cherokee, Clayton, Cobb, De Kalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, and Walton Counties.
Augusta SMSA	Columbia and Richmond Counties, Ga.; Aiken County, S.C.
Barroe County	Barrow County.
Blacksbear	Pierce County.
Burke County	Burke County.
Camilla	Mitchell County.
Chattooga County	Chattooga County.
Darien	McIntosh County.
Dawsonville	Dawson County.
Jefferson County	Jefferson County.
Macon SMSA	Bibb, Houston, Jones, and Twiggs Counties.
Pearson	Atkinson County.
Roberta	Crawford County.
Rochelle	Wilcox County.
Thompson	McDuffie County.
Hawaii:	
Hilo	Hawaii County.
Idaho:	
Bonners Ferry	Boundary County.
Camas County	Camas County.
Clark County	Clark County.
Coeur Dalene	Kootenai County.
Council	Adams County.

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Quarterly List of Labor Surplus Areas for Eligibility Quarter Beginning October 1, 1978—Continued

Labor surplus area	Geographic description
Emmett	Gem County.
Orangeville	Idaho County.
Horseshoe Bend	Boise County.
Ketchum	Blaine County.
Lemhi County	Lemhi County.
McCall	Valley County.
Orofino	Clearwater County.
Sandpoint	Bonner County.
St. Maries	Benewah County.
Illinois:	
Anna	Union County.
Cairo	Alexander and Pulaski Counties.
Canton	Fulton County.
Carbondale-Murphysboror.	Jackson County.
Carmi	Whie County.
Cass County	Cass County.
Centralia	Marion County.
Danville	Vermillion County.
Du Quoin	Perry County.
Fairfield	Wayne County.
Fayette County	Fayette County.
Flora	Clay County.
Galesburg	Knox County.
Golconda	Pope County.
Greenville	Bond County.
Hardin	Calhoun County.
Harrisburg-West Frankfort-Herrin.	Franklin, Johnson, Saline, and Williamson Counties.
Jerseyville	Jersey County.
Kankakee SMSA	Kankakee County.
Litchfield	Montgomery County.
Mason County	Mason County.
McLeansboro	Hamilton County.
Metropolis	Massac County.
Mount Vernon	Jefferson County.
Olney	Richland County.
Rosiclare	Hardin County.
Shawneetown	Gallatin County.
Schuytler County	Schuyler County.
Shelbyville	Shelby County.
Indiana:	
Linton	Greene County.
Loogootee	Martin County.
Madison	Jefferson County.
Marengo	Crawford County.
Paoli	Orange County.
Rising Sun	Ohio County.
Scottsburg	Scott County.
Iowa:	
Centerville	Appanoose County.
Kentucky:	
Beattyville	Lee County.
Benton	Marshall County.
Brownsville	Edmonson County.
Grayson	Carter County.
Jenkins	Letcher County.
Manchester	Clay County.
McKee	Jackson County.
Owenton	Owen County.
Russell Springs	Russel County.
Salyersville	Magoffin County.
Stanford	Lincoln County.
Stanton	Powell County.
Louisiana:	
Alexandria SMSA	Avoyelles, Grant, and Rapides Parishes.
Bastrop	Morehouse Parish.
Bogalusa	Washington Parish.
Hammond	Tangipahoa Parish.
Jennings	Jefferson Davis Parish.
Jonesville	Catahoula Parish.
Lake Charles SMSA	Calcasieu Parish.
Lake Providence	East Carroll Parish.
Leesville	Vernon Parish.
Lutcher	St. James Parish.
Natchitoches	Natchitoches Parish.
New Roads	Pointe Coupee Parish.
Oakdale	Allen Parish.
Oak Grove	West Carroll Parish.
Opelousas	St. Landry Parish.
Plaquemine	Iberville Parish.
Rayville	Richland Parish.
St. Franisville	West Feliciana Parish.
Tallulah	Madison Parish.
Tensas Parish	Tensas Parish.
Vidalia	Concordia Parish.
Ville Platte	Evangeline Parish.
Winnsboro	Franklin Parish.
Maine:	
Belfast	Waldo County.
Boothbay-Harbor	Lincoln County except towns of Dresden and Waldoboro.
Calais-Eastport	Washington County.
Carbou-Presque Isle	Towns or plantations of Ashland, Blaine, Bridgewater, Caribou, Castle Hill, Caswell, Chapman, Connor, E. Plantation, Easton, Fort Fairfield, Garfield, Limestone, Mapleton, Masardis, Mars Hill, Nashville, New Sweden, Oxbow, Perham, Portage Lake, Presque Isle, Stockholm, Wade, Washburn, Westfield, Westmaniand, and Woodland in Aroostook County.
Fort Kent	Towns of Eagle Lake, Fort Kent, Frenchville, St. Agatha; plantations of Allagash, New Sinclair, and Wallagrass in Aroostook County.
Greenville	Towns of Elliotsville, Greeneville, Lily Bay, and Shirley; and southern unorganized territory in Piscataquis County.
Lincoln-Howland	Towns of Burlington, Chester, Enfield, Howland, Lee, Lincoln, Lowell, Mattamiscontis, Mattawamkeag, Maxfield, Passadumkeag, Springfield, Winn, and Woodville; Township of Kingman, Whitney, 1 N.D., 2R-8, 2R-9; and 3R-1; and plantations of Carroll, Drew, Grand Falls, Lakeville, Prentiss, Seboeis, and Webster in Penobscot County.
Livermore Falls	Towns of Green, Leeds, Livermore, Livermore Falls, Turner and Webster in Androscoggin County.
Madawaska-Van Buren	Towns of Grand Isle, Madawask and Van Buren; and plantations of Cyr and Hamlin in Aroostook County.
Skowhegan	Somerset County.
Southwest Penobscot	Towns of Bradford, Carmel, Charleston, Corrina, Corinth, Dexter, Dixmont, Etna, Exeter, Garland, Hudson, Kenduskeag, Levant, Newburg, Newport, Plymount, and Stetson in Penobscot County.
Maryland:	
Baltimore SMSA	Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties; and Baltimore City.
Cambridge	Dorchester County.
Centreville	Queen Annes County.
Chestertown	Kent County.
Crisfield	Somerset County.
Cumberland	Allegany County, Md., and Mineral County, W. Va.
Feralsburg	Carline County.
Hagerstown	Washington County.
Oakland	Garrett County.
Pocomoke City	Worcester County.
Prince Frederick	Calvert County.
Salisbury	Wicomico County.
Massachusetts:	
Barnstable	Barnstable County.
Boston SMSA	Suffolk County; cities of Beverly, Lynn, Peabody, and Salem, and towns of Boxford, Danvers, Hamilton, Lynnfield, Manchester, Marblehead, Middleton, Nahant, Saugus, Swampscot, Topsfield, and Wenham in Essex County; cities of Cambridge, Everett, Malden, Medford, Melrose, Newton, Somerville, Waltham, and Woburn, and towns of Acton, Arlington, Ashland, Bedford, Belmont, Boxborough, Burlington, Carlisle, Concord, Framingham, Holliston, Lexington, Lincoln, Natick, North Reading, Reading, Sherborn, Stoneham, Sudbury, Wakefield, Watertown, Wayland, Weston, Wilmington, and Winchester in Middlesex County; Quincy City and towns of Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin, Holbrook, Medfield, Medway, Morris, Milton, Needham, Norfolk, Norwood, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, and Wrentham in Norfolk County; towns of Abington, Duxbury, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Rockland, and Scituate in Plymouth County.
Brockton SMSA	Town of Easton in Bristol County; town of Avon in Norfolk County; city of Brockton, towns of Bridgewater, East Bridgewater, Halifax, West Bridgewater, and Whitman in Plymouth County.
Clinton	Towns of Clinton and Lancaster in Worcester County.
Fall River SMSA	Fall River City; and towns of Dighton, Somerset, Swansea, and Westport in Bristol County, Mass.; and towns of Little Compton and Tiverton in Newport County, R.I.
Gloucester	Gloucester City and towns of Essex and Rockport in Essex County.
Lawrence-Haverhill SMSA.	Cities of Lawrence and Haverhill and towns of Amesbury, Andover, Georgetown, Groveland, Merrimac, Methuen, North Andover, Salisbury, and West Newbury in Essex County, Mass.; towns of Atkinson, Hampstead, Kingston, Newton, Plaistow, Salem, and Windham in Rockingham County, N.H.
New Bedford SMSA	City of New Bedford, and town of Acushnet, Dartmouth, Fairhaven, and Freetown in Bristol County; towns of Lakeville, Marion, Mattapoisett, and Rochester in Plymouth County.
Newburyport	Newburyport City and towns of Ipswich, Newbury, and Rowley in Essex County.
Plymouth	Towns of Carver, Middleborough, Plymouth, Plympton, and Wareham in Plymouth County.
Taunton	Taunton City, and towns of Berkley and Raynham in Bristol County.
Tisbury	Dukes County.
Ware	Town of Ware in Hampshire County; towns of Hardwick, New Braintree, Oakham, and West Brookfield in Worcester County.
Michigan:	
Adrian	Lenawee County.
Alma	Gratiot County.
Alpena	Alpena County.
Bad Axe	Huron County.
Baldwin	Lake County.
Benton Harbor	Berrien County.
Big Rapids	Mecosta County.
Boyne City	Charlevoix County.
Cadillac	Missaukee, Osceola, and Wexford Counties.
Caro	Tuscola County.
Cheboygan	Cheboygan County.
Clare	Clare County.
Detroit SMSA	Lapeer, Livingston, Macomb, Oakland, St. Clair, and Wayne Counties.
East Tawas	Alcona and Iosco Counties.
Elberta	Benzie County.
Escanaba	Delta County.
Flint SMSA	Genesee and Shiawassee Counties.
Fremont	Newaygo County.
Gaylord	Otsego County.
Grayling	Crawford County.
Greenville	Montcalm County.
Hancock	Houghton and Keweenaw Counties.
Hillman	Montmorency County.
Iron River	Iron County.
Ironwood	Gogebic County.
L'anse	Baraga County.
Ludington	Mason County.
Mancelona	Antrim County.
Manistee	Manistee County.
Manistique	Schoolcraft County.
Marquette	Alger and Marquette Counties.
Midland	Gladwin and Midland Counties.
Mio	Oscoda County.
Muskegon-Norton Shores-Muskegon Heights SMSA.	Muskegon and Oceana Counties.
Newberry	Luce County.
Ontonagon	Ontonagon County.
Petoskey	Emmet County.
Rogers City	Presque Isle County.
Roscommon	Roscommon County.
St. Ignace	Mackinac County.
Sandusky	Sanilac County.
Sault Ste. Marie	Chippewa County.
Standish	Arenac County.
Sturgis	St. Joseph County.
Traverse City	Grand Traverse, Kalkaska, and Leelanau Counties.
West Branch	Ogemaw County.
Minnesota:	
Aitkin	Aitkin County.
Bagley	Clearwater County.
Grand Rapids	Itasca County.
Hibbing-Virginia	St. Louis County less Duluth City.
Little Falls	Morrison County.
Mahnomen	Mahnomen County.
Red Lake Falls	Red Lake County.
Roseau	Roseau County.
Warren	Marshall County.
Mississippi:	
Ashland	Benton County.
Bay Springs	Jasper County.
Belzoni	Humphreys County.
Biloxi-Gulfport SMSA	Hancock, Harrison, and Stone Counties.
Canton	Madison County.
Charleston	Tallahatchie County.
Clarksdale	Coahoma County.
Cleveland	Bolivar County.
Columbia	Marion County.
Corinth	Alcorn County.
De Kalb	Kemper County.
Fayette	Jefferson County.
Greenville	Washington County.
Greenwood	Leflore County.
Grenada	Grenada County.
Hazlehurst	Copiah County.
Holly Springs	Marshall County.
Indianola	Sunflower County.
Iuka	Tishomingo County.
Kosciusko	Attala County.
Leakesville	Greene County.
Lexington	Holmes County.
Louisville	Winston County.
Lucedale	George County.
Macon	Noxubee County.
Marks	Quitman County.
Natchez	Adams County.
Picayune City	Pearl River County.
Prentiss	Jefferson Davis County.
Rolling Fork	Issaquena and Sharkey Counties.
Senatobia	Tate County.
Tunica	Tunica County.
Vicksburg	Warren County.
Waynesboro	Wayne County.
Winona	Montgomery County.
Woodville	Wilkinson County.
Yazoo	Yazoo County.
Missouri:	
Alton	Oregon County.
California	Moniteau County.
Charleston	Mississippi County.
Doniphan	Ripley County.
Eminence	Shannon County.
Greenville	Wayne County.
Houston	Texas County.
Kennett	Dunklin County.
Marble Hill	Bollinger County.
Poplar Bluff	Butler County.
Potosi	Washington County.
Sedalia	Pettis County.
Steelville	Crawford County.
Versailles	Morgan County.
Warrenton	Warren County.
Montana:	
Anaconda	Deer Lodge County.
Boulder	Jefferson County.
Butte	Silver Bow County.
Cut Bank	Glacier County.
Glasgow	Valley County.
Hamilton	Ravalli County.
Hardin	Big Horn County.
Kalispell	Flathead County.
Libby	Lincoln County.
Phillipsburg	Granite County.
Polson	Lake County.
Superior	Mineral County.
Thompson Falls	Sanders County.
Nebraska:	
Pender	Thurston County.
Nevada:	
Carson City	Carson City and Storey County.
New Jersey:	
Atlantic City SMSA	Atlantic County.
Cape May-Ocean City-Wildwood.	Cape May County.
Jersey City SMSA	Hudson County.
Lakewood-Toms River	Ocean County.
Long Branch-Asbury Park SMSA.	Monmouth County.
Newark SMSA	Essex, Morris, Somerset, and Union Counties.
Newton	Sussex County.
Paterson-Clifton-Passaic SMSA.	Passaic County.
Trenton SMSA	Mercer County.
Vineland-Bridgeton-Millville SMSA.	Cumberland County.
New Mexico:	
Deming	Luna County.
Espanola	Rio Arriba County.
Las Vegas	San Miguel County.
Santa Rosa	Guadaloupe County.
Taos	Taos County.
Wagon Mound	Mora County.
New York:	
Auburn	Cayuga County.
Batavia	Genesee County.
Binghamton SMSA	Broome and Tioga Counties, N.Y.; and Susquehanna County, Pa.
Buffalo SMSA	Erie and Niagara Counties.
Catskill	Greene County.
Cobleskill	Schoharie County.
Cortland	Cortland County.
Elmira SMSA	Chemung County.
Glen Falls-Hudson Falls.	Warren and Washington Counties.
Gloversville	Fulton County.
Kingston	Ulster County.
Lowville	Lewis County.
Malone	Franklin County.
Monticello	Sullivan County.
Newburgh-Middletown	Orange County.
New York SMSA	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland, and Westchester Counties.
Ogdensbury-Massena	St. Lawrence County.
Olean-Salamanca	Cattaraugus County.

Quarterly List of Labor Surplus Areas for Eligibility Quarter Beginning October 1, 1978—Continued

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Quarterly List of Labor Surplus Areas for Eligibility Quarter Beginning October 1, 1978—Continued

Labor surplus area	Geographic description
Penn Yan	Yates County.
Perry	Wyoming County.
Plattsburg	Clinton County.
Rochester SMSA	Livingston, Monroe, Ontario, Orleans, and Wayne Counties.
Speculator	Hamilton County.
Ticonderoga	Essex County.
Utica-Rome SMSA	Herkimer and Oneida Counties.
Watertown	Jefferson County.
Watkins Glen	Schuyler County.
Wellsville	Allegany County.
North Carolina:	
Bryson City	Swain County.
Burgaw	Pender County.
Columbia	Tyrrell County.
Dunn	Harnett County.
Elizabethtown	Bladen County.
Lumberton	Robeson County.
Murphy	Cherokee County.
Raeford	Hoke County.
Roanoke Rapids	Halifax and Northampton Counties.
Robbinsville	Graham County.
Rocky Mount	Edgecombe and Nash Counties.
Snow Hill	Greene County.
Swan Quarter	Hyde County.
Warrenton	Warren County.
Wilmington SMSA	Brunswick and New Hanover Counties.
Windsor	Bertie County.
North Dakota:	
Kidder County	Kidder County.
McHenry County	McHenry County.
Rolla	Rolette County.
Ohio:	
Caldwell	Noble County.
Cambridge	Guernsey County.
Jackson	Jackson County.
Lima SMSA	Allen, Auglaize, Putnam, and Van Wert Counties.
Logan	Hocking County.
Manchester	Adams County.
Mansfield SMSA	Richland County.
McArthur	Vinton County.
Portsmouth	Scioto County.
Waverly	Pike County.
Youngstown-Warren SMSA.	Mahoning and Trumbull Counties.
Oklahoma:	
Antlers	Pushmataha County.
Coalgate	Coal County.
Holdenville	Hughes County.
Hugo	Choctaw County.
McAlester	Pittsburg County.
McIntosh County	McIntosh County.
Okmulgee-Henryetta	Okmulgee County.
Stigler	Haskell County.
Wilburton	Latimer County.
Oregon:	
Enterprise	Wallowa County.
Fossil	Wheeler County.
Grants Pass	Josephine County.
Hood River	Hood River County.
Prineville	Crook County.
Pennsylvania:	
Bedford	Bedford County.
Berwick-Bloomsburg	Columbia County.
Clearfield-Du Bois	Clearfield County; Rush Township, and Philipsburg and South Philipsburg Boroughs in Centre County.
Emporium	Cameron County.
Honesdale	Pike and Wayne Counties.
Huntingdon	Huntingdon County.
Johnstown SMSA	Cambria and Somerset Counties.
Kittanning-Ford City	Armstrong County.
Lewistown	Juniata and Mifflin Counties.
Lock Haven-Renovo	Clinton County.
Northeast Pennsylvania SMSA.	Lackawanna, Luzerne and Monroe Counties.
Philadelphia SMSA	Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.; Burlington, Camden, and Gloucester Counties, N.J.
Pittsburgh SMSA	Allegheny, Beaver, Washington and Westmoreland Counties.
Pottsville	Schuylkill County.
Reading SMSA	Berks County.
St. Marys	Elk County.
Sunbury-Shamokin-Mt. Carmel.	Montour, Northumberland Snyder, and Union Counties.
Tunkhannock	Wyoming County.
Uniontown-Connellsville.	Fayette County.
Waynesburg	Greene County.
Wellsboro	Tioga County.
Williamsport SMSA	Lycoming County.
Puerto Rico:	
Caguas SMSA	Caguas, Gurabo, and San Lorenzo Municipios.
Mayaguez SMSA	Anasco, Homigueros, and Mayaguez Municipios.
Ponce SMSA	Juana Diaz, Penuelas, Ponce, and Villalba Municipios.
San Juan SMSA	Bayamon, Canovanas, Carolina, Catano, Guaynabo, Loiza, San Juan, Toa Baja, and Trujillo Alto Municipios.
Remainder of Puerto Rico.	Puerto Rico less Caguas, Mayaguez, Ponce, and San Juan.[1]
Rhode Island:	
Providence-Warwick-Pawtucket SMSA.	Bristol, Kent, and Providence Counties, R.I.; towns of Exeter, Narragansett, New Shoreham, North Kingstown, Richmond, and South Kingstown, Washington County, R.I.; town of Jamestown, Newport County, R.I.; Attleboro City and towns of North Attleboro, Norton, Rehoboth, and Seekonk, Briston County, Mass.; Plainville Town in Norfolk County, Mass.; and towns of Blackstone and Millville in Worchester County, Mass.
Westerly	Towns of Charlestown, Hopkinton, and Westerly in Washington County.
South Carolina:	
Allendale	Allendale County.
Barnwell	Barnwell County.
Bennettsville	Marlboro County.
Bishopville	Lee County.
Charleston-North Charleston SMSA.	Berkeley, Charleston, and Dorchester Counties.
Chester	Chester County.
Dillon	Dillon County.
Georgetown	Georgetown County.
McCormick	McCormick County.
Ridgeland	Jasper County.
Sumter	Sumter County.
Union	Union County.
Walterboro	Colleton County.
South Dakota:	
Buffalo County	Buffalo County.
Corson County	Corson County.
Washabaugh County	Washabauga County.
Ziebach County	Ziebach County.
Tennessee:	
Athens	McMinn County.
Brownsville	Haywood County.
Crossville	Cumberland County.
Decatur	Meigs County.
Decaturville	Decatur County.
Dover	Stewart County.
Erin	Houston County.
Fayetteville	Lincoln County.
Gainesboro	Jackson County.
Greenville	Greene County.
Harriman-Rockwood	Roane County.
Humboldt	Gibson County.
Jamestown	Fentress County.
Lafollette-Jellico	Campbell County.
Lenoir	Loudon County.
Lexington	Henderson County.
Livingston	Overton County.
Newport	Cocke County.
Oneida	Scott County.
Savannah	Hardin County.
Selmer	McNairy County.
Sevierville	Sevier County.
Sneedville	Hancock County.
Somerville	Fayette County.
Sweetwater	Monroe County.
Tiptonville	Lake County.
Tracy City	Grundy County.
Waynesboro	Wayne County.
Texas:	
Brownsville-Harlingen San Benito SMSA.	Cameron County.
Carrizo Springs	Dimmit County.
Cotulla	La Salle County.
Crystal City	Zavala County.
Del Rio	Val Verde County.
Eagle Pass	Maverick County.
El Paso SMSA	El Paso County.
Galveston-Texas City SMSA.	Galveston County.
Laredo SMSA	Webb County.
Loving County	Loving County.
McAllen-Pharr-Edinburgh SMSA.	Hidalgo County.
Pearsall	Frio County.
Raymondville	Willacy County.
Rio Grande City	Starr County.
Sabine County	Sabine County.
Texarkana SMSA	Bowie County, Tex., and Little River and Miller Counties, Ark.
Zapata	Zapata County.
Utah:	
Heber City	Wasatch County.
Manti	Sanpete County.
Panguitch	Garfield County.
Vermont:	
Newport	Orleans County; towns of Averill, Averys Gore, Bloomfield, Brighton, Brunswick, Canaan, Ferdinand, Lemington, Lewis, Norton, Warners Grant, and Warrens Gore in Essex County.
St. Johnsbury	Calendonia County except town of Groton and Ryegate; towns of Concord, East Haven, Granby, Guildhall, Lunenburg, Maidstone, and Victory in Essex County.
Virginia:	
Chincoteague	Accomack and Northampton Counties.
Colonial Beach	Lancaster, Northumberland, Richmond, and Westmoreland Counties.
King and Queen County.	King and Queen County.
Lebanon	Dickenson and Russell Counties.
Lunenburg County	Lunenburg County.
Marion	Smyth County.
Norton-Big Stone Gap	Norton City and Wise County.
Surry County	Surry County.
Sussex County	Sussex County.
Washington:	
Aberdeen	Grays Harbor County.
Anacortes	Skagit County.
Bellingham	Whatcom County.
Centralia	Lewis County.
Colville	Stevens County.
Dayton	Columbia County.
Ellensburg	Kittitas County.
Goldendale	Klickitat County.
Longview	Cowlitz County.
Moses Lake	Grant County.
Newport	Pend Greille County.
Oak Harbor	Island County.
Okanogan	Okanogan County.
Port Angeles	Clallam County.
Raymond	Pacific County.
Republic	Ferry County.
Stevenson	Skamania County.
Tacoma SMSA	Pierce County.
Wenatchee	Chelan and Douglas Counties.
Yakima SMSA	Yakima County.
West Virginia:	
Clay	Clay County.
Elkins	Randolph County.
Gassaway	Braxton County.
Grafton	Taylor County.
Grantsville	Calhoun County.
Hamlin	Lincoln County.
Hinton	Summers County.
Huntington-Ashland SMSA.	Cabell and Wayne Counties, W. Va.; Boyd and Greenup Counties, Ky; and Lawrence County, Ohio.
Kingwood	Preston County.
Logan-Madison	Boone and Logan Counties.
Oak Hill-Montgomery	Fayette County.
Parsons	Tucker County.
Pennsboro	Ritchie County.
Petersburg	Grant County.
Richwood	Nicholas County.
Ronceverte-White Sulphur Springs.	Greenbrier and Monroe Counties.
Webster Springs	Webster County.
Welch	McDowell County.
Weston	Lewis County.
Williamson	Mingo County.
Wisconsin:	
Ashland	Ashland County.
Bayfield	Bayfield County.
Crandon	Forest County.
Florence	Florence County.
Hayward	Sawyer County.
Hurley	Iron County.
Kenosha SMSA	Kenosha County.
Ladysmith	Rusk County.
Neopit	Menominee County.
Spooner	Washburn County.

[1] NOTE.—Deemed eligible based on the derived rate. No data are regularly estimated for small areas.

Signed at Washington, D.C., this 26th day of September 1978.

WILLIAM B. HEWITT,
Administrator, Office of Policy, Evaluation, and Research.

[FR Doc. 78-27516 Filed 9-28-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Meetings

Notice is hereby given that the Standards Advisory Committee on Cutaneous Hazards will meet on October 24 and 25, and November 20 and 21, 1978, in room N-5437 of the New Department of Labor Building, Third Street and Constitution Avenue NW., Washington, D.C.

The Standards Advisory Committee on Cutaneous Hazards was established under section 7(b) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to assist the Secretary of Labor in his standards-setting function.

Drafts of the Committee's report to OSHA will be discussed at the meetings. The meetings will begin at 9 a.m. The public is invited to attend.

For additional information contact: Mr. John M. Couric, Division of Consumer Affairs, U.S. Department of Labor, OSHA—Room N-3635, Third Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8024.

Written data or views concerning the Committee's assigned subjects may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the committee, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. the 22d day of September 1978.

EULA BINGHAM,
Assistant Secretary.

[FR Doc. 78-27518 Filed 9-28-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3548]

AIRCO WELDING PRODUCTS DIVISION OF AIRCO, INC., UNION, N.J.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3548: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 17, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing cutting and welding torches, regulators and valves, and electrical welding equipment at Airco Welding Products Division of Airco, Inc., Union, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Airco, Inc., Airco Welding Products Division of Airco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers employed in the Electrical Welding Equipment Department and workers employed in the Regulator Department of Airco Welding Products Division of Airco, Inc., Union, N.J., without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that customers of Airco Welding Products Division of Airco, Inc., Union, N.J. purchased neither imported regulators or valves nor electrical welding equipment during the period under investigation.

With respect to workers in the Torch Department and workers in the Primary Machining Department at Airco Welding Products Division of Airco, Inc., Union, N.J., all of the

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group eligibility requirements of section 222 of the act have been met.

U.S. imports of gas welding and cutting equipment increased absolutely in 1977 from 1976 and increased absolutely and relative to domestic production in the first half of 1978 compared to the first half of 1977.

Airco Welding Products began importing torches in early 1978.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cutting and welding torches produced by Airco Welding Products Division of Airco, Inc., Union, N.J. contributed importantly to the decline in production of cutting and welding torches and to the separation of workers in the Torch Department and workers in the Primary Machining Department of Airco Welding Products Division. In accordance with the provisions of the act, I make the following certification:

All workers employed in the Torch Department and all workers employed in the Primary Machining Department at Airco Welding Products Division of Airco, Inc., Union, N.J., who became totally or partially separated after August 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers in the Electrical Welding Equipment Department and in the Regulator Department of Airco Welding Products Division of Airco, Inc., Union, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 20th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27519 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3724]

ANGIE CLOTHING CO., INC., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3724: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' winter and spring coats at Angie Clothing Co., Inc., Newburgh, N.Y. The investigation revealed that Angie Clothing Co., produces ladies' wool coats and raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-99). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Angie Clothing Co., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of women's raincoats and wool coats by Angie increased from 1976 to 1977 and increased during the first 5 months of 1978 compared to the first 5 months of 1977.

CONCLUSION

After careful review I determine that workers of Angie Clothing Co., Inc., Newburgh, N.Y., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27520 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2811]

ARMCO STEEL CORP., KANSAS CITY WORKS, KANSAS CITY, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2811: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 27, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire rope, cables, and bead wire at the Kansas City Works, Kansas City, Mo., of Armco Steel Corp. During the course of the investigation, it was determined that wire rod and products, hot rolled products, reinforcing bars, fasteners, and fence posts are produced at the Kansas City Works.

The Notice of Investigation was published in the FEDERAL REGISTER on January 1, 1978 (43 FR 1555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Armco Steel Corp., its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed during the Department's investigation revealed that the average number of production workers at the Kansas City Works increased in 1977 compared to 1976 and in the first 6 months of 1978 compared to the same period of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers at the Kansas City Works.

CONCLUSION

After careful review, I determine that workers of the Kansas City Works, Kansas City, Mo., of Armco Steel Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27521 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2871]

ARMCO STEEL CORP., METAL PRODUCTS DIVISION, FAIRBANKS, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2871: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 9, 1978, in respons to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing drainage products and highway guardrails at the Fairbanks, Tex., plant of Armco Steel Corp., Metal Products Division. The investigation revealed that steel tanks and pressure vessels are produced at the Fairbanks plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corp., its customers, the Steel Plate Fabricators Association, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced at the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that U.S. imports of metal tanks and vessels have always been small relative to domestic production. The imports to domestic production ratio reached its highest level in the last 5 years at only 0.67 percent in 1976 as the value of imports increased to $14.5 million compared to $6.1 million in 1975. In 1977, the value of imports declined to $8.6 million and the imports to domestic production ratio decreased to 0.29 percent.

Customers surveyed by the Department had not purchased imported steel tanks and vessels in 1975, 1976, or 1977.

CONCLUSION

After careful review I determine that all workers of the Fairbanks, Tex., plant of Armco Steel Corp., Metal Products Division, are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-27522 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2870]

ARMCO STEEL CORP. METAL PRODUCTS DIVISION MEMPHIS, TENN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2870: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 9, 1978 in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producig drainage products and highway guard rails at the Memphis, Tenn. plant of Armco Steel Corp., Metal Products Division. The investigation revealed that corrugated steel pipe is produced at the Memphis plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corp., its customers, the National Corrugated Steel Pipe Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced at the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

United States imports of corrugated steel pipe are negligible according to both industry and United States Government sources. A survey of Armco Steel Corp. customers by the department revealed that none of these customers purchased any imported corrugated steel pipe in 1975, 1976, or 1977.

CONCLUSION

After careful review, I determine that all workers of the Memphis, Tenn., plant of Armco Steel Corp., Metal Products Division are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 70-27523 Filed 9-28-78; 8:45am]

[4510-28]

[TA-W-2869]

ARMCO STEEL CORP. METAL PRODUCTS DIVISION, SOUTH BEND, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2869: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 9, 1978 in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing drainage products and highway guard rails at the south Bend, Ind. plant of armco steel Corp., Metal Products Division. the investigation revealed that corrugated steel pipe is produced at the South Bend plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corp., its customers, the National Corrugated Steel Pipe Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

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sistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of corrugated steel pipe are negligible according to both industry and U.S. Government sources. A Departmental survey of the subject firm's customers representing a substantial proportion of sales revealed that none of these customers purchased any imported corrugated steel pipe in 1975, 1976 or 1977.

CONCLUSION

After careful review I determine that all workers of the South Bend, Ind. plant of Armco Steel corp., Metal Products Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27524 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3408]

ARTEX INDUSTRIES, INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3408: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 7, 1978 which was filed on behalf of workers and former workers producing fabricated marble and granite at the marble shop of Artex Industries, Inc., Jersey City, N. J.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Artex Industries, Inc., its major competitors, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of finished and unfinished dimension marble increased from $12,218 thousand in 1976 to $13,568 thousand in 1977 and rose from $2,910 thousand in the first quarter of 1977 to $3,964 thousand in the first quarter of 1978. The ratio of imports to domestic marble shipments was 118.4 percent in 1976 and 116.9 percent in 1977.

U.S. imports of finished and unfinished dimension granite decreased from $6,903 thousand in 1976 to $6,729 thousand in 1977 and declined from $1,819 thousand in the first quarter of 1977 to $1,775 thousand in the first quarter of 1978. The ratio of imports to domestic granite shipments was 12.3 percent in 1976 and 1977.

In late 1977 Artex Industries lost bids on major marble contracts. The 1977 Artex Industries lost bids on major marble contracts. The contracts were awarded to companies which relied primarily upon prefabricated imported marble to complete the work specified in the contracts. As a result of this loss of business, Artex closed its marble shop in February 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fabricated marble and granite produced at the marble shop of Artex Industries, Inc., Jersey City, N. J. contributed importantly to the decline in sales or production and to the total or partial separations of workers at the company. In accordance with the provisions of the Act, I make the following certification:

All workers of the marble shop of Artex Industries, Incorporated, Jersey City, N.J. who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27525 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3815]

ATLANTIC HIGHLANDS MANUFACTURING CO., HIGHLANDS, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3815: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 7, 1978 in response to a worker petition received on June 2, 1978 which was filed on behalf of all workers producing children's coats at the Highlands, N.J. plant of the Atlantic Highlands Manufacturing Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Atlantic Highlands Manufacturing Co., its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility requirements have been met.

Imports of women's, misses', and children's coats and jackets increased 20.9 percent from 1976 to 1977 from 2,252 thousand dozen in 1976 to 2,723 dozen in 1977. The ratio of imports to U.S. production of women's, misses', and children's coats and jackets increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department of Labor surveyed the main customer buying children's coats from Atlantic Highlands Manufacturing Co. This customer indicated that he reduced purchases of children's coats from Atlantic Highlands Manufacturing Co. and increased purchases of imports in fiscal year 1978 compared to fiscal year 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's coats produced at the Atlantic Highlands Manufacturing Co., Highlands, N.J. contributed importantly to the decline in sales or production and to the total or partial separation of the workers at this plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Atlantic Highlands Manufacturing Co., Highlands, N.J. who became totally or partially separated from employment on or after May 31, 1977 and before April 1, 1978 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after April 1, 1978 are denied eligibility to apply for adjustment assistance benefits.

Signed at Washington, D.C. this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27526 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3270]

BARO CORP., HAVERHILL, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3270: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 1, 1978 in response to a worker petition received on February 21, 1978 which was filed on behalf of workers and former workers producing shoe uppers at Baro Corp., Haverhill, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10649). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Baro Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with the articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that U.S. imports of shoe uppers are negligible. The ratio of imports to domestic production of shoe uppers was 2.1 percent or less from 1973 through the first quarter of 1978.

Shoes are not like or directly competitive with shoe uppers.

A survey by the Department indicated that Baro Corp. performs the major proportion of its contract work for a single shoe manufacturer. This manufacturer did not import shoe uppers during the period from January 1975 to March 1978. Sales of finished shoes by the manufacturer increased in 1977 compared to 1976 and in the first quarter of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Baro Corp., Haverhill, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27527 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3462]

BLAIR FOOTWEAR, INC., ALTOONA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3462: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 4, 1978, in response to a worker petition received on March 24, 1978, which was filed on behalf of workers and former workers producing women's dress and casual shoes at Blair Footwear, Inc., Altoona, Pa. During the course of the investigation, it was established that the firm produces both rubber and nonrubber women's footwear.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-61). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Blair Footwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of women's nonrubber, nonathletic footwear increased from 183.5 million pairs in 1975 to 183.8 million pairs in 1976 and then decreased to 171.9 million pairs in 1977. Imports increased to 53.3 million pairs during the first quarter of 1978 compared to 45.5 million pairs for the same period in 1977.

The ratio of imports to domestic production for women's nonrubber, nonathletic footwear increased from 117.9 percent in 1976 to 122.8 percent in 1977. The ratio of imports to domestic production increased to 138.4 percent in the first quarter of 1978 compared to 127.8 percent for the same period in 1977.

United States imports of rubber/canvas footwear increased from 23.6 million pairs in 1975 to 31.9 million pairs in 1976, and then decreased to 24.2 million pairs in 1977.

The ratio of imports to domestic production for rubber/canvas footwear increased from 17.6 percent in 1975 to 26.6 percent in 1976, and increased again to 27.9 percent in 1977.

A survey of the customers of Blair Footwear, Incorporated revealed that customers have increased purchases of imported women's footwear in each year from 1975 to 1977, and increased purchases of imported women's footwear in the first quarter of 1978 compared to the first quarter of 1977. A number of customers reduced purchases from Blair Footwear, Inc. in the first quarter of 1978 compared to the first quarter of 1977, and had increased purchases of imported women's footwear over the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's rubber and nonrubber footwear produced by Blair Footwear, Inc., Altoona, Pa. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Blair Footwear, Inc., Altoona, Pa. who became totally or partially separated from employment on or after December 3, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C. this 21st day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc. 78-27528 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3519]

BOEING VERTOL CO., EDDYSTONE, PA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3519: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978 in response to a worker petition received on April 4, 1978 which was filed on behalf of workers and former workers producing standard light rail trolleys at the Boeing Vertol Co., Eddystone, Pa.

The Department's investigation revealed that workers at the Boeing Vertol Co. also fabricate helicopters. This petition is expanded to cover workers engaged in employment related to the production of helicopters at the Boeing Vertol Co., Eddystone, Pa., at Boeing Vertol's warehouses in Morton, Pa. and Chester, Pa. and at Boeing Vertol's test facilities in Philadelphia, Pa. and Wilmington, Del.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Boeing Vertol Co., the United States International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to workers producing helicopters, without regard to whether any of the other criteria have been met the following criterion has not been met:

> That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production."

Boeing Vertol produces CH47 Chinook helicopters for the U.S. Army and for sale to foreign governments. Conforming to provisions in the Defense Appropriations Act of the 92d Congress restricting the importation of defense related articles, there are no imports of military helicopters into the United States.

With respect to workers producing surface transport vehicles all of the group eligibility requirements of section 222 of the act have been met.

Imports of surface transport vehicles fabricated in 1977 and 1978 with expected shipment into the United States in 1979 are expected to increase substantially based on available data on contracts let to foreign suppliers of surface transport vehicles.

Boeing Vertol recently lost a major contract to fabricate surface transport vehicles to foreign competition. The company was the low domestic bidder to fabricate "arcticulated" vehicles for the Cleveland Transit Authority. Another domestic firm submitted a lower bid, but for a "non-articulated" car. The competition was won by an Italian firm which will supply the Cleveland Transit Authority with "articulated" vehicles.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with surface transport vehicles produced at the Boeing Vertol Co., Eddystone, Pa. contributed importantly to the decrease in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

> All workers of the Boeing Vertol Co., Eddystone, Pa. engaged in employment related to the production of surface transport vehicles who became totally or partially separated from employment on or after March 31, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of helicopters at the Boeing Vertol Co., Eddystone, Pa., at Boeing Vertol's warehouses in Morton, Pa. and Chester, Pa. and at Boeing Vertol's test facilities in Philadelphia, Pa. and Wilmington, Del. be denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27543 Filed 9-28-78; 8:45 am]

[TA-W-3254]

BOGART INDUSTRIES, INC., FORT WORTH; JACKSBORO; CLEBURN: AND DUBLIN, TEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FEDERAL REGISTER Doc. 78-24319 appearing on pages 38636-38637 in the FEDERAL REGISTER of August 29, 1978, one of the subject units covered in that certification is identified as the Dublin, Tex., plant of Bogart Industries, Inc. It should be corrected to read "Dublin Industries, Dublin, Tex."

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 70-27529 Filed 9-28-78; 8:45am]

[4510-28]

[TA-W-3859]

BRIDON AMERICAN CORP., LINDEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3859: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Linden, N.J. service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Linden facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customer's requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope, who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp., have contributed importantly to the total or partial separation of workers at the Linden, N.J. service center of that firm. In accordance with the provisions of the act, I make the following certification:

> All employees of the Linden, N.J. service center of the Bridon, American Corp., who became totally or partially separated from employment on or after June 8, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27530 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3863]

BRIDON AMERICAN CORP., MEMPHIS, TENN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3863: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers distributing wire products at the Memphis, Tenn. service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Memphis facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of ge b29se3.163the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976 were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980 unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2809.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Memphis, Tenn. service center of that firm. In accordance with the provisions of the act, I make the following certification:

> All employees of the Memphis, Tenn. service center of the Bridon American Corp. who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27531 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3862]

BRIDON AMERICAN CORP., MELVINDALE, MICH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3862: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Melvindale, Mich., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Melvindale facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

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CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Melvindale, Mich. service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Melvindale, Mich. service center of the Bridon American Corp. who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27532 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3861]

BRIDON AMERICAN CORP., LOMBARD, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3861: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products to customers at the Lombard, Ill., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Lombard facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp., have contributed importantly to the total of partial separation of workers at the Lombard, Ill., service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Lombard, Ill., service center of the Bridon American Corp., who become totally or partially separated from employment on or after June 8, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27533 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3860]

BRIDON AMERICAN CORP., SYRACUSE, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3860: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Syracuse, N.Y., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Syracuse facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the fact obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp., have contributed importantly to the total or partial separation of workers at the Syracuse, N.Y., service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Syracuse, N.Y., service center of the Bridon American Corp. who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27534 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3858]

BRIDON AMERICAN CORP., JEFFERSON, LA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3858: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Jefferson, La., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the United States Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Jefferson facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Jefferson, La., service center of that firm. In accordance with the provisions of the Act, I make the following certification:

All employees of the Jefferson, La., service center of the Bridon American Corp. who because totally or partially separated from employment on or after June 8, 1977, are eligible to apply for adjustment assistance under title III, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27535 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3857]

BRIDON AMERICAN CORP., ATLANTA, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3857: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Atlanta, Ga., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Atlanta facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp., have contributed importantly to the total or partial separation of workers at the Atlanta, Ga., service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Atlanta, Ga., service center of the Bridon American Corp., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27536 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3856]

BRIDON AMERICAN CORP., DENVER, COLO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3856: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 9, 1978, in response to a worker

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petition received on June 12, 1978, which was filed on behalf of workers and former workers distributing wire products at the Denver, Colo., service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Denver facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980, unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the fact obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp., have contributed importantly to the total or partial separation of workers at the Denver, Colo., service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Denver, Colo., service center of the Bridon, American Corp., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27537 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3854]

BRIDON AMERICAN CORP., HOUSTON, TEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3854: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers distributing wire products at the Houston, Tex. service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order of make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Houston facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976 were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980 unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Houston, Tex. service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Houston, Texas service center of the Bridon American Corp. who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27538 File 9-28-78; 8:45 am]

[4510-28]

[TA-W-3864]

BRIDON AMERICAN CORP., PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3864: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers distributing wire products at the Pittsburgh, Pa. service center of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The Pittsburgh facility is a service and distribution center for wire rope which is produced at the company's manufacturing facilities. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976 were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire April 14, 1980 unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Pittsburgh, Pa. service center of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Pittsburgh, Pennsylvania service center of the Bridon American Corp. who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27539 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3865]

BRIDON AMERICAN CORP., WILKES-BARRE, PA.

Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3865: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers of the Wilkes-Barre, Pa. Corporate Headquarters of the Bridon American Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The administrative offices of the Bridon American Corp. in Wilkes-Barre, Pa. perform activities necessary to the support of the company's production operations. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production who became totally or partially separated from employment on or after October 31, 1976 have previously been certified eligible to apply for adjustment assistance benefits in the Department's determination on TA-W-2609 which is dated April 14, 1978. The certification will remain in effect until April 14, 1980 unless terminated earlier by the Secreatry of Labor.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competative with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Wilkes-Barre, Pa. Corporate Headquarters of that firm. In accordance with the provisions of the act, I make the following certification:

All employees of the Wilkes-Barre, Pa. Corporate Headquarters of the Bridon American Corp. who became totally or partically separated from employment on or after December 1, 1977 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27540 Filed 9-28-78 8:45 am]

[4510-28]

[TA-W-3566]

BRUNSWICK PULP AND PAPER CO., BRUNSWICK, GA.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 3, 1978 in response to a worker petition received on April 19, 1978 which was filed by the United Paper Workers International Union on behalf of workers and former workers producing bleached pulp and paper board at the Brunswick, Ga. plant of Brunswick Pulp and Paper Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-69). No public hearing was requested and none was held.

The petitioner, the United Paper Workers International Union, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated. Signed at Washington, D.C. this 15th day of September, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27544 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3585]

BRUTIN & CO., INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3585: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Brutin & Co., Inc., Paterson, N.J. The investigation revealed that Brutin & Co., Inc., no longer make suits.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brutin & Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade

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Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,723,000 dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Brutin & Co., Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 maintained constant purchases from Brutin & Co., Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 decreased purchases from Brutin & Co., Inc., and increased purchases of imported ladies' coats in the first quarter of 1978 compared to the first quarter of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Brutin & Co., Inc., Paterson N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act. I make the following certification:

All workers of Brutin & Co., Inc., Paterson, N.J. who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27541 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3454]

BUCKHANNON, W. VA. PLANT REIDBORD BROTHERS CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3454: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 30, 1978 in response to a worker petition received on March 21, 1978 which was filed on behalf of workers and former workers producing men's slacks at Reidbord Brothers Co., Buckhannon, W. Va.

The investigation revealed that the workers of the Buckhannon, W. Va. plant of Reidbord Brothers Co., Inc. produced men's slacks, walking shorts, and knit tennis shorts.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reidbord Brothers Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

U.S. imports of men's and boy's dress and sport trousers and shorts increased from 55,508,000 units in 1975 to 73,209,000 units in 1976 and increased to 78,419,000 units in 1977. Imports increased to 24,039,000 units during the first quarter of 1978 compared to 17,152,000 units during the same period in 1977. The ratio of imports to domestic production increased from 34.1 percent in 1975 to 40.9 percent in 1976, and then decreased to 38.0 percent in 1977.

Customers of Reidbord Brothers Co., Inc., who were surveyed indicated that they decreased purchases of slacks from the subject firm and increased purchases of slacks from foreign sources in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with men's slacks, walking shorts, and knit tennis shorts produced at the Buckhannon, W. Va. plant of Reidbord Brothers Co., Inc. contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Buckhannon, W. Va. plant of Reidbord Brothers Co., Inc., who became totally or partially separated from employment on or after March 16, 1977 and before October 21, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers separated on or after October 21, 1977 are denied eligibility to apply for adjustment assistance benefits.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27545 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2898]

BURLINGTON DRESS CO., ATLANTIC CITY AND BURLINGTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2898: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 11, 1978 in response to a worker petition received on December 27, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' dresses and sportswear at the Burlington, N.J. plant of Burlington Dress Co. The investigation was expanded to include workers and former workers producing ladies' dresses and sportswear at the Atlantic City, N.J. plant of Burlington Dress Co.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Burlington Dress Co., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that U.S. imports of women's and misses' dresses increased from 645 thousand dozen in 1975 to 659 thousand dozen in 1976. The ratio of imports to domestic production remained unchanged at 4.5 percent in 1975 and 1976. Imports decreased from 659 thousand dozen in 1976 to 587 thousand dozen in 1977, a decline of 10.9 percent.

A survey of clothing manufacturers who provided contract work to Burlington Dress Co. indicated that the manufacturers did not use foreign contract firms and did not purchase imports of finished ladies' dresses and sportswear. A secondary survey of retail stores who purchased ladies' dresses from the clothing manufacturers revealed that the retail stores either increased purchases from the clothing manufacturers or did not import any dresses in 1976 and 1977.

CONCLUSION

After careful review I determine that all workers of the Atlantic City and Burlington, N.J. plants of Burlington Dress Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMERS F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27542 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3613]

CERRO COAT, INC., HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3613: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Cerro Coat, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cerro Coat, its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Cerro Coat worked in 1977 and 1978. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Cerro Coat and increased purchases of imported ladies' coats in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Cerro Coat, Inc., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Cerro Coat, Inc., Hoboken, N.J., who became totally or partially separated from employment on or after October 7, 1977 and before May 1, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after May 1, 1978 are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27546 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2759]

CHAIN BIKE CORP. ALLENTOWN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2759: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 12, 1977, in response to a worker petition received on December 1, 1977 which was filed by the International Brotherhood of Teamsters on behalf of workers and former workers producing bicycles at Chain Bike Corp., Allentown, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65306). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Chain Bike Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion as not been met.

That sales of production, or both, of such firm or subdivision have decreased absolutely.

The Department's investigation revealed that sales and production of bicycles at Chain Bike Corp. increased in 1977 compared to 1976, and increased in the first half of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of Chain Bike Corp., Allentown, Pa. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27547 Filed 9-28-78 8:45 am]

V 43 / 190 SEP 29 78 UM

[4510-28]

[TA-W-3837]

CIBA-GEIGY CORP., DYESTUFFS AND CHEMICALS DIVISION, BAYONNE, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 14, 1978 in response to a worker petition received on June 5, 1978 which was filed by the International Chemical Workers producing dyes for the textile industry.

Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from the employment of the Dyestuffs and Chemicals Division of Ciba-Geigy Corp. in January 1977. Section 223(b)(1) of the Trade Act of 1974 states that certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than 12 months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case is June 5, 1978. Since workers separated from the employment of the Dyestuffs and Chemical Division prior to June 5, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 20th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27548 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3168]

CLIFTON CLOTHING CO., WALLINGTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3168: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed on behalf of workers and former workers producing men's and ladies' tailored jackets at Clifton Clothing Co., Wallington, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

On February 17, 1978, the Department issued a certification of eligibility to apply for adjustment assistance for all workers of Clifton Clothing Co. That certification remained in effect until February 17, 1978—2 years from the date of issuance.

The information upon which the determination was made was obtained principally from officials of Clifton Clothing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated or are threatened to become totally or partially separated.

Average annual employment of production workers of Clifton Clothing Co., Wallington, N.J. increased by 2 percent during the first quarter of 1978 compared to the fourth quarter of 1977, increased 13 percent during the second quarter of 1978 compared to the first quarter of 1977, and increased 7 percent during the first half of 1978 compared to the same period in 1977. Average hours worked increased 36 percent during the second quarter of 1978 compared to the first quarter of 1978 and increased 24 percent during the first half of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Clifton Clothing Co., Wallington, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27549 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3410]

DAYTON MALLEABLE, INC. OHIO MALLEABLE DIVISION, COLUMBUS, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3410: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on March 9, 1978, which was filed by the United Steelworkers of American on behalf of workers and former workers producing malleable castings at Dayton Malleable, Inc., Ohio Malleable Division, Columbus, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dayton Malleable, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absoluted decline in sales or production.

Evidence developed during the Department's investigation revealed that production workers at the Ohio Malleable Division were on strike from November 1, 1977, to February 4, 1978. From March 7, 1977, the earliest possible impact date, until the strike, total separations were not significant.

As a consequence of the strike, customers recalled patterns from the firm and shifted production to other domestic firms. The failure to recall workers following settlement of the strike is attributable to the shift of business rather than to import competition.

CONCLUSION

After careful review, I determine that all workers at the Ohio Malleable Division, Columbus, Ohio of Dayton Malleable, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27550 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3434]

DAYTON MALLEABLE INC., IRONTON DIVISION, IRONTON, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3434: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978, in response to a worker petition received on March 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing malleable castings at Dayton Malleable Incorporated, Ironton Division, Ironton, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dayton Malleable Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met, without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the Department's investigation revealed that production workers at the Ironton Division were on strike from November 1, 1977 to February 4, 1978. From March 7, 1977, the earliest possible impact date, until the strike, employment increased.

As a consequence of the strike, customers recalled patterns from the firm and shifted production to other domestic firms. The failure to recall workers following settlement of the strike is attributable to this shift of business rather than to import competition.

CONCLUSION

After careful review, I determine that all workers at the Ironton Division of Dayton Malleable, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27551 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-2-3718]

DEE-MURE BRASSIERE CO., INC., HAMLIN, W. VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3718: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 16, 1978, in response to a worker petition received on May 15, 1978, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing brassieres and body suits at Dee-Mure Brassiere Co., Inc., Hamlin, W. Va. The investigation revealed that the workers produced brassieres.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923-24). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dee-Mure Brassiere Co., Inc., its customers, the U.S. Department of Commerce, the American Textile Manufacturers' Institute, the National Cotton Council of America, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all the requirements have been met.

U.S. imports of brassieres, bra-lettes, and bandeaux increased absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased absolutely in 1977 compared to 1976 and increased in the first quarter of 1978 compared to the first quarter of 1977.

Dee-Mure was a contractor who produced for a single customer. The customer began importing brassieres in July 1976, increased imports in the period from July through December 1977 compared to the same period in 1976, and increased imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases in imports of articles like or directly competitive with brassieres produced at Dee-Mure Brassiere Co., Inc., Hamlin, W. Va., contributed importantly to the decline in production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dee-Mure Brassiere Co., Inc., Hamlin, W. VA., who became totally or partially separated from employment on or after May 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27552 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3826]

DIXIE SHOE CORP. EUFAULA, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3826: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 6, 1978, which was filed on behalf of workers and former workers producing ladies' footwear at Dixie Shoe Corp., Eufaula, Ala.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

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The information upon which the determination was made was obtained principally from officals of Dixie Shoe Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

The Department's investigation revealed that imports of women's nonrubber footwear increased from 183.5 million pairs in 1975 to 183.8 million pairs in 1976. Imports declined in 171.9 million pairs in 1977; however the ratio of imports to domestic production increased from 117.9 percent to 122.8 percent from 1976 to 1977. Imports of women's nonrubber footwear increased both absolutely and relative to domestic production in the first quarter of 1978 compared to the like period of 1977.

In its report to the President of February 8, 1977, the U.S. International Trade Commission found that certain footwear articles are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. The Commission considered other factors that have been alleged as more important causes such as the recent re-cession, inability of manufactures to keep pace with technological and style changes, and decreased productivity. However, the Commission concluded that, although such a factors may have contributed in part, imports have been the most important cause of injury.

A survey of Dixie Shoe customers indicated that a major customer reduced purchases from Dixie while increasing import purchases during the first half of 1978 compared to the same period of 1977

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports like or directly competitive with ladies' footwear produced at Dixie Shoe Corp., Eufaula, Ala., contributed importantly to the decline in sales or production and to the total or partial separation of workers at such plant.

In accordance with the provisions of the act, I make the following certification:

All workers at Dixie Shoe Corp., Eufaula, Ala., who became totally or partially separated from employment on or after June 2, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Mangement, Administration and Planning

[FR Doc. 78-27553 Filed 9-28-78 8:45 am]

[4510-28]

[TA-W-3748]

E & W OF ILLMO, INC., ILLMO, MO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3748: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978, in response to a worker petition received on May 15, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing boys' and men's jeans and overalls at E & W of Illmo, Inc., Illmo, Mo.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ely & Walker, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

United States imports of men's and boys' woven cotton and manmade fiber work trousers and one-piece suits increased from 9.2 million units in 1976 to 50.6 million units in 1977. Imports increased from 11.8 million units in the first quarter of 1977 to 13.6 million units in the first quarter of 1978. The import to domestic production ratio increased from 2.9 percent in 1976 to 15.4 percent in 1977.

Several customers of E & W who were surveyed decreased purchases of jeans from E & W and increased direct and indirect purchases from foreign sources.

E & W of Illmo began importing finished bib overalls in September 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with boys' and men's jeans and overalls produced by E & W of Illmo, Illmo, Mo., contributed importantly to declines in sales and production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of E & W of Illmo, Illmo, Mo., who became totally or partially separated from employment on or after May 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27556 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3804]

ELDER MANUFACTURING CO., McLEANSBORO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3804: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 5, 1978, in response to a worker petition received on May 25, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing men's and boys' dress and sport shirts at the McLeansboro, Ill., plant of Elder Manufacturing Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Elder Manufacturing Co., the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

United States imports of men's and boys' knit dress and sport shirts increased from 74.0 million units in 1976 to 75.2 million units in 1977. Imports increased from 20.0 million units during January-March 1977 to 26.1 million units during January-March 1978.

Imports of men's and boys' woven dress, business, sport, and uniform shirts increased relative to domestic production from 53.9 percent in 1976 to 54.7 percent in 1977. Imports increased from 30.9 million units during January-March 1977, to 34.6 million units during January-March 1978.

Elder Manufacturing Co., imports men's and boys' dress and sport shirts. Company import purchases increased in quantity in 1977 from 1976 and during January-June 1978, compared to January-June 1977. Sales of imported shirts by Elder increased from 4 percent of company sales in 1976 to 34 percent of sales in 1977.

CONCLUSION

After careful review, I concluded that increases of imports of articles like or directly competitive with men's and boys' dress and sport shirts produced by the McLeansboro, Ill., plant of Elder Manufacturing Co., contributed importantly to the declines in production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the McLeansboro, Ill., plant of Elder Manufacturing Co., who became totally or partially separated from employment on or after May 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-27554 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3708]

EMPRESS HANDBAG CO., INC., NORTH BERGEN, N.J.

Certification Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3708: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 15, 1978, in response to a worker petition received on May 2, 1978, which was filed by the Pocketbook and Novelty Workers Union, AFL-CIO, on behalf of workers and former workers producing handbags at Empress Handbag Co., Inc., North Bergen, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Empress Handbag Co., Inc., Jaclyn, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of handbags increased in each year from 1975 to 1977. Imports increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports increased absolutely in the first 3 months of 1978 compared to the first 3 months of 1977.

Empress Handbag Co. imported handbags. Company imports increased from 5.9 percent of sales in 1976 to 13.1 percent of sales in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at Empress Handbag Co., Inc., North Bergen, N.J., contributed importantly to the decline in production and to the separation of workers at that company. In accordance with the provisions of the Act, I make the following certification:

All workers of Empress Handbag Co., Inc., North Bergen, N.J., who became totally or partially separated from employment on or after April 21, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27555 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3687]

F&P COAT CO., NEPTUNE, N.J.

Certification Regarding eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3687: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's coats at F&P Coat Co., Neptune, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of F&P Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The investigation has revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for which F&P Coat Co. worked in 1976 and 1977. This manfacturer reduced purchases from F&P Coat Co. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the children's coats produced at F&P Coat Co., Neptune, N.J., contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of

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the Act, I make the following certification:

All workers of F&P Coat Co., Neptune, N.J., who become totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washinton, D.C., this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27557 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2840]

F/V "CAP'N BILL," PROVINCETOWN, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2840: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a worker petition received on December 14, 1977, which was filed on behalf of fishermen and former fishermen catching fish for the F/V *Cap'n Bill*, Provincetown, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F/V *Cap'n Bill*, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The F/V *Cap'n Bill* caught groundfish, flatfish, and scallops. Sales of groundfish, flatfish, and scallops increased in 1976 compared to 1975 and in 1977 compared to 1976. In February 1978, the F/V *Cap'n Bill* sank.

CONCLUSION

After careful review, I determine that all fishermen of the F/V *Cap'n Bill*, Provincetown, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27558 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-4008]

GENESCO, INC., GENERAL SHOE CO. DIVISION, HUNTSVILLE, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4008: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978, in response to worker petition received on July 26, 1976, which was filed on behalf of workers and former workers producing men's footwear at the Huntsville, Ala., plant of the General Shoe Co. Division of Genesco, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the General Shoe Co. Division of Genesco, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry an vsts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased from 47.5 million pairs in 1976 and declined to 56.5 million pairs in 1977, a level still higher than 1975. The ratio of imports to domestic production increased from 70.4 percent in 1976 to 71.7 percent in 1977. Imports increased from 15.7 million pairs in the first 3 months of 1977 to 16.0 million pairs in the first 3 months of 1978. The ratio of imports to domestic production decreased from 77.3 percent in the first 3 months of 1977 to 76.2 percent in the same period of 1978.

U.S. imports of work footwear increased from 2.6 million pairs in 1975 to 4.7 million pairs in 1976 and increased to 5.1 million pairs in 1977. The ratio of imports to domestic production increased from 18.0 percent in 1976 to 20.7 percent in 1977. Imports increased from 0.9 million pairs in the first 3 months of 1977 to 1.7 million pairs in the same period of 1978. The ratio of imports to dometic production increased from 14.3 percent in the first 3 months of 1977 to 2700 percent in the same period of 1978.

Company imports of men's shoes, including work shoes, increased in 1976 compared to 1975, decreased fractionally in 1977 compared to 1976, and then increased in the first 6 months of 1978 compared to the same period of 1977. This increased reliance on foreign sources by General Shoe coincided with declines in production and employment at the Huntsville plant. This increase in company imports of men's shoes during the 1975-78 period is consistent with industry trends, which show that in recent years imports have gained an increased share of both the domestic men's dress and casual footwear market and the domestic work footwear market. While imports of men's dress and casual footwear and imports of work footwear have been increasing, domestic production of these products in general and shipments by General Shoe in particular have been declining. This decline in shipments and the increased use of foreign sources by General Shoe have resulted in numerous plant closings. The closure of General Shoe's Huntsville plant reflects the continued adverse effect of imports on the domestic footwear industry.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the men's footwear produced at the Huntsville, Ala., plant of the General Shoe Co. Division of Genesco, Inc., contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Huntsville, Ala., plant of the General Shoe Co. Division of Genesco, Inc., who became totally or partially separated from employment on or after June 15, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Plannng.

[FR Doc. 78-27559 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3962]

HEPSUN SPORTSWEAR NEW YORK N.Y.,

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1978, in response to a worker petition received on June 26, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing slacks and some skirts at Hepsun Sportswear, New York, N.Y.

Notice of investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The petitioner, the International Ladies' Garment Workers' Union, requested withdrawal of this petition. On the basis of the withdrawal continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 20th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27560 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3118]

HEVEATEX CORP., EVERETT, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3118: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 13, 1978, in response to a worker petition received on January 26, 1978, which was filed on behalf of workers and former workers producing adhesives and other compounds at Heveatex Corp., Everett, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Heveatex Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of adhesives increased in quantity from 4.1 million pounds in 1976 to 7.3 million pounds in 1977, and decreased from 4.2 million pounds in the first quarter of 1977 to 1.1 million pounds in the first quarter of 1978. Imports of adhesives increased in value from $7.4 million in 1976 to $10.2 million in 1977, and increased from $2.4 million in the first quarter of 1977 to $2.8 million in the first quarter of 1978. The ratio of imports to domestic production did not exceed 1.0 percent in the 1973-77 period.

Imports of elastomers (synthetic rubbers) increased in quantity from 269.2 million pounds in 1976 to 361.2 million pounds in 1977, and decreased from 103.3 million pounds in the first quarter of 1977 to 72.7 million pounds in the first quarter of 1978. The ratio of imports to domestic production increased from 5.0 percent in 1976 to 6.3 percent in 1977.

Customers accounting for most of Heveatex's sales in the 1975-77 period were surveyed. These customers who responded purchased no imports, either directly or indirectly from other domestic suppliers. All production at Heveatex was in response to customer orders and according to customer specifications.

Since January, 1, 1978, Heveatex has not engaged in any production, becoming completely a sales operation for the Tillotson Corp., the parent company. Production was transferred, starting gradually throughout the last 6 months of 1977, to another division of Tillotson.

CONCLUSION

After careful review. I determine that the workers of Heveatex Corp., Everett, Mass., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Ecomomic Research.

[FR Doc. 78-27561 Filed 9-28-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the worker's firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 13, 1978.

Interested persons ae invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 6th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ASARCO, Inc., Central Research Department (workers).	South Plainfield, N.J	Sept. 5, 1978	Aug. 25, 1978	TA-W-4,136	Conferrous and metallurgical research.
Columbus Coated Fabrics, North Andover Plant (company).	North Andover, Mass	do	Aug. 30, 1978	TA-W-4,137	PVC (poly vinyl chloride) film used in the manufacture of wallcoverings.
Frontier Spar Corp., Bab-Barnes Mine and Mill (International Association of Machinists & Aerospace Workers).	Salem, Ky	do	Aug. 29, 1978	TA-W-4,138	Materials are mined, purified and dried.
Parker Manufacturing Co. (workers)	Worcester, Mass	do	Aug.22, 1978	TA-W-4,139	Hand tools for Sears.
UFI Razor Blades, Inc. (Distributive Workers of America).	New York, N.Y	Aug. 28, 1978	do	TA-W-4,140	Razor blades.
United Plastic, Inc. (company)	Champaign, Ill	Sept. 5, 1978	Aug. 30, 1978	TA-W-4,141	Disposable polyethylene (plastic) aprons and gloves.

[FR Doc. 78-27583 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3963]

K.A.L. FASHIONS, NEW YORK, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1978 in response to a worker petition received on June 26, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing cotton slacks and some skirts at K.A.L. Fashions, New York, N.Y.

Notice of investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The petitioner, the International Ladies' Garment Workers' Union, requested withdrawal of this petition. On the basis of the withdrawal continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 20th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27562 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3449]

LAFOLLETTE SHIRT DIVISION, IMPERIAL READING CORP., LAFOLLETTE, TENN.

Determinations Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3449: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 13, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing men's dress and sport shirts at the LaFollette Shirt Division of the Imperial Reading Corp., LaFollette, Tenn. During the course of the investigation it was determined that denim products were also produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Imperial Reading Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing men's dress and sport shirts it is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress, business, sport, and uniform shirts increased from 91,808 thousand units in 1975 to 144,103 thousand units in 1976. Imports then decreased to 139,720 thousand units in 1977. Imports increased from 30,875 thousand units in the first quarter of 1977 to 34,583 thousand units for the same period of 1978. The imports to domestic production ratio increased from 36.8 percent in 1975 to 53.9 percent in 1976, and then to 54.7 percent in 1977.

A survey of major customers of the LaFollette Shirt Division of the Imperial Reading Corp. indicated that many of those customers which had decreased purchases of shirts from Imperial, in 1977 or in the first quarter of 1978, had increased purchases of imports, either directly or from other domestic sources, during the same period.

With respect to workers producing denim products, without regard to whether any of the other criteria have been met, the following criterion has not been met:

- That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that production of denim products at the LaFollette Shirt Division of the Imperial Reading Corp., LaFollette, Tenn., increased from 1976 to 1977 and in the first quarter of 1978 compared to the same period in 1977. Sales and production are approximately equal at the LaFollette plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and sport shirts produced at the LaFollette Shirt Division of the Imperial Reading Corp., LaFollette, Tenn., contributed importantly to the decline in sales and production of that product and to the total or partial separation of workers producing that product at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of the LaFollette Shirt Division of the Imperial Reading Corp., LaFollette, Tenn., engaged in employment related to the production of men's dress and sport shirts, who became totally or partially separated from employment on or after March 1, 1977, and before March 5, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after March 5, 1978, are denied eligibility.

I further determine that workers engaged in employment related to the production of denim products are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 21st day of September 1978.

HARRY J. GILMAN,
Acting Director, Office Foreign Economic Research.

[FR Doc. 78-27563 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3596]

LAMAR COAT, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3596: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' and children's coats, at Lamar Coat, Inc., Paterson, N.J. The investigation revealed that the firm did not produce children's coats in 1976 and 1977.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lamar Coat, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Lamar Coat, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reported that they reduced purchases from Lamar Coat, Inc. and increased purchases of imported ladies' coats in 1977 compared to 1976. Lamar Coat, Inc., closed permanently in the beginning of January 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Lamar Coat, Inc., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Lamar Coat, Inc., Paterson, N.J. who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27564 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3711]

LEEDS TRAVELWEAR CLAYTON, DEL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3711: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on May 2, 1978 which was filed by the Luggage Workers Union on behalf of workers and former workers producing luggage and luggage accessories and golf bags, bowling bags, and tennis bags at Leeds Travel Wear, Clayton, Del.

The investigation revealed that the company name is Leeds Travelwear, and the formal name of the union is the International Leather Goods, Plastic and Novelty Workers' Union. Leeds no longer produces tennis bags. In addition to the workers at the Clayton, Del. plant, the company employs three luggage salespersons who work out of their respective residences in Irvine, Calif., Chicago, Ill., and North Chicago, Ill.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Leeds Travelwear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

Imports of luggage, which includes sports bags, increased in value from $112.5 million in 1976 to $137.7 million in 1977, and increased from $28.9 million in the first quarter of 1977 to $42.1 million in the first quarter of 1978. The ratio of imports to domestic production increased from 24.7 percent in 1976 to 28.4 percent in 1977, and increased from 23.8 percent in the first quarter of 1977 to 32.4 percent in the first quarter of 1978.

There were no company imports of luggage in 1977. In February 1978, Leeds Travelwear began a luggage import program. Imports of luggage in the February-May period of 1978 represented 29 percent of company sales in value for that period. The luggage is produced on a contractual basis in Taiwan. Leeds does not import sports bags of any kind.

Most of the customers who purchase luggage from Leeds who responded to the Department's survey reported purchasing some imported luggage. Some of these customers increased imports and reduced purchases from Leeds in 1977 compared to 1976 and/or in the first quarter of 1978 compared to the first quarter of 1977.

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CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with luggage produced by Leeds Travelwear, Clayton, Del., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Clayton, Del. plant and workers in Irvine, Calif., North Chicago, Ill., and Chicago, Ill. of Leeds travelwear, who became totally or partially separated from employment on or after April 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of September 1978.

GLORIA G. PRATT
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27565 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3183]

LEFETON CUSTOM TAILORING, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3183: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and boys' tailored clothing at Lefeton Custom Tailoring, Inc., New York, N.Y. During the course of the investigation, it was established that the firm produces men's tailored suitcoats, and men's and women's tailored sportcoats.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lefeton Custom Tailoring, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

On January 17, 1976, the employees of Lefeton Custom Tailoring, Inc., were certified as eligible to apply for trade adjustment assistance (TA-W-296). That certification expired on January 17, 1978.

Evidence developed during the course of the investigation showed that production of suitcoats and sportcoats at Lefeton Custom Tailoring increased by 42.8 percent in quantity and by 88.3 percent in value during the first half of 1978, as compared to the first half of 1977. Production for each month from March through June of 1978 was higher than the corresponding month of the same period in 1977. Sales and production are equal at Lefeton Custom Tailoring.

CONCLUSION

After careful review, I determine that all workers at Lefeton Custom Tailoring, Inc., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27566 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3690]

M & D SHOP, INC., SUMMIT, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3690: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' toppers, coats and raincoats at M & D Shop, Summit, N.J. The Department's investigation revealed that the correct name of the company was M & D Shop, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M & D Shop, Inc. its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,752 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for which M & D Shop, Inc. worked in 1976 and 1977. The manufacturer that accounted for 100 percent of sales in 1976 reported that it had increased purchases from M & D Shop Inc. and increased purchases of imported ladies' coats in 1977 compared to 1976. The manufacturer increased imports of ladies' coats in the first quarter of 1978 compared to the first quarter of 1977. M & D Shop ceased production permanently in November, 1977 because of lack of orders.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' toppers, coats and raincoats produced at M & D Shop, Inc., Summit, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of M & D Shop, Inc., Summit, N.J. who became totally or partially separated from employment on or after October 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-27568 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3881]

MADISON WIRE CO., WEST SENECA, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3881: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 22, 1978 in response to a worker petition received on June 21, 1978 which was filed on behalf of workers and former workers producing steel wire and wire products at the Madison Wire Co., West Seneca, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Madison Wire Co., the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of carbon steel wire increased from 349.6 thousand short tons in 1975 to 371.8 thousand short tons in 1976 and to 470.5 thousand short tons in 1977. Imports increased from 112.5 thousand short tons in the first 3 months of 1977 to 138.9 thousand short tons in the first 3 months of 1978. The ratio of imports to domestic shipments increased from 19.9 percent in 1976 to 25.5 percent in 1977 and increased from 25.0 percent in the first 3 months of 1977 to 28.8 percent in the first 3 months of 1978.

U.S. imports of stainless steel wire increased from 19.4 thousand short tons in 1975 to 20.8 thousand short tons in 1976 and to 30.1 thousand short tons in 1977. Imports increased from 7.3 thousand short tons in the first 3 months of 1977 to 8.8 thousand short tons in the first 3 months of 1978. The ratio of imports to domestic shipments increased from 35.9 percent in 1976 to 51.1 percent in 1977.

A survey of Madison Wire's customers was conducted by the Department of Commerce. The firms surveyed accounted for most of the subject firm's sales loss from 1976 to 1977. These firms indicated they had decreased purchases from Madison Wire Company and increased purchases of imported steel wire.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with stainless steel wire and carbon steel wire and wire products produced at Madison Wire Co., West Seneca, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Madison Wire Co., West Seneca, N.Y. who became totally or partially separated from employment on or after January 29, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management. Administration and Planning.

[FR Doc. 78-27567 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3750]

MCGREGOR-DONIGER, INC. BERWICK, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3750: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 15, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers engaged in the distribution of men's outer coats and jackets at the Berwick, Pa. distribution center of McGregor-Doniger, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of McGregor-Doniger, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the petition was filed on behalf of workers and former workers at the Berwick, Pa. distribution center of McGregor-Doniger, Inc. This distribution center received, warehoused and shipped men's outer garments exclusively for McGregor-Doniger, Inc. Pursuant to a related investigation (TA-W-2387, Notice of Determination issued April 7, 1978), workers at the Dover, N.J. plant of McGregor-Doniger, Inc. were denied eligibility to apply for trade adjustment assistance on the grounds that increased imports of men's outer coats and jackets did not contribute importantly to the separation of workers and to the decline in sales and production at that plant.

Since the Berwick, Pa. distribution center handles the products of McGregor-Doniger, Inc. exclusively, it follows that increased imports could not have contributed importantly to the separation of workers at the distribution center.

CONCLUSION

After careful review I determine that all workers of the Berwick, Pa. distribution center of McGregor-Doniger, Inc. are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27569 Filed 9-28-78; 8:45 am]

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[4510-28]

[TA-W-3035 & TA-W-3036]

NELSON KNITTING MILLS, NORTH SHORE MANUFACTURING CO., DULUTH, MINN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3035 and TA-W-3036: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978 in response to a worker petition received on January 9, 1978, which was filed on behalf of workers and former workers producing knit trim, men's and boys' wool sweaters and men's and boys' leather-and-wool jackets at Nelson Knitting Mills and workers producing infant sleepers and snowmobile suits at North Shore Manufacturing Co., Inc. Duluth, Minn.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (42 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davenshire, Inc., the parent company, its customers, the National Cotton Council of America, the American Textile Manufacturers Association, the National Knitted Outerwear Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group of eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the customers of North Shore Manufacturing revealed that none of the customers reported purchasing imports of snowmobile suits or infant sleepers.

Half of the sales by Nelson Knitting Mills in 1976 and 1977 consisted of knit trim for infant sleepers and snowmobile suits for its affiliate, North Shore Manufacturing which does not import knit trim or finished garments. A survey of the customers of Nelson Knitting Mills revealed that none of the customers reported purchasing imports of men's and boys' jackets and only one customer, representing an insignificant proportion of the subject firm's sales, indicated purchases of imported men's wool sweaters.

CONCLUSION

After careful review I determine that all workers of Nelson Knitting Mills and North Shore Manufacturing, Duluth, Minn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27570 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3151, 3343]

NICE BEARING DIVISION OF SKF INDUSTRIES, INC., KULPSVILLE AND PHILADELPHIA, PA.

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3151, 3343: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on February 16, 1978, and March 9, 1978, in response to a worker petition received on February 6, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ball bearings at the Nice Bearing Division of SKF Industries, Inc., Kulpsville and Philadelphia, Pa.

The notices of investigation were published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8862), and March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials on the Nice Bearing Division of SKF Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of customers of the Nice Bearing Division of SKF Industries revealed that the majority of customers surveyed did not purchase imported ball bearings, like or directly competitive with those produced by the Nice Division during the 1975-June 1978 period. Most of the customers surveyed that reduced purchases from the Nice Division shifted purchases to other domestic sources.

CONCLUSION

After careful review I determine that all workers at the Nice Bearing Division of SKF Industries, Inc., Kulpsville and Philadelphia, Pa. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-27571 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3371]

ROCHESTER CLOTHING CORP., ROCHESTER, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3371: Investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suits, sports coats, and slacks at the Rochester Clothing Corp., Rochester, N.Y. The petition is expanded to include employees in the Rochester Clothing Corp.'s sales office at 1290 Avenue of the Americas, New York, N.Y., engaged in employment related to the sale of men's suits, sports coats, and jackets produced at the Rochester Clothing Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of the Rochester Clothing Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

Imports of men's and boys' tailored suits increased from 3,106,000 units in 1975 to 3,562,000 units in 1976, increased to 4,091,000 units in 1977. The ratio of imports to domestic production increased from 19.0 percent in 1975 to 20.0 percent in 1977.

Rochester Clothing Corp. decreased its business with its major customer from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977. That customer, which marketed its apparel directly to consumers, decreased its business over the same periods of time. Major retailers with stores in markets served by Bond clothing stores have sharply inreased imports of men's and boys' suits and sports coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with men's suits, sports coats, and slacks produced at the Rochester Clothing Corp., Rochester, N.Y., contributed importantly to the decrease in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Rochester Clothing Corp., at the Rochester, N.Y., plant and in the 1290 Avenue of the Americas, New York, N.Y., sales office engaged in employment related to the production of men's suits, sport coats, and jackets who became totally or partially separated from employment on or after March 18, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27572 Filed 9-28-78; 8:45 am]

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[4510-28]

[TA-W-3455]

ST. JOE ZINC CO., SMELTING DIVISION, MONACA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3455: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 30, 1978 in response to a worker petition received on March 13, 1978, which was filed by the United Steel Workers of America, on behalf of workers mining zinc metal and zinc oxide at the Josephtown Smelter, Monaca, Pa.

The investigation revealed that workers at St. Joe Zinc Co., Zinc Smelting Division were producing zinc oxide, slab zinc, and various sub-products.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials at St. Joe Zinc Co., the U.S. Department of Commerce, the U.S. Department of Interior *Metals Week and Metals Bulletin*, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

St. Joe Zinc Co.'s Smelter at Monaca, Pa., produces slab zinc, zinc oxide, and the following by-products, sulphuric acid, cadnium, ferrosilicon, lead cake and zinc dust, using zinc concentrates from their own zinc mines in Missouri and imports from Canada.

Imports of slab zinc increased absolutely from 1975 to 1976 and decreased from 1976 to 1977. The ratios of imports to domestic production and domestic consumption, increased from 1975 to 1976 and from 1976 to 1977. The ratio of imports to domestic production has been for the last 2 years, above the one hundred mark, while the ratio of imports to domestic consumption has been above the 50 percent mark. In 1968 the ratio of imports to domestic production was 28.30 percent and in 1977 had increased to 127.90 percent.

The industry sources maintain that domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic price is within 5 cents per pound of the London Metal Exchange price. Except for brief periods in the spring and summer of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producers price of zinc was 7.6 cents per pound higher than the average LME zinc price in 1977, well above the 5 cents limit at which domestic suppliers can remain competitive.

Evidence developed during the course of the investigation indicates that imports of slab zinc metal have been an important factor affecting domestic sales of zinc and depressing the price of zinc. The depressed prices of zinc brought about a reduction in the domestic production of refined zinc and has resulted in cutbacks and shutdowns at many mines, concentrators and smelters, among them the Josephtown Smelter in Monaca, Pa.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with the slab zinc produced at the Josephtown Smelter of the St. Zinc Co., Monaca, Pa., contributed importantly to the decline in production and to the partial or total separation of workers at the Smelter. In accordance with the provisions of the act. I make the following certification:

All workers at the Josephtown Smelter of the St. Joe Zinc Co., Monaca, Pa. who became totally or partially separated from employment on or after July 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27574 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3609]

STAR FASHION COAT CO., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3609: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats, overcoats, and blazers at Star Fashion Coat Co., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Star Fashion Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Star Fashions worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reported that they increased purchases from Star Fashions and reduced purchases of imported ladies' coats, overcoats, and blazers in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reported that they reduced purchases from Star Fashions and increased pruchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats, overcoats, and blazers produced at Star Fashion Co., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Star Fashion Coat Co., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27573 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-2837]

UNION CARBIDE CORP. METALS DIVISION ALLOY, W.VA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2837: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 3, 1978 in response to a worker petition received on December 21, 1977, which was filed on behalf of workers and former workers producing silicon metal, ferrosilicon, special silicon, silicomanganese, ferromanganese silicon, and medium carbon and low carbon ferromanganese at the Alloy, West Virginia Metals Division plant of Union Carbide Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2459). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Union Carbide Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

With respect to workers producing medium carbon and low carbon ferromanganese, without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Imports of medium and low carbon ferromanganese increased in 1976 from 1975, decreased 25 percent in 1977 from 1976 from 1975 and decreased 28 percent in the first quarter of 1978 compared to the first quarter of 1977. The ratio of imports to domestic production decreased from 80.0 in 1976 to 67.5 in 1977.

With respect to workers producing ferrochrome silicon, silicomanganese, ferromanganese silicon, silicon metal and ferrosilicon, all of the group eligibility requirements of section 222 of the act have been met.

Ferrochrome Silicon-FeCrSi

Imports of FeCrSi increased 280 percent in 1976 from 1975, increased 3 percent in 1977 from 1976. The ratio of imports to domestic production increased from 28.4 percent in 1976 to 30.6 percent in 1977.

Production and sales of FeCrSi at the plant increased in quantity in 1976 and decreased in 1977 from 1976.

Customers of Union Carbide decreased purchases of FeCrSi from Union Carbide and increased purchases of imports in 1977 from 1976.

Silicomanganese-SiMn-and Ferromanganese Silicon-FeMnSi

Imports of FeMnSi are included in the statistics for SiMn so the two products are combined.

Imports of SiMn increased 44 percent in quantity in 1976 from 1975 and increased 10 percent in 1977 from 1976. The ratio of imports to domestic production increased 45.5 percent in 1976 to 54.3 percent in 1977.

Production and sales of SiMn and FeMnSi at the plant decreased in quantity in 1976 from 1975 and decreased in 1977 from 1976.

Union Carbide increased imports of SiMn and FeMnSi in 1978 from 1977.

Silicon Metal

Imports of silicon metal increased 40 percent in 1976 from 1975 and increased 181 percent in 1977 from 1976. The ratio of imports to domestic production increased from 6.7 percent in 1976 to 21.8 percent in 1977.

Production of silicon metal at the plant increased in quantity in 1976 from 1975 and decreased in 1977 from 1976.

Customers of Union Carbide decreased purchases of silicon metal from Union Carbide and increased purchases of imports in 1977.

Ferrosilicon-FeSi

Imports of FeSi increased 40 percent in 1976 from 1975 and increased 16 percent in 1977 from 1976. The ratio of imports to domestic production increased from 15.3 percent in 1976 to 18.1 percent in 1977.

Production of FeSi at the plant decreased in quantity in 1976 from 1975 and decreased in 1977 from 1976.

Customers of Union Carbide decreased purchases of FeSi from Union Carbide and increased purchases of imports in 1977.

Total production at the plant decreased in 1976 from 1975 and total sales and production decreased in 1977 from 1976.

Average production employment at the plant decreased in 1976 from 1975 and decreased in 1977 from 1976. Employees at the plant are not separately identifiable by product.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases in imports of articles like or directly competitive with ferrochrome silicon, silicomanganese, ferromanganese silicon, silicon metal, and ferrosilicon produced at the Alloy, West Virginia Metals Division plant of Union Carbide Corp. contributed importantly to the decline in sales and production and to the total or partial separations of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Alloy, West Virginia Metals Division plant of Union Carbide Corp. who are engaged in employment related to the production of ferrochrome silicon, silicomanganese, ferromanganese silicon, silicon metal and ferrosilicon who became totally or partially separated from employment on or after December 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers of the Alloy, West Virginia Metals Division plant of Union Carbide Corp. who are engaged solely in employment related to production of any products not specifically mentioned above are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-27575 Filed 9-28-78; 8:45 am]

[TA-W-3950]

WUNDIES, INC., WELLSBORO, PA.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing children's underwear and sleepwear and ladies' underwear at the Wellsboro, Pa., plant of Wundies, Inc.

Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

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The petitioner, Wundies, Inc., requested withdrawal of such petition. The basis for the withdrawal is that no significant separations of workers have yet occurred. The effect of imports on the production at domestic plants of Wundies, Incorporated is not expected for more than a year from the date of the petitions' submission. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 13th day of September, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27576 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3949]

WUNDIES, INC. LIBERTY, PA.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing children's underwear and sleepwear and ladies' underwear at the Liberty, Pa. plant of Wundies. Inc.

Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The petitioner, Wundies, Inc., requested withdrawal of such petition. The basis for the withdrawal is that no significant separations of workers have yet occurred. The effect of imports on the production at domestic plants of Wundies, Incorporated is not expected for more than a year from the date of the petitions' submission. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 13th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27577 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3948]

WUNDIES, INC., WILLIAMSPORT, PA.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing children's underwear and sleepwear and ladies' underwear at the Williamsport, Pa. plant of Wundies, Inc.

Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The petitioner, Wundies, Inc., requested withdrawal of such petition. The basis for the withdrawal is that no significant separations of workers have yet occurred. The effect of imports on the production at domestic plants of Wundies, Inc. is not expected for more than a year from the date of the petitions' submission. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 13th day of September 1978.

MARVIN M. FOOKS,
Director Office of Trade Adjustment Assistance.

[FR Doc. 78-27578 Filed 9-28-78; 8:45 am]

[4510-28]

[TA-W-3947]

WUNDIES, INC., NEW YORK, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978, in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers at the sales office of Wundies, Inc. located in New York, N.Y.

Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The petitioner, Wundies, Inc. requested withdrawal of such petition. The basis for the withdrawal is that no significant separations of workers have yet occurred. The effect of imports on the production at domestic plants of Wundies, Inc. is not expected for more than a year from the date of the petitions' submission. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 13th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-27579 Filed 9-28-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

MICHIGAN MIGRANT LEGAL SERVICES, BERRIEN SPRINGS, MICH.

Grants and Contracts

SEPTEMBER 22, 1978.

The Legal Services Corp. was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the corporation shall announce publicly • • • such grant, contract or project."

The Legal Services Corp. hereby announces publicly that it is considering the grant application submitted by:

Michigan Migrant Legal Services in Berrien Springs, Mich. to serve the Native Americans in Michigan.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corp. at:

Legal Services Corp., Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colo. 80202.

THOMAS EHRLICH,
President.

[FR Doc. 78-27491 Filed 9-28-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE; HUMANITIES PANEL

Meeting

SEPTEMBER 25, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the 11th floor conference room from 9 a.m. to 5:30 p.m. on October 17, 1978.

The purpose of the meeting is to review State, local, and regional history applications submitted to the general research program of the National Endowment for the Humanities, for projects beginning March 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's delegation of authority to close advisory committee meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of the 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-27492 Filed 9-28-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REQUESTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 25, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Recordkeeping requirements, on occasion, recordkeeping requirements, Laverne V. Collins, 395-3214.

DEPARTMENT OF DEFENSE

Departmental and Other Reserve Component Attitude Study, single time, youth, 4,500 responses, 2,250 hours, Office of Federal Statistical Policy and Standard, Marsha Traynham, 673-7956.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, OOQ Subscriber Survey, 3110, single time, job/career counselors, 1,400 responses, 117 hours, Strasser, A., 395-6132.

REVISIONS

VETERANS ADMINISTRATION

Veterans Application for Compensation and Pension, 21-526, on occasion, veterans, 250,000 responses, 250,000 hours, Caywood, D. P., 395-3443.

Statement of Income and Net Worth—Disability, 21-6897, on occasion, veteran, 200,000 responses, 100,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Maritime Administration, Application for Transfer of Vessels, MA-29, 29A, and 29B, on occasion, shipowner, 100 responses, 650 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, National Disease Surveillance—I. Case reports, on occasion, State and territorial health departments, 33,919 responses, 16,477 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Summary of Sentenced Population Movement, NPS-1 (LEAA SER. 3620), annually, State correction agencies, 60 responses, 120 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF LABOR

Employment and Training Administration:
Job Order Form, ES-514, on occasion, employers using ES services, 3,960,000 responses, 396,000 hours, Strasser, A., 395-6132.
Application Card; Applicant/Job Order Transaction, ES-511 and ES-516, on occasion, job seekers applying at State ES offices, 15,167,000 responses, 3,856,500 hours, Strasser, A., 395-6132.

Bureau of Labor Statistics, Director of National Unions and Employee Associations, BLS-2441, 2441-A, and 2441-B, single time, labor organizations, 450 responses, 675 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration, Alcoholism Treatment Center Questionnaire, quarterly, communities' awareness of alcohol treatment centers, 314,000 responses, 25,300 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service:
Application for Removal From the United States, I-243, on occasion, applicants for removal from the United States, 200 responses, 33 hours, Laverne V. Collins, 395-3214.
Application for waiver of the Foreign Residence Requirement, I-612, on occasion, aliens subject to section 212(e) of the act, 1,000 responses, 330 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration: Indicators of Compliance (migrant worker services), ETA-5-148A-E, monthly, State ES agencies, 624 responses, 18,720 hours, Strasser, A., 395-6132.
Bureau of Labor Statistics, Information for the Producer Price Index Telephone, Communication Price Indexes SIC 4811, BLS-473, 473A, and 473E, monthly, manufacturers and producers companies in SIC 4811, 108,420 responses, 18,140 hours, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Operations Specifications (for air carriers), FAA-1014, on occasion, air carriers, 6,800 responses, 1,700 hours, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-27676 Filed 9-28-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15126; File No. SR-Amex-78-17]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed rule change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change. The American Stock Exchange, Inc. ("Amex") has provided the Commission with the following statement of terms of substance, purpose, and basis under the Act of the proposed rule change.

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed amendment to Amex rule 6 will broaden the scope of permissible off-board agency transactions in listed bonds to that set forth in rule 19c-1 (17 CFR 240.19c-1) under the Act for equity securities. Rule 19c-1 prescribes restrictions on off-board agency transactions, except in-house agency cross transactions.

PURPOSE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule change is to eliminate restrictions on off-board agency transactions in listed bonds (other than in-house agency cross transactions) which the Amex has determined are no longer necessary or appropriate.

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BASIS UNDER THE ACT

The amendment to Amex rule 6 is designed to remove impediments to a free and open market and to eliminate any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and therefore is authorized by subparagraphs (b)(5) and (b)(8) of section 6 of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Amex states that no comments were solicited or received with respect to the proposed rule change.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before November 3, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 20, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1978.

[FR Doc. 78-27432 Filed 9-28-78 8:45 am]

[8010-01]

[Release No. 34-15174; File No. SR-BSE-78-9]

BOSTON STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed change as follows:

BSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

"That the annual membership dues be increased from $1,000 to $1,200 effective October 1, 1978."

BSE'S STATEMENT OF BASIS AND PURPOSE

PURPOSE OF THE PROPOSED CHANGE

The purpose of the proposed change is to increase the annual membership dues from $1,000 to $1,200.

BASIS OF THE PROPOSED CHANGE

The basis under the Act for the proposed change is section 6(b)(4) and provides for the equitable allocation of reasonable dues among the members of the exchange.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED CHANGE

No comments were solicited or received.

BSE'S STATEMENT OF BURDEN ON COMPETITION

No burden on competition is perceived by adoption of the proposed increase in membership dues.

The foregoing change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 20, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 19, 1978.

[FR Doc. 70-27433 Filed 9-28-78; 8:45 am]

[8010-01]

[Release No. 34-15180; File No. SR-DTC-78-12]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 16, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

(a) Amendments to the Fee Schedule for Major Services:

Y. PARTICIPANT TERMINAL SYSTEM (PTS)

1. [Rental of] *Full PTS* terminal (*one CRT screen and printer*) [$446] *$595* per month plus any applicable taxes and related communications line costs.

2. Advanced PTS terminal (one CRT screen plus a separately addressable higher speed printer), $645 per month plus any applicable taxes and related communications line costs.

3. Advanced 2 CRT PTS terminal (two CRT screens plus a separately addressable higher speed printer), $845 per month plus any applicable taxes and related communications line costs.

4. Dial-in terminal service charge: a. Participants, $75 per month. b. Non-Participants (ID confirmations only), $120 per year.

[2. Inquires (other than ID inquiries) or automatic notifications through Participant's terminal] [No charge for first 2,000 units per month; 1 cent for each additional unit.]

5. Unsolicited messages, 5 cents per message.

6. Inquires, 5 cents per inquiry.

7. Reports: a. The Dropped Delivery Report; b. The Dropped COD Report; c. The Cash Dividend Report; $25 per month per report series plus 5 cents per line.

8. Pre-Update Edits, 5 cents per edit.

9. Broadcast, 12 cents per 300-character message per addressee.

The fee schedule for major services was originally filed on form 19b-4A, file No. SR-NYSE-75-19. Fees for PTS were originally filed on form 19b-4A, File No. SR-DTC-76-8. A revised fee schedule for major services was filed on form 19b-4A, file No. SR-DTC-78-6.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to establish fees for PTS which will reflect the Depository Trust Co.'s (DTC) costs more accurately than do the present fees.

The proposed rule change relates to DTC's carrying out the purposes of section 17A of the Securities Exchange Act of 1934 (the Act) by equitably allocating fees among DTC participants.

The proposed PTS fees were discussed with a number of participants to determine whether or not they would be likely to give up use of the terminal because of the increased fees. A large majority indicated that they would keep the terminal while a few indicated that they would discontinue PTS use. No written comments on the proposed fees have been solicited or received. All participants have been notified of the proposed fees by a DTC important notice (exhibit 2 to DTC's filing on form No. 19b-4A, file No. SR-DTC-78-12).

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 20, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 21, 1978.

[FR Doc. 78-27434 Filed 9-28-78; 8:45 am]

[8010-01]

[File No. 1-6782]

MEDENCO, INC.

Application To Withdraw From Listing and Registration

SEPTEMBER 22, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Medenco, Inc. (the "Company"), has been listed for trading on the Amex since December 17, 1971. On February 22, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"), and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing and registration on the Amex, the Company considered the direct and indirect expenses involved in maintaining a dual listing and has determined that a dual listing would be of little benefit to its stockholders.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 20, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27430 Filed 9-28-78; 8:45 am]

[8010-01]

[Release No. 34-15176; File No. SR-MSE-78-18]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 5, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Additions Italicized—[Deletions Bracketed]

ARTICLE VIII

Arbitration of Member Disputes

Rule 24. All disputes between members or their nominees, in regard to transactions effected on the Options Floor shall be resolved by the Committee on Floor Procedure—Options Floor, if both parties to such a dispute agree to be bound by the decision of that Committee. All disputes between members or their nominees, in regard to transactions effected on the Equity Floor shall be resolved by the Committee on Floor Procedure—Equity Floor, if both parties to such a dispute agree to be bound by the decision of that Committee.

If the parties to the dispute cannot agree to be bound by either Committee's determination, resolution shall be by an Arbitration Panel whose resolution of the dispute shall be final. The Arbitration Panel shall be composed of an odd number of panelists who shall be selected as follows:

Each of the parties to the dispute shall select one member of the appropriate Committee on Floor Procedure to serve as panelist on the Arbitration Panel. The Panelists so selected shall then among them agree on the selection of one or more additional panelists: Provided, That the additional panelists so selected are either members or representatives of member organizations of the Exchange: And provided further, That no member of the Arbitration Panel may be a person

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with a direct or indirect financial interest in the claim. In the event that the initial panelists selected by the parties to the dispute cannot agree on the selection of the above-mentioned additional panelist or panelists, as they case may be, then in that event such additional panelist(s) shall be appointed by the appropriate Committee on Floor Procedure, except that any members of the Committee who either have already been selected to serve on the Arbitration Panel or who have a direct or indirect financial interest in the claim shall not participate in the selection of such additional panelist(s). Parties interested in the proceedings before such Arbitration Panel may make oral and written submissions thereto: Provided, That any such submission must be made within seven calendar days of the selection of the Abritration Panel, or, if the Arbitration Panel determines that delay in the resolution of the dispute may increase the loss, within such shorter period of time as the Arbitration Panel, in its discretion may prescribe.

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide an arbitration forum for the resolution of disputes between Midwest Stock Exchange members.

The proposed rule change protects the public investor by providing member firms of the Midwest Stock Exchange an orderly and expeditious method of resolving disputes.

The Midwest Stock Exchange, Inc., has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc., believes that no burdens have been placed on competition.

On or before November 3, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 20, 1978.

For the Commission, By the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 20, 1978.

[FR Doc. 78-27435 Filed 9-28-78; 8:45 am]

[8010-01]

[Release No. 34-15175; File No. SR-NYSE-78-48]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED AMENDMENT

The proposed amendments: (1) Rescind rules requiring minimum time of maturity for subordinated loan agreements for the purchase of a membership and permit repayment to be based upon the value of a membership at maturity of the loan; (2) adopt specific rule provisions for inclusion in a-b-c agreements; and (3) rescind required standards for determining partners' stockholders' respective financial interests in any membership financed by the member organization.

EXCHANGE'S STATEMENT OF PURPOSE OF PROPOSED AMENDMENTS

The purpose of the proposed amendments is to:

(1) Provide greater flexibility to members in negotiating the terms for financing a membership through a subordinated loan agreement with a nonmember by rescinding required minimum times of maturity and allowing repayment to be based upon the seat value at maturity;

(2) Facilitate the transfer of memberships financed pursuant to an a-b-c agreement by requiring new agreements to specify: (i) That upon the occurrence of an event which triggers the election of a-b-c agreement options, the member has 30 days, or such longer period as specified in the agreement, to elect option (a) (retain the membership), (ii) that if the member does not exercise option (a), the member organization would have an additional 30 days, or such longer period specified in the agreement, to require the member to exercise option (b) (sell membership and pay proceeds to member organization) or option (c) (transfer membership for nominal consideration to person designated by member organization), (iii) that the member would sell the membership and pay the proceeds to the member organization, if, at the end of the time periods, the member organization has not elected option (b) or (c), and (iv) that any dispute concerning the transfer of an a-b-c seat would be settled by arbitration; and

(3) Allow member organizations to determine how the risks in the value of a membership financed by the member organization are to be apportioned among the members and partners or stockholders by rescinding prescribed formulas. (An a-b-c agreement is utilized when it is intended that a portion of the risk in the fluctuation of seat value shall rest with the partners or stockholders of the member organization financing the membership.)

The Exchange feels that the proposed amendments requiring that any controversy arising from a subordinated loan or a-b-c agreement be arbitrated in accordance with article VIII of the constitution are necessary to allow for an orderly administration of the Exchange and its seat market. As Exchange membership is limited to 1,366 regular members, each membership must be fully utilized. Experience has shown that controversies arising from such agreements, and resulting protacted legal proceedings delay the transfer of memberships. Requiring controversies to be adjudicated through arbitration will reduce such delays because: Generally a shorter time period will be required to bring a matter to a hearing; arbitration proceedings are more flexible than legal proceedings; and arbitration panels are more conversant with such agreements and the workings of the seat market and industry in general.

EXCHANGE'S STATEMENT OF BASIS UNDER THE ACT

The basis under the Act for the proposed amendments is sections 6(b)(1), 6(b)(2), and 6(b)(5).

The proposed amendments requiring inclusion of specific provisions in subordinated loan and a-b-c agreements and the existing requirements that such agreements be approved by the Exchange are consistent with section 6(b)(1) in that they are intended to insure that the agreements comply with the standards set forth in the rules of the Exchange.

The proposed amendments providing greater flexibility in the terms of subordinated loan agreements and reducing protracted delays in the transfer of a-b-c memberships by requiring specific provisions therein are consistent with section 6(b)(2) in that they enhance the ability of a natural person who is or is associated with a registered broker or dealer to become a member of the Exchange.

The proposed rescissions of the minimum time of maturity requirements for subordinated loan agreements and the required standards for determining partners' or stockholders' interests in a membership financed by a member organization are consistent with section 6(b)(5) in that they may remove rules pertaining to matters not related to the purposes of the Act or the administration of the Exchange. In addition, the proposed amendments requiring that any controversy arising from a subordinated loan or a-b-c agreement be arbitrated in accordance with the constitution are necessary for an orderly administration of the Exchange and its seat market.

EXCHANGE'S COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED AMENDMENTS

No comments were solicited or received.

EXCHANGE'S STATEMENT OF BURDEN ON COMPETITION

No burden on competition will be imposed by the proposed amendments.

On or before November 3, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 20, 1978.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 19, 1978.

[FR Doc. 78-27436 Filed 9-28-78; 8:45 am]

[8010-01]

[Release No. 10415; 812-4348]

TAX-EXEMPT BOND FUND OF VIRGINIA FIRST SERIES (AND SUBSEQUENT SERIES) AND CRAIGIE INC.

Filing of Application for an Order of the Commission Granting Exemptions From Provisions

SEPTEMBER 21, 1978.

Notice is hereby given that The Tax-Exempt Bond Fund of Virginia, First Series (and Subsequent Series) (the "Fund"), a unit investment trust registered under the Investment Company Act of 1940 (the "Act") and its sponsor, Craigie Inc. (the "Sponsor") (hereinafter the Sponsor and the Fund are collectively referred to as "Applicants"), Fidelity Building, Ninth and Main Streets, Richmond, Va. 23219, have filed an application on August 10, 1978, and an amendment thereto on September 19, 1978, pursuant to Section 6(c) of the Act for an order of the Commission exempting the Applicants from the provisions of Section 14(a) of the Act and exempting the frequency of the capital gains distributions of the fund and the secondary market operations of the Sponsor from the provisions of rule 19b-1 and rule 22c-1, respectively, under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Series 1 of the Fund ("Series 1") is a unit investment trust, and is the first of a series of similar but separate trusts that the Sponsor intends to form (hereinafter Series 1 and all such Subsequent Series are collectively referred to as the "Series"). The Series will be created under the laws of the State of New York or the Commonwealth of Virginia pursuant to separate trust agreements that will contain certain standard terms and conditions of trust common to all the Series. The Applicants represent that the investment objective of each Series will be to seek both the preservation of capital and current distributions of tax-exempt income through the investment in a portfolio of securities consisting of (i) debt obligations of political subdivisions, public authorizations and agencies of the Commonwealth of Virginia (the "Bonds") and (ii) subject to certain limitations, Units of previously issued Series of the Fund (the Bonds and previously issued Units are collectively called herein the "Trust Securities"). The Trust Securities that will constitute the portfolio of each Series will be selected in advance and will be identifiable in respect of each Series on the date of deposit with the Trustee.

The Sponsor has filed a Form S-6 Registration Statement under the Securities Act of 1933 ("1933 Act") covering fractional undivided interests in Series 1 to be offered to investors at a public offering price set forth in the prospectus included in the S-6 Registration Statement. The 1933 Act Registration Statement has not yet become effective. The Sponsor has also filed a Form N-8A Notification of Registration and a Form N-8B-2 Registration Statement under the Act relating to the Fund.

Each Series of the Fund will be governed by the provisions of a trust agreement (the "Agreement") to be entered into by the Sponsor and a corporation organized and doing business under the laws of the United States or New York or Virginia, that is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus, and undivided profits of not less than $50,000,000 ("Trustee"). It is contemplated that United States Trust Company of New York will serve as Trustee for Series 1. Standard & Poor's Corporation will serve as Evaluator for Series 1. A separate Agreement will be entered into each time a Series is created and activated and the Trust Securities that comprise its portfolio (or delivery statements relating to contracts for the purchase of such Trust Securities together with funds represented by cash or an irrevocable letter of credit issued by a commercial bank in the amount required for their purchase) are deposited with the Trustee. Each Series will be substantially identical except as to size, number of Units and the individual Trust Securities in the portfolio.

When a Series of the Fund is created, the Sponsor and the Trustee will enter into an Agreement and the Trust Securities to constitute such Series of the Fund (or delivery statements relating thereto and funds for the purchase thereof as set forth above) will be delivered to and deposited with the Trustee by the Sponsor. Substantially concurrently, the Trustee will issuee in the name of the Sponsor, or such other name or names as the Sponsor may direct, one or more

certificates evidencing the ownership of all of the undivided interests in such Series of the Fund. These Units will be separately offered for sale to the public at prices based upon their then respective current net asset values plus a sales charge, after the registration statement filed in respect thereto under the 1933 Act has become effective.

The Applicants state that the Trust Securities will not be pledged or be in any other way subjected to any debt at any time after they are deposited with the Trustee. The Sponsor expects to accumulate Trust Securities for the purpose of deposit in Series 1 and expects to follow a similar procedure of accumulating Trust Securities for each Subsequent Series.

The assets of the Fund may consist of Bonds initially deposited, such Bonds as may continue to be held from time to time in exchange for or substitution of any of the Bonds, accrued and undistributed interest, undistributed cash and Units of previously issued Series of the Fund. Certain of the Bonds may from time to time be sold under the circumstances set forth in the Agreement, or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to the holders of Units of the Trust ("Unitholders") and not reinvested.

Each Unit of the Fund will represent a fractional undivided interest, the numerator of the fractional interest represented will be 1 and the denominator will be the number of Units issued and outstanding in any particular Series. Units are redeemable, and in the event that any Units are redeemed, the fractional undivided interest represented by each Unit will be increased accordingly. Units will remain outstanding until redeemed or until the termination of the Agreement. The Agreement may be terminated by 66⅔ percent agreement of the Unit-holders of a Series or, in the event that the value of Trust Securities falls below an amount specified, either upon direction of the Sponsor to the Trustee or by the Trustee without such direction. There is no provision in the Agreement for the issuance of any Units after the initial issuance and such activity will not take place (except to the extent that the secondary trading by the Sponsor in the Units is deemed the issuance of Units under the Act).

The Sponsor, while under no obligation to do so, intends to maintain a market for whole Units of the Fund and to offer tc purchase such Units at prices in excess of the redemption price as set forth in the Agreement. In the absence of such a market, Unitholders may only be able to dispose of their Units by redemption.

Section 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than 25 responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

The Applicants seek an exemption from the provisions of Section 14(a) of the Act in order that a public offering of Units of the Fund as described above may be made. In connection with the requested exemption from Section 14(a) the Sponsor agrees (1) to refund, on demand and without deduction, all sales charges to purchasers of Units of a Series if, within ninety days from the time that a registration statement for a Series becomes effective under the 1933 Act, the networth of the Series shall be reduced to less than $100,000, or if such Series is terminated; (2) to instruct the Trustee on the date Trust Securities are deposited in each Series that in the event that redemption by the Sponsor of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 40 percent of the principal amount of Trust Securities originally deposited for such Series, the Trustee shall terminate the Series in the manner provided in the Agreement and distribute any Trust Securities or other assets deposited with the Trustee pursuant to the Agreement as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales charges to any purchasers of Units purchased from the Sponsor, on demand and without any deduction. Thus, the Applicants represent that it is highly unlikely that, except during the course of liquidation, the net worth of any Series would ever decline to $100,000 or less.

Rule 19b-1

Rule 19b-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year of such investment company. Paragraph (b) of the rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Distributions of interest and principal on each Series will be made to Unit- holders quarterly. The Applicants represent that distributions of principal on each Series constituting capital gains to Unitholders may arise in the following instances: (1) If an issuer calls or redeems an issue of Bonds held in the portfolio, the sums received by the Fund will be distributed on a pro-rata basis to each Unitholder on the next distribution date; (2) if Units are redeemed by the Trustee and Trust Securities from the portfolio are sold to provide the funds necessary for such redemption, each Unitholder will receive his pro-rata portion of the proceeds from the Trust Securities sold over the amount required to satisfy such redemption distribution; (3) if Bonds held in the portfolio are sold to maintain the investment stability of a Series of the Fund, the sums received by the Fund may be distributed on a pro-rata basis to each Unitholder on the next distribution date; and (4) as regular distributions of principal and any pre-payments of principal are declared on an issue of Bonds held in the portfolio, the sums received by the Fund will be distributed on a pro-rata basis to each Unitholder on the next distribution date. In such instances, a Unitholder may receive in his distribution funds that constitute capital gains, because in some cases the value of the Trust Securities redeemed or sold may have increased since the date of their acquisition by the Fund.

As noted above, Paragraph (b) of rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. The Applicants assert that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end, and that the operations of the Applicants in this regard are squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, each Series of the Fund would be force to hold any monies that would constitute capital gains upon distribution until the end of its taxable year. The application contends that such practice would clearly be to the detriment of the Unitholders.

In support of the requested exemption, the Applicants state that the dangers which rule 19b-1 is intended to guard against do not exist in the situation at hand because neither the Sponsor nor the Fund has control over events which might trigger capital gains, e.g., the tendering of Units for

redemption and the prepayment of portfolio Bonds by the issuers. In additon, it is contended that any capital gains distribution will be clearly indicated as capital gains in the accompanying report by the Trustee to the Unit- holder. Furthermore, the Applicants assert that the sale of Bonds in an effort to maintain the investment stability of a Series of the Fund is an activity designed generally to prevent or to retard deterioration of values when certain adverse factors exist. These factors include a default in the payment of principal or interest on Bonds, an action involving the issuer thereof that will adversely affect its ability to continue payment of the principal and the interest on its Bonds, or an adverse change in the market, revenue or credit factors affecting the investment stability of the Bonds. Finally, the Applicants contend that sale of Bonds in an effort to maintain investment stability of any Series is not expected to result in capital gains distributions to the Fund or its Unitholders because the above factors will normally have a depressing effect on the market value of the Bonds.

Rule 22c-1

The Applicants state that following the initial offering period, the Sponsor, while not obligated to do so, intends to offer to purchase whole Units in the secondary market at prices based on the offering side evaluation of the Trust Securities in any Series, determined on the last business day of each week, effective for all sales made during the following week.

The Applicants also state that the Sponsor has undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsor will order a formal evaluation. The Sponsor agrees that, in the case of the resale of Units in the secondary market, if the Evaluator cannot state that the previous Friday's price is not more than one-half point ($5.00 on a unit representing $1,000.00 principal amount of underlying Trust Securities) greater than the current offering price, a formal evaluation will be ordered. Under these circumstances the Applicants contend that the exemption of the Sponsor from the provisions of rule 22c-1 will in no way affect the operations of the Fund and will benefit the Unitholders by providing a repurchase price for their Units that is in excess of the current net asset value of such Units as computed for redemption purposes.

Rule 22c-1 provides, in pertinent part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

The Applicants state that rule 22c-1 has two purposes: (1) to eliminate or to reduce any dillution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption, or repurchase of such securities at prices other than their current net asset values; and (2) to minimize speculative trading practices in the securities of registered investment companies.

The secondary market activities of the Sponsor and the manner for the acquisition by investors of new Units, may be deemed to violate rule 22c-1 because of the absence of daily pricing. The Applicants contend, however, that the purposes of rule 22c-1 will not be frustrated by the Sponsor in the proposed secondary market activities. The Applicants assert that the pricing of Units by the Sponsor in the secondary market will in no way dilute the assets of the Fund, and that Unitholders will benefit from the Sponsor's pricing procedure in the secondary market because they will normally receive a higher repurchase price for their Units than they could obtain by redeeming their Units at the current net asset value, and that this will be accomplished without the cost burden to the Fund of daily evaluations of the Units' redemption value.

The Applicants also contend that speculation in Units of any Series is unlikely because price changes are limited in respect to the kind of Trust Securities that will be held by such Series. In addition, the Applicants argue that because of the nature of the Trust Securities price changes are gradual and depend largely on general changes in interest rates. To avoid the Sponsor receiving more than the specified sales charge on the resale of Units, the Sponsor has undertaken not to resell in the secondary market any Units that it may repurchase at a price below the offering side evaluation of the Trust Securities in any Series.

The Applicants therefore request an exemption from the provisions of rule 22c-1 for Series 1 and for all subsequently created Series insofar as the rule may apply after completion of the primary distribution of Units of such Series.

Section 6(c) of the act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 13, 1978, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-27431 Filed 9-28-78; 8:45 am]

[8010-01]

[Release No. 34-15190; File No. SR-CSE-78-2]

CINCINNATI STOCK EXCHANGE

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 25, 1978, the above-mentioned self-regulatory organization filed with the Secu-

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rities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Exchange proposes to amend its Rule 9D3 (temporary), concerning multiple-dealer trading, to extend the period of effectiveness of the Rule, and the duration of the pilot program authorized thereby, to January 31, 1980, or such earlier date as the Exchange's Board of Trustees may determine. The proposed rule change would be effected by deleting the numerals "1979" and inserting in their place the numerals "1980" in the last sentence of the second paragraph of the Rule.

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to extend the duration of the Exchange's pilot program for an additional year, until January 31, 1980. At the present time, with the Rule's expiration date less than 5 months away, it has become increasingly difficult for the Exchange to plan, negotiate, and enter into long-term business commitments. This problem arises in dealings with suppliers, negotiations with potential facilities managers, and attempts to solicit prospective Exchange members. In addition, the Exchange finds it difficult to enter into leases and similar long-term commitments—including proposed enhancements of its electronic communications system—while the term of its continued existence remains uncertain from a legal point of view.

The Exchange's experimental program has existed only some 5 months. This has been an insufficient amount of time for the Exchange, the Commission, or the industry fully or even substantially to assess the viability of the Exchange's pilot program and the benefits and difficulties inherent in this kind of trading facility. The Exchange believes, as stated in the Commission's release approving the pilot program, that its experimental trading system and the technological features employed in this experiment should be of assistance to the Commission in assessing the implications of national markets system initiatives. The benefits of the system, however, cannot be expected to be experienced or fully reviewed within the relatively brief existence of the Exchange. Indeed, data gathering and analysis has only commenced and review and collection of data over a longer period of time is essential for a realistic evaluation of the program. Additional time is also needed to provide an opportunity for additional participants to join the Exchange. Broader participation will enhance the value of the experiment and provide a better data base for analysis.

Perhaps even more significantly, the Commission now has an important opportunity to demonstrate its oft-stated commitment to encouraging private initiatives in development of a national market system. In fact, disapproval of the requested extension could serve to stifle innovative industry action. Approval, on the other hand, would underscore the seriousness of the Commission's intention to rely principaly on the private sector in this critical area.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The principal purpose of the proposed rule change is to facilitate removal of impediments to and perfection of the mechanism of a free and open market and a national market system. (Securities Exchange Act, section 6(b)(5).)

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments on the proposed rule change have been received.

BURDEN ON COMPETITION

The Exchange believes that the proposed rule change imposes no burden on competition. Indeed, it believes that by providing an "experiment" in the application of electronic communication equipment to trading in multiply traded securities, it is fostering fair competition among brokers, among dealers, and among exchange markets, as contemplated by section 11A(a)(1)(C)(ii) of the act.

EXTENSION OF TIME PERIOD FOR COMMISSION ACTION

Within 35 days of the date of publication of notice of the proposed rule change in the FEDERAL REGISTER (November 3, 1978), or within such longer period (i) as the Commission may designate, up to 90 days after such date, if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 30, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 25, 1978.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-27859 Filed 9-28-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978; Rev., Supp. No. 4]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Continental Surety and Fidelity Insurance Co.

Correction

In FR Doc. 78-26716, appearing at page 43403 in the issue of Monday, September 25, 1978, the last word in the sixth line of column one on page 43404 should read, "Littleton" and the word "Colorado" should follow the period in the seventh line.

[4810-22]

Office of the Secretary

PNEUMATIC MARINE FENDERS FROM JAPAN

Antidumping; Determination of Sales at Not Less Than Fair Value

AGENCY: Department of the Treasury.

ACTION: Determination of sales at not less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that pneumatic marine fenders from Japan are not being, nor are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Nyschot, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTAL INFORMATION: Information was received in proper form on November 27, 1977, from counsel acting on behalf of Seaward International, Inc., Falls Church, Va., and Samson Ocean Systems, Inc., Boston, Mass., alleging that pneumatic marine fenders from Japan were being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of December 28, 1977 (42 FR 64753). A "Notice of Tentative Determination of Sales at Not Less Than Fair Value" was published in the FEDERAL REGISTER of July 5, 1978 (43 FR 29046). A statement of reasons was published in the above-mentioned notice and interested persons were afforded an opportunity to make written submissions and present oral views. None of the interested parties made written submissions or requested an opportunity to present oral views.

For purposes of this notice, the term "pneumatic marine fenders" means pneumatic marine fenders used on vessels, docks, and quays to absorb impact, provided for in item 790.39, Tariff Schedules of the United States.

DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs Service investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160 (b)), I hereby determine that the purchase price of pneumatic marine fenders from Japan is not less, nor is likely to be less, than the fair value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* It appears that all imports of the subject merchandise from Japan were manufactured by Yokohama Rubber Co., Ltd., Tokyo, Japan. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the export sales compared were made to unrelated Japanese trading companies for resale to the United States. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales in the home market and to the United States during the period January 1 through December 31, 1977.

c. *Purchase price.* For the purpose of this determination, purchase price has been calculated on the basis of the c.i.f., c. & f., or f.o.b. packed price to unrelated trading companies for export to the United States, with deductions for ocean freight, insurance, and domestic freight, as appropriate.

d. *Home market price.* For the purpose of this determination, the home market price has been calculated on the basis of the delivered, packed price to unrelated customers in the home market. Adjustments have been made for interest costs, freight, and packing cost differentials, as appropriate, in accordance with § 153.10, Customs Regulations (19 CFR 153.10). The adjustment for interest cost relates to extended payment terms granted to customers in the home market.

Claims made by respondent for adjustments for the following were not allowed: Fluctuation in currency exchange rate, difference in level of trade, and advertising expenses allegedly incurred in the home market. The claim for an adjustment for currency exchange rate fluctuation is based upon respondent's argument that, with respect to a certain sale, it had made a binding offer to sell at a designated price several months before the date of purchase. However, § 153.52(a) of the Customs Regulations (19 CFR 153.52(a) clearly establishes that the exchange rate in effect on the date of purchase, or agreement to purchase, governs, and the mere existence of a firm offer cannot be considered the date of purchase, or agreement to purchase, until that offer is accepted. In addition, respondent argued that the sale in question was made to a different level of trade from that in the home market. It contends that the sales of the particular size fender in the home market were made to ship chandlers, which allegedly sell directly to end users, whereas the price to the United States was based upon a sale made to the trading company in Japan. However, no information was presented to show that ship chandlers do, indeed, sell only to end users or that the functions they perform are different from those performed by the trading company. In view of this lack of substantiation, no adjustment could be made for differences in level of trade, as provided for by § 153.15 of the Customs Regulations (19 CFR 153.15). The claim for advertising expenses allegedly incurred in the home market did not indicate that the expenses were incurred on behalf of Yokohama's customers, as required by § 153.10 of the Customs Regulations (19 CFR 153.10), and furthermore, inadequate documentation was provided.

e. *Result of fair value comparisons.* Using the above criteria, the comparisons made on 100 percent of the sales of the subject merchandise to the United States indicated that purchase price was not less than the home market price of such merchandise for nearly 99 percent of the total value sold to the United States. In one sale, accounting for slightly over 1 percent of the total value sold to the United States and involving one particular small size pneumatic marine fender, not focused upon by petitioner in this case, purchase price was found to be less than the home market price. However, this margin amounted to roughly 0.3 of 1 percent when weighted over 100 percent of all sales, and is considered to be de minimis in the context of this case.

This determination and the statement of reasons therefor are published pursuant to § 153.34(c) of the Customs Regulations (19 CFR 153.34(c)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 22, 1978.

[FR Doc. 78-27513 Filed 9-28-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 719]

ASSIGNMENT OF HEARINGS

SEPTEMBER 26, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as

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promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113651 (Sub-267F), Indiana Refrigerator Lines, Inc., is assigned for hearing November 7, 1978, at Boston, Mass., and will be held at Room 501, 150 Causeway, Fifth Floor.

MC 130223 (Sub-M2F), Peter Pan World Travel, Inc., is assigned for hearing November 8, 1978, at Boston, Mass., and will be held at Room 501, 150 Causeway, Fifth Floor.

MC 114552 (Sub-155F), Senn Trucking Co., is assigned for hearing October 30, 1978, at Boston, Mass., and will be held at Room 501, 150 Causeway, Fifth Floor.

MC 133689 (Sub-179F), Overland Express, Inc., is assigned for hearing November 6, 1978, at Boston, Mass., and will be held at Room 501, 150 Causeway, Fifth Floor.

MC 138253 (Sub-8), Monfort Transportation Co., is assigned for hearing October 16, 1978, at Denver, Colo., and will be held at Courtroom 154, Federal Building, 1929 Stout Street.

MC 217 (Sub-19), Point Transfer, Inc., and MC 45194 (Sub-17), Lattavo Brothers, Inc., and MC 45194 (Sub-18F), Lattavo Brothers, Inc., is assigned for hearing November 21, 1978, at Columbus, Ohio, and will be held at Room 228, Federal Building, 85 Marconi Boulevard.

MC 73165 (Sub-427), Eagle Motors Lines, Inc., and MC 87103 (Sub-24F), Miller Transfer & Rigging Co., is assigned for hearing November 21, 1978, at Columbus, Ohio, and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 128273 (Sub-280), Midwestern Distribution, Inc., is assigned for hearing November 15, 1978, at Columbus, Ohio, and will be held at Room 228, Federal Building, 85 Marconi Boulevard.

MC 87103 (Sub-23), Miller Transfer & Rigging Co., is assigned for hearing November 17, 1978, at Columbus, Ohio, and will be held at Room 228, Federal Building, 85 Marconi Boulevard.

MC 139254 (Sub-14F), Brooks Transportation, Inc.,is assigned for hearing November 20, 1978, at Columbus, Ohio, and will be held at Room 228, Federal Building, 85 Marconi Boulevard.

MC 142059 (Sub-23F), Cardinal Transport, Inc., is assigned for hearing November 13, 1978, at Columbus, Ohio, and will be held at Room 228, Federal Building, 85 Marconi Boulevard.

MC 99749 (Sub-5F), Bourne's Transf., Inc., is assigned for hearing November 1, 1978, at Boston, Mass., and will be held at Room 501, 150 Causeway, Fifth Floor.

MC 82492 (Sub-179F), Michigan & Nebraska Transit Co., Inc., is assigned for hearing November 20, 1978, at Columbus, Ohio, and will be held at Room 235, Federal Building, 85 Marconi Boulevard.

MC 115826 (Sub-308F), W. J. Digby, Inc., is assigned for hearing October 18, 1978, at Denver, Colo., and will be held at Courtroom 154, Federal Building, 1929 Stout Street.

MC 138649 (Sub-61F), Donco Carriers, Inc., is assigned for hearing October 17, 1978, at Courtroom 154, Federal Building, 1929 Stout Street, in Denver, Colo.

MC 143993 (Sub-2), Black Hills Trucking, Inc., is assigned for hearing October 11, 1978, at Denver, Colo., and will be held at Courtroom 154, Federal Building, 1929 Stout Street.

MC 1515 (Sub-7) (M1), Greyhound Lines, Inc., is assigned for hearing October 16, 1978, at Gallup, N. Mex., and will be held at The Inn, 3009 West 66, and will be continued October 18, 1978, at Albuquerque, N. Mex., and will be held in Ramada Inn—Downtown, 717 Central NW., and will be continued to October 20, 1978, at Amarillo, Tex., and will be held at the Quality Inn, 2915 I-40 East.

MC 108380 (Sub-94), Johnston's Feul Liners, Inc., is assigned for hearing October 12, 1978, at Denver, Colo., and will be held at Courtroom 154, Federal Building, 1929 Stout Street.

MC 144035 (Sub-2F), Minute Air, Inc., is assigned for hearing October 18, 1978, at Albany, N.Y., and will be held at Room 317, Leo W. O'Brien Federal Building, Clinton and North Pearl Streets.

MC 89578 (Sub-4F), Arthur Brundage, Inc., d.b.a. Oneonta Bus Lines, is assigned for hearing October 16, 1978, at Albany, N.Y., and will be held at Room 317, Leo W. O'Brien Federal Building, Clinton and North Pearl Streets.

MC 104149 (Sub-200F), Osborne Truck Line, Inc., transferred to modified procedure.

MC 118130 (Sub-85), South Eastern XPress, Inc., transferred to modified procedure.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27507 Filed 9-28-78; 8:45 am]

[7035-01]

[Docket No. AB-1 (Sub-No. 57)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO. ABANDONMENT BETWEEN LAKE CRYSTAL AND WINNEBAGO IN BLUE EARTH AND FARIBAULT COUNTIES, MINN.

Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C 1a(6)(a)) that by a decision entered on August 29, 1978, a finding, which is administratively final, was made by the administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 ICC 584 (1978), and subject to the further condition that the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. will acquire approximately 1.14 miles of trackage in Faribault County in order to directly serve Winnebago Farmers Elevator Co. and Farmers Union Central Exchange, located at or near Winnebago, Minn., the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Co. of a portion of its line extending from milepost 0.0 near Lake Crystal, Blue Earth County, Minn., to milepost 24.6 near Winnebago, Faribault County, Minn.; *Provided, however,* That subject to the acquisition of the above trackage rights by the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., the State of Minnesota, its agents or assigns, be granted, for a period not to exceed 180 days, a first and prior right of refusal to purchase applicant's line of trackage extending from milepost 0.0 near Lake Crystal, Blue Earth County, Minn., to milepost 24.6 near Winnebago, Faribault County, Minn., upon like terms and conditions as to any bona fide offer of purchase, or in the absence thereof, at such price and terms as shall be mutually agreed upon. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment on or before October 30, 1978, unless by October 30, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well

as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27504 Filed 9-28-78; 8:45]

[7035-01]

[Docket No. AB-102 (Sub-No. 6)]

MISSSOURI-KANSAS-TEXAS RAILROAD CO. ABANDONMENT AND OPERATIONS OVER ITS "PARSONS-COFFEYVILLE BRANCH" NEAR PARSONS AND COFFEYVILLE, KANS.

Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C 1a(6)(a)) that by a decision entered on August 4, 1978, a finding, which is administratively final, was made by the administrative law judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment-Goshen*, 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment of the Missouri-Kansas-Texas Railroad Co. of its branch line extending from milepost A-139.08 at Parsons, Kans. to milepost A-166 at Coffeyville, Kans., a distance of 27 miles, and further providing, that Missouri-Kansas-Texas Railroad Co. maintains in a proper state of repair all grade crossings on the abandonment trackage, and to maintain bridges and culverts on the line reasonably free of debris during the intervening period between the effective date of approval of abandonment and the subsequent removal of track and structure along the railroad right of way. A certificate of abandonment will be issued to the Missouri-Kansas-Texas Railroad Co. based on the above-described finding of abandonment on or before October 30, 1978, unless by October 30, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operation agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27505 Filed 9-28-78; 8:45]

[7035-01]

[Docket No. AB-133]

WARREN & OUACHITA VALLEY RAILWAY CO. ABANDONMENT BETWEEN WARREN AND BANKS IN BRADLEY COUNTY, ARIZ.

Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on August 10, 1977, a finding, which is administratively final, was made by the Commission, review board No. 5, stating that, the present and future public convenience and necessity permit the abandonment by the Warren & Ouachita Valley Railway Co. of its entire line of railroad, a total of 15.66 miles between Warren and Banks in Bradley County, Ariz.: *Provided,* That Warren & Ouachita Valley Railway Co. shall not sell, lease, exchange, or otherwise dispose of the right-of-way, all bridges, and all culverts on the line (except the easternmost 2 miles) for a period of 120 days following issuance of a certificate unless any responsible State agency or local government or other interested responsible organizations be given the opportunity, to negotiate the purchase of all or any portion of the rail properties of the line to be abandoned for public use at a purchase price on such terms as the parties may agree are just and reasonable. A certificate of abandonment will be issued to the Warren & Ouachita Valley Railway Co. based on the above-described finding of abandonment on or before October 30, 1978, unless by October 30, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27506 Filed 9-28-78; 8:45 am]

[7035-01]

[Notice No. 175]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 3, 1978

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the

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filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 30844 (Sub-618TA), filed July 24, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fiberglass silo tops*, from West Union, IA, to Tulsa, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shafar Fiberglass, P.O. Box 146, West Union, IA 52175. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

NOTE.—Common control may be involved.

MC 43246 (Sub-26TA), filed July 24, 1978. Applicant: BUSKE LINES, INC., an Illinois corporation, 123 West Tyler Street, P.O. Box 349, Litchfield, IL 62056. Representative: Howard Buske (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and alcoholic beverages, glass containers*, from Hillsboro, IL, to Bardstown, KY, Clifton and Lawrenceville, NJ, and *alcoholic beverages*, from Clifton and Lawrenceville, NJ, to Detroit, MI and Chicago, IL, under a continuing contract or contracts with Hiram Walker Importers, Inc., and Hillsboro Glass Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. J. Lavigne, Traffic Manager, Hiram Walker Importers, Inc., P.O. Box 14100, Detroit, MI 48214. Martin Mauer, President, Hillsboro Glass Co., Hillsboro, IL 62049. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 44801 (Sub-10TA), filed July 24, 1978. Applicant: DICK HARRIS & SON TRUCKING CO., INC., 4000 Harris Lane, Lynchburg, VA 24501. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated containers and sheets*, from the facilities of Chesapeake Container, Inc., in Richmond, VA, to points in NC, DC, and MD. *Materials, supplies, and equipment* used in the manufacture, distribution, and sale of corrugated containers and sheets, from points in NC, DC, and MD, to the facilities of Chesapeake Container, Inc., in Richmond, VA, for 180 days. Supporting shipper(s): Chesapeake Container, Inc., P.O. Box 7694, Richmond, VA 23231. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 107496 (Sub-1154TA), filed July 24, 1978. Applicant: RUAN TRANSPORT CORP., an Iowa corporation, 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lactic acid*, in bulk, in tank vehicles, from Texas City, TX, to Grandview, MO, for 180 days. Supporting shipper(s): Patco Products, 13830 Botts Road, Grandview, MO 64030. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 109692 (Sub-66TA), filed July 24, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, lumber mill products, and veneered lumber mill products*, from the facilities of Weyerhaeuser Co., at or near West Memphis, AR, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, MN, OK, SD, TX, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Co., 100 South Wacker Drive, Chicago, IL 60606. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 113429 (Sub-4TA), filed July 24,1978. Applicant: MICHAEL CONTRIS, d.b.a. CONTRIS TRUCKING, Rural Route No. 1, Harrod, OH 45850. Representative: Michael Contris (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough and machined steel ring gear castings*, between Chicago, IL, on the one hand, and on the other hand, Lima and Columbus, OH, under a continuing contract or contracts with Clark Equipment Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clark Equipment Co., 525 North 24th Street, Battle Creek, MI 49016. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 113784 (Sub-67TA), filed July 24, 1978. Applicant: LAIDLAW TRANSPORT LTD., 65 Guise Street, Hamilton, Ontario, L8L 4M1. Representative: Douglas R. Gowland (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Albion, MI to the international boundary between the United States and Canada located on the Detroit and St. Clair Rivers, for 180 days. Restricted to foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Colloid Co., P.O. Box 228, Skokie, IL 60077. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 113784 (Sub-68TA), filed July 24, 1978. Applicant: LAIDLAW TRANSPORT LTD., 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement, in bulk, in tank vehicles*, from the international boundary located on Detroit and St. Clair Rivers to points in MI, for 180 days. Supporting shipper(s): Harbor Sales Co., Inc., 26711 Woodward, Suite 205, P.O. Box 37, Royal Oak, MI 48068. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 114552 (Sub-171TA), filed July 24, 1978. Applicant: SENN TRUCKING CO. (a South Carolina corporation), P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and fittings* from the facilities of Charlotte Pipe & Foundry Co., at Charlotte and Bakers, NC, to points in the United States in and east of ND, SD, NB, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charlotte Pipe & Foundry Co., P.O. Box 4430, Charlotte, NC 28204. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 117119 (Sub-698TA), filed July 24, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk) from the facilities of Morton Frozen Foods at Crozet, VA to points in CT, DE, MA, NJ, NC, PA, RI, and to New York City, NY, for 180 days. Supporting shipper(s): Morton Frozen Foods, P.O. Box 7547, Charlottesville, VA 22906. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117765 (Sub-242TA), filed July 24, 1978. Applicant: HAHN TRUCK LINE, INC. (an Oklahoma corporation), 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73107. Representative: R. E. Hagan (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN to points in KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 118989 (Sub-200TA), filed July 24, 1978. Applicant: CONTAINER TRANSIT, INC. (a Winconsin corporation), 5223 South 9th Street, Milwaukee, WI 53221. Representative: Roland K. Draves (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper plates, nested*, from Brentwood, NY to the States of IL and WI, for 180 days. Supporting shipper(s): Carnation Paper Products Corp., 86 Emjay Boulevard, Brentwood, NY 11717. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 125918 (Sub-13TA), filed July 24, 1978. Applicant: JOHN A. DIMEGLIO, INC., White Horse Pike, Ancora, NJ 08037. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products and materials, equipment and supplies* used in the manufacture, sale and installation of the foregoing commodities (except in bulk) between the facilities of Formigli Corp. at or near Williamstown Junction and Vineland, NJ, on the one hand, and, on the other, points in the states of DE, MD, VA, PA, NY, CN, and DC, for 180 days. Restricted to shipments originating at or destined to the above points. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Formigli Corp., New Freedom Road, Williamstown Junction, NJ 08094. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 125918 (Sub-14TA), filed July 24, 1978. Applicant: JOHN A. DIMEGLIO, INC., White Horse Pike, Ancora, NJ 08037. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe*, between the facilities of Kerr Concrete Pipe Co., Folsom, NJ, on the one hand, and, on the other, points in DE, MD, VA, PA, NY, CT, and DC, for 180 days. Restricted to shipments originating at and destined to the above named points. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr Concrete Pipe Co., Route 54, Folsom, NJ 08037. Send protests to: John P. Lynn, Transportation Specialists, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 127303 (Sub-46TA), filed July 24, 1978. Applicant: ZELLMER TRUCK LINES, INC., (a Delaware corporation), P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and materials* used in the transportation of glass containers (except in bulk) from the facilities of the Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Streator, IL to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thatcher Glass Manufacturing Co., General Traffic Manager Donald W. Pixley, 1901 Grand Central Avenue, Elmira, NY 14902. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788 (Sub-10TA), filed July 24, 1978. Applicant: NASS TRUCK LINES, INC., P.O. Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and materials* used in the transportation of glass containers (except in bulk) from the facilities of the Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Streator, IL to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thatcher Glass Manufacturing Co., Division of Dart Industries, Donald W. Pixley, General Traffic Manager, 1901 Grand Central Avenue, Elmira, NY 14902. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129903 (Sub-10TA), filed July 24, 1978. Applicant: EMPORIA MOTOR FREIGHT, INC., (a Kansas corporation), P.O. Box 1103—Route 5, Emporia, KS 66801. Representative: John L. Richeson, Second and Main—P.O. Box 7, Ottawa, KS 66067. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soft beverages*, in cans or bottles, from Oklahoma City, OK to Emporia, KS, for 180 days. Applicant states it does not intend to tack or interline. Supporting shipper(s): DeBauge Bros., Inc., d.b.a. Coca-Cola Bottling of Emporia, 2931 West 15th, Emporia, KS 66801. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal

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Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 129903 (Sub-11TA), filed July 24, 1978. Applicant: EMPORIA MOTOR FREIGHT, INC., (a Kansas corporation), P.O. Box 1103—Route 5, Emporia, KS 66801. Representative: John L. Richeson, Second and Main—P.O. Box 7, Ottawa, KS 66067. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cereal malt beverages in cans or bottles*, from the facilities of Miller Brewing Co., Fort Worth, TX to Emporia, KS, for 180 days. Applicant states it does not intend to tack or interline. Supporting shipper(s): DeBauge Bros., Inc., 2915 West 15th, Emporia, KS 66801. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 136511 (Sub-24TA), filed July 24, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, Attorney, 666 Eleventh Street NW. No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from Richmond and Kenbridge, VA, to points in CO, CA, AZ, UT, OR, WA, WY and ID; and (2) from Galax, VA, and Elkin, NC, to points in AZ, NM, CA, CO, NV, OR, UT and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lea Industries, Inc., Richmond, VA., Vaughan-Bassett Furniture Co., Galax, VA. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 140278 (Sub-2TA), filed July 24, 1978. Applicant: BEITZ WRECKER SERVICE, INC., Highway 65, Redfield, AR 72132. Representative: Thomas J. Presson, Lot 27—River Bend Estates, Redfield, AR 72132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles and trailers by wrecker equipment only*, from points in AK, AZ, CA, CT, DE, ID, ME, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OR, PA, RI, SD, UT, VT, WA, WI, and WY, to points in AR, *and replacement vehicles for wrecked or disabled motor vehicles, by use of wrecker equipment only*, from points in AR to points in the origin States named above, for 180 days. Supporting shipper(s): There are approximately (6) statements or support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock AR 72201.

MC 143267 (Sub-28TA), filed July 24, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Jones & Laughlin Steel Corp. at Pittsburgh and Aliquippa, PA, to points in AR, KS and MO for 180 days. Supporting shipper(s): Jones & Laughlin Steel Corp., 1600 West Carson Street, Pittsburgh, PA 15263. Send protests to: Martin P. Monaghan, Officer in Charge, Interstate Commerce Commission, 731 Federal Building, Cleveland, OH 44199.

MC 143693 (Sub-2TA), filed June 23, 1978. Applicant: DFC TRUCKING CO., 17872 Cartwright Road, Irvine, CA 92705. Representative: Floyd L. Farano, 2555 East Chapman Avenue, Suite 705, Fullerton, CA 92631; and Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, for the account of Delly Food Co., and Proficient Food Co., Inc., from Mansfield, TX, to warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. Between the warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. *Canned and packaged foodstuffs* for the account of Delly Food Co., and Proficient Food Co, Inc., from Gardena, Fresno, Los Angeles, Modesto, Paramount, Salinas, San Francisco, San Jose, Santa Fe Springs, Stockton and Tracy, CA, New Orleans, LA, and Dallas and Fort Worth, TX, Cincinnati OH, Holland, MI, Sebastopol, CA, Humboldt, TN, Chicago, IL, and to warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. Between the warehouses and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. *Frozen and fresh fish, poultry, pork; frozen and chilled foodstuffs, including but not limited to chilled ham, bacon, cheese, dairy and non-dairy topping; frozen fruit juice*, for the account of Delly Food Co., and Proficient Food Co., Inc., from Mansfield TX, San Jose, CA, Orlando and Dover, FL, Pennsauken, NJ, Los Angeles, CA, Grand Island, NE, Chicago, IL, Thornton, IL, Little Rock, AR, Delran, NJ, Deerfield, IL, Auburndale, FL, and St. Petersburg, FL, to warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. Between the warehouses and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. *Restaurant supplies restricted to table items only, i.e., paper products, napkins, china, flatware, glassware, silverware, and cloth products*, for the account of Delly Food Co., and Proficient Food Co., Inc.; from New Castle, PA, and Toledo, OH, Shreveport, LA, Muskogee, OK, to warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. Between the warehouses and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. *Restaurant maintenance and janitorial supplies, and restaurant kitchen supplies such as paper products, pots, pans, utensils, silverware, dishes and other equipment used in kitchens for the preparation and service of food*, for the account of Delly Food Co., and Proficient Food Co., Inc., from points and places in Los Angeles and Orange Counties, CA, and Chicago, IL, to warehouse and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward, CA, Arlington, TX, Franklin Park, IL, Orlando, FL, and Bridgeport (Logan Township, Gloucester County), NJ. Between the warehouses and distribution centers of Delly Food Co., and Proficient Food Co., Inc., at Irvine and Hayward CA, Arlington, TX, Franklin Park, IL, Orlando FL, and Bridgeport (Logan Township, Gloucester County), NJ, under a continuing contract or contracts with Delly Food Co., and Proficient Food Co., Inc., for 180 days. No control or dual carrier considerations involved. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delly Food Co., 17872 Cartwright Road, Irvine CA 92705. Proficient Food Co., Inc., 3434 Runze Avenue, Franklin Park, IL 60131. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144779 (Sub-1TA), filed July 24, 1978. Applicant: AHA, INC. (a Utah corporation), 607 North Main, Panguitch, UT 84759. Representative: Nida Mae Jensen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cut cabinets*, from Center, TX, to Cedar City, UT; (2) *lumber*, from Panguitch, UT, to points in TX; and (3) *flat steel*, from Gardena, Los Angeles, and Pittsburgh, CA, to Cedar City, UT, for 180 days. Supporting shipper(s): Cedar City Products Co., 374 North 2690 West, Cedar City, UT 84720 (Louis J. Szepi, Vice President and General Manager). Escalante Sawmills, Inc., P.O. Box 299, Escalante, UT 84726 (Leland R. Hutton, Manager). Morton Metalcraft Co., P.O. Box H, Cedar City, UT 84720 (Robert G. Heather, Purchasing Agent). Send protests to: District Supervisor Lyle D. Helfer, Interstate commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 145103 (Sub-2TA), filed July 24, 1978. Applicant: CALHOUN TRANSPORTATION INC., 319 Jacet Road, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 6193—5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, dealt in, or used by persons engaged in the plumbing, building, and industrial supply business betwcen facilities of ITT Grinnell Corp. and ITT Grinnell Valve Co., Inc., located at Elmira, NY, Columbia, East Hempfield Township and Wrightsville, PA, Warren, OH, Clito, GA, Henderson, TN, Princeton, KY, Temple, TX, and Indianapolis, IN, on the one hand, and, on the other,. points in the United States (except AK and HI), under a continuing contract or contracts with ITT Grinnell Corp., and ITT Grinnell Valve Co., Inc., for 180 days. Supporting shipper(s): ITT Grinnell Corp., ITT Grinnell Valve Co., Inc., 260 West Exchange Street, Providence, RI 02903. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 145103 (Sub-3TA), filed July 24, 1978. Applicant: CALHOUN TRANSPORTATION INC., 319 Jacet Road, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 6193—5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Power vents*, from Mineral Wells, TX, *heating and air conditioning units*, from Columbus, OH, Jackson, MI, and Edison, NJ, *copper tubing*, from Reading, PA, *compressors*, from Sidney, OH, *grills and registers*, from Holland, MI, to points in IN, KY, TN, AL, MS, LA, IL, MN, IA, MO, ND, SD, NE, OK, TX, CO, WY, MT, and AZ. *Such commodities as are dealt in by or used by persons engaged in retail and wholesale sales of heating, air conditioning, building materials, and industrial materials; supplies and equipment*, between Evansville, IN and Minneapolis, MN, on the one hand, and, on the other, points in IN, KY, TN, AL, MS, LA, IL, MN, IA, MO, ND, SD, NE, OK, TX, CO, WY, MT and AZ, under a continuing contract or contracts with National Temperature Control Centers, Inc., subsidiary of ITT Grinnell Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Temperature Control Centers Inc., subsidiary of ITT Grinnell Corp., 260 West Exchange Street, Providence, RI 02903. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27334 Filed 9-28-78; 8:45 am]

[7035-01]

[Notice No. 174]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICTIONS

September 28, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an appliction may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

Motor Carriers of Property

MC 52704 (Sub-178TA), filed July 22, 1978. Applicant: GLENN MCCLENDON TRUCKING COMPANY, INC. (an Alabama corporation), P.O. Drawer H, Opelika Highway, Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from West Monroe, LA to points in AL, FL, GA, MS, and TN; and (2) *materials, supplies and equipment* used in the manufacture and conversion of paper and paper products (except commodities in bulk), from points in the states named in (1) above to West Monroe, LA, for 180 days. Supporting shipper(s): Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 106398 (Sub-815TA), filed July 20, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, Traffic Manager (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickup trucks*, in secondary movements, from the facilities of Gladiator, Inc. at Elkhart, IN to points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gladiator, Inc., P.O. Box 2237, Elkhart, IN 46515.

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Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 3rd Street NW., Oklahoma City, OK 73102.

MC 106398 (Sub-816TA), filed July 20, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Representative: Irvin Tull, Traffic Manager (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves and hydrants*, from the facilities of Clow Corp. at Buckhannon, WV to points in IL, IN, MI, OH, PA, MD, MA, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clow Corp., 1121 West 22nd, Oakbrook, IL 60521. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 3rd Street NW., Oklahoma, OK 73102.

MC 106398 (Sub-817TA), filed July 20, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, Traffic Manager (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transmission poles, structures and accessories*, from the facilities of C-E American Pole Structures at Houston, TX to all points in AL, CO, IA, KY, LA, PA, SC, and VA, for 180 days. Supporting shipper(s): C-E American Pole Structures, P.O. Box 40020, Houston, TX 77040. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 3rd Street NW., Oklahoma City, OK 73102.

MC 115162 (Sub-423TA), filed July 22, 1978. Applicant: POOLE TRUCK LINE, INC. (an Alabama corporation), P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, Registered Practitioner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in containers, from Port Arthur, TX, to Charleston, SC, for 180 days. Supporting shipper(s): Gulf Oil Company-U.S., 1357 Peachtree Street NE, Atlanta, GA 30309. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 124078 (Sub-840TA), filed July 20, 1978. Applicant: SCHWERMAN TRUCKING CO. (a Wisconsin corporation), 611 South 28th Street, P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement dust*, in bulk, in tank vehicles, from Bath, PA, to Farmingdale, NY; Lakewood, Watchung, Garwood, Saxton Fassl, Trenton, and Pleasantville, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cemdust, Ltd., Box 491, Blairstown, NJ 07823. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 125708 (Sub-150TA), filed July 21, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152d Street, East Chicago, IN 46312. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick* (except firebrick), from Robertsville, Uhrichsville, and New Lexington, OH, to Jupiter, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Refactories, P.O. Box 185, Robertsville, OH. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126305 (Sub-94TA), filed July 22, 1978. Applicant: BOYD BROS. TRANSPORTATION CO., INC., an Alabama corporation, Route 1, Clayton, AL 36016. Representative: George A. Olsen, Traffic Consultants, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel plates, coils, and sheets*, from the facilities of Republic Steel Corp., Gadsden, AL, to points in the States of WV, GA, MS, TN, NC, SC, KY, FL, LA, AR, and VA; and (2) *materials, equipment, and supplies* used in the manufacture or production of iron and steel and iron and steel articles, from points in the States of WV, GA, MS, TN, NC, SC, KY, FL, LA, AR, and VA, to the facilities of Republic Steel Corp., Gadsden, AL, for 180 days. Supporting shipper(s): Republic Steel Corp., Alabama City Station, Gadsden, AL 35901. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 128273 (Sub-310TA), filed July 21, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, distributed, or dealt in, by manufacturers or converters of paper and products (except commodities in bulk) from Chillicothe and Schooleys, OH, to Glendale, Mesa, Phoenix, Pinetop, and Tuscon, AZ; DeQueen, Fayetteville, Fort Smith, Little Rock, North Little Rock, Osceola, Searcy, Springdale, and Van Buren, AR; Bakersfield, Berkeley, Buena Park, Burbank, Canoga Park, Carmichael, Carson, City of Commerce, City of Industry, Compton, Covina, Culver City, Exeter, Fremont, Fresno, Gilroy, Glendale, Hanford, Huntington Beach, Long Beach, Los Alamitos, Los Angeles, Menlo Park, Merced, Miro Loma, National City, North Hollywood, Oakland, Oxnard, Palo Alto, Pasadena, Paso Robles, Porterville, Redwood City, Riverside, Sacramento, San Bernardino, San Carlos, San Diego, San Francisco, San Jose, San Luis Obispo, San Rafael, Santa Fe Springs, Santa Monica, Santee, South San Francisco, Stanton, Stockton, Tustin, Union City, and West Sacramento, CA; Boulder, Colorado Springs, Denver, and Lakewood, CO; Boise, Caldwell, and Lewiston, ID; Algona, Bettendorf, Cedar Rapids, Clinton, Davenport, Des Moines, De Witt, Iowa City, Newton, and Osage, IA; Caney, Cherryvale, Emporia, Fort Scott, Fredonia, Girard, Hutchinson, Kansas City, Lawrence, Leavenworth, Lenexa, Manhattan, Overland Park, Parsons, Pittsburg, Shawnee Mission, Topeka, and Wichita, KS; Arabi, Baton Rouge, Monroe, New Orleans, and Shreveport, LA; Gautier, Olive Branch, Pascagoula, South Haven, and Tupelo, MS; Aurora, Cape Girardeau, Columbia, Conception, Des Peres, Golden City, Independence, Jefferson City, Kansas City, Kirksville, Marceline, Moberly, North Kansas City, Owenville, St. Joseph, St. Louis, and Springfield, MO; Billings, MT; Grand Island, Lincoln, Norfolk, and Omaha, NE; Las Vegas, Reno, and Sparks, NV; Albuquerque, Carlsbad, Portales, Roswell, and Santa Fe, NM; Fargo, ND; Bartlesville, Dewey, Elk City, Guymon, Lawton, Muskogee, Oklahoma City, Sapulpa, and Tulsa, OK; Beaverton, Medford, North Bend, Portland, Roseburg, St. Paul, and Salem, OR; SD; Abilene, Amarillo, Arlington, Austin, Beaumont, Bryan, Carrollton, Corpus Christi, Dallas, Denison, Denton, El Paso, Ennis, Fort Worth, Galveston, Gladewater, Grand Prairie, Houston,

Johnson City, Laredo, Lubbock, Marlin, Nacogdoches, Orange, Paris, San Angelo, San Antonio, Sequin, Temple, Terrell, Waco, and Wolfe City, TX; Salt Lake City, UT; Bellingham, Kent, Pasco, Renton, Seattle, Spokane, Tacoma, and Tukwila, WA; and Laramie, WY, for 180 days. Supporting shipper(s): The Mead Corp., Mead World Headquarters, Courthouse Plaza Northeast, Dayton, OH 45463. Sent protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 135797 (Sub-131TA), filed July 21, 1978. Applicant: J. B. HUNT TRANSPORT, INC. (a Georgia Corporation), P.O. Box 200, U.S. Hwy. 71, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk) from the facilities owned or utilized by Mobil Chemical Co., Plastics Division at Chicago, IL, to points in the States of MO and KS, and Temple, TX for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mobil Chemical Co., Plastics Division, Macedon, NY 14502. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138882 (Sub-108TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquets, hickory chips, vermiculite, charcoal lighter fluid, fireplace logs* (compressed sawdust—wax impregnated), *related barbecue items, and materials, equipment, and supplies* used in the sale and distribution of the above-mentioned items, except in bulk, between the facilities of Kingsford Co. located at or near Belle, MO, on the one hand, and, on the other, points in MN, ND, SD, NE, KS, CO, OK, AR, LA, TX, NM, AZ, CA, OR, IA, and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-109TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots*, from the facilities of Keystone Resources Aluminum Division, Greensboro, GA, to Chicago, IL, and its commercial zone; Bedford Heights, Cleveland, Toledo, and Willoughby, OH; Jackson, MI; Pottstown, PA; Stamford, CT; and Henderson, KY; and (2) *aluminum scrap*, from points in CT, NY, NJ, PA, IL, IN, OH, KY, and NC, to the facilities of Keystone Resources Aluminum Division, Greensboro, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Keystone Resources, P.O. Box 687, Greensboro, GA 30642. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-110TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquets, hickory chips, vermiculite, charcoal lighter fluid, fireplace logs* (compressed sawdust—wax impregnated), *related barbecue items, and materials, equipment, and supplies* used in the sale and distribution of the above-mentioned items, except in bulk, between Jacksonville, TX, on the one hand, and, on the other, points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-111TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, wood chips, vermiculite, lighter fluid, and wax-impregnated and compressed sawdust fireplace logs*, from Tucker County, WV, to AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC; and (2) *materials, supplies, and equipment* used in the manufacture of charcoal, wood chips, vermiculite, lighter fluid, and wax-impregnated and compressed sawdust fireplace logs, from points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, to Tucker County, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-112TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquets, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite* (except commodities in bulk), from Cotter, AR, to points in the United States except AK and HI; and (2) *materials, supplies, and equipment* used in connection with the commodities described in (1) above, from points in the United States except AK and HI, to Cotter, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-113TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials, and materials* used in the installation and application of such commodities, except commodities in bulk, from the facilities of Bird & Son, Inc., Charleston Heights, SC, to points in FL, for 180 days. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Mabel E. Holston,

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Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-114TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquets*, from Springfield, OR, to WA, ID, MT, WY, and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-115TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement*, containing asbestos fiber and fittings, from the facilities of Cement Asbestos Products Co. (subsidiary of Asarco, Inc.), at or near Ragland, AL, to points in CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cement Asbestos Products Co., subsidiary Asarco, Inc., 611 Olive Street, Suite 1755, St. Louis, MO 63101. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-116TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, Inc., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Transportation Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from the facilities of furniture Veneers, Inc., located at or near Conway, SC, to Huntingburg and Salem, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Furniture Veneers, Inc., P.O. Box 504, Conway, SC 29526. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-150TA), filed July 22, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, Traffic Consultant, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from the facilities of Scotch Lumber Co., and Scotch Plywood Co., located at Fulton, AL, to points in FL, GA, IL, IN, IA, LA, KY, MI, MN, MS, MO, NC, OH, SC, SD, TN, TX, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Scotch Lumber Co., Fulton, AL 36446. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 141774 (Sub-14TA), filed July 22, 1978. Applicant: R & L TRUCKING CO., INC., an Alabama corporation, 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, Registered Practitioner, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials, mineral wool*, from the facilities of Rock Wool Manufacturing Co., Leeds, AL, to points in FL, GA (on and south of U.S. 80), MS, TN (on and west of Interstate 65), KY, and New Orleans, LA, and its commercial zone, for 180 days. Supporting shipper(s): Rock Wool Manufacturing Co., 500 Thornton Avenue NE, Leeds, AL 35094. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203

MC 143844 (Sub-2TA), filed July 21, 1978. Applicant: DOUG GRANT TRUCK TRANSPORTATION, INC., P.O. Drawer GG, Eureka, CA 95501. Representative: Earle V. White, White & Southwell, 2400 SW. Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, baled, from Samoa, CA, to Salem, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Louisiana-Pacific Corp., Samoa, CA 95564. Send protests to: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 144162 (Sub-2TA), filed July 21, 1978. Applicant: TIME CONTRACT CARRIERS, INC., 27301 Camp Plenty Road, Canyon Country, CA 91351. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Safes, vaults, and insulated files;* and (2) *parts, accessories, and components* of commodities described in (1) above, from Lafayette, IN, to points in WA and OR, for 180 days. Supporting shipper(s): Richard P. Vaughan & Associates, Inc., 813 Thomas Avenue SW., Renton, WA 98055. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145009 (Sub-1TA), filed July 22, 1978. Applicant: WALTER SHORE, P.O. Box 749, Winfield, AL 35594. Representative: same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Haleyville, AL, to points in TN, MO, IA, MN, WI, MI, IL, IN, OH, PA, NY, WV, KY, MS, and LA, for 180 days. Supporting shipper(s): Fulco Lumber Co., P.O. Box 617, Haleyville, AL 35565. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

NOTE.—Applicant will also operate as a private carrier. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 145039 (Sub-1TA), filed July 20, 1978. Applicant: B & H PIGGYBACK SERVICE, INC., P.O. Box 4096, North Station, Winston-Salem, NC 27105. Representative: J. R. Hiatt, P.O. Box 4096, Winston-Salem, NC 27105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Piggyback shipments*, having a prior or subsequent movement by rail over irregular routes between Winston-Salem, NC, and points within 118-mile radius of Winston-Salem, NC, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately four statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protest to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145099 (Sub-1TA), filed July 21, 1978. Applicant: MARLOR ENTERPRISES, LTD., 2950 Altamont Crescent, West Vancouver, BC, Canada V7V 1C3. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the ports of entry between the United States and Canada at or near Blaine, Sumas, Oroville, Ferry, and Danville, WA, Eastport, ID, and Eureka, MT, to points in AZ, CA, NV, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marlor Industries, Ltd., 2950 Altamont Crescent, West Vancouver, BC, Canada V7V 1C3. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, ICC, 858 Federal Building, Seattle, WA 98174.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27335 Filed 9-28-78; 8:45 am]

SEP 29 1978

V 43 / 190 SE 29 78 LIMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3)

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., September 28, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Docket 30356, Transcontinental Low Fare Route Proceeding.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Due to a clerical error, this notice was not available 7 days in advance. So that the Board can meet to hear this oral argument at the scheduled time, the following members have voted that agency business requires that the Board meet on less than 7 days' notice and that no earlier announcement of this meeting was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1976-78 Filed 9-27-78; 11:38 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29044, Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) proposed rules on further amendments (Memo 7323-E, OGC)
3. Docket 32610, Belize Airways, Ltd., application for amendments of foreign air carrier permit to serve additional U.S. terminals per Bermuda II (Memo 7207-C, BIA, OGC).
4. The Internal Revenue Service has requested access to Bureau of Consumer Protection investigatory files, some of which contain materials secured through section 407(c) of the Federal Aviation Act inspection authority (Memo 8199, BCP).
5. Dockets 31129 and 32910, Commuter Airlines' exemptions to operate large aircraft (BPDA, OGC, BCP).
6. Dockets 29983 and 30390, Application of Eastern for realignment for Route 5: Allegheny's motion to consolidate its application for certificate amendment for Route 97 (Memo 8198, BPDA).
7. Docket 31496, Piedmont's motion for hearing on Miami Entry Authority (Memo 8160, BPDA).
8. Docket 32696 and 32697, Frontier's application for certificate authority to serve Redding, Calif., and Petition for an Order to Show Cause; Frontier's request for exemption authority serve Redding (Memo 8194 BPDA, OGC).
9. Docket 31319, Dan-Air Services, Ltd.—Certificate amendment to permit charter cargo operations for air freight forwarders—finalization of show cause order (Memo 7923-A, BPDA, OGC, BIA).
10. Proposed industry letter concerning charters to the Super Bowl (Memo 8185, BPDA, BCP, OGC).
11. Docket 30332, Petition for reconsideration of Order 78-4-78 denying IATA Resolution 511a to ban C.O.D. shipment of live animals (Memo 7344-C, BPDA).
12. Docket 30777, IATA agreement proposing piece-based baggage system between the United States and various South American countries (Memo 8195, BPDA, BIA).
13. Docket 25875, Termination of proposed rulemaking which would have amended part 399 by establishing minimum rate guidelines for charter service between the United States and Europe (Memo 8190, OGC, BIA, BPDA).
14. Dockets 32327, 33361, 33362, and 33363, *Former-Large Irregular Air Carrier Investigation* (Memo 7690-E, 7909-F, OGC).
15. Docket 31827, *In the Matter of Sidney S. Sperling v. Southern Airways, Inc.*, petition for review of Bureau of Consumer Protection dismissal of "smoking" complaint against Southern (Memo 8192, OGC).
16. Docket 30790, *United States-Benelux Low-Fare Proceeding* (Memo 7978-D, 7978-E, 7978-F).
17. Docket 28366, *Denver-Alaska Service Investigation; San Francisco-Reno-Albuquerque-Texas Service Investigation*, Docket 32710—Orders on Reconsideration (Memo 8193, OGC).
18. Docket 32376, *San Antonio-Denver Route Proceeding*, Order on reconsideration (Memo 7751-B, OGC).
19. Docket 32785, Amendment of part 241, as proposed in EDR-357, for accounting for troubled debt restructurings, prior period adjustments, and forward exchange contracts (Memo 7979-A, BAS).
20. Docket 23287, Air Freight Forwarders' Charters Investigation (Memo 7189-A, OGC, BCP, BIA).
21. Revision of record retention requirements (Memo 8197, BAS).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1977-78 Filed 9-27-78; 11:38 am]

[3410-05]

3

COMMODITY CREDIT CORPORATION.

CANCELLATION OF MEETING SCHEDULED FOR SEPTEMBER 29, 1978.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 185, September 22, 1978, page 43083.

MEETING RESCHEDULED FOR OCTOBER 26, 1978, 3 P.M.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture.

SUBJECT: Agenda to be announced at a later date.

FOR FURTHER INFORMATION CONTACT:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1983-78 Filed 9-27-78; 11:38 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 3, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Baseline Calendar fiscal year 1979.
Request of the New York Coffee and Sugar Exchange for an extension in filing its § 1.50 report on coffee.
Petition for the Commission to amend its rules on speculative sales.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1979-78 Filed 9-27-78; 11:38 am]

[6351-01]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., October 3, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters/Applications for registration as associated persons of a futures commission merchant.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1980-78 Filed 9-27-78; 11:38 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 6, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1981-78 Filed 9-27-78; 11:38 am]

[6570-06]

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1929-78, S-1956-78, and S-1965-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:30 p.m. (eastern time), Tuesday, September 26, 1978.

CHANGE IN THE MEETING: The following matter was postponed from the open portion of the meeting to the closed portion:

Contract with National Academy of Sciences on Wage Comparability Study.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 26, 1978.

[S-1984-78 Filed 9-27-78; 3:44 pm]

[6570-06]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 3, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeal No. 78-7-FOIA-150, concerning a request by a party filing a charge of discrimination for access to the investigative file after his right to bring a title VII civil action has expired.
2. Freedom of Information Act Appeal No. 78-7-FOIA-134, concerning a request by a party filing a charge of discrimination for access to an investigative file concerning a charge against the same employer filed by another person.
Proposed procedures to implement Executive Order 12044 and final report required by that order.
4. Proposed EEO complaint appeals procedures for Federal Employees.
5. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 26, 1978.

[S-1985-78 Filed 9-27-78; 3:44 pm]

[6715-01]

9

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, October 4, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

• • •

DATE AND TIME: Thursday, October 5, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1978-65; AO 1978-72.
Appropriations and budget.
Earmarked contributions.
Presidential campaign disclosure form.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Reports from division heads.
Loans by candidates to committees.
Classification actions.
Routine administrative matters.
Computer contract procurement.

Portions closed to the public:

Any matters not concluded on Wednesday, October 4, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1987-78 Filed 9-27-78; 3:44 pm]

[6740-02]

10

SEPTEMBER 27, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 4, 1978,

V 43 / 190 SEP 29 78

PLACE: 825 North Capitol Street, NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—164TH MEETING, OCTOBER 4, 1978, REGULAR MEETING

CAG-1. Docket No. RP78-79, United Gas Pipe Line Co.
CAG-2. Docket No. RP73-8 (PGA No. 78-9), North Penn Gas Co.
CAG-3. Docket Nos. RP77-54 and RP77-55, Arkansas Louisiana Gas Co.
CAG-4. Docket No. RI78-71, American Petrofina Co. of Texas, et al.
CAG-5. Docket Nos. G-7115, et al., Coastal States Gas Producing Co., et al.
CAG-6. Docket Nos. G-11860, et al., Mobil Oil Corp., et al.
CAG-7. Docket Nos. G-5766, et al., Continental Oil Co., et al.
CAG-8. Docket No. CI77-813, Oil Development Co. of Texas.
CAG-9. Docket No. CI78-176, W.R.W. Enterprises, Inc.
CAG-10. Docket Nos. CI77-563, et al., Shell Oil Co., et al.
CAG-11. Docket Nos. CS78-401, et al., United Co., et al.
CAG-12. Docket Nos. CS78-184, et al., P.H.N. Ltd., et al.
CAG-13. Docket Nos. CS72-1169, et all, Bobby Joe Manziel, et al.
CAG-14. Docket No. CP78-406, Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. CP77-21, Columbia Gulf Transmission Co., Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-16. Docket No. CP78-212, Transcontinental Gas Pipe Line Corp.
CAG-17. Docket No. CP77-378, Northwest Pipeline Corp.
CAG-18. Docket No. CP75-14, et al., Algonquin LNG, Inc., et al.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP74-41, Texas Eastern Transmission Corp.
RP-2. Docket Nos. RP73-3 (PGA78-3), et al., Transcontinental Gas Pipe Line Corp.
RP-3 Docket No. RP76-31, Louisiana-Nevada Transit Co.

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP77-38, Tennessee Gas Pipeline Co., division of Tenneco Inc., National Fuel Gas Supply Corp.
CP-2 Docket No. CP76-509, Transwestern Pipeline Co., Docket No. CP76-516, Western Gas Interstate Co.
CP-3. Docket No. CP77-273, Arkansas Louisiana Gas Co., Docket No. CP77-338, Lone Star Gas Co.
CP-4 Docket No. CP77-176, Kansas-Nebraska Natural Gas Co., Inc.

MISCELLANEOUS AGENDA—164TH MEETING, OCTOBER 4, 1978, REGULAR MEETING

CAM-1. (A) Docket No. RA78-5, Young Refining Corp. (B) Docket No. RA78-1, Lenday-Thagard Oil Co. (C) Docket No. RA78-6, Dorchester Gas Corp. (D) Docket No. RA78-4, Bayou State Oil Corp.
M-1. Docket No. RM78-10. Procedures for review by the Federal Energy Regulatory Commission of remedial orders issued by the Secretary of Energy.

POWER AGENDA—164TH MEETING, OCTOBER 4, 1978, REGULAR MEETING

CAP-1. Docket Nos. ER78-293, ER78-298, and ER78-302, Illinois Power Co.
CAP-2. Docket No. ER78-602, Indiana & Michigan Electric Co. and Illinois Power Co.
CAP-3. Docket No. ER78-603, Southern California Edison Co.
CAP-4. Docket No. ER78-605, New England Power Co.
CAP-5. Docket No. E-8242, Public Service Co. of Oklahoma.
CAP-6. Project No. 2763, City of Golden, Colo., and Vidler Tunnel Water Co. Project No. 2773, Oak Creek Power Co. Project No. 2779, Colorado River Water Conservation District.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-507, Public Service Co. of Colorado.
ER-2. Docket No. ER78-478 et al., Florida Power & Light Co.
ER-3. Docket No. ER76-539, Missouri Power & Light Co.
ER-4. Docket No. E-9520, Illinois Power Co.
ER-5. Docket No. ER77-533, Louisiana Power & Light Co.
ER-6. Docket No. ER77-313, Union Light, Heat & Power Co.
ER-7. Docket No. ER78-813, Jersey Central Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-1986-78; Filed 9-27-78: 3:44 pm]

[6720-01]

11

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 3, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Application for Amendment of Charter-Change of Name—Chicago Heights Federal Savings & Loan Association, Chicago Heights, Ill.
Consideration of Revision of Federal Home Loan Bank Regulations.
Consideration of Merger Application—Franklin Savings & Loan Association, Wausau, Wis. into Security Savings & Loan Association, Milwaukee, Wis.
Agency Office Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif. (Fair Oaks).
Application for Extension of Time for Relocation of a Branch Office—Illini Federal Savings & Loan Association, Fairview Heights, Ill.
Branch Office Application—Washington Federal Savings & Loan Association of Miami Beach, Miami Beach, Fla.
Branch Office Application—Smithville Federal Savings & Loan Association, Smithville, Tex.
Application for Permission to Change Office Location—Florida Federal Savings & Loan Association, St. Petersburg, Fla.
Agency Office Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif. (Orange County).
Agency Office Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif. (Los Angeles).
Satellite Office Application—Franklin Federal Savings & Loan Association, St. Petersburg, Fla.
Branch Office Application—West Coast Federal Savings & Loan Association, San Mateo, Calif.
Application for Proposed Merger—Alvin Progressive Federal Savings & Loan Association, Philadelphia, Pa., into Prudential Savings Association, Philadelphia, Pa.
Application for Change of Office Location—Hollywood Federal Savings & Loan Association, Hollywood, Fla.
Application to Acquire Shaker Savings Association, Shaker Heights, Ohio, and Request for Authority to Incur Indebtedness—Ohio Savings Financial Corp., Cleveland, Ohio.
Application for Authority to Acquire State Savings & Loan Association, Lubbock, Tex., and for Authority to Assume Debt—State Management, Inc., Lubbock, Tex.
Consideration of report to the Bank Board on CRA proposed regulations and related matters.

No. 186, September 26, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-1982-78 Filed 9-27-78; 11:38 am]

[7600-01]

12

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 26, 1978, page 43617.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., October 4, 1978.

CHANGES IN THE MEETING: To 1 p.m., October 12, 1978.

Dated: September 26, 1978.

[S-1978-78 Filed 9-27-78; 11:38 am]

[8240-01]

13

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., October 4, 1978.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Efant Plaza North SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS OR ITS EXECUTIVE COMMITTEE:

Portions closed to the public (9 a.m.):

1. Consideration of internal personnel matters.
2. Review of ConRail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware & Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Co., proprietary and financial information.
5. Litigation report.

Portions open to the public (11 a.m.):

6. Approval of minutes of the September 7 and 21, 1978, meetings of the Executive Committee of the Board of Directors.
7. Consideration of fiscal year 1979 Merit/Salary Policy.
8. Consideration of advances to D&H.
9. Report on ConRail monitoring.
10. Consideration of ConRail waiver requests.
11. Consideration of ConRail fourth quarter 1978 Investment Commitment.
12. Consideration of ConRail drawdown request for October 1978.
13. Status of 211(h) loan program.
14. Contract actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

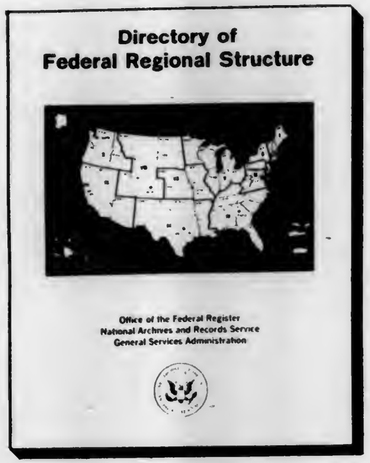
[S1979-78 Filed 9-27-78; 11:38 am]

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FRIDAY, SEPTEMBER 29, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

HUMAN AND VETERINARY DRUGS

Good Manufacturing Practices and Proposed Exemptions for Certain OTC Products

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[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N-0339]

HUMAN AND VETERINARY DRUGS

Current Good Manufacturing Practice in Manufacture, Processing, Packing, or Holding

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the FDA regulations that set forth current good manufacturing practice (CGMP) for human and veterinary drug products. The amendments update present regulations in light of current technology for drug manufacturing and delineate requirements more specifically than do the present regulations. Although some of the provisions in these amendments represent requirements not specifically included in the existing CGMP regulations, in many instances the revisions are practices that have been considered implicit in the regulations or are at least considered by most manufacturers to be desirable requirements for their own operations.

Under the Federal Food, Drug, and Cosmetic Act, a drug is deemed to be adulterated unless the methods used in its manufacture, processing, packing, and holding, and the facilities and controls used therefor, conform to current good manufacturing practice so that the drug meets the safety requirements of the act and has the identity and strength and meets the quality and purity characteristics that it is represented to have. The regulations are being updated and made more explicit, and therefore less subject to varying interpretations, to assure that all members of the drug industry are made aware of the level of performance expected of them to be in compliance with the act.

EFFECTIVE DATE: March 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Clifford G. Broker (HFD-323) (301-443-5307), or Robert J. Rice, Jr., (HFD-30) (301-443-5220), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 13, 1976 (41 FR 6878), the Commissioner of Food and Drugs proposed to revise the CGMP regulations, Parts 210 and 211 (21 CFR Parts 210 and 211), issued under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(B)), to update them in light of current technology and to adopt more specific requirements to assure the quality of finished drug products. Because of the nature and extent of the proposed revisions, the Commissioner allowed until June 14, 1976, for interested persons to submit comments.

The Commissioner received comments from 168 respondents totaling approximately 2,000 pages. These comments represent many interests—individual consumers; nonprofit institutions or associations; health-care departments of hospitals, colleges, and universities; State and foreign health-care organizations; domestic and foreign drug manufacturers, repackers, and distributors; consultants to the drug industry; drug equipment manufacturers; and numerous trade and professional associations representing manufacturers, repackers, distributors, consulting engineers, and professionals in the health-care system.

In general, the comments supported the Commissioner's concern for the availability of uniformly high quality drug products. Consumers, in particular, expressed strong support for the proposed revisions, especially the provisions for expiration dating of pharmaceuticals. A majority of drug manufacturers agreed with many of the proposed revisions, but objected to others. A few manufacturers objected to most of the proposal.

The Commissioner is pleased to note that where differences existed, many interested persons furnished alternative wording and justification in support of such alternatives. The Commissioner has carefully considered every comment and all suggested alternatives. The final regulation, set forth below, adopts a number of the recommendations submitted. Certain other recommendations, not adopted at this time, may be considered in any future proposed revisions.

During the past several years, the FDA has issued a number of FEDERAL REGISTER documents relating to CGMP regulations, specifically Parts 210 and 211. The following summary will help clarify the status of these various documents.

1. A proposal on returned and salvaged drug products appeared in the FEDERAL REGISTER of January 16, 1975 (40 FR 2822) and was reproposed as § 211.208 (21 CFR 211.208) in the FEDERAL REGISTER of February 13, 1976 (41 FR 6870). Comments on both proposals were reviewed and considered in preparing the final regulations set forth in Part 211 below.

2. A proposal on CGMP regulations for human and veterinary drugs appeared in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878). That proposal is the basis for the subject final regulations and included proposed revisions in §§ 201.17, 207.3, 207.20, and Parts 210 and 211, and revocation of § 229.25.

3. A final regulation in the FEDERAL REGISTER of April 23, 1976 (41 FR 16932) amended Part 211 (CGMP regulations) by eliminating reference to glass-fiber filters. It, therefore, eliminated the need for further comments on the February 13, 1976, proposal regarding such filters because all references to glass fiber-containing filters would be deleted from the final regulation.

4. A proposal on CGMP regulations for large volume parenteral drug products (LVP) for human use was published in the FEDERAL REGISTER of June 1, 1976 (41 FR 22202). The proposal would add a new Part 212. Comments were due by September 29, 1976 and are under review.

5. A request for comments and information regarding small volume parenteral drug products (SVP) was published in the FEDERAL REGISTER of June 1, 1976 (41 FR 22219), and the time for submitting comments was extended to October 29, 1976 by notice in the FEDERAL REGISTER of September 10, 1976 (41 FR 38540). Comments are being reviewed, and a specific proposal may be published in the future.

The comments and recommendations regarding the January 16, 1975 and February 13, 1976 proposals, the April 23, 1976 amendment to the latter proposal, and the Commissioner's conclusions concerning them are set out below.

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I. GENERAL COMMENTS

1. Many comments were received regarding the need for the proposed changes in the CGMP regulations. A number of comments from individual consumers, a State consumer services organization, and a national association of health-care professionals strongly favored new or revised regulations that would improve the level of assurance that marketed drug products meet high quality standards. Many other comments, particularly from manufacturers and trade associations, generally supported the desirability of CGMP regulations, but objected to specific provisions of the proposal and questioned whether a favorable cost-benefit ratio justified implementing some of the proposed provisions. But some manufacturers, particularly smaller firms, objected to the proposed changes, maintaining that drug quality would not be improved by the proposed changes and that the costs outweigh any benefits.

The need and rationale for an overall revision and for specific changes in the CGMP regulations are discussed at length in the preamble to the February 13, 1976 proposal. Briefly summarizing this discussion, the technological advances and the general upgrading of drug quality assurance by most manufacturers since the CGMP regulations were promulgated in 1963 and last updated in 1971 mean that the "current good manufacturing practice" reflected in the existing regulations are no longer "current" in many respects and are not suited to current manufacturing techniques. In addition, many requirements prompted questions about interpretation, vagueness, and omissions. The proposal was intended to solve many of these problems. Interested persons were urged to review the proposal carefully, to identify any areas that might require clarification or modification, and to submit reasoned comments with suggested alternative language. The period provided for public comment was 120 days instead of the usual 60 days because of the length of the proposal; the novel, controversial, or complex nature of some of the proposed provisions; and the desire to give affected persons ample time for review and preparation of extensive comments.

Having reviewed the preamble of the February 13, 1976, proposal and the extensive comments, the Commissioner is satisfied that an updating of the CGMP regulations is necessary and desirable. Therefore, most of the February 13, 1976, proposal has been adopted, but with numerous textual changes, many of which are based upon alternative language suggested in the comments. In evaluating each comment, the Commissioner considered whether drug product quality would be assured, compromised, or unaffected by the adoption or deletion of a regulation, as well as whether it reflected a current practice in the industry and its benefits appeared to outweigh its costs. The Commissioner is promulgating those regulations embodying contemporary practices that will maintain or improve the quality of pharmaceuticals without imposing unreasonable or excessive costs or other burdens on manufacturers. Modifications were adopted, or decisions were made not to finalize particular aspects of the proposal, in order to add flexibility for manufacturers, to relieve or eliminate unjustified cost burdens, or to clarify the requirements, without adversely affecting the best interests of the consumer.

The agency has completed a detailed cost analysis based on information submitted by interested persons who commented on the economic impact assessment of the proposal. This issue is discussed in a revised economic impact assessment available at the office of the Hearing Clerk, Food and Drug Administration. For the reasons set forth in the agency's economic impact assessment, it is believed that this final regulation will not cause major economic impact, as defined by Executive Order 11821 (as amended by Executive Order 11949), and OMB Circular A-107.

2. A number of comments said the proposed CGMP regulations would impose rigid and inflexible standards that would curtail progress and discourage technological innovations. Others said the proposed regulations were so detailed that sound judgment by the manufacturers and by inspecting FDA investigators could not be used.

The Commissioner is keenly aware that the general CGMP regulations must apply to a wide variety of drug products. Therefore, the CGMP regulations in Part 211 are intended to be general enough to be suitable for essentially all drug products, flexible enough to allow the use of sound judgment and permit innovation, and explicit enough to provide a clear understanding of what is required. The agency has received numerous inquiries requesting clarification of certain provisions, and it sought to remove ambiguities by this revision. In finalizing these revisions, the Commissioner has considered past experience, the purposes of the CGMP regulations, the need to balance specificity and clarity with flexibility in attaining these purposes, and the comments received in response to the proposal. A number of changes have been made in these final regulations to reflect the broad applicability of, to allow flexibility in, and to encourage innovation within the CGMP regulations. The agency does intend to issue more specific CGMP regulations for unique classes of products as one means of clarifying these regulations. The Commissioner welcomes suggestions and petitions from interested persons who find deficiencies, excessive burdens, or inflexibility in these regulations and who identify innovative and more efficient ways to achieve the goals of these regulations.

3. A number of comments addressed the so-called "how to" versus the "what" argument; that is, the proposed CGMP regulations describe "how" a particular requirement should be achieved rather than specifying "what" it is that is to be achieved. Many comments recommended that the regulations establish only objectives or specifications and allow each manufacturer to determine the best method of attaining the objective or meeting the specification. For example, one comment proposed that FDA require positive identification of a person rather than specifying that a signature be used—this would allow use of other means of identifying a person, such as an identifying number or initials.

The Commissioner believes that, with relatively few exceptions, the CGMP regulations do describe "what" is to be accomplished and provide great latitude in "how" the requirement is achieved. For example, written records and procedures are required, but FDA will recognize as satisfactory any reasonable format that achieves the desired results. Because of the need for uniformity in certain areas of the CGMP regulations that have presented problems in the past, however, there are some instances where it is desirable to specify the manner in which requirements are to be accomplished. In promulgating these regulations, the Commissioner carefully reconsidered the need for such specificity where it appears and adopted only those specific requirements that are fully justified.

4. One comment, filed by an FDA employee, recommended that self-inspection and performance auditing programs within the industry be a requirement under the CGMP regula-

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tions to assure the reliability of drug products and to prevent release of defective products.

The Commissioner finds that the concept of self-inspection and performance auditing has considerable merit. The pharmaceutical industry has made great efforts to develop self-evaluation programs, frequently using a team of inspectors composed, at least in part, of people from outside the area or firm being audited. The scope, elements, and intensity of such programs, however, vary from elaborate detailed audits to rather superficial inspections conducted perhaps once a year. The agency has considered such programs in the past, but has concluded that the essential elements of a beneficial program have not yet been sufficiently defined or tested. Moreover, because of the significant impact that a requirement for self-inspection would have on the industry and because only one comment regarding self-inspection was received, the Commissioner concludes that further public discussion is desirable before a specific proposal or regulation is issued.

5. One comment suggested that a product defect surveillance and reporting system requirement similar to the system developed and operated by the United States Pharmacopeia (U.S.P.) be a part of the CGMP regulations. The suggestion would require full participation by manufacturers, rather than voluntary participation, in a system of identifying defective products, removing them from the market, and investigating the cause of the defect.

The Commissioner notes that the Drug Product Defect Reporting System maintained by U.S.P. is designed to identify drug product complaints from various sources other than the manufacturer, such as pharmacies and hospitals, and to facilitate transmission of this information to the manufacturer and to FDA. The value of such a reporting system is in its broad source of information. The CGMP regulations in part 211, however, apply only to manufacturers of drug products. Section 211.198 (21 CFR 211.198) addresses the handling of reports to the manufacturer about drug product defects and requires that manufacturers investigate complaints that may have a bearing on drug product quality. Such information is subject to review by FDA.

6. Comments regarding the effect of these regulations on employee motivation were received from several interested persons. While generally approving the technical aspects of the proposal, these comments expressed concern that employee morale may be stifled because of the "close supervision" or "independent verification" of their work mandated by some of the proposed requirements. The comments also expressed concern about the availability of qualified personnel in the health-care system and the ability of the industry to attract such qualified persons for relatively unimaginative duties. They suggested that the use of a different instrument in the checking procedure would, in some instances, offer a better chance of detecting an error than would a system that relies upon independent verifications by different persons using the same instrument.

The Commissioner recognizes that employee interests and motivation play a major role in assuring drug product quality, as described in the preamble discussion for the proposed § 211.25, relating to employee training, for example. Good employee morale and work motivation are highly desirable in any work situation. Because of potential employee resentment of an intensive "check system," the Commissioner has considered alternatives and the consequences of no independent verification. The requirement for verification applies to functions that involve human judgment and consequently are susceptible to human error. The results of such errors, if undetected and uncorrected, can include, for example, improper formulations and improper release of drug products because of incorrect laboratory calculations. Independent verification is generally considered a "current" practice, not only in the drug industry but elsewhere, as a way to reduce the risk of human error. The intent of such a check is to verify that the procedure or work was performed. It is a necessary function in the manufacture of drug products and is already required in the existing CGMP regulations. The Commissioner believes that, while employees may not always welcome independent verification, most accept it as a condition of their particular assignments. Given the possible serious consequences of errors, the "check system" requirement does not seem to be an unjustified burden and, if properly explained, should not be perceived by employees negatively.

The use of separate instruments, where practicable, as an adjunct to independent verification by a second person, is a procedure that has merit. The Commissioner encourages the use of such a procedure, but has concluded that a separate instrument for independent measurements would be a costly and unnecessary requirement in the CGMP regulations. These regulations separately mandate an equipment calibration and maintenance program to assure proper performance and safeguard equipment accuracy.

7. Several comments indicated a general interest in bioavailability and bioequivalence requirements for drug products. Because of the importance of bioavailability and bioequivalence to safe and effective use of drug products, these comments encouraged FDA to issue regulations establishing necessary requirements to assure this type of product quality as soon as possible.

The Commissioner advises that bioavailability and bioequivalence requirements for drug products were addressed in separate proposals published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26157 and 26164) and made final in the FEDERAL REGISTER of January 7, 1977 (42 FR 1624).

8. Several comments were received regarding written procedures to describe specific manufacturing and control operations. In general the comments agreed that written procedures were suitable in many instances, but were not required for every operation involved in the production and control of drug products. Specific examples were cited as requiring excessive and unnecessary written procedures. The most common example cited was § 211.67(b), which proposed, in part, that there be written procedures assigning responsibility for cleaning and maintenance and describing in detail the maintenance and cleaning schedules, the methods, equipment, and materials to be used, and the methods of disassembling and reassembling all equipment used in the manufacture, processing, packing, or holding of a drug product. The objection to the requirement of this instance appears to be in reference to "all" equipment.

The requirement for written procedures is intended to provide additinal assurance of effective communication of appropriate information from firm management to line personnel and of regular performance of a firm's established programs and procedures. It is not enough that employees "know their jobs." Key personnel may be absent without warning; personnel substitutions involving less experienced employees may be necessary; and new or revised instructions to employees must be adequately conveyed to those who need to know. These situations are not usual, but may occur frequently. The most appropriate method for reliably relating policies and procedures to those who must know them is to have them set down in writing, readily available, and presented in a manner easily understood. The Commissioner does not believe this is a burdensome requirement. The regulations do not require that a separate procedure be written for each and every individual piece of equipment. Thus, for example, similar pieces of equipment that would have the same cleaning schedule could be considered together for convenience and would be

in compliance with requirements of § 211.67(b).

9. One comment suggested that written procedures are changed frequently and the regulations make no provisions for dating the written procedures and retaining outdated written procedures. The comment pointed out that the outdated procedures may be of some value in following up problems that may have occurred during the period that the written procedures were in effect.

The Commissioner has carefully considered the merits of this suggestion and concludes that specific provisions for the dating and retention for all written procedures are not needed at this time. The regulations already contain this type of requirement for certain records such as master and batch production control records. For other procedures, it is preferable for each manufacturer to develop his scheme for dating, replacing, and retaining written procedures.

10. One comment recommended that FDA provide a complete set of correct model forms for use by individual firms in their own recordkeeping. The comment suggested that the model forms could be a part of the CGMP regulations, or FDA could furnish such information separately.

The Commissioner does not find sufficient need at this time to warrant development of such model forms. The CGMP regulations, as amended, provide sufficient detail for manufacturers to understand readily what is required for compliance with these regulations. Because of the broad nature of the regulations and the wide variety of manufacturers subject to the CGMP regulations, the Commissioner is not convinced that model forms would be so adaptable as to be useful for a majority of firms. If, however, future experience with these CGMP regulations indicates that model forms issued as guidelines would be helpful, the Commissioner will reconsider the matter.

11. A respondent suggested promulgating the regulations under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) to give opportunities for hearings on, and judicial review of, these regulations before they take final effect.

The authority to promulgate the regulations for the enforcement of the current good manufacturing practice provisions of the act rests specifically in section 701(a) of the act. As noted in paragraph 35, Congress voted in 1962 not to require that CGMP regulations be issued under the procedures set forth in section 701(e) of the act. The Commissioner could elect to follow a procedure similar to that in section 701(e) of the act and hold a legislative type of hearing on specific aspects of this proposal under 21 CFR Part 15. After an extensive review of the numerous comments, however, he has decided that there are no particular portions of this regulation which need a further presentation of information or arguments. Any interested person may submit a petition under 21 CFR 10.30 to the Commissioner requesting such a hearing and should identify with specificity and supporting explanations the issues that might be heard. No such petition will, however, automatically delay the effective date of these regulations, as would be the situation under section 701(e) of the act; the Commissioner will grant a delay only if clearly justified.

12. In reference to the proposed requirement in § 211.184(a), that the prime manufacturer, if known, be listed, one comment recommended that the CGMP regulations require that the name and lot number of the original manufacturer of the final drug product be part of the labeling.

The Commissioner recognizes that a number of interested persons have, at various times, recommended that the labeling of drugs (whether bulk or in dosage form) bear the name of the manufacturer in addition to the distributor or repacker or relabeler. Changes such as this, however, would have such broad effect and would be likely to generate such enormous public and industry interest that the Commissioner does not believe that these final regulations are the proper place to consider them. Moreover, there are questions concerning the legality of such a requirement being adopted under section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)). Therefore, the Commissioner declines to act on this comment at this time.

II. TERMINOLOGY AND LANGUAGE IN THESE REGULATIONS

13. Numerous comments were received suggesting changes in language, grammar, terminology, punctuation, sentence structure, and other editorial changes to clarify or improve upon the requirements as stated in the regulations or to eliminate redundancies or inconsistencies. Those proposals that raised significant policy questions, suggested changes in the substance of the regulation, or otherwise required, in the Commissioner's opinion, a specific response, are discussed individually below. Many of the suggested changes, however, were more editorial and stylistic and do not warrant a detailed discussion that would double the length of this preamble.

The Commissioner reviewed each of these numerous editorial and language changes to determine whether it offered an improvement in clarity or definition, eliminated an obvious error or redundancy, promoted consistency with other portions of the regulations, or otherwise identified textual problems that were not previously noted by FDA. Where the proposed alternative language or other changes suggested by them were superior to the proposal, they were adopted in substance or verbatim. Where they did not offer any improvement, the Commissioner declined to accept them.

14. One comment recommended consistent usage of the words "drug," "drug product," "phase," "step," and "stage." The comment suggested that confusion can result from using "drug" and "drug product" interchangeably because, in the technical literature, the term "drug" usually refers to the bulk drug and the term "drug product" to the finished dosage form. The comment also pointed out that the words "phase," "step," and "stage" are used interchangeably and may, in fact, describe different aspects of a production operation.

The Commissioner finds that Parts 210 and 211, as amended by this order, use "drug" and "drug product" consistently with the definitions in section 201(g) of the act and § 210.3(b)(4) of the regulations (21 CFR 210.3(b)(4)); that is, "drug product" refers to only finished dosage forms, while "drug" includes both bulk drugs and drug products. With regard to the words "phase," "step," and "stage," he finds that it is unnecessary to describe various aspects of a production operation by using different words that can have essentially the same meaning in common usage. Therefore, for clarification, the CGMP regulations are revised to use the word "phase" consistently when describing certain aspects of the manufacturing operations.

15. A number of comments concerned use of the phrase "to prevent" throughout the proposed CGMP regulations. The phrase appears in these regulations to indicate that a required procedure must be accomplished, or accomplished in a manner, to preclude a resultant deleterious effect, e.g., "containers shall be opened, sampled, and resealed in a manner to prevent contamination." In several instances, the comments objected to the phrase as being "too absolute," stating that the regulations should allow for variation from the desired objective on occasion because no firm should be expected to prevent undesirable occurrences 100 percent of the time. The phrase "designed to prevent" was suggested as an alternative. A number of comments objected to the phrase "to prevent" when used in conjunction with written procedures on the basis that written procedures in themselves do not prevent anything; they must be implemented to accomplish the desired objective. The phrase "designed to prevent" was again suggested as an alternative phrase.

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The Commissioner believes that it is not acceptable to allow deviations from practices that could result in adverse effects upon the quality of the drug product, even on occasion. The Commissioner, however, does agree with the comments' contention that written procedures must be implemented to prevent anything and has adopted the phrase "designed to prevent" in the applicable portions of the final regulations.

16. Several comments objected to the use of terminology such as "adequate," "appropriate," "significant," "major" equipment and "long" periods. The objection is that these terms lack the specificity needed and will result in confusion to the manufacturer.

The Commissioner has carefully considered the use of these words and other words and phrases that imply absolute requirements in judgmental matters. Except for the changes noted in responding to the comments by specific sections, he concludes that the terminology is appropriate as set forth in the regulations. Words such as "adequate" and "appropriate" do permit reasonable, albeit variable, interpretation by reasonable people, but are necessary and desirable for regulations to have both broad applicability and flexibility. An overwhelming majority of those commenting on the proposal were greatly concerned that the regulations accommodate the wide variability of manufacturing and control systems. In fact, a number of comments recommended additional use of modifying words such as "appropriate" and "adequate" to carry a sense of flexibility in the CGMP regulations.

17. Several comments objected to the use of the word "current" in the title and text of the regulations. Other comments indicated that some of the proposed requirements, such as separation of penicillin operations in the production of veterinary drug products and the proposed statistical testing requirements, are not "current" good manufacturing practice for the industry. Another comment requested that the term "current" be defined. One comment recommended that the word "current" be deleted since it is obvious that the latest regulations to be published are current, and therefore the use of the word "current" is superfluous.

Several of these comments reflect, the Commissioner believes, a misunderstanding regarding the use of the word "current." The act itself, in section 501(a)(2)(B), specifies that a drug is deemed adulterated if the methods used in, or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with "current" good manufacturing practice to assure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics which it purports or is represented to possess. The Congress intended that the phrase itself have a unique meaning and that the good manufacturing practice regulations represent sound current methods, facilities, and controls for the production of drugs to assure safety, identity, strength, quality, and purity of the product. The agency determines what constitutes "current good manufacturing practice" based upon its experience with the manufacture of drugs through inspectional and compliance activities; upon knowledge gained from reviewing new drug applications, antibiotic forms, biological product and establishment licenses, and other submissions to FDA; and upon consideration of comments from interested persons received in response to proposals to amend CGMP regulations. Although the practices must be "current" in the industry, they need not be widely prevalent. Congress did not require that a majority or any other percentage of manufacturers already be following the proposed mandated practices, as long as it was a current good manufacturing practice in the industry, i.e., that it had been shown to be both feasible and valuable in assuring drug quality.

The accumulated knowledge and experience of FDA in the area of current good manufacturing practice is reflected in a body of information, which with the exception of trade secrets and information relating to pending enforcement actions has long been available to the public. This body of information, which is the basis for agency expertise with respect to current good manufacturing practice, is so voluminous that formal inclusion into the administrative record of this proceeding is not practical. Nevertheless, the Commissioner relies on this body of information in promulgating this regulation. The following list describes the information coming to FDA since active preparation of the proposal to revise the CGMP regulations began (in late 1974):

(1) FDA investigators conducted approximately 20,000 inspections of establishments in which drugs for human use are processed, and another 6,000 inspections of veterinary drug establishments. After each inspection, an FDA investigator filed an establishment inspection report with the agency. With rare exceptions (for cases subject to active law enforcement investigation), these reports are promptly available as public information under FDA's Freedom of Information regulations (21 CFR Part 20).

(2) FDA received approximately 1,000 full new drug applications (including original submissions, resubmissions, and amendments), 1,500 abbreviated new drug applications, and 6,900 new animal drug applications. Each application contains information pertaining to the manufacturing processes to be used in producing the drug subject to the application. In addition, about 10,000 supplements to approved applications, many relating to manufacturing processes, were submitted. FDA must review and approve these processes before an application may be approved. The contents of approved new drug applications, except those portions that constitute trade secrets, are available for public inspection. (21 CFR 314.14, 431.71, 514.11, and 601.51.)

(3) FDA monitored more than 1,200 recalls of drugs for human use and 275 recalls of veterinary products. In each recall resulting from a product defect, FDA investigates to determine the manufacturing control problems that led to the defect. These investigations, generally embodied in establishment inspection reports, are also publicly available upon completion of regulatory activities.

(4) FDA brought over 500 legal proceedings—criminal proceedings, seizures, and injunctions—involving drugs for human use and veterinary products. Again, in those proceedings arising from product defects, a full investigation has been conducted to support the agency's case. In addition to the establishment inspection reports, testimony, documented evidence, and court papers are publicly available.

Furthermore, FDA representatives have participated in numerous activities—meetings, seminars, and workshops (regarding CGMP's, industry practices, and agency policies)—with organizations such as Parenteral Drug Association, the Proprietary Association, the National Association of Pharmaceutical Manufacturers, Pharmaceutical Manufacturers Association, the Packaging Institute, University of Wisconsin Industrial Pharmacy Management Conference, and the American Society for Quality Control. These activities further contribute to the knowledge and experience of FDA. Many of the organizations sponsoring these activities publish publicly available proceedings of these meetings, e.g., *Journal of the Parenteral Drug Association* and *Proprietary Association Manufacturing Controls Seminar Presentations.*

For additional information summarizing FDA's activities for the past several years, see 1975-1977 Annual Reports and fiscal year 1979 Justification of Appropriation Estimates for Committee on Appropriations. (Copies

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have been placed on file with the office of the Hearing Clerk, FDA.)

18. Several comments asserted that CGMP regulations must reflect the "current" practices of manufacturers of a particular type of drugs. Others objected to the absence of findings specifically supporting the conclusion that a particular practice was a "current" practice of the manufacturers of a particular type of drug product. Among the drug products cited as the appropriate measure for current good manufacturing practice were veterinary drugs, medical gases, radio- pharmaceuticals, and cosmetic-type drug products.

The Commissioner recognizes that different types of drug products may require specialized manufacturing and control procedures or may not be appropriate to the application of certain procedures that are otherwise generally applicable to drug products. For this reason, he has announced his intention to issue specialized current good manufacturing practice regulations for particular types of drug products and, in fact, has already issued one such proposal regarding large volume parenteral drug products. The regulations set forth in Part 211 (21 CFR Part 211) are designed to be applicable to all drug products in finished dosage form. They are based on practices widely used throughout the industry for manufacture of many finished drug products. The Commissioner rejects the idea that FDA must establish that each CGMP requirement is a current practice of the manufacturers in each subset of drug products covered by the general requirements of Part 211. As noted elsewhere in this preamble, the commissioner has evaluated whether this requirement is appropriate for particular types of drug products in response to specific comments. Where he has found it to be inappropriate, he has exempted the products from the requirement; otherwise the commissioner has concluded that all manufacturers of finished drug products should be subject to the requirements of Part 211. The Commissioner believes this is the only feasible way to approach such general current good manufacturing practice regulations. There is no consensus on the various subgroups of finished drug products, and therefore a requirement that the currency of practice must be documented for each subgroup would ultimately amount to establishing that it was a current practice by each manufacturer of each drug product, a burden which would be impossible to establish and unnecessary for purposes of regulation. Therefore, the Commissioner rejects these comments.

III. Amendments Regarding Placement of Expiration Date on Drug Product Labels

19. A substantial number of comments objected to the proposed requirement in § 201.17 that the expiration date appear on the shipping carton. The majority objected on the grounds that it is common practice for shipping containers to contain different drug products or similar drug products with different expiration dates. Some persons recommended that the expiration date be required on the shipping carton only when the carton is for one drug product.

The Commissioner recognizes that there are valid reasons for comingling various drug products, or different lots of the same drug product, within a single shipping carton. In such instances it may not always be practicable for each different expiration date to appear on the shipping carton. Because of significant differences in the use and labeling of shipping cartons, the Commissioner concludes that a requirement for the expiration date to appear on the shipping carton when such shipping carton is not the immediate container should not be a part of the regulations at this time, and this requirement is deleted from § 201.17. Manufacturers are encouraged, however, to provide appropriate information to the extent possible on all shipping cartons to facilitate handling, reduce the possibility of mixups, and allow easy identification of lots that are being recalled or withdrawn from the marketplace.

20. Several comments were received regarding expiration dating of shipping cartons containing radio- pharmaceuticals. Generally, the comments were that such drugs usually have several separate component parts each with a different expiration date. One comment requested an exemption from the entire section, while another comment asked for an exemption for the shipping carton.

The Commissioner believes that § 201.17, as revised, will accommodate the special problems encountered in the handling of radiopharmaceuticals.

21. Several comments suggested that the heading of this section be revised by changing the title word from "drugs" to "drug product" to conform to the drug product definition in § 210.3(b)(4).

The Commissioner finds that the word "drugs" in the heading of § 201.17 is more consistent with the terminology used in Part 201. The term "drug product," as defined in § 210.3(b)(4), is intended specifically for use in Part 211 to convey a meaning more limited than the general term "drug" as defined in section 201(g) of the act. However, to clarify that § 201.17 applies to drug products under Parts 210 and 211, the final regulation in § 201.17 is revised to refer to both drugs and drug products.

22. A number of comments recommended that the expiration date not be required on outer retail package labeling, such as display cartons, if the expiration date appearing on the immediate container is visible.

The Commissioner agrees that it was his intention to require that the expiration date be visible under usual and customary conditions of packaging. He notes that section 201(k) of the act provides for label information that is easily legible through the outside container or wrapper. Section 201.17 is revised to allow such alternative placement of the expiration date.

23. One comment said the proposed section does not clearly cover a situation where the producer does not package the material in a retail package, but markets drug products in bulk containers.

Although the Commissioner believes that the situation described is covered by the proposed regulations, the final regulation as rewritten clearly specifies that when the expiration date of a drug, including drug products, is required, it shall appear on the immediate container. There is no exemption for drug products in bulk containers.

24. One comment recommended that § 201.17 specifically exclude "wrappers" for individual tablets, lozenges, and suppositories from the requirement of bearing an expiration date.

The Commissioner finds that it is generally understood that protective wrappers for individual dosage forms that are further packaged in immediate containers are not required to bear an expiration date. Because only one comment about protective wrappers was received requesting a statement in the regulations and no information was submitted that the issue raised has actually been a problem, the Commissioner concludes that further clarification of this section is not now warranted.

25. Several comments asked about the acceptability of placing the expiration date on the crimp of the drug product tube.

Because of the wide variety of available methods and techniques of applying and presenting expiration dating information on the immediate container, the Commissioner has not attempted to specifically evaluate and list individual methods. In general, he finds that the expiration date should be readily seen under usual and customary circumstances. The tube crimp has been used for placing the lot or control number (as provided for under § 201.100(b)(6)) and for placing the expiration date for some products. No known problems have been associated with such information appearing on

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the crimp of the dispensing tube and, therefore, this method is an acceptable way to comply with § 201.17.

26. Several comments objected to the provisions in § 201.17 that when single-dose containers are packed in individual cartons, the expiration date may properly appear on the carton only. Several respondents noted that ampules are sometimes removed from the outer carton, particularly in hospitals, and that valuable information that is not a part of the immediate container labeling is lost.

The provision in this section regarding single-dose containers has been in effect for a number of years and was based on information that such an allowance was necessary for single-dose containers, primarily glass ampules, because of technical problems in labeling glass ampules on a batch-by-batch basis. Some manufacturers are now placing expiration dates on single-dose containers; however, no information has been presented that expiration dating for all single-dose containers, particularly glass ampules, is feasible. Although the Commissioner recommends this activity, it was not his intent to propose revocation of the exemptions for single-dose containers as part of this revision of FDA regulations. Based on the few comments received which recommended additional revisions in this section, the Commissioner will not revoke these exemptions at this time, but will consider the recommendations for revisions for a future proposal.

27. Several comments recommended that for drugs which are also cosmetics (see also paragraph 42(h)) expiration dates should only be placed on the shipping carton and outer retail package because such products are typically purchased by the user with the outer retail package intact and the product is consumed in a relatively short period of time.

The Commissioner advises that under the interim provisions of § 211.137(f), most of these types of products will be exempted from the expiration dating requirements. But the so-called "drug-cosmetic" type of products are not free from stability problems; therefore, unless such products are stable for at least 3 years, expiration dating is required (see also paragraph 353 of this preamble).

IV. Amendments Regarding Drug Listing and Establishment Registration Requirements for Drug Product Salvaging Operations

28. Several comments suggested that the word "human" be inserted between the words "licensed" and "biologicals" in § 207.3(b) because veterinary biologicals are regulated by the U.S. Department of Agriculture.

The Commissioner agrees with these comments and is amending the paragraph accordingly.

29. One comment recommended that the definition of "establishment" under § 207.3(b) be broadened to include additional categories such as bulk sales by practitioners, antique shops, and dealers and trustees handling estate sales and/or bankruptcies.

The Commissioner agrees that these are all examples of establishments that could engage in drug-salvaging operations, but believes that the proposed definition of "establishment" is preferred in order to provide coverage for any type of establishment that engages in drug product salvaging operations, including those identified in the comment.

30. Two comments suggested deletion of the word "may" in the phrase "may have been subjected to" improper storage conditions in the proposed § 207.3(k) because the statement is too general and the requirement should only apply when the drug product has actually been exposed to adverse conditions.

The Commissioner rejects this suggestion because it may not be possible in every instance to establish clearly the exact nature of the adverse circumstance to which a drug product has been exposed. Therefore, in some instances, the salvager may only have sketchy information about improper storage conditions, such as unusual temperatures, and must assume that such conditions may have occurred in order to handle the salvaging operations properly.

31. Three comments concerned the proposed exemption of drug product salvagers from drug listing in § 207.20. Two of the comments recommended that drug product lists be submitted prior to salvaging and one respondent recommended that a drug product list need not be submitted, but should be maintained by the salvager.

The Commissioner agrees that an inventory of drugs subjected to salvaging operations should be maintained, but does not agree that salvagers should submit a drug list under Part 207 (21 CFR Part 207). To clarify that an inventory of drugs involved in salvaging operations shall be maintained, provisions are added in § 211.208 for maintenance of records for drug products subjected to salvaging operations.

32. One comment considered the registration requirement for a drug salvaging firm to be a waste of taxpayers' money and recommended that the recycling of any and all drugs and pharmaceuticals be prohibited.

The Commissioner disagrees with this opinion. He does not agree that drug product salvaging should be prohibited where the integrity of the drug product is not compromised. Otherwise costs to consumers might be increased. Individual firms are in a better position to determine the financial feasibility of a salvaging operation. The costs of registration, both to the Government (and the taxpayer) and to the registrant, are quite insignificant and probably less than the added costs that would result from the needless destruction of salvageable drug products.

V. Legal Status of CGMP Regulations

33. Several comments requested deletion of the word "drugs" in the title and insertion of the words "drug products" in order to be consistent with the title of Part 211 and the definition of § 210.3(b)(4) and § 210.1(a).

Part 210 applies to all parts between Parts 211 and 229. Part 211 deals with finished dosage forms, but other parts may not. Therefore, the Commissioner finds that the more general term "drugs" applies better to the various types of drugs that are likely to be covered in Parts 211 to 229.

34. A number of comments objected, on diverse grounds, to use of the word "minimum" to describe the requirements in these regulations. Several respondents believed that current good manufacturing practice cannot be considered in terms of a "minimum" because that implies that firms adhering to the regulations are then merely at a threshold level of compliance. Other respondents suggested that "minimum" means that normal practices represent a higher standard and that there is an implication that the standards of these regulations fall below an acceptable level. Some comments recommended that "minimum" not be used because no such reference to CGMP regulations is in the act.

The Commissioner does not agree with these comments. The legislative history of the Drug Amendments of 1962 shows that section 501(a)(2)(B) of the act was included to raise the standards of drugs manufacturing by all manufacturers to the level of the current good manufacturing practice in the industry. Congress was quite concerned about the uneven and sometimes unacceptable quality of drug products from some portions of the pharmaceutical industry. The purpose of section 501(a)(2)(B) of the act is to provide assurance that drug product quality would not fall below that which was feasible and available under contemporary technology. There is no implication that the standards represented by these regulations are less than acceptable or below the industry's norm. On the other hand, there is no prohibition in the regulations against the manufacturing of drug products using better, more efficient, and innovative methods. In fact, the

Commissioner encourages use of such methods because it benefits the consumer. Although the word "minimum" does not appear in section 501(a)(2)(B) of the act, its use is necessary in the CGMP regulations because of their binding legal nature (discussed in paragraph 35); that is, failure to meet the minimum standards of the regulation results in the product's being adulterated.

BINDING DRUG COMP REGULATIONS

35. Several comments argued that § 210.1 should be deleted because it is based on the erroneous proposition that CGMP regulations can be substantive. The comments urged that regulations issued under section 501(a)(2)(B) of the act are only interpretive. In support of their argument, many referred to the legislative history of the Drug Amendments of 1962. One comment stated the following:

> Section 501(a)(2)(B) was enacted as part of the Drug Amendments of 1962, and, as reported by House Committee, those amendments would have included a provision empowering the FDA to issue GMP regulations under it formal section 701(e) rulemaking authority. (H.R. 11581, 87th Congress, Second Session.) The House Committee Report explained: "The promulgation of these regulations would be subject to opportunity for hearing and judicial review. Thus, legal action could be brought against firms failing to abide by these standards and against the products they ship." (H.R. Rep. No. 2464, 87th Congress, Second Session, 2(1962).) The present form of section 501(a)(2)(B) was first enacted by the Senate. The Senate Committee Report made clear that the provision was intended to authorize the FDA to issue "interpretative" regulations that would constitute only prima facie evidence of adulteration. (S. Rep. 1744, 87th Congress, Second Session, 9(1962).) In floor action on September 27, 1962, the House amended H.R. 11581 to be consistent with the Senate bill. (108 Congressional Record 19916 (daily edition 1962).)

Most of those relying on the legislative history argument quoted from the same Senate Committee Report.

Other comments objecting to FDA's authority to issue binding CGMP regulations asserted that the four judicial decisions cited in the preamble to the February 13, 1976, proposal in fact did not support that authority. One comment reviewed the history of all four proceedings and concluded:

> All of the cases cited by the Commissioner * * * recognize that the court cannot reach a conclusion contrary to Congressional intent. In those cases, there was no clear Congressional intent and the courts allowed the FDA to issue substantive regulations under section 701(a) of the Act. The legislative history with respect to the proposed CGMP regulations is crystal clear and does not permit the Commissioner to issue substantive regulations.

Because of the fervor reflected by these objections and because the Commissioner foresees identical objections being made to proposals to issue binding CGMP regulations for specific classes of drug products in the future, the Commissioner has decided that a lengthy exposition of the basis for his concluding that FDA has legal authority to promulgate such regulations is warranted. The Commissioner intends that this statement will be definitive, and he does not contemplate reconsidering the issue of FDA's legal authority to issue substantive CGMP regulations in the future unless new materials, not discussed below, are brought to his attention. The question of whether a particular regulation should be issued as binding or interpretive, of course, may always be raised, and comments on the wisdom of making these CGMP regulations binding are discussed in paragraph 36 below in this preamble.

With regard to the legislative history of the Drug Amendments of 1962, the Commissioner finds that none of the comments provided a complete or accurate picture of the enactment of the current section 501(a)(2)(B) of the act. Because of the emphasis placed by the persons objecting to "substantive" CGMP regulations on Congressional intent, the Commissioner believes a detailed review is necessary.

On July 19, 1962, the Senate Judiciary Committee reported out S. 1552, the Senate version of what ultimately became the Drug Amendments of 1962. Section 5 of the July 19 bill would have amended section 501(a)(2) of the act to read as follows:

> (2)(A) If it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packaging, or holding do not conform to current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess. The Secretary is authorized to issue interpretative regulations, upon notice and in accordance with the procedures set forth in section 4 of the Administrative Procedure Act (5 U.S.C. 1003), which shall, in any proceeding involving this paragraph, be prima facie evidence of what constitutes current good manufacturing practice.

The accompanying bill report (S. Rep. No. 1744, 87th Cong., 2d Sess. (July 19, 1962)), described this section at page 9, emphasizing that the "Secretary would be authorized to issue interpretative regulations as to what constitutes current good manufacturing practice, and these regulations would be prima facie evidence in any proceeding under this section of the Food, Drug, and Cosmetic Act."

On August 3, 1962, President Kennedy submitted a series of amendments to the Senate Judiciary Committee. In response to this and to the public controversy then erupting over thalidomide, the Committee reconsidered S. 1552 and, on August 21, 1962, reported out a revised version of the bill. One change was to reword section 5 of the bill so that section 501(a)(2) would be amended to read as follows:

> (2)(A) If it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

The Judiciary Committee issued a second report to explain its proposed changes in S. 1552 (S. Rep. No. 1744, Pt. 2, 87th Cong., 2d Sess. (Aug. 21, 1962)). On pages 3 and 4, it discussed the revision of section 5 as follows:

> The President, in the recommendations submitted for the consideration of the committee with his letter of August 3, 1962, proposed a revised version which included the following principal amendments to the reported bill:
>
> (1) It proposed to replace the provisions on regulations with prima facie evidentiary effect with a provision that the adequacy of the quality controls be determined "in accordance with regulations promulgated by the Secretary on the basis of good manufacturing practice" after formal rulemaking procedures, i.e., after affording an opportunity for hearing, and for judicial review on the basis of the hearing record, with respect to such regulations.
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> • • • • •
>
> The explanation accompanying the recommendations of the President expressed concern lest the language as to interpretative regulations with prima facie evidentiary effect invite endless de novo litigation on the question of what constitutes a good manufacturing practice each time there is enforcement action under the new quality control provisions. The committee acceded to the President's request for elimination of the "prima facie" regulatory authority in the bill. It felt, however, on balance, that there was no need for inserting provisions for regulations through formal rulemaking on the subject of what is good manufacturing practice. Section 701(a) (21 U.S.C. 371(a)) now vests in the Secretary "authority to promulgate regulations for the efficient enforcement of this Act." This permits the Department to issue such regulations as it desires and their scope and effect will be the same as that of other regulations issued under such general authority. Numerous regulations have been issued under section

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701(a) and have been the subject of consideration and application in the courts in actions arising under the various provisions of the act not now subject to formal rulemaking procedures.

During the floor debate on S. 1552 on August 23, Senator Eastland, Chairman of the Judiciary Committee, elaborated on the meaning of section 501(a)(2) as it would be amended by the bill:

Section 5, as it would read under the August 20 amendments, is designed to assure that drugs are manufactured according to good manufacturing practice. It would deem a drug to be adulterated and thus subject to seizure if made under facilities, methods, or controls that are inadequate to assure that the drug meets the specifications of a quality product. Adulteration could also be found if such facilities, methods, or controls were not operated or administered in conformity with good manufacturing practice.

Since the competitive position of responsible manufacturers depends in large part on the confidence of the medical profession and the public, it will be in their own interest to maintain high standards of current good manufacturing practice which will provide a readily determinable basis for enforcement proceedings against any substandard operator. The Secretary could use his general rulemaking authority under section 701(a) of the act to announce what he, in the administration of the act, considers to be good manufacturing practice insofar as methods, facilities, controls, and their operation and administration are concerned. As in the case of other regulations, the court in the final analysis will pass upon the scope and effect of such regulations. (108 Cong. Rec. 16303-4 (Aug. 23, 1962).)

Senator Kefauver concurred in this change, stating, "This provision has been strengthened considerably in comparison to the bill which was reported in July." (Id., at 16306-7).

The Commissioner thus concludes that when it unanimously approved S. 1552 on August 23, 1962, the Senate obviously believed that the problem identified by the President—"endless de novo litigation • • • each time there is enforcement action"—had been resolved. The Senate must, therefore, have intended that regulations issued under section 501(a)(2)(B) of the act be more than merely prima facie evidence of what constitutes current good manufacturing practice, i.e., that they be given at least the same force as any other regulation issued under section 701(a) of the act. He also finds that the statement relied upon by most comments as proof that only interpretive regulations could be issued appeared in the first Senate Report and was explicitly reversed in the second Senate Report.

One month later, the House Interstate and Foreign Commerce Committee reported out H.R. 11581, the House bill that preceded the Drug Amendments of 1962. (H.R. Rep. No. 2464, 87th Cong., 2d Sess. (1962)). Section 101(a) of this bill proposed to amend section 501(a)(2) of the act to read as follows:

(2)(A) if it has been prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice (as determined in accordance with regulations promulgated by the Secretary) to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

In addition, paragraph (b) of section 101 would have amended section 701(e) of the act to provide that regulations under section 501(a) would be issued by formal rulemaking procedures (rather than the informal procedures under section 701(a) of the act).

The Committee Report accompanying H.R. 11581 explained this provision as follows (H. Rep. 2464, 87th Cong., 2d Sess. 2 (Sept. 22, 1962)):

Section 101 of the reported bill would amend section 501(a)(1) [sic] of the Federal Food, Drug, and Cosmetic Act to deem a drug to be adulterated if the methods, facilities, or controls used in its manufacture, processing, packaging, or holding fail to conform to, or are not operated or administered in conformity with, good manufacturing practices as determined in accordance with regulations to be issued by the Secretary of Health, Education, and Welfare which are designed to assure that the drug is safe and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess • • •

The promulgation of these regulations would be subject to opportunity for hearing and judicial review. Thus, legal action could be brought against firms failing to abide by these standards and against the products they ship.

The House of Representatives debated H.R. 11581 on September 27, 1962. Congressman Schenck offered several amendments that day, one of which would delete the parenthetical element in section 101(a), and all of section 101(b), from the bill. He explained this amendment as follows:

My amendment to section 101 of the bill, which was approved by the committee, provides simply that the drug will deem [sic: be deemed] to be adulterated and subject to seizure if the methods, facilities, or controls used in the manufacture of the drug do not conform with current good manufacturing practice, as determined in accordance with regulations promulgated by the Secretary.

The purpose of this provision is to enable the Secretary to require all companies producing drugs to observe the high standards that are now followed by the better manufacturers. It is intended that the Secretary's regulations will define minimum standards of good manufacturing practice, rather than setting forth an exclusive method by which some particular drug product may be made. Manufacturers whose methods, facilities, and controls exceed the minimum standards will not be required to lower their own standards; so long as they can show that their own practices meet or exceed these minimum requirements.

The principal purpose of the provision is to assure that the same high manufacturing standards are followed in making so-called old drugs that the law now requires in the making of so-called new drugs. Before any manufacturer is permitted to make a new drug he must file complete details of his manufacturing process with the Food and Drug Administration. It is not intended that the regulations issued under section 101 will apply to the manufacturer of new drugs insofar as the methods, facilities, or controls used in making these new drugs but that the Food and Drug Administration will require that such drugs meet the requirement of this act as to safety, and has the identity and meets the quality and purity characteristics which it purports or is represented to possess.

The committee adopted an amendment which would make the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act applicable to regulations referred to which may be made pursuant to the above amendment.

I am opposed to the amendment in section 101(b) of the bill which would require the Secretary to hold a formal hearing under section 701(e) of the Federal Food, Drug, and Cosmetic Act in order to issue regulations as to what constitutes 'current good manufacturing practice.' I favor the approach adopted by the Senate under which this determination is made pursuant to section 701(a) of the act. This procedure permits the Secretary to issue such regulations as he desires and their scope and effect will be the same as that of other regulations issued under such general authority. This procedure is more flexible. Numerous regulations have been issued under this section and they have been the subject of consideration and application in the courts in actions arising under the various provisions of the act not now subject to formal rulemaking procedures. (108 Cong. Rec. 19895-6 (Sept. 27, 1962).)

The Schenck amendment was concurred in by Congressman Harris, Chairman of the House Commerce Committee, who observed that the amendment "is taken, in part, from the Senate bill, S. 1552 • • • The gentleman from Ohio [Mr. Schenck] has advised me of the need not to tie this provision in with section 701(e) • • •" 108 Cong. Rec. 19916 (Sept. 27, 1962). The amendment was agreed to and, as approved by the House of Representatives, the legislation would amend section 501(a)(2) to read:

(2)(A) if it has been prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

The Commissioner finds from this history that the House of Representatives believed that CGMP regulations would have the same legal status as other FDA regulations, and moved to revise language to conform to S. 1552, as passed, solely to eliminate the requirement that CGMP regulations be issued pursuant to the formal rulemaking procedures of section 701(e) of the act.

Because there was no difference between the House and Senate bills insofar as the amendment of section 501(a)(2) of the act was concerned, it was not a subject of the Conference Report (H. Rep. No. 2526, 87th Cong. 2d Sess. (Oct. 3, 1962)), nor was it modified or debated further by either the Senate or the House when each voted to approve the Drug Amendments of 1962 (on October 3 and 4, 1962, respectively).

Based on this complete review of the legislative history of section 501(a)(2)(B) of the act, the Commissioner concludes that there is no support for the proposition that Congress intended that CGMP regulations should be merely interpretive. At the least, Congress wanted CGMP regulations to have the same force and effect as other regulations issued under section 701(a) of the act. (See the second Senate Report and Rep. Schenck's description of his amendment, above). To the extent that a stronger Congressional mandate can be gleaned from the various reports, amendments, and debates, it appears that binding standards were to be issued by FDA and issued through the less cumbersome notice-and-comment rule making procedures of section 701(a) of the act rather than the more complex section 701(e) mechanism. Therefore, the Commissioner rejects the argument that § 210.1 exceeds the authority conferred by Congress under sections 501(a)(2)(B) and 701(a) of the act.

With respect to judicial interpretations of FDA's authority to issue substantive rules, the Commissioner believes that the cases cited in the February 13, 1976 preamble and decisions handed down since February 13, 1976 are directly relevant to, and further support, his conclusion that CGMP regulations can be issued as binding standards.

In 1973, the Supreme Court reviewed the legality of two interrelated FDA regulations. One, now codified in 21 CFR 314.111(a)(5), set forth in detail the scientific principles that the Commissioner believed are part of the requirement in section 505(d) of the act that the effectiveness of a drug be demonstrated by "substantial evidence consisting of adequate and well-controlled studies." The second regulation, now codified in 21 CFR 314.200, contained standards for FDA to determine whether a request for a hearing on the denial or withdrawal of approval of a new drug application (NDA) presented a genuine and substantial issue of fact. At stake in the case of *Weinberger* v. *Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609 (1973), was whether an applicant was entitled to a full evidentiary hearing on the approvability of its product, and at such a hearing could offer whatever evidence it felt met the statutory standards of effectiveness, or whether FDA could summarily deny or withdraw approval of the NDA because the agency found that the applicant's evidence did not meet the standards in the regulations for evidence of effectiveness. Manufacturers contended that FDA's regulations could not serve as the basis for denying them a full evidentiary hearing under section 505 of the act. The agency believed that the regulations were a reasonable method of screening out unnecessary hearings and thereby managing an otherwise overwhelming workload. The Supreme Court concluded that both of the regulations were within the authority of the Commissioner under section 701(a) of the act and therefore FDA could act on NDA's without a full hearing where evidence failed to satisfy the FDA regulations. It said (id. at 622):

The standard of 'well-controlled investigations' particularized by the Regulations is a protective measure designed to ferret out those drugs for which there is no affirmative, reliable evidence of effectiveness. The drug manufacturers have full and precise notice of the evidence they must present to sustain their NDA's, and under these circumstances we find the FDA hearing regulations unexceptionable on any statutory or constitutional ground.

The Supreme Court, in this and related cases, discussed FDA's authority to determine whether a drug was a "new drug" under section 201(p) of the act (and thus subject to the requirements of section 505 of the act). It described favorably the review of over-the-counter (OTC) drugs under the procedures set forth in 21 CFR 330.10, by which OTC drugs are being classified as "new" or "generally recognized as safe and effective and not misbranded," the latter not subject to the new drug provisions of the act. These procedures were also promulgated under the authority of section 701(a) of the act. The Court stated, in *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973) that:

We think that it is implicit in the regulatory scheme, not spelled out in haec verba, that FDA has jurisdiction to decide with administrative finality, subject to the types of judicial review provided, the 'new drug' status of individual drugs or classes of drugs. The deluge of litigation that would follow if 'me-too' drugs and OTC drugs had to receive de novo hearings in the courts would inure to the interests of manufacturers and merchants in drugs, but not to the interests of the public that Congress was anxious to protect by the 1962 amendments, as well as OTC drugs and drugs covered by the 1972 [Drug Listing] Act. We are told that FDA is incapable of handling a caseload of more than perhaps 10 or 15 de novo judicial proceedings in a year. Clearly, if FDA were required to litigate, on a case-by-case basis, the 'new drug' status of each drug now marketed, the regulatory scheme of the act would be severely undermined, if not totally destroyed. Moreover, a case-by-case approach is inherently unfair because it requires compliance by one manufacturer while his competitors marketing similar drugs remain free to violate the Act • • •.

In a third case decided at the same time, *Ciba Corp.* v. *Weinberger*, 412 U.S. 640 (1973), the Court said (id. at 643–4) that "the definition of new drug as used in section 201(p)(1) involves a determination of technical and scientific questions by experts. The agency is therefore appropriately the arm of Government to make the threshold determination of the issue of coverage • • •."

The Commissioner notes that even prior to these rulings, most major manufacturers of OTC drugs had recognized the reasonableness as well as legal propriety of the OTC review as a mechanism within the authority of section 701(a) of the act to classify drugs as "new" or "not new." Indeed, for over 5 years now, these firms have been participating in this review, and the Commissioner expresses his gratitude for this cooperation.

Subsequent to these rulings by the highest Federal court, another case arose over the issue of whether FDA could promulgate regulations under section 701(a) of the act that represented binding rules relating to prescription drugs under section 503(b) of the act. The specific issue was whether FDA could, by regulation, declare products containing more than certain amounts of vitamin A or D to be prescription drugs. The opponents of the regulation, in an interesting parallel to the comments on the CGMP regulations, argued that only regulations issuable under section 701(e) of the act procedures could be binding and that the legislative history of section 503(b) of the act demonstrates that FDA could issue only interpretive regulations. The United States Court of Appeals for the Second Circuit rejected these contentions in *National Nutritional Foods Ass'n.* v. *Weinberger*, 512 F.2d 688 (1975). It stated:

We have come to recognize that, if the administrative process is to be practicably effective, specific regulations promulgated pursuant to general statutory delegation of authority must be treated as authoritative, whether labeled "substantive" or "interpre-

tive," especially in areas where the agency possesses expertise not shared by the courts. In the event its views are unlikely to be distributed by the court in an enforcement proceeding * * *. Whatever doubts might have been entertained regarding the FDA's power under § 701(a) to promulgate binding regulations were dispelled by the Supreme Court's recent decisions in *Weinberger* v. *Hynson, Westcott, & Dunning* * * * and its companion cases * * *. (id. at 696).

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Surely an agency which possess the power to determine administratively what products are "new drugs" has the authority to decide what products are "prescription drugs". (id. at 699).

The decisions in the *National Nutritional Foods, Hynson, Bentex,* and *Ciba* were cited by the Commissioner because he believes that they conclusively rule that regulations issued under section 701(a) of the act are binding and that the justifications for issuing substantive regulations in other areas are directly applicable to CGMP regulations. Similar to the Court's observations in *Hynson* quoted above, the statutory standard of "current good manufacturing regulations" can and should be particularized as a protective measure to identify those manufacturing practices which are at a minimum necessary to assure drug quality. The drug manufacturers have full and precise notice of the CGMP requirements they must fulfill to sustain the acceptability of their products under section 501(a)(2)(B) of the act, as the Commissioner noted in the February 13, 1976, preamble. Substantive regulations also provide greater certainty about the agency's expectations because, in promulgating such regulations, the agency must carefully distinguish standards it seriously intends to enforce from those it finds desirable but not essential. The Commissioner also stated in the 1976 proposal that binding CGMP regulations would assist courts and expedite enforcement proceeding under the act.

As with "new drug" determinations discussed in *Bentex,* if each CGMP requirement has to receive a de novo hearing in each and every enforcement proceeding, the burden of litigation that would result would not be in the public interest, nor would it be equitable to competing manufacturers who where not involved in such litigation. President Kennedy and the second Senate Report made the same arguments in deleting the reference to interpretive regulations from S. 1552. The agency has avoided this problem over the last several years because agency priorities have been concentrated in areas other than drug CGMP enforcement; it is not anticipated that this allocation of resources will continue indefinitely and, with the issuance of these regulations, more regulatory proceedings are probable.

In *Ciba,* the Court noted the technical and scientific expertise appropriate for at least the threshold determination of "new drug" status. The Commissioner believes that determination of what is the "current good manufacturing practice" in the drug industry also requires technical and scientific expertise, as well as a unique ability to observe the entire industry. These CGMP regulations were developed with the participation of pharmaceutical chemists employed by FDA, individuals qualified by formal training as well as by valuable experience in reviewing the good (and bad) current (and past) production and control techniques set forth in original NDA's and abbreviated NDA's, supplemental applications, antibiotic certification forms, biological establishment and product licenses, new animal drug applications, and proposed and final compendial standards. In addition, FDA investigators who conduct and/or review inspections of manufacturers under the act also participated in preparing this document. Although, as one comment noted, FDA does not manufacture drugs, it does not follow that FDA cannot determine current good manufacturing practice for drugs. On the contrary, FDA may be uniquely able to do so, because it and it alone has had access to the facilities and records of every manufacturer of pharmaceuticals in this country. Given the fact that many production and control processes are considered by individual firms to be trade secrets, it is unlikely that competitors or independent private third parties such as compendial authorities have the same ability as FDA to discover what nonpublic practices other than their own are current and which of these are good.

Subsequent to the February 1976 proposal, other courts have considered and affirmed FDA's authority to promulgate binding of substantive regulations pursuant to section 701(a) of the act. See, e.g., *Cosmetic, Toiletry and Fragrance Association* v. *Schmidt,* 409 F. Supp. 57 (D.D.C., Feb. 3, 1966), appeal docketed No. 76-1242 (D.C. Cir., Feb. 5, 1976) (regulation requiring warning labels on aerosolized products, issued under sections 201(n), 602(a), and 701(a) of the act, upheld; *American Frozen Food Institute* v. *Mathews,* 413 F. Supp. 548 (D.D.C. March 30, 1976), aff'd sub nom. *American Frozen Food Institute* v. *Califano,* 555 F.2d 1059 (D.C. Cir. May 12, 1977) (regulations establishing common and usual names for nonstandardized foods, issued under sections 403(i) and 701(a) of the act, upheld); *National Confectioners Ass'n.* v. *Mathews,* CCH Food, Drug & Cos. L. Rep. ¶ 38,062 (D.D.C. April 14, 1976), aff'd sub nom. *National Confectioners Ass'n* v. *Califano,* Docket No. 76-1617 (D.C. Cir. Jan. 20, 1978) (CGMP regulations for cocoa products and confectionery relating to lot coding on finished product packages and shipping containers and to distribution records of lots, issued under sections 502(a)(4) and 701(a) of the act, upheld); *Federation of Homemakers* v. *Schmidt,* 385 F. Supp. 362 (D.D.C. 1974), aff'd 539 F.2d 740 (D.C. Cir. June 10, 1976) (regulation establishing requirements for "imitation" foods, issued under sections 403(c) and 701(a) of the act, upheld); *Almay, Inc.* v. *Weinberger,* 417 F. Supp. 758 (D.D.C. June 30, 1976), rev'd on the grounds, No. 76-1718 (D.C. Cir. Dec. 21, 1977) authority to issue regulations regarding labeling and supporting evidence of cosmetics claiming to be "hypoallergenic," under sections 301(b), 602 (a) and (b) and 701(a) of the act upheld); *United States* v. *Nova Scotia Food Prod. Corp.,* 417 F. Supp. 1364 (E.D.N.Y., Aug. 17, 1976), rev'd on the grounds, No. 76-6169 (2d Cir. Dec. 15, 1977) (CGMP regulations regarding brining and heating of fish in the production of smoked fish may be promulgated under sections 402(a)(4) and 701(a) of the act). The Commissioner notes that two of the cases dealt specifically with the validity of CGMP regulations issued under the statutory standards relating to adulterated foods, which do not explicitly refer to "current good manufacturing practice." It would indeed be anomalous that those regulations could be issued as legally binding if regulations amplifying section 501(a)(2)(B) could not be.

The Commissioner interprets much of the concern over FDA's authority to issue binding regulations as reflecting a belief that the CGMP regulations can be arbitrary, need not be based upon actual current practice, and may exceed what is necessarily "good" for drug quality. There also seems to be a belief that binding regulations cannot be changed and are beyond review by the courts. These perceptions are in error.

The Administrative Procedure Act clearly provides that regulations which are arbitrary or capricious may be overturned by a reviewing court. 5 U.S.C. 706. The legislative history of section 501(a)(2)(B) of the act and cases involving enforcement of CGMP regulations, e.g., *United States* v. *An Article of Drug* * * * *"White Quadrisect",* 484 F.2d 748 (7th Cir. 1973)) established that the regulations must be based on current industry practice, although not necessarily on the predominant practice in the industry. The agency is directed to consider the current "good" practices. In determining current practice, the agency has

relied upon the knowledge and expertise of FDA staff developed from the review of NDA's and ANDA's, antibiotic certification forms, biological licenses, and compendial standards submitted to the agency, and from establishment inspections made during the last half decade. A "good" practice was included in these regulations only if it is feasible for manufacturers to implement the practice, if the practice contributes to assuring the safety, quality, and purity of the drug product, and if the value of the contribution or added assurance exceeds the cost, in terms of dollars and/or other burdens, of implementing or continuing the practice. The Commissioner does not believe it is legally required that, in addition to reliance upon agency expertise, he must include in the record specific examples of each practice mentioned in these regulations.

Regarding judicial review of regulations, the Commissioner notes that such review is assured by the Administrative Procedure Act whether the regulations are deemed interpretive or substantive. Judicial review is available in any enforcement proceeding brought against a particular manufacturer or product. Pre-enforcement review is also available. *Abbott Laboratories* v. *Gardner,* 387 U.S. 136 (1976).

Thus, the Commissioner believes that the fears that substantive, binding CGMP regulations somehow deprive individuals of legal protections are unfounded.

As noted at the outset of this discussion, the Commissioner does not intend in the future to reconsider the legal authority of FDA to promulgate binding CGMP regulations under section 701(a) of the act, unless new material, not discussed above, is presented to him that raises substantial doubt as to the correctness of the analyses and conclusions he set forth above. For reasons discussed in this paragraph and in paragraph 36 below, the Commissioner has also decided that these CGMP regulations shall be issued as binding. The Commissioner advises that any person who still questions FDA's authority to do this is welcome to seek prompt pre-enforcement judicial review of this authority.

36. A number of comments suggested, in effect, that whether or not FDA could lawfully issue "binding" CGMP regulations, it would be unwise for the agency to do so. These individuals cited the complexity and variability of manufacturing control processes, emphasizing the variety of options available and the need for freedom of choice among these options by various manufacturers depending on cost and technological factors. They further complained that FDA lacked the expertise to determine which practices were best and that, by "freezing-in" techniques, FDA would discourage innovation and development of new procedures which might increase the assurance of product quality. The comments objected to the presumption that would follow from a technical violation of the CGMP regulations that the product was therefore adulterated and that individuals, under the legal doctrine of strict criminal liability under the Federal Food, Drug, and Cosmetic Act, were criminally responsible for these violations. Binding regulations would, in their opinion, provide the agency no flexibility for discretion in enforcement of the act. Finally, the comments objected that there was no need for binding regulations because there were only a few large pharmaceutical manufacturers involved in production of most drugs; because these were subject to frequent inspections by FDA; and because in the past, these firms had been subject to few problems, few recalls, and rare legal proceedings. This history suggested that most firms were in substantial compliance with the regulations regardless of whether they were classified as substantive or interpretive.

The Commissioner has evaluated these objections and found that, although some have merit, none is so serious as to outweigh the benefits from making CGMP regulations binding. Recognizing the diversity of manufacturing and control procedures, the Commissioner has endeavored wherever possible to state CGMP regulations in the terms of objectives to be attained, rather than methods of attaining such objectives. Procedures have been specified only where essential to assure product quality under the act. Thus, these regulations provide flexibility to manufacturers to select the methods and processes that will be most suitable to the products and operations of the individual firms. This flexibility should also permit the development of novel approaches to attaining the same objectives. In those few cases where precise procedures are set forth in these regulations, individuals who believe that alternative mechanisms may also be acceptable are invited to petition the Commissioner to amend the specific regulation to permit such alternatives.

As discussed in paragraph 35 of this preamble, the Commissioner does not believe that FDA lacks sufficient expertise to develop and promulgate CGMP regulations and advises that the public procedures for commenting on these proposed CGMP regulations, together with the opportunity to petition the agency for changes in the regulations, provide individual manufacturers with an opportunity to correct any errors in FDA's information. Thus, the Commissioner does not believe the agency lacks sufficient information to justify making CGMP regulations binding rather than interpretive.

With regard to the alleged lack of flexibility in the enforcement of "binding" CGMP regulations, the Commissioner believes that the comments have confused the question of whether a violation exists with the question of whether FDA will take action upon the violation. In numerous areas, FDA has established tolerances for actionable offenses and is currently in the process of establishing regulations setting forth agency policy with regard to prosecutions for violations of the act. It should be noted, however, that even in the absence of any CGMP regulations, whether binding or not, the doing of or failure to do any particular act which is inconsistent with current good manufacturing practice results in the product being legally adulterated, even if no legal action is brought. That is to say, the existence of CGMP regulations does not create violations of the law where they did not previously occur. The question rather is whether the violator will be prosecuted or enjoined and/or the product seized, an issue beyond the scope of this rule making.

Finally, with regard to the objection that there is no need to make these regulations binding since most major pharmaceutical manufacturers are in substantial compliance with the current regulations, the Commissioner believes that this is simply not relevant to the question of whether CGMP regulations should be binding or interpretive. The most significant justification for having the regulations binding is to minimize the burden on the government and on the courts in a case where a violation does occur. When the regulations are merely interpretive, the agency must provide expert testimony in each trial to demonstrate what the current good manufacturing practice in the industry is, notwithstanding the regulation. The cost of locating and preparing such expert witnesses and bringing them to the trial, as well as the judicial time taken in hearing these witnesses, would be eliminated by having binding regulations. In the event that a challenge is raised about the validity of the regulation, FDA can present to the court the administrative record underlying the regulation in lieu of any expert testimony. Thus, it is not the proportion of manufacturers who are in compliance with the regulations but the number who are out of compliance and whose noncompliance justifies regulatory action that necessitates making these regulations binding. For these reasons the Commissioner has concluded that insofar as he has discretion to issue CGMP regulations as either binding or

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interpretive, he elects to make them binding.

37. Several comments suggested the words "where applicable" be inserted in the first sentence of § 210.1(a). The comments argued that, as proposed, the CGMP regulations would require conformance to every requirement regardless of the need to do so.

The Commissioner concludes that there are numerous examples of flexibility built into the CGMP regulations. Words like "appropriate" and "as necessary" are used in the regulations to make it clear that requirements which are not relevant to a given manufacturer's operation do not apply. In addition, a new paragraph (b) is established in § 210.2 to clarify that the requirements apply only to those operations subject to the CGMP regulations in which the manufacturer is engaged.

38. Two comments recommended that the references in this section be Parts 210 through 226 instead of Parts 210 through 229, since § 229.25 was being revoked.

Since the Commissioner has reserved all parts between 210 and 229 for current good manufacturing practice regulations, the reference is appropriate. Even though § 229.25 has been revoked, Part 229 may be used in the future.

39. One comment suggested insertion of the phrase "and testing and quality control thereof" after the words "the manufacture, processing, packing, or holding of a drug product" in § 210.1(d).

Because "manufacture, processing, packing, or holding of a drug product" is defined in § 210.3(b)(12) to include testing and quality control of drug products, the Commissioner rejects this comment.

40. A large number of comments recommended that the personal liability statement in § 210.1(b) be eliminated. Some comments suggested that an individual should be held responsible only if actual contamination has occurred. Others recommended modifying the liability statement by requiring willful and knowing intent to violate the law. One comment said this was unclear as to who was covered by the section and that it was not useful in clarifying the requirements of the act. Another asked about the definition of "responsible."

The Commissioner notes that actual contamination of a drug does not have to occur for the article to be deemed adulterated under section 501(a)(2)(B) of the act. Further, the act does not require a showing of intent for a person to be held accountable under the act. *United States* v. *Dotterweich*, 320 U.S. 277, (1943); *United States* v. *Park*, 421 U.S. 658 (1975). It would be contrary to public policy and congressional intent, as well as beyond the Commissioner's authority, to require the showing of actual contamination or intent. Congress purposely did not do so in order to provide the maximum protection of the public health.

With regard to clarifying "person," the Commissioner advises that the word "person" is defined in section 201(e) of the act to include corporations and partnerships as well as individuals. Under section 301(d) of the act, the adulteration of any drug is a prohibited act, and under section 303(a) "any person who violates a provision of section 301" is subject to criminal penalties. Thus, the reference to "the person" in § 210.1(b) merely parallels the statutory language. The reference to the word "responsible" is in accord with interpretations of the act by the Supreme Court of the United States. See *United States* v. *Park*, 421 U.S. 658 (1975). Thus, the Commissioner does not believe that this language is unclear or misleading. He also believes that, although § 210.1(b) is not essential to the regulations and merely reflects the legal position of the agency, it is a useful exposition of FDA policy with regard to failure to comply with the CGMP regulations. For this reason, the language is retained in the final order.

41. One comment said the CGMP regulations, as proposed, set up FDA as both prosecutor and judge and deprive persons of due process.

The Commissioner finds that penalties for violation of these regulations (i.e., seizure of violative products, injunctive sanctions, and criminal prosecution) are imposed by judicial proceedings in United States courts, where the U.S. Department of Justice serves as prosecutor, Federal judges preside, and in criminal cases there is a right to trial by jury. The role of FDA is twofold: First, it establishes standards amplifying the statutory language (through issuance of CGMP regulations after public comment); and second, it investigates to determine whether these standards have been violated. Affected persons have full legal rights, including the right to challenge the regulations as being beyond the authority of the act. The Commissioner finds no rationale to suggest these CGMP regulations compromise any person's right to due process.

VI. Applicability of CGMP Regulations; Exemptions

42. Many comments said there should be exemptions or waivers from the CGMP regulations for certain classes of drugs or specialized kinds of manufacturing activities. These comments came from manufacturers of bulk drugs, veterinary drug products, radiopharmaceutical drug products, biological drug products, so-called "drug-cosmetic" products, and wholesalers and retail dispensers of drug products. These comments, except one, asserted that the CGMP regulations were inappropriate, unnecessary, excessive, or not part of current industry practice when applied to the type of product identified; the exception (discussed in paragraph g. below), together with one comment regarding a particular product line, questioned FDA's legal authority to apply CGMP regulations to certain types of businesses or products.

As discussed in the preamble to the February 13, 1976 proposal, the Commissioner intends to propose at future times CGMP regulations for specific classes of drug products such as small volume parenterals, compressed medical gases, and radiopharmaceuticals. (See, e.g., the proposal regarding LVP's published in the Federal Register of June 1, 1976 (41 FR 22202).) In addition, regulations for certain kinds of manufacturing activities such as manufacturing of bulk drug components, repacking, or relabeling will be proposed. Generally, these future regulations will supplement, and in some situations supersede, the more general CGMP regulations. As these proposals are issued, the need for waivers from or modifications in the general CGMP regulations should be diminished.

After considering these plans and the comments regarding exemptions for specialized drug products or manufacturing activities, the Commissioner has reached the following conclusions:

a. *Bulk drugs.* It is first necessary to distinguish between (1) "drug products" (i.e., finished dosage forms) that may be held in bulk containers, and (2) bulk drug "components" (i.e., ingredients intended for use in the manufacture or processing of a drug product). The CGMP requirements set forth in Part 211 are intended to apply to the preparation of a finished dosage form, whether or not in packaged form. This is clearly set forth in the regulations (§§ 210.3(b)(4) and 211.1(a)). Although these CGMP regulations are not applied to the manufacture of bulk drug components, there are numerous instances where good manufacturing practices for bulk drug components would parallel the requirements set forth in Part 211. For this reason, FDA will utilize the standards of Part 211 as guidelines during inspections of manufacturers of bulk drug components under the jurisdiction of the act.

b. *Veterinary drug products.* Veterinary drug products shall continue to be subject to the general CGMP regulations for all drug products, with certain specific exceptions, namely §§ 211.42(d), 211.46(d), and 211.72. Comments regarding the appropriateness of individual provisions of these regulations to veterinary drug products have been considered and responded to under the sections involved. When the provisions of a section in the regulations do not apply to veterinary drug products, exemptions for such products are stated in that section.

c. *Radiopharmaceutical drug products.* The general CGMP regulations are suitable requirements for the preparation of radiopharmaceutical drug products. When the Commissioner was aware of situations where the requirements are not appropriate, exemptions were made from these final regulations. Supplemental requirements specific for radiopharmaceuticals will be proposed in the future.

d. *Biological drug products.* The Commissioner notes that section 902(c) of the act parallels section 351(g) of the Public Health Service Act (42 U.S.C. 262(g)), which provides that section 351 does not affect, modify, repeal, or supersede the Federal Food, Drug, and Cosmetic Act. The agency has consistently interpreted these provisions to be additive; that is, although they preclude duplicative or inconsistent regulation under the two acts, where one statute speaks to a matter regarding biological products and the other statute is silent, the express statutory provisions govern, regardless of the statute in which they appear. Thus, for example, the provisions of section 505(i) of the act regarding investigational use of new drugs have been consistently held to apply to biological products because no part of section 351 of the Public Health Service Act addresses investigational use of biologics (21 CFR 312.1(g)). Because section 351 of the Public Health Service Act does not refer to current good manufacturing practice and because biological products are considered to be drugs subject to section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act, the Commissioner believes it is consistent with both laws to apply current good manufacturing practices to biological drug products.

Biological products are now manufactured according to current good manufacturing practice and regulated under parts 600 through 680 (21 CFR parts 600 through 680), in particular the establishment license and product license provisions. Sections 210.2 and 211.1 clearly provide that the more specific biologic regulations prescribed in 21 CFR Parts 600 through 680 will supplement or supersede, where appropriate, the more general drug CGMP regulations. The Commissioner believes it possible that provisions in the general CGMP regulations may be inappropriate for certain biological products and would make appropriate changes to assure that the CGMP requirements would not increase manufacturing costs without a commensurate increase in safety, purity, potency, or efficacy. However, no specific examples were submitted to FDA in response to the proposal that can be considered as areas for exempting biological drug products. The Commissioner invites interested persons to submit petitions under § 10.30 to amend particular provisions of the CGMP regulations to account for the special technologies or incompatabilities of biologics.

e. *Compressed medical gases.* The agency will propose specific CGMP regulations for compressed medical gases. Until such regulations can be proposed for public comment, comments received and evaluated, and a final regulation published, however, the Commissioner concludes that the requirements in the more general CGMP regulations, with certain stated exceptions, are applicable. It would not be in the public interest to delay a final regulation based on the February 13, 1976 proposal until FDA can promulgate specific CGMP regulations for compressed medical gases.

f. *Repackaging and relabeling.* Only certain portions of the general CGMP regulations apply to repackaging and relabeling operations. For example, the requirements pertaining to labeling control apply to repackers and relabelers, while the requirements for compounding a drug product do not apply since repackers/relabelers do not compound drug products. The CGMP regulations apply to repackaging and relabeling operations at locations that are different from the place of manufacture. Supplemental CGMP regulations regarding this unique type of drug processing will be proposed in the future.

g. *Wholesalers.* Section 501(a)(2)(B) of the act provides that a drug shall be deemed to be adulterated if "the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to current good manufacturing practice * * *." This section, through the operation of section 301(k) of the act, applies to wholesalers, retailers, pharmacies, and hospitals, as well as to manufacturers. However, the CGMP regulations set forth in part 211 apply only to establishments engaged in the preparation of a drug product. Therefore, these regulations do not apply to the wholesalers, retailers, pharmacies, and hospitals engaged in activities that are traditional to those establishments. The wholesaler, however, is a particularly important link in the distribution chain between manufacturer, retailer, and consumer. The Commissioner encourages wholesalers to adopt applicable provisions of the CGMP regulations to insure that drug products are handled and stored in a manner that will not contribute to loss of identity, strength, quality and purity. In addition, they are responsible for being able to identify the distribution of drug products that are subject to recall or market withdrawals. Recall strategy will frequently involve wholesalers as consignees and intermediate distributors when recalls are to the retail or consumer levels. In the Federal Register of June 16, 1978 (43 FR 26202), FDA published regulations to provide guidance to manufacturers and distributors in this area. It is especially important for wholesalers to maintain adequate records to assure effective recall or market withdrawal. If future experience indicates to FDA that recalls and market withdrawals are being adversely affected by inadequate recordkeeping on the part of the wholesalers, the Commissioner will give further consideration to the need for specific CGMP regulations for wholesalers.

h. *Drugs that are also cosmetics.* A number of comments, including a petition to the Commissioner, were received regarding the applicability of the proposed general CGMP regulations to a class of products identified as "cosmetic-drug products" and described as those which: (1) Meet the definitions of both "drug" and "cosmetic" under section 201 of the act; (2) represent a minimal health or safety risk; and (3) are marketed over-the-counter for regular and frequent consumer use without dosage limitations. Examples of these products were described as medicated skin creams, antibacterial soap, antiperspirants, and topical sunburn prevention products. Specifically, the comments requested separate CGMP regulations for this alleged class of drugs, and one comment submitted a proposed new part 213 for drug-cosmetic products, drafted in the style and format of other CGMP regulations for drugs. Another comment recommended that, because the drug-cosmetic products were so similar to related cosmetic products, CGMP regulations for those two classes of products be proposed and adopted together, separate from those relating to drug products generally.

The Commissioner has concluded that these regulations, except expiration dating for certain human OTC drug products described in paragraph 353 of this preamble, must apply to all products meeting the definition of drug products, whether the drug products are highly potent prescription drugs or are OTC drugs of the type described as "cosmetic-type." Past experience of the agency has demonstrated that the public has been put in a hazardous situation because of manufac-

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turing errors in OTC products, such as by the substitution of spirits of camphor for castor oil. Further, the Commissioner notes that there are very few clearly innocuous drug products or components in the OTC area. Several examples can be given: If appropriate stability study requirements and manufacturing controls required by CGMP regulations are not met for fluoride toothpaste, there could be a question of effectiveness of the products because of the unavailability of fluoride in a toothpaste. In the case of aerosolized products, control of the particle size and identity and purity of components are important for the safety of the user. In the case of topical cosmetic-type drugs, the incidence of allergic reactions may be lessened by the assurance of uniform quality of these products. That many of the general CGMP regulations are applicable to and reasonable for cosmetic-type drug products is evidenced by the fact that a majority of the specific suggestions submitted by the petitioner and others as applicable for cosmetic-type drug products duplicated in substance, a number of comments submitted by other OTC manufacturers and manufacturers of prescription drug products and the proposed text of part 211.

Although he declines to provide a broad exemption for cosmetic-type drugs products, the Commissioner points out that a number of changes proposed by the comments are adopted in the final regulations. These suggested changes were appropriate for application to the manufacture of all drugs products, however, and not merely cosmetic-type drug products. In many instances the suggested changes that were adopted do not alter the original intent of the regulations, but clarify it or provide flexibility in complying. In a few cases, the proposed requirements were deleted or changed where the Commissioner concluded that they were not necessary to assure the quality of drug products, cosmetic-type or otherwise.

i. *Drug products that are also foods.* Although no specific requests were received to exempt OTC drug products that are also human foods from Part 211, the Commissioner has tentatively concluded that there may be a few such products that would more appropriately be regulated under the good manufacturing practice regulations for food. He believes that the type of OTC drug products that could be exempted from Part 211 are those that are ordinarily marketed and consumed as human foods which may also fall within the legal definition of drugs by virtue of their intended use. Therefore, elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is proposing to exempt such products if the products and all their ingredients are ordinarily consumed as human foods. Examples of products that the Commissioner foresees being covered by the proposed exemption are (1) Some candy cough drops formulated entirely of ingredients ordinarily consumed as human foods or ingredients of human foods; and (2) sodium bicarbonate labeled for use as an antacid but ordinarily use as an ingredient of human foods under the more common "baking soda" label. In proposing this exemption for certain OTC drug products, the Commissioner has considered, first, the inadvisability of applying drug CGMP regulations that are not necessary to ensure appropriate quality characteristics in view of the intended use of a product and, second, the reasonableness of applying food GMP regulations to a product manufactured, handled, and ordinarily consumed as a human food.

Therefore, the Commissioner has stated under § 211.1(c) that, pending considered of the proposal, the requirements of Part 211 will not be enforced for OTC drugs that meet the proposed definition. During the interim and until further notice, regulations under Part 110 (21 CFR Part 110) and, where applicable, Parts 113 to 129 (21 CFR Parts 113 to 129) shall be applied in determining whether these products are manufactured, processed, packed, or held under current good manufacturing practice.

43. One comment from a university school of pharmacy asked whether future proposed CGMP regulations would specifically state their applicability to such situations as (1) personnel at hospital "A" strip-packaging drug products for its own use as well as for use in hospitals "B" and "C"; (2) personnel at the warehouse of a chain of pharmacies who repackage and relabel quantities of drug products from manufacturers' original commercial containers for different units in the drug store chain; and (3) similar repackaging and relabeling by individual pharmacists as members of informal buying groups.

As noted in paragraph 42(g) above, section 501(a)(2)(B) of the act applies to retail establishments, pharmacies, and hospitals, but the specific regulations in Part 211 do not. When CGMP regulations for repackers and relabelers are proposed, some of these questions posed in the comment will be addressed. Regarding pharmacies and hospitals in particular, however, it is the policy of FDA not to inspect routinely for compliance with section 501(a)(2)(B) of the act establishments that operate within State or local laws governing the practice of pharmacy. Nor has FDA ever sought to issue specific CGMP regulations for pharmacies engaged in traditional activities of dispensing or selling drugs at retail. This policy is consistent with statutory exemptions provided for pharmacies regarding establishment registration in section 510(g) of the act and regarding establishment inspection in section 704(a) of the act. When a hospital or pharmacy is engaged in drug repacking or relabeling operations that are beyond the usual conduct of dispensing or selling drugs at retail, however, the exemptions in the act cease to apply; the establishment is required to register and is subject to regular inspections under section 704 of the act. Furthermore, appropriate current good manufacturing practice must be complied with.

44. Several comments expressed concern about the applicability of CGMP regulations to foreign drug manufacturers. One comment said foreign drug manufacturers may not uniformly be subject to the stringent controls of United States manufacturers and that sampling of foreign drug products at the point of importation is not sufficient to assure the quality of those drugs. Two foreign drug manufacturers indicated that CGMP regulations had a significant impact on their operations. Another foreign manufacturer said their facilities were inspected annually by FDA with respect to antibiotic certification and new drug approvals.

The act applies to drugs introduced into interstate commerce in the United States, including drugs imported from other countries. It does not, of course, apply to manufacturing of drugs in other nations if the drugs are not brought into the United States. Many foreign countries, however, have adopted requirements similar to CGMP regulations, and foreign manufacturers may be subjected to inspection by their own governments. International organizations such as the World Health Organization and the European Free Trade Association provide manufacturing standards and reciprocal agreements between participating countries. Overseas pharmaceutical manufacturers who export to the United States are inspected by FDA or under reciprocal inspection agreements as part of the new drug application approval process and antibiotic drug certification, and individual drug products are subject to intensive examination, including testing, before being allowed into the United States. If, for example, there is a question regarding the safety, identity, strength, quality, or purity of a drug product offered for import, FDA has authority to deny entry of the article unless factory inspection is permitted or inspectional information is available about those firms covered under reciprocal inspection agreements. The United States currently has reciprocal inspection agreements under which governments will exchange inspection information about domestic firms in lieu of conducting overseas inspections. These agreements are with Sweden, Switzerland, and Canada. Therefore, the Commissioner finds that there is adequate coverage of imported drugs to assure compliance with CGMP regulations.

45. Several comments referred to provisions in the Medical Device Amendments of 1976 and requested that FDA consider providing for exemptions from or variances to the CGMP regulations and special advisory assistance as Congress specifically mandated regarding FDA regulation of small manufacturers of medical devices. Along the same lines, a substantial number of comments were received from "small" drug manufacturers or organizations representing "small" drug manufacturers who strenuously oppose most of the proposed changes in the CGMP regulations. The tenor of the majority of the comments was that the proposed changes would seriously affect the initial and continuing costs of a "small" drug manufacturer but probably have little economic impact on, or could more easily be absorbed by, a "large" pharmaceutical manufacturer. Several comments expressed concern that generic drug manufacturers might be eliminated because they could not meet all the requirements of the proposed CGMP regulations and still compete in the marketplace. Arguments were presented that, because small manufacturers very often are involved with the manufacture of a small number of products (frequently less potent over-the-counter preparations) and almost by definition have small physical facilities, limited equipment, and few personnel, extensive formal quality control procedures are unnecessary to assure high quality of the drugs manufactured. One comment, apparently from a small manufacturer, agreed in principal with the proposed CGMP regulations, felt that size had very little to do with achieving good manufacturing practice, and offered comments on specific sections of the proposed CGMP regulations.

The Commissioner rejects the contention that quality control procedures are unnecessary in the case of small firms; FDA's experience is that quality control procedures falling below those described in these regulations, in firms of great or small size, are often responsible for lack of drug product quality. The Commissioner also rejects the argument that less control need be exerted over so-called "less potent over-the-counter preparations," which respondents stated are often manufactured by small firms, for the reasons explained in paragraph 42(h) above.

The Commissioner believes that the final regulations will be no more burdensome for small manufacturers than for others. Many interpretations offered in comments on specific sections strongly suggested that the intent of the proposed regulations had been misunderstood. The language has been clarified in the final regulations. In other instances the requirements were reworded to provide for more flexibility for the varieties of procedures and controls that may be utilized by various manufacturers.

The Commissioner does not believe a specific provision within the CGMP regulations for variances to these regulations is necessary for small manufacturers. A mechanism already exists, however, in 21 CFR 10.30 for firms to petition for variances to or amendments in any regulation when the requirements are not reasonably attainable.

For many years FDA has conducted and participated in numerous seminars and workshops designed to assist drug firms in interpreting and carrying out the requirements of CGMP regulations. Additionally, the agency has made films and publications available that are also designed to assist drug firms in their efforts to comply. The agency is committed to continuing these voluntary compliance efforts especially designed to assist small businesses.

46. Several comments noted that the current good manufacturing practice regulations do not pertain to veterinary biological products. One respondent suggested that the section specifically state that these regulations apply only to human biological products.

The Commissioner believes that the section as proposed clearly establishes applicability to pertinent biological drug regulations, but for consistency with references elsewhere in the CGMP regulations to human biological drug products, he is revising § 210.2 to specifically include reference to biological drug products for human use.

47. Several comments requested clarification of the last sentence of § 210.2 to show that conflicting or contradictory regulations would be superseded by the one specifically applicable to the drug product.

The Commissioner finds that the proposed wording clearly states his intent. Certainly, in the case of conflicting or contradictory regulations, it will be impossible to comply with all regulations and the regulation that is specifically applicable to the drug product in question would apply.

48. A comment suggested that if medicated premixes are meant to be excluded from Part 210, then Part 226 should be specifically excluded. The meaning of this comment as it relates to § 210.2 is not clear. The Commissioner advises that Part 210 applies to all the regulations in Parts 211 through 229.

49. One person proposed that the term "drug product" be replaced with the words "commercial dosage form" to exempt drugs undergoing development from the requirements of these regulations.

The Commissioner finds that, as stated in § 211.1, these CGMP regulations apply to the preparation of any drug product for administration to humans or animals, including those still in investigational stages. It is appropriate that the process by which a drug product is manufactured in the development phase be well documented and controlled in order to assure the reproducibility of the product for further testing and for ultimate commercial production. The Commissioner is considering proposing additional CGMP regulations specifically designed to cover drugs in research stages.

VII. DEFINITIONS

The Commissioner received hundreds of comments regarding definitions. General comments are listed immediately below; comments regarding specific definitions follow in numerical order.

50. One respondent said this section is inconsistent because certain terms such as "drug" and "establishment" which are defined in the act are not defined here, while other terms which are defined elsewhere are also defined here.

The Commissioner believes that the length of part 210 would be unnecessarily increased by including in this part the definitions of terms that are well known or already defined in the act. Other terms the meaning of which may not be as readily recognized, or may vary in other regulations because of context and needs, are defined in part 210 as a standard reference.

51. One comment suggested that all terms defined in part 210 be highlighted in the running text.

The Commissioner is not convinced that highlighting defined words in the running text offers any advantages over the more usual manner of printing. For example, some persons might interpret highlighting as adding emphasis that is not intended to a particular word or phrase. This suggestion cannot be adopted.

52. One respondent suggested rules for selecting words to be defined, namely: (1) Words which will be used in a sense differing from that given in the currently accepted dictionaries and (2) words whose meaning will be limited by the regulation.

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The Commissioner believes the above criteria have been generally used for selecting terms to be defined. He does not wish, however, to limit strictly the criteria for determining the terms to be defined in this part.

53. Several comments asked that commonly used terms such as "drug product containers," "labeling," and "production area" be defined.

The Commissioner finds that either the terms have already been defined elsewhere (e.g., "labeling," which is defined in section 201(m) of the act) or they are generally well understood and need no further definition (e.g., "drug product container"). He concludes that no further definitions need to be added at this time.

54. One comment suggested that "cycle of manufacture" be defined in § 210.3(b)(2) as "any period of time in which the batch is not adversely altered."

The Commissioner has considered this comment, but does not find that the suggested wording offers any advantage. The definition, as it appeared in the proposal, has been in the CGMP regulations for a number of years. The Commissioner is confident that this definition is well understood.

55. Several comments suggested modification of the term "batch" in § 210.3(b)(2) by addition of the words "is intended to have" before "uniform character." Another modification suggested was a new phrase at the end of the sentence: "Which is accepted and offered for sale or distribution."

In defining a "batch," the Commissioner has adopted the phrase "intended to have uniform character and quality." Using the phrase "intended to have" in the definition allows the use of the term "batch" without having to distinguish between acceptable and unacceptable batches. If a manufactured batch does not have uniform character and quality within specified limits, then the batch becomes an unacceptable or a rejected batch. The Commissioner rejects the phrase "which is accepted and offered for sale or distribution." Those batches which are manufactured but never intended for sale or distribution may be designated as trial or experimental batches by the manufacturer.

56. Three comments on § 210.3(b)(3) requested that the term "component" be changed to "ingredient," stating that the former term has been used in the drug industry for "packaging supplies."

The Commissioner recognizes that the term "component" is broadly used in the English language and may have a variety of meanings. However, the definition of this term in the proposal has been in effect for a number of years and the Commissioner believes it is generally well understood. Because only three comments were received regarding this particular issue, the Commissioner concludes that the drug industry generally does not find the term misleading. Therefore, the recommendation is not adopted.

57. A suggestion was made that the definition for the word "component" in § 210.3(b)(3) should include gases and filters, because these items need additional control when used in the manufacture of injectable products.

The Commissioner notes that "component" includes gases that are used as ingredients. He believes filters are more appropriately classified as equipment. The Commissioner believes that control of gases and filters is adequately set out in the regulations.

58. One comment suggested that the definition for "component" be expanded to include the phrase "raw material, chemical compound, drug substance or pharmaceutic ingredient."

The Commissioner agrees that the above items when used as ingredients are properly classed as components. It is not necessary or desirable, however, to list each type of material that may become a component under the regulations, because items other than those identified in the comment may also be "components." Therefore, the suggestion is not accepted.

59. A suggestion was received to include the following phrase after the word "manufacture" in the second sentence of § 210.3(b)(3): "of finished dosage form, e.g., tablets, capsules, solutions, etc."

The Commissioner rejects this suggestion. The term "drug product" is defined in paragraph (b)(4) of § 210.3 as "a finished dosage form" and restatement of the definition is inappropriate.

60. Several comments requested clarification of the relationship among the definitions in § 210.3(b) (3), (7), and (8) of "component," "active ingredient," and "inactive ingredient." Comments expressed concern that proposed definitions of the types of ingredients do not include all materials comtemplated under the definition of "component."

The Commissioner finds that the definition for "inactive ingredient" in § 210.3(b)(8) should be modified so that it clearly includes "any component other than an active ingredient." He believes this change will eliminate any misunderstanding of these definitions.

61. One comment suggested that the term "drug product," as proposed in § 210.3(b)(4), could be interpreted to mean only the finished packaged unit.

The Commissioner finds that the term is defined as meaning "finished dosage form" regardless of whether it is in package form.

62. A comment was received stating that the term "drug product" as defined in § 210.3(b)(4) excludes placebos because the definition includes the phrase "active drug ingredient."

The intended use of placebos in medical treatment is to bring about a therapeutic effect, without a pharmacologically active agent, because of the psychic effect in some patients that may produce symptomatic relief. In addition, it is often used as a control in clinical trials for new drugs. Even though the chemicals from which the placebos are made are not intended to cause a direct pharmacologic response, the maintenance of their quality is important because of their use in patients, particularly in controlled drug studies. By its use, a placebo meets the definition of a "drug" contained in section 201(g) of the act. Therefore, to eliminate any doubt whether these regulations apply to placebos, the Commissioner has revised the definition to include them specifically.

63. A number of comments questioned the definition of "fiber" in proposed § 210.3(b)(5). The comments were that "fiber" had been defined arbitrarily and without scientific basis; that the definition was too general and could include, for example, crystal, metal and splintered wood; and that the definition should include dimensional parameters for the fiber size. Comments recommended that the definition include morphological descriptions such as threadlike, filamentous, amorphous or noncrystalline, cellular, foreign, and hairlike. Several comments recommended that the American Society for Testing and Materials definition be used. Others suggested that a length of at least 100 microns and a length/width ratio of 10 to 1 be adopted. One comment called for adopting a minimum length of 10 microns and a diameter one-tenth the length.

The Commissioner finds that the term "fiber" has not been defined arbitrarily and without scientific basis. The basis for the fiber definition was discussed in the final regulations for asbestos-form particles in drugs for parenteral injection, which appeared in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865). (Those final regulations reference the definition of "fiber" appearing in "Occupational Exposure to Asbestos," criteria document, U.S. Public Health Service, National Institute for Occupational Safety and Health, Chapter VIII, p. 6, 1972.) The Commissioner believes that the definition should be as broad as possible and that the suggested morphological descriptions and dimensional parameters are unnecessary and in many instances are not informative. Dimensional parameters were intentionally left out because current

knowledge is limited as to what size fiber does not constitute a hazard. Furthermore, the suggested fiber length of at least 100 microns is unacceptable because most asbestos fibers released from asbestos-cellulose filters are less than 70 microns in length.

The American Society for Testing and Materials' specifications (ASTM Manual F24-65, Standard Methods for Measuring and Counting Particulate Contamination on Surfaces) for defining "fiber" are not pertinent to the subject at hand. They were developed specifically for particles on surfaces of mechanical objects as related to abrasion of such objects.

To eliminate any concern that the definition of fiber would include particles intentionally present, as in drug suspensions, the final regulation is modified by adopting the concept of particle contamination. Therefore, fiber means any particulate contaminant having a length at least three times its width.

64. Comment was received regarding § 210.3(b)(6) that the definition for "non-fiber-releasing filter" should include the concept of a filter "being designed" not to release fibers after appropriate pretreatment. Another comment said a requirement for non-release of fibers is unrealistically absolute, i.e., no known filter could meet the definition.

The Commissioner advises that the final regulation adopting the definition for "non-fiber-releasing filter," published in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865), addressed similar issues. In responding to comments in that document, the Commissioner concluded the definition should include the concept that after appropriate pretreatment such as washing or flushing, the filter will not continue to release fibers into the drug that is being filtered. The design concept is therefore taken into account because of the distinction made between filters which release fibers by media migration, i.e., continuous release due to the nature of the filter, and filters which contain fibers from structural supports and contamination.

With regard to the comment that the requirement for nonrelease of fibers is unrealistically absolute, the Commissioner finds that the definition clearly describes types of fibers that are relied upon in the industry as "non-fiber releasing." The Commissioner concedes that any filter may release an occasional particle, some of which may meet the definition of "fiber" under § 210.3(b)(5). The purpose of the definition for "non-fiber releasing filter," which has been applied for over 2 years without apparent misunderstanding, is to provide a reasonable and practical description of a filter that may be fabricated from a number of different materials and will not, in the ordinary sense, introduce fibers into the drug product during filtration.

As discussed in detail in the preamble to the March 14, 1975 final regulation adopting the definitions for "fiber" and "non-fiber releasing filter", FDA is studying several issues invoving fiber contamination and the effects on humans to fiber exposure. Until such time as the Commissioner has obtained sufficient information to alter his position on fiber contamination in parenteral drug products without adversely affecting the public health, he concludes that the definition for "non-fiber releasing filter" continues to be appropriate for these regulations.

65. Comment was received that the definition of "non-fiber-releasing filter" as written in § 210.3(a)(6) would discourage the development of asbestos filters that might not be fiber releasing.

The Commissioner advises that it is not the intention of FDA to discourage the development of asbestos filters. In this regard, the preamble to the final order in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865) addresses this issue in detail.

66. One comment suggested that "non-fiber-releasing filter" be redefined to apply only to the final filtration of components and drug products.

The Commissioner concludes that the suggestion would allow use of an asbestos filter for filtration of in-process materials. This use of asbestos filters is unacceptable, except under the provision of § 211.72(b), and would defeat the purpose of the regulation.

67. A comment suggested that after the word "component" in § 210.3(b)(7) the phrase "other than veterinary biological immunizing or diagnostic agent" should be added.

The Commissioner finds that articles that are not deemed drug products or that are not under the jurisdiction of the act are not subject to these regulations. It is not desirable or feasible to identify in these regulations every specific class of articles that are not subject to CGMP regulations. Veterinary biologicals have, however, been excluded by changes in § 210.2. When an interested person has a question regarding the status of another individual product or class of products (for example, the status of an article that may be either a drug or a device), that person may obtain a formal opinion from FDA pursuant to 21 CFR 10.85.

68. Several comments asked that limits be placed on the term "in-process materials" defined in § 210.3(b)(9) in order to restrict it to those materials generated "in-plant" as opposed to those materials acquired from an outside source.

The Commissioner agrees that the term "in-process materials" is intended to apply to materials being processed by establishments engaged in the preparation of a drug product. He believes this intent is clear when the term is considered in the scope of these regulations and that no change is needed.

69. Several comments requested clarification whether the term "in-process materials" in § 210.3(b)(9) includes labels printed "in-house" and other "nonchemical" items.

It was not the Commissioner's intent that "in-process materials" include label printing. The regulations do not suggest that such labeling would constitute in-process materials. References to labeling materials are clearly stated in these regulations when appropriate.

70. One comment suggested that the word "materials" in § 210.3(b)(9) be changed to "ingredients."

The Commissioner concludes that the term "in-process materials" is in current usage and sees no advantage to introducing the suggested term "in-process ingredients."

70a. One comment stated that § 210.3(b)(9), and especially the word "fabricated," is unclear and should be further defined to eliminate any possible confusion.

The Commissioner does not agree that the word "fabricated" is unclear when used in this definition. This suggestion is rejected because a broad term such as "fabricated" is appropriate here.

71. Several comment said, in the case of biologics, a "lot" may consist of more than one batch and suggested that this be included in the definition of "lot" in § 210.3(b)(10).

Because the term "lot" has already been defined specifically for biological products in 21 CFR 600.3(x), the Commissioner does not believe that any modification of the definition in this part is appropriate. As previously indicated, the more specific regulations for biological drug products take precedent over the more general.

72. Two comments said the term "lot" was used elsewhere in the CGMP regulations (e.g., § 211.84(a)) to refer to containers and closures, which are neither drugs nor drug products. They said either the definition in § 210.3(b)(10) or the reference was incorrect.

The Commissioner notes that the definition in § 210.3(b)(10) refers to the term "drug product," but does not limit to drug products the applications of the definition for "lot." However, the proposed definition for "batch" is limited to drugs. Because a lot is defined as a batch or portion of a batch,

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the definition for "batch" is expanded to include materials other than drugs. Similarly, the definition for "lot number" is expanded to include other materials.

73. One comment said the definition for "lot number" in § 210.3(b)(11) unnecessarily ruled out the use of symbols.

It was not the Commissioner's intent to preclude the use of symbols, and the definition is modified accordingly.

74. One comment suggested deletion of the word "complete" from § 210.3(b)(11) as superfluous and subject to interpretation.

The Commissioner finds that use of the phrase "complete history" emphasizes that pertinent identifying information is included.

75. Two comments suggested that the words "testing, and quality control of drug products" be deleted from the definition in § 210.3(b)(12). One said these functions do not belong in this definition because they introduce ambiguities elsewhere in the proposed regulations. Examples given are: (1) § 211.103, which requires yield determination at the end of each distinct phase of manufacturing; and (2) § 211.67(b), which requires that procedures describe a cleaning schedule for all equipment used in manufacturing, processing, packaging, or holding of a drug product. The respondent said yield calculations and cleaning schedules do not apply to laboratory testing and equipment. Another respondent said the words "testing and quality control of drug products" should be deleted because they conflict with the concept of independent responsibility for quality control and manufacturing functions.

The Commissioner sees no ambiguities arising from the inclusion of "testing and quality control of drug products" in this paragraph. Indeed, comments were received on numerous sections of the regulations (e.g., §§ 211.2 (recodified § 211.68)" and 211.25) to add the phrase after references to "manufacture, processing, packing, and holding." In all cases, the Commissioner has declined to make the addition. The purposes of this definition are to make it clear that the phrase "manufacture, processing, packing, or holding of a drug product" includes operations that are commonly known by other terms such as "packaging," "labeling," or "quality control," and to eliminate the need for inserting references to testing and quality control throughout the text of these regulations. Section 211.103 is modified to provide that yield determinations are not required for quality control activities. The Commissioner believes, however, that the requirements of § 211.67(b) are appropriate for quality control operations.

The Commissioner believes that the functions of quality control and manufacturing can be included in the total concept of producing drug products and still be independent. The comment did not describe how the definition would actually cause a loss of independence of the quality control function.

76. One comment suggested that the term "warehousing" was more suitable than the term "holding" in § 210.3(b)(12).

The Commissioner finds that, although the term "warehousing" describes the meaning intended some of the time, the more general term "holding" is more suitable. The Commissioner also notes that the entire phrase "manufacture, processing, packing, or holding" is repeated from section 501(a)(2)(B) of the act.

77. One comment said the term "quality control" is too vague in § 210.3(b)(12) because it does not cover the responsibilities of other than the quality control department. The comment suggested the following wording: "Manufacturing, processing, packaging or holding of a drug product includes packaging and labeling operations, testing and other measures taken to insure that the drug product has the identity, strength, quality and purity which it purports to or is represented to possess."

The Commissioner does not agree that the definition is vague. The intent is to identify several key operations that might not be perceived as an integral part of the production of pharmaceuticals, but for purposes of CGMP regulations must be included. It is not necessary, however, to describe every operation that is included under the act. The responsibilities of the quality control unit are specified in § 211.22 and are not affected by this definition.

78. Several comments said the definition in § 210.3(b)(15) of a "quality control unit," taken together with its responsibilities, would mean that the quality control unit would duplicate functions such as engineering, which are better handled by other professionals such as engineers. They also said the term "unit" generated confusion vis-a-vis the "quality control department" and "quality assurance department." Another comment said the word "perform" should be replaced with "be responsible for."

Functions that are properly those of the engineering department or other specialized units because of their unique training and expertise should not be duplicated or usurped by the quality control unit. Where expertise is in other units, the responsibility of the quality control unit is to assure that such expertise has been utilized. In order to make clear that quality control functions may be performed by persons assigned to units outside the quality control unit, the Commissioner is replacing "perform" with "be responsible for." The quality control unit will still have the duty to assure that appropriate actions were implemented and completed satisfactorily. The Commissioner used the word "unit" because it is a term broadly applicable to any group within a manufacturing establishment charged with the responsibility of quality control. The Commissioner is not concerned about the name given by a firm to its own unit that is responsible for quality control functions.

79. Several comments suggested use of the term "expected yield" instead of "theoretical yield" in § 210.3(b)(17) and in § 211.192. They also suggested that the definition include a provision for normal and expected losses.

The terminology and concept of "theoretical yield" appear to be understood and generally used in the pharmaceutical industry. The Commissioner notes that the regulations (e.g., §§ 211.186(b)(7) and 211.192) allow for normal and expected losses before investigations or corrective actions are required. The concept of theoretical yield is important as a basis upon which actual or expected yields can be compared to the theoretical yield to aid in determining acceptance.

80. One comment said the definition of "theoretical yield" is nonspecific in the wording "quantity of components to be used." A suggested alternative wording was "quantity of component specified by master production records for that operation."

The Commissioner sees no need for the suggested revision in the definition section. The requirement for compounding in accordance with master production records is covered elsewhere in these regulations.

81. One comment suggested insertion of the word "distinct" before the word "stage" in paragraphs (b) (17), (18), and (19) of § 210.3 because yields cannot always be determined at any stage of manufacture. Another comment said establishing theoretical yield is not always possible for certain processes involving chemical reactions and production of biologicals.

The Commissioner believes that a theoretical yield can be established for all processes. The theoretical yield for a chemical reaction, for example, would be maximum yield obtainable under optimal reaction conditions. The Commissioner agrees that the word "stage" may not adequately define the phase of manufacture at which the theoretical yield should be determined. Therefore, he is adopting the phrase "appropriate phase" in paragraphs (b) (17), (18), and (19) of § 210.3.

82. A number of comments have been received regarding proposed paragraphs (b) (21), (22), (23), and (24) of § 210.3. As discussed elsewhere in this preamble, the Commissioner is not including in these regulations, at this time, specific requirements regarding "acceptable quality level and unacceptable quality level"; therefore, definitions for these two terms are deleted from the final regulation. Proposed paragraph (b) (21) and (24) is being retained, however, with modifications, as § 210.3(b) (20) and (21).

83. One comment suggested including in the proposed definition of "acceptance criteria" (proposed § 210.3-(b)(21)) the sentence: "Such acceptance criteria may be altered if evidence demonstrates that a valid reason exists for establishing revised acceptance criteria following an appropriate documented quality assurance conference."

The Commissioner notes that the proposed definition, now § 210.3(b)(20), would not preclude a change in product specifications or acceptance criteria if such change is appropriate. There is no need to incorporate the proposed language.

84. One comment suggested elimination of the word "reject" from proposed § 210.3(b)(21), stating that material which is not accepted may be reworked or returned to the supplier.

The Commissioner does not agree with this suggestion. The term "reject" does not denote the ultimate disposition of the product, only that it is not acceptable for use as is.

85. One comment suggested that "sampling plans," referred to in proposed § 210.3(b)(21), are not the only technique used to form a basis for acceptance and rejection.

The Commissioner has used the term "sampling plan" in a broad context here. The term can mean both a plan for collection of physical units for testing, or it can mean a schedule by which an examination of some sort is done.

86. Numerous comments said the term "at random" should be deleted from proposed § 210.3(b)(24). Among the reasons given were that "random" has a limited meaning in statistics, that some samples are best taken on a stratified basis, such as right after each start-up of a run, and that some samples are taken on a timed basis.

The Commissioner is persuaded that the term "at random" without additional clarification may be too limiting for this definition and modifies the final regulation accordingly.

87. In reviewing the proposed regulations, the Commissioner concludes that §§ 211.2 and 211.68 should be combined into a new § 211.68. Proposed § 211.2 is deleted, and the substance of the requirements is included in the new § 211.68. The comments relating to § 211.2 are discussed with those for § 211.68.

88. Three comments were received regarding proposed § 211.3 on definitions for Part 211. Two comments said the section is duplicative and should be deleted. The other comment noted that some of the words defined in referenced § 210.3 are not used in Part 211.

The Commissioner finds that the reference to § 210.3 that appears in § 211.3 is valuable as a cross reference. In addition, he anticipates a need for a definition section in each part of the CGMP regulations to accommodate terms specific to that individual part but not others. This scheme has already been used in the proposed CGMP regulations for Part 212 relating to large volume parenteral (LVP) drug products, published in the FEDERAL REGISTER of June 1, 1976 (41 FR 22202). The Commissioner sees no inconsistency in that terms defined in § 210.3 may not be used in Part 211, because they may be used in other parts (e.g., Parts 225 and 226). The definitions apply only where the term is used.

VIII. ORGANIZATION AND PERSONNEL

89. One comment argued that, as written, the regulations (§§ 211.22-211.34) permit the subordination of the quality control unit's function to any other unit designated by management, including the production unit. Such a subordination of quality control to production was described as a conflict of interest.

The Commissioner do not agree. The CGMP regulations do not subordinate the quality control unit's authority and responsibility to any other unit. At the same time, the regulations regarding the quality control unit does not encroach upon the expertise or responsibility of other units in a firm and do not dictate the organizational structure of a firm. They simply require that the quality control unit have final responsibility for certain actions in the manufacturing process.

90. One comment suggested that CGMP regulations assign individual certification responsibility to persons within the organization. This would include responsibility for review of product specifications and control procedures to assure their adequacy and reliability.

The Commissioner notes that such control responsibilities are already assigned in these regulations to the quality control unit. "Certification" is not specifically required as something more than approval by the quality control unit. Assignment of individual responsibilities within a firm should be left to the discretion of management.

RESPONSIBILITIES OF QUALITY CONTROL UNIT

91. Comments contended that § 211.22, as proposed, would unreasonably interfere with management's right to structure its organization as it deems fit. In addition, it was pointed out that quality control responsibilities are often performed by units of the firm other than the quality control unit; examples cited were formulation designed, development of the manufacturing process, and process control design by research and development scientists, engineers, and other manufacturing specialists. The duties outlined in the proposal for the quality control unit were described as duplicative of functions performed with more expertise in other segments of a firm.

The Commissioner intends to make the quality control unit responsible for ensuring that controls are implemented during manufacturing operations which assure drug product quality, not that the quality control unit actually perform each one of the duties. The Commissioner believes that, even under § 211.22, management has the prerogative to organize its internal structure and assign responsibilities as it deems appropriate, as long as some identifiable person or unit has at least those responsibilities assigned by the regulations to the quality control unit. To clarify that the quality control unit could not and should not perform duties duplicative of other parts of the organization, the Commissioner has modified the definition of "quality control unit" in § 210.3(b)(15). The word "perform" has been deleted and the phrase "be responsible for" substituted. Additional clarification of the Commissioner's position regarding these comments may be found in the preamble discussion under paragraph 78 of this preamble.

92. One comment asked that the responsibilities of the manufacturing units be defined.

As long as provision is made in these regulations for the assignment of certain quality control activities to a quality control unit, the Commissioner believes that other assignments should be at the discretion of individual firms' management.

93. A comment made a distinction between a quality control department and a quality control unit and questioned what duties would be assigned to each. Several other comments suggested that this section dealing with quality control units was primarily designed for large pharmaceutical firms and did not take into consideration that small firms could not comply.

The distinction made between "department" and "unit" is not required by the regulation, which does not specify a name for the quality control

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unit, but merely describes several responsibilities that a designated unit must have. The organizational structure of the unit is left up to each individual firm's needs.

A small firm may choose a different means of structuring its organization. The term "quality control unit" is defined in § 210.3(b)(15) as any person or organizational element. This means that in very small operations a single individual can function as the quality control unit. But that person still has the responsibility for implementing all the controls and reviewing the results of manufacturing to assure that drug product quality standards have been met. As discussed above in paragraph 45, the Commissioner rejects the idea that quality control is not needed in a small business.

94. A comment was made that this section precludes the use of outside consulting laboratories for quality control work.

The Commissioner disagrees. There is no such prohibition in the regulations. A manufacturer does have a responsibility, however, to see that the outside laboratory used is qualified to do the work and that the work is performed satisfactorily.

95. With respect to the quality control unit's authority and responsibility under § 211.22(a) for approval and/or rejection of raw materials, in-process materials, and finished products, one person asked that other alternatives be permitted when materials may be suitable for other purposes and uses than those originally intended.

Use of the word "reject" does not necessarily mean that the rejected material must be destroyed. When materials are ordered by a manufacturer, they are ordered with a particular purpose in mind. If testing of a material shows that it is not suitable for a particular use, it may not be used for that purpose and, therefore, is rejected. It may, however, be suitable for other uses requiring a material with differing specifications.

96. Several comments proposed that § 211.22(a) be modified so that the quality control unit would not have to have the responsibility to review all labeling unless it is connected with the manufactured dosage form. The reasoning was that some promotional literature, not physically associated with the drug product, had been defined as labeling in court suits where FDA charged misbranding of a product with promotional literature, but that such material was not labeling in the sense in which these regulations referred to labeling.

The Commissioner notes that the scope of the CGMP regulations is to set forth the facilities, methods, and controls to be used for the manufacture, processing, packing, or holding of a drug product. It is not the purpose of the CGMP regulations to control labeling such as promotional literature that is not associated with the drug product during its preparation under CGMP regulations.

97. Comments asked for modification in the last sentence of § 211.22(a) relating to production of drugs under contract by another company. They suggested that the contractor could release drugs for distribution on his own responsibility if a certificate of analysis showed compliance with appropriate specifications. Others suggested that the responsibility for approving or rejecting drug products produced by contractors appeared in this paragraph to rest with the contractor.

This paragraph clearly says that the quality control unit of a contracting firm must approve or reject drug products produced by contractors. The Commissioner believes this is proper because, in the circumstances described, the contractor does not own the goods, but merely performs a service for the contracting firm. The responsibility to approve release of a drug product for distribution must rest with the owner of the drug product.

98. A number of persons responding to the proposal objected to the example of bioequivalence testing as one of the tests which must be performed in a quality control unit's laboratory. Some said this type of testing was normally done outside the quality control unit, such as by a medical unit. Others complained that bioequivalence standards are in a state of flux and have not as yet been established.

Bioequivalence tests may include tests such as dissolution tests, which are generally done in the quality control unit's laboratory. They also may include in vivo tests done by medical units within or outside the firm. The Commissioner agrees, therefore, that this example is not necessarily one which generally represents the work done in the quality control laboratory. Although he is deleting the bioequivalence testing example, in vitro dissolution tests for bioequivalence are in fact an example of the type of work that could and should be done in the quality control laboratory.

99. Two comments suggested either deleting the reference in § 211.22(b) to "packaging materials" as one of the articles tested in the quality control laboratory, or changing it to "packing materials," on the basis that the examination for suitability of such materials is more properly a function of the shipping department and relates solely to protective qualities to prevent mutilation or breakage of drug product containers.

Breakage of containers can cause product adulteration and mutilation of containers, which may result in product misbranding. The protection of drug products from such mechanical damage is just as much a function of the maintenance of drug product quality as placing light-sensitive products in light-resistant containers or labeling a product with its proper name and an accurate statement of its potency. The Commissioner notes that primary responsibility for selecting specifications for packaging materials may be assigned to the shipping department of a firm. Under § 211.22, the quality control unit is only responsible for testing and approving (or rejecting) packaging materials in accordance with these specifications. Therefore, no change is needed in the section.

100. Several comments proposed eliminating from § 211.22(b) the statement regarding approval (or rejection) of materials used in manufacturing and suggested use of words like "evaluation" or "disposition." It was also suggested by others that "or" be placed between "and" and "approval" to allow for instances described as not requiring testing for approval.

Several discussions appear in this preamble relating to the use of the words "approval" and "rejection." These words mean either that an article may or may not be used for production of a drug product. Reprocessing, reworking, refining, diversion to other acceptable uses, returning to the supplier, or destruction are all actions that may occur after a decision to reject and are in no way precluded by the rejection decision unless specifically stated by the manufacturer.

101. Clarification of the option of using an outside testing laboratory was asked by respondents who wanted an explicit statement in § 211.22(b) of the acceptability of this means of product examination.

The thrust of § 211.22(b) is that adequate laboratory facilities shall be available to the quality control unit from whatever source. The paragraph does not require those facilities to be owned and operated by the drug product manufacturer, nor does it prohibit the manufacturer from using a contract testing facility. The Commissioner does not feel clarification is needed in § 211.22(b).

102. Four comments recommended deletion of § 211.22(c) entirely, because either (1) the requirements are adequately covered in § 211.22(a), or (2) units of a firm other than the quality control unit have greater expertise in specific areas.

The provisions of paragraph § 211.22(a) differ from those of paragraph (c) in that paragraph (a) relates to the actual production of a product, while paragraph (c) covers events which occur before production. The Commissioner realizes that not all ex-

pertise rests with the quality control unit, and he does not believe that the quality control unit should be solely responsible for developing and implementing all procedures and specifications impacting on drug product quality. A manufacturer may assign primary and initial responsibility for selecting procedures or specifications to the persons or units it believes most qualified. The Commissioner's intent is that the quality control unit be responsible for making sure that the procedures and specifications developed are appropriate and followed.

103. One comment indicated that the proposed § 211.22(c) does not allow minor equipment changes that do not bear on drug quality, unless such changes are first approved by the quality control unit.

Section 211.22(c) is limited to those procedures and specifications that impact on drug quality. Moreover, the paragraph does not prevent the production personnel from making minor equipment adjustments that may affect drug quality without the quality control unit's approval of the specific change. It does require that the procedures regarding such equipment adjustment be reviewed in advance by the quality control unit.

104. A comment suggested that § 211.22(c) be expanded to provide for specification committees, formula committees, and others instead of making the quality control unit totally responsible.

As already explained, input into specifications and procedures may come from any appropriate source. If a firm chooses to utilize specification and/or formula committees, it is not prohibited from doing so by these regulations.

105. One firm suggested rewording of § 211.22(d) to eliminate the word "responsibilities" and to add the word "routine" before "procedures." It was suggested that the paragraph as proposed is too broad and that responsibilities for the quality control unit are described elsewhere.

Section 211.22(d) does not define the responsibilities of the quality control unit, but it does require that all its responsibilities, including those required in § 211.22, be in writing. For consistency with other sections in the CGMP regulations, the phrase "such written procedures shall be followed" is being added to § 211.22(d).

PERSONNEL QUALIFICATIONS

106. One comment said § 211.25 is replete with vague terminology, which sets the stage for arbitrary and capricious actions by FDA, thereby placing individuals and companies in a position of unnecessary risk. Two comments stated that this section is one in which FDA attempts to replace management's judgment with regulations.

The Commissioner believes that this section must be of a general and flexible nature to allow management to exercise its prerogatives in light of the various types and sizes of firms, the products made, the differing personnel qualifications needed, the training programs which may be instituted, and other factors. Although such generality will require more judgment to be exercised by FDA investigators who make plant inspections, it does not permit any arbitrary or capricious action by the agency. In addition to the fact that all sanctions authorized by the act may only be enforced through judicial process, FDA is further defining its policy and standards for regulatory action in a series of regulations set forth in 21 CFR Part 7. The Commissioner believes this is ample protection against unreasonable actions by agency personnel.

107. Many comments questioned the frequency of the "continuing training" required in § 211.25(a), asked for a definition of the word "continuing," and questioned who should receive what type of training.

The requirement that training be on a continuing basis is intended to mean, for example, that a single training course at the time an employee is hired, with no subsequent training activities, is not sufficient. Subsequent training should be sufficiently frequent to assure that employees remain familiar with CGMP requirements. The Commissioner does not believe it would be prudent to specify time intervals for training in view of the broad nature of the drug indutry and the wide range of employee functions covered by these regulations. The Commissioner believes this section is sufficiently clear in identifying "who should receive what training" in stating that each person engaged in the manufacture, processing, packing or holding of a drug product must have training in current good manufacturing practice that relates to that person's functions in the firm. The requirements of § 211.25(a) apply to supervisors as well as other employees; § 211.25(b) contains an additional requirement for supervisory personnel.

108. Numerous comments pointed out that paragraphs (a) and (b) of § 211.25 are not consistent in that § 211.25(b), but not paragraph (a), contains the phrase "or any combination thereof" following the phrase "education, training, and experience." Most argued that § 211.25(a) should also contain this phrase.

The intent of the requirement is that a person have a sufficient mix of training, education, and experience to perform his or her job adequately. What is adequate in regard to each of the criteria depends on the job. It may be that a person can adequately perform a particular job with very little or no previous experience, or limited education, or with minimal training, depending on the demands of the job and the qualifications of the person. Because the intent of this section has been misinterpreted, § 211.25(a) is revised to include the phrase "or any combination thereof" and be consistent with paragraph (b).

109. One comment questioned how much education, training, experience, or combination thereof qualifies a person to be a supervisor under § 211.25(b).

The Commissioner believes it should be understood that broad regulations such as these could not reasonably quantify the degree of education, training, and experience necessary. It is left to management's reasonable judgment as to what constitutes sufficient background in these criteria so that supervisors can perform their assigned functions in a manner to provide assurance for the quality of drug products within their purview.

110. One comment on § 211.25 (a) and (b) said it would mean little for some individuals to be instructed in the legal and technical language of the regulations. The respondent indicated that it is more important that personnel be instructed in the principles of good manufacturing practice relevant to their particular tasks.

Section 211.25 requires training in current good manufacturing practice as it relates to an employee's function. The Commissioner intends that training be meaningful to the employee, not a formalistic but useless exercise to satisfy a regulation. The requirement is written to provide reasonable latitude to a firm as to the extent to which technical and legal instruction will be given.

111. A number of comments said the requirement in § 211.25(c) for "an adequate number of personnel" does not belong in the section on personnel qualifications.

The Commissioner notes that the intent of this paragraph in relation to the number of employees is that there be an adequate number of qualified personnel. The Commissioner is revising this paragraph in the final regulation by inserting the word "qualified."

PERSONNEL RESPONSIBILITIES

112. One comment said all persons who enter the manufacturing, processing, packing, and holding areas should comply with the requirements of § 211.28 and the section should reflect this.

The Commissioner agrees that all persons, whether employees or not, who engage in the activities covered by this section should comply with the

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requirements of the section. Therefore, the Commissioner is replacing the word "employees" with the word "personnel" in § 211.28 (b) and (d). The Commissioner recognizes that not all persons who enter manufacturing areas are engaged in activities covered by CGMP regulations (e.g., equipment manufacturer service representatives and FDA investigators), and their activities would not be limited by § 211.28. Drug manufacturers are responsible, however, for monitoring such activities to prevent contamination of drug products. For example, all personnel entering a sterile area would be required to wear appropriate protective apparel.

113. One comment said § 211.28 is an additional example of the agency's attempt to legislate and enforce regulations which must be left to the discretion of corporate management in order to preserve our free enterprise system.

The Commissioner does not perceive how these regulations present a threat to the free enterprise system. These regulations were promulgated under the authority of section 501(a)(2)(B) of the act, which was passed by the Congress in 1962 in order to assure that no drug product available to consumers was adulterated. The requirements of the regulations are a reasonable and necessary step toward that goal. They do not inhibit competition, but rather enhance it by assuring that no manufacturer can reduce costs by eliminating those steps integral to the prevention of adulterated products. Thus, the consumer is assured that all marketed drugs meet the essential standards of identity, strength, quality, and purity; and consequently, selection of drugs by the consumer (directly or with the advice of a physician of pharmacist) will be based on fair principles of competition and free enterprise.

114. One comment suggested that in order to make it clear that facial hair coverings should be worn only if necessary, the second sentence of § 211.28(a) should be reworded to read as follows: "They shall wear appropriate head coverings, including facial hair coverings, as necessary to prevent contamination of drug products."

The Commissioner recognizes that clarification of § 211.28(a) is desirable and is therefore revising it to require that protective apparel, such as head, face, hand, and arm coverings, shall be worn as necessary to protect drug products from contamination.

115. One comment argued that the meaning of § 211.28(a) is directed to human drug products and should be clarified to limit its scope accordingly.

The Commissioner rejects this comment. These regulations are broad and consider the fact that certain drug products, regardless of whether they are for human or veterinary use, require the same amount of care in manufacturing, processing, packing, or holding in order to assure their safety and effectiveness. The wording of this section requires precautions to be taken as necessary to protect the particular drug products from adulteration or contamination. The degree or types of precautions will depend on the particular drug product being considered.

116. One comment suggested rewording § 211.28(a) by inserting the underlined statement: "Arms and hands shall be covered *or other appropriate measures taken when microbial contamination is a concern* when necessary to protect the drug product being handled"; and that this "appropriate measure" could mean the cleaning of the arms and hands with an antiseptic soap or solution as an alternative.

The Commissioner rejects this alternative wording since it would alter the intent of this paragraph. The possibility of microbial contamination is not the only reason for wearing protective apparel; prevention of particulate contamination, for example, may be of equal importance. Further, the Commissioner does not believe the phrase "as appropriate" would clarify this section since, as written in the final regulation, it clearly states that protective apparel shall be worn as necessary to prevent contamination of the drug product. This paragraph does not preclude other measures such as cleaning which might be used in place of or in conjunction with protective apparel. If alternate methods were at least as effective as protective apparel, then protective apparel would not be necessary.

117. One firm commented on § 211.28(a) that because of its type of operation it does not require, nor does it think it is necessary to have, uniforms if clothing is kept clean.

The Commissioner notes that this paragraph does not necessarily require the wearing of uniforms. The requirement is that clothing be clean enough to be appropriate for the type of duty or operation being performed. For certain types of operations, uniforms may be appropriate, while for other types of operations uniforms may not be necessary.

118. Several comments noted that § 211.28(a) states in part that "they shall wear appropriate head coverings as necessary, including facial head coverings, as necessary * * *." And the comments argued that this statement is "too broad as written since facial hair includes eyelashes, eyebrows, etc."

The Commissioner intended that this paragraph be broad enough to require the covering of eyebrows and eyelashes if necessary to prevent drug product contamination. Although he recognizes that this type of protection would not be usual for most operations, he would not wish to preclude the use of such measures.

119. Several comments argued that, with regard to arm coverings, there are certain kinds of machinery and equipment which present a personal hazard to workers using arm and hand coverings.

The Commissioner recognizes that the use of arm and hand coverings could constitute a significant hazard if used around certain types of machinery. Appropriate alternatives can be used in such instances so that neither personnel safety nor drug product quality is compromised.

120. A comment noted that the term "authorized" in reference to personnel who may enter limited access areas is not defined in § 211.28(c).

The Commissioner believes that drug firms can reasonably determine on an individual basis which personnel should be permitted to enter what areas. The intent of this paragraph is to prevent the type of situation, for example, where persons not trained in aseptic techniques enter aseptic processing areas for reasons not associated with aseptic processing of the drug product. To clarify that the authorization derives from the manufacturer, not FDA, the language of § 211.28(c) is modified slightly.

121. One comment suggested that the word "may" in § 211.28(d) be replaced by the words "is likely to" in order to identify realistically the threat of illness or lesions.

The Commissioner rejects this alternative wording because the phrase "is likely to" is not strong enough to state the intent of this paragraph. Further, the alternative phrase would introduce the element of prediagnosis by the employee's supervisor. While supervisory personnel can reasonably be expected to recognize health conditions that may affect the drug product, they probably would not be able to recognize conditions that are likely to affect the drug product. This may require more sophisticated evaluation by medical personnel. Of course, if medical personnel determine that the employee's health condition will not affect the drug product, the employee may resume his or her routine activities.

122. One comment argued that the words "they consider" be deleted from the last sentence of § 211.28(d) because the reporting of conditions should not be limited to conditions which an employee thinks may affect the product. Another comment said the word "health" should be inserted between the words "any" and "conditions" in this sentence.

The Commissioner agrees that the intent of this paragraph is better served without the phrase "they consider" and with the addition of the word "health" and has revised the final regulation accordingly.

123. Several comments said § 211.28(d) should not be construed to imply that supervisors are medically qualified to judge health conditions of employees.

The Commissioner does not believe the paragraph implies this. Within the framework of industrial management, the supervisor is the liaison between the operating employee and higher echelons of the company. It is the supervisor who is most likely, on a day-to-day basis, to notice health conditions that may affect the drug product. Of course any such conditions noted initially by the supervisor may require evaluation by qualified medical personnel. Such medical evaluation is acknowledged in the final regulation. This section could perhaps set out more detailed procedures for dealing with employee health problems. But in the absence of significant difficulties in the area, the methods for dealing with health problems, beyond the initial phase of removing suspect employees from direct contact with drug products and their components, are left to the reasonable judgment of individual firms.

CONSULTANTS

124. Several comments were received requesting deletion of § 211.34 because the ultimate liability for actions taken based on the advice of consultants still rests with the responsible officials of the drug product manufacturer. The argument is that a firm's choice of consultants should be a matter of its own judgment and not one of Government review or regulation. The comments also state that FDA lacks authority under the act to prescribe qualifications for consultants.

The Commissioner considers that consultants, while they are retained by the firm, are persons engaged in the manufacture, processing, packing, or holding of a drug product, and may lawfully be subjected to appropriate standards of qualification to the same extent as full-time employees of the firm. Therefore, consultants must have education, training, and experience, or any combination thereof, sufficient to perform their assigned functions. Minor editorial amendments have been adopted in the final regulation to clarify this requirement.

125. Several comments requested that § 211.34 state that the requirements are applicable only to consultants who are retained for activities that relate to the scope of the CGMP regulations.

The Commissioner acknowledges that activities that are not under the scope of the CGMP regulations should not be subject to such requirements. The final regulations are clear in this regard.

126. One comment asked that the term "consultant" be better defined in § 211.34 to clarify, for example, whether the term "consultant" includes attorneys. It also asked if fiims will have to document the qualifications of outside counsel.

Under these regulations, a consultant is a person from outside the firm who is called on to render advice or opinion on current good manufacturing practice as it relates to the facilities or controls to be used in the manufacture, processing, packing, or holding of drug products. The Commissioner believes this is generally well understood in the industry and sees no need to define "consultant" in these regulations. Any person, including attorneys, employed or retained to advise on the manufacture, processing, packing or holding of drug products would be considered a consultant under these regulations. However, an attorney employed or retained for legal advice—for example, an interpretation of CGMP regulations—would not be considered a consultant under these regulations. In response to the second part of the comment, the section requires that records be maintained stating the name, address, and qualifications of any consultant used.

IX. Buildings and Facilities

DESIGN AND CONSTRUCTION FEATURES

127. A number of comments suggested that the last sentence of § 211.42(b), which deals with unnecessary traffic, is ambiguous. Two comments contend that the phrase "particularly movement back through areas in which these materials had previously been processed or held" be deleted as superfluous.

The Commissioner is revising this paragraph to clarify the intended requirement that the flow of materials shall be designed to prevent contamination.

128. One comment proposed that under § 211.42(c) the paragraph be divided into those operations which must be in defined areas and those which must be in separate areas. A number of comments regarding this section and § 211.89 objected to a requirement that areas be set aside exclusively for quarantine storage.

The intent of this paragraph is to require that enough physical separation be employed as is necessary to prevent contamination or mixups. The degree of separation will depend on the type of operation and its proximity to other operations within the plant. The phrase "separate or defined" is not intended necessarily to mean a separate room or partitioned area, if other controls are adequate to prevent mixups and contamination. In the case of quarantined areas, for example, an effective means of identifying the quarantined goods and a paper control or other system may be used in lieu of complete physical separation. Thus, the regulations do not requrie that space be reserved for quarantine storage. The Commissioner believes, however, that some degree of separation, even though only spatial, would be necessary in most cases, even with elaborate supplemental control.

129. One comment maintained that the quarantine of containers and closures involves a great deal of space which most small manufacturers do not have. The comment further contended that these items "can be examined at the packaging line just before use" or "can be examined at the distributor's facilities before shipment."

If suitable specifications for containers and closures are simple enough to permit a quick visual examination to determine the product's acceptability, such an examination could be performed at the time of receipt without being in conflict with the quarantine requirements of these regulations. A certificate of testing received from a supplier would not preclude the necessity for examining containers and closures to determine that they are the same articles as are represented by the certificate. Any manufacturer who does not have such evidence of an article's acceptability or does not alternatively quarantine the article until such evidence is obtained is assuming an unacceptable risk that the article will be used and subsequently be found unsuitable.

130. A number of comments indicated that the requirement in § 211.42(c) that "operations shall be performed in specifically defined areas of adequate size" was unnecessarily restrictive on the flexibility of plant space use.

The requirement relates to several different types of operations which are enumerated in the proposal; however, the comments seemed to relate mainly to storage areas. It is the Commissioner's belief that a significant type of control over products is a physical one which precludes mixups by physically placing an article in an area clearly identified as to status. The extent of the physical separation imposed in a particular situation can vary from locked, walled-off areas to simple designation of an area for a single purpose by means of a sign. The degree of physical control will vary depending on the other controls in use by a firm. If a firm has effective controls, whatever they may be, that would increase their confidence that mixups will not occur, then the degree

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of physical control may be less than in another firm where no other controls exist.

131. One comment contended that § 211.42(c)(2) would require availability of a large separate holding area in the warehouse for relocation of rejected supplies.

The Commissioner concludes that preventing the intermingling of rejected supplies with released supplies is very important to drug quality. The regulation does not require separate facilities as long as there is a defined area for rejected materials. The Commissioner is not aware of any problems in the past with regard to large numbers of rejected supplies and their storage. He therefore rejects the proposal.

132. One comment objects to the requirement in § 211.42(c)(4) for separate storage for "in-process" materials and suggests adding to this paragraph the words "if storage or isolation is necessary."

The use of the word "storage" in this paragraph implies holding for extended periods of time. It does not refer to the holding of containers in production areas while processing is ongoing. Therefore, if such storage is not necessary, the regulation as currently written is inapplicable. On the other hand, if such storage is necessary, it is the Commissioner's opinion that isolation in a separate or defined area is essential to prevent errors. Therefore, the comment's proposal is not accepted.

133. One comment, referring to § 211.42(c)(5) said "on-line testing does not have to be done in a separate testing area * * *."

The requirement is for separate or defined areas. The Commissioner believes that the area in which testing occurs, including on-line testing, must be defined or separated in order to prevent contamination of on-line products with testing materials and improper use of products that have been tainted by the testing process.

134. One comment requested that § 211.42(c)(5) be deleted since it is too broad to be helpful.

The Commissioner disagrees with this comment. The intent of this paragraph is to avoid mixups by using defined areas for the entire manufacturing operation, phase-by-phase. The detailed procedures are purposely not spelled out so that pharmaceutical manufacturers can design their operations according to their individual needs.

135. Two comments argued that the word "quarantine" in § 211.42(c)(7) is not defined, the word means different things to different people, and it should be deleted.

The word "quarantine" has had widespread use in the pharmaceutical industry, and its meaning is well understood. These regulations do, however, have the effect of defining the word within the context of the pharmaceutical operations by indicating that it constitutes a control system to prevent unauthorized usage of unreleased material. The Commissioner does not believe further definition is necessary.

136. One comment argued that § 211.42(c)(7) "increases warehouse requirements. This is not believed to be current practice in industry."

Based on experience gained from FDA inspections of drug manufacturers, the Commissioner believes that most firms now separate released and unreleased drug products. In view of the intent of the phrase "separate or defined" as explained elsewhere in this preamble, the Commissioner concludes that § 211.42(c)(7) and, similarly, § 211.42(c)(8) reflect current industry practice and will not increase warehouse requirements.

137. A number of comments indicated that all the controls listed under § 211.42(c)(10) are not needed in aseptic processing areas for every product or process. One comment suggested that the term "aseptic processing" in § 211.42(c)(10) requires further clarification to indicate that such processing is intended for products or components which are not terminally sterilized. The respondents suggested inserting a phrase which would make it clear that not all controls are necessarily required.

It is not the intent of § 211.42(c)(10) to require "aseptic processing" when such operations would not be necessary for the firm's usual activities. Some firms choose to use aseptic processing for drug products not intended to be marketed as "sterile" as a means of controlling microbial contamination. The Commissioner agrees that modification is desirable and is revising § 211.42(c)(10) to include the words "as appropriate."

138. One comment suggested that § 211.42(c)(10) should be redesignated as paragraph (d) because it is unrelated to paragraph (c).

These requirements relate to separate or defined areas for certain operations to prevent product contamination or mixups. The Commissioner concludes that such requirements are appropriately codified.

139. Several comments objected to the requirement under § 211.42(c)(10)(i) that floors, walls, and ceilings have smooth, hard surfaces.

The Commissioner rejects these comments. It is widely acknowledged that smooth, hard surfaces are easier to clean and sanitize.

140. A number of comments objected to applying the requirements of §§ 121.42(d), 211.46(e), and 211.176 to the manufacture of penicillin and nonpenicillin veterinary products. They claim that no evidence has been offered to demonstrate penicillin sensitivity in animals. It was proposed that the word "human" be inserted before the words "drug products."

Hypersensitivity reactions to penicillin do occur in animals. Although the Commissioner acknowledges that at present there is less information on the extent of the problem in animals than in humans, he advises that FDA has received numerous reports of reactions in animals throughout the years. Therefore, the Commissioner believes the requirement as proposed in § 211.176 is warranted and has retained it in the final regulation. However, the Commissioner believes that the prohibition against the use of common facilities and air-handling systems in the production of veterinary drug products is not necessary at this time. Therefore, §§ 211.42(d) and 211.46(e) (now 211.46(d)) are revised accordingly in the final regulation.

141. A number of comments suggested that § 211.42(d) can be too broadly construed. It was suggested that some processing steps for penicillin and nonpenicillin products could be performed on the same equipment without risk of cross-contamination.

The Commissioner believes that there is a possibility of trace amounts of penicillin being released during product handling even under well-controlled conditions, and he therefore cannot accept this suggestion.

142. Another comment requested clarification of the meaning of the word "separate" in § 211.42(d).

The Commissioner's intent in this paragraph is to require the isolation of penicillin production operations from operations for nonpenicillin products. Separation can be achieved in a facility, building, or plant by effectively isolating and sealing off from one another these two types of operations. This does not necessarily mean separation by geographical distance or the placement of these operations in separate buildings. Effective means can almost certainly be developed to separate such activities from one another to prevent cross-contamination problems within a single building. An example of the means of separation can be found in the discussion of air-handling systems in this preamble under paragraph 172.

LIGHTING

143. Two comments said § 211.44 is vague and may lead to misinterpretation.

It is not the intent of this section to spell out precisely what is required in the way of lighting for each type of operation, but rather to require that individual firms follow lighting standards that are generally considered adequate for each of their various operations. For example, inspection of parenteral solutions for particulate matter requires a different type of illumination than a component storage area. The Commissioner, therefore, has retained the proposed wording in the final regulation.

VENTILATION, AIR FILTRATION, AIR HEATING, AND COOLING

144. One comment suggested that the word "microorganisms" in § 211.46(b) be modified by the term "objectionable."

The Commisioner finds that this paragraph, by use of the phrases "adequate control" and "when appropriate," adequately states that the number or types of microorganisms that would be undesirable must be controlled. Therefore, the Commissioner has retained the wording as proposed in the final regulation.

145. A number of comments requested that expressions such as "when necessary," "where applicable," or "where appropriate" be used in the first sentence of § 211.46(c) to broaden the scope of the requirement for air filtration systems. Comments took exception to the requirement for exhausting to the outside of the building, stating that there are a number of alternatives such as completely closed systems properly filtered, ionization and electrostatic precipitation, enclosed hoods, and scrubbers. Finally, two comments contended that there is no reason for air filtration systems in production areas where the product is already in the final sealed container and in nonsterile processing areas.

The Commissioner believes that for the great majority of drug production operations the proposed requirement is desirable and necessary to assure the quality of drug products. While it is doubtful that such air systems are not generally applicable to the production of nonsterile products, there may be situations where the requirement would not be necessary to assure the quality of drug products and would therefore be unreasonable. Therefore, § 211.46(c) is revised in the final regulation to require such filtration systems where appropriate. This paragraph as rewritten also allows alternative systems which do not necessarily exhaust outside the building.

146. Several comments objected to proposed § 211.46(d) on the grounds that effective exhaust systems need not always be "adjacent" to the equipment in dusty operations.

The Commissioner concludes that proposed § 211.46(d) is unnecessary in view of § 211.46(c) as written in the final regulation. Therefore, proposed § 211.46(d) is deleted in its entirety.

147. One comment said proposed § 211.46(e) (now § 211.46(d)) is too general because there would be no danger from cross-contamination during penicillin fermentation (prior to processing the dry state) and after the sealing of the product.

The Commissioner cannot agree with this comment since the operations specified are not clearly defined. He believes the fermentation process could result in cross-contamination problems. For example, removal of the cake from penicillin fermentation equipment could result in airborne contamination from partly dry or dry cake. With regard to the respondent's second example, the Commissioner is revising this requirement to make it apply only to production operations and not to storage, such as warehousing of the penicillin product in sealed containers.

148. Comments were made that proposed § 211.46(e) was superfluous because § 211.42(d) already required separate facilities for penicillin and nonpenicillin products.

The Commissioner believes it is important to make clear in these regulations that completely separate air-handling facilities for penicillin and nonpenicillin production are required. Section 211.42(d) is written to allow penicillin production in the same buildings as nonpenicillin production if the penicillin production areas can be completely separated from all others. However, because it is possible for air-handling systems between penicillin and nonpenicillin production areas to be interconnected, the Commissioner finds it necessary to state that any such interconnection would be unacceptable.

149. One comment said proposed § 211.46(e) should specify whether the air-handling system is intended for outgoing or incoming air.

There is no single answer to this point since the specific requirements for a particular installation will depend on individual circumstances. The purpose of the requirement is that no cross-contamination occur between penicillin and nonpenicillin operations. The means by which the objective is achieved may require filtration of incoming air of filtration of outgoing air or both.

PLUMBING

150. A number of comments on § 211.48(a) said water received from municipal sources and certified as meeting the requirements of Subpart J of 42 CFR Part 72 should not have to be tested as if it were another component.

It was not the Commissioner's intent that potable water received from municipal sources require acceptance testing by a drug manufacturer unless the water is obtained from sources that do not control the water quality to assure compliance with Public Health Service standards. Of course, water of unknown quality such as a firm's own wells must be tested, and potable water coming into the plant system should not be adversely affected by the in-plant plumbing.

151. A number of comments indicated that it is not necessary and is very expensive to require that all water in a plant be potable water. They pointed out that some systems such as sprinklers for fire control, cooling equipment, and boiler feed do not require potable water.

In light of these comments, the Commissioner is revising § 211.48(a) to eliminate the prohibition against nonpotable water within a plant.

152. One comment said potable water should be analyzed for polychlorinated biphenyls and chloroform, and tolerances should be set because of the potential danger to health represented by these contaminants.

The Commissioner recognizes that potable water may contain amounts of environmental chemical contaminants at levels that have not been clearly established as having significant adverse effects when ingested. Government agencies are investigating more meaningful specifications for testing potable water for potentially harmful impurities not already included in the standards. Therefore, FDA has not included such requirements for testing and acceptance of potable water in these regulations.

153. Several comments objected to the designation of traps to prevent back-siphonage in § 211.48(b). The comments said it is general opinion that traps do not prevent back-siphonage, but check valves or air break arrangements would do so.

The Commissioner agrees with these comments, and § 211.48(b) is revised to reflect the suggested change.

154. One comment objected to equipping drains with traps because of the inflationary impact and requested that this paragraph be deleted.

The Commissioner notes that this paragraph is revised to eliminate the reference to traps. It now requires the use of air breaks or other mechanical device which may increase or decrease the cost to this person, depending on his present method of preventing back-siphonage. However, the Commissioner considers that the necessity of preventing back-siphonage outweighs the cost factor.

WASHING AND TOILET FACILITIES

155. Several comments on § 211.52 argued that it is not current industry practice to provide "hot" water, but rather to provide "tempered" water,

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thus conserving energy while maintaining adequate sanitation facilities.

The Commissioner has been unable determine that there is a consensus as to what is meant by "tempered water." Therefore, he is concerned that the word "tempered" might allow the use of water that is of insufficient temperature for adequate cleaning.

156. A comment suggested that the word "easily" be deleted from § 211.52 because location of washing facilities may be hindered or prohibited by local plumbing codes. Further comment said the word "easily" is most subjective and capable of differing interpretation.

The Commissioner is not convinced that plumbing codes would prohibit easily accessible washing facilities in establishments that are properly designed. Further, the Commissioner believes that the word "easily" is concise enough to adequately describe the intent of the section. Therefore, the wording as proposed is retained in the final regulation.

ANIMAL FACILITIES

157. Several comments contended that proposed § 211.54 should be deleted since it substance is covered by the Animal Welfare Act of 1970 (Pub. L. 91-579, 7 U.S.C. 2131). Other comments said this section implies that housing for laboratory animals is required whether or not a firm maintains laboratory animals.

The Commissioner does not believe it is improper to make the substance of another regulation a requirement in th CGMP regulations. It should be obvious that if a firm is not engaged in a type of operation covered by these regulations, then any requirement that pertains to that type of operation does not apply to that firm. In reviewing this proposed section, however, the Commissioner has concluded that its intent is adequately covered in § 211.173. Therefore, § 211.54 is deleted in the final regulation.

SANITATION

158. Several comments on § 211.56(a) said it is impossible to maintain all buildings completely free from rodents, birds, insects, vermin, trash, and organic decaying matter. In most buildings there is an accumulation of trash daily in various waste baskets and in trash accumulation areas for papers and empty cartons.

The Commissioner agrees that the intent of this section could be more clearly stated, and the text is revised accordingly.

159. Several comments requested the deletion of the phrase "in detail" from § 211.56(b) because, according to the language in this paragraph, manfacturers would be required to document all minute details.

The Commissioner believes that in some cases, detailed descriptions of cleaning procedures may be necessary to assure complete and proper cleaning. In others, that level of detail may not be necessary or appropriate. The Commissioner believes that there should be a reasonable standard in describing the details of these procedures. Therefore, this paragraph is revised to require "sufficient" detail.

160. Several comments requested the deletion of the phrase "such written procedures shall be followed" from § 211.56(b) because, if current good manufacturing practice involves writing down certain procedures, it also involves following them.

The Commissioner does not agree with this comment. Procedures may be written with obvious good intentions but never implemented, as the agency has discovered in some firms. Written procedures must be followed to assure the quality of finished drug product, and the regulations should be explicit in stating this point.

161. Comments regarding § 211.56(c) objected to the use of the word "person" and to the requirement of "evidence" that use of such materials will not contaminate equipment, components, or in-process materials. the use of the word "person" according to the comments seems to have a more personal use here than the general use it has in other sections. It was also suggested that the word "evidence" implied a need for proof of lack of any residue from pesticide or cleaning agent use, and that the standard should be a lack of adverse effect instead. Several comments suggested that as written, this paragraph would require residue checks to be run on all batches in an area after a visit by an exterminator.

The Commissioner finds that the objections have merit, and therefore the opening of this paragraph is reworded to clarify the intent. It is not the intent of the Commissioner to burden manufacturers with testing every batch of drug product in a particular area for contamination from chemicals used to kill pests and insects.

162. Several comments requested the deletion of the last sentence of § 211.56(c), which allows the use of only those rodenticides, insecticides, and fungicides that have been registered in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135).

The Commissioner believes it contrary to public policy to permit the use of unregistered rodenticides, insecticides, or fungicides. The comment is rejected.

163. One comment requested insertion of the phrase "employed to perform sanitation work" following the word "employees" in § 211.56(d) to clarify that the procedures apply to individuals who are assigned to sanitation work.

The Commissioner believes that the paragraph clearly indicates that good sanitation procedures apply to all employees who perform sanitation work. Therefore, he rejects this comment.

MAINTENANCE

164. Several comments said the phrase "good state of repair" in § 211.58 is vague and is subject to varying interpretation.

The Commissioner does not agree that the phrase "good state of repair" is vague. It means that buildings should not be in a bad state of repair so that drug products processed within them are adversely affected.

X. EQUIPMENT

EQUIPMENT DESIGN, SIZE AND LOCATION

165. A comment suggested the deletion of the phrase in § 211.63 "for its intended use as well as for its" on the grounds that it is redundant and therefore unnecessary.

The Commissioner does not agree that this phrase is redundant. The regulation imposes two requirements: that equipment be such as to facilitate its operations for its intended use and that equipment be such as to facilitate its cleaning and maintenance. The phrase is revised in the final regulations for clarity.

166. One comment on § 211.63 noted that medical gas manufacturers use dedicated piping systems, manifold valve outlets, and pin index systems for processing medical gases. Cleaning, except at the time of initial installation and subsequent maintenance, is not done internally.

The Commissioner notes that this section does not dictate the frequency of cleaning and/or maintenance. If cleaning and maintenance after initial installation are not needed, as stated in the comment, then there is no requirement in § 211.63 for such practice.

EQUIPMENT CONSTRUCTION

167. A number of comments argued that § 211.65(a) literally requires that all product contact surfaces be totally inert. The respondents maintained that this requirement is practically impossible to achieve and that the following wording should be added: "* * * so as to alter the safety, identity, strength, quality or purity of the drug beyond the official or other established requirements."

The Commissioner recognizes that drug product contact surfaces may be reactive to some minute extent, and the paragraph is revised in the final regulation in accordance with suggested alternative wording.

168. A number of comment suggested adding the phrase "beyond the official or other established requirements" to the end of § 211.65(b) to define better the standards to be used for evaluating any possible changes caused by product contacts.

The Commissioner agrees with the substance of these comments. The proposed phrase is added at the end of the sentence in § 211.65(b) for the same reason as explained in reference to § 211.65(a). A similar change is made in § 211.67(a).

EQUIPMENT CLEANING AND MAINTENANCE

169. In reviewing the proposed regulations the Commissioner concludes that §§ 211.67 and 211.112 should be combined into a new § 211.67. Section 211.112 is deleted from the final regulation, and the substance of the requirements in proposed § 211.112 are included in the new § 211.67. The comments below include those relating to both proposed §§ 211.67 and 211.112.

170. Several comments said written procedures and documentation required by § 211.67 should apply only to major equipment, not to items such as ladles, buckets, and spatulas.

The Commissioner does not necessarily intend to require detailed procedures for cleaning each type of utensil. For example, such equipment may be grouped when convenient. However, the Commissioner believes that at least general written procedures should be instituted for cleaning utensils. Although not "major" pieces of equipment, utensils can be just as much a source of contamination. Depending on the type of operation, it may be necessary, for example, to sanitize or use procedures other than simple washing.

171. One comment said § 211.67 should be strengthened by requiring that cleaning and identification be performed by a competent individual specifically trained for these operations.

The Commissioner rejects this comment because it would be repetitive of the requirements in § 211.25 on personnel qualifications.

172. One comment on § 211.67(a) said that when equipment is dedicated to a single component or product, the use of water solution or gas purging would serve only to introduce material which should not be in the final product.

This paragraph does not prescribe what compounds must be used for cleaning, the manner, or the exact frequency of cleaning. To do so would be impossible, given the variety of products, equipment, manufacturing operations, and cleaning techniques. Selection is best left to each manufacturer, who also retains responsibility for assuring that their cleaning operations do not contaminate the drug product.

173. One comment said the list of procedural requirements for equipment cleaning should be deleted from § 211.112(a) since it is unnecessarily specific and unduly restrictive.

The Commissioner does not agree that the list of required procedures is either too restrictive or too specific. He believes that all the items are common sense procedures that most firms would incorporate, but some would not in the absence of CGMP regulations.

174. One comment on proposed § 211.112 argued that the word "shall" in the sentence regarding establishment of procedures should be replaced by the word "may" because the judgment of the manufacturing personnel should determine proper sanitary procedures.

The Commissioner rejects this suggestion. The purpose of these regulations is to assure that each firm establish appropriate written procedures regarding sanitation. Precise procedures are left to the reasonable judgment of manufacturing personnel, as long as the objectives of the requirement are met.

175. One comment said that § 211.67 as written requires the cleaning and maintenance of all equipment used in the manufacture, processing, packing, and holding of a drug product, which would include laboratory equipment, fork lifts, and truck fleets.

Any equipment used in association with drug manufacturing that could have an adverse effect on drug product quality if improperly maintained is covered by this section. Ordinarily, of course, fork lifts and fleet trucks would not be considered, but it is not inconceivable, for example, that the failure of a refrigeration unit in a truck could have a serious deleterious effect on drug products that must be kept cool. Laboratory equipment, when used for the quality control of drug products, is an integral part of the manufacture, processing, packing, or holding of drug products and therefore clearly is included in the scope of § 211.67.

176. Several comments on § 211.67 argued that requiring written procedures for the method used in the disassembling and reassembling of all equipment is overly burdensome and not necessary. It was recommended that the paragraph be deleted or rewritten to require such measures for significant pieces of equipment only. It was also recommended that parts which come into contact with drug products be disassembled, cleaned and reassembled, but not necessarily the entire piece of equipment.

The Commissioner concludes that the extent to which equipment must be disassembled depends on the type of equipment and other variable factors. The equipment must be disassembled to the extent necessary to prevent subsequent contamination and/or malfunction. The regulations in § 211.67(b)(3) are clarified in this regard.

177. Several comments said § 211.67(b) would require written procedures for "maintenance" of equipment and objected that the word "maintenance" is too general a term. One comment recommended that the paragraph be revised to read, "There shall be written procedures assigning responsibility for and describing preventive maintenance programs and cleaning schedules."

The Commissioner does not agree that rewording the paragraph, as suggested, is necessary. Maintenance means keeping a building, machinery, or other facilities in a good state of repair; and the term is understood throughout the industry.

178. One comment said § 211.67(b) is not relevant to good manufacturing practice for most products. The comment further said the description of the methods of disasembling, cleaning, and sterilizing is applicable only to parenteral drugs.

The Commissioner does not agree with this comment. Other types of equipment, for example, automatic tableting machines, also require disassembling, cleaning, and reassembling.

179. Several comments requested that the phrase "such written procedures shall be followed" be deleted from § 211.67(b).

The Commissioner does not agree with this comment. The requirement for written procedures is only part of the requirement for the use of current good manufacturing practice in the production of drugs. An equally critical part of the requirement is that the written procedures be followed.

180. One comment objected to the requirement in § 211.67(c) for making the maintenance and cleaning records a part of the equipment use log (as required in § 211.182) because the information is readily available in batch records.

The Commissioner rejects this comment. The intent of the record retention requirement is that cleaning and maintenance records be readily identifiable with equipment usage in the event of a problem where drug products must be investigated. Where the same equipment is used for a number of different drug products, for example, cleaning and maintenance records may not be easily retrieved. Section 211.182 in the final regulations provides, however, that individual equipment logs are not required where equipment is dedicated to the manufacture of one product and the batches are manufactured in numerical sequence.

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181. Several comments requested the deletion from proposed § 211.67(c) and § 211.112(a)(6) of the references to §§ 211.180 and 211.182 with regard to the record retention period.

The Commissioner disagrees with these comments. Section 211.182 provides the specific information and form in which equipment usage, cleaning, and maintenance records must be kept and is appropriate so that firms subject to these regulations are made aware of their responsibilities.

Further, improper cleaning and sanitizing could contribute as significantly to adulteration of products as could other problems in the manufacturing process and, in the event of contaminated products, the firm should be able to identify the cause of the contamination. The retention of these records under § 211.180 therefore should be consistent with other recordkeeping requirements throughout the CGMP regulations.

EQUIPMENT CALIBRATION

182. The Commissioner is combining the substantive requirements of proposed §§ 211.2 and 211.68 to form new § 211.68. Comments on proposed §§ 211.2 and 211.68 will be discussed here.

183. One comment requested that proposed § 211.2(a) be modified to permit the use of equipment other than the types listed. One comment argued that the use of computers should be allowed. Several comments suggested deletion of the word "precision" since it is superfluous and redundant.

The intent of this paragraph is to allow the use of any equipment that will perform a function satisfactorily in accordance with the requirements in Part 211. The Commissioner is therefore revising this paragraph in the final regulation (now § 211.68(a)) to permit the use of any automatic, mechanical, electronic, or other types of equipment, including computers or related systems, that will achieve this goal. Use of modifying word "precision" is not necessary because the paragraph requires that any equipment perform a function satisfactorily.

184. One comment suggested that the word "permit" in § 211.2(a) be replaced by the word "recognize," which would better express the intent of the paragraph. Several comments questioned the statutory authority of FDA to permit or prohibit the use of specific types or classes of equipment.

The revision of proposed § 211.2(a) (now § 211.68(a)) eliminates the word "permit." The authority to promulgate CGMP regulations includes the authority to regulate the use of equipment that could have a bearing on drug product quality. The argument that FDA does not have the authority to prohibit the use of equipment is academic, however, because there is no prohibition stated or implied. Testing and quality control are an inherent part of the manufacture, processing, packaging, and holding of drug products as defined in § 210.3(b)(12). Therefore, such equipment may also be used for testing and quality control.

185. Numerous comments suggested that the requirement in proposed § 211.2(b) for a backup file of hard copy data be amended to provide for other types of backup data, such as duplicate tapes or microfilm.

The Commissioner is convinced that it would be proper to allow for backup systems other than hard copy, and this paragraph is revised accordingly as § 211.68(b). Measures must be taken, however, to assure that backup data are exact and complete and that they are secure from alteration, inadvertent erasure, and loss.

186. Several comments objected to the requirement in proposed § 211.2(b) for checking computer reproductions of formulas and other records or data each time they are used, on the grounds that it should be sufficient to verify only the accuracy of the first reproduction.

The intent of this requirement is to ensure that each reproduction is the same as the original. Computer printouts do, on occasion, contain errors. Whether due to faulty input, programming, malfunction, or other reasons, they can result in a serious production error and the distribution of an adulterated product. The Commissioner therefore does not agree that only the first reproduction need be checked for accuracy. If a computer system has the capability, however, to verify its output, such as with audit trials, this could be considered as a check for accuracy.

187. One comment suggested deletion from proposed § 211.2(b) of the listing of items requiring backup data.

The Commissioner now believes that the listing of data to be included as hard copy data is not necessary. The intent of this paragraph is that backup data be kept of any information that is computerized, not that certain information be computerized.

188. One comment suggested deletion of the word "appropriate" in the second sentence of proposed § 211.2(b), charging it to be superfluous.

The Commissioner rejects this suggestion. Controls required by this paragraph must be adequate to achieve their purpose, but are not required to exceed this level.

189. One comment suggested that the third sentence of proposed § 211.2(b) be modified by deleting the word "reproductions" and replacing it with the phrase "input to the computer." The comment also suggested deletion of the phrase "data from the computer."

The Commissioner agrees that input to the computer must be checked for accuracy and is revising the paragraph accordingly in § 211.68(b). He does not agree that "data from the computer" need not be checked for accuracy and therefore rejects that portion of the comment. In considering the comments on the section and as a result of discussions with FDA staff knowledgeable in the computer field, the Commissioner has become aware that use of the word "computer" may be too restrictive so as to exclude data processing systems that do not compute. Therefore, the words "related systems" are added to include those systems that function only as data storage and retrieval.

190. One comment on § 211.68(a) asked whether electronic equipment recorders should be calibrated.

The Commissioner believes that recorders are an integral part of precision equipment systems. A faulty recorder may give unreliable results that may affect the quality of finished drug products. Recorders that are routinely calibrated, inspected, and checked reduce the margin for error and assure the quality of drug products.

191. A comment said the intent of § 211.68(a) is not clear as to the use and type of equipment that is applicable. The comment further said precision equipment that has no effect on the drug product quality should be exempted from the written program requirements.

The paragraph refers to equipment which is used in the manufacture, processing, packing, and holding of drugs and may therefore have an effect on drug product quality. No examples of equipment which did not have an effect on drug product quality were offered.

192. A comment requested that the term "precision automatic equipment" be defined. The respondent said it could, for example, include tablet counters and liquid fillers which are checked on a routine in-process basis where there is no need for routine calibration or inspection.

The Commissioner believes that tablet counters and liquid fillers are examples of precision automatic equipment. When routing in-process checks are made, regardless of the time interval, such checks should be performed according to prescribed procedures and records kept in accordance with the requirements of this paragraph.

193. Several comments on § 211.68(b) said the mandatory time interval of 6 months for calibration checks on scales and balances is arbitrary.

The Commissioner agrees that time intervals longer than 6 months may be appropriate in some cases. Because § 211.68(a) requires that automatic, mechanical, and electronic equipment, including scales and balances, be calibrated routinely to assure the quality of drug products, the provisions of § 211.68(b) are unnecessary and therefore are deleted.

193a. A comment requested the insertion of the word "weight" before the word "scales" in § 211.68(b) to clarify that this requirement applies only to weight scales.

The deletion of § 211.68(b), as proposed, removes the reference to "weight"; however, the Commissioner finds that any scale or balance used for testing of production operations is required to be accurate and must be calibrated and checked routinely as required in § 211.68(a).

194. A comment requested an additional paragraph covering the standardization of tablet punch and die sets.

Although the Commissioner believes that the comment has merit, he does not believe that it is generally appropriate in a general set of regulations to identify specific equipment used only in the manufacturing of one dosage form. Such requirements are more appropriate in regulations for specific dosage forms.

FILTERS

195. A number of comments on § 211.72 requested clarification whether this section is intended to apply to both air filters and solution filters. Other comments requested clarification that the proposed paragraphs (b) and (c) refer only to injectable drug products intended for human use.

The Commissioner finds that the intent of this section is to eliminate the use of fiber-releasing filters in liquid filtration systems during production of injectable drug products for human use. Revisions appearing in the final regulation clarify this intent. Additional background information regarding this requirement can be found in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865), which established the basic requirements for this section.

196. Several comments suggested that this section be deleted because it pertains only to injectable drug products and therefore should be placed in the specific regulations for this type of drug product.

The Commissioner agrees that this section and a portion of § 211.94 apply only to injectable drug products for human use and that such requirements will be suitable for the more specific regulations for large and small volume parenterals for human use when such regulations are in effect. The Commissioner previously concluded in the final regulation published in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865) that the use of fiber-releasing filters in the production of human injectables required codification in the general CGMP regulations until final LVP and SVP CGMP regulations are codified. These provisions will be incorporated in the more specific regulations regarding human parenteral drug products when they are published as final regulations. Again, the Commissioner reminds interested persons that this section has been in effect since April 14, 1975 (40 FR 11865).

197. One comment noted that by the time the final regulation becomes effective, proposed § 211.72(c) will be inoperative, since it requires substitution on or before September 14, 1976.

The Commissioner agrees with this comment and is therefore deleting paragraph (c) of § 211.72.

198. One comment objected to being forced to use filters in drug production.

Section 211.72 does not require the use of filters in the manufacture, processing, or packing of injectable drug products. However, if filters are used, § 211.72 specifies types of filters that cannot be used unless the drug product cannot be manufactured, processed, or packed without their use, and also requires that in this eventuality the drug product be refiltered through a nonfiber-releasing filter.

XI. CONTROL OF COMPONENTS AND DRUG PRODUCT CONTAINERS AND CLOSURES

GENERAL REQUIREMENTS

199. Several comments suggested that the requirements for containers and closures in proposed §§ 211.80(a) and 211.89 be separated from those for components and in-process materials because the testing controls, systems, and criteria differ.

The Commissioner finds that the control of in-process materials is more appropriate in Subpart F—Production Process Controls; therefore, all references in Subpart E to in-process materials are deleted. Proposed § 211.88 and certain requirements proposed in § 211.89 are now in § 211.110(c) and (d). It is appropriate to consider control of components, drug product containers, and closures together, however, because the separation of requirements for control of containers and closures from components in the CGMP regulations would necessitate the unwarranted duplication of numerous sections of text. The variations in handling, examining, or testing can be adequately addressed by each manufacturer in the written procedures required by the various sections.

200. One comment argued that these proposed requirements in Subpart E would place an additional burden on small manufacturers and that such requirements are unnecessary, particularly with OTC pharmaceuticals.

Drug product containers and closures play a critical role in assuring that the patient is provided a drug product of essentially the same strength, quality, and purity as when it was produced by the manufacturer. The Commissioner cannot agree that OTC drug products should not receive the same degree of protection as prescription drug products. It has been FDA's experience that "small" manufacturers can attain the same degree of quality of their drug products as large manufacturers. There cannot be different standards of quality of drug products for large and small manufacturers, nor can there be different standards of quality for OTC and prescription drug products.

201. One comment on § 211.80(a) raised several issues relative to the handling of bulk components being held in storage tanks or silos, including the commingling of a new shipment with the remainder from previous shipments and how such lots should be identified.

Combining a new bulk shipment of a component in a bulk storage tank with the remainder of a previously received, tested, and approved component lot causes the compositing of the material. The result is that the previously approved material becomes in integral part of an unapproved new lot and cannot be used until such lot is approved for use. However, a manufacturer may choose not to commingle approved lots with unapproved lots of components in bulk storage. In some instances a manufacturer may be able to test components appropriately before introduction to bulk storage as, for example, when a shipment of components is received with a valid certificate of analysis and where identification testing may be sufficient.

202. Some comments suggested deletion from § 211.80(a) of the words "in detail" because it would require the documentation of minutiae and voluminous written procedures.

The Commissioner agrees that the phrase "in detail" could be construed to include description of insignificant protions of the procedure, which is not the intent. Therefore, he is inserting the word "sufficient" before the word "detail."

203. Comments were received on § 211.80(a) recommending replacement of the phrase "approval or rejection" with the word "disposition."

The Commissioner disagrees with this suggestion. Written procedures must spell out the criteria for approval or rejection in view of such material's intended use.

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204. One comment suggested that the first sentence of § 211.80(a) be preceded by the phrase "where appropriate" to allow for the size and complexity of the operation.

The Commissioner believes that written procedures are appropriate regardless of the size or complexity of the operation. Written procedures provide a basis for the uniform performance of a function.

205. One comment suggested adding to § 211.80(b) the phrase "so as to alter the safety or efficacy of the drug product."

The Commissioner finds that it is reasonable to conclude that contamination would affect drug quality. Therefore, the suggested phrase is unnecessary and is not included in the final regulations.

206. Numerous comments strongly objected to the requirement in § 211.80(c) that components, drug product containers, or closures be stored at least 2 feet away from walls, maintaining that it would severely reduce the available storage area and thereby necessitate additional space to store the same amount of material with an attendant inordinate and unnecessary inflationary impact. Some of these comments suggested that this sanitation-oriented requirement be placed in § 211.56 or combined with § 211.80(b). Additionally, some comments offered alternate wording such as: to permit cleaning and inspection, to allow for appropriate sanitation operations, and to allow for effective sanitation practice. Some comments questioned whether this requirement only refers to outside walls or includes all walls, such as mesh screened walls, vault walls, partitions, and refrigerator and freezer walls. Some comments questioned whether free-standing shelves also had to be "at least 2 feet away from walls," since shelving is sometimes attached to the wall for safety reasons.

The Commissioner has carefully evaluated this paragraph in light of his intention to provide suitable spacing in storage areas for cleaning and inspection and concludes that a specific requirement for at least a 2-foot space between the wall and such material can be deleted, but a requirement to store materials in a way that allows for cleaning and inspection will be retained. He is also deleting the words "on pallets or free-standing shelves" to allow for other suitable methods of storage. The Commissioner believes it preferable to codify this requirement in this section rather than in § 211.56.

207. Numerous comments on § 211.80(d) objected to the proposed requirement to identify each container in a lot being received since many items, such as containers, closures, and excipients are palletized. This requirement, as proposed, would mandate that each pallet load be broken down so that each unit on the pallet could be identified, then repalletized, thereby increasing the potential for damage and mixups. This procedure is alleged to have an unnecessary inflationary impact.

The Commissioner recognizes that there are situations where it would be inappropriate to identify each container or component, drug product container, or closure such as mentioned in the proposed regulation. He agrees that some provision should be made for these situations. He is therefore amending this paragraph by adding the words "or grouping of containers." Any individual unit separated from a grouping must be identified with the appropriate information required by this paragraph.

208. Some comments requested a clarification of the word "disposition" in § 211.80(d) that would distinguish between a simple transfer of the material and use of the material for a particular purpose.

The Commissioner believes that the word "disposition" appropriately covers any use or change in control status of the lot, including both of those cited in the comments.

209. Some comments questioned the intent of the last phrase of § 211.80(d). The respondents stated that if the intent is to identify those containers that have been opened, then a period should be placed after the parentheses and a suggested new sentence added to clarify the intent.

The Commissioner agrees that this phrase could be interpreted to require that only the lot be marked to indicate whether and when it had been opened and sampled. The requirement for the sampling of lots is contained in § 211.84. Therefore, he concludes that the requirement in § 211.80(d) regarding identifying sampled containers is more appropriately placed in § 211.84(c), which will clarify the intent to identify containers which have been sampled.

210. One comment on § 211.80(d) suggested that when a shipment of components contains more than one manufacturer's lot number, the recipient be allowed the option of assigning a single code number for this shipment.

The Commissioner rejects this suggestion inasmuch as it would either complicate or negate tracing a component back to a particular manufacturer's lot or the subsequent tracing of a particular lot of component used to a lot of drug products.

211. One comment objected to the requirement in § 211.80(d) that containers of drug product containers bear an identifiable lot number, on the grounds that this is not standard practice in the industry. The comment suggested that the recipient provide a distinctive code for such containers.

The requirement is that each lot of each shipment be identified with a distinctive code. If a lot number furnished by the supplier is distinctive for each lot in each shipment, then the recipient, i.e., the drug product manufacturer, can use the lot number as the distinctive code. If, however, there is no lot number or the lot number is not distinctive for each lot in each shipment, then the recipient is responsible for designating his own distinctive code.

RECEIPT AND STORAGE OF UNTESTED COMPONENTS, DRUG PRODUCT CONTAINERS, AND CLOSURES

212. One comment proposed that § 211.82(a) be divided to cover components, and containers and closures separately.

The identification of articles received, camparison with materials ordered, and examination of the overall condition of the material received is carried out in much the same way regardless of the character of the article received. The Commissioner sees no advantage to promulgating two separate regulations on receiving and storage of materials, one for components, and the other for containers and closures. To do so would simply be redundant.

213. A number of comments on § 211.82(a) said individual containers of components, containers, and closures need not be visually examined before acceptance as long as they are checked before use. The rationale for the comments is that a visual check of each container is impractical and unrealistic for large shipments of bagged materials that are palletized as a unit and/or shrink-wrapped. The respondents suggested that tearing apart materials packaged in that manner would be costly and could be better done before use rather than in a receiving area.

It was the Commissioner's intent in this paragraph to provide for a simple check at the time of receipt to detect obvious problems such as the wrong article, damaged containers, or visible contamination which would preclude any further handling of the materials. He recognizes, however, that individual container examination of large lots of bagged or boxed materials is impractical when they are received. Therefore, this requirement is revised to provide for examination of each container or grouping of containers.

214. A number of comments expressed concern over the possibility of contamination if containers of components and other materials are opened for examination in the receiving areas of factories. To avoid cross-contamination it was suggested that examinations be limited to the exterior of the containers or to shipping containers.

The Commissioner notes that this paragraph does not specify that seals must be broken for purposes of examination. It is the intent of this paragraph that a visual examination be performed. In most cases it would be adequate to limit the examination to shipping containers. If the firm feels an inspection should be made in depth, proper precautions must be taken to prevent cross-contamination.

215. Several comments in regard to § 211.82(b) objected to the concept of setting a special area aside for quarantined materials. They felt that reserving space for this purpose and moving stock into and out of this special quarantine area would be costly because of the additional space and labor required. Further, some felt that paperwork systems can accomplish quarantine purposes.

The Commissioner refers to the detailed discussion in paragraph 128 of this preamble that describes the variety and degree of physical quarantine procedures which, when combined with other controls, provide the assurance necessary to prevent untested and unreleased materials from being used in drug manufacturing operations.

216. Several comments on §§ 211.82(b) and 211.84(a) proposed that components should be "tested" whereas containers and closures should be "examined visually," and that the word "tested" should be deleted whenever it refers to containers and closures.

The Commissioner does not agree that appropriate testing of containers and closures can be limited in all cases to visual examination. Even in instances where visual examination would suffice, however, the word "testing" is meant to include such examination. Other CGMP regulations do use the word "examination" along with "testing" to suggest a lesser type of testing, if appropriate, however; and the Commissioner is therefore adding the phrase "or examined, as appropriate" to prevent any misinterpretation of §§ 211.82(b) and 211.84(a).

TESTING AND APPROVAL OR REJECTION OF COMPONENTS, DRUG PRODUCT CONTAINERS, AND CLOSURES

217. Citing various reasons, comments suggested that § 211.84(a) be revised to permit use of components, drug product containers, and closures, simultaneously with testing and with precautions to prevent release of the drug product until the tests indicate compliance with specifications.

As a general principle, such procedures would violate the precepts of good quality control because untested and possibly noncomplying materials would be used in drug product processing. Although initially it would appear that the manufacturer merely assumes the risk of having to recondition or destroy a processed lot that was found to contain unsatisfactory components, containers, or closures, the Commissioner is concerned that processing while testing substantially increases the risk to the consumer that an unsatisfactory lot might erroneously be released. The Commissioner cannot accept such risks or these suggestions.

218. Two comments on § 211.84 suggested that the only practical test of product container and closure acceptability is the actual use of them.

The Commissioner rejects the concept. He notes that there are techniques available and in use by which the suitability of a container-closure system can be determined before its use. Manufacturers do develop specifications for product acceptance when making their purchases. Such purchases are made with definite knowledge of what is needed. The regulation simply requires that checks be made to assure that what has been received is what has been ordered.

219. One comment suggested that a protocol or certificate from the container manufacturer that the container meets the U.S.P. requirements be acceptable in lieu of the recipient performing the tests.

The Commissioner notes that certificates or reports of analysis are acceptable for components with certain provisions, such as periodical verification of the supplier's test results. Therefore, he would have no reservation about accepting a certificate or report of analysis with each shipment of drug product containers—as long as the lot of containers is appropriately identified, the supplier's results are periodically verified, and their certificate provides all appropriate testing. A new paragraph, § 211.184(d)(3), is added to clarify this provision.

220. One comment interpreted § 211.84(a) to require that each lot of components, drug product containers, and closures be tested before each use in processing.

This paragraph does not require such a practice, nor is that intended.

221. Several comments questioned the meaning of container identification in § 211.84(a) and its relationship to a similar requirement in § 211.80.

The Commissioner is deleting the requirement regarding container identification from § 211.84(a) because such requirement more appropriately appears in § 211.80.

222. Several veterinary drug manufacturers responded that the testing requirements for drug product containers and closures in § 211.84(a) should not apply to veterinary drugs or that a very simple visual examination of such items would be all that is necessary for animal products. One comment said the requirements for containers and closures in Subpart E are not current good manufacturing practice for the veterinary drug industry.

The Commissioner does not accept the stated premise that the veterinary drug industry does not exercise such control over these containers and closures to ensure the protection of their drug products from external influences such as light, moisture, and microbes. The agency's experience in inspecting veterinary drug manufacturers and in reviewing new animal drug applications indicates that this is not so. The requirements of Subpart E can and should apply to both human and veterinary drug products.

223. A number of comments on § 211.84(b) objected to a requirement for the use of statistical criteria to determine the sample sizes for testing. Many of the comments recommended that the requirement be made optional or that it be applied only when necessary or appropriate. Some suggested that few people in the pharmaceutical industry understand statistical methods and that even experts differ on interpretation and application. One comment suggested that representative samples are impossible for all materials and suggested that random sampling be permitted.

The Commissioner believes that statistical methods provide a rational basis for determining sample sizes, provide assurance that an adequate sample has been obtained, and increase the user's confidence that the results from testing of the sample are representative of the true condition of the product sampled. The Commissioner recognizes, however, that other sampling plans, derived by other means, may also be adequate, and this section is revised to allow the use of alternative types of sampling plans. This will allow for use of random sampling methods if appropriate.

224. A few comments requested that containers and closures not be included in the representative sample requirement of § 211.84(b). No rationale was included to explain the request.

If the comments meant that other sampling methods such as random sampling are more appropriate, then the change made in this paragraph will be responsive to these comments. If the comments meant that containers and closures should not be sampled at all, the Commissioner rejects the comments because he believes that examinations must be made on product containers and closures to assure their suitability for use in drug product packaging.

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225. One comment requested explanation of an acceptable "past quality history of a supplier," as suggested by § 211.84(b).

The Commissioner did not use the word "acceptable" in his proposal, but did permit the past quality history to be used in determining sampling plans for articles received from various suppliers. The object of considering the past quality history is that the fewer the problems encountered with materials from a particular supplier and the more often that supplier's products meet specifications, the less extensive the sampling schedule may need to be for that material. Conversely, the more problems encountered with articles from a particular supplier, the more extensive the sampling schedules for the articles need to be.

226. One comment suggested that the word "incoming" be inserted before the word "shipment" so that the sentence is clear that no reference is being made to outgoing shipments.

The Commissioner believes the meaning of the section is clear and that the sentence refers to materials received for use in drug production. Therefore, no change is made in the final regulation.

227. One comment suggested deletion of the reserve requirement in § 211.84(b) because such a requirement appears in § 211.170(a) and is appropriate only for components.

To clarify his intent here, the Commissioner is adding the words "where required by § 211.170."

228. Two comments recommended that the requirement in § 211.84(b) for testing each shipment of each lot is unnecessary when a previous shipment of the same lot had been received, tested, and approved.

The Commissioner feels that examination of each lot of each shipment received is necessary even though a portion of the same lot has previously been received, tested, and approved. Subsequent shipments may have been subjected to different conditions which may have caused changes in materials so that, although one shipment of a particular lot has met specifications, another may not.

229. Fifteen comments on § 211.84(c)(1) stated that containers from which samples are being collected do not always need to be wiped or vacuumed. In addition, two other comments requested deletion of all the paragraphs as unnecessary because all manufacturers know what they need to do.

The Commissioner agrees that a container of components may not always need cleaning before sampling and that, where cleaning is needed, wiping or vacuuming may not necessarily be the most effective means of cleaning. Therefore, he is revising § 211.84(c)(1) to provide manufacturers with more latitude in this operation. The Commissioner does not agree, however, that controls used in sampling are uniform throughout the pharmaceutical industry. Some manufacturers already have the controls required here, while others do not. Therefore, this requirement is appropriate in the CGMP regulations.

230. Several comments suggested inclusion of additional controls in this section as follows: provisions for handling sterile materials; a requirement that each container that is sampled be marked; and identification of the location within a container from which a sample was taken.

The Commissioner believes that the proposed requirements, with one exception, provide sufficient control of sampling procedures. The language of this section is general to allow for a wide variety of methods of handling products with a wide variety of characteristics. It is not the Commissioner's intent to design a specific control procedure which a manufacturer must follow, or to preclude flexibility in meeting this objective. It is sufficient here to state the control desired and leave the specifics to the reasonable judgment of the manufacturer. The Commissioner believes that the suggestion for identifying the locations within a container where samples have been taken is inherent in § 211.84. To clarify that containers from which samples are taken must be marked in order to produce an appropriate record, the Commissioner is adding a new § 211.84(c)(6).

231. A number of comments were received on § 211.84(c)(4) relating to component subsampling and compositing of subsamples. The majority of those commenting recommended that the regulations allow for compositing. Some respondents stated that sampling at multiple levels is not always necessary. Others suggested that the instances be spelled out where sampling at multiple levels is necessary. One comment indicated that compositing is a satisfactory procedure if the container contents are all going to be used in a single drug product lot.

The intent of this proposed section is to prohibit the compositing of samples taken from different portions of a container when there is a possibility that the composition of the material being sampled may vary within the container. There is no general prohibition in the regulations on compositing samples where such compositing would not mask subdivisions of the sample that do not meet specifications.

232. A number of comments suggested changes in the requirements proposed in § 211.84(c)(5) for identifying the sample containers. Three comments objected to the proposed sample container identification as being too burdensome because the information is available in other documents. One comment suggested that an in-house code to identify samples is adequate. Another said that the proposed sample container identification is not a current good manufacturing practice.

It is not the Commissioner's intent that all the listed information appear on the sample container. Section 211.84(c)(5) is reworded to require only a means whereby sample containers can be related to the required identification information.

233. One respondent expressed concern that the requirement for opening containers for sampling in a suitable area would lead to separate areas for each ingredient.

This paragraph is revised in the final regulation, and the words "suitable area" are deleted.

234. One comment suggested deletion of the word "containers" in § 211.84(c)(2) dealing with cross-contamination because the requirement should relate to the contamination of components and not containers.

The Commissioner agrees that the protection from contamination, as required in § 211.84(c)(2), should relate to the contents of sampled containers. The final regulation is clarified in this regard.

235. Twenty-eight comments on § 211.84(d)(1) stated in essence that the word "specific" should be deleted with reference to identity tests because there may not be specific identity tests for each component. The words "appropriate" and "if available" were suggested for use instead.

The Commissioner recognizes that the accuracy and precision of testing procedures vary. The purpose of § 211.84(d)(1) is to assure that some identification procedure is used for each component and that it is as specific as possible. Otherwise, the test has little value for purposes of identifying a material. This paragraph is reworded in recognition that specific identify tests do not exist for all materials.

236. One comment said interpretation problems could occur with the identity test requirement for active and inactive ingredients in § 211.84(d)(1) in multiple-ingredient components. The suggestion was made that the wording be changed so that an identity test for each component had to be performed whether it was an active or inactive ingredient.

The Commissioner is clarifying § 211.84(d)(1) in the final regulation by requiring at least one test to verify the identity of each component of the drug product.

237. Five comments said there should be no requirement in § 211.84(d)(1) for an identity test for inactive components.

The Commissioner believes it is important to identify inactive components to avoid erroneously using unsuitable components to manufacture a drug product.

238. The use of organic chemical reactions as indications of product identity in bulk chemical processing was recommended by one respondent as an acceptable identity test under § 211.84(d)(1).

The Commissioner advises that the final regulation does not preclude organic chemical reactions as indicators of component identity, if appropriate.

239. A number of comments relating to validation of a supplier's test results recommended that that portion of § 211.84(d)(2) be deleted. The argument was that the validation requirement would preclude the use of procedures other than those used by the supplier. One change in the wording was suggested: that the word "monitors" be used in place of "establishes."

The Commissioner believes that alternative procedures may be an acceptable means of validating methods used in the testing of materials by a supplier. The regulations do not preclude the use of alternative methods.

About the word "monitors" in place of "establishes," the Commissioner believes that the meaning of this sentence would be changed if the substitution were made. If a manufacturer wishes to rely on a supplier's report of analysis, the manufacturer must first establish that those reports are reliable. That reliability is established by the manufacturer's own testing which, when compared to the supplier's data, shows agreement within specified limits over a period of time. Once that reliability is established, then the level of the manufacturer's validation testing may be reduced and reliance on the supplier's report may increase. Continuing checks should be made on the supplier's reports because some kind of periodic monitoring must occur to assure the continued reliability of the supplier's test results.

240. One comment suggested that the word "complete" should be deleted from § 211.84(d)(2) as a descriptive term for the supplier's report of an analysis.

The Commissioner's intent in this paragraph is to allow for alternative routine testing where reliable reports of analysis are available for components. He finds that the criteria for accepting reports of analysis adequately provide for their proper application and that the modifying term "complete" is not necessary. The final regulation is revised accordingly.

241. One comment said suppliers' reports of analysis are not always reliable and suggested that several additional guarantees be required in § 211.84(d)(2). They included, in addition to the report of analysis, a guarantee of the type described in section 303(c) of the act, a certification that the testing reported was done within 7 days of the report, and a guarantee that at the time of shipment/receipt that the component will still conform to protocol specifications.

Suppliers' reports of analysis must be validated to establish the reliability of the suppliers' analysis. Additional specified requirements relating to supplier's test results do not now appear to be necessary for these regulations.

242. One comment expressed concern that the validation requirement in § 211.84(d)(2) would lock a manufacturer into a single supplier, presumably because of the investment in validation procedures.

The Commissioner advises that reliance on a supplier's report of analysis is not mandatory—it is optional in lieu of testing by the manufacturer. Although an investment in validation might persuade a manufacturer to remain with a single supplier, this does not constitute sufficient reason, in the Commissioner's opinion, to preclude the use of this approach by manufacturers. Competition among suppliers should not be adversely affected by this option.

243. One respondent proposed deleting the word "all" with reference to the phrase in § 211.84(d)(2) that testing be done in accordance "with all appropriate specifications," apparently to allow for less stringent testing if deemed appropriate by the manufacturer.

The Commissioner believes the suggested change would alter the meaning of § 211.84(d)(2). The intent is that appropriate specifications be established. Once appropriate specifications have been set, it is not acceptable to test for less stringent specifications.

244. A comment suggested deletion from proposed § 211.84(d)(3) (now § 211.84(d)(4)) of the reference to microscopic examination, stating that it does not seem to relate to any of the other provisions in this section.

The Commissioner recognizes that § 211.84(d) could list various other types of examinations, but he does not believe it inappropriate to specify a particular requirement for microscopic examination when appropriate, while not listing others. For certain classes of drugs, particulate contamination is of increasing concern. Identification and classification of particulate matter may properly require microscopic examination. Therefore, the Commissioner believes reference to microscopic examination is worthy of emphasis in the regulations.

245. Eleven comments on proposed § 211.84(d) (4) and (5) (now § 211.84(d) (5) and (6), respectively) indicated that requiring materials to be either approved or rejected after testing does not take into account other categories of material status into which materials could fall if they do not meet specifications. For example, comments said that materials could be reprocessed or approved for alternative uses and proposed that a revision be made to recognize these other possible classifications.

The Commissioner agrees that destruction may not be the only way of disposing of materials which do not meet acceptance criteria. If materials are being tested for their acceptability for manufacturing a particular drug product and they do not meet those criteria, however, they must be rejected for that use. This requirement has been set forth in § 211.84(e) now, rather than in (d)(5) and (d)(6). There is no prohibition against the use of such materials after appropriate reprocessing, or for other uses for which the acceptance criteria can be met.

246. One comment suggested that examination of material under proposed § 211.84(d)(5) be limited to visible contamination.

Other types of examination may be necessary to identify contamination, because contamination that is not visible may adulterate a material as significantly as visible matter. Therefore, the suggestion is rejected.

247. One comment suggested a new requirement be added to § 211.84(d) that representative samples of materials be examined for filth or microbiological contamination.

The Commissioner notes that other paragraphs in this section, particularly § 211.84 (a) and (b), require testing of representative samples. There appears to be no need to repeat it in § 211.84(d).

248. One comment said with regard to proposed § 211.84(d)(5) that it is the manufacturer's responsibility to determine the need for testing for microbial contamination.

The Commissioner agrees that it is the manufacturer's responsibility to determine what materials are liable to microbial contamination, but having made that determination, the manufacturer must proceed to test those materials for such contamination.

249. The requirement in proposed § 211.84(d)(5) for microbiological testing of materials liable to bacterial contamination was interpreted by one comment as requiring sterility tests for containers and closures used in aseptic filling operations.

The Commissioner agrees that an evaluation of a final production of

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aseptically produced sterile products would include the testing of containers and closures. Once a procedure is validated, periodic testing and control monitoring are necessary to assure that the processing controls continue to work.

USE OF APPROVED COMPONENTS, DRUG PRODUCT CONTAINERS, AND CLOSURES

250. A substantial number of comments objected to the requirement that, without exception, approved components, containers, and closures must be used on a first-in, first-out basis. These comments pointed out, for example, that on occasion a manufacturer might wish to evaluate a new supplier, or equipment, or processes in relation to a new container; or that on occasion the oldest stock might be physically inaccessible for a short period of time. Several comments deemed the regulation unnecessary because some containers are inert.

The Commissioner believes that the concept of using the oldest approved stock of components, containers, and closures is fundamentally sound. Even inert containers may be subject to increased breakage, cracking, or other defects after prolonged storage. There may, however, be legitimate reasons for varying from this requirement in some instances. Therefore, this section is revised to provide for exceptions from the first-in, first-out requirement by adding a provision that deviation from this requirement is permitted if such deviation is temporary and appropriate.

RETESTING OF APPROVED COMPONENTS, DRUG PRODUCT CONTAINERS, AND CLOSURES

251. Several comments on § 211.87 did not agree that components, drug product containers, and closures should all be retested in accordance with established requirements. They maintained that components require specific retesting procedures to assure continued identification, strength, quality, and purity, whereas the likelihood of deviation of containers and closures from specifications because of deterioration is considerably less and should not require the same degree of retesting as components. They contended that stating requirements for retesting components and containers within the same section by the use of qualifying statements like "appropriately" or "as necessary" would weaken the former to accomodate the latter. They therefore proposed that this section be divided into two subsections, one for retesting components and a second for containers and closures.

The Commissioner believes that this section allows for different treatment of containers and closures versus components by use of the phrase "as necessary." The Commissioner recognizes that all the objectives of retesting listed in this section—to reestablish identity, strength, quality and purity—are not necessarily applicable to all containers and closures because all containers and closures are not necessarily tested originally for all these attributes. He also recognizes that the period for appropriate retesting varies not only according to conditions of storage, but also according to the type of component and the type of container and closure. The Commissioner retains the wording of the proposal in the final regulation.

252. One comment suggested that the words "or examined" be added after the word "retested" in § 211.87.

The Commissioner agrees that examination is not precluded by this section if examination is the appropriate test for the attribute being considered. Therefore, this section is modified in accordance with the respondent's suggestion.

REJECTED COMPONENTS, DRUG PRODUCT CONTAINERS AND CLOSURES

253. One comment recommended that in § 211.89 the words "lots of" be inserted between the words "rejected" and "components."

The Commissioner rejects this recommendation since the requirement applies to all rejected components, drug product containers, and closures whether they be lots, batches, portions of lots or batches, or otherwise identified.

254. Several comments suggested that this section be expanded to deal with the subsequent disposition of rejected materials.

The Commissioner notes that the criteria for reprocessing rejected materials are adequately covered in other sections of this part. It is not necessary to deal with other methods of disposition because they are varied, are within the manufacturer's discretion, and may include destruction, return to the supplier, or use in other products where specifications are met. The Commissioner believes the major concerns of FDA are that rejected materials are not inadvertently used in a product for which they are not acceptable and that any such materials that are reprocessed and found suitable for reuse meet specifications, standards, and characteristics for the intended use.

DRUG PRODUCT CONTAINERS AND CLOSURES

255. A number of comments asked about the meaning of the word "container" in § 211.94(a). For example, respondents inquired about the applicability of the proposed requirements to shipping cartons and containers for holding of in-process materials.

As recognized by the majority of comments received about this paragraph, the section heading introduces requirements regarding drug product containers and closures. The Commissioner finds that minor editorial changes in the text will clarify that this section is intended to apply to drug product containers. Requirements elsewhere in the regulations deal with appropriate handling of components and in-process materials.

256. Several comments on § 211.94(a) involved testing requirements for container and closure systems. One comment recommended that specific testing requirements be included in this section. Another comment said that once the suitability of a container-closure system had been established, it should not be necessary to test each lot in minute detail.

The Commissioner finds that specific detailed requirements for testing of the container-closure system are not necessary for this section. Usually, manufacturers already have the benefit of experience with containers fabricated from materials with well-known properties. Further, the requirement of § 211.166, particularly paragraphs (a)(4) and (b), will provide substantial information relative to the suitability of a container-closure system. Where the manufacturer does not have adequate information regarding the container-closure system, the responsibility is on such manufacturer to establish the suitability of the container-closure system for its drug product. The final CGMP regulations do not specify detailed testing of each and every lot of containers. Manufacturers are responsible for the extent and manner of sampling and testing of drug product containers and closures. Adequate sampling and testing of containers will depend on a number of factors. The duty of the manufacturer is to assure that the container-closure system meets appropriate specifications that have been established for a particular packaged drug product.

257. One comment suggested that § 211.94(a) also specify that the container-closure system "be clean."

Revisions in § 211.94(c) clearly provide for the use of clean containers and closures.

258. All of the numerous comments on § 211.94(b) requested that the requirement that container-closure systems "provide adequate protection" be modified to the limits of "normal" storage and use of the product or to limits of use and storage set forth on the label.

The Commissioner agrees that the proposed regulation requires a level of protection that may not be possible to achieve in unforeseen circumstances. Therefore, the final regulations are revised to include the concept of foreseeable conditions. The Commissioner believes, however, that the acceptability of container-closure systems under a relatively narrow range of conditions that might be considered "normal" is not sufficient. It is reasonable for manufacturers to consider conditions that can be expected to occur occasionally; for example, extreme temperature variations that may be encountered during winter and summer months for drug products that are in transit can be reasonably foreseen by manufacturers and should be taken into account when considering the suitability of container-closure systems.

259. About 50 comments were received concerning § 211.94(c). Most suggested modification of the requirement that containers and closure systems always be cleaned before usage. Many indicated that although it was the drug manufacturer's responsibility to see that these items are clean, manufacturers may not always have to perform a separate cleaning operation. Examples of items which may not always need cleaning were cited, such as: caps, liners, blisters, neutralizers, and films.

In proposing this requirement, the Commissioner intended that containers and closures be clean before use. In some instances this will require the manufacturer to perform separate, and sometimes extensive, cleaning cycles. In other instances it may not be necessary for the manufacturer to undertake a specific cleaning operation. In any event, containers should not be released by the quality control unit, as specified in § 211.84(a), until procedures, standards, or specifications, established under § 211.94(d) have been met. To clarify the intent of this section the word "cleaned" is changed to "clean."

260. The majority of the comments regarding § 211.94(c) were directed at the requirement, currently in effect, that containers and closures be cleansed with water that has been filtered through a nonfiber-releasing filter of specified pore size. Comments strongly objected to this requirement for a number of reasons. A few read the paragraph as requiring that containers be recleansed with water, whether or not a cleaning cycle is necessary; several respondents noted that solvents other than water are used for cleansing; others objected to the pore size requirements because of high volume demands of cleaning cycles. In addition, arguments were presented that by requiring filtration of cleaning water for injectable containers, new problems of microbial and pyrogen contamination are possible.

In particular, the United States Pharmacopeia submitted comments by the Subcommittee on Particulate and Chemical Contamination, National Coordinating Committee on Large Volume Parenterals (NCCLVP), whose committee membership includes representatives from major health care organizations, industry, and government. The NCCLVP expressed concern that the requirement for filtered cleaning water presents disadvantages and potential hazards that far outweigh the benefits. The specific reasons for their concern are as follows:

1. Water lines for transferring cleaning water for injectable containers are designed, constructed, and maintained to deliver large quantities of high quality water under high pressures. In order to maintain the integrity of these lines and the quality of the water, disruptions must be minimized. The need to routinely install, test, and replace bacteria-retentive filters of the type required will undoubtedly compromise the integrity designed into these lines. Furthermore, the pressure drop resulting from the inclusion of such filters will jeopardize the quality of the wash.

2. Cleansing and rinsing procedures require copious volumes of water. Even with water containing low levels of microorganisms and particulates, significant accumulation of such contamination can occur on the filter surface. Proliferation of bacteria on the intact filter can lead to the generation of pyrogens or the growth of certain bacteria through the filter pores if a 0.45-micron filter is used. Since high flow rates and pressures are required, the chance for mechanical failure and breakage of the filter is increased, thereby increasing the risk for the passage of a bolus of bacteria.

3. Because of the microbial jeopardy described above, these filters will require scrupulous maintenance. Such efforts will result in significant penalties to the process in both material and labor costs.

It is the opinion of the Subcommittee on Particulate and Chemical Contaminants that if a fiber-releasing filter is not employed in the process and a final rinse is performed with high-quality, microbiologically controlled water, it would appear to be unreasonable to introduce the disadvantages described above.

The final regulation regarding asbestos particles in drugs for parenteral injection was published in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865). At that time the Commissioner had concluded that it was prudent to require that containers and closures for human injectable drugs be cleansed with water that has been filtered through a nonfiber-releasing filter of a specified pore size. In view of comments received, the Commissioner is concerned that the requirement for filtered cleaning water may introduce new problems that outweigh risks of potential asbestos particle contamination from the container cleaning operations. The Commissioner notes that he raised a similar issue in the preamble to the CGMP regulations for large volume parenterals, published in the FEDERAL REGISTER of June 1, 1976 (41 FR 22202).

Because of the comments received, the Commissioner finds that there is substantial good reason to suspend, at least temporarily, the requirement that injectable containers and closures be cleansed with filtered water to remove fibers. The commissioner wishes, however, to serve notice that the issue of fiber removal from parenteral drugs, including where such fibers may be introduced through the cleaning cycle of containers, continues to be an important problem under review by FDA. Until FDA has additional information on the fiber content of cleaning water and the significance of such fibers, however, the final regulations are revised to delete the requirement for filtered cleansing water. But this action in no way affects the agency's position on fiber-releasing filters in the manufacture of injectable drug products for human use (see § 211.72).

261. Almost all the comments on § 211.94(e) said it was a restatement of the other parts of this section and therefore should be eliminated. One comment said the phrase "the holding of" was redundant since, by definition, containers are used "for the holding" of a product.

The Commissioner finds that the requirement of the proposed paragraph is not necessary in this section because a similar requirement appears in § 211.165(g). Therefore, he is deleting the proposed paragraph (e) from this section.

DOCUMENTATION OF CONTROLS

262. A number of comments suggested that § 211.96 be deleted on the grounds that it duplicates provisions of § 211.84.

The Commissioner agrees that both sections deal with documentation of the receipt, testing, or examination and disposition of components, drug product containers, and closures. Therefore, § 211.96 is deleted.

XII. PRODUCTION AND PROCESS CONTROLS

WRITTEN PROCEDURES; DEVIATIONS

263. One comment on § 211.100 said written procedures for manufacturing and quality control should be reviewed and approved by "the appropriate organizational units" instead of by the quality control unit because the quality control unit does not necessarily possess an expertise greater than that in other units. Another comment said the quality control unit does not have a sufficiently wide expertise to review and approve all areas of drug product manufacturing, including such areas as production, engineering, research, safety, and regulatory affairs. A third

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comment said the requirement for approval of written procedures for manufacturing and quality control by appropriate organizational units other than the quality control unit should be deleted.

The Commissioner rejects these comments. He has not proposed that quality control have complete expertise in all of these areas. The requirement for review and approval of manufacturing and control procedures is clearly a requirement that the quality control unit review these procedures in light of what may affect the product in terms of safety and quality. To remove from the quality control unit the responsibility for approving written procedures would diminish the authority and responsibility that should be vested in the quality control function. Further, based on the agency's experience with the industry, the Commissioner believes that the concept of quality control review and approval for procedures that have a bearing on the quality and safety of a drug product is current practice. This section also properly requires review and approval by other appropriate organizational units. Therefore, the quality control unit's function does not replace the expertise that would be vested in other units.

264. Another comment on § 211.100 said requiring review and approval by the quality control unit is infringing unreasonably on individual manufacturers in determining their own organizational structures.

The Commissioner does not believe that this requirement unduly dictates organizational structure. For example, it does not designate to whom the quality control unit or other organizational units must report.

265. One comment on § 211.100(a) said appropriate units should be required to review, as well as draft and approve, manufacturing and control procedures.

The Commissioner agrees and is inserting the word "reviewed."

266. One comment suggested that the word "justified" in the last sentence of § 211.100(b) be replaced by the word "explained." Another comment proposed substitution of the word "approved."

The Commissioner believes that the word "justified" properly reflects the intent. All production and process control procedures must be approved, whether initial or subsequent changes. It is not necessarily enough to "explain" or "approve" a deviation. There must be a valid reason for a deviation.

267. One comment on § 211.100(b) said only significant deviations should be recorded and justified.

Section 211.100(b) requires that written procedures shall include all requirements as specified in subpart F of the CGMP regulations. This subpart does not require written procedures for every conceivable or minute detail of production and control. When such procedures are essential, the Commissioner maintains that any deviation from them is significant and should be recorded and justified. To modify the regulation as proposed would imply, however, that only some deviations are significant.

268. A comment proposed deleting from § 211.100(b) the phrase "and shall be documented at the time of performance."

Documentation of performance, in the Commissioner's opinion, certifies that the written procedures have been followed. He concludes that it is a necessary part of this section.

CHARGE-IN OF COMPONENTS

269. One comment on § 211.101 stated that the heading "charge-in of components" is an unfamiliar phrase and is not defined.

The Commissioner recognizes that not all firms use the same terminology to define similar phenomena. He believes the heading is clear when considered in light of the context of the section and that no change or definition is needed.

270. One comment said § 211.101 is addressed to dosage form production and cannot profitably be applied to chemical manufacture.

These CGMP regulations apply to finished dosage form drugs (under §§ 210.3(b)(4) and 211.1) and are not binding requirements for chemical manufacturing. The Commissioner maintains that these regulations can serve as useful guidelines in the manufacture of chemicals. The agency plans to develop specific CGMP regulations on production of bulk drugs.

271. One comment said it would be difficult to follow the requirements of § 211.101 when producing radiopharmaceuticals because the exact quantity of the radionuclide available before the production cycle begins is not known, and the components measurement must be performed aseptically.

The Commissioner is rewording § 211.101 to allow for its application to radiopharmaceuticals. Further, this comment will be considered when specific CGMP regulations are proposed for radiopharmaceutical drug products.

272. One comment said the operation supervisor may or may not be the same person as the one checking the operation and suggested adding a new paragraph (e) to § 211.101 to have the appropriate entries made on the batch record.

The Commissioner believes that § 211.188(b)(11) adequately covers this.

273. One comment said § 211.101(a) is ambiguous because the word "intent" needs defining. The respondent pointed out that antibiotic products are certified under published monographs permitting 85 or 90 percent of labeled claim as a basis for certification.

The Commissioner notes that this paragraph does not prohibit the release of batches of drug products if the percentage of active ingredients is within acceptable limits. The Commissioner recognizes that acceptable limits are in most cases a few percentage points above and below 100 percent of labeled potency. What is prohibited is the purposeful formulation of a product to yield less than the label declaration.

274. Several comments expressed concern that every active ingredient amount would have to be recalculated to provide 100 percent and that a new master production record would have to be prepared for each new lot of active ingredient because every lot of active ingredient may not have the same potency value.

The Commissioner believes that use of the word "intent" should be emphasized. Drug products must be formulated to provide 100 percent of labeled potency based on the usual assay of active ingredients. Active ingredients that are slightly above or below the usual value, but are within appropriate established specifications, may be used without reformulation provided that the resultant drug product will provide a percentage of active ingredient that is within acceptable limits. The criteria for acceptance of components should be such that proper use will result in an acceptable drug product.

275. One comment said it is extremely difficult to formulate a biological product to fulfill the requirement of § 211.101(a) because the potency value is assigned after the manufacturing process has been completed.

The Commissioner again emphasized the use of the word "intent." The example given in the comment does not show that there is intent to formulate such products at less than 100 percent of labeled claims; rather, it virtually precludes such an intent by the nature of that process.

276. One comment wanted to substitute the words "the amount of active ingredient specified in the master production and control record of the drug product" for the words "100 percent of the labeled amount of active ingredient" since over-the-counter drugs are not required by law to note the quantities of active ingredients in the labeling.

The Commissioner agrees with the object of the comment, but believes the suggested wording is inadequate

because it would not prohibit the master record from containing a formulation intended to provide less than 100 percent of labeled potency. Instead, the Commissioner is revising the final regulation by adding the phrase "or established" after the word "labeled." This would therefore include formulations established through new drug applications and over-the-counter drug monographs.

277. Many comments on § 211.101(a) said that: (1) It appears that all components must be weighed or measured precisely; (2) clarification of this section is needed to allow for the use of bulk components without previous subdivision, weighing, or measuring; (3) clarification is needed to allow for direct weighing of components into a batch.

The Commissioner finds that § 211.101(a) as written is not flexible enough to permit procedures such as are given as examples in the comments. Therefore, the first sentence of this paragraph is revised to read as follows in the final regulation: "Components for drug product manufacturing shall be weighed, measured, or subdivided, as appropriate."

278. Numerous comments requested clarification of § 211.101(b) regarding the necessary identification of component containers. The comments pointed out that in some instances components are dispersed, but that the manufacturing department would make that decision for specific batch usage. Several comments said the identification information was available through alternate control systems.

The Commissioner believes that, as written, the final regulation takes into consideration the physical dispersal of components. Comments that the required identification information is available through alternative control systems gave no examples; therefore, no change is made in the regulation.

279. Several comments objected to the word "strength" in § 211.101(b)(4) and wanted it deleted.

The Commissioner rejects these comments. If a component container does not adequately identify the batch in which the component is to be used, there is a potential for mixups. The term "strength" is defined in § 210.3(b)(16), so there can be no ambiguity in its meaning.

280. Two comments suggested that use of component lot numbers and product lot numbers on the same container presents a possibility of mixup since the wrong numbers may be written on the batch record.

The Commissioner finds that it is necessary to have this information for a complete drug product history. As a practical matter the requirement will probably not pose a problem because most firms already have number identification systems that readily distinguish component lot numbers from drug product batch or lot numbers.

281. Several comments objected to the requirement in § 211.101(c) that each container of component dispensed to manufacturing be examined by a second person.

The Commissioner believes the requirement is necessary and does not believe it will be a burden to the industry. The Commissioner also notes that the substance of the requirement is no different from that stated in § 211.40(a) of the CGMP regulations currently in force, and it reflects current industry practice.

282. Several comments said that in some cases, such as with bulk component systems, there are automated methods for checking that could replace a second manual check.

The Commissioner wishes to point out that the use of automated systems is permitted under § 211.68. The requirement of this section would be met if the second individual verifies that the automated system is working properly.

MANUFACTURING INSTRUCTIONS

283. Some comments suggested deleting § 211.102 because the subject and intent are adequately covered by § 211.100.

The Commissioner agrees with these comments, and this section is deleted in the final regulation.

CALCULATION OF YIELD

284. Several comments on § 211.103 said the requirement for determination of yields at each distinct phase of manufacturing, processing, packing, or holding is ambiguous and subject to varied interpretations in view of the agency's use of the terminology "each distinct phase." Others said some type of drug products do not lend themselves to a determination of yield at each distinct phase of manufacturing, such as certain biological products and those operations using continuous runs.

The Commissioner agrees because what is "distinct" is subject to different interpretation and not applicable in other cases. Therefore, he is revising the section to require yield determination at each "appropriate" phase of production.

285. Several comments said the requirement in § 211.103 for independent verification by a second person is unnecessary.

The Commissioner finds that independent verification is a current practice and has been, in substance, a CGMP requirement since 1963. Independent verification has been found to be a valid means of uncovering errors which might, if left undetected, adversely affect drug product quality. Therefore he rejects these comments.

286. Several comments said, in substance, that calculating the percentage of theoretical yield is not the only method of comparison.

The Commissioner does not believe that the wording as proposed would preclude the use of, for example, a standard range of acceptable yield. Ultimately, however, acceptance must be based on a ratio of actual yield to theoretical yield.

EQUIPMENT IDENTIFICATION

287. Several comments on § 211.105 pointed out that there are cases where several pieces of equipment are grouped together to perform a function and that in such situations, collective identification of the equipment should be sufficient rather than identification on individual components of the grouping.

The Commissioner feels that such a procedure is acceptable only if the equipment is permanently installed and used only for one purpose and only one batch of a drug product can be processed on it at one time. This procedure would eliminate the need to identify equipment when there could be no misunderstanding as to what drug product is being processed. In such cases of equipment dedication, identification of the grouping can be considered as meeting the requirements of this section. The language of the final regulation more clearly provides for this situation.

288. One comment requested clarification of the terms "production" and "major equipment" as used in § 211.105. The comment questioned whether equipment for label printing, insert folding, or other similar operations not used in dosage form preparation should be identified in the batch record.

Operations such as label printing and insert folding are not generally performed as a function of the production of a particular batch of drug product. Such operations are not suitable for consideration under § 211.105, but are subject to the requirements of § 211.122. The phrase "major equipment" is used in § 211.105 to distinguish it from minor equipment such as spatulas, ladies, and scoops, for which a requirement for identification may be unreasonable. Because it would be impractical to categorize every known piece of drug manufacturing equipment, a determination as to what equipment should be identified must be based by the manufacturer on appropriate criteria.

289. A number of comments on § 211.105(a) questioned the meaning of the term "processing lines" and requested a definition.

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The term "processing lines" is used in a broad sense to include the variety of equipment that may be used in a drug manufacturing plant. For example, it may include a liquid filling "line" or a packaging "line" or any other kind of "line" used to convey a product through an operation, or to and from an operation, such as a pipe used to carry liquid from a bulk tank to another part of the plant.

290. Several comments on § 211.105(b) suggested that where a manufacturer has only one of a particular type of equipment, it is unnecessary to use a distinctive code or number to identify it in the batch records. It was recommended that the equipment could simply be named.

Since the intent of the code or number is to provide identification of the specific equipment used to process a drug product, the Commissioner has no objection to identifying the equipment by name under conditions specified in the comment. Wording of this paragraph in the final regulation provides for identification of equipment, under certain circumstances, by name.

SAMPLING OF IN-PROCESS MATERIALS AND DRUG PRODUCTS

291. Many comments on § 211.110(a) pointed out that all in-process tests identified in the proposal were not appropriate to all dosage forms.

It was not the Commissioner's intent to require that the particular tests listed apply to all dosage forms. The tests identified were meant to be examples of the types of tests that should be run on various dosage forms, but were not necessarily appropriate to all. Therefore, to make his intent clear, this paragraph is revised to show that these controls shall include those listed, where appropriate.

292. Two comments on § 211.110(a) indicated that the word "manufacturing" should be modified by the word "major" and that the word "variability" should be modified by the word "significant."

The Commissioner is not changing the wording because minor manufacturing problems may cause major manufacturing defects.

293. One comment recommended that the first part of the opening sentence in § 211.110(a) be deleted because procedures do not assure batch uniformity and integrity of drug products.

The Commissioner agrees that the written procedures do not in themselves assure drug product quality—the procedures must be administered to have an effect. The Commissioner notes, however, that the requirement includes that established procedures be followed. Therefore, the comment is rejected.

294. Several comments suggested deleting or revising the references in § 211.110(b) to statistical methods for determining in-process specifications. Some comments said statistical procedures for this purpose were not well understood either by industry or by FDA. Others said other means of determining in-process specifications should be allowed in addition to statistical means. One comment said manufacturers with tight limits and little batch variability would be penalized by this requirement. Another comment was that, because finished product specifications are arbitrarily derived, use of statistical techniques during in-process phases would be inappropriate. Several comments indicated that, in the case of new products or new manufacturers, there is no manufacturing history so other means of developing in-process specifications should be permitted.

The Commissioner is persuaded that there are other valid means of developing in-process specifications as alternatives to statistical methods. Therefore, the final regulation is revised to provide for the application of statistical procedures, when appropriate. The Commissioner emphasizes, however, that in-process specifications must be meaningful in terms of achieving the desired finished product characteristics. Further, after product histories are developed, the Commissioner encourages manufacturers to perform statistical analyses on their products and processes with a view to controlling batch-to-batch variability to the maximum extent possible.

295. Three comments suggested that § 211.110(b) requires in-process testing, whether needed or not, but that paragraph (a) only requires testing in an optional sense.

The Commissioner recognizes that there are instances where the effect of variability during drug manufacturing phases cannot be predicted in relation to the drug product. Further, there may be instances where there are no suitable points, during in-process phases, to sample and test. The final regulations are reworded to clarify this.

296. One comment suggested that allowance be made in § 211.110(b) for the use of in-process tests for adjustment purposes.

The Commissioner finds that specific references to in-process tests for adjustment purposes are unneccessary. The regulations provide flexibility to the manufacturer for establishing procedures for any appropriate in-process test and determining the significance of testing results.

297. As noted above in paragraph 199, the Commissioner concurred with recommendations to transfer requirements for in-process materials in proposed §§ 211.88 and 211.89 from Subpart E to Subpart F in new § 211.110(c) and (d). comments on the proposed sections will be addressed in this section of the preamble, using the new section numbers.

298. A number of comments suggested that § 211.110(c) (proposed as § 211.88) is overly restrictive because it would require complete testing of in-process materials at each significant step in production. It was suggested, too, that in-process testing done during production to determine the need for equipment adjustment or to monitor equipment adjustment need not be reviewed by the quality control unit.

The Commissioner concludes that the intent of this section, as modified in the final regulation, is clear. There is no requirement that the quality control unit approve or reject in-process materials at the completion of each and every individual test or examination. Approved written procedures may provide for minor equipment adjustments, checking, and monitoring of in-process material production. However, at the completion of a significant phase, for example, the quality control unit must approve or reject the in-process material before proceeding to the next phase.

299. One comment suggested defining the terms "significant stages" and "long periods" in proposed §§ 211.88 (now 211.110(c)).

To maintain the flexibility necessary for these regulations, the Commissioner finds that it would not be practical to define either of these terms because they can cover many types of situations and products. They should be read within the context of the handling of specific products and the characteristics of those products. A long period for holding an unstable product is obviously going to be quite different from a long period for holding a very stable product. In the same way, significant phases in the processing of drug products can vary greatly depending on the methods used and nature of the individual products. The determination of what is a "significant phase" and a "long period" must therefore be the responsibility of the drug processor.

TIME LIMITATIONS ON PRODUCTION

300. Several comments on § 211.111 said there may be situations, such as mechanical failures or when material in bulk form has to be remixed, where the processing time would of necessity be extended beyond previously established limits.

The Commissioner is revising this section to provide that deviation from established time limits may be acceptable if such deviation does not compromise the quality of the drug product. Such deviation must also be justified and documented.

301. One comment suggested that the words "when appropriate" be deleted from § 211.111, placing the burden of time limits on the manufacturer in all instances.

The Commissioner rejects this suggestion in view of the general nature of these regulations. There may be instances where establishing time limits for production would serve no practical purpose in assuring drug product quality.

CONTROL OF MICROBIOLOGICAL CONTAMINATION

302. A respondent said that the requirements of § 211.113(a) are redundant for "chemical processing" operations.

The Commissioner is not sure what the comment meant by "chemical processing," but believes the comment may refer to in-process materials. If that is the case, the Commissioner does not agree. The possibility of microbiological contamination is an important concern in drug products, both nonsterile and sterile, and requires emphasis in the regulations to assure that special precautions are taken, over and above other precautions to assure product acceptability, and to assure that no microbiological contamination occurs during processing which could have an adverse effect on the drug product.

303. One comment said § 211.113 should not apply to medical gases because microbiological contamination is not a problem with such drugs.

The Commissioner notes that there is little information available in the literature on microbiological and particulate contamination of compressed medical gases. If microbiological contamination is not a problem with such drug products, then appropriate procedures may be less extensive than those needed for more susceptible drug products.

304. Several comments requested clarification of the term "objectionable microorganisms" as used in § 211.113(a) or suggested alternative descriptions of objectionable microorganisms such as harmful or pathogenic and fecal indicator microorganisms.

The Commissioner deliberately chose the word "objectionable" as the appropriate modifier for the term "microorganisms" in this paragraph to cover a number of circumstances. Microorganisms could be objectionable by virtue of their total numbers or their detrimental effect on the product or by their potential for causing illness in the persons ingesting them. A definition of the term is not practical in the regulations, however, because the objectionable nature of a microorganism may develop only in relation to the unique circumstances of a particular formulation, a particular ingredient, a particular method of manufacture, or the conditions found at a particular firm. The Commissioner believes that the use of the word "objectionable" in a very broad sense is a more practical means of expressing the kind of control he intends.

305. One comment recommended that § 211.113(b) be separated into two parts: Paragraph (b) would then apply to products manufactured by a sterile fill operation, and a new paragraph (c) would apply to a terminal sterilization process.

The Commissioner believes this paragraph, as written, can apply to both sterile fill process and terminal sterilization process. In both instances there must be validation of the process used to show that it produces a sterile product.

306. One comment suggested that § 211.113(b) would require the manufacture of nonsterile products under the same conditions required for sterile products. The comment further said that in some cases smaller numbers of microorganisms could be tolerated if kept under certain levels that could be established.

The Commissioner emphasizes that it is not his intent to require nonsterile products to be produced under sterile conditions. He has previously explained under paragraph 304, his intent in using the word "objectionable." Section 211.113(b) clearly states that it applies only to drug products purporting to be sterile.

REPROCESSING

307. Two comments suggested that the word "appropriate" be inserted before the phrase "established standards" in § 211.115(a).

The Commissioner finds that the suggested alternative wording offers no improvement over the proposed wording. Reprocessed batches must meet all established standards, specifications, and characteristics.

308. One comment suggested that the word "all" be deleted from § 211.115(a) after the phrase "conform with."

The Commissioner believes that the paragraph, as proposed, clearly states the intent regarding conformance with all established standards, specifications, and characteristics. Therefore, this suggestion is rejected.

309. One comment suggested alternative wording in order to clarify that § 211.115(a) applies only to batches that are reprocessed.

The Commissioner agrees with the substance of this comment and is adopting in part the alternative wording by revising the first three lines of § 211.115(a). The Commissioner notes that the requirements for handling batches that are not reprocessed are adequately stated in other sections under Part 211.

310. A number of respondents objected to the direct authority given to the quality control unit under § 211.115(b) in approving the reprocessing of nonconforming batches. They believe that such rejected batches should be either reviewed and approved subject to all normal tests by quality control or should be allowed to be reprocessed when the written procedures approved by quality control authorize and set forth the criteria for such reprocessing.

The Commissioner rejects these comments because they would not be consistent with accepted quality control practices. Reprocessing of drug products suggests that a problem occurred during production of a particular batch. The Commissioner does not believe it is reasonable to expect that preexisting reprocessing procedures can be written to cover every reprocessing situation. Therefore, it is appropriate that individual reprocessing procedures be reviewed and approved by the quality control unit.

XII. PACKAGING AND LABELING CONTROL

311. Many comments suggested changing the title of this subpart to "Printed Packaging and Labeling Control." Some comments suggested inserting the word "printed" before "labeling and packaging materials."

The Commissioner disagrees with the suggestions to change the title since this subpart includes controls for packaging materials that are not labeling. Insertion of the word "printed" to precede the word "labeling" would be confusing because, under section 201(m) of the act, labeling is written, printed or graphic material.

MATERIALS EXAMINATION AND USAGE CRITERIA

312. Several comments stated that the term "packaging materials" in § 211.122 is too broad in that it would include such items as corrugated dividers, pads, and blister-packing liners.

The Commissioner advises that the term "packaging materials" as used in this subpart refers to packaging materials other than containers and closures covered under Subpart E. Typically, unlabeled packing materials do not have to be examined as thoroughly as labeling materials. The Commissioner intends that § 211.122, as written, allow for different treatment of unlabeled packaging materials and labeling materials.

313. There were several comments regarding §§ 211.122, 211.186(b)(8) and 211.188(b)(8), stating that the word "labeling" is too broad because it could be construed as including advertising and promotional material and

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therefore is beyond the purview of the proposed CGMP regulations.

As previously discussed in paragraph 96, the regulations in this part set forth the facilities, methods, and controls to be used for the manufacture processing, packing, or holding of a drug product. Therefore, these regulations do not apply to labeling or advertising that is not associated with the drug product during its preparation under CGMP regulations.

314. One comment said § 211.122 does not represent current practice, and no need for the proposed language has been demonstrated.

The Commissioner notes that this section, as finalized, does not differ substantially from existing requirements. He believes this section represents current good manufacturing practice and is a significant aspect of any firm's quality control program. He also believes that drug product recalls initiated because of packaging and labeling errors indicate that the controls described in this section are needed.

315. One comment suggested that the last sentence in § 211.122(a), pertaining to release of packaging and labeling materials after approval by the quality control unit, be replaced. The respondent believes that the use of unreleased lots of labeling and packaging materials should be permitted as long as approval is obtained before marketing.

As discussed earlier in this preamble, in paragraph 217 regarding use of unreleased components, drug product containers and closures, the Commissioner cannot accept this suggestion. It is not acceptable quality control practice to use unreleased materials in any phase of production. The Commissioner believes that use of released components, in-process materials, containers and closures, labeling, and packaging materials is generally regarded by manufacturers as necessary to quality control.

316. Several comments recommended deletion from § 211.122(a) of the words "in detail," and one comment said that, as written, the paragraph would require documentation of all minute details.

The Commissioner recognizes that different materials such as unlabeled packaging material, as opposed to labeling, will require written procedures of different degrees of complexity regarding their receipt, identification, storage, handling, and examination and/or testing. Therefore, the Commissioner is revising the phrase "in detail" to "in sufficient detail."

317. One comment understood § 211.122(a) to require the quality control unit to examine each container of material before acceptance. The comment recommended statistical sampling of materials instead.

The Commissioner advises that the degree of sampling will depend on the material to be examined or tested. The intent of this paragraph is to require at least a representative sampling of all labeling and packaging materials. The final regulation is clarified in this regard.

318. One comment recommended deletion of the first sentence from § 211.122(b), as it is redundant based on the requirements cited in § 211.122(a).

The Commissioner believes that § 211.122(b) as proposed clearly spells out the basis for approval or rejection and clearly states that rejected materials shall not be used in operations for which they are unsuitable. Therefore, he does not believe paragraph (b) to be redundant.

319. Two comments said § 211.122(b) is overly restrictive in that it requires labeling or packaging materials not meeting specifications to be rejected even though the rejection may not be based on a serious defect, and thus the material could be used.

The Commissioner asserts that it is up to the firm to establish appropriate specifications. These specifications should be realistic so as to assure the safety and quality of the drug product, but they need not be so restrictive as to prevent the use of materials that could not affect the safety or quality of the drug product.

320. One comment interpreted § 211.122(b) to tacitly allow use of a provisional release concept for materials that are found to be out of specifications for their original use but would be suitable for use in other operations. Therefore, the comment said this concept should be stated explicitly in the regulations.

The Commissioner does not believe that this paragraph implies the acceptability of any kind of provisional release. Materials rejected for one use must be completely tested and/or examined to determine their suitability for any alternative use prior to such alternative use.

321. A comment said labeling and packaging materials approved for use should be rotated so that the oldest approved stock is used first.

The Commissioner agrees that use of the oldest stock first is a desirable practice for most materials. The attributes of these types of materials that are related to age, however, do not normally have an effect on the drug product, as would be the case with components, containers, and closures. Therefore, the Commissioner has decided that a mandatory requirement for using the oldest stock first is not necessary here. He has required, though, in § 211.122(e) that obsolete labeling be destroyed.

322. A number of comments on § 211.122(c) said this is not current industry practice, that costs outweigh benefits, and consequently the paragraph should be deleted.

The Commissioner agrees that the proposed requirement for disposition, including dates and personnel involved, is unnecessary for packaging materials and believes that it was those proposed requirements that were for the most part being objected to. Further, § 211.125 establishes the more specific control requirement for labeling. Therefore, § 211.122(c) is modified to require only that records be maintained for labeling and packaging material indicating receipt, examination, or testing, and whether accepted or rejected. Many firms already record this information. The burden on firms not recording such information should not be too great because a record of this information is currently required for components; therefore, the firms need only incorporate packaging and labeling materials into the system already employed for components.

323. Several comments on § 211.122(d) wanted the exclusion of packaging materials other than labeling and a less restrictive wording than "separate compartments" for labeling.

The Commissioner is convinced that it is not necessary in most instances to separate unlabeled packaging materials in the same manner as labels and other labeling. Therefore, § 211.122(d) is revised in the final regulation to apply to labels and other labeling only. The Commissioner is also replacing the phrase "separate compartments" with the word "separately" because it may not be feasible to place into compartments bulky packaging materials that are labeled and therefore considered labeling.

324. One comment requested deletion of the phrase "or quantity of contents" in § 211.122(d).

The Commissioner rejects this request since labeling with different quantity-of-contents statements is in fact different labeling.

325. Many comments suggested deletion of § 211.122(e) as redundant. Other comments objected to the word "destroyed."

The Commissioner considered the comments and is convinced that this paragraph should be revised to avoid repeating requirements of § 211.122 (a) and (b). The final regulation refers only to obsolete and outdated labels, labeling, and packaging materials. Obsolete and outdated labels, labeling, and packaging materials must be destroyed to eliminate mixups between currently used labels, for example, and obsolete labels. Such mixups can lead to serious mislabeling incidents.

326. Five comments on § 211.122(f) contended that gang printing is not a good manufacturing practice and should be forbidden.

Although the Commissioner wishes to discourage gang printing, he does recognize that, under stringent controls, gang printing can be safely used.

327. Two comments dealt with monitoring of the printing procedure in § 211.122(g). One said it should be worded "• • • shall be set up by one person and be inspected by a second person at the beginning of the run to assure • • •" and the other suggested "• • • shall be monitored by the QC unit to assure • • •."

The word "monitor" is being used here to describe an in-process production check on a piece of equipment to assure that it is working properly. In such a case, the "monitoring" can appropriately be done by someone on the production line. The Commissioner notes that § 211.134 (a) and (b) contains a requirement for further examination for proper labeling. The Commissioner sees no need to revise this requirement.

LABELING ISSUANCE

328. One comment assumed that in § 211.125 the term "labeling" must apply only to items associated with the unit package. It further said there is nothing to be gained by accounting for any advertising that is included with OTC packages or shipping cartons simply because of the legal definition of labeling under the act.

The Commissioner advises that if the printed material referred to by the respondent is advertising under the act, then the CGMP regulations do not apply. However, as has been discussed previously, where labeling associated with a drug product during its preparation under CGMP regulations is involved, then the regulations in this section apply.

329. One comment questioned the meaning of "strict control" in § 211.125(a) and recommended that this paragraph be expanded to include certain specific features of strict control, such as requiring locked labeling transport containers.

The Commissioner believes that it would be impractical to list specific features of strict control that would relate to all firms. Numerous comments were received that objected to specifying a "how to" approach instead of an "objective" approach. This is an instance of the regulations stating an objective that is sought and leaving the method of attaining that objective to the reasonable discretion and ingenuity of the firm. The Commissioner, therefore, rejects this recommendation.

330. One comment recommended that the words "and/or batch" be inserted in § 211.125(b) after the word "master" because the master record does not contain the information regarding the lot number or the expiration date to be placed on the label.

The Commissioner notes that the intent of this paragraph is to ensure that the proper labeling is issued to the batch. He agrees that, as this comment points out, it is the batch record that usually contains the lot or control number and the expiration date and is therefore amending the paragraph to provide for this situation by including the words "or batch" after the word "master."

331. Some comments on § 211.125(c) asserted that labeling reconciliation does not detect vendor mixups or errors.

The Commissioner agrees with this statement and notes that labeling is required to be examined or tested for these deficiencies by § 211.122 before being issued for use.

332. Several comments suggested substituting the word "significant" for "any" in § 211.125(c) because the proposed wording would require an evaluation if there was a discrepancy of only one label.

The Commissioner believes that these objections are suitably resolved by revising the wording to allow deviations within narrow preset limits.

333. Some comments on § 211.125(c) said that in situations where there is unique labeling, unique labeling equipment, single-product packaging lines, and other adequate quality control procedures, labeling reconciliation is unnecessarily expensive and time consuming and does not preclude misbranding.

The Commissioner believes that label reconciliation is important because labeling mixups are one of the major reasons for recalls. Regardless of the sophistication of the labeling system used, lack of labeling reconciliation would be a weak link in the total control of labels from their receipt to their use.

334. One comment on § 211.125(c) argued that the institution of elaborate control procedures for a half-dozen individually typed labels is more an annoyance than a hardship.

It is difficult for the Commissioner to believe that the reconciliation requirement, when applied to six labels, is either an annoyance or a hardship.

335. One comment on § 211.125(c) said there is little reason to reconcile shipping container labeling.

The Commissioner does not agree with this statement. Misapplication of labeled cartons can cause a recipient to wonder which is correct—the carton label or the container label. Furthermore, the Commissioner believes that such reconciliation is not overly burdensome or costly and is a current practice in the industry.

336. Several comments on § 211.125(d) suggested that recoding of excess labeling be permitted in lieu of destruction.

The Commissioner rejects these suggestions. The possibility of error outweighs any benefit that would be derived from salvaging labeling with obsolete lot numbers. The agency's experience indicates that the majority of drug firms destroy excess labeling that bears lot or control numbers.

337. Some comments suggested adding wording to § 211.125(d) to denote when destruction of labeling should take place.

The Commissioner believes that excess labeling bearing lot or control numbers should be destroyed as soon as possible after labeling of the batch and before labeling of any subsequent batches. In view of the requirements in § 211.130(d), however, the Commissioner does not consider it necessary to set forth exactly when destruction must take place.

338. One comment on § 211.125(e) argued that cut labels and labeling should not be returned to stock because of the inherent danger of mixup, but rather should be counted and destroyed.

The Commissioner finds that this suggestion would be too restrictive for those manufacturers who use cut labels. He believes that with proper control, cut labels can be used without the occurrence of mixups.

339. Some comments suggested incorporating proposed § 211.125(f) into § 211.125(c) where much of the intent is already covered.

The Commissioner agrees with these comments and has revised the final regulations accordingly.

340. Several comments suggested deletion of the words "in detail" from proposed § 211.125(g) (now § 211.125(f)) because they are superfluous and potentially misleading. One comment said a standard of reasonableness should be employed for the intended purpose.

The Commissioner notes that the words "in detail" could be construed as requiring inclusion of minute detail. Therefore, the Commissioner is inserting the word "sufficient" before the word "detail."

341. One comment suggested deletion of proposed § 211.125(g) (now § 211.125(f)) because it is unnecessarily repititious of § 211.125(c).

The Commissioner does not agree that this paragraph is redundant. Section 211.125(c) requires the employment of certain procedures, whereas paragraph (f) requires those procedures to be in writing and to be followed.

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PACKAGING AND LABELING OPERATIONS

342. Comments on § 211.130(a) suggested that mixups and contamination can be prevented by spatial separation as well as by physical separation as required in § 211.130(a).

In using the word "physical," the Commissioner intended that spatial separation be considered as a type of physical separation. To preclude misinterpretation, he is revising this paragraph to clarify that spatial separation can be an acceptable method of separation.

343. One comment suggested insertion of the phrase "the probability of" between "of" and "mixups" in § 211.130(a).

The Commissioner rejects this suggestion because he believes it would make the paragraph confusing.

344. One comment suggested that the word "container" be inserted between the words "product" and "with" in § 211.130(b).

The Commissioner finds that it is not the purpose of CGMP regulations to specify all appropriate labeling, containers, or shipping cartons that should be required to bear a lot or control number. It is sufficient for these regulations to require that the manufacturing history of the drug product can be determined from a lot or control number.

345. One comment on § 211.130(c) suggested that the word "batch" be replaced by the word "appropriate," because in large operations, records may be kept according to production runs, which may include a number of batches.

The Commissioner rejects a substitution for the word "batch." It is the intent of the Commissioner that the batch production and control records be complete. Because the examination of labeling and packaging materials before use is a function of the production of a batch, the batch record would not be complete without this information.

346. One comment said certain packaging materials, such as corrugated paper, should not come under the requirements of § 211.130(c).

The nature and extent of the examination of packaging materials, including corrugated paper, will vary; but, nonetheless, an examination of some kind must be performed to assure that the material is suitable for its intended use. Packaging materials often provide product protection, and the characteristics of packaging materials must be taken into account.

347. Some comments in § 211.130(d) said it is not necessary to clear a line of packaging materials such as bottles, cotton, caps, circulars, or other general packaging materials if that packaging material is to be used on subsequent batches of the identical drug product to be packaged in the identical package unit. Several comments regarding proposed § 211.130(e) argued that packaging and labeling material common to the succeeding production run not be removed from the finishing area after the completion of operations and prior to the next run.

The Commissioner does not intend to require that packaging materials common to consecutive batches of a drug product be removed between such batches. Revision of § 211.130(d) has clarified the requirements for removal of previously used packaging and labeling materials. Further, the Commissioner finds that the requirements of paragraph (e) are adequately covered in paragraph (d), and therefore proposed § 211.130(e) is deleted in the final regulation.

DRUG PRODUCT INSPECTION

348. Several comments on § 211.134 argued that the requirement for assuring that every container and package has the correct label would require 100 percent examination of the drug product during or after finishing operations.

It is not the intent of the Commissioner to require 100-percent inspection of the drug product either during or after finishing operations. To clarify this section the Commissioner is deleting the word "every" in § 211.134(a). He is also replacing the word "assure" with the phrase "provide assurance." The Commissioner notes that this section as written in the final regulation requires a high level of confidence, but does not necessarily require 100-percent inspection. The Commissioner encourages 100-percent inspection by either visual or automatic methods because drug product labeling mixups have been a major cause of recalls. Although 100-percent inspection might not provide absolute assurance, it would provide a higher level of confidence that every container and package in a lot has the correct label.

349. A comment said the parenthetical phrase "(visually, mechanically or electronically)" should be inserted after the word "examined" in line 2 of § 211.134(a).

The Commissioner notes that § 211.68(a) permits the use of precision automatic, mechanical, or electronic equipment in all phases of drug product manufacture, processing, packing, and holding. Therefore, there is no reason to repeat this statement in each section where such equipment might be used.

350. A comment argued that the wording of § 211.134(b) implies that the "representative sample" should be taken from sealed and palletized shipping cases.

If shipping containers are labeled to contain a particular drug product, then it is the Commissioner's intention that individual shipping containers be examined to assure that the correct drug product is in the appropriate containers. A lot or batch does not necessarily have to be sampled after it has been palletized because, generally speaking, palletizing is not considered as part of the finishing operation referred to in § 211.134(b).

351. One comment on § 211.134(b) recommended that, in addition to visual examination, an identity test be required on the drug product if the firm packs physically similar drug products.

The Commissioner does not agree with the suggestion that this paragraph contain provisions for identity testing if the firm packs drug products that are physically similar. Section 211.120 (d) and (e) provides for the clearance of packaging and labeling areas before use. Section 211.165 provides for physically testing the drug product after packaging. The purpose of this paragraph is to provide assurance that the correct labeling has been applied.

352. One comment said the results of the examination need not be recorded on the batch production or control records if they are recorded elsewhere.

The Commissioner rejects this comment. It is important that the batch production and control records be complete regarding the history of the batch, including the results of examination of the drug product after packaging and labeling. It is not essential, however, that all information that belongs in the batch production or control record necessarily be on one piece of paper.

EXPIRATION DATING

353. Many commented on proposed § 211.137, which would require expiration dating for all drug products. A number of comments agreed that expiration dating was appropriate for certain drug products, for example, those subject to fairly short-term deterioration, but objected strongly to requiring expiration dating for all drug products and concluded that a requirement for expiration dating of all drug products would not benefit the consumer. A few comments objected specifically to expiration dating for over-the-counter drug products or drug products whose active ingredient is known to be extremely stable and that have, for all practical purposes, an unlimited shelf life. Examples given of such stable products include naturally occurring chemical compounds that are mined from the earth, refined, packaged, and sold for medical purposes. A number of comments from consumers were very strongly in favor of expiration dating for all drug products.

The Commissioner notes a trend toward voluntary dating of many perishable consumer products, particularly food and drug products. He believes that this trend has been generated in large part by consumers and consumer organizations who have expressed great interest in expiration dating of such products and by manufacturers responding to this interest.

The pharmaceutical industry has been aware for a number of years that FDA believes it is in the public interest for manufacturers to provide information regarding the stability of its drug products. In the preamble to amendments to CGMP regulations published in the FEDERAL REGISTER of January 15, 1971 (36 FR 601), the Commissioner announced his conclusion that the interests of consumers must be served by the establishment of valid expiration dates for drug products. At the time, the Commissioner expanded basic requirements in the CGMP regulations for stability testing to allow time for manufacturers to accumulate data to support expiration dating.

In the preamble to the February 13, 1976 proposal, the background regarding expiration dating was discussed at length. The Commissioner pointed out that a number of drug manufacturers were already voluntarily providing expiration dates for their products; many products such as antibiotics, biologics, and drugs liable to deterioration were already required to bear expiration dates; and the latest editions of the United States Pharmacopeia (U.S.P.) and National Formulary (N.F.) require expiration dating for all products subject to compendial requirements.

The Commissioner does not believe that expiration dating of drug products places an undue burden on drug manufacturers. Those who have been complying with the 1971 CGMP requirement for stability testing will, for most drug products, already have data available on which to base a suitable expiration date. When new products are being manufactured or when stability data are not otherwise available, the new CGMP regulations in § 211.166 clearly provide for a tentative expiration date based on several factors, including accelerated studies.

Although no sound arguments were presented to the Commissioner that expiration dating of most drug products would not benefit the consumer, the Commissioner has tentatively concluded that it may not be advantageous to consumers, in consideration of cost vs. benefit, to require expiration dating for human OTC drug products if their labeling does not bear dosage limitations and they are stable for at least 3 years, as supported by appropriate stability data. Therefore, the Commissioner has elected to delay implementation of the requirement for expiration dating for these products and is proposing elsewhere in this issue of the FEDERAL REGISTER to exempt these products from expiration dating. The Commissioner expects that types of products that would be affected by this exemption would include a number of medicated shampoos, topical lotions, creams and ointments, medicated toothpaste, and rubbing alcohol. The Commissioner advises that until comments submitted in response to this proposal for exemption can be carefully evaluated and a decision made as to the suitability of such an exemption, the Food and Drug Administration will not enforce the expiration dating requirements of this section for the type of products that he is proposing to exempt. The Commissioner believes it is significant that the types of products he proposes to exempt from expiration dating are acceptable for frequent and often prolonged use without dosage limitation, and typically the contents of the retail package are used in a relatively short period of time. The Commissioner also notes that few of these products currently bear expiration dating, and he is not yet persuaded in consideration of the comments that the costs involved in requiring expiration dating for these products can be justified on the basis of the information available to him at this time.

354. After reviewing the comments from individual consumers, the Commissioner believes that some private citizens misunderstood the applicability of expiration dating for all drug products and believed that the requirement for expiration dating will extend to drugs dispensed by a pharmacist on the written order or prescription of a physician. Section 503 of the act specifies the kind of information that must be supplied by the pharmacist to the consumer regarding the prescription drug. While the Commissioner has found that a number of pharmacists voluntarily indicate an expiration date on the prescription drug container given to the patient, such transfer of information is not required by law and, until the subject regulations are in effect, such expiration information will not be available to pharmacists for all prescription drug products. The Congress is now considering bills to amend the act to provide for expiration dating on all prescription drugs dispensed to consumers. The agency supports such legislative proposals.

355. Several comments opposed the inclusion of expiration dating in CGMP regulations on the ground that the misbranding section of the act, section 502 and, in particular paragraph (h) of that section, provides for expiration dating to the exclusion of the adulteration section, section 501, especially paragraph (a)(2)(B) relating to CGMP regulations. Further comment was that regulations issued under section 502(h) of the act are subject to the administrative provisions of section 701(e) of the act, which includes provisions for a public hearing if requested.

The Commissioner rejects these arguments. No paragraph of section 502 of the act expressly refers to expiration dating. Paragraph (h) of section 502 describes products liable to deterioration and the packaging and labeling that may be necessary to minimize such deterioration. Although expiration dating might be considered implicit in this paragraph, the Commissioner does not find any basis for concluding that only labeling referred to in paragraph (h) of section 502 of the act can be required to carry dated labeling, or that the only statutory authority for FDA to enforce expiration dating is under this paragraph. He notes, for example, that where expiration dating is required by an official compendium such as U.S.P. or N.F., FDA has authority to enforce this requirement under paragraph (g) of section 502. Section 502(a)(2)(B) of the act clearly provides to FDA broad authority to assure the quality, purity, identity, and strength of drug products at least through the time of dispensing to patients or sale to consumers. The determination of stability of a drug product and the reporting of this information through an appropriate expiration date are an integral part of the assurance of drug quality.

356. A number of comments opposed expiration dating specifically for over-the-counter drug products. The arguments were primarily that: (1) Many OTC drugs are extremely stable and that expiration dating is of little value for products whose stability can be measured in terms of many years; and (2) that any required expiration dating for OTC drug products should coincide with final regulations developed under the current OTC drug review process. In the latter case, comments expressed concern that labeling changes required by expiration dating and probable labeling changes and formulation changes required at a later date under final OTC drug review regulations would be an unfair burden on manufacturers.

The Commissioner notes that he has already discussed in paragraph 353, the interim enforcement policy regarding human OTC drug products that are stable and marketed without dosage limitations. But he sees no valid reason for separating requirements for drug expiration dating for prescription drug products and most OTC drug products. The Commission-

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er recognizes that firms should ordinarily be free to select any expiration date that falls within the documented stability period, and the regulations permit manufacturers to use any expiration date that is supported by appropriate stability data. Even if a manufacturer knows that the active ingredient of its drug product is stable for 20 or 30 years, without expiration dating it is unlikely that the user of the drug product is going to know this information. The Commissioner believes that expiration dating will be more than marginally beneficial to consumers even for drugs that are unusually stable. First, it will reinforce pharmacist and consumer confidence in the product, and thus will avoid unnecessary disposal and replacement of old but not outdated drug products. Second, it will prevent confusion for drug dispensers and probably consumers that would naturally occur in a system where some, but not all, products carried expiration dating.

The Commissioner sees no undue burden on manufacturers in requiring expiration dating of over-the-counter drug products prior to final OTC drug monographs. The Commissioner notes that a wide variety of methods for expiration dating of drug products are available and that many of these methods do not require changes or reprinting of labels. If formulation changes are required as a result of a final OTC drug monograph, the regulations in § 211.166 provide for development of tentative expiration dates. Since the expert OTC advisory review panels will not be considering the expiration dating of OTC drugs as a routine matter in their deliberations, the Commissioner sees no valid reason for further delaying expiration dating for most OTC drug products.

357. Comment was received from the American Homeopathic Medical Association, representing the views of various aspects of homeopathic medicine, including manufacturers of homeopathic drug products, specifically requesting an exemption from the proposed requirement of expiration dating and related stability testing for their products. The basis for the request is that homeopathic drugs characteristically contain such extremely small quantities of active ingredients that the finished product cannot be tested by usual analytical methods. Further, because of the theory behind homeopathic medicine, regard for determining the specific level of active ingredient and the normal measures of stability are inappropriate.

The Commissioner notes that homeopathic medicine and drugs used for homeotherapeutics are unique and differ substantially from other forms of pharmaceutical products. Previously, the Commissioner has exempted homeopathic drugs from the Over-the-Counter Drug Review (see the FEDERAL REGISTER of May 11, 1972 (37 FR 9464)). Further, homeopathic drugs were excluded from review under the NAS/NRC Drug Efficacy Study Review (DESI) and distributors of homeopathic drugs have not been required to list such drugs under the Drug Listing provision of the act. (Manufacturers, however, are required to register as drug establishments.)

Because of the unique nature of homeopathic drugs, the Commissioner has reconsidered the value of stability testing and expiration dating for this small class of drug products and concludes the need for expiration dating and complete stability testing, as proposed, are unnecessary in this group. The imprecise nature of determining extremely low levels of active ingredients for each of a large number of attenuations (dilutions) that may be prepared for each drug substance, and the fact that factors such as potency, absorption, bioavailability and other measures of effectiveness do not appear to be applicable to homeopathic drugs, have convinced the Commissioner that requiring an expiration date for such products would be a burdensome requirement that would not result in any added assurance of drug quality to the user.

Certain provisions of the proposed stability testing requirements, especially those relating to determining an expiration date, are also inappropriate. On the other hand, some stability information, such as the compatibility of ingredients based on testing or examination and marketing experience, is necessary for this class of drug products. The final regulations are amended in § 211.166 by modifying the stability testing requirements for homeopathic drugs.

358. Several comments expressed concern whether small labels of some drug products could accommodate an expiration date. Several other comments raised questions regarding the applicability of the expiration dating to their own specific small-sized products. In one instance, a manufacturer indicated that it would be required to purchase new equipment in order to apply the expiration date to the crimp of the tube for a medicated cream. In another instance a manufacturer indicated that its products were individually packaged in a way that the units stay with an outer packaging until all the individual units are used; it inquired whether each individually wrapped unit was required to bear an expiration date.

The problem of certain labels being too small to accommodate statements required by FDA has been raised many times in the past. A specific regulation has been issued to address this problem (see 21 CFR 201.100(b)(6)). Currently, a substantial number of drug products are packaged in a wide variety of containers, with a substantial range of label sizes, yet these often are marked with an expiration date. For example, a number of drug products for use in hospitals are being packaged in "unit dosage" containers that bear all the required information as well as an expiration date. The Commissioner believes that technology and the availability of different methods of placing the expiration date on the immediate container are now at a state where it is reasonable to expect that any drug product package can accommodate an expiration date. There will still be individual situations where it will be necessary to determine whether a particular packaging constitutes a protective or convenience wrap and therefore is not required to bear full labeling, or constitutes the immediate container, and therefore should bear all required labeling including an expiration date. If a packager of drugs has any question regarding this matter, FDA will render an opinion upon request from the packager. The request should be sent to Advisory Opinions Branch (HFD-35), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, and should include full information regarding the packaging as well as examples of the packaging materials and labeling.

359. One comment expressed concern that the presence of an expiration date on small containers may serve only to detract from the conspicuousness of other information, including warnings and dosage recommendations.

The Commissioner rejects this argument. The practicality and advisability of requiring specific items of information on the immediate container must always be evaluated in light of whether it might compromise or obliterate the value of entire labeling of the immediate container. The Commissioner finds that a uniformly short statement of an expiration date will not interfere with the conspicuousness of other required information. Further, the Commissioner finds that there is no practical alternative to convey expiration dating information other than to place it on the immediate container.

360. Several comments were received regarding the need for expiration dating of cylinders of compressed medical gases. One comment noted that expiration dating of these drug products would not benefit the patient.

The value of imparting stability information to consumers or to those who dispense drug products has been discussed previously. As stated earlier, the Commissioner cannot agree that

expiration dating of most drug products would not benefit the user, whether or not the patient is personally aware of the expiration date. The Commissioner sees no justification at this time for exempting compressed medical gases from the requirement of expiration dating.

361. One comment objected to expiration dating of OTC drug products such as absorbent cotton, gauze bandages, eye pads, triangular bandages, cotton balls, and surgical gauze. The comment was that these products last indefinitely and that some of these products, dating back from World War I, are being sold and are perfectly satisfactory. Another comment expressed an opinion that, with regard to expiration dating, all attention seems to be focused on the stability of the drug formulation. The comment concluded that other factors, such as packaging and storage conditions, must contribute to the determination of an appropriate expiration date.

The Commissioner notes that these comments, apparently from opposite points of view, illustrate his concern that all persons should understand that there are other factors to be considered besides the stability of a specific active ingredient in determining a suitable expiration date; these include the stability of the inactive ingredients, the interaction of active and inactive ingredients, the manufacturing process, the dosage form, the container closure system, the conditions under which the drug product is shipped, stored, and handled by wholesalers and retailers, and the length of time between initial manufacture and final use. For example, the period of time in which the sterility of a drug product can be assured may be substantially less than the inherent stability of the active ingredient. Thus, the expiration date for a sterile drug product may have a different basis than that for a nonsterile drug product of the same active ingredient. Container closure systems or tablet coatings, for example, may increase or decrease the shelf life of the drug product. Therefore, as mentioned earlier, a number of factors must be taken into account in considering a drug product's stability. The Commissioner also notes that articles such as cotton, gauze, bandages, and eye pads are now considered devices and will be handled under the Medical Device Amendments of 1976 and are no longer subject to these CGMP regulations. Expiration dating for certain kinds of medical devices is now under consideration by FDA.

362. Several comments recommended that FDA consider requiring that expiration dates fall within the same 1 or 2 months of every calendar year. For example, it was suggested that all drug products bear an expiration date that would end in January (or January and July) of the calendar year for which the manufacture has established a date of expiration. The comments indicated that such a procedure would not interfere with establishing dating periods in multiples of 6 months or 1 year and would allow persons who need to make inventories of drug product stocks to easily survey such stocks for outdated drug products.

While the Commissioner sees merit in a provision that would allow all outdated products to be readily identified and removed only once or twice annually, he believes that such a requirement would not be justified at this time. Manufacturers may use an expiration dating scheme that will provide an appropriate uniform expiration cutoff date to facilitate inventory control over outdated drug products in the channels of distribution. The Commissioner will further consider the utility and currency of such a practice and whether future regulations would be appropriate.

363. Several comments spoke to the issue of a maximum expiration date, such as 5 years, about which the Commissioner had requested information and data that would establish whether any fixed maximum arbitrary date is in the best interest of the consumer. Most comments expressed strong opposition to a fixed maximum expiration date. One such comment expressed the view that a maximum expiration dating period would discourage development of improved stability formulations and packaging. Another comment, which supposed that a 5-year dating period is generally acceptable to the pharmaceutical industry, recommended that such maximum expiration dating period be adopted with provisions that the time period could be extended on the basis of adequate data. This same comment suggested that an advantage of a maximum expiration date would be to limit the length of time the drug product is not under the control of the manufacturer. The time limit would reduce the possibility of damage by environmental agents, adverse changes in packaging materials, and obsolete labeling.

The Commissioner advises that his request, appearing in the preamble to the February 13, 1976, proposal, for information and data showing that the establishment of an arbitrary date (5 years or any other time period) is in the interest of the consumer, resulted in generally unfavorable comments and no information or data to support public interest in a maximum expiration date, either by consumers or industry. Therefore, the Commissioner concludes that he has insufficient information at this time to find that setting a specific maximum expiration dating period is suitable or desirable for drug products.

364. A number of comments objected to the word "statistically" or the phrase "statistically validated" used in § 211.137(a) in reference to the use of a "statistically validated expiration date determined by appropriate stability test." The arguments were that for some drug products the expiration period is established based on characteristics or attributes (e.g., color of tablets) which are subjective and not amenable to statistical analysis. For new drug products, stability data may be quite limited and there are insufficient data for meaningful statistical analysis. In such cases, a manufacturer stated, expiration dates are conservatively assigned. Another comment indicated that statistical validation is duplicative and open to dispute in interpretation. Several comments indicated that they were unsure as to what was required for statistical validation. Another comment explained that expiration dates are currently derived from actual stability tests involving the use of accelerated stability tests. The comments said that such accelerated stability tests do not need to be statistically validated as long as there is adequate justification for use of the conversion factors that relate the conditions of the study to labeled conditions. Another comment said the use of statistics to derive an expiration date is only one of many ways that a valid expiration date can be obtained. Most comments on this paragraph suggested deletion of the word "statistically" or the phrase "statistically validated." Several comments suggested revised wording to incorporate the phrases "appropriate expiration date" or "statistically or mathematically validated date."

The Commissioner finds that § 211.166 on stability testing, which has been modified in the final regulation, contains the requirements that are the basis for establishing an expiration date. An appropriate expiration date, determined in conformance with the provision of § 211.166, will meet the requirements of § 211.137; therefore, the statistical validation requirement is not necessary to § 211.137. The final regulation has been revised to clarify this issue.

365. Several comments suggested that the 6-month delayed effective date proposed by the Commissioner was insufficient to allow accumulation of the necessary data to determine appropriate expiration dates. Several firms suggested a 3-year delayed effective date for this requirement; another suggested a 2-year delayed effective date. Another firm indicated that it was common industry practice to allow a 3- to 5-percent seasonal return and

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redistribution of OTC products. This firm requested provisions in the regulations to allow for such redistribution from inventory of drug products that do not bear expiration dates.

The Commissioner believes that the industry has been on notice concerning expiration dating for a number of years and should have data developed under the basic stability requirements that have been in effect since 1963. Because of such general widespread knowledge and the "state of the art" regarding expiration dating, a 6-month delayed effective date in adopting this requirement should be an adequate transitional period in which to establish expiration dating procedures. To allow distribution (or redistribution) of labeled stocks, however, the expiration dating required by these regulations shall not apply to stocks of drug products that have been labeled prior to the effective date of these regulations.

366. One comment said § 211.137(a) and § 211.166 are inconsistent in that § 211.166 permits the use of tentative expiration dates based on accelerated studies combined with basic stability information.

In revising § 211.137 in response to other comments, the Commissioner has included a specific reference in § 211.137(a) to § 211.166. As codified, § 211.137 clearly refers to the use of appropriate stability tests and stability studies described in § 211.166. Thus, the Commissioner now sees no possible contradiction in these two sections.

367. Several comments objected to the introductory phrase "to assure" in § 211.137(a). The comments were that the phrase is an impossible restraint and that an expiration date cannot "assure" that a drug meets identity, strength, quality, and purity standards.

The Commissioner cannot agree with these comments. In common usage, the word "assure" implies a confidence that can reasonably be expected. The purpose of expiration dating is to inform users of the drug product that they can reliably expect that the product meets the professed standards of identity, strength, quality, and purity at the time of actual use.

368. One comment suggested that § 211.137(a) should provide that adherence to dating periods in approved new drug applications (NDA's) would constitute compliance with this section.

The Commissioner believes that it is unnecessary for the regulations to specify that adherence to dating periods in approved NDA's would constitute compliance with § 211.137(a). Dating periods for products covered by approved NDA's are based on stability data submitted as part of the NDA's. These stability data have generally come from testing programs that fulfill the requirements of § 211.166. If so, then such data also fulfill the requirements of § 211.137(a). If not, the NDA probably was approved many years ago and new testing, using more sophisticated techniques, is appropriate. For such products, the new CGMP requirements should not be and are not met by the approved NDA, and testing complying with § 211.166 is required.

369. Several comments recommended that § 211.137(a) be revised to include a statement to the effect that a drug product would not be required to bear an expiration date if it is determined on the basis of appropriate stability tests and on distribution and consumer usage patterns that the product will be consumed before significant deterioration occurs.

The Commissioner notes that he has considered stability and consumer usage patterns in establishing the interim enforcement policy discussed in paragraph 353 of this preamble. But he does not agree that the suggested revision would be suitable for all drug products, namely, prescription drug products and OTC drug products with dosage limitations. Such provision would ignore a basic principle of expiration dating—that the manufacturer furnish information to reduce the chances of outdated drug products being consumed. The Commissioner does not think it is realistic to assume that every unit of a drug product will be consumed within a specific period of time, notwithstanding the considerable experience many manufacturers have regarding distribution and consumer use patterns. Information regarding distribution and consumer use patterns, however, will serve to assist manufacturers to estimate the quantity and duration of stability information that would be worth developing; that is, if a supplier is confident that more than 90 percent of a product is out of the distribution chain in 3 years, the supplier may not wish to incur the expense of establishing a 5-year stability for the product and labeling it with a 5-year expiration date.

370. Some comments said proposed § 211.137(b) was somewhat redundant when viewed in light of paragraphs (a), (c), and (e) of this section. The comments also recommended that if paragraph (b) were retained, the references to appropriate statistical analysis should be deleted. One comment recommended that paragraph (b) be revised to include mathematical use as well as statistical analysis. Another comment stated that the phrase "readily available data" should be further defined.

The Commissioner finds that with minor editorial differences the essential provisions of this paragraph also appear elsewhere in § 211.137. Therefore, he has decided that the proposed § 211.137(b) will be deleted.

371. A number of comments objected to the provisions of proposed § 211.137(c) (recodified as § 211.137(b) in the final regulation), specifically suggesting that drug products suitable for storage at room temperature not be required to bear appropriate storage conditions on the labeling.

The intent of proposed § 211.137(c) is to relate expiration dates to any storage conditions determined by the manufacturer of a drug product to be important and thus stated in the labeling. A manufacturer may conclude that the expected normal handling conditions of the drug product do not require specific labeling instructions, or the manufacturer may elect to include any special handling or storage instructions to preserve the product's stability. An editorial change in the final regulation clarifies that storage instructions are not required in every instance.

372. One comment suggested that when proposed § 211.137 (d) and (e) are read in conjunction with § 201.17, it is obvious that expiration dates are required only for labeling described in § 201.17 and therefore package inserts are excluded. The comments suggested that the language in the section be revised to specifically exclude package inserts from a requirement to bear expiration dates.

The Commissioner sees no reason that the regulations exclude, by name, package inserts from a requirement to bear an expiration date. The regulations in § 201.17 and, by reference, in § 211.137, clearly specify which labeling is required to bear expiration information. To designate, by name, the labeling not required to bear such information is impractical because it includes more than the package insert and it is unnecessary and potentially confusing.

373. One comment recommended adding a new paragraph in § 211.137, which would provide that in the case of licensed biological drug products, an expiration date, if applicable, either shall be determined by regulations specific for the product involved, or shall constitute part of the product license.

The Commissioner cannot adopt this suggestion. A biological drug product should bear an expiration date even if one has not been specifically established for that product either in regulations for the drug product involved or as part of the product license.

XIII. Holding and Distribution

Warehousing Procedures

374. A comment said § 211.142 should not require rigid physical separation

of quarantined drug products before release by the quality control unit.

The Commissioner did not intend, nor does this section state, that rigid physical separation—of quarantined drug products is necessarily required before release by the quality control unit. The degree of separation necessary would be dependent on other steps taken to assure that quarantined drug products are not used prematurely. For example, proper paper control or computer systems could offset the need for physical separation.

375. One comment recommended that the words "of temperature, humidity, and light" be deleted from proposed § 211.142(b) because humidity and light are not controllable in a normally operated warehouse.

The Commissioner disagrees that humidity and light cannot be controlled in a warehouse. However, he notes the regulation does not require these factors to be controlled unless the identity, strength, quality, and purity of the drug products would be affected. The Commissioner believes that the regulation as written clearly requires that all drug products be stored under conditions that are consistent with maintaining the stability of the product. The conditions of storage will vary according to the particular product; hence the use of the word "appropriate" in this paragraph. At the very least, storage conditions should always be such that there are no extremes. If the conditions of temperature, humidity, and light are extreme enough, almost any drug product would be affected.

Distribution Procedures

376. A comment on § 211.150(b) said a requirement of lot number traceability is inappropriate and unnecessary when applied to the great majority of drug products for which the incidence of recall is extremely low.

The Commissioner notes that this requirement is already in the existing CGMP regulations and is "current practice." He does not have information to support a contention that certain drugs are less likely than others to be recalled. Therefore, the Commissioner cannot accept this comment.

377. One comment said § 211.150(b) should be deleted and § 211.150(a) recodified into the introductory text of § 211.150 because the act does not provide for recalls and because the objective of § 211.150(b) is substantially covered under § 211.196.

The Commissioner does not believe that these two sections are redundant. Section 211.196 requires that distribution records be kept containing certain information. Section 211.150(b) requires that distribution recordkeeping systems include the capability of identifying the distribution of any specific lot so that a recall may be facilitated. The Commissioner also does not believe that § 211.150 mandates recalls. Section 211.150 recognizes that it is a current good manufacturing practice within the pharmaceutical industry to have appropriate systems to carry out the occasional recalls or withdrawals from distribution of drug products. These actions are generally voluntarily undertaken by manufacturers. Because such mechanisms are a current and good practice, the Commissioner has legal authority under section 501(a)(2)(B) of the act to require them for all drug suppliers. The question of FDA-requested recalls is subject to separate regulations published in the Federal Register of June 16, 1978 (43 FR 26202).

378. One comment said the distribution records maintained by compressed medical gas suppliers are adequate to accomplish § 211.150(b), but the requirement of § 211.196 calling for the lot number on distribution records is unnecessary. Further comment said compressed medical gas lots are distributed in a very small geographical area and to a very limited number of accounts, and recall is a much simpler problem for medical gases than for the widely distributed multiple-unit lot drugs.

The Commissioner fails to understand how the intent of § 211.150(b) can be accomplished without meeting the requirements of § 211.196, and no such information was provided in the comment. The intent of § 211.150(b) is that a firm be able to determine how much of a given lot, if any, was shipped to each consignee and on what date. The Commissioner does not believe that compressed medical gases should be exempt from this requirement, because they are potent drugs, and distribution accountability is of as much importance in case of recall of them as for any other drug.

379. One comment said the phrase "and appropriate" should be inserted after the word "possible" at the end of the proposed § 211.150(a).

The Commissioner agrees with this comment. In addition, the wording in the final regulation for this section has been revised to make it consistent with § 211.86 as it pertains to the first-in, first-out concept. The final regulation provides that deviation from the first-in, first-out requirement is permitted if such deviation is temporary and appropriate.

XIV. Laboratory Controls

General Requirements

380. One comment recommended that the word "justified" in the last sentence of proposed § 211.160(a) be changed to "explained."

It is not enough, in the Commissioner's view, that a deviation from standards be explained. The deviation must be supported by sufficient reason to show that it is needed and has no adverse impact on the drug product. Therefore, the recommendation is not adopted.

381. A comment requested a definition for "specification" in § 211.160(a) so that it would describe a general category rather than a single document, and specifications could be prepared as separate documents for separate areas.

The Commissioner does not believe that, as written, the regulation requires that all specifications for all areas, such as sampling and testing, be a part of the same document. The word is used here in a general sense rather than as a reference to a single document.

382. One comment said §211.160(a) is ambiguous because it does not define requirements. The comment asked whether documentation is needed showing completion of requirements.

The Commissioner advises that § 211.160(a) is intended to refer to requirements that appear throughout Subpart I—Laboratory Controls. A wording change in the final regulation clarifies this intent. With regard to the respondent's question concerning documentation, the Commissoner also advises that § 211.194(a) contains a requirement for documentation.

383. Two comments proposed deleting the references in § 211.160(b) to sampling plans and testing procedures and merely requiring documentation of what was done. The reasons for proposing this deletion were not made clear.

The Commissioner believes that adequate controls include not only standards and specifications but also the sampling plans and testing procedures to determine acceptability. These plans and procedures must be determined in advance of implementation—otherwise no systematic or comprehensive evaluation of the acceptability of materials and finished products can be assured.

384. A comment suggested inserting the phrase "or a reference to" after the word "description" in the sentence referring to descriptions of sampling plans and testing procedures in specifications.

The Commissioner interprets the comment's concern to relate to the extent of the description required for the sampling and testing procedures used when these are set forth in detail in other documents. The description depends on a number of factors, but certainly could include references to authoritative procedures such as the official compendia. The Commissioner does not believe the language need be modified, however, because he believes the word "description" provides suffi-

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cient latitude for the use of references, where appropriate.

385. A comment said the requirement in § 211.160(b)(4), providing for remedial action in the event equipment calibration checks showed problems, is impractical because a course of action for each possible event could not be written. Instead, it suggested the paragraph read "• • • provisions for investigations to determine the necessary action."

The Commissioner believes that broad instructions can be developed for remedial action. The regulations in this section do not specify the detail in which such provisions must be developed. In some cases, these instructions could provide principally for an investigation to determine the cause of a problem. In other instances, for example, where a problem can be expected to occur regularly, detailed instructions may be practical.

386. Several comments felt that inclusion in § 211.160(b) of components, drug products, and in-process materials with containers, closures, and labeling was irrational.

Controls throughout this section are only required as appropriate. It is not the Commissioner's intent to require inappropriate standards and testing. The substance, extent, and complexity of controls will vary with components, containers, closures, and labeling, but suitable specifications, standards, sampling plans, and test procedures are necessary for each.

TESTING AND RELEASE FOR DISTRIBUTION

387. Comments on § 211.165(a) pointed out that potency assays are often tests for identity, and therefore the reference to identity tests should be removed.

The Commissioner does not believe that every potency assay would also serve as an identity test. In those cases where one test can suffice for both purposes, the wording of this paragraph would accept a single test.

388. One comment asked for an exemption from the prerelease sterility and pyrogen testing requirements of § 211.165(a) of shortlived radioactive materials.

The Commissioner recognizes that for short-lived radiopharmaceuticals it is not possible to obtain results of these tests before the active material degrades below a useful level. Therefore, the final regulations in § 211.165(a) permit release of those specific batches that are undergoing sterility and/or pyrogen testing, prior to completion of those tests, provided such testing is completed as soon as possible.

389. Several comments requested clarification of § 211.165(a) to determine whether it means that potency assays have to be done at both the bulk and packaged drug product phases, or only at the bulk phase.

The Commissioner purposely worded this paragraph so that manufacturers could choose to do potency assays at either phase, but certainly before release for marketing. There is no intent, once the product is in its finished dosage form, to require potency testing of more than one phase by the manufacturer. The Commissioner believes the paragraph is clear in this regard.

390. Two comments maintained that identification and potency testing of each active ingredient in a combination product or in small batches of OTC products constitutes a highly inflationary procedure.

The Commissioner believes that testing to assure that a product is what it purports to be is basic to a quality control program for any drug product. Further, he notes that the substance of this requirement has been in the CGMP regulations since 1963 and is generally a current industry practice. Therefore, he finds that such a basic procedure should not have a significant inflationary impact or that this cost is unjustified in view of the assurances the procedure gives the consumer. The comments are rejected.

391. A comment suggested limiting § 211.165(c) to sampling by deleting references to testing, on the grounds that § 211.160 adequately covers the requirements for written testing plans.

The Commissioner notes that § 211.160 has general objectives regarding sampling and testing of drug products. Requirements for release of drug products are more specifically described in § 211.165. Therefore, the Commissioner declines to accept this comment.

392. Several comments objected to or redefined the concepts of acceptable quality level (AQL) and unacceptable quality level (UQL) used in establishing acceptance criteria and statistical quality control criteria as proposed in § 211.165(d). The comments pointed out that the concepts of AQL and UQL are not uniformly interpreted, and their use in establishing acceptance criteria and statistical quality control criteria is not uniformly applied. Comments expressed concern that the concepts of AQL and UQL as acceptance criteria are premature and not currently a part of good manufacturing practice. One comment suggested that these proposed CGMP regulations would require extensive changes in testing procedures, facilities, and use of manpower. Several objections were raised relative to the "usually 95 percent" level of high probability of acceptance. Respondents pointed out that this figure might be applicable for some pharmaceutical dosage forms, but would be too high for others.

As anticipated by the Commissioner, the concepts of AQL and UQL in establishing acceptance and statistical quality proved quite controversial. From an analysis of the comments, the Commissioner believes that it is impractical at this time to establish a uniform system of AQL and UQL as proposed in the regulations. Section 211.165 is therefore modified to allow greater latitude in establishing acceptance criteria, while retaining the basic requirements that acceptance criteria for sampling and testing, and for acceptance levels, be based on appropriate statistical quality control criteria. The Commissioner is convinced that sound statistical methodology should be applied to the procedures for testing of attributes or variables that impact on the quality of drug products and the evaluation of the results of such testing to determine acceptance or rejection of the lot. The uses of AQL and UQL are examples of statistically derived levels for acceptance or rejection. The Commissioner believes that more study must be given to this aspect of manufacturing practice and advises that in the future FDA will invite additional industry comment regarding revision of this section.

393. Several comments asked, with regard to § 211.165(e), whether official compendia test methods or methods from recognized sources have to be validated. The comments also recommended that guidelines be provided for documentation.

It is not the Commissioner's intent to require the validation of authoritative test methodology. Section 211.194(a)(2) of these regulations indicates that reference to official sources will suffice as documentation of a validated method. The intent of this section is that assurance of accuracy and reliability be provided for all test methods used. In the case of methods from official sources, such as compendia, reference to the source is documentation enough. For methods modified or developed by the firm or some other unofficial source, validation of the method must be provided. To clarify this issue, the final regulation in § 211.165(e) refers to § 211.194(a)(2).

394. A number of comments on § 211.165(f) proposed that laboratory reference standards received from official sources and/or with a protocol need not be tested. In addition, respondents recommended that secondary in-house standards should be tested against reference standards. Insertion of "standard solutions" was also suggested in this section. One respondent suggested inclusion of a requirement for an expiration date on standards.

In considering the comments in light of requirements elsewhere in the regulations, particularly § 211.160(b), the Commissioner concludes that the proposed requirements in § 211.165(f) should not be adopted as proposed. The Commissioner recognizes that laboratory reference standards can be interpreted to mean either standard reference materials prepared by a firm's own laboratories, or standards received from outside sources, e.g., official U.S.P. reference standards or FDA reference standards. Further, the Commissioner recognizes that complete testing by the user of many reference standards is not practicable although, generally, a specific identity test should be performed to verify such standard. The Commissioner finds that the requirements in § 211.160 provide the manufacturer the necessary flexibility to establish appropriate laboratory controls over the receipt or preparation of reference standards and to verify that such reference materials are suitable for their intended use. Therefore, proposed § 211.165(f) is deleted in the final regulation.

395. Several comments objected to the use of the word "statistical" in proposed § 211.165(g) (redesignated § 211.165(f) in the final regulations), stating that statistical criteria are not always relevant.

The Commissioner is deleting the word "statistical" in the final regulation because the phrase "and any other relevant quality control criteria" is sufficient to include statistical criteria where appropriate.

396. One comment requested deletion of the entire proposed paragraph (g) of § 211.165, because it is repetitive of § 211.84(e).

The Commissioner agrees that there is repetition between § 211.84(e) and proposed § 211.165(g) (now § 211.165(f)); however, he notes that the former does not cover drug products that are covered under the latter. The final regulation is revised to eliminate repetitious requirements.

397. Several comments objected to the wording of the second sentence of proposed § 211.165(g). They contended it is not possible to determine beforehand whether reprocessed material will meet appropriate standards and specifications.

The Commissioner accepts these suggestions and is rewording the provision, now § 211.165(f), so that it more clearly permits reprocessing of rejected materials.

398. Several comments argued that proposed § 211.165(g) should be worded to allow use of materials that deviate from standards and specifications that have no bearing on the quality of the drug product.

The Commissioner believes that it is clear in the context of this section that the standards and specifications referred to are those for acceptance or rejection. As stated elsewhere in this preamble, the standards for acceptance or rejection must be realistic while at the same time appropriate to assure the quality of the drug product. Any deviation from such standards is not acceptable. On the other hand, there is no requirement that a firm establish specifications or standards that do not relate to the quality of the drug product.

STABILITY TESTING

399. One comment on § 211.166(a) questioned the need to prepare a written testing program to assess stability characteristics of products such as borax and boric acid because methods of assay and analytical procedures for these materials are well documented.

The Commissioner notes that the written testing program includes more than just a description of the method by which a drug product is tested. It includes all the requirements listed in this section. If the test method used is an official compendial method or other authoritative method, then it would be sufficient to refer to the source of the method to satisfy that part of the requirement for written procedures for the testing program.

400. Several comments requested that the word "statistically" be removed as a modifer of "valid estimates of stability" in § 211.166(a)(1).

The Commissioner is modifying the final regulation to clarify that the statistical criteria apply solely to sample size and test intervals to provide assurance that every batch of drug product produced has essentially the same stability characteristics.

401. Several comments requested insertion of the words "where feasible" after the words "reliable, meaningful and specific test methods" in § 211.166(a)(3).

The Commissioner believes the phrase "where feasible" would suggest serious gaps in analytical methodology in drug manufacturing operations that in fact do not exist. The manufacturer has a responsibility to use test methods most suitable to assess the stability characteristics of his drug products.

402. Several comments requested the use of container closure systems for a stability testing program that are "similar" to the marketed container/closure system rather than the "same."

The Commissioner concludes that the container-closure system should be the same as the one used for marketing the drug product with regard to attributes that could possibly affect stability.

403. A comment on § 211.166 requested that the importance of stability testing of bulk active ingredients be emphasized because many manufacturers feel that stability testing applies only to finished dosage forms.

The requirement in these regulations for performing stability tests applies only to "drug products," which are defined in § 210.3(b)(4) as finished dosage forms. Therefore, it would not be appropriate to include a requirement for bulk drugs in these regulations. The Commissioner believes that appropriate stability testing for active ingredients is a requirement under section 501(a)(2)(B) of the act because all drugs, including bulk drug ingredients, must be produced in conformance with current good manufacturing practice. Stability testing of bulk drug ingredients is a current good manufacturing practice, and the Commissioner will propose to include it in the projected CGMP regulations for bulk drugs.

404. One comment requested the exemption of extremely stable compounds, such as calcium carbonate, from the stability testing requirements.

The Commissioner denies the request for the exemption. The stability of an active ingredient is not the only characteristic that should be examined in a stability testing program. A product may leach compounds from its packaging materials or be affected by heat or moisture in ways which could be detrimental to product quality without affecting its strength.

405. A comment asked whether the reference samples in § 211.166 can be taken from regular production batches for stability testing programs.

The Commissioner notes that § 211.166(b) clearly states that reference samples must be taken from regular production batches for stability testing programs.

SPECIAL TESTING REQUIREMENTS

406. Several comments on § 211.167(a) recommended that sterility and/or pyrogen testing for veterinary drugs be excluded as unnecessary.

The Commissioner finds that this paragraph does not establish whether any class of drugs is to be sterile and/or pyrogen free. The requirements of § 211.167(a) relate to drug products that purport to be sterile and/or pyrogen free.

407. One comment said an apparent conflict existed between § 211.167(a) and proposed § 211.165(d)(2), which would require destructive testing of the batch for the characteristics of sterility and/or pyrogenicity.

The Commissioner notes that proposed § 211.165(d)(2) specifically acknowledged that it would not be appropriate to destructively test the

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entire batch. Section § 211.165(d) is reworded in the final regulation, with paragraph (d)(2) deleted, and the Commissioner sees no conflict between it and § 211.167(a).

408. One comment on proposed § 211.167(b) said collaborative laboratory studies have not established procedures for accurate and reliable testing for the presence of all types of foreign particles and harsh and abrasive substances. Alternative wording was suggested that would provide for such specifications and testing on an individual firm basis. Other comments recommended that the requirement be restricted to testing for metal particles, as is currently required by the compendia.

The Commissioner recognizes that tests for particles other than metal are generally not as precise as those tests for metal particles. The United States Pharmacopeia and FDA regulations for antibiotic ophthalmic ointments (21 CFR 436.206) contain requirements for testing for metal particles and limits for such particles. The majority of firms manufacturing ophthalmic ointments perform tests for other particle matter in addition to the U.S.P. or FDA required tests for metal particles. The Commissioner considers it a current industry practice for manufacturers to reduce or control the harshness and/or abrasiveness of ophthalmic ointment drug products that may be caused by any particles, including the components themselves. Components may, for example, contribute to harshness and/or abrasiveness of the ophthalmic ointment because of crystalline size and shape. The Commissioner is retaining provisions for appropriate testing other than those for metal particles. Some firms employ a subjective test for abrasiveness, such as rubbing a sample of the drug product between the fingers; the Commissioner does not consider this type of test adequate, however, unless the individual is qualified to conduct this organoleptic test.

409. One comment called attention to situations in which the coating of tablets in different coating pans during the manufacturing process may affect the release pattern and suggested that each pan he sampled, tested, and accepted or rejected on an individual basis.

The Commissioner recognizes the significance of proper coating in relation to its effect on the release pattern of active ingredients. Section 211.110 requires in-process controls to validate the performance of processes that may cause variability in the in-process material and the drug product. Sections 211.165 and 211.167 also require satisfactory conformance to finished drug product specifications. While he believes this to be adequate at this time, the Commissioner will consider the need for more specific requirements, either in the general CGMP regulations or in specific CGMP regulations for sustained release drug products or drug product tablets, because of unique problems that may be presented by tablet coatings, especially if active incredients are in such coatings.

RESERVE SAMPLES

410. Numerous comments on § 211.170(a) said reserve samples of components need not be kept for 2 years beyond the expiration date of the products containing them. There were numerous alternatives suggested, ranging from 2 years after use of the component to 1 year after the expiration date of the last drug product containing the component.

The Commissioner has concluded that the requirement for retention of samples for 2 years beyond the expiration date is not necessary. The 2-year requirement had been proposed to make the period consistent with the present alternative requirement of 2 years after distribution of the last drug product incorporating the component, if longer than a period of 1 year after the expiration date. The Commissioner is revising the final regulation in § 211.170 to require retention for 1 year after the expiration date of the last lot of drug product containing the component. Where no expiration date is required, such as for human OTC drug products meeting the criteria for exemption under § 211.137, the retention period is 3 years after distribution of the last drug product lot containing the active ingredient. The 3-year retention period also applies to the reserve sample of the drug product under § 211.170(b) and to retention of records and reports in § 211.180. Appropriate revisions are made in the final regulations.

411. Several comments recommended that hazardous and unstable materials be exempt from the reserve sample requirement in § 211.170(a). Other comments suggested that inactive ingredients also be exempted.

The Commissioner has concluded that storage of some types of materials may constitute an unnecessary burden or a safety problem. The section, as revised, will eliminate retention of inactive ingredients. He believes that deletion of retention requirements for inactive ingredients will eliminate most of the objections regarding hazardous and unstable materials; most of those materials cited by respondents are used as inactive ingredients. For those active ingredients that may be hazardous, though, the Commissioner concludes that the need for retaining samples of such active ingredients outweighs potential problems of storage.

412. A comment suggested that the word "appropriate" be inserted before the word "tests" in § 211.170(a) because some tests require extremely large quantities of component.

The Commissioner understands this comment to object to maintaining reserve samples when the amount of material needed to conduct the required tests is large. The Commissioner has concluded that the advantages of keeping such amounts of active ingredients outweigh any expected burden. He advises that this is an existing CGMP requirement.

413. One comment said it is not necessary to retain reserve samples of multiple shipments of the same lot number of components.

The Commissioner rejects this comment. Conditions of transit and storage can vary from shipment to shipment; such variable conditions can produce variations in the lots of different shipments.

414. Several comments on § 211.170(b) said the requirement for inspecting reserve samples of drug products annually is unnecessary in consideration of the requirement for stability studies and, further, that deterioration normally cannot be detected by inspection. Other comments said FDA should clarify its intent whether or not inspection was meant to require complete testing and whether such testing would be required if such would affect the integrity of the sample.

The Commissioner has concluded that the requirement for annual inspection is sound. Stability studies would not, in the usual sense, provide an opportunity for evaluating stability on a batch-by-batch basis. The intent of the regulation is not to require complete testing on each batch of reserve sample on an annual basis, but rather to require examination, such as would be done visually, and § 211.170(b) is revised to so state. The Commissioner recognizes that such examination would not provide the type of assurance that could be obtained by complete analysis, but the burden that complete testing would place on the industry would be unreasonable and unnecessary considering the requirements for establishing stability. The Commissioner is also revising § 211.170(b) to require annual inspection only if it can be done without affecting the integrity of the sample.

415. One comment said the amount of paperwork could be reduced if only samples that were found defective during annual inspection were recorded on the individual product record.

The Commissioner does not intend that there be a requirement for recording the results of examination required by this paragraph in the individual batch record for the product, if that is what the comment suggested. A record of samples must be kept so that test results can be correlated with each batch and the test results kept with other stability data.

416. Several comments said the requirement for retention of reserve samples in the same container-closure systems in which they are marketed is impractical in the case of very large or bulk containers.

The Commissioner has concluded that there are instances, for example those involving very large or bulk containers, where it would be impractical to store reserve samples in the same size container as is used for the marketed product. Although the Commissioner finds that the same immediate container-closure system is preferred for storage of the reserve sample, he is revising the final regulation to allow the use of an immediate container-closure system having essentially the same characteristics as the marketed container. This means, for example, that one size container may represent several sizes from the same batch, provided all containers were essentially the same except for size. The storage requirements for reserve samples differ slightly from the storage requirements for stability study samples in § 211.166 because to obtain accurate stability data it is essential to duplicate the conditions that could affect stability.

LABORATORY ANIMALS

417. A comment said this section (§ 211.173) should be deleted because the Laboratory Animal Welfare Act, enforced by the Department of Agriculture, already regulates the care and use of laboratory animals.

The Commissioner notes that the CGMP requirements for the maintenance and control of laboratory animals are intended to assure that animal test results are valid in that the results have not been affected by the use of animals that may have been exposed to adverse environmental conditions. The identification and maintenance of adequate records on animals are likewise intended to assure the validity of the test results. The intent of the Animal Welfare Act (7 U.S.C. 2131–2155) is, among other things, "to insure that certain animals intended for use in research facilities * * * are provided human care and treatment." Regulations implementing that act are quite detailed, but do not expressly deal with the two items of most immediate concern for drug quality purposes. The user of such animals for drug testing would, therefore, be required to comply with both the CGMP requirements of the act and the requirements of the Animal Welfare Act.

418. A comment said because not all manufacturers have animal facilities, the regulation should make it clear that § 211.173 applies only when animals are maintained for test purposes.

The Commissioner believes that it is clear that if animals are not used, the section does not apply. The intent of the section is not to require the use of animals, but rather to set standards applicable when animals are used. Therefore, the Commissioner sees no need to accept this comment.

419. One comment argued that the requirement for physical separation of animal maintenance facilities would be an undue hardship because it does not allow for flexible use of space by the manufacturer.

The Commissioner notes that § 211.173 does not speak of physical separation. The degree of separation in maintenance and control of animal facilities should be sufficient to assure that animal test results are valid in that the animal facilities do not contribute contamination to the drug product or the manufacturing facilities.

420. A comment said identification and recordkeeping for use of individual animals is unnecessary if the animal is used only once.

The Commissioner rejects this comment. Identification of each animal and adequate recordkeeping are a basic part of any biological test in order to assure accurate results. Even rodent species used only once should be accounted for on an individual basis to prevent inadvertent reuse, which may result in inaccurate test results. The Commissioner has dealt at some length with problems uncovered in reviewing drug testing in animals (see proposed regulations for good laboratory practice published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206)).

PENICILLIN CONTAMINATION

421. A comment on § 211.176 said that because zero penicillin levels are required, raw material suppliers should certify that their products are penicillin free.

The Commissioner believes that, although drug manufacturers can at their own initiative request such certification from suppliers, FDA should not require suppliers of raw materials to test every lot of raw materials for penicillin, even when no reasonable possibility exists that they have been contaminated with penicillin. This would place an unnecessary burden on suppliers.

422. A comment said FDA is not qualified to test for penicillin contamination because FDA receives multiple samples in the same cartons, and they are kept together in the same room in the testing laboratory.

The Commissioner has concluded that there is no basis for this comment. Samples for cross-contamination testing are received by the FDA laboratory in sealed containers that are individually placed in sealed plastic or paper bags. Analyses for penicillin cross-contamination are conducted in a laboratory facility separate from that used for penicillin certification analyses. Positive and negative controls are run, and the analyses are conducted in laminar flow hoods under positive pressure. Thus, FDA is quite capable of determining the presence or absence of penicillin contamination.

XV. RECORDS AND REPORTS

GENERAL REQUIREMENTS

423. Some comments on § 211.180(a) objected to maintaining production, control, and distribution records for 2 years after the expiration date of the batch. They mentioned the increased cost of record storage and noted that adverse reactions, complaints, recalls, and other phenomena justifying record storage generally occur shortly after beginning distribution. Various time periods were recommended as alternatives. Several comments suggested a retention period of 2 years after the batch was approved for marketing.

The Commissioner finds that these records must be available for review for a reasonable time period beyond the expiration date of the products covered in the records to provide an opportunity for appropriate followup of any complaints or other adverse reports received during the entire marketing period. In reconsidering the extent of such retention period in light of the comments, however, the Commissioner has determined that a 1-year period following the expiration date will generally be adequate to assure that the records will be available for review if necessary. In the case of certain OTC drug products not being required to bear an expiration date because they meet the criteria for exemption under § 211.137, the record retention period is 3 years after distribution of the batch. This 3-year period is considered appropriate because the exemption is based on an assumption that such products will be used within 3 years after manufacture. Therefore, record retention for 3 years after distribution should be adequate to cover the time period during which records are most likely to be needed. The Commissioner recognizes that these final regulations will require retention of records beyond that currently required in the CGMP regulations. The CGMP regulations require the retention of certain records, e.g., batch production and control records, for time periods that are based on the distribu-

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tion of the lot or, where applicable, the expiration date of the batch. The current regulations do not clearly specify the record retention period for other records. For some firms, the retention period for records will not change as a result of this regulation, as their practice is being incorporated in these regulations. In other cases, however, these regulations will require retention of records for a period of time longer than the minimum retention period specified in previous CGMP regulations. With specific regard to physical space for the storage of records, the Commissioner advises that the regulations do not generally require retention of original records, and that retention of suitable true copies in other forms such as microfilm is permitted. The Commissioner believes that, in keeping with modern business practices, there are many record retention systems that would fulfill the intent of the record retention provisions. Section 211.180(d) of the final regulations specifically provides for this flexibility.

424. One comment said § 211.180 should be deleted because section 703 of the act prescribes the maintenance of certain records that show the movement of articles in interstate commerce and does not mention the retention of records as described in § 211.180.

The Commissioner disagrees with this comment. Section 703 of the act permits FDA access to records of interstate shipment in the possession of carriers (i.e., transportation companies) or other persons receiving or holding food, drugs, devices, or cosmetics in interstate commerce. The provisions of section 703 do not apply to the manufacturers of drug products insofar as records of production are concerned.

425. One comment suggested that retention of records for components that have an indefinite stability or components that are used only occasionally to produce batches of drug products be excluded from § 211.180(b).

The Commissioner rejects this suggestion. The retention period is related to the expiration dates of the batches of drug products containing that batch of the component in order to assure that the records would be available for review during the marketing of the drug products and for a reasonable period thereafter. The Commissioner seriously questions whether any drug product can be considered indefinitely stable or would in fact carry an expiration date that would require record retention for an extraordinarily long time. Finally, the Commissioner notes that because the manufacturer has discretion to establish an expiration date that is less than the actual stability of the drug product, the manufacturer also has reasonable control over the periods during which he must retain records.

426. One comment said § 211.180(b) is overly inclusive and should be reworded to include only those components that come in actual contact with the drug product.

The Commissioner is unclear on the use of the word "component" in this comment. The definition of "component" appearing in the CGMP regulations would only include ingredients intended for use in the manufacture of a drug product, including those that may not appear in the final product. Section 211.180(b) limits records to components actually incorporated in the drug product. Thus, it seems obvious that the regulations only apply to components "that come into actual contact with the drug product" as requested in this comment. Therefore, the Commissioner cannot agree that the requirement as proposed is too extensive, and he sees no justification for revisions in the language in this paragraph.

427. Some comments suggested that reference to drug product containers and closures be deleted because these items are not subject to deterioration. One comment suggested that the requirement be retained for parenterals only.

The Commissioner does not agree that reference to container/closure record retention should be deleted because they are not subject to deterioration. The Commissioner is aware that some container/closure systems are subject to deterioration and there are other possible problems with containers and closures that may adversely affect the drug product. The purpose and intent of recordkeeping requirements is to be able to trace the complete history of a batch and thereby enable a firm and FDA to investigate fully any problems that may arise with either the product, the container/closure system, or both. Complete records would also make possible a determination of whether or not other batches or other drug products are or could be involved with the same problem. The failure to have these records available for any investigation could prevent the resolution of an undesirable condition. Therefore, the Commissioner is retaining this requirement to include all drug product containers and closures.

428. A comment on § 211.180(b) was submitted regarding the retention of records for compressed medical gases. The comment, which assumed that expiration dating would not be required for compressed medical gases, requested a retention period to be some logical and meaningful period.

The Commissioner finds that there is no justification for excluding retention of records required for compressed medical gases under this paragraph. The Commissioner has also decided to require expiration dating for medical gases.

428a. Several comments objected to reference to recordkeeping and record inspection requirements in proposed § 211.180 (c) and (d) insofar as they apply to over-the-counter (OTC) drugs and to "not new" drugs. These comments pointed out that section 704(a) of the act authorizes inspection of records regarding prescription drugs only and inspection of records regarding research data only on "new drugs" subject to section 505 of the act. One comment cited extensively from the legislative history of section 704 of the act indicating a congressional intent to limit the scope of inspection granted to FDA.

The Commissioner has reviewed the legislative history of the 1953 amendments (Pub. L. 83-217), which originally enacted section 704(a) of the act, as well as the amendments contained in the Drug Amendments of 1962 (Pub. L. 87-781 (1961)), which extended FDA's authority to review records for prescription drugs under the mandatory inspection authority of section 704 of the act. He finds that Congress did not include in the scope of the inspection authority under section 704 of the act (and its concomitant enforcement section under section 301(f) of the act) authority to inspect records regarding the manufacture of OTC drug products or research data on prescription drugs that are not "new drugs" as defined in section 201(p) of the act. The Commissioner also finds, however, that section 704 of the act does not exhaust the varieties of inspections that FDA may be authorized to make regarding such drug products.

Manufacture of any drug product without compliance with current good manufacturing practices renders the product adulterated, a prohibited act under section 301(b) of the act and a Federal crime under section 303 of the act. Thus, if FDA had reliable information indicating that an OTC or old drug product was being manufactured in violation of current good manufacturing practice, the agency could obtain a search warrant that would authorize FDA to inspect manufacturing records regarding the drug product to seek evidence regarding the alleged criminal offense.

A second type of FDA inspection into OTC drug production records would be in conjunction with inspections under Government-wide Drug Quality Assurance Programs. Manufacturers contracting to provide OTC drug products to the Department of Defense, the Veterans Administration, or the Public Health Service must, as a condition under those contracts,

permit FDA to inspect the plant, facilities, and records regarding the product to determine compliance with the Federal Food, Drug, and Cosmetic Act. If the manufacturer withdraws his consent for FDA to inspect, FDA will decline to accept the product on behalf of the purchasing Government agency, and if that agency so decides, the contract may be terminated.

A third example of an inspection authorized under the act is found in section 505(j)(2) of the act where a manufacturer must permit inspection of records regarding new drugs which are required under section 505(j)(1) of the act; failure to do this is a prohibited act under section 301(e) of the act. It is conceivable that an NDA for an OTC drug would be subject to record-keeping requirements regarding manufacturing activities, and if so, FDA could inspect these records, notwithstanding section 704 of the act.

This does not necessarily identify all circumstances in which FDA may be authorized to make an inspection of records regarding the manufacture of an OTC drug product or research data on "not new" drugs. See, generally, Horton, "Warrantless Inspection Under the Food, Drug, and Cosmetic Act," 42 G.W. Law Rev. 1089 (1974).

The purpose of § 211.180(c) is to assure that all appropriate records were properly collected, indexed, and held at the site where an inspection would occur so that, in the event of an authorized inspection by FDA, these records would be readily reviewable by the FDA inspector. Otherwise, an unnecessary delay may occur if the manufacturer had to locate and collect the appropriate records for an inspection. It is not the intent of these paragraphs of the regulations to compel a manufacturer to submit to an inspection that was not legally authorized. To clarify this, the Commissioner is inserting the word "authorized" before the word "inspection" in § 211.180(c).

429. Several comments objected to the requirement that records be readily available at the establishment where such recorded activities take place on the grounds that most firms with multiple facilities maintain central record storage facilities and that compliance with § 211.180(c) would require needless and unnecessary duplication of the records and storage facilities. These comments suggested that provision be made for central record storage sites, provided that the requested records be made available in a reasonable period of time.

The Commissioner does not agree with the contention that keeping these records or copies of them at the establishment where the activities took place would be unnecessary and would require needless and unnecessary duplication of the records and facilities. He is of the opinion that most firms today keep the records or copies of them at the site where they were generated. These critical records must be available to both plant personnel and FDA for review. To require that plant personnel and FDA investigators place orders for specific records to another facility and then wait for delivery would not be prudent. There is the distinct probability that operating under these circumstances would greatly extend the time needed to conduct an investigation of a problem or to conduct the required inspections.

The Commissioner does believe, however, that records that can be immediately retrieved from another location by computer or other electronic means meet the requirement of being readily available at the establishment. The final regulation includes this provision. As the Commissioner stated in reply to other comments regarding record storage, these regulations do not preclude the use of other record storage systems, such as microfilm or microfiche. Where other systems are employed there must be associated capability for viewing and copying. The final regulations include a new § 211.180(d) to clarify these provisions.

430. One comment suggested that the regulation provide guarantees that the FDA investigator will not copy these records or if they are copied, that they will not be released under the Freedom of Information Act.

The Commissioner cannot agree with the first suggestion. There are many instances where the investigator who makes the inspection does not have the time to review records at the establishment for all of the facets involved. In addition, this suggested provision would result in an inordinate expenditure of FDA resources to provide adequate time for a complete review of the records at the plant site. The Commissioner believes that true reproduction of records, compared with handwritten copies, assures their authenticity and decreases inspectional time. While the copying of appropriate records has always been implicit in CGMP regulations, there have been instances where investigators were restricted by manufacturers to handwritten copying of the records. Therefore, § 211.180(c) is being amended in the final regulation to clarify that records are subject to copying during the course of an inspection.

The Commissioner also rejects the respondent's suggestion that documents not be released under the Freedom of Information Act. The Commissioner is required by law to release documents in his possession unless they contain information or are of such a nature that a request for release could be denied. In this regard, the Commissioner specifically refers to the FDA regulations describing public disclosure of "trade secret" information in FDA files (21 CFR Part 20, particularly § 20.61).

431. Numerous comments objected to § 211.180(e) (proposed as § 211.180(d)) on the grounds that the requirement for the generation of a written summary is not current practice and would have an unnecessary inflationary impact without any noticeable effect on improving the quality of drug products in general. Some of these comments argued that the proposal did not specify what data were to be summarized. Other respondents questioned the authority of the FDA to require these summaries. Numerous additional comments were submitted suggesting that these summaries be prepared "when necessary" or "when needed." Several other comments objected to the required retention period.

The Commissioner has carefully considered the extensive comments regarding the proposed requirements for written summaries and concludes that revisions in this paragraph are justified. The purpose is to provide reliable procedures for a manufacturer to review the quality standards for each drug product. The Commissioner agrees that mechanisms other than written summaries may be appropriate for such evaluation. Therefore, the final regulation is amended to require that manufacturers establish their own written procedures for annual evaluation of the quality standards for each drug product. While not specifying what review mechanism must be used, the Commissioner encourages the use of written summaries as one practical means of drug product review. The Commissioner believes that some manufacturers are currently using such written summaries to good advantage in establishing drug product profiles.

432. Several comments objected to § 211.180(f) (proposed as § 211.180(e)) on the basis that it is an unwarranted intrusion into corporate duties and responsibilities, and adherence to this requirement would not affect the integrity of the drug product. Some of these comments suggested an exclusion for small businesses because the corporate officials would be writing themselves reports. Still others suggested limiting these reports to significant findings.

The Commissioner believes there are sound reasons for this proposed requirement. From time to time it has been the agency's experience that corporate officials have not been advised of potential or real adverse conditions brought to light either by the firm's own quality control system or by FDA. As a result, corrective actions have not

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been instituted where they might have been, had company officials been aware of such conditions. Correspondence from FDA to firms regarding inspectional findings and recalls is directed to top officials as a matter of policy, but not all conditions specified in § 211.180(f) are the subject of inspections or recalls, and even in the case of inspection and recalls there may be a period of time before FDA correspondence which deals with the subject is issued. The Commissioner does not believe that the requirements of § 211.180(f) are burdensome and is confident that the concept of keeping officials informed of such situations as specified in § 211.180(f) is, for the most part, current industry practice.

The Commissioner rejects the argument that the requirements of this paragraph are an unwarranted intrusion into corporate duties. They will provide added assurance that efforts are being directed toward the prevention and/or correction of conditions that could affect the quality of the drug product. Moreover, responsible officials already have very rigid legal duties to be aware of, and to take action upon, conditions contributing to drug adulteration (*United States* v. *Park*, 421 U.S. 658, 1975; *United States* v. *Dotterweich*, 320 U.S. 277, 1943).

In view of the comments, however, the Commissioner is deleting the proposed requirement regarding routine quarterly written reports in order to allow manufacturers flexibility in establishing procedures to keep appropriate management fully informed as to important matters involving possible quality control problems. In addition, the final regulation provides an exception for officials, whether in large or small firms, who are personally involved or immediately aware of investigations, recalls, reports of inspectional operations, and regulatory actions relating to CGMP regulations.

EQUIPMENT CLEANING AND USE LOG

433. Several comments on §§ 211.182 and 211.186 recommended that the requirement for signatures be deleted or modified to provide for initials, or other specific employee identification, e.g. an employee number.

The Commissioner is persuaded that the requirement for a full signature may not be warranted in view of the space that would be required in the records and the burden of continually writing a full signature on records that are repetitive. For less repetitive type of records, such as master records referred to in § 211.186, the Commissioner has decided to retain the requirement for a full signature. The Commissioner rejects the suggestion that a distinctive employee number be allowed because it would detract from the concept of personal involvement. Numbers, in the Commissioner's opinion, may be easily recorded by persons other than those who actually perform the function.

434. Some comments suggested that the word "strength" be deleted from § 211.182 as superfluous because this information is readily derived through the lot or batch number.

The Commissioner agrees that the word "strength" can be deleted. The remaining required information is sufficient to identify the batch.

435. Several comments objected to the requirement in § 211.182 that an individual written record of all equipment cleaning and maintenance would have to be double-checked and signed. This requirement could include logs for stirrers, scoops, and ladles.

The Commissioner agrees that this requirement, as proposed, could be construed to include such items as ladles, stirrers, scoops, spoons, and spatulas. Therefore, the word "major" is being inserted before "equipment." This change does not affect the responsibility of assuring that all utensils and other equipment are properly and adequately cleaned before re-use, but only documentation of such activities.

436. One comment on § 211.182 doubted the need for routinely double-checking cleaning and maintenance. It argued that this would require the checkup person to be present during the operation. A second comment said the requirement for checking routine maintenance would be overly burdensome.

The Commissioner notes that the purpose of this requirement is that a second person determine that appropriate cleaning and maintenance was performed. He does not believe that this necessitates that the person doing the checking be present during the entire operation. Changes in the final regulation clarify this intent and also exclude from the required checking routine maintenance activities such as lubrication and adjustments.

437. Several comments on § 211.182 objected to keeping logs inasmuch as the information is readily available in other records, such as the batch record.

The Commissioner rejects this view because in most instances batches are not processed consecutively on any one piece of equipment. If the practice were not followed and one attempted to determine the chronological use of a particular piece of major equipment to ascertain, e.g., whether several batches were affected by a malfunction, a burdensome review of numerous batch records would be necessary.

438. Some comments said logs required in § 211.182 are not necessary when equipment is dedicated to a single product.

The Commissioner agrees that if equipment is dedicated to the manufacture of one product, the requirement for individual equipment logs would not be necessary, provided that lots or batches of such products follow in numerical order and are manufactured in numerical sequence. In such cases where the use of dedicated equipment is employed, the records of cleaning, maintenance, and use shall be part of the batch record. The Commissioner is revising this section accordingly.

439. One comment said § 211.182 is an unnecessary burden on the manufacturer who places reliance on the drug product's final testing.

The Commissioner is aware that dirty or poorly maintained equipment can introduce characteristics to a drug product that may not be detected by final examinations. Moreover, it is in the manufacturer's interest as well as the public's to prevent quality assurance problems, rather than simply detect them. Therefore, the Commissioner rejects this comment.

440. Comments objected to the requirement for one log for each piece of equipment containing the information regarding cleaning and maintenance when a portion of the cleaning or maintenance may be performed either at another location or by a different department.

The Commissioner notes that it is not the intent of this section to limit the number of logs for each piece of equipment to one. The intent is that there be one or more logs for each major piece of equipment which, in their entirety, contain the information required by this section. The Commissioner does not believe the section implies otherwise.

COMPONENT, DRUG PRODUCT CONTAINER, CLOSURE, AND LABELING RECORDS

441. Several comments requested an exemption of veterinary drug products from the requirements in § 211.184 (a) and (c). For drug product containers and closures, it was also suggested that the section be modified to indicate that the requirements regarding product containers and closures should apply only to the drug products intended for human use.

The Commissioner rejects these comments. He sees no sound arguments that drugs intended for veterinary use should be subjected to lesser controls than human drug products.

442. Several comments objected to the proposed requirements in § 211.184(a) for the lot history of drug product containers and closures. Comments were that existing controls product containers and closures are sufficient and in some instances the supplier's lot number and the location of the manufacturer are not known.

Another comment expressed concern that reporting of the name and location of the prime manufacturer "if known" was not sufficient and such reporting should be mandatory.

The Commissioner cannot agree that the information relating to the lot history of drug product containers and closures is not important in providing prompt and accurate identification of such lots, when necessary. Generally, the required information is already available and recorded by most manufacturers, but may not have been previously organized in such a manner as to facilitate identification of drug product containers and closures. The Commissioner acknowledeges that, occasionally, information such as the supplier's lot number or location of the manufacturer is not known. The proposed regulation already provided for the instances where the name and location of the prime manufacturer, when different from those of the supplier, is not known, and the final regulation also takes into account that a supplier's lot number may not always be available. This modification, however, does not diminish the control over such drug product containers and closures by the drug manufacturer. The receiving code, specified in § 211.80, will serve to identify the received lot to the drug manufacturer. The Commissioner encourages all suppliers to adopt batch or lot identification to aid in locating components, drug product containers, and closures in the event it becomes necessary to do so to protect the public health.

About the comment for mandatory recording of the prime manufacturer in all cases, the Commissioner concludes that such a requirement is not necessary. Because such information is usually readily available, however, and may be useful to the manufacturer in considering the suitability of suppliers or allow for tracing the complete history of the component, container, or closure, it should be recorded when available.

443. One comment on § 211.184(b) recommended substituting the phrase "subsequent disposition assigned to the material" for the phrase "conclusions derived therefrom" in the last line of this paragraph because under the sections cited in the proposed paragraph, the only possible decisions are release, restrict, reprocess, or reject.

The Commissioner cannot agree with this comment and believes the comment may have misinterpreted the proposed requirement. Results of tests or examinations required under the sections cited in this paragraph are clearly to be included, but all tests and examinations must be considered. There are a wide range of conclusions that may be drawn from results of tests or examinations. For example, a test failure resulting from improper testing procedure would be recorded, but the lot would not necessarily be rejected based on that one improperly performed test. The Commissioner finds that this paragraph should be finalized as proposed.

444. Many comments addressed § 211.184(c). Most agreed that an inventory record and reconciliation for drug product components was appropriate, but objected to inventory records and reconciliation for drug product containers and closures. Others contended that inventory records, but not reconciliation, were also appropriate for drug product containers and closures. Arguments were primarily that recordkeeping to this extent was unnecessary, burdensome, and not current practice. Some comments were concerned that extensive records and reconciliation would be required for packaging materials such as cotton filler material used in packaging tablets and capsules. Several comments recommended changes in the proposed language that would clearly require that the inventory record be sufficient to establish the batch or lot of drug product in which component, drug product container, and closure are used.

The Commissioner has reconsidered the need for individual inventory records and reconciliation of the use for components, drug product containers, and closures. He finds that individual inventory records are necessary to provide an adequate history regarding the use of components, drug product containers, and closures. To clarify the intent that such inventory records are intended to allow for determination as to the batch or lot of drug product associated with the recorded inventory, the Commissioner is modifying the proposed wording in this section (§ 211.184(c) and in § 211.188(g)).

The Commissioner agrees with the comments that reconciliation of the use of each lot of drug product container and closure should not be required. Although there are instances where such reconciliation could be valuable to the drug manufacturer, it should not be mandatory for all drug products and all drug manufacturers. The CGMP regulations elsewhere provide considerable control over the approval and use of drug product containers and closures. Because of the more critical nature of the ingredients, on the other hand, each drug product component must be inventoried and its use reconciled in order to provide added assurance of product integrity.

The Commissioner emphasizes that this section does not pertain to all packaging materials, but only drug product containers and closures. Thus, individual inventory records for packaging materials such as cotton filler and package liners are not required under this section, although records regarding the receipt, examination or testing, and disposition for packaging materials generally are required in § 211.122, particularly in paragraph (c).

445. One comment objected to § 211.184(d) on the grounds that it could be interpreted to require each person on the manufacturing line who makes an inspection to record that inspection as it is made. The comment recommended deleting the word "all" from the paragraph.

The Commissioner finds that this paragraph is intended to provide for the documentation of the examination of labeling as required elsewhere in the CGMP regulations. To eliminate the possibility of misinterpretation, § 211.184(d) is revised by substituting the words "the examination" for the words "all inspection" to conform more closely to the language used elsewhere.

In considering the final regulation, the Commissioner finds that a new § 211.184(e) is desirable to clarify that records regarding the disposition of rejected drug product containers, closures, and labeling must be maintained.

MASTER PRODUCTION AND CONTROL RECORDS

446. One comment noted that the phrase "master production and control records" as used in § 211.186(a) was not limited to "appropriate master production or control records" as in § 211.188(a), and requested clarification in regard to use of the word "appropriate."

The word "appropriate" in § 211.188(a) is intended to denote the master production or control record that is appropriate for the particular batch for the drug product. The Commissioner believes both paragraphs as written are clear in this regard.

447. Several comments argued that the "full signature, hand written" is not necessary and that the paragraph should be changed to allow for other means of identifying the persons who prepare and check the master production or control cards, such as initials, registered initials and/or signature stamps.

The Commissioner believes the requirement for a full signature is appropriate when applied to master records. In the past, FDA has on occasion found instances where firms could not identify the person or persons whom the initials were intended to represent. Further, the Commissioner does not believe this requirement to be burdensome because master production and control records in most cases would be infrequently established or changed.

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448. One comment proposed acceptance of other validating techniques in the first sentence of § 211.186(a) on the grounds that verification can be accomplished by machine.

The Commissioner is not aware of how master production and control records can be totally prepared and verified by machine. Although calculators or computers might assist in preparation and verification by aiding the persons involved, the initial information would have to be fed into the calculator or computer by a responsible person, and a second responsible person would have to verify that the hard data fed into the machine were valid. Where appropriate, the use of automated equipment and computers is allowed under § 211.68 provided hard data are kept of certain records such as master production and control records.

449. One comment said the words "where appropriate" should be inserted after "strength" in the first line of § 211.186(b)(1).

The Commissioner rejects this comment because it is appropriate to include the strength of the drug product on the master production and control records.

450. One comment said § 211.186(b)(4) should be revised to require use of the metric system of measurement only.

The Commissioner rejects this comment. While the metric system is used to a great extent in the drug manufacturing industry, a requirement for conversion to the metric system as the sole method of measure could be an unnecessary burden upon industry at this time. Such a requirement may be imposed in the future by the Commissioner, in keeping with national laws on conversion to the metric system and good manufacturing practice.

451. One comment said the requirement in § 211.186(b)(4) for using the same weight or measure system should be deleted or revised to allow firms to change the master formulas gradually over a period of years or as the drug product is reformulated.

The Commissioner believes that the large majority of drug firms already comply with this requirement. The Commissioner notes that the effective date of this final regulation allows sufficient time for the remaining firms to comply with this section and therefore rejects the suggestion that firms be allowed to change their systems over a period of years.

452. One respondent recommended that the requirement for "using the same weight system" in § 211.186(b)(4) should not be applied to veterinary drugs because these are often produced in large volumes or masses.

The Commissioner finds no justification for exempting veterinary drugs from this requirement. The fact that large volumes or masses are involved is not a convincing argument that the requirements for use of a consistent measurement system should not apply to the manufacture of veterinary pharmaceuticals. Drug products for human use are also often manufactured in large volumes or masses.

453. One comment on § 211.186(b)(7) said repetitious calculation of percentage of theoretical yield adds nothing to the integrity of the product.

The Commissioner rejects this comment. The regulation does not require "repetitious" calculation of theoretical yield; instead, one calculation must be made part of the master production and control records, together with appropriate tolerances from this calculation beyond which an investigation for manufacturing errors would be required.

454. One comment said the theoretical yield percentage, which if exceeded would require an investigation under § 211.192, should not be included in the record as required in § 211.186(b)(7) because the investigation is the responsibility of the quality control unit.

The Commissioner does not understand the reasoning behind this comment. The fact that this information appears in master or batch records does not displace responsibility of the quality control unit.

455. One comment said the requirement in § 211.186(b)(7) for a statement of theoretical yield does not take into account that there is sometimes a shortage in the actual yield because a manufacturer may discard a portion of a batch due to a problem with the "pharmaceutical elegance" of the product.

The Commissioner sees no reason to accept this comment. The purpose of the theoretical yield requirement is to serve as an indicator of a possible error when compared to the actual yield. If the manufacturer can account for the shortage in the actual yield of the product by documenting that a definite portion of the lot was discarded because of its inelegance, the regulations have been followed.

456. One comment argued that the label should be required to be maintained on file and not physically attached to the master production or control record.

The requirement does not state that the label has to be glued or stapled to the master record, for example, if this is what the respondent means by "physically attached." Since 1963, the CGMP regulations have required that a specimen or copy of each label be included in the master production and control record. This requirement is needed in order to make the master production and control record complete with respect to all aspects of processing, and should not be changed.

457. Several comments regarding §§ 211.186(b)(8) and 211.188(b)(8) said lithographed bottles, cans, and ampules cannot be kept on file.

The Commissioner notes that the final regulations provide that a "specimen or copy" be included in the master and batch production or control record. A photograph, photocopy, or other accurate reproduction will fulfill the intent of these sections.

BATCH PRODUCTION AND CONTROL RECORDS

458. One comment on § 211.188 said batch production and control records should be permitted to be extensively simplified because lots are repetitive and are usually processed on identical equipment in an identical manner for months or years.

The Commissioner notes that this comment fails to specify what simplifications are proposed. The purpose of these regulations is to provide for a written system which, when followed, results in a reproducible high-quality drug product. The Commissioner believes that "simplifying" the batch and record controls by reducing the types of information required would have an adverse effect upon the quality of the drug product and would not reflect current industry practice. On the other hand, use of forms to ease the recording of information (without omitting any) would fulfill the provisions of this section.

459. A comment said there is no need to check a batch production and control record, as required in § 211.188, if it is a photocopy reproduction of the master production and control record. Further comment recommended that the words "where necessary" be inserted after the word "accuracy" in the third line of § 211.188(a).

The purpose of this requirement is first of all to make sure that the correct master production or control record has been copied. Also while photocopying may be the most accurate and preferred means of producing a batch production and control record, no system is infallible. For example, a spot or mark on the plate glass surface of the copier could result in the obliteration of a letter or the addition of a period onto the photocopy reproduction, and this might change the formula. The Commissioner believes that the checking, dating, and signing of a batch production and control record is always necessary to assure that such records are correct.

460. A comment said § 211.188 should explicitly allow the use of batch production or control records produced by a computer.

The Commissioner notes that § 211.68 clearly permits the use of computers in the manufacture, processing, packing or storage of drug products. Section 211.188 does not limit the means by which a batch production or control record may be produced. The Commissioner does not believe that repetitiously providing for the use of computers or any other means of reproducing batch production and control records in each section where it is applicable is necessary.

461. Several comments said § 211.188 is unclear as to what records are encompassed in the requirements. Specifically, one asked whether the term "appropriate" in § 211.188(a) allows a manufacturer to use a "manufacturing ticket" that does not contain all the information in the master production or control record.

Although the Commissioner is not sure of the intended meaning of "manufacturing ticket," he notes that the word "appropriate" in § 211.188(a) refers to the master production and control record for the size of batch, strength, and dosage form that is to be manufactured. The term "appropriate" is not intended to allow a manufacturer to delete any pertinent information from the batch production and control record. As stated in this paragraph, the batch production and control record shall be "An accurate reproduction of the appropriate master production or control record, checked for accuracy, dated, and signed." If a portion of the batch production record were sent to a particular department that is involved only in the operation covered by that portion of the batch record, the Commissioner would consider that practice to be consistent with the requirements of this section.

462. A comment said provisions should be made in § 211.188 for batch production and control records only to the extent that each operation is performed by each establishment, because some operations such as packaging are often performed by another firm.

The Commissioner advises that a new § 210.2(b) is added to these final regulations to clarify the applicability of CGMP regulations to persons engaged in only some of the operations subject to these regulations.

463. Several comments said the words "and after" should be deleted from § 211.188(b)(6) as requiring unnecessary and burdensome duplicative inspections.

The Commissioner rejects this comment. To prevent mixups and to reconcile the label count after packaging, it is necessary to inspect the premises after each packaging operation. It is also necessary to inspect before the next packaging operation because foreign materials other than those from a previous packaging operation could be introduced into packaging operations. For those packaging operations that are "back-to-back" with essentially no time interval, a single inspection will meet the requirement of § 211.188(b)(6).

464. Comment on § 211.188(b)(7) said the statement of percentage of theoretical yield should be ascertained only at the completion of compounding and packaging because some drug manufacturing processes are not complicated operations.

The Commissioner concludes that this section will have to be applied in consideration of the complexity of the processing needed for each drug product. The calculation of the percentage of theoretical yield only after completion of compounding and packaging may be appropriate in some cases where, for example, drug product manufacturing is not complicated. The revised final regulation should clarify that this flexibility is intended.

465. A comment said radio- pharmaceuticals should be exempt from the requirement in § 211.188(b)(7) for developing theoretical yield data because its determination would involve reassay of the unused bulk radioactive material.

The Commissioner believes that this section as revised in the final regulation responds to this comment in that the requirement applies at "appropriate stages" of processing. The Commissioner also notes that this section does not specify the tolerance levels for acceptance of actual yields. Such levels will vary depending on the drug product being produced.

466. Several comments said the words "or if impractical, a label revision number," should be inserted after "specimen" in § 211.188(b)(8).

The Commissioner rejects this comment. This requirement provides a ready means for production personnel to verify visually the processing record against what is actually being processed and provides a more complete record than a label revision number might furnish.

PRODUCTION RECORD REVIEW

467. One comment on § 211.192 indicated that accountability is of more concern than actual versus theoretical yields.

The concept of accountability is implicit in the use of theoretical yields and particularly in the comparison made between actual and theoretical yields. The material produced, considering accountable losses, is the actual yield. Comparison of the actual yield with the theoretical yield, i.e., what should have been produced, requires a determination of acceptability. The actual yield is acceptable if losses have been satisfactorily accounted for.

467a. One comment proposed replacing the word "all" at the beginning of § 211.192 with "batch."

The Commissioner agrees that the intent of this section is to require review of those records that directly relate to batch production and control. Therefore, the comment is adopted in the final regulation.

468. A comment described the quality control unit review of production and control records in § 211.192 as an excessive requirement because it would include reviews of internal manpower or labor use records.

The Commissioner does not intend that documents outside those which impact on drug product identity, strength, quality, and purity should be reviewed by the quality control unit for release purposes. The regulation is revised to clarify this.

469. One comment proposed that a single individual should certify that the review for quality control considerations required in § 211.192 has been made.

The Commissioner finds that because of the wide variety of activities and operations which the quality control unit is responsible for approving or rejecting, a number of different methods of expressing or indicating approval or rejection may be appropriate. For example, in some firms the "Director of Quality Control" may personally sign all approvals or rejections. In other firms, however, the "Director of Quality Control" may delegate this responsibility to subordinates. However, the Commissioner does not believe it is appropriate for him to dictate that specific persons be solely authorized to perform these functions.

LABORATORY RECORDS

470. One comment suggested revising § 211.194(a) by inserting the word "required" before "test," because not all laboratory tests are germane in determining the product's acceptability. It was stated that some tests are primarily for informational purposes and should not be part of the records.

The intent of this section is that laboratory records include data derived from tests that are necessary to assure compliance with established specifications and standards. The final regulation is revised accordingly.

471. Several comments suggested that the word "quantity" be deleted from § 211.194(a)(1) because this information is contained in other records, and the requirement is excessive and of no value.

The Commissioner rejects these suggestions because it would be pertinent, upon review, to determine whether the size of sample drawn is representative. A record of the size of the sample drawn also allows for a reconciliation

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of the amounts used for each test with the amount of total sample. This could provide important information for any investigation that may be instituted following marketing of the batch or lot. The Commissioner does not believe that recording the size of the sample is burdensome.

472. A comment questioned the need for recording in the laboratory records the date of receipt of a sample by the laboratory, as required by § 211.194(a)(1). The comment suggested use of the date of sampling instead.

The Commissioner does not agree that recording the date of receipt of a sample by the laboratory is unnecessary. Laboratories commonly log samples showing the date that they are received by the laboratory. Some analyses, such as moisture content of a granulation, may be influenced by the elapsed time between sampling and assay. It therefore becomes necessary to know both when the sample was drawn and when it was received by the laboratory. The final regulations are revised to clarify that both the date of sampling and the date of receipt for analysis and testing are required.

473. One comment on § 211.194(a)(1) questioned the neccessity of describing the sample if the other specified information is available.

The intent of this requirement is to provide enough of a description to identify the sample properly, such as the name of the drug product and the form of the sample, e.g., granulation, raw material, or powder. The Commissioner concludes that this is reasonable information to require and, that the requirement reflects current practice.

474. One comment said the meaning of the words "source" and "quantity" in § 211.194(a)(1) is not clear. The comment further stated that "quantity" could mean the number of sample containers, which is a reasonable requirement, or it could mean the weight or measure in each sample container, which is not reasonable.

The Commissioner rejects the argument that the word "quantity" in the context of § 211.194(a)(1) could be interpreted to mean only the number of sample containers with no reference to the amount of sample in each container. The size of sample containers could range, for example, from a liter container to a container that holds only a few grams. Further, the Commissioner does not believe this requirement to be either unreasonable or burdensome.

The Commissioner also concludes that the meaning of the word "source" in § 211.194(a)(1) needs clarification. "Source" of the sample is intended to mean the location, e.g., a specific drum number and storage area or in-process phase. The final regulation is revised in this regard.

475. Several comments suggested that the last sentence of § 211.194(a)(2) be deleted because the requirement was stated in the second sentence in this paragraph.

The Commissioner does not agree with these comments. The last sentence of § 211.194(a)(2) requires that testing methods, whether such methods have been developed by the manufacturer or are from official compendia, be verified under actual conditions of use. The Commissioner does not believe that the requirement in this last sentence is explicitly stated previously.

476. One comment argued that the requirement in § 211.194(a)(2) that laboratory records contain a statement of each analytical method used in the analysis of a sample should be limited to assays and should not extend to other tests such as physical tests.

The Commissioner does not agree that the requirement should be limited to assays of components of drug products. Tests or examinations other than assays are an integral part of the history of a drug product, especially in situations where a physical test might be as critical as an assay—for example, in determining particle size, dissolution rate, or tablet hardness. Recognizing, however, that this section as worded in the proposal is somewhat ambiguous in this regard, the Commissioner is rewording the final regulation to reflect that the requirement applies to all tests, including examinations and assays.

477. Several comments suggested that the words "where appropriate," "where meaningful," or "where required" be added at the end of § 211.194(a)(3). One comment reasoned that the size of the sample is not pertinent for many laboratory tests, e.g., melting point, infrared identification, qualitative colorimetric spot tests, and pH.

The Commissioner accepts the intent of these suggestions and is revising § 211.194(a)(3) accordingly by adding the phrase "where appropriate" in order to provide for test procedures where a nonspecific weight or measure is used.

478. Several comments requested deletion of the requirement in § 211.194(a)(4) to include all "graphs, charts, and spectra from laboratory instrumentation" in laboratory records because they are not needed and would create additional files.

The Commissioner believes that all graphs, charts, and spectra used to show a product's acceptability must be retained for future reference. These records would be needed to carry out any investigation required under these regulations.

479. Several comments requested deletion of the requirement in § 211.194(a)(4) that laboratory records include data on testing of drug product containers and closures.

The Commissioner believes that the records generated showing the acceptability or nonacceptability of the containers and closures are as necessary as those for components, in-process materials, or drug products and therefore rejects the request for deletion.

480. Several comments requested § 211.194(a) (4) and (5) be revised to take into account calculations and data derived from automatic testing equipment, such as computers.

The Commissioner notes that § 211.68 already provides for calculations and data derived from automated equipment and that such provisions need not be restated in every section where they would apply.

481. In considering comments relating to proposed § 211.194(a)(6), the Commissioner concludes that those requirements are more appropriately codified as § 211.194(b). Specific comments are responded to beginning with paragraph 488 below.

482. Some comments on proposed § 211.194(a)(7) (now § 211.194(a)(6)) recommended that the phrase "drug product container, closure" be altered to apply only to human drug product containers and closures.

The Commissioner finds that recordkeeping should apply to pertinent information regardless of the intended use of the drug product.

483. Several comments on proposed § 211.194(a)(7) objected to requiring the laboratory to make a comparison of the test result against an established standard, especially where a standard is not known to the laboratory personnel. Some of these comments suggested alternative wording to clarify this. One comment objected to requiring this statement if the reported result was close to the specification.

The Commissioner believes there must be established standards that all test results are compared against, whether they be precise standards, an acceptable range of values within maximum and minimum values, or the absence or presence of certain attributes. The Commissioner does not understand how respondents would evaluate the significance of test results if no standards for comparison exist. Therefor, this requirement as proposed is retained in the final regulation.

484. Several comments on proposed § 211.194(a)(8) (now § 211.194(a)(7)) suggested the use of alternative systems of identification instead of a full signature of the person who performs each assay or test. Suggested alternatives were employee numbers or initials.

The Commissioner agrees that a full signature is not needed in this instance and therefore is amending § 211.194(a)(7) to allow the use of initials.

485. Several comments suggested that § 211.194(a)(8) (proposed as § 211.194(a)(9)) be deleted on a variety of grounds—it would be a waste of technical manpower; it would be inflationary; and it is not current practice for the veterinary industry. Other comments suggested provision for a random review or the insertion of the phrase "when such records are audited."

The Commissioner has evaluated all these comments in light of the objective of having independent verification of the laboratory work to insure that the proper procedures were used and followed, that the calculations are correct, and that the record is complete. A review of laboratory records is necessary to insure that the correct test was performed, that the calculations are correct, and that the record is complete. This is not wasteful of resources or unjustifiably costly.

The Commissioner finds it difficult to accept the stated premise that the veterinary drug industry does not review laboratory records to determine whether the proper tests, assays, or examinations have been performed and that the results are valid. It is the Commissioner's belief that drugs for veterinary use, like drugs for human use, must be produced under appropriate control.

The Commissioner rejects the suggested revisions that limit the review to a random basis or to periodic audits. The analytical record for each batch must be reviewed in order to detect whether or not the correct procedure was used, the calculations are correct, and the laboratory record is complete.

486. Some comments suggested that the records reviewed need not always be "original."

The Commissioner notes that "original" is used to convey the intent that the records reviewed be those which contain the data used in conducting tests. The original records give the necessary assurance that complete information is being reviewed. Further, the Commissioner believes it is feasible, and does not believe it is burdensome, to require that the original records be reviewed.

487. One comment suggested that the word "signature" be substituted for the word "endorsement" in § 211.194(a)(8).

To clarify § 211.194(a)(8), it is revised to state that the records shall consist of initials or signature.

488. One comment on proposed § 211.194(a)(6) (now § 211.194(b)) suggested inclusion of the phrase "or suitable reference to" after the phrase "a full description of."

The Commissioner agrees that it is not necessary to describe fully a modification of an established method each time the method is used. The Commissioner has appropriately reworded this requirement in the final regulation to clarify this issue.

489. One comment on proposed § 211.194(a)(6) suggested that the word "sample" be substituted for the word "material" because "material" is undefined.

The Commissioner believes that the meaning of "material" is clear when considered in the context of this section, now codified as § 211.194(b). The term is used broadly to denote any materials, for example components, in-process materials, drug products, containers, or closures, which are tested in consideration of the quality of the drug product.

490. One comment on proposed § 211.194(a)(6) (now § 211.194(b)) suggested that the word "significant" be inserted before "modification" to preclude the necessity of validating a minor change, such as glassware.

The Commissioner rejects this suggestion. If a method, when developed, published, and adopted, describes a procedure to be followed and types of materials to be used in its application, then any deviation from the prescribed procedures or materials may invalidate the results.

491. Comments on §§ 211.194 (c) and (d) (proposed as §§ 211.194(b) and 211.194(c), respectively) recommended substituting the word "adequate" for "complete" or deleting the word "complete" because these sections do not detail the criteria for the content of the records.

The Commissioner rejects these recommendations because the word "complete" is intended to require that the records contain all the generated data of all of the tests performed to assure that the laboratory reference standards, reagents, and standard solutions are suitable for use and that periodic calibration of pertinent equipment was accomplished. The Commissioner believes that it is not feasible to list in detail all the tests or procedures to be performed.

492. Several comments suggested deletion of the phrase "apparatus, gauges, and recording devices," and others recommended deletion of the word "apparatus," in both §§ 211.160(b) and 211.194(d). One comment said this requirement, as stated, could be interpreted by FDA investigators as including beakers, hot plates, and pipette washers.

The Commissioner notes that § 211.194(d) cites § 211.160(b)(4), which requires the calibration of instruments, apparatus, gauges, and recording devices at suitable intervals. In the case of pipettes, for example, it would not be suitable to calibrate at intervals since under normal conditions of use their capacity does not fluctuate. The Commissioner also recognizes that some equipment and apparatus cannot be calibrated, in which case the requirement obviously does not apply.

493. Comments on § 211.194(e) (proposed as § 211.194(d)) pointed out that § 211.166 only requires stability testing of drug products, not components or in-process materials; therefore, the record retention provisions of § 211.194(e) should apply only to stability testing of drug products.

The Commissioner agrees that the recordkeeping requirement of § 211.194(e) is intended to apply to stability testing performed in accordance with § 211.166, and the final regulation is revised accordingly. The Commissioner advises, however, that where stability testing of components or in-process materials is conducted, for example, as a part of the testing program to assess the stability characteristics of the drug product under § 211.166, the records of such stability testing are appropriately included under § 211.194(e).

DISTRIBUTION RECORDS

494. Several comments suggested that § 211.196 be revised to provide that information required by this section be readily retrievable.

The Commissioner notes that this is provided for in § 211.150(b). There is no need to repeat such a provision in this section.

495. One comment on § 211.196 said the lot or control number is not necessary because recalls can be accomplished by contacting every customer.

The Commissioner does not believe that reliance on this system of contacting every customer in case of recall is sound. Under such a system recalls could be delayed if customers who received recalled products were not contacted because they were not customers at the time of initiation of the recall. Conversely, customers who never received the product could be contacted, thus taxing the resources of the firm and FDA. A blanket recall might also cause unneeded patient anxiety and even drug shortages. Additionally, the Commissioner does not believe that the same accountability for each lot is inherent in a system that relies on contacting every customer. The amount of a recalled product that each customer received may be necessary information if the danger to health is severe enough to require that each unit of a recalled drug product be accounted for.

496. One comment on § 211.196 questioned the necessity for a lot number on distribution records being main-

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tained by suppliers of compressed medical gas.

The Commissioner strongly believes that the requirements of this section should apply to compressed medical gas fillers. Compressed medical gases are potent drug products and, for example, a mixup in labeling of cylinders could constitute a most serious health problem. It could be imperative that every cylinder of a particular lot be accounted for. The Commissioner realizes that usually, compressed medical gases are distributed within a relatively small geographical area and to a limited number of customers, but this is not a sufficient reason to exempt suppliers from the requirements of this section. The requirements of § 211.196 should not constitute a major burden on this industry in view of the limited number of customers that are typically serviced by one establishment.

497. One comment on § 211.196 questioned the appropriateness of a customer code number on the distribution record in place of the customer's name and address if there is a breakdown of the code.

The Commissioner would deem the use of this type of system to be in compliance with the requirements of this section as long as adequate controls are employed to insure the accuracy of the code and legibility on the distribution record.

COMPLAINT FILES

498. Many comments addressed § 211.198(a). The comments mostly objected to designation of the quality control unit for reviewing all complaints.

The Commissioner has considered the extensive objections and concludes that revisions are necessary to clarify the intended requirements regarding complaint files. As indicated in the preamble to the February 13, 1976, proposal, the object is to specify more clearly how complaints regarding drug products are to be handled. It is not FDA's intention to restrict or limit review of such complaints to any one unit in the firm's organization, but to assure that the quality control unit is properly involved. Where there is a complaint involving the possible failure of a drug product to meet any of its specifications, the quality control unit is probably the most appropriate unit to determine whether an investigation under the procedures described in § 211.192 is required.

To provide manufacturers with as much latitude as possible for efficient review of drug product complaints, the final regulations provide that written procedures for handling complaints include review by the quality control unit where there is a possible failure of a drug product to meet its specifications.

The final regulations also provide that in such instances the quality control unit shall make a determination as to the need for an investigation in accordance with § 211.192. This provision allows judgment in determining the extent of the investigation. To safeguard against perfunctory review of complaints, § 211.198(b) requires a statement of the rationale for determining that no investigation is necessary and the identity of the person making that determination.

499. The comments regarding the recordkeeping provisions of § 211.198(b) objected primarily to the proposed requirement that companies that have more than one establishment maintain a copy of each complaint record at the establishment where the drug product involved was manufactured, processed, or packed (but not necessarily at every establishment where held only). A number of firms indicated that reports of complaints are currently centralized at one location, which often is the headquarters office. The comments were that duplicate records required at several locations would be confusing, and it would be difficult to be certain that every such record is complete. The comments also cited increased use of electronic and/or mechanical systems at central locations to store and retrieve data and records.

The Commissioner finds that some revisions in the proposed requirements are justified. He recognizes that many firms with multifacility operations depend on centralized systems to analyze, review, and even investigate complaints involving drug products. Therefore, the final regulations provide that the file designated for written records of drug product complaints may be at a central location provided that the written records are available for inspection. Where an investigation under § 211.192 is actually conducted, § 211.180(c) requires that records or copies of records of the investigation be readily available at the establishment where the activities described in the records occurred. This means that a record of an investigation conducted under § 211.192 must be maintained at the establishment where conducted, but that other records (e.g., of a medical investigation) regarding the drug product complaint may be maintained at a central location. The Commissioner believes that the provisions of § 211.198 will provide sufficient information regarding complaints about drug products that can be identified as to the point of manufacture.

Where no investigation under § 211.192 is conducted for a drug product complaint, the final regulations require, as was proposed, that the written complaint record include the reason that no investigation is necessary and the name of the responsible person making such a determination. Because no investigation under § 211.192 will have been conducted, and, in some cases, the point of manufacture cannot be ascertained, the Commissioner finds that the written record or a copy of it may be maintained at the place of manufacture, if known, or alternatively at a facility where it would be readily available for inspection.

500. Many comments objected to the 2-year retention requirement for records under § 211.198.

The record retention period is revised in line with other sections.

XVI. RETURNED AND SALVAGED DRUG PRODUCTS, RETURNED DRUG PRODUCTS

501. A number of comments said § 211.204 implies that a returned drug product must either be destroyed or reprocessed; an argument was made that reshipment of goods "as is" should not be excluded as a possibility.

The Commissioner does not believe that the section as worded excludes the possibility of reshipment "as is." As it applies to destruction or reprocessing, § 211.204 concerns returned drug products that have been held, stored, or shipped, before or during their return, under conditions that cast doubt on their integrity. This section does not prohibit reshipment without reprocessing of a drug product if its integrity was never in doubt, or if initially in doubt, subsequent investigations prove the drug product satisfactory. To preclude the possibility of misinterpretation, however, the Commissioner is revising this section in the final regulation.

502. One comment recommended that reshipment of returned drug products to charitable organizations should be exempt from the requirement in § 211.204 for recording quantities or lot numbers.

The Commissioner does not believe that shipments of drug products to charitable organizations should be any less controlled than drug products shipped to other categories of consumers.

503. Several comments said bioavailability is merely one facet of drug quality, and there is no need to mention it separately in § 211.204. Another comment said mentioning bioavailability is inappropriate for CGMP regulations.

The Commissioner finds that bioavailability is only one facet of drug quality and finds that it is unnecessary to mention only one of many facets that could be listed.

504. One comment on § 211.204 said the only true measure of bioavailability is in vivo testing and that in vivo testing of returned goods is neither current practice nor realistic.

The Commissioner notes that bioavailability testing is not necessarily a requirement for releasing returned goods. If conditions were such that doubt was cast on a drug product's bioavailability, then suitable bioavailability testing would be required before the returned product could be released for distribution. Tests for bioavailability other than in vivo testing are recognized by FDA as valid in appropriate cases.

505. Several comments argued that the recordkeeping provisions of § 211.204 are unnecessary, redundant, and unduly costly for many operations.

The Commissioner does not agree with this position. He does not believe such recordkeeping to be unduly burdensome. This section does not require separate records for returned goods containing all the information required by this section, but rather requires firms to be able to identify which, if any, drug products have been returned and for what reason, and to be able to determine their disposition. The section would not prevent, for example, the disposition portion of the records on returned goods from being a part of normal distribution records if the lot involved were reshipped.

The Commissioner does not agree that the requirements for returned goods are unnecessary. For example, a portion of a lot of drug product may be returned because of unusual shipping conditions and the rest of the lot remain in normal trade channels. If the returned portion of the lot were destroyed and no record were made, there would be an incomplete record of distribution for the lot. In the case of recall, for example, a part of the lot could not be accounted for.

506. One comment on § 211.204 said a record of the lot number and other required information need not be retained in the case of returned goods that are destroyed.

The Commissioner rejects this comment. Accountability could not be accomplished in determining the distribution of a lot of drug product if destroyed products were exempt from this requirement.

507. One comment on § 211.204 recommended that time limits be established for destruction or reworking a returned drug product—a maximum 30-day time limit if destruction is the course of action, and 60 days if it is reprocessed.

The Commissioner finds no justification for establishing such arbitrary time limits. That processing must not go beyond appropriate limits is adequately covered elsewhere in these regulations.

508. One comment on § 211.204 noted that the reason for the return was omitted from the items to be included in the records.

The Commissioner believes that the reason for return is of primary importance and should be specifically included in this section. Therefore, the section is revised accordingly in the final regulations.

DRUG PRODUCT SALVAGING

The drug product salvaging provisions of these regulations were proposed on two separate occasions—in the FEDERAL REGISTER of January 16, 1975 and February 13, 1976. The comments discussed here include those received after both proposals were published.

509. One comment said § 211.208 could be interpreted as applying also to in-process materials unless further specified. It suggested that the title of the heading be changed to "Packaged Drug Product Salvaging."

The Commissioner finds there is no suggestion that this section applies to in-process materials. The section clearly refers to drug products, and that term is defined in § 210.3. The control of in-process materials, also defined in § 210.3(b), is covered elsewhere in Part 211.

510. One comment argued that § 211.208 is contradictory in that it prohibits salvaging and return of drug products to the marketplace, and then permits such procedures.

The Commissioner disagrees with this comment. The section prohibits the salvaging of drug products and/or return to the marketplace when the drug products have been exposed to improper storage conditions. The purpose of this section is to provide for an appropriate procedure for determining the suitability of salvaging drug products that may have been exposed to such conditions. The Commissioner believes that this section is adequately worded to convey its meaning.

511. Another comment recommended that the wording of § 211.208 be changed to allow manufacturers to determine what testing accurately reflects the condition of the product.

The Commissioner rejects this comment. The requirements of this section are the minimum procedures necessary to assure the safety and quality of drug products that may have been exposed to improper storage conditions.

512. A comment said it is unclear when § 211.208 applies and when § 211.204, "Returned Drug Products" is applicable.

The applicability of these sections depends on the history of the drug product. Section 211.204 is revised to require that the reason for return be included in the records pertaining to the returned drug. If the drug product is being returned because of possible exposure to improper conditions, the drug product salvaging requirements of § 211.208 must also be applied. The Commissioner believes that both sections clearly state their intent.

513. One comment said the phrase "evidence that the product meets all applicable standards of identity, strength, quality, and purity" should be deleted throughout § 211.208 because it is unnecessarily detailed and restrictive.

The Commissioner does not understand how the requirement that a drug product meets all applicable standards of identity, strength, quality, and purity could reasonably be considered either too detailed or too restrictive. Anything less would not assure the quality and safety of the drug product or that the product was not adulterated under the act. Therefore, the comment is rejected.

514. A number of comments on § 211.208 expressed concern that manufacturers and/or distributors do not have absolute control over a drug once it leaves their premises, and without evidence of proper control, drugs could not be returned under the proposed regulations, even in the normal course of a firm's business. They cited examples such as returning overstocked items, drugs which were ordered or distributed in error, seasonal items, recertified antibiotics, or drugs requiring relabeling.

The Commissioner finds that the CGMP regulations do not prohibit drug products; being returned. The regulations clearly allow redistribution of returned drug products that meet applicable standards of safety, identity, strength, quality, and purity. If there is no question whether the drug products have been properly stored after leaving the manufacturer's control, the testing requirements of § 211.208 do not apply.

515. Three comments concerned the interpretation of "prolonged storage" in § 211.208. One comment recommended that this term be deleted; another recommended that it be revised to specify a period of time. One comment assumed that a 5-year maximum is preferred by FDA and could be a basis for defining "prolonged storage."

The Commissioner finds that, in view of the requirements regarding expiration dating of drug products, the proposed reference to prolonged storage in § 211.208 is unnecessary. The Commissioner concludes that this section should be further revised for simplicity, by referring to "improper storage conditions" rather than "improper storage or abnormal environmental conditions."

516. One comment on § 211.208 recommended that organoleptic examina-

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tions be considered acceptable as evidence, provided such a determination is made by a pharmacist or chemist having 1 year's experience in the field.

Organoleptic examinations alone would never be enough to insure that a drug has maintained its strength, purity, and quality after it has been in a situation where it may have been exposed to improper storage conditions. Therefore, this comment cannot be accepted.

517. One comment recommended that § 211.208 provide for reclaiming of active ingredients from drug products that have been salvaged.

The Commissioner finds that drug products that have been subjected to improper storage conditions should not be salvaged because of the resulting questionable integrity of the drug product. Therefore, such drug products are clearly not suitable for reprocessing, including reclaiming of active ingredients. However, where salvaging is permissible under the provisions of § 211.208, any appropriate reprocessing is allowed. The Commissioner believes the regulations are clear in this regard.

XVII. CGMP for Certain Other Drug Products

518. No comments or objections addressed proposed revocation of § 229.25. Section 229.25 is the only section contained in Part 229 (21 CFR Part 229), and the Commissioner sees no immediate need for retaining that part as currently used. Therefore, the entire Part 229 is revoked in these final regulations and reserved for future use.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 505, 506, 507, 510, 512, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 59 Stat. 463 as amended, 76 Stat. 794 as amended, 82 Stat. 343–351 (21 U.S.C. 351, 352, 355, 356, 357, 360, 360b, 371)) and the Drug Listing Act of 1972 (Pub. L. 92-387; 86 Stat. 559–562) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 201—LABELING

1. By revising § 201.17 to read as follows:

§ 201.17 Drugs; location of expiration date.

When an expiration date of a drug is required, e.g., expiration dating of drug products required by § 211.137 of this chapter, it shall appear on the immediate container and also the outer package, if any, unless it is easily legible through such outer package. However, when single-dose containers are packed in individual cartons, the expiration date may properly appear on the individual carton instead of the immediate product container.

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

2. By revising paragraph (b) and adding new paragraph (k) in § 207.3 to read as follows:

§ 207.3 Definitions.

* * * * *

(b) "Establishment" means a place of business under one management at one general physical location. The term includes, among others, independent laboratories that engage in control activities for registered drug establishments (e.g., "consulting" laboratories), manufacturers of medicated feeds and of vitamin products that are "drugs" within the meaning of section 201(g) of the act, human blood donor centers, animal facilities used for the production or control testing of licensed human biologicals, and establishments engaged in drug product salvaging.

* * * * *

(k) "Drug product salvaging" is the act of segregating drug products that may have been subjected to improper storage conditions such as extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation for the purpose of returning some or all of the products to the marketplace.

§ 207.20 [Amended]

3. By amending § 207.20 *Who must register and submit a drug list* in Subpart B of Part 207 by adding a comma and the phrase "nor is drug listing required for establishments engaged in drug product salvaging" before the period at the end of paragraph (a).

PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

4. By revising Part 210 to read as follows:

Sec.
210.1 Status of current good manufacturing practice regulations.
210.2 Applicability of current good manufacturing practice regulations.
210.3 Definitions.

AUTHORITY: Secs. 501, 701, 52 Stat. 1049–1050 as amended, 1055–1056 as amended (21 U.S.C. 351, 371).

§ 210.1 Status of current good manufacturing practice regulations.

(a) The regulations set forth in this part and in Parts 211 through 229 of this chapter contain the minimum current good manufacturing practice for methods to be used in, and the facilities or controls to be used for, the manufacture, processing, packing, or holding of a drug to assure that such drug meets the requirements of the act as to safety, and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess.

(b) The failure to comply with any regulation set forth in this part and in Parts 211 through 229 of this chapter in the manufacture, processing, packing, or holding of a drug shall render such drug to be adulterated under section 501(a)(2)(B) of the act and such drug, as well as the person who is responsible for the failure to comply, shall be subject to regulatory action.

§ 210.2 Applicability of current good manufacturing practice regulations.

(a) The regulations in this part and in Parts 211 through 229 of this chapter as they may pertain to a drug and in Parts 600 through 680 of this chapter as they may pertain to a biological product for human use, shall be considered to supplement, not supersede, each other, unless the regulations explicitly provide otherwise. In the event that it is impossible to comply with all applicable regulations in these parts, the regulations specifically applicable to the drug in question shall supersede the more general.

(b) If a person engages in only some operations subject to the regulations in this part and in Parts 211 through 229 and Parts 600 through 680 of this chapter, and not in others, that person need only comply with those regulations applicable to the operations in which he or she is engaged.

§ 210.3 Definitions.

(a) The definitions and interpretations contained in section 201 of the act shall be applicable to such terms when used in this part and in Parts 211 through 229 of this chapter.

(b) The following definitions of terms apply to this part and to Parts 211 through 229 of this chapter.

(1) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.).

(2) "Batch" means a specific quantity of a drug or other material that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(3) "Component" means any ingredient intended for use in the manufacture of a drug product, including those that may not appear in such drug product.

(4) "Drug product" means a finished dosage form, for example, tablet, capsule, solution, etc., that contains an active drug ingredient generally, but not necessarily, in association with inactive ingredients. The term also includes a finished dosage form that does not contain an active ingredient but is intended to be used as a placebo.

(5) "Fiber" means any particulate contaminant with a length at least three times greater than its width.

(6) "Non-fiber-releasing filter" means any filter, which after any appropriate pretreatment such as washing or flushing, will not release fibers into the component or drug product that is being filtered. All filters composed of asbestos are deemed to be fiber-releasing filters.

(7) "Active ingredient" means any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure of any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect.

(8) "Inactive ingredient" means any component other than an "active ingredient."

(9) "In-process material" means any material fabricated, compounded, blended, or derived by chemical reaction that is produced for, and used in, the preparation of the drug product.

(10) "Lot" means a batch, or a specific identified portion of a batch, having uniform character and quality within specified limits; or, in the case of a drug product produced by continuous process, it is a specific identified amount produced in a unit of time or quantity in a manner that assures its having uniform character and quality within specified limits.

(11) "Lot number, control number, or batch number" means any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of drug product or other material can be determined.

(12) "Manufacture, processing, packing, or holding of a drug product" includes packaging and labeling operations, testing, and quality control of drug products.

(13) "Medicated feed" means any "complete feed," "feed supplement," or "feed concentrate" as defined in § 558.3 of this chapter and is a feed that contains one or more drugs as defined in section 201(g) of the act. Medicated feeds are subject to Part 225 of this chapter.

(14) "Medicated premix" means a substance that meets the definition in § 558.3 of this chapter for a "feed premix," except that it contains one or more drugs as defined in section 201(g) of the act and is intended for manufacturing use in the production of a medicated feed. Medicated premixes are subject to Part 226 of this chapter.

(15) "Quality control unit" means any person or organizational element designated by the firm to be responsible for the duties relating to quality control.

(16) "Strength" means:

(i) The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis), and/or

(ii) The potency, that is, the therapeutic activity of the drug product as indicated by appropriate laboratory tests or by adequately developed and controlled clinical data (expressed, for example, in terms of units by reference to a standard).

(17) "Theoretical yield" means the quantity that would be produced at any appropriate phase of manufacture, processing, or packing of a particular drug product, based upon the quantity of components to be used, in the absence of any loss or error in actual production.

(18) "Actual yield" means the quantity that is actually produced at any appropriate phase of manufacture, processing, or packing of a particular drug product.

(19) "Percentage of theoretical yield" means the ratio of the actual yield (at any appropriate phase of manufacture, processing, or packing of a particular drug product) to the theoretical yield (at the same phase), stated as a percentage.

(20) "Acceptance criteria" means the product specifications and acceptance/rejection criteria, such as acceptable quality level and unacceptable quality level, with an associated sampling plan, that are necessary for making a decision to accept or reject a lot or batch (or any other convenient subgroups of manufactured units).

(21) "Representative sample" means a sample that consists of a number of units that are drawn based on rational criteria such as random sampling and intended to assure that the sample accurately portrays the material being sampled.

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

5. By revising Part 211 to read as follows:

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AUTHORITY: Secs. 501, 701, 52 Stat. 1049–1050 as amended, 1055–1056 as amended (21 U.S.C. 351, 371).

Subpart A—General Provisions

§ 211.1 Scope.

(a) The regulations in this part contain the minimum current good manufacturing practice for preparation of drug products for administration to humans or animals.

(b) The current good manufacturing practice regulations in this chapter, as they pertain to drug products, and in Parts 600 through 680 of this chapter, as they pertain to biological products for human use, shall be considered to supplement, not supersede, the regulations in this part unless the regulations explicitly provide otherwise. In the event it is impossible to comply with applicable regulations both in this part and in other parts of this chapter or in Parts 600 through 680 of this chapter, the regulation specifically applicable to the drug product in question shall supersede the regulation in this part.

(c) Pending consideration of a proposed exemption, published in the FEDERAL REGISTER of November 29, 1978, the requirements in this part shall not be enforced for OTC drug products if the products and all their ingredients are ordinarily marketed and consumed as human foods, and which products may also fall within the legal definition of drugs by virtue of their intended use. Therefore, until further notice, regulations under Part 110 of this chapter, and where applicable, Parts 113 to 129 of this chapter, shall be applied in determining whether these OTC drug products that are also foods are manufactured, processed, packed, or held under current good manufacturing practice.

§ 211.3 Definitions.

The definitions set forth in § 210.3 of this chapter apply in this part.

Subpart B—Organization and Personnel

§ 211.22 Responsibilities of quality control unit.

(a) There shall be a quality control unit that shall have the responsibility and authority to approve or reject all components, drug product containers, closures, in-process materials, packaging material, labeling, and drug products, and the authority to review production records to assure that no errors have occurred or, if errors have occurred, that they have been fully investigated. The quality control unit shall be responsible for approving or rejecting drug products manufactured, processed, packed, or held under contract by another company.

(b) Adequate laboratory facilities for the testing and approval (or rejection) of components, drug product containers, closures, packaging materials, in-process materials, and drug products shall be available to the quality control unit.

(c) The quality control unit shall have the responsibility for approving or rejecting all procedures or specifications impacting on the identity, strength, quality, and purity of the drug product.

(d) The responsibilities and procedures applicable to the quality control unit shall be in writing; such written procedures shall be followed.

§ 211.25 Personnel qualifications.

(a) Each person engaged in the manufacture, processing, packing, or holding of a drug product shall have education, training, and experience, or any combination thereof, to enable that person to perform the assigned functions. Training shall be in the particular operations that the employee performs and in current good manufacturing practice (including the current good manufacturing practice regulations in this chapter and written procedures required by these regulations) as they relate to the employee's functions. Training in current good manufacturing practice shall be conducted by qualified individuals on a continuing basis and with sufficient frequency to assure that employees remain familiar with CGMP requirements applicable to them.

(b) Each person responsible for supervising the manufacture, processing, packing, or holding of a drug product shall have the education, training, and experience, or any combination thereof, to perform assigned functions in such a manner as to provide assurance that the drug product has the safety, identity, strength, quality, and purity that it purports or is represented to possess.

(c) There shall be an adequate number of qualified personnel to perform and supervise the manufacture, processing, packing, or holding of each drug product.

§ 211.28 Personnel responsibilities.

(a) Personnel engaged in the manufacture, processing, packing, or holding of a drug product shall wear clean clothing appropriate for the duties they perform. Protective apparel, such as head, face, hand, and arm coverings, shall be worn as necessary to protect drug products from contamination.

(b) Personnel shall practice good sanitation and health habits.

(c) Only personnel authorized by supervisory personnel shall enter those areas of the buildings and facilities designated as limited-access areas.

(d) Any person shown at any time (either by medical examination or supervisory observation) to have an apparent illness or open lesions that may adversely affect the safety or quality of drug products shall be excluded from direct contact with components, drug product containers, closures, in-process materials, and drug products until the condition is corrected or determined by competent medical personnel not to jeopardize the safety or quality of drug products. All personnel shall be instructed to report to supervisory personnel any health conditions that may have an adverse effect on drug products.

§ 211.34 Consultants.

Consultants advising on the manufacture, processing, packing, or holding of drug products shall have sufficient education, training, and experience, or any combination thereof, to advise on the subject for which they are retained. Records shall be maintained stating the name, address, and

qualifications of any consultants and the type of service they provide.

Subpart C—Buildings and Facilities

§ 211.42 Design and construction features.

(a) Any building or buildings used in the manufacture, processing, packing, or holding of a drug product shall be of suitable size, construction and location to facilitate cleaning, maintenance, and proper operations.

(b) Any such building shall have adequate space for the orderly placement of equipment and materials to prevent mixups between different components, drug product containers, closures, labeling, in-process materials, or drug products, and to prevent contamination. The flow of components, drug product containers, closures, labeling, in-process materials, and drug products through the building or buildings shall be designed to prevent contamination.

(c) Operations shall be performed within specifically defined areas of adequate size. There shall be separate or defined areas for the firm's operations to prevent contamination or mixups as follows:

(1) Receipt, identification, storage, and withholding from use of components, drug product containers, closures, and labeling, pending the appropriate sampling, testing, or examination by the quality control unit before release for manufacturing or packaging;

(2) Holding rejected components, drug product containers, closures, and labeling before disposition;

(3) Storage of released components, drug product containers, closures, and labeling;

(4) Storage of in-process materials;

(5) Manufacturing and processing operations;

(6) Packaging and labeling operations;

(7) Quarantine storage before release of drug products;

(8) Storage of drug products after release;

(9) Control and laboratory operations;

(10) Aseptic processing, which includes as appropriate:

(i) Floors, walls, and ceilings of smooth, hard surfaces that are easily cleanable;

(ii) Temperature and humidity controls;

(iii) An air supply filtered through high-efficiency particulate air filters under positive pressure, regardless of whether flow is laminar or nonlaminar;

(iv) A system for monitoring environmental conditions;

(v) A system for cleaning and disinfecting the room and equipment to produce aseptic conditions;

(vi) A system for maintaining any equipment used to control the aseptic conditions.

(d) Operations relating to the manufacture, processing, and packing of penicillin shall be performed in facilities separate from those used for other drug products for human use.

§ 211.44 Lighting.

Adequate lighting shall be provided in all areas.

§ 211.46 Ventilation, air filtration, air heating and cooling.

(a) Adequate ventilation shall be provided.

(b) Equipment for adequate control over air pressure, micro-organisms, dust, humidity, and temperature shall be provided when appropriate for the manufacture, processing, packing, or holding of a drug product.

(c) Air filtration systems, including prefilters and particulate matter air filters, shall be used when appropriate on air supplies to production areas. If air is recirculated to production areas, measures shall be taken to control recirculation of dust from production. In areas where air contamination occurs during production, there shall be adequate exhaust systems or other systems adequate to control contaminants.

(d) Air-handling systems for the manufacture, processing, and packing of penicillin shall be completely separate from those for other drug products for human use.

§ 211.48 Plumbing.

(a) Potable water shall be supplied under continuous positive pressure in a plumbing system free of defects that could contribute contamination to any drug product. Potable water shall meet the standards prescribed in the Public Health Service Drinking Water Standards set forth in Subpart J of 42 CFR Part 72. Water not meeting such standards shall not be permitted in the potable water system.

(b) Drains shall be of adequate size and, where connected directly to a sewer, shall be provided with an air break or other mechanical device to prevent back-siphonage.

§ 211.50 Sewage and refuse.

Sewage, trash, and other refuse in and from the building and immediate premises shall be disposed of in a safe and sanitary manner.

§ 211.52 Washing and toilet facilities.

Adequate washing facilities shall be provided, including hot and cold water, soap or detergent, air driers or single-service towels, and clean toilet facilities easily accesible to working areas.

§ 211.56 Sanitation.

(a) Any building used in the manufacture, processing, packing, or holding of a drug product shall be maintained in a clean and sanitary condition, Any such building shall be free of infestation by rodents, birds, insects, and other vermin (other than laboratory animals). Trash and organic waste matter shall be held and disposed of in a timely and sanitary manner.

(b) There shall be written procedures assigning responsibility for sanitation and describing in sufficient detail the cleaning schedules, methods, equipment, and materials to be used in cleaning the buildings and facilities; such written procedures shall be followed.

(c) There shall be written procedures for use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents. Such written procedures shall be designed to prevent the contamination of equipment, components, drug product containers, closures, packaging, labeling materials, or drug products and shall be followed. Rodenticides, insecticides, and fungicides shall not be used unless registered and used in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

(d) Sanitation procedures shall apply to work performed by contractors or temporary employees as well as work performed by full-time employees during the ordinary course of operations.

§ 211.58 Maintenance.

Any building used in the manufacture, processing, packing, or holding of a drug product shall be maintained in a good state of repair.

Subpart D—Equipment

§ 211.63 Equipment design, size, and location.

Equipment used in the manufacture, processing, packing, or holding of a drug product shall be of appropriate design, adequate size, and suitably located to facilitate operations for its intended use and for its cleaning and maintenance.

§ 211.65 Equipment construction.

(a) Equipment shall be constructed so that surfaces that contact components, in-process materials, or drug products shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug product beyond the official or other established requirements.

(b) Any substances required for operation, such as lubricants or coolants, shall not come into contact with com-

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ponents, drug product containers, closures, in-process materials, or drug products so as to alter the safety, identity, strength, quality, or purity of the drug product beyond the official or other established requirements.

§ 211.67 Equipment cleaning and maintenance.

(a) Equipment and utensils shall be cleaned, maintained, and sanitized at appropriate intervals to prevent malfunctions or contamination that would alter the safety, identity, strength, quality, or purity of the drug product beyond the official or other established requirements.

(b) Written procedures shall be established and followed for cleaning and maintenance of equipment, including utensils, used in the manufacture, processing, packing, or holding of a drug product. These procedures shall include, but are not necessarily limited to, the following:

(1) Assignment of responsibility for cleaning and maintaining equipment;

(2) Maintenance and cleaning schedules, including, where appropriate, sanitizing schedules;

(3) A description in sufficient detail of the methods, equipment, and materials used in cleaning and maintenance operations, and the methods of disassembling and reassembling equipment as necessary to assure proper cleaning and maintenance;

(4) Removal or obliteration of previous batch identification;

(5) Protection of clean equipment from contamination prior to use;

(6) Inspection of equipment for cleanliness immediately before use.

(c) Records shall be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.

§ 211.68 Automatic, mechanical, and electronic equipment.

(a) Automatic, mechanical, or electronic equipment or other types of equipment, including computers, or related systems that will perform a function satisfactorily, may be used in the manufacture, processing, packing, and holding of a drug product. If such equipment is so used, it shall be routinely calibrated, inspected, or checked according to a written program designed to assure proper performance. Written records of those calibration checks and inspections shall be maintained.

(b) Appropriate controls shall be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel. Input to and output from the computer or related system of formulas or other records or data shall be checked for accuracy. A backup file of data entered into the computer or related system shall be maintained except where certain data, such as calculations performed in connection with laboratory analysis, are eliminated by computerization or other automated processes. In such instances a written record of the program shall be maintained along with appropriate validation data. Hard copy or alternative systems, such as duplicates, tapes, or microfilm, designed to assure that backup data are exact and complete and that it is secure from alteration, inadvertent erasures, or loss shall be maintained.

§ 211.72 Filters.

Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use shall not release fibers into such products. Fiber-releasing filters may not be used in the manufacture, processing, or packing of these injectable drug products unless it is not possible to manufacture such drug products without the use of such filters. If use of a fiber-releasing filter is necessary, an additional non-fiber-releasing filter of 0.22 micron maximum mean porosity (0.45 micron if the manufacturing conditions so dictate) shall subsequently be used to reduce the content of particles in the injectable drug product. Use of an asbestos-containing filter, with or without subsequent use of a specific non-fiber-releasing filter, is permissible only upon submission of proof to the appropriate bureau of the Food and Drug Administration that use of a non-fiber-releasing filter will, or is likely to, compromise the safety or effectiveness of the injectable drug product.

Subpart E—Control of Components and Drug Product Containers and Closures

§ 211.80 General requirements.

(a) There shall be written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, testing, and approval or rejection of components and drug product containers and closures; such written procedures shall be followed.

(b) Components and drug product containers and closures shall at all times be handled and stored in a manner to prevent contamination.

(c) Bagged or boxed components or drug product containers, or closures shall be stored off the floor and suitably spaced to permit cleaning and inspection.

(d) Each container or grouping of containers for components or drug product containers, or closures shall be identified with a distinctive code for each lot in each shipment received. This code shall be used in recording the disposition of each lot. Each lot shall be appropriately identified as to its status (i.e., quarantined, approved, or rejected).

§ 211.82 Receipt and storage of untested components, drug product containers, and closures.

(a) Upon receipt and before acceptance, each container or grouping of containers of components, drug product containers, and closures shall be examined visually for appropriate labeling as to contents, container damage or broken seals, and contamination.

(b) Components, drug product containers, and closures shall be stored under quarantine until they have been tested or examined, as appropriate, and released. Storage within the area shall conform to the requirements of § 211.80.

§ 211.84 Testing and approval or rejection of components, drug product containers, and closures.

(a) Each lot of components, drug product containers, and closures shall be withheld from use until the lot has been sampled, tested, or examined, as appropriate, and released for use by the quality control unit.

(b) Representative samples of each shipment of each lot shall be collected for testing or examination. The number of containers to be sampled, and the amount of material to be taken from each container, shall be based upon appropriate criteria such as statistical criteria for component variability, confidence levels, and degree of precision desired, the past quality history of the supplier, and the quantity needed for analysis and reserve where required by § 211.170.

(c) Samples shall be collected in accordance with the following procedures:

(1) The containers of components selected shall be cleaned where necessary, by appropriate means.

(2) The containers shall be opened, sampled, and resealed in a manner designed to prevent contamination of their contents and contamination of other components, drug product containers, or closures.

(3) Sterile equipment and aseptic sampling techniques shall be used when necessary.

(4) If it is necessary to sample a component from the top, middle, and bottom of its container, such sample subdivisions shall not be composited for testing.

(5) Sample containers shall be identified so that the following information can be determined: name of the material sampled, the lot number, the container from which the sample was

taken, the data on which the sample was taken, and the name of the person who collected the sample.

(6) Containers from which samples have been taken shall be marked to show that samples have been removed from them.

(d) Samples shall be examined and tested as follows:

(1) At least one test shall be conducted to verify the identity of each component of a drug product. Specific identify tests, if they exist, shall be used.

(2) Each component shall be tested for conformity with all appropriate written specifications for purity, strength, and quality. In lieu of such testing by the manufacturer, a report of analysis may be accepted from the supplier of a component, provided that at least one specific identity test is conducted on such component by the manufacturer, and provided that the manufacturer establishes the reliability of the supplier's analyses through appropriate validation of the supplier's test results at appropriate intervals.

(3) Containers and closures shall be tested for conformance with all appropriate written procedures. In lieu of such testing by the manufacturer, a certificate of testing may be accepted from the supplier, provided that at least a visual identification is conducted on such containers/closures by the manufacturer and provided that the manufacturer establishes the reliability of the supplier's test results through appropriate validation of the supplier's test results at appropriate intervals.

(4) When appropriate, components shall be microscopically examined.

(5) Each lot of a component, drug product container, or closure that is liable to contamination with filth, insect infestation, or other extraneous adulterant shall be examined against established specifications for such contamination.

(6) Each lot of a component, drug product container, or closure that is liable to microbiological contamination that is objectionable in view of its intended use shall be subjected to microbiological tests before use.

(e) Any lot of components, drug product containers, or closures that meets the appropriate written specifications of identity, strength, quality, and purity and related tests under paragraph (d) of this section may be approved and released for use. Any lot of such material that does not meet such specifications shall be rejected.

§ 211.86 Use of approved components, drug product containers, and closures.

Components, drug product containers, and closures approved for use shall be rotated so that the oldest approved stock is used first. Deviation from this requirement is permitted if such deviation is temporary and appropriate.

§ 211.87 Retesting of approved components, drug product containers, and closures.

Components, drug product containers, and closures shall be retested or reexamined, as appropriate, for identity, strength, quality, and purity and approved or rejected by the quality control unit in accordance with § 211.84 as necessary, e.g., after storage for long periods or after exposure to air, heat or other conditions that might adversely affect the component, drug product container, or closure.

§ 211.89 Rejected components, drug product containers, and closures.

Rejected components, drug product containers, and closures shall be identified and controlled under a quarantine system designed to prevent their use in manufacturing or processing operations for which they are unsuitable.

§ 211.94 Drug product containers and closures.

(a) Drug product containers and closures shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug beyond the official or established requirements.

(b) Container closure systems shall provide adequate protection against foreseeable external factors in storage and use that can cause deterioration or contamination of the drug product.

(c) Drug product containers and closures shall be clean and, where indicated by the nature of the drug, sterilized and processed to remove pyrogenic properties to assure that they are suitable for their intended use.

(d) Standards or specifications, methods of testing, and, where indicated, methods of cleaning, sterilizing, and processing to remove pyrogenic properties shall be written and followed for drug product containers and closures.

Subpart F—Production and Process Controls

§ 211.100 Written procedures; deviations.

(a) There shall be written procedures for production and process control designed to assure that the drug products have the identity, strength, quality, and purity they purport or are represented to possess. Such procedures shall include all requirements in this subpart. These written procedures, including any changes, shall be drafted, reviewed, and approved by the appropriate organizational units and reviewed and approved by the quality control unit.

(b) Written production and process control procedures shall be followed in the execution of the various production and process control functions and shall be documented at the time of performance. Any deviation from the written procedures shall be recorded and justified.

§ 211.101 Charge-in of components.

Written production and control procedures shall include the following, which are designed to assure that the drug products produced have the identity, strength, quality, and purity they purport or are represented to possess:

(a) The batch shall be formulated with the intent to provide not less than 100 percent of the labeled or established amount of active ingredient.

(b) Components for drug product manufacturing shall be weighed, measured, or subdivided as appropriate. If a component is removed from the original container to another, the new container shall be identified with the following information:

(1) Component name or item code;

(2) Receiving or control number;

(3) Weight or measure in new container;

(4) Batch for which component was dispensed, including its product name, strength, and lot number.

(c) Weighing, measuring, or subdividing operations for components shall be adequately supervised. Each container of component dispensed to manufacturing shall be examined by a second person to assure that:

(1) The component was released by the quality control unit;

(2) The weight or measure is correct as stated in the batch production records;

(3) The containers are properly identified.

(d) Each component shall be added to the batch by one person and verified by a second person.

§ 211.103 Calculation of yield.

Actual yields and percentages of theoretical yield shall be determined at the conclusion of each appropriate phase of manufacturing, processing, packaging, or holding of the drug product. Such calculations shall be performed by one person and independently verified by a second person.

§ 211.105 Equipment identification.

(a) All compounding and storage containers, processing lines, and major equipment used during the production of a batch of a drug product shall be properly identified at all times to indicate their contents and, when necessary, the phase of processing of the batch.

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(b) Major equipment shall be identified by a distinctive identification number or code that shall be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.

§ 211.110 Sampling and testing of in-process materials and drug products.

(a) To assure batch uniformity and integrity of drug products, written procedures shall be established and followed that describe the in-process controls, and tests, or examinations to be conducted on appropriate samples of in-process materials of each batch. Such control procedures shall be established to monitor the output and to validate the performance of those manufacturing processes that may be responsible for causing variability in the characteristics of in-process material and the drug product. Such control procedures shall include, but are not limited to, the following, where appropriate:

(1) Tablet or capsule weight variation;

(2) Disintegration time;

(3) Adequacy of mixing to assure uniformity and homogeneity;

(4) Dissolution time and rate;

(5) Clarity, completeness, or pH of solutions.

(b) Valid in-process specifications for such characteristics shall be consistent with drug product final specifications and shall be derived from previous acceptable process average and process variability estimates where possible and determined by the application of suitable statistical procedures where appropriate. Examination and testing of samples shall assure that the drug product and in-process material conform to specifications.

(c) In-process materials shall be tested for identity, strength, quality, and purity as appropriate, and approved or rejected by the quality control unit, during the production process, e.g., at commencement or completion of significant phases or after storage for long periods.

(d) Rejected in-process materials shall be identified and controlled under a quarantine system designed to prevent their use in manufacturing or processing operations for which they are unsuitable.

§ 211.111 Time limitations on production.

When appropriate, time limits for the completion of each phase of production shall be established to assure the quality of the drug product. Deviation from established time limits may be acceptable if such deviation does not compromise the quality of the drug product. Such deviation shall be justified and documented.

§ 211.113 Control of microbiological contamination.

(a) Appropriate written procedures, designed to prevent objectionable microorganisms in drug products not required to be sterile, shall be established and followed.

(b) Appropriate written procedures, designed to prevent microbiological contamination of drug products purporting to be sterile, shall be established and followed. Such procedures shall include validation of any sterilization process.

§ 211.115 Reprocessing.

(a) Written procedures shall be established and followed prescribing a system for reprocessing batches that do not conform to standards or specifications and the steps to be taken to insure that the reprocessed batches will conform with all established standards, specifications, and characteristics.

(b) Reprocessing shall not be performed without the review and approval of the quality control unit.

Subpart G—Packaging and labeling Control

§ 211.122 Materials examination and usage criteria.

(a) There shall be written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, examination, and/or testing of labeling and packaging materials; such written procedures shall be followed. Labeling and packaging materials shall be representatively sampled, and examined or tested upon receipt and before use in packaging or labeling of a drug product.

(b) Any labeling or packaging materials meeting appropriate written specifications may be approved and released for use. Any labeling or packaging materials that do not meet such specifications shall be rejected to prevent their use in operations for which they are unsuitable.

(c) Records shall be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination or testing, and whether accepted or rejected.

(d) Labels and other labeling materials for each different drug product, strength, dosage form, or quantity of contents shall be stored separately with suitable identification. Access to the storage area shall be limited to authorized personnel.

(e) Obsolete and outdated labels, labeling, and other packaging materials shall be destroyed.

(f) Gang printing of labeling to be used for different drug products or different strengths of the same drug product (or labeling of the same size and identical or similar format and/or color schemes) shall be minimized. If gang printing is employed, packaging and labeling operations shall provide for special control procedures, taking into consideration sheet layout, stacking, cutting, and handling during and after printing.

(g) Printing devices on, or associated with, manufacturing lines used to imprint labeling upon the drug product unit label or case shall be monitored to assure that all imprinting conforms to the print specified in the batch production record.

§ 211.125 Labeling issuance.

(a) Strict control shall be exercised over labeling issued for use in drug product labeling operations.

(b) Labeling materials issued for a batch shall be carefully examined for identity and conformity to the labeling specified in the master or batch production records.

(c) Procedures shall be utilized to reconcile the quantities of labeling issued, used, and returned, and shall require evaluation of discrepancies found between the quantity of drug product finished and the quantity of labeling issued when such discrepancies are outside narrow preset limits based on historical operating data. Such discrepancies shall be investigated in accordance with § 211.192.

(d) All excess labeling bearing lot or control numbers shall be destroyed.

(e) Returned labeling shall be maintained and stored in a manner to prevent mixups and provide proper identification.

(f) Procedures shall be written describing in sufficient detail the control procedures employed for the issuance of labeling; such written procedures shall be followed.

§ 211.130 Packaging and labeling operations.

There shall be written procedures designed to assure that correct labels, labeling, and packaging materials are used for drug products; such written procedures shall be followed. These procedures shall incorporate the following features:

(a) Prevention of mixups and cross-contamination by physical or spatial separation from operations on other drug products.

(b) Identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch.

(c) Examination of packaging and labeling materials for suitability and correctness before packaging operations, and documentation of such examination in the batch production record.

(d) Inspection of the packaging and labeling facilities immediately before use to assure that all drug products have been removed from previous operations. Inspection shall also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection shall be documented in the batch production records.

§ 211.134 Drug product inspection.

(a) Packaged and labeled products shall be examined during finishing operations to provide assurance that containers and packages in the lot have the correct label.

(b) A representative sample of units shall be collected at the completion of finishing operations and shall be visually examined for correct labeling.

(c) Results of these examinations shall be recorded in the batch production or control records.

§ 211.137 Expiration dating.

(a) To assure that a drug product meets applicable standards of identity, strength, quality, and purity at the time of use, it shall bear an expiration date determined by appropriate stability testing described in § 211.166.

(b) Expiration dates shall be related to any storage conditions stated on the labeling, as determined by stability studies described in § 211.166.

(c) If the drug product is to be reconstituted at the time of dispensing, its labeling shall bear expiration information for both the reconstituted and unreconstituted drug products.

(d) Expiration dates shall appear on labeling in accordance with the requirements of § 201.17 of this chapter.

(e) Homeopathic drug products shall be exempt from the requirements of this section.

(f) Pending consideration of a proposed exemption, published in the FEDERAL REGISTER of September 29, 1978, the requirements in this section shall not be enforced for human OTC drug products if their labeling does not bear dosage limitations and they are stable for at least 3 years as supported by appropriate stability data.

Subpart H—Holding and Distribution

§ 211.142 Warehousing procedures.

Written procedures describing the warehousing of drug products shall be established and followed. They shall include:

(a) Quarantine of drug products before release by the quality control unit.

(b) Storage of drug products under appropriate conditions of temperature, humidity, and light so that the identity, strength, quality, and purity of the drug products are not affected.

§ 211.150 Distribution procedures.

Written procedures shall be established, and followed, describing the distribution of drug products. They shall include:

(a) A procedure whereby the oldest approved stock of a drug product is distributed first. Deviation from this requirement is permitted if such deviation is temporary and appropriate.

(b) A system by which the distribution of each lot of drug product can be readily determined to facilitate its recall if necessary.

Subpart I—Laboratory Controls

§ 211.160 General requirements.

(a) The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms required by this subpart, including any change in such specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms, shall be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. The requirements in this subpart shall be followed and shall be documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms shall be recorded and justified.

(b) Laboratory controls shall include the establishment of scientifically sound and appropriate specifications, standards, sampling plans, and test procedures designed to assure that components, drug product containers, closures, in-process materials, labeling, and drug products conform to appropriate standards of identity, strength, quality, and purity. Laboratory controls shall include:

(1) Determination of conformance to appropriate written specifications for the acceptance of each lot within each shipment of components, drug product containers, closures, and labeling used in the manufacture, processing, packing, or holding of drug products. The specifications shall include a description of the sampling and testing procedures used. Samples shall be representative and adquately identified. Such procedures shall also require appropriate retesting of any component, drug product container, or closure that is subject to deterioration.

(2) Determination of conformance to written specifications and a description of sampling and testing procedures for in-process materials. Such samples shall be representative and properly identified.

(3) Determination of conformance to written descriptions of sampling procedures and appropriate specifications for drug products. Such samples shall be representative and properly identified.

(4) The calibration of instruments, apparatus, gauges, and recording devices at suitable intervals in accordance with an established written program containing specific directions, schedules, limits for accuracy and precision, and provisions for remedial action in the event accuracy and/or precision limits are not met. Instruments, apparatus, gauges, and recording devices not meeting established specifications shall not be used.

§ 211.165 Testing and release for distribution.

(a) For each batch of drug product, there shall be appropriate laboratory determination of satisfactory conformance to final specifications for the drug product, including the identity and strength of each active ingredient, prior to release. Where sterility and/or pyrogen testing are conducted on specific batches of shortlived radiopharmaceuticals, such batches may be released prior to completion of sterility and/or pyrogen testing, provided such testing is completed as soon as possible.

(b) There shall be appropriate laboratory testing, as necessary, of each batch of drug product required to be free of objectionable microorganisms.

(c) Any sampling and testing plans shall be described in written procedures that shall include the method of sampling and the number of units per batch to be tested; such written procedure shall be followed.

(d) Acceptance criteria for the sampling and testing conducted by the quality control unit shall be adequate to assure that batches of drug products meet each appropriate specification and appropriate statistical quality control criteria as a condition for their approval and release. The statistical quality control criteria shall include appropriate acceptance levels and/or appropriate rejection levels.

(e) The accurancy, sensitivity, specificity, and reproducibility of test methods employed by the firm shall be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).

(f) Drug products failing to meet established standards or specifications and any other relevant quality control criteria shall be rejected. Reprocessing may be performed. Prior to acceptance and use, reprocessed material must meet appropriate standards, specifications, and any other relevant critieria.

§ 211.166 Stability testing.

(a) There shall be a written testing program designed to assess the stabil-

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ity characteristics of drug products. The results of such stability testing shall be used in determining appropriate storage conditions and expiration dates. The written program shall be followed and shall include:

(1) Sample size and test intervals based on statistical criteria for each attribute examined to assure valid estimates of stability;

(2) Storage conditions for samples retained for testing;

(3) Reliable, meaningful, and specific test methods;

(4) Testing of the drug product in the same container-closure system as that in which the drug product is marketed;

(5) Testing of drug products for reconstitution at the time of dispensing (as directed in the labeling) as well as after they are reconstituted.

(b) An adequate number of batches of each drug product shall be tested to determine an appropriate expiration date and a record of such data shall be maintained. Accelerated studies, combined with basic stability information on the components, drug products, and container-closure system, may be used to support tentative expiration dates provided full shelf life studies are not available and are being conducted. Where data from accelerated studies are used to project a tentative expiration date that is beyond a date supported by actual shelf life studies, there must be stability studies conducted, including drug product testing at appropriate intervals, until the tentative expiration date is verified or the appropriate expiration date determined.

(c) For homeopathic drug products, the requirements of this section are as follows:

(1) There shall be a written assessment of stability based at least on testing or examination of the drug product for compatibility of the ingredients, and based on marketing experience with the drug product to indicate that there is no degradation of the product for the normal or expected period of use.

(2) Evaluation of stability shall be based on the same container-closure system in which the drug product is being marketed.

§ 211.167 Special testing requirements.

(a) For each batch of drug product purporting to be sterile and/or pyrogen-free, there shall be appropriate laboratory testing to determine conformance to such requirements. The test procedures shall be in writing and shall be followed.

(b) For each batch of ophthalmic ointment, there shall be appropriate testing to determine conformance to specifications regarding the presence of foreign particles and harsh or abrasive substances. The test procedures shall be in writing and shall be followed.

(c) For each batch of controlled-release dosage form, there shall be appropriate laboratory testing to determine conformance to the specifications for the rate of release of each active ingredient. The test procedures shall be in writing and shall be followed.

§ 211.170 Reserve samples.

(a) An appropriately identified reserve sample representative of each lot in each shipment of each active ingredient shall be retained for at least 1 year after the expiration date of the last lot of the drug product containing the active ingredient or, in the case of certain OTC drug products lacking expiration dating because they meet the criteria for exemption under § 211.137, 3 years after distribution of the last drug product lot containing the active ingredient. It shall consist of at least twice the quantity necessary for all tests required to determine whether the active ingredient meets its established specifications, except the quantity requirement shall not apply for sterility and pyrogen samples.

(b) A properly identified reserve sample representative of each lot or batch of drug product shall be stored under conditions consistent with product labeling and shall be retained for at least 1 year after the expiration date of the drug product or in the case of certain OTC drug products lacking expiration dating because they meet the criteria for exemption under § 211.137, 3 years after distribution of the lot or batch of drug product. The sample shall be stored in the same immediate container-closure system in which the drug product is marketed or an immediate container-closure system having essentially the same characteristics. The sample shall consist of at least twice the quantity necessary to perform all the required tests, except those for sterility and pyrogens. Such samples shall be at least visually examined annually for evidence of deterioration unless such examination would affect the integrity of the samples. The results of such examination shall be recorded and maintained with other stability data on the drug product. Samples of compressed medical gases need not be retained.

§ 211.173 Laboratory animals.

Animals used in testing components, in-process materials, or drug products for compliance with established specifications shall be maintained and controlled in a manner that assures their suitability for their intended use. They shall be identified, and adequate records shall be maintained showing the history of their use.

§ 211.176 Penicillin contamination.

If a reasonable possibility exists that a non-penicillin drug product has been exposed to cross-contamination with penicillin, the non-penicillin drug product shall be tested for the presence of penicillin. Such drug product shall not be marketed if detectable levels are found when tested according to procedures specified in "Procedures for Detecting and Measuring Penicillin Contamination in Drugs." [1]

Subpart J—Records and Reports

§ 211.180 General requirements.

(a) Any production, control, or distribution record that is required to be maintained in compliance with this part and is specifically associated with a batch of a drug product shall be retained for at least 1 year after the expiration date of the batch or, in the case of certain OTC drug products lacking expiration dating because they meet the criteria for exemption under § 211.137, 3 years after distribution of the batch.

(b) Records shall be maintained for all components, drug product containers, closures, and labeling for at least 1 year after the expiration date or, in the case of certain OTC drug products lacking expiration dating because they meet the criteria for exemption under § 211.137, 3 years after distribution of the last lot of drug product incorporating the component or using the container, closure, or labeling.

(c) All records required under this part, or copies of such records, shall be readily available for authorized inspection during the retention period at the establishment where the activities described in such records occurred. These records or copies thereof shall be subject to photocopying or other means of reproduction as part of such inspection. Records that can be immediately retrieved from another location by computer or other electronic means shall be considered as meeting the requirements of this paragraph.

(d) Records required under this part may be retained either as original records or as true copies such as photocopies, microfilm, microfiche, or other accurate reproductions of the original records. Where reduction techniques, such as microfilming, are used, suitable reader and photocopying equipment shall be readily available.

(e) Written records required by this part shall be maintained so that data therein can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or

[1] Copies may be obtained from: Director, NCAA (HFD-430), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

control procedures. Written procedures shall be established and followed for such evaluations and shall include provisions for:

(1) A review of every batch, whether approved or rejected, and, where applicable, records associated with the batch.

(2) A review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

(f) Procedures shall be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations conducted under §§ 211.198, 211.204, or 211.208 of these regulations, any recalls, reports of inspectional observations issued by the Food and Drug Administration, or any regulatory actions relating to good manufacturing practices brought by the Food and Drug Administration.

§ 211.182 Equipment cleaning and use log.

A written record of major equipment cleaning, maintenance (except routine maintenance such as lubrication and adjustments), and use shall be included in individual equipment logs that show the date, time, product, and lot number of each batch processed. If equipment is dedicated to manufacture of one product, then individual equipment logs are not required, provided that lots or batches of such product follow in numerical order and are manufactured in numerical sequence. In cases where dedicated equipment is employed, the records of cleaning, maintenance, and use shall be part of the batch record. The persons performing and double-checking the cleaning and maintenance shall date and sign or initial the log indicating that the work was performed. Entries in the log shall be in chronological order.

§ 211.184 Component, drug product container, closure, and labeling records.

These records shall include the following:

(a) The identity and quantity of each shipment of each lot of components, drug product containers, closures, and labeling; the name of the supplier; the supplier's lot number(s) if known; the receiving code as specified in § 211.80; and the date of receipt. The name and location of the prime manufacturer, if different from the supplier, shall be listed if known.

(b) The results of any test or examination performed (including those performed as required by § 211.82(a), § 211.84(d), or § 211.122(a)) and the conclusions derived therefrom.

(c) An individual inventory record of each component, drug product container, and closure and, for each component, a reconciliation of the use of each lot of such component. The inventory record shall contain sufficient information to allow determination of any batch or lot of drug product associated with the use of each component, drug product container, and closure.

(d) Documentation of the examination and review of labels and labeling for conformity with established specifications in accord with §§ 211.122(c) and 211.130(c).

(e) The disposition of rejected components, drug product containers, closure, and labeling.

§ 211.186 Master production and control records.

(a) To assure uniformity from batch to batch, master production and control records for each drug product, including each batch size thereof, shall be prepared, dated, and signed (full signature, handwritten) by one person and independently checked, dated, and signed by a second person. The preparation of master production and control records shall be described in a written procedure and such written procedure shall be followed.

(b) Master production and control records shall include:

(1) The name and strength of the product and a description of the dosage form;

(2) The name and weight or measure of each active ingredient per dosage unit or per unit of weight or measure of the drug product, and a statement of the total weight or measure of any dosage unit;

(3) A complete list of components designated by names or codes sufficiently specific to indicate any special quality characteristic;

(4) An accurate statement of the weight or measure of each component, using the same weight system (metric, avoirdupois, or apothecary) for each component. Reasonable variations may be permitted, however, in the amount of components necessary for the preparation in the dosage form, provided they are justified in the master production and control records;

(5) A statement concerning any calculated excess of component;

(6) A statement of theoretical weight or measure at appropriate phases of processing;

(7) A statement of theoretical yield, including the maximum and minimum percentages of theoretical yield beyond which investigation according to § 211.192 is required;

(8) A description of the drug product containers, closures, and packaging materials, including a specimen or copy of each label and all other labeling signed and dated by the person or persons responsible for approval of such labeling;

(9) Complete manufacturing and control instructions, sampling and testing procedures, specifications, special notations, and precautions to be followed.

§ 211.188 Batch production and control records.

Batch production and control records shall be prepared for each batch of drug product produced and shall include complete information relating to the production and control of each batch. These records shall include:

(a) An accurate reproduction of the appropriate master production or control record, checked for accuracy, dated, and signed;

(b) Documentation that each significant step in the manufacture, processing, packing, or holding of the batch was accomplished, including:

(1) Dates;

(2) Identity of individual major equipment and lines used;

(3) Specific identification of each batch of component or in-process material used;

(4) Weights and measures of components used in the course of processing;

(5) In-process and laboratory control results;

(6) Inspection of the packaging and labeling area before and after use;

(7) A statement of the actual yield and a statement of the percentage of theoretical yield at appropriate phases of processing;

(8) Complete labeling control records, including specimens or copies of all labeling used;

(9) Description of drug product containers and closures;

(10) Any sampling performed;

(11) Identification of the persons performing and directly supervising or checking each significant step in the operation;

(12) Any investigation made according to § 211.192.

(13) Results of examinations made in accordance with § 211.134.

§ 211.192 Production record review.

All drug product production and control records, including those for packaging and labeling, shall be reviewed and approved by the quality control unit to determine compliance with all established, approved written procedures before a batch is released or distributed. Any unexplained discrepancy (including a percentage of theoretical yield exceeding the maximum or minimum percentages established in master production and control records) or the failure of a batch or any of its components to meet any of its specifications shall be thoroughly investigated, whether or not the batch has alrady been distributed. The investigation shall extend to other batches of the same drug product and

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other drug products that may have been associated with the specific failure or discrepancy. A written record of the investigation shall be made and shall include the conclusions and followup.

§ 211.194 Laboratory records.

(a) Laboratory records shall include complete data derived from all tests necessary to assure compliance with established specifications and standards, including examinations and assays, as follows:

(1) A description of the sample received for testing with identification of source (that is, location from where sample was obtained), quantity, lot number or other distinctive code, date sample was taken, and date sample was received for testing.

(2) A statement of each method used in the testing of the sample. The statement shall indicate the location of data that establish that the methods used in the testing of the sample meet proper standards of accuracy and reliability as applied to the product tested. (If the method employed is in the current revision of the United States Pharmacopeia, National Formulary, Association of Official Analytical Chemists, Book of Methods,[1] or in other recognized standard references, or is detailed in an approved new drug application and the referenced method is not modified, a statement indicating the method and reference will suffice). The suitability of all testing methods used shall be verified under actual conditions of use.

(3) A statement of the weight or measure of sample used for each test, where appropriate.

(4) A complete record of all data secured in the course of each test, including all graphs, charts, and spectra from laboratory instrumentation, properly identified to show the specific component, drug product container, closure, in-process material, or drug product, and lot tested.

(5) A record of all calculations performed in connection with the test, including units of measure, conversion factors, and equivalency factors.

(6) A statement of the results of tests and how the results compare with established standards of identity, strength, quality, and purity for the component, drug product container, closure, in-process material, or drug product tested.

(7) The initials or signature of the person who performs each test and the date(s) the tests were performed.

(8) The initials or signature of a second person showing that the original records have been reviewed for accuracy, completeness, and compliance with established standards.

(b) Complete records shall be maintained of any modification of an established method employed in testing. Such records shall include the reason for the modification and data to verify that the modification produced results that are at least as accurate and reliable for the material being tested as the established method.

(c) Complete records shall be maintained of any testing and standardization of laboratory reference standards, reagents, and standard solutions.

(d) Complete records shall be maintained of the periodic calibration of laboratory instruments, apparatus, gauges, and recording devices required by § 211.160(b)(4).

(e) Complete records shall be maintained of all stability testing performed in accordance with § 211.166.

§ 211.196 Distribution records.

Distribution records shall contain the name and strength of the product and a description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product.

§ 211.198 Complaint files.

(a) Written procedures describing the handling of all written and oral complaints regarding a drug product shall be established and followed. Such procedures shall include provisions for review by the quality control unit, of any complaint involving the possible failure of a drug product to meet any of its specifications and, for such drug products, a determination as to the need for an investigation in accordance with § 211.192.

(b) A written record of each complaint shall be maintained in a file designated for drug product complaints. The file regarding such drug product complaints shall be maintained at the establishment where the drug product involved was manufactured, processed, or packed, or such file may be maintained at another facility if the written records in such files are readily available for inspection at that other facility. Written records involving a drug product shall be maintained until at least 1 year after the expiration date of the drug product, or 1 year after the date that the complaint was received, whichever is longer. In the case of certain OTC drug products lacking expiration dating because they meet the criteria for exemption under § 211.137, such written records shall be maintained for 3 years after distribution of the drug product.

(1) The written record shall include the following information, where known: the name and strength of the drug product, lot number, name of complainant, nature of complaint, and reply to complainant.

(2) Where an investigation under § 211.192 is conducted, the written record shall include the findings of the investigation and followup. The record or copy of the record of the investigation shall be maintained at the establishment where the investigation occurred in accordance with § 211.180(c).

(3) Where an investigation under § 211.192 is not conducted, the written record shall include the reason that an investigation was found not to be necessary and the name of the responsible person making such a determination.

Subpart K—Returned and Salvaged Drug Products

§ 211.204 Returned drug products.

Returned drug products shall be identified as such and held. If the conditions under which returned drug products have been held, stored, or shipped before or during their return, or if the condition of the drug product, its container, carton, or labeling, as a result of storage or shipping, casts doubt on the safety, identity, strength, quality or purity of the drug product, the returned drug product shall be destroyed unless examination, testing, or other investigations prove the drug product meets appropriate standards of safety, identity, strength, quality, or purity. A drug product may be reprocessed provided the subsequent drug product meets appropriate standards, specifications, and characteristics. Records of returned drug products shall be maintained and shall include the name and label potency of the drug product dosage form, lot number (or control number or batch number), reason for the return, quantity returned, date of disposition, and ultimate disposition of the returned drug product. If the reason for a drug product being returned implicates associated batches, an appropriate investigation shall be conducted in accordance with the requirements of § 211.192. Procedures for the holding, testing, and reprocessing of returned drug products shall be in writing and shall be followed.

§ 211.208 Drug product salvaging.

Drug products that have been subjected to improper storage conditions including extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation due to natural disasters, fires, accidents, or equipment failures shall not be salvaged and returned to the marketplace. Whenever there is a question whether drug products have been subjected to such conditions, salvaging operations may be conducted only if there is (a) evidence from laboratory tests and assays (including animal feeding studies where applicable) that the drug products meet all applicable standards of identity, strength, quality, and purity and (b) evidence from inspection of the premises that the drug products and their associated packaging were not subjected to improper storage conditions as a result of the disaster or accident. Organoleptic examinations shall be acceptable only as supplemental evidence that the drug products meet appropriate standards of identity, strength, quality, and purity. Records including name, lot number, and disposition shall be maintained for drug products subject to this section.

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20204.

PART 229—CURRENT GOOD MANUFACTURING PRACTICE FOR CERTAIN OTHER DRUG PRODUCTS

§ 229.25 [Revoked]

6. By revoking § 229.25 and thereby revoking Part 229.

Effective date. This regulation shall be effective on March 1, 1979. The expiration dating requirements under these amendments and not previously in effect shall apply to drug products manufactured after that date.

(Secs. 501, 502, 505, 506, 507, 510, 701, 52 Stat. 1049-1053 as amended, 59 Stat. 463 as amended, 76 Stat. 794 as amended (21 U.S.C. 351, 352, 355, 356, 357, 360, 371); Pub. L. 92-387, 86 Stat. 559-562.).

Dated: September 15, 1979.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

NOTE.—Incorporation by reference materials approved by the Director of the Office of the Federal Register on March 11, 1976 (footnote 2) and October 21, 1977 (footnote 1). Copies of referenced materials are on file at the FEDERAL REGISTER library.

[FR Doc. 78-27121 Filed 9-22-78; 12:43 pm]

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[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 211]

[Docket No. 78N-0140]

HUMAN AND VETERINARY DRUGS; CURRENT GOOD MANUFACTURING PRACTICE FOR DRUG PRODUCTS

Exemptions for Certain OTC Drug Products

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: Based on comments received in response to proposed changes in current good manufacturing practice regulations for drugs, the agency is proposing two additional provisions as follows: (1) An exemption from required expiration dating for human over-the-counter (OTC) drug products that are marketed without dosage limitations and are stable for at least 3 years; and (2) an exemption providing for OTC drug products that are ordinarily marketed and consumed as human foods and that may also fall within the legal definition of drugs by virtue of their intended use to be inspected under good manufacturing practice regulations for foods rather than such regulations for drugs. Until final regulations under this proposal are published, manufacturers may continue to market without expiration dates human OTC drug products that meet the proposed definitions. Similarly, until final regulations are adopted, good manufacturing practice regulations for foods will be applied to OTC drug products that are ordinarily marketed and consumed as human foods and that may also fall within the legal definition of drugs by virtue of their intended use.

DATE: Comments by November 28, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Clifford G. Broker (HFD-323) (301-443-5307), or Robert J. Rice, Jr., (HFD-30) (301-443-5220), Bureau of Drugs, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing final regulations for current good manufacturing practice (CGMP) for human and veterinary drug products. They are being adopted after careful consideration of extensive comments from the public, including consumers, regulated industry, and health care professionals, in response to a proposal published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878). In light of those comments, the Commissioner concluded that there was sufficient reason to reconsider whether all human OTC drug products should bear an expiration date and whether OTC drug products that are ordinarily marketed and consumed as human foods and that may also fall within the legal definition of drugs by virtue of their intended use are more appropriately inspected under good manufacturing practice regulations for foods rather than those for drugs. To fully consider these issues, the Commissioner has delayed implementing certain requirements under Part 211 (21 CFR Part 211) until comments on this proposal can be evaluated and final regulations published.

OTC DRUG PRODUCTS WITHOUT DOSAGE LIMITATIONS

As discussed in the preamble to the final regulations for Part 211, a substantial number of comments were received concerning a proposed requirement that all drug products bear an expiration date. Many comments, particularly those from certain segments of the human OTC drug industry, suggested that some drug products are so safe and are consumed so quickly that expiration dating would be unnecessary for them. Respondents suggested as examples of such human OTC drug products medicated shampoos and topical lotions, creams, and ointments, fluoride toothpaste, and rubbing alcohol. Many persons objected to expiration dating for these classes of human OTC drug products on the basis that adding such information to immediate containers and outer retail packages was not cost-effective in relationship to the benefit derived by the consumer.

The Commissioner recognizes that many human OTC drug products are safe and suitable for frequent and often prolonged use. Such products are marketed without dosage limitations and, typically, the contents of the retail package are used in a relatively short time. He believes that, given the high market volume of these types of preparations, their safety, and the speed with which they are usually used, the advantages of expiration dating to the consumer may not be worth the added cost, which is ultimately borne by the consumer. Therefore, the Commissioner considers it reasonable to propose to exempt human OTC drug products that have no dosage limitations from the expiration dating requirements of § 211.137.

In considering the desirability of exempting any class of drugs from expiration dating, the Commissioner is concerned that drug products that may be unstable are routinely in the marketplace and may not be fully consumed before deterioration occurs. For example, significant stability problems have been noted with some fluoride toothpastes. Therefore, to minimize the possibility that human OTC drug products with relatively short periods of stability are permitted to be marketed without expiration dating, the Commissioner proposes that, as a condition for exemption, the drug product must be shown to be stable for at least 3 years. The 3-year time period is proposed on the assumption that most drug products of this type will be used by consumers well within the 3-year period. The Commissioner notes that one comment to the February 13, 1976 CGMP proposal stated that, based on information regarding a leading medicated shampoo, there is a 95 percent probability that all of a batch of the preparation is consumed within 83 weeks (1.6 years). Several other comments also suggested that a specific time period of stability (e.g. 3 or 5 years) would be appropriate for determining whether to require an expiration date for certain human OTC drug products.

The Commissioner is limiting the proposed exemption under § 211.137 to human OTC drug products because he believes that it is inappropriate for veterinary drug products. The veterinary drug industry differs significantly in nature and scope from the human drug industry. Many of the veterinary drug products available for OTC sale contain active ingredients that would cause these products to bear the prescription legend if labeled for human use. Examples of such veterinary drug products are topical sulfonamides, nitrofurans, neomycin sulfate, oxytetracycline, hydrocortisone, and polymyxin B. Consumers must be assured that these drug products are of sufficient potency to achieve their intended therapeutic effect for animal care.

The Commissioner believes that OTC veterinary drug products that are stable for at least 3 years and that are labeled without dosage limitations are likely to remain in distribution channels longer than OTC human drug products that meet the same criteria. During this distribution period, such veterinary drug products may be exposed to adverse storage conditions, such as those encountered in some feed stores, that may affect their stability.

OTC DRUG PRODUCTS ORDINARILY MARKETED AND CONSUMED AS HUMAN FOODS THAT MAY ALSO FALL WITHIN THE LEGAL DEFINITION OF DRUGS BY VIRTUE OF THEIR INTENDED USE

The Commissioner has tentatively concluded that a few products ordinarily consumed as human foods, but also marketed as drugs, would be more appropriately regulated under good manufacturing practice regulations for foods, i.e., 21 CFR Part 110 and, if appropriate, 21 CFR Parts 113 through 129. Therefore, he proposes to exempt from Part 211, OTC drug products that are also human foods, if they are ordinarily consumed as human foods and if all their ingredients are ordinarily consumed as human foods. Examples of products that the Commissioner believes would be covered by the proposed exemption are (1) some candy cough drops that are formulated entirely of ingredients ordinarily consumed as human foods or ingredients of human food products; and (2) sodium bicarbonate labeled for use as an antacid, but ordinarily used as an ingredient of human foods under the more common "baking soda" label.

In proposing this exemption for drugs that are also human foods, the Commissioner has considered, first, the inadvisability of applying drug CGMP regulations that are not necessary to assure appropriate quality characteristics in view of the intended use of a product and, second, the reasonableness of applying human food GMP regulations to a product manufactured, handled, and ordinarily consumed as a human food.

The Commissioner has considered the merits of applying an exemption from Part 211 to OTC drug products that are also animal foods, and that otherwise would meet the criteria for exemption. He has concluded that the CGMP's for human food are not suitable for determining compliance with current good manufacturing practice for certain types of animal food. He also notes that no existing CGPM regulations apply to animal feed. Therefore, the Commissioner has limited the proposed exemption from Part 211 to OTC drug products ordinarily consumed and marketed as human food and that otherwise meet the criteria for exemption in this FEDERAL REGISTER proposal.

The Commissioner especially invites comments on the desirability of providing these exemptions. He also requests comment on whether the classes of drug products proposed for exemption are adequately defined, particularly on the adequacy of at least a 3-year period of stability. He invites manufacturers to identify products that appear likely to be exempted under this proposal.

The Commissioner wishes to make clear that in proposing these exemptions for these types of products, he does not intend that the products be exempt from other provisions of the act and regulations that are applicable to drugs or drug products.

The Commissioner has determined that this document does not contain an agency action covered by 21 CFR 25.1(b), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 505, 506, 507, 512, 701, 52 Stat. 1049-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 351, 352, 355, 356, 357, 360b, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 211 as follows:

1. In § 211.1 by revising paragraph (c) to read as follows:

§ 211.1 Scope.

• • • • • •

(c) OTC drug products ordinarily marketed and consumed as human foods that may also fall within the legal definition of drugs by virtue of their intended use: Drug products that meet these criteria shall be subject to Part 110 of this chapter, and where applicable, Parts 113 through 129 of this chapter, in determining whether such products are manufactured, processed, packed, or held in conformance with current good manufacturing practice.

2. In § 211.137 by revising paragraph (f) to read as follows:

§ 211.137 Expiration dating.

• • • • • •

(f) Human OTC drug products are exempt from the requirements of this section if their labeling does not bear dosage limitation and they are stable for at least 3 years, as supported by appropriate stability data.

Interested persons may, on or before November 28, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. Assessment of the economic impact has been made in conjunction with the economic impact assessment of the final regulations for current good manufacturing practice for human and veterinary drugs (Docket No. 75N-0339) appearing elsewhere in this issue of the FEDERAL REGISTER. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-27122 Filed 9-22-78; 12:43 pm]

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federal register

FRIDAY, SEPTEMBER 29, 1978
PART III



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

V 43 / 190 SEP 29 1978

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes precedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to this publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

California:	
CA78-5122	Aug. 11, 1978.
Colorado:	
CO78-5108; CA78-5109; CO78-5110; CA78-5111; CO78-5112.	July 14, 1978.
Connecticut:	
CT75-2067	Apr. 25, 1975.
CT78-3055; CT78-3056	July 28, 1978.
Illinois:	
IL28-2008	Feb. 17, 1978.
IL78-2071	Sept. 1, 1978.
Indiana:	
IL78-2008	Feb. 17, 1978.
IL78-2071	Sept. 1, 1978.
Kentucky:	
IL78-2008	Feb. 17, 1978.
Louisiana:	
LA78-4072	July 14, 1978.
LA78-4077	Aug. 11, 1978.
Michigan:	
IL78-2071	Sept. 1, 1978.
Minnesota:	
IL78-2071	Do.
Missouri:	
IL78-2008	Feb. 17, 1978.
New York:	
IL78-2071	Sept. 1, 1978.
Ohio:	
IL78-2008	Feb. 17, 1978.
I178-2071	Sept. 1, 1978.
Oregon:	
OR78-5104	June 30, 1978.
Pennsylvania:	
IL78-2071	Sept. 1, 1978.
Texas:	
TX78-4078; TX78-4079	Aug. 11, 1978.
TX78-4080	Aug. 4, 1978.
TX78-4088	Aug. 25, 1978.
Washington:	
WA78-5105	June 30, 1978.
Wisconsin:	
IL78-2071	Sept. 1, 1978.
West Virginia:	
IL78-2008	Feb. 17, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Spersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL75-1104 (FL78-1084)	Oct. 24, 1975.
Michigan:	
MI78-2010 (MI78-2072); MI78-2011 (MI78-2073); MI78-2012 (MI78-2074); MI78-2013 (MI78-2075); MI78-2014 (MI78-2076); MI78-2015 (MI78-2077) MI78-2016 (MI78-2078).	Mar. 10, 1978.
Minnesota:	
MN77-2043 (MN78-2095); MN77-2044 (MN78-2096); MN77-2045 (MN78-2097); MN77-2046 (MN78-2098).	May 6, 1977.
MN78-2009 (MN78-2099)	Mar. 10, 1978.
North Carolina:	
NC77-1017 (NC78-1081)	Feb. 11, 1977.
Pennsylvania:	
PA77-3104 (PA78-3070)	July 22, 1977.
PA77-3121 (PA78-3068)	Sept. 9, 1977.
South Carolina:	
SC75-1079 (SC78-1085)	Sept. 5, 1975.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 22d day of September 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO78-5108 - Mod. #1 (43 FR 30431 - July 14, 1978) Statewide, Colorado					
Change:					
Carpenters:					
Carpenters	$ 9.32	.80	.90	.75	.07
*Zone I	9.82	.80	.90	.75	.07
*Zone II					
Underground Carpenters	9.52	.80	.90	.75	.07
*Zone I	10.02	.80	.90	.75	.07
*Zone II					
Working on creosoted coated lumber or other toxic materials, sawmen continuously assigned to 1¼ HP at job site	9.62	.80	.90	.75	.07
High work 35' above ground or above permanent floor or deck	9.67	.80	.90	.75	.07
Cement Masons:					
*Zone I	9.40	.52	1.15	.30	.11
*Zone II	9.90	.52	1.15	.30	.11
Electricians:					
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, La Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties					
Zone I:					
Electricians	11.40	.72	3%+.80		1½%
Cable Splicers	12.54	.72	3%+.80		1½%
Zone II:					
Electricians	11.80	.72	3%+.80		1½%
Cable Splicers	12.94	.72	3%+.80		1½%
Zone III:					
Electricians	12.15	.72	3%+.80		1½%
Cable Splicers	13.29	.72	3%+.80		1½%
Zone IV:					
Electricians	13.28	.72	3%+.80		1½%
Cable Splicers	14.42	.72	3%+.80		1½%
Electricians on electrical contracts less than $20,000 in Zones III and IV	9.65	.72	3%+.80		1½

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5122 - Mod. #1 (43 FR 35835 - August 11, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
PLASTERERS' TENDERS: Imperial, Riverside and San Bernardino Counties	11.02	1.15	2.45		
REFRIGERATION & AIR CONDITIONING: Riverside and San Bernardino Counties	10.70	.96	.85	1.00	.05
ROOFERS: Imperial County	10.79	.80	1.05	1.00	
SHEET METAL WORKERS: Imperial County	13.96	1.04	2.24		.01

DECISION NO. CO78-5108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers: Zones 1* and 2* - All Groups (1 thru 18) change - VACATION ONLY				.46	
Add:					
Power Equipment Operators:					
Group 1: Rodman, Chainman, Grade Checker	$ 8.75	.74	.90	.35	.06
Zone 1	$ 8.75	.74	.90	.35	.06
Zone 2	9.50	.74	.90	.35	.06
Group 3: Instrument Man					
Zone 1	9.45	.74	.90	.35	.06
Zone 2	10.20	.74	.90	.35	.06
DECISION NO. CO78-5109 - Mod. #1 (43 FR 30437 - July 14, 1978) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Asbestos Workers	12.14	.55	$1.37		
Boilermakers	12.30	.85	1.00		.02
Bricklayers; Stonemasons:					
Eagle County	10.75	.85	.95		.05
Boulder and Grand Counties	9.80	.85	.95		.05
Elbert, Lake and Park Cos.	10.65	.85	.95		.05
Cement Masons:					
Cement Masons	10.68	.52	1.15		.11
Working with composition materials and color	11.18	.52	1.15		.11
Working on scaffold, swing stage, or temporary platform over 25'	10.92	.52	1.15		.11
Elevator Constructors	11.71	.895	.56	a	.025
Elevator Constructors' Helpers	70%JR	.895	.56	a	.025

DECISION NO. CO78-5109 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Remaining Counties including Northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	$10.47	.80	.50		.08
Footnote: a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.					
Truck Drivers:					
Zones 1* and 2* - All Groups (1 thru 18) Change- VACATION ONLY				.46	
Add:					
Power Equipment Operators:					
Group 1: Rodman, Chainman, Grade Checker					
Zone 1	8.75	.74	.90	.35	.06
Zone 2	9.50	.74	.90	.35	.06
Group 3: Instrument Man					
Zone 1	9.45	.74	.90	.35	.06
Zone 2	10.20	.74	.90	.35	.06
DECISION NO. CO78-5110 - Mod. #1 (43 FR 30443 - July 14, 1978) El Paso County, Colorado					
Change:					
Asbestos Workers	$12.14	.55	$1.37		.02
Boilermakers	12.30	.85	1.00		.04
Bricklayers; Stonemasons	10.65	.85	.95		.04
Cement Masons:					
Cement Masons	10.68	.52	1.15		.11
Working with composition materials and color	11.18	.52	1.15		.11
Working on temporary platform over 25'	10.93	.52	1.15		.11
Elevator Constructors	11.71	.895	.56	a	.025
Elevator Constructors' Helpers	70%JR	.895	.56	a	.025
Roofers	9.93	.52	.40		
Footnote: a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.					

DECISION NO. CO78-5110 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers: Groups 1 thru 18 - Change- VACATION ONLY				.46	
Add:					
Power Equipment Operators:					
Group 1: Rodman, Chainman, Grade Checker	$8.75	.74	.90	.35	.06
Group 3: Instrument Man	9.45	.74	.90	.35	.06
DECISION NO. CO78-5111 - Mod. #1 (43 FR 30451 - July 14, 1978) Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin Counties, Colorado					
Change:					
Asbestos Workers	$12.15	.55	$1.37		
Boilermakers	12.30	.85	1.00		.02
Bricklayers; Stonemasons:					
Remaining Counties	10.35	.85	.95		.05
Cement Masons:					
Cement Masons	10.68	.52	1.15		.11
Working with composition materials and color	11.18	.52	1.15		.11
Working on scaffold, swing stage or temporary platform over 25'	10.93	.52	1.15		.11
Elevator Constructors	11.71	.895	.56	a	.025
Elevator Constructors' Helpers	70%JR	.895	.56	a	.025
Millwrights	10.86	.80	.85		.13
Roofers	9.93	.52	.40		
Footnote: a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.					
Truck Drivers:					
Zones 1* and 2* - All Groups (1 thru 18) Change- VACATION ONLY				.46	

DECISION NO. CO78-5111 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Power Equipment Operators:					
Group 1: Rodmen; Chainman; Grade Checker					
Zone 1	$8.75	.74	.90	.35	.06
Zone 2	9.50	.74	.90	.35	.06
Group 3: Instrument Man					
Zone 1	9.45	.74	.90	.35	.06
Zone 2	10.20	.74	.90	.35	.06
DECISION NO. CO78-5112 - Mod. #1 (43 FR 30447 - July 14, 1978) Las Animas, Otero and Pueblo Counties, Colorado					
Change:					
Asbestos Workers	$12.14	.55	$1.37		
Boilermakers	12.30	.85	1.00		.02
Bricklayers	10.72	.85	.95		.07
Cement Masons:					
Cement Masons	10.68	.52	1.15		.11
Working with composition material and color	11.18	.52	1.15		.11
Working on scaffold, swing stage or temporary platform over 25'	10.93	.52	1.15		.11
Electricians:					
Zone I:					
Electricians	11.40	.72	3%+.80		1½%
Cable Splicers	12.54	.72	3%+.80		1½%
Zone II:					
Electricians	11.80	.72	3%+.80		1½%
Cable Splicers	12.94	.72	3%+.80		1½%
Zone III:					
Electricians	12.15	.72	3%+.80		1½%
Cable Splicers	13.29	.72	3%+.80		1½%
Zone IV:					
Electricians	13.28	.72	3%+.80		1½%
Cable Splicers	14.42	.72	3%+.80		1½%
Electrical contracts under $20,000 in Zones II and IV	9.65	.72	3%+.80		1½%
Elevator Constructor	11.71	.895	.56	a	.025

MODIFICATIONS P. 7

DECISION NO. CO78-5112 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors' Helpers	70%JR	.895	.56	a	.025
Roofers	9.93	.52	.40		
Soft Floor Layers: Pueblo County	9.00	.40	.75	.30	.10
Footnote: a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.					
Truck Drivers: Zones 1* and 2* - All Groups (1 thru 18) Change-VACATION ONLY				.46	
Add: Power Equipment Operators Group 1: Rodman, Chainman, Grade Checker					
Zone 1	8.75	.74	.90	.35	.06
Zone 2	9.50	.74	.90	.35	.06
Group 3: Instrument Man Zone 1	9.45	.74	.90	.35	.06
Zone 2	10.20	.74	.90	.35	.06

MODIFICATIONS P. 8

DECISION #CT75-2067 - MOD. #2 (40 FR 18304 - April 25, 1975) Hartford County, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Residential Construction: Electricians: Berlin, Bristol, New Britain, Newington, Plainville, Southington	$10.80	1.00	3%+.52		½%
DECISION #CT78-3055 - MOD. #6 (43 FR 33023 - July 28, 1978) Fairfield, Litchfield and Windham Counties, Connecticut					
CHANGE: Electricians: Litchfield Co.: Plymouth Building Construction	$10.80	1.00	3%+.52		½%
DECISION #CT78-3056 - MOD. #4 (43 FR 33030 - July 28, 1978) Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut					
CHANGE: Electricians: Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, and Southington Township	$10.80	1.00	3%+.52		½%

MODIFICATIONS P. 9

DECISION #IL78-2008 - MOD. #1 (43 FR 7125 - February 17, 1978) Illinois, Indiana, Kentucky, Missouri, Ohio, and West Virginia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: Area IV Within the geographical jurisdiction of the St. Paul District Corps of Engineers					
Below Engineer, Mechanic, and Boatman	$ 9.71	.95	.85		
Oiler	8.79	.95	.85		
Area V Within the geographical jurisdiction of the Rock Island District Corps of Engineers					
Levermen, Engineer, Mechanic and Boatman	10.48	.95	.85		
Oiler	8.86	.95	.85		
DECISION #IL78-2071 - MOD. #1 (43 FR 39260 - September 1, 1978) Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin					
CHANGE: Footnote: b. $7.20 per day, per employee					

MODIFICATIONS P. 10

DECISION #LA78-4072 - Mod. #6 (43 FR 30456 - July 14, 1978) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit: Painters (Bossier & Caddo Para.):					
Group 1	$ 8.85	.40	.30		.05
Group 2	9.10	.40	.30		.05
Group 3	9.35	.40	.30		.05
Group 4	9.45	.40	.30		.05
Add: Painters (Bossier & Caddo Para.): Painters, tape & float, vinyl & paperhangers & decorators	9.20	.40	.30		.05
DECISION #LA78-4077 - Mod. #4 (43 FR 35841 - August 11, 1978) Statewide Louisiana					
Omit: Painters: Zone 6:					
Group 1 - Painters, tape, float & paperhangers: stage, window jacks & structural steel	8.85	.40	.30		.05
Group 2 - Stage, window jacks & structural steel over 30 ft.	9.10	.40	.30		.05
Group 3 - Stage, window jacks & structural steel over 75 ft.	9.35	.40	.30		.05
Group 4 - Sandblasting, spray	9.45	.40	.30		.05
Add: Painters: Zone 6 - Painters, tape & float, vinyl & paperhangers & decorators	9.20	.40	.30		.05

MODIFICATIONS P. 11

DECISION NO. OR78-5104 - Mod. #2 (43 FR 28723 - June 30, 1978) Statewide Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS, STONEMASONS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Marion, Multnomah, Morrow, Polk, Sherman, Tillamook, Wasco, (N. of Maupin), Washington, Yamhill, Baker, Union, Umatilla, Wallowa, and N½ Malheur County	$12.94	.85	.85		.15
Benton, Crook Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (City of Maupin and south thereof), S½ Malheur	12.75	.75	.75		.08
ELECTRICIANS:					
Baker, Gilliam, Grant, Morrow, Umatilla, Wheeler Counties					
Electricians	13.62	.73	3% + 1.00		.02
Lead Cable Splicers	14.30	.73	3% + 1.00		.02
Coos, Curry, Lincoln, and western portions of Douglas and Lane Counties					
Electricians	13.30	.90	3% + 2.00		.04
Cable Splicers	14.63	.90	3% + 2.00		.04
Harney, Jackson, Josephine, Klamath, Lake, eastern portion of Douglas, Counties					
Electricians	14.13	.90	3% + 1.00		.08
Cable Splicers	15.54	.90	3% + 1.00		.08
ELEVATOR CONSTRUCTORS	13.405	.895	.56	a	.025
GLAZIERS	11.41	.61	.65		.01
MARBLE SETTERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (N½), Washington, and N½ Yamhill Counties	12.94	.85	.85		.15

MODIFICATIONS P. 12

DECISION NO. OR78-5104 - Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASON TENDERS:	$10.08	.95	1.05		.10
PAINTERS:					
Remaining Counties					
Brush	10.82	.55	.70		.10
Spray	11.22	.55	.70		.10
Bridges, high work over 50' (brush)	11.57	.55	.70		.10
Bridges, high work over 50' (spray)	11.97	.55	.70		.10
Drywall tapers	11.42	.65	.60	.50	.06
PLUMBERS:					
Baker, Harney (escept NW), and Malheur Counties	12.32	.79	1.10		.10
Benton (N½), Lincoln, S½ of Tillamook, and Yamhill, Marion and Polk	13.52	1.00	1.65	1.25	.12
Coos, Curry, W. part of Douglas, City of Florence in Lane Co.	13.33	.81	1.40		.10
ROOFERS:					
Baker, Clackamas, Clatsop, Columbia, Gilliam, Grant, Hood River, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Washington, and Wheeler					
Roofers	11.05	.70	1.00		
Handling irritating materials, coal tar or epoxy	11.30	.70	1.00		
Handling irritating materials coal tar or epoxy in confined area	11.55	.70	1.00		
Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake and Lane Counties					
Roofers	11.10	.75	.10		
Spray or application of irritating materials in confined area	12.10	.75	.10		
Wallowa County	10.39	.60	.75		.02
SHEET METAL WORKERS:					
Coos, Curry, Douglas, Klamath, Lake, Lane, Jackson, Josephine	13.085	.71	.61		.005

MODIFICATIONS P. 13

DECISION NO. OR78-5104 - Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Malheur County	$7.76	.49	.10		.10
TILE SETTERS:					
Baker, Clatsop, Clackamas, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco (N. of Maupin), N½ of Malheur, Tillamook, Washington, N½ Yamhill Counties	11.83	.80	.75		.15
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (inc. city of Maupin), S½ Malheur Counties	11.20	.70	.70		.10

FOOTNOTE:
a. Employer credits 8% basic hourly rate of employee with 5 years service; 6% basic hourly rate for 6 months to 5 years service to vacation plan. Six paid holidays. A through F

MODIFICATIONS P. 14

DECISION #TX78-4078 - Mod. #1 (43 FR 35881 - August 11, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers - Zone 1	$ 9.55	.55	1.00		.07
DECISION #TX78-4079 - Mod. #2 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Marble, tile & terrazzo workers	8.43				.02
DECISION #TX78-4080 - Mod. #3 (43 FR 35886 - August 4, 1978) Jefferson & Orange Cos., Texas					
Change:					
Bricklayers & stonemasons	12.46	.63	.60		.04
DECISION #TX78-4088 - Mod. #1 (43 FR 36237 - August 25, 1978) Wichita County, Texas					
Change:					
Plumbers & pipefitters:					
Zone 1 - within 25 miles of Wichita Falls City limits	10.30	.45	.65		.02
Zone 2 - over 25 miles from Wichita Falls City limits	10.80	.45	.65		.02
Zone 3 - over 40 miles from Wichita Falls City limits	11.10	.45	.65		.02
Zone 4 - over 55 miles from Wichita Falls City limits	11.40	.45	.65		.02
Zone 5 - over 70 miles from Wichita Falls City limits	11.70	.45	.65		.02

DECISION NO. WA78-5105 - Mod. #2
(43 FR 28734 - June 30, 1978)
Statewide Washington

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific(N½), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima	$14.27	.62	1.30		.06
Remaining Counties	13.54	.62	1.30		.04
BRICKLAYERS:					
Clallam, Island, Jefferson, King, Kitsap, Snohomish, S½ Skagit,	12.42	.80	1.15		.11
Clark, Cowlitz, S½ Pacific, Skamania, Wahkiakum, Klickitat	12.94	.85	.85		.15
Grays Harbor, Lewis, Mason, N½ of Pacific, Pierce, Thurston	12.37	.80	1.20		.06
San Juan, Skagit, Whatcom	12.82	.80	.85		
CEMENT MASONS:					
Clallam, Grays Harbor, Jefferson, King, Kitsap, Kittitas (W. part) Lewis, Mason, Pacific (N½), and Thurston Counties					
Cement Masons	11.53	.70	1.00	.50	.02
Composition, color, mastic, trowel machine, grinder, power tool, gunnite nozzleman	11.78	.70	1.00	.50	.02
ELECTRICIANS:					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties					
Electricians	14.12	.83	3% + .40		.02
Cable Splicers	14.52	.83	3% + .40		.02
Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima, Cos.					
Electricians	13.52	.83	3% +1.00		.02
Cable Splicers	14.27	.83	3% +1.00		.02

DECISION NO. WA78-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS - Cont'd					
Chelan, Douglas, Grant, and Okanogan Counties					
Electricians	$13.42	.83	3% + 1.00		.02
Cable Splicers	14.76	.83	3% + 1.00		.02
ELEVATOR CONSTRUCTORS:					
Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific (N½), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima Counties	14.41	.895	.69	a	.02
Clark, Cowlitz, Klickitat, Pacific(S½), Skamania, and Wahkiakum Counties	13.405	.895	.56	a	.025
GLAZIERS:					
Adams(S.E. part), Benton, Columbia, Franklin, and Walla Walla Counties	10.77	.40	.55	.66	
Asotin, Garfield, and Whitman	10.33	.40	.55	b	
Clallam, Island, Jefferson, Grays Harbor, Kitsap, Lewis, Mason, Pacific (N.½), Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties	11.19	.34	.85	b	
Yakima and Kittitas Counties	10.11	.35	.70		.02
Clark, Cowlitz, Klickitat, S.½ Pacific, Skamania, Wahkiakum	11.41	.61	.65		.01
LATHERS:					
Clallam, Island, Jefferson, King, Kitsap, Lewis, Pacific (N.½), Pierce, San Juan, Skagit, Snohomish, and Whatcom Counties	11.82	.70	1.00		.04
MARBLE SETTERS:					
Clallam, Island, Jefferson, King, Kitsap, Snohomish, Skagit (S.½)	12.41	.80	1.15		.11
Grays Harbor, Lewis, Mason, N.½ Pacific, Pierce, and Thurston	12.37	.80	1.20		.06
San Juan, Skagit (N.½), Whatc	12.82	.80	.85		

DECISION NO. WA78-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASON TENDERS:					
Clark, Cowlitz, Klickitat, S.½ Pacific, Skamania, Wahkiakum	$10.03	.95	1.10		.10
PAINTERS:					
Clark, Cowlitz, Klickitat, S.½ Pacific, Skamania, Wahkiakum					
Brush	10.82	.55	.70	.50	.10
Spray	11.22	.55	.70	.50	.10
Bridges, high work over 50' (brush)	11.57	.55	.70	.50	.10
Bridges, high work over 50' (spray)	11.97	.55	.70	.50	.10
PLASTERERS:					
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, N.½ Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties	11.72	.70	1.10		.08
PLUMBERS:					
Clark and Skamania (South part)	14.32	1.50	1.60		.13
ROOFERS:					
Adams, Asotin, Chelan, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens and Whitman Counties	10.39	.65	1.00		.02
Benton, Franklin, Kittitas, Klickitat, and Yakima Counties					
Roofers, kettlemen, waterproffers, shinglers, spraying	11.59	.60	.30		
Island, San Juan, Skagit, and Whatcom Counties					
Roofers and Waterproofers	9.82	.55	.40		
Slate and tile	10.12	.55	.40		
Clark and Skamania Counties					
Roofers	11.05	.70	1.00		
Handling irritating materials (coal, tar, epoxy)	11.30	.70	1.00		
Handling irritating materials (coal, tar, epoxy) in confined area	11.55	.70	1.00		

DECISION NO. WA78-5105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Adams (N.E. part), Ferry, Lincoln (E.½), Pend Oreille, Spokane, and Stevens Counties	10.52	.40	.60		
Adams (S.E. Part), Benton, Columbia, Franklin, Walla Walla	10.04	.40	.80	1.21	
Adams (S.W. part), Chelan, Douglas, Grant, Lincoln(W½), and Okanogan Counties	11.00	.40	.90	.60	
King and Snohomish Counties	11.14	.63	1.00		.05
SPRINKLER FITTERS:					
Skagit, Snohomish, King, Island, Kitsap, Pierce, and Thurston	15.31	75	1.55		.11
TERRAZZO WORKERS:					
Adams(except city of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman, and Okanogan (Grand Coulee area)	11.60	.65	.70		
Clallam, Island, Jefferson, King, Kitsap, Skagit(Southern part), and Snohomish Counties	12.12	.80	1.00		.05
San Juan, Skagit(N.part),and Whatcom Counties	12.82	.80	.85		
Grays Harbor, Lewis, Mason, Pierce, and Thurston Counties	12.37	.80	1.20		.06
TILE SETTERS:					
Adams(except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman, and Okanogan (Grand Coulee area)	11.60	65	70		
Clallam, Island, Jefferson, King, Kitsap, Skagit(S.part), and Snohomish Counties	12.12	.80	1.00		.05
Grays Harbor, Lewis, Mason, Pierce, and Thurston Counties	12.37	.80	1.20		.06
San Juan, Skagit(N.), Whatcom	12.82	.80	.85		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (DREDGING)					
AREA 1:					
Group 1	$12.02	.85	1.00		.11
Group 2	12.12	.85	1.00		.11
Group 3	12.46	.85	1.00		.11
Group 4	12.51	.85	1.00		.11
Group 5	12.56	.85	1.00		11
Group 6	12 88	85	1.00		.11
Group 7					
(a)	13 27	.85	1.00		.11
(b)	13 82	85	1 00		.11
AREA 21					
Group 1	12.02	.85	1.00		.11
Group 2	12.12	.85	1.00		.11
Group 3	12.46	.85	1.00		.11
Group 4	12.51	.85	1.00		.11
Group 5	12.56	.85	1.00		.11
Group 6	12.88	.85	1.00		.11
Group 7					
(a)	13.27	.85	1.00		.11
(b)	13.82	.85	1.00		.11

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: FL78-1036
Supersedes Decision No. FL75-1104 dated October 24, 1975 in 40 FR 49940
DESCRIPTION OF WORK: Residential construction consisting of single family house and garden type apartments up to and including 4 stories.

COUNTIES: See below*
DATE: Date of Publication

*Citrus, Hernando, Hillsborough, Pasco, Pinellas, & Sumter

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning/ Heating Mechanic	5.00			.10	
Bricklayers	7.00				
Carpenters	6.00				
Cement Masons	4.00				
Electricians	6.10	7%	3%	5%	.05
Insulation Installer	3.81				
Glaziers	7.15	.25			.01
Ironworkers	5.08				
Laborers	3.00				
Mason Tender	4.00				
Lather	7.09		.20		.01
Painters	5.00				
Plasterers	7.10				
Plumbers and Pipefitters	5.89				
Roofers	5.46				
Sheet Metal Workers	4.91				
Tile Setters	7.00				
Truck Drivers	3.25				
Power Equipment Operators					
Backhoe	5.17				
Bulldozer	5.50				
Compactor/Roller	4.68				
Crane, Derrick, Dragline	5.42				
Front End Loader	4.75				
Grader	5.13				

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI78-2072
Supersedes Decision No. MI78-2010. dated March 10, 1978 in 43 FR 10193
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge Airport and Sewer) Construction.

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.85	.84	1.63		.02
BOILERMAKERS	11.955	1.10	1.20	2.00	.03
BRICKLAYERS:					
Mason County:					
Bricklayers; Stonemasons; Marble-Tile Workers, Cement Masons & Plasterers	8.70	.65	.25		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	9.195	.55	.75		
Marble Masons	8.75	.55	.70		
Terrazzo & Tile Workers	8.50	.55	.70		
Plasterers	10.68	.60	.50		.02
Remaining Counties					
Bricklayers; Stonemasons; Plasterers-Marble Workers	9.93	.70	.25		.02
Terrazzo & Tile Workers	9.37	.70	.25		
CARPENTERS:					
Mason, Muskegon & Oceana Counties					
Carpenters	10.50	.60	.70		.04
Millwrights	12.25	.60	.70		.05
Piledrivers	10.90	.60	.70		.04
Remaining Counties					
Carpenters & Soft Floor Layers	9.31	.60	.70		.03
Millwrights	9.81	.60	.70		.03
Piledrivers	9.76	.60	.70		.03
CEMENT MASONS:					
Muskegon & Oceana Counties	8.05	.50	.50		.02
Remaining Counties	9.48	.70	.25		.02
ELECTRICIANS:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatam Township) Counties and (Grant, Freesoil), and Mead Townships) in Mason County	11.50	.50	3%+.40		.1 of 1%

DECISION NO. MI78-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Muskegon, Oceana and the Remainder of Mason Counties	$11.68	.50	3%+.35		.03
Remaining Counties & (Wawatan Township) in Emmet County:					
Electricial Contractors $35,000 and below	9.75	.50	3%+.30		.1 of 1%
Electrical Contracts in excess of $35,000	11.70	.50	3%+.30		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	11.21	.745	.56	a	.025
Elevator Constructor Helpers	70%JR	.745	.56	a	.025
Elevator Constructor Helpers (Prob.)	50%JR				
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Elevator Constructors	10.195	.745	.56	a	.025
Elevator Constructors Helpers	70%JR	.745	.56	a	.025
Elevator Constructors Helpers (Prob.)	50%JR				
GLAZIERS:					
Emmet & Muskegon Counties	$ 8.55	.40	.30		
Charlevoix, Grand Traverse, Leelanau, Mason, & Oceana Counties	8.30	.40	.30		
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle Counties:					
Structural and Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	10.18	8%	14%	17%	.09
Remaining Counties	11.26	6%	.82		.03
LATHERS:	8.85	.64	.10	.50	.01
Grand Traverse County	9.60	.92	.30		.01
Muskegon County	9.82	.92	.30		.01
PAINTERS:					
Alcona and Oscoda Counties					
Brush	8.86	.50	.80		.02
Spray	9.70	.50	.80		.02

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DECISION NO. MI78-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Grand Traverse and Leelanau Counties and that portion of Charlevoix County lying South of and straight line drawn from Charlevoix (city) to Elmira					
Brush	$ 8.45	.50			.02
Spray; Tapers	9.10	.50			.02
Mason County	8.25				
Muskegon & Oceana Counties					
Brush, Tapers	8.00				
Paper hangers	8.25				
Spray & Sandblast	8.50				
Remainder of Charlevoix County and Remaining Counties					
Brush & Drywall Spray	9.15 9.90				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	11.34	.85	.60	1.80	
Alpena, Montmorency & Presque Isle Counties	12.05	.55	.60		
Mason, Muskegon & Oceana Counties	10.71	1.19	.75		.04
Remaining Counties	11.41	.60	.50		.06
ROOFERS:					
Mason, Muskegon & Oceana Counties	9.05	.67		.20	
Remainder of Counties: Composition, Damp & Waterproofers	9.00				
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	10.70	.50	.53		.05
Mason, Muskegon & Oceana Counties	10.40	.77	.65	.67	.02
Remaining Counties	11.11	.65	1.00		.03
SPRINKLER FITTERS	12.10	.75	1.05		.03

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DECISION NO. MI78-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Montmorency, Oscoda & Oreque Isle Counties					
Regular Truck Driver	$ 7.87	b26.00	b31.00	.38	
8 cu. yds. and over	7.97	b26.00	b31.00	.38	
Euclid Type Bottom & End Dump	8.17	b26.00	b31.00	.38	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties					
Regular Truck Driver	7.95	b26.00	b31.00	c	
8 cu. yds, and over	8.05	b26.00	b31.00	c	

Welder receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 6% contribution for more than 5 years-plus 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day-Thanksgiving Day-Day after Thanksgiving & Christmas Day

b. Per week; Per Employee & Dental & Optical

c. Paid vacation computed at a 40 hour week at straight time as follows: one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after Christmas Day.

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DECISION NO. MI78-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Mason County					
Group 1	$ 7.30	.65	.35		.04
Group 2	7.45	.65	.35		.04
Group 3	7.75	.65	.35		.04
Group 4	7.65	.65	.35		.04
Group 5	7.70	.65	.35		.04
Group 6	7.75	.65	.35		.04
Muskegon and Oceana Counties					
Group 1	7.21	.65	.35	.55	.04
Group 2	7.36	.65	.35	.55	.04
Group 3	7.46	.65	.35	.55	.04
Group 4	7.71	.65	.35	.55	.04
Remaining Counties					
Group 1	6.80	.65	.35	.40	.04
Group 2	6.95	.65	.35	.40	.04
Group 3	7.40	.65	.35	.40	.04

LABORERS:

Mason County
Group 1 - Building and Heavy Construction Laborers
Group 2 - Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All power Tools; Vibrator; Chain saw; Nozzleman; Green Cut Concrete work
Group 3 - Jackhammer; Acetylene Torch; Windlass and Tugger Operators; swing Scaffold Chimneys; Tower, Crane Scaffold; Rock Crusher
Group 4 - Pipelayers or Crock Layers in Buildings
Group 5 - Plasterers Tenders - Machine pumped
Group 6 - Work on Scaffold 30' in height or more

Muskegon and Oceana Counties
Group 1 - All Construction Laborers on Building and Heavy Construction Pumps and well Wheels
Group 2 - Plasterer tender; Material Mixers; Operators of Portable Mixers; Air, Electric or Gasoline Tools; Mortar Driver Buggies; Swing Scaffold
Group 3 - Jackhammer Operator, Crockloyers & Caisson workers in Buildings
Group 4 - Top men on Chimney or Towers over 30' in Height

Remaining Counties:
Group 1 - Building and Heavy Construction Laborers
Group 2 - Mortar Mixer; Material Mixers (hand or machine); Vibrator Operators; Operators of Concrete Mixers (Tipping Hammer; Concrete Breakers (90 lb. hammer or less); Tamping machine (air, gas or electric); Sand blasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders
Group 3 - Cement Gun Nozzleman

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LC - ZONE II

LINE CONSTRUCTION: ZONE II	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment Operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator; Groundmen					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MN78-2072

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.75	.90	1.25		.05
CLASS B	12.50	.90	1.25		.05
CLASS C	12.00	.90	1.25		.05
CLASS D	11.20	.90	1.25		.05
CLASS E	11.00	.90	1.25		.05
CLASS F	9.80	.90	1.25		.05
CLASS G	9.10	.90	1.25		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

DECISION NO. MN78-2072

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION
ALCONA, ALPENA, MONTMORENCY, OSCODA & PRESQUE ISLE COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub l
CLASS C - Crane operato b mechanic
CLASS D Hoisting operat
CLASS E Compressor (or er) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION
REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.10	.90	1.25		.05
CLASS B	12.85	.90	1.25		.05
CLASS C	12.35	.90	1.25		.05
CLASS D	11.55	.90	1.25		.05
CLASS E	10.30	.90	1.25		.05
CLASS F	9.10	.90	1.25		

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry cranes whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

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MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (6' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumprete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ / dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), cutting machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO.: MI78-2073 DATE: Date of Publication
Supersedes Decision No. MI78-2011, dated March 10, 1978 in 43 FR 10198
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Alger, Baraga, Chippewa, Dickinson, Gogebic Houghton, Keweenaw, Mackinac, Marquette & Ontonagon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chippewa & Mackinac Counties	$11.85	.95	1.63		.02
Gogebic & Ontonagon Counties	11.10	.40	.50		
Remainder of Counties	10.81	.70	.50	.65	.05
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS:					
Alger & Marquette Counties:					
Bricklayers, Stonemasons, Plasterers, & Marble-Tile-Terrazzo Workers	9.62	.75	.50		.01
Chippewa & Mackinac Counties:					
Bricklayers & Stonemasons	9.59	.70	.60		
Plasterers	9.44	.70	.60		
Tile & Terrazzo Workers	9.39	.70	.60		
Remainder of Counties:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers	9.62	.75	.50		.01
CARPENTERS:					
Carpenters & Soft Floor Layers	10.04	.60	.70		.02
Millwrights	11.19	.60	.70		.02
Piledrivermen	9.44	.60	.60		.01
CEMENT MASONS:					
Alger & Marquette Counties	9.12	.75	.50		.01
Chippewa & Mackinac Counties	9.02	.70	.60		
Remainder of Counties	9.12	.75	.50		.01
ELECTRICIANS:					
Dickinson County:					
Contracts $50,000 or more & all Industrial work	11.06	.40	3%		.5%
Contracts Less than $50,000	9.74	.40	3%		.5%
Alger & Marquette Counties:					
Contracts over $50,000	12.05	.45	3%+.45		½ of 1%
Contracts $50,000 or less	10.56	.45	3%+.45		½ of 1%

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DECISION NO. MI78-2073

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Chippewa & Mackinac Counties	$11.30	.50	3%		15.00 ply
Gogebic County	10.80	4%	3%	11%	3%
Remainder of Counties:					
Contracts $45,000 & over	11.54	.50	3%		½ of 1%
Contracts up to $45,000	8.75	.0	3%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	10.00	.70	1.00	1.70	.04
PAINTERS:					
Dickinson County:					
Commercial & Industrial	8.95		.75		
Alger & Marquette Counties:					
Brush	9.75				
Glaziers	9.75				
Bridges, Water Tanks, Radio & TV	12.00				
Chippewa & Mackinac Counties:					
Commercial-Industrial & Sign Painter	8.10			1.50	
Taper-Hand	8.60			1.50	
Steel	10.60			1.50	
Glaziers	6.90			1.50	
Baraga, Houghton, Keweenaw & the northern portion of Ontonagon County:					
Brush, Paperhangers, Tapers and Glaziers	8.00				
Spray & Sandblasting	8.50				
Gogebic County & the Remainder of Ontonagon County:					
Brush, Paperhangers	6.00				
Spray	6.50				

DECISION NO. MI78-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAM FITTERS	$ 9.43	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	9.86	.70+.10	.65	1.25	.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Truck Driver	7.72	b22.00	b16.00		
Heavy Duty, Double Axle & Semi	7.85	b22.00	b16.00		
Euclid	8.08	b22.00	b16.00		

FOOTNOTES:

a. 7 Paid Holidays-New Year's Day-Memorial Day- Independence Day-Labor Day-Thanksgiving Day-Day after Thanksgiving & Christmas Day plus employer contributes 8% of Regular Hourly Tate to vacation pay credit for employee who has worked in business more than 5 years & 6% for employees in business less than 5 years

b. Per Week; Per Employee

DECISION NO. MI78-2073

Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per Week; Per Employee

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$ 8.00	.65	.35		.04
Class B	8.10	.65	.35		.04
Class C	8.40	.65	.35		.04
Class D	8.55	.65	.35		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammers; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine; Motor driven buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzlemen; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts - muckers, caisson workers, miners, drillers, blasters.

DECISION NO. MI78-2073

LINE CONSTRUCTION: ZONE II	LC -ZONE II				
	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment Operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman:					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTE:

a. 7 paid Holiday: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2073

MICH-7-PEO-1-2-SE-D

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.23	.90	1.25	11%	.02
CLASS B	8.37	.90	1.25	11%	.02
CLASS C	7.85	.90	1.25	11%	.02
CLASS D	7.29	.90	1.25	11%	

\SS A - Regular equipment operator, crane, dozer, front end loader, ob mechanic
\SS B - Air Track drill, boom truck, concrete mixers, fork truck, iterial hoist & tugger, pumps 6" or over, pumpcrete, belt crete, eeze crete, sweeping machine trencher, winches, well pointss nd reeze systems
\SS C - Air compressor, conveyor, concrete saw, farm tractor (without ttachments) generatOR, guard post driver, mulching pumps under 6" elders
\SS D - Oiler, fireman, heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	$ 8.95	.80	1.00	10%	.02
CLASS 2 - Compressor o& Welder	7.95	.80	1.00	10%	.02
CLASS 3 - Oiler & Fireman	7.05	.80	1.00	10%	

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Marquette
DECISION NO.: MI78-2074 DATE: Date of Publication
Supersedes Decision No. MI78-2012, dated March 10, 1978 in 43 FR 10201
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.81	.70	.50		.05
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS & STONEMASONS	9.62	.75	.50		.01
CARPENTERS & SOFT FLOOR LAYERS	7.01	.60	.50		.01
CEMENT MASONS	9.12	.75	.50		.01
ELECTRICIANS	8.20	.45	3%		½of1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	10.00	.70	1.00	1.70	.04
LABORERS:					
Laborers	8.00	.65	.35		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Mortor driven buggy operator, sand-blasters, Tamping machines, vibrator operators	8.10	.65	.35		.04
MILLWRIGHTS	11.19	.60	.60		.02
PAINTERS:					
Brush & Glaziers	9.25				
PLASTERERS	9.62	.75	.50		.01
PLUMBERS & STEAMFITTERS	9.43	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	9.96	.70+.10	.65		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TILE-MARBLE & TERRAZZO WORKERS	9.62	.75	.50		.01
TRUCK DRIVERS:					
Regular	7.77	22.00c	16.00c		
Heavy Duty, double axle and semi	7.85	22.00c	16.00c		
Euclid type equipment	8.08	22.00c	16.00c		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic	$ 9.23	.90	1.25	11%	.02
Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumpcrete, Belt Crete, Squeeze crete, Sweeping Machine, trencher, Winches, Well points and Freeze Systems	8.37	.90	1.25	11%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day & Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through G

b. Employer contributes 8% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO. MI78-2075 DATE: Date of Publication
Supersedes Decision No: MI78-2013, dated March 10, 1978 in 43 FR 10202
DESCRIPTION OF WORK: Building (Does not includo single family homes and garden type apartments up to and including four stories) and Heavy (excluding, Bridge, Airport and Sewer) Construction

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien County	$12.98	.65	.90		
Remaining Counties	11.85	.95	1.63		.02
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS & STONEMASONS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	10.75	.95	.60		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazoo County	10.94	.85	.35		.09
Allegan County (Remainder)	9.10	.55	.25		.04
Calhoun County and Bellevue, Cornel, Kalamo, and Walton Townships in Eaton County	11.45	.55	.35		
Clinton and Ingham (except Onondaga, Leslie, Bunker Hill and Stockbridge Townships) Counties and the remainder of Eaton County	11.53		.90		.01
Jackson County and remainder of Ingham County	11.92	1.10	.80		
CARPENTERS:					
Berrien County (Chickaming, New Buffalo and Three Oaks Townships)	12.78	.65	.67		.05
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermontville Townships), Ingham & Jackson Counties	10.61	.60	.60		.01
Remaining Counties and the remainder of Berrien and Eaton Counties	10.50	.60	.70		.04

DECISION NO. MI78-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Kalamazoo County; Calhoun Co; Allegan Co., (Twps of Allegan, Cheshire, Gunn Plain, Martin, Otsego, Trowbridge, Valley & Watson)	$10.32	.85	.35		.02
Allegan County (Casco, Ganges & Lee Townships) and Berrien County	9.95	.95	.60		
Remainder of Allegan County	9.32	.50	.50		.02
Remainder of Counties	10.40	.60	.50		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Townships	11.03	.50	3%+.35		.01
Allegan County (Remainder) and Kalamazoo County	12.03	.50	9½%		.01
Berrien County	11.85	4.8%	7%		.2%
Calhoun County and Sunfeild, Vermontville, Kalamo, Bellevue Eaton and Brookfield townships in Eaton County	12.15	.50	3%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill Townships) Counties and the remainder of Eaton County	12.57	.50	3%+1.00		.5%
Jackson County	11.01	4%+.50	3%+ .0		3/4 of 1%
Remainder of Ingham County	11.81	4%+.50	3%+ .0		3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazuo, and Calhoun Counties:					
Constructor	10.81	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
Berrien County:					
Constructor	10.83	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				.025

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Eaton, Ingham & Jackson Counties:					
Constructor	$12.41	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
IRONWORKERS:					
Berrien County	11.45	.90	1.33		.03
Clinton, Ingham & Jackson Cos.					
Structural & Ornamental	11.18	8%	14%	17%	.09
Fence Erectors	10.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Remaining Counties	11.26	8%			.03
LATHERS:					
Ingham & Jackson Cos.	9.92	.92	.30		.01
Calhoun County	9.82	.92	.30		.01
MARBLE, TILE & TERRAZZO WORKERS					
Allegan Co. (Gun Plain Otsego, Trowbridge Valley, Allegan, Cheshire, Martin and Watson Townships) and Kalamazoo County	9.10	.60			.05
Remainder of Allegan Co.	8.35	.45	.25		
Clinton, Ingham (except Onogdaga, Leslie, Bunker Hill, and Stockbridge Townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	10.83		.80		
Calhoun Co. & Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County		.85	.35		
Marble Setters	11.45	.55	.35		
Tile & Terrazzo Workers	8.85	.85	.35		
Jackson County and the Remainder of Ingham County					
Tile & Terrazzo Workers	11.00	1.10	.80		
Marble Setters	11.92	1.10	.80		
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	8.55	.50	.25		.04
Spray, Sandblasting, & Steamcleaning	9.05	.50	.25		.02

DECISION NO. MI78-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Allegan County (S.E.¼) and Kalamazoo County					
Brush; Drywall Taping; Pan Roller	$ 9.45		.30		
Swing Stage; Structural Steel	10.10		.30		
Spray	10.35		.30		
Berrien County					
Brush	9.65				
Structural Steel	10.65				
Calhoun County					
Brush; Roller	8.30	.25			
Clinton, Eaton & Ingham Counties					
Brush and Roller & Tapers	11.39	.50	.40		.0025
Structural Steel	11.79	.50	.40		.0025
Spray & Sandblasting	12.14	.50	.40		.0025
Jackson County					
Brush and Roller	11.02	.63	.20		.02
Spray and Sandblasters	11.77	.63	.20		.02
Drywall Taper	11.42	.63	.20		.02
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	10.15	.95	.60		
Remainder of Allegan County and Remainder Counties	10.68	.60	.50		.03
PLUMBERS:					
Allegan County (Northern Tier Townships)	12.09	.60+.15	.90		.05
Allegan County (Remainder) and Kalamazoo County	11.71	.60	.86		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (CONT'D)					
Berrien County (except city of Niles and vicinity)	$12.17	.94	.65		
City of Niles and Vicinity in Berrien County	11.10	.48	.95		.10
Calhoun County and Bellevue, Olivet, Hastings and Charlotte in Eaton County	11.94	1.30	.73		
Clinton and Ingham Counties and Sunfeild, Roxand, Onoida, Delta and Windson townships in Eaton County	12.16	.25	1.25		
Jackson County	11.20	.87+.30	.80		.02
ROOFERS:					
Jackson County					
Composition	10.50	.85	.50	1.05	.10
Slate & Tile	11.25	.85	.50	1.05	.10
Allegan County					
Built-Up	7.25	.45	.35	.35	
Slate, Tile & Asbestos	7.50	.45	.35	.35	
Calhoun and Kalamazoo Counties:					
Composition	10.35			.25	
Slate, Tile & Asbestos	10.60			.25	
Clinton, Eaton and Ingham Cos.	9.30		.65	.45	
SHEET METAL WORKERS:					
Berrien County	10.98	.65	6.15		.035
Remaining Counties	9.98	.85	1.08	.68	.04
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickaming, New Buffalo and Three Oaks townships), Calhoun, Kalamazoo Counties and Bellevue, Vermontville, Kalmo and Walton townships in Eaton County	8.80	.60	.70		.01
Clinton and Ingham Counties and the remainder of Eaton County	9.28	.60	.60		.01
Jackson County	10.61	.60	.60		.01
Chickaming, 3 Oaks & New Buffalo Twps. in Berrien Co.	12.78	.65	.67		.05

DECISION NO. MI78-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H'& W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.37	.75	1.05		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties:					
8 cu yds. & under	8.84	b24.00	b22.00		
8 cu yds. & over	9.00	b24.00	b22.00		
Low Boys Semis	9.11	b24.00	b22.00		
Calhoun County					
Less than 8 cu. yds.	7.95	b21.00	b12.00	.20	
8 cu. yds. and over; Semi Tandem	8.05	b21.00	b12.00	.20	
Clinton, Eaton and Ingham Cos.					
8 cu yds. & under	8.11	b26.00	b31.00	c	
Truck Drivers on dump trucks 8 cu. yds. Capacity and over pole trailers	8.21	b26.00	b31.00	c	
Low boys drivers; Double bottom drivers	8.31	b26.00	b31.00	c	
Jackson County	5.95	b24.00	b22.00		
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MI78-2075

PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years, 6% contribution for more than 5 years, plus 7 paid holidays - A through G

b. Per week, Per employee

c. One year's service, one week vacation; 3 years service, two weeks vacation

DECISION NO. MI78-2075

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 8.35	.65	.35	.55	.04
Group 2	8.50	.65	.35	.55	.04
Group 3	8.60	.65	.35	.55	.04
Group 4	8.85	.65	.35	.55	.04
Clinton, Eaton and Ingham Counties					
Group 1	8.75	.65	.35	a	.04
Group 2	8.83	.65	.35	a	.04
Group 3	8.89	.65	.35	a	.04
Group 4	9.04	.65	.35	a	.04
Group 5	8.99	.65	.35	a	.04
Group 6	9.11	.65	.35	a	.04
Group 7	9.365	.65	.35	a	.04
Jackson County					
Group 1	8.23	.55	.35	.80	.04
Group 2	8.73	.55	.35	.80	.04

LABORERS:

Allegan, Berrien, Calhoun and Kalamazoo Counties
Group 1 - All construction laborers on buildings and Heavy Construction Pumps and Well Wheels
Group 2 - Plasterer Tenders, Material Mixers, Operaters of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds
Group 3 - Jackhamaer Operators, Crocklayers & Caisson Workers in Building
Group 4 - Top men on Chimney or Towers over 30' in height
Clinton, Eaton and Ingham Counties
Group 1 - Building Laborers
Group 2 - Mortar Mixers, hand or machine
Group 3 - Plasterer Tenders; Portable concrete mixer operator (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; concrete saw; Signal men and top men
Group 4 - Tunnel men; concrete shovelers; Car pushers, etc.
Group 5 - Windlass Operator (on caisson work)
Group 6 - Crock Layers (or pipe layers); Caisson workers; Tunnel muckers
Group 7 - Tunnel Miners
Jackson County
Group 1 - General Laborer
Group 2 - Jackhammer and Acetylene Torch

FOOTNOTE:
a - 5.00 per day

DECISION NO. MI78-2075

	LC ZONE I				
LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWNSHIPS IN INGHAM COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$13.37	1.40	9%		½%
Cable Splicer	13.95	1.40	9%		½%
Combination Equipment Operator & Groundman	10.71	1.40	9%		½%
Combination Driver & Groundman	10.08	1.40	9%		½%
Groundman	9.28	1.40	9%		½%

	LC -ZONE II				
LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Heavy Equipment operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman'					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.63	.45	3%	a	.5%

FOOTNOTE:
a. 7 paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2075

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.75	.90	1.25		.05
CLASS B	12.50	.90	1.25		.05
CLASS C	12.00	.90	1.25		.05
CLASS D	11.20	.90	1.25		.05
CLASS E	11.00	.90	1.25		.05
CLASS F	9.80	.90	1.25		.05
CLASS G	9.10	.90	1.25		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM & JACKSON COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.10	.90	1.25		.05
CLASS B	12.85	.90	1.25		.05
CLASS C	12.35	.90	1.25		.05
CLASS D	11.55	.90	1.25		.05
CLASS E	10.30	.90	1.25		.05
CLASS F	9.55	.90	1.25		

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. MI78-2075

MICH-8-PEO

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION CALHOUN, CLINTON, EATON, INGHAM & JACKSON COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller then type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION NO. MI78-2075

MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
COUNTIES: See Below
DECISION NO.: MI78-2076
DATE: Date of Publication
Supersedes Decision No. MI78-2014, dated March 10, 1978 in 43 FR 10208
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$ 12.15	1.35	1.39		.07
Remainder of Counties	11.85	.95	1.63		.02
BOILERMAKERS	11.95	1.18	1.10	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.					
Bricklayers & Stonemasons	11.50	.80	1.30		
Marble-Tile-Terrazzo Workers	10.39	.50	1.00		
St. Clair & Sanilac Counties					
Bricklayers & Stonemasons	12.33	1.15	.85		
Marble Setters	12.88	.70	1.10		
Terrazzo Workers	11.29	.60	1.00		
Tile Setters	12.41	.70	1.10		
Remainder of Counties					
Bricklayers & Stonemasons	10.94	.88	.70		
Marble-Tile-Terrazzo Workers	10.50				
CARPENTERS:					
Sanilac (Except the West 5 Miles & St. Clair Counties:					
Carpenters & Piledrivermen	11.79	.95	11%	11%	.04
Soft Floor Layers	10.72	.90	7%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	11.09	.60	.70		.02
Soft Floor Layers	9.28	.60	.60		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	11.51	1.15	.85		
Lapeer County	10.15	.80	1.30		
Genesee & Shiawassee Counties	10.25	.70	.60		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & gutters not related to highway, road and street construction	10.24	.88	.70		

DECISION NO. MI78-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co.:					
Contracts over $35,000	11.70	.50	3%+.30		1/10of1%
Contracts under $35,000	9.75	.50	3%+.30		1/10of1%
Bay Co; & Southern ½ of Iosco Co.	13.15	.40	3%+.30		¼ of 1%
Genesee, Lapeer & Shiawassee Cos.	12.10	.50	3%+1.25		.02
Saginaw & Tuscola Counties	12.85		3%+1.10		½ of 1%
Remainder of Counties	13.35	1.65	3%+1.06		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Cos.	9.15		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	11.18	8%	15%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	10.18	8%	14%	17%	.09
LABORERS:					
Iosco County; Unskilled	6.80	.65	.40		.04
Mortar & Plaster Mixers, Sewer & Catmmon Workers, Plasterer Tenders, Non-Metallic Pipe-layers	6.95	.65	.40		.04
Cement Gun Nozzlemen, Blasters, Miners & rock Drillers	7.40	.65	.40		.04

DECISION NO. MI78-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Saginaw & Genesee Counties	$ 9.92	.92	.30		.01
PAINTERS:					
Bay Iosco Cos., Huron (West of M-53) Cos., & the Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner in Tuscola County:					
Commercial	8.85	.50	.80		.02
Industiral	9.45	.50	.80		.02
Spray	9.70	.50	.80		.02
Saginaw Co., & the Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer, & Shiawassee Cos.	9.65	.50	.70		10.00p/mo.
Western ½ of Shiawassee County	10.87	.42	.40		.005
Huron, St. Clair & Sanilac Cos.:					
Commercial & Industrial	12.03	.55	.70		.01
Brush	12.58	.55	.70		.01
Open Steel & Spray					
PLASTERERS:					
Lapeer County	10.40	.80	1.30		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	10.57	.85			
Genesee & Shiawassee Cos.	10.68	.60	.50		.03
St. clair & Sanilac Counties	11.77	1.15	.85		
PLUMBERS AND STEAMFITTERS:					
Bay Iosco., N. ½ of Tuscola & the NW ¼ of Huron (running from Port Austin South to Sanilac County line)	11.34	.85	.60	1.80	
Genesee, Lapeer & Shiawassee Cos. Saginaw & S. ½ of Tuscola (including Carro, Wahjamega and South of the Lapeer County line Counties	11.67	1.00	1.10		.02
	11.03	.94	1.15		.02
Remainder of Huron County; St. Clair & Sanilac Counties	10.75	.25	1.30	1.52	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw, & Tuscola Cos.	10.75	.85	.60		.02
Genesee, Lapeer & Shiawassee Cos					
Composition	11.45	.60	.60		
Slate & tile	11.80	.60	.60		
St. Clair, Sanilac & Huron Cos.	8.45				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	11.91	.80	1.00		.03
Genesee, Lapeer & Shiawassee Cos.	10.65	.79	1.20	1.00	
St. Clair & Sanilac Counties	10.550	1.66	1.52	1.16	.11
SPRINKLER FITTERS	12.37	.75	1.05		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	7.87	b26.00	b31.00	.38	
8 cubic yards & over	7.97	b26.00	b31.00	.38	
Euclid Type Equipment	8.55	b26.00	b31.00	.38	
Genesee, Lapeer & Shiawassee Huron, St. Clair & Sanilac	8.45	b24.00	b22.00		
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	9.90	b24.00	b28.00		
Semi Drivers	9.80	b24.00	b28.00		
All Other Truck Drivers	9.65	b24.00	b28.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. 7 paid holidays - New Year's Day - Memorial Day - Independence Day; Labor Day; Thanksgiving Day - Day after Thanksgiving Day and Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employee in business less than 5 years.

b. Per Week; Per Employee, plus $1.00 per week - optical & dental

DECISION NO. MI78-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$8.69	.65	.35		.04
CLASS B	8.81	.65	.35		.04
CLASS C	8.89	.65	.35		.04
CLASS D	9.46	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos:					
CLASS A	8.94	.65	.55		.04
CLASS B	9.04	.65	.55		.04
CLASS C	9.14	.65	.55		.04
CLASS D	9.24	.65	.55		.04
CLASS E	9.49	.65	.55		.04
St. Clair & Sanilac Counties:					
GROUP 1	10.28	.65	.35		.04
GROUP 2	10.40	.65	.35		.04
GROUP 3	10.53	.65	.35		.04
GROUP 4	10.45	.65	.35		.04
GROUP 5	10.63	.65	.35		.04

LABORERS:
Bay, Huron, Saginaw & Tuscola Counties
CLASS A - All Construction Laborers on Building & Heavy Construction not specified in Classes, B,C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator and Motar Mixer when done by hand.
CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; Vibrators
CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker
CLASS D - Drillers & Plasterers, Pace Layers

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LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top Men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Menl Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool, Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

DECISION NO. MI78-2076

LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$13.37	1.40	9%		½%
Cable Splicer	13.95	1.40	9%		½%
Combination equipment Operator Groundman	10.71	1.40	9%		½%
Combination Driver-Groundman	10.08	1.40	9%		½%
Groundman	9.28	1.40	9%		½%

LC-ZONE II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman:					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

Legend: a-7 Paid Holidays; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; and Christmas Day

DECISION NO. MI78-2076

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.04	.80	1.00	10%	.05
CLASS B	11.81	.80	1.00	10%	.05
CLASS C	11.58	.80	1.00	10%	.05
CLASS D	11.20	.80	1.00	10%	.05
CLASS E	10.05	.80	1.00	10%	.05
CLASS F	9.16	.80	1.00	10%	

CLASS A - Crane with boom & job or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular crane operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine)
CLASS F - Fireman or oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer
Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or Fireman

DECISION NO. MI78-2076

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.75	.90	1.25		.05
CLASS B	12.50	.90	1.25		.05
CLASS C	12.00	.90	1.25		.05
CLASS D	11.20	.90	1.25		.05
CLASS E	11.00	.90	1.25		.05
CLASS F	9.80	.90	1.25		.05
CLASS G	9.10	.90	1.25		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine,winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

DECISION NO. MI78-2076

MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope, paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist boom truck (power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM, air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submerable pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propleced or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION NO. MI78-2076

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shove, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helpers, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submerable pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment, finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee

DECISION NUMBER: MI78-2077

DATE: Date of Publication

Supersedes Decision Number MI78-2015, dated March 10, 1978 in 43 FR 10214

DESCRIPTION OF WORK: Residential Construction consisting of Single Family Homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$12.15	1.35	1.39		.07
Remainder of Counties	11.85	.95	1.63		.02
BOILERMAKERS	11.955	1.18	1.30	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee	11.50	.80	1.30		
Saginaw County	10.94	.88	.70		
St. Clair County	9.25	1.15	.85		
CARPENTERS:					
Saginaw County	7.67	.60	.70		.02
St. Clair County	11.79	.95	11%	11%	.04
Remainder of Counties	11.09	.60	.70		.01
CEMENT MASONS:					
Genesee & Shiawassee Counties	10.25	.70	.60		.02
Lapeer County	10.15	.80	1.30		
Saginaw County	10.24	.88	.70		
St. Clair County	8.63	1.15	.85		
ELECTRICIANS:					
Genesee, Lapeer & Shiawassee Cos.	7.28	.40	3%+.75		.02
Saginaw County	8.13		3%+.15		½ of 1%
St. Clair County	13.35	1.65	3%+1.05		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
Remainder of Counties					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiawassee Co Con.	9.64	.55	.70		.02
Saginaw County	9.15		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.90+.25	14%	15%	.07

DECISION NO. MI78-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mort. Mixers (Hand)	$ 8.69	.65	.35		.04
Plaster Mixers & Tenders	8.89	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
Laborers	8.94	.65	.35		.04
Air, Gas & Dlectric Tool Oprs	9.04	.65	.35		.04
Mortar Mixers	9.04	.65	.35		.04
Crock or Pipelayers	9.24	.65	.35		.04
St. Clair County					
Laborers; Mason Tenders	10.28	.65	.35		.04
Mortar Mixers	10.40	.65	.35		.04
Air, Gas & Electric Tool Oprs	10.53	.65	.35		.04
Corck or Pipelayers	10.63	.65	.35		.04
LATHERS:					
Saginaw & Genesee Cos.	9.92	.92	.30		.01
MARBLE, TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawasee Cos.	10.39	.50	1.00		
Saginaw County	10.50				
St. Clair County:					
Marble Masons	12.88	.70	1.10		
Terrazzo Workers	11.29	.60	1.00		
Tile Setters	12.41	.70	1.10		
PAINTERS:					
Genesee & Eastern ½ of Counties: West of Hwy. #53 in Lapeer	9.65	.50	.70		10.00p/mo
St. Clair Co; & East of Hwy. #53 in Lapeer County	12.03	.55	.70		.01
Saginaw County	9.95		.35		.02
Western ½ of Shiawassee County	11.39	.50	.40		.0025
PLASTERERS:					
Saginaw County	11.52	.85			
Genesee & Shiawassee Counties	9.78	.50	.50		.02
Lapeer County	10.05	.50	1.00		
St. Clair County	8.82	1.15	.85		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Cos.	11.47	1.00	1.10		.02
Saginaw County	11.01	.94	1.15	1.25	.02
St. Clair County	10.75	1.25	1.30	1.52	.07

DECISION NO. MI78-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular Engineer	11.20	.80	1.00	10%	.05
Regular Crane Operator	11.58	.80	1.00	10%	.05
Remainder of Counties					
Regular Equipment Operator; Scraper; Dozer; Grader, Front End Loader	12.00	.90	1.25		.05
Bob Cat & Similar Type Equip.	11.20	.90	1.25		.05
Air compressors; Generators	9.85	.90	1.25		.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	11.45	.60	.60		
St. Clair County	8.45				
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	10.65	.79	1.20	1.00	
Saginaw County	11.11	.65	1.00		.03
St. Clair County	10.550	1.66	1.52	1.16	.11
SOFT FLOOR LAYERS:					
St. Clair County	10.72	.90	7%	8%	.03
Remainder of County	9.28	.60	.60		.01
SPRINKLER FITTERS	12.37	.75	1.05		.08
TRUCK DRIVERS:					
Genesee, Lapeer, & Shiawassee Cos.	8.45	b24.00	b22.00		
Saginaw County					
Truck drivers	7.87	b26.00	b31.00	.38	
8 Cubic yards & over	7.97	b26.00	b31.00	.38	
Euclid Type Equipment	8.17	b26.00	b31.00	.38	
St. Clair County					
Truck Drivers	9.65	b24.00	b28.00		
Semi Trucks	9.80	b24.00	b28.00		

FOOTNOTES:

a. 7 paid Holidays - New Year's Day - Memorial Day - Independence Day - Labor Day - Thanksgiving Day - Day after Thanksgiving - Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee plus $3.00 for dental & optical

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO.: MI78-2078
Supersedeas Decision No.: MI78-2016 dated March 10, 1978 in 43 FR 10215
DESCRIPTION OF WORK: Building Construction (Including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction.

COUNTIES: *See below
DATE: Date of Publication

*Counties: Macomb, Monroe, Oakland, Washtenaw, & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$13.13	.50	1.30		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	11.85	.95	1.63		.02
Remainder of Counties & the Remainder of Washtenaw County	12.15	1.35	1.39		.07
BOILERMAKERS:					
Monroe County	13.10	.70	1.00		.03
Remainder of Counties	11.955	1.18	1.20	1.50	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy # 23 in Monroe Co.	11.39	.86	.55		.05
Washtenaw County	13.88		1.25		
Remainder of Counties & East of Hwy. # 23 in Monroe County	13.48	.95	8%+.20		.05
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	11.94	.60	.70		.03
Remainder of Counties	11.79	.95	11%	11%	.04
CEMENT MASONS:					
South of Hwy. # 151 in Monroe County	14.14	.60			.02
Washtenaw County	13.73		1.25		
Remainder of Counties & North of Hwy. # 151 in Monroe County	11.71	.80	10%		.02
ELECTRICIANS:					
Washtenaw County	11.81	.50+4%	3%+.60	10%	3/4 of 1%
Monroe County:					
Building	13.80	.65	3%+.55		.1%
Residential	7.59	.65	3%+.55		.1%
Remainder of Counties:					
Building	13.35	1.65	3%+1.06		.03
Residential	13.35	1.65	3%+1.06		.03

DECISION NO. MI78-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$12.355	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Washtenaw County					
Constructors	12.41	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Remainder of Counties					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
GLAZIERS	$ 9.77	.55	.65		
IRONWORKERS:					
Monroe County	12.87	1.06	1.22		.05
Remainder of Counties:					
Structural & Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	10.18	8%	14%	17%	.09
Riggers & Machinery Erectors	10.50	1.25	1.98	16%	.02
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Carpenter helper	9.74	.55	.35	.55	.04
Mortar Mixer, Mason & Plaster Tender, Carpenter Helper, Cement Mason Helper, Tool Operator & Caisson Worker	9.94	.55	.35	.55	.04
LATHERS:					
Monroe County; excluding s/w corner-eastern portion of Washtenaw County & Remainder of Counties	10.92	.97+.35	.72		
MILLWRIGHTS:					
Washtenaw County	11.94	.60	.70		.03
Remainder of Counties	10.80	.96	11%	24%	.06

DECISION NO. MI78-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$13.88		1.25		
Remainder of Counties:					
Marble Mason	12.88	.70	1.10		
Marble Mason Finishers	10.37	.85	.80		
PAINTERS:					
Washtenaw County					
Brush	11.02	.63	.20		.02
Spray	11.77	.63	.20		.02
Tapers	11.42	.63	.20		.02
Remainder of Counties					
Brush	10.70	.74	1.00	1.00	50.00 P/Y
Spray:					
to 40' height	11.20	.74	1.00	1.00	50.00 P/Y
Over 40' height	11.325	.74	1.00	1.00	50.00 P/Y
PLASTERERS:					
South of Hwy. # 151 in Monroe Co.	13.00	.60			.01
Washtenaw County	13.88		1.25		
Remainder of Counties & Remainder of Monroe County	12.25	.85	.75		
PLUMBERS & STEAMFITTERS:					
Monroe County	11.18	.75	.80	1.25	.12
Washtenaw County	11.76	.95+.15	.75		.10
Remainder of Counties:					
Plumbers	10.75	1.25	1.30	1.52	.07
Pipefitters	10.55	1.55	1.50	1.35	.05
ROOFERS:					
Monroe County	12.63	1.06	1.00		.02
Washtenaw County:					
Composition	10.50	.85	.50	1.05	.10
Slate	11.25	.85	.50	1.05	.10
Remainder of Cunties:					
Composition	11.51	.90	.90	1.10	
Slate	12.51	.90	.90	1.10	
SHEET METAL WORKERS:					
Monroe County	13.655	1.06	1.36		.065
Remainder of Counties	10.550	1.66	1.52	1.16	.11

DECISION NO. MI78-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$11.94	.60	.70		.03
Remainder of Counties	10.72	.86	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	12.37	.65	.95		.08
Remainder of Counties	12.185	.90	.90		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	11.29	.60	1.00		
Terrazzo Workers' Finishers	10.11	.60	.40	.65	
Tile Setters	12.41	.70	1.10		
Tile Setters' Finishers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building & Heavy Construction:					
Pole Trailer; Low Boys; Straddle Carrier; Double Bottoms & special Load Permits	9.90	b24.00	b28.00		
Semi Drivers	9.80	b24.00	b28.00		
All Other Truck Drivers	9.65	b24.00	b28.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	9.08	b24.00	b28.00		
Truck Drivers on dump trucks 8 cubic yards capacity or over, Pole trailers, semis & fuel trucks	9.21	b24.00	b28.00		
Low boys, Euclid & double bottom drivers	9.41	b24.00	b28.00		

FOOTNOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving-Christmas Day plus Employer contribution 8% of Regular Hourly Rate to Vacation Pay Credit for employees who have worked in business more than 5 years & 6% for employees in business less than 5 years.
b. Per week; Per employee

DECISION NO. MI78-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS BUILDING, RESIDENTIAL & HEAVY					
Washtenaw County:					
GROUP 1	9.14	.65	.35	1.00	.04
GROUP 2	9.34	.65	.35	1.00	.04
GROUP 3	9.46	.65	.35	1.00	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	8.93	.80	.80	.85	
GROUP 2	9.01	.80	.80	.85	
GROUP 3	9.11	.80	.80	.85	
GROUP 4	9.16	.80	.80	.85	
GROUP 5	9.18	.80	.80	.85	
GROUP 6	9.26	.80	.80	.85	
GROUP 7	9.31	.80	.80	.85	
GROUP 8	9.68	.80	.80	.85	

LABORERS: BUILDING, RESIDENTIAL & HEAVY

Washtenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Operators; Power Buggie Operators; Scaffold Building or Dismantler; Windlass Operators; Tar and Kettle Operators
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal Man, Air gas or electric tool operators, Windlass and Tugger operator, Jackahmmer and Vibrator Operator
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lanning Burners, Blasters, Powderman

DECISION NO. MI78-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
OPEN CUT CONSTRUCTION					
WASHTENAW COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.80	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
MONROE COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete form man, Signal Man, Wheel Point, Man, Manhole, Headwall & catch Basin Building, Guard Rail Builders & fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Ops., Vibrator Op., Drillers, Pumpman Tar Kettle Opns., bracers, rodder, Reinfroced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

DECISION NO. MI78-2078

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TUNNEL, SHAFT & CASSION CONSTRUCTION WASHTENAW & MONROE COUNTIES					
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04
Wayne, Okaland & Macomb Cos:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.94	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04

CLASS 1 - Tunnel, Shaft & cassion laborer, dump man, Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool operator (Jackhammer man, Brush Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool operator, Gunnite man, grout operator, Heading dinky man, inside lock tender, pea gravel operator, pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, Winch Operator, concrete saw operator (under 40 H.P.)
CLASS 4 - Tunnel, shaft & cassion mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Operator, Power Knife operator, Reinforced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powderman

DECISION NO. MI78-2078

LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$ 6.89				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	5.14				

DECISION NO. MI78-2078

LINE CONSTRUCTION Wayne, Macomb, Oakland Cos; Remainder of Washtenaw & Monroe Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$13.37	1.40	9%		½%
Cable splicers	13.95	1.40	9%		½%
Combination Equipment Operator & Groundman	10.71	1.40	9%		½%
Combination Driver-Groundman	10.08	1.40	9%		½%
Groundman	9.28	1.40	9%		½%
LINE CONSTRUCTION: Twps. of Lyndon, Manchester, Sharon & Sylvan in Washtenaw Co; Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County					
Lineman; Heavy Equipment Operator	11.00	.45	3%	a	.5%
Cable Splicers	11.44	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman: 1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator: 1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman: 1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTES:

a 7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2078

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.04	.80	1.00	10%	.05
CLASS B	11.81	.80	1.00	10%	.05
CLASS C	11.58	.80	1.00	10%	.05
CLASS D	11.20	.80	1.00	10%	.05
CLASS E	10.05	.80	1.00	10%	.05
CLASS F	9.16	.80	1.00	10%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular Crane Operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine).
CLASS F - Firemen or oiler

MICH-2-PEO-SR

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or Fireman

DECISION NO. MI78-2078

HIGH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over); concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN78-2095
Supersedes Decision No. MN77-2043, dated May 6, 1978 in 42 FR 23390
DESCRIPTION OF WORK: Building (including Residential), Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.01	.655	.53	.56	
CARPENTERS:					
Building					
S.W. Portion of Scott Co.	10.30	.40			.02
Remainder of Cos. & Scott Co. Carpenters, Millwrights & Piledrivermen	10.46	.50+.15	.50	.50	.02
Soft Floor Layers	10.10	.61	.54	.60	.02
Site Preparation, Excavation & Incidental Paving					
Paving	10.13	.60	.60		
ELECTRICIANS:					
Building					
Hennepin & Scott Cos. & Twps. of Anoka & Fridley in Anoka County					
Contracts over $50,000	11.35	7%	6%	10½%	1 3/4%
Contracts less than $50,000	9.20	7%	6%	10½%	1 3/4%
Remainder of Anoka County & Remaining Counties	11.20	5 3/4%	5 7/8%	11½%	3/8%
Residential					
Carver, Hennepin & Scott Cos; Twps. of Anoka, Fridley, Crow & Ramsey in Anoka County: Construction of all new family dwellings up to & including 4-plexes; and to all residential remodeling, rewiring & repairing in apartment buildings up to & including a 400 ampere service. This is limited to 3 floor occupied as living quarters floors, & non-elevator apartment buildings.	7.13	.48	3%	.27	1%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dakota, Ramsey, Washington Cos. & Remainder of Anoka Co.: Construction of all new family dwellings up to & including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodeling, rewiring & repairing except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps.	7.35	.50	3%	.33	1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	10.87	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	11.65	.75	.60		.04
LATHERS:					
Anoka, Carver & Hennepin Cos.	10.19	.50	.65		.01
Washington; Dakota & Ramsey Cos.	10.88		.50	.70	.01
MARBLE SETTERS	10.355	.555	.33		
MARBLE FINISHERS	9.35	.37	.50		
TERRAZZO WORKERS	10.79	.64	.25		
TILE SETTERS	10.75	.62	.50		
TILE FINISHERS	9.90	.62	.50		
PAINTERS:					
Dakota, Ramsey & Washington Cos:					
Brush & Drywall Finisher	10.84	.55	.25		.12
Structural Steel & Spray	11.44	.55	.25		.12
Remaining Counties:					
Brush & Roller	10.08	.55	.25		.09
Structural Steel & Spray	10.68	.55	.25		.09
PLASTERERS:					
Dakota, Ramsey & Washington Cos.	10.00	.70	.25	.65	.01
Remaining Counties	9.50	.45	.20		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Plumbers, Steamfitters & Pipefitters:					
Dakota, Ramsey & Washington Cos.	$10.12	.48	.50	1.52	.06
Plumbers & Steamfitters & P/F					
Remaining Counties:					
Plumbers	10.39	.38	.50	1.35	.05
Steamfitter & Pipefitters	10.39	.38	.50	1.25	.05
ROOFERS	10.31	.69	.35		.03
SHEET METAL WORKERS:					
Dakota, Ramsey & Washington Cos.	11.86	.79	.90		.06
Remaining Counties	12.22	.52	.81		.06
SPRINKLER FITTERS	12.03	.75	1.05		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Day After Thanksgiving

FOOTNOTE:

a. Employer contributes 8% Basic Hourly Rate for over 5 years service, 6% Basic Hourly Rate for under 5 years as Vacation Pay; 7 Paid Holidays A through G

DECISION NO. MN78-2095

MINN-27-LAB-1

LABORERS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.30	.45	.45	.40	
CLASS 2	8.35	.45	.45	.40	
CLASS 3	8.40	.45	.45	.40	
CLASS 4	8.45	.45	.45	.40	
CLASS 5	8.55	.45	.45	.40	
CLASS 6	8.60	.45	.45	.40	
CLASS 7	8.65	.45	.45	.40	
CLASS 8	8.70	.45	.45	.40	
CLASS 9	9.005	.45	.45	.40	

CLASS 1 - Common Laborer, Steel hoist handler (erection); Power Buggy Operator, Carpenter Tender, Earth Dumpman, Flagman
CLASS 2 - Reinforced Steel Handler
CLASS 3 - Mon handling cement 2 hours per day (Bulk or Sack, excluding Mortar Mixer; Mason Tender; Concrete Joint Saw Operator, Demolition & Wrecking Laborer
CLASS 4 - Hot tar caulker & corker; Laborers on swing stage line scaffold (excl. "patent" scaffolding); Automatic Tamper Operator; chipping Hammer Setter & Driver on Heavy Building, Excavation, Jackhammer Men
CLASS 5 - Underground Work
CLASS 6 - Pipelayer
CLASS 7 - Caisson Work, Underpinning
CLASS 8 - Nozzlemen
CLASS 9 - Dynamite Men, Power for Blasting purposes

DECISION NO. MN78-2095

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing hatchorman (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)
CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)
CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1¼ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver; Self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2095

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity), Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.15	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.15	.55	.50		.05
GROUP 7	10.05	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derr, Dragline and/or similar equipment with shovel type control up to 3 cu. ... Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Wight or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

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POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunell, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhend, Fireman, Tank Car Heator op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

NOTICES

45134

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbault, Freeborn & Mower

DECISION NUMBER: MN78-2096

DATE: Date of Publication

Supersedes Decision NO. MN77-2044, Dated May 6, 1977 in 42 FR 23395

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County					
Bricklayers, Stonemasons & Blocklayers	9.855	.50	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.575	.50	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Tuck Pointers & Blocklayers	10.18	.57	.25		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	10.20				
Remainder of County	10.90	.50			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.12				
Mower County					
Carpenters & Piledrivermen	10.12				
Site Preparation, Excavating & Incidental Paving					
Blue Earth County					
Fairbault, Freeborn & Mower Cos.	7.32	.30			
CEMENT MASONS & PLASTERERS:	8.48				
Building:					
Blue Earth County					
Cement Masons	10.10				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon					
Cement Masons & Plasterers	9.35	.50	.25		

DECISION NO. MN78-2096

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	$ 9.28	.57	.25		
Site preparation, Excavation & Incidental Paving					
Blue Earth County	10.10				
Fairbault Co.; Freeborn Co: (West of a line running North & South from Geneva to Cordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	8.45	7½%	6%	10%	1%
Jobs within a 5 mile radius of Mankato $50,000 & over	10.60	7½%	6%	10%	1%
Freeborn & Mower Counties $75,000 or more	10.65	.60	3%	6%	.25%
$75,000 or less & Residential	8.52	.60	3%	6%	.25%
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	10.87	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	8.20				
Remainder of Counties	10.00				
IRONWORKERS	11.65	.75	.60		.04
LABORERS: Building					
General Laborers & Carp. Tender	8.50	.20	.15		
Mason tenders & Vibrator Oper.	8.60	.20	.15		
Mortarmixers	8.65	.20	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	[illegible]	.555	.33		
Terrazzo Workers	[illegible]	.64	.25		
Tile Setters	[illegible]	.62	.50		
Marble Setters' Finishers	[illegible]	.37	.50		
Tile Setters Finishers	[illegible]	.62	.50		

NOTICES

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DECISION NO. MN78-2096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Mower County					
Brush	$ 9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Remainder of Counties					
Brush	9.90	.60	.15		.11
Spray	10.40	.60	.15		.11
Structural Steel	10.90	.60	.15		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	11.72	.53			.05
Remainder of Counties	11.61	.30	.20		.02
ROOFERS:					
Mower County	9.62		.20		
Remainder of Counties	9.95	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	8.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a. Employer contributes 8% BHP for over 5 years service & 6% BHR for under 5 years service as Vacation Pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day and Day after Thanksgiving

DECISION NO. MN78-2096

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atomspheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Loadman
CLASS 6 - Nozzle (Cunwite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

DECISION NO. MN78-2096

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Conplace-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Instrument Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.).
CLASS 12 - Mechanical Spreader Operator (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN78-2096

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	10.25	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tunnel Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Travelift Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, 37% or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) turnpull op., (or similar type) well point installation, dismantling or repair mechanic

DECISION NO. MN78-2096

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrc , gunite op. gunall, lead greader on truck or rack, loadercop., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, T06 or similar HP with power take-off)

GROUP 7 - Drakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer o., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2096

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Fairbault County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2096

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Drive: (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Dituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2096

MINN-55-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota COUNTY: Olmsted
DECISION NUMBER: MN78-2097 DATE: Date of Publication
Supersedes Decision No. MN77-2045, Dated May 6, 1977 in 42 FR 23400
DESCRIPTION OF WORK: Building (Including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers; Stonemasons; Cement Blocklayers; Pointers; Caulkers & Cleaners	10.575	.50	.25		
CARPENTERS:					
Building	9.50	.50	.50		
Site Preparation, Excavation & Incidental Paving					
Carpenters & Pile Drivermen	7.88	.50	.20		
CEMENT MASONS:					
Building	9.35				
Site Preparation, Excavation & Incidental Paving	10.35				
ELECTRICIANS					
$25,000 or more	10.01	.44	3%	6%	.25%
Under $25,000 & Residential	7.67	.44	3%	6%	.25%
GLAZIERS	10.06			.30	
IRONWORKERS	11.65	.75	.60		.04
LABORERS:					
General Laborer; Carpenter Tender; Flagman; Power Buggy Operator	8.50	.20	.15		
Mason Tender; Drill Runner; Vibrator Operator; Rebar Laborer	8.60	.20	.15		
Mortar Mixer; Air Acutated Tool	8.65	.20	.15		
Plasterer Tender	8.75	.20	.15		
Nozzleman	8.90	.20	.15		
LATHERS	10.50				
MARBLE SETTERS	10.335	.555	.33		
PAINTERS:					
Brush	9.50	.37	.25		.08
Spray, Swing Stage & High Work	10.60	.37	.25		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	9.35	.50	.25		
PLUMBERS & STEAMFITTERS	11.61	.30	.20		.02
ROOFERS	9.40	.42	.33		
SHEET METAL WORKERS	10.74	.52	.33		.02
SPRINKLER FITTERS	11.93	.75	1.05		.08
TILE SETTERS	10.72				
TRUCK DRIVERS -	3.50				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

NOTICES

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DECISION No. MN78-2097 MINN-12-LAD

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler(Paving); Concrete Vibrator; Conduit Layers (w/o wiring); drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work;Cofferdam
CLASS 5 - Leadman
CLASS 6 -Nozzle (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

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DECISION NO. MN78-2097 MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; Concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front end Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KW1 & over); Straddle carrier Operator; Tractor Operator (over D-7); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Operator; gunnite Operator; Tractor Operator (D-2 or similar size 7 Front End Loader Operator-up to 3 cu. yd.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Tenporary Heat; Brakeman; Pick Up Operator (combustion engine operated); Tower Crane Oiler
CLASS 11 - Mechanic Power Broom (Combustion Heat) Oiler or Greaser

NOTICES

DECISION NO. MN78-2097

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	10.25	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conmy or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rig, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lamplerman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Highway sight or similar type), Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pavoil ex., roller, 8 tons & over, Skid tired Ext. tractor, backhoe att., shovel Oper. tie tamper & Ballast mach. Op., Tractor op., over 80, THG or similar HP with [illegible] off, tractor Op., over 80 HP without power take off, trenching machine op., (power, water, road surface) op.,(or similar type) well [illegible] drilling or [illegible]

DECISION NO. MN78-2097

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2097

MINN-55-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (2-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Serviceman; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, Self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN78-2098
Supersedes Decision No. MN77-2046, dated May 6, 1978, in 42 FR 23404
DESCRIPTION OF WORK: Building (Including Residential), Construction

COUNTIES: Benton, Sherburne & Stearns
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.40		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co.					
Carpenters, Millwrights & Piledrivermen	10.46	.65	.50	.50	.02
Soft Floor Layers	10.10	.61	.54	.45	.02
Cities of Little Rock & Sauk in Benton County					
Carpenter	9.35				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	10.08			.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidental Paving					
Sherburne Co., Northern Boundary of T-34-N & East of the Eastern Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47			.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties	9.63		.25	.35	
Cement Masons & Plasterers					
Sherburne County					
Cement Masons	10.13	.60	.60		
Plasterers	11.08	.70	.25	.65	.01
Site Prep, Excavation & Incidental Paving					
Cement Masons	[illegible]	.65	.60		
Benton & Sherburne Counties	[illegible]			.75	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake inSherburne County:					
Jobs under $50,000	8.45	7½%	6%	10%	1½%
Jobs over $50,000	10.60	7½%	6%	10%	1½%
Remainder of Sherburne County	11.20	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	10.03	.40			
IRONWORKERS	11.65	.75	.60		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	8.30	.20	.15		
Power Buggy Operators	8.35	.20	.15		
Mortar Mixers; Plasterer Tenders	8.40	.20	.15		
Jackhammer Men	8.45	.20	.15		
Underground; Caisson; Cofferdam & Tunnel work	8.55	.20	.15		
Dynamite Men	8.60	.20	.15		
Sherburne County:					
Common, Carpenter Tender	8.30	.45	.45	.40	
Wrecking & demolition	8.40	.45	.45	.40	
Vibrator Opr; Jackhammerman; Mortar Mixers	8.45	.45	.45	.40	
Underground Work	8.55	.45	.45	.40	
Pipelayers	8.60	.45	.45	.40	
Caisson Work - Underpinning	8.65	.45	.45	.40	
Dynamite Men	9.005	.45	.45	.40	
LATHERS:					
Benton & Stearns Counties	10.19	.50	.65	.01	
MARBLE SETTERS	10.355	.555	.33		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	$10.08	.55		.25	.09
Spray, Structural Steel & Sandblasting	10.68	.55		.25	.09
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Residential	8.50			3%	
Brush	7.90			3%	
Structural Steel	8.40			3%	
Spray	8.90			3%	
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	10.39	.38	.50	1.35	.05
Steamfitters Eastern ½ of County	10.39	.38	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co: Plumbers & Steamfitters	11.82	.53	.50		.06
ROOFERS:					
Roofers	8.90	.64	.25		
SHEET METAL WORKERS	11.52	.52	.31		.03
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS - Building	8.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

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MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batcherman Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or Lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batcherman (Stationary Plant); Stonesmasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Tripod, Manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 9' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

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MINN-11-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewalk, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-1-HEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Firemen, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 HP and over on multiples equal to 100 HP and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pickup Scraper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (See Schedule 10 on Air Comp., Pumps, Conveyors, Welding Work.
CLASS 12 - Blacksmith, Spray Painter (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-7H-DEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.15	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.15	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Draglina and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., Incl. power supply, Mucking Mach., Incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lamberman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Might or similar type, Pickup

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismantling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Hult. Blade), curb mach. op., Pine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor patrol), gunite op. gunnall, load greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD5 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser lawerman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.; (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	9.85	.55	.50		.05
GROUP 7	9.45	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Cradle or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mech., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable drill, Engineer in charge of Plant requiring First Class Licence, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launchman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mightyweight or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., fora trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H.& W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Benton & Stearns Cos.					
GROUP 1	$14.00	.55	.50		.05
GROUP 2	9.82	.55	.50		.05
GROUP 3	9.32	.55	.50		.05
GROUP 4	9.18	.55	.50		.05
GROUP 5	9.10	.55	.50		.05
GROUP 6	8.57	.55	.50		.05
GROUP 7	8.17	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over, Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Cradle or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mech., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class Licence, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launchman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mightyweight or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., fora trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD5 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

NOTICES

SUPERSEDEAS DECISION

PAGE 2

STATE: Minnesota
COUNTIES: *See below
DECISION NUMBER: MN78-2099
DATE: Date of Publication
Supersedeas Decision No.: MN78-2099 dated March 10, 1978 in 43 FR 10221
DESCRIPTION OF WORK: Building Construction (including Residential Construction)

*Counties: Carlton, Cook, Itasca, Koochiching Lake and St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.10	.40	.50	1.15	
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons:					
Koochiching County	11.15	.60	.30		
Cook, Lake & Carlton Counties & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of Cotton	10.27	.40	.30	.50	
Itasca County & the northern half of St. Louis County	10.875	.30			
CARPENTERS:					
Building Construction:					
Koochiching County & Cities of Ashe Lake, Crane Lake, Kabetogama & Kinmount in St. Louis County	9.45	.40			
Cook County; Cities of Alborn, Arnold, Barlett, Birch, Brooksten, Canyon, Clinton, Culver, Duluth, Floodwood, Cowan, Island, Kelsey, Lakewood, Meadowlands, Munger, Palmers, Payne, Praist, Shaw Taff in St. Louis County & Southern portion of Lake County					
Carpenters, Piledrivermen & Soft Floor Layers	9.15	.40	.50	.75	
Millwrights	9.37	.40	.50	.75	
Carlton County:					
Carpenters & Piledrivermen	9.20	.40	.50	.50	
Millwrights	9.34	.40	.50	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry, Bower, Bowstring, Calumet, Cohasset, Coleraine, Deer River, Dora, Lake, Dumbar, Effie, Grand Rapids, Ingor Marble, Marcell, Max, Pomroy, Spring Lake, Spruce Lake, Sound, Taconon, Warba & Wirt in Itasca County	9.14	.40	.50	.50	

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CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Central, Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Floreston, Forbes, Gilbert, Hoyt Lakes, Indington, Iron Junction, Makinen, McComber, Masaba, Mountain, Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudan, Tower, Virginia, Wahlsten, Winton & Zim in St. Louis & Northern portion of Lake County					
Carpenters, Soft Floor Layers, and Tile Setters	$ 9.84	.40		.30	
Cities of Goodland, Keewatin, Nashwauk, Pengilly, Sawen River, Togo & Wawina in Itasca County & Cities of Bengal, Bear Lake Buhl, Chisholm, Gheen, Greaney, Hibbing, Kelly Lake, Net Lake, Orr Riley, Side Lake, Silica & Tovola in St. Louis County:					
Carpenters & Soft Floor Layers	9.64	.40		.30	
Site Preparation, Excavation & Incidental Paving:					
Lake, Cook, Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiching County	7.32	.30			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Building Construction:					
Koochiching County:					
Cement Masons & Plasterers	$10.80	.60	.30		
Itasca Co. and the Northern portion of St. Louis County, North or White Face River					
Cement Masons	10.05	.30			
Plasterers	10.65	.30			
Cook, Lake, Carlton Counties & the City or Duluth in St. Louis County:					
Cement Masons	11.095	.40			
Plasterers	10.20	.30			
ELECTRICIANS:					
Cook, Lake, Carlton Counties the southerly 12 Townships of Itasca County including Harris, Feely, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of County bounded on the north by the lines of Kelsey Township extended east & west in St. Louis County	10.78	4%	8%	11%	1.5%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Township), Northern part of St. Louis County bounded by the South Line of Kelsey Township extended east and west	11.58	4%	6%	11%	1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
St. Louis & Lake Counties:					
Constructors	10.31	.75	.35	8%+a	.02
Helpers	70%JR	.75	.35	8%+a	.02
Helpers (prob.)	50%JR				
GLAZIERS:					
Cook, Lake, St. Louis, Carlton, Koochiching Counties	$ 9.60	.40	.40	b	
IRONWORKERS	11.35	.30	.55		.02
LABORERS: BUILDING CONSTRUCTION					
Carlton County					
Laborers	8.30	.30	.35	.40	
Mason Tenders: Mortar Mixers and Jackhammer Operators	8.40	.30	.35	.40	
Cook, Lake, St. Louis Co. South of T-55-N, including the City of Duluth:					
Common Laborers & Flagman	8.35	.30	.35	.40	
Mortar Mixers, Carpenters & Mason Tender, Jackhammer & Vibrator Operator	8.45	.30	.35	.40	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis County					
Common Laborer	8.80	.20	.15		
Carpenter & Mason Tender, Mortar mixer, Bricklayer Tender and Jackhammer	8.90	.20	.15		
Pipelayer (non-metallic)	9.15	.20	.15		
LATHERS:					
St. Louis & Lake Counties	11.20	.40			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth):					
Marble & Tile Setter	10.43	.30			
Remainder of Counties & Remainder of St.Louis County					
Marble Setters	10.355	.555	.33		
Tile Setters	10.75	.62	.50		
Marble Finishers	9.35	.37	.50		
Tile Finishers	9.90	.62	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, Tapers & Rollers	$10.81	.40	.40		.11
Spray, Structural Steel, Tapers & Paperhangers	11.41	.40	.40		.11
PLUMBERS & STEAMFITTERS:					
Koochiching County	13.90				
Cook & Carlton Counties & Southern half of St. Louis & Lake Counties	10.41	.30	.75	1.00	.05
Itasca County & Northern portions of St. Louis & Lake Counties	10.65	.56	.64	1.00	.05
ROOFERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County					
Roofers	10.58	.40	.25	1.25	
2nd Roofers	10.33	.40	.25	1.25	
Kettlemen	10.13	.40	.25	1.25	
Itasca & Koochiching Counties, the Northern half of St. Louis County					
1st Roofer	10.66	.52	.55		
2nd Roofer	10.36	.52	.55		
SHEET METAL WORKERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County	10.81	.40	.55	1.25	.03
Itasca & Koochiching Counties, the Northern half of St. Louis County	10.92	.52	.55		
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	8.80				
Itasca County	8.80				

FOOTNOTES:

a. Employer Contributes 4% Basic Hourly Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (6) Paid Holidays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

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MINN-10-LAB

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Counties of Itasca and St.Louis Counties North of T-55; Site Preparation, Excavation & Incidental Paving:					
CLASS I	$ 9.08	.35	.15	.25	
CLASS II	9.18	.35	.15	.25	
CLASS III	9.33	.35	.15	.25	
CLASS IV	9.38	.35	.15	.25	
CLASS V	9.43	.35	.15	.25	
CLASS VI	9.48	.35	.15	.25	
CLASS VII	9.58	.35	.15	.25	
CLASS VIII	9.68	.35	.15	.25	

CLASS I - Unskilled-Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurserymen pipihandler (water, gas cast iron); Salamander heater & blower tender; Carpenter tender; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operator); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving)) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck etc.), Formsetter (municipal type curb & side walk) Form setter (pavement); Jackhammer man & paving busters, Kettlemen (Bitumi or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (at - pheric pressure)

CLASS III - Bituminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Chopy, including churn drill)

CLASS V: Bituminous Raker, Plowman, Utility Men, Pipelayers (sewer, water, gas); Deadman (Tunnel)

CLASS VI - Powderman

CLASS VII - Tunnel Miner

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MINN-13-LAB

LABORERS Site preparation, Excavation & Incidental Paving Koochiching County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 7.70	.35	.15		
CLASS 2	7.80	.35	.15		
CLASS 3	7.85	.35	.15		
CLASS 4	7.95	.35	.15		
CLASS 5	8.05	.35	.15		
CLASS 6	8.10	.35	.15		
CLASS 7	8.15	.35	.15		
CLASS 8	8.20	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayers & Carpenters Tenders; Drill Runner Helper; Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater, & Blower Tender, Sod Layer & Nurseryman; Stonemasons tender

CLASS 2 - Bituminous Shoveler, Bottom man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); Cement handler (Bulk or Bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettlemen (Bituminous or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)

CLASS 3 - Form setters (Municipal type curb & Sidewalk) form setter (pavement)

Class 4 - Bituminous Tamper, caisson work & cofferdam

CLASS 5 - Bituminous raker, floater, & Utility man; Loadman

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer, (Sewer, Water & Gas)

CLASS 8 - Powderman, Tunnel Miner

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MINN-14-LAB

LABORERS - SITE PREPARATION EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties South of T-55	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.48	.40	.45	.50	
CLASS II	8.58	.40	.45	.50	
CLASS III	8.73	.40	.45	.50	
CLASS IV	8.78	.40	.45	.50	
CLASS V	8.83	.40	.45	.50	
CLASS VI	8.88	.40	.45	.50	
CLASS VII	8.98	.40	.45	.50	
CLASS VIII	9.08	.40	.45	.50	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man., compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas), Loadman (Gunite)

CLASS VI - Nozzleman (Gunnite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05

CLASS 1 - Helicopter Operators

CLASS 2 - Truck & crawler Cranes with 300' of Boom & over including Jib

CLASS 3 - Truck & crawler Cranes with 200' of Boom up to & not including 200' of Boom including jib.

CLASS 4 - Truck

CLASS 5 - Master Mechanic

CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.

CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator

CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KW & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator

CLASS 9 - Concrete Batch Plant Operator; Gunnite Operator; Tractor Operator (D-2 or similar size 7 Wheel End Loader Operator-up to ½ cu. yd.)

CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-temporary Heat; Brakeman; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler

CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

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MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Cook, Lake, & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.35	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.55	.55	.50		.05
GROUP 7	10.05	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conuey or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 300 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Shrunk Capacity 32 cu. yds. & over, Self-Propelled. Traveling Self Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Dr 11, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Type Planter, Lumberman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Midget or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

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POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. Op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead grader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-PEO

SITE PREPARATION, EXCAVATION INCIDENTIAL PAVING (JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	9.85	.55	.50		.05
GROUP 7	9.45	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power suppl;, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Bcom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual-Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lanchsman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Midget or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

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POWER EQUIPMENT OPERATORS (Cont'D) SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead grader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Itasc Koochiching	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.00	.55	.50		.05
GROUP 2	9.82	.55	.50		.05
GROUP 3	9.32	.55	.50		.05
GROUP 4	9.18	.55	.50		.05
GROUP 5	9.10	.55	.50		.05
GROUP 6	8.57	.55	.50		.05
GROUP 7	8.17	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Bcom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lanchsman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty Midget or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

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(POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP (power take-off, tractor Op., over 50 HP without power take-off, tra machine Op., (sewer, water, gas) turnapull op.,(or similar type) point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. mib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	3.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distrib tor; Bituminous Distributer (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributer Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (Wheel type used for any purpose) Pilot car driver, Self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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MINN-5-TD

DECISION NO MN78-2099 TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING ITASCA & KNOCHICHING COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1
Driver (hauling machinery for employer's own use including operation of hand & power operated winches); Truck train mechanic; Welder; Tractor-Trailer; Off road truck.

GROUP 2
Tri-Axle (including 4 Axles); Dump dry batch hauler; Tank truck (gas, oil, road oil & water); Boom & "A" Frame; Ready mix concrete; Slurry driver

GROUP 3
Bituminous d tributer driver; Bituminous distributor (1 man operation); Tandem axle.

GROUP 4
Bituminous distributor spray (rear-end oiler); Dumpman; Greaser & truck service man; Tank truck helper (gas, oil, road oil & water); Teamster and stableman; Tractor operator (wh el type used for any purpose); Pilot car; Self-propelled packer; Slurry operator; Single axle.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: Forsyth, Stokes, Surry & Yadkin

DECISION NUMBER: NC78-1041 DATE: Date of Publication

Supersedes Decision No. NC77-1017 dated February 11, 1977 in 42 FR 8975

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.00				
CARPENTERS	4.75				
CEMENT MASONS	5.00				
ELECTRICIANS	5.00				
LABORERS:					
Unskilled	3.30				
Mason tenders	3.50				
Pipelayers	3.97				
PAINTERS, Brush	5.00				
PLASTERERS	5.75				
PLUMBERS & PIPEFITTERS	5.49				
ROOFERS	6.00				
SHEET METAL WORKERS	4.62				
SOFT FLOOR LAYERS	4.29				
TILE SETTERS	4.50				
TRUCK DRIVERS	3.30				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt paver	4.45				
Asphalt raker	3.85				
Backhoe	4.83				
Forklift	4.07				
Loader	4.25				
Motor grader	5.14				
Roller	3.51				
Tractor	4.30				

NOTICES

45159

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lebanon
DECISION NO.: PA78-3068 DATE: Date of Publication
Supersedeas Decision No. PA77-3121 dated September 9, 1977 in 42 FR 45612.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers	10.07	.60	.57		.02
Carpenters	10.30	.40	.50		.03
Cement Masons:					
West of Rte. 501	10.465	.65	.50		
East of Rte. 501	9.64		1.05		
Electricians:					
Lawn, East Hanover & Indiantown Gap Military Reservation	10.86	.65	3%+.49		½ of 1%
Portion of Lebanon County which extends South and East of Interstate Route 81	9.59	.65	3%+.49		½ of 1%
Remainder of County	9.43	.65	3%		½ of 1%
Elevator Constructors	10.55	.745	.56	b+c	.02
Elevator Constructors' Helpers	7.385	.745	.56	b+c	.02
Elevator Constructors' Helpers (Prob.)	5.275				
Glaziers:					
Twps. of Bethel, Jackson, Mill Creek, Lebanon., E. of Rte. 72, Heidlberg & Richland	9.15	.70	.40		.01
Remainder of County	9.39	.70	.40		.01
Ironworkers	11.20	.84	1.36		.03
General Laborers	6.85	.45	.35		
Operator of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools, laying of all clay, terra cotta, ironstone vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operator, cofferdam (below 16'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders, mason tenders, scaffold builders and tenders of power buggies	6.95	.45	.35		

DECISION NO. PA78-3068

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	9.83		.15		.01
Lead Burners	10.75	.40	.25	a	.01
Line Construction:					
Linemen & cable splicers	11.39	.45	3%		3/8%
Groundmen	6.83	.45	3%		3/8%
Winch truck operator	7.97	.45	3%		3/8%
Marble Setters	9.60	.60	.48		
Millwrights	11.45	.50	.55		.05
Painters (East of Route 72)					
Brush	9.35	.70	.65		
Structural steel & spray	10.40	.70	.65		
Highway bridges	10.80	.70	.65		
Painters (West of Route 72)					
Brush	9.05	.29	.27		.02
Structural steel	9.50	.29	.27		.02
Spray	9.80	.29	.27		.02
Pile-divermen	11.12	2.33	1.35	g	.12
Plasterers:					
East of Rte. 501	9.66		1.05		.01
West of Rte. 501	9.60	.65	.50		.01
Plumbers & Steamfitters:					
East of Rte. 501	12.26	.80	1.45		.11
West of Rte. 501	11.30	.70	.80		.12
Roofers:					
Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twps.:					
Composition	10.41	.80	.55		
Remainder of County:					
Composition, damp & Mineral-proofing	10.50	.95		g	
Sheet Metal Workers	10.65	1.39	1.18		.05
Soft Floor Layers	9.20	.50	.55		.05
Sprinkler Fitters	12.31	.75	1.05		.06
Stonemasons	10.07	.60	.57		.02
Terrazzo Workers	9.03	.60			
Tile Setters	9.03	.60			

DECISION NO. PA78-3068

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Pick-ups, dump, flat trucks to & including 2 highway license plates	8.39	d	e		
Transit-mix, winch, trucks, tractor trailers, all types euclids, ross lumber carriers & trucks over 2 plates	8.64	d	e		

Welders - rate for craft

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

b. Employer contributes 7% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F, plus the Friday after Thanksgiving Day.

d. $71.37 per month for employees who have worked sixty hours or more during the month.

e. $46.80 per month for employees who have worked sixty hours or more during the month.

f. Paid holidays: Election Day and Labor Day, July 4th.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

DECISION NO. PA78-3068

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery; cable spanning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, dermicks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line gradors, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power brooms, seeding spreader, firemen (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (powered boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDES DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO.: PA78-3070 DATE: Date of Publication
Supersedes Decision No. PA77-1101 dated July 22, 1977, in 42 FR 37662.
DESCRIPTION OF WORK: Building (erection and foundation excavation, does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers	9.80	.45	.45		
Carpenters	10.30	.50	.55		.05
Cement masons	9.94	.35	.25		.01
Electricians:					
W. Calico, E. Calico, Brecknock, E. Carl, & Cuernarven Twps. That portion northeast of a line extending from the Susquehanna River to the intersection of State Highways 441 and 241 along 241 to the Borough of Elizabethtown around the limits of Elizabethtown on the west and north side, but including the Masonic Homes in Elizabethtown, continuing along State Highway 241 to Lebanon County and that portion north of the Pennsylvania Turnpike, but including all building, on the Turnpike, from Lebanon County line West Cocalico township.	11.69	.78	3% + .20		.03
Remainder of County	10.10	.45	3%		1/8 of 1%
Elevator Constructors	10.55	.745	.56	a+b	.025
Elevator Constructors' Helpers	70%of11	.745	.56	a+b	.025
Elevator Constructors' Helper (Prob.)	50%of11				
Glaziers	8.85	.40	.30		.01
Ironworkers	11.20	.84	1.36		.03
Laborers:					
General Laborers	6.85	.65	.57		
Operators of Jackhammer	7.05	.65	.57		
Wagon drill	7.15	.65	.57		
Handling of all materials	7.60	.65	.57		
Laborers asbestos tile	6.90	.65	.57		
Handling & using dynamite	7.15	.65	.57		
Caisson Work (Top Man)	7.10	.65	.57		
Caisson Work (Bottom Man)	7.30	.65	.57		
Mixer Man	7.25	.65	.57		
Tenders	10.11	.48	.25		.01
Hod carriers	10.75	.48	.25	c	.01

DECISION NO. PA78-3070 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Linemen	11.39	.45	3%		3/8 of 1%
Cable splicers	11.39	.45	3%		3/8 of 1%
Groundman	6.83	.45	3%		3/8 of 1%
Winch truck operators	7.97	.45	3%		3/8 of 1%
Marble setters	8.55	.45	.45		
Millwrights	11.45	.50	.55		.05
Painters:					
Elizabeth Dowetal Township					
Brush	9.05	.29	.27		.02
Steel	9.50	.29	.27		.02
Spray	9.80	.29	.27		.02
Remainder of County:					
Brush	9.35	.70	.65		
Steel	10.40	.70	.65		
Spray	10.40	.70	.65		
Roller	9.35	.70	.65		
Piledriverman	11.12	2.33	1.35	e	.12
Plasterers	8.60	.35	.25		.01
Plumbers	11.30	.70	.80		.12
Roofers:					
Composition, damp & waterproofing	10.80	.95		d	
Slate, tile & asbestos	11.25	.95		d	
Roofers, precast slab	11.60	.95		d	
Sheet metal workers	10.05	1.39	1.18		.05
Sprinkler fitters	12.31	.75	1.05		.08
Soft floor layers	9.20	.50	.55		.05
Steamfitters	11.30	.70	.80		.12
Stonemasons	9.80	.45	.45		
Terrazzo workers	8.55	.45	.45		
Tile setters	8.55	.45	.45		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. PA78-3070 PAGE 3

PAID HOLIDAYS:
A-New Year's Day' B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F, plus the Friday after Thanksgiving Day.

c. Nine paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holidays.

d. Paid Holidays: Independence Day, Election Day and 4th of July.

e. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

DECISION NO. PA78-3070 Page

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.44	7%	10.3%	a	1.8%
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GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoist (double drum) gondalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, screen pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, mantc, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

V 43/190 SE 29 78

SUPERSEDEAS DECISION

STATE: South Carolina
DECISION NUMBER: SC78-1085
Supersedes Decision No. SC75-1079 dated September 5, 1975 in 40 FR 41380
DESCRIPTION OF WORK: Water and Sewer Construction; and Heavy Construction

COUNTY: Statewide
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$9.95	1.05	1.05		.02
BRICKLAYERS/MANHOLE BUILDERS	3.92				
CARPENTERS	5.32				
CEMENT MASONS	4.67				
ELECTRICIANS	6.87				
IRONWORKERS, Reinforcing	6.50				
LABORERS:					
Unskilled	3.17				
Air tool operators	3.50				
Asphalt sweepers	3.60				
Pipelayers	3.71				
PILEDRIVERS	7.00				
PLUMBERS; PIPEFITTERS	7.98				
POWER EQUIPMENT OPERATORS:					
Bulldozer	4.50				
Backhoe operators	4.70				
Chain saw operators	4.00				
Cranes	5.81				
Draglines	5.29				
Equipment mechanics	5.22				
Front end loaders	3.99				
Motor graders	4.25				
Roller operators	3.25				
Scrapers - Pans	4.11				
Tractors	3.46				
Trenching machines	3.92				
TRUCK DRIVERS	3.34				
WELDERS	6.00				

[FR Doc. 78-27106 Filed 9-28-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 29, 1978
PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

■

MUSEUM SERVICES PROGRAM

Eligibility Conditions, Funding Requirements and Criteria and Administration

V 43 / 190 SEP 29 78 UNI

[4110-24]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 64—MUSEUM SERVICES PROGRAM

Final Rules

AGENCY: Institute of Museum Services, HEW.

ACTION: Final rules.

SUMMARY: These rules govern the program, administered by the Institute of Museum Services, to provide Federal financial assistance to museums. The rule implements the Museum Services Act. It states eligibility conditions, funding requirements and criteria and other rules for the administration of the program.

EFFECTIVE DATE: These rules are effective September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Peggy Loar, 202-245-6753.

SUPPLEMENTARY INFORMATION:

1. *Nature of program.* The Museum Services Act ("the Act"), which is title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976.

The purpose of the Act is stated in section 202 as follows:

> It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The National Museum Services Board consists of 15 members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums and curatorial, educational, and cultural resources of the United States. In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the U.S. Commissioner of Education. The Board has the responsibility for establishing the general policies of the Institute.

The Director of the Institute is appointed by the President, with the advice and consent of the Senate. The Director has responsibility for the general administration of the Institute and is authorized, subject to the policy direction of the Board, to make grants to museums under the Act.

IMS is an agency within the Department of Health, Education, and Welfare.

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in installing displays, interpretations and exhibitions; developing and maintaining professionally trained staff; developing or demonstrating new methods of conservation; carrying out specialized museum programs for specific segments of the public, and engaging in activities in cooperation with other museums.

For the Federal fiscal year ending September 30, 1978, $3.7 million has been appropriated for grants under the Act.

2. *Need for regulations.* Certain rules are needed for the proper administration of a Federal grant program. These rules relate to such matters as the types of institutions eligible to apply for a grant, the types of assistance available, the requirements which applicants must meet, and the criteria used to judge applications. Applicants must know this information to determine whether to apply and how to submit applications. Federal law requires publication of these rules in the FEDERAL REGISTER (5 U.S.C. 552). These rules generally appear in the form of program regulations.

Under the applicable procedures of this Department, the public is invited to participate in the development of program regulations through the methods set forth in Section 553, Title 5, United States Code. After public comments on proposed regulations have been received and considered, final regulations are published in the FEDERAL REGISTER together with an explanation of the agency's response to the comments. These regulations are codified in the Code of Federal Regulations (CFR), the official compilation of Federal regulations. The Institute of Museum Services has followed these procedures with respect to the Museum Services program.

The document set forth below contains the Institute's final regulations for that program.

3. *Steps in development of the regulations: Public comment.* On January 27, 1977, a notice of intent to issue regulations for the Museum Services program was published in the FEDERAL REGISTER. The notice alerted the public to the passage of the Act and the intention of the Department of Health, Education, and Welfare to issue program regulations under it. The notice invited public comment on specific issues.

The National Museum Services Board was sworn in on December 16, 1977, and promptly took up rulemaking procedures at its meeting of December 17, 1977. Steps were taken to develop proposed regulations. At meetings held on January 6 and 7, and February 12 and 13, 1978, the Board extensively considered and discussed the proposed regulations and adopted them at its meeting of February 13 for publication in the FEDERAL REGISTER.

The proposed regulations were published in the FEDERAL REGISTER on March 28, 1978, at 43 FR 13012. (A summary of the proposed regulations was included in the March 28 publication and is not repeated here.) Comments received in response to the January 27, 1977 notice of intent and responses to these comments were summarized in an appendix to the proposed regulations also published in the FEDERAL REGISTER.

The public was invited to submit comments on the proposed regulations. Over 20 letters with comments were received from museums, other interested agencies and organizations, and members of the public. These comments have been considered in the development of the final regulations. Significant public comments and the Institute's response are summarized in appendix B to this document.

In general, commenters supported the approach in the proposed regulations but offered suggestions as to the handling of particular problems. Commenter interest was high in the sections dealing with definition of museum, eligibility, types of assistance available, and funding criteria.

On July 30 and 31, the National Museum Services Board considered and approved the publication of the final regulations, but directed that further public comment be invited on certain sections. See item 5 below.

The final regulations govern the program for fiscal year 1978 and for future fiscal years until amended.

4 *Summary of major changes.* The following paragraphs summarize major changes made in the final regulations as compared with the proposed regulations. These changes were made in response to public comment or as a result of further consideration by the Institute. Since applications for the current fiscal year were prepared in light of the proposed rules, certain changes are made applicable only to competitions for future fiscal years.

Exhibition facilities. The final regulations clarify the status of institutions which have all the attributes of a museum except that they lack exhibition facilities. An institution which owns and cares for objects but lacks facilities for their exhibition is a "museum," for purposes of the program, if the institution exhibits the objects through other facilities. However, in view of its generally lower operating expenses, such an institution receives lower priority in competition for operating grants than institutions with exhibition facilities. (§§ 64.3(e); 64.12(c))

Joint applictions. The final regulations make clear that two or more museums may submit a joint application for a grant under the Act. (§ 64.6)

Preservation of structures. The final regulations indicate that assistance may be made available for the preservation of museum structures, as well as the modernization of facilities. However, in view of limited funds, the regulations preclude such assistance for fiscal years 1978 or 1979. (§ 64.8(a)(7))

Criteria; diversity in selection of applicants. To achieve diversity in the distribution of assistance under the Act, the regulations authorize the Institute, in selecting grantees, to consider the location, size, and category of applicants seeking assistance. On the basis of these factors, the Institute may make appropriate adjustments in the ranking of applications to secure diversity. (§ 64.12(d))

Evaluation criteria. Evaluation criteria applicable to the review and evaluation of grant applications submitted in fiscal year 1978 are not substantially changed. These criteria are set forth in appendix A. Since they pertain only to fiscal year 1978, they will not be codified in the Code of Federal Regulations. The criteria for evaluation of applications submitted in fiscal year 1979 and succeeding fiscal years are reorganized, rewritten, and simplified in response to public comment and to the experience of the Institute in reviewing applications submitted in the current fiscal year. The criteria for fiscal year 1979 and succeeding fiscal years are in §§ 64.13 and 64.14. Further public comment is invited on the criteria in §§ 64.13 and 64.14. These sections provide separate sets of criteria for operational and project support. Certain criteria which proved difficult to apply have been eliminated.

An applicant for operational assistance is to be evaluated on the basis of its total operation especially as it would be if the application for general operational support is granted. Emphasis is placed on quality of museum services, quality of collections and exhibits; accessibility of services and collections and exhibits; population served; quality of financial management and of long range plans for financial and program development; and community commitment. Prior use of IMS funds is also considered where applicable. (§ 64.13)

Since assessment by readers and reviewers is primarily based on material submitted in the application, applicants must submit complete and informative applications responding to all criteria. (§§ 64.13 and 64.14)

Reports. A new section (§ 64.19) has been added to clarify the duty of a grantee to submit a final report describing the extent to which grant performance carried out the objectives stated in the grantee's application and reflects the applicable evaluation criteria.

Other changes. The status of historic building museums is clarified (§ 64.3). In the interest of simplifying the regulations, § 64.11 relating to applications is limited to basic requirements for program participation. Provisions concerning the content of applications will appear in IMS' annual program announcement stating the date for receipt of applications.

Other technical and typographical changes are made.

5. *Further public comment.* The proposed regulations invited the public to comment on the funding criteria for the program. In the final regulations, the funding criteria for fiscal year 1979 and succeeding years, particularly the criteria for general operational support, have been substantially revised and simplified. A number of suggestions made by public commenters are reflected in these changed criteria. However, changes in the criteria also respond to views expressed by persons who were selected to read applications submitted in the fiscal year 1978 cycle as well as a general reconsideration by the National Museum Services Board. Under these circumstances, in the interest of full public participation, the Institute believes that an additional opportunity for public comment for the criteria in §§ 64.13 and 64.14 is warranted before these criteria are used. Accordingly, members of the public are particularly invited to comment on these sections. Comments must be received on or before (insert 30th day after publication). Comments should be addressed to: Mrs. Lee Kimche, Director, Institute of Museum Services, Hubert Humphrey Building, Room 326-H, 200 Independence Avenue SW., Washington, D.C. 20201.

A program announcement for fiscal year 1979 will not be issued until IMS has had an opportunity to review these comments and to make further changes in the criteria if warranted.

After consideration of all substantive comments, title 45 of the Code of Federal Regulations is amended by adding a new part 64, to read as follows and the criteria set forth in appendix A are adopted.

(Catalog of Federal Domestic Assistance No. 13.923, Museum Services Program.)

Dated: August 30, 1978.

GEORGE C. SEYBOLT,
Chairman, National Musuem Services Board.
LEE KIMCHE,
Director, Institute of Museum Services.

Approved: September 25, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

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AUTHORITY: Secs. 201-210, Pub. L. 94-462 (20 U.S.C. 961-68)

§ 64.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 64.2 Scope of this document.

This document sets forth rules for the award of grants to museums from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which appli-

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cants must meet and criteria to be used in judging applications.

§ 64.3 Definition of museum.

(a) As used in this document, "museum" means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, whether animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the public on a regular basis.

(b) As used in this document, the term "museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and arboreta;

(3) Museums relating to art, history (including historic building museums), natural history, science and technology; and

(4) Planeteriums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or exhibition to the public of objects owned or used by the institution. The Institute encourages museums to use paid professional staff.

(d) An institution does not exhibit objects to the public for the purposes of this section if the display or use of the objects is incidental to an overall purpose of the institution which is other than their exhibition to the public.

(e) An institution which exhibits objects it owns through other facilities exhibits objects to the public for the purposes of this section. See § 64.12(c).

§ 64.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94-462 (20 U.S.C. 961-968).

"Applicant" means an institution which is eligible and applies for assistance under the Act and this document.

"Board" means the National Museum Services Board established under section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as literary, archival and documentary resources required for the study and interpretation of these objects.

"Conservation" includes, but is not limited to, the following functions, as applied to animate as well as inanimate objects: Technical examination of materials, techniques, and conditions; provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, nurturing and transportation of objects; the physical treatment of objects for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and compensation for losses; the systematizing of collections and development of effective data retrieval processes; research and training in conservation; and establishment of the facilities to do research in or practice conservation.

"Department" means the United States Department of Health, Education, and Welfare.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under section 203 of the Act.

"Museum services" means services provided by a museum including but not limited to preserving and maintaining its collections, exhibiting its collections to the public, and providing educational and other programs to the public through the use of its collections and other resources.

§ 64.5 Eligibility—who may apply.

(a) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may apply for a grant under the Act. A public or private nonprofit agency, such as a municipality, college, or university, which is responsible for the operation of a museum may apply on behalf of the museum. A museum operated by a department or agency of the Federal Government may apply only to the extent authorized by general principles of law applicable to the receipt of Federal assistance by these departments or agencies.

§ 64.6 Joint submissions.

Two or more museums may submit a joint application for a grant under the Act.

§ 64.7 General operational support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet its administrative, staff and operating costs.

§ 64.8 Other types of assistance—project support.

(a) In order to increase or improve museum services through projects which are additional to its operating program, a museum may apply for a grant to:

(1) Develop training programs for its staff;

(2) Obtain technical assistance to carry out its functions or provide technical assistance to other museums;

(3) Develop or demonstrate methods of conservation;

(4) Develop and carry out museum programs for specific segments of the public, such as persons in urban neighborhoods, rural areas, Indian reservations, penal and other State institutions, senior citizens, handicapped persons and educationally deprived or economically disadvantaged persons;

(5) Develop and carry out exemplary educational programs;

(6) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan; and

(7) Modernize or preserve its facilities or structures (except in fiscal years 1978 and 1979).

(b) By notice published in the FEDERAL REGISTER and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

(c) An applicant may apply for one or more types of assistance under § 64.7 and this section.

§ 64.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than $25,000 under the Act for fiscal year 1978 and that most museums which are funded will receive a smaller amount. For future fiscal years, similar limitations may be specified by notice published in the FEDERAL REGISTER.

(b) Not less than 75 percent of the funds available under the Act for grants in a fiscal year will be reserved for grants under § 64.7 (general operational support).

§ 64.10 Allowable costs.

(a) Determinations of costs allowable under a grant are made in accordance with government wide cost principles in appendix C to 45 CFR Part 74 (in the case of applicants which are State or local government agencies), appendix D (in the case of applicants which are institutions of postsecondary education), and appendix F (in the case of applicants which are other nonprofit institutions).

(b) Costs of purchasing objects to be included in the collection of a museum are not allowable (except library, literary or archival material incident to an activity under § 64.7 or § 64.8).

§ 64.11 Basic requirements which a museum must meet to be considered for funding.

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Instructions as to application contents are generally contained in the program announcement published in the FEDERAL REGISTER when applications are invited. (For fiscal year 1978, they are contained in § 64.11 of the proposed regulations. 43 FR 13012).

(b) *IRS letter.* A museum applying as a private, nonprofit institution must supply a letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under section 501(c)(3) of the Internal Revenue Code of 1954.

(c) *Financial statements.* Each applicant museum must supply a financial statement for the museum's most recent completed fiscal year for which information is available (an audited statement is preferred; if the applicant has previously received an IMS Award, the statement must be audited).

(d) *Long range plan.* Each applicant museum must have a long range plan for program and financial development.

(e) *Maintenance of effort.* Each applicant museum must assure that it will maintain its fiscal effort for museum services. An applicant complies with this assurance if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period.

§ 64.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in §§ 64.13 and 64.14. Normally, these applications are first evaluated by readers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b) Priority is given to museums which have been providing museum services for at least 2 years prior to applying to IMS.

(c) In the case of applications for general operational support made after September 30, 1978, priority is given to museums which have exhibition facilities.

(d) To achieve diversity in the distribution of assistance, the Institute considers the location, size, and category of the applicant in addition to the criteria in §§ 64.13 and 64.14.

§ 64.13 Criteria for evaluation of applications for general operational support.

The following criteria apply to the evaluation of all applications for general operational support submitted in fiscal year 1979 and succeeding fiscal years. In applying these criteria, the total operation of the applicant museum is assessed, especially the museum's operation as it would be if the general operational support is granted. This assessment is based primarily on the information supplied in the museum's application. A positive answer to the questions below favors the applicant.

(a) *Museum services.* Are the applicant's museum services of high quality? How will their quality be improved by the general operational support requested?

(b) *Collection and exhibits.* Are the museum's collections and exhibits of high quality and importance? How will the conservation of the collections be enhanced if the general operational support is granted?

(c) *Accessibility.* How accessible to the public are the museum's services, collections, and exhibits? How accessible will they be if the general operational support is granted?

(d) *Population served.* To what extent does the museum serve persons who otherwise have limited access to the type of services which it provides?

(e) *Financial management.* What is the quality of the financial management of the museum?

(f) *Long range plans.* What is the quality of the museum's long range plans for financial and program development?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support?

(h) *Use of IMS Funds (when applicable).* Has the museum used effectively its IMS funds, if it has received any?

§ 64.14 Criteria for evaluation of applications for project support.

The following criteria apply to the evaluation of all applications for project support submitted in fiscal year 1979 and succeeding fiscal years.

(a) To what extent does the application address a problem which is general to a number of museums but has not been adequately addressed?

(b) To what extent does the project represent a model or exemplary approach to the problem addressed? To what extent may this approach, if successful, be replicated?

(c) What is the quality of the project as measured by:

(1) The qualifications and experience of personnel designated to carry it out;

(2) The appropriateness of size and scope of the project to achieve productive results; and

(3) The reasonableness of estimated cost in relation to anticipated results?

(d) How sound is the project, taking into account:

(1) The extent to which the objectives of the project are sharply defined, clearly stated and capable of being achieved by the proposed procedures; and

(2) The extent to which provision is made for adequate evaluation of the project and for disseminating the results of the project to other interested persons.

(e) Does the applicant lack alternative sources of Federal support for the project?

§ 64.15 Duration of grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If, in the case of a grant under § 64.8, the grantee needs additional time to complete the grant project the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion. In exceptional cases, applicants may receive grants for multi-year projects in accordance with applicable procedures of the Department.

§ 64.16 IMS share of the cost of a proposal.

(a) Subject to § 64.9(a) and the applicable requirements in 45 CFR part 74 relating to allowable costs, a museum may receive a grant for up to 50 percent of its proposed operating or activity budget for museum services in the case of a grant under § 64.7, or up to 50 percent of its approved project costs, in the case of a grant under § 64.8. In exceptional cases, when clearly justified under the criteria in § 64.17, a museum may receive a grant for an amount in excess of this 50 percent of limitation. No more than 20 percent of funds appropriated for grants under the Act for a fiscal year may be used by IMS for grants in that fiscal year which exceed the 50 percent limitation.

(b) An applicant requesting general operational support under § 64.7 may submit a total operating budget which shows that the applicant will satisfy the requirements of paragraph (a) (relating to cost sharing) but which need not identify the particular operating costs for which IMS funds will be used. An applicant which receives general operational support on this basis must be prepared to show that its

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actual operation generally conformed to the operating proposal on which its application was judged.

(c) Examples include: (1) Museum X has an operating budget of $100,000. After assessing its program; Museum X concludes that adequate performance of museum services, including the exhibition of its collection to the public for an additional day each week, requires an operating budget of $120,000. Museum X applies for $20,000 of general operational support under § 64.7 to partially support this budget. Its total operating budget includes more than $40,000 of costs which are considered allowable under applicable cost principles in 45 CFR part 74. Museum X's application for $20,000 is eligible for consideration.

(2) Museum Y applies for funding a staff member for a conservation laboratory and for costs incidental to developing a new method of paper conservation. The total cost of the project is $25,000. Museum Y applies for $12,500 to cover this cost. It undertakes to furnish the other $12,500 from non-Federal sources. Its application may be considered.

§ 64.17 Criteria for applying exceptions.

In determining whether a proposal which has been selected for an award qualifies for Federal funds in excess of the 50 percent limitation described in § 64.16, the Director applies the following criteria:

(a) The financial condition of the museum to be assisted;

(b) The inability of the museum to obtain other funds due to factors beyond its control;

(c) The quality of the proposal;

(d) The quality of the museum's collection; and

(e) The extent to which the museum serves populations otherwise unserved by museums.

§ 64.18 Applicable grant administration provisions.

(a) The provisions of part 74 of title 45 CFR (45 CFR part 74) and related appendices apply to the award and administration of grants under the Act. Part 74 contains general rules about fiscal and administrative matters pertaining to grants awarded by the Department, including rules about retaining records, accounting for grant-related income, cost sharing (including rules for valuation of in-kind contributions), grantee financial management systems, fiscal and performance reports, grant payment requirements, budget revisions, grant closeout, suspension and termination of a grant, preapplication and application forms, standards for procurement under grants and other pertinent matters.

(b) 45 CFR part 16, relating to a department grant appeals process, applies to the resolution of particular disputes arising under grants awarded under the Act.

§ 64.19 Reports.

In its final report submitted under § 74.82 of title 45, a grantee shall briefly describe how the performance of the grant has satisifed the objectives of the recipient museum as stated in its application and how assistance under the Act has served the purpose of the Act as reflected in the applicable evaluation criteria.

§ 64.20 Applicable civil rights requirements.

Federal financial assistance under the Act is subject to:

(a) Title VI of the Civil Rights Act of 1964 (relating to discrimination on the basis of race) and accompanying regulations (45 CFR part 80);

(b) Title IX of the Education Amendments of 1972 (relating to discrimination on the basis of sex) and accompanying regulations (45 CFR part 86);

(c) Section 504 of the Rehabilitation Act of 1973 (relating to discrimination on the basis of handicap) and accompanying regulations (45 CFR part 84).

(The Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20202, sells copies of the volume of 45 CFR containing these parts and part 74; it is also available in Federal depository libraries.)

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(b) An applicant requesting general operational support under § 64.7 may submit a total operating budget which shows that the applicant will satisfy the requirements of paragraph (a) (relating to cost sharing) but which need not identify the particular operating costs for which IMS funds will be used. An applicant which receives general operation support on this basis must be prepared to show that its actual operation generally conformed to the operating proposal on which its application was judged.

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In determining whether a proposal which has been selected for an award qualifies for Federal funds in excess of the 50 percent limitation described in § 64.16; the Director applies the following criteria:

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(b) The inability of the museum to obtain other funds due to factors beyond its control;

(c) The quality of the proposal;

(d) The quality of the museum's collection; and

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APPENDIX A—CRITERIA FOR EVALUATION OF APPLICATIONS SUBMITTED IN FISCAL YEAR 1978

PART I. APPLICATIONS FOR GENERAL OPERATIONAL SUPPORT

The following criteria apply to the evaluation of applications for general operational support to determine recipients and amount of awards.

(a) The degree to which the assistance requested will result in more effective performance of museum services;

(b) The quality of the museum's long range plans for program and financial development and the relationship of the proposal to these plans;

(c) The degree to which the assistance will contribute to the museum's financial stability;

(d) The benefit of the proposal to the area or community of which the museum is a part, including the degree to which the museum serves populations otherwise unserved by museums;

(e) The degree to which the need for the requested financial assistance is due to factors such as increased demand for museum services, increased attendance, or other factors beyond the control of the applicant;

(f) The degree to which the applicant lacks alternative Federal sources of support for the proposal;

(g) The degree to which the museum receives financial support from community and other sources;

(h) The existing accessibility of the museum's facilities to the public and the accessibility of the facilities as it would be affected by the proposal;

(i) the quality and importance of the museum's collection, including the extent to which the collection is unique and irreplaceable;

(j) The relationship among size of staff, quality of staff, and museum facilities; and the effect of the proposal on this relationship and on the overall quality of the museum's performance.

PART II. APPLICATIONS FOR PROJECT SUPPORT

The criteria listed in part I of this appendix and the following criteria apply to the evaluation of applications for project support to determine recipients and amounts of awards.

(a) The degree to which the application addresses a problem which is general to a number of museums but has not been adequately addressed;

(b) The degree to which the project represents a model or exemplary approach to a problem and may be replicated;

(c) The quality of the project as measured by the qualifications and experience of personnel designated to carry it out, the sufficiency of size and scope of the project to achieve productive results, and the reasonableness of estimated cost in relation to anticipated results; and

(d) The soundness of the project, including the degree to which the objectives of the project are sharply defined, clearly stated and capable of being achieved by the proposed procedures; and provisions is made for adequate evaluation of the project and for disseminating the results of the project to other interested parties.

APPENDIX B—SUMMARY OF MAJOR COMMENTS FROM THE PUBLIC ON PROPOSED REGULATIONS FOR MUSEUM SERVICES PROGRAM AND RESPONSES

DEFINITION OF "MUSEUM"—SECTION 64.3

1. *Exhibition to the public.* A number of comments generally related to the requirement in the law that a museum must regularly exhibit objects to the public in order to qualify as a museum. One commenter inquired about the eligibility of a university biological collection which is primarily used for research and which is not exhibited to the public. The status of an institution which maintains, and makes available for inspection, probate records, family histories, and genealogical information was the subject of another inquiry. Other questions received by IMS during the course of the comment period related to the nature of the audience served by an institution and the purpose of the collection it maintains. University collections used in particular academic courses or so-called "suitcase" exhibits used by school systems in carrying out their instructional programs were cited.

The Museum Services Act provides that an institution is a museum if, among other things, it "exhibits" objects "to the public on a regular basis." Section 210(4) of the Act. This requirement is basic and is reflected in the regulations for the Museum Services Program. Section 64.3(a)(3). Accordingly, an institution which does not regularly exhibit objects to the public does not qualify as a "museum" for purposes of the Museum Services Act and may not participate in the program of financial assistance under the Act.

As a matter of clarification, the regulations in § 64.3(d) also provide that "an institution does not exhibit objects to the public for the purposes of this section (§ 64.3 relating to the definition of museum) if the display or use of the objects is incidental to an overall purpose of the institution which is other than their exhibition to the public."[1] This provision is designed to clarify the status, under the Act, of institutions which are organized for educational or esthetic purposes and may, in a literal sense, display objects in the course of their overall activities but which are not really museums and were never intended to be covered under the Act, as IMS understands it. For example, ordinarily a public library displays objects it owns to the public but that activity does not render the library a museum under the Act. Similarly, such display or exhibition of objects as may be incidental to theatrical, musical, or television productions or to the maintenance and operation of public parks and playgrounds, must normally be considered outside the ambit of the Act.

Turning to other examples raised in comments or inquiries, a university which maintains, for research purposes, a collection which is not exhibited to the public does not satisfy the statutory definition of a museum. It is recognized that maintenance of these collections constitutes a great contribution to the museum profession. However, in view of the limited funds available for grants under the Act, the Institute believes that the limitation in the Act to institutions which exhibit to the public is appropriate.

Similarly, a university or school system may maintain a collection primarily used for instructional purposes or as a resource in carrying out an academic program. For example, a collection of objects maintained by the university's anthropology department may be displayed to the students in that department as they walk in and out of class or may be used in classroom work. A school or school system may exhibit objects to its students through so-called suitcase exhibits.

In the view of the Institute, these activities do not constitute exhibition to the public within the meaning of the Act. Exhibition to a restricted category of persons (the students in the anthropology class) under circumstances in which the general public has limited or occasional access is not exhibition to the public as IMS understands it. At a minimum, exhibition to the public involves general accessibility to the public at large and public notice of that accessibility, elements lacking in the examples stated.

[1]The final version of this paragraph (§ 64.3(d)) reflects editorial changes.

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The maintenance of probate or genealogical records by a public institution such as a court would also be outside the ambit of the Act. Even if such an institution can be regarded as organized for educational or esthetic purposes, which is questionable, the exhibition would seem to be incidental to purposes other than exhibition to the public.

Because the funds available under the Act are limited, the program must be focused on those institutions which exist primarily to provide museum services to the public. For all these reasons, the Institute does not regard institutions such as public libraries and archives normally as qualifying as museums.

2. *Mentioning specific types of museums.* Many commenters requested the mention of specific types of museums, including natural and physical science centers, environmental education and/or nature centers, historic building museums, historical museums, health and medical museums and the like.

The regulations already contain a list of the common categories of museums in § 64.3(b). The Institute believes it would be unwise to mention every type of museum. The Institute wishes to avoid the implication that a type of institution which properly falls within the ambit of the Act is excluded because it is not mentioned. However, the Institute regards this reponse as an opportunity to indicate that the types of institutions commenters mentioned (as described above) are generally understood to fall within the definition. Because of considerable confusion surrounding the status of historic building museums, these institutions are mentioned in the final regulations. (See § 64.3(b)(3).)

3. *Professional staff.* A county historical commission which displays objects in a county courthouse felt that maintaining a full-time staff person even on a voluntary basis as provided by § 64.3(c) was beyond its capacity and that this requirement would exclude small institutions from participation in the program under the Museum Services Act. The commenter urged recognition of use of part-time staff.

On the other hand, another commenter questioned the use of volunteers to qualify a museum for a grant, noting that, although volunteers make significant contributions to a museum, Federal support of an institution solely operated by volunteers is questionable. This commenter viewed at least one full-time paid professional as representing a minimum commitment to a professional operation in the public trust. The commenter pointed out that the American Association of Museums, through its accreditation procedure, requires that a museum have at least one full-time paid staff member.

The requirement that an institution "use" a professional staff is in the statute and cannot be waived. (Museum Services Act, section 210(4).) The regulations give the broadest possible interpretation to this requirement to avoid excluding institutions which cannot afford a full-time paid professional. (§ 64.3(c)) The exclusion of such museums, it is believed, would bar from participation in the program a vital segment of the spectrum of institutions which serve the museum public, particularly historic houses. Comments were received by the Institute which stressed that historic building museums are frequently operated by volunteers and are without paid professional staff. No change is made in the definition in this respect.

The Institute also declines to impose any further requirements on recipients to obtain a paid professional staff. However, the Institute considers it desirable that an institution which becomes a participant in the Museum Services Program move in the direction of supplying the "minumum commitment" cited by the commenter. Language has been added to § 64.3(c) to reflect this policy.

4. *Joint applications by museums.* Several commenters asked that the regulations provide for the eligibility of consortiums, museum associations, collaboratives and other nonprofit agencies and organizations which provide support or services to museums.

While both the Act and the regulations speak of "museum" in the singular, nothing in the Act or in the proposed regulations prevents a group of museums from applying for assistance under the program. On the contrary, such a group of museums would be eligible.

In the case of such an application, applicants may have separate budgets corresponding to the programs, services or activities performed by each of the applicants or may have a combined budget.

Clarifying language is added to the final regulation to make clear that joint applications from museums are accepted.

While a group of museums may apply for assistance under the Act, an application from an institution which is not itself a museum may not be considered since the Act authorizes grants only to museums. Thus, a nonprofit agency which provides support for, or assistance to, museums but which is not itself a museum (as defined in § 64.3) is not eligible for a direct grant. However, a museum which receives a grant is authorized to contract for services with other agencies including nonprofit "support" agencies. Grantees may use such agencies to supply services under the grant, consistent with the general requirement that the grantee remain responsible for grant performance.

The Institute will explore the possibility of proposing a legislative amendment to the Act to authorize assistance for nonprofit "support" agencies which are not museums.

ELIGIBILITY—SECTION 64.5

5. *Municipal and university applicants.* Some commenters expressed concern that the regulations in defining "museum" may prevent the participation of public agencies such as city or county governments which operate museums or colleges and universities with museums which are not separately organized and do not have separate budgets. However, § 64.5 is intended to address this problem by providing: "A public or private nonprofit agency, such as a municipality, college, or university, which is responsible for the operation of a museum may apply on behalf of the museum."

The Institute believes that this language addresses the problem of the commenter. To qualify, a museum need not have had a separate budget but must be prepared to make the budget related showings required by the application and by any post-award review.

6. *Museums abroad.* Another commenter proposed that the regulations provide for the eligibility of museums located outside the United States. In the example mentioned by the commenter, the museum located abroad is situated on property owned by the United States Department of State and leased to a nonprofit corporation which operates the museum. The proposed regulations confined eligibility to institutions located in the United States. The Institute believes that Congress intended to focus assistance on those institutions which primarily serve the U.S. public, particularly in view of the limited funds available for the purpose of the program at this stage. No change is made in the regulations.

OTHER TYPES OF ASSISTANCE—PROJECT SUPPORT—SECTION 64.8

7. *Preservation of historic sites.* Several commenters suggested that the reference to conservation projects in § 64.8(a)(3) be expanded to include conservation or preservation of historic structures as well as conservation or preservation of objects. The commenters supported the proposed regulation in its effort to encourage conservation projects (through the language of § 64.8(a)(3)) but felt that the proposed regulation did not go far enough in reflecting the special needs of museums which are or maintain and exhibit historic structures.

Another commenter said that § 64.8(a)(7) (relating to modernization of facilities) should include reference to restoration or preservation of museum facilities when the facilities are of historical or cultural significance. The commenter felt that such participation by the IMS would not duplicate Federal historic preservation programs.

The Museum Services Act lists conservation as one of the activities for which grant funds may be used. (Section 206(a)(5) (conservation of artifacts and art objects).)

The regulations in § 64.8(a)(3) reflect this authority by providing that a museum may apply for project support to "develop or demonstrate methods of conservation."

Section 64.8(a)(7) of the proposed regulations provided for project support to help a museum "modernize its facilities (except in fiscal year 1978)." While the emphasis of the Act is on conservation of objects, nothing in the statute precludes the Institute from extending the concept of "conservation" to preservation of historic building museums. The Institute believes that the regulations should provide for the possible support of this activity.

However, in view of the high cost of construction, as well as limited funds expected to be available to the program for fiscal year 1979 and the current fiscal year, the final regulations exclude this type of activity for fiscal years 1978 and 1979. For fiscal years after fiscal year 1979 preservation and modernization of structures may be included unless excluded by a general notice published in the FEDERAL REGISTER for that year.

8. *Training Programs.* Another commenter suggested that training programs under § 64.8 be focused on upgrading existing staff in the field through inservice training.

Section 64.8(a)(1) authorizes project support for grants to a museum to "develop training programs for its staff." Thus, a museum may apply for grant funds to support inservice training of existing staff. However, the Institute believes that to confine training activities only to inservice training would restrict program flexibility. Accordingly, no change is made in the regulation.

9. *Conservation.* One commenter objected to the provision for funding new special conservation projects. The commenter thought that the emphasis should be on maintenance of a museum's conservation laboratory and staff.

The development or demonstration of methods of conservation mentioned in § 64.8(a)(3) does not exclude other types of conservation support. Operational support grants (§ 64.7) are available for the activities mentioned by the commenter.

BASIC REQUIREMENTS—SECTION 64.11

10. *Long-range plans.* A commenter supported the provision in the proposed regulations requiring a museum applicant to submit a long-range plan as part of its grant application. The commenter observed that the Institute should encourage museums to adopt a standard financial report format as well as a standard long-range plan format.

Section 64.11(d) of the proposed regulations requires an applicant museum to submit a copy or brief description of the museum's long-range plans for program and financial development. In line with the commenter's thinking, the final regulations require the applicant to have a long-range plan. The Institute agrees with the commenter that this requirement will have a constructive influence on the quality of museum services carried out under the program.

To some extent financial and other report forms under the program are standardized under applicable requirements in part 74 of Title 45 CFR. (See § 64.18) The Institute will also attempt to establish uniform standards for required financial and other reporting by museums since it believes the commenter's suggestion to be well taken. The Institute will continue to review the possibility of providing further guidance regarding a uniform format for the long-range plan description called for in § 64.11(d).

CRITERIA—SECTIONS 64.13 AND 64.14

11. One commenter observed that the criteria were too vague, particularly in terms of describing financial need, and urged that the final regulations require that applications indicate a need for funds for a particular purpose or purposes. Specific suggestions about individual criteria were furnished by a number of commenters.

The criteria are necessarily broad and general in order to accommodate the Institute's need to review applications from a wide variety of institutions and a concern that criteria which are too focused may tend to "over direct" the program.

On the other hand, individual comments from public commenters and experience with the initial year of reviewing applications have convinced the Institute that changes in the criteria applicable to fiscal year 1979 and future fiscal years are warranted. Accordingly, a new set of criteria for both general operational and project support is established for those years. Comments from the public objected to the use of criteria measuring the relative lack of access to Federal support and sought clarification of criteria relating to the applicant's need, the extent of local financial support, and the nature of unserved or underserved populations. Subject to reconsideration in the light of further public comment, the criteria set forth in § 64.13 of the regulations take into account these objections.

For fiscal year 1979 and future fiscal years, separate sets of criteria are set forth for general operational support and for project support. In the general operational support category, the emphasis is on assessing the overall situation of the applicant museum. Lack of access to other Federal assistance is no longer a criterion for judging operational support grants since, aside from IMS, there are no other Federal programs which provide operational assistance. In response to comments, the criterion relating to unserved populations is broadened.

OTHER COMMENTS

12. One commenter observed that while the regulations appeared to be clear and concise, attention should be paid to providing information to readers as to how to obtain copies of other regulations which are cross-referenced by the new part 64. The commenter's point is well taken and the Institute is taking steps to be certain that each grantee receives a package containing copies of all applicable regulations.

[FR Doc. 78-27284 Filed 9-28-78; 8:45 am]

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federal register

FRIDAY, SEPTEMBER 29, 1978
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

MEDICAID REGULATIONS

Reorganization and Rewriting

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[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAM

MEDICAID REGULATIONS

Reorganization and Rewriting

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: These regulations reorganize and redesignate, with clarifying editorial changes, the current regulations for the medicaid program (title XIX of the Social Security Act). No policy changes have been made in the existing regulations. Those regulations will now be systematically and intensively reviewed for possible revisions during the second phase of HCFA's medicaid recodification project.

DATE: Effective October 1, 1978. Although this rule is final, comments may be submitted as described in the supplementary information below.

ADDRESSES: Send comments to: Acting Director, Policy Coordination Staff, Medicaid Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 2618, Switzer Building, 330 C Street SW., Washington, D.C. 20201. In commenting, please refer to MMB-240. Comments will be available for public inspection, beginning approximately 2 weeks after publication, at the above address from Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0722.

FOR FURTHER INFORMATION CONTACT:

Margaret O. Schnoor, 202-245-0722.

SUPPLEMENTARY INFORMATION: As indicated in a recodification proposal published January 17, 1978 (43 FR 2413), HCFA is rewriting all existing medicaid regulations in clearer, simpler language. Our purpose is to make the regulations more understandable by all those affected (including State agencies, applicants and recipients, and providers of services), and more useful for program administrators. No substantive changes have been made in this first phase of a medicaid recodification project under the Department's operation common sense initiative. In the second phase, we plan to develop policy changes based on our analysis of the current rules in preparing this document, letters responding to operation common sense, and problems found during ongoing program operation. Those changes will be published as proposed rule making for public comment over the next two years, and will represent for medicaid the substantive recodification to which HEW is committed for all programs.

CONTENT

This document contains all medicaid regulations currently in 42 CFR chapter IV, subchapter C, except for the utilization control penalty provisions in § 450.20(b). Passage of the medicare-medicaid anti-fraud and abuse amendments, Pub. L. 95-142, October 25, 1977, made the penalty provisions in § 450.20(b) obsolete. A notice of proposed rulemaking implementing the changes made by Pub. L. 95-142 is being published. Until the new penalty regulation becomes final, the statutory requirements of sec. 1903(g) of the Social Security Act will be used as the basis for imposing penalties. The document includes all new medicaid regulations and revision published as final rules during the last few months. It does not include regulations recently published as proposed rules but not yet published in final.

In a separate project, the "joint" rules in title 45 of the Code of Federal Regulations (parts 201, 204, 205, 206 and 208) that currently apply to other State plan programs of financial assistance and services, as well as to medicaid, will also be rewritten as they pertain to medicaid and transferred to title 42.

For the convenience of readers, redesignation tables at the end of this preamble indicate the relationship between the old and the new sections. The first set of tables is arranged in order of the previous section numbers and the second set is arranged by the new numbers.

EFFECTIVE DATE

The rewritten regulations are being made effective October 1, 1978, to coincide with the deadline date for publishing material to be included in the annual revision. This will provide readers with a complete set of the revised regulations in that publication.

WAIVER OF PROPOSED RULEMAKING

As explained above, the purpose of this publication is to simplify and clarify the existing regulations without making any substantive change. We have carefully reviewed the revised language in order to satisfy ourselves that we have not modified existing policy unintentionally. Moreover, as also discussed above, we believe it highly desirable to include the entire set of regulations in the October 1 edition of title 42. Time and staff constraints have not permitted us to go through proposed rulemaking and still complete the task by that date.

For those reasons, we have concluded that it is both unnecessary and impractical to publish this document as notice of proposed rulemaking. We are therefore waiving rulemaking procedures in accordance with section 4(a) of the Administrative Procedure Act (5 U.S.C. 553(b)).

We will, however, consider comments or objections from anyone who believes that this rewriting changes current policy. Suggestions for additional improvements in style, terminology, and general format are also welcome. After 3 months, we will review comments and publish the necessary changes or a notice that no changes are required.

REDESIGNATION AND DERIVATION TABLES

PART 446

Old section	New section
446.10	431.12
446.151	432.2
446.160	432.10
446.165	432.31
446.168	432.32
446.170	432.30
446.175	432.50
446.180	432.55
446.185	432.60

PART 448

Old section	New section
Beginning note	435.2.
448.1(a)(1)(i)	435.4.
448.1(a)(1)(ii)	435.732.
448.1(a)(1)(ii)(A)	435.321.
448.1(a)(1)(ii)(B)	435.Unnecessary.
448.1(a)(2)(i)	435.4.
448.1(a)(2)(ii)	435.831.
448.1(a)(3)	435.740.
448.1(b) first sentence	435.10.
448.1(b)(1)(i)	435.110.
448.1(b)(1)(ii)	435.111.
448.1(b)(1)(iii)	435.112.
448.1(b)(2)	Unnecessary.
448.1(b)(2)(i)	435.120.
448.1(b)(2)(ii)	435.230.
448.1(b)(2)(iii)	435.121.
448.1(b)(2)(iv)	435.130.
448.1(b)(2)(v)	435.131.
448.1(b)(2)(vi) except (B)	435.132.
448.1(b)(2)(vi)(B)	Redundant with 435.132 first sentence.
448.1(b)(2)(vii)	435.133.
448.1(b)(2)(viii) words before "In States".	Unnecessary.
448.1(b)(2)(viii)	435.135.
448.1(b)(3) introductory sentence.	Unnecessary.
448.1(b)(3)(i)	435.113, 435.122.
448.1(b)(3)(ii)	435.114, 435.134.
448.1(c) first sentence	435.10, 435.200.
448.1(c)(1)	435.210.
448.1(c)(2) except second sentence.	435.211.
448.1(c)(2) second sentence.	Unnecessary.
448.1(c)(3)	435.223.
448.1(c)(4)	435.222.
448.1(c)(5)	435.221.
448.1(c)(6)	435.220.
448.1(d)(1)	435.301.
448.1(d)(2)	435.325.

PART 448—Continued

Old section	New section
448.1(e)	435.10.
448.2(a)	435.401.
448.2(b)(1)	435.501.
448.2(b)(2)	Unnecessary.
448.2(c)	435.401.
448.2(d)	435.230.
448.2(e) words before ". . . if a State plan.	Unnecessary.
448.2(e) words after "Notwithstanding the provisions specified in paragraph (d) of the section . . .".	435.231, 435.722.
448.3(a)(1)	435.10.
448.3(a)(1)(i)	435.711.
448.3(a)(1)(ii)(A)	435.721(a).
448.3(a)(1)(ii)(B)(1)	435.721(a).
448.3(a)(1)(ii)(B)(2), words before "provided that".	435.721(b).
448.3(a)(1)(ii)(B)(2), words beginning "provided that".	435.1006.
448.3(a)(1)(ii)(C), first sentence.	435.10.
448.3(a)(1)(ii)(C), second sentence.	435.121(b).
448.3(a)(2)	Unnecessary.
448.3(b)(1)	Unnecessary.
448.3(b)(1)(i) first sentence.	Unnecessary.
448.3(b)(1)(i) second sentence.	435.723(b).
448.3(b)(1)(i) third sentence.	435.712(a), 435.724(b).
448.3(b)(1)(i) fourth sentence.	435.724(b).
448.3(b)(1)(ii)	435.603.
448.3(b)(1)(iii)	435.602.
448.3(b)(2)(i)	435.723(c).
448.3(b)(2)(ii)	435.723(d).
448.3(b)(2)(iii)	435.721(c).
448.3(b)(2)(iv) first sentence.	435.831(a)(2).
448.3(b)(2)(iv) second sentence.	Unnecessary.
448.3(b)(2)(iv) third sentence words before ". . . after deducting all . . .".	435.811.
448.3(b)(2)(iv) third sentence words after ". . . to the assistance unit . . .".	435.831(c).
448.3(b)(3)(i)	435.724(b).
448.3(b)(3)(ii)	435.724(c).
448.3(b)(3)(iii)	435.724(c).
448.3(b)(3)(iv)	435.721(c).
448.3(b)(3)(v) first sentence words before ". . . except that the income . . .".	435.721(c).
448.3(b)(3)(v) first sentence words after ". . . medically needy determinations . . .".	Unnecessary.
448.3(b)(3)(v) second sentence words before ". . . after deducting all . . .".	435.811.
448.3(b)(3)(v) second sentence words after ". . . to the assistance unit . . .".	435.831(c).
448.3(b)(4) first paragraph.	435.734.
448.3(b)(4) second paragraph.	Unnecessary.
448.3(b)(5)(i)	435.712(a).
448.3(b)(5)(ii)	435.712(c).
448.3(b)(5)(iii)	435.712(b).
448.3(b)(5)(iv) first sentence.	Unnecessary.
448.3(b)(5)(iv) second sentence words before ". . . to the assistance unit . . .".	435.811.
448.3(b)(5)(iv) second sentence words after ". . . to the assistance unit . . .".	435.831(c).
448.3(b)(6)	435.404.
448.3(b)(7)	435.725, 435.731, 435.733, 435.813, 435.815, 435.832.
448.3(b)(8)	435.725, 435.732, 435.733, 435.832.
448.3(b)(9)	435.732.
448.3(c)(1)	Unnecessary.
448.3(c)(1)(i)	435.811.
448.3(c)(1)(ii)	435.812(a), 435.814(a), 435.816(a).
448.3(c)(1)(ii)(A)	435.818.
448.3(c)(1)(ii)(B) words before "except that".	435.812, 435.814.
448.3(c)(1)(ii)(B) words beginning "except that".	Unnecessary.
448.3(c)(1)(iii)	435.812(b), 435.814(b).
448.3(c)(1)(iv) words before "and the amount of liquid . . .".	435.834, 435.835.
448.3(c)(1)(iv) words after ". . . of the Social Security Act . . ." and before ". . . except that . . .".	435,834(c), 435.835(c).
448.3(c)(1)(iv) words after ". . . in a family . . ." to end of sentence.	435.834(b).
448.3(c)(1)(iv) last sentence.	Unnecessary.
448.3(c)(2)	435.831.
448.3(c)(3) first sentence.	Redundant.
448.3(c)(3)(i)	435.831(a)(1), 435.841(c).
448.3(c)(3)(ii)	435.831(a)(2),(3), 435.841(d),(e).
448.3(c)(4)	435.831(a), 435.841(b).
448.4(a)	435.1001.
448.4(b)(1)	435.1002.
448.4(b)(1)(i)	Unnecessary.
448.4(b)(1)(ii)	Unnecessary.
448.4(b)(1)(iii)	Unnecessary.
448.4(b)(2)	435.1008.
448.4(b)(3) first sentence.	435.1005 and 435.1008.
448.4(b)(3) second sentence.	Unnecessary.
448.4(b)(4)	435.1007.
448.4(b)(5)	435.1002(b).
448.4(b)(6)	435.1004.
448.4(b)(7) except last sentence.	435.1003.
448.4(b)(7) last sentence	Unnecessary.
448.4(b)(8)	Unnecessary.
448.4(c)	Unnecessary.
448.4(d)	435.1010.
448.4(e)	435.1011.
448.10(a)	Unnecessary.
448.10(b)(1)(i)	438.110.
448.10(b)(1)(ii)	438.115.
448.10(b)(1)(iii)	436.111.
448.10(b)(2)(i)	436.210.
448.10(b)(2)(ii)	436.211.
448.10(b)(2)(iii)	436.212.
448.10(b)(2)(iv)	436.222.
448.10(b)(2)(v)	436.221.
448.10(b)(2)(vi)	436.220.
448.10(b)(3)	436.112.
448.10(b)(4)	436.116.
448.10(b)(5) 1st sentence.	436.301, 436.310, 436.320, 436.330.
448.10(b)(5) 2d sentence	Unnecessary.
448.10(b)(6)	436.10.
448.10(b)(7)	Obsolete.
448.10(c)(1)	436.401(b).
448.10(c)(2)	Obsolete.
448.10(c)(3)	436.401(c).
448.10(c)(4)	436.401(a).
448.10(c)(5)	436.602.
448.10(d)(1)	436.1001(a), 436.1002(a)
448.10(d)(2) except undesignated paragraph after.	Unnecessary.
448.10(d)(2) undesignated paragraph after (vi).	436.1004(a).
448.10(d)(3)	436.1002(b).
448.10(d)(4)	436.1003.
448.11	436.230.
448.21(a)(1)(i)	436.711.
448.21(a)(1)(ii)	Redundant.
448.21(a)(2)(i) (A)-(C) 1st sentence except words before "and amounts received".	Redundant.
448.21(a)(2)(i) (C) 1st sentence, words after "applicant or recipient", and 2d sentence.	436.603.
448.21(a)(2)(ii)	436.602.
448.21(a)(2)(iii)	Redundant.
448.21(a)(2)(iv)	436.711.
448.21(a)(2)(v)	436.711.
448.21(a)(2)(vi)	436.404.
448.21(a)(3)(i) introductory paragraph.	Unnecessary.
448.21(a)(3)(i)(A)	436.811.
448.21(a)(3)(i)(B)	436.812.
448.21(a)(3)(i)(C) 1st and 2d sentences.	436.813.
448.21(a)(3)(i)(C) 3d-4th sentences.	436.832.
448.21(a)(3)(i)(D) 1st sentence.	436.840.
448.21(a)(3)(i)(D) last sentence.	Unnecessary.
448.21(a)(1) (ii)-(iv)	436.831.
448.21(b)	Redundant.
448.21(c)	436.1002.
448.30 (a), (b) (2) and (3).	435.520, 436.520.
448.30(b)(1) 1st sentence.	Redundant with 435.1002.
448.30(b)(1) 2d sentence	Unnecessary.
448.40(a)(1) words before "but are absent", and (b) (1) and (2).	435.403, 436.403.
448.40(a) words after "residents of the State".	431.52.
448.40(b) introductory paragraph.	Redundant with 435.403(a).
448.50	435.402, 436.402.
448.60(a) (1)-(3) (i) and (iv).	435.1008, 436.1004.
448.60(a)(3)(ii) except "or mental diseases".	435.1009 "institution for tuberculosis".
448.60(a)(3)(ii) except "tuberculosis or".	435.1009 "institution for mental diseases".
448.60(a)(3)(iii)	435.1009 "institution for mental diseases".
448.60(b) (1)-(11)	435.1009, 436.1005.
448.70(a)(1) words before "and in Guam".	435.530.
448.70(a)(1) words after parenthetical note.	436.530.
448.70(a)(2) (i) and (ii) 1st sentence.	435.531(a) (1) and (2), 436.531 (a) and (b).
448.70(a)(2)(ii) 2d sentence.	435.531(a)(3), 436.531(c).
448.70(a)(3)	435.531(a)(3), 436.531(c).
448.70(b)	435.531(b).
448.70(c)(1) 1st sentence	Redundant with 435.1002.
448.70(c)(1) 2d sentence	435.531(a)(3)(ii).
448.70(c)(1) parenthetical note.	435.1003.
448.70(c)(2)	435.1001(b), 436,1001 (b).
448.80(a)(1) words before "and in Guam".	435.540.
448.80(a)(1) words after parenthetical note.	436.540.
448.80(a)(2) and (b)	435.541, 436.541.
448.80(c)(1) 1st sentence	Redundant with 435.1002.
448.80(c)(1) 2nd sentence	435.541(c).
448.80(c)(2)	435.1001(b), 436.1001(b).

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PART 449

Old section	New section
449.10(a)(1)	440.210.
449.10(a)(2)	440.220.
449.10(a)(3) introductory paragraph.	441.51.
449.10(a)(3)(i)	441.54.
449.10(a)(3)(ii)	441.55.
449.10(a)(3)(iii)	441.56.
449.10(a)(3)(iv)	441.53.
449.10(a)(4)	441.15.
449.10(a)(5)(i)	440.230.
449.10(a)(5)(ii)	431.53.
449.10(a)(6) introductory paragraph.	440.240.
449.10(a)(6) (i)-(vii)	440.250.
449.10(a)(7)	440.240.
449.10(a)(8)	440.260.
449.10(a)(9)	441.20.
449.10(a)(10)	441.30.
449.10(a)(11)	431.110, 442.201(c), 442.251(d).
449.10(b) introductory paragraph.	440.2.
449.10(b)(1)	440.10.
449.10(b)(2)	440.20.
449.10(b)(3)	440.30.
449.10(b)(4)(i)(A)	440.40.
449.10(b)(4)(i)(B)	442.201 (a), (b).
449.10(b)(4)(i)(C) 1st sentence, words before "except that with".	440.40.
449.10(b)(4)(i)(C) 1st sentence, words after "payments under the plan".	441.11.
449.10(b)(4)(i)(C) 2d and 3d sentences.	442.30.
449.10(b)(4)(ii) 1st sentence.	440.40.
449.10(b)(4)(ii) 2d and 3d sentences.	441.52.
449.10(b)(5)	440.50.
449.10(b)(6)	440.60.
449.10(b)(7) except (i) introductory paragraph, last sentence.	440.70.
449.10(b)(7)(i) introductory paragraph, last sentence.	Redundant.
449.10(b)(8)	440.80.
449.10(b)(9)	440.90.
449.10(b)(10)	440.100.
449.10(b)(11)	440.110.
449.10(b)(12)	440.120.
449.10(b)(13)	440.130.
449.10(b)(14)	440.140.
449.10(b)(15)(i)(A) 1st sentence.	440.150.
449.10(b)(15)(i)(A) last sentence.	442.251 (a), (c), 442.252.
449.10(b)(15)(i)(B)	440.150.
449.10(b)(15)(i)(C)	442.252.
449.10(b)(15)(i)(D)	Redundant.
449.10(b)(15)(i)(E)	440.150.
449.10(b)(15)(ii)	442.254.
449.10(b)(15)(iii)	440.150.
449.10(b)(15)(iv)	440.150.
449.10(b)(15)(v)	Redundant.
449.10(b)(15) undesignated paragraph after (v).	441.11.
449.10(b)(15)(vi)	442.30.
449.10(b)(16) introductory paragraph.	440.160.
449.10(b)(16) (i), (ii)	441.151.
449.10(b)(16)(iii) introductory paragraph.	441.152.
449.10(b)(16)(iii)(A) words before "and for whom".	Obsolete.
449.10(b)(16)(iii)(A) words after "of these regulations".	441.153.
449.10(b)(16)(iii)(B)	Obsolete.
449.10(b)(16)(iii) (C)-(E)	441.153.

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Old section	New section
449.10(b)(16)(iv)(A), except 2d sentence.	441.154.
449.10(b)(16)(iv)(A) 2d sentence.	Redundant.
449.10(b)(16)(iv)(B)	441.155.
449.10(b)(16)(iv)(C)	441.156.
449.10(b)(17)	440.170.
449.10(c) (1) and (2)	441.13.
449.10(c)(3)	Surplusage.
449.10(c)(4)	441.40.
449.10(c)(5) except (ii) (A)-(G).	441.182.
449.10(c)(5)(ii) (A)-(C)	441.181.
449.10(d)(1)(i)	435.1009, 440.2.
449.10(d)(1) (ii), (iv)-(vi)	435.1009.
449.10(d)(1)(iii)	440.2.
449.10(d)(2)	440.270.
449.10(d)(3)	441.11.
449.12(a) introductory paragraph.	442.300.
449.12(a)(1)	442.301.
449.12(a)(1)(i) 1st sentence.	442.302.
449.12(a)(1)(i) 2d sentence.	Unnecessary.
449.12(a)(1)(ii)(A)	442.305.
449.12(a)(1)(ii)(A)(2)(i)	442.306.
449.12(a)(1)(ii)(A)(2) (ii), (iii).	442.307.
449.12(a)(1)(ii)(A)(2)	442.308.
449.12(a)(1)(ii)(A)(3)	442.309.
449.12(a)(1)(ii)(A)(4)	442.310.
449.12(a)(1)(ii)(B)	442.311, 442.404.
449.12(a)(1)(ii)(C)	442.312, 442.405.
449.12(a)(1)(ii)	442.320, 442.406 (d), (e).
449.12(a)(1) (iv), (v)	442.313.
449.12(a)(1)(vi)	442.314.
449.12(a)(1)(vii)	442.315, 442.415.
449.12(a)(2)	442.316, 442.425 (a), (b).
449.12(a)(3)	442.317, 442.417, 442.476(c).
449.12(a)(4)(i) (A)-(E)	442.318 (a)-(c), 442.319.
449.12(a)(4)(i)(F)	Obsolete.
449.12(a)(4) (ii), (iii)	442.318 (d), (e).
449.12(a)(5) introductory paragraph.	442.321(a), 442.507(a).
449.12(a)(5)(i)	442.322, 442.508.
449.12(a)(5)(ii)	442.323(a), 442.509(a).
449.12(a)(5)(iii)	442.321(b), 442.507(b).
449.12(a)(5) undesignated paragraph following paragraph (iii).	442.323(b), 442.509(b).
449.12(a)(6)(i)	442.324(a), 442.325, 442.326(a), 442.446, 442.447(a) (1), (3), 442.448 (a), (d).
449.12(a)(6)(ii)	442.327.
449.12(a)(6)(iii)	442.326 (b), (c).
449.12(a)(6)(iv)	442.324(b).
449.12(a)(6) (v), (vi)	442.328.
449.12(a)(6) (vii), (viii)	442.329.
449.12(a)(6)(ix)	442.330, 442.511.
449.12(a)(7)(i)	442.331(a).
449.12(a)(7) (ii)-(iv)	442.332.
449.12(a)(7)(vi), (vii)	442.331(b).
449.12(a)(8)(i)	442.333.
449.12(a)(8)(ii)	442.334.
449.12(a)(8)(iii)	442.335.
449.12(a)(8)(iv)	442.337(b).
449.12(a)(8)(v)	442.336.
449.12(a)(8)(vi)	442.337(a).
449.12(a)(9) introductory paragraph.	442.338, 442.474(b).
449.12(a)(9)(i) and (A)-(C).	442.339, 442.481 (a)-(e).
449.12(a)(9)(ii)	442.340, 442.481(f).
449.12(a)(9)(iii)	442.481(g).
449.12(a)(9)(iv)	442.341, 442.481(h).
449.12(a)(9)(v)	442.342, 442.478(a).
449.12(b) introductory paragraph.	Unnecessary.
449.12(b)(1)	442.303.
449.12(b)(2)	442.304.
449.12(b)(3)	442.343.
449.12(b)(4)	442.344.
449.12(b)(5)	442.345.
449.12(b)(6)	442.346.

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Old section	New section
449.12(c) introductory paragraph.	442.400.
449.12(c)(1)	442.418 (a), (b).
449.12(c)(2)	442.410 (a), (b).
449.12(c)(3) introductory paragraph, 1st sentence.	442.411.
449.12(c)(3) introductory paragraph, 2d sentence, and (i)-(ix).	442.401.
449.12(c)(4)-(6)	Obsolete.
449.13 introductory paragraph, 1st sentence, words before "the standards for".	Obsolete.
449.13 introductory paragraph, 1st sentence, words after "July 18, 1977".	442.400.
449.13 introductory paragraph 2d sentence.	Obsolete.
449.13(a)(1)(i)	442.402.
449.13(a)(1)(ii)	442.403.
449.13(a)(1)(iii)	442.406 (a)-(c).
449.13(a)(1)(iv)	442.407.
449.13(a)(1)(v)	442.408.
449.13(a)(1)(vi)	442.409(a) (1), (2).
449.13(a)(1)(vii)	442.409(a)(3).
449.13(a)(1)(viii)	442.410(a)(2).
449.13(a)(1)(ix)	442.412.
449.13(a)(1)(x)	442.413.
449.13(a)(1)(xi)	442.414.
449.13(a)(2)(i) introductory paragraph, 1st sentence.	442.416(a).
449.13(a)(2)(i) introductory paragraph, 2d sentence, and (A) and (B).	442.420.
449.13(a)(2)(ii)	442.419.
449.13(a)(2)(iii)	442.418 (a), (b)(1).
449.13(a)(2)(iv)	442.418 (b)(2), (c).
449.13(a)(2)(v)	442.421.
449.13(a)(2)(vi)	442.422.
449.13(a)(2)(vii)	442.423.
449.13(a)(2)(viii)	442.424(c), 442.425(c).
449.13(a)(2)(ix)	442.424 (a), (b).
449.13(a)(2)(x)	442.425(c).
449.13(a)(2) (xi), (xii)	442.426.
449.13(a)(3)(i)	Unnecessary.
449.13(a)(3)(ii)	442.427(b).
449.13(a)(3) (iii), (iv)	442.428.
449.13(a)(3)(v)	442.429.
449.13(a)(3)(vi)	442.427(a).
449.13(a)(3)(vii)	442.430.
449.13(a)(3)(viii)	442.431.
449.13(a)(3) (ix), (x)	442.432.
449.13(a)(3)(xi)	442.427(c).
449.13(b)(1) (i), (ii)	442.433.
449.13(b)(1)(iii)	442.434.
449.13(b)(1) (iv)-(vi)	442.435.
449.13(b)(1)(vii)	442.436.
449.13(b)(1)(viii)-(x)	442.437.
449.13(b)(1)(xi) introductory paragraph and (A)-(C).	442.438 (a)-(e).
449.13(b)(1)(xi)(D) 1st sentence.	442.439(a).
449.13(b)(1)(xi)(D) 2d sentence.	442.438(f).
449.13(b)(1)(xi)(E)	442.439 (b), (c).
449.13(b)(1)(xii)	442.440.
449.13(b)(1)(xiii)	442.441 (b)-(d).
449.13(b)(2)	442.442.
449.13(b)(3)	442.443.
449.13(b)(4)	442.444.
449.13(b)(5)	442.445.
449.13(b)(6)(i)	442.447 (a) (1), (2), (4), (5), (b), (c).
449.13(b)(6)(ii)	442.446.
449.13(b)(8) (iii), (iv)	442.449 (a), (b).
449.13(b)(8) (v), (vi)	442.450(a) (2), (3).
449.13(b)(8) (vii), (viii)	442.451(a).
449.13(b)(8)(ix)	442.452.
449.13(b)(8)(x)	442.451(b).
449.13(b)(8)(xi)	442.450 (a)(4), (b), (c).
449.13(b)(8)(xii)	442.453.

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Old section	New section
449.13(b)(6)(xiii)	442.449(c).
449.13(c)(1)	442.454.
449.13(c)(1)(i)	442.455.
449.13(c)(1)(ii)	442.456.
449.13(c)(2)(i)	442.457.
449.13(c)(2)(ii)	442.458.
449.13(c)(2)(iii)	442.459.
449.13(c)(2)(iv)	442.460.
449.13(c)(2)(v)	442.461.
449.13(c)(2)(vi)	442.462.
449.13(c)(3)(i)	442.401, 442.463(a).
449.13(c)(3) (ii)-(v)	442.463 (b)-(e).
449.13(c)(10) (v), (vi)	442.491 (b), (c).
449.13(c)(11)(i)	442.494.
449.13(c)(11) (ii)-(vi)	442.495.
449.13(c)(12) (i), (ii)	442.496.
449.13(c)(12) (iii), (iv)	442.497.
449.13(c)(12) (v), (vi)	442.498.
449.13(d)(1) (i)-(iii)	442.499.
449.13(d)(2)(i)	442.500.
449.13(d)(2) (ii), (iii)	442.501 (a), (b).
449.13(d)(2)(iv)	442.424(c), 442.501(c).
449.13(d)(3)	442.502.
449.13(d)(4)	442.503.
449.13(d)(5)	442.504.
449.13(e)	442.416.
449.13(f)(1)(i)	442.505.
449.13(f)(1) (ii), (iii)	442.506.
449.13(f)(1)(iv)	442.511.
449.13(f)(1)(v)	442.510.
449.13(f)(2)	442.512.
449.13(g)(1)	442.513.
449.13(g)(2)	442.514.
449.13(g)(3)	442.515.
449.13(g)(4)	442.516.
449.13(h)(1)	442.401.
449.13(h)(2)	442.409(a)(4), 442.410 (a)(1), (c).
449.13(h)(3)	Unnecessary.
449.13(h)(4)	442.409 (a) (1), (2), (b).
449.13(h) (5)-(9)	442.401.
449.13(h)(10)	442.441(a).
449.20	431.51.
449.31	447.10.
449.32	447.25.
449.13(c)(3)(vi)	442.411(a), 442.464.
449.13(c)(4)(i)	442.465.
449.13(c)(4) (ii), (iii)	442.466(a)-(c).
449.13(c)(4)(iv) introductory paragraph, 1st sentence.	442.466(d).
449.13(c)(4)(iv) introductory paragraph, 2d sentence, and (A)-(C).	442.467(a).
449.13(c)(4)(v)	442.468.
449.13(c)(4)(vi)	442.467(b).
449.13(c)(4)(vii) 1st and 2d sentences.	442.469.
449.13(c)(4)(vii) 3d sentence.	442.467(c).
449.13(c)(4)(viii), (ix)	442.470.
449.13(c)(4) (x), (xi)	442.471.
449.13(c)(4) (xii)-(xiv)	442.472.
449.13(c)(5) (i), (ii)	442.473.
449.13(c)(5) (iii), (iv)	442.474 (a), (c), (e).
449.13(c)(5)(v)	442.475.
449.13(c)(5) (vi), (vii)	442.477.
449.13(c)(5)(viii)	442.476.
449.13(c)(6) (i), (ii)	442.474(d).
449.13(c)(6)(iii)	442.478.
449.13(c)(6) (iv), (v)	442.479.
449.13(c)(7)(i) 1st sentence.	442.480.
449.13(c)(7)(i) 2d sentence, (ii), (iii).	442.483(a).
449.13(c)(7) (iv)-(vi)	442.482.
449.13(c)(7)(vii)	442.483 (b)-(d).
449.13(c)(7)(viii)	442.484(a).
449.13(c)(7)(ix)-(xi)	442.485.
449.13(c)(8) (i)-(iii)	442.484 (b)-(d).
449.13(c)(8)(iv)	442.486.
449.13(c)(8) (v), (vi)	442.487.
449.13(c)(9)(i)	442.488.
449.13(c)(9) (ii)-(iv)	442.469(a).
449.13(c)(9)(v)	442.490 (b)-(d).

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Old section	New section
449.13(c)(9)(vi)	442.490(a).
449.13(c)(10)(i)	442.491(a).
449.13(c)(10)(ii)	442.492.
449.13(c)(10) (iii), (iv)	442.493.
449.33(a) introductory paragraph.	442.10, 442.100.
449.33(a)(1) introductory paragraph except words "(including hospitals)".	442.12(a), 442.101.
449.33(a)(1) introductory paragraph words "(including hospitals)".	Unnecessary.
449.33(a)(1)(i) words before "that the facility meets".	442.101(b).
449.33(a)(1)(i) words after "this chapter".	442.101(d), 442.200, 442.202, 442.253.
449.33(a)(1)(ii) words before "and in the case", except words "pursuant to section 1910 of the Act".	442.101(b)(2).
449.33(a)(1)(ii) words "pursuant to sec. 1910 of the Act".	442.1(a)(7).
449.33(a)(1)(ii) words after "title XVIII of the act".	442.202(c)(3).
449.33(a)(1)(iii) words before "except that", except words "pursuant to sec. 1905 of the Act".	442.101(b)(1), 442.200, 442.202 (b), (c).
449.33(a)(1)(iii) words "pursuant to sec. 1905 of the Act".	442.1(a)(6).
449.33(a)(2) introductory paragraph except words "(including hospitals and skilled nursing facilities)".	442.12(a), 442.101(a), 442.250.
449.33(a)(2) introductory paragraph words "(including hospital and skilled nursing facilities)".	Unnecessary.
449.33(a)(2)(i) except words "in accordance with paragraph (a)(4)(iii) of this section" and paragraph (E).	442.112.
449.33(a)(2)(i) words "in acordance with paragraph (a)(4)(iii) of this section".	Redundant.
449.33(a)(2)(i)(E)	Redundant.
449.33(a)(2)(ii) except words "in accordance with paragraph (a)(4)(iii)(A) of this section", and paragraphs (A) (2) and (3) and (D).	442.113.
449.33(a)(2)(ii) words "in accordance with paragraph (a)(4)(iii)(A) of this section".	Redundant.
449.33(a)(2)(ii)(A)(2)	Obsolete.
449.33(a)(2)(ii)(A)(3)	442.115.
449.33(a)(2)(ii)(D)	Redundant.
449.33(a)(3)	455.104.
449.33(a)(4) (i) and (ii) introductory paragraph.	442.100, 442.101(d).
449.33(a)(4)(i)	442.105.
449.33(a)(4)(iii) except last sentence.	442.111.
449.33(a)(4)(iii) last sentence.	442.110(a), 442.111(a).
449.33(a)(4)(iv) (A), (B) (f).	442.105 (c), (d).
449.33(a)(4)(iv)(B)(2)	Obsolete.
449.33(a)(4)(v)	442.101(e).
449.33(a)(5)	431.610(h).
449.33(a)(6) 1st sentence.	442.12(a).

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Old section	New section
449.33(a)(6) 2d sentence, words before "and the effective date".	442.15(a).
449.33(a)(6) 2d sentence, words after "of one year".	442.12(b).
449.33(a)(6) 3d sentence, words before "except that".	442.12(c), 442.15(b).
449.33(a)(6) 3d sentence, words after "by the survey agency" and before "or may elect".	442.15(b).
449.33(a)(6) 3d sentence, words after "period of certification".	442.12(d).
449.33(a)(6) 4th sentence	442.16.
449.33(a) (7), (8)	Surplusage.
449.33(a)(9)	442.20.
449.33(a)(10)	Redundant.
449.33(b)(1)	Redundant.
449.33(b)(2)	431.610(i).
449.40(a)(1) words before "and no reduction".	447.51.
449.40(a)(1) words after "under the plan".	447.53.
449.40(a)(2)	447.51.
449.40(a)(2) (i), (ii)	447.52.
449.40(a)(3) 1st and 2d sentences.	447.53.
449.40(a)(3) (i), (ii)	447.54.
449.40(a)(3)(iii)	447.55.
449.40(a)(3)(iv)	447.54.
449.40(a)(3)(v)	447.56.
449.40(a)(3)(vi) 1st sentence.	447.57.
449.40(a)(3)(vi) 2d sentence.	447.58.
449.40(b)	447.59.
449.41	431.625.
449.70	433.36.
449.82(a)	431.501.
449.82(b) (1)-(7)	431.502.
449.82(b)(8)	431.521.
449.82(b) (9)-(11)	431.502.
449.82(c)(1) (i)-(ix)	431.503.
449.82(c)(1)(x)	431.504.
449.82(c)(2)	431.512.
449.82(c)(3)	431.510.
449.82(c)(4)	431.511.
449.82(c)(5) introductory paragraph words before "a State plan for".	431.523-431.526, 431.557-431.560.
449.82(c)(5) introductory paragraph words after "and (2) of this section" and (i).	431.527.
449.82(c)(5) introductory paragraph words after "and (2) of this section", and (i) 1st sentence.	431.568.
449.82(c)(5)(ii)	431.528, 431.569.
449.82(c)(5)(iv)	Redundant.
449.82(c)(5)(v)	431.527, 431.568.
449.82(c)(5)(v) words before "which shall be".	431.529, 431.570.
449.82(c)(5)(v) words after "period of enrollment".	431.541, 431.581.
449.82(c)(5)(vi)	431.530, 431.571.
449.82(c)(5)(vii)	431.531, 431.572.
449.82(c)(5) (viii), (ix)	431.532, 431.573.
449.82(c)(5)(x)	431.533, 431.574.
449.82(c)(5)(xi)	431.534, 431.575.
449.82(c)(5)(xii)	431.535, 431.576.
449.82(c)(5)(xiii)	431.536, 431.577.
449.82(c)(5)(xiv)	431.537, 431.578.
449.82(c)(5)(xv)	431.565.
449.82(c)(5)(xvi)	431.522.
449.82(c)(6)(i)	431.540, 431.580.
449.82(c)(6)(ii)	431.541, 431.581.
449.83(c)(6)(iii)	431.542, 431.582.
449.82(c)(6)(iv)	431.543, 431.583.
449.82(c)(6)(v)	431.544, 431.584.
449.82(c)(6)(vi)	431.545, 431.585.
449.82(c)(6)(vii)	431.546, 431.586.

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Old section	New section
449.62(c)(6)(viii)	431.547.
449.62(c)(6)(ix)	431.548, 431.587.
449.62(c)(6)(x)	431.549, 431.588.
449.62(c)(6)(xi)	431.550, 431.589.
449.62(d)(1)	431.591.
449.62(d)(2)	431.592.
449.62(d)(3)	431.593.
449.62(d)(4) (i), (ii)	431.597.
449.62(d)(4)(iii)	431.594.
449.62(d)(4)(iv)	431.595.
449.62(d)(4)(v)	431.596.
449.100	Unnecessary.
449.101	441.201.
449.102	441.202.
449.103	441.203.
449.104	441.204.
449.105	441.205.
449.106	441.206.
449.107	441.207.
449.108	441.208.
449.109	Redundant with 45 CFR 205.50.

PART 450

Old section	New section
450.18 introductory paragraph.	456.2.
450.18(a) introductory paragraph.	456.3.
450.18(a)(1) introductory paragraph.	Unnecessary.
450.18(a)(1)(i)	456.22.
450.18(a)(1)(ii)	456.23.
450.18(a)(1)(ii)	456.3.
450.18(a)(1)(iv)	456.346, 456.347, 456.346.
450.18(a)(1)(v) except last sentence.	Unnecessary.
450.18(a)(1)(v) last sentence.	456.171, 456.271, 456.372.
450.18(a)(2)	456.60, 456.160, 456.260, 456.360.
450.18(a)(3) (i) and (iii)	456.80.
450.18(a)(3)(ii)	456.80, 456.180, 456.280, 456.380.
450.18(a)(3)(iv)	456.280, 456.281.
450.18(a)(4)	456.3.
450.18(a)(5)	456.3.
450.18(b)	456.4.
450.18(c)	456.5.
450.18(d) words before "and will perform".	456.6.
450.18(d) words after "of this chapter".	Redundant.
450.18(e)	Redundant.
450.18(f)	Obsolete.
450.19(a) Introductory paragraph-first two words after caption and words after "intermediate care facility".	456.101.
450.19(a) first word, "mental Hospital," and words after "intermediate care facility" and before "which meets".	456.201(a).
450.19(a) first word and words after "mental hospital" except "and intermediate care".	456.301.
450.19(a) first word, words after "skilled nursing facility and" and 450.19(a)(4) introductory paragraph words after "Christian Science Sanatoriums.".	456.401.
450.19(a) introductory paragraph words after "* * * review plan * * *".	456.201(b).
450.19(a)(1) introductory paragraph.	456.102.

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Old section	New section
450.19(a)(1)(i)	456.113.
450.19(a)(1)(ii) introductory paragraph.	456.105.
450.19(a)(1)(ii)	456.106.
450.19(a)(1)(iii)(A)	456.129.
450.19(a)(1)(iii)(B)	456.142.
450.19(a)(1)(iii)(C)	456.129 and 456.134.
450.19(a)(1)(iv)	456.129 and 456.134.
450.19(a)(1)(v)	456.105.
450.19(a)(1)(vi)	456.112.
450.19(a)(1)(vii)	456.111.
450.19(a)(1)(viii) introductory paragraph words before "within one working day".	456.121.
450.19(a)(1)(viii) introductory paragraph words before "by the committee" except parenthetical note.	456.125.
450.19(a)(1)(viii) parenthetical note.	456.127.
450.19(a)(1)(viii) introductory paragraph words after "of such application".	456.123.
450.19(a)(1)(viii)(A)	456.126.
450.19(a)(1)(viii)(B) 1st and 2d sentences except words after "criteria and" and before "are applied".	456.122.
450.19(a)(1)(viii)(B) 1st and 2d sentences.	456.123.
450.19(a)(1)(viii)(B) 3d sentence.	Obsolete.
450.19(a)(1)(viii) (C), (D), (E) words before "and written notification" and (F) words before "written notification thereof".	456.123.
450.19(a)(1)(viii)(E) words after "shall be considered final" and (F) words after "is not necessary.".	456.124.
450.19(a)(1)(ix)	456.128.
450.19(a)(1)(ix) words before "and recorded".	456.123.
450.19(a)(1)(ix) words after "shall be assigned" and before "based on the patient's".	456.111.
450.19(a)(1)(x) words before "by the Group".	456.135.
450.19(a)(1)(x) introductory paragraph.	456.135.
450.19(a)(1)(x)(A)	456.137.
450.19(a)(1)(x)(B)	456.135.
450.19(a)(1)(x)(C) 1st and 2d sentences except words after "criteria and" and before "are applied".	456.132.
450.19(a)(1)(x)(C) 1st and 2d sentences.	456.135.
450.19(a)(1)(x)(C) 3d sentence.	Obsolete.
450.19(a)(1)(x)(D) words before "in accordance with".	456.135.
450.19(a)(1)(x)(D) words after "shall be determined".	456.133.
450.19(a)(1)(x) (E), (F), (G) words before "and written notification" and (E) words before "written notification".	456.135.

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Old section	New section
450.19(a)(1)(x) (G) words after "shall be considered final" and (H) words after "has not been justified".	456.136.
450.19(a)(1)(xi)(A) first 2 sentences.	456.141.
450.19(a)(1)(xi)(A) 3d and 4th sentences.	456.143.
450.19(a)(1)(xi)(A) 5th sentence.	456.145.
450.19(a)(1)(xi)(A) 6th sentence.	456.144.
450.19(a)(1)(xi)(B)	456.142.
450.19(a)(1)(xii)	456.142.
450.19(a)(2) introductory paragraph.	456.201(b).
450.19(a)(2)(i)	456.213.
450.19(a)(2)(ii) introductory paragraph.	456.205(a) and (b).
450.19(a)(2)(ii)(A)	456.206(b).
450.19(a)(2)(ii)(B)	456.206(c).
450.19(a)(2)(iii)(A)	456.242(a).
450.19(a)(2)(iii)(B)	456.235(b).
450.19(a)(2)(iv)	456.235(a).
450.19(a)(2)(v)	456.205(c).
450.19(a)(2)(vi)	456.212.
450.19(a)(2)(vii)	456.211.
450.19(a)(2)(viii) words before "on or before a specified date".	456.231.
450.19(a)(2)(viii) words after "necessity of continued stay" and before 7th sentence.	456.233.
450.19(a)(2)(viii) 7th sentence.	456.234(b).
450.19(a)(2)(viii) 8th sentence.	456.211(e).
450.19(a)(2)(ix) introductory paragraph.	456.236(a).
450.19(a)(2)(ix)(A)	456.238.
450.19(a)(2)(ix)(B)	456.236(c).
450.19(a)(2)(ix)(C) 1st sentence.	456.232(a), 456.236(c).
450.19(a)(2)(ix)(C) 2d sentence.	456.232(b), 456.236(c).
450.19(a)(2)(ix)(C) 3d sentence.	Obsolete.
450.19(a)(2)(ix)(D) words before "in accordance with".	456.236(d).
450.19(a)(2)(ix)(D) first sentence words after "is appropriate and".	456.211(e).
450.19(a)(2)(ix)(D) words after "date assigned".	456.234 (a) and (c).
450.19(a)(2)(ix)(D) second sentence words before "in like manner".	456.236(b).
450.19(a)(2)(ix)(E)	456.236(e).
450.19(a)(2)(ix)(F)	456.236(f).
450.19(a)(2)(ix)(G) words before "and written notification".	456.236(g).
450.19(a)(2)(ix)(G) words after "considered final".	456.237.
450.19(a)(2)(ix)(H) words before "written notification".	456.236(h).
450.19(a)(2)(ix)(H) words after "mental hospital services".	456.237.
450.19(a)(2)(x) introductory words.	456.242(b).
450.19(a)(2)(x)(A) 1st sentence.	456.241(a).
450.19(a)(2)(x)(A) 2d sentence.	456.241.
450.19(a)(2)(x)(A) 3d and 4th sentences.	456.243.
450.19(a)(2)(x)(A) 5th sentence.	456.345.
450.19(a)(2)(x)(A) last sentence.	456.344.

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Old section	New section
450.19(a)(2)(x)(B)	456.242(b).
450.19(a)(2)(xi)	456.242(b).
450.19(a)(3) introductory paragraph.	456.302.
450.19(a)(3)(i)	456.313.
450.19(a)(3)(ii) introductory paragraph.	456.305 (a) and (b).
450.19(a)(3)(ii)(A)	456.306(b).
450.19(a)(3)(ii)(B)	456.306(c).
450.19(a)(3)(iii)(A)	456.342(a).
450.19(a)(3)(iii)(B)	456.335.
450.19(a)(3)(iv)	456.335.
450.19(a)(3)(v)	456.305(c).
450.19(a)(3)(vi)	456.312.
450.19(a)(3)(vii)	456.311.
450.19(a)(3)(viii) words before "on or before a specified date".	456.331.
450.19(a)(3)(viii) introductory paragraph.	456.333.
450.19(a)(3)(viii) introductory paragraph 2d sentence words before "is either".	456.311(e).
450.19(a)(3)(viii)(A) words before "but at least".	456.333.
450.19(a)(3)(viii)(A) words after "functional capabilities".	456.334(b).
450.19(a)(3)(viii)(B) words after "first 90 days".	456.334(b).
450.19(a)(3)(ix) introductory paragraph, (A) and (B) 1st and 2d sentences.	456.336 (a) and (c).
450.19(a)(3)(ix)(B) 2d sentence except words "and closer professional scrutiny".	456.332.
450.19(a)(3)(ix)(B) 3d and 4th sentence.	Obsolete.
450.19(a)(3)(ix)(C) words before "in accordance with".	456.336(d).
450.19(a)(3)(ix)(C) words after "date assigned".	456.334 (a) and (c).
450.19(a)(3)(ix)(C) after "is appropriate" and before "At the expiration".	456.311(e).
450.19(a)(3)(ix) last sentence words before "in like manner".	456.336(b),
450.19(a)(3)(ix)(D)	456.336(e).
450.19(a)(3)(ix)(E)	456.336(f).
450.19(a)(3)(ix)(F) words before "and written notification" and (G) words before "written notification".	456.336 (g) and (h).
450.19(a)(3)(ix)(F) words after "shall be considered final" and before "not later than" and words after "the assigned review date"; and (G) words after "nursing facility services" and before "not later than" and words after "assigned review date".	456.337.
450.19(a)(3)(ix) (F) words after "shall be sent" except (1)–(4) and (G) words after "shall be made" except (1)–(4).	456.388.
450.19(a)(3)(x)(A) 1st and 2d sentences.	456.341.
450.19(a)(3)(x)(A) 3d and 4th sentences.	456.343.
450.19(a)(3)(x)(A) 5th sentence.	456.345.

PART 450—Continued

Old section	New section
450.19(a)(3)(x)(A) 6th sentence.	456.344.
450.19(a)(3)(x)(B)	456.342(b).
450.19(a)(3)(xi)	456.342(b).
450.19(a)(4) introductory paragraph parenthetical note.	456.351.
450.19(a)(4) 2d and 3d sentences except (i)–(vii).	456.401.
450.19(a)(4)(i)	456.413.
450.19(a)(4)(ii) 1st sentence except "and by whom".	456.405.
450.19(a)(4)(ii)(A) words after "How, when and".	456.406.
450.19(a)(4)(ii)(E)	456.407.
450.19(a)(4)(iii)	456.435.
450.19(a)(4)(iv)	456.412.
450.19(a)(4)(v)	456.411.
450.19(a)(4)(vi) words before "or more frequently" and words after "at the time of assessment".	456.431.
450.19(a)(4)(vi) 1st sentence words after "for continued stay".	456.433, 456.434.
450.19(a)(4)(vii) introductory paragraph.	456.436.
450.19(a)(4)(vii)(A)	456.436.
450.19(a)(4)(vii)(B)	456.436.
450.19(a)(4)(vii)(B) 2d sentence except words "and closer professional scrutiny".	456.432.
450.19(a)(4)(vii)(C) words before "in accordance with".	456.436, 456.411(e).
450.19(a)(4)(vii)(C) 2d sentence words after "date assigned".	456.434.
450.19(a)(4)(vii)(C) 2d sentence words before "in like manner".	456.436.
450.19(a)(4)(vii)(D)	456.436.
450.19(a)(4)(vii)(E)	456.436.
450.19(a)(4)(vii)(F) words before "and written notification" and (G) words before "written notification".	456.436.
450.19(a)(4)(vii)(F) words after "shall be considered final" to words before "to: (1)" and (G) words after "intermediate care facility services" to words before "to: (1)".	456.438.
450.19(a)(4)(vii)(F) words after "shall be considered final" to words before "not later than" and words after "final determination"; and (G) words after "intermediate care facility services" and before "not later than" and words after "such final determination".	456.437.
450.19(b) 1st sentence	456.505.
450.19(b) 2d sentence	456.507.
450.19(b) 3d sentence	456.507.
450.19(b) 4th sentence	456.506.
450.19(b) 5th sentence	Redundant.
450.19(b) 6th sentence	456.506.
450.19(b) 7th sentence	456.506.
450.19(b) 8th sentence	456.506.
450.19(c)(1)(i)	456.520.
450.19(c)(1)(ii)	Redundant.
450.19(c)(2)	456.521(a)(1).
450.19(c)(3)	456.522(i).
450.19(c)(4)	456.522(j).
450.19(c)(5) 1st sentence	456.521(a)(2).
450.19(c)(5) 2d sentence	456.523(a).
450.19(c)(6)	456.521(b).
450.19(c)(7)	456.522.

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Old section	New section
450.19(c)(7)(i)	456.522(a).
450.19(c)(7)(ii)	456.522(b).
450.19(c)(7)(ii)	456.522(c).
450.19(c)(7)(iv)	456.522(g).
450.19(c)(7)(v)	456.522(d).
450.19(c)(7)(vi)	456.522(e).
450.19(c)(7)(vii)	456.522(h).
450.19(c)(7)(viii)	456.522(f).
450.19(c)(7)(ix)	456.522(k).
450.19(c)(8) 1st sentence words before "upon receipt" and after "of this section,".	456.524(b).
450.19(c)(8) words after "agency shall," and before "promptly notify".	456.524(a)(1).
450.19(c)(8) 2d sentence	456.523(b).
450.19(c)(9) 1st sentence	456.524(a)(2).
450.19(c)(9)2d sentence	456.525.
450.19(c)(9) 3d sentence	456.525.
450.20(a)	Redundant.
450.20(b)	Obsolete.
450.20(c) 1st sentence	456.501.
450.20(c) 2d, 3d, and 4th sentences.	456.506.
450.21	431.107.
450.23(a)	456.2.
450.23(a)(1) 1st and 2d sentences.	456.170, 456.180, 456.270, 456.280.
450.23(a)(1) 3d sentence	456.461, 456.482.
450.23(a)(1) 4th sentence	Redundant.
450.23(a)(1)(i)	456.170, 456.270.
450.23(a)(1)(ii)	456.180, 456.280.
450.23(a)(1)(iii)	456.281.
450.23(a)(1)(iv)	456.170, 456.181, 456.270.
450.23(a)(2) (i) and (ii)	456.602.
450.23(a)(2)(iii)	456.603.
450.23(a)(3)(ii)	456.604.
450.23(a)(3)(i)	456.605.
450.23(a0(3)(iii)	456.606, 456.607.
450.23(a)(3)(iv)	Redundant.
450.23(a)(3)(v) 1st and 2d sentence.	456.606.
450.23(a)(3)(v).3d sentence.	456.609.
450.23(a)(3)(v)(A)–(F)	456.610.
450.23(a)(4)(i)	456.611.
450.23(a)(4)(ii)	456.612.
450.23(a)(4)(iii)	456.613.
450.23(b)	456.614
450.23(c)	Unnecessary.
450.24(a) Introductory paragraph except parenthetical note.	456.2.
450.24(a) Parenthetical note.	456.601.
450.24(a)(1) Introductory paragraph.	456.370.
450.24(a)(1)(i) (A)–(C) 1st sentence.	456.370.
450.24(a)(1)(i)(C) 2d sentence.	456.371.
450.24(a)(1)(ii)	456.380.
450.24(a)(1)(iii)	456.361.
450.24(a)(2)(i)	456.602.
450.24(a)(2)(ii)	456.603.
450.24(a)(3)(i)	456.605.
450.24(a)(3)(ii)	456.604.
450.24(a)(3)(iii)	456.606.
450.24(a)(3)(iv)	456.607.
450.24(a)(3)(v) 1st to 3d sentences.	456.608.
450.24(a)(3)(v) 4th sentence.	456.609.
450.24(a)(3)(v) (A)–(G)	456.610.
450.24(a)(4)(i)	456.611.
450.24(a)(4)(ii)	456.612.
450.24(a)(4)(iii)	456.613.
450.24(b)	Unnecessary.
450.24(c)	456.614.
450.30(a)(1)	447.201.
450.30(a)(2) (i), (ii)	447.261.
450.30(a)(2)(iii)	Redundant
450.30(a)(3) Introductory paragraph, words before "as determined".	447.273.

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Old section	New section
450.30(a)(3) introductory paragraph, words after "cost-related basis".	447.221.
450.30(a)(3)(i)(A)	447.275.
450.30(a)(3)(i)(B)	447.274.
450.30(a)(3)(i)(C)	447.276.
450.30(a)(3)(i)(D)	447.274.
450.30(a)(3)(i)(E)	447.277.
450.30(a)(3)(i)(F)	447.277.
450.30(a)(3)(ii) introductory paragraph, 1st sentence, words before "and shall describe".	Surplusage.
450.30(a)(3)(ii) introductory paragraph, 1st sentence words after "of this section".	447.290.
450.30(a)(3)(ii) introductory paragraph, 2d sentence.	447.294.
450.30(a)(3)(ii)(A)	447.294.
450.30(a)(3)(ii)(B)	447.291.
450.30(a)(3)(ii)(C)	Surplusage.
450.30(a)(3)(ii)(D)	447.292.
450.30(a)(3)(ii)(E) words before "which audits shall".	447.293.
450.30(a)(3)(ii)(E) words after "exceptional profiles".	Surplusage.
450.30(a)(3)(ii)(F)	447.295.
450.30(a)(3)(ii)(G)	447.296.
450.30(a)(3)(iii) introductory paragraph.	447.278.
450.30(a)(3)(iii)(A)	447.279.
450.30(a)(3)(iii)(B)	447.281.
450.30(a)(3)(iii)(C)	447.282, 447.283.
450.30(a)(3)(iii)(D)	447.284.
450.30(a)(3)(iv) introductory paragraph.	447.301.
450.30(a)(3)(iv)(A)	447.302.
450.30(a)(3)(iv)(B)	447.303.
450.30(a)(3)(iv)(C)	447.304.
450.30(a)(3)(iv)(D)	447.305.
450.30(a)(3)(iv)(E)	447.306.
450.30(a)(3)(iv)(F)	447.307.
450.30(a)(3)(v)	447.311.
450.30(a)(3)(vi)	447.272.
450.30(a)(4)	447.252.
450.30(a)(5)	447.202.
450.30(a)(6)	447.203.
450.30(a)(7)	447.204.
450.30(a)(8)	447.15.
450.30(a)(9)	Obsolete.
450.30(b) introductory paragraph, 1st sentence.	447.252.
450.30(b) introductory paragraph, 2d sentence.	Surplusage.
450.30(b) introductory paragraph, 3d sentence.	447.252.
450.30(b) introductory paragraph, last sentence.	447.40.
450.30(b)(1) words before "or, in the case of".	447.262.
450.30(b)(1) words after "for such services".	Redundant.
450.30(b)(2) introductory paragraph.	447.331.
450.30(b)(2)(i)	447.333.
450.30(b)(2)(ii)	447.332.
450.30(b)(2)(iii)	447.332.
450.30(b)(2)(iv) 1st sentence.	447.334.
450.30(b)(2)(iv) 2d sentence.	Redundant.
450.30(b)(3) (i), (ii)(A)	447.341.
450.30(b)(3)(ii)(B)	Obsolete.
450.30(b)(3)(ii)(C)	447.341.
450.30(b)(4)	447.351.
450.30(b)(5)	447.321, 447.322.
450.30(b)(6)(i)	447.316.
450.30(b)(6)(ii)	447.315.
450.30(b)(6)(iii)	447.315.

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Old section	New section
450.30(b)(7)	447.361.
450.30(c)	447.252.
450.30(d)(1)	447.252.
450.30(d)(2)	447.40.
450.31	433.135.
450.41	431.105.
450.70	431.115.
450.71	433.37.
450.80(a)(1)	455.12, 455.13, 455.11.
450.80(a)(2)	455.13.
450.80(a)(3)	455.13.
450.80(a)(4)	455.17.
450.80(a)(5)(i)	455.18.
450.80(a)(5)(ii)	455.19.
450.80(a)(5)(iii)	455.18.
450.80(a)(6)	455.20.
450.80(a)(7)	455.22.
450.80(a)(8)	456.21.
450.80(b)(1)	455.14.
450.80(b)(2)	455.15, 455.16.
450.80(c)	455.23.
450.80(d)	455.21.
450.90(a)	433.111.
450.90(b)(1)	433.112.
450.90(b)(2)	433.113.
450.90(b)(3)	433.114.
450.90(b)(4)	Unnecessary.
450.100 except (c), words "excluding * * * Massachusetts".	431.610.
450.100(c), words "excluding * * * Massachusetts".	442.12.
450.210	447.35.
450.220	447.30.

PART 451

Old section	New section
451.10	431.615.

PART 452

Old section	New section
452.10(a)	431.700.
452.10(b)(1)	431.701, 431.704.
452.10(b)(2)	431.701.
452.10(b)(3)	431.706.
452.10(b)(4)	431.701.
452.10(b)(5)	431.701.
452.10(b)(6)	431.710.
452.10(b)(7)	431.714.
452.10(c)	431.702.
452.10(c)(1)	431.703.
452.10(c)(2)	431.705.
452.10(c)(2)(i)	431.707.
452.10(c)(2)(ii)	431.708.
452.10(c)(2)(iii) 1st sentence.	431.709.
452.10(c)(2)(iii) 2d and 3d sentences.	431.710.
452.10(c)(2)(iv)	431.711.
452.10(c)(2)(v)	431.712.
452.10(c)(2)(vi)	431.713.
452.10(d)	431.714.
452.10(e)	431.715.

This list includes only new sections based on regulations existing before recodification. Sections containing new material that is introductory or explanatory have not been included.

PART 431

New section	Old section
431.12	448.10.
431.51	449.20.
431.52	448.40(a).
431.53	449.10(a)(5)(ii).
431.105	450.41.
431.107	450.21.
431.110	449.10(a)(11).
431.115	450.70.
431.501	449.82(a).
431.502	449.82(b) (1)–(7), (9)–(11).
431.503	449.82(c)(1) (i)–(ix).
431.504	449.82(c)(1)(x).
431.510	449.82(c)(3).
431.511	449.82(c)(4).
431.512	449.82(c)(2).
431.521	449.82(b)(8).
431.522	449.82(c)(5)(xvi).
431.523–431.526	449.82(c)(5) introductory paragraph words before "a State plan for".
431.527	449.82(c)(5) introductory paragraph words after "and (2) of this section", and (i), (iv).
431.528	449.82(c)(5)(ii).
431.529	449.82(c)(5)(v) words before "which shall be".
431.530	449.82(c)(5)(vi).
431.531	449.82(c)(5)(vii).
431.532	449.82(c)(5)(viii), (ix).
431.533	449.82(c)(5)(x).
431.534	449.82(c)(5)(xi).
431.535	449.82(c)(5)(xii).
431.536	449.82(c)(5)(xiii).
431.537	449.82(c)(5)(xiv).
431.540	449.82(c)(6)(i).
431.541	449.82(c)(5)(v) words after "period of enrollment" and (6)(ii).
431.542	449.82(c)(6)(iii).
431.543	449.82(c)(6)(iv).
431.544	449.82(c)(6)(v).
431.545	449.82(c)(6)(vi).
431.546	449.82(c)(6)(vii).
431.547	449.82(c)(6)(viii).
431.548	449.82(c)(6)(ix).
431.549	449.82(c)(6)(x).
431.550	449.82(c)(6)(xi).
431.557–431.560	449.82(c)(5) words before "a State plan for".
431.565	449.82(c)(5)(xv).
431.568	449.82(c)(5) introductory paragraph words after "and (2) of this section" and (i) 1st sentence, (iv).
431.569	449.82(c)(5)(ii).
431.570	449.82(c)(5)(v) words before "which shall be".
431.571	449.82(c)(5)(vi).
431.572	449.82(c)(5)(vii).
431.573	449.82(c)(5) (viii) and (ix).
431.574	449.82(c)(5)(x).
431.575	449.82(c)(5)(xi).
431.576	449.82(c)(5)(xii).
431.577	449.82(c)(5)(xiii).
431.578	449.82(c)(5)(xiv).
431.580	449.82(c)(6)(i).
431.581	449.82(c)(5)(v) words after "period of enrollment" and (6)(ii).
431.582	449.82(c)(6)(iii).
431.583	449.82(c)(6)(iv).
431.584	449.82(c)(6)(v).
431.585	449.82(c)(6)(vi).
431.586	449.82(c)(6)(vii).
431.587	449.82(c)(6)(ix).
431.588	449.82(c)(6)(x).
431.589	449.82(c)(6)(xi).
431.591	449.82(d)(1).
431.592	449.82(d)(2).
431.593	449.82(d)(3).
431.594	449.82(d)(4)(iii).
431.595	449.82(d)(4)(iv).
431.596	449.82(d)(4)(v).

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New section	Old section
431.597	449.82(d)(4)(i), (ii).
431.610	450.100.
431.615	451.10.
431.625	449.41.
431.700	452.10(a).
431.701	452.10(b) (1), (2), (4), (5).
431.702	452.10(c).
431.703	452.10(c)(1).
431.704	452.10(b)(1).
431.705	452.10(c)(2).
431.706	452.10(b)(3).
431.707	452.10(c)(2)(i).
431.708	452.10(c)(2)(ii).
431.709	452.10(c)(2)(iii) 1st sentence.
431.710	452.10(b)(6) and 452.10(c)(2)(iii) 2d and 3d sentences.
431.711	452.10(c)(2)(iv).
431.712	452.10(c)(2)(v).
431.713	452.10(c)(2)(vi).
431.714	452.10(b)(7) and 452.10(d).
431.715	452.10(e).

PART 432

New section	Old section
432.2	446.151.
432.10	446.160.
432.30	446.170.
432.31	446.165.
432.32	446.166.
432.50	446.175.
432.55	446.180.
432.60	446.185.

PART 433

New section	Old section
433.36	449.70.
433.37	450.71.
433.111	450.90(a).
433.112	450.90(b)(1).
433.113	450.90(b)(2).
433.114	450.90(b)(3).
433.135	450.31.

PART 435

New section	Old section
435.2	"Note" at beginning of 448.1.
435.10	448.1(b) 1st sentence. 448.1(c) 1st sentence. 448.1(e). 448.3(a)(1)(ii)(c), 1st sentence.
435.110	448.1(b)(1)(i). 448.10(b)(1)(i).
435.111	448.1(b)(1)(ii).
435.112	448.1(b)(1)(iii).
435.113	448.1(b)(3)(i).
435.114	448.1(b)(3)(ii).
435.120	448.1(b)(2)(i).
435.121	448.1(b)(2)(iii).
435.122	448.1(b)(3)(i).
435.130	448.1(b)(2)(iv).
435.131	448.1(b)(2)(v).
435.132	448.1(b)(2)(vi).
435.133	448.1(b)(2)(vii).
435.134	448.1(b)(3)(ii).
435.135	448.1(b)(2)(viii).
435.200	448.1(c) 1st sentence.
435.210	448.1(c)(1).
435.211	448.1(c)(2).
435.220	448.1(c)(6).
435.221	448.1(c)(5).

PART 435—Continued

New section	Old section
435.222	448.1(c)(4).
435.223(a)	448.1(c)(3).
435.230	448.1(b)(2)(ii). 448.2(d).
435.231	448.2(e).
435.301	448.1(a)(2)(i). 448.1(d)(1).
435.310	448.1(d)(1).
435.320	448.1(d)(1).
435.321	448.1(a)(1)(ii)(A) and (d)(1).
435.325	448.1(d)(2).
435.401	448.2 (a) and (c).
435.402	448.50.
435.403	448.40(b).
435.404	448.3(b)(6).
435.510	448.1(c) and 448.2(b)(1).
435.520	448.30(a), (b) (2), (3).
435.530	448.70(a)(1).
435.531	448.70(a) (2), (3), (b), (c)(1).
435.540	448.80(a)(1).
435.541	448.80(a)(2), (b), (c)(1).
435.602	448.3(b)(1)(iii).
435.603	448.3(b)(1)(ii).
435.711	448.3(a)(1)(i).
435.712	448.3(b)(1)(i), (5) (i)–(iii).
435.721	448.2(e), 448.3(a)(1)(ii)(A) and (B), (b)(2)(iii).
435.722	448.2(e).
435.723	448.3(b)(1)(i), (2).
435.724	448.3(b)(1)(i), (3).
435.725	448.3(b) (7), (8).
435.731	448.3(b)(7), (b)(9).
435.732	448.1 (a)(1)(ii), (b)(2)(iii), 448.3(b) (8), (9).
435.733	448.3(b)(8).
435.734	448.3(b)(4).
435.740	448.1(a)(3).
435.811	448.3(b)(2)(iv), (3)(v), (5)(v), (c)(1)(i). 448.4(b)(4)(ii).
435.812	448.3(c)(1)(ii)(B), (iii).
435.813	448.3(b)(7).
435.814	448.3(b)(2)(iv), (3)(v), (5)(iv), (c)(1)(ii)(B), (iii).
435.815	448.3(b)(2)(iv), (7).
435.816	448.3(b)(3)(v), (5)(iv)(c)(1)(ii)(A), 448.4(b)(4)(ii)(B).
435.821	448.3(b)(5).
435.822	448.3 (b) (2), (3).
435.823	448.3(b)(4).
435.831	448.1(a)(2)(ii), (b)(2)(iv), (3)(v), (5)(iv), (c)(2), (3), (4).
435.832	448.3(b) (7), (8).
435.840	448.3(c)(1)(iv).
435.841	448.3(c)(1)(iv).
435.845	448.3(c) (3), (4).
435.1001	448.4(a), 448.70(c)(2), and 448.80(c)(2).
435.1002	448.4(b) (1), (5), (8).
435.1003	448.4(b)(7).
435.1004	448.4(b)(6).
435.1005	448.4(b)(3), (c).
435.1006	448.3(a)(1)(ii)(B)(2) 448.4(b)(3), (c).
435.1007	448.4(b)(4), (c).
435.1008	448.4(b)(2), 448.60(a)(1)–(3)(i), (iv).
435.1009	448.60(a)(3)(ii), (iii)(b) (1)–(11), 449.10(d)(1).
435.1010	448.4(d).
435.1011	448.4(e).

PART 436

New section	Old section
436.10	448.10(b), 448.21(a).
436.110	448.10(b)(1)(i).
436.111	448.10(b)(1)(iii).
436.112	448.10(b)(3).

PART 436—Continued

New section	Old section
436.115	448.10(b)(1)(ii).
436.116(a)	448.10(b)(4).
436.210	448.10(b)(2)(i).
436.211	448.10(b)(2)(ii).
436.212	448.10(b)(2)(iii).
436.220	448.10(b)(2)(vi).
436.221	448.10(b)(2)(v).
436.222	448.10(b)(2)(iv).
436.230	448.11.
436.301	448.10(b)(5) 1st sentence.
436.310	448.10(b)(5) 1st sentence.
436.320	448.10(b)(5) 1st sentence.
436.330	448.10(b)(5) 1st sentence.
436.401	448.10(c)(1), (3)(4).
436.402	448.50.
436.403	448.40.
436.404	448.21(a)(2)(vi).
436.510	448.10(c)(3).
436.520	448.30.
436.530	448.70.
436.531	448.70.
436.540	448.80.
436.541	448.80.
436.602	448.21(a)(2)(ii).
436.603	448.21(a)(2)(i)(c) 4st sentence words after "applicant or recipient" and 2d sentence.
436.711	448.21(a)(1)(i), (a)(2)(iv), (v).
436.811	448.21(a)(3)(i)(A).
436.812	448.21(a)(3)(i)(B); 448.21(a)(2)(v).
436.813	448.21(a)(3)(i)(C).
436.821	448.21(a)(2)(iv), (v).
436.831	448.21(a)(3)(ii), (iii), (iv).
436.832	448.21(a)(3)(i)(C) except 1st and 2d sentence.
436.840	448.21(a)(3)(i)(D).
436.845	448.21(a)(3)(iii), (iv).
436.1001	448.10(d).
436.1002(a)	448.10(d)(1).
436.1002(b)	448.10(d)(3).
436.1003	448.10(d)(4).
436.1004(a)	448.10(d)(2) paragraph after (vi).
436.1004(b)	448.60(a)(3)(i).
436.1004(c)	448.60(a)(3)(iv).
436.1005	448.60.

PART 440

New section	Old section
440.2	449.10(b) introductory paragraph: 449.10(d)(1).
440.10	449.10(b)(1).
440.20	449.10(b)(2).
440.30	449.10(b)(3).
440.40	449.10(b)(4)(i)(A), (C), (ii) 1st sentence.
440.50	449.10(b)(5).
440.60	449.10(b)(6).
440.70	449.10(b)(7).
440.80	449.10(b)(8).
440.90	449.10(b)(9).
440.100	449.10(b)(10).
440.110	449.10(b)(11).
440.120	449.10(b)(12).
440.130	449.10(b)(13).
440.140	449.10(b)(14).
440.150	449.10(b)(15)(i)(A) 1st sentence, (B), (iii).
440.160	449.10(b)(16) introductory paragraph.
440.170	449.10(b)(17).
440.210	449.10(a)(1).
440.220	449.10(a)(2).
440.230	449.10(a)(5)(i).
440.240	449.10(a)(6) introductory paragraph and (7).
440.250	449.10(a)(6)(i)–(vii).
440.260	449.10(a)(8).

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PART 441

New section	Old section
441.11	449.10(d)(3).
441.13	449.10(c) (1), (2).
441.15	449.10(a)(4).
441.20	449.10(a)(9).
441.30	449.10(a)(10).
441.40	449.10(c)(4).
441.51	449.10(a)(3) introductory paragraph.
441.52	449.10(b)(4)(ii) 2d and 3d sentences.
441.53	449.10(a)(3)(iv).
441.54	449.10(a)(3)(i).
441.55	449.10(a)(3)(ii).
441.56	449.10(a)(3)(iii).
441.151	449.10(b)(16)(i), (ii).
441.152	449.10(b)(16)(iii) introductory paragraph.
441.153	449.10(b)(16)(iii)(A) words after "of these regulations", and (C)–(E).
441.154	449.10(b)(16)(iii)(A) words before "and for whom".
441.155	449.10(b)(16)(iv)(B).
441.156	449.10(b)(16)(iv)(C).
441.181	449.10(c)(5)(ii) (A)–(G).
441.182	449.10(c)(5) (i) and (ii) introductory paragraph.
441.201	449.101.
441.202	449.102.
441.203	449.103.
441.204	449.104.
441.205	449.105.
441.206	449.106.
441.207	449.107.
441.208	449.108.

PART 442

New section	Old section
442.1	449.33(a)(1)(ii) words "pursuant to section 1910 of the Act" and (iii) words "pursuant to section 1905 of the Act".
442.10	449.33(a) introductory paragraph.
442.12	449.33(a)(1) except words "(including hospitals)," (6) 2d sentence, words after "of one year", 3d sentence, words before "except that" and after "period of certification" 450.100(c).
442.15	449.33(a)(6) 2d sentence words before "and the effective date" 3d sentence, words before "or may elect".
442.16	449.33(a)(6) 4th sentence.
442.20	449.33(a)(9).
442.30	449.10(b)(4)(i)(C).
442.100	449.33(a)(4) (i) and (ii) introductory paragraph.

PART 442—Continued

New section	Old section
442.101	449.33(a)(1) introductory paragraph except words "(including hospitals)," (i),(ii) words before "and in the case" except words "pursuant to section 1910 of the Act", (iii) words before "and in the case" except words "Pursuant to section 1905 of the Act", (2) introductory, paragraph except words "(including hospitals and skilled nursing facilities)", (4)(i), (ii) introductory paragraph, (v).
442.105	449.33(a)(4)(ii), (iv)(A), (B) (J).
442.110	449.33(a)(4)(iii) last sentence.
442.111	449.33(a)(4)(iii) last sentence.
442.112	449.33(a)(2)(i) except words "in accordance with paragraph (a)(4)(iii) of this section".
442.113	449.33(a)(2)(ii) except words "in accordance with paragraph (a)(4)(iii)(A) of this section", and paragraphs (A) (2) and (3) and (D).
442.115	449.33(a)(2)(ii)(A)(3).
442.200	449.33(a)(1)(iii) words before "except that", except words "pursuant to section 1905 of the Act".
442.201	449.10(a)(11), (b)(4)(i)(B).
442.202	449.33(a)(1)(i) words after "this chapter," (ii) words after "title XVIII of the Act," (iii) words before "except that" except words "pursuant to section 1905 of the Act".
442.250	449.33(a)(2) introductory paragraph except words "(including hospitals and skilled nursing facilities)".
442.251	449.10(a)(11)(b)(15)(i)(A).
442.252	449.10(b)(15)(i)(C).
442.253	449.33(a)(1)(i) words after "this chapter".
442.254	449.10(b)(15)(ii).
442.300	449.12(a) introductory paragraph.
442.301	449.12(a)(1).
442.302	449.12(a)(1)(i) 1st sentence.
442.303	449.12(b)(1).
442.304	449.12(b)(2).
442.305	449.12(a)(1)(ii)(A).
442.306	449.12(a)(1)(ii)(A)(1)(i).
442.307	449.12(a)(1)(ii)(A)(1) (ii), (iii).
442.308	449.12(a)(1)(ii)(A)(2).
442.309	449.12(a)(1)(ii)(A)(3).
442.310	449.12(a)(1)(ii)(A)(4).
442.311	449.12(a)(1)(ii)(B).
442.312	449.12(a)(1)(ii)(C).
442.313	449.12(a)(1) (iv), (v).
442.314	449.12(a)(1)(vi).
442.315	449.12(a)(1)(vii).
442.316	449.12(a)(2).
442.317	449.12(a)(3).
442.318	449.12(a)(4)(i) (A)–(E), (ii), (iii).
442.319	449.12(a)(4)(i)(C).
442.320	449.12(a)(1)(iii).

PART 442—Continued

New section	Old section
442.321	449.12(a)(5) introductory paragraph, (iii).
442.322	449.12(a)(5)(i).
442.323	449.12(a)(5)(ii), undesignated paragraph following paragraph (iii).
442.324	449.12(a)(6)(i) 1st sentence, (iv).
442.325	449.12(a)(6)(i) 2d and 3d sentences and paragraph (a).
442.326	449.12(a)(6)(i) 2d sentence, (iii).
442.327	449.12(a)(6)(ii).
442.328	449.12(a)(6) (v), (vi).
442.329	449.12(a)(6) (vii), (viii).
442.330	449.12(a)(6)(ix).
442.331	449.12(a)(7) (i), (vi), (vii).
442.332	449.12(a)(7) (ii)–(iv).
442.333	449.12(a)(8)(i).
442.334	449.12(a)(8)(ii).
442.335	449.12(a)(8)(iii).
442.336	449.12(a)(8)(v).
442.337	449.12(a)(8) (iv), (vi).
442.338	449.12(a)(9) introductory paragraph.
442.339	449.12(a)(9)(i) introductory paragraph and (A)–(C).
442.340	449.12(a)(9)(ii).
442.341	449.12(a)(9)(iv).
442.342	449.12(a)(9)(v).
442.343	449.12(b)(3).
442.344	449.12(b)(4).
442.345	449.12(b)(5).
442.346	449.12(b)(6).
442.400	449.13 introductory paragaph, 1st sentence, words after "July 18, 1977".
442.401	449.12(c)(3) introductory paragaph, 2d sentence, and paragraphs (I)–(ix), 449.13(c)(3)(i), (h)(1), (5)–(9).
442.402	449.13(a)(1)(i).
442.403	449.13(a)(1)(ii).
442.404	449.12(a)(1)(ii)(B).
442.405	449,12(a)(1)(ii)(C).
442.406	449.12(a)(1)(iii), 449.13(a)(1)(iii).
442.407	449.13(a)(1)(iv).
442.408	449.13(a)(1)(v).
442.409	449.13(a)(1) (vi), (vii)(h)(2), (4).
442.410	449.13(c)(2),449.13(a)(1)(viii), (h)(2).
442.411	449.12(c)(3) introductory paragraph, 1st sentence, 449.13(c)(3)(vi).
442.412	449.13(a)(1)(ix).
442.413	449.13(a)(1)(x).
442.414	449.13(a)(1)(xi).
442.415	449.12(a)(1)(vii).
442.416	449.13(e).
442.417	449.12(a)(3)(i).
442.418	449.12(c)(1), 449.13(a)(2)(i) introductory paragraph, 1st sentence (iii), (iv).
442.419	449.13(a)(2)(ii).
442.420	449.13(a)(2)(i) introductory paragraph, 2d. sentence, and (A), (B).
442.421	449.13(a)(2)(v).
442.422	449.13(a)(2)(vi).
442.423	449.13(a)(2)(vii).
442.424	449.13(a)(2) (viii), (ix), (d)(2)(iv).
442.425	449.12(a)(2), 449.13(a) (viii), (x).
442.426	449.13(a)(2) (xi), (xii).
442.427	449.13(a)(3) (ii), (vi), (xi).
442.428	449.13(a)(3) (iii), (iv).

PART 442—Continued

New section	Old section
442.429	449.13(a)(3)(v).
442.430	449.13(a)(3)(vii).
442.431	449.13(a)(3)(viii).
442.432	449.13(a)(3) (ix), (x).
442.433	449.13(b)(1) (i), (ii).
442.434	449.13(b)(1)(iii).
442.435	449.13(b)(1) (iv)–(vi).
442.436	449.13(b)(1)(vii).
442.437	449.13(b)(1) (viii)–(x).
442.438	449.13(b)(1)(xi) introductory paragraph, (A)–(C), (D) 2d sentence.
442.439	449.13(b)(1)(xi)(D) 1st sentence, (E).
442.440	449.13(b)(1)(xii).
442.441	449.13(b)(1)(xiii), (h)(10).
442.442	449.13(b)(2).
442.443	449.13(b)(3).
442.444	449.13(b)(4).
442.445	449.13(b)(5).
442.446	449.12(a)(6)(i).
442.447	449.12(a)(6)(i), 449.13(b)(6)(i).
442.448	449.12(a)(6)(i), 449.13(b)(6)(ii).
442.449	449.13(b)(6) (iii), (iv), (xiii).
442.450	449.13(b)(6) (v), (vi), (xi).
442.451	449.13(b)(6) (vii), (viii), (x).
442.452	449.13(b)(6)(ix).
442.453	449.13(b)(6)(xii).
442.454	449.13(c)(1).
442.455	449.13(c)(1)(i).
442.456	449.13(c)(1)(ii).
442.457	449.13(c)(2)(i).
442.458	449.13(c)(2)(ii).
442.459	449.13(c)(2)(iii).
442.460	449.13(c)(2)(iv).
442.461	449.13(c)(2)(v).
442.462	449.13(c)(2)(vi).
442.463	449.13(c)(3) (i)–(v).
442.464	449.13(c)(3)(vi).
442.465	449.13(c)(4)(i).
442.466	449.13(c)(4) (ii), (iii), (iv) introductory paragraph, 1st sentence.
442.467	449.13(c)(4)(iv) introductory paragraph, 2d sentence, (A)–(C),(vi),(vii) 3d sentence.
442.468	449.13(c)(4)(v).
442.469	449.13(c)(4)(vii) 1st and 2d sentences.
442.470	449.13(c)(4)(vii) 4th and 5th sentences.
442.471	449.13(c)(4) (viii), (ix).
442.472	449.13(c)(4) (x), (xi).
442.473	449.13(c)(4) (xii)–(xiv).
442.474	449.12(a)(9) introductory paragraph, 449.13(c)(5) (i), (ii), (viii).
442.475	449.13(c)(5) (iii), (iv).
442.476	449.12(a)(3)(ii), 449.13(c)(5) (vi), (vii).
442.477	449.13(c)(5)(v).
442.478	449.12(a)(9)(v) words before "and, in the case of," 449.13(c)(6) (i), (ii).
442.479	449.13(c)(6)(iii).
442.480	449.13(c)(6) (iv), (v).
442.481	449.12(a)(9) (i)–(iv).
442.482	449.13(c)(7)(i) 2d sentence, (ii), (iii).
442.483	449.13(c)(7)(i) 1st sentence, (iv)–(vi).
442.484	449.13(c)(7)(vii), (ix)–(xi).
442.485	449.13(c)(7)(viii).
442.486	449.13(c)(8) (i)–(iii).
442.487	449.13(c)(8)(iv).
442.488	449.13(c)(8) (v), (vi).
442.489	449.13(c)(9) (i), (v).
442.490	449.13(c)(9) (ii)–(iv), (vi).
442.491	449.13(c)(10) (i), (v), (vi).

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New section	Old section
442.492	449.13(c)(10)(ii).
442.493	449.13(c)(10) (iii), (iv).
442.494	449.13(c)(11)(i).
442.495	449.13(c)(11) (ii)–(vi).
442.496	449.13(c)(12) (i), (ii).
442.497	449.13(c)(12) (iii), (iv).
442.498	449.13(c)(12) (v), (vi).
442.499	449.13(d)(1) (i)–(iii).
442.500	449.13(d)(2)(i).
442.501	449.13(d)(2) (ii)–(iv).
442.502	449.13(d)(3).
442.503	449.13(d)(4).
442.504	449.13(d)(5).
442.505	449.13(f)(1)(i).
442.506	449.13(f)(1) (ii), (iii).
442.507	449.12(a)(5) introductory paragraph, (iii).
442.508	449.12(a)(5)(i).
442.509	449.12(a)(5) (ii), undesignated paragraph following paragraph (iii).
442.510	449.13(f)(1)(v).
442.511	449.12(a)(6)(ix), 449.13(f)(1)(iv).
442.512	449.13(f)(2).
442.513	449.13(g)(1).
442.514	449.13(g)(2).
442.515	449.13(g)(3).
442.516	449.13(g)(4).

PART 447

New section	Old section
447.10	449.31.
447.15	450.30(a)(6).
447.25	449.32.
447.30	450.220.
447.35	450.210.
447.40	450.30(b) introductory paragraph, last sentence, and (d)(1).
447.51	449.40(a)(1) words before "and no deduction" and (2) introductory paragraph.
447.52	449.40(a)(2) (i), (ii).
447.53	449.40(a)(1) words after "under the plan" and (3) introductory paragraph.
447.54	449.40(a)(3) (i), (ii), (iv).
447.55	449.40(a)(3)(iii).
447.56	449.40(a)(3)(v).
447.57	449.40(a)(3)(vi) 1st sentence.
447.58	449.40(a)(3)(vi) 2d sentence.
447.59	449.40(b).
447.201	450.30(a)(1).
447.202	450.30(a)(5).
447.203	450.30(a)(6).
447.204	450.30(a)(7).
447.251	450.30(a)(3) introductory paragraph, words after "cost-related basis".
447.252	450.30(b) introductory paragraph, except 2d and last sentences, (C), (d)(1).
447.261	450.30(a)(2) except (iii).
447.262	450.30(b)(1) except words after "for such services".
447.272	450.30(a)(3)(vi).
447.273	450.30(a)(3) introductory paragraph, words before "as determined".
447.274	450.30(a)(3)(i)(B), (D).
447.275	450.30(a)(3)(i)(A).
447.276	450.30(a)(3)(i)(C).
447.277	450.30(a)(3)(i)(E), (F).
447.279	450.30(a)(3)(ii)(A).
447.281	450.30(a)(3)(ii)(B).

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New section	Old section
447.282	450.30(a)(3)(iii)(C).
447.283	450.30(a)(3)(iii)(C).
447.284	450.30(a)(3)(iii)(D).
447.290	450.30(a)(3)(i) introductory paragraph, words after "of this section".
447.291	450.30(a)(3)(ii)(B).
447.292	450.30(a)(3)(ii)(D).
447.293	450.30(a)(3)(ii)(E) except words after "exceptional profiles".
447.294	450.30(a)(3)(ii) introductory paragraph, 2d sentence and (A).
447.295	450.30(a)(3)(ii)(F).
447.296	450.30(a)(3)(ii)(G).
447.302	450.30(a)(3)(iv)(A).
447.303	450.30(a)(3)(iv)(B).
447.304	450.30(a)(3)(iv)(C)
447.305	450.30(a)(3)(iv)(D)
447.306	450.30(a)(3)(iv)(E)
447.307	450.30(a)(3)(iv)(F)
447.311	450.30(a)(3)(v).
447.315	450.30(b)(6) (ii), (iii).
447.316	450.30(b)(6)(i).
447.321	450.30(b)(5).
447.322	450.30(b)(5).
447.341	450.30(b)(3) except (ii)(B).
447.351	450.30(b)(4).

PART 455

New section	Old section
455.11	450.80(a)(1) last sentence.
455.12	450.80(a)(1) 1st sentence.
455.13	450.80(a)(1) 1st sentence, (2), (3).
455.14	450.80(b)(1).
455.15, 455.16	450.80(b)(2).
455.17	450.80(a)(4).
455.18	450.80(a)(5) (i), (iii).
455.19	450.80(a)(5)(ii), (8).
455.20	450.80(a)(6).
455.21	450.80(d).
455.22	450.80(a)(7).
455.23	450.80(e).
455.104	449.33(a)(3).
455.300	450.310.

REDESIGNATION TABLE

PART 456—UTILIZATION CONTROL

New section	Old section
456.2	450.18 introductory paragraph, 450.23(a), 450.24(a) introductory paragraph except parenthetical note.
456.3	450.18(a), (iii), (4), (5).
456.4	450.18(b).
456.5	450.18(c).
456.6	450.18(d) words before "and will perform."
456.22	450.18(a)(1)(i).
456.23	450.18(a)(1)(ii).
456.60	450.18(a)(2).
456.80	450.18(a)(3) (i) and (iii).
456.101	450.19(a) first two words and words after "intermediate care facility."
456.102	450.19(a)(1) introductory paragraph.
456.105	450.19(a)(1)(ii) introductory paragraph and (v).

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PART 456—Continued

New section	Old section
456.106 (b) and (c)	450.19(a)(1)(ii).
456.111	450.19(a)(1) (vii) and (ix) words after "admission is necessary" and before "based on the patient's."
456.112	450.19(a)(1)(vi).
456.113	450.19(a)(1)(i).
456.121	450.19(a)(1)(viii) introductory paragraph words before "within one working day."
456.122	450.19(a)(1)(viii)(B), 1st and 2d sentences except words after "criteria and" and before "are applied."
456.123	450.19(a)(1)(viii) introductory paragraph words after "of such application", (B) 1st and 2d sentences, (C), (D), (E) words before "and written notification", (F) words before "written notification thereof", and (ix) words before "is recorded."
456.124	450.19(a)(1)(viii)(E) words after "shall be considered final" and (F) words after "is not necessary."
456.125	450.19(a)(1)(viii) introductory paragraph words before "by the committee" except parenthetical notes.
456.126	450.19(a)(1)(viii)(A).
456.127	450.19(a)(1)(viii) parenthetical note.
456.128	450.19 (a)(1)(ix).
456.129	450.19(a)(1)(iii) (A) and (C), and (iv).
456.132	450.19(a)(1)(x)(C) 1st and 2d sentences except words after "criteria and" and before "are applied."
456.133	450.19(a)(1)(x)(D) words after "shall be determined."
456.134	450.19(a)(1) (iii)(C) and (iv).
456.135	450.19(a)(1)(x) (B), (C) words before "The single State agency", (D), (E), (F), (G) words before "and written notification", and (H) words before "written notification."
456.136	450.19(a)(1)(x)(G) words after "shall be considered final" and (H) words after "has not been justified."
456.137	450.19(a)(1)(x)(A).
456.141	450.19(a)(1)(xi).
456.142	450.19(a)(1)(iii)(B), (xi)(B), and (xii).
456.143	450.19(a)(1)(xi)(A) 3d and 4th sentences.
456.144	450.19(a)(1)(xi)(A) 6th sentence.
456.145	450.19(a)(1)(xi)(A) 5th sentence.
456.160	450.18(a)(2).
456.170	450.23(a)(1) introductory paragraph 1st and 2d sentences, (i) and (iv).
456.171	450.18(a)(1)(v) last sentence.

PART 456—Continued

New section	Old section
456.180	450.18(a)(3)(ii), 450.23(a)(1) introductory paragraph 1st and 2d sentences, (ii), and (iv).
456.201(a)	450.19(a) introductory paragraph 1st word, "mental hospital", words after "review plan" and (2) introductory paragraph.
456.205	450.19(a)(2)(ii) introductory paragraph and (v).
456.206 (b) and (c)	450.19(a)(2)(ii).
456.211	450.19(a)(2) (vii), (viii) last sentence and (ix)(D) 1st sentence words after "is appropriate and."
456.212	450.19(a)(2)(vi).
456.213	450.19(a)(2)(i).
456.231	450.19(a)(2)(viii) words before "on or before a specified date."
456.232	450.19(a)(2)(ix)(C) 1st sentence.
456.233	450.19(a)(2)(viii) words after "necessity of continued stay" and before "Subsequent reviews"; and last sentence.
456.234	450.19(a)(2)(viii) words after "30 days after admission." and before "The assigned review date", and (ix)(D) words after "date assigned."
456.235	450.19(a)(2) (iii) (B) and (iv).
456.236	450.19(a)(2)(ix) (B), (C) 1st and 2d sentences, (D)-(G) words before "and written notification", and (H) words before "written notification."
456.237	450.19(a)(2)(ix)(G) words after "considered final" and (H) words after "mental hospital services."
456.238	450.19(a)(2)(ix)(A).
456.241	450.19(a)(2)(x)(A) 1st and 2d sentence.
456.242	450.19(a)(2) (iii)(A), (x)(B), and (xi).
456.243	450.19(a)(2)(x)(A) 3d and 4th sentences.
456.244	450.19(a)(2)(x)(A) last sentence words before "and (B)."
456.245	450.19(a)(2)(x)(A) 5th sentence.
456.260	450.18(a)(2).
456.270	450.23(a)(1) introductory paragraph 1st and 2d sentences, (i) and (iv).
456.271	450.18(a)(1)(v) last sentence.
456.280	450.18(a)(3) (ii), (iv), 450.23(a)(1) introductory paragraph 1st and 2d sentences and (ii).
456.281	450.18(a)(3)(iv), 450.23(a)(1)(ii).
456.301	450.19(a) introductory paragraph except "hospital, mental hospital" and "intermediate care facility."
456.302	450.19(a)(3) introductory paragraph.

PART 456—Continued

New section	Old section
456.305	450.19(a)(3)(ii) introductory paragraph and (v).
456.306 (b) and (c)	450.19(a)(3)(ii) (A) and (B).
456.311	450.19(a)(3) (vii), (viii) introductory paragraph words after "such application" and before "and is either:"; and (ix)(C) words after "is appropriate" and before "At the expiration."
456.312	450.19(a)(3)(vi).
456.313	450.19(a)(3)(i).
456.331	450.19(a)(3)(viii) words before "on or before a specified date."
456.332	450.19(a)(3)(ix)(B) 2d sentence except words "and closer professional scrutiny."
456.333	450.19(a)(3)(viii)(A) words before "but at least."
456.334	450.19(a)(3)(viii)(A) words after "functional capabilities", (B), and (ix)(C) words after "date assigned."
456.335	450.19(a)(3)(iii)(B) and (iv).
456.336	450.19(a)(2)(ix) (A), (B) words before "The single State agency", (C), (D), (E), (F) words before "and written notification", and (G) words before "written notification."
456.337	450.19(a)(3)(ix)(F) words after "shall be considered final" and before "not later than" and words after "the assigned review date"; and (G) words after "nursing facility services" and before "not later than" and words after "assigned review date."
456.338	450.19(a)(3)(ix)(F) words after "shall be sent" except (*1*)-(*4*), and (G) words after "shall be made" except (*1*)-(*4*).
456.341	450.19(a)(3)(x)(A) 1st and 2d sentences.
456.342	450.19(a)(3)(iii)(A), (x)(B).
456.343	450.19(a)(3)(x)(A) 3d and 4th sentences.
456.344	450.19(a)(3)(x)(A) 6th sentence.
456.345	450.19(a)(3)(x)(A) 5th sentence.
456.346	450.18(a)(1)(iv).
456.347	450.18(a)(1)(iv).
456.348	450.18(a)(1)(iv).
456.360	450.18(a)(2).
456.370	450.24(a)(1)(i) (A)-(C) 1st sentence.
456.371	450.24(a)(1)(i)(C) 2d sentence.
456.372	450.18(a)(1)(v) last sentence.
456.380	450.18(a)(3)(ii), 450.24(a)(1)(ii).
456.381	450.24(a)(1)(iii).
456.401	450.19(a) introductory paragraph first word, words after "skilled nursing facility and", (4) 2d sentences except (i)-(vii).

PART 456—Continued

New section	Old section
456.402	450.19(a)(4) introductory paragraph parenthetical note.
456.405	450.19(a)(4)(ii)(A) 1st sentence except words "and by whom."
456.406	450.19(a)(4)(ii)(A) words after "How, when, and."
456.407	450.19(a)(4)(ii)(B).
456.411	450.19(a)(4) (v) and (vii)(C) words after "determined and" and before "in accordance with."
456.412	450.19(a)(4)(iv).
456.413	450.19(a)(4)(i).
456.431	450.19(a)(4)(vi) words before "or more frequently" and words after "time of assessment."
456.432	450.19(a)(4)(vii)(B) 2d sentence except words "and closer professional scrutiny."
456.433	450.19(a)(4)(vi) 1st sentence, words after "for continued stay."
456.434	450.19(a)(4) (vi) 1st sentence, words after "for continued stay" and (vii)(C) words after "date assigned."
456.435	450.19(a)(4)(iii).
456.436	450.19(a)(4)(vii) (A)-(F) words before "and written notification" and (G) words before "written notification."
456.437	450.19(a)(4)(vii)(F) words after "shall be considered final" to words before "not later than" and words after final determination, and (G) words after "intermediate care facility services" and before "not later than" and words after "such final determination."
456.438	450.19(a)(4)(vii)(F) words after "shall be considered final" except (*1*)-(*4*), and (G) words after "intermediate care facility services" except (*1*)-(*4*).
456.481	450.23(a)(1) 3d sentence.
456.482	450.23(a)(1) 3d sentence.
456.501	450.20(c) 1st sentence.
456.505	450.19(b) 1st sentence.
456.506	450.19(b) 6th to 8th sentences; and 450.20(c) 2d to 4th sentences.
456.507	450.19(b) 2d and 3d sentences.
456.508	450.19(b) 4th sentence.
456.520	450.19(c)(1)(i).
456.521	450.19(c)(2), (5) 1st sentence, and (6).
456.522	450.19(c) (3), (4), and (7).
456.523	450.19(c) (5) 2d sentence and (8) 2d sentence.
456.524	450.19(c) (6) 1st sentence and (9) 1st sentence.
456.525	450.19(c)(9) 2d and 3d sentences.
456.601	450.24(a) parenthetical note.
456.602	450.23(a)(2) (i) and (ii) and 450.24(a)(2)(i).
456.603	450.23(a)(2)(iii) and 450.24(a)(2)(ii).
456.604	450.23(a)(3)(ii) and 450.24(a)(3)(ii).

PART 456—Continued

New section	Old section
456.605	450.23(a)(3)(i) and 450.24(a)(3)(i).
456.606	450.23(a)(3)(iii) and 450.24(a)(3)(iii).
456.607	450.23(a)(3)(iii) and 450.24(a)(3)(iv).
456.608	450.23(a)(3)(v) 1st and 2d sentences and 450.24(a)(3)(v) 1st 3 sentences.
456.609	450.23(a)(3)(v) 3d sentence and 450.24(a)(3)(v) 4th sentence.
456.610	450.23(a)(3)(v) (A)-(F) and 450.24(a)(3)(v) (A)-(G).
456.611	450.23(a)(4)(i) and 450.24(a)(4)(i).
456.612	450.23(a)(4)(ii) and 450.24(a)(4)(ii).
456.613	450.23(a)(4)(iii) and 450.24(a)(4)(iii).
456.614	450.23(b) and 450.24(c).

42 CFR Chapter IV, Subchapter C, is revised by revoking parts 446, 448, 449, 450, 451, and 452 and adding new parts 430, 431, 432, 433, 435, 436, 440, 441, 442, 447, 455, and 456 as set forth below:

NOTE.—The regulations in subchapter C were reorganized and rewritten for clarity and simplicity, without policy change, effective October 1, 1978. Under HEW's Operation Common Sense, HCFA is publishing substantive changes in these regulations as proposed rulemaking.

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

Subpart A—Introduction; Definitions

Sec.
430.0 Introduction to subchapter C.
430.1 Definitions.

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Introduction; Definitions

§ 430.0 Introduction to subchapter C.

(a) *Program description.* Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services.

(b) *Federal regulations.* (1) The regulations in subchapter C set forth State plan requirements, standards, procedures, and conditions for obtaining Federal matching. Each part (or subpart or section) in the subchapter describes the specific statutory basis for the regulation. However, where the basis is the Secretary's general authority to issue regulations for any program under the Act (sec. 1102 of the Act), or his general authority to prescribe State plan requirements needed for proper and efficient administration of the plan (sec. 1902(a)(4)), those statutory provisions are simply cited without further description.

(2) Related HEW regulations applicable to State medicaid programs include the following in 45 CFR Subtitle A:

Part 16—Department Grant Appeals Process.
Part 19—Limitations on Payment or Reimbursement for Drugs.
Part 70—Standards for a Merit System of Personnel Administration.
Part 74—Administration of Grants.
Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health, Education, and Welfare: Effectuation of Title VI of the Civil Rights Act of 1964.
Part 81—Practice and Procedure for Hearings Under 45 CFR Part 80.
Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance.

(3) Regulations in 45 CFR parts 201, 204, 205, 206, 208, and 213 also apply to the medicaid program, to the extent specified.

§ 430.1 Definitions.

In this subchapter, unless the context indicates otherwise—

"Act" means the Social Security Act, and titles referred to are titles of that Act;

"Administrator" means the Administrator, Health Care Financing Administration;

"Applicant" means an individual whose written application for medicaid has been submitted to the agency determining medicaid eligibility, but has not received final action. This includes an individual (who need not be alive at the time of application) whose application is submitted through a representative or a person acting responsibly for the individual;

"Bureau Director" means the Director of the Federal medicaid program with HCFA;

"Central office" means the headquarters office of HCFA;

"Federal financial participation" (FFP) means the Federal Government's share of a State's expenditures under the medicaid program;

"FMAP" means the Federal medical assistance percentage, which is used to calculate the amount of the Federal share of State expenditures for services;

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"HEW" means the Department of Health, Education, and Welfare;

"HCFA" means the Health Care Financing Administration;

"Medicaid" means medical assistance provided under a State plan approved under title XIX of the Act;

"Medicaid agency" or "the agency" means the single State agency administering or supervising the administration of a State medicaid plan;

"Medicare" means the health insurance program for the aged and disabled under title XVIII of the Act;

"Provider" means any individual or entity furnishing medicaid services under a provider agreement with the medicaid agency;

"Recipient" means an individual who has been determined eligible for medicaid;

"Regional Administrator" means the Regional Administrator of HCFA;

"Regional Medicaid Director" means the Regional Medicaid Director of the Federal medicaid program;

"Regional office" means one of the regional offices of HCFA;

"Secretary" means the Secretary of Health, Education, and Welfare;

"Services" means the types of medical assistance specified in sec. 1905(a)(1) through (17) of the Act;

"State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

"State plan" or "the plan" means a comprehensive written commitment by a medicaid agency, submitted under sec. 1902(a) of the Act, to administer or supervise the administration of a medicaid program in accordance with Federal requirements.

The masculine gender includes the feminine.

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

Sec.
431.1 Purpose.

Subpart A—Single State Agency

431.12 Medical care advisory committee.

Subpart B—Administrative Requirements: General Program Services

431.51 Free choice of providers.
431.52 Payments for services furnished out of State.
431.53 Assurance of transportation.

Subpart C—Administrative Requirements: Provider Relations

431.105 Consultation to medical facilities.
431.107 Required provider agreement.
431.110 Participation by Indian Health Service facilities.
431.115 Disclosure of survey information and provider/contractor evaluations.

Subparts D-K [Reserved]

Subpart L—Contracts With Fiscal Agents, Health Care Project Grant Centers, Private Nonmedical Institutions, Health Insuring Organizations, Health Maintenace Organizations, and Prepaid Health Plans

GENERAL PROVISIONS

431.501 Basis and purpose.
431.502 Definitions.

CONTRACT REQUIREMENTS

431.503 All contracts.
431.504 Subcontracts.

FISCAL AGENTS, PRIVATE NONMEDICAL INSTITUTIONS AND HEALTH INSURING ORGANIZATIONS

431.510 Fiscal agents.
431.511 Private nonmedical institutions.
431.512 Health insuring organizations.

HEALTH MAINTENACE ORGANIZATIONS

431.520 State plan requirements.
431.521 HMO's with provisional status.

HMO: CONTRACT REQUIREMENTS

431.522 Services and organization.
431.523 Premiums or subscription charges.
431.524 Risk.
431.525 Savings.
431.526 Reinsurance.
431.527 Coverage and enrollment.
431.528 Population.
431.529 Duration or enrollment period.
431.530 Termination of enrollment.
431.531 Choice of health professional.
431.532 Emergency medical services.
431.533 Grievance procedure.
431.534 Quality assurance system.
431.535 Marketing.
431.536 Health care information.
431.537 Medical recordkeeping system.

HMO: STATE AGENCY REQUIREMENTS

431.540 Proof of HMO capability.
431.541 Enrollment.
431.542 Provision of required services.
431.543 System of periodic medical audits.
431.544 Approval of marketing plans, procedures, and materials for enrollment.
431.545 Distribution of general information.
431.546 Payment to contractors.
431.547 Continued service to formerly enrolled recipients.
431.548 Computation of premium rates and subscription charges.
431.549 Monitoring procedures.
431.550 Contracts that provide fewer or more services than are available under the plan.

PREPAID HEALTH PLANS

431.555 State plan requirements.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—RISK BASIS

431.556 Risk-basis contracts; General requirements.
431.557 Premiums or subscription charges.
431.558 Amount of risk.
431.559 Savings.
431.560 Reinsurance.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—NONRISK BASIS

431.565 Nonrisk contract: Allowable payment for services.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—ALL CONTRACTS

431.568 Coverage and enrollment.
431.569 Population.
431.570 Duration of enrollment period.
431.571 Termination of enrollment.
431.572 Choice of health professional.
431.573 Emergency medical services.
431.574 Grievance procedure.
431.575 Quality assurance system.
431.576 Marketing.
431.577 Health care information.
431.578 Medical recordkeeping system.

PREPAID HEALTH PLANS: STATE AGENCY REQUIREMENTS

431.580 Proof of prepaid health plan capability.
431.581 Enrollment.
431.582 Provision of required services.
431.583 Periodic medical audits.
431.584 Approval of marketing plans, procedures, and materials for enrollment.
431.585 Distribution of general information.
431.586 Payment of contractors.
431.587 Computation of premium rates and subscription charges.
431.588 Monitoring procedures.
431.589 Contracts that provide fewer or more services than are available under the plan.

FEDERAL FINANCIAL PARTICIPATION

431.591 Availability of FFP.
431.592 Availability of FFP for HMOs with provisional status.
431.593 Prior approval of contracts over $100,000.
431.594 Costs under risk contracts.
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431.596 Costs under fiscal agent contracts.
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Subpart M—Relations With Other Agencies

431.610 Relations with standard-setting and survey agencies.
431.615 Relations with State health and vocational rehabilitation agencies and title V grantees.
431.625 Coordination of medicaid with medicare part B.

Subpart N—State Programs for Licensing Nursing Home Administrators

431.700 Basis and purpose.
431.701 Definitions.
431.702 State plan requirement.
431.703 Licensing requirement.
431.704 Nursing homes designated by other terms.
431.705 Licensing authority.
431.706 Composition of licensing board.
431.707 Standards.
431.708 Procedures for applying standards.
431.709 Issuances and revocation of licenses.
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431.711 Compliance with standards.
431.712 Failure to comply with standards.
431.713 Continuing study and investigation.
431.714 Waivers.
431.715 Federal financial participation.

Subpart O [Reserved]

Subpart P—Quality Control

431.800 Medicaid quality control (MQC) system.

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

§ 431.1 Purpose.

This part establishes State plan requirements for the designation, organization, and general administrative activities of a State agency responsible for operating the State medicaid program, directly or through supervision of local administering agencies.

Subpart A—Single State Agency

§ 431.12 Medical care advisory committee.

(a) *Basis and purpose.* This section, based on sec. 1902(a)(4) of the Act, prescribes State plan requirements for establishment of a committee to advise the medicaid agency about health and medical care services.

(b) *State plan requirement.* A State plan must provide for a medical care advisory committee meeting the requirements of this section to advise the medicaid agency director about health and medical care services.

(c) *Appointment of members.* The agency director, or a higher State authority, must appoint members to the advisory committee on a rotating and continuous basis.

(d) *Committee membership.* The committee must include—

(1) Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care;

(2) Members of consumers' groups, including medicaid recipients, and consumer organizations such as labor unions, cooperatives, consumer-sponsored prepaid group practice plans, and others; and

(3) The director of the public welfare department or the public health department, whichever does not head the medicaid agency.

(e) *Committee participation.* The committee must have opportunity for participation in policy development and program administration, including furthering the participation of recipient members in the agency program.

(f) *Committee staff assistance and financial help.* The agency must provide the committee with—

(1) Staff assistance from the agency and independent technical assistance as needed to enable it to make effective recommendations; and

(2) Financial arrangements, if necessary, to make possible the participation of recipient members.

(g) *Federal financial participation.* FFP is available at 50 percent in expenditures for the committee's activities.

Subpart B—Administrative Requirements: General Program Services

§ 431.51 Free choice of providers.

(a) This sec. implements section 1902(a)(23) of the Act, which provides that recipients may obtain services from any qualified medicaid provider.

(b) A State plan (except in Puerto Rico, the Virgin Islands, and Guam) must provide that any recipient may obtain medicaid services from any institution, agency, pharmacy, person, or organization that is qualified to perform the services, including an organization that provides these services or arranges for their availability on a prepayment basis.

(c) If the medicaid agency contracts on a prepayment basis with an organization that provides services additional to those offered under the State plan, the agency may restrict the provision of the additional services to recipients who live in the area served by the organization and wish to obtain services from it.

(d) Paragraph (b) of this section does not prohibit the agency from—

(1) Establishing the fees it will pay providers for medicaid services; or

(2) Setting reasonable standards relating to the qualifications of providers.

§ 431.52 Payments for services furnished out of State.

(a) *Basis and purpose.* This section implements section 1902(a)(16) of the Act, which authorizes the Secretary to prescribe State plan requirements for furnishing medicaid to State residents who are absent from the State.

(b) *Payment for services.* A State plan must provide that the State will furnish medicaid to a recipient who is a resident of the State while that recipient is in another State, to the same extent that medicaid is furnished to residents in the State, when—

(1) Medical services are needed because of a medical emergency;

(2) Medical services are needed because the recipient's health would be endangered if he were required to travel to his State of residence;

(3) The State determines, on the basis of the attending physician's medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other State; or

(4) It is general practice for recipients in a particular locality to use medical resources in another State.

(c) *Cooperation among States.* The plan must provide that the State will establish procedures to facilitate the furnishing of medical services to individuals who are present in the State and are eligible for medicaid under another State's plan.

§ 431.53 Assurance of transportation.

A State plan must—

(a) Specify that the medicaid agency will assure necessary transportation for recipients to and from providers; and

(b) Describe the methods that will be used to meet this requirement.

(Sec. 1902(a)(4) of the Act.)

Subpart C—Administrative Requirements: Provider Relations

§ 431.105 Consultation to medical facilities.

(a) *Basis and purpose.* This section implements section 1902(a)(24) of the Act, which requires that the State plan provide for consultative services by State agencies to certain institutions furnishing medicaid services.

(b) *State plan requirements.* A State plan must provide that health agencies and other appropriate State agencies furnish consultative services to hospitals, nursing homes, home health agencies, clinics, and laboratories in order to assist these facilities to—

(1) Qualify for payments under the maternal and child health and crippled children's program (title V of the Act), medicaid or medicare;

(2) Establish and maintain fiscal records necessary for the proper and efficient administration of the Act; and

(3) Provide information needed to determine payments due under the Act for services furnished to recipients.

(c) *State plan option: Consultation to other facilities.* The plan may provide that health agencies and other appropriate State agencies furnish consultation to other types of facilities if those facilities are specified in the plan and provide medical care to individuals receiving services under the programs specified in paragraph (b) of this section.

§ 431.107 Required provider agreement.

(a) *Basis and purpose.* This section implements section 1902(a)(27) of the Act, which requires agreements between medicaid agencies and providers.

(b) *Agreements.* A State plan must provide for an agreement between the medicaid agency and each provider furnishing services under the plan in which the provider agrees to—

(1) Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

(2) Furnish the agency or the Secretary with any information they may request regarding payments claimed by the provider for furnishing services.

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§ 431.110 Participation by Indian Health Service facilities.

(a) *Basis.* This section is based on section 1902(a)(4) of the Act, proper and efficient administration; 1902(a)(23), free choice of provider; and 1911, reimbursement of Indian Health Service facilities.

(b) *State plan requirements.* A State plan must provide that an Indian Health Service facility meeting State requirements for medicaid participation must be accepted as a medicaid provider on the same basis as any other qualified provider. However, when State licensure is normally required, the facility need not obtain a license but must meet all applicable standards for licensure. In determining whether a facility meets these standards, a medicaid agency or State licensing authority may not take into account an absence of licensure of any staff member of the facility.

§ 431.115 Disclosure of survey information and provider/contractor evaluations.

(a) *Basis and purpose.* This section implements—

(1) Section 1902(a)(36) of the Act, which requires a State plan to provide that the State survey agency will make publicly available the findings from surveys of health care facilities, laboratories, agencies, clinics, or organizations; and

(2) Section 1106(d) of the Act, which places certain restrictions on the medicaid agency's disclosure of contractor and provider evaluations.

(b) *Definition of State survey agency.* The State survey agency referred to in this section means the agency specified under section 1902(a)(9) of the Act as responsible for establishing and maintaining health standards for private or public institutions in which medicaid recipients may receive services.

(c) *State plan requirement.* A State plan must provide that the requirements of this section are met.

(d) *Disclosure procedure.* The medicaid agency must have a procedure for disclosing pertinent findings obtained from surveys made by the State survey agency to determine if a health care facility, laboratory, agency, clinic or health care organization meets the requirements for participation in the medicaid program.

(e) *Documents subject to disclosure. Documents subject to disclosure include—*

(1) Survey reports, except for Joint Commission on the Accreditation of Hospitals reports prohibited from disclosure under § 422.426(b)(2) of this chapter;

(2) Official notifications of findings based on survey reports;

(3) Pertinent parts of written documents furnished by the health care provider to the survey agency that relate to the reports and findings; and

(4) Information regarding ownership of a skilled nursing facility (as prescribed in § 405.1121(a) of this chapter) and of an intermediate care facility (as prescribed in § 455.104 of this subchapter).

(f) *Availability for inspection and copy of statements listing deficiencies.* The disclosure procedure must provide that the State survey agency will—

(1) Make statements of deficiencies based on the survey reports available for inspection and copying in both the public assistance office and the Social Security Administration district office serving the area where the provider is located; and

(2) Submit to the Regional Medicaid Director, through the medicaid agency, a plan for making those findings available in other public assistance offices in standard metropolitan statistical areas where this information would be helpful to persons likely to use the health care provider's services.

(g) *When documents must be made available.* The disclosure procedure must provide that the State survey agency will—

(1) Retain in the survey agency office and make available upon request survey reports and current and accurate ownership information; and

(2) Make available survey reports, findings, and deficiency statements immediately upon determining that a health care provider is eligible to begin or continue participation in the medicaid program, or within 90 days after completion of the survey, whichever occurs first.

(h) *Evaluation reports on providers and contractors.* (1) If the Secretary sends the following reports to the medicaid agency, the agency must meet the requirements of paragraphs (h) (2) and (3) of this section in releasing them:

(i) Individual contractor performance reviews and other formal performance evaluations of carriers, intermediaries, and State agencies, including the reports of followup reviews;

(ii) Comparative performance evaluations of those contractors, including comparisons of either overall performance or of any particular aspect of contractor operations; and

(iii) Program validation survey reports and other formal performance evaluations of providers, including the reports of followup reviews.

(2) The agency must not make the reports public until—

(i) The contractor or provider has had a reasonable opportunity, not to exceed 30 days, to comment on them; and

(ii) Those comments have been incorporated in the report.

(3) The agency must ensure that the reports contain no identification of individual patients, individual health care practitioners or other individuals.

Subparts D–K—[Reserved]

Subpart L—Contracts with Fiscal Agents, Health Care Project Grant Centers, Private Nonmedical Institutions, Health Insuring Organizations, Health Maintenance Organizations and Prepaid Health Plans

General Provisions

§ 431.501 Basis and purpose.

(a) This subpart is based on section 1902(a)(4) of the Act, which requires that the State plan provide methods of administration that the Secretary finds necessary for the proper and efficient operation of the plan.

(b) This subpart prescribes State plan requirements governing contracts with certain organizations for processing or paying claims or providing medical services.

§ 431.502 Definitions.

For purposes of this subpart—

"Contractor" means any of the following entities that contract with the medicaid agency, under the terms of this subpart, to process claims or to pay for or provide medical services under a State plan in return for a payment:

(1) A fiscal agent.

(2) A health care project grant center.

(3) A private nonmedical institution.

(4) A health insuring organization.

(5) A health maintenance organization.

(6) A prepaid health plan.

"Enrolled recipient" means an individual who is eligible for medicaid and who enters into an agreement to receive services from a health maintenance organization or prepaid health plan that contracts with the agency under this subpart.

"Fiscal agent" means an entity that processes or pays vendor claims for the agency.

"Health care projects grant center" means an entity that—

(1) Is supported in whole or in part by Federal project grant financial assistance; and

(2) Provides or arranges for medical services to recipients.

"Health insuring organization" means an entity that—

(1) Pays for medical services provided to recipients in exchange for a premium or subscription charge paid by the agency; and

(2) Assumes an underwriting risk.

"Health maintenance organization (HMO)" means an entity determined by the Assistant Secretary for Health (Public Health Service) to meet the following requirements:

(1) It provides to its medicaid eligible enrollees as the "basic health services" required under sec. 1301 (b) and (c) of the Public Health Service Act—

(i) Inpatient hospital services;

(ii) Outpatient services;

(iii) Laboratory and X-ray services;

(iv) Family planning services and supplies;

(v) Physician services; and

(vi) Home health services for individuals entitled to those services under the medicaid State plan.

(2) It provides the services listed in paragraph (a) in the manner prescribed in sec. 1301(b) of the Public Health Service Act.

(3) It is organized and operated in the manner prescribed in sec. 1301(c) of the Public Health Service Act.

"Premium, subscription charge, or capitation fee" means the fee which is paid by the agency to a contractor for each recipient enrolled under a contract for the provision of medical services under the State plan, whether or not the recipient receives the services during the contract period.

"Prepaid health plan" means an entity that is not an HMO, and that provides medical services under contract with the medicaid agency to enrolled recipients on a prepaid capitation basis. This includes the providers identified in sec. 1903(m)(2)(B) (i), (ii), or (iii) of the act. That section refers to certain entities that received grants under the Public Health Service Act in the fiscal year ending June 30, 1976, certain rural primary health care entities, and certain entities that operated on a prepaid risk basis before 1970.

"Private nonmedical institution" means an entity that—

(1) Provides medical care through contracts or other arrangements with medical providers;

(2) Is paid on a prepaid capitation basis by the agency;

(3) Does not assume an underwriting risk; and

(4) Is not, as a matter of regular business, a prepaid health insuring organization or community health care center. Examples of private nonmedical institutions are child-care institutions and maternity homes.

"Risk" or "underwriting risk" means a significant chance of loss that—

(1) Is assumed by the contractor; and

(2) Arises because the cost of providing services may exceed the premiums, subscription charges, or capitation fees paid by the agency to the contractor during the contract period.

Contract Requirements

§ 431.503 All contracts.

A State plan must provide that contracts under this subpart—

(a) Are in writing;

(b) Specify the contract period;

(c) Specify the functions of the contractor;

(d) Identify the population covered by the contract;

(e) Specify any procedures for enrollment or reenrollment of the covered population;

(f) Specify the amount, duration, and scope of medical services to be provided or paid for;

(g) Provide that the agency and HEW may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under the contract;

(h) Provide that the agency and HEW may audit and inspect any of the contractor's records that pertain to services performed and determination of amounts payable under the contract;

(i) Specify procedures and criteria for extending the contract;

(j) specify procedures and criteria for renegotiating the contract;

(k) Specify procedures and criteria for terminating the contract, including a requirement that the contractor promptly supply all information necessary for the reimbursement of any outstanding medicaid claims;

(l) Provide that the contractor maintains an appropriate record system for services to enrolled recipients;

(m) Provide that the records referred to in paragraph (l) are retained in accordance with the record retention requirements of 45 CFR part 74;

(n) Provide that the contractor safeguards information about recipients as required by 45 CFR 205.50;

(o) Specify any activities to be performed by the contractor that are related to third party liability requirements in § 433.135 of this subchapter;

(p) Specify which functions may be subcontracted; and

(q) Provide that any subcontracts meet the requirements of § 431.504.

§ 431.504 Subcontracts.

(a) Subcontracts must—

(1) Be in writing; and

(2) Fulfill the requirements of this subpart that are appropriate to the service or activity delegated under the subcontract.

(b) No subcontract terminates the legal responsibility of the contractor to the agency to assure that all activities under the contract are carried out.

Fiscal Agents, Private Nonmedical Institutions, and Health Insuring Organizations

§ 431.510 Fiscal agents.

If the plan provides for contracts with fiscal agents, it must provide that the contracts—

(a) Meet the requirements of §§ 431.503 and 431.504;

(b) Include termination procedures that require the contractors to supply promptly all material necessary for continued operation of payment and related systems. This material includes—

(1) Computer programs;

(2) Data files;

(3) User and operation manuals, and other documentation;

(4) System and program documentation; and

(5) Training programs for medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system;

(c) Offer to the State one or both of the following options, if the fiscal agent or the fiscal agent's subcontractor has a proprietary right to material specified in paragraph (b) of this section:

(1) Purchase of the material.

(2) Purchasing the use of the material through leasing or other means;

(d) State the amount to be paid to the contractor for performing the functions under the contract;

(e) State the basis for the amount to be paid to the contractor;

(f) State when payment is to be made to the contractor; and

(g) State that payment to providers must be made in accordance with part 477 of this subchapter.

§ 431.511 Private nonmedical institutions.

If the plan provides for contracts for prepayment of services from private nonmedical institutions, it must provide that the contracts—

(a) Meet the requirements of §§ 431.503 and 431.504;

(b) Specify a capitation fee based on the cost of the services provided, in accordance with the reimbursement requirements prescribed in part 447 of this subchapter; and

(c) Specify when the capitation amount must be paid.

§ 431.512 Health insuring organization.

(a) If a plan provides for contracts with health insuring organizations, it must provide that the contracts—

(1) Meet the requirements of §§ 431.503 and 431.504;

(2) Specify that the premium or subscription charge must not exceed the limits set forth under part 447 of this subchapter;

(3) Specify that, except as permitted under paragraph (b) of this section,

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premiums or subscription charges paid on behalf of each recipient may not be renegotiated—

(i) During the contract period if the contract is for 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year;

(4) Specify that the premium or subscription charge must not include any amount for recoupment of any losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency;

(5) Specify that the contractor assumes at least part of the underwriting risk as follows:

(i) If the contractor assumes the full underwriting risk; payment of the premium or subscription charge to the contractor during the contract period constitutes full payment by the agency for the cost of medical services provided under the contract.

(ii) If the contractor assumes less than the full underwriting risk, the contract specifies the apportionment of the underwriting risk.

(6) Specify whether the contractor returns to the agency part of any savings remaining after allowable costs are deducted from the premium or subscription charge and, if savings are returned, the apportionment to the agency and the contractor;

(7) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk;

(8) Specify the actuarial basis for computation of the premium or subscription charge.

(b) The premium or subscription charge may be renegotiated more often than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

HEALTH MAINTENANCE ORGANIZATIONS

§ 431.520 State plan requirements.

If the plan provides for contracts with HMO's, the plan must also provide that—

(a) Each contract with an HMO, including HMO's that have provisional status, meets the requirements of §§ 431.503 and 431.504 and the additional requirements of §§ 431.522 through 431.537; and

(b) The agency meets the requirements of §§ 431.540 through 431.550.

§ 431.521 HMO's with provisional status.

(a) The agency may determine that an entity is an HMO with provisional status if—

(1) More than 90 days have expired since the entity applied to the Public Health Service for HMO status; and

(2) The Assistant Secretary for Health has not determined whether the entity meets the definition of section 1903(m)(1)(A) of the Public Health Service Act.

(b) The provisional status remains in force until the earlier of the following:

(1) A final determination is made by the Assistant Secretary for Health.

(2) The contract expires.

HMO: CONTRACT REQUIREMENTS

§ 431.522 Services and organization.

(a) The contract must specify that the HMO—

(1) Provides services in the manner prescribed by section 1301(b) of the Public Health Service Act; and

(2) Is organized and operated as prescribed by section 1301(c) of the Public Health Service Act.

(b) For purposes of this subpart, HMO "basic health services" are those specified in paragraph (a) of "health maintenance organization" in § 431.502.

§ 431.523 Premiums or subscription charges.

(a) The contract must specify—

(1) The actuarial basis for computation of the premium or subscription charge;

(2) That the premium or subscription charge must not exceed the limits set forth under part 447 of this subchapter;

(3) That, except as permitted under paragraph (b) of this section, premiums or subscription charges paid on behalf of each enrolled recipient may not be renegotiated—

(i) During the contract period if the contract is for 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year; and

(4) That the premium or subscription charge must not include any amount for recoupment of any losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency.

(b) The premium or subscription charge may be renegotiated more often than annually for eligible recipients who are not enrolled at the time of the renegotiation or if the renegotiation is required by changes in Federal or State law.

§ 431.524 Risk.

The contract must specify that the contractor assumes at least part of the underwriting risk as follows:

(a) If the contractor assumes the full underwriting risk, payment of the premium or subscription charge to the contractor during the contract period constitutes full payment by the agency for the cost of medical services provided under the contract; and

(b) If the contractor assumes less than the full underwriting risk, the contract specifies the apportionment of the underwriting risk.

§ 431.525 Savings.

The contract must specify whether the contractor returns to the agency part of any savings remaining after allowable costs are deducted from the premium or subscription charge and, if savings are returned, the apportionment to the agency and the contractor.

§ 431.526 Reinsurance.

The contract must specify—

(a) The extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk; and

(b) That, if the contractor obtains reinsurance, he retains a substantial portion of the underwriting risk.

§ 431.527 Coverage and enrollment.

(a) The contract must specify an open enrollment period that meets the requirements of section 1301(d) of the Public Health Service Act, if the HMO—

(1) Has not incurred a financial deficit in the previous fiscal year; and

(2) Either has been in existence for at least 5 years, or has a minimum of 50,000 members.

(b) A contract with an HMO that does not meet the description of an HMO in paragraph (a) of this section must—

(1) Specify the period during which enrollment may be open;

(2) Provide that the contractor accepts individuals who are eligible to be covered under the contract—

(i) In the order in which they apply;

(ii) Without restrictions unless authorized by the Secretary; and

(iii) Up to the limits set in the contract with the State; and

(3) Provide that enrollment is voluntary.

§ 431.528 Population.

The contract must provide that—

(a) The contractor serves a population broadly representative of the various age, social, and income groups in the area served;

(b) Either less than 50 percent of the enrollees are medicare beneficiaries and medicaid recipients or the 50-percent requirement will be attained by October 8, 1979, or 3 years from the date that the contract is entered into, whichever is later;

(c) If the population does not meet the 50-percent requirement when the contract is entered into—

(1) The contractor will make continuous effort to progress toward compliance with paragraph (b) of this section; and

(2) The contractor will submit annual plans showing milestones for each year until the goal is achieved, in order to demonstrate progress to the Secretary's satisfaction.

§ 431.529 Duration of enrollment period.

The contract must specify the duration of the enrollment period.

§ 431.530 Termination of enrollment.

The contract—

(a) Must specify the reasons for which a recipient's enrollment may be terminated, which may not include an adverse change in a recipient's health;

(b) Must provide that a recipient who is enrolled has the right to terminate his enrollment without cause within 30 days of his enrollment;

(c) May allow termination by a recipient without cause at any time during the contract period; and

(d) Must provide that the agency approves each termination by the contractor.

§ 431.531 Choice of health professional.

The contract must allow each enrolled recipient to choose his health professional in the HMO to the extent possible and appropriate.

§ 431.532 Emergency medical services.

The contract must—

(a) Provide that all medical services that are covered under the contract and that are required on an emergency basis are available on a 24-hour basis, 7 days a week, either in the contractor's own facilities or through arrangements, approved by the agency, with another provider; and

(b) Provide for prompt payment by the contractor, under the upper limits prescribed in part 447 of this subchapter, for all services that are—

(1) Required by the contract;

(2) Furnished by providers that do not have arrangements with the contractor to provide the services; and

(3) Medically necessary to avoid endangering the recipient's health or causing him severe pain and discomfort that would occur if he had to use the contractor's facilities.

§ 431.533 Grievance procedure.

The contract must provide for an internal grievance procedure that—

(a) Is approved in writing by the agency;

(b) Provides for prompt resolution; and

(c) Assures the participation of individuals with authority to require corrective action.

§ 431.534 Quality assurance system.

The contract must provide for an internal quality assurance system that:

(a) Is consistent with the utilization control requirements of part 456 of this subchapter;

(b) Provides for review by appropriate health professionals of the process followed in providing health services;

(c) Provides for systematic data collection of performance and patient results;

(d) Provides for interpretation of this data to the practitioners; and

(e) Provides for making needed changes.

§ 431.535 Marketing.

The contract must provide that the HMO submits marketing plans, procedures, and materials to the agency for approval before using the plans.

§ 431.536 Health care information.

The contract must provide that the HMO advises enrolled recipients about the proper use of health care services and contributions they can make to the maintenance of their own health.

§ 431.537 Medical recordkeeping system.

The contract must provide for development of a medical recordkeeping system that—

(a) Collects all pertinent information relating to the medical management of each enrolled recipient; and

(b) Makes that information readily available to appropriate health professionals.

HMO: STATE AGENCY REQUIREMENTS

§ 431.540 Proof of HMO capability.

The agency must obtain from each HMO contractor proof of—

(a) Financial responsibility, including proof of adequate protection against insolvency; and

(b) The contractor's ability to provide the services under the contract efficiently, effectively, and economically.

§ 431.541 Enrollment.

(a) The agency must determine that there have been adequate feasibility and planning studies made that show that enough people will enroll to insure the HMO's economic success.

(b) The agency must determine that the duration of the enrollment period is a sufficient amount of time to—

(1) Insure continuity of care; and

(2) Avoid excessive cost due to rapid turnover of enrolled recipients.

§ 431.542 Provision of required services.

The agency must obtain assurances from the HMO that—

(a) It provides the health services required by enrolled recipients as promptly as is appropriate; and

(b) The services meet the agency's quality standards.

§ 431.543 Periodic medical audits.

(a) The agency must establish a system of periodic medical audits to insure that the HMO provides quality and accessible health care to enrolled recipients.

(b) The system of periodic medical audits must—

(1) Provide for audits conducted at least once a year for each HMO contractor;

(2) Identify and collect management data for use by medical audit personnel; and

(3) Provide that the data includes—

(i) Reasons for enrollment and termination; and

(ii) Use of services.

§ 431.544 Approval of marketing plans, procedures, and materials for enrollment.

(a) The agency must provide for a system for approval of the HMO's marketing plans, procedures, and materials submitted under § 431.535.

(b) The requirements for approval must be in writing.

(c) The system must provide that the HMO contractor not engage in marketing practices that mislead, confuse, or defraud either recipients or the agency.

§ 431.545 Distribution of general information.

The agency must provide that—

(a) Appropriate health or social services agencies are used to distribute information regarding—

(1) Coverage;

(2) Location;

(3) Hours of services; and

(4) Enrollment and termination practices;

(b) The information is distributed to eligible recipients in the area serviced by the HMO contractor; and

(c) The information is accurate and presented in clear, readable, and concise form.

§ 431.546 Payment to contractors.

No payment may be made to providers other than the HMO for services provided to an enrolled recipient, if the services were available under the contract.

§ 431.547 Continued service to formerly enrolled recipients.

The agency must arrange for medicaid services without delay for any recipient whose enrollment is terminated, unless it is terminated because of ineligibility for medicaid.

§ 431.548 Computation of premium rates and subscription charges.

The agency must document the basis for computing the premium rates or subscription charges.

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§ 431.549 Monitoring procedures.

The agency must have procedures to—

(a) Monitor enrollment and termination practices; and

(b) Insure proper implementation of the contractor's grievance procedures.

§ 431.550 Contracts that provide fewer or more services than are available under the plan.

(a) If the contract does not cover all services available under the plan, the agency must arrange for services not included to be available and accessible. This may be done by having the HMO refer enrolled recipients to other providers or by some other means.

(b) The contract may cover services in addition to those available under the plan. See § 440.250 for exception to the requirement for comparability of services to all recipients in the State.

PREPAID HEALTH PLANS

§ 431.555 State plan requirements.

If the plan provides for contracts with prepaid health plans, the State plan must also provide that—

(a) Each of those contracts meets the requirements of §§ 431.503, 431.504, and 431.568 through 431.578;

(b) In addition to the requirements of paragraph (a)—

(1) Each contract with a prepaid health plan that assumes an underwriting risk meets the requirements of §§ 431.556 through 431.560; and

(2) Each contract with a prepaid health plan that does not assume an underwriting risk meets the requirements of § 431.565; and

(c) The agency meets the requirements of §§ 431.580 through 431.589.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—RISK BASIS

§ 431.556 Risk-basis contracts: General requirements.

The contract with a prepaid health plan that assumes an underwriting risk must meet the requirements of §§ 431.557-431.560.

§ 431.557 Premiums or subscription charges.

(a) The contract must specify—

(1) The actuarial basis for computation of the premium or subscription charge;

(2) That the premium or subscription charge must not exceed the limits set forth under part 447 of this subchapter;

(3) That, except as permitted under paragraph (b) of this section, premiums, or subscription charges paid on behalf of each enrolled recipient may not be renegotiated—

(i) During the contract period if the contract is for 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year; and

(4) That the premium or subscription charge must not include any amount for recoupment of any losses suffered by the contractor for risks assumed under the same contract or a prior contract in the agency.

(b) The premium or subscription charge may be renegotiated more often than annually for eligible recipients who are not enrolled at the time of the renegotiation or if the renegotiation is required by changes in Federal or State law.

§ 431.558 Amount of risk.

The contract must specify—

(a) That, if the contractor assumes the full underwriting risk, payment of the premium or subscription charge to the contractor during the contract period constitutes full payment by the agency for the cost of the medical services provided under the contract; and

(b) The apportionment of the underwriting risk if the contractor assumes less than the full underwriting risk.

§ 431.559 Savings.

The contract must specify whether the contractor returns to the agency part of any savings remaining after allowable costs are deducted from the premium or subscription charge and, if savings are returned, the apportionment to the agency and the contractor.

§ 431.560 Reinsurance.

The contract must specify—

(a) The extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk; and

(b) That, if the contractor obtains reinsurance, he retains a substantial portion of the underwriting risk.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—RISK BASIS

§ 431.565 Nonrisk contract: Allowable payment for services.

(a) The contract with a prepaid health plan that does not assume any underwriting risk must provide that payment to the contractor does not exceed the amount that could be paid under part 447 for those specified provider services actually delivered by the contractor to enrolled recipients.

(b) For purposes of this section, "payment" includes any necessary retroactive adjustments.

PREPAID HEALTH PLANS: CONTRACT REQUIREMENTS—ALL CONTRACTS

§ 431.568 Coverage and enrollment.

The contract must—

(a) Specify the period during which enrollment may be open;

(b) Provide that the contractor accepts individuals who are eligible to be covered under the contract—

(1) In the order in which they apply;

(2) Without restrictions unless authorized by the Secretary; and

(3) Up to the limits set in the contract with the State; and

(c) Provide that enrollment is voluntary.

§ 431.569 Population.

The contract must provide that—

(a) The contractor serves a population broadly representative of the various age, social, and income groups in the area served;

(b) Either less than 50 percent of the enrollees are medicare beneficiaries and medicaid recipients or the 50-percent requirement will be attained by October 8, 1979, or 3 years from the date the contract is entered into, whichever is later;

(c) The contractor may apply to the Secretary for waiver of the requirements of paragraphs (a) and (b) of this section based on good cause.

§ 431.570 Duration of enrollment period.

The contract must specify the duration of the enrollment period.

§ 431.571 Termination of enrollment.

The contract—

(a) Must specify the reasons for which a recipient's enrollment may be terminated, which may not include adverse change in a recipient's health;

(b) Must provide that a recipient who is enrolled has the right to terminate his enrollment without cause within 30 days of enrollment;

(c) May allow termination by a recipient without cause at any time during the contract period; and

(d) Must provide that the agency approves each termination by the contractor.

§ 431.572 Choice of health professional.

The contract must allow each enrolled recipient to choose his health professional in the prepaid health plan to the extent possible and appropriate.

§ 431.573 Emergency medical services.

The contract must—

(a) Provide that all medical services that are covered under the contract and that are required on an emergency basis are available on a 24-hour basis, 7 days a week, either in the contractor's own facilities or through arrangements, approved by the agency, with another provider; and

(b) Provide for prompt payment by the contractor, under the limits set forth under part 447 of this subchapter for all services that are—

(1) Required by the contract;

(2) Furnished by providers that do not have arrangements with the contractor to provide the services; and

(3) Medically necessary to avoid endangering the recipient's health or causing him severe pain and discomfort that would occur if he had to use the contractor's facilities.

§ 431.574 Grievance procedure.

The contract must provide for an internal grievance procedure that—

(a) Is approved in writing by the agency;

(b) Provides for prompt resolution; and

(c) Assures the participation of individuals with authority to require corrective action.

§ 431.575 Quality assurance system.

The contract must provide for an internal quality assurance system that—

(a) Is consistent with the utilization control requirements of part 456 of this subchapter;

(b) Provides for review by appropriate health professionals of the process followed in providing health service;

(c) Provides for systematic data collection of performance and patient results;

(d) Provides for interpretation of this data to the practitioners; and

(e) Provides for making needed changes.

§ 431.576 Marketing.

The contract must provide that the prepaid health plan submits marketing plans, procedures, and materials to the agency for approval before using the plans.

§ 431.577 Health care information.

The contract must provide that the prepaid health plan advises enrolled recipients about the proper use of health care services and contributions they can make to the maintenance of their own health.

§ 431.578 Medical recordkeeping system.

The contract must provide for development of a medical recordkeeping system that—

(a) Collects all pertinent information relating to the medical management of each enrolled recipient; and

(b) Makes that information readily available to appropriate health professionals.

PREPAID HEALTH PLANS: STATE AGENCY REQUIREMENTS

§ 431.580 Proof of prepaid health plan capability.

The agency must obtain from each prepaid health plan contractor proof of—

(a) Financial responsibility, including proof of adequate protection against insolvency; and

(b) The contractor's ability to provide the services under the contract efficiently, effectively, and economically.

§ 431.581 Enrollment.

(a) The agency must determine that there have been adequate feasibility and planning studies made that show that enough people will enroll to insure the prepaid health plan's economic success.

(b) The agency must determine that the duration of the enrollment period is a sufficient amount of time to—

(1) Insure continuity of care; and

(2) Avoid excessive cost due to rapid turnover of enrolled recipients.

§ 431.582 Provision of required services.

The agency must obtain assurances from the prepaid health plan that—

(a) It provides the health services required by enrolled recipients as promptly as is appropriate; and

(b) The services meet the agency's quality standards.

§ 431.583 Periodic medical audits.

(a) The agency must establish a system of periodic medical audits to insure that the prepaid health plan provides quality and accessible health care to enrolled recipients.

(b) The system of periodic medical audits must—

(1) Provide for audits conducted at least once a year for each contractor;

(2) Identify and collect management data for use by medical audit personnel; and

(3) Provide that the data includes—

(i) Reasons for enrollment and termination; and

(ii) Use of services.

§ 431.584 Approval of marketing plans, procedures and materials for enrollment.

(a) The agency must provide for a system for approval of the prepaid health plan's marketing plans, procedures, and materials submitted under § 431.576.

(b) The requirements for approval must be in writing.

(c) The system must provide that the contractor not engage in marketing practices that mislead, confuse, or defraud either recipients or the agency.

§ 431.585 Distribution of general information.

The agency must provide that—

(a) Appropriate health or social services agencies are used to distribute information regarding—

(1) Coverage;

(2) Location;

(3) Hours of services; and

(4) Enrollment and termination practices;

(b) The information is distributed to eligible recipients in the area serviced by the contractor; and

(c) The information is accurate and presented in clear, readable, and concise form.

§ 431.586 Payment to contractors.

No payment may be made to providers other than the contractor for services provided to an enrolled recipient, if the services were available under the contract.

§ 431.587 Computation of premium rates and subscription charges.

The agency must document the basis for computing the premium rates or subscription charges.

§ 431.588 Monitoring procedures.

The agency must have procedures to—

(a) Monitor enrollment and termination practices; and

(b) Insure proper implementation of the contractor's grievance procedures.

§ 431.589 Contracts that provide fewer or more services than are available under the plan.

(a) If the contract does not cover all services available under the plan, the agency must arrange for services not included to be available and accessible. This may be done by having the prepaid health plan refer recipients to other providers or by some other means.

(b) The contract may cover services in addition to those available under the plan. See § 440.250 for exception to requirement for comparability of services to all recipients in the State.

FEDERAL FINANCIAL PARTICIPATION

§ 431.591 Availability of FFP.

(a) FFP is available in expenditures for payments to contractors only for the periods that the contract—

(1) Meets the requirements of this subpart;

(2) Meets the appropriate requirements of 45 CFR Part 74; and

(3) Is in effect.

(b) The Administrator may determine that a contract is not in effect for any period if the State fails to carry out the plan requirements of this subpart or if he determines that there was a substantial failure of either party to carry out the terms of the contract required by this subpart.

(c) A State is entitled upon request to receive a reconsideration, in accordance with section 1116(d) of the Act and 45 CFR Part 16, of a disallowance of FFP under this section.

§ 431.592 Availability of FFP for HMOs with provisional status.

(a) FFP is available in expenditures for payments to HMOs with provisional status regardless of the final determination on its qualifications to be an HMO.

(b) The Assistant Secretary's determination that the entity with provisional status is not an HMO is not considered final until—

(1) All administrative, but not judicial, appeal procedures are exhausted; or

(2) The time for requesting administrative review has lapsed without a request for review.

§ 431.593 Prior approval of contracts over $100,000.

FFP is not available in expenditures made under any contract exceeding $100,000 unless prior to the execution of the contract the regional medicaid director has approved in writing the expenditures that can reasonably be expected to be made during the contract period.

§ 431.594 Costs under risk contracts.

Under each contract in which an underwriting risk is assumed by the contractor, the total amount paid by the agency for carrying out the provisions of the contract is a medical assistance cost.

§ 431.595 Costs under no-risk contracts.

Under each contract in which no underwriting risk is assumed by the contractor—

(a) The amount paid by the agency for furnishing medical services to eligible recipients is a medical assistance cost; and

(b) The amount paid by the agency for performing other functions is an administrative cost.

§ 431.596 Costs under fiscal agent contracts.

Under each contract with a fiscal agent—

(a) The amount paid to the provider of medical services is a medical assistance cost; and

(b) The amount paid to the contractor for performing the agreed-upon functions is an administrative cost.

§ 431.597 Nonavailability of FFP.

(a) Except as in paragraph (b), FFP is not available in expenditures for payments to an entity if—

(1) The entity operates on a risk basis; and

(2) The entity provides for—

(i) Inpatient hospital service and any other required Medicaid service; or

(ii) Any three or more of the required Medicaid services.

(b) The limitation under paragraph (a) of this section does not apply to HMOs or health insuring organizations, or to payments made to organizations meeting the criteria of sec. 1903(m)(2)(B) (i), (ii), or (iii) of the Act. These organizations generally include those that received grants under the Public Health Service Act in the fiscal year ending June 30, 1976, certain rural primary health care entities, and certain entities that operated on a prepaid risk basis before 1970.

Subpart M—Relations with Other Agencies

§ 431.610 Relations with standard-setting and survey agencies.

(a) *Basis and purpose.* This section implements—

(1) Sec. 1902(a)(9) of the Act, concerning the designation of State authorities to be responsible for establishing and maintaining health and other standards for institutions participating in medicaid; and

(2) Sec. 1902(a)(33) of the Act, concerning the designation of the State licensing agency to be responsible for determining whether institutions and agencies meet requirements for participation in the State's medicaid program.

(b) *Designated agency responsible for health standards.* A State plan must designate, as the State authority responsible for establishing and maintaining health standards for private or public institutions that provide services to medicaid recipients, the same State agency that is used by the Secretary to determine qualifications of institutions and suppliers of services to participate in medicare (see 42 CFR 405.1902). The requirement for establishing and maintaining standards does not apply with respect to Christian Science sanitoria operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass.

(c) ***Designated agency responsible for standards other than health standards.*** The plan must designate the medicaid agency or other appropriate State authority or authorities to be responsible for establishing and maintaining standards, other than those relating to health, for private or public institutions that provide services to medicaid recipients.

(d) *Description and retention of standards.* (1) The plan must describe the standards established under paragraphs (b) and (c) of this section.

(2) The plan must provide that the medicaid agency keeps these standards on file and makes them available to the Administrator upon request.

(e) *Designation of survey agency.* The plan must provide that—

(1) The agency designated in paragraph (b) of this section, or another State agency responsible for licensing health institutions in the State, determines for the medicaid agency if institutions and agencies meet the requirements for participation in the medicaid program; and

(2) The agency staff making the determination under paragraph (e)(1) of this section is the same staff responsible for making similar determinations for institutions or agencies participating under medicare.

(f) *Written agreement required.* The plan must provide for a written agreement (or formal written intra-agency arrangement) between the medicaid agency and the survey agency designated under paragraph (e) of this section, covering the activities of the survey agency in carrying out its responsibilities. The agreement must specify that—

(1) Federal standards and the forms, methods and procedures that the Administrator designates will be used to determine provider eligibility and certification under medicaid;

(2) Inspectors surveying the premises of a provider will—

(i) Complete inspection reports;

(ii) Note on completed reports whether or not each requirement for which an inspection is made is satisfied; and

(iii) Document deficiencies in reports;

(3) The survey agency will keep on file all information and reports used in determining whether participating facilities meet Federal requirements; and

(4) The survey agency will make the information and reports required under paragraph (f)(3) of this section readily accessible to HEW and the medicaid agency as necessary—

(i) For meeting other requirements under the plan; and

(ii) For purposes consistent with the medicaid agency's effective administration of the program.

(g) *Responsibilities of survey agency.* The plan must provide that, in certifying skilled nursing and intermediate care facilities, the survey agency designated under paragraph (e) of this section will—

(1) Review and evaluate the following information as it relates to health and safety requirements:

(i) Medical and independent professional review team reports obtained under Part 456 of this subchapter.

(ii) Statements from facility payroll records that show the average number and types of personnel, in full-time equivalents, on each shift during at least one week, selected by the team to occur irregularly, in each quarter;

(2) Take necessary action to achieve compliance or to withdraw certification; and

(3) Have qualified personnel perform on-site inspections—

(i) At least once during each certification period or more frequently if there is a compliance question; and

(ii) For institutions with deficiencies, within 6 months after initial correction plan approval and every 6 months thereafter as required under §§ 442.112(e) and 442.113(d) of this subchapter.

(h) *FFP for survey responsibilities.* (1) FFP is available in expenditures that the survey agency makes to carry out its survey and certification responsibilities under the agreement specified in paragraph (f) of this section.

(2) FFP is not available in any expenditures that the survey agency makes that are attributable to the State's overall responsibilities under State law and regulations for establishing and maintaining standards.

§ 431.615 Relations with State health and vocational rehabilitation agencies and title V grantees.

(a) *Basis and purpose.* This section implements sec. 1902(a)(11) and (22)(C) of the Act, by setting forth State plan requirements for arrangements and agreements between the medicaid agency and—

(1) State health agencies;

(2) State vocational rehabilitation agencies; and

(3) Grantees under title V of the Act, Maternal and Child Health and Crippled Children's Services.

(b) *Definitions.* For purposes of this section—

"Title V grantee" means the agency, institution, or organization receiving Federal payments for part or all of the cost of any service program or project authorized by title V of the Act, including—

(1) Maternal and child health services;

(2) Crippled children's services;

(3) Maternal and infant care projects;

(4) Children and youth projects; and

(5) Projects for the dental health of children.

(c) *State plan requirements.* A state plan must—

(1) Describe cooperative arrangements with the State agencies that administer, or supervise the administration of, health services and vocational rehabilitation services designed to make maximum use of these services;

(2) Provide for arrangements with title V grantees, under which the medicaid agency will utilize the grantee to furnish services that are included in the State plan;

(3) Provide that all arrangements under this section meet the requirements of paragraph (d); and

(4) Provide, if requested by the title V grantee in accordance with the arrangements made under this section, that the medicaid agency reimburse the grantee or the provider for the cost of services furnished recipients by or through the grantee.

(d) *Content of arrangements.* The arrangements referred to in paragraph (c) must specify, as appropriate—

(1) The mutual objectives and responsibilities or each party to the arrangement;

(2) The services each party offers and in what circumstances;

(3) The cooperative and collaborative relationships at the State level;

(4) The kinds of services to be provided by local agencies; and

(5) Methods for—

(i) Early identification of individuals under 21 in need of medical or remedial services;

(ii) Reciprocal referrals;

(iii) Coordinating plans for health services provided or arranged for recipients;

(iv) Payment or reimbursement;

(v) Exchange of reports of services furnished to recipients;

(vi) Periodic review and joint planning for changes in the agreements;

(vii) Continuous liaison between the parties, including designation of State and local liaison staff; and

(viii) Joint evaluation of policies that affect the cooperative work of the parties.

(e) *Federal financial participation.* FFP is available in expenditures for medicaid services provided to recipients through an arrangement under this section.

§ 431.625 Coordination of medicaid with medicare part B.

(a) *Basis and purpose.* (1) Section 1843(a) of the Act required the Secretary to enter into an agreement with any State that requested that agreement before January 1, 1970, under which the State could enroll certain medicare-eligible recipients under medicare part B by paying their premiums.

(2) Section 1902(a)(10)(C)(ii)(II) of the Act allows the State to meet deductibles, cost sharing, and other charges for recipients enrolled under medicare part B without obligating itself to provide the range of part B benefits to other recipients; and

(3) Section 1903(a)(1) and section 1903(b) of the Act authorize FFP for State payment of medicare part B premiums for certain recipients.

(4) This section—

(i) Specifies the exception, relating to part B coverage, from the requirement to provide comparable services to all recipients; and

(ii) Prescribes FFP rules concerning State payment for medicare premiums and for services that could have been covered under medicare.

(b) *Exception from obligation to provide comparable services; State plan requirement.* (1) The State's payment of premiums, deductibles, cost sharing, or similar charges under part B does not obligate it to provide the full range of part B services to recipients not covered by medicare.

(2) The State plan must specify this exception if it applies.

(c) *Federal financial participation.* (1) No FFP is available in State expenditures for medicare part B premiums for medicaid recipients who receive no money payments under title I, IV-A, X, XIV, XVI (AABD), or XVI (SSI) of the Act. However, FFP is available in these expenditures for—

(i) AFDC families required to be covered under §§ 435.112 and 436.116 of this subchapter, those eligible for continued medicaid coverage despite increased income from employment;

(ii) Recipients required to be covered under §§ 435.114, 435.134, and 436.112 of this subchapter, those eligible for continued medicaid coverage despite increased income from monthly insurance benefits under title II of the Act; and

(iii) Recipients required to be covered under §§ 435.135 of this subchapter, those eligible for continued medicaid coverage despite increased income from cost-of-living increases under title II of the Act.

(2) No FFP is available in State medicaid expenditures that could have been paid for under medicare part B but were not because the person was not enrolled in part B. This limit applies to all recipients eligible for enrollment under part B, whether individually or through an agreement under sec. 1843(a) of the Act. However, FFP is available in expenditures required by 45 CFR 206.10(a)(6)(ii) for retroactive coverage of recipients.

Subpart N—State Programs for Licensing Nursing Home Administrators

§ 431.700 Basis and purpose.

This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

§ 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

"Agency" means the State agency responsible for licensing individual

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practitioners under the State's healing arts licensing act.

"Board" means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

"Licensed" means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

"Nursing home" means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is determined under § 431.704 to be included under the requirements of this subpart. The term does not include—

(a) A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(b) A distinct part of a hospital, if the hospital meets the definition in §§ 440.10 or 440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

"Nursing home administrator" means any person who is in charge of the general administration of a nursing home whether or not the person—

(a) Has an ownership interest in the home; or

(b) Shares his functions and duties with one or more other persons.

§ 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§ 431.703 through 431.713 of this subpart.

§ 431.703 Licensing requirement.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

§ 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term "nursing home," the HCFA Administrator will determine the term or terms equivalent to "nursing home" for purposes of applying the requirements of this subpart. To obtain this determination, the medicaid agency must submit to the Regional Medicaid Director copies of current State laws that define institutional health care facilities for licensing purposes.

§ 431.705 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

(b) The State agency or board must perform the functions and duties specified in §§ 431.707 through 431.713 and the board must meet the membership requirements specified in § 431.706 of this subpart.

§ 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institution; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

§ 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

(1) Of good character;

(2) Otherwise suitable; and

(3) Qualified to serve because of training or experience in instutitional administration.

§ 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

§ 431.709 Issuance and revocation of license.

Except as provided in § 431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that the person holding the license substantially fails to meet the standards.

§ 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under § 431.707 but who—

(a) Is of good character and otherwise suitable; and

(b) Meets any other standards established for provisional licensure by the agency or board.

§ 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

§ 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

§ 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

(a) Licensing standards; and

(b) The procedures and methods for enforcing the standards.

§ 431.714 Waivers.

The agency or board may waive any standards developed under § 431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

§ 431.715 Federal financial participation.

No FFP is available in expenditures by the licensing board for establishing and maintaining standards for the licensing of nursing home administrators.

Subpart O [Reserved]

Subpart P—Quality Control

§ 431.800 Medicaid quality control (MQC) system.

(a) *Basis and purpose.* This section establishes State plan requirements for a medicaid quality control system designed to reduce erroneous expenditures by monitoring eligibility determinations, third-party liability activities, and claims processing.

(Sec. 1902(a)(4) of the Act.)

(b) *Definitions.* For purposes of this section—

"Active case" means an individual or family determined to be currently eligible for medicaid.

"Claims processing error" means FFP has been claimed for a medicaid payment that was made—

(1) For a service not authorized under the State plan;

(2) To a provider not certified for participation in the medicaid program;

(3) For a service already paid for by medicaid; or

(4) In an amount above the allowable reimbursement level for that service.

"Eligibility error" means that medicaid coverage has been certified or payment has been made for a recipient under review who—

(1) Was ineligible when certified or when he received services under the State's plan; or

(2) Had not met recipient liability requirements when certified eligible for medicaid; that is, he had not incurred medical expenses equal to the amount of this excess income over the State's financial eligibility level.

"Negative case action" means a medicaid application that was denied or otherwise disposed of without a determination of eligibility (for instance, because the application was withdrawn or abandoned) or an individual or family for whom medicaid eligibility was terminated.

"State agency" means either the State medicaid agency, or a State agency that is responsible for determining eligibility for medicaid.

"Third-party liability error" means FFP has been claimed for a medicaid payment when—

(1) All or part of the medical services should have been paid for by a third party; and

(2) The State failed to meet the requirements of § 433.135 of this subchapter for considering third party liability.

(c) *State plan requirements.* A State plan must provide for operating a medicaid quality control (MQC) system that meets the requirements of paragraphs (d) through (h) of this section.

(d) *Basic elements of MQC system.* The agency—

(1) Must operate the MQC system in accordance with the policies, sampling methodology, review procedures, and reporting forms and requirements specified in medicaid quality control manuals issued by HCFA;

(2) Must select statistical samples of both active and negative case actions;

(3) Must review each case in the sample to identify eligibility errors; and

(4) Must review any claims pertaining to each active case to identify erroneous payments resulting from—

(i) Ineligibility;

(ii) Recipient understated or overstated liability;

(iii) Third-party liability; and

(iv) Claims processing errors;

(5) In order to verify eligibility information, must conduct field investigations, including—

(i) Personal interviews for each case in the active case sample; and

(ii) Personal interviews for cases in the negative case action sample, to the extent necessary to verify erroneous eligibility determinations; and

(6) Must use 6-month sampling periods, from April through September and from October through March.

(e) *Reporting requirements.* The agency must submit reports to the Administrator, in the form and at the time specified by him, including—

(1) A description of the State's sampling plan for active cases and negative cases;

(2) A monthly report on eligibility case reviews completed during the month for all cases in the active case sample for that month and selected cases from the negative case sample for that month;

(3) A monthly report on payment reviews completed during the month for cases in the active case sample. (States must wait 5 months after each sample month before accumulating claims paid for each case—through the fourth month following the sample month);

(4) A summary report on eligibility findings and payment error findings for all cases in the 6-month sample, to be submitted by May 31 of each year for the previous April–September sampling period, and by November 30 for the October–March sampling period; and

(5) Other data and reports that the Administrator requests.

(f) *Access to records.* The agency, upon request, must provide HEW staff with access to all records pertaining to its MQC reviews to which the State has access.

(g) *Corrective action.* The agency must—

(1) Take action to correct any eligibility, third-party liability, claims processing or negative case action errors found in the sample cases;

(2) Take administrative action to prevent or reduce the incidence of those errors; and

(3) By July 31 each year, submit to the Administrator a report on its error analysis and a corrective action plan.

(h) *Protection of recipient rights.* Any individual performing activities under the medicaid quality control program must do so in a manner consistent with 45 CFR 206.10(a)(10) concerning the rights of the recipient.

PART—432 STATE PERSONNEL ADMINISTRATION

Subpart A—General Provisions

Sec.
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432.10 Standards of personnel administration.

Subpart B—Training Programs; Subprofessional and Volunteer Programs

432.30 Training programs: General requirements.
432.31 Training and use of subprofessional staff.
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Subpart C—Staffing and Training Expenditures

432.50 FFP: Staffing and training costs.
432.55 Reporting training and administrative costs.
432.60 Sources of State share of training expenditures and cost allocation.

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—General Provisions

§ 432.1 Basis and purpose.

This part prescribes regulations to implement sec. 1902(a)(4) of the Act, which relates to a merit system of State personnel administration and training and use of subprofessional staff and volunteers in State medicaid programs, and sec. 1903(a), rates of FFP for medicaid staffing and training costs. It also prescribes regulations, based on the general administrative authority in sec. 1902(a)(4), for State training programs for all staff.

§ 432.2 Definitions.

"Community service aides" means subprofessional staff, employed in a variety of positions, whose duties are an integral part of the agency's responsibility for planning, administration, and for delivery of health services.

"Fringe benefits" means the employer's share of premiums for workmen's compensation, employees' retirement, unemployment compensation, health insurance, and similar expenses.

"Full-time training" means training that requires employees to be relieved of all responsibility for performance of current agency work to participate in a training program.

"Part-time training" means training that allows employees to continue full-time in their agency jobs or requires only partial reduction of work activities to participate in the training activity.

"Skilled professional medical personnel" means physicians, dentists, and other health practitioners; nurses; medical and psychiatric social workers; medical, hospital, and public health administrators, and licensed nursing

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home administrators; and other specialized personnel in the field of medical care.

"Staff of other public agencies" means skilled professional medical personnel and supporting staff (as defined in this section), who are employed in State or local agencies other than the medicaid agency, whose duties are directly related to the administration of the medicaid program and are specified in an written agreement with the medicaid agency.

"Subprofessional staff" means persons performing tasks that demand little or no formal education; a high school diploma; or less than 4 years of college.

"Supporting staff" means secretarial, stenographic, clerical, and other subprofessional staff whose activities are directly necessary to the carrying out of the functions which are the responsibility of skilled professional medical personnel, as defined in this section.

"Training program" means a program of educational activities based on the agency's training needs and aimed at insuring that agency staff acquire the knowledge and skills necessary to perform their jobs.

"Volunteer" means a person who contributes personal service to the community through the agency's program but is not a replacement or substitute for paid staff.

§ 432.10 Standards of personnel administration.

(a) *State plan requirement.* A State plan must provide that the requirements of paragraphs (c) through (h) of this section are met.

(b) *Terms.* In this section, "standards" refer to those specified in paragraph (c).

(c) *Methods of personnel administration.* Methods of personnel administration must be established and maintained, in the medicaid agency and in local agencies administering the program, in conformity with:

(1) The standards for a Merit System of Personnel Administration, 45 CFR part 70, and any standards prescribed by the U.S. Civil Service Commission under section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding these standards; and

(2) 5 CFR part 900, subpart F, Administration of the Standards for Merit System of Personnel Administration.

(d) *Compliance of local jurisdictions.* The medicaid agency must have in effect methods to assure compliance with the standards by local jurisdictions included in the plan.

(e) *Review and adequacy of State laws, regulations, and policies.* The agency must—

(1) Assure that the U.S. Civil Service Commission has determined the adequacy of current State laws, regulations, and policy statements that effect methods of personnel administration in conformity with the standards and (2) submit any changes in them to the Commission for review.

(f) *Statements of acceptance by local agencies.* If the medicaid agency changes from a State-supervised, locally administered program, it must obtain statements of acceptance of the standards from the local agencies.

(g) *Affirmative action plan.* The medicaid agency must have in effect an affirmative action plan for equal employment opportunity, that includes specific action steps and timetables to assure that opportunity, and meets all other requirements of 45 CFR 70.4.

(h) *Submittal of requested materials.* The medicaid agency must submit to HEW, upon request, copies of the affirmative action plan and of the State and local materials that assure compliance with the standards.

Subpart B—Training Programs; Subprofessional and Volunteer Programs

§ 432.30 Training programs: General requirements.

(a) A State plan must provide for a program of training for medicaid agency personnel. (See also §§ 432.31 and 432.32 for training programs for subprofessional staff and for volunteers.)

(b) The program must—

(1) Include initial inservice training for newly appointed staff, and continuing training opportunities to improve the operation of the program;

(2) Be related to job duties performed or to be performed by the persons trained; and

(3) Be consistent with the program objectives of the agency.

§ 432.31 Training and use of subprofessional staff.

(a) *State plan requirement.* A State plan must provide for the training and effective use of subprofessional staff as community service aides, in accordance with the requirements of this section.

(b) *Recruitment and selection.* The medicaid agency must have methods of recruitment and selection that afford opportunity for full-time or part-time employment of persons of low income, including:

(1) Young, middle-aged, and older persons;

(2) Physically and mentally disabled; and

(3) Recipients.

(c) *Merit system.* Subprofessional positions must be subject to merit system requirements except where special exemption is approved on the basis of a State alternative plan for employment of disadvantaged persons.

(d) *Staffing plan.* The agency staffing plan must include the kinds of jobs that subprofessional staff can perform.

(e) *Career service.* The agency must have a career service program that allows persons:

(1) To enter employment at the subprofessional level; and

(2) To progress to positions of increasing responsibility and reward:

(i) In accordance with their abilities; and

(ii) Through work experience and pre-service and in-service training.

(f) *Training, supervision and supportive services.* The agency must have an organized training program, supervision, and supportive services for subprofessional staff.

(g) *Progressive expansion.* The agency must provide for annual increase in the number of subprofessional staff until:

(1) An appropriate ratio of subprofessional and professional staff has been achieved; and

(2) There is maximum use of subprofessional staff as community aides in the operation of the program.

§ 432.32 Training and use of volunteers.

(a) *State plan requirement.* A State plan must provide for the training and use of non-paid or partially paid volunteers in accordance with the requirements of this section.

(b) *Functions of volunteers.* The medicaid agency must make use of volunteers in:

(1) Providing services to applicants and recipients; and

(2) Assisting any advisory committees established by the agency.

As used in this paragraph, "partially paid volunteers" means volunteers who are reimbursed only for actual expenses incurred in giving service, without regard to the value of the service or the time required to provide it.

(c) *Staffing.* The agency must designate a position whose incumbent is responsible for:

(1) The development, organization, and administration of the volunteer program; and

(2) Coordination of the program with related functions.

(d) *Recruitment, selection, training, and supervision.* The agency must have:

(1) Methods of recruitment and selection that assure participation of volunteers of all income levels, in planning capacities and service provision; and

(2) A program of organized training and supervision of volunteers.

(e) *Reimbursement of expenses.* The agency must—

(1) Reimburse volunteers for actual expenses incurred in providing services; and

(2) Assure that no volunteer is deprived of the opportunity to serve because of the expenses involved.

(f) *Progressive expansion.* The agency must provide for annual increase in the number of volunteers used until the volunteer program is adequate for the achievement of the agency's service goals.

Subpart C—Staffing and Training Expenditures

§ 432.50 FFP: Staffing and training costs.

(a) *Availability of FFP.* FFP is available in expenditures for salary or other compensation, fringe benefits, travel, per diem, and training, at rates determined on the basis of the individual's position, as specified in paragraph (b) of this section.

(b) *Rates of FFP.* (1) For skilled professional medical personnel and supporting, staff of the medicaid agency or of other public agencies (as defined in § 432.2), the rate is 75 percent.

(2) For personnel engaged directly in the operation of mechanized claims processing and information retrieval systems, the rate is 75 percent.

(3) For personnel engaged in the design, development, or installation of mechanized claims processing and information retrieval systems, the rate is 50 percent for training and 90 percent for all other costs specified in paragraph (a) of this section.

(4) For personnel of the State licensing agency who are responsible for inspections of skilled nursing or intermediate care facilities, the rate is 100 percent through September 30, 1980:

(i) If a work plan and budget plan relative to this personnel have been approved by the HCFA regional office, and

(ii) Only for those expenditures that are not attributable to the overall cost of meeting the State licensing agency's responsibilities under State law and regulations, but are necessary and proper for carrying out the required inspections.

(5) For personnel administering family planning services and supplies, the rate is 90 percent.

(6) For all other staff of the medicaid agency or other public agencies providing services to the medicaid agency, and for training and other expenses of volunteers, the rate is 50 percent.

(c) *Specific limitations.* (1) Rates of FFP in excess of 50 percent are applicable only to those portions of the individual's working time that are devoted to the kinds of positions or duties that qualify for those rates.

(2) The special matching rates for persons working on mechanized claims processing and information retrieval systems (paragraph (b) (2) and (3) of this section) are applicable only if the design, development and installation, or the operation, have been approved by the Administrator in accordance with part 433, subpart C, of this subchapter.

432.55 Reporting training and administrative costs.

(a) *Scope.* This section identifies activities and costs to be reported as training or administrative costs on quarterly estimate and expenditure reports to HCFA.

(b) *Activities and costs to be reported on training expenditures.* (1) For fulltime training (with no assigned agency duties): Salaries, fringe benefits, dependency allowances, travel, tuition, books, and educational supplies.

(2) For part-time training: Travel, per diem, tuition, books and educational supplies.

(3) For State and local medicaid agency staff development personnel (including supporting staff) assigned fulltime training functions: Salaries, fringe benefits, travel, and per diem. Costs for staff spending less than full time on training for the medicaid program must be allocated between training and administration in accordance with 45 CFR 205.150.

(4) For experts engaged to develop or conduct special programs: Salary, fringe benefits, travel, and per diem.

(5) For agency training activities directly related to the program: Use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment, for example, books and audiovisual aids.

(6) For field instruction in medicaid: Instructors' salaries and fringe benefits, rental of space, travel, clerical assistance, teaching materials and equipment such as books and audiovisual aids.

(c) *Activities and costs not to be reported as training expenditures.* The following activities are to be reported as administrative costs:

(1) Salaries of supervisors (day-to-day supervision of staff is not a training activity); and

(2) Cost of employing students on a temporary basis, for instance, during summer vacation.

§ 432.60 Sources of State share of training expenditures and cost allocation.

(a) *Public funds as the State's share.* (1) Public funds may be considered as the State's share in claiming FFP if they meet the conditions specified in paragraph (a) (2) and (3) of this section.

(2) The public funds are appropriated directly to the State or local medicaid agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section.

(3) The public funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(b) *Private donated funds as the State's share.* (1) Funds donated from private sources may be considered as the State's share in claiming FFP only if they meet the conditions specified in paragraph (b) (2) through (4) of this section.

(2) The private funds are transferred to the State or local medicaid agency and are under its administrative control.

(3) The private funds are donated without any restriction which would require their use for the training of particular individuals or at particular facilities or institutions.

(4) The private funds do not revert to the donor's facility or use unless the donor is a non-profit organization, and the medicaid agency, of its own volition, decides to use the donor's facility.

(c) *Cost allocation.* Costs of training are chargeable to medicaid only to the extent that the training benefits that program. If the training benefits both federally funded programs and other programs financed solely with State or local funds, the training costs must be allocated among programs as specified in 45 CFR part 74, appendix C and 45 CFR § 205.150.

PART 433—STATE FISCAL ADMINISTRATION

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433.1 Purpose.

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Subpart D—Third Party Liability

433.135 Third party liability: Determination of liability and collection procedures.

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

§ 433.1 Purpose.

This part specifies the rates of FFP for services and administration, and prescribes requirements, prohibitions, and FFP conditions relating to State fiscal activities.

Subpart A—Federal Matching Provisions

§ 433.10 Rates of FFP for program services.

(a) *Basis.* Sections 1903(a)(1), 1903(g), and 1905(b) provide for payments to States, on the basis of a Federal medical assistance percentage, for part of their expenditures for services under an approved State plan.

(b) *Federal medical assistance percentage (FMAP).*—(1) *Computation.* The FMAP is determined by the formula described in sec. 1905(b) of the Act. Under the formula, if a State's per capita income is equal to the national average per capita income, the Federal share is 55 percent. If a State's per capita income exceeds the national average, the Federal share is lower, with a statutory minimum of 50 percent. If a State's per capita income is lower than the national average, the Federal share is increased, with a statutory maximum of 83 percent. The formula used in determining the State and Federal share is as follows:

State share=(State per capita income)²/(National per capita income)²×45 percent

Federal share=100 percent minus the State share (with a minimum of 50 percent and a maximum of 83 percent)

The formula provides for squaring both the State and national average per capita incomes; this procedure magnifies any difference between the State's income and the national average. Consequently, Federal matching to lower income States is increased, and Federal matching to higher income States is decreased, within the statutory 50–83 percent limits. The FMAP for Puerto Rico, the Virgin Islands, and Guam is set by statute at 50 percent and is subject to dollar limitations specified in sec. 1108 of the Act.

(2) *Publication.* The FMAP for each State is published in the FEDERAL REGISTER in each even-numbered year, effective for a 2-year period beginning October 1 of the next year.

(c) *Special provisions.* (1) Under sec. 1903(a)(5) of the Act, the Federal share of State expenditures for family planning services is 90 percent.

(2) Under sec. 1905(b), the Federal share of State expenditures for services provided through Indian Health Service facilities is 100 percent.

(3) Under sec. 1903(g), the FMAP is reduced if the State does not have an effective program to control use of institutional services.

§ 433.15 Rates of FFP for administration.

(a) *Basis.* Section 1903(a) (2)–(5) and (7) of the Act provide for payments to States, on the basis of specified percentages, for part of their expenditures for administration of an approved State plan.

(b) *Activities and rates.* (1) Compensation and training of personnel surveying long-term care facilities: 100 percent, through September 30, 1980. (Sec. 1903(a)(4); 42 CFR 432.50(b)(4).)

(2) Administration of family planning services: 90 percent. (Sec. 1903(a)(5); 42 CFR 432.50(b)(5).)

(3) Design, development, or installation of mechanized claims processing and information retrieval systems: 90 percent. (Sec. 1903(a)(3)(A)(i); 42 CFR part 433, subpart C, and § 432.50(b)(3).)

(4) Operation of mechanized claims processing and information retrieval systems: 75 percent. (Sec. 1903(a)(3)(B); 42 CFR part 433, subpart C and § 432.50(b)(2).)

(5) Compensation and training of skilled professional medical personnel and staff directly supporting those personnel: 75 percent. (Sec. 1903(a)(2); 42 CFR 432.50(b)(1).)

(6) All other activities the Secretary finds necessary for proper and efficient administration of the State plan: 50 percent. (Sec. 1903(a)(7).) (See also § 455.300 of this subchapter for FFP at 90 percent for State medicaid fraud control units under sec. 1903(a)(6).)

Subpart B—General Administrative Requirements

§ 433.36 Liens and recoveries.

(a) *Basis and purpose.* This section implements sec. 1902(a)(18) of the Act, which prohibits the State from placing a lien against a recipient's property and restricts the use of adjustments and recoveries against recipients.

(b) *Definition of property.* For purposes of this section, "property" includes the homestead and all other personal and real property in which the recipient has a legal interest.

(c) *State plan requirement.* A State plan must provide that the provisions of paragraphs (d) through (g) of this section are met.

(d) *Prohibition against lien or encumbrance.* No lien or encumbrance may be required from or imposed against any recipient's property prior to his death because of medicaid claims paid or to be paid on his behalf, unless placed as a result of a court judgment because of claims incorrectly paid.

(e) *Recipients under 65 years of age.* If a recipient is under 65 years of age when he receives medicaid—

(1) No lien or encumbrance may be imposed at any time against the recipient's property because of medicaid claims paid or to be paid on his behalf, unless placed as a result of a court judgment because of claims incorrectly paid; and

(2) There may be no adjustment or recovery of medicaid claims correctly paid.

(f) *Recipients 65 years of age or older.* If a recipient was 65 years of age or older when he received medicaid, an adjustment or recovery of medicaid claims correctly paid may be made only after his death, from his estate—

(1) After the death of the surviving spouse, if any; and

(2) When there is no surviving child who is under age 21 or blind or disabled as defined in the plan.

(g) *Prohibition of reduction of money payments.* No money payment under another program may be reduced as a means of recovering medicaid claims incorrectly paid.

§ 433.37 Reporting provider payments to Internal Revenue Service.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes requirements concerning—

(1) Identification of providers; and

(2) Compliance with the information reporting requirements of the Internal Revenue Code.

(b) *Identification of providers.* A State plan must provide for the identification of providers by—

(1) Social security number if—

(i) The provider is in solo practice; or

(ii) The provider is not in solo practice but billing is by the individual practitioner; or

(2) Employer identification number for all other providers.

(c) *Compliance with section 6041 of the Internal Revenue Code.* The plan must provide that the medicaid agency complies with the information reporting requirements of section 6041 of the Internal Revenue Code. (26 U.S.C. 6041). Section 6041 requires the filing of annual information returns showing amounts paid to providers, who are identified by name, address, and social security number or employer identification number.

Subpart C—Mechanized Claims Processing and Information Retrieval Systems

§ 433.110 Basis and purpose.

This subpart implements section 1903(a)(3) of the Act, which provides for FFP in State expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HEW regulations and medicaid bureau procedures for implementing these regulations are in 45 CFR Part 74, 45 CFR part 95, subpart F,* and part 7-71-00, Medical Assistance Manual.

§ 433.111 Definitions.

For purposes of this section:

"Advance Planning Document (APD)" means a written plan of action to acquire the proposed system. Content requirements for the APD are in 45 CFR part 95, subpart F,* and in part 7-71-00 of the Medical Assistance Manual.

"Design" or "system design" means the putting together of new or more efficient automatic data processing system. This includes the use of hardware to the extent necessary for the design phase.

"Development" means the definition of system requirements, detailing of system and program specifications, programming, and testing. This includes the use of hardware to the extent necessary for the development phase.

"Hardware" means automatic equipment used for a mechanized claims processing and information retrieval system. This equipment accepts and stores data, performs calculations and other processing steps, and produces information. Hardware includes:

(1) Electronic digital computers;

(2) Peripheral or auxiliary equipment used in support of electronic computers;

(3) Data transmission or communications equipment; and

(4) Data input equipment.

"Improvement" means modification of or addition to an existing operational mechanized claims processing and information retrieval system, which benefits the efficient, economical or effective administration of the State plan.

"Installation" means the integrated testing of programs and subsystems, system conversion, and turnover to operational status. This includes the use of hardware to the extent necessary for the installation phase.

"Mechanized claims processing and information retrieval system" means a system of software and hardware used to process medicaid claims, and to retrieve and produce utilization and management information about services that is required by the medicaid agency or Federal Government for administrative and audit purposes.

"Operation" means the automated processing of claims, payments, and reports. "Operation" includes the use of supplies, software, hardware, and personnel directly associated with the functioning of the mechanized system.

"Software" means computer programs, procedures, and associated documentation used to operate the hardware.

§ 433.112 FFP for design, development, installation or improvement of mechanized claims processing and information retrieval systems.

(a) FFP is available at 90 percent in expenditures for design, development, installation or improvement of a mechanized claims processing and information retrieval system, if the system is approved by the Administrator.

(b) The Administrator will approve the system if the following conditions are met:

(1) The Administrator determines the system is likely to provide more efficient, economical, and effective administration of the State plan.

(2) The system meets the system requirements in part 7-71-00 of the Medical Assistance Manual.

(3) The system is compatible with the claims processing and information retrieval systems used in the administration of medicare for prompt eligibility verification and for processing claims for persons eligible for both programs.

(4) The system supports the data requirements of Professional Standards Review Organizations established under part B of title XI of the Act.

(5) The State owns any software that is designed, developed, installed or improved with 90 percent FFP.

(6) The Department has a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use software, modifications to software, and documentation that is designed, developed, installed or improved with 90 percent FFP.

(7) The costs of the system are determined in accordance with 45 CFR part 74, appendix C.

(8) The medicaid agency agrees in writing to use the system for the period of time specified in the advance planning document approved by the Administrator or for any shorter period of time that the Administrator determines justifies the Federal funds invested.

(9) The agency agrees in writing that the information in the system will be safeguarded in accordance with 45 CFR 205.50.

§ 433.113 FFP for operation of mechanized claims processing and information retrieval systems.

(a) FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by the Administrator.

(b) The Administrator will approve the system operation if the conditions in § 433.112(b), except (5) and (6), are met and the following conditions are met:

(1) The system has been operating continuously during the period for which FFP is claimed.

(2) The system provides written notice, within 45 days of the payment of a claim, to each person who received services covered by the State plan, or to each person in a sample group of people who received services. This notice must specify—

(i) The service furnished;

(ii) The name of the provider furnishing the service;

(iii) The date on which the service was furnished; and

(iv) The amount of the payment made under the plan for the service.

(3) The written notice must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

(4) The system provides both patient and provider profiles for program management and utilization review purposes.

§ 433.114 Termination of FFP for failure to provide access to claims processing and information retrieval systems.

The Administrator will terminate FFP at any time if the medicaid agency fails to provide State and Federal representatives with full access to the system, including on-site inspection. The Administrator may request such access at any time to determine whether the conditions in this subpart are being met.

Subpart D—Third Party Liability

§ 433.135 Third party liability: determination of liability and collection procedures.

(a) *Basis and purpose.* This subpart implements sec. 1902(a)(25) and 1903(d)(2) of the Act by setting forth State plan requirements concerning—

(1) The legal liability of third parties to pay for services provided under the plan; and

(2) Treatment of reimbursements by a third party to a State for medicaid furnished under the plan.

*45 CFR Part 95, Subpart F, is effective 90 days from September 29, 1978 (see 43 FR _; September 29, 1978).

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(b) *Definitions.* For purposes of this subpart, "third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medicaid.

(c) *Requirements for State plans.* A State plan must provide that requirements of paragraphs (d)–(g) of this section are met.

(d) *Determining liability of third parties.* The medicaid agency must take reasonable measures to determine the legal liability of third parties to pay for services under the plan.

(e) *Payment of claims.* (1) If the agency has determined that—

(i) Third party liability exists for part or all of the services provided to a recipient; and

(ii) The third party will make payment within a reasonable time, the agency must pay only the amount, if any, by which the allowable claim exceeds the amount of the liability.

(2) The agency may not withhold payment for services provided to a recipient if third party liability or the amount of liability cannot be determined, or payments will not be available, within a reasonable time.

(f) *Reimbursement for medicaid.* The agency must seek reimbursement for medicaid to the extent of a third party's legal liability if—

(1) Liability is determined after medicaid is provided to an individual; or

(2) Liability was determined before providing medicaid but the agency failed to make use of it.

(g) *Repayment of Federal share.* If the State has received FFP in medicaid payments for which it receives third party reimbursement, the State must pay the Federal government a portion of the reimbursement determined in accordance with the FMAP for the State.

(h) *Federal financial participation.* FFP is not available in medicaid payments, to the extent of the Federal proportion of the third party liability, if—

(1) Third party liability existed when medicaid payments were made, but was disregarded at that time and not subsequently recovered;

(2) The agency failed to take reasonable steps to collect reimbursement from a third party; or

(3) The agency received reimbursement from a liable third party.

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

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Subpart A—Introduction, Definitions, and General Provisions

§ 435.1 Introduction.

(a) This section provides a brief explanation of medicaid eligibility as affected by changes in the cash assistance programs under the Social Security Act.

(b) *Medicaid eligibility before enactment of Pub. L. 92-603.*—(1) *Required coverage of the categorically needy.* Before enactment of the Social Security Amendments of 1972 (Pub. L. 92-603, October 30, 1972), which established the Federal program of Supplemental Security Income (SSI), States were required to make all recipients of cash assistance eligible for medicaid. Cash assistance was provided through Federally-assisted, State-administered programs to needy individuals in four categories: Those age 65 or over (title I, Old Age Assistance), the blind (title X, Aid to the Blind), the disabled (title XIV, Aid to the Permanently and Totally Disabled), and certain types of families (title IV-A, Aid to Families with Dependent Children). At State option, cash assistance to the aged, blind, and disabled could be made available under a consolidated program of Aid to the Aged, Blind, and Disabled (title XVI).

Because an eligible individual had to be both categorically related (that is, eligible as aged, blind, disabled, or a member of a family with children deprived of the support of at least one parent) and financially eligible on the basis of income and resources, recipients of cash assistance were termed categorically needy.

(2) *Optional coverage of the categorically needy.* States could elect to cover selected groups of individuals under medicaid who were financially eligible for cash assistance but ineligible because of certain other requirements, or who did not wish to receive cash assistance. Individuals eligible under these optional coverage provisions were considered as categorically needy and were eligible for the same services provided under medicaid to cash assistance recipients.

(3) Coverage of the medically needy. States could limit coverage under medicaid to the categorically needy or could, in addition, extend medicaid to aged, blind, or disabled individuals, or members of families with dependent children, who had too much income to be eligible for cash assistance but not enough for medical care. These individuals were termed "medically needy." A State could set higher levels of income and resources for determining eligibility for medicaid than those used in determining eligibility for cash assistance. Whether it used higher levels for the medically needy or the same level as for the categorically needy, the State had to deduct an applicant's incurred medical expenses from income in determining his eligibility for medicaid. As a result, unlike eligibility for cash assistance, eligibility under the medically needy coverage provision did not depend solely on the absolute amount of an individual's income.

Because a State would be covering more people under the medically needy program, it was permitted to provide more limited medicaid services to the medically needy than to the categorically needy.

(c) *Changes in cash assistance resulting from enactment of Pub. L. 92-603.*—(1) *Supplemental Security Income.* Pub. L. 92-603 established a Federal program of cash benefits for the aged, blind, and disabled under a new title XVI of the Act. The SSI program, administered by the Social Security Administration, became effective January 1, 1974, and replaced the previous programs for the aged, blind, and disabled in all jurisdictions of the United States except Puerto Rico, Guam, and the Virgin Islands. In addition to establishing uniform nationwide eligibility standards and requirements, the new title expanded the definition of disability to include individuals under age 18. It also provided for State supplements to the Federal SSI benefit.

(2) *Mandatory State supplements.* In general, most individuals who had been receiving cash assistance under State programs that had used more liberal eligibility requirements than SSI were deemed to meet the new SSI requirements for purposes of medicaid coverage. In addition, States that had

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been making higher payments to individuals under the previous programs of cash assistance were required to pay the difference between the SSI benefit and the previous payment. States must provide medicaid to recipients of these mandatory State supplements.

(3) *Optional State supplementation.* States may also pay optional cash supplements either to all aged, blind, and disabled SSI recipients or only to reasonable classifications, such as the aged. Under certain conditions, States may provide medicaid to optional supplement recipients.

(d) *Changes in medicaid eligibility as a result of Pub. L. 92-603.*—(1) *General.* In view of the projected increase in the number of individuals who would qualify for cash assistance under SSI, Pub. L. 92-603 changed the requirements for medicaid coverage in that States are no longer required to cover all aged, blind, and disabled cash (SSI) recipients. It did not change the mandatory coverage of all AFDC recipients.

(2) *SSI option.* States may make SSI recipients eligible for medicaid. In addition, they may provide medicaid to individuals receiving only optional State supplements.

(3) *Restricted eligibility ("section 209(b)") option.* Section 209(b), Pub. L. 92-603 (sec. 1902(f) of the Act), permits States to limit medicaid eligibility for the aged, the blind, or the disabled to individuals who meet eligibility requirements more restrictive than those under SSI. However, States exercising this option must deduct SSI, optional State supplements, and incurred medical expenses from income in determining medicaid eligibility.

Thus, there is no fixed income ceiling under this option; it permits any aged, blind, or disabled individual with enough medical expenses to become eligible.

(4) *Protected medicaid eligibility.* Whichever major option for coverage of the aged, blind, or disabled a State elects, all States are required to provide medicaid to recipients of mandatory State supplements and to certain other groups of individuals who were eligible for medicaid in December 1973 under optional coverage provisions.

§ 435.2 Purpose and applicability.

This part sets forth, for the 50 States and the District of Columbia—

(a) The eligibility provisions that a State plan must contain;

(b) The mandatory and optional groups of individuals to whom medicaid is provided under a State plan;

(c) The eligibility requirements and procedures that the medicaid agency must use in determining and redetermining eligibility, and requirements it may not use;

(d) The availability of FFP for providing medicaid and for administering the eligibility provisions of the plan; and

(e) Other requirements concerning eligibility determinations, such as use of an institutionalized individual's income for the cost of care.

(See also 45 CFR 206.10, Application, Determination of Eligibility and Furnishing Assistance, for regulations on eligibility administration. These include such matters as content and processing of applications for medicaid, dates of entitlement, etc.)

§ 435.3 Basis.

This part implements the following sections of the Act, which state eligibility requirements and standards:

1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
1902(a)(10) Required and optional groups.
1902(a)(12) Determination of blindness.
1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.
1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
1902(a)(34) Three-month retroactive eligibility.
1902(a) (third paragraph after (37)) Eligibility despite increased monthly insurance benefits under title II.
1902(b) Prohibited conditions for eligibility.
1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.
1902(f) State option to restrict medicaid eligibility for aged, blind, or disabled individuals to those who would have been eligible under State plan in effect in January 1972.
1903(f) Income limitations for medically needy and individuals covered by State supplement eligibility requirements.
1904(a)(1)–(vii) List of eligible individuals.
1905(a) (clause following (17)) Prohibitions against providing medicaid to certain institutionalized individuals.
1905(a) (second sentence) Definition of essential person.
1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.
1905(j) Definition of State supplementary payment.
1905(k) Eligibility of essential spouses of eligible individuals.

§ 435.4 Definitions and use of terms.

As used in this part—

"AABD" means aid to the aged, blind, and disabled under title XVI of the Act;

"AB" means aid to the blind under title X of the Act;

"AFDC" means aid to families with dependent children under title IV-A of the Act;

"APTD" means aid to the permanently and totally disabled under title XIV of the Act;

"Categorically needy" means aged, blind or disabled individuals or families and children who are otherwise eligible for medicaid and who meet the financial eligibility requirements for AFDC, SSI, or an optional State supplement;

"Families and children" refers to eligible members of families with children who are financially eligible under AFDC or medically needy rules and who are deprived of parental support or care as defined under the AFDC program (see 45 CFR 233.90, 233.100). In addition, this group includes individuals under age 21 who are not deprived of parental support or care but are financially eligible under AFDC rules or medically needy rules (see optional coverage group, § 435.207). It does not include individuals under age 21 whose eligibility for medicaid is based on blindness or disability—for these individuals, SSI rules govern;

"Mandatory State supplement" means a cash payment a State is required to make under section 212, Pub. L. 93-66 (July 9, 1973) to an aged, blind, or disabled individual. Its purpose is to provide an individual with the same amount of cash assistance he was receiving under OAA, AB, APTD, or AABD if his SSI payment is less than that amount;

"Medically needy" means aged, blind, or disabled individuals or families and children who are otherwise eligible for medicaid and whose income and resources are above the limits prescribed for the categorically needy but are within limits set under the medicaid State plan;

"OAA" means old age assistance under title I of the Act;

"OASDI" means old age, survivors, and disability insurance under title II of the Act;

"Optional State supplement" means a cash payment made by a State, under section 1616 of the Act, to an aged, blind, or disabled individual;

"SSI" means supplemental security income under title XVI of the Act.

§ 435.10 State plan requirements.

A State plan must—

(a) Provide that the requirements of this part are met; and

(b) Specify the groups to whom medicaid is provided, as specified in subparts B, C, and D of this part, and the conditions of eligibility for individuals in those groups.

Subpart B—Mandatory Coverage of the Categorically Needy

§ 435.100 Scope.

This subpart prescribes requirements for coverage of categorically needy individuals.

Mandatory Coverage of Families and Children

§ 435.110 Individuals receiving aid to families with dependent children.

(a) A medicaid agency must provide medicaid to individuals receiving AFDC.

(b) For purposes of this section, an individual is receiving AFDC if his needs are included in determining the amount of the AFDC payment. This includes an individual whose presence in the home is considered essential to the well-being of a recipient (see 45 CFR 233.20(a)(2)(vi)) and who could be a recipient under the State's AFDC plan if that plan were as broad as allowed under the Act for FFP.

§ 435.111 Individuals under age 21 who are ineligible for AFDC because of age or school attendance requirements.

The agency must provide medicaid to individuals under age 21 who would be eligible for AFDC if they met the AFDC age or school attendance requirements.

§ 435.112 Families terminated from AFDC because of increased earnings or hours of employment.

(a) If a family loses AFDC solely because of increased income from employment or increased hours of employment, the agency must continue to provide medicaid for 4 months to all members of the family if—

(1) The family received AFDC in any 3 or more months during the 6-month period immediately before the month in which it became ineligible for AFDC; and

(2) At least one member of the family is employed throughout the 4-month period, although this need not be the same member for the whole period.

(b) The 4-month period begins on the date AFDC is terminated. If AFDC benefits are terminated retroactively, the 4-month period also begins retroactively with the first month in which AFDC was erroneously paid.

§ 435.113 Individuals who are ineligible for AFDC because of requirements that do not apply under title XIX of the Act.

The agency must provide medicaid to individuals who would be eligible for AFDC except for an eligibility requirement used in that program that is specifically prohibited under title XIX. (See, for example, § 433.36 of this subchapter which prohibits a medicaid agency from placing liens against a recipient's property.)

§ 435.114 Individuals who would be eligible for AFDC except for increased OASDI income under Pub. L. 92-336 (July 1, 1972).

The agency must provide medicaid to individuals who meet the following conditions:

(a) In August 1972, the individual was entitled to OASDI and—

(1) He was receiving AFDC; or

(2) He would have been eligible for AFDC if he had applied, and the medicaid plan covered this optional group; or

(3) He would have been eligible for AFDC if he were not in a medical institution or intermediate care facility, and the medicaid plan covered this optional group.

(b) The individual would currently be eligible for AFDC except that the increase in OASDI under Pub. L. 92-336 raised his income over the limit allowed under AFDC. This includes an individual who—

(1) Meets all current AFDC requirements except for the requirement to file an application; or

(2) Would meet all current AFDC requirements if he were not in a medical institution or intermediate care facility, and the current medicaid plan covers this optional group.

Mandatory Coverage of the Aged, Blind, and Disabled

§ 435.120 Individuals receiving SSI.

Except as allowed under § 435.121, the agency must provide medicaid to aged, blind, and disabled individuals or couples who receive SSI, including—

(a) Individuals receiving SSI pending a final determination of blindness or disability; and

(b) Individuals receiving SSI under an agreement with the Social Security Administration to dispose of resources that exceed the SSI dollar limits on resources.

§ 435.121 Individuals in States using more restrictive requirements for medicaid than the SSI requirements.

(a) The agency may use medicaid eligibility requirements for the aged, blind, or disabled that are more restrictive than the eligibility requirements for SSI or for an optional State supplement program that meets the conditions specified in § 435.230. The agency may be more restrictive in defining blindness or disability, more restrictive in setting financial requirements for income or resources, or both. The requirements may apply to the aged or the blind or the disabled, or to any combination. For example, the agency may use a more restrictive definition of disability for those applying for medicaid as disabled and a more restrictive income requirement for those who apply as aged, but provide medicaid to all individuals receiving SSI on the basis of blindness.

(b) If an agency uses more restrictive requirements under this section—

(1) Each requirement may be no more restrictive than that in effect under the State's medicaid plan on January 1, 1972, and no more liberal than that applied under SSI or an optional State supplement program that meets the conditions of § 435.230; and

(2) In determining financial eligibility of an individual in the category to which the more restrictive requirements apply, the agency must deduct, from the individual's income, his SSI payment, any optional supplement paid under a program described in § 435.230, and incurred medical expenses as specified in § 435.732.

(c) The following sections of this part apply to the agency's use of more restrictive eligibility requirements:

(1) Section 435.135, treatment of individuals who receive OASDI cost-of-living increases.

(2) Section 435.304, medically needy coverage.

(3) Section 435.530, more restrictive definitions of blindness.

(4) Section 435.540, more restrictive definitions of disability.

(5) Sections 435.731 through 435.733, more restrictive income and resource requirements.

(6) Sections 435.812, 435.813, 435.823, 435.831, 435.834, and 435.841, medically needy financial eligibility requirements.

§ 435.122 Individuals who are ineligible for SSI or optional State supplements because of requirements that do not apply under title XIX of the Act.

If an agency provides medicaid to aged, blind, or disabled individuals receiving SSI or optional State supplements, it must provide medicaid to individuals who would be eligible for SSI or optional State supplements except for an eligibility requirement used in those programs that is specifically prohibited under title XIX. (See, for example, § 433.36 of this subchapter which prohibits a medicaid agency from placing liens against a recipient's property.)

§ 435.130 Individuals receiving mandatory State supplements.

The agency must provide medicaid to individuals receiving mandatory State supplements.

§ 435.131 Individuals eligible as essential spouses in December 1973.

(a) The agency must provide medicaid to any person who was eligible for medicaid in December 1973 as an essential spouse of an aged, blind, or disabled individual who was receiving cash assistance, if the conditions in paragraph (b) of this section are met.

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An "essential spouse" is defined in section 1905(a) of the Act as one who is living with the individual; whose needs were included in determining the amount of cash payment to the individual under OAA, AB, APTD, or AABD; and who is determined essential to the individual's well-being.

(b) The agency must continue medicaid if—

(1) The aged, blind, or disabled individual continues to meet the December 1973 eligibility requirements of the applicable State cash assistance plan; and

(2) The essential spouse continues to meet the conditions that were in effect in December 1973 under the applicable cash assistance plan for having his needs included in computing the payment to the aged, blind, or disabled individual.

§ 435.132 Institutionalized individuals who were eligible in December 1973.

The agency must provide medicaid to individuals who were eligible for medicaid in December 1973, or any part of that month, as inpatients of medical institutions or residents of intermediate care facilities that were participating in the medicaid program and who—

(a) For each consecutive month after December 1973—

(1) Continue to meet the requirements for medicaid eligibility that were in effect under the State's plan in December 1973 for institutionalized individuals; and

(2) Remain institutionalized; and

(b) Are determined by the State or a professional standards review organization to continue to need institutional care.

§ 435.133 Blind and disabled individuals eligible in December 1973.

The agency must provide medicaid to individuals who—

(a) Meet all current requirements for medicaid eligibility except the criteria for blindness or disability;

(b) Were eligible for medicaid in December 1973 as blind or disabled individuals, whether or not they were receiving cash assistance in December 1973; and

(c) For each consecutive month after December 1973, continue to meet the criteria for blindness or disability and the other conditions of eligibility used under the medicaid plan in December 1973.

§ 435.134 Individuals who would be eligible except for the increase in OASDI benefits under Pub. L. 92-336 (July 1, 1972).

The agency must provide medicaid to individuals who meet the following conditions:

(a) In August 1972, the individual was entitled to OASDI and—

(1) He was receiving OAA, AB, APTD, or AABD; or

(2) He would have been eligible for one of those programs except that he had not applied, and the medicaid plan covered this optional group; or

(3) He would have been eligible for one of those programs if he were not in a medical institution or intermediate care facility, and the medicaid plan covered this optional group.

(b) The individual would currently be eligible for SSI except that the increase in OASDI under Pub. L. 92-336 raised his income over the limit allowed under SSI. This includes an individual who—

(1) Meets all current SSI requirements except for the requirement to file an application; or

(2) Would meet all current SSI requirements if he were not in a medical institution or intermediate care facility, and the State's medicaid plan covers this optional group.

§ 435.135 Individuals who become ineligible for cash assistance as a result of OASDI cost-of-living increases received after April 1977.

(a) If an agency provides medicaid to aged, blind, or disabled individuals receiving SSI or optional State supplements, it must provide medicaid to individuals who—

(1) Are receiving OASDI;

(2) Were receiving SSI or optional State supplements but become ineligible for those payments because of OASDI cost-of-living increases paid under section 215(i) of the Act after April 1977; and

(3) Would still be eligible for SSI or optional State supplements if the amount of OASDI cost-of-living increases paid after April 1977 were deducted from income.

(b) Cost-of-living increases include the increases received by the individual or his financially responsible spouse.

(c) If the agency adopts more restrictive eligibility requirements than those under SSI, it must provide medicaid to individuals specified in paragraph (a) of this section on the same basis as medicaid is provided to individuals continuing to receive SSI or optional State supplements. If the individual incurs enough medical expenses to reduce his income to the financial eligibility standard for the categorically needy, the agency must cover him as categorically needy. In determining the amount of his income, the agency may deduct the cost-of-living increase paid under section 215(i), up to the amount of the increase that made him ineligible for SSI, and subsequent increases.

Subpart C—Options fo Coverage as Categorically Needy.

§ 435.200 Scope.

This subpart specifies options for coverage of individuals as categorically needy.

§ 435.201 Individuals included in optional groups.

Except where otherwise specified, a medicaid agency that chooses to cover an optional group must provide medicaid to all eligible individuals in that group. For example, in the options applicable to families and children and the aged, blind, or disabled, the agency may not provide medicaid only to families and children; similarly, in the options applicable to the aged, blind, or disabled, it may not cover only the blind.

OPTIONS FOR COVERAGE OF FAMILIES AND CHILDREN AND THE AGED, BLIND, AND DISABLED

§ 435.210 Individuals who would be eligible for but are not receiving cash assistance.

The agency may provide medicaid to individuals who would be eligible for AFDC, SSI, or an optional State supplement as specified in § 435.230 but who are not receiving these benefits.

§ 435.211 Individuals who would be eligible for cash assistance except for their institutional status.

The agency may provide medicaid to individuals in medical institutions and intermediate care facilities who are ineligible for AFDC, SSI, or an optional State supplement because of lower income standards used under these programs to determine eligibility for institutionalized individuals, but who would be eligible for AFDC, SSI, or an optional State supplement as specified in § 435.230 if they were not institutionalized.

OPTIONS FOR COVERAGE OF FAMILIES AND CHILDREN

§ 435.220 Individuals who would be eligible for AFDC if child care costs were paid from earnings.

(a) The agency may provide medicaid to individuals who would be eligible for AFDC if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure.

(b) The agency may use this option only if the State's AFDC plan deducts work-related child care costs from income to determine the amount of AFDC.

§ 435.221 Caretaker relatives of children who would be eligible for AFDC if they met age or school attendance requirements.

The agency may provide medicaid to individuals who meet the definition of a caretaker relative under 45 CFR 233.90(c)(1)(v)(A), if they have in their care a child under age 21 who would be eligible for AFDC if he met the AFDC age or school attendance requirements.

§ 435.222 Individuals under age 21 who would be eligible for AFDC but do not qualify as dependent children.

(a) The agency may provide medicaid to individuals under age 21 who would be eligible for AFDC if they met the definition of dependent child. (See 45 CFR 233.90(c)(1).)

(b) The agency may cover all individuals described in paragraph (a) of this section or individuals in reasonable classifications including the following:

(1) Individuals under age 21 in foster homes or private institutions for whom a public agency is assuming a full or partial financial responsibility. If the agency covers these individuals, it may also provide medicaid to individuals under age 21 placed in foster homes or private institutions by private nonprofit agencies.

(2) Individuals under age 21 in adoptions subsidized in full or in part by a public agency.

(3) Individuals under age 21 in intermediate care facilites, if intermediate care facility services are provided under the plan. If the agency covers these individuals, it may also provide medicaid to individuals in intermediate care facilities for the mentally retarded.

(4) Individuals under age 21 receiving active treatment as inpatients in psychiatric facilities or programs, if inpatient psychiatric services for individuals under 21 are provided under the plan.

§ 435.223 Individuals who would be eligible for AFDC if coverage under the State's AFDC plan were as broad as allowed under title IV-A.

(a) The agency may provide medicaid to individuals who—

(1) Would be eligible for AFDC if the State's AFDC plan included individuals whose coverage under title IV-A is optional (for example, medicaid may be provided to unborn children or members of families with unemployed fathers even though AFDC is not available to them under the State's AFDC plan); or

(2) Would be eligible for AFDC if the State's AFDC plan did not contain eligibility requirements more restrictive than, or in addition to, those required under title IV-A.

(b) The agency may cover any AFDC optional group without covering all such groups.

OPTIONS FOR COVERAGE OF THE AGED, BLIND, AND DISABLED

§ 435.230 Individuals receiving only optional State supplements.

(a) The agency may provide medicaid, in one or more of the following classifications, to individuals who receive only an optional State supplement that meets the conditions specified in paragraph (b) of this section and who would be eligible for SSI except for the level of their income:

(1) All aged individuals.

(2) All blind individuals.

(3) All disabled individuals.

(4) Only aged individuals in domiciliary facilities or other group living arrangements as defined under SSI.

(5) Only blind individuals in domiciliary facilities or other group living arrangements as defined under SSI.

(6) Only disabled individuals in domiciliary facilities or other group living arrangements as defined under SSI.

(7) Individuals receiving a federally administered optional State supplement that meets the conditions specified in this section.

(8) Individuals in additional classifications specified by the Secretary for federally administered supplementary payments under 20 CFR 416.2020(d).

(b) Payments under the optional supplement program must be—

(1) Based on need and paid in cash on a regular basis;

(2) Equal to the difference between the individual's countable income and the income standard used to determine eligibility for supplement. Countable income is income remaining after deductions required under SSI or, at State option, more liberal deductions are made (see § 435.1006 for limitations on FFP in medicaid expenditures for individuals receiving optional State supplements); and

(3) Available to all individuals in the State; however, the plan may provide for variations in the income standard by political subdivision according to cost-of-living differences.

§ 435.231 Individuals in institutions who would not be eligible for cash assistance if they were not institutionalized.

(a) If the agency provides medicaid under § 435.211 to individuals in institutions who would be eligible for AFDC, SSI, or State supplements except for their institutional status, it may also cover aged, blind, and disabled individuals in institutions who—

(1) Because of their income, would not be eligible for SSI or State supplements if they were not institutionalized; but

(2) Have income below a level specified in the plan under § 435.722. (See § 435.1005 for limitations on FFP in medicaid expenditures for individuals specified in this section.)

(b) The agency may cover individuals under this section whether or not the State pays optional supplements.

Subpart D—Optional Coverage of the Medically Needy

§ 435.300 Scope.

This subpart specifies the option for coverage of medically needy individuals.

§ 435.301 General rule.

(a) A medicaid agency may provide medicaid to individuals specified in this subpart who—

(1) Either—

(i) Have income that meets the standards in §§ 435.812 through 435.816; or

(ii) If their income is more than allowed under those standards, have incurred medical expenses at least equal to the difference between their income and the applicable income standard; and

(2) Have resources that meet the standards in §§ 435.840 or 435.841.

(b) If the agency chooses this option, the agency must provide medicaid to all the individuals specified in this subpart.

§ 435.310 Medically needy coverage of families and children.

If the agency provides medicaid to the medically needy, it must provide medicaid to the following individuals who meet the income and resource standards in subpart I of this part;

(a) Members of families with dependent children (§ 435.110);

(b) Individuals under age 21 who are ineligible for AFDC because of age or school attendance requirements (§ 435.111);

(c) Individuals who are ineligible for AFDC because of an eligibility requirement under that program that is specifically prohibited under title XIX (§ 435.113);

(d) The following individuals, if the agency provides medicaid to them as categorically needy:

(1) Individuals who would be eligible for AFDC if the State's AFDC plan were as broad as allowed under title IV-A (§ 435.223).

(2) Individuals who would be eligible for AFDC if child care costs were paid from earnings (§ 435.220).

(3) Caretaker relatives of children who are ineligible for AFDC because of age or school attendance requirements (§ 435.221).

(4) Individuals under age 21 who are ineligible for AFDC because they are not dependent children (§ 435.222).

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§ 435.320 Medically needy coverage of the aged, blind, and disabled in States that cover individuals receiving SSI.

If the agency provides medicaid to individuals receiving SSI and elects to cover the medically needy, it must provide medicaid to the following individuals who meet the income and resource requirements of subpart I of this part:

(a) Aged, blind, and disabled individuals (§ 435.120).

(b) Aged, blind, and disabled individuals who are ineligible for SSI or an optional State supplement because of an eligibility requirement under those programs that is specifically prohibited under title XIX (§ 435.122).

§ 435.321 Medically needy coverage of the aged, blind, and disabled in States that impose more restrictive eligibility requirements.

(a) If an agency provides medicaid only to those aged, blind, or disabled individuals who meet more restrictive requirements than used under SSI and elects to cover the medically needy, it must provide medicaid to aged, blind, and disabled individuals who—

(1) Have income and resources within the standards established under subpart I of this part; and

(2) If applying as blind or disabled, meet the blindness or disability requirements established under § 435.121.

(b) To determine whether an individual is covered as categorically needy or medically needy, the agency must—

(1) Consider as categorically needy those individuals who meet the State's categorically needy financial standard and (i) who, before their incurred medical expenses are deducted from income, meet the financial eligibility requirements for SSI or a State supplement under § 435.230; or (ii) whose OASDI increases are not counted under §§ 435.134 and 435.135.

(2) Consider as medically needy all other individuals.

§ 435.325 Protected medically needy coverage for blind and disabled individuals eligible in December 1973.

If an agency provides medicaid to the medically needy, it must cover individuals who—

(a) Were eligible as medically needy under the medicaid plan in December 1973 on the basis of the blindness or disability criteria of the AB, APTD, or AABD plan;

(b) For each consecutive month after December 1973, continue to meet—

(1) Those blindness or disability criteria; and

(2) The eligibility requirements for the medically needy under the December 1973 medicaid plan; and

(c) Meet the current requirements for eligibility as medically needy under the medicaid plan except for blindness or disability criteria.

Subpart E—General Eligibility Requirements

§ 435.400 Scope.

This subpart prescribes general requirements for determining the eligibility of both categorically and medically needy individuals specified in subparts B, C, and D of this part.

§ 435.401 General rules.

(a) A medicaid agency may not impose any eligibility requirement that is prohibited under title XIX of the Act.

(b) The agency must base any optional group covered under subparts B and C of this part on reasonable classifications that do not result in arbitrary or inequitable treatment of individuals and groups and that are consistent with the objectives of title XIX.

(c) The agency must not use requirements for determining eligibility for optional coverage groups that are—

(1) For families and children, more restrictive than those used under the State's AFDC plan; and

(2) For aged, blind, and disabled individuals, more restrictive than those used under SSI, except for individuals receiving an optional State supplement as specified in § 435.230 or individuals in categories specified by the agency under § 435.121.

§ 435.402 Citizenship and alienage.

The agency must provide medicaid to otherwise eligible residents of the United States who are—

(a) Citizens; or

(b) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, including any alien who is lawfully present in the United States under sec. 203(a)(7) or sec. 212(d)(5) of the Immigration and Nationality Act.

§ 435.403 State residence.

(a) The agency must provide medicaid to otherwise eligible residents of the State.

(b) For purposes of this section—

(1) "Resident" of a State is an individual who is living in the State voluntarily with the intention of making his home there and is not living in the State for a temporary purpose. A child is a resident of the State in which he is living other than on a temporary basis.

(2) In determining residence, the agency may not consider the reason for which the individual entered the State, except to the extent that the reason may bear upon whether he is residing in the State voluntarily or for a temporary purpose.

(3) An individual retains his residence until he abandons it. Temporary absence from the State, with subsequent returns to the State or intent to return when the purposes of the absence have been accomplished, does not interrupt residence.

§ 435.404 Applicant's choice of category.

The agency must allow an individual who would be eligible under more than one category to have his eligibility determined for the category he selects.

Subpart F—Categorical Requirements for Eligibility

§ 435.500 Scope.

This subpart prescribes categorical requirements for determining the eligibility of both categorically and medically needy individuals specified in subparts B, C, and D of this part.

Dependency

§ 435.510 Determination of dependency.

For families with dependent children who are not receiving AFDC, the agency must use the definitions and procedures set forth under the State's AFDC plan to determine whether—

(a) An individual under age 21 is a dependent child because he is deprived of parental support or care; and

(b) An individual is an eligible member of a family with dependent children.

Age

§ 435.520 Age requirements for the aged and children.

(a) The agency must not impose—

(1) An age requirement of more than 65 years;

(2) An age requirement that excludes an individual under age 21 who would be eligible for AFDC if he met AFDC age or school attendance requirements; or

(3) A lower age requirement than that under the State's AFDC plan.

(b) In determining age, the agency must use the common-law method (under which an age is reached the day before the anniversary of birth), except—

(1) For families and children, the agency must use the popular usage method (under which an age is reached on the anniversary of birth), if this method is used under the State's AFDC plan; and

(2) For aged, blind, or disabled individuals, the agency may use the popular usage method, if the plan provides under § 435.121, for coverage of aged, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI.

(c) The agency may use an arbitrary date, such as July 1, for determining an individual's age if the year, but not the month, of his birth is known.

Blindness

§ 435.530 Definition of blindness.

(a) *Definition.* The agency must use the same definition of blindness as used under SSI, except that—

(1) In determining the eligibility of individuals whose medicaid eligibility is protected under §§ 435.130 through 435.134, the agency must use the definition of blindness that was used under the medicaid plan in December 1973; and

(2) The agency may use a more restrictive definition to determine eligibility under § 435.121, if the definition is no more restrictive than that used under the medicaid plan on January 1, 1972.

(b) *State plan requirement.* The State plan must contain the definition of blindness, expressed in ophthalmic measurements.

§ 435.531 Determinations of blindness.

(a) Except as specified in paragraph (b) of this section, in determining blindness—

(1) A physician skilled in the diseases of the eye or an optometrist, whichever the individual selects, must examine him, unless both of the applicant's eyes are missing;

(2) The examiner must submit a report of examination to the medicaid agency; and

(3) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

(i) Whether the individual meets the definition of blindness; and

(ii) Whether and when re-examinations are necessary for periodic redeterminations of eligibility, as required under 45 CFR 206.10(a)(9)(iii). Blindness is considered to continue until the reviewing physician determines that the recipient's vision has improved so that he no longer meets the definition.

(b) If an agency provides medicaid to individuals receiving SSI on the basis of blindness, this section does not apply for those individuals.

Disability

§ 435.540 Definition of disability.

(a) *Definition.* The agency must use the same definition of disability as used under SSI, except that—

(1) In determining the eligibility of individuals whose medicaid eligibility is protected under §§ 435.130 through 435.134, the agency must use the definition of disability that was used under the medicaid plan in December 1973; and

(2) The agency may use a more restrictive definition to determine eligibility under § 435.121, if the definition is no more restrictive than that used under the medicaid plan on January 1, 1972.

(b) *State plan requirements.* The State plan must contain the definition of disability.

§ 435.541 Determinations of disability.

(a) Except as specified in paragraph (d) of this section, the agency must obtain a medical report and a social history for individuals applying for medicaid on the basis of disability. The medical report must include a diagnosis based on medical evidence. The social history must contain enough information to enable the agency to determine disability.

(b) A physician and a social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under 45 CFR § 206.10(a)(9)(iii).

(c) In subsequently determining disability, the physician and social worker must review reexamination reports and the social history and determine whether the individual continues to meet the definition. Disability is considered to continue until this determination is made.

(d) If an agency provides medicaid to individuals receiving SSI on the basis of disability, this section does not apply for those individuals.

Subpart G—General Financial Eligibility Requirements

§ 435.600 Scope.

This subpart prescribes general financial requirements for determining the eligibility of both categorically and medically needy individuals specified in subparts B, C, and D of this part. Subparts H and I prescribe additional financial requirements.

§ 435.602 Limitation on the financial responsibility of relatives.

Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not—

(a) Consider income and resources of any relative available to an individual; nor

(b) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

§ 435.603 Applications for other benefits.

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so.

(b) Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

Subpart H—Financial Requirements for the Categorically Needy

§ 435.700 Scope.

This subpart prescribes financial requirements for determining the eligibility of categorically needy individuals under subparts B and C of this part. The requirements apply only to individuals who are not receiving AFDC, SSI, or an optional State supplement. The financial eligibility requirements of AFDC, SSI, or the State supplement apply to individuals receiving those payments. This subpart also prescribes requirements for applying an institutionalized recipient's income to cost of care.

Financial Requirements Applicable to Optional Groups: Families and Children

§ 435.711 General requirements.

In determining eligibility for families and children, a medicaid agency must apply the financial eligibility requirements of the State's AFDC plan.

§ 435.712 Financial responsibility of spouses and parents.

(a) For families and children, the agency must consider income and resources of spouses or parents as available to the individual whether or not they are actually contributed, if they live in the same household. For this purpose, "parent" includes a stepparent if he is equally liable with the natural parent for the support of children under State law of general applicability.

(b) If the spouse or parent does not live with the individual, the agency must consider only income and resources that are actually contributed to the individual from a parent or spouse as available to him.

(c) Even if State law confers adult status below age 21, the agency must consider parental income and resources as available to a child, if he is living with the parent, until he becomes 21.

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FINANCIAL ELIGIBILITY REQUIREMENTS APPLICABLE TO OPTIONAL GROUPS: THE AGED, BLIND, AND DISABLED IN STATES COVERING INDIVIDUALS RECEIVING SSI

§ 435.721 General requirements.

(a) This section applies when an agency provides medicaid to—

(1) All SSI recipients or to all SSI recipients and to State supplement recipients; and

(2) One or more of the optional coverage groups specified in §§ 435.210 (eligible for but not receiving cash), 435.211 and 435.231 (institutionalized individuals).

(b) If the agency, under § 435.120, provides medicaid to SSI recipients but not to optional State supplement recipients, it must use the SSI financial eligibility requirements to determine medicaid eligibility of aged, blind, and disabled individuals under the optional provisions of §§ 435.210, 435.211, and 435.231. However, under § 435.231, it may use a higher income standard than SSI to determine eligibility for institutionalized individuals.

(c) If the agency provides medicaid to SSI recipients and, under § 435.230, to individuals who are not receiving SSI but are receiving optional State supplements, the agency must use the following criteria to determine medicaid eligibility under the optional provisions of §§ 435.210, 435.211, and 435.231 for aged, blind, and disabled individuals:

(1) The agency must use the SSI financial eligibility requirements for individuals who would be eligible for SSI but would not be eligible for an optional State supplement.

(2) The agency must use the supplement program's financial eligibility requirements for individuals who would be eligible for an optional State supplement. However, the agency may use a higher income standard than SSI or the State supplement program to determine eligibility of institutionalized individuals under § 435.231.

(d) In determining eligibility under paragraph (b) or (c) of this section, the agency must use the SSI deductions from income and resources and budgeting methods set forth in 20 CFR part 416, unless greater deductions from income and higher income standards are used in an optional State supplement program that meets the requirements of § 435.230.

§ 435.722 Institutionalized individuals who would not be eligible for cash assistance if they were not institutionalized.

(a) If an agency, under § 435.231, provides medicaid to individuals in medical institutions and intermediate care facilities who would not be eligible for SSI or State supplements if they were not institutionalized, the agency must use income standards based on the greater need for financial assistance that the individuals would have if they were not in the institution. The standards may vary by the level of institutional care needed by the individual (hospital, skilled nursing, or intermediate level care), or by other factors related to individual needs. (See § 435.1005 for FFP limits on income standards established under this section.)

(b) In determining the eligibility of individuals under the income standards established under this section, the agency must not take into account income that would be disregarded in determining eligibility for SSI or for an optional State supplement.

(c) The agency must apply the income standards established under this section effective with the first full month of institutionalization.

§ 435.723 Financial responsibility of spouses.

(a) If the agency provides medicaid to SSI recipients, it must meet the requirements of this section in determining eligibility of aged, blind, and disabled individuals under the optional coverage provisions of §§ 435.210, 435.211, and 435.231.

(b) The agency must consider income and resources of spouses living in the same household as available to each other, whether or not they are actually contributed.

(c) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together, the agency must consider their income and resources as available to each other for the first 6 months after the month they cease to live together. After this 6-month period, the agency must consider only the income and resources that are actually contributed by one spouse to the other.

(d) If only one spouse in a couple applies or is eligible and they cease to live together, the agency must consider only the income and resources of the eligible spouse that are actually contributed to the eligible spouse after the month in which they cease to live together.

§ 435.724 Financial responsibility of parents for blind or disabled children.

(a) If the agency provides medicaid to SSI recipients, it must meet the requirements of this section in determining eligibility of blind and disabled children under the optional coverage provisions of §§ 435.210, 435.211, and 235.231.

(b) If the child is under age 18 and is living in the same household with a parent or spouse of a parent, the agency must consider the parent's or spouse's income and resources available to the child, whether or not they are actually contributed. This rule also applies to a child under 21 living in the same household, if he is regularly attending a school, college, or university or is receiving technical training designed to prepare him for gainful employment.

(c) After the month in which the child ceases to live with a parent or spouse of a parent, the agency must consider only the income and resources of that parent or spouse that are actually contributed to the child. This rule applies even if the child returns to the household for periodic visits.

§ 435.725 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.

(a) The agency must reduce its payment to an institution, for services provided to an individual specified in paragraph (b) of this section, by deducting the amounts specified in paragraph (c) from the individual's income.

(b) This section applies to the following individuals in medical institutions and intermediate care facilities:

(1) Individuals receiving cash assistance under SSI or AFDC who are eligible for medicaid under §§ 435.110 or 435.120.

(2) Individuals who would be eligible for AFDC, SSI, or an optional State supplement except for their institutional status and who are eligible for medicaid under §435.211.

(3) Aged, blind, and disabled individuals who are eligible for medicaid, under §435.231, under a higher income standard than the standard used in determining eligibility for SSI or optional State supplements.

(c) In reducing its payment to the institution, the agency must deduct the following amounts, in the following order, from the individual's total income including amounts disregarded in determining eligibility:

(1) A personal needs allowance that is reasonable in amount for clothing and other personal needs of the individual while in the institution. This protected personal needs allowance must be at least—

(i) $25 a month for an aged, blind, or disabled individual, including a child applying for medicaid on the basis of blindness or disability;

(ii) $50 a month for an institutionalized couple if both spouses are aged, blind, or disabled and their income is considered available to each other in determining eligibility; and

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled. Although the personal needs allowance is protected for his use, the individual must use it to pay for any cost-sharing charges the agency imposes under §§ 447.50 through 447.59 of this subchapter, if he has no other income.

(2) For an individual with only a spouse at home, an additional amount for the maintenance needs of the spouse. This amount must be based on a reasonable assessment of need but must not exceed the highest of—

(i) The amount of the income standard used to determine eligibility for SSI for an individual living in his own home, if the agency provides medicaid only to individuals receiving SSI;

(ii) The amount of the highest income standard, in the appropriate category of age, blindness, or disability, used to determine eligibility for an optional State supplement for an individual in his own home, if the agency provides medicaid to optional State supplement recipients under § 435.230; or

(iii) The amount of the medically needy income standard for one person established under § 435.812, if the agency provides medicaid under the medically needy coverage option.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family. This amount must—

(i) Be based on a reasonable assessment of their financial need;

(ii) Be adjusted for the number of family members living in the home; and

(iii) Not exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's AFDC plan or the medically needy income standard established under subpart I of this part for a family of the same size.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical or remedial care recognized under State law but not covered under the State's medicaid plan, subject to reasonable limits the agency may establish on amounts of these expenses.

(d) In determining the amount of the individual's income to be used to reduce the agency's payment to the institution, the agency may, for single individuals, deduct an amount (in addition to the personal needs allowance) for maintenance of the individual's home if—

(1) The amount is deducted for not more than a 6-month period; and

(2) A physician has certified that the individual is likely to return to his home within that period.

FINANCIAL ELIGIBILITY FOR THE AGED, BLIND, AND DISABLED IN STATES USING MORE RESTRICTIVE REQUIREMENTS THAN SSI

§ 435.731 General requirements for determining income eligibility in States using more restrictive requirements than SSI.

(a) *Requirements applicable to all individuals.* If the agency, under § 435.121, uses any requirement for aged, blind, or disabled individuals more restrictive than an eligibility requirement under SSI or optional State supplement program, the agency must determine income in accordance with § 435.732 with respect to any category for which more restrictive requirements are imposed. The agency must use the procedures in § 435.732 regardless of the type of restrictive eligibility factor imposed.

(b) *Income standard for institutionalized individuals.* The agency must use lower income standards to determine eligibility for individuals who are in medical institutions or intermediate care facilities than it uses for noninstitutionalized individuals. Those standards must be reasonable in amount for clothing and personal needs of the individual and must be at least—

(1) $25 a month for single individuals; and

(2) $50 a month for an institutionalized coupled if both spouses are aged, blind, or disabled and their income is considered available to each other in determining eligibility.

§ 435.732 Procedures for determining income eligibility.

The agency must determine income eligibility of individuals in the categories specified in § 435.731(a) in the following manner:

(a) *Determining countable income.* Except for individuals in medical institutions and intermediate care facilities, the agency must deduct the following amounts from income to determine the individual's countable income (see § 435.733 for determining countable income for institutionalized individuals):

(1) Any SSI benefit the individual receives.

(2) Any optional State supplement the individual receives.

(3) Increases in OASDI that are deducted under §§ 435.134 and 435.135(c) for individuals specified in those sections.

(4) Other deductions from income applied under the medicaid plan.

(b) *Eligibility based on countable income.* If countable income determined under paragraph (a) of this section or, for institutionalized individuals, under § 435.733, is equal to or less than the applicable income standard established under §§ 435.121 or 435.731(b), the individual is eligible for medicaid.

(c) *Deduction of incurred medical expenses.* (1) If countable income exceeds the income standard, the agency must deduct from income expenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under State law and are not subject to payment by a third party, including medicare and other health insurance premiums, deductibles or coinsurance charges, and copayments or deductibles imposed under §§ 447.51 or 447.53 of this subchapter.

(2) The agency may set reasonable limits on the types of incurred medical expenses to be deducted from income.

(d) *Eligibility based on incurred medical expenses.* If, after incurred medical expenses are deducted, countable income is equal to or less than the income standard, the individual is eligible for medicaid.

§ 435.733 Institutionalized aged, blind, or disabled individuals: Determination of countable income.

For purposes of § 435.732(a), the agency must determine countable income for institutionalized individuals in the following manner:

(a) The agency must consider all of the individual's income available to him without deducting the amounts specified in § 435.732(a) (1)-(4) (SSI and State supplement payments, OASDI increases, and other deductions specified in the medicaid plan);

(b) If the individual has only a spouse at home, the agency must deduct from the individual's income an amount for the spouse's maintenance needs. This amount must be based on a reasonable assessment of need but must not exceed the higher of—

(i) The more restrictive income standard established under § 435.121; or

(ii) The medically needy standard for an individual;

(c) If the individual has a family at home, the agency must deduct from his income an amount for their maintenance needs. This amount must—

(i) Be based on a reasonable assessment of their financial need;

(ii) Be adjusted for the number of family members; and

(iii) Not exceed the higher of the need standard under the State's AFDC plan or the medically needy standard for a family of the same size; and

(d) For an individual with no spouse or family at home, the agency may deduct from his income an amount for maintenance of his home if—

(1) The amount is deducted for not more than a 6-month period; and

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(2) A physician has certified that the individual is likely to return to his home within that period.

§ 435.734 Financial responsibility of spouses and parents.

In determining medicaid eligibility of an aged, blind, or disabled individual under requirements more restrictive than those used under SSI, the agency must consider the income and resources of spouses and parents as available to the individual in the manner specified in §§ 435.723 and 435.724 or in a more extensive manner, but not more extensive than the requirements in effect under the medicaid plan on January 1, 1972.

FINANCIAL REQUIREMENTS APPLICABLE TO INDIVIDUALS UNDER PROTECTED COVERAGE PROVISIONS

§ 435.740 Protected medicaid eligibility for individuals eligible in December 1973.

In determining whether individuals continue to meet the income requirements used in December 1973, for purposes of determining eligibility under §§ 435.131, 435.132, and 435.133, the agency must deduct increased OASDI payments to the same extent that these deductions were in effect in December 1973. These deductions are required by section 306 of the Social Security Amendments of 1972 (Pub. L. 92-603) and section 1007 of Pub. L. 91-172 (enacted Dec. 30, 1969), modified by section 304 of Pub. L. 92-603.

Subpart I—Financial Requirements for the Medically Needy

§ 435.800 Scope.

This subpart prescribes financial requirements for determining the eligibility of medically needy individuals under subpart D of this part.

MEDICALLY NEEDY INCOME STANDARDS

§ 435.811 General requirement.

To determine eligibility of medically needy individuals and families, a medicaid agency must use one income standard for all single individuals and one standard for all families of the same size.

§ 435.812 Medically needy income standard for one person, noninstitutionalized.

(a) Except as allowed under paragraph (b) of this section, the agency must use an income standard to determine eligibility of noninstitutionalized individuals that at least equals the highest of the following amounts:

(1) The amount of the payment standard for an individual that is generally used to determine eligibility under the State's AFDC plan.

(2) If the agency provides medicaid to all individuals receiving SSI, the amount of the income standard used to determine eligibility under SSI of an individual in his home.

(3) If the agency provides medicaid, under § 435.230, to individuals receiving only optional State supplements, the amount of the highest income standard generally used to determine eligibility for an optional State supplement of an individual in his home.

(4) If the agency provides medicaid only to aged, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI, the amount of the highest income standard used to determine medicaid eligibility of an aged, blind, or disabled individual.

(b) An agency may use a lower income standard for individuals if—

(1) The income standard used under paragraph (a) of this section exceeds the maximum dollar amount on income allowed for purposes of FFP under § 435.1007; and

(2) The lower income standard at least equals the maximum amount allowed for purposes of FFP.

§ 435.813 Medically needy income standard for one person, institutionalized.

(a) The agency must use a lower income standard than that specified in § 435.812 to determine eligibility of individuals in medical institutions and intermediate care facilities.

(b) The lower income standard must be reasonable in amount for clothing and personal needs of the individual while in the institution and must be at least—

(1) $25 a month for aged, blind, or disabled individuals including a child applying for medicaid on the basis of blindness or disability; and

(2) A reasonable amount set by the agency for other medically needy individuals, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

§ 435.814 Medically needy income standard for two persons, non-institutionalized.

(a) Except as provided in paragraph (b) of this section, the agency must use an income standard to determine eligibility for two persons who are not institutionalized that at least equals the highest of the following amounts:

(1) The amount of the payment standard for a family of two that is generally used to determine eligibility under the State's AFDC plan.

(2) If the agency provides medicaid to all individuals receiving SSI, the amount of the income standard used to determine eligibility under SSI of a couple in which both spouses apply as aged, blind, or disabled and live in the same household.

(3) If the agency provides medicaid, under § 435.230, to individuals receiving only optional State supplements, the amount of the highest income standard generally used to determine eligibility for an optional State supplement for couples in which both spouses apply as aged, blind, or disabled and live in the same household.

(4) If the agency provides medicaid only to aged, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI, the amount of the highest income standard used to determine medicaid eligibility of couples in which both spouses apply as aged, blind, or disabled and are living in the same household.

(b) An agency may use a lower income standard for two persons if—

(1) The income standard used under paragraph (a) of this section exceeds the maximum dollar amount on income allowed for purposes of FFP under § 435.1007; and

(2) The lower income standard at least equals the maximum amount allowed for purposes of FFP.

§ 435.815 Medically needy income standards for institutionalized couples.

(a) The agency must use a lower income standard than that specified in § 435.814 to determine the eligibility of couples in a medical institution or intermediate care facility if—

(1) Both spouses apply for medicaid and are aged, blind, or disabled; and

(2) Their income is considered available to each other in determining their eligibility for medicaid.

(b) The lower income standard must be reasonable in amount for clothing and personal needs of the couple while in the institution and must be at least $50 a month.

§ 435.816 Medically needy income standards for three or more persons.

The agency must use an income standard to determine eligibility of families of three or more that at least equals the amount of the payment standard generally used to determine eligibility under the State's AFDC plan for families of the same size. This rule also applies in determining eligibility of an individual under age 21 living with his parents who is not eligible as a dependent child and whose parents' income and resources are considered available to him under § 435.821.

FINANCIAL RESPONSIBILITY OF RELATIVES

§ 435.821 Financial responsibility of relatives: Families and children.

(a) The agency must meet the requirements of this section in determining eligibility, under § 435.310, of medically needy families and children.

(b) The agency must consider income and resources of spouses or parents as available to the individual whether or not they are actually contributed, if they live in the same household. For this purpose, "parent" includes a stepparent if he is equally liable with the natural parent for the support of children under State law of general applicability.

(c) If the spouse or parent does not live with the individual, the agency must consider income and resources that are actually contributed by the spouse or parent as available to him. The agency must use the methods and procedures of the State's AFDC plan to determine whether an individual is living with a spouse or parent.

(d) Even if State law of general applicability confers adult status below age 21, the agency must consider parental income and resources as available to a child, if he is living with the parent, until he becomes 21.

§ 435.822 Financial responsibility of relatives of aged, blind, or disabled individuals in States using SSI eligibility requirements.

(a) The agency must meet the requirements of this section in determining eligibility, under § 435.320 of medically needy aged, blind, or disabled individuals.

(b) For aged, blind, or disabled individuals with spouses—

(1) The agency must consider income and resources of spouses living in the same household as available to each other whether or not they are actually contributed;

(2) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together, the agency must consider their income and resources as available to each other for the first 6 months after the month they cease to live together. After this 6-month period, the agency must consider only the income and resources that are actually contributed by one spouse to the other; and

(3) If only one spouse in a couple applies or is eligible and they cease to live together, the agency must consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse after the month in which they cease to live together.

(c) For blind or disabled children—

(1) If the child is under age 18 and is living in the same household with a parent or spouse of a parent, the agency must consider the parent's or spouse's income and resources as available to the child whether or not they are actually contributed. This rule also applies to a child under 21 living in the same household, if he is regularly attending a school, college, or university or is receiving technical training designed to prepare him for gainful employment;

(2) After the month in which the child ceases to live with a parent or spouse of a parent, the agency must consider only the income and resources of that parent or spouse that are actually contributed to him. This rule applies even if the child returns to the household for periodic visits.

§ 435.823 Financial responsibility of relatives of aged, blind, or disabled individuals in States using more restrictive requirements than SSI.

In determining medicaid eligibility, under § 435.321, of medically needy aged, blind, or disabled individuals, the agency must consider the income and resources of spouses and parents available in the same manner as they are considered available under § 435.734 for categorically needy aged, blind, or disabled individuals.

MEDICALLY NEEDY INCOME ELIGIBILITY

§ 435.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in the following manner:

(a) *Determining countable income.* Except for individuals in medical institutions and intermediate care facilities, the agency must deduct the following amounts from income to determine the individual's countable income. (See § 435.832 for countable income for institutionalized individuals.) The agency must use a prospective period of not more than 6 months to compute income.

(1) For families and children, the agency must deduct amounts that would be deducted in determining eligibility under the State's AFDC plan.

(2) For aged, blind, or disabled individuals in States covering all SSI recipients, the agency must deduct amounts that would be deducted in determining eligibility under SSI. However, the agency must also deduct the highest amounts from income that would be deducted in determining eligibility for optional State supplements if these supplements are paid to all individuals who are receiving SSI or would be eligible for SSI except for their income.

(3) For aged, blind, or disabled individuals in States using income requirements more restrictive than SSI, the agency must deduct amounts that are no more restrictive than those used under the medicaid plan on January 1, 1972 and no more liberal than those deducted in determining eligibility under SSI or an optional State supplement. However, the amounts must be at least the same as those that would be deducted in determining eligibility, under § 435.121, of the categorically needy.

(b) *Eligibility based on countable income.* If countable income determined under paragraph (a) of this section or, for institutionalized individuals, under § 435.832, is equal to or less than the applicable income standard under §§ 435.812 through 435.816, the individual or family is eligible for medicaid.

(c) *Deduction of incurred medical expenses.* (1) If countable income exceeds the income standard, the agency must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges, incurred by the individual or family or financially responsible relatives, including enrollment fees, copayments, or deductibles imposed under §§ 447.51 or 447.53 of this subchapter.

(ii) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan.

(iii) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan.

(2) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income.

(d) *Eligibility based on incurred medical expenses.* If, after incurred medical expenses are deducted, countable income is equal to or less than the income standard, the individual or family is eligible for the rest of the period for which eligibility is determined.

§ 435.832 Determining countable income: Institutionalized individuals.

To determine countable income for purposes of § 435.831 of medically needy individuals in medical institutions and intermediate care facilities, the agency must deduct the following amounts from the total income available to the individual.

(a) *Deduction for spouse.* If an individual has only a spouse at home, the agency must deduct an amount for the spouse's maintenance needs. This amount must be based on a reasonable assessment of the spouse's financial need but must not exceed the highest of the following amounts:

(1) The amount of the income standard used to determine eligibility under SSI of an individual in his home, if the agency provides medicaid to all individuals receiving SSI.

(2) The amount of the highest income standard generally used to determine eligibility for an optional

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State supplement of an individual in his home, if the agency provides medicaid under § 435.230(a) (1) through (3) to aged, blind, or disabled individuals receiving a supplement.

(3) The amount of the highest income standard used to determine medicaid eligibility of aged, blind, or disabled individuals, if the agency provides medicaid under § 435.121 only to aged, blind, or disabled individuals who meet more restrictive income requirements than those under SSI.

(4) The amount of the medically needy income standard for one person established under § 435.812.

(b) *Deduction for family.* If an individual in an institution has a family at home, the agency must deduct an amount for their maintenance needs. This amount must—

(1) Be based on a reasonable assessment of their financial need;

(2) Be adjusted for the number of family members; and

(3) Not exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's AFDC plan or the medically needy income standard for a family of the same size established under § 435.816.

(c) *Deduction for home maintenance.* The agency may, for single individuals, deduct an amount to maintain his home, if—

(1) The amount is deducted for not more than a 6-month period.

(2) A physician has certified that the individual is likely to return to his home within that period.

MEDICALLY NEEDY RESOURCE STANDARDS

§ 435.840 Medically needy resource standards for individuals and two-person families.

(a) Except as allowed in paragraph (b) of this section, the agency must use resource standards to determine eligibility of individuals and two-person families that are at least equal to the higher of the following standards by type of resource, such as a savings account or personal property:

(1) For an individual, the resource standard generally used under the State's AFDC plan or the resource standard used under SSI for an individual.

(2) For a two-person family, the resource standard used under the State's AFDC plan for a two-person family or the resource standard used under SSI for a couple in which both individuals are aged, blind, or disabled.

(b) The agency may use more restrictive resource standards for aged, blind, or disabled individuals or couples if—

(1) The agency uses, under § 435.121, more restrictive resource requirements to determine eligibility of the categorically needy than those used under SSI; and

(2) Those resource requirements are no more restrictive than those used for the categorically needy under § 435.121.

(c) The standard for liquid assets must increase by family size.

§ 435.841 Medically needy resource standards for families of three or more persons.

(a) The agency must use resource standards to determine eligibility of families of three or more that are at least equal to the higher of the following standards by type of resource:

(1) The resource standards generally used under the State's AFDC plan to determine eligibility of families of the same size.

(2) The resource standards used under SSI to determine eligibility of a couple in which both spouses are aged, blind, or disabled.

(b) The standard for liquid assets must increase by family size.

DETERMINING ELIGIBILITY ON THE BASIS OF RESOURCES

§ 435.845 Medically needy resource eligibility.

To determine eligibility on the basis of resources for medically needy individuals, the agency must—

(a) Consider only the individual's resources and those that are considered available to him under the financial responsibility requirements for relatives in §§ 435.821, 435.822, or 435.823;

(b) Consider only resources available during the period for which income is computed under § 435.831(a);

(c) For families and children deduct the value of resources that would be deducted in determining eligibility under the State's AFDC plan;

(d) For aged, blind, or disabled individuals in States covering all SSI recipients, deduct the value of resources that would be deducted in determining eligibility under SSI;

(e) For aged, blind, or disabled individuals in States using resource requirements more restrictive than SSI, deduct the value of resources in an amount no more restrictive than those deducted under the medicaid plan on January 1, 1972 and no more liberal than those deducted in determining eligibility under SSI.

However, the amounts must be at least the same as those that would be deducted in determining, under § 435.121, the eligibility of the categorically needy; and

(f) Apply the resource standards established under §§ 435.840 or 435.841.

Subpart J [Reserved]

Subpart K—Federal Financial Participation

§ 435.1000 Scope.

This subpart specifies when, and the extent to which, FFP is available in expenditures for determining eligibility and for medicaid services to individuals determined eligible under this part, and prescribes limitations and conditions on FFP for those expenditures.

FFP IN EXPENDITURES FOR DETERMINING ELIGIBILITY AND PROVIDING SERVICES

§ 435.1001 FFP for administration.

(a) FFP is available in the necessary administrative costs the State incurs in determining and redetermining medicaid eligibility and in providing medicaid to eligible individuals.

(b) Administrative costs include any costs incident to an eye examination or medical examination to determine whether an individual is blind or disabled.

§ 435.1002 FFP for services.

(a) Except for the limitations and conditions specified in §§ 435.1007 and 435.1008, FFP is available in expenditures for medicaid services for all recipients whose coverage is required or allowed under this part.

(b) FFP is available in expenditures for services provided to recipients who were eligible for medicaid in the month in which the medical care or services were provided except that, for recipients who establish eligibility for medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability. (See 45 CFR 206.10(a)(6) for regulations on retroactive eligibility for medicaid.)

§ 435.1003 Recipients determined ineligible for SSI.

(a) If the Social Security Administration (SSA) notifies an agency that a recipient has been determined ineligible for SSI, FFP is available in medicaid expenditures for services to the recipient as follows:

(1) If the agency receives the SSA notice by the 10th day of the month, FFP is available under this section only through the end of the month unless the recipient requests a hearing under 45 CFR 205.10.

(2) If the agency receives the SSA notice after the 10th day of the month, FFP is available only through the end of the following month, unless the recipient requests a hearing under 45 CFR 205.10.

(3) If a recipient requests a hearing, FFP is available as specified in 45 CFR 205.10.

(b) The agency must take prompt action to determine eligibility after receiving the SSA notice.

§ 435.1004 Recipients overcoming certain conditions of eligibility.

(a) FFP is available, as specified in paragraph (b) of this section, in expenditures for services provided to recipients who are overcoming certain eligibility conditions, including blindness, disability, continued absence or incapacity of a parent, or unemployment of a father.

(b) FFP is available for a period not to exceed—

(1) The period during which a recipient of AFDC, SSI or an optional State supplement continues to receive cash payments while these conditions are being overcome; or

(2) For recipients eligible for medicaid only and recipients of AFDC, SSI or an optional State supplement who do not continue to receive cash payments, the second month following the month in which the recipient's medicaid eligibility would have been terminated.

LIMITATIONS ON FFP

§ 435.1005 Recipients in institutions eligible under special outside standard.

For recipients in institutions whose medicaid eligibility is based on a special income standard established under § 435.231, FFP is available in expenditures for services provided to those individuals only if their income before deductions does not exceed 300 percent of the SSI benefit amount payable under section 1611(b)(1) of the Act to an individual in his own home who has no income or resources.

§ 435.1006 Recipients of optional State supplements only.

FFP is available in expenditures for services provided to individuals receiving optional State supplements but not receiving SSI, if their income before deductions does not exceed 300 percent of the SSI benefit amount payable under section 1611(b)(1) of the Act to an individual who has no income and resources.

§ 435.1007 Medically needy.

(a) FFP is available in expenditures for services provided to medically needy recipients whose annual income after deductions specified in § 436.831 (a) and (c) and § 436.832 does not exceed the following amounts, rounded to the next higher multiple of $100:

(1) For couples and families of two or more, 133⅓ percent of the highest money payment that would ordinarily be made under the State's AFDC plan to a family of the same size without income and resources. If the State's AFDC plan specifies a maximum family size beyond which there is no increase in benefits, the medically needy income levels for families whose size exceeds that maximum will be determined by adding an amount for each family member over the maximum size. These amounts must be reasonably related to the amounts by which the State's AFDC plan increases benefits for additional family members in families below the maximum size.

(2) For individuals, 133⅓ percent of an amount reasonably related to the highest money payment which would ordinarily be made under the State's AFDC plan to a family of two without income and resources.

§ 435.1008 Institutionalized individuals.

(a) Except as provided in paragraph (b) of this section, FFP is not available in expenditures for services provided to—

(i) Individuals who are inmates of public institutions as defined in § 435.1009; or

(ii) Individuals under age 65 who are patients in an institution for tuberculosis or mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under § 440.160 of this subchapter.

(b) FFP is available in expenditures for services furnished to eligible individuals during the month in which they become inmates of a public institution or patients in an institution for tuberculosis or mental diseases.

(c) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution. However, such an individual who is under age 22 and has been receiving inpatient psychiatric services under § 440.160 of this subchapter is considered to be a patient in the institution until he is unconditionally released or, if earlier, the date he reaches age 22.

§ 435.1009 Definitions relating to institutional status.

For purposes of FFP, the following definitions apply:

"Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual plan of care, in professionally developed and supervised activities, experiences, or therapies.

(b) An individual written plan of care that sets forth measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experiences or therapies necessary for the individual to reach those goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he can presently or potentially achieve.

(c) An interdisciplinary professional evaluation that—

(1) Is completed, for a recipient, before admission to the institution but not more than 3 months before and, for an individual applying for medicaid after admission, before the institution requests payment;

(2) Consists of complete medical, social, and psychological diagnosis and evaluations and an evaluation of the individual's need for institutional care; and

(3) Is made by a physician, a social worker and other professionals, at least one of whom is a qualified mental retardation professional as defined in § 442.401 of this subchapter.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. This must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual postinsti- tutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals. This must include provision for appropriate services, protective supervision, and other follow-up services in the resident's new environment.

"In an institution" refers to an individual who is admitted to live there and receive treatment or services provided there that are appropriate to his requirements.

"Inmate of a public institution" means a person who is living in a public institution. An individual is not considered an inmate if—

(1) He is in a public educational or vocational training institution for purposes of securing education or vocational training; or

(2) He is in a public institution for a temporary period pending other arrangements appropriate to his needs.

"Inpatient" means a patient who has been admitted to a medical institution on recommendation of a physician or dentist and is receiving room, board, and professional services in the institution on a continuous 24-hour-a-day basis.

"Institution" means an establishment that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more persons unrelated to the proprietor.

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"Institution for mental diseases" means an institution that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for the mentally retarded is not an institution for mental diseases.

"Institution for the mentally retarded or persons with related conditions" means an institution (or distinct part of an institution) that—

(1) Is primarily for the diagnosis, treatment, or rehabilitation of the mentally retarded or persons with related conditions; and

(2) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability.

"Institution for tuberculosis" means an institution that is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services. Whether an institution is an institution for tuberculosis is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of tuberculosis, whether or not it is licensed as such.

"Medical institution" means an institution that—

(1) Is organized to provide medical care, including nursing and convalescent care;

(2) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;

(3) Is authorized under State law to provide medical care; and

(4) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution.

"Patient" means an individual who is receiving needed professional services that are directed by a licensed practitioner of the healing arts toward maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

"Persons with related conditions" means individuals who have epilepsy, cerebral palsy, or other developmental disabilities as defined under part C of the Developmental Disabilities Services and Facilities Construction Act, Pub. L. 91-517 (enacted Oct. 30, 1970), as amended.

"Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term "public institution" does not include a medical institution as defined in this section, an intermediate care facility as defined in §§ 440.140 and 440.150 of this chapter, or a publicly operated community residence that serves no more than 16 residents, as defined in this section.

"Publicly operated community residence that serves no more than 16 residents" is defined in 20 CFR 416.231(b)(6)(i). A summary of that definition is repeated here for the information of readers.

(a) In general, a publicly operated community residence means—

(i) It is publicly operated as defined in 20 CFR 416.231(b)(2).

(ii) It is designed or has been changed to serve no more than 16 residents and it is serving no more than 16; and

(iii) It provides some services beyond food and shelter such as social services, help with personal living activities, or training in socialization and life skills. Occasional medical or remedial care may also be provided as defined in 45 CFR 228.1; and

(2) A publicly operated community residence does not include the following facilities, even though they accommodate 16 or fewer residents:

(i) Residential facilities located on the grounds of, or immediately adjacent to, any large institution or multiple purpose complex.

(ii) Educational or vocational training institutions that primarily provide an approved, accredited, or recognized program to individuals residing there.

(iii) Correctional or holding facilities for individuals who are prisoners, have been arrested or detained pending disposition of charges, or are held under court order as material witnesses or juveniles.

(iv) Hospitals, skilled nursing facilities, and intermediate care facilities.

"Resident of an intermediate care facility" is an individual who is—

(1) In need of and receiving professional services to maintain, improve, or protect health or lessen disability or pain under the direction of a practitioner of the healing arts;

(2) Admitted to an intermediate care facility in accordance with §§ 450.370 through 450.381 of this subchapter;

(3) Under care and supervision 24 hours a day; and

(4) If he is in an institution for the mentally retarded, receiving active treatment as defined in this section.

REQUIREMENTS FOR STATE SUPPLEMENTS

§ 435.1010 Requirement for mandatory State supplements.

(a) Except as specified in paragraph (b) of this section, FFP is not available in medicaid expenditures in any quarter in which the State does not have in effect an agreement with the Secretary under section 212 of Pub. L. 93-66 (July 9, 1973) for minimum mandatory State supplements of the basic SSI benefit.

(b) This section does not apply to any State that meets the conditions of section 212(f) of Pub. L. 93-66.

§ 435.1011 Requirement for maintenance of optinal State supplement expenditures.

(a) This section applies to States that make optional State supplement payments under section 1616(a) of the Act and mandatory supplement payments under section 212(a) of Pub. L. 93-66.

(b) FFP in medicaid expenditures is not available in the following periods, if the State does not have in effect an agreement with the Secretary under section 1618 of the Act to maintain its December 1976 supplementary payment expenditure levels:

(1) Any calendar quarter after June 30, 1977; or

(2) If later, any calendar quarter after the one in which the State first makes supplementary payments.

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PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

Subpart A—General Provisions and Definitions

§ 436.1 Purpose and applicability.

This part sets forth, for Guam, Puerto Rico, and the Virgin Islands—

(a) The eligibility provisions that a State plan must contain;

(b) The mandatory and optional groups of individuals to whom medicaid is provided under a State plan;

(c) The eligibility requirements and procedures that a medicaid agency must use in determining and redetermining eligibility, and requirements it may not use; and

(d) The availability of FFP for providing medicaid and for administering the eligibility provisions of the plan.

See also 45 CFR 206.10, Application, Determination of Eligibility and Furnishing Assistance, for regulations on eligibility administration. These include such matters as content and processing of applications for medicaid, dates of entitlement, etc.

§ 436.2 Basis.

This part implements the following sections of the Act, which state requirements and standards for eligibility:

1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
1902(a)(10) Required and optional groups.
1902(a)(12) Determination of blindness.
1902(a)(16) Out-of-State care for State residents.
1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.
1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
1902(a)(34) Three-month retroactive eligibility.
1902(a)(a) (third paragraph after (37)) Eligibility despite increased monthly insurance benefits under title II.
1902(b) Prohibited conditions for eligibility.
1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.
1905(a) (i)-(vii) List of eligible individuals.
1905(a) (clause following (17)) Prohibitions against providing medicaid to certain institutionalized individuals.
1905(a) (second sentence) Definition of essential person.
1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.

§ 436.3 Definitions and use of terms.

As used in this part—

"AABD" means aid to the aged, blind, and disabled under title XVI of the Act;

"AB" means aid to the blind under title X of the Act;

"AFDC" means aid to families with dependent children under title IV-A of the Act;

"APTD" means aid to the permanently and totally disabled under title XIV of the Act;

"Categorically needy" means aged, blind, or disabled individuals or families and children who are otherwise eligible for medicaid and who meet the financial eligibility requirements for OAA, AFDC, AB, APTD, or AABD;

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"Families and children" refers to eligible members of families with children who are financially eligible under AFDC or medically needy rules and who are deprived of parental support or care as defined under the AFDC program (see 45 CFR 233.90; 233.100). In addition, this group includes individuals under age 21 who are not deprived of parental support or care but who are financially eligible under AFDC or medically needy rules (see optional coverage group, § 436.222);

"Medically needy" means aged, blind, or disabled individuals or families and children who are otherwise eligible for medicaid and whose income and resources are above the limits prescribed for the categorically needy but are within limits set under the medicaid State plan.

"OAA" means old age assistance under title I of the Act;

"OASDI" means old age, survivors, and disability insurance under title II of the Act.

§ 436.10 State plan requirements.

A State plan must—

(a) Provide that the requirements of this part are met; and

(b) Specify the groups to whom medicaid is provided, as specified in subparts B, C, and D of this part, and the conditions of eligibility for individuals in those groups.

Supart B–Mandatory Coverage of the Categorically Needy

§ 436.100 Scope.

This subpart prescribes requirements for coverage of categorically needy individuals.

§ 436.110 Individuals receiving cash assistance.

(a) A medicaid agency must provide medicaid to individuals receiving cash assistance under OAA, AFDC, AB, APTD, or AABD.

(b) For purposes of this section, an individual is receiving cash assistance if his needs are considered in determining the amount of the payment. This includes an individual whose presence in the home is considered essential to the well-being of a recipient under the State's plan for OAA, AFDC, AB, APTD, or AABD if that plan were as broad as allowed under the Act for FFP.

§ 436.111 Individuals who are not eligible for cash assistance because of a requirement not applicable under medicaid.

The agency must provide medicaid to individuals who would be eligible for OAA, AFDC, AB, APTD, or AABD except for an eligibility requirement used in those programs that is specifically prohibited under title XIX. (See, for example, § 433.36 of this subchapter, which prohibits a medicaid agency from placing liens against a recipient's property.)

§ 436.112 Individuals who would be eligible for cash assistance except for increased OASDI under Pub. L. 92-336 (July 1, 1972).

The agency must provide medicaid to individuals who meet the following conditions:

(a) In August 1972, the individual was entitled to OASDI and—

(1) He was receiving cash assistance; or

(2) He would have been eligible for cash assistance if he had applied, and the medicaid plan covered this optional group; or

(3) He would have been eligible for cash assistance if he were not in a medical institution or intermediate care facility, and the medicaid plan covered this optional group.

(b) The individual would currently be eligible for cash assistance except that the increase in OASDI under Pub. L. 92-336 raised his income over the limit allowed under the cash assistance program. This includes an individual who—

(1) Meets all current requirements for cash assistance except for the requirement to file an application; or

(2) Would meet all current requirements for cash assistance if he were not in a medical institution or intermediate care facility, and the medicaid plan covers this optional group.

§ 436.115 Individuals under 21 who are ineligible for AFDC because of age and school attendance requirements.

The agency must provide medicaid to individuals under age 21 who would be eligible for AFDC if they met the AFDC age or school attendance requirements.

§ 436.116 Families terminated from AFDC because of increased earnings or hours of employment.

(a) If a family loses AFDC solely because of increased income from employment of increased hours of employment, the agency must continue to provide medicaid for 4 months to all members of the family if—

(1) The family received AFDC in any 3 or more months during the 6-month period immediately before the month in which it became ineligible for AFDC; and

(2) At least one member of the family is employed throughout the 4-month period, although this need not be the same member for the whole period.

(b) The 4-month period begins on the date AFDC is terminated. If AFDC benefits are terminated retroactively, the 4-month period also begins retroactively with the first month in which AFDC was erroneously paid.

Subpart C—Options for Coverage as Categorically Needy

§ 436.200 Scope.

This subpart specifies options for coverage of individuals as categorically needy.

§ 436.201 Individuals included in optional group.

Except where otherwise specified, an agency that chooses to cover an optional group must provide medicaid to all eligible individuals in that group. For example, in the options applicable to families and children and the aged, blind, or disabled, the agency may not provide medicaid only to families and children; similarly, in the options applicable to the aged, blind, or disabled, it may not cover only the blind.

Options for Coverage of Families and Children and the Aged, Blind, and Disabled

§ 436.210 Individuals who would be eligible for but are not receiving cash assistance.

The agency may provide medicaid to individuals who would be eligible for OAA, AFDC, AB, APTD, or AABD but who are not receiving these benefits.

§ 436.211 Individuals who would be eligible for cash assistance except for their institutional status.

The agency may provide medicaid to individuals in medical institutions and intermediate care facilites who are ineligible for OAA, AFDC, AB, APTD, or AABD because of lower income standards used under those programs to determine eligibility for institutionalized individuals, but who would be eligible for those programs if they were not institutionalized.

§ 436.212 Individuals who would be eligible for cash assistance if the State plan for OAA, AFDC, AB, APTD, or AABD were as broad as allowed under the Act.

(a) The agency may provide medicaid to individuals who—

(1) Would be eligible for OAA, AFDC, AB, APTD, or AABD if the State's plan under those programs included individuals whose coverage under title I, IV-A, X, XIV, or XVI is optional (for example, the agency may provide medicaid to unborn children or members of families with unemployed fathers even though the State's AFDC plan does not include them); or

Would qualify for OAA, AFDC, AB, APTD, or AABD if the State's plan under those programs did not contain eligibility requirements more restrictive than, or in addition to, those required under the appropriate title of the Act. (For example, the agency may provide medicaid to individuals who would meet the Federal definition of disability, 45 CFR 233.80, but who do not meet the State's more restrictive definitions.)

(b) The agency may cover one or more optional groups under any of the titles of the Act without covering all such groups.

Options for Coverage of Families and Children

§ 436.220 Individuals who would be eligible for AFDC if child care costs were paid from earnings.

(a) The agency may provide medicaid to individuals who would be eligible for AFDC if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure.

(b) The agency may use this option only if the State's AFDC plan deducts work-related child care costs from income to determine the amount of AFDC.

§ 436.221 Caretaker relatives of children who would be eligible for AFDC if they met age or school attendance requirements.

The agency may provide medicaid to individuals who meet the definition of a caretaker relative under 45 CFR 233.90(c)(1)(v)(A), if they have in their care a child under age 21 who would be eligible for AFDC if they met the AFDC age or school attendance requirements.

§ 436.222 Individuals under age 21 who would be eligible for AFDC but do not qualify as dependent children.

(a) The agency may provide medicaid to individuals under age 21 who would be eligible for AFDC if they met the definition of dependent child. (See 45 CFR 233.90(c)(1).)

(b) The agency may cover all individuals described in paragraph (a) of this section or individuals in reasonable classifications including the following:

(1) Individuals under 21 in foster homes or private institutions for whom a public agency is assuming a full or partial financial responsibility. If the agency covers these individuals, it may also provide medicaid to individuals under age 21 in foster homes or private institutions by private nonprofit agencies.

(2) Individuals under age 21 in adoptions subsidized in full or in part by a public agency.

(3) Individuals under age 21 in intermediate care facilities, if intermediate care facility services are provided under the plan. If the agency covers these individuals, it may also provide medicaid to individuals in intermediate care facilities for the mentally retarded.

(4) Individuals under age 21 receiving active treatment as inpatients in psychiatric facilities or programs, if inpatient psychiatric services for individuals under 21 are provided under the plan.

Options for Coverage of the Aged, Blind, and Disabled

§ 436.230 Essential spouses of aged, blind, or disabled individuals receiving cash assistance.

The agency may provide medicaid to the spouse of an individual receiving OAA, AB, APTD, or AABD, if—

(a) The spouse is living with the individual receiving cash assistance;

(b) The cash assistance agency has determined that the spouse is essential to the well-being of the individual and has considered the spouse's needs in determining the amount of cash assistance provided to the individual.

Subpart D—Optional Coverage of the Medically Needy

§ 436.300 Scope.

This subpart specifies the option for coverage of medically needy individuals.

§ 436.301 General rules.

(a) A medicaid agency may provide medicaid to individuals specified in this subpart who—

(1) Either—

(i) Have income that meets the standards in §§ 436.812 or 436.813; or

(ii) If their income is more than allowed under those standards, have incurred medical expenses at least equal to the difference between their income and the applicable income standards; and

(2) Have resources that meet the standards in § 436.840.

(b) If the agency chooses this option, the agency must provide medicaid to all individuals specified in this subpart.

§ 436.310 Medically needy coverage of families and children.

If the agency provides medicaid to the medically needy, it must provide medicaid to the following individuals who meet the income and resource standards in subpart I of this part:

(a) Members of families with dependent children (§ 436.110).

(b) Individuals under age 21 who are ineligible for AFDC because of age or school attendance requirements (§ 436.115).

(c) The following individuals, if the agency provides medicaid to them as categorically needy:

(1) Individuals who would be eligible for AFDC if child care costs were paid from earnings (§ 436.220).

(2) Caretaker relatives of children who are ineligible for AFDC because of age or school attendance requirements (§ 436.221).

(3) Individuals under age 21 who are ineligible for AFDC because they are not dependent children (§ 436.222).

§ 436.320 Medically needy coverage of the aged, blind, and disabled.

If the agency provides medicaid to the medically needy, it must provide medicaid to aged, blind, and disabled individuals who would be eligible as categorically needy under § 436.110 except for their income and resources and who meet the income and resource requirements in subpart I of this part.

§ 436.330 Medically needy coverage of families and children and the aged, blind, and disabled.

If the agency provides medicaid to the medically needy, it must provide medicaid to the following individuals who meet the income and resource standards in subpart I of this part:

(a) Individuals who are ineligible for OAA, AFDC, AB, APTD, or AABD because of an eligibility requirement under those programs that is specifically prohibited under title XIX (§ 436.111).

(b) Individuals who would be eligible for OAA, AFDC, AB, APTD, or AABD if those State plans were as broad as allowed under the Act and if the agency provides medicaid to these individuals as categorically needy under § 436.212.

Subpart E—General Eligibility Requirements

§ 436.400 Scope.

This subpart prescribes general requirements for determining the eligibility of both categorically needy and medically needy individuals specified in subparts B, C, and D of the part.

§ 436.401 General rules.

(a) The agency may not impose any eligibility requirement that is prohibited under title XIX.

(b) The agency must base any optional group covered under subpart B and C of this part on reasonable classifications that do not result in arbitrary or inequitable treatment of individuals and groups and are consistent with the objectives of title XIX.

(c) The agency must not use requirements for determining eligibility for optional coverage groups that are more restrictive than those used under the State plans for OAA, AFDC, AB, APTD, or AABD.

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§ 436.402 Citizenship and alienage.

The agency must provide medicaid to otherwise eligible residents of the United States who are—

(a) Citizens; or

(b) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, including any alien who is lawfully present in the United States under section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act.

§ 436.403 State residence.

(a) The agency must provide medicaid to otherwise eligible residents of the State.

(b) For purposes of this section—

(1) "Resident" of a State is an individual who is living in the State voluntarily with the intention of making his home there and is not living in the State for a temporary purpose. A child is a resident of the State in which he is living other than on a temporary basis.

(2) In determining residence, the agency must not consider the reason for which the individual entered the State, except to the extent that the reason may bear upon whether he is residing in the State voluntarily or for a temporary purpose.

(3) Residence is retained until abandoned. Temporary absence from the State (with subsequent return to the State or intent to return when the purposes of the absence have been accomplished) does not interrupt residence.

§ 436.404 Applicant's choice of category.

The agency must allow an individual who would be eligible under more than one category to have his eligibility determined for the category he selects.

Subpart F—Categorical Requirements for Medicaid Eligibility

§ 436.500 Scope.

This subpart prescribes categorical requirements for determining the eligibility of both categorically needy and medically needy individuals specified in subparts B, C, and D of this part.

Dependency

§ 436.510 Determination of dependency.

For families with dependent children who are not receiving AFDC, the agency must use the definitions and procedures used under the State's AFDC plan to determine whether—

(a) An individual under age 21 is a dependent child because he is deprived of parental support or care; and

(b) An individual is an eligible member of a family with dependent children.

Age

§ 436.520 Age requirements for the aged and children.

(a) The agency must not impose—

(1) An age requirement of more than 65 years;

(2) An age requirement that excludes an individual under age 21 who would be eligible for AFDC if he met AFDC age or school attendance requirements; or

(3) A lower age requirement than that under the State AFDC plan.

(b) In determining age, the agency must use the common law method (under which an age is reached the day before the anniversary of birth) or the popular usage method (under which a specific age is reached on the anniversary of birth), whichever is used under the corresponding State plan for OAA, AFDC, AB, APTD, or AABD.

(c) The agency may use an arbitrary date, such as July 1, for determining an individual's age if the year, but not the month, of his birth is known.

Blindness

§ 436.530 Definition of blindness.

(a) *Definition.* The agency must use the definition of blindness that is used in the State plan for AB or AABD.

(b) *State plan requirement.* The State plan must contain the definition of blindness, expressed in ophthalmic measurements.

§ 436.531 Determination of blindness.

In determining blindness—

(a) A physician skilled in the diseases of the eye or an optometrist, whichever the individual selects, must examine him, unless both of the applicant's eyes are missing;

(b) The examiner must submit a report of examination to the medicaid agency; and

(c) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

(1) Whether the individual meets the definition of blindness; and

(2) Whether and when reexaminations are necessary for periodic redeterminations of eligibility, as required under 45 CFR 206.10(a)(9)(iii). Blindness is considered to continue until the reviewing physician determines that the recipient's vision no longer meets the definition.

Disability

§ 436.540 Definition of disability.

(a) *Definition.* The agency must use the definition of permanent and total disability that is used in the State plan for APTD or AABD. (See 45 CFR 233.80(a)(1) for the Federal recommended definition of permanent and total disability.)

(b) *State plan requirement.* The State plan must contain the definition of permanent and total disability.

§ 436.541 Determination of disability.

(a) The agency must obtain a medical report and a social history for individuals applying for medicaid on the basis of disability. The medical report must include a diagnosis based on medical evidence. The social history must contain enough information to enable the agency to determine disability.

(b) A physician and social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under 45 CFR 206.10(a)(9)(iii).

(c) In subsequently determining disability, the physician and social worker must review reexamination reports and the social history and determine whether the individual continues to meet the definition. Disability is considered to continue until this determination is made.

Subpart G—General Financial Eligibility Requirements

§ 436.600 Scope.

This subpart prescribes general financial requirements for determining the eligibility of both categorically needy and medically needy individuals specified in subparts B, C, and D of this part. Subparts H and I prescribe additional financial requirements.

§ 436.602 Limitation on the financial responsibility of relatives.

Except for a spouse of an individual or a parent for a child who is under 21 or blind or disabled, the agency must not—

(a) Consider income and resources of any relative available to an individual; nor

(b) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

§ 436.603 Applications for other benefits.

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, and retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so.

(b) Annuities, pensions, and retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

Subpart H—Financial Requirements for the Categorically Needy

§ 436.700 Scope.

This subpart prescribes financial requirements for determining the eligibility of categorically needy individuals under subparts B and C of this part. The requirements apply only to individuals who are not receiving cash assistance under OAA, AFDC, AB, APTD, or AABD. The financial eligibility requirements of the cash assistance programs apply to those individuals who are receiving cash assistance.

§ 436.711 Determination of financial eligibility.

In determining eligibility of individuals specified in subparts B and C of this part who are not recipients of cash assistance, the agency must apply the financial eligibility requirements of the State plan for OAA, AFDC, AB, APTD, or AABD that would be used if the individual were applying for cash assistance. This includes requirements on financial responsibility of spouses and parents, except that, in determining eligibility of families and children, the agency must consider parental income and resources as available to a child who is living with the parents until he becomes 21, even if State law confers adult status below age 21.

Subpart I—Financial Requirements for the Medically Needy

§ 436.800 Scope.

This subpart prescribes financial requirements for determining the eligibility of medically needy individuals under subpart D of this part.

Medically Needy Income Standards

§ 436.811 General requirement.

To determine eligibility of medically needy individuals and families, the agency must use one income standard for all single individuals and one standard for all families of the same size.

§ 436.812 Medically needy income standards: Noninstitutionalized individuals.

To determine eligibility of individuals who are not institutionalized, the agency must use—

(a) For an individual or two persons, an income standard that at least equals the amount of the highest income standard used on or after January 1, 1966, to determine eligibility for OAA, AFDC, AB, APTD, or AABD; and

(b) For families of three or more, an income standard that at least equals the amount of the payment standard generally used to determine eligibility under the State's AFDC plan for families of the same size. This rule also applies in determining eligibility of an individual under age 21 living with his parents who is not eligible as a dependent child and whose parents' income and resources are considered available to him under § 436.821.

§ 436.813 Medically needy income standard for individuals in institutions.

(a) The agency must use a lower income standard than that specified in § 436.812 to determine eligibility of individuals in medical institutions and intermediate care facilities.

(b) The lower income standard must be reasonable in amount for clothing and personal needs of the individual.

Financial Responsibility of Relatives

§ 436.821 Financial responsibility of spouses and parents.

In determining eligibility of medically needy individuals, the agency must use the rules for determining whether the income of a spouse or parent is available to the individual that would be used if he were applying for OAA, AFDC, AB, APTD or AABD. However, for families and children, the agency must consider parental income and resources available to a child who is living with the parent until he becomes 21, even if State law confers adult status below age 21.

Medically Needy Income Eligibility and Liability For Payment of Medical Expenses

§ 436.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in the following manner:

(a) *Determining countable income.* Except for individuals in medical institutions and intermediate care facilities, the agency must, to determine countable income, deduct amounts that would be deducted in determining eligibility under the State's plan for OAA, AFDC, AB, APTD, or AABD. (See § 436.832 for countable income for institutionalized individuals.) The agency must use a prospective period of not more than six months to compute income.

(b) *Eligibility based on countable income.* If countable income determined under paragraph (a) of this section or, for institutionalized individuals, under § 436.832, is equal to or less than the applicable income standard under §§ 436.811 or 436.812, the individual is eligible for Medicaid.

(c) *Deduction of incurred medical expenses: Order of deduction.* (1) If countable income exceeds the income standard, the agency must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges incurred by the individual or family or financially responsible relatives, including enrollment fees, copayments, or deductibles imposed under §§ 447.51 or 447.53 of this subchapter.

(ii) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan.

(iii) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan.

(2) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income.

(d) *Eligibility based on incurred medical expenses.* If, after incurred medical expenses are deducted, countable income is equal to or less than the income standard, the individual is eligible for the rest of the period for which eligibility is determined.

§ 436.832 Determining countable income: Institutionalized individuals.

To determine countable income for purposes of § 436.831 of medically needy individuals in medical institutions and intermediate care facilities, the agency must deduct the following amounts from the total income available to the individual:

(a) *Deduction for spouse.* If an individual has only a spouse at home, the agency must deduct an amount for the spouse's maintenance needs. This amount must be based on a reasonable assessment of the spouse's financial need but must not exceed the higher of—

(1) The amount of the highest need standard for an individual without income and resources under the State's plan for OAA, AFDC, AB, APTD, or AABD; or

(2) The amount of the medically needy income standard for one person established under § 436.811.

(b) *Deduction for family.* If an individual in an institution has a family at home, the agency must deduct an amount for their maintenance needs. This amount must—

(1) Be based on a reasonable assessment of their financial need;

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(2) Be adjusted for the number of family members; and

(3) Not exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's AFDC plan or the medically needy income standard for a family of the same size established under § 436.811.

(c) *Deduction for home maintenance.* The agency may, for a single individual, deduct an amount to maintain his home, if—

(1) The amount is deducted for not more than a 6-month period; and

(2) A physician has certified that the individual is likely to return to his home within that period.

MEDICALLY NEEDY RESOURCE STANDARDS

§ 436.840 Medically needy resource standards.

(a) To determine eligibility of individuals and families under subpart E of this part, the agency must use resource standards that are at least equal to the most liberal standard for resources used to determine eligibility for OAA, AFDC, AB, APTD, or AABD on or after January 1, 1966.

(b) The standards for liquid assets must increase by family size.

DETERMINING ELIGIBILITY ON THE BASIS OF RESOURCES

§ 436.845 Medically needy resource eligibility.

To determine eligibility on the basis of resources for medically needy individuals, the agency must—

(a) Consider only the individual's resources and those that are considered available to him under the financial responsibility requirements for relatives under § 436.821;

(b) Consider only resources available during the period for which income is computed under § 436.831(a);

(c) Deduct the value of resources that would be deducted in determining eligibility under the State's plan for OAA, AFDC, AB, APTD, or AABD; and

(d) Apply the resource standards established under § 436.840.

Subpart J [Reserved]

Subpart K—Federal Financial Participation (FFP)

§ 436.1000 Scope.

This subpart specifies when, and the extent to which, FFP is available in expenditures for determining eligibility and for medicaid services to individuals determined eligible under this part, and prescribes limitations and conditions on FFP for those expenditures.

FFP FOR EXPENDITURES FOR DETERMINING ELIGIBILITY AND PROVIDING SERVICES

§ 436.1001 FFP for administration.

(a) FFP is available in the necessary administrative costs the State incurs in determining and redetermining medicaid eligibility and in providing medicaid to eligible individuals.

(b) Administrative costs include any costs incident to an eye examination or medical examination to determine whether an individual is blind or disabled.

§ 436.1002 FFP for services.

(a) FFP is available in expenditures for medicaid services for all recipients whose coverage is required or allowed under this part.

(b) FFP is available in expenditures for services provided to recipients who were eligible for medicaid in the month in which the medical care or services were provided, except that, for recipients who establish eligibility for medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability. (See 45 CFR 206.10 (a)(6) for regulations on retroactive eligibility for medicaid.)

§ 436.1003 Recipients overcoming certain conditions of eligibility.

FFP is available for a temporary period specified in the State plan in expenditures for services provided to recipients who are overcoming certain eligibility conditions, including blindness, disability, continued absence or incapacity of a parent, or unemployment of a father.

§ 436.1004 Institutionalized individuals.

(a) Except as provided in paragraph (b) of this section, FFP is not available in expenditures for services provided to—

(1) Individuals who are inmates of public institutions as defined in § 435.1009; or

(2) Individuals under age 65 who are patients in an institution for tuberculosis or mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under § 440.160 of this subchapter.

(b) FFP is available in expenditures for services provided to eligible individuals during the month in which they become inmates of a public institution or patients in an institution for tuberculosis or mental diseases.

(c) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution. However, such an individual who is under age 22 and has been receiving inpatient pyschiatric services under § 440.160 of this subchapter is considered to be a patient in the institution until he is unconditionally released or, if earlier, the date he reaches age 22.

§ 436.1005 Definitions relating to institutional status.

For purposes of FFP, the definitions in § 435.1009 of this subchapter apply to this part.

PART 440—SERVICES: GENERAL PROVISIONS

Subpart A—Definitions

Sec.
440.1 Basis and purpose.
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440.140 Inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals age 65 or older in institutions for tuberculosis or mental diseases.
440.150 Intermediate care facility services, other than in institutions for tuberculosis or mental diseases.
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Subpart B—Requirements and Limits Applicable to All Services

440.200 Basis, purpose, and scope.
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440.270 Religious objections.

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Definitions

§ 440.1 Basis and purpose.

This subpart interprets sec. 1905(a) of the act, which lists the services included in the term "medical assistance," and secs. 1905 (c), (d), (f)–(i), and (l), which define some of those services.

§ 440.2 Specific definitions; definitions of services for FFP purposes.

(a) *Specific definitions.* "Outpatient" means a patient who is receiving professional services at an organized medical facility, or distinct part of such a facility, which is not providing him with room and board and professional services on a continuous 24-hour-a-day basis.

"Patient" means an individual who is receiving needed professional services that are directed by a licensed practitioner of the healing arts toward the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain. (See also § 435.1009 of this subchapter for definitions relating to institutional care.)

(b) *Definitions of services for FFP purposes.* Except as limited in part 441, FFP is available in expenditures under the State plan for medical or remedial care and services as defined in this subpart.

§ 440.10 Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases.

"Inpatient hospital services" means services that are ordinarily furnished in a hospital for the care and treatment of an inpatient under the direction of a physician or dentist and that are furnished in an institution that—

(a) Is maintained primarily for the care and treatment of patients with disorders other than tuberculosis or mental diseases;

(b) Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting;

(c) Meets the requirements for participation in medicare; and

(d) Has in effect a utilization review plan, applicable to all medicaid patients, that meets the requirements of § 405.1035 of this chapter, unless a waiver has been granted by the Secretary.

§ 440.20 Outpatient hospital services and rural health clinic services.

(a) *"Outpatient hospital services"* means preventive, diagnostic, therapeutic, rehabilitative, or palliative services provided to an outpatient, by or under the direction of a physician or dentist, by an institution that—

(1) Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting; and

(2) Meets the requirements for participation in medicare.

(b) *Rural health clinic services.* If nurse practitioners or physician assistants (as defined in § 481.1 of this chapter) are not prohibited by State law from furnishing primary health care, "rural health clinic services" means the following services when furnished by a rural health clinic that has been certified in accordance with part 481 of this chapter.

(1) Services furnished by a physician within the scope of practice of his profession under State law, if the physician performs the services in the clinic or the services are furnished away from the clinic and the physician has an agreement with the clinic providing that he will be paid by it for such services.

(2) Services furnished by a physician assistant, nurse practitioner, nurse midwife or other specialized nurse practitioner (as defined in §§ 405.2401 and 481.2 of this chapter) if the services are furnished in accordance with the requirements specified in § 405.2414(a) of this chapter.

(3) Services and supplies that are furnished as an incident to professional services furnished by a physician, physician assistant, nurse practitioner, nurse midwife, or specialized nurse practitioner. (See §§ 405.2413 and 405.2415 of this chapter for the criteria for determining whether services and supplies are included under this paragraph.)

(4) Part-time or intermittent visiting nurse care and related medical supplies (other than drugs and biologicals) if:

(i) The clinic is located in an area in which the Secretary has determined that there is a shortage of home health agencies (see § 405.2417 of this chapter);

(ii) The services are furnished by a registered nurse or licensed practical nurse or a licensed vocational nurse employed by, or otherwise compensated for the services by, the clinic;

(iii) The services are furnished under a written plan of treatment that is established and reviewed at least every 60 days by a supervising physician of the clinic or that is established by a physician, physician assistant, nurse practitioner, nurse midwife, or specialized nurse practitioner and reviewed and approved at least every 60 days by a supervising physician of the clinic; and

(iv) The services are furnished to a homebound recipient. For purposes of visiting nurse care, a "homebound" recipient means one who is permanently or temporarily confined to his place of residence because of a medical or health condition. He may be considered homebound if he leaves the place of residence infrequently. For this purpose, "place of residence" does not include a hospital or a skilled nursing facility.

(c) *Other ambulatory services furnished by a rural health clinic.* If the State plan covers rural health clinic services, other ambulatory services means ambulatory services other than rural health clinic services, as defined in paragraph (b) of this part, that are otherwise included in the plan and meet specific State plan requirements for furnishing those services. Other ambulatory services furnishd by a rural health clinic are not subject to the physician supervision requirements specified in § 481.8(b) of this chapter, unless required by State law or the State plan.

§ 440.30 Other laboratory and X-ray services.

"Other laboratory and X-ray services" means professional and technical laboratory and radiological services—

(a) Ordered and provided by or under the direction of a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law;

(b) Provided in an office or similar facility other than a hospital outpatient department or clinic; and

(c) Provided by a laboratory that meets the requirements for participation in medicare.

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases). EPSDT, and family planning services and supplies.

(a) *Skilled nursing facility services.* (1) "Skilled nursing facility services for individuals age 21 or older, other than services in an institution for tuberculosis or mental diseases," means services that are—

(i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 405.127, 405.128, and 405.128a of this chapter;

(ii) Provided by a facility or distinct part of a facility that is certified to meet the requirements for participation under subpart C of part 442 of this subchapter, as evidenced by a valid agreement between the medicaid agency and the facility for providing skilled nursing facility services and making payments for services under the plan; and

(iii) Ordered by and under the direction of a physician.

(2) Skilled nursing facility services includes services provided by any facility located on an Indian reservation and certified by the Secretary as meet-

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ing the requirements of subpart K of part 405 of this chapter.

(b) *EPSDT.* "Early and periodic screening and diagnosis and treatment" means—

(1) Screening and diagnostic services to determine physical or mental defects in recipients under age 21; and

(2) Health care, treatment, and other measures to correct or ameliorate any defects and chronic conditions discovered. (See subpart B of part 441 of this subchapter.)

(c) *Family planning services and supplies for individuals of child-bearing age.* [Reserved]

§ 440.50 Physicians' services.

"Physcians' services," whether furnished in the office, the recipient's home, a hospital, a skilled nursing facility, or elsewhere, means services provided—

(a) Within the scope of practice of medicine or osteopathy as defined by State law; and

(b) By or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

§ 440.60 Medical or other remedial care provided by licensed practitioners.

(a) "Medical care or any other type remedial care provided by licensed practitioners" means any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law.

(b) Chiropractors' services include only services that—

(1) Are provided by a chiropractor who is licensed by the State and meets standards issued by the Secretary under § 405.232b of this chapter; and

(2) Consists of treatment by means of manual manipulation of the spine that the chiropractor is legally authorized by the State to perform.

§ 440.70 Home health services.

(a) "Home health services" means the services in paragraph (b) of this section that are provided to a recipient—

(1) At his place of residence, as specified in paragraph (c) of this section; and

(2) On his physician's orders as part of a written plan of care that the physician reviews every 60 days.

(b) Home health services includes—

(1) Nursing service, as defined in the State Nurse Practice Act, that is provided on a part-time or intermittent basis by a home health agency as defined in paragraph (d) of this section, or if there is no agency in the area, a registered nurse who—

(i) Is currently licensed to practice in the State;

(ii) Receives written orders from the patient's physician;

(iii) Documents the care and services provided; and

(iv) Has had orientation to acceptable clinical and administrative recordkeeping from a health department nurse;

(2) Home health aide service provided by a home health agency;

(3) Medical supplies, equipment, and applicances suitable for use in the home; and

(4) Physicial therapy, occupational therapy, or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services. (See § 441.15 of this subchapter.)

(c) A recipient's place of residence, for home health services, does not include a hospital, skilled nursing facility, or intermediate care facility except for home health services in an intermediate care facility that are not required to be provided by the facility under subparts F and G of part 442 of this subchapter. For example, a registered nurse may provide short-term care for a recipient in an intermediate care facility during an acute illness to avoid the recipient's transfer to a skilled nursing facility.

(d) "Home health agency" means a public or private agency or organization, or part of an agency or organization, that meets requirements for participation in medicare.

(e) A "facility licensed by the State to provide medical rehabilitation services" means a facility that—

(1) Provides therapy services for the primary purpose of assisting in the rehabilitation of disabled individuals through an integrated program of—

(i) Medical evaluation and services; and

(ii) Psychological, social, or vocational evaluation and services; and

(2) Is operated under competent medical supervision either—

(i) In connection with a hospital; or

(ii) As a facility in which all medical and related health services are prescribed by or under the direction of individuals licensed to practice medicine or surgery in the State.

§ 440.80 Private duty nursing services.

"Private duty nursing services" means nursing services for recipients who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility, and that are provided—

(a) By a registered nurse or a licensed practical nurse;

(b) Under the direction of the recipient's physician; and

(c) To a recipient in his own home or in a hospital or skilled nursing facility.

§ 440.90 Clinic services.

"Clinic services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided to an outpatient, by or under the direction of a physician or dentist, by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients.

§ 440.100 Dental services.

(a) "Dental services" means diagnostic, preventive, or corrective procedures provided by or under the direction of a dentist in the practice of his profession, including treatment of—

(1) The teeth and other structures of the oral cavity; and

(2) Disease, injury, or impairment that may affect the oral or general health of the recipient.

(b) "Dentist" means an individual licensed to practice dentistry or dental surgery.

§ 440.110 Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

(a) *Physical therapy.* (1) "Physical therapy" means services prescribed by a physician and provided to a recipient by or under the direction of a qualified physical therapist. It includes any necessary supplies and equipment.

(2) A "quilified physical therapist" is an individual who is—

(i) A graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Physical Therapy Association or its equivalent; and

(ii) Where applicable, licensed by the State.

(b) *Occupational therapy.* (1) "Occupational therapy" means services prescribed by a physician and provided to a recipient by or under the direction of a qualified occupational therapist. It includes any necessary supplies and equipment.

(2) A "qualified occupation therapist" is an individual who is—

(i) Registered by the American Occupational Therapy Association; or

(ii) A graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association.

(c) *Services for individuals with speech, hearing, and language disorders.* (1) "Services for individuals with speech, hearing, and language disorders" means diagnostic, screening, preventive, or corrective services provided by or under the direction of a speech pathologist or audiologist. It includes any necessary supplies and equipment.

(2) A "speech pathologist or audiologist" is an individual who—

(i) Has a certificate of clinical competence from the American Speech and Hearing Association;

(ii) Has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) Has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

§ 440.120 Prescribed drugs, dentures, prosthetic devices, and eyeglasses.

(a) "Prescribed drugs" means simple or compound substances or mixtures of substances prescribed for the cure, mitigation, or prevention of disease, or for health maintenance that are—

(1) Prescribed by a physician or other licensed practitioner of the healing arts within the scope of this professional practice as defined and limited by Federal and State law;

(2) Dispensed by licensed pharmacists and licensed authorized practitioners in accordance with the State Medical Practice Act; and

(3) Dispensed by the licensed pharmacist or practitioner on a written prescription that is recorded and maintained in the pharmacist's or practitioner's records.

(b) "Dentures" are artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

(c) "Prosthetic devices" means replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law to—

(1) Artificially replace a missing portion of the body;

(2) Prevent or correct physical deformity or malfunction; or

(3) Support a weak or deformed portion of the body.

(d) "Eyeglasses" means lenses, including frames, and other aids to vision prescribed by a physician skilled in diseases of the eye or an optometrist.

§ 440.130 Diagnostic, screening, preventive, and rehabilitative services.

(a) "Diagnostic services," except as otherwise provided under this subpart, includes any medical procedures or supplies recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, to enable him to identify the existence, nature, or extent of illness, injury, or other health deviation in a recipient.

(b) "Screening services" means the use of standardized tests given under medical direction in the mass examination of a designated population to detect the existence of one or more particular diseases or health deviations or to identify for more definitive studies individuals suspected of having certain diseases.

(c) "Preventive services" means services provided by a physician or other licensed practitioner of the healing arts within the scope of his practice under State law to—

(1) Prevent disease, disability, and other health conditions or their progression;

(2) Prolong life; and

(3) Promote physical and mental health and efficiency.

(d) "Rehabilitative services," except as otherwise provided under this subpart, includes any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.

§ 440.140 Inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals age 65 or older in institutions for tuberculosis or mental diseases.

(a) *Inpatient hospital services.* (1) "Inpatient hospital services for individuals age 65 or older in institutions for tuberculosis or mental diseases" means services provided under the direction of a physician for the care and treatment of recipients in—

(i) An institution for tuberculosis that meets the requirements under medicare, § 405.1036 of this chapter; and

(ii) An institution for mental diseases that meets the requirements under medicare, §§ 405.1035 and 405.1036 of this chapter, except the requirements for admission reviews under § 405.1035(f) of this chapter, or utilization review under § 405.1035 of this chapter if the institution has been granted a waiver under sec. 1903(i)(4) and subpart H of part 456 of this subchapter.

(2) "Institution for mental diseases" means an institution that is primarily engaged in providing diagnosis, treatment, or care of individuals with mental diseases, including medical care, nursing care, and related services.

(3) "Institution for tuberculosis" means an institution that is primarily engaged in providing diagnosis, treatment, or care of individuals with tuberculosis, including medical attention, nursing care, and related services.

(b) *Skilled nursing facility services.* "Skilled nursing facility services for individuals age 65 or older in institutions for tuberculosis or mental diseases" means skilled nursing facility services as defined in § 440.40 that are provided in institutions for tuberculosis or mental diseases, as defined in paragraph (a) of this section.

(c) *Intermediate care facility services.* "Intermediate care facility services for individuals age 65 or older in institutions for tuberculosis or mental diseases" means intermediate care facility services as defined in § 440.150 of this subpart, that are provided to recipients who are—

(1) Determined under §§ 456.360-456.372 of this subchapter to be in need of services; and

(2) In institutions for tuberculosis and mental diseases, as defined in paragraph (a) of this section.

§ 440.150 Intermediate care facility services, other than in institutions for tuberculosis or mental diseases.

(a) "Intermediate care facility services, other than in an institution for tuberculosis or mental diseases" means services provided in a facility that—

(1) Fully meets the requirements for a State license to provide, on a regular basis, health-related services to individuals who do not require hospital or skilled nursing facility care, but whose mental or physical condition requires services that—

(i) Are above the level of room and board; and

(ii) Can be made available only through institutional facilities;

(2) Has been certified to meet the requirements of subpart C of part 442 of this subchapter as evidenced by a valid agreement between the medicaid agency and the facility for providing intermediate care facility services and making payments for services under the plan; and

(3) Meets the conditions of subpart E of part 442 of this subchapter.

(b) "Intermediate care facility services" include services—

(1) Considered appropriate by the State and provided by a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(2) Provided by a facility located on an Indian reservation that—

(i) Furnishes, on a regular basis, health-related services; and

(ii) Is certified by the Secretary to meet the standards in subpart E of part 442 of this subchapter.

(c) "Intermediate care facility services" may include services in an institution for the mentally retarded or persons with related conditions if—

(1) The primary purpose of the institution is to provide health or rehabili-

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tative services for mentally retarded individuals or persons with related conditions;

(2) The institution meets the standards in subpart E of part 442 of this subchapter; and

(3) The mentally retarded recipient for whom payment is requested is receiving active treatment as defined in § 435.1009.

(d) "Intermediate care facility services" may include services provided in a distinct part of a facility other than an intermediate care facility if the distinct part—

(1) Meets all requirements for an intermediate care facility;

(2) Is an identifiable unit, such as an entire ward or contiguous ward, a wing, floor, or building;

(3) Consists of all beds and related facilities in the unit;

(4) Houses all recipients for whom payment is being made for intermediate care facility services, except as provided in paragraph (e) of this section;

(5) Is clearly identified; and

(6) Is approved in writing by the survey agency.

(e) If a State includes as intermediate care facility services those services provided by a distinct part of a facility other than an intermediate care facility, it may not require transfer of a recipient within or between facilities if, in the opinion of the attending physician, it might be harmful to the physical or mental health of the recipient.

§ 440.160 Inpatient phychiatric services for individuals under age 21.

"Inpatient psychiatric services for individuals under age 21" means services that—

(a) Are provided under the direction of a physician;

(b) Are provided in a facility or program accredited by the Joint Commission on Accreditation of Hospitals; and

(c) Meet the requirements in subpart D of part 441.

§ 440.170 Any other medical care or remedial care recognized under State law and specified by the Secretary.

(a) *Transportation.* (1) "Transportation" includes expenses for transportation and other related travel expenses determined to be necessary by the agency to secure medical examinations and treatment for a recipient.

(2) Transportation, as defined in this section, is furnished only by a provider to whom a direct vendor payment can appropriately be made by the agency. If other arrangements are made to assure transportation under § 431.52 of this subchapter, FFP is available as an administrative cost.

(3) "Travel expenses" include—

(i) The cost of transportation for the recipient by ambulance, taxicab, common carrier, or other appropriate means;

(ii) The cost of meals and lodging en route to and from medical care, and while receiving medical care; and

(iii) The cost of an attendant to accompany the recipient, if necessary, and the cost of the attendant's transportation, meals, lodging, and, if the attendant is not a member of the recipient's family, salary.

(b) *Services of Christian Science nurses.* "Services of Christian Science nurses" mean services provided by nurses who are listed and certified by the First Chruch of Christ, Scientist, Boston, Mass., if—

(1) The services have been requested by the recipient; and

(2) The services are provided—

(i) By or under the supervision of a Christian Science visiting nurse organization listed and certified by the First Church of Christ, Scientist, Boston, Mass.; or

(ii) As private duty services to a recipient in his home or in a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass., if the recipient requires individual and continuous care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the sanatorium.

(c) *Services in Christian Science sanatoriums.* "Services in Christian Science sanatoriums" means services provided in Christian Science sanatoriums that are operated by, or listed and certified by, the First Church of Christ, Scientist, Boston, Mass.

(d) *Skilled nursing facility services for individuals under age 21.* "Skilled nursing facility services for individuals under 21" means those services specified in § 440.40 that are provided to recipients under 21 years of age.

(e) *Emergency hospital services.* "Emergency hospital services" means services that—

(1) Are necessary to prevent the death or serious impairment of the health of a recipient; and

(2) Because of the threat to the life or health of the recipient necessitate the use of the most accessible hospital available that is equipped to furnish the services, even if the hospital does not currently meet—

(i) The conditions for participation under medicare; or

(ii) The definitions of inpatient or outpatient hospital services under §§ 440.10 and 440.20.

(f) *Personal care services in a recipient's home.* "Personal care services in a recipient's home" means services prescribed by a physician in accordance with the recipient's and provided by an individual who is—

(1) Qualified to provide the services;

(2) Supervised by a registered nurse; and

(3) Not a member of the recipient's family.

Subpart B—Requirements and Limits Applicable to All Services

§ 440.200 Basis, purpose, and scope.

(a) This subpart implements—

(1) Section 1902(a)(10), regarding comparability of services for groups of recipients;

(2) Section 1902(a)(13) (B) and (C) of the Act, which prescribes the amount, duration, and scope of services described in 1905(a) of the Act that the State plan must provide for recipients;

(3) Section 1902(a)(22)(D), which provides for standards and methods to assure quality of services; and

(4) Section 1907 on observance of religious beliefs.

(b) The requirements and limits of this subpart apply for all services defined in subpart A of this part.

§ 440.210 Required services for the categorically needy.

A State plan must specify that, as a minimum, categorically needy recipients are provided the services as specified in §§ 440.10–440.50.

§ 440.220 Required services for the medically needy.

If the plan includes the medically needy, it must specify that the medically needy are provided, as a minimum—

(a) The medical and remedial services in §§ 440.10–440.50; or

(b) The services contained in any seven of the sections in §§ 440.10–440.160 and, if the plan includes inpatient hospital services or skilled nursing facility services, physicians' services to recipients who are patients in a hospital or skilled nursing facility, even though physician services, as defined in § 440.50, are not otherwise included for the medically needy.

§ 440.230 Sufficiency of amount, duration, and scope.

(a) The plan must specify the amount and duration of each service that it provides.

(b) Each service must be sufficient in amount, duration, and scope to reasonably achieve its purpose.

(c) (1) The medicaid agency may not deny or reduce the amount, duration, or scope of a required service under §§ 440.210 and 440.220 to an otherwise eligible recipient solely because of the diagnosis, type of illness, or condition.

(2) The agency may place appropriate limits on a service based on medical necessity or on utilization control procedures.

§ 440.240 Comparability of services for groups.

Except as limited in § 440.250—

(a) The plan must provide that the services available to any categorically needy recipient under the plan are not less in amount, duration, and scope than those services available to a medically needy recipient; and

(b) The plan must provide that the services available to either the categorically or medically needy are equal in amount, duration, and scope for all recipients within the group.

§ 440.250 Limits on comparability of services.

(a) Skilled nursing facility services (§ 440.40(a)) may be limited to recipients age 21 or older.

(b) Early and periodic screening, diagnosis, and treatment (§ 440.40(b)) must be limited to recipients under age 21.

(c) Family planning services and supplies must be limited to recipients of childbearing age, including minors who can be considered sexually active and who desire the services and supplies.

(d) If covered under the plan, services to recipients in institutions for tuberculosis or mental diseases (§ 440.140) must be limited to those age 65 or older.

(e) If covered under the plan, inpatient psychiatric services (§ 440.160) must be limited to recipients age 21 or younger.

(f) If medicare benefits are made available to recipients through a buy-in agreement or payment of premiums, deductibles, cost sharing or similar charges, they may be limited to recipients who are covered by the agreement or payment.

(g) If services in addition to those offered under the plan are made available under a contract between the agency or political subdivision and an organization providing comprehensive health services, those additional services may be limited to recipients who reside in the geographic area served by the contracting organization and who elect to receive services from it.

§ 440.260 Methods and standards to assure quality of services.

The plan must include a description of methods and standards used to assure that services are of high quality.

§ 440.270 Religious objections.

(a) Except as specified in paragraph (b) of this section, the agency may not require any individual to undergo any medical service, diagnosis, or treatment or to accept any other health service provided under the plan if the individual objects, or in the case of a child, a parent or guardian objects, on religious grounds.

(b) If a physical examination is necessary to establish eligibility based on disability or blindness, the agency may not find an individual eligible for medicaid unless he undergoes the examination.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

Sec.
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AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

§ 441.1 Purpose.

This part sets forth State plan requirements and limits on FFP for specific services defined in part 440 of this subchapter. Standards for payments for services provided in intermediate care facilities and skilled nursing facilities are set forth in part 442 of this subchapter.

Subpart A—General Provisions

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

(a) Sections 1902(a)(13)(A)(ii) and 1905(a)(7) for home health services (§ 441.15).

(b) Section 1905(a)(4)(C) for family planning (§ 441.20).

(c) Section 1905(a)(12) and (e) for optometric services (§ 441.30).

(d) Section 1102 for end-stage renal disease (§ 441.40).

(e) Section 1905(a) (following (a)(17)), which prohibits FFP in expenditures for certain services (§ 441.12).

§ 441.11 Continuation of FFP for institutional services.

(a) If a medicaid agency terminates or fails to renew a provider agreement for the services specified in paragraph (c) of this section because the services no longer meet the applicable definitions, FFP may be continued for a period specified in paragraph (b) of this section, only—

(1) For payment for individuals admitted to the facility before the provider agreement terminated or was not renewed; and

(2) If the agency makes reasonable efforts to transfer the individuals to another facility or to alternate care.

(b) FFP may be continued under the conditions specified in paragraph (a) of this section, for no more than 30 days from—

(1) The termination or expiration date by HCFA of the facility's provider agreement under medicare;

(2) The termination or expiration date by the agency of its provider agreement; or

(3) For a facility or program providing inpatient psychiatric services for individuals under age 21, the earlier of either—

(i) The effective date of its loss of accreditation by the Joint Commission on Accreditation of Hospitals; or

(ii) The termination by the agency of its provider agreement.

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(c) FFP may be continued, as specified in this section, for the following services:

(1) Inpatient hospital services as defined in § 440.10 of this subchapter.

(2) Inpatient hospital services for individuals age 65 or older in an institution for tuberculosis or mental diseases, as defined in § 440.140 of this subchapter.

(3) Skilled nursing facility services for individuals age 21 or older, as defined in § 440.40(a) of this subchapter.

(4) Skilled nursing facility services for individuals age 65 or older in an institution for tuberculosis or mental diseases, as defined in § 440.140 of this subchapter.

(5) Intermediate care facility services, as defined in § 440.150 of this subchapter.

(6) Intermediate care facility services for individuals age 65 or older in an institution for tuberculosis or mental diseases, as defined in § 440.140 of this subchapter.

(7) Inpatient psychiatric services for individuals under age 21, as defined in § 440.160 of this subchapter.

§ 441.13 Prohibitions on FFP: Institutionalized individuals.

(a) FFP is not available in expenditures for services for—

(1) Any individual who is in a public institution, as defined in § 435.1009 of this subchapter; or

(2) Any individual who is under age 65 and is in an institution for tuberculosis or mental diseases, except an individual who is under age 22 and receiving inpatient psychiatric services under subpart D of this part.

(b) Payments to institutions for the mentally retarded or persons with related conditions and to psychiatric facilities or programs providing inpatient psychiatric services to individuals under age 21 may not include reimbursement for vocational training and educational activities.

§ 441.15 Home health services.

A State plan must provide that—

(a) Home health services include, as a minimum—

(1) Nursing services;

(2) Home health aide services; and

(3) Medical supplies, equipment, and appliances.

(b) The agency provides home health services to—

(1) Categorically needy recipients age 21 or over;

(2) Categorically needy recipients under age 21, if the plan provides skilled nursing facility services for them; individuals; and

(3) Medically needy recipients to whom skilled nursing facility services are provided under the plan.

(c) The eligibility of a recipient to receive home health services does not depend on his need for or discharge from institutional care.

§ 441.20 Family planning services.

For recipients eligible under the plan for family planning services, the plan must provide that each recipient is free from coercion or mental pressure and free to choose the method of family planning to be used.

§ 441.30 Optometric services.

The plan must provide for payment of optometric services as physician services, whether furnished by an optometrist or a physician, if—

(a) The plan does not provide for payment for services provided by an optometrist, except for eligibility determinations under §§ 435.531 and 436.531 of this subchapter, but did provide for those services at an earlier period; and

(b) The plan specifically provides that physicians' services include services an optometrist is legally authorized to perform.

§ 441.40 End-stage renal disease.

FFP in expenditures for services described in subpart A of part 440 is available for facility treatment of end-stage renal disease only if the facility has been approved by the Secretary to furnish those services under medicare. This requirement for approval of the facility does not apply under emergency conditions permitted under medicare (see § 405.1011 of this chapter).

Subpart B—Early and Periodic Screening, Diagnosis and Treatment of Individuals Under Age 21

§ 441.50 Basis and purpose.

This subpart implements sec. 1905 of the Act by prescribing State plan requirements for early and periodic screening and diagnosis of individuals under age 21 to ascertain physical and mental defects, and treatment to correct or ameliorate defects and chronic conditions found. (See 45 CFR 205.146(c) relating to reduction in FFP under AFDC for failure to provide EPSDT to individuals under age 21.)

§ 441.51 State plan requirements.

A State plan must provide that the requirements of this subpart are met with respect to early and periodic screening, diagnosis and treatment (EPSDT) of individuals under age 21, as defined in § 440.40 of this subchapter.

§ 441.52 Required services.

(a) The medicaid agency must make available, to recipients under age 21, early and periodic screening and diagnosis to determine physical and mental defects and treatment of conditions discovered within the limits in the plan on amount, duration, and scope.

(b) Subject to utilization controls it may impose, the agency must also make available, if they are not otherwise included in the plan—

(1) Treatment of visual and hearing defects, including provision of eyeglasses and hearing aids; and

(2) Dental services needed for relief of pain and infection, restoration of teeth, and maintenance of dental health.

§ 441.53 Additional services under EPSDT.

The agency may provide any other services defined in subpart A of part 440 of this subchapter under the EPSDT program to recipients under age 21, even if it does not provide those services or provides them in a lesser amount, duration, or scope to other recipients.

§ 441.54 Administration.

The agency must establish administrative procedures to—

(a) Identify available screening and diagnostic facilities;

(b) Assure that recipients under age 21 may receive services of those facilities; and

(c) Make available EPSDT services covered under the plan.

§ 441.55 Services from title V grantees.

The agency must—

(a) Identify all recipients eligible for EPSDT services, including those who are in need of medical or remedial services furnished through title V grantees; and

(b) Assure that recipients eligible for title V services are—

(1) Informed of the services; and

(2) Referred to title V grantees for services, as appropriate.

§ 441.56 Maximum utilization of existing services.

The agency must provide for agreements to assure maximum use of existing screening, diagnostic, and treatment services provided by public and voluntary agencies such as child health clinics, neighborhood health centers, and similar agencies.

Subpart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases [Reserved]

Subpart D—Inpatient Psychiatric Services for Individuals Under Age 21 in Psychiatric Facilities or Programs

§ 441.150 Basis and purpose.

This subpart specifies requirements applicable if a State provides inpatient psychiatric services to individuals under age 21, as defined in § 440.160 of this subchapter and authorized under sec. 1905 (a)(16) and (h) of the Act.

§ 441.151 General requirements.

Inpatient psychiatric services for recipients under age 21 must be provided—

(a) Under the direction of a physician;

(b) By a psychiatric facility or an inpatient program in a psychiatric facility, either of which is accredited by the Joint Commission on Accreditation of Hospitals; and

(c) Before the recipient reaches age 21 or, if the recipient was receiving the services immediately before he reached age 21, before the earlier of the following—

(1) The date he no longer requires the services; or

(2) The date he reaches age 22.

§ 441.152 Certification of need for services.

(a) A team specified in § 441.154 must certify that—

(1) Ambulatory care resources available in the community do not meet the treatment needs of the recipient;

(2) Proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and

(3) The services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed.

(b) The certification specified in this section and in § 441.153 satisfies the utilization control requirement for physician certification in §§ 456.60, 456.160, 456.260, and 456.360 of this subchapter.

§ 441.153 Team certifying need for services.

Certification under § 441.152 must be made by terms specified as follows:

(a) For an individual who is a recipient when admitted to a facility or program, certification must be made by an independent team that—

(1) Includes a physician;

(2) Has competence in diagnosis and treatment of mental illness, preferably in child psychiatry; and

(3) Has knowledge of the individual's situation.

(b) For an individual who applies for medicaid while in the facility of program, the certification must be—

(1) Made by the team responsible for the plan of care as specified in § 441.156; and

(2) Cover any period before application for which claims are made.

(c) For emergency admissions, the certification must be made by the team responsible for the plan of care (§ 441.156) within 14 days after admission.

§ 441.154 Active treatment.

Inpatient psychiatric services must involve "active treatment", which means implementation of a professionally developed and supervised individual plan of care, described in § 441.155 that is—

(a) Developed and implemented no later than 14 days after admission; and

(b) Designed to achieve the recipient's discharge from inpatient status at the earliest possible time.

§ 441.155 Individual plan of care.

(a) "Individual plan of care" means a written plan developed for each recipient in accordance with §§ 456.180–456.181, and 456.280–456.281 of this subchapter, to improve his condition to the extent that inpatient care is no longer necessary.

(b) The plan of care must—

(1) Be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral and developmental aspects of the recipient's situation and reflects the need for inpatient psychiatric care;

(2) Be developed by a team of professionals specified under § 441.156 in consultation with the recipient; and his parents, legal guardians, or others in whose care he will be released after discharge;

(3) State treatment objectives;

(4) Prescribe an integrated program of therapies, activities, and experiences designed to meet the objectives; and

(5) Include, at an appropriate time, post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge.

(c) The plan must be reviewed every 30 days by the team specified in § 441.156 to—

(1) Determine that services being provided are or were required on an inpatient basis, and

(2) Recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

(d) The development and review of the plan of care as specified in this section satisfies the utilization control requirements for—

(1) Physician recertification under §§ 456.60, 456.160, 456.260, and 456.360 of this subchapter; and

(2) Establishment and periodic review of the plan of care under §§ 456.80, 456.180, 456.280, and 456.380 of this subchapter.

§ 441.156 Team developing individual plan of care.

(a) The individual plan of care under § 441.155 must be developed by an interdisciplinary team of physicians and other personnel who are employed by, or provide services to patients in, the facility.

(b) Based on education and experience, preferably including competence in child psychiatry, the team must be capable of—

(1) Assessing the recipient's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities;

(2) Assessing the potential resources of the recipient's family;

(3) Setting treatment objectives; and

(4) Prescribing therapeutic modalities to achieve the plan's objectives.

(c) The team must include, as a minimum, either—

(1) A Board-eligible or Board-certified psychiatrist;

(2) A clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

(3) A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who has been certified by the State or by the State psychological association.

(d) The team must also include one of the following:

(1) A psychiatric social worker.

(2) A registered nurse with specialized training or one year's experience in treating mentally ill individuals.

(3) An occupational therapist who is licensed, if required by the State, and who has specialized training or one year of experience in treating mentally ill individuals.

(4) A psychologist who has a master's degree in clinical psychology or who has been certified by the State or by the State psychological association.

§ 441.180 Maintenance of effort: General rule.

FFP is available only if the State maintains fiscal effort as prescribed under this subpart.

§ 441.181 Maintenance of effort: Explanation of terms and requirements.

(a) For purposes of § 441.182:

(1) The base year is the 4-quarter period ending December 31, 1971.

(2) Quarterly per capita non-Federal expenditures are expenditures for inpatient psychiatric services determined by reimbursement principles under medicare. (See Part 405, subpart D.)

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(3) The number of individuals receiving inpatient psychiatric services in the current quarter means—

(i) The number of individuals receiving services for the full quarter; plus

(ii) The full quarter composite number of individuals receiving services for less than a full quarter.

(4) In determining the per capita expenditures for the base year, the medicaid agency must compute the number of individuals receiving services in a manner similar to that in paragraph (a)(3) of this section.

(5) Non-Federal expenditures means the total amount of funds expended by the State and its political subdivisions, excluding Federal funds received directly or indirectly from any source.

(6) Expenditures for the current calendar quarter exclude Federal funds received directly or indirectly from any source.

(b) As a basis for determining the correct amount of Federal payments, each State must submit estimated and actual cost data and other information necessary for this purpose in the form and at the times specified in this subchapter and by HCFA guidelines.

(c) The agency must have on file adequate records to substantiate compliance with the requirements of § 441.182 and to ensure that all necessary adjustments have been made.

(d) Facilities that did not meet the requirements of §§ 441.151–441.156 in the base year, but are providing inpatient psychiatric services under those sections in the current quarter, must be included in the maintenance of effort computation if, during the base year, they were—

(1) Providing inpatient psychiatric services for individuals under age 21; and

(2) Receiving State aid.

§ 441.182 Maintenance of effort: Computation.

(a) For expenditures for inpatient psychiatric services for individuals under age 21, in any calendar quarter, FFP is available only to the extent that the total State medicaid expenditures in the current quarter for inpatient psychiatric services and outpatient psychiatric treatment for individuals under age 21 exceed the sum of the following:

(1) The total number of individuals receiving inpatient psychiatric services in the current quarter times the average quarterly per capita non-Federal expenditures for the base year; and

(2) The average non-Federal quarterly expenditures for the base year for outpatient psychiatric services for individuals under age 21.

(b) FFP is available for 100 percent of the increase in expenditures over the base year period, but may not exceed the Federal medical assistance percentage times the expenditures under this subpart for inpatient psychiatric services for individuals under age 21.

Subpart E—Abortions

§ 441.200 Basis and purpose.

This subpart implements sec. 101 of Pub. L. 95-205 by prohibiting the use of Federal funds for abortions except under certain circumstances stated in this subpart.

§ 441.201 Definitions.

As used in this subpart—

"Law enforcement agency" means an agency, or any part of an agency, charged under applicable law with enforcement of the general penal statutes of the United States or of any State of local jurisdiction.

"Medical procedures performed upon a victim of rape or incest" means any medical service, including an abortion, performed for the purpose of preventing or terminating a pregnancy arising out of an incident of rape or incest.

"Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he practices.

"Public health service" means—

(1) An agency of the United States or of a State of local government that provides health or medical services; and

(2) A "rural health clinic," as defined under sec. 1(d)(aa)(2) of Pub. L. 95-210, 91 Stat. 1485, except that any agency or facility whose principal function is the performance of abortions is specifically excluded from this definition.

§ 441.202 General rule.

FFP is not available in expenditures for an abortion except under circumstances described in §§ 441.203 through 441.205.

§ 441.203 Life of the mother would be endangered.

FFP is available in expenditures for an abortion when a physician has found, and certified in writing to the medicaid agency, that on the basis of his professional judgment, the life of the mother would be endangered if the fetus were carried to term. The certification must contain the name and address of the patient.

§ 441.204 Severe and long-lasting damage to physical health.

(a) FFP is available in expenditures for an abortion when two physicians have found, and certified in writing to the medicaid agency, that on the basis of their professional judgment, severe and long lasting physical damage to the mother would result if the pregnancy were carried to term. The cetification must contain the name and address of the patient.

(b) At least one of the two physicians must also certify that he is not an interested physician, as defined in paragraph (c) of this section.

(c) For purposes of paragraph (b) of this section, an "interested physician" is a physician—

(1) Whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or

(2) Who is the spouse of, or another relative who lives with, a physician whose income is directly or indirectly affected by the fee paid for the performance of the abortion.

§ 441.205 Rape and incest.

(a) FFP is available in expenditures for medical procedures performed upon a victim of rape or incest if the medicaid agency has received signed documention from a law enforcement agency or public health service stating—

(1) That the recipient upon whom the medical procedure was performed was reported to have been the victim of an incident of rape or incest;

(2) The date of the incident;

(3) The date of the report, which must be within 60 days of the incident;

(4) The name and address of the victim;

(5) The name and address of the individual who reported the rape or incest, if different from the victim; and

(6) That the report included the signature of the individual who reported the incident.

(b) FFP is also available in expenditures for abortions for victims of rape or incest under the circumstances described in §§ 441.203 and 441.204 without regard to the requirements of this section.

§ 441.206 Documentation needed by the medicaid agency.

FFP is not available in any expenditures for abortions or other medical procedures otherwise provided for under §§ 441.203 through 441.205 if the medicaid agency has paid without first having received the certifications and documentation specified in those sections.

§ 441.207 Drugs and devices and termination of ectopic pregnancies.

FFP is available in expenditures for drugs or devices to prevent implantation of the fertilized ovum and for medical procedures necessary for the termination of an ectopic pregnancy.

§ 441.208 Recordkeeping requirements.

Medicaid agencies must maintain copies of the certifications and documentation specified in §§ 441.203 through 441.205 for 3 years under the recordkeeping requirements at 45 CFR 74.20.

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

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AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—General Provisions

§ 442.1 Basis and purpose.

(a) This part states requirements for provider agreements, facility certification, and facility standards relating to the provision of skilled nursing facility and intermediate care facility services to medicaid recipients. The requirements apply to State medicaid agencies and survey agencies and to the facilities. This part is based on the following sections of the Act:

(1) Section 1902(a)(4), administrative methods for proper and efficient operation of the State plan;

(2) Section 1902(a)(27), provider agreements;

(3) Section 1902(a)(28), skilled nursing facility standards;

(4) Section 1902(a)(33)(B), State survey agency functions;

(5) Section 1905 (c) and (d), definition of intermediate care facility services;

(6) Section 1905 (f) and (i), definition of skilled nursing facility services; and

(7) Section 1910, participation of medicare-certified skilled nursing facilities in medicaid.

(b) Section 431.610 of this subchapter contains requirements for designating the State licensing agency to survey these facilities and for certain survey agency responsibilities.

§ 442.2 Terms.

In this part—

"Facility" refers to a skilled nursing facility (SNF), an intermediate care facility (ICF), and an intermediate care facility for the mentally retarded or persons with related conditions (ICF/MR). Except where otherwise specified, "ICF" refers to both an ICF and an ICF/MR.

"Facility", and any specific type of facility referred to, may include a distinct part of a facility as specified in § 440.40 or § 440.150 of this subchapter.

Subpart B—Provider Agreements

§ 442.10 State plan requirement.

A State plan must provide that requirements of this subpart are met.

§ 442.12 Provider agreement: General requirements.

(a) A medicaid agency may not execute a provider agreement with a facility for SNF or ICF services nor make medicaid payments to a facility for those services unless the Secretary or the State survey agency has certified the facility under this part to provide those services. (See § 442.101 for certification by the Secretary or by the State survey agency. This certification requirement does not apply with respect to Christian Science sanitoria operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass.

(b) The effective date of an agreement may not be earlier than the date of certification.

(c) An agreement must be in accordance with the certification provisions set by the Secretary or the survey agency under subpart C of this part.

(d) If the medicaid agency has adequate documentation showing good cause, it may refuse to execute an agreement, or may cancel an agreement, with a certified facility.

§ 442.15 Duration of agreement.

(a) Except as specified under § 442.16, the duration of an agreement may not exceed 12 months.

(b) The agreement must be for the same duration as the certification period set by the survey agency. However, if the medicaid agency has adequate documentation showing good cause, it may make an agreement for less than this period.

(c) FFP is available for services provided by a facility for up to 30 days after its agreement expires or terminates under the conditions specified in § 441.11 of this subchapter.

§ 442.16 Extension of agreement.

A medicaid agency may extend a provider agreement for up to 2 months beyond its original expiration date if it receives written notice from the survey agency, before the expiration date of the agreement, that extension will not jeopardize the patients' health and safety, and—

(a) Is needed to prevent irreparable harm to the facility or hardship to the recipients in the facility; or

(b) Is needed because it is impracticable to determine, before the expiration date, whether the facility meets certification standards.

§ 442.20 Additional requirements for agreements with SNF's participating in medicare.

(a) The medicaid agency's agreement with a SNF participating in medicare must—

(1) Provide for the same terms and conditions as medicare certification; and

(2) Be for the same duration as the medicare certification.

(b) When the Secretary notifies the medicaid agency that a medicare agreement with a SNF has been terminated, the agency must terminate its medicaid agreement with that SNF.

(c) If the medicaid agency has terminated an agreement under paragraph (b) of this section, it may not make another agreement with that SNF until—

(1) The conditions causing the termination are removed; and

(2) The SNF provides reasonable assurance to the survey agency that the conditions will not recur.

§ 442.30 Agreement as evidence of certification.

(a) Under §§ 440.40(a) and 440.150 of this subchapter, FFP is available in expenditures for SNF and ICF service only if the facility has been certified as meeting the requirements for medicaid participation, as evidenced by a provider agreement executed under this part. An agreement is not valid evidence that a facility has met those requirements if the Administrator determines that—

(1) The survey agency failed to apply the applicable certification standards required under subpart D, E, F, or G of this part;

(2) The survey agency failed to follow the rules and procedures for certification set forth in subpart C of this part and § 431.610 of this subchapter;

(3) The survey agency failed to perform any of the functions specified in § 431.610(g) of this subchapter relating to evaluating and acting on information about the facility and inspecting the facility;

(4) The survey agency failed to use the Federal standards and the forms, methods, and procedures required under § 431.610(f)(1) for determining qualifications of providers; or

(5) The agreement's terms and conditions do not meet the requirements of this subpart.

(b) The Administrator will make the determination under paragraph (a) of this section through onsite surveys, other Federal reviews, State certification records, or reports he may require from the medicaid or survey agency.

(c) If the Administrator disallows a State's claim for FFP because of a determination under paragraph (a) of this section, the State is entitled upon request to reconsideration of the disallowance under 45 CFR Part 16.

Subpart C—Certification of SNF's and ICF's

§ 442.100 State plan requirements.

A State plan must provide that the requirements of this subpart are met.

§ 442.101 Obtaining certification.

(a) This section states the requirements for obtaining notice of a facility's certification before a medicaid agency executes a provider agreement under § 442.12.

(b) The agency must obtain notice of certification from the Secretary for—

(1) A facility located on an Indian reservation; and

(2) A SNF that has been certified for medicare payments.

(c) The agency must obtain notice of certification from the survey agency for all other facilities.

(d) The notice must state that the facility—

(1) Meets the applicable requirements under subpart D, E, F, or G of this part, except for waivers or variations granted by the Secretary or the survey agency under those subparts; or

(2) Has been certified with provision for correcting deficiencies in meeting those requirements, under the conditions of this subpart.

(e) For purposes of certification of facilities under this subpart, a waiver of standards is not a deficiency.

§ 442.105 Certification with deficiencies: General provisions.

If a survey agency finds a facility deficient in meeting the standards specified under subpart D, E, F, or G of this part, the agency may certify the facility for medicaid purposes under the following conditions:

(a) The agency finds that the facility's deficiencies, individually or in combination, do not jeopardize the patient's health and safety, nor seriously limit the facility's capacity to give adequate care. The agency must maintain a written justification of these findings.

(b) The agency finds acceptable the facility's written plan for correcting the deficiencies.

(c) If a facility was previously certified with a deficiency and has a different deficiency at the time of the next survey, the agency documents that the facility—

(1) Was unable to stay in compliance with the standard for reasons beyond its control, or despite intensive efforts to comply; and

(2) Is making the best use of its resources to furnish adequate care.

(d) If a facility has the same deficiency it had under the prior certification, the agency documents that the facility—

(1) Did achieve compliance with the standard at some time during the prior certification period;

(2) Made a good faith effort, as judged by the survey agency, to stay in compliance; and

(3) Again became out of compliance for reasons beyond its control.

(e) If an ICF or ICF/MR has a deficiency of the types specified in §§ 442.112 or 442.113 that requires a plan of correction extending beyond 12 months, the agency documents that the conditions of those sections are met.

§ 442.110 Certification period: General provisions.

(a) A survey agency may certify a facility that fully meets applicable requirements for up to 12 months.

(b) The survey agency may notify the medicaid agency that the term of a provider agreement may be extended up to 2 months after the expiration date of the agreement under the conditions specified in § 442.16.

§ 442.111 Certification period: Facilities with deficiencies.

(a) Facilities with deficiencies may be certified under § 442.105 for the period specified in either paragraph (b) or (c) of this section. However, ICF's with deficiencies that may require more than 12 months to correct may be certified under §§ 442.112 and 442.113.

(b) The survey agency may certify a facility for a period that ends no later than 60 days after the last day specified in the plan for correcting deficiencies. The certification period must not exceed 12 months, including the period allowed for corrections.

(c) The survey agency may certify a facility for up to 12 months with a condition that the certification will be automatically canceled on a specified date within the certification period unless—

(1) The survey agency finds that all deficiencies have been satisfactorily corrected; or

(2) The survey agency finds and notifies the medicaid agency that the facility has made substantial progress in correcting the deficiencies and has a new plan for correction that is acceptable.

The automatic cancellation date must be no later than 60 days after the last day specified in the plan for correction of deficiencies under § 442.105.

§ 442.112 Extended period for correcting deficiencies: ICF's other than ICF's/MR; environment, sanitation, and Life Safety Code deficiencies.

(a) *Scope.* This section applies to ICF's other than ICF's/MR that are deficient in meeting requirements for—

(1) Environment and sanitation (§§ 442.324–442.330); or

(2) Life Safety Code (§§ 442.321–442.323).

(b) *Certification period.* The survey agency may certify an ICF other than an ICF/MR under § 442.105 for up to 12 months even though the facility has deficiencies that may take up to 2 years after the first certification of the facility to correct, if the conditions in this section are met.

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(c) *Written plan for correction.* The ICF must submit a written plan for correcting the deficiencies that—

(1) Specifies the steps the facility will take to correct each deficiency;

(2) Specifies a timetable for taking each of those steps and a date for completion of correction of each deficiency that is not later than 2 years after the date the facility is first certified; and

(3) Is acceptable to the survey agency.

(d) *Feasibility of plan.* The survey agency must find that the facility can—

(1) Potentially meet the requirements in which it is deficient by taking the steps specified in the plan for correction; and

(2) Correct each deficiency by the date specified in the plan for correction.

(e) *Progress in meeting correction plan.* Within each 6-month period after acceptance of the plan for correction, the survey agency must find, and record in the survey record, that the facility has made substantial progress in meeting its plan for correction. These findings must be based on onsite surveys by qualified surveyors. The survey agency must support these findings by placing signed contracts, work orders, or other documents in the survey record.

(f) *State fire safety and sanitation requirements.* The survey agency must find that, during the period allowed for corrections, the facility meets State fire safety and sanitation codes and regulations.

§ 442.113 Extended period for correcting deficiencies: ICF's/MR; Life Safety Code and living/dining/therapy area deficiencies.

(a) *Scope.* This section applies to ICF's/MR that are deficient in meeting requirements for—

(1) Life Safety Code (§§ 442.507-442.509);

(2) Living units (§§ 442.447(a) (1), (2), (4), (5), (b), (c), 442.448(d), 442.449 (a), (b), 442.450(a)(2), 442.451(a), 442.452, 442.453);

(3) Dining rooms (§ 442.471(a)-(c)); or

(4) Therapy areas (§ 442.488(e)).

(b) *Certification period.* The survey agency may certify an ICF/MR under § 442.105 for up to 12 months even though the deficiencies listed in paragraph (a) of this section may take more than 12 months to correct, if the conditions in this section and § 442.115 are met.

(c) *Written plan for correction.* Before certifying an ICF/MR under this section, the survey agency must approve, in writing, the ICF/MR's written plan for correcting those deficiencies. The plan must—

(1) State the extent to which the ICF/MR complies with the requirements it does not fully meet;

(2) Specify the steps the ICF/MR will take to correct the deficiencies;

(3) Specify a timetable for taking each of those steps and a date for completion of corrections;

(4) For a public ICF/MR, be approved by the State or political subdivision that has jurisdiction over its operation (A public facility is defined in § 435.1009 of this subchapter as one that is the "responsibility of a governmental unit or over which a governmental unit exercises administrative control."); and

(5) Meet the conditions of § 442.115.

(d) *Progress in meeting correction plan.* Within each 6-month period after initial approval of the plan, the survey agency must find, and record in the survey record, that the ICF/MR has made substantial progress in meeting the plan for correction. These findings must be based on onsite surveys by qualified surveyors. The survey agency must support these findings by placing signed contracts, work orders, or other documentation in the survey record.

(e) *State fire safety and sanitation requirements.* The survey agency must find that, during the period allowed for corrections, the ICF/MR meets the State fire safety and sanitation codes and regulations.

§ 442.115 Correction plans.

(a) The ICF/MR's plan required by § 442.113 must provide for completion of corrections by July 18, 1980, or, if authorized by the Secretary under paragraph (b) of this section, by July 18, 1982.

(b) If, at the time of the first survey of the ICF/MR after July 17, 1977, it is unable to develop a plan to complete corrections by July 18, 1980, the survey agency may request the Secretary to authorize approval of a plan to complete them by July 18, 1982. The Secretary will authorize this approval for each deficiency if he determines that time beyond July 18, 1977, is needed—

(1) As a practical matter to complete the corrections;

(2) To prevent unreasonable hardship to the ICF/MR; and

(3) To insure continued care for recipients served by the ICF/MR.

(c) If the plan provides for correction through structural change or renovation, it must—

(1) Contain a timetable showing the corrective steps and their completion dates;

(2) Specify the structural change or renovation; and

(3) Document that sufficient financial resources are available to complete the change or renovation on schedule.

(d) If the plan provides for correction by phasing out part or all of the ICF/MR, it must—

(1) Contain a timetable showing the buildings or units to be closed and describing the steps for phasing them out;

(2) Describe the methods that insure the recipients' health and safety until the building or unit is closed; and

(3) Provide that no new recipients will be admitted to the building or unit after the plan has been approved.

Subpart D—Skilled Nursing Facility Requirements

§ 442.200 Purpose.

This subpart specifies the requirements that a SNF must meet to obtain certification from the Secretary or the State survey agency as a qualified medicaid provider of SNF services.

§ 442.201 State licensing standards.

(a) A SNF must meet State nursing home licensing standards. However, if a SNF that formerly met State licensing standards does not currently meet them, it may continue to receive medicaid payments as a qualified provider during a period specified by the responsible licensing authority if, during that period, the SNF takes the steps needed to again meet the standards.

(b) For purposes of this subpart, the fact that a SNF actually holds a current license is immaterial if the responsible State licensing authority determines that, in fact, the standards are not met.

(c) In accordance with § 431.110 of this subchapter, an Indian Health Service SNF must meet State licensing standards although it need not obtain a license. In making this determination, the licensing authority may not take into account an absence of licensure of any staff member of the facility.

§ 442.202 Federal definitions and standards.

The SNF must meet—

(a) The definition of a "skilled nursing facility" in § 440.40(a) of this subchapter;

(b) The definition in section 1861(j) of the Act; and

(c) The standards specified in part 405, subpart K, of this chapter: Conditions of participation; skilled nursing facilities, except for provisions waived under that subpart or accepted by the Secretary or the State survey agency under a plan of correction as specified in subpart B of this part. Provisions that may be waived under part 405, subpart K, include:

(1) Building accessibility, § 405.1134(c);

(2) Patient room and toilet facilities, § 405.1134(e); and

(3) Utilization review, § 405.1137, if authorized under §§ 456.501-456.508 of this subchapter.

Subpart E—Intermediate Care Facility Requirements; All Facilities

§ 442.250 Purpose.

This subpart specifies the requirements that an ICF must meet to obtain certification from the State survey agency as a qualified provider of ICF services.

§ 442.251 State licensing standards.

(a) Except as provided in paragraph (b), an ICF must meet standards for a State license to provide, on a regular basis, health-related care and services to individuals who do not require hospital or SNF care, but whose mental or physical condition requires services—

(1) Above the level of room and board; and

(2) That can be provided only by an institution.

(b) An ICF that formerly met State licensing standards but does not currently meet them may continue to receive medicaid payments as a qualified provider during a period specified by the State authority responsible for licensing the facility if, during that period, the ICF takes the steps needed to again meet the standards.

(c) An ICF operated by a government agency must meet the licensing standards that apply to the same type of facility operated under any other ownership.

(d) In accordance with § 431.110 of this subchapter, an Indian Health Service ICF must meet State licensing standards although it need not obtain a license. In making this determination, the licensing authority may not take into account an absence of licensure of any staff member of the facility.

§ 442.252 State safety and sanitation standards.

An ICF must meet State safety and sanitation standards for nursing homes.

§ 442.253 Federal definition and standards.

(a) An ICF other than an ICF/MR must meet the definition in § 440.150 of this subchapter and the standards specified in this subpart and subpart F of this part, except for provisions waived or accepted under plans of corrections as specified in subpart C of this part.

(b) An ICF/MR must meet the definition in § 440.150 of this subchapter and the standards specified in this subpart and subpart G of this part, except for provisions waived or accepted under plans of correction as specified in subpart C of this part.

§ 442.254 Standards for hospitals and SNF's providing ICF services.

(a) If a hospital or SNF participating in medicare or medicaid is also a provider of ICF services other than ICF/MR services, it must meet the following ICF standards:

(1) 442.304, resident services director.

(2) 442.317 (a), (b), agreements with outside resources for institutional services.

(3) 442.319, plan of care.

(4) 442.320, resident financial records.

(5) 442.324 (b), handrails.

(6) 442.338 through 442.342, health services.

(7) 442.343, rehabilitative services.

(8) 442.344, social services.

(9) 442.345, activities program.

(10) 442.346, physician services.

(b) If a hospital or SNF participating in medicare or medicaid is also a provider of ICF/MR services, it must meet the standards in subpart G of this part.

Subpart F—Standards for Intermediate Care Facilities Other Than Facilities for the Mentally Retarded

§ 442.300 Basis, purpose, and scope.

This subpart implements section 1905(c) of the Act, which gives the Secretary authority to prescribe standards for care, safety, and sanitation in intermidiate care facilities. It applies to ICF's other than ICF's/MR.

Administration

§ 442.301 Methods of administration.

An ICF must have methods of administrative management that insure that it meets the requirements of §§ 442.302 through 442.315.

442.302 Staffing.

The ICF must have staff on duty 24 hours a day sufficient in number and qualifications to carry out the policies, responsibilities, and programs of the ICF.

§ 442.303 Administrator.

(a) The ICF must have an administrator who is—

(1) A nursing home administrator with a current State license; or

(2) A hospital administrator, if the ICF is a hospital qualifying as an intermediate care facility.

(b) The administrator's responsibilities must include—

(1) Managing the ICF; and

(2) Implementing established policies and procedures.

§ 442.304 Resident services director.

(a) The ICF must designate the administrator or a professional staff member as resident services director.

(b) The duties of the resident services director must include coordinating and monitoring each resident's overall plan of care.

§ 442.305 Written policies and procedures: General requirements.

The ICF must have written policies and procedures that—

(a) Govern all services provided by the ICF; and

(b) Are available to the staff, residents, members of the family and legal representatives of residents, and the public.

§ 442.306 Written policies and procedures: Admission.

The ICF must have written policies and procedures that insure that it admits as residents only those individuals whose needs can be met—

(a) By the ICF itself;

(b) By the ICF in cooperation with community resources; or

(c) By the ICF in cooperation with other providers of care affiliated with or under contract to the ICF.

§ 442.307 Written policies and procedures: Transfer and discharge.

The ICF must have written policies and procedures that insure that—

(a) It transfers a resident promptly to a hospital, skilled nursing facility, or other appropriate facility, when a change occurs in the resident's physical or mental condition that requires care or service that the ICF cannot adequately provide; and

(b) Except in an emergency, it—

(1) Consults the resident, his next of kin, the attending physician, and the responsible agency, if any, at least 5 days before a transfer or discharge; and

(2) Uses casework services or other means to insure that adequate arrangements are made to meet the resident's needs through other resources.

§ 442.308 Written policies and procedures: Chemical and physical restraints.

The ICF must have written policies and procedures that—

(a) Define the uses of chemical and physical restraints;

(b) Identify the professional personnel who may, under § 442.311(h), authorize use of these restraints in emergencies; and

(c) describe the procedures for monitoring and controlling the use of these restraints.

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§ 442.309 Written policies and procedures: Resident complaints and recommendations.

The ICF must have written policies and procedures that—

(a) Describe the procedures the ICF uses to receive complaints and recommendations from its residents; and

(b) Insure that the ICF responds to these complaints and recommendations.

§ 442.310 Written policies and procedures: Resident records.

The ICF must have written policies and procedures governing access to, duplication of, and dissemination of information from the resident's record.

§ 442.311 Written policies and procedures: Residents' bill of rights.

The ICF must have written policies and procedures that insure the following rights for each resident: (a) *Information.* (1) Each resident must be fully informed, before or at the time of admission, of his rights and and responsibilities and of all rules governing resident conduct.

(2) If the ICF amends its policies on residents' rights and responsibilities and its rules governing conduct, each resident in the ICF at that time must be informed.

(3) Each resident must acknowledge in writing receipt of the information and any amendments to it.

(4) Each resident must be fully informed in writing of all services available in the ICF and of the charges for these services including any charges for services not paid for by medicaid or not included in the ICF's basic rate per day. The ICF must provide this information either before or at the time of admission and on a continuing basis as changes occur in services or charges during the resident's stay.

(b) *Medical condition and treatment.* (1) Each resident must—

(i) Be fully informed by a physician of his health and medical condition unless the physician decides that informing the resident is medically contraindicated;

(ii) Be given the opportunity to participate in planning his total care and medical treatment;

(iii) Be given the opportunity to refuse treatment; and

(iv) Give informed, written consent before participating in experimental research.

(2) If the physician decides that informing the resident of his health and medical condition is medically contraindicated, the physician must document this decision in the resident's record.

(c) *Transfer and discharge.* Each resident must be transferred or discharged only for—

(1) Medical reasons;

(2) His welfare or that of the other residents; or

(3) Nonpayment except as prohibited by the medicaid program.

(d) *Exercising rights.* Each resident must be—

(1) Encouraged and assisted to exercise his rights as a resident of the ICF and as a citizen; and

(2) Allowed to submit complaints or recommendations concerning the policies and services of the ICF to staff or to outside representatives of the resident's choice or both, free from restraint, interference, coercion, discrimination, or reprisal.

(e) *Financial affairs.* Each resident must be allowed to manage his personal financial affairs. If a resident requests assistance from the ICF in managing his personal financial affairs—

(1) The request must be in writing; and

(2) The ICF must comply with the recordkeeping requirements of § 442.320.

(f) *Freedom from abuse and restraints.* (1) Each resident must be free from mental and physical abuse.

(2) Each resident must be free from chemical and physical restraints unless the restraints are—

(i) Authorized by a physician in writing for a specified period of time; or

(ii) Used in an emergency under the following conditions:

(A) The use is necessary to protect the resident from injuring himself or others.

(B) The use is authorized by a professional staff member identified in the written policies and procedures of the facility as having the authority to do so.

(C) The use is reported promptly to the resident's physician by that staff member.

(g) *Privacy.* (1) Each resident must be treated with consideration, respect, and full recognition of his or her dignity and individuality.

(2) Each resident must be given privacy during treatment and care of personal needs.

(3) Each resident's records, including information in an automatic data bank, must be treated confidentially.

(4) Each resident must give written consent before the ICF may release information from his record to someone not otherwise authorized by law to receive it.

(5) A married resident must be given privacy during visits by his spouse.

(6) If both husband and wife are residents of the ICF, they must be permitted to share a room.

(h) *Work.* No resident may be required to perform services for the ICF.

(i) *Freedom of association and correspondence.* Each resident must be allowed to—

(1) Communicate, associate, and meet privately with individuals of his choice, unless this infringes on the rights of another resident; and

(2) Send and receive personal mail unopened.

(j) *Activities.* Each resident must be allowed to participate in social, religious, and community group activities.

(k) *Personal possessions.* Each resident must be allowed to retain and use his personal possessions and clothing as space permits.

§ 442.312 Written policies and procedures: Delegation of rights and responsibilities.

(a) The ICF must have written policies and procedures that provide that all rights and rsponsibilities of a resident pass to the resident's guardian, next of kin, or sponsoring agency or agencies if the resident—

(1) Is adjudicated incompetent under State law; or

(2) Is determined by his physician to be incapable of understanding his rights and responsibilities.

(b) If the resident is determined to be incapable of understanding his rights and responsibilities, the physician who made the determination must record the specific reason in the resident's record.

§ 442.313 Emergencies.

The ICF must—

(a) Have a written plan for staff and residents to follow in case of an emergency such as a fire or an explosion and rehearse the plan regularly; and

(b) Have written procedures for the staff to follow in case of an emergency involving a resident. These emergency procedures must include directions for—

(1) Caring for the resident;

(2) Notifying the attending physician and other individuals responsible for the resident; and

(3) Arranging for transportation, hospitalization, or other appropriate services.

§ 442.314 Staff training programs.

The ICF must—

(a) Conduct an orientation program for all new employees that includes a review of all its policies;

(b) Plan and conduct an inservice staff development program for all personnel to assist them in developing and improving their skills; and

(c) Maintain a record of each orientation and staff development program it conducts. The record must include the content of the program and the names of the participants.

§ 442.315 Health and safety laws.

The ICF must meet all Federal, State, and local laws, regulations, and codes pertaining to health and safety, such as provisions regulating—

(a) Buying, dispensing, safeguarding, administering, and disposing of medications and controlled substances;

(b) Construction, maintenance, and equipment for the ICF;

(c) Sanitation;

(d) Communicable and reportable diseases; and

(e) Post mortem procedures.

§ 442.316 Transfer agreements.

(a) Except as provided in paragraph (b) of this section, the ICF must have in effect a transfer agreement with one or more hospitals sufficiently close by to make feasible the prompt transfer of the resident and his records to the hospital and to support a working arrangement between the ICF and the hospital for providing inpatient hospital services to residents when needed.

(b) If the survey agency finds that the ICF tried in good faith to enter into an agreement but could not, the ICF will be considered to meet the requirements of paragraph (a) as long as the survey agency finds that it is in the public interest and essential to assuring ICF services for eligible individuals in the community.

§ 442.317 Arrangements with outside resources.

(a) If the ICF does not employ a qualified professional to furnish a required institutional service, it must have in effect a written agreement with a qualified professional outside the ICF to furnish the required service.

(b) The agreement must—

(1) Contain the responsibilities, functions, objectives, and other terms agreed to by the ICF and the qualified professional; and

(2) Be signed by the administrator or his representative and by the qualified professional.

(c) The ICF must maintain effective arrangements with outside resources for promptly providing medial and remedical services required by a resident but not regularly provided within the ICF.

§ 442.318 Resident record system.

(a) The ICF must maintain an organized resident record system that contains a record for each resident.

(b) The ICF must make resident records available to staff directly involved with the resident and to appropriate representatives of the medicaid agency.

(c) Each resident's record must contain—

(1) Identification information;

(2) Admission information, including the medical and social history of the resident;

(3) An overall plan of care as described in § 442.319;

(4) Copies of the initial and periodic examinations, evaluations, progress notes, all plans of care with subsequent changes, and discharge summaries;

(5) Description of treatments and services provided and medications administered; and

(6) All indications of illness or injury including the date, time, and action taken regarding each.

(d) The ICF must protect the resident records against destruction, loss, and unauthorized use.

(e) The ICF must keep a resident's record for at least 3 years after the date the resident is discharged.

§ 442.319 Overall plan of care.

The overall plan of care required by § 442.318 must—

(a) Set the goals to be accomplished by the resident;

(b) Prescribe an integrated program of activities, therapies, and treatments designed to help each resident achieve his goals; and

(c) Indicate which professional service or individual is responsible for each service prescribed in the plan.

§ 442.320 Resident financial records.

(a) The ICF must maintain a current, written financial record for each resident that includes written receipts for—

(1) All personal possessions and funds received by or deposited with the ICF; and

(2) All disbursements made to or for the resident.

(b) The financial record must be available to the resident and his family.

Safety Standards

§ 442.321 Fire protection.

(a) Except as provided in §§ 442.322 and 442.323 and paragraph (b) of this section, the ICF must meet the provisions of the Life Safety Code of the National Fire Protection Association, 1967 edition, that apply to institutional occupancies.

(b) If the Secretary finds that the State has a fire and safety code imposed by State law that adequately protects residents in ICF's, the State survey agency may apply the State code for the purposes of medicaid certification instead of the Life Safety Code.

§ 442.322 Fire protection: Exception for smaller ICF's.

The State survey agency may apply the lodgings or rooming houses section of the residential occupancy requirements of the Life Safety Code of the National Fire Protection Association, 1967 edition, instead of the institutional occupancy provisions required by § 442.321 to an ICF that has 15 beds or less if the ICF is primarily engaged in the treatment of alcoholism and drug abuse and a physician certifies that each resident is—

(a) Ambulatory;

(b) Engaged in an active program for rehabilitation designed to and reasonably expected to lead to independent living; and

(c) Capable of following directions and taking appropriate action for self-preservation under emergency conditions.

§ 442.323 Fire protection: Waivers.

(a) The State survey agency may waive specific provisions of the Life Safety Code required by § 442.321, for as long as it considers appropriate, if—

(1) The waiver would not adversely affect the health and safety of the residents;

(2) Rigid application of specific provisions of the Code would result in unreasonable hardship for the ICF as determined under guidelines contained in the HCFA Long Term Care Manual; and

(3) The waiver is granted in accordance with criteria contained in the Long Term Care Manual.

(b) If the State survey agency waives provisions of the Code for an existing building of two or more stories that is not built of at least 2-hour fire-resistive construction, the ICF may not house a blind, nonambulatory, or physically handicapped resident above the street-level floor unless it is built of—

(1) One-hour protected, noncombustible construction as defined in National Fire Protection Association Standard No. 220;

(2) Fully sprinklered, 1-hour protected, ordinary construction; or

(3) Fully sprinklered, 1-hour protected, wood frame construction.

Environmental and Sanitation Standards

§ 442.324 Resident living areas.

The ICF must—

(a) Design and equip the resident living areas for the comfort and privacy of each resident; and

(b) Have handrails that are firmly attached to the walls in all corridors used by residents.

§ 442.325 Residents' rooms.

(a) Each resident room must—

(1) Be equipped with or conveniently located near toilet and bathing facilities;

(2) Be at or above grade level;

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(3) Contain a suitable bed for each resident and other appropriate furniture;
(4) Have closet space that provides security and privacy for clothing and personal belongings;
(5) Contain no more than four beds;
(6) Measure at least 100 square feet for a single-resident room or 80 square feet for each resident for a multiresident room; and
(7) Be equipped with a device for calling the staff member on duty.
(b) For an existing building, the State survey agency may waive the space and occupancy requirements of paragraphs (a) (5) and (6) of this section for as long as it is considered appropriate if it finds that—
(1) The requirements would result in unreasonable hardship on the ICF if strictly enforced; and
(2) The waiver serves the particular needs of the residents and does not adversely affect their health and safety.

§ 442.326 Bathroom facilities.

The ICF must—
(a) Have toilet and bathing facilities that are located in or near residents' rooms and are appropriate in number, size, and design to meet the needs of the residents;
(b) Provide an adequate supply of hot water at all times for resident use; and
(c) Have plumbing fixtures with control valves that automatically regulate the temperature of the hot water used by residents.

§ 442.327 Linen supplies.

The ICF must have available at all times enough linen for the proper care and comfort of the residents and have clean linen on each bed.

§ 442.328 Therapy and isolation areas.

(a) The ICF's therapy area must be of sufficient size and appropriate design to—
(1) Accommodate the necessary equipment;
(2) Conduct an examination; and
(3) Provide treatment.
(b) The ICF must make provision for isolating residents with infectious diseases.

§ 442.329 Dining, recreation, and social rooms.

(a) The ICF must provide one or more areas, not used for corridor traffic, for dining, recreation, and social activities.
(b) A multipurpose room may be used if it is large enough to accommodate all of the activities without their interfering with each other.

§ 442.330 Building accessibility and use.

(a) The ICF must—
(1) Be accessible to and usable by all residents, personnel, and the public, including individuals with disabilities; and
(2) Meet the requirements of American National Standards Institute (ANSI) standard No. A117.1 (1961), American standard specifications for making building and facilities accessible to and usable by the physically handicapped.
(b) The State survey agency may waive, for as long as it considers appropriate, provisions of ANSI standard No. A117.1 (1961) if—
(1) The construction plans for the ICF or a part of it were approved and stamped by the responsible State agency before March 18, 1974;
(2) The provisions would result in unreasonable hardship on the ICF if strictly enforced; and
(3) The waiver does not adversely affect the health and safety of the residents.

Meal Service

§ 442.331 Meal service.

The ICF must—
(a) Serve at least three meals or their equivalent each day at regular times, with not more than 14 hours between a substantial evening meal and breakfast;
(b) Procure, store, prepare, distribute, and serve all food under sanitary conditions; and
(c) Provide special eating equipment and utensils for residents who need them.

§ 442.332 Menu planning and supervision.

(a) The ICF must have a staff member trained or experienced in food management or nutrition who is responsible for—
(1) Planning menus that meet the nutritional needs of each resident, following the orders of the resident's physician and, to the extent medically possible, the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences (Recommended Dietary Allowances (8th ed., 1974) is available from the Printing and Publications Office, National Academy of Sciences, Washington, D.C. 20418); and
(2) Supervising the meal preparation and service to insure that the menu plan is followed.
(b) If the ICF has residents who require medically prescribed special diets, the ICF must—
(1) Have the menus for those residents planned by a professionally qualified dietitian, or reviewed and approved by the attending physician; and
(2) Supervise the preparation and serving of meals to insure that the resident accepts the special diet.
(c) The ICF must keep for 30 days a record of each menu as served.

Medications

§ 442.333 Licensed pharmacist.

The ICF must either—
(a) Employ a licensed pharmacist; or
(b) Have a formal arrangement with a licensed pharmacist to advise the ICF on ordering, storage, administration, disposal, and recordkeeping of drugs and biologicals.

§ 442.334 Orders for medications.

(a) The resident's attending or staff physician must order all medications for the resident.
(b) The order may be either oral or written.
(c) If the order is oral—
(1) The physician must give it only to a licensed nurse, pharmacist, or another physician; and
(2) The individual receiving the order must record and sign it immediately and have the attending physician sign it in a manner consistent with good medical practice.

§ 442.335 Methods to control medication dosage.

The ICF must have written policies and procedures for controlling medication dosage, by automatic stop orders or other methods, when the physician does not include in the order a specific limit on the time or number of doses. These procedures must include notice to the attending physician that the medication is being stopped as of a certain date or after a certain number of doses.

§ 442.336 Review of medications.

(a) A registered nurse must review medications monthly for each resident and notify the physician if changes are appropriate.
(b) The attending or staff physician must review the medications quarterly.

§ 442.337 Administering medications.

(a) Before administering any medication to a resident, a staff member must complete a State-approved training program in medication administration.
(b) The ICF may allow a resident to give himself a medication only if the attending physician gives permission.

Health Services

§ 442.338 Health services.

(a) The ICF must provide for each resident health services that—
(1) Meet the requirements of §§ 442.339 through 442.342; and
(2) Include treatment, medications, diet, and any other health service prescribed or planned for the resident.
(b) The ICF must provide these services 24 hours a day.

§ 442.339 Supervision.

(a) The ICF must have a registered nurse or a licensed practical or vocational nurse to supervise the ICF's health services full time, 7 days a week, on the day shift.
(b) The nurse must have a current license to practice in the State.
(c) If the ICF employs a licensed practical or vocational nurse to supervise health services, the ICF must have a formal contract with a registered nurse to consult with the licensed practical or vocational nurse at regular intervals, but not less than 4 hours each week.
(d) To be qualified to serve as a health services supervisor, a licensed practical or vocational nurse must—
(1) Be a graduate of a State-approved school of practical nursing;
(2) Have education or other training that the State authority responsible for licensing practical nurses considers equal to graduation from a State-approved school of practical nursing; or
(3) Have passed the Public Health Service examination for waivered licensed practical or vocational nurses.
(e) The ICF may employ as charge nurse an individual who is licensed by the State in a category other than registered nurse or licensed practical or vocational nurse if—
(1) The individual has completed a training program to get the license that included at least the same number of classroom and practice hours in all nursing subjects as in the program of a State-approved school of practical or vocational nursing; and
(2) The State agency responsible for licensing the individual submits a report to the medicaid agency comparing State licensed practical nurse or vocational nurse course requirements with those for the program completed by the individual.

§ 442.340 24-hour staffing.

The ICF must have responsible staff members on duty and awake 24 hours a day to take prompt, appropriate action in case of injury, illness, fire, or other emergency.

§ 442.341 Individual health care plan.

(a) Appropriate staff must develop and implement a written health care plan for each resident according to the instructions of the attending or staff physician.
(b) The plan must be reviewed and revised as needed but at least quarterly.

§ 442.342 Nursing care.

The ICF must provide nursing care for each resident as needed, including restorative nursing care that enables each resident to achieve and maintain the highest possible degree of function, self-care, and independence.

Other Services

§ 442.343 Rehabilitative services.

(a) The ICF must provide rehabilitative services for each resident as needed.
(b) The ICF must either provide these services itself or arrange for them with qualified outside resources.
(c) The rehabilitative services must be designed to—
(1) Maintain and improve the resident's ability to function independently;
(2) Prevent, as much as possible, advancement of progressive disabilities; and
(3) Restore maximum function.
(d) The rehabilitative services must be provided by—
(1) Qualified therapists or qualified assistants, as defined in 42 CFR 405.1101 (m), (n), (q), (r), and (t), in accordance with accepted professional practices; or
(2) Other supportive personnel under appropriate supervision.
(e) The rehabilitative services must be provided under a written plan of care that is—
(1) Developed in consultation with the attending physician and, if necessary, an appropriate therapist; and
(2) Based on the attending physician's orders and an assessment of the resident's needs.
(f) The resident's progress under the plan must be reviewed regularly and the plan must be changed as necessary.

§ 442.344 Social services.

(a) The ICF must provide social services for each resident as needed.
(b) The ICF must either provide these services itself or arrange for them with qualified outside resources.
(c) The ICF must designate one staff member, qualified by training or experience, to be responsible for—
(1) Arranging for social services; and
(2) Integrating social services with other elements of the plan of care.
(d) These services must be provided under a written plan of care that is—
(1) Placed in the resident's record; and
(2) Evaluated periodically in conjunction with the resident's overall plan of care.

§ 442.345 Activities program.

The ICF must—
(a) Provide an activities program designed to encourage each resident to maintain normal activity and to return to self-care;
(b) Designate one staff member, qualified by training or experience in directing group activity, to be responsible for it;
(c) Have a plan for independent and group activities for each resident that is—
(1) Developed according to his needs and interests;
(2) Incorporated in his overall plan of care;
(3) Reviewed, with his participation, at least quarterly; and
(4) Changed as needed.
(d) Provide adequate recreation areas with sufficient equipment and materials to support the program.

§ 442.346 Physician services.

(a) The ICF must have policies and procedures to insure that the health care of each resident is under the continuing supervision of a physician.
(b) The physician must see the resident whenever necessary but at least once every 60 days unless the physician decides that this frequency is unnecessary and records the reasons for that decision.

Subpart G—Standards for Intermediate Care Facilities for the Mentally Retarded

§ 442.400 Basis and purpose.

This subpart implements section 1905 (c) and (d) of the Act which gives the Secretary authority to prescribe standards for intermediate care facility services in institutions for the mentally retarded or persons with related conditions.

§ 442.401 Definitions.

As used in this subpart:
"Ambulatory" means able to walk without assistance.
"Living unit" means a resident living unit that includes sleeping areas and may include dining and activity areas.
"Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheel chair, or a wheeled platform.
"Nonambulatory" means unable to walk without assistance.
"Nonmobile" means unable to move from place to place.
"Qualified mental retardation professional" means a person who has specialized training or 1 year of experience in treating or working with the mentally retarded and is one of the following:
(1) A psychologist with a master's degree from an accredited program.
(2) A licensed doctor of medicine or osteopathy.

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(3) An educator with a degree in education from an accredited program.

(4) A social worker with a bachelor's degree in—

(i) Social work from an accredited program; or

(ii) A field other than social work and at least 3 years of social work experience under the supervision of a qualified social worker.

(5) A physical or occupational therapist as defined in § 405.1101 (m) or (q) of this chapter.

(6) A speech pathologist or audiologist as defined in § 405.1105(t) of this chapter.

(7) A registered nurse.

(8) A therapeutic recreation specialist who—

(i) Is a graduate of an accredited program; and

(ii) If the State has a licensing or registration procedure, is licensed or registered in the State.

(9) A rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

"Resident living" means pertaining to residential services provided by an ICF/MR.

"Training and habilitation services" means those intended to aid the intellectual, sensorimotor, and emotional development of a resident.

ADMINISTRATIVE POLICIES AND PROCEDURES

§ 442.402 Philosophy, objectives, and goals.

(a) The ICF/MR must have a written outline of the philosophy, objectives, and goals it is striving to achieve that includes, at least—

(1) The ICF/MR's role in the State comprehensive program for the mentally retarded;

(2) The ICF/MR's goals for its residents; and

(3) The ICF/MR's concept of its relationship to the parents or legal guardians of its residents.

(b) The outline must be available for distribution to staff, consumer representatives, and the interested public.

§ 442.403 Resident's civil rights.

The ICF/MR must have written policies and procedures that insure the civil rights of all residents.

§ 442.404 Residents' bill of rights.

The ICF/MR must have written policies and procedures that insure the following rights for each resident:

(a) *Information.* (1) Each resident must be fully informed, before or at admission, of his rights and responsibilities and of all rules governing resident conduct.

(2) If the ICF/MR amends its policies on residents' rights and responsibilities and its rules governing conduct, each resident in the ICF/MR at that time must be informed.

(3) Each resident must acknowledge in writing receipt of the information and any amendments to it. A mentally retarded resident's written acknowledgement must be witnessed by a third person.

(4) Each resident must be fully informed in writing of all services available in the ICF/MR and of the charges for these services including any charges for services not paid for by medicaid or not included in the ICF/MR's basic rate per day. The ICF/MR must provide this information either before or at the time of admission and on a continuing basis as changes occur in services or charges during the resident's stay.

(b) *Medical condition and treatment.* (1) Each resident must—

(i) Be fully informed by a physician of his health and medical condition unless the physician decides that informing the resident is medically contraindicated;

(ii) Be given the opportunity to participate in planning his total care and medical treatment;

(iii) Be given the opportunity to refuse treatment; and

(iv) Give informed, written consent before participating in experimental research.

(2) If the physician decides that informing the resident of his health and medical condition is medically contraindicated, he must document this decision in the resident's record.

(c) *Transfer and discharge.* Each resident must be transferred or discharged only for—

(1) Medical reasons;

(2) His welfare or that of the other residents; or

(3) Nonpayment except as prohibited by the medicaid program.

(d) *Exercising rights.* Each resident must be—

(1) Encouraged and assisted to exercise his rights as a resident of the ICF/MR and as a citizen; and

(2) Allowed to submit complaints or recommendations concerning the policies and services of the ICF/MR to staff or to outside representatives of the resident's choice or both, free from restraint, interference, coercion, discrimination, or reprisal.

(e) *Financial affairs.* Each resident must be allowed to manage his personal financial affairs. If a resident requests assistance from the ICF/MR in managing his personal financial affairs—

(1) The request must be in writing; and

(2) The ICF/MR must comply with the recordkeeping requirements of § 442.406 (d), (e).

(f) *Freedom from abuse and restraints.* (1) Each resident must be free from mental and physical abuse.

(2) Each resident must be free from chemical and physical restraints unless the restraints are—

(i) Authorized by a physician in writing for a specified period of time;

(ii) Used in an emergency under the following conditions:

(A) The use is necessary to protect the resident from injuring himself or others.

(B) The use is authorized by a professional staff member identified in the written policies and procedures of the facility as having authority to do so.

(C) The use is reported promptly to the resident's physician by that staff member; or

(iii) Used during a behavior modification session for a mentally retarded resident under the following conditions:

(A) The use is authorized in writing by a physician or a qualified mental retardation professional.

(B) The parent or legal guardian of the mentally retarded resident gives his informed consent to the use of restraints or aversive stimuli.

(g) *Privacy.* (1) Each resident must be treated with consideration, respect, and full recognition of his dignity and individuality.

(2) Each resident must be given privacy during treatment and care of personal needs.

(3) Each resident's records, including information in an automatic data bank, must be treated confidentially.

(4) Each resident must give written consent before the ICF/MR may release information from his record to someone not otherwise authorized by law to receive it.

(5) A married resident must be given privacy during visits by his spouse.

(6) If both husband and wife are residents of the ICF/MR, they must be permitted to share a room.

(h) *Work.* No resident may be required to perform services for the ICF/MR.

(i) *Freedom of association and correspondence.* Each resident must be allowed to—

(1) Communicate, associate, and meet privately with individuals of his choice, unless this infringes on the rights of another resident; and

(2) Send and receive personal mail unopened.

(j) *Activities.* Each resident must be allowed to participate in social, religious, and community group activities unless a qualified mental retardation professional—

(1) Determines that these activities are contraindicated for a mentally retarded resident; and

(2) Documents that determination in the resident's record.

(k) *Personal possessions.* Each resident must be allowed to retain and use his personal possessions and clothing as space permits.

§ 442.405 Delegation of rights and responsibilities.

(a) The ICF/MR must have written policies and procedures that provide that all rights and responsibilities of a resident pass to the resident's guardian, next of kin, or sponsoring agency or agencies if the resident—

(1) Is adjudicated incompetent under State law; or

(2) Is determined by a qualified mental retardation professional to be incapable of understanding his rights and responsibilities.

(b) If the resident is determined to be incapable of understanding his rights and responsibilities, the qualified mental retardation professional who made the determination must record the specific reason in the resident's record.

§ 442.406 Resident finances.

(a) The ICF/MR must written policies and procedures that protect the financial interests of each resident.

(b) If large sums accrue to a resident, the policies and procedures must provide for appropriate protection of these funds and for counseling the resident concerning their use.

(c) Each resident must be allowed to possess and use money in normal ways or be learning to do so.

(d) The ICF/MR must maintain a current, written financial record for each resident that includes written receipts for—

(1) All personal possessions and funds received by or deposited with the ICF/MR; and

(2) All disbursements made to or for the resident.

(e) The financial record must be available to the resident and his family.

§ 442.407 Policy and procedure manuals.

The ICF/MR must have manuals that—

(a) Describe the policies and procedures in the major operating units of the ICF/MR;

(b) Are current, relevant, and available; and

(c) Are complied with the units.

§ 442.408 Management audit plan.

The ICF/MR must have a plan for a continuing management audit to insure that the ICF/MR—

(a) Complies with State laws and regulations; and

(b) Effectively implements its policies and procedures.

§ 442.409 Governing body.

(a) The ICF/MR must have a governing body that—

(1) Exercises general direction over the affairs of the ICF/MR;

(2) Establishes policies concerning the operation of the ICF/MR and the welfare of the individuals it serves;

(3) Establishes qualifications for the chief executive officer in the following areas:

(i) Education.

(ii) Experience.

(iii) Personal factors.

(iv) Skills; and

(4) Appoints the chief executive officer.

(b) The governing body may consist of one individual or a group.

§ 442.410 Chief executive officer.

(a) The chief executive officer must—

(1) Act for the governing body in the overall management of the ICF/MR; and

(2) Arrange for one individual to be responsible for the administrative direction of the ICF/MR at all times.

(b) The chief executive officer must be an individual licensed in the State as a nursing home administrator or a qualified mental retardation professional except—

If the ICF/MR is licensed as a nursing home, the chief executive officer must be an individual licensed in the State as a nursing home administrator;

(2) If the ICF/MR is a hospital qualifying as an institution for the mentally retarded or persons with related conditions, the chief executive officer must be a hospital administrator.

(c) Job titles for the chief executive officer may include any of the following: superintendent, director, and administrator.

§ 442.411 Qualified mental retardation professional.

The ICF/MR must have a qualified mental retardation professional who is responsible for—

(a) Supervising the delivery of each resident's individual plan of care;

(b) Supervising the delivery of training and habilitation services;

(c) Integrating the various aspects of the ICF/MR's program;

(d) Recording each resident's progress; and

(e) Initiating a periodic review of each individual plan of care for necessary changes.

§ 442.412 Organization chart.

The ICF/MR must have an organization chart that shows—

(a) The major operating programs of the ICF/MR;

(b) The staff divisions of the ICF/MR;

(c) The administrative personnel in charge of the programs and divisions; and

(d) The lines of authority, responsibility, and communication for administrative personnel.

§ 442.413 Staff-resident communications.

The ICF/MR must provide for effective staff and resident participation and communication in the following manners:

(a) The ICF/MR must establish appropriate standing committees such as human rights, research review, and infection.

(b) The committees must meet regularly and include direct-care staff whenever appropriate.

(c) Reports of staff meetings and standing and ad hoc committee meetings must include recommendations and their implementation, and be filed.

§ 442.414 Communication with residents and parents.

(a) The ICF/MR must have an active program of communication with the residents and their families, that includes—

(1) Keeping residents' families or legal guardians informed of resident activities that may be of interest to them or of significant changes in the resident's condition;

(2) Answering communications from resident's relatives promptly and appropriately;

(3) Allowing close relatives and guardians to visit at any reasonable hour, without prior notice, unless the resident's needs limit visits;

(4) Allowing parents to visit any part of the ICF/MR that provides services to residents;

(5) Encouraging frequent and informal visits home by the residents; and

(6) Having rules that make it easy to arrange visits home.

(b) The ICF/MR must insure that individuals allowed to visit the ICF/MR under paragraph (a)(3) of this section do no infringe on the privacy and rights of the other residents.

§ 442.415 Health and safety laws.

The ICF/MR must meet all Federal, State, and local laws, regulations and codes pertaining to health and safety, such as provisions regulating—

(a) Buying, dispensing, safeguarding, administering, and disposing of medications and controlled substances;

(b) Construction, maintenance, and equipment for the ICF/MR;

(c) Sanitation;

(d) Communicable and reportable diseases; and

(e) Post-mortem procedures.

§ 442.416 Research statement.

If the ICF/MR conducts research, it must comply with the statement of assurance on research involving human subjects required by 45 CFR 46.104 through 46.108.

§ 442.417 Agreements with outside resources.

(a) If the ICF/MR does not employ a qualified professional to furnish a required institutional service, it must have in effect a written agreement with a qualified professional outside the ICF/MR to furnish the required service.

(b) The agreement must—

(1) Contain the responsibilities, functions, objectives, and other terms agreed to by the ICF/MR and the qualified professional; and

(2) Be signed by the administrator or his representative and by the qualified professional.

ADMISSION AND RELEASE

§ 442.418 Admission criteria and evaluations.

(a) Except as provided in paragraph (c) of this section, an ICF/MR may not admit an individual as a resident unless his needs can be met and an interdisciplinary professional team has determined that admission is the best available plan for that individual.

(b) The team must—

(1) Conduct a comprehensive evaluation of the individual covering physical, emotional, social, and cognitive factors; and

(2) Before the individual's admission—

(i) Define his need for service without regard to the availability of those services; and

(ii) Review all available and applicable programs of care, treatment, and training and record its findings.

(c) If admission is not the best plan but the individual must be admitted nevertheless, the ICF/MR must—

(1) Clearly acknowledge that the admission is inappropriate; and

(2) Initiate plans to actively explore alternatives.

§ 442.419 Availability of rules and procedures.

The facility must make available for distribution a summary of the laws, regulations, and procedures concerning admission, readmission, and release of a resident.

§ 442.420 Number of residents.

The ICF/MR must admit only that number of individuals that does not exceed—

(a) Its rated capacity; and

(b) Its capability to provide adequate programing.

§ 442.421 Review of preadmission evaluation.

Within 1 month after admission, the interdisciplinary professional team must—

(a) Review and update the preadmission evaluation with the participation of direct care personnel;

(b) Develop, with the participation of direct care personnel, a prognosis that can be used for programing and placement;

(c) Record the results of the evaluation in the resident's record kept in the living unit; and

(d) Write an interpretation of the evaluation in terms of specific actions to be taken for—

(1) The direct care personnel and the special services staff responsible for carrying out the resident's program; and

(2) The resident's parents or legal guardian.

§ 442.422 Annual review of resident's status.

(a) All relevant personnel of the ICF/MR, including personnel in the living unit, must jointly review the status of each resident at least once a year and produce program recommendations.

(b) This review must include consideration of the following:

(1) The advisability of continued residence and alternative programs.

(2) When the resident legally becomes an adult—

(i) The need for guardianship; and

(ii) How the resident may exercise his civil and legal rights.

§ 442.423 Record and reports of reviews.

The results of the reviews required by §§ 442.421 and 442.422 must be—

(a) Recorded in the resident's record kept in the living unit;

(b) Made available to personnel involved in the direct care of the resident;

(c) Interpreted to the resident's parents or legal guardian who are involved in planning and decisionmaking; and

(d) Interpreted to the resident, when appropriate.

§ 442.424 Release from the ICF/MR.

(a) The ICF/MR must establish procedures for counseling a parent or guardian who requests the release of a resident concerning the advantages and disadvantages of the release.

(b) Planning for release of a resident must include providing for appropriate services in the resident's new environment, including protective supervision and other followup services.

(c) When a resident is permanently released, the ICF/MR must prepare and place in the resident's record a summary of findings, progress, and plans.

§ 442.425 Transfer to another facility.

(a) Except as provided in paragraph (b) of this section, the ICF/MR must have in effect a transfer agreement with one or more hospitals sufficiently close by to make feasible the prompt transfer of the resident and his records to the hospital and to support a working arrangement between the ICF/MR and the hospital for providing inpatient hospital services to residents when needed.

(b) If the survey agency finds that the ICF/MR tried in good faith to enter into an agreement but could not, the ICF/MR will be considered to meet the requirements of paragraph (a) as long as the survey agency finds that it is in the public interest and essential to assuring ICF/MR services for eligible individuals in the community.

(c) When a resident is transferred to another facility, the ICF/MR making the transfer must—

(1) Record the reason for the transfer and a summary of findings, progress, and plans; and

(2) Except in an emergency, inform the resident and his parent or guardian in advance and obtain their written consent to the transfer.

§ 442.426 Emergencies or death of a resident.

(a) The ICF/MR must notify promptly the resident's next of kin or guardian of any unusual occurence concerning the resident, including serious illness, accident, or death.

(b) If any autopsy is performed after a resident's death—

(1) A qualified physician who has no conflict of interest or loyalty to the ICF/MR must perform the autopsy; and

(2) The resident' family must be told of the autopsy findings if they so desire.

PERSONNEL POLICIES

§ 442.427 Written policies.

The ICF/MR must—

(a) Have written personnel policies that are available to all employees;

(b) Make written job descriptions available for all positions; and

(c) Have written policies that prohibit employees with symptoms or signs of a communicable disease from working.

§ 442.428 Licensure and professional standards.

The ICF/MR must—

(a) Require the same licensure, certification, or standards for positions in the facility as are required for comparable positions in community practice; and

(b) Take into account in its personnel activities the ethical standards of professional conduct developed by professional societies.

§ 442.429 Suspension and dismissal.

The ICF/MR must have an authorized procedure, consistent with due process, for suspending or dismissing an employee.

§ 442.430 Staff treatment of residents.

(a) The ICF/MR must have written policies that prohibit mistreatment, neglect, or abuse of a resident by an employee of the ICF/MR.

(b) The ICF/MR must insure that all alleged violations of these policies are reported immediately.

(c) The ICF/MR must have evidence that—

(1) All violations are investigated thoroughly;

(2) The results of the investigation are reported to the chief executive or his designated representative within 24 hours of the report of the incident; and

(3) If the alleged violation is verified, the chief executive officer imposes an appropriate penalty.

§ 442.431 Sufficient staffing and resident work.

(a) The ICF/MR must have a staff of sufficient size that the ICF/MR does not depend on residents or volunteers for services.

(b) The ICF/MR must have a written policy to protect residents from exploitation if they engage in productive work.

§ 442.432 Staff training program.

(a) The ICF/MR must have a staff training program, appropriate to the size and nature of the ICF/MR, that includes—

(1) Orientation for each new employee to acquaint him with the philosophy, organization, program, practices, and goals of the ICF/MR;

(2) Inservice training for any employee who has not achieved the desired level of competence;

(3) Continuing inservice training for all employees to update and improve their skills; and

(4) Supervisory and management training for each employee who is in, or a candidate for, a supervisory position.

(b) If appropriate to the size and nature of the ICF/MR it must have someone designated to be responsible for staff development and training.

RESIDENT LIVING

§ 442.433 Responsibilities of living unit staff.

(a) The living unit staff must make care and development of the residents their primary responsibility. This includes training each resident in the activities of daily living and in the development of self-help and social skills.

(b) The ICF/MR must insure that the staff are not diverted from their primary responsibilities by excessive housekeeping or clerical duties or other activities not related to resident care.

(c) Members of the living unit staff from all shifts must participate in appropriate activities relating to the care and development of the resident including, at least, referral, planning, initiation, coordination, implementation, followthrough, monitoring, and evaluation.

§ 442.434 Resident evaluation and program plans.

The ICF/MR must have specific evaluation and program plans for each resident that are—

(a) Available to direct care staff in each living unit; and

(b) Reviewed by a member or members of an interdisciplinary professional team at least monthly with documentation of the review entered in the resident's record.

§ 442.435 Resident activities.

(a) The ICF/MR must develop an activity schedule for each resident that—

(1) Does not allow periods of unscheduled activity to extend longer than 3 continuous hours;

(2) Allows free time for individual or group activities using appropriate materials, as specified by the program team; and

(3) Includes planned outdoor periods all year round.

(b) Each resident's activity schedule must be available to direct care staff and be carried out daily.

(c) The ICF/MR must insure that a multiple-handicapped or nonambulatory resident—

(1) Spends a major portion of the waking day out of bed;

(2) Spends a portion of the waking day out of his bedroom area;

(3) Has planned daily activity and exercise periods; and

(4) Moves around by various methods and devices whenever possible.

§ 442.436 Personal possessions.

The ICF/MR must allow the residents to have personal possessions such as toys, books, pictures, games, radios, arts and crafts materials, religious articles, toiletries, jewelry, and letters.

§ 442.437 Control and discipline of residents.

(a) The ICF/MR must have written policies and procedures for the control and discipline of residents that are available in each living unit and to parents and guardians.

(b) If appropriate, residents must participate in formulating these policies and procedures.

(c) The ICF/MR may not allow—

(1) Corporal punishment of a resident;

(2) A resident to discipline another resident, unless it is done as part of an organized self-government program conducted in accordance with written policy; or

(3) A resident to be placed alone in a locked room.

§ 442.438 Physical restraint of residents.

(a) Except as provided for behavior modification programs in § 442.422, the ICF/MR may allow the use of physical restraint on a resident only if absolutely necessary to protect the resident from injuring himself or others.

(b) The ICF/MR may not use physical restraint—

(1) As punishment;

(2) For the convenience of the staff; or

(3) As a substitute for activities or treatment.

(c) The ICF/MR must have a written policy that specifies—

(1) How and when physical restraint may be used;

(2) The staff members who must authorize its use; and

(3) The method for monitoring and controlling its use.

(d) An order for physical restraint may not be in effect longer than 12 hours.

(e) Appropriately trained staff must check a resident placed in a physical restraint at least every 30 minutes and keep a record of these checks.

(f) A resident who is in a physical restraint must be given an opportunity for motion and exercise for a period of not less than 10 minutes during each 2 hours of restraint.

§ 442.439 Mechanical devices used for physical restraint.

(a) Mechanical devices used for physical restraint must be designed and used in a way that causes the resident no physical injury and the least possible physical discomfort.

(b) A totally enclosed crib or a barred enclosure is a physical restraint.

(c) Mechanical supports used to achieve proper body position and balance are not physical restraints. However, mechanical supports must be designed and applied—

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(1) Under the supervision of a qualified professional; and

(2) In accordance with principles of good body alinement, concern for circulation, and allowance for change of position.

§ 442.440 Chemical restraint of residents.

The ICF/MR may not use chemical restraint—

(a) Excessively;

(b) As punishment;

(c) For the convenience of the staff;

(d) As a substitute for activities or treatment; or

(e) In quantities that interfere with a resident's habilitation program.

§ 442.441 Behavior modification programs.

(a) For purposes of this section—

"Aversive stimuli" means things or events that the resident finds unpleasant or painful that are used to immediately discourage undesired behavior.

"Time out" means a procedure designed to improve a resident's behavior by removing positive reinforcement when his behavior is undesirable.

(b) Behavior modification programs involving the use of aversive stimuli or time-out devices must be—

(1) Reviewed and approved by the ICF/MR's human rights committee or the qualified mental retardation professional;

(2) Conducted only with the consent of the affected resident's parents or legal guardian; and

(3) Described in written plans that are kept on file in the ICF/MR.

(c) A physical restraint used as a time-out device may be applied only during behavior modification exercises and only in the presence of the trainer.

(d) For time-out purposes, time-out devices and aversive stimuli may not be used for longer than one hour, and then only during the behavior modification program and only under the supervision of the trainer.

§ 442.442 Resident clothing.

The ICF/MR must insure that each resident—

(a) Has enough neat, clean, suitable, and seasonable clothing;

(b) Has his own clothing marked with his name when necessary;

(c) Is dressed daily in his own clothes unless this is contraindicated in written medical orders;

(d) Is trained and encouraged, as appropriate, to—

(1) Select his daily clothing;

(2) Dress himself;

(3) Change his clothes to suit his activities; and

(e) Has storage space for his clothing that is accessible to him even if he is in a wheelchair.

§ 442.443 Health, hygiene, grooming and toilet training.

(a) Each resident must be trained to be as independent as possible in health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving, and caring for toenails and fingernails.

(b) Each resident who does not eliminate appropriately and independently must be in a regular, systematic toilet training program and a record must be kept of his progress in the program.

(c) A resident who is incontinent must be bathed or cleaned immediately upon voiding or soiling, unless specifically contraindicated by the training program, and all soiled items must be changed.

(d) The ICF/MR must establish procedures for—

(1) Weighing each resident monthly, unless the special needs of the resident require more frequent weighing;

(2) Measuring the height of each resident every 3 months until the resident reaches the age of maximum growth;

(3) Maintaining weight and height records for each resident; and

(4) Insuring that each resident maintains a normal weight.

(e) At least every 3 days, a physician must review orders prescribing bed rest or prohibiting a resident from being outdoors.

(f) The ICF/MR must furnish, maintain in good repair, and encourage the use of dentures, eyeglasses, hearing aids, braces, and other aids prescribed for a resident by an appropriate specialist.

§ 442.444 Grouping and organization of living units.

(a) The ICF/MR may not house residents of grossly different ages, developmental levels, and social needs in close physical or social proximity unless the housing is planned to promote the growth and development of all those housed together.

(b) The ICF/MR may not segregate residents on the basis of their physical handicaps. It must integrate residents who are mobile nonambulatory, deaf, blind, epileptic, and so forth with others of comparable social and intellectual development.

§ 442.445 Resident living staff.

(a) Each resident living unit must have sufficient, appropriately qualified, and adequately trained personnel to conduct the resident living program as required by this subpart.

(b) The ICF/MR must have an individual, whose training and experience is appropriate to the program, who is administratively responsible for resident living personnel.

(c) Each resident living unit, regardless of organization or design, must have, as a minimum, overall staff-resident ratios (allowing for a 5-day work week plus holiday, vacation, and sick time) as follows unless program needs justify otherwise:

(1) For units serving children under the age of 6 years, severely and profoundly retarded, severely physically handicapped, or residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the overall ration is 1 to 2.

(2) For units serving moderately retarded residents requiring habit training, the overall ration is 1 to 2.5.

(3) For units serving residents in vocational training programs and adults who work in sheltered employment situations, the overall ration is 1 to 5.

§ 442.446 Resident living areas.

The ICF/MR must design and equip the resident living areas for the comfort and privacy of each resident.

§ 442.447 Resident bedrooms: Space and occupancy.

(a) Bedrooms must—

(1) Be at or above street grade level;

(2) Be outside rooms;

(3) Be equipped with or located near adequate toilet and bathing facilities;

(4) Accommodate no more than 4 residents unless granted a variance under paragraph (b) of this section; and

(5) Measure at least 60 square feet per resident in multiple resident bedrooms and at least 80 square feet in single resident bedrooms.

(b) The survey agency may grant a variance from the limit of 4 residents per room if it finds that—

(1) A physician or psychologist who meets the definition of a qualified mental retardation professional in § 442.401 has justified in each affected resident's plan of care that assignment to a bedroom of more than 4 residents is in accordance with the program needs of that resident; and

(2) The variance does not adversely affect the health or safety of the residents.

(c) The variance may be granted only for the period of a specific certification.

§ 442.448 Resident bedrooms: Furniture and bedding.

The ICF/MR must provide each resident with—

(a) A separate bed of proper size and height for the convenience of the resident;

(b) A clean, comfortable mattress;

(c) Bedding appropriate to the weather and climate; and

(d) Appropriate furniture, such as a chest of drawers, a table or desk, and an individual closet with clothes racks and shelves accessible to the resident.

§ 442.449 Storage space in living units.

The ICF/MR must provide—

(a) Space for equipment for daily out-of-bed activity for all residents who are not yet mobile, except those who have a short-term illness or those few residents for whom out-of-bed activity is a threat to life;

(b) Suitable storage space, accessible to the resident, for personal possessions, such as toys and prosthetic equipment; and

(c) Adequate clean linen and dirty linen storage areas for each living unit.

§ 442.450 Resident bathrooms.

(a) The ICF/MR must—

(1) Have toilet and bathing facilities appropriate in number, size, and design to meet the needs of the residents;

(2) Provide for individual privacy in toilets, bathtubs, and showers unless specifically contraindicated by program needs;

(3) Equip bathrooms and bathroom appliances for use by the physically handicapped; and

(4) Control the temperature of the hot water at all taps to which residents have access, by using thermostatically controlled mixing valves or other means, so that the water does not exceed 110 degrees fahrenheit.

(b) The survey agency may grant a variance from the requirement in paragraph (a)(4) of this section if—

(1) The hot water taps are in supervised areas; and

(2) The purpose of the variance is to train residents in the use of hot water.

(c) The variance must be part of the survey record.

§ 442.451 Heating and ventilation in living units.

(a) Each habitable room in the ICF/MR must have—

(1) At least one window; and

(2) Direct outside ventilation by means of windows, louvers, air conditioning, or mechanical ventilation horizontally and vertically.

(b) The ICF/MR must—

(1) Maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means; and

(2) Use a heating apparatus that does not constitute a burn hazard to residents.

§ 442.452 Floors in living units.

The ICF/MR must have—

(a) Floors that have a resilient, nonabrasive, and slip-resistant surface; and

(b) Nonabrasive carpeting, if the living unit is carpeted and serves residents who crawl.

§ 442.453 Emergency lighting.

If a living unit houses more than 15 residents, it must have emergency lighting with automatic switches for stairs and exits.

Professional and Special Programs and Services

§ 442.454 Needed services.

In addition to the resident living services detailed in §§ 442.432 through 442.453, the ICF/MR must provide professional and special programs and services to residents based upon their needs for these programs and services.

§ 442.455 Quality standards for outside resources.

(a) Programs and services provided by the ICF/MR or to the ICF/MR by outside agencies or individuals must meet the standards for quality of services required in this subpart.

(b) All contracts for these services must state that these standards will be met.

§ 442.456 Planning and evaluation.

Interdisciplinary teams consisting of individuals representative of the professions or service areas included in this subpart that are relevant in each particular case, must—

(a) Evaluate each resident's needs;

(b) Plan an individualized habilitation program to meet each resident's identified needs; and

(c) Periodically review each resident's responses to his program and revise the program accordingly.

Dental Services

§ 442.457 Diagnostic services.

(a) The ICF/MR must provide each resident with comprehensive diagnostic dental services that include a complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the resident's oral condition, not later than 1 month after a resident's admission to the ICF/MR, unless he received the examination within 6 months before admission.

(b) The ICF/MR must review the results of the examination and enter them in the resident's record.

§ 442.458 Treatment.

The ICF/MR must provide each resident with comprehensive dental treatment that includes—

(a) Provision for emergency dental treatment on a 24-hour-a-day basis by a qualified dentist; and

(b) A system that assures that each resident is reexamined as needed but at least once a year.

§ 442.459 Education and training.

The ICF/MR must provide education and training in the maintenance of oral health that includes—

(a) A dental hygiene program that informs residents and all staff on nutrition and diet control measures and residents and living unit staff on proper oral hygiene methods; and

(b) Instruction of parents or guardians in the maintenance of proper oral hygiene in appropriate instances, for example when a resident leaves the ICF/MR.

§ 442.460 Records.

The ICF/MR must—

(a) Keep a permanent dental record for each resident;

(b) Enter a summary dental progress report at stated intervals in each resident's record kept in the living unit;

(c) Provide a copy of the permanent dental record to any facility to which the resident is transferred.

§ 442.461 Formal arrangements.

The ICF/MR must have a formal arrangement for providing each resident with the dental services required under this subpart.

§ 442.462 Staff.

(a) The ICF/MR must have enough qualified dental personnel and support staff to carry out the dental services program.

(b) Each dentist and dental hygienist providing services to the facility must be licensed to practice in the State.

Training and Habilitation Services

§ 442.463 Required services.

(a) The ICF/MR must provide training and habilitation services to all residents, regardless of age, degree of retardation, or accompanying disabilities or handicaps.

(b) Individual evaluations of residents must—

(1) Be based upon the use of empirically reliable and valid instruments, whenever these instruments are available; and

(2) Provide the basis for prescribing an appropriate program of training experiences for the resident.

(c) The ICF/MR must have written training and habilitation objectives for each resident that are—

(1) Based upon complete and relevant diagnostic and prognostic data; and

(2) Stated in specific behavioral terms that permit the progress of each resident to be assessed.

(d) The ICF/MR must provide evidence of services designed to meet the training and habilitation objectives for each resident.

(e) The training and habilitation staff must—

(1) Maintain a functional training and habilitation record for each resident; and

(2) Provide training and habilitation services to residents with hearing, vision, perceptual, or motor impairments.

§ 442.464 Staff.

The ICF/MR must have enough qualified training and habilitation personnel and support staff, supervised by a qualified mental retardation professional, to carry out the training and habilitation program.

FOOD AND NUTRITION SERVICES

§ 442.465 Required services.

The ICF/MR's food services must include—

(a) Menu planning;

(b) Initiating food orders or requisitions;

(c) Establishing specifications for food purchases and insuring that the specifications are met;

(d) Storing and handling food;

(e) Preparing and serving food;

(f) Maintaining sanitary standards in compliance with State and local regulations; and

(g) Orienting, training, and supervising food service personnel.

§ 442.466 Diet requirements.

(a) The ICF/MR must provide each resident with a nourishing, well-balanced diet.

(b) Modified diets must be—

(1) Prescribed by the resident's interdisciplinary team with a record of the prescription kept on file;

(2) Planned, prepared, and served by individuals who have received adequate instruction; and

(3) Periodically reviewed and adjusted as needed.

(c) The ICF/MR must furnish a nourishing, well-balanced diet, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, adjusted for age, sex, activity, and disability, unless otherwise required by medical needs. (Recommended Dietary Allowances (8th ed., 1974) is available from the Printing and Publication Office, National Academy of Sciences, Washington, D.C. 20418.)

(d) A resident may not be denied a nutritionally adequate diet as a form of punishment.

§ 442.467 Meal service.

(a) The ICF/MR must serve at least three meals daily, at regular times comparable to normal mealtimes in the community with—

(1) Not more than 14 hours between a substantial evening meal and breakfast of the following day; and

(2) Not less than 10 hours between breakfast and the evening meal of the same day.

(b) Food must be served—

(1) In appropriate quantity;

(2) At appropriate temperature;

(3) In a form consistent with the developmental level of the resident; and

(4) With appropriate utensils.

(c) Food served and uneaten must be discarded.

§ 442.468 Menus.

(a) Menus must—

(1) Be written in advance;

(2) Provide a variety of foods at each meal; and

(3) Be different for the same days of each week and adjusted for seasonal changes.

(b) The ICF/MR must keep on file, for at least 30 days, records of menus as served and of food purchased.

§ 442.469 Food storage.

The ICF/MR must store—

(a) Dry or staple food items at least 12 inches above the floor, in a ventilated room not subject to sewage or waste water backflow or contamination by condensation, leakage, rodents or vermin; and

(b) Perishable foods at proper temperatures to conserve nutritive values.

§ 442.470 Work areas.

The ICF/MR must—

(a) Have effective procedures for cleaning all equipment and work areas; and

(b) Provide handwashing facilities, including hot and cold water, soap, and paper towels adjacent to work areas.

§ 442.471 Dining areas and service.

The ICF/MR must—

(a) Serve meals for all residents, including the mobile nonambulatory, in dining rooms, unless otherwise required for health reasons or by decision of the team responsible for the resident's program;

(b) Provide table service for all residents who can and will eat at a table, including residents in wheelchairs;

(c) Equip areas with table, chairs, eating utensils, and dishes designed to meet the developmental needs of each resident; and

(d) Supervise and staff dining rooms adequately to direct self-help dining procedures and to assure that each resident receives enough food.

§ 442.472 Training of residents and direct-care staff.

(a) The ICF/MR must provide residents with systematic training to develop appropriate eating skills, using special eating equipment and utensils if it serves the developmental process.

(b) Direct-care staff must be trained in and use proper feeding techniques.

(c) The ICF/MR must insure that residents eat in an upright position, unless medically contraindicated, and in a manner consistent with their developmental needs.

§ 442.473 Staff.

(a) The ICF/MR must have enough competent personnel to meet the food and nutrition needs of residents.

(b) A dietitian who directs food and nutrition services in ICF's/MR of 20 beds or more must meet the qualification requirements of § 405.1101 of this chapter.

(c) The ICF/MR must designate a staff member who is trained or experienced in food management or nutrition to direct food and nutrition services in an ICF/MR with less than 20 beds.

MEDICAL SERVICES

§ 442.474 Required services.

The ICF/MR must—

(a) Provide medical services through direct contact between physicians and residents and through contact between physicians and individuals working with the residents;

(b) Provide health services including treatment, medications, diet, and any other health service prescribed or planned for the resident, 24 hours a day;

(c) Have available electroencephalographic services as needed;

(d) Have enough space, facilities, and equipment to fulfill the medical needs of residents; and

(e) Provide evidence, such as utilization review committee records, that hospital and laboratory services are used in accordance with professional standards.

§ 442.475 Goals and evaluations.

(a) Physicians must participate, when appropriate, in—

(1) The continuing interdisciplinary evaluation of individual residents for the purposes of beginning, monitoring, and following up on individualized habilitation programs; and

(2) The development for each resident of a detailed, written statement of—

(i) Case management goals for physical and mental health, education, and functional and social competence; and

(ii) A management plan detailing the various habilitation or rehabilitation services to achieve those goals, with

clear designation of responsibility for implementation.

(b) The ICF/MR must review and update the statement of treatment goals and management plans as needed, but at least annually, to insure—

(1) Continuing appropriateness of the goals;

(2) Consistency of management methods with the goals; and

(3) The achievement of progress toward the goals.

§ 442.476 Arrangements with outside resources.

The ICF/MR must—

(a) Have a formal arrangement for providing each resident with medical care that includes care for medical emergencies on a 24-hour-a-day basis;

(b) Designate a physician, licensed to practice medicine in the State, to be responsible for maintaining the general health conditions and practices of the ICF/MR and

(c) Maintain effective arrangements, for residents to receive prompt medical and remedial services that they require but that the ICF/MR does not regularly provide.

§ 442.477 Preventive health services.

The ICF/MR must have preventive health services for residents that include—

(a) Means for the prompt detection and referral of health problems, through adequate medical surveillance, periodic inspection, and regular medical examinations;

(b) Annual physical examinations that include—

(1) Examination of vision and hearing; and

(2) Routine screening laboratory examinations as determined necessary by the physician, and special studies when needed;

(c) Immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices and of the Committee on the Control of Infectious Diseases of the American Academy of Pedeatrics;

(d) Tuberculosis control, appropriate to the ICF/MR's population, in accordance with the recommendations of the American College of Chest Physicians or the section on diseases of the chest of the American Academy of Pediatrics or both; and

(e) Reporting of communicable diseases and infections in accordance with law.

§ 442.478 Required services.

The ICF/MR must provide residents with nursing services, in accordance with their needs, that include, as appropriate, the following:

(a) Registered nurse participation in—

(1) The preadmission evaluation study and plan;

(2) The evaluation study, program design, and placement of the resident at the time of admission;

(3) The periodic reevaluation of the type, extent, and quality of services and programing;

(4) The development of the discharge plan; and

(5) The referral to appropriate community resources.

(b) Training in habits of personal hygiene, family life, and sex education that includes but is not limited to family planning and venereal disease counseling.

(c) Control of communicable diseases and infections through—

(1) Identification and assessment;

(2) Reporting to medical authorities; and

(3) Implementation of appropriate protective and preventive measures.

(4) Development of a written nursing services plan for each resident as part of the total habilitation program.

(5) Modification of the nursing plan, in terms of the resident's daily needs, at least annually for adults and more frequently for children, in accordance with developmental changes.

§ 442.479 Training.

(a) A registered nurse must participate, as appropriate, in the planning and implementation of training of the ICF/MR's personnel.

(b) The ICF/MR must have direct-care personnel trained in—

(1) Detecting signs of illness or dysfunction that warrant medical or nursing intervention;

(2) Basic skills required to meet the health needs and problems of the residents; and

(3) First aid for accident or illness.

§ 442.480 Staff.

(a) The ICF/MR must have available enough nursing staff, which may include currently licensed practical nurses and other supporting personnel, to carry out the various nursing services.

(b) The individual responsible for the delivery of nursing services must have knowledge and experience in the field of developmental disabilities.

(c) Nursing service personnel at all levels of experience and competence must be—

(1) Assigned responsibilities in accordance with their qualifications;

(2) Delegated authority commensurate with their responsibility; and

(3) Provided appropriate professional nursing supervision.

§ 442.481 Supervision of health services.

(a) The ICF/MR must have a registered nurse or licensed practical or vocational nurse to supervise the health services full time, 7 days a week, on the day shift.

(b) The nurse must have a current license to practice in the State.

(c) If the ICF/MR employs a licensed practical or vocational nurse to supervise health services, it must have a formal arrangement with a registered nurse to consult with the licensed practical or vocational nurse at regular intervals, but not less than 4 hours each week.

(d) To be qualified to serve as a health services supervisor, a licensed practical nurse must—

(1) Be a graduate of a State-approved school of practical nursing;

(2) Have education or other training that the State authority responsible for licensing practical nurses considers equal to graduation from a State-approved school of practical nursing; or

(3) Have passed the Public Health Service examination for waivered licensed practical or vocational nurses.

(e) The ICF/MR may employ as a nurse an individual who is licensed by the State in a category other than registered nurse or licensed practical or vocational nurse if—

(1) The individual has completed a training program to get the license that included at least the same number of classroom and practice hours in all nursing subjects as in the program of a State-approved school of practical or vocational nursing; and

(2) The State agency responsible for licensing the individual submits a report to the Medicaid agency comparing State LPN or vocational nurse course requirements with those for the program completed by the individual.

(f) The ICF/MR must have responsible staff members on duty and awake 24 hours a day to take prompt, appropriate action in case of injury, illness, fire, or other emergency.

(g) An ICF/MR that has 15 beds or less, and only admits residents certified by a physician as not in need of professional nursing services, may meet the requirements of paragraphs (a) through (f) of this section by—

(1) Contracting for the services of a public health nurse or other registered nurse to care for minor illnesses, injuries, or emergencies, and to consult on the health aspects of the individual plan of care; and

(2) Having a responsible staff member on duty 24 hours a day who is immediately accessible to the residents to take reports of injuries, symptoms of illness, and emergencies.

(h) The health services supervisor is responsible for developing, supervising the implementation of, reviewing, and

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revising a written health care plan for each resident that is—

(1) Developed and implemented according to the instructions of the attending or staff physician; and

(2) Reviewed and revised as needed but not less often than quarterly.

PHARMACY SERVICES

§ 442.482 Required services.

The ICF/MR must—

(a) Make formal arrangements for qualified pharmacy services, including provision for emergency service.

(b) Have a current pharmacy manual that—

(1) Includes policies and procedures and defines the functions and responsibilities relating to pharmacy services; and

(2) Is revised annually to keep abreast of current developments in services and management techniques; and

(c) Have a formulary system approved by a responsible physician and pharmacist and other appropriate staff. Copies of the ICF/MR's formulary system and of the American Hospital Formulary Service must be located and available in the facility.

§ 442.483 Pharmacist.

(a) Pharmacy services must be provided under the direction of a qualified licensed pharmacists.

(b) The pharmacist must—

(1) When a resident is admitted, obtain, if possible, a history of prescription and nonprescription drugs used and enter this information in the resident's record;

(2) Receive the original, or a direct copy, of the physician's drug treatment order;

(3) Maintain for each resident an individual record of all prescription and nonprescription medications dispensed, including quantities and frequency of refills;

(4) Participate, as appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of beginning, monitoring, and following up on individualized habilitation programs; and

(5) Establish quality specifications for drug purchases and insure that they are met.

(c) A pharmacist or registered nurse must regularly review the medication record of each resident for potential adverse reactions, allergies, interactions, contraindications, rationality and laboratory test modifications and advise the physician of any recommended changes with reasons and with an alternate drug regimen.

(d) As appropriate to the ICF/MR, the responsible pharmacist, physician, nurse, and other professional staff must write policies and procedures that govern the safe administration and handling of all drugs. The following policies and procedures must be included:

(1) There must be a written policy governing the self administration of drugs, whether prescribed or not.

(2) The pharmacist or an individual under his supervision must compound, package, label, and dispense drugs including samples and investigational drugs. Proper controls and records must be kept of these processes.

(3) Each drug must be identified up to the point of administration.

(4) Whenever possible, the pharmacist must dispense drugs that require dosage measurements in a form ready to be administered to the resident.

§ 442.484 Drugs and medications.

(a) A medication must be used only by the resident for whom it is issued. Only appropriately trained staff may administer drugs.

(b) Any drug that is discontinued or outdated and any container with a worn, illegible, or missing label must be returned to the pharmacy for proper disposition.

(c) The ICF/MR must have—

(1) An automatic stop order on all drugs;

(2) A drug recall procedure that can be readily used;

(3) A procedure for reporting adverse drug reactions to the Food and Drug Administration; and

(4) An emergency kit available to each living unit and appropriate to the needs of its residents.

(d) Medication errors and drug reactions must be recorded and reported immediately to the practitioner who ordered the drug.

§ 442.485 Drug storage.

The ICF/MR must—

(a) Store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security;

(b) Store poisons, drugs used externally, and drugs taken internally on separate shelves or in separate cabinets, at all locations;

(c) Keep medication that is stored in a refrigerator containing other items in a separate compartment with proper security;

(d) Keep all drugs under lock and key unless an authorized individual is in attendance;

(e) If there is a drug storeroom separate from the pharmacy, keep a perpetual inventory of receipts and issues of all drugs from that storeroom; and

(f) Meet the drug security requirements of Federal and State laws that apply to storerooms, pharmacies, and living units.

PHYSICAL AND OCCUPATIONAL THERAPY SERVICES

§ 442.486 Required services.

(a) The ICF/MR must provide physical and occupational therapy services through direct contact between therapists and residents and through contact between therapists and individuals involved with the residents.

(b) Physical and occupational therapy staff must provide treatment training programs that are designed to—

(1) Preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination, and activities of daily living; and

(2) Prevent, insofar as possible, irreducible or progressive disabilities through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations, and sensory stimulation.

(c) The therapist must—

(1) Work closely with the resident's primary physician and with other medical specialists;

(2) Record regularly and evaluate periodically the treatment training progress; and

(3) Use the treatment training progress as the basis for continuation or change in the resident's program.

§ 442.487 Records and evaluations.

The ICF/MR must have evaluation results, treatment objectives, plans and procedures, and continuing observations of treatment progress—

(a) Recorded accurately, summarized, and communicated to all relevant parties;

(b) Used in evaluating progress; and

(c) Included in the resident's record kept in the living unit.

§ 442.488 Staff and facilities.

(a) The ICF/MR must have available enough qualified staff and support personnel to carry out the various physical and occupational therapy services in accordance with stated goals and objectives.

(b) Physical and occupational therapy personnel must be—

(1) Assigned responsibilities in accordance with their qualifications;

(2) Delegated authority commensurate with their responsibilities; and

(3) Provided professional direction and consultation.

(c) Therapy assistants must work under the supervision of a qualified therapist.

(d) Physical and occupational therapists and therapy assistants must meet the qualification requirements of § 405.1101 of this chapter.

(e) The ICF/MR must provide enough space and equipment and supplies for efficient and effective physical and occupational therapy services.

PSYCHOLOGICAL SERVICES

§ 442.489 Required services.

The ICF/MR must—

(a) Provide psychological services through personal contact between psychologists and residents and through contact between psychologists and individuals involved with the residents; and

(b) Have available enough qualified staff and support personnel to furnish the following psychological services based on need:

(1) Psychological services for residents, including evaluation, consultation, therapy, and program development.

(2) Administration and supervision of psychological services.

(3) Staff training.

§ 442.490 Psychologist.

Psychologists must—

(a) Have at least a master's degree from an accredited program and experience or training in the field of mental retardation;

(b) Participate, when appropriate, in the continuing interdisciplinary evaluation of each individual resident, for the purposes of beginning, monitoring, and following up on the resident's individualized habilitation program;

(c) Report and disseminate evaluation results in a manner that—

(1) Promptly provides information useful to staff working directly with the resident; and

(2) Maintains accepted standards of confidentiality;

(d) Participate, when appropriate, in the development of written, detailed, specific, and individualized habilitation program plans that—

(1) Provide for periodic review, followup, and updating; and

(2) Are designed to maximize each resident's development and acquisition of the following: Perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, and effective use of time, including leisure time.

RECREATION SERVICES

§ 442.491 Required services.

The ICF/MR must—

(a) Coordinate recreational services with other services and programs provided to each resident, in order to—

(1) Make the fullest possible use of the ICF/MR's resources; and

(2) Maximize benefits to the residents;

(b) Design and construct or modify recreation areas and facilities so that all residents, regardless of their disabilities, have access to them; and

(c) Provide recreation equipment and supplies in a quantity and variety that is sufficient to carry out the stated objectives of the activities programs.

§ 442.492 Records.

The ICF/MR's resident records must include—

(a) Periodic surveys of the residents' recreation interests; and

(b) The extent and level of the residents' participation in the recreation program.

§ 442.493 Staff.

(a) The ICF/MR must have enough qualified staff and support personnel available to carry out the various recreation services in accordance with stated goals and objectives.

(b) Staff conducting the recreation program must have—

(1) A bachelor's degree in recreation, or in a speciality area, such as art, music, or physical education;

(2) An associate degree in recreation and 1 year of experience in recreation;

(3) A high school diploma, or an equivalency certificate and—

(i) Two years of experience in recreation; or

(ii) One year of experience in recreation plus completion of comprehensive inservice training in recreation; or

(4) Demonstrated proficiency and experience in conducting activities in one or more recreation program areas.

SOCIAL SERVICES

§ 442.494 Required services.

The ICF/MR must provide, as part of an interdisciplinary set of services, social services to each resident directed toward—

(a) Maximizing the social functioning of each resident;

(b) Enhancing the coping capacity of each resident's family;

(c) Asserting and safeguarding the human and civil rights of the retarded and their families; and

(d) Fostering the human dignity and personal worth of each resident.

§ 442.495 Social workers.

(a) During the evaluation process to determine whether or not admission to the ICF/MR is necessary, social workers must help the resident and his family—

(1) Consider alternative services, based on the retarded individual's status and important family and community factors; and

(2) Make a responsible choice as to whether and when residential placement is indicated.

(b) Social workers must participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of beginning, monitoring, and following up on individualized habilitation programs.

(c) During the retarded individual's admission to, and residence in the facility or while he is receiving services from the facility, social workers must, as appropriate, provide liaison between him, the ICF/MR, the family, and the community, in order to—

(1) Help the staff—

(i) Individualize and understand the needs of the resident and his family in relation to each other;

(ii) Understand social factors in the resident's day-to-day behavior, including staff-resident relationships; and

(iii) Prepare the resident for changes in his living situation;

(2) Help the family develop constructive and personally meaningful ways to support the resident's experience in the ICF/MR through—

(i) Counseling concerning the problems of changes in family structure and functioning; and

(ii) referral to specific services, as appropriate; and

(3) Help the family participate in planning for the resident's return to home or other community placement.

(d) After the resident leaves the ICF/MR, social workers must provide systematic followup to assure referral to appropriate community agencies.

(e) The ICF/MR must have available enough qualified staff and support personnel to carry out the various social services activities.

(f) Social workers providing service to the ICF/MR must meet the qualification requirements of § 405.1101 of this chapter.

(g) Social work assistants or aides employed by the ICF/MR must be supervised by a social worker.

SPEECH PATHOLOGY AND AUDIOLOGY SERVICES

§ 442.496 Required services.

(a) The ICF/MR must provide speech pathology and audiology services through direct contact between speech pathologists and audiologists and residents, and working with other personnel, including but not limited to teachers and direct-care staff.

(b) Speech pathology and audiology services available to the ICF/MR must include—

(1) Screening and evaluation of residents with respect to speech and hearing functions;

(2) Comprehensive audiological assessment of residents, as indicated by screening results, that include tests of puretone air and bone conduction, speech audiometry, and other procedures, as necessary, and the assessment of the use of visual cues;

(3) Assessment of the use of amplification;

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(4) Provision for procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist;

(5) Comprehensive speech and language evaluation of residents, as indicated by screening results, including appraisal of articulation, voice, rhythm, and language;

(6) Participation in the continuing interdisciplinary evaluation of individual residents for purposes of beginning, monitoring, and following up on individualized habilitation programs;

(7) Treatment services as an extension of the evaluation process, that include—

(i) Direct counseling with residents;

(ii) Consultation with appropriate staff for speech improvement and speech education activities; and

(iii) Work with appropriate staff to develop specialized programs for developing each resident's communication skills in comprehension, including speech, reading, auditory training, and hearing aid utilization, and skills in expression, including improvement in articulation, voice, rhythm, and language; and

(8) Participation in inservice training programs for direct-care and other staff.

§ 442.497 Evaluations and assessments.

(a) Speech pathologists and audiologists must accurately and systematically report evaluation and assessment results in order to—

(1) Provide information, when appropriate, that is useful to other staff working directly with the resident; and

(2) Include evaluative and summary reports in the resident's record kept in the living unit.

(b) Continuing observations of treatment progress must be—

(1) Recorded accurately, summarized, and communicated; and

(2) Used in evaluating progress.

§ 442.498 Staff and facilities.

(a) The ICF/MR must have available enough qualified staff and support personnel to carry out the various speech pathology and audiology services, in accordance with stated goals and objectives.

(b) Staff who assume independent responsibilities for clinical services must meet the qualification requirements of § 405.1101 of this chapter.

(c) The ICF/MR must provide adequate, direct, and continuing supervision to personnel, volunteers, or support personnel used in providing clinical services.

(d) The ICF/MR must have enough space, equipment, and supplies to provide efficient and effective speech pathology and audiology services.

RECORDS

§ 442.499 Maintenance of resident records.

(a) The ICF/MR must maintain a record for each resident that is adequate for—

(1) Planning and continuous evaluation of the resident's habilitation program;

(2) Furnishing documentary evidence of each resident's progress and response to his habilitation program; and

(3) Protecting the legal rights of the residents, the ICF/MR, and the staff.

(b) Any individual who makes an entry in a resident's record must make it legibly, date it, and sign it.

(c) The ICF/MR must provide a legend to explain any symbol or abbreviation used in a resident's record.

§ 442.500 Admission records.

At the time a resident is admitted, the ICF/MR must enter in the individual's record the following information:

(a) Name, date of admission, birth date and place, citizenship status, marital status, and social security number.

(b) Father's name and birthplace, mother's maiden name and birthplace, and parents' marital status.

(c) Name and address of parents, legal guardian, and next of kin if needed.

(d) Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph.

(e) Reason for admission or referral problem.

(f) Type and legal status of admission.

(g) Legal competency status.

(h) Language spoken or understood.

(i) Sources of support, including social security, veterans' benefits, and insurance.

(j) Religious affiliation, if any.

(k) Reports of the preadmission evaluations.

(l) Reports of previous histories and evaluations, if any.

§ 442.501 Record entries during residence.

(a) Within 1 month after the admission of each resident, the ICF/MR must enter in the resident's record—

(1) A report of the review and updating of the preadmission evaluation;

(2) A prognosis that can be used for programing and placement; and

(3) A comprehensive evaluation and individual program plan, designed by an interdisciplinary team.

(b) the ICF/MR must enter the following information in a resident's record during his residence:

(1) Reports of accidents, seizures, illnesses, and treatments for these conditions.

(2) Records of immunizations.

(3) Records of all periods that restraints were used, with justification and authorization for each.

(4) Reports of regular, at least annual, review and evaluation of the program, developmental progress, and status of each resident.

(5) Enough observations of the resident's response to his program to enable evaluation of its effectiveness.

(6) Records of significant behavior incidents.

(7) Records of family visits and contacts.

(8) Records of attendance and absences.

(9) Correspondence pertaining to the resident.

(10) Periodic updates of the information recorded at the time of admission.

(11) Appropriate authorizations and consents.

(c) The ICF/MR must enter a discharge summary in the resident's record at the time he is discharged.

§ 442.502 Confidentiality.

(a) The ICF/MR must keep confidential all information contained in a resident's records, including information contained in an automated data bank.

(b) The record is the property of the ICF/MR which must protect it from loss, damage, tampering, or use by unauthorized individuals.

(c) The ICF/MR must have written policies governing access to, duplication of, and release of information from the record.

(d) The ICF/MR must obtain written consent of the resident, if competent, or his guardian before it releases information to individuals not otherwise authorized to receive it.

§ 442.503 Central record service.

The ICF/MR must—

(a) Maintain an organized central record service for the collection and release of resident information;

(b) Make records readily accessible to authorized personnel if a centralized system is used;

(c) Have appropriate records available in the resident living units;

(d) Have a master alphabetical index of all residents admitted to the ICF/MR; and

(e) Retain records for a period consistent with HEW regulations and the statute of limitations of the State in which the ICF/MR is located.

§ 442.504 Staff and facilities.

The ICF/MR must have—

(a) Enough qualified staff and support personnel to accurately process, check, index, file, and retrieve records and record data promptly; and

(b) Adequate space, equipment, and supplies to provide efficient and effective record services.

SAFETY AND SANITATION

§ 442.505 Emergency plan and procedures.

(a) The ICF/MR must have a written staff organization plan and detailed written procedures to meet all potential emergencies and disasters such as fire, severe weather, and missing residents.

(b) The ICF/MR must—

(1) Clearly communicate and periodically review the plan and procedures with the staff; and

(2) Post the plan and procedures at suitable locations through the facility.

§ 442.506 Evacuation drills.

(a) The ICF/MR must hold evacuation drills at least quarterly for each shift of personnel and under varied conditions to—

(1) Insure that all personnel on all shifts are trained to perform assigned tasks;

(2) Insure that all personnel on all shifts are familiar with the use of the ICF/MR's firefighting equipment; and

(3) Evaluate the effectiveness of emergency and disaster plans and procedures.

(b) The ICF/MR must—

(1) Actually evacuate residents to safe areas during at least one evacuation drill each year, on each shift;

(2) Make special provisions for the evacuation of the physically handicapped, such as fire chutes and mattressloops with poles;

(3) Write and file a report and evaluation of each evacuation drill; and

(4) Investigate all accidents and take corrective action to prevent similar accidents in the future.

§ 442.507 Fire protection.

(a) Except as provided in §§ 442.508, 442.509, and paragraph (b) of this section, the ICF/MR must meet the provisions of the Life Safety Code of the National Fire Protection Association, 1967 edition, that apply to institutional occupancies.

(b) If the Secretary finds that the State has a fire and safety code imposed by State law that adequately protects residents in ICF's/MR, the State survey agency may apply the State code for purposes of medicaid certification instead of the Life Safety Code.

§ 442.508 Fire protection exceptions for smaller ICF's/MR.

The State survey agency may apply the lodgings or rooming houses section of the residential occupancy requirements of the Life Safety Code of the National Fire Protection Association, 1967 edition, instead of the institutional occupancy provisions required by § 442.507, to an ICF/MR that has 15 beds or less if a physician or psychologist who meets the definition of qualified mental retardation professional under § 442.401 certifies that each resident is—

(a) Ambulatory;

(b) Receiving active treatment; and

(c) Capable of following directions and taking appropriate action for self-preservation under emergency conditions.

§ 442.509 Fire protection waivers.

(a) The State survey agency may waive specific provisions of the Life Safety Code required by § 442.507, for as long as it considers appropriate, if—

(1) The waiver would not adversely affect the health and safety of the residents;

(2) Rigid application of specific provisions would result in unreasonable hardship for the ICF/MR as determined under guidelines contained in the HCFA long-term care manual; and

(3) The waiver is granted in accordance with criteria contained in the long-term care manual.

(b) If a State agency waives provisions of the Code for an existing building of two or more stories that is not built of at least 2-hour fire-resistive construction, the ICF/MR may not house a blind, nonambulatory, or physically handicapped resident above the street-level floor unless it is built of—

(1) One-hour protected, noncumbustible construction as defined in National Fire Protection Association Standard No. 220;

(2) Full sprinklered, 1-hour protected, ordinary construction;

(3) Full sprinklered, 1-hour protected, wood frame construction.

§ 442.510 Paint.

The ICF/MR must—

(a) Use lead-free paint inside the facility; and

(b) Remove or cover old paint or plaster containing lead so that it is not accessible to residents.

§ 442.511 Building accessibility and use.

(a) The ICF/MR must—

(1) Be accessible to and usable by all residents, personnel, and the public, including individuals with disabilities; and

(2) Meet the requirements of American National Standards Institute (ANSI) Standard No. A117.1 (1961) American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped.

(b) The State survey agency may waive, for as long as it considers appropriate, specific provisions of ANSI Standard No. A117.1 (1961) if—

(1) The construction plans for the ICF/MR or a part of it were approved and stamped by the responsible State agency before March 18, 1974;

(2) The provision would result in unreasonable hardship on the ICF/MR if strictly enforced; and

(3) The waiver does not adversely affect the health and safety of the residents.

§ 442.512 Sanitation records and reports.

The ICF/MR must keep—

(a) Records that document compliance with the sanitation, health, and environmental safety codes of the State or local authorities having primary jurisdiction over the ICF/MR; and

(b) Written reports of inspections by State or local health authorities, and records of action taken on their recommendations.

ADMINISTRATIVE SERVICES

§ 442.513 Support services.

(a) The ICF/MR must provide adequate, modern administative support to efficiently meet the needs of residents and facilitate attainment of the ICF/MR's goals and objectives.

(b) The ICF/MR must—

(1) Document its purchasing process;

(2) Adequately operate its inventory control system and stockroom;

(3) Have appropriate storage facilities for all supplies and surplus equipment; and

(4) Have enough trained and experienced persomnel to do purchase, supply, and property control functions.

§ 442.514 Communication system.

(a) The ICF/MR must have an adequate communication system, including telephone service, that insures—

(1) Prompt contact of onduty personnel; and

(2) Prompt notification of responsible personnel in an emergency.

§ 442.515 Engineering and maintenance.

The ICF/MR must have—

(a) An appropriate, written preventive maintenance program; and

(b) Enough trained and experienced personnel for engineering and maintenance functions.

§ 442.516 Laundry services.

The ICF/MR must manage its laundry services so that it meets daily clothing and linen needs without delay.

PART 447—PAYMENTS FOR SERVICES

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AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Payments: General Provisions

§ 447.1 Purpose.

This subpart prescribes State plan requirements, FFP limitations and procedures concerning payments made by State medicaid agencies for medicaid services.

§ 447.10 Prohibition against reassignment of provider claims.

(a) *Basis and purpose.* This section implements sec. 1902(a)(32) of the Act which prohibits State payments for medicaid services to anyone other than a provider or recipient, except in specified circumstances.

(b) *Definitions.* For purposes of this section:

"Facility" means an institution that furnishes health care services to inpatients.

"Factor" means an individual or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold or transferred to the individual organization for an added fee or a deduction of a portion of the accounts receivable. Factor does not include a business representative as described in paragraph (f) of this section.

"Organized health care delivery system" means a public or private organization for delivering health services. It includes, but is not limited to, a clinic, a group practice prepaid capitation plan, and a health maintenance organization.

(c) *State plan requirements.* A State plan must provide that the requirements of paragraphs (d) through (h) are met.

(d) *Who may receive payment.* Payment may be made only—

(1) To the provider; or

(2) To the recipient if he is a noncash recipient eligible to receive the payment under § 447.25; or

(3) In accordance with paragraphs (e), (f), and (g) of this section.

(e) *Reassignments.* Payment may be made in accordance with a reassignment from the provider to a government agency or reassignment by a court order.

(f) *Business agents.* Payment may be made to a business agent, such as a billing service or an accounting firm, that furnishes statements and receives payments in the name of the provider, if the agent's compensation for this service is—

(1) Related to the cost of processing the billing;

(2) Not related on a percentage or other basis to the amount that is billed or collected; and

(3) Not dependent upon the collection of the payment.

(g) *Individual practitioners.* Payment may be made to—

(1) The employer of the practitioner, if the practitioner is required as a condition of employment to turn over fees to the employer;

(2) The facility in which the service is provided, if the practitioner has a contract under which the facility submits the claim; or

(3) A foundation, plan, or similar organization operating an organized health care delivery system, if the practitioner has a contract under which the organization submits the claim.

(h) *Prohibition of payment to factors.* Payment for any service furnished to a recipient by a provider may not be made to or through a factor, either directly or by power of attorney.

§ 447.15 Acceptance of State payment as payment in full.

A State plan must provide that the medicaid agency must limit participation in the medicaid program to providers who accept, as payment in full, the amounts paid by the agency. (Sec. 1902(a)(4) of the Act.)

§ 447.25 Direct payments to certain recipients for physicians' or dentists' services.

(a) *Basis and purpose.* This section implements sec. 1905(a) of the Act by prescribing requirements applicable to States making direct payments to certain recipients for physicians' or dentists' services.

(b) *State plan requirements.* Except for groups specified in paragraph (c) of this section, a State may make direct payments to recipients for physicians' or dentists' services. If it does so, the State plan must—

(1) Provide for direct payments; and

(2) Specify the conditions under which payments are made.

(c) *Federal financial participation.* No FFP is available in expenditures for direct payment for physicians' or dentists' services to any recipient—

(1) Who is receiving assistance under the State's approved plan under title I, IV-A, X, XIV or XVI (AABD) of the Act; or

(2) To whom supplemental security benefits are being paid under title XVI of the Act; or

(3) Who is receiving or eligible for a State supplementary payment or would be eligible if he were not in a medical institution, and who is eligible for medicaid as a categorically needy recipient.

(d) *Federal requirements.* (1) Direct payments to recipients under this section are an alternative to payments directly to providers and are subject to the same conditions; for example, the State's reasonable charge schedules are applicable.

(2) Direct payments must be supported by providers' bills for services.

§ 447.30 Suspension of payments to former medicare providers with unresolved overpayments.

(a) *Basis and purpose.* This section implements sec. 1903(j) of the Act, which provides for the suspension of FFP for medicaid payments to an institution if that institution has not arranged to repay medicare overpayments or has failed to provide information to determine the amount of the overpayments.

(b) *When suspension occurs.* The Administrator may suspend medicaid payments to a State for an institution that—

(1) Does not have in effect, when the suspension is made, a medicare provider agreement with the Secretary under sec. 1866 of the Act and part 405, subpart F of this chapter;

(2) Did have a medicare provider agreement in effect, before the Administrator suspended payment; and

(3) Has failed either to—

(i) Repay or make satisfactory arrangements with the Administrator to repay medicare overpayments made to it; or

(ii) Submit appropriate information to enable the Administrator to determine the amount of medicare overpayments, if any.

(c) *Notice of suspension.* (1) When the Administrator suspends payments under this subpart, he will notify the medicaid agency of each State that he believes may use the institution's services under medicaid.

(2) The Administrator will send the notice by certified mail, return receipt requested.

(d) *Effective date of suspension.* Suspension of payment will become effective on the 60th day after the day on which the agency receives notice of suspension.

(e) *Termination of suspension.* The Administrator will terminate the suspension if he determines that—

(1) The institution is participating in substantial negotiations to remedy the conditions that gave rise to the order;

(2) Medicare overpayments are no longer due from the institution; or

(3) The institution has made a satisfactory arrangement to repay the amount it owes.

(f) *Notice of termination.* The Administrator will notify each State that previously received notice of the suspension that the suspension has been terminated.

(g) *Duration of FFP suspension.* No FFP is available in expenditures for services that are provided by a suspended institution from the date on which the suspension becomes effective until the first day of the month in which the suspension is terminated.

§ 447.35 Limits on FFP for capital expenditures.

(a) *Basis and purpose.* (1) Sec. 1122 of the Act provides for exclusion from FFP of expenses related to certain capital expenditures. The cost containment and quality control regulations of the Public Health Service (part 100 of this title) concern agreements between the Secretary and the States under sec. 1122, procedures for reviewing proposed capital expenditures, and determinations by the Secretary as to allowability of expenses related to capital expenditures.

(2) This section identifies categories of expenses for which FFP is not available under medicaid if a State has an agreement under sec. 1122 and the Secretary has determined under sec. 1122 and part 100 that the expenses are not allowable.

(b) *FFP limits.* Except as provided in § 100.108(b) of this title, no FFP is available in expenses related to a capital expenditure if the Secretary determines that—

(1) The State designated planning agency had not been given timely written notice of a capital expenditure in accordance with § 100.106 of this title; or

(2) The planning agency has, under sec. 1122 and part 100 of this title, submitted to the Secretary its finding that the proposed expenditure is not consistent with the standards, criteria or plans described in § 100.104(a)(2) of this title.

(c) *Expenses related to a capital expenditure.* Expenses related to a capital expenditure include the following, regardless of the manner in which the expenses are recorded in the provider's records and cost report:

(1) Depreciation.

(2) Interest on borrowed funds.

(3) A return on equity capital (in the case of proprietary facilities).

(4) Other costs of activities that are essential to the acquisition, improvement, modernization, expansion, or replacement of the plant, buildings, and equipment with respect to which the expenditure is made, including, but not limited to—

(i) Studies, surveys, designs, plans, working drawings, and specifications;

(ii) Transportation;

(iii) Installation and start-up expenses;

(iv) In-transit insurance;

(v) Costs of grading and paving;

(vi) Taxes assessed during the construction period;

(vii) Costs of demolishing or razing structures on land;

(viii) Title fees;

(ix) Permit and license fees;

(x) Broker commissions;

(xi) Architectural, legal, accounting, and appraisal fees; and

(xii) Interest, finance, or carrying charges on bonds, notes, and other costs incurred for borrowing funds.

(d) *FFP for costs of conformity determination.* FFP is available in expenditures for reasonable costs incurred by a provide to determine whether a proposed capital expenditure is in conformity with applicable standards, cri-

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teria, or plans for adequate health care resources in the area. However, no FFP is available if the provider makes the capital expenditure without the approval required by part 100 of this title.

(e) *Exclusion of expenses related to capital expenditures: Payment on a reasonable cost or cost-related basis.* If payment is made on a reasonable cost or cost-related basis, expenses related to capital expenditures that are not available for FFP must be specifically excluded from allowable cost computations.

(f) *Exclusion of expenses related to capital expenditures: Payment on other than a reasonable cost or cost-related basis.* If payment is made on a per capita, fixed fee, negotiated rate, or any other basis (other than reasonable cost or cost-related), expenses related to capital expenditures that are not available for FFP must be excluded from the payment rate as follows:

(1) For a facility that participates in the medicare program, the State shall—

(i) Compute the percentage difference between the medicare allowable costs before and after the deduction of unallowed expenses; and

(ii) Reduce the medicaid payment rate to the facility by that percentage.

(2) For a facility that does not participate in the medicare program, the State must reduce the payment rate by an estimated amount. The estimate is based upon a comparative analysis of the facility's expenses related to capital expenditures as reflected in the facility's periodic financial statements. For example, the State may compute the percentage difference between the facility's expenses related to capital expenditures as recorded in its financial statements and those expenses less the amounts for which FFP is not available, and reduce the payment rate by that percentage.

(g) *Equivalent deduction if a facility is obtained by a lease.* If a person obtained by lease or comparable arrangement any facility, part of a facility, or equipment for a facility that would have been considered a capital expenditure if the person had purchased it—

(1) In determining payments for services furnished in that facility, an amount must be deducted from rental expense which is a reasonable equivalent of the amount that would have been excluded if the person had purchased the facility or equipment; and

(2) In computing the person's return on equity capital, any amount deposited under the terms of the lease or comparable arrangement must be deducted from that return.

(h) *Capital assets acquired by donation or exchange.* If a person acquired by donation or exchange any facility, part of a facility, or equipment for a facility that would have been considered a capital expenditure if the person had purchased it, the acquisition is treated as a capital expenditure for purposes of excluding expenses related to capital expenditures.

(i) *Reconsideration of FFP determination.* (1) Any person or State adversely affected by a determination by the Secretary under sec. 1122 of the Act, this subpart or part 100 of this title may, within 6 months of the date of the determination, request the Secretary to reconsider the determination. A determination by the Secretary under sec. 1122 of the Act is not subject to administrative or judicial review.

(2) A State is also entitled upon request to receive a reconsideration of a disallowance under this subpart, in accordance with sec. 1116(d) of the Act and 45 CFR part 16.

§ 447.40 Payments for reserving beds in institutions.

(a) The medicaid agency may make payments to reserve a bed during a recipient's temporary absence from an inpatient facility, if—

(1) The recipient's plan of care provides for absences other than for hospitalization; and

(2) The State plan provides for such payments and describes any limitations on the reserved bed policy.

(b) An agency that pays for reserved beds in an inpatient facility may pay less for a reserved bed than an occupied bed if there is a cost differential between the two beds. (Sec. 1102 of the Act.)

COST SHARING

§ 447.50 Cost sharing: Basis and purpose.

(a) Section 1902(a)(14) of the Act permits States to require certain recipients to share some of the costs of medicaid by imposing upon them such payments as enrollment fees, premiums, deductibles, coinsurance, co-payments, or similar cost sharing charges. For States that impose cost sharing payments, §§ 447.51–59 prescribe State plan requirements and options for cost sharing, specify the standards and conditions under which States may impose cost sharing, set forth minimum amounts and the methods for determining maximum amounts, and prescribe conditions for FFP that relate to cost sharing requirements.

ENROLLMENT FEE, PREMIUM OR SIMILAR COST SHARING CHARGE

§ 447.51 Requirements and options.

(a) The plan must provide that the medicaid agency does not impose any enrollment fee, premium, or similar charge upon categorically needy individuals, as defined in §§ 435.4 and 436.3 of this subchapter, for any services available under the plan.

(b) The plan may impose an enrollment fee, premium, or similar charge on medically needy individuals, as defined in §§ 435.4 and 436.3 of this subchapter, for any services available under the plan.

(c) For each charge imposed under paragraph (b) of this section, the plan must specify—

(1) The amount of the charge;

(2) The period of liability for the charge; and

(3) The consequences for an individual who does not pay.

(d) The plan must provide that any charge imposed under paragraph (b) of this section is related to total gross family income as set forth under § 447.52.

§ 447.52 Minimum and maximum income-related charges.

For the purpose of relating the amount of an enrollment fee, premium, or similar charge to total gross family income, as required under § 447.51(d), the following rules apply:

(a) *Minimum charge.* A charge of at least $1.00 per month is imposed on each—

(1) One- or two-person family with monthly gross income of $150 or less;

(2) Three- or four-person family with monthly gross income of $300 or less; and

(3) Five- or more-person family with monthly gross income of $350 or less.

(b) *Maximum charge.* Any charge related to gross family income that is above the minimum listed in paragraph (a) of this section may not exceed the standards shown in the following table:

Maximum Monthly Charge

Gross family income (per month)	Family size		
	1 or 2	3 or 4	5 or more
$150 or less	$1	$1	$1
$151 or $200	2	1	1
$201 to $250	3	1	1
$251 to $300	4	1	1
$301 to $350	5	2	1
$351 to $400	6	3	2
$401 to $450	7	4	3
$451 to $500	8	5	4
$501 to $550	9	6	5
$551 to $600	10	7	6
$601 to $650	11	8	7
$651 to $700	12	9	8
$701 to $750	13	10	9
$751 to $800	14	11	10
$801 to $850	15	12	11
$851 to $900	16	13	12
$901 to $950	17	14	13
$951 to $1,000	18	15	14
$More than $1,000	19	16	15

DEDUCTIBLE, COINSURANCE, CO-PAYMENT OR SIMILAR COST-SHARING CHARGE

§ 447.53 Applicability; specifications; multiple charges.

(a) *Categorically needy.* (1) The plan must provide that the medicaid agency does not impose any deductible, coinsurance, co-payment, or similar charge upon categorically needy individuals for those services listed in §§ 440.40-440.50 and 440.70 of this subchapter. These services are inpatient and outpatient hospital services; rural health clinic services; other laboratory and X-ray services; skilled nursing facility services for individuals 21 years of age or older; early and periodic screening, diagnosis and treatment of individuals under the age of 21; family planning services and supplies for individuals of child-bearing age; physicians' services; and home health care services.

(2) The plan may impose a deductible, coinsurance, co-payment, or similar charge upon categorically needy individuals for any other service under the plan.

(b) *Medically needy.* The plan may impose a deductible, coinsurance, co-payment or similar charge upon medically needy persons for any service under the plan.

(c) *Prohibition against multiple charges.* For any service, the plan may not impose more than one type of charge referred to in paragraph (a)(2) and (b) of this section.

(d) *State plan specifications.* For each charge imposed under this section, the plan must specify—

(1) The service for which the charge is made;

(2) The amount of the charge; and

(3) The basis for determining the charge.

§ 447.54 Maximum allowable charges.

(a) *Non-institutional services.* For non-institutional services, the plan must provide that—

(1) Any deductible it imposes does not exceed $2.00 per month per family for each period of medicaid eligibility. For example, if medicaid eligibility is certified for a 3-month period, the maximum deductible which may be imposed on a family for that period of eligibility is $6.00;

(2) Any coinsurance rate it imposes does not exceed 5 percent of the payment the agency makes for the services; and

(3) Any co-payments it imposes do not exceed the amounts shown in the following table:

State's payment for the service:	*Maximum co-payment chargeable to recipient*
$10 or less	$.50
$11 to $25	1.00
$26 to $50	2.00
$51 or more	3.00

(b) *Institutional services.* For institutional services, the plan must provide that the maximum deductible, coinsurance or co-payment charge for each admission does not exceed 50 percent of the payment the agency makes for the first day of care in the institution.

(c) *Cumulative maximum.* The plan may provide for a cumulative maximum amount for all deductible, coinsurance or co-payment charges that it imposes on any family during a specified period of time.

§ 447.55 Standard co-payment.

(a) The plan may provide for a standard, or fixed, co-payment amount for any service.

(b) This standard copayment amount for any service may be determined by applying the maximum co-payment amounts specified in §447.54 (a) and (b) to the agency's average or typical payment for that service. For example, if the agency's typical payment for prescribed drugs is $4 to $5 per prescription, the agency might set a standard copayment of $0.50 per prescription.

§ 447.56 Income-related charges.

Subject to the maximum allowable charges specified in § 447.54 (a) and (b), the plan may provide for income-related deductible, coinsurance or co-payment charges. For example, an agency may impose a higher charge on medically needy recipients than it imposes upon categorically needy recipients.

§ 447.57 Restrictions on payments to providers.

(a) The plan must provide that the agency does not increase the payment it makes to any provider to offset uncollected amounts for deductibles, coinsurance, copayments or similar charges that the provider has waived or are uncollectable, except as permitted under paragraph (b) of this section.

(b) For those providers that the agency reimburses under medicare reasonable cost reimbursement principles, in accordance with subpart B of this part, an agency may increase its payment to offset uncollected deductible, coinsurance, copayment, or similar charges that are bad debts of providers.

§ 447.58 Payments to prepaid capitation organizations.

If the agency contracts with a prepaid capitation organization that does not impose the agency's deductibles, coinsurance, copayments or similar charges on its recipient members, the plan must provide that the agency calculates its payments to the organization as if those cost sharing charges were collected.

FEDERAL FINANCIAL PARTICIPATION

§ 447.59 FFP: Conditions relating to cost sharing.

No FFP in the State's expenditures for services is available for—

(a) Any cost sharing amounts that recipients should have paid as enrollment fees, premiums, deductibles, coinsurance, copayments, or similar charges under § 447.50–58 (except for amounts that the agency pays as bad debts of providers under § 447.57); and

(b) Any amounts paid by the agency on behalf of ineligible individuals, whether or not the individual had paid any required premium or enrollment fee.

Subpart B—Payment Methods: General Provisions

§ 447.200 Basis and purpose.

This subpart prescribes State plan requirements for setting payment rates to implement, in part, section 1902(a)(30) of the act, which requires that payments for services do not exceed reasonable charges consistent with efficiency, economy, and quality of care.

§ 447.201 State plan requirements.

(a) A State plan must provide that the requirements in this subpart are met.

(b) The plan must describe the policy and the methods to be used in setting payment rates for each type of service included in the State's medicaid program.

§ 447.202 Audits.

The medicaid agency must assure appropriate audit of records if payment is based on costs of services or on a fee plus cost of materials.

§ 447.203 Documentation of payment rates.

(a) The agency must maintain documentation of payment rates and make it available to HEW upon request.

(b) The agency must record, in State manuals or other official files, the following information for increases in payment rates for individual practitioner services:

(1) An estimate of the percentile of the range of customary charges to which the revised payment structure equates and a description of the methods used to make the estimate.

(2) An estimate of the composite average percentage increase of the revised payment rates over the preceding rates.

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§ 447.204 Encouragement of provider participation.

The agency's payments must be sufficient to enlist enough providers so that services under the plan are available to recipients at least to the extent that those services are available to the general population.

Subpart C—Payment Methods and Upper Limits for Specific Services

§ 447.250 Basis and purpose.

Section 447.261 of this subpart implements section 1902(a)(13)(D) of the act, which requires that the State plan provide for payment of the reasonable cost of inpatient hospital services. Sections 447.272 through 447.311 implement section 1902(a)(13)(E) of the act, which requires that the State plan provide for payment for long-term care facility services on a reasonable cost-related basis. Sections 447.251, 447.252, 447.262, and 447.315 through 447.361 implement section 1902(a)(30) of the act, which requires that payments must not exceed reasonable charges consistent with efficiency, economy and quality of care. Section 447.371 implements section 1902(a)(13)(F) of the act, which requires that the State plan provide for payment for rural health clinic services in accordance with regulations prescribed by the Secretary.

§ 447.251 State plan requirements.

A State plan must provide that the requirements of this subpart are met.

§ 447.252 Adherence to upper limits; FFP.

(a) The medicaid agency must not pay more than the upper limits described in this subpart.

(b) The upper limits do not apply to payments made under the plan for deductibles and coinsurance imposed under medicare. Deductible and coinsurance payments may be made up to the reasonable charge under medicare.

(c) FFP is available in expenditures for payments for services that do not exceed the upper limits.

NOTE.—The Secretary may waive any limitation on reimbursement imposed by subpt. C of this part for experiments conducted under sec. 402 of Pub. L. 90-428, Incentives for Economy Experimentation, as amended by sec. 222(b) of Pub. L. 92-603, and under sec. 222(a) of Pub. L. 92-603.

INPATIENT HOSPITAL SERVICES

§ 447.261 Reasonable cost payment for inpatient hospital services.

(a) The medicaid agency must pay the reasonable cost of inpatient hospital services under methods and standards developed by the State and approved by the Regional Medicaid Director before implementation.

(b) The methods and standards must—

(1) Be consistent with the capital expenditure provisions of section 1122 of the Act, as specified in § 447.35, if the State has an agreement under those provisions; and

(2) Adopt the medicare standards and principles for determining reasonable cost reimbursement in §§ 405.402 through 405.455 of this chapter or, as an alternative, meet the criteria in paragraph (d) of this section.

(c) If the medicare standards and principles are adopted, they must be modified to—

(1) Exclude the inpatient routine nursing salary cost differential under § 405.430 of this chapter; and

(2) Apply the limits established by the Secretary under § 405.460 of this chapter.

(d) If the medicare standards and principles are not adopted, the alternative methods and standards must meet all of the following criteria:

(1) They provide incentives for efficiency and economy.

(2) They provide for payment rates that are no higher than the amounts that would be determined using medicare principles of cost reimbursement, as modified by paragraph (c) of this section.

(3) They assure adequate participation of hospitals in the State's medicaid program and the availability of hospital services of high quality to recipients.

(4) They afford providers and other interested members of the public an opportunity to review and comment on proposed methods and standards before they are submitted as State plan amendments.

(5) They provide for keeping a written record of the comments and the consideration given to them.

(6) At a minimum, they afford individual providers an opportunity to submit evidence and obtain prompt administrative review of payment rates set for them if—

(i) Costs of capital improvements were approved by a State's planning agency after the payment rates were set, and those costs were not considered in the rate calculation;

(ii) Costs of improvements were incurred because of certification or licensing requirements established after the payment rates were set, and those costs were not considered in the rate calculation; or

(iii) Incorrect data were used or an error was made in the rate calculation.

(7) They provide for documentation that is adequate to evaluate experience under the approved methods and standards.

§ 447.262 Upper limits: Inpatient hospital services.

The agency must not pay a provider of inpatient hospital services more than the lower of—

(1) The reasonable cost of services determined under this subpart; or

(2) The provider's customary charges to the general public.

REASONABLE COST-RELATED PAYMENT FOR LONG-TERM CARE FACILITY SERVICES

§ 447.272 Definitions.

For the purposes of §§ 450.271-450.316—

"Accrual method of accounting" means that revenue is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

"Bad debts" are amounts considered to be uncollectable from accounts and notes receivable for services provided.

"Cash method of accounting" means that revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

"Charity allowances" are reductions in the provider's charges because of the patient's indigence or medical indigence.

"Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to determine costs of each type of service by allocating direct costs and prorating indirect costs.

"Courtesy allowances" are a reduction in the provider's charges in the form of an allowance to physicians, clergy, and others. Employee fringe benefits, such as hospitalization and personnel health programs, not are courtesy allowances.

"Generally accepted accounting principles" means accounting principles approved by the American Institute of Certified Public Accountants.

"Generally accepted auditing standards" means auditing standards approved by the American Institute of Certified Public Accountants.

"Long-term care facility services" means skilled nursing care facility services and intermediate care facility services.

"Provider" means a provider of skilled nursing facility or intermediate care facility services.

"Retrospective payment system" means a system in which payment is made on the basis of a provisional payment rate set prospectively for an accounting period, and in which payments may be retrospectively adjusted on the basis of the cost experience during the accounting period.

§ 447.273 Reasonable cost-related basis for long-term care facility services.

The medicaid agency must pay for long-term care facility services on a reasonable cost-related basis in accordance with §§ 447.274 through 447.311.

COST FINDING AND REPORTING

§ 447.274 Provider cost reports.

(a) No later than 3 months after the close of the cost reporting year, each provider must submit a cost report to the medicaid agency.

(b) The cost report must include—

(1) An itemized list of the provider's allowable costs under §§ 447.278-447.284 for the cost reporting year or for the period of participation in the plan if less than a full year; and

(2) A list of the costs of the various services provided under the plan, as determined by applying the agency's approved cost-finding method to the provider's allowable costs.

(c) The itemized list of allowable costs must be compiled on the basis of generally accepted accounting principles and the accrual method of accounting. The cash method of accounting is acceptable for public institutions.

(d) There must be a uniform cost report form for all skilled nursing facilities (SNF's) and a uniform cost report form for all intermediate care facilities (ICF's). However, the same form may be used by both SNF's and ICF's.

§ 447.275 Dates of cost reporting year.

(a) The State plan must specify the inclusive dates of the cost reporting year. The year need not be the same for all providers.

(b) The plan must specify the beginning date of the first cost reporting year, which must be no later than January 1, 1977.

§ 447.276 Cost-finding method.

(a) The plan must specify the cost-finding method or methods to be used by providers.

(b) There must be a uniform method for all SNF's and a uniform method for all ICF's. The same method may be used by both.

(c) The cost-finding method must be approved by the Regional Medicaid Director. Medicare cost-finding methods specified under § 405.453(d) of this chapter will be approved automatically. The Regional Medicaid Director may approve other cost-finding methods.

§ 447.277 Recordkeeping.

(a) Each provider must keep its financial and statistical records for the cost reporting year for at least 3 years after the date of submission of the cost report form to the medicaid agency.

(b) The records must be accurate and in sufficient detail to substantiate the costs reported under § 447.274.

(c) Each provider must make the records available on request to representatives of the agency or HEW.

(d) The agency must keep all costs reports for at least 3 years after it receives them from providers.

§ 447.278 Items of expense included in allowable cost: General provisions.

The plan must specify the items of expense that are allowable costs.

§ 447.279 Cost of meeting certification standards.

Allowable costs for SNF's and ICF's include all items of expense providers must incur—

(a) To meet the definition of SNF services or ICF services in § 440.40(a) or § 440.150 of this subchapter;

(b) To comply with the standards for SNF's or ICF's in part 442 of this subchapter;

(c) To comply with requirements established by the State agency responsible for establishing and maintaining health standards under § 431.610 of this subchapter; and

(d) To comply with any other requirements for licensing under State law that must be met to provide SNF or ICF services.

§ 447.281 Costs of routine services.

(a) Allowable costs include all items of expense that providers incur in providing routine services.

(b) "Routine services" means regular room, dietary and nursing services; minor medical and surgical supplies; and the use of equipment and facilities.

(c) The following are examples of expenses that allowable costs for routine services must include:

(1) All general nursing services, including but not limited to administration of oxygen and related medications, handfeeding, incontinency care, tray service, and enemas.

(2) Items furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bedpans.

(3) Items stocked at nursing stations or on the floor in gross supply and distributed or used individually in small quantities such as alcohol, applicators, cotton balls, bandaids, antacids, aspirin (and other nonlegend drugs ordinarily kept on hand), suppositories, and tongue depressors.

(4) Items used by individual patients but which are reusable and expected to be available, such as ice bags, bedrails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment;

(5) Special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet, even if written as a prescription item by a physician (because these supplements have been classified by the Food and Drug Administration as a food rather than a drug);

(6) Laundry services other than for personal clothing.

§ 447.282 Bad debts.

Allowable costs include only bad debts that are attributed to cost sharing amounts as defined in §§ 447.50-447.59.

§ 447.283 Items of expenses not included in allowable costs.

Allowable costs do not include charity and courtesy allowances.

§ 447.284 Purchases from related organizations: Limit on costs.

(a) Costs of services, facilities, and supplies furnished by organizations related to the provider by common ownership or control must not exceed the lower of the cost to the organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(b) The cost report must identify related organizations and costs.

AUDITS

§ 447.290 Audit procedures.

The plan must describe the State's procedures for audits.

§ 447.291 Cost report desk analysis.

The agency must analyze each cost report within 6 months of its receipt to verify, to the extent possible, that the provider has complied with § 447.274.

§ 447.292 Onsite audits and exemption.

(a) The agency must provide for an onsite audit of the financial and statistical records of at least one-third of the providers each year of a 3-year period that begins at the close of the first cost reporting year (see § 447.275). All providers must be audited within the 3-year period.

(b) The Regional Medicaid Director may exempt a State from paragraph (a) of this section if—

(1) The State has a continuing audit program;

(2) The agency has completed onsite audits of the financial and statistical records of all providers during the 3-year period preceding the end of the first cost reporting period; and

(3) Each onsite audit was conducted in accordance with generally accepted auditing standards and was sufficiently comprehensive in scope to determine—

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(i) That only proper items of cost applicable to medicaid services were in the provider's calculation of its costs; and

(ii) Whether expenses attributable to the items of cost were accurately determined and reasonable.

§ 447.293 Continuing audits.

(a) Each year the agency must provide for onsite audit of the financial and statistical records of at least 15 percent of participating facilities selected as follows:

(1) At least 5 percent of participating facilities selected at random.

(2) At least 10 percent of participating facilities selected by profiles of costs or other factors established by the agency.

(b) These yearly audits must begin in the fourth year after the first cost reporting year. However, for a State exempted from onsite audits under § 447.292, these audits must begin in the year after the first cost reporting year.

§ 447.294 Audit standards.

(a) Audits must meet generally accepted auditing standards. The adoption of the audit standards in Health Insurance Manual (HIM-18), issued under the medicare program, is recommended, but the agency may establish its own standards.

(b) Audits of providers' cost reports, financial records, and other pertinent documents must be adequate to verify—

(1) That the provider has included only those expense items that the agency has specified as allowable costs under § 450.278 in compiling the costs of services;

(2) That the provider has accurately determined allowable costs under § 447.274(b)(1);

(3) That the provider has accurately attributed allowable costs to cost of services under § 447.274(b)(2); and

(4) That the provider's allowable costs are reasonable.

§ 447.295 Audit report.

(a) Upon conclusion of each audit under §§ 447.292 the auditor must submit an audit report to the agency.

(b) The report must meet generally accepted auditing standards.

(c) The report must state the auditor's opinion as to whether, in all material respects, the cost report submitted by the provider under § 447.274 complies with § 447.294(b) (1) and (2).

(d) The agency must keep audit reports for at least 3 years after receipt.

§ 447.296 Accounting for overpayment found in audits.

The agency must account for overpayments found in audits on the quarterly statement of expenditures no later than the second quarter following the quarter in which the overpayment was found. (See 45 CFR 201.66 for accounting for overpayments.)

PAYMENT DETERMINATION

§ 447.301 Methods and standards for setting reasonable cost-related payment rates.

(a) The plan must set forth the methods and standards used by the agency to set reasonable cost-related payment rates.

(b) The methods and standards must be developed by the agency on the basis of cost-finding methods approved under § 447.276.

(c) The agency must set payment rates on the basis of the methods and standards. The payment rates must be effective no later than January 1, 1978.

§ 447.302 Actual costs.

(a) Methods and standards for determining payment rates must reasonably take into account actual costs of the allowable items set forth in §§ 447.-278 through 447.284, reported under § 447.274 and as verified by audits under §§ 447.292 and 447.293.

(b) Payment rates must not be set lower than rates that the agency reasonably finds to be adequate to reimburse in full the actual allowable costs of a facility that is economically and efficiently operated.

§ 447.303 Economic conditions and trends.

The methods and standards for determining payment rates must reasonably take into account economic conditions and trends during the period for which the rates are set.

§ 447.304 Redetermination of prospective payment rates.

Prospectively determined payment rates must be redetermined at least annually.

§ 447.305 Class rate determination.

If payment rates are determined for a class of facilities, the plan must set forth reasonable criteria for the class and the methods and standards for determining the rate of payment for the class.

§ 447.306 Retroactive downward adjustment provisions.

(a) If facilities are classed by quality of services or level of care and the payment rates provide for adjustment to a prospectively set lower rate for facilities with service deficiencies, the plan must set forth the service deficiencies for which payment may be adjusted to the lower rate.

(b) A ratesetting method that provides for adjustment downward to a prospectively set lower rate is not subject to the upper limits under § 447.316.

§ 447.307 Opportunity for public comment on rates.

(a) Members of the public must have an opportunity to review and comment on proposed rates and the ratesetting methodology before they become effective.

(b) If proposed rates or rate formulas provide for retroactive downward adjustments under § 447.306, the agency, in publishing the proposed rates or rate formulas for public comment, must state the deficiencies under which an adjustment would be made and the amount or percentage rate of the adjustment.

PAYMENT ASSURANCE

§ 447.311 Payment assurance.

The agency must pay amounts determined for long-term care facility services according to the methods and standards set forth in the plan under § 447.301.

UPPER LIMITS: SNF'S, ICF'S

§ 447.315 Upper limits: General provisions.

(a) The agency may not pay more for long-term care facility services than the provider's customary charge.

(b) Public facilities that provide services free or at a nominal charge may be reimbursed on a reasonable cost-related basis under this subpart.

(c) Any limitation on coverage of costs published under §§ 405.460 and 405.461 of this chapter will apply to payments for long-term care facility services.

§ 447.316 Upper limits: Retrospective payment.

(a) If the agency pays a provider under a retrospective payment system, it may not pay more than would be paid under the medicare principles of provider reimbursement under part 405, subpart D, of this chapter. Payments meet this requirement—

(1) If, in a random sample of all medicaid facilities, the payment is not more than the amount that would have been paid under medicare in at least 90 percent of the facilities in the sample; or

(2) If the average payment to all facilities within a class is not more than the amount that would have been paid under medicare.

(b) To determine what would have been paid under medicare—

(1) For facilities that participate in medicare, the interim rate paid to the facility under medicare (adjusted for services not included in the plan) may be used to determine the upper limit; and

(2) For facilities that are not participating in medicare, the agency must

set payment rates that are consistent with the intent that payments do not exceed amounts that would be determined using medicare's principles. In complying with this requirement, the agency need not use medicare's cost reports or methods of cost finding or audit the facilities to use medicare's principles.

OUTPATIENT HOSPITAL AND CLINIC SERVICES

§ 447.321 Outpatient hospital services and clinic services: Upper limits of payment.

The agency may not pay more than the combined payments the provider gets from the beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under medicare.

OTHER INPATIENT AND OUTPATIENT FACILITIES

§ 447.325 Other inpatient and outpatient facility services: Upper limits of payment.

The agency may pay the customary charges of the provider but must not pay more than the prevailing charges in the locality for comparable services under comparable circumstances.

DRUGS

§ 447.331 Drugs: Upper limits of payment.

(a) The agency may not pay more for prescribed drugs than the lower of ingredient cost plus a dispensing fee or the provider's usual and customary charge to the general public.

(b) Cost must be determined in accordance with § 447.332.

(c) The dispensing fee must be set by the agency under § 447.333.

§ 447.332 Cost of drugs.

(a) Multiple-source drugs. A "multiple-source drug" means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name. Except as specified in paragraph (b), the cost of each multiple source drug designated by the Pharmaceutical Reimbursement Board (45 CFR Part 19) and published in the FEDERAL REGISTER must be the lower of—

(1) The maximum allowable cost (MAC) established by the Board and published in the FEDERAL REGISTER; or

(2) The estimated acquisition cost as described in paragraph (c) of this section.

(b) *Exception: Certification of brand name drugs.* (1) The cost of a multiple-source drug is not limited to the MAC if a physician certifies in his own handwriting that, in his medical judgment, a specific brand is medically necessary for a particular recipient.

(2) The agency must decide what certification form and procedure are used.

(3) A checkoff box on a form is not acceptable but a notation like "brand necessary" is allowable.

(4) The agency may allow providers to keep the certification forms if the forms will be available for inspection by the agency or HEW.

(c) *All other drugs.* (1) The agency must set the cost of all other prescribed drugs at the estimated acquisition cost.

(2) "Estimated acquisition cost" means the agency's best estimate of what price providers generally are paying for a drug.

(3) The basis for the estimate must be the package size providers buy most frequently.

NOTE.—To help medicaid agencies with these estimates, HEW makes available information, on a current basis, on the acquisition cost of the most frequently prescribed drugs.

§ 447.333 Dispensing fee.

(a) The agency may set the dispensing fee by taking into account the results of surveys of the costs of pharmacy operation. The agency must periodically survey pharmacy operations including—

(1) Operational data;

(2) Professional services data;

(3) Overhead data; and

(4) Profit data.

(b) The dispensing fee may vary according to—

(1) Size and location of pharmacy;

(2) Whether the drug is a legend item (for which Federal law requires a prescription) or nonlegend item; and

(3) Whether the drug is dispensed by a physician or an outpatient department of an institution.

(c) The dispensing fee may also vary for drugs furnished recipients in institutions by a pharmacy using a unit dose system. In those cases—

(1) The dispensing fee is added to the ingredient cost of the drug actually used; and

(2) The fee is either—

(i) An amount added to the cost of each unit dose; or

(ii) A daily or monthly capitation rate per recipient being furnished drugs.

§ 447.334 Upper limits for drugs furnished as part of services.

The upper limits for payment for prescribed drugs in this subpart also apply to payment for drugs provided as part of skilled nursing facility services and intermediate care facility services and under prepaid capitation arrangements.

INDIVIDUAL PRACTITIONERS

§ 447.341 Individual practitioners: Upper limits of payment.

(a) This section applies to doctors of medicine, dentistry, osteopathy, podiatry, and any other individual practitioner services the agency chooses to include.

(b) The agency must not pay the individual practitioner more than the lowest of—

(1) His actual charge for service;

(2) His reasonable charge for the same service under part B, medicare (part 405, subpart D, of this chapter); or

(3) His median charge for a given service.

(c) The median charge for a given service is determined from claims submitted during all of the calendar year preceding the fiscal year in which the determination is made.

(d) The agency must not pay more than the highest of—

(1) The 75th percentile of the range of weighted customary charges in the same locality that are set under medicare during the calendar year preceding the fiscal year in which the determination is made; or

(2) The prevailing reasonable charge under part B, medicare.

OTHER NONINSTITUTIONAL SERVICES

§ 447.351 Selected medical services, supplies and equipment: Upper limits.

(a) Under the medicare criteria for determination of reasonable charges, the Secretary selects and lists in the FEDERAL REGISTER, under § 405.511 of this chapter, medical services, supplies, and equipment (including equipment servicing) that do not generally vary significantly in quality from one supplier to another. Medicare carriers calculate the lowest charge levels at which such services, supplies, and equipment are widely and consistently available within their locality, according to the procedures prescribed in § 405.511.

(b) For those selected services and items furnished under both medicare and medicaid, the agency must not pay more than the lowest charge level calculated by the medicare carrier for the item or service in the locality.

(c) For those selected services and items furnished only under medicaid, the agency must not pay more than the lowest charge levels calculated by the agency under the procedures specified in § 405.511 (c) and (d) of this chapter.

§ 447.352 Other noninstitutional services: Upper limits.

(a) For any noninstitutional item or service furnished under both medicare and medicaid and not subject to the

upper limits specified in § 447.351 or other sections of this part, the agency must not pay more than the reasonable charge established for that item or service by a medicare carrier serving part or all of the State.

(b) For all other noninstitutional items or services furnished only under medicaid and not subject to the upper limits specified in § 447.351 or other sections of this part, the agency must not pay more than the customary charge for a provider or the prevailing charge in the locality for comparable items or services under comparable circumstances, whichever is lower. For this purpose, the agency must set prevailing charges on the basis of the combined payments that providers receive from other third party insurers and their subscribers and policyholders.

PREPAID CAPITATION PLANS

§ 447.361 Prepaid capitation plans: Upper limits of payment.

The agency must not pay more for a defined scope of services to a defined number of recipients under a capitation arrangement than the cost of providing those same services on a fee-for-service basis, and must not pay more than other third party payors are paying for comparable services under comparable circumstances.

RURAL HEALTH CLINIC SERVICES

§ 447.371 Services furnished by rural health clinics.

The agency must pay for rural health clinic services, as defined in § 440.20(b) of this subchapter, and for other ambulatory services furnished by a rural health clinic, as defined in § 440.20(c) of this subchapter, as follows:

(a) For provider clinics, the agency must pay the reasonable cost of rural health clinic services and other ambulatory services on the basis of the cost reimbursement principles in subpart D of part 405 of this chapter. For purposes of this section, a provider clinic is an integral part of a hospital, skilled nursing facility, or home health agency that is participating in medicare and is licensed, governed, and supervised with other departments of the facility.

(b) For clinics other than provider clinics that do not offer any ambulatory services other than rural health clinic services, the agency must pay for rural health clinic services at the reasonable cost rate per visit determined by a medicare carrier under §§ 405.2426 through 405.2429 of this chapter.

(c) For clinics other than provider clinics that do offer ambulatory services other than rural health clinic services, the agency must pay for the other ambulatory services by one of the following methods:

(1) The agency may pay for other ambulatory services and rural health clinic services at a single rate per visit that is based on the cost of all services furnished by the clinic. The rate must be determined by a medicare carrier under §§ 405.2526 through 405.2429 of this chapter.

(2) The agency may pay for other ambulatory services at a rate set for each service by the agency. The rate must not exceed the upper limits in this subpart. The agency must pay for rural health clinic services at the medicare reimbursement rate per visit, as specified in § 405.2426 of this chapter.

(3) The agency may pay for dental services at a rate per visit that is based on the cost of dental services furnished by the clinic. The rate must be determined by a medicare carrier under §§ 405.2426 through 405.2429 of this chapter. The agency must pay for ambulatory services other than dental services under paragraph (c) (1) or (2) of this section.

(d) For purposes of paragraph (c) (1) and (3) of this section, "visit" means a face-to-face encounter between a clinic patient and any health professional whose services are reimbursed under the State plan. Encounters with more than one health professional, and multiple encounters with the same health professional, that take place on the same day and at a single location constitute a single visit, except when the patient, after the first encounter, suffers illness or injury requiring additional diagnosis or treatment.

PART 455—PROGRAM INTEGRITY

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

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Subpart D—State Medicaid Fraud Control Units

455.300 State medicaid fraud control units.

AUTHORITY: Sec. 1102 Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

§ 455.10 Basis and purpose.

This subpart—

(a) Prescribes requirements, based on section 1902(a)(4) of the Act, for medicaid agency prevention and control of program fraud and abuse;

(b) Requires agencies to inform providers and recipients of the Federal penalties for fraud under section 1909 of the Act; and

(c) Implements section 1903(i)(2) of the Act, prohibiting FFP for payments to Medicaid providers who are ineligible for payments under medicare because of a determination by the Secretary relating to false or excessive claims.

§ 455.11 Definition of fraud.

For purposes of this subpart the definition of fraud is determined according to State law.

§ 455.12 State plan requirement.

A State plan must meet the requirements of §§ 455.13–455.22.

§ 455.13 Methods for identification, investigation and referral.

The medicaid agency must have—

(a) Methods and criteria for identifying suspected fraud cases;

(b) Methods for investigating these cases that—

(1) Do not infringe on the legal rights of persons involved; and

(2) Afford due process of law; and

(c) Procedures, developed in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials. The procedures must include designating an agency position with responsibility for making referrals.

§ 455.14 Preliminary investigation.

If the agency receives a complaint of fraud or abuse from any source, it must conduct a preliminary investigation to determine whether there is sufficient merit to warrant the initiation of a full investigation.

§ 455.15 Full investigation.

If the findings of a preliminary investigation give the agency reason to believe the allegation, the agency must conduct a full investigation to determine if—

(a) The allegation is true; and

(b) There is sufficient evidence that can be developed to support a civil or criminal fraud or abuse action under State law.

§ 455.16 Resolution of full investigation.

A full investigation must continue until—

(a) Appropriate legal action is initiated;

(b) The case is closed or dropped because of insufficient evidence to support the allegations of fraud or abuse; or

(c) The matter is resolved between the agency and the provider. This resolution may include but is not limited to—

(1) Sending a warning letter to the provider giving notice that continuation of the activity in question will result in further action;

(2) Suspending the provider from participation in the medicaid program;

(3) Terminating the provider from participation in the medicaid program; or

(4) Seeking recovery of payments made to the provider.

§ 455.17 Reporting to HCFA.

The agency must report the following fraud and abuse information to the Regional HCFA Administrator at intervals prescribed in HCFA instructions:

(a) The number of complaints of fraud and abuse made to the agency that warrant preliminary investigation.

(b) For each case of suspected fraud and abuse that warrants a full investigation—

(1) The provider's name and number;

(2) The source of the complaint;

(3) The type of provider;

(4) The nature of the complaint;

(5) The approximate range of dollars involved; and

(6) The legal and administrative disposition of the case, including actions taken by law enforcement officials to whom the case has been referred.

(c) A summary of the information reported in paragraph (b) of this section.

§ 455.18 Provider's statements on claims form.

(a) Except as provided in § 455.19, the agency must provide that all provider claims forms be imprinted in boldface type with the following statements, or with alternate wording that is approved by the Regional HCFA Administrator:

(1) "This is to certify that the foregoing information is true, accurate, and complete."

(2) "I understand that payment of this claim will be from Federal and State funds, and that any falsification, or concealment of a material fact, may be prosecuted under Federal and State laws."

(b) The statements may be printed above the claimant's signature or, if they are printed on the reverse of the form, a reference to the statements must appear immediately preceding the claimant's signature.

§ 455.19 Provider's statement on check.

As an alternative to the statements required in § 455.18, the agency may print the following wording above the claimant's endorsement on the reverse of checks or warrants payable to each provider: "I understand in endorsing or depositing this check that payment will be from Federal and State funds and that any falsification, or concealment of a material fact, may be prosecuted under Federal and State laws."

§ 455.20 Recipient verification procedure.

(a) The agency must have a method for verifying with recipients whether services billed by providers were received.

(b) In States receiving Federal matching funds for a mechanized claims processing and information retrieval system under part 433, subpart C, of this subchapter, the agency must provide prompt written notice as required by § 433.113(b)(2) to—

(1) Each recipient for whom services were billed; or

(2) Each recipient in a sample group of recipients for whom services were billed.

(c) In States not receiving Federal matching funds for a mechanized system, verification may be made by:

(1) A random sample of recipients for each provider who is paid significant amounts (i.e., high-volume providers); and

(2) A random sample of recipients for groups of providers who are not paid significant amounts (i.e., low-volume providers).

§ 455.21 Cooperation with State medicaid fraud control units.

In a State with a medicaid fraud control unit established and certified under subpart F of this part:

(a) The agency must—

(1) Refer all cases of suspected provider fraud to the unit;

(2) If the unit determines that it may be useful in carrying out the unit's responsibilities, promptly comply with a request from the unit for—

(i) Access to, and free copies of, any records or information kept by the agency or its contractors;

(ii) Computerized data stored by the agency or its contractors. This data must be supplied without charge and in the form requested by the unit; and

(iii) Access to any information kept by providers to which the agency is authorized access by sec. 1902(a)(27) of the Act and § 431.107 of this subchapter. In using this information, the unit must protect the privacy rights of recipients; and

(3) On referral from the unit, initiate any available administrative or judicial action to recover improper payments to a provider.

(b) The agency need not comply with specific requirements under this subpart that are the same as the responsibilities placed on the unit under subpart F of this part.

§ 455.22 Notification of penalties.

The agency must notify providers and recipients of the provisions of sec. 1909 of the Act that provide Federal penalties for fraudulent acts and false reporting.

§ 455.23 Denial of FFP.

No FFP is available in payments for services by a provider or other person who is ineligible to receive payment under medicare because of a determination under § 405.315a or § 405:614 of this chapter relating to false or excessive claims. Suspension of FFP is effective when the Administrator notifies the agency of the determination, and continues for the period of ineligibility under medicare.

Subpart B—Disclosure of Information by Providers and Fiscal Agents

§ 455.104 Disclosure by intermediate care facilities of ownership and control information.

(a) A State plan must provide that an intermediate care facility receiving medicaid payments must submit to the State licensing agency the information specified in this section and must promptly report any changes in it.

(b) The facility must submit complete information on the identity of—

(1) Each individual who has, directly or indirectly, an ownership interest of 5 percent or more in the facility;

(2) Each individual who owns, in whole or in part, any mortgage, deed of trust, note or other obligation secured, in whole or in part, by the facility or by any property or asset of the facility;

(3) Each corporation officer or director, if the facility is a corporation; and

(4) Each partner, if the facility is a partnership.

Subpart D—State Medicaid Fraud Control Units

§ 455.300 State medicaid fraud control units.

(a) *Definitions.* As used in this section, unless otherwise indicated by the context:

"Employ" or "employee", as the context requires, means full-time duty intended to last at least a year. It includes an arrangement whereby an individual is on full-time detail or assign-

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ment to the unit from another government agency, if the detail or assignment is for a period of at least 1 year and involves supervision by the unit.

"Provider" means an individual or entity which furnishes items or services for which payment is claimed under medicaid.

"Unit" means the State medicaid fraud control unit.

(b) *Scope and purpose.* This section implements section 1903(a)(6), 1903(b)(3), and 1903(q) of the Social Security Act, as amended by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142 of October 25, 1977). The statute authorizes the Secretary to pay a State 90 percent of the costs of establishing and operating a State medicaid fraud control unit, as defined by the statute, for the purpose of eliminating fraud in the State medicaid program.

(c) *Basic requirement.* A State medicaid fraud control unit must be a single identifiable entity of the State government certified by the Secretary as meeting the requirements of paragraphs (d) through (g) of this section.

(d) *Organization and location requirements.* Any of the following three alternatives is acceptable:

(1) The unit is located in the office of the State attorney general or another department of State government which has statewide authority to prosecute individuals for violations of criminal laws with respect to fraud in the provision or administration of medical assistance under a State plan implementing title XIX of the Act; or

(2) If there is no State agency with statewide authority and capability for criminal fraud prosecutions, the unit has established formal procedures which assure that the unit refers suspected cases of criminal fraud in the State medicaid program to the appropriate State prosecuting authority or authorities, and provides assistance and coordination to such authority or authorities in the prosecution of such cases; or

(3) The unit has a formal working relationship with the office of the State attorney general and has formal procedures for referring to the attorney general suspected criminal violations occurring in the State medicaid program and for effective coordination of the activities of both entities relating to the detection, investigation and prosecution of those violations. Under this requirement, the office of the State attorney general must agree to assume responsibility for prosecuting alleged criminal violations referred to it by the unit. However, if the attorney general finds that another prosecuting authority has the demonstrated capacity, experience and willingness to prosecute an alleged violation, he may refer a case to that prosecuting authority, as long as his office maintains oversight responsibility for the prosecution and for coordination between the unit and the prosecuting authority.

(e) *Relationship to, and agreement with, the medicaid agency.* (1) The unit must be separate and distinct from the medicaid agency.

(2) No official of the medicaid agency shall have authority to review the activities of the unit or to review or overrule the referral of a suspected criminal violation to an appropriate prosecuting authority.

(3) The unit shall not receive funds paid under this section either from or through the medicaid agency.

(4) The unit shall enter into an agreement with the medicaid agency under which the medicaid agency will agree to comply with all requirements of § 455.21(a)(2).

(f) *Duties and responsibilities of the unit.* (1) The unit shall conduct a statewide program for investigating and prosecuting (or referring for prosecution) violations of all applicable State laws pertaining to fraud in the administration of the medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State medicaid plan.

(2) The unit shall also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the State medicaid plan and may review complaints of the misappropriation of patient's private funds in such facilities.

(i) If the initial review indicates substantial potential for criminal prosecution, the unit shall investigate the complaint or refer it to an appropriate criminal investigative or prosecutive authority.

(ii) If the initial review does not indicate a substantial potential for criminal prosecution, the unit shall refer the complaint to an appropriate State agency.

(3) If the unit, in carrying out its duties and responsibilities under paragraphs (f) (1) and (2) of this section, discovers that overpayments have been made to a health care facility or other provider of medical assistance under the State medicaid plan, the unit shall either attempt to collect such overpayment or refer the matter to an appropriate State agency for collection.

(4) Where a prosecuting authority other than the unit is to assume responsibility for the prosecution of a case investigated by the unit, the unit shall insure that those responsible for the prosecutive decision and the preparation of the case for trial have the fullest possible opportunity to participate in the investigation from its inception and will provide all necessary assistance to the prosecuting authority throughout all resulting prosecutions.

(5) The unit shall make available to Federal investigators or prosecutors all information in its possession concerning fraud in the provision or administration of medical assistance under the State plan and shall cooperate with such officials in coordinating any Federal and State investigations or prosecutions involving the same suspects or allegations.

(6) The unit shall safeguard the privacy rights of all individuals and shall provide safeguards to prevent the misuse of information under the unit's control.

(g) *Staffing requirements.* (1) The unit shall employ sufficient professional, administrative, and support staff to carry out its duties and responsibilities in an effective and efficient manner. The staff must include:

(i) One or more attorneys experienced in the investigation or prosecution of civil fraud or criminal cases, who are capable of giving informed advice on applicable law and procedures and providing effective prosecution or liaison with other prosecutors;

(ii) One or more experienced auditors capable of supervising the review of financial records and advising or assisting in the investigation of alleged fraud;

(iii) A senior investigator with substantial experience in commercial or financial investigations who is capable of supervising and directing the investigative activities of the unit.

(2) The unit shall employ, or have available to it, professional staff who are knowledgeable about the provision of medical assistance under title XIX and about the operation of health care providers.

(h) *Applications, certification, and recertification.*—(1) *Initial application.* In order to receive FFP under this section, the unit must submit to the Secretary, an application approved by the Governor, containing the following information and documentation.

(i) A description of the applicant's organization, structure, and location within State government, and an indication of whether it seeks certification under paragraph (d)(1), (d)(2), or (d)(3) of this section;

(ii) A statement from the State attorney general that the applicant has authority to carry out the functions and responsibilities set forth in this section. If the applicant seeks certification under paragraph (d)(2) of this section, the statement must also specify either that there is no State agency with the authority to exercise statewide prosecuting authority for the violations with which the unit is concerned, or that, although the State

attorney general may have common law authority for statewide criminal prosecutions, he has not exercised that authority.

(iii) A copy of whatever memorandum of agreement, regulation, or other document sets forth the formal procedures required under paragraph (d)(2) of this section or the formal working relationship and procedures required under paragraph (d)(3) of this section;

(iv) A copy of the agreement with the medicaid agency required under paragraph (e) of this section;

(v) A statement of the procedures to be followed in carrying out the functions and responsibilities of this section;

(vi) A projection of the caseload and a proposed budget for the 12-month period for which certification is sought; and

(vii) Current and projected staffing, including the names, education, and experience of all senior professional staff already employed and job descriptions, with minimum qualifications, for all professional positions.

(2) *Conditions for, and notification of certification.* (i) The Secretary will approve an application only if he has specifically approved the applicant's formal procedures under paragraph (d)(2) or (d)(3) of this section, if either of those provisions is applicable, and has specifically certified that the applicant meets the requirements of paragraph (d) of this section.

(ii) The Secretary will promptly notify the applicant whether the application meets the requirements of this section and is approved. If the application is not approved, the applicant may submit an amended application at any time. Approval and certification will be for a period of 1 year.

(3) *Conditions for recertification.* In order to continue receiving payments under this section, a unit must submit a reapplication to the Secretary at least 60 days prior to the expiration of the 12-month certification period. A reapplication must:

(i) Advise the Secretary of any changes in the information or documentation required under paragraph (h)(1) (i) through (v) of this section.

(ii) Provide projected caseload and proposed budget for the recertification period; and

(iii) Include or incorporate by reference the annual report required under paragraph (i) of this section.

(4) *Basis for recertification.* (i) The Secretary will consider the unit's reapplication, the reports required under paragraph (i) of this section, and any other reviews or information he deems necessary or warranted, and will promptly notify the unit whether he has approved the reapplication and recertified the unit.

(ii) In reviewing the reapplication, the Secretary will give special attention to whether the unit has used its resources effectively in investigating cases of possible fraud, in preparing cases for prosecution, and in prosecuting cases or cooperating with the prosecuting authorities.

(i) *Reporting requirements.*—(1) *Annual report.* At least 60 days prior to the expiration of the certification period, the unit shall submit to the Secretary a report covering the last 12 months (the first 9 months of the certification period for the first annual report), and containing the following information:

(i) The number of investigations initiated and the number completed or closed, categorized by type of provider;

(ii) The number of cases prosecuted or referred for prosecution; the number of cases finally resolved and their outcomes; and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence;

(iii) The number of complaints received regarding abuse and neglect of patients in health care facilities; the number of such complaints investigated by the unit; and the number referred to other identified State agencies.

(iv) The number of recovery actions initiated by the unit; the number of recovery actions referred to another agency; the total amount of overpayments identified by the unit; and the total amount of overpayments actually collected by the unit;

(v) The number of recovery actions initiated by the medicaid agency under its agreement with the unit; and the total amount of overpayments actually collected by the medicaid agency under this agreement;

(vi) Projections for the succeeding 12 months for items listed in paragraphs (i)(1) (i) through (v) of this section;

(vii) The costs incurred by the unit, by major budget category; and

(viii) A narrative that evaluates the unit's performance; describes any specific problems it has had in connection with the procedures and agreements required under this section; and discusses any other matters that have impaired its effectiveness.

(2) The unit shall also provide any additional reports that the Secretary requests, and shall comply with any measures the Secretary deems necessary to assure the accuracy and completeness of all reports required under this paragraph (i).

(j) *Federal financial participation (FFP).*—(1) *Rate of FFP.* Subject to the limitations specified in this paragraph, the Secretary will reimburse each certified State medicaid fraud control unit, by an amount equal to 90 percent of the costs incurred by that unit which are attributable to carrying out its functions and responsibilities under this section. The costs subject to reimbursement will be determined under 45 CFR part 74, except as provided otherwise in this part or in the grant award.

(2) *Basis and period of payment.* (i) Payment will be made for each quarter, based on quarterly reports submitted by the unit in the format and containing the information requested by the Secretary.

(ii) Payments are available for each quarter during fiscal years 1978, 1979, and 1980.

(iii) The Secretary may grant certification retroactive to the date on which the unit first met all the requirements of the statute and of this section. For any quarter with respect to which the unit is certified, the Secretary will provide reimbursement for the entire quarter.

(3) *Amount of FFP.* The amount paid during any quarter shall not exceed the higher of $125,000 or one-quarter of 1 percent of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State medicaid program.

(4) *Costs subject to FFP.* FFP is available under this section for the expenditures attributable to the establishment and operation of the unit, including the cost of training personnel employed by the unit. Reimbursement shall be limited to costs attributable to the specific responsibilities and functions set forth in this section in connection with the investigation and prosecution of suspected fraudulent activities and the review of complaints of alleged abuse or neglect of patients in health care facilities. Establishment costs are limited to clearly identifiable costs of personnel that:

(i) Devote full time to the establishment of the unit which does achieve certification; and

(ii) Continue as full-time employees after the unit is certified.

All establishment costs will be deemed made in the first quarter of certification.

(5) *Costs not subject to FFP.* FFP is not available under this section for expenditures attributable to:

(i) The investigation of cases involving program abuse or other failures to comply with applicable laws and regulations, if these cases do not involve substantial allegations or other indications of fraud;

(ii) Efforts to identify situations in which a question of fraud may exist, including the screening of claims, analysis of patterns of practice, or routine verification with recipients of whether services billed by providers were actually received;

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(iii) The routine notification of providers that fraudulent claims may be punished under Federal or State law;

(iv) The performance by a person other than a full-time employee of the unit of any management function for the unit, any audit or investigation, any professional legal function, or any criminal, civil or administrative prosecution of suspected providers;

(v) The investigation or prosecution of cases of suspected recipient fraud not involving suspected conspiracy with a provider; or

(vi) Any payment, direct or indirect, from the unit to the medicaid agency, other than payments for the salaries of employees on detail to the unit.

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Subpart A—General Provisions

§ 456.1 Basis and purpose of part.

(a) This part prescribes requirements concerning control of the utilization of medicaid services including—

(1) A statewide program of control of the utilization of all medicaid services; and

(2) Specific requirements for the control of the utilization of medicaid services in institutions.

(b) The requirements in this part are based on the following sections of the Act. Table 1 shows the relationship between these sections of the Act and the requirements in this part.

(1) *Methods and procedures to safeguard against unnecessary utilization of care and services.* Section 1902(a)(30) requires that the State plan provide methods and procedures to safeguard against unnecessary utilization of care and services.

(2) *Penalty for failure to have an effective program to control utilization of institutional services.* Section 1903(g)(1) provides for a reduction in the amount of Federal medicaid funds paid to a State for long-stay inpatient services if the State does not make a showing satisfactory to the Secretary that it has an effective program of control over utilization of those services. This penalty provision applies to inpatient services in hospitals, mental hospitals, skilled nursing facilities (SNF's), and intermediate care facilities (ICF's). Specific requirements are:

(i) Under sec. 1903(g)(1)(A), a physician must certify at admission, and periodically recertify, the individual's need for inpatient care.

(ii) Under sec. 1903(g)(1)(B), services must be furnished under a plan established and periodically evaluated by a physician.

(iii) Under sec. 1903(g)(1)(C), the State must have in effect a continuous program of review of utilization of care and services under section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel.

(iv) Under sec. 1903(g)(1)(D), the State must have an effective program under sections 1902(a) (26) and (31) of review of care in skilled nursing and intermediate care facilities and mental hospitals. This must include evaluation at least annually of the professional management of each case.

(3) *Medical review in skilled nursing facilities and mental hospitals.* Section 1902(a)(26)(A) requires that the plan provide for a program of medical review that includes a medical evaluation of each individual's need for care in a SNF or mental hospital, a plan of care, and, where applicable, a plan of rehabilitation.

(4) *Independent professional review in intermediate care facilities.* Section 1902(a)(31)(A) requires that the plan provide for a program of independent professional review that includes a medical evaluation of each individual's need for intermediate care and a written plan of service.

(5) *Inspection of care and services in institutions.* Sections 1902(a)(26) (B) and (C) and 1902(a)(31) (B) and (C) require that the plan provide for periodic inspections and reports, by a team of professional persons, of the care being provided to each recipient in SNF's, institutions for mental diseases (IMD's), and ICF's participating in medicaid.

(6) *Denial of FFP for failure to have specified utilization review procedures.* Section 1903(i)(4) provides that FFP is not available in a State's expenditures for hospital, mental hospital, or SNF services unless the institution has in effect a utilization review plan that meets medicare requirements. However, the Secretary may waive this requirement if the medicaid

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agency demonstrates to his satisfaction that it has utilization review procedures superior in effectiveness to the medicare procedures.

(7) *State health agency guidance on quality and appropriateness of care and services.* Section 1902(a)(33)(A) requires that the plan provide that the State health or other appropriate medical agency establish a plan for review, by professional health personnel, of the appropriateness and quality of medicaid services to provide guidance to the medicaid agency and the State licensing agency in administering the medicaid program.

TABLE 1

This table relates the regulations in this part to the sections of the Act on which they are based.

Subpart A—General	1902(a)(30) 1902(a)(33)(A)
Subpart B—Utilization Control: All Medicaid Services	1902(a)(30)
Subpart C—Utilization Control: Hospitals	
Certification of need for care	1903(g)(1)(A)
Plan of care	1903(g)(1)(B)
Utilization review plan (including admission review)	1902(a)(30) 1903(g)(1)(C) 1903(i)(4)
Subpart D—Utilization Control: Mental Hospitals	
Certification of need for care	1903(g)(1)(A)
Medical evaluation and admission review	1902(a)(26)(A) 1903(g)(1)(C)
Plan of care	1902(a)(26)(A) 1903(g)(1)(B)
Admission and plan of care requirements for individuals under 21	1902(a)(26)(A) 1903(g)(1)(B), (C)
Utilization review plan	1902(a)(30) 1903(g)(1)(C) 1903(i)(4)
Subpart E—Utilization Control: Skilled Nursing Facilities	
Certification of need for care	1903(g)(1)(A)
Medical evaluation and admission review	1902(a)(26)(A) 1903(g)(1)(C)
Plan of care	1902(a)(26)(A) 1903(g)(1)(B)
Utilization review plan	1902(a)(30) 1903(g)(1)(C) 1903(i)(4)
Discharge plan	1902(a)(30)
Subpart F—Utilization Control: Intermediate Care Facilities	
Certification of need for care	1903(g)(1)(A)
Medical evaluation and admission review	1902(a)(31)(A) 1903(g)(1)(C)
Plan of care	1902(a)(31)(A) 1903(g)(1)(B)
Utilization review plan	1902(a)(30) 1903(g)(1)(C) 1903(i)(4)
Subpart G—Inpatient Psychiatric Services for Individuals Under Age 21: Admission and Plan of Care Requirements	1905 (a)(16) and (h)
Subpart H—Utilization Review Plans: FFP, Waivers, and Variances for Hospitals, Mental Hospitals and Skilled Nursing Facilities	1902(a)(30) 1903(i)(4)
Subpart I—Inspections of Care in Skilled Nursing and Intermediate Care Facilities and Institutions for Mental Diseases	1902(a) (26) (B), (C), (31) (B), (C) 1903(g)(1)(D)

§ 456.2 State plan requirements.

A State plan must provide that the requirements of this part are met.

§ 456.3 Statewide surveillance and utilization control program.

The medicaid agency must implement a statewide surveillance and utilization control program that—

(a) Safeguards against unnecessary or inappropriate use of medicaid services and against excess payments;

(b) Assesses the quality of those services;

(c) Provides for the control of the utilization of all services provided under the plan in accordance with subpart B of this part; and

(d) Provides for the control of the utilization of inpatient services in accordance with subparts C through I of this part.

§ 456.4 Responsibility for monitoring the utilization control program.

(a) The agency must—

(1) Monitor the statewide utilization control program;

(2) Take all necessary corrective action to ensure the effectiveness of the program;

(3) Establish methods and procedures to implement this section;

(4) Keep copies of these methods and procedures on file; and

(5) Give copies of these methods and procedures to all staff involved in carrying out the utilization control program.

§ 456.5 Evaluation criteria.

The agency must establish and use written criteria for evaluating the appropriateness and quality of medicaid services. This section does not apply to services in hospitals, mental hospitals, and SNF's. For these facilities, see the following sections: §§ 456.122 and 456.132 of subpart C; § 456.232 of subpart D; and § 456.332 of subpart E.

§ 456.6 Review by State medical agency of appropriateness and quality of services.

(a) The medicaid agency must have an agreement with the State health agency or other appropriate State medical agency, under which the health or medical agency is responsible for establishing a plan for the review by professional health personnel of the appropriateness and quality of medicaid services.

(b) The purpose of this review plan is to provide guidance to the medicaid agency in the administration of the State plan and, where applicable, to the State licensing agency described in § 431.610.

Subpart B—Utilization Control: All Medicaid Services

§ 456.21 Scope.

This subpart prescribes utilization control requirements applicable to all services provided under a State plan.

§ 456.22 Sample basis evaluation of services.

To promote the most effective and appropriate use of available services and facilities the medicaid agency must have procedures for the on-going evaluation, on a sample basis, of the need for and the quality and timeliness of medicaid services.

§ 456.23 Post-payment review process.

The agency must have a post-payment review process that—

(a) Allows State personnel to develop and review—

(1) Recipient utilization profiles;

(2) Provider service profiles; and

(3) Exceptions criteria; and

(b) Identifies exceptions so that the agency can correct misutilization practices of recipients and providers.

Subpart C—Utilization Control: Hospitals

§ 456.50

Scope.

This subpart prescribes requirements for control of utilization of inpatient hospital services, including requirements concerning—

(a) Certification of need for care;

(b) Plan of care; and

(c) Utilization review plans.

§ 456.51 Definitions.

As used in this subpart:

"Inpatient hospital services"—

(a) Include—

(1) Services provided in an institution other than an institution for tuberculosis or mental disease, as defined in § 440.10;

(2) Services provided in an institution for tuberculosis, as defined in § 440.140; and

(3) Services provided in specialty hospitals and

(b) Exclude services provided in mental hospitals. Utilization control requirements for mental hospitals appear in subpart D.

"Medical care appraisal norms" or "norms" means numerical or statistical measures of usually observed performance.

"Medical care criteria" or "criteria" means predetermined elements against which aspects of the quality of a medical service may be compared. These criteria are developed by health professionals relying on their expertise and the professional health care literature.

CERTIFICATION OF NEED FOR CARE

§ 456.60 Physician certification and recertification of need for inpatient care.

(a) A physician must certify and recertify for each applicant or recipient that inpatient services in a hospital are or were needed.

(b) The certification must be made at the time of admission or, if an individual applies for assistance while in a hospital, before the medicaid agency authorizes payment.

(c) Recertifications must be made at least every 60 days after certification.

PLAN OF CARE

§ 456.80 Individual written plan of care.

(a) Before admission to a hospital or before authorization for payment, a physician and other personnel involved in the care of the individual must establish a written plan of care for each applicant or recipient.

(b) The plan of care must include—

(1) Diagnoses, symptoms, complaints, and complications indicating the need for admission;

(2) A description of the functional level of the individual;

(3) Any orders for—

(i) Medications;

(ii) Treatments;

(iii) Restorative and rehabilitative services;

(iv) Activities;

(v) Social services;

(vi) Diet;

(4) Plans for continuing care, as appropriate; and

(5) Plans for discharge, as appropriate.

(c) Orders and activities must be developed in accordance with physician's instructions.

(d) Orders and activities must be reviewed and revised as appropriate by all personnel involved in the care of an individual.

(e) A physician and other personnel involved in the recipient's case must review each plan of care at least every 60 days.

UTILIZATION REVIEW (UR) PLAN: GENERAL REQUIREMENT

§ 456.100 Scope.

Sections 456.101 through 456.145 of this subpart prescribe requirements for a written utilization review (UR) plan for each hospital providing medicaid services. Sections 456.105 and 456.106 prescribe administrative requirements: §§ 456.111 through 456.113 prescribe informational requirements; §§ 456.121 through 456.129 prescribe requirements for admission review; §§ 456.131 through 456.137 prescribe requirements for continued stay review; and §§ 456.141 through 456.145 prescribe requirements for medical care evaluation studies.

§ 456.101 UR plan required for inpatient hospital services.

(a) A State plan must provide that each hospital furnishing inpatient services under the plan has in effect a written UR plan that provides for review of each recipient's need for the services that the hospital furnishes him.

(b) Each written hospital UR plan must meet the requirements under §§ 456.101 through 456.145.

UR PLAN: ADMINISTRATIVE REQUIREMENTS

§ 456.105 UR committee required.

The UR plan must—

(a) Provide for a committee to perform UR required under this subpart;

(b) Describe the organization, composition, and functions of this committee; and

(c) Specify the frequency of meetings of the committee.

§ 456.106 Organization and composition of UR committee; disqualification from UR committee membership.

(a) For the purpose of this subpart, "UR committee" includes any group organized under paragraphs (b) and (c) of this section.

(b) The UR committee must be composed of two or more physicians, and assisted by other professional personnel.

(c) The UR committee must be constituted as—

(1) A committee of the hospital staff;

(2) A group outside the hospital staff, established by the local medical or osteopathic society and at least some of the hospitals and SNF's in the locality;

(3) A group capable of performing utilization review, established and organized in a manner approved by the Secretary.

(d) The UR committee may not include any individual who—

(1) Is directly responsible for the care of the patient whose care is being reviewed; or

(2) Has a financial interest in any hospital.

UR PLAN: INFORMATIONAL REQUIREMENTS

§ 456.111 Recipient information required for UR.

The UR plan must provide that each recipient's record includes information needed for the UR committee to perform UR required under this subpart. This information must include, at least, the following:

(a) Identification of the recipient.

(b) The name of the recipient's physician.

(c) Date of admission, and dates of application for and authorization of medicaid benefits if application is made after admission.

(d) The plan of care required under § 456.70.

(e) Initial and subsequent continued stay review dates described under § 456.128 and § 456.133.

(f) Date of operating room reservation, if applicable.

(g) Justification of emergency admission, if applicable.

(h) Reasons and plan for continued stay, if the attending physician believes continued stay is necessary.

(i) Other supporting material that the committee believes appropriate to be included in the record.

§ 456.112 Records and reports.

The UR plan must describe—

(a) The types of records that are kept by the committee; and

(b) The type and frequency of committee reports and arrangements for their distribution to appropriate individuals.

§ 456.113 Confidentiality.

The UR plan must provide that the identities of individual recipients in all UR records and reports are kept confidential.

UR PLAN: REVIEW OF NEED FOR ADMISSION [1]

§ 456.121 Admission review required.

The UR plan must provide for a review of each recipient's admission to the hospital to decide whether it is needed, in accordance with the requirements of §§ 456.122 through 456.129.

§ 456.122 Evaluation criteria for admission review.

The UR plan must provide that—

(a) The committee develops written medical care criteria to assess the need for admission; and

[1] The Department was enjoined in 1975 in the case of American Medical Assn. et al. v. Weinberger, 395 F. Supp. 515 (N.D. Ill., 1975), aff'd., 522 F2d 921 (7th cir., 1975) from implementing the admission review requirements contained in §§ 456.121–456.127. This case was dismissed on the condition that these requirements be revised. They are presently being revised, and will not be in force until that revision is completed.

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(b) The committee develops more extensive written criteria for cases that its experience shows are—
(1) Associated with high costs;
(2) Associated with the frequent furnishing of excessive services; or
(3) Attended by physicians whose patterns of care are frequently found to be questionable.

§ 456.123 Admission review process.

The UR plan must provide that—
(a) Admission review is conducted by—
(1) The UR committee;
(2) A subgroup of the UR committee; or
(3) A designee of the UR committee;
(b) The committee, subgroup, or designee evaluates the admission against the criteria developed under § 456.122 and applies close professional scrutiny to cases selected under § 456.129(b);
(c) If the committee, subgroup, or designee finds that the admission is needed, the committee assigns an initial continued stay review date in accordance with § 456.128;
(d) If the committee, subgroup, or designee finds that the admission does not meet the criteria, the committee or a subgroup that includes at least one physician reviews the case to decide the need for admission;
(e) If the committee or subgroup making the review under paragraph (d) of this section finds that the admission is not needed, it notifies the recipient's attending physician and gives him an opportunity to present his views before it makes a final decision on the need for the continued stay;
(f) If the attending physician does not present additional information or clarification of the need for the admission, the decision of the committee or subgroup is final; and
(g) If the attending physician presents additional information or clarification, at least two physician members of the committee review the need for the admission. If they find that the admission is not needed, their decision if final.

§ 456.124 Notification of adverse decision.

The UR plan must provide that written notice of any adverse final decision on the need for admission under § 456.123 (e) through (g) is sent to—
(a) The hospital administrator;
(b) The attending physician;
(c) The medicaid agency;
(d) The recipient; and
(e) If possible, the next of kin or sponsor.

§ 456.125 Time limits for admission review.

Except as required under § 456.127, the UR plan must provide that review of each recipient's admission to the hospital is conducted—
(a) Within one working day after admission, for an individual who is receiving medicaid at that time; or
(b) Within one working day after the hospital is notified of the application for medicaid, for an individual who applies while in the hospital.

§ 456.126 Time limits for final decision and notification of adverse decision.

Except as required under § 456.127, the UR plan must provide that the committee makes a final decision on a recipient's need for admission and gives notice of an adverse final decision—
(a) Within two working days after admission, for an individual who is receiving medicaid at that time; or
(b) Within two working days after the hospital is notified of the application for medicaid, for an individual who applies while in the hospital.

§ 456.127 Pre-admission review.

The UR plan must provide for review and final decision prior to admission for certain providers or categories of admissions that the UR committee designates under § 456.142(b)(4)(iii) to receive pre-admission review.

§ 456.128 Initial continued stay review date.

The UR plan must provide that—
(a) When a recipient is admitted to the hospital under the admission review requirements of this subpart, the committee assigns a specified date by which the need for his continued stay will be reviewed;
(b) The committee bases its assignment of the initial continued stay review date on—
(1) The methods and criteria required to be described under § 456.129;
(2) The individual's condition; and
(3) The individual's projected discharge date;
(c)(1) The committee uses any available appropriate regional medical care appraisal norms, such as those developed by abstracting services or third party payors, to assign the initial continued stay review date;
(2) These regional norms are based on current and statistically valid data on duration of stay in hospitals for patients whose characteristics, such as age and diagnosis, are similar to those of the individual whose case is being reviewed;
(3) If the committee uses norms to assign the initial continued stay review date, the number of days between the individual's admission and the initial continued stay review date is no greater than the number of days reflected in the 50th percentile of the norms. However, the committee may assign a later review date if it documents that the later date is more appropriate; and
(d) The committee ensures that the initial continued stay review date is recorded in the individual's record.

§ 456.129 Description of methods and criteria: Initial continued stay review date; close professional scrutiny; length of stay modification.

The UR plan must describe—
(a) The methods and criteria, including norms if used, that the committee uses to assign the initial continued stay review date under § 456.128.
(b) The methods that the committee uses to select categories of admission to receive close professional scrutiny under § 456.123(b); and
(c) The methods that the committee uses to modify an approved length of stay when the recipient's condition or treatment schedule changes.

UR Plan: Review of Need for Continued Stay

§ 456.131 Continued stay review required.

The UR plan must provide for a review of each recipient's continued stay in the hospital to decide whether it is needed, in accordance with the requirements of §§ 456.132 through 456.137.

§ 456.132 Evaluation criteria for continued stay.

The UR plan must provide that—
(a) The committee develops written medical care criteria to assess the need for continued stay.
(b) The committee develops more extensive written criteria for cases that its experience shows are—
(1) Associated with high costs;
(2) Associated with the frequent furnishing of excessive services; or
(3) Attended by physicians whose patterns of care are frequently found to be questionable.

§ 456.133 Subsequent continued stay review dates.

The UR plan must provide that—
(a) The committee assigns subsequent continued stay review dates in accordance with §§ 456.128 and 456.134(a);
(b) The committee assigns a subsequent review date each time it decides under § 456.135 that the continued stay is needed; and
(c) The committee ensures that each continued stay review date it assigns is recorded in the recipient's record.

§ 456.134 Description of methods and criteria: Subsequent continued stay review dates; length of stay modification.

The UR plan must describe—
(a) The methods and criteria, including norms if used, that the committee uses to assign subsequent continued stay review dates under § 456.133; and
(b) The methods that the committee uses to modify an approved length of stay when the recipient's condition or treatment schedule changes.

§ 456.135 Continued stay review process.

The UR plan must porovide that—
(a) Review of continued stay cases is conducted by—
(1) The UR committee;
(2) A subgroup of the UR committee; or
(3) A designee of the UR committee;
(b) The committee, subgroup or designee reviews a recipient's continued stay on or before the expiration of each assigned continued stay review date;
(c) For each continued stay of a recipient in the hospital, the committee, subgroup or designee reviews and evaluates the documentation described under § 456.111 against the criteria developed under § 456.132 and applies close professional scrutiny to cases selected under § 456.129(b);
(d) If the committee, subgroup, or designee finds that a recipient's continued stay in the hospital is needed, the committee assigns a new continued stay review date in accordance with § 456.133;
(e) If the committee, subgroup, or designee finds that a continued stay case does not meet the criteria, the committee or a subgroup that includes at least one physician reviews the case to decide the need for continued stay;
(f) If the committee or subgroup making the review under paragraph (e) of this section finds that a continued stay is not needed, it notifies the recipient's attending physician and gives him an opportunity to present his reviews before it makes a final decision on the need for the continued stay;
(g) If the attending physician does not present additional information or clarification of the need for the continued stay, the decision of the committee or subgroup is final; and
(h) If the attending physician presents additional information or clarification, at least two physician members of the committee review the need for the continued stay. If they find that the recipient no longer needs inpatient hospital services, their decision is final.

§ 456.136 Notification of adverse decision.

The UR plan must provide that written notice of any adverse final decision on the need for continued stay under § 456.135 (f) through (h) is sent to—
(a) The hospital administrator;
(b) The attending physician;
(c) The medicaid agency;
(d) The recipient; and
(e) If possible, the next of kin or sponsor.

§ 456.137 Time limits for final decision and notification of adverse decision.

The UR plan must provide that—
(a) The committee makes a final decision on a recipient's need for continued stay and gives notice under § 456.136 of an adverse final decision within 2 working days after the assigned continued stay review dates, except as required under paragraph (b) of this section.
(b) If the committee makes an adverse final decision on a recipient's need for continued stay before the assigned review date, the committee gives notice under § 456.136 within 2 working days after the date of the final decision.

UR Plan: Medical Care Evaluation Studies

§ 456.141 Purpose and general description.

(a) The purpose of medical care evaluation studies is to promote the most effective and efficient use of available health facilities and services consistent with patient needs and professionally recognized standards of health care.
(b) Medical care evaluation studies—
(1) Emphasize identification and analysis of patterns of patient care; and
(2) Suggest appropriate changes needed to maintain consistently high quality patient care and effective and efficient use of services.

§ 456.142 UR plan requirements for medical care evaluation studies.

(a) The UR plan must describe the methods that the committee uses to select and conduct medical care evaluation studies under paragraph (b)(1) of this section.
(b) The UR plan must provide that the UR committee—
(1) Determines the methods to be used in selecting and conducting medical care evaluation studies in the hospital;
(2) Documents for each study—
(i) Its results; and
(ii) How the results have been used to make changes to improve the quality of care and promote more effective and efficient use of facilities and services;
(3) Analyzes its findings for each study; and
(4) Takes action as needed to—
(i) Correct or investigate further any deficiencies or problems in the review process for admissions or continued stay cases;
(ii) Recommend more effective and efficient hospital care procedures; or
(iii) Designate certain providers or categories of admissions for review prior to admission.

§ 456.143 Content of medical care evaluation studies.

Each medical care evaluation study must—
(a) Indentify and analyze medical or administrative factors related to the hospital's patient care;
(b) Include analysis of at least the following:
(1) Admissions;
(2) Durations of stay;
(3) Ancillary services furnished, including drugs and biologicals;
(4) Professional services performed in the hospital; and
(c) If indicated, contain recommendations for changes beneficial to patients, staff, the hospital, and the community.

§ 456.144 Data sources for studies.

Data that the committee uses to perform studies must be obtained from one or more of the following sources:
(a) Medical records or other appropriate hospital data;
(b) External organizations that compile statistics, design profiles, and produce other comparative data;
(c) Cooperative endeavors with—
(1) PSRO's;
(2) Fiscal agents;
(3) Other service providers; or
(4) Other appropriate agencies.

§ 456.145 Number of studies required to be performed.

The hospital must, at least, have one study in progress at any time and complete one study each calendar year.

Subpart D—Utilization Control: Mental Hospitals

§ 456.150 Scope.

This subpart prescribes requirements for control of utilization of inpatient services in mental hospitals, including requirements concerning—
(a) Certification of need for care;
(b) Medical evaluation and admission review;
(c) Plan of care; and
(d) Utilization review plans.

§ 456.151 Definitions.

As used in this subpart:
"Medical care appraisal norms" or "norms" means numerical or statistical measures of usually observed performance.
"Medical care criteria" or "criteria" means predetermined elements against which aspects of the quality of a medical service may be compared. These criteria are developed by health professionals relying on their expertise and the professional health care literature.

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CERTIFICATION OF NEED FOR CARE

§ 456.160 Physician certification and recertification of need for inpatient care.

(a) A physician must certify and recertify for each applicant or recipient that inpatient services in a mental hospital are or were needed.

(b) The certification must be made at the time of admission or, if an individual applies for assistance while in a mental hospital, before the Medicaid agency authorizes payment.

(c) Recertifications must be made at least every 60 days after certification.

MEDICAL, PSYCHIATRIC, AND SOCIAL EVALUATIONS AND ADMISSION REVIEW

§ 456.170 Medical, psychiatric, and social evaluations.

(a) Before admission to a mental hospital or before authorization for payment, the attending physician or staff physician must make a medical evaluation of each applicant's or recipient's need for care in the hospital; and appropriate professional personnel must make a psychiatric and social evaluation.

(b) Each medical evaluation must include—

(1) Diagnoses;

(2) Summary of present medical findings;

(3) Medical history;

(4) Mental and physical functional capacity;

(5) Prognoses; and

(6) A recommendation by a physician concerning—

(i) Admission to the mental hospital; or

(ii) Continued care in the mental hospital for individuals who apply for Medicaid while in the mental hospital.

§ 456.171 Medicaid agency review of need for admission.

Medical and other professional personnel of the medicaid agency or its designess must evaluate each applicant's or recipient's need for admission by reviewing and assessing the evaluations required by § 456.170.

PLAN OF CARE

§ 456.180 Individual written plan of care.

(a) Before admission to a mental hospital or before authorization for payment, the attending physician or staff physician must establish a written plan of care for each applicant or recipient.

(b) The plan of care must include—

(1) Diagnoses, symptoms, complaints, and complications indicating the need for admission;

(2) A description of the functional level of the individual;

(3) Objectives;

(4) Any orders for—

(i) Medications;

(ii) Treatments;

(iii) Restorative and rehabilitative services;

(iv) Activities;

(v) Therapies;

(vi) Social services;

(vii) Diet; and

(viii) Special procedures recommended for the health and safety of the patient;

(5) Plans for continuing care, including review and modification to the plan of care; and

(6) Plans for discharge.

(c) The attending or staff physician and other personnel involved in the recipient's care must review each plan of care at least every 90 days.

§ 456.181 Reports of evaluations and plans of care.

A written report of each evaluation and plan of care must be entered in the applicant's or recipient's record—

(a) At the time of admission; or

(b) If the individual is already in the facility, immediately upon completion of the evaluation or plan.

UTILIZATION REVIEW (UR) PLAN: GENERAL REQUIREMENTS

§ 456.200 Scope.

Sections 456.201 through 456.245 of this subpart prescribe requirements for a written utilization review (UR) plan for each mental hospital providing medicaid services. Sections 456.205 and 456.206 prescribe administrative requirements; §§ 456.211 through 456.213 prescribe informational requirements; §§ 456.231 through 456.238 prescribe requirements for continued stay review; and §§ 456.241 through 456.245 prescribe requirements for medical care evaluation studies.

§ 456.201 UR plan required for inpatient mental hospital services.

(a) The State plan must provide that each mental hospital furnishing inpatient services under the plan has in effect a written UR plan that provides for review of each recipient's need for the services that the mental hospital furnishes him.

(b) Each written mental hospital UR plan must meet the requirements under §§ 456.201 through 456.245.

UR PLAN: ADMINISTRATIVE REQUIREMENTS

§ 456.205 UR committee required.

The UR plan must—

(a) Provide for a committee to perform UR required under this subpart;

(b) Describe the organization, composition, and functions of this committee; and

(c) Specify the frequency of meetings of the committee.

§ 456.206 Organization and composition of UR committee; disqualification from UR committee membership.

(a) For the purpose of this subpart, "UR committee" includes any group organized under paragraphs (b) and (c) of this section.

(b) The UR committee must be composed of two or more physicians, one of whom is knowledgeable in the diagnosis and treatment of mental diseases, and assisted by other professional personnel.

(c) The UR committee must be constituted as—

(1) A committee of the mental hospital staff;

(2) A group outside the mental hospital staff, established by the local medical or osteopathic society and at least some of the hospital and SNF's in the locality; or

(3) A group capable of performing utilization review, established and organized in a manner approved by the Secretary.

(d) The UR committee may not include any individual who—

(1) Is directly responsible for the care of patients whose care is being reviewed; or

(2) Has a financial interest in any mental hospital.

UR PLAN: INFORMATIONAL REQUIREMENTS

§ 456.211 Recipient information required for UR.

The UR plan must provide that each recipient's record includes information needed to perform UR required under this subpart. This information must include, at least, the following:

(a) Identification of the recipient.

(b) The name of the recipient's physician.

(c) Date of admission, and dates of application for and authorization of medicaid benefits if application is made after admission.

(d) The plan of care required under § 456.172.

(e) Initial and subsequent continued stay review dates described under §§ 456.233 and 456.234.

(f) Reasons and plan for continued stay, if the attending physician believes continued stay is necessary.

(g) Other supporting material that the committee believes appropriate to be included in the record.

§ 456.212 Records and reports.

The UR plan must describe—

(a) The types of records that are kept by the committee; and

(b) The type and frequency of committee reports and arrangements for their distribution to appropriate individuals.

§ 456.213 Confidentiality.

The UR plan must provide that the identities of individual recipients in all UR records and reports are kept confidential.

UR PLAN: REVIEW OF NEED FOR CONTINUED STAY

§ 456.231 Continued stay review required.

The UR plan must provide for a review of each recipient's continued stay in the mental hospital to decide whether it is needed, in accordance with the requirements of §§ 456.232 through 456.238.

§ 456.232 Evaluation criteria for continued stay.

The UR plan must provide that—

(a) The committee develops written medical care criteria to assess the need for continued stay.

(b) The committee develops more extensive written criteria for cases that its experience shows are—

(1) Associated with high costs;

(2) Associated with the frequent furnishing of excessive services; or

(3) Attended by physicians whose patterns of care are frequently found to be questionable.

§ 456.233 Initial continued stay review date.

The UR plan must provide that—

(a) When a recipient is admitted to the mental hospital under admission review requirements of this subpart, the committee assigns a specified date by which the need for his continued stay will be reviewed;

(b) If an individual applies for medicaid while in the mental hospital, the committee assigns the initial continued stay review date within 1 working day after the mental hospital is notified of the application for medicaid;

(c) The committee bases its assignment of the initial continued stay review date on—

(1) The methods and criteria required to be described under § 456.235(a);

(2) The individual's condition; and

(3) The individual's projected discharge date;

(d) (1) The committee uses any available appropriate regional medical care appraisal norms, such as those developed by abstracting services or third party payors, to assign the initial continued stay review date;

(2) These norms are based on current and statistically valid data on duration of stay in mental hospitals for patients whose characteristics, such as age and diagnosis, are similar to those of the individual whose need for continued stay is being reviewed;

(3) If the committee uses norms to assign the initial continued stay review date, the number of days between the individual's admission and the initial continued stay review date is no greater than the number of days reflected in the 50th percentile of the norms. However, the committee may assign a later review date if it documents that the later date is more appropriate;

(e) The initial continued stay review date is not in any case later than 30 days after admission of the individual or notice to the mental hospital of his application for medicaid; and

(f) The committee insures that the initial continued stay review date is recorded in the individual's record.

§ 456.234 Subsequent continued stay review dates

The UR plan must provide that—

(a) The committee assigns subsequent continued stay review dates in accordance with §§ 456.235(a) and 456.233;

(b) The committee assigns a subsequent continued stay review date at least every 90 days each time it decides under § 456.236 that the continued stay is needed; and

(c) The committee insures that each continued stay review date it assigns is recorded in the recipient's record.

§ 456.235 Description of methods and criteria: Continued stay review dates; length of stay modification.

The UR plan must describe—

(a) The methods and criteria, including norms if used, that the commitee uses to assign initial and subsequent continued stay review dates under §§ 456.233 and 456.234 of this subpart; and

(b) The methods that the committee uses to modify an approved length of stay when the recipient's condition or treatment schedule changes.

§ 456.236 Continued stay review process.

The UR plan must provide that—

(a) Review of continued stay cases is conducted by—

(1) The UR committee;

(2) A subgroup of the UR committee; or

(3) A designee of the UR committee;

(b) The committee, subgroup or designee reviews a recipient's continued stay on or before the expiration of each assigned continued stay review date;

(c) For each continued stay of a recipient in the mental hospital, the committee, subgroup or designee reviews and evaluates the documentation described under § 456.211 against the criteria developed under § 456.232 and applies close professional scrutiny to cases described under § 456.232(b).

(d) If the committee, subgroup of designee finds that a recipient's continued stay in the mental hospital is needed, the committee assigns a new continued stay review date in accordance with § 456.234;

(e) If the committee, subgroup or designee finds that a continued stay case does not meet the criteria, the committee or a subgroup that includes at least one physician reviews the case to decide the need for continue stay;

(f) If the committee or subgroup making the review under paragraph (e) of this section finds that a continued stay is not needed, it notifies the recipient's attending or staff physician and gives him an opportunity to present his views before it makes a final decision on the need for the continued stay;

(g) If the attending or staff physician does not present additional information or clarification of the need for the continued stay, the decision of the committe or subgroup is final; and

(h) If the attending of staff physician presents additional information or clarification, at least two physician members of the committee, one of whom is knowledgeable in the treatment of mental diseases, review the need for the continued stay. If they find that the recipient no longer needs inpatient mental hospital services, their decision is final.

§ 456.237 Notification of adverse decision.

The UR plan must provide that written notice of any adverse final decision on the need for continued stay under § 456.236(f) through (h) is sent to—

(a) The hospital administrator;

(b) The attending or staff physician;

(c) The medicaid agency;

(d) The recipient; and

(e) If possible, the next of kin or sponsor.

§ 456.238 Time limits for final decision and notification of adverse decision.

The UR plan must provide that—

(a) The committee makes a final decision on a recipient's need for continued stay and gives notice under § 456.237 of an adverse decision within 2 working days after the assigned continued stay review date, except as required under paragraph (b) of this section.

(b) If the committee makes an adverse final decision on a recipient's need for continued stay before the assigned review date, the committee gives notice under § 456.237 within 2 working days after the date of the final decision.

UR PLAN: MEDICAL CARE EVALUATION STUDIES

§ 456.241 Purpose and general description.

(a) The purpose of medical care evaluation studies is to promote the most effective and efficient use of available health facilities and services consistent with patient needs and profession-

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ally recognized standards of health care.

(b) Medical care evaluation studies—

(1) Emphasize identification and analysis of patterns of patient care; and

(2) Suggest appropriate changes needed to maintain consistently high quality patient care and effective and efficient use of services.

§ 456.242 UR plan requirements for medical care evaluation studies.

(a) The UR plan must describe the methods that the committee uses to select and conduct medical care evaluation studies under paragraph (b)(1) of this section.

(b) The UR plan must provide that the UR committee—

(1) Determines the methods to be used in selecting and conducting medical care evaluation studies in the mental hospital;

(2) Documents for each study—

(i) Its results; and

(ii) How the results have been used to make changes to improve the quality of care and promote more effective and efficient use of facilities and services;

(3) Analyzes its findings for each study; and

(4) Takes action as needed to—

(i) Correct or investigate further any deficiencies or problems in the review process; or

(ii) Recommend more effective and efficient hospital care procedures.

§ 456.243 Content of medical care evaluation studies.

Each medical care evaluation study must—

(a) Identify and analyze medical or administrative factors related to the mental hospital's patient care;

(b) Include analysis of at least the following:

(1) Admissions.

(2) Durations of stay.

(3) Ancillary services furnished, including drugs and biologicals.

(4) Professional services performed in the hospital; and

(c) If indicated, contain recommendations for change beneficial to patients, staff, the hospital, and the community.

§ 456.244 Data sources for studies.

Data that the committee uses to perform studies must be obtained from one or more of the following sources:

(a) Medical records or other appropriate hospital data.

(b) External organizations that compile statistics, design profiles, and produce other comparative data.

(c) Cooperative endeavors with—

(1) PSRO's;

(2) Fiscal agents;

(3) Other service providers; or

(4) Other appropriate agencies.

§ 456.245 Number of studies required to be performed.

The mental hospital must, at least, have one study in progress at any time and complete one study each calendar year.

Subpart E—Utilization Control: Skilled Nursing Facilities

§ 456.250 Scope.

(a) This subpart prescribes requirements for control of utilization of skilled nursing facility (SNF) services including requirements concerning—

(1) Certification of need for care;

(2) Medical evaluation and admission review;

(3) Plan of care;

(4) Utilization review plans; and

(5) Discharge plans.

§ 456.251 Definitions.

"Skilled nursing facility services" means those items and services defined in §§ 440.40 and 440.140 of this subchapter, but excludes those services if they are provided in Christian Science sanitoria.

"Medical care criteria" means predetermined elements against which aspects of the quality of a medical service may be compared. These criteria are developed by health professionals relying on their expertise and the professional health care literature.

Certification of Need for Care

§ 456.260 Physician certification and recertification of need for inpatient care.

(a) A physician must certify and recertify for each applicant or recipient that SNF services are or were needed.

(b) The certification must be made at the time of admission or, if an individual applies for assisance while in a SNF, before the medicaid agency authorizes payment.

(c) Recertification must be made at least every 60 days after certification.

Medical, Psychiatric, and Social Evaluation, and Admission Review

§ 456.270 Medical, psychiatric, and social evaluations.

(a) Before admission to a SNF or before authorization for payment, the attending physician must make—

(1) A medical evaluation of each applicant's or recipient's need for care in the SNF; and

(2) A plan of rehabilitation, where applicable.

(b) In a SNF that cares primarily for mental patients, appropriate professional personnel must make a psychiatric and a social evaluation of need for care.

(c) Each medical evaluation must include—

(1) Diagnoses;

(2) Summary of present medical findings;

(3) Medical history;

(4) Mental and physical functional capacity;

(5) Prognoses; and

(6) A recommendation by a physician concerning—

(i) Admission to the SNF; or

(ii) Continued care in the SNF for individuals who apply for medicaid while in the facility.

§ 456.271 Medicaid agency review of need for admission.

Medical and other professional personnel of the medicaid agency or its designees must evaluate each applicant's or recipient's need for admission by reviewing and assessing the evaluations required by § 456.270.

Plan of Care

456.280 Individual written plan or care.

(a) Before admission to a SNF or before authorization for payment, the attending physician must establish a written plan of care for each applicant or recipient in a SNF.

(b) The plan of care must include—

(1) Diagnoses, symptoms, complaints and complications indicating the need for admission;

(2) A description of the functional level of the individual;

(3) Objectives;

(4) Any orders for—

(i) Medications;

(ii) Treatments;

(iii) Restorative and rehabilitative services;

(iv) Activities;

(v) Therapies;

(vi) Social services;

(vii) Diet; and

(viii) Special procedures recommended for the health and safety of the patient;

(5) Plans for continuing care, including review and modification to the plan of care; and

(6) Plans for discharge.

(c) The attending or staff physician and other personnel involved in the recipient's care must review each plan of care at least every 60 days.

§ 456.281 Reports of evaluations and plans of care.

A written report of each evaluation and plan of care must be entered in the applicant's or recipient's record—

(a) At the time of admission; or

(b) If the individual is already in the SNF, immediately upon completion of the evaluation or plan.

Utilization Review (UR) Plan: General Requirement

§ 456.300 Scope.

Sections 456.301 through 456.345 of this subpart prescribe requirements for a written utilization review (UR) plan for each SNF providing medicaid services. Sections 456.305 and 456.306 prescribe administrative requirements; §§ 456.311 through 456.313 prescribe informational requirements; §§ 456.331 through 456.338 prescribe requirements for continued stay review; and §§ 456.341 through 456.345 prescribe requirements for medical care evaluation studies.

§ 456.301 UR plan required for skilled nursing facility services.

(a) The State plan must provide that each SNF furnishing inpatient services under the plan has in effect a written UR plan that provides for review of each recipient's need for the services that the SNF furnishes him.

(b) Each written SNF UR plan must meet the requirements under §§ 456.301 through 456.345.

UR Plan: Administrative Requirements

§ 456.305 UR committee required.

The UR plan must—

(a) Provide for a committee to perform UR required under this subpart;

(b) Describe the organization, composition, and functions of this committee; and

(c) Specify the frequency of meetings of the committee.

§ 456.306 Organization and composition of UR committee; disqualification from UR committee membership.

(a) For the purpose of this subpart, "UR committee" includes any group organized under paragraphs (b) and (c) of this section.

(b) The UR committee must be composed of two or more physicians and assisted by other professional personnel and, in a SNF that cares primarily for mental patients, include at least one physician member who is knowledgeable in the diagnosis and treatment of mental diseases.

(c) The UR committee must be constituted as—

(1) A committee of individuals with SNF staff privileges;

(2) A group outside the SNF established by the local medical or osteopathic society and at least some of the hospitals and SNFs in the locality; or

(3) A group capable of performing utilization review and established and organized in a manner approved by the Secretary.

(d) The UR committee may not include any individual who—

(1) Is directly responsible for the care of patients whose care is being reviewed;

(2) Is employed by the SNF; or

(3) Has a financial interest in any SNF.

UR Plan: Informational Requirements

§ 456.311 Recipient information required for UR.

The UR plan must provide that each recipient's record includes information needed to perform UR required under this subpart. This information must include, at least, the following:

(a) Identification of the recipient.

(b) The name of the recipient's physician.

(c) Date of admission and dates of application for and authorization of medicaid benefits if application is made after admission.

(d) The plan of care required under § 456.272.

(e) Initial and subsequent continued stay review dates described under §§ 456.333 and 456.334.

(f) Reasons and plan for continued stay if the attending physician believes continued stay is necessary.

(g) Other supporting material that the committee believes appropriate to be included in the record.

§ 456.312 Records and reports.

The UR plan must describe—

(a) The types of records that are kept by the committee; and

(b) The type and frequency of committee reports, and arrangements for their distribution to appropriate individuals.

§ 456.313 Confidentiality.

The UR plan must provide that the identities of individual recipients in all UR records and reports are kept confidential.

UR Plan: Review of Need for Continued Stay

§ 456.331 Continued stay review required.

The UR plan must provide for a review of each recipient's continued stay in the SNF to decide whether it is needed, in accordance with the requirements of §§ 456.332-456.338.

§ 456.332 Evalnation criteria for continued stay.

The UR plan must provide that—

(a) The committee develops written medical care criteria to assess the need for continued stay; and

(b) The committee develops more extensive written criteria for cases that its experience shows are—

(1) Associated with high costs;

(2) Associated with the frequent furnishing of excessive services; or

(3) Attended by physicians whose patterns of care are frequently found to be questionable.

§ 456.333 Initial continued stay review date.

The UR plan must provide that—

(a) When a recipient is admitted to the SNF under admission review requirements of this subpart, the committee assigns a specified date by which the need for his continued stay will be reviewed;

(b) If an individual applies for medicaid while in the SNF, the committee assigns the initial continued stay review date within one working day after the SNF is notified of the application for medicaid;

(c) The committee bases its assignment of the initial continued stay review date on the methods and criteria required to be described under § 456.335(a);

(d) The initial continued stay review date is either—

(1) Not later than 90 days after the date of the individual's admission or notice to the SNF of his application for medicaid, if the date is established using specific periods for diagnostic categories or categories based on functional capabilities; or

(2) Not later than 30 days after the date of the individual's admission or notice of application, if the date is established by another method; and

(e) The committee ensures that the initial continued stay review date is recorded in the individual's record.

§ 456.334 Subsequent continued stay review dates.

The UR plan must provide that—

(a) The committee assigns subsequent continued stay review dates in accordance with §§ 456.333 and 456.335(a).

(b) The committee assigns subsequent continued stay review dates each time it decides under § 456.336 that the continued stay is needed—

(1) At least every 90 days if the dates are established using specific periods for diagnostic categories based on functional capabilities; or

(2) At least every 30 days for the first 90 days and at least every 90 days thereafter if the dates are established by another method; and

(c) The committee ensures that each continued stay review date that it assigns is recorded in the recipient's record.

§ 456.335 Description of methods and criteria: Continued stay review dates; lengh of stay modification.

The UR plan must describe—

(a) The methods and criteria that the committee uses to assign initial and subsequent continued stay review dates under §§ 456.333 and 456.334; and

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(b) The methods used by the committee to modify an approved length of stay when the recipient's condition or treatment schedule changes.

§ 456.336 Continued stay review process.

The UR plan must provide that—

(a) Review of continued stay cases is conducted by—

(1) The UR committee;

(2) A subgroup of the UR committee; or

(3) A designee of the UR committee;

(b) The committee, subgroup or designee reviews a recipient's continued stay on or before the expiration of each assigned continued stay review date;

(c) For each continued stay of a recipient in the SNF, the committee, subgroup or designee reviews and evaluates the documentation described under § 456.311 against the criteria developed under § 456.332 and applies close professional scrutiny to cases described under § 456.332(b);

(d) If the committee, subgroup or designee finds that the recipient's continued stay in the SNF is needed, the committee assigns a new continued stay review date in accordance with § 456.334;

(e) If the committee, subgroup or designee finds that a continued stay does not meet the criteria, the committee or a subgroup that includes at least one physician reviews the case to decide the need for continued stay;

(f) If the committee or subgroup making the review under paragraph (e) of this section finds that a continued stay is not needed, it notifies the recipient's attending physician and gives him an opportunity to present his views before it makes a final decision on the need for the continued stay;

(g) If the attending physician does not present additional information or clarification of the need for the continued stay, the decision of the committee of subgroup is final; and

(h) If the attending physician presents additional information or clarification, at least two physician members of the committee review the need for the continued stay. In a SNF that cares primarily for mental patients, one of these two physicians must be knowledgeable in the treatment of mental diseases. If they find that the recipient no longer needs SNF services, their decision is final.

§ 456.337 Notification of adverse decision.

The UR plan must provide that written notice of any adverse final decision on the need for continued stay under § 456.336 (f) through (h) is sent to—

(a) The SNF administrator;

(b) The attending physician;

(c) The medicaid agency;

(d) The recipient; and

(e) If possible, the next of kin or sponsor.

§ 456.338 Time limits for final decision and notification of adverse decision.

The UR plan must provide that—

(a) The committee makes a final decision on a recipient's need for continued stay and gives notice under § 456.337 of an adverse decision within three working days after the assigned review date, except as required under paragraph (b) of the section.

(b) If the committee makes an adverse final decision on a recipient's need for continued stay before the assigned review date, the committee gives notice under § 456.337 within 2 working days after the date of the final decision.

UR Plan: Medical Care Evaluation Studies

§ 456.341 Purpose and general description.

(a) The purpose of medical care evaluation studies is to promote the most effective and efficient use of available health facilities and services consistent with patient needs and professionally recognized standards of health care.

(b) Medical care evaluation studies—

(1) Emphasize identification and analyses of patterns of patient care; and

(2) Suggest appropriate changes needed to maintain consistently high quality patient care and effective and efficient use of services.

§ 456.342 UR plan requirement for medical care evaluation studies.

(a) The UR plan must describe the methods that the committee uses to select and conduct medical care evaluation studies under paragraph (b)(1) of this section.

(b) The UR plan must provide that the UR committee—

(1) Determines the methods to be used in selecting and conducting medical care evaluation studies in the SNF;

(2) Documents for each study—

(i) Its results; and

(ii) How the results have been used to make changes to improve the quality of care and promote more effective and efficient use of facilities and services;

(3) Analyzes its findings for each study; and

(4) Takes action as needed to—

(i) Correct or investigate further any deficiencies or problems in the review process; or

(ii) Recommend more effective and efficient skilled nursing care procedures.

§ 456.343 Content of medical care evaluation studies.

Each medical care evaluation study must—

(a) Identify and analyze medical or administrative factors related to the SNF's patient care;

(b) Include analysis of at least the following:

(1) Admissions.

(2) Durations of stay.

(3) Ancillary services furnished, including drugs and biologicals.

(4) Professional services performed in the SNF; and

(c) If indicated, contain recommendations for change beneficial to patients, staff, the SNF and the community.

§ 456.344 Data sources for studies.

Data that the committee uses to perform studies must be obtained from one or more of the following sources:

(a) Medical records or other appropriate data.

(b) External organizations that compile statistics, design profiles, and produce other comparative data.

(c) Cooperative endeavors with—

(1) PSRO's;

(2) Fiscal agents;

(3) Other providers of services; or

(4) Other appropriate agencies.

§ 456.345 Number of studies required to be performed.

The SNF must, at least, have one study in progress at any time and complete one study each calendar year.

Discharge Plan

§ 456.346 Discharge plan.

(a) The UR committee must review each recipient's discharge plan.

(b) Each discharge plan must insure that the recipient has a planned program of post-discharge continuing care that takes his needs into account.

§ 456.347 Discharge planning procedures.

Each SNF must maintain discharge planning procedures that describe the following:

(a) The staff member of the SNF or the health, social, or welfare agency responsible for discharge planning.

(b) The authority of the member or agency, and the methods used in discharge planning, including the relationship with the SNF's staff.

(c) The time allowed for determining each recipient's need for discharge planning. The period must not be longer than 7 days after the day of admission.

(d) The period after which each recipient's discharge plan will be reevaluated.

(e) The local resources available to the SNF, the recipient, and the attending physician to assist in developing and implementing discharge plans.

(f) The provisions for periodic review and reevaluation of the SNF's discharge planning program.

§ 456.348 Information about discharged recipients.

(a) When a recipient is discharged, the SNF must provide information that will insure the optimal continuity of care, such as—

(1) Current information relative to diagnoses;

(2) Prior treatment;

(3) Rehabilitation potential;

(4) Physician advice concerning immediate care; and

(5) Pertinent social information.

(b) This information must be provided to those persons who are responsible for the recipient's post-discharge care.

Subpart F—Utilization Control: Intermediate Care Facilities

§ 456.350 Scope.

This subpart prescribes requirements for control of utilization of intermediate care facility (ICF) services including requirements concerning—

(a) Certification of need for care;

(b) Medical evaluation and admission review;

(c) Plan of care; and

(d) Utilization review plans.

§ 456.351 Definition.

As used in this subpart:

"Intermediate care facility services" means those items and services furnished in an intermediate care facility as defined in §§ 440.140 and 440.150 of this subchapter, but excludes those services if they are provided in Christian Science sanitoria.

Certification of Need for Care

§ 456.360 Physician certification and recertification of need for inpatient care.

(a) A physician must certify and recertify for each applicant or recipient that ICF services are or were needed.

(b) The certification must be made at the time of admission or, if an individual applies for assistance while in an ICF, before the medicaid agency authorizes payment.

(c) Recertifications must be made at least every 60 days after certification.

Medical, Psychological, and Social Evaluations and Admission Review

§ 456.370 Medical, psychological, and social evaluations.

(a) Before admission to an ICF or before authorization for payment, an interdisciplinary team of health professionals must make a comprehensive medical and social evaluation and, where appropriate, a psychological evaluation of each applicant's or recipient's need for care in the ICF.

(b) In an institution for the mentally retarded or persons with related conditions, the team must also make a psychological evaluation of need for care. The psychological evaluation must be made before admission or authorization of payment, but not more than three months before admission.

(c) Each evaluation must include—

(1) Diagnoses;

(2) Summary of present medical, social, and where appropriate, developmental findings;

(3) Medical and social family history;

(4) Mental and physical functional capacity;

(5) Prognoses;

(6) Kinds of services needed;

(7) Evaluation by an agency worker of the resources available in the home, family and community; and

(8) A recommendation concerning—

(i) Admission to the ICF; or

(ii) Continued care in the ICF for individuals who apply for medicaid while in the ICF.

§ 456.371 Exploration of alternative services.

If the comprehensive evaluation recommends ICF services for an applicant or recipient whose needs could be met by alternative services that are currently unavailable, the facility must enter this fact in the recipient's record and begin to look for alternative services.

§ 456.372 Medicaid agency review of need for admission.

Medical and other professional personnel of the medicaid agency or its designees must evaluate each applicant's or recipient's need for admission by reviewing and assessing the evaluations required by § 456.370.

Plan of Care

§ 456.380 Individual written plan of care.

(a) Before admission to an ICF or before authorization for payment, a physician must establish a written plan of care for each applicant or recipient.

(b) The plan of care must include—

(1) Diagnoses, symptoms, complaints, and complications indicating the need for admission;

(2) A description of the functional level of the individual;

(3) Objectives;

(4) Any orders for—

(i) Medications;

(ii) Treatments;

(iii) Restorative and rehabilitative services;

(iv) Activities;

(v) Therapies;

(vi) Social services;

(vii) Diet; and

(viii) Special procedures designed to meet the objectives of the plan of care;

(5) Plans for continuing care, including review and modification of the plan of care; and

(6) Plans for discharge.

(c) The team must review each plan of care at least every 90 days.

§ 456.381 Reports of evaluations and plans of care.

A written report of each evaluation and plan of care must be entered in the applicant's or recipient's record—

(a) At the time of admission; or

(b) If the individual is already in the ICF, immediately upon completion of the evaluation or plan.

Utilization Review (UR) Plan: General Requirement

§ 456.400 Scope.

Sections 456.401 through 456.438 of this subpart prescribe requirements for a written utilitzation review (UR) plan for each ICF providing medicaid services. Sections 456.405 through 456.407 prescribe administrative requirements; §§ 456.411 through 456.413 prescribe informational requirements; and §§ 456.431 through 456.438 prescribe requirements for continued stay review.

§ 456.401 State plan UR requirements and options; UR plan required for intermediate care facility services.

(a) The State plan must provide that—

(1) UR is performed for each ICF that furnishes inpatient services under the plan;

(2) Each ICF has on file a written UR plan that provides for review of each recipient's need for the services that the ICF furnishes him; and

(3) Each written ICF UR plan meets requirements under §§ 456.401 through 456.438.

(b) The State plan must specify the method used to perform UR, which may be—

(1) Review conducted by the facility;

(2) Direct review in the facility by individuals—

(i) Employed by the medical assistance unit of the Medicaid agency; or

(ii) Under contract to the medicaid agency; or

(3) Any other method.

UR Plan: Administrative Requirements

§ 456.405 Description of UR review function: How and when.

The UR plan must include a written description of—

(a) How UR is performed in the ICF; and

(b) When UR is performed.

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§ 456.406 Description of UR review function: Who performs UR; disqualification from performing UR.

(a) The UR plan must include a written description of who performs UR in the ICF.

(b) UR must be performed using a method specified under § 456.401(b) by a group of professional personnel that includes—

(1) At least one physician;

(2) In an ICF that cares primarily for mental patients, at least one individual knowledgeable in the treatment of mental diseases; and

(3) In an institution for the mentally retarded, a least one individual knowledgeable in the treatment of mental retardation.

(c) The group performing UR may not include any individual who—

(1) Is directly responsible for the care of the recipient whose care is being reviewed;

(2) Is employed by the ICF; or

(3) Has a financial interest in any ICF.

§ 456.407 UR responsibilties of administrative staff.

The UR plan must describe—

(a) The UR support responsibilities of the ICF's administrative staff; and

(b) Procedures used by the staff for taking needed corrective action.

UR PLAN: INFORMATIONAL REQUIREMENTS

§ 456.411 Receipient information required for UR.

The UR plan must provide that each recipient's record include information needed to perform UR required under this subpart. This information must include, at least, the following:

(a) Identification of the recipient.

(b) The name of the recipient's physician.

(c) The name of the qualified mental retardation professional (as defined under § 442.461 of this subchapter), if applicable.

(d) Date of admission, and dates of application for and authorization of medicaid benefits if application is made after admission.

(e) The plan of care required under § 456.372;

(f) Initial and subsequent continued stay review dates described under §§ 456.433 and 456.434.

(g) Reasons and plan for continued stay, if the attending physician or qualified mental retardation professional believes continued stay is necessary.

(h) Other supporting material that the UR group believes appropriate to be included in the record.

§ 456.412 Records and reports.

The UR plan must describe—

(a) The types of records that are kept by the group performing UR; and

(b) The type and frequency of reports made by the UR group, and arrangements for distribution of the reports to appropriate individuals.

§ 456.413 Confidentiality.

The UR plan must provide that the identities of individual recipients in all UR records and reports are kept confidential.

UR PLAN: REVIEW OF NEED FOR CONTINUED STAY

§ 456.431 Continued stay review required.

(a) The UR plan must provide for a review of each recipients continued stay in the ICF at least every 6 months to decide whether it is needed.

(b) The UR plan requirement for continued stay review may be met by—

(1) Reviews that are performed in accordance with the requirements of §§ 456.432 through 456.437; or

(2) Reviews that meet on-site inspection requirements under Subpart I if—

(i) The composition of the independent professional review team under Subpart I meets the requirements of § 456.406; and

(ii) Reviews are conducted as frequently as required under §§ 456.333 and 456.334.

§ 456.432 Evaluation criteria for continued stay.

The UR plan must provide that—

(a) The group performing UR develops written criteria to assess the need for continued stay.

(b) The group develops more extensive written criteria for cases that its experience shows are—

(1) Associated with high costs;

(2) Associated with the frequent furnishing of excessive services; or

(3) Attended by physicians whose patterns of care are frequently found to be questionable.

§ 456.433 Initial continued stay review date.

The UR plan must provide that—

(a) When a recipient is admitted to the ICF under admission review requirements of this subpart, the group performing UR assigns a specified date by which the need for his continued stay will be reviewed;

(b) The group performing UR bases its assignment of the initial continued stay review date on the methods and critieria required to be described under § 456.435(a);

(c) The initial continued stay review date is—

(1) Not later than 6 months after admission; or

(2) Earlier than 6 months after admission, if indicated at the time of admission; and

(d) The group performing UR insures that the initial continued stay review date is recorded in the recipient's record.

§ 456.434 Subsequent continued stay review dates.

The UR plan must provide that—

(a) The group performing UR assigns subsequent continued stay review dates in accordance with § 456.435.

(b) The group assigns a subsequent continued stay review date each time it decides under § 456.436 that the continued stay is needed—

(1) At least every 6 months; or

(2) More frequently than every six months if indicated at the time of continued stay review; and

(c) The group insures that each continued stay review date it assigns is recorded in the recipient's record.

§ 456.435 Description of methods and criteria: Continued stay review dates.

The UR plan must describe the methods and criteria that the group performing UR uses to assign initial and subsequent continued stay review dates under §§ 456.433 and 456.434.

§ 456.436 Continued stay review process.

The UR plan must provide that—

(a) Review of continued stay cases is conducted by—

(1) The group performing UR; or

(2) A designee of the UR group;

(b) The group or its designee reviews a recipient's continued stay on or before the expiration of each assigned continued stay review date.

(c) For each continued stay of a recipient in the ICF, the group or its designee reviews and evaluates the documentation described under § 456.411 against the criteria developed under § 456.432 and applies close professional scrutiny to cases described under § 456.432(b);

(d) If the group or its designee finds that a recipient's continued stay in the ICF is needed, the group assigns a new continued stay review date in accordance with § 456.434;

(e) If the group or its designee finds that a continued stay case does not meet the criteria, the group or a subgroup that includes at least one physician reviews the case to decide the need for continued stay;

(f) If the group or subgroup making the review under paragraph (e) of this section finds that a continued stay is not needed, it notifies he recipient's attending physician or, in institutions for the mentally retarded, the recipient's qualified mental retardation professional, within 1 working day of its decision, and gives him 2 working days from the notification date to present his views before it makes a final decision on the need for the continued stay;

(g) If the attending physician or qualified mental retardation professional does not present additional information or clarification of the need for the continued stay, the decision of the UR group is final;

(h) If the attending physician or qualified mental retardation professional presents additional information or clarification, the need for continued stay is reviewed by—

(1) The physician member(s) of the UR group, in cases involving a medical determination; or

(2) The UR group, in cases not involving a medical determination; and

(i) If the individuals performing the review under paragraph (h) of this section find that the recipient no longer needs ICF services, their decision is final.

§ 456.437 Notification of adverse decision.

The UR plan must provide that written notice of any adverse final decision on the need for continued stay under § 456.436 (g) through (i) is sent to—

(a) The ICF administrator;

(b) The attending physician;

(c) The qualified mental retardation professional, if applicable;

(d) The medicaid agency;

(e) The recipient; and

(f) If possible, the next of kin or sponsor.

§ 456.438 Time limits for notification of adverse decision.

The UR plan must provide that the group gives notice under § 456.437 of an adverse decision not later than 2 days after the date of the final decision.

Subpart G—Inpatient Psychiatric Services for Individuals Under Age 21: Admission and Plan of Care Requirements

§ 456.480 Scope.

This subpart concerns admission and plan of care requirements that apply to inpatient psychiatric services for individuals under age 21 in hospitals, mental hospitals, skilled nursing facilities, and intermediate care facilities.

§ 456.481 Admission certification and plan of care.

If a facility provides inpatient psychiatric services to a recipient under age 21—

(a) The admission certification by the review team required in § 441.152 satisfies the requirement for physician certification of need for care in §§ 456.60, 456.160, 456.260, and 456.360; and

(b) The development and review of the plan of care required in § 441.154 satisfies the requirement for physician recertification of need for care in the sections cited in paragraph (a) and the requirement for establishment and periodic review of the plan of care in §§ 456.80, 456.180, 456.280, and 456.380.

(c) The plan of care must be established by the team described in § 441.156.

§ 456.482 Medical, psychiatric, and social evaluations.

If a facility provides inpatient psychiatric services to a recipient under age 21, the medical, psychiatric, and social evaluations required by §§ 456.170, 456.270, and 456.370 must be made by the team described in § 441.153.

Subpart H—Utilization Review Plans: FFP, Waivers, and Variances for Hospitals, Mental Hospitals, and Skilled Nursing Facilities

§ 456.500 Purpose.

For hospitals, mental hospitals and SNF's, this subpart—

(a) Prescribes conditions for the availability of FFP relating to UR plans;

(b) Prescribes conditions for granting a waiver of UR plan requirements; and

(c) Prescribes conditions for granting a variance in UR plan requirements for remote facilities.

§ 456.501 UR plans as a condition for FFP.

(a) Except when waived under §§ 456.505 through 456.508, FFP is not available in expenditures for medicaid services furnished by a hospital, mental hospital, or SNF unless the facility has in effect a UR plan that meets the utilization review requirements for medicare under sec. 1861(k) of the act.

(b) A facility that participates in medicare and medicaid must use the same UR standards and procedures and review committee for medicaid as it uses for medicare.

(c) A facility that does not participate in medicare must meet the UR plan requirements in subpart C, D, or E of this part, which are equivalent to the medicare UR plan requirements in §§ 405.1035, 405.1036, and 405.1137 of this chapter.

UR PLAN: WAIVER OF REQUIREMENTS

§ 456.505 Applicability of waiver.

The Administrator may waive the UR plan requirements of subparts C, D, or E of this part, except for provisions relating to disqualification of UR committee members under § 456.106 of subpart C, § 456.206 of subpart D, and § 456.306 of subpart E, if the medicaid agency—

(a) Applies for a waiver; and

(b) Demonstrates to the Administrator's satisfaction that it has in operation specific UR procedures that are superior in their effectiveness to the UR plan requirements under subparts C, D, or E.

§ 456.506 Waiver options for medicaid agency.

(a) The agency may apply for a waiver at any time it has the procedures referred to under § 456.505(b) in operation at least—

(1) On a demonstration basis; or

(2) In any part of the State.

(b) Any hospital, mental hospital, or SNF participating under the plan that is not covered by a waiver must continue to meet all the UR plan requirements under subpart C, D, or E of this part.

§ 456.507 Review and granting of waiver requests.

(a) When the agency applies for a waiver, the Administrator will assess the agency's UR procedures and grant the waiver if he determines that the procedures meet criteria he establishes.

(b) The Administrator will review and evaluate each waiver between 1 and 2 years after he has granted it and between 1 and 2 years periodically thereafter.

§ 456.508 Withdrawal of waiver.

(a) The Administrator will withdraw a waiver if he determines that State procedures are no longer superior in their effectiveness to the procedures required for UR plans under subparts C, D, or E.

(b) If a waiver is withdrawn by the Administrator, each hospital, mental hospital, or SNF covered by the waiver must meet all the UR plan requirements under subparts C, D, or E of this part.

UR PLAN: REMOTE FACILITY VARIANCES FROM TIME REQUIREMENTS

§ 456.520 Definitions.

As used in §§ 456.521 through 456.525 of this subpart:

"Available physician or other professional personnel" means an individual who—

(a) Is professionally qualified;

(b) Is not precluded from participating in UR under § 456.107 of subpart C; § 456.207 of subpart D; or § 456.307 of subpart E; and

(c) Is not precluded from effective participation in UR because he requires more than approximately 1 hour to travel between the remote facility and his place of work.

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"Remote facility" means a facility located in an area that does not have enough available physicians or other professional personnel to perform UR as required under subparts C, D, or E of this part, and for which the State requests a variance.

"Variance" means permission granted by the Administrator to the medicaid agency for a specific remote facility to use time periods different from those specified for the start and completion of reviews of all cases under the following sections: Sections 456.125, 456.128, 456.136, and 456.137 of subpart C; § 456.238 of subpart D; and §§ 456.333, 456.334, and 456.336 of subpart E.

§ 456.521 Conditions for granting variance requests.

(a) Except as described under paragraph (b) of this section, the administrator may grant a variance for a specific remote facility if the agency submits concurrently—

(1) A request for the variance that documents to his satisfaction that the facility is unable to meet the time requirements for which the variance is requested; and

(2) A revised UR plan for the facility.

(b) The Administrator will not grant a variance if the remote facility is operating under a UR plan waiver that the Secretary has granted or is considering under §§ 456.505 through 456.508.

§ 456.522 Content of request for variance.

The agency's request for a variance must include—

(a) The name, location, and type of the remote facility;

(b) The number of total patient admissions and the average daily patient census at the facility in the 6 months preceding the request;

(c) The number of medicare and medicaid patient admissions and the average daily medicare and medicaid patient census at the facility in the 6 months preceding the request;

(d) The name and location of each hospital, mental hospital, SNF, and ICF located within a 50-mile radius of the facility;

(e) The distance and average travel time between the remote facility and each facility listed in paragraph (c) of this section;

(f) Documentation by the facility of its attempts to obtain the services of available physicians or other professional personnel, or both;

(g) The names of all physicians on the active staff, and the names of all other professional personnel on the staff whose availability is relevant to the request;

(h) The practice locations of available physicians and the estimated number of available professional personnel whose availability is relevant to the request;

(i) Documentation by the facility of its inability to perform UR within the time requirements for which the variance is requested and its good faith efforts to comply with the UR plan requirements of subparts C, D, or E of this part;

(j) An assurance by the facility that it will continue its good faith efforts to meet the UR plan requirements of subpart C, D, or E of this part; and

(k) A statement of whether a planning or conditional PSRO exists in the area where the facility is located.

§ 456.523 Revised UR plan.

(a) The revised UR plan for the remote facility must specify the methods and procedures that the facility will use if a variance is granted to insure that it—

(1) Maintains effective and timely control over the utilization of services; and

(2) Conducts reviews in a way that improves the quality of care provided to patients.

(b) The revised UR plan for the remote facility is the basis for validation of UR under sec. 1903(g)(2) of the Act for the period when a variance is in effect.

§ 456.524 Notification of Administrator's action and duration of variance.

(a) The Administrator—

(1) Will notify the agency of the action he takes on its request for a variance; and

(2) Will specify the period of time, not to exceed 1 year, for which the variance may be granted.

(b) When it receives the Administrator's notification, the agency must promptly notify the remote facility of his action.

§ 456.525 Request for renewal of variance.

(a) The agency must submit a request for renewal of a variance to the Administrator at least 30 days before the variance expires.

(b) The renewal request must contain the information required under § 456.522.

(c) The renewal request must show, to the Administrator's satisfaction, that the remote facility continues to meet the requirements of §§ 456.521 through 456.523.

Subpart I—Inspections of Care in Skilled Nursing and Intermediate Care Facilities and Institutions for Mental Diseases

§ 456.600 Purpose.

This subpart prescribes requirements for periodic inspections of care and services in skilled nursing facilities (SNF's), intermediate care facilities (ICF's), and institutions for mental diseases (IMD's).

§ 456.601 Definitions.

For purposes of this subpart—

"Facility" means a skilled nursing facility, an institution for mental diseases, or an intermediate care facility.

"Intermediate care facility" includes institutions for the mentally retarded or persons with related conditions but excludes Christian Science sanatoria operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass.

"Institution for mental diseases" includes a mental hospital, a psychiatric facility, and a skilled nursing or intermediate care facility that primarily cares for mental patients.

"Psychiatric facility" includes a psychiatric program as defined in subpart D of Part 441.

§ 456.602 Inspection team.

(a) A team, as described in this section and § 456.603 must periodically inspect the care and services provided to recipients in each facility.

(b) Each team conducting periodic inspections must have a least one member who is at physician or registered nurse and other appropriate health and social service personnel.

(c) For an IMD other than an ICF, each team must have a psychiatrist or physician knowledgeable about mental institutions and other appropriate mental health and social service personnel.

(d) For an ICF that primarily cares for mental patients, each team must have at least one member who knows the problems and needs of mentally retarded individuals.

(e) For an institution for the mentally retarded or persons with related conditions, each team must have at least one member who knows the problems and needs of mentally retarded individuals.

(f) For ICFs primarily serving individuals 65 years of age or older, each team must have at least one member who knows the problems and needs of those individuals.

(g) If there is no physician on the team, the medicaid agency must insure that a physician is available to provide consultation to the team.

(h) If a team has one or more physicians, it must be supervised by a physician.

§ 456.603 Financial interests and employment of team members.

(a) Except as provided in paragraph (b) of this section—

(1) No member of a team that reviews care in a SNF may have a financial interest in or be employed by any SNF; and

(2) No member of a team that reviews care in an ICF may have a financial interest in or be employed by any ICF.

(b) A member of a team that reviews care in an IMD or an institution for the mentaly retarded or persons with related conditions—

(1) May not have a financial interest in any institution of that same type but may have a financial interest in other facilities or institutions; and

(2) May not review care in an institution where he is employed but may review care in any other facility or institution.

§ 456.604 Physician team member inspecting care of recipients.

No physician member of a team may inspect the care of a recipient for whom he is the attending physician.

§ 456.605 Number and location of teams.

There must be a sufficient number of teams so located within the State that onsite inspections can be made at appropriate intervals in each facility caring for recipients.

§ 456.606 Frequency of inspections.

The team and the agency must determine, based on the quality of care and services being provided in a facility and the condition of recipients in the facility, at what intervals inspections will be made. However, the team must inspect the care and services provided to each recipient in the facility at least annually.

§ 456.607 Notification before inspection.

No facility may be notified of the time of inspection more than 48 hours before the scheduled arrival of the team.

§ 456.608 Personal contact with and observation of recipients and review of records.

(a) For recipients under age 21 in psychiatric facilities and recipients in SNFs and ICFs, other than those described in paragraph (b) of this section, the team's inspection must include—

(1) Personal contact with and observation of each recipient; and

(2) Review of each recipient's medical record.

(b) For recipients age 65 or older in IMDs, the team's inspection must include—

(1) Review of each recipient's medical record; and

(2) If the record does not contain complete reports of periodic assessments required by 45 CFR 208.1(a)(2) or if such reports are inadequate, personal contact with and observation of each recipient.

§ 456.609 Determinations by team.

The team must determine in its inspection whether—

(a) The services available in the facility are adequate to—

(1) Meet the health needs of each recipient, and the rehabilitative and social needs of each recipient in an ICF; and

(2) Promote his maximum physical, mental, and psychosocial functioning.

(b) It is necessary and desirable for the recipient to remain in the facility;

(c) It is feasible to meet the recipient's health needs and, in an ICF, the recipient's rehabilitative needs, through alternative institutional or noninstitutional services; and

(d) Each recipient under age 21 in a psychiatric facility and each recipient in an institution for the mentally retarded or persons with related conditions is receiving active treatment as defined in § 441.154 of this subchapter.

§ 456.610 Basis for determinations.

In making the determinations on adequacy of services and related matters under § 456.609 for each recipient, the team may consider such items as whether—

(a) The medical evaluation, any required social and psychological evaluations, and the plan of care are complete and current; the plan of care and, where required, the plan of rehabilitation are followed; and all ordered services, including dietary orders, are provided and properly recorded;

(b) The attending physician reviews prescribed medications—

(1) At least every 30 days in SNFs, psychiatric facilities, and mental hospitals; and

(2) At least quarterly in ICFs;

(c) Tests or observations of each recipient indicated by his medication regimen are made at appropriate times and properly recorded;

(d) Physician, nurse, and other professional progress notes are made as required and appear to be consistent with the observed condition of the recipient;

(e) The recipient receives adequate services, based on such observations as—

(1) Cleanliness;

(2) Absence of bedsores;

(3) Absence of signs of malnutrition or dehydration; and

(4) Apparent maintenance of maximum physical, mental, and psychosocial funtion;

(f) In an ICF, the recipient receives adequate rehabilitative services, as evidenced by—

(1) A planned program of activities to prevent regression; and

(2) Progress toward meeting objectives of the plan of care;

(g) The recipient needs any service that is not furnished by the facility or through arrangements with others; and

(h) The recipient needs continued placement in the facility or there is an appropriate plan to transfer the recipient to an alternate method of care.

§ 456.611 Reports on inspections.

(a) The team must submit a report promptly to the agency on each inspection.

(b) The report must contain the observations, conclusions, and recommendations of the team concerning—

(1) The adequacy, appropriateness, and quality of all services provided in the facility or through other arrangements, including physician services to recipients; and

(2) Specific findings about individual recipients in the facility.

§ 456.612 Copies of reports.

The agency must send a copy of each inspection report to—

(a) The facility inspected;

(b) The facility's utilization review committee;

(c) The agency responsible for licensing, certification, or approval of the facility for purposes of medicare and medicaid; and

(d) Other State agencies that use the information in the reports to perform their official function, including, if inspection reports concern IMD's, the appropriate State mental health authorities.

§ 456.613 Action on reports.

The agency must take corrective action as needed based on the report and recommendations of the team submitted under this subpart.

§ 456.614 Inspections by utilization review committee.

A utilization review committee under subparts C through F of this part may conduct the periodic inspections required by this subpart if—

(a) The committee is not based in the facility being reviewed; and

(b) The composition of the committee meets the requirements of this subpart.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: August 22, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health, Care Financing Administration.

Approved: September 24, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 27281 Filed 9-28-78; 8:45 am]

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federal register

FRIDAY, SEPTEMBER 29, 1978
PART VI



DEPARTMENT OF COMMERCE

DEPARTMENT OF TRANSPORTATION

■

FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Implementation of Executive Orders 11988 and 11990

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[3510-17]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Administrative Order 216-11; Transmittal 308]

FLOODPLAIN AND WETLANDS EXECUTIVE ORDERS

Availability for Public Comment on Department of Commerce Procedures for Implementation

AGENCY: U.S. Department of Commerce.

ACTION: Notice of availability for public comment on departmentwide procedures for implementation of the floodplain and wetlands Executive orders.

SUMMARY: The Department of Commerce is making available for public review and comment the procedures (U.S. Department of Commerce Administrative Order No. 216-11) it will use to implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. Both orders required all Federal agencies to review their activities, procedures, and rules and regulations. The Department of Commerce procedures for these orders provide that the heads of organization units with programs that may produce impacts on floodplains or wetlands shall issue specific procedures for complying with the Executive orders.

DATE: Comments must be received on or before October 30, 1978.

ADDRESS: All comments should be sent to Executive Secretariat, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Dr. Sidney R. Galler, Office of Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-4335.

SUPPLEMENTARY INFORMATION:

Executive Order 11988, Floodplain Management, affirmed that it is the policy to protect and enhance the natural and beneficial values of floodplains and to actively discourage noncompatible development. The Executive Order 11990, for protection of wetlands, recognized that our remaining wetlands are a valuable national resource. All Federal agencies are to do everything possible to avoid direct or indirect support on new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030, Feb. 10, 1978) provide the basic implementation guidelines. The Commerce procedures incorporate the Water Resources Council's guidelines and insure that all Department of Commerce actions further the intent and purpose of both Presidential Executive orders.

Subject: Floodplain Management and Protection of Wetlands. This order is effective September 11, 1978.

SECTION 1. PURPOSE

The purpose of this order is to prescribe the Department of Commerce policies and procedures for implementing Executive Orders 11988 and 11990.

SECTION 2. SCOPE

On May 24, 1977, the President issued Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands). These Orders direct Federal agencies to avoid, to the extent possible, all actions associated with the modification or destruction of floodplains and wetlands, or that may increase the risk of loss of life and property resulting from flood and storm damage.

SECTION 3. DEFINITIONS

.01 *Flood or flooding* is a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

.02 *Floodplains.* Floodplains are lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subjet to a one percent or greater chance of flooding in any given year. The term floodplain shall be taken to mean the *base floodplain* unless the action is a critical action, in which case the *critical action floodplain* is a minimum floodplain of concern.

a. *Base floodplain* (or 100-year floodplain)—the area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average (1.0 percent chance flood).

b. *Critical action floodplain* (or 500-year floodplain)—the area subject to unundation from a flood of a magnitude that occurs once every 500 years on the average (0.2 percent chance flood).

.03 *Wetlands.* Wetlands are those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Examples of wetlands include swamps, fresh and salt water marshes, beaches, bogs, sloughs, potholes, wet meadows, mud flats, river overflows, natural ponds, as well as areas separated from their natural supply of water through man-made alterations such as dikes, berms, floodwalls, and levees.

.04 *Organization unit.* As used in this order, organization unit(s) means all Departmental offices and operating units of the Department of Commerce with program responsibilities subject to the floodplain and wetland Executive Orders.

.05 *Action.* An action is any Department activity including:

(a) acquiring, managing, and disposing of Federal lands and facilities;

(b) providing financial assistance including, but not limited to, grants, loans, contracts, subsidies, and guarantees or amendments to such forms of assistance for the acquisition of land and the construction of facilities and improvements; and

(c) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities.

.06 *Critical action.* A critical action is an action which, if located in a floodplain, poses a greater than normal risk for flood-caused loss of life or property. The minimum floodplain of concern for critical actions is the 500-year floodplain. Critical actions include, but are not limited to, actions which create facilities or extend the useful life of facilities:

(a) which produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;

(b) such as schools, hospitals, and nursing homes, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury should flooding occur; and

(c) such as emergency operation centers, essential public utilities, and data storage centers, which contain records or services that may become lost or inoperative should flooding occur.

.07 *Related activities.* Related activities are those undertakings that are interdependent parts of an action. They either make possible or support an action, or are themselves induced or supported by an action or related activities. Related activities may or may not be federally permitted or assisted.

.08 *Impacts.* Impacts are changes in flood plain or wetland values and functions. Impacts may occur as either direct or indirect results of an action. Impacts are a direct result of an action whenever the action causes a change in floodplain or wetland values and functions. Impacts are an indirect result of an action whenever an action induces or makes possible related activities which affect the natural values and functions of floodplains or wetlands.

.09 *Alternatives.* Alternatives are those actions, in addition to the proposed action, with similar benefits and which eliminate or minimize impacts on a floodplain or wetland.

.10 *Minimize.* Minimize means to reduce to the smallest amount or degree practicable.

.11 *Mitigation measures.* Mitigation measures are measures to minimize the impacts of the proposed action on a floodplain or wetland, including measures to preserve and, wherever practicable, restore natural values and functions. Examples of mitigation measures include, but are not limited to:

(a) floodplain or wetland habitat restoration;

(b) collecting and treating runoff resulting from an action prior to its discharge into a floodplain or a wetland;

(c) establishing a vegetative buffer zone between the site of a proposed action and adjacent floodplains or wetlands; or

(d) improving habitat values and functions through management.

.12 *Practicable.* Practicable is defined as an action capable of being performed within

existing constraints. This test depends upon the particular situation and the constraints imposed by environmental, economic, legal, and technological considerations. However, the test is *not* limited by the temporary unavailability of sufficient financial resources to implement either an alternative to a proposed action or a mitigation measure necessary to minimize impact. Thus, alternatives or mitigation measures shall not be rejected as "impracticable" solely on the basis of an increase in cost.

SECTION 4. POLICY

.01 The head of each organization unit shall insure that all of its activities related to this order are conducted in accordance with Executive Orders 11988 and 11990 and the Water Resources Council's "Floodplain Management Guidelines" (43 FR 6030). The heads of organization units with programs that may produce impacts on floodplains or wetlands shall issue specific procedures for complying with the Executive Orders. It shall be the responsibility of the heads of all organization units to devise mechanisms and to inform all prospective participants in their programs of the intent of Executive Orders 11988 and 11990 and the Department's policy as stated in this order.

.02 No organization unit shall participate in any action that would impact a floodplain or wetland until that organization unit determines that no practicable alternative exists to the action. In this case, the no action alternative shall be considered. Where a determination is made that no practicable alternative exists to impacting a floodplain or wetland and the no action alternative is unacceptable, the organization unit shall ensure that the action choses is the alternative which minimizes those impacts, *and* that all practicable mitigation measures are incorporated into the action which:

(a) minimize the risks of loss of life and property due to flood and storm damage; and

(b) minimize the adverse impacts on floodplain and wetland values and functions.

.03 Whenever an action requires locating in a floodplain or wetland area, each organization unit shall require locating the action, if practicable, within the floodplain and not within the wetland.

.04 The following proposed actions that impact wetlands not located within the floodplain are exempt from these procedures:

a. Federally assisted or permitted actions under construction prior to the effective date of this order; or

b. Federal actions for which a draft or final Environmental Impact Statement (EIS) was filed prior to October 1, 1977.

.05 Each organization unit, in carrying out this policy, shall insure that its actions are consistent with State coastal zone management programs as approved by the Secretary under the Coastal Zone Management Act of 1972 as amended (16 U.S.C. 1451 *et seq.*). Each organization unit shall also insure that its actions are in compliance with Section 10 of the Rivers and Harbors Act of 1899 and with Section 404 of the Clean Water Act of 1977 which require Department of the Army permits for construction and disposal of dredged material in waters of the United States, including adjacent wetlands (33 CFR 320-340).

SECTION 5. PROCEDURES.

.01 Organization Unit Responsibilities.

(a) The Deputy Assistant Secretary for Environmental Affairs shall serve as the focal point in the Department for implementing the requirements of this order.

(b) Each organization unit in implementing DAO 216-6 shall in addition determine whether the action under consideration is located in or would otherwise impact a floodplain or wetland. The determination shall be made in accordance with the Water Resources Council's "Guidance for Determining a Floodplain Location," (Vol. 42 FR 52590-52599; September 30, 2977).

(c) If a determination is made that a floodplain or wetland is impacted, each organization unit shall:

1. Determine if there is a practicable alternative which would avoid such impact. If no such alternative exists, determine if there is a practicable alternative which minimizes the impact on floodplains and wetlands; and

2. Identify and analyze resulting impacts including impacts on public health, safety and welfare; and floodplain and wetland natural values and functions.

.02 Public Notification Requirements.

(a) If it is determined that a proposed action would impact a floodplain or wetland, each organization unit shall insure that a notice of the proposed action is published in the newspaper of greatest circulation in the vicinity of the proposed action. The notice shall appear for at least three consecutive days and shall include a physical description of the location and surrounding area and the nature and extent of the proposed action. Attempts should also be made to inform the community, by publication or other means, in the area where the impact of the proposed action will occur. The organization unit shall allow at least 30 days from the publication date of the last required notice for receipt of public comments.

(b) The organization unit shall arrange for a public meeting to discuss the action where the organization unit determines that a public meeting will serve the public interest. The organization unit shall insure that at least two notices of such public meeting are published in the newspaper having the greatest circulation in the vicinity of the proposed action. Wherever possible, the community in the action's area of impact shall also be informed. The first of the required notices shall be published 15 to 20 days before the meeting date, and the second notice 2 to 4 days before the meeting date. Such notice shall include the location, date, and time of the meeting, a description of the proposed action's location and the surrounding area, and a brief description of the proposed action. In addition, copies of the notices shall be mailed to appropriate local, State and Federal agencies, public interest groups, news media, and any other agencies, groups, or individuals who have an interest in the action. If a public meeting is held conerning a proposal which requires an EIS, the meeting shall not be held until at least 15 days have elapsed from the date of publication of the draft EIS. The organization unit shall insure that a written transcript of the meeting is prepared.

(c) Each organization unit shall coordinate publication activities under this order with the Office of Public Affairs.

(d) In coorinating organization unit procedures under this order and DAO 216-6, each organization unit may establish additional public notification and consultative procedures, as appropriate, or as required by other authorities.

.03 Final Notice and Findings.

Upon determination of the practicable alternative and mitigation measures, the organization unit shall insure the publication of a final notice of the proposed action. The notice shall be published in the newspaper of greatest circulation in the vicinity of the proposed action for at least 3 consecutive days, and shall include a physical description of the location and surrounding area, a detailed description of the proposed action, the measures used to mitigate impacts, and the projected date of the action's initiation and completion. Attempts should also be made to inform the community, by publication or other means, in the area where the impact of the proposed action will occur. The organization unit shall wait 15 days after publication of final notice before initiating the action.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-27722 Filed 9-28-78; 8:45 am]

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 78-11]

PRESERVATION OF WETLANDS

Issuance of Internal Order

AGENCY: Department of Transportation (DOT).

ACTION: Notice of issuance of internal order.

SUMMARY: DOT herewith publishes for the information of the public its internal order implementing Executive Order 11990, Preservation of Wetlands.

EFFECTIVE DATE: August 24, 1978.

FOR FURTHER INFORMATION CONTACT

Martin Convisser, Director, Office of Environment and Safety, Office of the Assistant Secretary for Policy and International Affairs, Department of Transportation, 400 Seventh Street SW. Washington, D.C. 20590, 202-426-4357.

SUPPLEMENTARY INFORMATION: The principal drafter of the order is Sonya Hill, Office of Environment and Safety.

V 43/190 SEP 29 78

Issued in Washington, D.C., on September 22, 1978.

MARTIN CONVISSER,
Director, Office of Environment and Safety.

DEPARTMENT OF TRANSPORTATION

[Order 5660.1A]

PRESERVATION OF THE NATION'S WETLANDS

1. *Purpose.* This order sets forth the Department of Transportation (DOT) policy that transportation facilities and projects should be planned, constructed, and operated to assure the protection, preservation, and enhancement of the nation's wetlands to the fullest extent practicable, and establishes procedures for implementation of the policy.

2. *Cancellation.* DOT 5660.1, Preservation of the Nation's Wetlands, of 5-21-75.

3. *Background and Authority.* This order is issued pursuant to the following Executive Order and statutes:

(a) Executive Order 11990, dated May 24, 1977, "Protection of Wetlands," establishes a national policy "to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative." The order further provides that each agency shall provide leadership to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of federal lands and facilities, (2) providing federally undertaken, financed, or assisted construction and improvements, and (3) conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) Sections 2 (b) and 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1651 et seq.) provide that it is "national policy that special effort should be made to preserve the natural beauty of the countryside and the park and recreation lands, wildlife and waterfowl refuges, and historic sites."

(c) The National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. 4321 et seq.) establishes a national policy to "* * * promote efforts which will prevent or eliminate danger to the environment and biosphere and stimulate the health and welfare of man * * *." NEPA requires preparation of an environmental impact statement (EIS) for any major Federal action significantly affecting the quality of the human environment. Order DOT 5610.1B, "Procedures for Considering Environmental Impacts," of September 30, 1974, requires that information on impacts on fresh water and coastal wetlands be included in the EISs prepared pursuant to NEPA.

d. Section 2 of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) provides for consultation with the U.S. Fish and Wildlife Service and the State wildlife resources agency when " * * * waters of any stream or other body of water are proposed to be controlled or modified * * *."

e. The Water Bank Act (16 U.S.C. 1301) expresses the congressional finding that "it is in the public interest to preserve, restore, and improve the wetlands of the nation * * *."

f. The Coastal Zone Management Act (16 U.S.C. 145) establishes a policy to "preserve, protect, and develop natural resources of the coastal zone and where possible to restore them."

g. The Federal Water Pollution Control Act Amendments 1972 (33 U.S.C. 1151) establish a policy to "restore and maintain the chemical, physical, and biological intergrity of the Nation's waters."

4. *Definition.*

a. Wetlands are defined as lowlands covered with shallow and sometimes temporary or intermittent waters. This includes, but is not limited to, swamps, marshes, bogs, sloughs, potholes, wet meadows, river overflows, and tidal overflows, as well as estuarine areas, and shallow lakes and ponds with emergent vegetation. Areas covered with water for such a short time that there is no effect on moist-soil vegetation are not included in the definition, nor are the permanent waters of streams, reservoirs, and deep lakes. The wetlands ecosystem includes those areas which affect or are affected by the wetland area itself; e.g., adjacent uplands or regions up and down stream. An activity may affect the wetlands indirectly by impacting regions up or down stream from the wetland or by disturbing the water table of the area in which the wetland lies. Attachment 1 references the wetlands classification system.

b. "New construction" for purposes of this order shall include any draining, dredging, channelizing, filling, diking, impounding, and related activities, and any structures or facilities begun or authorized after the effective date of this order. This does not include routine repairs and maintenance of existing facilities.

5. *Policy.* It is the policy of DOT to assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction, and operation of transportation facilities and projects. In accordance with E.O. 11990, new construction located in wetlands shall be avoided unless there is no practicable alternative to the construction and the proposed action includes all practicable measures to minimize harm to wetlands which may result from such contruction. In making a finding of no practicable alternative, economic, environmental and other factors may be taken into account. Some additonal cost alone will not necessarily render alternatives or minimization measures impractical since additonal cost would normally be recognized as necessary and justified to meet national wetland policy objectives.

6. *Responsibilities.*

a. The Assistant Secretary for Policy and International Affairs (P-1) shall oversee the implementation of the policy set forth in this order, shall recommend any modifications of procedures that may be appropriate, and shall consult with the Department of the Interior, the Council on Environmental Quality, and other agenices as appropriate concerning the Department's implementation of these policies.

b. Heads of operating administrations shall distribute this order or promulgate appropriate guidance consistent with this order and the Executive Order and shall be responsible for the full implementation of the policies within their respective administrations.

c. The Assistant Secretary (P-1) and the heads of operating administrations jointly shall be responsible for preparation and/or dissemination of appropriate guidance, informational materials, training programs, and other materials necessary to comply with the Executive order's requirement that agencies provide leadership in the field of wetland protection. Such leadership should be particularly aimed at informing and guiding the actions of State and local transportation officials operating with the assistance of or subject to permits from DOT.

7. *Procedures.* The following procedures should be integrated into existing environmental and public participation processes to the maximum extent feasible. The policy of this order applies to any project located in or having an impact on wetlands.

a. New authorizations or appropriations transmitted to the Office of Management and Budget will indicate, if a specific action to be proposed will be located in wetlands, whether the proposed action is in accord with E.O. 11990.

b. The impacts of new construction projects on wetlands should be identified and discussed in any submissions made to State and metropolitan clearinghouses under Office of Management and Budget Circular A-95. Submissions to A-95 will not be required solely to address wetland issues. Appropriate opportunity for early review of proposals for new construction in wetlands should be provided to the public and to agencies with special interest in wetlands. This may include early public involvement approaches.

c. Any project which will have a significant impact on wetlands will require preparation of an EIS. Prior to the preparation of an EIS, agencies with jurisdiction and expertise concerning wetland impacts (U.S. Fish and Wildlife Service, State wildlife or natural resources agencies, and the Corps of Engineers, as appropriate) should be consulted for advice and assistance concerning the proposed undertaking.

d. An EIS (or negative declaration) on a proposal for new construction in wetlands should reflect the results of early coordination and should identify specific impacts of the project on the wetlands taking into consideration the matters listed in paragraph 6(f).

e. When federally owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the agency with jurisdiction over the lands should either (1) reference in the conveyance those uses that are restricted under this policy and other relevant Federal, State, or local wetlands regulations; or (2) attach other appropriate restrictions to the use of properties by the grantee or purchaser and any successor, except where prohibited by law; or (3) withhold such properties from disposal.

f. In carrying out any activities (including small scale projects which do not require documentation) with a potential effect on wetlands, operating agencies should consider the following factors in implementing the Department policy relevant to a proposal's effect on the survival and quality of wetland:

(1) Public health, safety, and welfare, including water supply, water quality, recharge and discharge, and pollution; flood and storm hazards; and sedimentation and erosion.

(2) Maintenance of natural systems, including conservation and long-term activity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish and wildlife, timber, and food and fiber resources; and other uses of wetlands in the public interest, including recreational scientific, and cultural uses as well as transportation uses and objectives.

g. Alternatives which would avoid new construction in wetlands must be studied, giving consideration to environmental and economic factors. If uses of wetlands is proposed, the alternatives analysis for major actions should have demonstrated that there is no practicable alternative to the use of the wetlands and that all practicable measures to minimize harm to the wetlands have been included.

h. For any major action which entails new construction located in wetlands, a specific finding should be made by the affected operating administration that (1) there is no practicable alternative to construction in the wetland and (2) that all practicable measures to mininmize harm have been included. The proposed finding should ordinarily be included in the final EIS or negative declaration for the proposal.

8. Applicability.

a. All programs and projects proposed for direct construction, assistance, or permit by the DOT shall be reviewed for consistency with the policy of this order.

b. This order does not apply to projects presently under construction or to projects for which all funds have been obligated through fiscal year 1977, to projects and programs for which a draft or final EIS was filed prior to October 1, 1977.

c. Nothing in this order shall apply to assistance provided for emergency work essential to save lives and protect property or public and safety, performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 or pursuant to other emergency operations.

ALAN BUTCHMAN,
The Deputy Secretary.

ATTACHMENT 1

Further information concerning the type, number, and location of wetland areas may be obtained from Circular No. 39 of the Department of the Interior, Fish and Wildlife Service, or from the wetlands inventories maintained by the various States. The classification system presently contained in Circular No. 39 is being revised to provide uniformity in concept and terminology throughout the United States. A notice of intent to adopt the classification system was published in the December 12, 1977, FEDERAL REGISTER. Copies of the new classification system may be obtained from the Fish and Wildlife Service, Suite 217, Dade Building, 9620 Executive Center Drive, St. Petersburg, Fla. 33702.

The Fish and Wildlife Service is also developing a national wetlands inventory maps which will be complete in 1981. They will display typical wetland information on U.S. Geological Survey base maps for all of the States and U.S. territories and possessions. Maps are currently available to coastal Texas and Louisiana. On new projects, Fish and Service should be contacted to determined whether maps have been developed.

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FRIDAY, SEPTEMBER 29, 1978
PART VII



DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Proposed Criteria for Accrediting Testing Laboratories That Test Thermal Insulation Materials

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[3510-13]

DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Proposed Criteria for Accrediting Testing Laboratories That Test Thermal Insulation Materials

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Notice of proposed criteria to be used by the Department of Commerce for accrediting laboratories that test thermal insulation materials.

SUMMARY: Pursuant to the procedures for a National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7) this notice gives the text of the proposed general and specific criteria to be used by the Secretary of Commerce (Secretary) in accrediting testing laboratories that voluntarily request such accreditation. These proposed criteria are based on the recommendations of the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials (Committee) submitted to the Secretary on August 3, 1978. These recommendations were developed by the 21-member Committee during three meetings on May 22-23, June 29-30, and July 25-26, 1978. The procedure to be used by the National Bureau of Standards (NBS) in examining the laboratories requesting accreditation was described during these meetings. Although such procedure is not an integral part of the criteria, knowledge of it is pertinent to an understanding of the scope of the criteria.

The procedure for accrediting a testing laboratory testing thermal insulation materials will begin when the laboratory formally requests such accreditation of the Secretary. A detailed questionnaire, based on the final laboratory accreditation criteria, will then be sent to the laboratory for completion. The accreditation procedure will include three separate evaluations. First will be an evaluation of the completed written questionnaire submitted by the laboratory. When this evaluation is completed, an on-site visit by NVLAP inspectors will be arranged in which the information submitted will be verified and a comparison will be made between the laboratory's capabilities and the requirements of the test methods and the criteria. Finally, the laboratory will be required to participate in proficiency sample testing programs, and test data submitted to NBS upon completion of these programs will be evaluated. The decision to accredit a testing laboratory will be based upon all three of these evaluations.

The criteria proposed herein, as may be amended upon consideration of public comment, will form the basis for examination of the laboratory. Each criterion presented in this notice is followed by a note, summarizing the factors to be used in evaluating the laboratories. These notes are explanatory and are not part of the criterion. The substantive issues section in this notice describes some of the factors considered by the Committee in arriving at its recommendations.

This proposal substantively deviates from the Committee's recommendations in only five sections. In sections G2.1.4 and G3.2.3, the Secretary has broadened and added language to include consideration of how a laboratory handles all complaints, including complaints from the public, rather than just complaints from its clients. In sections G2.3 and S1.2, parenthetical material has been added to provide examples intended to clarify the meaning of those provisions. In section S2.2, material has been added to assure adequate concern for the accuracy of test equipment.

DATES: Written comments are due on or before November 13, 1978. A request for an informal public hearing may be made before October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER on February 25, 1976 (41 FR 8163-8168), the Department of Commerce issued procedures (15 CFR Part 7) for the operation of a National Voluntary Laboratory Accreditation Program (NVLAP). As announced in that notice, the goal of the program is to provide a national voluntary system to examine, upon request, the professional and technical competence of private and public testing laboratories. The procedures guide the development of accreditation criteria, such as those proposed in this notice, for evaluating laboratories which serve regulatory and nonregulatory product evaluation and certification needs. As criteria are developed and issued, the Secretary will accredit those laboratories which meet the criteria. In the Department Organization Order 10-1, Amendment 1, dated June 4, 1976, the Secretary has delegated to the Assistant Secretary for Science and Technology (Assistant Secretary) the authorities to exercise the pertinent functions of the Secretary in carrying out NVLAP as described in the procedures.

Pursuant to the referenced procedures, the Thermal Insulation Manufacturers Association, Inc., Mount Kisco, N.Y.; the National Mineral Wool Insulation Association, Inc., Summit, N.J.; and the Cellulose Insulation Manufacturers Association, Inc., Elk Grove Village, Ill., filed with the Secretary of Commere on December 1, 1976, a joint request that the Secretary find that there is a need to accredit testing laboratories which render services in the field of thermal insulation.

In a notice published in the FEDERAL REGISTER on October 12, 1977 (42 FR 55020-55023), the Department announced a final finding of need to accredit testing laboratories that test thermal insulation materials using the standards and test methods identified in the notice. In a separate notice published simultaneously in the FEDERAL REGISTER (42 FR 55023-24) the Department announced the formation of a National Laboratory Accreditation Criteria Committee (Committee) of 21 members to develop criteria to be used to evaluate those laboratories. Committee members were appointed in April 1978, met in May, June, and July for 2 days at each of the three sessions, and recommended criteria to the Assistant Secretary on August 3, 1978. Those recommendations provide the basis for this FEDERAL REGISTER Notice.

The Secretary will accredit a testing laboratory upon request, on the basis of an evaluation by NBS of the laboratory's ability to meet the provisions of the final criteria. The final criteria will be based on these proposed criteria with appropriate changes made after careful consideration and evaluation of all public comments received as a result of this notice. The final criteria published in the FEDERAL REGISTER will contain specific instructions for making application for accreditation by testing laboratories which test thermal insulation materials.

Upon receipt of a request for accreditation from a testing laboratory, the Assistant Secretary shall acknowledge the request and ask NBS to send an application package to the laboratory. This package will describe the accreditation program and will help the requesting laboratory select those portions of the program in which it specifically seeks accreditation. The application, when returned to NBS, will be used in assembling a questionnaire package, based upon the final criteria and the specific standards and test methods for which the laboratory desires accreditation. This questionnaire, tailored to the needs of the requesting laboratory, will elicit specific information about its qualifications and capabilities.

In completing the questionnaire for the test methods of interest, a laboratory may find that a duplication of information is needed in several portions of the questionnaire. Such duplication is not required. For instance, if information is contained in the response to the general criteria, identical information need not be supplied in response to the specific criteria. Likewise, information supplied in response to specific criteria for one test method need not be supplied in response to specific criteria for another test method if such information is identical.

Upon receipt of the completed questionnaire, NBS will evaluate the laboratory's ability to meet the criteria which apply to the areas in which the laboratory desires accreditation. In conducting this evaluation, the evaluators will reference specific detailed requirements for each of the test methods (e.g. test instruments required, reference documents cited, standardization equipment called for, and any special facilities called for) and will compare the data submitted by the laboratory with these requirements. A listing of these requirements as stated in each test method is now being developed and copies of the supplemental listing pertaining to each test method for which accreditation is sought will be supplied to the laboratory along with the questionnaire. Consultation with the laboratory will be arranged, if necessary, to complete the questionnaire.

Upon successful completion of this evaluation, NBS will then schedule an on-site visit by a NVLAP inspector whose inspection will include verification of the information submitted and comparison of the laboratory's capabilities and the requirements of the test methods and criteria. In conducting the inspection, the inspectors will reference specific detailed requirements for each of the test methods and each criterion and will compare the laboratory's capabilities with these requirements. A listing of these requirements as stated in each test method is now being developed and copies of inspector verification forms pertaining to each test method for which accreditation is sought will be supplied to the laboratory along with the questionnaire.

NBS will also schedule all required participation of the laboratory in proficiency testing programs as required. The questionnaire, inspector's report, and proficiency test data will then be evaluated by NBS and their recommendation concerning accreditation will be made to the Assistant Secretary. After review by the Assistant Secretary, accreditation will be granted or a letter denying accreditation will be sent to the laboratory.

To be accredited, the laboratory must also pay accreditation fees and charges. A schedule of estimated fees and charges the Department proposes to establish is published simultaneously in a separate notice in this FEDERAL REGISTER issue as required by the NVLAP procedures. These fees and charges are in amounts calculated to cover the costs of NVLAP examinations and are furnished at this time for information and guidance purposes only in order that the public may evaluate the proposed criteria in light of the expected fees to be charged for the assessment and accreditation of interested laboratories based upon those criteria.

To be accredited, the testing laboratory must agree to be examined and audited initially and on a continuing basis. During the deliberations of the Committee, an interval between examination for accreditation and reexamination for reaccreditation of 2 years was suggested as nominal based on the experience in other laboratory evaluation programs. The Committee has strongly recommended that testing laboratories be inspected on a yearly basis. The Department has carefully weighed this recommendation in light of the following factors: (a) inspection costs constitute a substantial portion of the total costs of examination and it is believed that annual inspection may increase the fee to unduly burdensome levels for a number of laboratories; (b) it is recognized that inspections may cause a significant (albeit temporary) disruption in the business of the laboratory and as such should be no more frequent than absolutely necessary; (c) other mechanisms exist by which to determine any deterioration in the competence of the laboratory between inspections; and (d) the Secretary reserves the right to call for inspections of laboratories at any time between regular inspections for the purpose of insuring continued compliance with the criteria. Until operating experience suggests a need to do otherwise, it is proposed to call for the regular examination (including inspection) of a laboratory at an interval of 2 years plus or minus 3 months. This tolerance of plus or minus 3 months is in recognition of practical problems of scheduling a series of inspections in different parts of the country. Public comments on this issue are encouraged.

Finally, to be accredited, the testing laboratory must avoid reference by itself and forbid others utilizing its services from referencing its accredited status in consumer media and product advertising, or on product labels, containers, or packages or the contents therein. This provision was included in the basic NVLAP procedures because the attributes of a product depend not only on whether the laboratory that tests it is accredited for that test method, but also on a number of other factors including the frequency of such tests, and the manner in which the manufacturer uses the test results to control the quality with which the product is manufactured. A laboratory may indicate on its letterhead and in professional, technical, and trade publications that it has been accredited by the Department to test products using a specific test method. Moreover, the Department will publish a list of accredited laboratories in the FEDERAL REGISTER so that the facts of such accreditation are available to users of testing laboratory services.

SUBSTANTIVE ISSUES

During the development of the criteria which were recommended to the Secretary by the Committee, a number of substantive issues were discussed in detail. These discussions are summarized in the following paragraphs in order to provide background information for the reader of this notice.

ORGANIZATIONAL STRUCTURE OF THE LABORATORY

Several members of the Committee strongly advocated that only independent laboratories be accredited. Such a provision is prohibited by the NVLAP procedures. (15 CFR 7.7(c)(1).) "No action will be taken or criteria developed that would prohibit the accreditation of a testing laboratory solely on the basis of that laboratory's association or nonassociation with manufacturing, distributing, or vending organizations * * *"). It was also pointed out that a definition of "independent" was itself subject to interpretation and challenge. (Is a laboratory truly independent if it performs 25 percent of its work for one client? 50 percent? What happens when a laboratory becomes part of a conglomerate organization?) There also seemed to be some confusion between laboratory accreditation and product certification. Accreditation of a laboratory means that the laboratory has the capability to conduct the specified tests appropriately; Certification of a product indicates that the product meets the requirements of a standard using designated product tests. NVLAP deals only with laboratory accreditation. NVLAP procedures specifically forbid reference to an accredited laboratory in product advertising, or in product labels, containers, and packaging or the contents therein, to avoid any inference of product certification.

The Committee explored the idea of requiring the names and resumes of all management and supervisory personnel in each operating, support, and service unit of the laboratory. To many members of the Committee this seemed like an excessive documenta-

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tion burden—particularly for some of the larger laboratories. This was particularly so when considering section G4.1 of the criteria which requires an update of such information within 30 days of the occurrence of any substantive changes in the laboratory related to these criteria. The Committee voted to accept an amendment which calls for the names and resumes or the personnel requirements only for the positions identified. However, the Department believes that it may be necessary to know the names and actual qualifications of the persons filling key positions since, if a key person should leave a laboratory and not be replaced by another qualified person, the continued capability of the laboratory could be in serious doubt. Some people who choose a NVLAP accredited laboratory may do so because of its accreditation by the Department. Any material change in a basis for the accredited status must be evaluated by the Department promptly so that if that status deserves to be changed, the public may be notified of that fact in timely fashion. In order to meet the Committee's concern regarding paperwork, yet provide what could be critical information, it may be appropriate to require names and resumes (which need not exceed one page) of individuals that are key to the operation of a testing laboratory (e.g., the laboratory director or manager and those key supervisors in the area for which accreditation is sought). Public comments on this issue are encouraged.

The committee rejected a proposed criterion which would have required a laboratory to describe its sources and manner of financial support or other evidence of financial stability. Proponents of this provision argued that such a provision was needed to evaluate a laboratory's ability to develop and manage testing programs on a continuing basis. One member of the committee so strongly favored this provision that he submitted a minority comment to the Secretary with the final recommeded criteria stating, that in his opinion, there would be a high risk that a labortory in an unstable financial condition might not maintain quality performance in its laboratory practices. Opponents of this position argued that it would be very unfair to new and developing laboratories, and almost impossible to evaluate appropriately. Also to be considered is the provision in the NVLAP procedures (15 CFR 7.7(e)(5)) that the Secretary will not ask for or accept confidential business data, trade secrets, or other proprietary information.

PROFESSIONAL AND ETHICAL BUSINESS PRACTICES

Under this heading, the committee discussed factors including: the handling of complaints; protection of test data, records and reports; and limitation of work in accordance with demonstrated capacities and competences. The issues of independence arose again and was resolved by requiring the laboratory to supply evidence that there is an independent decisional relationship between the testing laboratory function and other functions of the company or from other organization with which the laboratory does business.

The only area of substantial deviation from the criteria recommeded by the committee is in the area of complaint handling. The department is of the view that it is vitally important for the laboratory to handle appropriately all complaints. In order to accomplish this, a new section, G2.1.4, was added to criterion G2 dealing with the quality control system. This section would require that the laboratory describe its procedures for obtaining, tracing the validity of, and responding to complaints and charges about the quality of test work. To further support this important point, the committee's recommendation for section 3.2.3 of criterion G3 dealing with professional and business practices was modified by deleting the words "from clients." In effect, this deletion broadens that provision and requires documentary evidence that the laboratory considers and properly handles all appeals and complaints, irrespective of whether such complaints come from clients or the public.

The Committee considered requiring that the laboratory provide complete details of any litigation in which an applicant laboratory may have been involved over the past 5 years. A majority of the Committee agreed to delete such a requirement on the basis that: (1) in an ongoing suit a laboratory should be judged free of wrongdoing until shown otherwise, as required by our system of jurisprudence; (2) if a laboratory has been found guilty, or a judgment entered against it for wrongdoing, presumably it will be forced to pay for its mistakes as a result; and (3) the volume of paperwork could be enormous. Committee members favoring such a provision suggested that it would be inappropriate to accredit a laboratory which has a number of adverse judgments against it. The Department believes that conditions which lead to such litigation are likely to show up during the evaluation. In any event, the Secretary is prepared to followup on complaints received from the public about any laboratory accredited or about to be accredited.

NOTIFICATION OF CHANGES.

The Committee agreed after some discussion that the laboratory should notify NVLAP of substantive changes in the laboratory related to the criteria requirements on a timely basis, even though for a large facility this could involve substantial paperwork.

The NVLAP program is designed to adapt to changes in the cited standards and test methods as they are approved ability to designate some other effective date if deemed necessary.

LABORATORY FACILITIES AND EQUIPMENT.

Some test methods define required facilities, equipment, and special features very explicitly while other test methods do not. In some test methods, equipment has to be fabricated and constructed on site using general design guidance. The degree of conformance of the facilities and equipment to the requirements of the test methods is also a significant issue. In its deliberations, the Committee stressed the need to relate facilities and equipment to calibration and verification requirements to assure accurate and precise data.

A major discussion centered on the use of equipment, facilities, or procedures which have received modifications that keep them from being in strict conformance to the test method but which are judged to be noncritical modifications. Some Committee members encouraged such modifications, arguing that improvements which reduce costs or improve accuracy of measurements should be allowed and perhaps openly encouraged. The Department supports this goal, and therefore modified criterion S2.2 to encourage concern that equipment provide requisite accuracy and precision.

During the discussion of improvements and modifications some Committee members indicated a need to retain the pure methodology of the test method. The Committee therefore recommended the allowance of noncritical modifications provided the testing laboratory which is being accredited demonstrates appropriately through comparative analysis that such modifications do not degrade the precision or accuracy of the data obtained in using the test method.

In reviewing this recommendation, the Department concluded that criterion S2 might not provide necessary encouragement to modernization especially on new tests and methods undergoing significant development. The Department notes that criterion S1 encourages attention to training of personnel to assure continuous proficiency. The question of whether similar encouragement is needed on the currency of equipment with advances in technology remains open. Such encouragement could be added in an additional subsection dealing with and calling for a review of the laboratories' efforts to maintain knowledge of advancing technology through such means as professional literature, trade and professional meetings, seminars, and professional education, etc. Public comments on these issues are invited.

The Committee also addressed issues associated with the use of subcontractors. It was agreed that in many cases it is not uncommon for even the most accomplished laboratories to employ specialists to perform some specific functions such as preparation of samples, preliminary assessments, or computer and statistical analysis. It was agreed that only a testing laboratory having the measuring facilities and equipment to produce the final test values could be accredited for the test for which accreditation is sought. When subcontracting is performed to obtain test specimens or intermediate values, the testing laboratory producing the final test values would be responsible for the work of the subcontractor. Subcontractors need not be accredited for the test method or for that portion of the test method they conduct in order for accreditation to be granted to the primary testing laboratory.

THE PROPOSED CRITERIA

Compliance by testing laboratories with these general and specific criteria and accreditation of a laboratory by the Secretary shall in no way relieve such laboratory from the necessity of observing and being in compliance with existing Federal, State and local statues, ordinances, and regulations that may be applicable to the operation of such laboratory, including consumer protection and anti-trust laws.

GENERAL CRITERIA

For initial accreditation or continued accreditation, an applicant laboratory shall provide the information listed below for the general product and testing areas for which accreditation is sought.

A single or double asterik preceding a section number identifies section to be included in quality control procedures as explained in section G2.6.

Criterion G1. *The laboratory has an organizational structure that enables it to develop and maintain a testing capability to perform satisfactorily the functions for which accreditation is sought.*

G1.1 A description of the laboratory's organization, including:

*G1.1.1 The complete legal name and address of the main office, or parent company if part of a larger organization;

*G1.1.2 The name and location of the laboratory if different from that stated in G1.1.1;

G1.1.3 A general description of the laboratory, including its equipment and facilities;

G1.1.4 The laboratory's and parent company's principal ownership and management structure, including the names and positions of the principal officers and board of directors;

*G1.1.5 An outline or chart showing the titles or positions of all key management and supervisory personnel in each operating, support, and service unit in the laboratory's functional organization, and their reporting relationships relative to this accreditation request;

**G1.1.6 The names and resumes of the individuals assigned to each of the positions identified in G1.1.5 or the personnel requirements for the individuals occupying those positions.

G1.2 A listing of the relevant technical services performed.

*G1.3 A list of test method standards for which accreditation is sought, showing the approximate number of times each test is performed per year.

NOTE.—This criterion and its sections require a relatively straightforward description of the testing laboratory. The examiner will review data supplied by the laboratory in response to this criterion for appropriate definition of authority and responsibility, for the personnel qualifications, and for consistency between services offered and personnel and facilities available. The inspector will verify data on the facility and organization, and personnel, and conduct appropriately related examinations:

Criterion G2. *The laboratory has and maintains a quality control system to assure the technical integrity of its work.*

**G2.1 A description of the laboratory's system for auditing and monitoring its test work, including procedures for:

G2.1.1 Preventing or reducing testing errors and discrepancies;

G2.1.2 Identifying and correcting known errors and discrepancies;

G2.1.3 Specifying the frequency and the sample size (quantity) of the audit sampling of the test results of testing personnel.

G2.1.4 Obtaining, tracing the validity of, and responding to complaints and charges about the quality of test work.

**G2.2 A description of the laboratory's system for insuring that all test equipment and reference standards are calibrated or verified to the requisite degree of accuracy, including procedures for:

G2.2.1 Maintaining written descriptions of the standardization (calibration and verification) procedures for all test equipment and reference standards;

G2.2.2 Maintaining standardization records, including:

(a) Equipment description or name,

(b) Name of manufacturer,

(c) Model, style, and serial number or other identification,

(d) Equipment variables subject to standardization,

(e) Range of operation and range of standardization,

(f) Resolution of the instrument and allowable error tolerances on readings,

(g) Standardization schedule (intervals),

(h) Date and result of last standardization and date of next standardization,

(i) Name of laboratory person or standardization service providing the above standardization,

(j) Traceability to NBS or other authority as required;

G2.2.3 Insuring that all test equipment is recalled periodically for verification and/or recalibration.

**G2.3 A description of the laboratory's system for assuring that all equipment and facilities are properly maintained (e.g., routine operational checks and upkeep, maintenance of instructions for equipment operation and repair, power sources, electricity, and gases).

**G2.4 A description of the laboratory's system for controlling the flow of work, including procedures for at least the following:

G2.4.1 Specifying work flowfrom reception to reporting;

G2.4.2 Specifying the functions to be performed at each step along the workflow path;

G2.4.3 Data recording, processing and reporting;

G2.4.4 Selecting specimens for testing;

G2.4.5 Retention or disposal of specimens tested.

**G2.5 A description of the laboratory's system for maintaining records, including records of:

G2.5.1 Test reports;

G2.5.2 Data generated during testing;

G2.5.3 Receiving, shipping and disposal of test samples;

G2.5.4 Current regulations, test standards and specifications;

G2.5.5 Personnel (including training);

G2.5.6 Appeals actions contesting results.

G2.6. A copy of the laboratory's quality control manual or procedures which should:

G2.6.1 Explicitly include the information required by the single starred (*) sections of these general and specific criteria;

G2.6.2 Clearly state where in the laboratory this information is maintained or explicitly include the information required by the double starred (**) sections of these general and specific criteria.

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•G2.6.3 Explicitly include the procedures to be followed for maintaining the manual current and the name or title of the person responsible for implementing those procedures.

NOTE.—In assessing a laboratory's capability to meet this criterion, the examiners, based on data submitted by the laboratory, will be making judgments about the adequacy of the test auditing and monitoring program of the laboratory, about the adequacy of the laboratory's calibration system, about the appropriateness of the laboratory's equipment and facility maintenance, about the laboratory's system for controlling the flow of work, and about the laboratory's system for maintaining records. The inspector will verify the data supplied and examine the laboratory for related information.

The laboratory's quality control system must be documented, by a quality control manual or written procedures. The purpose of the manual is to provide, in one convenient location, detailed descriptions, or clear instructions where such descriptions may be found, of the operating and quality assurance procedures governing the human and material resources of the laboratory. The manual must be available at all times to serve as a guide for the laboratory staff, and procedures must exist for maintaining and periodically updating it. It is subject to review during on-site laboratory inspections by NVLAP personnel. An example of how such a manual might be structured is presented in the American Council of Independent Laboratories (ACIL) publication, *Quality Control, Requirements for a Testing and Inspection Laboratory, Manual of Practice—1976.* As a minimum, the manual should be structured in accordance with sections G2.6.1, G2.6.2, and G2.6.3 above.

Criterion G3. *The laboratory is operated in accordance with generally accepted professional and ethical business practices.*

G3.1 The laboratory has a stated and effective policy which assures that reported values accurately reflect all properly measured data.

G3.2 Documentary evidence assuring that:

G3.2.1 Test work is limited to that for which competence and capacity are available;

G3.2.2 Test data, records, and reports are treated as proprietary information and are released only to such other individuals as the client agrees to in writing;

G3.2.3 Appeals and complaints contesting test results are considered and properly handled.

G.3.3 For a laboratory that is part of a larger organization, dependent on manufacturing or supplier interest: evidence that there is an independent decisional relationship between the testing and other components of the organization. (This may be demonstrated, for example, by a letter of authority from the parent organization management.)

G3.4 For a private laboratory that is not part of a larger manufacturing or supplier organization: Evidence that there is an independent decisional relationship between the laboratory and other organizations, including clients (e.g., a policy declaration or a contract provision that the laboratory's relationship with these organizations are not allowed to affect the laboratory's capacity to render reports of findings objectively and without bias).

NOTE.—The examiners will review data supplied by the laboratory and compare them with other data provided under criteria G1 and G2 to evaluate compliance with this criterion. Particular attention will be paid under this criterion relative to complaints received about the laboratory by the Assistant Secretary. The inspectors will verify data provided and explore with the laboratory personnel individual complaints which may have arisen.

Criterion G4. *During the processing of the application and following accreditation, the laboratory reports to NBS, within specified times, any substantive changes in the laboratory related to the general and specific criteria, and documents these changes as per the original submission.*

G4.1 A description of the change mailed within 30 days following a substantive change relative to the general and specific criteria.

G4.2 Implementation within 45 days of the effective or "official notice" date, whichever is later, of all changes necessitated by a revision in the standard test method, unless another date is established by notice from NBS. (The "official notice" date is the date the organization responsible for the standard test method gives notice in its official publication that the standard has been revised. In some cases the organization may indicate a later "effective" date.)

NOTE.—The examiners will evaluate changes as they may affect other aspects of the criterion and the inspectors will report absence of unreported substantive changes.

SPECIFIC CRITERIA

For *each standard test method* for which accreditation or continued accreditation is sought, an applicatant laboratory shall provide the information required.

Criterion S1. *The laboratory is staffed with trained and experienced personnel competent in the principles and practices of measurement in the area of testing for which accreditation is sought.*

••S1.1 A list of, or the requirements of, the personnel responsible for and capable of conducting the tests specified in the test method, if not specifically addressed in the response to section G1.1.6 of the general criteria.

••S1.2 A description of the specific training program to assure proficiency and uniformity in applying the test method to the requisite degree of accuracy and precision (e.g., methods for ensuring job competence, probationary periods under close supervision, audits of test work performed, and performance reviews with affected personnel).

NOTE.—For each test method for which a laboratory requests accreditation, the examiner will evaluate the competence of the personnel function and the training function. Of concern also would be how personnel newly trained moved into the work force, the nature of periodic reviews of competence, and the kinds of continuous education programs available. The inspector would verify the content and utilization of training programs and as a result of observations made to assess compliance with other specific criteria, would attest to the competence of the personnel.

Criterion S2. *The laboratory's facilities and equipment are appropriate to the functions for which accreditation is sought and are properly maintained.*

••S2.1 A description of the test setups and a list of test instruments used, sufficiently identified to allow correlation with the calibration information requested in criterion S3. (Provide diagrams and photographs, if helpful in demonstrating conformance with the test requirements.)

••S2.2 A description of all special or laboratory-fabricated equipment listed in section S2.1, and evidence that this equipment conforms to the requirements of the test method and assures requisite accuracy and precision. (Provide schematics or shop drawings with annotated photographs, if helpful in demonstrating conformance with the test requirements.)

••S2.3 A description of any auxiliary equipment, facilities, or procedures required by or used for the test method, such as: storage and conditioning of samples; environmental conditions or controls (including how compliance is measured and percentage of time within required limits); automatic data collection, reduction or analysis; housekeeping, safety and custodial care; maintenance of laboratory equipment and facilities.

••S2.4 An inventory of the laboratory's collection of applicable standards and other documents referred to or used for the test method.

••S2.5 Evidence by analytical or other means that the test results are not degraded by the use of equipment or facilities which have received non-critical modifications not in strict conformance with the standard method of test.

NOTE.—For this criterion, the examiner would evaluate the set-ups, instrumentation, special equipment, facilities, etc. of the laboratory as compared to the requirements

of each test method for which accreditation is sought. Evidence would be evaluated to confirm that non-critical modifications have not degraded the test results. The inspector would explore evidence justifying claims made by the laboratory during his visit to the laboratory by comparing selected measurements with the requirement of the test methods.

Criterion S3. *The laboratory's equipment and procedures are standardized (calibrated and verified) periodically.*

••S3.1 A description of the standardization equipment (including diagrams, etc., as appropriate) and a listing of the standardization schedule to ensure continuing adequate performance and accuracy of results.

••S3.2 Either references to recognized standardization procedures or descriptions of standardization procedures used for each laboratory standard and test instrument to assure that all measurements can be made to the requisite precision and accuracy.

••S3.3 A listing of the reference standards and materials being used with the test method, including:

S3.3.1 The source, the identify and latest dates and results of the standardization of the reference standards and materials;

S3.3.2 For other than specifically required standards and standard reference materials, the procedures used to reference the standards to national standards;

S3.3.3 Clear identification and differentiation between reference and working standards.

••S3.4 A listing of the measurement assurance, collaborative reference or other program(s), appropriate to the test method, in which the laboratory participates.

NOTE.—This criterion relates to the laboratory's fundamental program for establishing and maintaining basic references upon which its testing program is built. In some cases, much of the standardization procedures required herein will be part of an overall computerized laboratory program. In other cases, such standardization will be accomplished on a test method by test method basis. The examiners and inspectors will be responsive to evaluation and verification in either case.

Criterion S4. *The laboratory maintains documented and acceptable in-house operating protocols for the test method to assure the requisite degree of accuracy and precision.*

••S4.1 A copy of the in-house instructions, if any, supplementing the instructions of the standard test method, including those necessary for equipment maintenance and calibration checks, sample preparation, testing and disposal, data reduction, and reporting of test results.

••S4.2 A copy of the instructions to the subcontractor, and a description of how the laboratory assures the required precision and accuracy for any highly specialized part of the test method which is subcontracted.

NOTE.—Only that laboratory having the measuring equipment by which final test values are obtained can be accredited.

••S4.3 Evidence by analytical or other means that the use of non-critical variations in the procedure from that specified in the standard test method does not degrade the results of the test.

••S4.4 Evidence demonstrating the capability of satisfactorily complying with the intent of the standard test method when any variation in test equipment or procedures is made necessary by environmental conditions or by special requirements of a product for which accreditation is sought.

••S4.5 A sample test report (with name of client deleted) showing test results accompanied by the raw data and a copy of the worksheet showing the steps to reduce the raw data and the method of data reduction or reference to approprate "calculation" sections of the test protocol or standard.

NOTE.—This criterion deals with the fundamental ability of the laboratory to obtain test results to the required precision and accuracy of the test methods. When reviewing data submitted by the laboratory, the examiner's emphasis will be placed upon evaluation of instructions and procedures for the staff of the laboratory and for any subcontracted segments of the work. The applicability of nonconforming test procedures will also be carefully evaluated. A sample report will be reviewed and the inspectors will look for evidence that such sample reports are typical rather than specially produced for the accreditation program.

REQUEST FOR COMMENTS

Interested persons desiring to comment on the proposed criteria set out above are invited to submit such comments, in four copies, on or before November 13, 1978, to the Assistant Secretary for Science and Technology, Department of Commerce, Room 3864, Main Commerce Building, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal hearing relative to the mentioned proposed criteria shall do so by communicating that desire in writing on or before October 16, 1978, to the Assistant Secretary for Science and Technology at the address shown in the preceding paragraph. Upon receipt of such request, informal public hearings will be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate, such hearings may be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings will be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be made of any oral presentation.

PROCEDURE FOLLOWING RECEIPT OF COMMENTS

Upon receipt of all written and oral comments, the Criteria Committee will be requested to conduct and return to the Assistant Secretary, within a specified time, its evaluation and recommendations with respect to such comments. After considering the Criteria Committee's evaluation and recommendations, the Assistant Secretary will prepare his evaluation and publish in the FEDERAL REGISTER a notice:

(1) Announcing the final general and specific criteria that testing laboratories must meet in order to be accredited and the date when such final criteria shall go into effect which shall not be less than thirty (30) days after the date of publication of such notice;

(2) Stating that the proposed general and specific criteria will be further developed before final publication; or

(3) Withdrawing the proposed general and specific criteria from further consideration.

RELATED INFORMATION

A list of test methods which will be included in this program, along with a statement of the requisite precision and accuracy of each method and an indication of the requisite reference programs is set out in appendix 1. Further research may require that the values for the requisite precision and accuracy or participation in requisite reference programs change during the course of the program. When such changes are developed, they will be published and made effective immediately on publication. Specific information on each test method will be supplied in the questionnaire booklet to a laboratory requesting accreditation.

Although the data presented in appendix 1 are considered part of the operational material of the program and are not part of the criteria, comments from the public are nonetheless solicited at this time, especially as related to the requisite precision and accuracy of those data.

All written and oral comments and testimony that are furnished in response to the invitation made by this notice will be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: September 26, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

APPENDIX 1. U.S. DEPARTMENT OF COMMERCE NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM (NVLAP)

PROPOSED CRITERIA AND COMPLIANCE INFORMATION SUPPLEMENT FOR THERMAL INSULATION MATERIALS

This table establishes the performance requirements for the initial and continued accreditation of laboratories that test thermal insulation materials. It also specifies the available reference and related programs that help assure that performance.

The performance requirements are specified in terms of the requisite precision and accuracy in applying the test method; that is, the overall precision and accuracy of application involving such potential sources of error as test operator, test environment, test equipment, test protocol and test sample. The capability of a laboratory to perform to these overall requirements is judged from the written information it submits in response to the examination material and from the findings of the on-site inspection. The ability of the laboratory to apply this capability is determined from the results of its performance in a proficiency testing program.

Precision is expressed in terms of repeatability (R) and comparability (C). Repeatability is a measure of the ability of a laboratory to repeat its own test result on the same or essentially identical samples. Comparability is a measure of the ability of a laboratory to compare two materials (intended for the same use), obtaining comparative test results (e.g. difference between or ratio of the two test results) consistent with comparisons obtained by other laboratories. Accuracy (A), is a measure of the ability of a laboratory to obtain a test result in agreement with the "true" or target test result.

The limits specified in the table for precision and accuracy are for "good" performance. Approximately 95 percent of the laboratories should be able to achieve this. Limits approximately 50 percent wider are used to define "acceptable" performance for accreditation purposes. CAUTION: The limits presented in this table for laboratory accreditation purposes should not be interpreted as setting specification limits on products.

In addition to utilizing or participating in the requisite reference programs listed below for each test method, each laboratory should maintain a uniform batch of test specimens for more frequent checks of its performance (or should use other means for this purpose). The sources for the requisite reference programs are listed at the end of the table. The table shows those programs currently available. As other programs become available, especially for methods not now covered, and are determined to be desirable for NVLAP, they will be added to the table.

NVLAP Code Test Method No.	Complexity	Short title (property) subtitle (if applicable)	Requisite precision and accuracy Requisite reference program(s)	
01/D01—ASTM C136	B_1[1]	Sieve or screen analysis	R=4 pct aggregate—A=4.4 pct aggregate.	SRM's 1017a,[2] 1018a, 1019a or NBS sieve verification service.[3]
01/D02—ASTM C167	B_1	Thickness and density; blanket and batt.	Thickness: A=1/16 in. (1.0 mm). Density: A=2 pct.	
01/D03—ASTM C209 (par. 6 in 72 version).	B_1	Thickness; board (cellulosic fiber)	A=0.1 mm	
01/D04—ASTM C209 (par. 13 in 72 version).	B_1	Water absorption, 2 h; board (cellulosic fiber).	A=25 pct water absorption	TIM CRP.[4 6]
01/D05—ASTM C209 by D1037 (par. 100-106 in 72 version).	B_1	Water absorption, 24 h; board (cellulosic fiber).	do	TIM CRP.[6]
01/D06—ASTM C209 by D1037 (par. 107-110 in 72 version).	B_1	Linear expansion; board (cellulosic fiber)	A=0.1 pct expansion	
01/D07—ASTM C272	B_1	Water absorption; core materials	A=25 pct water absorption	TIM CRP.[6]
01/D08—ASTM C302	B_1	Density; preformed pipe insulation	Thickness: A=1 mm. Density A=2 pct.	
01/D09—ASTM C303	B_1	Density; preformed block insulation	A=2 pct	
01/D10—ASTM C355	B_3	Water vapor transmission; thick materials; desiccant method.	A=25 pct	TIM CRP.
01/D11—ASTM C356	B_1	Linear shrinkage; soaking heat; preformed high temperature insulation.	R=0.5 pct linear shrinkage; A=0.5 pct linear shrinkage.	
01/D12—ASTM C411	B_1	Hot-surface performance; high temperature insulation.	Warpage: A=1 mm	
01/D13—ASTM C519	B_2	Density; loose-fill (fibrous)	A=2 pct	
01/D14—ASTM C520	B_2	Density; granular loose-fill	A=2 pct	
01/D15—ASTM D756	B_2	Weight and shape changes; accelerate service (proc. A); plastics.	A=0.5 pct weight change; A=0.5 pct linear dimension change; A=1.5 pct volume change.	
01/D16—ASTM D756	B_2	Weight and shape changes; accelerated service (proc. B); plastics.	Same as for 01/D15	
01/D17—ASTM D756	B_2	Weight and shape changes; accelerated service (proc. E); plastics.	do	
01/D18—ASTM D162	B_2	Apparent density; rigid cellular plastics	A=4 pct	
01/D19—ASTM D2126	B_2	Response to thermal and humid; aging (proc. B); rigid cellular plastics.	A=0.5 pct weight change; A=0.5 pct linear dimension change.	
01/D20—ASTM D2126	B_2	Response to thermal and humid; aging (proc. D); rigid cellular plastics.	Same as 01/D19	
01/D21—ASTM D2126	B_2	Response to thermal and humid; aging (proc. E); rigid cellular plastics.	do	
01/D22—ASTM D2126	B_2	Response to thermal and humid; aging (proc. F); rigid cellular plastics.	do	
01/D23—ASTM D2842	B_2	Water absorption; rigid cellular plastics	A=1.0 pct absorption (by volume).	TIM CRP.
01/F01—ASTM D777 as modified by Federal specification H-H-B-100B.	B_1	Flammability; paper and paperboard	Char length: R=3.6 pct, A=9.0 pct; fire resistance permanence: R=6 pct increase in char length, A=10 pct increase in char length.	
01/F02—ASTM E84	B_1	Surface burning characteristics; building materials; loose-fill.	Flame spread classification: A=20 pct; smoke classification: A=40 pct.	TIM CRP.
01/F03—ASTM E84	B_1	Surface burning characteristics; building materials; blanket and batt.	Same as 01/F02	TIM CRP.
01/F04—ASTM E84	B_1	Surface burning characteristics; building materials; board and block.	do	TIM CRP.
01/F05—ASTM E136	B_1	Noncombustibility; elementary materials	Primarily a nonquantitative test.	

NVLAP Code Test Method No.	Complexity	Short title (property) subtitle (if applicable)	Requisite precision and accuracy Requisite reference program(s)	
01/S01—ASTM C165	B_1	Compressive properties; thermal insulation; proc. A.	A=4 pct	TIM CRP.[6 7] TMVS.
01/S02—ASTM C203	B_1	Breaking load/flexural strength; preformed block insulation.	Breaking load: A=2 pct; flexural strength: A=10 pct.	TIM CRP.[7] TMVS.
01/S03—ASTM C209 (par. 9 in 72 version).	B_1	Transverse strength; board (cellulosic fiber).	A=4 pct	TIM CRP.[7] TMVS.
01/S04—ASTM C209 (par. 10 in 72 version).	B_1	Deflection at specified load; board (cellulosic fiber).	A=0.2 mm	See 01/S03.
01/S05—ASTM C209 (par. 11 in 72 version).	B_1	Tensile strength; parallel to surface; board (cellulosic fiber).	A=15 pct	TIM CRP.[7] TMVS.
01/S08—ASTM C209 (par. 12 in 72 version).	B_1	Tensile strength; perpendicular to surface; board (cellulosic fiber).	A=4 pct	TIM CRP.[7] TMVS.
01/S07—ASTM C273	B_1	Shear test; sandwich construction	A=25 pct	TIM CRP.[7] TMVS.
01/S08—ASTM C446	B_1	Breaking load/modulus of rupture; preformed pipe insulation.	Breaking load: A=2 pct; modulus of rupture: A=5 pct.	TIM CRP.[7] TMVS.
01/S09—ASTM D781	B_1	Puncture test; paperboard and fiberboard.	R=7.3 pct; A=8 pct	
01/S10—ASTM D828	B_1	Tensile breaking strength; paper and paperboard.	R=5 pct; C=9 pct; A=11 pct	TAPPI CRP or TIM CRP.[7 8]
01/S11—ASTM D1621	B_2	Compressive properties; rigid cellular plastics; proc. A—Crosshead.	A=6 pct	TIM CRP.[7] TMVS.
01/T01—ASTM C177	B_3	Thermal transmission properties; low-temperature guarded hot plate; loose-fill.	R=1 pct; A=4 pct	SRM 1450,[10] TIM CRP.
01/T02—ASTM C177	B_3	Thermal transmission properties; low-temperature guarded hot plate; compressible blanket and batt.	do	SRM 1450,[10] TIM CRP.
01/T03—ASTM C177	B_3	Thermal transmission properties; low-temperature guarded hot plate; rigid board and block.	do	SRM 1450,[10] TIM CRP.
01/T04—ASTM C236	B_3	Thermal conductance; guarded hot box	A=4 pct	TIM CRP.[11]
01/T05—ASTM C335	B_3	Thermal conductivity; pipe insulation	do	TIM CRP.
01/T06—ASTM C518	B_3	Thermal transmission properties; heat flow meter; blanket and batt.	R=1 pct; A=4 pct	SRM 1450,[12] TIM CRP.
01/T07—ASTM C518	B_3	Thermal transmission properties; heat flow meter, board.	do	SRM 1450,[12] TIM CRP.
01/T08—ASTM C518	B_3	Thermal transmission properties; heat flow meter; loose-fill.	do	SRM 1450,[12] TIM CRP.
01/T09[13]—ASTM C653	B_3	Thermal resistance (rec. practice); blanket (mineral fiber).	See 01/T02 and 01/T06	See 01/T02 and 01/T06.
01/T10[14]—ASTM C687	B_3	Thermal resistance (rec. practice); loose-fill (fibrous).	See 01/T01, 01/T04, and 01/T08	See 01/T01, 01/T04 and 01/T08
01/V01—ASTM C445	B_1	Emittance of surfaces	A=0.02 emittance or 10 pct, whichever is higher.	
01/V02—ASTM D591	B_1	Starch in paper; qualitative test	Nonquantitative test	
01/V03—ASTM D2020	B_1	Mildew (fungus) resistance; paper and paperboard.	do	
01/V04—ASTM E96	B_2	Water vapor transmission—thin sheets—proc. A.	R=19 pct—A=25 pct	SRM 707-1.

[1]The letter B followed by a numerical subscript 1, 2, or 3 indicates the complexity of the test method for examination purposes. Subscript 1 indicates relatively simple test methods, subscript 2 indicates moderate test methods and subscript 3 indicates complex text methods.

[2]SRM—Standard reference materials may be obtained from the National Bureau of Standards. Ordering information may be obtained from the Office of Standard Reference Materials, B311 Chemistry Bldg., National Bureau of Standards, Washington, D.C. 20234 (telephone 301-921-2045).

[3]NBS sieve verification service—Information may be obtained from the Dimensional Metrology Section, B104 Metrology Bldg., National Bureau of Standards, Washington, D.C. 20234 (J. Beers, telephone 301-921-2216).

[4]TIM CRP—Collaborative reference program on thermal insulation materials sponsored by the Collaborative Testing Services, Inc. Information may be obtained from NBS Collaborative Reference Programs, B360 Polymer Bldg., National Bureau of Standards, Washington, D.C. 20234 (telephone 301-921-2946).

[5]Laboratory need be in only one CRP of D04, D05 and D07.

[6]TMVS—Testing machine verification service is obtainable from a number of sources. Specify verification to ASTM Standard E4. Most manufacturers of testing machines can provide information on sources of verification service.

[7]Participation in CRP for S01 and S02 is required for accreditation for S01 through S08 and S11, and in either TAPPI CRP or TIM CRP for S01 and S02 for accreditation for S10.

[8]Eligible for accreditation only if accredited for 01/S03.

[9]TAPPI CRP—Collaborative reference program sponsored by the Technical Association of the Pulp & Paper Industry. Information may be obtained from NBS Collaborative Reference Programs, B360 Polymer Bldg., National Bureau of Standards, Washington, D.C. 20234 (telephone 301-921-2946).

[10]Participation in T02 CRP required for C177 accreditation for any material. In addition, T01 or T02 participation required for accreditation for indicated materials.

[11]Not required if in T02.

[12]Not required if in T03.

[13]Not required if in T01.

[14]Eligible for accreditation only if laboratory is accredited for C177, C236 or C518 for same class of materials.

[FR Doc. 78-27498 Filed 9-28-78; 8:45 am]

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NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Estimated Fees and Charges To Accredit Laboratories Which Test Thermal Insulation Materials

In a separate notice appearing in this issue of the FEDERAL REGISTER, the Department of Commerce announced the issuance of proposed criteria for accrediting testing laboratories which test thermal insulation materials. Pursuant to paragraph (a) of section 7.10 of the procedures for a national voluntary laboratory accreditation program (15 CFR Part 7) notice is hereby given of the estimated fees and charges which the Secretary of Commerce (Secretary) proposes to establish for this laboratory accreditation program (LAP). The proposed schedule of estimated fees and charges is furnished for informational and guidance purposes so the public may evaluate the proposed criteria in light of the expected fees to be charged.

The estimated fees and charges are in amounts calculated to cover the cost of examining, accrediting, and auditing laboratories that test thermal insulation materials. The cost associated with developing this LAP has not been included. The estimated fees and charges are intended to pay for the evaluation of information supplied by the laboratory in response to a questionnaire, for onsite inspection of the laboratory facilities, and for the participation of the laboratory in proficiency sample testing programs.

Basis for estimates. These fees and charges are based on the assumption that each laboratory that tests thermal insulation materials will be evaluated every 2 years (plus or minus 3 months), and that approximately one-third of such laboratories will undergo one unannounced reinspection during this period. The bulk of the costs will accrue during the first year of accreditation when each of the laboratories is visited and examined. However, these costs would be spread over a 2-year period so that fees would be charged annually and accreditation (or reaccreditation) would be issued annually. This accreditation procedure would insure a specific review of proficiency sample test results from each laboratory on a scheduled basis and would be a basis for identifying those laboratories which would be subject to the unannounced reinspection.

It is unlikely that any one laboratory will seek accreditation for all 53 test methods which are included in this LAP. Therefore, the fees and charges are of necessity flexible, allowing the total charges to vary with the number and complexity of the individual test methods selected by the laboratory.

Estimated fees and charges. The first element of the estimated fee is composed of a fixed charge to cover personnel costs incurred in the examination of the laboratory to meet the general criteria and basic travel cost of the inspector to the laboratory. To the fixed charge will be added a charge which varies depending upon the number and level(s) of complexity of the test method(s) selected. The fee to any laboratory will be determined by the following equation:

$$F=A+B_1(N_1)+B_2(N_2)+B_3(N_3)$$

where F is the fee in dollars, A is the fixed charge in dollars, B is the variable charge in dollars and N is the number of test methods for which the laboratory requests accreditation. Subscripts 1, 2, and 3 represent the three levels of complexity into which the test methods fall when considered for examination purposes. The fee for the simpler test methods is represented as B_1. N_1 is the number of such test methods. Test methods of intermediate complexity are represented by B_2 and N_2 in the equation, and the most complex test methods are represented by B_3 and N_3. Estimated values for each element in the equation are: A=$650, B_1=$25, B_2=$75, and B_3=$125. The level of complexity for each test method is shown by the letter B with subscript 1, 2, or 3 in the first column of appendix 1 to the FEDERAL REGISTER announcement referenced in the first sentence of this notice.

Proficiency sample fees. In addition to the basic inspection and evaluation charges referenced above, there will be a fee associated with participation in proficiency sample tests where such tests are required. The last column in appendix 1 referred to above labeled "Requisite Reference Programs" identifies those test methods for which proficiency sample tests are anticipated. Proficiency sample fees pay for distribution of samples (where appropriate), the collection and analysis of the data, and the reporting of requests. The estimated annual fee for the proficiency sample testing associated with each of the test methods is nominally $80. In arriving at this figure, it has been assumed that two proficiency samples will be provided each year.

Example calculation. In order to clearly illustrate the way the annual fee would be calculated, the following example is provided. If a laboratory was to choose to be accredited for four simple test methods (B_1), three intermediate test methods (B_2) and two complex test methods (B_3), the fee equation would become:

$$F=\$650+\$25(4)+\$75(3)+\$125(2)=\$1,225$$

Added to this would be the cost of proficiency samples. If proficiency sample tests were required for two of these nine test methods at a cost of $80 each, the total cost of proficiency sample testing would be $160. The total annual accreditation fee for the testing laboratory in this example would be $1,385.

Inquiries. Any inquiries may be addressed to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

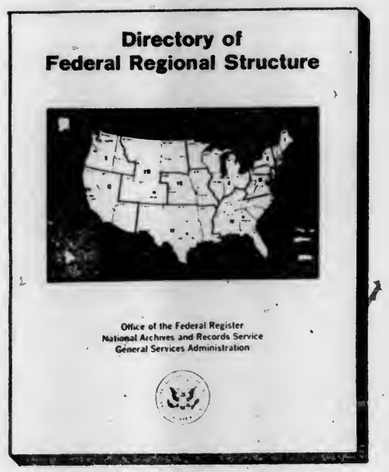
Dated: September 26, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

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[Revised as of May 1, 1978]

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This publication was prepared under the editorial direction of Martha B. Girard assisted by Rose Steinman, with Loren Myers and Carol Blanchard as Chief Editors. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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226 Appendix revised	25130
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227.30 (c) amended; (d) and (e) redesignated as (f) and (g); new (d), (e), and (f)(3) through (6) added	25133
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[1] Chapter II will be renamed to reflect that it contains regulations administered by Energy Department.

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930 Added	10517
930.19 Heading correctly added	15416
930.20 Heading correctly added	15416
930.30 Heading correctly added	15416
931 Added; final regulations	7550
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419.1 (f) petition exemption granted	28998
422 Removed	43023
456 Added	24006
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456.9 (d) corrected	25995
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702 Interpretation	35684
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801.12 (b) (1) (i) and (d) (1) corrected	36054
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802 Added	33544
802.23 Examples 3 and 4 corrected	36054
803 Added	33548
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803.10 (b) (1) corrected; (c) Example 2 added	36054

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1012.6 (c) (1) (ii) amended	5804
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1031.4 Introductory text revised	30796
1031.5 Introductory text and (b) through (j) revised	30796
1032 Added	19221
1040 Added	25658
1050 Added; interim	23562
1115 Revised	34998
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1201.4 (b) (1) (iii), (b) (2), and figure 3 revised	43708
1201.7 (c) redesignated as (d) and revised; new (c) added	26700
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1209 Added	35247
1209.1 (a) corrected	39564
1209.4 (a) (1), (3), (4), (5), (6), (10), (11), (c) (3), (5), (8), (e) (1) (ii) and (iii) corrected	39564
1209.5 (a) (2) corrected	39564
1209.6 (a) (2), (3), and (c) (1) corrected	39564
1209.7 (c) corrected	39564
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1303.3 (c)(3) added 8515
1401.4 Statement following (c) added 7983
1402 Added 28397
1402.1 (b)(3) amended 47722
1402.4 (b)(3) added 47722
1500.17 (a)(10) revised 12310
(a)(10) effective date confirmed 22936
1500.18 (a)(15) added 22005
1500.49 Added; eff. 3-26-79 12645
(c)(1), (c)(3)(ii) and (iii), (d)(1), (2)(i) and (iii), (e)(1), (2), and (3) corrected 21324
1500.83 (a)(37) added 32745
(a)(38) added 47176
1500.134 Added 33704
1505.1—1505.8 Existing text designated as Subpart A; heading added 26428
1505. (e)(5) and (6) revised; eff. 10-3-79 45552
1505.6 (a)(4)(ii) amended 26428
1505.50 (Subpart B) Added 26428
1510 Added 22005
1615.1 (e) revised; (g) removed 4853
1615.3 (a) revised; (b)(3) removed 4853
1615.4 (a), (b)(2), (c)(1) and (3), (c)(4)(iv) and (vi), (d)(2)(i) and (ii), (d)(3)(i)(A) and (b)(3), (g)(2)(i) and (3) revised 4853
1615.31 (e)(1)(iii) revised 4855
1616.4 (c)(2)(ii) revised 4855
1700.14 (a)(1)(ii) revised 17332
(a)(12) and (13) revised 17336
1701 Added 11980

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1 Forms 3-R, 7-R, and 8-R; instruction revised 19648
1.3 (ee) and (ff) added 39967
1.10 Revised 39967
1.12 Added 39969
1.16 Added 39970
1.17 Revised 39972
1.18 (b) revised; (c) removed 39981
1.33 Revised 31889
1.33a Removed 31890
1.50 Revised 17814
1.52 Added; effective in part 1-31-79 and 6-30-79 39981
1.55 Added 31890
1.71 Added 32293
(a) revised 36897
8 Added 41962
15.00 (b)(2) revised 45827
15.01 (d) revised 45827
15.02 Revised 45827
15.03 Revised 45828
18.06 Revised 37431
19 Revised 45828
30 Authority citation revised 47722
32.11 Added 16161
32.12 Added 23707
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140.2 Revised 21659
140.12 Added 43452
140.13 Added 50167
140.81 Added 20971
145.6 Revised 21659
166 Added 31890

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200.30-3 (a)(28) added 50422
200.30-4 (a)(5) added 36621
200.30-6 (c) revised 15417
200.80 (c)(1)(i) revised; (c)(1)(ii) amended; (c)(1)(iii) added 45991
200.735-8 (e) added 36900
201.4 (a) revised 38575
201.6 (b) amended 28999
210 Heading revised 40712
210.1-01 (c) added 40712
210.3-17 Introductory text amended 40712
210.3-18 Added 40712
210.5-01 (a)(7) revised; (b) removed; (c) redesignated as (b) 41024
210.9-01 Revised 41024
210.9-02 Revised 41024
Footnote 4 correctly designated as footnote 1 43709
210.9-3 Revised 41026
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210.9-04 Revised 41027
210.9-05 Revised 41027
Footnote 6 correctly designated as footnote 3 43709
210.12-01 Amended 41028
210.12-02 Table footnote 2 (b) removed; footnote 2 (a) redesignated as footnote 2 41028
211 Interpretative releases 29109, 29937, 36900, 40730
229.20 Items 3 through 6 added 34407
230.134 (a)(3)(iii)(F) and (G) amended; (a)(3)(iii)(H) added 47495
230.144 (e)(1) and (2) and (f) revised 43711
230.145 (d) revised 21661
230.146 (b)(2) and (e)(1)(ii)(c) revised 41194
230.148 Added 14449
(b)(1) and (3) revised 43711
230.254 (a)(1)(i) revised 41385
230.257 Introductory text revised 41385
230.429 (a) revised 33905
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239.11 Form S-1 amended 18500, 34412
239.14 Revised 39554
239.15 Revised 39554
239.16b Revised 21661
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239.18 Form S-11 amended 18500, 34412
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239.26 Revised 21662
239.27 Heading revised; Form S-16 amended 16677
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240.10b-10 (b) introductory text revised 30271
Revised 47503
240.11a1-1(T) (b) revised; (c) added 18562
240.11a1-2 Introductory text and (b) corrected 14451
240.11a1-4(T) Added 18562
240.11a2-2(T) (f) added 18562
240.11Ac1-1 (e) revised 18557
240.13d-1—240.13d-7 Revised 18495
240.13d-1 (b)(1)(ii)(G) revised 29768
240.13d-3 (d)(3) revised 29768
240.13d-101 Revised 18498

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240.13d–102 Removed 18495
Added 18499
240.13f–1 Added 26705
240.14a–101 Schedule 14A amended 24288, 29111, 34413
240.15c3–1 (c)(2)(iv)(C) revised; (c)(2)(vi)(M) and (f)(3)(iii) amended 33906
241 Interpretative releases 18163, 25421
249.14a–101 Schedule 14A amended 18500
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249.210 Form 10 amended 18500, 34413
249.216 Revised 21663
249.308 Form 8–K amended 14450, 24288
249.308a Form 10–Q amended 14451, 33905, 34413
249.310 Form 10–K amended 14451, 18500, 33905, 34413
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249.311 Revised 21663
249.316 Revised 21663
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270.8f–1 Added 21664
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274.11 Revised 39553
274.11a–1 Added 39553
274.101 Amended 39554
274.101a–1 Removed 39554
274.101a–2 Removed 39554
274.106 Form N–1Q amended 21665
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230 ..... 15335, 15441, 22053, 35730, 41235, 43725, 43726
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240 ..... 15335, 16512, 18501, 30806, 31945, 33935, 34790, 43035, 47538, 50606, 50615
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270 ..... 16192, 19669, 23589, 36643, 39396, 47542

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

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1.3a (b)(1) amended; (b)(2) redesignated as (4); new (b)(2) and (3) added 20790
1b Added 27176
1.7 (d) revised 36434
1.8 (a)(2), (d), (e), and (f)(2) revised 36434
1.14 (a)(2) amended 36435
1.27 (b)(10) redesignated as (b)(11); new (b)(10) added 36435
1.31 (b)(1)(iv) revised 39983
1.36 (16) redesignated as (17); second (15) redesignated as (16) and revised 41965
(f)(1) and (2) existing texts designated as (f)(1)(i) and (2)(i); (f)(1)(ii) and (2)(ii) added 46528
1.40 Added 35909
2.75 (o) revised 23565
(o) technical modification 48992
3.5 (a), (b), and (d) revised; (c), (f), and (g) added 36435
3.8 (j)(4) amended; (j)(5) added 20790
3.114 (b) revised 40217
3.170 Form No. 69 removed; Form EIA–50 added 27178
4.60 Revised 40217
16.12 Revised 40217
35.2 (c) amended 36437
101 Balance sheet accounts:
Acct. 127 amended 15418
Acct. 215.1 redesignated from Acct. 264 redesignated as Acct. 215.1 and revised 15418
104 Balance sheet accounts:
Acct. 125 amended 15419
Acct. 215.1 redesignated from Acct. 264 and revised 15418
Acct. 264 redesignated as Acct. 215.1 and revised 15419
131.6 Revised 40217
141.1 Form No. 1 amended 15420, 19382
141.2 Form No. 1–F amended 15422
141.13 (c) and Form No. 9 amended 15419

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154.38 (h) added 45553
(d)(4)(iv)(a) through (c) revised; (d)(4)(viii) added 50170
157.8 Amended 36437
201 Balance sheet accounts:
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Acct. 164.2 amended 19356
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216 Storage plant heading revised 19362
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Acct. 362 heading revised 19362
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Accts. 364.2—364.8 added 19362
260.1 Form No. 2 amended 15420, 19363
Form No. 2 corrected 35912
260.2 Form No. 2–A amended 15422
260.13 (d) revised 34454
260.15 Form No. 69 removed; Form EIA–50 added 27178

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401.35 (a) introductory text and (15) revised 38816
410.1 Revised 27784

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701.1—701.6 (Subpart A) Revised 25944
701.51—701.79 (Subpart B) Revised 25945

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4 Forms 1302 and 1302–A effective date extended 36622
4.1 (c) revised 22174
4.22 Amended 22173, 24671
4.98 (a) table interim rule 46962
4.101 Added 49787
6.2 (a) amended; (g) redesignated as (h); and new (g) added 14962
6.13 Amended 28456
10.1 (g), (h), and (i) corrected 20003
10.66 Heading and (c) introductory text revised; (c) footnote 62a added 23709
10.99 Revised 43453
10.151 Heading and text amended 49787
10.152 Amended 49787
10.153 (b), (d)(2) and (3), (e), and (f) amended 49787
11.1 (b) amended 43454
11.2a Revised 43454
11.3 Amended 43454
11.7 Heading revised; text amended 43454
12.37 (c) amended 43454
12.106 Revised 36055
19.15 (g)(2) revised 38382
19.16 (a) amended; (g) revised 43454
22.20a Amended 22176
22.23 (e) amended 43455
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101.3 (b) table amended 19833, 28456, 30289, 36056
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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. January dates are in 1979.

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT
AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT
Census—Census Bureau
EAB—Bureau of Economic Analysis
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT
AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT
BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT
AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT
CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT
DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT
BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT
AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT
CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT
ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES
ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/OFR—Office of the Federal Register
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission
MWSC—Minimum Wage Study Commission
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office

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OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

IMPROVING GOVERNMENT REGULATIONS

SCHEDULE OF SEMIANNUAL AGENDAS OF REGULATIONS

Executive order 12044, Improving Government Regulations, (43 FR 12661) requires that executive agencies publish semiannual agendas of significant regulations under development. At a minimum each agenda is to describe the regulations being considered by the agency, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and the status of regulations previously published.

The agencies have chosen the following dates to publish their agendas. The Office of the Federal Register compiled this schedule as a public service.

If necessary, additions to the following schedule will be published on Tuesday, October 10, 1978.

ACTION	Jan. 8, 1979; July 9, 1979.
Administrative Committee of the Federal Register	Jan. 8, 1979; July 9, 1979.
Agriculture Department	Nov. 15, 1978; May 15, 1979.
American Battle Monuments Commission	Nov. 6, 1978; May 7, 1979.
Commerce Department	Feb. 15, 1979; Aug. 15, 1979.
Committee for Purchase from the Blind and Other Severely Handicapped	Dec. 1, 1978; June 1, 1979.
Community Services Administration	Nov. 10, 1978; May 11, 1979.
Defense Department	Nov. 30, 1978; May 30, 1979.
Energy Department	Oct. 31, 1978; Apr. 30, 1979.
Environmental Protection Agency	Nov. 1, 1978; Feb. 1, 1979; May 1, 1979; Aug. 1, 1979.
Environmental Quality Council	Jan. 5, 1979; July 5, 1979.
Equal Employment Opportunity Commission	Jan. 31, 1979; July 31, 1979.
Farm Credit Administration	Oct. 31, 1978; Mar. 30, 1979.
Federal Mediation and Conciliation Service	May 1, 1979; Oct. 1, 1979.
General Services Administration	Nov. 17, 1978; May 18, 1979.
Health, Education, and Welfare Department	Dec. 1, 1978; June 1, 1979.
Housing and Urban Development Department	Dec. 15, 1978; June 15, 1979.
Interior Department	Jan. 15, 1979; July 16, 1979.
Justice Department	Mar. 1, 1979; Sept. 1, 1979.
Management and Budget Office	Dec. 1, 1978; June 1, 1979.
National Aeronautics and Space Administration	Oct. 2, 1978; April 2, 1979.
National Credit Union Administration	Dec. 15, 1978; June 30, 1979.
National Foundation on the Arts and the Humanities	Nov. 1, 1978; Apr. 2, 1979.
National Science Foundation	Dec. 1, 1978; June 1,, 1979.
Pension Benefit Guaranty Corporation	Dec. 22, 1978; June 22, 1979.
Railroad Retirement Board	Jan. 31, 1979; July 31, 1979.
Renegotiation Board	Nov. 20, 1978; May 21, 1979.
Small Business Administration	Jan. 25, 1979; July 25, 1979.
State Department	Mar. 30, 1979; Oct. 30, 1979.
Tennessee Valley Authority	Nov. 6, 1978; Apr. 2, 1979.
Transportation Department	Feb. 26, 1979; Aug. 27, 1979.
Treasury Department:	
Government Financial Operations Bureau	Mar. 31, 1979; Sept. 30, 1979.
Internal Revenue Service	Mar. 31, 1979; Sept. 30, 1979.
Public Debt Bureau	Apr. 15, 1979; Oct. 15, 1979.
Veterans Administration	Dec. 18, 1978; June 18, 1979.
Water Resources Council	Jan. 19, 1979; July 20, 1979.

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presidential documents

[3195-01]

Title 3—The President

Executive Order 12085 — **September 28, 1978**

Creating an Emergency Board To Investigate a Dispute Between the Norfolk and Western Railway Company and Certain of its Employees

A dispute exists between the Norfolk and Western Railway Company and certain of its employees represented by the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes, a labor organization;

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), it is hereby ordered as follows:

1-101. *Establishment of Board.* There is established a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1-102. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of this Order.

1-103. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from this date and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the Norfolk and Western Railway Company, or by its employees, in the conditions out of which the dispute arose.

Jimmy Carter

THE WHITE HOUSE,
September 28, 1978.

[FR Doc. 78-27914 Filed 9-28-78; 5:00 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
4	4.75
5	5.00
7 Parts:	
0-52	6.00
53-209	4.50
210-699	6.75
700-749	4.25
750-899	2.40
900-944	4.75
945-980	3.50
981-999	3.50
1000-1059	4.75
1060-1119	4.75
1120-1199	4.00
1200-1499	4.75
1500-2799	6.50
2800-2851	5.50
2852	6.00
2853-end	4.00
8	3.50
9	6.00
10 Parts:	
0-199	5.00
200-end	6.25
12 Parts:	
1-299	6.25
300-end	6.75
13	4.75
14 Parts:	
1-59	5.75
60-199	6.75
200-1199	5.75
1200-end	3.75
15	5.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

20 Parts:	
1-399	$3.50
500-end	4.50
21 Parts:	
1-99	4.00

CFR Unit (Rev. as of July 1, 1977):

28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	*5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	6.25
200-999	6.75
1000-1199	4.50
1200-1299	*8.00
1300-end	4.25
50	5.50

*Previously announced prices of $4.75 and $8.75 for these volumes, listed in the FEDERAL REGISTER of July 1, 1978, were in error.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Delegation of Authority Under Capper-Volstead Act

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture has determined that, in order better to carry out the functions conferred upon him by section 2 of the Capper-Volstead Act, authority to perform certain of such functions—including the issuance of a complaint against a cooperative association of producers—should be delegated to the Director of Economics, Policy Analysis and Budget.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, 202-447-6035.

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Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended by adding to § 2.27 the following new paragraph (b)(13) to read as follows:

§ 2.27 Delegations of authority to the Director of Economics, Policy Analysis and Budget.

* * * * *

(b) *Related to farmer cooperatives, economics research, and statistical reporting.* * * *

(13) Exercise the functions vested in the Secretary by the first sentence of section 2 of the Capper-Volstead Act (7 U.S.C. 292), i.e., all functions of the Secretary under that section up through and including issuance of a complaint requiring an association of producers to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: September 25, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-27669 Filed 9-29-78; 8:45 am]

[3410-02]

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 29—TOBACCO INSPECTION

U.S. Type 31—Burley Tobacco; Experimental Sales in Untied Form

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: Exclusively for the 1978-79 burley marketing season, the Official Standard Grades for Burley Tobacco, U.S. Type 31, grown primarily in Kentucky, Tennessee, Ohio, Indiana, Virginia, North Carolina, West Virginia, and Missouri are amended to permit burley tobacco, heretofore eligible for all official grades only when marketed tied in hands, to be also eligible for all official grades when marketed untied in bales in limited quantities and during specified times during the season for educational and research purposes.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7235.

SUPPLEMENTARY INFORMATION: A notice was published on July 6, 1978, (43 FR 29129) that the Department was considering a modification of the Official Standard Grades for Burley Tobacco, U.S. Type 31, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731, U.S.C. 511 et seq.).

During the 1974-75 and 1975-76 burley marketing seasons, the Department cooperated with the University of Kentucky which was conducting experimental sales of untied baled burley tobacco. In these experiments, Federal tobacco graders applied unofficial grades to the tobacco. This unofficial grading involved a determination by the Federal grader as to the official grade a particular lot of tobacco would have warranted if the lot had been properly prepared for market and displayed as part of a regularly scheduled auction. In the 1976-77 season, experimental sales were conducted, using both baled tobacco and tobacco packed loose on burlap sheets, by the Universities of Kentucky and Tennessee and various State farm bureaus. Again, only unofficial grades were applied by Government graders. Experimental sales were discontinued during the 1977-78 season and the Council for Burley Tobacco appointed a committee to further study the entire project. Subsequent to this study the Council made recommendations to the Secretary of Agriculture for the conducting of further experimental sales of baled barley tobacco in the 1978-79 marketing year.

Based on numerous requests from the burley industry and, particularly, on the recommendations of the Council, the Department proposed solely for the 1978-79 season and solely for experimental purposes, that on certain days during the season Federal graders apply official grades eligible for price-support to limited quantities of untied burley tobacco packed straight in bales and offered for sale at auction throughout the entire burley production area.

Numerous comments on the proposal were received by the Department. After a thorough analysis and evaluation of those comments, the Department is hereby modifying the Official Standard Grades for Burley Tobacco as proposed with certain clarifications.

The majority of comments received favored the amendment as proposed. The points made by these commentators include:

1. Increased cost pressures caused by the large amount of labor required to grow burley tobacco have already forced many small producers to abandon the crop in favor of other commodities that lend themselves to one or two-man farming. This alone could pose a threat to the stability of this country's burley supplies. Also, the lack of availability of farm labor in burley growing areas has placed an added squeeze on farmers. Preliminary research efforts indicate that untied sales could result in substantial savings in farmers' labor requirements compared to the traditional tied-in-hands method.

2. Bales require less skill on the part of workers in the stripping room, therefore, burley could be stripped in a drier condition; grading in the barn is easier, and loading and unloading for the trip to market is faster and easier.

The major objection voiced by opponents was that the quality of untied, baled tobacco would deteriorate in comparison to the traditionally tied-in-hands method of marketing. This objection, of course, is one the Department has been aware of since "untied" burley sales were first requested in 1974. The possible quality deterioration exists and producers will require an advance educational program stressing quality maintenance in order to avoid it. Experimental sales are to be in effect for one full marketing season, 1978-79. During this time, the Department will observe, particularly, the quality of the product, and it will be one of the factors considered in determining whether permanent changes in the Burley Standards should be made.

Many commentors recommended that sales of burley loose on burlap sheets also be permitted. However, the Council for Burley Tobacco, after its study of various packaging alternatives, declined to recommend such inclusion. The Department in its determination to cooperate with the Council, therefore, declines to expand the one-year experimental program to include sheeting of tobacco.

The majority of the buying concerns remained neutral on the "tied-untied" burley issue, but expressed concern over not having recourse to growers when some bales in a lot are inferior to the one inspected. This experimental program contemplated by the Council for Burley Tobacco and adopted by the Secretary will provide adequate recourse by the buyer to the particular warehouse, along with adequate recourse by the warehouse to the particular producer. The Department feels that educational programs, for the benefit of growers, conducted by the land-grant colleges will alleviate the greater part of this problem. The integrity of the producer must be respected and, as stated in the proposal, "the producer, by offering baled burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot * * *." Based on the one-year experimental nature of this change in marketing practices, if certain bales in a lot are found to be inferior this would point out that further educational programs are needed and different requirements on the grower submitting baled tobacco for sale might be necessary.

Several commentors recommended that a referendum be held to determine if producers favored the untied, baled burley tobacco program. The Tobacco Inspection Act does not contain authority for the holding of a binding referendum on this point. Of course, this does not preclude the holding of an advisory referendum in the future if the 1978-79 experimental phase proves acceptable to the industry and the Department determines it is in the best interests of all concerned to proceed with amending its regulations to provide for sales of "untied" burley tobacco.

Several commentors objected to restrictions, in the definition of "rework," by the words, "that the bales do not contain any foreign matter or material." The commentors' objection to this phrase was based on their belief that even if one sucker, stalk, string, rubberband, etc., was found in the bale during the inspection process that the entire lot would be graded "No-G." This is not the case, however, as substantiated by Rule 8 of the Official Standard Grades for Burley Tobacco which reads: "In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked." Rule 8 would apply to both methods of burley tobacco marketing: baled or the traditional "tied-in-hands" method. Therefore, no change in wording is necessary, and the portion of "rework" in question is hereby adopted as proposed.

In response to other comments received and upon further consideration of the proposed modifications, the following shall be included in the definition of "rework" § 29.3050, for the 1978-79 marketing season only.

(1) The leaves in the bales must not be tied in hands;

(2) The bales may contain only untied tobacco packed straight; and

(3) The size of the bales must be approximately 1 x 2 x 3 feet in size. Additionally, a fourth point will be included as follows:

(4) Only untied, baled tobacco which is identified by filed certifications under 7 CFR, Part 1464 of the regulations governing the price support program as being part of the experiment will receive an official, price-supported grade.

Such baled burley tobacco shall be officially graded only during 5 sales days at each warehouse during the 1978-79 season. Such sale dates shall be determined by the Burley Sales Committee or other appropriate organization, however, three of the sale dates shall be during 3 separate weeks preceding the Christmas holiday recess and two of the sale dates shall be during 2 separate weeks after the recess.

Responsibilities imposed upon warehousemen and producers, respectively, by the adoption of the Department's proposal include:

1. It is the responsibility of the operator of a warehouse to open the particular bale in a lot of tobacco chosen by a grader for inspection and to reseal that bale after inspection; and

2. The producer is responsible for certifying that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, and that the leaf was stalk-cured, that the bales do not contain any foreign matter or material and that the bales are not nested.

The Department's instructions to graders will be amended to conform to these understandings.

Accordingly, § 29.3050 of the regulations is hereby amended as follows:

§ 29.3050 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market: *Provided*, That during the burley marketing season which will begin in November or December 1978 and end by April 1979, burley tobacco which is offered for sale in bales shall not be considered to require rework if the tobacco in said bales is not tied in hands, is packed straight, the size of the bale is approximately 1 x 2 x 3 feet and is identified by filed certifications under 7 CFR, Part 1464 of the regulations governing the price support program as being part of the experiment. *Provided further*, That: (1) Tobacco marketed untied in bales will be officially graded only during 5 sales days at each warehouse which sale dates may be determined by the Burley Sales Committee or other appropriate organization; however, three of the sale dates shall be during 3 separate weeks preceding the Christmas holiday recess and two of the sale dates shall be during 3 separate weeks after the recess; (2) the operator of any warehouse at which baled burley tobacco is offered for sale shall open and later close and secure the particular bale, in a lot of tobacco, chosen by a grader for inspection; and (3) the producer, by offering baled burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material and are not nested.

Dated: September 26, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-27668 Filed 9-29-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Pear Reg. 17, Amdt. 1]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Extension of Effective Period for Minimum Quality Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through November 1, 1978, certain quality requirements applicable to fresh shipments of Beurre D'Anjou pears shipped from designated areas of Oregon and Washington. This action is necessary to assure that the pears shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Notice was published in the FEDERAL REGISTER issue of August 1, 1978 (43 FR 33732), that the Depart-

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ment was giving consideration to a proposal submitted by the Control Committee to amend § 927.317 by changing the expiration date thereof from October 1, 1978, to November 1, 1978. The notice invited interested persons to submit written data, views, or arguments on the proposal not later than September 8, 1978. No such material was received.

This amendment to pear regulation 17 is to be issued under the applicable provisions of the amended marketing agreement and Order No. 927 (7 CFR part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation requires that Beurre D'Anjou variety of pears shipped from Oregon and Washington be accompanied by a certificate indicating that core temperatures have been lowered to 35 degrees fahrenheit or less; and those pears for domestic shipment must have an average pressure test of 14 pounds or less. The quality regulation hereinafter provided is necessary to prevent the handling during the specified period of any Beurre D'Anjou pears of lower quality than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

After consideration of all relevant matters presented, including the recommendations made by the committee and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of D'Anjou pears are currently in progress and to effectuate the declared policy of the act, the regulation, as hereinafter amended, should be extended without interruption during the specified period; (2) compliance with the regulation will not require any special preparation on the part of handlers which cannot be completed by the effective time hereof; and (3) the provisions of this amendment are identical with the recommendation of the committee which was published in the aforesaid notice.

The provisions of § 927.317 (Pear Regulation 17; 43 FR 31119) are hereby amended to read as follows:

§ 927.317 Pear regulation 17.

(a) During the period August 1 through November 1, 1978, no handler shall ship any Beurre D'Anjou variety of pears, grown in the following Districts, unless such pears are handled in accordance with paragraph (1) of this section:

(1) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 27, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27789 Filed 9-29-78; 8:45 am]

[3410-02]

PART 966—TOMATOES GROWN IN FLORIDA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $122,000 and establishes a rate of assessment of one-half cent ($0.005) per 30-pound equivalent of tomatoes for the functioning of the Florida Tomato Committee. The regulation will enable the committee to collect assessments from first handlers on all assessable tomatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable tomatoes handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

The regulation is as follows:

§ 966.215 Expenses, rate of assessment and carryover of unexpended funds.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1979, by the Florida Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $122,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-half cent ($0.005) per 30-pound container or equivalent quantity, of tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 966.44(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 26, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27681 Filed 9-29-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-SO-59, Amdt. No. 39-3309]

PART 39—AIRWORTHINESS DIRECTIVES

Gulfstream American Corp. Model GA-7

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal of original fuel system valves and replacement with a modified, reidentified fuel selector valve in Gulfstream American Model GA-7 airplanes. The AD is needed to prevent locking of the fuel selector valve in one position, thus preventing its being moved to another position, adversely affecting operation of the fuel system.

DATES: Effective date—October 9, 1978.

ADDRESSES: The applicable Service Bulletin No. ME-10 may be obtained from the Gulfstream American Corp. (formerly Grumman American Aviation Corp.), P.O. Box 2206, Savannah, Ga. 31402. A copy of that service bulletin is contained in room 264, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

W. S. Thomas, Engineering and Manufacturing Branch, Flight Standards Division, FAA, 3400 Whipple Street, East Point, Ga. 30320, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: The FAA has determined that on fuel selector valves installed in Gulfstream American Model GA-7 airplanes an accumulation of tolerances on a ball detent that maintains the valve in selected positions may permit a ball to enter the detent position sufficiently that excessive force is required to reposition the valve. In one instance, the valve could not be moved. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which will require the removal of the original fuel selector valves and replacement with redesigned and reidentified fuel selector valves on Gulfstream American Model GA-7 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Gulfstream American Corp. (GAC) (formerly Grumman American Aviation Corp.) (GAAC): Applies to Model GA-7 serial Nos. GA7-001 through GA7-0039.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent a hazard to the airplane caused by excessive force required to move the fuel selector valve from one position to another position, accomplish the following:

(1) Remove the two original fuel selector valves, Gerdes Part No. A980-5, and install two new improved fuel selector valves, Gerdes Part No. A980-7, utilizing the procedures and precautions contained in GA-7 maintenance manual, section 28-2-1, pages 202 and 204, fuel selector valve removal, and fuel selector valve installations.

(2) After the Gerdes Part No. A980-7 fuel selector valve installation has been completed in accordance with the above maintenance manual procedures, set each selector to ON, OFF, and CROSSFEED positions while observing each selector valve to insure that the valve operates correctly, no fuel leakage occurs, and a positive detent is noted at each position selected on the valve.

(Gulfstream American Service Bulletin No. ME-10, dated Aug. 16, 1978, applies to this same subject.)

This amendment becomes effective October 9, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

Issued in East Point, Ga., September 21, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-27719 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-31]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Georgetown, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Georgetown, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Georgetown Municipal Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) on the airport to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 27, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 32435) stating that the Federal Aviation Administration proposed to alter the Georgetown, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR 71) alters the Georgetown, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing the newly established instrument approach procedure to the Georgetown Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, 71.181 (43 FR 440), the following transition area is altered to read:

GEORGETOWN, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Georgetown Municipal Airport (latitude

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30°40'45" N., longitude 97°40'45" W.), within 3.5 miles each side of the 358° bearing from the NDB (latitude 30°41'03" N., longitude 97°40'45" W.) extending from the 5-mile radius to 11.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 21, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-27689 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area—Larned, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Larned, Kans., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Larned-Pawnee County Airport which is based on an existing nondirectional radio beacon (NDB), a navigational aid installed on the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: An additional instrument approach procedure to the Larned-Pawnee County Airport, Larned, Kans., is being established utilizing an NDB installed on the airport. The establishment of a new instrument approach procedure based on this navigational aid entails alteration of the transition area at Larned, Kans., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure additional adequate controlled airspace for aircraft executing this new instrument approach procedure.

DISCUSSION OF COMMENTS

On pages 28208 and 28209 of the FEDERAL REGISTER dated June 29, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to alter the transition area at Larned, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440) is amended effective 0901 G.m.t., December 28, 1978, by altering the following transition area:

LARNED, KANS.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Larned, Kans. NDB located at latitude 38°12'16" N, longitude 99°05'17" W, and within 3 miles either side of the 276° bearing from the NDB, extending from 5.5-mile radius to 8 miles west of the NDB, and within 3 miles either side of the 001° bearing from the NDB extending from the 5.5-mile radius to 8 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 18, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-27445 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-71]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Marysville, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Marysville, Kans., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Marysville Municipal Airport, Marysville, Kans., which is based on a nondirectional radio beacon (NDB) navigational aid installed on the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Marysville, Kans., has installed a nondirectional radio beacon (NDB) on the airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Marysville, Kans., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DISCUSSION OF COMMENTS

On page 28209 of the FEDERAL REGISTER dated June 29, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Marysville, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t., December 28, 1978, by adding the following new transition area:

MARYSVILLE, KANS.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Marysville Municipal Airport, Marysville, Kans.; latitude 39°51'12" N., longitude 96°37'49" W.; within 3 miles each side of the Marysville NDB 357° bearing extending from the 5.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the Marysville NDB 147° bearing extending from the 5.5-mile radius area to 8 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on September 18, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-27448 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-AL-11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates two area high routes over the Gulf of Alaska to provide additional routings between Anchorage, Alaska, and Seattle, Wash. This action will increase the efficiency of airspace use by permitting uninterrupted climb/descent for air traffic between Anchorage and Seattle.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 20, 1978, the FAA proposed to amend subpart D of part 75 of the Federal Aviation Regulations (14 CFR Part 75) to designate two area high routes southeast of Anchorage to provide additional routings for air traffic operating between Anchorage and Seattle (43 FR 31163). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. This amendment is that proposed in the notice. Section 75.400 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 730).

THE RULE

This amendment to part 75 of the Federal Aviation Regulations (14 CFR Part 75) designates J-886R and J-997R southeast of Anchorage to provide better air traffic handling between Anchorage and Seattle. Aircraft departing/landing Anchorage via current routings are frequently stair-stepped during climb/descent until conflicting traffic is no longer a factor. Designation of these routes will provide lateral airspace for uninterrupted climb/descent to/from cruising altitudes.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart D of part 75 of the Federal Aviation regulations (14 CFR Part 75) as republished (43 FR 730) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

§ 75.400 [Amended]

Under § 75.400, the following is added:

J-886R Anchorage, Alaska, to Yakutat, Alaska:

Waypoint, Name, Location, and Reference Facility
NOWEL, 60°29'01" N., 148°38'01" W., Anchorage, Alaska.
ARISE, 60°00'02" N., 146°09'06" W., Middleton Island, Alaska.
KONKS, 59°33'04" N., 144°00'00" W., Middleton Island, Alaska.
KILLA, 58°45'00" N., 140°35'00" W., Yakutat, Alaska.

J-997R Anchorage, Alaska, to Annette Island, Alaska:

Waypoint Name, Location, and Reference Facility
NOWEL, 60°29'01" N., 148°38'01" W., Anchorage, Alaska.
TONTS, 59°51'06" N., 146°18'00" W., Middleton Island, Alaska.
DUNKS, 57°58'07" N., 140°14'00" W., Yakutat, Alaska.
HOLLI, 56°40'00" N., 137°00'00" W., Biorka Island, Alaska.
MOCHA, 54°29'05" N., 133°00'02" W., Annette Island, Alaska.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Washington, D.C., on September 21, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-27690 Filed 9-29-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart K—Employment—Wages—Self—Employment—Self-Employment Income

DEEMED FILING OF WAIVER OF TAX EXEMPTION BY RELIGIOUS, CHARITABLE, OR OTHER ORGANIZATION DESCRIBED IN SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE

AGENCY: Social Security Administration, HEW.

ACTION: Final regulation.

SUMMARY: Certain religious, charitable, educational, or other organizations are excluded from social security coverage unless they file a waiver certificate of tax exemption from taxes under the Federal Insurance Contributions Act (FICA). Some of these organizations did not file a waiver certificate but nevertheless paid social security taxes under the Federal Insurance Contributions Act (FICA) on the wages paid to their employees. These amendments add a provision which reflects legislation allowing these organizations, under certain circumstances, to be deemed to have elected to cover the services of their employees under social security even though the organization failed to file the waiver certificate or was granted a refund of the taxes paid on the reported wages.

EFFECTIVE DATE: The regulations are effective October 2, 1978.

COMMENTS DUE: Consideration will be given to any comments submitted in writing on or before December 1, 1978.

ADDRESSES: Send comments to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to the regulations will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

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FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth J. Dyer, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7454.

SUPPLEMENTARY INFORMATION: Services performed as an employee of a religious, charitable, educational, or other organization that is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1954 (IRC), are excluded from social security coverage. However, the employing organization may file a certificate (see sec. 3121(k) of the IRC) waiving its tax exempt status from social security taxes. A study by the General Accounting Office in 1975 revealed that a substantial number of these organizations had not filed waiver certificates with the Internal Revenue Service. The study further showed that these organizations were nevertheless reporting wages and paying social security taxes on them. Pub. L. 94-563, approved on October 19, 1976, made it possible for employees of such organizations to receive social security coverage for the reported wages.

Pub. L. 94-563 amended both the Social Security Act and the IRC. It provides that if the organization failed to file the waiver certificate but paid social security taxes under the Federal Insurance Contribution Act on wages paid its employees for three or more consecutive calendar quarters after 1972, it will be deemed to have filed the certificate. Section 312 of Pub. L. 95-216, further amended only section 3121(k) of the IRC, to change social security tax provisions in light of Pub. L. 94-563.

Public Law 94-563 and Pub. L. 95-216 are discussed only in general terms since the provisions relating to the filing of a waiver certificate, the collection and refund of social security taxes and coverage of organizations and their employees' taxes, are contained in the Internal Revenue Code of 1954 and are the responsibility of the Internal Revenue Service. Consequently, the regulations refer the user to the appropriate IRC provisions. The regulations are being published as final regulations since a notice of proposed rulemaking is unnecessary in that the regulations merely reflect the provisions of statutes already in effect.

Accordingly, the amendments are adopted as set forth below.

(Secs. 205, and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 42 U.S.C. 405 and 1302 as amended.)

(1977 Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security—Disability Insurance, 13.803, Social Security—Retirement Insurance; 13.804, Social Security—Special Benefits for Persons Age 72 and Over; and 13.805, Social Security—Survivors Insurance.)

Dated: August 15, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 27, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of title 20 of the Code of Federal Regulations is amended as set forth below:

1. In § 404.1016 the heading and paragraph (a) are revised to read as follows:

§ 404.1016 Election of coverage by religious, charitable, educational, or other organizations exempt from income tax.

(a) *General.* Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954 (sec. 101(6) of the Internal Revenue Code of 1939) are excepted from employment. This exception does not apply to services performed during the period for which a form SS-15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act, is filed under paragraph (a)(1) of this section, or an organization is deemed to have filed a waiver certificate under paragraph (a)(2) of this section.

(1) *Formal election of coverage—Filing of form SS-15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act, and form SS-15a, List of Concurring Employees.* Form SS-15 and form SS-15a, filed under section 3121(k) of the Internal Revenue Code of 1954, have the effect of covering services performed by an employee:

(i) Whose signature appears on the form SS-15a, List of Concurring Employees (or a supplemental list); or

(ii) Who became an employee of the organization after the calendar quarter in which the form SS-15 was filed; or

(iii) Who became a member of a group of employees as described in section 3121(k)(1)(E) of the Internal Revenue Code of 1954 after the calendar quarter in which the form SS-15 was filed with respect to that group.

(2) *No certificate filed—deemed filing of waiver certificate.* Under certain conditions, an organization which has never filed a waiver certificate but has reported wages and paid social security taxes for its employees shall be deemed: (i) To have filed a waiver certificate waiving its social security tax exemption, and (ii) to have elected to cover the services of its employees under social security. Each employee listed on the filed wage reports shall be deemed to have concurred in the filing of the certificate and/or having his or her services covered. The authority and conditions with respect to the deemed filing of a waiver certificate and employee coverage for social security purposes are found in section 3121(k) of the Internal Revenue Code of 1954.

(3) *Coverage of individual employees.* In order for the remuneration for services performed by employees of organizations described in paragraph (a)(2) of this section to be considered wages from covered employment as defined in § 404.1026(a)(2), the employee (or his or her representative) must:

(i) Request that the remuneration be considered wages from covered employment when a deemed filed certificate is not effective for certain periods because of section 3121(k)(4)(C) of the Internal Revenue Code; or

(ii) Request that the remuneration be considered wages from covered employment when, for periods between March 31, 1972, and the date a deemed filed certificate is effective, the remuneration was reported for social security purposes and the employer has obtained a refund or credit for the social security taxes paid on that remuneration.

The request must be in writing and filed with either the Social Security Administration or the Internal Revenue Service on or before April 15, 1980. The written request should identify the employer or employers, the periods in which the services were performed and the approximate amount of wages paid in these periods. The employee must show that he has paid to the Internal Revenue Service his share of the social security taxes due on his wages or that he has made arrangements with the Internal Revenue Service to make the required payment.

[FR Doc. 78-27794 Filed 9-29-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses and Veterans' Relief
CHAPTER I—VETERANS ADMINISTRATION
PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

RATING CONSIDERATIONS RELATIVE TO SPECIFIC DISEASES

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations governing service connection for tuberculosis. The law currently provides that active tuberculosis developing within 3 years from the date of separation from active service may be presumptively service connected. The Veterans Administration, by regulation, added additional presumptive periods of 6 months for minimally advanced tuberculosis, 9 months for moderately advanced tuberculosis, and 12 months for far advanced tuberculosis. This was done on the advice of medical authorities on the theory that those degrees of advancement indicated preexistence of the disease by the specified periods. This theory is no longer tenable. "Diagnostic Standards and Classification of Tuberculosis and Other Mycobacterial Diseases" published by the American Lung Association has discontinued classification of tuberculosis as minimal, moderate, or far advanced and such classifications are no longer taught or used in modern medical practice. The major effect of this change is to remove the regulatory presumptions of 6, 9, and 12 months which are in addition to the 3-year statutory presumption. This brings the regulation into accord with the statute and current medical standards.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, 202-389-3005.

SUPPLEMENTARY INFORMATION: On pages 28824-28826 of the FEDERAL REGISTER of July 3, 1978, there was published a notice of proposed regulatory development to amend §§ 3.307, 3.370, 3.371, 3.374, 3.375, and 3.378 relative to abrogating the presumptions that tuberculosis manifest during the fourth year after service may be considered to be service connected.

Interested persons were given 30 days to submit comments, suggestions, or objections to the proposed regulation changes. Four comments were received. The first commentator favored retaining the 4-year presumptive period but offered no evidence or argument to support her position. The second commentator wanted the "change in time limit to also be related to all other diseases * * *" but did not explain what was meant by that comment. The third commentator wanted the 4-year presumptive period extended to 10 years but cited no medical evidence to warrant adoption of his proposal. The fourth commentator suggested that the Veterans Administration use Mantoux skin tests to determine whether a case of tuberculosis was service connected. The procedure would require that the test be given at induction and then 90 days after discharge. This suggestion cannot be adopted because the Mantoux skin test has not been universally given at induction and the Veterans Administration has no authority to require a former service member to report for such a test 90 days after discharge.

The proposed regulatory changes are adopted without amendment.

Approved: September 19, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 3.307, paragraph (c) is revised to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical, or prisoner of war related disease; wartime and service on or after January 1, 1947.

* * * * * *

(c) *Prohibition of certain presumptions.* No presumptions may be invoked on the basis of advancement of the disease when first definitely diagnosed for the purpose of showing its existence to a degree of 10 percent within the applicable period. This will not be interpreted as requiring that the disease be diagnosed in the presumptive period, but only that there be then shown by acceptable medical or lay evidence characteristic manifestations of the disease to the required degree, followed without unreasonable time lapse by definite diagnosis. Symptomatology shown in the prescribed period may have no particular significance when first observed, but in the light of subsequent developments it may gain considerable significance. Cases in which a chronic condition is shown to exist within a short time following the applicable presumptive period, but without evidence of manifestations within the period, should be developed to determine whether there was symptomatology which in retrospect may be identified and evaluated as manifestation of the chronic disease to the required 10-percent degree. The consideration of service incurrence provided for chronic diseases will not be interpreted to permit any presumption as to aggravation of a preservice disease or injury after discharge.

* * * * * *

2. In § 3.370, paragraph (b) is revised to read as follows:

§ 3.370 Pulmonary tuberculosis shown by X-ray in active service.

* * * * * *

(b) *Inactive disease.* Where the veteran was examined at time of entrance into active service but X-ray was not made, or if made, is not available and there was no notation or other evidence of active or inactive reinfection type pulmonary tuberculosis existing prior to such entrance, it will be assumed that the condition occurred during service and direct service connection will be in order for inactive pulmonary tuberculosis shown by X-ray evidence during service in the manner prescribed in paragraph (a) of this section, unless lesions are first shown so soon after entry on active service as to compel the conclusion, on the basis of sound medical principles, that they existed prior to entry on active service.

* * * * * *

3. In § 3.371, paragraphs (a) and (c) are revised to read as follows:

§ 3.371 Presumptive service connection for tuberculous disease; wartime and service on or after January 1, 1947.

(a) *Pulmonary tuberculosis.* (1) Evidence of activity on comparative study of X-ray films showing pulmonary tuberculosis within the 3-year presumptive period provided by § 3.307(a)(3) will be taken as establishing service connection for active pulmonary tuberculosis subsequently diagnosed by approved methods but service connection and evaluation may be assigned only from the date of such diagnosis or other evidence of clinical activity.

(2) A notation of inactive tuberculosis of the reinfection type at induction or enlistment definitely prevents the grant of service connection under § 3.307 for active tuberculosis, regardless of the fact that it was shown within the appropriate presumptive period.

* * * * * *

(c) *Tuberculous pleurisy and endobronchial tuberculosis.* Tuberculous pleurisy and endobronchial tuberculosis fall within the category of pulmonary tuberculosis for the purpose of service connection on a presumptive basis. Either will be held incurred in service when initially manifested within 36 months after the veteran's

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separation from service as determined under § 3.307(a)(2).

* * * * *

4. In § 3.374, paragraph (d) is revoked.

§ 3.374 Effect of diagnosis of active tuberculosis.

* * * * *

(d) [Revoked]

5. In § 3.375, paragraph (a) is revised to read as follows:

§ 3.375 Determination of inactivity (complete arrest) in tuberculosis.

(a) *Pulmonary tuberculosis.* A veteran shown to have had pulmonary tuberculosis will be held to have reached a condition of "complete arrest" when a diagnosis of inactive is made.

* * * * *

6. Section 3.378 is revised to read as follows:

§ 3.378 Changes from activity in pulmonary tuberculosis pension cases.

A permanent and total disability rating in effect during hospitalization will not be discontinued before hospital discharge on the basis of a change in classification from active. At hospital discharge, the permanent and total rating will be discontinued unless (a) the medical evidence does not support a finding of complete arrest (§ 3.375), or (b) where complete arrest is shown but the medical authorities recommend that employment not be resumed or be resumed only for short hours (not more than 4 hours a day for a 5-day week). If either of the two aforementioned conditions is met, discontinuance will be deferred pending examination in 6 months. Although complete arrest may be established upon that examination, the permanent and total rating may be extended for a further period of 6 months provided the veteran's employment is limited to short hours as recommended by the medical authorities (not more than 4 hours a day for a 5-day week). Similar extensions may be granted under the same conditions at the end of 12 and 18 months periods. At the expiration of 24 months after hospitalization, the case will be considered under § 3.321(b) if continued short hours of employment is recommended or if other evidence warrants submission.

[FR Doc. 78-27288 Filed 9-29-78; 8:45 am]

[8320-01]

PART 4—SCHEDULE FOR RATING DISABILITIES

Updating the Schedule for Rating Disabilities

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations to provide additional ratings for prosthetic implants to both the upper and lower extremities, to redefine the criteria for the 100-percent evaluation for rheumatic, hypertensive, and arteriosclerotic heart disease and to include a rating for coronary artery bypass. Also, the degrees of advancement of tuberculosis have been eliminated and instructions for continuing the total rating for malignant growths of the brain and spinal cord for 2 years following cessation of treatment have been included. These changes were made to conform to advances in medical science and surgery and to make the evaluations for the various heart diseases more realistic. Also additional charts for rating multiple losses of extremities, and loss of vision due to concentric contraction of field vision have been included. In compliance with Pub. L. 94-168, the "Metric Conversion Act of 1975," all measurements on the rating schedule have been metricated.

EFFECTIVE DATE: September 22, 1978. An amendment to appendix A, table of amendments and effective dates since 1946, is added to include effective dates.

FOR FURTHER INFORMATION CONTACT:

Robert C. Macomber, Chief, Rating Policy Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2635.

SUPPLEMENTARY INFORMATION: On pages 28826 through 28840 of the FEDERAL REGISTER of July 3, 1978, the Veterans Administration published a notice of proposed regulatory development to amend 38 CFR part 4 to include the additional material summarized above.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. Three written comments were received. The first commentator requested information relative to the discontinuance of the various degrees of advancement of pulmonary tuberculosis, particularly how this change would affect claims pending adjudication. The inquirer was informed that all claims pending on the effective date of approval of the change will be adjudicated under the criteria in effect prior to the change. Only those claims received after the effective date of this change will be adjudicated under the new criteria; and, all claims adjudicated under the old criteria and properly on the rolls will remain undisturbed insofar as service connection is concerned. The second comment was complimentary in nature, took no exception to the proposed changes but objected to the fact that the Veterans Administration did not grant service connection for his several claimed disabilities. The third comment was received from the American Optometric Association requesting that the requirement of an ophthalmologist to conduct the muscle function test described in § 4.77 of the rating schedule be changed since optometrists are qualified to conduct that examination. We are in agreement with the suggestion and have changed ophthalmologist to examiner.

In conformity with Pub. L. 94-168, the "Metric Conversion Act of 1975," diagnostic code 7802 has been included to metricate the measurement of 1 square foot, which was inadvertently omitted in the proposed change of July 3, 1978. Also the heading immediately preceding codes 6701 through 6724 has been changed to read "Ratings for Pulmonary Tuberculosis Entitled on August 19, 1978," and put in abbreviated language to conform to a similar heading for pulmonary tuberculosis entitled after August 19, 1978.

Approved: September 22, 1978.

MAX CLELAND,

Administrator of Veterans Affairs.

1. Section 4.17 is revised to read as follows:

§ 4.17 Total disability ratings for pension based on unemployability and age of the individual.

All veterans who are basically eligible and who are unable to secure and follow a substantially gainful occupation by reason of disabilities which are likely to be permanent shall be rated as permanently and totally disabled. For the purpose of pension, the permanence of the percentage requirements of § 4.16 is a requisite. The percentage requirements, however, are reduced on the attainment of age 55 to a 60 percent rating for one or more disabilities, with no percentage requirements for any one disability. The requirement at age 60 through 64 will be a 50 percent rating for one or more disabilities. A veteran who has become 65 years of age or older, or became unemployable after age 65, is conclusively presumed to be permanently and totally disabled by statute; hence, rating action for this purpose is unnecessary. When the reduced percentage requirements are met, and the disabilities involved are of a permanent nature, a rating of permanent and total disability will be assigned if the veteran is found to be unable to secure and follow substantially gainful employment by reason of such disability. Prior employment or unemployment status is immaterial if in the judgment of the rating board the veteran's disabilities render him or her unemployable. In making such determinations, the following guidelines will be used:

(a) Marginal employment, for example, as a self-employed farmer or other person, while employed in his or her own business, or at odd jobs or while employed at less than half the usual remuneration will not be considered incompatible with a determination of unemployability, if the restriction, as to securing or retaining better employment, is due to disability.

(b) Claims of all veterans who fail to meet the percentage standards but who meet the basic entitlement criteria and are unemployable, will be referred by the rating board to the Adjudication Officer under § 3.321(b)(2) of this chapter.

§ 4.17a [Amended]

2. Section 4.17a is amended by deleting the sentence following paragraph (b).

§ 4.18 [Amended]

3. Section 4.18 is amended by deleting the word "cases" and inserting the word "claims" in the third sentence.

§ 4.19 [Amended]

4. Section 4.19 is amended by adding a semicolon after the word "disability" and deleting the word "cases" and inserting the word "claims" in the first sentence.

5. Section 4.53 is revised to read as follows:

§ 4.53 Muscle patterns.

Every movement calls into action the muscles necessary for that movement constituting a definite muscle pattern which is invariable for that movement. None of the muscles can be left out of action in performing the movement nor can any other muscle be called into play to execute the movement. Every movement requires full efficiency, the full complement of muscles included in its specific pattern. If one, or more, of the group is injured or destroyed the efficiency of the movement is permanently impaired. It is the distortion of the intricate mechanism of muscle structures, the intermuscular binding, the obliteration of fascial planes and welding of aponeurotic sheaths that results in permanent residual disabilities. The typical symptoms associated with severe muscle injuries are: Fatigue rapidly coming on after moderate use of the affected muscle groups; pain occurring shortly after the incidence of fatigue sensations, the type of pain being that which is characteristic of and normally associated with prolonged severe muscular effort (fatigue-pain); inability to make certain movements with the same degree of strength as before injury; uncertainty in making certain movements, particularly when made quickly. When the subjective evidence in an individual claim appears as the natural result of a pathological condition shown objectively, and particularly when consistent from time of first examination, i.e., when obviously not based upon information given to the claimant by previous examiners or relayed to him or her from the claims file, it will be given due weight.

§ 4.54 [Amended]

6. Section 4.54 is amended by adding the words "of disability" after the word "type" in the first, fifth, and sixth sentences.

7. In § 4.55, paragraph (b) is revised to read as follows:

§ 4.55 Principles of combined ratings.

* * * * *

(b) Two or more severe muscle injuries affecting the motion (particularly strength of motion) about a single joint may be combined but not in combination receive more than the rating for ankylosis of that joint at an "intermediate" angle, except that with severe injuries involving the shoulder girdle and arm, the combination may not exceed the rating for unfavorable ankylosis of the scapulohumeral joint. Claims of an unusually severe degree of disability involving the shoulder girdle and arm or the pelvic girdle and thigh muscles wherein the evaluation under the criteria in this section appears inadequate may be submitted to the Director, Compensation and Pension Service for consideration under § 3.321(b)(1) of this chapter.

* * * * *

8. Section 4.56 is amended as follows:

(a) By amending "History and complaint" in paragraph (c) as set forth below:

(b) By deleting the word "Faradism" and inserting "faradic current" in the sixth sentence of "Objective findings" in paragraph (d).

§ 4.56 Factors to be considered in the evaluation of disabilities residual to healed wounds involving muscle groups due to gunshot or other trauma.

* * * * *

(c) *Moderately severe disability of muscles.*

* * * * *

History and complaint. Service department record or other sufficient evidence showing hospitalization for a prolonged period in service for treatment of wound of severe grade. Record in the file of consistent complaint of cardinal symptoms of muscle wounds. Evidence of unemployability because of inability to keep up with work requirements is to be considered, if present.

* * * * *

§ 4.60 [Revoked]

9. Section 4.60 is revoked.

§ 4.63 [Amended]

10. Section 4.63 is amended by adding "(8.9 cms.)" after "3½ inches" in paragraph (a).

§ 4.71 [Amended]

11. Section 4.71 is amended by adding "(See Plate III)" after the word "joints" and deleting the word "inches" and inserting "centimeters" in the last sentence.

12. In § 4.71a, the following revisions and additions are made to read as follows:

(a) Diagnostic code 5003 is revised;

(b) A new center title, Prosthetic Implants, and diagnostic codes 5051, 5052, 5053, 5054, 5055, and 5056 are added;

(c) Following diagnostic code 5111, a new Table II is added;

(d) Under "Amputations: Lower Extremity," diagnostic code 5166 is revised and diagnostic code 5174 is revoked;

(e) Under "The Elbow and Forearm," diagnostic codes 5211 and 5212 are revised;

(f) Under "The Wrist," the NOTE following diagnostic code 5214 is revised;

(g) Under "Multiple Fingers: Unfavorable Ankylosis", subparagraph (3) preceding diagnostic code 5216 and paragraph (b) following diagnostic code 5219 are revised;

(h) Under "Multiple Fingers: Favorable Ankylosis", subparagraph (3) preceding diagnostic code 5220 and paragraph (a) following diagnostic code 5223 are revised;

(i) Under "Ankylosis of Individual Fingers", the NOTE following diagnostic code 5227 is revised;

(j) Under "The Knee and Leg", diagnostic code 5264 is revoked; and

(k) Under "Shortening of the Lower Extremity", diagnostic code 5275 is revised.

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§ 4.71a Schedule of ratings—musculoskeletal system.

ACUTE, SUBACUTE, OR CHRONIC DISEASES

. . . . . .

	Rating
	5003 Arthritis, degenerative (hypertrophic or osteoarthritis).
Degenerative arthritis established by X-ray findings will be rated on the basis of limitation of motion under the appropriate diagnostic codes for the specific joint or joints involved (DC 5200 etc.). When however, the limitation of motion of the specific joint or joints involved is noncompensable under the appropriate diagnostic codes, a rating of 10 pct is for application for each such major joint or group of minor joints affected by limitation of motion, to be combined, not added under diagnostic code 5003. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion. In the absence of limitation of motion, rate as below:	
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups, with occasional incapacitating exacerbations	20
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups	10

NOTE (1). The 20 pct and 10 pct ratings based on X-ray findings, above, will not be combined with ratings based on limitation of motion.

NOTE (2). The 20 pct and 10 pct ratings based on X-ray findings, above, will not be utilized in rating conditions listed under diagnostic codes 5013 to 5024, inclusive.

. . . . . .

PROSTHETIC IMPLANTS

	Rating	
	Major	Minor
5051 Shoulder replacement (prosthesis).		
Prosthetic replacement of the shoulder joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	60	50
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic codes 5200 and 5203	30	20
Minimum rating		
5052 Elbow replacement (prosthesis).		
Prosthetic replacement of the elbow joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	50	40

PROSTHETIC IMPLANTS—Continued

	Rating	
	Major	Minor
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5205 through 5208.		
Minimum evaluation	30	20
5053 Wrist replacement (prosthesis).		
Prosthetic replacement of wrist joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	40	30
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic code 5214.		
Minimum rating	20	20

NOTE.—The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

	Rating
5054 Hip replacement (prosthesis).	
Prosthetic replacement of the head of the femur or of the acetabulum:	
For 1 year following implantation of prosthesis	100
Following implantation of prosthesis with painful motion or weakness such as to require the use of crutches	[1]90
Markedly severe residual weakness, pain or limitation of motion following implantation of prosthesis	70
Moderately severe residuals of weakness, pain or limitation of motion	50
Minimum rating	30
5055 Knee replacement (prosthesis).	
Prosthetic replacement of knee joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	60
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5256, 5261, or 5262.	
Minimum rating	30
5056 Ankle replacement (prosthesis).	
Prosthetic replacement of ankle joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness	40
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to 5270 or 5271.	
Minimum rating	20

[1] Also entitled to special monthly compensation.

NOTE (1). The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

NOTE (2). Special monthly compensation is assignable during the 100 pct rating period the earliest date permanent use of crutches is established.

TABLE II

RATINGS FOR MULTIPLE LOSSES OF EXTREMITIES WITH DICTATOR'S RATING CODE AND VA REGULATION

IMPAIRMENT OF ONE EXTREMITY	IMPAIRMENT OF OTHER EXTREMITY: ANAT. LOSS OR LOSS OF USE BELOW ELBOW	ANAT. LOSS OR LOSS OF USE BELOW KNEE	ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS
ANAT. LOSS OR LOSS OF USE BELOW ELBOW	CODES L-1 g, h, i, or j VAR 1350 (B) (38 CFR 3.350 (hi)	CODES L-1 d, e, or f VAR 1350 (B) (38 CFR 3.350 (hi)	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS OR LOSS OF USE BELOW KNEE	CODES L-1 g, h, i, or j VAR 1350 (B) (38 CFR 3.350 (hi)	CODES L-1 d, e, or f VAR 1350 (B) (38 CFR 3.350 (hi)	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	L½ CODES L-1 g, h, i, or j VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 a VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 a VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 b VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	L½ CODE L-2 h, or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	M CODE M-3 a VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))
ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS	M CODE M-3 c VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	M CODE M-3 h VAR 1350 (F)(1)(h) (38 CFR 3.350 (f)(1)(iii))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))

NOTE: Need for aid and attendance or permanently bedridden qualifies for subpar. L. Code L-1 k or L-VAR 1350 (B) (38 CFR 3.350 (hi)). Paraplegia with loss of use of both lower extremities and loss of anal and bladder sphincter control qualifies for subpar. O Code O-1 VAR 1350 (E) (38 CFR 3.350 (e)). Any of the above plus additional disabilities rated 50% or 100% qualifies for the next intermediate or full rate Code P-1 or Code P-2 respectively - VAR 1350 (F)(3) and (4) (38 CFR 3.350 (f)(3) and (4)).

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AMPUTATIONS: LOWER EXTREMITY

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	Rating
5166 Forefoot, amputation proximal to metatarsal bones (more than one-half of metatarsal loss)	[2]40

[2] Also entitled to special monthly compensation.

. . . . .

5174 [Revoked.]

THE ELBOW AND FOREARM

. . . . .

	Rating	
	Major	Minor
5211 Ulna, impairment of.		
Nonunion in upper half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in lower half	20	20
Malunion of, with bad alignment	10	10
5212 Radius, impairment of.		
Nonunion in lower half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in upper half	20	20
Malunion of, with bad alignment	10	10

. . . . .

THE WRIST

5214 Wrist, ankylosis of

. . . . .

NOTE.—Extremely unfavorable ankylosis will be rated as loss of use of hands under diagnostic code 5125.

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MULTIFLE FINGERS: UNFAVORABLE ANKYLOSIS

. . . . .

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

. . . . .

5219 • • •

(b) The ratings for codes 5216 through 5219 apply to unfavorable ankylosis or limited motion preventing flexion of tips to within 2 inches (5.1 cms.) of median transverse fold of the palm.

. . . . .

MULTIPLE FINGERS: FAVORABLE ANKYLOSIS

. . . . .

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

. . . . .

5223 • • •

(a) The ratings for codes 5220 through 5223 apply to favorable ankylosis or limited motion permitting flexion of the tips to within 2 inches (5.1 cms.) of the transverse fold of the palm. Limitation of motion of less than 1 inch (2.5 cms.) in either direction is not considered disabling.

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ANKYLOSIS OF INDIVIDUAL FINGERS

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5227 • • •

NOTE.—Extremely unfavorable ankylosis will be rated as amputation under diagnostic codes 5152 through 5156.

THE KNEE AND LEG

. . . . .

5264 [Revoked]

SHORTENING OF THE LOWER EXTREMITY

	Rating
5275 Bones, of the lower extremity, shortening of:	
Over 4 inches (10.2 cms.)	[2]60
3½ to 4 inches (8.9 cms. to 10.2 cms.)	[2]50
3 to 3½ inches (7.6 cms. to 8.9 cms.)	40
2½ to 3 inches (6.4 cms. to 7.6 cms.)	30
2 to 2½ inches (5.1 cms. to 6.4 cms.)	20
1¼ to 2 inches (3.2 cms. to 5.1 cms.)	10

[2] Also entitled to special monthly compensation.

NOTE.—Measure both lower extremities from anterior superior spine of the ilium to the internal malleolus of the tibia. Not to be combined with other ratings for fracture or faulty union in the same extremity.

§ 4.73 [Amended]

13. Section 4.73 is amended as follows:

(a) The spelling of the word "Maissiat's" is corrected in diagnostic codes 5314 and 5317.

(b) The spelling of the word "iliacus" is corrected in diagnostic code 5316.

(c) Footnote 4 in diagnostic code 5317 is revised to read: "[4] If bilateral, see § 4.64 for consideration of special monthly compensation for loss of use of buttocks."

14. Section 4.76 is revised and § 4.76a, Table III, Figure 1 and example of computation of concentric contraction are added so that the revised and added material reads as follows:

§ 4.76 Examination of field vision.

Measurement of the visual field will be made when there is disease of the optic nerve or when otherwise indicated. The usual perimetric methods will be employed, using a standard perimeter and 3 mm. white test object. At least 16 meridians 22½ degrees apart will be charted for each eye. (See Figure 1. For the 8 principal meridians, see Table III.) The charts will be made a part of the report of examination. Not less than 2 recordings, and when possible, 3 will be made. The minimum limit for this function is established as a concentric central contraction of the visual field to 5°. This type of contraction of the visual field reduces the visual efficiency to zero. Where available the examination for form field should be supplemented, when indicated, by the use of target screen or campimeter. This last test is especially valuable in detection of scotoma.

§ 4.76a Computation of average concentric contraction of visual fields.

The extent of contraction of visual field in each eye is determined by recording the extent of the remaining visual fields in each of the eight 45 degree principal meridians. The number of degrees lost is determined at each meridian by subtracting the remaining degrees from the normal visual fields given in Table III. The degrees lost are then added together to determine total degrees lost. This is subtracted from 500. The difference represents the total remaining degrees of visual field. The difference divided by eight represents the average contraction for rating purposes.

TABLE III.—*Normal visual field extent at 8 principal meridians*

Meridian:	Normal degrees
Temporally	85
Down temporally	85
Down	65
Down nasally	50
Nasally	60
Up nasally	55
Up	45
Up temporally	55
Total	500

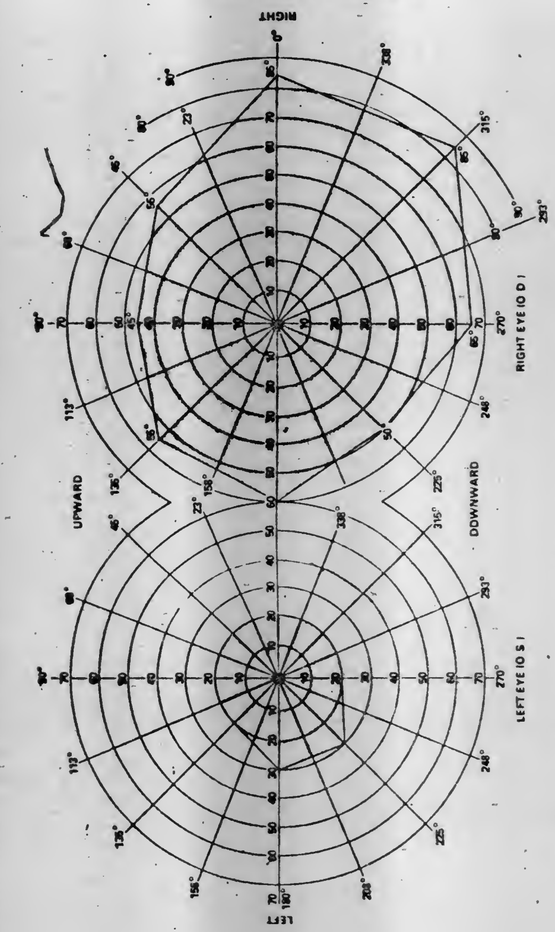


Figure 1. Chart of visual field showing normal field right eye and abnormal contraction visual field left eye.

Example of computation of concentric contraction under the schedule with abnormal findings taken from Figure 1.

Loss:	Degrees
Temporally	55
Down temporally	55
Down	45
Down nasally	30
Nasally	40
Up nasally	35
Up	25
Up temporally	35
Total loss	320

Remaining field 500° minus 320° = 180°. 180° ÷ 8 = 22½° average concentric contraction.

15. Section 4.77 is revised and the illustration immediately following § 4.77 is revised and designated Figure 2 so that the revised material reads as follows:

§ 4.77 Examination of muscle function.

(a) The measurement of muscle function will be undertaken only when the history and findings reflect disease or injury of the extrinsic muscles of the eye, or of the motor nerves supplying these muscles. The measurement will be performed using an industrial motor field chart, as in Figure 2, the dimensions of the individual rectangles being 8¾ inches (21.3 cms.) by 10½ inches (26.7 cms.) for use at 10 feet (3.0 m.).

(b) The claimant will face the chart directly, fixating upon the central point, and without moving the head, successively turn the eyes to the individual rectangles, as the examiner moves a test object which should be a self-illuminated white dot of about 3 mm. in diameter attached to a wand from rectangle to rectangle, reporting whether he or she sees it singly or doubly. Repetition of the test will be made under the close supervision of the examiner. Impairment of muscle function is to be supported in each instance by record of actual appropriate pathology. Diplopia which is only occasional or correctable is not considered a disability.

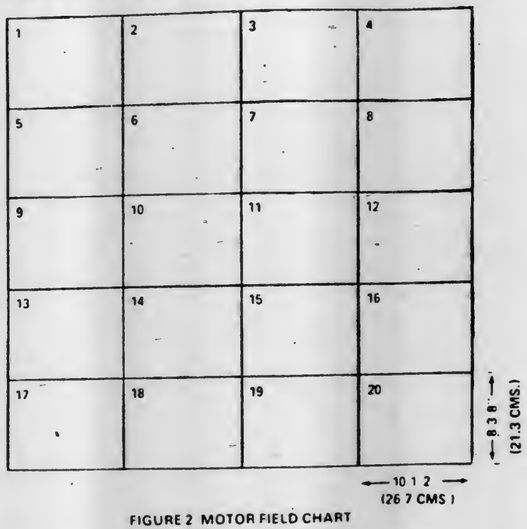


FIGURE 2 MOTOR FIELD CHART

§ 4.78 [Amended]

16. Section 4.78 is amended by deleting "38 U.S.C. 360" and inserting "§ 3.383(a) of this chapter" in the last line.

17. Section 4.79 is revised to read as follows:

§ 4.79 Loss of use of one eye, having only light perception.

Loss of use or blindness of one eye, having only light perception, will be held to exist when there is inability to recognize test letters at 1 foot (.30m.) and when further examination of the eyes reveals that perception of objects, hand movements or counting fingers cannot be accomplished at 3 feet (.91m.), lesser extents of visions, particularly perception of objects, hand movements, or counting fingers at distances less than 3 feet (.91 m.), being considered of negligible utility. With visual acuity 5/200 (1.5/60) or less or the visual field reduced to 5° concentric contraction, in either event in both eyes, the question of entitlement on account of regular aid and attendance will be determined on the facts in the individual case.

§ 4.83 [Amended]

18. Section 4.83 is amended by adding "(6/30)", "(6/21)" and "(6/30)" following "20/100", "20/70", and "20/100" respectively in the last sentence.

§ 4.83a [Amended]

19. Section 4.83a is amended by deleting "III" and inserting "V" following the word "table" in the first sentence and inserting "(1.5/60)" and "(6/21)" following "5/200" and "20/70" respectively in the second sentence.

20. Section 4.84a is amended as follows:

(a) By inserting "(1.5/60)" and "(6/30)" after "5/200" and "20/100" respectively in diagnostic code 6019.

(b) By inserting "(6/21)": after "20/70" in the fourth sentence of the note following diagnostic code 6029.

(c) By making the changes as set forth below:

(1) Revising and redesignating Table II as Table IV.

(2) Revising diagnostic codes 6061 through 6079 under "Impairment of Central Visual Acuity."

(3) Revising and redesignating Table III as Table V.

(4) Revising diagnostic code 6080 and notes under "Ratings for Impairment of Field Vision."

(5) Revising diagnostic code 6090 and notes under "ratings for Impairment of Muscle Function."

§ 4.84a Schedule of ratings — eye.

* * * * *

TABLE IV

TABLE FOR RATING BILATERAL BLINDNESS
WITH DICTATOR'S RATING CODE AND VA REGULATION

VISION ONE EYE	VISION OTHER EYE: 5/200 (1.5/60) OR LESS	LIGHT PERCEPTION ONLY	NO LIGHT PERCEPTION PLUS PHTHISIS BULBI	NO LIGHT PERCEPTION PLUS DEFORMITY	NO LIGHT PERCEPTION PLUS DISFIGUREMENT	NO LIGHT PERCEPTION PLUS EVISCERATION	ANATOMICAL LOSS
5/200 (1.5/60) OR LESS	CODE L B 1 1350 (6/7) (38 CFR 3.350 (b) (2))						
LIGHT PERCEPTION ONLY	CODE L*** B 2 1350 (F1/21e) (38 CFR 3.350 (f)(2)(iii))	M CODE M B 1 e 1350 (C) (38 CFR 3.350 (c))					
NO LIGHT PERCEPTION PLUS PHTHISIS BULBI	M CODE M B 2 b (1) 1350 (F1/21b) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 a 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	M*** CODE M B 3 b (1) 1350 (F1/21c) (38 CFR 3.350 (f)(2)(iii))				
NO LIGHT PERCEPTION PLUS DEFORMITY	M CODE M B 2 b (3) 1350 (F1/21b) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 a&b 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	M*** CODE M B 3 b (3) 1350 (F1/21c) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 c 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))			
NO LIGHT PERCEPTION PLUS DISFIGUREMENT	M CODE M B 2 b (4) 1350 (F1/21b) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 a&b 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	M*** CODE M B 3 b (4) 1350 (F1/21c) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 c&d 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N CODE N B 2 d 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))		
NO LIGHT PERCEPTION PLUS EVISCERATION	M CODE M B 2 b (2) 1350 (F1/21b) (38 CFR 3.350 (f)(2)(iii))	M* CODE M B 3 b (2) 1350 (F1/21c) (38 CFR 3.350 (f)(2)(iii))	N CODE N B 2 a&b 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N CODE N B 2 b&c 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N CODE N B 2 b&d 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N CODE N B 2 d 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	
ANATOMICAL LOSS	M* CODE M B 2 b (1) 1350 (F1/21b) (38 CFR 3.350 (f)(2)(iii)) *	M** CODE M B 3 b (1) 1350 (F1/21c) (38 CFR 3.350 (f)(2)(iii))	N SEE NOTE 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F1/21d) (38 CFR 3.350 (f)(2)(iv))	N CODE N B 1 1350 (D) (38 CFR 3.350 (d))

BILATERAL BLINDNESS WITH DEAFNESS

Any of the above plus service connected total deafness one ear add ½ rate (limit O) code PB 1 VAR 1350 (F1/21e) 1 (38 CFR 3.350 (f)(2)(vi)).
Any of the above plus bilateral deafness, 40% or more, at least one ear service connected add full step (limit O) code PB 2 VAR 1350 (F1/21e) (38 CFR 3.350(f)(2)(vi)).
Any of the above plus service connected deafness, 60% or more, at least one ear service connected qualifies for Subnar O code OB VAR 1350 (E) (38 CFR 3.350(e)).

* With need for aid and attendant qualifies for Subnar M code MB 1-b VAR 1350 (C). (38CFR 3.350 (c)).
NOTE No specific dictators rating code provided, code NB 2 should be modified to fit the conditions shown.

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IMPAIRMENT OF CENTRAL VISUAL ACUITY

		Rating
6061	Anatomical loss both eyes	[1]100
6062	Blindness in both eyes having only light perception	[1]100
	Anatomical loss of 1 eye:	
6063	In the other eye 5/200 (1.5/60)	[1]100
6064	In the other eye 10/200 (3/60)	[1]90
6064	In the other eye 15/200 (4.5/60)	[1]80
6064	In the other eye 20/200 (6/60)	[1]70
6065	In the other eye 20/100 (6/30)	[1]60
6065	In the other eye 20/70 (6/21)	[1]60
6065	In the other eye 20/50 (6/15)	[1]50
6066	In the other eye 20/40 (6/12)	[1]40
	Blindness in 1 eye, having only light perception:	
6067	In the other eye 5/200 (1.5/60)	[1]100
6068	In the other eye 10/200 (3/60)	[1]90
6068	In the other eye 15/200 (4.5/60)	[1]80
6068	In the other eye 20/200 (6/60)	[1]70
6069	In the other eye 20/100 (6/30)	[1]60
6069	In the other eye 20/70 (6/21)	[1]50
6069	In the other eye 20/50 (6/15)	[1]40
6070	In the other eye 20/40 (6/12)	[1]30
	Vision in 1 eye 5/200 (1.5/60):	
6071	In the other eye 5/200 (1.5/60)	[1]100
6072	In the other eye 10/200 (3/60)	90
6072	In the other eye 15/200 (4.5/60)	80
6072	In the other eye 20/200 (6/60)	70
6073	In the other eye 20/100 (6/30)	60
6073	In the other eye 20/70 (6/21)	50
6073	In the other eye 20/50 (6/15)	40
6074	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 10/200 (3/60):	
6075	In the other eye 10/200 (3/60)	90
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	50
6076	In the other eye 20/50 (6/15)	40
6077	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 15/200 (4.5/60):	
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/200 (6/60):	
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/100 (6/30):	
6078	In the other eye 20/100 (6/30)	50
6078	In the other eye 20/70 (6/21)	30
6076	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/70 (6/21):	
6078	In the other eye 20/70 (6/21)	30
6078	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/50 (6/15):	
6078	In the other eye 20/50 (6/15)	10
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/40 (6/12):	
	In the other eye 20/40 (6/12)	0

[1] Also entitled to special monthly compensation.
[2] Add 10% if artificial eye cannot be worn; also entitled to special monthly compensation.

TABLE V

RATINGS FOR CENTRAL VISUAL ACUITY IMPAIRMENT
(With Diagnostic Code)

VISION IN ONE EYE	VISION IN OTHER EYE								
	20/40 (6/12)	20/50 (6/15)	20/70 (6/21)	20/100 (6/30)	20/200 (6/60)	15/200 (4.5/60)	10/200 (3/60)	5/200 (1.5/60)	LIGHT PERCEPTION ONLY ANATOMICAL LOSS
20/40 (6/12)	0								
20/50 (6/15)	10 (6079)	10 (6078)							
20/70 (6/21)	10 (6079)	20 (6078)	(6078)						
20/100 (6/30)	10 (6079)	20 (6078)	30 (6078)	50 (6078)					
20/200 (6/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)				
15/200 (4.5/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)	80 (6075)			
10/200 (3/60)	30 (6077)	40 (6076)	50 (6076)	60 (6076)	70 (6075)	80 (6075)	90 (6075)		
5/200 (1.5/60)	30 (6074)	40 (6073)	50 (6073)	60 (6073)	70 (6072)	80 (6072)	90 (6072)	[5]100 (6071)	
LIGHT PERCEPTION ONLY	[5]30 (6070)	[5]40 (6069)	[5]50 (6069)	[5]60 (6069)	[5]70 (6068)	[5]80 (6068)	[5]90 (6068)	[5]100 (6067)	[5]100 (6062)
ANATOMICAL LOSS OF ONE EYE	[6]40 (6066)	[6]50 (6065)	[6]60 (6065)	[6]60 (6065)	[6]70 (6064)	[6]80 (6064)	[6]90 (6064)	[5]100 (6063)	[5]100 (6061)

5 ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION

6 ADD 10 PERCENT IF ARTIFICIAL EYE CANNOT BE WORN ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION

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RATINGS FOR IMPAIRMENT OF FIELD VISION

	Rating
6080 Field vision, impairment of:	
Homonymous hemianopsia	30
Field, visual, loss of temporal half:	
Bilateral	30
Unilateral	10
Or rate as 20/70 (6/21).	
Field, visual, loss of nasal half:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	
Field, visual, concentric contraction of:	
To 5°:	
Bilateral	100
Unilateral	30
Or rate as 5/200 (1.5/60).	
To 15° but not to 5°:	
Bilateral	70
Unilateral	20
Or rate as 20/200 (6/60)	
To 30° but not to 15°:	
Bilateral	50
Unilateral	10
Or rate as 20/100 (6/30)	
To 45° but not to 30°:	
Bilateral	30
Unilateral	10
Or rate as 20/70 (6/21):	
To 60° but not to 45°:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). Demonstrable pathology commensurate with the functional loss will be required. The concentric contraction ratings require contraction within the stated degrees, temporally; the nasal contraction may be less. The alternative ratings are to be employed when there is ratable defect of visual acuity, or a different impairment of the visual field in the other eye. Concentric contraction resulting from demonstrable pathology to 5 degrees or less will be considered on a parity with reduction of central visual acuity to 5/200 (1.5/60) or less for all purposes including entitlement under § 3.350(b)(2) of this chapter; not however, for the purpose of § 3.350(a) of this chapter. Entitlement on account of blindness requiring regular aid and attendance, § 3.350(c) of this chapter, will continue to be determined on the facts in the individual case.

* * * * *

RATINGS FOR IMPAIRMENT OF MUSCLE FUNCTION

	Rating
6090 Muscle function, ocular, impairment of:	
Producing diplopia in 19–20 rectangles.	
Rate as 5/200 (1.5/60).	
Producing diplopia in 17–18 rectangles.	
Rate as 10/200 (3/60).	
Producing diplopia in 14–16 rectangles.	
Rate as 15/200 (4.5/60).	
Producing diplopia in 12–13 rectangles.	
Rate as 20/200 (6/60).	
Producing diplopia in 9–11 rectangles.	
Rate as 20/100 (6/30).	
Producing diplopia in 6–8 rectangles.	
Rate as 20/70 (6/21).	
Producing diplopia in 3–5 rectangles.	
Rate as 20/50 (6/15).	
Producing diplopia in 0–2 rectangles.	
Rate as 20/40 (6/12).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). The ratings under diagnostic code 6090 are to be applied only to the poorer eye if both have ratable impairment of visual acuity or visual field; if only one eye has a ratable impairment, to that eye, but not in combination with any other eye rating.

* * * * *

21. Section 4.85 is revised to read as follows:

§ 4.85 Hearing impairments reported as a result of regional office or authorized audiology clinic examinations.

(a) If the results of controlled speech reception tests are used, the letter, A through F, designating the impairment in efficiency of each ear separately, will be ascertained from table VI. Table VI indicates six areas of impairment in efficiency. The literal designation of impaired efficiency (A, B, C, D, E, or F) will be determined by intersecting the horizontal row appropriate for percentage of discrimination and the vertical column appropriate to the speech reception decibel loss; thus, with a speech reception decibel loss of 62 db and a percentage discrimination of 72 percent the literal designation is "D"; if the speech reception decibel loss is 62 db and the percentage discrimination is 70 percent, the literal designation is "E".

(b) The percentage evaluation will be found from table VII by intersecting the horizontal row appropriate for the literal designation for the ear having the better hearing and the vertical column appropriate to the literal designation for the ear having the poorer hearing. For example, if the better ear has a literal designation of "B" and the poorer ear has a literal designation of "C", the percentage evaluation is in the second horizontal row from the bottom and in the third vertical column from the right and is 10 percent and the diagnostic code is 6293.

(c) If the results of pure tone audiometry are used, the equivalent literal designation for each ear, separately, will be ascertained from table VII, and the percentage evaluation determined in the same manner as for speech reception impairment in paragraph (b) of this section. For example, if the average pure tone decibel loss for the frequencies 500, 1,000 and 2,000 is not more than 57 db and there is no loss more than 70 db for any of these three frequencies, the equivalent literal designation is "C"; if in the other ear, the average is not more than 79 db, and there is no loss more than 90 db, the equivalent literal designation is "D". The percentage evaluation is therefore found in the horizontal row opposite "C", and in the vertical column under "D", and is 20 percent and the diagnostic code is 6289. Note that if in the first instance any of the 3 frequencies has a loss of more than 70 db, or in the second instance more than 90 db, the literal designation will be higher, i.e., further from "A" in the alphabetical series.

§ 4.86a [Amended]

22. Section 4.86a is amended.

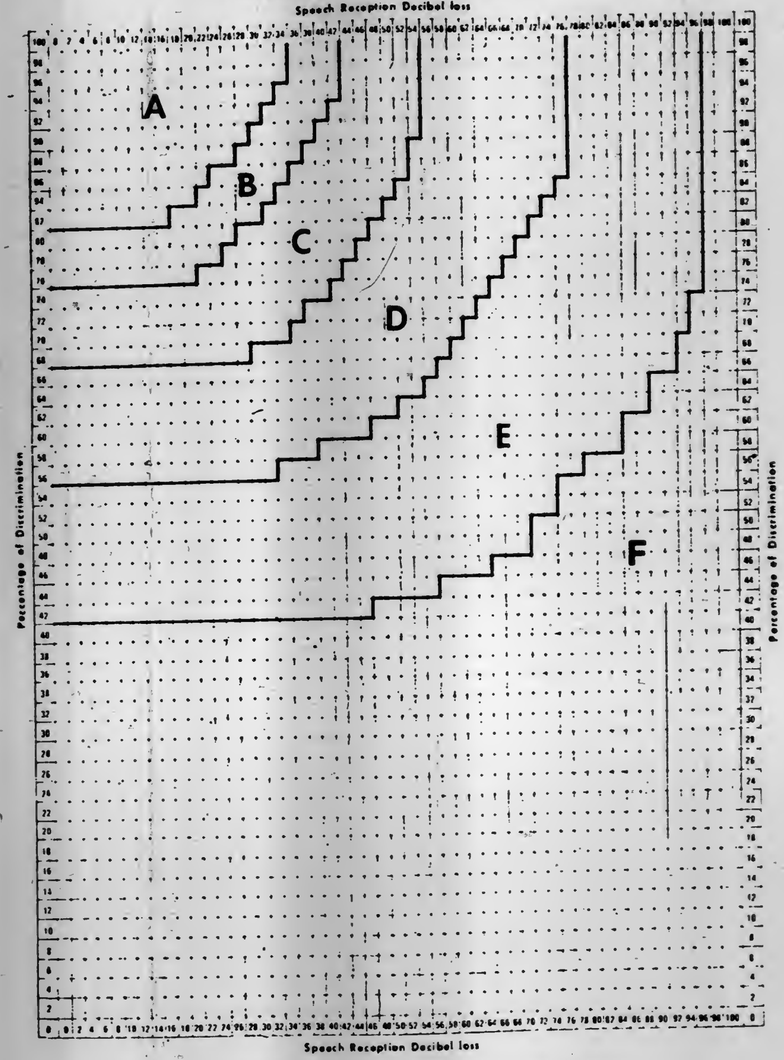
(a) By adding "(meters)" after the word "feet" in the first sentence;

(b) By adding "(metric)" after the word "footage" and deleting "V" and inserting "VII" in the third sentence.

23. Following § 4.87, Tables IV and V are revised and redesignated Tables VI and VII respectively as follows:

TABLE VI

Literal Designation of Hearing Impairment



(This chart showing the literal designation of hearing loss is based on the ANSI norm.)

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TABLE VII

RATINGS FOR HEARING IMPAIRMENT

(with diagnostic code)

HEARING IN BETTER EAR			HEARING IN POORER EAR					
			Conversational voice in feet and meters					
Conversational	Pure tone audiometry average decible loss at 3 frequencies. 500, 1,000 and 2,000	Speech reception impairment literal designation	0 feet (0 m.)	1 to 4 feet (0.3 m. to 1.2 m.)	5 to 7 feet (1.5 m. to 2.1 m.)	8 to 9 feet (2.4 m. to 2.7 m.)	10 to 14 feet (3.0 m. to 4.3 m.)	15 to 40 feet (4.6 m. to 12.2 m.)
			Pure tone audiometry decibel loss					
			Average 100 or more	Average not more than 99, none more than 105	Average not more than 79; none more than 90	Average not more than 57, none more than 70	Average not more than 45, none more than 55	Average not more than 37, none more than 45
			Speech reception impairment literal designation					
			F	E	D	C	B	A
0 feet (0 m.)	Average 100 or more	F	(7) 80 (6277)					
1 to 4 feet (0.3 m. to 1.2 m.)	Average not more than 99, none more than 105	E	60 (6278)	60 (6283)				
5 to 7 feet (1.5 m. to 2.1 m.)	Average not more than 79; none more than 90.	D	40 (6279)	40 (6284)	40 (6288)			
8 to 9 feet (2.4 m. to 2.7 m.)	Average not more than 57, none more than 70.	C	30 (6280)	30 (6285)	20 (6289)	20 (6292)		
10 to 14 feet (3.0 m. to 4.3 m.)	Average not more than 45, none more than 55.	B	20 (6281)	20 (6286)	20 (6290)	10 (6293)	10 (6295)	
15 to 40 feet (4.6 m. to 12.2 m.)	Average not more than 37, none more than 45.	A	10 (6282)	10 (6287)	10 (6291)	0 (6294)	0 (6296)	0 (6297)

This chart is based upon ANSI norm.

[7] ENTITLED TO SPECIAL MONTHLY COMPENSATION

§ 4.87a [Amended]

24. Section 4.87a is amended by deleting "V" and inserting "VII" after the word "Table" in diagnostic codes 6277 through 6297.

§ 4.88 [Amended]

25. Section 4.88 is amended by deleting "quinine or other" and inserting "medication" in the last sentence.

§ 4.88a [Amended]

26. Section 4.88a is amended by inserting "(Hansen's Disease)" after "Leprosy" in diagnostic code 6302.

§ 4.89 [Amended]

27. Section 4.89 is amended by deleting the word "NOTE" preceding "Pub. L. 90-493" following the section title.

§ 4.94 [Revoked]

28. section 4.94 is revoked.

29. In § 4.97 under "Diseases of the Lungs and Pleura-Tuberculosis," diagnostic codes 6701 through 6732 are revised to read as follows:

§ 4.97 Schedule of ratings—respiratory system.

* * * * * *

DISEASES OF THE LUNGS AND PLEURA—TUBERCULOSIS

RATINGS FOR PULMONARY TUBERCULOSIS ENTITLED ON AUGUST 19, 1978

	Rating
6701 Tuberculosis, pulmonary, chronic, far advanced, active	
6702 Tuberculosis, pulmonary, chronic, moderately advanced, active	
6703 Tuberculosis, pulmonary, chronic, minimal, active	
6704 Tuberculosis, pulmonary, chronic, active, advancement unspecified	100
6721 Tuberculosis, pulmonary, chronic, far advanced, inactive	
6722 Tuberculosis, pulmonary, chronic, moderately advanced, inactive	
6723 Tuberculosis, pulmonary, chronic, minimal, inactive	
6724 Tuberculosis, pulmonary, chronic, inactive, advancement unspecified	
General Rating Formula for Inactive Pulmonary Tuberculosis:	
For 2 years after date of inactivity, following active pulmonary tuberculosis, which was clinically identified during active service, or subsequently	100
Thereafter, for 4 years, or in any event, to 6 years after date of inactivity	50
Thereafter, for 5 years, or to 11 years after date of inactivity	30
Following far advanced lesions diagnosed at any time while the disease process was active, minimum	30
Following moderately advanced lesions, provided there is continued disability, emphysema, dyspnea on exertion, impairment of health, etc	20
Otherwise	0

NOTE (1). The 100 pct rating under codes 6701 through 6724 is not subject to a requirement of precedent hospital treatment. It will be reduced to 50 percent for failure to submit to examination or to follow prescribed treatment upon report to that effect from the medical authorities. When a veteran is placed on the 100 pct rating for inactive tuberculosis, the medical authorities will be appropriately notified of the fact, and of the necessity under 38 U.S.C. 356 to notify the Adjudication Division in the event of failure to submit to examination or to follow prescribed treatment.

NOTE (2). The graduated 50 pct and 30 pct ratings and the permanent 30 pct and 20 pct ratings for inactive pulmonary tuberculosis are not to be combined with ratings for other respiratory disabilities. Following thoracoplasty the rating will be for removal of ribs combined with the rating for collapsed lung. Resection of ribs incident to thoracoplasty will be rated as removal.

RATINGS FOR PULMONARY TUBERCULOSIS INITIALLY ENTITLED AFTER AUG. 19, 1968

	Rating
6730 Tuberculosis, pulmonary, chronic, active	100
6731 Tuberculosis, pulmonary, chronic, inactive:	
For 1 year after date of attainment of inactivity of tuberculosis	100
Thereafter, rate residuals attributable to tuberculosis:	
Pronounced: Advanced fibrosis with severe ventilatory deficit manifested by dyspnea at rest, marked restriction of chest expansion, with pronounced impairment of bodily vigor	100
Severe; extensive fibrosis, severe dyspnea on slight exertion with corresponding ventilatory deficit confirmed by pulmonary function tests with marked impairment of health	60
Moderate; with considerable pulmonary fibrosis and moderate dyspnea on slight exertion, confirmed by pulmonary function tests	30
Definitely symptomatic with pulmonary fibrosis and moderate dyspnea on extended exertion	10
Healed lesions, minimal or no symptoms	0

Active pulmonary tuberculosis will be considered permanently and totally disabling for non-service-connected pension purposes in the following circumstances:

(a) Associated with active tuberculosis involving other than the respiratory system.

(b) With severe associated symptoms or with extensive cavity formation.

(c) Reactivated cases, generally.

(d) With definite advancement of lesions on successive examinations or while under treatment.

(e) Without retrogression of lesions or other evidence of material improvement at the end of 6 months hospitalization or without change of diagnosis from "active" at the end of 12 months hospitalization.

NOTE.—"Material improvement" means lessening or absence of clinical symptoms, and X-ray findings of a stationary or retrogressive lesion.

	Rating
6732 Pleurisy, tuberculous, active or inactive:	
Active	100
Inactive: See §§ 4.88b and 4.89.	

30. In § 4.104, diagnostic codes 7000, 7004, 7005, and 7007 are revised and 7017 is added so that the revised and added codes read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

DISEASES OF THE HEART

	Rating
7000 Rheumatic heart disease:	
As active disease and, with ascertainable cardiac manifestation, for a period of 6 months	100
Inactive:	
Definite enlargement of the heart confirmed by roentgenogram and clinically; dyspnea on slight exertion; rales, pretibial pitting at end of day or other definite signs of beginning congestive failure; more than sedentary employment is precluded	100
The heart definitely enlarged; severe dyspnea on exertion, elevation of systolic blood pressure, or such arrhythmias as paroxysmal auricular fibrillation or flutter or paroxysmal tachycardia; more than light manual labor is precluded	60
From the termination of an established service episode of rheumatic fever, or its subsequent recurrence, with cardiac manifestations, during the episode or recurrence, for 3 years, or diastolic murmur with characteristic EKG manifestations or definitely enlarged heart	30
With identifiable valvular lesion, slight, if any dyspnea, the heart not enlarged; following established active rheumatic heart disease	10
* * * * *	
7004 Syphilitic heart disease:	
Rate as rheumatic heart disease, inactive.	
7005 Arteriosclerotic heart disease:	
During and for 6 months following acute illness from coronary occlusion or thrombosis, with circulatory shock, etc	100
After 6 months, with chronic residual findings of congestive heart failure or angina on moderate exertion or more than sedentary employment precluded	100
Following typical history of acute coronary occlusion or thrombosis as above, or with history of substantiated repeated anginal attacks, more than light manual labor not feasible	60
Following typical coronary occlusion or thrombosis, or with history of substantiated anginal attack, ordinary manual labor feasible	30
* * * * *	
7007 Hypertensive heart disease:	
With definite signs of congestive failure, more than sedentary employment precluded	100
With marked enlargement of the heart, confirmed by roentgenogram, or the apex beat beyond midclavicular line, sustained disastolic hypertension, diastolic 120 or more, which may later have been reduced, dyspnea on exertion, more than light manual labor is precluded	60
With definite enlargement of the heart, sustained diastolic hypertension of 100 or more, moderate dyspnea on exertion	30
* * * * *	
7017 Coronary artery bypass:	
For 1 year following bypass surgery	100
Thereafter, rate as arteriosclerotic heart disease.	
Minimum rating	30

NOTE.—Authentic myocardial insufficiency with arteriosclerosis may be substituted for occlusion.

NOTE.—The 100 pct rating for 1 year following bypass surgery will commence after the initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

31. In § 4.118, diagnostic code 7801 and 7802 are revised to read as follows:

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0 C 2 7 8
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§ 4.118 Schedule of ratings—skin.

	Rating
7801 Scars, burns, third degree:	
Area or areas exceeding 1 square foot (0.1 m.²)	40
Area or areas exceeding one-half square foot (0.05 m.²)	30
Area or areas exceeding 12 square inches (77.4 cm.²)	20
Area or areas exceeding 6 square inches (38.7 cm.²)	10

NOTE (1). Actual third degree residual involvement required to the extent shown under 7801.

NOTE (2). Ratings for widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined.

	Rating
7802 Scars, burns, second degree:	
Area or areas approximating 1 square foot (0.1 m.²)	10

NOTE.—See NOTE (2) under diagnostic code 7801.

32. In § 4.124a, following diagnostic codes 8002 and 8021 a note is added to read as follows:

§ 4.124a Schedule of ratings—neurological conditions and convulsive disorders.

	Rating
Brain, new growth of:	
8002 Malignant	100
NOTE.—The rating in code 8002 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30
Spinal cord, new growths of:	
8021 Malignant	100
NOTE.—The rating in code 8021 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30

33. In § 4.150, diagnostic codes 9900 and 9905 are revised to read as follows:

§ 4.150 Schedule of ratings—dental and oral conditions.

	Rating
9900 Maxilla or mandible, osteomyelitis of, chronic:	
Rate as osteomyelitis, chronic under diagnostic code 5000	
9905 Temporomandibular articulation, limited motion of:	
Motion limited to ¼ inch (6.3 mm.)	40
Motion limited to ½ inch (12.7 mm.)	20
Any definite limitation, interfering with mastication or speech	10

APPENDIX A.—TABLE OF AMENDMENTS AND EFFECTIVE DATES SINCE 1946

1. Section 4.71a is revised to read as follows:

Sec.
4.71a Diagnostic Code 5000—60 percent; February 1, 1962.
Diagnostic Code 5000 NOTE (2):
First three sentences; July 10, 1956.
Last sentence; July 6, 1950.
Diagnostic Code 5002—100 percent, 60 percent, 40 percent, 20 percent; March 1, 1963.
Diagnostic Code 5003; July 6, 1950.
Diagnostic Code 5012—NOTE; March 10, 1976.
In sentence following DC 5024: "except gout which will be rated under 5002"; March 1, 1963.
Diagnostic Code 5051;
Diagnostic Code 5052;
Diagnostic Code 5053;
Diagnostic Code 5054; September 9, 1975.
Diagnostic Code 5055; September 9, 1975.
Diagnostic Code 5056;
Diagnostic Code 5164—60 percent; June 9, 1952.
Diagnostic Code 5172; July 6, 1950.
Diagnostic Code 5173; June 9, 1952.
Diagnostic Code 5255 "or hip"; July 6, 1950.
Diagnostic Code 5257—Evaluation; July 6, 1950.
Diagnostic Code 5297—(Removal of one rib) "or resection of 2 or more"; August 23, 1948.
Diagnostic Code 5297—NOTE (2): Reference to lobectomy; pneumonectomy and graduated ratings; February 1, 1962.
Diagnostic Code 5298; August 23, 1948.
4.94 [Revoked]

2. Section 4.94 is revoked;

3. Section 4.104 is revised to read as follows:

4.104 Diagnostic Code 7000—30 percent; July 6, 1950.
Diagnostic Code 7000—100 percent inactive "with signs of congestive failure upon any exertion beyond rest in bed" revoked;
Diagnostic Code 7005—60 percent revoked;
Diagnostic Code 7007—80 percent revoked;
Diagnostic Code 7015—100 percent Evaluation. Criteria for All Evaluations and NOTES (1) and (2); September 9, 1975.
Diagnostic Code 7016; September 9, 1975.
Diagnostic Code 7017;
Diagnostic Code 7100—20 percent; July 6, 1950.
Diagnostic Code 7101 "or more"; September 1, 1960.
Diagnostic Code 7101—NOTE (2); September 9, 1975.
Diagnostic Code 7110—Criteria for 100 percent, NOTE and 60 percent and 20 percent Evaluations; September 9, 1975.
Diagnostic Code 7111—NOTE; September 9, 1975.
Diagnostic Codes 7114, 7115, 7116, and NOTE; June 9, 1952.
Diagnostic Code 7117 and NOTE; June 9, 1952.
NOTE following Diagnostic Code 7120; July 6, 1950.
Diagnostic Code 7121—100 percent Criterion and Evaluation and 60 percent Criterion; March 10, 1976. Criteria for 30 percent and 10 percent and NOTE; July 6, 1950.
Last sentence of NOTE following Diagnostic Code 7122; July 6, 1950.

4. Section 4.124a is revised to read as follows:

4.124a Diagnostic Code 8002, NOTE;
Diagnostic Code 8021, NOTE;
Diagnostic Code 8045; October 1, 1961.
Diagnostic Code 8046; October 1, 1961.
Diagnostic Code 8100—Evaluations; June 9, 1953.
Diagnostic Codes 8910 through 8914; October 1, 1961.
Diagnostic Codes 8910 through 8914 General Rating Formula—Criteria and Evaluations; September 9, 1975.

[FR Doc. 78-27287 Filed 9-29-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 980-1; PP 6F1782, 7F1984, 7F1986, and 7F1987/R171]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methidathion

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methidathion on various raw agricultural commodities. The regulation was requested by Ciba-Geigy Corp. This rule establishes maximum permissible levels for residues of methidathion on various raw agricultural commodities.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C. 20460, 202-755-9315.

SUPPLEMENTARY INFORMATION: On July 6, 1976, August 23, 1977, and September 28, 1977, notice was given (41 FR 27776, 42 FR 42372, and 42 FR 49839, respectively) that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, N.C. 27409, had filed pesticide petitions (PP 6F1782, 7F1984, 7F1986, and 7F1987) with the EPA.

PP 7F1782 proposed that 40 CFR 180.298 be amended by the establishment of tolerances for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodity almond hulls at 6 parts per million (ppm) and in or on the raw agricultural commodity group nuts at 0.05 ppm.

PP 7F1984 proposed amending 40 CFR 180.298 by establishing tolerances for residues of methidathion in or on the raw agricultural commodities pome and stone fruits at 0.05 ppm.

PP 7F1986 proposed amending 40 CFR 180.298 by establishing tolerances for residues of methidathion in or on the raw agricultural commodity olives at 0.05 ppm.

PP 7F1987 proposed amending 40 CFR 180.298 by establishing a tolerance for residues of methidathion in or on the raw agricultural commodity artichokes at 0.05 ppm. No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included 2-year dog feeding studies with no-observable-effect levels (NOEL) of 4 ppm; a rhesus monkey 2-year feeding study with an NOEL of 5 ppm; a rat multigeneration teratology/reproduction study with an NOEL of 32 ppm; a rat teratology study with an NOEL of 5 milligrams (mg)/kilogram (kg) of body weight (bw)/day; a mouse dominant lethal mutagenicity assay, which was negative at up to 45 mg/kg bw; and a hen demyelination study, which was negative at up to 350 mg/kg, the highest dose administered.

Based on the 2-year rat feeding study with a 4-ppm NOEL and using a 10-fold safety factor, the acceptable daily intake (ADI) for man is 0.02 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the proposed tolerances and the tolerances which have previously been established for residues of methidathion on a variety of raw agricultural commodities at levels ranging from 6 ppm to 0.05 ppm does not exceed the ADI.

Desirable data that is lacking from the petitions is a 24-month oncogenicity study, which is underway and is expected to be completed in early 1979. The petitioner in a letter of July 13, 1978, agreed to voluntarily delete the use of methidathion on almond hulls, nuts, pome fruits, stone fruits, artichokes, and olives from the label should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methidathion is adequately understood, and an adequate analytical method (gas chromatography using flame photometric detection) is available for enforcement purposes. No actions are currently pending against continued registration of methidathion, nor are there any other relevant considerations involved in establishing the proposed tolerances. There is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purposes for which tolerances are sought, and it is concluded that the tolerances of 6 ppm on almond hulls and 0.05 ppm on nuts, artichokes, olives, pome fruits, and stone fruits established by amending 40 CFR 180.298 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before November 1, 1978, file written objections with the Hearing Clerk, EPA, room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective October 2, 1978, part 180 is amended as set forth below.

Dated: September 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Part 180, subpart C, § 180.298 is amended by alphabetically inserting almond hulls at 6 ppm and nuts, pome and stone fruits, olives, and artichokes at 0.05 ppm in the table to read as follows:

§ 180.298 Methidathion; tolerances for residues.

Commodity:	Parts per million
Almonds, hulls	6
Artichokes	0.05
Fruits, pome	0.05
Fruits, stone	0.05
Nuts	0.05
Olives	0.05

[FR Doc. 78-27618 Filed 9-29-78; 8:45 am]

[8320-01]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-12—LABOR

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: This amendment revises the VA procurement regulations § 8-12.304 to conform the language of the Authorized Variation To The Contract Work Hours And Safety Standards Act to the language currently contained in the pertinent regulations of the Department of Labor. Also, the amendment deletes subpart 8-12.9 of the procurement regulations on the Service Contract Act of 1965 because certain of the sections of those regulations have been superseded by amendments to the Federal Procurement Regulations and others have become obsolete.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

A. G. Vetter, Policy and Interagency Staff, Supply Service, Veterans Administration, Washington, D.C. 20420, 202-389-2334.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rulemaking process (§ 1.12, Title 38, Code of Federal Regulations). For the reasons stated above, however, compliance is unnecessary in this instance, as it would serve no useful purpose.

Approved: September 25, 1978.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

1. In subpart 8-12.3, § 8-12.304 is revised.

§ 8-12.304 Variations and tolerances.

When a contract is for nursing home care, the clause prescribed by FPR 1-12.303 will be modified to reflect the

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variation set forth in 29 CFR 5.14(d)(3) as follows: "In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended."

Subpart 8–12.9 [Revoked]

2. Subpart 8–12.9 is revoked.

[FR Doc. 78-27820 Filed 9-29-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 78-153; FCC 78-658]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Making Frequency 156.875 MHz Available for Exclusive Use for Communications to and From Pilots

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is restricting the use of the frequency 156.875 MHz to communications to and from pilots. We are taking this action because numerous complaints by pilots cite interference from other users during critical communications between pilots on vessels and other support personnel. This rulemaking provides a frequency exclusively for communications by and to pilots and, as a result, substantially improves the reliability of communications during the movement and docking of vessels.

EFFECTIVE DATE: November 3, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: September 19, 1978.

Released: September 28, 1978.

In the matter of amendment of parts 81 and 83 of the rules to make the frequency 156.875 MHz available for exclusive use for communications to and from pilots; SS Docket No. 78-153.

By the Commission: Commissioner Quello absent.

BACKGROUND

1. On May 30, 1978, the Commission released a notice of proposed rulemaking which would restrict the use of the frequency 156.875 MHz (channel 77) to communications concerning the movement and docking of vessels between pilots and other support personnel. Except in an emergency, transmissions on channel 77 would be limited to no more than 1 watt output power. The proposal was published in the FEDERAL REGISTER on June 12, 1978 (43 FR 24863). The period allotted for public comments has passed.

2. This rulemaking was initiated as a result of an informal approach to the Commission by a number of ship's pilots. These pilots basically said:

(a) That they were engaged in the movement and docking of large ships in crowded port areas;

(b) That during the movement and docking of a large ship the pilot must rely on the assistance of tugboat operators and other support personnel;

(c) That communications between pilots and other support personnel are usually conducted over short distances using low powered, hand held VHF "walkie-talkies"; and

(d) That in large port areas communications were frequently interfered with by much higher powered transmitters, even though those transmitters were located some distances away. Therefore, the pilots requested assistance from the Commission in solving this problem.

3. We agree that low power communications between pilots and other support personnel merit protection. A large, slow moving ship has a very limited amount of maneuverability, and interference-free communications are a necessity. Interference to these critical communications could result in a collision causing widespread damage, pollution and possible loss of life.

4. Therefore we proposed:

(a) The reservation of 156.875 MHz for communications to and from pilots;

(b) A power limitation of 1 watt output power to minimize potential interference;

(c) In emergencies, ship use of up to 25 watts output power, which is the maximum power permitted a ship station, and coast station use of up to 10 watts power; and

(d) On a limited basis, the use of 156.875 MHz for shore to ship communications.

COMMENTS AND COMMENTERS

5. Comments were submitted by the Southern California Marine Radio Council, the American Institute of Marine Shipping (AIMS), the Central Committee on Telecommunications of the American Petroleum Institute (API), the Pacific Merchant Shipping Association (PMSA), the American Waterways Operators, the Portsmouth Pilots, Jacobsen Pilot Service, Inc. and the U.S. Coast Guard. Tug Communications, Inc. submitted a reply comment.

6. All of the commenters supported our proposal. However, several of them requested some minor clarifications and wording changes:

(a) PMSA and AIMS expressed a desire to have the 10-watt limitation in the proposed § 81.356 eliminated so a ship's VHF radio system could be used in emergencies;

(b) AIMS and API suggested that the wording "ship to ship" be changed to "vessel to vessel" because the merchant marine industry considers a tugboat to be a "vessel", not a "ship";

(c) PMSA requested extending the definition of pilot to include "vessel masters who are piloting their own vessels under their Federal Pilots Endorsement"; and

(d) API requested that we insure that 156.875 MHz does not turn into a routine "business" channel for pilots. To this end, they suggested that coast to ship communications should take place on other appropriate frequencies.

CONCLUSION

7. With respect to the comments, we make the following observations.

(a) The 10-watt limitation applies only to a coast station. As explained above, ships are permitted to use 25 watts output power under emergency conditions;

(b) We recognize that the merchant marine industry uses the term "vessel" when referring to tugboats. However, our rules consistently use the term "ship", not "vessel". Further, it is clear that tugboats are considered ships within the meaning of the Communications Act of 1934, as amended, since section 3(w)(1) of the Act defines "ship" or "vessel" as "• • • every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not afloat."

(c) Vessel masters piloting their own ship under their Federal Pilots Endorsement are considered pilots. They are included among the pilots required by the authority of 46 U.S.C. 364 (Vessels Navigating Coastwise and On the Great Lakes).

(d) We agree with API that coast-to-pilot communications are more appropriate on other frequencies. We are therefore not adopting the proposed changes to part 81 which would have permitted coast station use of 156.875 MHz on a secondary basis.

8. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

9. Accordingly, it is ordered, that pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached appendix, effective November 3, 1978.

10. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Attachment: Appendix.

Part 83 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 83.6, paragraph (h) is added to read as follows:

§ 83.6 Operational.

• • • • • •

(h) *Pilot.* Pilot means a Federal pilot required by 46 U.S.C. 764, a State pilot required under the authority of 46 U.S.C. 211, or a registered pilot required by 46 U.S.C. 216.

2. In § 83.351, paragraph (a) table is amended and (b)(64) is added to read as follows:

§ 83.351 Frequencies available.

(a) • • •

Carrier frequency (kHz)	Conditions of use: Section	Conditions of use: Limitations
•	•	•
(MHz)		
•	•	•
156.850	83.359	40, 41, 48, 57.
156.875	83.359	40, 45, 64.
•	•	•

(b) • • •

(64) The use of this frequency is limited to communications to and from pilots, concerning the movement and docking of ships. Power used on this frequency shall not exceed 1 watt except under emergency conditions.

3. In § 83.359, table under "Port Operations" and under "Commercial" is amended to read as follows:

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§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

Channel designator	Frequency (megahertz): Ship	Frequency (megahertz): Coast	Point of communication
•	•	•	•
Port operations			
•	•	•	•
74	156.725	156.725	Do.
77	156.875		Intership.
20	157.000	161.600	Intership and ship to coast.
•	•	•	•
Commercial			
•	•	•	•
11	156.550	156.550	Do.
18	156.900	156.900	Do.
•	•	•	•

[FR Doc. 78-27655 Filed 9-29-78; 8:45 am]

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[1505-01]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-165; Amdt. Nos. 101-1, 102-1, 106-1, 107-4]

PART 106—RULEMAKING PROCEDURES

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

Redesignation and Revision

Correction

In FR Doc. 78-26828, appearing at page 43305 in the issue of Monday, September 25, 1978, make the following changes:

1. On page 43307 in item 14, the third line of Appendix A should read "authorized to conduct rulemaking proceed-".

2. In § 107.205, on page 43308 in the first line of paragraph (b) "be" should read "by".

3. In § 107.373, the seventh line which now reads "reports it to the Office of the Chief", should read "shall report it to the Office of the Chief".

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-03; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE STANDARDS

New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the European Tyre and Rim Technical Organisation (ETRTO) and by the Rubber Manufacturers Association (RMA), this notice amends Federal Motor Vehicle Safety Standard No. 109, New Pneumatic Tires—Passenger Cars, by adding 10 new tire size designations to table I of appendix A of the standard. The amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: November 1, 1978, if objections are not received prior to that date.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:
John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20690, 202-426-1714.

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to table I of appendix A of standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980) provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by the agency during this 30-day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards (49 CFR part 553) are to be initiated.

On March 20, 1978, the ETRTO petitioned for the addition of four new English-unit tire size designations to existing tables within table I of appendix A of standard No. 109. On April 11, 1978, April 25, 1978, May 25, 1978, and June 16, 1978, the RMA petitioned for the addition of six new English-unit tire size designations to existing tables within table I of appendix A of standard No. 109. The bases for accepting or denying requests to add new tire size designations are set forth in introductory guidelines to the appendix (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980). In sum, the tests are appropriateness of the information submitted for inclusion in the tire tables, and appropriateness of the requested location within the tables of the requested tire sizes. The 10 new tire size designations requested to be added to standard No. 109 meet these criteria. Accordingly, the ETRTO and the RMA petitions are granted, and the 10 new tire size designations are added to table I of appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) and Executive Order 12044, the NHTSA has reviewed the environmental and economic impacts of these amendments. There should be no negative environmental impacts. Further, since these are minor technical amendments of the standard which will permit the production of four new tire sizes, there should be no costs associated with their implementation. The agency has further concluded that this is not a significant regulation within the meaning of the Executive order.

In consideration of the foregoing, title 49 of the Code of Federal Regulations (part 571.109 (standard No. 109, New Pneumatic Tires—Passenger Cars)) is amended as specified below, subject to the 30-day comment provision discussed above:

§ 571.109 [Appendix amended]

In tables I-X, I-BB, I-DD, I-GG, I-HH, I-JJ, I-LL, and I-MM the following new tire size designations and corresponding values are added:

TABLE I - GG

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/80' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)					Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P155/80R15	345	370	395	420	445	465	485	505	525	4 ½	774	157

TABLE I - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/75R15	395	425	455	480	510	535	555	580	600	5	807	177

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/70R13	315	340	365	385	410	430	445	465	485	5	740	177

1/ The letters "P" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - KK

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P235/60R14	475	515	550	585	615	645	675	700	730	6 1/2	834	235
P245/60R15	535	580	620	655	690	725	760	790	820	7	907	248

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "T SERIES" 60LB/IN^2 TIRES

Tire size 1/	Maximum tire load (pounds at 60 psi cold inflation pressure	Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
T125/90D16	1995	4	29.41	5.16

1/ The letter "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified section sidth by more than the amount specified in S4.2.2.2.

TABLE I - X

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR MILLIMETRIC '50' SERIES RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
75/50R13	500	535	565	595	625	655	680	710	735	760	785	810	835	5 1/2	26.67	7.13

/ The letter "H," "S" or "V" may be included in any specfied tire size designation adjacent to the "R."

/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - BB

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "40 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
205/40R13	460	490	520	545	575	600	625	650	675	695	720	740	765	7	27.13	8.11

TABLE I - DD

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Sec wid (in
	16	18	20	22	24	26	28	30	32	34	36	38	40			
235/55R15	970	1035	1100	1160	1215	1270	1325	1375	1430	1475	1525	1570	1615	7	34.02	9.(

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Sectio width 2 (inches
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/65R14	695	740	785	830	870	910	945	985	1020	1055	1090	1125	1155	5	29.47	6.57

1/ The letter "H," "S: or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

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All comments submitted must be limited to 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion. It is requested but not required that 10 copies of comments be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

The principal authors of this notice are John Diehl of the Tire Performance Group and Nancy Eager of the Office of Chief Counsel.

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on September 25, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-27449 Filed 9-29-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

List of Addresses of Law Enforcement District Offices; Amendment

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Rule.

SUMMARY: This amendment shows a change of address for the Portland, Oreg., district office of the Division of Law Enforcement, U.S. Fish and Wildlife Service.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20236—202-343-9242.

SUPPLEMENTARY INFORMATION: In subpart C of part 10, title 50 of the Code of Federal Regulations, § 10.22, the address list of Law Enforcement district offices, is amended to show a new address for the Portland, Oreg., office.

Since it merely makes changes within a list of addresses in this part, the amendment's effect is administrative and does not change agency procedure, and therefore the "notice" requirements of 5 U.S.C. 533(b) are not applicable. In addition, it is not a substantive rule requiring a delayed effective date pursuant to 5 U.S.C. 553(d).

This amendment was prepared by Margaret C. Cash, Regulations Coordinator, Division of Law Enforcement.

§ 10.22 [Amended]

Section 10.22 of subpart C, part 10, title 50 of the Code of Federal Regulations, is amended by changing the address of the Portland, Oreg., district office to read "Lloyd 500 Building, Suite 1490, 500 Northeast Multnomah Street, Portland, Oreg. 97232 * * *"

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 26, 1978.

ROBERT S. COOK,
Acting Director, Fish and Wildlife Service.

[FR Doc. 78-27680 Filed 9-29-78; 8:45 am]

[4310-55]

PART 18—MARINE MAMMALS

State Laws and Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Regulations are issued which revise subpart F of part 18 of title 50, Code of Federal Regulations. The regulations implement section 109(a) of the Marine Mammal Protection Act which provides for the adoption and enforcement of State laws relating to the protection and taking of marine mammals. The regulations establish procedures for States to follow in requesting review and approval of their marine mammal laws. The regulations also set forth procedures, standards, and criteria that the Service will use in reviewing, approving, monitoring, and superseding the State provisions.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone: 202-632-2202.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 provides that subject to certain exceptions, a State may not adopt or enforce any law or regulation relating to the taking of marine mammals within its jurisdiction. 16 U.S.C. 1379(a)(1). In the case of *Fouke Co.* v. *Mandel*, 386 F. Supp. 1341 (D. Md. 1974), the Act was construed to preempt State laws and regulations relating to importation as well as taking.

However, the Act also provides that a State may adopt and enforce laws and regulations relating to the protection or taking of marine mammal species or population stocks within its jurisdiction if the Secretary reviews such laws and regulations and determines them to be consistent with applicable provisions of the Act and regulations issued thereunder. 16 U.S.C. 1379(a)(2). If the Secretary approves State laws and regulations as being so consistent, they take effect and certain provisions of the Act no longer apply. Id. After approval, the Secretary must, however, continue to monitor and review the State laws, and if they cease to comply with the purposes and policies of the Act, he must supersede them to the extent deemed necessary after notice and opportunity for a hearing. Id. at section 1373(a)(3). The Secretary's authority concerning these functions has been delegated to

the Director of the Service. 242 Int. Dep't. Man. 1-2.

In a notice of proposed rulemaking dated April 9, 1976, the Service published proposed regulations to implement the above provisions of the Act dealing with State laws and regulations (41 FR 15166). The proposed regulations dealt both with State laws and regulations implementing a waiver of the Act's moratorium on taking or importation, see 16 U.S.C. 1371(a), and with State laws and regulations which would not implement a waiver of the moratorium (41 FR 15169-15171). For each type of provision, the proposed regulations set forth procedures for a State to follow in requesting a review of its laws and regulations, criteria the Service would use in approving or disapproving the State provisions, procedures for continuous monitoring and review after approval, and procedures for dealing with changes in approved laws and regulations. Id.

For those laws and regulations implementing a waiver, the proposal further provided for a notice to be published in the FEDERAL REGISTER which would announce approval of the State provisions, summarize the State management program, and set forth the extent of the waiver. For laws and regulations implementing a waiver, the proposal also published enforcement standards for State officials, required the Service to be notified whenever takings under a waiver reached 90 percent of the waiver's numerical quota, and set forth procedures for superseding State provisions found not to comply with the Act's purposes and policies. Id.

The Service received comments on the proposed regulations from a number of environmental and animal welfare organizations.

Three of the organizations commented that to simplify enforcement of the Marine Mammal Act, the Service's regulations should be identical to those of the National Marine Fisheries Service. In all substantive respects, the final regulations published herein are the same as the regulations on State laws published by the National Marine Fisheries Service on August 31, 1976, 50 CFR Part 216, Subpart H; 41 FR 36659.

The same three organizations also indicated that the regulations should define the term "State regulation" and that a State regulation approved by the Service must have the force and effect of law and must not be a "mere policy statement changeable at will" by a State regulatory agency. Section 18.51 of the final regulations adopts as the definition of "State regulation" a definition similar to that set forth in the Federal Administrative Procedure Act, 5 U.S.C. 551(4), for the term "rule."

The above three organizations further indicated that the regulations should set forth the components of a "modern scientific resource management program" as that term is used in 50 CFR 18.55(a). As finally adopted herein, section 18.55(a) specifies that a modern scientific resource management program includes, but is not limited to, research, census, law enforcement, habitat acquisition and improvement, and if appropriate, the periodic or total protection of the species or population stocks which would be affected by the State's marine mammal provisions.

All five of the commenting organizations suggested changes in the procedures for reviewing and approving State marine mammal laws. It was stated that public participation in the review and approval process should not be limited to residents of the State concerned. It was also urged that there should be an opportunity for public comment and for a hearing on the State laws and regulations and on any changes made therein. In addition, it was suggested that determinations of either approval or disapproval of the State provisions should be open to public comment after publication in the FEDERAL REGISTER. Finally, three of the organizations suggested that provision be made for an appeal to the Secretary from any determination of approval or disapproval made by the Director.

To ensure meaningful public participation in the review and approval process, by both residents and nonresidents of the State concerned, § 18.53(c) provides for publication of a notice in the FEDERAL REGISTER setting forth information concerning public inspection and copies of the State laws and regulations. The notice will also provide for the submission of written data, views, comments, or requests for an informal public hearing on the State provisions.

In addition, § 18.53(e) provides that the Director's decision to approve or disapprove the State provisions will be published in the FEDERAL REGISTER. However, the regulations do not provide for any public comment or appeal to the Secretary on the Director's approval or disapproval. Since the Director's decision on any accompanying waiver or Federal regulations would be final, see 50 CFR 18.91(a), his decision to approve or disapprove the State laws and regulations should also be final.

With regard to changes and other aspects of approved State laws and regulations, paragraphs (d) through (h) of § 18.56 provide procedures for public participation which are similar to the procedures outlined above for initial sets of State provisions.

Two of the commenting organizations indicated that the regulations should set forth the role that the Federal Government will play after a State's marine mammal provisions have been approved. Lastly, three of the organizations commented that a State's notice to the Service that takings under a waiver have reached 90 percent of the allowed quota should be published in the FEDERAL REGISTER.

Concerning the general role of the Federal Government after approval of State laws, §§ 18.53(f) and 18.56 of the regulations provide that the Service will continuously monitor and review the State provisions and that any substantial changes in such provisions, other than emergency closings of seasons, must be approved by the Service before they take effect. Section 18.56 further provides for the State provisions to be superseded and the Act to be reinstated if such provisions are found not to be in compliance with the Act or applicable Federal regulations. Also, § 18.57 now provides that a State's notice concerning approach of the waiver quota will be published in the FEDERAL REGISTER.

In addition to changes resulting from public comments, the final regulations make several other changes in the proposed regulations. Specifically, the final regulations make applicable to any State laws submitted for approval a number of provisions which the proposal would have applied only to State laws implementing a waiver. These provisions include enforcement guidelines in § 18.58, procedures in § 18.56 relating to monitoring and review of approved State laws and possible reinstatement of the Act, and publication in the FEDERAL REGISTER under § 18.53(e) of the Director's decisions to approve or disapprove State laws.

The final regulations also clarify the scope provisions of § 18.52, delete as unnecessary proposed § 18.53(a), and delete proposed § 18.53(b) in order to eliminate a possible conflict with proposed subpart H of part 18 on the issue of scientific research and public display permits.

Lastly, aside from the revision of subpart F, the regulations published herein make two additional changes in 50 CFR Part 18. First, § 18.4 is deleted since its provisions are now included in the new § 18.53(a). Also, the introductory text of § 18.11 is amended by including as an exception to the general taking prohibitions the waiver provisions of subpart H of part 18.

These regulations are issued under the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. They were prepared by David Fisher and Ronald Swan, Office of the Solicitor, Department of the Interior.

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NOTE.--The Service has determined that issuance of these regulations is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement is not required.

Accordingly, part 18 of subchapter B of chapter I, Title 50, Code of Federal Regulations, is amended as follows:

§ 18.4 [Deleted]

1. Section 18.4 is deleted.

2. The introductory text of § 18.11 is amended to read as follows:

§ 18.11 Prohibited taking.

Except as otherwise provided in subpart C, D, or H of this part 18, it is unlawful for:

* * * * *

3. Subpart F of the table of sections for part 18 is revised to read as follows:

Subpart F—State Laws and Regulations

Sec.
18.51 Purpose of regulations.
18.52 Scope of regulations.
18.53 Review and approval of State laws and regulations—general.
18.54 Review and approval of State laws and regulations implementing a waiver.
18.55 Criteria for approval of State laws and regulations implementing a waiver.
18.56 Monitoring and review of approved State laws and regulations; reinstatement of the Act.
18.57 Notification on waiver quota.
18.58 Enforcement of State laws and regulations.
18.59 List of waivers and States with approved laws.

4. Subpart F is revised to read as follows:

Subpart F—State Laws and Regulations

§ 18.51 Purpose of regulations.

The regulations contained in this subpart implement section 109(a) of the Act which provides for the adoption and enforcement of State laws and regulations relating to the protection and taking of marine mammals. As used in this subpart, the term "State regulation" means the whole or a part of a State agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of a State agency and which is duly promulgated in accordance with established procedure.

§ 18.52 Scope of regulations.

(a) Except for §§ 18.54, 18.55, 18.57, and 18.59, which apply only to State laws and regulations that implement a waiver of the moratorium on taking or importation established by section 101 of the Act, the regulations of this subpart apply both to State provisions implementing a waiver of the moratorium and to State provisions not implementing a waiver.

(b) Nothing in this subpart shall prevent (1) the taking of a marine mammal by a State or local government official in accordance with § 18.22 of this part, or (2) the adoption or enforcement of any State law or regulation relating to any marine mammal taken before December 21, 1972.

§ 18.53 Review and approval of State laws and regulations—general.

(a) Any State may obtain a review and consistency determination of its proposed or existing laws and regulations from the Director by submitting a written request to that effect to the Director, U.S. Fish and Wildlife Service, accompanied by the following documents unless otherwise specified by the Director:

(1) A complete set of laws and regulations to be reviewed, certified as complete, true, and correct by the appropriate State official;

(2) A scientific description by species and population stock of the marine mammals to be subjected to such laws and regulations;

(3) A description of the organization, staffing, and funding for the administration and enforcement of the laws and regulations to be reviewed;

(4) A description, where such laws and regulations provide for discretionary authority on the part of State officials to issue permits, of the procedures to be used in granting or withholding such permits and otherwise enforcing such laws; and

(5) Such other materials and information as the Director may request or which the State may deem necessary or advisable to demonstrate the compatibility of such laws and regulations with the policy and purposes of the Act and the rules and regulations issued thereunder.

(b) To assist States in preparing laws and regulations relating to marine mammals, the Director will also, at the written request of any State, make a preliminary review of any proposed laws or regulations. This review will be advisory in nature and shall not be binding upon the Director. Notwithstanding preliminary review by the Director, once any proposed laws and regulations have been prepared in final form, they shall be subject to final review and approval under paragraphs (c) through (g) of this section. To be considered for preliminary review, a State shall submit the same documents required in paragraph (a) of this section, unless specified otherwise by the Director.

(c) Upon receipt of a request submitted in accordance with paragraph (a) of this section, the Director will publish in the FEDERAL REGISTER a notice stating that the State laws and regulations under review will be available for inspection at the locations stated in the notice, and providing information on how copies may be obtained. The notice will also provide that written data, views, comments, or requests for an informal public hearing on the State provisions may be submitted to the Director within the time specified in the notice.

(d) In making a determination with respect to any State laws or regulations, the Director will consider:

(1) Whether such laws and regulations are consistent with the purposes and policies of the Act and the rules and regulations issued thereunder;

(2) The extent to which such laws and regulations are consistent with, or constitute an integrated management or protection program with, the laws and regulations of other jurisdictions whose activities may affect the same species or stocks or marine mammals;

(3) The existence of or preparations for an overall State program regarding the protection and management of marine mammals to which the laws and regulations under review relate; and

(4) Any information received under paragraph (c) of this section.

(e) Upon completion of his review in accordance with paragraphs (c) and (d) of this section, the Director, in consultation with the Marine Mammal Commission, will decide whether or not to approve the State laws and regulations. To be approved, the State provisions must be consistent with (1) any Federal regulations issued under section 103 of the Act for the species or population stocks concerned and (2) any other provisions of the Act or regulations issued thereunder which apply to such species or population stocks. Upon making his decision, the Director will publish in the FEDERAL REGISTER a notice of approval or disapproval. If the State laws and regulations have been approved, the notice will summarize the management program established by the State provisions, specify the date on which the State's annual report it to be submitted under § 18.56(b) of this subpart, and, if necessary, state the extent to which the Act's moratorium on taking or importation is waived in order to allow such State laws and regulations to take effect. If the State laws and regulations have been disapproved, the notice will specify the reasons for the disapproval and will invite the submission of revised provisions under paragraph (a) or (b) of this section.

(f) Any modifications, amendments, deletions, or additions to State laws or regulations approved under paragraph (e) of this section, except emergency closings of seasons, shall, before adoption, require review and approval by the Director pursuant to paragraphs (c) through (h) of § 18.56 of this subpart.

(g) All determinations by the Director under this section shall be final.

§ 18.54 Review and approval of State laws and regulations implementing a waiver.

(a) Any State which requests a determination that its laws and regulations are consistent with the Act and applicable regulations in accordance with § 18.53 of this subpart may also request a waiver of the moratorium on taking and importation imposed by section 101 of the Act to the extent necessary to allow such laws and regulations to take effect.

(b) Where the State laws and regulations would implement a waiver of the moratorium, any waiver granted by the Director shall be contingent upon his approval of such State laws and regulations under § 18.53 of this subpart.

§ 18.55 Criteria for approval of State laws and regulations implementing a waiver.

Any State which applies to the Director for approval of its laws and regulations implementing a waiver of the Act's moratorium on taking or importation must demonstrate, to the Director's satisfaction, that such laws and regulations:

(a) Provide for a modern scientific resource management program, including but not limited to, research, census, law enforcement, habitat acquisition and improvement and, when and where appropriate, the periodic or permanent protection of the species or population stocks of marine mammals that would be affected by the State's laws and regulations;

(b) Establish a program which is based upon the best scientific evidence available on the relevant marine ecosystem and the role of the affected species or stocks of marine mammals in that ecosystem;

(c) Establish a program which is consistent with the Act's primary goal of maintaining the health and stability of the marine ecosystem;

(d) Establish a program which insures that the affected species or population stocks of marine mammals shall not diminish below the range of optimum sustainable population;

(e) Require cessation of taking of the affected species or population stocks of marine mammals, whenever the population is determined to be below the range of optimum sustainable population;

(f) Provide appropriate maximum quotas and seasons, whenever a taking is proposed, unless the State can show that it is more consistent with these criteria to have no quota or season;

(g) Establish quotas, seasons, and other allowances and restrictions as necessary to be consistent with the criteria of this section in accordance with the following factors:

(1) The seasonal distribution of populations;

(2) Segregation within populations by sex and age;

(3) Discreteness of populations;

(4) Population density;

(5) Critical periods in the species life cycle;

(6) Critical habitat areas;

(7) Productivity of the population;

(8) Species interactions;

(9) Percentage of retrieval by hunters;

(10) Maximization of the utilization of the species;

(11) Other uses of the species, such as recreational use or incidental catch; and

(12) Enforceability of the limitations.

(h) Contain suitable limitations on the means and methods of taking which assure that taking will be by humane means and will maximize the utilization of each animal taken.

(i) Contain provisions for significant public participation within the State in the process of implementing the waiver.

(j) Meet the criteria specified in § 18.53 of this subpart, to the extent that such criteria may differ from those prescribed in this section.

§ 18.56 Monitoring and review of approved State laws and regulations; reinstatement of the Act.

(a) All State laws and regulations and the conservation programs established thereby which have been approved shall be monitored and reviewed continuously.

(b) In order to facilitate such a review, each State having approved laws and regulations must submit an annual report not later than 60 days after the close of such State's first full fiscal year following the effective date of the Director's approval of the State laws and regulations and at the same time each following year. The report shall contain the following information current for each reporting period:

(1) Any changes in the State laws or regulations;

(2) Any new data on the marine mammal stocks or species or the marine ecosystems in question;

(3) All available information relating to takings under the terms of a waiver;

(4) A summary of all research activity on the stocks, species, or ecosystem affected by a waiver;

(5) Any changes in the information provided with the original request for approval;

(6) A summary of all enforcement activity, including permits issued, marine mammal parts or products sealed or marked, reports under permits, and investigations undertaken as well as their dispositions;

(7) Present budget and staffing level for the marine mammal activities; and

(8) Any other information which the Director may request, or which the State deems necessary or advisable.

(c) Each State, having approved laws and regulations shall file a special report within 30 days, whenever any of the following occurs:

(1) A proposed change in a relevant State law or regulation (amendments, repealers, or new legislation or regulations), which, with the exception of emergency closings of seasons, shall not be effective until the Director makes a determination pursuant to paragraphs (e) through (h) of this section;

(2) A significant natural or man-made occurrence affecting the marine ecosystems or the species or stocks of marine mammals to which a waiver applies; or

(3) A significant violation of the State management program including any quotas established thereby.

(d) All State laws and regulations and the conservation programs established thereby, as well as annual reports submitted under paragraph (b) and special reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

(e) Upon receipt of any report described in §§ 18.56(b) or 18.56(c), the Director shall, as soon as practicable, in consultation with the Marine Mammal Commission, determine preliminarily whether or not the State laws and regulations and any programs established thereby continue to comply with the requirements of the Act and this subpart.

(f) Whenever the Director preliminarily determines, in consultation with the Marine Mammal Commission, that any substantial aspects of State laws and regulations or programs established thereby are or are not in compliance with the requirements of the Act or this subpart, he shall publish notice of such determination in the FEDERAL REGISTER inviting submission from interested persons, within 30 days of the date of the notice, of written data, views, comments, or requests for an informal public hearing with respect to such preliminary determination.

(g) As soon as practicable after the preliminary determination described

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in § 18.56(e) and any 30-day comment period described in § 18.56(f), the Director, in consultation with the Marine Mammal Commission, shall determine whether or not to finally approve or disapprove the State laws and regulations. The Director's determination shall be made within 90 days after publication of any notice described in § 18.56(f), unless a hearing is held.

(h) If the Director makes a final determination to disapprove any proposed changes in State laws and regulations, the State shall, at the Director's sole discretion, have the option of retaining its initially approved laws and regulations, in which case any waiver shall remain in effect. All final determinations of approval or disapproval shall be published in the FEDERAL REGISTER. Upon publication of disapproval, unless a State, at the Director's sole discretion, elects within 30 days to retain its originally approved laws and regulations, any waiver conditioned upon approval of State laws and regulations as provided in this subpart shall terminate, and all provisions of the Act shall be reinstated and supersede such State laws and regulations.

§ 18.57 Notification on waiver quota.

Any State shall immediately notify the Director when the retrieved taking of any species or population stock of marine mammals reaches 90 percent of the numerical extent of the waiver prescribed by subpart H of this part for that species or population stock. The Director shall publish a Notice of Receipt in the FEDERAL REGISTER concerning such notification as soon after receipt thereof as practicable.

§ 18.58 Enforcement of State laws and regulations.

The appropriate official in each State shall utilize such methods as he deems appropriate to assure to the maximum extent practicable that the quotas, seasons, and other limitations in approved State laws and regulations are not exceeded. These methods may include, but are not limited to, patrols, surveillance, investigation, permit recordkeeping and reporting requirements, and tagging and marking requirements.

§ 18.59 List of waivers and States with approved laws.

The following is a list of the States whose laws and regulations have been approved by the Director pursuant to this subpart and the species or population stocks for which the moratorium has been waived within such States:

State, Common Name and Scientific name.
Alaska, Pacific Walrus, *Odobenus rosmarus.*

NOTE.—The Service has determined that issuance of these regulations is not a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 26, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-27679 Filed 9-29-78; 8:45 am]

[4310-55]

PART 26—PUBLIC ENTRY AND USE

Special Regulations for Kodiak National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: These special regulations govern the use of aircraft, motorized land vehicles, specialized watercraft, public and private cabin sites, and special-use permits for commercial use on the Kodiak National Wildlife Refuge in Alaska. The Director has determined that these regulations are consistent with the primary objectives for which the refuge was established and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: These regulations are effective October 2, 1978, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Delaney, Refuge Manager, Kodiak National Wildlife Refuge, P.O. Box 825, Kodiak, Alaska 99615, 907-486-3325.

SUPPLEMENTARY INFORMATION: The primary author of this document is Robert Delaney.

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

ALASKA

KODIAK NATIONAL WILDLIFE REFUGE

A. Public access, use, and recreation is permitted in accordance with applicable State and Federal regulations subject to the following conditions:

(1) The landing and operation of aircraft under other than emergency conditions is prohibited except as authorized in the waters of all streams, lakes, lagoons, and bays on or adjacent to the Kodiak National Wildlife Refuge.

(2) Rotary winged aircraft, also known as helicopters, may land on the refuge by Federal permit only. Permits are issued by the Refuge Manager, Kodiak National Wildlife Refuge, P.O. Box 825, Kodiak, Alaska 99615.

(3) The use of motorized land vehicles is prohibited.

(4) The use of boats commonly known as airboats and jet boats is prohibited.

B. Occupancy of cabin sites on national wildlife refuges is subject to the provisions of 43 CFR Part 21 and 50 CFR 26.35. In addition, the following special regulations shall apply:

(1) All commercial use cabin site permittees are required to appear in person at the headquarters on the Kodiak National Wildlife Refuge for issuance of permits.

(2) All commercial fish cabin site permittees are required to hold a valid State limited entry permit for set gill nets in Kodiak Island waters.

(3) No new structures or additions to existing structures shall be allowed.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, Part 26, and occupancy of cabin sites as set forth in Title 43, Code of Federal Regulations, Part 21. The public is invited to offer suggestions and comments at any time.

Dated: September 21, 1978.

LEROY W. SOWL,
Acting Alaska Area Director,
Fish and Wildlife Service.

[FR Doc. 78-27793 Filed 9-29-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Reapportionment of Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would reapportion the membership of the State of Washington Potato Committee. The proposed reapportionment would provide one handler member and alternate for each of the five districts and would result in more equitable representation on the committee.

DATES: Comments due by November 1, 1978.

ADDRESSES: Comments should be sent to the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 113 and order 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

The order provides in § 946.31 that upon recommendation of the committee the Secretary may reestablish districts within the production area and may reapportion committee membership among various districts.

The committee, at its June 7, 1978, organizational meeting, evaluated its handler representation which currently is comprised of two members from district 1, none from district 2, and one each from districts 3, 4 and 5. However, district No. 2, which includes the Quincy-Royal Slope area, has become an important potato shipping area, and is now the third largest shipping district in the production area. The committee decided that reapportioning the committee to provide for one handler member and his alternate for each district would result in more equitable representation on the committee. The change would become effective July 1, 1979.

The proposal is as follows:

Section 946.104 Reapportionment of committee membership is amended to read as follows:

§ 946.104 Reapportionment of committee membership.

(a) • • •

(1) District No. 1—three producer members and one handler member.

(2) District No. 2—two producer members and one handler member.

(3) • • •

(4) • • •

(5) • • •

Dated: September 26, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-27718 Filed 9-29-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Applications

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Revised Schedule for Public Hearings and Submission Dates

AGENCY: Department of Energy.

SUMMARY: This document sets forth the revised schedule for public hearings and submission dates on proposed rulemaking regarding the sampling requirements of appliance test procedures.

DATES AND ADDRESSES: See below.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Department of Energy (DOE) published in the FEDERAL REGISTER a notice of proposed rulemaking regarding the sampling requirements of appliance test procedures (43 FR 40192). Because of the interrelationship of this proposal to a proposal concerning appliance energy cost labeling published by the Federal Trade Commission (FTC) on July 21, 1978 (43 FR 31808), DOE arranged for FTC to receive comments on both proposals, and subsequently to provide DOE with copies of all comments. In addition, DOE arranged that a single public hearing would be held on both proposals, to be conducted by FTC in accordance with FTC hearing procedures, and with appropriate DOE participation.

On September 18, 1978, FTC published a notice in the FEDERAL REGISTER (43 FR 41410) revising the schedule for the public hearings (applicable to both proposals) and extending the written comment period (for the FTC proposal). A summary of the revised schedule is as follows:

September 19, 1978—Deadline for requests to testify at public hearings.
October 2, 1978—Deadline for all written comments pertaining to FTC proposal, identified as "Consumer Appliance Rulemaking Comment."
October 12, 1978—Hearings begin at 9 a.m. in Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.
November 1, 1978—Deadline for all written comments pertaining to DOE proposal, identified as "Consumer Appliance Rulemaking Comment—Test Procedure Sampling." (This date was unaffected by the September 18, 1978 FTC Notice.)

Issued: September 27, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 27696 Filed 9-29-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 78-ASW-44]

AIRWORTHINESS DIRECTIVE

Bell Models 212 and 205A-1 Helicopters

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD)

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that would require installation of strengthened float bags (reinforced girts) on certain Bell Models 212 and 205A-1 helicopters that are equipped with emergency flotation (ditching) equipment. The proposed AD is needed to improve the strength of the float bags attachment to the helicopter and preclude tearing, puncturing, and deflation of a float bag. Deflation of a float bag would reduce the capability of the helicopter to remain upright after a ditching.

DATES: Comments must be received by November 3, 1978. Proposed effective date of the AD will be December 13, 1978.

ADDRESSES: Send comments on this proposal in triplicate to: Regional Counsel, Attn. Docket 78-ASW-44, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. Bell service information may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone No. 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the development of the final rule by submitting such written or oral comments as they desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All comments will be recorded and considered by the Director before taking final action and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Tex. 76101.

During flotation tests conducted at Bell Helicopter Textron on a Model 212 helicopter, ballasted to a gross weight of 11,200 pounds, the girt assembly of the forward float separated at the support panel. Subsequent analysis disclosed the girt-to-support panel attachment configuration allowed concentrated loading of the girt fabric to occur at corners of the support panel. This load concentration, under a maximum gross weight condition, initiated a puncture that propagated along the girt. A report of a like condition has not been received from operators.

STC SH2395SW was issued for Bell Model 205A-1 helicopters to install emergency flotation equipment that includes the Model 212 float bags.

A modification is available as noted in Bell Service Bulletin No. 212-78-9 to provide additional strength and puncture resistance to the inboard corners of the girt by addition of fabric reinforcement doublers. The modified float bags are identified by different part numbers from the original design.

The proposed AD would require installation of strengthened float bags within 600 hours or 6 months' time in service, whichever comes first, for Bell Model 212 helicopters, serial No. 30501 through 30889, that are equipped with emergency flotation (ditching) equipment and all Model 205A-1 helicopters incorporating STC SH2395SW emergency flotation equipment. The proposed AD is needed to improve the strength of the float bags attachment to the helicopter and to preclude possible tearing, puncturing, and deflation of a float bag. Deflation of a float bag would seriously reduce the capability of the helicopter to remain upright after a ditching.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BELL: Applies to Bell Model 212 helicopters, serial No. 30501 through 30889, equipped with emergency flotation (ditching) equipment and to Bell Model 205A-1 helicopters equipped with STC SH2395SW emergency flotation equipment, certificated in all categories.

Compliance required within 600 hours' time in service or 6 months after the effective date of this airworthiness directive (AD), whichever comes first, unless already accomplished.

To preclude possible tearing, puncturing, and deflation of a float bag after a ditching, accomplish the following:

Remove the four emergency float bags and install modified or new float bags having the following part numbers: Air Cruisers No. D24650-105 -106 -107, and -108 (Bell No. 212-050-207-5, -6, -7, and -8 respectively) or B.F. Goodrich No. 7MA1002-5, -6, -7, and -8 (Bell No. 212-050-207-9, -10, -11, and -12 respectively).

Air Cruisers or B.F. Goodrich float bags may be modified and reidentified as prescribed by Air Cruisers Co. Service Bulletin No. 120-78-1, dated May 5, 1978, or later FAA approved revision or by B.F. Goodrich, Engineered Systems Division, Service Bulletin No. 01, dated May 8, 1978, or later FAA approved revision, respectively.

(Bell Helicopter Textron Service Bulletin No. 212-78-9 pertains to this subject.)

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 18, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27446 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 18316]

AIRWORTHINESS DIRECTIVES

Fokker Model F-27 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require inspections, replacements, and modifications, as necessary, of certain components on Fokker-VFW b.v. model F-27 airplanes. The AD is needed to detect and prevent certain unsafe conditions which were found earlier but for which no AD action was taken at the time found because the few Fokker model F-27 airplanes on the FAA Aircraft Registry were operating in foreign countries, and correction of the unsafe conditions were established on an individual basis with the aid of foreign airworthiness authorities. However, the anticipated entry onto the FAA Registry of additional Fokker model F-27 airplanes which are intended for operations in the United States necessitates AD action at this time to insure that such aircraft possess the minimum level of safety required by the regulations.

DATE: Comments must be received on or before November 15, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: rules Docket (AGC-24) Docket No. 18316, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletins may be obtained from: Fokker-VFW b.v., P.O. Box 7600, Schiphol Oost, The Netherlands.

Copies of each of the service bulletins referenced in this AD are contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

In the past, the Netherlands Civil Aviation Department (RLD), in accordance with existing provisions of a bilateral agreement, has notified the FAA of a number of inspection, replacement, and modification requirements which they have imposed upon Netherlands-manufactured and operated Fokker model F-27 airplanes to correct unsafe conditions. Currently, only a few Fokker F-27 airplanes are on the FAA Registry, and those are being operated outside of the United States. For those few aircraft, correction of the unsafe conditions found by the RLD has been confirmed by the FAA with the assistance of the RLD and other foreign airworthiness authorities. However, the FAA believes that additional Fokker model F-27 airplanes may be entered on the FAA Registry in the near future and may be operated within the United States. Based on this belief, the FAA has now evaluated the conditions which gave rise to the special requirements imposed by the RLD. The FAA believes that the requirements presented in this proposed AD, which are based on the special requirements of the RLD, are all related to unsafe conditions. Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as necessary, on certain Fokker model F-27 airplanes. Each numbered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the specific unsafe condition to which it is directed, and the related corrective action that would be required for resolution of that unsafe condition.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

FOKKER-VFW b.v. Applies to model F-27 airplanes, all series, certificated in all categories.

Unless already accomplished, compliance is required within the next 25 hours time in service after the effective date of this AD, except as specifically provided in a numbered paragraph of this AD. However, airplanes may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed.

1. Applies to airplanes S/N 10105 through 10110. To prevent jamming of the nose landing gear in the retracted position due to leakage of the shock absorber, install cam, P/N 27.1-5101-001-162, at station 1400 in accordance with the accomplishment instructions of Fokker F-27 modification No. 72, dated April 22, 1959.

2. Applies to airplanes S/N 10105 through 10106. To prevent loss of electrical power in flight due to inadequate attachment of bus bars on panels 1, 2, and 3, modify the bus bar attachment in accordance with the accomplishment instructions of Fokker F-27 modification No. 71, dated April 22, 1959.

3. Applies to airplanes S/N 10105 through 10119, except S/N 10115. To prevent failure of the nose gear steering system due to trapped air in the steering motor, install bypass lines with nonreturn valves over the nosewheel steering circuit followup valve in accordance with Fokker modification No. 88, dated July 23, 1959.

4. Applies to airplanes S/N 10105 through 10110. To prevent loss of electrical power in flight as a consequence of inadequate grounding of generator master switches, replace the grounding cable serving both switches with two separate grounding cables for the port and starboard generator switches respectively, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-14, Issue 2, dated October 1, 1959.

5. Applies to airplanes S/N 10105 through 10125. To prevent loss of electrical power in flight as a consequence of inadequate grounding of generator master switches, install additional grounding provisions for generator control panels in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-19, Issue 2, dated October 1, 1959.

6. Applies to airplanes S/N 10111 through 10114 and 10120 through 10122. To prevent jamming of an emergency door as a consequence of the guide rollers springing from the guide plates, enlarge the door rollers and strengthen the guide plates in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-22, dated October 21, 1959.

7. Applies to airplanes S/N 10105 through 10122 and 10126 through 10135. To prevent unsatisfactory operation of the control systems for controlling engine power, elevator, and rudder trim tabs, gust lock, emergency shutoff valves, and fuel crossfeed, reinforce the attachment of the control cable guide assemblies in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-23, dated November 30, 1959.

8. Applies to airplanes S/N 10105 through 10122, 10127 through 10136, 10138, and 10139. To prevent failure of the elevator main spar, which could result in loss of control of the airplane, reinforce the elevator main spar at station 3979 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-26, Issue 3, dated January 27, 1960.

9. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To prevent engine failure due to fatigue failure of engine control levers, install levers of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. F5, Issue 3, dated May 30, 1960.

10. Applies to airplanes S/N 10105 through 10122, 10126, 10127, 10131 through 10136, 10138, and 10139. To prevent excessive travel and possible damage of the flap drive system, relocate the flap system limit switches in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-17, dated January 11, 1960.

11. Applies to airplanes S/N 10105 through 10122 and 10126 through 10135. To prevent asymmetric extension of wing flaps due to certain failures of the mechanical drive system, which could result in loss of control of the airplane, modify the flap control system in accordance with the accomplishment instructions of Fokker F-27 modification No. 74, Issue 2, dated February 3, 1960.

12. Applies to airplanes S/N 10105 through 10122 and 10126 through 10140. To prevent inadequate control of the aircraft due to loosening of pilot and copilot control wheels, modify the control wheel attachment provisions in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-18, dated February 3, 1960.

13. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To prevent loss of electrical power in flight due to internal short circuits in electrical connectors, replace the connectors with connectors of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-23, Issue 4, dated February 14, 1961.

14. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141 with elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent failure of elevator hinge brackets, which could result in the loss of control of the airplane, replace the elevator hinge brackets at stations 3979 and 2460 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-28, Issue 2, dated July 13, 1960.

15. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141, having elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent structural failure of the elevator main spar, which could result in loss of control of the airplane, reinforce the elevator main spar at station 2460 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-27, Issue 2, dated July 13, 1960.

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16. Applies to airplanes S/N 10105 through 10122, 10126 through 10141, and 10143 through 10146. To prevent undue vibration stresses in propeller blades that could result in failure of a propeller blade in flight, restrict the engine idling speed to values above 7,000 r/min by revising the dial marking on the r/min indicators in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-3, dated April 11, 1960.

17. Applies to airplanes S/N 10105 through 10148. To prevent failure of an aileron hinge bracket, which could result in loss of the aileron in flight, inspect the aileron hinge brackets, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-32, Issue 4, dated January 18, 1961.

18. Applies to airplanes S/N 10105 through 10122, 10126 through 10141, 10143 through 10148, 10151, and 10153. To prevent a dormant electrical failure that could result in the inability to extend the landing gear following a single failure in the landing gear electrical control circuit, modify the landing gear electrical control circuit in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-26, dated July 26, 1960.

19. Applies to airplanes S/N 10105 through 10122 and 10126 through 10153. To prevent malfunction of the gust lock/engine interference system that possibly could result in takeoff with the flight controls locked, modify the gust lock system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. F-9, dated September 12, 1960.

20. Applies to airplanes S/N 10105 through 10179. To prevent blockage of the pitot-static system due to accumulation and freezing of water, which could jeopardize safety by causing erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-7, dated March 2, 1961.

21. Applies to airplanes S/N 10105 through 10186. To prevent deformation of the H.P.C. control lever rub plate, which could impair controllability by preventing feathering of the associated propeller, install a rub plate of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin F-11, Issue 2, dated November 27, 1961.

22. Applies to all Fokker F-27 airplanes incorporating Fokker F-27 Service Bulletin No. H-10. To prevent malfunction of the engine water/methanol system due to malfunction of the nonreturn valve, P/N 27.1—8420-018-001, which could result in a lack of power during takeoff, dismantle and inspect the nonreturn valves, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. H-24, dated October 29, 1962.

23. Applies to airplanes S/N 10105 through 10213. To prevent blockage of the pitot-static system due to the accumulation and freezing of water, which could jeopardize safety by causing erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-19, dated December 20, 1962.

24. Applies to airplanes S/N 10145 through 10223. To prevent unwanted propeller auto-feathering in flight due to ingress of moisture in electrical connectors V2609 and V2610, which could result in an engine failure, install electrical connectors of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-71, dated May 1, 1963.

25. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. G-7. To prevent failure of the propeller feathering system due to malfunction of the H.P.C. switches located on the engine firewall, inspect and test the switches, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletion No. G-5, Issue 2, dated October 8, 1963.

26. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. B-146. To detect possible internal corrosion of the steel tubular structures identified in Service Bulletin No. B-146, which could jeopardize safety by dangerously decreasing the strength of the empennage, the wing flap track support assembly, and the engine mounts, conduct X-ray inspections, and rectify as appropriate, in accordance with section A, planning information, and section B, accomplishment instructions, of Fokker F-27 Service Bulletin No. B-146, dated July 26, 1963, including Amendment No. 1, dated July 30, 1964.

27. Applies to airplanes S/N 10230 and subsequent. To prevent failure of flight control rods due to the accumulation of water and consequent corrosion or bursting due to freezing, inspect the flight control rods, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-61, Issue 3, dated October 30, 1964.

28. Applies to airplanes S/N 10105 through 10253. To prevent structural failure of the horizontal stabilizer, inspect the front and rear spar areas for cracks and loose rivets between station 227.5 LH and RH, rectify as appropriate, and apply structural reinforcement in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-150, dated June 18, 1964.

29. Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the rudder trim tab control brackets, which possibly could jeopardize safety by permitting flutter of the trim tab and rudder failure, replace bracket, P/N 27.1-3401-026-005, with a new bracket of improved design, and reinforce the bracket supporting structure, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-169, Issue 2, dated June 10, 1965.

30. Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the elevator trim tab control brackets, which possibly could jeopardize safety by permitting flutter of the trim tab, replace bracket, P/N 27.1-3201-041-002, with a new bracket of improved design, and reinforce the bracket supporting structure, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-170, dated May 31, 1965.

31. Applies to airplanes S/N 10249 through 10274 incorporating Fokker F-27 Service Bulletin No. I-26. To prevent failure of the brazed high-pressure tube assemblies, PNEU 370 and PNEU 371, or the pneumatic system (which operates the landing gear, brakes, and nose-wheel steering), modify the pneumatic system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. I-30, dated July 30, 1965.

32. Applies to airplanes S/N 10105 through 10293. To prevent jamming of nose gear doors due to deterioration of the door seals, which has resulted in failure to extend the nose gear, inspect the nose wheel door seals, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-185, revision 1, dated August 15, 1967.

33. Applies to airplanes S/N 10105 through 10316. To prevent possible flutter of the horizontal stabilizer due to reduced stiffness of the nose section, which could result in loss of the stabilizer, inspect the attachment angles on the front stabilizer spar for cracks and correct location, and rectify as appropriate, in accordance with the accomplishment instructions, part II, of Fokker F-27 Service Bulletin No. 55-39, revision 3, dated May 15, 1967.

34. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. D-56. To prevent failure of the nose gear lock in the extended position due to failure of the light-alloy main actuating piston, replace the light-alloy piston with a new stainless steel piston in accordance with the accomplishment instructions of Dunlop Service Bulletin No. 36-95, revision 1, dated October 21, 1966.

35. Applies to all Fokker F-27 airplanes not incorporating Dowty-Rotol accessory gearbox modification No. GB 2294. To prevent failure of an accessory gearbox due to failure of the input bevel gear, which could jeopardize safety by depriving the aircraft of one of the two sources of electrical and pneumatic power, incorporate an input bevel gear of improved design in accordance with Dowty Rotol Service Bulletin No. 83-291, revision 2, dated October 1966, or Fokker F-27 Service Bulletin No. E-35, dated May 15, 1967.

36. Applies to airplanes S/N 10105 through 10264 incorporating Graviner fire extinguisher top caps P/N A126. To prevent malfunction of the engine fire extinguishing systems due to material defects in the top caps, replace top caps, P/N A126, with caps of improved material, identified as P/N A126(2), in accordance with the embodiment instructions of Graviner Service Bulletin No. 26-A20, dated September 30, 1964.

37. Applies to airplanes S/N 10162 through 10335 incorporating a cargo door. To prevent possible failure of the pneumatic system due to inadequate wall thickness of the pneumatic tube located between the main bottle and the pneumatic panel, replace the pneumatic tube, PNEU 341, with a new tube of increased wall thickness, PNEU 428, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No I-33, dated October 2, 1967.

38. Applies to airplanes S/N 10105 through 10350. To prevent failure of an accessory gearbox front mounting flexible link due to misalignment which could result in loss of power, inspect the flexible links of the gearbox front mountings, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 83-14 dated June 24, 1968.

39. Applies to all Fokker F-27 airplanes with pneumatic systems incorporating Dunlop Dehydrator ACM 18952 (bottle P/N ACM 16773), or Dunlop Oil & Watertrap ACM 18048 (bottle P/N ACM 16772). To prevent pneumatic system failure due to stress corrosion of pressurized bottles, replace bottles P/N ACM 16772 and P/N ACM 16773, manufactured prior to 1959 (date of manufacture is marked on bottle) with serviceable bottles of the same part number but manufactured in 1960 or subsequent, in accordance with Dunlop Service Bulletin No. 36-187, revision 3, dated July 27, 1970.

40. Applies to airplanes S/N 10102 and 10105 through 10360, not incorporating part III of Fokker F-27 Service Bulletin No. 53-96. To detect and prevent cracks in the fuselage bottom skin, which possibly could result in explosive decompression of the cabin, inspect the fuselage bottom skin for cracks, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 53-72 dated April 6, 1967, including revision 2, dated June 30, 1972, and repeat the inspection in accordance with paragraph 1D, "Compliance", of that service bulletin as amended by Fokker F-27 Service Letter No. 277, dated October 25, 1971.

41. Applies to all Fokker F-27 airplanes. To detect and repair cracks in the rabbet area of fuel tank access doors of the lower outer wing area, which possibly could jeopardize safety by reducing the structural strength of the wing, inspect for cracks in the areas of the lower wing skin cut-outs of the fuel tank access doors, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 57-46, dated October 30, 1972.

42. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No 55-49. To detect and repair cracks and corrosion in attachment fittings, which possibly could lead to failure of the vertical stabilizer, inspect the vertical stabilizer attachment fittings for cracks and corrosion, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-48, revision 1, dated May 21, 1973.

43. Applies to all Fokker F-27 airplanes that are equipped with Airesearch aileron trim tab actuator (RH), P/N 525458, 540604-1, or 540604-2-1, but that do not incorporate Fokker F-27 Service Bulletin No. 27-105 or Airesearch Service Bulletin F27/20-12. To prevent malfunction of the RH aileron trim tab actuator due to failure of the actuator setscrew, which possibly could jeopardize safety by altering the airplane's lateral trim capability, modify the RH aileron trim tab actuator in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-105 dated October 19, 1973.

44. Applies to all Fokker F-27 airplanes. To detect and repair corrosion and cracks in the rear spar attachment fitting of the horizontal stabilizer, which possibly could lead to failure of the horizontal stabilizer, inspect the horizontal stabilizer rear spar attachment fittings for cracks and corrosion, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-50, dated March 22, 1974, or in accordance with the Fokker F-27 maintenance schedule (part 3) and the Fokker F-27 inspection guide, chapter III.

45. Applies to airplanes S/N 10446 through 10504. To prevent premature unlocking of the hatrack panels, which possibly could jeopardize safety by interfering with an emergency evacuation, install panel fasteners of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 25-40, dated August 8, 1974.

46. Applies to Fokker F-27 airplanes incorporating an engine mount P/N 27.1-8101-000-403 with a serial number between 590 and 725. To prevent failure of the engine mount due to use of improper material when manufactured inspect the engine mount upper tubes for cracks adjacent to the welds, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 71-25, revision 1, dated January 30, 1975.

47. Applies to airplanes S/N 10105 through 10522. To prevent loss of aileron control due to an inadequate flange on an aileron cable drum, inspect cable drums, P/N 27.1-5133-002-702, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-54 (C-47), dated August 22, 1975.

48. Applies to airplanes S/N 10105 through 10516 incorporating aileron control rod P/N 27.1-1333/1334-001-401 or -403. To prevent possible disconnection of an aileron control rod from the differential sector due to failure of the control rod bearing, install bearings of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-110, revision 1, dated February 16, 1976.

49. Applies to airplanes S/N 10512 and below incorporating the large cargo door. To prevent unwanted opening of the large cargo door in flight due to wear and distortion, inspect the locking and signaling provisions, and rectify as appropriate, in accordance with part I of the accomplishment instructions of Fokker F-27 Service Bulletin No. 52-55, dated August 27, 1975, and reinforce the door stiffening profile in accordance with part II of that service bulletin.

50. Applies to Fokker F-27 airplanes incorporating rudders which have accumulated more than 5,000 flights. To detect possible cracks and loose rivets in the hinge structure of the rudder trim tab and balance tab, which could result in tab flutter and loss of rudder inspect the rudder tab hinge brackets for cracks and loose rivets, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-51, dated December 29, 1975.

51. Applies to airplanes S/N 10529, 10534, 10536 through 10541, having IPECO crew seats not incorporating IPECO Service Bulletin NO. A001-25-2. To prevent unwanted movement of crew seats in flight due to wear of the track lock stopblock, incorporate track lock stopblocks of improved design in accordance with the accomplishment instructions, part II, of Fokker F-27 Service Bulletin No. 25-43, dated September 6, 1976.

52. Applies to airplanes S/N 10505 and 10507 through 10515. To prevent instability of the DC generator control system due to interaction with the static inverters, which could result in malfunction of required navigation and communication equipment, modify the AC lighting conversion system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 24-63, dated October 11, 1976.

53. Applies to airplanes S/N 10408 through 10510. To prevent loosening of the aileron stops due to improper design, which could adversely affect controllability because of improper aileron deflection, modify the aileron stop installations in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-112, dated October 18, 1976.

54. Applies to airplanes S/N 10458 and below not incorporating Fokker F-27 Service Bulletin No. 36-26 (Dunlop Service Bulletin No. 36-156). To prevent possible failure of pneumatic system isolating valve bodies, P/N ACM 16724 or ACM 26573 due to cracking, which could deprive the airplane of wheel braking and nosewheel steering, modify the isolating valve body in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 36-26, dated June 13, 1977, or Dunlop Service Bulletin No. 36-156, revision 4.

55. Applies to all Fokker F-27 airplanes having accumulated more than 10,000 flights. Compliance required within the next 500 hours time in service after the effective date of this AD. To detect possible fatigue cracks and loose rivets in the RH horizontal stabilizer torsion box, which could result in failure of the stabilizer, inspect the torsion box structure, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-53, dated October 3, 1977.

56. Applies to airplanes S/N 10505 through 10521, 10525 through 10531, 10534 through 10557, 10559, and 10561 through 10564. To prevent loss of the main instrument panel fluorescent lighting system due to short circuiting, inspect the fluorescent lamps, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 33-24, dated January 30, 1978.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Fokker-VFW b.v., P.O. Box 7600, Schiphol Oost, the Netherlands. These documents may also be examined at Federal Aviation Administration, Europe, Africa, and Middle East Region c/o American Embassy, Brussels, Belgium, and at FAA headquarters, 800 Independence Avenue SE., Washington, D.C. A historical file in this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at Brussels, Belgium.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

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Issued in Washington, D.C., on September 25, 1978.

[FR Doc. 78-27693 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-WE-29-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-9, -10, -20, -30, -40, -50 Series (Including Military C-9A, C-9B, and VC-9C) Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections and replacement of the wing flap idler hinge support fitting attachment studs at wing station X_w=333.148 on certain McDonnell Douglas DC-9 airplanes. These inspections and rework are necessary to prevent the hinge fitting from becoming loose and causing partial loss of flap and aileron control and damage to the spoiler and wing structure.

DATES: Comments must be received on or before December 8, 1978.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, Room 6W14, Federal Aviation Administration, Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

There have been reported instances of failures of the studs which attach the wing flap outboard idler hinge to the wing rear spar at wing station X_w=333.148. The hinge consists mainly of a support assembly (fitting) and a bracket, both units being joined by a hinge bolt about which the flap bracket (and flap), pivots.

The support fitting is attached to the rear spar with four studs, two upper and two lower. The studs are made from 8740 steel (180-220 KSI heat treat) material, and threaded at both ends. One threaded end is for the purpose of securing the stud to the wing rear spar; the other threaded end is used to secure the hinge support fitting to the stud.

Preload indicating (PLI) washers are installed on the fitting end of the two lower studs, to obtain proper bolt preload.

The failure mode is such that the lower studs fail first, allowing the support fitting to rotate upwards during flap actuation, and subsequently, causing bending of the two upper studs. Rotation of the fitting allows the flap fixed vane to rub against the spoiler and wing trailing edge. Additionally, the aileron control cables pass through a hole in the support fitting. Excessive rotation of the fitting could cause the control cables to be broken or jammed.

The studs have a life limit of 50,000 landings, (reference: DC-9 TC data sheet A6WE, report MDC-J0005), and have been reported to have failed on airplanes having between 14,000 and 32,600 landings. The failures of the two lower studs are attributed to fatigue which initiated at the surface of the fuse and threaded areas, under load conditions precipitated by the combination of loss of preload and joint rigidity (clampup). The loss of preload and joint rigidity is attributed to the design of the existing "PLI" washer. The diameter and wall thickness of the washer inner-yield-ring is such that the ring, when installed, is in line with a cavity formed by the stud fuse area and the chamfer on the hinge fitting hole. Subsequently, loads applied to the inner ring will force the bottom washer to deflect into the cavity, in a cupping action, with the result that the nut is torqued against a washer in a "spring state". This condition in time, will result in the loss of preload and joint rigidity. If these types of cracks or failures are allowed to go undetected, they could result in structural damage to the spoiler, flap vane and wing structure, and possible loss of airleron control on the affected side if rotation of the support fitting causes jamming or breakage of the cables.

McDonnell Douglas DC-9 Service Bulletin 57-118 provides instructions for:

The inspection and replacement of the studs and PLI washers;

Ultrasonic inspection of the four studs;

Replacement of the two upper studs with new studs of original design;

Replacement of the two lower studs with new design studs made from Hy-Tuf (220-250 KSI Heat Treat) material; and,

The installation of new design PLI washers.

Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the inspection and stud replacement requirements of DC-9 Service Bulletin 57-118.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to model DC-9-10, -20, -30, -40, -50 series airplanes, including (military C9A, C9B, and VC-9C) airplanes certificated in all categories, fuselage numbers F/N 1 thru F/N 880, which correspond to the factory serial numbers listed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

Compliance required as indicated. To detect fatigue cracks and/or failure of the wing flap outboard idler hinge support fitting attachment studs, accomplish the following:

(a) Within the next 850 landings after the effective date of this AD, or before accumulating 10,000 total landings, whichever occurs later, unless already accomplished within the last 2,550 landings and thereafter at intervals of 3,400 landings from the last inspection, accomplish the ultrasonic inspection in accordance with the instructions in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

NOTE.—Service Bulletin 57-118 dated November 4, 1977 is the only version of this Service Bulletin suitable for compliance with paragraphs (a) and (b) of this AD.

(b) If any one or more studs is found cracked or failed, or has accumulated 50,000 or more landings, before further flight:

1. Replace all four studs, two PLI washers and applicable attaching parts with new original design studs and PLI washers, and applicable attaching parts; or,

2. Replace all four studs, two PLI washers and applicable attaching parts with new studs, (upper two of original design and lower two of new design and higher heat treat), and two new design PLI washers, and applicable attaching parts, per option 1, paragraph 2D1, Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

3. If new parts are installed per (b)1 above, the requirements of this Ad may be discontinued for that idler hinge(s) group of four attachment studs only, until the newly replaced parts have accumulated 10,000 landings, at which time reinstate the program of repetitive inspections and/or corrective actions per this AD.

4. The requirements per this AD may be terminated for that idler hinge(s) group of four attachment studs only, upon compliance with paragraph (b)(2) above, or upon installation of two lower studs of new design and two new design PLI washers, and applicable attaching parts, per option 1, paragraph 2.D.2., Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

5. Compliance with this AD notwithstanding, attachment studs must be replaced in accordance with the schedule specified in Douglas Report MDC-J0005, "DC-9 Safe Life Limits" (Reference DC-9 TC Data Sheet A6WE).

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(d) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, Calif. on September 20, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-27691 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-SO-35]

PROPOSED ALTERATION OF CONTROLLED AIRSPACE

Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Florida Transition Area, the South Atlantic Additional Control Area and the South Florida Additional Control Area by redefining the Florida Transition Area and the South Atlantic Area boundaries and by changing the lower limits of the three areas to 1,200 feet. This action would provide additional controlled airspace to serve instrument flight rules (IFR) helicopter operations and would simplify the area description.

DATES: Comments must be received on or before October 25, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-35, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24) Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. 20636, Atlanta, Ga. 30320. All communications received on or before October 25, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would redefine the Florida Transition Area and the South Atlantic Additional Control Area. Also, the proposed amendment would reduce the lower limits of these areas and the South Florida Additional Control Area to 1,200 feet. The cumbersome definition of the Florida Transition Area would be reduced to a simple one sentence description. Use of geographic coordinates to redefine the South Atlantic Control Area would precisely describe the area without references to adjacent areas for its boundaries. The reduction of the lower limits of the areas would provide additional controlled airspace for IFR operations at Vero Beach, Fla., and helicopter flights offshore.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by article 12 of and annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic.

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Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of annex 11 and its standard and recommended practices. As a contracting state, the United States agreed by article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Drafting Information

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348 and 440) as follows:

In § 71.163, under South Atlantic, the text is amended to read as follows:

That airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 24°00'00" N., long. 80°56'20" W.; to lat. 24°45'40" N., long. 80°48'00" W.; thence northward 3 NM from and parallel to the shoreline to lat. 35°29'30" N., long. 75°24'50" W.; to lat. 34°21'18" N., long. 73°58'53" W.; thence southward along the New York Oceanic CTA/FIR boundary to lat. 32°15'00" N., long. 77°00'00" W.; to lat. 27°00'00" N., long. 77°00'00" W.; to lat. 27°00'00" N., long. 78°53'00" W.; to lat. 26°27'00" N., long. 79°00'00" W.; to lat. 24°40'00" N., long. 79°00'00" W.; to lat. 24°00'00" N., long. 78°00'00" W.; thence to point of beginning.

Under South Florida, "from 2,000 feet" is deleted and "from 1,200 feet" is substituted therefor.

In § 71.181, under Florida, the text is amended to read as follows:

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Florida including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Florida.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 21, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-27692 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ANW-18]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the 700-foot transition area airspace in the vicinity of Redmond, Oreg. The alteration would result in an expansion of controlled airspace in that area. The alteration is needed because the present 700-foot transition area in inadequate to provide controlled airspace protection for aircraft executing the proposed ILS instrument approach procedure to Roberts Field, Redmond, Oreg.

DATES: Comments must be received on or before October 29, 1978.

ADDRESSES: Send comments on the proposal, in triplicate, to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist, Operations, Procedures, and Airspace Branch (ANW-533), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before October 29, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Chief, Operation, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108 or by calling 206-767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) to alter the 700-foot transition area at Redmond, Oreg. An ILS instrument approach procedure to runway 22, Roberts Field, Redmond, Oreg., is being established and additional 700-foot transition area is required to encompass the procedure turn. Accordingly, the Federal Aviation Administration proposes to amend subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) as follows:

Section 71.181 is amended as follows:

REDMOND, OREG.

In § 71.181, subpart G, Redmond, Oreg., delete lines 1 and 2 and that portion of line 3 ending with "21 miles east of the VORTAC" and substitute the following: "That airspace extending upward from 700 feet above the surface within 2 miles north and 13.5 miles south of the Redmond VORTAC 059 radial to 33 miles east of the VORTAC.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and an implemented by interim Department of Transportation guidelines (43 FR 9582, Mar. 8, 1978).

Issued in Seattle, Wash., on September 19, 1978.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-27447 Filed 9-29-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[EDR-350B, EDR-359A, Docket Nos. 32318 and 33093]

[14 CFR Parts 291, 296]

GENERAL RULES FOR ALL-CARGO AIR CARRIERS, CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS AND COOPERATIVE SHIPPERS ASSOCIATIONS

Oral Argument

SEPTEMBER 25, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of oral argument.

SUMMARY: This notice advises interested persons that the Board will hold oral argument at its offices on the tariff and other issues involved in the proposed rules in ERD-350 and ERD-359 on air freight forwarders and domestic air freight direct carriers, respectively. The Board is scheduling this oral argument on its own initiative.

DATES: Written requests by: October 6, 1978. Oral argument on: October 19, 1978.

ADDRESSES: Written requests to speak at the oral argument should be sent to: Phyllis T. Kaylor, Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. The oral argument will be held at 2 p.m., in room 1027, at 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

On the proposed rules—Teresa A. Smith, 202-673-5083, or Stephen Babcock, 202-673-5442; on the oral argument—Phyllis T. Kaylor, 202-673-5068, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

By ERD-350 (43 FR 15720, April 14, 1978) and ERD-359 (43 FR 33733, Aug. 1, 1978) we issued proposed rules to govern the operations of air freight forwarders and domestic air freight direct carriers, respectively. The rules proposed in ERD-350 and ERD-359 will, if adopted, remove most of our regulatory requirements for these segments of the aviation industry.

Many of the public comments that we have received oppose the elimination of the requirement that these classes of carriers file tariffs with the Board. We have decided to hear oral argument on this issue before we decide what action to take. While we are particularly interested in the tariff question, we are also interested in hearing the views of the public on any other matters at issue in these two cases.

Anyone who wishes to appear should send a written request to the address shown on this notice, by the date indicated. The letter should state briefly the issues to be discussed and the positions to be taken. Depending on the responses, our staff may establish separate panels of speakers.

Since the time we can devote to oral argument is necessarily limited, we cannot guarantee that all persons wishing to speak will be able to do so. We therefore encourage joint presentations by persons with the same position.

All persons requesting time to speak will be notified of the amount of time allotted to them and how the oral argument will be conducted.

(Secs. 204(a), 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324 and 1481).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27658 Filed 9-29-76; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4566]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Drain, Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Drain, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, City Administrator's Office, Drain, Oreg. Send comments to: Hon. Leroy Farley, Mayor, City of Drain, P.O. Box 158, Drain, Oreg. 97435.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Drain, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elk Creek	Fir St.—20 ft*	287
	Cedar St.—100 ft*	291
	Footbridge—100 ft*	294
	Southern Pacific RR.—100 ft*.	298
Pass Creek	Southern Pacific RR.—20 ft*.	293
	B St.—100 ft*	296

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27366 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4567]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Elkton, Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Elkton, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Elkton, Oreg. Send comments to: Hon. Larry Morrison, Mayor, City of Elkton, P.O. Box 508, Elkton, Oreg. 97436.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Elkton, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Umpqua River	2,400 ft downstream of confluence with Elk Creek.	117
	720 ft downstream of confluence with Elk Creek.	119
Elk Creek	State Highway 38-40 ft upstream of centerline.	120

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27367 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4568]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Marion County Courthouse, Salem, Oreg. Send comments to: Mr. Pat McCarthy, Chairman, Marion County Commission, Marion County Courthouse, Salem, Oreg. 97301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Marion County, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willamette River	Butteville Rd.—20 ft*	96
	City of Salem corporate limits—First downstream crossing.	137
	City of Salem corporate limits—Fourth crossing.	145
Santiam River	Interstate Highway 5—20 ft*.	202
	Jefferson corporate limits—50 ft downstream from downstream crossing.	218
	Jefferson corporate limits—50 ft upstream from upstream crossing.	224
	Confluence with North Santiam River.	231
North Santiam River.	Green Bridge Rd.—100 ft*.	256
	South 1st Ave.—50 ft*	439
	City of Mill City corporate limits—100 ft downstream from downstream crossing.	787
	City of Mill City corporate limits—100 ft upstream from upstream crossing.	824
	City of Gates corporate limits—20 ft downstream from downstream crossing.	894
	City of Gates corporate limits—100 ft upstream from upstream crossing.	907
Pudding River	Southern Pacific RR.—20 ft*.	100
	Pacific Highway—20 ft*	102
Mill Creek (near Woodburn).	Hubbard-Boones Ferry Rd.—20 ft*.	138
	Broadacres Rd.—50 ft*	141
	Crosby Rd.—20 ft*	150
	Belle Passi Rd.—20 ft*	173
Senegal Creek	City of Woodburn corporate limits—25 ft downstream from downstream crossing.	160
	City of Woodburn corporate limits—25 ft upstream from upstream crossing.	167
	Hillsboro Silverton Highway 214—50 ft*.	167
Butte Creek	Scotts Mills corporate limits—25 ft downstream from downstream crossing.	379
	Scotts Mills corporate limits—25 ft upstream from upstream crossing.	460
Silver Creek	Bush Creek Rd—50 ft*	170
	Silverton corporate limits—50 ft downstream from downstream crossing.	219
	Silverton corporate limits—50 ft upstream from upstream crossing.	258
	Central St.—40 ft*	267
	Peach St.—50 ft**	276
	Peach St.—50 ft*	280
	Private Road—Second crossing—50 ft*.	317
Turner Bypass	Confluence with Mill Creek.	278
	Turner Cloverdale Rd—25 ft*.	282
Beaver Creek	Confluence with Mill Creek—100 ft*.	304
	75th Pl. SE.—50 ft*	324
	Olney St. SE.—100 ft*	335
	Aumsville Highway SE.—50 ft*.	341
	Southern Pacific RR.—75 ft*.	351
	Shaw Aumsville Rd.—100 ft*.	354
Mill Creek	Interstate 5—50 ft*	221
	Battle Creek Rd.—20 ft*	277
	Confluence with Turner Bypass.	278
	Turner Marion Rd.—20 ft*.	295
	Confluence with Beaver Creek.	303
	75th Pl. SE.—50 ft*	324
	West Stayton-Aumsville Rd.—50 ft*.	356
	Southern Pacific RR.—20 ft*.	362
	Bishop Rd.—10 ft*	373
	Private road—First crossing—50 ft*.	383
	Golf Club Rd.—20 ft*	409
	1st Ave.—75 ft*	445
	North Santiam Highway 22—100 ft*.	448

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27368 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4569]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Riddle, Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Riddle, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 647 First Avenue, Riddle, Oreg. Send comments to: Ms. Ione K. Rice, City Recorder, City of Riddle, P.O. Box 143, Riddle, Oreg. 97469.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Riddle, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cow Creek	Downstream corporate limits.	669
	Main St.—20 ft upstream of centerline.	672

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27369 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4570]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Brady, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Brady, Lycoming County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Brady Community Center, R.F.D. 2, Montgomery, Pa. 17752. Send comments to: Mr. Harry C. Bryson, Chairman of Brady, R.F.D. 2, Montgomery, Pa. 17752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Brady, Lycoming County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream corporate limits.	488
	Confluence of Black Run.	488
	Upstream corporate limits.	489

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27370 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4571]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Everson, Fayette County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Everson, Fayette County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Everson Borough Building, Brown Street, Everson, Pa. 15631. Send comments to: Hon. Joseph V. Eckman, Mayor of Everson, Brown Street, Everson, Pa. 15631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Everson, Fayette County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Jacobs Creek	2,500 ft downstream of State Route 110.	1,027
	State Route 110	1,028
	Conrail	1,029
	Brown Street	1,029
	Upstream corporate limits.	1,031

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27371 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4572]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Leet, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Leet, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Leet Township Building, 198 Ambridge Avenue, Fair Oaks, Pa. 15003. Send comments to: Mr. Anthony Persuytti, Chairman of the Board of Commissioners of Leet, 309 Ambridge Avenue, Fair Oaks, Pa. 15003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Leet, Allegheny County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Sewickley Creek.	Downstream corporate limits.	711
	Approximately 2,900 ft above downstream corporate limits.	711
	Short St.	717
	Intersection of Heely St. and Eckert St.	719
	Intersection of Willow St. and Heely St..	720
	Frank St. (extended)	722
	Upstream corporate limits.	726

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27372 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4573]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Millvale, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Millvale, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Millvale Borough Building, 501 Lincoln Avenue, Millvale, Pa. Send comments to: Mr. Karl Seidl, President of the Council of Millvale, 44 Lawrence Street, Millvale, Pa. 15209.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Millvale, Allegheny County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

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These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River	Upstream corporate limits.	739
	Downstream corporate limits.	738
Girty's Run	Upstream corporate limits.	793
	Evergreen Ave (upstream).	790
	North Ave (upstream)	778
	Frederick St (downstream).	765
	Klopper St (upstream)	757
	Fremont St (upstream)	747
	Sherman St (upstream)	738
	Bennett St (downstream).	734
Turtle Creek	Confluence with Abers Creek.	844
	Upstream corporate limits.	791
	Dam at Westinghouse (upstream).	780
	Dam at Westinghouse (downstream).	778
	Confluence of Brush Creek.	777
	Mosside Blvd. (upstream).	768
	Wall Borough Bridge (upstream).	750
West Thompson Run.	Union RR	948
	Thompson Run Rd. (upstream).	885
	Frey Rd. (upstream)	884
	Confluence with Leak Run.	866
	South McCully Dr. (upstream).	859
	Private Drive 2,450 ft downstream from South McCully Dr. (upstream).	840
	U.S. Route 22 (upstream).	828
	Private drive 1,750 ft downstream from U.S. route 22 (upstream).	809
	Newton Rd. (upstream)	808
	Buena Vista Dr. (upstream).	788
	Downstream corporate limits.	767
Leak Run	Private road 1,950 ft upstream from Evergreen Dr. (upstream).	1,003
	Private road 850 ft upstream from Evergreen Dr. (upstream).	987
	Evergreen Dr. (upstream).	970
	Old William Penn Highway (upstream).	959
	Confluence with West Thompson Run.	866
Unnamed stream along Mosside Blvd.	Private drive 830 ft upstream from State Route 130.	799
	State Route 130 (upstream).	785
Dirty Camp Run	Park Bridge (upstream)	848
	Downstream corporate limits.	836
Abers Creek	Upstream corporate limits.	937
	Municipal road (upstream).	923
	Golden Mile Highway (upstream).	895
	Old Abers Creek Rd. (upstream).	890
	U.S. Route 22 (upstream).	886
	Confluence of East Thompson Run.	878
	Upstream Abers Creek Rd. (upstream).	859
	Downstream Abers Creek Rd. (upstream).	852
	Confluence of Turtle Creek.	844
East Thompson Run.	Upstream U.S. Route 22 (upstream).	965
	Downstream U.S. Route 22 (upstream).	928
Piersons Run	Old Abers Creek Rd.	935
	Confluence of Abers Creek.	935

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27373 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4574]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Municipality of Monroeville, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Municipality of Monroeville, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Monroeville Municipal Building, 2700 Monroeville Boulevard, Monroeville, Pa. 15146.

Send comments to: Mr. Marshall W. Bond, Municipal Manager of Monroeville, 2700 Monroeville Boulevard, Monroeville, Pa. 15146.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Municipality of Monroeville, Allegheny County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27374 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4575]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Nescopeck, Luzerne County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Nescopeck, Luzerne County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Nescopeck Zoning Office, 701 East First Street, Nescopeck, Pa. 18635. Send comments to: Mr. Charles O. Van Aken, President of the Council of Nescopeck, 835 East Second Street, Nescopeck, Pa. 18635.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Nescopeck, Luzerne County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	State Route 93	500
	Upstream corprate limits (extended).	503
Nescopeck Creek	Downstream corporate limits.	499
	Legislative Route 40017	501
	Upstream corporate limits.	504

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27375 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4576]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Orangeville, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Orangeville, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Orangeville Borough Building, Mills Street, Orangeville, Pa. 17859. Send comments to: Mr. Robert Miller, Jr., president of the Council of Orangeville, Main Street, Orangeville, Pa. 17859.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Orangeville, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek	Downstream corporate limits.	572
	Upstream corporate limits.	577

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27376 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4577]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of South Versailles, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based (100-year) flood elevations listed below for selected locations in the Township of South Versailles, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the South Versailles Municipal Building, Tourman Street, South Versailles, Pa. 15131. Send comments to: Mr. Edward Toperzer, President of Commissioners of South Versailles, 111 Horseshoe Drive, Mckeesport, Pa. 15131.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of South Versailles, Allegheny County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River.	Downstream corporate limits.	752
	Eight St.	755
	Third St.	756
	Upstream Corporate Limits.	758

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27377 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4578]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Wilmerding, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Wilmerding, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough of Wilmerding Secretary's Office, Commerce and Station Streets, Wilmerding, Pa. 15148. Send comments to: Mr. James Donner, President of the Council of Wilmerding, P.O. Box 338, Wilmerding, Pa. 15148.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Wilmerding, Allegheny County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Upstream corporate limits.	748
	Wabco Bridge Upstream Side.	748
	Downstream corporate limits.	737

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27378 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4579]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mason, Mason County, Tex.

AGENCY: Fedefal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Mason, Mason County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 124 Moody Street, Mason, Tex. 76856. Send comments to: Mayor Willard Aubrey or Mr. J. Brown, City Secretary, City Hall, 124 Moody Street, Mason, Tex. 76856.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Mason, Mason County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Comanche Creek...	Just downstream of Bickenbach Ave.	1518
	Just downstream of Spring St.	1133
	Mulberry St. (extended)	1547
Gamels Branch	Just upstream of Live Oak St.	1532
	Just downstream of Pecan St.	1544
	Just downstream of Rainey St.	1580
Koocks Branch.....	Just downstream of Robin Ave.	1543
	Just downstream of Ave. F.	1560
Comanche Creek Tributary No. 1.	Northern corporate limits.	1530
Comanche Creek Tributary No. 2.	Just downstream of Mulberry St.	1553
	At Northern corporate limits.	1566

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27379 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4580]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pownal, Bennington County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pownal, Bennington County, Vt. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Pownal Town Office, Pownal, Vt. 05261. Send comments to: Mr. Bruce Barrington, Chairman of the Board of Selectmen of Pownal, Pownal Town Office, Pownal, Vt. 05261.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

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ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Pownal, Bennington County, Vt. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hoosic River	Upstream corporate limits.	566
	Confluence of Ladd Brook.	545
	Pownal Bridge (upstream).	542
	Pownal Tannery Dam (upstream).	529
	Pownal Tannery Dam (downstream).	516
	Confluence of Potter Hollow Brook.	507
	Boston & Maine Railroad Bridge (upstream).	499
	Downstream Corporate Limits.	494
Potter Hollow Brook.	State Route 346 Bridge (upstream).	524
	Confluence with Hoosic River.	507
Ladd Brook	Boston & Maine Railroad Culvert.	555
	Private Drive 170 feet downstream from Boston & Maine Railroad Culvert (upstream).	550

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-27380 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4554]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Benton City, Benton County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Benton City, Benton County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Hall, Division Street, Benton City, Wash. Send comments to: Hon. Webb Bateman, Mayor, town of Benton City, P.O. Box 218, Benton City, Wash. 98320.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Benton City, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yakima River	Union Pacific Railroad Bridge-100 feet*.	469
	8th Street-100 feet*.	474

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27381 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4555]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Connell, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Connell, Franklin County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the town Hall, Connell, Wash. Send comments to: Hon. John A. Larson, Mayor of Connell, 122 North Columbia Avenue, Connell, Wash. 99326.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Connell, Franklin County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 2001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Esquatzel Coulee	Lower Corporate Limits.	836
	Adam Street	841
	Clark Street	842

qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the town Hall, Connell, Wash. Send comments to: Hon. John A. Larson, Mayor of Connell, 122 North Columbia Avenue, Connell, Wash. 99326.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Connell, Franklin County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 2001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Burlington Northern Railway.	846

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27382 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4556]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kahlotus, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Kahlotus, Franklin County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Kahlotus City Hall, Kahlotus, Washington 99335. Send comments to: Hon. Lavone Ekenbarger, Mayor of Kahlotus, Kahlotus, Wash. 99335.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kahlotus, Franklin County, Washington in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kahlotus Creek	Downstream Corporate Limits (North Bank).	886
	Downstream Corporate Limits (South Bank).	889
	Spokane Avenue	892
	Union Pacific Railroad	895
	Washington Route 260	897
	Upstream Corporate Limits.	912

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27383 Filed 9-27-78; 8:45 am]

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[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4557]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of West Richland, Benton County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of West Richland, Benton County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 3805 Van Giesen Street, West Richland, Washington. Send comments to: Hon. Frederick Burton, Mayor, Town of West Richland, Town Hall, 3805 Van Giesen Street, West Richland, Wash. 99352.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of West Richland, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yakima River	West Van Giesen Street—50 ft upstream of centerline.	374
	Upstream Corporate Limits.	378

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27884 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4558]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Belington, Barbour County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Belington, Barbour County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Belington Clerk's Office, Belington City Hall, Belington, W. Va. 26250. Send comments to: Hon. William Williams, Mayor of Belington, Belington City Hall, Box 26, Belington, W. Va. 26250.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Belington, Barbour County, W. Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill Creek	Corporate limits	1,701
	Willow St	1,701
	U.S. Highway 250	1,700
	Conrail	1,700
Tygart Valley River.	Corporate limits (south)	1,707
	Corporate limits (north)	1,697

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27385 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4559]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hinton, Summers County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hinton, Summers County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Hinton City Hall, Hinton, W. Va. 25951. Send comments to: Hon: W. J. Humphreys, Mayor of Hinton, Box 477, 322 Summers Street, Hinton, W. Va. 25951.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hinton, Summers County, W. Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
New River.....	Upstream corporate limit.	1,378
	State Route 3 downstream.	1,376
	State Route 20 upstream.	1,366
	Downstream corporate limit.	1,342
Greenbrier River ..	State Route 13 upstream.	1,392
	State Route 107 downstream.	1,376

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27386 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4560]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Morgantown, Monongalia County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Morgantown, Monongalia County, W.Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Engineer's Office, Morgantown, W.Va. Send comments to:

Mr. George French, City Manager of Morgantown, 389 Spruce Street, Morgantown, W. Va. 26505.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Morgantown, Monongalia County, W. Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongalia River.	Downstream corporate limits.	810
	U.S. Route 19	813
	Upstream corporate limits.	820
Deckers Creek	Downstream corporate limits.	813
	Deckers creek road	813
	Monogalia County route 64.	845
	Carnegie street	861
	Upstream corporate limits.	879
Cobum Creek	Downstream corporate limits.	820
	U.S. Route 19	820
	Green Bag road	901
	Upstream corporate limits.	909
Aaron Creek	Downstream corporate limits.	842
	Upstream corporate limits.	848
Knocking Run	Downstream corporate limits.	851
	Sturgis road	864
	Dug Hill road	865
	Monongalia County route 88.	868

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27387 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4561]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mullens, Wyoming County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Mullens, Wyoming County, W.Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Hall, Mullens, W.Va. 25882. Send comments to: Honorable Paul Clowers, Mayor of Mullens, Mullens City Hall Mullens, W. Va. 25882.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Mullens, Wyoming County, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Guyandotte River.	Corporate Limits Upstream.	1,429
	N & W Railroad Upstream.	1,422
	W. Va. Route 16 Downstream.	1,412
	Corporate Limits Downstream.	1,400
Slab Fork Creek	Corporate Limits	1,502
	Morgan Avenue Upstream (South of intersection of Trace Street).	1,484
	Confluence with Terry Branch Upstream.	1,464
	Norfork and Western Railroad downstream.	1,457
	Morgan Avenue Upstream (North of Intersection with Phillips Street).	1,448
	Morgan Avenue Upstream (North of intersection with Water Street.	1,422
	At confluence with Guyandotte River.	1,411

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27388 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4562]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Peterstown, Monroe County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Peterstown, Monroe County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Peterstown Town Hall, Box 487, Peterstown, W. VA. 24963. Send comments to: Honorable Osby Harvey, Mayor of Peterstown, Peterstown Town Hall, Peterstown, W. Va. 24963.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Peterstown, Monroe County, W. Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek	Mill street	1,622
	Upstream corporate limits.	1,677
Rich Creek	Market street	1,596
	Confluence of Scott Branch.	1,609
	Market street	1,624
	Thomas street	1,669
Scott Branch	Confluence with Rich Creek.	1,609
	D street	1,626

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27389 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4563]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the town of Rowlesburg, Preston County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Rowlesburg, Preston County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Rowlesburg Fire Hall, Rowlesburg, W. Va. 26425. Send comments to: Hon. Robert B. Kline, Mayor of Rowlesburg, Box 55, Rowlesburg, W. Va. 26425.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Rowlesburg, Preston County, W. Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cheat River	Downstream Corporate Limits.	1,379
	Maple Avenue	1,388
	Chessie System	1,389
	Upstream Corporate Limits.	1,393
Saltlick Creek	Confluence with Cheat River.	1,389
	Chessie System	1,390
	State Route 51 Bridge	1,406
	Upstream Corporate Limits.	1,440

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27390 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4564]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Ashwaubenon, Brown County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Ashwaubenon, Brown County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures

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that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Village Office, 580 Cormier Road, Green Bay, Wis. Send comments to: Mr. John Monfont, Jr., President, Village of Ashwaubenon, Village Office, 580 Cormier Road, Green Bay, Wis. 54304.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Ashwaubenon, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dutchman Creek...	County Highway "H"	589
	State Highway 32 and U.S. Highway 41.	591
	Oneida Street.....	595
Ashwaubenon Creek.	State Highway 32 and U.S. Highway 41.	586
	Glory Road.....	590
	County Highway "G"	594

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27391 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4565]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Manderson, Big Horn County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Manderson, Big Horn County, Wyo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Manderson, Wyo. Send comments to: Hon. Ralph Patrick, Mayor, Town of Manderson, Box 123, Manderson, Wyo. 82432.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202-755-5581 or Toll-free line 800-424-8872,

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Manderson, Wyo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Bighorn River.....	U.S. Highway 20—100 ft upstream from centerline.	3,897
Nowood River.....	Corporate limits—370 ft upstream of Marshall St. bridge.	3,902
	Intersection of Sherman Ave. and 1st St.	3,902
		Depth, feet above ground
Bighorn River.....	Centre Ave. and 2nd St—100 ft north of intersection.	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27392 Filed 9-27-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[46 CFR Part 25]

[CGD 76-082]

VENTILATION OF BOATS

Engine and Fuel Compartments on Recreational Boats

AGENCY: U.S. Coast Guard, DOT.

ACTION: Extension of comment period for proposed rule.

SUMMARY: The Coast Guard published a proposed rule (CGD 76-082) in the FEDERAL REGISTER of July 27, 1978, that would require recreational boats to comply with certain regulations for ventilating engine and fuel compartments. Voluntary standards organizations have been conducting tests to determine the feasibility of these proposed rules. The tests have been to extensive for the organizations to complete prior to the date of the end of the comment period. For this reason the Coast Guard has been requested to extend the comment period by 30 days. The Coast Guard agrees that the extension should be granted. This is in the boating interest to have as much information as possible available before establishing the final rule. Consequently, the comment period will be extended to October 30, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 76-082), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION:

Mr. Lars Granholm. U.S. Coast Guard, Office of Boating Safety (G-BBT), Room 4313, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4027.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. Lars Granholm, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

(Sec. 5, 85 Stat. 215 (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

Dated: September 21, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 78-27790 Filed 9-29-78; 8:45 am]

[8320-01]

VETERANS' ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Overpayments; Waiver or Recovery

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: Although the law states that a school may be held liable in certain instances for overpayments of educational assistance made to veterans and eligible persons, it is essential that the school not be held liable without adequate due process of law. It is proposed to amend the regulation dealing with this matter to strengthen and broaden due process.

Specifically, the concept of prima facie evidence of school liability, requiring rebuttal by a school, has been eliminated and replaced by the concept that a school may be potentially liable for an overpayment. Provision is made for the establishment of a Committee on School Liability in each VA field station having jurisdiction over schools with approved courses. Schools are entitled to hearings before these committees as well as prehearing conferences. Schools are given the right to appeal the decisions made by these committees. A School Liability Appeals Board is established in the Veterans Administration Central Office for the purpose of considering these appeals. This Board replaces the Central Office School Liability Review Board.

This amendment will serve to strengthen and broaden due process to a school when the Veterans Administration is considering whether a school can be held liable for overpayments of educational assistance made to veterans and other eligible persons.

DATE: Comments must be received on or before November 28, 1978. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the above address during normal business hours until December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: On page 36484 of the FEDERAL REGISTER of July 15, 1977, there was published a notice of regulatory development to amend 38 CFR Part 21 relative to the recovery of overpayments. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. As a result of the comments received, and internal analysis, the Veterans Administration has decided to withdraw the proposal which was published on July 15, 1977, and to publish a new proposal for further comment. The proposal is based on section 1785, title 38, United States Code.

Section 21.4009(b) is amended to eliminate the concept of prima facie evidence of school liability for an overpayment. Furthermore, specific mention is made of the fact that the Veterans Administration will consider other pertinent factors before deciding that a school is potentially liable for an overpayment.

Section 21.4009(c) is amended to require each field station having jurisdiction over schools with approved courses to establish a Committee on School Liability. This committee will decide whether a school is liable for an overpayment. This function has been under the jurisdiction of the station's Committee on Waivers and Compromises.

Section 21.4009(d) is amended to eliminate the concept of prima facie evidence of liability for an overpayment and to provide that a school will receive complete notice when it is determined that it is potentially liable for an overpayment.

Section 21.4009(e) is amended to provide that a school is entitled to a hearing preceded by a prehearing conference before any decision is made as to its liability for an overpayment.

Section 21.4009(f) is the new designation for material previously contained in § 21.4009(e).

Section 21.4009(g) is amended to require that a school be provided with notice of any decision of a Committee on School Liability.

Section 21.4009(h) is amended to allow a school to appeal a committee decision to a School Liability Appeals Board in Washington. Previously, a school had no right of appeal of a decision made at a Veterans Administration field station, although it could request an administrative review.

Section 21.4009(i) is amended to provide a summary of the actions the School Liability Appeals Board may take when it is considering an appeal.

Section 21.4009(j) is added to state that a decision of the School Liability Appeals Board is final.

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ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, until December 8, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 21.4009, paragraphs (b) through (i) are revised and paragraph (j) is added so that the revised and added material reads as follows:

§ 21.4009 Overpayments; waiver or recovery.

* * * * *

(b) *Reporting.* If a school is required to make periodic or other certifications, failure to report, or to report timely, facts which resulted in an overpayment may be considered in determining whether a school is potentially liable for the overpayment. Similarly, the submission of an incorrect certification as to fact may be considered in determining whether a school is potentially liable for the overpayment. In either instance consideration will be given to other pertinent factors such as allowing for occasional clerical error or occasional administrative error; the school's past reliability in reporting; the adequacy of the school's reporting system; and the extent of noncompliance with reporting requirements.

(c) *Committee on School Liability.* Each Veterans Administration field station having jurisdiction over schools with courses approved under chapters 32, 34, 35 and/or 36, title 38, United States Code shall establish a Committee on School Liability. The Committee or a panel designated by the Committee chairperson and drawn from the Committee, is authorized to find whether a school is liable for an overpayment.

(d) *Initial determination.* The Adjudication Officer of the Veterans Administration field station of jurisdiction will determine whether there is evidence that would warrant a finding that the school is potentially liable for an overpayment. When the decision is in the affirmative, the Finance Officer of the Veterans Administration field station of jurisdiction will notify the school in writing of the Veterans Administration's intent to apply the liability provisions of paragraph (a) of this section. The notice will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in the finding that the school was potentially liable for the overpayment. The notice will also state that a determination of liability will be made on the basis of the evidence of record, unless additional evidence or a request for a hearing is received within 30 days of the date of receipt of such notice by the school.

(e) *Hearings.* A school is entitled to a hearing before a panel drawn from the Committee on School Liability before a decision is made as to whether it is liable for an overpayment. Every hearing will be preceded by a prehearing conference unless the conference is waived by the school. The Committee on School Liability will consider all evidence and testimony presented at the hearing.

(f) *Extent of liability.* Waiver of collection of an overpayment as to a veteran or eligible person will not relieve the school of liability for the overpayment. Recovery in whole or in part from the veteran or eligible person will limit such liability accordingly. If an overpayment has been recovered from the school and the veteran or eligible person subsequently repays the amount in whole or in part, the amount repaid will be reimbursed to the school.

(g) *Notice to school.* The school shall be notified in writing of the decision of the Committee on School Liability. If the school is found liable for an overpayment, the school also will be notified of the right to appeal the decision to the Central Office School Liability Appeals Board within 60 days from the date of the letter to the school containing notice of the decision. The 60-day time limit may be extended to 90 days at the discretion of the chairperson of the Committee on School Liability. The appeal must be in writing setting forth fully the alleged errors of fact and law. If an appeal is not received within the 60-day time limit, the Committee decision is final.

(h) *Appeals.* An appeal will be forwarded to Central Office where it will be considered by the School Liability Appeals Board. The Board's decision will serve as authority for instituting collection proceedings, if appropriate, or for discontinuing collection proceedings instituted on the basis of the original decision of the Committee on School Liability in any case where the Board reverses a decision made by the Committee that the school is liable.

(i) *Review.* Review by the School Liability Appeals Board is limited to the issues raised by the school and shall be on the record and not de novo in character. The Board may affirm, modify or reverse a decision of the Committee on School Liability or may remand an appeal for further consideration by the appropriate Committee on School Liability. If new and material evidence is discovered while the School Liability Appeals Board is considering a case, the Board may remand the case to the appropriate Committee on School Liability.

(j) *Finality of decisions.* The School Liability Appeals Board has authority to act for the Administrator in deciding appeals concerning a school's liability for an overpayment. There is no right of additional administrative appeal of a decision of the School Liability Appeals Board.

§ 21.4009 [Amended]

2. The cross-reference following § 21.4009 is deleted.

[FR Doc. 78-27654 Filed 9-29-78; 8:45 am]

[8320-01]

[38 CFR Part 36]

LOAN GUARANTY

VA Payment of Interest to Investors—Repurchase of Vendee Loans

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is proposing to amend its regulation relating to the expenses that the Veterans Administration will pay an investor when repurchasing a defaulted vendee loan from that investor. The adoption of this proposal should give investors who have purchased loans from the Veterans Administration greater latitude in servicing defaulted loan accounts. The Veterans Administration expects that the adoption of this amendment will reduce the number of loans in default which the Veterans Administration must repurchase from investors. The Veterans Administration also is proposing to update the titles of the Veterans Administration officers with authority to sell, assign, transfer, and repurchase loans.

DATES: Comments must be received on or before October 30, 1978. It is proposed to make this amendment effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3668.

SUPPLEMENTARY INFORMATION: Each year the Veterans Administration, as a result of its home loan programs, acquires housing units through the foreclosure of guaranteed and direct loans. These houses are then sold at current market value with the Veterans Administration financing the sale with mortgages of up to 30 years. Many of these mortgages, which are called vendee loans, are sold to secondary market investors. The Veterans Administration then guarantees to the purchasing investors that if the loans go into default, the Veterans Administration will repurchase them and pay certain expenses. These expenses are outlined in § 36.4600(e)(1) and presently include the payment to the investor of up of 90 days' interest on a defaulted loan. This interest payment encourages the investor, in appropriate cases, to grant additional forbearance to borrowers in default than otherwise might be granted and gives investors and their servicers an opportunity to perform loan servicing. In many cases this loan servicing can effect reinstatement of delinquent loans. Thus, payment of interest provides a sounder investment to the investor and when loan reinstatement is successful allows the Veterans Administration to avoid the costs of loan repurchase from the investor.

The Veterans Administration recently conducted a study in selected field stations of loans which were repurchased by the Veterans Administration from investors. This study indicated that 27 percent of the loans which the Veterans Administration repurchased from investors had defaults cured or acceptable repayment plans leading to reinstatement of the loans made by the borrowers within 30 days following repurchase of the mortgages by the Veterans Administration.

This high percentage of loan reinstatements appears to indicate that if the Veterans Administration allows investors to collect up to 120 days rather than 90 days of interest after a loan default, many investors and servicers will more aggressively service loans. This should result in a larger percentage of such loans being reinstated by the investor. If loans are reinstated by private investors rather than conveyed to the Veterans Administration for repurchase, the Veterans Administration will save considerable funds. The cash outlays, which the Veterans Administration would save if this amendment is adopted, would consist of the actual funds to repurchase the home loans from the investors and the Veterans Administration's administrative expenses of re-establishing the loan accounts within its system of records. The Veterans Administration also is proposing to update the formal titles which are listed in § 36.4600(g)(2) to reflect the current officials designated to sell, assign, transfer, and repurchase loans.

These amendments are proposed under authority granted the Administrator by section 1803(c)(1) of title 38, United States Code.

ADDITIONAL COMMENT INFORMATION:

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 9, 1978. Any person visiting central office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any Veterans Administration field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

§ 36.4600 [Amended]

Section 36.4600 is amended as follows: (a) By deleting the word "his" and inserting "the" in paragraph (d)(3). (b) By deleting "by him" in paragraph (e)(3). (c) By revising paragraphs (e)(1) and (g)(2) as set forth below:

§ 36.4600 Sale of loans, guarantee of payment.

* * * * *

(e)(1) A cash payment shall be made to the holder upon the repurchase of a loan by the Administrator and shall be an amount equal to the price paid by the purchaser when the loan was sold by the Administrator, less repayments received by the holder which are properly applicable to the principal balance of the loan, plus any advances made for the purposes described in paragraph (c)(9) of this section, but no payments shall be made for accrued unpaid interest, except that with respect to loans sold by the Administrator after July 15, 1970, payment will be made for unpaid accrued interest from the date of the first uncured default to the date of the claim for repurchase, but not in excess of interest for 120 days. If, however, there has been a failure of any holder to comply with the provisions of paragraph (c) of this section the Administrator shall be entitled to deduct from the repurchase price otherwise payable such amount as the Administrator determines to be necessary to restore the Administrator to the position the Administrator would have occupied upon repurchase of the loan in the absence of any such failure. Incident to the repurchase by the Administrator, the holder will pay to the Administrator an amount equal to the balance, if any, remaining in the tax and insurance account.

* * * * * *

(g)(1) * * *

(2) Designated positions:

Chief Benefits Director.
Director, Loan Guaranty Service.
Director, Regional Office.
Director, Center.
Loan Guaranty Officer.
Assistant Loan Guaranty Officer.

* * * * *

[FR Doc. 78-27653 Filed 9-29-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 980-5]

STATE OF DELAWARE

Proposed Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted a proposed revision of the State implementation plan (SIP) consisting of a consent order for the Delaware City Generating Station of the Delmarva Power & Light Co. at Delaware City, Del. The schedule would require Delmarva to achieve compliance with Delaware's sulfur dioxide regulation by June 1, 1980 and specifies other milestones which the company must meet toward that end. The air quality impact of the proposed change has been evaluated and it has been found not to violate the air quality standards.

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DATE: Comments must be submitted on or before (30 days after publication of this notice.)

FOR FURTHER INFORMATION CONTACT:

William E. Belanger (3AH13), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106, telephone, 215-597-8188.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attention: William E. Belanger.

Delaware Department of Natural Resources and Environmental Control, Division of Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Del. 19901. Attention: Mr. Robert French.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

All comments submitted within 30 days of publication of this notice will be considered and should be directed to: Howard R. Heim, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attention: AH003DE.

SUPPLEMENTARY INFORMATION: On August 5, 1975, the then Secretary of Natural Resources and Environmental Control, acting for the Governor, submitted to EPA, region III a proposed revision of the Delaware State implementation plan consisting of a consent order for the Delaware City Generating Station of the Delmarva Power & Light Co. In his letter, Secretary John Bryson certified that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR, part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State implementation plan.

Because the compliance schedule in the consent order extended beyond the mandatory attainment date established by Congress in the Clean Air Act Amendments of 1970, and in light of a 1975 Supreme Court Decision, no EPA policy was in force which would allow consideration of the revision. On March 31, 1976, the Regional Administrator informed the Secretary of EPA's position. In his letter, the Regional Administrator stated that the order contains the required increments of progress and provides for compliance upon its completion. The Secretary was also informed that in order to approve the proposed revision to the SIP, there would have to be a demonstration that the control strategy for all facilities emitting sulfur dioxide, taking the consent order into account, contains sufficient emission limitations to provide for the attainment of standards at the time, for the full term of the order and also accounts for potential growth. The showing must be made for all areas within the Metropolitan Philadelphia Interstate AQCR and elsewhere where the impact of the order might interfere with attainment or maintenance of the standard. On March 27, 1978, a final report was received titled "An Air Quality Analysis near the Getty Refining and Market Co., Delaware Refinery" by J. Vern Hales. (The generating station is within the refinery complex and is intended to burn petroleum coke.) That report includes an adequate demonstration by diffusion modeling which shows the revision will not interfere with the attainment or maintenance of National Ambient Air Quality Standards.

The proposed revision would include in the SIP a consent order of the U.S. District Court and adopted by the State of Delaware. The order is designed to bring Getty Oil Co. (eastern operations) and Delmarva Power & Light Co. into compliance with Delaware's regulations governing the control of air pollution as they apply to the power generating station at Delaware City. The final compliance date is June 1, 1980 at which time the generating station will have installed flue gas desulfurization facilities which will control sulfur dioxide (SO_2) emissions to a level equivalent to the burning of one-percent sulfur fuel. In the interim, the generating station will be permitted to burn fuel with a sulfur content up to 3.5 percent. The compliance schedule is as follows:

Screening agreement, July 1, 1975.
Screening study, July 1, 1976.
Process agreement, September 1, 1976.
Final design and specifications, June 1, 1977.
Decision on construction, August 15, 1977.
Department permit review, September 1, 1977.
Contract for construction, October 1, 1977.
Process construction, April 1, 1980.
Process operational and in compliance, June 1, 1980.

The companies have conformed to all milestones to date, and have announced their intent to install a Wellman-Lord scrubber to meet the requirements of the order. The construction contract has been awarded.

On the basis of EPA's review to date, it is the tentative decision of the Administrator to approve the proposed revision of the Delaware State implementation plan. The public is invited to submit to the address stated above, comments on whether the Delaware City Generating Station consent order should be approved as a revision of the Delaware State implementation plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State implementation plans.

(Authority: 42 U.S.C. 7401)

Dated: September 8, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-27628 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-5; Docket No. DCO-78-24]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities, Henderson Station, Greenwood, Miss. The delayed compliance order requires the Greenwood Utilities, Henderson Station, to bring air emissions from the No. 3 coal fired boiler in Greenwood, Miss., into compliance with an applicable regulation contained in the Mississippi State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

John W. Hund, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: Greenwood Utilities operates an electric generating station (Henderson), in Greenwood, LeFlore County, Miss. The order under consideration addresses emissions from the No. 3 coal fired boiler, which is subject to Mississippi Air Pollution Control Regulation APC-S-1, section 3, paragraph 4, subparagraph (a). This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally-approved Mississippi State implementation plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Submit a plan by which the emissions shall be controlled by August 15, 1978.
(2) Take receipt of all bids for proposed control plan by November 30, 1978.
(3) Order all equipment needed to implement the control plan by January 31, 1979.
(4) Begin construction of the devices to implement the control plan by March 31, 1979.
(5) Complete construction of all devices to implement the control plan by May 31, 1979.
(6) Show by applicable testing that the No. 3 unit of the Henderson Generating Station meets all applicable state emission limits by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the No. 3 coal fired boiler shall not emit more than 0.49 pounds/million Btu's and visible emissions shall not exceed 40 percent opacity, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source of violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Mississippi SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27621 Filed 9-29-78; 8:45 am]

[6560-01]

[FRL 979-4; Docket No. DCO-78-23]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Mississippi Air and Water Pollution Control Commission to the Greenwood Utilities, Wright Station in Greenwood, Miss. The delayed compliance order requires Greenwood Utilities, Wright Station, to bring air emissions from the No. 1 coal fired boiler in Greenwood, Miss., into compliance with an applicable regulation contained in the Mississippi State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

John W. Hund, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: Greenwood Utilities operates an electric generating station (Wright) in Greenwood, LeFlore County, Miss. The order under consideration addresses emissions from the No. 1 coal fired boiler, which is subject to Mississippi Air Pollution Control Regulation APC-S-1, section 3, paragraph 4, subparagraph (a). This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally approved Mississipi State implementation plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction of installation of control equipment:

(1) Place on order all equipment needed to implement the previously submitted emissions control plan by August 15, 1978.
(2) Begin construction of devices to implement the control plan by September 15, 1978.

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

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(3) Complete construction of all devices to implement the control plan by May 31, 1979.

(4) Show by applicable testing that the No. 1 unit of Wright Generating Station meets all applicable state emission limits by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the No. 1 coal fired boiler shall not emit more than 1.33 pounds/million Btu's and visible emissions shall not exceed 40 percent opacity, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the reguation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Mississippi SIP. Compliance with the proposed order will not exempt the company form complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

[1]Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JOHN C. WHITE,
Regional Adminstrator,
Region IV.

[FR Doc. 78-27622 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to Central Operating Co.–Phillip Sporn Plant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Central Operating Co.–Phillip Sporn Plant. The order requires the company to bring air emissions from its electric generation station in New Haven, W.Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th & Walnut Sts., Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Abraham Ferdas (3EN11), U.S. EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Central Operating Co. operates an electric generating station at New Haven, W.Va. The order under consideration addresses emissions from the combuston of coal at the facility, which are subject to West Virginia Regulation II (40 CFR 52.2520).

The regulation limits the emissions of particular matter and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through the construction and installation of new electrostatic precipitators for units 1, 2, 3 and 4 at the Phillip Sporn Station. Central Operating Co. consented to the terms of this order on June 30, 1978. The company has awarded contracts for the control equipment; and construction commenced on April 1, 1978.

Because this order has been issued to a major source of particular matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon [1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

[1]Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27623 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to Monongahela Power Co.–Harrison Power Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Monongahela Power Co.–Harrison Power Station. The order requires the company to bring air emissions from its electric generating station in Haywood, W. Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen unit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of the this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Abraham Ferdas (3EN11), U.S. EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Monongahela Power Co. operates an electric generating station at Haywood, W. Va. The order under consideration addresses emissions from the combustion of coal at the facility, which are subject to West Virginia Regulation II (40 CFR 52.2520).

The regulation limits the emissions of particulate matter and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by June 1, 1979 through the modification of the existing electrostatic precipitators for units 1, 2, and 3 at the Harrison Station. These modifications include: (1) Install modifications in the gas velocity distribution; (2) install temperature distribution devices; (3) install modifications to the automatic voltage controls; and (4) modify rapper intensity. In addition, the order requires the company to clean the coal burned to reduce ash content. Monongahela Power Co. consented to the terms of this order on July 6, 1978. The company has commenced the modifications and has awarded contracts for the cleaning of the coal.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon [1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

[1]Regulations for 40 CFR part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27624 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the State of Maryland to the Eastalco Aluminum Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Maryland to the Eastalco Co. The order requires the company to bring air emissions from its anode bake ovens and cast house furnaces in Frederick County, Md. into compliance with certain regulations contained in the federally-approved Maryland State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106. The State order, supporting material, and public comments received in response to this

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notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Shiland, 3EN12 (same address as above), 215-597-7915.

SUPPLEMENTARY INFORMATION: Eastalco Aluminum Co. operates a primary aluminum plant in Frederick County, Md. The order under consideration addresses emissions from the anode bake ovens and cast houses at the facility, which are subject to Maryland regulation 10.03.37.02 C and D pertaining to visible emissions. The regulation limits the opacity of emissions and is part of the federally approved Maryland State Implementation Plan. the order requires final compliance with the regulation for the anode bake ovens by July 1, 1979 through the construction of a new control system. The order requires final compliance with the regulation for the cast house furnaces by no later than July 1, 1979 through modification of the process equipment. Eastalco consented to the terms of this order on March 2, 1978. The company has placed purchase orders for the necessary control and process equipment in each case and has met the first increments of the order. Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Maryland SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: August 25, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27625 Filed 9-29-78; 8:45 am]

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[6560-01]

[FRL 980-7; Docket No. DCO-78-21]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Lawrence County, Ala., Board of Health to the Champion International Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Lawrence County, Ala., Board of Health to the Champion International Corp. in Courtland, Ala. The delayed compliance order requires the Champion International Corp. to bring air emissions from a wood waste boiler in Courtland, Ala., into compliance with an applicable regulation contained in the Alabama State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, GA. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal Business hours.

FOR FURTHER INFORMATION CONTACT:

Robert R. Geddis, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: The Champion International Corp. operates a kraft paper mill in Courtland, Ala. The order under consideration addresses emissions from a combination boiler, which is subject to Alabama Air Pollution Control Regulation 4.8.2. This reguation limits the emissions of particulate matter from wood waste combination boilers, and is part of the Federally-approved Alabama State implementation plan. The order requires final compliance with section 6.8.2. of the Lawrence County Air Pollution Control rules and regulations (which is identical to Alabama Air Pollution Regulation 4.8.2.) by June 30, 1979, through the implementation of the following schedue for the construction or installation of control equipment:

(1) Submit final control plan for achieving compliance with applicable regulations by September 1, 1978.
(2) Award contract for required control equipment by September 1, 1978.
(3) Commence on-site construction or installation of control equipment by March 1, 1979.
(4) Complete construction or installation of control equipment by June 1, 1979.
(5) Submit proof of final compliance by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the combination boiler shall not emit more than 0.45 grains/SDCF adjusted to 50 percent excess air, and shall not exceed 30 percent opacity.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the

regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action of the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 25, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27626 Filed 9-29-78; 8:45 am]

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[6560-01]

[40 CFR Part 65]

[FRL 980-6; Docket No. DCO-78-20]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Morgan County, Ala., Board of Health to the Goodyear Tire and Rubber Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Morgan County, Ala., Board of Health to the Goodyear Tire and Rubber Co. The delayed compliance order requires Goodyear to bring air emissions from the Latex dip unit Nos. 2 and 3 (permit units 712-006-Z002 and 3) into compliance with an applicable regulation contained in the Alabama State implementation plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Robert R. Geddis, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: The Goodyear Tire and Rubber Co. operates two latex dip units at its facility in Morgan County, Ala. The order under consideration addresses visible emissions from stationary sources. These visible emissions are subject to the Alabama Air Pollution Control rules and regulations section 4.1.1, which is part of the federally-approved Alabama State implementation plan. The order requires final compliance with section 6.1.1 of the Morgan County Air Pollution Control rules and regulations (which is identical to Alabama Air Pollution Regulation 4.1.1) by June 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Award contract for required control equipment by July 1, 1978.
(2) Commence on-site construction of catalytic incinerator and oven modification by October 15, 1978.
(3) Complete construction or installation of the catalytic incinerator and oven modification by March 1, 1979.
(4) Meet visible emission limits for both latex dip units by June 1, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the opacity of emissions from either latex dip unit stack shall not exceed 40 percent.

Both units must maintain compliance with the particulate emission limiting regulation (sec. 4.4) at all times.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 25, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27627 Filed 9-29-78; 8:45 am]

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

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[6560-01]

[40 CFR Part 65]

[FRL 980-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for the Toledo Edison Co., Acme Station, Toledo, Ohio, and Bay Shore Station, Oregon, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue two administrative orders to the Toledo Edison Co. The orders require the company to bring boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station into compliance with Ohio regulations AP-3-07 and AP-3-11, part of the federally approved Ohio State implementation plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed orders would establish expeditious schedules requiring final compliance by April 15, 1980. Compliance with the orders at the Acme and Bay Shore Stations would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the orders. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the orders.

DATES: Written comments must be received on or before November 1, 1978. Requests for a public hearing must be received on or before October 17, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSEES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the orders and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Linda M. Buell, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, at 312-353-2082.

SUPPLEMENTARY INFORMATION: The Toledo Edison Co. owns and operates boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station. The proposed orders address emissions from these five coal-fired boilers which are subject to regulations AP-3-07 and AP-3-11 of the Ohio implementation plan. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State implementation plan. The orders require final compliance with the regulations by April 15, 1980, and the Toledo Edison Co. has consented to their terms. As of the date of this publication, the Toledo Edison Co. has already satisfied the first two increments in the Acme order and the first increment in the Bay Shore order.

The proposed orders satisfy the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the orders are issued, compliance with their terms would preclude further EPA enforcement action under section 113 of the Act against boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station for violations of the regulation covered by the orders during the period the orders are in effect. Enforcement against these boilers under the citizen suit provisions of the Act (sec. 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the orders. Testimony given at any public hearing concerning the orders will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the orders in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: September 14, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Region V.

The text of the proposed order is as follows:

[1]Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of Sept. 28, 1978.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Order No. EPA-5-78-A-

ORDER

In the matter of Toledo Edison Co., Bay Shore Station, Oregon, Ohio, proceeding under sections 113 (a), (d), and 114, Clean Air Act, as amended.

The following order is issued this date pursuant to sections 113 (a), (d) and 114 of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq., (hereinafter referred to as "the Act"). The order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act.

On May 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a notice of violation to Toledo Edison Co. (hereinafter referred to as "the Company") stating that the Company's Bay Shore Station, located in Oregon, Ohio, was found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Company's boilers No. 1 and No. 2 and stacks No. 1 and No. 2 for violation of Ohio regulations AP-3-07 and AP-3-11. A copy of said notice was sent to the State of Ohio Environmental Protection Agency.

Pursuant to section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On June 20, 1977, a conference was held in Chicago, Ill., to discuss the May 25, 1977, notice of violation mentioned above.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference and a thorough investigation of all relevant facts, including public comment, it has been determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this order comply with 113(d) of the Act.

Therefore, *It is hereby ordered*, that:

1. The Company shall achieve compliance with Ohio regulations AP-3-07 and AP-3-11 in accordance with the following schedule:

Increment and Date

Begin onsite construction, Achieved.
Begin tie-in outage for unit No. 2, November 15, 1979.
Start-up of unit No. 2, January 1, 1980.
Begin tie-in outage for unit No. 1, January 1, 1980.
Startup unit No. 1, February 15, 1980.
Complete testing of unit No. 2, February 15, 1980.
Complete testing of unit No. 1, April 1, 1980.
Achieve compliance with Ohio regulations AP-3-07 and AP-3-11, April 15, 1980.

II. Nothing herein shall affect the responsibility of the 0P1128'Company to compiy

with other Federal, State, or local regulations.

III. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this order, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons therefore, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing progress made with respect to each requirement of this order. In addition, photographs shall be submitted along with these reports, showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing the construction progress.

IV. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7503.

V. Pursuant to section 113(d)(7) of the Act, during the period of this order, until completion of the program set out in paragraph I herein, the Company shall use the best practicable systems of emission reduction so as to maximize the reliability and efficiency of the existing controls on unit No. 1 and unit No. 2, minimize particulate matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan as it is able to.

Written operating and maintenance procedures for the existing controls shall be submitted to U.S. EPA for approval within one month from the effective date of this order. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, recordkeeping, and corporate reviewing. Failure to submit or comply with the procedures will constitute a violation of this order.

VI. A continuous opacity monitoring system for the stack which is being constructed to service units No. 1 through No. 4 shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in appendix B of 40 CFR Part 60 no later than April 15, 1980. Pursuant to section 114, monitor data shall be retained by the Company for at least 2 years subsequent to recording. On a quarterly basis, the Company shall report all 6-minute data averages from the monitor (reduced as specified in 40 CFR section 60.13(b)) in excess of 20 percent.

VII. The Company is hereby notified that failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty unless exempted under section 120 of the Act. In the event of such failure, the Company will be formally notified pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. Nothing herein shall be construed to be a waiver by the Company of its right to challenge the reasonableness, legality, or constitutionality of the imposition of noncompliance penalties on the Company.

IX. The Company hereby waives its right to file a petition for review of this order pursuant to section 307(b)(1) of the Act.

X. All submissions and notifications to U.S. EPA, pursuant to this order, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2090. A copy of all submissions and notifications shall be made to the Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.

Dated:_____

_____
Administrator.

Toledo Edison Co. has reviewed this order, consents to the requirements set forth in this order, and believes it to be a reasonable means by which the Bay Shore Station can achieve final compliance with Ohio regulations AP-3-07 and AP-3-11. The Company implementation plan at its Bay Shore Station, but for purposes of settlement consents to the abatement program set forth herein.

Dated:_____

_____
Toledo Edison Co.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Order No. EPA-5-78-A-

In the matter of Toledo Edison Co., Acme Station, Toledo, Ohio, proceeding under sections 113 (a), (d), and 114, Clean Air Act, as amended.

ORDER

The following order is issued this date pursuant to sections 113 (a), (d), and 114 of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq., (hereinafter referred to as "the Act"). The order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act.

On May 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a notice of violation to Toledo Edison Co. (hereinafter referred to as "the Company") stating that the Company's Acme Station, located in Toledo, Ohio, was found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Company's boilers No. 16, No. 91, and No. 92 and stacks No. 16 and No. 4 for violation of Ohio regulations AP-3-07 and AP-3-11. A copy of said notice was sent to the State of Ohio Environmental Protection Agency.

Pursuant to section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On June 20, 1977, a conference was held in Chicago, Ill., to discuss the May 25, 1977, notice of violation mentioned above.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference and a thorough investigation of all relevant facts, including public comment, it has been determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this order comply with 113(d) of the Act.

Therefore, *It is hereby ordered*, That:

I. The Company shall achieve compliance with Ohio regulations AP-3-07 and AP-3-11 in accordance with the following schedule:

Increment and Date

Submit preliminary control plans and specifications to U.S. EPA, Achieved.
Award contract(s) for control equipment, Achieved.
Shutdown of boiler No. 92 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, December 15, 1978.
Shutdown of boiler No. 16 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, October 12, 1979.
Shutdown of boiler No. 91 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, April 15, 1980.

II. This schedule provides for final compliance with Ohio regulations AP-3-07 and AP-3-11 by April 15, 1980, as required by section 113(d)(1)(D) of the Act. Final compliance will occur on this date when operation of boiler No. 91 will cease; operation of this boiler will not begin again until pollution controls have been installed.

III. This schedule is protected by section 113(d)(10) against Federal enforcement action and citizen suits under section 304 until April 15, 1980. After April 15, 1980, this schedule is covered by section 113(a).

IV. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State, or local regulations.

V. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this order, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons therefore, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing progress made with respect to each requirement of this order. In addition, photographs shall be submitted along with these reports showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing the construction progress.

VI. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7503

VII. Pursuant to section 113(d)(7) of the Act, during the period of this order, until completion of the program set out in paragraph I herein, the Company shall use the best practicable systems of emission reduction so as to maximize the reliability and efficiency of the existing controls in units No. 16, No. 91, and No. 92, minimize particulate

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matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan as it is able to.

Written operating and maintenance procedures for the existing controls shall be submitted to U.S. EPA for approval within 1 month from the effective date of this order. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, recordkeeping, and corporate reviewing. Failure to submit or comply with these procedures will constitute a violation of this order.

VIII. A continuous opacity monitoring system for stacks No. 16 and No. 4 shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in appendix B of 40 CFR Part 60 no later than April 15, 1980. Pursuant to section 114, monitor data shall be retained by the Company for at least 2 years subsequent to recording. On a quarterly basis, the Company shall report all 6-minute data averages from the monitor (reduced as specified in 40 CFR section 60.13(b)) in excess of 20 percent.

IX. The Company is hereby notified that failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty unless exempted under section 120 of the Act. In the event of such failure, the Company will be formally notified pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. Nothing herein shall be construed to be a waiver by the Company of its right to challenge the reasonableness, legality, or constitutionality of the imposition of noncompliance penalties on the Company.

XI. The Company hereby waives its right to file a petition for review of this order pursuant to section 307(b)(1) of the Act.

XII. All submissions and notifications to U.S. EPA, pursuant to this order, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2090. A copy of all submissions and notifications shall be made to the Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.

Dated: ———————.

———————,
Administrator.

Toledo Edison Co. has reviewed this order, consents to the requirements set forth in this order, and believes it to be a reasonable means by which the Acme Station can achieve final compliance with Ohio regulations AP-3-07 and AP-3-11. The Company denies the existence of any past or present violation of the Ohio implementation plan at its Acme Station, but for purposes of settlement consents to the abatement program set forth herein.

Dated:———————.

———————,
Toledo Edison Co.

[FR Doc. 78-27629 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[Docket No. A-SS-77-559; FRL 976-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for the Town of Kennebunkport, Maine

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the town of Kennebunkport, Maine. The order requires the town to bring air emissions from its open burning dump in Kennebunkport into compilance with certain regulations contained in the federally-approved Maine State implementation plan (SIP). Because the town is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by April 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before October 17, 1978.

Requests for a public hearing must be recived on or before October 17, 1978.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203. Attn: Air Compliance Clerk. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Gurchin, attorney, 617-223-5061 or Mr. Malcolm Petroccia, engineer, 617-223-5610, both at EPA, Region I, Room 2103, JFK Building, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: The town of Kennebunkport operates an open burning dump at Kennebunkport, Maine. The proposed order addresses emissions from the dump, which are subject to section 100.2.2 of the Maine Air Pollution Control Regulations. The regulation prohibits open burning of waste, and is part of the federally-approved Maine State implementation plan. The order requires final compliance with the regulation by April 1, 1979, and the source has consented to its terms. The source has also agreed to meet the order's increments during the period of this informal rulemaking.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR 65 will be promulgated by EPA soon,[1] and will contain the procedures for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

AUTHORITY: 42 U.S.C. 7413, 7601.

Dated: September 11, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

The text of the proposed order is as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION I

In the matter of Kennebunkport, Maine; proceedings under section 113 of the Clean Air Act, 42 U.S.C. § 7413; order No. A-SS-77-559.

This order is issued pursuant to section 113(d)(1) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d)(1). This order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. Former section 100.2.2 of the Maine Air Pollution Control Regulations ("Regulations") stated, in pertinent part, as follows:

"Open burning of waste of any kind shall be prohibited after July 1, 1974 except that municipalities qualifying for an extension under the Solid Waste Management Plan shall cease open burning as a means of solid waste disposal by July 1, 1975."

2. Section 100.2.2 of the regulations is part of the Maine implementation plan submitted to and approved by the Environmental Protection Agency ("EPA") pursuant to section 110 of the Act. Although Maine has revised section 100.2.2, EPA disapproved this revision. Therefore, the implementation plan remains unchanged and section 100.2.2 of the Regulations is still a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the Act.

3. The town of Kennebunkport, Maine owns and operates an open burning disposal site.

4. On January 6, 1978, the Regional Administrator of EPA issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the town of Kennebunkport alleging violation of the above-cited regulation. Information received from the town manager of Kennebunkport in a letter dated September 21, 1977, discussing the town's open burning of refuse, served as the basis for the issuance of this notice.

5. A representative of Kennebunkport was afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the Act. The conference was held on March 24, 1978.

6. Comments made by the town manager of Kennebunkport at the March 1978 conference concerning the town's continued open burning indicate that the violation of section 100.2.2 of the regulations has continued more than 30 days beyond Kennebunkport's receipt of the notice of violation.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act.

Definitions: For the purposes of this order:

1. "Sanitary landfill system" shall mean a land area, associated structures and necessary equipment used for storing, compacting, and processing the solid waste projected to be generated by the town of Kennebunkport. The system shall satisfy all applicable regulations and procedures prescribed by the Maine Department of Environmental Protection ("DEP").

2. "Major system components" shall mean all components required for proper operation of the sanitary landfill system. Such components shall include, but are not limited to, land, land disposal equipment, buildings, utilities, roadways, and fencing.

It is hereby ordered:

I. That the town of Kennebunkport will comply with the Maine implementation plan regulations in accordance with the following schedule of implementation of plans for a solid waste facility to dispose of the town's refuse on or before the dates specified:

A. Complete engineering plans for a sanitary landfill system and submit a written report to EPA by August 1, 1978, or within 10 days of receipt of this order, whichever is later. This report shall include at a minimum the following items:

1. Specifications for all major system components necessary to construct a sanitary landfill system.

2. Description of the type of sanitary landfill disposal method to be used (i.e. cells, trenches, lifts, etc.).

3. Summary of all grading work to be done.

B. Begin construction of a sanitary landfill system by September 30, 1978.

C. Submit an interim written report to EPA by December 1, 1978. This report shall describe the extent to which construction of a sanitary landfill system is complete and provide a schedule for any remaining work.

D. Commence operation of a sanitary landfill method of solid waste disposal and cease open burning by April 1, 1979.

II. That the town of Kennebunkport shall comply with the following interim requirements which are determined to be the best, reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Maine implementation plan regulations insofar as the town of Kennebunkport is able to comply during the period this order is in effect:

A. Burning shall be restricted to those times when meteorological conditions are such that a minimum amount of smoke will impact on local residences.

B. The Beachwood Road dump shall be protected by a fence, a gate, and a dump attendant during normal operating hours, to prevent accidental fires.

III. That the town of Kennebunkport is not relieved by this order from compliance with any requirement imposed by the Maine implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the town of Kennebunkport shall comply wth the following reporting requirements on or before the dates specified below:

A. Not later than 5 days after any date for achievement of an incremental step or final compliance specified in this order, Kennebunkport shall notify EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the town shall immediately notify EPA in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this order shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J. F. K. Federal Building, Room 2103, Boston, Mass. 02203, Attention: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the Act normally requires emission monitoring in an order, no reasonable system of emission monitoring for the town of Kennebunkport's open burning dump site exists.

VI. Nothing herein shall affect the responsibility of the town of Kennebunkport to comply with State, local, or other Federal regulations.

VII. Kennebunkport is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, the town will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with section 100.2.2 of the regulations no longer exists.

IX. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of section 100.2.2 of the regulations in accordance with the proceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

X. This order is effective upon publication in the FEDERAL REGISTER.

Date: ———————

DOUGLAS M. COSTLE,
Administrator.

The town of Kennebunkport, Maine, finding that the compliance schedule in this order is reasonable and practicable, hereby consents to the issuance of this order and will undertake to comply with all of its terms and conditions.

Dated: August 10, 1978.

JOHN E. SPITA,
Authorized Source Signature.

[FR Doc. 78-27407 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 87]

[FRL 979-8]

CONTROL OF AIR POLLUTION FROM AIRCRAFT ENGINES

Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: This document establishes a time and place for public hearings on a notice of proposed rulemaking for newly manufactured, newly certified and certain categories of in-use aircraft engines (43 FR 12615, March 24, 1978).

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

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DATES: November 1 and 2, 1978, 9:30 a.m. to 6 p.m. each day.

ADDRESS: Environmental Protection Agency, Regional Office (Region IX), Sixth Floor Conference Room, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

George D. Kittredge, Senior Technical Advisor, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2464.

SUPPLEMENTARY INFORMATION: Section 231 of the Clean Air Act as amended by Pub. L. 95-95 directs the Administrator of the Environmental Protection Agency to "establish standards applicable to emission of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to air pollution which endangers the public health or welfare." Such standards were promulgated on July 17, 1973 (38 FR 19090). On March 24, 1978, amendments to the standards were proposed (43 FR 12615).

Section 231 of the Act also provides that the Administrator shall hold public hearings with respect to the proposed emission standards. Notice is hereby given of a hearing concerning the proposed amended emission standards.

This hearing is intended to provide an opportunity for interested persons to state their views or arguments, or provide information relative to the proposed emission standards for aircraft.

Mr. Michael P. Walsh is hereby designated as the Presiding Officer for the hearings. He will be responsible for maintaining order; excluding irrelevant or repetitious material; scheduling presentations, and, to the extent possible, notifying participants of the time at which they may appear. The hearings will be conducted informally. Technical rules of evidence will not apply.

Any person desiring to make a statement at the hearings or submit material for inclusion in the record of the hearings, should provide written notice of such intention not later than 15 days prior to the hearing date. Also copies of the proposed statement or material for inclusion in the record should be submitted not later than five days before the hearing date to the Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: September 26, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 27619 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[FRL 980-3, PP 6E1756 & 6E1762/P76]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Parathion

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide parathion on parsley and fish. The proposal was submitted by the interregional research project. This amendment to the regulations would establish maximum permissible levels for residues of methyl parathion on parsley and fish.

DATE: Comments must be received on or before November 1, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202-755-2516).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted two pesticide petitions (PP 6E1756 and 6E1762) to the EPA. PP6E1756, submitted on behalf of the IR-4 technical committee and the agricultural experiment stations of California, Florida, and New Jersey, requests that the Administrator propose that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion (*0,0*-diethyl-*0*-*p*-nitrophenol thiophosphate) or its methyl homolog in or on the raw agricultural commodity parsley at 1 part per million (ppm).

PP6E1762, submitted on behalf of the IR-4 technical committee and the agricultural experiment station of California, requests that the Administrator propose the establishment of a tolerance for residues of the insecticide parathion in fish at 0.2 ppm resulting from application of the insecticide to waters of Clear Lake, Calif., for the control of the Clear Lake gnat, *Chaoborus astictopus* Dyar and Shannon in programs conducted by the Lake County, Calif., mosquito abatement district. Traditionally, residues of both parathion and its methyl homolog are covered by one regulation. Therefore, the Administrator proposes that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion or its methyl homolog in fish at 0.2 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a 2-year rat feeding study with a no-observable-effect level (NOEL) of 1 ppm, a 6-month dog feeding study with an NOEL of 0.05 milligram (mg)/kilogram (kg) of body weight (bw)/day or 2 ppm, a multigeneration rat reproduction/teratology study with an NOEL of 10 ppm, and a human volunteer oral ingestion study with an NOEL of 0.1 mg/kg bw/day, which is equivalent to about 4 ppm based on the whole diet of man. The acceptable daily intake (ADI) for parathion is 0.005 mg/kg bw/day based on the NOEL in the rat 2-year feeding study and using a safety factor of 10.

Desirable data which are missing from the petition include an oncogenicity assay in a second species and mutagenicity assays. Mutagenicity assays are, however, generally deferred until Agency requirements are finalized. Since the theoretical increment in exposure is very small (less than 1 percent), it is concluded that the present toxicity data, which include one lifetime feeding study, are sufficient to determine that the proposed tolerances will protect the public health.

Tolerances have previously been established for residues of parathion or its methyl homolog on a variety of raw agricultural commodities at levels ranging from 5 ppm to 0.1 ppm. The theoretical maximal residue contribution (TMRC) from these established tolerances exceeds the ADI by a factor of about two fold. On the other hand, it has been determined that food actually consumed contains little or no parathion residues; only leafy vegetables bear measurable residues ranging from 0.008 ppm-0.022 ppm. Thus the actual dietary exposure is at least two orders of magnitude below the TMRC, and the fact that the ADI is exceeded in theory is of little practical relevance. The metabolism of parathion is adequately understood, and an adequate analytical method (gas chromatography using either electron capture or flame photometric detection) is available for enforcement purposes.

No actions are pending against continued registration of the insecticide. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considerd useful for the purpose for which tolerances are being established, and it is concluded that the tolerances established by amending 40 CFR 180.121 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this proposal in the FEDERAL REGISTER, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control numbers, "PP6E1756 and 6E1762/P76". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the FEDERAL REGISTER section from 8:30 a.m. to 4 p.m. Monday through Friday.

Date: September 25, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

It is proposed that part 180, subpart C, section 180.121 be revised by editorially reformatting the section into an alphabetized columnar listing and by alphabetically inserting the tolerances on parsley at 1 ppm and fish at 0.2 ppm, as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

Tolerances are established for residues of the insecticide parathion (*O,O,*-Diethyl-*O*-*p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa (fresh)	1.25
Alfalfa, hay	5.0
Almonds	.1(N)
Almonds, hulls	3.0
Apples	1.0
Apricots	1.0
Artichokes	1.0
Avocados	1.0
Barley	1.0
Beans	1.0
Beets (with or without tops) or beet greens (alone)	1.0
Beets, sugar	.1(N)
Beets, sugar, tops	.1(N)
Blackberries	1.0
Blueberries (huckleberries)	1.0
Boysenberries	1.0
Broccoli	1.0
Brussels Sprouts	1.0
Cabbage	1.0
Carrots	1.0
Cauliflower	1.0
Celery	1.0
Cherries	1.0
Citrus fruits	1.0
Clover	1.0
Collards	1.0
Corn	1.0
Corn, forage	1.0
Cottonseed	.75
Cranberries	1.0
Cucumbers	1.0
Currants	1.0
Dates	1.0
Dewberries	1.0
Eggplants	1.0
Endive (escarole)	1.0
Figs	1.0
Filberts	.1(N)
Fish [1]	.2
Garlic	1.0
Gooseberries	1.0
Grapes	1.0
Grass (for forage)	1.0
Guavas	1.0
Hops	1.0
Kale	1.0
Kohlrabi	1.0
Lettuce	1.0
Loganberries	1.0
Mangoes	1.0
Melons	1.0
Mustard greens	1.0
Mustard seed	.2
Nectarines	1.0
Oats	1.0
Okra	1.0
Olives	1.0
Onions	1.0
Parsnips (with or without tops) or parsnip greens (alone)	1.0
Parsley	1.0
Peaches	1.0
Peanuts	1.0
Pears	1.0
Peas	1.0
Peas, forage	1.0
Pecans	.1(N)
Peppers	1.0
Pineapples	1.0
Plums (fresh prunes)	1.0
Potatoes	.1(N)
Pumpkins	1.0
Quinces	1.0
Radishes (with or without tops) or radishes, tops	1.0
Rape Seed	1.0
Raspberries	1.0
Rice	1.0
Rutabagas (with or without tops) or rutabaga tops	1.0
Safflower seed	.1(N)
Sorghum	.1(N)
Sorghum, fodder	3.0
Sorghum, forage	3.0
Soybeans	.1
Soybeans, hay	1.0
Spinach	1.0
Squash	1.0
Strawberries	1.0
Sugarcane	.1(N)
Sugarcane, fodder	.1(N)
Sugarcane, forage	.1(N)
Sunflower seed	.1(N)
Sweet potatoes	.1(N)
Swiss chard	1.0
Tomatoes	1.0
Turnips (with or without tops) or turnip greens	1.0
Vetch	1.0
Walnuts	.1(N)
Wheat	1.0
Youngberries	1.0

[1] Residues are the result of application for control of the Clear Lake gnat (*Chaoborus astictopus* Dyar and Shannon) in Clear Lake, Calif., in programs conducted by the Lake Country Calif. Mosquito Abatement District.

[FR Doc. 78-27620 Filed 9-29-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

[41 CFR Part 51-1]

DEFINITION OF OTHER SEVERELY HANDICAPPED

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed rule.

SUMMARY: The Committee proposes to amend its regulations by redefining the term "other severely handicapped". The revised definition is intended to update the term made necessary by legislation and recent implementing regulations and prepared studies.

DATES: Comments must be received on or before: November 29, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: The current definition of the term "other severely handicapped individual" contained in the Committee's regulations (41 CFR 51-1.2(g)) was developed in 1972. Since that time the term severly handicapped has been defined in the Rehabilitation Act of 1973 (Public Law 93-112) and in the Department of Health, Education, and Welfare (HEW) regulations implementing that act (45 CFR 1361.1(w)). The Comprehensive Needs Study prepared for HEW by the Urban Institute in 1975 also addresses the terms "impairment," "disability," and "handicapped". In view of these more recent developments, it appears appropriate to revise the Committee's definition of other severely handicapped.

Sections 46 to 48c of title 41, United States Code, govern the Committee's operations. Paragraph 48a(2) of that title defines the terms "other severely handicapped" and "severely handicapped" as "an individual or class of individuals under a physical or mental disability, other than blindness, which * * * is of such a nature as to prevent the individual from currently engaging in normal competitive employment".

In addition to the definitions mentioned above, a number of different definitions of "handicapped" and "severely handicapped" can be found in various laws and the regulation of other departments and agencies of the

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Government. In most cases, these definitions are directed toward the particular function or interest of the specific department or agency. In general, the term "handicapped" means an individual who has a physical or mental condition which limits that person's function capabilities to some extent but not to the point that that person is unable to move about or to qualify for a job in competitive employment. On the other hand, "severely handicapped" generally connotes a condition (or combination of conditions) which presents a major impediment to the individual's ability to travel and to work.

Many definitions of "severely handicapped" include a listing of various diagnostic labels and usually end with a statement such as "or any other disability or combination of disabilities which cause comparable substantial functional limitations". Such listings of injuries or illnesses which cause or contribute to the individual's disability appear to serve little useful purpose since each person's case must be evaluated to determine the degree of severity and the impact on the particular individual's functional capabilities and ability to engage in normal competitive employment.

The proposed change to paragraph 51-1.2(g) redefining "other severely handicapped" combines terminology from the Comprehensive Needs Study, and the functional capabilities approach and extended time period of the HEW definition of "severely handicapped". The listing of disabling injuries and illnesses has been deleted. The requirements for preadmission and annual reevaluation of each individual's capability for engaging in competitive employment have been retained, as well as provisions excluding persons from the definition who have overcome their handicapping conditions.

Accordingly, it is proposed to amend part 51-1, chapter 51, 41 CFR by revising paragraph 51-1.2(g) as follows:

§ 51-1.2 Definitions.

• • • • •

(g) "Other severely handicapped" means a person, other than a blind person, who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by the workshop and shall include, as a minimum, a preadmission evaluation, and a reevaluation at least annually of each individual's capability for normal competitive employment.

(2) A person with a severe physical or mental impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not "other severely handicapped" within the meaning of this definition.

• • • • •

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-27670 Filed 9-29-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 215]

[Docket No. RSFC-5; Notice 3]

FREIGHT CARS

Periodic Inspection

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to the periodic inspection of freight cars. The proposed amendment would provide the railroads with one additional year to complete required periodic inspections of all freight cars except those used to transport class A poisons or class A explosives. This action is taken by FRA in an effort to avoid further shortages of railroad freight cars and in response to a petition submitted by the Association of American Railroads (AAR).

DATES: Written comments: Written comments must be received before November 15, 1978. Comments received after that date will be considered so far as possible without incurring additional expense or delay. Public hearing: A public hearing will be held at 10 a.m. on November 14, 1978. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before November 1, 1978, by phone or by mail.

ADDRESSES: Written comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street SW., Washington, D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments during regular business hours in room 4406 of the Trans Point Building at the above address.

PUBLIC HEARING

A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements should notify the docket clerk by telephone (202-472-5311) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building at the above address.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

PRINCIPAL PROGRAM PERSON

Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924.

PRINCIPAL ATTORNEY

Danvers E. Long, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 215 (49 CFR Part 215) was published in the FEDERAL REGISTER on November 21, 1973 (38 FR 32224) and became effective on January 1, 1974. Subpart B of that part prescribed requirements for the inspection of railroad freight cars. Section 215.25 provided that a railroad could not operate a railroad freight car after December 31, 1976, unless the car was inspected as provided in that section, or met certain other specified conditions.

On December 31, 1975, the AAR petitioned for an amendment to § 215.25 to extend from December 31, 1976, to December 31, 1980, the deadline for completing the required periodic inspection of freight cars. AAR received support from the Union Tank Car Co., which later filed a similar petition, and from other interested parties.

In response to those petitions and other communications received, FRA issued a notice of proposed rulemaking on April 30, 1976, (41 FR 18685). The notice contained a proposal to extend from December 31, 1976, to December 31, 1978, the deadline for completing initial periodic inspections of freight cars. In connection with its proposed two-year extension, FRA stated the following:

> These shortages [of freight car components], the price increases [in material costs], labor cost increases, and the decline in business are factors which affected the ability of the railroads to accomplish the initial periodic inspection program. These are also factors over which the railroads had no control and are factors which FRA did not envision when the regulations were issued (41 FR 18685).

On the other hand, based on its evaluation of all information available at the time it issued the NPRM, FRA concluded that the four-year extension requested by AAR was inappropriate. With regard to that request, FRA stated the following:

> FRA believes that the facts warrant a maximum two-year extension of time. This additional time, coupled with work previously performed and the ability to accomplish inspection work in the remaining portion of 1978, will provide adequate time for all railroads and private car owners to complete the initial periodic inspection of the freight car fleet. In concluding that the facts and arguments advanced by the railroads and private car owners do not appear to justify a four-year extension of time, FRA has considered the intent of this particular regulatory provision to enhance the safety of railroad operations and the fact that the railroads have had some measure of control over the actions which are causing the delay in the effectiveness of these standards (41 FR 18686).

Responding to the NPRM, a number of commenters objected to the proposed two-year extension. Many of these voiced support for a four-year extension stating that they could not complete inspections within the proposed two-year extension. They also contended that the failure to grant a four-year extension could put many cars out of service, thereby resulting in disastrous disruptions in service.

After evaluating the comments received, FRA conducted a review which indicated that nearly all railroads could complete required freight car periodic inspections with the benefit of a two-year extension. As a result, it extended the date for compliance to December 31, 1978. However, FRA also stated that it would consider waivers for those few railroads and private car owners that could not complete their inspections by that date.

FRA issued the amendment based on the NPRM on September 29, 1976, and the new compliance deadline of December 31 1978, became effective on November 15, 1976 (41 FR 44044). This is the compliance deadline currently in effect.

DISCUSSION OF PETITION

Petitioner requests a one-year extension of the compliance date for freight cars that have not received their initial periodic inspection. If this request is granted, those cars would have to receive the initial inspection by December 31, 1979, rather than by December 31, 1978, as required by § 215.25(b). That section provides, in pertinent part, as follows:

> (b) After December 31, 1978, a railroad may not operate a railroad freight car unless—
>
> (1) In the case of cars other than high utilization cars, the car was inspected as prescribed by § 215.27 within the preceding 48 months . . .; and
>
> (2) In the case of high utilization cars, the car was inspected as prescribed in § 215.27 within the preceding 12 months
>
> • • •.

In addition, petitioner requests that freight cars which received their initial periodic inspection in 1974 or 1975 be allowed to operate for six years before receiving their second periodic inspection. Therefore, the second inspection would be performed in 1980 or 1981, rather than by December 31, 1978, or December 31, 1979, as currently required. Neither this request nor the request for additional time to complete initial periodic inspections applies to cars used to transport class A poisons or class A explosives.

In support of its requests, petitioner states that the severe winter of 1977-78 and the prolonged coal strike drastically curtailed the earnings of the railroads, thereby forcing them to reduce or eliminate required freight car inspections in order to meet fixed obligations and payrolls. To illustrate the economic losses sustained, petitioner asserts that, in the first quarter of 1978, the railroads suffered their largest net railway operating income deficit in history—over $150 million. Petitioner asserts that these losses were sustained by carriers throughout the industry, many of which had previously been on schedule to complete the required inspections.

In addition, petitioner states that on March 10, 1978, FRA granted a waiver to five major private freight car owners, thereby affording those owners an additional year to complete required initial periodic inspections (Notice of these waiver petitions was published in the FEDERAL REGISTER on September 28, 1977, 42 FR 49869). According to petitioner, fairness dictates that the same relief should be afforded to all freight car owners.

Furthermore petitioner contends that an extension of the compliance date for cars inspected in 1974 and 1975 is needed to even out the workload in railroad shops. In this connection, it states that, in order to complete all required inspections, the railroads must have the flexibility that this extension would allow.

Finally, petitioner asserts that the relief it requests would not adversely affect railroad safety.

FRA ANALYSIS OF PETITION

As previously noted, FRA evaluated the economic conditions affecting the railroads, equipment shortages, ability to comply, the safety of railroad operations, and the control of the railroads over delays in completing inspections, before extending the compliance date for freight car periodic inspections from December 31, 1976, to December 31, 1978. After weighing all of these factors, FRA determined that only a two-year extension was justified. The justification for that extension was based primarily on unforeseen shortages in freight car components and certain negative economic conditions over which the railroads had no control and which were not foreseen by FRA.

Using these same criteria to evaluate the current request for extension, FRA finds that many of the adverse conditions that justified the previous extension are still present and in some cases have worsened considerably. Foremost among these are the substantial financial losses suffered by the railroads, as noted by petitioner, and the current serious shortage of freight cars throughout the country. In light of the severity of these financial losses and shortages and the fact that about 15 percent of the Nation's car fleet will not be given their initial periodic inspection by December 31, 1978, FRA believes that this deadline for periodic inspection of freight cars should be reassessed.

However, FRA believes that a general rulemaking proceeding, rather than the issuance of waivers, is the appropriate course of action to provide the industry-wide relief requested by petitioner. Accordingly, the petition is being considered as a request for general rulemaking.

In reviewing the petition, FRA notes that AAR has requested a one-year extension to complete initial periodic inspections and what amounts to a "one-time" two year extension of the reinspection interval for cars initially inspected in 1974 and 1975. If, as petitioner suggests, virtually all major railroads were on schedule to complete initial periodic inspections in the fall of 1977 before having to cut back most or all of those inspections, it appears that a one-year extension should be sufficient to make up for time lost and complete those inspections. As to the issue of reinspection, it appears that an additional two-year extension is not necessary for cars inspected in 1974 or 1975. Accordingly, this notice would extend by one year the compliance date for required periodic inspections of all railroad freight cars except those used to transport class A poisons or class A explosives.

Finally, FRA believes that any extensions beyond those proposed in this notice cannot be justified. Therefore, FRA does not anticipate extending the compliance date for completion of

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freight car inspections beyond December 31, 1979.

ECONOMIC IMPACT

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the proposed regulations would not impose any additional requirements and would merely extend the compliance date for completing certain required periodic inspections, FRA concludes that the regulatory proposal contained in this notice would have no measurable regulatory impact and that a detailed evaluation is not warranted. (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, March 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

WRITTEN COMMENTS AND HEARING

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 15, 1978, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on November 14, 1978, in Room 3201, 2100 Second Street SW., Washington, D.C. 20590 at 10 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590, Phone 202-472-5311, before November 1, 1978, stating the amount of time required for the initial statement.

The proposals contained in this notice may be changed in light of the oral statements at the public hearing, or the written comments submitted in response to this notice.

THE PROPOSED RULE

Accordingly, it is proposed to amend § 215.25 (49 CFR § 215.25) as follows:

§ 215.25 Periodic inspection required.

* * * * *

(b) Except as provided in paragraph (e) of this section, after December 31, 1979, a railroad may not operate a railroad freight car unless—

* * * * *

(e) Notwithstanding the requirements of paragraph (b)(1) of this section, a railroad may continue to operate a railroad freight car that was inspected in 1975 if—

(1) The car is other than a high utilization car; and

(2) The car has been inspected, as prescribed by § 215.27 of this part, within the preceding 60 months.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 C.F.R. 1.49(n)).)

Issued in Washington, D.C., on September 22, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-27818 Filed 9-29-78; 8:45 am]

[4910-06]

[49 CFR Part 218]

[Docket No. RSOR-3, Notice 17]

BLUE SIGNAL PROTECTION OF WORKMEN

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: On September 28, 1977, FRA published a notice of proposed rulemaking (NPRM) proposing to amend a portion of the regulation governing the blue signal protection to be afforded to workmen engaged in the inspection, testing, repair, and servicing of rolling equipment (42 FR 49813). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments. In accordance with a subsequent notice, the period for filing written comments was extended until December 14, 1977 (42 FR 59310). FRA also held a public hearing on November 1, 1977 to permit oral comment on the proposed amendment.

The comments received in response to this NPRM raised issues that went beyond the scope of the proposed amendment and raised issues about the intent and effectiveness of the existing regulation. FRA has decided that these issues should be addressed before issuing a final rule. Accordingly, FRA is withdrawing the NPRM issued on September 28, 1977, and is issuing a new NPRM which proposes a more comprehensive revision of part 218. The comprehensive revision seeks to resolve the issues concerning the use of blue signals on main tracks; the need to provide protection against possible "side instrusions" and the use of blue signals in car and locomotive servicing areas by amending the regulation to better reflect the historical practices of the railroad industry.

DATES: (1) Requests for an opportunity to provide oral comment must be received on or before October 13, 1978.

(2) Written comments must be received on or before November 15, 1978. Comments received after that date will be considered to the extent practicable.

ADDRESS: Send comments to Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-9178.

PRINCIPAL ATTORNEY

Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 28, 1977 the FRA issued an NPRM (notice 12) proposing to amend a portion of the rules governing the blue signal protection afforded to railroad workmen (42 FR 49813). The NPRM specifically proposed to amend § 218.25 (49 CFR 218.25) by deleting the present paragraph (a) and inserting new paragraphs (a) (1) and (2) to expressly apply the regulatory procedures for the control of remotely controlled switches when such switches are located on other than hump yard tracks. It also proposed a conforming amendment to § 218.29 (49 CFR 218.29) in the form of a cross reference to the new § 218.25(a)(2). Interested persons were invited to participate in a public hearing on November 1, 1977 and to file written comments prior to November 14, 1977. The period for filing written comments was subsequently extended until December 14, 1977 (42 FR 59310).

The comments received by FRA in response to this NPRM raised significant issues about the scope and the effectiveness of Part 218 that went beyond the subject matter of the NPRM. Additionally, FRA has received a steady volume of requests for waivers of compliance with Part 218 that indicated the railroads were encountering many problems in attempting to comply with the existing regulation. Public notices which were published by FRA on December 8, 1977 (42 FR 62059) and December 20, 1977 (42 FR 63986) illustrate some of these problems.

On the basis of the responses to the NPRM and the information obtained from the waiver requests, FRA scheduled a public meeting to explore the issues that had been raised about the existing regulation and the proposed amendment (43 FR 8162). The FRA public meeting was held on March 22, 1978, instead of March 15, 1978, as initially scheduled, in order to avoid a conflict between that meeting and congressional hearings (43 FR 9512).

The parties present during the public meeting all expressed the opinion that there are serious deficiencies present in the existing regulation. A common theme was that the existing regulation requires the railroads to significantly alter the historical manner in which railroad workmen are afforded blue signal protection. In the opinion of these parties, these deviations from historical practice are not consistent with FRA's stated intent to codify the existing industry practices. They also were concerned that, in some instances, adherence to the FRA requirements was not possible without severely disrupting the current levels of service and that, in at least one instance, strict adherence could indirectly create a hazard.

In response to the critical comments received during the first portion of the public meeting, FRA provided rough drafts of possible regulatory language designed to eliminate the perceived problems. Rough drafts were provided to all parties and were subjected to discussion and comment during the remainder of the meeting.

After receiving the views of these parties, FRA concluded that one of the rough drafts of possible regulatory language could serve as the basis for a possible revision to the entire regulation. FRA, therefore, requested that all parties present at the public meeting focus on that particular draft and provide FRA with any thoughts or comments about ways to refine that possible regulatory language. The views of all of the known interested and directly affected parties have been expressed to FRA in both oral and written form. Several suggestions for possible revisions to the regulatory language have been incorporated in this NPRM and FRA is grateful for the voluntary efforts of these parties which have assisted FRA in resolving this matter.

A review of the existing rulemaking docket, the continuing requests for waivers of compliance, the lengthy and informed commentary at the public meeting, and the subsequent suggestions made for the revision of the regulation, have convinced FRA that a major revision of this regulation is appropriate. Consequently, FRA has decided to withdraw the NPRM published on September 28, 1977, and to issue a new NPRM proposing a comprehensive revision to Part 218. The comments filed and the issues raised in response to the withdrawn NPRM have all been subsumed in this present proposed rulemaking proceeding.

Although this proposed amendment was prepared after the public hearing provided on November 1, 1977, and the public meeting held on March 23, 1978, FRA believes that these prior sessions have provided an extensive opportunity for oral comment on the issues that are contained in this NPRM. Consequently, FRA has concluded that the facts do not warrant providing an additional opportunity for a public hearing on this proposal and FRA does not anticipate scheduling an opportunity for oral comment on this proposal. An opportunity for oral comment will be provided, however, if requestd by an interested person before October 13, 1978. Such a request must be made in writing and must be received by the Docket Clerk before that date.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. All such communications must identify the appropriate docket number for this proceeding and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 15, 1978, will be considered before final action is taken on the proposed amendment. Comments received after that date will be considered as far as practicable. All comments received will be placed in the public docket and will be available for examination by the public during regular business hours in room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. The proposals contained in this notice may be changed in light of the comments received in response to this notice.

This proposal has been evaluated in accordance with the policies for evaluation of regulatory impacts contained in Executive Order 12044 on the matter of "Improving Government Regulations" which was issued March 23, 1978 (43 FR 12661) and the existing and proposed policies of the Department of Transportation discussed in the FEDERAL REGISTER on June 1, 1978 (43 FR 23925). On the basis of that evaluation FRA has concluded that this proposal constitutes a "nonsignificant" and "nonmajor" regulatory proposal as those terms are used in the Executive Order and departmental policy statements. The economic effect of this proposal, if the proposed amendment were adopted, would be a cost saving to the railroads and would have unqualifiable benefit to both the railroad and the workmen affected by improving the safety of railroad employees.

The proposed amendment seeks to retain the positive safety aspects of the existing regulation and to resolve the identified problem areas. In order to accomplish these goals and to make the regulatory language plain and unambiguous the regulation has been reworded and restructured. As proposed the regulation will contain an expanded definitions section and new structural format which indicates the required actions to afford protection for workmen. Consequently, the entire text of the proposed rule has been provided as well as a section-by-section analysis to illustrate the proposed changes.

SECTIONS 218.1 AND 218.3

No changes are proposed for these sections.

SECTION 218.5

FRA proposes to include in this section a footnote to paragraph (a). This footnote is intended to clarify the applicability of this regulation. This change was made in response to numberous questions that have been asked concerning this provision. The parties submitting the questions have generally indicated that the absence of preamble language in published volumes, once the regulation has been adopted, can and did cause confusion about the FRA's intent as to the applicability of this regulation to the specific type of work performed in the railroad environment. Although FRA has attempted to provide a clear statement of applicability in § 218.21, FRA has con-

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cluded that it may be helpful for those persons who use only the printed regulatory language to have such a footnote. Consequently FRA proposes to provide and explain that some isolated tasks, which may be properly described as "servicing" or "testing", will not require the use of blue signal protection. In making this proposal, FRA has noted that these isolated and identified tasks have historically been performed by railroad workers without the protection afforded by the display of blue signals. In a similar fashion FRA proposes to change the language of § 218.5(c) to explicitly reflect the fact that the use of interior cab lights of a locomotive will provide sufficient illumination to allow use of an unlighted device which is attached to the operating controls to alert a person entering the cab compartment that the unit is under blue signal protection and cannot be moved.

FRA also proposes to add several new definitions to this section. The proposed rule contains definitions for what constitutes a car shop repair track area and a locomotive servicing track area. The "car shop repair track area" definition (paragraph (e)) is entirely new and reflects FRA's determination that in specifically identified areas blue signal protection may be afforded to workmen using modified methods. This issue is discussed at greater length in connection with the proposed language for § 218.29.

The "locomotive servicing track area" definition (paragraph (f)) is not entirely new and was originally contained in the language of the existing provisions of § 218.25(e). The proposed definition of what constitutes "main track" in paragraph (g) is entirely new and reflects FRA's determination that effective blue signal protection may be provided to workmen on main tracks without the use of derails or lined and locked switches. This issue is also discussed at greater length in connection with the proposed language for § 218.25.

The proposal to define the term "switch providing access" (paragraph (i)) reflects the concern experienced by numerous parties over the proper steps required for compliance with this regulation. The issue involving the question of access has generally been referred to as the problem of "side intrusion". The existing regulation did not address this issue in regulatory language and consequently the meaning of this term became a matter of dispute. FRA proposes to resolve this issue by defining the term in language that is well understood and which clearly conforms to the historical practices of the railroads.

The final proposed change to the definitions is to include an explanation of the term "group of workmen" (paragraph (j)). This definition will serve to resolve problems encountered by those railroads that have elected to use several individuals with different skills as a single team for the repair and servicing of rolling equipment.

The use of this term has been made in several places in the proposed change including § 218.5(d).

SECTIONS 218.7, 218.9, AND 218.11

FRA is not proposing any changes to §§ 218.7, 218.9, or 218.11.

SECTION 218.21

FRA does propose to change § 218.21 by inserting a single word. The insertion of the word "and" in the existing regulatory language will resolve a problem that FRA and the other interested parties have struggled with since the adoption of this regulation. The plain language of the existing regulation requires that when an individual has physically placed himself on rolling equipment to perform an inspection or servicing function, blue signal protection must be provided before that individual performs the assigned task. The assigned task in many instances placed that individual in a position such that movement of the rolling equipment could cause that person to suffer serious injury or death. However, there are other assigned tasks which require the individual to board the rolling equipment but do not place that person in serious danger due to the movement of that equipment. The most common example which illustrates this problem is the range of tasks assigned to a person required to service a caboose. That servicing function can include tasks relating to the electrical or heating systems which require the person to disassemble equipment. Movement of the rolling equipment could expose the individual performing that type of task to danger. That servicing function can also include tasks relating to the replenishment of water or paper supplies and by virtue of that task impose no unusual risk from the movement of the equipment. Another illustration involves the airbrake inspection function. The tasks can range from disassembly to mere visual observation of an air gage. FRA's intent was and is to require blue signal protection when the workman is exposed to danger caused by movement and to stay within the historical practices of the railroad industry. FRA, through the use of the regulatory language selected, went beyond that expressed intent. The proposed insertion of the word "and" will resolve this matter by creating a two-part test for when blue signal protection is to be afforded. As noted earlier FRA is also proposing a footnote to the definitions section to emphasize this intent in the regulatory language.

SECTION 218.23

The FRA proposes to revise the language concerning the display of blue signals contained in § 218.23 to clarify that which was inferred in the present language. The present language could be misconstrued to imply that if a blue signal was seen to be displayed at one entrance of a track, that track could be presumed to be under blue flag protection, even though a blue signal was not displayed at the opposite entrance of that track. The revised language will prohibit a workman from working on, under, or between rolling equipment until he ascertains that blue signals are displayed at all entrances to the track. This change in language makes it clear that unless blue signals are displayed at both entrances to a double-ended track, blue signal protection has not been provided. This change in language will also prove beneficial in increasing the efficiency of train operations in that once a blue signal has been removed from one entrance of a double-ended track, that track is no longer under blue signal protection and equipment may enter or leave the track through that unprotected entrance. The revised language will also be of benefit to an individual workman assigned to perform inspection and repair work by himself, in that he no longer need remove blue signals from both ends of a double-ended track before he can permit a train to depart. This significant revision coincides with the historical handling of similar situations in the industry prior to the present regulation. Additionally, FRA proposes to restructure the language of this provision to clearly identify the actions that are prohibited when blue signals are properly displayed. The final proposed change is to delete from the existing section the provision relating to crossover switches. This deleted provision has been moved to the proposed language for § 218.27 and is discussed further in connection with the other proposed changes to § 218.27.

SECTION 218.25

The proposed changes in § 218.25 represent a major change to the regulation. The proposed language has no counter part in the existing regulation and is directly related to the issues raised in connection with the NPRM issued on September 8, 1977. The proposed language will permit work to be performed on a main track without requiring that switches be lined and locked against movement to that track and without requiring that derails be used on a main track. The proposed changes to the regulation will permit an individual to perform tasks requiring blue signal protection on a main track without having the additional protection of a lined and locked switch. These proposed changes are, in FRA's judgment, permissible under the statutory language contained in the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94-348) and are appropriate since a review of the legislative history has convinced FRA that Congress did not intend to mandate that the FRA regulations require the lining and locking of all switches. Consequently, the FRA has determined that it is empowered to permit blue signal protection to be afforded to individuals performing tasks on main line tracks without the lining and locking of switches when equivalent protection is provided. This determination by the FRA reflects a belief that the signal systems and operating rules of the railroads that pertain to main track provide a degree of protection for workmen that generally is not present on other tracks.

Consequently, the FRA proposes to include a new section in the regulation to detail the specific actions that will be necessary to provide an individual blue signal protection when the tasks are to be performed on rolling equipment which is standing on a main track. Therefore, the proposed changes include a definition in § 218.5 to define what constitutes a main track as noted earlier. The proposal for specific provisions concerning the methods of protecting an individual performing tasks on rolling equipment standing on such main track are contained in § 218.25. The proposed language generally reflects the historical practices of the railroad industry. However, the proposed language also contains an additional requirement for attaching a blue signal to the controlling locomotive standing on such main track. The final portion of the proposed language contains a provision for performing tasks in an emergency situation. It is anticipated that this provision will rarely be utilized but the FRA has concluded that under some unique factual situations it may be necessary to perform work on a main track without the display of blue signals.

SECTION 218.27

In view of the changes proposed in § 218.25 to accommodate tasks performed on main track, the FRA proposes to place in the revised § 218.27 the requirements for providing blue signal protection on all other tracks. Additionally, the FRA proposes to reword and to restructure the previous language to make compliance with the regulation easier to understand. The proposed language specifies in § 218.27(a) the location for the placement of the blue signal and in § 218.27(b) the need to line and lock manually operated switches. In a similar fashion § 218.27(c) specifies the action required if the switch is remotely controlled. Furthermore, the section indicates the action to be taken if rolling equipment is located on a track equipped with one or more crossover switches. This provision contains the requirements formerly stated in § 218.23(d) of the existing regulation. The language of the proposed § 218.27(d), however, is not identical to that in the existing regulation. The proposed language will require that both switches be lined against movement to the protected track and that the switch providing access, which is now a defined term, must be protected in accordance with the provisions of this section. The revision to the crossover language will, in FRA's judgement, comport with the best practices of railroad industry concerning the handling of crossover switches. Finally, the proposed language includes a specific provision for the required action if a locomotive is present on the track being protected. This provision was previously contained in § 218.25(c) of the existing regulation. It should be noted that the proposed revisions omit all reference to hump yard tracks. This omission was deliberate since the intent of the FRA is that the provisions of this section will apply to all tracks other than a main track regardless of whether that track is located in a hump yard or a flat classification yard. In proposing this revised language, the FRA believes that the confusion about the scope of this provision, which was alluded to in responses to the prior NPRM, will be resolved.

SECTION 218.29

The proposed language for § 218.29 constitutes a major revision to the structure of the existing regulation and directly reflects the information gathered from the waiver requests received by the FRA. The proposed language will permit a railroad to use alternative methods, from those contained in the proposed provisions of § 218.27, to protect workmen who should be afforded blue signal protection. The proposed provisions reflect a determination by FRA that when certain criteria are present a railroad may safely use different approaches to afford blue signal protection. Basically, those criteria involve slow speeds and the fact that control over the movement of equipment has been placed in the hands of individuals directly responsible for the people who need to be protected. These criteria can exist in specific areas of railroad operations where locomotive servicing and car repair activities are performed. The existing regulation recognized this concept in terms of locomotive servicing but not in terms of car repair activities. Consequently, the FRA proposes to treat both locomotive servicing and car repair activities in a similar fashion.

As noted earlier, the proposed definitions in § 218.5 contain language that will serve to identify those areas that constitute either a "locomotive servicing track area" or a "car shop repair track area". A principal factor for such identification is the fact that operations on any track within that area is under the exclusive control of mechanical department personnel. Since the individuals normally performing the tasks requiring blue signal protection work for the mechanical department, a portion of the FRA's criteria will be met. The proposed language for this section includes the other criteria of slow speed. Once these criteria have been met the language of the proposed section would permit protection to be provided principally by controlling the access to the area. The control of that access is basically identical to that afforded on any other individual track within a yard location. However, greater freedom of movement is afforded to the mechanical department personnel once a piece of rolling equipment is placed within this area. The proposed language for § 218.29(a) details the matter of the locomotive servicing track area operations and contains the language of the existing regulation contained in the present provisions of §§ 218.25(e), 218.25(f), and 218.25(g). The proposed language for § 218.29(b) details the matter of the car repair shop track area and contains new language not found in the existing regulation except for the present provision of § 218.25(h).

The remaining proposed language of § 218.29 contains the existing regulatory provisions for the use of derails and for the performance of emergency work. These provisions are found in §§ 218.25(b) and 218.25(d) of the existing regulation.

SECTION 218.31

The proposed regulation contains the provisions for required action when remotely controlled switches are involved. This proposed language of this section has not been changed from the existing regulation other than to reflect the restructuring of the regulatory sections.

The principal program draftsman of this document is John McNally of the Office of Safety. The principal legal draftsman is Lawrence Wagner of the Office of Chief Counsel.

V 43/191 OCT 2 78

Issued in Washington, D.C. on September 22, 1978.

JOHN M. SULLIVAN,
Administrator.

In consideration of the foregoing, it is proposed to revise Part 218 of Title 49 of the Code of Federal Regulations as set forth below.

PART 218—RAILROAD OPERATING RULES

Subpart A—General

Sec.
218.1 Purpose.
218.3 Application.
218.5 Definitions.
218.7 Waivers.
218.9 Civil penalty.
218.11 Filing, testing and instruction.

Subpart B—Blue Signal Protection of Workmen

218.21 Scope.
218.23 Blue signal display.
218.25 Workmen on a main track.
218.27 Workmen on track other than main track.
218.29 Alternate methods of protection.
218.31 Remotely controlled switches.

AUTHORITY: Sec. 202, 84 Stat 971 (45 U.S.C. 431); Sec. 1.49(n) of the regulation of the Office of the Secretary of Transportation, 49 CFR 1.49(n)

Subpart A—General

§ 218.1 Purpose.

This part prescribes minimum requirements for railroad operating rules and practices. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other special instructions.

§ 218.3 Application.

(a) Except as provided in paragraph (b) of this Section, this part applies to railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation, or

(2) A rapid transit railroad that operates only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

§ 218.5 Definitions.

As used in this part—

(a) "Workman" means railroad employees assigned to inspect, test, repair, or service railroad rolling equipment, or their components including brake systems. Train and yard crews are excluded except when assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement they have been called to operate.

NOTE.—"Servicing" does not include supplying cabooses, locomotives, or passenger cars with items such as ice, drinking water, tools, sanitary supplies, stationery, or flagging equipment.

"Testing" does not include visual observations made by an employee positioned inside or alongside a caboose, locomotive, or passenger car.

(b) "Rolling equipment" includes locomotives, railroad cars, and one or more locomotives coupled to one or more cars.

(c) "Blue Signal" means a clearly distinguishable blue flag or blue light by day and a blue light at night. When attached to the operating controls of a locomotive, it need not be lighted if the inside of the cab area of the locomotive is sufficiently lighted so as to make the blue signal clearly distinguishable.

(d) "Effective Locking Device" when used in relation to a manually operated switch or a derail means one which is: (1) Vandal resistant; (2) tamper resistant; and (3) locked and unlocked only by the class, craft or group of employees for whom the protection is being provided.

(e) "Car shop repair track area" means one or more tracks within an area in which the testing, servicing, repair, inspection, or rebuilding of railroad rolling equipment is under the exclusive control of mechanical department personnel.

(f) "Locomotive servicing track area" means one or more tracks, within an area in which the testing, servicing, repair, inspection, or rebuilding of locomotives is under the exclusive control of mechanical department personnel.

(g) "Main Track" means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(h) "Locomotive" means a self-propelled unit of equipment designed or moving other equipment in revenue service including a self-propelled unit designed to carry freight or passenger traffic, or both, and may consist of one or more units operated from a single control.

(i) "Switch providing access" means a switch which if traversed by rolling equipment could permit that rolling equipment to couple to the equipment being protected.

(j) "Group of workmen" means two or more workmen of different crafts assigned to work together as a unit under a common authority and who are in communication with each other while the work is being done.

§ 218.7 Waivers.

(a) A railroad may petition the Federal Railroad Administration for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

(c) If the Administrator finds that waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons, therefore, is published in the FEDERAL REGISTER.

§ 218.9 Civil penalty.

Each railroad to which this part applies that violates any requirement prescribed by this part is liable to a civil penalty of at least $250, but not more than $2,500 for each violation. Each day of each violation constitutes a separate offense.

§ 218.11 Filing, testing, and instruction.

The operating rules prescribed in this part, and any additional or more stringent requirements issued by a railroad in relation to the operating rules prescribed in this part, shall be subject to the provisions of Part 217 of this chapter, Railroad Operating Rules: Filing, Testing, and Instruction.

Subpart B—Blue Singal Protection of Workmen

§ 218.21 Scope.

This subpart prescribes minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment whose activities require them to work on, under, or between such equipment and subjects them to the danger of personal injury posed by any movement of such equipment.

§ 218.23 Blue signal display.

(a) Blue Signals displayed in accordance with §§ 218.25, 218.27, or 218.29 signify that workmen are on, under, or between rolling equipment and mean that—

(1) The equipment must not be coupled to;

(2) The equipment must not be moved, except as provided for in § 218,29;

(3) Other rolling equipment must not be placed on the same track so as to reduce or block the view of a blue signal, except as provided for in § 218,29(a), 218.29(b), and 218.29(c);

(4) Rolling equipment may not pass a blue signal.

(b) Blue Signals must be displayed in accordance with §§ 218.25, 218.27, or 218.29 by each craft or group of workmen prior to their going on, under, or between rolling equipment and may

only be removed by the same craft or group that displayed them.

§ 218.25 Workmen on a main track.

When workmen are on, under, or between rolling equipment on a main track:

(a) A blue signal must be displayed at each end of the rolling equipment;

(b) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive; and

(c) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the railroad employees making the repairs.

§ 218.27 Workmen on track other than main track.

When workmen are on, under, or between rolling equipment on track other than main track—

(a) A blue singal must be displayed at or near each manually operated switch providing access to that track;

(b) Each manually operated switch providing access to the track on which the equipment is located must be lined against movement to that track and locked with an effective locking device;

(c) The person in charge of the workmen must have notified the operator of any remotely controlled switch that work is to be performed and have been informed by the operator that each remotely controlled switch providing acces to the track on which the equipment is located has been lined against movement to that track and locked as prescribed in § 218.31;

(d) If rolling equipment requiring blue signial protection as provided for in this section is on a track equipped with one or more crossovers, both switches of each crossover must be lined against movement through the crossover, and the switch of each crossover that provides access to the rolling equipment must be protected in accordance with the provisions of subsections (a), (b), and (c) of this section; and

(e) If the rolling equipment to be protected includes one or more locomotives, a blue signal must also be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

§ 218.29 Alternate methods of protection.

Instead of providing blue signal protection for workmen in accordance with § 218.27, the following methods for blue signal protection may be used:

(a) Except as provided in subparagraphs (5) and (6) of this paragraph, when workmen are on, under, or between rolling equipment in a locomotive servicing track area—

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area;

(2) Each switch providing entrance to or departure from the area must be lined against the movement to the area and locked with an effective locking device;

(3) A blue signal must be attached to each controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive;

(4) If the speed within this area is restricted to not more than 5 miles per hour derails capable of restricting access to that portion of a track within the area on which the rolling equipment is located will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device, and when a blue signal is displayed at the derail;

(5) A locomotive may not be moved onto a locomotive servicing area track unless the blue signal has been removed from the entrance switch to the area and the locomotive which is placed on the track must be stopped short of coupling to another locomotive;

(6) A locomotive may not be moved off of a locomotive servicing area track unless the blue signal has been removed from the controlling locomotive moved and from the area departure switch;

(7) If operated by an authorized employee under the direction of the person in charge of the workmen, a locomotive protected by blue signals may be repositioned within this area after the blue signal has been removed from the locomotive to be repositioned and the workmen on the affected track have been notified of the movement; and

(8) Blue signal protection removed for the movement of locomotives as provided in subparagraphs (5) and (6) of this paragraph must be restored immediately after the locomotive has cleared the switch.

(b) When workmen are on, under, or between rolling equipment in a car shop repair track area—

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area;

(2) Each switch providing entrance to or departure from the area must be lined away from movement to the area and locked as provided for in this subpart;

(3) If the speed within this area is restricted to not more than 5 miles per hour, a derail capable of restricting access to that portion of a track within the area on which the rolling equipment is located will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device and when a blue signal is displayed at the derail; and

(4) If operated by an authorized employee under the direction of the person in charge of the workmen, a car mover may reposition rolling equipment within this area after workmen on the affected track have been notified of the movement.

(c) Except as provided in paragraph (a) and (b) of this section, when workmen are on, under, or between rolling equipment on any track, other than a main track:

(1) A derail capable of restricting access to that portion of the track on which such equipment is located, will fulfill the requirements of a manually operated switch when positioned no less than 150 feet from the end of such equipment; and

(2) Each derail must be locked in a derailing position with an effective locking device and a blue signal must be displayed at each derail.

(d) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the railroad employees making the repairs.

§ 218.31 Remotely controlled switches.

(a) After the operator of the remotely controlled switches has received the notification required by § 218.27(c), he must line each remotely controlled switch against movement to that track and apply an effective locking device to the lever, button, or other device controlling the switch before he may inform the employee in charge of the work to be performed that protection has been provided.

(b) The operator may not remove the locking device unless he has been informed by the person in charge of the workmen that it is safe to do so.

(c) The operator must maintain for 30 days a written record of each notification which contains the following information:

(1) The date and time he received notification of the work to be performed;

(2) The name and craft of the employee in charge who provided the notification;

(3) The number or other designation of the track involved;

(4) The date and time he notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and

(5) The date and time he was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

[FR Doc. 27824 Filed 9-29-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30233]

ATLANTA-PORTLAND/SEATTLE PROCEEDING

Continued Hearing

The hearing herein is continued to October 4, 1978 at 10 a.m. in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C. 20428 for the purpose of hearing the evidence on the application of Aeroamerica, Inc.

Dated at Washington, D.C., 26 September 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-27776 Filed 9-29-78; 8:45 am]

[6320-01]

[Docket 32152]

LAS VEGAS-TEXAS CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 14, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on April 5, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 27, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 78-27777 Filed 9-29-78; 8:45 am]

[6320-01]

[Docket 28337; Docket 28999; Docket 32746; Docket 33477; Order 78-9-90]

TEXAS/GREAT LAKES-EASTERN CANADA SERVICE CASE

Order Instituting Investigation

In the matter of Braniff Airways, Inc. (Docket 28337), Allegheny Airlines, Inc. (Docket 28999), American Airlines, Inc. (Docket 32746).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of September, 1978.

On May 8, 1974, representiatives of the United States and Canada signed a bilateral air transport agreement which contains a number of new and expanded routes for U.S. air carriers. While most of these are now being served by U.S. carriers, a few have not yet been awarded, primarily because the agreement defers some of the authority for varying periods up to 5 years. This order deals with four of the routes:

B.4 Cleveland-Montreal.[1]
B.5 Cleveland-Toronto.
B.6 Detroit-Montreal.[2]
D.2 Houston/Dallas/Fort Worth-Toronto/Montreal.[3]

Except for B.5, these routes are not open to U.S. carrier service until April 29, 1979. The agreement also allows only one U.S. carrier to be designated on each unless the Government of Canada has given its prior approval of any additional designation.

Existing single-plane service from the U.S. points on these routes to Toronto and Montreal is limited. Except for Allegheny's Cleveland-Toronto flights there is no transborder nonstop service available on U.S. flag carriers between any of the points at issue. Dallas/Fort Worth receives nonstop service to Toronto via Air Canada, while the other U.S. points are generally served by multi-stop direct flights of U.S. carriers, or by connecting flights.[4]

Applications to serve two of these routes have been filed by Allegheny, Braniff, Airways, and American Airlines. Allegheny (Docket 28999) and American (Docket 32746) have applied for authority to serve Houston/Dallas/Fort Worth-Toronto/Montreal. Various Texas civic parties[5] have filed petitions for leave to intervene in any proceeding involving Braniff's application for Route D.2, but no other petitions or answers to the applications have been filed. North Central (Docket 25267) and Delta Air Lines (Docket 27791) had earlier filed applications to serve Route B.6, Detroit/Montreal, but those applications were routinely dismissed as stale, by Order 78-6-119. Neither carrier has filed a petition for reconsideration of that order.

We have decided to institute a *Texas/Great Lakes-Eastern Canada Service* case to consider the need for certificated U.S. flag service over the three unawarded bilateral routes described above. Also at issue will be whether Allegheny's temporary authority on Route B.5 should be made permanent or another carrier selected.[6]

[1] This route may be combined with Route B.5 (Cleveland-Toronto) and operated as a single route (Cleveland-Toronto/Montreal) if the same U.S. carrier is designated for B.4 and B.5. Allegheny Airlines has temporary certificate authority to serve B.5, until 60 days after a final decision on certification of a U.S. carrier on B.4. Order 76-5-66, April 28, 1976.

[2] Route B.6 may be combined with B.7 (Milwaukee/Detroit-Toronto) and operated as a single route (Milwaukee/Detroit-Toronto/Montreal) if the same carrier is designated for both. North Central Airlines currently provides certificated Detroit-Toronto service, and has applied for authority to serve Milwaukee-Toronto as well (Docket 32828). We intend to process its application by show cause procedures.

[3] The carrier designated for Route D.2 may select up to two intermediate points and may change the selection every 12 months. In addition, all flights on this route that serve Montreal must also serve Toronto.

[4] Northbound direct flight service on Routes B.4, B.6 and D.2 is available as follows:
(a) Cleveland-Montreal: Six one-stops per week (Allegheny);
(b) Detroit-Montreal: No direct flights;
(c) Houston-Toronto: Two daily one-stops (Air Canada);
(d) Houston-Montreal: Two daily three-stops (Delta);
(e) DFW-Toronto: Two daily non-stops (Air Canada) and 13 one-stops per week (American);
(f) DFW-Montreal: No direct flights.
Source: Official Airline Guide, North American edition, September 1, 1978.

[5] The City of Houston and the Houston Chamber of Commerce jointly, the City of San Antonio and the San Antonio Chamber of Commerce jointly, and the Aviation Committee of the Corpus Christi Chamber of Commerce.

[6] In recommending that Allegheny be awarded temporary authority to serve

Footnotes continued on next page

We have tentatively decided to combine these routes for consideration in a single proceeding because they are somewhat interrelated, and thus a consolidated route case appears to be the most efficent use of the Board's and the parties' time and resources. Traffic on the Texas-Toronto/Montreal route is now quite thin [7], and may be insufficient to support nonstop U.S. flag service. Therefore, applicants for Route D.2 may have to consider making intermediate stops, perhaps at points in the Great Lakes region, in order to operate profitably. Moreover, the bilateral expressly provides that the carrier designated for D.2 may select up to two intermediate points betwen the terminals of that route. By considering service to Eastern Canada from Cleveland and Detroit in the same proceeding as Texas-Canada, the Board will retain greater flexibility to tailor a route pattern that best serves the public convenience and necessity.

At the same time, however, we are prepared to modify the scope of this case if further pleadings in response to this order demonstrate that our tentative view of interrelationship between these routes is incorrect. For example, at present only a single application has been filed for authority in the Cleveland-Montreal market. If subsequent applications and other pleadings in response to this order reveal no other carrier interest in that route, we will remove it from this case and process the Allegheny application by show cause procedures. Or, if subsequent applications demonstrate competing interests within the Great Lakes-Canada routes themselves, but with no overlap of interest with the Texas route, we will consider splitting this proceeding into two cases. On the other hand, if applicants for Route D.2 seek intermediate points not named here, we may expand the proceeding to include them. In reaching a final decision on the scope of this case our concerns will be the public interest in prompt institution of U.S. flag service, the actual marketing plans of the applicants, and the most efficient use of the Board's and the parties' resources.

In cases such as this, where carrier selection is at issue, it is our policy that the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority, and, if so, which carrier or carriers should be selected. We therefore expect this proceeding to include an examination of the need for and feasibility of various new price/quality options in addition to the traditional service benefits. Moreover, the parties and the administrative law judge should consider whether any new authority should be temporary and whether contingent backup awards should be made. At the same time, however we are concerned with reducing the delay and costs of the evidentiary burdens typically associated with traditional carrier selection cases. Accordingly, we invite the judge and the parties to explore ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Ultimately, we leave the resolution of these matters to the administrative law judge.

Finally, the applicants have not submitted sufficient information for the Board to determine the enviromental consequences of their proposed operations. We will require all applicant carriers to file environmental evaluations pursuant to Part 312 of the Board's regulations (14 CFR Part 312) within 30 days of the date of service of this order.

Applications, motions to consolidate, and petitions for reconsideration shall be filed within 30 days of the date of service of this order, and responsive answers shall be filed within 10 days thereafter.

Accordingly, 1. We institute a proceeding entitled the *Texas/Great Lakes-Eastern Canada Service* case and set it for hearing before an administrative law judge of the Board at a time and place to be designated, after petitions for reconsideration have been acted upon by the Board;

2. The proceeding shall include considerations of the following issues:

(a) Do the public convenience and necessity require certification of one or more air carriers to engage in foreign air transportation on a subsidy-ineligible basis between the following points:

(1) Cleveland, Ohio, on the one hand, and Toronto and Montreal, Canada, on the other;

(2) Detroit, Michigan and Montreal, Canada;

(3) Houston and Dallas/Fort Worth, Texas, on the one hand, and Toronto and Montreal, Canada, on the other;

(b) If the answer to subparagraph (a) is affirmative, in whole or in part, which air carrier(s) should be authorized to engage in such service, and what terms, conditions, and limitations, if any should be placed on the operation of such carriers;

(c) Should Allegheny Airlines' temporary authority between Cleveland, Ohio and Toronto, Canada be renewed, deleted, or otherwise modified;

3. We consolidate the applications of Braniff Airways in Docket 28337, Allegheny Airlines in Docket 28999, and American Airlines in Docket 32746 into this proceeding to the extent they conform with its scope, and to the extent not consolidated, we dismiss them;

4. We grant intervention in Docket 33477 to the following parties that petitioned for leave to intervene in Docket 28337; City of Houston and the Houston Chamber of Commerce; the City of San Antonio, Tex. and the San Antonio Chamber of Commerce; and the Aviation Committee of the Chamber of Commerce, Corpus Christi, Tex.;

5. Braniff Airways, Allegheny Airlines, American Airlines, and all other carriers filing applications in this proceeding shall file environmental evaluations under section 312.12 of the Board's regulations (14 CFR § 312.12) by October 26, 1978; and

6. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed by October 26, 1978, and responsive answers shall be filed by November 6, 1978.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27778 Filed 9-29-78 8:45 am]

[7] Footnotes continued from last page
Cleveland-Toronto, the Board stated that the possible renewal of that authority would be considered in any Cleveland-Montreal certification proceeding. See Order to Show Cause 76-3-75, March 11, 1976 and Order 76-5-66.

[7] The Houston-Toronto market generated only 20,510 true O. & D. passengers in calendar 1976 (or 28 daily in each direction), while DFW-Toronto generated 18,360 (or 25 daily). The Texas-Montreal markets are even smaller: Houston-Montreal produced 9,020 true O. & D. passengers (12 daily in each direction) and DFW-Montreal generated 8,860 (12 daily). Source: Air Passenger Origin and Destination—Canada—United States Report 1976 (Ottawa: Ministry of Industry, Trade, and Commerce, July 1977).

[8] All members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE BLACK POPULATION FOR THE 1980 CENSUS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee on the Black Population for the 1980 Census will convene on October 27, 1978, at (9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on the Black Population for the 1980 Census is composed of 21 members ap-

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pointed by the Secretary of Commerce. It was established in October 1974 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, recommending subject content and tabulations of special use to the black population, and expanding the dissemination of census results among present and potential users of census data in the black population.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m. is: (1) Introductory remarks by the Director of the Bureau of the Census; (2) current status of 1980 census planning, including dress rehearsals and current count committees; (3) Affirmative Action Program; (4) Community Services Program; (5) Public Information Office efforts in lower Manhattan; (6) decentralized processing plans; (7) Committee discussion; and (8) Committee recommendations and plans for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning these meetings or who wish to submit written statements may contact the Committee Control Officer, Clifton S. Jordan, Deputy Chief, Demographic Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md. Mailing address: Washington, D.C. 20233, telephone: 301-763-5169.

Dated: September 22, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-27104 Filed 9-29-78; 8:45 am]

[3510-24]

Economic Development Administration

HELVETIA SUGAR COOPERATIVE, INC., ETC.

Applications for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Helvetia Sugar Cooperative, Inc., Route 1, Box 69, Convent, La. 70723, a processor of sugar (accepted September 25, 1978); (2) The Aerfab Corp., 380 Oakwood Road, Huntington Station, Long Island, N.Y. 11746, a producer of polyurethane and flocked fabrics (accepted September 25, 1978); and (3) Michael Berkowitz Co., Inc., 1802 Madison Avenue, New York, N.Y. 10016, a producer of men's and women's sleepwear, robes, lingerie, and disposable face masks (accepted September 26, 1978). The petitions were accepted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Cerification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the 10th calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-27717 Filed 9-29-78; 8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Order No. 134]

FOREIGN-TRADE ZONE NO. 1, NEW YORK, N.Y.

Extension of Operational Authority

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the operational authority for Foreign-Trade Zone No. 1 in the Brooklyn Navy Yard, New York City, is due to expire on September 26, 1978;

Whereas, the City of New York, grantee of the zone, has, through its Department of Ports and Terminals, applied to the Board for authority to extend this operation indefinitely;

Whereas, notice inviting public comment was given in the FEDERAL REGISTER on August 3, 1978 (43 FR 34179), and no opposition has been expressed;

Whereas, the Area Director of Customs for the New York Seaport has given his clearance in a letter dated August 14, 1978;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the grantee is authorized to continue zone operations, pursuant to the Board's regulations, at its Brooklyn Navy Yard site for an indefinite period. The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the zone confines.

Signed at Washington, D.C. this 25th day of September 1978.

JAUNITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest: John J. DaPorte, *Executive Secretary, Foreign-Trade Zones Board.*

[FR Doc. 78-27678 Filed 9-29-78; 8:45 am]

[3510-25]

Industry and Trade Administration

MANAGEMENT/LABOR TEXTILE ADVISORY COMMITTEE

Change of Meeting Room

On September 25, 1978 a notice dated September 20, 1978 was published in the FEDERAL REGISTER (43 FR 43343) announcing a meeting of the Management-Labor Textile Advisory Committee on October 12, 1978. The purpose of this notice is to advise that the room for the meeting has been changed to Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: September 26, 1978.

ARTHUR GAREL,
Director, Office of Textiles.

[FR Doc. 78-276677 Filed 9-29-78; 8:45 am]

[1505-01]

UNIVERSITY OF ALABAMA, DEPARTMENT OF BIOLOGY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 78-26413, appearing at page 42288 in the issue of September 20, 1978, on page 42288, in the middle column, in the paragraph beginning with "Docket No. 78-00381", in the sixth line "FX 900" should read "FX 90Q."

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

ADVISORY COMMITTEE ON THE AIR FORCE HISTORICAL PROGRAM

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Advisory Committee on the Air Force Historical Program has been found to be in the public interest in connection with the performance of duties imposed by law on the Department of Defense. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Advisory Committee on the Air Force Historical Program is to assess the global Air Force Historical Program and to make recommendations concerning the mission, scope, progress, and productivity of the current program; conformity of the work and methods of the Office of Air Force History with professional standards; and priorities of historical publications and such other aspects of the program as the membership may deem of interest. The Committee reports to the Secretary of the Air Force and the Chief of Staff, USAF.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26325 Filed 9-29-78; 8:45 am]

[3910-01]

AIR FORCE ACADEMY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air Force Academy Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Air Force Academy Board of Visitors are specified in Section 9355, U.S.C. 10. The statute requires the Board to inquire at least annually into the morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Air Force Academy and to submit a written report to the President of its action, its views, and recommendation pertaining to the Academy. Membership on the Board is also specified by law as nine members of Congress and six Presidential appointees.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26328 Filed 9-29-78; 8:45 am]

[3910-01]

AIR UNIVERSITY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air University Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs in its renewal. The nature and purpose of the Air Force University Board of Visitors are to consider and advise the Secretary of the Air Force, through the Commander, Air University, on matters pertaining to the educational, doctinal, and research policies and activities of Air University. The function of the board is solely advisory, and any determination of action to be taken on matters upon which the board advises or recommends shall be made solely by full-time salaried officers or employees of the Air Force.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26324 Filed 9-29-78; 8:45 am]

[3910-01]

COMMUNITY COLLEGE OF THE AIR FORCE (CCAF) ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Community College of the Air Force (CCAF) Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Community College of the Air Force Advisory Committee are to review the programs and objectives of the Community College of the Air Force and recommend policies through the Commander, Air Training Command, to the Secretary of the Air Force. The Committee provides an external source of expertise which insures continued reflection on CCAF operations and policies.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26323 Filed 9-29-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the USAF Scientific Advisory Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the USAF Scientific Advisory Board are to provide a link between the Air Force and the Nation's scientific community by serving as a means of communicating the most recent scientific information as it applies to the Air Force. The Board was created to strengthen but not duplicate the work of the Air Force Systems Command, and all other Air Force activities that deal with science and technology. The Board reviews and evaluates long-range plans for research and development and provides advice on the adequacy of the Air Force program, recommends unusually promising scientific developments for selective Air Force emphasis and new scientific discoveries of techniques for practical application to weapon or support systems, makes a variety of studies designed to improve the Air Force research and development program, and

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serves as a pool of expert advisers to various Air Force activities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26322 Filed 9-29-78; 8:45 am]

[3710-08]

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Armed Forces Epidemiological Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration, has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Armed Forces Epidemiological Board is to serve as a continuing scientific advisory body to the Surgeons General of the military departments and the Assistant Secretary of Defense (Health Affairs) providing them with timely scientific and professional advice and guidance in matters pertaining to operational programs, policy development, and research needs for the prevention of disease and injury and the promotion of health by application of new technological and epidemiological principles to the control of acute and chronic diseases, the protection of the environment, the improvement of occupational health programs and the design of new systems of health maintenance.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26306 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY ADVISORY PANEL ON ROTC AFFAIRS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Advisory Panel on ROTC Affairs has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The purpose of the Army Advisory Panel on ROTC Affairs is to provide a continuous exchange of views between the Department of the Army and educational institutions to improve the Army Senior ROTC program. The scope of activities include a continuous evaluation of recruiting, procurement, and training policies; and the problems related to maintaining an effective interface between the Army's ROTC program and the academic community. The specific intent of the Panel is to provide recommendations to the Department of the Army regarding the Senior ROTC program.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26308 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Science Board (ASB), has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Army Science Board is to advise the Secretary of the Army and the Chief of Staff on research and development directions and programs, on systems acquisition policies and procedures and other matters that are affected by science and engineering. The Army Science Board performs the duties formerly performed by the Army Scientific Advisory Panel, the Ballistic Missile Defense Technology Advisory Panel, the Ballistic Research Scientific Advisory Committee, the Tank Automotive Research and Development Command Scientific Advisory Group, and the Scientific Advisory Group of the U.S. Army Missile Command.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26307 Filed 9-29-78; 8:45 am]

[3710-08]

BOARD OF VISITORS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors, the Judge Advocate General's School, U.S. Army, has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors, the Judge Advocate General's School, U.S. Army, is investigative and advisory. At the direction of the Commandant, the Board investigates matters pertaining to the program of instruction of the school. Subsequently, the Board reports its findings and makes its recommendations to the Commandant.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26309 Filed 9-29-78; 8:45 am]

[3710-08]

BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors of the U.S. Military Academy has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors to the U.S. Military Academy is provided by 10 U.S.C. 4355. The Board shall visit the Academy annually, shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26314 Filed 9-29-78; 8:45 am]

[3710-92]

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Chief of Engineers Environmental Advisory Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Engineers Environmental Advisory Board is to:

(a) Ascertain environmental issues and problems we have overlooked within the context of plans, projects and programs;

(b) Provide advice aimed not only at alleviating or resolving past issues, but more importantly, at preventing problems arising in other projects or in general corps programs. That is, helping us to use experience gained in past problems to avoid future mistakes;

(c) Assist in developing a workable method for quantifying environmental costs and benefits so as to provide a practical means for comparison with the national economic efficiency objective;

(d) Continue to act as part of our change mechanism. Members should explore new directions where the corps acting as the national engineering agency can continue to solve not only technical problems but those of a social, economic, administrative, and environmental nature as well;

(e) Identify environmental consideration in probable new areas of corps involvement. Such areas include assistance to States in their efforts to conduct environmental inventories, urban studies, regional waste water treatment facilities, interbasin transfer of water, offshore deepwater ports, and dredge spoil disposal.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26303 Filed 9-29-78; 8:45 am]

[3710-08]

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Command and General Staff College Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Command and General Staff College Advisory Committee is to advise the Commandant and faculty of the Command and General Staff College on ways to improve the CGSC educational program, especially its fully accredited Master of Military Art and Science (MMAS) degree program. The committee satisfies the accreditation prerequisite that there be established a civilian body which includes representation reflecting the public interest.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26310 Filed 9-29-78; 8:45 am]

[3710-08]

DEPARTMENT OF THE ARMY HISTORICAL ADVISORY COMMITTEE (DAHAC)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of the Army Historical Advisory Committee (DAHAC) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Department of the Army Historical Advisory Committee is to provide the Secretary of the Army and the Chief of Military History with advice and counsel regarding (1) the conformity of the Army's historical work and methods with professional standards, (2) effective cooperation between the historical and military professions in advancing the purpose of the Army Historical Program, and (3) the mission of the U.S. Army Center of Military History to further the study of and interest in military history in both civilian and military schools.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26311 Filed 9-29-78; 8:45 am]

[3710-08]

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the National Board for the Promotion of Rifle Practice has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the National Board for the Promotion of Rifle Practice is to promote marksmanship training with rifled arms among able-bodied citizens of the United States and provide the means whereby they may become proficient in the use of such arms. The Secretary of the Army fulfills these requirements through the Civilian Marksmanship Program based upon the recommendations of the National Board for the Promotion of Rifle Practice.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26305 Filed 9-29-78; 8:45 am]

[3710-08]

SCIENTIFIC ADVISORY BOARD OF THE ARMED FORCES INSTITUTE OF PATHOLOGY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Board of the Armed Forces Institute of Pathology has been found to be in the public interest in connection with the perform-

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ance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Board is to provide The Director, Armed Forces Institute of Pathology, and his staff with scientific and professional advice and guidance in matters pertaining to operational programs, policies, and procedures of the AFIP central laboratory of pathology for the Department of Defense and other Federal agencies with responsibilites for consultation, education and research in pathology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26312 Filed 9-29-78; 8:45 am]

[3710-92]

U.S. ARMY COASTAL ENGINEERING RESEARCH BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the U.S. Army Coastal Engineering Research Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the U.S. Army Coastal Engineering Research Board is: The CERB functions as an advisory board to the Chief of Engineers as provided by Pub. L. 88-172, dated November 7, 1963. The CERB meets semiannually, or at the call of the President to consider the coastal engineering research program of the Corps of Engineers. The CERB provides broad policy guidance and review of plans and fund requirements for the conduct of research and development in the field of coastal engineering; recommends priorities of accomplishment of research projects in consonance with the needs of the coastal engineering field and the objectives of the Chief of Engineers; and performs additional functions as assigned by the Chief of Engineers. The CERB membership is comprised of the Director of Civil Works (President), three division engineers of the corps, and three prominent coastal engineers from the academic community. The military members provide guidance on the needs of their respective divisions and the Corps of Engineers coastal engineering research needs in general. The civilian members provide technical guidance and bring to the CERB their broad experience and expertise in conducting and managing coastal engineering research programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26304 Filed 9-29-78; 8:45 am]

[3710-08]

U.S. ARMY MEDICAL RESEARCH AND DEVELOPMENT ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the U.S. Army Medical Research and Development Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration, has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the U.S. Army Medical Research and Development Advisory Panel is to advise the Commanding General, U.S. Army Medical Research and Development Command (USAMRDC), on scientific and technological aspects of the U.S. Army medical research and development program, which includes as its objectives:

(1) Improved care of combat wounded; (2) prevention and treatment of infectious diseases of military importance; (3) enhancement of military performance; (4) reduction of military environmental hazards; and (5) other medical research problems as requested by the Commanding General, USAMRDC.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26313 Filed 9-29-78; 8:45 am]

[3710-08]

WINTER NAVIGATION BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Winter Navigation Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Winter Navigation Board is the management, coordination and reporting of the winter navigation demonstration program authorized by Pub. L. 91-611, section 107b, as amended by Pub. L. 93-251 and Pub. L. 94-587 to demonstrate the practicability of extending the shipping season on the Great Lakes-St. Lawrence Seaway System. The winter navigation demonstration program is a comprehensive multiagency and industry effort, uniting missions and expertise in an operating demonstration. The authorizing legislation provided for mandatory cooperation in carrying out the program. The winter activities program involves critical, recurring, requirements relative to timing, funding, and priorities, most effectively accomplished by a coordinating committee of agency heads.

This coordinated funding and planning mission of the Winter Navigation Board has made possible an earlier accomplishment of program objectives and recommendations to the Congress, than could have been otherwise achieved.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26315 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: Army Science Board/Air Force Scientific Advisory Board.

Date of meeting: October 24, 1978.

Place: U.S. Army Training and Doctrine Command, Fort Monroe, Va.

Time: 0800-1700 hours.

Proposed agenda: The Army and Air Force Science Boards will receive classified briefings and hold classified discussions on their joint summer study on "Battlefield Systems Integration." This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
LTC, GS, Executive Secretary, Army Science Board.

[FR Doc. 78-27031 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: Army Science Board.

Dates of meeting: November 13-14, 1978.

Place: U.S. Army Air Defense Center & School, Fort Bliss, Tex.

Time: 0800-1700 hours, November 13, 1978; 1300-1600 hours, November 14, 1978.

Proposed agenda: The meeting is partially closed because the members will receive classified briefings and classified discussions on a study done by certain ASB members which relate to the offensive and defensive postures of the United States and other nations. The portion of the meeting that will be closed is between 1300-1500 hours, November 13, 1978. This portion will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
LTC, GS Executive Secretary, Army Science Board.

[FR Doc. 78-27632 Filed 9-29-78; 8:45 am]

[3710-08]

COASTAL ENGINEERING RESEARCH BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Coastal Engineering Research Board to be held on October 23-25, 1978.

The meeting will be held in Room 1324, U.S. Army Engineer Division, South Pacific, 630 Sansome Street, San Francisco, Calif., from 0820 hours to 1700 hours on October 23, and from 0820 to 1100 hours on October 25, 1978. The entire day of October 24 will be devoted to an aerial inspection of various projects in the South Pacific Division.

The October 23 session will be devoted to a report on action items from previous meeting; recent coastal engineering activities in the North Central Division; status of the wave information study; update on California wave data collection program; California shore processes, SPL coastal model studies—Imperial Beach and Oceanside Beach; Santa Cruz Harbor sand bypassing system; Southwest ocean outfall project—city and county of San Francisco, Alameda SEAP demonstration site; and a briefing on the field trip.

The October 25 session will be devoted to CERB discussion of field inspection trip; nearshore sediment transport study; update 5-year coastal engineering research program; and CERB recommendations.

Participation by the public is scheduled for 1000 hours on October 25. The meeting will be open to the public subject to the following limitations:

a. As the seating capacity of the conference room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made a part of the minutes, may be submitted prior to, or up to 30 days following the meeting, but oral participation by the public is limited because of the time schedule. Inquiries may be addressed to Col. John H. Cousins, Executive Secretary, U.S. Army Coastal Engineering Research Board, Kingman Building, Fort Belvoir, Va. 22060, telephone 325-7000.

Dated: September 26, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-27633 Filed 9-29-78 8:45 am]

[3710-08]

ROCKY MOUNTAIN ARSENAL, COMMERCE CITY, COLO.

Filing of Final Supplement to Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on September 22, 1978 provided the Environmental Protection Agency with the Final Supplement to Final Environmental Impact Statement concerning collocation of obsolete chemical identification sets to Rocky Mountain Arsenal, Commerce City, Colo.

Copies of the supplement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, U.S. Army Armament Materiel Readiness Command, Building 390, Attn: DRSAR-ASN (2LT M. E. Davis) Rock Island, Ill. 61201, phone 309-794-5175.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-1163.

Dated: September 27, 1978.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-27664 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Communications Agency

SCIENTIFIC ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Communications Agency Scientific Advisory Group has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Communications Agency Scientific Advisory Group is to provide objective advice on major Defense Communications Agency programs and provide technical expertise on major problems in the areas of telecommunications, command and control systems, and ADP systems, to include all DCA programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26302 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Intelligence Agency

ADVISORY COMMITTEE

Renewal

In accordance with the provision of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Intelligence Agency Advisory Committee (formerly known as the Defense Intelligence Agency Scientific Advisory Committee) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory commit-

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tee and concurs with its renewal. The nature and purpose of the Defense Intelligence Agency Advisory Committee is to provide the Director, Defense Intelligence Agency with primarily scientific and technical advice and assistance in those areas and disciplines of major importance to the Agency. It also provides a valuable link between the Agency and the scientific and industrial communities of the nation. Its function is solely advisory.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26301 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Nuclear Agency

SCIENTIFIC ADVISORY GROUP ON EFFECTS (SAGE)

Renewal

In accordance with the provision of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Group on Effects (SAGE) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Group on Effects is to advise and assist the Director, Defense Nuclear Agency (DNA) on matters related to nuclear weapons effects. The Group, composed of about 16 members with extensive experience in nuclear effects related sciences or other disciplines, reviews and evaluates plans and programs for the development of nuclear weapons effects research data, and advises the Director, DNA as to the adequacy of current Research, Development, Test and Evaluation programs. The Group's scope covers recommendations on policy formulation, program planning, and suggested methods for accomplishing program objectives more effectively.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26296 Filed 9-29-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Advisory Committee on Women in the Services (DACOWITS) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Advisory Committee on Women in the Services (DACOWITS) is to assist and advise the Secretary of Defense on policies and matters relating to women in the Services. In carrying out its purpose the Committee will interpret to the public the need for and the role of women as an integral part of the All Volunteer Force; encourage public acceptance of military service as a citizenship responsibility and as a career field for qualified women; recommend measures to insure effective utilization of the capabilities of the women in the Services; and provide a vital link between the Armed Forces and the civilian communities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26293 Filed 9-29-78; 8:45 am]

[3810-70]

DEFENSE SYSTEMS MANAGEMENT COLLEGE BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DSMC Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DSMC Board of Visitors is to advise the DSMC governing body (the Policy Guidance Council) through the Commandant on the organization, management, curricula, methods of instruction, career-related activities, research, facilities, and overall operation of the college. In furtherance of its charter, the DSMC Board of Visitors also concerns itself with policy matters in the area of long-range planning and renders advice to the Commandant on solutions to pressing and complex problems of policy development and principles to be followed bearing on the accomplishment of the DSMC roles and missions.

MAURICE W. ROCHE,
Director, Correspondence and Directive, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26294 Filed 9-29-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of Defense Wage Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Wage Committee is to make recommendations regarding wage surveys and wage schedules for blue collar employees to the Department of Defense Wage Fixing Authority to discharge the responsibilities assigned by Pub. L. 92-392 to the Civil Service Commission, as set forth in Federal Personnel Manual Supplements 532-1 and 532-2, "Federal Wage System." The Department of Defense has "lead agency" responsibility for setting wage rates in approximately 255 of the approximately 278 wage areas established under the Federal Wage System.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26297 Filed 9-29-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DOD Advisory Group on Electron Devices has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Advisory Group on Electron Devices is to provide technical advice which will assist the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments in planning and directing adequate and economical research and development programs in the area of electron devices.

MAURICE W. ROCHE,
Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26295 Filed 9-29-78; 8:45 am]

[3810-70]

DEFENSE SCIENCE BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Science Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Science Board is to serve as an advisory committee to the Secretary of Defense, reporting through the Under Secretary of Defense for Research and Engineering on scientific, technical and related management matters of particular interest to the Department of Defense. Comprised of a balanced membership of senior appointees representing the industrial, academic and scientific communities, the Board undertakes to analyze and recommend concerning specific issues and problems tasked to it by the Secretary of Defense or the Under Secretary of Defense for Research and Engineering, or other senior officials of the Department of Defense. Additionally, it examines and provides guidance concerning other important subject areas on an ad-hoc basis as such matters are surfaced during the normal course of conduct of the Board's proceedings.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26298 Filed 9-29-78 8:45 am]

[3810-70]

BOARD OF VISITORS FOR THE NATIONAL DEFENSE UNIVERSITY AND THE DEFENSE INTELLIGENCE SCHOOL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors for the National Defense University and the Defense Intelligence School has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal. The nature and purpose of the Board of Visitors for the National Defense University and the Defense Intelligence School is to provide advice to the President, NDU, and Director of the Defense Intelligence Agency and the Commandants of The National War College, Industrial College of the Armed Forces, and the Defense Intelligence School on matters relating to mission, policy, faculty, students, curricula, educational methodology, research, and administration for both resident and non-resident programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26300 Filed 9-29-78; 8:45 am]

[3810-70]

JOINT STRATEGIC TARGET PLANNING STAFF (JSTPS) SCIENTIFIC ADVISORY GROUP (SAG)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group (SAG) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the JSTPS SAG is that of a continuing advisory committee which provides scientific and technical advice to the Director of Strategic Target Planning (DSTP) to enhance JSTPS planning in such areas as:

1. Developing procedures and techniques to reduce the vulnerability of U.S. weapon systems within the scope of JSTPS responsibilities in this area.
2. Assessing the use of nuclear weapons effects to improve the effectiveness of the offense.
3. Developing procedures and techniques to improve penetration of the enemy defenses.
4. Identifying technical areas in which additional reasearch and test could lead to knowledge having a direct bearing upon the development of the Single Integrated Operational Plan (SIOP).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26299 Filed 9-29-78; 8:45 am]

[3810-71]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Naval Operations Executive Panel Advisory Committee are as follows: The Chief of Naval Operations Executive Panel Advisory Committee is established to provide an avenue of communications by which the civilian and military, scientific, academic, engineering and political communities may advise the CNO on questions related to national seapower. In connection therewith, subcommittees composed of Committee members may be formed according to specific areas of interest to the CNO. The functions of the Committee are purely advisory in nature. Material brought before the Committee or Sub-Panels is deter-

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mined by the CNO, to whom the Committee reports.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26316 Filed 9-29-78; 8:45 am]

[3810-71]

NAVAL RESEARCH ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Naval Research Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Naval Research Advisory Committee is to know problems of the Navy and the Marine Corps, to keep abreast of the research and development which is being carried on in relation to the problems, and to offer a judgment to the Navy and Marine Corps as to whether the efforts are adequate. The activities of the committee are limited to serving solely in an advisory capacity to the Secretary of the Navy and other high-ranking personnel of the Navy and Marine Corps. The committee is the senior scientific advisory group to the Secretary of the Navy, the Chief of Naval Operations, the Chief of Naval Research, the Commandant of the Marine Corps, the Chief of Naval Development, and the Director of Navy Laboratories.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26317 Filed 9-29-78; 8:45 am]

[3810-71]

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Navy Resale System Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Navy Resale System Advisory Committee is to examine the policies, operations and organization of components of the Navy Resale System, and submit recommendations relative thereto to the Secretary of the Navy.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26318 Filed 9-29-78; 8:45 am]

[3810-71]

SECRETARY OF THE NAVY'S ADVISORY COMMITTEE ON NAVAL HISTORY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Committee on Naval History is to advise the Secretary of the Navy on naval historical programs, including archival, library, and curatorial activities, and to maintain liaison between the Navy's historical programs and the historical profession as a whole.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26319 Filed 9-29-78; 8:45 am]

[3810-71]

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING (SABET)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Board on Education and Training (SABET) is to provide continuing professional advice to the Secretary of the Navy on the policies and conduct of Navy and Marine Corps education and training programs which is essential to both the quality and relevance of such programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26320 Filed 9-29-78; 8:45 am]

[3810-71]

UNITED STATES NAVAL ACADEMY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the United States Naval Academy Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also revised the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors is to inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Naval Academy that the Board decides to consider, and, within 60 days of its annual meeting, to submit its findings and recommendations to the President of the United States.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26321 Filed 9-29-78 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Bonneville Power Administration

[DOE/EIS-0030-D]

PROPOSED FISCAL YEAR 1980 PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE), has issued a draft environmental impact statement, proposed fiscal year 1980 program. This environmental impact statement is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. This statement was prepared to assess the anticipated environmental impacts that may be associated with the construction and maintenance program proposed by BPA for fiscal year 1980.

Copies of the draft environmental impact statement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, Oreg. 97208) and at DOE public document rooms located at:

Library, DOE, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.
BPA, Washington, D.C. Office, Interior Building, 18th and C Streets NW., Washington, D.C.
Library, BPA Headquarters, 1002 Northeast Holladay Street, Portland, Oreg.

And in the following BPA area and district offices:

Eugene District Office, U.S. Federal Building, 211 East 7th Street, room 206, Eugene, Oreg.
Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho.
Kalispell District Office, Highway 2 (east of Kalispell), Kalispell, Mont.
Portland Area Office, Lloyd Plaza Building, 919 Northeast 19th Avenue, Room 210, Portland, Oreg.
Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash.
Spokane Area Office, U.S. Court House, Room 561, West 920 Riverside Avenue, Spokane, Wash.
Walla Walla Area Office, West 101 Poplar, Walla Walla, Wash.
Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Wash.

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208; the BPA area and district offices mentioned above.

Dated at Washington, D.C. this 27th day of September 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27834 Filed 9-29-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. IE-78-10; ERA Docket No. IE-78-11]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

On August 16, 1978, Niagara Mohawk Power Corp. (Niagara) tendered for filing in ERA Docket No. IE-78-10, proposed changes in Service Classification G-1 of its Export Rate Schedule FPC No. 4. The proposed changes would increase revenues from jurisdictional sales and service by $8,422 based on the 12-month period ending June 14, 1978.

The increase is necessary to make the charges contained in the Service Classification G-1 comparable to Niagara's other rates charged to customers who have requirements of the magnitude similar to those served by this tariff.

Copies of the filing have been served upon the Quebec Hydro-Electric Commission, the only customer presently served under this tariff.

On August 16, 1978, Niagara also tendered for filing in ERA Docket No. IE-78-11, proposed changes in Service Classification H-1 to be used to supply power and energy to the St. Lawrence Power Co., located in Cornwall, Ontario, Canada. The proposed change would increase revenues from jurisdictional sales and service by $6,624 based on the 1978-79 billing period.

The rates contained in Service Classification H-1 are comparable to Niagara's other rates charged to customers who have requirements of a magnitude similar to those served by this tariff.

Copies of the filing have been served on St. Lawrence Power Co., the only customer presently proposed to be served under this tariff, and upon the Public Service Commission of the State of New York, Empire State Plaza, Albany, N.Y. 12223. A certificate of concurrence dated September 1, 1978, accepting these rates has been received from St. Lawrence Power Co.

Any person desiring to be heard or to protest said applications should file a petition to intervene or protest with the chief, Systems Reliability and Emergency Response, Economic Regulatory Administration, 2000 M Street NW., Room 538, Vanguard Building, Washington, D.C. 20461 in accordance with paragraphs 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 6, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and are available upon request for public inspection and copying at the ERA Docket Room, Room B-120, 2000 M Street NW., Washington, D.C.

Dated: September 25, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-27774 Filed 9-29-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. TC78-5]

ALABAMA-TENNESSEE NATURAL GAS CO., ET AL

Notice of Availability

SEPTEMBER 20, 1978.

On May 31, 1978, the Commission issued an order instituting the above-styled proceedings in order to accumulate sufficient information to evaluate the impact of natural gas shortages on interstate pipeline companies during the course of the 1978-79 winter-heating season. Ordering paragraph (E) of the aforementioned order required that the Commission Staff provide the Federal Energy Regulatory Commission on September 18, 1978, a report analyzing the information obtained as a result of the above-styled proceedings.

Pursuant to the aforementioned ordering paragraph, the Commission Staff has prepared and submitted to the Commission a report analyzing and evaluating the impact that anticipated natural gas shortages will have upon the interstate pipelines in the above-styled proceedings. Copies of this report will be available to the general public in the Federal Energy Regulatory Commission's Office of Public Information, 825 North Capitol NE., Room No. 1000, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27702 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. EL78-35]

CITY OF RENSSELAER, IND.

Notice of Proposed Physical Interconnection

SEPTEMBER 21, 1978.

Take notice that on August 25, 1978, the city of Rensselaer, Indiana. (Rensselaer) tendered for filing an Application for an order directing Northern

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Ind. Public Service Co. (NIPSCO) to establish a physical interconnection of its existing 69 Kv transmission facilities under section 202(b) of the Federal Power Act. Rensselaer states that such an order is necessary in order that Rennsselaer, which currently operates in isolation, can connect its facilities with those of NIPSCO, the nearest neighboring utility system, so as to assure a more reliable supply of electric power to the citizens of Rensselaer.

Rensselaer further states that this filing is being filed at the direction of the Economic Regulatory Administration which has determined that such a permanent interconnection is in the public interest, and in the event an agreement could not be reached with NIPSCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27703 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-512]

COLORADO INTERSTATE GAS CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 7, 1978, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-512 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Commission's Regulations under the act (18 CFR 157.7(b)) for a certificate of public convenience and necessity for authority to construct during a 12-month period beginning January 1, 1979, and to operate thereafter, natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct during a 12-month period commencing January 1, 1979, and to operate thereafter, various gas purchase facilities for the connection of additional supplies of natural gas. These facilities are to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting new supplies of gas to its system and/or the system of another company authorized to transport gas for the account of, or exchange gas with Applicant.

It is stated that the proposed facilities would not exceed $6,900,000, and no single project would exceed $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27704 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-502]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP78-502 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compression and pipeline facilities in Kanawha County, W. Va. for the purpose of assisting Applicant to receive quantities of liquefied natural gas (LNG) which its affiliate, Consolidated System LNG Co. (Consolidated LNG) is proposing to import from Iran beginning in 1983, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is seeking authorization to construct and operate (1) an additional 5,400 horsepower at its Cornwell Compressor Station, Kanawha County, W. Va.; (2) approximately 1.9 miles of 20-inch pipeline extending from Cornwell Station to a connection to be made with Columbia gas Transmission Corp.'s pipeline facilities; (3) heating, regulating, and other miscellaneous facilities. The proposal facilities are in conjunction with Consolidated LNG's proposed to import gas from Iran, it is said. It is indicated that the proposed facilities are designed to receive up to 150,000 dekatherms equivalent of natural gas per day and would cost an estimated $5,879,182.

Applicant states that Consolidated LNG and Columbia LNG Co. have filed a joint application with the Economic Regulatory Administration at Docket No. ERA-78-004-LNG for authorization pursuant to Section 3 of the Natural Gas Act and sections 301 and 402 of the Department of Energy Organization Act, to import from Iran 120,000,000 million Btu's of LNG annually. Of the total annual quantity to be imported, Consolidated LNG is to purchase and import 50,000,000 Btu's, it is said.

It is indicated that Consolidated LNG and Columbia Gas Transmission Corp. are concurrently filing applications with the Commission pursuant to section 7 of the Natural Gas Act for authorizations to transport and sell the volumes proposed for importation.

Applicant states that the proposed construction would commence at the beginning of the 1982 construction season but that, pursuant to the terms of Consolidated LNG's purchase agreement with the National Iranian Gas Co. (NIGC), a final decision on this application would be required by December 31, 1978, in order to take advantage of a fixed price provision in NIGC's contract with Moss Rosenburg Verft, which would construct the liquefaction facilities for NIGC.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commisssion or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27705 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP 78-503]

CONSOLIDATED SYSTEM LNG CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Consolidated System LNG Co. (Applicant), 445 West Main Street, Clarksburg, W.V. 26301 filed in Docket No. CP78-503 an application pursuant to section 7(c) of the Natural Gas Act for a cetificate of public convenience and necessity for the transportation and sale of natural gas which Applicant proposes to import from Iran to its affiliate, Consolidated Gas Supply Corp. (Supply Corporation), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Applicant has entered into an agreement with National Iranian Gas Co. (NIGC) under which NIGC would sell and Applicant would purchase an annual contract quantity (ACQ) of 50,000 million Btu's of LNG F.O.B. ship's rail at Kangan, Iran, for a term of twenty (20) years after an initial buildup period. Applicant, in this application, proposes to sell these volumes to Supply Corporation, under the form of cost-of-service tariff previously approved for its Algerian LNG importation at Docket Nos. CP71-68, et al., it is said.

Applicant states that it would arrange shipping to the existing LNG terminal facility at Cove Point, Md. It is indicated that the ACQ quantities to be purchased by Applicant would, after ocean transportation, average approximately 120,000 dekatherms per day delivered at Cove Point.

Applicant indicates that it has filed an application with the Economic Regulatory Administration of the Department of Energy, at Docket No. ERA78-004-LNG under section 3 of the Natural Gas Act and sections 301 and 402 of the Department of Energy Organization Act for authorization to import LNG from Iran. It is further indicated that under the contract with NIGC, the sales price in the first year of full deliveries would be an estimated $1.81 per million Btu's; the average transportation cost to Cove Point would be approximately $2 per million Btu's; initial deliveries would commence in 1983.

Applicant proposes to terminal, store and regasify the LNG at the existing terminal in Cove Point, Md., and transport the regasified LNG through it existing pipeline to Columbia Gas Transmission Corp. at Loudon County, Va. for transportation and delivery to Supply Corporation in Kanawha County, W.V., at a new connection to be made between the latter companies' facilities.

Applicant states that the estimated cost of this LNG to Supply Corporation in the first year of full deliveries, including transportation, would be approximately $4.42 per million Btu's and that the impact on the total gas purchase costs of Supply Corporation in that year would be 16.26¢ per million Btu's.

Applicant asserts that the volumes of LNG which it proposes to transport and sell are necessary to meet high priority requirements and to alleviate the gas supply deficiency projected by Supply Corporation.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commisson's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27706 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-31]

DAVID A SCHLACHTER, OIL & GAS

Amended Petition for Special Relief

SEPTEMBER 21, 1978.

Take notice that on July 21, 1978, David A. Schlachter, Oil & Gas (Petitioner) P.O. Box 8278, Dallas, Tex. 75205, filed an amended petition for special relief in Docket No. RI78-31. On February 9, 1978, petitioner filed its original petition for special relief, which was noticed on March 1, 1978, requesting authorization to charge $1.70 per Mcf for the sale of its gas to United Gas Pipe Line Co. from the B.

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C. Dorsey Well located in the Henderson Field, Rusk County, Tex. In its amended petition for special relief petitioner seeks approval to charge the reduced rate of $1.44 per Mcf for the sale of its gas to the above-named purchaser from the above-named well.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27707 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-289 [1]]

EL PASO NATURAL GAS CO.

Amendment to Application and Petition To Amend Order

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-289 an amendment to its application and a petition to amend the order of July 3, 1978 issued by the Commission in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the extension and amendment of the Clay Basin Interim Storage arrangements designed for the preservation of a portion of the payback gas to which certain of Applicant's east-of-California ("EOC") customers are entitled under the Commission's Opinion No. 800-B issued December 30, 1977, all as more fully set forth in the amendment and petition on file with the Commission and open to public inspection.

It is indicated that by order issued September 30, 1977, in Mountain Fuel Resources, Inc., et al., Docket No. CP76-285, et al., Applicant and other parties received temporary certificate authorization for the interim utilization of a portion of the Clay Basin Storage Field located in Daggett County, Utah, for the protection of service to Applicant's EOC customers' Priority 1 and 2 requirements through December 31, 1979. Thereafter, the parties to the Clay Basin Interim Storage Arrangements entered into various agreements and made appropriate filings necessary to extend the term of such arrangements whereby protection could be afforded to the Priority 1 and 2 requirements of Applicant's EOC customers for a further period extending through September 30, 1980, it is said. Applicant states that by order issued July 3, 1978 in Mountain Fuel Resources, Inc., et al., docket Nos. CP76-285, et al., it received temporary authorization for its part of the extended Clay Basin Interim Storage Arrangements.

Applicant indicates that in Opinion No. 800-B, the Commission Approved Applicant's proposal to restore to certain of its EOC customers certain volumes of natural gas. Applicant states that in order to facilitate prompt restoration to certain of its EOC customers of the remaining volumes of payback gas to which they are entitled, Applicant has filed concurrent with this amendment an application for authorization of transportation and delivery of payback quantities in which all payback quantities would be delivered by the end of February 1979.

It is indicated that Southwest Gas Corp. (Southwest) has advised Applicant that it desires to use a portion of the payback gas to which it is entitled after February 1979 and would like to store these volumes for its use. It is further indicated that in order to accommodate Southwest, Clay Basin Storage Co. (Storage Company) and Applicant have agreed to enter into a Letter Agreement amending the Clay Basin Interim Storage Arrangements (Applicant's FERC Gas Tariff Rate Schedule X-40) which would permit the preservation, on an interim basis, through September 30, 1980, of a portion of the payback gas to which Southwest is entitled. Additionally, Applicant, Storage Company, and Southwest have agreed to enter into a Letter Agreement whereby Applicant would sell to Storage Company and deliver to Northwest Pipeline Corp. (Northwest) for Storage Company's account, those quantities of payback gas to be stored for Southwest, it is stated. Applicant says that Northwest would then transport such quantities to the Clay Basin Storage Field, located in Daggett County, Utah, where such gas would be delivered to Mountain Fuel Resources, Inc. for injection into the field for Storage Company's account. The gas would be held in storage until Southwest calls for equivalent quantities, but not before September 30, 1980, it is indicated. Applicant states that the return of such stored payback gas to Southwest would be accomplished by essentially reversing the above described delivery procedures.

Applicant indicates that its deliveries of payback gas to Southwest for Storage Company's account would be made at Southwest's request and without regard to the priority classification of the end-use requirements which such gas may be used to serve, but that such deliveries to Southwest on any day would be subject to the prior use of the Clay Basin arrangements to make gas available on that day for protection of service to the priority 1 and 2 requirements of Applicant's EOC customers.

Applicant states that it would sell the payback gas for storage to Storage Company at Applicant's then-current Rate Schedule G rate and that Storage Company would sell such returned payback gas to Southwest at a rate equivalent to the rate in effect for Applicant's sales of gas to Southwest, at the time and place of delivery, with any difference between the cost of such gas to Storage Company and the proceeds of its sale to Southwest to be reflected as a credit or debit, as the case may be, in the calculation of the surcharge.

Any person desiring to be heard or to make any protest with reference to said amendment and petition to amend should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27708 Filed 9-29-78; 8:45 am]

[1] The lead docket in this proceeding is CP76-285. The Commission orders in this proceeding which are referred to in this notice were issued under the lead docket.

[6740-02]

[Docket No. RP72-140

GREAT LAKES GAS TRANSMISSION

Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

SEPTEMBER 20, 1978.

Take notice that Great Lakes Gas Transmission Co. (Great Lakes), on September 15, 1978, tendered for filing Twenty-Eighth Revised Sheet No. 57, to its FPC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1978.

Great Lakes states that the revised purchased gas cost adjustment reflects a reduction in the cost of gas purchased from TransCanada PipeLines Limited, its sole supplier of natural gas, as a result of a decrease in the Btu content of gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1978, and ending August 31, 1978.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin, and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27709 Filed 9-29-78; 8:45 am]

[6740-02]

[Project No. 2848]

IDAHO POWER CO.

Application for Preliminary Permit

SEPTEMBER 21, 1978.

Public notice is hereby given that an application for a preliminary permit was filed on April 13, 1978, under the Federal Power Act (16 U.S.C. 791a-825r), by Idaho Power Co. (Applicant) (Correspondence to: Lee S. Sherline, Leighton & Sherline, Suite 406, 1701 K Street NW., Washington, D.C. 20006; and Idaho Power Co., P.O. Box 70, Boise, Idaho 83721) for the proposed Cascade Project, FERC Project No. 2848. The proposed project would be located on the North Fork Payette River in the County of Valley, Idaho, approximately 1 mile north of the town of Cascade.

The proposed project would have a total installed capacity of 12,800 kW. The project would be located 200 feet downstream of the existing U.S. Bureau of Reclamation (USBR). Cascade Dam and Reservoir and would utilize waters released from the reservoir at elevations between 4,828.0 feet msl and 4,800.0 feet msl

The proposed project would consist of: (a) a 12-foot diameter steel penstock, approximately 100 feet long, connecting the USBR's existing outlet tunnel to the powerhouse; (b) a concrete powerhouse, located on the north bank of the river, containing two semi-outdoor-type generating units; and (c) stepup transformer and switching structures adjacent to the powerhouse.

According to the application, energy generated by the proposed project would be integrated into Idaho Power Co.'s interconnected transmission system for sale to its customers in the States of Idaho, Oregon, Nevada, and Wyoming.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee, during the period of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before November 27, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27710 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-86]

KASKASKIA GAS CO., ET AL. COMPLAINANT PETITIONERS v. TRUNKLINE GAS CO., RESPONDENT

Complaint and Petition for Relief

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, Kaskaskia Gas Co. (Kaskaskia), the villages of Cisne, Louisville, and Wayne City, Ill., and the cities of Fairfield, McLeansboro, and Vienna, Ill., complainant petitioners (petitioners), filed a petition, pursuant to the provisions of the Natural Gas Act, for relief from certain restrictions imposed under the FERC gas tariff of Trunkline Gas Co, (Trunkline).

Petitioners state that Kaskaskia purchases its total natural gas supply for the community of Xenia and all other petitioners their entire requirements from Trunkline, and allege that they are precluded from attaching new loads because of the provisions of § 17.5(b)(2)(i)(a) of the general terms and conditions of Trunkline's FERC gas tariff while other classes of Trunkline's customers are not subject to such restrictions, resulting in discrimination and financial hardship. Petitioners further allege that because of heavy temperature sensitive loads with little or no system flexibility they cannot add new customers and thus risk not meeting the conditions of § 17.5(b)(2)(i)(a) for exemption from the $10 per Mcf overrun penalty for volumes taken in excess of Trunkline's curtailment orders. They claim to have not been attaching any new Priority 1 loads even though they have sufficient peak day gas volume capabilities to serve new residential and small commercial cutomers. According to petitioners, many of the larger customers of Trunkline have been connecting new customers with little or no restriction as to the type of load attached.

Petitioners etimate that during the first year they would add 174 new customers with annual requirements of 27,575 Mcf, representing about 0.0124 percent of Trunkline's annual deliveries.

It is requested that Trunkline be directed to amend § 17.5(b)(2)(i)(a) of its tariff to read "(i) In the case of a Small General Service Buyer which did not exceed its Contract Demand if such Buyer certifies that (a) it did not subsequent to September 1, 1978

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attach or supply any new gas usage within opinion No. 467-B for priorities 2 through 9 and (b) it did not subsequent to November 1, 1976, supply during the billing month any gas for boiler fuel to a customer using 50 Mcf or more per day or for electric power generation." Petitioners also request permission to connect new priority 1 customers within their applicable daily contract demands.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27711 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-11; ICC Docket No. 36553]

KERR-MCGEE REFINING CORP. v. TEXOMA PIPE LINE CO., ET AL.

Order Setting Complaint for Investigation

SEPTEMBER 25, 1978.

Kerr-McGee Refining Corp. (Kerr-McGee) filed a complaint on March 14, 1977 with the Interstate Commerce Commission alleging that Texoma Pipe Line Co. (Texoma) and Vickers Pipeline Co., Inc. (VPL) had violated sections 1 (6), 2, 3(1) and 6(7) of the Interstate Commerce Act (act) (49 U.S.C. 1, et seq.)[1]

Kerr-McGee alleges that Texoma violates sections 2 and 3(1) of the act by charging it a transportation rate 4 cents per barrel higher than the rate charged VPL for the same movement.

Kerr-McGee also argues that because VPL receives a division of the joint rate collected by defendants, Vickers actually pays less than the published rate and that this is a violation of section 6(7) and section 1(8) of the act. On April 26, 1977 Texoma and VPL filed an answer and a motion to dismiss the complaint. On April 29, 1977, Kerr-McGee filed a request for admissions.

Defendants' motion and Kerr-McGee's request were denied by ICC order issued July 1, 1977. On July 11, 1977, the ICC ordered that the proceeding be handled under the modified procedure (49 CFR 1100.43-52), and directed complainant to file its opening statement of facts and argument by August 1, 1977. On July 29, 1977, counsel for complainant informally requested a 30-day extension for filing its opening statement for the purpose of further discovery. On August 1, 1977, complainant filed a petition for reconsideration of the ICC's July 1, 1977 order.

In an order issued August 4, 1977, the ICC vacated its July 11, 1977, order and found that the July 1, 1977 order may need further clarification. No further action was taken by the ICC. This proceeding was transferred to FERC in a procedurally dormant state.

Section 13(1) of the Act (49 U.S.C. 13(1)) gives FERC the authority to institute investigations on its own initiative. Based on these authorities we herein act to revitalize this proceeding.

The ICC's modified procedure is used as an alternative to a hearing before an Administrative Law Judge. It is appropriate in instances in which issues of material fact may be resolved by means of written materials and in which efficient disposition of the proceeding can be made without oral hearing.

Considering the complexity of the factual issues presented here, we believe an oral hearing is the best vehicle for a fair and full adjudication of these issues. Further, under this procedure, the parties have the right to petition the full Commission for review of the Administrative Law Judge's initial decision.

The Commission orders:

(A) Pursuant to the authority of section 13(1) of the Interstate Commerce Act (49 U.S.C. 13(1)), an investigation by this Commission shall be instituted and a public hearing shall be held concerning the allegations contained in the complaint filed with the ICC on March 14, 1977.

(B) Kerr-McGee shall file its case-in-chief within 45 days of the issuance of this order. Texoma and VPL shall file their evidence within 45 days of Kerr-McGee's filing. Finally, staff shall file its case within 30 days of the Texoma and VPL filing.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference within 30 days of the filing of testimony as provided in paragraph (B) in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to consolidate, sever or dismiss) as provided for in the Interstate Commerce Commission's rules of practice and procedure (49 CFR part 1100).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27712 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-514]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 11, 1978, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-514, an application pursuant to section 7 of the Natural Gas Act and § 157.7(c) of the regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity, authorizing the construction during the calendar year 1979 and operation of facilities to make miscellaneous rearrangements on its system and also for authorization pursuant to § 157.7(e) of the regulations (18 CFR 157.7(e)), permitting and approving the abandoment of service and removal of direct sales measuring, regulating, and related minor facilities during calendar year 1979, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of the § 157.7(c) application is to augment applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000 for the calendar year.

The stated purpose of the § 157.7(e) application is to augment applicant's ability to act with reasonable dispatch in abandoning service and remaining direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed, it is said.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27713 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-91 (PGA78-4)]

McCULLOCH INTERSTATE GAS CORP.

Notice of PGA Rate Increase

SEPTEMBER 20, 1978.

Take notice that on August 15, 1978, McCulloch Interstate Gas Corp. ("McCulloch Interstate") tendered for filing copies of Fifteenth Revised Sheets No. 32 to its FPC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

McCulloch Interstate's two Fifteenth Revised Sheets No. 32 provide in the alternative for Purchase Gas Adjustment rate increases of:

(1) 357.12¢ per MMBtu effective October 1, 1978, and

(2) 54.51¢ per MMBtu effective October 1, 1978.

McCulloch Interstate's filings are made in order to: (1) provide for a current gas cost adjustment to permit McCulloch to reflect the higher cost of gas purchases which it is currently incurring (Table II); and (2) in the first alternative to recover the balance in McCulloch Interstate's Unrecovered Purchased Gas Cost Account as of March 31, 1977, and March 31, 1978, or in the second alternative to recover the net balance in McCulloch Interstate's Unrecovered Purchased Gas Cost Account as of March 31, 1977, and March 31, 1978, and as of September 30, 1976, and September 30, 1977 (Table III first and second alternatives).

Any person desiring to be heard or to protest said filing should file a petition to or intervene protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petititons or protests should be filed on or before September 29, 1978. Protests will be considered to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27714 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-46]

McKelvy Oil Co.

Amended Petition for Special Relief

SEPTEMBER 20, 1978.

Take notice that on August 18, 1978, McKelvy Oil Co. (Petitioner), 48 Lloyden Drive, Atherton, Calif. 94025, filed an amended petition for special relief in Docket No. RI78-46. On June 9, 1978, petitioner filed its original petition for special relief, which was noticed on May 31, 1978, requesting authorization to charge $1.50 per Mcf for sale of gas to Cities Sevice Gas Co. from the Harms No. 6 unit, the Biernacki No. 16 unit, and Spikes No. 29 unit, all located in the Hugoton Field, Finney County, Kans. In its amended petition for special relief, petitioner seeks authorization to charge the reduced rates of 65.71 cents per Mcf for gas produced from the Harms No. 6 unit, 86.34 cents per Mcf for gas from the Biernacki No. 16 unit, and 35.73 cents per Mcf for gas produced from the Spikes No. 29 unit.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervewne or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27715 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin) on September 11, 1978, tendered for filing 44th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 and that the rate change is being filed to reflect an increase in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corp. (Texas Eastern), scheduled to be effective October 1, 1978, as a result of a general rate increase filed by Texas Eastern on August 31, 1978, in Docket No. RP78-87.

The proposed effective date of the revised tariff sheet is October 1, 1978,

[1] This proceeding was commenced before the ICC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to Oct. 1, 1977, refers to the ICC; when used otherwise, the reference is to the FERC.

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the scheduled effective date of Texas Eastern's rate increase.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intevene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27739 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas) on September 15, 1978, tendered for filing Second Revised 42nd Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The rate change proposed to be effective August 9, 1978, is being filed to reflect a change in purchased gas costs filed by its pipeline supplier, Texas Eastern Transmission Corp., under its Second Revised Forty-second Revised Sheet No. 14D.

The proposed effective date of the revised tariff sheet is August 9, 1978.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27740 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-74]

ALGONQUIN GAS TRANSMISSION CO.

Letter Proposing Interpretation of Cost of Service Filing Requirement to Support PGAC

SEPTEMBER 25, 1978.

Take notice that by letter of June 26, 1978, Algonquin Gas Transmission Co. (Algonquin) disclosed its intention to file its cost of service study required by section 154.38(d)(4)(vi)(a) on August 1, 1980. This date is stated to be consistent with all Purchase Gas Adjustment Clause (PGAC) regulations, unless Algonquin should file a section 4(e) proceeding in the intervening period. In support of its statement, Algonquin further recites that:

1. The Commission's regulations governing pipelines whose tariffs contain a PGAC require the filing of a cost of service study after the expiration of 36 months from the establishment of a new base tariff rate.

2. Algonquin has recently settled its "section 4(e)" rate proceedings in Docket Nos. RP73-112, RP74-92, and RP75-88, which settlement was approved by Commission order issued March 31, 1978.

3. The settlement established separately rates for the future with an effectiveness of August 1, 1977, and new Base Rates were established as of that date.

4. The settlement constituted a full rate review for the period extending through October 31, 1977.

5. Accordingly, under the circumstances peculiar to Algonquin, the 36-month requirement interval commenced to run on August 1, 1977 and will terminate on July 31, 1980, unless Algonquin should file another Section 4(e) proceeding in the intervening period.

Any person desiring to be heard concerning the content of Algonquin's letter should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 3, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of Algonquin's letter are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27741 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-222]

ARKANSAS LOUISIANA GAS CO.

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on September 11, 1978, Arkansas Louisiana Gas Co. (Petitioner), P.O. Box 21734, Shreveport, La. 71151, filed in docket No. CP77-222 a petition, pursuant to section 7(c) of the Natural Gas Act, to amend the order issued April 26, 1977 in the instant docket, and to waive § 157.7(d)(4)(i) of the Commission's Regulations (18 CFR 157.7(d)(4)(i)) so as to authorize Petitioner to expend an increased amount for the testing and development of certain storage facilities, during the 12-month period commencing April 26, 1978, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized to construct and operate pipeline and compression facilities for the testing and development of underground reservoirs for the possible storage of gas, with such construction and operation authorized to take place during a 3-year period beginning April 26, 1977, at a total cost not to exceed $3,000,000 or $1,000,000 for any 1 year period. Petitioner states that it plans to develop the Chiles Dome Field in East Central Oklahoma as a storage facility and estimates that the Chiles Dome reservoir will have a rated deliverability of 133,000 Mcf of gas per day with a working capacity of 12,000,000 Mcf of gas. More testing and developmental work is needed for the Chiles Dome reservoir, Petitioner states, requiring an expenditure in excess of the $1 million authorized for the 1-year period beginning April 26, 1978. Consequently, Petitioner requests that the Commission waive § 157.7(d)(4)(i) of the Commission's Regulations, and amend the order issued in April 26, 1977 in the instant docket to authorize Petitioner to expend up to $3,500,000 for testing and development during the 1-year period beginning April 26, 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27724 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-513]

CITIES SERVICE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 8, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125 filed in Docket No. CP78-513 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain pipeline tap, measuring, regulating and appurtenant facilities to enable Applicant to provide gas service to eighteen (18) rural domestic customers pursuant to right-of-way easements and agreements and gas storage leases heretofore entered into between Applicant and these customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that 18 customers have requested gas service pursuant to the terms of certain right-of-way easements and agreements and gas storage leases between them and Applicant. It is further indicated that in response to such requests, Applicant proposes to tap certain of its pipelines and construct the necessary facilities to provide service to these customers. Service would be provided by sale to gas distribution companies for resale to the domestic customers or if no gas distribution company is willing or able to provide such service, Applicant would serve these customers directly, it is said.

Applicant states that all of the proposed customers have relied upon provisions contained in their respective right-of-way easements and agreements and gas storage leases; these provisions constituted a major portion of the consideration given to these individuals by Applicant in exchange for easements, it is said.

It is indicated that the facilities would be constructed and operated and the gas service provided in the following locations: Jefferson County, Kans., Leavenworth County, Kans., Cass County, Mo., Bourbon County, Kans., Cherokee County, Kans., Montgomery County, Kans., Franklin County, Kans., McDonald County, Mo., Anderson County, Kans., Johnson County, Kans., Kingfisher County, Okla., Miami County, Kans., Buchanan County, Mo., Jackson County, Mo., and Butler County, Kans.

Applicant states that it anticipates that two of the 18 sales would be made on a direct-sale basis, one would be made to Union Gas System, Inc. for resale, and sale to the other 15 customers would be made to The Gas Service Co. for resale to those customers.

Applicant estimates that annual sales would average 250 Mcf for each customer and would total 4,500 Mcf for the 18 service proposed.

The application indicates that the total estimated cost of the proposed facilities would be $11,643 and that said cost would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27725 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-517]

COLORADO INTERSTATE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 13, 1978, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-517 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(c) of the Commission's Regulations under the Act (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction during a 12-month period beginning January 1, 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commis-

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sion by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27726 Filed 7-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-122 and RP78-51 (PGA78-3)]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Accepting Revised Suspended Rates, Initiating Hearing and Establishing Procedures

SEPTEMBER 25, 1978.

On August 31, 1978, Colorado Interstate Gas Co. (CIG) filed revised tariff sheets[1] proposed to be effective October 1, 1978, containing its suspended rates at Docket No. RP78-51[2] as adjusted for (1) the elimination of all costs associated with facilities not certificated and placed in service by October 1, 1978 ($2 million reduction) and (2) a proposed PGA adjustment consisting of a 29.97 cents per Mcf commodity increase of ($96.7 million) and a 13 cents per Mcf demand decrease ($1.9 million) to be effective October 1, 1978. In addition, CIG filed revised tariff sheets [3] to be effective October 1, 1978, which reflect CIG's RP78-51 rates as adjusted only to eliminate the costs of uncertificated facilities. Such sheets exclude the proposed PGA rate adjustment. Certain of these revised tariff sheets (Sheet Nos. 198, 262 and 341) relate to Volume No. 2 transportation rate schedules and are not subject to the proposed PGA adjustment. The August 31st filing revised its earlier filing of August 15, 1978,[4] which, among other things, contained the proposed PGA adjustment but failed to eliminate the cost of uncertificated facilities from the RP78-51 base rates. The August 15th filing also included a Gas Research Institute (GRI) charge of .12 cents per Mcf and a related (GRI) clause proposed to be effective October 1, 1978. CIG's August 31st filing reflects the elimination of the proposed .12 cents per Mcf GRI charge and requests withdrawal of the sheets reflecting the proposed GRI Clause.

Public notice of CIG's August 31, 1978 filing was issued on September 6, 1978 with protests and petitions to intervene due on or before September 15, 1978. On September 8, 1978, the Public Service Co. of Colo. filed comments requesting that the Commission take action on CIG's filing prior to September 26, 1978 in order that certain of CIG's customers have sufficient time to seek approval from the Colorado State Commission to flow-through the increase contained in the subject filing.

PGA CLAUSE

The $96.7 million increase (29.97 cents per Mcf) in the commodity component of the subject PGA adjustment consists of $34.8 million in deferred purchased gas costs and $61.9 million in current gas costs. The increase in current gas costs of $61.9 million[5] relates to changes in purchase patterns, producer increases and pipeline supplier increases. The $1.9 million decrease (13 cents per Mcf) in the demand component of the PGA adjustment results from a decrease in pipeline suppliers' demand costs.

Opinion No. 777 issued September 30, 1976, permits CIG to include costs related to purchases from Colorado intrastate producers in its rates. Until the present filing the rates CIG included in its filings for these Colorado intrastate purchases did not exceed the Opinion No. 770-A rate levels. However, the present filing contains intrastate producer prices as high as $2.0544 per Mcf for purchases from Samson Oil Co.[6] CIG has not presented sufficient evidence for the Commission to find that the prices paid for the nonjurisdictional purchases were prudent. Accordingly, we will suspend the effectiveness of the PGA adjustment for one day until October 2, 1978, and set for hearing the question of the prudency of CIG's non-jurisdictional producer purchases.

GRI CHARGE

CIG's August 15th filing included a proposed .12 cent per Mcf GRI charge and proposed GRI clause. CIG's August 31st filing removes the .12 cent per Mcf GRI charge and requests withdrawal of the tariff sheets related to the proposed GRI clause. CIG in its August 31st filing indicates that the Colorado Public Utilities Commission will probably not authorize the pass-through of GRI charges by its Colorado distributor customers on October 1, 1978, as previously anticipated. Accordingly, they request the removal of the proposed GRI charge and withdrawal of the GRI clause.[7]

We shall treat CIG's proposed tariff sheets incorporating the .12 cent per Mcf GRI charge and the proposed GRI clause as withdrawn.

The Commission orders: (A) CIG's Replacement Substitute Twenty-first Revised Sheet Nos. 5 and 6 containing the PGA adjustment are hereby accepted for filing and suspended for one day, until October 2, 1978, when they shall become effective subject to refund.

(B) CIG's Replacement Twenty-first Revised Sheet Nos. 5 and 6, Second Revised Sheet Nos. 198 and 262, and First Revised Sheet No. 341, containing the rates in Docket No. RP78-51 as adjusted to exclude uncertificated facilities' costs, are hereby accepted for filing and made effective October 1, 1978; such acceptance made subject to refund and also subject to all orders in Docket No. RP78-51.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15 and 16, and the Commission's rules and regulations, a public hearing shall be held in this proceeding to determine the prudence of CIG's nonjurisdictional Colorado produce purchases reflected in this filing.

(D) CIG's tariff sheets incorporating the GRI charge of .12 cents per Mcf and the GRI clause (First Revised Sheet No. 67B, Original Sheet No. 67C and Substitute Twenty-first Revised Sheet Nos. 5 and 6) are deemed withdrawn and are of no force and effect.

(E) CIG's case-in-chief in support of the above referenced purchases shall be filed with the Commission no later than October 18, 1978.

(F) Staff's statement of position shall be filed on or before November 17, 1978.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding to be held within 10 days after the service of Staff's statement of position in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions and petitions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27742 Filed 9-29-78; 8:45]

[1] Replacement Substitute Twenty-first Revised Sheet Nos. 5 and 6 to FPC Gas Tariff, Second Revised Volume No. 1.

[2] On March 31, 1978, CIG filed a $12.1 million general rate increase at Docket No. RP78-51. By Commission Order issued May 1, 1978, CIG's increase was suspended until October 1, 1978, subject to CIG filing revised rates which eliminate all costs associated with facilities not certificated and placed in service by October 1, 1978.

[3] Replacement Twenty-first Revised Sheet Nos. 5 and 6 to FPC Gas Tariff, Second Revised Volume No. 1; Replacement Second Revised Sheet Nos. 198 and 262 and First Revised Sheet No. 341 to FPC Gas Tariff, Third Revised Volume No. 2.

[4] Substitute Twenty-first Revised Sheet Nos. 5 and 6, First Revised Sheet No. 67B, and Original Sheet No. 67C to FPC Gas Tariff, Second Revised Volume No. 1.

[5] This represents a 35 percent increase in the average cost of purchased gas from that reflected in the original RP78-51 rates.

[6] The filing indicates the previous rate paid for this purchase was $.3655 per Mcf.

[7] Docket No. RM77-14, issued March 22, 1978.

[6740-02]

[Docket No. CI78-1179]

DORCHESTER GAS PRODUCING CO.

Petition for Declaratory Order or, Alternatively, Rate Increase, and for Other Relief

SEPTEMBER 26, 1978.

Take notice that on September 6, 1978, Dorchester Gas Producing Co. (Dorchester) requested, pursuant to § 1.7 of the Commission's Rules of Practice and Procedure, that the Commission issue an order declaring that Dorchester's behind-the-plant facilities and operations used to gather gas for Natural Gas Pipeline Co. of America (Natural) to Dorchester's Hooker Plant in Texas County, Okla., are exempt from regulation under section 1(b) of the Natural Gas Act. Dorchester also requests that its existing certificate issued in docket No. CI70-36 be terminated and that its related Rate Schedule No. 9 be cancelled.

In the alternative, Dorchester requests an increase in rates under its Rate Schedule No. 9 proposing a rate of 2.0 cents per Mcf for services performed for Natural in Dorchester's "high pressure system" and 5.0 cents per Mcf for services performed in Dorchester's "low pressure system," effective January 1, 1977, and March, 1973, respectively.

Dorchester further requests that the Commission accept its rate increase effective immediately and, in connection with such request, therefore seeks a waiver of the 30-day notice period.

Communication to Dorchester with respect to this filing should be addressed to James A. Ford, President, Dorchester Gas Producing Co., 901 United National Bank Building, 1509 Main Street, Dallas, Tex. 75201.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure applicable in this proceeding (49 CFR Part 1000). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27727 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-532]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

SEPTEMBER 26, 1978.

Take notice that on September 15, 1978, Columbia Gas Transmission Corp. (Petitioner), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-532, a petition, pursuant to section 7(c) of the Natural Gas Act, to amend the order issued December 16, 1977, in the instant docket so as to increase the amount of gas Petitioner is authorized to transport for Libbey-Owens-Ford Co. (LOF), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Specifically, Petitioner states that it was authorized to transport up to 550 Mcf of gas per day for LOF on a best efforts basis by the order of December 16, 1977, in the instant docket. Petitioner further states that LOF has requested it to increase the maximum volume of gas transported from 550 Mcf per day to 2,250 Mcf per day. Consequently, Petitioner requests that the order of December 16, 1977, in the instant docket be amended to increase the amount Petitioner is authorized to transport for LOF.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27728 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-520]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-520 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof. Applicant also requests authorization to construct, for the same time period, and operate facilities necessary for the attachment of its leasehold wells in connection with the operation of its interstate transmission system. The proposals are more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant seeks clarification of the definition of gas-purchase facilities under section 157.7(b)(4) as to its applicability to facilities necessary to connect leasehold supplies. Applicant states that if such provision is not intended to apply to leasehold attachment, then Applicant requests that it be granted waiver of such restriction and be permitted to use the proposed budget-type authorization to connect leasehold production to its system or the system of another pipeline authorized to transport or exchange gas with Applicant, both onshore and/or offshore.

Applicant states that the total cost of the proposed gas-purchase facilities,

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including the facilities for the attachment of leaseholdings, would not exceed $12,000,000 with the cost of no single onshore project not to exceed $2,000,000 and the cost of no single offshore project not to exceed $3,000,000.

Applicant recognized that the proposed budget-type authorization for the construction of gas-purchase facilities has an estimated total cost for a single project in excess of the amounts specified in subparagraph (1)(ii) of section 157.7 (b) of the Commission's Regulations. Consequently, pursuant to subpargarph (2) of section 157.7(b) of the Commission's Regulations Applicant requests waiver of the provisions of subparagraph (1)(ii) so as to allow for a total single-project cost in excess of the amounts specified in subparagraph (1) (ii). Applicant states that it, as well as the gas industry as a whole, has continued to experience significant increases in the cost of materials, labor and other aspects of the construction and operation of natural gas handling facilities utilized in operations, including facilities for the attachment of new or expanded supplies of natural gas. Applicant asserts that inasmuch as the industry indicators reflect a continual increase in the cost of all aspects of Applicant's business activities, Applicant now finds itself in a position wherein the budget-type construction during the calendar year 1979 can be expected to exceed the single project limitations prescribed by section 157.7(b)(1)(ii) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All filings will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27729 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-521]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-521 an application pursuant to section 7 of the Natural Gas Act and section 157.7(g) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1979, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment of facilities would not exceed $3,000,000, and that the cost of any single project would not exceed $500,000. Applicant indicates that it would finance such cost from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27730 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-522]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-522 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Appliant states that the total cost of the proposed facilities would not exceed $300,000, which cost Applicant would finance through use of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules and Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice by the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27731 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2A and Third Revised Volume No. 2, in accordance with Articles IV, X, and XIV of El Paso's Stipulation and Agreement dated June 23, 1978, and pursuant to the Commission's letter order dated September 5, 1978, approving such settlement of the issues involved in the general rate increase proceeding before the Commission at Docket No. RP78-18. Such tariff sheets and the proposed effective dates thereof, are identified in the attached appendix.

El Paso states that such order of September 5, 1978, directs El Paso to file within ten (10) days of the date thereof revised tariff sheets reflecting the rates and surcharges contained in El Paso's Stipulation and Agreement. Article IV of the subject Stipulation and Agreement provides that such settlement rates shall be effective as of June 1, 1978, and shall be adjusted, commencing June 1, 1978, for changes in rate permitted by the Commission to be placed into effect from time to time pursuant to the provisions of El Paso's FERC Gas Tariff.

El Paso further states that the Stipulation and Agreement also provides, inter alia, for certain modifications to El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in its FERC Gas Tariff, Original Volume No. 1 and for the the institution of uniformity for billing determinants with respect to storage surcharges paid to El Paso by its east-of-California ("EOC") customers. El Paso states that the PGAC has been modified, in accordance with Article X, by refining the methodology for determining the annualized change in purchased gas cost and providing that all refunds received during the period June 1, 1978, through May 31, 1981, will be refunded in accordance with the provisions of Article XVI of said Stipulation and Agreement.[1] Uniform billing determinants, consisting of Priorities 1 and 2 nominations for each month, and unit surcharge calculation methodology related to El Paso's EOC storage surcharges so that billing for all such surcharges shall be in effect during the 12 months of the year are provided at Article XIV of said Stipulation and Agreement.[2]

[1] In this connection, El Paso on August 30, 1978, filed with the Commission its PGAC adjustment to become effective on October 1, 1978. Such filing included the PGAC adjustment calculated on the basis of the modified provisions contained in the Stipulation and Agreement, approved by the Commission's order dated September 5, 1978, at Docket No. RP78-18, and being filed herewith.

[2] Concurrent with the instant tender, El Paso filed in the proceeding at Docket No. CP77-289, revised tariff provisions and the proposed October 1, 1978, surcharge applicable to its Clay Basin Storage Arrangements based upon the uniform billing determinants provisions approved and accepted by the Commission in accordance with Article XIV of the Stipulation and Agreement.[3]

The proposed effective date, as provided by the accepted and approved Stipulation and Agreement in this proceeding, for each of the tendered tariff sheets is set forth on the attached Appendix. El Paso respectfully requested that the Commission grant waiver of its Rules and Regulations, as may be deemed necessary, in order that the tariff sheets tendered be permitted to become effective as proposed herein.

El Paso states that copies of the filing were served upon all parties to the proceedings at Docket No. RP78-18 and, otherwise, upon all interstate transmission system customers of El Paso and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before October 4, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1,10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

EL PASO NATURAL GAS COMPANY

(i) Tariff sheets applicable to the settlement rates charged by El Paso as provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective as of June 1, 1978:

Original Volume No. 1

First substitute 22d revised sheet No. 3-B.

Third Revised Volume No. 2

First substitute 12th revised sheet No. 1-D.
Sixth revised sheet No. 1-D.2.

Original Volume No. 2A

First substitute 14th revised sheet No. 1-C.

(ii) Tariff sheets applicable to Purchased Gas Cost Adjustment Provision reflecting the modifications provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective September 5, 1978:

Original Volume No. 1

Sixth revised sheet No. 67.
Third revised sheet No. 67-A.
Second revised sheet No. 67-B.
Second revised sheet No. 67-C.
Substitute third revised sheet No. 67-D.

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(iii) Tariff sheets applicable to unit surcharge calculation methodology related to Rhodes Reservoir operations as provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective October 1, 1978:

Original Volume No. 1

Substitute sixth revised sheet No. 63-C.6.

Third Revised Volume No. 2

Substitute sixth revised sheet No. 1-M.6.

Original Volume No. 2A

Substitute sixth revised sheet No. 7-MM.6.

[FR Doc. 78-27743 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-566, ER78-567, and ER78-19, et al.]

FLORIDA POWER & LIGHT CO.

Order Accepting Rate Schedules for Filing, Providing for Suspension and Hearing, Waiving Regulations, and Consolidating Proceedings

SEPTEMBER 21, 1978.

On August 21, 1978, in Docket No. ER78-566, Florida Power & Light Co. (FP&L) submitted for filing as an initial rate an executed agreement to provide transmission service to the city of Vero Beach, Fla. (Vero Beach).[1] FP&L states that under the agreement, it will transmit power and energy for Vero Beach in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co. (Tampa), and Florida Power Corp.

On that date, FP&L submitted for filing in Docket No. ER78-567, an amendment to an agreement to provide transmission service for Tampa.[1] FP&L states that pursuant to the amendment, it will transmit power and energy as is required by Tampa in the implementation of its interchange agreement with Vero Beach.

FP&L requests an effective date of no late than 30 days after the date of its submittals in the two above-referenced dockets.

FP&L's submittal in Docket No. ER78-566 (Vero Beach) provides for a rate of $1.65 per MWh for transmission service. FP&L stated that it did not submit any estimate of revenues because service is dependent on the amount of power and associated energy purchased by Vero Beach from other parties.

FP&L states that the proposed amendment submitted in Docket No. ER78-567 (Tampa) was necessary because Tampa and Vero Beach entered into an interchange agreement subsequent to the date that FP&L filed a transmission agreement (Docket No. ER78-508) that implemented Tampa's interchange agreements with three other utilities.[2] The rates and terms of service remain unchanged from the original agreement.

FP&L has made previous filings for specified transmission service in Docket Nos. ER78-325, ER78-376, ER78-478, and ER78-508, providing service to Homestead, Fort Pierce, Lake Worth, and Tampa, respectively. In the above-listed dockets, FP&L proposed the same rate supported by the same cost data as that submitted in Docket No. ER78-566. The previously filed rates were suspended for 1 day, consolidated with the ongoing rate proceeding in Docket No. ER78-19, et al.

Notice of FP&L's filings was issued on August 28, 1978, with protests or petitions to intervene due by September 8, 1978. No such responses have been received.

FP&L's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission, therefore, shall suspend the proposed rates for 1 day, to become effective September 21, 1978, subject to refund, pending the outcome of a hearing and decision thereon.

The Commission finds that due to common issues of law and fact, it is appropriate to consolidate Docket Nos. ER78-566 and ER78-567 with the ongoing proceedings in Docket Nos. ER78-19, et al.

It was previously noted that FP&L filed its transmission service agreement with Vero Beach as an initial rate schedule pursuant to § 35.12 of the Commission's regulations. However, FP&L is presently interconnnected with Vero Beach pursuant to an interchange agreement dated November 1, 1971 (Rate Schedule FPC No. 6). FP&L should have tendered its submittal for filing under § 35.13 of the Commission's Regulations and section 205 of the Federal Power Act as a change in rate schedule.[3] Sales of power by FP&L to Vero Beach under the interchange agreement are transported to Vero Beach through FP&L's transmission lines. Thus, FP&L already has an effective rate recovering, inter alia, costs of transmission service to Vero Beach, and, therefore, the submittal in this docket is not that of an initial rate. The instant transmission rate submittal is supplemental to the current interchange rate, which inherently includes transmission charges.

FP&L failed to file complete cost support data as required by § 35.13 of the Commission's regulations for the two instant dockets. It has chosen to ignore our consistent admonition that its abbreviated cost support is insufficient for the purpose of ascertaining whether its proposed transmission rates are cost-justified. At least three orders issued prior to FP&L's August 21, 1978, submittals have directed the Company to comply with out filing requirements.[4]

FP&L's transmission rate filings in Docket Nos. ER78-325, ER78-376, ER78-478, ER78-508, ER78-527, ER78-566, and ER78-567 contain postage stamp rates. The rates for comparable services in all of the above-listed dockets are identical. FP&L has subsequently supplied the required data pursuant to Commission order for all but the instant dockets. As a practical matter, then, the Commission already has in hand the cost support we are empowered to order FP&L to submit in these dockets, and the Commission will not allow FP&L's persistent refusal to comply with its cost support requirements to further delay the proceeding in Docket No. ER78-19, et al.

The Commission finds: (1) Good cause exists to accept FP&L's proposed rate schedules in Docket Nos. ER78-566 and ER78-567 for filing and to suspend the use thereof for 1 day, until September 21, 1978, when they will become effective subject to refund, pending the outcome of a hearing and decision thereon.

(2) Good cause exists to waive the cost support requirements of § 35.13 of the Commission's regulations for FP&L's submittals in the instant dockets.

(3) Good cause exists to consolidate the instant dockets with the ongoing proceeding in Docket Nos. ER78-19, et al.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FP&L in the instant dockets.

(B) Pending a hearing and decision thereon, FP&L's proposed rate schedules in the instant dockets are hereby accepted for filing and suspended for 1 day, to become effective September 21, 1978, the rates thereunder to be subject to refund.

(C) The Commission hereby waives the cost support requirements of § 35.13 of its regulations.

(D) Docket Nos. ER78-566 and ER78-567 are hereby consolidated with Docket Nos. ER78-19, et al. for the purpose of a hearing and decision thereon.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27744 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program

SEPTEMBER 21, 1978.

INTRODUCTION

On June 30, 1978, the Gas Research Institute (GRI) filed its second annual application. GRI set forth its 1979 research and development program and a related 5-year plan for 1979-83. The 1979 program will cost nearly $40 million.[1] GRI asks the Commission to approve the proposed program and to permit jurisdictional members of GRI to collect a "funding unit" of 3.6 mills per Mcf during 1979 in order to finance it.

Under the regulations promulgated in Order No. 566,[2] each year GRI is to submit an application containing its R. & D. program for the coming year and an updated 5-year plan. Approval of the plan constitutes approval of the projects to be undertaken during the coming year, and jurisdictional companies are permitted to collect from their customers amounts to be contributed to GRI during that year.

GRI filed its first annual application on March 22, 1977, and it was approved in Opinion No. 11[3] on March 22, 1978. GRI's first year R. & D. program called for expenditures of just under $28 million. Of that amount, only the $9.5 million to be spent on planning, administration, and new projects was to be raised through contributions by jurisdictional pipelines. A 1.2 mill per Mcf "funding unit" was approved to be collected by jurisdictional GRI members in order to finance this $9.5 million. The remaining $18.4 million was to be spent for ongoing programs which had previously been administered by the American Gas Association (AGA), and AGA had agreed to fund those programs during GRI's first year. GRI contemplated that the members of GRI would take over responsibility for funding the projects during the second and subsequent years.

GRI's second year program and plan are in many regards similar to that for the first year. GRI will continue the projects approved for initial funding in Opinion No. 11, though at second year funding levels. The new projects which will be initiated are the ones which were, with minor exceptions, described in GRI's first 5-year plan as projects which would commence in GRI's second year.

A major difference between the first and second years, however, is that GRI will assume responsibility for funding the ongoing projects which had been started by AGA. AGA funding for those projects ends on December 31, 1978. Thus, beginning January 1, 1979, GRI's program will for the first time be financed entirely through contributions made by its members. This is the major reason for the requested increase in the funding unit from 1.2 mills per Mcf to.3.6 mills.[4]

Another feature of GRI's filing is that it will put GRI's programs on a calendar year basis. Since Opinion No. 11 was issued on March 22, 1978, the beginning of GRI's fiscal year would always fall on an inconvenient date, as would the effective date of future revisions of the GRI funding unit. This filing rectifies that problem.

Public notice of GRI's filing was issued on July 3, 1978, establishing July 28, 1978, as the date for submission of comments, protests, and petitions to intervene. Initial comments were submitted by the People of the State of California and the Public Utilities Commission of the State of California (California), the State of Michigan and the Michigan Public Service Commission (Michigan) and AGA.

Opinion No. 11 established that, in its second annual application, GRI would file a service list including all GRI members and all State regulatory commissions. Any party listed was to be granted intervention without filing a petition to intervene. GRI included the required service list in its application as Exhibit 12 and, as a result, only the Interstate Natural Gas Association of America (INGAA), the Associated Gas Distributors (AGD), and the Public Service Electric & Gas Co. (PSE&G) filed petitions to intevene. Those parties shall be permitted to intervene as well as the parties inlcuded in GRI's service list.

The July 3, 1978 notice required that the Commission's staff file a report on GRI's application by August 11, 1978, with comments on the report and any further comments on GRI's application due on September 1, 1978. The staff report was filed on August 11, 1978. Comments were filed by GRI, Michigan, the Public Service Co. of the State of New York (New York), and Southern Natural Gas Co. (Southern) by September 1, 1978. California filed a comment on September 8, 1978.[5] A GRI comment in response to New York was filed on September 18, 1978.

The Commission has reviewed GRI's application, the staff's report, and the various comments which have been filed. The Commission approves GRI's 1979 program and approves the collection of a funding unit of 3.5 mills per Mcf during 1979.

ANALYSIS OF THE SUFFICIENCY OF GRI'S APPLICATION

I. THE GUIDELINES OF ORDER NO. 566

The principal tests for the adequacy of GRI's proposed R&D program and plan are the five guidelines promulgated in Order No. 566 and set forth in § 154.38(d)(5)(iii) of the Commission's Regulations.[6] In its Report, Staff con-

[1] See Attachment A for designations and descriptions.

[2] Orlando Utilities Commission, Lake Worth Utilities Authority (Lake Worth), and Homestead.

[3] See *Florida Power & Light Co.*, ER77-175, order issued April 12, 1977 and *Florida Power & Light Co.*, ER78-325 order issued May 19, 1978.

[4] *Florida Power & Light Co.*, Docket No. ER78-325, order issued May 19, 1978, *Florida Power & Light Co.*, ER78-376, order issued June 15, 1977, and *Florida Power & Light Co.*, Docket No. ER78-478, order issued August 9, 1978.

[1] The exact amount the 1979 program is projected to cost GRI is $39,958,000. GRI projects $65,009,000 in co-funding from the Federal Government and $4,990,000 from "industry" (see section II A herein). Thus, expenditures for the 1979 projects by GRI, Government, and industry combined are projected to be $109,957,000.

GRI expects it will have collected but not expended $300,000 as of January 1, 1979. The $300,000 will be credited to the cost of the 1979 program, thereby reducing GRI's funding requirement for 1979 to approximately $39.7 million. This, then, is the amount which will have to be collected by GRI's members through natural gas rates charged during 1979.

[2] Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment, Docket No. RM76-17, "Order Prescribing Changes in Accounting and Rate Treatment for Research, Development and Demonstration Expenditures", issued June 3, 1978.

[3] Gas Research Institute, Docket No. RM77-14, "Opinion and Order Approving the Initial Research, Development, and Demonstration Program of Gas Research Institute", issued March 22, 1978.

[4] Jurisdictional AGA members include their contributions in their costs of service and thereby recover contributions from their ratepayers. Thus, the shift of the projects from AGA to GRI will not mean that the gas consuming public will be paying for R. & D. for which it would not otherwise pay. The shift, from a rate standpoint, only results in collection of funds for research through the Order 566 procedure rather than through inclusion in pipelines' costs of service.

[5] California was granted an extension of time by notice issued September 7, 1978.

[6] The five guidelines in § 154.38(d)(5)(iii) are:

1. Evidence that the R.D. & D. objectives of the company or research organization have been clearly established.

2. Evidence that the plan evolves from these R.D. & D. objectives and adequately

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cluded that GRI's program and plan satisfied Guidelines 1, 2, 4, and 5, and no party filing comments disagreed. The Commission concurs and holds that GRI has substantially complied with those guidelines.

The extent of GRI's compliance with Guideline 3 is, however, the subject of some debate. Guideline 3 requires that GRI submit "evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope." Some commentators question whether GRI's submission shows that it has effective procedures to coordinate its program with the programs of other R. & D. organizations.

In its application, GRI described its intensive efforts to develop a systematic approach to coordinating its program with those of other organizations. GRI has an Industry Technical Advisory Committee as well as a Research Coordination Panel to provide pertinent information on other R. & D. programs. Staff reported that its investigation shows that these panels are now actively functioning. Further, GRI has contracted with Booz-Allen & Hamilton, Inc., to assist in developing a plan for coordination and in preparing an R. & D. data system. GRI's coordination plan calls for identifying the specific groups involved in gas research, establishing lines of communication and collecting information to develop a gas research data base.

At present, however, there is a question as to whether GRI's coordination efforts are completely effective. Several of GRI's projects seem to duplicate projects or activities of other organizations. Staff cited three examples. First, GRI's project on gas recovery from coal deposits apparently duplicates a project at the Department of Energy's (DOE) Morgantown Research Center. Second, GRI's project on geological assessment of geopressurized zones is the same as the project cited in the "Region II Program" of DOE's Division of Geothermal Energy. Third, the project entitled "SNG from Oil Shale" appears to be quite similar to DOE's program on oil shale.[7]

New York seems to urge that these projects be elimintated from GRI's 1979 program, saying, "[GRI's] limited resources can be better used in non-duplicative projects." Staff, however, believes GRI should be given time to demonstrate that it is moving to correct the problem of duplication. Thus, staff would not require removal of any of the apparently duplicative projects from GRI's 1979 program.

This last year has been an organizational year for GRI as well as for the Department of Energy, the principal organization with which GRI's program must be harmonized. It would be unreasonable for the Commission to demand that GRI display at the outset the smooth coordination that is the ultimate objective of the efforts described in GRI's application. Therefore, we find that, for purposes of this second year's application, GRI is in reasonable compliance with Guideline 3, but we put GRI on notice that as its program matures we shall insist on clear evidence that its efforts are complimentary to and not competitive with those of other R.D. & D. organizations.

Staff recommends that the Commission require GRI to submit details on the coordination achieved on each contract proposal. GRI responds that staff's recommendation is unworkable if it means GRI must supply information on coordination with each of DOE's new contracts. Information is not a problem for old contracts. DOE obviously does have information on the contracts for work already undertaken, and GRI says it already provides its Research Coordination Panel with all the available information on current DOE projects. A problem arises with new contracts, however, since at the time GRI is planning its future program, DOE has not yet decided which new contracts it will enter. Thus, while GRI can specify the new contracts it proposes to fund, DOE cannot specify its new contracts.

The Commission shall require that in future applications GRI shall submit information on what coordination has been achieved with DOE or other R. & D. organizations on each GRI contract or "work element". If DOE plans are not contract specific, or if there has been no coordination, GRI should so state. The Commission does not wish to impose an onerous reporting requirement, but it does seek information which will permit it to determine the extent to which GRI's R. & D. activities have been coordinated with other R. & D. activities so that unproductively duplicative research will not be funded.

II. THE STIPULATION AND AGREEMENT

The parties to the proceeding on GRI's first annual application entered into an eighteen point Stipulation and Agreement on September 30, 1977. The Agreement was approved by the Commission in Opinion No. 11. A number of the provisions are pertinent to GRI's second application and received attention in the various comments.

A. Stipulation 1—manufacturer co-funding

Stipulation 1 of the Stipulation and Agreement provides that GRI shall use its best efforts to attract co-funding of its projects by the potential manufacturers who will make the hardware developed by the projects.[8] California is especially concerned that GRI achieve substantial levels of co-funding by equipment manufacturers. As California puts it: "[M]anufacturer co-funding is essential both as a test of the practical potential of specific projects and as a protection against rewarding manufacturers with the fruits of research to which they did not contribute."

GRI projects nearly $5 million in "industry co-funding." At least $1 million of this would come from gas utilities for field testing of fuel cells, however, and, in California's view, "Such utility co-funding should not be considered in assessing compliance with Stipulations 1 and 2, which concerned co-funding by manufacturers." Nevertheless, California concludes that "a serious and substantial effort is underway toward achieving satisfactory levels of co-funding." Staff reached a similar conclusion. The Commission finds that GRI has adequately shown that it intends to comply with Stipulation 1.

B. Stipulation 5—conflicts of interest

Stipulation 5 states that "GRI is, and will remain, committed to avoiding possible conflicts of interest between GRI Board members and co-funding manufacturers." No party suggested that GRI is not fully complying with the stipulation. In connection with its review, however, staff inquired broadly into GRI's actions to prevent all types of possible conflict of interest problems.

GRI has issued a policy statement which staff believes adequately deals with the problem of possible conflicts of interest between Board members and Advisory Committee members. The staff, however, sees an area of concern which has not been addressed. This involves relationships between GRI, the AGA and the Institute of Gas Technology (IGT).

The AGA and IGT were largely responsible for the creation and early development of GRI. Understandably, GRI has drawn many of its key administrative personnel from these two organizations. GRI now, however, is a separate and unique entity in the natural gas industry, and it currently has research contracts with both the AGA and IGT. Furthermore, both the AGA and IGT are expected to be important future GRI contractors. It is desirable that the AGA and IGT, with their considerable experience, be free to submit contract proposals to GRI, but it is equally important that neither of these organizations receive unduly favorable treatment. The staff, therefore, recommends that the Commission require GRI to submit to the Commission for is consideration procedures instituted by GRI's Board of Directors to avoid the preferential award of contracts to any particular party. California supports the staff's recommendation.

GRI states that it is well aware of the potential conflict about which the staff is concerned and says it has made good progress in dealing with it. GRI says it has no objection to providing the Commission with copies of policy statements and written procedures designed to preclude such conflicts. GRI's efforts in this area are, however, not complete, and thus GRI believes it would be more appropriate for the Commission to review this matter in conjunction with GRI's 1980 filing. GRI anticipates that, by then, a "full complement of pertinent policies and procedures" will have been adopted and will be functioning. In view of the comments of the staff, California, Michigan and GRI, the Commission shall require that GRI submit its procedures when it submits its 1980 application.

C. Stipulation 6—budget limitations.

Stipulation 6 provided that, for its first year, GRI would keep expenditures within ten percent (10 percent) of its budgeted limit or $25,000, whichever is greater, at the contract or "work element" level, and that GRI would keep expenditures within the budgeted limit at the "project" level. With the support of California and Michigan, staff proposes that this condition be extended to apply to GRI's 1979 program.

Staff says, however, that the following work elements in the "Gasification Processes" area should be excepted from the condition:

	1979 GRI funding level[9]
HYGAS	$2,250,000
PEATGAS	1,300,000
Catalytic Gasification	2,420,000
Hydrogasification	2,220,000
Steam-Iron/BI-GAS/Advanced Gasification Processes	2,670,000
Total	10,860,000

These five work elements with the indicated funding level constitute GRI's "preferred" coal gasification project for 1979. Each of the five is so expensive, however, that GRI can proceed with it only if DOE offers co-funding. It is still not clear whether co-funding will be forthcoming.

GRI proposes a contingency plan. If DOE decides not to fund any or all of the first four work elements, i.e., HYGAS, PEATGAS, Catalytic Gasification or Hydrogasification, then GRI funds freed as a result will be used for the Steam-Iron/BI-GAS/Advanced Gasification Processes work element. Thus, if all of the first four work elements are denied co-funding by DOE, $10,860,000 will be spent on the last.[9] If no co-funding is forthcoming for any of the five "gasification processes" work elements, GRI proposes to shift the entire $10,860,000 to processes which have been designated for future funding by GRI's staff and the coal gasification project advisors.[10]

Staff proposes that Stipulation 6 be amended to provide GRI with the flexibility it wants in the Gasification Processes area. As amended to extend the "10 percent or $25,000" condition to the 1979 program and to permit flexibility in the Gasification Processes area, Stipulation 6 would read as follows:

> For its 1979 program, GRI shall keep expenditures within ten percent (10%) of its budgeted limits or $25,000, whichever is greater, at the contract or work element level as set forth in Volume II of Exhibit 1 to its 1979 application, provided, however, that GRI shall keep expenditures within the budgeted limits for the five major program areas. This provision shall not apply, however to project sub-area 1.2.1, "Gasification Processes". Expenditures in this sub-area shall be limited to a total amount of $10,860,000 and shall conform with the preferred gasification program or the alternative program as set forth in Volume II of Exhibit 1 at pages A-49 to A-65.

A third change from the original Stipulation 6 approved in Opinion No. 11 is that the original stipulation specified that expenditures be kept within the budgeted limits for the "project" level,[11] but the amended Stipulation 6 provides only that expenditures must be kept within the "five major program areas."[12]

GRI states that it does not object to the 10 percent or $25,000 restriction being imposesd upon its 1979 program, though it does not believe the restriction will be appropriate in future years. The Commission finds that the September 30, 1977, Stipulation and Agreement approved in Opinion No. 11 should be modified as proposed by Staff.

D.

Stipulation 8 provided that GRI shall assign priorities

Stipulation 8 provides that GRI shall assign priorities to its projects and use the assignment as a guide to allocating funds.[13]

The thrust of this stipulation was endorsed and emphasized in Opinion No. 11. The Commission stated (at 36): "We are particularly concerned that

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utilizes the viewpoints of scientific, engineering, industry, economic, consumers and environmental interests.

3. Evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope.

4. Evidence that the project or program is well conceived and has a reasonable chance of benefitting the ratepayer in a reasonable period of time, having due regard to the basic, exploratory or applied nature of each submitted R.D. & D. project.

5. Evidence that whatever achievements may result, including the knowledge gained or technology developed from the R.D. & D. effort, if any, will accrue to the benefit of the sponsoring jurisdictional company(s) and its/their customers.

[7] These three projects account for $750,000 or less than 2 percent of GRI's 1979 program.

[8] Stipulations 2, 3 and 5 of the September 30, 1977 Stipulation and Agreement also relate to manufacturer co-funding of GRI projects;

Paragraph 2 states that achievement of co-funding is an appropriate factor to be considered by the Commission in adjudging future applications;

Paragraph 3 requires GRI to use its best efforts to negotiate co-funding arrangements which preserve to GRI a share of patent or other rights in discoveries proportionate to the GRI share of the total funding; and

Paragraph 5 commits GRI to avoiding possible conflicts of interest between GRI board members and co-funding manufacturers.

[9] The Commission notes, however, that at the present time Congress is considering funding of these four projects at levels even higher than those included in GRI's program.

[10] Processes that are being considered by GRI for future funding include the following: the Synthane Process, AVCO High Throughput Gasification, Atomics International Molten Salt Gasification, Westinghouse Two-Stage Fluid Bed Gasification, Hydrocarbon Research Fast Fluid Bed Gasification, Combustion Engineering Entrained Bed Gasification, Bell Aerospace High Flux Gasification, BI-GAS, and Steam-Iron. In addition, GRI says that several proposals on the gasification schemes are under evaluation and may be considered by funding in the 1979 program. *See* Exhibit 1, Vol. II, pp. A-49—a-65.

If any of the $10,860,000 is not spent in 1979, by terms of Section 6.1.3 of GRI's Funding Formula, the outstanding year-end balance will be credited to GRI's 1980 program. This is similar to how $300,000 from GRI's first year is to be credited to GRI's 1979 program. *See* footnote 1, *supra.*

[11] "Project" is defined in Stipulation 1 of the September 30, 1977, Stipulation and Agreement as being "a collection of work elements or contracts aimed at achieving a single, stated R & D goal."

[12] The five major program areas are: Supply, Economics and Systems Analysis, Operations-Distribution, Conservation, and Basic Research.

[13] The text of Stipulation 8 is as follows:

8. GRI shall assign priorities to its projects in future applications to the extent possible. Priorities shall be reviewed, annually, by GRI and shall be reported to the Commission in GRI's annual filings of updated 5-year plans and R&D programs. GRI shall use its assignment of priorities as a guide in allocating funds to projects. An objective of future programing and funding shall be to move high priority new technology into use for the benefit of pipeline gas rate-payers in the shortest practical time.

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GRI assign priorities to its planned projects and that decisions as to which projects to pursue shall be based upon analysis, recognizing immediate gas shortage situations and the need to alleviate the effects thereof."

Considering that only 4 months elapsed between the issuance of Opinion No. 11 and GRI's second application, it is not surprising that the 1979 program is as broad in scope and as diverse as the program approved in Opinion No. 11. GRI has undertaken an expensive effort of program analysis and evaluation, but the results are not yet embodied in GRI's plan and program.

California suggests that the Commission "now let it be known" that it will assign and enforce priorities if GRI fails to do so. Staff requests that GRI be directed to comply with Stipulation 8.[14] Michigan supports Staff's request.

We will not take on the task of assigning priorities ourselves, as was suggested by California. That is a task which belongs to GRI. If GRI proves to be unable to perform it, we may be put in the position of having to disapprove a GRI program, but we shall not take over GRI's functions.

It is premature to face the problem at this time. As we have discussed previously, GRI's initial program was approved only last March. The requirement for setting priorities, though it is a sine qua non of an R. & D. organization, must be applied with reason during this formative period. It would be premature for us to demand perfect, full-blown compliance with Stipulation 8 now. We will adopt the recommendation of the staff and Michigan, however, and call GRI's attention to our admonishment that priorities be assigned. We direct GRI to assign priorities in its 1980 program in accordance with the provisions of the stipulation and agreement approved in opinion No. 11.

E. Stipulation 14—nonjurisdictional sales

Stipulation 14 commits GRI to using its best efforts to spread the cost of funding over the largest possible base of jurisdictional and nonjurisdictional services.[15] Additionally, the stipulation contains specific provisions detailing GRI's obligations regarding two principal categories of nonjurisdictional services: intrastate sales by pipelines and distributors and direct sales to large industrial users by interstate pipelines.

GRI is committed to use its "best efforts" to add intrastate distributors and intrastate pipelines as funding members of GRI. As for direct sales, GRI is obligated to include in its "funding services" a minimum percentage of the volumes of gas sold by GRI's interstate pipeline members to their direct sale customers, exclusive of sales for electric generation. The minimum percentage of direct sale volumes which must be included in GRI's funding services started at zero for GRI's first year and goes up each year until it reaches 90 percent. For 1979, the minimum is 20 percent.

As evidence of its satisfaction of Stipulation 14, GRI points out that it included in its calculation of funding services 50 percent of the intrastate gas of GRI members, and it included 20 percent of its members' direct industrial sales volumes.

GRI derives its funding unit in a straightforward manner. First, it determines the amount of money it will need to have contributed by its members. GRI calls this its "funding requirement". Then, GRI determines the volume of gas sold by its members which will be available for the collection of the funding requirement. These volumes are called "funding services". The "funding unit" is then derived by dividing the funding requirement by the funding services.

In its application, GRI divided its 1979 funding requirement of $39.7 million by 11,183 Bcf of funding services to derive its requested 3.6 mills per Mcf funding unit. The 11,183 Bcf included 815 Bcf representing 50 percent of members' intrastate sales, and it included 88 Bcf representing members' direct industrial sales. If these direct sales and intrastate volumes had not been included in the funding services figures, there would have been less gas over which to spread the $39.7 million funding requirement, and GRI's proposed 1979 funding unit would have been 3.9 mills per Mcf rather than 3.6 mills. Thus, inclusion of the nonjurisdictional volumes in funding services resulted in a savings to jurisdictional gas customers of approximately $3 million.

GRI concluded in its application that this showed it was satisfying Stipulation 14: "GRI submits that these factors demonstrate full satisfaction of the obligations GRI previously undertook in Paragraph 14 . . . ."

At the time it filed its application, GRI realized that assuming 50 percent of members' intrastate sales would be available to collect the funding unit in 1979 was a guess. GRI's bylaws provide that a member has no obligations to make contributions to GRI until the regulatory body having jurisdiction over the member has authorized it to collect from ratepayers the amounts to be contributed to GRI.[16] In many cases, the requisite State and municipal regulatory approvals had not been obtained by GRI's intrastate members.

Since it filed its application, GRI has obtained additional information on how much nonjurisdictional gas will be available to carry its funding unit. California and Michigan point out that the more recent data shows that approximately 40 percent of direct industrial sales will be available in 1979 to bear the GRI funding unit, but significantly less than 50 percent of intrastate sales will be availble.

None of GRI's members that have significant intrastate volumes have yet fully arranged with their state commissions for their intrastate sales to carry a GRI funding unit in 1979. As of September 1, 1978, however, five of the 28 GRI members with intrastate sales have agreed to make contributions in 1979 of specific dollar amounts totalling $1,119,000 in lieu of contributins based on a funding unit. GRI now estimates it will receive $1.5 million to $2.0 million from intrastate gas sales in 1979, rather than the approximately $2.9 million it originally expected.

California urges the Commission to adjust the quantity of direct industrial sales included in 1979 funding services from 20 to 40 percent. California believes it would not be appropriate to reduce the proportion of intrastate sales below 50 percent, however, and asks the Commission to place GRI on notice that even higher percentages will be included in funding services in future years. California believes this will give GRI a "practical incentive" to fulfill its best efforts commitment.

Michigan also believes that 40 percent of the direct sale volumes should be included in GRI's funding services. Michigan notes that 20 percent is the *minimum* percentage of direct sale gas which is to be included in funding services for GRI's second year. If actual nominations reach a higher percentage, it is that higher percentage which is to be used.

Turning to intrastate sales, Michigan questions how aggressive GRI has been in encouraging the participation of intrastate utilities and pipelines. Michigan, further, questions the support GRI has obtained thus far from its intrastate members. Although five have agreed to contribute to GRI, they have only agreed to contribute flat dollar amounts. They have not agreed to contribute an amount calculated by multiplying their funding services volumes by GRI's funding unit.[17] Thus, Michigan observes, we do not know what the five companies would have contributed if they were contributing on a funding unit basis, nor do we know the amount of intrastate volumes the five companies represent. Michigan notes that it will be difficult to monitor GRI's progress in complying with Stipulation 14 without calculating the percentage increase in volumes from one year to the next.

Finally, we do not know how the five intrastate companies will allocate the amounts they will contribute among their customers. This is important, Michigan cautions, since reliance on a funding unit applied to funding service volumes assumes that the burden of funding GRI is shared fairly by natural gas consumers.

Michigan suggests that if GRI's performance does not improve, it may be necessary to impose a minimum percentage requirement for including intrastate volumes in GRI's funding services. Michigan does not suggest that be done now. Rather, it proposes that GRI's progress should be monitored carefully when GRI files its next application.

In sum, California and Michigan are concerned about GRI's compliance with Stipulation 14 and want its progress to be watched closely. Additionally, they want the percentage of direct sales volumes increased from 20 to 40 percent, thereby increasing the total amount of nonjurisdictional volumes included in GRI's funding services.

GRI not only asks that the nonjurisdictional volumes not be increased, but it asks, in effect, that they be reduced. Staff reviewed GRI's calculation of funding services and found that some adjustments were necessary. As a result, GRI's total funding services figure was increased by 180 Bcf.[18] Since this increased the volumes over which GRI's $39.7 million funding requirement could be spread, the consequence was to decrease the 1979 funding unit from the requested level of 3.6 mills per Mcf to 3.5 mills.

GRI does not contest any of staff's adjustments. Instead, it points out that it now estimates it will only receive $1.5 to $2 million from intrastate sales rather than the nearly $3 million it anticipated when it filed its application. Thus, it faces on the order of a $1 million shortfall in revenue. To make this up, GRI asks that the Commission approve the originally requested 3.6 mills per Mcf funding unit rather than staff's 3.5 mills.

A tenth of a mill increase on the funding unit would result in nearly a million dollars more being collected from contributing GRI members. GRI's request for a 3.6 mill per Mcf funding unit is, therefore, tantamount to lowering the percentage of intrastate sales included in funding services from 50 percent to approximately 30 percent. If the volume of intrastate sales included in funding services were so reduced, the total amount of funding services would be reduced, and the funding unit per Mcf of funding services would be increased by .1 mill per Mcf.

Thus, there are two questions before the Commission: (1) Should the minimum percentage of direct sale volumes, exclusive of sales for electric generation, be increased from 20 percent to 40 percent as urged by California and Michigan? (2) Should the percentage of intrastate sales volumes be effectively decreased to something like 30 percent by approving a 3.6 mill per Mcf funding unit, as requested by GRI?

Regarding the direct sale issue, insofar as GRI is effectively asking for a net reduction in non-jurisdictional volumes included in funding services, it opposes the increase in such volumes which would result from including 40 percent rather than 20 percent of direct sales volumes. GRI pleads that it not be subjected to the possibility of a shortfall in revenues.

GRI also points out that while it is true that 40 percent of 1979 direct sales volumes, exclusive of sales for electric generation, will, "in all likelihood", be available to carry the GRI funding unit, "the total volume of such sales is expected to be somewhat less than 1976 volumes" used in GRI's original application. GRI provides neither the projected 1979 volumes nor the basis for the projection. We note, however, that it does not allege that by 1979 direct sale volumes will have dropped so much that 40 percent of 1979 volumes will be close to 20 percent of 1976 volumes. We are only told that 1979 volumes are expected to be "somewhat less" than 1976 volumes. The drop from 1976 to 1979 may be inconsequential.

In any event, this issue is inconsequential. Our calculations show that, using staff's corrected figures, if 40 percent of 1976 direct sale volumes, exclusive of sales for electric generation, were included in funding services

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[14] GRI's response to staff's criticism that it has made little progress in assigning priorties is that staff uses the word "project" in a way different from how it is defined in the Stipulation Agreement. In the Agreement "project" is defined as a "collection of work elements or contracts aimed at achieving a single, stated R. & D. goal." GRI says that staff's criticism amounts to nothing more than a recommendation that GRI assign priorities to sub-projects or contracts (work elements). Review of staff's report and of GRI's 1979 program indicates not only that staff was correctly using "project" but that staff's comments regarding the assignment of priorities are correct.

[15] Stipulation 14 is as follows:

14. In each of its annual applications for continued funding of ongoing projects, and for initial funding of new projects, GRI is and will continue to be committed to use its best efforts to spread the cost of its funding over the broadest possible base of jurisdictional and nonjurisdictional services as contemplated by its by-laws and funding formula. To this end, GRI will use its best efforts to gain further intrastate utilities, including intrastate pipeline companies as funding members of GRI. Furthermore, GRI is willing to undertake, as a condition to any such further approvals, to include within its funding services for use in computing the funding units (per Mcf charges), at a minimum (in the event that the actual nominations for such year do not reach such volume on an industrywide basis) the following percentages of natural gas volumes sold, in interstate commerce, directly for ultimate consumption by GRI's interstate pipeline company members but excluding interstate direct sales for electric generation:

	Percent
1st year	0
2d year	20
3d year	40
4th year	60
5th year	70
6th year	90

GRI is also willing to undertake as a condition to any further approval that the funding required by such minimum industrywide percentages shall in fact be forthcoming from and provided by its members.

[16] Subsection 3.3.2 of GRI's bylaws, Exhibit 7 to GRI's application.

[17] These are the rules of § 4.1.2.2. of GRI's funding formula establishing the amounts intrastate pipelines or distribution companies are to contribute to GRI:

If all of the supplies on an intrastate pipeline or utility come from nonmembers of GRI or from its own production facilities, then all of its sales of every kind shall be "funding services", and the amount to be contributed to GRI is to be determined by multiplying the funding services by the GRI funding unit, e.g., 3.6 mills per Mcf for the year. Of course, nothing has to be contributed if the appropriate State regulatory commission has not authorized the intrastate company to collect the funding unit from its customers.

If more than 10 percent but not all of an intrastate company's supplies come from nonmembers or its own wells, only the volumes coming from the nonmembers or the company's own wells will be "funding services".

If an intrastate company receives 10 percent or less of its gas supply from nonmembers or its own wells, then none of its volumes are classified as "funding services", and it may remain a member of GRI even if it does not contribute. The reason for this is that the overwhelming preponderance of its supplies will then be coming from GRI members such as interstate pipelines which have already contributed to GRI on the basis of the volumes sold to the intrastate company, and a basic principle underlying GRI's funding formula is, according to section 2 of the formula, that "only one increment of cost will be borne by each element of the gas stream on its way from well to burner tip."

[18] GRI's total funding services volume was increased by staff from 11,183 Bcf to 11,363 Bcf. This 180 Bcf increase reflected a 75 Bcf increase in amount of interstate pipeline volumes available to GRI and a 105 Bcf increase in the amount of intrastate sales which would be available.

Staff's adjustments to the funding services of the interstate pipelines were based on 1976 Form 2's. 1976 was used since that was the year used by GRI. Staff's adjustments were made to reflect the addition of new members, to include the sales of some nonmembers, and to avoid duplication of sales as funding services.

Staff adjusted GRI's intrastate sales figures to include estimates for three companies, which had been left out by GRI. The other adjustments were based on refined data which GRI supplied to the staff in a July 19, 1978 letter.

Staff assumed, as had GRI in its application, that 20 percent of direct industrial sales should be included in funding services and 50 percent of intrastate sales should be included.

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rather than 20 percent, the total funding services would be increased by only 95 Bcf to 11,458 Bcf. This increase is so slight that GRI's 1979 funding unit would still compute to be 3.5 mills per Mcf.[19] Nevertheless we advise GRI that in filing future annual applications, if actual nominations of direct sales volumes, exclusive of sales for electric generation, are projected to be higher than the minimum percentage for the year for which GRI is filing, then GRI shall use the higher projected figure rather than the minimum percentage set forth in Stipulation 14.

As for GRI's plea that we approve a 3.6 mill per Mcf funding unit for 1979, we, again, observe that the effect of this is to reduce to roughly 30 percent the amount of intrastate sales included in funding services. GRI proposed including 50 percent in its original application. The initial comments filed on July 28, 1978, were filed in the belief that GRI was proposing 50 percent. Staff's report presumed 50 percent as did the state commissions' comments filed on September 1, 1978. Only California, filing on September 8, 1978, could have know of GRI's September 1, 1978, plea for 3.6 mills rather than staff's 3.5 mills, and California specifically states that it opposes any reduction in the percentage of intrastate sales included in GRI's funding services.

We are not able to approve a 3.6 mill funding unit on the basis of the record now before us. Neither the State commissions nor staff, however, objects to a finding that if GRI includes 50 percent of intrastate sales in funding services, GRI has satisfied Stipulation 14 for at least this year. Staff's 3.5 mill per Mcf funding unit presumes inclusion of 50 percent of intrastate sales in funding services. Accordingly, we shall approve it.

We are sensitive to the problem of insufficient funding which GRI says it faces with a 3.5 mill funding unit. We note, however, that, under the terms of GRI's funding formula, any deficiency in contributions experienced in 1979 can be made up by increasing the 1980 funding unit by enough to recover the deficiency.[20]

F. Stipulation 16—30 day limitation

Stipulation 16 provides that amounts collected by interstate pipelines as a result of including the GRI funding unit in their rates must be conributed to GRI within 30 days after collection.[21] Staff noted that GRI's first surcharge, 1.2 mills per Mcf, became effective on most pipeline systems on June 1, 1978. While staff found no indication that Stipulation 16 is not being followed,[22] staff urged that GRI be directed to report to the Commission if it has reason to believe that collected funds are not forthcoming. No party opposed staff's recommendation. Accordingly, the Commission shall modify Stipulation 16 of the September 30, 1977, Stipulation and Agreement in the manner suggested by staff.

G. Summary

The Commission finds that GRI has substantially complied with the provisions of the Stipulation and Agreement other than Stipulation 8, pertaining to the establishment of priorities. For the reasons stated above, we will not require full compliance with that Stipulation now but will readdress the compliance issue in connection with GRI's 1980 application.

III. THE DEFINITION OF "RESEARCH, DEVELOPMENT AND DEMONSTRATION"

In its August 11, 1978 report, Staff analyzed whether all of the individual projects in GRI's program conformed to the definition of R.D. & D. in the Commission's Regulations.[23] Staff concluded that the projects in the Supply, Operations-Distribution, Conservation and Basic Research categories were consistent with the definition, but certain projects in the Economics and Systems Analysis area were difficult to classify as R.D. & D. activities.

The definition of "research, development and demonstration" provides that the term includes "preliminary investigations and detailed planning for specific projects". In Order No. 566 the Commission explained that the definition does not include investigations and planning activities "where they are of a general nature or where they are preliminary to the determination to proceed with a project."[24]

Staff cited two projects ("work elements" in GRI's terms) as examples of projects in the Economics and Systems Analysis area that in staff's view were so general in nature as to appear to be outside the definition of "R.D. & D.". The first was the "World-wide Natural Gas Assessment" project, the objective of which is to carry out a world-wide assessment of recoverable volumes of natural gas. The second project was "Gas Supply Modeling". Its objective is to develop a gas supply model to be used to determine the need for supplemental supplies and to determine the price of the supplies to various end users.

[19] The calculation of GRI's funding unit if 20 percent of 1976 direct sales volumes, exclusive of sales for electric generation, are included in funding services is as follows: Funding requirement ($39,700,000) divided by test year program funding services (11,363 Bcf) equals funding unit ($0.00349/Mcf; rounded to $0.0035/Mcf or 3.5 mills per Mcf).

Using 40 percent of 1976 direct sales volumes, exclusive of sales for electric generation, results in the following calculation: Funding requirement ($39,700,000) divided by test year program funding services (11,458 Bcf) equals funding unit ($0.00346/Mcf; rounded to $0.0035/Mcf or 3.5 mills/Mcf.

Section 3.7 of GRI's funding formula requires that each R. & D. funding unit will be rounded to one-tenth of one mill.

[20] Section 6.1.3 of GRI's Funding Formula provides that there shall be added to the amount GRI needs to have contributed during a coming year * * * that amount of money which the Board estimates will be required at the commencement of the funding period in order to offset operating deficiences in prior periods and restore liquid balances and reserves for contractual and other obligations to reasonable and necessary levels.

[21] The text of Stipulaton 16 is as follows: 16. It is understood and agreed that amounts collected by GRI's interstate pipeline members and attributable to the inclusion of an approved GRI Funding Unit in such member's rates shall be paid over to GRI within 30 days of collection.

[22] By terms of Ordering Paragraph (F) of Opinion No. 11, the R. & D. cost adjustment clauses applicable to payments to GRI are to provide that collections made under the clauses "shall be remitted to Gas Research Institute within 30 days."

[23] As revised in Order No. 566, definition 38B of Part 201, Title 18 of the Code of Federal Regulations, defines research, development, and demonstration as follows: Research, Development, and Demonstration (R.D. & D.) means expenditures incurred by natural gas companies either directly or through another person or organization (such as research institute, industry association, foundation, university, engineering company, or similar contractor) in pursuing research, development, and demonstration activities including experiment, design, installation, construction, or operation. This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and commercially feasible operations are verified. Such research, development, and demonstration costs should be reasonably related to the existing or future utility business, broadly defined, of the public utility or licensee or in the environment in which it operates or expects to operate. The term includes, but is not limited to: all such costs incidential to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar items, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternate fuel sources, for example, an experimental coal gasification plant or an experimental plant synthetically producing gas from liquid hydro-carbons); and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible. The term does not include expenditures for efficiency surveys; studies of management, management techniques and organization; consumer surveys, advertising promotions, or items of a like nature.

[24] Order No. 566, *supra*, mimeo ed., p. 4.

Staff recognizes that the GRI program is still in an early stage of development and, accordingly, does not recommend that any individual project be rejected for 1979. Staff does recommend, however, that GRI be directed to set forth clearly the specific R.D. & D. projects that are the objective of the investigations in the Economics and Systems Analysis area. New York, in contrast, urges that funding for the "World-wide" and "Gas Supply Modeling" projects be rejected unless GRI supplies additional information showing that the projects are not general in nature.[25]

The ultimate consideration that must be applied to each project or "work element" in GRI's program is not whether it meets some abstract concept of R.D. & D. but whether the individual project makes a contribution to the overall R.D. & D. program in a manner that reflects sound and comprehensive planning and a meaningful R.D. & D. program. As the Federal Power Commission observed in its Notice of Proposed Rulemaking which led to Order No. 566, there are two methods for testing the reasonableness of R. & D. projects: [26]

> The first method is to examine the technical structure of each project to determine whether it meets a definition of research and development and has a reasonable chance of benefitting ratepayers * * *.
>
> The second method is to establish a set of criteria based on the planning process itself. In this approach, an individual R. & D. expenditure would be reasonable if it supported a comprehensive and integrated energy R. & D. program meeting the needs of the company and/or the industry to serve ratepayers and the general public.

The FPC wisely adopted the second method. In Order No. 566 (at 1) it announced that its rulemaking would "establish sound and comprehensive planning of research *programs* as the preferred test for granting advance approval of R. & D. expenditures * * *."

The studies in the Economics and Systems Analysis area, then, should make a contribution to an R. & D. program and should not be ends in themselves. Studies that serve to develop information that will support and direct the technical program at GRI are, therefore, appropriate for inclusion in GRI's R. & D. program. Studies designed to provide data, analysis and methodology to the public, the research community and industry, apart from any needs of GRI's overall program, are inappropriate.

It is not clear from GRI's submission whether all the studies in the Economics and Systems Analysis area are ends in themselves or are foundations for making sound planning decisions. The "World-wide Gas Resource Assessment" study is one we question. On the other hand, the "Gas Supply Modeling" project, according to GRI, will provide information that it says will be "crucial to the proper planning of gas technology R. & D.". If so, it would seem to bear an appropriate relationship to GRI's planning process.

For this application, we will not pursue this issue further. Rather, we will give GRI the benefit of the doubt and approve funding for these projects. We put GRI on notice, however, that in future applications there should be a better articulation of the connection between such studies and the basic program objectives. Studies in the Economics and Systems Analysis area require a special amount of attention with respect to explaining their roles in GRI's overall program.

REMAINING ISSUES

1. SHAREHOLDER CONTRIBUTIONS.

Staff recommended that the Commission direct GRI to commit itself too getting contributions beyond those recovered from gas consumers. The primary source of these nonrecoverable contributions would be stockholders in the gas industry [27] though staff mentioned the coal industry, the uranium mining industry, the gas appliance industry and manufacturers of insulation materials as examples of other possible sources. Staff suggested, further, that GRI be instructed to develop a target level for such non-recoverable contributions beginning with the 1980 program. The target level, according to staff, could be expressed as a fixed percentage of the amount by which GRI's budget is increased each year above the 1979 budget.

Staff's argument for requiring that stockholders contribute to GRI begins with the premise that the R. & D. activities of GRI will benefit interstate pipelines and distribution company operations by, for example, increasing gas supplies, increasing safety in the transportation of LNG and improving conservation techniques. Staff then reasons that improved pipeline and distribution operations will directly benefit the stockholders of pipeline and distribution companies. Staff concludes that stockholders as well as the consumers of gas should contribute toward the R. & D. costs of GRI.

California and Michigan support Staff's proposal. GRI and Southern strenuously oppose it. GRI justifies passing the cost of the R. & D. on to the consumer by citing *Southwestern Bell Telephone* v. *Public Service Commission of Missouri*,[28] holding that the true test of whether an expenditure should be included in the cost of service of a regulated utility is whether the investment is "prudent". GRI notes that nowhere in the staff report does staff contend any of GRI's projects are imprudent, nor does the staff question that the benefits of the projects are intended for the ultimate customer.

GRI also points to Order No. 566 in which the Commission sanctioned the full flow-through of all prudent costs associated with R. & D. programs. Staff's proposal that the stockholders should contribute would, according to GRI, contravene the spirit of the Commission's advance approval regulation enunciated in Order No. 566. In a regulated business, GRI points out, the rate of return is controlled.

GRI argues that while stockholder contributions might be expected in the case of unregulated manufacturing or retail businesses, it is inappropriate to expect participation by a regulated company with a constrained return on investment. Thus, any benefit realized by the utility as a result of GRI's R. & D. will be flowed through to the consumer in the form of reduced rates. GRI argues that because a utility's rate of return is predicated on the cost of capital, to require the stockholder to pay part of GRI's cost would effectively lower the stockholder's return below the cost of capital. This would put management in the position of either accepting a return below the cost of capital or withdrawing his utility's support of GREI.

In sum, GRI contrasts the situation of regulated GRI contributors to that of an unregulated business. While the former have regulated margins of profit, the latter can hope to better themselves through R. & D. breakthroughs that will lead to larger profits.

Southern joins GRI in arguing that a regulated company is entitled to recover its total cost of service and all

[25] These two projects would account for $350,000 or less than 1 percent of GRI's 1979 program.

[26] *Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment*, docket No. RM76-17, Notice of Proposed Rulemaking issued June 17, 1976, 3-4 (mimeo ed.).

[27] Staff points to the following statement in Opinion No. 11 as support for its recommendation: We subscribe to GRI's policy of spreading the expenditures for its R.D. & D. program as evenly as possible and over the broadest possible base of jurisdictional and non-jurisdictional natural gas services in this country. Since consumers of natural gas in particular, and Federal taxpayers generally, are expected to benefit from the results of GRI's R.D. & D. proram, it is proper that they should pay for the program. But since producers, pipelines and distributors also have a stake in the results of the program, it is proper that they too should pay for it. Accordingly, we strongly encourage GRI to obtain the broadest possible financial support from all of the expected beneficiaries of its activities, and will follow its efforts and successes in this direction with close attention in future annual reviews. With this assurance, we will refrain from imposing a condition to this effect.

[28] 262 U.S. 276 (1923).

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reasonable and prudent expenses incurred in conducting its business. Southern says that staff rationalized its position on the grounds that the natural gas industry, as opposed to the consumer, will benefit from GRI's R. & D. programs. Southern counters with three arguments. First, any R. & D. effort which improves gas sevice directly benefits the gas consumer. Second, in paragraph number 4 of the Stipulation and Agreement in Docket No. RM77-14, GRI agreed to make publicly available the results of its research for the widest possible benefit to the consumer. Third, GRI agreed in the same paragraph to apply all revenues derived from such research as credits against future budgets, thereby directly and exclusively benefiting the gas consumer.

The Commission views this as a major issue. Staff's position may have vital implications for GRI's future. Further, because the arguments applied to GRI's activities would seem to be equally applicable to R.D. & D. expenses in general, our decision here may set a precedent for treatment of all other R.D. & D. projects brought before the Commission. The issue requires careful analysis and deliberation.

On the other hand, the determination of the issue will have no bearing on the 1979 GRI program. The 1980 program would be the first year affected by Staff's proposal. Thus, no delay will be occasioned by allowing opportunity for further briefing and additional discussion by the parties could be of assistance. Accordingly, we will sever this issue from the present proceeding and establish a schedule for further briefing.

Interested parties, including staff, should file comprehensive briefs on this subject covering the basic policy questions as well as other relevant matters. We shall also provide for answering briefs.

II. CO-FUNDING ESTIMATES

In its second year application, as in its first year application, GRI included numerous estimates of the amount of government co-funding that would be forthcoming for various projects. As staff observed, however, it is difficult to determine whether GRI's estimates of government co-funding are based upon specific information or are merely indications of co-funding levels that GRI would like to achieve. Staff recommends that in future applications GRI state the basis for its projections of government co-funding. The Commission shall require GRI to do so in future applications.

III. ACCOUNTING

The staff stated that the limited information included in GRI's filing about its accounting and reporting systems was insufficient for staff to evaluate the overall adequacy of GRI's system of accounting, reporting, and internal control. Accordingly, staff made five accounting recommendations. Michigan and California urged adoption of Staff's recommendations, and GRI did not object to any of them. The recommendations and GRI's responses to each of them are as follows:

A. GRI should obtain the services of independent certified public accountants to perform annual audits of its operation.

GRI states that this recommendation has already been implemented. At its March 29, 1978 meeting, the GRI Board of Directors approved the appointment of Arthur Anderson & Company as GRI's independent Certified Public Accountant for 1978.

B. The FERC staff should have the right to perform a review or audit of GRI's operations.

GRI says it has no objection to FERC staff review of its operations.

C. GRI should adopt costing standards and principles consistent with those found in Part 1-15, CFR 41, Public Contracts and Property, and require contractors to abide by such standards and principles.

GRI says this also has been implemented. GRI attached to its September 1, 1978 comment a copy of GRI's standard contract which GRI says is consistent with 41 CFR, Public Contracts and Property, Part 1-15.

D. GRI should establish an audit function to review and audit contractor activities to determine whether costing standards and principles have been met and whether work is being performed for intended purposes.

GRI says it has hired a contract cost analyst whose role will be to audit both preaward and post-award proposals and contracts. GRI says that, further, its staff plan for 1979 calls for the addition of at least one and possibly two more employees in the auditing area.

E. GRI should file with the Secretary of the Commission quarterly financial statements prepared in accordance with generally accepted accounting principles, including a statement of funds collected and expenditures made during the quarter. GRI should file with the Secretary of the FERC annual financial statements audited by certified public accountants.

GRI agrees to comply with the request that it file quarterly financial statements and annual audited financial statements.

F. GRI should file with the Secretary of the FERC all statements, reports, and statistical computations it has prepared for dissemination to the public, members, or others outside GRI.

GRI does not state any objection to F.

The Commission shall direct that GRI comply with staff's accounting recommendations.

The Commission notes that New York and California express concern about the rise in GRI's administrative costs, and they request that Staff audits of GRI's administrative expense be required. The staff has already indicated in its report that it intends to audit GRI. These audits as well as the review of GRI's annual applications should, of course, encompass GRI's admininstrative costs.

IV. DATA COLLECTION

Staff's discovery of additional volumes which GRI should have included in funding services and GRI's statement that it did not have sufficient data to fully calculate total funding services when preparing its application demonstrate the need for improvement in collection and presentation of data. As Michigan points out, improved collection of information will serve two purposes. First, it will assure a more reliable basis for GRI's calculaion of its funding unit in future applications. Second, it will permit more thorough evaluation by the Commission and others of GRI's compliance with the various requirements of the Stipulation and Agreement approved in Opinion No. 11.

The staff suggests a breakdown of the sales and transportation volumes of interstate pipeline members to identify each customer more precisely. Staff also proposes that pipeline companies with direct sales customers identify the volumes of gas sold for electric generation.

With regard to data on intrastate gas utility sales, Staff recommends GRI revise its questionnaire to provide additional information concerning operations, supplies, actual sales, and the basis of departures from actual experience. Staff notes that every reasonable effort must be made to verify those volumes so as to insure that ultimate consumers are bearing a fair share of the R. & D. program without undue preference or discrimination.

Michigan and California agree with the staff's suggestion and GRI voices no objection. Accordingly, GRI shall be ordered to collect and present data in accordance with staff's suggestions.

V. ELIMINATING CERTAIN AGA COSTS FROM GRI MEMBERS' RATES

Staff notes that certain interstate pipeline members of GRI are currently collecting through their underlying rates amounts associated with the AGA utility research and coal gasification programs. Approximately $18.7 million are attributable to these programs, and during 1979 these AGA programs will be funded by GRI. Since GRI is funded through a surcharge to pipeline company rates, a double recovery of funding for these projects would occur if underlying pipeline rates were not revised.

To eliminate this duplication of funding, staff recommends that those pipeline companies that are currently funding AGA projects which, in 1979, will be funded by GRI, be required to file revised tariff sheets to reflect a reduction in their base tariff rates to reflect the lowered expense of contribution to AGA. California supports staff's recommendation, and we agree. The Commission hereby puts jurisdictional pipeline companies on notice that they will be permitted to collect the 3.5 mills per Mcf GRI funding unit in 1979, only upon the condition that the costs of funding the transferred AGA projects are eliminated from their base tariff rates by the filing of revised tariff sheets.

VI. PROCEDURAL MATTERS

A. Service lists and intervention

California says it is troubled by "the apparent lack of a service list in this proceeding". As we have already mentioned, in Opinion No. 11, the Commission directed that GRI include in its second application, a list of its members and State regulatory commissions. That list was to be the service list for the proceeding on the second application. GRI complied. A service list of all municipal utility members, pipeline company members, distribution company members, and State regulatory commissions was included as exhibit 12 of the GRI's June 30, 1978 application. Thus, California is mistaken in its concern.

The Commission would take this occasion to note that its direction in Opinion No. 11 to GRI to include a service list in its application was "experimental". The Commission believes the exeriment was successful. So, too, has been the procedure of permitting all GRI members and commissions listed by GRI to participate as intervenors without their filing formal petitions and notices for that purpose. Accordingly, the Commission shall direct that, in future applications, GRI shall include a list of its members and State regulatory commissions as of a current specified date. The list shall be the service list for the proceeding on the application in which it is contained, and listed members and commissions will be permitted by the Commission to participate as intervenors in the proceeding without their filing formal petitions and notices for that purpose.

B. Extension of the time allowed for Commission action

California objects to the pace of this proceeding, commenting, "The entire course of this proceeding to date has been marked by extreme haste * * *." California proposes that the Commission amend § 154.38(d)(5)(iv) of its regulations to allow 120 days, rather than the current 90 days, for advance approval of an R.D. & D. program. California observes that this would permit GRI to file next year's application for its 1980 program on June 4, 1979, and obtain a final decision by October 1, 1979, the date by which GRI says it must have Commission action for planning and administration purposes. The Commission shall issue a Notice of Proposed Rulemaking to obtain comments on California's suggestion.

California also objected to several aspects of the procedure adopted in the July 3, 1978 notice in this proceeding. For example, California observes that no date was established for reply to the comments filed on September 1, 1978. The Commission regards the procedure adopted for this second annual application of GRI to have been experimental. We welcome comments on how to improve the procedure in the future. When we issue the Notice of Proposed Rulemaking on the proper length of the review period, we will invite parties to include in their comments, suggestions on the specific procedures to be followed in proceedings on GRI's future applications.

The Commission orders:

(A) The application of GRI for advance approval of its 1979 R. & D. program and related 1979-83 5-year R. & D. plan is hereby granted.

(B) A 1979 funding requirement of $39,700,000 is just and reasonable, and, effective January 1, 1979, without regard to purchase gas adjustment clause effective dates, jurisdictional members of GRI may collect a general R. & D. funding unit of 3.5 mills per Mcf, such funding unit to be applied to program funding services consisting of sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI, and to ultimate consumers.

(C) A jurisdictional member of GRI may collect the GRI funding unit only if it files, if it has not already done so, an R. & D. cost adjustment provision which complies with § 154.38(d)(5)(v) of the Commission's regulations and which contains a provision clearly indicating that the cost adjustment clause is applicable only to payments to GRI, that collections of the GRI funding unit by means of it shall be remitted to GRI within 30 days of receipt, and that such collections shall be made only from persons receiving program funding services; such an R. & D. cost adjustment provision may be placed into effect upon not less than 30 days notice, and it will be allowed to take effect without suspension, reduction, or refund.

(D) The issue of shareholder contributions shall be severed from this proceeding and docketed as RP78-76 (Phase II). Initial briefs shall be filed on or before January 15, 1979. Answering briefs shall be filed on or before February 15, 1979.

(E) In future applications, GRI shall furnish information on what coordination has been achieved with DOE or other R. & D. organizations on each GRI contract or "work element".

(F) In its next annual application, GRI shall detail how it is responding to the concern that it assign priorities to its planned projects.

(G) In its next annual application, GRI shall submit to the Commission for its consideration, procedures instituted by GRI's Board of Directors to assure the avoidance of the preferential award of contracts to any particular party.

(H) In future applications, GRI shall indicate the information upon which it is relying in arriving at projections of co-funding.

(I) Stipulation 6 of the September 30, 1977 Stipulation and Agreement, approved in Opinion No. 11, shall be amended to read as follows:

Stipulation 6. For its 1979 program, GRI shall keep expenditures within ten percent (10%) of its budgeted limits or $25,000, whichever is greater, at the contract or work element level as set forth in Volume 2 of Exhibit No. 1 to its 1979 program application: *Provided, however,* That GRI shall keep expenditures within the budgeted limits for the five major program areas. This provision shall not apply, however, to project sub-area 1.2.1, "Gasification Processes". Expenditures in this sub-area shall be limited to a total amount of $10,860,000 and shall conform with the preferred gasification program or the alternative program as set forth in Volume 2 of Exhibit No. 1 at pages A-49 to A-65.

(J) Stipulation 16 of the September 30, 1977 Stipulation and Agreement approved in Opinion No. 11, shall be amended to read as follows:

Stipulation 16. It is understood and agreed that amounts collected by GRI's interstate pipeline members and attributable to the inclusion of an approved GRI funding unit in such members' rates shall be paid over to GRI within 30 days of collection. *GRI should report to the Commission if it has reason to believe that collected funds are not forthcoming.*

(K) GRI shall comply with staff's six accounting and reporting recommendations, as discussed in the body of this order.

(L) GRI shall collect and present data on member's sales volumes, transportation volumes, operations, and supplies in accordance with staff's recommendations, as discussed in the body of this order.

(M) In its future applications, GRI shall list its members and State regulatory commissions as of a current specified date, such list to be used as a

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service list, and GRI shall specify in a draft notice, which is also to be submitted with the application, that all such members and commissions will be permitted by the Commission to participate as intevenors without their filing formal petitions and notices for that purpose.

(N) All parties listed in the service list submitted as exhibit 12 in GRI's June 30, 1978 application, as well as INGAA, AGD, and PSE&G are permitted to intervene subject to the rules and regulations of the Commission: *Provided, however,* That the participation of the said parties shall be limited to matters affecting asserted rights and interests specifically set forth in their applications for leave to intevene, if such were submitted: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(O) The Secretary shall cause prompt publication of this Order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27697 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Compliance Filing

SEPTEMBER 22, 1978.

Take notice that Gulf States Utilities Co, on September 11, 1978, tendered for filing a report in compliance with the Commission's letter order of August 7, 1978, indicating Commission approval of the settlement agreement entered into by Gulf States and Mid-South Electric Cooperative. The Commission's order directed Gulf States to refund to Mid-South $505,000 within 30 days of the date of the letter order and to file a compliance report with the Commission within 15 days after the refund was made.

Gulf States indicates that check No. 20822, dated August 24, 1978, in the amount of $505,000, payable to Mid-South was mailed, on August 31, 1978, by certified mail, to Mid-South.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27745 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No CI78-1134]

HNG FOSSIL FUELS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978, HNG Fossil Fuels Co. (HNG) P.O. Box 1188 Houston, Tex. 77001, filed in Docket No. CI78-1134 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and § 2.75 of the Commission's General Policy and Interpretations, *Optional Procedure For Certificating New Producer Sales of Natural Gas,* for a certificate of public convenience and necessity authorizing the sale of natural gas from its interest in Block 317 Field, High Island Area, Offshore Texas, to Natural Gas Pipeline Co. of America, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The contract is for a base period of 20 years and provides for an initial base rate of $4.53 per Mcf at 14.65 psia, subject to Btu adjustment and new or increased taxes.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be take, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27732 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. ER78-615]

ILLINOIS POWER CO.

Filing

SEPTEMBER 22, 1978.

Take notice that Illinois Power Co. (Illinois Power) on September 18, 1978, tendered for filing Supplement 2 to an Agreement dated August 19, 1974, between Illinois Power and City of Peru, Ill. (Peru).

Illinois Power states that the purpose of the filing is to revise the Agreement to reflect a change in permanent interconnection point from 138/13.8 Kv to 34.5/13.8 Kv.

Illinois Power requests an effective date of August 29, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Illinois Power copies of this filing have been mailed to Peru and the Illinois Commerce Commission.

Any person desiring to be heard or to portest said application should file a petition to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27746 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-86]

SMALL PRODUCER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PETITION FOR SPECIAL RELIEF

Application of Kamlok, Inc.

SEPTEMBER 26, 1978.

Take notice that on August 16, 1978, Kamlok, Inc. (Kamlok), P.O. Box 40262, Houston, Tex. 77040, filed in Docket No. R78-I86, an application for a small producer certificate of public convenience and necessity pursuant to § 157.40 of the Commission's Regulations and petition for special relief pursuant to Section 2.76 of the Commission's General policy and Interpretations.

Kamlok acquired the Adams and Haggarty No. 2 and No. 6 wells located in Big Hill Field, Jefferson County, Tex. from Exxon Corp. Exxon ceases production on these wells in March 1977 when operations proved uneconomical. Kamlok intends to rework both wells and to sell any gas produced to Texas Eastern Transmission Co.

Kamlok seeks to obtain a small producer certificate of public convenience and necessity for the leases named in its application. In order to reestablish production, Kamlok proposes to install compression and saltwater treatment equipment and to perform workovers as needed. Due to the costs involved in this project, Kamlok requests that a rate be established for its gas in excess of the applicable ceiling rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27733 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-78]

LIBERTY OIL & GAS CORP.

Petition for Special Relief

SEPTEMBER 26, 1978.

Take notice that on July 11, 1978, Liberty Oil & Gas Corp. (Petitioner), Suite 809, 234 Loyola Building, New Orleans, La. 70112, filed a petition for special relief in Docket No. RI78-78 pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations.

Petitioner requests permission to charge a total rate of $2.10 per Mcf at 15.025 psia for the sale of gas to United Gas Pipeline Co. from the Simoneaux No. 9 Well, Bayou Des Allemands Field, St. Charles Parish, La. Currently, petitioner charges a total rate of 37.25 cents per Mcf for its gas. Petitioner plans to spend $68,400 reworking the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27734 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-77]

MESSMAN RINEHART CORP.

Petition for Special Relief

SEPTEMBER 21, 1978.

Take notice that on July 7, 1978, Messman Rinehart Corp. (Petitioner), 125 North Market, Suite 1432, Wichita, Kans. 67202, filed a petition for special relief in Docket No. RI78-77 pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations.

Petitioner requests permission to change 1.03052¢ per Mcf at 14.73 psia for the sale of gas to Panhandle Eastern Pipe Line Co. from the Lerado Mississippi Gas Unit, located in Reno County, Kans. Currently, petitioner charges a total rate of 0.37128746¢ per Mcf for the sale of the subject gas. Petitioner states that at the present rate structure significant gas reserves will not be recovered from the subject gas unit.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 13, 1978 filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27754 Filed 9-29-78; 8:45 am]

[6740-02]

[Project No. 2826]

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, CALIF.

Application for Preliminary Permit

SEPTEMBER 21, 1978.

Public notice is given that an application for preliminary permit was filed on November 14, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the Monterey County Flood Control and Water Conservation District, Calif. (Applicant) (Correspondence to: Mr. Loran Bunte, District Engineer, Monterey County Flood Control and Water Conservation District, P.O. Box 930, County Court House, Salinas, Calif. 93901; Mr. William H. Stoffers,

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Monterey County Counsel, P.O. Box 930 County Court House, Salinas, Calif. 93901) for the San Antonio and Nacimiento Rivers, tributaries of the Salinas River, in Monterey and San Luis Obispo Counties, Calif. and would affect lands of the United States within the Hunter-Liggett Military Reservation.

The proposed project would have a total installed capacity of 6,000 kW and would consist of: (1) the existing earthfill San Antonio dam, 18 feet high with a crest length of 1430 feet at elevation 798 feet msl; (2) the existing San Antonio Reservoir with gross storage capacity of 350,000 acre-feet and surface area of 5,200 acres at elevation 780 feet; (3) the existing earthfill Nacimiento dam, 25 feet high, with a crest length of 1,630 feet at elevation 825 feet; (4) the existing Lake Nacimiento with gross storage capacity of 5,370 acres at elevation 800 feet; (5) a proposed 10,800-foot-long tunnel connecting the two reservoirs; and (6) a proposed powerhouse adjacent to the existing San Antonio dam containing four turbine-generator units. The project energy would be sold to a wholesale power purchaser.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license. The Applicant seeks a 36-month permit.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 27, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27755 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-378]

NORTHWEST PIPELINE CORP.

Petition to Amend

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Northwest Pipeline Corp. (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-378 a petition to amend the order of July 5, 1978, issued by the Commission in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the continued sale and delivery of up to 200 billion Btu's equivalent of natural gas per day to Pacific Interstate Transmission Co. (Pac-Interstate) for a term extending through October 31, 1978, or such later date as may coincide with the expiration of Petitioner's Kingsgate import authorization which may be extended but in no event, later than September 30, 1989, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that in its original application filed in the instant docket on May 13, 1977, it requested authorization to sell and deliver natural gas, on a best-efforts basis, to Pac-Interstate through October 31, 1977, pursuant to an agreement dated April 29, 1977. Such temporary authorization was granted on July 1, 1977, it is said. Pursuant to a contract amendment dated October 21, 1977, Petitioner requested that the Commission extend its authorization for the sale and delivery through October 31, 1978, it is stated. It is indicated that the Commission granted such authorization on July 5, 1978. It is further indicated that concurrrently with authorizations of July 1, 1977 and July 5, 1978 granted Petitioner, the Commission authorized El Paso Natural Gas Company, in Docket NO. CP77-407, to transport for the account of Pac-Interstate the quantities of natural gas to be sold to Pac-Interstate by Petitioner and further authorized Pac-Interstate, in Docket No. CP77-381, to sell to Southern California Gas Co. these quantities of natural gas.

Petitioner states that it and Pac-Interstate have, by an agreement dated July 14, 1978, agreed to amend further the April 29, 1977 agreement to extend the term as described above. The other provisions of the April 29, 1977 agreement remain unchanged, it is said, including the three-part rate structure, which is comprised of: (1) a charge for gas equal to the border price paid by Petitioner for gas purchased in Canada, (2) a transportation charge of 16.03¢ per Mcf of gas sold to Pac-Interstate (this rate will increase to 20.69¢ per Mcf on October 1, 1978, subject to refund, as proposed in Petitioner's general rate increase filed March 31, 1978 in Docket No. RP 78-50), and (3) a fuel charge equal to 2 percent of the MM Btu's of gas sold to Pac-Interstate multiplied by Petitioner's then-average cost of purchased gas. The present estimated cost to Pac-Interstate, assuming a cost of $2.16 per million Btu's, would be approximately $2.39 per million Btu's, it is said.

Petitioner states that it has gas available to it at the Sumas import point during off-peak periods, particularly during August through mid-October. Petitioner indicates that it is proposing to sell quantities of gas to Pac-Interstate which Westcoast Transmission Co. has available for export from Canada under existing export licenses which quantities are excess to Petitioner's total requirements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it or its designee in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27758 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-511]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 21, 1978.

Take notice that on September 7, 1978, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co. (Applicants), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-511 a joint application pursuant to section 7 of the Natural Gas and the regulations thereunder for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Northern Natural Gas Company (Northern). It is indicated that the proposed agreement contains further elements of an agreement approved by the Commission in Docket No. CP77-17. Applicants' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to receive initial quantities of 15,000 Mcf per day for the account of Northern utilizing the existing facilities and capacity of their respective systems. It is stated that pursuant to a June 19, 1978 transportation agreement, Applicants would redeliver those volumes for Northern's account at Trunkline's compressor station at Longville, La., less compressor fuel and certain quantities to be sold to Panhandle. Further, it is stated that such gas would be transported thereafter pursuant to a Transportation Agreement dated September 24, 1976, between Applicants and Northern wherein Trunkline would receive the gas at Longville, La., and redeliver to Panhandle at the interconnection between Applicant's facilities near Tuscola, Ill., for further delivery by Panhandle to Northern in Kiowa County, Kans. It is asserted that the gas would be transported to Longville under a transportation agreement between Applicants and Northern dated June 19, 1978, pursuant to which Northern would make delivery to Trunkline in Acadia, Jefferson Davis or St. Mary Parish, La., through arrangements with Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and Columbia Gulf Transmission Co. For the transportation service between the point of receipt and Trunkline's Longville, La., compressor station, Northern would pay a monthly charge of $19,080, it is indicated.

Applicants state that the initial volumes to be transported to Longville, La., may be reduced after 5 years by up to 50 percent.

Further, it is shown that as partial consideration for this transportation service, Northern has agreed to sell to Panhandle up to 20 percent of the volumes delivered at the points of receipt.

Applicants also seek authorization to effectuate a transportation agreement between Applicants which provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern, and that in consideration for said transportation Panhandle would pay to Trunkline a monthly transportation charge of $20,280.

Protests and petitions to intervene may be filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10), on or before October 13, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Trunkline or Panhandle to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2775 Filed 9-29-78; 8:45 am]

[6740-02]

Docket No. CP78-516]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 21, 1978.

Take notice that on September 12, 1978, Panhandle Eastern Pipe Line Co. (Panhandle) and Trunkline Gas Co. (Trunkline) (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-516 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Co. (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants request authorization to transport initially 47,500 Mcf of natural gas for Northern which gas Northern would purchase from West Cameron Block 630, offshore Louisiana, pursuant to a transportation and sales agreement dated July 24, 1978, among Applicants and Northern. Pursuant to the subject agreement Trunkline would receive the gas at a point of delivery in Acadia, Jefferson Davis, and St. Mary Parishes, La., through arrangements made by Northern with Columbia Gulf Transmission Co. (Columbia) and Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), and Trunkline would redeliver said gas for Northern's account at Trunkline's Longville, La., compressor station in Beauregard Parish, La.

The application states that for transportation service between the points of receipt and Trunkline's Longville, La., compressor station, Northern would pay Panhandle a monthly charge of $60,420 subject to adjustment based on firm transportation for Northern of 38,000 Mcf per day at 14.73 psia saturated. An extra 0.62 cent above the aforesaid rate would be charged to Northern for each Mcf of gas taken at the Centerville point of receipt, and an upward or downward adustment of 5.22 cents per Mcf would be applied to any deficiency or excess in quantities taken, it is said. It is indicated that Panhandle would pay Trunkline for its pro rata share of the transportation service from the amounts paid by Northern and that Northern would reimburse Trunkline 1 percent of the volume received for fuel usage and line losses in transportation service between the point of receipt and Longville.

Applicants state that as partial consideration for the proposed transportation of such gas for Northern's account by Applicants as provided in the September 24, 1976, transportation agreement, Northern would sell to Panhandle up to 20 percent of the volumes received by Trunkline at the aforesaid points of delivery (Sales Gas). The purchase price for such gas would be Northern's weighted average purchase price per Mcf plus associated transportation charges paid to others to effectuate delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries herein it is indicated.

Applicants also seek authorization to effectuate a transportation agreement dated August 4, 1978, between themselves, which agreement provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern. In consideration for said transportation Panhandle would pay Trunkline a monthly charge of $64,220 based on a firm transportation quantity of 9,500 Mcf per day during the period of 5 years from the date of first delivery, it is stated. The application states that Panhandle, however, would have an option to reduce said quantity in the sixth and subsequent years to no less than 50 percent of the initial volume, and an upward or downward adjustment of 22.21 cents per Mcf would be applied to any deviation

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from said 9,500 Mcf per day in quantities taken. An extra 0.62 cent above the aforesaid rate would be charged to Panhandle for each Mcf of gas taken at the Centerville point of reciept, and that Trunkline would retain 5 percent of the volumes received hereunder as reimbursement for fuel and line losses, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a peition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27758 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-62]

PANHANDLE EASTERN PIPE LINE CO.

Proposed Changes

SEPTEMBER 25, 1978.

Take notice that Panhandle Eastern Pipe Line Co. (Panhandle) on September 15, 1978, tendered for filing proposed changes in the following revised tariff sheets:

FERC Gas Tariff, Original Volume No. 1

Substitute 24th revised sheet No. 3-A.
Substitute first revised sheet No. 3-B.
Substitute second revised sheet No. 43-1.
Substitute fourth revised sheet No. 43-2.
Substitute fifth revised sheet No. 43-3.
Substitute sixth revised sheet No. 43-4.

An effective date of November 1, 1978 is proposed.

These substitute tariff sheets are tendered to replace revised Volume 1 tariff sheets included in Panhandle's rate filing of May 1, 1978 in Docket No. RP78-62. The proposed rate increase in said docket was accepted for filing and suspended until November 1, 1978, by order of the Commission issued May 31, 1978.

Panhandle states that it seeks (1) to file the rates proposed in the substitute tariff sheets to be effective November 1, 1978, and (2) restate the base cost of gas in accordance with its currently effective PGA procedure, as required by the May 31, 1978 order.

Copies of this filing were served on Panhandle's jurisdictional customers, interested State regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27747 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-510]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 6, 1978, Trunkling Gas Co. and Panhandle Eastern Pipe Line Co. (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-510 a joint application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Northern Natural Gas Co. (Northern). It is indicated that the proposed agreement contains further elements of an agreement approved by the Commission in Docket No. CP77-17. Applicants' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to receive initial quantities of gas 30,000 Mcf per day for the account of Northern utilizing the existing facilities and capacity of their respective systems. It is stated that pursuant to a March 1, 1978 transportation agreement, Applicants would redeliver those volumes for Northern's account at Trunkline's compressor station at Longville, La., less compressor fuel and certain quantities to be sold to Panhandle. Further it is stated that such gas would be transported thereafter pursuant to a Transportation Agreement dated September 24, 1976, between Applicants and Northern wherein Trunkline would receive the gas at Longville, La., and redeliver to Panhandle at the interconnection between Applicants' facilities near Tuscola, Ill., for further delivery by Panhandle to Northern in Kiowa County, Kans. It is asserted that the gas would be transported to Longville under a transportation agreement between Applicants and Northern dated March 1, 1978, pursuant to which Northern would make delivery to Trunkline in Acadia, Jefferson Davis, or St. Mary Parish, La., through arrangements with Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and Columbia Gulf Transmission Co. For the transportation service between the point of receipt and Trunkline's Longville, La., compressor station, Northern would pay a monthly charge of $38,160 based on firm transportation for Northern of 24,000 Mcf per day at 14.73 psia saturated, it is indicated.

Applicants state that initial volumes to be transported to Longville, La., may be reduced after 5 years by up to 50 percent.

Further, it is shown that as partial consideration for this transportation service, Northern has agreed to sell to Panhandle up to 20 percent of the volumes delivered at the points of receipt.

Applicants also seek Commission approval of a transportation agreement between them which provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern, and that in consideration for said transportation Panhandle would pay to Trunkline a monthly transportation charge of $40,560, based on a firm transportation quantity of 6,000 Mcf per day during the period of 5 years from the date of first delivery.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Trunkline or Panhandle to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27735 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-48]

PEOPLES NATURAL GAS DIVISION OF NORTHERN NATURAL GAS CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Peoples Natural Gas Division of Northern Natural Gas Co. on September 12, 1978, tendered for filing Second Substitute Twenty-first Revised Sheet No. 3a of its FPC Gas Tariff, Original Volume No. 4. The proposed change to become effective October 1, 1978, would increase the rate per Mcf to jurisdictional customers by 27.61 cents per Mcf. This increase reflects the net effect of a decrease in rates to Peoples resulting from a rate change by Colorado Interstate Gas Co. at Docket No. RP78-51 and a semiannual Purchased Gas Adjustment filed by CIG in accordance with the provisions of its FPC Gas Tariff. Colorado Interstate is the pipeline supplier to Peoples for sales made under Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27736 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-85]

VILLAGE OF PAWNEE, ILL., ET AL., COMPLAINANT PETITIONERS v. PANHANDLE EASTERN PIPE LINE CO., RESPONDENT

Complaint and Petition for Relief

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, the Villages of Pawnee, Divernon, Pleasant Hill, and Riverton, Ill., the Cities of Auburn, Bushnell, Pittsfield, and Montgomery, Ill., and the Town Gas Co., complainant petitioners (petitioners), filed a petition, pursuant to the provisions of the Natural Gas Act, requesting relief from certain restrictions imposed under the FERC Gas Tariff of Panhandle Eastern Pipe Line Co., (Panhandle Eastern).

Petitioners state that they are full requirements customers of Panhandle Eastern with contract demands of less than 6,000 Mcf per day, and assert that the provisions of section 16.5(c)(4) of the General Terms and Conditions of Panhandle Eastern's FERC Gas Tariff preclude them from attaching new customers while other classes of Panhandle Eastern's customers are not subject to such restrictions, resulting in discrimination and financial hardship. Petitioners further assert that because of heavy temperature sensitive loads with little or no system flexibility they cannot add new customers and thus risk not meeting the conditions of section 16.5(c)(4) for exemption from the $10 per Mcf overrun penalty for volumes taken in excess of Panhandle Eastern's curtailment orders. They, claim to have not been attaching any new Priority 1 loads even though they have sufficient peak day gas volume capabilities to serve new residential and small commercial customers. According to petitioners, many large customers of Panhandle Eastern have been connecting new customers with little or no restriction as to the type of load attached.

Petitioners estimate that during the first year they would add 383 new customers with annual requirements of 70,465 McF, respresenting about 0.0117 percent of Panhandle Eastern's annual deliveries.

It is requested that petitioners be allowed to connect new Priority 1 customers within the limits of their applicable daily contract demands and that Panhandle Eastern be directed to amend the latter portion of § 16.5(c)(4) of its tariff to read "and (b) it did not attach or supply any new gas usuage on its system, within Opinion No. 754 for Priorities 2 through 5 after September 1, 1978."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27765 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-6]

POWDER RIVER PIPELINE CORP. AND THE CRUDE CO. v. AMOCO PIPELINE CO.

Order Setting Complaint for Investigation Granting Intervention and Denying Motion To Dismiss

SEPTEMBER 22, 1978.

On January 4, 1978, Powder River Pipeline Corp. (Powder River) and its

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affiliate the Crude Co. (TCC) filed a complaint that alleged that Amoco Pipeline Co. (Amoco) unreasonably favored Western Oil Transportation Co., Inc. (Western) in the allocation of Amoco's pipeline capacity at Reno station, Wyo.[1]

Powder River's complaint is predicated on section 3(1) of the Interstate Commerce Act (Act) which prohibits pipeline common carriers from discriminating between shippers by giving any undue preference or advantage to any shipper. (49 U.S.C. 3(1) (1970).)

Powder River requests, among other things, that the Commission order an investigation and hearing and thereafter order Amoco to cease from its discriminatory practices.[2] On April 13, 1978, Amoco filed a motion to dismiss grounded on the assertion that Powder River's complaint is legally insufficient on its face.[3]

Amoco contends that it has always allocated capacity at Reno station on the basis of current tenders; that any disadvantage experienced by Powder River is not the consequence of its conduct and that in allocating capacity at Reno station it was not under an obligation to consider the availability of capacity to Western at its Sussex station. Amoco also argues that the issues raised by the complaint are moot because Amoco presently has space capacity at Reno station.[4]

Amoco has failed to introduce facts or arguments that would support a Commission determination that Powder River's complaint was legally insufficient on its face, as required by 49 CFR 1110.34(a). Accordingly, Amoco's motion to dismiss is denied.

The Commission finds that it is necessary and in the public interest that the Commission enter upon a hearing concerning the complaint filed by Powder River.

The Commission orders:

(A) Petitioners—Western and Permian—shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such interveners shall not be construed as recognition that they might be agrieved by any order entered in this proceeding.

(B) Amoco's motion to dismiss Powder River's complaint is denied.

(C) Pursuant to the authority of section 13(1) of the Interstate Commerce Act (49 U.S.C. 13(1)), an investigation at this Commission shall be instituted and a public hearing shall be held concerning the allegations contained in Powder River's complaint.

(D) Powder River shall submit its case-in-chief within 45 days from the issuance of this order. Amoco shall submit its case-in-chief within 45 days after Powder River's filing and the Commission staff and petitioners—Western and Permian—shall file their cases within 30 days after Amoco's filing.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose shall convene a settlement conference in this proceeding to be held within 30 days after the filing of testimony as provided in paragraph (D) of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions as provided for the in the rules of practice and procedure. (49 CFR Part 1100.66.)

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27759 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. E-9454]

PUBLIC SERVICE CO. OF NEW MEXICO

Compliance Filing

SEPTEMBER 22, 1978.

Take notice that Public Service Co. of New Mexico on July 20, 1978, tendered for filing, pursuant to ordering paragraph B of the Commission's July 5, 1978, order affirming initial decision of Administrative Law Judge, its contract with Western Coal Co. relating to the purchase of coal from Western.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27748 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-337 and ER78-338]

PUBLIC SERVICE CO. OF NEW MEXICO

Order Revising Previous Order in Part

SEPTEMBER 22, 1978.

By motion filed August 24, 1978, Community Public Service Co. (CPSC) requests that the Commission revise its June 30 order [1] to the extent of empowering the Administrative Law Judge to provide for a Phase II procedural schedule that would permit the parties to move forward on Phase II issues without interfering with the expeditious processing of Phase I.

CSPC recites that portion of the June 30 order which provided that "Phase II will commence after a final order on rehearing has been issued in Phase I",[2] and states that the Administrative Law Judge was constrained by this language from providing for any procedural dates for Phase II until determination of Phase I issues. CPSC submits that after the conclusion of the Phase I hearing it is not necessary to defer the Phase II evidence while Phase I issues are pending before the Administrative Law Judge and, ultimately, the Commission.

A response to CPSC's motion was filed by Public Service Co. of New Mexico (PNM) on September 8, 1978. PNM states that to the extent that CPSC's motion seeks to move forward in Phase II without interference with expeditious resolution of Phase I, it does not oppose the relief requested.

We agree with the point raised by CPSC. Accordingly, we shall grant the Administrative Law Judge the discretion to provide for Phase II procedures without having to await final Commission resolution of Phase I. The June 30 order shall be revised to reflect this change.

The Commission orders:

(A) The Administrative Law Judge is hereby granted the discretion to provide for Phase II procedures without having to await final Commission resolution of Phase I issues. The June 30 order is hereby modified to reflect this change.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27749 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-92 (PGA78-3)]

RATON NATURAL GAS CO.

Amendment to PGA Rate Filing

SEPTEMBER 22, 1978.

Take notice that on September 12, 1978, Raton Natural Gas Co. (Raton) tendered for filing Replacement Alternate Eighteenth Revised Sheet No. 3a amending rate changes proposed by its PGA filing in Docket No. RP73-92.

Raton states that the amendment is necessary to track a new filing by Colorado Interstate Gas Co. (CIG) which will change Raton's gas cost effective October 1, 1978. Tracking of the revised CIG gas cost increase results in increased rate from $1.40 to $1.50 per Mcf demand and from 116.54¢ to 147.32¢ per Mcf commodity.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27750 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP77-6]

SEA ROBIN PIPELINE CO.

Filing

SEPTEMBER 20, 1978.

Take notice that on September 8, 1978, Sea Robin Pipeline Co. (Sea Robin) filed the following revised tariff sheets with the Federal Energy Regulatory Commission:

Original Volume No. 1

Eighteenth revised sheet No. 4.
Second revised sheet No. 5.
Second revised sheet No. 7.

Original Volume No. 2

Substitute fifth revised sheet No. 39.
First revised sheet No. 39-A.
Sixth revised sheet No. 64.
Eighth revised sheet No. 96.
Sixth revised sheet No. 97.
Fourth revised sheet No. 127-D.
Fourth revised sheet No. 135-C.
Second revised sheet No. 150.
Second revised sheet No. 151.
First revised sheet No. 176.
First revised sheet No. 197.
First revised sheet No. 218.
First revised sheet No. 240.
Second revised sheet No. 264.
Substitute second revised sheet No. 264.
First revised sheet No. 288.
First revised sheet No. 289.
First revised sheet No. 314.
First revised sheet No. 315.
First revised sheet No. 340.
First revised sheet No. 357.
First revised sheet No. 365.
First revised sheet No. 390.
First revised sheet No. 391.
First revised sheet No. 416.
First revised sheet No. 417.
First revised sheet No. 446.
First revised sheet No. 447.

This filing was made in accordance with the terms of the settlement agreement in docket No. RP77-6, as modified by letter order dated May 11, 1978, and order denying rehearing and clarifying order approving settlement agreement subject to conditions issued July 12, 1978. Except for substitute second revised sheet No. 264 with a proposed effective date of August 20, 1978, it is proposed that these tariff sheets become effective on August 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27721 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-89]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 22, 1978.

Take notice that Southern Natural Gas Co (Southern), on September 1, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from a field sale to Sea Robin Pipeline Co. under Southern's Rate Schedule F-9.

Southern states that this filing reflects rate increases in accordance with article 7 of the subject rate schedule up to the level allowed effective July 1, 1978 by § 2.56a(a)(2) of the Commission's Statements of General Policy and Interpretations. The increased rates reflected in the filing will increase annual revenues by $20,230. The proposed effective date is October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Any such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

[1] Public notice of Powder River's complaint was issued Feb. 13, 1978. On Mar. 17, 1978, Western and the Permian Corp. filed a motion to intervene. Western is a wholly owned subsidiary of Permian. The Commission finds that the petitioners have demonstrated an interest in this proceeding which warrants their participation. The petition shall therefore be granted.

[2] On Aug. 25, 1977, Powder River filed a complaint in the U.S. District Court for the District of Colorado against Western, Permian, and Amoco. Powder River also filed a motion for a temporary restraining order or preliminary injunction which was later withdrawn when Amoco agreed to accept Powder River's full tender for September. On Oct. 14, 1977, the court filed its memorandum Opinion and order in which the court found that the question of whether Amoco had violated the Act was within the primary jurisdiction of the FERC; retained jurisdiction of that case until after the Commission considers the propriety of Amoco's proration policy and retained jurisdiction of Powder River's antitrust claims. Further, the court issued a preliminary injunction against Amoco enjoining it from allocating capacity at Reno station in such a manner as to give an undue preference to Western and Permian.

[3] On Mar. 3, 1978, Amoco filed a motion to extend until Apr. 14, 1978, the time to file its complaint. On Apr. 27, 1978, Powder River requested an extension of time to file a response to Amoco's motion to dismiss. The request was granted and Powder River filed its opposition May 12, 1978.

[4] Powder River contends that: Amoco's initial adoption of an allocation system on historical tenders was improper; Amoco was required to take into account Western's access to Amoco's system at Sussex station; that public policy favors requiring Amoco to take account of available capacity at Sussex in allocating space at Reno Station, and that Powder River's damages are the direct consequence of Amoco's acts.

[1] Public Service Co. of New Mexico, Docket Nos. ER78-337 and ER78-338, order issued June 30, 1978.

[2] Id., at p. 6.

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the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27751 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-45]

T.E.L. OIL & GAS CORP.

Amended Petition for Special Relief

SEPTEMBER 20, 1978.

Take notice that on August 14, 1978, T.E.L. Oil & Gas Corp. (Petitioner), 125 North Roosevelt, Box 292, Guymon, Okla. 73942, filed an amended petition for special relief in Docket No. RI78-45 pursuant to 18 CFR 2.76. In its original petition for special relief, petitioner requests permission to sell its gas, produced from the Halsell No. 1 Well, in Texas County, Okla., and sold to Panhandle Eastern Pipe Line, at the reduced rate of 54.1¢ per Mcf. In its original petition which was filed on March 23, 1978, and noticed on July 14, 1978, petitioner requested authorization to sell the above-referenced gas to the above-named purchaser at a rate of 72.06098¢ per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27760 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP76-322]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC., AND EAST TENNESSEE NATURAL GAS CO.

Petition To Amend

SEPTEMBER 21, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, and East Tennessee Natural Gas Co. (East Tennessee) (Petitioners), P.O. Box 20245, Knoxville, Tenn., filed a Docket No. CP 76-322 a petition to amend the order of June 30, 1976, issued in the instant docket (57 FPC —)[1] pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to authorize Petitioners to transport gas for Stauffer Chemical Co. (Stauffer) for an additional 2-year period, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the June 30, 1976, order Tennessee was authorized, inter alia, to transport for a 2-year period up to 1,700 Mcf of gas per day for Stauffer and East Tennessee was authorized to transport up to 1,688 Mcf per day for Stauffer, which gas was produced by Texas Pacific Oil Co. (Texas Oil) from the Beckwith Creek Field in Calcasieu Parish, La. It is stated that production from the Beckwith Creek Field declined more rapidly than anticipated and that on June 30, 1976, Petitioners requested permission to transport gas from a source in addition to the Beckwith Creek Field. The new deliveries were to be made by Texas Pacific Oil Co. (UK) Inc. (Texas Pacific) from the Waveland Field in Hancock County, Miss. Pursuant to the Commission order of March 24, 1978, Petitioners were granted temporary certificate authorization to transport up to 650 Mcf of natural gas per day from the Waveland Field with total transported volumes from all sources not to exceed a maximum of 1,700 Mcf per day. Such temporary authorization expired August 15, 1978, it is indicated. Petitioners state that they transported volumes for Stauffer's account for 2 years, and then abandoned same on August 15, 1978.

The petition indicates that Stauffer has a continuing need for gas to meet its high priority requirements, and that Stauffer has arranged to purchase up to 650 Mcf of gas per day from Texas Pacific for 2 additional years, pursuant to a gas purchase agreement between Stauffer and Texas Pacific, dated July 6, 1978, which gas would be produced from the Zengarling No. 1 well in the Waveland Field, Hancock County, Miss. It is stated that Stauffer would pay Texas Pacific $1.80 per million Btu's for the subject gas for the first additional year of the contract, which price would increase to $1.90 effective the first day of the second contract year and continuing thereafter. In addition, Stauffer would pay Texas Pacific $0.10 per million Btu's for the gathering and measuring of the gas, it is said. It is indicated that such gas is not available for resale in the interstate market.

Petitioners request authorization to render, to the extent their operating conditions permit, transportation services for Stauffer for an additional 2-year period, which transported gas would enable Stauffer to continue receiving natural gas for its plant in Mt. Pleasant, Tenn., to mitigate the effects of curtailment being imposed on Stauffer by East Tennessee. Tennessee proposes to receive from Texas Pacific up to 650 Mcf of natural gas per day together with volumes for Tennessee's fuel end use requirements associated with this transportation service, and to transport and deliver to East Tennessee equivalent daily volumes of natural gas, exclusive of fuel and use volumes, up to the said Maximum Daily Quantity (MDQ), to the extent its operating conditions permit through the utilization of its existing facilities and on the terms and conditions and at the rates set forth in the transportation contract among Petitioners and Stauffer.

It is stated that Stauffer would arrange to have the MDQ plus the fuel and use volumes delivered into Tennessee's existing pipeline at the interconnection of the facilities of Tennessee and Texas Pacific at Tennessee's Side Valve 530B-102 in Hancock County, Miss. Tennessee proposes to receive the gas at such point and to transport and deliver the MDQ, or a lesser volume to East Tennessee for the account of Stauffer at Tennessee's existing Lobelville Sales Meter Station delivery point to East Tennessee in Perry County, Tenn., at Tennessee's Main Line Valve No. 79-1 plus 1.85 miles (Lobelville).

East Tennessee proposes to receive from Tennessee at Lobelville daily volumes of natural gas up to the MDQ of 650 Mcf for the account of Stauffer, and to transport and deliver equivalent volumes of natural gas, less a daily volume for East Tennessee's fuel and use requirements associated with this transportation service, to Stauffer at East Tennessee's existing Stauffer Sales Meter Station in Maury County, Tenn.

It is stated that Stauffer would pay Tennessee each month for the transportation service (A) the sum of (i) a demand charge equal to the product of $1.32 multiplied by the MDQ of 650 Mcf, less any demand charge credit provided therein, if applicable; and (ii) a volume charge equal to the product of 16.79 cents per Mcf multiplied by the total of the scheduled daily volumes during such month; or (B) a minimum monthly bill consisting of the demand charge plus a minimum volume charge consisting of the product of 4.34 cents multiplied by (i) the number of days in said month and (ii) 66⅔ percent of the MDQ. However, at the end of each contract year, Stauffer would, under certain specified conditions, receive an annual bill credit, it is said. It is stated that Tennessee proposes to receive each day, in addition to the scheduled daily volume, a volume of natural gas equal to 5.76 percent of such scheduled daily volume for its fuel and use requirements associated with this transportation service. The receipt of such additional gas provides assurance that Tennessee's customers would not suffer a diminution in their supply of gas as a result of the proposed transportation service, it is asserted.

It is indicated that Stauffer would pay East Tennessee each month for the transportation service 29.14 cents per Mcf delivered by East Tennessee to Stauffer, and that East Tennessee proposes to retain each day a volume determined by multiplying the daily volume delivered by Tennessee to East Tennessee for the account of Stauffer by 0.72 percent. It is further indicated that East Tennessee's other customers would not suffer any loss of volumes as a result of this transportation service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27761 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-114]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

SEPTEMBER 25, 1978.

Take notice that on September 11, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), filed a plan for disposition of refunds which it received from Sea Robin Pipeline Co.

Tennessee states that upon Commission approval of its refund plan it will flow-through to its customers $939,293.14 by means of a credit to its Unrecovered Purchased Gas Cost Account. Tennessee states that it is not refunding the remaining $478,331.82 applicable to periods covered by settlements or Commission orders reflecting test period estimates rather than actual book figures.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27737 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. RP 75-13, et al.]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Plans of Refund

SEPTEMBER 25, 1978.

Take notice that Tennessee Natural Gas Lines, Inc. (Tennessee Natural), on September 10, 1978, tendered for filing a Report of Flow Through of Refunds resulting from refunds made by Tennessee Gas Pipeline Co. (Tennessee) to Tennessee Natural in compliance with a Stipulation and Agreement approved by the Commission's letter order of May 1, 1978, in Docket Nos. RP75-13, et al.,

Tennessee Natural states that on July 17, 1978, it received a refund from Tennessee and it completed distribution of a refund to its sole jurisdictional customer, Nashville Gas Co. (Nashville), in accordance with its tariff on August 31, 1978. Tennessee Natural states that the refund to Nashville, including principal and interest, totals $3,316,331.23 and covers the period March 15, 1975, through December 31, 1977.

Tennessee Natural further states that the refund from Tennessee to Tennessee Natural reflects a reduction in the demand rate which results in Tennessee Natural having received more demand charge credit in prior periods than under the rates approved in this docket and therefore, Tennessee reduced the amount of Tennessee Natural's refund accordingly. However, since no demand credits were given Nashville Gas Co., no reduction was made in Nashville's refund. Tennessee Natural states that the issue of demand charge credit will be ultimately resolved when Commission Docket Nos. RP76-71, RP71-11 (PGA-76-1) is concluded and the appropriate adjustments made at that time.

Tennessee Natural states that copies of the filing have been mailed to Tennessee Natural's sole jurisdictional customer and to the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27738 Filed 9-29-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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[6740-02]

[Docket No. RP75-13, et al.]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

SEPTEMBER 25, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), tendered for filing a report on further refunds made pursuant to the Stipulation and Agreement approved by the Commission's letter order of May 1, 1978 in this proceeding.

Tennessee states that it refunded to its jurisdictional customers in August 1978 $840,338 related to State income tax refunds which it had received.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27779 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-509]

TEXAS EASTERN TRANSMISSION CORP.

Application

SEPTEMBER 21, 1978.

Take notice that on September 6, 1978, Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-509 an application pursuant to section 7 of the Natural Gas Act and section 2.79 of the Commission's General Policy and Regulations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing Texas Eastern to construct interconnection facilities and to transport natural gas for Aluminum Co. of America (Alcoa) for 2 years for use at its Warrick Operations located in Newburgh, Ind., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct facilities at a point where its 30-inch line and a pipeline of Lavaca Pipeline Co. (Lavaca), a wholly owned subsidiary of Alcoa, intersect in Calhoun County, Tex. It is said that Texas Eastern would receive at this point up to 6,361 dths per day equivalent of natural gas for Alcoa's account. Texas Eastern proposes to then transport the stated quantities, less 3 percent for gas used in providing such a service, to an existing point of interconnection between Texas Eastern and Texas Gas Transmission Corp. (Texas Gas) located in Clairborne Parish, La., for redelivery by Texas Gas to Southern Indiana Gas & Electric Co. (SIGECo.) for ultimate delivery to Alcoa's Warrick Operations facility in Newburgh, Ind. Texas Eastern proposes to charge 14.89 cents per dth for the service. Texas Eastern asserts that construction of the interconnection and metering facilities between Texas Eastern and Lavaca in Calhoun County, Tex. is estimated to cost approximately $76,700.

It is stated that Alcoa has purchased from Weeks Petroleum Corp. (Weeks) gas produced from its Matagorda Bay Field in Calhoun County, Tex. and from Sun Gas Co. (Sun Gas) gas produced from its Swan Lake Field in Jackson County, Tex. It is further stated Alcoa has agreed to pay $1.95 per Mcf for the gas from Sun Gas, and $1.85 per Mcf subject to a 10-cent escalation in price starting on April 1, 1979 for Weeks gas.

It is stated that the subject gas is owned and produced by Weeks and Sun Gas and committed to Alcoa only, and, therefore, not available to Texas Eastern.

It is stated that Alcoa's Warrick, Ind., facility is an aluminum plant currently experiencing curtailments from its supplier, SIGECo. It is further stated that the Warrick plant produces aluminum needed by the food packaging and container industry and that an alleged emergency need exists for the subject gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27762 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Compliance Filing

SEPTEMBER 25, 1978.

Take notice that on September 7, 1978, Texas Eastern Transmission Corp. (Texas Eastern) tendered for filing several revised tariff sheets to Fourth Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which are proposed to be effective August 9, 1978. Texas Eastern states that these sheets are being filed in compliance with the terms of Opinion No. 21, issued August 9, 1978 in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27780 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP76-403]

TEXAS GAS TRANSMISSION CORP.

Application to Amend Further

SEPTEMBER 26, 1978.

Take notice that on September 12, 1978, Texas Gas Transmission Corp. (Texas Gas), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP76-403, an application, pursuant to section 7 of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), to amend further the certificate of public convenience and necessity issued in the said docket on August 13, 1976 [1] so as to authorize Texas Gas to extend the transportation service for the account of Owens-Corning Fiberglas Corp. (Owens-Corning) for an additional year from August 27, 1978, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Texas Gas states that the volumes of natural gas to be transported for the additional year would be purchased by Owens-Corning from Kilroy Properties Inc. and Dawson Exploration, Inc. (Kilroy) from production of wells in Jefferson Davis Parish, La.

It is asserted that the subject natural gas would be delivered to Texas Gas at an existing meter station at or near the site of Woodlawn Junction in section 7, Township 9 South, Range 5 West, Jefferson Davis Parish, La. It is stated that Texas Gas would simultaneously redeliver for Owens-Corning's account (1) up to 300 Mcf per day to Texas Eastern Transmission Corp. (Texas Eastern) at a point of delivery located near Lebanon, Ohio; (2) up to 2,000 Mcf per day to its existing point or points of delivery with Jackson Utility Division, City of Jackson, Tenn. (Jackson) or; (3) divert all or a portion of the volumes up to 2,000 Mcf per day to be transported and delivered to Jackson and deliver such volumes to Transcontinental Gas Pipe Line Corp. (Transco) for ultimate delivery to Owens-Corning's Anderson, S.C., plant.

It is stated that Texas Gas would not retain any volumes of natural gas hereunder for its own system supply but would retain as makeup for compressor fuel and line loss 10.34 percent of those volumes delivered to Texas Eastern, 2.45 percent of those volumes delivered to Jackson and .55 percent of those volumes delivered to Transco. It is asserted Texas Gas would collect an initial charge of 30.36 cents per Mcf for those volumes delivered to Texas Eastern for the account of Owens-Corning, 19.29 cents per Mcf for those volumes delivered to Jackson and 5.77 cents per Mcf for those volumes delivered to Transco.

Owens-Corning has agreed to pay Kilroy $1.82 per one million Btu's for an initial term of 12 months commencing August 24, 1978, $1.97 for the next twelve month period, and a price mutually agreed upon thereafter.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27781 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-1]

TRANS-ALASKA PIPELINE SYSTEM

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 18, 1978, Commission Staff Counsel filed a motion for extension of the date within which to reply to the motion to quash subpoenas filed by Arctic Constructors and its joint venture partners (Arctic) in the above captioned proceeding. The motion states that staff has had to review a vast quantity of material in preparing a response and that the other parties in the proceeding do not object to the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 6, 1978, for filing replies to Arctic's motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27782 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP72-182]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND TEXAS GAS TRANSMISSION CORP.

Application To Amend Further

SEPTEMBER 26, 1978.

Take notice that on September 12, 1978, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, and Texas Gas Transmission Corp., (Texas Gas), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP72-182, [1] a joint application to amend further the FPC's order issued June 27, 1972, in said docket pursuant to section 7(c) of the Natural Gas Act so as to add an additional exchange point between Applicants, all as more fully set forth in the application to amend further in this proceeding.

The order of June 27, 1972, authorized an exchange of gas between Transco and Texas and was amended, February 7, 1974, October 16, 1974, and April 12, 1977, to add additional exhange points between the companies.

Under the instant proposal, Transco and Texas Gas seek authorization for an additional delivery point, in accordance with the letter agreement between them, dated August 31, 1978, which further amends the Exchange Agreement between them, dated July 27, 1973, as amended. Such delivery point would be at the existing point of interconnection between the systems of Texas Eastern Transmission Corp. (Texas Eastern) and Transco near Ragley, Beauregard Parish, La., where either Transco or Texas Gas can cause volumes of natural gas to be delivered to the other party, it is said.

The addition of the Ragley delivery point would permit Texas Gas to receive volumes of natural gas into its system which Texas Gas would be purchasing from Block 237, West Cameron Area, offshore Louisiana, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend further should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[1] This proceeding was commenced before the FPC. By joint regulation to October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

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Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27783 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-76]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978,[1] Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-76 a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued on January 30, 1978 in Docket No. CP78-76 so as to remove the condition imposed upon the rate for the transportation service authorized, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized to provide interruptible transportation service for a period of 2 years for Owens-Corning Fiberglas Corp. (Owens-Corning) under Petitioner's presently effective long-haul interruptible transportation rate. Petitioner was also authorized, it is said, to transport gas for redelivery to both Texas Gas Transmission Corp. and Texas Eastern Transmission Corp. within Petitioner's production and gathering area for ultimate delivery to two other Owens-Corning plant locations. For this latter service Petitioner charges a rate of 3.5 cents per dekatherm (dt) equivalent of gas which represents Petitioner's minimum charge for transportation in its gathering facilities, it is stated.

In the order of January 30, 1978 in the instant docket, Petitioner states that the Commission conditioned its authorized of the transportation service at the rate proposed by Petitioner upon the final determination of the proceedings in Docket Nos. RP76-316, RP77-26 and RP77-108. Petitioner states that on June 27, 1978 the Commission approved a settlement in Docket Nos. RP76-136 and RP77-26 and that Petitioner's Rate Schedule T became effective on August 1, 1978. Additionally, Petitioner states that its rate for transportation service in its gathering area facilities was not involved in the above-mentioned rate proceedings. Consequently, Petitioner requests that the order issued on January 30, 1978 in the instant docket be amended to remove the condition that the authorization is subject to the final determination in the above-mentioned rate proceedings.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27784 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-426]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application to Amend

SEPTEMBER 21, 1978.

Take notice that on September 8, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-426 an application to amend the order issued August 29, 1977[1] in said docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79), authorizing the transportation of natural gas for Owens-Corning Fiberglas Corp. (Owens-Corning), Applicant's only direct industrial customer, for use at Owens-Corning's Anderson, S.C. plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By the application to amend, Applicant requests authority to continue transportation service for an additional 2-year term for Owens-Corning, beyond the initial termination date of August 28, 1978.

Applicant proposes to transport up to 2,000 Mcf of natural gas per day for Owens-Corning. It is stated that Owens-Corning has purchased gas from Kilroy Properties Inc. (Kilroy) and Dawson Exploration, Inc. from production of the Racca Well, Woodlawn Field, Jefferson Davis Parish, La. at a price of $1.35 per million Btu's for the first 12 months and $1.40 per million Btu's for the second 12 months.

It is asserted that such gas would be received by Texas Gas Transmission Corp. in the field for delivery to Applicant for ultimate delivery to Owens-Corning.

Applicant proposes to charge Owens-Corning an initial rate of 23.5 cents per dekatherm equivalent of natural gas delivered under the agreement and would retain, initially, 3.8 percent of the quantities received for transportation for compressor fuel and line loss.

It is stated that Owens-Corning's Anderson, S.C. plant, employs 1,650 employees and that a complete shutdown of the plant or a severe cutback in operations resulting from a shortage of natural gas supply would have a direct and immediate adverse impact on the vitality and economic health of the Anderson community as well as upon Owens-Corning. It is further stated that Petitioner's curtailments of gas supply to the Anderson plant has reached 100 percent of its firm demand during each winter period since 1976. It is stated that it is necessary for Owens-Corning, in order to continue normal operations at its Anderson plant, to rely solely on its ability to obtain supplemental natural gas supplies.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27763 Filed 9-29-78; 8:45 am]

[1] The petition was initially tendered for filing on August 28, 1978, however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 14, 1978; thus, the filing was not completed until the latter date.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02]

[Docket No. RP73-3 (PGA78-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Purchased Gas Cost Adjustments to Rates and Charges

SEPTEMBER 25, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on September 15, 1978, tendered for filing certain substitute revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 to become effective September 1 and September 2, 1978.

Transco states that its revised PGA filing is being made as a result of the Commission's August 31, 1978 "Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Consolidating Proceedings" issued in Docket Nos. RP73-3 (PGA78-3), et al. Transco's filing contained two sets of revised sheets, one to be made effective September 1, 1978 without suspension, the other to be made effective September 2, 1978 subject to refund.

Transco states that the revised sheets filed to be effective September 1, 1978 without suspension reflect a reduction in rates from the sheets originally filed on August 1, 1978, due to elimination of the so-called "out-of-period" costs in computing such rates, consistent with the provisions of Ordering Paragraphs (A) and (C) of the Commission's Order issued August 31, 1978 in Docket Nos. RP73-3 (PGA78-3) et al. The rates in these tariff sheets reflect the same increase of 13.9 cents per dt in the current gas costs as included in the August 1, 1978 filing but the amount of the Deferred Adjustment has been reduced from 3.3 cents per dt to 2.9 cents per dt.

Transco further states that the tariff sheets proposed to be effective September 2, 1978, subject to refund, provide for recovery of the full balance of $48,877,612 recorded in Transco's Unrecovered Purchased Gas Cost Account as of June 30, 1978. Except for the designation thereof, these tariff sheets are identical to the sheets filed on August 1, 1978 to be effective September 2, 1978. In that connection, Transco states that it is filing concurrently an Application for Rehearing and Request for Stay of the Commission's August 31, 1978 Order, wherein it has requested that the Commission grant rehearing of its order and permit the full balance of the deferred account to be reflected in the rates to be effective September 2, 1978, subject to refund, and to set the propriety of the recovery of the so-called "out-of-period" costs for hearing.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27752 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. RP76-136 and RP77-26]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on September 19, 1978, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2. The sheets are proposed to become effective on various dates from January 31, 1978 to November 1, 1978.

On June 27, 1978, the Commission approved the settlement agreement in Docket Nos. RP76-136 and RP77-26. Article VII of the agreement provided that Transco would reduce its rates for interruptible transportation service into or within Transco's rate zones to the levels provided in the agreement. Transco filed on August 23, 1978, revised tariff sheets reflecting rate reductions for all such services in effect during the period February 1, 1977 through December 31, 1977, under Docket Nos. RP76-136, RP77-26, and RP77-108. Also, by filing dated August 23, 1978, Transco reduced its rates to such levels effective January 1, 1978 in Docket No. RP77-108.

Transco states that while the aforementioned August 23, 1978 filings provided for basic changes in rate levels for the interruptible transportation services reflected in the two general rate proceedings, there are certain additional revisions which revisions which are necessary to fully effectuate the terms of the approved settlement agreement. The purpose of revised tariff sheets included in this filing is explained below:

(1) To reflect such reduced transportation rate levels for Rate Schedules X-154, X-155, and X-156, which agreements became effective on January 31, 1978;

(2) To provide for a prospective rate increase, effective November 1, 1978, under Rate Schedules X-145 and X-146 to the level approved under the aforementioned settlement agreement;

(3) To revise Rate Schedules X-67, X-71, X-99, X-114, X-118, X-135, X-137, X-139, X-154, X-155, and X-156 to reflect, as of June 1, 1978, the inclusion of the 0.12 cents per dt charge related to Gas Research Institute (GRI), as approved by Commission order dated June 1, 1978 in Docket No. RM77-14; and

(4) To provide changes in fuel and line loss makeup percentages, as follows: (a) as of September 1, 1978, for reductions in such percentages under Rate Schedules X-71, X-99, X-110, X-111, X-130, X-131, X-132, X-133, X-134, X-135; and (b) as of November 1, 1978, for an increase in such percentage under Rate Schedule X-80.

Transco further states that copies of the instant filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27753 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-518]

TRUNKLINE GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

SEPTEMBER 21, 1978.

Take notice that on September 13, 1978, Trunkline Gas Co. (Trunkline),

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P.O. Box 1642, Houston, Tex. 77001 and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-518, a joint application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for temporary and permanent certificates of public convenience and necessity authorizing the exchange and transportation of natural gas on behalf of Transco, all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline proposes to exchange and/or transport for Transco on a firm basis up to 105,000 Mcf of gas per day which represents Transco's interest in gas to be produced from Vermilion Block 325 and West Cameron Blocks 405 and 576. Trunkline proposes to receive the gas from such Blocks at existing side taps on the Stingray Pipeline Co. system in Vermilion Block 321, West Cameron Block 277 and West Cameron Block 537, respectively, for exchange and/or transportation for the account of Transco at one of five Points of Redelivery: (1) High Island Block A-330; (2) the Mobil Oil Corp. Cow Island Processing Plant in Vermilion Parish, La.; (3) near Ragley, La. at the interconnection between the facilities of Trunkline and Transco; (4) the terminus of the U-T Offshore System in Cameron Parish, La.; and (5) at Katy in Waller County, Tex., at the Interconnection between the facilities of Trunkline and Transco.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 13, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27764 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. ER78-512]

WISCONSIN ELECTRIC POWER CO.

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, counsel for the cities, villages, and towns of Cedarburg, Clintonville, Deerfield, Elkhorn, Florence, Hartford, Jefferson, Kaukauna, Kiel, Lake Mills, Menasha, New London, Oconomowoc, Oconto Falls, Shawano, Slinger, and Waterloo, Wis., the city of Crystal Falls, Mich., and the Ontonogan County Rural Electrification Association (The Intervenors) filed a motion for extension of time in which to make a price squeeze allegation as provided for in the Commission order of August 31, 1978, in the above captioned proceeding. The motion states tht the Intervenors cannot accurately make a price squeeze allegation until after WEPC files reduced wholesale rates pursuant to the August 31, 1978, Commission order.

Upon consideration, notice is hereby given that the time within which the Intervenors may file price squeeze allegations pursuant to the Commission order of August 31, 1978, is extended to and including October 20, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27786 Filed 9-29-78; 8:45 am]

[3128-01]

Hearings and Appeals Office

CASES FILED

Week of September 8 through September 15, 1978

Notice is hereby given that during the week of September 8, 1978 through September 15, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 22, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 8-15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 11, 1978	Cabot Corp., Houston, Tex	DXE-1825, DXE-1826.	Extension of relief granted in *Cabot Corp.*, Case Nos. FXE-4509 and FXE-4510 (decided Nov. 4, 1977) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its North Terrebone and Prentice plants.
Do	Professor Harold Fruchtbaum, New York, N.Y.	DFA-0211	Appeal of information request denial. If granted: The DOE's June 30, 1978 information request denial would be rescinded and Harold Fruchtbaum of Columbia University would receive access to certain DOE data regarding the nuclear weapons development program.
Do	L & M Oil Co., Indianapolis, Ind	DEE-1827	Price exception (section 212.73). If granted: L & M Oil Co. would be permitted to sell the crude oil produced from the Allen 2A well located in Lewisville, Ark., at market prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 8-15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Monsanto Co., Houston, Tex	DEE-1824	Price exception (section 212.73). If granted: Monsanto Co. would be permitted to sell the crude oil produced from the Navajo 138 wells located in Apache County, Ariz., at upper tier ceiling prices.
Do	Powerine Oil Co., Santa Fe Springs, Calif	DEE-1823	Exception to the entitlements program. If granted: Powerine Oil Co. would receive additional entitlements to compensate the firm for the cost of shipping residual fuel oil from its California refinery to the east coast.
Do	State of Illinois, Chicago, Ill	DFA-210	Appeal of information request denial. If granted: The DOE's July 3, 1978 information request denial would be rescinded and the State of Illinois would receive certain DOE data regarding the General Electric nuclear waste facility in Morris, Ill.
Sept. 12, 1978	Burl C. Smith, Portage, Ohio	DEE-1832	Price exception (section 212.93). If granted: Burl C. Smith would be permitted to increase retroactively its maximum permissible ceiling prices for the period Nov. 1, 1973 to June 30, 1975.
Do	....do	DMR-0031	Request for rescission. If granted: The DOE's Dec. 8, 1977 decision and order denying the firm's appeal of a remedial order would be reversed and that remedial order would be rescinded.
Do	Green Pipe & Supply Co., Tulsa, Okla	DEE-1829	Price exception (section 212.73). If granted: Green Pipe & Supply Co. would be permitted to sell crude oil produced from the Nora Brunner lease located in Seminole County, Okla., at upper tier ceiling prices.
Do	Petroleum International Associates, Inc., Washington, D.C.	DRA-0212, DRS-0212.	Appeal of an ancillary order, request for stay. If granted: The ancillary order issued by DOE region II on Aug. 10, 1978 would be rescinded and Petroleum International Associates, Inc. would not be required to pass through certain refunds which it received from Oakey Gasoline & Oil Co. and Stillings Petroleum Corp.
Do	San Joaquin Refining Co., Newport Beach, Calif..	DEE-1828	Exception to the entitlements program. If granted: San Joaquin Refining Co. would receive additional entitlements to compensate it for the cost of shipping residual fuel oil from its California refinery to the east coast.
Do	Sun Co., Inc., Dallas, Tex	DXE-1831	Extension of relief granted in *Sun Co., Inc.*, Case No. DXE-0696 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Elmwood plant.
Do	Texas Oil & Gas Corp., Corpus Christi, Tex.	DEE-1830	Price exception (section 212.73). If granted: Texas Oil & Gas Corp. would be permitted to sell crude oil produced from the Pete Rydolph "A" lease located in the North McFaddin Field, Victoria County, Tex., at upper tier ceiling prices.
Do	Transcontinental Oil Corp., Shreveport, La	DEE-1835	Price exception (section 212.73). If granted: Transcontinental Oil Corp. would be permitted to sell the crude oil produced from State Lease 4041, Well No. 1 located in St. John the Baptist Parish, La., at upper tier ceiling prices.
Do	Universal Mineral Corp., Dallas, Tex	DEE-1834	Price exception (section 212.73). If granted: Universal Mineral Corp. would be permitted to sell the crude oil produced from the No. 1 Humble-Dowdy Fee well located in Duval County, Tex., at market prices.
Sept. 13, 1978	Charter Oil Co., Washington, D.C.	DES-1398	Stay request. If granted: Charter Oil Co. would be granted a stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67 for the period September 1978 through February 1979 pending a determination on an application for exception which it has filed.
Do	Fuel Distributors, Inc., Temple, Tex	DFA-0213	Appeal of information request denial. If granted: The DOE's Aug. 15, 1978 information request denial would be rescinded and Fuel Distributors, Inc. would receive access to DOE data relating to a DOE investigation of Foremost Petroleum Corp., Inc.
Do	Northland Oil & Refining Co., Tulsa, Okla.	DES-0102	Stay request. If granted: Northland Oil & Refining Co. would be granted a stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67 commencing with the month of September 1978 pending a determination on an application for exception which the firm has filed.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 8, 1978	American Petroleum Refiners Association, Washington, D.C.	FEE-4443.

Proposed Remedial Orders

Sept. 13, 1978	Whittier Fuel & Marine Corp., Anchorage, Alaska	DRO-0110.
Sept. 14, 1978	Crown Central Petroleum Corp., Washington, D.C	DRO-0111.

[FR Doc. 78-27694 Filed 9-29-78; 8:45 am]

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[3128-01]

CASES FILED

Week of August 25 through September 1, 1978

Notice is hereby given that during the week of August 25, 1978 through September 1, 1978, the appeals and applications for exception or other relief listed in the Appendix to the Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 22, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Aug. 25-Sept. 1, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 25, 1978	Matrix Land Co., Taylor County, Tex	DXE-1782	Extension of relief granted in *Matrix Land* Co., Case No. DEE-0034 (decided Feb. 15, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Box-Elmdale/Tuscola plant.
Aug. 28, 1978	Batzell, Nunn & Bode, Washington, D.C	DRD-0084	Motion for discovery. If granted: Discovery would be granted with respect to objections to a remedial order issued to Ashland Oil Co. by special counsel for compliance on July 7, 1978.
Aug. 29, 1978	Getty Oil Co., Los angeles, Calif	DEE-1801 and DEE-1802.	Price exception (section 212.165). If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Dollarhide and Stephens plants.
Do	Gibbs Oil Co., Washington, D.C	DRH-0024	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Gibbs Oil Co. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. (Case No. DRA-0012).
Do	Marathon Oil Co., Findlay, Ohio	DXE-1786 through DXE-1789.	Extension of relief granted in *Marathon Oil* Co. Case Nos. DXE-0551 through DXE-0554 (decided on Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Rock River, West Foulaude, West Sidney, and Welder plants.
Do	Mid-Valley Petroleum Corp., Washington, D.C.	DRH-0025	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Mid-Valley Petroleum Corp. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. (Case No. DRA-0012).
Do	Reico Exploration Co., Inc., Monroe, La	DEE-1785	Exception to filing requirements of the certification of domestic crude oil sales. If granted: Reico Exploration Co., Inc. would be granted an exception to the provisions of 10 CFR 212.131 with respect to the filing of the certification of domestic crude oil sales.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DEE-1792	Price Exception (section 212,165). If granted: Standard Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Kalkaska plant.
Do	Sun Co., Inc., Dallas, Tex	DXE-1803 through DXE-1809.	Extension of relief granted in *Sun Co., Inc.*, Case Nos. DXE-1850, DXE-0852, DXE-0919, DXE-0920, DXE-0914, DXE-0916, and DXE-0943 (decided Apr. 28, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bayou Sale, Tonkawa, Wakita, Belle Isle, Fordache, Mermentau and Victoria plants.
Do	Supreme Petroleum Co. of New Jersey, Inc	DRH-0011	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Supreme Petroleum Co. of New Jersey, Inc. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. on Sept. 19, 1977 (Case No. DRA-0012).
Do	Union Oil Co. of California, Los Angeles, Calif.	DEE-1800	Price exception (section 212.165). If granted: Union Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Mooreland plant.
Aug. 30, 1978	Akin, Gump, Hauer, & Feld, Washington, D.C.	DFA-0205	Appeal of an information request denial. If granted: The DOE's July 28, 1978, information request denial would be rescinded and Akin, Gump, Hauer, & Feld would be granted access to various DOE data regarding the entitlements program and imports of residual fuel oil.
Do	Andrews, Kurth, Campbell, & Jones, Washington, D.C.	DFA-0204	Appeal of an information request denial. If granted: The DOE's July 28, 1978 information request denial would be rescinded and Andrews, Kurth, Campbell, & Jones would be granted access to various DOE data regarding ruling 1977-5.
Do	A. C. Duerr, Tulsa, Okla	DXE-1783	Extension of relief granted in *A. C. Duerr* Case No. FEE-3207 (decided Jan. 1, 1977) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its R. M. Stephens plant.
Do	F-M Oil Co., Cinnaminson, N.J	DRA-0206	Appeal of remedial order issued Aug. 4, 1977. If granted: The Aug. 4, 1977, remedial order issued by DOE region III would be rescinded.
Do	Ke-La-Da Enterprises, Inc., Archie, Mo	DEE-1790	Price exception (section 212.73). If granted: Ke-La-Da Enterprises, Inc. would be permitted to sell the crude oil produced from Limpus Field located in Cass County, Mo., at upper tier ceiling prices.
Do	Maguire Oil Co., Dallas, Tex	DXE-1791	Extension of relief granted in *Maguire Oil* Co., 1DOE Par. — (Aug. 4, 1978). If granted: Maguire Oil Co. would be permitted to sell the crude oil produced from the Chandler lease located in Howard County, Tex., at upper tier ceiling prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 25-Sept. 1, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Monsanto Co., St. Louis, Mo	DXE-1793 through DXE-1799.	Application for extension of relief granted in *Monsanto* Co. Case Nos. DXE-0727 through DXE-0733 (decided Mar. 31, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Como, Diamond K, Dollarhide, Gillette, Pledger, and Spivey plants.
Do	Special Counsel, Washington, D.C	DRD-0004	Motion for discovery. If granted: Discovery would be granted to the Office of Special Counsel for Compliance with respect to objection filed by Chevron, U.S.A. and Time Oil Co. in response to a proposed remedial order issued to Chevron, U.S.A. (Case No. DRO-0083).
Do	Varibus Corp., Beaumont, Tex	DEX-0106	Supplemental order. If Granted: Escrowed funds would be distributed in a manner consistent with the provisions of a remedial order issued by DOE region VI to Varibus Corp. on September 20, 1978.
Aug. 31, 1978	Andrews, Kurth, Campbell & Jones, Washington, D.C.	DFA-0207	Appeal of an information request denial. If granted: The DOE's July 5, 1978 information request denial would be rescinded and Andrews, Kurth, Campbell & Jones would be granted access to documents concerning various aspects of the DOE crude oil price regulations.
Do	O. B. Mobley, Jr., Shreveport, La	DES-0100	Request for stay. If granted: O. B. Mobley, Jr. would be granted a stay pending a judicial review by the U.S. District Court for the Western District of Louisiana.

Notices of Objections Received

Date	Name and location of applicant	Case No.
Aug. 25, 1978	R. W. Tyson Producing Co., Jackson, Miss	DXE-1370 through DXE-1373
Aug. 29, 1978	Fairgrove Oil Co., Fairgrove, Mich	DEO-0103

Proposed Remedial Orders

Aug. 28, 1978	Bright and Schiff, Washington, D.C	DRO-0099
Aug. 25, 1978	California Petroleum Distributors, Inc., Westburg, N.Y	DRO-0100
Aug. 30, 1978	Duval County Ranch Co., Houston, Tex	DRO-0102
Aug. 29, 1978	King Resources Co., Denver, Colo	DRO-0101
Aug. 30, 1978	Cooper & Brain, Inc., Washington, D.C	DRO-0104

[FR Doc. 78-27695 Filed 9-29-78; 8:45 am]

[3128-01]

GULF REFUND PROCEDURES

Extension of Time for Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: On August 28, 1978, a Notice was published in the FEDERAL REGISTER that pertained to the settlement of claims resulting from a $42,240,000 refund by Gulf Oil Corp. 43 Fed. Reg. 38,548 (1978). Attached to the Notice was a copy of an Interim Decision and Order that established procedures for refund applications. The Notice sought public comments on the procedures by September 18, 1978. On September 15, 1978, the Department of Energy published a second Notice extending the period for filing comments until September 29, 1978. 43 Fed. Reg. 41,266 (1978). Since that time several interested parties have requested a further extension of the comment period in order to complete and fully document their statements. In view of the importance of the refund procedure and the complexity of the issues involved in this proceeding, the comment period will be extended until October 16, 1978.

DATES: Comments by October 16, 1978.

ADDRESS: Office of Public Hearing Management, Box VH, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Issued in Washington, D.C. on September 26, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-27773 Filed 9-29-78; 8:45 am]

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 980-2; OPP—31021]

PESTICIDE PROGRAMS

Notice of Receipt of Application To Register Pesticide Product Entailing a Changed Use Pattern

E. I. Du Pont De Nemours & Co., Wilmington, Del. 19898, has submitted to the Environmental Protection Agency (EPA) an application to amend the registration of the pesticide product "Velpar" weed killer (EPA registration No. 352-378), which contains 90 percent of the active ingredient 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine -2,4(1*H*,3*H*)-dione. The application received from E. I. Du Pont De Nemours & Co., proposes that the use pattern of this pesticide product be changed from non-crop use to crop use for the control of weeds in sugarcane. The application also proposes that the product be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the FEDERAL REGISTER Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before November 1, 1978, and should bear a notation indicating the EPA registration No. "352-378". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-755-2196. The label furnished by E. I. Du Pont De Nemours & Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the FEDERAL REGISTER section from 8:30 a.m. to 4 p.m., Monday through Friday.

Notice of approval or denial of this application to register "Velpar" weed killer will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: September 25, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-27617 Filed 9-29-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

HUB OIL CO., INC.

Designating Application for Hearing on Stated Issues

MEMORANDUM OPINION AND ORDER

Adopted: September 20, 1978.

Released: September 21, 1978.

By the Chief, Safety and Special Radio Services Bureau:

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned applications filed August 28, 1978, by Hub Oil Co., Inc. (Hub) for reinstatement of expired authorizations for facilities in the Special Industrial Radio Service at Rochester, N.Y. Also before the Bureau in connection with its consideration of the above-captioned applications is the Investigative Case Report of the Commission's Field Operations Bureau (FOB) concerning unlicensed operation by Hub.

2. The Bureau's license records show that on October 4, 1972, Hub was authorized to operate stations KO8427 and KER642 in the Special Industrial Radio Service. Those licenses expired, as shown on their face, on October 4, 1977. FOB's Investigative Case Report indicates that its Canandigua, N.Y., office discovered through monitoring on December 13, 1977, that Hub was operating on its previously licensed frequencies although its licenses had expired more than 2 months earlier without an application for renewal having been filed. On January 17, 1978, the Canandaigua Office issued a warning letter to Hub concerning its unlicensed operation. That letter, to which no reply was received, also explained the procedures for obtaining a license and special temporary authority. It appears that Hub eventually did file an application for reinstatement of its applications on March 7, 1978. That application was returned by the Bureau as incomplete and was not resubmitted until August 28, 1978.

3. Hub's continued radio transmissions were noted by the Canadaigua office on July 5, 1978, and a second warning letter was issued. Further monitoring on July 13, 1978, revealed that the unlicensed operation was continuing. In a telephone conversation of that date between the Canandaigua office and the Hub employee who signed a response to the second warning letter, the employee disclaimed any involvement with the operation of Hub's radio system. Later that same day the Canandaigua office was called by Hub's president, William F. Huberlie (Huberlie). Huberlie was warned that operation of the radio system must be terminated until a valid license or special temporary authority had been obtained and that there were possible criminal penalties for continued violation. According to FOB, Huberlie stated that Hub had been attempting to become licensed but could not obtain the proper application forms, and that he needed the radio system for his business and would continue to use it whether or not he had a license. In response to the warning in that telephone conversation of possible criminal prosecution Huberlie challenged the Commission to take whatever action it wished, but stated that he nevertheless would continue operation of the radio stations in the face of Commission action and regardless of whether he were issued the special temporary authority which he indicated that he would seek. The Bureau has no record of Hub ever having filed a request for special temporary authority. Monitoring by the Canandaigua office as recently as September 14, 1978, indicates that Hub is still operating without a license.

4. In light of Hub's unlicensed operation, which evidently continues to this day, serious questions exist as to Hub's character qualifications and responsibility to receive the authorizations which it here seeks. Because the Bureau cannot make the requisite finding, pursuant to section 309(a) of the Communications Act of 1934, as amended, that a grant of Hub's applications would serve the public interest, convenience and necessity, the applications must, in accordance with section 309(e) of the Act, be designated for evidentiary hearing.

5. Accordingly, *it is ordered,* That in accordance with the provisions of section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Hub Oil Co., Inc., file Nos. 20310/11-IS-88, are, pursuant to authority delegated in §§ 0.131(a) and 0.331 of the Commission's rules, "designated for hearing," at a time and place to be specified at a later date, on the following issues.

(a) To determine whether Hub Oil Co., Inc. has willfully violated the Communications Act of 1934, as amended, and the Commission's rules by operating unlicensed radio facilities in the Special Industrial Radio Service.

(b) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Hub Oil Co., Inc. possesses the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(c) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Hub Oil Co., Inc., is so inept in the management and conduct of its affairs with respect to operation and licensing of its radio system that it cannot be entrusted with a Commission authorization.

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications will best serve the public interest, convenience and necessity.

6. *It is further ordered,* That Hub Oil Co., Inc. and the Chief, Safety and Special Radio Services Bureau "are made parties" in this proceeding.

7. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof on the issues specified in paragraph 5 hereinabove are, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.254 and 1.973(e) of the Commission's rules, upon Hub Oil Co., Inc.

8. *It is further ordered,* That each of the parties named in paragraph 6 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of the notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date to be fixed for hearing and present evidence on the issues specified in this Order, as prescribed in § 1.221 of the Commission's rules.

9. *It is further ordered,* That the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Hub Oil Co., Inc. and by first class mail upon Hub's counsel.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-27637 Filed 9-29-78; 8:45 am]

[FCC 78-662]

TELE-COMM, INC.

Designating Applications for Consolidated Hearing on Stated Issues

MEMORANDUM OPINION AND ORDER

Adopted: September 19, 1978.

Released: September 27, 1978.

In re applications of Tele-Comm, Inc., for renewal of license for Station KON925 operating on 152.12 MHz in the Domestic Public Land Mobile Radio Service at Bremerton, Wash., and Rad Com Electronics, Inc., for a construction permit to establish a new two-way station to operate on 152.12 MHz in the Domestic Public Land Mobile Radio Service near Olympia, Wash. CC Docket No. 78-303, File No. 2618-C2-R-74; and CC Docket No. 78-304, File No. 21023-C2-P-(2)-74.

By the Commission: Commissioner Quello absent.

1. Presently before the Commission is an application filed by Tele-Comm, Inc. (Tele-Comm) for renewal of license for two-way Station KON925 operating on 152.12 MHz at Bremerton, Wash., File No. 2618-C2-R-74. This application was filed on April 3, 1974, 32 days after it should have been filed under § 21.14(f) (now § 21.11(c)) of the rules [1] and 2 days after its license expiration date of April 1, 1974. Tele-Comm's application appeared on Public Notice as having been accepted for filing on April 15, 1974. Also under consideration is the application of Rad Com Electronics, Inc. (Rad Com), File No. 21023-C2-P-(2)-74, filed on June 14, 1974, for a construction permit to establish a new two-way station to operate on 152.12 MHz at Buck Mountain and Rock Candy Mountain near Olympia, Wash. These applications are electrically mutually exclusive. Rad Com has filed an informal objection against the Tele-Comm application and a motion for expedited action with respect to its own application. Various responsive pleadings have been filed.

2. Because Tele-Comm filed its renewal application after the expiration date of its license, Rad Com argues that Tele-Comm has forfeited its license under § 21.34(b) of the rules,[2] that it has lost any *Ashbacker* [3] rights to a comparative hearing, and that its frequency became available to be claimed by other applicants. Rad Com further argues that our consideration of Tele-Comm's application would constitute a de facto grant of a license in excess of the statutory maximum of 5 years as set forth in section 307(d) of the Communications Act of 1934, as amended (the Act).[4] Rad Com requests the Commission to dismiss Tele-Comm's application and grant its own application for the frequency previously held by Tele-Comm.

3. In response to the above arguments Tele-Comm states that its principal thought the renewal application was timely filed if postmarked by the expiration date, that the renewal application was in fact postmarked by the expiration date and that the filing was delayed in any case because the entire staff of Tele-Comm (consisting apparently only of the principal of Tele-Comm and his wife) was busy with the birth of a child at the time the renewal application should have been prepared. On this basis, Tele-Comm requests a waiver of § 21.14(f) of the rules so that its application will be accepted for filing. Tele-Comm argues that because a waiver should be granted, the issue of forfeiture under § 21.34(b) will not be reached. In any case, Tele-Comm states that it is entitled on equitable grounds to have its application considered because, if its application is now dismissed, it will not be able to reapply as a new applicant since the time period has passed for

[1] Section 21.14(f) was amended and redesignated 21.11(c) (47 CFR 21.11(c)(1976)) by First Report and Order in Docket No. 20490, FCC 7501073, released October 6, 1975. Section 21.14(f) provided in part: "Renewal of Station License. Unless otherwise directed or permitted by the Commission, each application for renewal of license other than special temporary authorizations shall be submitted on FCC Form 405 not less than 30 days or more than 60 days prior to the expiration date of the license sought to be renewed."

[2] At the time Tele-Comm filed its application § 21.34(b) provided:

"A license or Special Temporary Authorization shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license or authorization shall have been filed with the Commission (See Sec. 21.14(f))

"In our 1975 *Notice of Proposed Rulemaking,* 55 FCC 2d 36, we stated that we would amend our rules to provide a 30-day grace period to file renewal applications in order to 'more clearly reflect current policy with respect to expired construction permits and licenses'. 55 FCC 2d at 37. This proposal was adopted in *Report and Order,* 55 FCC 2d 744 (1975). Section 21.34(b) was redesignated 21.44(b) without change by *First Report and Order,* 60 FCC 2d 549 (1976). Section 21.44(b) (47 CFR 21.44(b)) provides:

"A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

"(1) It is filed within 30 days of such expiration date;

"(2) It explains the failure to timely file a renewal application; and

"(3) It describes procedures which have been established to insure timely filings in the future."

[3] *Ashbacker Radio Corp. v. FCC,* 326 U.S. 327 (1945).

[4] Section 307(d) of the Communications Act of 1934, as amended, 47 U.S.C. 307(d), provides in part:

"No license granted for the operation of a broadcasting station shall be for a longer term than 3 years and no license so granted for any other class of station shall be for a longer term than 5 years, and any license granted may be revoked as hereinafter provided."

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filing an application mutually exclusive with Rad Com's application.[5]

4. Section 307(d) of the Act limits to 5 years our grant of original licenses and renewals for stations other than broadcast. Section 307(d) also provides that a license will be continued in effect pending final determination of a renewal application.[6] Therefore, while the Act prohibits the Commission from granting a license beyond the maximum statutory period, the Act does not place "inexorable limitations on the duration of the licenses themselves." *Committee for Open Media*, 543 F.2d 861, 866 (D.C. Cir. 1976). In our view, acceptance of a renewal application filed after the expiration date does not violate the Act's proscription against the award of a license beyond the statutory period.

5. Tele-Comm's application appeared on public notice as having been accepted for filing on April 15, 1974. Pursuant to section 307(d) of the Act, its license has been continued in effect pending disposition of its renewal application. The brief period between the expiration date and filing date, as well as the four years that have passed since Tele-Comm's filing persuade us that forfeiture under then § 21.34(b) of the Rules would not be warranted and therefore the rule is waived. At the time of its filing Rad Com recognized that its application would be in frequency conflict with Station KON925. Thus, our resolution of this matter will merely put Rad Com in the circumstances it could normally expect when filing "on top of" an existing carrier, namely, a comparative hearing. In short, we find that acceptance and, consideration of Tele-Comm's renewal application is reasonable, fair, and within our statutory authority. Accordingly, we reject Rad Com's arguments on this issue, subject to our concerns on Tele-Comm's comparative and basic qualifications as stated below.

6. As we have indicated, Tele-Comm failed to file its renewal application for Station KON925 within the time prescribed by our rules. See note 1, *supra* and accompanying text. Tele-Comm also failed to file timely renewals for Stations KOP253 and KOP246 Seattle, Wash.[7] It is our understanding, moreover, that these latter two stations were inoperative since 1968. In addition, an examination of the station file for Station KON925 indicates that Tele-Comm on February 5, 1974, was issued a construction permit to modify the facilities of Station KON925. However, Tele-Comm never filed an application for a radio station license to cover this construction permit, which by its own terms was to expire on October 10, 1974. Finally, a recent field investigation of Tele-Comm's Station KON925 indicates that its control point was inoperative for at least 6 months prior to the time of the field investigation.[8] The record does not reflect an adequate explanation of these matters. For this reason, we find it necessary to explore further these matters in an evidentiary hearing. Our concern is that Tele-Comm may be careless, negligent, or inept to a degree sufficient to warrant a denial of its application.[9] See *Beamon Advertising, Inc.*, 45 FCC 1101 (Rev. Bd. 1963). Accordingly, we will designate appropriate issues to explore these matters.

7. Rad Com has requested a waiver of § 21.505 of the rules to permit operation at a power greater than that authorized by that section.[10] Rad Com states that there is a need for its proposed service in Tacoma and Bellevue, but that because of mountainous terrain it will be unable to serve these areas without the requested excess power. However, based on terrain data submitted by Rad Com, the proposed transmitter sites on Buck Mountain and Rock Candy Mountain appear to afford after a few miles from the transmitter site virtually unobstructed coverage to the lower lying areas it intends to serve. A substantial likelihood exists, therefore, that the reliable service area of Rad Com's proposed facilities will cover Tacoma and Bellevue without the requested waiver. Accordingly, we will designate an issue to determine if Rad Com has adequately demonstrated a need for its requested waiver of § 21.505 of the rules.[11]

8. The above-referenced applications are electrically mutually exclusive. Accordingly, a comparative hearing must be held to determine which applicant would better serve the public interest, convenience and necessity. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

9. Except to the extent indicated below, we find the applicants to be legally, financially, technical and otherwise qualified to construct and operate the proposed facilities.

10. Accordingly, *it is ordered*, Pursuant to sections 309 (d) and (e) of the Communications Act of 1934, as amended (47 U.S.C. Sections 309 (d) and (e)), that the above-captioned applications of Tele-Comm, Inc. and Rad Com Electronics, Inc., are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine the facts and circumstances surrounding the inoperative status of Tele-Comm's former Stations KOP253 and KOP246, the inoperative status of its control point for Station KON925, Tele-Comm's failure to file a license to cover a construction permit granted to it on February 5, 1974, and its failure to file timely renewals for Stations KON925, KOP246 and KOP253 as required by then § 21.14(f) of the rules;

(b) To determine whether the facts adduced pursuant to the foregoing issue reveal such negligence, carelessness or ineptness to reflect on the licensee's basic and/or comparative qualifications;

(c) To determine whether § 21.505 of the rules should be waived to allow operation of the facilities proposed in the application of Rad Com Electronics, Inc. at a power in excess of that prescribed by that rule section;

(d) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(e) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 37 dbu contours, based upon the standards set forth in §21.504(a) of the Commission's Rules,[12] and to determine the need for the proposed services in said areas; and

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, what dispostion of the above-referenced applications would best serve the public interest, convenience and necessity.

11. *It is further ordered*, That, with respect to issues (a) and (b) the burden of proceeding with the introduction of evidence and the burden of proof are placed on Tele-Comm, Inc.

12. *It is further ordered*, That, with respect to issue (c) the burden of proof and the burden of proceeding with the introduction of evidence are placed on Rad Com Electronics, Inc.

13. *It is further ordered*, That, with respect to issues (d) and (e) the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants, and, that, with respect to issue (f) the burden of proof is placed jointly on the applicants.

14. *It is further ordered*, That the hearing shall be held at the Commission's offices in Washington, D.C. at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

15. *It is further ordered*, That, the Chief, Common Carrier Bureau, is made a party to the proceeding.

16. *It is further ordered*, That, the applicants may vail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the day of the hearing and present evidence on the issues specified in this memorandum opinion and order.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27636 Filed 9-29-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

SPECIAL COMMITTEE No. 72

"Numerical Identification of Stations in Maritime Telecommunications Systems"

Notice of 10th meeting: Wednesday, October 18, 1978, 9:30 a.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Discussion of U.S. position for CCIR special preparatory meeting (SPM).
4. Adoption of U.S. position.

Contact person: Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, phone: 202-632-7054.

RTCM EXECUTIVE COMMITTEE

Notice of October meeting: Thursday, October 19, 1978, 9:30 a.m., Conference Room 7200, Nassif Building, 400 Seventh Street SW., Washington, D.C.

AGENDA

1. Call to order.
2. Administrative matters.
3. Approval of amendment to Bylaws, article IV, section 1.
4. Discussion on amendment of Constitution, article VI, section 8.
5. New business.

SPECIAL COMMITTEE No. 73

"Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment"

Notice of 4th meeting: Tuesday, October 24, 1978, 9:30 a.m., Conference Room, Maritime Institute of Technology and Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Reports of working groups.

Contact person: M. H. Carpenter, Co-Chairman, CDR T. P. Nolan, Co-Chairman, Maritime Institute of Technology and Graduate Studies, Linthicum Heights, Md. 21090, phone: 301-636-5700.

RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meetings may contact either the designated chairman or the RTCM Secretariat, phone: 202-632-6490.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27667 Filed 9-29-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on September 26, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such acceptance.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 20, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of revisions to Form NRC-7, Application for License to Export Nuclear Material and Equipment. Several new items have been added to the form and others revised. The revisions to Form NRC are necessary to implement the Commission's new regulations in 10 CFR Part 110. NRC estimates that respondents will number approximately 200 and burden will average 30 minutes per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-27775 Filed 9-29-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Proposed MAC Limit on Doxepin HCl Capsules

AGENCY: Health Care Financing Administration (HCFA), HEW.

[5] Section 21.31(b) of the rules (47 CFR 21.31(b) (1976)) provides that an application will be entitled to comparative consideration with one or more conflicting applications only if it is received within 60 days after the date of the public notice listing the first of the conflicting applications as accepted for filing or, in other circumstances not relevant here.

[6] Section 307(d) of the Communications Act of 1934, as amended (47 U.S.C. 307(d)) provides in part: "Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect."

Section 9(b) of the Administrative Procedure Act (5 U.S.C. 558(c)) provides a similar extension for licenses generally: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

[7] The renewal applications for these stations were received on the same day as the renewal application for KON925. Pursuant to settlement agreements with Ultra Radio Communications, Inc., the renewal applications for Stations KOP253 and KOP246 were dismissed with prejudice on January 25, 1977, and July 14, 1977, respectively.

[8] Tele-Comm admits that its control point was inoperative at the time of the field investigation.

[9] Section 308(b) of the Communications Act of 1934, as amended (47 U.S.C. 308(b)) requires that all prospective licensees show the requisite "character . . . and other qualifications" that the Commission might require.

[10] Section 21.505 of the Commission's rules (47 CFR 21.505) prescribes required reductions in effective radiated power for antenna heights in excess of 500 feet above average terrain.

[11] Rad Com's waiver request may ultimately be denied. In that event, its proposal will be evaluated on the basis of conformance with § 21.505 of the rules.

[12] Section 21.504(a) of the Commission's Rules (47 CFR 21.504(a)) describes a field

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strength contour of 37 decibels above one microvolt per meter as the limits of the reliable service area for stations engaged in two-way communications service in the 152-162 MHz band. Propagation data set forth in § 21.504(b) are the proper bases for establishing the location of service contours for the facilities involved in this proceeding.

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ACTION: Extension of comment period.

SUMMARY: Because additional information of possible significance to the setting of a MAC level for Doxepin HCl capsules has been received after the close of the comment period, the comment period for that drug is extended.

DATE: End of extended comment period: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Pharmaceutical Reimbursement Board proposed maximum allowable cost (MAC) limits on three forms of Doxepin HCl capsules. (See 43 FR 36698.) At that time, the Board announced that it would consider all comments received within 30 days of the date of the notice. After the close of the comment period, a comment was received stating that Doxepin HCl was not available to pharmacists at the proposed MAC limits. Although we would not ordinarily consider comments received after the close of the comment period, we were concerned that the proposed MAC limit, if adopted, might unfairly burden practicing pharmacists. In order to test the validity of this comment, we contacted one of the major wholesalers which distribute this drug. We were informed that their prices compared to the proposed MAC levels as follows:

Proposed MAC's and Wholesale Price

Doxepin HCl 10 mg. $0.0940—$0.0999.
Doxepin HCl 25 mg. $0.1150—$0.1222.
Doxepin HCl 50 mg. $0.1765—$' 1875.

The Board intends to consider this information in arriving at final MAC levels for Doxepin HCl. In order that the public be given the opportunity to comment on this information, or to bring other relevant information to our attention, the comment period for Doxepin HCl is extended until October 11, 1978.

Dated: September 28, 1978.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-27917 Filed 9-29-78; 9:33 am]

[4110-08]

National Institutes of Health

ANIMAL RESOURCES REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, October 25, 1978, at the Oregon Primate Research Center, Beaverton, Oreg. 97005.

The meeting will be open to the public on October 25 from 8:30 a.m. to 10:30 a.m., during which time there will be a brief staff presentation on the current status of the primate research centers program. The committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 25 from 10:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Dennis O. Johnsen, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health.)

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
NIH Committee Management Officer.

[FR Doc. 78-27646 Filed 9-29-78; 8:45 am]

[4110-08]

CHANGE OF DATE OF THE PRESIDENT'S CANCER PANEL

Amended Notice of Meeting

Notice is hereby given of the change of meeting date for the President's Cancer Panel, National Cancer Institute, October 10, 1978, National Institutes of Health, Bethesda, Md., which was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39430). The meeting will now be held October 18, 1978, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Md., and will be entirely open to the public from 9 a.m. to adjournment. Attendance by the public will be limited to space available.

For further information, please contact Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Md. 20014, 301-496-5854.

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-27645 Filed 9-29-78; 8:45 am]

[4110-08]

NIDR SPECIAL GRANTS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, on November 28-29, 1978, in building 31-C, Conference Room 9, National Institutes of Health, Bethesda, Md. This meeting will be open to the public from 9 a.m. to 10 a.m. on November 28 to discuss administrative details relating to committee business and general discussion. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 28 from 10 a.m. to adjournment and on November 29 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Emil L. Rigg, Chief of Scientific Review Branch, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, Md. 20014, phone 301-496-7658, will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.845, National Institutes of Health.)

OCT 2 1978

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-27647 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Clinical Trials Committee and the Combined Modality Committee, and the renewal of these committees as one under the title of the Clinical Trials Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27648 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Carcinogenesis Program Scientific Review Committee and the Virus Cancer Program Scientific Review Committee, and the renewal of these committees as one under the new title of the Cause and Prevention Scientific Review Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27649 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee, and the Cancer Control Treatment, Rehabilitation, and Continuing Care Review Committee, and the renewal of these committees as one under the new title of the Cancer Control Intervention Programs Review Committee, under the authority of section 410(a)(3) and section 410A(a) of the Public Health Service Act (42 U.S.C. 286d and 42 U.S.C. 286e). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals and grant applications. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27650 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Committees on Cancer Immunobiology; Cancer Immunodiagnosis, and Cancer Immunotherapy, and the renewal of these committees as one under the new title of the Tumor Immunology Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees. This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27651 Filed 9-29-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1978:

Name: Health Services Research Study Section.
Date and Time: October 12-13, 1978, 9 a.m.
Place: Room 10-57, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.
Open October 12, 9 a.m. to 10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on October 12, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Assistant Secretary for Health, pursuant to Public L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Marco Montoya, Ph. D., National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, MD 20782, telephone 301-436-6918.

Name: Health Services Developmental Grants Study Section.
Date and Time: October 25-27, 1978, 8 p.m.
Place: Hotel Washington, Capital Room, Pennsylvania at 15th and F Streets NW., Washington, D.C. 20004.
Open October 25, 8 p.m. to 10 p.m. and October 26, 9 a.m. to 10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for

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Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open sessions of the meeting on October 25 and 26, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the study section will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6916.

Agenda items are subject to change as priorities dictate.

Dated: September 26, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-27058 Filed 9-29-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Hearings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of the location of the December 7, 1978, field hearing of the Advisory Council on Social Security, in Miami, Fla.:

Bayfront Park Auditorium, 499 Biscayne Boulevard, Miami, Fla.

Details concerning this and the other three public hearings have been published previously in the FEDERAL REGISTER, 43 FR 39608, dated September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Joe Brittain, Intergovernmental Relations Specialist, DHEW, 101 Marietta Tower, Suite 1403, Atlanta, Ga. 30323, 404-221-2277.

(Catalog of Federal Domestic Assistance Program Nos. 13.800-13.805, Social Security Programs.)

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-27663 Filed 9-29-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

NAVAHO LAND SELECTION

Additional Public Hearings

SEPTEMBER 26, 1978.

A previous notice on public hearings concerning the Navaho land selection was published in the FEDERAL REGISTER, Vol. 43, No. 161, dated August 18, 1978.

Additional public hearings on the Navaho land selection environmental impact statement, each to begin at 7:30 p.m., will be held on November 2, 1978, in Flagstaff, Ariz., at the South Campus Student Union, Northern Arizona University, and November 3, 1978, in Kanab, Utah, in the high school auditorium. These hearings are being held to enable members of the public to present comments concerning the Department of the Interior's draft environmental impact statement on the proposal, under which 250,000 acres of public domain land in Arizona or New Mexico will be made available for purchase by the Navaho Indian Tribe.

Previous public hearings on the statement were held in Farmington, N. Mex., on September 11; Oraibi, Ariz., September 12; Page, Ariz., September 13; and Phoenix, Ariz., September 15.

Oral and written comments by interested parties are invited. The number of persons desiring to present oral statement may make it necessary to limit the time allowed for any single statement. Written comments supplementary to, or in lieu of, oral statements will be accepted at the hearings. The deadline for such comments has been extended to November 3. Copies of the draft environmental impact statement may be obtained from the Flagstaff Administrative Office, Bureau of Indian Affairs, P.O. Box 1889, Flagstaff, Ariz. 86002.

Those desiring to make an oral presentation at the hearings should make that fact known by advising the Flagstaff Administrative Office, Bureau of Indian Affairs, 125 East Birch Street, Room 307, Arizona Bank Building, Flagstaff, Ariz. 86001, in advance of the hearing or by registering on the date and at the place of hearing prior to the scheduled hour.

LARRY E. MEIEROTTO,
Deputy Assistant, Secretary of the Interior.

[FR Doc. 78-27635 Filed 9-29-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Civil No. 1983-73]

NATURAL RESOURCES DEFENSE COUNCIL, INC. ET. AL.

Proposed Deviation from Scheduled Preparation of Environmental Impact Statements on Livestock Grazing; Correction

In the above titled Notice published in the FEDERAL REGISTER of Tuesday, September 12, 1978, on page 40550, the closing date for submission of comments on the Draft Supplement to the Challis Environmental Statement was erroneously stated to be October 22, 1978. The correct date is October 2, 1978, as noted in the Environmental Protection Agency Notice of Availability of Environmental Impact Statements published in the FEDERAL REGISTER on August 21, 1978, page 37009.

ARNOLD E. PETTY,
Acting Associate Director.

[FR Doc. 78-27812 Filed 9-29-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-23]

HOT DESERT GRAZING MANAGEMENT PLAN FOR THE VIRGIN RIVER PLANNING UNIT, WASHINGTON COUNTY, UTAH

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Virgin River planning unit. The proposal involves implementing a grazing management program on public lands within the Virgin River planning unit of the Cedar City District in southwestern Utah.

A limited number of copies are available upon request to the District Manager, Bureau of Land Management, P.O. Box 729, Cedar City, Utah 84720.

Public reading copies will be available at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5717.

Utah State Office, Bureau of Land Management, University Club Building, 135 East South Temple, Salt Lake City, Utah 84111, telephone 801-524-4257.

Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, telephone 801-586-2401.

Dixie Resource Area Office, Bureau of Land Management, 24 East St. George Boulevard, St. George, Utah 84770, telephone 801-673-4654.

Dated: September 27, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27666 Filed 9-29-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 78-40]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Advisory Subcommittee on Technology Transfer of the NAC-STAAC will meet on October 26 and 27, 1978, at NASA headquarters, room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come-first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, chaired by Dr. Robert P. Morgan, is comprised of seven members of the NAC-STAAC and will review and discuss the 5-year program plan and the role of the private sector in technology transfer.

The approved agenda for the meeting is as follows:

OCTOBER 26, 1978

TIME AND TOPIC

8:30 a.m.—5-year plan.
1:15 p.m.—Discussion.
3 p.m.—Role of the private sector in NASA technology transfer.
4:30 p.m.—Adjourn.

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8:30 a.m.—Role of private sector in NASA technology transfer (continued).
11:30 a.m.—Findings and recommendations.
12:30 p.m.—Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C., at 202-755-8601.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

SEPTEMBER 22, 1978.

[FR Doc. 78-27632 Filed 9-29-78; 8:45 am]

[7510-01]

[Notice 78-41]

SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS

AGENCY: National Aeronautics and Space Administration.

ACTION: Advanced public notice of NASA's planned activities.

SUMMARY: In accordance with Executive Order 12044, "Improving Government Regulations," this Semiannual Agenda describes the significant regulations being considered for development or amendment by NASA, and the need and legal basis for the actions being considered.

EFFECTIVE DATE: October 2, 1978.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Joan Cavanaugh, 202-755-3219.

SUPPLEMENTARY INFORMATION: On May 22, 1978, NASA published in the FEDERAL REGISTER (43 FR 21981) its first report implementing Executive Order 12044. It proposed that any regulation that meets one or more of the following criteria will be considered significant.

(1) It is a matter of major concern to the public, especially if substantial public comments are anticipated;

(2) It may impose heavy compliance and reporting burdens on the public, especially on small business;

(3) It may substantially affect the quality of the environment, and the public health and safety; and

(4) It involves important NASA policy which will require substantial resources to develop and enforce.

ROBERT A. FROSCH,
Administrator.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Semiannual Agenda of Regulations

Title	Description	Legal citation	Status	Contact	Reg. analysis required
STS services for users of small self-contained payloads.	Describes the policy for services provided by NASA to users of small self-contained payloads and the implementation of the policy.	.....	Proposed rule ..	Donna J. Skidmore, Manager, Small Self-Contained Payload Program, Office of Space Transportation Systems, NASA Headquarters, Washington, D.C. 20546, 202-755-2427.	No.

[FR Doc. 78-27716 Filed 9-29-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Correction

In the FEDERAL REGISTER Document No. 78-24925 which appeared in the FEDERAL REGISTER issue for Wednesday, September 6, 1978, on page 39612 the following correction should be made. On the table showing the signature in the second column under the heading "Material in Kilograms or Reactor Type and Power Level", the first two entries should read 233.3 Uranium grams and 98.8 Plutonium grams.

Dated this day September 25, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 78-27682 Filed 9-29-78; 8:45 am]

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[7590-01]

APPLICATIONS FOR LICENSES TO EXPORT/IMPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses during the period of September 10-16, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this day September 25, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Program.

Name of applicant, date of application, date received, and application No.	Material in kilograms or reactor type and power level	Enrichment (in percent)	End-use	Country of origin
Transnuclear, Inc., Sept. 7, 1978, Sept. 9, 1978, ISNM 78017.	44,000 uranium	1.0	Toll enrichment, under contract UES/EU/41, by DOE, Oak Ridge.	West Germany

[FR Doc. 78-27686 Filed 9-29-78; 8:45 am]

[7590-01]

[Docket No. 70-2623]

DUKE POWER CO.

Special Prehearing Conference

SEPTEMBER 22, 1978.

On July 28, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of opportunity for public participation in the proposed NRC licensing action for amendment to special materials license SNM-1773 (43 FR 32905). The proposed amendment to SNM-1773 would authorize the Applicant, Duke Power Co., to transport spent nuclear fuel from the Oconee nuclear station for storage in the spent fuel pool located at the McGuire nuclear facility in accordance with the Duke's application for amendment dated March 9, 1978. The notice provided that any person whose interest may be affected by the proceeding could file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the proposed amendment to SNM-1773 should be issued.

Pursuant to the Notice,* timely petitions have been filed: (1) by the Safe Energy Alliance (the Alliance); (2) by Carolina Action in Charlotte (Carolina Action); (3) by the Natural Resources Defense Council (the Council); and (4) by the State of South Carolina.

Please take notice that a special prehearing conference pursuant to the provisions of § 2.751a of the Commission's Rules of Practice (10 CFR § 2.751a) will be held at 10:00 a.m., local time, on Tuesday, October 24, 1978, at the Board Room (4th Floor), Charlotte-Mecklenburg Education Center, 701 East Second Street, Charlotte, N.C. 28230. All parties and petitioners for intervention and their counsel are directed to appear at such special prehearing conference to consider the intervention petitions, including the interest or standing of petitioners under either the judicial standing tests for intervention as a matter of right, or intervention as a matter of discretion, as well as the identification of relevant issues in controversy.

Not later than fifteen (15) days prior to the holding of the special prehearing conference each petitioner shall file a supplement to his petition for leave to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party.

The parties and the petitioners or their representatives are directed to conduct such informal conferences as may be practicable prior to the prehearing coference in order to expedite the proceeding and in particular to advance the purposes of the prehearing conference.

It is so ordered.

Dated at Bethesda, Md, this 22d day of September, 1978.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc. 78-27684 Filed 9-29-78; 8:45 am]

*The Notice treated the May 23, 1978 motion of Carolina Environmental Study Group (CESG) in *Duke Power Co.* (William B. McGuire nuclear station, units 1 and 2) as a request for hearing in the captioned matter pursuant to 10 CFR 2.105, and as the basis for affording an opportunity for hearing on the amendment of license No. SNM-1773.

[7590-01]

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER & LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

PENNSYLVANIA POWER & LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

SUSQUEHANNA STEAM ELECTRIC STATION, UNITS 1 AND 2; CONSTRUCTION PERMIT NOS. CPPR-101 AND CPPR-102

This action is in reference to a notice published by the Commission on August 9, 1978, in the FEDERAL REGISTER (43 FR 35406) entitled "Receipt of Application for Facility Operating Licenses; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating Licenses Opportunity for Hearing".

The Chairman of this Board and his address is as follows: Charles Bechhoefer, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their address are as follows: Mr. Glenn O. Bright and Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 25th day of September 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-27683 Filed 9-29-78; 8:45 am]

[7590-01]

[Docket Nos. 50-259, 50-260 and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-33, Amendment No. 39 to Facility Operating License No. DPR-52 and Amendment No. 16 to Facility Operating License No. DPR-68, issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Ala. The amendments are effective as of date of issuance.

The amendments change the Technical Specifications and authorize the licensee to increase the storage capacity of each of the three on-site spent fuel pools to 3471 fuel assemblies.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 9, 1978 (43 FR 1412). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Final Environmental Statement for the Facility dated September 1, 1972.

For further details with respect to this action, see (1) the application for amendments dated December 2, 1977, as supplemented by letters dated December 20, 1977, May 24, May 26, June 30, August 2, August 10, and September 1, 1978, (2) Amendment No. 42 to License No. DPR-33, Amendment No. 39 to License No. DPR-52, and Amendment No. 16 to License No. DPR—68, (3) the Commission's related Environmental Impact Appraisal and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of September, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-27685 Filed 9-29-78; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD

ACTUARIAL ADVISORY COMMITTEE WITH RESPECT TO THE RAILROAD RETIREMENT ACCOUNTS

Public Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Actuarial Advisory Committee will hold a meeting on October 31, 1978, at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Ill., on the conduct of the 14th Actuarial Valuation of the Railroad Retirement Account. The agenda for this meeting will include economic assumptions and valuation methods to be used for the 14th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Ill. 60611.

Dated: September 25, 1978.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 78-27698 Filed 9-29-78; 8:45 am]

[8010-01]

[File No. 500-1]

SECURITIES AND EXCHANGE COMMISSION

CAYMAN CORP., ET AL.

Suspension of Trading

SEPTEMBER 25, 1978.

In the Matter of Trading in Securities of Cayman Corp., Ilikon Corp., and Mackey International, Inc.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of the above-named issuers being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. on September 25, 1978 through October 4, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-27660 Filed 9-29-78; 8:45 am]

[8010-01]

[File No. 500-1]

PASTA KING, INC.

Suspension of Trading

SEPTEMBER 25, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Pasta King, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.d.t.) on September 25, 1978, through October 4, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-27661 Filed 9-29-78; 8:45 am]

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[8010-01]

[Release No. 34-15186; File No. SR-MSE-78-21]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 7 of Article XL is hereby amended as follows (Additions italicized—[Deletions Bracketed]):

ARTICLE XL

Restriction of Out-of-the-Money Options. Rule 7(a) No change in text.

(b) The prohibition of paragraph (a) shall not apply to:

1. The entry of an order for any opening writing transaction intended to create a covered short position or, in the case of a call option contract, a short position that is covered in the account on a share-for-share basis by a long position in a security immediately exchangeable or convertible without restriction, other than the payment of money, into the underlying stock;

(2) The entry of a spread order for the purchase and sale of the same number of option contracts of the same class; [or]

(3) The entry of an order for any opening transaction which would, upon execution, create a spread position for the same number of option contracts of the same class;

(4) The entry of an order for the purchase of a put against a long position in either the underlying stock or a security immediately exchangeable or convertible without restriction, other than the payment of money, into the underlying stock; or

[(3)] (5) Any transaction of a Market Maker pursuant to the provisions of Rule 8 of Article XLVII.

(c) No change in text.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of proposed Rule 7(b)(3) is to permit investors to enter an order in a restricted option, the execution of which would result in a spread position. Under present Rule 7(b)(2), the entry of a spread order is exempt from the prohibition of the restricted options rule provided both sides of the order are executed simultaneously. That is, a spread order, by definition, requires the simultaneous purchase and sale of the same number of option contracts of the same class.

Under the proposed rule change, investors would be permitted to execute each side of a spread at different times, which might be advisable depending on market conditions. For example, an account which already has a long position in a particular option class would be able to sell (opening) a restricted option provided each such option sold is offset by a long option which results in a spread position. Similarly, if an account has an existing short position in a particular option class, it would be permitted to purchase (opening) a restricted option to offset the short position provided the transaction results in a spread position.

The proposed rule change would not permit, however, a spread position to be established by initiating an opening purchase or sale in a restricted option and subsequently executing the other side of the spread.

With respect to proposed Rule 7(b)(4), the amendment would permit investors to purchase (opening) restricted puts provided they are offset in the account by long stock or convertible security positions.

The basis of this rule change is section 6(b)(5) of the act, where the rules of the Exchange are designed to promote just and equitable principles of trade.

The Midwest Stock Exchange, Inc., has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc., believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER (November 6, 1978), or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

SEPTEMBER 25, 1978.

[FR Doc. 78-27662 Filed 9-29-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/110]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State will hold a meeting on October 12 of the Working Group on U.N./OECD investment undertaking of the Advisory Committee on Transnational Enterprises. The Working Group will meet from 2:30 p.m. until 5:30 p.m. The meeting will be held in room 6320 of the State Department, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The subject of the meeting will be the ongoing negotiations in international bodies aimed at codes of conduct related to international investment. In particular, the Working Group will review the results of the September 18-29 meeting of the U.N. Intergovernmental Working Group on a Code of Conduct. In addition, the Working Group will discuss the forthcoming meeting of the OECD subgroups concerned with national treatment, and the guidelines on multinational enterprises. The Working Group will also review the preparations for the October 30-31 meeting of the full OECD Committee on International Investment and Multinational Enterprises (CIME). We will also consider in further detail issues relating to the formal review of the OECD investment package.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on 202-632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of each Working Group will, as time permits, entertain

oral comments from members of the public attending the meeting.

Dated: October 21, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 78-27699 Filed 9-29-78; 8:45 am]

[4710-07]

[Public Notice CM-8/111]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, October 18, 1978 in rooms 8236 and 8238 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of this meeting is to finalize preparations for the XIX Session of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled to meet November 27 to December 1, 1978 in London. The agenda for this meeting includes, inter alia, noise levels onboard ships, draught requirements for Segregated Ballast Tankers less than 150 meters in length, steering gear standards, special purpose ships (research vessels and offshore supply vessels) and diving systems.

Requests for further information on the meeting should be directed to Captain R. L. Brown, United States Coast Guard. He may be reached by telephone at 202-426-2167.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Acting Director,
Office of the Maritime Affairs.

SEPTEMBER 20, 1978.

[FR Doc. 78-27700 Filed 9-29-78; 8:45 am]

[4710-01]

[Public Notice CM-8/112]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9 a.m. on Thursday, October 19, 1978 in rooms 8236 and 8238 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of this meeting is to finalize preparations for the XXII Session of the Subcommittee on Fire Protection of the Intergovernmental Maritime consultative Organization (IMCO) which is scheduled to meet November 6-10, 1978 in London. The agenda for the meeting includes, inter alia, the discussion of reservations on the proposed Code for Mobile Offshore Drilling Units (MODU's) and the discussion of special purpose ships other than MODU's.

Requests for further information on the meeting should be directed to Mr. Daniel F. Sheehan, U.S. Coast Guard, Washington, D.C. 20590. He may be reached by telephone at 202-426-2197.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD, III,
Acting Director,
Office of Maritime Affairs.

SEPTEMBER 20, 1978.

[FR Doc. 78-27701 Filed 9-29-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-133]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory committee to be held at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday, October 17-18, 1978. The session on Tuesday will begin at 1 p.m. and end at 4 p.m. On Wednesday the session will begin at 8:45 a.m., and adjourn at 3:45 p.m.

The agenda for this meeting is as follows: (a) Impact of corps size reduction, (b) accreditation, (c) McAllister Hall (Engineering), (d) educational media center, (e) Academy non-cadet programs, (f) Cadet Administration Division, (g) admissions.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the status of the curriculum and faculty of the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should not later than the day before the meeting notify: Capt. Roderick M. White, USCG, Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, Conn. 06320, phone 203-443-8463.

Any member of the public may present a written statement to the Committee at any time.

W. H. STEWART,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Personnel.

[FR Doc. 78-27720 Filed 9-29-78; 8:45 am]

[4910-14]

[CGD 78-135]

WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

Suspension of Requirements for Survey, Inspection, and Measurement

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed order.

SUMMARY: The Coast Guard proposes to suspend the provisions of law requiring survey, inspection, and measurement of the foreign built vessel, M/V *Lionheart,* in order to admit the vessel to American registry. This action is considered necessary, due to restraints on the shipping trade between the United States and Ecuador recently imposed by the Ecuadorian government. Suspending the provisions of law requireing survey, inspection, and measurement will allow the vessel to be registered under United States laws following its sale to a United States corporation.

DATES: Comments must be received on or before October 13, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-135), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain J. E. DeCarteret, Chief, Merchant Vessel Inspection Division, U.S. Coast Guard, Room 8302, 400 7th Street, SW., Washington, D.C. 20590, 202-426-2178.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed action by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 78-135) and give reasons for the comments. All comments received before the expiration of the comment period

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will be considered before final action is taken on this proposal.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Captain J. E. DeCarteret, Project Manager, Office of Merchant Vessel Inspection, and A.F. Bridgman, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION

In the interest of preserving the needs for foreign commerce between the United States of America and Ecuador the Coast Guard is considering suspending the provisions of law requiring survey, inspection, and measurement by officers of the United States of foreign built vessels admitted to American registry under 46 U.S.C. 11 for the M/V *Lionheart*, for a period of approximately 9 months. The *Lionheart* is of Norwegian registry, currently under charter to Coordinated Carribean Transport, Inc. an American owned corporation. The vessel has been engaged in roll-on-roll-off shipping between the United States and Ecuador. Recently the Ecuadorian government refused to issue the manifest stamps which are necessary to permit the shipment of goods on the M/V *Lionheart* from Miami, Fla. to Ecuador.

The action has apparently been taken under the provisions of Ecuadorian law reserving the general cargo trade between Ecuador and the United States to U.S. flag vessels and Ecuadorian flag vessels.

Coordinated Carribean Transport, Inc. currently has under construction two U.S. flag vessels scheduled to engage in trade on this route. The completion of the construction of these vessels has been delayed and delivery is not anticipated until March 1979. The applicant has stated that no United States flag vessels of a type and size suitable for roll-on-roll-off operation in the U.S.-Ecuador trade are available for charter or purchase. This waiver is proposed to permit the M/V *Lionheart* to be registered for the foreign trade, as a U.S. flag vessel.

The *Lionheart* is the only vessel currently providing direct roll-on-roll-off service between the United States and Ecuador. The suspension of the service occurred suddenly and left substantial amounts of cargo stranded at the Coordinated Carribean Transport, Inc. Terminal in Miami. The unavailability of other vessels to move this cargo, and other shipments scheduled, has resulted in hardship to numerous U.S. shippers. Delay in acting on this suspension will have adverse affects on the shipping trade that has come to rely on the service provided by the M/V *Lionheart*.

Since this proposed Order could have an effect on other persons, the Coast Guard is providing an opportunity for comment, however, due to the circumstances giving rise to the proposed Order, it has been found necessary to limit the comment period to 10 days. The Coast Guard has determined that this proposed Order is exempt from the requirements of Executive Order 12044 and the DOT Policies and Procedures for Improving Government Regulations (46 FR 9582).

In consideration of the foregoing, the Coast Guard proposes to issue the following Order:

The Commandant, U.S. Coast Guard has found it necessary in the interest of the foreign commerce of the United States, to suspend the provisions of law requiring survey, inspection, and measurement, by officers of the United States, of foreign built vessels prior to their being registered as vessels of the United States under 46 U.S.C. 11. The provisions of 46 U.S.C. 71, 46 U.S.C. 361, 46 U.S.C. 362, 46 U.S.C. 367, and 46 U.S.C. 404 requiring surveys, inspections, and measurement are suspended, until July 1, 1979, and, if otherwise eligible, the M/V *Lionheart*, of 5940 gross tons and 3201 net tons, built in Oslo, Norway in 1960, may be admitted to registry under 46 U.S.C. 11, provided the vessel is engaged solely in the United States-Ecuador trade.

(46 U.S.C. 82; 49 U.S.C. 1655(b)(1); E.O. 10289; and 49 CFR 1.45(a).)

Dated: September 28, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-27799 Filed 9-29-78; 8:45 am]

[4910-13]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 134—GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 134 on General Purpose Electronic Test Equipment to be held October 19 and 20, 1978, conference room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Va., commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of fourth meeting held August 24 and 25, 1978; (3) report and discussion on warranty shortfalls issue; (4) briefing on cost and utilization of test equipment in an airline environment; (5) working groups meet in separate sessions; (6) report and discussion on specification confusion issue; (7) report and discussion on wasteful cost of obsolescence issue; and (8) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 15, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-27451 Filed 9-29-78; 8:45 am]

[4910-22]
[4910-59]

Federal Highway Administration
National Highway Traffic Safety Administration

HIGHWAY FATALITY COUNTING RULE

Fatalities Within 30 Days of Causative Accidents

AGENCIES: Federal Highway Administration (FHWA); National Highway Traffic Safety Administration (NHTSA).

ACTION. Notice.

SUMMARY: The Department of Transportation is adopting for its statistical purposes a rule that counts as traffic fatalities only those deaths occurring within 30 days of the causative accidents. The rule has been adopted in the interest of promoting uniformity in the reporting of highway fatalities.

EFFECTIVE DATE: January 1, 1979.

ADDRESS: Administrator, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William E. Scott, National Center for Statistics and Analysis, NHTSA, Washington, D.C. 20590, 202-426-1470.

SUPPLEMENTARY INFORMATION: Motor vehicle traffic fatality statistics are the most widely used indicators of highway safety trends and of the relative magnitude of highway safety problems. National traffic fatality figures are currently being issued by such organizations as the National Center for Health Statistics (U.S. Department of Health, Education, and Welfare), the FHWA, the NHTSA and the National Safety Council (NSC).

While all of the basic data for these national statistics are provided by the States, the organizations which compile the national figures use different rules for determining whether a fatality is to be counted as a traffic fatality. As a result national fatality figures vary greatly. In 1976, for example, fatality figures ranged from about 44,800 (NHTSA) to 47,100 (NSC).

Until now, the FHWA and the NHTSA have been using different fatality counting rules. Under the FHWA rule, a death which occurred within 12 months of a traffic accident would be counted as a traffic fatality, but under the NHTSA rule a death would not be counted as a traffic fatality unless it occurred within 30 days of the accident.

In December 1977, the Department advised the States by letter that it was considering a 30-day fatality rule for both the FHWA and the NHTSA and requested the comments of the States on the 30-day fatality rule. Over 40 States responded to the Department's request for comments. A review of the responses shows that all of the States agree that national uniformity is desirable. Although several States preferred a different counting rule, there were no indications that reporting to the Department on the basis of the 30-day rule would cause unreasonable difficulties.

A small percentage of fatalities occur beyond the 30-day period. If persons using the data need an estimate of these additional fatalities, statistical methods exist to derive such an estimate.

Consequently, in the interest of promoting uniformity in the reporting of highway fatalities, the Department has decided to adopt the 30-day fatality counting rule beginning January 1, 1979. No changes will be required for data submitted by the States to NHTSA; however, data submitted to FHWA should be based on the 30-day counting rule rather than the 12-month rule previously used.

The 30-day fatality rule will apply to the Department's data systems and will affect the data submitted by the States to these systems. It does not apply to the States methods of counting traffic fatalities for their own use.

Issued on September 21, 1978.

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

KARL S. BOWERS,
Administrator,
Federal Highway Administration.

[FR Doc. 78-27581 Filed 9-29-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-16; Reference: ATF O 1100.97]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 231, TAXPAID WINE BOTTLING HOUSES

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 231, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to approval of the bottling and packaging of taxpaid United States and foreign wines at premises other than the bottling premises of a distilled spirits plant operated under 27 CFR Part 201. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 231, Taxpaid Wine Bottling Houses, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assitant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 231, Taxpaid Wine Bottling Houses:

a. To prescribe all forms required by regulations including applications, notices, reports, returns, and records, under 27 CFR 231.2.

b. To prescribe the format of ATF F 2060(5140.1), Record of Wine Cases Filled, which is provided by proprietors at their own expense, under 27 CFR 231.111.

c. To approve applications for:

(1) Alternate methods or procedures including alternate construction or equipment in lieu of a method or procedure specifically prescribed in regulations, under 27 CFR 231.120(a).

(2) Emergency variations from requirements for construction, equipment, and methods of operations, under 27 CFR 231.120(b).

d. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 231.120.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3b, and 3d above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 3c above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 3c(2) above to approve emergency variations may be redelegated to regional regulatory administrators, who may redelegate this authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authority in paragraph 3c(1) above may be redelegated to regional regulatory administrators to approve, without submission to headquarters, subsequent applications for alternate methods or procedures which are identical to those previously approved by Bureau headquarters. The authority in paragraph 3d above may be redelegated to regional regulatory administrators and, where an alternate method or procedure is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal. Regional regulatory administrators may redelegate this authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

Effective date: This order becomes effective on September 21, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-27642 Filed 9-29-78; 8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 8 (Rev. 6)]

REGIONAL DIRECTORS OF APPEAL

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division job titles are changed, an obsolete job title is deleted, and delegation of authority to one official is terminated. Redelegation of authority is amended to reflect a single level of administrative appeal.

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The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to sign agreements as to liability for personal holding company tax.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.547-2 to enter into agreements relating to liability for personal holding company tax, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. Chiefs, Appeals Offices;
c. Associate Chiefs, Appeals Offices;
d. Director of International Operations;
e. Assistant District Directors; and
f. Chiefs of District Examination Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; and to Revenue Agents (Reviewers) not lower than GS-11.

3. This order supersedes Delegation Order No. 8 (Rev. 5), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27590 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 12 (Rev. 7)]

ASSISTANT REGIONAL COMMISSIONER (APPELLATE) AND EXECUTIVE ASSISTANT TO THE ASSISTANT REGIONAL COMMISSIONER (APPELLATE)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Assistant Regional Commissioner (Appellate) and the Executive Assistant to the Assistant Regional Commissioner (Appellate) job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Designation of acting supervisory officials.

Issued: October 1, 1978.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 177-19, Revision No. 1; Administrative Circular No. 46 and Supplement 1 thereto; and Chapter 250, Treasury Personnel Manual there is hereby delegated the authority to designate acting supervisory officials in the Internal Revenue Service, *unless or until the official making the designation, or a line superior of the official making the designation, designates another employee to serve as acting* as follows.

1. All Internal Revenue Service employees in supervisory positions other than positions specifically provided for in sections 2 through 12 of this Order are authorized to designate an employee to serve as acting during their absence and, in case a supervisory position under their supervision and control becomes vacant, to designate an employee to serve as acting.

2. The Commissioner shall designate an Acting Deputy Commissioner when necessary.

3. In an Office of Assistant Commissioner having a Deputy Assistant Commissioner, such Deputy Assistant Commissioner shall automatically become Acting Assistant Commissioner in case of the absence of the Assistant Commissioner or a vacancy in the office. The Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of both the Assistant Commissioner and Deputy Assistant Commissioner. If the position of Deputy Assistant Commissioner becomes vacant, the Assistant Commissioner shall designate an employee who shall serve as Acting Deputy Assistant Commissioner. In an Office of Assistant Commissioner where there is no Deputy Assistant Commissioner, the Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of the Assistant Commissioner and the Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in case the position of Assistant Commissioner becomes vacant.

4. In the Office of the Assistant to the Commissioner (Public Affairs), the Assistant Director shall serve as Acting Assistant to the Commissioner (Public Affairs) in the absence of the Assistant to the Commissioner (Public Affairs) or during a vacancy in the office. The Assistant to the Commissioner (Public Affairs) shall designate an employee to serve as Acting Assistant to the Commissioner (Public Affairs) when both the Assistant to the Commissioner (Public Affairs) and the Assistant Director are absent.

5. Each Regional Commissioner shall designate an Assistant Regional Commissioner, Regional Director of Appeals, District Director or Service Center Director who shall serve as Acting Regional Commissioner in the absence of the Regional Commissioner. If the position of Regional Commissioner becomes vacant, the Commissioner shall designate an employee to serve as Acting Regional Commissioner.

6. In an Office of Regional Director of Appeals, the Assistant Regional Director of Appeals shall automatically become Acting Regional Director of Appeals in case of the absence of the Regional Director of Appeals or a vacancy in the office. The Regional Director of Appeals shall designate an employee who shall serve as Acting Regional Director of Appeals in the absence of both the Regional Director of Appeals and the Assistant Regional Director of Appeals. If the position of Assistant Regional Director of Appeals becomes vacant, the Regional Director of Appeals shall designate an employee who shall serve as Acting Assistant Regional Director of Appeals.

7. In an Office of Assistant Regional Commissioner (other than the Assistant Regional Commissioner (Compliance), Midwest Region, and the Assistant Regional Commissioner (Examination)) having an Executive Assistant to the Assistant Regional Commissioner, such Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner or a vacancy in the office. The Assistant Regional Commissioner shall designate an employee who shall serve as Acting Assistant Regional Commissioner in the absence of both the Assistant Regional Commissioner and the Executive Assistant. If the position of Executive Assistant becomes vacant, the Assistant Regional Commissioner shall designate an employee who shall serve as Acting Executive Assistant. If the position of Assistant Regional Commissioner becomes vacant in an office where there is no Executive Assistant, the Regional Commissioner shall designate an employee to serve as Acting Assistant Regional Commissioner.

8. In offices of Assistant Regional Commissioners (Examination), the Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner except to the extent provided for specific periods of time by written Assistant Regional Commissioner designation orders. In offices of the Assistant Regional Commissioners (Examination), the Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the vacancy in the office of the Assistant Regional Commissioner, except to the extent provided for specific periods of time by written Regional Commissioner designation orders. If positions of Executive Assistants become vacant, the Assistant Regional Commissioner shall designate employees who shall serve as Acting Executive Assistants.

9. In the Office of the Assistant Regional Commissioner (Compliance), Midwest Region, the Executive Assistant (Examination) shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner, except to the extent otherwise provided for specific periods of time by written Assistant Regional Commissioner designation orders. In the vacancy of the position of Assistant Regional Commissioner, the Executive Assistant (Examination) shall automatically become Acting Assistant Regional Commissioner, except to the extent otherwise provided for specific periods of time by written Regional Commissioner designation orders. If the positions of Executive Assistants become vacant, the Assistant Regional Commissioner shall designate employees who shall serve as Acting Executive Assistants.

10. In a District Office having an Assistant District Director of Internal Revenue, such Assistant shall automatically become Acting District Director in case of the absence of the District Director or a vacancy in the office. The District Director shall designate an employee who shall serve as Acting District Director in the absence of both the District Director and the Assistant District Director. If the position of Assistant District Director becomes vacant, the District Director shall designate an employee who shall serve as Acting Assistant District Director. In a District Office where there is no Assistant District Director, the District Director shall designate an employee who shall serve as Acting District Director in the absence of the District Director and the Regional Commissioner shall designate an employee who shall serve as Acting District Director in case the position of District Director becomes vacant.

11. In case of the absence of a Director, Internal Revenue Service Center, or a vacancy in the office, the Assistant Director of the Service Center shall automatically become Acting Director. The Service Center Director shall designate an employee who shall serve as Acting Service Center Director in the absence of both the Service Center Director and the Assistant Service Center Director. If the position of Assistant Service Center Director becomes vacant, the Service Center Director shall designated an employee who shall serve as Acting Assistant Service Center Director.

12. In case of the absence of the Director, Data Center, or the Director, National Computer Center, or a vacancy in the office, the Assistant Director of the Center shall automatically become Acting Director. The Data Center Director and the National Computer Center Director shall designate an employee who shall serve as Acting Director in the absence of both the Director and the Assistant Director. If the position of Assistant Director becomes vacant, the Director shall designate an employee who shall serve as Acting Assistant Director.

13. All designations as acting shall be made in writing and retained as a record, and a record shall be maintained of the periods during which an official automatically became acting under the provisions of this delegation order or by automatic designations issued under authority of this delegation order. The loss of such records, or the failure to maintain such records, will not invalidate the authority of the individual acting pursuant to this delegation order.

14. The authority delegated herein may not be redelegated.

15. This Order supersedes Delegation Order No. 12 (Rev. 6), issued May 28, 1976.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27591 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 14 (Rev. 1)]

REGIONAL COMMISSIONERS AND ASSISTANT COMMISSIONER (COMPLIANCE)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Regional Appellate Division organizational title is changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This documents does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Granting Extension of Time for Filing Statements in Accordance with 26 CFR 1.534—2.

Issued: October 1, 1978.

Regional Commissioners and the Assistant Commissioner (Compliance) are hereby authorized to delegate to appropriate officials of the offices of District Directors, the Regional Directors of Appeals and the Director of International Operations authority to grant taxpayers an extension of time not in excess of thirty additional days for the purpose of the purpose of filing the statement of grounds called for in registered mail notification sent pursuant to the authority vested in the Commissioner of Internal Revenue by 26 CFR 1.534-2.

This order supersedes Commissioner's Delegation Order No. 14, issued January 11, 1956.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27592 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 25 (Rev. 9)]

ASSISTANT TO THE COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Delegation of authority is extended to Regional Directors of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2334, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Reimbursement for actual subsistence expenses or per diem allowance to high/rate geographical areas for official travel.

Issued: October 1, 1978.

1. Pursuant to authority delegated to the Commissioner of Internal Revenue by the Department of the Treasury Directives Manual, Chapter 70, the officials named below are authorized, when the unusual circumstances of the travel assignment justify,

a. To authorize or approve reimbursement for subsistence expenses on an actual expense basis, or

b. To authorize in advance of performance of travel appropriate per diem allowances in lieu of actual subsistence reimbursement for travel to high-rate geographical areas, except when written IRS/Union agreements provide otherwise.

2. This authority applies to employees traveling on official business in accordance with the General Travel Order or individual travel orders subject to the limitations prescribed by the Federal Travel Regulations.

3. List of delegated officials: Assistant to the Commissioner (Public Affairs); Assistant Commissioners; Deputy Assistant Commissioners; Director of International Operations; Director, Data Center; Director, National Computer Center; Chief Counsel; Regional Commissioners; Regional Directors of Appeals; Assistant Regional Commissioners; Regional Inspectors; Regional Counsel; District Directors; and Service Center Directors.

4. This authority may only be redelegated to National Office Division Directors.

5. This Order supersedes Delegation Order No. 25 (Rev. 8) issued November 2, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27593 Filed 9-29-78; 8:45 am]

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[4830-01]

[Delegation Order No. 27 (Rev. 7)]

ADMINISTRATION OF OATHS FOR EMPLOYMENT IN THE FEDERAL SERVICE

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: An Appellate Division job title is changed and an obsolete job title is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131, (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to administer oaths required by law in connection with employment in the Federal Service.

Issued: October 1, 1978.

A. Pursuant to the authority granted to me in Treasury Department order No. 125, dated September 18, 1950, the incumbents of, and persons acting in, the positions listed below are hereby authorized to administer, without charge or fee, the oath of office required by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16) of any other oath required by law in connection with employment in the Federal service:

1. *National office.* Assistant Commissioner (Resources Management); Director and Assistant Director, Personnel Division; Chief and Assistant Chief, National Office Personnel Branch; Chief, Team Leaders, Personnel Management Specialists, and Personnel Staffing Specialists, Employment Section, National Office Personnel Branch; Chief and Appointment Clerks of the Services Section, National Office Personnel Branch; and Director and Assistant Director of International Operations.

2. *Regional offices.* Regional Commissioner; Assistant Regional Commissioner (Resources Management); Chief, Personnel Branch; Chiefs, Personnel Management Specialists and Appointment Clerks of the Employment and Regional Office Personnel Sections, Personnel Branch; and Chiefs, and Associate Chiefs, Appeals Offices.

3. *District offices.* District Director: Assistant District Directors; Chiefs, Resources Management Division; Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch; and the Administrative Officer or Representative of the District Director at an area, zone, or local office.

4. *Service centers.* Director; Assistant Director; Chief, Resources Management Division Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch.

5. *Data center.* Director; Assistant Director; Chief, Resources Management Division; Chief, Personnel Branch; Personnel Management Specialists, Personnel Assistants, Personnel Clerks, and Appointment Clerks, Personnel Branch.

6. *National computer center.* Director; Chief, Resources Management Division; Chief, Personnel Branch; Personnel Management Specialists and Appointment Clerks, Personnel Branch.

7. *Puerto Rico collection branch.* Director's representative, Office of International Operations.

B. All supervisors authorized by section A of this order to administer oaths are also authorized to designate in writing employees under their supervision and control who may administer such oaths.

C. Pursuant to the above authority vested in me as Commissioner of Internal Revenue, employees designated to serve as grievance examiners and executive secretaries in agency grievances are herey authorized to administer oaths to witnesses testifying in hearings, being conducted under the agency grievance process contained in IRM 0771.1. This authority may not be redelegated.

D. This order supersedes delegation order No. 27 (Rev. 6), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27594 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 35 (Rev. 9)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Employee plans and exempt organizations appeals program is transferred to the Regional Director of Appeals. Appellate Division job titles are changed. Redelegation of authority is amended due to establishment of a single level of administrative appeal. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Agreements as determinations under section 1313(a)(4) of the Internal Revenue Code of 1954.

Issued: October 1, 1978.

1. Pursuant to the authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.1313(a)-4, the authority to enter into agreements pursuant to section 1313(a)(4), Internal Revenue Code of 1954, relating to agreements treated as determinations, is hereby delegated to the following officials:

a. Regional Directors of Appeals;

b. Chiefs and Associate Chiefs of Appeals Offices;

c. Director of International Operations;

d. Assistant District Directors;

e. Chiefs of Examination Divisions; and

f. Chiefs of Employee Plans and Exempt Organizations Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; to revenue agents and tax law specialists (reviewers) not lower than GS-11 for field examination cases; and to revenue agents and tax technicians (reviewers) not lower than GS-9 for office examination cases.

3. This order supersedes delegation order No. 35 (Rev. 8), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27595 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 39 (Rev. 8)]

ASSISTANT COMMISSIONER (RESOURCES MANAGEMENT)

Delegation of Authority

AGENCY: Internal revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division job title is changed. Delegation of authority is extended to Regional Directors of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the

FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Tours of duty and overtime.

Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by chapter 610 of the Treasury Personnel Manual, the following officials are hereby authorized to prescribe, for personnel listed below, the official hours of duty and, when necessitated by operating requirements, to establish an administrative workweek of five 8-hour days other than Monday through Friday for individual employees or groups of employees whose services are required on Saturday or Sunday, or both, and flexible tours of duty for criminal investigators consisting of five 8-hour days, Monday through Friday.

Official and Personnel

Assistant Commissioner (Resources Management), national office (except Data Center and National Computer Center).

Assistant Commissioner (Data Services), Data Center and National Computer Center.

Assistant Commissioner (Inspection), regional inspectors.

Director of International Operations, employees of Office of International Operations stationed outside the Washington metropolitan area.

Regional Commissioners, District Directors, and Service Center Directors, personnel under their supervision and control.

2. The above-named officials are required, in accordance with 5 U.S.C. 6101, to establish tours of duty for individual employees or groups of employees in accord with the following criteria:

(1) Assignments to tours of duty shall be scheduled in advance over periods of not less than 1 week;

(2) The basic 40-hour workweek shall be scheduled in 5 days, which shall be Monday through Friday wherever possible, and the 2 days outside the basic workweek shall be consecutive;

(3) The working hours in each day in the basic workweek shall be the same;

(4) The basic nonovertime workday shall not exceed 8 hours;

(5) The occurrence of holidays shall not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than 1 hour shall not be scheduled in any basic workday.

3. In accordance with 5 U.S.C. 6101, an exception to the criteria in section 2 may be made in those instances where the authorizing official determines that application of one or more of the above enumerated criteria would result in a serious handicap in carrying out the organization's functions, or that costs would be substantially increased. Such exceptions and the reasons therefor shall be made a matter of record.

4. The authority delegated in section 1 may be redelegated as follows:

(1) By the Assistant Commissioner (Data Services) to the Directors, Data Center and the National Computer Center; and

(2) By Regional Commissioners, District Directors, and Service Center Directors, but not lower than to: Branch Chiefs in the regional headquarters office; Associate Chiefs, Appeals Offices; and Division Chiefs in Districts and Service Centers.

5. Assistant Commissioners, Regional Commissioners, Regional Directors of Appeals, Assistant Regional Commissioners, District Directors, and Service Center Directors, are hereby authorized:

(1) To order or approve the performance of paid overtime duty by employees under their supervision and control, provided funds are available for such duty;

(2) To order or approve the performance of overtime duty for personnel under their supervision and control for which compensatory time off will be granted in lieu of overtime pay;

(3) To order or approve the performance of work on holidays, provided funds are available for such duty; and

(4) To establish tours of duty for educational purposes under the provisions of 5 U.S.C. 6101(a)(4).

6. The authority delegated in section 5 may be redelegated to supervisors for employees under their supervision and control.

7. This order supersedes delegation order No. 39 (Rev. 7), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27596 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 42 (Rev. 10)]

REGIONAL DIRECTORS OF APPEAL

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Employee plans and exempt organizations appeals program is transferred to the Regional Director of Appeals. Appellate Division organizational and job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939 and 1954 Internal Revenue Codes.

Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 120, dated July 31, 1950; order No. 150-2, dated May 15, 1952; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Regional Directors of Appeals;

b. Service Center Directors;

c. District Directors;

d. Director of International Operations.

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Examination Branch; and Revenue Officers;

b. Collection—Chiefs, Office Branch and Office Groups; and Revenue Officers;

c. Examination—Reviewers, Grade GS-11; Group Managers; Case Managers: and Returns Program Managers;

d. Criminal Investigation—Chief, Criminal Investigation Division;

e. Appeals—Appeals Officers;

f. Office of International Operations—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and

g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS-11; Group Managers.

3. This order supersedes delegation order No. 42 (Rev. 9), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27597 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 47 (Rev. 11)]

ASSISTANT COMMISSIONERS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Regional Directors of Appeals are added to the delegation order. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the

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FEDERAL REGISTER for Wednesday, May 24, 1978

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to authorize or approve attendance at meetings at Government expense.

Issued: October 1, 1978.

1. There is hereby delegated to the following officials the authority to authorize or approve attendance of employees performing functions under their general supervision, at Government expense, within the geographic limits authorized by the general travel order, at meetings of scientific or professional societies, municipal, State, Federal, or international organizations, congresses, and law enforcement or other groups for the purpose of transmitting or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service:

Assistant Commissioners
Chief Counsel
Assistant to the Commissioner (Public Affairs)
Regional Commissioners
Regional Counsel
Regional Inspectors

2. The authority delegated herein to Regional Commissioners, Regional Counsel, and Regional Inspectors does not include attendance at meetings which are national in scope. The authorization or approval of the Assistant Commissioner (Resources Management), Assistant Commissioner (Compliance), Assistant Commissioner (Taxpayer Service and Returns Processing), Assistant Commissioner (Employee Plans and Exempt Organizations), Assistant Commissioner (Inspection), Assistant to the Commissioner (Public Affairs) or the Chief Counsel, in their respective areas of operation, must be obtained for employees under the general supervision of Regional Commissioners, Regional Counsel, or Regional Inspectors to attend meetings which are national in scope.

3. The authority herein delegated may not be redelegated except by Regional Commissioners to: (1) Assistant Regional Commissioners, Regional Directors of Appeals, and District Directors to authorize or approve attendance of employees under their supervision at meetings not national in scope held within their respective regions; and (2) Service Center Directors to authorize or approve attendance of service center employees at meetings not national in scope held within the geographical area serviced.

4. The authorization or approval of the Regional Commissioner must be obtained for attendance of employees under the general supervision of Assistant Regional Commissioners, Regional Directors of Appeals and District Directors at meetings held outside their respective regions. Attendance of district or service center employees at meetings national in scope requires approval of the Assistant Commissioner (Resources Management), Assistant Commissiner (Compliance), Assistant to the Commissioner (Public Affairs), Assistant Commissioner (Employee Plans and Exempt Organizations), or Assistant Commissioner (Taxpayer Service and Returns Processing) in their respective areas of operation.

5. The restrictions (other than on redelegation) set forth in sections 2, 3, and 4, above, do not apply to meetings or conventions held by recognized employee groups, organizations, or associations. Assistant Commissioners, the Assistant to the Commissioner (Public Affairs), the Chief Counsel, and Regional Commissioners are authorized to approve attendance of employees under their general supervision at meetings held by such employee groups, organizations, or associations when attendance is for the purpose of transmitting or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service.

6. This order supersedes delegation order No. 47 (Rev. 10), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27598 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 75 (Rev.8)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. The delegation of authority to Conferee-Special Assistants is terminated. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in offers in Compromise.

Issued: October 1, 1978.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 150-25, dated June 1, 1953, as amended by order No. 180, dated November 17, 1953 and order No. 150-36, dated August 17, 1954, 26 CFR 301.7122-1 and 26 CFR 301.7701-9 it is hereby ordered:

1. Each Regional Director of Appeals and each Chief and Associate Chief, Appeals Office, is authorized to determine the disposition to be made of any offer in compromise submitted under the provisions of section 7122 of the Internal Revenue Code of 1954, in which: (a) The proponent does not agree with the rejection or proposed rejection of the offer in the district office, the Office of International Operations, or a Service Center and requests Regional Director of Appeals consideration; or (b) the liability was previously determined by Appeals officials and the offer is based on doubt as to liability or doubt as to both liability and collectibility.

2. A determination by Appeals officials to accept an offer (other than one involving specific penalties only) based solely on doubt as to liability will be subject to approval by the Regional Commissioner if the unpaid amount of tax (including any interest, penalty, additional amount, or addition to the tax) is $100,000 or more.

3. A determination by Appeals officials to accept an offer (other than one involving specific penalties only) based solely on doubt as to collectibility or on doubt as to collectibility and liability will be subject to approval by the Regional Commissioner or the Director, Collection Division, if the unpaid amount of tax (including any interest, penalty, additional amount, or addition to the tax) is $100,000 or more.

4. The authorities delegated herein may not be redelegated and are not applicable to offers in compromise coming within the jurisdiction of the Chief Counsel under existing procedures, rules, or delegations. These authorities include any Federal excise or employment tax under the Internal Revenue Code of 1954, except any tax imposed by the following provisions or corresponding provisions of the Internal Revenue Code of 1939:

(a) Subtitle E; or

(b) Subchapter D, chapter 78 of subtitle F, insofar as it relates to taxes imposed under subtitle E.

5. This order supersedes delegation order No. 75 (Rev. 7) issued January 25, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27599 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 77 (Rev. 11)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Regional Director of Appeals is designated the appeals responsibility for employee plans and exempt organizations cases. Delegation of authority to conferees in Examination Divisions is deleted. Appellate Office titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to issue statutory notices of deficiency.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 26 CFR 301.7701-9, 26 CFR 301.6212-1, and 26 CFR 301.6861-1 to sign and send to the taxpayer by registered or certified mail any statutory notice of deficiency is hereby delegated to the following officials:

a. Regional Director of Appeals;

b. Chiefs and Associate Chiefs of Appeals Offices;

c. Director of International Operations;

d. Service Center Directors;

e. Assistant District Directors;

f. Assistant Service Center Directors;

g. Chiefs of Examination Divisions;

h. Chiefs of Correspondence Examination Branch; and

i. Chiefs of Employee Plans and Exempt Organizations Divisions.

2. This authority may be redelegated only by district directors, service center directors, and the Director of International Operations, but not lower than to reviewers, grade GS-9, in examination divisions, and reviewers, grade GS-12, in employee plans and exempt organizations divisions.

3. This order supersedes delegation order No. 77 (Rev. 10), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27600 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 89 (Rev. 4)]

DEPUTY COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Regional Directors of Appeals are added to the delegation order. National Office Associate Division Director is an obsolete title and is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Administrative classification of documents and material.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 222 of August 3, 1972, for the administrative classification of information necessarily restricted for official purposes is hereby delegated as follows:

(1) The Deputy Commissioner is authorized to classify for LIMITED OFFICIAL USE documents or materials dealing with important, delicate or sensitive matters which must be so restricted as to be available only for the information of officials who have a need to know such information. This authority may not be redelegated.

(2) The Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs); Director, Tax Administration Advisory Services Division; Director of International Operations; National Office Division Directors; National Office Assistant Division Directors; Chief, Disclosure Operations Division; Regional Commissioners; Regional Inspectors; Regional Directors of Appeals; Assistant Regional Commissioners; District Directors; Service Center Directors; Director, Data Center; and Director, National Computer Center are authorized to classify for OFFICIAL USE ONLY documents or materials which require restriction to a lesser degree than those marked LIMITED OFFICIAL USE, but which may be made available only to authorized officials. This authority may not be redelegated.

(3) The authority to declassify documents or material classified under this delegation order may be exercised only by the official authorizing the original classification, a successor in that capacity, or a line supervisory official of either and may not be redelegated.

This order supersedes delegation order No. 89 (Rev. 3) issued February 21, 1974.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27601 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 93 (Rev. 5)]

REGIONAL DIRECTORS APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed or deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Consent to a Redetermination of Aggregations by a Taxpayer in the Case of Invalid Basic Aggregations or Invalid Additions.

Issued: October 1, 1978.

1. The authority vested in the Commissioner of Internal Revenue as prescribed in 26 CFR 1.614-2(d)(5) and 26 CFR 1.614-3(f)(8) is hereby delegated to Regional Directors of Appeals; Chiefs, and Associate Chiefs, Appeals Offices; District Directors; and Chiefs, District Examination Divisions to:

Consent to the reforming of aggregations by a taxpayer where the taxpayer has formed invalid basic aggregations or made invalid additions to valid or invalid basic aggregations, and

Consent, in the case of oil and gas wells where an invalid aggregation has been formed under section 614(b), to the treatment by a taxpayer of all the properties included in the aggregation, which fall within a single operating unit, under the provisions of section 614(d) rather than section 614(b) of the 1954 Code is so requested by the taxpayer.

2. In the case of oil and gas wells this delegation order shall apply only to taxable years subject to the 1954 Code beginning before January 1, 1964.

3. The authority delegated herein may not be redelegated.

4. This Order supersedes Delegation Order No. 93 (Rev. 4), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27602 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 95 (Rev. 5)]

ASSISTANT TO THE COMMISSIONER (PUBLIC AFFAIRS)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The regional directors of appeals and additional chief counsel officials are added to the delegation

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order. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authorization for Use of First-Class Air Accommodations, Superior Rail and Ship Accommodations, and to Approve Travel Vouchers.

Issued: October 1, 1978.

1. The authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 72, Revised, is hereby delegated to the officials designated below, to direct official travel and administratively approve vouchers claiming reimbursement therefor when performed under the General Travel Order by (a) themselves (except Fiscal Management Officer), and (b) personnel under their supervision and control.

Assistant to the Commissioner (Public Affairs)
Assistant Commissioners
Division Directors
Fiscal Management Officer
Director of International Operations
Director, National Computer Center
Director, Data Center
Chief Counsel
Deputy Chief Counsel
Regional Commissioners
Regional Directors of Appeals
Assistant Regional Commissioners
Regional Inspectors
Assistant Regional Inspectors
Regional Counsels
Deputy Regional Counsels
Assistant Regional Counsels
District Counsels
District Directors
Service Center Directors

a. The authority to direct official travel and administratively approve travel vouchers may be only redelegated by the officials specified in this order.

b. The authority to direct one's own official travel or administratively approve one's own travel voucher may not be redelegated.

2. The officers named in item 1 above may authorize or approve the use of first-class air accommodations by themselves (except Fiscal Management Officer), employees and, where applicable, their immediate families only when all regularly scheduled flights between the authorized origin and destination points (including connection points) provide only first class accommodations.

a. This authority may not be redelegated.

3. The officers named in item 1 above may authorize or approve the use of accommodations superior to the lowest first-class rate for transportation by rail or ship by themselves (except Fiscal Management Officer), employees and, where applicable, their immediate families, for reasons defined in Chapter 1 of the Federal Travel Regulations.

a. This authority may not be redelegated.

4. This Order supersedes delegation order No. 95 (Rev. 4) issued May 25, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27603 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 97 (Rev. 16)]

ASSISTANT COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. Appeals responsibilities for employee plans and exempt organizations are transferred to the Regional Director of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, Telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Closing Agreements concerning Internal Revenue Tax Liability.

Issued: October 1, 1978.

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32, Dated November 18, 1953; Treasury Department Order No. 150-36, dated August 17, 1954 (C.B. 1954-2, 733); and Treasury Department Order No. 150-83, dated August 21, 1973, subject to the transfer of authority covered in Treasury Department Order No. 221, dated June 6, 1972, as modified by Treasury Department Order No. 221-3 (Rev. 2), dated January 14, 1977, this authority is hereinafter delegated.

1. The Assistant Commissioner (Technical) is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions affecting returns to be filed.

2. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Assistant Commissioner (Compliance) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) with respect to the performance of his/her functions as the competent authority in the administration of the operating provisions of the tax conventions of the United States..

3. The assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction, that is, in respect of any transaction concerning employee plans or exempt organizations.

4. Regional Commissioners; Regional Directors of Appeals; Assistant Regional Commissioners (Examination); District Directors; Director of International Operations; Chiefs and Associate Chiefs of Appeals Offices, are hereby authorized in cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. Regional Commissioners; Regional Directors of Appeals; Chiefs and Associate Chiefs of Appeals Offices are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

6. The Director of International Operations is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, under Revenue Procedure 72-22, C.B. 1972-1, 747 and under Revenue Procedure 69-13, C.B. 1969-1, 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65-17, C.B. 1965-1, 833.

7. The authority delegated herein does not include the authority to set aside any closing agreement.

8. Authority delegated in this Order may not be redelegated, except that the Assistant Commissioner (Technical) may redelegate the authority contained in paragraph 1 to the Deputy Assistant Commissioner (Technical) and to the Technical Advisors on the staff of the Assistant Commissioner (Technical) for cases that do not involve precedent issues, the Assistant Commissioner (Compliance) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioner (Compliance), and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the Staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues.

9. Delegation Order No. 97 (Rev. 15), issued July 2, 1978, is hereby superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27604 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 107 (Rev. 4)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP: PP 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Determine that Certain "Savings Institutions" do not intend to Avoid Taxes by Paying Dividends or Interest for Periods Representing More than 12 Months.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue under 26 CFR 1.461-1(e)(3)(ii) to determine that an organization referred to therein does not intend to avoid taxes (and therefore be permitted to deduct one-tenth of the amount of dividends or interest not allowed as a deduction for a taxable year under 26 CFR 1.461-1(e)(1) in each of 10 succeeding taxable years) is hereby delegated to the following officials:

(a) Regional Directors of Appeals,
(b) District Directors,
(c) Director of International Operations,
(d) Chiefs, Appeals Offices,
(e) Associate Chiefs, Appeals Offices,
(f) Assistant District Directors, and
(g) Chiefs of District Examination Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff.

3. This Order supersedes delegation Order No. 107 (Rev. 3), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27605 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 109 (Rev. 4)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, Telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Sign Agreements Determining Inapplicability of Exclusion under Section 963 of Internal Revenue Code of 1954.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and to District Directors by 26 CFR 301.7701-9 and 26 CFR 1.963-6(c) to sign agreements determining that the exclusion under section 963 of the Internal Revenue Code of 1954 does not apply to United States shareholders for certain taxable periods due to their failure to receive minimum distributions is hereby delegated to the following officials:

(a) Regional Directors of Appeals;
(b) District Directors;
(c) Director of International Operations;
(d) Chiefs, Appeals Offices;
(e) Associate Chiefs, Appeals Offices;
(f) Assistant District Directors;
(g) Assistant Director of International Operations;
(h) Chiefs of District Examination Divisions; and
(i) Chief of Examination Division, Office of International Operations.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff.

3. This Order supersedes Delegation Order No. 109 (Rev. 3), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27606 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 112 (Rev. 5)]

DISTRICT DIRECTORS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revision changes the redelegation level for issuing certain letters in employee plans matters; authorizes Regional Director of Appeals and the Assistant Commissioner (E) to take certain actions; provides for procedural changes caused by processing certain applications in the National Office instead of district offices; and provides for technical changes necessitated by the Tax Reform Act of 1976. Other minor changes are made. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leonard J. Finkel, E:EP:O, 1111 Constitution Avenue NW., Room 2232, Washington, D.C. 20224, 202-566-3950 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

LEON MOURTON,
Director, Program Staff, Office of Assistant Commissioner (Employeee Plans and Exempt Organizations).

DELEGATION ORDER

Subject: Authority to Issue Determination Letters Relating to Employee Plans Matters.

Issued: October 1, 1978.

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Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority with respect to issuance of determination letters pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district subject to paragraph 3, is authorized to:

(a) Issue determination letters involving the provisions of sections 401, 403(a), 405, and 501(a) of the Internal Revenue Code of 1954 with respect to:

(1) Initial qualification of stock bonus, pension, profit-sharing, annuity, and bond purchase plans;

(2) Initial exemption from Federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 503;

(3) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) Amendments, curtailments, or terminations of such plans and trusts.

(b) Issue determination letters with respect to whether a plan constitutes an employee stock ownership plan as contemplated in section 46(a)(2)(B) or section 4975(e)(7) of the Internal Revenue Code of 1954.

(c) Issue modifications or revocations of determination letters described above in accordance with currently applicable appeal procedures.

(d) Issue revocations of union negotiated plans maintained by more than one employer only after concurrence by the Assistant Commissioner (E).

(e) Redelegate this authority as follows:

(1) With respect to issuance and modification of determination letters, not below Internal Revenue Agent and Tax Law Specialist, GS-12, provided such individual is a person other than the initiator;

(2) With respect to issuance of proposed and final adverse determination letters or proposed revocation letters not below Chief, EP/EO Division; and

(3) The authority to issue final revocation letters may not be redelegated.

2. In each region, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) Issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation.

(b) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is authorized to issue instructions requiring preissuance review of final adverse determinations. These instructions must be approved by Chief Counsel to be issued.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized with regard to single employer plans to:

(a) Extend the remedial amendment period described IRC 401(b) in accordance with currently applicable 401(b) procedures but not in excess of 8 months after the later of:

(1) The due date of the employer's income tax return with extensions for the year in which the remedial amendment periods begin, or

(2) The end of the plan year within which the remedial amendment period begins.

(b) The authority referred to in paragraph 4(a) may be redelegated, but not below Chief, EP/EO Division.

Delegation Order No. 112 (Rev. 4) issued January 14, 1977, is hereby superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27607 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 113 (Rev. 6)]

DISTRICT DIRECTORS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: With the adoption of a single level of appeals, appeals of exempt organizations issues will be handled by the Regional Director of Appeals. The delegation to the Assistant Regional Commissioner (Examination) in this area is rescinded.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leon Mourton, E, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-4546 (not toll free).

This document does not meet the criteria for signficant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

LEON MOURTON,
Director, Program Staff, Office of Assistant Commissioner (Employee Plans and Exempt Organizations).

DELEGATION ORDER

Subject: Authority to Issue Exempt Organization Determination Letters.

Issued: October 1, 1978.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033; imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute, Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS-12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Director of Appeals, Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27608 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 136 (Rev. 3)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Sign Agreements Under Revenue Procedure 74-6 With Respect to Exercise by Trustee of Administrative and Investment Powers.

Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue, the authority to sign agreements entered into under the provisions of Revenue Procedure 74-6, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. District Directors;
c. Director of International Operations;
d. Chiefs, Appeals Offices, and
e. Associate Chiefs, Appeals Offices.

2. The authority delegated herein may be redelegated by Regional Directors of Appeals, District Directors, and Director of International Operations, and may not be further redelegated.

3. Delegation Order No. 136 (Rev. 2), issued January 25, 1978, is superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27609 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 160 (Rev. 2)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in Termination Assessments of Income Tax and Jeopardy Assessments.

Issued: October 1, 1978.

1. Pursuant to the authority vested in the Commissioner of Internal Revenue under 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9 and Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated to each Regional Director of Appeals, each Chief, and Associate Chief, Appeals Office, to conduct conferences and determine final disposition of requests for administrative reviews in termination assessments of income tax and jeopardy assessment cases.

2. This authority may not be redelegated.

3. Delegation Order No. 160 (Rev. 1), issued January 25, 1978, is superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27610 Filed 9-29-78; 8:45 am]

[4810-25]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings will be held in Washington on October 24 and 25, 1978, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee
Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on October 24 and a report to the Secrtetary of the Treasury and Treasury staff on October 24.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions October 24 and a report to the Secretary of the Treasury and the Treasury staff on October 25.

Pursuant to the authority placed in heads of departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c) (4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: September 18, 1978.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc. 78-27641 Filed 9-29-78; 8:45 am]

[4810-22]

PORTLAND GRAY CEMENT FROM PORTUGAL, ETC.

Tentative Determination To Modify or Revoke Dumping Findings

AGENCY: U.S. Treasury Department.

ACTION: Tentative revocation of dumping findings.

SUMMARY: This notice is to inform the public that portland gray cement from Portugal; pig iron from the U.S.S.R., Czechoslovakia, East Germany, Romania, and West Germany; aminoacetic acid (glycine) from France; whole dried eggs from Holland; clear sheet glass weighing over 28 ounces per square foot from France; asbestos cement pipe from Japan; and canned Bartlett pears from Australia are no longer being sold at less than fair value under the Antidumping Act, 1921. Notice is hereby given that the Department of the Treasury intends to revoke these findings of dumping.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: The 11 findings of dumping listed below were published in the FEDERAL REGISTER on the dates indicated.

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A review of § 153.46, Customs Regulations (19 CFR 153.46) and import statistics has resulted in the conclusion that these findings of dumping can be revoked in accordance with § 153.44(b), Customs Regulations (19 CFR 153.44(b)).

STATEMENT OF REASONS OF WHICH THIS TENTATIVE DETERMINATION IS BASED

The findings listed below have been in effect for at least 4 years and there appears to be no likelihood of resumption of sales at less than fair value. There is no record in the last 4 years of imports of the merchandise covered by these findings, with the single exception of one shipment of pig iron from West Germany. That importation was determined to be at fair value. In this factual situation, and in the absence of any special circumstances, a tentative revocation is deemed appropriate.

The findings of dumping referred to above relate to:

Commodity and country	T.D.	FR Date
Portland gray cement, Portugal.	55501	Nov. 7, 1961.
Pig iron, U.S.S.R.	68-261	Oct. 29, 1968.
Pig iron, Czechoslovakia	68-262	Do.
Pig iron, East Germany	68-263	Do.
Pig iron, Romania	68-264	Do.
Pig iron, West Germany	71-192	July 24, 1971.
Aminoacetic acid (glycine), France.	70-71	Mar. 24, 1970.
Whole dried eggs, Holland	70-196	Sept. 18, 1970.
Clear sheet glass weighing over 28 oz. per sq. ft., France.	71-293	Dec. 9, 1971.
Asbestos cement pipe, Japan	72-178	June 28, 1972.
Canned Bartlett pears, Australia.	73-84	Mar. 23, 1973.

[1] Modified by T.D. 78-242; July 19, 1978.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the findings of dumping with respect to the products from the countries in the above listing.

In accordance with section 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford and opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than October 11, 1978. Requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in 10 copies in time to be received by his office not later than November 1, 1978. All persons submitting views or arguments should avoid repetitious and merely cumulative material, and they are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential material.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIN,
General Counsel of the Treasury.

SEPTEMBER 2, 1978.

[FR Doc. 78-27639 Filed 9-29-78; 8:45 am]

[4810-34]

PRIVACY ACT OF 1974

Proposed Revision to System of Records, Correction

In FR Doc 78-22354 appearing on page 35572 in the issue for Thursday, August 10, 1978, the following title was inadvertently omitted:

In the second column under System managers and address, the title, Head, Production Scheduling Staff, should be added following "Chief, Office of Research and Technical Services."

This correction was filed with the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget on September 27, 1978.

Dated: September 29, 1978.

WILLIAM J. BECKHAM, Jr.,
Assistant Secretary for Administration.

[FR Doc. 78-27813 Filed 9-29-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Revised System Notice

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published and adopted a notice of its inventory of personal records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is changing the system of records entitled "Patient Fee Basis Medical and Pharmacy Records-VA" (23VA136). It is the policy of the Veterans Administration to provide medical care on a fee-for-service basis when such care is determined by the Administrator to be necessary or appropriate for the effective and economical treatment of disabilities of veterans who meet eligibility criteria. The size of this program has increased significantly over recent years as new laws expanded these medical benefits to greater categories of veterans. There are approximately 300,000 veterans actively receiving fee-basis care and approximately 100,000 health care providers who could participate in this program. To reduce overall processing time and thereby expedite payment to health care providers for services rendered to eligible veterans on a fee basis, the automated fee basis functions are being centralized from all the Veterans Administration data processing centers to the data processing center at Austin, Tex. In addition, the exchange of system data between the Austin Data Processing Center and VA health care facilities will be via ARS (Automated Record System) telecommunications network. These changes have been designed to increase security for the system, simplify functional requirements, and, most importantly enable the Veterans Administration to expedite payment to health care providers for services they are rendering to eligible veterans at Veterans Administration expense.

The changes to the system in no way alter the purposes for which the information is used; therefore, the requirement to give 30 days prior notice of such change does not apply.

A "Report on New System" and an advance copy of the revised system notice were sent on August 30, 1978, to the Speaker of the House, the President of the Senate, and the Office of Management and Budget, as required by the provisions of 5 U.S.C. 552a(o) of the Privacy Act and guidelines issued by the Office of Management and Budget (40 FR 45877), October 3, 1975.

Notice is hereby given that this description is effective the date of final approval, September 25, 1978.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

23VA136

System name:

Patient Fee Basis Medical and Pharmacy Records-VA.

System location:

Records are maintained at the VA Data Processing Center at Austin, Tex. and VA health care facilities. Address locations are listed in VA Appendix 1: Addresses of Veterans Administration Facilities.

Categories of individuals covered by the system:

Individuals furnished medical and pharmacy services authorized by the Veterans Administration on a fee-for-service basis.

Categories of records in the system:

Personal identification information on veteran and physician; date of visit; type of service; charge for service; pharmacy dispensing; and travel pay.

Authority for maintenance of the system:

Title 38, United States Code, Chapter 17, Subchapter I, Section 601; Chapter 3, Subchapter II, Section 213.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To provide statistical and other information in response to other legitimate and reasonable requests as approved by appropriate VA authorities, such as the release of information under the Freedom of Information Act.

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other health, educational, or welfare benefits.

4. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessaary to the requesting agency's decision on the matter

5. To the Treasury Department to facilitate payments to physicians, clinics, and pharmacies for reimbursement for services rendered.

6. To the Treasury Department to facilitate payments to veterans for reimbursements of travel expenses.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made to NARS (National Archives and Records Service), GSA (General Services administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

(a) Paper documents at VA Health Care Facilities. (b) Magnetic tape and disk at the data processing center.

Retrievability:

Indexed by veteran's social security number and physician's, or other health care provider's social security number or, if social security number is unavailable, taxpayer's identification number or DUNS (Dun and Bradstreet Uniform Numbering System) number.

Safeguards:

Access to the authorized VA data Processing Center is restricted to authorized VA employees and authorized representatives of vendors. Access to the computer rooms within the data processing center is further restricted to especially authorized VA personnel and vendor personnel. Protection is provided by alarm systems as well as guard service.

Exchange of data from the system between the data processing center and the VA health care facilities is by use of the ARS telecommunications network. Access to the ARS network equipment is restricted since it is in the communications center of each facility. Strict control measures are enforced to insure that disclosure is limited to a "need to know" basis.

At VA health care facilities access to working and storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Strict control measures are enforced to insure that disclosure is limited to a "need to know" basis.

Retention and disposal:

Paper documents at the VA health care facility authorizing the fee basis care are maintained in the Patient Consolidated Medical Record portion of the VA Medical Records system. These consolidated medical records, in turn, are retained at the VA health care facility for a minimum of three (3) years after the last episode of care. After the third year of inactivity the paper record is screened, and vital documents are removed and retained at the facility indefinitely; the remaining portion of the record is transferred to the nearest Federal Record Center for twelve (12) more years of storage.

Working magnetic tapes and disks at the data processing center are disposed of as soon as the purpose for which these were established has been served. Magnetic tapes and disks containing historical and statistical data are retained at the data processing center and are disposed of after a five (5) year retention period.

System manager(s) and address:

Director, Medical Administration Service (136), VA Central Office, Washington, DC 20420.

Notification procedure:

An individual seeking information concerning the existence and contents of a record pertaining to himself or herself should submit a written request or apply in person to the nearest VA health care facility (136). All inquiries must reasonably identify the system of records involved. Inquiries should include the individual's full name, social security number, and approximate date(s) of services rendered or received.

Record access procedures:

Veterans, beneficiaries, service personnel or duly authorized representatives seeking information regarding access to and contesting of Patient Fee Basis Medical and Pharmacy System-VA records may contact the Medical Administration Officer at the nearest VA health care facility.

Contesting record procedures:

(See Record Access Procedures above.)

Record source categories:

Patient Consolidated Medical Record portion of the VA Medical Records System.

[FR Doc. 78-27675 Filed 9-29-78; 8:45 am]

[8320-01]

PROCEDURES FOR IMPLEMENTING EXECUTIVE ORDER 12044, "IMPROVING GOVERNMENT REGULATIONS"

Schedule of Semiannual Agenda of Regulations

AGENCY: Veterans Administration.

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ACTION: Notice of Schedule for Publication of VA's Semiannual Agenda of Regulations.

SUMMARY: The Executive Order of March 23, 1978, "Improving Government Regulations" directed that all agencies publish a notice in the FEDERAL REGISTER on the first Monday in October indicating when the agency's semiannual agenda of signficant regulations under development or review will be published during the coming fiscal year.

FOR FURTHER INFORMATION:

Mr. William E. Stewart, Management Services (61), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3770.

SUPPLEMENTAL INFORMATION: To give the public adequate notice for comment on proposed significant regulations under development or those proposed for review, the VA will publish a semiannual agenda of regulations in the FEDERAL REGISTER in December and June of each year. In addition, non-significant regulations may be included in the agenda if the responsible Department or staff office head feels that it would be beneficial and of great interest to the veteran population. Supplements to this agenda may be published at other times during the year if it is determined that circumstances warrant such a supplement.

The semiannual agenda of regulations will have the concurrence of the General Counsel and will be signed by the Administrator or the Deputy Administrator.

The agenda will include:

(1) The regulations or significant regulations under development or being considered;
(2) Those regulations under review;
(3) Existing regulations scheduled to be reviewed;
(4) The need for and legal basis for such action;
(5) The status of regulations previously listed in other agendas;
(6) The name, title, address, and telephone number of a knowledgeable agency official who may be contacted for additonal information; and
(7) If possible, whether or not a regulatory analysis will be required.

The Director, Management Services will forward advance copies of the agenda to the Senate and House Committees on Veterans' Affairs as well as other interested, service-oriented individuals and organizations (presently 39). The Assistant Administrator for Information Service will also send notices of the agendas to publications likely to be read by those affected.

Approved: September 27, 1978.

MAX CLELAND,
Administrator of Veterans' Affairs.

[FR Doc. 78-27787 Filed 9-29-78, 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Corrected Service Order No. 1304, Revised Exception No. 10]

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.

Car Service

Decided: September 15, 1978.

The Chicago, Rock Island & Pacific Railroad Co. (RI) owns 5,702 jumbo hopper cars subject to Corrected Service Order No. 1304. On August 1, 1978, 564, or 9.9 percent of these cars were being used in unit-grain-train services, 4,069 for general grain traffic and 1,068 for transportating commodities other than grain.

Several shippers have financed repairs of RI jumbo covered hopper cars, and many of the cars are still in a payback status. These cars have been placed in assigned service to the shipper who financed repairs. Some shippers need to use a number of these cars in unit-grain-train service. Use by RI of these shipper-financed jumbo hopper cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, Chicago, Rock Island & Pacific Railroad Co., is authorized to use shipper-financed repaired Rock Island jumbo covered hopper cars in unit-grain-train service of the specific shippers who financed the rehabilitation of the cars regardless of the provisions of section (a)(1), (2) and (a)(5) of this order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Effective September 15, 1978.
Expires December 15, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-27503 Filed 9-29-78; 8:45 am]

[1505-01]

[Decision—Volume No. 14]

DECISION—NOTICE

Correction

On page 41332 in the issue for September 15, 1978, in the third column, there appeared a correction to FR Doc. 78-21577 which had been published in the issue of Tuesday, August 8, 1978. The correction stated that "MN" should have read "NM" in the sixteenth line of MC 115816 (Sub-320F); however the MC number cited in the correction should have been "MC 115826 (Sub-320F)".

[7035-01]

[Exception No. 4]

MISSOURI PACIFIC RAILROAD CO.

Car Service

Decided September 20, 1978.
By the Board.

The Missouri Pacific Railroad Co. (MP) has been given permission to use National Railways of Mexico (NdeM) 50-foot plain boxcars account there is an available supply of these cars on the NdeM. ICC Revised Exemption No. 133 authorizes MP to use certain NdeM boxcars without regard to the requirements of Car Service Rules 1 and 2. The MP is holding some of these cars beyond the 60-hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading, and in Section (a)(4)(i) prior to forwarding of cars.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Missouri Pacific Railroad Co. is authorized to hold empty National Railways of Mexico 50-foot boxcars listed in ICC Revised Exemption No. 133 for loading, or prior to forwarding empty, regardless of the provisions of section (a)(2)(ii), and of section (a)(4)(i) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective September 20, 1978.
Expires October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-27502 Filed 9-29-78 8:45 am]

[7035-01]

[Notice No. 176]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 3, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 565TA), filed July 24, 1978. Applicant: ROADWAY EXPRESS, INC. (a Delaware corporation), P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) serving Longview, TX, and Marshall, TX, as intermediate points on applicant's regular route between Birmingham, AL, and Dallas, TX; (2) serving Jacksonville, TX, as an intermediate point on applicant's regular route between Denison, TX, and Houston, TX; and, (3) serving Cleburne, TX, as an off-route point to applicant's regular route between Denton, TX, and Hillsboro, TX, for 180 days. Supporting shippers: There are approximately (26) statements of support attached to tne application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 63417 (Sub-No. 157TA), filed July 24, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Molded wood pulp, peat or expanded or foam products,* from Florin, CA, to Kansas City, MO, and its commercial zone, and Salina, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Co., Waterville, ME. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 63417 (Sub-158TA), filed July 24, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Microfoam and microfoam* articles, from Wurtland, KY, to points in GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. DuPont de Nemours and Co., Inc., Wilmington, DE 19898. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 93235 (Sub-11TA), filed July 24, 1978. Applicant: INDIANA TRUCKING, INC., (an Indiana corporation), 6500 Industrial Highway, Gary, IN 46408. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum and plastic articles, in sheets plates, bars, tubes, and structurals,* from the warehouse and facilities of Joseph T. Ryerson, Inc., at Chicago and Elk Grove Village, IL, to Angola, South Bend, Elkhart, Indianapolis, Peru, Bluffton, Kendallville, Warsaw, Carmel, Bristonl, Rochester, Wabash, Terre Haute, Logansport, Huntington, Columbia City, Ft. Wayne, LaGrange, Garrett, Berne and Anderson, IN, under a continuing contract or contractss with Joseph T. Ryerson & Son, Inc., for 180 days. Supporting shipper: Joseph T. Ryerson & Son, Inc., 2621 W. 15th Place, Chicago, IL 60608. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 95084 (Sub-123TA), filed August 1, 1978. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building Components and agricultural building accessories* (1) from points in Dallas County, IA and Ankeny, IA to points in IL, IN, MI, MO, OH, and WI; (2) from Norton, KS and Raymond, SD to points in Dallas County, IA and Ankeny, IA. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ploytek Manufacturing, Inc., P.O. Box 178, Granger, IA 50109, Swine-Cycle, Inc., 613 E. Magazine Road, Ankeny, IA 50021. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 96992 (Sub-11TA), filed August 1, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Clayton Farr, P.O. Box 1517, Edinburg, TX 78539. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen vegetables,* from Brownsville, TX, to Memphis, Bels, Rosselle, and Humbolt, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wintergarden, Inc. P.O. Box 1752, Brownsville, TX 78520. Send protest to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 E. Durango, San Antonio, TX 78206.

MC 103051 (Sub-124TA), filed August 1, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., (an Iowa corporation), 934 44th Avenue, North, Nashville, TN 37209. Representative Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Yeast Slurry,* in bulk, in tank vehicles, from the facilities of Pabst Brewing Co. at or near

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Perry, GA to Jacksonville, FL. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 107403 (Sub-1104TA), filed July 24, 1978. Applicant: MATLACK, INC. 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, in tank vehicles, from Baltic, OH to Chatham, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pantasote Co., of NY., Inc., 26 Jefferson Street, Passaic, NJ 07055. Send Protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 112963 (Sub-78TA), filed July 24, 1978. Applicant: ROY BROS., INC., (a Massachusetts corporation), 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poly vinyl chloride*, in bulk, in tank vehicles from New Bedford, Mass., to points in Rhode Island, Connecticut, New York, and New Jersey, for 180 days. Supporting shipper: International Materials, 54 Middlesex Turnpike, Bedford, MA 01730. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 01760.

MC 113908 (Sub-445TA), filed August 1, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G. S. S., 2105 E. Wale St., Springfield, MO 65804. Representative: B. B. Whitehead, Traffic Manager, P.O. Box 3180 G. S. S., 2105 E. Wale St., Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rum, in bulk*, from points in CA, to Harford, CT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Heublein, Inc. Hartford, CT. Send protest to: DS John V. Barry, room 600, 911 Walnut, Kansas City, MO 64106.

MC 119798 (Sub-7TA), filed July 24, 1978. Applicant: SOUTHWEST SUPPLY, INC., (a West Virginia corporation), 350 Roanoke Street, P.O. Box 1404, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles* distributed by meat packing plants (except hides and commodities in bulk) between the facilities of Southwest Supply, Inc., Bluefield, WV, on the one hand, and, on the other, points in TN on and east of Interstate Hwy 75, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Larry L. Brown, Manager Transportation & Purchasing, Geo. A. Hormel & Co., So. Iowa Avenue, Ottumwa, IA 52501. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 123885 (Sub 27TA), filed July 24, 1978. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57701. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truss rafters for mobile homes and modular units* from Sioux Falls, SD to Greeley, CO; Minden, NE; and Newton, KS; and (2) *Pre-cut wood flooring materials* from Sioux Falls, SD to Hutchinson and Newton, KS; Blue Earth, MN; Minden and Tekamah, NE, for 180 days. Supporting shipper: Component Manufacturing, Inc., 1105 North Cliff, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 124328 (Sub-121TA), filed July 24, 1978. Applicant: BRINK'S INCORPORATED, Thorndal Circle, Darien, CT 06820. Representative: Richard H. Street, Wheeler & Wheeler, 1729 H Street, NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, from denver, CO; to Lake Tahoe, NV; Reno, NV; Las Vegas, NV; and Phoenix, AZ, for 180 days. Supporting shipper: General Services Administration, Federal Supply Service (FZTC), Washington, DC 20406. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commissin, Bureau of Operation, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129908 (Sub-12TA), filed July 24, 1978. Applicant: A & H, INC., (a Wisconsin corporation), P.O. Box 346, Footville, WI 53537. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, excluding commodities in bulk, in vehicles equipped with mechanical refrigeration from the facilities utilized by Universal Foods in the N.Y., NY commercial zone and Lancaster, PA; to points in OH, PA, and IN, under a continuing contract or contracts with Universal Foods Corporation. Restricted to traffic originating at the named origins and destined to points in the named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Universal Foods Corp., 433 East Michigan Avenue, Milwaukee, WI 53201. Send protests to: District Supervisor Ronald A. Morken, Interstate Commerce Commission, 212 E. Washington Avenue, Room 317, Madison, WI 53703.

No. MC 129923 (Sub-15TA), filed July 24, 1978. Applicant: SHIPPERS TRANSPORTS, INC., 5005 Commerce Street, West Memphis, AR 72301. Representative: Edward G. Grogan, Suite 2020, First Tennessee Bank Bldg., Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers, other than in bulk, not requiring refrigeration from Milton, DE to all points and places in the State of Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Draper King Cole, Inc., Chestnut Street, Milton, DE 19968. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135070 (Sub-9TA), filed August 1, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79105. Representative: Galiyn Larsen, 521 South 14th, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, and washing compounds*. From the facilities of Procter & Gamble Company at Alexandria, LA, to Houston, TX and points in its commercial zone. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protest to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135185 (Sub-35TA), filed July 24, 1978. Applicant: COLUMBINE CARRIERS, INC., (a Delaware corporation), P.O. Box 15246, 1720 East Garry

Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, disinfectants, deodorants, drugs and toilet preparations, insecticides, household cleaning supplies, chemicals, hydraulic cement, sand, coal tar, adhesive tape, plastic tape, plastic synthetics, paint solvents, rubber cement, caulking and brazing compounds, varnish, paints phosphoric acid, and titaniu, dioxide*, except commodities in bulk, from the facilities of Lehn & Fink Products Co., a Division of Sterling Drug, Inc., at or near Lincoln and Decatur, Ill., to points in Louisiana and Mississippi; and (2) *drugs and medicines*, from the facilities of Sterling Drug, Inc., at or near Gulfport, Miss., to the facilities of Sterling Drug, Inc., at or near Des Plaines, Ill. and Secucus, N.J.; both (1) and (2) restricted to service under contract with Sterling Drug, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lehn & Fink Products Co., Division of Sterling Drug, Inc., 225 Summit Avenue, Montvale, N.J. 07645.

Send protests to: Irene Carlos, Interstate Commerce Commission, Bureau of Operations, 300 N. Los Angeles Street, room 1321, Los Angeles, CA 90012.

MC 135861 (Sub-33TA), filed July 24, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, 2715 Ellis Avenue, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk, in tank vehicles) from Brownwood, TX, to points in KY for the account of Swift Fresh Meats Co., under a continuing contract or contracts with Swift & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 136384 (Sub-11TA), filed July 24, 1978. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, New Dean Forest Road, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, except in bulk, in tank vehicles, between the facilities of Union Camp Corp., at or near Savannah, GA, on the one hand, and, on the other, points in FL, for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138104 (Sub-56TA), filed July 24, 1978. Applicant: MOORE TRANSPORTATION CO., INC. (a Texas corporation), 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of and/or distribution of commodities named in (1) above (except commodities in bulk), (1) from the facilities of the Celotex Corp., located at or near Texarkana, AR to points in AL, AR, FL, GA, KS, LA, MS, MO, OK, and TX and (2) from points in AL, AR, FL, GA, KS, LA, MS, MO, OK, and TX to the facilities of the Celotex Corp. located at or near Texarkana, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., P.O. Box 22602, Tampa, FL 33622. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 142929 (Sub-4TA), filed August 1, 1978. Applicant: YEAGER TRUCKING, INC., Route 1, Box 868, Woodland, CA 95695. Representative: MILTION W. FLACK, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, over irregular routes, transporting (1) *Beer*, from the facilities of the Budweiser Brewery, located at Fairfield, CA, to Clarkston, WA, with no transportation for compensation on return except as otherwise authorized, and (2) *domestic wine*, from the facilities of Italian Swiss Colony Winery, located at Madera, CA, and from the facilities of the Almaden Winery, located at San Jose, CA, to Clarkston, WA, with no transportation for compensation on return except as otherwise authorized, restricted in (1) and (2) above to a transportation service to be performed under a continuing contract, or contracts, with Seaport Distributing Co., of Clarkston, WA, (3) *beer*, from the facilities of the Budweiser Brewery, located at Fairfield, CA, to La Grande, OR, with no transportation for compensation on return except as otherwise authorized, restricted in (3) above to transportation service to be performed, under a continuing contract, or contracts, with Sno-Cap Beer Distributors, of La Grande, OR, and (4) *beer*, from the facilities of the Miller Brewery, located at Azusa, CA, to Pendleton, OR, with no transportation for compensation on return except as otherwise authorized, restricted in (4) above to a transportation service to be performed, under a continuing contract, or contracts, with Pendleton Distributing, of Pendleton, OR. For 180 days. Supporting shipper: Seaport Distributing Co, 1301 Commercial Way, Clarkston, WA 99403. Pendleton Distributing, 605 S. W. Emigrant, Pendleton, OR 97801. Sno-Cap Beer Distributors, Highway 30, E. La Grande, OR 97850. Send protests to: District Supervisor A. J. Rodriguez, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144910 (Sub-1TA), filed July 24, 1978. Applicant: TYREE D. PRUITT, d.b.a., TY PRUITT TRUCKING, 811 Landay Avenue, Baltimore, MD 21237. Representative: Chester A. Zyblut, Esq., 1030, 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products, toilet preparations, nonmedicated syrup and shortening* (except in bulk) from the facilities of Lever Bros. Co., Baltimore, MD to FL, for 180 days. Supporting shipper: Bruce M. Pershan, Transportation Manager, Lever, Bros. Co., 390 Park Avenue, New York, NY 10022. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 145088 (Sub-1 TA), filed July 24, 1978. Applicant: S & T TRUCKLOAD, INC., 2527 North East 28th Street, Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt water proofing compounds and materials and lubricating oils and greases* from Fort Worth, TX, to all points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwestern Petroleum Corp., 534 Main, Fort Worth, TX 76101. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

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MC 145096TA, filed August 1, 1978. Applicant: LIBERTY WASTE CARRIERS, INC., P.O. Box 3370, Baytown, TX 77520. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic waste or scrap, dry, in bulk, in roll-off steel containers* between points in TX and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Synthetic Material Corp., 700 Turkey Street, Houston, TX 77020. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

PASSENGER CARRIER

MC 145139, filed August 1, 1978. Applicant: AVENTOURS TRAVEL, LTD., 801 Second Avenue, New York, NY 10017. Representative: Herbert A. Rosenthal, Esq., Hausman and Rosenthal, P.C., 1747 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, sleeping bags, tents and other outdoor equipment*, also carrying a mobile cooking unit (Camper Kitchen), primarily in all-expense paid camping and special tours, in vehicles with a capacity greater than 35 passengers including three crew members consisting of a driver, tour manager and a cooking manager. The tours will be structured and provided for passengers between the ages of 18 and 30, and will be sold internationally and domestically. Applicant requests authority to operate beginning and ending at New York, NY, and San Francisco, CA, and extending to points in the United States (except Hawaii and Alaska). For 180 days. Supporting shipper(s): U.S. Student Travel Service Inc., 801 Second Avenue, New York, NY 10017, People-to-People International Crown Center, 2440 Pershing Road, G-30, Kansas City, MO 64108, Great Places Travel, 216 South Fourth Avenue, Ann Arbor, MI 48107, Campus Holidays USA, 590 Valley Road, Upper Montclair, NJ 07043, Transit Travel Limited, 43 Kensington High Street, London W8 ED, England, USIT Ltd., Anglesea Street, Dublin 2, Ireland. There are approximately six statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Maria Be. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27508 Filed 9-29-78; 8:45 am]

[7035-01]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 177]

OCTOBER 4, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 8973 (Sub-53TA), filed July 26, 1978. Applicant: METROPOLITAN TRUCKING, INC., P.O. Box 93, 2424 95th Avenue, North Bergen, NJ 07047. Representative: E. Stephen Heisley, No. 805, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire and cable*, from Linden, NJ, to points in TX, LA, AR, OK, KS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. S. Hatfield Wire and Cable Corp., 12 Commerce Drive, Cranford, NJ 07016. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 43246 (Sub-27TA), filed July 26, 1978. Applicant: BUSKE LINES, INC., 123 W. Tyler Avenue, Litchfield, IL 62056. Representative: Howard Buske (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, from Bardstown, KY, to Detroit, MI, and Chicago, IL, under a continuing contract, or contracts, with Hiram Walker Importers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. J. Lavigne, Traffic Manager, Hiram Walker Importers, Inc., P.O. Box 14100, Detroit, MI 48214. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 61396 (Sub-351TA), filed July 25, 1978. Applicant: HERMAN BROS., INC., P.O. Box 189, 2565 St. Marys Avenue, Omaha, NE 68101. Representative: John E. Smith, II, (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Cement*, from Clarksville, MO, to points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Walton H. Rice, Jr., Dundee Cement Co., P.O. Box 67, Clarksville, MO 63336. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 61396 (Sub-352TA), filed July 25, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Des Moines, IA, to Omaha, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George R. Bathe, President, Ready Mix Concrete Co., 4315 Cuming Street, Omaha, NE 68131. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 65920 (Sub-6TA), filed July 25, 1978. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Avenue, SW., Grand Rapids, MI 49503. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, class A and B explosives, and commodities requiring the use of special equipment), (1) From Grand Rapids to the intersection of M-46 and M-37 via M-37; thence via M-46 to the intersection of M-46 and U.S. 131; and return over the same route; (2) From Grand Rapids to Reed City via U.S. 131, and return over the same route; (3) From the intersection of U.S. 131 and M-57 to Greenville via M-57; thence via M-91 to the intersection of M-44; with return over the same route; (4) From Grand Rapids to Belding via M-44, with return over the same route; (5) From Grand Rapids to Grand Haven via M-45 and U.S. 31, with return over the same route; serving all intermediate points and the Commercial Zone of each of said named points and all intermediate points, for 180 days. Applicant intends to tack authority and interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately (35) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: C.R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

MC 109064TA, filed July 25, 1978. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, Box 8367, Fort Worth, TX 76112. Representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and accessories* used in the installation of such articles, from Huston County, TX, to points in OK, LA and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcraft Division/Nuclear Corp., of America, Box 186, Grapeland, TX 75844. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 112595 (Sub-81TA), filed July 25, 1978. Applicant: FORD BROTHERS, INC., 510 Riverside Drive, P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, Suite 1815, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carerier*, by motor vehicle, over irregular routes, transporting: *Petroleum pitch*, (in bulk, in tank vehicles), from refineries at or near Catlettsburg, KY, to AL, CT, DE, FL, GA, LA, MD, MA, MN, MS, MO, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WI, DC, OH, WV, IL, IN, MI, AR, and IA, for 180 days. Supporting shipper: Emil M. Sturzenegger Traffic Manager, Ashland Petroleum Co., Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. Send protests to: Frances A. Ciccarello Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 114569 (Sub-235TA), filed July 25, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* used by, dealt in or distributed by wholesale or retail department, drug, grocery, and variety stores and institutional supply firms (except frozen in bulk), in mechanically refrigerated equipment, from the facilities of Dry Storage Corp. at Chicago and Des Plaines, IL, to points in OH and MI, restricted to traffic originating at the facilities of Dry Storage Corp., and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Storage Corp., 2005 W. 43d Street, Chicago, IL 60609. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 115162 (Sub-422TA), filed July 26, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials*, from the facilities of The Celotex Corp. located at or near Texarkana, AR., to points in the States of AL, AR, FL, GA, KS, LA, MI, MO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 117686 (Sub-215TA), filed July 25, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations*, and (2) *materials and supplies* used in the sale of toilet preparations, from the facilities of LaMaur, Inc., at Minneapolis, Minn., to points in AL, AR, FL, GA, KS, KY, LA, MO, MI, OK, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eugene Schwarz Traffic Manager, LaMaur, Inc., 5601 East River Road, Minneapolis, MN 55432. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 119654 (Sub-56TA), filed July 26, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 36952. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, not frozen, from the facilities of Campbell Soup Co., at Napoleon, OH to IL, IN, KY, MI, and that part of PA on and west of U.S. Highways 219 and 119, for 180 days. Supporting shipper: Campbell Soup Co., East Maumee Avenue, Napoleon, OH. 43545. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 124078 (Sub-843TA), filed July 26, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, (in bulk), from Vassar, MI., to IL, IN, and IA, for 180 days. Supporting shipper(s): Great Lakes Minerals Co., 2855 Coolidge Highway, Troy, MI 48084, and (2) Sargent Sand Co., 2840 Bay Road, Saginaw, MI 58605. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124211 (Sub-334TA), filed July 26, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 DTS, Omaha, NE 68101. Representative: Thomas L. Hilt, (same address as ap-

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plicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compounds, tree or weed killing (herbicides)*, from Columbus, MS, to points in AZ, CA, ID, OR, and WA., for 180 days. Supporting shipper: Ronald J. Graham Transportation Coordinator, Occidental Chemical Co., P.O. Box 198, Lathrop, CA 95330. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124896 (Sub-64TA), filed July 26, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Thorne & Ralston Street, Wilson, NC 27893. Representative: Jack H. Blanshan, 205 West Touhy Street, Suite 200, Park Ridge, IL 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas for Chiquita Brands*, from Charleston, SC, to MN, MO, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Chiquita Brands, 95 Chestnut Ridge Road, Montvale, NJ 07645. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 125335 (Sub-29TA), filed July 25, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen of Peterson, Bowman, Larsen & Swanson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Louisville Freezer Center, at or near Louisville, KY, to points in the United States in and east of NM, CO, WY, and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisville Freezer Center, Clifton Juckett, Vice President, Sales & Distribution, 2000 South Ninth Street, Louisville, KY. Send protests to: Charles Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17108.

MC 128205 (Sub-55TA), filed July 25, 1978. Applicant: BULKMATIC TRANSPORT CO., 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone and limestone products*, from the plantsite of Marblehead Lime Co. in Centre County, PA, to the following States: IL, IN, KY, MI, OH, WV, DE, DC, NJ, NY, CT, RI, MA, VT, NH, ME, and MD, for 180 days. Supporting shipper: Marblehead Lime Co., 300 West Washington Street, Chicago, IL 60606. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136208 (Sub-7TA), filed July 26, 1978. Applicant: CREAGER TRUCKING CO., INC., 4 Northeast Marine Drive, P.O. Box 17007, Portland, OR 97217. Representative: Roy Leatham, 4 Northeast Marine Drive, P.O. Box 17007, Portand, OR 97217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, roofing products*, from Portland, OR on the one hand, and, on the other hand, Salt Lake City and Ogden, UT, southern ID, and western WY, for 180 days. Supporting shipper: Cantwell Bros. Lumber, Inc., Wholesale Division, 532 South Main, Smithfield, UT 84335. Send protests to: R. V. Dubay District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Court House, Portland, OR 97204.

MC 138882 (Sub-119TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials*, from the facilities of the Celotex Corp., located at or near Texarkana, AR, to points in AL, AZ, CO, CA, AR, FL, GA, LA, MS, NM, OK, NV, TN, UT, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-120TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from facilities of Delta-Macon Brick and Tile Co., Inc., located at or near Macon, MS, and Delta-Shuqulak Brick and Tile Co., Inc., located at or near Shuqulak, MS, to Mobile, Birmingham, and Montgomery, AL, Atlanta, GA, and Pensacola, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jenkins Brick Co., P.O. Box 91, Montgomery, AL 36101. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-121TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particle board, plywood, wood turnings and laminated or solid squares*, from points in CA, WA, and OR to points in ID, TX, OK, AR, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tumac Wood Components, 3000 South 31st, Suite 508, Temple, TX 76501. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-122TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum resin in bags, drums or packaged*, from the facilitites of Southern Resins located at or near Moundville, AL to Chicago, IL and its commercial zone, Lancaster, PA, Gulfport, MS, Jackson, MS, Columbus, OH, Coshocton, OH, Windsor, VT, Dallas, TX, South Kearney, NJ, Monrovia, CA, Holland, MI, Clarksville, TN, Simpsonville, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Resins Division of Lawter Chemicals, Inc., P.O. Box 128, Moundville, AL 35474. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-123TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Harrigan Lumber Co., located at or near Monroeville, AL to points in FL, GA, IL, IN, IA, KY, LA, MI, MS, MO, OH, TN, TX, AR, NC, PA, WI, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harrigan Lumber Co., Inc., P.O. Box 926, Monroeville, AL 36460. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139495 (Sub-370TA), filed July 25, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and plastic products*, (except in bulk), from Shelbyville, IL to points in CO, KS, OK, NE, ID, and MO for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 140914 (Sub-2TA), filed July 26, 1978. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, NC 27017. Representative: Eric Meierhoefer, 1511 K Street, NW., Suite 423, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut granite products*, (in dump trailers), from Mt. Airy, NC and points in its commercial zone, to points in NY, NJ, PA, CT, VA, WV, MD, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supportings shipper: NC Granite Corp., Box 151, Quarry Road, Mt. Airy, NC 27030. Send protests to: Terrell Price District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 141774 (Sub-16TA), filed July 26, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages, N.O.I., non-alcoholic and* (2) *empty cans, aluminum or steel*, (1) From Birmingham, AL to AR, MS, and TN and (2) from Tampa, FL to Birmingham, AL for 180 days. Supporting shipper: Shasta Beverages, 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27509 Filed 9-29-78; 8:45 am]

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[Notice No. 720]

Assignment of Hearings

September 27, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135874 (Sub-106F), LTL Perishables, Inc., now being assigned December 5, 1978 (1 day), at St. Paul, MN, in a hearing room to be later designated.

MC 135874 (Sub-114F), LTL Perishables, Inc., now being assigned December 6, 1978 (1 day), at St. Paul, MN, in a hearing room to be later designated.

MC 114457 (Sub-397F), Dart Transit Co., now being assigned December 7, 1978 (2 days), at St. Paul, MN, in a hearing room to be later designated.

AB-1 (Sub-58), Chicago & North Western Transportation Co. abandonment near Currie and Bingham, in Cottonwood and, Murray Counties, MN, now being assigned December 11, 1978 (5 days), at Slayton, MN, in a hearing room to be later designated.

MC 127042 (Sub-211F), Hagen, Inc., now being assigned November 13, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 144285F, Bay Haven Marina, Inc., now being assigned November 15, 1978 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 140024 (Sub-111F), J. B. Montgomery, Inc., now being assigned November 27, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 136109 (Sub-1F), Hetem Bros., Inc., now being assigned November 28, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 144622 (Sub-2F), Glenn Bros. Meat Co. Inc., now being assigned November 29, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 118127 (Sub-25F), Hale Distributing Co., Inc., now being assigned November 30, 1978 (2 days), at New York, NY, in a hearing room to be later designated.

MC 114211 (Sub-344F), Warren Transport, Inc., now assigned November 13, 1978, at Columbus, Ohio, is cancelled and reassigned for November 13, 1978, at Chicago, IL, in a hearing room to be later designated.

MC 2202 (Sub-556F), Roadway Express, Inc., now assigned November 13, 1978 at Texanka, TX (5 days) in a hearing room to be later designated.

MC 144509F, Holston Motor Express, Inc., now assigned November 6, 1978 at Kingsport, TN (5 days) in the Tennessee Motor Lodge, 1017 West Stone Drive.

MC 143515 (Sub-2), P & W Charter Service, Inc., now assigned December 11, 1978 (3 days), at Olympia, WA in a hearing room to be later designated.

MC 136006 (Sub-7F), Walkill Air Freight now assigned October 16, 1978, at New York NY (5 days) is cancelled and transferred to Modified Procedure.

MC 2229 (Sub-196) (M1F), Red Ball Motor Freight, Inc., and MC 2229 (Sub-197F), Red Ball Motor Freight, Inc., now being assigned November 27, 1978 (2 weeks) at Albuquerque, NM, in Airport Marine Hotel, 2910 Yale Boulevard SE.

MC 140024 (Sub-106F), J. B. Montgomery, Inc., now being assigned December 11, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 105566 (Sub-167F), Sam Tanksley Trucking Inc., now being assigned December 12, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 140024 (Sub-110F), J. B., Montgomery, Inc., now being assigned December 13, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 44533F, Frank Pagliughi, an individual d.b.a. General, Transfer, Co., now being assigned December 14, 1978 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

MC 127078 (Sub-833F), Schwerman Trucking, Co., now assigned October 10, 1978, at Denver, CO, is postponed indefinitely.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27770 Filed 9-29-78; 8:45 am]

[7035-01]

September 27, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC on or before October 17, 1978.

FSA No. 43607, Southwestern Freight Bureau, Agent's No. B-776, annual volume rates on acetic acid and acetic anhydride, from Kings Mill., Tex., to Celco, Va., in Sup. 22 to its Tariff 11-I, ICC 5300, to become effective October 24, 1978. Grounds for relief—revision of minimum weight.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27771 Filed 9-29-78; 8:45 am]

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[7035-01]

[Notice No. 110]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 2, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 77855. By application filed September 15, 1978, KEN ROSE TRANSPORT LTD., St. Lawrence Street East, Madoc, ON, CD KOK 2KO, seeks temporary authority to transfer the operating rights of Ross Clark Freightways Ltd., St. Lawrence Street East, Madoc, ON, Canada KOK 2KO, under section 210a(b). The transfer to Ken Rose Transport Ltd., of the operating rights of Ross Clark Freightways Ltd., is presently pending.

MC-FC 77856. By application filed September 13, 1978, MARYLAND CONTINENTAL EXPRESS, INC., 129 Overhill Drive, Hagerstown, MD 21740, seeks temporary authority to transfer a portion of the operating rights of Arthur H. Fulton, Inc., Post Office Box 86, Stephens City, VA 22655, under section 210a(b). The transfer to Maryland Continental Express, Inc., of a portion of the operating rights of Arthur H. Fulton, Inc., is presently pending.

MC-FC 77858. By application filed September 5, 1978, MONROE TRANSPORT, INC., Union, Monroe County, WV 24983, seeks temporary authority to transfer the operating rights of Julian M. Shrader, an Individual, Pickaway Monroe Co., WV, under section 210a(b). The transfer to Monroe Transport, Inc., of the operating rights of Julian M. Shrader, an individual, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27769 Filed 9-29-78; 8:45 am]

[7035-01]

[Finance Docket No. 28842]

WISCONSIN BARGE LINE, INC.

Purchase of Midwest Towing Co., Inc.

Wisconsin Barge Line, Inc., Cassville, Wis. 53806, represented by Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60606, hereby gives notice that on the 28th day of August 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5 of the Interstate Commerce Act for a decision approving and authorizing Wisconsin Barge Line, Inc., to purchase the operating authority of Midwest Towing Co., Inc., pursuant to authority granted in Docket No. W-764, a common carrier by towing vessels in the performance of general towage, and by self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels in the transportation of commodities generally, between points on the St. Cairo River and the Mississippi River from Minneapolis, Minn. to Cairo, Ill. both inclusive.

No application for temporary authority has been filed under section 311(b).

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data, the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28842 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than November 16, 1978. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation, and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27772 Filed 9-29-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-168; Sept. 25, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., October 2, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29044, Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) proposed rules on further amendments (Memo 7323-E, OGC).
3. Creation of the Bureau of Consumer Protection (OGC, BCP, OMD, BAS).
4. Dockets 31618 and 31828, In the Matters of C.L. Lofstrom and J.S. Fliedner, respectively, versus TransWorld Airlines, Inc., petition for review of Bureau of Consumer Protection dismissal of "smoking" complaints against TWA (OGC).
5. Dockets 31129 and 32910, Commuter Airlines exemptions to operate large aircraft (BPDA, OGC, BCP).
6. Docket 32911, Increased excess baggage charges proposed by Northwest and TWA. DHL petitions for reconsideration of Order 78-7-132 on the ground that the comparison of proposal with priority freight charges implies that those charges can be used to evaluate excess baggage charges (BPDA).
7. Docket 30356, Transcontinental Low-Fare Route Proceedng (Instructions to staff).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-1991-78 Filed 9-28-78; 3:44 pm]

[6320-01]

2

[M-167, Amdt. 1; Sept. 26, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Addition: 8a. Docket 32752, Application of Pan American for temporary suspension authority at Fairbanks, Alaska, on Route 150 (Memo 8204, BPDA, OGC).

Addition: 8b. Dockets 30170, 32749, 32799, 32787, 32878, 32897, and 33114, Motion of Northwest to establish expedited procedures for deciding the Seattle-Fairbanks issues in the *West Coast-Alaska Investigation* applications of Alaska, Wien, Western, Northwest, Pacific Alaska, and Aeroamerica for Seattle-Fairbanks nonstop authority granted by show cause, temporary certificate, and/or exemption procedures (Memo 8203, OGC).

Deletion: 2. Docket 29044, Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) proposed rules on further amendments (Memo 7323-E, OGC, BCP).

Deletion: 5. Dockets 31129 and 32910, Commuter Airlines' exemptions to operate large aircraft (BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has asked that items 8a and 8b be added to the September 29 agenda. Pan American has asked to suspend its Fairbanks-Seattle/Portland service over Route 150 effective September 30, 1978. Six carriers have filed exemption applications to institute replacement service on October 1. Due to other pressing items the staff was not able to get the separate memoranda to the Board in time to meet the regular notice requirements. Member Bailey has requested that items 2 and 5 be deleted from the September 29 agenda. She will not be present at the meeting and requests that the items be rescheduled for the October 2 Board meeting in order that she may be present when the items are discussed. Accordingly, the following Members have voted that agency business requires the addition of items 8a and 8b and the deletion of items 2 and 5 from the September 29, 1978 agenda and that no ealier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer (did not vote)

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1992-78 Filed 9-28-78; 3:44 pm]

[6320-01]

3

[M-167, Amdt. 2; Sept. 27, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 21. Revision of record retention requirements (Memo 8197, BAS).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On September 26, 1978, the staff received late comments from the Director-Designate of the Bureau of Consumer Protection concerning the draft proposed amendment of part 249, item 21 on the September 29 agenda. Since the comments are substantive, they must be evaluated. Accordingly, the following Members have voted that agency business requires the deletion of item 21 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by

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these changes or the delayed receipt of our notices.

[S-1993-78 Filed 9-28-78; 3:44 p.m.]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1985-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, October 3, 1978.

CHANGE IN THE MEETING: The date of the meeting is changed to 9:30 (eastern time), Monday, October 2, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 27, 1978.

[S-1989-78 Filed 9-28-78; 2:38 pm]

[7910-01]

5

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43617, September 26, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Friday, September 29, 1978; 9 a.m.

CHANGE IN MEETING: Time postponed to: Friday, September 29, 1978; 10 a.m.

STATUS: Open to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 28, 1978.

GOODWIN CHASE,
Chairman.

[S-1990-78 Filed 9-28-78; 2:38 pm]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 43 FR 42853, September 18, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 28, 1978.

CHANGES IN THE MEETING: The following item will not be considered at the closed meeting, immediately following the 10 a.m. open meeting, on Thursday, September 28, 1978, but has been rescheduled for Thursday, October 4, 1978, at the closed meeting, immediately following the 10 a.m. open meeting:

Injunctive action.

The following additional items will be considered at the closed meeting, immediately following the 10 a.m. open meeting, on Thursday, September 28, 1978:

Investigatory matter bearing enforcement implications.
Regulatory matter bearing enforcement implications.
Regulatory matter regarding financial institutions.
Other litigation matter.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

SEPTEMBER 27, 1978.

[S-1988 Filed 9-28-78; 11:52 am]

OCT 2 1978 UMI

federal register

MONDAY, OCTOBER 2, 1978
PART II



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

AMERICAN ALLIGATOR IN LOUISIANA

Proposed Reclassification, Changes To Special Rules and Review of Status

V 43 / 191 OCT 2 1978

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of the Status of the American Alligator in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of the status of the American alligator in Louisiana.

SUMMARY: The Service will review the status of the American alligator, *Alligator mississippiensis*, in Louisiana, to determine if it should be reclassified to endangered, threatened, or threatened (similarity of appearance) within the State.

DATE: Information regarding the status of this species should be submitted on or before December 26, 1978.

ADDRESS: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240, phone 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The American alligator is a large conspicuous member of its environment and consequently is very important to the ecosystem that it inhabits. However, it has an extremely valuable skin which can be fashioned into luxury items. Because of large demands for products made from alligators, the species experienced severe population declines in the late 1950's and 1960's. As a result, the species was listed as endangered under provisions of the Endangered Species Conservation Act of 1966.

The alligator is a somewhat remarkable species in that, as a result of strict Federal and State conservation measures, protection from trade in its products, a long lifespan, numerous eggs per clutch, and parental care, the species has been able to make a dramatic recovery in many areas of the Southeast. Consequently, the alligator has been reclassified as threatened or threatened (similarity of appearance) throughout much of its range (see the FEDERAL REGISTER of September 26, 1975 (40 FR 44412-44429) and January 10, 1977 (42 FR 2071-2077) for complete details of past reclassifications).

The State of Louisiana has developed through the years a rather comprehensive management and research program for the alligator. Limited hunting is already allowed in Cameron, Calcasieu, and Vermilion Parishes where alligator populations are quite high (over 91 alligators/square mile of habitat). In spite of hunting, alligators increased in these parishes from 99,551 to 168,265 between 1973 and 1976, according to State figures. Throughout many parishes, the general picture of dramatic increases in numbers is much the same.

On July 30, 1976, Gov. Edwin Edwards of Louisiana petitioned the Service to delist the alligator in southern parishes within the State. Supporting information was later supplied by the Louisiana Wildlife and Fisheries Commission, and consists of the following:

(1) A letter (dated April 12, 1977) from J. Burton Angelle requesting delisting of alligators in the following parishes: Cameron, Calcasieu, Vermilion, Acadia, Allen, Beauregard, Jeff Davis, Iberville, Lafayette, Point Coupee, St. Landry, St. Martin, West Baton Rouge, East Baton Rouge, Ascension, St. John, St. James, Assumption, Lafourche, Terrebonne, St. Mary, Iberia, Livingston, St. Tammany, Tangipahoa, St. Bernard, Orleans, Jefferson, Plaquemines, and St. Charles. A total of 4.5 million acres of potential alligator habitat is included and a total of 308,000 alligators (1976 figures) would be involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel. A parish by parish estimate was not included although estimates were provided on the basis of habitat type.

(2) A letter (dated December 7, 1977) and supporting documents received from J. Burton Angelle as follows:

(a) Letter—282,000 alligators were estimated from 3.4 million acres of coastal marshlands censused by individuals. A 2- or 1-percent sample (depending on area) was taken and expanded for the nesting density index. Twenty-eight percent of the area was surveyed by estimates from field personnel.

(b) News releases on the 1972, 1973, 1976, and 1977 alligator harvests.

(c) A parish-by-parish breakdown of population estimates in 1973 and 1976.

(d) A table showing nesting effort in comparison to precipitation levels, 1970-76.

(e) A table showing results of the 3-year experimental harvest program in southwestern Louisiana, 1972, 1973, 1975.

(f) "Population Distribution of Alligators With Special Reference to the Louisiana Coastal Marsh Zone" by T. Joanen and L. McNease. 1972.

(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joanen and L. McNease. 1976.

(h) "An Analysis of Louisiana's 1972 Experimental Alligator Harvest Program" by A. W. Palmisano, T. Joanen, and L. McNease. 1973.

(i) "Simulation of a Commercially Harvested Alligator Population in Louisiana" by J. D. Nichols, L. Viehman, R. H. Chabreck, and B. Fenderson. 1976.

(3) A letter (dated June 14, 1978) by T. Joanen with another group of documents:

(a) Letter—Provided an updated parish-by-parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Controlled Environmental Chambers" by T. Joanen, L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joanen, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joanen, and L. McNease. 1976.

(e) "Culture of the American Alligator" by T. Joanen and L. McNease.

(f) "Time of Nesting for the American Alligator" by T. Joanen and L. McNease. 1978.

(g) "Status of Louisiana Alligator Farm Program" by T. Joanen and L. McNease. 1978.

(h) "Preliminary Results of Louisiana's Alligator Harvest Program, 1977" by T. Joanen, L. McNease, and G. Linscomb. 1977.

(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joanen. 1977.

The Director of the Service has assessed these data, as well as the recommendations of a review panel appointed by him to review the data, and has directed that a proposal be prepared to change the status of the alligator in Louisiana to threatened (similarity of appearance) in nine parishes primarily along the coast. Accordingly, a proposal to that effect was prepared and is published in the same issue of the FEDERAL REGISTER as this notice. At the same time, the Service believes that a comprehensive review of the status of this species should be undertaken to determine if additional changes in the classification of the alligator in Louisiana is warranted.

The Service is seeking the views of the Governor of Louisiana, and soliciting from him information on the status of this species within Louisiana. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germane to this status review.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

LYNN G. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-27393 Filed 9-29-78; 8:45 am]

[4310-55]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Reclassification of the American Alligator in Louisiana, and proposed Changes to Special Rules Concerning the Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to change the legal status of the American alligator, *alligator mississippiensis*, in nine parishes of southern Louisiana from their present threatened status to threatened under the similarity of appearance clause of the Endangered Species Act of 1973. This proposal is being made because in recent years the alligator has increased its numbers significantly in nine parishes. These nine parishes are located primarily within the coastal zone of Louisiana and include the following: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. As such, the special rules which presently apply to alligators in Cameron, Calcasieu, and Vermilion Parishes in southwestern Louisiana, would apply to these parishes as well. In addition, the service proposes to amend the special rules which apply to American alligators in order to simplify application procedures for those seeking buyer's, tanner's, and fabricator's licenses. This amendment would also authorize the sale of meat from lawfully taken alligators in States where such activity is permitted. Also included in this proposal is a limitation upon the applicability to American alligators of general permits pertaining to threatened wildlife issued under 50 CFR 17.32.

DATES: Comments from the public and the Governor of Louisiana must be received by December 26, 1978.

Public hearings will be held on this proposal. The dates and places for the hearings will be published in the FEDERAL REGISTER at a later date.

ADDRESSES: Submit comments to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All material received will be available for inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Office of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, 202-343-9237, or Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-7814.

SUPPLEMENTARY INFORMATION

BACKGROUND

Introduction.—The alligator is a large conspicuous member of its environment and has been feared, praised, and exploited probably since man first came to southeastern North America. Early naturalists and explorers presented startling and unbelievable stories concerning the species and its behavioral patterns. However, in spite of its major role in the ecosystems of the South, surprisingly little scientific work was conducted on it and then often with conflicting observations. Today, the importance of the alligator as a top predator, modifier of its environment, and behaviorally sophisticated species is universally recognized by the scientific and wildlife management communities.

One of the main commercial values of the alligator is for its hide, which can be fashinoned into leather articles. Hunting and poaching at one time seriously reduced the number of alligators and led to its inclusion as endangered throughout its range under provisions of the Endangered Species Conservation Act of 1966. Strict Federal protection coupled with strong State laws, enabled the alligator populations to recover dramatically in many parts of its former range. Because of this, the alligator has been reclassified twice to reflect its improved status (September 26, 1975 (40 FR 44412-44429), and January 10, 1977 (42 FR 2071-2077). The Endangered Species Act authorizes the protection of species, subspecies, or any other groups of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. The Service has designated four different groups or populations of the American alligator, and has classified these groups as endangered, threatened, or threatened (similarity of appearance) depending on the locality involved.

At present, the alligator is classified in Louisiana under the Act as threatened (similarity of appearance) in Cameron, Calcasieu, and Vermilion Parishes, threatened in other coastal parishes, and endangered in inland parishes.

On July 30, 1976, Gov. Edwin Edwards of Louisiana petitioned the Fish and Wildlife Service to delist the American alligator in all southern parishes in Louisiana. On February 7, 1977, Curtis Bohlen, then Acting Assistant Secretary of the Department of the Interior, advised the State that supporting data were required before the Service could act on the State's petition. Accordingly, the State supplied supporting documentation on April 12, 1977, December 7, 1977, and June 14, 1978, which they believe supports the reclassification as requested. This information is as follows:

(1) A letter (dated April 12, 1977) from J. Burton Angelle requesting delisting of alligators in the following parishes: Cameron, Calcasieu, Vermilion, Acadia, Allen, Beauregard, Jefferson Davis, Iberville, Lafayette, Point Coupee, St. Landry, St. Martin, West Baton Rouge, East Baton Rouge, Ascension, St. John, St. James, Assumption, Lafourche, Terrebonne, St. Mary, Iberia, Livingston, St. Tammany, Tangipahoa, St. Bernard, Orleans, Jefferson, Plaquemine, and St. Charles. A total of 4.5 million acres of potential alligator habitat is included and a total of 308,000 alligators (1976 figures) would be involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel.

A parish-by-parish estimate was not included although estimates were provided on the basis of habitat type.

(2) A letter (dated December 7, 1977) and supporting documents received from J. Burton Angelle as follows:

(a) Letter—282,000 alligators were estimated from 3.4 million acres of coastal marshlands censused by individuals. A 2- or 1-percent sample (depending on area) was taken and expanded for the nesting density index. Twenty-eight percent of the area was surveyed by estimates from field personnel.

(b) News releases on the 1972, 1973, 1976, and 1977 alligator harvests.

(c) A parish-by-parish breakdown of population estimates in 1973 and 1976.

(d) A table showing nesting effort in comparison to precipitation levels, 1970-76.

(e) A table showing results of the 3-year experimental harvest program in southwestern Louisiana, 1972, 1973, and 1975.

(f) "Population Distribution of Alligators With Special Reference to the Louisiana Coastal Marsh Zone" by T. Joanen and L. McNease. 1972.

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(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joanen and L. McNease. 1976.

(h) "An Analysis of Louisiana's 1972 Experimental Alligator Harvest Program" by A. W. Palmisano, T. Joanen, and L McNease. 1973.

(i) "Simulation of a Commercially Harvested Alligator Population in Louisiana" by J. D. Nichols, L. Viehman, R. H. Chabreck, and B. Fenderson. 1976.

(3) A letter (dated June 14, 1978) by T. Joanen with another group of documents:

(a) Letter—Provided an updated parish by parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Controlled Environmental Chambers" by T. Joanen and L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joanen, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joanen and L. McNease.

(e) "Culture of American Alligator" by T. Joanen and L. McNease.

(f) "Time of Nesting for the American Alligator" by T. Joanen and L. McNease. 1978.

(g) "Status of Louisiana Alligator Farm Program by T. Joanen and L. McNease. 1978.

(h)"Preliminary Results of Louisiana's Alligator Harvest Program, 1977" by T. Joanen, L. McNease, and G. Linscomb. 1977.

(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joanen. 1977.

The Service has reviewed all available data and the Director has determined that because of large population sizes and increasing numbers, the American alligator is no longer likely to become endangered in the foreseeable futhre so as to be threatened in the following parishes in southern Louisiana: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. The Service believes that the alligator can be managed within these areas and that no harm will be done to the species by controlled harvest. However, because of similarity of appearance, it is still necessary to impose some restrictions on commercial activities involving specimens taken in these nine parishes to insure the conservation of other alligator populations that are threatened or endangered.

Section 4(e) of the Act authorizes the treatment of a species (or sub-species or group of wildlife in common spatial arrangement) as an endangered or threatened species even though it is not otherwise listed as endangered or threatened, if it is found: (a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act. The Service currently treats the group of American alligators found in Cameron, Vermilion, and Calcaseau Parishes in Louisiana as threatened because of their similarity in appearance to other groups of American alligators that are listed as threatened or endangered. Certain restrictions are imposed on commercial activities involving specimens taken from these three parishes, as is discussed below, to insure the conservation of those groups of American alligators that are listed as threatened or endangered. The Service now proposes to treat the group of American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana as threatened because of similarity in appearance, and to impose similar restrictions on commercial activities involving specimens taken from those parishes.

American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana are indistinguishable from American alligators existing elsewhere which are treated by the Service as endangered or threatened under relevant provisions of the Act. Hides from American alligators have proved to have a great commercial value owing to the substantial demand which exists for them in the international leather trade. In addition, representatives of the food industry in Louisiana and Florida have recently expressed an interest in test marketing alligator meat as a novelty item. Historically, it has been shown that the taking of American alligators for commercial purposes was a substantial factor contributing to the decline of the species. This resulted in the previous listing of the American alligator as endangered or threatened over the major portion of its range. Restrictions on taking and commercial activities that stem from such listing would remain for those segments of the American alligator population which continue to be classified as endangered or threatened. In order to insure maximum protection for these endangered and threatened alligators, some restrictions on commercial activities have been found necessary for the physically similar group which exists in the nine parishes affected by this proposal.

Although the State requested that additional parishes be delisted, these parishes either have small population sizes or the populations are stable, based on the State's population status information 1973-76. Therefore, the Service does not believe that a reclassification is warranted for these areas at this time. The Service will continue to monitor the alligator's status, however, and should reclassification be warranted in the future, the Service will act accordingly.

The Fish and Wildlife Service also proposes to amend 50 CFR Part 17 through the revision of certain paragraphs, and revocation of others, found in § 17.42. This section allows for the taking of American alligators under certain specified circumstances, including the taking by Federal or State conservation officers in the performance of their duties, and the taking by any persons in three parishes of Louisiana in accordance with the laws of that State. Also included in this section are provisions for the issuance of licenses authorizing the commercial buying, tanning, and fabrication of lawfully taken alligator hides. The Service has undertaken a review of its enforcement program relating to this provision and has concluded that the permit application process can be substantially simplified without impairing its objectives. As a result, it proposes that present regulatory provisions requiring the submission of detailed information regarding the permit applicant's business organization, methods of operation, previous experience, and accounting systems be eliminated. In addition, owing to the fact that the Service is capable of ascertaining previous wildlife law violations through the record system of its Enforcement Division, the proposed regulations eliminate the necessity for permit applicants to furnish such information on themselves. The burden placed upon those seeking tanner's licenses would be slightly increased under the proposed regulations through the addition of a requirement that all hides to be processed bear a series of markings on their underside applied by the tanner. This is intended to facilitate the Service's enforcement efforts by allowing lawfully taken hides to be identified as such throughout the tanning fabrication process. The Service's interest in this regard is protected prior to the tanning stage through the tagging requirement placed upon those responsible for harvesting and shipping the alligator hides. The burden placed upon fabricators of alligator hide articles has been decreased under the proposed regulations through the elimination of certain recordkeeping requirements which the Service has found to be unnecessary and the further elimination of marking requirements which are rendered superflous by the proposed regulations.

Under § 17.42 as presently constituted, the sale of meat from lawfully taken alligators is strictly prohibited. This position was adopted owing to the fact that control factors were lacking on the level for the regulation of such sale through licensing and recordkeeping requirements. The State of Louisiana has since imposed such controls. In recognition of this circumstance, and in further consideration of the fact that the present regulations mandate the wastage of an economically valuable source of protein, the proposed regulations would allow the sale of alligator meat in the State where the taking occurs, and where this activity is permitted and regulated through the imposition of licensing and recordkeeping requirements on selling parties. Section 17.42 presently applies to all American alligator permits issued under section 17.32, authorizing the performance of activities otherwise prohibited with regard to threatened wildlife. Importation and exportation are two such prohibited activities. Despite the fact that its regulations would thereby allow permits to be issued for the importation and exportation of American alligators, the Service has few such permits to date, owing to its concern that legally exported alligator hides would be commingled with illegally taken hides that are known to exist outside the United States and because the alligator is listed on appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora which restricts international trade in species for primarily commercial purposes. However, the United States is presently considering a proposal to change the alligator's status under the Convention from appendix I to appendix II. This would remove the convention's absolute restriction on international trade. In other words, alligators from the 12 Louisiana parishes would be able to be exported and imported as far as the convention is concerned, subject to review and approval (for exports) of the U.S. Management Authority and Scientific Authority. The Service desires consistency between the convention and these rules, and favors a position which recognizes the greatly improved biological status of the alligator while retaining reasonable and necessary enforcement controls. Therefore, the rule would allow export consistent with the convention. Whether reimport of alligator hides or products could also be allowed, because of the lack of control over possible smuggled skins, is a question on which the Service desires recommendations from the public. The Service's present position is not to allow such reimport.

The above changes in the special rules pertaining to alligators would apply to the three parishes (Cameron, Calcasieu, Vermilion) where the alligator is classified as threatened (similarity of appearance), to the nine parishes proposed for reclassification to such status, and to any other American alligators which are so classified by the Service in the future. It should be recognized that by the express terms of this special rule, the "similarity of appearance" permits provided for in § 17.52 are not available for these alligators. They are only available for captive alligators.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Louisiana with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Final promulgation of the regulations on the American alligator in Louisiana will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from these proposals.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of these proposed rules are Mr. Coleman Sachs, Legal Specialist, Division of Law Enforcement, 202-343-9347, and Dr. C. Kenneth Dodd, Jr. Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "Reptiles" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * * * *

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Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptile:							
Alligator, Am.	*Alligator mississippiensis*	NA	U.S.A. (Southeast).	Wherever found in the wild, except in those areas where it is listed as Threatened as set forth below.	E	11	NA
Do	do	NA	do	In the wild in Florida and in certain areas in GA, LA (except in those 12 parishes described below), SC and TX, as set forth in Sec. 17.42 (a)(2)(iv).	T	20	17.42(a)
Do	do	NA	do	In the wild in Cameron, Calcasieu, Vermilion, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines parishes in LA.	T(S/A)	11	17.42(a)
Do	do	NA	Worldwide	In captivity wherever found.	T(S/A)	11	

(2) Also, part 17, subpart D, title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

§ 17.42 [Amended]

1. Paragraph (a)(1) of § 17.42 is revised to read as follows:

(a) • • •

(1) *Prohibitions.* Except as provided by permits issued under paragraph (a)(3) of this section, the following prohibitions apply to the American alligator.

• • • • • •

2. Paragraph (a)(1)(i)(E) of § 17.42 is revised to read as follows:

(a) • • •

(1) • • •

(i) • • •

(E) Any person may take American alligators in Cameron, Vermillion, Calcasieu, Iberia, St. Mary, Terrebonne, St. Bernard, St. Tammany, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

(*1*) The hides of such alligators are only sold or offered for sale to persons holding a valid Federal license to buy hides, issued under this subsection;

(*2*) The meat and other parts are sold only in the State of Louisiana, and only in accordance with the laws and regulations of that State.

• • • • •

3. Paragraph (a)(1)(i)(F) of § 17.42 is revised to read as follows:

(a) • • •

(1) • • •

(i) • • •

(F) When American alligators are taken by Service or State officials in accordance with pargraph (a)(1)(i)(D) of this section, the hides may be sold by their respective agencies to any person holding a valid Federal license to buy hides, issued under this subsection, provided the following requirements are met:

(*1*) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(*2*) The tag number, length of belly skin, and date and place of the specimen's taking are recorded;

(*3*) A tag label is affixed to the outside of any package used to ship the hides, identifying its contents as alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee;

(*4*) The meat and other parts are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

• • • • •

4. Paragraph (a)(1)(iv) of § 17.42 is revised to read as follows:

(a) • • •

(1) • • •

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator: *Provided,* That the hides of American alligators lawfully obtained from the State of Louisiana prior to December 28, 1973, may be sold or offered for sale in interstate (not foreign) commerce if the director of the State wildlife conservation agency certifies to the Director that all such hides were lawfully obtained and can be identified; and such hides are sold, offered for sale, delivered, carried, transported, or shipped only to a person holding a valid Federal license to buy hides, issued under this subsection.

• • • • •

5. Paragraph (a)(2)(i) of § 17.42 is revised to read as follows:

(a) • • •

(2) • • •

(i) "Buyer" shall mean a person engaged in the business of buying hides of American alligators for the purpose of resale. A buyer may also be a tanner or fabricator.

• • • • •

6. Paragraph (a)(2)(iv) is amended by adding the following words after the words "occurring in the wild in • • •":

(a) • • •

(2) • • •

(iv) • • • Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines • • •

7. Paragraph (a)(3)(i) of § 17.42 is revised to read as follows:

(a) • • •

(3) • • •

(i) Permits are available under § 17.32 (General permits—threatened wildlife) for all the prohibited activities referred to in paragraph (a)(1) of this section, except that import and export shall be allowed only as consistent with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR, Part 23 for rules implementing this convention). All the terms and provisions of § 17.32 shall apply to all such permits issued under the authority of this paragraph and in addition, any permit which authorizes the sale, delivery, care, carriage, transportation, or shipment of American alligators will be subject to the special conditions set forth below in paragraph (a)(3)(iii) of this section.

• • • • •

8. Paragraph (a)(3)(iii)(A)(*2*) of § 17.42 is revised to read as follows:

(a) • • •

(3) • • •

(iii) • • •

(A) • • •

(*2*) The name and address of the applicant's business organization, the address of any other facilities from which it is operated, and the names and addresses of its principal officers.

• • • • •

9. Paragraph (a)(3)(iii)(A)(*3*) of § 17.42 is revoked.

10. Paragraph (a)(3)(iii)(A)(*4*) of § 17.42 is revoked.

(a) • • •

(3) • • •

(iii) • • •

(A) • • •

(*3*) and

(*4*) [Revoked]

11. Paragraph (a)(3)(iii)(B) of § 17.42 is revised to read as follows:

(a) • • •

(3) • • •

(iii) • • •

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a permit for the requested activity should be issued.

• • • • •

12 Paragraph (a)(3)(iii)(C)(*4*) of § 17.42 is revised to read as follows:

(a) • • •

(3) • • •

(iii) • • •

(C) • • •

(*4*) A tanner must leave all tags on the hides, but must collect, record, and return to the issuer all shipping tags; in addition there must be applied in indelible ink to the underside of each hide a mark of the tanner's choosing that has been approved by the Service, placed at least every one-half inch throughout its surface area

• • • • •

13. Paragraph (a)(3)(iii)(C)(*7*) of § 17.42 is revoked.

14. Paragraph (a)(3)(iii)(C)(*8*) of § 17.42 is revoked.

(a) • • •

(3) • • •

(iii) • • •

(C) • • •

(*7*) and (*8*) [Revoked]

15. Paragraph (a)(3)(iii)(C)(*6*) of § 17.42 is revised to read as follows:

(a) • • •

(3) • • •

(iii) • • •

(C) • • •

(6) Every licensee must maintain complete and accurate records of all American alligator hides, including all State tags.

• • • • •

16. Paragraph (a)(4) of § 17.42 is revised to read as follows:

(a) • • •

(4) Products of American alligator which have been manufactured by licensed fabricators and marked in accordance with paragraph (a)(3)(iii)(C)(*4*) of this section may be transported, shipped delivered, carried, or received in interstate commerce in the course of a commerical activity, and may be sold or offered for sale in interstate commerce.

• • • • •

17. Paragraph (a)(5) of § 17.42 is revoked.

(a) • • •

(5) [Revoked]

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

LYNN A GREENWALT.
Director, Fish and Wildlife Service.

[FR Doc. 78-27394 Filed 9-29-78; 8:45 am]

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federal register

MONDAY, OCTOBER 2, 1978
PART III



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

MILK IN THE NEW ENGLAND MARKETING AREA

Decision on Proposed Amendments To Marketing Agreement and To Order

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[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1001]

[Docket No. AO-14-A57]

MILK IN THE NEW ENGLAND MARKETING AREA

Decision on Proposed Amendments To Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides for changes in the present order provisions based on industry proposals considered at a public hearing held February 14-16, 1978. The major changes would adjust milk prices throughout the production area to more closely relate the location value of milk to the costs incurred in transporting milk from farms and country plants to bottling plants in the major consuming centers of the market. The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued January 18, 1978, published January 23, 1978 (43 FR 3127).

Recommended decision, issued July 14, 1978, published July 20, 1978 (43 FR 31146).

Notice of extension of time for filing exceptions to the recommended decision, issued August 4, 1978, published August 10, 1978 (43 FR 35490).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Boxborough, Mass., on February 14-16, 1978, pursuant to notice thereof issued on January 18, 1978 (43 FR 3127).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on July 14, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Index of Changes

1. Issue No. 1—*"Location adjustments to handlers and producers".*
   a. Paragraphs 24 and 25 are revised and combined.
   b. Two new paragraphs are added after the 27th paragraph.
2. Issue No. 2—*"Establishing several price zones within the 'nearby plant' zone".*
   a. Two paragraphs are added after paragraph 28.
   b. The 32d paragraph is revised.
   c. Two paragraphs are added after paragraph 33.
   d. Two paragraphs are added after paragraph 36.
3. Issue No. 3—*"Class I price differential".*
   a. Five paragraphs are added after paragraph 23.
   b. Paragraph 24 is revised.
   c. Three paragraphs are added after paragraph 24.
   d. Paragraph 27 is revised.
   e. Four paragraphs are added after paragraph 27.

The material issues on the record of the hearing relate to:

1. Location adjustments to handlers and producers.
2. Establishing several price zones within the "nearby plant" zone.
3. Class I price differential.
4. Conforming changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Location of adjustments to handlers and producers.* The current plant location adjustment rate of 1 cent for each 10-mile pricing zone more distant than the 201-210 mile zone should be increased to 1.5 cents per hundredweight. The 1.2-cent location adjustment presently applicable to each of the first 20 price zones (starting at Boston) should be increased to 1.8 cents per zone. The additional 16 cents per hundredweight that is added in adjusting prices at the 14th zone should be changed to 14 cents. These modifications would result in a class I and blended price adjustment at Boston of 50 cents per hundredweight compared to the present 40 cents. Under the order, prices are announced for the 21st zone.

A producer association proposed changing the location adjustment rates to 1.8 cents per zone for the first 20 zones and 1.5 cents per zone beyond zone 21. The association proposed leaving the fixed price adjustment of 16 cents at the 14th zone unchanged. This proposal would establish a class I and blended price adjustment at Boston of 52 cents. In addition to the proponent cooperative, this proposal was supported by a proprietary handler and two New York-based cooperatives with members shipping to New England handlers.

The proponent cooperative association indicated that these order modifications are necessary to reflect the current cost of hauling bulk milk from distant plants to the Boston or Providence areas. The cooperative's witness claimed that since the adoption of the present rate structure in 1967, transportation costs have increased significantly. Because of this, the witness contended, the order pricing does not now properly reflect transportation costs incurred in hauling milk from distant plants to distributing plants.

The witness also contended that if location adjustments reflect less than the entire hauling cost from the farm to the city, equity problems develop. He pointed out that a substantial portion of the city-priced milk is assembled at nonpricing point reload stations that compete with country manufacturing plants for supplies. The witness claimed that producers shipping to the city through a reload station have a lower pay price, after deductions for hauling, than their neighbors supplying a local pool plant. Under these circumstances, he noted, producers are reluctant to deliver milk to city distributing plants. It was claimed that when milk is obtained from distant producers for city bottling needs, one of two inequities occur. If the buying handler subsidizes the hauling, he is disadvantaged costwise relative to his competitors receiving direct-delivered milk FOB their plant. If the cooperative subsidizes the hauling, its members are disadvantaged on their returns relative to producers whose milk is priced at country manufacturing plants. To remove these marketing inequities, proponent contended, location adjustments must adequately reflect hauling costs.

The cooperative's witness presented data regarding 48 long-distance hauling rates that were applicable to movements of milk between reload stations or supply plants and city plants. The hauling rates were those being charged by six haulers for transporting milk from 5 reload stations and 2 supply plants to several different dealers throughout the entire marketing area. The rates were applicable to hauls varying in distance from 61 to 278 miles. The cooperative performed a regression analysis on 48 different hauls. The result indicated a variable

hauling cost of .199 cent per mile and a fixed cost of 9.38 cents per hundredweight. Although the proponent concluded that the regression analysis justified a location adjustment rate of 2.0 cents per 10-mile zone, he advocated the 1.8-cent per zone location adjustment to provide alignment with the rate used in the neighboring New York-New Jersey order. The cooperative's witness justified using a rate of 1.5 cents per 10-mile zone beyond zone 21 on the basis that marketing efficiency increases when the outlying parts of the milkshed supply the fluid market only in times of need. He endorsed the 1.5-cent per zone adjustment as a means of encouraging reserve milk supplies to stay in the country for manufacturing.

The witness also stated that his cooperative's cost of operating facilities to reload milk range from 6.5 to 14 cents per hundredweight, averaging approximately 8 cents per one hundred pounds.

A proprietary handler indicated that its hauling and reloading costs were generally of the same magnitude as those reported by this cooperative.

Four producer associations jointly proposed changing the location adjustment rates to those advocated by the other cooperative just mentioned, except that they proposed that the 16 cents per hundredweight now added at the 14th zone be decreased to 8 cents. By changing Order 1 in this manner, a plus location adjustment of 44 cents would be established for Boston.

A spokesman for these cooperative associations stated that the current transportation allowance under the order is insufficient to cover the cost of hauling milk 200 miles. However, they are opposed to a large increase in the transportation allowance because they believe this would result in a corresponding increase in trucking rates. The witness hypothesized that if the location adjustment for Boston were increased to 52 cents per hundredweight, numerous haulers, as well as handlers who haul their own milk supply, would receive undue windfall gains.

The witness contended that a degree of subsidization of hauling costs provides an incentive to market milk in an efficient manner. He believes that if the full hauling cost is reflected under the order there is less incentive for traffic managers to develop efficient marketing patterns.

Another proponent witness testified that it costs his cooperative association 44 cents per hundredweight to move milk from zone 21 to the Providence, R.I., area. This charge covers the fixed and variable hauling costs. The cooperative's cost of operating a reload station is an additional 5 cents per hundredweight.

One producer association proposed changing the location adjustment rates to 1.5 cents per 10-mile zone for the first 20 zones and 1.2 cents per 10-mile zone beyond zone 21. The cooperative was in favor of leaving the present additional 16-cent price adjustment at the 14th zone unchanged. This location adjustment rate schedule would establish a class I and blended price adjustment at Boston of plus 46 cents.

The proponent cooperative presented data regarding its major hauler's rate schedule for 1978. This independent hauler is transporting milk to plants in the marketing area for 55 cents per round trip mile, figured on loads of 50,000 pounds. At this rate a haul from zone 21 to Boston (round trip of 400 miles) would cost 44 cents per hundredweight. This cooperative also submitted data regarding the cost of getting milk hauled to the Boston and Providence areas from zones 17 and 20. Its hauling rates for shipments to Boston from zones 17 and 20 are 38 cents and 42 cents per hundredweight, respectively. The hauling costs per hundredweight from these same zones to Providence are 44 cents and 47 cents, respectively. These charges cover only the fixed and variable hauling costs. There is an additional expense of 5.5 cents per hundredweight for operating the reload stations through which these supplies are moved.

The witness noted that the aforementioned proposal by four cooperatives, which included reducing the 16 cents added to the location adjustment at zone 14 to 8 cents, increases only slightly the location adjustments for zones 16 through 21. Thus, he contended, such a proposal would not provide enough transportation allowance for shipping milk from plants in zones 16 through 21. He also contended that the other cooperative proposal, which would establish a 52-cent location adjustment at Boston, would provide transportation allowances in excess of the actual hauling rates he is charged to ship milk to the market.

The cooperative's witness supported a decrease in the location adjustment rate beyond zone 21 for two reasons. First, he pointed out that historically the location adjustment rate for the more distant zones has differed from the rate applicable in the first 20 zones. The witness also contended that within 210 miles of Boston there is adequate milk produced to normally satisfy the marketing area's class I needs. This being the case, he felt that the order should not provide for a location adjustment rate schedule that makes it attractive to move milk into the metropolitan centers from the most distant parts of the milkshed.

Under the existing New England order, the class I price and blended price difference between the 21st "and "nearby plant" zones is 40 cents. Plants located outside the "nearby plant" zone but within 31 to 40 miles (4th zone) of Boston have a location adjustment of plus 36.4 cents. For each successive 10-mile zone through the 14th zone the adjustment decreases 1.2 cents. At the 15th zone the country plant and fixed transportation costs of 6 cents and 10 cents, respectively, are subtracted, making the total adjustment between the 14th and 15th zones 17.2 cents. The zone increments beyond the 15th zone are 1.2 cents through the 21st zone and 1 cent beyond.

It is clear that the present location adjustment provisions of the New England order are not compatible with current marketing conditions. Major increases in the cost of transporting milk during the last few years have occurred without corresponding changes in the transportation allowances under the order. Consequently, the present Order 1 location adjustments are significantly less than the actual transportaion costs.

This is having a disruptive effect on the procurement of milk by distributors and the marketing of milk by cooperatives and producers. A substantial portion of the Order 1 city-priced milk is assembled at non-pricing point reload stations. When milk is procured from farmers located in an area void of a local plant outlet, the handler is able to pay the dairy farmers his city plant price and deduct the entire hauling and reloading costs of moving these supplies to his facility. Thus, in such cases, the handler is able to procure the milk at the order minimum class prices applicable to his city plant location.

However, there are a number of country pool plants located throughout most of the New England milkshed. Milk received from producers at a country plant is priced at that plant in accordance with the plant location adjustment schedule in the order. When the location adjustment schedule does not reflect the full cost of moving milk through country plants to the city, as is presently the case, the class I and blended prices at country plants are too high relative to the location value of milk delivered to city plants.

This circumstance has resulted in hauling subsidies in supplying city distributing plants. A city plant operator procuring direct-shipped milk produced near a country pool plant has an order blended price at his plant, after deductions for hauling, less than the blended price for such milk delivered to the country plant, less the farm-to-plant hauling costs. Since the

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producers involved prefer to deliver their milk to the country plant to obtain the higher pay price after deductions for hauling, it forces the city plant operator to subsidize part of the hauling cost to be competitive in procurement with country plants.

A similar hauling subsidy situation exists in the case of procuring milk shipped through country pool plants. Such milk is priced at the country plant location and the cost of hauling the milk from the country plant exceeds the difference between the order class I price at the country plant and the order class I price at the city plant. If the city handler operates his own country supply plant, he is faced with a hauling subsidy. In the case of a supply plant operator who sells milk to other handlers operating city plants, either the supply plant operator or the city plant operator must subsidize the hauling cost, or share the costs in some way.

Several problems have resulted from not reflecting enough transportation cost in the class I and blended price plant location adjustment. Producers shipping to the city through a nonpricing point reload station would have a lower pay price, after deductions for hauling, than their neighbors supplying a local pool plant, if the producer pays the entire hauling cost. Under these circumstances, producers in these areas are reluctant to supply the city distributing plants. If a city handler subsidizes hauling costs, then his supplies cost more than those of his nonsubsidizing competitor. If the producer or his cooperative association pays the entire hauling costs, then there are inequities between him and his neighbors supplying a local pool plant. Moreover, cooperatives that subsidize the cost of hauling milk to city plants must pass such cost back to member producers. This in turn encourages member producers to leave the cooperatives and market their milk directly to proprietary handlers who are required to pay the full amount of the blended price. Corrective action is essential if the order is to fulfill its purpose of providing stable and orderly marketing conditions for producers and for the handlers through whom they market their milk.

The class I and blended price location adjustments under the New England order should be revised to reflect the decreased value of milk delivered to plants in the production area relative to its value when delivered to city bottling plants as a result of increased transportation costs. Specifically, location adjustments for each zone more distant than the 201/210 mile zone should be increased from 1 cent per 10 miles to 1.5 cents per 10 miles; the 1.2-cent rate presently applicable to the first 20 zones should be increased to 1.8 cents per 10-mile zone; and the 16 cents per hundredweight added at the 14th zone should be decreased to 14 cents. These revisions would result in a class I and blended price adjustment at zone 1 of plus 50 cents.

Data presented at the hearing indicate that hauling costs have increased significantly since the Order 1 location adjustment schedule was adopted in 1967. Presently, a proprietary handler and an independent New England hauler used by several Vermont cooperatives are moving bulk milk 200 miles for 44 cents per hundredweight. The data indicate that the variable costs associated with efficient long-distance shipments are 1.8 cents per hundredweight per 10 miles, or 36 cents for 200 miles. Thus, the rates reflect fixed costs of 8 cents per hundredweight (44 cents minus 36 cents). Some of the other hauling data, particularly data presented for 7 of the 37 supply plants and bulk reload stations in the milkshed, suggest slightly higher fixed and variable costs. In exceptions filed a cooperative and a proprietary handler argued that such higher costs should be made the basis for establishing location adjustments. However, when the location adjustments reflect fixed hauling costs and reloading costs, as well as variable hauling costs, as the Order 1 location adjustment schedule is designed to do, it is preferable to remain on the conservative side of the cost range in order to discourage unneeded hauling of milk to city plants. Since some cooperatives and proprietary handlers are moving milk to market at a trucking cost of 44 cents per hundredweight for a distance of 200 miles, any higher location adjustment rate under the order for such distance could encourage moving country plant milk unnecessarily to city plants at the expense of the pool rather than having city plant operators rely on milk moved directly from farms and through the more efficient assembly operations.

Proprietary handler and producer association representatives submitted a wide range of data on the costs of receiving milk through country plants. Two spokesmen for cooperatives that operate a number of country plants testified that their costs were about 5 cents per hundredweight. Another cooperative's witness stated that his association's records indicate that country plant operating costs are ranging from 6.5 to 14 cents per hundredweight. One handler witness said that his costs averaged about 8 cents per one hundred pounds of milk. After considering all the data presented at the hearing, it is concluded that the 6 cents now specified under the Order 1 location adjustment schedule for operating country plants should not be changed. Thus, the present price adjustment of 16 cents at the 14th zone should be decreased to 14 cents (8 cents fixed hauling cost plus 6 cents reload cost).

Changing the present 16-cent price adjustment at the 14th zone to 14 cents would bring the location adjustments for distant zones generally in line with the actual hauling cost some handlers are incurring in moving milk to the primary market. If the price adjustment at the 14th zone were reduced 8 cents, as one proposal would do, the location adjustments would not sufficiently cover the cost of moving milk from the production area to the primary consumption centers.

Several cooperative associations and proprietary handlers excepted to the recommended location adjustment rate of 50 cents per hundredweight for zone 1. They contended that the rate proposed by one cooperative, 52 cents per hundredweight, more nearly covers the cost of moving milk through country plants into the city. Some of the exceptors stated that their actual reloading costs are above 6 cents per one hundred pounds of milk. They also contend that hauling costs have increased since the time of the hearing.

The record does indicate that it costs more than 6 cents per hundredweight to reload milk at small-volume operations. However, it also demonstrates that a substantial amount of milk is being reloaded at a cost of 6 cents or less per hundredweight. Although various handlers contended in their exceptions that hauling costs have increased since the hearing, the decision must be based on evidence contained in the hearing record. In its exceptions, one producer association suggested that lowering the location adjustment between the 14th and 15th zones to 14 cents per hundredweight was not enough and asked that the adjustment be lowered to 8 cents per hundredweight. However, the association did not present any new arguments in support of this request. No departure from the 50-cent location adjustment for zone 1 should be made on the basis of the information provided in these exceptions.

At the hearing and in their briefs, numerous proprietary handlers and cooperative associations supported a lower location adjustment rate beyond the 21st zone. In fact, there was no testimony opposing this type of location adjustment schedule.

Analysis of production and class I sales statistics in the New England milkshed support one witness' contention that within 210 miles of Boston there is adequate milk produced to satisfy the market's normal class I demand. The industry wants to maintain as high a degree of marketing efficiency as possible. This is achieved when the fluid milk requirements are obtained from the closest available sources and reserve supplies are processed into the more concentrated manufactured dairy products in the outlying areas of the milkshed, thus minimizing total transportation costs. Therefore, an economic incentive for handlers to keep reserve milk supplies in the country for manufacturing should be incorporated into the location adjustment schedule. By decreasing the location adjustment rate of 1.8 cents applicable in the inner zones to 1.5 cents for each 10-mile zone beyond zone 21, the desired procurement patterns would be promoted.

2. *Establishing several price zones within the "nearby plant" zone.* In conjunction with the changes in class I and blended price location adjustments to reflect increased hauling costs, the current "nearby plant" zone should be divided into several pricing zones to encourage efficient milk movements and to promote more orderly marketing. Generally, the zone structure should provide for decreasing class I and blended prices in an east to west as well as a south to north direction in recognition of a westward shift of the New England procurement area into New York State.

Class I prices [1] currently are not adjusted for location within the "nearby plant" zone, which encompasses a substantial proportion of the New England marketing area. All plants located in the States of Connecticut, Massachusetts (except Berkshire County), or Rhode Island are included in this zone and thus are subject to identical minimum order prices. The vast majority of pool distributing plants operated by handlers who are regulated under the order are located in the "nearby plant" zone, which accounts for over 90 percent of the marketing area population.

The current "nearby plant" zone should be divided into three geographically-defined pricing zones plus a fourth area in which the zone location of any plant would be determined on the basis of highway mileage from the nearer of Boston, Mass. or Providence, R.I. The order minimum class I prices that should apply in these areas are described under issue 3 that deals with the level of class I price under the order.

All plants located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth, or Suffolk, or the area between Boston and Massachusetts highway number 128 should be in zone 1. This zone includes the major cities of Boston and Providence and is generally described as southeastern New England. The class I price at plants in this zone would be 50 cents per hundredweight above the class I price at the 21st (base) zone.

Plants located in the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, or Portland), New Haven, or Tolland (only the townships of Ellington or Somers) should be in zone 7. This western area of Connecticut, which includes the cities of Danbury, Hartford, and New Haven, is adjacent to the eastern boundary of the New York-New Jersey marketing area. The class I price in this zone would be 10.8 cents less than that for zone 1 (6 zones at 1.8 cents per zone) and 39.2 cents more than the zone 21 class I price.

All plants located in the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer and Wales) or Hampshire (except the township of Ware) should be in zone 8. At plants located in this area, which includes the city of Springfield, the class I price would be 12.6 cents less than the zone 1 price and 37.4 cents more than the zone 21 class I price.

The zone location of each plant located in the States of Connecticut or Massachusetts (except Berkshire County) that is also located outside the specific zones previously listed should be determined on the basis of highway mileage from the nearer of Boston or Providence. In general, this area encompasses the territory between zone 1 (southeastern New England) and zones 7 and 8 (western Connecticut and Massachusetts) and areas north of zones 1 and 8.

Cooperative associations that represent producers supplying the New England market proposed a restructuring of the "nearby plant" zone in a manner similar to that which is provided herein. Two hearing notice proposals submitted by cooperative associations were identical with respect to the areas to be included in each zone as well as the differences in prices among areas curently within the "nearby plant" zone. At the hearing, the proposals were modified slightly in identical fashion.

The zoning structures provided herein differs from the cooperatives' revised proposals in two respects. First, the adopted zone 1 is smaller in area than the proposed "Eastern City Plant Location Zone." The cooperatives' proposed eastern zone would encompass the area in the adopted zone 1 as well as additional territory in Massachusetts, namely, all of Essex County, Middlesex County (except the Townships of Ashby, Groton, Pepperell, Shirely and townsend) and an eastern tier of 12 townships in Worcester county. Second, the areas included in the adopted zones 7 and 8 were proposed by cooperatives to be included in one "Western City Plant Location Zone," which would not have provided for a price decrease from south to north in the western portion of the current "nearby plant" zone.

The cooperatives' specific zoning proposal, or the concept of zoning, for the present "nearby plant" zone was supported at the hearing or in briefs by several cooperative associations that represent producers supplying the New England and New York-New Jersey marketing areas and a proprietary handler regulated under the New England order. A trade association of 21 handlers regulated under the order also supported the proposed zoning approach provided the issue of intermarket price alignment (discussed under the following issue) was adequately resolved.

Some of the reasons advanced by proponents for zoning were interrelated with their desire to realign class I prices between the New England (Order 1) and New York-New Jersey (Order 2) Federal order markets. They testified that pricing changes effective November 1, 1977, in the Order 2 market necessitated a price reduction in New England, particularly in the areas of the New England market adjacent to New York. Some witnesses stated that a price reduction of a magnitude necessary to align prices in the western portion of the New England market was not necessary in eastern segments of the market (Boston/Providence) that are well protected from the Order 2 market by distance. Also, some testified that by establishing different pricing zones in the "nearby plant" zone the blend price to New England order producers would decline by a lesser amount than if the same price reduction were applied throughout the area.

Proponents also testified that the action is necessary to encourage marketing efficiency by establishing the incentive to move milk from west to east to the major consuming centers of the market (Boston/Providence). They stated that as the market shifts to greater dependence on supplies of milk from New York, it will become increasingly important to maintain a high enough price in the eastern consumption areas to attract this milk from beyond the consumption centers in the western portions of Connecticut and Massachusetts. Consequently, they claimed, an eastern zone price above the western zone price by the

[1] Class I and blended price location adjustments are identical under the order. For purposes of this discussion, location adjusments will be discussed only in the context of the class I price. However, the location adjustments applied to the class I price must be applied similarly to the blended price. This is necessary to provide the proper incentive for producer milk to move to the major consumption centers for fluid use.

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cost of transportation between the two zones is necessary to place a producer in New York in a position of indifference as to which zone he ships milk.

Proponents testified that the boundaries of their proposed eastern and western zones were determined on the basis of the location of existing distributing plants and the areas of substantial overlapping route disposition. They indicated that the proposed price difference between the two zones was based on the variable hauling cost of 1.8 cents per hundredweight per 10 miles. Since Hartford, Conn. and Springfield, Mass. are about 70 miles from Providence, R.I., prices in the western zone were proposed to be 12.6 cents less than those for the eastern zone (7 zones times 1.8 cents). It was noted that the area between the eastern and western zones would serve as a "buffer" zone in which the zone location of any plant should be determined on the basis of distance from the nearer of Boston or Providence. Proponents indicated that such a "buffer" zone would eliminate any sharp difference in class I prices to handlers that could result if only two zones were established. Proponents stated that although handlers probably could not transport packaged milk for 1.8 cents per 10 miles, the overall zoning approach comes closer than the current structure in achieving competitive price alignment for handlers in procuring milk supplies.

At the hearing, a proprietary handler regulated under the order suggested that the proposed eastern zone be extended westward to include the area of Worcester, Mass. The handler, who operates a fluid milk plant in the eastern zone, stated that Worcester area handlers with whom he competes for class I sales in both the Worcester and Boston areas should have the same class I price as handlers in the eastern zone.

In their briefs, the proprietary handler and a trade association of 49 New England milk dealers opposed any rezoning of the current "nearby plant" zone. Handlers stated that rezoning the "nearby plant" zone must be rejected on statutory grounds since nonuniform prices to handlers would result. They further indicated that the record of the proceeding did not support any price differentiation among handlers in the "nearby plant" zone in that there is no indication of a benefit to be derived by handlers. Rather, the benefit of rezoning would accrue to dairy farmers in the form of a lesser blended price reduction than if prices in the "nearby plant" zone were reduced the same amount throughout the zone in sufficient magnitude to align prices with Order 2.

The issue of determining whether the pricing structure within the "nearby plant" zone should be revised is not dependent upon the possible resulting impact on the overall level of returns to producers. Such consideration, as well as the issue of intermarket alignment of prices, is appropriately considered under the following issue that deals with the level of the class I price that is necessary to assist in assuring an adequate supply of milk for the New England market.

There is substantial evidence in the record of the proceeding to firmly establish a need to revise the pricing structure within the "nearby plant" zone. The "nearby plant" zone contains almost 93 percent of the marketing area population [2] and at the time of the hearing all but 8 of 89 pool distributing plants were located in this three-State area. On the other hand, production within this area, which accounted for less than 24 percent of the approximately 414 million pounds of milk pooled under the order in December 1977, is far short of that needed to meet the fluid milk needs of handlers. Consequently, distributing plants must depend on sources of milk in other areas to obtain milk for bottling needs. New York and Vermont represent by far the largest sources of supply for the marketing area and in December 1977 accounted for 27.9 and 37.8 percent, respectively, of the milk pooled under the order. Maine and New Hampshire, the remaining States that comprise the order 1 milkshed, accounted for 4.7 and 6.1 percent, respectively, of the market supply during the same period.

Adjustment of milk prices for plant location facilitates the orderly and efficient movement of milk supplies from the major production areas to the consuming centers of the market and, conversely, it discourages uneconomic movements away from consumption centers toward supply areas. Since the New England market must depend on substantial supplies of milk located to the west and north of the principal and secondary consumption centers in the "nearby plant" zone, it is logical that location adjustments should increase milk prices from west to east as well as from north to south.

The "nearby plant" zone, in which prices are currently not adjusted for plant location, does not promote orderly marketing conditions. It is simply too large an area in which to maintain a "flat" pricing system. There is no price incentive to move milk either eastward or southward from the current western and northern boundaries of the zone. Furthermore, there is no price incentive to discourage backward movements of milk toward northern and western production areas within the "nearby plant" zone. For example, milk in the relatively heavier production areas of the "nearby plant" zone (New London, Tolland, and Windham Counties, Conn., and Worcester County, Mass.) may move north or west to distributing plants. Should this occur, it would require additional shipments of milk from distant areas to meet the fluid milk needs of the major consumption areas in southeastern New England. Such occurrences, which would increase transportation and energy costs to the detriment of the total interests of the market, are not representative of an orderly and efficient marketing system.

The Boston/Providence area is the largest consumption center in the "nearby plant" zone. The population of the area included in the cooperatives' proposed eastern plant zone represents over 50 percent of the total marketing area population. Milk production in this area is minimal and consequently it is the principal deficit area in the "nearby plant" zone. Therefore, prices in this area must be higher relative to consumption centers located to the north and west that are nearer to the primary production areas.

The need to decrease prices in a westward direction across the "nearby plant" zone is based on the importance of east central New York as a major source of supply for the New England market, as well as the fact that secondary but significant consumption centers in the western parts of Connecticut and Massachusetts are nearer to this supply source than the Boston/Providence area. New York has been a source of supply for New England for a substantial period of time, with the volume of New York milk pooled in the New England markets continually increasing. The volume of New York milk pooled on the New England markets increased from about 100 million pounds in December 1969 to 115 million pounds in December 1977, a 15-percent increase.[3] A further comparison on a county basis between December 1969 and December 1976 reveals that the volume of New England pooled milk originating in the four eastern New York counties of Columbia, Dutchess, Rensselaer, and Washington declined by about 1 percent, from 67 to 66 million pounds. However, milk originating in the more western counties of New York (Orange, Ulster, Greene, Albany, Saratoga, Delaware, Schoharie, Montgomery, Fulton, and Otsego) doubled in volume, from about 14 to 28 million pounds. These data clearly indicate that there has been an increasing reliance on New York milk and that the New England milkshed has expanded westward into east central New York in recent years.

[2] Official notice is taken of Federal Milk Order Market Statistics, Annual Summary for 1976, issued June 1977, and Current Population Reports, Population Estimates, Series P-26, No. 76-45 (issued Aug. 1977), Series P-26, No. 76-29 (issued Aug. 1977), Series P-26, No. 76-39 (issued July 1977), Series P-26, No. 76-7 (issued Aug. 1977) and Series P-25, No. 715 (issued Dec. 1977), published by the Bureau of the Census, U.S. Department of Commerce.

[3] Official notice is taken of Sources of Milk for Federal Order Markets by State and County, U.S. Department of Agriculture, Consumer and Marketing Service, Dairy Division, issued Feb. 1971.

If handlers in western Connecticut and western Massachusetts did not rely on nearby New York milk, it normally would not be necessary to apply location adjustments from east to west. Alternative supply sources in Vermont are relatively equidistant from Boston and Hartford and would provide a basis to continue a flat price structure across southern New England. However, Hartford and other areas in the western portions of the marketing area, such as Springfield, Mass., are located much closer to supply sources in New York than to the heavy production areas in northern Vermont. Therefore, prices in the Hartford/Springfield area need not be as high as those in the Boston/Providence area to attract milk supplies from New York.

A lower price in Hartford/Springfield than Boston/Providence will also establish the incentive to move milk from west to east across the current "nearby plant" zone. This is desirable in that a substantial part of the New York production area, which in addition to being nearer to the western portions of Connecticut and Massachusetts, is also essentially equidistant from Boston and Providence. For example, Oneonta, N.Y. (Otsego County), which generally represents the western edge of the current New England milkshed in New York, is 242 and 236 miles, respectively, from Boston and Providence.[4] In addition, a lower price in Hartford/Springfield would discourage westward movements of milk from relatively heavy production areas in Connecticut and Massachusetts toward the New York supply area.

Cooperative associations proposed a lower class I price for the western portions of Connecticut and Massachusetts than for the major consumption area of Boston/Providence. The concept of the cooperatives' proposal is valid, for reasons previously stated, and should be adopted, but in a somewhat modified form.

The Connecticut portion of the cooperatives' proposed western zone should be in zone 7 since the city of Hartford is approximately 70 miles nearer to major production areas in New York than the major consumption center of Providence. Consequently, the class I price in the Hartford area should be 10.8 cents lower than in the Providence area, which for reasons hereinafter stated should be in zone 1.

The city of Hartford is used to determine the price level in zone 7, relative to Providence, since it and the surrounding areas represent the largest consumption center in western Connecticut. All plants in this zone will have identical minimum order prices, as is currently the case. Any finer delineation of location adjustments within this zone, on either an east to west or south to north basis, is not supported on the basis of this record.

The Massachusetts portion of the cooperatives' proposed western zone should be included in a lower priced zone than western Connecticut. Springfield, which is the major consumption center in western Massachusetts, is a junction for the east-west and north-south Interstate Highway System. Springfield is also 25 miles north of Hartford and as such is nearer to production areas in Vermont and most of the heavy production areas in east central New York. Thus, a substantial proportion of the milk originating in either New York or Vermont can be expected to pass through Springfield en route to Hartford and other areas in zone 7. It is essential, therefore, to establish a lower price level in Springfield than Hartford to recognize its proximity to production areas as well as to provide an additional incentive for milk to move beyond Springfield to plants in western Connecticut.

The difference in prices at Springfield and Hartford should be based on the extent to which Springfield is nearer to the major production areas than Hartford, as measured from the nearest major consumption area of Providence. Since Springfield is approximately one zone (8 miles) more distant from Providence than Hartford, prices at Springfield area plants should be 1.8 cents less than at Hartford. Consequently, the Massachusetts portion of the cooperatives' proposed western zone should be in zone 8.

A proprietary handler that operates a plant in the zone 7 area excepted to placing the Springfield and Hartford areas in different price zones on the grounds that such zoning was neither proposed nor supported by record evidence.

Contrary to this handler's views, the record evidence does establish the need to divide the proposed western zone into two different price zones. The fact that Hartford area handlers are located further from the major procurement areas than Springfield area handlers, as well as the structure of the Interstate Highway System, justifies a difference in prices between the two areas. Although this specific zone differentiation was not specified in the hearing notice, two witnesses at the hearing specifically stated that there might well be a need to establish higher prices in the southern portions of the proposed western zone to either improve the intermarket price alinement or to insure that plants in such areas would be able to obtain adequate supplies of milk. Another witness also expressed concern over the ability of Connecticut handlers to obtain milk supplies at certain price levels that were proposed for the western zone. These concerns highlighted the need to fully explore record evidence concerning the geography of the milkshed and the routes by which milk would move from the production area to the secondary markets in the proposed western zone. As previously stated, these factors provide the basis for a finer delineation of pricing within the western zone area than was originally proposed by cooperatives.

The cooperatives' proposed eastern zone should be reduced in size for several reasons. First, any zone within which prices are not adjusted for location should be as small in area as possible to eliminate the likelihood of relatively large price differences between plants that are close to each other at the edge of two bordering price zones. The larger the zone the greater the price difference there will be between a plant that is located just inside the zone and a plant located just outside the zone. Such a situation exists under the current pricing structure and would be intensified by adopting the cooperatives' proposed eastern zone that would include territory north of Boston extending to the Massachusetts border, including all of Essex County and most of Middlesex County. Currently, order prices at pool plants located in zone 4 in southeastern New Hampshire are 3.6 cents per hundredweight lower than prices at pool plants located a few miles south of the Massachusetts border that are included in the "nearby plant" zone. The adopted location adjustment rate of 1.8 cents would result in a 5.4-cent difference in price between these plants that are within a few miles of each other. This price disparity problem can be rectified by excluding a portion of northeastern Massachusetts from the eastern (zone 1) zone.

Another reason for excluding areas north and northwest of Boston from zone 1 is the obvious fact that plants in such areas are located closer to production areas in Maine, New Hampshire, and Vermont than plants in the

[4] Mileages are obtained from Mileage Guide No. 11, Supplement No. 1, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va., on Feb. 21, 1978, effective May 15, 1978, of which official notice is taken.

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Boston area. Several cooperative association witnesses presented testimony with respect to hauling costs incurred in moving milk southward from these northern areas. They indicated that it costs less to move milk to northeastern Massachusetts than to Boston. Consequently, it would not be appropriate to extend a zone 1 price, which reflects total hauling costs to Boston, to plants located some 40 miles north of Boston.

The border of zone 1 in northeastern Massachusetts should be Massachusetts Highway No. 128. It represents a clearly recognizable and distinguishable zone boundary around Boston at a distance of approximately 10 miles from the city. Plants located to the north and the northwest of such highway will be in either zones 2, 3, or 4 depending on their distance from Boston. Consequently, price differences among plants that are located within a few miles of each other would not be expected to exceed 1.8 cents per hundredweight. Plants located in these zones would have location adjustments that relate to the cost of transporting bulk milk from production areas to the north and west.

An eastern tier of 12 townships in Worcester County that was proposed to be included in the eastern zone should not be included in zone 1. There are no pool plants located in this area and no testimony was presented to indicate a special need for its inclusion.

Testimony by cooperative witnesses concerning the cost of moving milk from north to south might indicate the need for a relatively higher price in Providence than Boston. Providence is 46 miles southwest of Boston and as such is more distant from the northern production areas. However, Providence is relatively closer to production areas in New York than heavy production areas in northern Vermont. Also, most of the heavy production areas in east central New York are either nearer to Providence of are virtually equidistant to Providence and Boston. Therefore, a higher price in Providence relative to Boston in view of north to south movements is not necessary in view of west to east movements of milk that can be made to satisfy the fluid milk requirements to Providence area handlers.

Two cooperative associations, a U.S. Congressman, and two proprietary handlers filed exceptions to the zone 1 definition. One of the cooperative associations and one handler requested that additional territory north of Boston be included in zone 1 as was proposed at the hearing, while the other exceptors requested that certain territory in Norfolk County be excluded from zone 1.

The exceptions requesting the addition of territory north of Boston were filed by a cooperative association that operates a pool manufacturing plant in zone 3 and a proprietary handler that operates a distributing plant in zone 1. They indicated that the exclusion of such area from zone 1 would create competitive problems for dealers since there is a substantial overlap of sales between dealers in such area with Boston area dealers. The cooperative association further stated that the reduction in transportation allowance at its manufacturing plant that results from its being in a lower priced zone would increase the cost of using the plant to balance the fluid milk requirements of Boston and Providence area handlers. The cooperative also stated that hauling costs are greater to this plant due to the intermittent nature of shipments to the plant and that south-to-north zoning would be contrary to pricing needs if the New England market were extended to include additional territory in Maine.

The reasons advanced by exceptors do not provide a basis to extend the zone 1 boundary to include areas north of Boston. The record clearly establishes that it costs less to haul milk from northern supply areas to plants located north of Boston than to plants located in Boston. To extend zone 1 to include territory up to 40 miles north of Boston would overprice milk at plants in such territory. In addition, no valid reasons were presented to indicate a unique situation with respect to areas north of Boston that would require consideration of the alternative zoning procedures suggested.

A proprietary handler who operates a distributing plant in Franklin Township in Norfolk County excepted to being included in zone 1. The handler stated that he would be competitively disadvantaged on a large proportion of his fluid milk sales in the lower priced areas of western Connecticut and western Massachusetts. The handler stated that nearly 40 percent of his fluid milk sales are in the proposed zones 7 and 8 and that, consequently, zone 8 should be extended eastward to include his plant location.

A U.S. Congressman and a cooperative association also filed exceptions relative to this handler's situation. These views basically reiterated those expressed by the handler, i.e., he would be at a competitive disadvantage in a large proportion of his sales area because dealers with whom he competes would have lower prices applicable at their plants under the new zoning structure. The cooperative association stated that the handler's situation is unique in that he is the only handler in zone 1 that has substantial route disposition in zone 7. The association suggested, therefore, that the handler's location be removed from zone 1 to allow him to be competitive with respect to his sales in zone 7.

The record does not contain evidence regarding the sales pattern of the handler as described in the various exceptions. Nevertheless, a situation of this nature would not provide a basis for changing the zone designation of the handler's plant. The pricing structure adopted herein is intended to reflect the relative difference in costs of moving raw milk supplies from procurement areas to various plant locations rather than to accommodate the disposition of fluid milk products from processing plants to secondary consumption areas. The area in which a plant distributes fluid milk products has no relationship to prices that are necessary to assure the delivery of raw milk supplies to a specific location. Consequently, an attempt to establish prices at various plants on the basis of different sales areas would neither insure the delivery of adequate supplies of milk nor result in uniform prices to handlers similarly located. In addition, there is no evidence in the record of this proceeding to indicate that the location of exceptor's plant requires the application of prices different than those of other handlers in zone 1 to secure an adequate supply of milk.

Plants located in areas that are currently within the "nearby plant" zone that are not located in the geographically defined pricing zones provided herein should be zoned on the basis of mileage from the nearer of Providence or Boston, as proposed. In addition to establishing a "buffer" zone between eastern and western consumption centers, it is consistent with the overall objective of encouraging eastward and southward movements of milk toward the major consumption centers of Boston and Providence. Class I prices at any plants so zoned will thus be based on the fact that the plant is located nearer to the major sources of supply relative to the nearest primary market center of Boston or Providence.

The arguments of proprietary handlers who are opposed to restructuring the pricing system in the "nearby plant" zone are not convincing. They indicated that it would be more difficult for Boston area handlers to compete for sales in areas west of Boston, such as Worcester, with handlers located in lower priced zones. Consequently, they contend that prices at Worcester area plants, as well as prices at plants throughout the "nearby plant" zone, should be the same as those at Boston and Providence.

Such argument does not recognize the failure of the current pricing structure to reflect the lower value of milk delivered to plants located closer to the primary production areas for

the market. The application of prices at Worcester area plants at the same level as Boston area plants results in overvaluing milk in the former area by at least the additional cost of transporting bulk milk from Worcester to Boston. Worcester is located 40 miles west of Boston and is nearer to production areas in New York. Consequently, milk delivered to Worcester is not worth as much at that location as milk delivered to Boston.

Two proprietary handlers that operate distributing plants in zone 1 filed exceptions requesting that zone 1 be extended westward to include areas around the city of Worcester because both Boston area and Worcester area handlers have almost the same sales areas. In addition, one of the exceptors, while opposing any change in the pricing structure of the "nearby plant" zone for reasons indicated in his post-hearing brief, specifically excepted to the conclusion that milk delivered to Worcester-area plants has a lower value than milk delivered to Boston. The handler stated that such conclusion is erroneous since there is no evidence in the record to show that such handlers have ever relied on supplies of milk from New York sources. Instead, he contends that Worcester area handlers secure milk supplies from either local or northern New England sources.

As previously stated elsewhere in this decision, the extent to which handlers may compete with each other for fluid milk sales does not provide a proper basis to establish pricing zones under the order. Such zone prices must be based on plant location, rather than sales area, relative to the location of the principal supply areas for the market. In this regard, it is anticipated that there will be an incentive for milk supplies located north of Worcester and Boston to move to Boston. This is in keeping with the goal of encouraging the nearest available milk supplies to move toward the nearest major consuming centers of the market, in this instance, Boston. To the extent that this should result in the need for Worcester area handlers to seek alternative milk supplies, they may be obtained in New York. There has been an increasing reliance on New York supplies to fulfill the fluid milk requirements of New England handlers in the past and it is expected that this trend will continue. Since New York and other western areas represent the alternative sources of supply for Worcester area handlers, and since such handlers are closer to these supplies than Boston area handlers, prices at such plants must reflect a lower value than milk delivered to Boston.

The pricing structure provided herein is intended also to provide greater assurance that adequate supplies of milk will be made available to distributing plants in the Boston/Providence segment of the market. This can best be effected by providing plant location adjustments to the class I and blended prices in the present "nearby plant" zone that reflect the cost of moving milk across such zone from country supply plants. If the present "nearby plant" zone were retained, it would be necessary to limit the amount of the location adjustments under the order to cover transportation costs in moving milk from country supply plants to the northern and western edge of the zone and thereby rely on either producers or handlers to subsidize the additional cost of transporting milk across such zone.

As indicated, New York and Vermont represent the largest sources of supply for the New England market. Also, the Boston/Providence area is the principal consumption center of the market. Any pricing structure that is intended to encourage orderly marketing conditions must recognize the above factors and provide the incentive for milk to move from the production areas to the major consumption center. The pricing structure provided herein recognizes these relevant factors and should be more effective in promoting orderly marketing conditions to the benefit of the entire market than the maintenance of a "flat" price throughout the current "nearby plant" zone.

3. *Class I price differential.* The present class I differential of $2.58 that is applicable at the 21st zone should be reduced to $2.42. With the adopted location adjustment schedule, this would result in a class I differential at zone 1 of $2.92, compared with $2.98 presently.

A basic purpose of the hearing was to consider proposals that were designed to improve class I price alinement between the New England market and the New York-New Jersey market. Cooperative associations and proprietary handlers offered a number of proposals which they believed would improve intermarket price alignment.

Proponent witnesses contended that the amendments to the New York-New Jersey Federal order that became effective on November 1, 1977, changed the class I milk cost alinement between distributing plants in the Order 1 and Order 2 markets. Various witnesses pointed out that these amendments changed the cost of Order 2 class I milk in a variety of ways. The class I differential was lowered 15 cents per hundredweight and the handlers now receive a pool transportation credit of 15 cents per hundredweight on all farm bulk tank milk received at their plant. Also, the transportation differentials were increased from 1.2 cents per 10-mile zone to 1.8 cents per 10-mile zone for the first 20 zones and to 1.5 cents per 10-mile zone beyond the 201-210 mile zone. In addition, the negotiable hauling deduction was increased from 10 cents per hundredweight to 15 cents per hundredweight. It was noted that another amendment affecting the cost of class I milk under Order 2 is the increased direct delivery differential. The direct delivery differential for bulk tank milk received from producers within the 1-70 mile zone or from producers who deliver their milk in cans to plants within such zones was increased from 5 cents per hundredweight to 15 cents per hundredweight. It was argued that these changes could result in various reductions in the cost of class I milk to an Order 2 plant depending upon the freight zone from which the milk was received. For example, a witness testified that the class I cost for milk received from the 71-80, 141-150, and 201-210 mile zones in the Order 2 market was reduced by 27.2 cents, 31.4 cents, and 35 cents per hundredweights, respectively.

Proponent witnesses contended that before Order 2 was amended, southeastern New York handlers already had a significant advantage over southern New England handlers on their cost of class I milk. They claimed that for milk obtained from the 71-80, 141-150, and 201-210 mile zones by New York handlers the Order 2 class I milk cost advantage over the "nearby plant" zone class I milk cost to southern New England handlers was 22 cents, 29 cents, and 38 cents, respectively. It was claimed that since November 1, 1977, these differences have increased to 49 cents, 60 cents, and 73 cents per hundredweight, respectively. A proponent witness contended that the increased cost differences have created competitive pressures over the short run and if not minimized will have damaging long-run effects on the New England dairy industry.

A Connecticut handler organization representative expressed particular concern over the alinement of class I milk costs between Order 2 distributing plants in Albany, N.Y., and Order 1 distributing plants in southwestern New England. The witness stated that Albany is 83 miles from Springfield, 135 miles from Bridgeport, Conn., 164 miles from Providence, and 171 miles from Boston. Using a transportation differential rate of 1.5 cents per 10 miles, he calculated that the proper alinement between Albany and the Order 1 "nearby plant" zone would require reducing the Order 1 price from 13.5 to 27 cents per hundredweight of milk. He contended that the disparity between his calculated alinement and

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the present alinement of class I costs makes it very apparent that eventually Order 2 handlers will increase their route distribution in the New England market.

A spokesman for several producer associations was in full agreement with this contention. He further contended that the present alinement of class I prices between Order 1 and Order 2 would cause a substantial loss of class I sales by Order 1 handlers and create disorderly marketing. The witness stated that although it is never an easy decision to lower milk prices, it is the belief of the cooperatives he represents that there must be a decrease in the Order 1 class I price to correct the price disparity between the two orders.

Witnesses opposing any price reduction presented data that demonstrated that there had not been a substantial increase in class I sales by Order 2 bottlers in the New England marketing area since the New York-New Jersey order was amended. On the other hand, a proponent witness noted that there is not complete reciprocity of health inspections between New York, Massachusetts, and Connecticut. He contended that this lack of reciprocity is one of the main reasons that the lower class I costs experienced by New York handlers has not resulted in the immediate influx of Order 2 packaged milk into the Order 1 market. He pointed out, however, that a number of bills that might abolish this lack of reciprocity had been introduced in the Massachusetts House of Representatives. He contended that if the health inspection laws are changed, Order 2 handlers would acquire a lot of fluid milk accounts in the New England marketing area, thereby forcing several New England plants to close because of a loss of sales.

Presently, there is an Order 1 handler in Danbury, Conn., that has 40 percent of his route disposition in the Order 2 marketing area. At the hearing, this handler contended that the recent changes in Order 2 gave his New York competitors a cost advantage of up to 35 cents per 100 pounds of class I milk. He contended that the interstate highway system makes it economically feasible for numerous New York handlers to penetrate the western Massachusetts and western Connecticut class I markets. Consequently, he argued, the alinement problem not only threatens his New York sales but it could eventually undermine the entire southwestern New England class I market. He stated that unless the New England class I differential is reduced he will be forced to adjust his route disposition to become regulated by Order 2.

Opponent witnesses also presented data demonstrating that the route disposition of New England bottlers in the Order 2 market had not decreased since the recent Order 2 amendments. However, a Connecticut Order 1 bottler attributed this to the long-term nature of some fluid milk supply contracts. He contended that since school and institutional bid contracts are binding for an entire season, the misalinement of class I costs between the two orders would not immediately decrease the class I sales of Order 1 handlers into the Order 2 marketing area.

Proponent witnesses were also concerned about the potential movement of bulk milk from Order 2 plants to Order 1 plants. The proponents contended that the current price difference between Order 1 and Order 2 exceeds the cost of transporting bulk milk from an Order 2 plant to a New England plant. Under these circumstances, they claimed, milk might be transshipped from an Order 2 plant to a high class I use plant in New England at less than the Order 1 class I price. Proponents argued that these shipments would disrupt the competitive relationship of handlers in Order 1 as well as result in the loss of class I sales to producers on the New England market.

A cooperative association witness introduced into the record numerous statistics portraying the recent history of milk prices and production in the Northeast markets. During August, September, and October of 1977, the Order 1 blended price at the 21st zone was 31, 33, and 35 cents higher, respectively, than the Order 2 uniform price at the 201-210 mile zone. The first 2 months that the amendments to Order 2 were in effect, November and December of 1977, the differences increased to 53 and 55 cents per hundredweight, respectively. Milk produced in New York and New England during the last quarter of 1977 exceeded production in the same quarter of 1976 by 4 and 5 percent, respectively. The witness believed that a small drop in the Order 1 class I differential would not, at this time, jeopardize the ability of dairymen to adequately supply the class I needs of the New England market. He contended, however, that it is critical that the proper price alinement be achieved to prevent a disorderly flow of milk.

Another cooperative association witness contended that if the class I price under Order 1 is not reduced there will be significant shifts in route dispositions that will cause drastic reductions in the New England blended price. He noted that a 1-percent drop in the Order 1 class I utilization would result in a blended price decrease of approximately 2.5 cents. He further stated that his producer association is willing to sustain a small reduction in blended prices, due to a decreased class I price, to prevent the loss of class I sales which would translate into a much larger reduction later.

Although several proprietary handlers and numerous cooperative associations agreed that it was imperative that the New England class I price be reduced, they did not concur on the magnitude of this reduction. One witness testifying for the Connecticut trade association supported the alinement of class I prices which existed between Order 1 and Order 2 distributing plants prior to November 1, 1977. To reinstate that alinement, the association proposed that the Order 1 zone 21 fluid differential be lowered 30 cents, to $2.28. Numerous cooperative associations contended instead, that a reduction of this magnitude was not necessary and advocated reductions ranging from 12 to 20 cents per hundredweight. Various witnesses supported a class I differential ranging for the proposed western zone from $2.68 to $2.854 and for the proposed eastern zone from $2.68 to $2.98.

Twenty-two individual dairy farm operators testified during the course of the hearing. The dairymen indicated strong opposition to any proposal that would result in a decrease in the class I differential. They claimed that dairy farmers cannot afford a reduction in their returns for milk.

Two cooperative associations also testified in opposition to a decrease in the class I differential. The witnesses claimed that production costs in the Order 1 milkshed have been increasing and returns to producers have not been keeping up. The cooperatives contended that a decrease in the New England class I differential would be contradictory to the higher production costs.

Two New York-based cooperatives with members shipping to New England handlers opposed a decrease in the Boston class I differential. One cooperative association witness stated that the weighted average cost of class I milk to an Order 2 New York City handler is $2.88 over the basic formula price. The distance from Washington, D.C., to New York is 235 miles and from New York to Boston is 208 miles. The witness contended that since the price spread is 10 cents between Washington and New York ($2.78 at Washington versus $2.88 at New York) and 10 cents between New York and Boston ($2.88 at New York versus $2.98 at Boston), it would be logical and consistent to continue the Boston price at $2.98. However, because of the close proximity of the proposed western zone to New York City, he supported a 12-cent decrease in the western zone's class I differential.

The record of this proceeding does not indicate any significant changes in

handlers' sales patterns or changes in the volume of either bulk or packaged milk movements between the Order 1 and Order 2 markets since the amendment of Order 2 on November 1, 1977. However, it may well be that an insufficient period of time had elapsed between the date of the hearing and the Order 2 amendments for any such changes to occur. Also, it may well be that the absence of health reciprocity among the various States has tended to restrict interorder milk movements or sales pattern changes that are anticipated by those supporting a decrease in the class I price differential at this time. Except for the competitive situation faced by the Danbury, Conn., handler who has route disposition in the Order 2 market, the record does not demonstrate the existance of current disorderly marketing conditions resulting from the current relationship of class I costs between the two Federal orders, as contended by opponents of any class I price reduction in New England.

Although there was no showing on the record of any major intermarket disorderly marketing conditions attributable to class I pricing, the potential for such conditions clearly exists. It would not be unreasonable to expect some eventual change in the reciprocity arrangements among States in the Northeast regarding milk. Should milk begin moving freely into New England, there could be some difficult competitive problems facing both Order 1 fluid milk distributors and producers. Order 1 handlers would be threatened with a loss of their business due to an inability to compete in price with Order 2 distributors. At the same time, the established outlets of New England order producers would be jeopardized. Consequently, it is reasonable at this time to establish a pricing structure for New England that ties in properly with the Order 2 market. This will provide both Order 1 and Order 2 handlers with the opportunity to plan their future operations within the pricing framework that presumably would have to be established at some later time in response to changed distribution patterns.

It must be noted at this point that the revised location adjustments and rezoning of the "nearby plant" zone, which are necessary to reflect increased hauling costs and current procurement patterns, would aid materially in alining prices in western New England with the Order 2 market. However, in increasing the location adjustment rate, it is necessary to determine whether the present class I price differential at the 21st zone should be continued, which would necessitate a higher price at zone 1, or whether the Boston price should be continued, which would require a lower price at the 21st zone, or whether some combination of adjustments is necessary. In deciding this issue, recognition should be given to intermarket price alinement problems.

Two basic price alignment concerns were presented by Order 1 handlers. One is the disparity in fluid milk costs between Order 2 handlers in the Albany, N.Y., area and Order 1 handlers supplying the New England market. The other concern is the disparity in class I milk costs between handlers under Order 2 who are in the New York City metropolitan area and Order 1 handlers in the southwestern part of the New England area.

The record demonstrates that the Order 1 class I differential is not in harmony wih the current market situation. The value that the order attaches to milk affects the degree to which Order 1 handlers are able to compete effectively with handlers regulated under other orders. Thus, revision of the Order 1 class I differential is essential if orderly and stable marketing conditions for handlers and producers in the New England market are to be assured.

The record shows that there is a significant amount of intermarket class I milk sales competition between an Order 1 handler whose plant is in Danbury, Conn., and Order 2 handlers located in the New York City metropolitan area. The area of overlapping sales competition is in the Order 2 marketing area. However, if the Order 1 handler at Danbury were to adjust his sales volume in the respective markets to become pooled in the Order 2 market, he undoubtedly would continue to maintain a significant amount of his class I milk sales in the Order 1 market in competition with Order 1 handlers. In these circumstances orderly marketing would be enhanced if the class I price level established for a plant in Danbury, Conn., was the same under both orders. Thus, if this handler shifts regulation between orders it would have no impact on the class I price relationship faced by such a handler and his competitors in either market.

The record indicates that on the basis of the costs of procuring milk from supply plants and directly from farms and the relative proportions from each source, the weighted average cost of class I milk to an Order 2 New York City handler is $2.88 over the basic formula price. The Order 1 distributing plant at Danbury, Conn., is located in the Order 2 41-50 mile zone. Plants in the Order 2 41-50 mile zone have a class I location differential that is 7.2 cents lower than the differential applicable at New York City plants. Under the Order 1 zoning adopted herein, Danbury and the rest of western Connecticut would be in zone 7 and Boston would be in zone 1. Also, the adopted class I location adjustment for zone 1 would be 10.8 cents higher than that adopted for zone 7. Therefore, for the two markets to be properly alined under these circumstances, Boston must have a class I differential of $2.92 ($2.88−7.2 cents+10.8 cents=$2.92). Since the adopted zone 1 location adjustment under Order 1 class I would be plus 50 cents, the Order 1 differential at zone 21 should be $2.42 over the basic formula price for the second preceding month.

In responding to the recommended decision, two New York based cooperatives excepted to the 6-cent per hundredweight decrease in the zone 1 class I differential. They contended that it is not proper to reduce the class I differential for zone 1 by tieing the Order 1 class I differential at an isolated point in the marketing area (Danbury, Conn.) to the Order 2 class I differential at that location and then adjusting prices by 1.8 cents per 10 miles from that plant zone to Boston. They hypothesized that if a handler at Danbury, Conn., were to become an Order 2 distributing plant it would have to procure milk in a northwesterly direction to obtain an adequate supply of milk. They claimed that handlers would be involved in obtaining milk from similar production areas and with similar hauling distances as his Order 2 competition. It was also their contention that the fact that this plant is located in the Order 2 41-50 mile zone is insignificant because it is no closer to the milk supply than Order 2 plants situated at Yonkers, N.Y., or Wallington and Union, N.J., and would therefore have the same raw milk costs as its Order 2 competition located in these areas.

The proposed Order 1 intramarket price structure was set out in the first two issues of this decision. Once the appropriate intramarket alinement was determined, the class I price for the entire New England market could be established by finding the proper class I price level at any location within the market. To determine the proper class I price level for the market, it is necessary to consider intermarket alinement. Intermarket alinement is most crucial to the maintenance of orderly marketing in the areas of greatest intermarket competition. The areas of greatest intermarket competition between the New England and New York-New Jersey markets are western Connecticut and southeastern New York.

If a handler at Danbury, Conn., became regulated under Order 2 and procured supplies from northwest of his plant, he would not have to haul these supplies as far as New York City plants procuring from the same areas.

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New York City is 189 miles from Oneonta, N.Y., and 229 miles from Utica N.Y. Danbury is only 151 miles and 191 miles from these locations, respectively. A large proportion of the Order 2 milk supply is produced in the vicinity of Oneonta and Utica, which is in central New York State. Since a Danbury plant would be 35 to 40 miles closer to these supplies than a New York City plant, hauling costs to Danbury would be 6.3 to 7.2 cents less than hauling costs to New York City (35 miles×0.18 cent per mile=6.3 cents; 40 miles×0.18 cent per mile=7.2 cents). It is therefore proper intermarket alinement for the raw milk class I cost at Danbury to be 6.8 cents per hundredweight less than at New York City. It is true that plants near Yonkers, N.Y., and Wallington, N.J., are not as far from the supply areas as plants in New York City. However, for the same reason, their cost of class I milk would be something less than the $2.88 per hundredweight over the basic formula price that New York City handlers pay. Therefore, a class I differential of $2.812 ($2.88−6.8 cents=$2.812) for western Connecticut will effectuate intermarket alinement between Order 1 plants in this area and Order 2 plants in southeastern New York.

Moreover, a class I differential of $2.92 at Boston and Providence is in alinement with a New York City differential of $2.88 in the procurement of milk from the heavy production areas of central New York State. For example, the highway mileages from Utica, N.Y., to Boston, Providence, and New York City are 251, 248, and 229, respectively. Thus, the central New York production area is only some 20 miles farther from Order 1 zone 1 plants than New York City plants. The 4-cent higher price at Order 1 zone 1 plants should closely reflect the amount of the additional cost in hauling milk from central New York to such plants compared to plants in New York City.

In their exceptions, several proprietary handlers and a cooperative association favored a 20-cent reduction in the Order 1 zone 21 class I differential, contending that this figure, rather than the proposed 16-cent decrease, would bring about better alinement with Order 2 class I prices. On the other hand, in another exception certain Vermont dairy farmers reiterated their opposition to any decrease in the Order 1 class I differential. These exceptions, however, did not raise any points that had not already been considered in determining the appropriate class I differential. Based on these exceptions, no departure from the recommended decision should be made with respect to the class I differential to be included in the revised order.

Numerous witnesses were concerned about the class I cost alinement between the Albany, N.Y., area and southwestern New England. The average differential cost to any Order 2 Albany handler in the 131-140 mile zone for class I bulk tank milk obtained directly from farms in that zone is $2.376 per hundredweight. This consists of the class I differential of $2.376 that is applicable at the township pricing points in that zone, a 30-cent farm-to-plant hauling cost, a pool transportation credit to the handler of 15 cents, and the maximum hauling deduction negotiated with the producer of 15 cents. By comparison, the differential cost for class I milk obtained directly from farms by an Order 1 plant in Springfield or Hartford would be $2.794 and $2.812, respectively, under the order changes adopted herein. To compete in either of these cities, an Albany handler would incur the additional costs of moving packaged milk from Albany to the respective areas. Albany is 82 miles from Springfield and 102 miles from Hartford. A Purdue University study of 1976 packaged milk transportation costs that was placed in the record indicates that the average fixed hauling cost was 10.03 cents per hundredweight and the average variable cost was 0.319 cent per mile. The application of this formula to the distances between Albany and Springfield and Albany and Hartford yields a transportation cost of 36.2 cents (0.319 cent×82+10.03 cents) and 42.6 cents (0.319 cent×102+10.03 cents), respectively. When added to the average differential cost at Albany of $2.376, these transportation rates yield a class I cost at Springfield of $2.738 and at Hartford of $2.802.

One handler stated in his exceptions that the 10.03-cents fixed transportation cost for moving packaged milk should not be used in the above computation. He contended that any movements of packaged milk from Albany to the Springfield/Hartford area would most likely be directly to retail outlets, as opposed to being moved to a plant or distribution depot from where the cost of serving customers would be the same as for an Order 1 plant. Accordingly, the handler contends that the Order 1 class I differential should be reduced an additional 10 cents.

The above transportation rate is based on plant-to-plant and plant-to-distribution depot hauling costs with an average volume per shipment of 30,074 pounds and an average utilization of truck capacity of 88 percent. It is questionable whether such high average volume per shipment and such high utilization of truck capacity could be sustained on a direct-delivery basis to retail customers. If not, it is likely that costs per hundredweight could be higher than in the Purdue study.

It should be pointed out that the above cost comparison is based on a farm-to-plant hauling cost of 30 cents per hundredweight for the Albany based handler. Should such farm-to-plant hauling exceed 30 cents, the Order 2 effective cost of milk should be increased accordingly. This could well be the case since in their post-hearing briefs, to arrive at an effective cost of class I milk to an Albany based handler, two New York based cooperatives estimated farm-to-plant hauling costs of 40 cents. Moreover, competition from the Order 1 blended price to producers could force bottlers in the Albany area to pay New York producers more than the Order 2 uniform price. As previously stated, the Order 1 blended price exceeds the Order 2 uniform price by some 50 cents per hundredweight.

One witness claimed that Order 2 Albany area handlers were not paying over-order prices for milk. However, it is noted that their supplies were not approved for class I use in Massachusetts or Connecticut. Springfield and Hartford handlers cannot bottle milk that has not been approved by their respective State's health authority. Consequently, they have not been competing with Albany handlers for this production. Also, Albany handlers cannot supply the fluid milk markets in Massachusetts or Connecticut unless all their milk supply is approved by the respective health authority. However, if the New York producers gain this health approval, they will have a substantial price incentive to obtain a pooling outlet under Order 1. Consequently, it can be expected in this case that Order 2 handlers located in the Order 1 supply area would have to pay significantly more than the Order 2 minimum uniform price to these producers or incur additional transportation costs in procuring an alternative supply from beyond the normal Order 1 supply area in New York State.

The resolution of the complex pricing issues involved in this proceeding cannot be contingent upon the maintenance of the current level of returns to Order 1 producers. Any action to make Order 1 milk more competitive with Order 2 milk necessarily requires some reduction in returns. The proponent cooperatives fully realize that their proposals would have this effect. Although some producers testified at the hearing that the maintenance of the present level of returns should be an overriding consideration, such testimony was presented on behalf of a relatively small segment of the market's producers.

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An additional point that an opponent raised at the hearing was that the class I price should not be reduced at a time when the cost of hauling alternative milk supplies from the Minnesota-Wisconsin area is increasing. This position was supported by two New York based cooperatives and a group of Vermont dairy farmers in their exceptions to the recommended decision. They also contended that since Danbury, Conn., is farther than New York City from Eau Claire, Wis., milk supplies should not cost less in Danbury than in New York City. The producer groups did not demonstrate, however, that the class I price under the proposed order changes would not be reasonably coordinated with prices in the Midwest. Their concern in this regard is not persuasive, since there are fully adequate supplies of milk produced in the Order 1 and Order 2 milksheds for these markets.

In its exception, one cooperative association claimed that the recommended decision was based on speculation about what would occur if the health regulations imposed on out-of-area supplies by New England State authorities were relaxed. They also contended that order amendments should not be based on speculative potential for disorderly marketing conditions.

The Department agrees with the exceptor that order amendements should not be based on speculation. However, the herein proposed amendments to Order 1 are based on existing economic factors rather than speculation.

At the hearing and in their exception to the recommended decision, an Order 2 cooperative federation contended that the Order 1 and Order 2 marketing areas and their overlapping milk supply areas have become so closely entwined that no change in the Order 1 class I price level should be made on the basis of a hearing where only the Order 1 class I price can be considered. They also contended that adequate consideration of possible needed changes in the Order 1 class I price can only be made by reviewing the intermarket relationship between Order 1 and Order 2 in the same hearing.

The adoption of changes for Order 1 need not be contingent upon the holding of a joint hearing for Order 2 as well. In any amendment proceeding for a market, the effect of proposed order changes on neighboring markets must be taken into consideration by the Secretary to minimize any disruptive impact on such markets. However, this does not require that there be joint hearings, nor can it be concluded from the hearing record or exceptions that a joint Order 1-Order 2 hearing should be held before amending Order 1.

The amendments provided herein would result in an average decrease of about 7 cents per hundredweight in returns to Order 1 producers. This is significantly less than 1 percent of the prevailing pay price to producers. The slightly lower returns should not jeopardize the maintenance of adequate supplies of pure and wholesome milk for the New England market.

4. *Conforming changes.* In the assignment provisions of the order, the terms "zone nearest to Boston" and "most distant zone from Boston" are used to specify that certain skim milk and butterfat assignments to classes should be made in sequence according to the location of the plants from which the milk was received. Since the amendments adopted herein provide for the use of Boston and Providence as basing points, the above-cited terms are changed to "lowest numbered zone" and "highest numbered zone" to conform with the intent of the present provisions of the order.

The assignment provisions of the order provide that at pool distributing plants that have received bulk fluid milk from pool plants located outside the nearby plant zone, prior assignment of a certain amount of receipts from producers and cooperative association bulk tank handlers be made to class II. Such assignment, commonly referred to as the "set-aside", reflects the fact that there is a certain amount of unavoidable class II use at pool distributing plants. This "set-aside" is for the purpose of assigning milk receipts from other pool plants to class I so that a transportation allowance would be effected on transfers of milk from pool plants to pool distributing plans located in higher priced zones. (Such assignment is to be made in sequence beginning with the lowest numbered zone.)

There are three pool manufacturing plants located in the present nearby plant zone. Skim milk is frequently transferred from these plants to pool distributing plants for use in fluid milk product disposition. To carry out the intent of the multiple zone price structure adopted herein in place of the nearby plant zone, transfers of bulk fluid milk products for class I use should be encouraged between plants in the territory that has been in the nearby plant zone. Otherwise, milk from more distant sources would need to be moved for class I use at pool distributing plants. To aid in encouraging class I use of any available reserve milk at plants in the present nearby plant zone, the present term "pool plants located outside the nearby plant zone" as contained in the assignment provisions should be changed to "other pool plants".

The "Plant location adjustments" section of the order now provides for the use of "Mileage Guide No. 10, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Virginia". Mileage Guide No. 11 has been issued, and a proposal was made that the new Mileage Guide No. 11 be used in place of Mileage Guide No. 10. The adopted order language so provides, since the new Mileage Guide represents a revision of Mileage Guide No. 10.

A proprietary handler proposed that a conforming change be made in the "Payments to producers" section of the order. This section states that a handler may elect to pay producers at the price applicable at the zone location of the plant from which his milk is diverted if it is diverted to a plant in a lower-priced zone. Under this option the handler can quote his producers a single pay price that is at least the minimum order price. Proponent handler would like to be able to quote his producers a single price when he diverts their milk to plants in either lower or higher price zones. Such handler operates two distributing plants under the order that have been in the same pricing zone but which would be placed in separate price zones under the provisions adopted herein. This handler diverts his producer milk supplies between his plants but prefers to be able to quote such producers a single plant price and a single hauling rate so that all his producers in a given procurement area receive the same net price irrespective of the plant to which the milk was actually delivered. Moreover, the handler states that such payrolling practice facilitates more simplified computer payrolling operations in his accounting department.

Under the proposals to provide several zones within the present "nearby plant" zone, this handler would desire to pay producers on the basis of one price and one hauling rate when their milk is diverted to either a higher or lower price zone. This practice can be accommodated under the order as long as the resulting net payment to each producer is not less than that otherwise required on the basis of the milk being priced at the location of the plant where physically received. For example, a handler may procure milk from a producer on the basis of the blended price and hauling rate to his plant in zone 7 but divert milk to a plant in a higher-priced zone and pay the additional hauling cost on the milk diverted to the higher-priced zone. Such producer would receive the same net price as if he were to incur a higher hauling charge on the milk diverted (in the amount of the difference in the plant location adjustments for the two plants) and be paid the blended price at the plant to which the milk was diverted.

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It is concluded that a handler should be accommodated in procuring milk from a producer on the basis of a single pay price and a single hauling rate deduction, as long as the net payment to the producer is not less than that otherwise required on the basis of pricing at the plant where the milk is physically received.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the New England marketing are which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

June 1978 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area. (An approved final impact analysis is available from the Agricultural Marketing Service.

Signed at Washington, D.C., on September 27, 1978.

Jerry C. Hill,
Deputy Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the New England Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendmens thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area.

The hearing was held prusuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New England marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, on July 14, 1978 and published in the Federal Register on July 20, 1978 (43 FR 31146), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1001.43(c) is revised to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1001.43 Assignment of receipts to classes in general.

* * * * *

(c) If receipts from more than one plant are to be assigned under a paragraph in § 100.45 or § 100.47, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the lowest numbered zone for assignments to class I milk and beginning with the plant in the highest numbered zone for assignments to class II milk.

§ 1001.46 [Amended]

2. In § 1001.46(c), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.47 [Amended]

3. In § 100.47(a), the words "pool plants located outside the nearby plant zone" are changed to read "other pool plants".

§ 1001.50 [Amended]

4. In § 100.50(a), the number "$2.56" is changed to "$2.42".

5. Section 100.52 is revised to read as follows:

§ 1001.52 Plant location adjustments.

The class I and blended prices computed under §§ 100.50 and 100.61 shall be subject to plant location adjustments based upon the zone locations of plants. The zone location of any plant and the location adjustments applicable to each zone location shall be determined as specified in this section.

(a) Each plant that is located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth or Suffolk, or between Boston and Massachusetts highway route number 128 shall be in zone 1.

(b) Each plant that is located in the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, Middletown, or Portland), New Haven, or Tolland (only the townships of Ellington or Somers) shall be in zone 7.

(c) Each plant that is located in the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer, or Wales) or Hampshire (except the township of Ware) shall be in zone 8.

(d) The zone location of each plant in the States of Connecticut or Massachusetts (except Berkshire County) that is outside the areas specified in paragraphs (a), (b), or (c) of this section shall be based upon its highway mileage distance to the nearer of Boston, Mass., or Providence, R. I. The distance for each plant shall be the mileage between the applicable basing point and the named point nearest to the plant, measured to the greatest extent possible over roads designated as principal roads, on the road maps specified in paragraph (e) of this section.

(e) The zone location of each plant that is outside the areas specified in paragraphs (a) through (d) of this section shall be based upon its highway mileage distance to Boston, Mass., as determined by use of Mileage Guide No. 11, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located. The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point; and

(2) For each of these key points, add to the result in paragraph (e)(1) of this section the mileage between the key point and the named point, measured to the greatest extent possible over roads designated as principal roads.

(f) Notwithstanding the provisions of paragraph (e) of this section, for any named point located in Maine, New Hampshire, Vermont, New York, or Berkshire County, Mass., determine the highway mileage distance between Boston and the named point by use of the appropriate State maps contained in Mileage Guide No. 7, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. Such distance shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the state in which the road is located. The mileage so determined, or the mileage determined under paragraph (e) of this section, whichever is less, shall be considered to be the lowest highway mileage distance between Boston and the named point.

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location Adjustments for Determination of Zone Price

Distance to basing point (miles)	Plant location zone	Price adjustments[1]
1 to 10	1	+50.0
11 to 20	2	+48.2
21 to 30	3	+46.4
31 to 40	4	+44.6
41 to 50	5	+42.8
51 to 60	6	+41.0
61 to 70	7	+39.2
71 to 80	8	+37.4
81 to 90	9	+35.6
91 to 100	10	+33.8
101 to 110	11	+32.0
111 to 120	12	+30.2
121 to 130	13	+28.4
131 to 140	14	+26.6
141 to 150	15	+10.8
151 to 160	18	+9.0
161 to 170	17	+7.2
171 to 180	18	+5.4
181 to 190	19	+3.6
191 to 200	20	+1.8
201 to 210	21	+0
211 to 220	22	−1.5
221 to 230	23	−3.0
231 to 240	24	−4.5
241 to 250	25	−6.0
251 to 260	26	−7.5
261 to 270	27	−9.0
271 to 280	28	−10.5
281 to 290	29	−12.0
291 to 300	30	−13.5
301 to 310	31	−15.0
311 to 320	32	−16.5
321 to 330	33	−18.0
331 to 340	34	−19.5
341 to 350	35	−21.0
351 to 360	36	−22.5
361 to 370	37	−24.0
371 to 380	38	−25.5
381 to 390	39	−27.0
391 to 400	40	−28.5
401 and over	41 and over	[2]

[1] Class I and blended price adjustments (cents per hundredweight).

[2] Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table at the rate of 1.5 cents for each additional 10 miles except that in no event shall the class I or blended price at any zone be less than the class II price for the month.

§ 1001.53 [Amended]

6. In § 1001.53(g), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.73 [Amended]

7. In § 1001.73(d), the words "to a plant at which a lower blended price would apply under this order" are deleted.

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federal register

MONDAY, OCTOBER 2, 1978
PART IV



DEPARTMENT OF ENERGY

ENERGY EXTENSION SERVICE

Establishment of the Comprehensive Energy Extension Service Program

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[3128-01]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 465—ENERGY EXTENSION SERVICE

Establishment of the Comprehensive Energy Extension Service Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: With this notice of final rulemaking, the Department of Energy establishes the comprehensive Energy Extension Service program. A major part of this program includes providing financial assistance for Energy Extension Service programs to all States, including the District of Columbia and six United States Territories. The regulation contains requirements for the preparation, submission and review of State plans and annual applications. If a State plan and annual application meet the requirements of this part, the State will receive available grant funds allocated on a formula basis. This notice of final rulemaking adds a new part 465 to title 10, chapter II, Code of Federal Regulations.

DATES: Effective Date: This regulation shall go into effect November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Kathleen Reavis, Energy Extension Service, Department of Energy, Mail Stop 8G-031, 1000 Independence Avenue SW., Washington, D.C. 20585, 202-252-6242.

SUPPLEMENTARY INFORMATION:

1. Introduction.
2. Role of the regional representatives.
3. Evaluation of the comprehensive EES program.
4. § 465.1—Purpose and scope.
5. § 465.2—Definitions.
6. § 465.3—Comprehensive EES program.
7. § 465.5—National advisory board.
8. § 465.6—Financial assistance.
9. § 465.7—Annual State applications.
10. § 465.8—Submission and contents of State plans.
11. § 465.9—Approval of annual State applications and State plans.
12. § 465.10—Development and implementation of a State plan by the director.
13. § 465.11—Administrative review.
14. § 465.12—Prohibited expenditures.
15. § 465.13—Recordkeeping.
16. § 465.14—Reports.
17. § 465.15—Administration of financial assistance.
18. Final regulation.

1. Introduction

With the issuance of this final rule, the Department of Energy (DOE) amends subchapter D, chapter II of title 10, Code of Federal Regulations, to establish part 465. This final rule establishes procedures for the implementation of the comprehensive Energy Extension Service ("EES") program, as required by the National Energy Extension Service Act of 1977 ("Act") title V of Pub. L. 95-39, 91 Stat. 191 et seq., 42 U.S.C. 7001 et seq.

The notice of proposed rulemaking was published on June 5, 1978 (43 FR 108, June 5, 1978). Comments on the proposed regulation were invited from interested persons by August 4, 1978, and a national public hearing was held on July 19, 1978. In response to the notice, 8 persons presented testimony at the public hearing, and 44 written comments were received by DOE. This final regulation contains revisions to the proposed regulation which reflect DOE's consideration of the comments as well as other information available to DOE.

Most comments addressed specific sections of the proposed rulemaking, and are discussed below. However, a number of comments were nonspecific. Thirteen comments indicated general approval of the proposed regulation, while two suggested that the comprehensive EES program should not be implemented at this time. The Act requires DOE to conduct this program at this time.

Some comments raised general issues not related to specific sections of this rulemaking and are discussed below. Several comments were outside the scope of this regulation, and are not considered in today's rulemaking.

2. Role of the Regional Representatives

As DOE indicated in the preamble to the proposed regulation, this final rulemaking delegates substantial functions to the ten DOE Regional Representatives. To summarize, the Regional Representatives will have primary responsibility for administering the comprehensive EES program as it affects the States. Annual State applications for financial assistance will be submitted to the appropriate Regional Representative, who will have review and approval authority. The States will submit their quarterly reports to the Regional Representatives, who shall be responsible for tracking the progress of the State programs and providing the DOE contact point for State technical assistance requests. The Regional Representative will also conduct the administrative review procedures which are provided.

The EES Director at the DOE headquarters office has overall responsibility for the development and implementation of the comprehensive EES program. For the special circumstances indicated in § 465.10, the Director will be responsible for preparing a State plan.

DOE received five comments which supported a decentralization of DOE functions, and two comments which opposed it. One comment pointed out the importance of clearly defining the responsibilities of the Regional Representative, with the Regional Representative having full authority to make necessary decisions. DOE agrees with this comment, and has amended the proposed regulation to achieve this goal.

3. Evaluation of the Comprehensive EES Program

DOE received nine comments regarding the evaluation it will undertake of the impact of EES on its target audiences. Four comments urged DOE not to emphasize evaluation activities at the expense of limiting the programmatic achievements of EES. On the contrary, one comment urged DOE to reduce program funds if necessary to permit more thorough evaluation. DOE intends to conduct a systematic yet not overly time-consuming or expensive evaluation activity. DOE intends to keep the States informed of its evaluation activities, including informing the States in advance of target audience surveys and fully agrees with the comment made to this effect.

DOE agrees with one comment, which was made at the public hearing, that the evaluation results should be used to make mid-course corrections in the comprehensive EES program.

In section III of the preamble to the proposed regulation, DOE explained that a State would select two State programs in the State plan for the national evaluation to be conducted by DOE. Two comments advocated that when the State plan provides for an energy audit program, such program should be required to be selected for DOE evaluation. Although systematic evaluation could contribute substantially toward increasing the state-of-the-art of this type of service, DOE will accord the States broader latitude to select other State programs for evaluation. This latitude is appropriate since (1) it is expected tht a substantial number of States will of their own volition select energy audit programs to be evaluated, and (2) there is a need for systematic evaluation results of a number of different service types, including energy hotlines and workshops.

One comment urged DOE to leave the primary responsibility for the national evaluation to the States, with DOE providing procedural guidelines. DOE considered this option seriously

in planning for the nationwide program evaluation, but decided not to adopt it for reasons of cost-effectiveness and the need to insure uniform procedures and analysis methods. As provided in § 465.8(c)(6), States may at their discretion undertake independent evaluation activities to supplement those of DOE's national evaluation. In response to a comment's query on this point, the States may use EES grant funds to pay for an independent evaluation. DOE requires, however, that any funds used to support an independent State evaluation not exceed 10 percent of the State's allocation of EES financial assistance. A new § 465.12(c) has been added to require this 10 percent limitation.

4. § 465.1 Purpose and Scope

DOE received two comments on proposed § 465.1. One was concerned with duplication of EES activities with other energy outreach activities of the States. DOE has included a number of provisions throughout the regulation directed to encouraging supplementary rather than duplicative EES services, and believes that this intent was adequately described in proposed § 465.1(b), which is retained. The second comment requested that the term "small energy users" be included specifically in § 465.1(a). DOE has concluded that the proposed language is sufficient to make clear that the comprehensive EES program is directed primarily toward small energy users.

5. § 465.2 Definitions

Nine comments were received concerning the proposed definition of small business. Eight of the comments stated that the definition provided in the proposed regulation was too broad, and not consistent with the comprehensive EES program's emphasis on small energy users. DOE has consulted with the National EES Advisory Board on this point at a public meeting held on September 7-8, 1978, for which notice was given in the Federal Register. After discussion, the Advisory Board pointed out that reducing the proposed ceiling on gross annual receipts of a small business could rule out small businesses that sell expensive products, such as automobile dealerships. The Advisory Board also indicated that significantly lowering the proposed limitation on the number of employees would exclude independently owned small businesses that are personnel-intensive, such as a hotel. The consensus of the Advisory Board was that the number of employees should be reduced to 400, and the gross annual receipts maintained at the proposed level. DOE agrees and has made this change to the definition.

DOE also agrees with the Advisory Board's counsel that, while the definition should provide maximum State flexibility, the States should concentrate on providing services to those small businesses who are not able to provide these services for themselves.

The ninth comment questioned whether food processing industries and forestry businesses could be included in the definition of small business, although not specifically referenced. In order to provide maximum flexibility to meet local needs, the definition places no restriction on the types of small businesses that can be included as EES target audiences, as long as the size of the business does not exceed the limitations of the definition.

Two comments questioned the definition of small energy users, maintaining that State and local governments, and educational and health facilities should be dropped. The definition is a term of art and has been revised to include only those entities specifically identified by the Act. For this reason, educational and health organizations are no longer included. This definition, however, does not restrict the States' broad discretion to identify appropriate target audiences, including schools and hospitals.

Two comments suggested revisions to the proposed definition of energy conservation. DOE has retained the definition, which is provided in the Act.

DOE has modified the proposed definition of energy audit to simplify the definition and to indicate that the purpose of an energy audit is to identify conservation techniques and technologies.

One comment recommended substitution of the proposed definition of energy audit by the definition provided in the "Energy Audit Procedures" regulation (10 CFR 450.3, which was developed to carry out section 432(d), 42 U.S.C. 6325(e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.). The comment further recommended requiring the use of class A, B, and C information audits, as provided in subpart B of these procedures. For the purposes of EES, DOE has concluded that the States, if they provide energy audits, should have the flexibility to select the audit procedures that best suit the particular needs of the target audience addressed. States may use the Class A, B, and C audit procedures if they choose. In the implementation of the comprehensive EES program, DOE intends to monitor closely the State's experiences with audits to small energy users, and may adjust the requirements of the comprehensive EES program in this area to reflect the experience gained by DOE.

DOE received three comments related to the proposed definition of grantee. In one case, the comment suggested that DOE provide financial assistance directly to the State-designated program manager, rather than maintaining the requirement that the grantee be the State or a State entity. Two other comments advocated direct, or a passthrough of, grant funds to the State's Cooperative Extension Service.

DOE has revised the proposed definition of grantee to clarify the requirement of the Act that the grant of financial assistance be made to the State. No grant will be made to any entity not part of the State. However, the States are free to arrange with other organizations to implement a State plan, as long as the grantee remains responsible and accountable to DOE.

What constitutes a "barrier to energy conservation" was a concern expressed by one comment regarding the proposed definition. The comment indicated that barriers should not include low fuel prices. DOE has retained the proposed definition because DOE concluded that the definition should include those factors that target audiences identify as standing in the way of their adoption of conservation techniques and technologies. DOE does not intend to limit what target audiences can identify as a barrier. Items so identified in the EES pilot program have included lending practices, regulator restrictions, and a variety of financial and cost considerations.

Since the DOE Regional Representatives will play a major role in the implementation of the comprehensive EES program, DOE has added a definition of Regional Representative. For clarity, technical corrections were made in the proposed definitions of Act, community action agency, conservation techniques and technologies, EES office, Governor, SECP, special State project, State, State program and technical support.

6. § 465.3 Comprehensive EES Program

DOE received five comments regarding the technical assistance to be provided to the States by DOE. One comment suggested that the EES technical assistance staff in DOE be increased as the nationwide program gets underway. Another comment stressed the need for quick response to specific technical questions asked by the States, and suggested that DOE perform an indepth study of the technical assistance needs of the States. A suggestion was made regarding the creation of regional energy institutes to respond to State needs. One comment stressed the need for DOE tech-

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nical assistance during the State program startup phase. Another comment queried the exact type of technical assistance to be provided by DOE, in order that State plans will not duplicate it. One comment raised the issue of insuring that personnel used by the States are properly trained. No comment recommended revision of the proposed § 465.3(c)(5), so it has been retained. However, DOE would like to respond at this time to the comments received, although DOE expects that the State Program Planning Manual to be provided to the States will describe how DOE will make technical assistance available.

DOE's technical assistance under the comprehensive EES program has two primary objectives. First, DOE will help the States build their capacity to use available technical resources. DOE intends to carry out activities for the exchange of information among the States participating in the comprehensive EES program. A new § 465.3(c)(3) has been added to indicate this DOE responsibility. DOE also expects to provide the States with a compendium of available Federal and State technical resources, including persons who may be contacted and the materials or services available.

Second, DOE will endeavor to provide technical assistance which States cannot provide or obtain for themselves in a cost-effective fashion. Because DOE expects the demand for technical assistance to exceed the resources available, DOE will give priority to technical assistance most necessary for the cost-effective accomplishment of the objectives stated in § 465.1. DOE will try to accommodate these priorities to those which the States perceive as most necessary for the development and implementation of State plans.

DOE agrees with the comment regarding the need for an indepth analysis of State technical assistance needs. Accordingly, a study of these needs has been initiated, jointly sponsored by the EES and State Energy Conservation Plan (SECP) offices. Until the study is completed, it is premature to comment on the need for regional technical assistance organization.

One comment suggested that the regulations should contain a better description of the role of the comprehensive EES program. Accordingly, the second sentence of proposed § 465.3(b) has been revised to reflect the emphasis of the comprehensive EES program on increasing the capability of small energy users to make informed energy decisions.

DOE received one comment which would have the comprehensive EES program deal only with opportunities for "cost-effective" energy conservation. Although DOE agrees in principle with the comment, no change has been made to the regulation since cost-effectiveness must remain a decision of the individual small energy user. It is not possible to identify for all target audiences what could constitute a cost-effective energy conservation opportunity and what would not be cost-effective. DOE expects the States to design State programs that are sensitive to the needs of their target audiences and which present, for the individual's decision, the likely costs and benefits of the conservation techniques and technologies addressed.

Another comment maintained that it is a mistake to characterize the need for increased energy conservation only in terms of small energy users. DOE agrees completely. However, the comprehensive EES program is intended to implement a program directed at a particular segment of the energy consuming public, namely small energy users.

A technical correction is made to proposed § 465.3(d)(2). DOE received five comments which underscored the need to minimize potential EES conflict with related activities in the private sector. Through the process described in § 465.3(d), the EES Director will seek to avoid the provision of services by the States which duplicate existing services available from the private sector.

DOE has made a technical change for purposes of clarity in proposed § 465.3(c)(1). Appropriate reference to the role of the Regional Representative has been made in § 465.3(c)(4).

7. § 465.5 National Advisory Board

DOE received five comments suggesting changes to the composition of membership of the Advisory Board. No change has been made to proposed § 465.5(a), since the membership categories are specified by the Act. DOE does believe, however, that several of the comments are helpful, and will be guided by them in implementation of the regulation. DOE has selected one member representative of the interests of utility companies, and has sought geographic balance by assuring that at least one member resides in each of the 10 Federal regions.

DOE has made a change in proposed § 465.5(c) to reflect the role of the Regional Representative in implementing the comprehensive EES program, and has made technical changes in subparagraphs (d) and (e) of proposed § 465.5.

8. § 465.6 Financial Assistance

DOE received four comments suggesting changes to the proposed formula for calculating State allocations of financial assistance provided under the comprehensive EES program. Since the formula is prescribed by the Act, no change has been made.

Three comments addressed the financial assistance that the Director may reserve for special State projects. One comment suggested that the limitation of 10 percent of appropriated funds is too low, and will have the effect of pushing States toward "safe" projects that will have little relevance in the decade to come. Another comment urged DOE to fund special State projects only if the annual appropriation for the comprehensive EES program exceeds $25 million. A final comment appeared to disagree with DOE's decision not to fund special State projects in the first year of the Comprehensive EES program.

DOE presently is testing the usefulness of special State projects in the pilot program, and will not fund these projects in the first year of the nationwide program since the results will not be available in this time period. For the present, DOE will retain the proposed 10-percent limitation, since it appears reasonable in light of balancing the State's need for continuity in the regular annual formula grant funding with that allocated to the pursuit of innovation.

DOE received three requests for clarification of the annual funding cycle to be used in providing financial assistance to the States. As indicated in the preamble to the proposed regulation, DOE will provide financial assistance to the States on a calendar year rather than a Federal fiscal year basis, and proposed § 465.6(a) has been revised to clarify this point. One comment questioned the relationship between this funding cycle and that of SECP. The comprehensive EES program's funding cycle is intended to approximate the SECP funding cycles. The State Program Planning Manual is expected to contain an explanation of the EES annual funding cycle.

DOE has made changes in proposed § 465.6(a) and proposed § 465.6(c) to delegate the responsibility to the Regional Representative for providing financial assistance to the States.

9. § 465.7 Annual State Applications

DOE received six comments regarding proposed § 465.7(c)(5), which requires States to include in the annual State application for financial assistance a written summary and chronology of the procedures used to provide opportunity to comment on the State plan prior to or during its development. One comment suggested that any written comments be appended to the annual application, while another advocated that the regulation require the Governor to appoint an advisory group to prepare the State plan. This advisory group would include a minimum of 33 percent elected officials of

general purpose government. Another comment urged that land-grant universities be required to take part in the development of the State plan. Another comment suggested that States be required to provide professional engineers and contractors with opportunity to comment.

DOE has reviewed these comments carefully and is satisfied that the language of the proposed regulation is adequately broad to insure opportunity for public comment on the State plan. In order to accord a State optimal flexibility to develop and implement a State plan responsive to local needs, DOE will not require States to follow a prescribed procedure for developing the State plan nor will it specify who must prepare the State plan. However, DOE will hold the States responsible for demonstrating that the State plan was developed in an open manner, that interested parties including the private sector are provided with opportunity for comment, and that these comments were considered fully in the development of the State plan.

Two comments questioned the desirability of proposed § 465.7(c)(4). One of these, expressed at the public hearing, held that the requirement that EES financial assistance not supplant State or local funds unduly penalizes States who responded early to energy problems by developing their own programs. DOE will retain proposed § 465.7(c)(4), as it is required by the Act.

DOE received one query concerning the 180-day period for submitting the first annual State application. Specifically, does the 180 days include the time necessary for DOE review and approval of the annual State application? Although DOE encourages States to submit the first annual State application early to facilitate prompt funding, the Act provides the first annual State application is not required to be submitted before the end of the 180-day period.

Proposed § 465.7(a) has been revised to provide that the Regional Representative shall invite the Governor to submit the first annual State application.

DOE has amended proposed § 465.7(b) to require submission of an original and 2 copies rather than 10 copies of the annual State application. In addition, proposed § 465.7(d) has been revised so that the Governor need only request an extension of time for submitting an application 15 days before the expiration date, instead of 30. Changes have been made in proposed § 465.7(b) and proposed § 465.7(d) to indicate that annual State applications and State requests for extensions, respectively, should be submitted to the Regional Representative.

10. § 465.8 Submission and Contents of State Plans

DOE received two comments related to the level of detail required in the State plans. One comment supported the level of detail required, suggesting that it is a positive way of controlling potential EES duplication with other related efforts. The other comment stated that the proposed State plan requirements are overly detailed, in light of the EES principle of State flexibility, the expected funding level, and the fact that energy outreach programs are well along in some States. DOE has maintained the level of detail that was contained in the proposed regulation. This level of detail is not intended to limit the programmatic flexibility of the States, but rather to insure that State plans are carefully and logically thought out and include all the elements necessary for implementation. Through their State plans, the States should demonstrate that their planned EES activities are relevant to the State's particular circumstances and the needs of small energy users.

Two comments questioned the usefulness of preparing a 3-year State plan as required in proposed § 465.8(c), believing this period is too long. DOE has decided to retain the 3-year period since it represents a reasonable planning period and reduces a State's administrative burden. This is particularly appropriate because, as provided in § 465.8(b), a State may modify or update its State plan for the intervening 2 years.

DOE received five comments concerning the EES objectives to be identified in response to proposed § 465.8(c)(1). One comment stressed that DOE should require a balancing of short- and long-term objectives, while another asked if the increased use of coal by small energy users could be considered as an EES objective. Three comments addressed the terms in which objectives should be expressed.

The balancing of short- and long-term objectives will be at the discretion of the State, with the State responsible for indicating the rationale for its selection of objectives. The increased use of coal by small energy users may be an acceptable EES objective if the State can demonstrate to DOE that such an objective meets the definition of energy conservation in the regulation. DOE cannot answer this question definitively out of the context of a specific State plan, except to say that a State program emphasizing the use of coal by small energy users is not prohibited by the regulation. DOE will permit the State to choose whether or not to express EES objectives in terms of expected Btu energy savings.

DOE received five comments regarding proposed § 465.8(c)(1)(iv), which requires optimum use of existing organizations to assist in the implementation of the State plan. One comment urged DOE to be more forceful in calling for linkages with existing programs, while another asked for guidelines for establishing these linkages. A third comment asked that community colleges be referenced explicitly. Another comment urged that DOE not require the States to use colleges and universities as service delivery mechanisms.

DOE believes that the criterion of "optimum use" of existing organizations adequately covers the concern of the first comment. DOE is fully aware that community colleges, as well as other organizations, can be useful delivery mechanisms for EES services, and appropriate references to these will be made in the State Program Planning Manual. It also will contain suggestions for implementing linkages with existing organizations.

DOE will not require the use of any particular type of organization to deliver EES services. This choice is left to the State. DOE also agrees with a comment made by the National EES Advisory Board at the public meeting held on September 7-8, 1978, that a State is not required to select the organizations specified in its 1977 proposal for the EES pilot program.

One comment, in reference to proposed § 465.8(c)(1) (v) and (iv), asked whether States must include provision for energy audits and information dissemination to small business if these services already are provided through other sources. EES may not provide duplicative services. However, these two services are required by the Act. If a State does not choose to provide these services as part of a State program, the State plan should provide an explanation concerning how these services will continue to be provided in the State.

One comment queried whether a State could contract for energy audit services to implement its State plan. The regulation does not restrict a State's ability to contract for the delivery of services to be provided under State programs, as long as the State plan identifies the organization providing the services, as required by § 465.8(c)(2)(iv).

Three comments emphasized the need for face-to-face delivery of services for encouraging increased use of conservation techniques and technologies. State programs should emphasize the use of services which provide personalized information and technical assistance, tailored to the needs of

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the particular target audience addressed.

With regard to proposed § 465.8(c)(4)(ii), one comment urged DOE to delete the phrase "within the State," to indicate that some barriers to energy conservation may not be able to be resolved by organizations within that jurisdiction. DOE regarded this comment as very well taken but is retaining the phrase, not as a limitation, but to indicate the State's primary area of responsibility. As in the EES pilot program, DOE intends to work with the States to communicate barriers to energy conservation that need to be considered at the regional or national levels. By so doing, DOE can draw together information on interstate barriers to energy conservation.

DOE also agrees with another comment, which pointed out the relatively long time periods necessary to resolve many barriers to energy conservation. Experience to date in the EES pilot program confirms this conclusion. As part of DOE's management system for the comprehensive EES program, DOE expects to establish a monitoring system regarding the barriers to energy conservation that have been identified.

DOE received three comments concerning the establishment of technical support institutes (TSI), allowed in proposed § 465.8(c)(7). One comment claimed that the establishment of a TSI would be wasteful, and that States should use existing organizations to provide technical support. Another comment argued the reverse, and requested the substitution of less restrictive language since in some cases new organizations can function more effectively. A third comment believed that a TSI should be allowed to be established as part of an unit of general purpose government.

Establishment of a TSI is authorized by the Act, which indicates that, if established, a TSI shall be located at one or more colleges or universities designated by the Governor. DOE will retain the requirement in proposed § 465.8(c)(7) for a detailed justification for the establishment of a TSI, since one of the fundamental principles of the comprehensive EES program is to make optimum use of existing organizations and to avoid duplication.

DOE has deleted proposed § 465.8(c)(2)(iv), which called for the estimated impact of each service to be provided under a State program on its target audience, and has renumbered subsequent subsections accordingly.

DOE has concluded that the EES objectives set according to § 465.8(c)(1) are sufficient indicators of what a State expects to accomplish in its State plan.

DOE also has added a new § 465.8(c)(8)(i), renumbering the proposed § 465.8(c)(8) as § 465.8(c)(8)(ii), and making some technical changes therein. In § 465.8(c)(8)(i), DOE requires the State plan to describe the procedures the grantee will use to achieve timely implementation of the State plan.

DOE has rearranged the subsections under proposed § 465.8(c)(1) in order to achieve a more logical order for preparation of the State plan. Proposed § 465.8(c)(2)(iii) has been renumbered as § 465.8(c)(2)(ii)(D). Proposed § 465.8(c)(6) has been renumbered as § 465.8(c)(3), with proposed § 465.8 (c)(3), (c)(4), and (c)(5) renumbered accordingly. Technical corrections for clarity have been made to proposed § 465.8(c)(1), proposed § 465.8(c)(2)(i), proposed § 465.8(c)(2)(ii) (B) and (C), proposed § 465.8(c)(2)(vi), and proposed § 465.8(c)(7).

11. § 465.9 Approval of Annual State Applications and State Plans

One comment requested that DOE include its criteria for reviewing State plans in the regulation. State plans will be reviewed in accordance with the requirements of § 465.8.

Three comments urged DOE to identify the time period it will use to review an annual State application. Because the problems which can arise in the review of an annual State application may be unique and are in part unforseeable, a mandated review period cannot be identified. However, DOE will provide a timely review of the annual State application and make every effort to be sensitive to time constraints affecting a State plan. In response to a query on this point, DOE does not anticipate prorating the financial assistance available to a State in cases where DOE requests the State to make revisions in the annual State application which are necessary to meet the requirements of the regulation.

One comment urged DOE to permit funding of any acceptable portions of a State plan, prior to approval of the entire annual State application for financial assistance. The Act does not permit this.

Changes have been made to proposed § 465.9 (a) and (b) to reflect the role of the Regional Representative.

12. § 465.10 Development and Implementation of a State Plan by the Director

DOE received one comment which indicated confusion regarding whether States are required to participate in the comprehensive EES program. DOE would like to clarify that such participation is voluntary. State plans developed by the Director according to § 465.10 will be transmitted to the Governor. If within the subsequent 90-day period, the Governor notifies the Secretary in writing of his or her objection, the State plan will not be implemented. Language has been added to proposed § 465.10(d) to clarify this point.

Another comment questioned the value of a State plan developed by the Director. DOE will maintain proposed § 465.10, since this procedure is mandated by the Act.

One comment suggested that DOE revise proposed § 465.10(b) to specify that the Director's notice to the Governor prior to developing a State plan be in written form. DOE regards this comment as well taken, and has so amended proposed § 465.10(b). DOE has amended proposed § 465.10(a)(2) to reflect the responsibility of the Regional Representative in disapproving an annual State application.

13. § 465.11 Administrative Review

DOE received two comments regarding the composition of the review panel as specified in proposed § 465.11(e). One comment suggested that both the Federal representatives should not be DOE employees, and the other comment urged inclusion of a person representative of EES user groups. In response, DOE has amended proposed § 465.11(e)(2) to read "one person representative of DOE", and has amended proposed § 465.11(e)(3) to read "one person representative of the EES target audiences in the State affected."

DOE received one comment which suggested that administrative review procedures should be available to any party in a State excluded from participation in EES. DOE believes this to be an inappropriate method to assure public participation in the State plan. The States are required in § 465.7(b)(5) to provide opportunity for comment on the State plan prior to or during its development, and to describe how the comments received affected the contents of the State plan. In this way, DOE may review an annual State application to ascertain the adequacy of the State's public comment procedure. The comment also urged DOE to include provisions for judicial review in the regulation. Such provisions are outside the scope of this rulemaking.

DOE has amended each paragraph of the proposed section to reflect the role of the Regional Representative in the administrative review process.

A technical correction has been made to proposed § 465.11(c) (1) and (2), by inserting the word "denial", between "intended" and "termination." Proposed § 465.11(g) has been amended to indicate that the Regional Representative shall submit the review panel's report and his or her recommendations to the Director as well as

to the Secretary. Additional technical corrections were made to proposed § 465.11 (i) and (j).

14. § 465.12 Prohibited Expenditures

DOE received six comments regarding proposed § 465.12(a)(3). Several of these questioned the meaning of the prohibition against demonstration of conservation techniques and technologies not commercially available. Although proposed § 465.12(a)(3) has not been changed, DOE would like to take the opportunity in this preamble to clearify the intent of the provision.

The focus of the comprehensive EES program is on connecting small energy users with conservation techniques and technologies that are currently available to them. Research, development and demonstration activites aimed at creating or testing new conservation techniques and technologies are outside this focus and prohibited by § 465.12(a)(3).

DOE is aware, however, that a particular demonstration of conservation techniques or technologies that are available to target audiences can be an effective EES service. For this reason, DOE will permit such pratical demonstrations as long as the item demonstrated can be demonstrated can be obtained commercially by target audience. Likewise, in the case of demonstrating "homemade" devices, the materials necessary for constructing the device should be available commercially. The rationale is that State programs and services should not encourage the adoption of conservation techniques and technologies that cannot be obtained by a target audience. If necessary, States may modify an existing building or structure in order to provide a practical demonstration. As stated in § 465.12(a)(1), the States may not, however, use EES grant funds to construct a new building, or repair an existing one.

In response to one comment, DOE has amended proposed § 465.12(a)(1) to delete the prohibition agaist the purchase of materials. DOE also has added a new § 465.12(c) to reflect the 10 percent limitation on expenditures for a States's independent evaluation activities. This new section is discussed in section 3 of this preamble.

15. § 465.13 Recordkeeping

One comment suggested that State recordkeeping requirements under the comprehensive EES program be similar to those required by SECP. Another questioned why DOE is requiring access to records regarding funds not supplied under the comprehensive EES program.

DOE's intent is to conform EES administrative procedures to those of SECP to the fullest extent possible, consistent with the differing legislative authorites for the programs. For the comprehensive EES program, the Act authorizes DOE to require records of the source and amount of any funds not supplied by the Secretary.

DOE has made five technical corrections to proposed § 465.13, by substituting "Secretary" for "Director."

16. § 465.14 Reports

Two comments expressed confusion regarding the purpose of the guarterly program performance reports, believing that DOE would require quarterly evaluations of the impact of State programs on their target audiences. DOE would like to clarify that such evaluations will not be required in the quarterly program performance reports. Instead, to facilitate DOE's evaluation of the comprehensive EES program, States will submit, as part of the quarterly performance report, summaries of activity data related to two State programs selected by the State for the purposes of DOE's evaluation. No impact analysis will be required of the State.

Another comment queried DOE regarding the format of the State quarterly performance report. DOE's proposed reporting forms are now under review and will be sent to the States upon approval.

In response to another comment's concern that DOE use reporting procedures for the comprehensive EES program that are similar to those of SECP, DOE anticipates making use of the Grants Management Summary Report which is being use by a number of States for reporting under the SECP. One comment advocated inclusion of the State's EEs program performance report as a section of the State's SECP report. DOE will retain a separate EES report due to the differing authorities for the programs.

DOE received one comment that after the first year, State program performance reports should be required annually rather than quarterly. DOE believes that presently such a decision is premature.

DOE has amended proposed § 465.14 to indicate that State reports will be submitted to the Regional Representative and has made two additional technical corrections.

17. § 465.15 Administration of Financial Assistance

DOE has made a number of technical corrections to proposed § 465.15. Proposed § 465.15(d) has been deleted since it is not relevant to the administration of financial assistance under the comprehensive EES program. Other proposed subsections have been reordered for reasons of clarity.

18. Final Regulation

The proposed as well as final regulation is in accordance with Executive Order 12044, and found to be a significant rulemaking for regulatory analysis, but not major, so that no analysis of its economic impacts is required.

In accordance with DOE's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., an evaluation of the potential environmental impacts of the proposed and final regulation has been prepared by DOE. Based on the Environmental Assessment (DOE/EA-0042) of the comprehensive EES program, DOE has determined that this regulation will not constitute a major Federal action having a significant effect on the quality of the human environment. Accordingly, an environmental impact statement will not be prepared. However, DOE has an obligation to review programs proposed for funding under this regulation and determine whether a site-specific environmental review is required.

(The National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95-39 Stat. 191 et seq., 42 U.S.C. 7001 et seq.; Department of ENergy Organization Act, Pub. L. 95-91 Stat. 965 et seq., 42 U.S.C. 7101 et seq.; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 92 Stat. 3 et seq., 41 U.S.C. 501 et seq.; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12660.)

In consideration of the foregoing, subchapter D, chapter II of Title 10, Code of Federal Regulations is amended by establishing part 465 as set forth below, effective November 1, 1978.

Issued in Washington D.C., September 28, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

Suchapter D, chapter II of Title 10, Code of Federal Regulations is amended by establishing part 465 as follows:

Sec.
465.1 Purpose and scope.
465.2 Definitions.
465.3 Comprehensive Energy Extension Service program.
465.4 Comprehensive program and plan for Federal energy education, extension and information activities. [Reserved]
465.5 National Advisory Board.
465.6 Financial assistance.
465.7 Annual State applications.
465.8 Submission and contents of State plans.
465.9 Approval of annual State applications and State plans.
465.10 Development and implementation of a State plan by the Director.
465.11 Administrative review.
465.12 Prohibited expenditures.
465.13 Recordkeeping.
465.14 Reports.
465.15 Administration of financial assistance.

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AUTHORITY: National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95-39, 91 Stat. 191 et seq., 42 U.S.C. 7001 et seq.; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 965 et seq., 42 U.S.C. 7101 et seq.; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 92 Stat. 3 et seq., 41 U.S.C. 501 et seq.; E.O. 12009, 42 FR 46267; E.O. 12044 43 FR 12660.

§ 465.1 Purpose and scope.

This part contains the regulation adopted by DOE to establish a comprehensive Energy Extension Service program which shall—

(a) Establish a positive energy outreach program directed toward small businesses and individual energy users and the organizations that influence their energy consumption;

(b) Stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical assistance of energy conservation efforts, including energy outreach activities of States; and

(c) Provide financial and technical assistance to the States for State plans which contribute to the implementation of the comprehensive Energy Extension Service program.

§ 465.2 Definitions.

As used in this part—

"Act" means the National Energy Extension Service Act, title V of Pub. L. 95-39, 42 U.S.C. 7001 et seq.

"Barriers to energy conservation" means problems or obstacles identified by small energy users which prevent or hinder them from adopting conservation techniques and technologies.

"Building" means any structure which includes provisions for a heating, cooling or hot water system, or which is used as a residential dwelling unit.

"Community action agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, 42 U.S.C. 2701 et seq., which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

"Conservation techniques and technologies" means actions likely to result in energy conservation.

"Director" means the Director of the EES office of DOE.

"DOE" means the Department of Energy.

"Energy audit" means a procedure to measure the consumption or cost of energy in order to identify conservation techniques and technologies in a building or industrial process.

"EES" means Energy Extension Service.

"EES office" means the national office of DOE established to develop and carry out the comprehensive EES program in accordance with the provisions of this part.

"Energy conservation" means energy conservation, efficient energy use or the utilization of renewable energy resources.

"Governor" means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means a State or entity of the State named in the notice of grant award as the recipient of financial assistance provided under this part.

"Regional Representative" means the Regional Representative of the Secretary.

"SECP" means the State energy conservation plans developed and implemented pursuant to 10 CFR 420.

"Secretary" means the Secretary of the Department of Energy.

"Service" means technical assistance, instruction, information dissemination, energy audit or a practical demonstration concerning one or more conservation techniques and technologies.

"Small business" means an independently owned concern which together with its affiliates is not dominant in its field and either does not have average annual receipts for the last 3 years of more than $12 million or does not have more than 400 employees.

"Small energy users" means residential consumers, individuals and groups of individuals, small businesses including agricultural and commercial establishments, and units of State and local governments.

"Special State project" means a unique or innovative activity which is likely to bring about energy conservation in furtherance of the objectives of the Act, and which is not part of a State plan.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"State program" means a set of related services provided to a target audience which is used to implement a portion of a State plan.

"Target audience" means the persons intended to receive services provided under a State program.

"Technical assistance" means assistance, other than direct financial assistance, including instruction, expert advice, information dissemination and practical demonstrations.

"Technical support" means activities provided by a State, such as specialized analyses, preparation of materials, training or other activities, which are necessary to implement a State plan effectively.

§ 465.3 Comprehensive Energy Extension Service program.

(a) DOE has established the EES office, administered by a Director, to develop and carry out the comprehensive EES program established by this part.

(b) The comprehensive EES program shall identify, develop and demonstrate in a practical manner, opportunities for energy conservation. This program shall be developed and implemented with particular regard for increasing the capability of small energy users to make informed energy decisions.

(c) The Director shall implement the comprehensive EES program by—

(1) Carrying out activities, through technical assistance where appropriate, for the identification, development and practical demonstration of opportunities for energy conservation;

(2) Collecting information and undertaking actions to eliminate barriers to energy conservation identified by small energy users;

(3) Carrying out activities that shall encourage the sharing of information, experience and materials among the States regarding the comprehensive EES program;

(4) Providing financial assistance through the Regional Representative for the implementation of a State plan; and

(5) Providing technical assistance for the development, implementation or modification of a State plan.

(d) The Director shall take such steps as he or she may determine to be necessary to minimize conflict between existing services in the private sector that are similar to the services provided under the comprehensive EES program. For this purpose, the Director shall at least once a year—

(1) Consult with the National Advisory Board, referred to in § 465.5; and

(2) After publishing a notice of inquiry and public meeting in the FEDERAL REGISTER, obtain written and oral comments from the public.

§ 465.4 Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities. [Reserved.]

§ 465.5 National Advisory Board.

(a) The Secretary shall appoint a National Advisory Board which shall consist of not less than 15 nor more than 20 members. The members shall include persons representative of the interests of State, county, and local governments, State universities, community colleges, community action agencies, energy users, small businesses and agriculture.

(b) The Secretary shall designate one member of the Board to serve as Chairman and shall provide the Board with the services and facilities, as may be necessary to carry out its functions.

(c) The Board shall carry on a continuing review of the operation of the comprehensive EES program established by § 465.3 and the State plans approved by the Regional Representative according to § 465.9, for the purpose of evaluating their effectiveness in achieving the objectives of the Act and determining how their operation might be improved in order to further these objectives.

(d) The Board shall report annually to the Congress, the Secretary, and the Director on the status of the comprehensive EES program, including any recommendations the Board may have for administrative or legislative changes needed to improve operation of the comprehensive EES program.

(e) The Secretary shall reimburse Board members for the full amount of any expenses necessarily incurred by them in the performance of their duties as such.

§ 465.6 Financial assistance.

(a) The Regional Representative shall provide financial assistance, on a calendar year basis, from funds available for any fiscal year to each State having an approved annual application according to § 465.9.

(b) Financial assistance shall be allocated among the States from funds available for any fiscal year based on the following formula—

(1) One-half shall be divided equally among all States; and

(2) One-half shall be divided on the basis of the State's population as reported by the Department of Commerce, Bureau of Census, in the most recent decennial census.

(c) If a State's allocation of financial assistance is not obligated by the Regional Representative during the fiscal year, the allocation shall be reallocated among the States for the next calendar year according to paragraph (b) of this section.

(d) Notwithstanding the provisions of paragraph (b) of this section, the Director may reserve from the funds appropriated for any fiscal year an amount to provide financial assistance to States for special State projects. This amount shall be determined by the Director, but in no event shall exceed 10 percent of the appropriated funds.

§ 465.7 Annual State applications.

(a) The Regional Representative shall send a copy of the regulation to the Governor of each State and invite him or her to submit the first annual State application.

(b) To be eligible for financial assistance under this part, a State shall submit an original and two copies to the Regional Representative of an annual State application executed by the Governor. The first annual State application shall be submitted not later than 180 days from the date of issuance of this regulation. Subsequent annual State applications shall be submitted on or before September 30 of the following years.

(c) An annual State application shall contain—

(1) The name and address of the grantee;

(2) The State plan or modifications of it, as required by § 465.8 (a) and (b) respectively;

(3) A budget and listing of milestones for the activities to be carried out in each of the State programs contained in the State plan by calendar quarters for the year in which financial assistance will be provided;

A description of policies and procedures employed by the State which assure that financial assistance provided under this part does not supplant the expenditure of State or local funds for the same purposes, but rather supplements Federal, State, or local funds, and increases the expenditure of the State or local funds to the maximum extent practicable;

(5) A written summary and chronology of the procedures which were used to provide organizations and individuals with opportunity to comment on the State plan prior to or during its development. The opportunity to comment shall be provided to representatives of energy users and producers, State, county, and local officials, State universities, and community colleges, cooperatives extension services, community action agencies and other public, private, or nonprofit organizations which are involved in active energy outreach activities. The written summary shall include—

(i) The name of the organizations afforded an opportunity to comment; and

(ii) How the comments received affected the contents of the State plan.

(6) A description of anticipated environmental impacts of any services which include the modification of buildings or structures to provide a practical demonstration of conservation techniques and technologies.

(d) The Governor may request an extention of the annual submission date by submitting a written request to the Regional Representative not less than 15 days prior to the date referred to in paragraph (b) of this section. The extension shall only be granted if, in the Regional Representative's judgment, acceptable and substantial justification is shown and the extension would further the objectives of the Act.

§ 465.8 Submission and contents of State plans.

(a) A State shall submit a State plan with—

(1) The first annual State application; and

(2) The annual State application submitted every 3 years thereafter.

(b) A State shall submit, with the annual State application, modifications to the State plan, if appropriate, for the years not referred to in paragraph (a) of this section.

(c) A State plan shall be developed for a 3-year period and contain—

(1) A description of the objectives to be achieved for the three year period by implementation of the State plan, which shall include—

(i) Why the objectives were selected, with particular reference to potential energy savings, increased use of renewable resources and the types and numbers of people affected;

(ii) How the State programs included in the State plan, and the emphasis and funding given to each, together represent a strategy to achieve these objectives;

(iii) How implementation of the State plan shall supplement and be coordinated with other energy conservation programs being carried out in the State with Federal funds or under other Federal laws, with particular reference to university programs providing extension services and the State's SECP; and

(iv) How existing organizations, including State, local, university, or other organizations, will be used to the optimum extent to assist in the implementation of the State plan;

(v) How the State plan provides for information dissemination to small businesses and addresses organizations which influence the energy consumption of small energy users;

(vi) How the State plan makes energy audits available to small energy users, within personnel and funding limitations;

(2) A description for each State program in the State plan, which shall include—

(i) The target audience, why it was selected and the estimated number of persons which the State program expects to reach;

(ii) The services to be provided, including—

(A) How the services will meet the needs of the target audience;

(B) The conservation techniques and technologies to be used in each service;

(C) The type and estimated number of any energy audits if any are included; and

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(D) The geographic areas in which the services shall be delivered and why these areas were selected;

(iii) Any technical support which is necessary to provide the services, including the organization that will provide the technical support and why the organization was selected; and

(iv) The organization which shall implement the State program and any other organizations which shall provide a service to the target audience, why the selection was made and the approximate number of any new personnel to be employed to implement the State program;

(3) A description of the organization which shall administer the overall development and implementation of the State plan, which shall include—

(i) Why the administering organization was selected;

(ii) The provisions made for coordination between the administering organization and any other organizations assisting in the implementation of the State plan; and

(iii) The relationship between the administering organization and the grantee if the two are not the same;

(4) A description of the methods and procedures which shall be used to—

(i) Identify barriers to energy conservation from responses which shall be obtained from target audiences;

(ii) Communicate information concerning the barriers to energy conservation to organizations within the State that have the capability or authority to remove or influence the barriers; and

(iii) Periodically report the results of such communication to the target audiences identified in subparagraph (c)(4)(i) of this section;

(5) A description of the administrative procedures to be used in the implementation of the State plan which shall include—

(i) The procedures to be used to respond to suggestions and inquiries from the public regarding energy conservation;

(ii) The procedures to be used to publicize and disseminate up-to-date and easily understood information on the services available to small energy users under the State plan and under other Federal programs and activities of the State regarding conservation techniques and technologies; and

(iii) The system to be used to review, for technical accuracy, any publication or other material which the State shall prepare or use in a State program;

(6) A description of the purpose, methods and procedures of the independent evaluation activities, if any, that the State shall undertake regarding the State programs or services;

(7) A description of any additional technical support not described in subparagraph (c)(2)(iii) of this section which is required to facilitate implementation of the State plan. If existing organizations are not available to provide this additional technical support or the technical support identified in subparagraph (c)(2)(iii), the State may propose to establish a technical support institute, at one or more colleges or universities designated by the Governor. The purpose of the technical support institute shall be to assist in the implementation of the State plan by providing analyses and technical support which is required for effective implementation of the State plan. If such an institute is proposed, the State shall provide a detailed justification which shall describe—

(i) Why the institute is needed;

(ii) How the institute specifically relates to the implementation of the State plan; and

(iii) The purpose, location, size, and specific activities of the institute; and

(8)(i) A description of the procedures that the grantee will use to achieve timely implementation of the State plan; and

(ii) An assurance that the grantee will maintain or require other participating entities within the State to maintain, and make available upon request to the Regional Representative, such records as the Secretary may require, with respect to the use and expenditures of financial assistance provided to the grantee, or to entities within the State, under this part.

§ 465.9 Approval of annual State applications and State plans.

(a) The Regional Representative shall review each timely State annual application and provide financial assistance if he or she determines that—

(1) The State plan meets the objectives of the Act;

(2) The annual State application and the State plan meet the requirements of § 465.7 and § 465.8, respectively; and

(3) Implementation of the State plan by the State conforms to the requirements of this part.

(b) If the annual State application is not approved according to paragraph (a) of this section, the Regional Representative shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State shall have a reasonable time period, as determined by the Regional Representative, to amend its annual State application and submit it for reconsideration according to paragraph (a) of this section.

§ 465.10 Development and implementation of a State plan by the Director.

(a) The Director shall develop a State plan which meets the requirements of § 465.8, if—

(1) A State does not submit an annual State application in accordance with § 465.7; or

(2) The Regional Representative finally disapproves an annual State application according to § 465.11.

(b) Prior to developing a State plan under this section, the Director shall provide written notice and an opportunity for comment to the Governor.

(c) A State plan developed by the Director shall be transmitted to the Governor of the State and shall not be implemented for 90 days after the date of transmittal. Notwithstanding any provisions of this section to the contrary, no State plan developed by the Director according to paragraph (a) of this section shall be implemented if the Governor, within the 90-day period, notifies the Secretary in writing of his or her objection to the implementation of the State plan.

(d) In implementing a State plan developed according to this section to which the Governor has not objected during the 90-day period referred to in paragraph (c) of this section, the Director shall make maximum use of regional, State, or local organizations which deliver services which are appropriate for purposes of this part. The Director shall coordinate his or her activities in implementing the State plan with all other regional, State, or local organizations which deliver services which are related to, but not directly involved in, the implementation of the State plan.

(e) A State plan developed by the Director for a State whose financial assistance has been terminated according to § 465.11, shall provide for the continuation of all activities under the State plan which meet the requirements of this part.

§ 465.11 Administrative review.

(a) If the Regional Representative intends to deny an annual State application resubmitted by the Governor according to § 465.9(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 465.9(b) has expired, the Regional Representative shall give notice to the Governor.

(b) If the Regional Representative determines that implementation of a State plan approved according to § 465.9 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail

with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance. The hearing shall be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Regional Representative on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is a member of the EES office shall be a member of the review panel. The review panel shall be appointed by the Regional Representative and shall consist of—

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the EES target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Regional Representative within 10 working days after the date of the public hearing.

(g) The Regional Representative shall submit the report, together with his or her recommendations, to the Director and to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Regional Representative.

(i) Upon issuance of the notice referred to in paragraphs (a) or (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Regional Representative may terminate continued financial assistance to the grantee.

(j) If financial assistance to a grantee has been terminated, the Regional Representative may continue to provide financial assistance to persons other than the grantee to implement any acceptable provision of the State plan for the remainder of the calendar year.

§ 465.12 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used to—

(1) Construct or repair a building or structure;

(2) Purchase land, a building or structure or any interest therein; or

(3) Conduct, or purchase equipment to conduct, research and development or demonstration of conservation techniques and technologies not commercially available.

(b) No more than 20 percent of the financial assistance awarded to a State under this part shall be used to purchase equipment, office supplies or library materials.

(c) No more than 10 percent of the financial assistance provided to a State under this part shall be used to conduct the independent evaluation activities authorized in § 465.8(c)(6).

§ 465.13 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by the Secretary, including records which fully disclose the amount and disposition of financial assistance received; the cost of administration; the total cost of all activities for which assistance is given or used; the source and amount of any funds not supplied by the Secretary; and any data and information which the Secretary determies are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of his or her duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, records or receipts which the Secretary determines are related or pertinent, either directly or indirectly, to any financial assistance provided under this part.

§ 465.14 Reports.

Each State receiving financial assistance under this part shall submit to the Regional Representative a quarterly program performance report and a quarterly financial statement. The program performance report shall contain such information as the Director may prescribe in order to monitor effectively the implementation of the State plan. The reports shall be submitted to the Regional Representative within 30 days following the end of each calendar quarter.

§ 465.15 Administration of financial assistance.

Grants provided under this part shall comply with the requirements of—

(a) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(b) Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Federal Management Circular 73-2 (34 CFR 255), entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"

(d) Federal Management Circular 74-4 (34 CFR 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(e) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title IIII of the Intergovernmental Coordination Act of 1968;"

(f) Treasury Circular 1082 Revised, entitled "Notification to States of Grant-in-Aid Information;"

(g) Treasury Circular 1075, entitled "Treasury Fiscal Requriements Manual"; and

(h) Other procedures which DOE or the Director may from time to time prescribe for the administration of financial assistance provided under this part.

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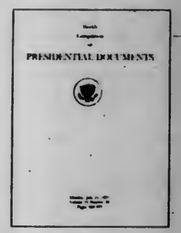
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Monday	Tuesday	Wednesday	Thursday	Friday
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Revised "Table of Effective Dates and Time Periods—October 1978"

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. January dates are in 1979.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 2	October 17	November 1	November 16	December 1	January 2
October 3	October 18	November 2	November 17	December 4	January 2
October 4	October 19	November 3	November 20	December 4	January 2
October 5	October 20	November 6	November 20	December 4	January 3
October 6	October 23	November 6	November 20	December 5	January 4
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October 16	October 31	November 15	November 30	December 15	January 15
October 17	November 1	November 16	December 1	December 18	January 15
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October 24	November 8	November 24	December 8	December 26	January 22
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NOTE: On page x of the issue of Monday, October 2, 1978, in the "Table of Effective Dates and Time Periods—October 1978," the dates for "October 5" were inadvertently omitted. For the convenience of the reader, the table is being republished in its entirety.

presidential documents

[3195-01]

Title 3—The President

Memorandum of October 2, 1978

Determination Under Sections 406 and 202 of the Trade Act; Clothespins From the People's Republic of China

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, October 2, 1978.

Pursuant to sections 406(b) and 202 of the Trade Act of 1974 (P.L. 93-618), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC), transmitted to me on August 3, 1978, concerning the results of its investigation of a petition for import relief filed by the Clothespin and Veneer Products Association on behalf of the domestic industry producing clothespins provided for in items 790.05, 790.07 and 790.08 of the Tariff Schedules of the United States.

After considering all relevant aspects of the case, including those considerations set forth in section 202(c) of the Trade Act of 1974, I have determined that provision of import relief is not in the national economic interest.

The imposition of import relief would not be an effective means to promote adjustment in the domestic industry. While imports from the PRC have become an increasingly important component of U.S. imports, other sources still accounted for seventy-three percent of U.S. imports in 1977. Foreign sources, other than the PRC, are able to supply clothespins to the U.S. market at prices significantly below the prices charged by U.S. producers. Moreover, existing foreign capacity would not be a limitation on foreign producer ability to increase shipments to the U.S. Thus, third country suppliers would likely fill any excess U.S. demand resulting from a limitation of any kind on imports of clothespins from the PRC.

In addition, it should be noted that the USITC has instituted an investigation under section 201 of the Trade Act of 1974 to determine whether clothespins from all foreign suppliers are being imported into the United States in such quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry. A determination on this case by the USITC is due by November 21, 1978. The import problems facing the domestic clothespin industry will be considered further within the context of this pending escape clause case.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-28065 Filed 10-2-78; 10:57 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy; Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Energy and Department of Transportation because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(f)(4) and 213.3394(j)(1) are added as set out below:

§ 213.3331 Department of Energy.

• • • • • •

(f) *Office of the Inspector General.* • • •

(4) One executive assistant to the Inspector General.

• • • • • •

§ 213.3394 Department of Transportation.

• • • • • •

(j) *Research and Special Programs Administration.*

(1) One secretary (steno) to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27844 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice; Environmental Protection Agency; Department of Health, Education, and Welfare; Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Justice; Environmental Protection Agency; Department of Health, Education, and Welfare; and Department of Transportation because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3310(e)(3) and 213.3394(d)(7) are amended and 213.3316(n)(11) and 213.3318(a)(8) are added as set out below:

§ 213.3310 Department of Justice.

• • • • • •

(e) *Civil Division.* • • •

(3) Two special assistants to the Assistant Attorney General.

• • • • • •

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(n) *Office of the Assistant Secretary for Human Development.* • • •

(11) One deputy commissioner to the Commissioner, Rehabilitation Services Administration.

• • • • • •

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* • • •

(8) One special assistant to a Regional Administrator.

• • • • • •

§ 213.3394 Department of Transportation.

• • • • • •

(d) *Federal Highway Administration.* • • •

(7) Two Special Assistants to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27842 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Labor; Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to schedule C (1) excepts a position from competitive status at the Export-Import Bank of the United States because it is confidential in nature and (2) changes the title and headnote of a position at the Department of Labor from Private Secretary to the Deputy Under Secretary for Economic Policy Review to Private Secretary to the Deputy Assistant Secretary for Policy Evaluation and Research to reflect the current title of the supervisor and an organizational redesignation. Appointments may be made to these positions without examination by the Commission.

EFFECTIVE DATES: Department of Labor—August 23, 1978; Export-Import Bank of the United States—August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, the headnote of 5 CFR 213.3315 (j) and (j)(1) and 213.3342(b) are amended as set out below:

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§ 213.3315 Department of Labor.

• • • • • •

(j) *Office for Policy Evaluation and Research.*

(1) One private secretary to the Deputy Assistant Secretary for Policy Evaluation and Research.

• • • • • •

§ 213.3342 Export-Import Bank of the United States.

• • • • • •

(b) One private secretary and one special assistant, Systems Analysis to the First Vice President.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27845 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Treasury; Department of Commerce; Administrative Office of the U.S. Courts

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Treasury, Department of Commerce, and Administrative Office of the U.S. Courts because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3305(a)(80) and 213.3314(r)(12) are added and 213.3372 is amended as set out below:

§ 213.3305 Department of Treasury.

(a) *Office of the Secretary.* • • •

(80) One special assistant to the Assistant Secretary (Domestic Finance).

• • • • • •

§ 213.3314 Department of Commerce.

(r) *National Oceanic and Atmospheric Administration.* • • •

(12) One deputy director to the Director, Office of Congressional Liaison.

• • • • • •

§ 213.3372 Administrative Office of the U.S. Courts.

(a) *Office of the Director.*

(1) One legislative liaison officer.

(2) One legislative analyst/adviser.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27843 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President; Department of Energy; Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions in the Executive Office of the President, Department of Energy, and Small Business Administration because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3303(a)(1) and 213.3331(h)(1) are amended and 213.3332(j) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Five secretaries to the Director.

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(h) *Office of the Assistant Secretary for Conservation and Solar Applications.*

(1) One confidential assistant (secretary), one staff assistant, and one executive assistant to the Assistant Secretary.

• • • • • •

§ 213.332 Small Business Administration.

• • • • • •

(j) One special assistant to the Director, Office of Public Communications.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27841 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Harry S. Truman Scholarship Foundation, National Transportation Safety Board

AGENCY: Civil Service Commission.

AGENCY: Final rule.

SUMMARY: This amendment to schedule C excepts certain positions from competitive status at the Harry S. Truman Scholarship Foundation and the National Transportation safety Board because they are confidential in nature. Appointments may be made to these positions without examination by the Commission.

EFFECTIVE DATE: Harry S. Truman Scholarship Foundation—August 30, 1978, National Transportation safety Board—August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3363(b) is added, 213.3396(a)(3) is amended, and 213.3396(b)(1) is revoked as set out below:

§ 213.3363 Harry S. Truman Scholarship Foundation.

• • • • • •

(b) One Secretary (Steno) to the executive Secretary.

• • • • • •

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* • • •

(3) Two Secretaries (Steno) to the Chairman.

(b) *Office of the Managing Director.*

(1) (Revoked)

• • • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27840 Filed 10-2-78; 8:45 am]

[3410-05]

Title 7—Agriculture

Chapter XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 7]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-5)

Miscellaneous Amendments

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment clarifies the CCC Export Credit Sales Program (7 CFR Part 1488) regulations to make it clear that U.S. banks and branch banks shall be liable without regard to risk for payment of bank obligations confirmed by them if such confirmations are made without regard to risk.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

L. T. McElvain, telephone: 202-447-3224.

ADDRESS: Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This amendment to the CCC Export Credit Sales Program makes it clear that U.S. banks and branch banks shall be liable without regard to risk for payment of bank obligations confirmed by them if such confirmations are made without regard to risk. Since the amendment is merely for clarification of the regulations, it is hereby found and determined that compliance with the procedure in Executive Order 12044 is unnecessary. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Accordingly, Part 1488 of 7 CFR containing the terms and conditions of the CCC Export Credit Sales Program Regulations (GSM-5) (42 FR 10999, corrected at 42 FR 13535 and 42 FR 13561, and amended at 42 FR 27569, 42 FR 30833, 42 FR 57949, 43 FR 1786, 43 FR 25991 and 43 FR 29932), is hereby amended as follows:

§ 1488.12 [Amended]

In § 1488.12, paragraph (a) is amended by (i) adding after the words "confirmed by them" the words "without regard to risk" and (ii) adding before the period at the end of paragraph (a) the words "or (iii) as provided in paragraphs (c) and (d)."

(Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c); sec. 4, 80 Stat. 1528 (7 U.S.C. 1707))

Signed at Washington, D.C., on September 26, 1978.

KELLY HARRISON,
Vice President, Commodity Credit Corporation and General Sales Manager, Office of the General Sales Manager.

[FR Doc. 78-27926 Filed 10-2-78; 8:45 am]

[6355-01]

Title 16—Commercial Practices

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1505—REQUIREMENTS FOR ELECTRICALLY-OPERATED TOYS OR OTHER ELECTRICALLY-OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Amendments to Power Cord Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends the Requirements for Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children (16 CFR Part 1505). The amendment will allow the use of several types of acceptable cords with handheld educational or hobby-type electrical products intended for heating, such as woodburning tools, rather than the one type cord previously specified in the regulation. The type cord used will depend on the weight of the product. In addition, the Commission amends the regulation to clarify that cords can be no smaller than No. 18 AWG (American wire gauge) in conductor cross sectional area for all electrically-operated toys or other electrically-operated articles intended for use by children, to provide adequate short circuit protection against fire and shock.

EFFECTIVE DATE: The amendments are effective October 3, 1979. The amendments are applicable to all subject products introduced into interstate commerce on or after the effective date.

FOR FURTHER INFORMATION CONTACT:

David W. Thome, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 301-492-6400.

SUPPLEMENTAL INFORMATION: In the FEDERAL REGISTER of March 14, 1978 (43 FR 10575), the Consumer Product Safety Commission (CPSC) proposed for public comment amendments to 16 CFR Part 1505, Requirements for Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children. The proposed amendment to § 1505.5(e)(5) would allow the use of several types of cords, depending upon the product's weight, for hand-held educational or hobby-type products intended for heating, such as woodburning tools.

The purpose of the proposed amendment is to require lighter, more flexible cords to be used on such products weighing ½ pound or less to reduce the cord's influence on the possibility of the product's tipping over. Cords with greater insulation would be required on those products weighing more than ½ pound. The Commission believes this amendment is necessary if these electrical toys are not to present an unreasonable risk of personal injury due to a thermal hazard caused by their tipping over.

§ 1505.5(e)(5) of the standard required in part that power cords on toys be type SP-2 as defined in the National Electric Code (NEC) or its equivalent, or a heavier general-use type. A cord equivalent to SP-2, or a heavier general use type would under the NEC, be a cord having a wire gauge no smaller than 18 AWG. The Commission in the proposal stated it was amending the standard to require the use of cords having a minimum wire gauge of 18 AWG. In fact, the amendment only clarifies that 18 AWG is the smallest size wire gauge that could be used since the regulation in effect already required a minimum 18 AWG wire. Wire gauges smaller than 18 AWG create the possibility that the cord, in the event of a short circuit, will smolder and burn and expose live parts rather than opening a fuse or circuit breaker. The Commission believes the requirement for a minimum 18 AWG cord is necessary if electrically-operated products intended for use by children are not to present an unreasonable risk of personal injury due to electric shock and fire hazards.

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COMMENTS RECEIVED

The proposal of March 14, 1978 invited interested persons to submit written comments on or before May 15, 1978. Two comments were received: One from a manufacturer and one from a professional engineer.

The manufacturer stated that few, if any, retailers buy or sell electrical products that are not UL approved. Because of this, the commenter suggested that, since the Commission's proposed amendment is based on current UL standards, the requirement should be changed to permit any cords complying with current UL standards.

The Commission acknowledges that the amendments are based on the current cord requirements in the Underwriters Laboratories standard for electric heating applicances, UL 499. However, while all the cord types specified in the amendment set forth below are approved by UL, the converse is not true. There are some cords included in UL 499 for use on hand-held hobby products weighing less than ½ pound that would not be permitted by this amendment. These cords, types TP, TPT and XT, may have current carrying conductors smaller than 18 AWG, the minimum believed by the Commission to be necessary to insure adequate short circuit protection. In addition, it is the Commission's policy to incorporate in its regulations only requirements in a voluntary standard effective as of a particular date. Amendments to voluntary standards that have been referenced in Commission regulations will be considered by the Commission and amendments to its regulations will be proposed as appropriate. If this procedure were not followed, Commission regulations could change without action by the Commission and without notice to the public and an opportunity for public comment.

The professional engineer commented that the requirement for cord selection based on the product's weight fails to anticipate design configurations such as a shift of the center of gravity or guarding that could eliminate tipover problems. The commenter stated that a product weighing more than ½ pound may have its weight distributed in such a way that it may have a greater potential for tipover than a lighter product.

The requirement for lighter, more flexible cords (Types SP-1 SPT-1 and HPD) for appliances weighing ½ pound or less is intended to reduce risk of personal injury from fire or shock by minimizing the influence of the cord on the possibility of the appliance's tipping over. The regulation does not preclude any design concepts, such as shifting the center of gravity or providing guards, that could also address tipover problems. For heavier products, the Commission believes the protection provided by cords with thicker insulation than types SP-1 and SPT-1 overrides the remote possibility that a design feature of a heavier product would present a greater tipover hazard than lighter products.

This commenter also stated that the proposed amendment to section 1505.5(e)(6), requiring a minimum of 18 AWG rather than 20 AWG, is not supported by test data.

The amendment to the regulation does not impose a new requirement upon manufacturers. No. 20 AWG wire is not allowed in electrically operated toys under the existing regulation. No. 18 AWG wire conductor is one trade size larger than No. 20 AWG. No 20 AWG wire in laboratory tests conducted by the Commission has smoked and burned under conditions forseeable with electric toys. It is the Commission's view that No. 18 AWG is necessary to assure that under the anticipated conditions of use of hand-held products where there is considerable flexing of the cord in close proximity to the child, the fuse or circuit breaker would trip in the event a short circuit occurs to avoid a burn or fire. The Commission believes that reducing the conductor size a minimum of 18 AWG to 20 AWG, as the commenter suggests would be contrary to current safe practices intended to provide protection from short circuits since a product with a power cord having conductors smaller than 18 AWG could, in a short circuit situation, overheat and cause a fire without causing the fuse or circuit breaker to trip.

ENVIRONMENTAL CONSIDERATIONS

The CPSC's interim environmental review procedures, 16 CFR 1021.5, provide that an environmental review is generally not required for amendments to an existing standard that do not alter the principal purpose or effect of the standard. The amendments below do not alter the principal purpose or effect of the electrical toy regulations. They allow manufacturers to use a variety of cords on products subject to the amendments rather than just one type cord. The Commission stated in its proposal that it did not believe there would be any significant environmental effects which would necessitate an environmental review from the promulgation of these amendments. No comments were received relevant to this issue and no information is available to the Commission that would alter this position.

CONCLUSION

The Commission has considered the potential thermal hazard presented by hand-held educational or hobby-type products intended for heating, such as woodburning tools, due to tipping over because of the influence of the electrical cord, and it has considered the potential or electric shock and fire hazards if cords smaller than 18 AWG are used on electrically-operated products intended for use by children. The Commission has also considered the comments received in response to its March 14, 1978 proposal and has concluded that the amendments set forth below are necessary.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act section 2 (f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187-189, 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, section 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the commission amends title 16 CFR Part 1505 as follows:

1. Section 1505.5(e) (5) and (6) are amended to read as follows:

§ 1505.5 Electrical design and construction.

* * * * * *

(e) *Power supply connections (cords and plugs).* * * *

(5) A flexible electrical power cord provided on a toy shall be type SP-2 (as defined in the "National Electrical Code," Chapter 4, article 400, pages 230-241 (1978), [1] published by the National Fire Production Association), or its equivalent, or a heavier general-use type, and shall not be less than 5 feet nor more than 10 feet in length when measured as the overall length of the attached cord outside the enclosure of the toy, including fittings up to the face of the attachment-plug cap. However, hand-held educational or hobby-type products intended for heating, such as woodburning tools, shall use one of the type cords designated below, in accordance with the weight of the product without the cord:

Weight of appliance (without cord)	*and cord type*
½ lb. (0.227 kg) and lighter:	SP-1, SPT-1, HPD.
Heavier than ½ lb. (0.227 kg):	SP-2, SPT-2, SV, SVO, SVT, SVTO, HPD, HPN, SJ, SJO, SJT, SJTO.

(6) A flexible cord and plug shall have a current-carrying capacity of not less than the ampere rating of the toy, and the conductor of the cord shall have a cross sectional area no less than No. 18 AWG (American wire gauge).

* * * * * *

Effective date: These amendments are effective October 3, 1979.

The Commission had suspended the application of the existing 16 CFR 1505.3(e)(5) regarding the type of cord to be used with hand-held educational or hobby-type products, such as woodburning tools (39 FR 2611, January 23, 1974). This suspension remains in effect until the effective date of these amendments.

(Sections 2 (f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187-189 (15 U.S.C. 1261, 1262); section 30(a), 86 Stat. 1231 (15 U.S.C. 2079 (a)).)

Dated: September 28, 1978.

SADYE E. DUNN,
Consumer Product Safety Commission.

[FR Doc. 78-27867 Filed 10-2-78; 8:45 am]

[1] The cord types are defined in the "National Electrical Code" (NEC) Chapter 4, article 400, pages 230-241 (1978), published by the National Fire Protection Association. The definitions of the cord types in chapter 4 of the NEC are hereby incorporated by reference. Copies of the 1978 edition of the NEC may be obtained from the National Fire Protection Association, 470 Atlantic Ave., Boston, Mass. 02210.

[2] Note: Incorporation by reference provisions approved by the Director, Office of the Federal Register on August 3, 1978, and the referenced material is on file in the Federal Register Library.

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

PART 154—RATE SCHEDULES AND TARIFFS

[Docket No. RM78-23]

Interstate Pipeline Recovery of State of Louisiana First Use Tax

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule establishes certain procedures for recovery of the Louisiana first use tax by interstate natural gas pipelines. On July 6, 1978, the Governor of Louisiana signed into law the tax which is proposed to become effective April 1, 1979. The Commission has directed the Commission's Solicitor to challenge the constitutionality of the tax in Federal District Court and to seek to enjoin collection of the tax by Louisiana pending completion of judicial review. The rule sets forth the rate treatment and accounting procedures to be followed during the pendency of the litigation.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles E. Bullock, Office of General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, 202-275-4232.

On July 6, 1978, the Governor of Louisiana signed into law the Louisiana first use tax. The tax of 7 cents per Mcf would be imposed on certain gas in interstate commerce which passes through the State of Louisiana. The tax is proposed to become effective as of April 1, 1979. Therefore the Commission has determined that certain procedures should be established for recovery of this tax by interstate natural gas pipelines. It is particularly appropriate to establish such procedures in light of the fact that this Commission on August 16, 1978, directed the Commission's Solicitor to challenge the constitutionality of the tax in Federal District Court and to seek to enjoin collection of the tax by Louisiana pending completion of judicial review. In addition, the Commission authorized the Solicitor to seek intervention, or to otherwise set forth the views of this Commission, in any other forums where the constitutionality of the tax may be challenged.[1]

Should the collection of the tax be enjoined by the courts during the entire period the validity of the tax is pending in court, no collection of such amounts by pipelines in their jurisdictional rates would be permitted by this Commission until such time as the tax is found to be lawful by a final and nonappealable court order. In that event, the pipelines shall keep account of their contingent tax liability during the pendency of court review. Appropriate rate relief will be granted if the tax is ultimately held to be valid and constitutional.

Should the tax be required to be paid by the pipeline during the pendency of the litigation, the Commission requires that the pipelines record in a separate account the amounts paid, plus carrying charges at 9 percent per annum or such other rate as the Commission may establish. No costs reflecting the tax shall be permitted in the pipelines' rates until such time as the tax is determined to be constitutional and valid by a final and nonappealable order.

The Commission is concerned that there may not be an adequate remedy in Louisiana State law to permit pipelines to recover amounts paid (even under protest) in the event the tax is collected during the period of litigation and is later found to be unconstitutional. However, if the interstate pipelines subject to the tax can show that (1) they have undertaken those legal actions available to them to determine the constitutionality of the tax and (2) they in fact can recover the amounts paid from Louisiana in the event the tax is paid under protest and later found to be invalid, the Commission will permit the filing of applications under which the pipelines would collect the tax, subject to refund, pursuant to a temporary tracking provision similar to a purchased gas adjustment clause. Any funds collected pursuant to such a tracking provision must be escrowed pending the outcome of the court litigation. Upon a final and nonappealable court order finding the tax invalid, the funds in the escrow account shall be promptly refunded to the pipelines' customers. Such applications would only be permitted where the tax is required to be paid by the pipelines during the pendency of the court litigation.

It is important that this order be issued without notice and public comment procedures to put pipelines on notice that they will not be permitted to reflect the Louisiana first use tax in general section 4 rate cases (which usually involve a 30-day notice period plus a 5-month suspension by the Commission) in order to collect the Louisiana first use tax. If pipelines were planning to file general rate cases to collect the tax, they would have to commence preparation of such cases immediately in order to make the rates effective by April 1, 1979, which is the proposed effective date of the tax.

The Commission finds: For the reasons discussed in the body of this order good cause exists to issue this rule without notice and public comment procedure. For the same reasons there is good cause to make this regulation effective immediately.

The Commission, acting pursuant to authority granted by the Natural Gas Act, as amended, particularly sections 4, 5 and 16 thereof (52 Stat. 822, 824, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717f, 717o) and in accordance with sections 552 and 553 of title 5 of the United States Code, orders:

(A) Section 154.38 is amended by adding a new paragraph (h) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * * *

(h) *Pipeline recovery of the State of Louisiana first use tax.* (1) Subject to the conditions set forth in subparagraph (2), no pipeline shall be permitted to reflect costs associated with the Louisiana first use tax in its rates prior to the date the tax is determined to be valid and constitutional by a final and nonappealable court order. (2) Should a pipeline be required to pay the Louisiana first use tax during the pendency of litigation of the constitutionality of the tax, the pipeline will be permitted to collect the tax

[1] In addition, the Commission directed the Solicitor to inform other interested Federal agencies of the Commission's decision to challenge the constitutionality of the tax.

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subject to refund if it can show: (a) It has undertaken all legal action available to it to determine the constitutionality of the tax, and (b) it will be able to recover the tax paid by them to the State of Louisiana in the event the tax is declared invalid by a final, nonappealable court order. Should such a showing be made, the Commission will establish by order temporary procedures to permit pipelines to recover the taxes. Funds collected will be held in escrow and subject to refund during the pendency of litigation. Absent such a showing, the pipeline will remain subject to subparagraph (1).

(B) The order is hereby made effective upon issuance.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27828 Filed 10-2-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Exclusion of Receipts From Lands Held in Trust for Indian Tribes From Countable Income and Resources

AGENCY: Social Security Administration, HEW.

ACTION: Final regulations.

SUMMARY: These rules exclude certain receipts distributed to members of Indian tribes from consideration as income or a resource under the Supplemental Security Income (SSI) program. The receipts are derived from certain submarginal lands conveyed to Indian tribes and held in trust by the United States. Exclusion of the receipts will preclude the denial or reduction of financial assistance or other benefits to which tribal members or households would otherwise be entitled under the Social Security Act or any other Federal or federally assisted program. The regulation implements in part section 6 of Pub. L. 94-114, October 17, 1975.

EFFECTIVE DATE: These rules shall be effective October 3, 1978. However, in accordance with the law which these rules reflect, the exclusions are effective October 17, 1975.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-7341.

SUPPLEMENTARY INFORMATION: On April 28, 1978, these amendments to the regulations were published (43 FR 18205) as a Notice of Proposed Rulemaking.

BACKGROUND

Submarginal Indian lands were originally purchased by the United States as part of the general emergency relief measures necessitated by the severe depression of the 1930's and a series of natural disasters. These parcels were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the Act of August 24, 1955 (49 Stat. 750, 781).

Subsequent to these purchases Congress enacted legislation (the act of July 20, 1956 (70 Stat. 581), the act of August 2, 1956 (70 Stat. 941), the act of October 9, 1972 (86 Stat. 795), and section 1 of the act of October 13, 1972 (86 Stat. 806)) which conveyed in trust for certain Indian tribes some of the parcels which were purchased during the Depression. The accrued income, however, was not generally transferred to the appropriate Indian tribes.

DISCUSSION OF PUB. L. 94-114

Pub. L. 94-114 conveyed the remaining submarginal lands from the United States to the various Indian tribes to be held in trust by the United States and the accrued income of the lands previously conveyed under acts cited in the prior paragraph.

Section 5(a) of Pub. L. 94-114 provides that receipts derived from property conveyed by Pub. L. 94-114, the act of July 20, 1956, the act of August 2, 1956, the act of October 9, 1972, and section 1 of the act of October 13, 1972, which were received by the United States subsequent to such acquisition by the United States and prior to conveyance back to the Indian tribes will be deposited to the credit of the Indian tribe receiving such land. Excluded are receipts received prior to the enactment of Pub. L. 94-114 from the leasing of public domain minerals which were subject to the Mineral Leasing Act of 1920 (41 Stat. 437) as amended and supplemented. Section 5(b) provides that receipts derived by the United States subsequent to enactment of Pub. L. 94-114 from any contract, permit, or lease or otherwise will be deposited to the credit of the Indian tribes receiving such land.

Section 6 of Pub. L. 94-114 further provides that any such receipts distributed to members of Indian tribes shall not be considered income or resources or otherwise utilized as a basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

The exclusion (as authorized by Pub. L. 94-114) applies to receipts derived from lands of the following Indian tribes:

Tribe	Reservation	State
1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.	Bad River	Wisconsin.
2. Blackfeet Tribe	Blackfeet	Montana.
3. Cherokee Nation of Oklahoma.		Oklahoma.
4. Cheyenne River Sioux Tribe.	Cheyenne River.	South Dakota.
5. Crow Creek Sioux Tribe.	Crow Creek	Do.
6. Lower Brule Sioux Tribe.	Lower Brule	Do.
7. Devil's Lake Sioux Tribe.	Fort Totten	North Dakota.
8. Fort Belknap Indian Community.	Fort Belknap	Montana.
9. Assiniboine and Sioux Tribes.	Fort Peck	Do.
10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians.	Lac Courte Oreilles.	Wisconsin.
11. Keweenaw Bay Indian Community.	L'Anse	Michigan.
12. Minnesota Chippewa Tribe.	White Earth	Minnesota.
13. Navajo Tribe	Navajo	New Mexico.
14. Oglala Sioux Tribe.	Pine Ridge	South Dakota.
15. Rosebud Sioux Tribe.	Rosebud	Do.
16. Shoshone-Bannock Tribe.	Fort Hall	Idaho.
17. Standing Rock Sioux Tribe.	Standing Rock.	North Dakota and South Dakota.
18. Seminole Indians		Florida.
19. Pueblos of Zia and Jemez.		New Mexico.
20. Stockbridge Munsee Indian Community.		Wisconsin.
21. Burns Indian Colony.		Oregon.

THE FINAL REGULATIONS

Sections 416.1146(n) and 416.1236(a)(13) are being added to provide that the receipts derived from the lands described above will be excluded as income or a resource in the SSI program.

DISCUSSION OF COMMENTS

Interested persons were given the opportunity to submit, within 30 days, data, views, or arguments with regard to the proposed amendments. Three comments were received and are discussed below.

COMMENT: Two commenters agreed with these amendments and suggested that the exclusion be extended to the Aid to Families with Dependent Children (AFDC) program.

RESPONSE: The exclusion contained in these amendments is, in fact, applicable to the AFDC program. Section 6 of Pub. L. 94-114, upon which these amendments are based, provides that such receipts distributed to members of Indian tribes shall not be considered income or resources or otherwise utilized as a basis for denying or reducing the financial assistance or other benefits under the Social Security Act, or any other Federal or federally assisted program. The Department is publishing in this issue of the FEDERAL REGISTER a similar amendment to Part 233 of Title 45 of the Code of Federal Regulations, which applies to the AFDC program.

COMMENT: One commenter stated that these amendments are not fair or equitable. The commenter points out that the very people who benefit from this exclusion are "double dippers" in the sense that the land they receive their income from does not contribute taxes from which they receive their benefits. In addition, the commenter states that all persons receiving public assistance should meet the same criteria.

RESPONSE: Elimination of this exclusion is beyond the scope of these regulations as the exclusion is specifically required by section 6 of Pub. L. 94-114.

(Sections 1102, 1611, 1612, 1613, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1470, and 86 Stat. 1475; (42 U.S.C. 1302, 1382, 1382a, 1382b, and 1383); sec. 6 of Pub. L. 94-114, 89 Stat. 579.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Accordingly these amendments are hereby adopted without change as set forth below.

Dated: August 16, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 416.1146 is amended by adding paragraph (n) to read as follows:

§ 416.1146 Exclusions from income; provided by other statutes.

For the purpose of § 416.1145(a), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from income is required by such statute include:

* * * * *

(n) Effective October 17, 1975, pursuant to section 6 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459c) receipts distributed to members of certain Indian tribes which are referred to in section 5 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459d).

2. Section 416.1236 is amended by adding paragraph (a)(13) to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) For the purpose of § 416.1210(j), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from resources is required by such statute include:

* * * * *

(13) Effective October 17, 1975, pursuant to section 6 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459e), receipts distributed to members of certain Indian tribes which are referred to in section 5 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459d).

[FR Doc. 78-27936 Filed 10-2-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Topical Analgesic Panel; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: In accordance with the public advisory committee procedures, this document announces the termination of the Topical Analgesic Panel and amends the regulation listing the standing advisory committees. The Panel was terminated on August 8, 1978, because it was no longer needed.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Topical Analgesic Panel reviewed and evaluated available data concerning the safety and effectiveness of nonprescription topical analgesic drug products. Its report on OTC Topical Otics was published in the FEDERAL REGISTER of December 16, 1977 (42 FR 63556). Its report on skin protectants was published in the FEDERAL REGISTER of August 4, 1978 (43 FR 34628), and its report on sunscreens was published in the FEDERAL REGISTER of August 25, 1978 (43 FR 38206). Further conclusions and recommendations regarding external analgesics will be published in future issues of the FEDERAL REGISTER.

Accordingly, the Panel is no longer needed because its purpose has been served. On August 8, 1978, the Panel was abolished by the Secretary, Department of Health, Education, and Welfare, as the Commissioner of Food and Drugs requested.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), part 14 is amended in § 14.100 List of standing advisory committees by deleting paragraph (c)(20)(i)(*f*) and marking it reserved.

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Effective date: Since this is a technical conforming amendment to part 14 (21 CFR Part 14), the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, October 3, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27822 Filed 10-2-78; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76P-0354]

PART 146—CANNED FRUIT JUICES

Standards of Identity for Frozen Concentrate for Lemonade and Colored Lemonade; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Confirmation of effective date.

SUMMARY: This document confirms the effective date of the stayed provision of the final regulation that revised the standards of identity for frozen concentrate for lemonade and frozen concentrate for colored lemonade.

EFFECTIVE DATES: Compliance with the final regulations, except for the stayed provision, including any labeling changes, could have begun December 14, 1976. Compliance with the provision confirmed by this document may begin October 3, 1978, and all products initially introduced into interstate commerce after July 1, 1979, shall fully comply.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 15, 1976 (41 FR 45543), the Commissioner of Food and Drugs issued a final regulation revising the standards of identity for frozen concentrate for lemonade (21 CFR 146.120) (formerly § 27.101) and frozen concentrate for colored lemonade (21 CFR 146.126) (formerly § 27.102) to: (1) Permit the use of any safe and suitable nutritive carbohydrate sweetener; (2) remove the proportionality limitation on the use of sweeteners other than sugar; and (3) require the label declaration of all optional ingredients.

The final regulation provided that any person who would be adversely affected could at any time on or before November 15, 1976, file written objections to the final regulation and, if desired, request a hearing on the specific provisions to which there were objections.

Two objections and one letter in support of the objections were received. The objections were to specific provisions of the final regulation and requested a public hearing. The Ventura Coastal Corp. and Sunkist Growers objected to the provision that would permit the use of any safe and suitable nutritive carbohydrate sweeteners, and to the fact that the standard no longer sets out a proportionality limitation on the use of sweeteners other than sugar.

The letter from the Processors Council of the California-Arizona Citrus League supported Ventura's objection and urged the Commissioner to grant its request for a hearing. The Corn Refiners Association, the petitioner, filed responses to the comments and objections after the closing date of the objection period.

In the FEDERAL REGISTER of March 21, 1978 (43 FR 11695), the Commissioner issued a notice of partial confirmation of effective date of the final regulation and stay of the provision to which objections had been filed. Section 146.120(a) was stayed to the extent that it would provide for the use of one or any mixture of safe and suitable nutritive carbohydrate sweeteners without any proportionality limitation.

Ventura Coastal Corp. and Sunkist Growers have now withdrawn their objections and requests for a hearing. Subsequently, the Processors Council of the California-Arizona Citrus League withdrew its support of the Ventura Coastal objection. Therefore, all obstacles to confirmation of the stayed provisions have been removed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that the objections received were withdrawn, and that the effective date of §§ 146.120 and 146.126, as published in the FEDERAL REGISTER of October 15, 1976, is confirmed as follows: Compliance with these regulations except for the stayed provision was permitted to begin on December 14, 1976. Compliance with the provision confirmed by this document may begin October 3, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27814 Filed 10-2-78; 8:45 am]

[4110-03]

[Docket No. 77F-0284]

PART 176—INDIRECT FOOD ADDITIVES; PAPER AND PAPERBOARD COMPONENTS

Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of a polymer as a retention and drainage aid in the manufacture of paper and paperboard for food-contact use. Betz Laboratories, Inc. filed a petition for such use.

DATES: Effective October 3, 1978; objections by November 2, 1978.

ADDRESS: Written objections to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857:

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of October 7, 1977 (42 FR 54617) that a food additive petition (FAP 6B3202) had been filed by Betz Laboratories, Inc., Somerton Road, Trevose, Pa. 19047, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of diethyl(2-hydroxyethyl)methylammonium methyl sulfate, acrylate, polymer with acrylamide as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard for food-contact use.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * * *

(a) * * *
(5) * * *

List of substances	Limitations
* * * * *	
Diethyl(2-hydroxyethyl) methylammonium methyl sulfate, acrylate, polymer with acrylamide, chemical abstract service registry No. [26796-75-8] having 90-95 mole pct. acrylamide, a nitrogen content of not more than 19.7 pct. (Kjeldahl, dry basis), and a residual acrylamide monomer content of not more than 0.1 pct. The finished polymer in a 1 pct. by weight aqueous solution has a minimum viscosity of 900 centipoises at 25° C as determined by LVT-series Brookfield viscometer using a No. 2 spindle at 12 r.p.m. (or by equivalent method).	For use only as a retention aid and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard at a level not to exceed 0.15 pct. by weight of finished dry paper and paperboard fibers.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 2, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

EFFECTIVE DATE. This regulation shall become effective October 3, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: September 26, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27656 Filed 10-2-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 78-575]

PART 260—INTEREST SUBSIDY GRANTS

Extension of Deadline

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: HUD is amending the Interest Subsidy Grant Regulations to extend the date by which State agencies must issue eligible obligations and on which HUD commitments for grants expire. This action will permit the program to continue in effect for 2 more years.

EFFECTIVE DATE: October 1, 1978.

ADDRESS: Rules Docket Clerk, Office of the General Counsel, Room 5218, HUD, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7603. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT:

Neil Churchill, Housing Program Specialist, Office of Assisted Housing Development, Office of Housing, U.S. Department of Housing and Urban Development, Room 6255, 451 Seventh Street SW., Washington, Washington, D.C. 20410, telephone 202-755-5830. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD is amending 24 CFR 260.5(j) to extend the deadline by which a State agency must issue an obligation pursuant to the Interest Subsidy Grant Regulations and on which the HUD commitment of interest subsidy grants terminates, from September 30, 1978, to September 30, 1980.

This rule is being published effective October 1, 1978. Notice and public procedure are impractical and contrary to the public interest because a failure to extend the deadline by the end of the fiscal year (September 30, 1978) would result in the interest subsidy grant funds being unavailable until a final rule extending the deadline was published. This unavailability of funds might constitute an impoundment of budget authority, which would be contrary to the intent of the Secretary. See the Impoundment Control Act of 1974, Pub. L. 93-344, 88 Stat. 297, 332 et seq.

A Finding of Inapplicability with respect to Environmental Impact has been prepared in accordance with HUD Handbook 1390.1. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk at the address set forth above.

Accordingly, 24 CFR 260.5(j) is revised to read:

§ 260.5 Program standards.

* * * * * *

(j) A commitment of interest subsidy grants under this part shall automatically terminate in the event the applicant fails to issue the eligible obligation for which the grants were requested within 90 days after the issue date specified in its application, except that one extension period of 30 days may be permitted at the discretion of the Federal Housing Commissioner. However, in no event may the obligation be issued any later than September 30, 1980. The commitment of interest subsidy grants under this part shall automatically terminate if the applicant fails to issue the eligible obligation prior to September 30, 1980.

* * * * * *

(Sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 29, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 78-27977 Filed 10-2-78; 8:45 am]

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[4210-01]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4161]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Oxnard, Ventura County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Oxnard, Ventura County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Oxnard, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Oxnard, Ventura County, Calif., are available for review at city hall, 305 West Third Street, Oxnard, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Oxnard, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beardsley Wash	0.51 mi upstream of Wright Rd.	170
	0.33 mi upstream of Wright Rd.	163
	0.27 mi upstream of Wright Rd.	150
	Wright Rd.....	147
	500 ft downstream of Wright Rd.	120
	1,250 ft downstream of Wright Rd.	115
	0.34 mi downstream of Wright Rd.	106
	0.43 mi downstream of Wright Rd.	101

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27337 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4114]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Richmond, Contra Costa County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Richmond, Contra Costa County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Richmond, Contra Costa County, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Richmond, Contra Costa County, Calif., are available for review at the City Hall, Richmond, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Richmond, Contra Costa County, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rheem Creek.....	Goodrick Ave. (upstream side).	9
	Southern Pacific Transportation Co. RR. (upstream side).	16
	Atchison, Topeka & Santa Fe RR. (upstream side).	23
Wildcat Creek.....	Garden Tract Rd. (downstream side).	9
San Pablo Bay.....	Coastline.....	6
San Francisco Bay	do.....	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27338 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4163]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of San Bernardino, San Bernardino County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of San Bernardino, San Bernardino County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of San Bernardino, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of San Bernardino, San Bernardino County, Calif., are available for review at city hall, 300 North D Street, San Bernardino, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of San Bernardino, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
San Timoteo Creek.	Waterman Ave.*	1,011
	Colton Ave.*	1,035
Little Mountain	Leuzenger St.*.....	1,345
Channel—Devil	42d St.*	1,403
Creek—Western	Hill Dr.*.....	1,417
Ave. storm drain.	North Park Blvd.*	1,428
Cable Creek.....	Highway 395 Freeway*...	1,629
	Kendall Dr.*	1,643
	Palm Ave.*	1,695
	Cypress Ave.*	1,784
East Rialto storm	Rialto Ave.*	1,155
drain.	Meridian Ave.*	1,161
	Pepper Ave.*	1,171
	Eucalyptus Ave.*	1,181
Del Rosa Channel.	Baseline Rd.*	1,085
	Fairfax Dr.*	1,132
	Highland Ave.*	1,170
	Pumalo St.*	1,183
	Date St.*	1,196
	Citrus St.*	1,209
	Marshall Blvd.*	1,254
	Foothill Dr.*	1,347
Upper Warm	Tippecanoe St.*	1,066
Creek.	Del Rosa Ave.*	1,089
Sand Creek.....	Pacific St.*	1,163
	Highland Ave.:	
	25 ft downstream	1,259
	100 ft upstream	1,280
	Atchison, Topeka & Santa Fe RR.*.	1,267
	Date St.*	1,340
	Citrus Ave.*	1,372
	Marshall Blvd.*	1,436
Little Sand Creek..	Atchison, Topeka & Santa Fe RR.*.	1,219
	Sterling Ave.*	1,271
	Lynwood Dr.*	1,292
	Marshall Ave.*	1,336
	Foothill Blvd.*	1,445
Santa Ana River....	E Street Bridge*	978
	Waterman Ave.*	1,005
	Atchison, Topeka & Santa Fe RR.:	
	25 ft downstream	1,022
	100 ft upstream	1,025
	Tippecanoe Ave.*	1,049
	Southern Pacific RR. Bridge*.	1,081

*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27339 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4115]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Beacon Falls, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Beacon Falls, New Haven County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Beacon Falls, New Haven County, Conn.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Beacon Falls, are available for review at the Town Hall, Beacon Falls, Conn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Beacon Falls, New Haven County, Conn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

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to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Naugatuck River	Southern corporate limit.	99
	Pines Bridge Rd	113
	Confluence of Bronson Brook.	127
	Depot St	132
	Confluence with Spruce Brook.	153
	Confluence with Egypt Brook.	161
	Northern corporate limit at the confluence of Beacon Hill Brook.	167
Hemp Swamp Brook.	Lopus Rd	113
	At private crossing, 680 ft above Lopus Rd.	126
	Access road	161
	At a point 620 ft upstream of access road.	168
	At a point 550 ft downstream of Pines Bridge Rd.	205
	Pines Bridge Rd	217
	Rimmon Rd	231
	At a point 290 ft upstream of Rimmon Rd.	262
Bronson Brook	Route 8	127
	At dam, 1,070 ft upstream of Route 8.	156
	At weir, 1,970 ft upstream of Route 8.	179
	Confluence of Bronson Brook tributary.	211
Bronson Brook tributary.	Bethany Rd	216
	Munson Rd	241
	Private crossing, 470 ft upstream of Munson Rd.	260
	Lasky Rd	276
	At a point 600 ft. upstream of Lasky Rd.	286
Beacon Hill Brook	Route 8	167
	Andrasko Rd	171
	Cotton Hollow Rd	183
	Confluence with unnamed tributary.	226
	Northeastern corporate limit.	255

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: July 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27340 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4203]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Green Cove Springs, Clay County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Green Cove Springs, Clay County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Green Cove Springs, Clay County, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Green Cove Springs, Clay County, Fla., are available for review at the City Manager's Office, City Hall, Green Cove Springs, Fla. 32043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Green Cove Springs, Clay County, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Governors Creek	Just upstream of Magnolia Ave.	6
	Just upstream of Idlewild Ave. (State Highway 16).	9
	Southern corporate limits.	15
St. Johns River	Southern corporate limits.	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: August 18, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27341 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4284]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of West Palm Beach, Palm Beach County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of West Palm Beach, Palm Beach County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of West Palm Beach, Fla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of West Palm Beach, Palm Beach County, Fla., are available for review at City Hall, 320 Second Street, West Palm Beach, Fla.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of West Palm Beach, Palm Beach County, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Worth	Intersection of Flagler Dr. and 33d St.	7
	Intersection of Flagler Dr. and 9th St.	7
	Intersection of Flagler Dr. and Flagler Memorial Bridge.	7
	Intersection of Flagler Dr. and Arlington Pl.	7
West Palm Beach Canal.	Florida East Coast RR	11
C-17 Canal	Intersection with northern corporate limits.	14
Flooding caused by rainfall ponding.	Intersection of Summit Blvd. and Park Circle.	12
	Intersection of Market and Dock Sts.	13
	Intersection of Witt St. and Upland Rd.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27342 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-3804]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Cobb County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Cobb County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Cobb County, Ga.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Cobb County, Ga., are available for review at Cobb County Courthouse, 10 East Park Square, Marietta, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Cobb County, Ga.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattahoochee River.	I-20	760
	I-75	774
	Johnson Ferry Rd	808
Sweetwater Creek	Lithia Springs Rd	898
	Brownsville Rd	905
Gordon Creek	South Gordon Dr. (upstream side).	953
	Kenneth Lane	986
Gordon Branch	South Dillon Rd	923
Pine Creek	Cardell Rd. (upstream side).	896
	Jewell Dr	947
Davis Branch	Old Alabama Rd	935
Pine Branch	Thunderwood Rd	943
Buttermilk Creek	U.S. Highway 278	896
	Clay Rd	932
Clay Branch	Brookwood Dr	935
	Green Valley Rd	983
Olley Creek	Flinthill Rd*	902
	Hurt Rd	919
	Cunningham Rd	977
	Carruth Dr*	1,038
Noses Creek	Clay Rd	891
	Macedonia Rd*	907
	Mt. Calvary Rd	964
Wildhorse Creek	Old Villa Rica Rd	926
Mud Creek	Mallard Rd*	914
	West Sandtown Rd	940
Luther Ward Branch.	Castell Rd*	937
	Luther Ward Rd	955
Ward Creek	John Ward Rd	945
	Cheatham Hill Rd	951
Powder Springs Creek.	Oglesby Rd*	896
	Macland Rd*	939
Florence Branch	U.S. Highway 278*	914
	Macland Rd*	958
Mill Creek No. 1	Wright Rd*	954
Lost Mountain Creek.	Forest Hills Rd	919
Gothards Creek	Brownsville Rd	902
Nickajack Creek	Felker Rd	762
	Buckner Rd	779
	Cooper Lake Dr*	815
	Seaboard Coast Line RR*.	893
	Church Rd	923
	Pat Mell Rd*	1,012
Queen Creek	Queen Mill Rd	770
	Dodgen Rd*	969
Liberty Hill Branch.	Queen Mill Rd	776
Milam Branch	Sheraton Way*	958
	Garner Rd	996
Laurel Creek	Southern RR	800
	Park Bridge*	879
	Forest Dr	969
Cooper Lake Creek.	Seaboard Coastline RR*	834
Concord Creek	South Hurt Rd*	925
Mill Creek No. 2	Cyndys Lake Dam*	922
Favor Creek	Church Rd*	933
	Smyrna-Powder Springs Rd.	946
Theater Branch	Old Concord Rd*	929
Smyrna Branch	South Cobb Dr	941
Gilmore Creek	Woodland Brook Dr	776
Vinings Branch	Woodland Brook Dr	771
Powers Branch	Columns Dr	796
Terrell Branch	Columns Dr	802
Rottenwood Creek.	I-285 Southbound	835
	Windy Hill Rd*	886

from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattahoochee River.	I-20	760
	I-75	774
	Johnson Ferry Rd	808
Sweetwater Creek	Lithia Springs Rd	898
	Brownsville Rd	905
Gordon Creek	South Gordon Dr. (upstream side).	953
	Kenneth Lane	986
Gordon Branch	South Dillon Rd	923
Pine Creek	Cardell Rd. (upstream side).	896
	Jewell Dr	947
Davis Branch	Old Alabama Rd	935
Pine Branch	Thunderwood Rd	943
Buttermilk Creek	U.S. Highway 278	896
	Clay Rd	932
Clay Branch	Brookwood Dr	935
	Green Valley Rd	983
Olley Creek	Flinthill Rd*	902
	Hurt Rd	919
	Cunningham Rd	977
	Carruth Dr*	1,038
Noses Creek	Clay Rd	891
	Macedonia Rd*	907
	Mt. Calvary Rd	964
Wildhorse Creek	Old Villa Rica Rd	926
Mud Creek	Mallard Rd*	914
	West Sandtown Rd	940
Luther Ward Branch.	Castell Rd*	937
	Luther Ward Rd	955
Ward Creek	John Ward Rd	945
	Cheatham Hill Rd	951
Powder Springs Creek.	Oglesby Rd*	896
	Macland Rd*	939
Florence Branch	U.S. Highway 278*	914
	Macland Rd*	958
Mill Creek No. 1	Wright Rd*	954
Lost Mountain Creek.	Forest Hills Rd	919
Gothards Creek	Brownsville Rd	902
Nickajack Creek	Felker Rd	762
	Buckner Rd	779
	Cooper Lake Dr*	815
	Seaboard Coast Line RR*.	893
	Church Rd	923
	Pat Mell Rd*	1,012
Queen Creek	Queen Mill Rd	770
	Dodgen Rd*	969
Liberty Hill Branch.	Queen Mill Rd	776
Milam Branch	Sheraton Way*	958
	Garner Rd	996
Laurel Creek	Southern RR	800
	Park Bridge*	879
	Forest Dr	969
Cooper Lake Creek.	Seaboard Coastline RR*	834
Concord Creek	South Hurt Rd*	925
Mill Creek No. 2	Cyndys Lake Dam*	922
Favor Creek	Church Rd*	933
	Smyrna-Powder Springs Rd.	946
Theater Branch	Old Concord Rd*	929
Smyrna Branch	South Cobb Dr	941
Gilmore Creek	Woodland Brook Dr	776
Vinings Branch	Woodland Brook Dr	771
Powers Branch	Columns Dr	796
Terrell Branch	Columns Dr	802
Rottenwood Creek.	I-285 Southbound	835
	Windy Hill Rd*	886

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Terrell Mill Rd.	908
	U.S. Highway 41	955
Poplar Creek	Bethel Rd*	894
	Spring Rd*	953
Poorhouse Creek	U.S. Highway 41*	949
Powers Creek	Powers Ferry Dr	935
Sope Creek	South Roswell Rd	905
	Holt Rd	933
	Barnes Mill Rd.	959
Bishop Creek	Indian Hills Trail	907
	Addie Lane	974
Eastside Creek	Lake Dam*	927
Sewell Mill Creek	Robinson Rd.	921
	Karen Dr.	1,083
Robertson Creek	Old Canton Rd.	931
	Benson Dr.	1,012
Thompson Creek	Liberty Lane*	943
Piney Grove Creek.	Casteel Rd	983
	Hembree Rd	1,026
Campground Creek.	Sope Creek Dr.	926
	Robinson Rd	994
Wildwood Branch	Amanda Dr*	1,025
Blackjack Creek	Merritt Rd*	999
	Allgood Rd*	1,029
Elizabeth Branch	Overbrook Circle	1,032
Willeo Creek	Willeo Road near the mouth of Timber Ridge Branch*.	859
	Childers Rd	939
Timber Ridge Branch.	Timber Ridge Dam*	871
Harmony Grove Creek.	Mountain Creek Dr.	953
	Johnson Ferry Rd	1,063
Sweat Mountain Creek.	Loch Highland Parkway*.	995
Rubes Creek	Jamerson Rd*	909
	Blackwell Rd	952
	Bryant Lane*	1,018
Trickum Creek	Jamerson Rd*	913
	Steinhauer Rd.	985
	Pete Shaw Rd	1,050
Procktor Creek	Power line crossing	898
Butler Creek	U.S. Highway 41*	876
	Pine Mountain Rd.	986
Allatoona Creek	Old Stilesboro Rd.	861
	Stilesboro Rd	883
	Due West Rd	935
	Holland Rd*	1,055
Little Allatoona Creek.	Old Stilesboro Rd.	861
	County line Rd	868
	Burnt Hickory Rd*	908
Pitner Creek	Burnt Hickory Rd*	931
Due West Creek	Rolling Oaks Rd*	906
	Paul Samuel Rd.	941
Allatoona Branch	Holland Rd*	1,017
Noonday Creek	Shallow Ford Rd	900
	Bells Ferry Rd	920
	Duncan Rd	947
	Jones St.	971
Tate Creek	Bells Ferry Rd	951
Noonday Creek Tributary No. 1. 937	Hawkins Store Rd*	
Little Noonday Creek.	Canton Rd*	913
	Liberty Hill Rd	979
Noonday Creek Tributary 3.	Rock Bridge Rd	928
	Mark Ave	997
Little Noonday Creek Tributary 4.	Roberts Rd*	934
Little Noonday Creek Tributary 6.	I-75 southbound	942
Little Noonday Creek Tributary 7.	Big Shanty Rd*	971
Hope Creek	I-75	963
Tanyard Creek	Cowan Rd*	890

*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27343 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4202]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the city of Naperville, DuPage County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Naperville, DuPage County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Naperville, DuPage County, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Naperville, DuPage County, Ill., are available for review at the entrance of the Council Chambers, Naperville, Ill.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Naperville, DuPage County, Ill.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West branch DuPage River.	Joliet-Naperville Rd. (upstream).	643
	Bailey Rd	654
	75th St. (upstream)	657
	Hobson Rd. (downstream).	657
	Gartner Rd. (downstream).	663
	Hillside Rd. (upstream)	669
	Washington St. (downstream).	671
	Main St. (downstream)	672
	Eagle St. (downstream)	673
	Jefferson Ave. (upstream).	678
	Burlington Northern RR. (upstream).	680
	Ogden Ave. (downstream).	681
	Downstream of Farrell Dam.	682
	Upstream of Farrell Dam.	691
East branch DuPage River.	Downstream corporate limits.	639
	Upstream corporate limits.	641
Cress Creek	Aurora Rd. (upstream)	680
	Ogden Ave. (downstream).	687
	Burning Tree Lane (downstream).	690
	Golf Course Bridge (downstream).	692
	West St. (downstream)	693
Spring Brook	Corporate limit at stream distance 7.9 mi above mouth.	684
	Oswego Rd	687
Unnamed creek—south of Foxcroft Rd.	Downstream of private drive.	646
	Washington St. (upstream).	647
	Dike (downstream)	649
	87th St. (downstream)	652
Unnamed creek—south of 87th St.	Downstream corporate limit.	647
	Gravel Rd. (upstream)	651
	Storm sewer	662
Winding Creek	Chat Ct. (upstream)	664
	Clyde Dr. (upstream)	665
	Verdin Dr. (upstream)	668
	Modaff Rd. (upstream)	685

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27344 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4231]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Plainfield, Hendricks County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Plainfield, Hendricks County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Plainfield, Hendricks County, Ind.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Plainfield, Hendricks County, Ind., are available for review at the City Hall, 206 West Main Street, Plainfield, Ind.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Plainfield, Hendricks County, Ind.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek	Corporate limits	710
	700 East Rd	719
	U.S. 40	724
	ConRail	726
Clark's Creek	Corporate limits	724
	Stanley Rd	726
	Stafford Rd	738
	U.S. S.R. 267	753
	U.S. 40	756
West branch Clark's Creek.	Confluence w/Clark's Creek.	754

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27345 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4183]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the city of Solomon, Dickinson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Solomon, Dickinson County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Solomon, Dickinson County, Kans.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Solomon are available for review at the City Offices, Solomon, Kans.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Solomon, Dickinson County, Kans.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Smoky Hill River	At southeastern corner of corporate limit.	1,167
	At county highway	1,168
Solomon River	At intersection of Poplar St. and 1st St. near southern corporate limits.	1,171
Solomon River tributary.	At confluence of Solomon River.	1,171
	200 ft downstream of Union Pacific RR. Bridge.	1,171
	Upstream side of Union Pacific RR. Bridge.	1,174
	275 ft upstream of 6th St.	1,175
	7th St. and northern corporate limit.	1,177

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

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FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27346 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4117]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Brockton, Plymouth County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Brockton, Plymouth County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Brockton, Plymouth County, Mass.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Brockton, Plymouth County, Mass., are available for review at the Office of the City Planner, City Hall, Brockton, Mass. 02401.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Brockton, Plymouth County, Mass.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salisbury Plain River.	Just upstream of Meadow Lane.	75
	Perkins Ave	84
	Just upstream of Otis St	90
Salisbury Brook	Just upstream of Spring St.	122
	Just upstream of Moraine Rd.	126
Trout Brook	Just upstream of Crescent St.	90
	East Ashland St	97

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27347 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4186]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Wilbraham, Hampden County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Wilbraham, Hampden County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Wilbraham, Hampden County, Mass.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Wilbraham, Hampden County, Mass., are available for review at the Town Hall, Wilbraham, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Wilbraham, Hampden County, Mass.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chicopee River	Just downstream of Western Massachusetts Electric Co. Dam.	194
	Just upstream of Western Massachusetts Electric Co. Dam.	214
	Penn Central RR Bridge	218
	Greene Towne Bridge	225
	Route I-90	235
	Red Bridge Rd	241
	Just downstream of Red Bridge Dam.	244
	Just upstream of Red Bridge Dam.	284

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Mill River.	Western corporate limits.	223
	Springfield Street Bridge.	231
	Stony Hill Road Bridge	238
	Springfield St. culvert	248
	0.25 mi. downstream culvert.	260
	North Main St. culvert	277
South Branch Mill River.	Footbridge, 600 ft downstream of Stony Hill Rd.	229
	Stony Hill Road Bridge	231
	Oakland Street Bridge	234
Sawmill Brook	1,500 ft upstream of confluence with South Branch Mill River.	233
	Soule Rd. culvert	246
Tributary A	Penn Central RR. culvert.	224
	Route 20 culvert	235
Nine Mile Pond	Entire length	246
Tributary C	Confluence with North Branch Mill River.	239
	2,600 ft upstream of confluence with North Branch Mill River.	252
	At culvert, 0.9 mi upstream of confluence with North Branch Mill River.	269
	At footbridge, 1.4 mi upstream of confluence with North Branch Mill River.	275

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: July 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 78-27348 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4204]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Masonville, Delta County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Masonville, Delta County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Masonville, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Masonville, Delta County, Mich., are available for review at Rapid River Fire Hall, Main Street, Rapid River, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Masonville, Mich.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rapid River	U.S. Highway 2	592
	County Road I-26	598
	County Road I-18 (upstream side).	621
	County Road I-14	652
	Soo Line RR	658

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27349 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4205]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Farmington, Dakota County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Farmington, Dakota County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Farmington, Dakota County, Minn.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Farmington, Dakota County, Minn., are available for review at the City Clerk's Office, City Hall, Farmington, Minn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Farmington, Dakota County, Minn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

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to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Vermillion River ...	Approximately 1,160 ft upstream of Elm Street Bridge.	905
	Just downstream of 220th St. (County Road 74).	912

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27350 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-3652]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Stearns County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Stearns County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Stearns County, Minn.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Stearns County, Minn., are available for review at Stearns County Courthouse, St. Cloud, Minn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Stearns County, Minn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Downstream county boundary.	948
	Highway 152 Bridge*	993
	County State aid highway 2 bridge.	1,028
Watab River.....	Township Rd. (approximately 1 mile upstream from Sartell corporate limit).	1,034
	Township Rd. (approximately 4 miles from Sartell corporate limit).	1,044
	County State aid highway 4 bridge.	1,046
Sauk River	County State aid highway 1 bridge.	997
	County State aid highway 4 bridge.	1,041
	Burlington Northern RR.	1,044
	County Rd. 134 bridge* ..	1,049
	U.S. highway 52 bridge...	1,051
	County Rd. 121 bridge....	1,059
	Interstate highway 94 bridge*.	1,062
	County Rd. 139 bridge* ..	1,072
	County Rd. 111 bridge....	1,095

*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27351 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4206]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Birmingham, Clay County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Birmingham, Clay County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the village of Birmingham, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Birmingham, Clay County, Mo., are available for review at the Baptist Church (ground floor), Fifth and Spratley, Birmingham, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Birmingham, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Depth in feet, above ground
Shallow flooding...	Intersection of 5th and Milwaukee Sts.	1
	Intersection of Hardwick St. and the southern corporate limits.	1
	Intersection of 4th and Atlantic Sts.	1
	Intersection of Birmingham Rd. and Eastern corporate limits.	1

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding	Area bounded by Burlington Northern RR on the northwest side, Chicago, Milwaukee, St. Paul and Pacific RR on the southeast and Atlantic St. on the southwest.	737
Do.....	Area bounded by Burlington Northern RR on the west, Chicago, Milwaukee, St. Paul and Pacific RR on the east and the northern corporate limits on the north.	737

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27352 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4187]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Cardwell, Dunklin County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Cardwell, Dunklin County, Mo.These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Cardwell, Dunklin County, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Cardwell, are available for review at the city hall, Cardwell, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Cardwell, Dunklin County, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kinnemore slough ditch.	65 feet north of route 25	245
	Just north of Pool St.....	245
	Just north of St. Louis Southwestern Ry.	246
	At northern corporate limits.	246

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4126); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27353 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4224]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Waldwick, Bergen County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the borough of Waldwick, Bergen County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the borough of Waldwick, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Waldwick, Bergen County, N.J., are availa-

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ble for review at Borough Hall, 15 East Prospect Street, Waldwick, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of Waldwick, N.J.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saddle River	Corporate limits (downstream crossing).	103
	Confluence with tributary No. 1.	108
	Corporate limits (upstream crossing).	111
Hohokus Brook	Dam No. 2 (125 ft downstream).	191
	Dam No. 2 (upstream side).	205
	Wyckoff Ave	214
	Prospect St	222
	Dam No. 3 (100 ft downstream).	227
	Dam No. 3 (upstream side).	233

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27354 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4118]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Bronxville, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Bronxville, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the village of Bronxville, Westchester County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Bronxville, Westchester County, N.Y., are available for review at the Village Hall, Bronxville, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Bronxville, Westchester County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bronx River	Midland Ave	84
	Parkway Rd	86
	Palmer Ave	88
	Dam	94
	Upstream corporate limits.	94

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27460 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-3230]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of De Witt, Onondaga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of De Witt, Onondaga County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of De Witt, Onondaga County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of De Witt, Onondaga County, N.Y., are available for review at the town hall, 6565 Kinne Road, De Witt, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of De Witt, Onondaga County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Butternut Creek	Kirkville Rd	409
	New York Route 290	414
	Cedar Bay Rd	419
	New York Route 5	424
	Interstate Route 481	428
	Andrews Rd	432
	Jamesville Rd. (northern crossing).	454
	Jamesville Rd. (southern crossing).	483
	Jamesville Quarry Rd	540
	Seneca Turnpike	583
	Southern town boundary.	607
Ley Creek—main branch.	Western town boundary.	379
	Confluence with north and south branches	379
Ley Creek—north branch.	Confluence with south branch.	379
	New York State Thruway.	381
	Molloy Rd	386
	Thompson Rd	388
	Aviation Rd	390
	Northern Blvd	390
	Maxwell park Bridge	393
	Collamer Rd	396
Ley Creek—south branch.	Confluence with north branch.	379
	New York Route 298	383
	Court St	394
	Thompson Rd	398
	James St	402
Meadow Brook	Confluence with Old Erie Canal Feeder.	431

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Jamesville Rd. (downstream).	445
	Jamesville Rd. (upstream).	471
Old Erie Canal	Entire length within town of De Witt.	428

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27461 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4190]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Lordstown, Trumbull County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Lordstown, Trumbull County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the village of Lordstown, Trumbull County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Lordstown, Trumbull County, Ohio, are available for review at Village Administration Office, Village of Lordstown, 1455 Salt Springs Road SW., Lordstown, Ohio 44481.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Lordstown, Trumbull County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Duck Creek	Just upstream of Hewitt-Gifford Rd.	896
Mud Creek	Just upstream eastern corporate limit.	873
	Just upstream Carson Salt Spring Rd.	880
	Just upstream Sooptown Rd.	919
	Just downstream State Rd. 45.	958

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27462 Filed 10-2-78; 8:45 am]

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[4210-01]

[Docket No. FI-4191]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Aumsville, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Aumsville, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Aumsville, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Aumsville, Marion County, Oreg., are available for review at City Hall, Aumsville, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Aumsville, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Creek	Southern Pacific RR	351
Mill Creek	Mill Creek Rd.	347
	South 8th (upstream side).	356
	Southern Pacific RR	362

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27463 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4192]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Idanha, Linn and Marion Counties, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Idanha, Linn and Marion Counties, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Idanha, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Idanha, Linn and Marion Counties, Oreg., are available for review at City Hall, Idanha, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Idanha, Linn and Marion Counties, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Santiam River.	Blowout St. (downstream side).	1,584
	Blowout St. (upstream side).	1,588
	Church St	1,703

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27464 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4194]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Mill City, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Mill City, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Mill City, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Mill City, Marion County, Oreg., are available for review at City Hall, Mill City, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Mill City, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Santiam River.	Southern Pacific RR. (downstream side).	802
	1st Avenue Bridge (upstream side).	805

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27465 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4193]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Jefferson, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Jefferson, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Jefferson, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Jefferson, Marion County, Oreg., are available for review at city hall, Jefferson, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Jefferson, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Santiam River.	Southern Pacific RR (upstream side).	223
	Jefferson Highway (downstream side).	220

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27466 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4195]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Scotts Mills, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Scotts Mills, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Scotts Mills, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Scotts Mills, Marion County, Oreg., are available for review at city hall, Scotts Mills, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Scotts Mills, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Butte Creek	Third St	409

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27467 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4260]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Siletz, Lincoln County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Siletz, Lincoln County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Siletz, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Siletz, Lincoln County, Oreg., are available for review at city hall, Siletz, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Siletz, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Siletz River	Near an east-west private road, east of Siletz Highway and near the north city limit.	96
	Along river bank, approximately 200 ft north of J Ave., and 2,000 ft west of Siletz Highway.	104
	500 ft upstream of Siletz Highway.	121

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27468 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4196]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Silverton, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Silverton, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Silverton, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Silverton, Marion County, Oreg., are available for review at city hall, 306 South Water Street, Silverton, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Silverton, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek	South James St.*	228
	Westfield St.	231
	Main St.*	239
	Central St.**	264
	Central St.*	267
	Private drive	301

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27469 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4197]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Stayton, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Stayton, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Stayton, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Stayton, Marion County, Oreg., are available for review at city hall, 362 North Third Avenue, Stayton, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Stayton, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Santiam River.	First Ave. (upsteam side).	440
Mill Creek	Corporate limits (downstream crossing).	435
	Corporate limits (upstream crossing).	438

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27470 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4238]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Toledo, Lincoln County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Toledo, Lincoln County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Toledo, Oreg.

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ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Toledo, Lincoln County, Oreg., are available for review at city hall, Toledo, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Toledo, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yaquina River	At confluence with Depot Slough.	13
	Butler Bridge Road*	13
Depot Slough	1st St*	13
	Yaquina Bay Road*	13
Olalla Slough	SE 10th St*	13

*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27471 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4195]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Woodburn, Marion County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Woodburn, Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Woodburn, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Woodburn, Marion County, Oreg., are available for review at city hall, 270 Montgomery Street, Woodburn, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Woodburn, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Senecal Creek	Antioch Rd*	167
Mill Creek	Silverton Highway	154
	Hardcastle Ave**	156
	Hardcastle Ave*	166
	Lincoln St**	166
	Young St**	168
	Stark St*	169
	Wilson St**	169
	Wilson St*	171

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27472 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4241]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Yachats, Lincoln County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Yachats, Lincoln County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Yachats, Lincoln County, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Yachats, Oreg., are available for review at city hall, West Seventh Street, Yachats, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Yachats, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yachats River	U.S. Highway 101 (upstream side).	9
Pacific Ocean	Along coast near Marine Dr. and Ocean Dr.	27
	Along coast near Driftwood Dr.	29
	Along coast near Sunset Rd.	31
	Along coast near 3d St. and Ocean Dr.	33

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27473 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4243]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Erie, Erie County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Erie, Erie County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Erie, Erie County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Erie, Erie County, Pa., are available for review at the Erie City Hall 626 State Street, Erie, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Erie, Erie County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Cascade Creek	Yulcan St	690
	Shenley Ave	695
	Pittsburg Ave	699
McDaniel Run	At Lake Erie	577
	700 ft downstream of East Lake Rd.	630
	800 ft upstream of East Lake Rd.	641
	200 ft downstream of East 7th St.	646
	200 ft upstream of East 7th St.	650
	East 10th St	659
	Franklin Ave	665
	Upstream corporate limits.	673

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-27474 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-2273]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of West Easton, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the borough of West Easton, Northampton County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood

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elevations, for the Borough of West Easton, Northampton County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of West Easton, Northampton County, Pa., are available for review at the front window of the borough Hall, 6th and Center Streets, West Easton, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of West Easton, Northampton County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Lehigh River	Main St.	192
	Closed highway bridge	196
	Corporate limit (upstream).	197

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27475 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4133]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Guadalupe County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Guadalupe County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Guadalupe County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Guadalupe County, Tex., are available for review at the courthouse, Sequin, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Guadalupe County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cibolo Creek	Lookout Rd. upstream	758
	Interstate Highway 35 upstream.	751
	Frontage Rd. upstream	750
	Selma Rd. upstream	735
	Main St. upstream	715
	Schaefer Rd. upstream	675
	Lower Seguin Rd. upstream.	653
	Weir Rd. upstream	648
	Frontage Rd. upstream	621
Guadalupe River	Upstream county boundary.	586
	T. P.—1 Dam: Above	583
	0.1 mi. below	551
	McQueeny Dam	538
	State Highway 76 upstream.	533
	Interstate Highway 10 upstream.	516
	U.S. Highway 90 upstream.	515
	T. P.—4 Dam:	511
	Above 0.7 mi. below	494
	State Highway 123 upstream.	486
	State Highway 123 bypass upstream.	475
	Nolte Dam	468
	Farm to market 466	463
	Confluence of Geronimo Creek.	458
	Confluence of Mill Creek.	418
	Downstream county boundary.	383
San Marcos River	Upstream county boundary.	546
	Farm to market 1979	518
	Farm to market 1977	488
	County Rd. 237 upstream.	411
	South Pacific RR	382
	State Highway 80 upstream.	364
	Downstream county boundary.	358
Santa Clara Creek	County Rd. 361 upstream.	717
	County Rd. 374 upstream.	680
	County Rd. 354 upstream.	657
	Southern Pacific RR	634
	Farm to market 78	631
	Farm to market 465	605
	County Rd. 312 upstream.	594
	Interstate Highway 10 upstream.	576
	County Rd. 304 upstream.	567
	County Rd. 315 upstream.	560
Santa Clara Creek tributary No. 1.	County Rd. 367 upstream.	670
	Confluence of Santa Clara Creek tributary No. 2.	652
	Southern Pacific RR	635
	Farm to market 78	632
	Confluence of Santa Clara Creek.	596
Santa Clara Creek tributary No. 2.	County Rd. 354 upstream.	686
	Confluence with Santa Clara Creek tributary No. 1.	652
Cottonwood Creek south.	County Rd. 419 upstream.	582

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	County Rd. 413 upstream.	528
	County Rd. 411 upstream.	513
	County Rd. 411C upstream.	493
	State Highway 123 upstream.	476
	Confluence of Guadalupe River.	468
Elm Creek north	County Rd. 411B upstream.	526
	Farm to market 467	516
	Confluence of Cottonwood Creek south.	492
Alligator Creek	County Rd. 140 upstream.	620
	Farm to market 758	614
	County Rd. 107A upstream.	606
	County Rd. 105 upstream.	592
	Confluence with Geronimo Creek.	590
Elm Creek south	County Rd. 4128 upstream.	516
	County Rd. 409B upstream.	504
	Farm to market 467 upstream.	488
	County Rd: 6,300 ft above county rd. 412D.	471
	County Rd. 412D upstream.	463
	Downstream county boundary.	459
Geronimo Creek	County Rd. 130 upstream.	612
	County Rd. 107A upstream.	604
	State Highway 123 upstream.	574
	County Rd. 121 upstream.	572
	County Rd. 118 upstream.	560
	Farm to market 20	515
	Interstate Highway 10 upstream.	499
	Southern Pacific RR	495
	U.S. Highway 90 upstream.	491
	U.S. Highway 90A upstream.	472
Cottonwood Creek north.	County Rd. 245 upstream.	563
	Downstream County Rd. 245 upstream.	558
	Farm to market 1978	555
	Downstream County Rd. 245.	549
	Farm to market 1979	522
	County Rd. 244A upstream.	493
	Farm to market 1339	474
	Confluence with York Creek.	452
York Creek	Upstream county boundary.	544
	County Rd. 105 upstream.	527
	State Highway 123 upstream.	503
	Confluence of Long Creek.	483
	County Rd. 231 upstream.	464
	County Rd. 241A upstream.	457
	Farm to market 20	437
	County Rd. 238 upstream.	425
Long Creek	Farm to market 1979	563
	Dam No. 10: Above	561
	0.2 mi. below	532
Walnut Creek	County Rd. 152 upstream.	524
	Interstate Highway 10 upstream.	547
	Southern Pacific RR	546
	Corporate limits	538

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27476 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4200]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the city of Sunset Valley, Travis County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Sunset Valley, Travis County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Sunset Valley, Travis County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Sunset Valley, Travis County, Tex, are available for review at City Clerk's Office, Sunset Valley City Hall, Austin, Tex. 78764

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Sunset Valley, Travis County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sunset Valley Branch.	Just upstream of Pillow Rd.	666
	Just upstream of Lone Oak Trail.	668
Williamson Creek	Reese Rd. (extended)	670
	Western corporate limits.	708
Dry Fork Branch of Williamson Creek.	Oakdale Dr. (extended)	680

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurnce Administrator.

[FR Doc. 78-27477 Filed 10-2-78; 8:45 am]

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[4210-01]

[Docket No. FI-4124]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Texarkana, Bowie County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Texarkana, Bowie County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Texarkana, Bowie County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Texarkana, Bowie County, Tex., are available for review at the bulletin board in the lobby of City Hall, Texarkana, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Texarkana, Bowie County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Howard Creek	Buchanan Rd. (upstream).	270
	Flower Acre Rd. (upstream).	285
	U.S. Highway 59 (downstream).	286
	Findley St. (upstream)	296
South Wagner Creek.	Buchanan Rd. (upstream).	273
	Garber St. (upstream)	278
	Findley St. (upstream)	281
	Robison Rd. (downstream).	290
	Kilgore St. (downstream).	301
	U.S. Highway 67 (downstream).	307
Wagner Creek	Texas & Pacific RR. (upstream).	266
	U.S. Highway 59 (Lakeside Dr.) (downstream).	270
	Findley St. (upstream)	278
	U.S. Highway 67 (downstream).	287
	Westlawn Dr. (downstream).	295
Cowhorn Creek	U.S. Highway 67 (downstream).	283
	West 15th St. (downstream).	293
	Lumpkin Rd. (upstream).	301
	College Dr. (downstream).	306
	Kennedy Lane (upstream).	313
	Interstate 30 (downstream).	325
Cowhorn Creek West Tributary.	Confluence of Cowhorn Creek (downstream).	316
	Interstate 30 (upstream)	328
Days Creek	Corporate limits (upstream).	275
Nix Creek	South Day St. (upstream).	280
Swampoodle Creek.	Confluence of Days and Nix Creek (upstream).	277
	West 3d St. (upstream)	286
	U.S. Highway 67 (downstream).	287
	West 17th St. Extended (downstream).	297
	U.S. Highway 82 (New Boston Rd.) (downstream).	300
	College Dr. (downstream).	315
Swampoodle Creek Tributary.	Texas Blvd. (downstream).	313
	Pines St. (downstream)	316
Swampoodle Creek West Channel.	Kansas City Southern RR. (upstream).	315
	College Dr. (downstream).	317

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27478 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4218]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Helper, Carbon County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Helper, Carbon County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Helper, Utah.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Helper, Carbon County, Utah, are available for review at city hall, 73 South Main Street, Helper, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Helper, Carbon County, Utah.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a

period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Price River	Poplar St.	5,804
	Ivy St. (downstream side).	5,805
	Ivy St.*	5,813
	Bridge (near Third North St.).	5,877
Spring Canyon, Wash.	Main St.*	5,880
	Hill St.*	5,907

* Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27479 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4219]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Orangeville, Emery County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Orangeville, Emery County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Orangeville, Utah.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Orangeville, Emery County, Utah, are available for review at city hall, Orangeville, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for city of Orangeville, Emery County, Utah.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cottonwood Creek	Main Street Bridge	5752
	200 West St.	5766

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27480 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4201]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Price, Carbon County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Price, Carbon County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Price, Utah.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Price, Carbon County, Utah, are available for review at city hall, Price, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Price, Carbon County, Utah.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

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flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Price River	3d West St	5506
Meads Wash	Denver and Rio Grande Western RR.*	5497
	4th South St.*	5529
	1st North St.**	5560
	1st North St.*	5563
	8th North St.**	5637
	8th North St.*	5648

* Upstream side.
** Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27481 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-3554]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the County of Goochland, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the county of Goochland, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the county of Goochland, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the county of Goochland, Va., are available for review at the County Courthouse, Route 6, Goochland, Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the county of Goochland, Va.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James River	Downstream county limits.	145
	Confluence of Genito Creek.	155
	Confluence of Beaverdam Creek at State Farm Bridge.	163
	U.S. Route 522	171
	Confluence of Big Lickinghole Creek.	176
	Westview Rd. (extended).	192
	State Route 45 (Cartersville Rd).	207
	Elk Island Bridge	208
	Confluence of Byrd Creek.	208
	State Route 603	210
	Upstream county limits.	219

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27482 Filed 10-2-78; 8:45 am]

[4210-01]

[Docket No. FI-4137]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Henry County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Henry County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Henry County, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Henry County, Va., are available for review at the County Administrator, Collinsville, Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Henry County, Va.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Leatherwood Creek.	Bear Branch confluence	736
	Virginia Route 648 upstream.	705
	West fork confluence	686
	Camp Branch confluence	683
	West bound lane Highway 58 upstream.	682
	East bound land Highway 58 upstream.	682
	Southern Ry	664
	Virginia Route 620	664
	Virginia Route 650 upstream.	648
West Fork Leatherwood Creek.	Reservoir No. 3 dam	747
	Confluence of Wet Branch.	746
	Virginia Route 57 upstream.	728
	Confluence of Reservoir No. 2.	714
	Confluence with Leatherwood Creek.	686
Wet Branch	Reservoir No. 4 dam	752
	Virginia Route 628 upstream.	746
	Confluence with West Fork Leatherwood Creek.	746
Reservoir No. 2 branch.	Reservoir No. 2 dam	772
	Virginia Route 655 upstream.	771
	Virginia Route 720 upstream.	719
	Virginia Route 57 upstream.	714
Jones Creek	Virginia Route 667 upstream.	735
	Private drive upstream of U.S. Highway 220.	732
	U.S. Highway 220 upstream.	729
	Southern Ry	723
Beaver Creek	Martinsville Reservoir Dam.	775
	Virginia Route 714 upstream.	772
	Virginia Route 108 upstream.	757
	Private Drive	753
	Confluence of Little Beaver Creek.	742
	U.S. Highway 220 upstream.	729
	Confluence of Jones Creek.	723
	Norfolk & Western Ry	719
	Southern Ry	718
	Virginia Route 57 upstream.	716
	Confluence with Smith River.	716
Hairston Branch	Confluence with Little Beaver Creek.	759
Little Beaver Creek.	Virginia Route 108	749
	Confluence with Beaver Creek.	742
Daniels Creek	Sarah Ave. upstream	856
	Virginia Highway 220 upstream.	856
	West Paul St. upstream	850
	Eliza Reamy Ave. upstream.	838
	Redd Blvd. upstream	832
	Coffman Dr. upstream	823
	Virginia Route 609 upstream.	813
	Wheeler Ave. upstream	805
	Virginia Route 1142 upstream.	788
	Private drive	775
	Virginia Route 57 upstream.	731
Reed Creek	Virginia Route 865 upstream.	854
	Private road	797
	Virginia Route 609 upstream.	782
	U.S. 220 (business) upstream.	756
	Virginia Route 57 upstream.	745
	Confluence of Little Reed Creek.	741
	U.S. 220 by-pass upstream.	741
	Norfolk & Western Ry	740
Little Reed Creek	Private drive upstream of Virginia Route 669.	898
	Virginia Route 669 upstream.	833
	Private road 1,500 ft downstream of Virginia Route 669.	811
	Private drive 1,800 ft upstream of Meadow Lane.	784
	Meadow Lane upstream	774
	Dyer Rd. upstream	765
	Private drive 1,100 feet upstream of Virginia Route 57.	752
	Virginia Route 57 upstream.	749
	Edgewood Rd. upstream	747
	Virginia Route 606 upstream.	741
	Confluence with Reed Creek.	741
Town Creek	Virginia Route 606 upstream.	884
	Virginia Route 604 upstream.	869
	Norfolk & Western Ry	802
	Virginia Route 674 upstream.	796
	Confluence with Smith River.	789
Smith River	Virginia Route 674 upstream.	791
	Confluence of Town Creek.	789
	Virginia Route 666 upstream.	763
	Riverside Dr. upstream	758
	Main St. upstream	755
	Church St. upstream	751
	Confluence of Blackberry Creek.	747
	Alternate Route 57 upstream.	736
	U.S. 220 by-pass upstream.	729
	Confluence of Reed Creek.	728
	New Virginia Route 609 upstream.	724
	Jordan Creek confluence.	723
	Norfolk & Western Ry	722
	Confluence of Beaver Creek.	716
	Confluence of Grassy Creek.	709
	Martinsville Dam	675
	U.S. Highway 220 upstream.	675
	Virginia Route 966 upstream.	670
	Norfolk & Western Ry downstream of Route 966.	666
	Confluence of Marrow Bone Creek.	623
	Confluence of Leatherwood Creek.	608
	Virginia Route 636 upstream.	595
	Virginia Route 622 upstream.	575
	Downstream county line	562
Blackberry Creek	County line	1,198
	Virginia Route 687 upstream.	1,165
	Virginia Route 832 upstream.	1,159
	Confluence of Hales Pond Creek.	876
	Virginia Route 676 upstream.	850
	Virginia Route 779 upstream.	830
	Virginia Route 698 upstream.	814
	Virginia Route 780 upstream.	784
	Private drive 2,000 feet downstream of Virginia Route 780.	775
	Private drive 2,500 feet upstream of alternate route 57.	760
	Alternate Route 57 upstream.	747
	Confluence with Smith River.	747
Rangley Creek	Private drive 1,500 feet upstream of Valley drive creek confluence.	833
	Confluence of Valley Drive creek.	821
	Private drive 1,500 feet upstream of Virginia Route 683.	817
	Virginia Route 683 upstream.	811
	U.S. Highway 220 upstream.	742
Jordan Creek	Virginia Route 683 upstream.	830
	Confluence of Meadow Creek upstream.	802
	U.S. Highway 220 by-pass.	744
	Confluence of Rangley Creek.	740
	Private drive	738
	Virginia Route 684 upstream.	734
	Virginia Route 1163 upstream.	729
	Norfolk & Western Ry	724
	Virginia Route 682 upstream.	724
	Confluence with Smith River.	724
Meadows Creek	Private road	859
	Confluence with Jordan creek.	802
Grassy Creek	U.S. Highway 58 upstream.	894
	Virginia Route 875 upstream.	890
	Abandoned railroad	854
	U.S. Highway 220 upstream.	834
	Confluence with Smith River.	709
Little Marrowbone Creek.	Private drive	743
	Virginia Route 641 upstream.	735
	Virginia Route 1313 upstream.	696
	Confluence with Marrowbone Creek.	692
Marrowbone Creek.	Marrowbone Reservoir Dam.	740
	Virginia Route 688 upstream.	726
	Virginia Route 687 upstream.	710
	Confluence of Little Marrowbone Creek.	692
	U.S. 220 South bound lane upstream.	692
	U.S. 220 North bound lane upstream.	692

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Virginia Route 782 upstream.	684
	Norfolk & Western Ry ...	679
	Fisher Dam	658
	Virginia Route 641 upstream.	624
	Confluence with Smith River.	622
Camp Branch	Reservoir No. 6 dam	701
	Virginia Route 630 upstream.	683
	Virginia Route 9964 upstream.	683
	Confluence with Leatherwood Creek.	683

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27483 Filed 10-2-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7567]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Automatic Extension of Time for Filing Corporate and Individual Income Tax Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the automatic extension of time for filing Corporate and Individual Income Tax Returns. These regulations provide necessary guidance to the public and affect corporations and individuals seeking an automatic extension of time for filing income tax returns.

DATE: The regulations are effective for applications for automatic extensions filed after October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

David Jacobson, Legislative and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3923, not a toll-free call.

SUPPLEMENTARY INFORMATION: This Treasury decision eliminates the requirement that Forms 7004 (Application for Automatic Extension of Time to File Corporate Income Tax Return), and 4868 (Application for Automatic Extension of Time to File U.S. Individual Income Tax Return), be filed in duplicate. When this regulation takes effect, only an original of these forms need be filed. Because this regulation is nonsubstantive and essentially procedural, it is found unnecessary to issue this Treasury decision with notice and public procedure. For the same reasons, this regulation is not a significant regulation under paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for May 24, 1978 (43 FR 22319).

DRAFTING INFORMATION

The principal author of this regulation was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS:

Accordingly, 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.6081 is deleted.

PARAGRAPH 2. Section 1.6081-3 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the words "in duplicate".

2. Paragraph (a)(2) is amended by deleting the words "original of the" and the last sentence.

3. Paragraph (b) is amended by deleting the words "original of such" and the last sentence.

PARAGRAPH 3. Section 1.6081-4 is amended as follows:

1. Paragraph (a)(2) is amended by deleting the words "in duplicate".

2. Paragraph (a)(3) is amended by deleting the words "original of the".

3. Paragraph (a)(5) is amended by deleting the second sentence.

Because this regulation is nonsubstantive and essentially procedural, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 25, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

§ 1.6081-3. Automatic extension of time for filing corporation income tax returns.

(a) *In general.* A corporation shall be allowed an automatic extension of time to the fifteenth day of the third month following the month in which falls the date prescribed for the filing of its income tax return provided the following requirements are met:

(1) An application must be prepared on Form 7004, "Application for Automatic Extension of Time to File U.S. Corporation Income Tax Return", and must be signed by a person authorized by the corporation to request such extension. Such person must be a person authorized under section 6062 to execute the return of the corporation; a person currently enrolled to practice before the Treasury Department; or after November 7, 1965, either an attorney who is a member in good standing of the bar of the highest court of a State, possession, territory, commonwealth, or the District of Columbia, or a certified public accountant duly qualified to practice in a State, possession, territory, commonwealth, or the District of Columbia.

(2) The application must be filed on or before the date prescribed for the filing of the return of the corporation with the internal revenue officer with whom the corporation is required to file its income tax return. The corporation shall make a remittance of an estimated amount of tax which shall not be less than would be required as the first installment under section 6152(a)(1) should the corporation elect to pay the tax in installments.

Upon the timely filing of Form 7004, properly prepared, the three-month extension shall be considered as allowed. If the taxpayer elects to pay in installments the tax shown on Form 7004, the installment privilege provided in section 6152(a)(1) is limited to the amount shown on the form.

(b) *Consolidated returns.* An application for an automatic extension of time for filing a consolidated return shall be made by a person authorized by the parent corporation to request such extension. Such person must be a person authorized under section 6062 to execute the return of the parent corporation; a person currently enrolled to practice before the Treasury Department; or after November 7, 1965, either an attorney who is a member in good standing of the bar of the highest court of a State, possession, territory, commonwealth, or the District of Columbia, or a certified public accountant duly qualified to practice in a State, possession, territory, commonwealth, or the District of Columbia. There shall be attached to such application a statement listing the name and address of each member of the affiliated group for which such consolidated return will be made. For taxable years beginning after December 31, 1970, the application shall be filed with the internal revenue officer with which the parent corporation will file its income tax return. Upon the timely filing of Form 7004 with the internal revenue officer with which such corporation files its return, the 3-month extension shall be considered as granted to the affiliated group for the filing of its consolidated return or for the filing of each member's separate return.

(c) *Special rule for the extension of time for the payment of tax.* Notwithstanding the application of § 1.6081-1(a), any automatic extension of time for filing a corporation income tax return granted under paragraph (a) or (b) of this section shall not operate to extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The district director, including the Director of International Operations, or the director of a service center may, in his discretion, terminate at any time an automatic extension by mailing to the corporation (parent corporation in the case of an affiliated group), or the person who requested such extension for the corporation, a notice of termination. The notice shall be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination shall be sufficient for all purposes when mailed to the corporation at its address shown on Form 7004 or to the person who requested such extension for the corporation at his last known address or last known place of business, even if such corporation has terminated its existence, or such person is deceased or is under a legal disability.

(e) Paragraphs (a) through (d) of this section shall not apply to returns filed by a DISC pursuant to section 6011(c)(2).

§ 1.6081-4. Automatic extension of time for filing individual income tax return.

(a) *In general.* (1) An individual who is required to file an income tax return on Form 1040 for any taxable year ending on or after December 31, 1971, shall be allowed an automatic 2-month extension of time to file such return after the date prescribed for filing of the return only if the requirements contained in subparagraphs (2), (3), and (4) of this paragraph are met.

(2) An application must be prepared on Form 4868 "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," and must be signed by the taxpayer or other person duly authorized by the taxpayer to request such extension. Such other person must either be an attorney who is a member in good standing of the bar of the highest court of a State, possession, territory, commonwealth, or the District of Columbia; a certified public accountant duly qualified to practice in a State, possession, territory, commonwealth, or the District of Columbia; a person currently enrolled to practice before the Treasury Department; a duly authorized agent holding a power of attorney with respect to the filing of income tax returns; or a person standing in a close personal or business relationship to the taxpayer where such taxpayer is unable to sign the application because of illness, absence, or other good cause.

(3) The application must be filed on or before the date prescribed for the filing of the return of the individual with the internal revenue officer with whom the individual is required to file his income tax return.

(4) Such application for extension must show the full amount properly estimated as tax for such taxpayer for such taxable year, and such application must be accompanied by the full remittance of the amount properly estimated as tax which is unpaid as of the date prescribed for the filing of the return.

(5) Upon the timely filing of Form 4868, properly prepared, and accompanied by remittance of the full amount of the estimated unpaid tax liability, the 2-month extension shall be considered as allowed. Except in undue hardship cases, no extension of time for filing an individual income tax return shall be granted under § 1.6081-1 until an individual has properly availed himself of the provisions of this paragraph.

(b) *Special rule for the extension of time for the payment of tax.* Notwithstanding the application of § 1.6081-1(a), any automatic extension of time for filing an individual income tax return granted under paragraph (a) of this section shall not operate to extend the time for the payment of any tax due on such return.

(c) *Termination of automatic extension.* The district director, including the Director of International Operations, or the director of a service center may, in his discretion, terminate at any time an automatic extension by mailing to the taxpayer, or the person who requested such extension for the taxpayer, a notice of termination. The notice shall be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination shall be sufficient for all purposes when mailed to the taxpayer at his address shown on Form 4868 or to the person who requested such extension for the taxpayer at his last known address or last known place of business, even if such person is deceased or is under a legal disability.

[FR Doc. 78-27913 Filed 10-2-78; 8:45 am]

[1505-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 915-3]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Evaporative Emission Regulations for Light-Duty Vehicles and Trucks

Correction

In FR Doc. 78-23788 appearing on page 37970 in the issue of Thursday, August 24, 1978, on page 37973 § *86.081-9(a)(1)(ii)* should read:

"(ii) *Carbon monoxide.* 18 grams per vehicle mile;".

[6560-01]

[FRL 981-3; PP 7E1881/R172]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Malathion

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide malathion on wild rice. The request was submitted by the Interregional Research Project No. 4. This regulation establishes a maximum per-

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missible level for residues of malathion on wild rice.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-2516.

SUPPLEMENTARY INFORMATION: On July 31, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 33264) in response to a pesticide petition (PP 7E1881) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Minnesota. This petition proposed that 40 CFR 180.111 be amended by establishing a tolerance for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) in or on the raw agricultural commodity wild rice at 8 parts per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.111 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before November 2, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on the date of publication in the FEDERAL REGISTER, part 180, subpart C, § 180.111 is amended by alphabetically inserting a tolerance for malathion on wild rice at 8 ppm.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 26, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart C, § 180.111 is amended by alphabetically inserting the tolerance of 8 ppm on wild rice in the table to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

Commodity:	*Parts Per million*
* * * * *	
Rice, wild	8
* * * * *	

[FR Doc. 78-27796 Filed 10-2-78; 8:45 am]

[4310-10]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

PART 14-55—PROCUREMENT OF SERVICES

Special Legal Review and Approval of Personal Service Contracts; Requirements

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes changes to the Interior Procurement Regulations by adding a requirement for special legal review and approval of personal service contracts in the Department of the Interior. This document codifies Department regulations previously contained in temporary regulations.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202-343-5914.

NOTE.—The Department of the Interior has determined that this document does not contain a major rule requiring preparation of an Inflation Impact Statement under Executive Order 11821 or OMB Circular A-107.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, the amendments contained herein are entirely administrative in nature. Therefore, the rulemaking process is waived.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR is amended as stated below.

Dated: September 25, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Subpart 14-1.3—General Policies

1. The Table of Contents for Subpart 14-1.3 is amended by adding a new § 14.1.352-3 to read as follows:

Subpart 14-1.3—General Policies

* * * * *

Sec.
14-1.352-3 Legal approval of personal service contracts.

2. A new § 14-1.352-3 is added and reads as follows:

Subpart 14-1.3—General Policies

* * * * *

§ 14-1.352-3 Legal approval of personal service contracts.

(a) In addition to the legal review requirements of § 14-1.352-2, all personal service contracts shall be approved in writing by the Office of the Solicitor prior to award of contract. For the purposes of this special legal review requirement, personal service contracts are defined as those contracts for services which are customarily or presently performed by Government personnel, including both support and technical services. The categories of service contracts listed under § 14-55.104(a) of this chapter are exempt from the special legal review requirement.

(b) Procuring activities (see § 14-1.205 of this chapter) are encouraged to obtain legal review of proposed personal service contracts as defined in paragraph (a) of this section prior to the issuance of a solicitation. However, that review will not eliminate the requirements for the special legal review and written approval of the Office of the Solicitor prior to award of contract.

Subpart 14-55.1—Contracts for Services

3. The Table of Contents for Subpart 14-55.1 is amended by adding a new § 14-55.105 as follows:

Subpart 14-55.1—Contracts for Services

* * * * *

Sec.
14-55.105 Legal approval of personal service contracts.

4. A New § 14-55.105 is added and reads as follows:

Subpart 14-55.1—Contracts for Services

* * * * *

§ 14-55.105 Legal approval of personal service contracts.

The instructions in § 14-1.352-3 of this chapter concerning special legal review requirements for personal service contracts shall be observed by all procuring activities.

[FR Doc. 78-27921 Filed 10-2-78; 8:45 am]

[4110-07]

Title 45—Public Welfare

CHAPTER II—OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

NEED AND AMOUNT OF ASSISTANCE

Disregard of Receipts From Lands Held in Trust for Indian Tribes as Income and Resources

AGENCY: Social Security Administration, HEW.

ACTION: Final regulations.

SUMMARY: These rules exclude certain receipts distributed to members of Indian tribes from consideration as income or a resource under the Financial Assistance Payments programs. The receipts are derived from certain submarginal lands conveyed to Indian tribes and held in trust by the United States. Exclusion of the receipts will preclude the denial or reduction of financial assistance or other benefits to which tribal members or households would otherwise be entitled under the Social Security Act or any other Federal or federally assisted program. The regulation implements in part, section 6 of Pub. L. 94-114, October 17, 1975.

DATES: This amendment shall be effective October 3, 1978. However, in accordance with the law which these rules reflect, the exclusions are effective October 17, 1975.

Comment period: Although the Notice of Proposed Rulemaking is being dispensed with for the reasons cited in the Supplementary Information section, consideration will be given to any data, views, or arguments pertaining thereto, which are submitted on or before December 4, 1978.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Miss Alice Stewart, Entitlement and Administrative Policy Branch, Office of Family Assistance, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-7477.

SUPPLEMENTARY INFORMATION: Submarginal Indian lands were originally purchased by the United States as part of the general emergency relief measures necessitated by the severe depression of the 1930's and a series of natural disasters. These parcels were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the Act of August 24, 1955 (49 Stat. 750, 781).

Subsequent to these purchases Congress enacted legislation (the Act of July 20, 1956 (70 Stat. 581), the Act of August 2, 1956 (70 Stat. 941), the Act of October 9, 1972 (86 Stat. 795), and section 1 of the Act of October 13, 1972 (86 Stat. 806)), which conveyed in trust for certain Indian tribes some of the parcels which were purchased during the Depression. The accrued income, however, was not generally transferred to the appropriate Indian tribes.

DISCUSSION OF PUB. L. 94-114

Pub. L. 94-114 conveyed the remaining submarginal lands from the United States to the various Indian tribes to be held in trust by the United States and the accrued income of the lands previouly conveyed under acts cited in the prior paragraph.

Section 5(a) of Pub. L. 94-114 provides that receipts derived from property conveyed by Pub. L. 94-114, the Act of July 20, 1956, the Act of August 2, 1956, the Act of October 9, 1972, and section 1 of the Act of October 13, 1972, which were received by the United States subsequent to such acquisition by the United States and prior to conveyance back to the Indian tribes will be deposited to the credit of the Indian tribe receiving such land. Excluded are receipts received prior to the enactment of Pub. L. 94-114 from the leasing of public domain minerals which were subject to the Mineral Leasing Act of 1920 (41 Stat. 437) as amended and supplemented. Section 5(b) provides that receipts derived by the United States subsequent to enactment of Pub. L. 94-114 from any contract, permit, or lease, or otherwise will be deposited to the credit of the Indian tribe receiving such land.

Section 6 of Pub. L. 94-114 further provides that any such receipts distributed to members of Indian tribes shall not be considered income or resources or otherwise utilized as a basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

The disregard (as authorized by Pub. L. 94-114) applies to receipts derived from lands of the following Indian tribes:

Tribe, Reservation, and State

1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin, Bad River, Wisconsin.
2. Blackfeet Tribe, Blackfeet, Montana.
3. Cherokee Nation of Oklahoma, Oklahoma.
4. Cheyenne River Sioux Tribe, Cheyenne River, South Dakota.
5. Crow Creek Sioux Tribe, Crow Creek, South Dakota.
6. Lower Brule Sioux Tribe, Lower Brule, South Dakota.
7. Devil's Lake Sioux Tribe, Fort Totten, North Dakota.
8. Fort Belknap Indian Community, Fort Belknap, Montana.
9. Assiniboine and Sioux Tribes, Fort Peck, Montana.
10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac Courte and Oreilles, Wisconsin.
11. Keweenaw Bay Indian Community, L'Anse, Michigan.
12. Minnesota Chippewa Tribe, White Earth, Minnesota.
13. Navajo Tribe, Navajo, New Mexico.
14. Oglala Sioux Tribe, Pine Ridge, South Dakota.
15. Rosebud Sioux Tribe, Rosebud, South Dakota.
16. Shoshone-Bannock Tribe, Fort Hall, Idaho.
17. Standing Rock Sioux Tribe, Standing Rock, North Dakota and South Dakota.
18. Seminole Indians, Florida.
19. Pueblos of Zia and Jemez, New Mexico.
20. Stockbridge Munsee Indian Community, Wisconsin.
21. Burns Indian Colony, Oregon.

THE FINAL REGULATIONS

The regulations clarify that these receipts will be disregarded as income or a resource in the Financial Assistance Payments programs. Accordingly, § 233.20(a)(4)(ii)(*m*) is being added to reflect the disregard in Pub. L. 94-114.

This amendment to the regulations is being published in final. It is a substantive rule which excludes certain

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receipts as income and resources as required by section 6 of Pub. L. 94-114. This section went into effect on October 17, 1975, and the rules have already been implemented by the Social Security Administration. Consequently, the Secretary finds that it would be unnecessary and impracticable to publish the rules with notice of Proposed Rulemaking.

(Sec. 1, 402, 1002, 1102, 1402, and 1602 of the Social Security Act, 42 U.S.C. 301, 602, 1302, 1352, and sec. 6 of Pub. L. 94-114, 89 Stat. 579.)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance (State Aid).)

Dated: August 16, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Chapter II of Title 45 is renamed to read as set forth above.

Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by adding a new paragraph (a)(4)(ii)(*m*) to § 233.20 to read as set forth below:

§ 233.20 Need and amount of assistance.

* * * * *

(4) *Disregard of income common to OAA, AFDC, AB, APTD, or AABD.*

(i) * * *

(ii) Provide that, in determining eligibility for public assistance and the amount of the assistance payment, the following will be disregarded as income and resources:

* * * * *

(*m*) Effective October 17, 1975, pursuant to section 6 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459e) receipts distributed to members of certain Indian tribes which are referred to in section 5 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459d).

* * * * *

[FR Doc. 78-27332 Filed 10-2-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMSSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected Amdt. No. 5 to S.O. No. 1240]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Corrected Amendment No. 5 to Service Order No. 1240).

SUMMARY: This amendment extends for 5 months an emergency order issued April 9, 1976, which authorized the Chicago and North Western Transportation Co. (CNW) to operate an unused yard of the Kansas City Southern Railway Co. (KCS) at Kansas City, Mo. Increases in traffic on the CNW in the Kansas City area have resulted in severe congestion and delays to shipments in the Kansas City terminals of that line. The adjoining Hennig Street Yard of the KCS is no longer needed by that line because of changes in operating patterns.

Use of this yard by the CNW enables that line to move traffic through Kansas City without the excessive delays previously encountered. Service Order No. 1240 is published in full in volume 41 of the FEDERAL REGISTER at page 15698. Paragraph *Effective date* has been corrected.

DATES: Effective 11:59 p.m., August 31, 1978. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Decided August 29, 1978.

Upon further consideration of Service Order No. 1240 (41 FR 15698,48343; 42 FR 22367, 44546; 43 FR 9282, and 43 FR 39795), and good cause appearing therefor:

It is ordered, § 1033.1240 Service Order No. 1240. (Chicago and North Western Transportation Co. authorized to operate over tracks of the Kansas City Southern Railway Co.) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall * become effective at 11:59 p.m., August 31, 1978.

(49 U.S.C. 1(10-17))

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-27909 Filed 10-2-78; 8:45 am]

[7035-01]

[S.O. No. 1269, Amdt. 3]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Atchison, Topeka & Santa Fe Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order No. 1269).

SUMMARY: The Missouri Pacific's line between Winfield, Kans., and Arkansas City, Kans., has been damaged by flooding and is inoperable. Service Order No. 1269 authorizes the Missouri Pacific to operate over parallel tracks of the Atchison, Topeka & Sante Fe between those points in order to provide continued railroad service to shippers served by the undamaged portions of this line. Service Order No. 1269 is published in full in volume 42 of the FEDERAL REGISTER at page 34883. Amendment No. 3 extends this order for 6 months.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Decided September 27, 1978.

Upon further consideration of Service Order No. 1269 (42 FR 34883, 54294, and 43 FR 14476), and good cause appearing therefor:

It is ordered, § 1033.1269 Service Order No. 1269 Missouri Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka & Santa Fe Railway Co. is amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17))

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-27910 Filed 10-2-78; 8:45 am]

* Correction

[7035-01]

[S. O. No. 1341]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1341.

SUMMARY: The Chicago & North Western Transportation Co.'s line between Lake Crystal, Minn., and Winnebago, Minn., is inoperable because of track conditions and has been placed under embargo. Several shippers located at Winnebago are urgently in need of rail service to ship their products. The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. has agreed to operate over tracks of the Chicago & North Western Transportation Co. in Winnebago in order to serve those shippers. Service Order No. 1341 authorizes operation by the Chicago, Milwaukee, St. Paul & Pacific over tracks of the Chicago & North Western at Winnebago, Minn.

DATES: Effective 12:01 a.m., September 27, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided September 27, 1978.

The line of the Chicago & North Western Transportation Co. (CNW) serving Winnebago, Minn., is inoperable because of track conditions depriving shippers located adjacent to these tracks of essential railroad service. The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milw), connects with the CNW in Winnebago and has consented to operation over the tracks of the CNW in Winnebago. The CNW has consented to this use of its tracks by the Milw.

It is the opinion of the Commission that an emergency exists requiring operation of Milw trains over these tracks of the CNW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1341 Service Order No. 1341.

(a) *Chicago, Milwaukee, St. Paul & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western Transportation Co.* The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milw) is authorized to operate over tracks of the Chicago & North Western Transportation Co. (CNW) at Winnebago, Minn.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Milw over tracks of the CNW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the Milw over the tracks of the CNW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the ultimate findings of the Commission in Dockets 28412 and AB-1 (Sub No. 57).

(e) *Effective date.* This order shall become effective at 12:01 a.m., September 27, 1978.

Expiration date. The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27912 Filed 10-2-78; 8:45 am]

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[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 274 (Sub-No. 2)]

PART 1121—ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

Abandonment of Railroad Lines; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction of regulations.

SUMMARY: This will correct ommissions in the regulations caused by prior erroneous notices in the FEDERAL REGISTER. This rule corrects FR Doc. 77-14047 which appeared at page 25327 in the issue of May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, 202-275-7581.

SUPPLEMENTARY INFORMATION: The Commission amended the abandonment regulations on May 3, 1977. An error was made in the publication of §§ 1121.22(c) and 1121.32(d)(1) in 42 FR 25327 (1977).

1. Section 1121.22(c) was modified to read as follows:

• • • • •

"(C) Republication of category 3 lines, which prior to November 1, 1976, were already set for oral hearing, modified procedure, or for which an order has been issued finding public convenience and necessity not to require compliance with the section."

Section 1121.22(c) should have been modified by adding the previous sentence to the end of the section.

The correct version of § 1121.22(c) should read as follows:

• • • • •

"(C) The Commission shall publish a black and white version of the initial and each amended system diagram map as submitted in accordance with § 1121.20(d) and accompanying line description in the FEDERAL REGISTER. The carrier shall: (i) Publish in a newspaper of general circulation in each county within which is located a line in category 1 through 3 (§ 1121.20(b)(1)-(3)) or a line which has been amended, a notice containing a black-and-white copy of the system diagram map (or a portion of a map clearly depicting its lines in such county) and a description of each such line; (ii) post a copy of the newspaper notice in each agency station or terminal on each line in categories 1 through 3 (§ 1121.20(b)(1)-(3)), or on each line which has been amended, or if there is no agency station on the line, at any station through which business for the line is received or forwarded, and (iii) furnish, at reasonable cost, upon request of any interested person a copy of its color-coded or black and white system diagram map and the publication in the county newspaper shall so indicate. Republication of category 3 lines, which prior to November 1, 1976, were already set for oral hearing, modified procedure, or for which an order has been issued finding public convenience and necessity not to require future continued operation of the line, is not required for compliance with the section."

• • • • •

2. A cross-reference to other sections of the regulation was omitted in § 1121.32(d)(1). The section as printed read:

"(d)(1) Computation of the revenues attributable, avoidable cost, and reasonable return on value for the line to be abandoned for the base year (as defined by § 1121.11(c) and to the extent such branch level data is available), in accordance with the methodology prescribed in § 1121.45, as exhibit 1." This section should have read as follows: "Computation of the revenues attributable, avoidable costs, and reasonable return on value for the line to be abandoned for the base year (as defined by § 1121.11(c) and to the extent such branch level data is available), in accordance with the methodology prescribed in § 1121.41-44, as applicable, and submitted in the form called for in § 1121.45, as exhibit 1."

The cross references which were omitted were modified by a notice published at 43 FR 7624 (1978). Incorporating these cross references into § 1121.32(d)(1) results in the section correctly reading as follows:

• • • • •

"(d)(1) Computation of the revenues attributable, avoidable costs, and reasonable return on value for the line to be abandoned for the base year (as defined by § 1121.11(c) and to the extent such branch level data is available), in accordance with the methodology prescribed in §§ 1121.41-1121.45, as applicable, and submitted in the form called for in § 1121.46, as exhibit 1."

These changes correct omissions in prior publications of this regulation.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-27847 Filed 10-2-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 20—MIGRATORY BIRD HUNTING

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Corrections

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction of final rule.

SUMMARY: This document corrects and/or clarifies season dates and bag and possession limits for late season migratory bird hunting in Pennsylvania, Arkansas, Michigan, Colorado, New Mexico, Arizona, Idaho, Montana (Pacific Flyway portion), Nevada, and Washington, published by the Service on September 21, 1978.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-26459 appearing at page 42960 in the FEDERAL REGISTER of Thursday, September 21, 1978, errors were detected by the Service and are being corrected. Some of these errors are typographical in nature and others result from misunderstanding season selections and/or limits set by States. Since time is of the essence—some seasons open as early as September 30, 1978—the Director found that notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making these corrections effective immediately upon publication so that Federal and State agencies, hunters, and the general public are properly informed.

1. On page 42963, in the table under § 20.104, under Seasons in the Pacific Flyway, the season dates for common snipe in Idaho are in error, presently reading as follows:

Idaho:[3]	
Columbia Basin	Oct. 7 to Jan. 17.
Remainder of State	Oct. 7 to Jan. 14.

The season dates for common snipe in Idaho are corrected to read as follows:

Idaho:[3]	
Columbia Basin	Oct. 7 to Jan. 14.
Remainder of State	Oct. 7 to Jan. 7.

2. On page 42964, in the table under § 20.105(c), under Seasons in the Pacific Flyway, the season dates for gallinules in Idaho are in error, presently reading as follow:

Idaho:	
Columbia Basin	Oct. 7 to Jan. 7.
Remainder of State	Oct. 7 to Jan. 14.

The season dates for gallinules in Idaho are corrected to read as follows:

Idaho:	
Columbia Basin	Oct. 7 to Jan. 14.
Remainder of State	Oct. 7 to Jan. 7.

3. On page 42964, in the table under § 20.105, under Seasons in the Pacific Flyway, the season dates for gallinules in New Mexico are in error, presently reading as follows:

New Mexico[4]	Oct. 31 to Jan. 7.

The season dates for gallinules in New Mexico are corrected to read as follows:

New Mexico[4]	Oct. 7 to Jan. 7.

4. On page 42966, under § 20.105(d), in the table for the Atlantic Flyway, under Pennsylvania, the Canada goose limits for the Southeastern Zone of Pennsylvania are in error, presently reading as follows:

Geese:			
Canada:			
In southeastern zone[11].	Oct. 11 [10] to Dec. 19 and Dec. 26 to Jan. 13.	4	8

The Canada goose limits for the Southeastern Zone of Pennsylvania are corrected to read as follows:

Geese:			
Canada:			
In Southeastern Zone [11].	Oct. 11 [10] to Dec. 19 and Dec. 26 to Jan. 13.	3	6

5. On page 42968, under § 20.105(d), in the table for the Mississippi Flyway, the season dates for white-fronted geese in Arkansas were omitted, the line presently reading as follows:

White-fronted	2	2

The season dates for white-fronted geese in Arkansas are corrected to read as follows:

White-fronted	Nov. 10 to Jan. 18.	2	2

6. On page 42971, under § 20.105(d), footnote 14 for the Mississippi Flyway table is in error, presently reading as follows:

"In Michigan, in the southeastern Canada Goose Management Area—(as described in 1977 Federal regulations and current State regulations)—from Oct. 11 through Nov. 14, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 1 Canada and 2 white-fronted geese; from Nov. 15 through Dec. 9, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada and 2 white-fronted geese.

Footnote 14 for the Mississippi Flyway table is corrected to read as follows:

"In Michigan, in the southeastern Canada Goose Management Area—(as described in 1977 Federal regulations and current State regulations)—the Canada goose season will extend from October 11 through December 9. From October 11 through November 14, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 1 Canada and 2 white-fronted geese; from November 15 through December 9, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada and 2 white-fronted geese.

7. On page 42972, under § 20.105(d), in the second column of Flywaywide Restrictions under the Central Flyway, the 7-line paragraph pertaining to mallards is included in error, reading as follows:

Mallards—No more than 4 mallards of which no more than 1 may be a female may be included in the aggregate daily bag limit on ducks, and no more than 8 mallards of which no more than 2 may be females may be possessed.

The Flywaywide Restrictions under the Central Flyway are corrected by deleting the 7-line paragraph pertaining to mallards.

8. On page 42973, under § 20.105(d), in the table for the Central Flyway, the season dates for ducks in New Mexico are in error, the line presently reading as follows:

New Mexico:		
Ducks..	Oct 21 to Jan. 21	Point system.

The season dates for ducks in New Mexico are correged to read as follows:

Ducks..	Oct 31 to Jan. 21	Point system.

9. On page 42975, under § 20.105(d), for the Pacific Flyway, the first sentence of the last paragraph in column 2 (above the table) is in error, presently reading as follows:

The season dates for mergansers, coots, gallinules and snipe are the same as those for ducks in the following tables. The first sentence of the last paragraph in column 2 (above the table) is corrected to read as follows:

The season dates for mergansers and coots are the same as those for ducks in the following tables.

10. On page 42975, under § 20.105(d), in table for the Pacific Flyway, under Arizona, the limits for dark geese in the Remainder of State are in error, the line presently reading as follows:

Remainder of State	Nov. 9 to Jan. 19...	.....	.....
Including no more than:			
Dark (no more than 2 Canada geese or 3 white-fronted geese in the daily bag and possession limits).			

[10]The limits for dark geese in the Remainder of the State [of Arizona] are corrected to read as follows:

Remainder of State	Nov. 9 to Jan. 19...	.....	.....
Including nor more than:		3	3
Dark (no more than 2 Canada geese or 3 white-fronted geese in the daily bag and possession limits).			

11. On page 42976, under § 20.105(d), in the table for the Pacific Flyway, under Geese in Idaho, the first word of the area description in the 20th line from the bottom is in error, presently reading as follows:

Blain County lying south and	Oct 28 to Dec. 24..	3	6

The first word of the area description in the 20th line from the bottom is corrected to read as follows:

Blaine County lying south and	Oct. 28 to dec. 24..	3	6

12. On page 42977, under § 20.105(d), in the table for the Pacific Flyway, in the Bag and Possession Limits columns, the limits for dark and white geese in Montana are in error, the lines presently reading as follows:

Dark	3	3
White (no more than 1 Ross' goose in the daily bag and possession limits).		

The limits for dark and white geese in Montana are corrected to read as follows:

Dark	2	2
White (no more than 1 Ross' goose in the daily bag and possession limits).	3	3

13. On page 42977, under § 20.105(d), in the table for the Pacific Flyway, under Nevada, that portion of the table pertaining to Geese in the White River Valley in Nye County is in error, presently reading as follows:

White River Valley in Nye County (any species except Aleutian Canada goose).	Dec. 13 to Dec. 24.	1 per season.

That portion of the table pertaining to geese in the White River Valley in Nye County, Nevada, is corrected to read as follows:

White River Valley in Nye County (any species except Aleutian Canada goose).	Dec. 13-Dec. 24.....	.....	.....
Including no more than:	.....	1	1
Dark goose.			
White (including no more than 1 Ross' goose in the daily bag and possession limits).	.....	3	3

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14. On page 42981, under § 20.107(c), the season dates for taking whistling swans in Churchill County, Nevada, are in error, presently reading October 7, 1978, through January 7, 1979.

The season dates for taking whistling swans in Churchill County, Nevada, are corrected to read November 4, 1978, through January 7, 1979.

15. On page 42981, under § 20.109, in the table for the Central Flyway, the portion of the table for Colorado is in error, presently reading as follows:

Colorado:	
Geese	Oct 21 to Nov. 4.

The portion of the table for Colorado is corrected to read as follows:

Colorado:	
Ducks, geese, mergansers and coots.	Oct 21 to Nov. 4.

16. On page 42981, under § 20.109, in the table for the Central Flyway, the North Dakota season was erroneously omitted from the table. The table is corrected by adding the North Dakota season between the last line of seasons under New Mexico ("Sandhill cranes.....Oct. 14 to Jan. 28.[7]) and Oklahoma, as follows:

New Mexico:	
• • • • • •	
Sandhill cranes	Oct. 14 to Jan. 28.[7]
North Dakota:	
Ducks, geese, mergansers and coots.	Sept. 30 to Dec. 3.
Oklahoma	
• • • • • •	

17. On page 42981, under § 20.109, in the table for the Pacific Flyway, the portion of the table for Colorado is in error, presently reading as follows:

Colorado:	
Geese	Oct. 21 to Nov. 3.

That portion of the table for Colorado is corrected to read as follows:

Colorado:	
Ducks, geese, mergansers and coots.	Oct 21 to Nov 3.

18. On page 42981, under § 20.109, in the table for the Pacific Flyway, the portion of the table for Washington is in error, presently reading as follows:

Washington:	
All species of migratory game birds allowed under regular seasons:	
Eastern Washington (area defined elsewhere).	
Western Washington (area defined elsewhere)	Oct 7 to Oct. 13 and Jan. 15 to Jan. 21

The portion of the table for Washington is corrected to read as follows:

Washington:	
All species of migratory game birds allowed under regular seasons:	
Eastern Washington (area defined elsewhere).	Oct. 7 to Oct. 13.
Western Washington (area defined elsewhere).	Oct. 7 to Oct. 13 and Jan. 15 to Jan. 21.

AUTHORSHIP

The primary author of this document is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Dated: September 28, 1978.

ROBERT S. COOK,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27911 Filed 10-2-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

ENERGY CONSERVATION AND FUTURE SERVICE REQUIREMENTS

Proposed REA Bulletin 120-2

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue REA bulletin 120-2, Energy Conservation and Future Service Requirements. This proposed bulletin encourages energy conservation among REA electric cooperative members and establishes a procedure to provide additional information for system planning and for forecasting REA loan fund requirements.

The continuing load growth being experienced by REA borrower systems coupled with the inflationary impact on investments in new electric generation facilities and increasing fuel costs are requiring tremendous new capital outlays for REA-financed systems. Therefore, it is extremely critical that new systems be planned and designed as efficiently as possible.

REA borrows contacts with their consumers, both new and existing, provide an opportunity to discuss energy conservation and gather information on the members' future plans for installation of additional electrical appliances and machinery. This information will be useful to the borrowers for system planning and forecasting future capital requirements. The information provided to REA will assist REA to monitor the energy conservation efforts on a national basis and will be useful to REA in estimating future REA electric loan fund requirements nationally.

DATE: Public comments must be received by REA no later than December 4, 1978.

ADDRESS: Written comments may be submitted to Harlan M. Severson, Assistant to the Administrator, Rural Electrification Administration, Room 4324, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone No. 202-447-4246. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant to the Administrator, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Harlan M. Severson, 202-447-4246.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA bulletin 120-2. A copy of this notice and the proposed bulletin are being mailed to all REA-financed electric distribution systems. Others may secure a copy in person or in writing from REA at the address indicated above.

Dated: September 27, 1978.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc. 78-27866 Filed 10-2-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Special Salvage Timber Sales (SSTS) Set-Aside for Preferential Treatment for Small Business Concerns

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of the special salvage timber sales (SSTS) program is to assist small business logging and manufacturing firms in the forest products industry through the generation and preferential offering of additional U.S. Forest Service (USFS) administered salvage sawtimber sales. The SBA/USFS joint SSTS program is separate and distinct from the existing small business set-aside program involving USFS timber. Initial testing in a limited number of forests in the western United States is intended to start during the fall/winter of 1978. The SBA proposed SSTS size standard and related supplementary information are outlined below. The proposed USFS policy and procedures applicable to the SSTS program will be published as a separate FEDERAL REGISTER item and will reference this lead notification.

DATES: Comments are invited on or before November 2, 1978. Effective date for initiating this test of the SSTS program is November 1, 1978.

ADDRESS COMMENTS TO: John D. Whitmore, Size Standards Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Roland E. Berg, Chief, Property Sales Assistance Division, telephone: 202-653-6078/6079.

SUPPLEMENTARY INFORMATION:

GENERAL

Pursuant to a notice published in the FEDERAL REGISTER on July 19, 1978 (43 FR 31022), the Small Business Administration (SBA) in conjunction with the U.S. Forest Service (USFS) held public meetings on August 8 and 9, 1978, respectively, in Sacramento, Calif., and Portland, Oreg., to obtain information on a proposal to establish a set-aside program for firms with 25 or fewer employees. The program, called the special salvage timber sales (SSTS) program is intended to operate on portions of the additional volumes of salvage generated by the salvage sale fund established by Section 14h of the National Forest Management Act (NFMA). It is anticipated that the salvage fund will permit increases in the volume of salvage sales currently offered by USFS.

The meetings were well attended and various points of views were ably presented. The public was advised that procedures for the proposed test of the SSTS program would be published for the purpose of obtaining any additional written comment. Further, that this proposed test procedure would incorporate, where appropriate, the input received during the aforementioned meetings.

The SBA, in conjunction with the USFS, proposes to test the SSTS program in accordance with procedures enumerated below, which were modified to incorporate comments identified during the August 1978 meetings. It is intended to initiate testing of the proposed procedures as soon as possible after receipt and consideration of comments generated as a result of this proposal.

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INTENT OF THE RULE CHANGE

The SSTS program will require a proposed rule change to 13 CFR Part 121 (Sec. 121.3-9(b)) of chapter I of SBA rules and regulations to provide preferential bidding on special salvage timber sales to insect-infested, dead, damaged or down timber to logging and forest product concerns. The intent of the SSTS program is to expand present timber sale activity to utilize Federal timber now going to waste. The rule change is to be implemented on a test basis initially, is a proposal adding to, and not substituting for, present rules and regulations defining small business concerns for the sale of Government-owned property (timber). The additional definition of small business concerns eligible to purchase small business preferentially treated sales applies only to those U.S. Forest Service Sales designed as special salvage timber sales (SSTS).

PROGRAM GUIDELINES

The special guidelines intended to be followed in the establishment and implementation of a 1-year pilot test of the program are: (a) The applicable SBA size standard definition for eligible concerns is to limit this program to a small business concern that: (1) is primarily engaged in the logging or forest products industry, (2) is independently owned and operated, (3) is not dominant in its field of operation, and (4) together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months; (b) funding for the SSTS program would generally come from the revolving salvage sale account established by the National Forest Management Act of 1976, and that account would not be limited to the SSTS program; (c) "salvage" would be defined as "insect-infested, dead, damaged or down timber" as provided in the National Forest Management Act; (d) in general, the 70/30 rule will apply to the SSTS program. This rule requires that no more than 30 percent of the advertised volume of a given sale may be manufactured by concerns exceeding 500 employees. Exception to the rule will be agreed to by the appropriate SBA area industrial specialist and the USFS representative. The prime basis for exception to the 70/30 rule will be where competition for manufacturing is lacking, competition is considered to exist where there are two or more qualified mills in the market area. The advertised sawtimber volume for SSTS program purchases by nonmanufactures will be accounted for and to be credited to large or small business based on the estimated distribution for manufacturing purposes. The crediting to the appropriate industry size, based on anticipated distribution, insures full compatibility with the small business timber set-aside 6-month period analyses; (e) specific individual sale volume limits will be prescribed but sales of sawtimber will be defined and conducted as follows: (1) Sale period no more than 1 year, (2) sale will involve only minor road construction or other improvements, (3) sale will not include catastrophic damage, (4) relatively small sales to be completed by SSTS defined logger/forest products concerns of average capability in the area, (5) sales will be jointly selected by the appropriate Forest Service and respective SBA representatives and will be comprised of timber normally used by small business in the market area, (6) sales procedures will include self-certification. Appropriate reports will be required to permit monitoring of the program, (7) bidding procedures and other applicable requirements unless otherwise stated above will be in accordance with existing procedures/regulations; (f) the program will be tested in limited number of forests in order to allow flexibility and alterations which may be necessary in the development of specific limits and controls applicable to the new program. Results can be reviewed during and after the prescribed 1 year trial period, and accommodations made; (g) appropriate rule/manual changes will be jointly developed by SBA/USFS to describe the proposed program.

The purpose of the test is to permit detemination of the effectiveness of currently proposed procedures and to make adjustments where necessary. A Forest Service interim directive, outlining the Forest Service procedures applicable to this test program as outlined above, will be publised separately.

COMMENTS RECEIVED AND PROPOSAL CHANGES

The test program outlined above incorporates proposed changes to the program outlined in the July 19, 1978, FEDERAL REGISTER (43 FR 31022). These changes reflect industrywide comment received both during the August 1978 meetings and by mail, and are generalized as follows: (a) The 25-person size standard excludes any reference to contract personnel as desired by many in the logging industry; (b) the national forests elected for the initial test represent an expansion over the proposed two to four national forests initially planned. These test forests are intended to test the SSTS potential with no limit on the number of sales or volume that may be appropriate. This expansion in number of forests again responds to a number of requests generated by members of the logging and forest products industry; (c) the 70/30 rule does not apply where a competitive market is deemed not to exist. This adjustment to the 70/30 rule reflects the comments received from all portions of the forest products industry.

Accordingly, we propose to amend § 121.3-9 by adding new paragraphs as follows:

§ 121.3-9 Definition of small business for sales of Government property.

. . . . . .

(c) Special salvage timber sales. (1) In connection with sale of Government-owned special salvage timber, designated by the USFS as SSTS, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber and, when the special salvage timber being purchased is to be resold, a concern is a small business when: (i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber or, in the case of timber from certain geographical areas set forth in schedule E of this part, more than the percentage established therein for such area. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when: (i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, when the special salvage timber may be disposed of without restriction (when there are less than two qualified mills in the market area) to small or other than small businesses, a concern is a small business when it is a business within the meaning of paragraph (c)(1) of this section.

Dated: September 26, 1978.

PATRICIA M. CLOHERTY,
Deputy Administrator.

[FR Doc. 78-27829 Filed 10-2-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9107]

HARNISCHFEGER CORP., ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Brookfield, Wis. manufacturer of lattice-boom cranes and the Northwest Engineering Co., a Green Bay, Wis. competitor, to provide the FTC with evidence that all merger agreements between them have been terminated, and return all confidential documents exchanged during negotiations. The order would prohibit the firms from acquiring any part of each other's lattice-boom business until July 31, 1981, without furnishing the Commission with 60-days notice of such intention. Should the Commission issue a complaint challenging the transaction during this period, the firms would be required to postpone the proposed merger or acquisition until administrative proceedings were concluded.

DATE: Comments must be received on or before November 30, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f), of the Commission's Rules of Practice (16 CFR § 3.25(f)) notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Harnischfeger Corp., a corporation, and Northwest Engineering Co., a corporation.

This agreement herein, by and among Harnischfeger Corp., a corporation, by its duly authorized officer, Northwest Engineering Co., a corporation, by its duly authorized officer, hereinafter sometimes referred to collectively as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedure. In accordance therewith the parties hereby agree that:

1. Respondent Harnischfeger Corp. (hereinafter Harnischfeger) is a corporation existing and doing business under and by virtue of the law of the State of Delaware, with its principal place of business at 13400 Bishops Lane, Brookfield, Wis.

2. Respondent Northwest Engineering Co. (hereinafter Northwest) is a corporation existing and doing business under and by virtue of the law of the State of Delaware, with its principal place of business at 201 West Walnut Street, Green Bay, Wis.

3. Respondents have been served with the complaint issued by the Federal Trade Commission on March 13, 1978 charging them with violation of section 5 of the Federal Trade Commission Act and section 7 of the Clayton Act.

4. Respondents admit all jurisdictional facts set forth in the Commission's complaint in this proceeding.

5. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

6. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may con-

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sider appropriate, or issue and serve its decision in disposition of the proceeding. The Commission may at any time pending issuance of this order require hearings on the relief requirements provided by this order.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the Commission's complaint in this proceeding.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

9. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued they will be required to file one or more compliance reports showing that they have fully complied with the order and that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order the following definition shall apply:

"Lattice-boom cranes" means cranes mounted either on crawlers or rubber-tired vehicles powered by one or more engines, the boom hoists of which are carried out by wire rope, and which are generally operated by a conventional gear train controlled by brakes and clutches.

I.

It is ordered, That Harnischfeger Corp. (Harnischfeger) and Northwest Engineering Co. (Northwest) do forthwith provide evidence that all agreements which provided for the merger of a newly formed subsidiary of Harnischfeger into Northwest and which would result in Northwest becoming a wholly-owned subsidiary of Harnischfeger have been terminated. Harnischfeger and Northwest each shall forthwith return any confidential documents provided by the other in connection with the merger agreement, and nothing herein contained shall relieve any party from any obligations of confidentiality imposed by agreement between them or by operation of law.

II.

It is further ordered, That until July 31, 1981 neither Harnischfeger nor Northwest shall acquire either directly or indirectly any part of the lattice boom crane business of each other, whether represented by securities or assets, until sixty (60) days following receipt by the Director of the Bureau of Competition of the Federal Trade Commission of written notice of the proposed acquisition or merger, which notice shall specifically refer to this order. If within sixty (60) days of receipt by the Director of said notice the Commission issues an administrative complaint challenging the proposed acquisition or merger, such proposed acquisition or merger shall not be consummated, nor shall any steps be taken to effectuate such proposed acquisition or merger until the administrative complaint issued by the Commission is dismissed by the Commission, until a final order as defined in 15 U.S.C. §§ 21 and 45 is entered, or until a consent order is entered and served upon the respondents in that administrative proceeding. If within the aforesaid sixty (60) days the Bureau of Competition receives any written position papers from either Harnischfeger or Northwest and the Bureau recommends issuance of a complaint, the Bureau shall promptly forward to the Commission such papers together with the written notice submitted to the Bureau Director. In the event that within sixty (60) days of the Director's receipt of said notice the Commission issues an administrative complaint challenging the proposed acquisition or merger, the Bureau of Competition shall exert its best efforts to complete the administrative proceeding in an expedited manner.

The execution of a contract between Harnischfeger and an independent distributor or dealer who also is, or formerly was, a distributor or dealer for Northwest shall not be deemed the acquisition of any part of the lattice boom crane business of Northwest under this paragraph, and the execution of a contract between Northwest and an independent distributor or dealer who also is, or formerly was, a distributor or dealer for Harnischfeger shall not be deemed the acquisition of any part of the lattice boom crane business of Harnischfeger under this paragraph, except that Harnischfeger and Northwest shall not jointly execute a contract between them and an independent distributor or dealer.

III.

It is further ordered, That until July 31, 1981 the total sales for each quarterly period or portion thereof based on a calendar year, between Harnischfeger and Northwest shall not account, either directly or indirectly, for an amount equivalent to 4 percent or more of Northwest's total sales for the previous fiscal year. Sales as used herein means the dollar value of total product and part shipments and shall be accounted for as of the date of shipment.

IV.

It is further ordered, That Harnischfeger and Northwest each shall notify the Commission at least thirty (30) days prior to any proposed corporate change such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance arising out of this order.

V.

It is further ordered. That Harnischfeger and Northwest each shall within sixty (60) days after service upon it of this order file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order. Thereafter, on or before August 15, 1979 and annually thereafter until August 15, 1981, each shall file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order for the immediately preceeding consecutive 12 month period ending on July 31st. The fact that any activity is not prohibited by this order shall not bar a challenge to it by the United States Government, any agency thereof or any person.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-27873 Filed 10-2-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Chapter I]

[Docket No. RM78-12]

INCENTIVE RATE OF RETURN FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Revised Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) hereby gives notice of a revised proposal to establish certain terms and conditions to the conditional certificates of public convenience and necessity previously issued in the Alaska Natural Gas Transportation System proceedings (Docket Nos. CP78-123, CP78-124, and CP78-125). The proposed terms and conditions would establish an incentive rate of return on equity to reward the applicants for final certificates for project completion under budgeted cost and penalize them for project completion over budgeted cost.

DATE: Written comments by October 6, 1978.

ADDRESS: All filings should reference Docket No. RM78-12 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-3827.

U.S. FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon; Matthew Holden; and George R. Hall.

Incentive Rate of Return for The Alaska Natural Gas Transportation System—Docket No. RM78-12.

REVISED NOTICE OF PROPOSED RULEMAKING

(Issued Sept. 15, 1978)

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), the Natural Gas Act, sections 4, 5, 7, and 16 (15 U.S.C. 717c, 717d, 717f, and 717o), and the Alaska Natural Gas Transportation Act, section 9 (15 U.S.C. 719g), that the Federal Energy Regulatory Commission (Commission) is considering the adoption of revised terms and conditions concerning an incentive rate of return (IROR) on equity for the certificates of public convenience and necessity for the Alaska Natural Gas Transportation System (ANGTS). Conditional certificates were issued by the Commission on December 16, 1977, *Alcan Pipeline Company, et al.,* Docket No. CP78-123, CP78-124, and CP78-125).

On May 8, 1978, in a notice of proposed rulemaking, the Commission announced that it is considering the adoption of terms and conditions concerning an IROR on equity for the certificates of public convenience and necessity for the ANGTS.[1] In this notice, the Commission invited interested parties to submit written comments on the proposed rule by May 31, 1978. By notice issued May 26, this comment period was extended to June 14, 1978. Parties were also allowed to file reply comments by June 23, 1978. Though some of these comments were received after the extension period, the Commission has considered all of the comments in revising the terms and conditions first proposed in the May 8 notice.

The Commission will entertain further comments from interested parties on the revised terms and conditions presented herein. An abbreviated comment period is provided, for the Commission intends expeditious adoption of the proposed rule.

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[1] 43 FR 20245-20246 (May 11, 1978).

I. INTRODUCTION

The Commission received 24 comments on the proposed rulemaking from interested parties. Two comments were received from the Commission staff: One from the Office of Regulatory Analysis and another from the Office of Pipeline and Producer Regulation.

Three State governments or regulatory agencies filed comments: The State of Alaska, the State of California and the Public Utilities Commission of the State of California, and the Public Service Commission of the State of New York.

Three comments were received from companies that have applied for certificates to build and operate a segment of the ANGTS: Alaskan Northwest Natural Gas Transportation Co., Northern Border Pipeline Co., and Pacific Gas Transmission Co. and Pacific Interstate Transmission Co.

Twelve comments were received from other interstate natural gas pipeline companies: Columbia Gas Transmission Corp., Michigan Wisconsin Pipeline Co., Northern Natural Gas Co., Natural Gas Pipeline Co., Northwest Pipeline Co., Panhandle Eastern Pipe Line Co., Texas Gas Transmission Corp., Tennessee Gas Pipeline Co. and Midwestern Gas Transmission Co., Transcontinental Gas Pipe Line Co., Texas Eastern Transmission Corp. and Trans-Western Pipeline Co., Texas Gas Transmission Corp., and United Gas Pipe Line Co.

Four comments were received from other interested parties: The American Gas Association, the Southern California Edison Co., the Upper Tanana Development Corp., and the Williams Bro. Engineering Co.

Having evaluated these comments, the Commission issues this revised notice in order to incorporate improvements suggested by valid criticisms and to respond to criticisms with

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which the Commission does not agree. In addition, this revision includes further discussion of the concept and design of the IROR, in order to clarify the IROR proposal and to establish a common conceptual ground for further comment.

The revised proposal includes five changes to the terms and conditions originally proposed in the May 8 notice:

1. Certain concepts have been restated to make them more readily understood.

2. The method of adjusting for inflation in determining the cost performance ratio has been altered to more equitably remove the effects of inflation from the workings of the IROR.

3. The condition listing certain changes in scope for the project has been deleted. The subject of changes in the scope is a matter of utmost importance but will require further time to resolve; therefore the Commission will consider it in a separate rulemaking to be initiated as soon as appropriate staff work and studies have been completed.

4. The one-time adjustment to the rate base will be calculated so as to account for the entire difference between the incentive rate of return and the equity rate that would be earned on a pipeline of comparable operating risk.

5. Application of the IROR concept to the Western Leg has been dropped.

In addition to these changes in terms and conditions, this notice of proposed rulemaking invites comment on a revised IROR schedule which the Commission believes to be more realistic than those examples set forth in the previous notice. The actual values that will apply, as well as the permissible rates of return based thereon, of course, must be evaluated and determined in an evidentiary proceeding.

The construction of the example is also based on the assumptions that (1) the final cost estimates filed with the Commission, after adjustment for inflation and changes in pipeline design and routing, will not differ significantly from those submitted in March 1977, and (2) the separate change of scope rulemaking will not significantly reduce the risk borne by the project sponsors. Any changes in that risk must lead to corresponding changes in the allowed compensation for bearing such risk.

II. THE INCENTIVE RATE OF RETURN CONCEPT

A. *Purpose of an incentive rate of return*

The President's *Decision* on the Alaska Natural Gas Transportation System mandates the use of an incentive rate of return (IROR) to deter cost overruns during the construction of this project.

The traditional tool for cost control in pipeline construction has been regulatory oversight, with the attendant threat of disallowing any investment imprudently incurred during construction. Such a regulatory approach, however, is a blunt instrument that is effective only to counteract extreme cases of management's lack of foresight or diligence. Before any costs may be disallowed from the rate base they must be shown to have been imprudently incurred, which implies that only those costs attributable to patently unreasonable management action may be disallowed.

A regulated utility has an economic incentive to increase its return by expanding its rate base and the negative incentive to avoid disallowance of imprudently incurred costs.[2] Better cost-control awareness should be obtained by providing as an incentive for the utility the reward of a greater return. This sort of incentive operates for competitive industries but is generally absent under conventional utility regulation.

The economic impetus toward cost control will be achieved by tying the allowed rate of return to the degree of cost overrun experienced on the project: superior cost control will be rewarded with a higher rate of return. The IROR is designed to complement the disallowance of costs mechanism by offering economic rewards for holding down all costs. Thus, project managers will be rewarded for eliminating costs which are avoidable, even though the costs, if incurred, would later have been classified as "prudent." Without IROR, all prudent costs would simply be included in the rate base, and there would be only the most general impetus to attain superior cost control. With the economic incentives embodied in the IROR, the project sponsors will find it in their own interest to seek out and use opportunities to reduce any construction costs that could be reduced. Project managers are in a much better position to detect such opportunities than is the Commission, and the degree of regulatory oversight can be scaled down.[3]

Under the conventional regulation approach, consumers are forced to bear all the costs of overruns, since increased costs may be required to be added to the rate base. Under the IROR policy, however, the burden of cost overruns will be distributed between consumers and equity investors. Investors, the group to which management must answer, will benefit from superior cost-control results. Also, the consumer interest will be served by assurance that there is a sharing of the risks of cost overruns.

In sum, the IROR should lead to savings in construction costs, which will be divided between lower costs to consumers and higher returns to investors as a reward for cost control. Thus, the ultimate effect of applying IROR to hold down costs will be to provide lowercost gas to consumers and just and reasonable returns to investors.

To reach this goal, the Commission proposes to incorporate the following principles for designing the IROR, each of which is discussed more fully in later sections:

(1) The IROR must provide incentives to reward cost control performance and avoid or minimize cost overruns.

(2) The IROR must provide just and reasonable compensation for investors, in order that sufficient capital may be attracted to finance the project.

(3) The cost to consumers should be lower where cost overruns have been minimized and investors have been awarded an incentive return.

B. *Establishing an incentive rate of return schedule*

The Commission, in the rulemaking here proposed, will design the IROR schedule so as to accomplish the goals of the rulemaking. The design consists quite simply of attaching a separate rate of return to each level of cost control performance. Careful consideration is required in order to design an effective schedule that will yield the desired effect.

1. *Benchmark rates of return and risk premiums.* As a starting point for setting the IROR schedule, certain rates of return can be used as benchmarks. These benchmark rates of return are specifically linked to the various types of unusual risk facing this project.

a. *Operation phase rate.* This is the rate of return to be allowed on the adjusted rate base. It is a starting point for determining the actual incentive rate that will be allowed. This rate should be the rate allowed on pipelines of similar operating risk without allowance for any special construction and completion risks of the Alaska pipeline. (These risks are compensated for with the nonincentive rate, described below.)

b. *Nonincentive rate.*[4] This rate is arrived at after evaluating the special risks inherent in the Alaska project. It equals the sum of the operation phase rate and a project risk premium for those construction and completion risks unique to the Alaska pipeline project. This rate, which does not account for the IROR risk, is the rate which would be granted after conventional regulatory proceedings.

c. *Center rate.* The center rate includes compensation for all risks associated with the project. Specifically, it reflects the operation phase rate, the project risk premium, and the IROR risk premium. (The center rate is equivalent to the nonincentive rate plus the IROR risk premium.) The IROR risk premium is to compensate investors for the risk introduced by the variability in the allowed rate of return implied by adoption of IROR. The center rate will be earned if actual project costs equal the forecasted level of cost overruns, after adjustment for inflation and changes in scope (the subject of a separate proceeding).

In establishing these benchmark rates of return, the Commission's primary consideration will be to determine the just compensation for bearing the risks of this project. These risks are affected by (among other factors):

The type of cost-of-service tariff to be granted for this project;

The beneficial effect on marketability of the Alaskan gas if its cost is rolled in with the cost of other gas;

The unusual construction and noncompletion risks faced by this pipeline;

The financial plan and final capital structure developed by the project sponsors;

The variability in allowed rates of return imposed by the IROR; and

The degree of flexibility allowed in adjusting estimated costs.

2. *Cost performance ratio.*[5] The cost performance ratio is an index of the degree of cost overruns or underruns. It is simply the ratio of actual construction costs, including an allowance for funds used during construction (adjusted for inflation), divided by estimated construction costs (adjusted for any changes in scope): Cost performance ratio equals actual costs divided by estimated costs equals deflated actual rate base divided by projected rate base.

In the proposal, this is the ratio between the deflated actual rate base and the projected rate base as defined in the conditions below. The deflated actual rate base is derived from the actual construction costs and schedule according to standard procedures followed by all pipelines, and includes the allowance for funds used during construction (AFUDC). The projected rate base is the rate base derived from the final cost and schedule estimates submitted by the applicants.

The IROR schedule relates a rate of return to each cost performance ratio. As the ratio increases, signifying overruns, the associated rate of return decreases.

3. *The marginal rate of return.*—a. *The concept of the marginal rate.* Any schedule relating increased costs to the allowed rate of return on equity established by this Commission (the IROR schedule) will imply or define at least one marginal rate of return. This Commission must consider that marginal rate in order to determine the cost-control incentive created by the schedule. Similarly, equity investors or project sponsors must consider the implicit marginal rate in order to determine the rewards available to them for holding down cost overruns. The relationship of the marginal rate to the investors' cost of capital determines the amount of effort that is economically justified to avoid cost overruns.

The marginal return is the return on the incremental dollors invested to move from cost performance ratio to another. To illustrate:

Cost Ratio and Allowed ROR

1.2—17.8 percent.
1.3—17.0 percent.
1.4—16.4 percent.

Assume that the ratio of 1.3 has already been reached shortly before project completion. Then, in order to complete the project, more funds must be invested and a ratio of 1.4 must be reached. If the project had been completed at 1.3 (30 percent overrun), the allowed ROR would have been 17.0 percent. Since the project may actually be completed at 1.4 (40 percent overrun), the allowed ROR on all equity is decreased to 16.4 percent. Given these rates of return, it follows that the actual return earned on the additional dollars invested to move from 1.3 to 1.4 (regarded as $1.3 and $1.4 million, the incremental investment is then $0.1 million) is 8 percent. This results from the following calculation:

(earnings at 1.4)−(earnings at 1.3)/increase in rate base-(1.4)(.1636)−(1.3)(.17)/1.4−1.3-0.08-8 percent marginal return.

Once again, the rate of return on the additional $0.1 million is 8.0 percent even though the rate of return on the entire $1.4 million is 16.4 percent.

b. *The importance of the marginal rate.* The investors seek to invest funds so as to earn a rate of return higher than the cost of the capital. If capital costs more than an investment earns, then that investment will not be made.

An investor's profits will be maximized only when each unit of capital invested is itself as profitable as possible. The project sponsors plan to assemble a pool of capital large enough to finance any degree of cost overrun which has a substantial probability. A marginal rate below the cost of capital will give the project sponsors an extra incentive to avoid having to finance the overrun in order to insure that parts of that pool will be available for future projects whenever possible.

Under IROR, an investor faced with the prospect of financing cost overruns will examine the return on his investment of the additional unit of capital necessary to pay for the overrun. If he finds that return to be lower than his cost of capital, he will strive to avoid having to undertake the investment which the overrun requires.

The marginal rate must be set below investor's cost of capital if the IROR is to offer rewards for reducing overruns. If the marginal rate were above the cost of capital, then overruns might be attractive equity investments, and the IROR would have failed its primary purpose.

The marginal rate, and thus the degree of incentive, can be set independectly of the center rate. An IROR schedule can maintain the same incentive to control costs, even though the overall level of compensation in the schedule might be moved up or down.

Since the calculation of the cost performances ratio includes the AFUDC, a low marginal rate also provides incentives for avoiding construction delays. If construction is delayed, the AFUDC account grows. This raises the deflated actual rate base and the cost performance ratio, with a corresponding decline in the allowed rate of return. Therefore, meeting the construction schedule will avoid penalties in much the same way as does reducing cost overruns.

4. *The center point.* One of the cost performance ratios must be chosen as the starting point for constructing the IROR schedule. Once that point has been assigned a rate of return, and the marginal rate has been chosen, the entire schedule can be determined.

The center point is that cost performance ratio which is associated with the center rate of return. Ratios above the center point will yield rates of return below the center rate. Ratios

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[2] The Commission recognizes that additional incentives to control cost of service on this project are created by the sponsors' interest in insuring marketability for the delivered gas.

[3] We further note that the IROR concept is useful when a selection must be made among competing applications and where the relative ability to control costs is a material factor in the selection. IROR rewards the successful applicant if its performance matches its projections.

[4] In the May 8, 1978, notice, the nonincentive rate was referred to as the "normal rate

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of return." This was meant to signify the rate which would have been determined in normal regulatory proceedings if the IROR were not being applied. The "normal rate" was widely misunderstood to be the rate earned on normal pipeline operations. Thus, for clarity, the rate of return referred to in the May 8 notice as the "normal rate of return" will henceforth be called the "nonincentive rate."

[5] For purposes of determining cost performance ratios, the term "rate base" is used to refer to capital or investment costs and is not intended to refer to rate base in the conventional sense.

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below the center point will be rewarded as underruns, with rates of return greater than the center rate.

In order for the center rate to be perceived by investors as adequate compensation for risk, it should be the rate of return that they can realistically expect their investment to yield. As a result, the center point should be set at the most likely cost performance ratio. Then, if the final costs are at the expected levels, the center rate will be earned.

C. *One-time adjustment to the rate base*

In order to facilitate analysis and exposition of the subject, the discussion has up to this point been based on the premise that the incentive rate of return would apply to actual construction costs; that is, a varying rate of return would be used as the incentive mechanism.

The proposed rulemaking accomplishes an equivalent result by adjusting the rate base and allowing the operation phase rate on the adjusted rate base. The present value of the revenues provided by application of the operation phase rate to the adjusted rate base would equal the present value of the revenues provided by application of the allowed incentive rate of return to the actual rate base.[6]

The procedure for determining the one-time adjustment is: (1) Project the equity portion of depreciation and the after-tax return on equity over the life of the pipeline, based on the incentive rate and the conventional rate base; (2) calculate the present value of this stream of income, using the operating phase rate as the discount rate; and (3) replace the existing equity investment in the pipeline at the time of startup with this present value total.[7]

This one-time adjustment procedure does not change the present value of the project's revenue stream, as compared to the incentive rate of return. Because of this, the one-time adjustment methodology should yield the same result as varying the rate of return during operation.

The Commission, however, selects the one-time adjustment for two reasons. First, it will simplify future determinations of a just and reasonable rate of return for the pipeline. As financial conditions change over the next three or four decades, the rates of return allowed for all pipelines will vary. Under the one-time adjustment to the rate base herein adopted, the future determination of rates of return for the ANGTS can be made without having to consider the IROR mechanism or any penalties or premiums that were awarded for performance during the construction phase of the project. The one-time adjustment will continue to reflect those premiums, so that future rate of return determinations need only consider then-current conditions, not past events.

The second reason is that failure to adopt the one-time adjustment would complicate future financing for expansions or loopings of the Alaskan gas project. Certainly the risks of participation in the project now are materially different from those to be associated with investments made years later on expansions of the system.[8] Without the one-time adjustment, a separate rate of return and a separate rate base would have to be established for an expansion or looping. Additionally performance in controlling costs in constructing the initial system should not prejudice additions to, or expansions of, that system.

III. SUMMARY AND EVALUATION OF COMMENTS ON THE MAY 8, 1978, NOTICE

One of the Commission's purposes in issuing this revised notice is to reduce the confusion surrounding the IROR concept which was apparently caused by the May 8 notice. To that end, the preceding section was intended to clarify the concept, design, and operation of an IROR mechanism.

This section specifically addresses many of the comments filed in response to the May 8 notice. All comments were carefully considered. Some contained valid criticisms and suggestions. The Commission incorporated these in its revised proposal.

A. *Applicability of the IROR*

1. *Proposals to completely abandon IROR.* Several of the comments on the proposed rulemaking of May 8, 1978, advocate outright abandonment of the entire IROR concept. The major arguments are (a) that the Commission is not legally required to employ IROR, and (b) that other, existing cost-control devices are adequate.

The second argument has been addressed in section I of this notice. As for the first argument, the legal requirement on the Commission to establish some type of incentive mechanism stems both from the Agreement on Principles with Canada (Agreement) and from the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (*Decision*).

The Agreement governs the two countries' plans to implement the joint project and was made a part of the President's *Decision*. The *Decision* gained the force of law when it was approved on November 2, 1977, by joint resolution of the Congress.[9]

Section 4(b) of the Agreement states: [10]

> • • • the return on the equity investment in the Pipeline will be based on a variable rate of return for each company owning a segment of the Pipeline, designed to provide inventives to avoid cost overruns and to minimize costs consistent with sound pipeline management.

The "Pipeline" referred to in this passage is defined in annex I to the agreement. It includes all segments of the project other than those in the lower 48 states. Thus, the agreement, through its inclusion in the *Decision* and its subsequent approval by Congress and by the Government of Canada, requires the application of some type of incentive system to the Alaskan and Canadian portions of the project.

In addition, the terms and conditions of the *Decision* (sec. 5) could be read as requiring the application of some type of incentive system to the entire project, as spelled out in the following passage: [11]

> If the direct capital cost estimates • • • for the overall project • • • materially and unreasonably exceed the comparable capital cost estimates filed by Alcan • • • on March 8, 1977, • • • the FPC may not issue a certificate for the project. If these final capital cost estimates are not excessive under the above standard, the FPC *may* use these final estimates for the U.S. segments as the basis for fixing a variable rate of return on equity that will reward the applicant for project completion under budgeted cost and penalize the applicant for project completion above budgeted cost. The variable rate of return shall be set to provide substantial incentives to construct the project without incurrent overruns. [Footnotes omitted.] [Emphasis added.]

Various comments argued that the term "may" in this section of the *Decision* gave the Commission flexibility in choosing whether to impose an inventive mechanism. Such an interpretation, however, is inconsistent with the entire theme and purpose of the President's *Decision*. The proper interpretation is that the Commission must fix an incentive system for the project but may use the final capital cost estimates filed with the Commission prior to certification as the basis for that system. In other words, the *Decision* allows the Commission to select the basis for the mechanism, but requires that a mechanism be imposed. Further, since section 5 specifies terms and conditions for the entire project, we deem the Commission to be required by the *Decision* to assure that some type of incentive mechanism exists on all segments of the ANGTS.

The reason that the *Decision* requires imposition of an incentive mechanism to control costs is to protect the consumer and also to facilitate private financing of the project. The President in the *Report* left the implementation of such a mechanism to the Commission, with instructions "to balance the economic incentive with administrative feasibility." [12] While the President spoke in general terms of a variable rate of return, therefore, the Commission was at the same time given sufficient discretion in implementing the incentive mechanism to avoid a result which is not in the public interest. As discussed below in section IV. C, the Commission, after balancing economic incentive against administrative feasibility, believes that application of the IROR to the western leg segment of ANGTS is neither appropriate nor mandated.

2. *Application to segments in the lower 48 States.* A number of the comments argued that it is unnecessary to apply the IROR mechanism to segments of the ANGTS in the lower 48 states, because the potential for cost overruns on these segments is much less than in Alaska.

It has already been shown that the *Decision* requires the existence of some type of incentive system to the entire project. Even if it were not a legal requirement, however, it would be in the public interest to apply the IROR mechanism to the Alaskan and northern border segments of the ANGTS. The need for economic incentives throughout regulated industries was explained in the Introduction, and the need for such incentives to reduce costs on the lower 48 segments is just as real as on the Alaskan and Canadian portions of the project.

The difference between the Arctic segments and the conventional segments is in the degree of certainty in cost estimates. It is more difficult to predict Arctic construction costs than to predict the costs of conventional construction. Consequently, even though nonoverrun incentives may be the same, higher overruns may be incurred on the Arctic segments. It does not therefore follow, however, that cost-control incentives are not needed on the conventional construction segments. All of the reasons for applying some type of incentive system to the Arctic segments are equally valid for the conventional construction segments.

Some comments asserted that there are major practical problems in trying to apply an IROR mechanism to the western leg, because it will be part of existing operating systems and would not be project financed. Slightly different procedures would be needed for the western leg, but there appear to be no insurmountable problems in developing these procedures.[13] The commission has decided not to apply IROR as herein described to the western leg, however, because the net effect of doing so would be to increase costs to consumers. On the assumption that the financing plan for the Western Leg, which was presented to the President and made part of the report accompanying his *Decision*, is the one which is utilized, we believe that other, existing incentives to reduce construction costs are adequate for this segment of the system. (See sec. IV. C.)

Another problem mentioned in the comments is that parts of the lower 48 segments might be built in advance of the Alaska segment in order to carry Canadian gas.[14] Even so, we propose to apply the IROR mechanism to the northern border facilities. These facilities are part of the ANGTS, and thus application of some type of incentive mechanism is required by the *Decision*.

3. *Designing different IROR schedules for different segments.* Both the Office of Regulatory Analysis and the Office of Pipeline and Producer Regulation argued that different IROR schedules would be appropriate for each segment of the project. Their comments made two points:

(a) A major consideration in designing the IROR schedule is risk compensation. The investors must be adequately rewarded for bearing the risks of noncompletion, as well as the risks that severe overruns will lead to lower rates of return through the operation of the IROR. These risks differ among the segments of the project, and the associated risk premiums awarded to investors should therefore correspond to the actual risks of each segment.

(b) The differences in the probable severity of cost overruns may imply that different incentives should be used for each segment: Where overruns are easy to avoid, a weaker incentive may be adequate.

Both these points argue for the design of separate IROR schedules for the different project segments. The Commission agrees with the first argument and will consider setting different values for the center rate and the center point for each segment to compensate for differences in risk. As to the second argument, however, the Commission at this time sees no reason to believe that the difficulty of searching out and implementing opportunities to reduce costs will vary between segments.

4. *Exempting certain equity funds from IROR.* The State of Alaska argued in its comments that the holders of convertible debentures would have no control over cost overruns, yet would be subject to the established incentive rate of return upon conversion of the debt to equity. Thus, certain investors could be penalized for behavior over which they claim to have no control.

It seems unlikely, however, that holders of convertible debt will have no control over costs. It will be in their interest to insure cost reduction, and the negotiation of their indenture agreement should allow them an opportunity to exert their influence over cost control procedures. Furthermore, the administrative problems involved in exempting certain equity funds from the incentive rate may be significant, especially if the operation phase rate is changed in the future.

B. *Effect of IROR on project financing*

1. *Project feasibility.* Alaskan Northwest, in its comments filed June 13, 1978, claims that the IROR mechanism will prevent private financing of the project. It then offers an alternative which it terms acceptable. The alternative, however, is identical in concept to the IROR mechanism contained in this draft revision. It cannot be the company's argument, therefore, that the general idea of IROR could

[6] In the notice of May 8, the Commission proposed a one-time adjustment to the rate base upon commissioning or startup of pipeline operations. This adjustment would have been equivalent in present value to the difference between the incentive rate (determined by the degree of cost control measured by the cost performance ratio) and the nonincentive rate of return. In this notice, we instead propose to make a one-time adjustment equivalent to the difference between the incentive rate and the operation phase rate. In this way, all of the unusual risks faced during the construction period (including risk due to IROR) will be compensated for by the one-time adjustment. Future rate of return determinations will then be based on consideration of the operating risks only.

[7] Some of the comments argue that uncertainties about the future operation of the pipeline will make the present value of the return of equity and the return to equity uncertain and thus make the precise size of the one-time adjustment uncertain. The Commission agrees that is is impossible to predict with certainty such things as throughput, tax rates, operation costs, or ultimate capacity. The type of cost-of-service tariff that this Commission is likely to approve will provide a high degree of certainty as to the return of equity and the return to equity over the life of the project, once the size of the equity investment and the allowed rate of return are fixed.

[8] The project sponsors have already provided some recognition of the changing nature of project risks as the project progresses with the discount schedule for late entry which was made part of their partnership agreement. The Commission endorsed that concept in approving the relevant portion of the partnership agreement by order of June 30, 1978, in docket No. CP78-123 (at pp. 7-11), and seeks to reinforce it with the rate base adjustment methodology.

[9] Act of November 8, 1977, Pub. L. 95-158, 91 Stat. 1268 (1977).

[10] *Decision*, p. 51.

[11] *Decision*, p. 36.

[12] *Report*, p. 123.

[13] In some respects it is less complicated to apply the IROR mechanism to conventional lower 48 pipelines. Because the construction technology and pipeline design are more familiar, there are fewer uncertainties in the cost estimates. Thus, the problem of changes in scope or changes in cost beyond the sponsor' control is reduced.

[14] A conditional import authorization was issued on June 7, 1978. *Northwest Alaskan Pipeline Co.*, Docket Nos. CP78-123, et al.

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prevent financing. Rather, it must be protesting the details and parameter values contained in the first notice.

The IROR schedule is designed so that investors will reject the project only if they anticipate overruns so high that the project would no longer be in the public interest.[15] At all lower levels of anticipated overruns, however, the allowed rate of return will be high enough to attract investors to the project.

In order to insure capital attraction, the Commission will build into the IROR schedule two important features:

(a) A risk premium to compensate investors for the special risks imposed by the IROR wil be included in the center rate. This premium will be in addition to the compensation for the risks due to construction and operation. It will be designed to compensate investors for the fact that the IROR imposes variability on their possible returns.

(b) The IROR schedule will be designed so that rates of return below those of other investments will result only if cost overruns reach an unacceptably high level.[16] If potential investors reject the project because of the risk that the IROR mechanism will produce a low return, it will be because they place a higher probability on large cost overruns than does this Commission.

In addition to providing rates of return adequate to compensate for the risks of this project, the IROR will provide return rewards for controlling costs. This feature should be looked upon favorably by investors.

Prior to final certification, the sponsors will be required to show that they have obtained debt and equity capital sufficient to complete construction, even in the event of cost overruns. To secure such commitments, the capital suppliers wil have to be convinced that the project is economically feasible and that adequate cost-control provisions have been made to limit cost overruns. To that end, an IROR plan will be supportive of the capital market's demand for cost-control assurance.

Committments of capital should also be promoted by Commission actions designed to enhance the economic feasibility of the project. At an early stage of the proceedings before the FPC, it was generally agreed that a cost-of-service tariff and rolled-in pricing would be required for this project, in order to provide assurance of revenues to capital suppliers. The Commission is therefore prepared to approve a cost-of service tariff (with some service interrruption qualifications), to go into operation once gas flow commences. (The *Decision* prohibits any charges to customers prior to gas deliver.[17]) It is also probable that the cost of the gas will be rolled in with the cost of other gas available to the sponsoring companies.

2. *Effect on project debt.* Many of the comments pointed out that, in the event of overruns, a reduced equity rate of return would lower the coverage ratios for the project debt. This normally implies higher-cost debt financing or more difficulty in obtaining debt, since lower coverage tends to indicate higher probability of default.

On this project, however, the cost-of-service tariff will yield extremely dependable revenues, so that the probability of default will be very low regardless of equity and earnings coverage. The allowed revenues would always be more than sufficient for debt service, and would be so stable that the conventional interpretation of a thin coverage ration would not apply. Debt holders should not, therefore, react negatively to the IROR, and should be reassured by its tendency to reduce overruns, since overruns more than anything else threaten the project's viability. Reduced overruns also mean that debt holders will not be required to advance further funds to finance those overruns. In sum, it seems that on balance the IROR concept offers debt holders more benefits than risks.

Even though it seems highly unlikely that the IROR itself will prevent debt financing, some comments raised the possibility that the one-time adjustment to the rate base could hinder debt service. This concern was voiced by the financial advisers to the Alaskan Northwest partnership.[18] These advisers stated that debt financing would be unavailable if the rate base could be so much reduced that depreciation would be inadequate to cover senior debt principal repayment.

Even under the most extreme IROR mechanism imaginable, the reduction in rate base could not exceed the total equity investment in the project. Therefore, the depreciation component of the remaining rate base would always be adequate to repay the debt principal. Also, the rate of return on that rate base would always be more than adequate to cover interest on the debt.

A different problem might occur if the rate of debt repayment were much higher than the allowed rate of depreciation of the rate base. But this would constitute a problem of the timing of the cash flows, as opposed to a shortfall in the collection of the total sums required to service debt. Should this problem surface in the project's debt financing plan, the Commission will consider whatever adjustments are necessary to resolve it.[19] The problem should not arise, however. The sponsors and suppliers of debt should recognize the certainty of operating income which the cost-of-service tariff provides. This certainty should enable them to structure the debt repayments over a large period of the life of the project.

3. *Effect on project equity.* Many of the comments concerning the effect of IROR on equity have already been treated in the section entitled Project Feasibility. The ability of the project to attract equity funds is crucial. This section discusses some other specific issues of interest to equity holders.

a. *Risks due to IROR.* The principal effect of IROR on equity is to introduce some variability in the allowed return to equity, which implies that the equity investment is somewhat more risky. All funds invested in the equity portion of the project (25 percent of total) will receive the incentive rate of return determined from the IROR schedule which is ultimately adopted by the Commission. Since the allowed rate of return will vary according to cost control performance, the actual allowed rate of return cannot be determined in advance. Equity investors will have to form expectations about rate of return based on their expectations of the cost of the project.

These added risks due to the IROR are similar to ordinary business risks faced in competitive industries. In such industries, firms with lower costs are rewarded with higher profits, and equity investors must make judgments as to which firms will be most profitable. Imposing the IROR on a regulated industry is merely an attempt to inject ordinary profitmaking incentives—and thus also some ordinary business risks—into a regulated industry. The risks associated with IROR should therefore not be unfamiliar to most investors.

b. *Marginal return on equity.* An issue which has generated considerable misunderstanding is the marginal return to equity investment in cost overuns. The effect of the marginal rate has been explained. The essential point is that *all* equity investment will be awarded the rate of return determined from the IROR schedule, and as overruns increase, that rate of return for *all* equity funds will decrease.

In the example IROR schedule contained in this notice, a cost overun of 40 percent above the costs filed with the Commission in March 1977, after adjustments for inflation and design changes required by the Government, implies 16.4 percent return on equity for all equity invested, while a 30 percent overrun will be awarded a 17 percent rate of return on all equity invested. This unavoidably implies that those equity funds invested to provide for the overrun from 30 percent to 40 percent receive only an 8 percent return. When this is "rolled in" with the return on the funds receiving 17 percent, however, the total result is a single pool of equity which covers the 40 percent overrun and which receives a 16.4 percent return.[20]

The marginal rate is important in determining the strength of the incentive to avoid overruns, but the compensation of equity investors is determined by the incentive rate of return on equity, which can be read directly from the IROR schedule.

c. *Double leverage.* The comments of Northwest Pipeline Corp. pointed out that the IROR could lead to violation of indenture agreements for companies with existing debt structures. The effect of any such restriction is subject to the control of the parent companies in their determination of the financing plan.

To the extent that part of the investment of project "equity" actually consists of parent corporation debt, varying the allowed return on project equity will affect the debt coverage of the parent. This could conceivably violate the indenture agreements of some of the parent corporations of the partnership. This seems unlikely, however, since the adoption of IROR materially increases the prospects that sponsor parent companies will not violate indenture debt limits, because the IROR reduces construction costs.

C. *Cost estimation and control*

Most of the comments filed included protestations that investors should not be penalized for cost overruns which are beyond the sponsors' control. In this connection, the comments argued that the list of changes in scope for which projected costs should be adjusted included in the May 8 notice was deficient. Because of the importance and commplexity of this problem, the Commission has decided to consider the issue in a separate proceeding to be initiated as soon as possible.

An issue closely related to uncontrollable cost increases is that of inflation. Many of the comments dealt with methods of adjusting projected costs for the effects of inflation. These comments are discussed below, in the explanation of the Commission's new proposal on inflation adjustments.

The State of Alaska expressed concern that the IROR mechanism would prompt the project sponsors to reduce the quality of project construction in order to lower costs. The inferior construction would then have to be compensated for through higher operation and maintenance expenses. This strategy would hold down the cost performance ratio but would result in higher costs to consumers.

Although this strategy is a theoretical possibility, we believe that there is relatively little latitude at the current stage of project development to alter the pipeline design or construction methods to shift costs to the operating period. There are always tradeoffs in design such as that between additional compression (capital cost) and higher fuel cost (operating cost), but this Commission, the Federal inspector, and other Government agencies will closely monitor the pipeline design and construction to assure that the pipeline is built to the appropriate technical standards.

D. *Investment tax credit*

The Office of Regulatory Analysis argued that the investment tax credit should be considered in determining the marginal rate in the IROR schedule. As the discussions of the marginal rate and the overall IROR schedule in later sections of this notice indicate, the Commission has not and will not consider the investment tax credit in determining the IROR schedule.

E. *Neutral zone in IROR schedule*

Many of the comments proposed a center zone, in which the rate of return would not decline. For example, for cost overruns between 0 percent and 40 percent, no penalty would be assessed, and a schedule might look like this:

Cost performance ratio:	*ROR (Percent)*
1.0	17.0
1.2	17.0
1.4	17.0
1.6	16.4

This proposal has the drawback that no cost-control incentives exist in the range 1.0 to 1.4. If the project were virtually complete at 1.2, then investment in overruns up to 1.4 would earn a marginal rate of 17 percent.

F. *Varying the marginal rate*

The Office of Regulatory Analysis suggested two reasons for choosing different marginal rates for different ranges of Cost Performance Ratios:

1. The difficulty of avoiding overruns may vary along the range of possible cost outcomes. ORA asserts that the strength of the incentive should vary accordingly: Where overruns are more difficult to avoid, greater rewards for cost control should be offered.

Although this argument has some theoretical appeal, the Commission cannot see any a priori reason to believe that cost overruns will be any easier to control at any stage of project completion. The Commission prefers to reserve the simplicity of a single marginal rate, set at a level that insures an incentive effect at all possible outcomes.

The Commission believes that much of the effort involved in containing cost overruns will be invested in planning prior to commencement of construction. A constant marginal rate will allow the project sponsors to establish policies for controlling overruns prior to construction which are commensurate with all of their financial constraints, including the incentive effect of the marginal rate, and retain those same policies throughout the construction period. Such constancy in and of itself should be helpful in controlling cost overruns.

[15] In the *Decision* (p. 180) it is estimated that an increase in direct capital costs of 124 percent (in constant dollars) over the Mar. 1977 estimates would make the project uneconomic from a national point of view.

[16] A number of comments argue that any IROR schedule which allows for the possibility, no matter how remote, that the allowed rate of return might fall below that of comparable investments in the U.S. economy would be unjust, unreasonable, and confiscatory, depriving investors of their property in violation of the Constitution. In the case of a pipeline for which no IROR mechanism has been established, the Commission concedes that it would normally be unreasonable to lower the rate of return below rates earned in other comparable investments after the pipeline had been constructed and after equity owners had invested their money. However, prior to the expenditure of any funds for construction of this project, this Commission will establish an IROR schedule that will tie the allowed rate to cost control, clearly a valid regulatory purpose. As long as the principles of this mechanism are clearly specified in advance of construction, are fairly applied, and are agreed to by the investors, it can hardly be termed either unreasonable or confiscatory if poor cost control produces a rate of return below that earned on other investments. *cf; FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956) (when a public utility or pipeline enters into a fixed rate contract which become unprofitable, the Commission cannot allow a rate increase unless the contract rate becomes so low as to severely impair the ability of the utility to maintain service). Moreover, as in this case "(e)conomic regulation under the commerce power, affecting an industry generally, is not a taking of property if the value of property is thereby reduced or business risks increased." *Southern Louisiana Area Rates Cases*, v. *FPC*, 428 F. 2d 407, 428 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[17] *Decision*, p. 37.

[18] Bank of America and Citibank, letter to John G. McMillian dated June 2, 1978, attached to Alaskan Northwest reply comments.

[19] For example, a minimum bill might be utilized in cost-of-service tariff which would insure debt service, including sinking fund payments.

[20] Here again, there may be restrictions on distribution of return among different contributions to the pool under prior agreements among those contributors. See footnote 8 above.

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2. This notice proposes to compensate investors for IROR risk by raising the level of the center rate of return as a result of adding the IROR risk premium. ORA suggests that compensation should instead be granted by increasing the possible rewards for cost underruns.

If the rewards for underruns were increased while the penalties for overruns remained the same, the expected return to investors would have increased. The value to investors of the higher potential rewards depends on the probability they attach to cost underruns. Designing the IROR schedule in this fashion requires the use of very low (even negative) marginal rates for low-cost performance ratios.

Gas consumers may prefer this method of compensating for investment risk, since it reduces their risk. The ORA alternative would result in a broader range of values for the incentive rate but would tend to reduce the range of values for the cost of service expected to be paid by consumers.

The major reservation about this alternative approach is that the increase in the incentive rate for lower values of the cost performance ratio may have to be very large in order to provide the same compensation for risk as would be provided by simply raising the center rate. If investors think underruns are unlikely, then they will attach little importance to the potential high rewards. Moreover, equity investors may be more concerned about the "downside potential" than about large possible gains. These two factors in combination could mean that extremely high rewards would have to be offered in order to match the effect of a small increase in the center rate.

G. *Accounting treatment of rate base adjustment*

In their comments, the Office of Pipeline and Producer Regulation and Tennessee Gas argued that the one-time adjustment introduced complex accounting and tax considerations into cost-of-service calculations.

We propose to consider the one-time adjustment to the rate base as an adjustment to the allowance for equity funds used during construction. Such procedures are already necessary in cost-of-service calculations without an IROR mechanism, since the allowance for equity funds used during construction must be recognized as a cost of the investment. The depreciation of equity AFUDC, however, is not utilized in calculating taxable income. Under current procedures, this is recognized in calculating corporate income taxes as a component of the cost of service.

Thus, the same procedures that are now used to account for the tax implications of the equity AFUDC account would be applicable to treatment of the one-time adjustment to the rate base. No new procedures will be needed.

H. *Alternative methods of applying IROR*

Many comments on the originally proposed rulemaking favored the application of the IROR schedule during the construction period only, in which case the one-time adjustment to the rate base would instead be accomplished through variation of the equity AFUDC rates of return.

This approach was considered by the Commission, since its incentive effect could be made comparable to the mechanism proposed in this notice. In order for the two approaches to be equivalent, however, the range of rates of return in the IROR schedule must be far greater for the AFUDC rate method than for the currently proposed method. This is because, under the AFUDC rate method, the incentive rate and return would be applied only during the construction period, rather than over the life of the project. Consequently, the total present value of any reward or penalty would be far smaller than if the same incentive rate were to be applied for the entire project life. These smaller rewards and penalties constitute a lesser incentive.

The degree of incentive effect of a given marginal rate can be properly evaluated only if it is derived from an IROR schedule that is in effect for the entire project life. The same IROR schedule applied to a shorter period yields smaller rewards or penalties and therefore a lesser incentive effect. For this reason, the Commission would consider the AFUDC rate method only if the range of rates in the IROR schedule were adjusted so as to invest the AFUDC method with an incentive effect equivalent to that attained by the life-of-project method used in this notice.

The Commission's adjustment to rate base methodology also allows clearer recognition of the changed degree of risk associated with the project after gas deliveries commence. By using a rate-base adjustment to compensate for all construction phase risks and insisting on an operation phase rate appropriate for the risks encountered at that time, the Commission is trying to assure that those who bear the construction phase risks have the opportunity to earn a significantly higher rate of return than those who do not. The Commission's preferred method is consistent with the policy objective we were seeking in approving the discounting principle which is part of the sponsoring companies' Partnership Agreement.

I. *Effect on consumers*

Some parties pointed out that IROR entails some costs to consumers. Investors must be allowed higher rates of return as compensation for the risks added by the IROR. In addition, any benefits from cost control must be shared with investors, in the form of the higher incentive returns paid as rewards for good management.

The Commission must structure the IROR mechanism in such a way that the benefits to consumers from cost control outweigh the costs imposed on consumers by IROR. The example IROR schedule presented in this notice is designed to provide consumers with net benefits under very plausible conditions. (See sec. IV.A.5.)

J. *Alternative proposal of Alaskan Northwest*

In its comments, the Alaskan Northwest partnership proposed an alternative IROR mechanism which in many respects is similar to an alternative the Commission discussed in the notice of May 8. The major features of the Alaskan Northwest alternative are:

(1) Only the rate of return on equity during construction (the AFUDC rate) would be increased or reduced by cost control performance.

(2) The incentive rate of return would have a high rate of 20 percent and a low rate of 12 percent. The center rate in the proposed schedule is 17 percent.

(3) In the center of the IROR schedule would be a "neutral" area where the rate of return would not be changed. In the example given by Alaskan Northwest, the neutral area extended from a cost performance ratio of 1.01 to 1.40. In other words, if cost overruns were less than 40 percent over the projected costs, the incentive rate would equal the center rate of 17 percent.

(4) During construction, projected costs would be revised to reflect all changes in prices of materials and labor, changes in design, route, or schedule ordered by Federal or State authorities, force majeure or acts of God, and all other changes in cost beyond the control of the sponsors. Only changes in quantities of materials and labor would be tabulated in cost overrun.

We have constructed an example of how the Alaskan Northwest IROR mechanism would be applied to various cost overruns within the Alaskan segment of the system. The values used in the alternative mechanism are taken from the comments of Alaskan Northwest, while the construction costs, schedule, and financial assumptions are taken from earlier filings and applications, in particular the March 1977 capital cost estimates.

Table I presents an example of the Alaskan Northwest proposal. For comparison, we also show an example of the cost of service under conventional ratemaking—i.e., without an IROR mechanism—for various levels of cost overruns. The costs of service for various levels of the cost performance ratio are calculated by simply increasing all direct capital costs in the March 1977 estimate by the proportion indicated in the cost performance ratio.[21]

The cost of service calculations in 1975 dollars follow the methodology used in the President's *Decision and Report*.[22] In order to measure the cost of service over the life of the project, the present worth average cost of service for a 20-year operation life has been calculated. This average is higher than a simple arithmetic average, but it more accurately reflects the change in cost of service over time.[23]

[21] The cost performance ratio could also be increased by extending the construction schedule without changing direct capital costs.

[22] All capital and operating costs have been increased 5 percent per year to reflect inflation. The per-unit cost of service has then been deflated to 1975 dollars.

[23] The present worth average is that constant charge per unit of gas over the 20-year period which has the same present worth as the declining transportation charge that would result from a conventional cost-of-service calculation. A discount rate of 10 percent is assumed in computing the present worth. A different discount rate would change the average, but the relationship between different values would be the same.

TABLE I

CONVENTIONAL RATE MAKING — 17% AFUDC & Operating Rate			ALASKAN NORTHWEST PROPOSAL — Variable AFUDC Rate & 17% Operating Rate				
Cost Performance Ratio	Rate Base ($ Million)	Present Value Average Cost of Service ($/MCF)	AFUDC Rate (%)	Rate Base ($ Million)	Change in Rate Base ($ Million)	Present Value Average Cost of Service ($/MCF)	Equivalent Operating Rate on Equity (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
0.8	2,769	0.332	20.0	2,804	35	0.339	17.8
1.0	3,461	0.407	18.0	3,476	15	0.410	17.3
1.2	4,154	0.483	17.0	4,154	0	0.483	17.0
1.3	4,500	0.521	17.0	4,500	0	0.521	17.0
1.4	4,846	0.558	17.0	4,846	0	0.558	17.0
1.6	5,538	0.634	13.0	5,450	- 89	0.615	15.9
1.8	6,230	0.709	12.0	6,107	- 124	0.684	15.7
2.0	6.922	0.785	12.0	6,785	- 138	0.755	15.7
2.2	7,615	0.860	12.0	7,464	- 151	0.829	15.7
2.4	8,307	0.936	12.0	8.142	- 165	0.902	15.7

NOTES FOR TABLE I

Column (2) -- Calculated from the March 1977 cost estimates for the Alaska segment in 1975 prices assuming 75 percent debt capitalization, 10 percent interest rate on debt, 17 percent rate of return on equity, and the proportional change in all direct capital costs indicated by column (1).

Column (3) -- Assumes 5 percent annual inflation in capital and operating costs, with the subsequent annual cost of service deflated to 1975 prices using 5-percent deflation factor. Gas fuel cost is $1.60 per MCF. Rate of interest on debt is 10 percent. Rate of return on equity is 17 percent. Present value average cost of service is calculated from the formula:

$$\sum_{t=1}^{20} C_t(1.1)^{-t} / \sum_{t=1}^{20} (1.1)^{-t}$$

where C_t is annual unit cost of service in 1975 prices.

NOTES FOR TABLE I CONT.

Column (4) -- Taken from p. 16 of the initial comments by Alaskan Northwest Transportation Company.

Column (5) -- Same as column (2), except that the AFUDC equity rate is that given in column (4).

Column (6) -- Column (5) minus column (2).

Column (7) -- Same as column (3).

Column (8) -- Rate of return on equity during construction applied to the rate base in column (2) that generates the same present worth at a 10 percent discount rate of the return of equity and after-tax return to equity as does the 17 percent rate of return applied to the rate base in column (5).

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A basic feature of the Alaskan Northwest proposal is that the equity rate of return would vary only during construction. The Commission has calculated the equivalent change in the equity rate during operation. By equivalent, the Commission means the operation phase rate applied to the conventional rate base which would produce the same present worth of cash flow to equity investors as would the 17 percent operating rate applied to the rate base derived from the variable AFUDC equity rate.[24] To use an example from table I, with a cost performance ratio of 2.0 equity investors should be indifferent between receiving an operation phase rate of return of 17 percent on the rate base of $7.46 billion or receiving a rate of 15.7 percent on a rate base of $7.62 billion. The rate base of $7.62 billion is the conventional rate base derived from an equity AFUDC rate of 17 percent, while the rate base of $7.46 billion is derived from the equity AFUDC rate lowered to 12 percent because of the assumed large cost overruns.

The Commission's fundamental objection to the Alaskan Northwest proposal is that the implicit marginal rate of return is not less than the rates of return that can be earned on alternatives of equal risk, and thus does not provide sufficient incentive for management to reduce costs. This is obviously the case with the so-called "neutral zone," for values of the cost performance ratio between 1.01 and 1.40, there would be no reduction in the AFUDC equity rate. In this zone, the IROR schedule is flat: the marginal rate is equal to the incentive rate.[25] On all cost overruns within this zone, therefore, sponsors could expect to earn the after-tax rate of return of 17 percent.

Even outside the neutral zone, the marginal rate of return over the operating period would be very high. In table I, the equivalent operating rates of return vary from 17.8 percent for a cost performance ratio of 0.8 to 15.7 percent for a cost performance ratio of 2.2. The marginal rate that would produce this drop in the incentive rate is 14.5 percent.[26] On the average, equity investors could expect the rate of return on their investments in cost overruns to be 14.5 percent: a rate of return high by previous standards of this Commission and higher than one could expect in many other equity investments in the United States. Therefore, this proposed IROR schedule, if applied to the construction phase only, would not offer sufficient incentive to control costs.

A second concern with this proposal involves the relationship among the overall level of allowed rates, the degree of penalty for overruns, and the degree to which projected costs may be revised during the course of construction. The comments of Alaskan Northwest and other project sponsors suggest that they envision a process by which projected costs are continually revised to account for changes to the earlier cost estimates caused by design or routing modifications required by government authorities, force majeure, acts of God, strikes, and changes in prices of labor or materials. While adjustments for some of these events will undoubtedly be required, it is unlikely that the cost performance ratio would ever exceed 1.0 if all of these changes in the projected cost estimates were made. If this Commission were to accept a policy of unlimited adjustments to the sponsors' cost estimates, it would feel compelled to require a lower marginal rate and a lower overall level of rates (a lower center rate of return). The applicant has, however, proposed a very high marginal rate and a center rate of 17 percent, which is substantially and unnecessarily higher than the range of rates allowed by this Commission in the past.

IV. THE COMMISSION'S REVISED PROPOSAL

Using the principles outlined in section II, the Commission has revised the terms and conditions first presented in its May 8 proposal of rulemaking. Included in this section is an example of an IROR schedule. The values in that example are representative of numbers the Commission could approve upon appropriate findings in an evidentiary proceeding. The example is reasonable, given the estimates of the underlying rates of return and risk premiums specified in this section. The actual rates of return will of course be set when the various components of the overall risk distribution framework, such as the scope change process, the capital structure, and the workings of the project company tariff, have been specified and when evidence on the rates of return and risk premiums has been considered by the Commission.

A. *An example IROR schedule*

1. *Benchmark rates of return.* a. *The operation phase rate.* The operation phase rate is the rate of return on equity that will be allowed after the pipeline is in operation and after the one-time adjustment to the rate base has been made. This rate will be set pursuant to the usual process for determining allowable rates for pipelines with similar operating risks.

The degree of the pipeline's operating risk exposure is a point in controversy. Several comments argued that the risk exposure would be substantial. On the other hand, the Office of Regulatory Analysis argues that ANGTS operating risks will be much lower than those of other pipelines, since there will be no risk associated with decline in throughput.

It is true that the cost-of-service tariff eliminates the risk of variations in throughput which are beyond the control of the pipeline by automatically adjusting the transportation tariff accordingly. For certain other service interruptions, however, the cost-of-service tariff will have provisions for lowering rates of return. Service interruptions pose a risk of unknown dimensions, inasmuch as these pipelines will traverse a hostile environment and will have unknown operating conditions. The details of the project company tariff will determine the degree of risk being borne by the sponsoring companies. The dimensions of the pipeline's risk exposure will be an important issue to be resolved in the evidentiary proceedings which will be held.

For present purposes, a rate of return of 13 percent has been chosen as the operation phase rate in the numerical examples to be presented later. The Commission has set rates of return on equity for two pipelines with cost-of-service tariffs: Pacific Gas Transmission (13.0 percent) and Columbia Gulf Transmission (13.5 percent).[27]

The final rate will be determined after more information about risks during the operation phase has been specified in the project company tariff and may vary between segments of the ANGTS. Over time, this rate will then be adjusted up or down as general financial conditions change.

b. *The nonincentive rate.* The nonincentive rate of return on equity is the rate that would be allowed if the IROR mechanism were not employed. This rate should provide equity investors with a risk premuim for the construction phase risks associated with the Alaskan gas project, but should not provide any compensation for the particular risks created by an IROR mechanism.

Fifteen percent has been chosen as an example rate of return on the Alaska segment, for the following reasons:

Fifteen percent is at the lower end of the range discussed by the applicants in the administrative hearings on this case.[28]

Fifteen percent was found reasonable by the administrative law judge who heard the case before the FPC.[29]

Fifteen percent was used in cost-of-service calculations in the FPC's report to the President and in the President's *Decision*.[30]

The difference between the 13 percent operation phase rate and the 15 percent nonincentive rate is intended to compensate for the construction phase risks associated with the Alaskan gas project.

The rate for the Northern Border segment may be somewhat less than the rate for the Alaska segment, since it will be built in a more familiar environment and does not involve as much uncertainty as the Alaskan segment. Because it is part of a large, complex system and because its success is dependent on successful completion of other segments, however, it may still present more risk than conventional lower 48 pipelines.

c. *The center rate.* The center rate of return on equity is the rate specified by the IROR schedule when actual construction cost equal the expected level of cost overruns: i.e., the rate which is the center point of the schedule. Because of the uncertainty about the ultimate rate of return created by the IROR mechanism, this center rate must have a premium over the rate that would be allowed if no IROR mechanism were used.

Seventeen percent is used in this example as the center rate for the Alaska segment. The 2 percentage point difference between the nonincentive rate and the center rate represents compensation for the risks created by the IROR mechanism.

Since there is less uncertainty about construction costs for the more conventional pipeline construction on the Northern Border system, the compensation for the risks of the IROR mechanism may be less on that segment. This implies a smaller difference between the center rate and the nonincentive rate. Again, more definitive information in the complete structure of allocation of project risks must be available before the Commission can make a final determination of this rate.

2. *The marginal rate.* In determining a marginal rate of return that will embody a significant incentive to control costs, the Commission must compare the marginal rate to the cost of the capital that sponsors invest in the equity portion of the project. A marginal return below the cost of that capital will discourage sponsors from investing in overruns.

The sponsors' cost of capital will be determined by their own costs of equity and debt, as well as by the composition of the capital they invest in the equity portion of the project. If sponsors were to invest only equity, then an effective marginal rate would only need to be lower than the cost of equity. If the sponsors raise their capital for the equity portion of the project through some combination of debt and equity, however, then the marginal rate must be set below the weighted average cost of that capital. If the sponsors were to finance this investment completely through the sale of debt, then the marginal rate would have to be less than the after-tax cost of debt.

The potential investors for the equity portion of the project are diversified corporations that invest in other U.S. industries. This suggests that their costs of equity are near some average of the returns on equity available in all U.S. industries. This number is, of course, not directly observable in the marketplace, since part of the return is appreciation in stock market prices. Studies of historic earned rates of return show that the long-run rate of return on common stock (dividends plus capital gain) ranges from 9 to 11 percent.[31] Adjusted for the 85 percent exclusion rule for intercorporate dividends, this would suggest a return of 8 to 10 percent. In light of current expectations that future inflation will be higher than the average over past decades, these rates of return could be increased by perhaps 3 percentage points, to 11 to 13 percent.

The current market rate on long-term debt is near 10 percent, implying an after-tax cost of debt of roughly 5 percent. Assuming that investments in the project equity are financed at a typical debt ratio of .60, these rough estimates of capital costs can be used in calculating an example of an effective marginal rate. The weighted average cost of capital implied by the assumptions is: (.4)(13)+(.6)(5)=8.2.

Based on this calculation, an 8 percent marginal rate is embodied in the example IROR schedule.

3. *The center point.* The center point of the IROR schedule is that cost performance ratio associated with the center rate of return. The center point should represent the expected level of costs after adjustments for inflation and design changes. If the final cost estimates do not differ significantly from the March 1977 estimates, a center point for the Alaska segment might be 1.3, as used in the example. The center point on the Northern Border segment may be lower.[32] If the project sponsors prefer significant freedom to revise cost estimates for reasons other than inflation, it seems likely that the recommended center points should be lower.

4. *The example schedule.*—Having estimated values for the center rate, the marginal rate, and the center point, an entire IROR schedule can be determined. The example resulting from a center rate of 17 percent, a marginal rate of 8 percent, and a center point of 1.3 is shown below.[33]

8 pct Marginal Rate

17 pct Center Rate

1.3 Center Point

Performance ratio:	*ROR (Percent)*
.8	22.6
1.0	19.7
1.2	17.8
1.3	17.0
1.4	16.4
1.6	15.3
1.8	14.5
2.0	13.9
2.2	13.3
2.4	12.9

Pursuant to this schedule, a rate of return of 19.7 percent would be allowed for the Alaskan segment if actual costs after correction for inflation and changes in scope were no higher than the March 1977 estimates (a cost performance ratio of 1.0). For a 30 percent overrun (a cost performance of 1.3), a rate of 17 percent would be allowed. At a 67 percent overrun from the corrected March 1977 estimates, the rate would be reduced to 15

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[24] The discount rate used is 10 percent.

[25] An IROR schedule that does not reduce the average rate as the cost performance ratio increases exhibits a marginal rate equal to the average rate. The average will decline only if the marginal is less than the average.

[26] Calculated from the ratio [(2.2)(15.7)−(0.8)(17.8)]/(2.2−0.8).

[27] *Pacific Gas Transmission Company*, docket No. RP75-57, opinion No. 811, order modifying initial decision, July 8, 1977. *Columbia Gulf Transmission*, settlement agreement, docket Nos. RP 76-94, 76-95, 76-138, and 75-108 (AP76-1), Mar. 16, 1978.

[28] *Initial Decision on Proposed Alaska Natural Gas Transportation Systems: El Paso Alaska Company*, Docket No. CP75-96, et al., Federal Power Commission, Feb. 1, 1977, pp. 369-370.

[29] *Recommendation to the President: Alaska Natural Gas Transportation Systems*, Federal Power Commission, May 1, 1977, pp. IV-12 to IV-14.

[30] *Decision*, pp. 125 and 163.

[31] Lawrence Fisher and James H. Lorrie, "Rates of Return on Investment in Common Stock," *Journal of Business*, January 1964. "Rates of Return on Investment in Common Stock: Year-by-Year, 1926-65," Journal of Business, July 1968. Irwin Fried and Marshall E. Blume, "Demand for Risky Assets," *American Economic Review*, December 1975. Roger G. Ibbotsen and Rex A. Sinquefield, "Stocks, Bonds, Bills, and Inflation: Year-by-Year Historical Returns (1926-74)," *Journal of Business*, Jan. 1976.

[32] Page 155 of the Report accompanying the President's *Decision* states that overruns are expected to increase direct capital costs for the Alaskan segment from the Mar. 1977 estimate of $1.812 billion to $2.38 billion, excluding AFUDC and in constant 1975 dollars. This would be an increase of 31 percent. On page 157, a comparison of current dollar costs including AFUDC shows an expected overrun of 24 percent for the Alaskan segment ($4.147 versus $3.335 billion) and 10 percent for the Northern Border segment ($1.573 versus $1.427).

[33] A value of the incentive rate (R) can be determined for any value of the cost performance ratio (A) from the formula:

$$R = [(17)(1.3) + 8(A - 1.3)]/A$$
$$= 8 + (11.7)/A.$$

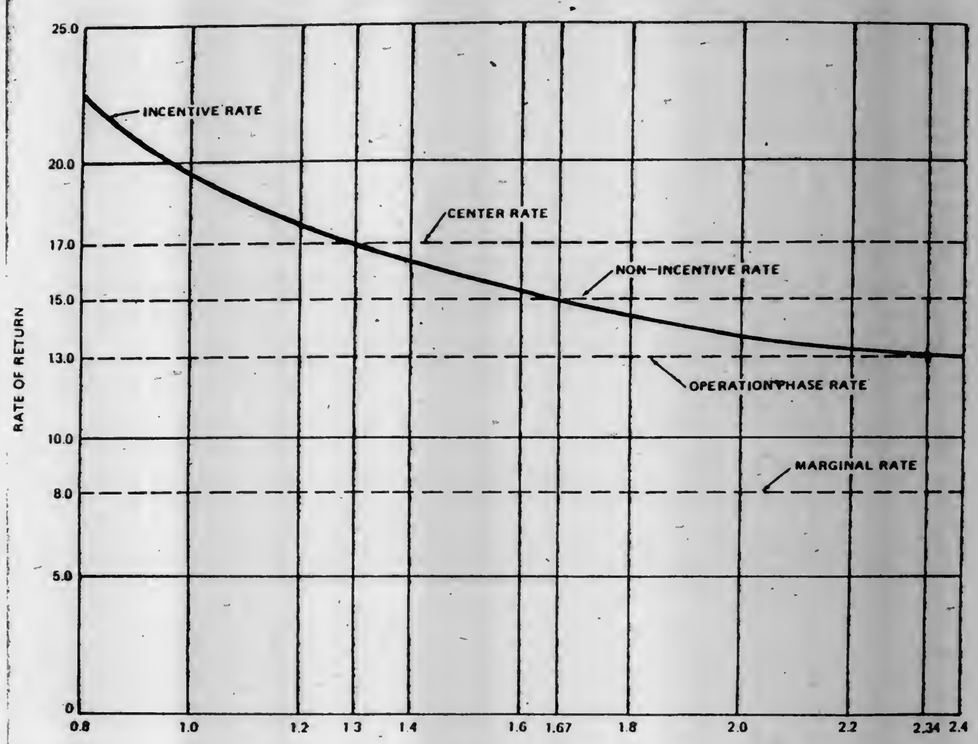
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percent (the nonincentive rate). In other words, only a constant dollar cost increase equal to two-thirds of the original estimate would lower the rate of return in this example below the rate that would be allowed if no IROR mechanism had been adopted. At a 134 percent overrun—i.e., a cost performance ratio of 2.34—the rate of return would be reduced to 13 percent (the operation phase rate). In other words, only for more than a doubling of construction costs would the rate of return in this example be reduced below what is being allowed for other pipelines.[34]

[34] The average equity rate allowed by this Commission for some 31 natural gas pipeline rate cases in 1976 and 1977 was 12.94 percent.

AN EXAMPLE OF A REASONABLE IROR SCHEDULE



This example of the Commission's revised proposal is displayed in table II, which shows the incentive rate for various levels of the cost performance ratio, the size of the one-time adjustment to the rate base, and the adjusted rate base. It also gives the present value average cost of service.

5. *Benefit to consumers.* As discussed earlier, the IROR mechanism may result in higher rates of return allowed on equity, which will increase costs to consumers. However, the IROR mechanism will create an incentive for management to reduce construction costs, thus benefiting consumers. On balance, the Commission believes that the benefit of lower construction costs will outweigh the possibly higher rate of return to equity attributable to the IROR mechanism.

In the situation where cost overruns exceed 60 percent of the originally estimated costs, column (4) of table II [35] shows that the IROR will be less than would probably be allowed by more typical ratemaking procedures. Consumers thus would clearly benefit from the IROR in this situation. [36]

If cost overruns are less than 60 percent, the incentive rate of return will be higher than would conventionally be allowed. However, the incentive effect of the IROR should result in lower construction costs than would be the case without the IROR. If cost reductions are reasonable, consumers will realize a net benefit.

Column (9) of table II shows for each cost performance ratio the minimum reduction in construction costs necessary for consumers to realize a net benefit. For a cost performance ratio of 1.3 (the level expected in the President's *Decision*), a reduction in construction costs of only 6 percent below what those costs would have been without the IROR will offset the higher rate or return. For a lower cost performance ratio of 1.0, the necessary reduction in construction costs is about 14 percent below what those costs would have been without the IROR. The IROR is expected to reduce construction costs by at least these amounts; consequently, consumers should, on balance, benefit from the IROR mechanism.

16B. *Inflation adjustment*

The initial proposal recognized that the sponsors should not be held responsible for increases in costs that resulted from general inflation in the economy. The initial rulemaking proposed to divide the final cost estimate into a number of categories for which cost or price indexes were available. These indexes would then be used to inflate the projected costs and thus increase the projected rate base to account for inflation.

This approach has a major weakness. If the pipeline experienced major construction delays resulting in costs incurred after the period anticipated in the applicant's final cost and schedule estimates, this approach would provide no protection against inflation during the schedule extension, since no projected costs were anticiapted for this period. Suppose for example that the applicant had projected a 5-year construction period, but because of delays during construction substantial expenditures projected for the 5th year were actually incurred in the 6th year. Suppose, too, that because of high rates of inflation these expenditures are much higher than had they been incurred during the 5th year. Since the projected costs show no expenditures during the 6th year, there is no adjustment for inflation during the 6th year.

[35] The break-even cost reduction is calculated by determining the percentage difference in the cost of service with and without the IROR mechanism, for the same cost performance ratio. This is not strictly accurate, since the operating cost component of cost of service does not increase with cost overruns, but is illustrative of the degree of savings in capital costs which are required for the IROR to produce a cost-effective result.

[36] For cost performance ratios greater than 1.6, the IROR mechanism would actually have to cause an increase in construction costs of a certain minimum percentage, before consumers would be worse off with the IROR mechanism in effect. Thus, for example, column (9) of table II indicates that, for a cost performance ratio of 2.2, the IROR mechanism would have to increase costs by more than 5 percent (i.e., a reduction of minus 5.0) before consumers would not benefit from the IROR proposal.

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TABLE II

CONVENTIONAL RATE MAKING			FERC PROPOSAL					
15% AFUDC & Operating Rate			15% AFUDC Rate, 13.0% Operating Phase Rate, Adjusted Rate Base					
Cost Performance Ratio	Rate Base ($ Million)	Present Value Average Cost of Service ($/MCF)	Incentive Rate (%)	Adjustment to Rate Base ($ Million)	Adjusted Rate Base ($ Million)	Present Value Average Cost of Service ($/MCF)	Equivalent AFUDC Rate (%)	Consumer Break even Cost Reduction (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
0.8	2,747	0.310	22.6	469	3,216	0.377	47.5	21.6
1.0	3,433	0.380	19.7	408	3,841	0.432	39.2	13.7
1.2	4,120	0.450	17.8	346	4,466	0.487	33.0	8.2
1.3	4,463	0.485	17.0	316	4,779	0.514	30.5	6.0
1.4	4,807	0.520	16.4	285	5,092	0.542	28.2	4.2
1.6	5,493	0.590	15.3	224	5,717	0.596	24.3	1.0
1.8	6,180	0.660	14.5	162	6,342	0.651	21.2	- 1.4
2.0	6,867	0.731	13.9	101	6,968	0.706	18.5	- 3.4
2.2	7,553	0.801	13.3	41	7,594	0.761	16.3	- 5.0
2.4	8,240	0.871	12.9	- 22	8,218	0.816	14.3	- 6.3

NOTES FOR TABLE II

Column (2) -- Same as column (2) in table I except that the AFUDC equity rate is 15 percent.

Column (3) -- Same as column (3) in table I except that the equity rate of return during operation is 15 percent and the rate base is given in column (2).

Column (4) -- Calculated from the formula:

$$\frac{(17.0)\ (1.3) + 8.0\ [\text{Col. } 1 - 1.3]}{\text{Col. } 1}$$

For example, at a cost performance ratio of 2.2:

$$\frac{(17.0)(1.3) + 8.0\ [2.2 - 1.3]}{2.2} = 13.3$$

where the marginal rate of return is 8 percent and the Center Rate is 17 percent, at a Cost Performance Ratio of 1.3.

NOTES FOR TABLE II CONT.

Column (5) -- Present value (at 13.0 percent discount rate) of the return of equity and after-tax return to equity at the operating equity rate of return given in Column (4) minus the equity investment in the rate base given in Column (2).

Column (6) -- Column (5) plus column (2).

Column (7) -- Same as column (3) in table I except that the rate of return on equity during operation is 13.0 percent and the rate base is given in column (6).

Column (8) -- The AFUDC equity rate that would produce the rate base in column (6).

Column (9) -- Calculated from the formula:

$$\frac{\text{column (7)} - \text{column (3)}}{\text{column (3)}}$$

The revised approach is to divide the actual construction costs into cost categories for which price or cost indexes are available. These indexes will be used to deflate actual costs to base-year costs. The adjustment for inflation will thereby also apply to costs that occur beyond the projected period of construction. This rate base adjusted for inflation will be termed the deflated actual rate base in 1978 dollars (or whatever year is the base year for making cost estimates). The deflated actual rate base in 1978 dollars will be divided by the projected rate base (in 1978 dollars) to determine the cost performance ratio and thus the incentive rate of return.

A number of comments on the initial proposal emphasized the need to choose price indexes that reflect the inflation experienced in pipeline construction in the specific geographic areas where the pipelines will be built. The Commission fully recognizes the problem mentioned in many comments that no price index perfectly measures the inflation experienced by any individual or any project. For example, the widely used consumer price index is only an approximation of the inflation experienced by any particular consumer.[37] The same problem will exist for each cost category in the Alaskan gas project. However, the Commission believes that existing, widely accepted indexes do not bias the measure of inflation in any particular direction. Certainly for some categories of costs the price indexes may overestimate the actual rate of inflation.

The Alaskan Northwest partnership requests that the inflation rate for Alaska be used instead of the national inflation rate, because the costs in Alaska are higher. Construction costs are assuredly higher in Alaska. (The construction of the oil pipeline in Alaska provides considerable information on the premiums that must be paid for Alaskan labor or materials and supplies used in Alaska. The cost estimates submitted by the sponsors recognized these premiums.) But it does not necessarily follow that the rate of change in costs (the inflation rate) in Alaska will be either higher than or lower than the rest of the nation. Considering the advantages of using the national rate, and in the absence of clear evidence that the regional rate will differ significantly from the national rate, the Commission would plan to use the national rate of inflation.

[37] The problem results because a price index measures the inflation for a specified bundle or market basket of commodities. If price increases differ greatly between the commodities, an individual who buys a slightly different combination of commodities could experience a very different actual rate of inflation than the index indicates.

The Alaskan Northwest partnership also suggests that the cost of each unit of labor or materials is also beyond its control. It argues that only the quantities of labor and materials should be considered controllable. The Commission agrees that changes in prices or unit costs caused by general inflation are beyond the sponsor's control and will accordingly adjust such costs for inflation by use of cost or price indexes. However, the size of the enterprise relative to the Alaskan economy and the natural gas pipeline industry would indicate that the sponsors should have a major ability to influence wages and prices and should be given an incentive to do so. The labor costs, for example, will probably be the result of negotiations between the sponsors or their contractors and labor unions. As the quantity of labor required will be very large, we believe the project sponsors will have some ability to influence the price they pay.

It is not the Commission's intention to penalize the project sponsors for the effects of inflation; rather, it is the Commission's intention to hold them harmless for cost increases due to general inflation. The Commission's concern with the sponsors' approach is their implicit assumption that they are powerless to affect the prices they pay.

C. *Application to the western leg*

Pacific Gas Transmission (PGT) and Pacific Interstate Transmission state that difficulties would be encountered in determining the size of the one-term adjustment to the rate base for the western leg segment of the ANGTS. They argue that problems are created because the western leg will be an expansion of an existing system and will be owned and operated by a corporation with an existing financial structure.

A slightly different procedure would be needed for the western leg than is used for the project-financed northwest border and Alaska segments. The attached terms and conditions state that the return of equity and after-tax return on equity over the life of the system will be estimated based on a financing and capitalization plan approved by the Commission. For the western leg, it might be possible for the Commission to use a financing and capitalization plan that is representative of the overall financial structure of the company owning the western leg.

The comments also argued that further complications would be created by the possibility of the early construction of a portion of the western leg and northern border segments to carry Canadian gas as part of an "advance delivery" of Alaska gas. The only complication we see resulting from applying the IROR mechanism to the facilities needed to transport Canadian gas is that the depreciation rate for the pipeline may be relatively high, reflecting the shorter period of the contract for Canadian gas. This simply means that the projection of the return of equity and the after-tax return to equity used to calculate the one-time adjustment to the rate base would be based on a relatively high rate of depreciation reflecting the relatively short period for which gas reserves would be dedicated to the pipeline at the time of authorization of these facilities.

The consideration which persuades us not to apply the IROR to the western leg is cost to consumers. The looping of an existing pipeline along an existing right-of-way to transport an assured supply of gas is an undertaking of convetional risk, particularly considering the assurance of adequate revenues provided by a cost-of-service tariff. Because of this conventional risk, the financing plan presented to the President and included in the *Decision*[38] called for 100 percent recourse debt financing for this segment. As distinct from project financing wherein the project itself must provide assurance of debt service, the debt to be used for the western leg is to be issued by the sponsoring companies, Pacific Gas Transmission for thew Washington and Oregon segments and Pacific Gas & Electric for the Northern California segment, and guaranteed by the parents. This type of financing is much lower in cost than the mixture of debt and equity which will be used to finance the other segments of the project.

Use of the IROR mechanism on the western leg would undoubtedly increase financing costs. Debt costs would likely increase because of the additional risk, but more importantly the debt/equity ratio would likely decrease. The use of 100 percent debt financing will increase the proportion of debt in the total capitalization of the sponsoring companies to high levels. This is particularly true for Pacific Gas Transmission. The additional risk created by the IROR may make such high levels of debt capitalization impractical and thus require some equity financing for the western leg. Particularly in view of the tax consequences of additional equity financing, the Commission believes the additional financing costs associated with imposition of the IROR mechanism on the western leg would more than offset the benefits of reduced construction costs which might be expected to be achieved.

The Commission also believes that cost control incentives are already present in the use of 100 percent debt

[38] *Decision*, pp. 109-110.

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financing. An incentive effect occurs on equity benefits of cost overruns. Also, the impact of that debt on the parent companies' financial conditions—debt guarantee capacity and overall credit rating—will cause them to insist on stringent construction cost-control measures for the western leg. Although not as focused as the IROR mechanism, the Commission believes this incentive will be adequate to insure proper control of construction costs for the western leg.

Having found that the present western leg financing plan already includes a sufficient incentive mechanism, we also note that imposition of IROR to the western leg would be administratively infeasible, not in the sense of ease of application, supra, but in terms of impact on the consumer. The 100 percent recourse debt financing of the western leg should result in a lower cost of service (due to higher bond rating and lower cost of recourse debt and favorable tax consequence of debt financing) without IROR than with it.

In the Commission's considered judgment, the application or IROR to the western leg lacks the salutary regulatory effect which it will have on the other segments of the project. There is already adequate incentive to control construction costs, and the two bases underlying the President's variable rate of return condition have already been satisfied: the consumer is better off under the existing western leg financing plan, and the recourse nature of the debt acts to assure private financing.

V. Relation of This Rulemaking to the Change-of-Scope Proceeding

Throughout this notice, reference has been made to the relationship of the values of an IROR schedule to the outcome of the separate change-of-scope proceeding. That interdependence shoud be emphasized, for even though the change-of-scope question has been spun off to a separate proceeding, the resolution of the question will be a major determinant in the selection of the final values used in the IROR schedule.

The greater the flexibility that is allowed in adjusting for scope changes, the less is the risk of cost overruns borne by the project sponsors. The actual values in the IROR schedule are partly determined by the risk of cost overruns, and anything that changes the amount of that risk will change the proper compensation for risk to be allowed in the IROR schedule.

Greater flexibility in adjusting costs also reduces the incentives to control costs. The final treatment of scope changes will also affect the Commission's choice of a marginal rate.

The illustrative values in the IROR schedule were based on the March 1977 cost estimates. Revisions in these cost estimates, other than for inflation and scope changes required by the Government, also will affect the final selection of values in the IROR schedule.

The proper values for the different types of rates and ratios (of which estimates have been provided in this notice) must be determined through an evidentiary proceeding to be conducted when all elements of the risk allocation framework have been put in place. We expect that the project sponsors are eager to have this process completed. It is our intention that these matters be resolved as expeditiously as possible.

VI. Written Comment Procedures

The Commission invites interested persons to submit written comments with data, views, and other information concerning the matters set forth in this notice. An original and 14 copies should be filed with the Secretary of the Commission by October 6, 1978. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM78-12.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

In consideration of the foregoing, the Commission proposes that the following terms and conditions be attached to the certificates of public convenience and necessity to be issued by the Commission for the Alaska Natural Gas Transportation System, as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

Terms and Conditions

(1) *Applicability.* The incentive rate of return (IROR) rule will apply to two of the three segments of the Alaskan Natural Gas Transportation System within the United States as defined in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to hereafter as the *Decision*). These segments are: (1) The portion of the system within the State of Alaska, and (2) the portion of the system from the United States/Canadian border near Monchy in the Province of Saskatchewan to a point near Dwight in the State of Illinois. In the following terms and conditions, the term pipeline refers to each of these two segments, and the terms and conditions apply to each. The values for schedules, parameters, or variables to be established by the Commission in order to implement the IROR rule pursuant to some future evidentiary proceeding may be different for each of the segments.

(2) *Cost performance ratio.* Pursuant to the second finance term and condition of the *Decision* (p. 36), the rate of return on equity during the operating period of the pipeline will be increased if the pipeline is completed under budgeted cost and reduced if the pipeline is completed over budeted cost. The relationship between budgeted cost and completed cost will be determined by a cost performance ratio. This is ratio of the deflated actual rate base (see condition 4 below) to the projected rate base (see condition 5 below).

(3) *Incentive rate of return schedule.* An IROR schedule which may be in the form of a table or formula. The IROR schedule will specify a value for the IROR for each value of the cost performance ratio. The IROR schedule will compensate equity investors for the degree of construction cost overrun and schedule delay risk which they bear. The IROR schedule will take into account financing plans, depreciation schedules, and any other factors which the Commission determines to be relevant and important.

(4) *Deflated actual rate base.* The deflated actual rate base will be determined at the start of operations from direct capital or construction costs after conversion into base year prices (see condition 8 below) actually incurred in the construction of the pipeline. The deflated actual rate base will include only those direct capital costs which the Commission finds to be prudently incurred. An allowance for funds used during construction (AFUDC) will be included. The AFUDC will be based on the direct capital costs in the base year prices, the actual interest rates paid on debt during construction, and the nonincentive rate of return on equity defined below in condition 10.

(5) *Projected rate base.* The projected rate base will be calculated at the start of operations from the final cost and schedule estimate submitted to and approved by the Commission pursuant to condition 6 below after adjustment for changes in scope pursuant to condition 9 below. An AFUDC will be included and will be calculated from the final cost and schedule estimate, the actual interest rates experienced during construction, and amounts of debt and equity that would have been outstanding if the expenditures for construction as projected in the final cost and schedule estimate had actually occurred, and the nonincentive rate of return on equity defined below in condition 10.

(6) *Final cost and schedule estimate.* Pursuant to the second finance condition in the *Decision*, the applicant for a certificate of public convenience and necessity for the pipeline shall submit to the Commission a final cost and schedule estimate in 1975 prices, adjusted to reflect any design changes resulting from the agreement on principles with Canada and any addendum thereto, for comparison with the capital cost estimates filed by Alcan with the Federal Power Commission on March 8, 1977. This final cost and schedule estimate must also be submitted in 1978 or later base-year prices and with costs set forth according to formats to be specified by the Commission. (See condition 7.) The March 1977 cost estimate referred to in the second finance term and condition in the *Decision* must also be resubmitted in the same format for comparability with the final cost estimate. An explanation of any significant differences between the March 1977 and the final cost and schedule estimate must be provided. The date of the base-year period for submitting costs may be determined by the applicant.

(7) *Cost estimate format.* All cost estimates shall be sumbitted to the Commission according to specifications to be determined by the Commission. Prior to submittal of the final cost and schedule estimate, the applicant may submit a proposal for the cost estimate format to the Commission. The cost estimate format will specify the functional categories or components into which the total cost estimate must be divided and the key paramenters or assumptions for which values must be provided. Each functional category of cost must be further divided according to the time period in which the costs are estimated to occur. The breakdown of costs shall be in sufficient detail that the Commission may compare the various cost estimates and determine the reasonableness of any changes.

(8) *Adjustment of actual construction costs for inflation.* Actual costs of construction found to be prudently incurred by the Commission will be divided into a number of cost categories and further divided into periods of time when the costs were incurred. For each cost category, the Commission will specify a price or cost index that will be used to measure the inflation experience for commodities or services in that category. The actual costs of construction in each cost category and in each time period will be divided by the ratio of the value of the price index for that category and for that period of time by the value of the index in the base year. Each cost or price index will be an existing index that is widely used to measure the increase in prices for that category of commodities or services. The Commission will give first preference to indexes published by the U.S. Government, but indexes published by private institutions may also be used if widely used and generally accepted. The applicant may submit to the Commission proposed price or cost indexes with its proposed cost estimate format mentioned in condition 7.

(9) *Changes in scope.* Prior to calculating the projected rate base for determining the cost performance ratio, the final cost and schedule estimate will be adjusted to reflect increases and decreases in cost that result from certain events not anticipated in preparing the final cost and schedule estimate, or to reflect agreed changes in values of parameters from those assumed in making the final estimate. The type and number of such events or changes in parameters and the procedure for adjusting the final cost and schedule estimate will be determined by the Commission pursuant to a future rulemaking, hearing, or order.

(10) *Nonincentive rate of return.* Prior to final certification of the pipeline, the Commission shall specify a nonincentive rate of return on equity that compensates equity investors for any abnormal risks they will bear during the construction of the pipeline, excluding the risk created by the IROR rule. To the extent that equity investors in this pipeline bear greater construction phase risks than investors in other regulated gas pipelines, this rate will be higher than the general range of rates allowed for other pipelines. Once established, this rate will not be altered during the construction phase of the pipeline.

(11) *Operation phase rate of return.* Prior to final certification of the pipeline, the Commission shall specify an operation phase rate of return that is within the general range of rates of return for other pipelines with similar operating risks. This rate of return will be determined separately and independently from the IROR. Pursuant to the Natural Gas Act, throughout the operation of the pipeline, the operation phase rate of return may be altered to reflect changes in rates allowed for other pipelines of similar operating risk or to provide just and reasonable compensation to equity investors.

(12) *Cost of service calculation.* After the initiation of service and during the operating life of the pipeline, the transportation charge will be based on standard procedures for determining cost of service except that the rate of return on equity will be the operation phase rate defined above in condition 11 and the rate base will include a one-time adjustment calculated pursuant to condition 13 below.

(13) *Adjustment to rate base.* Upon completion of construction and commissioning of the pipeline, a conventional rate base will be calculated based on generally accepted procedures and using the nonincentive rate of return defined above in condition 10 as the equity rate of return for determining the allowance for equity funds used during construction. A one-time adjustment to the equity AFUDC account in the rate base will then be calculated in three steps. First, the revenue stream from the after-tax return of equity through depreciation of the rate base and from the after-tax return on equity will be estimated over the life of the pipeline, based on the conventional rate base, on an after-tax rate of return on equity capital equal to the IROR determined pursuant to condition 3 above, and on a financing and capitalization plan approved by the Commission. Second, the present worth of this revenue stream will be calculated using a discount rate equal to the operation phase rate determined pursuant to condition 11 above. Third, the difference between this present worth sum and the equity investment in the pipeline, including the allowance for equity funds used during construction based on the nonincentive rate of return on equity, will be added to the allowance in the rate base for equity funds used during the construction. If the difference is negative, the allowance for equity funds during construction in the rate base will be reduced.

[FR Doc. 78-27826 Filed 10-2-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 74 and 81]

[Docket No. 78C-0216]

ORANGE B

Termination of Listing

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the color additive regulations by revoking the regulation listing Orange B for use in food. This action is based on data that raise concern about the safety of Orange B. The effect of this proposal would be to revoke color additive certification for Orange B and to prevent further use of Orange B in coloring the casings or surfaces of frankfurters and sausages.

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DATE: Comments by December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The color additive Orange B (disodium salt of 1-(4-sulfophenyl)-3-ethylcarboxy-4-(4-sulfonaphthylazo)-5-hydroxypyrazole) is regulated for use in coloring the casings of frankfurters and sausages under § 74.250 (21 CFR 74.250). A notice published in the FEDERAL REGISTER of July 9, 1965 (30 FR 8727), stated that a petition (CAP 27) for the listing of Orange B as a color additive in food was filed by the Certified Color Industry Committee, c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, Va. 22046 (now the Certified Color Manufacturers Association, 900 17th Street NW., Washington, D.C. 20006). Orange B was added to Part 74—Listing of Color Additive Subject to Certification (21 CFR Part 74) by a regulation published in the FEDERAL REGISTER of January 4, 1966 (31 FR 8). It was authorized for coloring the casings or surfaces of frankfurters and sausages with the restriction that the quantity of the color additive not exceed 150 parts per million (p.p.m.) by weight of the finished food, and that it be certified in accordance with the regulations under 21 CFR Part 80. The effective date of the listing regulation for Orange B was confirmed on March 9, 1966 (31 FR 4127); there were no objections or requests for hearing.

On January 19, 1978, and again on April 6, 1978, Stange Co., the only producer of Orange B in the United States at the present time, reported to the Food and Drug Administration that, by the application of improved analytical methods, it had detected trace amounts of β-naphthylamine in some batches of the intermediate sodium naphthionate and in some batches of Orange B. β-Naphthylamine was not detectable in sodium naphthionate or Orange B by previous analytical techniques. With additional separation procedures, Stange Co. could lower the quantity of contaminating β-naphthylamine in Orange B to 1 part per billion (p.p.b.) or less. The Stange Co. representatives stated that it is unlikely, however, that they could completely eliminate β-naphthylamine from sodium naphthionate or Orange B.

To resolve the questions concerning β-naphthylamine, the FDA requested that Stangé Co. promptly provide a full report to substantiate the possible contamination of the intermediate and the final color with β-naphthylamine. In the meantime, Stange Co. has decided to discontinue the further production of Orange B. Copies of correspondence between Stange Co. and FDA and memoranda of meetings and other relevant information concerning this matter are on public display at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

CHEMISTRY

Orange B is an azo compound that is formed by the coupling of diazotized naphthionic acid with 1-(4-sulfophenyl)-3-ethylcarboxy-5-hydroxypyrazolone. Naphthionic acid or its salt, sodium naphthionate, is synthesized by sulfonating α-naphthylamine. α-Naphthylamine is producted by the reduction of α-nitronaphthalene, which is in turn produced by the nitration of naphthalene.

Nitration of naphthalene produces predominantly α-nitronaphthalene, but the formation of other nitration products such as β-nitronaphthalene, 1,5-dinitronaphthalene, and 1,8-dinitronaphthalene is also likely. The reduction of α-nitronaphthalene to form α-naphthylamine would be accompanied by the reduction of the nitro groups of other nitronaphthalenes that might be present. Therefore, β-nitronaphthalene would have to be completely removed from α-nitronaphthalene in order to eliminate the formation of β-naphthylamine when α-naphthylamine is produced.

The data show that there could be as much as 27 p.p.m. α-naphthylamine, and in some cases as much as 2 p.p.m. β-naphthylamine, in sodium naphthionate. The specifications used in the certification of Orange B contain a limit of "not more than 0.2 percent" for naphthionic acid. Smaller quantities of α-naphthylamine and β-naphthylamine are found in some preparations of Orange B itself. By purifying sodium napththionate with activated carbon, the β-naphthylamine level can be reduced to less than 0.5 p.p.b. in both sodium naphthionate and Orange B. The manufacture is confident that modification of the drying process can prevent the desulfonation of sodium naphthionate, and that separation techniques can be further implemented to produce Orange B that would contain undetectable levels of β-naphthylamine with a method sensitive to a few parts per trillion (p.p.t.). It is uncertain whether sodium naphthionate itself could ever be produced so that it would be completely free from contamination by any β-naphthylamine.

In addition to the possibility that free β-naphthylamine is present and can be carried to the final product unchanged during manufacturing, β-naphthylamine could also be diazotized, and the diazonium salt would couple with pyrazolone to form a subsidiary color, if metabolized in the manner characteristic of azo dyes or if degraded during the manufacture of the product containing this color, would yield free β-naphthylamine. Furthermore, since β-naphthylamine is found in some preparations of sodium naphthionate, it would be possible that sulfonated β-naphthylamine could be present in sodium naphthionate. The full report submitted by Stange Co. shows that heating increases the content of α-naphthylamine and β-naphthylamine in sodium naphthionate. It would be reasonable to assume that this increase in β-naphthylamine is the result of desulfonation of sulfonated β-naphthylamine produced during the sulfonation of α-naphthylamine to form naphthionic acid. Under proper conditions during manufacture, sulfonated β-naphthylamine could also break down to yield free β-naphthylamine. Neither the manufacturer nor FDA has any experimental information on the quantity of sulfonated β-naphthylamine, β-naphthylamine subsidiary color, and sulfonated β-naphthylamine subsidiary color in commercial samples of Orange B.

To establish with confidence the absence of β-naphthylamine in Orange B, it would be necessary to eliminate β-naphthylamine from the intermediate naphthionic acid or sodium naphthionate used in the synthesis of Orange B. Unless an alternative route of synthesis for the intermediate, insuring the absence of β-naphthylamine, becomes available commercially, the nondetection of β-naphthylamine or its complexes in Orange B cannot be construed as meaning that β-naphthylamine is absent from Orange B.

PROPOSED ACTION

The toxicity of β-naphthylamine is well known—it has been considered a carcinogen for many years. In its evaluation of the data on β-naphthylamine, the International Agency for Research on Cancer (IARC) stated that 2-naphthylamine, another name for β-naphthylamine, is carcinogenic in the mouse hamster, dog, and monkey. This report also stated that there are considerable epidemiological data that establish that β-naphthylamine is a bladder carcinogen in humans (IARC Monographs, 4, 1974).

The Commissioner of Food and Drugs finds that the use of Orange B as a color additive could result in exposure of consumers to β-naphthylamine. Based on the information available at this time, free β-naphthylamine (up to 2 p.p.m.) is present in the intermediate used to produce the color. The intermediate, naphthionic acid or its sodium salt, can be present in the finished color at levels as great as 2,000 p.p.m. Free β-naphthylamine (up to 0.5 p.p.b.) is also found in Orange B itself. There is a possibility that any subsidiary color produced from β-naphthylamine could yield free β-naphthylamine when metabolized or degraded. The evidence supports the conclusion, even without the additional supportive data from the manufacture, that Orange B will contain at the least trace amounts of β-naphthylamine.

The Commissioner has previously viewed with concern the possibility that any color additive for food drug, or cosmetic use might contain β-naphthylamine. Two colors, Ext. D&C Yellow No. 9 and Ext. D&C Yellow No. 10, which were synthesized from β-naphthylamine, were prohibited by FDA from use in externally applied drugs and cosmetics because of a finding that they might contain β-naphthylamine (21 CFR 81.10). Four other colors, D&C Red No. 10, D&C Red No. 11, D&C No. 12, and D&C Red No. 13, which are synthesized from 2-amino-1-naphthalenesulfonic acid, were also prohibited by FDA from use in drugs and cosmetics because 2-amino-1-naphthalenesulfonic acid could contain β-naphthylamine as a contaminant (see FEDERAL REGISTER of December 13, 1977 (42 FR 62475)).

Under the provisions of the Color Additive Amendments of 1960 (21 U.S.C. 376(b)(4)), "The Secretary shall not list a color additive under this section for a proposed use unless the data before him establish that such use, under the conditions of use specified in the regulations, will be safe * * *." In addition, the "Delaney Clause" of the Color Additive Amendments of 1960 (21 U.S.C. 376(b)(5)(B)), provides that "A color additive (1) shall be deemed unsafe, and shall not be listed, for any use which will or may result in ingestion of all or part of such additive, if the additive is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of the additives for use in food, to induce cancer in man or animal, * * *." In view of the information now available, the Commissioner concludes that there is no longer an adequate basis for the listing regulation of Organe B and that the listing regulation of this color for use in food should be revoked to protect the public health.

When the final rule based on this proposal becomes effective, all certifications issued prior to that time for batches of Orange B will be revoked, and the addition of this color to any food will cause such product to be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and subject to regulatory action. This prohibition would apply to the use of Orange B and mixtures of colors containing Orange B as a color additive as defined in 21 U.S.C. 321(t). The Commissioner is not proposing to request a recall from the market of frankfurters or other sausage products containing Orange B if they were manufactured or were in process before the effective date of the final regulation. In light of the fact that the manufacturer of Orange B has ceased production of the color and the Commissioner's expectation that existing stocks of Orange B will largely, if not entirely, be used up during the administrative process leading to revocation of the listing for Orange B, few products containing Orange B are likely still to be available. A recall would thus not be necessary to protect the public health. Moreover, the very small levels of β-naphthylamine that may be in Orange B present no significant risk to public health during the short time while existing stocks are used up. Information on the quantity of existing stocks of Orange B and products colored with Orange B anticipated at the conclusion of the administrative process, i.e., in 4 to 6 months when a final order will be issued, should be submitted along with other comments.

The Commissioner is aware that the supplies of suitable alternative color additives may be difficult to obtain immediately. Consequently, food labeling that states that the product contains "artificial color" or that specifically identifies Orange B would be permitted to be used with the uncolored product or products containing alternative colors during the time necessary to obtain supplies of revised labeling or until 1 year after the effective date of the final regulation published in the FEDERAL REGISTER, whichever occurs first.

The Commissioner has carefully considered the environmental effects of this action, and because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental assessment, together with copies of the other documents mentioned above, are on file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Therefore, under the Color Additive Amendments of 1960 (sec. 706, 74 Stat. 399-407 (21 U.S.C. 376)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that parts 74 and 81 be amended as follows:

§ 74.250 [Revoked]

1. In part 74, by revoking § 74.250 *Orange B.*

2. In part 81, § 81.30 is amended by adding new paragraph (p) to read as follows:

§ 81.30 Cancellation of certificates.

* * * * * *

(p)(1) Certificates issued for Orange B and all mixtures containing the color additive are cancelled and have no effect after (insert effective date of final regulation) and use of the color additive in the manufacture of food after this date will result in adulteration.

(2) The Commissioner finds, on the basis of the scientific evidence before him, that no action has to be taken to remove from the market food products containing the color additive.

Interested persons may, on or before December 4, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27427 Filed 10-2-78; 8:45 am]

[4110-03]

[21 CFR Part 101]

[Docket No. 77N-0004]

SACCHARIN

Withdrawal of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

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SUMMARY: The agency is withdrawing a proposed rule requiring that a warning statement about the health risks from saccharin consumption be affixed to vending machines that dispense saccharin-containing food. The proposal is being withdrawn because the vending machine warning is not likely, at this time, to add significantly to consumer awareness of the health risks of saccharin consumption, and because there are anticipated problems in insuring compliance with the proposal. Therefore, saccharin warning stickers are not required on vending machines.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Caesar A. Roy, Bureau of Foods (HFF-310), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1186.

SUPPLEMENTARY INFORMATION: The Saccharin Study and Labeling Act (SSLA), Pub. L. 95-203, became law on November 23, 1977. Section 4(c) of the SSLA (21 U.S.C. 343a) authorizes, but does not require, the Commissioner of Food and Drugs to prescribe regulations to require vending machines that dispense food containing saccharin (e.g., diet soft drinks) "to bear a statement of the risks to health which may be presented by the use of saccharin." Section 4(c) of the SSLA (21 U.S.C. 343a) also provides that food sold through a vending machine that does not bear the required warning statement is deemed to be misbranded under section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343).

In the FEDERAL REGISTER of February 10, 1978 (43 FR 5851), the Commissioner proposed to require warning statements on vending machines that dispense food that contains saccharin. Twenty-seven comments were received on the proposal. Many of the comments opposed any requirement for warning statements on vending machines, arguing that the warning already in place on each food package (see the FEDERAL REGISTER of Dec. 9, 1977 (42 FR 62209)), the posters required to be displayed in retail stores warning about the risks to health that may be presented by consumption of saccharin (see the FEDERAL REGISTER of Mar. 3, 1978 (43 FR 8793)), and past and current news stories have adequately apprised consumers about saccharin. The comments argued that warnings on vending machines would be unlikely to add significantly to public awareness of the health risks of saccharin consumption.

Comments also pointed out the practical difficulties in insuring that the warning statement is affixed to all vending machines. Many vending machines, for example, are owned and operated by service station owners who ordinarily do not have direct access to the manufacturers of soft drinks. These manufacturers, in most cases, would be the persons expected to affix or provide the vending machine warning stickers. Other comments asserted that the cost of obtaining and affixing the stickers would exceed their value in informing consumers about saccharin. Many comments also inquired about the specifics of the proposal, e.g., the content, location, and size of the warning stickers. Finally, a few comments supported the proposal as being necessary to offset the effects of extensive advertising for saccharin-containing foods.

After carefully assessing the comments on the proposal, the Commissioner has decided to withdraw the proposal for the reasons stated below.

The Commissioner believes that most consumers are aware of the presence of saccharin in various foods and of the risk of cancer that saccharin consumption presents. The warning statements on each food package and the signs required to be posted in retail stores will continue to remind consumers of the risk of cancer from saccharin consumption. While warning stickers on vending machines would undoubtedly add to the frequency of the reminders, its contribution to consumer awareness about saccharin is not likely to be so appreciable at this time as to warrant the cost of obtaining and affixing the stickers to vending machines.

Second, the practical problems of insuring that warning stickers are made available to the owners or operators of each vending machine, and the difficulties inherent in enforcing the requirement, suggest that it would be prudent at this time to withdraw the proposal. As noted above, vending machines are often owned and operated by persons with no direct access to the manufacturers of foods that contain saccharin. It is the manufacturers who ordinarily would be expected to print and affix the warning stickers. Although individual vending machine owners might well print their own stickers, due to either ignorance of the requirement or conscious decision, a large number, if not most, would be unlikely to do so.

Furthermore, a requirement for vending machine warning stickers would, for all practical purposes, have to be self-enforcing. There are tens of thousands of vending machines in the United States. Routine inspections by FDA are not made of vending machines, although State and local governments sometimes do inspect these machines. Nevertheless, it is not realistic to expect that resources would be available for widespread enforcement of the requirement. The experience thus far with compliance by retail stores with the requirement to post warning posters indicates the difficulties that should be anticipated with a requirement for warnings on vending machines.

With respect to the retail store poster requirement, the Commissioner advises that FDA has asked the States and localities to be attentive to the requirement when they are conducting inspections of the stores. There is no excuse for the apparent widespread failure of retail stores to comply with the poster requirement. Under section 4(b)(1) of the SSLA (21 U.S.C. 343(p)(1)), food that contains saccharin that is sold in a retail store that fails to display the required posters is misbranded. FDA, in cooperation with the States and localities, intends to continue to monitor the compliance with this requirement. Failure to adhere to this requirement may well result in seizure of saccharin and of food containing saccharin in a store.

For the reasons stated above, the Commissioner has decided to withdraw the proposal to require warning stickers to be displayed on vending machines that dispense food that contains saccharin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 301, 403, 701(a), 52 Stat. 1042-1043 as amended, 1055, 72 Stat. 1784 as amended (21 U.S.C. 321(s), 331, 343, and 371(a)), and the Saccharin Study and Labeling Act (sec. 4(c), 91 Stat. 1453 (21 U.S.C. 343a)), and under authority delegated to the Commissioner (21 CFR 5.1), the proposal to add new § 101.12 to part 101 of chapter I of title 21 of the Code of Federal Regulations is hereby withdrawn.

Dated: September 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27657 Filed 10-2-78; 8:45 am]

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[4110-03]

[21 CFR Parts 201, 207, 314]

[Docket No. 78N-0320]

REQUIREMENTS FOR DESIGNATING THE MANUFACTURER'S NAME ON A DRUG OR DRUG PRODUCT'S LABEL

Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing rules that would specify the conditions under which a person may be identified on the label of a drug or drug product as its manufacturer. This action would revoke the agency's "man-in-the-plant" policy, which has been used to determine who is the manufacturer of certain drugs or drug products. The agency believes the continued application of the "man-in-the-plant" policy would mislead consumers about who actually manufactured certain drugs or drug products.

DATE: Comments by December 4, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: If a drug or drug product's label does not contain the name and place of business of the manufacturer, packer, or distributor of the drug or drug product, the drug or drug product is misbranded under section 502(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(b)(1)). The name and place of business of any one of those persons clearly meets the statutory requirement, and the person responsible for the label of the drug or drug product may place the name or names of any one or more of those persons on the label. Under § 201.1 (21 CFR 201.1) of the Agency's general drug labeling regulations, however, if the name of a packer or distributor of a drug or drug product appears on the drug or drug product's label to meet the requirements of the act, it must be qualified by a phrase, such as "manufactured for" or "distributed by," that reveals the person's relationship to the drug or drug product. The name of the manufacturer of the drug or drug product on the label may also be qualified, but, if a name appears without qualification, the agency regards that name as a claim by the named person to be the manufacturer of the drug or drug product. The appearance of a name on a drug or drug product's label without qualification, if the name is not that of the manufacturer, would be misleading within the meaning of section 502(a) of the act. A drug is misbranded under section 502(a) of the act if its labeling is false or misleading in any particular, and section 201(m) of the act (21 U.S.C. 321(m)) defines labeling as all labels and other written, printed, or graphic matter upon the drug, its containers or wrappers, or accompanying the drug.

The Commissioner of Food and Drugs believes that compliance with these label requirements for most drugs and drug products presents no problems because the drugs or drug products are either manufactured, packed, and distributed by a single person or manufactured by one person and packed or distributed by another. Thus, the person performing any one of those functions can be identified easily. In a few cases, however, problems concerning the identification of the manufacturer of a drug or drug product have arisen. These problems occur primarily when several persons perform different manufacturing operations to produce a drug or drug product, or when a person performs the manufacturing operations under a contractor leasing agreement with another person who markets the drug or drug product and who wants to be identified on the drug or drug product's label as its manufacturer. The growing complexities of drug manufacturing processes, the need for specialized facilities to perform certain manufacturing operations, and the need for temporary use of additional manufacturing facilities if the demand for a drug or drug product increases or the original facilities are out of service have all contributed to the use of leased or contract facilities for drug manufacturing. In the case of a drug or drug product for which several persons perform manufacturing operations, identifying the manufacturer for label purposes is difficult. The Agency has permitted any one of the persons who performs what the agency views as important manufacturing operations for the particular drug or drug product to be identified as the manufacturer on its label. Those determinations have often been made, however, on a case-by-case basis, and a consistent policy has not developed. In the case of the drug or drug product manufactured by one person under a contract or leasing agreement with another person, the agency has determined who could be identified on the drug or drug product's label as the manufacturer under the so-called "man-in-the-plant" policy.

Under the "man-in-the-plant" policy, a person who leases the facilities of, or contracts with, another person to manufacture a drug or drug product in the second person's facilities, may be identified on the drug or drug product's label as its manufacturer, if the first person places one or more employees in the manufacturing facility to control and supervise the production of the drug or drug product. The participation of the first person's employee or employees in the manufacture of the drug or drug product may range from limited supervision by one or two employees to total control and direction of all the second person's employees, equipment, and buildings.

Several aspects of the "man-in-the-plant" practice have been the subject of hearings before the Subcommittee on Monopoly and Anticompetitive Activities of the Senate Select Committee on Small Business, in November 1977 and, more recently, before the House Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce. (A copy of the transcript of each hearing has been placed on public display in the office of the hearing clerk, FDA.) As a result of the house hearings, the Secretary of Health, Education, and Welfare, the Commissioner and the Chief Counsel of FDA have written to the chairman and staff of the House subcommittee seeking suggestions and the individual views of the subcommittee members on the scope and content of this proposed regulation. Those letters, as well as any comments that are received, are being placed on public display in the office of the hearing clerk.

The Commissioner shares the concern expressed by both subcommittees, that the continued use of the "man-in-the-plant" policy may mislead consumers about who manufactured a drug or drug product. The Commissioner emphasizes, however, that the policy is not associated with any apparent health hazards. Even where the "man-in-the-plant" policy is followed, the agency is clearly able to act, and has acted, in instances involving violations of product quality standards. Nevertheless, the public is entitled to know when a company is distributing a drug or drug product it did not manufacture.

As a result of his reevaluation, the Commissioner concludes that the agency's present "man-in-the-plant" policy is no longer appropriate as a basis for identifying a firm as the manufacturer of a drug or drug product for the purposes of section 502(a) and (b)(1) of the act. Accordingly, the Commissioner proposes to amend § 201.1 to state clearly who may be identified as the manufacturer of a drug or drug product on its label under section 502(a) and (b)(1) of the act. The Commissioner also proposes to limit the identification of persons on the labels of drugs and drug products to the manufacturer, packer, or distributor. He further proposes specific requirements that qualify the names of packers and distributors on the label by referring to the function the named person performs.

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The legislative history of section 502(b)(1) of the act is consistent with the Commissioner's proposed action. The Food and Drug Act of 1906 contained no section comparable to section 502(b)(1). Section 402(b)(1) of S. 5, 74th Congress, 1st and 2d session (1935), as reported in the Senate, however, provided as follows: "A drug shall be deemed to be misbranded—(b) If in package form it fails to bear a label containing (1) the name and place of business of the manufacturer, packer, seller, or distributor * * *."

The Senate report on S. 5 explained that section 402(b)(1) mirrored section 302(e)(1) (misbranded food) of S. 5 (S. Rep. No. 361, 74th Cong., 1st sess. (1935)). With respect to section 302(e)(1), the Senate report states: "The inclusion of this provision has been generally recommended by the industries affected. It is intended to prevent the sale of commodities under labels which remain silent with respect to the sponsorship of the products or which utilize merely fictitious names."

Section 17(c) of the second version of S. 5 (75th Cong., 1st and 3d sess. (1935)), which was enacted into the present act, carried over intact section 402(b)(1) of the first S. 5. Neither the Senate nor the House reports on S. 5 contain any explanatory material concerning the meaning of "manufacturer" in section 17(c) or its renumbered successors.

Because the term "manufacturer" is not defined in section 502(b)(1) of the act or its legislative history, the Commissioner believes the term should be given its common or ordinary meaning. *62 Cases of Jam* v. *United States*, 340 U.S. 593 (1951); *Addison* v. *Holly Hill Fruit Products, Inc.*, 322 U.S. 607 (1944). The general dictionary definition is helpful. For example, Webster's New Collegiate Dictionary (1976) defines the verb "manufacture," in part, as: "to make into a product suitable for use."

The Commissioner notes that, although its decisions are not controlling, the Federal Trade Commission (FTC) has, from time to time, had occasion to decide who qualifies as a "manufacturer" within the meaning of 16 CFR 500.5 (a), (b) of regulations promulgated under section 4 of the Fair Packaging and Labeling Act (15 U.S.C. 1453). The FTC's regulations are nearly identical to FDA's current regulations (21 CFR 201.1(a)-(c)) and, similarly, do not define "manufacturer." However, in a 1969 Statement of General Policy or Interpretation, the FTC determined that, for the purpose of 16 CFR 500.5(a), a person or firm who supplies a formula or specifications, or both, to a contract packager, but who does not take any part of the actual production of the consumer commodity, is not the manufacturer of the commodity. This is true whether the person or firm who supplies the formula or specifications, or both, also supplies the raw materials which are to be reacted, mixed, or otherwise modified to produce the consumer commodity. 16 CFR 503.3(c).

FTC's clarification of the identity of the manufacturer, packer, or distributor for the purpose of 16 CFR 500.5 is consistent with advisory opinions issued under the Federal Trade Commission Act. For example, in a 1966 advisory opinion, FTC stated that it would not be proper for a clock distributor to represent itself as a manufacturer if it performed a "small part" of the manufacturing process on the clocks: The amount of manufacturing which a concern must engage in to justify representing itself as a manufacturer will vary from case to case, depending on the specific circumstances. Your question, however, indicates you intend to operate as a manufacturer only in the technical sense and not in a substantive way, in an attempt to justify the use of a term not otherwise a correct description of your business. We likewise do not believe, in these circumstances, that it would be proper to represent your company as a manufacturer. 16 CFR 15.98(d).

Because the clocks were imported in a finished state, FTC advised the distributor that it would not be proper to use the word "manufacturing" in the distributor's trade name or advertising, or to otherwise represent itself as a manufacturer. The Commission was of the opinion that the use of such word "would have the tendency to lead customers and others into the belief, contrary to fact, that they are dealing directly with the manufacturer and so to mislead or deceive them." 16 CFR 15.98(b).

That a "manufacturer" is a person who through significant and substantial operations "make[s] into a product suitable for use" is clear from a more recent advisory opinion. In 1970, FTC advised that because they "shape[d] basic materials and components into finished products by handlabor and by machinery" producers of electronic display systems who used components purchased from many sources could refer to themselves as "manufacturer[s]" in promotional materials sent to the press. 16 CFR 15.417.

Several FTC "Foreign Origin" advisory opinions take a similar approach to the definition of "made." Thus, a manufacturer was advised not to mark "Made in U.S.A." on imported blades of cutlery to be finished and assembled in this country because a blade is a "significant component" of cutlery. 16 CFR 15.217. Likewise, a marketer of toys was advised not to use the labeling description "Made in U.S.A." for a tool kit containing 18 American and 2 Japanese items, where the latter represented 16 percent of the value of the kit and were a "substantial" portion of the components. 16 CFR 15.22.

In determining the circumstances in which a person may truthfully be represented as the "manufacturer" of a product, the FTC has considered the extent of the person's involvement in the steps required to produce the product. The Commissioner believes that a similar approach should be adopted in establishing standards for determining when a person may be regarded as the manufacturer of a drug or drug product for the purpose of drug labeling.

The Commissioner therefore proposes in § 201.1(b) to define the term "manufacture" of a drug or drug product to be the person who performs all of the significant operations which apply to the drug or drug product. He then proposes to identify 10 manufacturing operations that he believes are significant in formulating a drug or drug product: (1) Mixing, (2) granulating, (3) milling, (4) molding, (5) lyophilizing (free-drying), (6) tableting, (7) encapsulating, (8) coating, (9) sterilizing, and (10) filling sterile, aerosol or gaseous drugs into dispensing containers.

A mixing operation would be required to produce most drugs or drug products including liquid oral dosage forms. Granulating, tableting, encapsulating, and coating operations generally are required only for solid oral dosage forms. A milling operation is required for a dosage form such a topical ointment. A molding operation is required for a dosage form such as a suppository. Lyophilizing (freeze-drying) and sterilizing operations and filling sterile drugs into dispensing containers generally are required for injectable drug products. Filling aerosol or gaseous products into dispensing containers generally is required for topical or inhalation dosage forms of a drug product.

A person could be identified as the manufacturer of a drug or drug product only if the person performed all of the listed operations required to produce the drug or drug product. For example, a person would be the manufacturer of a lyophilized drug product for injection if the person performed the mixing and sterilizing operations filled the sterile drug into its containers, and performed the lyophilizing operation. Under proposed § 201.1(d), if another person performed the lyophilizing operation on the drug, the person performing all other operations would only be permitted to be designated as a manufacturer of the drug product if the person performing the lyophilizing operation were designated as a joint manufacturer.

The Commissioner proposes to add § 201.1 a new paragraph (c) which would state the conditions under which a person would be considered to have performed a manufacturing operation listed in paragraph (b). Proposed paragraph (c) would establish three conditions that a person must meet to qualify as a manufacturer of a drug or drug product. The conditions are that the manufacturing operations listed in proposed paragraph (b): (1) Be performed by individuals, a majority of whom are permanent full-time employees of the person and are subject to the person's direction and control throughout the performance of the operation; (2) be performed on premises that are continuously owned or leased by the person and are subject to the person's direction and control, and (3) be performed on equipment that is continuously owned or leased by the person. To be considered the manufacturer, the person must perform the manufacturing operation, including the appropriate in-process quality control operations required for the drug or drug product, in accordance with these standards. However, the person would not be required to perform laboratory tests on samples taken during processing. Laboratory testing of samples is not required to perform an operation listed in proposed § 201.1(b) because sample testing is sometimes performed by specialized contract laboratories. The Commissioner believes that sample testing, although an integral part of good manufacturing practices, would not commonly be considered by the lay person to be a manufacturing activity. In-process quality control operations, however, are so closely related to the performance of the manufacturing operation itself that a person who performs the operation would necessarily also perform the in-process quality control operations.

The Commissioner does not believe that the conditions for determining whether a person performs an operation listed in proposed § 201.1(b) can be more narrowly defined, although he encourages comments with alternative language that would improve upon the proposed requirements. Some flexibility is necessary, however, in view of the many variables presented by drug manufacturing situations. Accordingly, the Commissioner believes that the terms "permanent full-time employees of the person," "subject to the person's direction and control," and "continuously owned or leased by the person," should be applied according to their common or ordinary meaning. The Commissioner is not advising drug manufacturers on employee/employer contractual arrangements or on legal arrangements for owning or leasing buildings or equipment. The Commissioner emphasizes that the purpose of this proposal is to insure that a person who is represented on the label of a drug or drug product as its manufacturer performs the required manufacturing operations under conditions that consumers would consider to qualify the person as a manufacturer. Thus, the application of the common or ordinary meaning of the conditions under proposed § 201.1(c) is appropriate.

The Commissioner proposes in § 201.1(d) that the name of the manufacturer on a drug or drug product's label be the firm name under which the establishment at which the manufacturing operation is performed is registered under part 207 (21 CFR part 207). In addition, the name must meet the requirements of proposed § 201.1(e) discussed below. The Commissioner also proposes to amend § 207.20 (21 CFR 207.20) to provide that any part of an establishment may be registered only by one person at any one time. Thus, a manufacturing site, such as an area of a building where tableting presses are located, may not be covered by two establishment registrations. These proposed requirements would permit the easy identification of the person who actually performed the manufacturing operation. To insure that attempts are not made to circumvent these requirements by frequent changes in establishment registrations, the Commissioner also proposes to amend § 207.26 (21 CFR 207.26) to require that any change in a registered establishment's firm name within 6 months of the establishment's registration be supported by a signed statement of the establishment's owner or operator that the change is not made for the purpose of changing the name of the manufacturer of a drug or drug product under § 201.1.

The Commissioner further proposes § 201.1(d) that, if no person performs all of the manufacturing operations listed in proposed paragraph (b) for the production of a drug or drug product, no person may claim to be the sole manufacturer of the drug or drug product and no name of a sole manufacturer may appear on the label. However, if any representation is made as to the identity of the manufacturer of the drug or drug product, the representation is required to identify each person who performs one or more of the operations listed in proposed paragraph (b) that are required to produce the drug or drug product, and the names are to be qualified by the introductory phrase "Jointly Manufactured by ————." Accordingly, if one person performs all manufacturing operations that are required to produce the drug or drug product, and performs them within the meaning of proposed paragraph (c), that person may be identified on the drug or drug product's label as its manufacturer. If manufacturing operations required to produce the drug or drug product are performed by two or more persons, however, the label of the drug or drug product may bear the name of the packer or distributor, or it may identify each person who performs a required manufacturing operation within the meaning of the proposed requirements as a joint manufacturer, or both. If joint manufacturers are listed on the label of the drug product, the names would be required to be printed together in the same type size and style of print.

The Commissioner proposes to redesignate current § 201.1(b) as § 201.1(e) and to amend it to state that a separately incorporated subsidiary of a company would be required to use its actual corporate name and not the name of its parent company. A separately incorporated subsidiary of a company is a separate "person" within the meaning of section 201(e) of the act and should, therefore, be identified in drug labeling instead of the parent company.

The Commissioner proposes to redesignate current § 201.1(c) as § 201.1(f) and to amend it to require that the name of the packer or distributor be qualified by either the phrase "Packed by ————" or "Distributed by ————," as appropriate. Section 201.1(c) currently provides that other qualifications may be used to identify the person, and qualifying phrases, such as "Manufactured for ————" and "Manufactured to the specifications of ————" have been used to identify distributors of a drug product. The Commissioner believes that such a phrase is misleading because the consumer who does not closely examine the label may easily misread it and assume the person named is the manufacturer of the drug or drug product. In addition, the Commissioner believes that the second qualifying phrase is often used even when the specifications are no more demanding than those generally applied to the drug or drug product. In many cases the drug or drug product also may be manufactured to the same specifications but sold without the qualification by a different distributor. Thus, a consumer who compares the labels of the two drugs or drug products might be misled by the qualification. In addition, § 201.1(c) has resulted in the use of abbreviations, such as "Dis.," to identify a person as the distributor of a drug or drug product. The Commissioner believes that such abbreviations do not adequately inform consumers that the named person is not the man-

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ufacturer of the drug or drug product. Restricting the use of qualifying phrases would eliminate these problems. Accordingly, the Commissioner proposes to amend § 314.8(a)(6)(ii) (21 CFR 314.8(a)(6)(ii)), under which an amendment requiring a supplemental new drug application providing for an additional distributor may be put into effect without advance approval by FDA, if the name of the distributor on the label is accompanied by an appropriate qualifying phrase. Section 314.8(a)(6)(ii), thus, would be revised to reflect the proposed changes in § 201.1.

The Commissioner proposes in new § 201.1(g) to require that the label of a drug or drug product state, as required under proposed § 201.1(f), whether the person named on the drug product is the manufacturer, packer, or distributor, if the drug product bears a mark, imprint, or other identifying written, printed, or graphic matter immediately upon each dosage unit. Many drug products currently bear a mark or imprint immediately upon each dosage unit that identifies the manufacturer, packer, or distributor of the product. The Commissioner encourages this practice and believes that it significantly contributes to identification of drug products, particularly in emergency situations such as identification by a poison control center. He believes, however, that the practice also has a potential to mislead consumers by suggesting that the person identified by the mark or imprint is the manufacturer of the drug product, if the label of the product does not clearly and conspicuously identify whether that person is the manufacturer, packer, or distributor of the product.

The Commissioner emphasizes that the proposed definition of "manufacturer" applies only for the purposes of section 502(a) and (b)(1) of the act. It does not affect the definition of "manufacturer" under the drug registration and listing regulations in Part 207, nor does it affect the application of the current good manufacturing practice regulations in Parts 210, 211, 225, 226, and 229 (21 CFR Parts 210, 211, 225, 226, and 229). This proposal also does not affect the requirements of § 200.10 (21 CFR 200.10), under which FDA considers extramural independent contracting facilities as an extension of a manufacturer's own facilities for the purpose of disclosing to the manufacturer information obtained during an inspection of an extramural facility.

The Commissioner proposes that the final rule based on this proposal be effective 60 days after the final rule is published in the FEDERAL REGISTER, except that proposed § 201.1(f) (1) and (2) would be effective for all drugs or drug products introduced or delivered for introduction initially into interstate commerce 12 months after the final rule is published in the FEDERAL REGISTER or when printing plates are revised in the normal course of business, whichever occurs first. Because the proposed changes in § 201.1(f) (1) and (2) ordinarily would result only in changes in labeling that would eliminate abbreviations or qualifying phrases that were formerly considered to be synonymous with the phrases that would now be required, the Commissioner believes that an extended effective date to permit persons to exhaust current supplies of labels is appropriate. This extended effective date is consistent with agency practice respecting the length of time allowed for labeling changes in situations where no apparent safety problem is involved (see the FEDERAL REGISTER of August 25, 1978 (43 FR 37985), prescription drug dispensing container requirements). In addition, the Commissioner recognizes that it is expensive for persons to change printing plates and large inventories of labels likely existing at this time. The Commissioner expects, however, that most, if not all, of the labeling to which the extended effective date applies will have been exhausted by the time that extended date occurs. After the effective date of the final rule, no person may introduce or deliver for introduction initially into interstate commerce any drug or drug product to which the regulations apply unless the labeling of that drug or drug product complies with the requirements set forth in the regulations.

The potential envirohmental effects of this action have been carefully considered, and FDA has concluded that the action will not significantly affect the quality of the human environment. This action is one of a type for which the agency has determined that the preparation of an environmental impact statement is not required, except in rare and unusual circumstances. 21 CFR 25.1(f)(12). Accordingly, the preparation of an environmental impact analysis report for this action is not required under 21 CFR 25.1(g).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 701(a), 52 Stat. 1050-1051 as amended, 1055 (21 U.S.C. 352, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Title 21 of the Code of Federal Regulations be amended as follows:

PART 201—LABELING

1. By revising § 201.1 to read as follows:

§ 201.1 Drugs; name and place of business of manufacturer, packer, or distributor.

(a) A drug or drug product (as defined in § 320.1 of this chapter) in finished package form is misbranded under section 502(a) and (b)(1) of the act if its label does not bear conspicuously the name and place of business of the manufacturer, packer, or distributor as required under this section.

(b) As used in this section, and for the purposes of section 502(a) and (b)(1) of the act, the manufacturer of a drug or drug product is the person who performs all of the following operations that are required to produce the product:

(1) Mixing, (2) granulating, (3) milling, (4) molding, (5) lyophilizing, (6) tableting, (7) encapsulating, (8) coating, (9) sterilizing, and (10) filling sterile, aerosol, or gaseous drugs into dispensing containers.

(c) A person performs an operation listed in paragraph (b) of this section only if the operation is performed, including the performance of the appropriate in-process quality control operations, except laboratory testing of samples taken during processing, as follows:

(1) By individuals, a majority of whom are permanent full-time employees of the person and, throughout the performance of the operation, are subject to the person's direction and control;

(2) On premises that are continuously owned or leased by the person and subject to the person's direction and control; and

(3) On equipment that is continuously owned or leased by the person.

(d) The name of the manufacturer under paragraph (a) of this section is the firm name under which an establishment (as defined in § 207.3(b) of this chapter), at which the operations listed in paragraph (b) of this section are performed, it registered under Part 207 of this chapter at the time the product is produced. In addition, the name shall meet the requirements of paragraph (e) of this section. If no person performs all of the operations listed in paragraph (b) of this section that apply to the product, no representation may be made that any one person is the sole manufacturer, and any representation as to the identity of the manufacturer shall list each person who performs one or more of the operations listed in paragraph (b) of this section, as a joint manufacturer. A list of joint manufacturers shall be qualified by the phrase "Jointly Manufactured By ———," and the names of all of the manufacturers shall be printed together in the same type size and style.

(e) The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. A separately incorporated subsidiary shall only use its actual corporate name and not the name of its parent company. Abbreviations for "Company," "Incorporated," etc., may be used and "The" may be omitted. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(f) No person, except the manufacturer, packer, or distributor may be identified on the label of a drug or drug product. If the manufacturer is identified, the name may be stated with or without a qualification that identifies the person as the manufacturer of the drug or drug product. The appearance on a drug or drug product's label of a person's name without qualification is a representation that the named person is the sole manufacturer of the product. That representation is false and misleading, and the drug or drug product is misbranded under section 502(a) of the act, if the person is not the manufacturer of the product in accordance with this section. If the packer or distributor is named on the label of a drug or drug product, the following is required:

(1) If the packer is identified, the name is qualified by the phrase "Packed by ———."

(2) If the distributor is identified, the name is qualified by the phrase "Distributed by ———."

(g) If a person's name, mark, imprint, or other identifying written, printed, or graphic matter appears directly on the drug product (e.g., capsule or tablet), the label is required to state, as required under this section, whether the person named on the drug product is the manufacturer, packer, or distributor of the product.

(h) The statement of the place of business, shall include the street address, city, State, and ZIP Code; however, the street address may be omitted if it is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP Code shall apply only to consumer commodity labels developed or revised after the effective date of this section. In the case of nonconsumer packages, the ZIP Code shall appear either on the label or the labeling (including the invoice).

(i) If a person manufactures, packs, or distributes a drug or drug product at a place other than the person's principal place of business, the label may state the principal place of business in lieu of the actual place where such drug or drug product was manufactured or packed or is to be distributed, unless such statement would be misleading.

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

2. By revising § 207.20(a) to read as follows:

§ 207.20 Who must register and submit a drug list.

(a) Owners or operators of all drug establishments, not exempt under section 510(g) of the act or Subpart D of this Part 207, that engage in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs are required to register and to submit a list of every drug in commercial distribution (except that listing information may be submitted by the parent, subsidiary, and/or affiliate company for all establishments when operations are conducted at more than one establishment and there exists joint ownership and control among all the establishments). Such owners or operators are required to register and to submit a list of every drug in commercial distribution (except that listing information may be submitted by the parent, subsidiary, and/or affiliate company for all establishments when operations are conducted at more than one establishment and there exists joint ownership and control among all the establishments), whether or not the output of such establishment or any particular drug so listed enters interstate commerce, except that drug listing is not required at this time for the manufacturing, preparation, propagation, compounding, or processing of an animal feed (including a feed concentrate, a feed supplement, and a complete animal feed) bearing or containing an animal drug. No owner or operator may register an establishment, if any part of the establishment is registered by any other owner or operator.

* * * * *

3. By revising § 207.26 to read as follows:

§ 207.26 Amendments to registration.

Changes in individual ownership, corporate or partnership structure location or drug-handling activity, shall be submitted by Form FD-2656 (Registration of Drug Establishment) as amendment to registration within 5 days of such changes. A change is a registered establishment's firm name within 6 months of the registration of the establishment is required to be supported by a signed statement of the establishment's owner or operator that the change is not made for the purpose of changing the name of the manufacturer of a drug or drug product under § 201.1 of this chapter. Changes in the names of officers and directors of the corporations do not require such amendment but must be shown at time of annual registration.

PART 314—NEW DRUG APPLICATIONS

4. By revising § 314.8(a)(6)(ii) to read as follows:

§ 314.8 Supplemental applications.

(a) * * *

(6) * * *

(ii) There are no changes from the conditions of the approved application except for a different and suitable proprietary name of the drug (if one is used) and the name and address of the distributor as used on the label and labeling. The name of the distributor shall be accompanied by the qualifying phrase "distributed by".

* * * * *

Interested persons may, on or before December 4, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 28, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-27997 Filed 10-2-78; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21383; RM-2814]

FM BROADCAST STATION IN CAMP LEJEUNE, N.C.

Order Extending Time for Filing Response To Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing responses to a petition for reconsideration involving FM channel changes in Camp Lejeune, N.C. Petitioner, Marin Broadcasting Corp., states the additional time in needed so that a full response can be prepared to the petition for reconsideration.

DATE: Responses to the petition for reconsideration must be received on or before October 3, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Camp Lejeune, N.C.). Order extending time for filing responses to a petition for reconsideration (See also 43 FR 33772, Aug. 1, 1978.

Adopted: September 22, 1978.

By the Chief, Broadcast Bureau:

1. On August 24, 1978, a petition for reconsideration was filed by Francon, Inc., concerning the above-captioned matter. The date for filing response to this petition is presently September 25, 1978.

2. Counsel for Marine Broadcasting Corp. filed a request for an extension of time to and including October 3, 1978, to file a response to the aforementioned petition for reconsideration. Counsel states that due to the press of business he cannot prepare a full response by the current date for filing. He advises that counsel for Francon, Inc., and Seaboard Broadcasting Corp. have consented to the requested extension.

3. We are of the view that the public interest would be served by this extension so that parties may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly, *It is ordered*, That the date for filing responses to the petition for reconsideration in Docket No. 21383, is extended to and including October 3, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 27864 Filed 10-2-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-306; RM-3114]

TELEVISION BROADCAST STATIONS IN FORT WALTON BEACH, FLA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first UHF television channel to Fort Walton Beach, Fla. Petitioner, Joint Communications Co., states the proposed channel could bring a first local television service to Fort Walton Beach.

DATES: Comments must be received on or before November 21, 1978, and reply comments must be received on or before December 11, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Fort Walton Beach, Fla.)

Adopted: September 22, 1978.

Released: September 27, 1978.

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by Joint Communications Co. ("petitioner"). The petition seeks amendment of § 73.606(b) of the Commission's rules, the television table of assignments, by assigning television Channel 17 to Fort Walton Beach, Fla. An opposition to the proposal was filed by Offshore Telephone Co. ("Offshore").

2. Fort Walton Beach (pop. 19,994) in Okaloosa County (pop. 88,187),[2] is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Fla. Fort Walton Beach presently has no local television broadcast service.

3. Petitioner states that Fort Walton Beach is the largest city in Okaloosa County and a rapidly growing community whose population has increased 44.2 percent between 1960 and 1970. We are told that the county's economy is based on military/government (site of Eglin Air Force Base), tourism, agriculture, forestry, service industry, and manufacturing/production. Petitioner claims that although Fort Walton Beach receives commercial television service from other stations, none of these stations put a grade A signal over the community. It alleges that off-air television reception is so limited that over 70 percent of the television households in Okaloosa County have cable television. Petitioner has submitted detailed socio-economic and geographic profiles of Fort Walton Beach in an effort to show the need for a local television channel assignment.

4. In opposing comments, Offshore asserts that channel 17 is not available for assignment to any location in the Gulf of Mexico region due to the dedication and use of those frequencies on a shared basis by communications common carriers in the Offshore Radio Telecommunications Service stations in the Gulf. Offshore states it is only opposed to the assignment of channel 17 to Fort Walton Beach, not to the assignment of some other channel. It notes that an engineering study reveals that either Channel 35 or channel 46 could be assigned to Fort Walton Beach in compliance with the distance separation requirements.

5. Channel 17, in accordance with action [3] taken by the Commission, is not available for assignment to Fort Walton Beach because of its use by communications common carriers to provide communication services to petroleum exploration and drilling rigs in the Gulf of Mexico. However, a staff study confirms Offshore's statement that channel 35 could be assigned to Fort Walton Beach in conformity with the minimum distance separation requirements and other technical criteria without requiring changes to television assignments at other communities listed in the table of assignments. We therefore make that proposal here.

6. In view of the fact that the proposed assignment could provide Fort Walton Beach with a first local television service, the Commission finds it would be in the public interest to seek comments in a rulemaking.

7. Therefore, notice is hereby given that the Commission proposes to amend the television table of assignments, § 73.606(b) of the Commission's rules, with respect to Fort Walton Beach, Fla., as follows:

City	Channel No.	
	Present	Proposed
Fort Walton Beach, Fla.		35

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 21, 1978, and reply comments on or before December 11, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of Proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflicts with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-27865 Filed 10-2-78; 8:45 am]

[1] Public notice of the petition was given on May 30, 1978, report No. 1123.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Notice of proposed rule making and notice of inquiry*, docket No. 20368, released Mar. 10, 1975.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

AUTHORIZATION OF FEDERAL ASSISTANCE IN THE INSTALLATION OF WORKS OF IMPROVEMENT

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1008) has been authorized for the following watersheds:

Blackwood Creek, Nebr.
Lower Little Black, Mo. and Ark.
Nibbs Creek, Va.
Okatoma Creek, Miss.
Rock Creek, Oreg.
Shuqualak Creek, Miss.
South Fork, Ark.
South Fork of Blackwater River, Mo. (Supplement).
Upper Little Black, Mo.
Upper Muddy Boggy Creek, Okla.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566 (16 U.S.C. 1001-1008).)

Dated: September 22, 1978.

R. M. DAVIS,
Administrator,
Soil Conservation Service.

[FR Doc. 78-27875 Filed 10-2-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 33427; Order 78-9-112]

AIR PANAMA INTERNACIONAL, S.A.

Order of Suspension and Investigation Regarding Economy Class Student Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of September 1978.

On August 17, 1978, Air Panama Internacional, S.A. (Air Panama) filed a new round trip economy class student fare between Miami and Panama City for effect October 1, 1978. Set at a level of $140, it applies only to students between the ages of 12 and 24; has a 3- to 17-day minimum-maximum stay; and is available for travel during the periods September 15 through November 30, January 15 through April 8, and April 16 through April 30 of each year.[1] The carrier states this fare will generate student traffic in the market and will enable students interested in the new Panama Canal Treaty to tour the area.

The Board has concluded that the proposed fare may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or otherwise unlawful, and should be investigated. The Board further concludes that it should be suspended pending investigation.

The Board previously has found discount fares limited to students to be unjustly discriminatory.[2] As the U.S. Court of Appeals has stated "the rule of equality is the very core and essence of the fare structure in the transportation industry." Thus, "equality of treatment is paramount," and the factors alleged to justify departure from this rule "are to be weighed in light of that pervasive requirement."[3] The Board has found that special discount fares based upon the particular status of an individual are unjustly discriminatory. *Domestic Passenger-Fare Investigation, Phase 5-Discount Fares,* order 72-12-18, December 5, 1972.

Although the Federal Aviation Act provides for limited departures from the basic "rule of equality," none is set out for students. Air Panama has suggested no unique or extraordinary circumstances, or developmental need sufficient to justify this resort to a patently discriminatory offering.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 204(a), 404, 801, and 1002(j) thereof,

1. We shall institute an investigation to determine whether the fares and provisions set forth in appendix A below, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if we find them to be unlawful, we shall take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we shall suspend the tariff provisions specified in appendix A hereof and defer their use from October 1, 1978, to and including September 30, 1979, and shall permit no changes to be made to these tariff provisions during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[4] and it shall become effective October 1, 1978; and

4. We shall file a copy of this order in the aforesaid tariff and shall serve a copy upon Air Panama International, S.A.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[APPENDIX A]

PASSENGER FARES TARIFF NO. P-NS-4, C.A.B. NO. 74, ISSUED BY AIR TARIFFS CORPORATION, AGENT

On 8th Revised Page 4, the subject "students' Fares—Panama," and all provisions applicable in connection therewith.

On 18th Revised Page 15, the code "YSD" and the explanation thereof.

On 4th Revised Page 130-A, all procisions in rule No. 611.

On 26th Revised Page 322, the "YSD" fare between Panama City, Panama, and Miami, Fla., and all provisions applicable in connection therewith.

[FR Doc. 78-27895 Filed 10-2-78; 8:45 am]

[6320-01]

[Docket No. 30635; Order 78-8-205]

ARIZONA SERVICE INVESTIGATION

Order To Show Cause; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1978.

In show cause order 78-8-205,[1] in the above case, we asked interested parties to show cause why Sky West Aviation should not be issued permissive subsidy ineligible authority at Yuma, Kingman, Prescott, and Winslow, Ariz., and Blythe and El Centro, Calif., and between the Grand Canyon and Phoenix and Flagstaff and Phoenix. In that same order and in companion order 78-8-195 we clearly indicated that our intent was to grant the carrier authority to provide service on a permissive, subsidy ineligible basis, in all of the markets in which Cochise was certificated except Page, Ariz. Thus, the cities of Los Angeles and Tucson should also be included in the list of cities for which we propose authority for Sky West.

Dated: September 26, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27896 Filed 10-2-78; 8:45 am]

[6320-01]

[Docket No. 32867; Order 78-9-113]

REEVE ALEUTIAN AIRWAYS, INC.

Order Fixing Final Service Mail Rates

Issued under delegated authority September 27, 1978.

By order 78-9-55, served September 14, 1978, we directed all interested persons, and particularly Reeve Aleutian Airways, Inc., and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine, and publish the final rates proposed therein.

The time designated for filing notice of objection has elapsed and no person has filed a notice of objection or answer to the order. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a final rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, the Board's procedural regulations, 14 CFR Part 302, and the authority delegated by the Board in its organization regulations, 14 CFR 385.16(g):

1. We make final the tentative findings and conclusions set forth in order 78-9-55;

2. The Postmaster General, pursuant to the provision of section 406 of the Federal Aviation Act of 1858, as amended, shall pay Reeve Aleutian Airways, Inc., for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, on and after June 17, 1978, service mail rates of a line-haul charge of 93.6 cents per great-circle mail ton-mile and a terminal charge of 22.3 cents per pound originated;

3. The Postmaster General shall pay the fixed final service mail rates in their entirety; and

4. We shall serve a copy of this order upon Reeve Aleutian Airways, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, CFR 385.50, may file such petitions within 10 days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

We shall publish this order in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27897 Filed 10-2-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

MISSOURI ADVISORY COMMITTEE

Meeting Change

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission originally scheduled on October 11, 1978 (FR Doc. 78-24763) on page 39406 has been changed. The meeting now will be held on October 12, 1978.

The time and place of the meeting will remain the same.

Dated at Washington, D.C., September 26, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-27914 Filed 10-2-78; 8:45 am]

[6335-01]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a fact finding meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on October 19, 1978, in the Ramada Inn, Concord, N.H.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pusuant to the provisions of the rules and regulations of the Commission.

Dated At Washington, D.C., September 26, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-27915 Filed 10-2-78; 8:45 am]

[6335-01]

OHIO ADVISORY COMMITTEE

Meeting Change

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission originally scheduled to be held in the Imperial 400 Motel (FR Doc. 78-26489) on page 42775 has been changed to CETA Office, 720 East Broad Street (Conference Room), Columbus, Ohio 43215.

The time and date of this meeting will remain the same.

Dated at Washington, D.C., September 26, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-27916 Filed 10-2-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

APPLICATIONS FOR DUTY—FREE ENTRY OF SCIENTIFIC ARTICLES

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, by October 23, 1978.

Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through

[1] Air Tariffs Corporation, Agent, C.A.B. No. 74, Rule No. 611 and 26th Revised Page 322.

[2] *Capital Group Student Fares.* 25 C.A.B. 280 (1957). See also orders 70-7-129, July 29, 1970, and 74-5-145, May 31, 1974, where the Board suspended student fare proposals which were subsequently canceled by the carriers.

[3] *Transcontinental Bus System, Inc.* v. *C.A.B.*, 383 F. 2d 466 (C.A. 5 1967).

[4] This order was submitted to the President on Sept. 15, 1978.

[5] All members concurred.

[1] Published in 43 FR 40543, Sept. 12, 1978.

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Friday, in room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00376. Applicant: San Diego State Universty, 5300 Campanile Drive, San Diego, Calif. 92182. Article: Calorimetric Unit, Model CP-C and Accessories. Manufacturer: Sodev, Inc. Canada. Intended use of article: The article is intended to be used to measure the partial molal heat capacities of various inorganic and organic electrolytes and nonelectrolytes in aqueous solutions at concentrations from 0.05 molal to saturation and at temperatures up to 80° C. The data will be used to check and extend a theory developed for predicting the thermodynamic properties of aqueous electrolytes and other dissolved species up to 300° C. The data obtained up to 80° C, using the flow microcalorimeter, will be combined with our data above 100° C, which is obtained from heat of solution calorimetry, and will be used to calculate the high temperature thermodynamic properties of electrolytes for comparison with the theory. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00392. Applicant: National Cancer Institute, NIH, Building 10, Room 2A29, 9000 Rockville Pike, Bethesda, Md. 20902. Article: Electron Microscope, Model EM 400 HMG High Magnification Goniometer and Accessories. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used for the examination of plastic sections of tissue, and tissue culture pellets, negative stained specimens of virus preparations and of monolayers of biological molecules. Membrane receptor molecules, virus DNA molecules, chromatin structure will be investigated to: (1) Compare malignant cells, virus-infected cells, and their normal counterparts with regard to antibody and lectin binding; (2) study chromatin changes due to hyperacetylating b chemicals; and (3) study DNA molecules of various viruses for further characterization of viruses and their mutants. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00395. Applicant: University of Michigan, 1024 Chemistry Building, 930 North University Avenue, Ann Arbor, Mich. 48109. Article: Switching Unit, Model 128M and Optional Current Switching Facility for 5 Thermometer. Manufacturer: Automated Systems Lab. Ltd., United Kingdom. Intended use of article: The article is an accessory to an existing Automated AC Bridge manufactured by the same manufacturer which is being used for the study and understanding of the energetic spectrum of matter; the chemical thermodynamic properties of matter including the entropy, enthalpy, tempered Gibbs energy function, etc.; the electronic, structural, as well as the molecular disordering and librational freedom of molecules are both immediate and indirect objectives. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00396. Applicant: University of Chicago Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: VRT 2121A Reflex Klystron and accessories. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used in a "Zebra-stripe" microwave interferometer set up to measure the electron density in Argonne's APEX Tokamak which is being constructed to study plasma wall interaction of fusion type plasma, methods of heating tokamak discharges to ignition and methods of inducing plasma currents with rf field. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00397. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: Rotating Anode X-Ray Generator, Model GX20 and accessories. Manufacturer: Marconi-Elliott Avionices Ltd., United Kingdom. Intended use of Article: The article is intended to be used to investigate three-dimensional structures of primarily human immunoglobulins and Bence-Jones proteins. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00398. Applicant: Battelle Memorial Institute Pacific Northwest Division, P.O. Box 999, Richland, Wash. 99352. Article: TG-26/V Tunnel Guidance System and Accessories. Manufacturer: ZED Instruments Ltd., United Kingdom. Intended use of article: As part of a blind shaft borer the article is intended to be used to monitor the positon of two laser beams projected from self-plumbing lasers mounted at the surface; transmit signals proportional to laser beam position to a processing unit; and, using this information and data on machine attitude, calculate, and display to the machine operator, the displacement of the machine from the true shaft centerline. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00399. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Superconducting Solenoid with Helium Cryostat and Accessories. Manufacturer: Oxford Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to generate a magnetic field which is strong, spatially uniform, and steady in time in studies of a wide variety of problems in the broad area of solid state physics. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00402. Applicant: The University of Texas System Cancer Center, 6723 Bertner Drive, Houston, Tex. 77030. Article: Microlab Tissue Processor and Accessories. Manufacturer: Microlab Products, Canada. Intended use of article: The article is intended to be used, for the investigation of ultrastructural feature of tumors in order to establish ultrastructural criteria for the diagnosis and differential diagnosis of human neoplasms.

Application received by Commissioner of Customs: August 30, 1978.

Docket No. 78-00403. Applicant: Stanford University, 851 Welch Road, Palo Alto, Calif. 94304. Article: Electron Microscope, Model EM 400 with HMG and Accessories. Manufacturer: Philips Electronics Instruments, NVD, the Netherlands. Intended use of article: The article is intended to be used for the studies of the following materials:

(i) Niobium-tin, niobium-germanium and related compounds for superconducting properties;

(ii) Piezoelectric polymers for various electronic applications;

(iii) Extruded and highly worked metals to understand mechanisms of deformation;

(iv) Examination of the structure of amorphous materials;

(v) Tungsten-titanium carbide, extremely hard ceramics for tool cutting;

(vi) Silicon, gallium-arsenide and other epitaxial deposits for semiconductor devices.

The objective of the research is to correlate the properties of materials such as the above with their structure (arrangement of atoms) and microstructure (arrangement of defects). By finding the manner in which structure and microstructure influence materials properties, one can understand the fundamentals of particular behavior and proceed to modify the material and obtain the optimum combination of properties. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00404. Applicant: University of New Hampshire, Department of Chemistry, Durham, N.H. 03824. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories Model JNM/FX-90Q. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of materials derived from research programs in the general areas of organic, inorganic physical, bioinorganic,

environmental, and biochemistry. Pulse fourier transform NMR spectra will be obtained for ^{1}H, ^{2}H, ^{7}Li, ^{11}B, ^{13}C, ^{15}N, ^{17}O, ^{19}F, ^{23}Na, ^{31}P, ^{199}Hg, and ^{113}Cd on various molecules as required by the different projects. Chemical shifts, coupling constants, relaxation times, Nuclear Overhauser Effects, lineshapes and temperature effects on the spectrual parameters will be employed to obtain structural and dynamic information about the various systems under investigation. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00405. Applicant: Boston University School of Medicine, Department of Dermatology, Houseman Research Building, Room 316, 80 East Concord Street, Boston, Mass. 02118. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section human and animal tissues and isolated cell components which have been embedded in hardened epoxy resins. Investigations will be conducted involving ultrastructural studies on normal and pathologic tissues, developmental studies on enzyme and subcellular organelle localization in cells and tissues membrane interactions and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in courses entitled Ultrastructure and Cell Biology which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00406. Applicant: Yale University, Purchashing Department, 20 Ashman Street, New Haven, Conn. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in ongoing research involving a variety of mammalian tissues including those of man, mouse, rabbit, and guinea pig. Normal, experimental, and pathologic tissues from each of these species will be examined with respect to their microcirculation. Studies will be conducted to discover how changes in the microcirculation contribute to the development of serious systemic and cutaneous disorders. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00407. Applicant: National Institute of Environmental Health Sciences, Laboratory of Pulmonary Function and Toxicology, P.O. Box 12233, Research Triangle Park, N.C. 27709. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section human and animal tissues for study during experiments on the pathobiology of pulmonary disease. Application received by Commissioner of Customs: August 31, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27836 Filed 10-2-78; 8:45 am]

[3510-25]

APPLICATIONS FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, by October 23, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00408. Applicant: Haskins Laboratories, Inc., 270 Crown Street, New Haven, Conn. 06510. Article: Electro-Palatograph. Manufacturer: Rion Co., Ltd., Japan. Intended use of article: The article is intended to be used to register the temporal and spatial pattern of tongue contact on the palate during running speech thus providing a valuable way of studying the details of normal and deviant speech production. The article will be used in combination with other physiological measures of the direction and time course of tongue movement. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00410. Applicant: DHEW, NIH, NIDR, Laboratory of Biological Structure, 9000 Rockville Pike, Building 30, Room 211, Bethesda, Md. 20014. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning mineralized and demineralized tooth and bone, exocrine glands, and tissue culture cells which have been embedded in hardened epoxy resins. Studies will be conducted on the process of mineralization, exocrine gland structure and function, cytochemical studies on various cellular organelles, electron diffraction of mineralized tissues, and energy dispersive X-ray analysis of various tissues. The primary objectives of this research are to explore mechanisms controlling the process of mineralization of tissue and to investigate the interrelationships between the structure and function of exocrine glands. The article will also be used in teaching basic electron microscopy and cytochemistry to individuals within the laboratory. Application received by Commissioner of Customs: September 1, 1978.

Docket No. 78-00411. Applicant: DHHR, Division of Health, Louisiana State Chemical Laboratory, 325 Loyola Avenue, State Office Building, Room 827, New Orleans, La. 70112. Article: Sample Fusion Rotary Burner. Manufacturer: Saskatchewan Research Council, Canada. Intended use of article: The article is intended to be used for the study of uranium levels in drinking water. Application received by Commissioner of Customs: September 1, 1978.

Docket No. 78-00412. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: 89 mm Widebore 85000 Gauss Superconducting Solenoid Magnet. Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of very low concentrations of deuterium nuclei in biological membranes, dilute protein solution. Experiments will consist of observation of electronic quadrupole splittings of deuterium resonance in artificial and biological membranes labelled with deuterium nuclei. Application received by Commissioner of Customs: September 1, 1978.

Docket No. 78-00413. Applicant: University of Alaska, Biome Center, Fairbanks, Alaska 99701. Article: Carbon Dioxide Analyser, Model 225 II BSS and accessories. Manufacturer: Analytical Development Co., Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of the photosynthesis of higher plants and bryophytes in the taiga of

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central Alaska. Experiments to be conducted include:

(1) CO_2 exchange of black spruce under varied regimes of soil temperature, nutrients, and water status through the growing season,

(2) Moss CO_2 exchange under varied regimes of temperature, light, water status, nutrient concentration,

(3) Tundra plant CO_2 exchange and root respiration under varied light temperature, and soil temperature regimes, and

(4) CO_2 exchange of roots and leaves and stems of deciduous trees under distinct conditions of soil temperature along a successional gradient.

Application received by Commissioner of Customs: September 1, 1978.

Docket No. 78-00414. Applicant: U.S. Department of Agriculture, Agriculture Research Service, Tobacco Research Laboratory, Route 2, Box 16G, Oxford, N.C. 27565. Article: Particulate Matter Prediction Metering Equipment. Manufacturer: W. D. and H. O. Wills Co., United Kingdom. Intended use of article: The article is intended to be used to burn ground tobacco samples in a glass tube in experiments to reduce tar levels in Fluecured tobacco. The objectives of these investigations being conducted is to reduce health hazards associated with tobacco by reducing tar levels. Application received by Commissioner of Customs: September 6, 1978.

Docket No. 78-00415. Applicant: Oregon State University, School of Oceanography, Corvallis, Oreg. 97331. Article: Submersible acoustic transponder. Manufacturer: Institute of Oceanographic Science, United Kingdom. Intended use of article: The article is intended to be used to investigate the behavior and composition of deep-sea scattering layers off Oregon. The organisms which compose the layers are primarily fishes, cephalopods, and crustaceans. Specifically, the article will be used to obtain and transmit information about the depth of the net and the local water temperature to a receiver aboard the research vessel. The monitor also acts as a connecting link (receiver) which, upon receipt of a signal from the vessel, initiates mechanical closing of one of the nets which is part of the trawl. Application received by Commissioner of Customs: September 6, 1978.

Docket No. 78-00416. Applicant: The Regents of the University of California, California College of Medicine, Irvine, Calif. 92717. Article: Scanning Electron Microscope, Model PSEM 500 with Automatic Goniometer Stage and accessories. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used for the following studies:

(1) Experiment investigations of diabetic angiopathy which include the fibrogenesis during wound repair which will include a 3-dimensional study of collagen layering in healing wounds,

(2) Study of receptor sites on liver plasma membranes and individual lymphoid cells,

(3) Diagnosis of tumors of uncertain histogenesis,

(4) Studies of a variety of congenital and acquired pulmonary lesions (hyaline membrane disease) and studies of tumors of neutral origin in young children, and

(5) Examination of both diagnostically and in a related clinical research study.

The article will also be used in the training and teaching of resident physicians, and instilling in them the importance of the scanning electron microscope as an additional tool for making diagnosis, particularly in borderline cases where resolution and 3-dimensional view can be beneficial.

Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00417. Applicant: University of Illinois at the Medical Center, Research Resources Center, 933 Building, P.O. Box 6998, Chicago, Ill. 60680. Article: Mass Spectrometer MAT 112S (04-41679), and accessories. Manufacturer: Varian MAT, West Germany. Intended use of article:

The article is intended to be used to conduct the following research projects:

1. Benzo-[a]-pyrene and identification of other carcinogens.
2. Identification of oganosulfur gases.
3. Nitrogen cycling.
4. Chemotaxonomic studies of the alkaloids of Leguminosae.
5. High resolution studies of new anticancer agents from natural sources.
6. Analyses of ginseng saponins using field-desorption.
7. Analyses of synthetic reaction mixtures.
8. Biosynthesis of antibiotics using stable isotopes.
9. Analyses of neurotransmitters in discrete control nervous system structures.
10. Acetylcholine-choline metabolism during simulation of tardive dyskinesia by field desorption.
11. Analyses of toxicological substances.
12. Structural analysis of toxic principles of poisonous plants.
13. Study of cardiac glycosides of milk-wood using field-desorption technique.
14. Synthetic nucleotides for cancer chemotherapy.
15. Human Metabolic products of BHA and BHT.
16. Pharmacokinetics, bioavailability, and metabolism of 6-mercaptopurine in hydrate and anhydrate forms.
17. Human metabolic studies of tolbutamide and nitrofusantoin.
18. Monitoring human blood levels for investigation drugs.
19. Examining metabolites of drugs in biologic tissues.
20. Detection of toxic substances in biologic tissues.

The article will also be used for individualized training for faculty, students, and technical personnel. Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00418. Applicant: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, Calif. 94804. Article: Radiochromatogram spark chamber system, Model 450/3. Manufacturer: Birchover Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used for complex studies of the active centers of several enzymes involved in metabolism to better understand the function of these enzymes in normal and pathological states. Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00419. Applicant: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, Calif. 94804. Article: JASCO Automatic Recording Spectropolarimeter, Model J-500A and accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used to investigate the circular dichroism spectra of peptides and proteins and their complexes with non-covalently bonded molecules. The objectives of the experiments conducted are to relate the circular dichroism spectra to the arrangement of molecular groups in three-dimensional space. In turn, the three-dimensional arrangement of molecular groups will be used to derive the basic molecular forces which stabilize the arrangement and the relationships between molecular arrangement and effect of the molecules on biological systems. Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00420. Applicant: University of Texas at Arlington, Purchasing Department, Arlington, Tex. 76019. Article: Strut and Tie Apparatus. Manufacturer: Leybold-Heraeus, West Germany. Intended use of article: The article is intended to be used in the course Physics 1347—Physics for Architects, a study of mechanics which is designed to give students a technical basis of mechanics. Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00421. Applicant: Yale University, School of Medicine, Section of Neuroanatomy, 333 Cedar

Street, Room C201, New Haven. Conn. 06510. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study biological tissues which include nerve and glial cells of the brain. The research will include ultrastructural studies on normal and pathologic brain development, organelle localization in neurons and tissues, membrane interactions between cells. In addition, the article will be used as a teaching aid for students enrolled in the course on "Normal and Pathological Development of Primate Brain" as well as for teaching graduate students in the field of neuroscience. Application received by Commissioner of Customs: September 11, 1978.

Docket No. 78-00238. Applicant: Research Foundation of S.U.N.Y. at Stony Brook, State University of New York at Stony Brook, Department of Materials Science, Stony Brook, N.Y. 11794. Article: Sets of parts and accessories for U.V. monochromator Subassembly. Manufacturer: Bird & Tole, Ltd., United Kingdom. Intended use of article: The articles are accessories to an existing monochromator being used for studies of metals and semiconductors during investigations of electronic energy structure. The experiments to be conducted will consist of photoelectron spectroscopy in the wavelength range 100-800 Angstroms with 1- percent resolution using a monochromator which is integral with the sample chamber. In addition, the article will be used for graduate training in scientific research. Application received by Commission of Customs: September 14, 1978.

Docket No. 78-00423. Applicant: Florida Institute of Technology, Country Club Road, Melbourne, Fla. 32901. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article in intended to be used to section plant, animal, and fungal specimens for ultrastructural studies on development in both animal and plant tissues, and on the cellular changes that occur during the aging of a number of different kinds of organism. Ultrastructural studies on chromosomes and on gene location will also be performed. The article will be used principally in the course, B5011, Electron Microscopy which teaches the principles and techniques for the use of the electron microscope in biological research, including specimen preparation, ultramicrotomy, fixation, staining, and interpretation. Application received by Commissioner of Customs: September 14, 1978.

Docket No. 78-00424. Applicant: Columbia University, International Institute of Human Reproduction, Room 1519, Black Building, 630 West 168th Street, New York, N.Y. 10032. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study the ultrastructure of biological cells and tissues; including the analysis of ova, sperm, and a variety of neuroendocrine tissues. In addition, it will be used for the identification of receptors for a variety of hormones by the application of electron dense markers. The experiments to be conducted will include:

(1) Studies of the mechanisms controlling the primate menstrual cycle with emphasis on brain pituitary ovarian hormonal interrelationships.

(2) The definition of the development of the gonadotropic access in long-term organotypic cultures of newborn rodent hypothalamic preoptic areas.

(3) Characterization and functional organization of neurosecretory pathways.

(4) Studies of biochemistry, endocrinology, and genetics of mammalian germ cell production.

(5) Studies of the metabolic aspects and biochemical kinetics of spermatogenesis and the chemistry of sperm motility.

(6) The examination of the structural biochemistry, spermatozoa with emphasis on the role of cystine rich cross-linked protein structures.

(7) Work on the central nervous system with localization of ovarian gonadotropin receptors.

(8) Investigations on the biosynthetic pathways of steroid synthesis.

Application received by Commissioner of Customs: September 14, 1978.

Docket No. 78-00425. Applicant: U.S. Department of Agriculture, Science and Education Administration, FR, Room 8, Building 200, ARC-East, Beltsville, Md. 20705. Article: LKB 2128-010 UM Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies conducted on the morphology, histochemistry, and cytochemistry of cells and tissues of the reproductive organs of domestic farm animals, including ova sperm cells, gonads, and accessory organs, uterus, pituitary, and appropriate brain centers. Cell fractions from these tissues (e.g., mitochondrial, nuclear, etc.) will be analyzed to determine composition and purity as corollary studies to biochemical investigations. Experiments will be conducted to determine the morphological-physiological response of reproductive cells and tissues to manipulations with various hormones and drugs. Cytochemical changes will be studied utilizing both thick and ultrathin sections. Responses of the reproductive cells to various methods of preservation will be investigated. Application received by Commissioner of Customs: September 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27837 Filed 10-2-78; 8:45 am]

[3510-25]

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. • • • If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of subsection 301.11 [Emphasis added.]

The meaning of the subsection is that should an applicant either fail to

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notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

• • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 78-00017. Applicant: International Fertility Research Program, Highway 54, Research Triangle Park, N.C. 27709. Article: 2500 Hulka/Clemens Clips. Date of denial without prejudice to resubmission: May 23, 1978.

Docket No. 78-00026. Applicant: National Aeronautics and Space Administration Headquarters, Contracts Division, Code JHC-4, Washington, D.C. 20546. Article: Three (3) Dynamic Flowmeters. Date of denial without prejudice to resubmission: April 13, 1978.

Docket No. 78-00046. Applicant: Texas A. & M. University, Soil and Crop Sciences, College Station, Tex. 77843. Article: Isotope ratio mass-spectrometer Model 602D and accessories. Date of denial without prejudice to resubmission: May 30, 1978.

Docket No. 78-00054. Applicant: Portland State University, College of Science, P.O. Box 751, Portland, Oreg. 97207. Article: One complete Microelectrophoresis Apparatus, MKI. Date of denial without prejudice to resubmission: April 12, 1978.

Docket No. 78-00083. Applicant: University of Hawaii, Institute for Astronomy, 2680 Woodlawn Drive, Honolulu, Hawaii 96822. Article: Mechanical telescope. Date of denial without prejudice to resubmission: April 25, 1978.

Docket No. 78-00110. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: 4 (Four) each-System, Portable Multichannel Analyzers, Model 7500-8, System 27 consisting of accessories. Date of denial without prejudice to resubmission: March 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-27838 Filed 10-2-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

1. Applicant: a. Name—State of Alaska, Department of Fish and Game; b. Address—Subport Building, Juneau, Alaska 99801.

2. Type of permit: Scientific research.

3. Name and number of animals: Ringed seal (*Phoca hispida*), 100; bearded seal (*Erignathus barbatus*), 200.

4. Type of activity: To kill ringed seals in the wild and tag bearded seals for the purpose of continuing research and management programs on the biology and distribution of these and other species.

Location of activity: Bering, Chukchi, and Beaufort seas.

Period of activity: 3 years.

Concurrent with the pubication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this applicantion shoud be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: September 5, 1978.

RICHARD B. ROE,
Acting Director, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-27808 Filed 10-2-78; 8:45 am]

[3510-22]

UPPER COLUMBIA RIVER BASIN POPULATIONS OF SALMON (ONCORHYNCHUS SPP.) AND STEELHEAD (SALMO GAIRDNERI)

Biological Status Review

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, and U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Review of status of upper Columbia River Basin populations of Pacific salmon and steelhead trout.

SUMMARY: The National Marine Fisheries Service and U.S. Fish and Wildlife Service are coordinating an interagency review of the status of certain populations of salmon and steelhead occurring in the Columbia River Basin upstream of the confluence with the Snake River to determine if any should be proposed for listing as threatened or endangered under the Endangered Species Act. Anyone having factual information on the status of these stocks is invited to submit it. The review will focus initially on the late spawning—primarily November—runs of Chinook salmon.

FOR FURTHER INFORMATION CONTACT:

Comments should be submitted to Dale R. Evans, Chief, Environmental and Technical Services Division, National Marine Fisheries Service, P.O. Box 4332, Portland, Oreg. 97208. Phone 503-234-3361, extension 4301; FTS 429-4301, on or before November 2, 1978.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Northwest fisheries agencies have begun assembling available information concerning the biological status of upriver stocks of salmon in the Columbia River Basin with regard to provisions of the Endangered Species Act of 1973. The National Marine Fisheries Service, and the U.S. Fish and Wildlife Service are coordinating this status review through the Columbia Basin Fishery Technical Committee of the Columbia River Fisheries Council. The Columbia River Fisheries Council is comprised of the Northwest Regional Directors of the National Marine Fisheries Service and the U.S. Fish and Wildlike Service, the Directors of the Idaho Department of Fish and Game, the Oregon Department of Fish and Wildlife, the Washington Department of Fisheries, and the Washington Department of Game, and the Chairman of the Columbia River Inter-Tribal Fish Commission. If review of the information being gathered indicates listing of certain populations as threatened or endangered is warranted, a proposal to make the listing will be published in the FEDERAL REGISTER with a 90-day comment period. Should any regulations be deemed necessary by the National Marine Fisheries Service for the conservation of the listed species, a proposed rulemaking would be published in the FEDERAL REGISTER either in conjunction with the proposal to list or subsequently with a minimum 60-day review and comment period before the effective date.

After review of the comments received on the proposed listing, and following consultation with the other members of the council, the National Marine Fisheries Service will determine whether to proceed with the listing. This determination and the corresponding listing by the U.S. Fish and Wildlife Service will be published jointly in the FEDERAL REGISTER.

The review now underway will specifically consider effects of habitat degradation, possible overutilization for commercial and sporting purposes, disease, and predation, any inadequacies of existing regulations, and the effects of other natural and man-made factors on salmon and steelhead in the upper Columbia River Basin. The progress of conservation efforts being made to protect and improve stocks of salmon and steelhead and their habitats is also relevant to the determination of whether any should be proposed for listing. For example, juvenile salmon and steelhead have been collected at these dams and at hatcheries and transported in trucks and barges to release sites below Bonneville Dam.

Another major conservation effort, approved by State and Federal fisheries agencies and authorized for construction by the Corps of Engineers is the establishment of up to eight new salmon and steelhead hatcheries to compensate for losses of the fish at the four lower Snake River dams. Construction of the first of these is expected to begin in fiscal year 1979, if construction funding is approved. A portion of the spawning escapement of the upriver fall Chinook is being captured and propagated at other hatcheries to insure availability of an egg source.

The two Federal services will seek the views of the Governors of Washington, Oregon, and Idaho, and will solicit from them information on the status of the populations under consideration. Other interested parties are invited to submit any factual information, especially publications and written reports germane to the assessment of the status of upper Columbia River Basin stocks of salmon and steelhead. The information should be submitted in writing to the above address. Public information meetings will be held as requested or deemed necessary.

This notice of review was prepared by Robert B. Gorrell, Acting Endangered Species Program Manager, National Marine Fisheries Service, 202-634-7461. The two Federal Services have determined that this notice does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

By letter of January 5, 1978, to the Department of the Interior, Herman J. McDevitt, attorney and member of the Pacific Fishery Management Council, requested a status determination of upriver summer Chinook salmon under the Endangered Species Act. By letter of Janaury 6, 1978, to the Department of the Interior, Mr. McDevitt requested a status determination of Snake River spring Chinook salmon under the Endangered Species Act. Neither of these petitions included "substantial evidence" as required under section 4(c)(2) of the Endangered Species Act to warrant a review. However, notice is hereby given that the two Federal Services have evidence on hand to warrant a biological status review of Pacific salmon and steelhead trout in the upper Columbia River Basin.

Dated: September 28, 1978.

JACK W. GEHRINGER,
Acting Assistant Administrator for Fisheries.

LYNN GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 78-27817 Filed 10-2-78; 8:45 am]

[3510-22]

WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Regional Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will hold its 13th regular meeting, to discuss the status of fishery management planning for the precious coral, spiny lobster, and billfish fisheries.

DATE: The meeting will convene at 9 a.m. on Monday, October 23, 1978, and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will be held in the Alii Surf Room 1L0 of the Kona Hilton Hotel, in Kailua-Kona, Hawaii.

FOR FURTHER INFORMATION CONTACT:

Wilvan G. Van Campen, Exective Director, Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone 808-523-1368.

SUPPLEMENATRY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: September 28, 1978.

WINFRED H. MEIBOHN,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-27807 Filed 10-2-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CLARIFYING THE STATUS OF CERTAIN TEXTILE PRODUCTS EXPORTED FROM INDIA

SEPTEMBER 27, 1978.

On September 26, 1978, a letter, dated September 21, 1978, was published in the FEDERAL REGISTER (43 FR 43539) which announced a reduction in charges of 10.5 million square yards equivalent from the limit established for group II (categories 330-369, 431-469, and 630-669) under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India. The purpose of this notice is to clarify that the directive of September 21, 1978, is intended to cancel and supersede the directive of July 18, 1978, which permitted entry for consumption and withdrawal from warehouse for consumption of quantities in excess of the group II limit for merchandise in categories 330-369, 431-469, and 630-669, as a group, exported from India after December 31, 1977, and on or before July 7, 1978.

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In the letter to the Commissioner of Customs, published below, the Chairman of the Committee for the Implementation of Textile Agreements clarifies the intent to cancel the directive of July 18, 1978. The letter also confirms changes in T.S.U.S.A. numbers for certain handloomed and handknotted carpets which were changed pursuant to amendments in the Tariff Schedules of the United States, published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39408).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,

SEPTEMBER 25, 1978.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: The purpose of this letter is to clarify that the directive of September 21, 1978, concerning the reduction of 10.5 million square yards equivalent in charges from the Group II ceiling (Categories 330-369, 431-469 and 630-669), established under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, between the Governments of the United States and India, cancels and supersedes the directive of July 18, 1978, which lifted the embargo on the Group II limit for merchandise exported from India after December 31, 1977 and on or before July 7, 1978.

For purposes of implementing the directive of September 21, 1978, the following changes in T.S.U.S.A. numbers should also be noted:

T.S.U.S.A. No. 360.0500 changed to 360.0505; 360.1000 changed to 360.1005; 360.1500 changed to 360.1505; 361.4200 changed to 361.4205; 361.4400 changed to 361.4405.

T.S.U.S.A. numbers 361.5422 and 361.5425 were both changed to 361.5418.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation for Textile Agreements.

[FR Doc. 78-27891 Filed 10-2-78; 8:45 am]

[3310-71]

DEPARTMENT OF DEFENSE

Department of the Navy

BOARD OF ADVISORS TO THE SUPERINTENDENT, NAVAL POSTGRADUATE SCHOOL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, will meet on November 30 and December 1, 1978, in the Mezzanine Conference Room of the Naval Postgraduate School, Monterey, Calif. Sessions of the meeting will commence at 8 a.m. and terminate at 5:30 p.m. both days.

The Board was appointed to advise and assist the Superintendent concerning the Naval Postgraduate School Education Program. Items to be addressed at the meeting include a review of enrollment trends, progress in implementing new curricula, recommendations resulting from scholarly reviews of academic departments and a discussion of academic support facilities and equipment.

For further information concerning this meeting, contact Comdr. Charles J. Cox, Executive Assistant, Code 007, Naval Postgraduate School, Monterey, Calif. 93940, telephone 408-646-2514.

Dated: September 26, 1978.

P. A. WILLIE,
U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-27802 Filed 10-2-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. BPA 7-3]

SALE OF THERMAL POWER FROM THE HANFORD GENERATING PROJECT

Order Confirming and Approving Special Contract Rates

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below confirming and approving special contract rates for the sale of thermal power from the Hanford generating project.

In the Matter of Hanford Generating Project, Bonneville Power Administration ex rel. Resource Applications; Order Confirming and Approving Special Contract Rates

Pursuant to section 301(b) of the Department of Energy Organization Act, 42 U.S.C. 7101 et seq., the function to confirm and approve power rates for the Bonneville Power Administration (BPA or Bonneville) was transferred to the Secretary of Energy. By delegation order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (Nov. 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Washington Public Power Supply System (WPPSS) entered into an agreement with the Department of Energy (DOE) to extend the supply of byproduct steam from DOE's new production reactor at Hanford, Wash., for the generation of electricity at the Hanford Generating Project (Hanford) until June 30, 1983. In a normal operating year, Hanford will generate approximately 4.5 billion kilowatthours. BPA entered into agreements with WPPSS, several investor-owned utilities (IOU), direct-service industries (DSI) and preference agencies under which the IOU and DSI customers each may purchase specified amounts of Hanford extension energy through June 30, 1983. Provisions in the agreement with DSI customers allow BPA to withdraw certain amounts of Hanford energy to meet the firm power commitments of BPA and preference agencies.

Because of anticipated poor steamflow conditions, BPA withdrew certain amounts of this Hanford energy allocated to DSI customers in November 1977. However, streamflow conditions improved and subsequently ERA, upon request of BPA, confirmed and approved a special rate (10 mills per kilowatt-hour) for the sale of this withdrawn Hanford energy during the period January 1, 1978, through June 30, 1978, 43 FR 16535 (Apr. 19, 1978). The Hanford energy so withdrawn was offered first to DSI customers or other Northwest purchasers and then to utilities in California.

On April 27, 1978, the Assistant Secretary for Resource Applications, on behalf of BPA, requested the Administrator of ERA to confirm and approve for a period ending June 30, 1983, special contract rates that would apply to the sale of the portion of Hanford energy not withdrawn and to future sales of Hanford energy that may be withdrawn by BPA if its system operations indicate that such sales are desirable.

BPA has advised ERA that the special rate will vary from year to year depending on the costs in such year of producing and transmitting Hanford energy. These costs are estimated in the contracts between BPA and the IOU customers and between BPA and the DSI customers (contract Nos. 14-03-79120 and -79121, respectively). Each of the five IOU customers will pay 10 percent of the estimated cost of producing Hanford energy. The remaining 50 percent of the cost will be prorated among the 15 DSI customers according to each customer's usage. Monthly billings for each IOU and DSI customer will be based on estimated operating costs and the revenue therefrom will be placed in a trust account. After the close of each operating year, each customer's account will be adjusted to reflect actual operating costs. Each customer has also agreed to pay its proportional share of the cost of Hanford's environmental program and each DSI customer has agreed to pay the cost associated with the relocation of WPPSS nuclear project No. 1.

The rates for the IOU customers are to apply during the period November 1, 1977, through June 30, 1983. Because the DSI portion of Hanford energy was withdrawn through June 30, 1978, the rates for the DSI customers are to apply during the period July 1, 1978, through June 30, 1983.

DISCUSSION

On June 22, 1978, ERA afforded interested persons the opportunity to file written comments on the proposed special contract rates and to request a public hearing, 43 FR 28031 (June 28, 1978). No written comments were received in response to the Notice and no requests for a public hearing were filed. ERA finds that the special contract rates for the sale of Hanford extension energy will yield sufficient revenues to comply with statutory requirements and that it is appropriate to confirm and approve the rates through June 30, 1983, as requested by the Assistant Secretary.

ORDER

Pursuant to the delegation of authority set forth above, the Assistant Administrator for Utility Systems, Economic Regulatory Administration, orders:

1. The proposed rates and charges for the sale of power and energy generated at the Hanford Project as specified in contract No. 14-03-79120 between the Bonneville Power Administration and investor-owned utilities are hereby confirmed and approved for a period ending June 30, 1983;

2. The proposed rates and charges for the sale of power and energy generated at the Hanford Project as specified in contract No. 14-03-79121 between the Bonneville Power Administration and direct-service industries are hereby confirmed and approved for a period ending June 30, 1983; and

3. The Assistant Secretary for Resource Applications shall cause a copy of this order to be distributed to all appropriate parties on the service list.

Issued in Washington, D.C., this 26th day of September 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-27831 Filed 10-2-78; 8:45 am]

[3128-01]

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the additional agreement for cooperation between the Government of the United States of America and the European Atomic Energy Community (Euratom) concerning the peaceful uses of atomic energy and the agreements for cooperation between the Government of the United States of America and the Governments of Norway and Austria concerning civil uses of atomic energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve the following retransfers.

APPLICATION NUMBER, COUNTRIES AND DESCRIPTION OF MATERIAL

RTD/EU (NO)-28, Norway to the United Kingdom; 1,690 g of uranium containing 153 g of U-235 and 3.2 g of plutonium in the form of irradiated test fuel rods for postirradiation experiments at the U.K.A.E.A.'s Berkely Laboratories.

RTD/AT (EU)-47, West Germany to Austria; 0.27754 g of uranium in the form of irradiated UO, particles from Euratom (Julich, West Germany) to Austria (Seibersdorf) for destructive testing.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security of the United States.

These subsequent arrangements will take effect no sooner than 15 days after publication of this notice.

For the Department of Energy.

Dated: September 28, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc.78-27878 Filed 10-2-78; 8:45 am]

[3128-01]

Office of the Secretary

INTERNATIONAL ENERGY AGENCY INDUSTRY ADVISORY BOARD

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meeting:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on October 4, 1978, at the headquarters of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The purpose of this meeting of the IAB is to permit attendance by representatives of the IAB at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held at Paris on October 4. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed and that representatives of the IAB will be invited to join the meeting during discussion of items 5-15 of the agenda, or such other items as may be determined by the SEQ.

1. Approval of draft agenda.
2. Summary record of the 21st meeting.
3. Quarterly oil forecast 3Q78-2Q79.
4. Current situation in the international oil market.
5. Emergency reserves of IEA countries:
(a) Report to the Governing Board on reserves as at July 1, 1978.
(b) Consumer stocks and reporting instructions (oral report by Secretariat).
6. Second allocation systems test (AST-2) (draft report to the Governing Board).
7. Product imbalances:
(a) Proposal for update of the Emergency Management Manual.
(b) Nineteen hundred and seventy-nine workshop (oral statement by Secretariat).
8. Improvement of voluntary offer allocation using mathematical methods (development project).
9. Future allocation tests:
(a) National emergency tests.
(b) Swedish national emergency tests.
(c) Optimum design of emergency tests.
(d) EEC participation (oral report).
10. Distinction between phase I and phase II of oil reallocation.
11. Emergency Management Manual:
(a) French version.
(b) Revision and update procedures.
12. Future work program for SEQ and IAB.
13. Special section of the information system:
(a) Base period final consumption:
(i) Current calculation 3Q77—2Q78.
(ii) Oral report on meeting of special working group.
(b) Report on the trade imbalance meeting in The Hague on September 16.
(c) Questionnaire A/B reporting instructions for quarterly oil statistics system; timing of 1979 emergency data test.
(d) Coordination of work on quarterly oil statistics with that of the European Communities.
14. Future meeting dates.
15. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual 7-day notice period to be shortened.

Issued in Washington, D.C., September 28, 1978.

LYNN R. COLEMAN,
General Counsel.

[FR Doc. 78-27923 Filed 10-2-78; 8:45 am]

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[3128-01]

[DOE/EIS-0006]

WIND TURBINE GENERATOR SYSTEM, BLOCK ISLAND, WASHINGTON COUNTY, R.I.

Availability of Final Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a final environmental impact statement, DOE/EIS-0006, Wind Turbine Generator System, Block Island, R.I. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to analyze the potential environmental impacts associated with the proposed construction and operation of a wind turbine generator system at a site on Block Island, Washington County, R.I. The system will provide operating data applicable to the use of such a system as part of an electric utility network. The statement assesses the potential environmental impacts associated with the construction and operation of the system.

Copies of the final environmental impact statement have been distributed to those who commented on the draft statement, as well as others who requested copies.

Copies of the statement are available for public inspection at the DOE public document rooms located at:

DOE Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 27th day of September 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27832 Filed 10-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 981-4; OPP-210011]

PESTICIDE PROGRAMS

Request for Information

AGENCY: Office of Pesticide Programs, U.S. Environmental Protection Agency (OPP, EPA).

ACTION: Notice of request for information.

SUMMARY: The Agency is reviewing information and data relating to the efficacy of Freers Elm Arrester in the treatment of Dutch elm disease. The Agency announces that it is considering issuing a notice of intent to cancel the registration of Freers Elm Arrester and requests the registrant and other interested parties to submit data on the efficacy of Freers Elm Arrester in the treatment of Dutch elm disease.

DATES: The information requested must be received on or before November 17, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. John Lee, Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 309, East Tower, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator for the Office of Pesticide Programs has determined that data presently available to the Agency indicates that the efficacy of Freers Elm Arrester against Dutch elm disease is questionable and that additional information is required to permit the Agency to complete its review of this question.

I. BACKGROUND

A. GENERAL INFORMATION

Freers Elm Arrester (FEA) is registered for use in the treatment of Dutch elm disease in Iowa, Missouri, Indiana, Illinois, and, provisionally, in Wisconsin. Mercuric chloride is the active ingredient. The registrant claims that FEA acts as a systematic fungicide against *Ceratacystis ulmi*, the causative agent in Dutch elm disease, but makes no claims for efficacy against the bark beetle which carries this fungus and spreads the disease.

The EPA published a notice of intent to cancel mercury-containing pesticides, including FEA, on March 22, 1972 (37 FR 6419). Following a hearing, the administrative law judge's initial decision recommended cancellation of mercury-containing pesticides including FEA. (Dec. 12, 1975). The EPA Adminstrator accepted the recommendation for most mercury-containing pesticides, but did not accept the recommendation as to FEA and permitted the registration to remain in effect. (See In re: *Chapman Chemical Company*, FIFRA Docket No. 246, Feb. 18, 1976).

The administrative law judge had based his recommendation for cancellation of FEA on the absence of data showing that FEA was effective and on the corresponding availability of a substitute pesticide which did not contain mercury and which was stated to be effective against Dutch elm disease. However, after reviewing the initial decision, the EPA Administrator found that the hearing record did not establish that the recommended substitute was, in fact, satisfactory treatment for Dutch elm disease. The Administrator's decision not to cancel FEA was therefore based on the absence of information in the record establishing the availability of an effective substitute. The Administrator did not review or decide the issue of FEA's effectiveness against Dutch elm disease.

In section III of this notice, the Agency summarizes data and information indicating that there is continuing uncertainty regarding the efficacy of FEA. As a result, the Agency is reviewing the registration status of this pesticide and is considering issuing a notice of intent to cancel. To assist in this review, the Agency invites the registrant and other interested persons to submit data relating to the efficacy of FEA in the treatment and prevention of Dutch elm disease.

B. STATUTORY AUTHORITY

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.) authorizes the FEA Administrator to register pesticides for uses which conform to statutory standards for pesticide registration and to cancel pesticide products which do not comply with these standards. The four principal requirements for registration and continued registration of pesticide products are listed in section 3(c)(5) of FIFRA. Specifically, to register a pesticide, the Administrator must determine if, "when considered with any restictions * * *

(A) [The pesticide's] composition is such as to warrant the proposed claims for it;

(B) Its labeling and other material required to be submitted comply with the requirements of this Act;

(C) It will perform its intended function withour unreasonable adverse effects on the environment; and

(D) When used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The first of these four independent criteria for registration requires the Administrator to determine if the pesticide's composition warrants claims, including claims of efficacy, made for it. To permit the Administrator to make this determination, FIFRA registration procedures require each applicant for registration to file a statement which includes, among other things, "a statement of all claims to be made for [the pesticide]". The Act also allows the Administrator to require submission of a "full description of tests made and the results thereof upon which claims are based" (secs. 3(c)(1) (C) and (D)). These provisions authorize the Administrator to establish minimum standards of efficacy and require applicants and registrants to show that pesticides meet these standards in order to be registered or to continue their registrations.

Agency regulations, at 40 CFR 162.8(b)(2), implement these registration provisions and set forth the following general requirements for efficacy data:

"Data are required to substantiate efficacy claims made for the pesticide product. Evidence of product efficacy will be demonstrated through laboratory and/or field-testing procedures which simulate actual use conditions. Actual test procedures will vary according to the characteristics of the chemical, the type of formulation, the target pest, the use patterns, and the methods and time of application."

The efficacy testing requirements specific for Dutch elm disease are summarized in section II of this notice.

These statutory provisions and regulatory standards establish that efficacy is a requirement for registration and continued registration of pesticides.* Section 6 of the act authorizes the Administrator to issue a notice of intent to cancel registrations of pesticide products which no longer satisfy these and other registration requirements. Thus, the Administrator may cancel the registration of a pesticide whenever he determines that it no longer statisfies the statutory standard for registration which requires, among other things, that "its labeling and other material required to be submitted comply with the requirements of [the] Act." (FIFRA sec. 3(c)(5); 7 U.S.C. 136a(c)(5)).

*EPA is planning to reduce the amount of efficacy data required to be submitted in support of registration applications and the emphasis which is placed on product efficacy in registration and cancellation decisions. The Agency, however, retains the authority to deny or cancel registrations for any pesticide which the Administrator has determined to be ineffective for its intended use. The Agency will exercise this authority in situations where information comes to its attention which demonstrates that a pesticide is ineffective.

II. REGISTRATION GUIDELINES FOR EFFICACY TESTING

Agency regulations at 40 CFR § 162.8 prescribe general standards for test data submitted to support product claims. In addition, the Agency evaluates test data submissions in accordance with specific internal guidelines for efficacy test data for pesticides intended to control Dutch elm disease.[1] The principal test standards for the trunk injection method are as follows:

1. Small trees are not suitable for trunk injection testing;
2. All trees selected for the study should show about the same degree of infection;
3. All trees must be tested to demonstrate the presence or absence of *C. ulmi*, as detailed in the guidelines;
4. The method and timing of treatment should be the same for all trees;
5. Observations should be recorded in late spring or early fall (between June 15 to July 15, and Aug. 15 to Sept. 15) for between 2 to 5 years;
6. Recorded observations should indicate time of treatment, presence or absence of *C. ulmi* by culturing, original extent of wilting or dieback, extent of wilting or dieback for each observation, general condition of the tree, and phytotoxicity;
7. Samples should be taken from various symptomatic areas from the tree's crown;
8. Color photographs before and after treatment should be taken;
9. Evidence offered as an indication of efficacy should show significant difference between treated and untreated (control) trees;
10. Tests should consist of at least 100 treated and 100 untreated (inoculated with *C. ulmi* or naturally infected) trees.

The guidelines also specify that the data sumitted should be sufficiently specific to allow verification and that testimonial evidence is not acceptable.

[1] *Requirements for Evaluating the Effectiveness of Products Claiming Use in the Cure, Control, or Arrest of Dutch Elm Disease*, Registration Division, Pesticides, EPA. (Received by EPA from USDA, Oct. 25, 1973). These guidelines should not be confused with Guidelines for Registering Pesticides, which the Agency is in the process of developing to satisfy FIFRA sec. 3(c)(2) requirements.

III. INFORMATION AND DATA ON THE EFFICACY OF FREERS ELM ARRESTER (FEA)

This section presents data and information on FEA efficacy which the Agency is reexamining in connection with this notice. These data are derived from published and unpublished studies, EPA registration submissions, and affidavits.

A. DATA SUBMITTED TO SUPPORT FEA REGISTRATION

1. *Babler State Park Study* (1)

The registrant submitted a study conducted in Babler State Park (Mo.) and the present registration was granted solely on the basis of this data.

In June 1966, 93 elm trees were treated with FEA and 98 elms were left untreated. Treatment was accomplished by twice injecting FEA into tree trunks to fill ⅝-inch-diameter holes (depth of the holes is unstated). The number of holes per tree was determined by the tree's diameter; "small" trees had two holes each. Untreated trees received water only. Elms were selected at random.

The trees were examined 1 and 2 years after treatment and were visually graded on a scale of 0 (dead) to 4 (healthy) (table 1).

TABLE I.—*Health of Treated and Untreated Elms on a Scale of 0-4*

	4	3	(4 & 3)	2	1	0	(2, 1, 0)
Number of untreated elms 1967	29	33	(62)	28	6	2	(36)
Number of treated elms 1967	33	52	(85)	7	1	0	(8)
Total	62	85	(147)	35	7	2	(44)
Number of untreated elms 1968	11	59	(70)	16	2	4	(22)
Number of treated elms 1968	19	64	(83)	8	1	1	(10)
Total	30	123	(153)	24	3	5	(32)

In the June 1967 observation, 58 percent (85/147) of the trees designated as healthy (graded 4 or 3) had been treated with FEA; 18 percent (8/44) of the trees designated as unhealthy (graded 2, 1, or 0) were treated. Neither of the two dead trees (graded 0) had been treated with FEA. In the June 1968 observation, 54 percent (83/153) of the trees designated as healthy (graded 4 or 3) had been treated; 31 percent (10/32) of the unhealthy trees (graded 2, 1, or 0) were treated. One of the five dead trees (graded 0) had been treated with FEA.

Initially, the Registration Division (USDA) regarded this data as insufficient because it did not indicate whether or not the elms were infected with Dutch elm disease prior to selec-

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tion and treatment,[2] and because the difference between the treated and untreated trees was not considered statistically significant.[3] Subsequently, information was submitted to cure the first defect. It indicated that samples had been taken from most elms before treatment, and that only 10 elms of the nearly 200 trees in the study were positive for *Graphium*, a stage of the fungus associated with Dutch elm disease.[4]

The applicant has never submitted a statistical analysis to cure the second defect. In addition, the data does not reveal whether or not the treated control trees had the same degree of infection prior to test initiation. These are two examples of this study's failure to satisfy the efficacy testing requirements. (See sec. II, items 2 and 9).

2. *Affidavit of S. C. Goard, Assistant Superintendent of Parks, South Bend, Ind. (submitted pursuant to registrant's patent application)* (3)

In May 1962, 60 trees were treated with FEA and 70 trees in the same 8-acre park were untreated. Treatment was accomplished by injecting FEA into the trunk of the tree with an amount sufficient to fill holes 4 to 6 inches in depth twice (diameter of holes is not stated). The number of holes varied according to tree circumference. It was estimated that the amount of FEA per tree ranged from 1 pint to over 1 gallon. At the time of treatment, culture tests and visual inspection of twigs indicated that all trees were infected with Dutch elm disease. (It was not stated whether or not both methods were used for all trees.) The treated and control trees were intermingled throughout the park. After the growing season, seventeen-sixtieths (28 percent) of the treated trees and one-seventieth (1 percent) of the untreated trees were still living.[5]

This data submission does not comport with the guideline requirements in several ways. Some of the more important defects are that it is not stated how the treated and untreated trees were selected, nor whether they had the same degree of infection; there is no statistical analysis as to the significance of the findings; it is unclear whether or not culture samples were taken from all trees; and it is not stated how extensive the sampling was for each tree. (See sec. II, items 2, 3, 7, and 9.)

3. *Affidavit of W. R. Bowers, Forester (submitted pursuant to registrant's patent application)* (2)

In May 1962, in an experimental plot, 25 elms were treated with FEA and 25 elms were untreated. Treatment was accomplished by injecting FEA into the trunk of the tree in an amount sufficient to fill 4- to 6-inch depth holes twice (diameter of the holes is unstated). The number of holes varied according to tree circumference. It was estimated that the range of FEA used per tree was from 1 pint to over 1 gallon. At the time of treatment, all the trees were determined to be infected with Dutch elm disease. The determination was made by visual inspection of twigs from all the trees and culture tests from "most" of the trees. By 1965, twenty-three twenty-fifths (92 percent) of the treated trees and none (0 percent of the untreated trees were still alive.[6]

Again, this data submission does not satisfy some of the efficacy testing requirements. Some of the more critical defects are that it is not stated how the trees were selected or to what extent they were diseased at the time of selection; the number of elms is small; culture samples were not taken from all trees; and the extensiveness of sampling for each tree was not stated. (See sec. II, items 2, 3, 7, and 10.)

4. *Other*

Other EPA file data has not been included in this summary because it is incomplete or otherwise unreliable.

B. OTHER RELEVANT DATA AND INFORMATION

1. *Stipes study* (6)

In a nursery, 28 American elms were treated with FEA and inoculated with *C. ulmi*. Fourteen of these trees were treated before inoculation (preventive group) and 14 were treated after inoculation (therapeutic group). Fifteen trees, inoculated but not treated, served as a control group. FEA was twice injected into the tree trunks to fill 2- or 3½-inch holes. (It is not stated whether the holes' measurement refers to their depth or diameter.)

One year after treatment, FEA had little effect on Dutch elm disease inhibition. The average percentage of "flagging" (visible disease symptoms in the foliage) was 92 percent in the control group contrasted to 87 percent (preventive) and 76 percent (therapeutic) in the treatment groups (table II). The authors concluded that: "[w]hile foliar symptoms in treated trees were less severe than in the checks, there is no indication that the reduction was great enough to make [FEA] an effective control for Dutch elm disease." The number of trees in this study is small. (See sec. II, item 10.)

TABLE II.—*Average Percentage[1] of Flagging*

Observation date[2]	Preventive	Therapeutic	Control
July 1965	53	45	66
September 1965	87	76	92

[1]Date of treatment, September 1964.
[2]Raw data was not submitted.

2. *Hansen II* (5)

In the spring of 1974, in an experimental plot, five elms were treated with FEA[7] and five elms were untreated. All the trees were inoculated with *C. ulmi*, the causal organism of Dutch elm disease. Approximately 2½ years later, the average percentage of flagging was computed for the treated and untreated elms. The average flagging of the untreated elms was 64 percent as contrasted to 48 percent for the treated elms. Among other deviations from the registration guidelines, it is not stated whether this result is statistically significant and the number of trees used is small (see sec. II, items 9 and 10).

3. *Hansen I* (4)

Thirty-eight American elms (9 years old) were treated with FEA[8] and then inoculated with *C. ulmi* (preventive group). Thirty-nine American elms were first inoculated and then treated (therapeutic group). Thirty-nine American elms, inoculated, but not treated, served as a control group. Treatments were randomly assigned in the test area. Trees selected for treatment or control were separated on both sides by nontest trees to reduce the possibility of root-graft transfer of Dutch elm disease.

Less than a month after treatment, 84 percent (⁶⁵⁄₇₇) of the treated trees showed some flagging as contrasted to 79 percent (³⁸⁄₄₈) of the control. One and two months after treatment, there was no statistically significant difference in the average percentage of flagging between the treated and untreated group (table III). One year after treatment, a larger percentage of the treated trees relative to the untreated trees were dying (table III).

In some trees, initial disease symptoms later become latent, indicating arrest. One year after treatment, there was no statistically significant difference in latency between treated and untreated trees (table III). Two years after treatment, there was little measurable difference between treated and untreated trees; 39 percent (³⁹⁄₇₇) of the treated trees were dead as contrasted to 36 percent (¹⁴⁄₃₉) of the untreated trees.

The author concluded that "[i]n these tests, treatment of American elm trees with [FEA] did not significantly reduce the initial symptoms of Dutch elm disease, and was ineffective in arresting [its spread]."

TABLE III.—*Average Percentage[1] of Flagging*

Observation date	Preventive	Therapeutic	Control
June 1974	20.8	20.1	24.4
July 1974	18.4	17.4	23.0
Percentage of Elms With 60 Pct Dieback[1]			
July 1975	23.1	33.3	20.5
Percentage of Elms Which Became Latent			
July 1975	44.7	55.9	64.7

[1]Elms with 60 pct or more dieback are considered dead. Arrest is highly unlikely at this point.
[2]Raw data was not submitted.

In the Hansen I study, leaf and twig samples were taken from approximately one-third of the treated trees and "representative" samples were taken from the untreated trees. Mercury residue determinations were made by atomic absorption using IL AA spectrothotometer, model 353. There was no statistically significant difference in mercury residue between treated and untreated trees (table IV). The author concluded that "[t]his demonstrates that mercury applied in treatment is not moving to the outer branches of the trees to effect preventive or therapeutic action." * * *"

TABLE IV.—*Amount of Mercury Residue (mg Hg/g.) in Twigs and Leaves of Treated and Untreated Elms.*

	Untreated	Treated
Twigs	0.06+0.04	0.06+0.03
Leaves	0.15+0.02	0.12+0.06

4. *Thomas* (7)

Thomas analyzed the mercury content in an elm tree (8-10 inches in diameter, 35-40-feet high) which had been injected with 800 mg. FEA. Upper branch and root samples were taken at five intervals between 1-32 days after treatment; one wood sample was taken from around the injection hole. Samples from untreated elms ranged between 0.03-0.05 ppm. mercury (detection limit: 0.03 ppm).[9]

No mercury was detected in the roots or aerial branches. The only mercury detected was in the area directly around the injection site (table V).

TABLE V.—*Mercury Residue Levels in Untreated and Treated Samples of Branches and Roots*

Sample	Dry weight	Mercury (p.p.m.)
Untreated (branches)	10	0.03
Day 1 treated (branches)	10	.03
Day 7 treated (branches)	10	.03
Day 14 treated (branches)	10	.03
Day 20 treated (branches)	10	.03
Day 32 treated (branches)	10	.03
Untreated (roots)	10	.03
Treated (roots)	10	.03
Injection hole (treated)	10	.04

IV. SUMMARY

As detailed above, much of the data currently available to the Agency fails to meet critical requirements in the guidelines. Indications of minimum effective dosage and effective dosage range are universally lacking. With the exception of the Babler State Park data, tests were conducted on fewer than the 200 trees recommended by the guidelines. The field data does not indicate whether or not the treated and untreated trees showed the same degree of infection prior to treatment. To some extent, this is not a problem for nursery testing because all trees were uniformly inoculated with *C. ulmi* prior to testing. However, since preinoculation culture samples were not taken in the nursery tests, it is possible that some trees were naturally infected and therefore diseased before the start of the study. Descriptions of how samples were taken is universally omitted. The guidelines recommend that they be taken from various symptomatic areas in each tree. Lastly, the final health of the tree has been ascertained visually rather than by the recommended repeated sampling.

V. SOLICITATION OF WRITTEN, SCIENTIFIC INFORMATION ON THE EFFICACY OF FREERS ELM ARRESTER

The Agency is soliciting written views from the registrant, and other interested persons concerning the efficacy of Freers Elm Arrester (FEA). All information and materials sent to EPA as a result of this notice which comply with the guidelines stated herein will be considered in the Agency's determination. Such material, however, will not necessarily be referenced or included in any final document prepared by EPA.

A. REGISTRANT SUBMISSION: CONFIDENTIALITY

The registrant may assert a business confidentiality claim covering part or all of the information submitted. Assertion of confidentiality is accomplished by placing on or attaching to the information a cover sheet upon which is stamped or typed, or appears in other suitable form, language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked. If confidentiality is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906, Sept. 1, 1976). If no confidentiality claim accompanies the submitted information, EPA will place the information in the public comment file where it will be available for public inspection. If confidentiality is asserted for a portion of the submitted information, the registrant should furnish two copies to EPA: the first should contain all of the submitted information with that claimed as confidential clearly identified; the second copy should be identical to the first except that all claimed confidential information should be deleted. The first copy will be treated in accordance with the procedures set out above. The second copy will be placed in the public comment file.

B. PUBLIC INSPECTION OF SUBMITTED INFORMATION

All written information and comments submitted in response to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since: (1) All of the information timely received will be considered before a final determination is made, and (2) the Agency may not publish a summary of all the information received in the FEDERAL REGISTER.

C. GUIDELINES

1. *Materials solicited.* All interested persons are invited to submit scientific information relating to Freers Elm Arrester. The Agency is especially interested in information relevant to FEA efficacy (or that of mercury-containing pesticides generally) in preventing,

[2]Letter from Harold G. Alford, Assistant Director for Registration, USDA, to the Freers Co., May 1, 1968, EPA files, EPA Reg. No. 7452-1.

[3]Memo: June 18, 1968, EPA files, EPA Reg. No. 7452-1.

[4]The cover letter to the data stated that 11 trees were positive for Dutch elm disease of which 9 were untreated. It also states that samples were taken in June 1966, whereas the data indicates samples were taken in May 1966. The cover letter also has an internal contradiction concerning number of treatments. At one point, it states that the elms were treated once with FEA. Later, however, it refers to two treatments, one in June 1966 and one in Aug. 1966. EPA files, EPA Reg. No. 7452-1, Accessions No. 223330, Mar. 1, 1968.

[5]W. R. Bowers, a contractor of the registrant, stated in a letter dated Jan. 28, 1968, that 11 treated and 4 untreated trees were still alive. This conflicts with the information in the affidavit. EPA files, EPA reg. No. 7452-1. accessions No. 223330.

[6]In a letter, W. R. Bowers, a contractor of the registrant, states, "In regards to treatment of elm trees in Lincoln Park * * *. It consisted of the following: 20 trees were treated that showed positive * * *. The trees standing today show (11) trees negative, and 9 removed." This conflicts with the affidavit.

[7]The method of treatment and the amount of FEA used per tree were not stated.

[8]Treatment was accomplished by injecting FEA into the trees' trunks, enough to fill 3¼-inch diameter holes twice (depth of holes not stated).

[9]The analytical method used was a modification of the AOAC method as described by Guteman and Lisk, JAFC, vol. 8, No. 4, July-August 1960, p. 306.

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arresting, or in other ways controlling Dutch elm disease. Materials relevant to mercury-containing pesticides' phytotoxicity to elms is also solicited.

2. *Special materials.* a. Relevant unpublished research papers should bear the year research was completed, the purpose for which the research was done (i.e., graduate thesis), and the institution, organization, or company for which the research was performed.

b. Scientific comment on relevant, previously published research papers should be submitted with a copy of the original published material, if it is not readily available publicly. Submissions should include complete bibliographic citations of all materials utilized in preparing the comment.

3. *Procedures.*

a. Initial submittals should be postmarked no later than 45 calendar days after publication of this notice, and should bear the identifying notation, OPP-210011.

b. All material submitted must be in typed form and clearly legible and suitable for duplication by normal copying machines.

c. All submitted material, other than general correspondence, should have the following front page format:

Topic
Author(s) full name
Author(s) address (including ZIP code)
Author(s) telephone number (including area code)

d. Any material submitted in a foreign language should be accompanied by an English translation.

e. Information and comments received after the specified time periods will be considered only to the extent practicable.

f. All materials and correspondence should be sent to Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, U.S. Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

Dated: September 26, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

BIBLIOGRAPHY

1. *Babler State Park*, EPA files, EPA Reg. No. 7452-1 Accessions No. 223330, 223335. June 1967.
2. Bowers, W. R., EPA files, EPA Reg. No. 7452-1, Accessions No. 223330. January 1966.
3. Goard, S. C., EPA files, EPA Reg. No. 7452-1, Accessions No. 223330. January 1966.
4. *Hansen I*, Hansen, J. D., B. A. Schneider, K. N. Woodward, Plant Biology Laboratory, Beltsville, Md., EPA files, EPA Reg. No. 7452-1. Submitted for publication, May 1977.
5. *Hansen II*, Hansen, J. D., Plant Pathologist, Plant Biology Laboratory, Beltsville, Md., EPA files, EPA Reg. No. 7452-1, Accessions No. 228643. September 1976. (unpublished).
6. Stipes, R. J., L. R. Schreiber, Evaluation of Certain Chemicals in Control of Dutch Elm Disease, *Plant Disease Reporter*, Vol. 50, No. 8, August 1966.
7. Thomas, R. F., R. A. Davis, *Report on the Determiniation of Mercury in Elm Branches and Roots*, EPA files, EPA Reg. No. 7452-1. August 1968.

[FR Doc. 78-27797 Filed 10-2-78; 8:45 am]

[6560-01]

[FRL 982-1]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL POLLUTANT MOVEMENT AND TRANSFORMATION ADVISORY COMMITTEE

Open Meeting

Under the provisions of Pub. L. 92-463, notice is hereby given of an open meeting of the Environmental Pollutant Movement and Transformation Advisory Committee of the U.S. Environmental Protection Agency Science Advisory Board.

The meeting will be held on October 18 and 19, 1978, on each day in Room 1112A, Crystal Mall 2 (1921 Jefferson Davis Highway, Arlington, Va.), starting at 10 a.m.

The topics of the meeting are: Discussion of statistics and risk assessment methodologies in EPA, an update on activities with respect to microcosm research in EPA laboratories, current status of ground water activities, and topics of current and future interest of Committee members.

Persons desiring to attend the meeting should contact the Environmental Pollutant Movement and Transformation Advisory Committee, Science Advisory Board secretariat at area code 703-557-7710 and ask for Miss Osborne. Persons should indicate their desire to attend by the close of business on October 16, 1978.

DOUGLAS B. SEBA,
Acting Staff Director, Science Advisory Board.

SEPTEMBER 28, 1978.

[FR Doc. 78-27919 Field 10-2-78; 8:45 am]

[6560-01]

[FRL 981-5]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In memorandum of agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to section 1500.11(c) of the CEQ Guidelines.

Traditionally, the FEDERAL REGISTER notice for EIS's received during a given week has been published on the Friday of the following week. However, as indicated last week, the EPA weekly notice will be published in the FEDERAL REGISTER on the second Monday following the given week. However, computation of review periods will not be altered, that is, the 45 day review period for draft EIS's will continue to be computed from the Friday following the given week and the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from September 18, 1978 through September 22, 1978; the date of submission of comments on draft EIS's as computed from September 29, 1978 is November 13, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: September 28, 1978.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activitives, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Final

Ozark National Forest Timber Plan, Arkansas, September 18: The proposed action is the implementation of a 10-year management plan for the Ozark National Forest in northwest Arkansas. An estimate 9,140 acres will be site prepared and reforested annually, with the possibility of an additional 2,360 acres being reforested annually. Other annual proposed actions provide for 6,000 acres of noncommercial thinning in hardwood poletimber stands, 2,000 acres of precommercial thinning in young pine stands and 5,500 acres of release treatment (mostly in young pine stands). Shifts in wildlife populations will occur. (USDA-FS-R8-FES-ADMIN-77-07.) Comments made by: USDA, DOT, EPA, COE, DOI and State agencies individuals. (EIS Order No. 81010.)

Klamath Basin Working Circle, Timber Plan, Lake and Klamath Counties, Oreg., September 19: Proposed is a revision of the 10-year timber resource plan for the Klamath Basin Working Circle of the Fremont and Winema National Forests. The working circle is located in Lake and Klamath Counties, south central Oregon. Five alternatives are presently under consideration. The preferred alternative proposes a potential yield of 234 MMBF per year. This is based on the substained yield and even flow concept. Intensive timber management practices are proposed that will enable a greater harvest during the plan period. Roads will be constructed, skid trails opened up, and a general distrubance of portions of the forest floor will occur. Comments made by: USDA, EPA, DOI, State and local agencies. (EIS Order No. 81016.)

SOIL CONSERVATION SERVICE

Draft

Baker River Watershed, Grafton County, N.H., September 20: Proposed is a multiple-purpose dam on the south branch of the Baker River in Grafton County, N.H. The purpose of the dam is flood protection and recreation, and is a continuation of the 1963 Baker River Watershed Project Plan. Five alternatives are considered which include: (1) Nonstructural land treatment, relocation; and other measures; (2) structural measures proposed in the 1963 plan; (3) flood prevention and land treatment only; (4) recreation development and land treatment only, and (5) no project. (USDA-SCS-EIS-WS-(ADM)-78-1-(D)-NH.) (EIS Order No. 81020.)

San Miguelito Subwatershed, Santa Ynez River, Santa Barbara County, Calif., September 22: Proposed is a plan for the San Miguelito Subwatershed as related to the Santa Ynez Flood Prevention Project located in Santa Barbara County, Calif. The project includes: (1) Maintaining existing land treatment measures in the upper watershed, (2) structural measures including the enlarging of an existing debris basin, and the enlarging and lining with concrete and existing 2.7 miles of earthen channel, (3) concrete lining, of an existing 0.2 mile earther dam above the debris basin,and (4) landscaping as right-of-way permits. (EIS Order No. 81035.)

DEPARTMENT OF DEFENSE, ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Draft

Fort Irwin National Training Center, San Bernardino County, Calif., September 21: Proposed is the establishment of a National Training Center at Fort Irwin located in the high mojave desert, San Bernardino County, Calif. The purpose is to provide simulated fullscale combat situations to support the Army's combined arms tactical unit training and to intergrate similar exercises with the Air Force, Navy, and Marine Corps. The proposed program would involve reopening post facilities, with construction and rehabilitation preceeding operations. Fort Irwin was selected from eleven alternative sites. (EIS Order No. 81023.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Green Brook Basin, Flood Control Project, Union and Middlesex Counties, N.J., September 18: Proposed is a flood protection plan for the Green Brook Basin which will effect waters in union and Middlesex Counties, N.J. The project consists of levees, floodwalls, channel modifications, concrete flumes, and dry detention reservoirs. A 55-foot high dry detention dam would be located on blue brook and a trapezoidal riprapped channel would be constructed to convey water through the plainfields. Levees and floodwalls would be installed on Green, Bound, Bonygutt, Stoney, and Middle Brooks and the Raritan River. (New York District.) (EIS Order No. 81012.)

Final

Urban Levee Improvement, Oroville Okanogan County, Wash., September 21: Proposed is the improvement to an existing levee system located in Okanogan County, Wash. The plan includes a total of 9,300 feet of embankment to be constructed on the left bank of the Similkameen River at Oroville. The project would provide protection from floods havin a 1 percent chance of occuring in any one year. The levee alignment would follow the river shoreline along approximately 4,000 feet to the river edge and provide 100-year flood protection to 175 acres of land in South Oroville. (Seattle District.) Comments made by: DOI, DOC, USDA, COE, DOE, AHP, EPA, HEW, State and local agencies. (EIS Order No. 81024.)

Draft Supplement

Lucky Peak Modification, Boise River, Boise County, Idaho, September 22: This statement supplements a draft EIS filed in November, 1977. The proposed action is to add hydroelectric power production to the existing Lucky Peak Dam in Boise County, Idaho. This would involve the construction of a side tunnel from the existing outlet tunnel and the construction of a new powerhouse near the outlet. The powerhouse would contain five generating units having a total rated capacity of 75 megawatts. Seven alternatives are considered. (Walla Walla District.) (EIS Order No. 81033.)

Final Supplement

Portsmouth Refinery and Terminal, Permit, Virginia, September 22: This proposal concerns the Hampton Roads Energy Co.'s (Herco) application for COE permit approval to construct an oil refinery complex on the west bank of the Elizabeth River in Portsmouth, Va. This work includes: (1) Construction of a marine terminal, (2) dredgings of tanker and barge mooring areas and access channels, and (3) installation of an oil spill containment system. The purpose of this statement is to consider additional refinery capacity on the eastern seaboard and alternative sites. (Norfolk District.) Comments made by: DOC, DOI, EPA, State agencies. Groups, individuals and businesses. (EIS Order No. 81031.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

National Oceanic and Atmospheric Administration.

Final

Fishery Management Plan, Atlantic Herring Fishery, September 19: The proposed action is to adopt and implement a Fishery Management Plan (FMP) for the adult sea herring fishery of the Northwest Atlantic under the provisions of the fishery Conservation and Management Act of 1976. The Herring Management Plan developed is based upon the migration and intermixing of three stocks of herring in the fishery conservation zone of the United States. Those stocks are known as the Southwest Nova Scotia, Western Gulf of Maine, and Georges Bank-Southern New England stocks. The main objective of the herring management plan is to rebuild the smallest stock of the three, the Western Gulf of Maine stock which is at critically low levels. Comments made by: Local agencies, businesses and individuals. (EIS Order No. 81013.)

DEPARTMENT OF ENERGY

Contact: Mr. Herb Pennington, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue, Room 7119, Washington, D.C. 20461, 202-566-9760.

Draft

Livermore Site, Lawrence Livermore and Sandia Labs, Alameda County, Calif., September 19: Proposed is the Livermore site development plan for the Lawrence Livermore Laboratory and the Sandia laboratories—Livermore (SLL) located in Alamedia County, Calif. The plan provides a guide for the orderly development of the present facilities as growth is experienced and the replacemnt of temporary facilities with permanent ones. Thirteen buildings are proposed for construction in addition to consideration of a new northwest entrance. Alternatives to the proposed plan include: (1) No action (shutdown and decommissioning), (2) total or partial plant relocation, (3) scaling down of some operations, and (4) wider use of alternate technologies. (EIS Order No. 81018.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Wallace Stickney, Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Room 2203, Boston, Mass. 02203, 617-223-4635.

Draft

Boston Metro Area Sewerage System, Upgrading, Suffolk County, Mass., September 22: Proposed is the centralized treatment of the wastewaters from the entire Boston metropolitan sewerage district service area, Suffolk County, Mass., at the upgraded and expanded facilities on Deer Island to provide secondary treatment for an average daily flow of 586 mgd. The existing northern and southern interceptor systems will be expanded and relieved to accommodate increased flows and growth within the service area. Three alternatives are considered which include: (1) The Emma plan which provides secondary treatment at Deer and Nut Islands and two advanced WWT plants, (2) no action, and (3) modified no action. (EIS Order No. 81030.)

Contact: Mr. Alexandria Smith, Environmental Protection Agency, Region 10, 1200 6th Avenue, Seattle, Wash. 98101, 206-442-1220.

Final

Lynnwood Wastewater Treatment Facilities, Snohomish County, Wash., September

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18: Proposed is the provision of secondary facilities for the existing sanitary sewerage system in the city of Lynnwood, Wash., to replace the existing Lynnwood Treatment Plant at Brown's Bay which affords only primary treatment. The Alderwood Water District will participate in the project through the installation of new gravity interceptors to extend sewer service to the Swamp Creek Basin. All of the communities serviced by the improvement are located in Snohomish County, Wash., however, the proposed Swamp Creek interceptor would discharge to the municipality of Metropolitan Seattle (Metro) in King County for treatment. (Region X) (EPA91019-77-040). Comments made by: AHP, COE, USDA, DOI, State and local agencies. (EIS Order No. 81009.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Village Park, Waipahu, Oahu Island, Honolulu County, Hawaii, September 21: Proposed is the issuance of HUD home mortgage insurance for the Village Park subdivision, Waipahu, Oahu Island, Hawaii. The project is located on 316.4 acres and is expected to house an estimated 6,750 people. Development will provide 1,445 single-family detached units, 310 condominium units, 4.5 acres of commercial land, 1 grade school and 2 parks. The balance of the land remains in gulch, easements or unaccessible land. alternative site designs and no project are considered. (HUD-RO9-EIS-78-6D.) (EIS Order No. 81027.)

Final

Cornerstones Subdivision, Harris and Fort Bend Counties, Tex., September 19: The proposed action is for HUD to accept for HUD-FHA home mortgage insurance purposes under section 203 (B) of title II of the National Housing Act of 1934, the proposed Cornerstones subdivision located in the far western part of Harris County and the northeastern part of Fort Bend County, Tex. When completed, the subdivision will contain about 2,047 single-family homes plus recreational facilitis to serve the subdivision. (HUD-RO6-EIS-78-8-F.) Comments made by: EPA, DOD, USDA, AHP, DOT, DOI, State and local agencies. (EIS Order No. 81014.)

Woodbridge Subdivision, Bedford, Tarrant County, Tex., September 19: Proposed is the granting of FHA mortgage insurance to Centennial Homes, Inc. for development of the Woodbridge subdivision located in the city of Bedford, Tarrant County, Tex. The proposed community consists of 132.05 acres where upon 477 single-family units will be erected. The site includes 36 acres which will be developed into a park for recreation use. Proposed plans also entail 28 acres to be devoted to retail purposes. (HUD-RO6-EIS-78-32F.) Comments made by: USDA, COE, DOI, DOE, DOC, GS, State and local agencies, groups. (EIS Order No. 81015.)

SECTION 104(H)

The following are community developments block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

CBD Redevelopment, Los Angeles, Los Angeles County, Calif., September 22: Proposed is the development of the Los Angeles City central business district, Los Angeles County, Calif. The project intends the rehabilitation of existing deteriorated structures; improvement of the local street system; expansion of park, recreation and public facilities; development of new commercial and industrial facilities; and expansion of low and moderate income, elderly, and other housing in the downtown area. Alternatives include: (1) No project, (2) reduction/elimination of proposed housing development, (3) restriction/elimination of all new commercial developments, and (4) elimination of peripheral parking proposals. (EIS Order No. 81028.)

Pico-Union Redevelopment Project, Los Angeles County, Calif., September 22: This proposal is primarily a rehabilitation/conservation type project, the primary objective of which is to rehabilitate and/or replace existing deteriorated housing for the 227 acre Pico-Union acre, Los Angeles City, Los Angeles County, Calif. related project objectives include the improvement of the local street system, expansion of park and recreational facilities, and development of new commercial and industrial facilities. Alternatives include: (1) No project, (2) total commercial use, (3) total industrial use, (4) total public open space use. (EIS Order No. 81029.)

Final

Non-Metro Discretionary Fund FY-1977, Macon County, Ala., September 18: The proposed action is a request by Macon County, Ala., for community development block grant funds. This statement discusses a proposed project to provide a safe and reliable source of potable water to existing residents along a segment of U.S. Highway 80. The project which is located southwest of the city of Tuskegee, Macon County, Ala., will involve the installation of 22,280 feet of 8-inch water main piping along the highway. The piping will carry water purchased from Tuskegee City and will be placed along the southern side of the highway within the public right-of-way. (EIS Order No. 81011.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

1979 OCS Sale No. 58, Gulf of Mexico, September 20: Proposed is the leasing of 110 tracts (532, 885 acres) of OCS lands in the Gulf of Mexico offshore Texas, Louisiana, Mississippi, and Alabama for the exploration and production of oil and gas. The tracts have water depths ranging from 4m to 801m and are a distance of 5km to 260km from the shore. Four alternatives are considered which include: (1) Holding the sale in a modified form, (2) withdrawing the sale, and (3) delay in the sale. (EIS Order No. 81022.)

Final

Cerbat/Black Mountain Livestock Grazing Program, Mohave County, Ariz., September 21: The proposed action analyzes 26 allotment management plans which propose intensive grazing management for 1,445,652 acres of public land within the Cerbat and Black Mountain planning units within the Kingman Resource Area, Mchave County, Ariz. The proposed action includes: (1) Intensive management of grazing on 1,416,628 acres of public lands, including 635,196 acres of ephemeral range and 70,793 acres of custodial range; (2) custodial management of grazing on 29,024 acres, and; (3) construction of range improvements. (FES 78-21.) Comments made by: AHP, USDA, DOI, EPA, State and local agencies. (EIS Order No. 81026.)

BUREAU OF RECLAMATION

Draft supplement

North Loup/Pick-Sloan Missouri Basin Program Several Counties in Nebraska, September 22: This statement supplements a final EIS filed in September 1972. Proposed is an irrigation system for the North Loup division of the Pick-Sloan Missouri Basin program located in Loup, Garfield, Valley, Greely, Howard, and Nance County, Nebr. This statement provides additional information regarding surface and groundwater quality, geologic stability of damsites, sedimentation upstream of reservoir sites, flora and fauna of reservoir sites and a research alternative to project irrigation development. (DES-78-39.) (EIS Order No. 81032.)

NATIONAL PARK SERVICE

Draft

West Potomac Park and FDR Memorial, District of Columbia, September 18: Proposed is the planning design and construction of the Franklin Delano Rosevelt Memorial, rehabilitation of West Potomac Park south of the Reflecting Pool to include provision of Tourmobile service, parking for visitors' cars and for tour buses between the 14th Street Bridges off Ohio Drive and relocation of all sports facilities. The proposed memorial will have to be approved by the President and the Congress. The project is located in the District of Columbia and will be completed in approximately 5 years. (DES-78-37.) (EIS Order No. 81007.)

Yosemite National Park, General Management Plan Tuolumne, Mariposa, and Madera Counties, Calif., September 21: This action involves a general management plan for Yosemite National Park, within Tuolumne, Mariposa, and Madera Counties, Calif., to guide overall park management and development for approximately 15 years, including specific development concept plans for all developed areas inside the park, proposed additions to the wilderness recommendation for the park and, minor boundary adjustments. There are two purposes for the Yosemite National Park. The first is preservation of the resources that contribute to Yosemite's uniqueness and attractiveness. The second purpose is to make the varied resources of Yosemite available to people for education and recreation. (DES-78-38.) (EIS Order No. 81025.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Final

High seas Fisheries, North Pacific, renegotiation, September 20: The proposed action is the adoption of a United States-Canada-Japan protocal to amend the International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC), with annex and agreed minutes, a United States-Canada-Japan memorandum of understanding on salmon, and a United States-Japan memorandum of understanding on marine mammals. The purpose of the action is to reduce interceptions of North American origin salmon by Japanese fisheries, development of cooperative research on marine mammals, and eliminate the incidental catch of marine mammals in the North Pacific Ocean and the Bering Sea through international agreements. Comments made by: CIA, DOI, CGD, DOT, groups, and individuals. (EIS Order No. 81021.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

Final

South Santa Fe Drive, Florida-Church, Arapahoe and Denver Counties, Colo., September 20: The proposed project consists of the widening of South Santa Fe Drive to a six lane arterial for approximately 5.5 miles. The project would begin at Florida Avenue in the city and county of Denver and terminate at Church Street in Arapahoe County. A left turn lane would be provided throughout the length of the project and sidewalks, curb, and gutter would be provided for a majority of its length. Adverse effects include the displacement of 372 housing units. A 4(f) statement is included concerning Overland Park. (FHWA-CO-EIS-77-01-F.) Comments made by: DOT, USDA, DOI, EPA, HEW, HUD, State, and local agencies. (EIS Order No. 81019.)

Main Street/Penn Central Railroad-Grade Separation, Elkhart County, Ind., September 22: Proposed is the construction of a grade separation in the vicinity of the Main Street (S.R. 15) crossing with the Penn Central Railroad north of the central business district of the city of Goshen, Ind. Consideration has been given to two alternate locations for the proposed separation: The Third Street Overpass, and the Main Street Overpass. For each of the locations the typical cross section is the same for the elevated portions of the improvement, consisting of four lanes separated by a 4-foot median with sidewalks provided on each side. (FHWA-IND-EIS-77-06-F.) Comments made by: DOI, USDA, EPA, FAA, DOT, and State agencies. (EIS Order No. 81034.)

OFFICIAL CORRECTIONS

The following are corrections to the notice of availability for September 11, 1978 through September 15, 1978 which was published in the Monday, September 25, 1978 FEDERAL REGISTER.

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

The following final EIS was received by the Office of Federal Activities on September 15, 1978 and inadvertantly omitted from the notice. Therefore the thirty (30) day review period should be calculated from September 15, 1978.

Final

Mayo Electric Generating Plant, Person County, N.C., September 15: The proposed action is the application by Carolina Power & Light Co. for a permit to discharge fill materials into waters of the United States in connection with the proposed 1440 megawatt Mayo Electric Generating Plant, located in Person County, N.C. The action include: (1) Construction of a main reservoir dam and ash pond dam covering approximately 2,800 acres, (2) discharge of ash into waters behind the ash pond dam, and, (3) relocation of a road. (Wilmington District.) Comments made by: DOI, DOC, EPA, State and local agencies groups and individuals. (EIS order No. 81008.)

The following final supplement was incorrectly published as being received on January 12, 1978. The correct filing date for calculation of the thirty (30) day review period is September 12, 1978.

Final Supplement

Kings Island Turning Basin, Enlargement, Chatham County, Ga., September 12: This statement supplements a final EIS filed in June, 1976 to consider alternate sites for the expansion of Kings Island Turning Basin located in the Savannah Harbor, Chatham County, Ga. The studies presented in the report are limited to reaffirming or modifying the authorized improvement of enlarging the basin. There are four alternate sites being considered. (Savannah District.) Comments made by: EPA, DOI, USDA, HEW, State and local agencies groups and businesses. (EIS order No. 80994.)

[FR Doc. 78-27927 Filed 10-2-78; 8:58 am]

[67.12-01]

FEDERAL COMMUNICATIONS COMMISSION

RADIO WHEELING, INC., AND JACOBSBURG BIBLE CHURCH, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 22, 1978.

Released: September 28, 1978.

In the matter of applications of Radio Wheeling, Inc., Bethlehem, W. Va. (BC Docket No. 78-311, File No. BPH-9921), Req: 105.5 MHz, channel 288; 3 kW (H&V); 300 feet (H&V) and Jacobsburg Bible Church, Inc., Key, Ohio (BC Docket No. 78-312, File No. BPH-10267), Req: 105.5 MHz, channel 288; 1.35 kW (H&V); 423 feet (H&V) for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned applications of Radio Wheeling, Inc. (hereinafter, "RWI") and Jacobsburg Bible Church, Inc. (hereinafter, "JBCI"), which are mutually exclusive in that they both seek channel 288, which is assigned to Moundsville, W. Va. The applicants seek to use the channel at Bethlehem, W. Va., and Key, Ohio, respectively, under section 73.203(b) of the Commission's rules.[1]

2. Information submitted by JBCI indicates that Key, Ohio, is a small rural community consisting of 38 households with a population of 136 people and only one small food and gas outlet. Given these facts, there is in our view a question whether Key qualifies as a "community" within the meaning of the Commission's rules. *North Naples, Florida*, 41 RR 2d 1549 (1977).

3. To finance its proposed operation, JBCI relies in part upon credit from the Harris Corp., an equipment supplier. The company's letter to the applicant, however, does not indicate a firm commitment, but instead states that credit will be available only after an "acceptable credit verification." Hence, an issue will be specified to determine whether funds will be available from this source.

4. Since JBCI proposes religious programing, while RWI proposes general market programing, the relative need for these different types of programing will be considered under the contingent comparative issue. *Ward L. Jones*, FCC 67-82 (1967); *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, footnote 9 at 397 (1965).

5. Section 1.580(c) of our rules requires that local notice of the filing of an application be published twice weekly for 2 weeks. JBCI's first public notice, though published in the prescribed manner, omitted certain technical data while its second notice, though correct in content, was published once weekly for 4 weeks due to the newspaper's error. The applicant argues, and we agree, that the two publications together adequately informed the public of the nature of the application, that no indication of intentional misconduct is present and that no injury to the public is apparent under the circumstances. Hence, we find substantial compliance with section 1.580(c) and will not inquire further into this matter.

6. Key, Ohio, is an unincorporated community with no specifically defined political boundaries. JBCI proposes to locate its main studio in its transmitter building which is less than 1 mile from the area identified by the applicant as Key's location. We find,

[1] This section essentially permits applications for class A channels listed in the table of asssignments at unlisted communities within 10 miles of the listed community. Key and Bethlehem are within 10 miles of Moundsville, and are not listed in the table of assignments.

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given the small size of Key and the limited distance involved, that the proposed studio site complies with section 73.210(a)(2) of our rules.

7. Assuming that Key, Ohio, is found to qualify as a "community," the respective proposals, which are for different communities, would serve substantial areas in common. Consequently, in addition to an issue to determine, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, *it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether Key, Ohio, qualifies as a "community" within the meaning of the Commission's rules.

(2) To determine whether Jacobsburg Bible Church, Inc. can rely on credit from the Harris Corp., and, if not, whether the applicant is financially qualified.

(3) To determine the areas and populations which would receive FM service of 1 mV/m or greater intensity from the respective proposals together with the availability of other primary aural services in such areas.

(4) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(5) To determine in the event that it is concluded that a choice between applications should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, better serve the public.

(6) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the above applications should be granted.

10. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. *It is further ordered*, That the applicants herein shall pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually, or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-27846 Filed 10-2-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 13, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: T-3565-1, T-3565-A-1, T-3567 and T-3567-A.

FILING PARTY: Morris R. Garfinkle, Esq., Galland, Kharasch, Calkins & Short, Canal Square, 1054 31st Street NW., Washington, D.C. 20007

SUMMARY: Agreements Nos. T-3565-1 and T-3565-A-1 are between the Puerto Rico Ports Authority (Port) and Sea-Land Service, Inc. (Sea-Land). Agreement No. T-3565-1 modifies the parties' basic agreement granting Sea-Land preferential use of Berths E and F, Puerto Nuevo, together with approximately 300,000 square feet of adjoining apron and cargo-in-transit area.

Agreement No. T-3565-A-1 modifies the parties' basic agreement providing for Sea-Land's lease and exclusive use of certain areas adjacent to the areas preferentially assigned Sea-Land under Agreement No. T-3565.

The purpose of Agreements Nos. T-3565-1 and T-3565-A-1 is to provide that the basic agreements will have an initial term of 5 years, with four 5 year renewal options. Agreements Nos. T-3567 and T-3567-A are between the Port and the Puerto Rico Maritime Shipping Authority (PRMSA).

Agreement No. T-3567 grants PRMSA preferential use of Berths G and H, Puerto Nuevo, together with approximately 300,000 square feet of adjoining apron and cargo-in-transit area.

Agreement No. T-3567-A provides for PRMSA's lease and exclusive use of certain areas adjacent to the areas preferentially assigned PRMSA under Agreement No. T-3567.

The term provisions of Agreements Nos. T-3567 and T-3567-A have been revised to provide that the agreements will have initial terms of 25 years with a 5 year renewal option. When the Agreements Nos. T-3565, T-3565-A, T-3567, and T-3567-A were originally filed on January 27, 1978, they had terms identical to those provided for by Agreements Nos. T-3565-1, T-3565-A-1 and the refised term provisions of Agreements Nos. T-3567 and T-3567-1.

However, when the Commission approved the basic agreements on May 11, 1978, the Commission required as a condition of approval that the 60 the issuance of the Commission's report and order in Dockets Nos. 76-38, *Agreements Relating to the Use of Isla Grande Marine Terminal, San Juan, Puerto Rico*, and 76-41, *Berthing of Seatrain Vessels in San Juan, Puerto Rico*.

Thus the purpose of Agreements Nos. T-3565-1 and the revised term provisions of Agreements Nos. T-3567 and T-3567-A is to restore the term set forth in the basic agreements when they were originally filed.

By order of the Federal Maritime Commission.

Dated: September 28, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-27810 Filed 10-2-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 23, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 161-31 and 10140-2.

Filing Party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Summary: Agreements 161-31 and 10140-2 modify, respectively, the Gulf/United Kingdom Conference and the rate agreement between the Gulf/United Kingdom Conference and Seatrain International S.A. and United States Line, Inc., to (1) cover intermodal shipments, whether moving under through bills of lading or otherwise, and matters relating thereto and (2) provide that the conference and the rate agreement may, reserving the right of independent action, consult, cooperate, and agree with other U.S. conferences having jurisdiction in the establishment, policing, and enforcement of rules, practices, and charges relating to the use, employment, and transport of loaded and unloaded containers outside the gate of member lines ocean terminals at European ports within the ranges covered by the agreements.

Notice of the filing of agreement 161-31 previously appeared in the FEDERAL REGISTER on July 21, 1976 (41 FR 30064) and notice of the filing of agreement 10140-2 previously appeared on July 26, 1976 (41 FR 30724).

Upon advice of the Commission's staff, these agreements were modified and refiled by proponents on September 13, 1977, to (1) further clarify the scope of the agreements as (a) applying from points in the United States to interior points in the United Kingdom; and (b) excluding all water movements transshipped at conference ports which originate at or are destined to ports outside the scope of the agreement; and (2) provide that any agreement entered into with another conference shall not be implemented until filed with and approved by the Federal Maritime Commission.

These changes were for purposes of clarification and resulted in no substantive change in the scope of the agreements as implied and intended in the original filings or the anticompetitive relationships of the parties.

Because of the above changes and the lapse of time since the initial filing of these agreements, interested parties are being afforded a further opportunity to comment before the Commission takes final action.

Agreement No. 93-17.

Filing party: David C. Nolan, Esq., Graham & James, 1 Maritime Plaza, San Francisco, Calif. 94111.

Summary: Agreement No. 93-17, among the member lines of the North Europe-United States Pacific Freight Conference, modifies the basic agreement by: (1) Amending articles 2, 3, and 10 by adding the words "or permanent Chairman" after the word "Secretary," (2) amends article 5 to provide that the conference may enter into arrangements through the Chairman or other duly authorized representative, (3) amends article 9 to provide that until the conference employs a permanent Chairman, the Chairman of each meeting shall be elected at said meeting from the membership, and (4) amends article 12 by the deletion of certain language pertaining to arbitration procedures.

Agreement No. T-1887-1.

Filing party: Ms. Dorothy L. Vecchiarelli, Lawyer's Assistant, Sea-Land Service, Inc., 10 Parsonage Road, P.O. Box 900, Edison, N.J. 08817.

Summary: Agreement No. T-1887-1, between Sea-Land Service, Inc. (Sea-Land) and Philadelphia Port Corp. (PPC), amends the basic agreement between the parties which provides for the 20-year lease of certain terminal property in Philadelphia, Pa., to be used by Sea-Land for the loading and unloading of vessels and for the handling, storing, receipt, and delivery of cargo and containers. The purpose of the modification is to: (1) Redefine the premises which have been reduced as a result of reconstruction and widening of a road; (2) reduce the rent to $169,171 per annum; and (3) make an adjustment to offset the amount of money due PPC for maintenance performed and the refund due Sea-Land as a result of the reduction of the size of the premises.

Agreement No. T-3721.

Filing party: M. Carton Dittman, Jr., Ballard, Spahr, Andrews & Ingersoll, 30 South 17th Street, Philadelphia, Pa. 19103.

Summary: Agreement No. T-3721, between Philadelphia Port Corp. and the National Sugar Refining Co. (NSR), provides for the 20-year lease of certain premises, known as National Sugar Terminal, consisting of a marginal deepwater berth, an oil barge slip berth, cranes, sugar conveyors, and weighing equipment at Pier 45 North in Philadelphia, Pa. The facility is to be used for the loading, discharge, transfer, and storage of cargo moving in waterborne commerce, together with the exclusive right of docking and berthing oceangoing and other vessels and all other uses which NSR may deem necessary for its operations. As compensation, NSR will pay a percentage of the total cost of construction, to be applied as set forth in the agreement, plus any equipment rental or installment payments payable.

Dated: September 27, 1978.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-27816 Filed 10-2-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1981]

COM-AIR FREIGHT, INC., D.B.A. COMET AIR & OCEAN FREIGHT FORWARDERS

Order of Revocation

The bond issued in favor of Com-Air Freight, Inc., d.b.a. Comet Air & Ocean Freight Forwarders, 708 South Isis Avenue, Inglewood, Calif. 90301. FMC-1981, was canceled effective August 25, 1978.

By letter dated July 12, 1978, Com-Air Freight, Inc., d.b.a. Comet Air & Ocean Freight Forwarders was advised by the Federal Maritime Commission that Independent Ocean Freight forwarder License No. 1981 would be automatically revoked or suspended unless a valid surety bond was filed with the commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid surety bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Com-Air Freight, Inc., d.b.a. Comet Air & Freight Forwarders has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1981 be and is hereby revoked effective August 25, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License

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No. 1981 issued to Com-Air Freight, Inc., d.b.a. Comet Air & Ocean Freight Forwarders be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Com-Air Freight, Inc., d.b.a. Comet Air & Ocean Freight Forwarders.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-27809 Filed 10-2-78; 8:45 am]

[6730-01]

[Docket No. 78-34]

CONCORDIA INTERNATIONAL FORWARDING CORP.

Order of Investigation and Hearing

Concordia International Forwarding Corp. (Concordia) filed an application with the Commission for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of Concordia, it was disclosed that Concordia appeared to violate section 44(a), Shipping Act, 1916, on 93 or more occasions by engaging in unlicensed forwarding activities, although a warning from the Commission had been sent to Concordia on June 7, 1978, about unlicensed forwarding activities.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found to be fit, willing, and able to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, as amended, and the requirements, rules, and regulations of the Commission issued thereunder. Other such applications shall be denied. The applicant's alleged unlicensed ocean freight forwarding reflects upon the managerial responsibility and fitness of the applicant. These violations occurred while the forwarder's application was being processed and after warning in regard to carrying on the business of forwarding without a license.

The conduct of Concordia appears to be in violation of the Shipping Act, 1916, and this conduct, on the part of Concordia and its corporate officers, may result in a lack of the fitness required for licensing as an independent ocean freight forwarder, under section 44 of the Shipping Act, 1916.

Pursuant to section 510.8 of the Commission's General Order 4 (46 CFR 510.8) the Commission, on September 22, 1978, advised Concordia of its intent to deny its application for reasons set out hereinabove. In accordance with General Order 4, an applicant may request a hearing on the intended denial.

By letter dated September 22, 1978, Concordia requested the opportunity to show at an expedited hearing that denial of Concordia's application is unwarranted. In this regard, Concordia has offered to present its direct case, in the form of affidavits and memorandum of law, as early as October 2, 1978.

Now, therefore, *It is ordered,* That pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and section 510.8 of the Commission's General Order 4 (46 CFR 510.8) a proceeding is hereby instituted to determine:

1. Whether Concordia International Forwarding has violated section 44(a), Shipping Act, 1916, by engaging in unlicensed forwarding activities;

2. Whether, in light of the evidence adduced pursuant to the foregoing issue, together with any other evidence adduced, Concordia International Forwarding Corp. and its corporate officers, possess the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to be licensed as an independent ocean freight forwarder.

It is further ordered, That the proceeding be limited to the submission of memorandums of law and affidavits of fact;

It is further ordered, That Concordia International Forwarding Corp. be designated respondent and that hearing counsel also be a party to this proceeding;

It is further ordered, That any persons other than respondent and hearing counsel who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72);

It is further ordered, That the following schedule be adhered to:

October 2, 1978—Opening memorandums of law and affidavits of fact from respondent;

October 10, 1978—Petitions to intervene;

October 16, 1978—Memorandums of law and affidavits of fact from hearing counsel and any intervenors;

October 23, 1978—Reply memorandums of law and affidavits of fact from respondent;

October 30, 1978—Requests for discovery, hearing, and/or oral argument;

It is further ordered, That any requests for discovery or evidentiary hearing must be accompanied by a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such data could not be submitted through affidavit;

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent and hearing counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-27815 Filed 10-2-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1456]

GERALD SCHWARTZ

Order of Revocation

On September 21, 1978, Gerald Schwartz, 14-88 East 16th Street, Brooklyn, N.Y. 11230, voluntarily surrendered his independent ocean freight forwarder license No. 1456 for revocation.

Therefore, by virtue of authority vested in me by the federal Maritime Commission as set forth in Manual of Orders, Commission order No. 201.1 (revised), section 5.01(c) dated August 8, 1977:

It is ordered, That independent ocean freight forwarder license No. 1456 issued to Gerald Schwartz be and is hereby revoked effective September 21, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Gerald Schwartz.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-27811 Filed 10-2-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

ANNUAL REPORT

Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and Circular A-63, revised, of the Office of Management and Budget notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1977 Annual Report.

The report summarizes the activities and recommendations of the Committee to the U.S. Civil Service Commission in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either

appropriated or nonappropriated funds during calendar year 1977.

Single copies of the report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415.

The report may be otherwise examined and/or copies at the above office and address between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday, legal holidays excluded.

Dated: September 27, 1978.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 78-27835 Filed 10-2-78; 8:45 am]

[6325-01]

CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in 43 FR 41437, on September 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee will be held on October 5, October 12, and October 26, 1978. This is notice that the meeting scheduled for October 5 has been canceled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

SEPTEMBER 29, 1978.

[FR Doc. 78-27965 Filed 10-2-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of August 15, 1978

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's domestic policy directive issued at its meeting held on August 15, 1978.[1]

The information reviewed at this meeting suggests that real output of goods and services is growing moderately in the current quarter, although the pace is a little less than the average for the first two quarters of the year. In July retail sales remained at about the advanced level reached in April. Industrial production and nonfarm payroll employment continued to expand at lower rates than in the early spring months. The unemployment rate, which had dropped 0.4 of a percentage point in June, jumped 0.5 of a percentage point in July to 6.2 percent, about the average rate in the first 5 months of the year. Average prices of goods and services have continued to rise rapidly, although producer prices of foods and foodstuffs declined in July. The advance in the index of average hourly earnings has been somewhat faster so far in 1978 than it had been on the average during 1977.

Since mid-July the trade-weighted value of the dollar against major foreign currencies has declined sharply further. The U.S. trade deficit was lower in the second quarter than the very high rate of the first quarter.

Growth in M-1 remained moderate in July. Inflows of the interest-bearing deposits included in M-2 and M-3 picked up, owing to substantial flows into large denomination time deposits at banks and into the new money market certificates at nonbank thrift institutions. Nevertheless, expansion in the broader aggregates also remained moderate in July. Most market interest rates have declined appreciably on balance in recent weeks.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging continued moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on July 18, 1978, the Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the second quarter of 1978 to the second quarter of 1979 at rates within ranges of 4 to 6½ percent, 6½ to 9 percent, and 7½ to 10 percent, respectively. The associated range for bank credit is 8½ to 11½ percent. These ranges are subject to reconsideration at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer run ranges for monetary aggregates cited above, while giving due regard to developing conditions in domestic and international financial markets more generally. Early in the period until the next regular meeting, System open market operations shall be directed at attaining a weekly average Federal funds rate slightly above the current level. Subsequently, operations shall be directed at maintaining the week by average Federal funds rate within the range of 7¾ to 8¼ percent. In deciding on the specific objective for the Federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the August-September period of M-1 and M-2 and the following ranges of tolerance: 4 to 8 percent for M-1 and 6 to 10 percent for M-2. If, giving approximately equal weight to M-1 and M-2, their rates of growth appear to be significantly above or below the midpoints of the indicated ranges, the objective for the funds rate shall be raised or lowered in an orderly fashion within its range.

If the rates of grwth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

[1] The record of policy actions of the Committee for the meeting of Aug. 15, 1978, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

By order of the Federal Open market Committee, September 22, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-27890 Filed 10-2-78; 8:45 am]

[6210-01]

FIRST MICHIGAN BANK CORP.

Acquisition of Bank

First Michigan Bank Corp., Zeeland, Mich., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Lumberman's Bank & Trust Co., Muskegon, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 26, 1978.

Board of Governors of the Federal Reserve System, September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27884 Filed 10-2-78; 8:45 am]

[6210-01]

THE FISCHER CORP.

Formation of Bank Holding Company

The Fischer Corp., Lewiston, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.4 percent of the voting shares of Security State Bank of Lewiston, Lewiston, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 23, 1978.

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Board of Governors of the Federal Reserve System, September 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27885 Filed 10-2-78; 8:45 am]

[6210-01]

NCNB CORP.

Proposed Retention of NCNB Mortgage Corp.

NCNB Corp., Charlotte, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of NCNB Mortgage Corp., Charlotte, N.C. Notice of the application was published in newspapers of general circulation in each of the communities served by the offices of NCNB Mortgage Corp.

Applicant states that the proposed subsidiary engages in the activities of originating, selling, and servicing residential and commercial mortgage loans; making construction and development mortgage loans, and performing incidental activities necessary to conduct a mortgage banking business, including the sale, as agent, of credit life, credit accident and sickness insurance to its mortgage customers. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 26, 1978.

Board of Governors of the Federal Reserve System, September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27882 Filed 10-2-78; 8:45 am]

[6210-01]

SEMIANNUAL AGENDAS OF REGULATIONS

Notice of Publication Dates

The Federal Reserve System hereby gives notice of intended publication dates for semiannual agendas of regulations under development or review. Agendas each year will be published on the first day of business after February 1 and August 1. A business day for these purposes means any day except Saturday, Sunday, or an official Federal holiday. Although these semiannual agendas will be as complete as possible, supplements may be published at other times.

Comments on this notice or on agendas should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-27883 Filed 10-2-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

MEETING ON BERYLLIUM

A meeting will be convened by the Surgeon General, Public Health Service, and the Director, Center for Disease Control, to review and assess the evidence of carcinogenicity of beryllium and its alloys in animals and man.

The meeting will be open to the public, limited only by the space available:

Date: October 9, 1978.
Time: 8 a.m.
Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333.
Additional information may be obtained from Mr. William A. Felsing, Jr., Center for Disease Control, Room 8-47, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6437.

Dated: September 27, 1978.

WILLIAM H. FOEGE,
Director,
Center for Disease Control.

[FR Doc. 78-27898 Filed 10-2-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78F-0264]

AMERICAN CYANAMID CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: American Cyanamid Co., Wayne, N.J. 07470, has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,3,5-tris(4-*tert*-butyl-3-hydroxy - 2,6 - dimethylbenzyl) - 1,3,5-triazine-2,4,6-(1H, 3H, 5H)-trione as an antioxidant in olefine polymers.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENATRY INFORMATION: Pursuant ot provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3348) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 1,3,5-tris(4-*tert*-butyl - 3 - hydroxy - 2,6 - dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H, 3H, 5H)-trione with the limitation for use at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520 (21 CFR 177.1520) of the food additive regulations.

American Cyanamid Co. has requested an exemption from the requirement of submitting an environmental impact analysis report, and after a review of the statement of exemption, the data required under the environmental impact considerations of § 25.1(g)(2) (21 CFR 25.1(g)(2)), and other relevant material, the agency determined that the proposed use of the additive would not have a significant environmental impact and that an environmental impact statement is not needed. Copies of the statement of exemption may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 27, 1978.

SANFORD A. MILLER,
Director, Bureau of Foods.

[FR Doc. 78-27806 Filed 10-2-78; 8:45 am]

[4110-03]

CARDIOVASCULAR AND RENAL DRUGS ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Cardiovascular and Renal Drugs Advisory Committee by the Secretary of Health, Education, and Welfare.

DATE: Authority for this Committee will expire on August 27, 1980, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27804 Filed 10-2-78; 8:45 am]

[4110-03]

ENDOCRINOLOGIC AND METABOLIC DRUGS ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee by the Secretary of Health, Education, and Welfare.

DATE: Authority for this Committee will expire on August 27, 1980, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: September 26, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27805 Filed 10-2-78; 8:45 am]

[4110-83]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the month of November 1978:

Name: National Advisory Council on Health Professions Education.
Date and time: November 6-7, 1978, 8:30 a.m.
Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782. Open for the entire meeting.

Purpose. The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda. Agenda items include the discussion of: (1) Nutrition—prevention update; (2) geriatrics—aging update; (3) health planning update; and (4) special topics reports including 788(d) regulations, status of health manpower in the United States, reports to Congress, evaluation reports, and nutrition report. The Council will also review operating procedures.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Robert L. Belsley, Bureau of Health Manpower, Room 4-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6564.

Agenda items are subject to change as priorities dictate.

Dated: September 26, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-27877 Filed 10-2-78; 8:45 am]

[4110-08]

REPORT OF BIOASSAY OF 4-AMINO-2-NITROPHENOL FOR POSSIBLE CARCINOGENICITY

Availability

4-Amino-2-nitrophenol (CAS 119-34-6) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of 4-amino-2-nitrophenol for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an ingredient of hair dyes and as an intermediate in the manufacture of dyes.

It is concluded that under the conditions of the bioassay, 4-amino-2-nitrophenol was carcinogenic for male Fischer 344 rats, inducing transitional-cell carcinomas of the urinary bladder; the transitional-cell carcinomas of the urinary bladder observed in three dosed female rats may also have been associated with administration of the 4-amino-2-nitrophenol. The test chemical was not carcinogenic for male or female B6C3F1 mice at the doses tested.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director,
National Institutes of Health.

[FR Doc. 78-27262 Filed 10-2-78; 8:45 am]

[4110-08]

NATIONAL INSTITUTES OF HEALTH

AVAILABILITY

Report on Bioassay of Dioxathion for Possible Carcinogenicity

Dioxathion (CAS 78-34-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay for possible carcinogenicity of technical-grade dioxathion was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an insecticide. Dioxathion was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of dioxathion was not carcinogenic in Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, Na-

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tional Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 21, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27263 Filed 10-2-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF PHENAZOPYRIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

Phenazopyridine hydrochloride (CAS 136-40-3) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of phenazopyridine hydrochloride for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an analgesic drug.

It is concluded that under the conditions of this bioassay, phenazopyridine hydrochloride was carcinogenic in Fischer 344 rats, inducing adenocarcinomas of the colon in both males and females. Although phenazopyridine hydrochloride was not carcinogenic in male B6C3F1 mice, the chemical was carcinogenic in females, inducing hepatocellular adenomas and carcinomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 21, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27264 Filed 10-2-78; 8:45 am]

[4110-02]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Public Meeting; Revision

AGENCY: Department of Health, Education, and Welfare, Office of Education.

ACTION: Revision to notice of public meeting.

SUMMARY: Notice is hereby given of revision in the agenda and schedule of the October 3-4, 1978, meeting of the Advisory Committee on Accreditation and Institutional Eligibility. Notice of the meeting was first published in the FEDERAL REGISTER on September 11, 1978, 43 FR 40318-40319, and a revision to the notice was published in the FEDERAL REGISTER on September 20, 1978, 43 FR 42306-42307.

DATES: October 3, 1978, 1 p.m. to 9 p.m., local time, and October 4, 1978, 9 a.m. to 12 noon.

ADDRESS: Dulles Marriott Hotel, Dulles International Airport, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Divison of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9873.

The original times (8:30 a.m. to 5 p.m., October 3, and 9 a.m. to 12 noon, October 4) for the meeting are changed to those noted above. The following accrediting agencies, orginally scheduled for review at this meeting, are removed from the agenda:

American Dietetic Association, Committee on Evaluation of Dietetic Education
American Osteopathic Association Council on Education for Public Health
Foundation for Interior Design Education Research, Committee on Accreditation
National Accreditation Association and the American Examining Board of Psychoanalysis, Inc., Education and Accreditation Committee
National Association of Private, Nontraditional Schools and Colleges
National Association of Trade and Technical Schools, Accrediting Commission

The following reviews remain on the agenda:

American Bar Association, Council of the Section of Legal Education and Admissions to the Bar
Brookhaven College, Dallas County Community College District, Farmers Branch, Texas

In addition, the Committee will review the schedule and activities of the Division of Eligibility and Agency Evaluation, and of the Advisory Committee, for fiscal year 1979.

Signed at Washington, D.C., on September 28, 1978.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc. 78-27920 Filed 10-2-78; 8:45 am]

[4110-87]

Public Health Service

PRIORITIES FOR THE DEVELOPMENT OF RECOMMENDED HEALTH STANDARDS IN THE MINING INDUSTRY

Request for Information

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Notice of Request for Information.

SUMMARY: This notice solicits information concerning the priority for development of recommended health standards for the mining industry. From a list of specific hazards, six (6) will be selected by NIOSH for development of a recommended standard during fiscal year 1979. Development of a standard for hazards other than those specified will be considered, based upon information provided by the public concerning the extent of exposure, health effects, and known environmental concentrations or levels. Persons wishing to comment on the priority of developing standards should provide information on the criteria used in their determinations.

DATES: Comments concerning this notice should be submitted by (30 days after publication).

ADDRESS: Comments and recommendations should be submitted in writing to: Vernon E. Rose, Director, Division of Criteria Documentation and Standards Development, MHSB No. 79-1, National Institute for Occupational Safety and Health, 5600 Fishers Lane (Room 8A-53), Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Mr. B. Thomas Scheib, Chief, Mine Health Standards Branch, DCDSD, NIOSH, 301-443-4614.

SUPPLEMENTARY INFORMATION: Section 101(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 811(a)) authorizes the National Institute for Occupational Safety and Health to recommend health standards for the protection of life in coal or other mines and to develop criteria in support of its recommended standards. NIOSH is proposing to develop six (6) criteria and recommended standards during fiscal year 1979. The list set out below specifies those hazards from which six (6) may be selected for standards development:

Acetylene, Alkanes, Ammonia, Antimony, Arsenic Ores, Oxides and Sulfides, Asbestos, Beryllium, Cadmium, Carbon Dioxide, Carbon Disulfide, Carbon Monoxide, Chlorine, Chromium, Coal Tar, Cyanide, Ethylene Dibromide, Fluorides, Formaldehyde, Health Examinations for Surface Miners, Hot Environments, Hydrogen Chloride, Hydrogen Fluoride, Hydrogen Sulfide.

Lead Ores, Oxides and Sulfide, Mercury, Methyl Alcohol, Nickel, Nitrates, Nitric Acid, Nitroglycerine, Noise, Oil Mists, Oxides of Nitrogen, Perchloroethylene, Petroleum Solvents, Radium and Radon Daughters, Silica, Sodium Hydroxide, Styrene, Sulfur Dioxide, Sulfuric Acid, Toluene, Trichloroethylene, Tungsten, Vanadium, Zinc Oxide.

Additional hazards will be considered by NIOSH for recommended standards development based upon extent of exposure in the mining industry, severity of the health effects associated with exposure, and data and information on existing environmental concentrations or levels submitted in response to this notice.

Persons wishing to comment on the priority for recommended standards development should describe their reasons for recommending an order of priority for standards development and submit any documentation supporting the basis for selection.

Information which is considered trade secret by those submitting that information will not be accepted by NIOSH. All other information submitted in response to this notice will be available for public inspection at the foregoing address.

Dated: September 26, 1978.

J. MICHAEL LANE,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-27803 Filed 10-2-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 34538]

NEW MEXICO

Application

SEPTEMBER 25, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Matador Pipelines, Inc., has applied for two 4-inch natural gas pipelines right-or-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 8 S., R. 30 E.,
Sec. 10, N½NE¼.
T. 7 S., R. 31 E.,
Sec. 33, S½SW¼, N½SE¼, and SW¼SE¼;
Sec. 34, NW¼SW¼.
T. 8 S., R. 31 E.,
Sec. 4, lot 3 and SE¼NW¼.

These pipelines will convey natural gas across 2.47 miles of public lands in Chaves County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-27876 Filed 10-2-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

The following list of properties has been added to the National Register of Historic Places since notice was last given in the February 7, 1978, Federal Register. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

ALABAMA

Jackson County

Stevenson, *Stevenson Historic District*, irregular pattern along RR. tracks (9-13-78).

Mobile County

Mobile, *State Street A.M.E. Zion Church*, 502 State St. (9-6-78—).

ARIZONA

Pima County

Lukeville vicinity, *Bull Pasture*, E of Lukeville on Organ Pipe Cactus National Monument (9-1-78).
Lukeville vicinity, *Milton Mine*, NW of Lukeville (9-1-78).
Lukeville vicinity, *Victoria Mine (La Americana Mine)* N of Lukeville (9-1-78).

Yavapai County

Prescott vicinity, *Lynx Creek District*, E of Prescott (8-31-78).

ARKANSAS

Clay County

Success, *Baynham House*, Stephens St. (8-31-78).

Crawford County

Van Vuren, *Brown, Dr. Charles Fox*, House, 420 Drennan St. (9-6-78).

Washington County

Springdale, *Shiloh Historic District*, roughly bounded by Spring Creek, Shiloh, Johnson, Mill, and Spring Sts. (8-31-78).

CALIFORNIA

Fresno County

Orange Cove, *Orange Cove Santa Fe Railway Depot*, 633 E. Railroad Ave. (8-29-78).

Lake County

Lower Lake vicinity, *Anderson Marsh Archeological District*, NW of Lower Lake (8-24-78).

Orange County

San Juan Capistrano, *Parra, Miguel, Adobe*, 27832 Ortega Hwy. (9-11-78).

San Mateo County

Millbrae, *Southern Pacific Depot*, 21 E. Millbrae Ave. (9-1-78).

Tuolumne County

Yosemite Village vicinity, *Great Sierra Wagon Road*, N of Yosemite Village (8-25-78).

COLORADO

Larimer County

Loveland vicinity, *Chasleen's Grove*, W of Loveland off U.S. 34 (9-6-78).

DELAWARE

Kent County

Milford vicinity, *Golden Mine*, W of Milford on DE 443 (8-24-78).

New Castle County

Wilmington vicinity, *Beaver Valley Rock Shelter Site*, N of Wilmington (9-1-78).

Sussex County

Lewes, *Townsend Site, 2.5 mi. SW of Lewes off DE 14* (9-1-78).

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DISTRICT OF COLUMBIA

Washington

Chase's Theater and Riggs Building, 1426 G St. NW. and 615-627 15th St. NW. (9-7-78).
Kenilworth Aquatic Gardens, Kenilworth Ave. and Douglas St. NE. (8-25-78).
Sixteenth Street Historic District, 16th St. between Scott Cir. and Florida Ave. NW (8-25-78).

FLORIDA

Pinellas County

St. Petersburg, *Vinoy Park Hotel*, 501 Beach Dr. (9-11-78).

GEORGIA

Chatham County

Savannah, *Laurel Grove-South Cemetery*, 37th St. (9-6-78).

Clarke County

Athens, *Cobbham Historic District*, roughly bounded by Prince Ave., Hill, Reese, and Pope Sts. (8-24-78).

De Kalb County

Decatur, *Swanton House*, 720 Swanton Way (8-30-78).

Fulton County

Atlanta, *Georgia Institute of Technology Historic District*, 225 North Ave. (8-25-78).

Hall County

Gainesville, *Brenau College District*, Academy, Prior, Washington and Boulevard Sts. (8-24-78).

IDAHO

Bannock County

Pocatello, *St. Joseph's Catholic Church*, 455 N. Hayes (8-29-78).

Idaho County

Kamiah, *State Bank of Kamiah*, ID 64 (8-29-78).

Lemhi County

Salmon, *Salmon Odd Fellows Hall, 510-514 Main St.* (8-25-78).

Nez Perce County

Lewiston, *First Christian Church*, 7th Ave. and 7th St. (8-31-78).

ILLINOIS

Calhoun County

Kampsville vicinity, *Kamp Mound Site*, N of Kampsville (8-24-78).

Greene County

Hillview vicinity, *Mound House Site*, N of Hillview (9-1-78).

McLean County

Bloomington, *Benjamin, Ruben M., House*, 510 E. Grove St. (8-30-78).
Bloomington, *Hamilton, John M., House*, 502 S. Clayton St. (9-6-78).

Saline County

Carrier Mills vicinity, *Carrier Mills Archeological District*, S of Carrier Mills (8-25-78).

Sangamon County

Springfield, *Central Springfield Historic District*, roughly bounded by 4th, 7th, Jefferson, and Washington Sts. (both sides) (8-29-78).

White County

Maunie vicinity, *Hubele Mounds and Village Site*, S of Maunie (8-25-78).

INDIANA

St. Joseph County

Mishawaka, *Dodge House*, 415 Lincolnway E. (9-8-78).

IOWA

Johnson County

Iowa City vicinity, *First Johnson County Asylum*, W of Iowa City (8-31-78).

Jones County

Anamosa vicinity, *Green, John A.*, Estate, W of Anamosa off U.S. 151 (8-31-78).

Linn County

Cedar Rapids, *First Universalist Church of Cedar Rapids*, 600 3rd Ave., SE. (8-24-78).

Polk County

Des Moines, *Des Moines Rapid Transit Company Carbarn*, 24th and Ingersoll Ave. (9-8-78).

Shelby County

Harlan, *St. Paul's Episcopal Church*, 712 Farnham St. (9-1-78).

KANSAS

Cowley County

Arkansas City vicinity, *Arkansas City Country Club Site*, E of Arkansas City (8-25-78).

Hamilton County

Syracuse vicinity, *Fort Aubrey Site*, E of Syracuse (8-31-78).

Marion County

Marion, *Elgin Hotel*, 3rd and Santa Fe Sts. (9-13-78).

Sedgwick County

Whichita, *McCormick School*, 855 S. Martinson (8-30-78).

KENTUCKY

Clark County

Winchester vicinity, *Mound Hill Archeological Site*, NE of Winchester (8-25-78).

Harlan County

Bledsoe vicinity, *Pine Mountain Settlement School*, E of Bledsoe on KY 510 (9-6-78).

Jefferson County

Louisville, *Selema Hall*, 2837 Riedling Dr. (9-6-78).
Louisville, *Walnut Street Theatre*, 416 W. Walnut St. (9-1-78).

McCracken County

Paducah, *Hotel Irvin Cobb*, Broadway and 6th St. (8-24-78).

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, bounded by State Capitol Dr., 5th, 9th and North Sts. (8-31-78).

Orleans Parish

New Orleans, *Rice House* 3643 Camp St. (8-24-78).

West Feliciana Parish

St. Francisville, *Myrtles Plantation*, U.S. 61 (9-6-78).

MARYLAND

Baltimore (independent city)

Old Goucher College Buildings (8-25-78).

Howard County

Ellicott City vicinity, *Elmonte*, N of Ellicott City at Mt. Hebron Dr. and MD 99 (8-25-78).

Montgomery County

Brookeville vicinity, *Brookeville Woolen Mill and House*, 1901 Brighton Dam Rd. (9-6-78).

Washington County

Hagerstown vicinity, *Long Meadows*, N of Hagerstown on Marsh Pike (9-1-78).

MASSACHUSETTS

Essex County

Rockport vicinity, *Old Castle (Wheeler House)* N of Rockport on MA 127 (9-1-78).

Middlesex County

Natick vicinity, *Jenison, Robert, House*, N of Natick off I 90 (9-6-78).

MINNESOTA

Ramsey County

St. Paul, *Dahl, William, House*, 136 13th St. (8-29-78).

Wright County

Annandale, *Annandale Hotel*, 60 Elm St. W. (8-24-78).

MISSISSIPPI

Adams County

Natchez, *Linden*, 1 Linden Pl. (9-1-78) HABS.

Lee County

Tupelo, *Peoples Bank and Trust Company*, 211 Main St. (8-24-78).
Tupelo vicinity, *Mutt-Thomason Site*, N of Tupelo (8-31-78).

Lowndes County

Columbus vicinity, *MacKay Mound*, SE of Columbus (8-25-78).

Tunica County

Evansville vicinity, *Beaverdam Site*, S of Evansville (8-31-78).

MISSOURI

Clay County

Liberty, Jewell Hall, Jewell St. between Kansas and Mississippi Sts. (9-6-78).

Morgan County

Versailles, *Martin Hotel*, 118 N. Monroe St. (9-6-78).

NEW JERSEY

Hunterdon County

Lambertville, *Lambertville House*, 32 Bridge St. (9-6-78).

Salem County

Salem vicinity, *Finn's Point Rear Range Light*, NW of Salem at Fort Mott and Lighthouse Rds. (8-30-78).
Salem vicinity, *Fort Mott and Finns Point National Cemetery District*, NW of Salem on Fort Mott Rd. (8-31-78).
Salem vicinity, *Holmes, Benjamin*, House (Holmeland), W of Salem on Fort Elfsborg-Hancock's Bridge Rd. (8-31-78) HABS.

NEW YORK

Schuyler County

Montour Falls, *Montour Falls Historic District*, Main and Genesee Sts. (8-31-78).

NORTH CAROLINA

Ashe County

Crumpler vicinity, *Alexander, Shubal V., Archeological Sites*, E of Crumpler (9-1-78).

Brunswick County

Kure Beach vicinity, *Cape Fear Lighthouse Complex*, S of Kure Beach (8-29-78).
Southport vicinity, *Brunswick Town Historic Site*, N of Southport off SR 133 (9-6-78).

Hyde County

Lake Landing vicinity, *Inkwell*, E of Lake Landing on U.S. 264 (9-1-78).

OHIO

Hancock County

Fostoria, *Fostoria Mausoleum*, 702 Van Buren St. (8-25-78).

Highland County

Hillsboro, *Highland County Courthouse*, Main and High Sts. (8-24-78).

Lorain County

Avon Lake, *Miller, Peter, House*, 33740 Lake Rd. (8-25-78).

OKLAHOMA

Beaver County

Mocane vicinity, *Rose, Billy, Archeological Site*, S of Mocane (9-1-78).

Cimarron County

Kenton vicinity, *Bat Cave Archeological Site*, S of Kenton (9-1-78).

Cleveland County

Norman, *Sooner Theatre Building*, 101 E. Main St. (8-31-78).

Kay County

Ponca City, *Pioneer Woman Statue*, Monument Cir. (8-31-78).

McCurtain County

Haworth vicinity, *Harris House*, 6 mi. (9.6 km) S of Haworth (9-1-78).

Muskogee County

Oktaha, *Oktaha School*, off U.S. 69 (8-24-78).

Oklahoma County

Oklahoma city vicinity, *Point 8 Site*, SE of Oklahoma City (9-6-78).

Tulsa County

Tulsa, *Boston Avenue Methodist Church*, Boston Ave. and 13th St. (8-31-78).

PENNSYLVANIA

Chester County

Phoenixville vicinity, *Prizer's Mill Complex*, W of Phoenixville on Seven Stars Rd. (9-6-78).

Delaware County

Ithan, *Radnor Friends Meetinghouse*, Sproul and Conestoga Rds. (8-31-78).

Montgomery County

Bryn Athyn, *Glencairn*, 1001 Papermill Rd. (8-31-78).
Hatboro, *Loller Academy*, 424 S. York Rd. (8-24-78).

Philadelphia County

Philadelphia, *Ringgold Place*, 1900 block Waverly St. (8-29-78).
Philadelphia, *Solomon House*, 130-132 S. 17th St. (8-24-78).
Philadelphia, *USS Becuna*, Penn's Landing, Delaware Ave. and Spruce St. (8-29-78).

Snyder County

Selinsgrove, *Snyder, Gov. Simon, Mansion*, 119-121 N. Market St. (8-25-78).

SOUTH CAROLINA

Charleston County

Adams Run vicinity, *Grove Plantation*, SW of Adams Run off SC 174 (8-25-78).
Charleston, *Lowndes Grove*, 260 St. Margaret St. (8-30-78).

Georgetown County

Georgetown vicinity, *Wicklow Hall Plantation*, S of Georgetown on SC 30 (8-29-78).

TENNESSEE

Hamilton County

Chattanooga, *Chattanooga, Harrison, Georgetown & Charleston Railroad Tunnel*, below N. Crest Rd. (8-24-78).
Chattanooga, *St Paul's Episcopal Church*, 7th and Pine Sts. (9-1-78).

Maury County

Columbia, *Frierson, Lucius, House*, W. 7th St. (9-1-78).

Montgomery County

Clarksville, *Home Infirmary*, Riverside Dr. and Current St. (8-24-78).

Rutherford County

Murfreesboro, *Collier-Lane-Crichlow House*, 500 N. Spring St. (8-23-78).

Shelby County

Memphis, *Linden Station and Reichman-Crosby Warehouse*, 245, 281, 291 Wagner Pl. (9-8-78).

TEXAS

Galveston County

Galveston, *Sweeney-Royston House*, 2402 L Ave. (9-1-78).

Red River County

Clarksville, *Red River County Courthouse*, Public Sq. (8-31-78).

UTAH

Emery County

Castle Dale, *Castle Dale School*, 100 North and 100 East (9-6-78).
Ferron, *Ferron Presbyterian Church and Cottage*, Mill Rd. and 3rd West (9-6-78).

Salt Lake County

Salt Lake City, *Pugh, Edward, House*, 1299 E. 4500 South (8-31-78).

Utah County

Springville, *Houtz, Jacob, House*, 980 N. Main St. (8-25-78).

VERMONT

Rutland County

Rutland, *Baxter, H. H., Memorial Library (Rutland Jewish Center)* 96 Grove St. (8-24-78).

Washington County

Waterbury, *Waterbury Village Historic Districts*, U.S. 2 (8-24-78).

VIRGIN ISLANDS

St. John County

Cruz Bay vicinity, *Estate Beverhoudt*, 1.5 mi. E of Cruz Bay off Center Line Rd. (8-29-18).

St. Thomas County

Charlotte Amalie vicinity, *Estate Nisky*, 1.5 mi. W of Charlotte Amalie off Harwood Hwy. (8-29-78).
Charlotte Amalie vicinity, *Hassel Island Historic District*, S of Charlotte Amalie (8-29-78) HAER.

VIRGINIA

Orange County

Culpepper vicinity, *Germanna Site*, SE of Culpepper (8-24-78).

Wythe County

Fort Chiswell vicinity, *Fort Chiswell Site*, E of Fort Chiswell at jct. of I 81 and I 77 (8-29-78).

WEST VIRGINIA

Fayette County

Fayetteville, *Fayette County Courthouse*, Court St. between Wiseman and Maple Aves. (9-6-78).

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Kanawha County

Charleston, *Kanawha County Courthouse*, Virginia and Court Sts. (9-6-78).

WISCONSIN

Dodge County

Lowell vicinity, *Sock Road Bridge*, NW of Lowell over the Beaver River (9-8-78).

Jefferson County

Fort Atkinson vicinity, *Hoard's Dairyman Farm*, N of Fort Atkinson (8-29-78).

Rock County

Milton, *Grout Buildings in Milton*, Janesville, High and 3rd Sts., Madison Ave., and SR M (9-13-78).

WYOMING

Albany County

Woods Landing vicinity, *Jelm-Frank Smith Ranch Historic District*, S of Woods Landing (8-31-78).

* * * * *

The following is a list of corrections to properties previously listed in the Federal Register.

MICHIGAN

Keweenaw County

Isle Royale National Park, *Minong Mine Historic District*, W of McCargoe Cove (11-11-77) (previously listed in Copper Harbor vicinity).

NEW YORK

Washington County

Covered Bridges of Washington County (3-8-78) (previously listed in Buskirk vicinity).

TENNESSEE

Knox County

Knoxville, *U. T. Agriculture Farm Mound*, Neyland Dr. (3-30-78) (previously printed as *Culture Farm Mound*).

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places.

INDIANA

LaPorte County

Michigan City, *Michigan Central RR Engine Repair Shops*, 104 N. Franklin St. (demolished).

NEW JERSEY

Hudson County

Hoboken, *Seamen's Mission*, 60-64 Hudson St. (demolished).

* * * * *

Determination of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR part 800. Properties determined to be eligible under section 63.3 of the procedures for requesting determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions and corrections to the list of properties determined for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ARIZONA

Yuma County

Granite Reef Aqueduct Sites AZ S:5:1, AZ S:6:1, AZ S:6:2, AZ S:6:3, AZ S:6:4, AZ S:6:6 (63.3).

CALIFORNIA

Riverside County

Blythe vicinity, *Sundesert, Archeological District A* (63.3).
Blythe vicinity, *Sundesert, Archeological District E* (63.3).
Blythe vicinity, *Sundesert, Archeological District F* (63.3).

Santa Barbara County

Archeological Sites: CA-SBa-534; CA-SBa-551; CA-SBa-654; CA-SBa-678; CA-SBa-680; CA-SBa-682; CA-SBa-932; CA-SBa-1109; CA-SBa-1128; CA-SBa-1129; CA-SBa-1145; FS 05-14-59-45A; FS 05-14-59-45B; (63.3).

GEORGIA

DeKalb County

Dunwoody, *Spruill House*, 5455 Chamblee-Dunwoody Rd. (63.3).

HAWAII

Honolulu County

Honolulu, *U.S. Coast Guard Diamond Head Light*, 3399 Diamond Head Rd.

Maui County

Kalaupapa, *U.S. Coast Guard Molokai Light.*

IDAHO

Elmore County

Glenns Ferry vicinity, *Oregon Trail (Kelton Road)* SE of Glenns Ferry (63.3).

ILLINOIS

Cook County

Chicago, *Blackstone Branch Library*, 4904 S. Lake Park Ave. (63.3).
Chicago, *Schoenhofen Brewery*, 18th and Canalport.
Chicago, *Washington Park and Administration Building*, 740 E. 56th Pl. (63.3).

Rock Island County

Lock no. 30 vicinity, *Archeological Site 11RI217* (63.3).

INDIANA

Wayne County

Richmond, *Harrison, Thomas H., House*, 514 W. Main St.

LOUISIANA

Caddo County

Shreveport, *Herold, Sidney, Mansion*, 840 Jordan St.

NEW JERSEY

Passaic County

Paterson, *DUBLIN MULTIPLE RESOURCE AREA.* (63.3) This area includes:
Barbour Mill Workers Housing Complex, 223-231 Slater St.;
Elm Street Residential District;
First Presbyterian Church, 320 Main St.;
Fire Truck Co. No. 2 Building, 77 Prospect St.;
German Presbyterian Church, 26 Elm St.;
Morrissee Building, Ward and Main St.;
Ryle, John, House, 12 Mill St.;
St. Michael's Sisters House, 45-47 Ward St.;
Southwest Residential District;
Thompson, Daniel, House, 10 Mill St.;
Question Mark Bar, 20 Van Houten St.

NEW MEXICO

McKinley County

ZUNI PUEBLO. Multiple Resource Area (63.3) in Yellowhouse Dam Project. This area includes sites: 2-4, 6-9, 11, 12, 14-20, 22, 23, 25-45, 49-69, 71-73, 75-85, 87-133, 135-151, 153-156, 158-165, 170-172, 174-182, 184-192, 195-200, 202-223, 225-227, 229-235, 238-240, 244-257, 259-294, 296-306, 308-313, 315, 318, and localities numbered: 403, 405-407, 411, 413, 414, 417, 418, 422-425, 431, 440, 441, 445-449, 451-457, 459-61, 463, 472-475, 481, 483, 484, 488, 490, 491, 498, 504, 508, 515, 435, 507.

San Juan County

Burnham vicinity, LOWER CHACO RIVER MULTIPLE - RESOURCE DISTRICT. (63.3) This area includes: 62, 64, 70, 88, 110, 159, 165, 173, 179, 212, 226, 247, 263, 267, 276, 279, 307, 312, 316, 320, 322, 324, 335, 338, 340, 344, 347, 371, 426, 568, 576, 606, 608, 610, 618, 628, 635, 641, 646, 659, 667, 685, 73, 97, 142, 144, 235, 243, 258, 259, 302, 306, 321, 424, 428, 436, 447, 462, 471, 487, 489, 491, 499, 514, 522, 526, 549, 597, 651, 671, 673, 65, 89, 91, 93, 114, 130, 147, 153, 155, 167, 71, 195, 236, 238, 242, 246, 248, 270, 275, 289, 296, 298, 305, 309, 310, 318, 339, 349, 352, 356, 373, 381, 394, 396, 418, 421, 422, 423, 430, 440, 443, 445, 458, 513, 516, 518, 520, 564, 571, 592, 593, 595, 598, 599, 600, 601, 604, 626, 639, 647, 653, 669, 675, 677, 679, 683, 112, 177, 234, 300, 334, 183, 193, 285, 294, 308, 323, 328, 337, 416, 709.
Burnham vicinity, NAVAJO TRIBAL LANDS MULTIPLE RESOURCE AREA. This area includes: 5, 6, 7, 8, 10, 11, 12, 13 (63.3).

NEW YORK

Chautauqua County

Portland, *Dubert, Calvin J., House*, 5553 Martin Rd.
Sheridan, *Sheridan School district No. 3 Schoolhouse*, Chapin and O'Brien Rd.

OHIO

Hamilton County

Cincinnati, *American Oak Leather Company*, Kenner and Dalton Sts.
Cincinnati, *Jobs Corps Screening Unit*, 1413 Western Ave.
Cincinnati, *Ohio National Guard Armory*, 1437-1439 Western Ave.
Cincinnati, *Our Lady of Mercy High School*, Western Ave. and Kenner St.
Cincinnati, *St. Heinrich Church*, Flint and Dalton St.

Pickaway County

Darby vicinity, *Orient Bridge*, OH 762 (63.3).

OKLAHOMA

Oklahoma County

Oklahoma City, *Hales Building*, 201-207 W. Main St. (63.4(c)).

OREGON

Columbia County

St. Helens vicinity, *Warrior Rock Light.*

Curry County

Port Oxford, *Cape Blanco Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

VIRGINIA

Prince William County

Brawner Farm, Rts. 29 and 211.

WASHINGTON

Jefferson County

Kalalock vicinity, *Destruction Island Light Station.*

King County

Seattle, *Alki Point Light Station.*

San Juan County

Prevost Harbor vicinity, *Turn Point Light Station.*

Skagit County

Anacortes vicinity, *Burrows Island Light Station*, Burrows Island.

* * * * *

The following properties have been either demolished or placed on the National Register and are therefore removed from the Determinations for Eligibility Listing:

ALASKA

Fairbanks Division

Fairbanks, *Federal Building, U.S. Post Office and Courthouse* (This property was listed in National Register 8-2-78).

MONTANA

Lewis and Clark County

Helena, *Wassweiler Hotel and Bath Houses*, Hwy. 12 W (This property was listed in National Register 8-1-78).

[FR Doc. 78-27318 Filed 9-27-78; 8:45 am]

[4310-03]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 22, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 13, 1978.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Pike County

Troy, *Troy Main Post Office*, 300 E. Walnut St.

CALIFORNIA

Alameda County

Berkeley, *West Berkeley Garden*, 817-821 Delaware St.

Los Angeles County

Pasadena, *Batchelder House*, 626 S. Arroyo Blvd.
Glendale, *Derby, John, House*, 2535 Chevy Chase Dr.
Los Angeles, *Palms Railroad Depot*, 3800 Homer St.

Mendocino County

Manchester, *Manchester Schoolhouse*, 19750 CA 1.

Merced County

Merced vicinity, *Lake Yosemite Water Tower*, N of Merced.

Placer County

Roseville vicinity, *Diamond K Ranch*, 1 mi. N of Roseville on CA 65.

San Diego County

San Diego, *Mission Beach Roller Coaster*, 3000 Mission Blvd.

San Francisco County

San Francisco, *Ferry Station Post Office Building*, Embarcadero at Mission St.
San Francisco, *Union Ferry Depot*, Embarcadero at Market St.

San Joaquin County

Tracy, *West Side Bank*, 47 W. 6th St.

Salano County

Suisun City, *Suisun Masonic Lodge No. 55*, 623 Main St.

Sutter County

Pleasant Grove vicinity, *Chandler, A. L., Ranch*, N of Plesant Grove on Pleasant Grove Rd.

Yolo County

Woodland, *Porter Building*, 501-511 Main St.

INDIANA

Allen County

Fort Wayne, *Engine House No. 3*, 226 W. Washington Blvd.

Fulton County

Rochester vicinity, *Germany Bridge*, NW of Rochester on SR 375W at Tippecanoe River.

Tippecanoe County

Lafayette vicinity, *Hershey House*, E of Lafayette on East Rd.

IOWA

Appanoose County

Centerville, *U.S. Post Office*, 100 W. Maple St.

Decatur County

Garden Grove, *Stearns, C. S., House*, Main St.

Polk County

West Des Moines, *Hulme, Thomas Davenport, House*, 3530 Commerce St.

MARYLAND

Allegany County

Cumberland, *B'er Chayim Temple*, Union and S. Centre Sts.
Cumberland, *Town Clock Church*, 312 Bedford St.

Anne Arundel County

Linthicum Heights, *Turkey Hill*, 106 W. Maple Rd.

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Baltimore (independent city)

Woman's Industrial Exchange, 333 N. Charles St.

Baltimore County

Catonsville, *Summit*, 10 Stanley Dr.

Cecil County

Rising Sun vicinity, *Richards, Thomas, House*, 3 mi. W of Rising Sun on U.S. 1.

Charles County

La Plata vicinity, *Cedar Grove*, S of La Plata off MD 6.

Kent County

Chesterville, *Chesterville Brick House*, jct. of MD 290 and MD 447.

Montgomery County

Poolesville vicinity, *Annington (White Place)*, W of Poolesville on White's Ferry Rd.

Talbot County

Claiborne vicinity, *Rich Neck Manor*, N of Claiborne of Rich Neck Rd.
Easton vicinity, *Fairview*, W of Easton on Copperville Rd.
Trappe vicinity, *Lloyd's Landing*, NE of Trappe on Lloyd's Landing Rd.

MISSISSIPPI

Jackson County

Pascagoula, *Pascagoula Central Fire Station No. 1*, 623 Delmas Ave.

Jefferson County

Lorman vicinity, *Rosswood (Hamer House)*, E of Lorman on MS 552.

MONTANA

Stillwater County

Red Lodge vicinity, *West Rosebud Lake Site*, W of Red Lodge.

NEW MEXICO

Mora County

Cleveland vicinity, *Cassidy Mill*, SE of Cleveland off MD 3.

OHIO

Defiance County

Defiance, *Sauer-Watson House*, 520 Washington St.

Franklin County

Columbus, *Old Ohio Union*, 154 W. 12th Ave.
Columbus, *Old Port Columbus Airport Control Tower*, 420 E. 5th Ave.
Dublin and vicinity, *Washington Township Historic Resources*, Incorporation limits of Washington Twp.

Hamilton County

Cincinnati, *Cincinnati Street Gas Lamps*

Guernsey County

Cambridge vicinity, *Barnett-Criss House*, SW of Cambridge off U.S. 22/40.
Cambridge vicinity, *Sarchet, Peter B., House*, N of Cambridge on SR 365.

Montgomery County

Centerville vicinity, *Bradford, Robert, House*, S of Centerville off Social Row Rd.

Muskingum County

New Concord, *Muskingum College Campus Historic District*, U.S. 22/40.
Zanesville vicinity, *Galigher, James, House*, S of Zanesville on S. River Rd.

Perry County

New Reading, *Mitchell, Randolph, House*, Rush Creek Rd.

Pickaway County

Ashville, *Ashville Depot*, Madison and Cromley Sts.

Ross County

Chillicothe, *Chillicothe Business District*, roughly bounded by Water, 4th, Walnut and Hickory Sts.

Seneca County

Tiffin, *Fort Ball-Railroad Area Historic District*, roughly bounded by Sandusky River, Perry, Sandusky, and Washington Sts.

TENNESSEE

Rhea County

Dayton vicinity, *Hiwassee Garrison Site*, S of Dayton.

VERMONT

Washington County

Montpelier, *Montpelier Historic District*, U.S. 2 and VT 12.

WISCONSIN

Bayfield County

Port Wing, *South Shore Public School*, Grand Ave. and WI 13.

Eau Claire County

Eau Claire, *Winslow, George F., House*, 210 Oakwood Pl.

La Crosse County

Medary vicinity, *Valley View Site*, N of Medary.

Lafeyette County

Darlington, *Lafeyette County Courthouse*, 626 Main St.

[FR Doc. 78-27319 Filed 9-27-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-24]

PROPOSED LIVESTOCK GRAZING MANAGEMENT IN THE SANDY AREA, SOUTHWESTERN WYOMING ROCK SPRINGS DISTRICT, WYOMING

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental statement on proposed domestic livestock grazing management in the Sandy area of southwestern Wyoming, and has made copies of the statement available for public inspection.

The environmental statement considers the impacts that would result from the implementation of the grazing systems in sixteen (16) proposed allotments and thirty-three (33) custodial pastures, providing for livestock grazing management and use of available forage on approximately 1,997,330 acres, including proposed range improvements, and from maintaining management of 970 acres upon which livestock grazing would be excluded. The final statement further analyzes the impacts that would result from the implementation of each of seven (7) alternatives to that proposal.

Copies of the final environmental statement are available for inspection at the following locations:

Single copies of the statement can be obtained from the Team Leader, Sandy Environmental Statement, P.O. Box 1869, Rock Springs, Wyo. 82901; or the State Director (952), Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001.

Dated: September 28, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

Bureau of Land Management, Rock Springs District Office, Highway 187 North, Rock Springs, Wyo.
Bureau of Land Management, Pinedale Resource Area, Molyneux Building, Pinedale, Wyo.
Bureau of Land Management, Kemmerer Resource Area, Highway 189, across from port of entry, Kemmerer, Wyo.
Bureau of Land Management, Wyoming State Office, Branch of Records and Data Management, 2515 Warren Avenue, Cheyenne, Wyo.
Bureau of Land Management, Rawlins District Office, 1300 Third Street, Rawlins, Wyo.
Bureau of Land Management, Lander Resource Area, Highway 287 South, Lander, Wyo.
Library, Big Piney, Wyo.
Fremont County Public Library, 451 North Second Street, Lander, Wyo.
Uinta County Public Library, 36 Tenth Street, Evanston, Wyo.
Teton County Public Library, 320 South King Street, Jackson, Wyo.
Bureau of Land Management, Casper District Office, 951 Union Boulevard, Casper, Wyo.
Bureau of Land Management, Worland District Office, 1700 Robertson Avenue, Worland, Wyo.
Rock Springs, Public Library, 400 C Street, Rock Springs, Wyo.
Western Wyoming College Library, College Hill, Rock Springs, Wyo.
Central Wyoming College Library, Riverton, Wyo.
Carnegie Public Library, 177 North Center, Green River, Wyo.
Library, Superior, Wyo.
Lincoln County Public Library, Courthouse, Kemmerer, Wyo.
Sublette County Public Library, 40 South Fremont Avenue, Pinedale, Wyo.
Coe Library, University of Wyoming, Laramie, Wyo.
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo.

[FR Doc. 78-27819 Filed 10-2-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-201-36]

CLOTHESPINS

Time and Place of Portland, Maine, Hearing

Notice is hereby given that the public hearing in connection with the above-noted investigation scheduled for Portland, Maine, will be held beginning at 10 a.m., e.d.t., Thursday, October 5, 1978, in the Riverside Room of the Red Coach Grill and Convention Center, 155 Riverside Street, Portland, Maine.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Friday, September 29, 1978. Notice of the investigation and public hearing was published in the FEDERAL REGISTER of August 3, 1978 (43 FR 34218).

By order of the Commission.

Issued: September 28, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27918 Filed 10-2-78; 8:45 am]

[4410-09]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 78-4]

STEPHEN J. GREGA, M.D.

Denial of Applications for Registration

On February 9, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued to Stephen J. Grega, M.D. (Respondent) an order to show cause proposing to deny Respondent's applications for registration for reason that on October 17, 1974, in the U.S. District Court for the Western District of Washington, Respondent was convicted of 72 counts of distributing schedule II controlled substances in violation of Title 21, U.S.C. 841(a)(1). These charges involved the prescribing of controlled substances other than for a legitimate medical purpose.

On May 24, 1978, in San Francisco, Calif., a hearing was held on the issues raised by the order to show cause. The Honorable Francis L. Young, administrative law judge, presided.

On August 4, 1978, the administrative law judge pursuant to 21 CFR 1316.65, transmitted to the Administrator the record of these proceedings together with his report containing recommended findings of fact and conclusions of law. After reviewing this material the Administrator hereby issues his final order in this proceeding.

The administrative law judge found that Respondent was convicted of 72 counts charging felony violations relating to controlled substances as well as 6 counts charging civil violations. The administrative law judge also found that Respondent had sold approximately 72 prescriptions for 6,160 dosage units of Ritalin and Desoxyn, schedule II controlled substances to three individuals for other than a legitimate medical purpose. In fact, from 1968 to the time of his conviction, Respondent had provided amphetamines to one of the individuals to "serve as a sparkplug for her independent writing."

The Administrative law judge further stated:

> The purpose of the registration provisions of the Controlled Substances Act of 1970 is to prevent diversion of legitimately produced substances to illegitimate uses. The preponderance of the evidence, in this record clearly shows that, as recently as August 1973, Respondent was an agent of just such diversion due, in large measure, to certain emotional and characterological disorders which were still affecting him in October 1974.
>
> The record is devoid of any direct evidence to the effect that Respondent is now no longer susceptible to the influence of those disorders.
>
> The preponderance of the evidence in this record indicates that the stage may well be set for a repeat of the events of the first half of 1973—Respondent is being importuned by belligerent persons seeking prescriptions; at least one of his long-term patients, for whom he allegedly prescribed in the past, is again coming to him for treatment. There is no direct evidence that Respondent's inner problems and conflicts which previously figured in his illegal activities have been resolved or significantly ameliorated.

The administrative law judge concluded that there is a lawful basis for denial of Respondents's applications for DEA registration as a practitioner. Having reviewed the record of these proceedings in its entirety, and pursuant to 21 CFR 1316.66, the Administrator adopts the administrative law judge's findings of fact and conclusions of law.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, it is ordered that Respondent's applications for registration under the Controlled Substances Act be denied, effective immediately.

Dated: September 25, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-27879 Filed 10-2-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP

Public Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings at the Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C.:

(A) FCA SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY

Date: October 18, 1978.
Time: 9 to 11 a.m.
Place: Room N-5437(A), New Department of Labor.

(B) FCA SUBCOMMITTEE ON GOALS OF THE FCA

Date: October 18, 1978.
Time: 11 a.m. to 12 noon.
Place: Room N-5437(B), New Department of Labor.

(C) FCA SUBCOMMITTEE ON RESEARCH.

Date: October 18, 1978.
Time: 1:30 to 3:30 a.m.
Place: Room N-5437(C), New Department of Labor.

The Federal Committee on Apprenticeship will hold a full open meeting on Thursday, October 19 form 9 a.m. to 4:30 p.m.; Friday, October 20, 1978, form 9 a.m. to 12 noon in Room N-4437(A-B-C-D), Department of Labor Building.

The agenda for the meeting on October 19 will include:

1. Swearing in new member.
2. Opening remarks; report of meeting with the Secretary of Labor.
3. Apprenticeship in Europe.
4. Urban League experience with mobile units in apprenticeship outreach programs.
5. Report of FCA Subcommittee on Research:
   a. Report on project to test the feasibility of developing data on nonregistered apprentices by occupation and industry and by State using two ongoing statistical programs.
   b. Briefing on evaluation on national industry apprenticeships promotion program.

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c. Status report on clearinghouse of apprenticeship information project.

The agenda for the meeting on October 20 will include:

1. Report of FCA Subcommittee on Goals of the FCA:
a. Toledo Bend recommendations on apprenticeship.
2. Report of FCA Subcommittee on Equal Apprenticeship Opportunity:
a. Discussion of recommended evaluation of national women's apprenticeship program under current new initiatives as proposed by the Secretary of Labor.
b. Discussion of the status of minorities in apprenticeship reflecting the new language of 29 CFR 30: Equal Employment Opportunity in Apprenticeship and Training.

Agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views, or arguments pertaining to the agenda may do so by furnishing it to the executive secretary at any time prior to the meeting. Thirty copies are needed for the members and for the inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the executive secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department, 601 D Street, NW. (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C., this 28th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc. 78-27906 Filed 10-2-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[Docket No. M-78-42]

M.S.W. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that M.S.W. Coal Co., Spring Glen, Pa., 17978, has filed a petition to modify the application of 30 CFR 75.301 (air quantity), to its No. 2 slope mine, located in Schuykill County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) The air sample analysis history reveals that harmful quantities of methane are nonexistent in petitioner's mine.

(2) Ignition, explosion, and mine fire history are all nonexistent at the mine, nor is there a history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

(3) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(4) Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, present very dangerous flying object hazards to miners and cause extremely uncomfortable damp and cold conditions in the mine. This makes it difficult to keep miners on the job.

(5) The safety of the workers will not be diminished by the lessening of the air quantity.

REQUEST FOR COMMENTS

Persons interested in the petition may furnish written comments on or before November 2, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Date: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-27907 Filed 10-2-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3573]

BANCROFT CAP CO., CABOT, ARK.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3573: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 4, 1978, in response to a worker petition received on April 19, 1978, which was filed by the United Hatters, Cap & Millinery Workers International Union on behalf of workers and former workers producing military headwear at the Cabot, Ark., plant of Bancroft Cap Co. During the investigation it was determined that the plant also produces duffelbags.

The notice of investigation was published in the FEDERAL REGISTER on May 23, 1978 (43 FR 22087-22088). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bancroft Cap Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing military headwear, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Approximately 95 percent of the military headwear produced by Bancroft are sold directly to the U.S. Government. There are no imports of military headwear.

With respect to workers producing duffelbags all the group eligibility requirements of section 222 of the Act have been met.

Imports of soft-side luggage, which includes duffelbags, increased absolutely and relative to domestic production in 1977 compared to 1976 and increased absolutely in the first quarter of 1978 compared to the same period of 1977.

Bancroft Caps imports duffelbags. Most of the duffelbags sold by Bancroft Cap are produced by an exclusive contractor in Mexico.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with duffelbags produced at the Cabot, Ark., plant of Bancroft Cap Co. contributed importantly to the decline in production of that product and to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the production of duffelbags at the Cabot, Ark., plant of Bancroft Cap Co. who became totally or partially separated from employment on or after September 2, 1977, are eligible to apply for

adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of military headwear at the Cabot, Ark., plant of Bancroft Cap Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27899 Filed 10-2-78; 8:45 am]

[4510-28]

[TA-W-3744]

BROWN SHOE CO., PIEDMONT, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3744: Investigation regarding certificate of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1978, in respone to a worker petition received on May 18, 1978, which was filed by three workers and the by the United Shoe Workers of America on behalf of workers and former workers producing shoe components for men's, women's, and children's shoes at the Piedmont, Mo., plant of the Brown Shoe Co.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-24634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brown Shoe Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that average employment of production workers at the Piedmont, Mo., plant of Brown Shoe Co. increased from 1975 to 1976, from 1976 to 1977 and in the first quarter of 1978 compared to the same period of 1977.

Average weekly hours remained relatively unchanged during the same periods of comparison.

CONCLUSION

After careful review I determine that all workers of the Piedmont, Mo., plant of the Brown Shoe Co. are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27900 Filed 10-2-78; 8:45 am]

[4510-28]

[TA-W-3956]

F/V PETREL, NORTH TRURO, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3956: Investigation regarding certification of eligibility to apply for worker adjustment assitance as prescribed in section 222 of the Act.

The investigation was initiated on July 6, 1978, in response to a worker petition received on July 5, 1978, which was filed on behalf of fishermen and former fishermen catching ground and flatfish for the F/V *Petrel*, North Truro, Mass.

The notice of investigation was published in the FEDERAL REGISTR on July 18, 1978 (43 FR 30927-30928). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F/V *Petrel*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry anlysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The F/V *Petrel* primarily catches ground and flatfish. Sales by the F/V *Petrel* increased in the fourth quarter of 1977 compared to the fourth quarter of 1976 and in the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that fishermen of the F/V *Petrel*, North Truro, Mass., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27901 Filed 10-2-78; 8:45 am]

[4510-28]

[TA-W-3363]

FULTON CLOTHES CO., INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the result of TA-W-3363: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 20, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing men's and women's tailored clothing at Fulton Clothes Co., Inc., Philadelphia, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 17, 1978 (43 FR 14776-14777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fulton Clothes Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivi-

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sion have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Ninety-five percent of Fulton's business is comprised of contract work for a single manufacturer of women's tailored clothing. This manufacturer's sales increased during 1977 compared to 1976 and during the first quarter of 1978 compared to the first quarter of 1977. This manufacturer does not import any women's tailored clothing.

CONCLUSION

After careful review, I determine that workers of Fulton Clothes Co., Inc., Philadelphia, Pa., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc.78-27902 Field 10-2-78; 8:45 am]

[4510-28]

[TA-W-3591]

HIGH FASHION, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3591: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats, raincoats, and blazers at High Fashion, Inc., Paterson, N.J. The investigation revealed that High Fashion, Inc., did not produce raincoats or blazers in 1976, 1977, or 1978.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of High Fashion, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which High Fashion, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from High Fashion, Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from High Fashion, Inc., in the first 5 months of 1978 compared to the like period of 1977. The same manufacturers increased purchases of imports in the first half of 1978 compared to the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at High Fashion, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of High Fashion, Inc., Paterson, N.J., who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27903 Filed 10-2-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3753 and TA-W-3892 through TA-W-3904]

ROCHESTER BUTTON CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Rochester Button Co.: TA-W-3753, Rochester, N.Y.; 3892, Akron, N.Y.; 3893, Wellsville, N.Y.; 3894, South Boston, Va.; 3895, McKenney, Va.; 3896, Kenbridge, Va.; 3897, 1290 Avenue of the Americas New York, N.Y.; 3898, 519 Eighth Avenue New York, N.Y.; 3899, Atlanta, Ga.; 3900, Pikesville, Md.; 3901, Charlotte, N.C.; 3902, Wheaton, Ill.; 3903, Los Angeles, Calif.; 3904,* Bala-Cynwyd, Pa.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3753 and TA-W-3892 through TA-W-3904: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978 (May 23, 1978, for TA-W-3753) in response to a worker petition received on June 22, 1978 (May 15, 1978 for TA-W-3753) which was filed on behalf of workers and former workers producing and marketing buttons at the locations listed above of the Rochester Button Co.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365), on June 6, 1978 (43 FR 24633), for TA-W-3753. No public hearing was requested, and none was held.

The FEDERAL REGISTER inadvertently stated that the South Boston facility is in Massachusetts. The facility is in South Boston, Va., as stated in the petition.

The information upon which the determination was made was obtained principally from officials of the Rochester Button Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

The Rochester Button Co.'s integrated finished button production and marketing operation consists of: Three finished button facilities (one each in Rochester, N.Y., McKenney, Va., and Kenbridge, Va.); three raw material (button blank) facilities (one each in Akron, N.Y., Wellsville, N.Y., and South Boston, Va.); two warehousing facilities and sales offices (one each in New York, N.Y., and Los Angeles, Calif.); and six additional sales offices (one each in New York, N.Y., Atlanta, Ga., Pikesville, Md., Charlotte, N.C., Wheaton, Ill., and Bala-Cynwyd, Pa.).

Imports of finished buttons increased from 4,212 thousand gross in 1976 to 7,227 thousand gross in 1977.

A survey by the Department of customers of the Rochester Button Co., who decreased their purchases of finished buttons from the company in 1977 compared to 1976 revealed that many customers had increased their purchases of finished buttons from foreign suppliers or had increased their purchases of finished buttons manufactured offshore during that same period of time.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with buttons produced and marketed at locations of the Rochester Button Co., listed in the appendix, contributed importantly to the decline in sales or production and to the total or partial separations of workers at those locations. In accordance with the provisions of the Act, I make the following certification:

All workers of the Rochester Button Co., at locations listed in the appendix engaged in employment related to the production or marketing of buttons who became totally or partially separated from employment on or after the respective petition impact dates listed in the attached appendix are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

APPENDIX

State/address	Petition No.	Impact date
Rochester, N.Y.	TA-W-3753	May 11, 1977.
Akron, N.Y.	TA-W-3892	Aug. 7, 1977.
Wellsville, N.Y.	TA-W-3893	June 15, 1977.
South Boston, Mass.	TA-W-3894	Aug. 28, 1977.
McKenney, Va.	TA-W-3895	June 15, 1977.
Kenbridge, Va.	TA-W-3896	Do.
1290 Avenue of the Americas, New York, N.Y.	TA-W-3897	Do.
519 8th Ave., New York, N.Y.	TA-W-3898	Do.
6478 Peachtree Industrial Blvd., Atlanta, Ga.	TA-W-3899	Do.
Room 200C, Pikesville Plaza Bldg., 600 Reisterstown Rd., Pikesville, Md.	TA-W-3900	Do.
226 Laurel Ave., Charlotte, N.C.	TA-W-3901	Do.
Room 101A, 416 East Roosevelt Rd., Wheaton, Ill.	TA-W-3902	Do.
1153 Santee St., Los Angeles, Calif.	TA-W-3903	Do.
9 Union Ave., Bala-Cynwyd, Pa. (Boston, Mass.).	TA-W-3904	Do.

[FR Doc. 78-27582 Filed 10-2-78; 8:45 am]

[4510-28]

[TA-W-3513]

THERMATOMIC CARBON CO., STERLINGTON, LA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3513: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on April 5, 1978, which was filed by the Oil, Chemical & Atomic Workers International Union on behalf of workers and former workers producing thermal grade carbon blacks at Thermatomic Carbon Co., Sterlington, La.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

A certification applicable to the petitioning group of workers was issued on February 22, 1976 (TA-W-384). The certification remained in effect until February 22, 1978.

The information upon which the determination was made was obtained principally from officials of Thermatomic Carbon Co., the U.S. Department of Commerce, the U.S. Department of Interior, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of carbon blacks increased in each year from 1973 when imports were 8,669,000 pounds, to 1976, when imports were 44,121,000 pounds. Imports declined to 32,203,000 pounds in 1977, only slightly below the 1975 level of 33,034,000 pounds. The ratio of imports to domestic production increased from 1.2 percent 1975 to 1.46 percent in 1976 and then fell to 0.93 percent in 1977. The increase in imports from 1973 to 1976 is attributable to increased domestic prices for raw materials used in producing carbon black. Canada is a principal supplier of carbon black to the United States.

The previous certification (TA-W-384) was based on evidence that Thermatomic's major customer had decreased purchases from the subject firm from 1974 to 1975 and increased purchases of imported carbon black from a Canadian subsidiary of Thermatomic's parent firm. This customer attributed the substitution of Canadian carbon black for Thermatomic's carbon black to the cheaper price of imports resulting from the lower costs of raw materials, especially natural gas, and lower labor costs.

In November 1977, Thermatomic closed the Sterlington, La., plant, and retained a small number of production workers for a limited time in order to ship remaining inventories. The company's decision to close the plant was based on rising prices for natural gas, a principal raw material in the thermatomic process. At the same time, company imports increased. Company imports of carbon black increased from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977. Machinery and material scheduled for use at Thermatomic Carbon Co. in Sterlington, La., is being shipped to the Canadian subsidiary.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with thermal carbon black produced at Thermatomic Carbon Co., Sterlington, La., have contributed importantly to the decline in sales and production and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Thermatomic Carbon Co., Sterlington, La., who became totally or partially separated from employment on or after February 22, 1978, are certified eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-27904 Filed 10-2-78; 8:45 am]

[4510-29]
[4830-01]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Prohibited Transaction Exemption 78-14]

EMPLOYEE BENEFIT PLANS

Exemption From the Prohibitions Respecting a Transaction Involving Murray Financial Corp. Profit-Sharing Plan for Employees and Participating Affiliates

AGENCIES: Department of Labor and Department of the Treasury/Internal Revenue Service.

ACTION: Grant of individual exemption.

* Petition 3904 is expanded to include workers at the Rochester Button Co. sales office in Boston, Mass.

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SUMMARY: This exemption enables the Murray Financial Corp. profit-sharing plan for employees and participating affiliates (the Plan) to sell a parcel of real property to Murray Properties Co. (the Subsidiary), a wholly owned subsidiary of Murray Financial Corp. (the Employer).

FOR FURTHER INFORMATION CONTACT:

Robert N. Sandler, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, telephone 202-523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 13, 1978, notice was published in the FEDERAL REGISTER (43 FR 25492) of the pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of an exemption from the provisions of sections 406(a)(1), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer.

The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department of Labor (the Department). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the requested exemption.

No public comments or requests for a hearing were received by the Department.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) This document does not meet the Treasury Department's criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the procedures set forth in ERISA Proc. 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 CB 722, and based upon the entire record, the Agencies make the following determinations:

(i) The exemption is administratively feasible;

(ii) It is in the interests of the Plan and of the participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75-1 and Rev. Proc. 75-26.

The restrictions of sections 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of real property known as site 30 by the Plan to the Subsidiary, for $18,900, provided that this amount is not less than the fair market value of the property.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C. this 26th day of September, 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

FRED J. OCKS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 27674 Filed 10-2-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Date: October 19, 20, and 21, 1978.
Time: 9 a.m.-5 p.m.
Place: Room 643, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Alan J. Grobecker, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1490.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.
Agenda:

OCTOBER 19, 1978

9 a.m.—Review principal issues of NCAR review and discussion of recommendations, if any, on these issues.

OCTOBER 20, 1978

9 a.m.—Discussion of NSF/ATM report: "Report on NSF Atmospheric Sciences Division Activities."

OCTOBER 21, 1978

9 a.m.—Report preparation of committee.

12 noon—Adjourn.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 28, 1978.

[FR Doc. 78-27848 Filed 10-2-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR BEHAVORIAL AND NEURAL SCIENCES, SUBCOMMITTEE ON ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Anthropology of the Advisory Committee for Behavorial and Neural Sciences.
Date and Time: October 19 and 20, 1978, 9 a.m.-6 p.m.
Place: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, Room 712A.
Type of meeting: Closed.
Contact person: Dr. John Yellen, Program Director, Anthropology, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4208.
Purpose of Subcommittee: To provide advice and recommendations concerning support for anthropology (physical anthropology and archaeology).
Agenda: To review and evaluate proposals as part of the selected process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 28, 1978.

[FR Doc. 78-27849 Filed 10-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON POLITICAL SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Political Science of the Advisory Committee for Social Sciences.
Date and time: October 19 and 20, 1978, 9 a.m. to 5 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Part open—
Open—October 19, 9 a.m. to 10 a.m.
Closed—October 19, 10 a.m. to 5 p.m.
Closed—October 20, 9 a.m. to 5 p.m.
Contact person: Dr. Gerald C. Wright, Jr., Program Director, Political Science Program, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4348.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendatons concerning support for research in political science.
Agenda:
October 19, 9 a.m. to 10 a.m.—Open session. Discuss equipment needs for basic social science research.
October 19, 10 a.m. to 5 p.m. and October 20, 9 a.m. to 5 p.m.—Closed sessions. To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 28, 1978.

[FR Doc. 78-27850 Filed 10-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON GENETIC BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR, AND MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: October 19, 20, and 21, 1978, 9 a.m. each day.
Place: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contract person: Dr. P. D. Harriman, Program Director, Genetic Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5985.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

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Authority to close meeting: This determination was made by the Commission Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 27, 1978.

[FR Doc. 78-27852 Filed 10-2-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES, SUBCOMMITTEE ON NEUROBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 19, 20, and 21, 1978, 9 a.m. to 5 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contract person: Dr. Janett Trubatch, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4036.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Coordinator pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Coordinator was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 27, 1978.

[FR Doc. 78-27853 Filed 10-2-78; 8:45 am]

[7555-01]

PHYSICALLY HANDICAPPED IN SCIENCE PROGRAM

Procedure for Proposal Submission

The National Science Foundation (NSF) plans in fiscal year 1979 to make a small number of awards for projects to: (1) Identify and provide information on the problems of the physically handicapped in becoming scientists and ways to overcome these problems, and (2) to develop student science training models directly involving handicapped students at the secondary and college levels.

Three types of projects will be supported: (1) Science education models which directly involve groups of handicapped students, (2) workshops, and (3) experimental modification and adaptation of existing science courses which have been modified for handicapped students. Proposals may request up to a maximum of $50,000 for each project. During fiscal year 1978 available funds permitted the support of 12 projects at a cost of $491,690. Funding for fiscal year 1979 is expected to remain at approximately the same level.

Draft guidelines for the preparation and submission of proposals for fiscal year 1979 may be requested directly from the Physically Handicapped in Science Program, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550. The closing date for submission of proposals to the physically handicapped in science program is December 15, 1978. Questions may be directed to Dr. Robert Rehwoldt, 202-282-7150.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 27, 1978.

[FR Doc. 78-27854 Filed 10-2-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0355]

EUROPEAN DEVELOPMENT CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (CFR 107.102 (1978)), under the name of European Development Corp., 30 East 42d Street, New York, N.Y. 10017, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (act), and the rules and regulations promulgated thereunder.

The proposed officers, directors, and stockholders are as follows:

Name and title

Bob Meijer, 3 Wilkelminapark, Utrecht, Holland, chairman, director, 66.7 percent.
Harvey J. Wertheim, 9 Rawlings Drive, Melville, N.Y. 11746, president, treasurer, director.
Rainer N. Greeven, 200 East 71 Street, New York, N.Y., secretary, director.
Elizabeth Wehner, 630 West 246th Street, Riverdale, N.Y. 10471, assistant secretary, assistant treasurer.
Pieter Sanders, Burg. Knappertlaan, Schiedam, The Netherlands, shareholder, 16.65 percent.
Jelle Gerben Koldijk, Lindestraat 10, 8266 BG Kampen, The Netherlands, shareholder, 16.65 percent.
Matthias A. Laquer, 65 Laan Van Clingendall, The Hague, Holland, director.
John H. French II, 151 East 72 Street, New York, N.Y. 10023, director.

The applicant proposes to commence operations with a capitalization of $300,000 derived from the sale of 60 shares of common stock. Bob Meijer is the owner of 66.7 percent (40 shares), Pieter Sanders 16.65 percent (10 shares), and Jelle Gerben Koldijk 16.65 percent (10 shares).

The applicant will conduct its operations in the New York area with the intention of making investments throughout the United States and its territories and possessions as may from time to time be approved by SBA as its operating territory. Applicant plans to participate in various types of financing for small businesses and may include straight equity, straight debt, convertible debt, convertible preferred shares and debt with warrants or shares attached. Applicant will also enter into a management advisory contract with Research & Science Investors, Inc. (RASI), 30 East 42d Street, New York, N.Y. 10017. RASI also serves as adviser to two other licensed SBIC's—Van Rietschoten Capital Corp. and Bohlen Capital Corp.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the act and regulations.

Notice is further given that any person may, not later than October 18, 1978, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27855 Filed 10-2-78; 8:45 am]

[8025-01]

[License No. 09/09-0203]

IMPERIAL VENTURES, INC.

Issuance of Small Business Investment Company License

On December 7, 1977, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (vol. 42, No. 235) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1977)), for a license to operate as a small business investment company by Imperial Ventures, Inc., 9920 South Los Cienega Boulevard, Inglewood, Calif 90301.

The notice published on Imperial Ventures, Inc. stated that the investment policy of the applicant is to provide working capital to operative builders by either making loans and/or purchasing equity securities. Subsequently, the applicant restated its application to become a diversified SBIC.

Interested parties were given until the close of business on December 29, 1977, to submit their comments. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued license No. 09/09-0203 to Imperial Ventures, Inc. on August 31, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27858 Filed 10-2-78; 8:45 am]

[8025-01]

[Proposed License No. 02/02-0354]

INTERNATIONAL FILM INVESTORS, L. P.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.), has been filed with the Small Business Administration pursuant to section 107.102 (1978) by International Film Investors, L. P. (IFI), One Lincoln Plaza, New York, N.Y. 10023.

IFIC has 200 shares of authorized class a common stock all of which are owned by E. F. Hutton & Co., Inc. and 800 shares of class B common stock.

Private capital in the amount of $13,520,000 will be raised through the sale of units of limited partnership interest in IFI at $10,000 per unit in a private placement in a "best efforts" offering.

The applicant has been selected to participate in SBA's movie pilot program subject to meeting all licensing requirements. The applicant was organized to specialize in the financing of the production and distribution of motion pictures. (Classified respectively under the Standard Industrial Classification Manual prepared by the Office of Management and Budget as Industry Nos. 7813, 7814, 7823 and 7824.) For statement of general policy concerning motion picture specialist-licensees, see 42 FR 60729, November 29, 1977, and 43 FR 21439, May 18, 1978.

The limited partnership will have three general partners: International Film Investors Corp. (IFIC), Josiah H. Child, Jr., and John D. Eberts.

The principal officers, directors, and stockholders of IFIC, the managing partner, are as follows:

Name and title

Josiah H. Child, Jr., 11 Lime Street, Boston, Mass. 02108, president, treasurer director; 45 percent class B.
John D. Eberts, 107 Oakwood Court, London W 14, England, executive vice president, director; 30 percent class B.
Paul Bagley, One Battery Park Plaza, New York, N.Y. 10005, director.
Sidney Finger, 875 Fifth Avenue, New York, N.Y. 10021, director.
Herbert Hauser, 25 West 43d Street, New York, N.Y. 10036, director.
Howard G. Minsky, 540 Madison Avenue, New York, N.Y. 10022, director.
Fumio Suzuki, 2-14-3, Chiyoda-ku, Tokyo, Japan, director.
James R. Velde, 838 Lake House Drive, North Palm Beach, Fla. 33408, director.
E. F. Hutton & Co., 100 percent of outstanding class A; 25 percent of outstanding class B.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed general partners, (2) the reasonable prospects for successful operation of the new SBIC under the management of IFIC (including adequate profitability and financial soundness), in accordance with the Act and regulations, and (3) whether the proposed licensing of the IFI, L. P., would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may, not later than October 18, 1978, submit to SBA, in writing, comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in New York, N.Y.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 27, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27893 Filed 10-2-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1531]

LOUISIANA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Ouachita and Richland Parishes and adjacent parishes within the State of Louisiana, constitute a disaster area because of damage resulting from severe storms and flooding beginning about September 15, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 20, 1978, and for economic injury until the close of business on June 20, 1979 at:

Small Business Administration, District Office, Plaza Tower—17th Floor, 1001 Howard Avenue, New Orleans, La. 70113

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 26, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27827 Filed 10-2-78; 8:45 am]

[8025-01]

[License No. 02/02-0320]

MDC CAPITAL CORP.

Surrender of License

Notice is hereby given that MDC Capital Corp. (MDC), 26 Springdale Road, Cherry Hill, N.J. 08003, a New Jersey corporation, has surrendered its license No. 02/02-0320, issued by the Small Business Administration on March 10, 1977.

MDC has complied with all conditions prescribed by SBA for the surrender of its license. Therefore, under

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the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations adopted thereunder, the surrender of the license of MDC is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 21, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27856 Filed 10-2-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1530]

NEW JERSEY

Declaration of Disaster Loan Area

Ocean County and adjacent counties within the State of New Jersey constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on August 31, 1978, and September 1, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 24, 1978, and for economic injury until the close of business on June 22, 1979 at:

Small Business Administration, District Office, 970 Broad Street, Room 1635, Newark, N.J. 07102

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 22, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27859 Filed 10-2-78; 8:45 am]

[8025-01]

[Delegation of Authority No. 30, Rev. 15, Amdt. 23]

PROGRAM ACTIVITIES IN FIELD OFFICES

Delegation of Authority

Delegation of authority No. 30 Revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8240), as amended (41 FR 16234, 17829, 28049, 36702, 47610, 50883, 42 FR 56990, 59153, 61347, 43 FR 55, 1577, 6667, 10998, 13651, 22261, and 36152) is hereby further amended to delegate 8(a) contracting authority to the Deputy District Director, Washington, District Office.

Accordingly, delegation of authority No. 30, revision 15, part VI, is amended as follows:

* * * * *

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

* * * * *

SECTION B—SECTION 8(a) CONTRACTING AUTHORITY (SB ACT)

1. * * *

* * * * *

h. Deputy District Director, Washington District Office, unlimited.

i. Assistant District Directors for PA, San Francisco and Los Angeles D/O's only, $100,000.

j. Assistant District Director for PA, New York and Newark D/O's only, $350,000.

k. Contract Specialist, Anchorage D/O only, $250,000.

l. Branch Manager, El Paso, Tex., only, $350,000.

2. * * *

* * * * *

h. Deputy District Director, Washington District office, unlimited.

i. Assistant District Director for PA, San Francisco and Los Angeles D/O's only, $100,000.

j. Contract Specialist, Anchorage D/O, $250,000.

k. Business Development Specialist, St. Louis D/O only, unlimited.

l. Branch Manager, El Paso, Tex., B/O only, $350,000.

3. * * *

* * * * *

h. Deputy District Director, Washington District office, unlimited.

i. Assistant District Director for PA, region IX, $500,000.

j. Assistant District Director for PA, New York and Newark D/O's, $350,000.

k. Contract Specialist, Anchorage D/O only, $250,000.

l. Business Development Specialist, St. Louis D/O, unlimited.

m. branch Manager, El Paso, Tex., B/O $350,000.

* * * * *

Effective date: October 3, 1978.

Dated: September 28, 1978.

HAROLD A. THEISTE,
Acting Associate Administrator for Operations.

[FR Doc. 78-27892 Filed 10-2-78; 8:45 am]

[8025-01]

[License No. 04/04-5153]

UNIVERSAL FINANCIAL SERVICES, INC.

Issuance of a License To Operate as a Small Business Investment Company

On July 11, 1978, a notice was published in the FEDERAL REGISTER (43 FR 29877) stating that Universal Financial Services, Inc., located at 225 North East 35th Street, Miami, Fla. 33137, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 26, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued license No. 04/04-5153 to Universal Financial Services, Inc. on September 15, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27857 Filed 10-2-78; 8:45 am]

[8025-01]

[Application No. 04/04-5156]

VERDE CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Verde Capital Corp. (applicant) with the small Business Administration (SBA) pursuant to 13 CFR 107.102 (1978).

The officers and directors are as follows:

Steven J. Green, 8802 Arvida Drive, Coral Gables, Fla. 33134, chairman of the board, assistant secretary and director.

Jerome C. Berlin, 10901 Southwest 93d Court, Miami, Fla. 33176, president, treasurer, and director.

The applicant will maintain an office at 201 Alhambra Circle, Coral Gables, Fla., 33134, and will begin operations with paid-in capital and paid-in surplus of $505,000 derived from the sale of 505 shares of common stock at $1,000 per share to Steven J. Green.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the applicant under this management, including adequate profitably and financial soundness, in accordance with the Act and SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Coral Gables, Fla.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-27894 Filed 10-2-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 4 (Rev. 6)]

ASSISTANT COMMISSIONER, INTERNAL SECURITY DIVISION ET AL.

Delegation of authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Reference to Regional (Examination), Conferees and Chief of Examination Branch has been deleted.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue NW., Room 2505, Washington, D.C. 20224, 202-566-6849 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

JOHN L. WEDICK, JR.,
Director, Examination Division.

Subject: Authority to issue summonses, to administer oaths and certify, and to perform other functions

Issued: October 1, 1978.

1. (a) The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1, and 301.7605-1(a) to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records, or other data produced in compliance with the summons; and to enforce summonses, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), and 6 of this order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this order, are delegated to all District Directors, the Director of International Operations, and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining preissuance legal review by Regional Counsel or the Chief Counsel in the case of Inspection and International Operations.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Criminal Investigation: Chief of Division.

(3) International Operations: Chiefs of Divisions.

(4) District Collection Activity: Chief of Division.

(5) District Examination: Chief of Division.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) International Operations: Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs and Groups; and Group Managers.

(5) District Examination: Chiefs of Examination Branches; Case Managers; and Group Managers.

(6) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this order is delegated to the following officers and employees except that in the instance of a summons to a third-party witness, the issuing officers' case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) International Operations: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS-9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection: Revenue Officers, GS-9 and above.

(4) District Examination: Internal Revenues Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this order may serve a summons whether it is issued by him/her or another official. 2. Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this order authorized to issue summons, is delegated the authority under 26 CFR 301.7602-1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this order, as the individual before whom a person summoned pursuant to section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603-1 to serve summonses issued in accordance with this order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b) (1) and 1(c) (1) of this order even though Internal Security Inspectors do not have the authority to issue summonses.

4. (a) The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(a), and 301.7605-1(a) to examine books, papers, records, or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), 4(c), and 4(d) of this order and subject to the limitations stated in paragraphs 4(c) and 6 of this order.

(b) General designations:

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional In-

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spectors; Internal Auditors; and Internal Security Inspectors.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) International Operations: Director; Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers; Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chief and Assistant Chief of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Group Managers; and Revenue Officers.

(5) District Examination: Chief of Division; Chiefs of Examination Branches; Case Managers; Group Mangers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) District Employee Plans and Exempt Organizations: Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Examination Division; Chief, Criminal Investigation Staff; Revenue Agents; Tax Auditors; Tax Examiners in the Correspondence Examination Branch; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Investigation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this order to aides or trainees, respectively, for the positions of revenue agent, tax auditor, tax examiner in the service center Correspondence Examination Branch, tax law specialists, revenue officer, internal auditor, internal security inspector, and special agent, provided that each such aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a revenue agent, tax auditor, tax examiner in the service center Correspondence Examination Branch, tax law specialist, revenue officer, special agent, internal auditor or internal security inspector.

(d) District Directors may redelegate the authority under 4(a) of this order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622-1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of this order are not designated to administer oaths or to perform the other functions mentioned in this paragraph.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This order supersedes Delegation Order No. 4 (Rev. 5), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27589 Filed 10-2-78; 8:45 am]

[4510-29]
[4830-01]

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. D-817]

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption Relating to a Transaction Involving the Allen and O'Hara Employees' Profit-Sharing Trust

AGENCIES: Department of the Treasury/Internal Revenue Service, Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of a proposed exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) and from the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the purchase by Allen & O'Hara, Inc. (the Employer) of an office building owned by a corporation which is wholly owned by the Allen and O'Hara Employees' Profit-Sharing Trust (the Trust). the proposed exemption, if granted, would affect participants and beneficiaries of the Trust and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Internal Revenue Service on or before October 30, 1978.

ADDRESS: All written comments and all requests for a hearing (at least six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT:1 (D-817). The application for exemption and the comments received will be available for public inspection at the Internal Revenue Service National Office reading room, 1111 Constitution Avenue NW., Washington, D.C. 20224, and in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Timothy S. Smith of the Prohibited Transactions Staff of the Employee Plans division, Internal Revenue Service, 202-566-6761. This is not a toll-free number.

SUPPLIMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of an application for exemption from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, and from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the Employer pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application and supporting documents on file with the Agencies for the complete representations of the applicants.

1. The Allen and O'Hara Employees' Profit-Sharing Plan (the Plan) was terminated as of October 29, 1976, and the Trust was frozen. The Trustees were directed to convert all of the assets into cash after which distribution would be made to the 31 participants in the Plan.

2. The Trustees of the Plan are Robert A. Elder, Pat J. Jansen, Leyton L. Wright, and Paul O. Bower, all of whom are also officers and/or directors of the Employer, and Joe A. Hohman, who is an employee of the Employer. None of the Trustees are stockholders of the Employer.

3. The Trust owns 100 percent of the shares of North Little Rock Professional Building, Inc. (the Corporation) and has an open account of approximately $136,000 due from the Corporation, representing cash advances made by the Trust to the Corporation during periods of negative cash flow. The Corporation owns and operates an office building located at 18th and Maple Streets, North Little Rock, Ark. Since October 29, 1976, the Trustees have been engaged in converting the assets owned by the Trust into cash, but they have not been able to find a buyer for the stock of the Corporation or for the property it owns.

4. At the time the Directors of the Employer adopted the resolution to terminate the Plan, a resolution was adopted directing the Employer to purchase certain investments of the Plan, including its interest in the Corporation, at the fair market value, to be determined by an independent appraisal, if the Trustees were not able to convert these investments to cash

by June 30, 1977, and if an exemption from the prohibited transactions rules could be obtained from the Department of Labor and the Internal Revenue Service.

5. An appraisal prepared by Ferstl Enterprises, Little Rock, Arkansas, of the physical property of the Corporation (real property and an office building located at 18th and Maple Streets, North Little Rock, Ark.), dated January 25, 1977, states that the fair market value of that property was $400,000. At that time the State of Arkansas leased approximately 75 percent of the office building. The lease was due to expire on June 30, 1977, but the State had given indications that it intended to renew the lease for an indefinite period. Subsequent to January 25, 1977, the State informed the management of the office building that it would not renew the lease when it expired on June 30, 1977, but would go on a month-to-month basis until such time as its new quarters were ready for occupancy, which was estimated to be the last quarter of 1977. An updated appraisal based on the changed circumstances by Ferstl Enterprises, dated May 15, 1977, placed a fair market value of $375,000 on the real property and office building.

6. The real property and office building was listed for sale under an exclusive listing with Hathaway-Moore and Associates, Inc., for 6 months from December 1, 1976, until June 1, 1977. This broker contacted other brokers for interested buyers. Subsequest attempts to sell the property were made by the Employer and through other brokers. On February 9, 1978, an offer was made to purchase the property for $350,000, of which $150,000 would be payable at 8 percent interest over a period of 10 years in equal monthly installments.

7. In a contingent contract, dated November 30, 1977, the Employer agreed to purchase the North Little Rock Professional Building from the Corporation for a total price of $375,000. Under this contract the Employer will assume and agree to pay two loans: The first loan, payable to Aetna Life Insurance Co., dated May 14, 1964, evidenced by a deed of trust and with a principal balance as of January 31, 1978, of approximately $155,994.14; the second, payable to Theresa K. Barnett, evidenced by a Vendors Lien retained in a warranty deed executed December 31, 1963 and assumed on October 15, 1968, and with a principal balance as of January 31, 1978, of approximately $3,780.95. The balance of the purchase price will be paid in cash at closing.

8. Applicants assert that the transaction for which exemption is requested is in the interests of plan participants and protective of the participants' rights because:

(a) If the property of the Corporation and its stock were not converted to cash, but rather the stock and account payable of the Corporation were distributed instead, the 31 participants would not be in a position to effectively supervise the operation of the office building and adequately protect their interests. The participants would realize little, if any, income from this investment for many years and the value of the participants' shares might in time be substantially reduced; and

(b) Many Plan participants who will want to roll over their distribution from the Plan into individual retirement accounts, annuities, or retirement bonds would find this very difficult to accomplish if the stock of, and account due from, the Corporation were distributed to the participants because section 402(a)(5)(C) of the Code provides that property other than cash received in a plan termination distribution must first be transferred to a rollover account. Few, if any, trustees administering individual retirement accounts would be willing to accept minority interests in, and portions of an account payable from, an enterprise such as the Corporation as part of a trust fund.

9. The Employer, which is in the construction, development and management of real estate business, intends to continue efforts to sell the real property and office building.

NOTICE TO INTERESTED PERSONS

All participants in the Plan, the Trustees of the Trust and the members of the Board of Directors of the Employer will be notified by a letter which will contain a copy of this notice of proposed exemption as published in the FEDERAL REGISTER and which will advise these persons of their rights to comment and/or to request a hearing within the period of time specified in the notice. Notification will be given no later than 5 days after the notice is published in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person with respect to the plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Agencies must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of the participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code and Act, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writers interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

PROPOSED EXEMPTION

Based upon the representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and section 408(a) of the act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Procedure 75-1. If the exemption is granted, the tsxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) Through (E) of the

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Code, and the restrictions of sections 406(a) and section 406(b)(1) and 406(b)(2) of the act shall not apply to the sale of the North Little Rock Professional Building from the Corporation to the Employer for $375,000 if the sale price is not less than the fair market value of the property. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of September 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-27673 Filed 10-2-78; 8:45 am]

[4830-01]

[Prohibited Transaction Exemption 78-16]

EMPLOYEE BENEFIT PLANS

Exemption From the Prohibitions Respecting a Transaction Involving the McDonald's Corp. Saving and Profit-Sharing Trust

AGENCIES: Department of the Treasury/Internal Revenue Service and Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the McDonald's Corp. Savings and Profit-Sharing Trust (the Trust) to sell certain Trust assets to Franchise Realty Interstate Corp. (FRIC), a subsidiary of McDonald's Corp. (the Employer).

FOR FURTHER INFORMATION CONTACT:

Timothy Smith, Prohibited Transactions Staff, Employee Plans Divsion, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT:1, 202-566-6761. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 30, 1978, notice was published in the FEDERAL REGISTER (43 FR 28599) of the pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of an exemption form the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975 (c)(1) (A) through (E) of the Code and from the provisions of section 406(a) and section 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for a transaction described in the application submitted by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Agencies make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and section 408 (a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Procedure 75-1.

The taxes imposed by section 4975(a) and (b) of the Code by reason by section 4975(c)(1), (A) through (E) of the Code and the restrictions of sections 406(a)(1), 406(b)(1) and 406(b)(2) of the Act shall not apply to a transaction involving the sale of the Trust's one-third interest in a general partnership known as Interstate Investments to FRIC for $176,300, in cash, provided that the sale price is not less than the value of the partnership interest to the Employer or a subsidiary of the Employer and provided further that such value is not less than the fair market value of the partnership interest.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of September 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-27671 Filed 10-2-78; 8:45 am]

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[4510-29]
[4830-01]

[Prohibited Transaction Exemption 78-15]

EMPLOYEE BENEFIT PLANS

Exemption From the Prohibitions Respecting a Transaction Involving the Macklanburg-Duncan Co. Pension Trust

AGENCIES: Department of the Treasury/Internal Revenue Service and Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Macklanburg-Duncan Co. Pension Trust (the Trust) to lease a portion of certain real property to a subsidiary of the Macklanburg-Duncan Co. (the Employer) and to sell certain real property to the Employer.

FOR FURTHER INFORMATION CONTACT:

Timothy Smith of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT:1, 202-566-6761. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On April 21, 1978, notice was published in the FEDERAL REGISTER (43 FR 17091) of the pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of an exemption from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code and from the provisions of section 406(a)(1), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for a transaction described in an application submitted by the Employer and the trustees of the Trust. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service. However, on the basis of an additional representation supplied by the applicants, the exemption for the leasing of the property to which the exemption relates has been extended for a period of 120 days after the final grant of the exemption in order to permit the Trust to dispose of the property in an orderly fashion.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Proc. 75-1 (40 FR 18471, Apr. 28, 1975), and based upon the entire record, the Agencies make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of the participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Proc. 75-1.

The taxes imposed by section 4975 (a) and (b) of the Code by Reason of section 4975(c)(1) (A) through (E) of the Code and the restrictions of section 406(a)(1), 406(b)(1), and 406(b)(2) of the Act shall not apply to transactions involving: (1) The leasing of the south portion of certain real property located at 4411 to 4431 North Santa Fe, Oklahoma City, Okla., by the Trust to American Level Manufacturing Co., a subsidiary of the Employer, for a period ending not more than 120 days after the date of this exemption, provided the rental payments were not less than the fair market rental value for that portion of the property, and (2) the sale of the entire property by the Trust to the Employer for $365,000 cash, provided that this amount is not less than the fair market value of the property.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of September 1978.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-27672 Filed 10-2-78; 8:45 am]

[4810-25]

Office of the Secretary

LIST OF COUNTRIES REQUIRING COOPERATION WITH AN INTERNATIONAL BOYCOTT

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). This list is the same as the list published in the July 3, 1978, FEDERAL REGISTER.

On the basis of the best information currently available to the Department of the Treasury, the following coun-

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tries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon, Libya; Oman; Qatar; Saudi Arabia; Syria; United Arab Emirates; Yemen Arab Republic; and Yemen, Peoples Democratic Republic of.

Dated: September 29, 1978.

DONALD C. LUBICK,
Assistant Secretary (Tax Policy).

[FR Doc. 78-28027 Filed 10-2-78; 8:45 am]

[4810-25]

Office of the Secretary

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-263, notice is hereby given that a meeting of the Treasury Small Business Advisory Committee will be held on October 19 and 20, 1978, in room 4121 of the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C.

On Thursday, October 19, the Committee will meet as a whole from 10 a.m., in room 4121. Following this meeting, the Subcommittees on Capital Formation, Tax Policy, and Tax Administration will meet from 11 a.m. to 12:30 p.m., and from 2 to 5:30 p.m., in rooms 4426, 4125 of the Main Treasury Building, and room 3313 of the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C., respectively. The Committee as a whole will reconvene in room 4121 on Friday, October 20, at 9:30 a.m., and will meet until approximately 12:30 p.m.

The Committee was formed to provide a means of communication between the small business community and Treasury officials on numerous economic issues, including capital formation, tax policy, tax administration, and governmental regulations. The Capital Formation Subcommittee will address issues relating to the National Development Bank proposed by the President, equity formation by venture capital concerns and industrial innovation by small businesses; the Tax Policy Subcommittee will focus on small business mergers into mutual funds, depreciation relief, the effect of ERISA on small business and current tax legislation; and the Tax Administration Subcommittee agenda will include IRS business workshop pilot projects, ERISA, audit and appeal procedures and the use of LIFO by small businesses.

The meeting will be open to the public. A limited number of seats will be available on a first come, first serve basis. In order to facilitate admittance, persons interested in attending are asked to call 566-2857 so that confirmation of space and access procedures can be provided.

Interested persons may file a written statement with the Committee before, during or after the meeting. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting. Persons interested in making oral statements are asked to call 566-2857 before 5 p.m. on October 18.

Minutes of the meeting will be available on request from the Treasury Small Business Advisory Committee 30 days after the meeting.

Inquiries may be directed to David W. Heleniak, Executive Assistant to the Deputy Secretary, Department of the Treasury, Main Treasury Building, Room 3413, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2857.

Dated: September 27, 1978.

ROBERT CARSWELL,
Deputy Secretary.

[FR Doc. 78-27862 Filed 10-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 721]

ASSIGNMENT OF HEARINGS

SEPTEMBER 28, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143236 (Sub-16F), White Tiger Transportation, Inc., now being assigned November 13, 1978 (1 day), at New York, NY, in a hearing room to be later designated.
MC 51146 (Sub-599F), Schneider Transport, Inc., now being assigned November 14, 1978 (1 day), at New York, NY, in a hearing room to be later designated.
MC 119789 (Sub-463F), Caravan Refrigerated Cargo, Inc., now being assigned November 15, 1978 (1 day), at New York, NY, in a hearing room to be later designated.
MC 125701 (Sub-6F), Cayuga Bulk Service, Inc., now being assigned November 16, 1978 (2 days), at New York, NY, in a hearing room to be later designated.
MC 143884 (Sub-2), Personalized Agent Service, Inc., now assigned November 1, 1978, at Atlanta, GA, is posponed indefinitely.
MC 114632 (Sub-158F), Apple Lines, Inc., application dismissed.
MC 56679 (Sub-102), Brown Transportation Corp., now being assigned for hearing on January 15, 1979 (2 weeks), at Atlanta, GA, and continued to February 19, 1979 (2 weeks), at Charlotte, NC, March 19, 1979 (2 weeks), at New York City, NY, April 16, 1979 (2 weeks), at Chicago, IL, and May 21, 1979, at Washington, DC, in hearing rooms to be later designated.
MC 105782 (Sub-9F), Hughes Refrigerated Express, Inc., now being assigned for hearing on December 5, 1978 (9 days), at Orlando, FL, in a hearing room to be later designated.
MC 1977 (Sub-28F), Northwest Transport Service, Inc., now being assigned for hearing on January 9, 1978 (14 days), at Denver, CO, in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27886 Filed 10-2-78; 8:45 am]

[7035-01]

[Decisions Volume No. 34]

DECISION-NOTICE

Decided: September 22, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, JR.,
Acting Secretary.

MC 1335 (Sub-1F), filed August 17, 1978. Applicant: MOTEK TRANSPORT, INC., a NJ corporation, 345 Main Street, Harleysville, PA 19438. Representative: D. L. Cain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk) from Philadelphia, PA, to points in NY. (Hearing site: Philadelphia, PA.)

MC 20824 (Sub-36F), filed July 24, 1978. Applicant: COMMERCIAL MOTOR FREIGHT, INC., OF INDIANA, 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Kenworth Truck Co., near Chillicothe, OH, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Indianapolis, IN, or Columbus, OH.)

MC 20992 (Sub-47F), filed July 17, 1978. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dust collectors, and parts, accessories, and attachments* for dust collectors, from Baldwin, WI, to points in the United States (except AK, HI, and WI); and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities described in (1) above in the reverse direction. (Hearing site: Minneapolis, MN.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 28307 (Sub-21F), filed July 31, 1978. Applicant: FREDRICKSON MOTOR EXPRESS CORP., P.O. Box 21098, Charlotte, NC 28206. Representative: Loy J. Foster (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of American Enka Co., at Lowland, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Asheville, NC, or Knoxville, TN.)

MC 30837 (Sub-487F), filed August 3, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP., 4200 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and buses* as defined in the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 239, and 766, in secondary movements, in truckaway service, (a) from Buffalo, NY, and points within 20 miles thereof, to points in NY and PA, (b) from Little Ferry, NJ, and points within 20 miles thereof, to points in CT, NJ, NY, and RI, (c) from Selkirk, NY, and points within 20 miles thereof, to points in CT, MA, NH, NY, RI, and VT, (d) from Framingham, MA, and points within 20 miles thereof, to points in CT, ME, MA, NH, and RI, (e) from Pittsburgh, PA, and points within 20 miles thereof, to points in MD, OH, PA, and WV, (f) from Hagerstown, MD, and points within 20 miles thereof, to points in MD, OH, PA, and WV, (g) from Hagerstown, MD, and points within 20 miles thereof, to points in DE, MD, PA, VA, WV, and DC, and (h) from Earnest, PA, and points within 20 miles thereof, to points in DE, CT, MD, NJ, NY, PA, and DC, restricted to the transportation of traffic originating at the facilities of American Motors (Canada) Ltd., at Brampton, ON, Canada. (Hearing site: Washington, DC, or Detroit, MI.)

MC 30844 (Sub-617F), filed July 24, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from New Richmond, Gillett, Coleman, Eden, and Oakfield, WI, to points in CT, DE, MD, MA, MI, NJ, NY, OH, PA, RI, WV, and DC. (Hearing site: St. Paul, MN.)

MC 30844 (Sub-619F), filed July 26, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass silo tops*, from West Union, IA, to Tulsa, OK. (Hearing site: St. Paul, MN.)

MC 51146 (Sub-616F), filed July 17, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298,

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Green Bay, WI 54306. Represenative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from the facilities of Mead Packaging Division of the Mead Corp., in Cobb and Fulton Counties, GA, to points in IA, IL, IN, KY, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Chicago, IL.)

MC 59640 (Sub-67F), filed August 14, 1978. Applicant: PAULS TRUCKING CORP., 3 Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail and wholesale toy and variety stores, and (2) *equipment, materials, and supplies* used in the conduct of such businesses (except commodities in bulk), (a) between Mansfield, MA, on the one hand, and, on the other, points in AL, AR, CT, DE, KY, LA, ME, MD, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and DC, and (b) between Secaucus, NJ, and Beltsville, MD, on the one hand, and, on the other, points in AL, AR, DE, KY, LA, MS, NC, SC, TN, VA, and DC, under a continuing contract with Lash-Tamaron Distributors, division of Toys "R" Us, Inc., of Saddle Brook, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 69492 (Sub-65F), filed July 17, 1978. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, KY 47301. Represenative: Henry E. Seaton III, 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20042. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from New Orleans, LA, Eden, NC, and Norfolk, VA, to Memphis, TN, and (2) from St. Louis, MO, to Metropolis, IL, and Memphis, TN. (Hearing site: Memphis, TN.)

MC 75281 (Sub-13F), filed July 31, 1978. Applicant: RIGHTER TRUCKING CO., INC., 1238 Meadowbrook Drive, Cape Girardeau, MO 63701. Represenative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Westvaco Corp., at or near Wickliffe, KY, to points in PA, NY, NH, CT, MO, MA, VT, ME, CA, and NJ. (Hearing site: Cape Girardeau, MO.)

MC 84739 (Sub-29F), filed August 27, 1978. Applicant: SEVERSON TRANSPORT, INC., Route 1, Box 163, Edgerton, WI 53534. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic* (except in bulk), from the facilities of Hammond Plastics Midwest, Inc., at or near Owensboro, KY, to points in IN, IL, MI, MN, OH, PA, and WI. (Hearing site: Chicago, IL.)

MC 102616 (Sub-954F), filed July 17, 1978. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liqud chemicals* (except bromine), in bulk, in tank vehicles, from the facilities of Dow Chemical, U.S.A., in Columbia County, AR, to points in IL, KY, KS, LA, MO, MS, OK, TN, and TX. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 103051 (Sub-448F), filed August 1, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, in bulk, in tank vehicles, from Nashville, TN, to points in IN. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 105501 (Sub-31F), filed August 2, 1978. Applicant: TERMINAL WAREHOUSE CO., INC., 1851 Raddison Road NE., Blaine, MN 55434. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron & Metal Co., at or near Norfolk, NE, to points in IL, IA, MN, MT, ND, SD, WI, and WY. (Hearing site: Omaha, NE.)

MC 105566 (Sub-175F), filed July 19, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Bristol, PA to points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 105566 (Sub-176F), filed July 19, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose film, cigarette paper, and printing paper* (except newsprint), from Pisgah Forest, NC, and Covington, IN, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 107012 (Sub-273F), filed July 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured and distributed by manufacturers of juvenile furniture and equipment, from the facilities of Strolee of California, at or near Compton, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 107012 (Sub-277F), filed July 26, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces and parts and accessories for fireplaces*, from the facilities of Heatilator, a Division of Vega Industries, at or near Mount Pleasant and Centerville, IA, to points in the United States (except AK and HI). (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107403 (Sub-1108F), filed August 14, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, from Lynn Park, AL, to points in GA, MS, TN, and AL. (Hearing site: Washington, DC.)

MC 107743 (Sub-49F), filed August 9, 1978. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456 T.A., Spokane, WA 99220. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, nonferrous articles, and plastic articles*, from Chicago, IL, to the facilities of Joseph T. Ryerson Co., at Los Angeles, and Emeryville, CA, and Seattle and Spokane, WA. (Hearing site: Chicago, IL, or Seattle, WA.)

MC 111302 (Sub-135F), filed July 26, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David

A. Petersen (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Peachtree City, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 111401 (Sub-530F), filed July 31, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank vehicles, from Kansas City, KS, to points in SD. (Hearing site: Kansas City, KS, or St. Louis, MO.)

MC 111496 (Sub-25F), filed July 24, 1978. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, and Mora, MN, over MN Hwy 65, serving no intermediate points. (Hearing site: Minneapolis, MN.)

MC 112713 (Sub-217F), filed July 26, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: David B. Schneider (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX and Mojave, CA, from Dallas over Interstate Hwy 20 to Fort Worth, TX, then over U.S. Hwy 287 to Amarillo, TX, then over Interstate Hwy 40 to Barstow, CA, then over California Hwy 58 to Mojave, CA, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, and serving Amarillo, TX, and Barstow, CA., for purposes of joinder only, and (2) between Barstow and San Bernardino, CA, over Interstate Hwy 15, serving no intermediate points, as an alternate route for operating convenience only, and serving Barstow for purposes of joinder only. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 114273 (Sub-448F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of glassware, from the facilities of the Anchor Hocking Corp., at or near Lancaster and Canal Winchester, OH, to Fargo, ND, and points in IA, KS, MN, MO, and NE. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-450F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Adhesives* (except in bulk), in vehicles equipped with mechanical refrigeration, from Camden, NJ, to points in IL, IN, IA, KS, MN, MO, NE, MD, SD, OK, and WI. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-451F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles*, from Urbana, OH, to Newton, IA, and (2) *plastic containers*, from St. Marys, OH, to Council Bluffs and Muscatine, IA, Kansas City, KS, and Minneapolis, MN. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing Site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-452F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper articles*, (a) from Spencerville, OH, to Oskaloosa, IA, and (b) from Lockland and Middletown, OH, to Clinton, IA, and (2) *printed matter*, from Ashland, OH, to Des Moines, Mount Pleasant, and Muscatine, IA. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-453F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden care products* (except in bulk, in tank vehicles), from the facilities of O. M. Scott & Sons Co., at or near Columbus, OH, to points in IL, IA, KS, MN, MO, and NE. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-454F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, from the facilities of R. M. Palmer Co., at or near Wyomissing and West Reading, PA, to Cincinnati and Cleveland, OH, Chicago, IL, Kansas City, MO, Minneapolis, MN, and Omaha, NE. Condition: In view of the findings in MC 114273 (Subs- 147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its

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date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-455F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household products* (except in bulk, in tank vehicles), from the facilities of Drackett Products Co., at or near (1) Urbana, OH, to Chicago and Peoria, IL, Kansas City and St. Louis, MO, Lawrence, KS, Omaha, NE, and Minneapolis, MN, and (2) Kearney, NJ, to Chicago, IL. Condition: In view of the findings in MC 114273 (Subs- 147 and 242), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration, applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub- 390F), filed May 15, 1978, previously noticed in the FEDERAL REGISTER issue of June 22, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing goods, supplies, and accessories*, (a) from Plainview, NY, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, and (b) from Monroe, OH, to points in CT, ME, MA, NJ, NH, NY, RI, and VT. (Hearing site: New York, NY, or St. Paul, MN.)

NOTE.—This republication is to modify the commodity description.

MC 115311 (Sub-294F), filed July 31, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Sand*, from points in Marion County, GA, to points in KY, TX. and VA. (Hearing site: Atlanta, GA.)

MC 115496 (Sub-97F), filed July 24, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, from the facilities of Charlotte Pipe & Foundry Co., at Charlotte and Bakers, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Charlotte, NC.)

MC 115654 (Sub-99F), filed July 20, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Avenue, 13th and Pennsylvania Avenue NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, MS, LA, FL, TN, those points in KY on and west of U.S. Hwy 31E, and those points in MO on and south of Interstate Hwy 44. (Hearing site: Memphis or Nashville, TN.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extention of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115654 (Sub-100F), filed July 20, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, between Louisville, KY, on the one hand, and, on the other, points in AL, GA, KY, IN, OH, WV, TN, MS, MO, and IL, restricted to the transportation of traffic originating or destined to the facilities of Louisville Freezer Center, at Louisville, KY. (Hearing site: Nashville, TN, or Louisville, KY.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115654 (Sub-101F), filed July 20, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Stokely-Van Camp, Inc., at Indianapolis, IN, to points in AL, KY, and TN. (Hearing site: Indianapolis, IN, or Nashville, TN.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115904 (Sub-113F), filed July 17, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation, insulated building panels, and materials* used in the manufacture, distribution, and installation of insulation and insulated building panels (except commodities in bulk), between points in Salt Lake County, UT, on the one hand, and, on the other, those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Salt Lake City, UT, or Washington, DC.)

MC 116763 (Sub-430F),filed August 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles, and parts and accessories* for bicycles and tricycles (except commodities in bulk), from Celina, OH, to those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 116763 (Sub-431F), filed August 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Macaroni, noodles, and spaghetti*, from Buffalo and Rochester, NY, to points in CT, MA, and VA. (Hearing site: New York, NY.)

MC 117507 (Sub-13F), filed July 26, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, and liquid oxygen*, in shipper-owned trailers, from Ecorse, MI, to points in (a) IN, OH, and KY, and (b) ports of entry on the international boundary line between the United States and Canada in the Lower Peninsula of MI, restricted in (b) above to the transportation of traffic having a subsequent movement in foreign commerce destined to points in Canada, under a continuing contract with Union Carbide Corp., of New York, NY. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: New York, NY.)

NOTE.—(1) The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (2) The permit to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof, and (3) dual operations may be at issue in this proceeding.

MC 117686 (Sub-217F), filed July 24, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, CA, to points in IA, MN, NE, ND, and SD. (Hearing site: Washington, DC, or Miami, FL.)

MC 118806 (Sub-64F), filed July 25, 1978. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Suite 200, Winnipeg, MB, Canada R25 3K4. Representative: Bernard J. Kompare, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements*, and (2) *parts and attachments* for the commodities described in (1) above, from the ports of entry on the international boundary line between the United States and Canada, in NY and MI, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, and WV, restricted to the transportation of traffic moving in foreign commerce. (Hearing site: Chicago, IL.)

MC 119522 (Sub-38F), filed July 17, 1978. Applicant: MCLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen commodition and liquid commodities in bulk, in tank vehicles), between Mount Summit, IN, Collinsville, IL, and St. Louis and Sikeston, MO. (Hearing site: Indianapolis or Fort Wayne, IN.)

MC 123407 (Sub-484F), filed August 4, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products*, from points in AR, to points in the United States (except AK and HI). (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 123872 (Sub-89F), filed July 27, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M. & M./MARS, at or near Cleveland, TN, to points in CO, GA, IL, IA, KS, LA, MN, MO, NE, NC, SC, OK, TX, VA, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Washington, DC, or Charlotte, NC.)

MC 124211 (Sub-335F), filed July 31, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers of zinc oxide, insulation, and insulating materials (except commodities in bulk, in tank vehicles), between Hillsboro, IL, and Joplin, MO, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *clay*, from Belle Fourche, SD, and Upton, WY, to Joplin, MO. (Hearing site: Kansas City, MO.)

NOTE.—Dual operations may be involved in this proceeding.

MC 124306 (Sub-46F), filed July 20, 1978. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commodities in bulk*, in tank or hopper-type vehicles, (1) between points in GA, NC, SC, and VA, and (2) from points in GA, NC, and SC, to points in AL, FL, MD, TN, WV, and DC. (Hearing site: Charlotte or Raleigh, NC.)

MC 124411 (Sub-18F), filed August 1, 1978. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, from the facilities of Cochin Pipeline, at or near New Hampton, IA,/Benson and Mankato, MN, and Carrington, ND, to points in IA, MN, NE, ND, SD, and WI. (Hearing site: Minneapolis, MN.)

NOTE.—This certificate will expire 5 years from the date of issuance.

MC 124692 (Sub-218F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sprinkler irrigation systems*, and *parts and accessories* for sprinkler irrigation systems, from Catoosa, OK, to points in the United States (except AK and HI). (Hearing site: Spokane or Seattle, WA.)

MC 124692 (Sub-219F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Dallas, TX, to points in AR, CA, LA, NM, and OK. (Hearing site: Dallas, TX.)

MC 124692 (Sub-222F), filed July 27, 1978. Applicant: SAMMONS TRUCK-

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ING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and plastic pipe, pipe fittings, and accessories* for aluminum and plastic pipe, and pipe fittings, from Lubbock, TX, to points in the United States (except AK and HI). (Hearing site: Spokane or Seattle, WA.)

MC 124692 (Sub-223F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and plastic pipe, pipe fittings, and accessories* for aluminum and plastic pipe and pipe fittings, from Grand Island, NE, to points in the United States (except AK and HI). (Hearing site: Spokane or Seattle, WA.)

MC 124692 (Sub-229F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from Grand Rapids, MI, to points in CA, ID, MT, NV, OR, UT, and WA. (Hearing site: San Francisco, CA.)

MC 124813 (Sub-189F), filed August 11, 1978. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, from the facilities of Linwood Stone Products Co., Inc., at or near Davenport, IA, to points in MN and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 125433 (Sub-164F), filed August 10, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining materials, mining supplies*, and *mining equipment* (except commodities in bulk), between Tungsten, NV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco, CA, or Salt Lake City, UT.)

MC 126346 (Sub-23F), filed July 24, 1978. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Self-propelled material handling and construction equipment* (except self-propelled vehicles designed for tansporting property or passengers on highways) and (b) *cranes and hoisting equipment* (except those described in (a) above), (2) *parts, attachments, components, and accessories*, for the commodities described in (1), betwen points in the United States (except AK and HI), under a continuing contract with J. I. Case, Drott Division, of Wausau, WI. (Hearing site: Chicago, IL, or Madison, WI.)

MC 127705 (Sub-62F), filed August 14, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and paper carton material*, from the facilities of Thatcher Glass Manufacturing Co., a Division of Dart Industries, at Elmira, NY, to Aspers, PA, and points in WI. (Hearing site: Washington, DC.)

MC 128031 (Sub-6F), filed August 1, 1978. Applicant: GEORGE McFARLAND, d.b.a. McFARLAND TRUCKING, P.O. Box 643, Austin, MN 55912. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, and *fittings*, and (2) *accessories* for the commodities named in (1) above, from Austin, MN, to points in PA, NY, KS, CO, UT, and ID: (3) *plastic pipe*, and *fittings*, (4) *accessories* for the commodities named in (3) above, and (5) *equipment* used in the manufacture and distribution of cement pipe, between Butte, Helena, Great Falls, and Billings, MT, Riverton, WY, Williston, Minot, Jamestown, and Bismark, ND, Rapid City, Pierre, Watertown, and Mitchell, SD, Kansas City, MO, Hampton, Cedar Falls, West Des Moines, and Ames, IA, Waukesha and Burlington, WI, and Crookston, Fergus Falls, Olivia, Windom, Austin, Minneapolis, Elk River, and Duluth, MN, restricted in (1), (2), (3), (4), and (5) above to the transportation of traffic originating at or destined to the facilities of the Cretex Companies, Inc., at the named points. (Hearing site: Minneapolis, MN.)

MC 128220 (Sub-24F), filed August 24, 1978. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING CO., P.O. Box 596, Burnside, KY 42519. Representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, lumber, electrical, and plumbing supplies, garage door parts, timber, crossties, pallets, particleboard, and wood cabinets* (except commodities in bulk), between points in Pulaski and Wayne Counties, KY, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Lexington or Louisville, KY.)

MC 128527 (Sub-122F), filed August 4, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, meats, and meat byproducts* (except commodities in bulk, in tank vehicles), (a) from points in AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, WI, and WY, to points in CA, ID, OR, and WA, and (b) from Boise, ID, and Clovis, NM, to points in TX. (Hearing site: Boise, ID.)

MC 129387 (Sub-73F), filed August 3, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Miller Brewing Co., at or near Milwaukee, WI, to points in IA, ID, IL, IN, MI, MN, MO, MT, NE, ND, OH, OR, SD, WA, and WY. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 133689 (Sub-217F), filed August 28, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs and commodities in bulk), and (2) *foodstuffs* (except commodities in bulk), in mixed loads with the commodities described in (1) above, from points in Mercer and Hunterdon Counties, NJ, and those in NY on and east of NY Hwy 12, to Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-218F), filed August 28, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs and commodities in bulk), and (2) *foodstuffs* (except commodities in bulk) in mixed loads with the commodities in (1) above, from the facilities of K Mart Corp., at or near Lawrence, KS, to points in IA, MN, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 134035 (Sub-28F), filed August 4, 1978. Applicant: DOUGLAS TRUCKING CO., a corporation, Highway 75 South, P.O. Box 698, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of Sewell Plastics, Inc., at or near Dallas, TX, Reserve, LA, Jackson, MS, and Collierville, TN, to points in AR, NM, CO, OK, KS, AL, MO, TX, LA, IN, IL, OH, WV, VA, NC, SC, TN, AZ, MS, GA, and FL. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 134552 (Sub-5F), filed July 27, 1978. Applicant: TRANSAMERICAN CARRIER CO., a Nebraska corporation, Route 1, Box 28, Winthrop, MN 55396. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, from Willmar, MN, to points in ND and SD. (Hearing site: Minneapolis, MN.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 134599 (Sub-164F), filed August 28, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crated office furniture, and parts* for office furniture, from the facilities of Steelcase, Inc., at or near Tustin, CA, to points in AZ, CO, ID, KS, MT, NE, NM, NV, OK, TX, UT, and WY, under a continuing contract with Steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 134681 (Sub-6F), filed July 31, 1978. Applicant: VULCRAFT CARRIER CORP., a Delaware corporation, 4425 Randolph Road, Charlotte, NC 28211. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal roof deck, metal siding, and accessories* for metal roof deck and metal siding, from the facilities of Nucor Corp., Vulcraft Division, at or near, (a) Grapeland, TX, to points in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, PA, SC, TN, TX, UT, WI, and WY, (b) St. Joe, IN, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, and (c) Norfolk, NE, to points in AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY; and (2) *materials and equipment* used in the manufacture of the commodities named in (1) above, from the destination States named in (1) above, to the facilities of Nucor Corp., Vulcraft Division, at or near Grapeland, TX, St. Joe, IN, and Norfolk, NE, under a continuing contract with Nucor Corp., of Charlotte, NC. (Hearing site: Omaha, NE.)

MC 135381 (Sub-8F), filed August 4, 1978. Applicant: DRUM TRANSPORTATION CO., a corporation, R.D. 1, Montgomery, PA 17752. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric transmission, telephone*, and *telegraph poles*, from the facilities of Southern Wood Piedmont Co., at or near Augusta, East Point, and Macon, GA, and Gulf, NC, to points in IN and MI, under a continuing contract with Southern Wood Piedmont Co., of New York, NY. (Hearing site: Washington, DC.)

MC 135539 (Sub-16F), filed August 7, 1978. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blowers*, and *parts, accessories, and hardware* used in the manufacture and distribution of blowers, between the facilities of Champion Blower & Forge, Inc., at or near Roselle, IL, and Lancaster, PA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), under a continuing contract with Champion Blower & Forge, Inc., of Roselle, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 135861 (Sub-34F), filed July 28, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Brownwood, TX, to points in KY, under a continuing contract with Swift Fresh Meats Co., of Chicago, IL. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 136012 (Sub-4F), filed July 26, 1978. Applicant: U.S. TRANSPORTATION, INC., 8345 Clough Pike, Cincinnati, OH 45244. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar and corn products*, in bulk, in tank vehicles, from the facilities of Archer Daniels Midland Co., at Cincinnati, OH, to points in AR, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NY, PA, TN, VA, WV, and WI (restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 136307 (Sub-10F), filed August 4, 1978. Applicant: BURKEWITZ TRANSPORT, INC., Coventry, VT 05825. Representative: S. Arnold Smith, Craftsbury, VT 05826. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in CT, MA, ME, NH, NY, and RI, to points in Caledonia and Orleans Counties, VT. (Hearing site: Montpelier, VT, or Boston, MA.)

MC 138304 (Sub-16F), filed July 25, 1978. Applicant: NATIONAL PACKERS EXPRESS, INC., 3445 Patterson Plank Road, North Bergen, NJ 07047. Representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, from Akron, OH, and St. Clair, MI; *soy flour* from Decatur, IL, *corn gluten meal and cornstarch*, from Hammond, IN, soda ash from Wyandotte; MI, and *foil wrapper*, from Dayton, OH, to Mamaroneck, NY; and (2) *drybouillon*, from Mamaroneck, NY, to LaGrange, IL, Taylor, MI, and Columbus, OH. (Hearing site; New York, NY, or Washington, DC.)

MC 138773 (Sub-3F), filed August 14, 1978. Applicant: EAST SOUTH EXPRESS, INC., P.O. Box 13887, Roanoke, VA 24034. Representative: David

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A. Turrano, 100 East Board Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric controllers and electric instruments*, which because of size or weight require the use of special equipment, and (2) *parts and accessories* for the commodities named in (1) above, between points in Bland County, VA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Richmond, VA, or Washington, DC.)

MC 13882 (Sub-87F), filed June 2, 1978. Applicant: WILEY SANDERS INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* except frozen foods and commodities in bulk), (1) from the facilities of Vlasic Foods, Inc., at Bridgeport, Imlay City, and Memphis, MI, to the facilities of Vlasic Foods, Inc., at Millsboro, DE, and (2) from the facilities of Vlasic Foods, Inc., at Millsboro, DE, to points in CT, MA, RI, NY, NJ, PA, MD, VA, WV, NC, SC, ME, NJ, VT, FL, GA, AL, TN, and DC. (Hearing site: Montgomery or Birmingham, AL.)

MC 139306 (Sub-11F), filed July 19, 1978. Applicant: DEL R. STANAGE AND JOE R. STANAGE, d.b.a. STANAGE TRANSPORTATION, a partnership, 121 Indian Springs Road, Hot Springs, AR 71901. Representative: Gary E. Thompson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Cullet*, in bulk, in dump vehicles, between Fort Smith, AR, New Orleans and Shreveport, LA, Tulsa, OK, and Corsicana, Houston, Palestine, and Waxahatchee, TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 140033 (Sub-63F), filed August 14, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products*, from Covington, TN to points in AL, AZ, CA, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, SC, UT, WI, WY, TX, and WA. (Hearing site: Dallas, TX, or Memphis, TN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140101 (Sub-5F), filed July 6, 1978. Applicant: I.T.A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat* from Wilmington, DE, New York, NY, Philadelphia, PA, Charleston, SC, Norfolk, VA, Mount Airy and Baltimore, MD, and Boston, MA, to points in KS, KY, IL, IN, IA, MI, OH, MO, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Madison, WI.)

MC 140612 (Sub-49F), filed July 25, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Recreational and gymnastic equipment, and materials and supplies used in the manufacture and distribution of recreational and gymnastic equipment* (except commodities in bulk), (1) from Cedar Rapids, IA, to points in AZ, CA, ID, NV, UT, OR, and WA, and (2) from Hanging Rock, OH, and Waupaca, WI, to Cedar Rapids, IA. (Hearing site: Cedar Rapids, IA, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140693 (Sub-19F), filed August 11, 1978. Applicant: BEER TRANSPORTATION CO., a corporation, R.D. 5 Lincoln Avenue, Vineland, NJ 08360. Representative: Edward J. Kiley, 1730 M Street, NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., at or near Cliffwood, NJ, to points in Person, Durham, Orange, Chatham, Randolph, Davidson, Davie, Yadkin, Surry, Stokes, Forsyth, Rockingham, Guilford, Alamance, and Caswell Counties, NC, and Carroll, Pulaski, Montogmery, Floyd, Patrick, Henry, Franklin, Bedford, Pittsylvania, and Halifax Counties, VA, restricted to the transportation of traffic originating at the named origin facilities and destined to the facilities of Midland Glass Co., at the above named destination points. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 140829 (Sub-133F), filed August 24, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Land O'Frost, Inc., at or near Chicago, IL, to points in IA, KS, MO, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-134F), filed August 29, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, and health care products* (except commodities in bulk, in tank vehicles), from Buffalo, NY, to points in CA, IL, and TX. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140855 (Sub-5F), filed August 10, 1978. Applicant: TAB TRUCKING, INC., East 3628 Syndicate Boulevard, Spokane, WA 99202. Representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medical, hospital, clinical, surgical, and laboratory supplies and equipment*, from the facilities of Parke Davis & Co., at or near Greenwood, SC, to ports of entry on the international boundary line between the United States and Canada at or near Blaine, WA, and Portal and Pembina, ND, under a continuing contract with Parke Davis & Co., of Detroit, MI. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Spokane, WA.)

NOTE.—Applicant states that shipments in foreign commerce are destined to the Provinces of British Columbia and Manitoba, Canada.

NOTE.—(a) The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and From Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which are imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (b) The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is necessary.

MC 140879 (Sub-5F), filed August 31, 1978. Applicant: RALPH OWENS, P.O. Box 711, Hereford, TX 79045. Representative: John C. Sims, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in packages, from Sugar Land, TX, to points in NM. (Hearing site: Houston or Dallas, TX.)

MC 140889 (Sub-5F), filed August 28, 1978. Applicant: FIVE STAR TRUCKING, INC., 1638 West Pioneer Way, El Cajon, CA 92022. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household appliances*, and (2) *parts and accessories* for household appliances, from the facilities of The Tappan Co., at Mansfield, OH, to those points in the United States in and west of MI, IN, KY, TN, and AL (except AK and HI), under a continuing contract with the Tappan Co., of Mansfield, OH. (Hearing site: Washington, DC, or Cleveland, OH.)

MC 141532 (Sub-33F), filed July 26, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* from points in CA, to points in AZ, NM, NV, and TX. (Hearing site: Los Angeles, CA, or Portland, OR.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 141684 (Sub-2F), filed July 26, 1978. Applicant: COMMAND CARGO CORP., 7950 East Baltimore Street, Baltimore, MD 21223. Representative: Steven L. Weiman, Suite 145, Four Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phonograph records, tapes, and sound equipment components*, between those points in NJ within the Philadelphia, PA, commercial zone, on the one hand, and, on the other points in PA, MD, VA, WV, DE, and DC. (Hearing site: Washington, DC.)

MC 141759 (Sub-7F), filed August 11, 1978. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or dealt in by manufacturers of glass and glass products (except commodities in bulk), from Lancaster, OH, Connellsville and Youngblood, PA, and Chester, WV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under a continuing contract with Anchor Hocking Corp., of Lancaster, OH. (Hearing site: Columbus, OH.)

MC 141781 (Sub-9F), filed July 31, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC., 950 West 94th Street, Minneapolis, MN 55403. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation products, cellulose*, and *vermiculite*, in bags, and (2) *equipment* and *materials* used in the manufacture, distribution, and installation of cellulose insulation, (a) between Hamel, MN, on the one hand, and, on the other points in IL, IA, NE, ND, SD, and WI, (b) between Wellsville, KS, on the one hand, and, on the other points in IL, IA, IN, KS, MN, MO, SD, and WI, (c) between Armington, IL, on the one hand, and, on the other points in IL, IA, KS, MN, MO, SD, AND WI, and (d) between Orrville, OH, on the one hand, and, on the other points in IL, IN, IA, MI, MO, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 141806 (Sub-4F), filed July 17, 1978. Applicant: CHARLES KRAFT AND ANTHONY VALVO, d.b.a. VEE-KAY CARTAGE CO., 2167 North Melvina Avenue, Chicago, IL 60639. Representative: Philip A. Lee, 120 West Madison, Suite 618, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molten liquid, aluminum alloys, and aluminum ingots*, from Chicago, IL, to Fond-du-lac, Grafton, Madison, Sheboygan, and Racine, WI; and (2) *scrap metal*, in the reverse direction, under a continuing contract with Lissner Corp., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 142563 (Sub-2F), filed August 9, 1978. Applicant: PICKENS TRUCKING CO., INC., Route 1, Box 86, Livingston, AL 35740. Representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction aggregates* and *limestones*, in dump vehicles, from points in AL, MS, and TN, to points in AL and MS. (Hearing site: Tuscaloosa, AL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142703 (Sub-12F), filed August 14, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Stret, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and grocery stores (except commodities in bulk), from Cincinnati, OH, to points in PA. (Hearing site: Columbus, OH.)

MC 142999 (Sub-8F), filed August 28, 1978. Applicant: TRANSPORT MANAGEMENT SERVICE CORP., a Delaware corporation, Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printing paper*, from Phoenixville, PA, to points in CA, GA, IL, and TX, and (2) *materials, equipment and supplies* used in the manufacture and distribution of printing paper (except commodities in bulk), in the reverse direction, under contract in (1) and (2) above, with SCM Corp., of Cleveland, OH. (Hearing site: Washington, DC.)

MC 142999 (Sub-9F), filed August 28, 1978. Applicant: TRANSPORT MANAGEMENT SERVICE CORP., a Delaware corporation, Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils, shortening, and cooking and salad oils* (except commodities in bulk), from Louisville, KY, to points in CA, under contract with SCM Corp., of Cleveland, OH. (Hearing site: Washington, DC.)

MC 143059 (Sub-24F), filed August 24, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, forest products, wood products, and sawmill products*, (1) from points in CA, ID, MT, OR, and WA, to points in

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AZ, AR, CA, CO, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, SD, TX, UT, WI, and WY, and (2) from points in AZ, CO, and NM, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, NV, ND, OK, SD, TX, UT, WI, and WY. (Hearing site: Portland, OR.)

MC 143649 (Sub-7F), filed August 27, 1978. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, IA 50676. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, WI, ND, SD, and NE. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 143844 (Sub-3F), filed July 26, 1978. Applicant: DOUG GRANT TRUCK TRANSPORTATION, INC., P.O. Drawer GG, Eureka, CA 95501. Representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Scotia, CA, to Reno, Sparks, Carson City, and Las Vegas, NV, and those points in UT and CO on and north of U.S. Hwy 50, under a continuing contract with the Pacific Lumber Co., of Scotia, Ca. (Hearing site: San Francisco, CA.)

MC 144061 (Sub-2F), filed August 1, 1978. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Avenue, Wyckoff, NJ 07481. Representative: Jack Schiller, One Lefrak City Plaza, Suite 1515, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pollution control additives, emission and stack neutralizing additives, and pollution control feeding equipment*, between the facilities of Apollo Chemical Corp., at or near Marshal, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Apollo Chemical Corp., of Whippany, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 142591 (Sub-1F), filed June 2, 1978. Applicant: JOSEPH A. ANDREWS, d.b.a. JOE ANDREWS WRECKER SERVICE, Rural Route 3, Davenport, IA 52804. Representative: Richard P. Moore, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, IA 52406. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Damaged and disabled motor vehicles*, and (2) *replacement vehicles* for the commodities named in (1) above, between Davenport, IA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 144283 (Sub-2F), filed August 14, 1978. Applicant: EUGENE (GENE) McPHERSON, Route No. 1, Cairo, MO 65239. Representative: J. Turner Jones, 11 North Seventh Street, Columbia, MO 65201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal*, in bulk, in dump vehicles, from points in Audrain, Boone, Chariton, Howard, Macon, Randolph, and Putnam Counties, MO, to points in IA and IL, and (2) *fly ash*, in bulk, in dump vehicles, from points in IA and IL, to points in MO. (Hearing site: Columbia or Jefferson City, MO.)

MC 144687 (Sub-1F), filed August 3, 1978. Applicant: CURTIS R. McPEAK, d.b.a. McPEAK TRUCKING, Box 35, Dalton City, IL 61925. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, handling, and drying equipment*, from Assumption, IL, to points in AR, AL, AZ, CA, CO, DE, FL, GA, IA, IN, KY, KS, LA, MO, MN, MI, MD, MS, ND, NE, NJ, NV, NC, NY, OH, OK, PA, SC, SD, TX, TN, VA, WV, and WI, under contract with Grain Systems, Inc., of Assumption, IL. (Hearing site: Chicago or Springfield, IL.)

MC 144701 (Sub-1F), filed July 27, 1978. Applicant: BLACKSHEAR REFRIGERATED TRANSPORT, INC., 1178 Wright Avenue, Camden, NJ 08102. Representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and foodstuffs* (except commodities requiring refrigeration), from Camden, NJ, to points in CT. (Hearing site: Philadelphia, PA, or Washington, DC)

MC 144844 (Sub-1F), filed July 24, 1978. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood, and wood products*, from points in MO to points in AR, IL, IN, IA, KY, MI, TN, and WI. (Hearing site: St. Louis, MO.)

MC 144922 (Sub-2F), filed July 26, 1978. Applicant: ATF, INC., Route 11, Box 507-B, Birmingham, AL 35201. Representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Jute, polypropylene, wire, and flat ties*, from points in LA, MS, GA, NC, AND SC to Clarksdale, MS, and (2) *bags, wire, and flat ties*, from Clarksdale, MS, to points in CA, AZ, NM, and TX. (Hearing site: Memphis, TN, or Birmingham, AL.)

MC 144986 (Sub-1F), filed July 16, 1978. Applicant: STAHLER TRUCKING & LEASING, INC., 208 East Harrison Street, Wapakoneta, OH 45895. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, and (2) *materials and supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), between the facilities of Plastipak Packaging, division of Beatrice Foods Co., in Jackson Township, OH, on the one hand, and, on the other, points in IL, IN, KY, MD, MI, NJ, NY, PA, WI, and WV, under contract with Plastipak Packaging, Division of Beatrice Foods Co., of Chicago, IL. (Hearing site: Columbus, OH, or Washington, DC.)

MC 145107-F, filed August 2, 1978. Applicant: FRANCIS P. CONATY, d.b.a. WILMINGTON DELIVERY SERVICE, 806 Seville Avenue, Wilmington, DE 19809. Representative: Martin R. Martino, 205 Pennsylvania Avenue SE., Washington, DC 20003. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in laboratories, from King of Prussia, PA, to points in DE, NJ, MD, and PA, under a continuing contract with Fisher Scientific Co., of King of Prussia, PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC145203-F, filed August 14, 1978. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 East State Street, Columbus, Oh 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between the facilities of Reitzel Realty, at Perrysburg Township Wood County, OH, on the one hand, and, on the other, points in IN, KY, MI, WV, PA, NY, IL, WI, NJ, MO, DE, and OH. (Hearing site: Columbus, OH.)

MC 145299-F, filed August 31, 1978. Applicant: KEY LEASING, INC., 1423 Jefferson, Naperville, IL 60068. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances*, from the facilities of Amana Refrigeration, Inc., at Franklin Park, IL, to points in IN and OH, under contract with Amana Refrigeration, Inc., of Franklin Park, IL. (Hearing site: Chicago, IL.)

MC 145309-F, filed June 16, 1978. Applicant: BLACK PINE TRUCKING, INC., Route 1, Box 34A, Idaho Falls, ID 83401. Representative: John M. Sharp, P.O. Box 158, Idaho Falls, ID 83401. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and liquid feed supplement*, from the facilities of Northwest PMS—Feed Service, at Idaho Falls and Caldwell, ID, Choteau, MT, Garland, UT, and Moses Lake, WA, to points in AZ, ID, MT, NV, OR, UT, WA, and WY, and (2) *fertilizer ingredients and liquid feed supplement ingredients*, in the reverse direction, under a continuing contract with Northwest PMS—Feed Service, of Caldwell, ID. (Hearing site: Salt Lake City, UT, or Boise, ID.)

NOTE.—The issuance of a permit in this proceeding is subject to a written request for coincidental cancellation of MC 143392.

PASSENGER AUTHORITY

MC 2353 (Sub-15F), filed August 7, 1978. Applicant: MONUMENTAL MOTOR TOURS, INC., 3319 Pulaski Hwy, Baltimore, MD 21224. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicles with passengers, (1) in round trip charter operations, beginning and ending at Baltimore and Laurel, MD, and points in Anne Arundel, Baltimore, Harford, and Howard Counties, MD, and extending to points in AL, AK, AZ, AR, CA, CO, ID, IA, KS, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, (2) in round trip special and charter operations, beginning and ending at Aberdeen, Annapolis, Bel Air, Frederick, and Havre de Grace, MD, and extending to points in the United States (including AK, but excluding HI); (3) in one-way charter operations, from Baltimore and Laurel, MD, and points in Anne Arundel, Baltimore, Harford, and Howard Counties, MD, to points in the United States (including AK, but excluding HI), restricted to the transportation of passengers having a subsequent movement by air; (4) in one-way charter operations, from points in the United States (including AK, but excluding HI), to Baltimore and Laurel, MD, and points in Anne Arundel, Baltimore, Harford, and Howard Counties, MD, restricted to the transportation of passengers having a subsequent movement by air; (5) in one-way special and charter operations, from Aberdeen, Annapolis, Bel Air, Frederick, Havre de Grace, and Baltimore, MD, and points in the Baltimore, MD commercial zone, to points in the United States (including AK, but excluding HI), restricted to the transportation of passengers having a subsequent movement by air; and (6) in one-way special and charter operations, from points in the United States (including AK, but excluding HI), to Aberdeen Annapolis, Bel Air, Frederick, Havre de Grace, and Baltimore, MD, and points in the Baltimore, MD, commercial zone, restricted to passengers having a subsequent movement by air. (Hearing site: Baltimore, MD.)

MC 12811 (Sub-2F), filed August 1, 1978. Applicant: LINCOLN TOUR & TRAVEL AGENCY, INC., 13th and M Streets, Lincoln, NE 68508. Representative: James E. Ryan, 214 Sharp Building, Lincoln, NE 68508. To engage in operations, in interstate or foreign commerce, as a *broker*, at Lincoln, NE, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, in round trip tours, between points in the United States (including AK but excluding HI). (Hearing site: Lincoln or Omaha, NE.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

BROKER AUTHORITY

MC 130515-F, filed August 2, 1978. Applicant: TRANS-WORLD TOURS CORP., 315 Jefferson Street, Jefferson City, MO 65101. Representative: C. N. Flowers (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Jefferson City, MO, in arranging for the transportation, by motor vehicles, of: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Jefferson City, MO, and extending to points in the United States (including AK and HI). (Hearing site: Jefferson City or St. Louis, MO.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

[FR Doc. 78-27766 Filed 10-2-78; 8:45 am]

[7035-01]

[Notice No. 178]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 48958 (Sub-155TA), filed July 31, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen or other than frozen, and canned goods*, from the facilities of Skyland Food Corp. at or near Delta, CO, to points in the States of AZ, CA, IL, IA, KS, NE, OK, NM, MO, and TX, for 180 days. Supporting shipper: Skyland Food Corp., Jack L. Ray, Sales Manager, 9th and Dodge Street, Delta, CO 81416. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, CO 80202.

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MC 109584 (Sub-178TA), filed August 3, 1978. Applicant: ARIZONA PACIFIC TANK LINES, 3980 Quebec Street, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood, sugar, molasses*, in bulk, in tank vehicles, from Ukiah, CA, to Ogden, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corp., 300 Ford Road, Ukiah, CA 95482. Send protests to: Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customshouse, Denver, CO 80202.

MC 110525 (Sub-1255TA), filed July 31, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (in bulk, in tank vehicles), from DeRidder, LA, to points in the States of MS, FL, GA, SC, LA, TX, IL, NJ, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Westvaco Corp., 299 Park Avenue, New York, NY. Send protests to: T. M. Esposito Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 113651 (Sub-281TA), filed August 4, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing, P.O. Box 552 Riggin Road, Muncie, IN 47305. Authority sought to operate as s *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from the Port of Tampa, FL., to points in IL, IN, KY, MI, MN, OH, and WI, for 180 days. Supporting shipper: Turbana Banana Corp., 2701 LeJune Rd., Coral Gables, FL 33134. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 114969 (Sub-81TA), filed July 26, 1978. Applicant: PROPANE TRANSPORT, INC., P.O. Box 232, 1734 State Route 131, Milford, OH 45150. Representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas* (in bulk, in tank vehicles), from the Ashland Oil, Inc., Refineries at or near Catlettsburg, KY, to Ashland Oil, Inc., at Canton, OH, for 180 days. Supporting shipper: Emil M. Sturzenegger Traffic Manager, Ashland Petroleum Co., Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 119654 (Sub-58TA), filed August 3, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and ends*, from Milwaukee, WI commercial zone to the commercial zones to St. Louis, MO; Detroit, MI; Cincinnati, OH; Evansville, IN; and Madisonville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 119656 (Sub-43TA), filed August 3, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, Suite 945-9000 Keystone Crossing, Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of Certain Teed Corp. at or near Avery, OH to the facilities of Certain Teed Corp. at or near Chicago Heights, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: David H. Silvernail, Manager, Transportation Operations, Certain Teed Corp., Shelter Materials Group, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119789 (Sub-507TA), filed August 3, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigeration panels, doors, and units, coils—compressors and hardware* from Olive Branch, MS to points in the U.S. (except AK, HI, and MS), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kalt Manufacturing Co., 11042 Wildwood Drive, Olive Branch, MS 38654. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 123061 (Sub-100TA), filed August 3, 1978. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84104. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in pneumatic equipment), from Tooele County, UT to CA, for 180 days. Supporting shipper: Utah Salt Co., 1865 South Main Street, Salt Lake City, UT 84115; American Salt Company, 3142 Broadway, Kansas City, MO 64111. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123285 (Sub-7TA), filed August 3, 1978. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clint Oldham, 1108 Continental Life Building, Ft. Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Batesville, AR to the facilities of International Paper Co., located in Cass County, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Lime Co., P.O. Box 851, Cleburne, TX 76031. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 124170 (Sub-101TA), filed August 3, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, P.C., 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from regulation under section 203(b)(6) of the Act when transported with bananas, from Tampa, FL, to points in IL, IN, MI, OH, KY, NY, NJ, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S.

Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 125023 (Sub-66TA), filed August 3, 1978. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, Erie, PA 16504. Representative: Richard G. McCurdy, 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, container accessories, materials, equipment, and supplies* used in the manufacture and distribution of glass containers and container accessories from the facilities of Brockway Glass Co., Inc., Jefferson County and Clearfield County, PA, to points in Alamance, Caswell, Forsyth, Guilford, Rockingham, Stokes, and Vance Counties, NC, and Halifax, Henry, and Pittsylvania Counties in VA, and the return of rejected glass containers, containers accessories, materials, equipment, and supplies from points in the counties of NC and VA to the facilities of Brockway Glass Co., Inc., Jefferson County and Clearfield County, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brockway Glass Co., Inc., Corporate Transportation Manager, Brockway, PA 15824. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 134388 (Sub-18TA), filed August 3, 1978. Applicant: HOME RUN, INC., 3 East Washington Street, Jamestown, OH 45335. Representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *buildings and component parts, materials, supplies, and fixtures* used in the erection or assembly of buildings, from the plantsite and facilities of Brandt & Chopp, Inc., at or near Brandywine, MD, to points in VA and DC; under a continuing contract or contracts with Brandt & Chopp, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brandt & Chopp, Inc., Steven Brandt, Vice President, Box 2227, Cherry Tree Crossing Road, Brandywine, MD 26103. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B, Federal Building, 550 Main Street, Cincinnati, OH 542029.

MC 128095 (Sub-19TA), filed July 31, 1978. Applicant: PARKER TRUCK LINE, INC., Westmoreland Drive, P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the facilities of C. J. Marketing Corp., at or near Idaville, IN, to points in AL, FL, GA, IL, IA, KY, MI, NC, OH, PA, SC, TN, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. J. Marketing Corp., 407 Industrial Drive West, Carmel, IN 46032. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 126276 (Sub-199TA), filed August 3, 1978. Applicant: FAST MOTOR SERVICE, INC. (an IL corporation), 9100 Plainfield Road, Brookefield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of the Continental Group, Inc., at Morris and Passaic Counties, NJ, to Madisonville, KY, under a continuing contract or contracts with the Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., LaVerne W. Myers, Manager, Transportation and Distribution—Plastics, 633 Third Avenue, New York, NY 10017. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135082 (Sub-73TA), filed August 4, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing products, and commodities* used in the installation thereof, from Houston and San Antonio, TX, to CA, OR, WA, ID, NE, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW., Albuquerque, NM 87101.

MC 140755 (Sub-56TA), filed July 31, 1978. Applicant: BRAY TRANSPORTS, INC., 1401 North Little Street, P.O. Box 270, Cushing, OK 74023. Representative: Dudley G. Sherrill, 1401 North Little Street, P.O. Box 270, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk), from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, Suite 130, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

MC 141867 (Sub-6TA), filed July 26, 1978. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader, 2301 Milwaukee Way, Tacoma, WA 98421. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and related cartons, dividers, covers, supplies, and materials* used in the manufacture and packaging of glass bottles, between points on the United States-Canadian boundary line located in WA, ID, and MT, on the one hand, and, on the other, points in WY, UT, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Domglas, Inc., 2070 Hadwen Road, Mississauga, ON, Canada. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 144122 (Sub-22TA), filed July 26, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta, South 160 Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wall coverings or facings, plastic film or sheeting*, printed or not printed, *store display racks, or stands, shades, doors or partitions, and hardware*, from the facilities of Clopay Corp., at Bayonne, NJ, to points in TX and IL, restricted to the transportation of traffic originating at and destined to the named States, for 180 days. Supporting shipper: Clopay Corp., 59 Hook Road, Bayonne, NJ. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 144572 (Sub-3TA), filed August 3, 1978. Applicant: MONFORT TRANSPORTATION CO., P.O. Box G, Greeley, CO 80631. Representative:

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John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except A and B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Inter State Express, Inc., in the New York, NY, commercial zone to the commercial zone of Phoenix, AZ; Los Angeles and San Francisco, CA; Denver, CO; Chicago, IL; Kansas City, KS; Minneapolis, MN; St. Louis, MO; Omaha, NE; Oklahoma City, OK; Portland, OR; Dallas and Houston, TX; and Seattle, WA, for 180 days. Restriction: Restricted to shipments which are at the time moving on bills of lading issued by Inter State Express, Inc., a freight forwarder operating under Part IV of the Interstate Commerce Act. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inter State Express, Inc., 56-25 56th Terrace, Maspeth, NY 11378. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 144906 (Sub-1TA), filed July 31, 1978. Applicant: NORTH OPERATING CO., 39 Little Brook Road, Springfield, NJ 07081. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated cartons, knocked down, flat, corrugated sheets, and pulpboard in rolls*, from the facilities of Weyerhaeuser Co., at or near Closter, NJ, to Milford, CT, and Cementon, Hudson, Middletown, Milton, Modena, Woodburne, New Paltz, Patterson, Port Jervis, and South Glens Falls, NY, under a continuing contract, or contracts, with Weyerhaeuser Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., P.O. Box 156, Railroad Avenue, Closter, NJ 07624. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 145094 (Sub-1TA), filed August 4, 1978. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood products* (except in bulk), from Anderson, CA, to Ft. Smith, AR, Canton and Columbus, MS, Elkin and Lenoir, NC, and Galax, VA, under a continuing contract, or contracts, with Wheatley Lumber Co., Inc., P.O. Box 117, New Albany, MS 38652. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145149 (Sub-1TA), filed August 4, 1978. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, 411 East 37th Street North, Wichita, KS 67201. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk), from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chevron Chemical Co., Suite 139, 3001 LBJ Freeway, Dallas, TX 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 145198TA, filed August 4, 1978. Applicant: PENN TRANSFER, INC., 131 North Summit Street, P.O. Box 808, Akron, OH 44309. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap plastic and scrap plastic materials* (except commodities in bulk), between points in WV, PA, OH, IN, and MI, under a continuing contract, or contracts, with Hinds Co., Inc., for 180 days. Supporting shipper: Hinds Co., Inc., P.O. Box 6354, Akron, OH 44312. Send protests to: Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145216TA, filed August 4, 1978. Applicant: SUNSHINE EXPRESS, INC., 2603 Canal Drive, Wilson, NC 27893. Representative: D. E. Pedigo, 2603 Canal Drive, Wilson, NC 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having prior or subsequent movement by rail in trailer on flatcar service, between railroad ramps located at Rocky Mount, Smithfield, Goldsboro, Greenville, and Wilmington, NC, on the one hand, and, on the other, points in NC, for 180 days. Supporting shippers: There are approximately 23 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleight, NC 27611.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27767 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 179]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 57591 (Sub-20TA), filed June 16, 1978, and published in the FEDERAL REGISTER issue of August 17, 1978, and republished as corrected this issue. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, commodities requiring special equipment or handling, classes A and B explosives), from Cranford and Hillside, NJ to York, PA, for 180 days. Supporting shippers: Bristol Myers Products, 225 Long Avenue, Hillside, NJ 07207; Boyle Midway, Division of American Home Products Corp., Manager, Traffic and Distribution, 685 Third Ave., New York, NY 10017. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503. The purpose of this republication is to show Cranford in lieu of Crawford; and to add to the supporting shippers, as previously published.

MC 113908 (Sub-447TA), filed August 1, 1978. Applicant: ERICKSON TRANSPORT, INC., P.O. Box 3180 G.S.S., 2105 East Dale St., Springfield, MO 65804. Representative: B. B. Whitehead, P.O. Box 3180 G.S.S., 2105 East Dale Street, Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wines, in bulk*, from points in CA to Tampa, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fruit Wines of Florida, Tampa, FL. Send protests to: District Supervisor John V. Barry, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 114552 (Sub-17TA), filed August 1, 1978. Applicant: SENN TRUCKING CO., a SC corporation, P.O. Box Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials and materials used in the installation and application of such commodities* (except commodities in bulk), from Charleston Heights, SC, to points in FL for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: E. E. Strotheid, District Supervisor, ICC, room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 116510 (Sub-3TA), filed July 20, 1978. Applicant: KEENAN TRANSIT CO., 3600 North Avenue, Melrose Park, IL 60161. Representative: David I. Harfield, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel wire and steel rods* from Bensenville, IL, to Indianapolis, New Castle, and Fort Wayne, IN; Dowagiac and Livonia, MI; St. Louis, MO; and Cleveland, OH; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of steel wire and steel rods from Livonia, MI, and New Castle, IN, to Bensenville, IL, under a bilateral written contract with Nelsen Wire Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nelsen Wire Co., 1060 East Irving Park Road, Bensenville, IL 60106. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123023 (Sub-7TA), filed July 5, 1978, and published in the FEDERAL REGISTER issue of August 30, 1978, and republished as corrected this issue. Applicant: DIPIETRO TRUCKING CO., 2201 Sixth Avenue Street, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, San Pedro, and Wilmington, CA, to points in WA, for 180 days. Supporting shippers: There are approximately five statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174. The purpose of this republication is to show CA in origin, in lieu of GA, as previously published.

MC 123054 (Sub-19TA), filed June 30, 1978, and published in the FEDERAL REGISTER issue of August 30, 1978, and republished as corrected this issue. Applicant: R & H Corp., 295 Grand Avenue, P.O. Box 469, Clarion, PA 16214. Representative: William J. Lavelle, Attorney-at-Law, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor, and fiberboard boxes*, (1) from points in Clarion County, PA, to points in PA; (2) from the borough of Marienville, Forest County, and the borough of Parker, Armstrong County, PA, to points in PA; (3) from DuBois, PA, to points in NY and NJ, for 180 days. Supporting shippers: Owens-Illinois, Inc., Manager of Transportation, Glass Container Division, P.O. Box 1035, Toledo, OH 43666; Glass Containers Corp., Manager, Rate Analysis and Research, P.O. Box 4118, 535 North Gilbert Avenue, Fullerton, CA 92634. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222. The purpose of this republication is to change applicant's address to Clarion, PA; to change the territorial description to read from points in Clarion County, PA; and to add to supporting shippers, as previously published.

MC 124813 (Sub-188TA), filed August 1, 1978. Applicant: UMTHUN TRUCKING CO., an IA corporation, 910 P.O. Box 166, South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* from the facilities of Linwood Stone Products Co., Inc., at or near Davenport, IA, to points in MN on and south of U.S. Hwy 12 and points in WI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Linwood Stone Products Co., Inc., Rural Road 2, Davenport, IA 52804. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 129387 (Sub-72TA), filed August 1, 1978. Applicant: PAYNE TRANSPORTATION, INC., a SD corporation, P.O. Box 1271, Huron, SD 57350. Representative: Doug W. Sinclair, P.O. Box 1271, Huron, SD 57350. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials* from the facilities of Miller Brewing Co., at or near Milwaukee, WI, to points in IA, ID, IL, IN, MI, MN, MO, MT, NE, ND, OH, OR, SD, WA, WY for 180 days. Supporting shipper: Miller Brewing Co., 4000 West State Street, Milwaukee, WI 53208, Edward P. Geurts. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 134323 (Sub-104TA), filed July 20, 1978. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79107. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dated*,

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printed publications, from the facilities of Magazine Shippers Association, Inc., at or near Bridgeport, CT, to points in AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Magazine Shippers Association, Inc., 955 Union Avenue, Bridgeport, CT 06602. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-8TA), filed July 20, 1978. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79107. Representative: Gailyn Larson, 520 South 14th Street, Lincoln, NE. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets and parts and accessories* thereto, from the facilities of Yorktown Co. at or near Mifflinburg and Red Lion, PA, to Wichita, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Finn's Inc., 612 South Commerce Street, Wichita, KS 67202. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 138144 (Sub-31TA), filed July 20, 1978. Applicant: FRED OLSON CO., INC. (a Wisconsin corporation), 6022 West State Street, Milwaukee, WI 53213. Representative: Warren W. Wallin, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel reinforcing bars*, from the facilities of Inryco, Inc., located at or near Bedford Park, IL, to Sullivan County, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inryco, 4101 West Burnham Street, West Milwaukee, WI 53202. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue., Room 619, Milwaukee, WI 53202.

MC 138423 (Sub-1TA), filed August 1, 1978. Applicant: MACDOUGALL & SON TRANSPORT LTD., P.O. Box 65, Erin, ON, Canada NOB 1TO. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire, wire products, and fencing materials*, from ports of entry on the United States-Canada boundary line at or near Buffalo, NY, and Detroit, MI, to all points in CT, DE, IN, IL, MA, MD, ME, NH, NJ, OH, PA, RI, VA, VT, and WV, and, (2) *materials, supplies, and equipment used in the manufacture of wire, wire products, and fencing materials*, from all points in the destination States listed in (1) above to ports of entry on the United States-Canada boundary line at or near Buffalo, NY, and Detroit, MI, under continuing contract or contracts with Lundy Steel, Ltd., a subsidiary of Ivaco Industries, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ernest R. LaFever, General Traffic Manager., Lundy Steel, Ltd., a subsidiary of Ivaco Industries, Ltd., care of New York Wire Mills Corp., a subsidiary of Ivaco Industries, Ltd., 3937 River Road, Tonawanda, NY 14150. Send protests to: Interstate Commerce Commission, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 140241 (Sub-16TA), filed August 1, 1978. Applicant: DALKE TRANSPORT, INC., P.O. Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement in bags* from Miami and Tulsa, OK, to Los Angeles, CA, Las Vegas, NV, and Salt Lake City, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brick Sales, P.O. Box 151108, Salt Lake City, UT 84115. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 141046 (Sub-9TA), filed August 1, 1978. Applicant: MASON O. MITCHELL, d.b.a. M. MITCHELL TRUCKING, 1911 I Street, LaPorte, IN 46350. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Temporary authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Wood and plastic products, toothpick dispensers, and sporting goods and sporting goods accessories*, from the facilities of Forster Manufacturing Co., at or near Wilton, ME, to CO, under a continuing contract or contracts with Forster Manufacturing, Co., of Wilton, ME. Supporting shipper: Forester Manufacturing Co., Depot Street, Wilton, ME 04294. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn, Chicago, IL 60604 for 180 days.

MC 141546 (Sub-26TA), filed June 9, 1978, and published in the FEDERAL REGISTER issue of August 3, 1978, and republished as corrected this issue. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, MA 01810. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and stone aggregate*, in dump vehicles, from Westbrook, ME, to Seabrook, NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Public Service Co., of NH, c/o United Engineers, Site Access Road, Seabrook, NH 03874. Send protests to: Max Gorenstein, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114. The purpose of this republication is show Sand in lieu of Stone, as previously published.

MC 141770 (Sub-3TA), filed July 20, 1978. Applicant: TPC TRANSPORTATION CO., 41 Cleveland Road East, Huron, OH 44839. Representative: Russell J. Bragg, 40 Cleveland Road East, Huron, OH 44839. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sugar, beet pulp pellets*, from Fremont and Findlay, OH to Huron, OH, under a continuing contract or contracts with Northern Ohio Sugar Co., for 180 days. Supporting shipper: Northern Ohio Sugar Co., P.O. Box 5308 TA, Denver, CO 80217. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 143365 (Sub-2TA), filed July 20, 1978. Applicant: LARRY O. CHRISTENSEN, d.b.a. NORTHERN COURIER SERVICE, P.O. Box 23700, Minneapolis, MN 55423. Representative: John B. Van de North, Jr., c/o Briggs & Morgan, 2200 First National Bank Building, St. Paul, MN 55101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities) used in the business of banks and banking institutions, between Duluth, MN on the one hand, and, on the other, points in Ashland, Bayfield, Iron, and Price Counties, WI, and Houghton, Odtonagan, and Gogebic Counties, MI, under a continuing contract with National Sharedata, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Sharedata, 5713 Grand Avenue, Duluth, MN 55807.

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Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 143383 (Sub-2TA), filed June 7, 1978, and published in the FEDERAL REGISTER issue of July 31, 1978, and republished as corrected this issue. Applicant: DALE E. NICHOLSON, P.O Box 97, Potosi, MO 63664. Representative: E. Richard Southern, 101 East High Street, Jefferson City, MO 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lead, zinc, and copper concentrates* from the facilities of Ozark Lead Co., near Corridon, MO, to Glover, MO, under a continuing contract with Ozark Lead Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ozark Lead Co., 161 East 42d Street, New York, NY 10017. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101. The purpose of this republication is to include Lead into the commodity description, as previously published.

MC 143383 (Sub-3TA), filed August 1, 1978. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: E. Richard Southern, 101 East High Street, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead concentrates, in bulk, in dump vehicles*, from the facilities of Ozark Lead Co. at Sweetwater, MO to the facilities of Eagle-Picher Industries, Inc., at Galena, IL for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eagle Picher Industries, Inc., P.O. Box 550, Joplin, MO 64801. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 143395 (Sub-7TA), filed August 1, 1978. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, from the facilities of Ralston Purina Co., at or near Clinton, IA, to Hazelwood and Bridgeton, MO, and points in the St. Louis, MO-East St. Louis, IL, commercial zone, under a continuing contract with Ralston Purina Co., St. Louis, MO, under a continuing contract or contracts with Ralston Purina Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 144326 (Sub-3TA), filed August 1, 1978. Applicant: RICHARDSON TRUCKING, INC., 330 East 8th Street, P.O. Box 967, Greeley, CO 80631. Representative: William Fred Cantonwine, 330 East 8th Street, P.O. Box 967, Greeley, CO 80631. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waterbed bedding and related advertising material* from Lake Havasu City, AZ, to Greeley, CO for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bruce Carlisle, d.b.a. NCF Distributing, 2015 Second Avenue, Unit M, Greeley, CO 80631. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145161 TA, filed July 31, 1978. Applicant: COMPUTERIZED TRAFFIC SERVICE INC., d.b.a. FREIGHT EXPEDITORS, 131 Richmond Street, El Segundo, CA 90245. Representative: Robert Anderson, 131 Richmond Street, El Segundo, CA 90245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air cargo* (general commodities), between Los Angeles, Palm Springs, and San Francisco, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bird International Sales Corp., Mark 7, Palm Springs, CA 92262. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145168 (Sub-1TA), filed August 3, 1978. Applicant: JAMES H. BRACKEEN, d.b.a. BRACKEEN TRUCKING, 7427 Eccles, Dallas, TX 75227. Representative: Thomas L. Cook, Hightower, Alexander & Cook, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles*, (1) from Baton Rouge, LA, to Houston, La Marque, Rosenburg, and Galveston, TX; (2) from Dallas, TX, to Houston, Austin, and San Marcos, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating autority. Supporting shippers: There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145186TA, filed August 1, 1978. Applicant: GERALD E. EIDAM, SR. (Individual), d.b.a. SINGLE TOWING, P.O. Box 9057, Salem, OR 97305. Representative: Gerald E. Eidam, Sr., 4095 Milton Street NE., Salem, OR 97303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers* by towaway method from Portland, McMinnville, Mount Angel, Pendleton, and Junction City, OR, to points in CA, ID, MT, NV, and WA; from Boise and Caldwell, ID, to points in OR, CA, NV, MT, WA, UT, AZ, and CO; from Woodland, CA, to points in OR, WA, MT, ID, UT, and AZ, for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 145197TA, filed July 27, 1978. Applicant: GATIEN TRANSPORT, INC., St. Bernard de Lacole BP 326, Lacolle, PQ, Canada. Representative: S. Arnold Smith, Craftsbury, VT 05826. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, those of unusual value, class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment. The authority requested herein is restricted against the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. Between the site of the U.S. Customs House at or near Chaplain, NY, on the one hand, and, on the other, the port of entry on the United States-Canada Boundary Line located at or near Champlain, NY, for 180 days. Supporting shippers: There

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are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27768 Filed 10-3-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-64; General Temporary Order No. 15]

TEMPORARY AUTHORITY APPLICATIONS

Flexible Processing Methods

Decided: September 27, 1978.

There is an emergency resulting from work stoppages affecting a large number of the Nation's rail carriers which are unable to transport passengers and property.

There exists an immediate and urgent need for motor carrier service to supplement temporarily the transportation facilities of the Nation for the movement of passengers and property.

To meet this need the Commission will provide a more flexible method for the processing of applications for temporary authority to render the required motor service.

It is ordered: Pursuant to section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)), all persons who shall apply to any regional operations director, assistant regional operations director, district supervisor, or their designees, of the Commission's Bureau of Operations are granted temporary authority to transport passengers or property in interstate or foreign commerce, by motor vehicle for a period of not more than 60 days to the extent and scope that any of the above designated officials certify that there is an immediate and urgent need for service.

Special procedures to expedite the filing and processing of these applications will be used.

This grant of temporary authority is conditioned upon compliance with applicable requirements concerning tariff and schedule publications, evidence of security for the protection of the public, and designation of agents for service of process, and further conditioned upon such tariffs and schedules quoting rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Service performed under temporary authority granted pursuant to this order shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in section 207(a) of the Act (49 U.S.C. 307(a)) and section 209(b) of the Act (49 U.S.C. 309(b)).

Temporary authority granted pursuant to this order shall expire as of the first midnight after the issuance of an order by this Commission revoking General Temporary Order No. 15 except as to passengers or property, the transportation of which began prior to that time.

This order shall become effective September 27, 1978.

Notice of this order shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neil, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-27887 Filed 10-2-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6714-01]

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meetng held at 10 a.m. on September 28, 1978, the Corporation's Board of Directors voted on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following items from considertion:

Memorandum and resolution proposing the final adoption of a new part 345 of the Corporation's rules and regulations, to be entitled "Community Reinvestment."

Memorandum and resolution proposing the publication for comment of amendments to part 303 of the Corporation's rules and regulations to delegate the Board's authority to approve requests, pursuant to section 19 of the Federal Deposit Insurance Act, for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks.

Memorandum and resolution proposing the publication for comment of amendments to parts 303, 304, and 328 of the Corporation's rules and regulations to revise the Corporation's procedures relating to remote service facilities.

The Board further determined, by the same vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: September 28, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALLAN R. MILLER,
Executive Secretary.

[S-1995-78 Filed 9-29-78; 11:29 am]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3 p.m., October 5, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request for a report on the competitive factors involved in a proposed merger:

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of Wilbur National Bank, Oneonta, N.Y., with the National Bank of Delaware County, Walton, Walton, N.Y.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Venable, Baetjer & Howard, Baltimore, Md., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Deleware, Dover, Del.

Lemle, Kelleher, Kohlmeyer & Matthews, New Orleans, La., in connection with the liquidation of Republic National Bank of Lousiana, New Orleans, La.

Parsons, Canzona, Blair & Warren, Red Bank, N.J., in connection with the liquidation of Bank of Bloomfield, Bloomfield, N.J.

Strasburger & Price, Dallas, Tex., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Recommendations with respect to the amendment of Corporation rules and regulations:

Resolution proposing the final adoption of a new part 345 of the Corporation's rules and regulations, to be entitled "Community Reinvestment."

Resolution proposing the final adoption of amendments to part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, and Submittals," to adopt certain minimum procedures in connection with the processing of applications subject to the provisions of the Community Reinvestment Act of 1977.

Resolution proposing the publication for comment of amendments to parts 303, 304, and 328 of the Corporation's rules and regulations to revise the Corporation's procedures relating to remote service facilities.

Memorandum and resolution proposing the final adoption of amendments to part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Nonmember Banks," in order to bring that part into substantial similarity with comparable regulations of the Securities and Exchange Commission.

Memorandum and resolution proposing additional delegations of authority from the Board of Directors to the Committee on Liquidations, Loans and Purchases of Assets (Case No. 43,673).

Memorandum proposing the purchase of new computer equipment.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2000-78 Filed 9-29-78; 3:52 pm]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3:30 p.m., October 5, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Bank of St. Francisville, a proposed new bank to be located at 108 East Commerce Street, St. Francisville, La., for Federal deposit insurance.

Tecumseh Bank, a proposed new bank to be located at 1213 Gordon Cooper Drive, Tecumseh, Okla., for Federal deposit insurance.

Bank of Lubeck, a proposed new bank to be located at State Highway 2, Lubeck (P.O. Parkersburg), W. Va., for Federal deposit insurance.

Application for consent to merge and establish branches:

Peoples Bank & Trust Co., Rocky Mount, N.C. an insured State nonmember bank, for consent to merge under its charter and title with the Cumberland Bank, Fayetteville, N.C., also an insured State nonmember bank, and for consent

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to establish the Cumberland Bank's main office and four branch offices as branches of the resulting bank.

Application for consent to acquire assets, assume liabilities, and establish branches:

First Peoples Bank of New Jersey, Haddon Township (P.O. Westmont), N.J., an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the Mainland Bank, Linwood, N.J., also an insured State nonmember bank, and for consent to establish the five offices of the Mainland Bank as branches of First Peoples Bank of New Jersey.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator or liquidating agent of those assets:

Case No. 43,661-SR—Chatham Bank of Chicago, Chicago, Ill.

Case No. 43,662-L—Franklin National Bank, New York, N.Y.

Resolution proposing the publication for comment of amendments to parts 303, 304, and 328 of the Corporation's rules and regulations to revise the Corporation's procedures relating to remote service facilities.

Memorandum and resolution proposing the final adoption of amendments to part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Nonmember Banks," in order to bring that part into substantial similarity with comparable regulations of the Securities and Exchange Commission.

Memorandum and resolution proposing additional delegations of authority from the Board of Directors to the Committee on Liquidations, Loans and Purchases of Assets (Case No. 43,673).

Memorandum proposing the purchase of new computer equipment.

Memorandum regarding the Corporation's participation n the proposed "Minority Bank Development Program."

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1999-78 Filed 9-29-78; 3:34 pm]

[6714-01]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on September 28, 1978, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw from consideration an application of the Bank of St. Francisville, St. Francisville, La., for Federal deposit insurance. The Board of Directors further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: September 28, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1996-78 Filed 9-29-78; 11:29 am]

[6210-01]

5

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 11 a.m., Friday, October 6, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve employees.
2. Federal Reserve Bank and branch director appointments.
3. Review of Federal Reserve Bank employee conflict of interest regulation and of property ownerships under such regulation.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1994-78 Filed 9-29-78; 8:45 am]

[6770-01]

6

[FCSC Meeting Notice No. 25-77]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings for the transaction of Commission business:

Date, Time, and Subject Matter

Wednesday, October 4, 1978, at 10:30 a.m.—Canceled.
Wednesday, October 11, 1978, at 10:30 a.m.—Canceled.
Wednesday, October 18, 1978, at 10:30 a.m.—Canceled.
Wednesday, October 25, 1978, at 10:30 a.m.—Canceled.

Dated at Washington, D.C. on September 28, 1978.

F. T. MASTERSON,
Executive Director.

[S-1998-78 Filed 9-29-78; 2:42 pm]

[7590-01]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, October 3, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

TUESDAY, OCTOBER 3: 10 A.M.

1. Discussion of employee allegations (approximately 1 hour, closed—exemption 6) postponed from September 27, 1978.
2. Discussion of personnel matter (approximately 1 hour, closed—exemption 6) postponed from September 27, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

SEPTEMBER 28, 1978.

[S-1997-78 Filed 9-29-78; 2:42 p.m.]

federal register

TUESDAY, OCTOBER 3, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HOSPITAL AND MEDICAL FACILITIES

Standards of Construction and Equipment

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[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

Standards of Construction and Equipment for Hospital and Medical Facilities

AGENCY: Public Health Service, HEW.

ACTION: Final rules.

SUMMARY: These rules establish the general standards of construction, modernization, and equipment for medical facilities assisted under title XVI of the Public Health Service Act. The standards themselves are contained in HEW publication (HRA) 78-14012, "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities," which is incorporated by reference in these rules.

EFFECTIVE DATE: October 3, 1978.

ADDRESS: Copies of the document containing the standards, HEW Publication (HRA) 78-14012, "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities," may be obtained from the Acting Director, Division of Resources Development, Room 6-41, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Colin C. Rorrie, Jr., Ph. D., Acting Director, Bureau of Health Planning and Resources Development, Room 6-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6850.

SUPPLEMENTARY INFORMATION: On October 28, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 56916) to propose rules implementing the requirement of section 1602(2) of the Public Health Service Act ("the Act"), 42 U.S.C. 300o-1(2), that the Secretary of Health, Education, and Welfare prescribe by regulations "general standards of construction, modernization, and equipment" for facilities assisted under title XVI of the Act.

The notice proposed revision of the standards contained in the document entitled, "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities," DHEW publication No. (HRA) 76-4000. This revision of the standards is the latest in a series of manuals developed to provide reasonable standards for the construction and modernization of hospitals and medical facilities. The current revision incorporates changes and additions reflecting the present state of the art and community needs.

Interested person were afforded the opportunity to submit written comments concerning the proposed regulations. A number of comments were received concerning the changes proposed. In considering these comments, the Secretary has endeavored to emphasize performance needs and to restrict this document to the appropriate minimum requirements while leaving maximum opportunity for innovation. Many suggestions made which were not accepted on this basis to become part of the minimum requirements nevertheless are very appropriate for guide materials and will be retained for possible inclusion in future publications.

Several of the comments called attention to additional requirements imposed by certain States, indicating that some areas have particular problems that may indicate a need for unique regulations. The Secretary recognizes the rights of States to impose further restrictions but has limited these minimum requirements to those which, insofar as possible, are applicable to the Nation as a whole.

A few comments indicated a fear that these construction requirements would be applied to existing facilities built in accordance with previously established standards. The Secretary has attempted to clarify that, while conformance with these minimums is desirable for all facilities, they are regulatory only for those portions of existing and new facilities that are assisted under title XVI of the Act.

Several comments indicated a concern that these minimums would be considered maximums. The Secretary stresses that these standards are indeed minimums; however, he recognizes that for higher levels of care it may be appropriate that the standards established herein be exceeded. The Secretary feels this is consistent with current efforts to contain costs in the hospital sector by not prescribing more expensive structural requirements unless there is a clear indication that such requirements will have a medical benefit. Consequently, these standards do not prescribe the provision of services for communities based on population or expected needs. Rather, the standards establish minimum construction requirements if a facility elects to provide such services.

Several comments were received recommending that energy conservation measures be addressed more specifically. Accordingly, the final regulations place greater emphasis on conservation. The standards have been clarified to permit use of variable air volume and load shedding systems in many areas of hospitals and medical facilities. In addition, there are provisions for the reduction of ventilation rates during periods of nonuse. Additional editorial clarifications have been made to encourage energy conservation and good design while maintaining considerations for life cycle operating costs and acceptable levels of patient care.

Some suggestions for energy conservation measures were rejected because of the potential deleterious effect upon patient care. The Department has attempted to avoid making any changes in the standards which might reduce operating costs at the expense of quality care.

Some comments suggested that the standards be more restrictive concerning insulation required, design temperatures, fenestration and siting, as well as limitations on the use of plastics, water, etc. However, the Secretary has decided to give the maximum flexibility possible in areas where there is no consensus as to the best approach to a design problem. He is concerned that overly restrictive standards in the absence of clear evidence in support of such standards will inhibit innovation and possibly reduce optimal care.

A number of suggestions resulted in additional emphasis on the need for maximum accessibility to facilities by the handicapped. Several comments raised specific objections to ambiguities in the referenced standards, American National Standards Institute (ANSI) 117.1, and called attention to items considered impractical, expensive, and if enforced literally, of dubious benefit. However, inclusion of this reference is required because of regulations enforced by other agencies. The ANSI standards are in the process of being revised, and the Department anticipates that this will result in a more precise specification of accessibility. It should be noted, however, that reference to the present Office of Facilities Engineering Guide Manual has been deleted since it in effect is an elaboration of the present ANSI 117.1 requirements. Revisions of the ANSI standards will be distributed as policy and/or guide material become available.

Several comments indicated a misunderstanding of the wording and intent of the sections covering nurseries and pediatrics. Accordingly, the standards for nurseries and pediatric services have been revised to distinguish between special care nurseries and intensive care units for infants (for which no standards are included). References to isolation type bassinets have been

deleted since most of these provide protection of the contained infant only. The maximum capacity of the nursery has been established at 16 regardless of the bassinet type. In addition, the requirement has been clarified that a single large work area may serve any number of individual nurseries on the condition that direct access to each nursery is provided and there is isolation from public or other hospital activities.

One comment requested that the requirements specify that design must be such that the pediatrician could examine the infant in its crib within the nursery.

However, the Secretary has chosen to leave the requirements as flexible as possible so as not to interfere with any techniques and procedures that are clinically acceptable.

Another comment urged that wood be accepted as noncombustible when treated with appropriate chemicals. The Secretary recognizes the advantages of wood construction for many facilities. However, the regulations implementing titles XVIII and XIX of the Social Security Act make reference to National Fire Protection Association (NFPA) Code 101 and, for the sake of consistency, the Secretary has decided that these requirements should be in agreement with those of NFPA 101, including the definition of noncombustibility.

The suggestion was made that all hospitals contain sprinkler systems, regardless of construction. The Secretary recognizes the value of sprinklers and notes that they are specifically required in hazardous areas but feels that the past record clearly supports the present position of requiring sprinklers throughout only in certain types of facilities.

Several comments were concerned about flame spread tests required for finishes, particularly for carpets. The NPRM proposed requiring the Steiner tunnel test (ASTM E-84).

However, this was questioned because that procedure requires that the sample be installed inverted on the ceiling of the test chamber. Recently, a radiant panel test has been developed testing carpet in its natural position on the floor. It was suggested that the radiant panel test be utilized in lieu of the Steiner tunnel test and that it be required only for carpet in corridors. All other carpet would be subject to the so-called pill test (passage of which is required for all carpet available on the market by regulations of the Consumer Product Safety Commission).

On the basis of tests and research conducted by the National Bureau of Standards (NBS), Department of Commerce, the Secretary has determined that utilization of the radiant panel test in corridors and means of egress will provide an adequate degree of safety. Inasmuch as this test is in the process of being recognized by the National Fire Protection Association (NFPA) and by the American Society for Testing and Material (ASTM) and is being required by other components of the Department, the Secretary has accepted the suggestion. Therefore, reference to the ASTM E-84 test has been deleted and NFPA 253-1978 (flooring radiant panel test) with a required minimum value of 0.45 watt/cm² has been substituted in its place.

Miscellaneous comments resulted in assorted changes in a variety of other areas: incinerator installations may in certain situations be in boiler room areas; cloth towels may be used in handwashing facilities in lieu of paper towels under certain circumstances; provisions are made for the scavenging of waste anesthetizing gases; the maximum water temperature for handwashing facilities is revised; tubs and or/sitz baths for post partum patients are allowed; smoke and fan controls for ventilation systems are required under certain conditions; and a requirement for the testing of medical gas systems is added to minimize potential errors.

Accordingly, 42 CFR Part 124 is amended as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation statement required under Executive Order 11821 and OMB Circular A-107.

Dated: May 2, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 25, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart C of 42 CFR Part 124 is added, to read as follows:

Subpart C—Standards of Construction, Modernization, and Equipment

Sec.
124.200 Applicability.
124.201 General requirements.
124.202 Conformity to State and local requirements.
124.203 Equipment.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 as amended (42 U.S.C. 216); sec. 1602(2) of the Public Health Service Act, 88 Stat. 2258 (42 U.S.C. 300o-1(2)).

§ 124.200 Applicability.

The provisions of this subpart apply to all applications for construction, modernization, or conversion assistance under this part.

§ 124.201 General requirements.

Plans and specifications for each project submitted to the Secretary of Health, Education, and Welfare shall be prepared in accordance with "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (DHEW Publication No. (HRA) 78-14012), which is hereby incorporated by reference and deemed published herein. This document is available to interested persons upon request to the Division of Resources Development, Bureau of Health Planning and Resources Development, Health Resources Administration, Department of Health, Education, and Welfare or to the Department's regional offices as listed in 45 CFR 5.31. The Secretary may approve plans and specifications which contain deviations from the requirements prescribed in DHEW publication No. (HRA) 78-14012 if he is satisfied that the purposes of the requirements have been fulfilled.

NOTE.—Incorporation by reference provision approved by the Director of the FEDERAL REGISTER on May 8, 1978, and is on file in the FEDERAL REGISTER library.

§ 124.202 Conformity to State and local requirements.

The design and construction covered by the plans and specifications must conform to the applicable State and local laws, codes, and ordinances and to the approved State medical facilities plan. The plans and specifications must be complete and adequate for contract purposes and, except for projects assisted under section 1625 of the Act, have the approval and recommendation of the State health planning and development agency designated under section 1521 of the Act.

§ 124.203 Equipment.

Equipment shall be provided in the kind and to the extent necessary for the proper functioning of the facility as planned.

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OCT 3 1978

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PART III

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Child Support, Enforcement, and Social Security Administration

■

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC); TITLE IV–A OF THE SOCIAL SECURITY ACT

Good Cause for Refusing To Cooperate

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[4110-07]

Title 45—Public Welfare

CHAPTER II—OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Good Cause for Refusing To Cooperate

AGENCY: Social Security Administration, HEW.

ACTION: Final regulation.

SUMMARY: On January 16, 1978 (43 FR 2170), the Department published a final regulation specifying standards under which State and local welfare agencies shall determine whether an applicant or recipient of aid to families with dependent children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support.

These regulations replace those standards with new standards which more clearly reflect the Department's intent and make other changes in response to public comments.

EFFECTIVE DATE: These regulations become effective on December 4, 1978. Any State may implement these provisions sooner at its discretion.

FOR FURTHER INFORMATION CONTACT:

Steve Henigson, telephone 202-472-4510.

SUPPLEMENTARY INFORMATION:

Background

Section 208 of Pub. L. 94-88, enacted August 1, 1975, requires the Secretary to promulgate standards under which State and local welfare agencies shall determine whether an applicant or recipient of aid to families with dependent children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support.

After a notice of proposed rulemaking (published August 13, 1976; 41 FR 34299) the Department adopted a final good cause regulation on January 16, 1978 (43 FR 2170); effective March 17, 1978. The preamble that accompanied that regulation fully explained its purpose and basis. That preamble, together with today's publication, should be consulted for a complete understanding of the following regulations.

Public Participation

The January 16, 1978, regulations solicited further public comment on the regulation for 90 days after the effective date. The Department believed the additional comment period was advisable because the NPRM was controversial and because additional comments would allow the Department to evaluate the effectiveness of the regulation and make necessary amendments. The Department received over 80 comments during the comment period. They were almost equally divided between State and local IV-D agencies and district attorneys on one hand and legal services and other advocate groups on the other.

In addition, in an effort to insure the broadest possible public participation in the process of evaluating the effect of the regulation, the Department held a public hearing on May 5, 1978. (Announced in the FEDERAL REGISTER Apr. 13, 1978; 43 FR 15457.) Twenty-one individuals testified at the hearing, representing State and local welfare and child support enforcement agencies, district attorneys, legal services organizations, children's advocate groups, psychiatric professional associations, and others. In addition, 29 written statements were submitted to become part of the hearing record. The hearing participants represented approximately the same mix of interests as the written comments.

Generally, the State or local agencies and district attorneys criticized the regulation as placing unreasonable burdens on the child support enforcement program; both in terms of administrative effort and by creating a "loophole" which would permit unjustified non-cooperation. The legal services and other advocate groups generally were supportive of the regulation or indicated a belief that it did not go far enough to insure that harm to the child or caretaker does not result from the child support enforcement process.

After reviewing all of the comments and the hearing record, the Department believes that some major regulatory changes are warranted. Those changes are discussed below. Other amendments have been made to insure that the Department's intent is clearly expressed. Among those are clarifications which were adopted after the regulation became effective and previously appeared in a program instruction issued by the Department (SSA-AT-78-13 (OFA) and OCSE-AT-78-8, both dated Apr. 5, 1978; notice published in the FEDERAL REGISTER on Apr. 13, 1978; 34 FR 15424). These clarifications responded to questions raised by some State agencies and Members of Congress.

In addition several changes have been made to make the regulations more easily readable. The regulation has been reformatted from one long section 45 CFR 232.13 to several shorter ones. The regulations now appear at 45 CFR 232.40 through 232.49.

Recognition of the Benefits of Establishing Paternity

Several commenters criticized the regulations for not requiring applicants and recipients and State and local agencies to weigh the benefits a child derives from establishing paternity at some time in the process of deciding a good cause claim. In the preamble to the prior regulations, the Department interpreted section 402(a)(26) of the Social Security Act, which conditions AFDC benefits on cooperation in paternity and child support enforcement proceedings, as implementation of the Congressional assumption that establishing paternity and securing support is in the best interest of the child.

Included among the potential benefits the child may derive from having paternity legally established are the right to inheritance and the possibility of social security, veterans or other government benefits. In addition the child benefits directly if the support payments obtained are greater than the AFDC grant. The Department concluded that Congress intended the good cause exception to excuse cooperation only in those relatively few cases in which the benefit of establishing paternity was outweighed by the harm that could result from an applicant's participation in those proceedings. The Department agrees that the benefits derived from establishing paternity are relevant to the child's best interest.

Thus, the Department has amended the regulations to expressly recognize the benefits of establishing paternity. Section 232.40(b)(2)(i)(A) now requires that the notice advising applicants and recipients of the availability of the good cause exception also advise them of the potential benefits a child may derive from establishing paternity and securing support. This change should assure that applicants and recipients will consider the benefits to be derived from cooperation prior to requesting the good cause exception.

Notice Requirements

Under the prior regulations, State and local agencies had to provide all applicants and recipients with a detailed notice prior to requiring them to cooperate under § 232.12. The Department thought that a detailed, complete notice would not only insure that applicants and recipients were fully informed of their right to claim good cause but also discourage applicants and recipients from asserting good cause claims in inappropriate cases. Due to the complexity of the notice provision the Department published a model notice which States could adopt for their own use. States that use the HEW model could be sure that their notice would be in conformity with the regulation.

Both hearing witnesses and letter writers objected to the model notice. When criticized from both the applicant's and State and local agencies' points of view, the notice was said to be too complex. Many thought that the detailed information included would be needed only by those applicants or recipients who actually intended to claim good cause, and that a simple, brief statement explaining the availability of the exception would suffice as a standard notice. Several witnesses stressed that applicants are already overwhelmed by the forms they receive during intake procedures and, at that time, could not possibly comprehend the information contained in the proposed notice. When criticized from an administrative point of view, the 3-page notice was thought to be too expensive to print in large quantities and too bulky to add to the applicant's or recipient's case file. In response to this criticism, the Department has amended the regulation that provided the requirements for good cause notices. Section 232.40(b) offers States the option of using either a two part or single combined notice form.

Under the first option, the State must issue an initial notice to all applicants and recipients who have been requested to cooperate in paternity or child support enforcement proceedings. This first notice must: advise the individual of the benefits a child may derive from establishing paternity (see the preceding discussion of those benefits); state that an unexcused refusal to cooperate will result in loss of AFDC eligibility for the caretaker relative; state that the individual has the right to claim good cause for refusing to cooperate; and inform the individual that additional information on the good cause exception is available upon request or following a good cause claim. The additional information is contained in the second notice, which will be provided "promptly," without the applicant or recipient having to reschedule a followup appointment or endure unnecessary delays. The second notice must explain: what circumstances will support a good cause finding; how to corroborate good cause; and, as applicable under the State plan, whether or not the child support enforcement agency will attempt to establish paternity and collect support without the caretaker's cooperation after a finding of good cause.

Under the latter option, States may elect to use a single combined notice form. These States must provide all appropriate applicants and recipients with one notice that contains all of the information required on each of the two notices described above.

The notice requirement has also been amended to clarify the notification procedure. The notice must be in writing and a copy must be furnished to the applicant or recipient. The new § 232.40(b)(1) also requires that the applicant or recipient and the caseworker acknowledge that the applicant or recipient received the notice. A copy of the notice, signed and dated by both the applicant or recipient and the case worker will be placed in the case record. The Department has revised its model notice to conform with these amendments. Appendix A to this regulation is a model 2-part notice which meets the requirements of § 232.40(b)(2).

Emotional Harm

Many commenters discussed whether AFDC applicants and recipients should be exempted from the cooperation requirement when cooperation potentially could cause emotional harm to either the caretaker relative or the child. The groups favoring emotional harm as a basis for granting the good cause exception included the American Academy of Child Psychiatry, the Center on Social Welfare Policy and Law, the Child Welfare League of America, the Children's Defense Fund, and numerous legal services organizations. The groups that opposed either the recognition of emotional harm as a basis for finding good cause or the emotional standard announced in the prior regulation included various State departments of social services and district attorneys.

Those who supported the Department's recognition of potential emotional harm as a basis for finding good cause offered examples of situations in which the emotional harm exception would prevent people from facing the choice of either subjecting themselves and their children to harm or losing their welfare benefits. However, in the majority of the cases described, cooperation threatened to result in physical as well as emotional harm. A number of the examples given were accounts of women who had been abused by their husbands and were threatened with similar or worse treatment if they either named the father or tried to collect child support from him. In several cases, women had spent years escaping from the fathers of their children, and said they would do without AFDC benefits rather than allow these men to learn their whereabouts. In a few of the cases cited, the father did not know that a child had been born, and the mother feared violent consequences were the father to learn of the child's existence through a paternity or support action. The Department believes that these types of cases are more properly evaluated in terms of potential physical harm because the alleged emotional harm essentially results from fear of physical harm.

Other factual situations presented did provide less hybrid examples of potential emotional harm. Several of these cases involved mothers who feared that a meeting between father and child would have a deleterious psychological effect on the child. This fear was aroused by various factors, including the character of the father (e.g., drug addict, criminal, or psychotic); the child's acceptance of a stepfather; and prior traumas the father had caused the child.

Those opposed to finding good cause on the basis of potential emotional harm expressed objections that ranged from strenuous to mild. Several argued that, because emotional harm is experienced subjectively, a genuine claim of emotional harm would be difficult to impossible to identify, and that cooperation would be excused in many unmeritorious cases, including cases in which the mother is in collusion with the father. While some who raised this point concluded that emotional harm should be eliminated as a basis for finding good cause, others concluded that the Department should amend the emotional harm regulations in order to minimize the danger of abuse. A second objection commenters raised was that the regulatory scheme required agency personnel to make difficult psychological evaluations that could only be properly made by mental health professionals.

In response to the former criticism, the Department always intended to limit good cause findings to cases in which cooperation would result in a serious and identifiable emotional problem. To further clarify its original intention, the Department has added a new subsection to the regulation, § 232.42(b), which defines "emotional harm." This definition accomplishes several goals. First, it specifies that "emotional harm" must be serious. Second, the definition minimizes the risk of excusing cooperation in unmeritorious claims by requiring the emotional impairment to be demonstrable and to have the observable consequence of substantially impairing the individual's functioning. However, the definition does not, as some commenters requested, require that the emotional harm be "lasting." Serious emotional harm is itself a strict good cause standard, and the Department wants to avoid the implication of an additional durational test which would have precluded serious impairments that were not likely to continue indefinitely.

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As to the involvement of mental health professionals, the Department does not believe that its regulations should require a consultation with a mental health professional in every case. The regulation leaves referral to a mental health professional to the State's discretion.

Section 232.40(c)(1) now requires an applicant or recipient who claims good cause to specify the basis of the claim, provide corroboration of the good cause circumstance, and, if requested, assist in an investigation of the claim. In accordance with the scheme set out in this regulation, the Department views emotional harm cases as falling into three classes.

The first class includes the upper threshold of cases in which applicants or recipients who claim good cause on the basis of emotional harm are able to clearly corroborate that claim. These individuals would typically provide the State or local agency with medical records or other documentation of a current emotional condition that would obviously be aggravated by the required cooperation. The Department thinks that the State agencies should not have to incur the expense and inconvenience of arranging additional agency-funded psychiatric consultations in these cases.

The second class of cases includes the lower threshold of clearly unmeritorious claims. In these cases, the circumstance presented by the applicant or recipient, even if true, would not meet the regulatory test for emotional harm. Again, the Department feels that psychiatric consultations would be unnecessary in these cases.

The third class of cases includes the middle ground cases in which, with the currently available information, the State or local agency is unable to determine whether or not good cause exists. The Department agrees that proper assessment of these claims may necessitate sending the claimant to a mental health professional (e.g., psychiatrist, psychologist, or psychiatric social worker) for an evaluation and report. The resulting medical record could then be used by the State or local agency in making the good cause determination. In this group of cases, the applicant or recipient still has the burden of providing corroborative evidence under § 232.40(c)(1), and a good cause determination could be conditioned on her submission to the required evaluations. A mental health evaluation may be available to the good cause claimant through the medicaid or social services programs. If it is necessary for the State to obtain the evaluation, the costs incurred by the State will be subject to Federal financial participation at the regular title IV-A rate.

The revised regulation retains the requirement that, in making good cause determinations based on emotional harm, the agency must consider several special factors. (The requirement is now at § 232.42(c).) This requirement is not intended to necessitate referral to a mental health professional. As discussed above, in cases at either end of the spectrum, the agency will be able to determine whether or not good cause exists, including a consideration of the relevant special factors listed at § 232.42(c), without resorting to outside referral.

Finally, commenters criticized the reference to "emotional upset" in the former § 232.13(g)(1)(iii). That requirement is now at § 232.42(c)(3), and the word "upset" has been deleted and replaced by the word "impairment."

Proof of Good Cause

Commenters criticized several aspects of the prior regulatory scheme for substantiating good cause claims. State, county, and city welfare agencies criticized the regulations for imposing unreasonably burdensome duties on them. More specifically, they opposed both their responsibility to help applicants and recipients gather evidence of good cause and their responsibility to conduct good cause investigations. District attorneys criticized the regulations for failing to specify that, despite agency assistance in substantiating their claims, applicants and recipients have the burden of proving a good cause circumstance. Legal aid, welfare rights, and other advocate groups criticized the regulations for not compelling State and local agencies to accept the only form of evidence that most battered wives would be able to present, i.e., sworn statements from themselves or some party with knowledge of the beatings. Some commenters objected to the regulation's exclusive list of documentary evidence that could support an uninvestigated good cause finding, arguing that the list was too restrictive. Other commenters argued that only the last item on the list of acceptable documentary evidence, which allowed HEW to establish additional forms of acceptable evidence through "appropriate issuances," should be deleted.

In an attempt to accommodate the legitimate concerns of as many commenters as possible, the Department has revamped the regulatory provisions on evidence. The previous requirement of an agency investigation in every case in which a claimant did not produce a specific form of documentary evidence is now abandoned. The new regulation specifies that an applicant or recipient has the burden of establishing the existence of good cause and makes agency investigation discretionary with the State.

The regulation at § 232.40(c)(1) clearly sets forth the good cause claimant's burden of establishing the existence of a good cause circumstance that meets the test of the regulation. First, the claimant is required to specify the circumstance which she believes provides sufficient good cause to excuse her from the cooperation requirement. Second, the claimant must, with one very limited exception discussed below, provide corroboration of the good cause circumstance. Finally, the claimant must, upon request, provide sufficient information to permit the agency to investigate the good cause claim. The requested information may include the absent father's name and address, if known. If the claimant does not satisfy this requirement, the regulation provides that the agency will determine that good cause does not exist.

The above rule has an important exception (§ 232.43(f)) under which the State or local agency can find good cause based on the anticipation of physical harm even though the applicant or recipient has not provided corroborative evidence, if such corroborative evidence is not available. The Department added this exception to the corroboration requirement in response to a point raised by several representatives of battered women, that battered women are often too afraid or too ashamed to tell anyone about the beatings they have received and that, therefore, they would not be able to corroborate their valid good cause claims. The Department was cognizant of the need to draw this exception narrowly. Consequently § 232.43(f) requires State or local agencies making a determination of good cause under the exception to note in the case record that the claim is credible without corroborative evidence and that such evidence is not available.

The claimant has the burden of establishing her credibility as well as explaining why no evidence is available. The regulation also requires the State to conduct an investigation of this limited class of claim. While such an investigation may not necessarily establish the good cause circumstance, it should verify the credibility of the claimant. After conducting its investigation, the Agency will be permitted to make a finding that good cause exists, but such finding is not effective until reviewed and approved by supervisory personnel of the title IV-A agency.

In all but the very few cases that fall within the § 232.43(f) exception, then, applicants and recipients must corroborate their good cause claims. When corroboration is required, the good cause claimant must provide that corroborative evidence within 20 days from the day the claim was made. The

regulation at § 232.43(b) permits the agency to grant an exception in those unusual cases where the claimant can not obtain the required evidence within 20 days. This exception must be approved by supervisory personnel.

The regulation (§ 232.43(d)) also specifically authorizes, but does not require, the agency after reviewing the claimant's corroboration, to request that additional corroborative evidence be provided. Until this additional evidence is submitted, the good cause claimant would not have met the corroboration requirement imposed by § 232.40(c)(1)(ii). Since aid can not begin until all documents are submitted, the Department was concerned that the claimant be notified promptly and specifically of the additional corroboration needed and has included a requirement for such notification in the regulation.

The regulation also clarifies the agency's duty to help the applicant gather evidence. The prior regulation simply required State and local agencies, upon request to "assist the applicant or recipient in obtaining the required evidence." This language evoked fears that agencies would have to conduct a "fishing expedition" every time an applicant or recipient requested them to do so. The new regulation (§ 232.43(e)) expressly limits the agency's responsibility to granting reasonable assistance by advising applicants and recipients how to obtain documents and by undertaking reasonable efforts to obtain any specific documents the applicant or recipient is not reasonably able to obtain on her own. These changes conform with recommendations from commenting State agencies, yet still assure that claims will not be denied because applicants or recipients do not understand how to obtain available documents or because institutions refuse to locate records for members of the public.

The State or local agency's method of reviewing the claim has also undergone several changes in the new regulations. First, the agency is no longer required to accept any of the several specified documents as exclusive forms of evidence in an uninvestigated good cause claim. Instead the new § 232.43(c) lists the five forms of documentary evidence named in the prior regulation as examples of the types of evidence the agency should consider. This change is responsive to complaints that the list of evidence in the prior regulation was too restrictive and inflexible.

Additionally, the Department has made two changes in the list of documents itself. It has deleted the provision which allowed HEW to announce by appropriate issuances acceptable forms of evidence. The Department has also expanded the list so that it now recognizes sworn statements from individuals other than the applicant or recipient with knowledge of the facts upon which the applicant's or recipient's good cause claim is based. This expansion is responsive to assertions by legal aid societies that many AFDC applicants and recipients would not often contact the official sources recognized in the other categories of evidence if they had been beaten or experienced some other abuse that would be relevant to a good cause claim. The Department is requiring these statements to be sworn in order to minimize the risk of fraud. Under § 232.43(e), the agency will provide the applicant or recipient with assistance in obtaining sworn statements.

The Department's recognition of sworn statements as evidence of good cause does not imply that an applicant or recipient can corroborate her good cause claim with her own sworn statement. States may, at their option, require good cause claimants to assert the basis of their claims on their AFDC applications, which are signed under penalty of perjury. States may also accept an affidavit from the caretaker relative as part of the good cause investigation or determination process. However, sworn statements obtained through either method would not satisfy the corroboration requirement of § 232.40(c).

Once the proper corroborative evidence has been submitted, § 232.43(a) now requires the State or local agency to examine the evidence and determine whether it verifies the good cause claim. To make a final determination that good cause exists the agency must be satisfied that the claim meets the stringent test of these regulations. For example, if a claimant submits a mental health prognosis, to find good cause, the agency must be satisfied that the potential emotional harm is serious.

Pursuant to § 232.43(g), the agency may, at its discretion, either decide the claim on the basis of the corroborative evidence plus the claimant's statements or may conduct an investigation of the claim. The Department has made agency investigations discretionary in order to simplify the process of deciding good cause claims. The nature and scope of the investigation is also left to agency discretion.

The new regulation, like the prior regulation, conditions a good cause finding on the applicant's or recipient's proof that cooperation is "reasonably anticipated to result in" physical or emotional harm. The Department developed this burden of proof in response to the criticism that the NPRM standard of "likely to result in" implied an unintended technical burden of proof. Although some commenters were dissatisfied with "reasonably anticipated to result," and suggested alternatives (such as "proves beyond a reasonable doubt," and "shows by clear and convincing proof"), the Department rejected these alternatives. The Department finds "reasonably anticipated to result in" a sufficiently stringent test.

In the cases of applicants and recipients who believe they can substantiate their good cause claim without the State or local agency contacting the putative or absent parent, the regulations provide alternate remedies, if the agency refuses to find good cause without this contact. The applicant or recipient can, as before, present additional evidence that would eliminate the need for the contact or withdraw the application for assistance. The regulation is now clear that recipients may have the AFDC case closed. (See § 232.43(h)(2) (i) and (ii).) In addition, the claimant can also have the claim denied (§ 232.43(h)(2)(iii)). Under 45 CFR 205.10 this remedy, denial of the claim, gives the claimant the right to a review of the good cause decision.

The regulations require the State to record in the AFDC case, record the final determination that good cause does or does not exist (§ 232.41(b)). Some State AFDC agencies complained that this requirement was overly burdensome in that it requires that the case record reflect the agency's findings and basis for the determination. This provision parallels the requirement at 45 CFR 206.10(a)(8) that each decision regarding AFDC eligibility or ineligibility be supported by facts in the applicant's or recipient's case record. The Department believes such documentation is necessary to permit adequate review of good cause determinations.

In summary, the changes in the regulations are intended to limit the administrative burden of deciding good cause claims by making investigations discretionary in all cases rather than mandatory in some cases and by requiring all but excepted applicants and recipients to corroborate their good cause claims. The regulations are also designed to mitigate applicants' and recipients' burden of corroboration by recognizing sworn statements (other than from the applicant or recipient) as a form of corroborative evidence and by including provisions designed to accommodate the one limited category of uncorroborable claims.

Privacy and Confidentiality Issues

Commenters were concerned that the proposed good cause procedures posed two threats to the privacy of applicants and recipients. Some foresaw that the IV-D agency might gain access to the evidence gathered and submitted in support of a successful

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good cause claim. Others were troubled by the possibility that, as a result of agency attempts to verify the good cause claim, the absent parent or putative father might learn of the applicant's or recipient's whereabouts, which could be the very result that the good cause claim is intended to prevent.

In response to the first concern, section 402(a)(9) of the Social Security Act requires each State plan under title IV-A of the Social Security Act to provide safeguards restricting the use of disclosure of information concerning applicants or recipients to "purposes directly connected with * * * the plan or program of the State under (among others) part * * * D of this title." Regulations at 45 CFR 205.50 which implement the statutory safeguards require that restrictions on improper uses or disclosures of information must be enacted through State statutes which impose legal sanctions on violators. 45 CFR 302.18 makes the same safeguards applicable to information contained in title IV-D case records. These safeguards should allay fears that IV-D agencies will gain access to the evidence supporting a good cause claim and then use the information for a purpose not directly connected with the IV-D program, e.g., conducting totally State funded paternity or child support enforcement proceedings. Thus, even though the evidence supporting a successful good cause claim may be revealed to the IV-D agency pursuant to § 232.44, IV-D would only be able to use the evidence in a paternity or child support enforcement proceeding conducted pursuant to § 232.49. That regulation conditions the initiation of paternity or support enforcement proceedings following a finding that good cause exists on a IV-A agency determination that the proceedings would not cause harm to the child or caretaker relative if conducted without their participation. The regulation further requires that, if IV-A approves paternity or support proceedings, the applicant or recipient be notified of the IV-A decision and given an opportunity to withdraw her application or have the case closed. This IV-A review followed by a notice giving the applicant or recipient an opportunity to withdraw her application, or have the case closed should sufficiently protect applicants and recipients from harmful consequences of any IV-D activities that postdate a finding of good cause.

The second concern raised, that the putative father or absent parent will learn the whereabouts of applicants and recipients as a result of the agency's good cause investigation, focuses on the discretion of agency personnel. While the Department cannot assure that all good cause investigations will be free of administrative error, the Department is sensitive to the problem raised and does intend to issue instructional materials designed to minimize this risk.

Deadlines on Good Cause Determinations

The new regulations now require the State agency to establish a time frame of 45 days or less for reaching good cause determinations. The allowable time period starts to run when the applicant or recipient makes a good cause claim. Section 232.41(c) also allows the State or local agency to take longer than this time limit in cases in which the agency would have great difficulty gathering the information required to verify the claim or where the claimant has not provided corroboration promptly. The regulation requires proper documentation of the case record whenever this exception is invoked.

This deadline was added because the Department, like several commenters, felt that some time frame for deciding good cause claims was desirable in order to prevent lax enforcement of the cooperation requirement. Although commenters who opposed the inclusion of a deadline were concerned that a deadline would encourage arbitrary denials in cases that required unusually time consuming verification, the Department believes that the exception to the time limits is sufficiently flexible to avert this danger.

The Department adopted 45 days as a reasonable time limit. It coincides with the 45 day maximum time period a state plan may allow for making initial AFDC eligibility determinations. This time standard is also consistent with commenters' estimates of how long reaching a good cause determination would take. The department believes that, since the regulation will allow additional time in those cases in which it is difficult to obtain necessary information, § 232.41(c) has maintained sufficient flexibility to avoid rushed decisions.

Additionally, the Department would like to emphasize that § 232.41(c) is not intended to defeat the policy of § 232.46, which prohibits State or local agencies from denying, delaying or discontinuing assistance pending a good cause. determination. Thus, if the State or local agency determines that an applicant who has claimed good cause and complied with the requirement of § 232.40(c) is otherwise eligible for AFDC, aid will begin immediately, even though the time period in which the agency must decide the good cause claim has not yet elapsed.

Periodic Review

The prior regulation required periodic review of determinations that good cause exists not less frequently than at each required redetermination of AFDC eligibility. Several State and local agencies commented that the periodic review requirement was unnecessary and overly burdensome. They argued that in many cases in which good cause is found the circumstances which provide a basis for the determination will not change and the review would be a futile exercise.

In response to this argument the Department has modified the periodic review requirement (45 CFR 232.47) to indicate that review is only necessary when the original good-cause determination was based on a circumstance that is subject to change.

This regulation establishes the minimum review requirement. The States may, of course, conduct more frequent reviews. In addition, the Department does not intend that the State or local agency must make a complete good-cause determination for every review. The agency need only examine the cases subject to change and follow-up on those cases where a change in circumstances has occurred.

Reviews of good-cause determinations made under the old regulation which are conducted after the effective date of these new good-cause regulations must be made under the new good-cause standards at the next redetermination. If the old good-cause determination does not meet the test of the new regulation the good-cause finding will be rescinded.

Data

In its announcement of the May 5 hearing, the Department requested testimony addressing, among other things, how the current regulation was working. The Department had hoped to receive date with which it could assess whether the regulation was, as some commenters had feared, causing unjustified good-cause findings and diminishing the effectiveness of the child support enforcement program. While no statistical data were presented the majority of commenters expressed the opinion that there would be few good-cause claims and the exception would rarely come into play. A few commenters presented the opposite view that while valid good-cause exception should be few, good cause would be claimed and determinations would have to be made in a great number of AFDC cases.

These regulations retain the requirement that the State keep records of activities under the good-cause exception. Using these data, the Department will carefully monitor the effects of these regulations.

Enforcement Without the Caretaker's Cooperation

Section 232.49, formerly § 232.13(m), permits IV-D agencies to proceed to establish paternity or enforce support without the participation of the child or caretaker relative, if the IV-A agency determines that, although good cause is present, enforcement could be accomplished without risk of harm. Most commenters thought that the regulation envisioned a nearly impossible situation. They believed that absent fathers would not readily distinguish between support enforce-proceedings brought with the mother's cooperation and those brought without her cooperation is just as likely to result in harm, enforcement without her cooperation. Therefore, if the mother's cooperation is likely to result in the same harm. In response to this criticism, the Department has made this provision of the regulation a State plan option.. The State can elect to make a second determination as to whether or not IV-D activities can proceed without the caretaker's cooperation after every determination that good cause exists; or the State can elect to avoid, in all cases, the second determination and halt all IV-D activities once good cause is found. The Department did not delete the provision because it feels that the provision serves the legitimate purpose of assuring that the good-cause exception causes the least possible interference with IV-D activities.

The Department does not think that the regulation poses any immediate threat that would outweigh its benefit. On the other hand, the Department does not feel justified in making the provision mandatory on the States. The Department does not anticipate that the provision will be utilized in a sufficient number of cases to warrant imposing a potentially burdensome administrative requirement on the States.

Eligibility Pending a Good-Cause Determination

Numerous comments addressed the question of whether applicants who are otherwise eligible for AFDC should receive financial assistance during the period in which their good-cause claims are pending. The majority strongly supported paying benefits during this period.

The few who opposed the payment of benefits pending the good-cause determination based their position on section 402(a)(26) of the Social Security Act. They argued that section 402(a)(26) conditions AFDC eligibility on either cooperating in paternity and child support enforcement proceedings or being "found" to have good cause for refusing to cooperate. Applicants and recipients who have claimed good cause but have not yet been found by the State or local agency to have good cause, they asserted, could not satisfy either of these eligibility conditions.

The Department was not persuaded by this argument and has decided to maintain the policy of not denying, delaying, or discontinuing AFDC payments to otherwise eligible individuals who have furnished the evidence and the information required to support a good-cause claim.

AFDC recipients are by definition needy, and suspending or denying aid pending a good-cause determination could impose such hardships that individuals eligible for good-cause exception may be deterred from making a claim, fearing even a temporary loss or delay of benefits. It is the Department's position that once an applicant or recipient has corroborated a good-cause claim, sanctions for noncooperation cannot be imposed until the State or local agency actually denies the good-cause claim. The Department believes that the revised regulations minimize the potential for abuse and the possible costs attributable to payments on claims that are eventually denied. In situations where good cause is claimed at time of initial AFDC application, a finding of eligibility for the mother or other caretaker relative cannot be made until the applicant has provided corroboration of the good-cause claim.

The States will have an incentive to raise the cooperation issue during the initial application process and then promptly determine whether or not good cause exists before the question of eligibility is decided and thereby avoid starting AFDC payments for caretaker relatives who are ineligible due to nonexcused refusal to cooperate.

The Department's position is consistent with the legislative history of the good-cause exception. The congressional intent was that the support enforcement process not cause harm to the same children it was attempting to help through establishing paternity and securing support. The Department believes that a policy that would deny or delay aid pending a good-cause determination would result in needless hardship to many children and would be inconsistent with congressional intent.

Federal Financial Participation in Good-Cause Investigations and Determinations

Several commenters again suggested that good-cause investigations and determinations should receive the higher rate of Federal financial participation available for title IV-D activities. The Department has not changed its opinion that good-cause investigations and decisions are by statute title IV-A activities. Consequently, the Department does not have the discretionary authority to provide Federal financial participation for these activities at the rate available for title IV-A activities.

Effective Date

Today these regulations were submitted to Congress and to the Senate Committee on Finance and the House Committee on Ways and Means for their review. These regulations will become effective on December 4, 1978. States are free to implement them sooner, if they so desire.

45 CFR Part 232 is amended by amending § 232.12 and by revising the content of § 232.13 and redesignating it as §§ 232.40 through 232.49.

1. The introductory text of paragraph (a) in 45 CFR 232.12 is amended to read as follows:

§ 232.12 Cooperation in obtaining support.

The State plan must meet all requirements of this section.

(a) The plan shall provide that as a condition of eligibility for assistance, each applicant for or recipient of AFDC will be required to cooperate (unless good cause for refusing to do so is determined to exist in accordance with §§ 232.40 through 232.49 of this chapter) with the State in:

* * * * * * *

2. The content of 45 CFR 232.13 is revised and redesignated as § 232.40 through 232.49 which are added to Part 232 to read as set forth below; § 232.13 is vacated and reserved. The table of contents for Part 232 now reads as set forth below.

Sec.

232.1 Scope.
232.2. Child support program; State plan requirements.
232.10 Furnishing of social security numbers.
232.11 Assignment of rights to support.
232.12 Cooperation in obtaining support.
232.13 [Reserved]
232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.
232.30 Cost allocation; joint staff and service staff.
232.40 Claiming good cause for refusing to cooperate.
232.41 Determination of good cause for refusal to cooperate.
232.42 Good cause circumstances.
232.43 Proof of good cause claim.
232.44 Participation by the State IV-D agency.
232.45 Notice to the IV-D agency.
232.46 Granting or continuation of assistance.
232.47 Periodic review of good cause determination.
232.48 Record keeping in good cause.
232.49 Enforcement without the caretaker's cooperation.

Appendix A—Model Two-Part Good-Cause Notice

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§ 232.40 Claiming good cause for refusing to cooperate.

(a) *Opportunity to claim good cause.* The plan shall provide that an applicant for, or recipient of, AFDC will have the opportunity to claim good cause for refusing to cooperate as required by § 232.12.

(b) *Notice to applicant or recipient.* (1) The plan shall provide that: (i) Prior to requiring cooperation under § 232.12, the State or local agency will notify the applicant or recipient of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination;

(ii) The notice will be in writing, with a copy furnished to the applicant or recipient; and

(iii) The applicant or recipient and the caseworker will acknowledge that the applicant or recipient received the notice by signing and dating a copy of the notice, which will be placed in the case record.

(2) The notice may be in two parts. If the State elects a two part notice:

(i) The first notice shall: (A) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity and securing support;

(B) Advise the applicant or recipient that by law, cooperation in establishing paternity and securing support is a condition of eligibility for AFDC;

(C) Advise the applicant or recipient of the sanction provided by § 232.12 for refusal to cooperate without good cause;

(D) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the State or local agency determines, in accordance with this section, that there is good cause, the applicant or recipient will be excused from the cooperation requirement; and

(E) Advise the applicant or recipient that upon request, or following a claim of good cause, the agency will provide further notice with additional details concerning good cause.

(ii) The second notice, which will be provided promptly upon request of the applicant or recipient or following a claim of good cause, shall:

(A) Indicate that the applicant or recipient must provide corroborative evidence of a good cause circumstance (as specified in § 232.43 (b) and (f)) and must, when requested, furnish sufficient information to permit the State or local agency to investigate the circumstances;

(B) Inform the applicant or recipient that upon request, the State or local agency will provide reasonable assistance in obtaining the corroborative evidence;

(C) Inform the applicant or recipient that on the basis of the corroborative evidence supplied and the agency's investigation if necessary, the State or local agency will determine whether cooperation would be against the best interests of the child for whom support would be sought;

(D) List the circumstances (as specified in § 232.42) under which cooperation may be determined to be against the best interests of the child;

(E) Inform the applicant or recipient that the State Child Support Enforcement agency may review the State or local agency's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause; and

(F) As applicable, (see § 232.49) inform the applicant or recipient that either: The State Child Support Enforcement agency will not attempt to establish paternity and collect support in those cases where the applicant or recipient is determined to have good cause for refusing to cooperate; or the State Child Support Enforcement agency may attempt to establish paternity and collect support in those cases where the State or local agency determines that this can be done without risk to the applicant or recipient if done with out their participation.

(3) The State or local agency may, at its option, provide a single combined notice that contains all of the elements in paragraphs (b) (2) (i) and (ii) of this section.

(4) Appendix A to this Part 232 is a suggested two part notice format that meets the requirements of this section.

(c) *Requirements upon applicant or recipient.* (1) The plan shall provide that an applicant for, or recipient of, AFDC who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Such applicant or recipient will be required to:

(i) Specify the circumstances (see § 232.42) that the applicant or recipient believes provide sufficient good cause for not cooperating.

(ii) Corroborate the good cause circumstances in accordance with § 232.43; and

(iii) If requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to § 232.43(g).

(2) The plan shall provide that if the requirements of paragraph (c)(1) of this section are not met, the State or local agency shall on that basis determine that good cause does not exist.

§ 232.41 Determination of good cause for refusal to cooperate.

The plan shall provide that:

(a) For each applicant for or recipient of AFDC who claims to have good cause, the State or local agency will determine, in accordance with §§ 232.40, 232.42 and 232.43, whether good cause exists.

(b) The State or local agency's final determination that good cause does, or does not exist will:

(1) Be in writing;

(2) Contain the agency's findings and basis for determination; and

(3) Be entered into the AFDC case record.

(c) The State or local agency's determination of whether or not good cause exists will be made within a State established time standard that does not exceed 45 days from the day the good cause claim is made. The State or local agency may exceed this time standard only where the case record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by § 232.43(b).

(d) If the State or local agency determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in imposition of the sanction provided by § 232.12.

§ 232.42 Good cause circumstances.

(a) *Circumstances under which cooperation may be "against the best interests of the child."* The plan shall provide that the State or local agency will determine that cooperation in establishing paternity and securing support is against the best interests of the child only if:

(1) The applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(i) Physical harm to the child for whom support is to be sought;

(ii) Emotional harm to the child for whom support is to be sought;

(iii) Physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

(iv) Emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(2) At least one of the following circumstances exists, and the State or local agency believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(i) The child for whom support is sought was conceived as a result of incest or forcible rape;

(ii) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(iii) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than 3 months.

(b) *Physical Harm and Emotional Harm defined.* Physical harm and emotional harm must be of a serious nature in order to justify a finding of good cause under paragraph (a)(1) of this section. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

(c) *Special considerations related to emotional harm.* The plan shall provide that, for every good cause determination which is based in whole or part upon the anticipation of emotional harm to the child, the parent or the caretaker relative, as provided for in paragraphs (a)(1) (ii) and (iv) of this section, the State or local agency will consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional health history of the individual subject to emotional harm;

(3) Intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

§ 232.43 Proof of good-cause claim.

The plan shall provide that:

(a) The State or local agency will make a good-cause determination based on the corroborative evidence supplied by the applicant or recipient only after it has examined the evidence and found that it actually verifies the good-cause claim.

(b) The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the State or local agency determines the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, the agency shall allow a reasonable additional period of time upon approval by supervisory personnel.

(c) A good-cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, social sevices, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought;

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption; and

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good-cause claim.

(d) If after examining the corroborative evidence submitted by the applicant or recipient, the State or local agency wishes to request additional corroborative evidence which is needed to permit a good-cause determination, the agency will:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and

(2) Specify the type of document which is needed.

(e) Upon request, the State or local agency will:

(1) Advise the applicant or recipient how to obtain the necessary documents; and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

(f) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and defined in § 232.42 (a) and (b), and corroborative evidence is not submitted in support of the claim:

(1) The State or local agency will investigate the good-cause claim when the agency believes that:

(i) The claim is credible without corroborative evidence; and

(ii) Corroborative evidence is not available.

(2) Good cause will be found if the claimant's statement and the investigation which is conducted satisfies the agency that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by supervisory personnel and the agency's findings will be recorded in the case record.

(g) The State or local agency may further verify the good-cause claim if the applicant's or recipient's statement of the claim required by § 232.40(c)(1)(i), together with the corroborative evidence do not provide sufficient basis for making a determination. When the State or local agency determines that it is necessary, the agency may conduct an investigation of good-cause claims to determine that good cause does or does not exist.

(h) If it conducts an investigation of a good-cause claim, the State or local agency will:

(1) Contact the absent parent or putative father from whom support would be sought if such contact is determined to be necessary to establish the good-cause claim; and

(2) Prior to making such necessary contact, notify the applicant or recipient to enable the applicant or recipient to:

(i) Present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(ii) Withdraw the application for assistancse or have the case closed; or

(iii) have the good-cause claim denied.

§ 232.44 Participation by the State IV-D Agency.

The plan shall provide that:

(a) Prior to making a final determination of good cause for refusing to cooperate, the State or local agency will:

(1) Afford the IV-D agency the opportunity to review and comment on the findings and basis for the proposed determination; and

(2) Consider any recommendation from the IV-D agency.

(b) The State or local agency will give the IV-D agency the opportunity to participate in any hearing (under § 205.10 of this chapter) that results from an applicant's or recipient's appeal of any agency action under §§ 232.40 through 232.49.

§ 232.45 Notice to the IV-D Agency.

The plan shall provide that:

(a) If the notice, required by § 235.70 of this chapter, has previously been

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provided to the IV-D agency, the State or local agency will promptly report to the IV-D agency that good cause has been claimed;

(b) The State or local agency will promptly report to the IV-D agency all cases in which it has determined that there is good cause for refusal to cooperate and if applicable, its determination whether or not child support enforcement may proceed without the participation of the caretaker relative; and

(c) The State and local agency will promptly report to the IV-D agency all cases in which it has determined that there is not good cause for refusal to cooperate.

§ 232.46 Granting or continuation of assistance.

The plan shall provide that the State or local agency will not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements of §§ 232.40(c) and 232.43 to furnish corroborative evidence and information.

§ 232.47 Periodic review of good cause determination.

The plan shall provide that the State or local agency will:

(a) Periodically review, not less frequently than at each redetermination of eligibility required by § 206.10(a)(9) of this chapter, those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change; and

(b) If it determines that circumstances have changed such that good cause no longer exists, it will rescind its findings and proceed to enforce the requirements of § 232.12 of this chapter.

§ 232.48 Record keeping in good cause.

The plan shall provide that the State will maintain records of the activities under this section that will make it possible to submit to the Department, upon request, data concerning:

(a) The total number of cases in which the applicant or recipient claimed to have good cause for refusing to cooperate;

(b) The number of cases in which the claim was made without corroborative evidence under the provisions of § 232.43(f);

(c) The total number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate;

(d) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate without corroborative evidence under the provisions of § 232.43(f);

(e) The number of cases in which the applicant or recipient was fund to have good cause for refusing to cooperate based solely on an examination of the corroborative evidence supplied by the applicant or recipient with no investigation;

(f) The number of cases where good cause was claimed by an applicant prior to receiving AFDC and the final determination that good cause did not exist was made after the applicant was determined to be eligible for AFDC;

(g) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate but there was a determination pursuant to § 232.49 that child support enforcement may proceed without the participation of the caretaker relative; and

(h) For those cases in which good cause was found, which of the circumstances specified in § 232.42 was found to exist.

§ 232.49 Enforcement without the caretaker's cooperation.

The State plan may provide that:

(a) If the State or local agency makes a determination that good cause exists it will also make a determination of whether or not child support enforcement could proceed without risk of harm to the child or caretaker relative if the enforcement or collection activities did not involve their participation;

(b) This determination will be in writing, contain the agency's findings and basis for determination, and be entered into the AFDC case record;

(c) If the IV-A agency excuses cooperation but determines that the IV-D agency may proceed to establish paternity or enforce support, it will notify the applicant or recipient to enable such individual to withdraw their application for assistance or have the case closed; and

(d) Prior to making a determination under this paragraph, the State or local agency will afford the IV-D agency an opportunity to review and comment on the findings and basis for the proposed determination and consider any recommendation from the IV-D agency.

APPENDIX A—MODEL TWO-PART GOOD CAUSE NOTICE

This suggested two-part notice format meets the notice requirements of § 232.40(b)(2). The first notice should be provided prior to requiring the applicant's or recipient's cooperation. The second notice should be promptly provided if the applicant or recipient so requests or following a claim of good cause. Receipt of the notice will be acknowledged by the applicant's or recipient's and the worker's signatures. The signed copy should be placed in the AFDC case record with one copy retained by the applicant or recipient.

Before being used by a State this model should be adapted by substituting the appropriate agencies' names.

NOTICE OF REQUIREMENT TO COOPERATE AND RIGHT TO CLAIM GOOD CAUSE FOR REFUSAL TO COOPERATE IN CHILD SUPPORT ENFORCEMENT

BENEFITS OF CHILD SUPPORT ENFORCEMENT

Your cooperation in the child support enforcement process may be of value to you and your child because it might result in the following benefits:

- Finding the absent parent;
- Legally establishing your child's paternity;
- The possibility that support payments might be higher than your welfare grant; and
- The possibility that you and your children may obtain rights to future social security, veterans, or other government benefits.

WHAT IS MEANT BY COOPERATION?

The law requires you to cooperate with the welfare and child support agencies to get any support owed to you and any of the children for whom you want AFDC, unless you have good cause for not cooperating.

In cooperating with the welfare or child support agency, you may be asked to do one or more of the following things:

- Name the parent of any child applying for or receiving AFDC, and give information you have to help find the parent;
- Help determine legally who the father is if your child was born out of wedlock;
- Give help to obtain money owed to you or the children receiving AFDC; and
- Pay to the State any money which is given directly to you by the absent parent (you will continue to get your full AFDC grant from the State).

You may be required to come to the welfare office, child support office, or court to sign papers or give necessary information.

WHAT IS MEANT BY GOOD CAUSE?

You may have good cause not to cooperate in the State's efforts to collect child support. You may be excused from cooperating if you believe that cooperation would not be in the best interest of your child, and if you can provide evidence to support this claim.

IF YOU DO NOT COOPERATE AND YOU DO NOT HAVE GOOD CAUSE

- You will be ineligible for AFDC.
- Your children will still be eligible for AFDC for their own needs. Your children's grant will go to another person, called a "protective payee."

HOW AND WHEN YOU MAY CLAIM GOOD CAUSE

- If you want to claim good cause, you must tell a worker that you think you have good cause. You can do this at any time you believe you have good cause not to cooperate.
- If you claim "good cause" you must be given another notice. This second notice will explain the circumstances under which the Welfare Agency may find good cause, and the type of evidence or other information the Welfare Agency needs to decide your claim. You may also ask for this second notice to help you decide whether or not to claim good cause.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

.....
(Signature of applicant/recipient)

.....
(Date)

I have provided the applicant/recipient with a copy of this notice.

.....
(Signature of Worker)

.....
(Date)

SECOND NOTICE OF RIGHT TO CLAIM GOOD CAUSE FOR REFUSAL TO COOPERATE IN CHILD SUPPORT ENFORCEMENT

GOOD CAUSE CIRCUMSTANCES

You may claim to have good cause for refusing to cooperate if you believe that such cooperation would not be in the best interests of your child. The following are circumstances under which the Welfare Agency may determine that you have good cause for refusing to cooperate:

- Cooperation is anticipated to result in serious physical or emotional harm to the child;
- Cooperation is anticipated to result in physical or emotional harm to you which is so serious it reduces your ability to care for the child adequately;
- The child was born after forcible rape or incest;
- Court proceedings are going on for adoption of the child; or
- You are working with an agency helping you to decide whether to place the child for adoption.

PROVING GOOD CAUSE

It is your responsibility to;

- Provide the Welfare Agency with the evidence needed to determine whether you have good cause for refusing to cooperate (If your reason for claiming good cause is your fear of physical harm and it is impossible to obtain evidence, the Welfare Agency may still be able to make a good cause determination after an investigation of your claim.)
- Give the necessary evidence to the agency within 20 days after claiming good cause. The Welfare Agency will give you more time only if it determines that more than 20 days are required because of the difficulty in obtaining the evidence.

The Welfare Agency may:

- Decide your claim based on the evidence which you give to the agency, or
- Decide to conduct an investigation to further verify your claim. If the Welfare Agency decides an investigation is needed, you may be required to give information, such as the absent parent's name and address, to help the investigation. The agency will not contact the absent parent without first telling you.

NOTE.—If you are an applicant for assistance, you will not receive your share of the grant until you have given the agency the evidence needed to support your claim, and, if requested, the information needed to permit an investigation of your claim.

EXAMPLES OF ACCEPTABLE EVIDENCE

The following are examples of acceptable kinds of evidence the Welfare Agency can use in determining if good cause exists.

If you need help in getting a copy of any of the documents, ask the Welfare Agency. The Welfare Agency will give you reasonable assistance which is needed to help you obtain the necessary documents to support your claim.

- Birth certificates, or medical or law enforcement records, which indicate that the child was conceived as the result of incest or forcible rape;
- Court documents or other records which indicate that legal proceedings for adoption are pending in court;
- Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the alleged or absent father might inflict physical or emotional harm on you or the child;
- Medical records which indicate emotional health history and present health status of you or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of you or the child;
- A written statement from a public or private agency confirming that you are being assisted in resolving the issue of whether to keep or give up the child for adoption; and
- Sworn statements from individuals, including friends, neighbors, clergymen, social workers, and medical professionals who might have knowledge of the circumstances providing the basis of your good cause claim.

CHILD SUPPORT AGENCY PARTICIPATION AND ENFORCEMENT

The Child Support Enforcement Agency may review the Welfare Agency's findings and the basis for a good cause determination in your case. If you request a hearing regarding this issue of good cause for refusing to cooperate, the Child Support Enforcement Agency may participate in that hearing.

The Notice must include one of the following statements, as applicable depending on the State plan option chosen. See § 232.49.

Option 1

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency may attempt to establish paternity or collect support only if the Welfare Agency determines that this can be done without risk to you or your child. This will not be done without first telling you.

Option 2

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency will not attempt to establish paternity or collect support.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

.....
(Signature of applicant/recipient)

.....
(Date)

I have provided the applicant/recipient with a copy of this notice.

.....
(Signature of worker)

.....
(Date)

(Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302))

(Catalogue of Federal Domestic Assistance Program No. 13,761, Public Assistance-Maintenance Assistance (State Aid))

NOTE.—The Social Security Administration has determined that this document does not require preparation of a regulatory analysis as required by Executive Order 12044.

Dated: September 27, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-27933 Filed 10-2-78; 8:45 am]

[4110-07]

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 302—STATE PLAN REQUIREMENTS

Good Cause for Refusing to Cooperate

AGENCY: Office of Child Support Enforcement, HEW.

ACTION: Final rule.

SUMMARY: This amendment to the Child Support Enforcement Program (title IV-D) State plan requirement to establish paternity and secure support merely changes the cross-reference to the title IV-A good cause regulations. New final good cause regulations in 45 CFR chapter II were published today also in this Part III of the FEDERAL REGISTER.

EFFECTIVE DATE: This amendment becomes effective on December 4, 1978, or upon implementation of 45 CFR 232.40 through 232.49, whichever is earlier. (See FR Doc 78-27933 also published in this Part III of the FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT:

Steve Henigson, telephone 202-472-4510.

SUPPLEMENTARY INFORMATION: On January 16, 1978 (43 FR 2178) the Department published a final regulation providing that the agency that administers the State's Child Support

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Enforcement Program (IV-D agency) will not attempt to establish paternity or collect support in any case in which a determination has been made by the State or local welfare agency (IV-A agency) that an applicant or recipient of Aid to Families with Dependent Children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing support. Also on January 16, 1978 (43 FR 2170) the Department published a regulation which specified the standards under which the IV-A agency would determine whether an AFDC applicant or recipient has good cause for refusing to cooperate. Today the Department adopted new title IV-A good cause standards effective on December 4, 1978 (published also in this Part III of the FEDERAL REGISTER.) This amendment conforms the cross reference in the title IV-D regulation to those new title IV-A regulations.

PUBLIC PARTICIPATION

The January 16, 1978, good cause regulations, both title IV-D and title IV-A, solicited additional public comments for 90 days after the effective date. In addition the Department held a public hearing on the good cause regulations. For details concerning this public input please refer to the companion IV-A regulations. The major concerns were with the IV-A good cause standards and the IV-D regulation was only incidentally involved. A discussion of the comments germane to this regulation follow.

SUSPENSION OF ENFORCEMENT PENDING THE GOOD CAUSE DETERMINATION

The regulation provides at § 302.31(b)(2) that the title IV-D agency, upon receiving notice from the IV-A agency that an applicant or recipient has claimed good cause, shall suspend all activities to establish or secure child support until notified of a final good cause determination. Several comments suggested that this policy was violative of section 454(4) of the Social Security Act which they argue permits the State IV-D agency to proceed to establish paternity and secure support until the IV-A agency makes a final determination that good cause exists. Such an interpretation, however, ignores the express purpose of the good cause exception which is to protect the child in those instances where establishing paternity or securing support would harm the child. Permitting the IV-D agency to develop the evidence necessary to show paternity or allowing it to take the steps necessary to obtain support even though the good cause investigation has not been completed could result in the very harm to the child or mother which the legislative history clearly shows Congress intended to prevent. The Department believes that this regulation restraining the IV-D agency pending a good cause determination is the most reasonable method by which to effect the Congressional intent of protecting the interests of the child while the good cause determination is being made. Accordingly, no change has been made in this aspect of the regulation.

EFFECTIVE DATE

This amendment will become effective on December 4, 1978, or upon implementation of the companion title IV-A regulations published today, whichever is earlier. (See FR Doc. 78-27933 also published in this Part III of the FEDERAL REGISTER.)

45 CFR Chapter III, Part 302 is amended by revising § 302.31 to read as follows:

§ 302.31 Establishing and paternity securing support.

The State plan shall provide that:

(a) The IV-D agency will undertake:

(1) In the case of a child born out of wedlock with respect to whom an assignment under § 232.11 of this title is effective, to establish the paternity of such child; and

(2) In the case of any child with respect to whom such assignment is effective, to secure support for such child from any person who is legally liable for such support, utilizing reciprocal arrangements adopted with other States when appropriate; and

(b)(1) The IV-D agency will not undertake to establish paternity or secure child support in any case for which it has received notice from the IV-A agency that there has been a finding of good cause under §§ 232.40 through 232.49 of this title except as provided in paragraph (c) of this section.

(2) Upon receiving notice from the IV-A agency that an applicant or recipient has claimed good cause, the IV-D agency will suspend all activities to establish paternity or secure child support until notified of a final determination by the IV-A agency.

(c) The IV-D agency will not undertake to establish paternity or secure child support if there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV-A agency that child support enforcement may proceed without the participation of the caretaker relative. If there has been such a determination, the IV-D agency will undertake to establish paternity or secure child support but may not involve the caretaker relative in such undertaking.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalogue of Federal Domestic Assistance Program No. 13679, Child Support Enforcement Program)

NOTE.—The Office of Child Support Enforcement has determined that this document does not require preparation of a regulatory analysis as required by Executive Order 12044.

Dated: September 27, 1978.

DON WORTMAN,
Acting Director, Office of Child Support Enforcement.

Dated: September 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-27934 Filed 10-2-78; 8:45am]

OCT 3 1978

federal register

TUESDAY, OCTOBER 3, 1978
PART IV



DEPARTMENT OF AGRICULTURE

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to Inventory List

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[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to Inventory List

Notice is hereby given of amendment to the inventory of roadless and undeveloped areas within the National Forests and Grasslands, as published in the FEDERAL REGISTER, Friday, November 18, 1977, pages 59690-59715, and amended Tuesday, February 14, 1978, pages 6291-6292 and Thursday, June 8, 1978, pages 24876-24881.

The inventory is subject to adjustments from time to time as corrected data become available, as areas are modified or areas are added or deleted from the list. The inventory adjustments in this amendment are being made for several reasons. There are 32 areas which have a change in acreage either as a result of recalculation or to correct a typographical error in a previously published figure. Twenty areas have had a boundary adjustment promarily to delete private land, and 25 areas have been added to the inventory as a result of public comment. Land allocations made through the Forest Service land management planning process have resulted in deleting 28 areas, while 13 areas were deleted because the Administration has endorsed wilderness for them or due to congressional action on the Endangered American Wilderness Act. Three areas have been consolidated, two areas allocated by previous land management plans have implementation delayed, and two miscellaneous typographical errors have been corrected.

State: Alabama:
Tongass National Forest:
Add 335.0, Deep Lake, 8,067 acres
Add 723.0, Heckman, 6,955 acres
Add 525.0, Deer Island, 9,988 acres
Change 525.0, Sunny, to 526.0
(To correct errors and omissions in previously published notice.)
State: Arkansas:
Ozark-St. Francis National Forest:
Change 8001, Richland Creek Addition, to 10,143 acres
Change 8072, Gee Creek to 7,948 acres
Change 8073, Hurricane Creek, to 17,742 acres
Change 8076, East Fork, to 23,677 acres
Change 8079, Clifty Canyon, to 2,051 acres
(Reflects recalculation of acreage)
Change 8002, Leatherwood, to 17,138 acres
Change 8003, Buffalo Addition, to 1,504 acres
Change 8070, Indian Creek, to 7,836 acres
Change 8078, Devil's Canyon, to 1,819 acres
(Reflects changes to exclude private land)

Change 8071, Dismal Creek, to 9,812 acres
Change 8074, Pedestal Rocks, to 21,604 acres
Change 8075, Penhook, to 6,579 acres
(Reflects recalculation of acreage and changes to exclude private land.)
State: California:
Angeles National Forest:
Add 5,012, Arroyo Seco, 5,000 acres
(To add area found to meet invenory criteria.)
State: Colorado:
Routt National Forest and Arapaho-Roosevelt National Forest:
Areas L2ACG, 2353, and 2134 are now combined and indentified as area 2361, St. Louis Peak, 37,230 gross acres
(The purpose of this change is to combine contiguous roadless areas.)
Routt National Forest:
Change 2097, Sugarloaf DE, to 48,543 acres
Change 2098, Nipple Creek DD, to 62,100 acres
Change 2099, Elkhorn Mountain DC, to 15,240 acres
(Adds area found to meet inventory criteria.)
State: Georgia:
Chattahoochee-Oconee National Forest:
Change 8025, South Nantahalas, to 19,670 acres
Change 8027, Blood Mountain, to 10,275 acres
Change 8028, Raven Cliff, to 15,850 acres
Change 8029, Chattahoochee River, to 23,050 acres
Change 8031, Ellicott Rock Extension, to 4,000 acres
Change 8142, Mountain Town, to 6,835 acres
Change 8143, Rich Mountain, to 16,880 acres
Change 8144, Mill Creek, to 7,045 acres
Change 8147, Rabum Bald, to 16,005 acres
Change 8149, Wolf Pen, to 7,850 acres
Change 8221, Licklog, to 8,100 acres
Change 8223, Buzzard Knob, to 6,440 acres
Change 8225, Anna Ruby, to 3,000 acres
(Reflects changes to exclude private land.)
State: Idaho:
Caribou National Forest:
Delete 4163, Schmid Peak, 10,920 acres
Delete 4164, Dry Ridge, 27,640 acres
Delete 4165, Huckleberry Basin, 30,650 acres
Delete 4166, Sage Creek, 17,850 acres
Delete 4167, Meade Peak, 43,520 acres
Delete 4170, Red Mountain, 13,800 acres
(To drop areas allocated to nonwilderness by the Diamond Creek Land Management Plan.)
Clearwater National Forest:
Change 1303, Siwash, to 9,300 acres
Change 1305, Moose Mountain, to 19,800 acres
Change 1306, Big Horn Weitas, to 237,500 acres
Change 1309, Wilderness Border, to 12,000 acres
Change 1312, Eldorado Creek, to 11,000 acres
(Reflects recalculation of acreage.)
Idaho Panhandle National Forest:
Change 1125, Selkirks, to 105,170 acres
Change 1126, Kootenai Peak, to 7,250 acres
Change 1127, White Mountain, to 9,910 acres
Change 1131, East Cathedral Peak, to 20,870 acres
Change 1133, Tepee Cr., to 5,100 acres
Change 1134, Spy Glass, to 6,510 acres
Change 1135, Skitwish Ridge, to 6,330 acres
Change 1302, Meadow Creek-Upper North to 6,100 acres
Change 1661, Buckhorn Ridge, to 3,500 acres
(Reflects recalculation of acreage.)
Change 1981, Salmo Priest, to 19,540 acres
(Acreage recalculation and corrects error in acreage assigned between Idaho and Washington.)
Payette National Forest:
Change 4455, Lick Creek, to 136,366 acres
(Reflects recalculation of acreage.)
Nezperce National Forest:
Change 1921, Gospel Hump, to 56,780 acres
(Reflects allocation of portion of area to wilderness through Endangered American Wilderness Act.)
Targhee National Forest:
Delete 4603, Raynolds Pass, 6,250 acres
Delete 4604, Two Top, 11,790 acres
Delete 4605, Headwaters Buffalo River, 3,640 acres
Delete 4606, Warm River North, 8,300 acres
Delete 4607, Warm River South, 32,710 acres
Delete 4608, Warm River East, 8,120 acres
Delete 4609, Snake River, 8,830 acres
(To drop areas allocated to nonwilderness by the Island Park Land Management Plan.)
Change 4962, Mount Jefferson, to 6,700 acres
(Reflects portion of area allocated to nonwilderness by the Island Park Land Management Plan.)
State: Montana:
Deerlodge National Forest:
Add 1425, North Carp, 8,320 acres
Add 1426, Upper East Fork, 7,750 acres
(Areas returned to inventory for further evaluation through the RARE II process.)
Flathead National Forest:
Change 1485, Bear-Marshl-Scapegt-Swan to 205,620 acres
(Reflects Administration endorsed Great Bear Wilderness proposal.)
Gallatin National Forest:
Change 1549, Madison, to 230,120 acres
(Reflects recalculation of acreage.)
Helena National Forest:
Delete 1613, Hedges Mountain, 23,000 acres
Delete 1614, Hellgate Gulch, 22,200 acres
Delete 1615, Cayuse Mountain, 26,300 acres
(To drop areas allocated to nonwilderness in the Magpie-Confederate Land Management Plan.)
Idaho Panhandle National Forest:
Change 1661, Buckhorn Ridge, to 2,000 acres
Change 1662, Scotchman Peaks, to 12,680 acres
Change 1663, Northwest Peak, to 5,670 acres
(Reflects recalculation of acreage.)
Lewis and Clark National Forest:

Change 1485, Bear-Marshl-Scapegt-Swan to 325,100 acres
(Reflects Administration endorsed Great Bear Wilderness proposal.)
State: New Mexico:
Cibola National Forest:
Add 3009, Canadian River, 4,025 acres
(Corrects error which showed Canadian River under Santa Fe National Forest.)
Santa Fe National Forest:
Delete 3009, Canadian River, 4,025 acres
Carson National Forest:
Change 3999, Osier Mesa, to 3,100 acres
(Corrects error in previously published acreage.)
State: Oregon:
Mt. Hood National Forest:
Change 6093, Mt. Hood Additions, to 11,600 acres
(Reflects passage of the Endangered American Wilderness Act enlarging the Mt. Hood wilderness.)
Change 6098, Bull of the Woods, to 34,300 acres
(Corrects error in previously published acreage.)
Add 6101, Mt. Jefferson WSA, 1,100 acres
(To include area found to meet inventory criteria.)
Siskiyou National Forest:
Change 6172, Male Creek, to 250 acres
Change 6173, Rogue, to 7,100 acres
Change 6176, North Kalmiopsis, to 113,478 acres
Change 6181, Fall Creek, 11,314 acres
Delete 6182, South Kalmiopsis, 37,628 acres
Add 6709, South Kalmiopsis, 111,315 acres
(Above changes reflect enlargement of the Kalmiopsis Wilderness as a result of the Endangered American Wilderness Act and combining 6182, 6181, and 6709 into 6709.)
Umatilla National Forest:
Add 6563, Bear Canyon, 3,363 acres
Add 6564, Cross Canyon, 2,868 acres
Add 6565, W-T Three, 3138 acres
(Additions as a result of creation of the Wenaha-Tucannon Wilderness under the Endangered American Wilderness Act.)
Umpqua National Forest:
Change 6130, Rogue Umpqua Djvide, to 48,735 acres
(Add area found to meet inventory criteria.)
Wallowa Whitman National Forest:
Delete 6275, Upper Grande Ronde, 15,290 acres
Delete 6277, Mt. Emily, 10,700 acres
Delete 6276, Beaver Creek, 22,976 acres
Delete 6278, Castle Ridge, 9,065 acres
Delete 6280, Little Creek, 2,080 acres
Delete 6281, Upper Catherine Creek, 15,420 acres
(To drop areas allocated to nonwilderness in the Grande Ronde Land Management Plan.)
Add 6602, Sheep Divide, 7,110 acres
(Area added to provide for consistent treatment of roadless area within Hill's Canyon NRA.)
Willlamette National Forest:
Change 6098, Bull of the Woods, to 25,000 acres
(To consider additional area identified in the Oregon Omnibus Wilderness Bill.)
Add 6929, Middle Santiam, 24,580 acres
(To consider an area previously endorsed as part of the Endangered American Wilderness legislation but dropped by Congress prior to passage.)
State: South dakota:
Nebraska National Forest:
Change 2010, Red Shirt, to 16,480 acres
(Adds area found to meet inventory criteria.)
Change 2011, Cheyenne river, to 8,090 acres
(Corrects typographical error in previously published acreage.)
State: Tennessee:
Cherokee National Forest:
Change 8036, Jennings Creek, 19,884 acres
(Includes additional area found to meet inventory criteria.)
Add 8280, Flint Mill Gap, 7,183 acres
(Adds area found to meet inventory criteria.)
State: Utah:
Fishlake National Forest:
Add 4426, Musinia Peak, 7,000 acres
(To add acreage contiguous to inventoried area 4426 on Manti-LaSal National Forest, making the total acreage of 4426 11,200 acres.)
Manti-LaSal National Forest:
Change 4424, White Mountain, to 27,700 acres
(Includes additional area found to meet inventory criteria.)
State: Virginia:
George Washington National Forest:
Add 8175, Southern Massanutten, 11,800 acres
(Adds area found to meet inventory criteria.)
State: Washington:
Colville National Forest:
Change 6981, Salmo Priest, to 46,380 acres
(Corrects error in previously published acreage.)
Okanogan National Forest:
Add 6015, Hungry ridge, 13,990 acres
Add 6016, Black Canyon, 13,600 acres
Add 6017, South Ridge, 6,200 acres
Add 6018, Granite Mountain, 41,780 acres
Add 6019, Tiffany, 25,000 acres
Add 6025, Pasayten Rim, 15,410 acres
Add 6026, Liberty Bell, 112,430 acres
Add 6027, Sawtooth, 230,900 acres
(Additions to the inventory of roadless areas contained in the remanded Twisp-Winthrop-Conconully Land Management Plan.)
Change 6023, Long Draw, to 8,600 acres
Change 6024, Long Swamp, to 102,330 acres
(Changes reflect additional acreage as a result of the remanded Twisp-Winthrop-Conconully Land Management Plan.)
Gifford Pinchot National Forest:
Delete 6066, Pompey, 24,140 acres
Delete 6067, blue Lake, 10,780 acres
Delete 6068, Amoeba, 73,500 acres
(To drop from the inventory areas allocated to nonwilderness by the Upper Cispus and Lone Tree Land Management Plans.)
Idaho Panhandle National Forest:
Change 1121, Little Grass Mtn., to 4,000 acres
Change 1982, grassy top, to 13,980 acres
(Reflects recalculation of acreage.)
Change 1981, Salmo Priest, to 9,440 acres
(Acreage recalculation and corrects error in acreage assignment between Washington and Idaho.)
State: Wyoming:
Bridger-Teton National Forest:
Delete 4115, Bacon Ridge, 5,290 acres
Delete 4902, seven Lakes, 65,010 acres
(To drop from the inventory areas allocated to nonwilderness in the Union Pass Land Management Plan.)
Medicine Bow National Forest:
Change 2087, Huston Park, to 33, 020 acres
(Reflects allocation of portion of area to nonwilderness in the Huston Park Land Management Plan.)
Add 2099, Elkhorn Mountain DC, 3,720 acres
(To add area found to meet inventory criteria.)

Dated: September 25, 1978.

JOHN R. MCGUIRE,
Chief, Forest service.

[FR Doc. 27833 Filed 10-2-78; 8:45 am]

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TUESDAY, OCTOBER 3, 1978
PART V



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

LEATHERBACK SEA TURTLE

Final Determination of Critical Habitat; Correction

V 43/192
OCT 3 78

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Part 17—Endangered and Threatened Wildlife and Plants

Determination of Critical Habitat for Leatherback Sea Turtle; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction.

SUMMARY: In the September 26, 1978, FEDERAL REGISTER (43 FR 43688-43689), the Service published its final determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). In that document, the map accompanying the word description of critical habitat was inadvertently omitted. This correction adds that map to this final determination.

DATES: This rule becomes effective on October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

The regulations promulgation section of the final determination of critical habitat for the leatherback sea turtle, as originally published in the FEDERAL REGISTER of September 26, 1978 (43 FR 43688-43689), should appear as follows:

REGULATION PROMULGATION

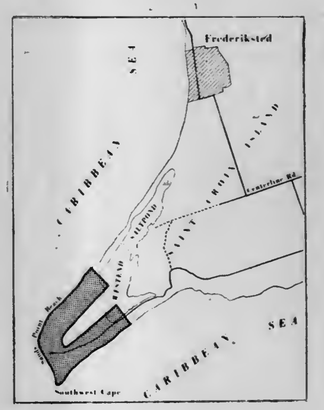
Accordingly, 50 CFR 17.95(c) is amended by adding Critical Habitat of the leatherback sea turtle after that of the giant anole as follows:

(c) *Reptiles.* * * *

LEATHERBACK SEA TURTLE

(*Dermochelys coriacea*)

U.S. Virgin Islands. A strip of land 0.2-mile wide (from mean high tide island) at Sandy Point Beach on the western end of the island of St. Croix beginning at the Southwest Cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the Southwest Cape 0.7 mile east along the southern shoreline.



Critical Habitat for the Leatherback Sea Turtle

Dated: September 28, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-27905 Filed 10-2-78; 8:45 am].

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OCT 3 78

federal register

TUESDAY, OCTOBER 3, 1978
PART VI



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

OCCUPATIONAL EXPOSURE TO ACRYLONITRILE (VINYL CYANIDE)

Final Standard

V 43 / 192

[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Acrylonitrile (Vinyl Cyanide)

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final standard.

SUMMARY: By this final standard, the Occupational Safety and Health Administration (OSHA) sets the permissible limit of occupational exposure to acrylonitrile (AN) (also known as vinyl cyanide) at 2 parts acrylonitrile per million parts of air (2 ppm), as an 8-hour time-weighted average concentration (TWA), with a ceiling level of 10 ppm for any 15-minute period during the 8-hour day. In addition, the standard establishes an action level of 1 ppm as an 8-hour time-weighted average. The basis for this standard is OSHA's determination that laboratory and epidemiological data indicate that exposure to AN presents a cancer hazard to workers. Provision is also made for specific exemptions from the standard for the processing, handling, and use of acrylic and modacrylic fibers, ABS/SAN resins, nitrile barrier resins, and nitrile rubbers, when these materials are in the form of finished polymers, and certain other materials containing and/or made from AN. This standard is intended to minimize the potential for cancer among employees exposed to AN in the workplace. Employees protected by this standard work principally in the chemical and plastics industries. The standard requires that employee exposures be controlled to within the permissible exposure limits by engineering and work practices, supplemented by respiratory and other protective equipment in limited situations. The standard also requires the measurement of employee exposure, employee training, medical surveillance, and recordkeeping. The 2 ppm limit has been set because it will provide significant employee protection and is the lowest level feasible for most employers affected by the standard. The final standard supersedes the emergency temporary standard, which was issued on January 17, 1978.

EFFECTIVE DATE: This standard will become effective November 2, 1978. Startup dates: Installation of engineering controls shall be completed by November 2, 1980. Training programs shall be instituted by January 2, 1979. All other requirements of the standard shall be effective November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3112, Washington, D.C. 20210, telephone 202-523-8034.

For additional copies of this regulation, contact:

OSHA Office of Publications, U.S. Department of Labor, Room N-3423, Washington, D.C. 20210, telephone 202-523-8677.

SUPPLEMENTARY INFORMATION:

I. Background

Physical Properties, Manufacture, and Use of Acrylonitrile

Acrylonitrile ($CH_2=CHCN$; CAS #000107131) (AN) is a widely used chemical intermediate in the manufacture of acrylic fibers, synthetic rubbers, and plastics. Its use in the manufacture of a number of acrylic fibers and copolymer resins accounts for most of the 1.5 billion pounds of AN produced annually in the United States. AN is a clear, colorless (when pure), or yellowish liquid with a characteristic odor at relatively high concentrations and a molecular weight of 53.06. It is very reactive and polymerizes violently in the presence of strong bases. Pure AN is subject to self-polymerization with rapid pressure development (the commercial product is inhibited and not subject to this reaction). AN is a volatile (vapor pressure 83 mm Hg at 68° F), flammable liquid with a flash point of 30° F (open cup), is easily ignited and may release cyanide gases when burned, especially where the supply of oxygen is limited. Its vapors are heavier than air, and when diffused over a considerable range of concentrations in air (3–17 percent by volume), are highly explosive. Synonyms for AN include acrylon, carbacryl, cyanoethylene, fumigrain, 2-propenenitrile, VCN, ventox, and vinyl cyanide.

AN is produced almost exclusively by the ammoxidation of propylene in the presence of a catalyst. Current producers of AN in the United States are American Cyanamid, duPont, Monsanto, and Vistron (SOHIO).

The major use of AN is in the production of acrylic and modacrylic fibers by copolymerization with other monomers such as methyl acrylate, methyl methacrylate, styrene, vinyl acetate, vinyl bromide, vinyl chloride, or vinylidene chloride, individually or in combination. Acrylic fibers are, by definition of the Federal Trade Commission, fibers composed of at least 85 percent (by weight) acrylonitrile units. Fibers composed of at least 35 percent but less than 85 percent acrylonitrile units are referred to as "modacrylic fibers." AN-based synthetic fibers are used in the manufacture of apparel, carpeting, blankets, draperies, and upholstery. Major producers of acrylic and modacrylic fibers include American Cyanamid Co., Dow Badische Co., E. I. du Pont de Nemours & Co., Tennessee Eastman Co., and Monsanto Co. In 1976, acrylic and modacrylic fiber production comprised 50 percent of the total AN consumption in the United States.

The manufacture of acrylic fibers involves four basic steps. First, the acrylonitrile must be polymerized; second, the polymer must be dissolved in a solvent to form a viscous solution which can be forced through a spinnerette (spinning head); third, the polymer must be spun into fiber; and, fourth, the fibers must be processed, crimped, cut, dried, and baled. The production of acrylic fibers is done by either wet-spinning or dry-spinning. Both methods require that the polymer be dissolved or suspended in a suitable solvent. The solvent used may vary from company to company.

The dissolved or suspended polymer is extruded through the spinnerette, or spinning head, which is a metal plate with thousands of tiny holes in it. The polymer is extruded through the holes in the spinnerette and coagulated to form the fibers. The solvent and excess, or residual AN monomer are then removed from the fibers. In dry-spinning, the solvent is removed by hot gases. In wet-spinning, on the other hand, the fibers are extruded into another liquid bath, which serves to remove the solvent. For both types of spinning, the resulting fibers must be stretched to increase their strength, and then crimped to provide the desired texture and facilitate processing on textile machinery. Where the wet spinning process is used, the fibers are drawn from the coagulation bath through various warm water baths to remove any remaining solvent before they are drawn through the hot water stretching bath. It is during this stage of the wet-spinning process, between the coagulation bath and the hot water stretch, that potential employee exposure to acrylonitrile is greatest, since residual (i.e., unreacted) AN monomer which remains in the fiber is being driven off along with the solvent.

Residual AN levels for all finished acrylic fibers are usually well below 20 parts per million by weight, and the fibers do not readily release their residual AN. The polymer structures

from which acrylic fibers are produced contain acrylonitrile links in the form of a long coil. In the dry, cool state, these structures are dense or tightly coiled. At the glass transition temperature (i.e., the temperature at which the molecular structure opens up; approximately 180° C dry and approximately 80° C in water) the polymer uncoils, allowing the release of anything being held in that coil (e.g., residual monomer or water). Since the fiber has a great affinity for water and water tends to extract the residual AN, removal of residual AN at the wet glass-transition temperature is fairly complete. As the fibers are normally washed at this temperature during processing, little residual AN remains in the final product. Because polymers such as acrylic fibers, which contain long sequences of AN units, tend to cyclize (i.e., form chains of six-sided rings) at temperatures above 250° C instead of reverting to their component monomers, little, if any, acrylonitrile exposure results from decomposition of the fibers.

Other major uses of AN include the manufacture of resins, plastics, nitrile elastomers (rubbers and latexes), and polymer polyols as well as in the production of other chemicals, such as adiponitrile and acrylamide.

Acrylonitrile-based resins and plastics are produced from three monomers, acrylonitrile, butadiene, and styrene, and have a wide range of uses. They can be processed in many different ways into a variety of fabricated products. In the manufacture of ABS resins, butadiene and styrene are first copolymerized to form a "spine" or base polymer. Styrene and acrylonitrile chains are then grafted onto this base polymer. In a separate operation, acrylonitrile and styrene are copolymerized to form a resin, and this resin is then mixed with the grafted polymer to produce a latex. The latex is then flocculated (formed into clumps), filtered, washed, and dried.

Potential exposure to acrylonitrile occurs at many points during the ABS resin manufacturing process. This operation involves the conveyance of AN monomer from storage tanks to various process areas and necessarily includes many valves, gaskets, pipes, sampling points, and other areas where AN may be released, either from leaks in the equipment or from the opening of the system, as during sampling. In addition, the blending, flocculation, and drying areas are potential areas of exposure, because the mechanical and heat processing of the polymer latex causes residual AN in the polymer to be released. Since suspension and solution polymerization processes involving latex or slurry usually result in relatively high levels of residual AN, the processing of the polymer can result in a substantial release of AN.

The manufacture of nitrile rubber from acrylonitrile and butadiene also involves the processing of latex and slurry, and therefore, includes similar areas of potential exposure to AN monomer. In addition, the polymerization process for the production of nitrile rubber results in higher employee exposures (both actual and potential), since the polymerization process is not complete when the contents of the reactor, called the "charge," are transferred to the blowdown tank. The latex, therefore, contains a considerable amount of residual monomer when it is moved from the blowdown tank to the distillation tank for "steam-stripping" to remove residual monomer. Even after stripping, the latex contains enough AN monomer to cause high exposures in the processing areas, and subsequently in the washing and drying areas.

Besides the major uses discussed above, AN is also used in the manufacture of latexes for use in paints, adhesives, and industrial coatings, as well as in the manufacture of chemical intermediates for dyes and other products.

It is estimated that 5,130 employees are currently exposed to acrylonitrile; of these 1,050 are in AN production, 1,250 in acrylic fiber production, 850 in nitrile elastomer manufacture, 1,900 in ABS/SAN resin manufacture, and 80 in polyol production (Ex. 15).

II. Pertinent Legal Authority

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards.

Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such a standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws (Section 6(b)(5)).

Sections 2(b) (5) and (6), 20, 21, and 24 of the Act reflect Congress recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose-response data, may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91-1291, 91st Cong., 2d session, p. 18 (1970). This congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient." *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration*, 509 F. 2d 1301 (2d Cir., 1975), cert. denied, 421 U.S. 992 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL-CIO v. *Hodgson*, 499 F. 2d 467, 474 (C.A.D.C. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rept. No. 91-1282, 91st Cong., 2d sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration, supra*, at 1309; *American Iron and Steel Institute* v. *OSHA*, No. 76-2358 (3d Cir., 3/28/78).

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Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (Section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c)).

III. HISTORY OF THE REGULATION

Prior to the issuance of the Emergency Temporary Standard (ETS) in 1978, occupational exposure to AN was limited by OSHA to an 8-hour time-weighted average of 20 ppm (or approximately 45 mg/m³) as was found in table Z-1 of 29 CFR 1910.1000. The 20 ppm standard was not based on the carcinogenicity of AN, but was based on its high acute toxicity and its similarity to hydrogen cyanide.

In March 1977, the Manufacturing Chemists Association (MCA) informed OSHA of the interim results after 1 year of a planned 2-year study being conducted by Dow Chemical Co.'s laboratories on the chronic toxicity of ingestion of acrylonitrile by rats. Sacrifices of some of the animals after 1 year showed the development of various tumors, including central nervous system (CNS) and ear canal tumors, among the treated animals, but not among the controls. The tumors were found in animals exposed to 100 and 300 ppm, respectively, in their drinking water. Later reports from MCA, in April 1977, indicated that similar tumors had been found in the lowest exposure group in the test, 35 ppm, and that findings after 1 year of a continuing 2-year study of inhalation of AN by rats noted "comparable" CNS tumors in animals inhaling 80 ppm AN.

In May 1977, E. I. du Pont de Nemours & Co., Inc. (du Pont) informed OSHA of the preliminary results of an epidemiological study demonstrating an excess of cancer among workers exposed to acrylonitrile in a du Pont textile fibers plant in Camden, S.C. Although du Pont stressed the preliminary nature of these findings, the company did state that when considered in light of the recent animal tests, "[they] raise serious suspicion that it [acrylonitrile] may be a human carcinogen."

On June 29, 1977, OSHA published a request for information on acrylonitrile in the FEDERAL REGISTER (42 FR 33043) and again on July 5, 1977 (42 FR 34326). In this document, OSHA discussed the new information that had been received from MCA and du Pont, and requested specific information on various issues relating to occupational exposure to AN. Interested persons were requested to furnish information by July 29, 1977.

OSHA received 25 replies to the request for information, many of which contained considerable data and technical details on the manufacture and use of acrylonitrile, areas of potential employee exposure, and other relevant material.

Shortly after OSHA's request for information appeared in the FEDERAL REGISTER, on July 1, 1977, the National Institute of Occupational Safety and Health (NIOSH), issued a "Current Intelligence Bulletin" on acrylonitrile, outlining the information received from MCA and du Pont, discussing the other toxic effects of AN exposure, and recommending interim industrial hygiene practices to be implemented in the workplace to help reduce occupational exposure to acrylonitrile.

On September 29, 1977, NIOSH provided recommendations for a revised standard for AN. A permissible exposure level of 4 ppm AN in air as determined by a 4-hour sample collected at a rate of 0.2 liter/minute was suggested. This recommendation was based on what NIOSH considered to be the analytical limits of the air measurement technique at that time.

A NIOSH communication dated December 7, 1977 said that

> (a)lthough the preliminary results of the du Pont epidemiologic study are inconclusive by themselves, • • • when viewed in light of the preliminary rat data the conclusion with regard to acrylonitrile is clear—the chemical must be viewed as a proven animal carcinogen and suspect human carcinogen. To do otherwise would be to place the health of exposed workers in jeopardy until more conclusive evidence ultimately surfaces.

On January 17, 1978, after a review of the available data, OSHA issued an emergency temporary standard (ETS) for occupational exposure to acrylonitrile (43 FR 2586). As discussed more fully in the preamble to the ETS, the emergency standard was based upon the Assistant Secretary's determination that exposure to AN posed a grave danger to humans. The ETS established permissible exposure limits of 2 ppm as an 8-hour time weighted average, with a ceiling limit of 10 ppm as averaged over any 15-minute period during the 8-hour workshift. The ETS allowed considerable flexibility in control techniques, permitting the employer to implement any practicable combination of engineering, work practices, and respiratory protective devices during the 6-month effective period of the ETS.

In the same issue of the FEDERAL REGISTER, OSHA published a proposed permanent standard for occupational exposure to AN (43 FR 2608). The proposal contained additional provisions which OSHA believed to be more appropriate to a permanent regulation than those presented in the ETS. In addition, the proposal set forth three alternative sets of permissible exposure limits for consideration: 2 ppm TWA with a 10 ppm ceiling; 1 ppm TWA with a 5 ppm ceiling; and 0.2 ppm TWA with a 1 ppm ceiling. A period for receipt of written comments was established, to extend through February 21, 1978, to consider the proposed permanent standard.

In the preamble to the proposal, OSHA requested public comments, information, and evidence on all issues raised in the proposal.

On February 24, 1978 (43 FR 7669), OSHA published a notice of availability of an economic and technological impact assessment which had been prepared for the Agency by Enviro Control, Inc., of Rockville, Md. (ECI). As noted in the preamble to the proposal, this assessment was developed in accordance with Executive Orders 11821 (39 FR 41501) and 11949 (42 FR 1017). The ECI document examined the three alternative sets of exposure limits contained in the proposed standard. The comment period was extended to March 21, 1978, for the receipt of written comments solely on the ECI report. In addition, participants at the hearing were given additional time to submit their testimony and documentary evidence on that report.

The informal rulemaking hearing was convened by Administrative Law Judge Randolph Mason on March 21, 1978, pursuant to notice and section 6(b)(3) of the Act (29 U.S.C. 655(b)(3)). The hearing lasted through April 4, 1978. Post-hearing submissions of data requested by parties at the hearing were received through April 19, 1978. Post-hearing comments and briefs were received through May 19, 1978.

The entire record, including over 160 exhibits and approximately 1,300 transcript pages and errata, was certified by the presiding administrative law judge on August 18, 1978, in accordance with 29 CFR 1911.17. Copies of materials in the record, as well as an index of the record, may be obtained from the OSHA Docket Office, Room S6212, U.S. Department of Labor, 3d Street and Constitution Avenue NW., Washington, D.C. 20210.

The final standard on occupational exposure to acrylonitrile is based on a full consideration of the entire record of this proceeding, including materials discussed or relied on in the ETS and proposal, the record of the informal

hearing, and all written comments and exhibits received.

IV. HEALTH EFFECTS OF EXPOSURE TO ACRYLONITRILE

Information regarding the acute toxic effects of acrylonitrile (AN) on both animals and humans is extensive, and was discussed at length in the preamble to OSHA's Emergency Temporary Standard (ETS) for AN and will not be repeated here (42 FR 2586). While the toxic effects of AN have long been recognized, data demonstrating its carcinogenicity have only recently become available.

CARCINOGENICITY

Cancer is one of society's most dreaded diseases. It is generally an irreversible process whereby abnormal cells may invade and/or destroy surrounding tissue and if left untreated, culminates in the death of such tissue and ultimately in the death of the organism. Although progress has been made in the early detection of cancer, and in some cases its effective "cure", much remains to be learned about the mechanism of cancer induction and the various causative factors involved in carcinogenesis. However, in recent years research has demonstrated that exposure to certain chemicals in the environment and the workplace is among the important causes of cancer.

While cancer manifests itself in a variety of forms, certain characteristics are generally common to occupational cancer. One of these is the long latent period between initiation of the carcinogenic response and clinically visible evidence of the disease. Another characteristic is that once the initial carcinogenic events have been triggered, the disease continues to progress even in the absence of continued exposure.

Based upon a careful review of evidence contained in the record, OSHA concludes that acrylonitrile poses a carcinogenic risk to workers. This conclusion is derived from the results of experimental studies which have shown excess incidences of tumor formation in AN-exposed animals and is supplemented by indications of a cancer excess among workers exposed to AN. Moreover, AN has also been shown to be capable of inducing mutations (permanent, transmissible changes in the genetic material), an effect which has been observed for other cancer-causing chemicals.

OSHA's determination as to the carcinogenicity of AN is supported by the findings of other governmental agencies and scientific organizations. Based on the results of industry-sponsored animal studies, the National Cancer Institute's carcinogenicity testing program has "recognized acrylonitrile as carcinogenic to experimental animals and has discontinued its plans to further test the compound as a potential carcinogen" (Ex. 21).

The International Agency for Cancer Research (IARC) of the World Health Organization has recently stated in a draft report:

> • • • the data [from interim animal studies] indicate that acrylonitrile is carcinogenic to rats, producing tumours of the forestomach, brain and Zymbal glands. Acrylonitrile is also embryotoxic, teratogenic [causes fetal malformations], and mutagenic [causes mutations] (Ex. 23).

The IARC went on to say:

> • • • combined evidence from human and experimental data, plus that of the positive mutagenic activity of acrylonitrile, indicate that while confirmatory evidence from experimental animals and humans is desirable, acrylonitrile should be regarded as if it were carcinogenic to humans (Ex. 23).

In testimony prepared for this rulemaking, the National Institute for Occupational Safety and Health (NIOSH) concluded:

> AN has been shown to be a chemical carcinogen on the basis of animal experiments. The interim results which we have reviewed are significant (Ex. 42).

NIOSH also stated:

> The results from the experimental animal studies have been reinforced by the du Pont mortality study of workers exposed to AN • • • Though incomplete, the results strongly suggest that AN is carcinogenic in man (Ex. 42).

The Food and Drug Administration (FDA), in banning the use of plastic containers made with acrylonitrile concluded that:

> • • • acrylonitrile is a frank teratogen in the rat, a tumorigen [an agent capable of causing tumors] and probale [sic] carcinogen in the rat, a possible carcinogen in man and a mutagen in several test systems (Ex. 6:(174)).

Finally, several industry participants also submitted statements to the record regarding the carcinogenicity of AN. Monsanto stated that:

> • • • it is prudent to reduce the TLV [threshold limit value] since it has been established that AN is an experimental carcinogen" (Ex. 11:(27)).

Du Pont, in referring to the preliminary results of their epidemiologic study, said:

> • • • these findings, when considered together with the results of the animal tests which were reported previously, raise a serious suspicion that it may be a human carcinogen (Ex. 14:(71)).

The determination that AN is a cancer-causing chemical was the basis for OSHA's issuance of the ETS for AN early this year. The evidence on which this finding was based included the results of experimental animal studies and human epidemiology. This evidence was the focus of much testimony during the subsequent public hearing for this rulemaking. The major scientific issues raised relevant to this subject are summarized below.

1. *Evidence in animals.* The use of animal data as a predictor of human response to environmental carcinogens is widely accepted in the scientific community (cf. Tr. 565; 614; Exs. 5:(14–22); 40; 42; 98; 109; 110). OSHA has relied upon experimental evidence in this manner in several previous rulemakings on carcinogens. Available animal data on acrylonitrile clearly indicates the potential for carcinogenic effects in humans.

In March 1977 the Dow Chemical Co. laboratories informed OSHA of the results after 12 months of a 2-year rat ingestion study of acrylonitrile (Ex. 5:(3)). This investigation (hereafter referred to as the "Drinking Water" study), sponsored by the Manufacturing Chemists Association (MCA), was designed to assess the chronic toxicity and potential carcinogenicity of AN. This report showed an increased incidence of tumors of the stomach, central nervous system (CNS) and Zymbal gland of the ear canal in rats receiving 100 and 300 ppm acrylonitrile in their drinking water and sacrificed after 12 months. A letter from MCA dated April 11, 1977 supplemented this information with notice of a subsequent report from Dow which stated:

> • • • at the 12-month interim sacrifice on 10 rats per sex per dose level gross and microscopic pathologic changes of a tumorous nature were detected with greater frequency in the 100 and 300 ppm AN groups compared to the 35 ppm AN and control groups; and tumors in the stomach, central nervous system (CNS) and Zymbal gland of the ear canal region were found with increased frequency in rats ingesting 100 or 300 ppm AN and were considered treatment-related (Ex. 5:(1)).

It was noted that on April 7, the investigator had reported that the same type of CNS tumors as seen in the groups of rats receiving doses of 100 and 300 ppm had been found in two rats at 35 ppm, the lowest ingestion level under test (Ex. 5:(1)).

The CNS tumors seen at all test levels of this study were microglioma, primarily of the brain and one of the spinal cord.

In his review of the results of this study, Dr. Cipriano Cueto, Jr., an eminent toxicologist and scientist who is currently Acting Chief of the Toxicology Branch of the Carcinogenesis Testing Program in the Division of Cancer Cause and Prevention at the National Cancer Institute (NCI) and Chairman of both NCI's Experimental Design Group and Data Evaluation Group, said:

> The study is appropriately designed to determine the potential carcinogenicity of

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acrylonitrile (AN) as well as to assess other possible chronic toxic effects of the compound in rats (Ex. 21).

Dr. Cueto noted that the results of histopathologic examination of tissues of the sacrificed animals indicate that a trend of specific tumor induction appears to already be developing, and added:

The presence and incidence of microgliomas, although not statistically significant at this time, are considered, because of their rare spontaneous occurrence, as biologically highly important in implicating acrylonitrile as carcinogenic to Sprague-Dawley rats of both sexes.

The incidence of squamous cell papillomas observed in the stomach of both female and male rats receiving acrylonitrile are statistically significant as compared to controls. Further support of the possible tumorigenic effect of acrylonitrile is the fact that those lesions also are spontaneously rare in rats.

Based on the findings described above, the National Cancer Institute, Carcinogenesis Testing Program has recognized acrylonitrile as carcinogenic to experimental animals and has discontinued its plans to further test the compound as a potential carcinogen (Ex. 21; Tr. 213; 258-261).

During testimony at OSHA's hearing, Dr. Cueto stated that the MCA 12-month interim data had appeared at approximately the time that the NCI had been involved in conducting its prechronic studies as a precursor to the then-proposed long-term chronic studies on acrylonitrile, the purpose of which was to assay for its carcinogenic potential. After an evaluation of the MCA data, the decision was made to discontinue those studies (Ex. 21; Tr. 213-214). Dr. Cueto said that this decision had been made because the NCI considered the MCA studies to be well-designed for the purposes of cardinogen bioassay and had already shown the substance to be a carcinogen on the basis of the interim test results as reported after 1 year (Tr. 258-261). Asked if it was the normal policy of the National Cancer Institute to draw conclusions on carcinogenicity based on interim results from animal bioassays, Ceuto responded: "• • • Yes, we do make these evaluations on shorter terms" (Tr. 260-261). When asked if he would have continued the MCA studies after 1 year if he had been running them, to see what the final results were, he replied that he, too, would have continued the tests, but added:

• • • That doesn't mean that the data after 12 months was not [sic] the type of data that I would sit on. And that's exactly what they did also, they didn't sit on it. And the reason they didn't sit on it is because they know that that's important data, in terms of risk (Tr. 262).

Dr. Cueto went on to say that the International Agency for Cancer Research (IARC) of the World Health Organization, during their most recent meeting in Lyons, France, had evaluated the same and other data available to them relevant to the issue of AN carcinogenicity, and had supported the NCI finding (Tr. 213). In their draft report, the IARC stated:

Acrylonitrile was tested in rats by oral administration and inhalation exposure. Although full results of the study were not available, the data indicated that acrylonitrile is carcinogenic to rats, producing tumors of the forestomach, brain, and zymbal glands. Acrylonitrile is also embryotoxic, teratogenic, and mutagenic (Tr. 213; Exs. 23; 24).

Another 2-year study sponsored by MCA and being conducted by Dow involves the inhalation exposure of rats to acrylonitrile. In this study, an unreported number of male and female rats have been exposed to 0, 20, and 80 ppm acrylonitrile for 6 hours per day, 5 days per week (Ex. 5:(1)). After the first year of the study, 13 rats per sex, per dose level were sacrificed, and the following preliminary results were reported by MCA:

(1) Microscopic evaluation of tissues from these rats exposed to 80 ppm AN for 1 year revealed the presence of tumors in the CNS of three animals;

(2) These (CNS) tumors are comparable to those reported in the ingestion study;

(3) Upon gross examination of the other rats from the 2-year inhalation study, an increased incidence of ear canal tumors and mammary region masses was detected at the 80 ppm AN level;

(4) In the animals exposed to 20 ppm AN there was an apparent increase in the subcutaneous masses of the mammary region; and

(5) No ear canal or CNS tumors were observed at this (20 ppm) dose level (Ex. 5:(1)).

In a more recent letter to the Assistant Secretary dated February 22, 1978, notification was given by MCA of the termination of this 2-year inhalation study and their receipt of a report from Dow giving information on this study. In this report Dow stated that:

Exposures of Sprague-Dawley rats to 80 or 20 ppm acrylonitrile were terminated on January 18, 1978.

Findings available to date from this study include:

(a) The preliminary findings of the tumors from gross pathologic examination of all animals, and;

(b) The microscopic pathologic findings in the central nervous system of a majority of the animals exposed to acrylonitrile. Microscopic examination of central nervous system tissue from control animals has not as yet been completed (Ex. 14:(64)).

Although all of the data had not yet been accumulated, Dow noted that:

Based on the gross pathologic examination of the rats exposed to 80 ppm acrylonitrile, there was an increase in the incidence of tumors of the ear canal gland in males and females, of the gastrointestinal tract in males and in the subcutaneous mammary region in females. Preliminary results of the microscopic examination of the central nervous system tissue from the rats exposed to 80 ppm confirmed the presence of brain tumors previously reported.

In addition, Dow stated:

Based on the gross pathologic examination of rats exposed to 20 ppm acrylonitrile there was an increase in the incidence of subcutaneous mammary region tumors in the female rats. Microscopic examination of the central nervous system tissue from the rats exposed to 20 ppm has revealed a higher incidence of brain tumors when compared to historic control data (Ex. 14:(64)).

In their evaluation of this information, Dow said:

Interpretation of data from this study must await the complete evaluation of the findings of the microscopic examination of all tissues from the control and acrylonitrile exposed animals (EX. 14:(64)).

Dr. Robert Squire, a pathologist/oncologist, who was formerly Associate Chief of the Experimental Pathology Branch and head of its Tumor Pathology Section in the carcinogenesis program as well as former Acting Director of the NCI carcinogen bioassay program, also reviewed the MCA data on acrylonitrile. In his prepared testimony, Dr. Squire stated that:

The conclusions can clearly be drawn that acrylonitrile is carcinogenic under the conditions of this experiment. There is definite indication that malignant neoplasms of the central nervous system were induced at all dose levels by the oral route and at the 80 ppm level in the inhalation study. Benign gastric neoplasms, and preneoplastic epithelial alterations in the stomach are also clearly treatment related.

Although the malignant ear neoplasms and the mammary neoplasms occurred with low incidence in the initial report of interim observations, their numbers still exceeded that in the controls, and that expected according to historic observations. A tentative conclusion must be that these are also treatment related.

Statistical analysis is less than conclusive when dealing with small numbers of animals and preliminary observations, and in fact, not essential when interpreting the significance of these unusual findings (Ex. 28).

Most importantly, Dr. Squire stated that since the time his statement had been submitted he had had the opportunity to examine selected slides from the drinking water study, and had found that the tumors seen had been qualitatively distinctly different from those seen in control rats of any strain. He commented that this evidence was almost as compelling as the numbers that were seen (Tr. 542).

Three other board certified pathologists, Drs. David Groth, Choudari Kommineni, and Ralph Yodaiken, all currently with NIOSH, also examined the rat-tissue sections prepared by Dow and reviewed the results of the MCA studies. Their reports were transmitted to OSHA in a NIOSH memorandum dated December 7, 1977. In his report, Dr. Yodaiken stated:

Despite the small number of animals (10 per group) examined thus far, the results are both statistically and biologically significant. Acrylonitrile appears to be responsible for malignant change occurring in the central nervous system; the ceruminous glands of the ear canal, far in excess of any spontaneous tumor incidence; and possibly for the early appearance of mammary gland tumors. The papillomata of the stomach must be considered both directly related to the ingestion of the acrylonitrile and premalignant (Ex. 5:(13)).

In their report, Drs. Groth and Kommineni conclude that "acrylonitrile is a carcinogen in rats" (Ex. 5:(13)).

Several industry participants contend that the MCA data constitute interim data which are "too incomplete to form the basis for any conclusion" and that "the complete analysis of results should be forthcoming within the near future" (Exs. 146; 148; 155). While MCA has indicated that this data will eventually be made available, there has been no clear indication as to when this data can be expected to be fully analyzed and reported. In this regard it must be noted that at the public hearing, Mr. Grover Wrenn, Director of Health Standards Programs for OSHA stated:

We have had for some time an indication of the projected time frames of the Dow study being done for MCA. It is my understanding that the periods of exposure are done, the pathology is being performed, and I think it is reasonable to anticipate that the reports will be available during the period of this rulemaking, although I don't have an indication of a precise report date (Tr. 36).

At the hearing, Dr. Kenneth Burgess, of the styrene plastics division of Dow Chemical, was asked if he could provide any information on the status of the final results of the MCA study. Dr. Burgess replied that while he had not been involved with that study in the last 6 months, he did know that the animals had been sacrificed some time in January and work had begun on the pathology. Dr. Burgess noted that "• • • it is a very long and tedious process".

All I can say is that I am sure they are very diligently pursuing it. As to time, I am not even sure that Dr. Gehring or Dr. Norris would be able to give us the exact time. It will be, I am sure, some months (Tr. 911).

Vistron noted later that they had been advised that there would be no additional interim report of the MCA findings, that all the animals had been sacrificed and that the "final results will be out sometime this summer" (Tr. 1096).

As no testimony was presented by MCA at the hearing and since no industry witness was available to specifically address this issue, OSHA made a formal request at the hearing that industry make an effort to obtain that data (Tr. 1054). OSHA made further inquiry into the availability of this data informally with MCA subsequent to the hearing. This, too, yielded no additional information. As of this writing, no final report has been received by OSHA.

Although the results of the longer term portion of these studies are clearly of interest and importance, the interim data cannot be ignored. Several highly qualified scientists of wide experience in oncology, pathology, toxicology and cancer research have reviewed the results of MCA's interim report of their drinking water study and have stated that this data is itself of great significance, particularly in the context of all other available data. Furthermore, as previously noted, these scientists have concluded, as have some industry participants, that AN is a carcinogen.

Dr. Squire stated during testimony, that while he has been generally opposed to analysis of interim observations in animal experiments, he has found that:

• • • Observations in this study are well out of line with expected observations even after a lifetime, much less at 1 year of age, and in my view they provide very convincing evidence of the carcinogenic effect (Tr. 543).

This point was discussed in greater detail by Dr. Squire in his prehearing statement:

Interim or preliminary data is not customarily considered appropriate for carcinogenic evaluation, since the more common tumors which occur with variable incidence in test animals may produce false positive trends which are not supported by final observations.

However, particularly in the case of brain and stomach tumors of this type, immediate concern is warranted by the interim observations. These are rare tumors which do not occur in any rat strain at any age at incidences comparable to those observed in this experiment. Experience in laboratory animal oncology, plus the recent observations of additional tumors in remaining treated animals indicates that the evidence for carcinogenic effect will undoubtedly become more conclusive as the experiments progress (Ex. 28).

Industry has questioned the finding of biological (rather than statistical) significance of the MCA data based on the rare occurrence of the tumors seen (Ex. 146). During testimony, Dr. Squire said that spontaneous tumors of the brain and stomach are rare in all strains of rats at any age, having a spontaneous incidence of 1 percent or less (cf. Exs. 21; 35; 42; 45-51; Trs. 226-237; 541; 551-553; 562). Dr. Squire noted that:

• • • The power of the statistical test is very small when dealing with animal groups of this size." • • There are other statistical tools for looking at this type of data (Tr. 541-542).

Statistical analysis supportive of this point was submitted to the record by Dr. Cueto. He determined what the probability was that the observation of a heretofore "rare" tumor was, in actuality, due to chance. Dr. Cueto said that as regards a rare tumor (i.e., one which appears at a site which does not very commonly respond to chemicals, does not have a history of a significant incidence of spontaneous tumors, and therefore, cannot be adequately supported by the most usually relied upon statistical analyses), "one must narrow the focus" and use more finely adapted calculations which can show whether this rare tumor was likely to be due to chance or to other causes. He said that such calculation had shown that the incidence of CNS tumors in the males (2 animals with tumors out of 10 examined in the drinking water study) at the 100 parts per million concentration gave a P value of 0.0003, "• • • a very small probability (3 in 10,000) that this is due only to chance" (Tr. 236-239; Ex. 23).

Other significant research into the carcinogenicity of AN includes studies recently reported in a European journal (Ex. 13). This work was conducted by Professor Cesare Maltoni, a noted research scientist currently with the Institute of Oncology and Tumor Centre in Bologne, Italy. The project, supported by the European Study Group for AN, includes experiments designed to study the long-term effects of AN on rats. Two studies designed to test the chronic effects of AN are discussed: One is an inhalation study, while the other involves the administration of AN by gavage (stomach tube).

In the inhalation study, 30 Sprague-Dawley rats of each sex were grouped according to treatment and exposed to either 0, 5, 10, 20, or 40 ppm of AN, 4 hours a day, 5 days a week for 52 weeks. The rats then went without treatment until their natural deaths, at which time complete autopsy was performed on all animals. Several tumor types were observed in this experiment. Those reported with greatest frequency were mammary tumors, Zymbal gland carcinomas, forestomach papillomas, and acanthomas (squamous cell carcinomas), encephalic (brain) tumors, skin carcinomas, and uterine carcinomas.

Dr. Harry Plotnick, a toxicologist and research pharmacologist testifying for NIOSH, also commented on the interim data from MCA. During testimony, he noted that the interim sacrifice protocol used by Dow in the drinking water study was a valid experimental design to look at the course of development of tumorogenesis (Tr. 690). He said that a study of this sort should be run for 18 months

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or longer for completeness but that "if significant results arise before that time they still are significant no matter how long the study runs" (Tr. 691). This point is addressed further in a paper published in 1977 by Drs. Saffiotti and Pagé of the carcinogenesis program at the National Cancer Institute in which they state the policy of the Institute on the issue of timing and extent of reporting carcinogenesis bioassays. Drs. Saffiotti and Page state that:

> Delaying public notification of highly suspicious findings until a final, detailed report is published, may delay preventive actions that could protect exposed populations from unnecessary risks (Ex. 110).

OSHA agrees, and has therefore determined that despite their interim and preliminary nature, these data in conjunction with all other available data present clear and convincing evidence of the carcinogenicity of acrylonitrile.

Dr. Maltoni noted that the 3 encephalic tumors observed in this study were found in the animals treated at the highest doses (40 and 20 ppm).

In the gavage study, only one dose (5 mg/kg body weight) was administered to the AN-treated animals. Acrylonitrile in olive oil was given to 40 Sprague-Dawley rats of each sex and administed by stomach tube at the rate of once each day, 3 days/week for 52 weeks. Another groups of rats, consisting of 82 females and 77 males, was given olive oil alone by the same route, and in the same quantity. These animals served as the controls and numbered twice as many as the treated groups. There were no completely untreated controls in this study.

The tumor types reported for the gavage study were the same as those reported for the inhalation study, although 2 additional types of brain tumors and no uterine carcinomas were reported in the gavage study.

Dr. Maltoni noted that the incidence of tumors in the control animals in this study was "surprisingly high". In an attempt to determine whether or not this incidence of spontaneous tumors was within the expected range for this tumor type, Dr. Maltoni subsequently examined the histological data of 403 comparable control rats of uncorrelated experiments. He found 13 CNS tumors of spontaneous incidence in this group, a rate of 3 percent. While the 3 percent rate of spontaneous CNS tumors seen in Maltoni's historical controls coincides with the incidence of all types of encephalic tumors in his contemporary control animals in the gavage study, only 0.9 percent of his historical controls were gliomas, the type of CNS tumor generally considered to be treatment-related (Tr. 592). This compares to an incidence of 2 percent gliomas in the contemporary control animals in this study. (It is interesting to note that, though not statistically analyzed, the latency period of 33 weeks before tumor incidence in the single treated animal which developed a glioma is approximately one-third the 93-week latency observed in the three control animals which developed gliomatous tumors, indicating the possibility that the dose here was responsible for a decrease in the latency period.) Industry has claimed that this "partially undercuts" the MCA studies (Ex. 155). Dr. Maltoni nevertheless concludes, based on all the results observed under the experimental conditions used in these studies, that AN has shown a "borderline oncogenic [tumor-inducing] effect". He further states that:

> At present our data do not make definitive evaluations possible. On the other hand, they point to the need of further investigations on the long-term effects of AN (Exs. 13; 65).

Dr. Cueto noted in his testimony that this "borderline oncogenic effect" which Dr. Maltoni reports, was detected using only a minimally sensitive test. Cueto said that the number of dose levels Maltoni tested in the gavage study (only one dose level was used), the use of some very low doses (5 ppm and 10 ppm in the inhalation study), the low frequency of dosing (4 hours/day for 5 days/week in the inhalation study and only 3 single daily doses/week in the gavage study) and the short duration of AN administration relative to the total duration of the experiment in these experiments greatly reduced their sensitivity (Tr. 263, 265). Dr. Cueto added that:

> • • • Dr. Maltoni's data can be used in terms of supporting the fact that one is beginning to see a chemically related effect. He has found effects at certain sites which others have found in a drinking water study • • • [and] in another inhalation study. It's all beginning to come together (Tr. 264).

Dr. Cueto reiterated that these CNS tumors are rare, stating that:

> • • • I am relying on the fact that all of the studies that I have looked at that have indicated central nervous system [tumors] and one involves • • • over 7,000 animals, did not find but a matter of about one percent tumors, which means that the probability of picking from a very small sample and finding central nervous [system tumors] is very low • • • because it is a very uncommon tumor (Tr. 232-233).

In his paper, Dr. Maltoni states that "to our knowledge, there is no systematic research on the spontaneous incidence of central nervous system tumors in experimental rodents" (Ex. 13). In referring to this statement, Dr. Squire said that while "• • • that may be true in the European community, it certainly is not true in the United States" (Tr. 588). In addition to the reasons mentioned by Dr. Cueto, Dr. Squire thought that the results of Maltoni's experiments were not contrary to the MCA studies for several other reasons. He said that of the types of brain tumors observed in the controls in Maltoni's gavage study, the gliomas (the type generally considered to be treatment-related) showed a 2 percent incidence in the controls after 2 years. Comparing this to an incidence of gliomas ranging from 10 percent to 40 percent in the MCA study after just 1 year, he said further emphasizes the importance of the MCA's findings:

> • • • one cannot dismiss the decreased latency [shown] by one year vs. two years and an increased incidence averaging about 20 percent vs. an incidence of 2 percent (Tr. 592).

Dr. Plotnick noted during the hearing that Dr. Maltoni had concluded from his studies of AN that there was a suggestion of carcinogenicity. Plotnick said that this determination was made despite the poor design of these tests as a bioassay for a carcinogen. He, too, pointed to the short exposure times in both tests, the noncontinuous exposure regimen in the gavage study, and the total duration of the test of only 52 weeks followed by a period of nontreatment for an additional 52 (or more) weeks, noting that normally, carcinogen bioassays are run for 18 months or longer. (Tr. 682-683). While the experimental design of these studies significantly reduces their sensitivity and limits their usefulness in addressing the issue of AN's carcinogenicity, OSHA finds that the Maltoni studies, when viewed in the context of the Dow reports, provide additional supportive evidence of the ability of AN to induce cancer in animals.

Industry has further objected to the use of historical control data to support statements regarding the rare spontaneous incidence of the brain and stomach tumors reported. Vistron noted that "comparison to control groups in the MCA studies yielded statistical significance for only one tumor—the benign papilloma", arguing that "• • • [i]t is not scientifically legitimate to attribute significance to the other tumors by comparison to spontaneous tumor incidence [i.e. historical controls]" (Ex. 146). Dr. Cueto stated during testimony, however, that when observing the incidence of tumors, comparisons must be made with historical data to establish a baseline for determining what the expected results would be in the control animals. The purpose of such comparison he said, was to determine whether the controls were indeed responding as controls and to thereby check the accuracy of the results to be certain the experiment was conducted properly (Tr. 232; 234-235).

Vistron has argued that while Dr. Squire noted a spontaneous tumor incidence for central nervous system tumors of less than 1 percent, Dr. Maltoni had reported a 3 percent spontaneous incidence of CNS tumors in his controls (Ex. 146). Dr. Maltoni, however, noted in his paper that he thought the 3 percent incidence of spontaneous CNS tumors seen in the control animals in his gavage study was "surprisingly" high and used historical controls in a manner similar to that discussed by Dr. Cueto. Maltoni had, therefore, checked the historical spontaneous incidence of the tumors at his own laboratory and had found an historical spontaneous incidence of 3 percent for all CNS tumors and 0.9 percent for glioma (Ex. 13). (Interestingly, Dow also compared the incidence of brain tumors they had found in animals exposed to 20 ppm AN (inhalation) to historical control data (Ex. 14:(64)).)

It is apparent that in the evaluation of experimental test results, historical data is necessary to establish the context in which such results are viewed. This is accomplished either indirectly, by virtue of the investigator's own past experience, or directly, by literature search. The use of historical data relative to the studies in question in this proceeding is clearly valid.

Industry participants, noting the benign nature of the stomach tumors seen at increased incidences in the AN treatment groups in both the Dow and Maltoni studies, have questioned the extrapolation of these findings to human health risk. Vistron has stated that "malignant tumors in humans do not arise from benign tumors; instead they arise de novo" (Ex. 146). This, however, is a matter of speculation. While experimental animals can be serially sacrificed and routinely checked for the development of tumors which can thus be traced from the benign to the malignant, human cancers are frequently first diagnosed when they are, in fact, already malignant. It is impossible to know, in many cases, whether that malignancy had an otherwise innocuous and benign beginning or arose "de novo". This is illustrated by Dr. Woodward's statement at the hearing that:

> In man at least, it is apparent and unfortunate that a cerebral hemisphere gliomatus tumor, and this is the common site for gliomatos tumors, may obtain considerable size before any symptomatology or [clinical] findings occur (Tr. 1089).

Dr. Yodaiken testified that polyps of the gall bladder, stomach, colon, and larynx are all precancerous lesions in man, and that in animals, papillomas are known to be followed by the development of malignant squamous cell cancer when the skin is painted with a carcinogen. He concluded that "• • • [p]apillomas under experimental and under human conditions do in fact tend to become malignant in certain circumstances" (Tr. 1085).

Dr. Squire observed that although the stomach tumors seen in the drinking water study were lesions of hyperkeratosis and benign papillomas, these are characteristic of the early response of the stomach to carcinogens, occurring with very low spontaneous incidence in this organ, and are clearly treatment-related (Tr. 542). As noted earlier, the three pathologists from NIOSH, who also examined the slides from the drinking water study, concluded, as Dr. Squire did, that the stomach papillomas must be considered premalignant lesions.

In questioning the validity of extrapolating animal data to humans, industry argues further that "the forestomach of the rodent has no anatomical counterpart in man" (Ex. 92). It is important to note that carcinogens are not necessarily organ-specific (chloroform for example, induces hepatic carcinoma in mice and kidney carcinoma in rats and benzidine, which causes hepatic carcinoma in rats, induces bladder carcinoma in man). In particular, AN has, in fact, been shown to attack a variety of primary sites in animals with a similar lack of site-specificity being implicated in man (Exs. 5:(1); 5:(5); 5:(13); 42). Furthermore, the malignancy here relates to the cellular composition of the affected organ rather than to the structural configuration of the organ. The stomach papilloma under discussion occurred in the non-glandular portion of the stomach (in the squamous epithelium) which is, in fact, the same as the epithelium of the esophagus in man (Tr. 1086). (In this regard, it is interesting to note that a 6-month oral toxicity study using dogs resulted in early lesions of esophageal tissue in those animals administered 300 or 200 ppm AN in their drinking water (Ex. 11:(12A)).

These points aside, the matter of benign tumors as precancerous lesions in man is not what is at issue here. The argument raised by industry participants must be separated into its two component parts. The first facet of the argument deals with the significance of benign tumors in experimental animals in determining the carcinogenicity of certain substances. While there is some debate as to the significance of benign tumors which may arise in humans, the stomach papillomas in question in the animal studies are "tumorigenic lesions • • • of significant concern, as they are the kind that generally tend to be precancerous" (Ex. 6:(175 at G/86)). The second facet of industry's argument relates to whether a finding of animal carcinogenicity can be reliably extrapolated to human risk. In his testimony, Dr. Squire stated that:

> I think we can say that all animal carcinogens, unless there is evidence to the contrary, must be considered as potential carcinogens in some humans • • • [q]ualitatively one can say that unless one has specific evidence to the contrary, that we have to assume it is potentially a carcinogen in another animal or species (Tr. 565).

Several chronic and subacute studies have been cited by Monsanto as evidence that a "no-effect" level of more than 2 mg/kg/day (approximately 20 ppm) exists for exposure to AN (Ex. 11:(27)). As discussed below, this statement is not supported by the evidence cited. Among the reports on which Monsanto bases its contention is a study conducted in the late 1950's by Svirbely and Floyd in which AN was administered to CFW rats in their drinking water over a two-year period. The authors reported no significant pronounced effects in the organs and bone marrow smears of these animals (Ex. 5:(25)). Monsanto has claimed that this report indicates a no-effect level of 50 ppm for exposure to AN (Ex. 11:(27)). Because, to our knowledge, the data for these studies has never been fully reported, an assessment of the results is unreliable at best, and in light of recent findings by Dow/MCA, no such conclusion can be validly drawn from this report.

Monsanto has further claimed that an early chronic toxicity study conducted in 1947 at the George Washington University by Tullar established a "no-effect" level of 33 ppm in rats (Ex. 11:(27)). Although this 2-year feeding study was not specifically designed to investigate the potential carcinogenicity of AN, four of the test rats developed tumor-like growths. No such growths were found in the control animals, nor were any similar growths found in the approximately 400 other rats from the same stock or even in the breeding stock from which these animals were taken. In this regard, the FDA has suggested that the Tullar study "adds significance to recent findings of AN's tumorogenicity" (Ex. 6:(174)).

In arguing for the existence of a "no-effect" level for AN, Monsanto also references the findings of two 1975 Dow studies (as distinct from the chronic studies conducted by Dow and described in detail earlier in this document) in which AN was administered in the drinking water of experimental animals for relatively short periods of time.

One is a 90-day drinking water study in which concentrations of 500, 210, 85, 35 or 0 ppm AN were incorporated in the drinking water of male and female rats (Ex. 11:(12B)).

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In the second study 4 male and 4 female beagle dogs/dose were given drinking water containing 100, 200 and 300 ppm of AN daily for 6 months (Ex. 11:(12A)).

Neither of these 2 Dow studies was designed to assess the long-term chronic toxicity of AN. To claim a general no-effect level on the basis of short-term exposures such as these, particularly when dealing with a substance which has been shown to produce cancer in animals, and to claim further that these are specifically "chronic animal tests for carcinogenicity," is scientifically unsound (Ex. 11:(27)).

In their final discussion of the toxicology data presented, Monsanto concedes that:

> Some of the toxicology studies discussed earlier do not have a direct bearing on the question of whether or not AN produces a tumorigenic or carcinogenic response in animals. They are cited to illustrate that the toxicology of AN has been studied in considerable detail (Ex. 11:(27)).

It must be clarified here that while the acute, short-term toxic effects of AN may have been studied extensively, research into the chronic effects of this substance has been very limited. It is for this very reason, particularly when it is noted that long-term effects of exposure to AN appear to be affecting the very systems in which effects have been noted in these acute toxicity tests, that the long-term results become increasingly important. As more data is accumulated, the need to minimize human exposure to AN becomes more apparent. The establishment of a so-called "safe level" of human exposure to AN is not possible when serious effects are being reported at increasingly lower dosage levels.

The manufacturers also point to Maltoni's research on AN as suggesting a no-effect level of approximately 2 mg/kg/day (Exs. 11:(27); 148) OSHA has discussed Maltoni's work at length earlier in this document. For reasons already stated and in light of the short exposure times, the non-continuous exposure regimen (in the Gavage study) and the short duration of the tests, OSHA views these studies as wholly insufficient to determine a no-effect level for AN.

During his testimony, Dr. Cueto addressed the issue of no-effect levels, or thresholds. He said that thresholds cannot be said to be established by merely noting the lack of a response. He said:

> • • • there [are] many ways you don't get a response. One of the ways is to have too few animals • • • The sensitivity of a test depends primarily on the number of animals that you use (Tr. 249).

He also stated:

> I think there are thresholds for every end point • • • the difficulty is in establishing them • • • [and] whatever the endpoint we are talking about, the thresholds may be different. So consequently the problem is that [while] thresholds do exist, establishing them is difficult; if you establish them, they are probably not meaningful in the real world (Tr. 239-240).

Dr. Edward Sowinski, Industrial Toxicologist for the Chemical Division of Uniroyal, Inc., similarly stated, during testimony that

> At this time, there is no scientific evidence available from either the MCA studies or duPont's epidemiology studies which indicate a safe level of exposure to acrylonitrile. A safe level may exist but there is presently insufficient data to identify such a level (Tr. 978).

Even if such no-effect levels for exposure to carcinogens could be established for animals, the validity of extrapolating such levels to man or even from one carcinogen to another for the same species would be highly questionable, at best.

The Assistant Secretary has addressed the issue of safe levels in previous rulemakings and has determined that based on the best available scientific evidence, no safe level for exposure to a carcinogen can be established at present (cf. Carcinogens, 39 FR 3758; Vinyl Chloride, 39 FR 35892; Coke Oven Emissions, 41 FR 46742; Arsenic, 43 FR 19584).

Another argument raised in support of the concept of a safe level for exposure to AN is based on the results of experiments concerning the metabolism of AN (Exs. 11:(12I); 2:(11A)). While OSHA recognizes that biological systems may utilize alternative metabolic pathways differentially in response to a variety of conditions, the results of the metabolic studies on AN which have been submitted to the record cannot be interpreted as evidence of a threshold for the carcinogenic effects of AN. The potentially wide variation in the metabolic response over time, along with the long latency periods associated with the carcinogenic response and the lack of definitive knowledge regarding many of the mechanisms of action involved in this response, make any conclusions regarding the metabolism of AN as based on short-term exposures, of questionable value when applied to the results obtained from chronic exposures. More importantly, the mechanism by which AN induces cancer is unknown; AN itself could be the active agent responsible for the transformation of normal cells into cancerous ones, or intermediates along known (or as yet unknown) alternative pathways may be involved.

The complexity of carcinogenesis, including the long latency period involved and the multitude of conditions relating to individual sensitivities to carcinogens make it difficult at this point in time, to demonstrate that exposure to any specified quantity of AN is safe. Because these uncertainties remain unresolved, and in view of OSHA's obligation to protect workers, we must conclude that no safe level for exposure to AN can be said to exist at this time.

2. *Evidence in Humans.* In May 1977, E. I. du Pont de Nemours and Co., Inc. (du Pont) made available to OSHA the preliminary results of an epidemiologic study of du Pont workers at the company's textile fibers plant in Camden, S.C. (Ex. 5:(5)). The study indicated excess cancer incidence and cancer mortality as compared with company and national experience.

The study cohort consisted of 1343 male employees who were determined to have had potential for exposure to AN at some time during the years 1950 to 1967. The morbidity or mortality status through 1975 was reported for 854 employees who began working in the polymerization area of the plant between 1950 and 1967 and who were still actively employed by, or had retired from, the company. Four hundred eighty-nine employees, or 36 percent of the defined study cohort, were workers who had either been laid off or had quit employment with the company, and whose vital status was unknown (du Pont is currently attempting to trace these employees) (Exs. 5:(5); 102).

One of the most striking observations of this report was that among the 470 male employees who had begun working in the polymerization area of the plant between 1950 and 1955 and who were either still actively employed by, or had retired from the company, there was an observed incidence of 16 cancer cases among the active employees, as compared with an expected number of 5.8 (based on company rates) or 6.9 (based on national rates). The differences between observed and expected cases were statistically significant. The data presented show a higher frequency of lung and intestinal cancer. However, as du Pont noted, these tumor types alone are not entirely responsible for the significant excess of cancer seen in the cohort. In addition, all cases of cancer found were reported to have occurred among those employees who were first exposed to AN between 1950 and 1952.

Du Pont also reported that mortality data for this group (i.e. those first exposed between 1950 and 1952) showed 8 cancer deaths, as opposed to 4.0 (company rates) or 5.1 (national rates for white males in 1970) expected. These differences were also statistically significant.

The report did not include information as to the levels to which employees were exposed, and no directed correlation between specific levels of exposure and the increased incidence of cancer in this cohort was reported. Because little or no data is available on employee exposures to AN during this early period, du Pont attempted to group the potential exposure severities at their Camden plant by job classification. This classification was described as having been based on the recollections of a committee of management personnel who had been present at the Camden plant during the 1950-52 period and who purportedly had intimate knowledge of the worksite and employees. As no past monitoring data was available on which to base them, these ratings were completely subjective, and du Pont noted that:

> • • • it is quite possible for careful employees to have "low" exposure though assigned to "high" jobs and careless employees to have "high" exposures though assigned to "low" jobs (Ex. 102).

In fact, it is interesting to note that the listing of exposure information as related to the severity code used (where "severity 3" is the classification with the least potential for exposure for AN), shows that a "sizable number of persons with only level 3 severity of exposure developed cancer" (Ex. 5:(5)).

Due to the lack of objective sampling data and the subjective nature of the alternative methods used for estimating these exposures, any dose-response relationship which might be defined for this cohort remains largely a matter of speculation and cannot be accurately derived from the available human data. In any case, even if such a relationship were to be demonstrated, this would not necessarily establish the level which actually induced the cancers observed.

In their analysis of the du Pont report, NIOSH has stated:

> It is interesting to note that, in addition to these two specific sites (lung and intestine) cancer of eight additional sites (prostate, lymphosarcoma, Hodgkins, (penis), thyroid, nasopharynx, bladder, and pancreas) occurred among the workers in this cohort. As pointed out by the investigator, this nonspecificity of tumor site is reflected in animal studies in which acrylonitrile was ingested or inhaled.
>
> Interpretation of these results is severely limited by two major factors:
>
> (1) The vital status of a large proportion (36 percent) of the cohort has not yet been determined, and
>
> (2) Complete work histories have not been obtained to provide information on exposure to substances other than acrylonitrile.

Despite these limitations which others have also noted in this proceeding, NIOSH concludes that:

> • • • the excess of lung cancer and cancer of the large intestine in both the morbidity and mortality analysis is clearly suggestive of a cancer problem among acrylonitrile workers (Ex. 5:(13)).

NIOSH and others have further suggested the possibility that exposure of the du Pont employees to other toxic, and perhaps carcinogenic materials may contribute to the observed cancer excess, however, du Pont has stated that: "• • • the issue of other exposures in addition to acrylonitrile was considered at the time the epidemiologic study was done" (Exs. 5:(13); 118).

The possibility that these workers were exposed to asbestos has been noted by several participants as an important factor to consider in view of the almost universal use of this substance in chemical plants (Exs. 92; 93; 106). NIOSH addresses this point in their posthearing comment, noting that:

> • • • asbestos is not mentioned on this (du Pont's) list of (other) exposures (common to the cohort); nor did Camden plant personnel address-asbestos as a common exposure for this cohort when questioned about any other carcinogenic compounds during a NIOSH walk-through survey conducted March 2, 1978. Furthermore, the study reported no cases of asbestosis among the cohort members (Ex. 141).

It must also be noted here that exposure to asbestos would be expected to have been the same for all workers in the plant including those who were not exposed to AN. If asbestos were responsible for the lung cancers seen in this cohort, one would expect to find a comparable excess of cancers in workers who were not in the AN cohort, as well. Such an excess was not reported by du Pont.

Du Pont's preliminary report did not include smoking histories of the cohort, but a followup report contained information on the smoking histories of eight persons in the cohort who had died of lung cancer. Six of these were in the 20-year latency group and two were not (Ex. 102). One industry participant has claimed that "smoking is the most likely cause of the excess lung cancers at the du Pont plant" (Ex. 146). While this is certainly possible, it is purely conjectural, as there is presently no information on the smoking histories of those workers in similar exposure categories and jobs who did not contract lung cancer. Proper evaluation of the effect of smoking on the incidence of lung cancer in this study must include the smoking histories of all members of the cohort.

The other exposures reported by du Pont to have been common to the cohort include methyl acrylate and dimethylformamide (DMF). No data addressing the carcinogenic potential of methyl acrylate was submitted to the record and du Pont has noted that while DMF is a toxic chemical, their research, as well as a thorough review of the literature on this substance (including NIOSH data) indicates that DMF is neither a mutagen nor a carcinogen (Ex. 106, 108, 93). OSHA concludes, on the basis of information submitted by du Pont, that exposure to these chemicals does not provide sufficient evidence to alter the finding of the carcinogenic potential of AN as indicated by the excess cancers seen in this cohort.

OSHA recognizes that in this, as in all epidemiologic studies, exposures to other chemicals must be carefully assessed. The complexities of carcinogenesis are such that the possibility always exists that other substances may have in some way contributed to the development of cancer in the exposed individuals. The multitude of known factors, as well as the many remaining unknown aspects of the carcinogenic response, must all be considered in the interpretation of such studies. It is for this reason that animal bioassays and other laboratory research play an important role in the evaluation of human data, and that conclusions as to the carcinogenicity of a compound must be based on the record as a whole.

Another issue relevant to interpretation of the du Pont study was raised by Dr. Lamm, on behalf of both Vistron and Borg-Warner. Dr. Lamm has taken note of the deficit of cancer cases observed in that portion of the du Pont cohort exposed to AN "within the 20 years following initial exposure" (Exs. 97; 129). In addressing this point, NIOSH has stated that:

> • • • at least three possible factors could have contributed to this situation:
>
> (1) The "healthy worker effect" whereby the population under study is biased toward excluding workers who are sick or otherwise unable to work;
>
> (2) The recognition of the long latency period (20 to 40 years) required between initial exposure to a carcinogen and consequent clinically evident cancer in the worker;
>
> (3) The fact that the vital status of one-third (484) of the population is still not available. All of these factors probably contributed to seeing less cancer in those workers with fewer than 20 years of latency (Ex. 141).

In addition, Dr. Lamm makes note of the fact that the author of the du Pont study has suggested that:

> • • • reanalysis of the data to consider incidence potential only during time of du Pont employment may alleviate this anomaly (i.e. the observed deficit of cancer cases) (Ex. 129).

While this deficit in cancers observed in the group whose exposure began after 1953 is certainly of interest, the excess of cancers seen in workers who do exceed the 20-year latency must nevertheless be viewed as a serious indication of an increased risk of cancer for those exposed to acryloni-

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trile. Du Pont's epidemiologist has stated that:

> Based on these preliminary findings, it can be concluded that persons exposed to AN at the textile fibers plant in Camden, S.C., are at greater risk of developing cancer, as compared with company, national, and regional experience (Ex. 5:(5)).

OSHA recognizes that due to its preliminary nature, and the inherent uncertainties generally associated with retrospective epidemiologic investigations, the du Pont study contains several unanswered questions. However, the Agency has carefully assessed this study and has concluded that the results presented support the finding of carcinogenicity for AN as observed in the animal studies described above.

Another epidemiologic study has been more recently submitted to the record by the United Rubber, Cork, Linoleum & Plastic Workers of America (URW). This study, done for the B. F. Goodrich Co. and the URW by Dr. Monson, of the Harvard School of Public Health, is a retrospective epidemiologic study of cancer morbidity and mortality among B. F. Goodrich workers, including some with acrylonitrile exposure (Exs. 67; 163). The results of this study showed that among white male union members who had at some time worked in an AN polymerization area and/or an area in which polymerized AN was used, there was a slight overall excess of malignant neoplasms, although fewer deaths from all causes were observed as compared to those expected. An excess of lung cancers (7 observed/4.4 expected deaths), genitourinary cancers (2 observed/1.6 expected deaths and 6 observed/3.1 expected incidences), and Hodgkin's disease (2 observed/0.3 expected deaths) are reported, although data supportive of these findings are not clearly presented. No excess of intestinal cancers was said to have been observed in this cohort.

In concluding his report, Dr. Monson states:

> Given the excess occurrence (of cancers) in these departments, and in spite of the difficulty in determing the reason for the excess, prudence is called for with respect to current conditions. To the extent that men currently working in these departments are exposed to AN and other chemicals, exposure should be reduced (Ex. 163).

While there are differences between the tumor sites seen in Monson's study as compared to the du Pont report, the incidence of a wide variety of primary tumor sites observed in both studies is itself suggestive of some commonality, particularly in view of the animal data in which a similar systemic carcinogenic response was observed. However, the Monson cohort was known to have been exposed to many substances other than AN which are themselves implicated in the development of excess cancers of various sites.

Because of the preponderance of other exposures among the members of this cohort, and because the excess cancers seen cannot be adequately correlated with AN exposure in this cohort, it is OSHA's conclusion that the Monson study, in its present form, adds little to the evaluation of AN as a carcinogen in humans.

3. *Mutagenicity.* Chemicals which cause mutations in bacteria have been shown to be generally capable of causing cancer in experimental animals, and chemicals which are carcinogenic to animals are also generally regarded as potential human carcinogens (Ex. 109; 5:(14)–5:(22)).

The detection of carcinogens through mutagenicity testing has been shown to be 85 to 90 percent accurate in the *Salmonella typhimurium* assay as described by Joyce McCann et al. (Exs. 5:(14); 5:(15)). These authors have shown that the *Salmonella*/microsome mutagenicity test has been sufficiently developed and validated to be used as a rapid screening method for the detection of mutagens as animal carcinogens and as a complement to long-term animal testing for the detection of potential human carcinogens (Ex. 5:(14)). Another assay procedure with *S. cerevisae* has been shown to be about 60 percent accurate in the detection of those carcinogens which increase the rate of mitotic recombination (Ex. 5:(16)). Although these test systems are not 100 percent accurate and neither a positive nor a negative response absolutely proves a chemical to be hazardous or nonhazardous to humans, the use of both assay procedures significantly enhances the probability of detecting potentially hazardous chemicals.

Several researchers, employing a variety of methods, have investigated the mutagenic potential of acrylonitrile. Because it is both highly toxic and highly volatile, special precautions have been shown to be necessary when designing experiments to assay for the mutagenicity of AN. When this has been done, test results have consistently shown AN to be mutagenic.

Highly reproducible and statistically significant positive results were reported by Venitt, Bushell, and Osborne when, by modifying their technique, they were able to test for the mutagenicity of AN at levels which minimized the toxic effects of this chemical. Importantly, the authors demonstrated that the toxic effect on the mutation rate was dose-dependent. Previous tests for mutagenicity at levels 20 to 40 times that used in these tests, while reproducible and statistically significant, were characterized only as "weak" and "reliably demonstrable only within a narrow range of doses." At lower doses the toxic effects were minimized (Ex. 5:(19)). By utilizing an exposure chamber to reduce the evaporation of AN and to facilitate the control of the exposure atmosphere, Milvy and Wolff reported that AN produced mutations in three separate tester strains of *Salmonella typhimurium* at low atmospheric concentrations with exposures as low as 57 ppm resulting in mutagenic effects (Ex. 5:(17)).

More confirmatory evidence of the mutgenicity of AN was provided by Venitt et al. in experiments utilizing a factor described by McCann et al. which increases microbial sensitivity to the mutagenic effects of chemicals and was thought by the authors to be likely to enhance the mutagenic effects of AN. As expected, AN was more mutagenic in this system (Ex. 5:(19); 5:(22)).

Industry participants have pointed to evidence of negative findings regarding the mutagenicity of AN (cf. Ex. 11:(27)). Two studies done on six different strains of *Salmonella* which used neither the fluctuation test nor the exposure chamber methods showed no activity at all (Exs. 5:(16); 5:(24)). A NIOSH memorandum dated December 9, 1977, from Dr. Taylor to the NIOSH mutagenicity task force members which was submitted to the OSHA hearing record by Vistron (Ex. 137), noted that acrylonitrile was one of several substances previously considered positive and subsequently found negative for mutagenic acitivity in the Ames test as carried out on four tester strains of *Salmonella typhimurium*. This is not surprising in view of the variability of test results seen in tests in which the toxicity and volatility of AN are not adequately controlled for.

The wide variation of test results reported in the area of mutagenicity would appear to be closely related to the differences in the laboratory methods used and to the high volatility and toxicity of AN. Available evidence indicates that the tests which gave negative results were done under experimental conditions which made no adjustments for these factors. Without repetition under appropriately controlled conditions, these experiments cannot be considered as evidence that AN is non-mutagenic.

The manufacturers have stated that there is no evidence supportive of a connection between human health and bacterial mutagenicity, and that "attempts to indict AN as a carcinogen on the basis of mutagenicity, test results are tenuous at best" (Exs. 11:(27); 11:(18); 11:(13); 146). However, the FDA, in their initial decision regarding acrylonitrile copolymers, said:

> The present data raises certain implications of adverse effects of acrylonitrile. The

> microbial system screening for animal carcinogenicity has produced several clear, highly reproducible positive findings, with negative results occurring only when a technique meant to overcome the problems of toxicity or volatility of AN was not utilized. In this situation, with the same number of studies finding positive results as those finding negative results, it would be improper to discount the positive findings. This view results in a strong implication of acrylonitrile being a carcinogen in higher animal systems (Ex. 6:(173)).

This view was upheld in the FDA's final decision on this matter and OSHA concurs (Ex. 6:(174)). The statistically significant and reproducible positive results in microbial studies appropriately designed to minimize the effects of AN's volatility and toxicity cannot be discounted, and must be viewed as suggestive of a carcinogenic effect in animals. OSHA recognizes that such evidence, in and of itself, cannot be regarded as definitive proof of the carcinogenic nature of AN. However, OSHA must view these data in light of the high percentage of accuracy associated with predicting animal carcinogenicity by such tests, and as a part of the entire record, which to date has continued to support the finding that AN is an animal carcinogen.

4. *Teratogenicity.* The effects of acrylonitrile ingested by pregnant rats, on embryonal and fetal development have also been recently studied in an attempt to further define the extent to which AN can affect biological systems.

In an evaluation of the teratologic effects of AN, Murray, et al. reported fetal malformations as well as evidence of embrytoxicity (Ex. 5:(4)). Doses of 0, 10, 25 and 65 mg AN/kg/day were given to pregnant Sprague-Dawley rats by gavage on days 6–15 of gestation. The highest dose-level was significantly maternally toxic and produced increases in a variety of malformations among the fetuses in addition to evidence of embryotoxicity. The next lowest dose, 25 mg AN/kg/day, produced less maternal toxicity and a low incidence of the same signs of embryotoxicity and fetal malformations. Despite the short exposure period, this dose resulted in erosion, ulceration and a thickening of the nonglandular epithelium of the stomach in the dams (Exs. 5:(25); 28). No evidence of maternal toxicity or effects on the developing embryos or fetuses was apparent at the lowest dose of AN administered (10 mg AN/kg/day). The possibility that maternal toxicity was the sole cause of the malformations seen in this study is discounted by the authors.

In reproduction studies of a series of nitriles, including AN, Svirbely and Floyd gave groups of Holtzman strain Sprague-Dawley rats 10, 100 and 500 ppm of the individual nitriles in their drinking water (Ex. 5:(25)). Data from two first-generation litters showed decreases in the indices of fertility, gestation and viability in the group given the highest dose of AN. Growth retardation was also seen in the offspring of this high-dose group and, in addition, a progressive muscular weakness in hind limbs of the females at the 500 ppm dose developed unexpectedly 16–19 weeks after the weaning of the second litter. (While this study was to be continued through three generations, the data for the succeeding two generations were not made available.)

Monsanto has noted that it is conducting a 3-generation reproduction study involving rats receiving 100 and 500 ppm of AN in their drinking water "to determine whether the paralysis described earlier [in the Svirbely and Floyd study] was reproducible" (Ex. 11:(27)). Monsanto stated that "(f)emales held for 20 weeks after casting of their scond litters have not shown signs of hind leg paralysis" (Ex. 11:(27)). Valid comparison of these studies is not possible at this time, however, since neither the strain of rat nor the test protocol used by Monsanto was reported.

OSHA concludes that based on available data, AN is teratogenic in the rat. Available experimental evidence neither establishes a level of safety nor allows for the adequate determination of a safe level for human exposure. In his evaluation of this data, Dr. Yodaiken of NIOSH, has drawn attention to the "possibility that intrauterine insults to the developing embryo may only manifest clinically in the offspring long after birth" (Ex. 42). In light of the carcinogenic effects of AN, any "safe" levels which might be proposed for the teratogenic effects of AN would, in any case, be irrelevant, since it is OSHA's view that current scientific knowledge precludes the establishment of safe levels for all carcinogens, including AN.

In fact, the FDA has reached a similar conclusion in its deliberations involving acrylonitrile:

> It appears from an evaluation of the testimony and evidence presented in this proceeding that a finding of safety for AN at this time would be premature and unwarranted, particularly in view of the severe irreversible effects which have been potentially attributed to AN. This is so, despite the fact that such a determination might well have been possible were the adverse effects of AN limited to acute toxicity (Ex. 6:(173)).

Based on the above and on the record as a whole, OSHA concludes that acrylonitrile poses a carcinogenic risk to workers and that, in the absence of a demonstrated safe level, employee exposure should be reduced to the lowest level feasible.

V. Permissible Exposure Limit

The final standard establishes a permissible exposure limit (PEL) of 2 parts per million (ppm) averaged over an 8-hour period. This represents the lowest level which OSHA believes is generally feasible. In determining the appropriate PEL, OSHA relies on the record of the proceeding and on policy considerations which lead the Agency to conclude that in dealing with a carcinogen or other toxic substances for which no safe level of exposure has been demonstrated, the permissible exposure limit must be set at the lowest level feasible. Such a determination is, in our judgment, justified by the nature of the hazard being dealt with, and by the intent of the Act.

The Assistant Secretary has determined that acrylonitrile is a proven animal carcinogen and that it must be regulated as a human carcinogen. No data is available to demonstrate the existence of a "safe" level of exposure to acrylonitrile. In the absence of a demonstrated safe level, and because of the irreversibility and long latency period for cancer, OSHA must conclude that, for regulatory purposes, no safe level exists. An erroneous determination that a threshold does, in fact, exist would lead to an irreversible and fatal illness. This would be inconsistent with OSHA's statutory responsibility to set a level which will assure that no employee will suffer material impairment of health.

This statutory responsibility also mandates that the level that is set must be feasible. The record indicates that even the most totally enclosed processes have the potential for leaks and spills of AN, and that certain polymerization processes are not amenable to total enclosure. Industry has recognized, and the record clearly reflects, that 2 ppm is the lowest level which generally can be achieved primarily by use of engineering and work practice controls in most polymerization operations and other areas in which AN is used.

OSHA recognizes that the setting of a permissible exposure limit for AN involves a careful balancing of the relevant factors noted above. OSHA has determined that 2 ppm is the exposure limit which most adequately assures, to the extent feasible, that employees exposed to AN will be protected. It is incontrovertible that a PEL of 2 ppm can be achieved almost entirely through engineering and work practice controls in the large majority of AN operations, ranging from the manufacturing of the monomer through polymerization. As was recognized in the preamble to the proposal, however, there are certain operations which, by their very nature, will require the use of respirators. Such operations, which include the cleaning of prefloc

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from the interior of reactors and certain other maintenance and cleanup activities, do not generally involve exposures for the full 8-hour workshift. It is apparent that activities of this nature would necessitate respirator usage in any event, due to the often unknown concentrations of AN that are involved.

The scientific and policy determinations underlying the regulation of AN as a carcinogen were discussed at length in the preamble to the ETS and were the subject of considerable comment in the course of this rulemaking as previously discussed. These determinations are consistent with other OSHA regulatory actions for carcinogens which have been taken after considerable scientific debate. For example, see the preambles to OSHA's carcinogen standard, applicable to 14 selected substances, 29 CFR 1910.1003-1910.1016 (39 FR 3758) aff'd, *Synthetic Organic Chemical Manufacturers Assn.* v. *Brennan*, 503 F. 2d 1155 (3d Cir., 1974) and 506 F. 2d 385 (3d Cir., 1974); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892), aff'd, *The Society of the Plastics Industry* v. *OSHA*, 509 F. 2d 1301 (2d Cir., 1975), cert. den., 421 U.S. 992 (1975); the coke ovens emissions proposal (40 FR 32268 (1975)) and final standard, 29 CFR 1910.1029 (41 FR 46742 (1976)), aff'd, *American Iron and Steel Institute* v. *OSHA*, No. 76-2358 (3d Cir., 3/28/78); the DBCP emergency temporary standard, 29 CFR 1910.1044 (42 FR 45536 (1977)), and final standard (43 FR 11514 (1978)), and the inorganic arsenic standard, 29 CFR 1910.1018 (43 FR 19584 (1978)). See also OSHA's proposed generic cancer policy, which was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54148).

The preamble to the proposal discussed three alternative PEL's which were being considered as the "lowest level feasible": 2 ppm, 1 ppm, and 0.2 ppm. The basis for the choice of 2 ppm in the ETS was the general agreement among industry personnel that 2 ppm could be met in virtually all facilities through a combination of engineering controls, work practices, and respirators. Whereas the ETS permitted any practicable combination of these control methods to be used during the 6-month period of the ETS, it was necessary to determine what level could be reached in most operations through engineering and work practices alone for purposes of the permanent standard. Several companies have indicated in written comments, and others have noted in their testimony, that they have either reached 2 ppm or expect to reach 2 ppm within several months in most of their operations through engineering controls (Ex. 11:(14); 11:(25); 92).

The exposure limits in this standard are based upon what can be achieved by the affected industries taken as a whole, using available technology or technology looming on today's horizon. The alternatives to this approach have been considered in the context of the AN rulemaking. As will be discussed, there is considerable variability among AN manufacturing and processing facilities as to their capabilities of reducing AN exposures. The differences between operations primarily involve the methods of processing AN and its various polymers, the types of materials being produced, and the physical properties of both the monomer and polymers during processing.

Difficulties which may arise for individual operations or processes in particular plants will be considered at the compliance level, which is specifically oriented to consider problems at individual locations.

The feasibility determination as to 2 ppm standard is based upon analysis of the affected industries taken as a whole. One alternative to this course might have been to establish the lowest feasible level for each AN facility on a case-by-case basis. This approach would be extremely difficult to implement. It would strain limited agency manpower resources and restrict the Agency's efforts to deal with important health areas other than AN.

Another regulatory approach, not far removed from a plant-by-plant approach, would involve setting different permissible exposure limits for each respective sector of the AN industry. The rationale for this alternative would involve a recognition that some sectors are capable of reaching lower exposure limits than are others. Although this alternative has some merit, OSHA has decided not to implement it for the AN standard for several reasons. First, as the ECI report makes clear, the AN industry encompasses a relatively small number of companies and plants. Establishment of different exposure limits within such a small industry would result in a standard which was almost on a plant-by-plant basis. Second, the administrative difficulties of compliance with such a fragmented standard would be great, particularly for those companies having facilities in more than one industry sector. Third, the Agency itself would have serious problems in administering and enforcing a standard of this type. The AN industry is already well-defined, and further splitting of the industry for the purposes of setting different exposure limits would not be in line with efficient and protective regulation of occupational exposure to AN.

A third approach, one which was at least hinted at by industry questioning at the hearing, would be to base the determination of feasibility on a worst case basis, that is, those situations where the PEL is most difficult to meet. This alternative is also unacceptable. It would allow most workers to be exposed to exposure levels much higher than could generally be achieved through engineering and work practices throughout the industry. These workers would thus be subjected to an increased risk of cancer due to their added exposure to AN.

A fourth alternative would be the converse of the third alternative, basing the lowest level feasible on what could be achieved by the most advanced facility with the least extensive exposure problems. This approach would undoubtedly require widespread full-time respirator usage by most employees, since the majority of plants could not achieve such a low limit for most employees. Because of problems inherent in respirator usage (see section on respiratory protection), this alternative is not acceptable over the long run, although in given circumstances respirators may be necessary to provide health protection.

OSHA has determined that in regulating occupational exposure to AN, as has been the case in other standards, the PEL should be set at the lowest level achievable through engineering controls and work practices in the majority of locations, using available technology or technology looming on today's horizon. This approach is intended to provide maximum protection without excessively heavy respirator use.

OSHA has determined that 2 ppm is the lowest level feasible for the AN industry as a whole. This determination is based upon available engineering controls and those controls which can be adopted from other uses or which can reasonably be expected to be developed.

Not surprisingly, the AN industry has itself looked to vinyl chloride (VC or VCM) control technology as a primary source for the control of AN in the workplace. The production processes for the two monomers, as well as for many of their respective polymer products, are strikingly similar. In addition, AN users and producers, in developing plans to lower employee exposures to AN during the past year, have shown the ability to select appropriate control measures to apply at critical emission points of their production facilities. Many of these controls were developed from the vinyl chloride "arsenal," but as the NIOSH-ECI report makes clear, there is nothing novel or unique about their application for AN (Ex. 141). The data submitted by the industry itself makes clear that the companies are both aware of most of the VC technology

and capable of making it work in their facilities (Ex. 92; 86).

It is highly significant that the AN industry has itself clearly recognized vinyl chloride technology as the logical point of reference for engineering controls. Schroy of Monsanto, testifying for the Society of the Plastics Industry (SPI), concluded that a 2 ppm standard was technically feasible based primarily on the control technologies from the vinyl chloride industry, (Tr. 798):

> I believe • • • that the technology which has been developed for VCM has to be converted because of the difference in physical properties to AN technology. That is in a judgment a minimal amount • • • The conversion of the VCM technology would be minimal to the AN, yes, at the two ppm (Tr. 805).

A reliance on "transferred" vinyl chloride technology for control of AN reflects a phenomenon which arises often in the context of the control of toxic substances by engineering means. In the case of acrylonitrile, until early 1977, there was never either an incentive or a perceived need to reduce exposures to the one to two ppm range. Indeed, the previous standard of 20 ppm had been achieved almost universally in all operations involving AN. Further control of AN was not a primary engineering concern. However, with the development of the evidence of AN's carcinogenicity, it became necessary to examine methods of control which could be used for a material which had been thought to be "satisfactorily controlled." The obvious place to look, as the companies themselves have done, was to the technology developed for control of another monomer, vinyl chloride.

As OSHA recognizes, there are clear differences between AN and VC which make it impossible to apply unmodified VC technology to all processes using AN. However, these differences do not, as some would argue, render the technology totally non-transferable. The record reflects countless areas of production and use of AN in which VC technology has been both explored and implemented. Still other areas display sufficient similarity of machinery, process, or source of monomer release to make the application of VC control worthwhile in the AN context. Even companies with little or no background in vinyl chloride control have been able to apply VC engineering advances to their operations involving AN (cf. Ex. 92).

It has also been contended that even if control technology is implemented, the employer will not be able to determine whether the operation will meet the PEL until after installation. This is the case, it should be noted, with practically all engineering controls, whether they be for containing a carcinogen or for controlling any other workplace contaminant. There can be, at best, a reasonable expectation that any type of control will accomplish a set reduction in exposure. With few exceptions, such a reasonable expectation has been established for the AN industry to reach a 2 ppm PEL for most operations, through readily available or readily adaptable technology (Exs. 11:(27); 88; 89; 92).

The need for adaptation and modification of VC technology has been discussed at length by several witnesses at the hearing, as well as by NIOSH and Enviro Control (ECI), in documents submitted to the record. However, it must be recognized that the very existence of this technology is a giant step forward in controlling AN.

On the basis of the data on the record, OSHA agrees with NIOSH's statement as to the current state of engineering technology for control of AN:

> The technology either exists or can reasonably be developed to meet the proposed 2 ppm standard in most processes most of the time through engineering controls.
>
> The technology does not exist to retrofit most existing AN processes to meet the proposed 0.2 ppm standard through engineering controls.
>
> No one, either in industry or Government, knows the precise extent to which compliance with the proposed 1 ppm standard is possible through the use of engineering controls. With the noted exceptions of polymer stripping, there is no information to suggest that acrylonitrile would be more difficult to control than vinyl chloride. However, control of vinyl chloride at 1 ppm is a difficult engineering challenge, and should not be taken lightly. The use of respiratory protection is still required on occasion in all vinyl chloride plants (Ex. 141).

The feasibility of a 2 ppm standard has been clearly acknowledged by the primary users and manufacturers of AN and AN-based materials, both in their written submissions and in their testimony at the hearing. Coverage of the final standard runs almost exclusively to these companies, which represent the largest chemical, plastics, and rubber manufacturers in this country.

In his statement at the hearing, Harding of SPI said:

> Industry will • • • request that the permitted exposure level be set at 2 ppm, with an action level of 1 ppm both on an 8-hour TWA, and a 15 minute ceiling limit of 10 ppm. This level is regarded by the industry as technologically and economically "feasible" (Ex. 72).

Chappelear of Monsanto, after a description of the ABS/SAN process and comparison with PVC, concluded that:

> Attainment of the 2 ppm PEL/10 ppm ceiling is feasible given sufficient time and significant expenditure of money. Technology to fully achieve lower levels is not defined for the total industry (Ex. 74).

Davis of Goodyear stated that, on the basis of an internal Goodyear study on nitrile elastomer manufacturing,

> It has been determined that compliance with a 2 ppm permissible exposure limit can be achieved through implementation of available technology. While it can be achieved, compliance will be costly. It is generally considered to be technologically and economically feasible for Goodyear's facilities using AN (Ex. 89).

Burgess of Dow Chemical noted that most of our plants are already in the two to one (ppm) range. That, of course is on a TWA basis. On an excursion basis we are still having some problems and are meeting some excursion situations by the use of respirators (Tr. 899-900).

du Pont has determined that:

> With the exception of maintenance work, emergencies, and a few identifiable operations where it is necessary to augment engineering controls by personal respiratory protection, it is feasible to control employee exposure to 2 ppm 8-hour TWA and 10 ppm 15 minute ceiling. This is done principally by the use of exhaust ventilation, improved process containment and changes in job procedures (Ex. 11:(14)).

Vistron noted that in mid-1977, they had begun an engineering plan to lower employee exposures to 2 ppm or lower (Ex. 92). When asked why they had looked at 2 ppm specifically, Brinkley of Vistron responded:

> We believe[d] that 2 parts per million was probably a workable number and it was feasible; and being realists, we also believe[d] that we would have to reduce the current exposures (Tr. 1124).

Engineering modifications specified in Vistron's 2 ppm engineering plan were expected to be completed by September 1978 (Ex. 92).

Ceiling Limit. The final standard provides for a ceiling limit of 10 ppm as averaged over any 15-minute period during the workshift. The ceiling supplements the TWA exposure limit by restricting the number and extent of short-term higher exposures to AN which are permitted within the TWA.

Under a time-weighted average limit alone, an employee could potentially be exposed to brief periods of extremely high exposures to AN without exceeding the TWA. The high acute toxicity of AN, combined with the unknown chronic effects of short term high exposures to AN, make the inclusion of a ceiling limit a prudent action.

OSHA recognizes that the controls necessary to reach the 2 ppm TWA will, of necessity, reduce the number and extent of excursions above the ceiling limit. This is particularly true where an employee's TWA does not involve 8 continuous hours of low level exposure, but rather, shorter periods of higher levels of exposure. There are many such exposure situations in the AN industry. OSHA believes that any additional compliance burden imposed

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by the ceiling limit will be mitigated by the acknowledged need to limit excursions in meeting the TWA.

Monsanto has contended that there should be no ceiling limit in the final standard, because ceilings are primarily designed to protect against acute exposure and not chronic toxicity (Ex. 156). However, OSHA has determined that the nature of exposure patterns in the industry, the many points of potential release of AN in the workplace, and the potential for high short-term exposures make a limitation of excursions within the TWA necessary to protect employees.

VI. Exemptions

Because of the presence of residual acrylonitrile monomer in virtually all AN-based polymers, it has been necessary to consider the potential for exposure of employees who process acrylic fibers, ABS resins, and other materials into finished parts and products.

The low level of residual AN in acrylic fibers, once they are crimped and cut, as well as the degree to which the AN is bound up in the polymer, makes the handling of acrylic fibers an unlikely source of acrylonitrile exposure. In order to release the residual AN from the dried fibers, it is necessary to heat them to their glass-transition temperatures, which would discolor and spoil the product. In addition, even if such temperatures were to be reached, the low amounts of residual AN which are present in the fibers (less than 20 ppm, from data submitted to the record) would not be expected to result in significant AN exposures.

Where the intermediate product is a polymer latex or solution, as with polymer polyols, there is a possibility of AN exposure of employees involved in the processing of that product into a final product. For example, where the product is processed by heat or pressure, as is done in polyurethane foam fabrication, residual AN monomer in the polymer may be driven off. If the stripping of monomer from the polymer before it is packaged for further processing is incomplete, there may be sufficient monomer left in the polymer to result in substantial exposures of employees handling it in subsequent processing operations.

The wide use of ABS resins in plastics manufacture provides a major potential source of employee exposure to AN. ABS resins are extremely versatile polymers, and they may be processed into finished products by almost any of the generally recognized thermoplastic conversion processes, such as injection molding, extrusion, and other basic thermoforming techniques. ABS plastics can also be mechanically formed into products by blow-molding or cold stamping of sheet plastic for example.

Besides being used alone to make fabricated products, ABS resins can be combined with other resins, such as PVC in various ratios, to produce products with wide-ranging qualities and capabilities.

Thermoplastic processing of ABS resins involves heating or melting of the polymer, followed by injection into a mold, extrusion of ABS into sheet or pipe, thermoforming of extruded ABS sheet plastic into products, or comparable processes. The processing of finished ABS resins into fabricated products does not appear to constitute a significant source of AN exposure.

Due to the nature of the polymer chains and grafts in ABS plastics, when they are heated to temperatures well in excess of their melting points, the polymers tend to revert to their component monomers or "depolymerize." This phenomenon would likely occur only because of an accident or abnormal situation, such as the overheating of an extrusion head. The available data indicates, however, that the resulting potential for employee exposure to released AN is remote (Ex. 156).

In the proposal, OSHA recognized that the potential for exposure to AN in the workplace extended to a multitude of workplaces, including many small fabricators, extruders, and other downstream processors of materials containing or made from AN. It was felt that extending the AN standard that far would be burdensome to both industry and OSHA, and would not be reasonable in light of the degree of exposure involved. Therefore, the proposed standard contained three alternative conditions by which a processor, user, or handler of PAN could be exempted from the standard. The concept of exemption for downstream employers was widely supported by witnesses appearing at the hearing. The exemption provisions themselves were the subject of considerable discussion as to scope of coverage and the clarity of the language.

Although there was no number included in the proposal, OSHA proposed that one condition for exemption be based upon a given level of residual AN in a given polymer. It was hoped that industry would be able to supply data to correlate the amount of residual AN with the air concentrations of AN which would result when the polymer was processed. This hope was only partially fulfilled. Several companies did supply data on release of residual AN during processing, but there was no way to establish a definite correlation between residual AN content and release of that AN into the workplace. Recommendations for "permissible" amounts of residual AN ranged from 20 ppm to 1,500 ppm and above (Exs. 151; 152; 156; 160). It became clear that the wide range of polymers made from AN varied greatly as to their propensity to release their residual AN during processing. Therefore, OSHA determined that it would not be appropriate to include an exemption provision in the final standard based solely on residual AN content.

Although little information was available at the time of the proposal concerning levels of AN in processing operations, various companies have since supplied test data for the record during the course of this rulemaking. This data has enabled OSHA to make determinations on the extent and scope of the exemptions from the AN standard.

The available test data indicates that there is no way, at present, to determine the extent of release of AN from PAN solely on the basis of residual monomer content. A number of other factors are involved, such as the method of processing, and the temperatures, and pressures applied to the polymer during processing. Although, as expected, polymers with high concentrations of residual AN (over 1,000 ppm) generally result in higher air levels when processed, there is no consistent relationship that can be established.

OSHA believes, nonetheless, that the available data in the record do support an exemption from the standard for all handling, use, and processing of finished ABS, SAN, and nitrile barrier resins. Testing conducted by Monsanto on resins containing as much as 1,000 to 2,000 ppm residual AN indicates that the processing of these materials results in 8-hour TWA exposures well below 1 ppm (Ex. 156). Similar testing by Dow has resulted in consistent findings (Ex. 160). Data submitted by Vistron at the hearing also showed extremely low air concentrations during processing of nitrile barrier resins (Ex. 92).

The downstream monitoring data available in the record also justifies exemption from the standard for ABS, SAN, and nitrile barrier resins. The results of air sampling performed in the workplaces of extruders and other processors of ABS/SAN plastic materials clearly show air concentrations of AN to be well below 1 ppm (Exs. 156; 135; Tr. 855).

Dow Chemical reports that they have continued their monitoring of ABS/SAN fabricators and have not yet found 8-hour TWA exposures above 0.2 ppm (Ex. 160). They also note a study by the State of Michigan which reports no detectable AN in an ABS fabrication facility (0.1 limit of detection) (cf. Tr. 892-894; Ex. 160).

The Society of the Plastics Industry (SPI) reports that they have gathered data showing exposures ranging from "none detectable" to just less than 0.2 ppm in polymer processing operations (Ex. 148). Although SPI did not supply the actual data, their findings are consistent with the other data available in the record.

OSHA has determined that the exposures in ABS/SAN fabricating and processing operations are sufficiently low to justify their total exemption from the standard. The AN exposures in these operations, as reflected in the data supplied to the record, are well below 1 ppm even for resins with residual AN levels as high as 1,500–2,000 ppm. Therefore, we find that there is no need to limit the general fabrication exemption for these materials by tying it to a specific residual AN limit.

Nitrile rubber is, essentially, the same material as the rubber phase encountered in ABS resin manufacturing. The materials produced in nitrile rubber manufacturing will usually be in one of three forms: latex (liquid), bale, or slab (both solid). The difficulty involved in handling latexes is discussed at length elsewhere in this section. Insofar as bale and slab rubber are concerned, however, there is nothing to indicate that the handling of these dried materials in the form of finished polymers should present any greater potential for AN exposure than finished resins or plastics. Therefore, solid nitrile rubber is included in the list of exempted materials in paragraph (a)(2)(i) of the standard.

There is considerable data in the record to indicate that acrylic fibers, after they are dried, no longer pose a significant risk of AN exposure. The comments and testimony of fiber manufactures show that residual AN levels in acrylic and modacrylic fibers are extremely low, and that the potential for release of the residual AN is remote (Exs. 11:(14); 149; 11:(27)). This was recognized by OSHA in the preamble to the ETS (43 FR at 2588), and it was assumed at the time that the exemption provisions of paragraph (a)(2)(i) would cover fibers. However, the objective data requirement in the proposal has caused great concern for users of the fibers.

In particular, apparel manufacturers stated that it was unclear who had to maintain the records of objective data to support the exemption (Ex. 11:(24)). In their view, since they were using a "product made from PAN," albeit three steps removed from the manufacture of the fibers, the standard would require them to keep records. OSHA agrees that such a requirement would not be reasonable and has clarified the standard accordingly. A specific exemption is included in the standard for acrylic fibers as finished polymers (after the drying stage of the manufacturing process).

The most difficult area to deal with in the context of exemption from the standard is the processing, handling, and use of latexes and other liquid mixtures. It is clear in the record that "latex" is a very broad term which can refer to the polymer at several stages of manufacturing. The "latex" which carries the highest potential for AN exposures in the workplace is the so-called "polymer intermediate" latex. This latex is essentially an active part of the polymerization process, and is a major source of exposures in the manufacture of ABS and SAN resins and nitrile elastomers, regardless of manufacturing process used. It is undisputed that this polymer intermediate, which releases AN monomer throughout its movement through the process, must be regulated by the AN standard.

There are also latexes which are the final products of the polymerization process. These latexes, which are basically solid polymer dissolved or suspended in water or other solvent, may or may not present a serious AN exposure potential. Union Carbide submitted valuable data on its latex products, which are used in paints, adhesives, and textile coatings (Ex. 151).

At the hearing Dr. Burgess of Dow stated that, on the basis of tests of latex containing 20 ppm residual AN, latex in general should be exempted from the AN standard (Tr. 895). However, he was unable to discuss the release of AN by latexes containing higher concentrations of residual AN than those tested by Dow (Tr. 901). The Union Carbide material submitted as posthearing data shows a wide range of airborne concentrations of AN during the formulation and use of paints, industrial coatings, and adhesives made from acrylic latexes (Ex. 151). Union Carbide's conclusions as to exemptions of those latexes and products varied greatly with residual AN content as well as the use(s) of such products and latexes.

It is our view that the kind of data supplied by Dr. Burgess would represent the necessary "objective data" to support exemptions for the materials tested by Dow, on an individual performance basis. Similarly, the data supplied by Union Carbide on their latex products which all contain less than 10 ppm residual AN, exemplifies the type of data which could support an exemption.

It is notable, however, the Union Carbide tested latexes containing far higher residual AN levels than do the company's products. Ironically, then, whereas the data would support exemption of Union Carbide's latex products, they also show why "latex" as such cannot be granted a wholesale exemption, or an exemption based solely on residual content, from the standard.

The Union Carbide data graphically illustrate why there can be no general exemption for all AN-based latexes similar to the one included for ABS/SAN resins and for acrylic fibers. The data reveal both a greater potential for the release of residual AN by latexes and a greater likelihood of higher concentrations of AN in the workplace air as a result. As Union Carbide has pointed out, the effects of ventilation are crucial to the reduction of AN levels during the use of AN-based latex. In addition, products formulated from latexes take many forms, and contain varying concentrations of materials.

There are no data to indicate that the residual concentrations of AN in the Union Carbide latexes are typical of all acrylic latexes in either amount or propensity for release. Similarly, the formulator of paints and other materials utilizing the latex may produce widely divergent potential exposures by varying the latex content of his products. Other than the Union Carbide submission, there is little data available for OSHA to use to compare the many available latexes and latex products in these particulars.

We anticipate that most latex producers will be capable of providing data to support exemption of their products under paragraph (a)(2)(ii) of the standard. However, it is not possible for OSHA at this time, to establish a broad brush exemption for all latex, based solely upon the Union Carbide submission. As with all other products made from or containing AN, latexes and other liquid mixtures can be exempted from the requirements of the standard under the performance language in (a)(2)(i).

Indeed, Wheeler, in his cover letter to the new data, recognized this likelihood:

> Union Carbide Corp. believes that the scope and application of the Proposed Permanent Standard be limited through exemption of users and formulators from the Standard where objective data indicates there is minimal effect on employee safety. We also recognize the difficulties in making such an exemption apply to all forms and compositions of polyacrylonitrile. We, therefore, strongly recommend that the statement • • • ((a)(2)(i) of the Proposed Standard) be retained, the standard to provide for unknown applications and future technological changes. Such statement should be in addition to any specific exemption or exemptions OSHA wishes to grant (Ex. 151).

In order for OSHA to exempt latex as such from the final standard, it would be necessary to set residual AN limits for each category of latex usage. As the Union Carbide data makes clear, the many intermediate and end uses of latexes would render this an

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impossible task from an administrative and enforcement standpoint. It is far more useful, in our view, to treat the latex problem through a performance requirement and not through setting detailed specifications for residual content.

The difficulties encountered in granting a general exemption for latexes also arise in the context of polymer polyols, and, presumedly, other liquid mixtures. In brief, although many polymer polyols would be expected to qualify for exemption under the performance requirements of (a)(2)(ii), it is not possible to exempt all such materials based upon the data available to us. Union Carbide has provided data on processing and use of polymer polyols which indicate that most of these materials will not release airborne concentrations of AN above 1 ppm under expected conditions of use, processing, and handling (Ex. 152). However, the data do not indicate a clear correlation between residual AN content and resulting air concentrations. Further, the data indicate that certain polyols will, in fact, release AN well above 1 ppm. As is the case with latexes, we are confident that most polymer polyols will be able to meet the provisions for exemption under the performance requirements in (a)(2)(ii).

The exemption provisions are intended to relieve all employers who use, process, or handle the materials listed in paragraph (a)(2)(i) from obligations under the standard. The exemption applies, further, to products fabricated from these materials.

With regard to our discussion of "latexes," it is noted that certain types of latex are no more than finely divided solid polymer suspended in water. "Such a latex on air drying releases no measurable acrylonitrile" (Ex. 11:(13)). It is clear that if the solid polymer would be exempt under paragraph (a)(2)(i), then a latex made from that solid polymer would be exempt, as well.

The second basis for exemption included in the proposal would have set an arbitrary limit of residual AN for exemption of AN-based materials from the standard. As has been discussed in great detail, the exemption provisions as revised render such an arbitrary limitation unnecessary. In addition, there has not been any clear correlation established between residual AN content and air concentrations during processing.

The third basis for exemption, as proposed, provided that if materials made from PAN other than latexes and other liquid mixtures, were not heated or melted, such materials would be exempted from the standard. Several parties to the proceeding have suggested changes to this section SPI, in particular, has recommended that the "heated or melted" language be clarified in terms of temperature, specifically 170° F. This temperature, as was discussed at the hearing, represents the boiling point of AN (Ex. 148, Tr. 754). We recognize that processing operations which involve heating and/or melting of polymer generally require temperatures well in excess of 170° F. Therefore, we believe that 170° F is a reasonable upper bound for exempting the handling of AN-based solid materials. This change has been incorporated into the final standard.

The data in the record, however, clearly indicates that certain latexes and liquid mixtures will release their residual AN when they are processed at room temperature, such as during the application of industrial coatings, paints, and adhesives (Ex. 151; 152). As noted earlier, the standard provides that latexes and other liquids made from or containing AN can still be exempted from the AN standard under the performance language in (a)(2)(ii), though they are not included within paragraph (a)(2)(i) or (a)(2)(iii).

The "heating or melting" provision of the proposal was primarily designed to permit exemption of the transportation, handling, and mechanical processing (stamping, etc.) of solid plastics, resins, rubbers, and other materials containing or made from AN. In addition to the materials to be exempted specifically by paragraph(a)(2)(i), there may be other materials developed in the future from AN for which the "heating or melting" provisions might be appropriate. Therefore, with the one change noted above, the third basis for exemption from the proposal is carried forward to the final standard as paragraph (a)(2)(iii). Solid materials are exempted from the standard, if they will not be heated above 170° F, because there is no data to indicate that residual AN in these materials is either released in significant amounts or absorbed through the skin from solid resins, plastics, or rubbers.

The proposed performance exemption, which required that a material not "release AN resulting in air concentrations exceeding 1 ppm", has caused considerable confusion. What is meant by this capabiliy of release is an 8-hour TWA of 1 ppm, rather than an instantaneous release. Were this to be an "instantaneous release," it would be doubtful whether many polymers would be able to meet this requirement, particularly in the headspace of storage tanks and drums. In addition, OSHA's primary concern is the employee's potential exposure during the workshift. This concern is more directly reflected by an 8-hour TWA exposure potential. The standard has been amended to include the 8-hour time frame for AN release in the performance exemption, paragraph (a)(2)(ii).

It should be noted that materials which qualify for exemption from the standard are exempted from the entire standard, including the protective clothing, labeling, and training provisions. The only obligation of an employer operating under the exemption is to maintain the records of the objective data which serve as the basis for the exemption.

Under the ETS, many persons expressed concern about the showing that was required for the "performance exemption" provided in paragraph (a)(2)(i). In particular, they wanted to know how far away from the material did the measurements of "release" have to be taken, and what conditions represented the "expected conditions of handling, processing, and use which would cause the greatest possible release." Some of the manufacturers were uncertain as to whether they could provide adequate data along these lines due to the wide variability of downstream workplaces and processing conditions.

By including a performance-based exemption provision, OSHA has incorporated a broad, flexible means for an employer to be relieved of obligations under the standard. If a downstream employer can show that his processing operations are within the parameters which the manufacturer used in his testing, he can rely on that testing data for exemption from the standard. Conversely, if the testing conditions used are less stringent than those encountered by the employer, that employer cannot rely upon data from that testing to support his exemption.

In this regard, there is no need for specifying that measurements of air concentrations be taken at a certain distance form the test material. OSHA recognizes that employee exposure conditions can vary greatly between plants, even though they may be using the same materials. All that the standard requires is for the tester to specify the conditions of the testing, such as the temperature of heating, time of heating, distance of sampling probe from the surface of the material being tested, and the like. The duty is on the employer relying upon that data to show that his operating and exposure conditions are within the conditions of the testing.

Perhaps the most variable aspect of downstream operations is the amount of ventilation present in the individual plant. In most cases, the higher the rate of ventilation in the workplace, the lower the potential for AN exposure.

A manufacturer of a material made from AN cannot anticipate all possible

workplace conditions to be encountered in the further processing of his material. However, in developing data on the release of AN from his material, he can provide useful data by performing his testing on a worst-case basis, without any ventilation to dilute the AN emissions. By doing so, and by specifying the other parameters of his testing procedure, the manufacturer can demonstrate the propensity of his materials to release their AN. A downstream employer who receives data from this testing must then analyze his workplace conditions to determine if he can reasonably rely upon that data for exemption from the standard. If testing without ventilation demonstrated for example, that at 6 inches from the material surface, release of AN was nondetectable, that data would support exemption of virtually any conceivable downstream operation involving that material. Therefore, testing without ventilation would serve as a starting point, and might itself generate enough data to provide exemption for numerous processors.

It must be emphasized that the exemption provisions apply only in situations where an employee's AN exposure potential is limited to release from exempted materials. In order to claim exemption from the standard, the employer is required to demonstrate that all of the AN-based materials to which an employee is exposed are exempted under paragraph (a)(2). When an employee is exposed to both exempted materials and nonexempted materials, as would occur in many polymerization facilities, the employer would be obligated to take action to protect the employee from exposure to AN, as provided in the standard.

"PAN." A major issue in this rulemaking has involved whether "PAN," or polyacrylonitrile itself, should be considered a source of AN exposure under the AN standard. As noted in the exemption section in detail, the data submitted at the hearing and in posthearing comments indicate clearly that most PAN does not release its residual AN easily, and that where release does occur, the resulting air concentrations are well below the action level.

The major source of AN in the monomer and polymer manufacturing processes, other than liquid AN itself, is the material passing through the polymerization process. This partially polymerized material, referred to as polymer intermediate, contains considerable residual AN, which it continues to release throughout polymerization. As the data in the record makes clear, once this material completes the polymerization process and is dried, both its residual AN levels and its propensity to release airborne concentrations of AN are extremely low. This refers to resins and rubbers as well as acrylic fibers. Because, as a general matter, "PAN" per se is not the problem, there is no need to explicitly refer to PAN anywhere in the standard. Rather, the term "liquid AN" has been defined, for the purposes of the standard, to refer to both the liquid monomer and the polymer intermediate in the polymerization process.

It should be noted that some PAN materials may, nonetheless, be subject to the standard if they are not specifically exempted in (a)(2)(i) or if they do not meet the performance conditions spelled out in (a)(2) (ii) or (iii). OSHA has determined that the standard should provide for either inclusion or exemption of new and different products made from AN or containing AN which may be developed in the future.

In the final standard, OSHA attempts to remove many of the ambiguities and uncertainties which arose under the ETS. One of these areas involves the prohibition against skin and eye contact with "liquid AN and PAN." There is no data to indicate that skin contact with finished polymers, whether they be resins, latexes, or fibers, will result in skin absorption of AN. Even during the processing of those polymers which may release their residual AN above the action level as airborne concentrations, OSHA is not aware of any skin absorption problem. However, it is likewise clear that the handling of AN itself, as well as polymer intermediates produced during the polymerization process, does carry with it a significant skin exposure potential. OSHA believes that it is necessary to guard against any skin or eye contact with these liquid monomeric and intermediate polymeric materials, and has clarified the standard to reflect this point.

The terms "liquid AN and PAN" led to some confusion under the ETS in the context of skin exposure. There was considerable concern that the standard prohibited any skin contact with solid PAN, such as resins and rubbers, since the term "PAN" did not appear to be qualified by the term "liquid." The skin contact prohibition deals solely with the liquid phase. Therefore, the manual handling of resins and other solid PAN materials is not prohibited under the AN standard.

A further point of contention concerned the phrase "products made from PAN," in the exemption provisions. It was argued that the exemption should also cover PAN itself, as well as materials made from or containing AN which might not qualify as PAN, such as acrylamide. These materials would also be exempted from the standard if they met the specified conditions for exemption. OSHA agrees that it should be the performance of the materials in question that determines whether or not such materials are to be exempted from the standard. The final standard reflects this expansion of the scope of the exemption provisions.

VII. Feasibility

In setting standards for toxic substances, the Secretary is required to give due regard to the question of feasibility. Section 6(b)(5) of the Act mandates that the Secretary shall set the standard which most adequately assures employees' safety and health "to the extent feasible, on the basis of the best available evidence." Additionally, in the development of occupational safety and health standards "considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

Accordingly, OSHA analyzes both the economic and technological feasibility of proposed standards. OSHA makes such analyses available to the public for comment and testimony during the course of the rulemaking. Interested parties are given the opportunity to testify on the economic and technological impact of proposed standards at the informal rulemaking hearing, and to submit additional information on the issue of feasibility.

In developing a standard for exposure to acrylonitrile, OSHA has evaluated both the economic and technological feasibility of the proposal on the basis of the entire rulemaking record, including the information developed by ECI and submittals by the public. On the basis of the best available evidence, therefore, OSHA has determined, as explained in detail below, that the permanent standard is both economically and technologically feasible.

Only one substantial study was performed as to the economic and technological considerations of the proposed AN standard. This study, which was performed by Enviro Control, Inc. (ECI of Rockville, Md.), was contracted for by OSHA, and considered the feasibility of the three alternative sets of permissible exposure limits contained in the proposal (Ex. 15). Representatives of ECI participated at the hearing and were subjected to questioning by other parties to the proceeding. In addition, feasibility was expressly considered in other testimony at the hearing.

I. *Technological considerations.* Upon reviewing all the data, comments, and testimony in the record, OSHA concludes that the achievement of the permissible exposure limits established in the final acrylonitrile standard is technologically feasible. This determination reflects the nearly

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universal agreement by the affected companies, as well as the conclusions of ECI, that existing technology and modifications of existing technology will be capable of reducing exposures in most operations to below the PEL.

The record indicates clearly that the operations which are the easiest to control, in most cases, are the AN manufacturing facilities. The manufacture of AN is essentially a closed process, as opposed to the more open manufacturing processes found in polymerization facilities. It is well recognized that the most effective way to limit exposures to toxic and carcinogenic materials in the workplace is to assure that the materials are enclosed in the system as much as possible. The primary sources of exposure in the AN manufacturing process are leaks and spills from pumps, seals, valves, and other breaches of the closed system. In addition, there is potential for exposure to AN in the tank farm and storage areas, as well as in maintenance operations whenever the closed system must be opened for cleaning or repairs.

Many of the controls developed for vinyl chloride can be applied and/or adapted for use with acrylonitrile. In particular, those controls which contain the monomer within the closed system, such as double mechanical seals, can be used with AN.

There is nothing about the physical qualities of AN which would make it more difficult to contain within a closed system than VC (Ex. 143). The physical properties of AN which differ substantially from VC (e.g., lower vapor pressure, presence as a liquid rather than a vapor at room temperature and greater solubility in water) are relevant insofar as cleaning up spills and detecting leaks are concerned, but should be of slight importance from the containment perspective.

Even when the question of leaks and spills does arise, however, the difference in physical properties does not necessarily make AN more difficult to clean up. Parties at the hearing contended that because VC escapes from a leak as a vapor, it is rapidly dispersed, and that when the leak is detected, a portable ventilation unit will control it without the need for respirators during repairs. They argued that AN, which leaks as a liquid, would drip or pour into the workplace, thus resulting in more persistent elevated concentrations of AN vapor. In addition, it was noted that AN spills would require both ventilation and respirators to be used during the cleaning process, and such use would be more prolonged because of the slower vaporization of the AN (Exs. 74, 76, 92).

However, not all of the consequences of the different properties of AN and VC are in the direction of making AN more difficult to control. Unlike leaks of VC monomer, which must be detected by a monitoring system, leaks of AN can often be detected by visual inspection of working surfaces, in a conscientious leak detection program. In addition, since AN is a water-soluble liquid, spills can be washed down with water into the process sewer or disposal system, thus limiting the time of exposure to vapors in the workplace (Tr. 1170). Respirator usage during cleanup would, therefore, be for shorter periods of time than has been indicated. The washing down of spills of AN has long been an established practice in the industry, owing to AN's solubility and biodegradability (Ex. 92).

The leakage of AN from the closed system in the manufacturing process is often unpredictable, since seals, valves, and other equipment are capable of failing without notice. In addition, some employees involved in maintenance operations and cleaning of portions of closed systems will inevitably have potential for exposure above both the TWA and ceiling limits. We recognize, therefore, that a limited amount of respirator usage would be necessary in AN manufacturing facilities regardless of the permissible exposure limits selected by OSHA. Respirators will also be necessary in certain operations in tank farms and loading facilities. OSHA is confident that, with the exception of fugitive emissions and inherently hazardous operations, the AN manufacturing sector can comply with a 2-ppm TWA and 10-ppm ceiling limit, through engineering and work practice controls.

The record of this proceeding indicates that of all elements of the affected industry, AN manufacturers are the furthest along in the development of controls for 2 ppm. Their facilities do not have to deal with the complexities of the polymerization process or unique properties of the materials contained therein. It is easier to maintain an enclosed system for monomer production than for polymer production. This point is readily acknowledged by the affected employers (cf. Ex. 11:(14); Tr. 1160). AN exposure in the manufacturing process (other than during maintenance operations) tends to result from fugitive emissions from valves, pumps, seals, and the like. In addition, since many facilities are located outdoors, there is considerable dilution of these fugitive emissions by winds and air currents.

In the manufacture of acrylic and modacrylic fibers, AN is released during the polymerization and during the washing, hot stretching, and drying of the fibers. The finished fibers, as has been noted do not represent a significant AN exposure potential. Most of the residual AN in the polymer is driven off during the manufacturing process.

The record indicates that fiber production is already operating generally in the 2-ppm range. There are occasional operations, such as maintenance and reactor cleaning, for which respirators are necessary in order to meet the permissible exposure limits (Ex. 11:(14); 11:(12)).

The most difficult compliance situation under the AN standard involves the manufacture of ABS and SAN resins, and nitrile elastomers. There are several reasons why control of AN in these operations is expected to be a more complex matter. First, the nature of the manufacturing process requires there to be a great deal of access to the product during polymerization. The product has a tendency to congeal on the inside of the reactor and other vessels in the polymerization process. The material must be removed manually at irregualr intervals in order to avoid clogging the process. Connected with the access requirement is the relatively high residual AN content of the material being polyermized, which is released throughout the polymerization process.

Stripping of residual AN from these materials is a far more complicated task than stripping vinyl chloride from PVC for several reasons. Since AN is much more soluble in water than is VC, it is more difficult to drive off from the liquid polymer intermediate. In order to drive off a comparable amount of AN, it would be necessary to use considerably more steam and/or vacuum than would be used for VC. In addition, the material to be stripped is, in the case of AN, much more sensitive as to its physical properties. The use of the amounts of steam and/or vacuum that would be needed to strip AN effectively from resin and elastomer intermediates would badly degrade the product and alter or destroy its physical properties. In addition, the polymer intermediates, when stripped, have a disquieting tendency to coagulate, or "flocculate," prematurely, even during the actual stripping, thus obstructing the manufacturing process.

Exposures to AN can occur throughout the ABS/SAN and nitrile elastomer manufacturing processes. Since the intermediate polymer latexes release their AN throughout the manufacturing process, from the monomer reaction vessels through the flocculation tank area, until after drying.

Exposures in the ABS/SAN and nitrile elastomer industry are the highest of the affected industry sectors, on a TWA basis. Exposures ranging up to 20 ppm have been reported by one nitrile rubber manufacturer, mostly in the flocculation tank area (Tr. 985; 999; Ex. 161). Whereas a number of other job positions might involve the employee being in the exposure areas for a small part of the day, the flocculation area requires frequent monitoring of the operation by the employee.

Many plastics and rubbers made from AN, are produced by "emulsion" or "suspension" polymerization. In these processes, the polymer is suspended in a water-based latex or other liquid solution. The suspended polymer has a tendency to agglomerate, forming viscous solidifying material called prefloc. Prefloc can clog up the manufacturing process, and must be removed periodically from reactors and other vessels (Tr. 762).

It should be noted that two major manufacturers of nitrile elastomers have testified that they could comply with a 2 ppm PEL in most of their operations, with one of them venturing that, with some exceptions, 1 ppm might be feasible (Tr. 978; 1020; Ex. 88; 89).

Some more advanced companies in the AN industry have expressed a degree of optimism as to the technological feasibility of levels lower than 2 ppm. Dow Chemical, which is already operating generally below 2 ppm noted that "We believe that levels of 0.2 ppm, and 1 ppm are technologically attainable, but would require significant costs and years of effort" (Ex. 11:(25); 2:(21)). Monsanto noted that they expect:

> With reasonable confidence to be able to achieve the 2/10 goals [2 ppm TWA, 10 ppm ceiling] * * * across all our manufacturing operations which include AN monomer, fiber intermediates and finished goods, and plastics intermediates and finished products facilities. The completion schedule for these engineering projects may extend over a period of more than 2 years (Ex. 11:(27)).

Even further, Monsanto predicts that this engineering program may result in exposure levels near 1 ppm TWA and 5 ppm ceiling in a number of process areas. In addition, they anticipate being able to define additional engineering solutions to meet a 1/5 standard (1 ppm TWA, 5 ppm ceiling), based on the results of their current engineering program, for most of their facilities. Implementation of 1/5 solutions, they noted, would take 2 or 3 years beyond the period for completion of their 2 ppm engineering program (Ex. 11:(27)).

Enviro Control, Inc. (ECI), the contractor for the economic and technological impact assessment of the proposed standard, concluded that "engineering controls will be technologically feasible for compliance under Scenario A (2 ppm TWA/10 ppm ceiling) in all segments except in periodic maintenance operations" (Ex. 15). In their report, ECI also determined that 1 ppm would be technologically feasible except for periodic maintenance operations and tank farm and loading areas, whereas 0.2 ppm could probably be achieved through totally enclosed processes with the use of chemical cleaners not yet developed, but in any event not for AN production or for tank farms, loading areas, or periodic maintenance operations. New plants were determined to be necessary for ABS/SAN and nitrile rubber manufacturing operations to meet the 0.2 ppm standard.

At the hearing, Dr. Bochinski of ECI expressed confidence that 2 ppm was technologically feasible (Tr. 324). However, on questioning, he admitted to great uncertainty as to the report's conclusions of industry's abilities to meet a standard below 2 ppm. In particular, the 0.2 ppm scenario was most doubtful becasue of difficulty of stripping monomer from polymer latex and the need for chemical cleaners to replace the manual cleaning of reactors (Tr. 324; 331-2). (The stripping problem also arises under the 1 ppm scenario, as discussed below.) There are, at present, no known chemical cleaners which can remove the prefloc and other materials from reactor walls without damaging the reactor lining or other components. (It should be noted that many AN-based plastics and rubbers are valued primarily because of their resistance to the types of chemicals and solvents that would be used as chemical cleaners.)

Even if such chemical cleaners were to be developed, ECI determined that new plant facilities would be required for resin and elastomer operations to meet a 0.2 standard. It is clear that a PEL of 0.2 ppm cannot be considered feasible, based upon either presently available technology or that technology which looms on the horizon.

The greatest amount of attention in this rulemaking was given to the question of which of the other two alternative proposed PEL's, 2 ppm or 1 ppm, was the "lowest level feasible." Whereas the capability to meet 0.2 ppm has been shown to be speculative, at best, the 1 ppm and 2 ppm PEL's are subject to more detailed scrutiny.

At the hearing, ECI expressed concern over the feasibility of the high rates of ventilation (30-40 changes per hour) that their report stated would be necessary to achieve a 1 ppm standard (Tr. 300; 312). In addition, there was serious concern about whether the industry could develop means of stripping residual monomer from polymers to reduce exposure during polymerization. In response to a question from McCleary of Uniroyal, as to the technical feasibility of 1 ppm as opposed to 2 ppm, for nitrile elastomers, Bochinski replied:

> * * * well, whenever you start stripping more, say at 2 ppm, my impression was they could get by without additional stripping. There was some additional stripping proposed at the one ppm level, in addition to get to the one level. And any additional stripping, the producer runs a risk of * * * In certain cases, certain products, my understanding was that with low molecular weight latexes and other kinds that you are not able to strip very much because then you destroy your product quality and it's unacceptable in the marketplace. Your options are closed. You have to do something else (Tr. 326).

Bochinski concluded that the stripping problem would be even greater for ABS resins than for nitrile rubber, because the intermediate latex tends to coagulate to a greater degree within the process vessel (Tr. 328).

The difficulty of stripping AN from polymers is well-documented. It results from a combination of factors: the nature of the polymer latex, the relatively low vapor pressure of AN as compared to VC, and AN's relatively high solubility in water (resulting in its tendency to remain in a water solution, emulsion, or suspension). Indeed, NIOSH has concluded that the stripping problem is the primary barrier to engineering control of AN to the 1 ppm level (Ex. 141).

In addition to stripping difficulties, the control of polymerization operations to 1 ppm is also limited by the degree to which these operations can be enclosed. Particularly in the case of resins and elastomers, the intermediate latexes and other polymer intermediates have a tendency to agglomerate. It is necessary for the system to be accessible in order for an employee to remove blockages of such materials from the process (Tr. 762). This results in higher potential exposures to employees in these areas, since the polymerizing materials are releasing residual quantities of AN as they pass through the process. As noted above, stripping of this residual AN at an early stage in the process is severly limited.

The effort necessary for compliance with the 2 ppm AN standard will not be insignificant. However, it should be recognized that the AN industry is in a much more advantageous position as to available control technology than was the VC industry at the time of the vinyl chloride standard. The vinyl chloride industry did not at that time have a comprehensive body of control technology from which to draw. The AN industry on the other hand, has the benefit of 3 years or intensive and largely successful technological development for controlling VC. It is clearly not necessary for such technology to be totally transferable to the AN context in order to be beneficial in developing controls for AN. In this case, however, as the record demonstrates, many of the engineering controls in use for VC can, in fact, be applied to

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AN. Many companies in the AN industry, including some without any experience in dealing with vinyl chloride, have implemented or are presently implementing such controls as double mechanical seals, closed-loop sampling systems, and portable ventilation systems. It is noteworthy that an expert witness testifying on behalf of both Monsanto and the SPI, stated that vinyl chloride technology with minimal modifications would enable the industry to reach a 2 ppm standard (Ex. 76; 86).

In a paper presented at the American Industrial Hygiene Conference in May, 1978, Schoultz, Gideon, and Bochinski concluded:

> PVC and PAN processes and emission sources are of sufficient similarity to allow a significant level of transfer of control technology information. It is estimated that, except for certain operations (i.e., vessel cleaning), where sophisticated, long-term controls are required, excessive AN exposures in PAN plants can be reduced within acceptable levels as demonstrated in PVC Plants (Ex. 143).

It is recognized that the engineering controls implemented to meet a 2 ppm standard will often result in exposures at or below 1 ppm (Ex. 92; 11:(27)). The ability to reach 1 ppm does not, however, extend uniformly across the entire AN industry. In particular, it must be noted that the greates numbers of exposed employees are to be found in those sectors in which the prospects of reaching 1 ppm are the most remote, primarily in plastics and rubber manufacturing. This appears to be a function of the degree of process enclosure and automation that can be achieved in the various industry sectors. Whereas monomer manufacturing involves essentially a closed system, for example, nitrile rubber production requires a far greater amount of access to the material being processed.

Our determination as to the infeasibility of a 1 ppm standard rests not on the economics, but rather, on the technology of engineering controls for AN and AN-based materials. As will be discussed below, many of these compounds possess physical properties which render them even more difficult to control through implementation and modification of existing methods of stripping or process enclosure than was the case with vinyl chloride.

Chapter 4 of the ECI report dealt with the issue of technological feasibility of the three proposed sets of permissible exposure limits. ECI relied upon an examination of the effectiveness of proposed engineering controls in similar process applications involving vinyl chloride monomer, as well as discussions with AN industry officials, in their feasibility determinations.

The control methods listed in table 4-1 of the ECI report represent the contractor's findings as to the necessary technology for reaching each of the proposed PEL's. In OSHA's view, "technological feasibility" extends well beyond the limited definition employed by ECI in their assessment of the AN proposal. Nonetheless, on the basis of the Agency's own examination of the available technology and technology on the horizon, OSHA has determined that many of the control methods which would be necessary to achieve employee exposures below 2 ppm cannot be considered to be technologically feasible. In particular, these would include the need for considerable additional stripping of resins and elastomers, the development of chemical cleaners for reactors, and the use of extremely high rates of air flow in ventilation (30-40 air changes per hour), appear to fall into this category.

Many of the controls prescribed by ECI in their report, however, have been readily acknowledged to be appropriate methods of limiting AN exposure in the workplace. Such controls are, essentially designed either to enclose the processing operations more completely or to ventilate those areas in which further enclosure is not feasible. The use of ventilation becomes necessary when the materials being processed cannot be effectively enclosed, and wherever ready access to the processing machinery is required.

Double mechanical seals around pump or agitator drive shafts can be used effectively to isolate process liquids. These seals are pressurized with an inert liquid which will leak through before any process liquids can escape and expose the employee.

The effectiveness of a well-maintained double mechanical seal in preventing leaks of process liquids and vapors is supported by the data submitted by an industry expert witness (Ex. 76; 86). Another industry witness noted that a double mechanical seal "certainly would be a very adequate seal on a pump" (Tr. 1175). He also noted that his company is incorporating double mechanical seals "wherever they appear to be feasible and can be tested and evaluated" (Tr. 1162).

Two alternatives to double mechanical seals which were listed by ECI included "canned pumps" (totally enclosed pumps with no seals which can leak), and relocation of process equipment to provide for gravity flow. ECI's concerns as to the feasibility of these alternatives were echoed by industry (Ex. 92). "Canned pumps" can be damaged if process liquids contain solid particles, and relocation of equipment may not be possible given existing configurations and the need for the redesign and movement of pipes.

The control of AN in tank farms and loading facilities was found by ECI to be feasible for the 2 ppm scenario, but would be likely to require respiratory protection at lower levels. The technology recommended by ECI for these areas involved quick disconnects on pipes and hoses, movable local exhaust ventilation, vapor recovery systems, and the redesign of the work station to avoid extended use of awkward or heavy hoses or pipes by employees in the area.

ECI concluded that seals on pumps, valves, and gaskets would have to be properly maintained in order not to leak process liquids and vapors into the workplace. Such seals would require proper design and materials to avoid premature deterioration of the seal, whereas proper maintenance procedures and intervals would be necessary to assure protection. This conclusion was supported by the data on fugitive emissions submitted by Schroy (Ex. 76).

Sample collection from the process stream could be enclosed and provided with local exhaust ventilation, with the flow-through from the sample container being vented into the waste collection system. One company has reported the installation of closed circuit sampling valves as part of its plan to alleviate this problem (Ex. 92; Tr. 1127).

Many maintenance activities, such as reactor cleaning and "breaking" contaminated flanges, will probably require the use of respiratory protection, in any event. The use of remotely activated "blinds" can make "breaking" the flange unnecessary by allowing "blinds" to be inserted into the system without the employee having to contact the process contaminants.

Ventilation was determined to be necessary for those processes which are not readily enclosed, such as emulsion and suspension polymerization. ECI recommended air flow rates of as much as 30 to 40 air changes per hour, in order to reach the 1 ppm and 0.2 ppm levels. At the hearing, the ECI panel noted that such high ventilation rates might not be sufficiently feasible (Tr. 442).

ECI determined that two additional control methods (i.e. increased stripping and chemical cleaning of reactors) would be necessary for the industry to meet either a 1 ppm or an 0.2 ppm PEL. The record reflects that the technology to implement these control methods does not presently exist, and cannot be said to be "on the horizon."

The technology for stripping residual monomer from polymers is the main area of vinyl chloride technology which cannot be transferred to any appreciable degree to the control of acrylonitrile. As noted earlier, the limits of stripping residual monomer

from such materials as ABS resins and nitrile elastomers during the polymerization process represents the most significant difference in controlling acrylonitrile as opposed to vinyl chloride (Tr. 618; Ex. 141). The earlier in the process that residual monomer can be removed from a product, the lower is the potential at later points in the process for release of and exposure to that residual monomer.

Stripping of residual monomer from vinyl chloride (PVC) is relatively straightforward. PVC itself is highly resistant to the temperatures and other stresses inherent in the stripping process. The removal of residual vinyl chloride requires relatively little steam or vacuum, because of VCM's high vapor pressure. The physical properties of both AN and its polymer products make the stripping of residual monomer a much more difficult prospect.

Many of the polymer intermediates produced from AN are highly temperature- and pressure-sensitive (Tr. 762). When subjected to the stripping process, these materials will often coagulate in the stripper, forming in essence, their final products at a premature stage. In addition to clogging the polymerization process, this can result in unacceptable changes in the physical properties of the final products.

The vapor pressure of AN is, as noted earlier, considerably lower than that of VCM. This factor, combined with the relative affinity of AN for water makes it considerably more difficult to remove residual AN from water-based polymer solutions, suspensions, or emulsions. Even if the polymer were to remain stable throughout the stripping, the process would require far more steam or vacuum for removal of AN than would be used for VCM.

The relative sensitivity of ABS and SAN polymer intermediates to stripping is also a function of the presence of monomer and polymer in a solution or emulsion. In SAN polymerization, the polymer and monomer are in one phase, and that phase increases in viscosity as the polymer content increases. ABS polymerization has this same problem, but adds a rubber phase (AN-butadiene) which makes the mixture even more viscous. This can readily be distinguished from PVC manufacturing. PVC is insoluble in VCM, and precipitates out during the polymerization. This property makes the removal of residual VCM from PVC easier than removal of the more soluble AN from ABS/SAN suspensions or emulsions (Ex. 74).

ECI concluded that no additional stripping beyond that being performed at present would be required to meet a 2 ppm standard. However, insofar as additional stripping would be necessary to reach the proposed 1 ppm and 0.2 ppm exposure limits in many polymerization processes, particularly in the manufacturing of nitrile elastomers, these lower limits cannot be considered feasible.

The use of chemical cleaners to replace manual cleaning of reactors in the polymerization processes would also be necessary for compliance with the lower exposure limits. Chemical cleaning would make it unnecessary for employees to enter reactors. As noted by ECI, there are, at present, no known chemical cleaners which will work effectively in the ABS/SAN or nitrile elastomer manufacturing process (Tr. 331-2; 998a; 1121). The essential difficulty here is two-fold: first, the polymer materials which must be cleaned out of the reactors are prized for their resistance to the very types of chemicals which would be used to clean reactors and, second, there are no known chemical cleaners which will work on these caked-on materials without also damaging or destroying the linings or other elements of the reactors themselves (Tr. 368; 434). Reliance upon chemical cleaning would not, therefore, be considered to be feasible.

In summary, the ECI report supports OSHA's conclusion that a 2 ppm TWA with a 10 ppm 15 minute ceiling is technologically feasible for the affected industries, but that a lower standard cannot be considered feasible for the reasons noted.

Essential to an evaluation of the ECI report is an understanding of the relationship between its various sections. The cost estimates contained in section 5 of the report do not, in any way, reflect ECI's own engineering assessment of technological feasibility and the technology needed to meet each of the proposed limits. The cost figures for each industry sector were extrapolated by ECI using the cost data that they obtained from the affected companies. Except for the data contained in the supplement to the report, none of the cost estimates reflected any independent engineering judgment by ECI. Dr. Bochinski of ECI, in response to questioning, noted that: "I did not prepare the costs. I got the costs from industry" (Tr. 441).

The reason that this distinction becomes paramount is because of the efforts made by questioners at the hearing to merge the two sections of the report. It cannot be stressed too strongly that the cost estimates reported by ECI represent what the companies themselves felt they would need to meet the proposed levels. The cost estimates did not represent a detailed listing of the numbers and costs of the engineering controls and capital equipment that ECI felt would be necessary for compliance.

The costs submitted to ECI and included in the report, therefore, were indications of what the companies, and not ECI, felt would be needed to control exposures. As noted at various points in the record, various companies did not always agree with ECI as to what would be necessary (Tr. 485; 495-500). Dr. Bochinski clearly noted that the companies do not all have to employ the same control techniques (Tr. 479). Questioning by industry as to variability in control techniques, therefore, served only to elucidate this point.

In one instance at the hearing, a list of engineering changes and controls submitted by one producer was reviewed by ECI. Dr. Bochinski determined that in his judgment, there were certain items that should have been included that were not on the list (Tr. 495-499). This does not indicate, however, that the control methods as listed would not achieve the desired lowering of exposures.

Indeed, the company in question had stated that its planned engineering controls, which presumedly includes the list referred to above, were expected to reduce most operations to 2 ppm or less, when completed (by October 1978) (Ex. 922; Tr. 1135).

2. *Economic considerations.* In setting standards for toxic substances, the Secretary is required by section 6(b)(5) of the Act to give due regard to the question of feasibility. Section 6(b)(5) mandates that final standards be set which most adequately assure employee safety and health "to the extent feasible, on the basis of the best available evidence," and further requires that, in the development of occupational safety and health standards, "considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws." While the precise meaning of feasibility is not clear from the Act, it is OSHA's view that the term may include the economic ramifications of requirements imposed by standards. The determination that OSHA has the authority to consider economic feasibility factors in developing standards has been endorsed by the courts. *Industrial Union Dept. AFL-CIO v. Hodgson*, 499 F. 2d 467 (C.A.D.C., 1974); *AFL-CIO v. Brennan*, 530 F. 2d 109 (C.A. 3, 1975). As pointed out by the D.C. Circuit Court of Appeals, Congress did not intend the Secretary to promulgate standards which drive entire industries or large numbers of employers out of business. On the other hand, "standards may be economically feasible even though, from the standpoint of employers, they are financially burdensome and affect profit margins adversely." Further, the court

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said, the concept of economic feasibility does not "necessarily guarantee the continued existence of individual employers" *Industrial Union Department, AFL-CIO* v. *Hodgson, supra,* at page 478.

In accordance with the Secretary's position, it has long been OSHA's practice to analyze the economic feasibility of proposed standards where significant economic impact on employers covered by the proposals seems likely, to make such analysis available to affected parties for comment and subsequent hearing prior to issuance of final rules, and to invite the submission of other information on the economic impact and feasibility of proposed standards. In developing a final standard, therefore, OSHA evaluates the economic feasibility of the final standard on the basis of the information developed by its own studies of the proposal and submissions by the public during rulemaking.

To assess the economic feasibility of the proposed standard for acrylonitrile, OSHA undertook a detailed study of the proposal's economic impact on various affected industries. This study was conducted for OSHA by Enviro Control, Inc. (ECI) (Ex. 15; 15A). The ECI study has provided basic economic data for the evaluation of the economic impact of the permanent AN standard on the major affected industries. Additional information for this purpose was obtained through OSHA's analysis of all other economic data, comments, arguments, and testimony submitted at the AN hearing, in prehearing comments, and in posthearing comments and briefs. On the basis of the best available evidence, therefore, OSHA has determined, as discussed in detail below, that the permanent AN standard is economically feasible for the affected industries.

The economic impact statement was prepared in accordance with Executive Order 11949 (42 FR 1017), as noted in the preamble to the proposed standard (43 FR 2612). A notice of its availability was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7669). Therefore, OSHA has not performed a separate regulatory analysis pursuant to Executive Order 12044 (43 FR 12661, March 24, 1978), which was issued over 2 months after the proposed standard was published (cf. Department of Labor Response to Executive Order No. 12044, Improving Government Regulations, 43 FR 22915, May 26, 1978).

The economic and technological assessment prepared by ECI (Ex. 15) was published on February 21, 1978, and a supplement was made available at the hearing, on March 22 (Ex. 15A). Opportunity was given to interested parties to comment on and to testify concerning the contents of the report. In addition, representatives of ECI were available at the hearing to respond to questioning concerning their findings as to the economic and technological feasibility of the proposed AN standard.

In the case of the proposed standard on acrylonitrile, three sets of permissible exposure limits were expressly included for consideration: 2 ppm TWA/10 ppm ceiling; 1 ppm TWA/5 ppm ceiling; and 0.2 ppm TWA/1 ppm ceiling. We have already discussed OSHA's determination that, on the basis of the record, the 1 ppm and 0.2 ppm alternatives are not considered to be technologically feasible. Therefore, detailed discussion of the economic impacts of the AN standard will concentrate on the 2 ppm standard which OSHA has determined to be technologically feasible for the affected industries.

It is abundantly clear on the record that the final AN standard will in no way threaten the viability of the acrylonitrile industry. The companies to be affected by the standard are not small, marginal companies, but, rather, include the largest chemical, plastics, and rubber manufacturers in the country. The estimated costs of compliance with the standard, even if accurate, are insignificant by comparison to the total sales and assets of the affected companies.

In addition, OSHA has assured, through the broad exemption provisions, that the standard applies almost exclusively to these primary users and manufacturers of acrylonitrile. Downstream processors and fabricators of products from AN-based materials will, for the most part, be exempted from the requirements of the standard.

A major contention of industry witnesses, particularly those representing polymer producers, involved the failure of the ECI report to analyze the economic impact of the proposed standard on "downstream" employers. For the most part, these employers are engaged in the fabrication of parts and finished products from AN-based polymers.

At the time of the report, there was little data available, either to OSHA or to ECI, upon which to base an assessment of the effects of the proposal on downstream employers. ECI chose to assume that the exemption provisions of the proposal would serve to exempt most downstream employers from the scope of the standard.

The impact of a 2 ppm standard, particularly when coupled with the more detailed exemption provisions in paragraph (a)(2), on downstream employers is minimal. The list of materials exempted from coverage by paragraph (a)(2)(i) represents most of the materials made from AN which will be processed, handled, or used by a downstream employer.

Based upon a thorough review of the record, OSHA has determined that a 2 ppm standard is both technologically and economically feasible for the affected industries. The standard provides sufficient lead time (2 years) for companies to complete the installation of engineering controls to achieve compliance with the permissible exposure limits. The record demonstrates that many employers in the AN industry, including representatives from each of the various sectors within the industry, are either already in compliance with 2 ppm for many of their operations, or are in the process of implementing controls to achieve that end.

The main area in which costs are expected to be significant is the installation of engineering controls. Other areas of concern, such as respiratory protection and protective clothing requirements, were addressed at the time the ETS was issued. It was, at that time, determined that there was sufficient quantities of protective equipment available for compliance with the ETS, and that the requirements were feasible for the affected employers. Because the scope of the ETS was broader than that of the final standard, OSHA anticipates that all employers to be covered by the standard were also operating under the ETS. Thus, the feasibility determination from the ETS applies for provisions appearing in both the ETS and final standard. The cost estimates prepared by ECI include the costs of respirators, protective clothing, and other materials to be required by the final standard.

Costs of Compliance. The greatest economic impact from the final standard is expected to fall upon the manufacturers of ABS and SAN resins and nitrile elastomers. However, even for this sector, the anticipated costs of compliance will be well within their capabilities. A lesser impact within the major sectors affected is expected for the manufacturers of AN monomer, acrylic fibers, and polyols.

The total estimated costs of compliance with the final AN standard, as determined by Enviro Control, Inc., are presented in table A below. These estimates reflect the data developed by ECI in their report, as supplemented by data received at the hearing and in post-hearing comments. ECI has expressly incorporated the cost data supplied by SPI in revising their final costs for the ABS/SAN sector. As will be noted in detail below, OSHA believes that the SPI cost figures substantially overstate the anticipated impacts of the standard on the ABS/SAN manufacturers. However, in the interest of providing an upper bound

estimate of the impacts of the AN standard, table A includes the SPI data. It is clear that the estimated costs of compliance with a 2 ppm standard will be well within the capabilities of the affected companies.

TABLE A.—*Revised ECI Costs of Compliance by Industry: 2 PPM Standard*

[in millions]

Sector	Capital	O & M	Total annualized
AN monomer	$14.4	$0.6	$2.99
Acrylic fibers	22.4	2.3	5.69
ABS/SAN resins	56.8	7.4	16.79
Nitrile rubber	14.4	1.1	3.45
Polyols	1.6	.3	.59
Total industry	109.6	11.7	29.51

An essential limitation of the extrapolation process used by ECI in developing industry-wide cost estimates is the inherent assumption that all plants within an industry sector are at the same stage of development in controlling AN exposures. The effects of this assumption on the overall cost estimates depend upon the degree to which the sample plant is representative of the industry sector as a whole. If the sample plant is more advanced than most, then the cost estimates based on the sample plant can be expected to understate the total compliance costs. On the other hand, if the sample plant lags behind most of the plants in the sector in controlling exposures, then the overall cost estimates can be expected to be overstated.

The ECI report does not lean consistently toward either of these alternatives. For example, ECI's cost estimates for the acrylic fiber manufacturers are based on data from a company which employs "solution polymerization" as its process. More of the U.S. fiber production capacity, however, involves "suspension polymerization," which is more difficult to control (Tr. 417-418). On the basis of that factor alone, the ECI estimates for the fiber production sector might be expected to be on the low side. However, on the other hand, the largest producer of acrylic fibers has reported that its controls for AN are further advanced than the sample plant appears to be (Ex. 11:(14)). This would indicate that the extrapolation of costs from the sample plant to the entire industry sector would result in the cost estimates being overstated.

The variability of this aspect of the report was recognized by ECI at the hearing. When asked whether he felt the cost estimates were understated, Dr. Bochinski replied, "Maybe in the 0.2 level we might have understated. In some cases, 1 ppm and 2 ppm in some segments; maybe not • • • It is a mix" (Tr. 384).

Another difficulty with the ECI extrapolation technique involves their use of a "typical plant" within each industry sector. The typical plant was determined on the basis of total annual production. The use of the "typical plant" was necessary to determine the costs of other elements of compliance besides engineering and work practice controls. These additional elements, such as respirators and monitoring equipment, were determined on a cost per plant basis using standardized costs for the equipment and estimated rate of usage.

ECI calculated the total costs of compliance for each major industry sector at each of the proposed alternative sets of permissible exposure limits. Cost estimates were supplied to ECI by various companies within the industry sectors affected by the standard. These estimates were then used to determine the compliance costs of a "typical plant" within each sector, based upon annual production in pounds. The typical plant costs were then extrapolated to the whole industry sector level on the basis of total annual production.

ECI's data base was limited to that data which the companies contacted were willing to provide to them. As noted at the hearing, except for the information in the supplement to the report ECI took the cost data as they received it, without independently reviewing it for proper engineering or accounting (Ex. 15A; Tr. 509). In addition, data was not received from within all of the major industry sectors. Considerable data was received for the nitrile elastomer sector, but no data on ABS manufacturing was supplied to ECI until the supplement was prepared. In determining the costs of compliance for the ABS sector, then, ECI used the nitrile elastomer cost figures (based on a 30 million pound plant) and extrapolated them to the ABS "typical plant" (figured at 200 million pounds) on the basis of similarity of process and process controls.

The ECI method of extrapolation relied exclusively on companies within each industry sector to supply what they estimated to be the costs of compliance for each of the three proposed exposure limits. ECI performed no independent engineering assessment of the data received from these companies. The data from the sampled companies represented what the engineering departments of those companies determined necessary for compliance.

There is no clear way to determine what specific cost items were included in each company's data. It must be assumed, however, that the engineers engaged in providing the data were not solely concerned with hardware. In developing engineering plans and estimates, the areas of downtime, lost production, and other consequences of the engineering changes are of great importance to the planner, particularly where these changes would necessitate nearly total shutdowns of plants or of individual production lines. An engineer would be expected, as a matter of course, to include projected costs of downtime and lost production in his estimates for a particular engineering job (cf., Tr. 1272-73).

OSHA recognizes, however, that there may be instances in which these "indirect" costs are either too speculative or otherwise incapable of being quantified. It is significant that the companies supplying cost data to the record during the rulemaking proceeding were most reticent about assigning numbers to these types of costs. One company stated that a 1-day shutdown of their facilities would cost $250,000 (Ex. 92). It was noted at the hearing, however, that the company already carries out periodic turnaround efforts, for which it does shut down facilities. During these planned shutdowns, an engineering expert for the company agreed that many different engineering changes could be made in addition to the programed maintenance activities during the shutdown period (Tr. 1129). The $250,000 figure, then, would not be due exclusively to the implementation of engineering controls, but would be attributable to a number of different functions within the facility.

The type of cost to be incurred directly determines the planner's ability to estimate its magnitude; some cost items are basic and must be assessed in connection with the engineering plan, whereas others may only be roughly projected, but are not at all reducible to dollar figures. The form in which the sampled companies in each sector supplied their data to ECI leaves the question open as to how much of either type of cost was included in their calculations. It must be assumed, lacking any information to the contrary, that the costs submitted by the companies reflected what their engineering departments determined to be necessary for compliance with the alternative proposed exposure limits. This necessarily would include those elements customarily assessed in engineering plans, while excluding those elements which could not be projected in dollar figures. Nonetheless, even if this assumption were erroneous, the question of downtime costs would not detract from the Agency's determination that the standard is economically feasible for the affected industry.

OSHA is satisfied that the data contained in the ECI report clearly demonstrates the feasibility of a 2 ppm

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standard for all of the major industry sectors evaluated in the report.

AN Manufacturing. There is no question that a 2 ppm standard is economically feasible for the AN manufacturing sector. As has been stated throughout the record, AN manufacturing is essentially a closed process, with the greatest potential for exposures arising from fugitive emissions, leaks and spills, and during reactor cleaning and other maintenace operations. The companies have already developed engineering plans designed to tighten up their processes and limit points of process emissions into the workplace. The compliance costs for this sector of the AN industry should pose no serious economic impact on the four affected companies, which together produce 1.5 billion pounds of AN monomer per year.

The ECI cost estimates in the report for the AN manufactuing sector were obtained solely through a review of the OSHA rulemaking record. Until Vistron supplied additional data for the 2 ppm level (which ECI incorporated into the supplement to the report), the only data employed by ECI was from the du Pont and Monsanto submissions to the record.

The du Pont and Monsanto data as submitted were not broken down by product, but contained cost estimates for the respective companies' total AN-related operations. ECI took the data and attempted to split the costs up according to product. As will be noted, the efforts in this regard were not properly performed for the Monsanto data, resulting in cost estimates which were too high for the AN-manufacturing sector.

ECI assumed that the Monsanto data ($34 million incremental costs for reaching 2 ppm) covered the costs for their AN manufacturing and acrylic fiber manufacturing facilities only. However, as was noted at the hearing (Tr. 348), the costs supplied for Monsanto were for all of their operations, including their ABS manufacturing facilities. Therefore, ECI's figures for Monsanto's AN and fiber production are overstated. This is particularly evident in light of the fact that control of ABS manufacturing is expected to involve higher costs than controls for monomer or fiber production.

ECI averaged the du Pont costs with the Monsanto costs to obtain an average cost to apply to the AN manufacturing sector. Insofar as the Monsanto costs were improperly determined, the ECI estimates for this sector are clearly erroneous on the high side.

The difficulty with relying upon a "typical plant" in the context of monomer manufacturing is that there are only four companies which are in the industry, and no company has more than two plants. Any extrapolation from a "typical plant", therefore, will be limited by the total number of plants and the determination that any one plant is "typical" of such a small number.

After the initial ECI report was published, Vistron later supplied cost estimates for a 2 ppm standard for their monomer production facilities. ECI incorporated this data into their supplement and noted that the results were consistent with their previous figures for this industry sector (Ex. 15A; Tr. 511).

Acrylic fibers. ECI's estimates for the acrylic fiber industry were based exclusively on data received from Dow Badische. This data was scaled to the level of the "typical plant" and was extrapolated from there to the total acrylic fiber sector.

The difficulty with assessing the accuracy of the cost estimates for acrylic fiber manufacturing stems from two countervailing factors. The first concerns the type of manufacturing processes used in the sampled plant and in the overall industry, whereas the second has to do with the current exposure and compliance conditions in the various companies in the industry.

The Dow Badische facility which supplied data to ECI produces acrylic fibers by means of "solution polymerization." Solution polymerization involves the formation of polymer in a solvent, and the spinning of fibers directly from this solution. This method of production is not the most widely used means of manufacturing acrylic fibers. Most fiber production in the United States (over two-thirds, by one company estimate) involves "suspension polymerization" (Ex. 156). Suspension polymerization involves a formation of polymer in water. The polymer if filtered, washed, and dried, at which point the dried polymer is either stored for usage or taken immediately to be dissolved in a solvent and spun directly into fibers. In suspension polymerization, it is necessary to open up the process in order to isolate dried polymer. Because this system is much less totally enclosed than a solution polymerization process, it is more costly to reduce employee exposures at a suspension polymerization facility.

ECI acknowledged at the hearing that suspension polymerization facilities will cost more to control than solution polymerization facilities (Tr. 417–418). Since a solution polymerization plant was the source of the data used to estimate costs for the entire fiber sector, it is clear that this factor would result in an understatement of the total compliance costs. (It should be noted that other fiber companies had the opportunity to submit cost data to ECI, but did not do so.) It is not possible to determine with any degree of certainty how much the total costs would be understated. The data submitted by other fiber producers to the record would indicate that the difference would in no way constitute an economic burden to the affected industries.

A countervailing consideration in evaluating the cost estimates for this sector is the degree of compliance which already exists among fiber producers. At least two producers of acrylic fibers have reported that most of their operations are already operating at between 1 and 2 ppm on a day-to-day basis (Ex. 11:(14); 11:(10)). Since the total number of producers in the industry sector is not large, one would expect that ECI's estimates would be overstated insofar as they do not consider the advanced state of exposure control within this sector.

The 2 ppm standard is, without question, economically feasible for the acrylic fiber industry. Most producers are well along the way to compliance solely by means of engineering and work practice controls in most of their operations. The cost estimates supplied by ECI indicate that the compliance costs should not cause the affected employers undue difficulty. In addition, ECI's cost estimates undoubtedly include items and activities which most, if not all, of the producers have already implemented in their facilities.

ABS/SAN Resins—Nitrile Elastomers. The extrapolation procedure employed by ECI to determine compliance costs for the ABS/SAN sector and the nitrile elastomer sector of the AN industry, has been strongly challenged by various parties to the proceeding. The points of contention primarily involve the following: The averaging of the costs for two nitrile rubber manufacturers which submitted data to ECI; the use of the nitrile elastomer costs to estimate the costs for the ABS/SAN sector; the formula used by ECI to extrapolate from nitrile elastomers to ABS/SAN resins; the size of the "typical plant" within the ABS/SAN sector; and the question of "return on investment".

ECI determined that the typical nitrile elastomer plant produces 30 million pounds per year. This figure has not been seriously questioned. The cost estimate for this "typical plant" were determined by averaging cost data received from two producers, Uniroyal and BF Goodrich. The cost data from these companies were widely divergent, leading some to conclude that an averaging of these figures would be of questionable validity in estimating total costs for the sector. The averaged cost data were scaled by ECI to the level of the 30 million pound "typical plant".

Data received after the ECI report was published have indicated that the initial estimates in the report may not be very far off the mark for the nitrile elastomer manufacturers. Cost figures received from Reichhold Chemicals (Ex. 15A) and Goodyear (Ex. 89) are relatively consistent with the initial ECI estimates for this industry sector. The Reichhold data, when extrapolated to the level of the "typical plant" (30 million pounds per year), revealed cost estimates for capital investment to be $1.2 million for the 2 ppm standard. The Goodyear estimates of capital requirements for their production facilities, involving capacity of 31 million pounds (1976), were approximately $2.8 million for 2 ppm.

The findings as to estimated costs for the nitrile elastomer sector reflect the greater amount of data available to ECI on this sector in preparing their report. Nitrile elastomer production provided the largest number of plant estimates of all of the sectors sampled for the report (Tr. 508).

On the basis of their in-house assessment of the alternative proposed exposure limits, Goodyear concluded that 2 ppm was both economically and technologically feasible for their manufacturing facilities (and that even 1 ppm would be feasible) (Ex. 89). There is no reason to believe that the impacts of a 2 ppm standard on the other nitrile rubber manufacturers should be much more severe from an economic standpoint.

In summary, then, the available data on the nitrile elastomer industry indicate that a 2 ppm standard is both technologically and economically feasible for that sector.

ECI determined that the manufacturing process and the points of AN emission were sufficiently similar between nitrile elastomers and ABS/SAN resins to allow the control costs for nitrile manufacturing to be extrapolated to ABS/SAN manufacturing. This determination received considerable criticism from parties to the proceeding. Exposure conditions, it was contended, tend to be higher and more variable in nitrile elastomers. In addition, the "typical" nitrile plant is much smaller than ABS/SAN plant, and may involve different types of control problems.

In the supplement to their report (Exh. 15A), ECI included data which had been supplied by an ABS/SAN resin producer for the 2 ppm standard. The revised total cost for the entire sector (ABS/SAN) differed from the cost figures in the February 21 reported by only 2.5 percent.

The size of the "typical plant" in the ABS/SAN sector was determined by ECI to be 200 million pounds/year. The capital costs for the typical plant, based upon the nitrile extrapolation, were $6.8 million at 2 ppm. The capital costs based upon the later data from an ABS facility for 2 ppm were estimated to be $3.7 million.

ECI's extrapolation using the ABS plant data resulted in a much lower total capital cost for the ABS/SAN industry sector for the 2 ppm standard than did the extrapolation from nitrile elastomers. However, the estimates for operating costs (labor, materials, and utilities) from the ABS plant were considerably higher.

The main source of controversy concerning the cost figures for the ABS/SAN industry centered around the size of the "typical plant" selected by ECI. ECI determined that on the basis of their knowledge at the time, a 200 million pound per year plant was typical of the overall industry. However, in their posthearing comment, SPI indicated that the actual "typical" plant was closer to 62.5 million pounds per year (Ex. 148). Although SPI stated that this was the result of a survey of their member companies, there was no detailed explanation of why their description of a "typical" plant differed from that of ECI, nor was there a discussion of how they made their determination.

The method that ECI employed to scale the costs of the "typical plant" up to the entire industry sector involved the use of an engineering formula: Cost of equipment M=(Cost of equipment N)

$$\text{Cost for plant M} = (\text{Cost for plant N}) \left[\frac{\text{Capacity of plant M}}{\text{Capacity of plant N}}\right]^{0.65}$$

This formula allows for "economic scale"; for example, equipment costs for a 100 million pound plant will be less than twice the costs for a 50 million pound plant, even though production capacity is twice as much.

The plant (ABS/SAN) which supplied data to ECI produces 150 million pounds of resins per year. To estimate the cost for the "typical plant" with annual production capacity of 200 million pounds (according to ECI), the formula was employed as follows:

$$\text{Costs for 200 million lb. plant} = (\text{Cost for 150 million lb. plant}) \times \left[\frac{(200 \text{ million})}{(150 \text{ million})}\right]^{0.65}$$

$$= (\text{Cost for 150 million lb. plant})\ (1.21)$$

Thus, one can see that although the typical plant is ⅓ larger than the sampled plant, its capital costs are only 21 percent higher, using the formula.

Using SPI's determinations of the "typical plant" (only 62.5 million pounds/year instead of 200 million), the formula works the other way. Although the "typical plant" is only ⅝ as large as the "sampled plant" in this case, its capital costs will be more than half as much as the larger plant. Therefore, an extrapolation to the whole industry sector on the basis of the smaller typical plant will, in this case, result in a much higher overall capital cost. In addition, the other elements which are necessary in all plants, regardless of size, will increase in total costs because there are more plants to consider.

SPI's calculations of the costs for their 62.5 million pound "typical plant", using the ECI formula, result in a capital investment of $2.56 million. That figure, when extrapolated to the entire industry sector, results in a total capital cost for the ABS/SAN sector of roughly twice the figure arrived at by ECI.

ECI's estimate of the size of the "typical plant" was based upon their experience and engineering judgment. SPI's estimate was based on a survey of its membership of the industry. OSHA is unable to ascertan, with any degree of certainty, which approach is more accurate, nor is such a determination really necessary. OSHA has incorportated the higher estimate to establish an upper bound of costs of compliance for the ABS/SAN sector. We believe that this treatment of the available data provides an adequate basis for evaluating the economic impact of the standard.

Another major issue which arose concerning ECI's cost estimates, not only for ABS/SAN resins but for the entire report, was the treatment of the concept of "return on investment (ROI)." It was contended by several parties that the ECI cost estimates did not incorportate a return on investment as part of the overall costs of compliance with the standard (Ex. 76; Tr. 304; 393–4). It was argued that a failure to include an amount for ROI would result in an overestimate of the industry's ability to pass through costs to consumers as price increases. SPI, in the cost tables in their posthearing comment, chose to include an additional cost to represent the purportedly omitted figure for ROI, based on their assumption that such a cost was not incorporated in the ECI estimates (Ex. 148).

The record makes clear, however, that ECI did, indeed, include the concept of return on investment in developing their report. Dr. Henry Beale, a economist with Chase Econometrics, testified for ECI as to the handling of economic factors in the report. When questioned as to whether ROI was included in the capital cost estimates, Dr. Beale responded in the affirmative:

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There is implicitly a 10-percent rate of return on investment involved in that the expenditures, the capital costs are based on an assumed useful life of 10 years recouped at the 10 percent rate * * * basically is (the same thing as ROI) (Tr. 302).

Therefore, SPI, in choosing to factor an additional 10 percent ROI into their calculations, has incorrectly assumed that no ROI was included in the ECI report. The additional 10 percent results in double-counting, and serves only to inflate both the total compliance costs and, consequently, the impacts of the standard on prices and competition for ABS materials.

SPI's estimates of the effects of the standard on competition are open to question on several counts. First, as noted above, the erroneous inclusion of an additional 10 percent ROI serves to inflate SPI's estimates of the standard's impact on ABS prices. By artificially inflating the total compliance costs, this element also increases the price increases which are necessary to cover those costs. Second, as noted earlier, there is no way for OSHA to verify whether SPI's "typical plant" estimate is more accurate than ECI's estimate.

To the extent that SPI's typical plant may be smaller than warranted, the compliance costs other than capital will be inflated, since many of these costs are based upon a cost per plant basis.

Finally, the SPI cost estimates, as do the ECI cost estimates, necessarily assume that the plant supplying the cost data is about average for the industry. There is every reason to believe that many companies, including some within the ABS/SAN sector, are well along the way in planning and achieving reductions of employee exposures to below 2 ppm. To the extent that companies have already installed or are already implementing requirements of the standard, the incremental costs of compliance will be that much lower. At least one producer of ABS/SAN resins already maintains most of its operations below 2 ppm (Tr. 899-900).

Even if the SPI cost estimates were to be accurate, the economic impact of the AN standard on the ABS/SAN sector should be well within the capabilities of the affected employers. The ABS/SAN market is one of the most buoyant of all products made from AN, and the demand for ABS and SAN resins is expected to grow considerably in the future.

Polyols. Polymer polyol production represented the smallest industry sector investigated by ECI in developing their report. Based upon data received by one producer, ECI estimated that the "typical" polyol plant has a production capacity of 53.3 million pounds per year. The ECI estimate of the total investment needed to achieve a 2 ppm standard was $1.6 million for the polyol production sector. The annualized compliance costs were estimated to be approximately $0.6 million per year.

Downstream employers. As discussed in the exemptions section, OSHA believes that the final standard will effectively limit coverage to those employers with the greatest potential for exposure to AN in the workplace. As was the case with the ETS, we anticipate that most downstream employers will be exempted from coverage. A determined effort has been made to clarify the exemption provisions and broaden their scope where warranted by the evidence.

Economic impacts. After estimating the costs of compliance with the proposed standard, ECI assessed the effects of these costs on economic indicators as related to the affected industries. The impacts on critical materials, market structure, productivity, employment, energy, and prices were examined for each of the major segments of the AN industry. The methodology employed in the analysis of these impacts was described at length in the report, and will be discussed here only insofar as major issues were raised during the rulemaking.

Critical materials. ECI determined that critical materials impact was not relevant for AN or AN-derived materials, since none of these materials are currently listed on the Department of Commerce's list of strategic and critical materials. They also determined that there would be no indirect effects on critical materials due to product substitution as a result of the standard.

Market structure. ECI concluded that it would be most unlikely that the costs of compliance with the proposed AN standard would have any significant impacts on market structure at the four-digit [sic] industry level for any of the industry sectors studied. Most of the sectors are already highly concentrated. The four firm concentration ratios range from 91 for ABS/SAN resins to 100 for acrylonitrile monomer production. The only major exceptions to this conclusion would be, in ECI's view, if one or more firms in the nitrile elastomer industry were to cease production, or if compliance costs for the ABS/SAN industry were to substantially eliminate possibilities for entry into this growing area by new firms. ECI determined that at the 2-ppm level, the costs would not be sufficiently large to cause either of these two eventualities to occur.

Productivity. ECI calculated the aggregate labor costs of the proposed 2-ppm standard to be $3,557,000 annually. Based on a work force of 5,130, the average loss of labor productivity for the entire AN industry was estimated to be 2.89 percent.

For the 2-ppm standard, output was estimated to decrease by less than 4 percent with several sectors, such as AN monomer and polyol production, having reductions in output below 2 percent.

Initial capital costs of compliance were estimated to be 27.2 percent of annual investment for AN production, as compared with 6 percent for polyols, and 48.3 percent for fibers. However, these costs were estimated to be as high as 139.1 percent of annual investment for ABS/SAN resins, and 554.4 percent for nitrile elastomers. ECI concluded that for AN, polyols, and fibers, the cost of compliance at 2 ppm would not have a significant impact on output. Even for ABS/SAN resins, ECI estimated that the growth prospects of the industry were sufficiently great to make the costs of compliance unlikely to produce any major reduction in output. The one area of concern to ECI at the 2-ppm level involved the nitrile elastomer sector. However, additional data submitted to the record by two major producers in this sector (Uniroyal and Goodyear) indicates that a 2-ppm standard is considered by them to be feasible, and is not expected to have the serious consequences projected by ECI (Exs. 88; 89).

Employment. At the 2-ppm standard, ECI anticipated that relatively small changes in output will occur, so that few, if any, workers will be laid off. Any workers that are displaced are expected to be reabsorbed through transfers to other jobs in their companies.

Energy. ECI projected that for the 2-ppm standard, energy consumption would increase for the industry by 62,535 barrels of oil per year. or 173 barrels per day.

As ECI noted, even if these amounts were quadrupled, they would be insignificant on a daily basis in comparison to the total energy consumption of the affected industry sectors (Tr. 444).

At the hearing, ECI was questioned concerning the energy costs contained in their report (Tr. 442-444). It was contended that these overall costs did not include the energy requirements for the high rates of ventilation which ECI felt would be needed for compliance (Ex. 76).

ECI did acknowledge that they did not include the additional energy costs from ventilation as a separate element of their total energy cost estimates. However, this is not to say that such additional costs were omitted from the report. As we noted in our earlier discussion of costs, ECI's cost estimates were based solely upon data supplied to them by companies within each

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sector. ECI did not apply independent engineering judgment to the companies' estimates, nor did they break these estimates down by line items needed for compliance. Therefore, ECI's own determination of what was needed to reach 2 ppm was not reflected in the costs received from the various companies. If a company determined that ventilation was necessary, then it included ventilation costs in its estimates. Moreover, if a company factored ventilation costs into its estimates, it must, therefore, also have factored in the operating and maintenance (O. & M.) costs of such ventilation. These costs would be expected to include the energy costs of operating the equipment. Therefore, energy costs would be included in the O. & M. costs for each sector, based on ECI's extrapolations of the data as received.

Prices. Based upon their estimates of the compliance costs of the proposed 2-ppm standard, ECI calculated the cost per pound of product output for each industry sector in the study. Using that cost per pound, ECI then calculated a maximum passthrough of costs, using a markup factor of 0.94. Finally, the estimated price increase was supplemented by the amount of compliance costs from AN manufacture which would be passed through to the AN users. The following table represents ECI's calculations as described above:

Product	Compliance cost per pound (cents)	Costs (percent of price)		Percent increase [3]
AN monomer	0.20	0.74		0.70
Acrylic fibers	.92	1.48		1.84
AEN/SAN resins	[1]1.25	[1]1.25	[2]2.05 [2]2.98	[2]2.15 [3]3.08
Nitrile rubber	1.89	2.82		2.93
Polyols	.18	.30		.36

[1] 0.94 markup and AN pass-on costs.
[2] ECI estimates from report.
[3] ECI estimates incorporating SPI cost data.

The table makes clear that based upon the cost estimates developed by ECI, the price impacts of the proposed AN standard of 2-ppm are all less than 3.1 percent, even when the SPI cost data is incorporated.

As was noted in the earlier discussion of costs, SPI recalculated the costs of compliance from the ECI data using a smaller "typical plant" (determined on the basis of a "survey" of its members), and adding a 10-percent "return on investment" (ROI) figured on an aftertax basis. Even assuming for the moment that the smaller "typical plant" was more accurate than that determined by ECI, we have serious difficulties in accepting the additional amount included for ROI, both in concept and in amount. As Dr. Beale made clear at the hearing, ROI was considered in the cost figures developed by ECI in their report. Therefore, the very inclusion by SPI of an additional element of ROI represents double-counting. In addition, the use of 10 percent after taxes is not a proper application in this context.

To the extent, then, that the SPI estimates include a double amount of return on investment, one can conclude that the resulting cost estimates, together with the projected impacts on prices of ABS/SAN products and materials, are considerably overstated.

Even if the overstated SPI cost figures for compliance capital were accepted, their own estimates demonstrate that the compliance cost to reach the 2-ppm level in a "typical plant" would only represent 11 percent of the total capital of a new typical ABS plant (Ex. 148). It is clear that to the extent that the SPI figures are overstated, the projected impacts of the standard will also be overstated, particularly as to SPI's dire projection for the ABS pipe industry.

Nonengineering costs. The major thrust of the economic impact assessment was directed at evaluating the impacts and costs of engineering controls to reach the permissible exposure limits. However, the other elements of the proposal, such as medical examinations, respiratory protection programs, and monitoring have also been examined. OSHA has determined, both from the ECI report and on the basis of the companies' submissions to the record, that virtually all of the affected employers have both the facilities and the resources necessary to implement these other provisions. Most of the affected companies have had medical surveillance programs for many years, and should have no difficulty in providing the medical examinations called for by the final standard. In addition, OSHA had determined at the time of the ETS that there were then sufficient respirators, sampling pumps, and other materials available for compliance. Since the scope of the final standard is, if anything, narrower than that of the ETS, it is clear that the findings of feasibility carry forward to the final standard.

As discussed in the exemption section, OSHA believes that the final standard will effectively limit coverage to those employers with the greatest potential for exposure to AN in the workplace. As was the case with the ETS, we anticipate that most downstream employers will be exempted form coverage. A determined effort has been made to clarify the exemption provisions and broaden their scope where warranted by the evidence.

ECI did not focus on downstream employers in their analysis of the costs and economic impacts of the proposal. They apparently assumed that the exemption would be as wide-ranging as OSHA intended it to be. In addition, ECI indicated that at the time they prepared their report, there was little or no data available on downtown exposures. The information supplied by the various companies during the course of the rulemaking has indicated that downstream operations do not, for the most part, represent a significant source of potential for AN exposure. Therefore, the omission of coverage by ECI of downstream impacts is not expected to affect the overall cost esitmates for the affected industries.

VIII. Benefits

The legislative history and language of the Occupational Safety and Health Act, as distinguished from some other environmental health and safety legislation, clearly indicate that Congress has already arrived at a judgment concerning the balancing of cost and benefit, with the result that worker safety and health are to be heavily favored over the economic burdens of compliance. Specifically, section 6(b)(5) of the Act provides:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highests degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.

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Thus, while feasibility is an appropriate consideration, the Secretary is directed to set standards which attain "the highest degree of health and safety protection for the employee * * *."

This does not mean, however, that a systematic evaluation of costs and benefits is not to be encouraged within the limits of the estimation techniques. In considering the issue of feasibility in this rulemaking, as in others, OSHA has carefully evaluated the cost of compliance which may be incurred by the affected employers and their ability to comply. Additionally, OSHA believes that a standard for a substance which has been found to pose a cancer risk to workers, in this case acrylonitrile, must assure maximum benefit (i.e., prevention of serious illness or death) constrained only by the limits of feasibility.

Acrylonitrile has been found to cause cancer in laboratory animals, and has been linked with excess incidence of cancer in employees. No adequate scientific basic exists, however, to determine a quantitative dose-response relationship at the lower levels of AN exposures necessary to reduce the risk as much as is feasible. The uncertainty in both the actual magnitude of expected cancers and in the theory of extrapolation from existing data to the exposure level set in this standard places the estimation of benefits on "the frontiers of scientific knowledge."

While the actual estimation of the number of cancers to be prevented is highly uncertain, the evidence indicates that the number is likely to be appreciable. A dose-response relationship, that is, a lower incidence of excess cancer at lower levels of exposure, is likely to exist at lower as well as higher levels of exposures to AN. Therefore, reduction in exposure to lower levels is accompanied by a reduced risk, even though a precise quantitative relationship cannot be established.

In general, widespread employee exposure to acrylonitrile did not begin until the 1950's. In view of the latency period usually associated with the induction of cancer, significant reductions in mortality and morbidity may not be seen in the AN industry for many years after this standard is effective. However, unless exposures are reduced now, OSHA believes that employees exposed to AN will be at increased risk of cancer for many years to come.

In light of the uncertainties connected with risk determination and extrapolation from animal studies and human epidemiology, OSHA believes that it is required by the statutory mandate to adopt a highly protective posture in considering the evidence for health benefits.

Parties to this proceeding have attempted to use the du Pont epidemiological data to indicate both the magnitude of the risk and the hypothetical "cost per worker protected" under the alternative sets of permissible exposure limits in the proposal (Ex. 92; 146). Where the health effectiveness of alternative approaches is extremely uncertain and likely to vary from situation to situation, OSHA believes it is appropriate to adopt the compliance strategy which provides the greatest certainty of worker protection within bounds of feasibility, even if the approach carries with it greater economic burdens for the affected employers.

The issue of whether traditional "risk assessments" should be performed has been discussed at great length in this proceeding. Perhaps the most accurate discussion of the uncertainties surrounding the regulation of acrylonitrile was presented by Dr. Henry Beale, testifying for ECI, in response to a question concerning OSHA's policy determinations:

> If you recall (Dr. Cueto's) testimony, most of it was centered around the issue of determining that acrylonitrile was a carcinogen; that is, simply establishing it.
>
> He alluded to the possibility also of developing risk factors, dose/response relationships and so forth. These, in terms of the materials that I have seen, have not been developed for acrylonitrile.
>
> Now, I would draw a distinction between, in a slightly technical sense, the term "risk" and the term "uncertainty." Risk is a situation of known probabilities. It is like if you were a bridge player and you were a good bridge player. You may be able to get a count on a suit that is out against you and know after playing nine rounds that it breaks four to one. And you have to finesse for the queen. You know the odds are four to one which person to finesse. Okay? That is risk.
>
> If you do not have information, you just don't know what the probabilities are, you are operating under uncertainty. And to use the bridge player analogy, getting a count on a suit is a fairly sophisticated operation. A bridge player who is just a beginner would guess, and he might even not finesse for the queen.
>
> That is uncertainty. *The situation which prevails in terms of acrylonitrile is a situation of uncertainty. We do not know what the risk situation is. That sort of precludes any additional attempts at quantifying further benefits* * * * (Tr. 421-422) (emphasis added).

OSHA's experience with assessments of the impacts of health regulations has demonstrated to us the futility of applying traditional cost-benefit analysis and methodology to the workplace health context. The basic assumptions of such approaches are always subject to serious questioning, and the change in one variable can result in major changes in the overall assessment. The analysis performed by Dr. James Miller for Vistron demonstrates clearly the limitations and weaknesses of both the assumptions and the results of such assessments.

Miller relied upon the du Pont epidemiological study as his source for data on cancer risk for employees exposed to AN. His first assumption was that the du Pont cohort was exposed to 20 ppm. This assumption, which is the touchstone of his later use of the "linear model," is severely flawed. It must first be noted that the du Pont Company itself has been unable to provide significant data on the exposure of its cohort. Miller's 20 ppm assumption was based not on information from du Pont, but, rather, on what another company (Monsanto) blindly estimated the cohort's exposures to be. Using the 20 ppm figure as a starting point for an evaluation of risk, therefore, is highly questionable.

The 20 ppm assumption is also unsupported by the data on AN exposures which is available in the record. Industry officials have frequently referred to the high acute toxicity of AN in describing the reasons for their early activity in instituting control measures in AN manufacturing and polymerization operations. Indeed, exposures have generally been well below the previous 20 ppm standard for many years. Twenty ppm is not far below the level at which acute toxic effects are noted. The companies have always recognized that AN is a dangerous chemical, even before evidence of its carcinogenicity became available. If a person could detect AN by odor (between 13 and 19 ppm), that was a sign to leave the exposure area. Because AN exposure is, in this range, self-limiting, it is most unlikely that employees were exposed to TWA's as high as 20 ppm. (Vistron's assertion that the industry standard in the early 1950's was 50 ppm is unsupported and, in any event, does not serve as evidence of the actual exposures at that time). Therefore, Miller's use of 20 ppm as an established exposure for the du Pont cohort is highly questionable on this ground, as well.

The impacts of the 20 ppm assumption on Miller's risk estimates become apparent when one reviews the "linear model" which was used in the assessment. As Miller acknowledged on questioning, if the actual exposures from the du Pont study were, in fact, 10 rather than 20 ppm, the line between the starting point and the origin would change in slope. He stated:

> (T)he reduction in risk per unit reduction in exposure would be twice that I have assumed. So it would mean that the cost figures per one reduction and by one chance in one thousand would be cut in half (Tr. 1278-79).

This acknowledgment by Miller is highly significant, particularly as it relates to the basic conclusions of his study. Even using his 20 ppm assumption, Miller did conclude that a case could be made for a 2 ppm standard (Tr. 1270). If, as noted above, a more reasonable 10 ppm assumption was substituted, a case would be established for an even lower standard, purely on health grounds.

Taking Miller's study as it stands, we also believe that such an assessment ignores the element of externalities. The costs of illness and death due to occupational exposures to carcinogens are only partially absorbed at present by the industries involved. Employees and former employees must presently suffer most of the costs and losses resulting from occupationally induced cancer. The standard for AN will reduce mortality and morbidity among workers, thus relieving them of these costs. In essence, then, the affected companies are being called upon to internalize the types of costs which they had previously been able to externalize. To the extent that the costs of illness and death related to workplace exposures would have been incurred, the costs of protecting employees from occupational diseases do not represent new costs to be borne, but, rather, substitute costs. Further, the costs of engineering controls may, in many cases, be expected to cover more than one generation of employees in a given worksite.

The "linear model" is a useful tool only in those situations where one can demonstrate a true dose-response relationship for an exposed population. This requires, by definition, a showing of a known effect/no effect level. For AN, we have no data to indicate at what point this level is reached. In this regard, if the cancers in the du Pont study are traced directly to AN exposure, it is impossible to determine at what level of exposure these cancers were actually induced. We cannot rule out the possibility that employees with higher exposures did not, in fact, have their cancers induced by lower concentrations of AN.

In the case of the acrylonitrile standard, the evidence in the record overwhelmingly demonstrates that the costs of compliance with a 2 ppm standard will not be overly burdensome to industry. Having determined that the benefits of the standard are likely to be appreciable, OSHA is not obligated to carry out further exercises towards more precise calculations of benefits which would not significantly clarify the ultimate decision.

OSHA has, in the past, attempted to obtain a more detailed quantification of benefits to be attained under proposed standards. Previous efforts in this direction as an aid to decision-making have not been fruitful (41 FR 46742), and have provided little, if any, assistance in setting final health standards.

In summary, then, OSHA is promulgating this final standard in light of the specific mandate provided by section 6(b)(5) of the Act: to provide the greatest protection for employees, with consideration being given to the latest available scientific data, feasibility, and experience under the Act.

IX. Environmental Impact Assessment

In the preamble to the proposed standard (43 FR 2608), OSHA stated that it had made a tentative determination that the AN standard would have no significant environmental impact, and that preparation of an environmental impact statement (EIS) was not required. At that time, we solicited comments and data on this determination and information relevant to the issue of whether significant environmental impacts could be anticipated. Written comments were received from several participants in the rulemaking proceeding in response to the proposal (1-5).

The basic argument presented by all of the comments was that OSHA had erred in not preparing an EIS, because environmental impacts would occur as a result of the proposed regulation. The companies referred to general areas of impact, such as increased water usage, increased production of waste water, increased air emissions, and changes in solid waste disposal. However, no specific examples or data quantifying the extent of these potential impacts were provided to support the contention that significant impacts would occur.

In making the initial determination that the proposal would result in no significant environmental impacts, OSHA relied on the information available at the time, which indicated that the standard would have little, if any, impact on the current levels of air and water pollution, and minor impact on waste disposal practices.

Since the proposal was published, we have reevaluated our determination not to prepare an EIS. Although we still maintain that the impact on the environment as a result of this standard will be insignificant and that an EIS is not required, we are endeavoring to present a discussion of the areas which could potentially be affected to any noticeable degree. The control methods which will be used to limit employee exposure to acrylonitrile are more completely discussed in the section dealing with technological feasibility of the standard. The following is an assessment of the environmental impact potential of the standard for occupational exposure to AN.

1. The proposed action was designed to control occupational exposure to acrylonitrile. Only the workplace environment of 43 plants and the approximately 5,130 exposed employees involved in AN monomer production, processing, and use will be directly affected by the standard. The nature of this effect has been discussed in detail above. The general physical or natural environment external to the workplace will not be significantly affected by the proposed action, in that employers' efforts to comply with the standard will not significantly alter current levels of environmental emissions from the affected industries.

The following paragraphs outline the major AN industry segments which will be affected by the standard, in somewhat less detail than the discussions of technology and feasibility elsewhere in this preamble. Each segment will be reviewed as to the major sources of employee exposure to AN, ways in which such exposures may be controlled, and how control of exposures may impact the general environment.

AN Monomer Production. Employee exposures to AN in the monomer production segment of the industry occur as a result of product sampling activities, process leaks, accidental spills, storage and transport of AN monomer, and fugitive emissions. Methods which will be used by employers to reduce employee exposures include the following: more complete enclosure of systems to prevent release on AN into employee work areas, the use of exhaust or dilution ventilation in areas where leaks cannot be eliminated or where system enclosure is impractical, use of improved seals and gaskets to control employee exposures both during normal operations and product sampling, and immediate washdown of AN spills to prevent the generation of persistent high concentrations of AN vapor in the workplace.

Most, if not all, of these control methods are already in use to some extent in the AN monomer production facilities operating in the United State. The standard will result simply in more agressive control of employee exposures than has been the established practice to date. The control methods will not result in an increase in the amount of AN released to the ambient air, and, in fact, may reduce the current levels of emissions somewhat. Such a reduction would result from the improved control of leaks and other fugitive emission sources which presently expose employees and which inevitably reach the extenal environment. This reduction of exposures may be highly significant insofar as the health of employees is concerned, although the total amount of AN involved would be very small on an absolute scale. The total reduction in pounds of AN released to the environment would be expected, therefore, to

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be insignificant in terms of overall environmental impact.

Washdowns of spills into process sewers to prevent employee exposure to AN is already a common practice. Thus, no significant increase in the amount of water used for this purpose is anticipated.

In addition, washing down of liquid AN serves to remove AN which would otherwise vaporize into the air. Thus, whereas there might be an increase in the amount of AN into process waste water, there would also be a corresponding decrease in emissions into the air.

Treatment or disposal of contaminated waste water is already being accomplished by one of two methods (biodegradation or deep-well injection) at all five AN monomer production facilities. The OSHA standard for control of employee exposure will not affect the waste water treatment methods currently practiced by the industry, nor will it result in higher levels of AN in the environment.

Acrylic Fiber Production. Exposure of employees in acrylic fiber production occurs when the monomer is being transferred from storage tanks to the reactors, during the extrusion of the fibers, and during the stretching, washing, and drying phases of the fiber production process. The latter operations result in continuous release of residual monomer to the ambient air and into process water, as well as into employee work areas.

Methods which will be used by employers to control worker exposure to AN include eliminating and controlling fugitive emissions at tank farm, loading, storage, and reaction areas; ventilation of monomer storage, sampling, and fiber production areas; and enclosure of extrusion, stretching, washing, and drying operations. As with the monomer production industry, spills and leaks of AN would be washed with water into process sewers for treatment and disposal.

None of the exposure control methods cited above will result in an increase in the release of AN into the environment. It should be noted that the amounts of residual AN present in the fibers and released during processing are very small. Thus, although these small amounts are important from the standpoint of employee protection, controls will not involve removal of vast quantities of AN from the general environment. Further, the industry has chemical sewers already installed for the disposal of process wastes and spilled materials, and, therefore, the washdown practices used for control of exposures should not affect waste water disposal practices already in effect.

ABS/SAN resin production. Employees in the ABS/SAN resin manufacturing sector are exposed to AN primarily from latexes containing residual and unreacted AN monomer which are transported throughout the manufacturing process. The highest potential exposures occur around the flocculation tanks, but other major exposure areas include the filtering, washing, and drying processes. As with acrylic fiber production, exposures may also occur when AN monomer is transferred to or from storage tanks and reaction vessels. Methods which will be used to control employee exposures include additional enclosure of processes or operations, ventilation of storage and process areas, washdown of spills, and control of leaks to prevent exposure to fugitive emissions. Further, additional stripping of monomer from intermediate polymer materials may be necessary.

The only control method which has the potential for increasing the total amount of AN released into the environment is stripping. The additional amounts of monomer that can be stripped from the intermediate polymers are greatly limited by two factors, however. First, some stripping is already being carried on by ABS/SAN producers; thus, the remaining amounts of residual AN are relatively small. Second, extensive stripping, beyond what is presently being done, can result in degration of the final product, as noted in the discussion of technological feasibility elsewhere in this preamble. Where additional stripping may be feasible, the amount of AN released from the ABS/SAN materials is expected to be significant only from an employee exposure standpoint (i.e. employee exposures will be reduced), and will not result in large quantities of AN being released into the general human environment.

Stripping is usually performed at an early stage in the polymerization process. The reason that a company strips its polymer products is to assure that residual monomer is not released to expose employees during later stages in the process. It can be assumed, therefore, that much of the monomer which is driven off by stripping would otherwise have been released by the polymer at some point during manufacturing. To this extent, stripping does not increase the total amount of AN released into the environment, but rather, removes at an early stage concentrations of AN which would have been released in any event.

None of the control methods is expected to result in an increase in the amount of AN released to the general environment from the ABS/SAN sector. Conversely, although the amounts of AN to be controlled by the additional engineering methods may be significant from the standpoint of employee health, they do not constitute a major decrease in the total amount of AN released into the environment.

Nitrile elastomer production. Employee exposures occur throughout the entire processing operation for nitrile elastomer manufacture, including the polymerization, coagulation, and washing/drying operations. Further, exposures can occur at AN monomer storage and transfer points. Emissions to the general environment presently arise from these same emission sources.

Methods which will be used by employers to control employee exposures include the same procedures to be employed in the ABS/SAN industry, as noted above. Similarly, the nitrile elastomer sector has also implemented controls to some extent, as have the other industry sectors. Some stripping is already being performed, and further stripping is limited by the same factors present in the ABS/SAN industry.

The controls envisioned for nitrile elastomer production are not expected to result in any significant environmental impacts.

2. At the time that the proposal was published, it was thought that much additional stripping might be feasible for employers in achieving exposure limits below 2 ppm. As we have noted in our discussion of technological feasibility, we have since determined that the type of stripping necessary in the ABS/SAN and nitrile elastomer industries to reach a 1 ppm exposure limit cannot presently be considered feasible. The reasons for this determination were twofold. First, the materials to be stripped have a tendency to coagulate prematurely, and can severely clog the process machinery when further stripping is attempted. Second, stripping which extends much further than present practices can result in severe degradation of the product.

Comments have been received concerning the increased use of stripping, stating that such stripping would release more AN into the ambient air and water, creating an adverse environmental impact. In addition to the reasons expressed with regard to the individual industry sectors, we believe that there are two other bases for our determiniation that there will be no adverse environmental impact from stripping. First, the amounts of residual AN contained in resins and elastomers are usually less than 1 percent by weight. Thus, any amount which can be stripped would be, quantitatively, very small, and, therefore, environmentally insignificant. In addition, of the small amount released, it is assumed that at least some of it would have been released at some later stage of the process if not for the stripping. Second, it is likely that employers would make efforts to recover and recycle the stripped AN monomer if the amounts were sufficient to make recycling feasible.

3. Several commenters have stated that the proposed standard's requirements for waste disposal would result in a complicated change to current waste disposal practices, and, thus, an adverse environmental impact. No supporting data on this subject were provided in support of this position, however.

OSHA does not believe that the proposed standard, if implemented as written, would significantly increase the amount of solid waste for disposal by AN affected employers, nor would ultimate disposal of AN-contaminated waste be significantly affected. The sole purpose behind the proposed requirement to inclose AN wastes was to eliminate uncontrolled employee contact with AN. Provided that employees charged with further handling of waste materials were properly protected, the standard included no specific requirements for methods of disposal once the waste materials were packaged.

As noted elsewhere in this preamble, we have revised the waste disposal provisions for the final standard removing the requirements for placing AN and PAN waste in closed containers. The reasons for this change are not based upon any adverse environmental impact, but rest upon two basic determinations as to the risk of employee exposure posed by these materials. "PAN scrap," in and of itself, does not constitute a source of AN exposure unless it contains sufficient residual AN. In addition, packaging of materials containing AN can result in a high concentration of AN within the container, thus posing a greater potential for exposure of employees handling the packages for disposal or further treatment. The waste disposal provisions as revised require decontamination by water washdown, ventilation, or other means, before disposal. The revised provisions incorporate continued use of established methods of handling and treating waste materials, while minimizing the risk of AN exposure among employees and other persons handling the materials. Because established methods currently in use are to be continued, the waste disposal section of the final standard does not result in any increased release of AN into the environment.

4. One area of concern to some commenters involved the fact that the Environmental Protection Agency (EPA) was studying emissions from the AN monomer production industry. It was contended that this indicated a community health problem with AN, and that OSHA was remiss in not preparing an EIS to discuss the proposal's impact on this problem. It is true that EPA has conducted extensive studies of air and water emissions from AN production facilities (6,7,8). These studies were prompted by the fact that AN is one of the highest volume organic intermediates produced in this country. Because of the size of the production operations involved and the known toxicity of AN, EPA has been examining the extent of pollutant release into the environment from AN monomer manufacturing facilities.

Findings published by EPA and referred to in the preamble to the proposal have indicated that a number of hazardous air and water pollutants are emitted from AN manufacturing, such as carbon monoxide, hydrocarbons, nitrogen oxides, and sulfur oxides, but that the actual amounts of AN emitted (the only substance to be regulated under the OSHA proposal) are relatively small. EPA is attempting to develop standards and control methods to limit overall exposures to the high volume pollutants contained in the AN industry emissions.

As an example, EPA has found that uncontrolled ground level concentrations from AN manufacturing reach their highest levels in the product storage areas (tank farms). The highest uncontrolled emissions of AN recorded in these areas were less than 0.1 ppm in 24 hours. This level was determined using the assumption that all sources were continuous when, in fact, the actual emissions from storage tank areas are intermittent and probably lower than the 0.1 ppm level. All other point sources of AN emissions are considerably lower than those from the storage area.

5. The use of engineering methods such as exhaust or dilution ventilation will require the increased use of energy in certain segments of the AN industry. Projected energy increases were estimated by Enviro Control, Inc., in the technology assessment and economic impact statement it prepared for OSHA in February 1978. According to this document, annual energy increase (in terms of barrels of No. 6 fuel oil) would be approximately: 131, 323 for the 2 ppm alternative PEL, 222, 150 for the 1 ppm alternative and 312, 591 for the 0.2 ppm alternative PEL.

It was argued by industry representatives that the figures for the 1 ppm and 0.2 ppm levels were underestimated, because compliance by means of dilution ventilation would require more than 40 changes of room air per hour and the Enviro figures did not account for this. Enviro stated that it felt that achievement of compliance by such methods would be impractical and unworkable so it did not estimate the costs associated with such.

It is not anticipated that the increase in energy consumption as a result of this standard will result in significant environmental impacts.

Conclusions. Examination of the environmental impact potential of the proposed standard for control of occupational exposure to AN indicate that the effects of the proposal on the general human environment will not be significant, and preparation of an environmental impact statement is not required.

REFERENCES: ENVIRONMENTAL IMPACT

1. Ex. 11:(27).
2. Ex 160.
3. Exs. 11:(18); 155.
4. Ex. 11:(13).
5. Exs. 11:(22); 71.
6. Horn, D. A. and T. W. Hughes. Source Assessment: Acrylonitrile Manufacture (Air Emissions). Monsanto Research Corp. EPA-600/2-76-032. Environmental Protection Agency. March 1977. 98 pp.
7. Schwartz, W. A., F. B. Higgins, Jr., J. A. Lee, R. Newirth, and J. W. Pervier. Engineering and cost Study of Air Pollution Control for the Petrochemical Industry, Vol. 2: Acrylonitrile Manufacture. Houdry Division, Air Products and Chemicals, Inc., EPA-450/3-73-006-b, Environmental Protection Agency, February 1975.
8. Lowenbach, W. and J. Schlesinger. Acrylonitrile Manufacture: Pollutant Prediction and Abatement. Mitre Technical Report MTR-7752, prepared under Contract No. 68-01-3188 with the Environmental Protection Agency, February 1978.

SUMMARY AND EXPLANATION OF THE STANDARD

The following sections discuss the individual requirements of the AN standard. The sections include an analysis of the record evidence and the policy considerations underlying the decisions as to the various provisions of the standard. As discussed in the PEL section above, the final standard sets a permissible exposure limit for acrylonitrile of 2 ppm as an 8-hour TWA, with a ceiling limit of 10 ppm as measured over any 15-minute period during the workshift. Engineering controls and work practices are required where necessary to reach the PEL, and written compliance plans must be developed. Engineering controls must be in place by November 2, 1980, or 2 years from the effective date of the standard. Other portions of the standard including those on respirators, protective clothing, hygiene facilities, exposure monitoring, and the exemption provisions have been revised and clarified as described in detail below.

The language of the standard and the order of the various provisions is consistent with the drafting in other recent OSHA health standards, such as the benzene final standard (43 FR 5913) and the arsenic final standard (43 FR 19584). OSHA believes that a similar style should be followed from standard to standard in order to lead

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to uniformity of interpretation of similar provisions. Section 6(b)(5) of the Act states that health standards shall also be based on "experience gained under this and other health and safety laws."

Scope and application: Paragraph (a). This standard applies generally to all occupational exposures to acrylonitrile (AN). Some of the industry sectors where significant exposures to AN may occur are in the manufacturing of AN monomer, the production of acrylic/modacrylic fibers, and in the polymerization of AN with other monomers to produce resins, elastomers, and other materials. It should be noted, however, that not all workplaces where AN may be found will be subject to the AN standard. OSHA has determined that the standard should be focused towards those workplaces in which there is the greatest potential for AN exposure. This would involve primarily the manufacturers of AN, the manufacturers of acrylic and modacrylic fibers, and producers of ABS and SAN resins, nitrile elastomers, polymer polyols, and other AN based polymers and materials. In a limited number of cases, downstream processing, handling, and use of certain materials made from or containing AN will be covered by the standard.

The exemption provisions of the final standard contain both a listing of materials which are exempted, and two performance bases upon which materials not specifically listed can be exempted. The exemptions as drafted differ markedly in several respects from those in the proposal. A detailed discussion of the changes that have been made and the rationale for these changes are contained elsewhere in the preamble to this standard.

The first exemption provision, paragraph (a)(2)(i), lists a number of "finished polymers" which are to be exempted from the AN standard. This listing reflects the data received in the record which shows the minimal potential for AN exposure to employees during further processing, use and handling of these materials. The term "finished polymers" is not defined in the standard. This is because it is not possible to state as a general matter the area of the manufacturing at which each polymer listed becomes "finished." In most cases, this involves a drying step, after which the polymers are packaged and/or stored. At this point, the polymers are no longer being "manufactured." Further handling, including shipping, processing and use, of the finished polymers, is exempt from the standard.

As is the case with most polymers, which contain some amounts of residual monomer, some of the AN-based polymers on the exempted list may release monomer into the headspace at the top of their storage vessels. When the vessels are opened, the monomer escapes, with the potential of exposing employees to AN. OSHA recognizes that this can and will occur. However, the resultant low level exposures are transient and do not represent a significant source of exposure. (It should be noted that other materials not listed in paragraph (a)(2)(i) may exhibit this phenomenon as well. If the materials would otherwise qualify for exemption under the performance criteria in (a)(2)(ii) for TWA exposures, the headspace release will not affect their exemption.)

Paragraph (a)(2)(ii) carries forward, with minor modifications, the performance criteria provided in paragraph (a)(2)(i) of the proposal. The criteria are applicable to all materials made from and/or containing AN. This clarifies a problem area from the ETS and proposal, which referred only to "products fabricated from PAN." OSHA's interpretation of the ETS has been that PAN itself and other materials made from AN should be allowed an exemption if they meet the performance criteria for AN release.

The criteria for exemption under paragraph (a)(2)(ii) involve the providing of and reasonable reliance on objective data showing the following: that the material is not capable of releasing AN resulting in airborne concentrations exceeding 1 ppm (as an 8-hour TWA) under the expected conditions of processing, handling and use which will cause the greatest possible release. OSHA anticipates that the manufacturer of the material will be in the best position to test his products and supply the necessary objective data.

The "1 ppm release" referred to in the exemption as proposed meant an 8-hour time-weighted average under expected conditions involving the greatest possible release of AN. The Agency has interpreted the ETS in this manner, and is revising the final standard to refer explicitly to an 8-hour TWA.

The third exemption provision, paragraph (a)(2)(iii), exempts the handling, use, and processing of solid materials made from and/or containing AN if they are not heated above 170° F. This is changed from the proposal to set a temperature limit instead of the term "heating or melting." This provision is included primarily to cover future products made from AN, since most solid materials are already exempted by the listing in paragraph (a)(2)(i). The term "solid materials" is meant to clarify that the exemption (paragraph (a)(2)(iii)) does not apply to liquid AN, as defined in the standard.

Action level. The proposal contained alternative action levels of 1 ppm, 0.5 ppm, and 0.1 ppm, corresponding to the three alternative PEL's of 2, 1 and 0.2 ppm, respectively. The action level triggers the monitoring and medical surveillance requirements of the proposal. The final standard sets an action level of 1 ppm, in accordance with the 2 ppm PEL.

The record contains little negative comment on the action level concept. Most comments received were directed at the various PEL's, and addressed the action level primarily from the measurement and monitoring standpoint (Exs. 92; 11:(14)).

In the absence of a demonstrated safe level of exposure for a carcinogen, OSHA has consistently required that employee exposure be limited to the maximum extent feasible by the use of engineering controls and work practices. OSHA believes that it is also appropriate to begin some protective actions under the standard prior to exceeding the PEL. The action level serves such a purpose. Another purpose of the action level is to help to relieve the burden on employers by providing a cut off point for many of the required compliance activities under the standard.

From a pure health viewpoint, it would not be unreasonable to require some action to be taken wherever employees may be exposed to a carcinogen. However, this approach would be unduly burdensone both to the affected employers and to the Agency. Nonetheless, the standard necessarily will encompass some employers whose employees are exposed below the PEL. We expect that the exemption provisions will greatly limit this group of employers. Where they are covered, such employers are required to perform initial monitoring to determine the extent of their employees' AN exposures. If, on the basis of the initial monitoring results, an employee's exposure is below the action level, the employer may discontinue monitoring and all other compliance activities for that employee except for training and labeling. The action level concept thus provides an objective means for an employer to determine what further actions are required for compliance with the standard.

The statistical basis for determining the action level has been discussed in connection with several proposed OSHA standards (see, for example, "Proposed Standard for Trichloroethylene" (Oct. 20, 1975, 40 FR 49032)). In brief, although all measurements on a given day may fall below the permissible exposure limit, some possibility exists that on unmeasured days, the employee's actual exposure may exceed the permissible limit. Indeed, as various parties have noted, the exposures in the AN industry can vary widely from day to day. Where exposure measurements are above one-half of the permissible exposure limit, i.e., the action level, the employer cannot reasonably be confident that his employees may not be overexposed. (Leidel, N.A. et al., "Exposure Measurement Action Level and Occupational Environmental Variability," DHEW, PHS, DCD, NIOSH, DLCK (August 1975)). Therefore, requiring periodic employee exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of his measurement program.

Definitions: Paragraph (b). For the purposes of the final standard, "decontamination" means treatment of liquid AN waste, protective clothing, work surfaces, and other areas, usually by means of ventilation or water washdowns, to assure that the materials or surfaces no longer release AN above 1 ppm. Unlike the exemption provisions, the decontamination provisions deal with actual release of AN from a leak, spill, or other source of liquid AN, rather than with the potential for release from a material during processing. Testing to assure nonrelease from a decontaminated area, therefore, may be performed by an area sample, provided that the probe is placed at least as close as any employee would get to the point of AN release.

The term "emergency", as used in the proposal, covered any release of AN above the ceiling limit. The breadth of this definition would have required the employer to implement the emergency procedures and notify the OSHA area office whenever the ceiling was exceeded. As was noted by several commentators, such a requirement would apply to many situations which could not truly be deemed as "emergencies" (Exs. 92; 149). In addition, we recognize that this would tend to lessen the employee's awareness of true emergency conditions if and when they did occur.

"Emergency" has been redefined, as in the vinyl chloride standard, to refer to a "massive release" of AN. The employer is best able to determine if an emergency exists in his facilities. His central obligation under the standard, which is to limit employees' exposures to AN, is, therefore, supplemented by the requirement to take further action when emergency situations arise.

The proposal defined "polyacrylonitrile," or "PAN" for the purposes of the standard, as homopolymers or copolymers made from AN except for materials exempted under paragraph (a)(2).

This proposed definition of "PAN" has been deleted from the final standard for several reasons. The standard was and is intended to protect employees from exposure to AN monomer. There is nothing to indicate that polyacrylonitrile itself is harmful, other than through its release of residual quantities of AN. In addition, the definition of "PAN", as proposed, led to some confusion under the ETS. Whereas the proposed standard was to apply only to PAN as limited in the definition (not to all generic polyacrylonitrile materials), some persons thought that references to "PAN" throughout the proposed standard meant all polyacrylonitrile materials, regardless of potential for AN release and exposure.

The standard has been revised to read solely in terms of "AN" and "liquid AN." As noted in the discussion of the scope of the standard, the processing, use and handling of most "PAN" materials have been expressly exempted from the standard. The performance exemption has also been modified accordingly, to allow materials made from or containing AN to be exempted if they meet the conditions set forth in paragraph (a)(2)(ii). The use of the phrase "products fabricated from PAN," as contained in the proposed exemption was too restrictive, since it did not, on its face, appear to allow PAN itself or other materials made from or containing AN to qualify for exemption.

A new definition for "liquid AN" has been added to the final standard. This definition is intended to assure that all intermediate products of the polymerization process are covered by the standard. The definition also provides a differentiation between intermediate latexes and other liquid polymer intermediates created in ABS/SAN and nitrile rubber manufacturing, and final product latexes. Whereas final product latexes may present an AN inhalation problem in some cases, there is nothing to indicate that they also pose a significant potential for skin exposure to AN. The skin and eye contact provisions, along with the concomitant protective clothing and equipment provisions, have therefore been drafted in terms of "liquid AN" monomer and polymer intermediates.

Exposure monitoring and measurement: Paragraph (e). The standard requires each employer who has a place of employment where there is exposure to AN as the result of the employer's activities (except where exempted under paragraph (a)(2)) to monitor his employees' exposure to AN, and to determine an employee's exposure over an 8-hour period without regard to the use of respiratory protection. Section 6(b)(7) of the Act (29 U.S.C. 655) mandates that any standard promulgated under section 6(b) shall, where appropriate, provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner, as may be necessary for the protection of employees.

There are various reasons which make it appropriate for employers to measure employee exposure to AN. First, exposure monitoring informs the employer as to whether he is meeting his legal obligation to keep employee exposures below the permissible exposure limit. Second, exposure monitoring evaluates the effectiveness of the installation of engineering and work practice controls and informs the employer as to whether additional controls need to be instituted. Third, exposure monitoring is necessary in order to determine whether respiratory protection is required at all, and if so, which respirator is to be selected.

Fourth, section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to notify promptly any employee who has been or is being exposed to toxic materials or harmful physical agents at levels which exceed those prescribed by an applicable occupational safety or health standard, and to inform such employee of the corrective action being taken. Exposure monitoring is necessary in order to determine whether employees are being exposed to AN at levels exceeding that prescribed by this standard and therefore must be notified as required by the Act. Finally, the results of exposure monitoring are part of the information which must be supplied to the physician.

The need to conduct exposure monitoring was generally accepted by participants in the rulemaking proceeding. A major point of contention centered on the available methods of sampling and analysis, as discussed below. In addition, several employers noted that they already conducted monitoring on a more frequent basis than the monthly and quarterly periods included in the proposal (Exs. 11:(25); 11:(27)). They contended, however, that the standard should only require employee notification of the required qurterly or monthly monitoring. The wording of the proposal, in their view, would have required the employer to notify the employee of any additional monitoring results that he might have as a result of more frequent monitoring. It was argued that to require notification of extra monitoring results would discourage employers from conducting more frequent monitoring than that required by the standard.

Section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to notify promptly all employees exposed above the PEL. The final standard implements section 8(c)(3) by requiring an employer to notify each employee in writing of the employee's measurement within 5 working days after the

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receipt of the results of any required measurements.

OSHA recognizes that the standard is intended to set only minimum monitoring requirements for employers. It is reasonable, then, that the standard should only require the notification to employees when monitoring required by the standard is carried out. Additional actions by the employer in monitoring exposures, while certainly encouraged by OSHA, are not required by the standard, and direct notification need not be given to employees.

The standard requires that measurements be made by monitoring which is representative of each employee's exposure to AN over and 8-hour period without regard to respiratory protection. Exposure measurements for each individual employee would, certainly, be an indication of that employee's exposure. However, this may be unnecessarily burdensome in some instances. Monitoring which can be shown to be representative of an employee's exposure would provide the necessary information and in many instances would require fewer samples. This is particularly true in manufacturing of AN and other 24-hour continuous processes.

The proposal required monitoring monthly for employees exposed above the permissible exposure limit and quarterly for employees exposed between the action level and the PEL. As noted above, many employers have indicated that they perform monitoring on a more frequent basis. It is evident that the higher the frequency of measurement, the higher the accuracy of the employee's exposure profile. The companies involved with the manufacturing and polymerizing of AN indicated little, if any, disagreement with the monitoring frequency in the proposal. OSHA has carried forward these provisions to the final standard. We believe that in the industries affected by this standard, monthly and quarterly monitoring will reflect employee exposure with sufficient accuracy to assure that suitable precautions will be taken as needed to protect employees from exposure to AN.

Industry representatives have concentrated much of their criticism on what they have contended to be the lack of a method of sampling and analysis for AN in the range of 1 ppm and below which will meet the accuracy and precision requirements set forth in the proposed standard. This issue was brought to the surface by the original NIOSH recommendations in September 1977 (Ex. 65). In those recommendations, NIOSH stated that OSHA should issue a 4 ppm standard, based upon what they characterized as the limitations of existing sampling and analytical methods for AN. As we pointed out at length in the preamble to the ETS, OSHA was most concerned about this situation, particularly in light of the industry recommendations at that time that the standard be set as low as 2 ppm. Therefore, testing was performed at the OSHA Analytical Laboratory in Salt Lake City, Utah, to determine whether NIOSH method S-156, which was the method used under the existing 20 ppm standard, could also be used in sampling lower concentrations (see appendix D).

The test results clearly showed that S-156 could be used for sampling and analysis below 1 ppm with sufficient accuracy (Exs. 18; 18A). Testing was performed in the presence of high humidity (85 percent) and other monomers, such as styrene and butadiene, to determine whether these elements had any detrimental effect on the sampling and analysis. The effects of these factors was negligible. The Director of the OSHA Laboratory, Floyd Madsen, appeared at the rulemaking hearing and was questioned at length by industry representatives concerning his testing procedures and results. In addition, representatives of SPI were permitted to visit the Laboratory after the hearing, in order to talk with Mr. Madsen further concerning sampling and analysis, in response to a direct request at the hearing by both SPI and Vistron. Although such a visit did, indeed, go beyond what is required of the Agency during informal rulemaking, OSHA determined that it was, in this limited circumstance, an appropriate gesture toward developing a complete record on the sampling issue.

Laboratory testing has also been performed by NIOSH at their laboratories in Cincinnati, also involving method S-156. Data submitted to the record by Dr. Judd Posner of NIOSH also demonstrated that AN could be sampled and analysed below 1 ppm with accuracy (Exs. 43; 66). Since this data was submitted during the course of the hearing, Dr. Posner invited interested persons at the hearing to submit questions to him in writing, to which he would reply during the post-hearing comment period. It is important to note that no such questions were received. A complete write-up of the analytical method and sampling technique used by NIOSH is available in the record (see appendix D). In essence, it sets forth the same method utilized by the OSHA Laboratory, with the major exceptions being the use of a different desorbing solvent and the use of flame ionization without the nitrogen phosphorus detector.

OSHA does not require that any one specific method of sampling and analysis be used for compliance with the monitoring provisions of the standard. This provision is set forth in performance language, and permits the use of any method which meets the accuracy and precision requirements set forth therein. The testing that OSHA has performed, supplemented by the NIOSH data, serves to demonstrate that there is at least one method available which meets those requirements. We are fully aware that there are many other methods in use throughout industry to sample for AN, as well as methods which are in varying stages of development. Such methods include the use of porous polymer tubes instead of charcoal tubes for collecting the sample, gas bags, badge-type dosimeters, and the use of portable and fixed-point sampling devices and systems. Considerable data has been submitted to the record by many companies concerning their experience with these methods. By demonstrating the availability and effectiveness of S-156 as modified, we do not intend to short-circuit any of the efforts by these companies to develop their own monitoring procedures, some of which may prove to be even more accurate.

Industry representatives have argued that it is essential for a method to be "field validated" in order to be used for compliance with the AN standard (Exs. 75; 83). Yet it should be noted that such representatives have also stated that the range of field conditions that may be encountered in the AN industry is so wide and variable that it would be necessary to "field validate" a method in each individual workplace in order to show that it was, indeed, a workable method across the board (Tr. 933). It is evident that no single analytical method will work in every imaginable workplace situation, either for AN or for most any other organic vapor. In addition, it is also clear that whatever method an employer may choose to use to monitor for AN, he must validate it for use in his particular plant. The need for such individual validation was espoused by industry representatives (Tr. 933).

The method of "field validation" proposed by Dr. Ward of Monsanto presents an interesting approach which shows promise (Ex. 136). However, there is nothing to indicate that a method is or has been in use in the past to "field validate" sampling methods for AN or other organic vapors. In addition, Dr. Posner of NIOSH has submitted an analysis of Dr. Ward's validation method which points up that it, too, is not without pitfalls in its implementation (Ex. 140). There is no single accepted method of "field validating" a sampling method to obtain data which will support its use under all workplace conditions.

A detailed exposition of the range of available methods of sampling and analysis for AN was contained in the written comments submitted by Monsanto (Ex. 11:(27)). Table A contains a

listing of five methods which were either validated by Monsanto (field and/or laboratory validation) or, in the case of the gasbags, showed a detection limit below 1 ppm. The field validation was, presumedly, carried out under the protocol submitted by Ward (Ex. 136). Although Monsanto reported difficulty in using NIOSH method S-156, it is clear that they have been able to develop or apply other methods of sampling and analysis to their many and varied operations.

Monsanto, in their written comments, discussed the various problems that they had experienced with NIOSH method S-156 (Ex. 11:(27)). They noted that the only charcoal lot which had shown satisfactory results was lot 107. This point was noted by Madsen in his testimony (Tr. 132). In dealing with the problems of sample "breakthrough" reported by various companies, including Borg-Warner (Ex. 83), Monsanto noted that some companies are using two larger charcoal tubes, containing up to 1,000 mg., in series, to replace the 150-mg. tubes generally used. They have concluded, however, that there is no evidence of any effect of humidity or temperature at low AN burden.

Monsanto noted that charcoal tube methods can be used for AN at concentrations below 2 ppm even where AN recovery (with methanol or carbon disulfide) falls below 75 percent by developing a "working curve," in lieu of the NIOSH protocol. They emphasized that appropriate validation techniques are necessary for the use of all monitoring procedures in the workplace setting, whether charcoal tubes or other means of sampling are used. They have chosen to rely upon alternative systems, such as porous polymer adsorption/thermal desorption, since they consider them to be less subject to the types of variables associated with charcoal-based systems.

As was noted by Madsen in his testimony at the hearing, Monsanto concurs that the use of a nitrogen-specific gas chromatographic (GC) detector has the potential of enhancing the detection limit of all of the methods listed in the table by a factor of 10 (Ex. 11:(27)). It is also important to note that other methods which involve gas chromatographic analysis, have this same potential.

Monsanto has also reported using both the Century OVA 128 and Century flare tubes at levels well below 1 ppm, noting only that "the methods are claimed to be selective." Century Systems testified independently that their instrumentation was capable of measuring AN at concentrations well below 1 ppm as an 8-hour TWA (Tr. 873-874).

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TABLE B: ADDITIONAL METHODS OF MONITORING AND ANALYSIS

FOR AN BELOW 1 PPM

(Adapted from Monsanto comments (Exhibit 11:(27)))

Method	Adsorption/Desorption/ Analysis	Validation: concentration, detection limits
1. Monsanto PoropaK-N	Poropak-N (porous polymer)/Thermal/GC	field validated down to 0.1 ppm; detection limit approaching 0.02 ppm for a 3-liter air sample.
2. Modified NIOSH P&CAM 127	Charcoal/1 to 2% Acetone in CS_2/GC	field validated at levels above 0.08 ppm within ± 2 std. devs. for a TWA_6.
3. NIOSH P&CAM 127	Charcoal/CS_2/GC	laboratory and field validated at and above 0.2 ppm for a TWA_6; Reported loss of AN when desorbed sample is stored over time.
4. Passive Dosimetry	Abcor R /Acetone / GC Gasbadge/in CS_2/	laboratory validated 0.94 ppm; field tested at 0.8-3.8 ppm by reference to method no. 2 above.
5. Gas sample bags	Gas bag/GC	Detection limit of ca a 2.5 cc. gas sample. Reported memory effects at low AN levels.

Monsanto was confident that "the charcoal tube or passive dosimeter methods could be practiced by downstream processors with some guidance from trained professional" (Ex. 11:(27)). The record reflects that the employers covered by this standard possess considerably more technical capability in this area than downstream employers would be expected to have. The broadening of the exemption provisions will limit the scope of the standard to those companies best able to provide an effective monitoring program which will produce meaningful results.

Companies such as Goodyear, Dow Badische, and Dow Chemical have submitted details of the sampling and analytical methods that they have found valid for use in their respective operation (Exs. 138; 11:(17); 11:(25)). Still others have installed continuous monitoring systems which provide area measurements of airborne AN concentrations (Exs. 11:(10); 11:(8)).

As the record makes clear, there are a number of adequate methods available for sampling and analysis of AN concentrations at and below 1 ppm. OSHA recognizes that one method may not work under all workplace conditions due to such variables as temperature, humidity, and other unique factors. Regardless of the method selected, an employer must validate the method that he intends to use under the conditions present in the particular workplace to assure himself that it will be sufficiently accurate. It is for this reason that the monitoring accuracy and precision required by the standard are stated in performance terms. The OSHA and NIOSH methods of monitoring employee exposures are included as an appendix to the final standard as a means of assisting the employer in the selection of an appropriate method for his workplace.

It was also contended that because neither the OSHA nor the NIOSH variations of method S-156 had been "field validated" under all workplace insults and exposure conditions, they could not serve as reference methods. This assertion totally misconstrues the true purpose of a so-called "reference method." The applicability of any "reference method" was described most accurately at the hearing by Dr. Ward:

> There is always a need for a reference method. However, the reference method cannot serve under all applications. It can serve under laboratory conditions and it has merit in that respect * * *. (Tr. 791).

OSHA and NIOSH have both performed laboratory testing of their variations of NIOSH method S-156 and have found the method to be a suitable reference method for use in the range of concentrations covered by the standard (Exs. 18; 18A; 41; 66).

The monitoring defined by the OSHA Laboratory involves the use of charcoal tubes and personal sampling pumps, with subsequent analysis by gas chromatograph with nitrogen phosphorus detector. Laboratory validation data indicates that this method can be used with sufficient accuracy and precision down to the 0.5-ppm level and below. Floyd Madsen was questioned extensively at the hearing as to his findings by industry representatives (Tr. 117-159). In addition, several industry personnel visited Madsen at the Laboratory during the posthearing comment period (Ex. 142). Neither the questioning at the hearing nor the laboratory visit have raised any significant questions as to Madsen's findings.

The primary differences between the NIOSH and OSHA variations on S-156 are the method of desorption (NIOSH does not use ultrasonic agitation of the sample), the desorbing solvent (NIOSH use 1 percent acetone in carbon disulfide, whereas OSHA uses methanol), and the analytical equipment (NIOSH uses flame ionization, whereas OSHA adds a nitrogen-phosphorus detector).

Method S-156 and variations thereon have been adopted and accepted for general use in field monitoring at the 1- to 2-ppm level by several major companies that manufacture and/or use AN in their facilities. Workplace conditions and other factors vary widely among these companies (cf. Ex. 2:(22); 11:(14); 138; Tr. 1196-1199).

The standard requires that the measurements be made by monitoring which is representative of each employee's exposure to AN over an 8-hour period without regard to the use of respiratory protection. Exposure measurements for each individual employee would, of course, be an indication of that employee's exposure. However, this may be unnecessarily burdensome in some instances. Monitoring which is truly representative of an employee's exposure would provide the necessary information and in many instances would involve fewer samples.

In their testimony, the NIOSH panel expressed concern that OSHA did not specify a means of determining if an exposure measurement was "representative" of an employee's exposure. They believed that this presented a potential for actually reducing the protection afforded to workers exposed to AN. OSHA believes that the standard should require the desired performance, i.e., a showing of representativeness, rather than specifying one method for determining it. We recognize, however, that NIOSH has published a document outlining a sampling strategy which is directed at this problem (Ex. 14:(157)). That strategy is certainly one approach toward determining representativeness of exposure measurements. There are other approaches which would be suitable, as well. The employer has the burden of showing, by whatever means at his disposal, that his measurements are representative of each employee's exposure to AN.

The rulemaking record, along with experience under the ETS, indicate that most affected employers have successfully implemented a monitoring method which gives satisfactory results in their operations, at concentrations in the 1- to 2-ppm range. However, OSHA cannot ignore the difficulties that various companies have reported in demonstrating the required accuracy and precision specified in both the ETS and proposal at a (95 percent confidence level, ±25 percent at or above 2 ppm, and ±35 percent below 2 ppm) (Exs. 83; 159). We have determined that these criteria should be made more flexible, in order to assist employers who have encountered unique sampling problems. Therefore, the final standard permits the use of methods with accuracy and precision at a 95-percent confidence level, of ±35 percent at or above 2 ppm, and ±50 percent below 1 and 2 ppm. The difference (35 percent vs. 50 percent) reflects a recognition that accuracy of monitoring decreases below 2 ppm.

The accuracy and precision requirements are intended to provide the employer with a degree of confidence in his sampling results. As noted earlier, monitoring is not carried out for its own sake, but for the purposes of determining what is required for compliance in a given operation. OSHA anticipates that the wide range of available methods, combined with more flexible criteria for the method employed, will enable employers to perform their required monitoring without serious difficulties.

The employee exposure measurements are to be made without regard to the use of respiratory protection. One commentator took issue with this provision, contending that the sampling does not reflect the actual exposure of the employee who is being protected by a respirator (Ex. 149). Whereas this statement may be true, it overlooks the fact that exposure monitoring is not a single-purpose activity. It is necessary to know employee exposure levels without the use of respiratory protection in order to evaluate the effectiveness of the required engineering and work practice controls, and to determine whether additional controls must be instituted. In addition, monitoring is necessary to determine which, if any, respirator must be used by the employee.

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As noted by numerous participants in this rulemaking proceeding, exposure conditions vary throughout the day in many operations. At least one sample is to be taken during each shift in order to assure that exposure measurements represent exposures of employees on all shifts. Employees working in the same area doing different jobs may have different exposures. Therefore, the standard requires sampling for each job classification, as well. The proposed standard did not contain detailed procedures in this regard. However, in order to assure accurate representative monitoring of employee exposures, OSHA has determined that the variability of exposures warrants such procedures.

The standard requires that the initial monitoring be conducted, and the results thereof obtained, as of the effective date of the standard. OSHA believes that this provides more than enough time for employers to complete the sampling and obtain the results. Moreover, the standard permits employers who have monitored under the ETS, or since January 17, 1978, to utilize these measurements for purposes of complying with the initial monitoring requirements of the final standard. Employers who have already monitored their employees' exposures within this period will, therefore, not have to conduct initial monitoring unless, because of a process, control, or personnel change, they are required to redetermine exposures.

The final standard requires measurement every 3 months for employees exposed between the action level and the TWA limit, and monthly for employees exposed above the TWA limit.

The higher the measurement frequency, the higher the accuracy of the employee exposure profile. The selection of an appropriate interval between monitoring efforts is judgmental. OSHA has determined that requiring monthly and quarterly monitoring for AN exposures will reflect employee exposure with sufficient accuracy to assure that suitable precautions will be taken as needed.

Periodic measurement is appropriate when exposures are in the 1-2 ppm range because of the possibility that minor changes in process, materials, or weather conditions may raise exposure to above the TWA limit, and to compensate for the possibility that such measurements are falsely low.

Periodic monitoring and measurement are not required when initial measurements are below 1 ppm. It is unlikely, when exposures are at this level, that minor fluctuations in process, materials, or weather or measurement accuracy would result in false negative readings below the TWA limit. It would not be appropriate to require periodic measurements in those operations where exposures would be well below the permissible exposure limit.

The standard requires that whenever there has been a production, process, or control change which may result in new or additional exposures to AN, or whenever the employer has reason to suspect an increase in employee exposure, the employer shall repeat the required monitoring and measurements for those employees affected by such change or increase.

The redetermination procedure is necessary to assure that the most recent monitoring results accurately represent the existing exposure conditions. This is necessary so that the employer may take appropriate actions such as instituting additional engineering controls and providing appropriate respiratory protection.

The final standard also provides that employers may discontinue periodic monitoring for those employees for whom two consecutive measurements, taken at least 7 days apart, show exposures to be below the action level. Where employee exposure measurements fall below the permissible exposure limits but are at or above the action level, the employer may alter the monitoring schedule for those employees from monthly to quarterly after two consecutive measurements taken at least 7 days apart indicate the reduction in levels.

Section 8(c)(3) of the act (29 U.S.C. 657) requires employers to promptly notify an employee who is exposed in excess of the permissible exposure limit. The standard requires the employer to notify each employee in writing of that employee's measurement within 5 working days after the receipt of the results of any measurements required under paragraph (e). Notification in writing need not be an individual letter to the employee, but may be a notice prominently displayed on a bulletin board or similar workplace location.

OSHA has determined that the proposed paragraph (e)(7), requiring a weekly survey of operations involving liquid AN, should be deleted from the monitoring provisions of the final standard. The data in the record indicates that the purposes of the weekly survey (i.e., detection of leaks and spills of liquid AN) can be achieved through a less elaborate and detailed leak detection program.

The unpredictable nature of fugitive emissions from valves, pumps, and the like, makes it unlikely that a survey performed on a weekly basis will detect all, or even most, of the leaks and spills that occur in liquid AN operations. Further, such a weekly survey would add little to the exposure monitoring required by the standard, in determining employee exposure to AN.

The alarm system required by paragraph (i) of the standard will detect AN concentrations which exceed the ceiling limit. When an alarm is sounded, the employer will have to take action to locate the source of the release which is causing the high levels of AN, and will then have to decontaminate the leak or spill area. In this regard, the weekly survey, as proposed, would be redundant.

OSHA has determined, however, that some form of leak detection program should be required by the standard. The details of such a program, however, should be left to the employer, who is already under the obligation to control employee exposures to within the permissible exposure limits. The leak detection program in the final standard has been placed in the housekeeping section of the standard, paragraph (k).

Regulated areas and notification: Paragraphs (d) and (f). The final standard requires the employer to establish regulated areas wherever AN exposures exceed the PEL, and to limit access to these areas to authorized persons. This requirement will help to limit exposure to AN by preventing persons who are not authorized from entering areas with AN exposures above 2 ppm. It will also assist in designating areas where precautionary signs are to be posted, while also designating areas where employees will be subject to monthly exposure monitoring pursuant to paragraph (e). Employees in regulated areas willl be prohibited from smoking and eating in these areas, and may be covered by protective clothing and equipment and hygiene requirements under other sections of the standard.

The limitation on eating, smoking, and applying cosmetics in regulated areas is necessary to prevent unnecessary exposure to AN. Potential routes of exposure to AN are ingestion, skin absorption, and inhalation. All of these routes must be limited by OSHA in order to protect employees from the carcinogenic hazard posed by AN exposure.

Paragraph (d) of this standard requires the employer to notify the OSHA Area Office within 30 days of the establishment of regulated areas in his workplace. This requirement is more limited than was proposed, in order to concentrate on exposure conditions above the PEL. It enables the Agency to be aware of facilities where substantial exposure to AN exists.

Methods of compliance: Paragraph (g). The final standard requires that by November 2, 1980, engineering controls and work practices be used to control employee exposure to acrylonitrile, except to the extent that the employer can show that they are not feasible. If all feasible engineering and

work practice controls do not succeed in reducing exposure below the permissible exposure limit, they must be implemented and supplemented by respiratory protection. OSHA's experience has been that engineering controls must be coupled with suitable work practices to maximize their effectiveness. Respiratory protection may be used only during the time period necessary to install engineering controls, where engineering controls may be inappropriate, such as during some maintenance operations, or in those cases when both engineering controls and work practices do not succeed in reducing exposures below the permissible exposure limit. Respirators are also to be used in emergencies.

This compliance strategy has been consistently OSHA's policy and has been followed in prior standards and proposed standards. This policy is based upon the view that the most effective means of controlling employee exposure is to contain emissions of toxic substances at their source through the use of mechanical means combined with work practices. This is far more effective than reliance on the highly variable human behavior so critical to the successful use of respirators. As discussed below, respirators have many disadvantages which preclude primary reliance or coreliance on respiratory protection on an equal basis with engineering and work practice controls. Furthermore, the burden of reducing employee exposure should more properly rest on the employer in whose establishment toxic substances are released, rather than placing the burden of respirator use on the exposed employee.

The Council on Wage and Price Stability suggested a control strategy involving principal reliance on respiratory protection, to reduce the cost of compliance (Ex. 27). However, the affected companies themselves readily acknowledge the many difficulties inherent in reliance upon respiratory protective devices. (Exs. 11;(27); 92). These difficulties were also discussed by respirator expert Darell Bevis (Ex. 19). Because of the difficulties in obtaining and maintaining a proper fit and seal of the respirator facepiece, it is difficult to know whether the respirators actually provide adequate protection. Respirators, by interfering with vision, hearing, and mobility, can cause safety problems. Some employees cannot wear respirators because of breathing difficulties. Finally, it is not appropriate to place the burden of compliance principally on the employee, as would be the case if respiratory protection were the principal means of reducing employee exposure. Therefore, OSHA retains in the standard the policy of principal reliance on engineering controls and work practices, except in circumstances where there is no feasible alternative to more substantial reliance on respiratory protection.

Even in situations in which engineering controls will not succeed in reducing exposure levels below the TWA limit, it is still appropriate to require all feasible engineering controls to be installed, even though they would have to be supplemented by the use of respirators. The engineering controls, by minimizing the amounts of AN in the workplace environment, will also minimize the potential for overexposure to AN resulting from poorly fitting respirators, and will usually reduce the number of employees who will need to wear respirators at all.

The standard places the burden on the employer for proving or disproving feasibility. The employer is in the best position to gather evidence on feasibility in a particular workplace. He is most familiar with his own production processes and engineering modifications which can be made. Further, it is the policy of the OSHA Act that employers be required to take steps to investigate the feasibility of controls and install them as necessary.

In addition to the obligation to institute engineering and work practice controls, except to the extent that such controls are not feasible, the final standard also requires that each employer establish and implement a plan for reducing exposures to within the permissible exposure limits solely by engineering and work practice controls. These written plans must be furnished upon request for examination and copying to representatives of the Assistant Secretary and the Director. These plans must be reviewed and updated periodically to reflect the current status of exposure control. The written plan is an essential part of the compliance program, since it will encourage employers to implement the necessary technology for reducing employee exposures. It also provides the information to allow OSHA, the employers, and employees to examine the control methods chosen and the extent to which these planned controls are being implemented in the workplace.

Respirators: Paragraph (h). The standard requires that respirators be used only during the time period necessary to install or implement feasible engineering and work practice controls, in operations in which such controls are not appropriate, such as certain maintenance operations, in work operations in which such controls are not feasible or are not yet sufficient to reduce exposure to the permissible limits, or in emergencies. These restrictions on the use of respirators are consistent with the requirements of 29 CFR 1910.1000(e) and with good industrial hygiene practice.

Many comments cited problems associated with respirators (Exs. 92; 11(27)). Respirators are to be considered secondary to the objective of limiting emissions at the source. Proper facial fit is essential, but due to variations in individual facial dimensions, as well as facial hair, scars, or growths, it is difficult to maintain. Fatigue and reduced efficiency may occur more rapidly among workers wearing respirators due to increased breathing resistance, heat stress, and reduced vision. Additional problems include the entanglement of hoses of air-supplied respirators, as well as limited mobility resulting from hose length and bulkiness of the apparatus. (Ex. 19).

It is clear, and generally agreed to by the affected employers, that respirators cannot generally be considered as the primary means of employee health protection. It is also recognized by OSHA that there will be certain operations in which the use of respirators will be necessary to protect employees from exposure to AN. This aspect was recognized in the preamble to the proposal.

OSHA has concluded that if the permissible exposure limit is exceeded, employees must use respirators. This is necessary in order to provide the maximum amount of protection available in situations where engineering controls and work practices do not succeed in reducing exposures below permissible levels.

The affected employers have indicated that they have endeavored to determine, under the ETS, those job positions for which respirator use will be necessary for a large part of the workshift, under a 2 ppm standard. This achievement places the employers in a position to develop a detailed respirator program directed primarily at these employees. Items which might be considered for such a detailed program include making available a greater variety of respirators from which employees can choose, having a technician fully trained in respirator use and selection, and organizing the work so that part of the day can be spent in clean rooms or control rooms where the exposure limits are not exceeded. The nature of the work in many monomer and polymer manufacturing facilities, much of which is highly automated, lends itself to this type of program. The employer should also investigate the possibility for respirators with microphones, should communication on the job prove to be a problem.

Respiratory protection also has a role during maintenance operations as well as during emergency situations. We realize that respirators may be

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needed in these types of operations, even over the long run. The standard is designed to control AN workplace emissions at the source, and, thus, to minimize the need for general use of respirators by employees.

In the proposal, OSHA included a proposed table of respirators for use with AN. The primary basis for the selection and evaluation of respirators in this table (Table I) was the NIOSH-OSHA respirator decision logic. The protection factors supplied in the table were based on qualitative fit testing, which involves only the facepiece-to-face seal. (Ex. 19). In addition to the Table, several other requirements for respirator usage were included in the proposal, concerning approval of respirators, replacement of cartridges and/or canisters, and cleaning of respirators.

A number of changes have been made from the proposed provisions, based primarily upon the recommendations of Darell Bevis, an acknowledged expert in the field of respiratory protection. These changes will be discussed below.

The proposal specified that where air-purifying respirators were to be used, they would have to be approved by NIOSH specifically for use with AN. NIOSH has since informed OSHA that they will not grant such approval because of AN's poor warning qualities. Since AN cannot be detected by odor until concentrations reach the 13-19 ppm range, it is not possible for the respirator wearer to detect leakage or breakthrough within the facepiece until he is clearly overexposed. Under the respirator decision logic, the use of air-purifying respirators should not be permitted for AN, because of this factor. However, OSHA has determined that air-purifying respirators, when used in a rigidly controlled program of proper fitting and frequent sorbent replacement, should be permitted for protection against low concentrations of AN, as prescribed in Table I of the standard. When the protection factors in the respirator table are followed, organic vapor cartridges and canisters can provide protection for employees.

Therefore, OSHA has revised its proposal to permit organic vapor cartridges and canisters to be used for AN. These sorbent containers must be approved by NIOSH for use with organic vapors. We must not however, that there are numerous factors which affect the performance of air-purifying respirators, including the sorbent material itself and the fit of the facepiece on the wearer. Other important factors include wearer acceptance and training.

Proper fit of the respirator is critical. A negative pressure is created within the facepiece when the wearer breathes. This may result in workplace air entering the facepiece through gaps and leaks in the facepiece seal, instead of passing through the sorbent material. Obtaining a proper fit on each employee may require the employer to provide two or three different mask styles.

The employee must be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazard involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform to that set forth in 29 CFR 1910.134. This provision contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.

Under § 1910.134, the employer must check to see that the employees' respirators fit properly and that leakage is at a minimum. A rapid simple fit test can be performed at the start of each shift by each employee wearing a negative-pressure respirator. This test can be either a positive pressure test, in which the exhalation valve is closed and in which the wearer exhales into the facepiece to produce a positive pressure, or a negative pressure test, in which the inlet is closed and the wearer inhales so that the facepiece collapses slightly. Employees must be trained to perform this test.

The standard requires a qualitative fittest at the time of initial fitting and semiannually thereafter. Isoamyl acetate can be used to qualitatively test facepiece fit. If the employee can smell the isoamyl acetate while wearing the respirator, it can be concluded that the particular respirator will not provide suitable protection for that employee.

The proposal contained no specific requirement for periodic fit testing. However, as noted below, the issue was raised by OSHA in the proposal as to whether the more sophisticated quantitative fit test should be generally required. We have concluded that the periodic qualitative fit test can serve as a preliminary screening for all respirator users, to determine whether an employee's face-to-face piece seal is sufficient to permit the use of respirators designated in Table 1.

The standard also requires that each employer with 10 or more employees who must wear negative pressure respirators must provide quantitative fit testing for those employees at the time of initial fitting and semiannually thereafter. In a quantitative fit test, the level of leakage and degree of protection are specifically measured by sensitive instruments. These tests are more accurate and provide greater assurance that the respirator is providing proper protection to the employee. Whereas the qualitative fit test is subjective, relying upon the employee's sense of smell, the quantitative fit test uses instrumentation inside the facepiece to determine the integrity of the seal. One type of quantitative fit test involves using a simple hood, sodium chloride vapor, and automated instrumentation. At least one such device is commercially available at less than $10,000. These tests can be performed rapidly (10 to 20 minutes) and are relatively easy to perform. Since the standard will apply almost exclusively to monomer and polymer producers, it is reasonable to assume that these large companies can obtain the equipment for such testing.

OSHA requested views, arguments, and other comments on the issue of quantitative fit testing in the course of this rulemaking proceeding. The use of such testing has been endorsed by the Z88.2 subcommittee of ANSI as noted by Bevis in his testimony (Ex. 19). The equipment has been developed which makes quantitiative fit testing relatively easy to carry out, and it is universally recognized that it provides greater assurance of proper protection. We believe, therefore, that it is appropriate for employers with significant numbers of employees wearing negative pressure on respirators to be required to provide quantitative fit testing for those employees.

Under the ETS, employers were required to implement any practicable combination of engineering, work practices, and respiratory protective devices to lower their employees' AN exposures below a 2 ppm TWA. Much of the compliance activity under the ETS involved the implementation of respiratory protection programs. Therefore, there should be no need for a "transition period" for the implementation of respirator programs under the final standard. The standard requires that the employees exposed above the PEL as of the effective date of the standard must be provided with and must wear appropriate respirators in accordance with the selection criteria in Table I.

The proposal provided for the replacement of "filters" if an employee reported breathing resistance. This provision has been deleted from the final standard. As was noted at the hearing, organic vapor cartridges do not use "filters," which are generally used for protection against particulate hazards (Ex. 19). The vapor hazard associated with AN in the workplace should not present any breathing resistance difficulties, since there is no problem of clogged filters in this situation. Therefore, the requirement is not appropriate for a regulation on AN exposure.

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Perhaps the most controversial element of the proposed respirator section involved the frequency of replacement of cartridges or canisters. It was contended by many in industry that the daily replacement of cartridges or canisters was wasteful, particularly if they were only used briefly during the workshift. A system of labeling of cartridges, it was argued, would assure that cartridges and canisters were replaced before the expiration of their service life (Ex. 92). OSHA does not agree with these contentions. As noted earlier, the very use of organic vapor cartridges and canisters for AN, which does not have good warning properties, runs totally counter to the respirator decision logic and to good industrial hygiene practice. However, OSHA has determined that it is necessary to allow their use under a limited set of circumstances, provided that that use is very narrowly restricted. The lack of end-of-service-life indicators for organic vapor cartridges used with AN masks it is necessary for OSHA to require the replacement of the sorbent at the completion of each shift (Ex. 11:(16)).

It should be noted, in addition, that even changing the sorbent container each shift may not assure protection. Testing data submitted by a respirator manufacturer and by NIOSH indicate that some organic vapor cartridges used for AN may not last for 8 hours, and that they may last for only 4 hours under humid conditions (Ex. 11:(12L); 11:(13L); 11:(14L)). This finding is particularly important in the context of this standard, since there are numerous monomer and polymer production facilities which operate under conditions of high humidity. It is clear that where the service life of a cartridge or canister is less than 8 hours, that cartridge or canister may have to be replaced again at some time during the workshift. The standard allows for such a situation by requiring the employer to replace cartridges or canisters before the end of their service life or at the completion of each shift, whichever comes first. The employer has the obligation to ascertain the service life of the cartridges and canisters to be used in his workplace, in order to assure that they are replaced as required by the standard.

On the issue of frequency of replacement of the cartridges Bevis stated:

> I am in full support of the change of the cartridge after each shift has ended, whether it has been used for 15 minutes or * * * 8 hours, since it is virtually impossible to assure how much air has been drawn through that cartridge or canister or to determine the specific minutes or hours of life. The activated charcoal sorbents in the organic vapor cartridges will sorb not only organic vapors but also moisture, shortening their service life (Ex. 19).

On questioning, he elaborated on the practice of labeling used cartridges as an alternative to replacement each shift:

> It's my firm opinion that when using sorbent-type cartridges and canisters (.) the most conservative approach must be taken * * * I never recommend—in fact, I'm a crusader against—reuse of sorbent type cartridges and canisters because I don't feel that they can safely be reused (Tr. 191).

We agree that in the limited use of the sorbent-type air purifying respirators, the most conservative approach must be taken in order to assure the most protection from that device.

As noted in the proposal, the wearing of a respirator can result in facial irritation at the face seal surface. To prevent this irritation and to minimize the discomfort of respirator use, the proposal would have permitted employees to periodically "wash" their faces and respirator facepieces. This provision has been modified in the final standard. It was noted at the hearing that an employee who "washed" his respirator facepiece might also wet the sorbent cartridge or canister, possibly rendering it ineffective or less effective. The employee's role, it was argued, was to make sure that he wore the facepiece properly (Tr. 193-4). We believe that the standard should reflect these concerns. The provision in the final standard has, therefore, been clarified to allow washing of the face, but only a wiping of the facepiece-to-face seal of the respirator itself. Cleaning of the active elements of the respirator should be in the hands of a trained person as part of a respirator program.

OSHA believes that if an employee receives training as to the purpose of his respirator and the proper method of wearing it, he will be less likely to do anything which will limit the protectiveness of the respirator program.

Emergency situations: Paragraph (i). The emergency provisions are substantially unchanged from those of the proposal. However, the revised definition of the term "emergency" limits the types and number of situations for which a written plan will be required. OSHA has determined that not all instances of release of AN above the ceiling limit should be viewed as emergencies. Only the "massive release" of AN is termed an emergency under the final standard.

It should be noted that the standard still requires the installation of an alarm system, to be activated by releases of AN above the ceiling. Although not an "emergency" per se as defined in the standard, the exceeding of the ceiling limit does necessitate the taking of protective action to assure that employees are not overexposed.

The alarm system will, in most cases, involve the installation of a continuous monitoring system which will detect AN concentrations at the ceiling limits to activate the alarm. Such monitoring systems have already been installed by some companies and are being used for generating area monitoring data in addition to detecting ceiling concentrations of AN (Exs. 11:(10); 87).

The need for an alarm system has been recognized by many of the affected companies (Exs. 11:(10); 11:(14); 11:(27)).

Protective clothing and equipment: Paragraph (j). The standard requires the employer to provide and assure that employees use protective clothing and equipment wherever there is potential for exposure to liquid AN. This provision is considerably narrower in scope than that in the proposal. It reflects the determination that solid PAN and other finished polymers do not represent significant sources of AN exposure. The new provisions require appropriate protective clothing and equipment only for "liquid AN," as defined in the standard, including polymer intermediates produced during the polymerization process.

The protective clothing provisions of the proposal elicited much comment and testimony from interested persons. The detailed requirements for providing, maintaining, and replacing protective clothing and equipment were criticized as not being sufficiently performance-oriented. Some comments noted that impermeable clothing was provided to the employee to protect him from skin contact with AN. Thus, when such AN-impermeable clothing became wet with AN, there was no need for the employee to remove the clothing immediately, as the proposal would have required, because there would be no skin exposure. Dow Badische recommended that the standard provide separate requirements for the handling of impermeable clothing, such as rubber gloves and suits, as opposed to coveralls and other permeable clothing (Ex. 149).

We have determined that these suggestions have merit, and the final standard incorporates appropriate changes. Where it is likely that impermeable clothing has contacted liquid AN such clothing must be washed down with water before being removed by the employee. The employee may then remove the clothing in the change room and proceed to shower. The clothing must then be placed in a regulated area and decontaminated.

A more complicated situation arises if an employee wearing AN-permeable clothing becomes wet with liquid AN. Understandably, this should only occur in accidental spills and emergencies. In this situation, the employee

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shall remove the wetted clothing and shower immediately. The clothing shall then be placed in a regulated area and decontaminated in the same manner as impermeable clothing.

Clothing and equipment worn for protection from liquid AN must, of necessity, be impermeable to AN. The proposal would have required replacement of such clothing on at least a weekly basis. We have noted, however, that the actual need to provide replacement varies greatly with the conditions of use. We believe that the employer should be required to replace protective clothing and equipment as necessary to assure its protectiveness. Whereas this does not specify a given interval, it does require frequent inspection of clothing to make sure that it remains impermeable.

The washing down of impermeable suits, gloves, and the like before removal is intended to minimize the potential of skin contact with AN. The washdown should be sufficient to assure that the clothing will not release AN. The employee shall, nonetheless, shower at the end of the workshift.

The provision for decontamination of wetted protective clothing and equipment helps to resolve a major area of difficulty surrounding both the ETS and the proposal. The proposal required protective clothing to be placed in a closed container after use. This presented a problem of possible skin contact with and inhalation exposure to AN by persons opening these containers, as well as by persons who had to handle the clothing for disposal or laundering. In addition, the closing of the containers posed a potential for fire or explosion due to the volatility of the AN within the containers. The final standard deals with these problems by ventilating and washing down the contaminated clothing and equipment to remove their potential to release AN above 1 ppm.

Many maintenance operations, particularly those involving reactor cleaning, involve the potential of skin contact with liquid AN. The impermeable clothing requirements, along with respiratory protection requirements, are essential to the protection of employees engaged in these operations.

Housekeeping and waste disposal: Paragraphs (k) and (l). The proposal contained detailed housekeeping requirements for AN and PAN. As noted above, the final standard removes all references to PAN, since the new definition of "liquid AN" will cover any polymers and polymer intermediates deemed to carry a significant skin exposure potential.

Paragraph (k)(1) of the proposal required the employer to maintain work surfaces free of "accumulations" of AN and PAN. This paragraph has been sharply criticized as redundant with the permissible exposure limits, since the presence of even small amounts of liquid AN on a work surface would result in exposures above the PEL (Exs. 148; 11:(13)). Other parties contended that the term "accumulations" needed to be defined more precisely. The use of wipe tests and bulk liquid samples, it was argued, could lead to citations for the detection of "accumulations" of "nanogram quantities" of AN (Ex. 160).

Other provisions of the housekeeping section were found by some parties to be unnecessary and not in accordance with OSHA's intention to use performance language wherever practicable (Ex. 148). Vistron determined that the housekeeping section restricted the use of water flushing to wash down work surfaces. Such washing would take advantage of the solubility of AN in water, as well as its capacity for biodegradation by bacteria (Exs. 92; 146).

In light of these comments, and in order to provide a more performance oriented standard, OSHA has determined that there is no need for a detailed housekeeping section in the final AN standard. Where there may be skin or eye contact with liquid AN, the employer is already required to provide impermeable protective clothing and equipment to his employees. The detailed requirements as proposed would appear to add little, if any, protection to that provided by the permissible exposure limits. They would also have limited the use of water washdowns of work surfaces, which the final standard expressly requires in certain circumstances, as a means of controlling the potential for AN exposures. Recommended housekeeping activities are contained in appendixes A & B.

The final standard requires the employer to assure that surfaces are maintained free of visible accumulations of liquid AN. In addition, the employer must decontaminate (as defined in paragraph (b)) areas where spills are detected.

The housekeeping provisions have also been revised from the proposal to include a lead detection program for operations involving liquid AN. OSHA has determined that it is appropriate to require direct action by the employer to detect leaks and spills of liquid AN which may result in employee exposure. The details and frequency of such a program are not specified in the standard, because of the wide variation of workplace conditions and AN sources among the affected employers. However, the housekeeping provisions specify that the employer must decontaminate those areas in which leaks and spills are found. OSHA anticipates that the use of real-time continuous monitoring systems and portable detection units will be used both for detecting sources of AN and for determining whether an area has been decontaminated.

The proposal required that AN and PAN waste materials be placed in a closed container, labeled, and disposed of. The employer was required to inform those persons handling the materials of the AN content and the hazards of exposure to AN. These provisions drew strong comment from interested parties. It was contended that the enclosure of these materials constituted a fire and explosion hazard, since AN might be concentrated within the containers. It was also argued that the downstream handler of the materials would face a serious exposure potential when the container was opened (Ex. 149).

The record clearly reflects that the provisions in the proposal which dealt with waste disposal are not supported by the record and are inappropriate for the proper handling of AN. Therefore, these provisions have been revised accordingly. Waste materials containing or contaminated with liquid AN are to be placed in a regulated area. The materials may then be treated in one of two ways: They may either be placed under ventilation, or washed with water into the plant's process waste water system. When the materials no longer release AN in airborne concentrations above the action level, they may then be disposed of in the normal manner (clearly, if the material is incapable of releasing AN above the action level, there would be no need for the employer to carry out this washing or ventilation step on that material). The purpose of this new provision is threefold: First, it reduces the number of employees with potential for exposure to AN; second, it provides a means of dispensing with the detailed disposal and labeling requirements contained in the proposal; and, third, it provides a way for the employer to assure that the material will not expose downstream handlers.

As with protective clothing, many waste materials will not release AN above 1 ppm, even without the types of treatment provided for in paragraph (l). It is clear that the standard does not require such treatment in this case.

The discussion of the revised exemption provisions of the standard makes clear that solid polymeric materials are not considered to be a significant source of AN exposure. Therefore, the disposal of PAN scrap or debris, other than for those materials defined under "liquid AN," does not require the special treatment prescribed under paragraph (l). The deletion of the term "PAN" has been made in this paragraph, accordingly.

Hygiene facilities and practices: Paragraph (m). The proposal referenced § 1910.141 and its existing requirements for hygiene facilities and practices in all workplaces. In addition, the change room and shower facility provisions, § 1910.141 (e) and (d) (3), respectively, were specifically incorporated into the standard. OSHA believes that these provisions are particularly important where there is potential for contact with liquid AN, and where protective equipment and clothing may be required.

The proposed shower provisions would have required all employees "exposed to liquid AN and PAN" to shower at the end of the work shift. This requirement has drawn considerable comment from affected employers. The term "exposure" caused considerable confusion, since it was unclear what constituted exposure to AN in these circumstances (Ex. 149). It was suggested that the term be changed to "contact or suspected contact." In addition, it was argued that skin contact with PAN did not constitute a significant risk of AN exposure (Exs. 11:(14); 148).

Several parties contended that the requirement for a shower at the end of a shift would not provide sufficient protection for an employee who has had skin contact with liquid AN. Such employee should be required to shower immediately after such contact, it was argued, because of the rapid absorption of AN through the skin (Exs. 11:(14); 149).

OSHA has determined that the shower provisions should be revised to reflect the comments and data received. The term "PAN", as has been noted elsewhere, is being deleted from this and other provisions of the standard. The list included in the definition of "liquid AN" includes those materials containing or made from AN which would be most likely to present a significant risk of skin exposure to AN.

The final standard contains a requirement for employees who have had or are suspected of having had skin contact with liquid AN to shower immediately after the contact is discovered. In addition, employees required to wear protective clothing to prevent skin contact with liquid AN are required to shower at the end of the shift. These requirements recognize the nature of the skin exposure hazard, and effectively limit the need for showers to those employees who may have contacted liquid AN.

The lunchroom provisions of the proposal have also come under close scrutiny. OSHA has determined that lunchroom provisions are not required in the final standard for several reasons. First, because the airborne hazard involves vapor rather than particulate, there is not a need for a filtered, positive pressure air supply in lunchrooms (Ex. 156). Second, the standard already prohibits eating, drinking, and smoking in regulated areas. Employees are not permitted to have food, beverages, or smoking products in areas above the permissible exposure limits. Third, the final standard retains the requirement for employees exposed above the TWA to wash before eating. Airborne concentrations above the PEL imply the concurrent possibility of skin contact with AN. Even though the standard contains a separate requirement for employees who contact liquid AN to shower afterwards, OSHA believes that this additional precautionary measure is appropriate in light of the nature of the AN exposure hazard.

Medical surveillance: Paragraph (n). The final standard, like the ETS and the Proposal, requires that each employer institute a medical surveillance program for all employees who are or will be exposed to AN at or above the action level. OSHA finds that a medical surveillance program is both necessary and appropriate to most effectively determine whether the health of employees exposed to AN is adversely affected by such exposure, and to develop information on occupational illnesses. The authority to include such a provision in this standard is set forth in section 6(b)(7) of the Act.

The standard requires that the medical surveillance program provide each covered employee with an opportunity for medical examination. All examinations and procedures are required to be performed by or under the supervision of a licensed physician, and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with employee or selection by the employee. Clearly a medical examination is most appropriately conducted by a licensed physician. However, certain parts of the required medical surveillance program do not necessarily require a physician's specific expertise and may be conducted by another person under the supervision of the physician (Ex. 141). As mandated by section 6(b)(7) of the Act, the medical examinations and procedures required by OSHA standards must be provided at no cost to the employee.

The standard requires that the medical examination include a work history, a medical history and a physical examination of the affected employees. The content of the examination is based upon recommendations from NIOSH (Exs. 42; 41) and upon procedures presently followed by several companies in their clinical evaluation of employees exposed to acrylonitrile (Exs. 128; 149). The purpose of these requirements is to make an initial medical assessment of each employee and to establish a baseline health condition against which future changes in an employee's health may be compared.

The medical surveillance provisions of the standard contain specific testing requirements, with concentration on the peripheral and central nervous systems, respiratory system and gastrointestinal system. Based upon the data from the du Pont and MCA studies of exposure to AN, these vital sites must be considered to be possible target sites for AN-induced cancer.

However, due to the lack of site-specificity associated with AN-induced cancer, all systems must be examined thoroughly (Exs. 42; 89; 92; 160). OSHA believes that these provisions will enable the examining physician to detect and hopefully make possible early treatment for any cancers which may develop due to past exposures to AN.

The standard requires fecal occult blood testing for workers over 40 years of age. This is a nontraumatic, noninvasive procedure for the early detection of gastrointestinal disease which is available and commonly used medically as a screening technique. OSHA has therefore deleted the provision requiring the routine proctosigmoidoscopic examination of workers exposed to AN. However, should the results of the fecal occult blood testing (as well as other medical tests or examination) indicate that, in the judgment of the examining physician, further testing is necessary, such additional testing would then be performed (cf. Exs. 14:(37); 42; TR. 704; 708; 710).

The standard requires that the employer provide the physician with certain information. This includes the following: (1) A copy of the regulation; (2) a description of the affected employee's duties as they relate to the employee's exposure; (3) the results of the employee's exposure monitoring; (4) the employee's anticipated exposure level; (5) whether any personal protective equipment has been or will be used; and (6) information from previous medical examinations of the affected employee which is not otherwise readily available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to his assigned duties and fitness to wear personal protective equipment when required.

The employer is required to obtain a written opinion from the examining physician containing the following information: (1) The results of the medical tests performed; (2) the physician's opinion as to whether the employee has any detected medical conditions

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which would place the employee at increased risk of material impairment of health from exposure to AN; (3) any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment, such as respirators; and (4) a statement that the employee has been informed by the physician of the test results of the medical examination and of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses which are unrelated to occupational exposure. A copy of the written opinion must be provided to the affected employee by the employer.

Commentors have objected to the requirements for the physician's written opinion as unnecessary and burdensome (Exs. 11: (25) Ex. 148; 160). They believe the requirements should be limited to situations where the findings are adverse (Exs. 73; 153).

These views are unacceptable to OSHA. Since the employer has the ultimate responsibility to assure the protection of the worker's health, where the worker's health has not been adversely affected, transmittal of the doctor's opinion serves to inform both patient and employer and provides documentary evidence that the prescribed tests were performed and evaluated. The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any necessary or appropriate action. This is consistent with those provisions of the Act which establish and implement the employee's right to know about occupational hazards and their effects. The purpose of requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to their occupational exposures.

It has been suggested that physical examinations are not necessary for people under 40 and in good health (Ex. 160). This is contrary to the intent of medical surveillance. Workers under 40 may already have been exposed to AN for 15 to 20 years. Since the carcinogenic response may vary widely depending to a great extent on individual susceptibilities the long latency periods associated with carcinogens may also vary greatly among those exposed to cancer-causing substances. In addition medical surveillance is intended to aid in the early detection of cancer and other chronic effects so as to facilitate treatment of these conditions.

It has been suggested that provision be made for medical surveillance to include those employees who have a history of AN exposure but are no longer actively working with AN (Ex. 11:(2)). No such provision has been included in the standard, as OSHA has determined that the inclusion of past employees in a medical surveillance program would be unnecessarily burdensome and administratively infeasible. It would be extremely difficult, if not impossible, to determine which employees may have been exposed to AN and for how long, and to locate many such employees so as to inform them of the medical surveillance program. In addition, where the employee has worked for more than one employer, it would be difficult to determine which employer should bear the cost of such medical surveillance.

Medical removal protection. Medical removal protection was raised as an issue in the AN proposal. This requirement would maintain the rate of pay, seniority and other rights of an employee who is transferred or removed from his job to protect him from material impairment of health, as a result of an increased health risk from exposure to AN.

OSHA's primary goal is to assure that no employee suffers material impairment of health or functional capacity. The Agency does not favor transfer or removal as an alternative to controlling the level of a toxic substance in the workplace environment. Moreover, once full compliance with the permissible exposure limits is achieved by engineering controls and work practices, the need to transfer or remove employees from exposure to AN should arise infrequently.

Limited evidence on this issue was received during this proceeding. OSHA has conducted extensive hearings on medical removal protection in connection with the development of a standard for occupational exposure to lead. The final lead standard, including resolution of the question of medical removal protection, is expected to issue shortly. Once the lead standard is issued, OSHA will consider the extent to which the conclusions reached therein on medical removal protection are appropriate for acrylonitrile, and will propose the inclusion of any appropriate provisions in the AN standard.

Employee information and training: Paragraph (o). The standard requires the employer to provide a training program for employees exposed to AN. OSHA believes that an information and training program is essential for the protection of employees, because an employee can do much to protect himself if aware of the nature of the hazards in the workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his or her work environment. For this reason, the employer is required to inform each employee exposed to AN of the nature of the related health problems, the necessity for exposure control, and the medical and industrial hygiene programs. Such an educational program will go far in assuring that employees know the facts about AN and its proper handling.

The content of the training program is intended to apprise the employees of several factors: (1) The hazards to which they are exposed; (2) the action they can take to protect themselves, including avoiding exposure, using respiratory protection and taking medical examinations; (3) their role in reducing exposures; and (4) the contents of this standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the standard, therefore, includes such provisions.

The employer is also required to provide, upon request, all materials relating to the training program to the Assistant Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standard.

OSHA recognizes that AN may be one of many chemicals to which an employee may be exposed simultaneously in the workplace. The education and training requirements in this standard contain those elements which OSHA believes to be basic. The format of the training and information program is not rigid. An employer may, if he chooses, incorporate the required information for AN into a total program of training and education which is to be provided to his employees (Ex. 11:(14)).

Signs and labels: Paragraph (p). The requirement of the standard regarding the posting of warning signs and affixing caution labels remains primarily the same as that in the proposal. The broadening of the exemption provisions of the standard will result in a minimum of products and materials which will be required to be labeled. In addition, the wording of the signs for regulated areas has been slightly changed. These requirements are consistent with section 6(b)(7) of the Act, which prescribes the use of labels or other appropriate forms of warning to apprise employees of the hazards to which they are exposed.

Signs. The standard requires the posting of warning signs in regulated areas. These signs are intended to supplement the training which employees are required to receive under the standard. Even trained employees will need to be reminded of the locations of regulated areas and the dangers of entering those areas. In addition,

other workers, such as employees of independent maintenance contractors who are authorized to enter particular regulated areas; need to be warned of the hazard and reminded to use protective equipment. OSHA believes that both signs and training are necessary to adequately apprise employees of the hazards of acrylonitrile exposure.

The standard specifies the wording of the warning signs for regulated areas, in order to assure that the proper warning is given to employees. Some participants in the rulemaking have suggested that the word "Cancer" on the signs be replaced by "Cancer-Suspect Agent", or "Toxic Substance" (Exs. 146; 149). OSHA does not believe that the use of the term "Cancer Hazard" overstates the hazard. The reference to cancer provides the necessary warning as to the hazard associated with exposure to acrylonitrile.

It has been further suggested that the word "Danger" be replaced by the word "Caution". OSHA feels that the word "Danger" is appropriate in light of the evidence of carcinogenicity of acrylonitrile. Furthermore, the word "Danger" is used to attract the attention of workers, to alert them to the fact that they are in a hazardous area, i.e., an area where the permissible exposure limit is exceeded, and to emphasize the importance of the message to follow. The use of the word "Danger" is consistent with recent OSHA health standards dealing with carcinogens.

The signs have been changed from the proposal to read "Respirators May Be Required," instead of "Respirators Required." The reason for this involves the difference between the air concentrations in the regulated area and an employee's TWA exposure. There are many areas in which AN concentrations exceed 2 ppm, but where the employee's TWA exposures will not exceed the permissible limits. Such an employee would not be required to wear a respirator, even though the proposed sign would have indicated otherwise. The final standard has been revised to provide a more appropriate warning to employees entering the regulated area.

Labels. The standard requires the use of warning labels on all containers of liquid AN and materials made from and/or containing AN which are not exempted from the standard under paragraph (a)(2). This requirement imposes upon the employer the obligation to assure that all such containers within his workplace are at all times properly labeled, in order that his employees be apprised of the hazard.

The revision of the exemption provisions in the final standard will greatly relieve the burden of labeling of materials made from and/or containing AN. Only those materials which pose a significant potential for exposing employees to AN are required to be labled under the standard.

The standard requires that the labels remain affixed when the AN and AN-based materials leave the employer's workplace. Some comments questioned OSHA's jurisdiction to impose such a requirement (Exs. 156; 11:(14); 146). The purpose of this requirement is to assure that all employees, not only those of a particular employer, are apprised of the hazardous nature of acrylonitrile exposure. It is OSHA's view that informing employees of the hazards to which they are exposed is an important element in reducing occupational disease and injury, and one of the significant purposes of the Occupational Safety and Health Act. Section 6(b)(7) of the Act, which explicitly provides for regulations which require the use of labels or other appropriate forms of warning, is broadly drawn. This section does not limit the employer's obligation of informing employees of hazardous conditions to the employer's own employees. When an employer manufacturers, formulates, or sells a product containing a toxic substance, that employer is exposing not only his own employees, but also the employees of other employers involved in handling, transporting, or using the product. The extent of the obligation to inform should be commensurate with the extent of the exposure. This is especially true where the manufacturer, formulater, or seller will, in many cases, be the only employer capable, through his knowledge of the product, of providing the information necessary for protection of employees. A narrower reading of the statutory authority would defeat the protective purposes of the Act by effectively preventing the downstream employee from obtaining adequate information as to the hazard. Furthermore, the use of the labels required by the standard will alert other employers who utilize or handle the product and who would not otherwise know of the presence of acrylonitrile in their workplace, of their obligation to comply with the standard. OSHA, therefore, feels that this requirement is necessary and appropriate to effectuate the purposes of the Act.

The standard prescribes the legend that must be included on the label. This is to assure that employees are alerted to the fact they they are handling acrylonitrile and to the hazards involved.

The issue of labeling was of great concern as proposed, because the number of products which potentially might have required labels was substantial. The listing of exempted polymer products in paragraph (a)(2)(i) of the final standard makes it clear that these specific products do not have to be labeled. Other than liquid AN itself, OSHA does not anticipate that many products containing and/or made for AN will require labeling under the final standard. This reflects the recognition that most AN-based materials in downstream workplaces do not have a significant potential to expose employees to AN during processing use, and handling.

Recordkeeping: Paragraph (q). Section 8(c)(3) of the Act provides for the promulgation of regulations requiring employers to maintain accurate records of employee exposures to potentially toxic or harmful physical agents which are required to be monitored or measured.

The standard provides that records must be kept to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include the following information: (a) The names, social security numbers, and job classifications of the employees monitored; (b) the dates, number, duration, and results of each of the samples taken, including a description of the representative sampling procedure and equipment used to determine employee exposure where applicable; (c) the type of respiratory protective devices if any, worn by the employee; and (d) a description of the sampling and analytical methods used, and evidence of their accuracy.

The standard also requires that the employer keep an accurate medical record for each employee who is subject to medical surveillance. Section 8(c) of the Act authorizes the promulgation of regulations requiring any employer to keep such records regarding the employer's activities relating to the Act as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are necessary and appropriate to both the enforcement of the standard and the development of information regarding the causes and prevention of illness.

As explained above, it is necessary to relate employees' medical conditions with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an employee's health. For all of these reasons, medical records have been required in the final standard.

The standard requires that employees or their designated representatives be provided access to examine and copy records of required monitoring. The purpose of this provision is to

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assure employees that their exposure is being properly monitored and that they are working in a safe and healthful environment. Section 8(c)(3) of the Act explicitly provides "employees or their representatives with an opportunity to observe * * * and to have access to the records thereof."

The final standard requires that employee medical records be made available upon request for examination and copying by the affected employee or former employee, or a physician designated by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records which may be useful in the diagnosis of illness.

The standard requires employers relying upon objective data for exemption under paragraph (a)(2)(ii) to maintain records of that data and of the basis for their reliance on that data. These records shall be maintained for the duration of the employer's reliance on that data for exemption.

Observation of monitoring: Paragraph (r). Section 8(c)(3) of the Act requires that employers provide employees and their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the standard contains provisions for such observation of monitoring of acrylonitrile exposures. To assure that the right to observe is meaningful, observers are entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained.

The observer, whether an employee or a designated representative, must be provided with, and is required to use, any personal protective equipment required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

Effective date: Paragraph (s). The effective date of the standard is November 2, 1978, thirty days from publication. OSHA has determined that the circumstances of this rulemaking make it unnecessary to allow a longer period of time. Under the ETS, employers were required to perform many of the activities, such as initial monitoring, respiratory protection, and engineering control plans, which are to be required under the final standard. Since the scope of the final standard is narrower than that of the ETS, it is anticipated that all employers covered by the final standard were also subject to the ETS. There should be, therefore, no need for delay in requiring these employers to implement the provisions of the standard. In addition, the standard permits monitoring results and medical examinations obtained under the ETS to serve as initial monitoring and initial medical surveillance under the final standard.

Employers are required to reduce employee exposures to the permissible exposure limits solely by means of feasible engineering controls and work practices within 2 years of the effective date of the standard, or November 2, 1980. The record reflects a wide range of present exposure situations and capabilities of engineering development. Some companies have reported that most of their opreations are already below 2 ppm (Exs. 11:(14); 11:(10); 2:(21)). One producer expects to have engineering controls in place shortly (Ex. 92). One major company has predicted that the completion schedule for engineering projects to reach 2 ppm may take 2 to 3 years (Ex. 11:(27)). Other companies which have developed plans for engineering controls to reach 2 ppm have indicated that they will need leadtime, but have not established any timetable for implementation (Tr. 1016-1017; 978).

An SPI witness estimated that project definition for engineering solutions to reach 2 ppm/10 ppm would take about 6 months, and that implementation of those solutions would take up to 24 additional months (Ex. 74).

OSHA has determined that a 2-year period for installation of engineering controls is reasonable for the AN industry as a whole. Although some employers will be able to complete implementation of controls well within the 2-year time frame, OSHA believes that certain sectors of the industry, primarily resin and elastomer manufacturing, may require the full 2 years to comply. While employers are not required to complete installation of engineering controls until November 2, 1980, they are required to develop a compliance program which provides for completion of controls by that date, and to follow the schedule set out in the program. Failure to develop an adequate program, or failure to implement the progressive steps set out in the program to achieve compliance by November 2, 1980, will subject the employer to citation.

Training programs are to be implemented within 60 days of the effective date of the standard. OSHA believes that this should provide sufficient lead time, particularly in light of the training requirements of the ETS.

Appendices

Four appendices have been included in this permanent standard. These appendices have been included primarily for purposes of information. None of the statements contained therein should be construed as establishing a mandatory requirement not otherwise imposed by the standards, or as detracting from an obligation which the standard does impose.

The information contained in appendices A and B is designed to aid the employer is complying with requirements of the standard. The information in appendix C primarily provides information needed by the physician to evaluate the results of the medical examination. It should be noted that paragraph (o) specifically requires that the information contained in appendices A and B be provided to employees as part of their information and training program.

A new appendix D has been added to the final standard. This appendix gives the details of NIOSH method S-156, together with the NIOSH and OSHA variations on that method, for use in monitoring employee exposures to acrylonitrile. Other methods of sampling and analysis are available in the record of the rulemaking, and may be obtained from the OSHA Docket Office.

The contents of the appendices have been revised to reflect changes from the proposal. In addition, efforts have been made to clarify those sections in the appendices as proposed which were either inconsistent or unclear in relation to the standard.

Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b)(2), 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 1599; 29 U.S.C. 653, 655, 657), the specific statutes referred to in section 4(b)(2), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR part 1911, part 1910 of title 29, Code of Federal Regulations, is hereby amended by deleting the emergency temporary standard for occupational exposure to acrylonitrile at § 1910.1045 and adding a new permanent standard for occupational exposure to acrylonitrile as § 1910.1045, and by deleting the reference to acrylonitrile from table Z-1 of § 1910.1000. In addition, pursuant to section 4(b)(2) of the act, OSHA has determined that this new standard in § 1910.1045 is more effective than the corresponding standards now in subpart B of part 1910, and in parts 1915, 1916, 1917, 1918, and 1926 of title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by this new § 1910.1045. This determination, and the application of the new standard to the maritime and construction industries, are implemented by revising paragraph (c) to § 1910.19.

In conjunction with the publication of the emergency temporary standard (43 FR 2586; Jan. 17, 1978), pursuant to sections 4(b)(2), 6(c), and 8(c) of the Act (84 Stat. 1592; 1996; 1599; 29 U.S.C. 653, 655, 657), title 29 of the Code of Federal Regulations was amended by adding a new paragraph (c) to § 1910.19, and by deleting the reference to acrylonitrile from table Z-1 of § 1910.1000. The authority for these amendments pursuant to section 6(c) of the act has expired. These amendments are to be carried forward in accordance with the promulgation of the new permanent standard, as noted above, pursuant to sections 4(b)(2), 6(b), 6(c), and 8(c) of the act (84 Stat. 1592, 1593, 1596, 1599; 29 U.S.C. 653, 655, 657).

Signed at Washington, D.C., this 22d day of September 1978. These amendments are effective on November 2, 1978

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of title 29 of the Code of Federal Regulations is hereby amended as follows:

1. Paragraph (c) of § 1910.19 is revised to read as follows:

§ 1910.19 Special provisions for air contaminants.

* * * * *

(c) *Acrylonitrile.* Section 1910.1045 shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to acrylonitrile which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended]

* * * * *

2. Section 1910.1000 is amended by deleting the line "Acrylonitrile——— 20———45" from table Z-1 of that section.

3. Section 1910.1045 is revised to read as follows:

§ 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposures to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in paragraphs (a)(2) and (a)(3) of this section.

(2) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demopstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight (8)-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170° F during handling, use, or processing.

(3) An employer relying upon exemption under paragraph (a)(2)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data, as provided in paragraph (q) of this section.

(b) *Definitions.* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula $CH_2=CHCN$.

"Action level" means a concentration of AN of 1 ppm as an eight (8)-hour time-weighted average.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which results in an unexpected massive release of AN.

"Liquid AN" means AN monomer in liquid form, and liquid or semiliquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.* (1) *Inhalation.* (i) *Time weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two (2) parts acrylonitrile per million parts of air (2 ppm) as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of ten (10) ppm as averaged over any fifteen (15)-minute period during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN.

(d) *Notification of regulated areas and emergencies.* (1) *Regulated areas.* Within thirty (30) days following the establishment of a regulated area pursuant to paragraph (f) of this section, the employer shall report the following information to the OSHA Area Office:

(i) The address and location of each establishment which has one or more regulated areas;

(ii) The locations, within the establishment, of each regulated area;

(iii) A brief description of each process or operation which results in employee exposure to AN in regulated areas; and

(iv) The number of employees engaged in each process or operation within each regulated area which results in exposure to AN, and an estimate of the frequency and degree of exposure that occurs.

Whenever there has been a significant change in the information required to be reported by this paragraph, the employer shall promptly provide the new information to the OSHA Area Office.

(2) *Emergencies.* Emergencies, and the facts obtainable at that time, shall be reported within seventy-two (72) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight (8)-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

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(2) *Initial monitoring.* Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven (7) days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control, or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of the results of monitoring required by this paragraph, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 35 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 50 percent for concentrations of AN below the permissible exposure limits.

(f) *Regulated areas.* (1) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the act or regulations issued pursuant thereto.

(4) The employer shall assure that food or beverages are not present or consumed, tobacco products are not present or used, and cosmetics are not applied in the regulated area.

(g) *Methods of compliance.*—(1) *Engineering and work practice controls.* (i) By November 2, 1980, the employer shall institute engineering and work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls, and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) An outline of the nature of the engineering controls and work practices to be applied to the operation or process in question;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A schedule for implementation of engineering and work practice controls for the operation or process, which shall project completion no later than November 2, 1980; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans shall be submitted upon request to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(v) The plans required by this paragraph shall be revised and updated at least every six (6) months to reflect the current status of the program.

(h) *Respiratory protection.*—(1) *General.* The employer shall assure that respirators are used where required by this section to reduce employee exposure to within the permissible exposure limits. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement feasible engineering and work practice controls;

(ii) In work operations, such as maintenance and repair activities or reactor cleaning, in which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; and

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide, at no cost to the employee, the appropriate type of respirator from table I below, and shall assure that the employee wears the respirator provided.

TABLE I.—*Respiratory Protection for Acrylonitrile (AN)*

Concentration of AN or condition of use	Respirator type
(a) Less than or equal to 20 ppm	(1) Chemical cartridge respirator with organic vapor cartridge(s) and half-mask facepiece; or (2) Supplied air respirator with half-mask facepiece.
(b) Less than or equal to 100 ppm or maximum use concentration (MUC) of cartridges or canisters, whichever is lower.	(1) Full facepiece respirator with (A) organic vapor cartridges, (B) organic vapor gas mask chin-style, or (C) organic vapor gas mask canister, front- or back-mounted; (2) Supplied air respirator with full facepiece; or (3) Self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 4,000 ppm	(1) Supplied air respirator operated in the positive pressure mode with full facepiece, helmet, suit, or hood.
(d) Greater than 4,000 ppm or unknown concentration.	(1) Supplied air and auxiliary self-contained breathing apparatus with full facepiece in positive pressure mode; or
(e) Firefighting	(2) Self-contained breathing apparatus with full facepiece in positive pressure mode. Self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor respirator, or (2) Any self-contained breathing apparatus.

(ii) The employer shall select respirators from among those approved for use with organic vapors by the National Institute for Occupational Safety and Health under the provisions of 30 CFR part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(ii) Where air/purifying respirators (chemical cartridge- or canister-type) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the completion of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) *Testing.* Fit testing of respirators shall be performed to assure that the respirator selected provides the protection required by table I.

(A) *Qualitative fit.* The employer shall perform qualitative fit tests at the time of initial fitting and at least semiannually thereafter for each employee wearing respirators.

(B) *Quantitative fit.* Each employer with more than 10 employees wearing negative pressure respirators shall perform quantitative fit testing at the time of initial fitting and at least semiannually thereafter for each such employee.

(iv) Employees who wear respirators shall be allowed to wash their faces and to wipe clean the face-to-facepiece seals on their respirators to minimize potential skin irritation associated with respirator use.

(i) *Emergency situations.*—(1) *Written plans.* (i) A written plan for emergency situations shall be developed for each workplace where liquid AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(iii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(2) *Alerting employees.* Where there is the possibility of employee exposure to AN in excess of the ceiling limit, a general alarm shall be installed and used to promptly alert employees of such occurrences.

(j) *Protective clothing and equipment.*—(1) *Provision and use.* Where eye or skin contact with liquid AN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, impermeable protective clothing or other equipment to protect any area of the body which may come in contact with liquid AN. The provision of §§ 1910.132 and 1910.133 shall be complied with.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this section as needed to maintain their effectiveness.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that an employee whose nonimpermeable clothing becomes wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(iv) The employer shall assure that no employee removes protective clothing or equipment from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment of the potentially harmful effects of exposure to AN.

(k) *Housekeeping.* (1) All surfaces shall be maintained free of visible accumulations of liquid AN.

(2) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(3) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(k) *Waste disposal.* AN waste, scrap, debris, bags, containers, or equipment shall be decontaminated before being incorporated in the general waste disposal system.

(m) *Hygiene facilities and practices.* (1) Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, the facilities required by 29 CFR 1910.141, including clean change rooms and shower facilities, shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided.

(2) The employer shall assure that employees wearing protective clothing or equipment for protection from skin contact with liquid AN shall shower at the end of the work shift.

(3) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(4) The employer shall assure that employees working in the regulated area wash their hands and faces prior to eating.

(n) *Medical surveillance.*—(1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN at or above the action level, without regard to the use of respirators. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and that they shall be provided without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those nonspecific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or with chronic exposure to AN;

(ii) A complete physical examination giving particular attention to the peripheral and central nervous system, gastrointestinal system, respiratory system, skin, and thyroid;

(iii) A 14- by 17-inch posteroanterior chest X-ray; and

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(iv) Further tests of the intestinal tract, including fecal occult blood screening, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(3) *Periodic examinations.* (i) The employer shall provide the examinations specified in paragraph (n)(2) of this section at least annually for all employees specified in paragraph (n)(1) of this section.

(ii) If an employee has not had the examination specified in paragraph (n)(2) of this section within 6 months preceding termination of employment, the employer shall make such examination available to the employee prior to such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms which may be associated with exposure to AN, the employer shall provide an appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and (D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.* (1) *Training program.* (i) By January 2, 1979, the employer shall institute a training program for and assure the participaton of all employees exposed to AN above the action level, all employees whose exposures are maintained below the action level by engineering and work practice controls, and all employees subject to potential skin or eye contact with liquid AN.

(ii) Training shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in appendixes A and B;

(B) The quantity, location, manner of use, release, or storage of AN, and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (i) of this section;

(F) Engineering and work practice controls, their function, and the employee's relationship to these controls; and

(G) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.* (1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph

(ii) The employer shall assure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

RESPIRATORS MAY BE REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of liquid AN and AN-based materials not exempted under paragraph (a)(2) of this standard. The employer shall assure that the labels remain affixed when the materials are sold, distributed, or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ACRYLONITRILE (AN)

CANCER HAZARD

(q) *Recordkeeping.* (1) *Objective data for exempted operations.* (i) Where the processing, use, and handling of materials made from or containing AN are exempted pursuant to paragraph (a)(2) (ii) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The material qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of paragraph (e)(6) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(3) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physician's written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n)(5) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(4) *Availability.* (i) The employer shall make all records required to be maintained by this section available, upon request, to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall make records required by paragraph (q)(1) and (q)(2) of this section available upon request, for examination and copying, to affected employees, former employees, or their designated representatives.

(iii) The employer shall make an employee's medical records required to be maintained by this section available upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee or former employee.

(5) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall notify the Director at least 3 months prior to the disposal of the records, and shall transmit them to the Director upon request.

(r) *Observation of monitoring.* (1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing and equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.*

(1) This section shall become effective November 2, 1978.

(2) Monitoring and medical surveillance conducted since January 17, 1978, under the provisions of the emergency temporary standard may be relied upon by the employer to meet the initial monitoring and initial medical surveillance requirements of this section.

(3) Training programs must be implemented by January 2, 1979.

(4) Engineering and work practice controls required by paragraph (g) of this section shall be implemented no later than November 2, 1980.

(t) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed, or to detract from any obligation.

APPENDIX A—SUBSTANCE SAFETY DATA SHEET FOR ACRYLONITRILE

I. SUBSTANCE IDENTIFICATION

A. Substance: Acrylonitrile (CH_2=CHCN).

B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

C. Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, rubbers, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modiacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13–19 parts AN per million parts of air (13–19 ppm).

F. Permissible exposure: Exposure may not exceed either:

1. Two parts AN per million parts of air (2 ppm) averaged over the 8-hour workday; or

2. Ten parts AN per million parts of air (10 ppm) averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

II. HEALTH HAZARD DATA

A. Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of overexposure: 1. Short-term exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

III. EMERGENCY FIRST AID PROCEDURES

A. Eye exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before reusing. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his

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throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

F. Special first aid procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators: You may be required to wear a respirator for nonroutine activites, in emergencies, while your employer is in the process of reducing acrylonitrile exposures through engineering controls, and in areas where engineering controls are not feasible. If respirators are worn, they must have a Mine Safety and Health Administration (MSHA or MESA) or National Institute for Occupational Safety and Health (NIOSH) label of approval for use with organic vapors. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limits. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end-of-service-life, whichever comes first. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Supplied-air suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

C. Protective clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you as necessary to assume that the clothing protects you adequately.

Replace or repair impervious clothing that has developed leaks.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes which are not impervious to acrylonitrile should not be allowed to become contaminated with acrylonitrile, and if they do the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered or discarded after the AN is removed. Once acrylonitrile penetrates shoes or other leather articles, they should not be worn again.

D. Eye protection: You must wear splash-proof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. Acrylonitrile is a flammable liquid, and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any nonimpervious clothing that becomes wetted with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

F. Impervious clothing wet with liquid acrylonitrile can be easily ignited. This clothing must be washed down with water before you remove it.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials, nor are you permitted to eat or smoke in regulated areas where acrylonitrile concentrations are above the permissible exposure limits.

I. If you contact liquid acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty (40) years or for the period of your employment plus twenty (20) years, whichever is longer.

D. Your employer is required to release your exposure and medical records to your physician upon your written request.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE

I. PHYSICAL AND CHEMICAL DATA

A. Substance identification: 1. Synonyms: AN; VCN; vinyl cyanide; propenenitrile; cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula: $CH_2=CHCN$.

3. Molecular weight: 53.1.

B. Physical data: 1. Boiling point (760 mm Hg): 77.3°C (171° F);

2. Specific gravity (water=1): 0.81 (at 20° C or 68° F);

3. Vapor density (air=1 at boiling point of acrylonitrile): 1.83;

4. Melting point: −83° C (−117° F);

5. Vapor pressure (@20° F): 83 mm Hg;

6. Solubility in water, percent by weight @20° C (68° F): 7.35;

7. Evaporation rate (Butyl Acetate=1): 4.54; and

8. Appearance and odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

II. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

A. Fire: 1. Flash point: −1° C (30° F) (closed cup).

2. Autoignition temperature: 481° C (898° F).

3. Flammable limits air, percent by volume: Lower: 3, Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, and dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water to cool containers exposed to a fire.

6. Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

7. For purposes of compliance with the requirements of 29 CFR 1910.106, acrylonitrile is classified as a class 1B flammable liquid. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

8. For purposes of compliance with 29 CFR 1910.157, acrylonitrile is classified as a Class B fire hazard.

9. For purpose of compliance with 29 CFR 1919.309, locations classified as hazardous due to the presence of acrylonitrile shall be Class I, Group D.

B. Reactivity:

1. Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize, with a rapid build-up of pressure, resulting in an explosion hazard. Inhibitors are added to the commercial product to prevent self-polymerization.

2. Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide) may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

4. Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings.

III. SPILL, LEAK, AND DISPOSAL PROCEDURES

A. If acrylonitrile is spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.

2. The area should be evacuated at once and re-entered only after the area has been thoroughly ventilated and washed down with water.

3. If liquid acrylonitrile or polymer intermediate, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material, or wash down with water into process sewer system.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

C. Waste disposal methods: Waste material shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing of such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. In selecting the method of waste disposal, applicable local, State, and Federal regulations should be consulted.

IV. MONOTORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee.)

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The average of all measurements taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal adsorption tubes or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as real-time continuous monotoring systems, portable direct-reading instruments, or passive dosimeters. Analysis of resultant samples should be by gas chromatograph.

Appendix D lists methods of sampling and analysis which have been tested by NIOSH and OSHA for use with acrylonitrile. NIOSH and OSHA have validated modifications of NIOSH Method S-156 (See Appendix D) under laboratory conditions for concentrations below 1 ppm. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his unique field conditions. The standard requires that methods of monitoring must be accurate, to a 95-percent confidence level, to ±35-percent for concentrations of AN at or above 2 ppm, and to ±50-percent for concentrations below 2 ppm. In addition to the methods described in Appendix D, there are numerous other methods available for monitoring for AN in the workplace. Details on these other methods have been submitted by various companies to the rulemaking record, and are available at the OSHA Docket Office.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

V. PROTECTIVE CLOTHING

Employees shall be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with liquid AN. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, as appropriate to protect areas of the body which may come in contact with liquid AN.

Employers should ascertain that the protective garments are impermeable to acrylonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with liquid AN. If permeable clothing does become contaminated, it should be promptly removed, placed in a regulated area for removal of the AN, and not worn again until the AN is removed. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering which may result from skin contact with liquid AN, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective shall be repaired or replaced. Clean protective clothing shall be provided to the employee as necessary to assure its protectiveness. Whenever impervious clothing becomes wet with liquid AN, it shall be washed down with water before being removed by the employee. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition. The employer is required to institute a leak and spill detection program for operations involving liquid AN in order to detect sources of fugitive AN emissions.

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN may be found.

C. Adequate washing facilities with hot and cold water are to be provided, and maintained in a sanitary condition. Suitable cleansing agents are also to be provided to assure the effective removal of acrylonitrile from the skin.

D. Change or dressing rooms with individual clothes storage facilities must be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be placed in a regulated area designated by the employer for removal of the AN before the clothing is laundered or disposed of.

VII. MISCELLANEOUS PRECAUTIONS

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area and take necessary precautions to avoid any explosion hazard.

B. High exposures to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact with and provide respiratory protection from acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

VIII. COMMON OPERATIONS

Common operations in which exposure to acrylonitrile is likely to occur include the following: Manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS, SAN, and nitrile barrier plastics and resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR ACRYLONITRILE

I. ROUTE OF ENTRY

Inhalation; skin absorption; ingestion.

II. TOXICOLOGY

Acrylonitrile vapor is an asphyxiant due to inhibitory action on metabolic enzyme

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systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported: one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contract with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after 1 year of a planned 2-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, S.C. acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancers among employees exposed to acrylonitrile.

III. SIGNS AND SYMPTOMS OF ACUTE OVEREXPOSURE

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin with appearance of a second-degree burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

IV. TREATMENT OF ACUTE OVEREXPOSURE

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed, and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. As noted above, exposure to acrylonitrile has been linked to increased incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level. The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The du Pont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The du Pont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumor production in the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5. *General.* The purpose of the medical procedures outlined in the standard is to establish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastro-intestinal systems, the cardiovascular system, liver, and kidney function should also be stressed.

APPENDIX D.—SAMPLING AND ANALYTICAL METHODS FOR ACRYLONITRILE

There are many methods available for monitoring employee exposures to acrylonitrile. Most of these involve the use of charcoal tubes and sampling pumps, with analysis by gas chromatograph. The essential differences between the charcoal tube methods include, among others, the use of different desorbing solvents, the use of different lots of charcoal, and the use of different equipment for analysis of the samples.

Besides charcoal, considerable work has been performed on methods using porous polymer sampling tubes and passive dosimeters. In addition, there are several portable gas analyzers and monitoring units available on the open market.

This appendix contains details for the methods which have been tested at OSHA Analytical Laboratory in Salt Lake City, and NIOSH in Cincinnati. Each is a variation on NIOSH Method S-156, which is also included for reference. This does not indicate that these methods are the only ones which will be satisfactory. There also may be workplace situations in which these methods are not adequate, due to such factors as high humidity. Copies of the other methods available to OSHA are available in the rulemaking record, and may be obtained from the OSHA Docket Office. These include the Union Carbide, Monsanto, Dow Chemical and Dow Badische methods, as well as NIOSH Method P & CAM 127.

Employers who note problems with sample breakthrough should try larger charcoal tubes. Tubes of larger capacity are available, and are often used for sampling vinyl chloride. In addition, lower flow rates and shorter sampling times should be beneficial in minimizing breakthrough problems.

Whatever method the employer chooses, he must assure himself of the method's accuracy and precision under the unique conditions present in his workplace.

NIOSH METHOD S-156 (UNMODIFIED)

Analyte: Acrylonitrile.
Matrix: Air.
Procedure: Absorption on charcoal, desorption with methanol, GC.

1. *Principle of the method* (Reference 11.1).

1.1 A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

1.2 The charcoal in the tube is transferred to a small, stoppered sample container, and the analyte is desorbed with methanol.

1.3 An aliquot of the desorbed sample is injected into a gas chromatograph.

1.4 The area of the resulting peak is determined and compared with areas obtained for standards.

2. *Range and sensitivity.*

2.1 This method was validated over the range of 17.5-70.0 mg/cu m at an atmospheric temperature and pressure of 22° C and 760 mm Hg, using a 20-liter sample. Under the conditions of sample size (20 liters) the probable useful range of this method is 4.5-135 mg-cu m. The method is capable of measuring much smaller amounts if the desorption efficiency is adequate. Desorption efficiency must be determined over the range used.

2.2 The upper limit of the range of the method is dependent on the adsorptive capacity of the charcoal tube. This capacity varies with the concentrations of acrylonitrile and other substances in the air. The first section of the charcoal tube was found to hold at least 3.97 mg of acrylonitrile when a test atmosphere containing 92.0 mg/cu m of acrylonitrile in air was sampled 0.18 liter per minute for 240 minutes; at that time the concentration of acrylonitrile in the effluent was less than 5 percent of that in the influent. (The charcoal tube consists of two sections of activated charcoal separated by a section of urethane foam. See section 6.2.) If a particular atmosphere is suspected of containing a large amount of contaminant, a smaller sampling volume should be taken.

3. *Interference.*

3.1 When the amount of water in the air is so great that condensation actually occurs in the tube, organic vapors will not be trapped efficiently. Preliminary experiments using toluene indicate that high humidity severely decreases the breakthrough volume.

3.2 When interfering compounds are known or suspected to be present in the air, such information, including their suspected identities, should be transmitted with the sample.

3.3 It must be emphasized that any compound which has the same retention time as the analyte at the operating conditions described in this method is an interference. Retention time data on a single column cannot be considered proof of chemical identity.

3.4 If the possibility of interference exists, separation conditions (column packing, temperature, etc.) must be changed to circumvent the problem.

4. *Precision and accuracy.*

4.1 The Coefficient of Variation (CV_T) for the total analytical and sampling method in the range of 17.5-70.0 mg/cu m was 0.073. This value corresponds to a 3.3 mg/cu m standard deviation at the (previous) OSHA standard level (20 ppm). Statistical information and details of the validation and experimental test procedures can be found in Reference 11.2.

4.2 On the average the concentrations obtained at the 20 ppm level using the overall sampling and analytical method were 6.0 percent lower than the "true" concentrations for a limited number of laboratory experiments. Any difference between the "found" and "true" concentrations may not represent a bias in the sampling and analytical method, but rather a random variation from the experimentally determined "true" concentration. Therefore, no recovery correction should be applied to the final result in section 10.5.

5. *Advantages and disadvantages of the method.*

5.1 The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

The method can also be used for the simultaneous analysis of two or more substances suspected to be present in the same sample by simply changing gas chromatographic conditions.

5.2 One disadvantage of the method is that the amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

5.3 Furthermore, the precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

6. *Apparatus.*

6.1 A calibrated personal sampling pump whose flow can be determined within ±5 percent at the recommended flow rate. (Reference 11.3).

6.2 Charcoal tubes: Glass tubes with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoals prepared from coconut shells and is fired at 600° C prior to packing. The adsorbing section contains 100 mg of charcoal, the backup section 50 mg. A 3-mm portion of urethane foam is placed between the outlet end of the tube and the backup section. A plug of silicated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than 1 inch of mercury at a flow rate of 1 liter per minute.

6.3 Gas chromatograph equipped with a flame ionization detector.

6.4 Column (4-ft × ¼-in stainless steel) packed with 50/80 mesh Poropak, type Q.

6.5 An electronic integrator or some other suitable method for measuring peak areas.

6.6 Two-milliliter sample containers with glass stopers or Teflon-lined caps. If an automatic sample injector is used, the associated vials may be used.

6.7 Microliter syringes: 10-microliter, and other convenient sizes for making standards.

6.8 Pipets: 1.0-ml delivery pipets.

6.9 Volumetric flask: 10-ml or convenient sizes for making standard solutions.

7. *Reagents.*

7.1 Chromatographic quality methanol.
7.2 Acrylonitrile, reagent grade.
7.3 Hexane, reagent grade.
7.4 Purified nitrogen.
7.5 Prepurified hydrogen.
7.6 Filtered compressed air.

8. *Procedure.*

8.1 Cleaning of equipment. All glassware used for the laboratory analysis should be detergent washed and thoroughly rinsed with tap water and distilled water.

8.2 Calibration of personal pumps. Each personal pump must be calibrated with a representative charcoal tube in the line. This will minimize errors associated with uncertainties in the sample volume collected.

8.3 Collection and shipping of samples.

8.3.1 Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

8.3.2 The smaller section of charcoal is used as a backup and should be positioned nearest the sampling pump.

8.3.3 The charcoal tube should be placed in a vertical direction during sampling to minimize channeling through the charcoal.

8.3.4 Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

8.3.5 A maximum sample size of 20 liters is recommended. Sample at a flow of 0.20 liter per minute or less. The flow rate should be known with an accuracy of at least ±5 percent.

8.3.6 The temperature and pressure of the atmosphere being sampled should be recorded. If pressure reading is not available, record the elevation.

83.7 The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Under no circumstances should rubber caps be used.

8.3.8 With each batch of 10 samples submit one tube from the same lot of tubes which was used for sample collection and which is subjected to exactly the same handling as the samples except that no air is drawn through it. Label this as a blank.

8.3.9 Capped tubes should be packed tightly and padded before they are shipped to minimize tube breakage during shipping.

8.3.10 A sample of the bulk material should be submitted to the laboratory in a glass container with a Teflon-lined cap. This sample should not be transported in the same container as the charcoal tubes.

8.4 *Analysis of samples.*

8.4.1 Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-ml stoppered sample container. The separating section of foam is removed and discarded; the second section is transferred to another stoppered container. These two sections are analyzed separately.

8.4.2 Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes. Tests indicate that this is adequate if the sample is agitated occasionally during this period. If an automatic sample injector is used, the sample vials should be capped as soon as the solvent is added to minimize volatilization.

8.4.3 GC conditions. The typical operating conditions for the gas chromatograph are:

1. 50 ml/min (60 psig) nitrogen carrier gas flow.
2. 65 ml/min (24 psig) hydrogen gas flow to detector.
3. 500 ml/min (50 psig) air flow to detector.
4. 235° C injector temperature.
5. 255° C manifold temperature (detector).
6. 155° C column temperature.

8.4.4 Injection. The first step in the analysis is the injection of the sample into the gas chromatograph. To eliminate difficulties arising from blowback or distillation within the syringe needle, one should employ the solvent flush injection technique. The 10-microliter syringe is first flushed with solvent several times to wet the barrel and plunger. Three microliters of solvent are drawn into the syringe to increase the accuracy and reproducibility of the injected sample volume. The needle is removed from the solvent, and the plunger is pulled back about 0.2 microliter to separate the solvent flush from the sample with a pocket of air to be used as a marker. The needle is then immersed in the sample, and a 5-microliter aliquot is withdrawn, taking into consideration the volume of the needle, since the sample in the needle will be completely injected. After the needle is removed from the sample and prior to injection, the plunger is pulled back 1.2 microliters to minimize evaporation of the sample from the tip of the needle. Observe that the sample occupies 4.9-5.0 microliters in the barrel of the syringe. Duplicate injections of each sample and standard should be made. No more than a 3 percent difference in area is to be expected. An automatic sample injector can be used if it is shown to give reproducibility at least as good as the solvent flush method.

8.4.5 Measurement of area. The area of the sample peak is measured by an electron-

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ic integrator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.

8.5. *Determination of desorption efficiency.*

8.5.1 Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine at least once the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

8.5.2 Procedure for determining desorption efficiency. Activated charcoal equivalent to the amount in the first section of the sampling tube (100 mg) is measured into a 2.5 in, 4-mm I.D. glass tube, flame sealed at one end. This charcoal must be from the same batch as that used in obtaining the samples and can be obtained from unused charcoal tubes. The open end is capped with Parafilm. A known amount of hexane solution of acrylonitrile containing 0.239 g/ml is injected directly into the activated charcoal with a microliter syringe, and tube is capped with more Parafilm. When using an automatic sample injector, the sample injector vials, capped with Teflon-faced septa, may be used in place of the glass tubes.

The amount injected is equivalent to that present in a 20-liter air sample at the selected level.

Six tubes at each of three levels (0.5X, 1X, and 2X of the standard) are prepared in this manner and allowed to stand for at least overnight to assure complete adsorption of the analyte onto the charcoal. These tubes are referred to as the sample. A parallel blank tube should be treated in the same manner except that no sample is added to it. The sample and blank tubes are desorbed and analyzed in exactly the same manner as the sampling tube described in section 8.4.

Two or three standards are prepared by injecting the same volume of compound into 1.0 ml of methanol with the same syringe used in the preparation of the samples. These are analyzed with the samples.

The desorption efficiency (D.E.) equals the average weight in mg recovered from the tube divided by the weight in mg added to the tube, or

D.E. = Average weight recovered (mg)/weight added (mg)

The desorption efficiency is dependent on the amount of analyte collected on the charcoal. Plot the desorption efficiency versus weight of analyte found. This curve is used in section 10.4 to correct for adsorption losses.

9. *Calibration and standards.*

It is convenient to express concentration of standards in terms of mg/1.0 ml methanol, because samples are desorbed in this amount of methanol. The density of the analyte is used to convert mg into microliters for easy measurement with a microliter syringe. A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are established by plotting concentration in mg/1.0 ml versus peak area.

NOTE.—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the FID response.

10. *Calculations.*

10.1 Read the weight, in mg, corresponding to each peak area from the standard curve. No volume corrections are needed, because the standard curve is based on mg/1.0 ml methanol and the volume of sample injected is identical to the volume of the standards injected.

10.2 Corrections for the blank must be made for each sample.

mg = mg sample − mg blank

Where:
mg sample = mg found in front section of sample tube.
mg sample = mg found in front section of blank tube.

A similar procedure is followed for the backup sections.

10.3 Add the weights found in the front and backup sections to get the total weight in the sample.

10.4 Read the desorption efficiency from the curve (see sec. 8.5.2) for the amount found in the front section. Divide the total weight by this desorption efficiency to obtain the corrected mg/sample.

Corrected mg/sample = Total weight/D.E.

10.5 The concentration of the analyte in the air sampled can be expressed in mg/cu m.

mg/cu m = Corrected mg (section 10.4) × 1,000 (liter/cu m)/air volume sampled (liter)

10.6 Another method of expressing concentration is ppm.

$$ppm = mg/cu \times 24.45/M.W. \times 760/P \times T + 273/298$$

Where:
P = Pressure (mm Hg) of air sampled.
T = Temperature (°C) of air sampled.
24.45 = Molar volume (liter/mole) at 25° C and 760 mm Hg.
M.W. = Molecular weight (g/mole) of analyte.
760 = Standard pressure (mm Hg).
298 = Standard temperature (°K).

11. *References.*

11.1 White, L. D. et al., "A Convenient Optimized Method for the Analysis of Selected Solvent Vapors in the Industrial Atmosphere," *Amer. Ind. Hyg. Assoc. J., 31*:225 (1970).

11.2 Documentation of NIOSH Validation Tests, NIOSH Contract No. CDC-99-74-45.

11.3 Final Report, NIOSH Contract HSM-99-71-31, "Personal Sampler Pump for Charcoal Tubes," September 15, 1972.

NIOSH MODIFICATION OF NIOSH METHOD S-156

The NIOSH recommended method for low levels for acrylonitrile is a modification of method S-156. It differs in the following respects:

(1) Samples are desorbed using 1 ml of 1 percent acetone in CS_2 rather than methanol.

(2) The analytical column and conditions are:

Column: 20 percent SP-1000 on 80/100 Supelcoport 10 feet x ⅛ inch S.S.

Conditions:
Injector temperature: 200° C.
Detector temperature: 100° C.
Column temperature: 85° C.
Helium flow: 25 ml/min.
Air flow: 450 ml/min.
Hydrogen flow: 55 ml/min.

(3) A 2 µl injection of the desorbed analyte is used.

(4) A sampling rate of 100 ml/min is recommended.

OSHA LABORATORY MODIFICATION OF NIOSH METHOD S-156

Analyte: Acrylonitrile.
Matrix: Air.
Procedure: Adsorption on charcoal, desorption with methanol, GC.

1. *Principle of the Method* (Reference 1).

1.1 A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

1.2 The charcoal in the tube is transferred to a small, stoppered sample vial, and the analyte is desorbed with methanol.

1.3 An aliquot of the desorbed sample is injected into a gas chromatograph.

1.4 The area of the resulting peak is determined and compared with areas obtained for standards.

2. *Advantages and disadvantages of the method.*

2.1 The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

2.2 This method may not be adequate for the simultaneous analysis of two or more substances.

2.3 The amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

2.4 The precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

3. *Apparatus.*

3.1 A calibrated personal sampling pump whose flow can be determined within ±5 percent at the recommended flow rate.

3.2 Charcoal tubes: Glass tube with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is fired at 600° C prior to packing. The absorbing section contains 100 mg of charcoal, the back-up section 50 mg. A 3-mm portion of urethane foam is placed between the outlet end of the tube and the back-up section. A plug of silated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than one inch of mercury at a flow rate of 1 liter per minute.

3.3 Gas chromatograph equipped with a nitrogen phosphorus detector.

3.4 Column (10-ft x 1/8"-in stainless steel) packed with 100/120 Supelcoport coated with 10 percent SP 1000.

3.5 An electronic integrator or some other suitable method for measuring peak areas.

3.6 Two-milliliter sample vials with Teflon-lined caps.

3.7 Microliter syringes: 10-microliter, and other convenient sizes for making standards.

3.8 Pipets: 1.0-ml delivery pipets.

3.9 Volumetric flasks: convenient sizes for making standard solutions.

4. *Reagents.*

4.1 Chromatographic quality methanol.

4.2 Acrylonitrile, reagent grade.

4.3 Filtered compressed air.

4.4 Purified hydrogen.

4.5 Purified helium.

5. *Procedure.*

5.1 Cleaning of equipment. All glassware used for the laboratory analysis should be properly cleaned and free of organics which could interfere in the analysis.

5.2 Calibration of personal pumps. Each pump must be calibrated with a representative charcoal tube in the line.

5.3 Collection and shipping of samples.

5.3.1 Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

5.3.2 The smaller section of the charcoal is used as the backup and should be placed nearest the sampling pump.

5.3.3 The charcoal should be placed in a vertical position during sampling to minimize channeling through the charcoal.

5.3.4 Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

5.3.5 A sample size of 20 liters is recommended. Sample at a flow rate of approximately 0.2 liters per minute. The flow rate should be known with an accuracy of at least ±5 percent.

5.3.6 The temperature and pressure of the atmosphere being sampled should be recorded.

5.3.7 The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Rubber caps should not be used.

5.3.8 Submit at least one blank tube (a charcoal tube subjected to the same handling procedures, without having any air drawn through it) with each set of samples.

5.3.9 Take necessary shipping and packing precautions to minimize breakage of samples.

5.4 Analysis of samples.

5.4.1 Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-ml vial. The separating section of foam is removed and discarded; the section is transferred to another capped vial. These two sections are analyzed separately.

5.4.2 Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes in an ultrasonic bath. The sample vials are recapped as soon as the solvent is added.

5.4.3 GC conditions. The typical operating conditions for the gas chromatograph are:

1. 30 ml/min (60 psig) helium carrier gas flow.
2. 3.0 ml/min (30 psig) hydrogen gas flow to detector.
3. 50 ml/min (60 psig) air flow to detector.
4. 200° C injector temperature.
5. 200° C dejector temperature.
6. 100° C column temperature.

5.4.4 Injection. Solvent flush technique or equivalent.

5.4.5 Measurement of area. The area of the sample peak is measured by an electronic integator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussd below.

5.5 Determination of desorption efficiency.

5.5.1 Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necesary to determine, at least once, the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

5.5.2 Procedure for determining desorption efficiency. The reference portion of the charcoal tube is removed. To the remaining portion, amounts representing 0.5X, 1X, and 2X (X represents TLV) based on a 20 l air sample are injected onto several tubes at each level. Dilutions of acrylonitrile with methanol are made to allow injection of measurable quantities. These tubes are then allowed to equilibrate at least overnight. Following equilibration they are analyzed following the samc procedure as the samples. A curve of the desorption efficiency

amt recovered/amt added

is plotted versus amount of analyte found. This curve is used to correct for adsorption losses.

6. *Calibration and standards.*

A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are prepared by plotting concentration versus peak area.

NOTE—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the NPD response. Multiple injections are necessary.

7. *Calculations.*

Read the weight, corresponding to each peak area from the standard curve, correct for the blank, correct for the desorption efficiency, and make necessary air volume corrections.

8. *Reference.* NIOSH Method S-156.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1596, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

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WEDNESDAY, OCTOBER 4, 1978

highlights

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October 23, 1978

See inside cover for details.

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TAMPA, FLORIDA, WORKSHOP

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WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

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2. Difference between legislation and regulations.
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5. An introduction to the finding aids of the FR/CFR system.

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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Agricultural Marketing Service—
- Oranges and grapefruit grown in Texas; container requirements; comments by 10–13–78 ..... 43721; 9–27–78

Agricultural Stabilization and Conservation Service—
- 1979 Extra Long Staple Cotton Program; proposed marketing quota; allotment; comments by 10–10–78 ..... 35053; 8–8–78

Agricultural Stabilization and Conservation Service/Commodity Credit Corporation—
- 1979 feed grain program; proposed determinations; comments by 10–10–78. 37458; 8–23–78

Animal and Plant Health Inspection Service—
- Proposed rule to permit horses, except horses from or that have transited countries where African horse sickness exists to enter the U.S. by the U.S. Customs Service; comments by 10–10–78. 40037; 9–8–78 [Originally published at 43 FR 33926–33929 8–2 and 8–4–78]

Farmers Home Administration—
- Community domestic water and waste disposal systems; development grants; comments by 10–10–78 ..... 39746; 9–7–78
- Development grants for community domestic water and waste disposal systems; comments by 10–11–78 ... 40199; 9–11–78
- Economic emergency loans; comments by 10–10–78 ..... 35648, 35661; 8–11–78

Food Safety and Quality Service—
- Frozen broccoli; proposed U.S. standards for grades; comments by 10–10–78. 35722; 8–11–78

Rural Electrification Administration—
- Rural Telephone Programs; comments by 10–10–78 ..... 40037; 9–8–78

CIVIL AERONAUTICS BOARD

- Free and reduced rate transportation; exemption for air carriers to provide to employees of international air carriers; comments by 10–10–78 ..... 39805; 9–7–78

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- Federal Employees Health Benefits Program; opportunities to register to enroll and change enrollment; open season; comments by 10–10–78 ..... 35046; 8–8–78
- Federal Employees Health Benefits Program; disposition of contingency reserves upon reorganization or merger of plans; comments by 10–10–78 ..... 35047; 8–8–78

COMMUNITY SERVICES ADMINISTRATION

- Nondiscrimination on basis of handicap; programs and activities receiving or benefitting from Federal financial assistance; comments by 10–13–78 ..... 36489; 8–17–78

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- Active duty and discharge determinations; civilian or contractural personnel; comments by 10–13–78 ..... 40884; 9–13–78

ENERGY DEPARTMENT

- Freedom of Information; comments by 10–12–78 ..... 40530; 9–12–78

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- California plan revision: Bay Area air pollution control district; comments by 10–10–78. 40038; 9–8–78
- Montana; implementation plan; comments by 10–11–78 ..... 40245; 9–11–78
- New Jersey implementation plan; comments by 10–10–78 ..... 40039; 9–8–78
- Pesticide tolerances; 2,6-Dichloro-4-Nitroaniline; comments by 10–11–78 ..... 40249; 9–11–78
- Polychlorinated biphenyls (PVC's); manufacturing, processing, distribution in commerce, and use bans; reply comment period extended to 10–10–78 ..... 43048; 9–22–78 [Originally published at 43 FR 24802]
- San Diego County, air pollution control districts' rules and regulations in the State of California; comments by 10–10–78. 40040; 9–8–78
- Santa Barbara and Ventura County air pollution control districts's rules and regulations in the State of California; comments by 10–10–78 ..... 40041; 9–8–78

FEDERAL COMMUNICATIONS COMMISSION

- FM broadcast station; table of assignments: Decatur, Ill.; comments filed by 10–9–78 ..... 37723; 8–24–78
- FM broadcast station; table of assignments: Lake Placid, Saranac Lake, and Tupper Lake, N.Y.; comments filed by 10–9–78 ..... 37722; 8–24–78
- Integration of rates and services for provision of communications by authorized common carriers between U.S. Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; reply comments period extended to 10–10–78 ..... 34823; 8–7–78 [Originally published at 43 FR 43746, June 1, 1978]
- Providing for establishment of a joint tactical information distribution system in the 960–1215 MHz aeronautical radionavigation band; comments by 10–12–78 35350; 8–9–78
- TV broadcast stations; table of assignments: Miami and West Palm Beach, Fla.; reply comments extended to 10–10–78. 40251; 9–11–78 [Originally published at 43 FR 30841, 7–18–78]

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- Truth in lending; interim student credit transactions; comments by 10–11–78 .. 40211; 9–11–78

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- Cellular plastics products, disclosure of combustion characteristics in marketing and certification; comments by 10–10–78. 35341; 8–9–78
- Participation in Commission proceedings by former Commission members and employees; comments by 10–14–78 ..... 35947; 8–14–78

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- Smoking in GSA-controlled buildings and facilities; comments by 10–11–78 .... 40250; 9–11–78

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- Limulus amebocyte lysate; proposed additional standards; comments by 10–10–78 ..... 35731; 8–11–78
- Procainamide hydrochloride bioequivalence requirements; comments by 10–10–78 ..... 35056; 8–8–78
- Tomato juice, tomato concentrates and catsup; proposed standards; comments extended to 10–10–78 ..... 30299; 7–14–78 [Originally published at 43 FR 19864, May 9, 1978]

Health Care Financing Administration—
- Conditions for coverage of suppliers of end stage renal disease (ESRD) services; comments by 10–10–78 ..... 35698; 8–11–78
- Medical Assistance Programs; state residence requirements; comments by 10–10–78 ..... 35077; 8–8–78
- Medicare program; prohibition against reassignment of claims by providers and suppliers; comments by 10–10–78. 37469; 8–23–78

Social Security Administration—
- Coverage of employees of State and local governments; comments by 10–10–78. 35344; 8–9–78

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Fish and Wildlife Service—
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- Endangered and threatened status and critical habitat for 3 Texas fishes; comments by 10–13–78 ..... 36117; 8–15–78

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Copyright Office—
Coin-operated phonorecord players; recordation and certification; reply comments by 10–11–78 ..... 37451; 8–23–78

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Notification of arrivals, departures, hazardous conditions, and certain dangerous cargoes, Washington, D.C., 10–12–78. 43330; 9–25–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: October 3, 1978]

H.R. 7814 ..... Pub. L. 95–390
"Federal Employees Flexible and Compressed Work Schedules Act of 1978." (Sept. 29, 1978; 92 Stat. 755). Price: $.60.
H.R. 12935 ..... Pub. L. 95–391
"Legislative Branch Appropriation Act, 1979." (Sept. 30, 1978; 92 Stat. 763). Price: $1.10
H.R. 12936 ..... Pub. L. 95–392
"Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979." (Sept. 30, 1978; 92 Stat. 791). Price: $1.00.
H.R. 7819 ..... Pub. L. 95–393
"Diplomatic Relations Act." (Sept. 30, 1978; 92 Stat. 808). Price: $.50.
H.R. 12772 ..... Pub. L. 95–394
To facilitate the exchange of certain lands in the State of Oregon, and for other purposes. (Sept. 30, 1978; 92 Stat. 811). Price: $.50.
H.R. 12860 ..... Pub. L. 95–395
"Rhode Island Indian Claims Settlement Act." (Sept. 30, 1978; 92 Stat. 813). Price: $.60.
S. 1678 ..... Pub. L. 95–396
"Federal Pesticide Act of 1978." (Sept. 30, 1978; 92 Stat. 819). Price: $1.10.
H.R. 3702 ..... Pub. L. 95–397
"Uniformed Services Survivors' Benefits Amendments of 1978." (Sept. 30, 1978; 92 Stat. 843). Price: $.70
S. 3069 ..... Pub. L. 95–398
To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members. (Sept. 30, 1978; 92 Stat. 850). Price: $.50.
S. 3271 ..... Pub. L. 95–400
To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes. (Sept. 30, 1978; 92 Stat. 851). Price: $.70.
S. 3271 ..... Pub. L. 95–400
To amend the pilot project workfare provisions of the Food Stamp Act of 1977. (Sept. 30, 1978; 92 Stat. 856). Price: $.60.
H.R. 11401 ..... Pub. L. 95–401
"National Aeronautics and Space Administration Authorization Act, 1979." (Sept. 30, 1978; 92 Stat. 857). Price: $.70.
S. 3468 ..... Pub. L. 95–402
To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities. (Sept. 30, 1978; 92 Stat. 862). Price: $.50.
S. 1896 ..... Pub. L. 95–403
To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979. (Sept. 30, 1978; 92 Stat. 863). Price: $.60.
S. 2701 ..... Pub. L. 95–404
To amend the Water Resources Planning Act (79 Stat. 244, as amended). (Sept. 30, 1978; 92 Stat. 864). Price: $.50.
S. 2391 ..... Pub. L. 95–405
"Futures Trading Act of 1978." (Sept. 30, 1978; 92 Stat. 865). Price: $.90.
S.J. Res. 165 ..... Pub. L. 95–406
To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes. (Sept. 30, 1978; 92 Stat. 879). Price: $.60.
H.J. Res. 1140 ..... Pub. L. 95–407
To amend section 8 of the Export-Import Bank Act of 1945. (Sept. 30, 1978; 92 Stat. 882). Price: $.60.
S. 3375 ..... Pub. L. 95–408
"Federal District Court Organization Act of 1978." (Oct. 2, 1978; 92 Stat. 883). Price: $.60.

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Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going into Effect:

EPA—Amendments to interim grant regulations to implement the Resource Conservation and Recovery Act of 1976; effective 9-25-78 ..... 43424; 9-25-78

Municipal wastewater treatment works; construction grants; effective 10-1-78; comments by 11-30-78. 44022; 9-27-78

HEW—General administration—grant programs (public assistance and medical assistance); conditions for Federal financial participation in cost of automatic data processing; effective 12-28-78. 44851; 9-29-78

NIH—Educational equity research grants program; for final effective date call Richard Werksman, 202-254-7924. 43672; 9-26-78

PHS—Advanced nurse training programs grants; effective 9-25-78 ..... 43414; 9-25-78

USDA/FMHA—Grants to professional standards review organizations; designation of alternate PSRO's, effective 9-29-78. 44848; 9-29-78

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Clinical Applications and Prevention Advisory Committee; review, discussion, and evaluation if individual contract renewal proposals, Bethesda, Md. (partially open), 11-6-78 ..... 44568; 9-28-78

Microbiology and Infectious Diseases Advisory Committee; review, discussion, and evaluation of individual grant applications and contract proposals, Bethesda, Md. (partially open), 10-30 and 10-31-78 ..... 44568; 9-28-78

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

Pursuant to the authority of 5 U.S.C. Section 553 (b)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that economic and financial considerations require that these amendments must be adopted immediately and that delay would be contrary to the public interest.

EFFECTIVE DATE: The changes were effective on the date specified below (September 22, 1978).

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	8	Sept. 22, 1978.
New York	8	Do.
Philadelphia	8	Do.
Cleveland	8	Do.
Richmond	8	Do.
Atlanta	8	Do.
Chicago	8	Do.
St. Louis	8	Do.
Minneapolis	8	Do.
Kansas City	8	Do.
Dallas	8	Do.
San Francisco	8	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	8½	Sept. 22, 1978.
New York	8½	Do.
Philadelphia	8½	Do.
Cleveland	8½	Do.
Richmond	8½	Do.
Atlanta	8½	Do.
Chicago	8½	Do.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Do.
Dallas	8½	Do.
San Francisco	8½	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e) (2) of regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	9	Sept. 22, 1978.
New York	9	Do.
Philadelphia	9	Do.
Cleveland	9	Do.
Richmond	9	Do.
Atlanta	9	Do.
Chicago	9	Do.
St. Louis	9	Do.
Minneapolis	9	Do.
Kansas City	9	Do.
Dallas	9	Do.
San Francisco	9	Do.

3. Section 301.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	11	Sept. 22, 1978.
New York	11	Do.
Philadelphia	11	Do.
Cleveland	11	Do.
Richmond	11	Do.
Atlanta	11	Do.
Chicago	11	Do.
St. Louis	11	Do.
Minneapolis	11	Do.
Kansas City	11	Do.
Dallas	11	Do.
San Francisco	11	Do.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, September 25, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-27924 Filed 10-3-78; 8:45 am]

[6210-01]

[Regs. G, T, U and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

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SUMMARY: The list of OTC margin stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The list is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published list and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: October 2. 1978.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's list of stocks traded over-the-counter on file at the Office of the Federal Register as of April 3, 1978. The list, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of regulation G, T, U, and X. Copies of the current list may be obtained from any Federal Reserve bank. A copy is also on file at the Office of the Federal Register.[1]

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the list specified in 12 CFR 207.5(d) and (e), 220.8(h) and (i), and 221.4(d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this list as soon as possible.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78g and w) and in accordance with § 207.2(f)(2) of regulation G, § 220.2(e)(2) of regulation T, and § 221.3(d)(2) of regulation U, there is set forth below additions to and deletions from the Board's list:

ADDITIONS TO LIST

Aceto Chemical Co., Inc., $9.01 par common.
Aztec Manufacturing Co., $1 par common.
Beneficial National Corp., $9.25 par common.
Berkley, W. R. Corp., $9.20 par common.
Billings Energy Corp., $9.01 par common.
Bitco Corp., $1 par common.
C L Assests, Inc., $1 par cumulative preferred.
Captech Inc., $1 par common.
Century 21 Real Estate Corp., $9.01 par common.
Champion Products Inc., $1 par common.
Chattem Drug & Chemical Co., No par common.
Comcast Corp., Class A, $1 par common.
Comdisco, Inc., $9.10 par common.
Covington Brothers, $9.50 par common.
Domain Industries, Inc., $1 par common.
Dougherty Brothers Co., $9.25 par common.
Eastern Air Lines, Inc., Warrants (expire June 1, 1987)
Finnigan Corp., $1 par common.
First Fidelity Investment Trust, No par shares of beneficial interest
First Illinois Corp., $5 par common.
First National Bank of New Jersey, $5 par common.
First Peoples Bank of New Jersey, $6 par capital
Florida Coast Banks, Inc., $1 par common.
Franklin State Bank, $3.50 par common.
HMO International, $9.10 par common.
Harper Group, The, No par common.
Heist, C. H. Corp., $9.05 par common.
Hibernia Corp., $10 par common.
Homestead Financial Corp., $9.75 par common.
Impell Corp., $9.02 par common.
Ivy Corp., $9.10 par common.
Jamaica Water Properties, Inc., $9.10 par common.
Jenoa Inc., No par common.
King International Corp., $1 par common.
Leonard Silver International, Inc., $9.01 par common.
Liberty National Bank and Trust Co., of Louisville, $8.33⅓ par common.
Lippincott, J. B. Co., No par common, $1 stated value.
Liqui-Box Corp., No par common.
Longview Fibre Co., $7.50 par common.
Med General, Inc., $9.01 par common.
Mentor Corp., $9.10 par common.
Midland Resources, Inc., $9.50 par common.
Modular Computer Systems Inc., 8.5 percent convertible subordinated debentures.
Mountain Banks, Ltd., $5 par common.
NFC Corp., 8 percent convertible subordinated debentures.
National Computer Systems, Inc., $9.03 par common.
National Reserve Life Insurance Co., $1 par common.
National Security Insurance Co., $1 par common.
National Shoes, Inc., $1 par common.
National State Bank, The (Elizabeth, N.J.) $7 par common.
Ocean Oil & Gas Co., $1 par common.
Old Kent Financial Corp., $10 par common.
Old Stone Corp., $1 par cumulative convertible preferred.
Optical Radiation Corp., $9.50 par common.
Orion Research Inc., $9.10 par common.
Pacesetter Building Systems, Inc., $9.25 par common.
Pacesetter Financial Corp., $10 par common.
Pacific Resources, Inc., No par common.
Park-Ohio Industries, Inc., $1 par cumulative convertible preferred.
Piedmont Management Co., Inc., $9.50 par common.
Porta Systems Corp. $9.01 par common.
Precision Castparts Corp., No par common.
Rangaire Corp., $9.10 par common.
Revell, Inc., $1 par common.
Save-Way Industries, Inc., $9.10 par common.
Security Bancorp, Inc., $9.01 par common.
Southland Bancorp. $2.50 par common.
Southwest Factories, Inc., $9.40 par common.
T-Bar Inc., $9.25 par common.
Timberland Industries, Inc., $9.16 par common.
Union Trust Bancorp., $5 par common.
United Carolina Bancshares Corp., $4 par common.
University Real Estate Trust, No par shares of beneficial interest.
Valtec Corp., $9.01 par common.
Vance, Sanders & Co., Inc., Nonvoting, $9.50 par common.
Vanderbilt Energy Corp., $9.10 par common.
Wabash International Corp., No par common.
Western States Life Insurance Co., $1 par common.
Wiley, John & Sons Inc., $1 par common.
Wisconsin Centrifugal, Inc., $1 par common.
Zondervan Corp., The, $1 par common.

DELETIONS FROM LIST

STOCKS REMOVED FOR FAILING CONTINUED LISTING REQUIREMENTS

Houston First Financial Group, Inc., $1 par common.
Hy-Gain Electronics Corp., $0.25 par common.
Mid Continent Systems, Inc., $0.16 par common.
Pacific Far East Line, Inc., $1 par common.
Provident Life Insurance Co., $2.50 par common.
Rainier Companies, Inc., The, $1 par common.
Southwest Petro-Chem, Inc., no par common.
Tejas Gas Corp., $0.33⅓ par common.

STOCKS REMOVED FOR REASONS SUCH AS LISTING ON NATIONAL SECURITIES EXCHANGES OR BEING INVOLVED IN AN ACQUISITION

American Biomedical Corp., no par common.
Banco Credito y Ahorro Ponceno, $5 par common.
Biscayne Federal Savings & Loan Association, $0.01 par common.
Browning, $1 par common.
Chef Pierre, Inc., $0.50 par common.
Coastal States Corp., $1 par common.
Coca-Cola Bottling Co. of Los Angeles, no par common.
Colony Foods, Inc., $0.10 par common.
Continental Conveyor & Equipment Co., $1 par common.
Debron Corp., $1 par common
Downe Communications, Inc., $1 par common.
ESL, Inc., $0.50 par common.
E-Systems, Inc., warrants (expire August 15, 1978).
Emerson Radio Corp., $0.10 par common
Empire General Corp., $1 par common.
Extracorporeal Medical Specialities, Inc., no par common.
First Greatwest Corp., $4 par common.
Graham Manufacturing Co., Inc., $0.10 par common.
Graphic Controls Corp., $1 par common.
Health Tecna Corp., no par common.
Industrial Fuels Corp., $1 par common.
Kenai Drilling, Ltd., $0.01 par common.
Keystone International, Inc., $1 par common.
Litco Corp. of New York, $5 par common.
Mervyn's, $1 par common.
Mid-Continent Industries, Inc., $1 par common.
Moore, Samuel & Co., no par common.
National By-Products, Inc., $1 par common.
Pacific Scientific Co., $1 par common.
Peachtree Doors, Inc., $1 par common.
Pratt, Henry Co., no par common.
Presto Products, Inc., $0.10 par common.
Prime Computer, Inc., $0.02½ par common.
Rainbow Resources, Inc., $0.10 par common.
Ring Around Products, Inc., $0.20 par common.
Rolm Corp., $0.17 par common.
Seven-Up Co., The, $1 par common.
Silvercrest Industries, Inc., $0.10 par common.
Tab Products Co., no par common.
Taco Bell, $0.10 par common.
Tannetics, Inc., $1 par common.
Texas International Airlines, Inc., $0.01 par common.
Thalhimer Bros., Inc., $2.50 par common.
Toro Co., The, $1 par common.

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), October 2, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-28014 Filed 9-29-78; 3:33 pm]

[1] Copy of current list as part of original ducument.

[7510-01]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

Final Rules

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rules.

SUMMARY: NASA currently does not have a prescribed policy and procedure for industry to request the use of NASA wind tunnels. These rules define the classes of NASA wind tunnels and the classes of industry work, and provide information on scheduling, occupancy time charges and test data transmitted.

DATE: October 4, 1978

ADDRESS: Director, Space Technology Coordinating Office, Code RC, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Fred J. DeMeritte, telephone 202-755-8501.

SUPPLEMENTARY INFORMATION: On May 19, 1978, NASA published proposed rules (43 FR 21691-21693) to revise its rules and procedures for industry use of NASA wind tunnels. Interested parties were given until June 19, 1978, to submit comments or suggestions. No such comments or suggestions were received. However, NASA made the following changes to clarify the regulations: (1) In § 1210(c), line 6, after "wind tunnel" the words "(and the new 80- by 120-foot test section)" were added; and (2) In § 1210.3(a), line 4, "laboratory" was changed to "wind tunnel." With these two exceptions, the proposed rules are hereby adopted without change and are set forth below.

ROBERT A. FROSCH,
Administrator.

1. 14 CFR Part 1210 is revised in its entirety to read as follows:

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

Secs.
1210.1 Introduction.
1210.2 General classes of work.
1210.3 Priorities and schedules.
1210.4 Company projects.
1210.5 Government projects.
1210.6 Test preparation and conduct.

AUTHORITY: 50 U.S.C. 511-515, 42 U.S.C. 2473(c) (5) and (6).

§ 1210.1 Introduction.

(a) *Authority.* The regulations, as they apply to the Unitary Wind Tunnel Plan facilities, are promulgated under authority of the Unitary Wind Tunnel Plan Act of 1949, Pub. L. 85-568, and codified in 50 U.S.C 511-515. This statute states that "The facilities authorized * * * shall be operated and staffed by the National Aeronautics and Space Administration but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements, and allocation of laboratory time shall be made in accordance with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs."

(b) *Unitary wind tunnel plan facilities.* The unitary wind tunnel plan facilities are the Ames Research Center 11- by 11-foot wind tunnel, 9- by 7-foot wind tunnel, and 8- by 7-foot wind tunnel; the Langley Research Center 4- by 4-foot high Mach number test section and the 4- by 4-foot low Mach number test section; and the Lewis Research Center 10- by 10-foot wind tunnel. These wind tunnels are operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(c) *National aeronautical facilities.* When completed, the national aeronautical facilities will be the national transonic facility at Langley Research Center and the modified 40- by 80-foot wind tunnel and the new 80- by 120-foot test section at Ames Research Center. The wind tunnels will be operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(d) *All other wind tunnels.* All other NASA wind tunnels will be used primarily for NASA research. However, all of these wind tunnels may be used for industry work when it is in the public interest either in joint programs with NASA or on a fee basis.

(e) *NASA policy.* All the projects to be performed in any of the NASA wind tunnels must be appropriate to the facility.

§ 1210.2 General classes of work.

Work for industry in the NASA facilities shall be divided into four project categories:

(a) *Company projects.* Includes work for industry on:

(1) Projects which are neither under contract nor supported by a letter of intent from a Government agency, and

(2) Company desired tests which are related to a project which is either under contract with or supported by a letter of intent from a Government agency, but are beyond the scope of the tests requested by the Government agency. A fee will be charged for these company projects.

(b) *Government projects.* Includes work for industry on projects which are either under contract with or supported by a letter of intent from a Government agency. The work must be requested by the Government agency. No fee will be charged for this type of work. (An exception is the national transonic facility for which a reimbursable policy is being developed.)

(c) *United States/foreign industry consortium projects.* This involves U.S. companies, which have formed a consortium or any other type of association with foreign companies, that desire tests on aerospace projects of joint or foreign interest. An application for work for such a consortium shall disclose the foreign interest in or

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anticipated foreign benefit from tests to be conducted and shall first be reviewed by the Director, International Affairs Division for consistency with current U.S. foreign policy and for compatibility with section 102 of the National Aeronautics and Space Act of 1958, as amended, prior to a final decision being reached on the application. A fee will be charged for these consortium projects unless, in the review procedure above, it is determined that Government agency cooperative sponsorship warrants a nonfee arrangement.

(d) *Foreign company projects.* Foreign company requests for wind tunnel use that are not related to U.S. Government or U.S. industry interests or programs will generally not be granted and will in no event be granted prior to a review, as required in paragraph (c) of this section, by the Director, International Affairs Division.

§ 1210.3 Priorities and schedules.

(a) *Priorities.* Unitary wind tunnels shall be available primarily to industry for development work. However, allocations of wind tunnel time shall be in accordance with the public interests, with proper emphasis upon the requirements of the military services and due consideration of civilian needs. Research work shall have priority in all other NASA facilities. Priority conflicts may be referred to the Associate Administrator for Aeronautics and Space Technology for review and final determination.

(b) *Schedules.* Schedules showing the allocation of testing time for Government projects and for company projects for unitary wind tunnels and other major wind tunnels will be established by the appropriate Center each month for the ensuing 3-month period and submitted to NASA Headquarters, Attn.: Code RA, by the first day of each month.

§ 1210.4 Company projects.

(a) *Initiation of company projects.* Company projects will be initiated by a letter to the Center Director followed by a conference between company and NASA representatives at the Center having responsibility for the facility proposed for the project. The company representatives will be required to explain the technical need for the project and why the NASA facility is required, as well as to define the extent of the test program, model and equipment requirements, and schedule. The Center shall maintain a file of all company requests and their disposition. The company may be required to provide a safety analysis report (SAR) to augment the wind tunnel SAR by describing potential hazards that the company test program, model and equipment may present to NASA facilities and personnel.

(b) *Scheduling of tests.* In scheduling time for company projects, the responsible NASA Center will take into account priorities as specified in § 1210.3 and all projects, including Government, company, and NASA research work relative to the national interest. Every reasonable attempt will be made to accommodate technically justifiable projects on as timely a basis as possible.

(c) *Fees for company projects.* The policy on charges for the use of NASA facilities is explained in NASA Management Instruction 9080.1A, dated November 21, 1975, titled, "Review, Approval and Imposition of User Charges." The fee imposed for a company project will cover all direct and indirect costs to NASA for the wind tunnel test.

(1) *Occupancy time charge.* (i) The occupancy time will be computed from the start of installation of the test article in the wind tunnel test section through the time on which the test article is removed from the test section and the test section restored to its original condition.

(ii) The occupancy time rate will be computed from the sum of the annual cost of the operating crew plus the estimated annual maintenance cost of the facility and will be determined in accordance with NASA Management Instruction 9080.1A.

(iii) The sum of the annual cost for the operating crew and the estimated annual maintenance cost divided by the number of operational weeks, depending on the facility, gives the weekly occupancy rate. This fee will be charged per basic week of 5 days, each day to be one-fifth week. The remaining weeks over the number of operational weeks for each year are the estimated maintenance reserve and holiday allowance; hence, no charge will be made for a holiday occurring during a test period.

(2) *Energy/fuel.* The charge for energy/fuel will be determined from the energy/fuel consumed during the tests and the actual cost to the NASA.

(3) *Data reduction.* The cost of data reduction and the data report will include labor, materials, computing machine rental, and appropriate indirect charges in accordance with NASA Management Instruction 9080.1A.

(4) *Cancellation of scheduled wind tunnel time.* Upon determination of a test schedule by the representatives of the company and of the NASA, it becomes the responsibility of the company to meet this schedule. A project may be canceled by the company without charge on 60 days' notice depending upon the readiness of succeeding projects. In the event subsequently scheduled work cannot be scheduled in lieu of the company's work, when canceled with less than 60 days' notice, the company shall be required to pay the occupancy time charge for the scheduled test period or for the period the facility test section is idle due to the cancellation, whichever results in the smaller charge. Curtailment of a project underway before the end of the scheduled test period may be made by the company. In this event, the company shall be required to pay the occupancy charge for the time used plus the unused scheduled time or for the idle time of the test section, whichever is the smaller.

(5) *High power requirements.* Unavailability of adequate power or economic considerations may, on occasion, cause delay or cancellation of high-powered test runs. The company shall cooperate with the facility staff in the scheduling of low-powered runs during periods when large blocks of power are unavailable. However, should rescheduling of test runs to accommodate power shortages be impractical, occupancy time charge credits will be made for time lost arising from such shortages. The basis for these credits, which will also be made for delays due to breakdown or malfunction of Government-furnished equipment or instrumentation, or due to other reasons beyond the control of the company, will be determined by each Center. The test period allotted for the program may be extended to offset delays in lieu of refund.

(d) *Test data transmittal.* The basic data for company projects will be transmitted to the requesting company without detailed analysis but with the necessary description of methods and techniques employed to permit proper interpretation of the data.

(e) *Proprietary rights.* In order to protect the trade secrets of companies, NASA will generate one set of final results, which will become the property of the company and be promptly transmitted to the company. If, subsequently, there is need to review the results, it will be the responsibility of the company to provide the NASA Center with copies of the resulting data on loan. Upon completion of the review, the data will be returned to the company. Should the company desire to maintain its trade secret rights in the data during the loan period, it should mark the data with a notice stating that the data shall not be used or disclosed other than for review purposes without prior written permission of the company. NASA, in turn, will protect that data covered by the notice which is protected under the law as a trade secret.

(f) *Test preparation and conduct* (see § 1210.6).

§ 1210.5 Government projects.

(a) *Initiation of Government projects.* Government projects shall be initiated through a conference of representatives from the contracted company, the sponsoring Government agency, and the staff of the NASA Center having responsibility for the facility proposed for the project. The purpose of the conference will be to establish the technical basis for the project and why the NASA facility is required as well as to define the extent of the test program, model and instrumentation requirements, and schedule. Upon concurrence of the Center Director, the sponsoring Government agency will submit a letter of request to NASA Headquarters for approval as well as clearing the request through the projects allocation and priority group (see paragraph (b) of this section). A safety analysis report (SAR) may be required to augment the wind tunnel SAR by describing the potential hazards that the project test program, model, and equipment may present to NASA facilities and personnel.

(b) *Projects allocation and priority group.* For coordinating Government projects, there is a group established jointly by the Department of Defense and the NASA. It consists of one representative each from the Air Force, Army, Navy, and NASA, competent to determine military priorities in the use of the NASA and other Government-owned facilities. The group is known as the aircraft, missile and propulsion projects allocation and priority group.

(c) *Scheduling of tests.* Government projects will be scheduled with due consideration of the priorities established by the projects allocation and priority group.

(d) *Test data transmitted.* The basic data for Government projects, without detailed analysis but with the necessary description of methods and techniques employed to permit the proper interpretation of the data, will be transmitted to the company for whom the tests were made and the sponsoring Government agency. Further disclosure by NASA of the test results will be made only with the prior concurrence of the sponsoring Government agency.

§ 1210.6 Test preparation and conduct.

(a) *Programing by user.* The user will be given the greatest possible freedom within the objectives of the scheduled program to obtain the precise information it requires, to determine the sequence and number of test runs to be made, and to make modifications to the program arising from the results currently being obtained, subject to requirements of safety, energy conservation, practicability, and the total time assigned.

(b) *Instrumentation.* Each facility will provide basic instrumentation suitable for the test range of the respective facility and computing equipment for the reduction of test data. Information will be furnished for each facility on the permissible size of model, standard balances, safety margins to be used in the construction of models, model mounting details, and other pertinent factors. If the basic instrumentation furnished by the facility does not meet the test requirements, the company will provide suitable instrumentation which will generally be calibrated by the facility staff to insure accuracy of measurement. This instrumentation will be made available sufficiently in advance of the test date to accomplish the calibration. Serious delays arising from inaccuracies in user supplied instrumentation, if occurring during the scheduled test period, may result in reassignment of the position of the tests on the facility schedule. Detailed specifications and arrangements for special instrumentation will be established by mutual agreement. All model criteria required by the facility for safety consideration including the necessary drawings and stress analyses of the articles to be tested will be furnished at a time specified by the facility staff for their use in preparing for the test. The user will also be required to furnish all information necessary to prepare the data reduction software program at a date specified by the facility staff.

(c) *Test program.* All tests will be conducted under NASA supervision and by NASA personnel or by NASA support service contractor personnel unless approved otherwise by the facility manager. By agreement between the user (company representatives and the requesting agency) and the Center staff, changes in the test program may be made within the objectives of the scheduled program if time is available. When tests are not totally conducted by NASA personnel or by NASA support service contractor personnel, the NASA Field Installation Safety Officer shall verify that the company personnel are fully cognizant of facility safety problems and operations. A current SAR on the facility shall be available to the company personnel for review.

(d) *Handling test data.* The NASA staff will be responsible for obtaining all test data, its reduction to suitable coefficient form, and the accuracy of the final data, but the NASA will assume no responsibility for the interpretation of the data by others. Transmittal of the data will be made as rapidly as possible. For company projects, the data will be transmitted as directed by the company. The data for Government projects will be transmitted simultaneously to the sponsoring Government agency and the contractor, unless otherwise directed by the sponsoring agency.

(e) *Shops and office space.* During the conduct of user testing, the NASA will make available machine tools in the facility shop and desk space to the user whose projects are under tests.

(f) *Company furnished personnel.* User personnel furnished for each project will be agreed upon between the user and facility staff prior to the test.

[FR Doc. 78-27945 Filed 10-3-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 15—REPORTS—GENERAL PROVISIONS

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS, PROCESSORS, AND DEALERS IN COTTON

Cash Market Positions; Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending parts 15 and 19 of its regulations concerning the reporting of cash positions on series '04 reports. The major changes will:

1. Make the reporting requirements applicable to persons engaged in bona fide hedging transactions as defined in § 1.3(z) of the regulations and to merchants, processors and dealers in cotton. Reporting requirements for merchants, processors and dealers in cotton are to be retained to enable the Commission to continue to publish the weekly "Cotton On Call" reports.

2. Delete the requirements in § 19.01 to report unfixed price purchase and unfixed price sales commitments for grains.

3. Increase the allowed filing time for all commodities, except cotton.

These amendments will enable the Commission to carry out its surveillance activities with respect to persons now permitted to exceed the speculative limits in accordance with the recently expanded definition of bona fide hedging under § 1.3(z).

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Section 15.02 has also been amended to reflect the current use of the forms 2601 and 2603 for reporting positions in the financial instrument futures.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne Olson, Director, Commodity Futures Trading Commission, Division of Market Surveillance and Analysis, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-3312.

SUPPLEMENTAL INFORMATION: On December 23, 1977, the Commission published a proposal to revise parts 15 (17 CFR Part 15 (1977)) and 19 (17 CFR Part 19 (1977)) of its regulations.[1] Comments were due on or before February 6, 1978. Only one comment letter was received. This letter did not address any of the term of the Commission's proposal, but dealt instead with suggestions for the scheduling of changes. The Commission has considered the comment and has determined to adopt the proposal with certain revisions. Set forth below is a synopsis of the major changes.

CHANGES TO PARTS 15 AND19

Cash position information is required by parts 15 and 19 of the regulations from traders who hold reportable positions [2] in futures commodities with Federal speculative limits [3] and who are merchandisers, processors, and dealers in such commodities. This information is used to check compliance with speculative limits by insuring that persons classifying their futures positions as hedging actually own or control offsetting cash positions. For all commodities with speculative limits, major changes have been made to parts 15 and 19 which affect who must file series '04 reports, the time of filing the report and the information which must be provided.

WHO MUST FILE

Changes were made to parts 15 and 19 which may require additional traders to file series '04 reports. Amendments to §§ 15.01(d) and 19.00 require that all traders who own or control futures position in a commodity with Federal speculative limits (including cotton) any part of which constitutes bona fide hedging as defined in § 1.3(z) of the regulations, 17 CFR 1.37 (1977), and which exceeds the '04 reporting level must file such reports. Previously, only traders who were merchandisers, processors, or dealers and whose futures position equaled or exceeded the series '04 reporting levels were required to file. With the exception of cotton, language concerning merchandisers, processors, and dealers has been deleted from the regulations.[4]

Three groups of persons are primarily affected by this amendment: (1) Anticipatory hedgers of livestock and poultry feeds, (2) certain hedgers of crop production, and (3) cross hedgers. Prior to the adoption of amendments to the definition of bona fide hedging in § 1.3(z), the first two categories of traders were allowed to hold or control positions equal to or in excess of series '04 reporting levels, but were not obligated to file CFTC series '04 reports unless they were merchants, processors, or dealers.[5] The third category, cross hedgers, has only been permitted to exceed speculative limits since the Commission adopted the revised definition of bona fide hedging.[6]

Some traders may no longer be required to file series '04 reports because the reference to grain sorghums has been deleted from § 19.01. The Commission does not believe that trading and position limits for grains imposed by § 150.1 apply to grain sorghums since they are not expressly included in the definition of grains (see § 150.1(e)).

TIME OF FILING REPORTS

With the exception of form 304 reports for cotton, § 19.10 has been amended to change the date by which the CFTC series '04 reports must be filed with the Commission.[7] As amended, § 19.10 will provide that the due date for filing series '04 reports in a city where the Commission is located will be the third (rather than the first) business day following the period covered by the report. In cities where the Commission does not have an office, series '04 reports are to be mailed not later than the second (as opposed to the first) business day following the period covered by the report. The filing dates for the form 304 reports remain unchanged. For convenience, § 19.10 has also been revised to refer specifically to the number of the series '04 report required to be filed.

INFORMATION REQUIRED

Changes have been made to part 19 which affect the type of information that is filed. The amendments to part 19 contain special provisions for reporting cash positions that may be cross hedged. Under the amendments to § 19.00, cross hedged cash positions must be reported in two ways—in terms of the commodity used for hedging as well as in terms of the actual physical commodity being hedged. For example, a producer of grain sorghums hedging that commodity in corn futures must report the number of hundredweight (cwt.) of grain sorghum hedged and the equivalent quantity in terms of bushels of corn. By reporting the physical quantity hedged and the equivalent quantity of the commodity in which it is hedged, the Commission will be able to determine whether the size of the cross hedge is justified.

An amendment to § 19.01 deletes the requirement that traders in wheat, corn, oats, rye, barley, flaxseed, or soybeans report on the form 204 information concerning their unfixed price purchase and unfixed price sales commitments. Because of the limited purpose of the CFTC series '04 reports (i.e., monitoring compliance with the speculative limits) unfixed price information for cash commodities is not relevant.

MISCELLANEOUS CHANGES

Section 15.03 has been amended to clarify the language of the present regulation. The quantity fixed for the purpose of filing 304 reports for cotton under parts 17, 18, and 19 is 5,000 bales; this requirement is presently stated in § 15.03(a) only. As amended, § 15.03(a) pertains to reports filed under parts 17 and 18, and § 15.03(b) pertains to reports filed under part 19. The 5,000-bale quantity fixed for cotton reports will be listed in each paragraph. No substantive changes were made in this regulation.

[1] See 42 FR 64364 (Dec. 23, 1977).

[2] Reporting levels for series '04 reports are given in § 15.03(b) of the regulations and generally are set at or near the speculative limit for each commodity.

[3] Sec. 4a of the Commodity Exchange Act, 7 U.S.C. 6a (1976), authorizes the Commission to fix limits on the amount of trading and positions in commodity futures which may be held by any person, except that such limits may not apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms are defined by the Commission. Federal speculative limits have been established for the following commodities: Corn, wheat, oats, soybeans, cotton, potatoes, eggs, rye, barley, and flaxseed.

[4] Reports from merchandisers, processors, and dealers concerning cotton are used in compiling the weekly CFTC "Cotton On Call" report. Because of the unique significance of call transactions in the marketing of cotton and their relationship to the futures market, the Commission has determined not to make changes in its series '04 reporting requirements for cotton that would result in any loss of information or affect the timeliness of issuing the "Cotton On Call" report.

[5] See 42 FR 42748 (August 24, 1977).

[6] The definition of bona fide hedging transactions and positions includes • • •

(iii) Sales and purchases for future delivery described in paragraphs (z)(2)(i) and (z)(2)(ii) of this section may also be offset other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery are substantially related to the fluctuations in value of the actual or anticipated cash positions • • •.

17 CFR 1.3(z)(2)(iii) (1977), 42 FR 42751 (August 24, 1977).

[7] See footnote 5 for the reason for not making this change applicable to cotton.

Section 15.00(b)(2) has been amended to conform to the changes made in § 15.03(b) and to make explicit that series '04 reports are required only if a trader's position is reportable on the last business day of the week. This change was omitted in the original proposal that appeared in the December 23, 1977, FEDERAL REGISTER; however, this change is not substantive.

With one exception in § 19.03, each of §§ 19.01(b), 19.02(b), 19.03(b), and 19.04(b) presently give identical instructions to traders on the use of standards and conversion factors and exceptions to reporting certain products and byproducts of the respective commodities on the series '04 reports. Since these instructions are common to each of §§ 19.01 through 19.04, it is more appropriate that they be contained in one section—revised § 19.00 (General Information). Accordingly §§ 19.01(b), 19.02(b), 19.03(b), and 19.04(b) have been deleted and new language has been added to § 19.00 which is applicable to all commodities which are the subject of part 19.

The exception in § 19.03 (which no longer will be permitted) allowed persons filing series '04 reports for eggs to exclude from their report certain eggs not in cold storage if it was the regular business practice of the person filing the report to exclude the same in determining his cash position for hedging.

This exclusion was appropriate when the only futures contract being traded in fresh shell eggs required delivery from cold storage warehouses.[8] Due to changes in cash marketing practices for eggs, the cold storage egg contract has been changed to require in-plant delivery. This makes the exclusion in § 19.03 inconsistent with the purpose of part 19 (i.e., determining the hedgeable cash position of traders) and with the requirements for other commodities included in part 19.[8]

Section 15.02 is being amended to reflect the current use of forms 2601 and 2603 by FCM's and large traders to report positions in the financial instruments futures.

In consideration of the foregoing, pursuant to its authority under §§ 4g(1), 4(i), and 8a(5) of the Act, 7 U.S.C. 6g(1), 6(i), and 12a(5) (1976), the Commission hereby amends parts 15 and 19 of the 17 CFR Chapter I as follows.

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.00 is amended by revising paragraph (b)(2) as follows:

§ 15.00 Definitions.

• • • • • •

(b) • • •

(2) For the purpose of reports required by part 19, any open contract position in any one future or all futures combined, either gross long or gross short, of any commodity on any one contract market which, at the close of the market on the last business day of the week, equals or exceeds the quantity fixed in § 15.03(b) for reporting purposes for the particular commodity.

2. Section 15.01(d) is amended to read as follows:

§ 15.01 Persons required to report.

• • • • • •

(d) Persons holding or controlling positions for future delivery (any part of which constitutes bona fide hedging positions as defined in § 1.3(z)) in the commodities enumerated in § 15.03(b) that exceed the amounts set forth in that section and merchants, processors, and dealers of cotton holding or controlling positions for future delivery in cotton that equal or exceed the amount set forth in § 15.03(b), as specified in part 19 of this chapter.

• • • • • •

3. Section 15.02 is amended by adding to the list of reporting forms currently included in § 15.02 the forms 2601 and 2603 as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Reporting forms are identified by number as to the commodity and class of person reporting. The initial digit or digits of the form number identify the commodity or commodities, and the two final digits or series identify the class of person reporting. All reports shall be prepared in accordance with instructions supplied with the applicable form. Forms to be used for the filing of reports are as follows:

Commodity	Futures commission merchants and foreign brokers (series '01 forms)	Traders who hold or control reportable positions (series '03 forms)	All hedgers and merchants, processors and dealers in cotton (series '04 forms)
Grains (including soybeans)	201	203	204
Cotton	301	303	304
Butter	401	403	None
Eggs	501	503	504
Potatoes	601	603	604
Wool	801	803	None
Edible oil	1001	1003	None
Meal	1101	1103	None
Cattle	1201	1203	None
Cattle products	1301	1303	None
Hogs	1401	1403	None
Hog products	1401	1403	None
Frozen concentrated orange juice	1601	1603	None
Poultry	1701	1703	None
Petroleum and petroleum products	1801	1803	None
Lumber and lumber products	2901	1903	None
Metals	2001	2003	None
Coffee and sugar	2101	2103	None
Cocoa and rubber	2201	2203	None
Foreign currency	2301	2303	None
Silver coins	2401	2403	None
Not otherwise specified	2501	2503	None
Financial instruments	2601	2603	None

[8] The Chicago Mercantile Exchange revised its fresh shell egg contract so that, beginning with the April 1971 future, eggs were deliverable both in CME-approved warehouses and in-plant. Beginning with the March 1972 future, egg deliveries could be made in-plant only.

[8] This change was omitted in the Dec. 23, 1977, proposal, but must be made to insure that the intended purpose of pt. 19 is carried out.

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4. Section 15.03 is amended to read as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat	500,000 bushels.
Corn	Do.
Soybeans	Do.
Oats	200,000 bushels.
Barley	Do.
Flaxseed	Do.
Rye	Do.
Soybean oil	50 contracts.
Soybean meal	Do.
Live cattle	Do.
Hogs	Do.
Sugar	Do.
Copper	Do.
Gold	Do.
Silver coins	Do.
Silver bullion	100 contracts.
Cotton	5,000 bales.
All other commodities	25 contracts.

(b) The quantities fixed for the purpose of reports filed under part 19 of this chapter are as follows:

Commodity	Quantity
Wheat	3,000,000
Corn	Do.
Soybeans	Do.
Oats	2,000,000 bushels
Barley	Do.
Flaxseed	Do.
Rye	500,000 bushels.
Cotton	5,000 contracts.
Potatoes	150 contracts.
Eggs	Do.

5. Part 19 is revised to read as follows:

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS, PROCESSORS, AND DEALERS IN COTTON

Sec.
19.00 General provisions.
19.01 Cash reports pertaining to futures positions in wheat, corn, oats, rye, barley, flaxseed, and soybeans.
19.02 Cash reports pertaining to futures positions in cotton.
19.03 Cash reports pertaining to futures positions in eggs.
19.04 Cash reports pertaining to futures positions in potatoes.
19.05–19.09 [Reserved]
19.10 Time and place of filing reports.

AUTHORITY: Secs. 4g(1), 4(i) and 8a(5) of the Act, 7 U.S.C. 6g(1) and 12a(5) (1976).

§ 19.00 General provisions.

(a) *Who must file series '04 reports.* The following persons are required to file series '04 reports:

(1) All persons holding or controlling positions for future delivery that are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter, and

(2) Merchants, processors, and dealers of cotton holding or controlling positions for future delivery in cotton that are reportable pursuant to § 15.00(b)(2) of this chapter.

(b) *Information required.* Persons required to file series '04 reports shall show the information specified in:

Sec.
19.01 If the reportable futures position is in wheat, corn oats, rye, barley, flaxseed, and soybeans.
19.02 If the reportable futures position is in cotton.
19.03 If the reportable futures position is in eggs.
19.04 If the reportable futures position is in potatoes.

The manner of reporting the information required in §§ 19.01 through 19.04 is subject to the following:

(1) *Excluding products or byproducts of the cash commodity hedged.* If the regular business practice of the reporting trader is to exclude certain products or byproducts in determining his cash positions for bona fide hedging (as defined in § 1.3(z) of this chapter), the same shall be excluded in the report. Such persons shall furnish to the Commission upon request detailed information concerning the kind and quantity of product or byproduct so excluded.

(2) *Cross hedges.* Cash positions that represent a commodity or products or byproducts of a commodity that is different from the commodity for future delivery in which such cash position is being hedged shall be shown both in terms of the commodity for future delivery and in terms of the cash commodity as provided for on the appropriate series '04 form.

(3) *Standards and conversion factors.* In computing their cash position, every person shall use such standards and conversion factors that are usual in the particular trade or that otherwise reflect the value-fluctuation-equivalents of the cash position in terms of the commodity for future delivery. Such person shall furnish to the Commission upon request detailed information concerning the basis for and derivation of such conversion factors.

§ 19.01 Cash reports pertaining to futures positions in wheat, corn, oats, rye, barley, flaxseed, and soybean.

Persons holding or controlling positions for future delivery in wheat, corn, oats, rye, barley, flaxseed, or soybeans that are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter shall file CFTC Form 204 reports showing the composition of the fixed price cash position of each commodity hedged in the above enumerated grain or soybean futures including:

(a) The quantity of stocks owned of such commodities and their products and byproducts.

(b) The quantity of fixed price purchase commitments open in such cash commodities and their products and byproducts.

(c) The quantity of fixed price sale commitments open in such cash commodities and their products and byproducts.

§ 19.02 Cash reports pertaining to futures positions in cotton.

Persons holding or controlling positions for future delivery in cotton which are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter and merchants, processors, and dealers in cotton holding or controlling positions for future delivery in cotton which are reportable pursuant to § 15.00(b)(2) of this chapter shall file CFTC Form 304 reports containing the following information:

(a) For each commodity hedged in cotton futures—the quantity of open fixed price spot positions (long and short) including:

(1) Unfilled open fixed price purchase commitments;

(2) Stocks on hand (owned and at fixed prices); and the quantity of the commodity in process of manufacture, and finished products; and

(3) Unfilled fixed price sale commitments of the commodity and of finished products.

(b) The quantity of call cotton bought or sold on which the price has not been fixed, together with the respective futures on which based. As used herein, call cotton refers to spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later based upon a specified future.

(c) The quantity of certificated cotton owned.

§ 19.03 Cash reports pertaining to futures positions in eggs.

Persons holding or controlling positions for future delivery in eggs that are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter shall file CFTC Form 604 reports containing the following information:

(a) The composition of the fixed price cash position of each commodity hedged in potato futures including;

(1) The quantity of stocks owned of such commodities and their products and byproducts and the quantity in process of manufacture,

(2) The quantity of fixed price purchase commitments open in such cash commodities, and

(3) The quantity of fixed price sale commitments open in such cash commodities and their products and byproducts, identified as to kind of product.

(b) The amount of potatoes being raised or expected to be raised by such persons in the ensuing 12 months, specifying the potato acreage in each State and country.

§§ 19.05–19.09 [Reserved]

§ 19.10 Time and place of filing reports.

If a person required to file CFTC series '04 reports has an office in a city in which the Commission has an office, each report shall be filed at such Commission office not later than the third business day; and, in the case of the CFTC Form 304 report required for cotton, not later than the first business day following Friday of the week or other period covered by the report. If a person is not located in a city in which the Commission has an office, each report shall be transmitted by mail, postmarked not later than midnight of the second business day and, in the case of the CFTC Form 304 report required for cotton, not later than the first business day following the week or other period covered by the report, as follows:

(a) CFTC Form 204 reports with respect to transactions in wheat, corn, oats, rye, barley, flaxseed, and soybeans and CFTC Form 504 reports with respect to transactions in eggs should be sent to the Commission office in Chicago, Ill., unless otherwise specifically authorized by the Commission.

(b) CFTC Form 304 reports with respect to transactions in cotton and CFTC Form 604 reports with respect to transactions in potatoes should be sent to the Commission office in New York, N.Y., unless otherwise specifically authorized by the Commission.

Issued in Washington, D.C., by the Commission on September 27, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN GRAIN

(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business Friday (DATE)

_____, 19____

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report all quantities in thousand bushels, i.e., 000 omitted. Show products and byproducts in terms of grain equivalent. If you have no cash position, write "None" on the form and return it to CFTC.

COMMODITY USED FOR HEDGING	CASH COMMODITY HEDGED IN GRAIN FUTURES	LONG			SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
WHEAT	Wheat				
	Wheat Products				
	Other*				
	TOTAL				
CORN	Corn				
	Corn Products				
	Other*				
	TOTAL				
OATS	Oats				
	Oat Products				
	Other*				
	TOTAL				
SOYBEANS (see reverse side)	Beans				
	Oil & Oil Products				
	Meal & Meal Products				
	Other*				
	TOTAL				
(OTHER FUTURES MARKET)	Grain (same as futures)				
	Products (of same futures)				
	Other*				
	TOTAL				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

COMMODITY USED FOR HEDGING	CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
			STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

CFTC-204
(Rev. 9-78)

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 204

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT – Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one grain future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT – Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT – The CFTC Central Region Headquarters, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT – For each commodity futures contract in which you hold a position as specified above, you must report the following:

Part I. Report the entire quantity of stocks owned and fixed-price purchases and sales of the cash commodity and its products and byproducts. When reporting soybeans, show the soybean equivalent of both soybean oil and soybean meal and their products.

If you are "cross hedging," use the space labeled "Other" for cash commodities and report your cash position for the commodity hedged. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging (for example, if you are cross hedging cash milo in corn futures, show your milo cash position in terms of equivalent quantities of corn.)

Part II. If you are "cross hedging," report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the acutal commodity (for example, show your milo cash position in terms of actual quantities of milo). Specify the futures commodity in which you are hedging.

GENERAL PROVISIONS – Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-204 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office purchases and sales of cash grain are included in your fixed-price cash grain positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of grain or grain products involved.

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COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN COTTON
(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business on Friday (DATE)
_____, 19____

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report in hundreds of bales, i.e., 00 omitted. Convert products to cotton equivalent (500-lb. bales).
If you have no cash position, write "None" on the form and return it to the CFTC.

CASH COMMODITY HEDGED IN COTTON FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Cotton				
Cotton Products, including stocks in process of manufacture *(specify)*				
Other* *(specify)*				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity futures being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

PART III: UNFIXED-PRICE COTTON "ON CALL"
(Include under "Call Purchases" stocks on hand on which price has not yet been fixed)

MARKET	BASED ON DELIVERY MONTH		CALL PURCHASES	CALL SALES
	MONTH	YEAR		
New York Cotton Exchange	October			
	December			
	March			
	May			
	July			

PART IV: CERTIFICATED STOCKS (REPORT IN ACTUAL BALES)

Total number of bales of certificated stock which you own:

CFTC-304
(Rev. 9-78)

(Continued on reverse)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 304

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT – Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one cotton future on any contract market which are reportable pursuant to Regulation 15.00(b)(2) and is (1) a merchant, processor or dealer or (2) a person who classifies any part of his cotton futures position as hedging.

WHEN TO REPORT – Weekly as of the close of business Friday. (If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the first business day following the date of the report.

WHERE TO REPORT – The CFTC Eastern Region Headquarters, One World Trade Center, Suite 4747, New York, New York 10048, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT –

Part I. Show your fixed-price long and short spot positions in cotton and cotton products. On the long side, include your open fixed-price purchase commitments of raw cotton, stocks of raw cotton on hand, owned, paid for or at fixed prices, cotton in process of manufacture, finished products, and the total. On the short side, include your unfilled fixed-price sale commitments of raw cotton and your unfilled fixed-price sale commitments of finished products. Do not include in your purchase and sale commitments any contracts on which the price has not been fixed.

If you are "cross hedging" a commodity in cotton futures, report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging in the space labeled "Other." The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. You must also complete Part II.

Part II. If you are "cross hedging" report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the actual commodity.

Part III. Report the amount of unfixed-price cotton "on call." Under "call purchases," include stocks on hand which the price has not yet been fixed. Indicate the amount of your "on call" purchases and sales by the delivery month and year on which they are based.

Part IV. Report the total number of bales of certificated cotton which you own.

GENERAL PROVISIONS – Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-304 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office spot cotton purchases and sales of spot cotton are included in your fixed-price positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of cotton or cotton products involved.

OCT 4 1978

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CFTC CODE NO.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN EGGS
(See reverse side for instructions).

Report as of close of business on Friday (DATE):

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report shell eggs in cases and all other eggs and egg products in equivalent quantities of shell eggs.
If you have no cash position, write "NONE" on the form and return it to the CFTC.

CASH COMMODITY HEDGED IN EGG FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Shell eggs in cold storage				
Shell eggs not in cold storage				
Frozen whole eggs				
Frozen plain egg whites				
Frozen plain egg yolks				
Egg products *(identify)*:				
Other* *(specify)*:				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

CFTC-504
(Rev. 9-78)

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 504

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT – Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one egg future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT – Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT – The CFTC Central Region Headquarters, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT –

Part I. Report the entire quantity of stocks owned and fixed-price purchases and sales of shell eggs, frozen eggs, and egg products.

If you are "cross hedging" use the space labeled "Other," to report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. You must also complete Part II.

Part II. If you are "cross hedging" report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the actual commodity.

GENERAL PROVISIONS – Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-504 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office purchases and sales of cash eggs are included in your fixed-price cash egg positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantity of eggs or egg products involved.

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COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN POTATOES
(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business Friday (DATE):
_____, 19__

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY

Report potatoes in carlots of 50,000 pounds; report potato products in terms of fresh potato equivalent, i.e., in carlots of 50,000 pounds of fresh potatoes. If you have no cash position, write "None" on the form and return it to CFTC.

CASH COMMODITY HEDGED IN POTATO FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Potatoes				
Potato Products, including stocks in process of manufacture *(specify)*				
Other* *(specify)*				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	STOCKS OWNED (1)	PURCHASED COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

PART III: POTATO PRODUCTION - ACTUAL OR ANTICIPATED IN NEXT TWELVE MONTHS

Potato production (actual or anticipated) in next twelve months. Number of carlots_____

State(s) or country(ies) in which you are raising or expect to raise potatoes and estimated acreage.

STATE/COUNTRY	ACREAGE

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

CFTC-604
(Rev. 9-78)

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 604

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT -- Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one potato future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT -- Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT -- The CFTC Eastern Region Headquarters, One World Trade Center, Suite 4747, New York, New York 10048, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT -- The makeup of your cash position in potatoes and potato products.

Part I. Show your cash position in potatoes. Report your inventory of potatoes owned, in storage and in transit (rail or truck); your open fixed-price purchase commitments and your unfilled fixed-price sale commitments in potatoes. Do not include in your purchase or sales commitments any contracts on which the price has not been fixed.

Show your cash position in potato products, identified as to the precise kind of potato product. The amount of stocks owned or in process of manufacture, and your open fixed-price purchase commitments and your unfilled fixed-price sales commitments of potato products, expressed in terms of fresh potato equivalent, i.e., in carlots of 50,000 lbs. of fresh potatoes.

If you are "cross hedging," use the space labeled "Other," and report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. In addition, you must complete Part II.

Part II. If you are "cross hedging," report the entire quantity of stocks owned and fixed-price purchase and sales of the commodity you are cross hedging in terms of the actual commodity.

Part III. Report the entire quantity of potatoes which you are raising or expect to raise within the next 12 months on land which you own or lease. Show the state and/or country in which potatoes are being raised and the estimated acreage in potatoes.

GENERAL PROVISIONS -- Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-604 report.

If you own no stocks and have no fixed-price position, indicate by writing "None."

If inter-company or inter-office potato purchases and sales of cash potatoes are included in your fixed-price cash positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of potatoes or potato products involved.

[FR Doc. 78-27823 Filed 10-3-78; 8:45 am]

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[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Traffic Noise Level Prediction Methods—Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises current procedures by which the Federal Highway Administration (FHWA) approves traffic noise level prediction methods for use on Federal-aid highway projects. Section 772.25 of title 23, Code of Federal Regulations, specifically approves two prediction methods and provides for submission of other methods or variations to FHWA's headquarters office for approval prior to use. This section is being revised to indicate that any method which is consistent with the FHWA Highway Traffic Noise Prediction Model and which uses noise emission levels obtained from approved FHWA procedures is approved for use.

EFFECTIVE DATE: October 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Reagan, Environmental Quality Division, Office of Environmental Policy, 202-426-4836, or Mr. Stan Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 20590. Hours are from 7:45 a.m. to 4:15 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: It is anticipated that this revision will provide State highway agencies and FHWA field offices with the information needed and the proper degree of flexibility to arrive at acceptable traffic noise level prediction methods utilizing state-of-the-art methodology.

The revised requirements of § 772.25 are not retroactive. In addition, the two approved prediction methods currently listed in § 772.25 and all other methods approved pursuant to that section remain approved for use on Federal-aid projects until July 1, 1979. Any noise analysis performed after that date must comply with the revised procedures.

The approved FHWA procedures for obtaining noise emission levels are being distributed directly to all State highway agencies and FHWA field offices and will be made available for inspection and copying at all FHWA offices in accordance with the provisions of 49 CFR Part 7, Appendix D.

Although the substantive provisions of paragraphs (d) and (e) of the old § 772.25 are not being revised, the paragraphs have been redesignated as (b) and (c) and are reprinted herein in the interest of clarity and for ease of reference.

Accordingly, 23 CFR Part 772 is amended as follows:

§ 772.13 [Amended]

1. In § 772.13(e)(3) the reference to "§ 772.25(e)" is changed to read "§ 772.25(c)";

2. Section 772.25 is revised to read as follows:

§ 772.25 Traffic noise level prediction methods.

(a) Any traffic noise prediction method is approved for use in any noise analysis required by this part if it meets the following two conditions:

(1) The methodology is consistent with the methodology in the FHWA Highway Traffic Noise Prediction Model (Report No. FHWA-RD-77-108);

(2) The prediction method uses noise emission levels obtained from one of the following:

(i) Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 3, Attachment 1 (National Reference Energy Mean Emission Levels as a Function of Speed),

(ii) Report No. FHWA-OEP/HEV-78-1, Determination of Reference Energy Mean Emission Levels.[4]

(b) In predicting noise levels and assessing noise impacts the following traffic characteristics shall be used:

(1) *Automotive volume.*—The future volume (reduced for truck traffic) obtained from the lesser of the design hourly volume or the maximum volume which can be handled under traffic level of service C conditions. For automobiles, level of service C is considered to be the combination of speed and volume which creates the worst noise conditions. The average hourly volume for the highest 3 hours on an average day for the design year may be used for those highway sections where the design hourly volume or the level of service C condition is not anticipated to occur on a regular basis during the design year.

(2) *Speed.*—The operating speed which corresponds with the design year traffic volume selected in paragraph (b)(1) of this section and the truck traffic predicted from paragraph (b)(3) of this section. The operating speed must be consistent with the volume used.

(3) *Truck volume.*—The design hourly truck volume shall be used for those cases where either the design hourly volume or level of service C was used for the automobile volume. Where the average hourly volume for the highest 3 hours on an average day was used for automobile traffic, comparable truck volumes should be used.

(c) An an alternative to paragraph (b) of this section, the highway agency may select traffic characteristics to correspond with the critical times of day and night which will create the most adverse traffic noise impacts upon the nearby activities and land uses. When such alternative traffic characteristics are used, a thorough discussion of such alternative characteristics shall be included in the noise study report.

(d) Traffic noise prediction methods approved pursuant to prior requirements of this part (41 FR 16936, Apr. 23, 1976) remain approved until July 1, 1979. Any noise analysis performed after July 1, 1979, must comply with the requirements of paragraph (a) of this section.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 109(i), 315; 49 CFR 1.48(b).)

Issued on: September 22, 1978.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 78-27940 Filed 10-3-78; 8:45 am]

[4] These documents are available for inspection and copying in accordance with the provisions of 49 CFR Part 7, App. D.

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Postal Service Manual—Correction of Errors and Omissions in Transmittal Letter 44

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to correct publicly certain errors and omissions contained in a recent transmittal letter making changes to the Postal Service Manual. The Postal Service published on page 2 of the Postal Bulletin of September 14, 1978, the corrections to be made to the Postal Service Manual and advised subscribers to make the changes to their manuals pending receipt of the next transmittal letter. The present publication is intended to reach holders of the manual who may not be subscribers of the Postal Bulletin or who happened not to see the notice in it.

EFFECTIVE DATE: August 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1). This chapter was amended by the issuance of Post Office Services (Domestic) Transmittal Letter 44, issue 120, dated August 21, 1978, and the amended parts were published in full text in the FEDERAL REGISTER on Wednesday, September 13, 1978 (43 FR 40810). The present document refers to and corrects errors and omissions in the FEDERAL REGISTER document referenced above.

ROGER P. CRAIG,
Deputy General Counsel.

On page 40859, in the left hand column, add at the appropriate place new .435 and revise .44 to read as follows:

.435 For mailings of value of $15 or less, or negotiable items or currency or bullion, the indemnity will be $15.

.44 Exclusions. Indemnity will not be paid for:

a. Negotiable items (except as provided in 189.435).

b. Currency or bullion (except as provided in 189.435).

c. Consequential loss (except as provided in 189.422c).

d. Nonmailable items (as defined in PSM 123), or items packaged in a manner that they could not have reached their destination undamaged in the normal course of the mail.

e. Articles of sentimental value (except as provided in 189.436).

f. Acts of employees or agents of the sender or addressee.

g. Radioactive injury or electrical or magnetic injury or erasure of electrical recordings, except by lightning.

h. War, insurrection, or civil disturbance, or seizure by an agency of government.

[FR Doc. 78-27976 Filed 10-3-78; 8:45 am]

[7710-12]

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

City Delivery Service Policy

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: These regulations, which are a revision of proposed regulations published in the FEDERAL REGISTER on March 23, 1978, 43 FR 12044-12047, prescribe Postal Service policy for offering "city delivery" service to customers residing in family housing (other than apartment houses), to which city delivery service is not provided. They prescribe the rules under which postmasters and other local postal officials decide whether to offer such service and which kinds of city delivery service to offer, and the general rules which customers must comply with in order to be eligible for receiving city delivery service. The regulations do not depart from the proposal except in certain minor respects noted below.

EFFECTIVE DATE: November 3, 1978.

ADDRESS: Written questions about the regulations should be directed to Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: A discussion of the general basis and purpose of these regulations accompanied the proposal when it was published for comment in March, 43 FR 12044-12046. Eight letters of comment were received on the proposal, two from the same commenter. Seven comments opposed the adoption of the proposal on the ground that it generally did not provide for door delivery service in new single family housing in city delivery areas. Those comments urged the adoption of regulations which would instead require door delivery service in all city delivery areas. One comment opposed door delivery and supported curbside and cluster box delivery, on the ground that door delivery was a hazard to the carrier, resulting in injuries from "* * * dog bites, slipping on ice and snow, falling down stairs, carrying heavy bags of mail, etc."

The principal substantive arguments against adoption of the proposal were as follows: (1) Door service would provide better security, convenience, and service than other forms of delivery service; (2) the proposal is unreasonably discriminatory against persons residing in new areas; (3) the proposal is unreasonably discriminatory against new homebuilders by placing them at a "competitive disadvantage to those who sell existing homes"; and, (4) the proposal is unreasonably discriminatory against those of the elderly who may be unable during inclement weather to pick up their mail.

The proposal insofar as it would restrict the offering of door service to new homes is intended to achieve substantial cost savings in postal operations. Door service is the most expensive form of delivery that can be provided, and is substantially more expensive than any other form of home delivery service.

There is no evidence that nondoor delivery in residential city delivery areas where such delivery is authorized results in a reduction of mail security. Regardless of the form of delivery, moreover, a customer will receive essentially the same mail deliveries in his mail receptacle or door slot on the same day. While door service may be convenient, a walk to a sidewalk, curbside, or central delivery point is not ordinarily a great inconvenience. Other postal customers, such as those receiving rural delivery service or apartment house delivery, may have to walk farther to receive their mail.

Two comments questioned whether it was appropriate to seek cost savings in postal operations, one arguing that, "The Federal Government is spending millions of dollars trying to figure out how to put people back to work * * *", and the other arguing that: "Any economies achieved (by the proposal) would soon be squandered by * * * postal management * * *" through other means. The postal laws, however, clearly require the postal system to be operated economically and efficiently. See, for example: 39 U.S.C. 101(a), 403 (a), (b), 1001(e)(4), 2010, 3621, 3661(a). The postal system is therefore not operated so as to "make work" or to end unemployment; reasonable efforts to operate the system efficiently, including the elimination of unnecessary work, must therefore be made.

It has, moreover, always been necessary to restrict door delivery service to those parts of the country where it could economically be provided. Customers of rural delivery service, for example, who are not affected by these regulations, have never been offered door delivery service. Residents of apartment houses similarly do not receive door service.

The argument that a general policy of not providing door service to new single family housing is illegally discriminatory against affected customers has already been rejected by the courts, *e.g., Parsons* v. *United States Postal Service*, 380 F. Supp. 815 (D. N.J. 1974); *Grover City* v. *United States Postal Service*, 391 F. Supp. 982 (C.D. Calif. 1975). These courts have reasoned that the policy against door service has a reasonable economic basis, and that the Postal Service is bound to consider economies in its operations in formulating policy.

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The argument that nondoor service would be specially discriminatory against the elderly overlooks the fact that many elderly persons are able-bodied enough not only to pick up their mail but also to continue working regularly. In addition, the argument overlooks 155.222 of the proposal, carried forward without change in these final regulations, providing for cases of "extreme hardship" regardless of age.

There was, moreover, no evidence offered to indicate that the general policy of not offering door service in new housing areas (which has been in effect for several years) has had any practical effect on the sales of new houses. Commonsense and a perusal of newspaper advertisements for new and used homes for sale both tend to suggest that the differences between door, curb, sidewalk, and central delivery have no substantial effect on home buying decisions.

It was also argued that the proposed regulations could not be adopted by the Postal Service now because it was legally required first to submit them to the Postal Rate Commission under 39 U.S.C. 3661(b) for an advisory opinion. Section 3661(b), however, requires that such advisory opinions be sought before certain proposals to change the general nature of service are implemented: "When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, with a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change."

The commenter did not, however, specify what change or changes to which it believed section 3661 might apply. The general policy to which the commenter objected, or seeking to provide city delivery service in new areas in more cost effective ways than door delivery, is a longstanding one which antedates section 3661's effective date of July 1, 1971. Postal regulations adopted in 1968 provided, with certain exceptions, that, "All other establishments and extensions of city delivery service normally should be by motorized delivery to curbside boxes." Post Office Department Regional Instructions, City Delivery Service, No. 331-1, part IIA4 at p. 6, January 15, 1968. Under the 1968 instructions, the authority to offer door delivery in new city delivery areas was generally circumscribed and an offer of door delivery was generally not required. Id., part IIA at 6. Existing postal regulations already provide: "Delivery service normally should be by motorized carrier to neighborhood cluster boxes or to curbline boxes. "U.S. Postal Service, Regional Instructions, Delivery Service, No. 331-1, Amendment No. 5, part IA at p. 1, September 29, 1972. The limited discretion in these regulations to offer door service to certain new residential housing in city delivery areas has rarely been exercised since 1972, because of the general overriding policy in favor of effecting economies of postal operations wherever possible. A legal challenge under 39 U.S.C. 3661 to this aspect of present city delivery regulations—general nonprovision of door delivery service to new city delivery residential areas—was unsuccessful last year. *Bradley* v. *United States Postal Srvice*, 554 F. 2d 186 (5th Cir. 1977).

The city delivery regulations, moreover, by generally encouraging nondoor delivery only in new city delivery points, affect only the small percentage of delivery points nationwide which become eligible for establishment or extension of city delivery each year. We estimate this pecentage to be lesss than 3 percent of total nationwide delivery points (city, rural, or other). The immediate impact of changes in city delivery policies for service establishments and extensions is therefore to leave most delivery service in the country unaffected. Thus, even substantial changes in such nationwide city delivery policies would not "generally affect service" as contemplated by section 3661.

One of the commenters recommended that the extreme hardship exception (155.222) be stated in mandatory terms, thus—"Door delivery will be provided • • •—instead of, as proposed—"Door delivery will be considered • • •." Another commenter expressed concern that the exception might be too broad: "Hardships can be reduced to a minimum if a handicapped peroson would authorize a close neighbor to pick up the mail for him." In experience local postal officials have been able to exercise sound judgment in this area without mandatory regulations.

Present regulations are even more general than those just proposed: "Obviously, predetermined criteria cannot be prescribed to fit every circumstance. Therefore, good judgment should be exercised in rendering decisions where unusual conditions necessitate deviation from these criteria." Reg. Inst. No. 331-1, Amendment No. 5, September 29, 1972, part ID at page 2. The proposed hardship exception was stated permissively in order to permit local officials to continue to exercise sound judgment based on a consideration of all relevant factors, such as whether persons other than the disabled customer reside in the same place. The exception was therefore intended only; to define when consideration should be given to providing door delivery in cases of extreme hardship. No reasons were given for stating the exception in mandatory terms, and it is unclear whether such a revision of the regulations would lead to improved administration. Instead, it might lead to dealing with such matters on the basis of interpretation instead of judgment. The exception is therefore adopted as proposed.

In the same vein, the proposed mandatory language in proposed 155.21—"• • • city delivery service shall be offered • • • " is revised to be permissive—" • • • city delivery service will be considered • • • ." Existing regulations are stated permissively: "Consideration for establishing (city) delivery service will be given • • • ." Postal Service Manual 155.1, incorporated by reference, 39 CFR 111.1 (1977). In instances where no home delivery service is provided, and the requirements for city delivery service have been fulfilled, local officials are expected to offer city delivery service. In other instances, however, such as when rural delivery service is already provided to the same community, an offer of conversion to city delivery is authorized but not required. Such conversions can be unnecessarily disruptive and cause controversy in the community, since they entail several changes in the way postal services are provided, and rural carrier jobs would be eliminated in favor of city carrier jobs. Thus, where a community receiving rural delivery service becomes sufficiently urban to be eligible for city delivery service, local postal officials should exercise sound discretion in deciding whether even to raise the question of conversion to city delivery service. A conforming change is made in 155.11.

Minor errors appearing in the proposal, such as the use of the word "report" in 155.12 where the context clearly requires the word "part." have been corrected. Also, minor changes are made in style and form.

In view of the foregoing considerations, the Postal Service adopts the following revisions of the Postal Service Manual:

PART 155—CITY DELIVERY

1. Sections 155.1 and 155.2 are revised to read as follows:

155.1 Requirements for delivery service.

.11 *Establishments.* In this part "establishment" refers to the initiation of city delivery service in a community which currently does not receive it. In establishing city delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

Establishment of delivery service will be considered when the following essential requirements are met:

a. Within the area to be served there is a population of 2,500 or more or 750 possible deliveries. (The postal population may vary greatly from the general census population because of different boundary interpretations and designations.)

b. Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or ground cover more than one lot, all lots so covered are considered to be improved.

c. The streets are paved or otherwise improved to permit the travel of post office vehicles at all times without damage or delay.

d. Streets are named and house numbers are assigned by the appropriate municipal authorities in a manner that precludes duplicative mailing addresses.

e. The street signs are in place and the house numbers are displayed.

f. The rights-of-way, turnouts, and areas adjacent to the roads and streets are sufficiently improved so that the installation and servicing of boxes will not be hazardous to the public or postal employees.

g. Satisfactory walks exist for the carrier where required.

h. Approved mail receptacles or door slots are installed at designated locations.

.12 *Extensions.* In this part the word "extension" refers to the initiation of city delivery service in any areas which are not included in the boundaries of present delivery service, but which are part of a community for which city delivery service has already been established. The delivery service requirements for extensions are the same as those listed in 155.11 for establishments, except that paragraph (a) does not apply to extensions.

.13 *Existing establishments and extensions not affected.* Nothing in this part shall be interpreted to require any changes in any city delivery service which was initiated under prior city delivery regulations.

155.2 Delivery policy-establishments and extensions.

.21 *Criteria.*

.211 *General.* Establishment or extension of city delivery service will be considered for those areas that meet the criteria in 155.11 and 155.12. Normally, this will be by motorized carrier to curbline boxes or to central delivery points or receptacles, supplemented as given below.

.212 *Business areas.* The type and design of buildings will govern the method of delivery service to be implemented. The delivery options are:

a. Central delivery service for business office buildings which may include: (1) Call windows; (2) lockboxes; or (3) mechanical conveyors.

NOTE.—This is available only for high rise, multiple-tenant buildings, and only if certain conditions are met. For details consult your postmaster.

b. Single points, receptacles, or door slots provided by business management.

.213 *Residential housing other than apartment houses or mobile or trailer homes.*

a. *General.* For all residential areas, except apartment houses and mobile or trailer homes, the delivery options are either curbside, sidewalk or central delivery, under the regulations given below.

b. *Curbside delivery.* Delivery may be provided to boxes located at the curb so they can be safely and conveniently served by the carrier from his vehicle.

c. *Sidewalk delivery.* (1) If the sidewalk abuts the curb or if other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbline, these customers may be permitted to install all of their boxes at the edge of the sidewalk nearest the residence, where they can all be served by the carrier from the sidewalk.

(2) If the average lot frontage is 75 feet or less, the boxes are not required to be grouped together, but if the average lot frontage is more than 75 feet, the boxes must be installed in groups of at least two.

(3) If the average lot frontage is 50 feet or less, customers may locate their mailboxes at the edge of the sidewalk nearest the residence rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All the boxes must be located so that the carrier can serve them from the sidewalk.

d. *Central delivery.* Central delivery may be provided at one or more central points within a residential housing development, community, or area. The requirements for such delivery are:

(1) The local postal managers must approve the mailbox sites and equipment;

(2) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and,

(3) The customers will not be required to travel an unreasonable distance to obtain their mail.

.214 *Apartment houses.* See 155.6 for delivery options.

.215 *Mobile or trailer homes.* The delivery options for mobile or trailer home developments depend upon whether the development is permanent or transient.

a. Permanent developments consist of managed mobile home parks or residential mobile home subdivisions where: The lots are permanently assigned, the streets are maintained for public use, and the conditions are similar to those of a normal residential subdivision. For permanent developments, the delivery options are either curbside, sidewalk, or central delivery, under the regulations given below.

(1) *Curbside delivery.* Delivery service may be provided to boxes which are located at the curb so that they can be safely and conveniently served by the carrier from the vehicle.

(2) *Sidewalk delivery.* (a) If the sidewalk abuts the curb or other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbline, these customers may install all of their boxes at the edge of the sidewalk nearest the residence where they can all be served by the carrier from the sidewalk.

b. In such conditions, if the average lot frontage is 75 feet or less, the sidewalk boxes are not required to be grouped together, but if the average lot frontage is more than 75 feet, the sidewalk boxes must be installed in groups of at least two.

c. If the average lot frontage is 50 feet or less, the customers may be permitted to locate all of their mailboxes at the edge of sidewalk, nearest the residence rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All of the boxes must be located so the carriers can serve them from the sidewalk.

(3) *Central delivery.* (a) Delivery service may be provided to a single point or receptacle designated by the management of the development for the receipt of mail for distribution by its employees.

(b) Delivery service may be provided to one or more central points for the direct receipt of mail by postal customers within the area.

(c) The requirements for such central delivery are:

(i) The local postal manager must approve the mailbox sites and equipment;

(ii) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and,

(iii) The customers are not required to travel an unreasonable distance to obtain their mail.

c. Transient developments are recreational vehicle parks and trailer courts where the lots are temporarily rented and the occupants are generally transient. Such developments are considered transient, even though some families may live in them for an extended period of time. For these developments, the only option is delivery to a single point or receptacle designated by the trailer park management and approved by local postal managers for the receipt of mail for distribution by the trailer park's employees.

NOTE.—This method is one of the service options for permanent developments.

.22 *Exceptions.*

.221 *Fill-in.* New homes built within a block of existing homes will receive the same type of service as the older ones. When new housing replaces more than one block in a city delivery area, delivery methods will comply with extension procedures.

.222 *Hardship cases.* Door delivery will be considered for an individual customer where service through central, curbline, sidewalk, lockbox, or general delivery would place an extreme hardship on the customer.

.223 *Local ordinances.* If a customer chooses not to erect a curbside box because of a local, city, county, or State ordinance prohibiting the installation of mailboxes at the curb, the delivery options in establishments and extensions are:

a. Central delivery service may be provided at one or more central points in a residential housing development, community or area, if:

(1) The local postal managers approve the mailbox sites and equipment;

(2) There is a minimum of two mailboxes erected at each mailbox site (there is no maximum limit); and

(3) The customers are not required to travel an unreasonable distance to obtain their mail; or

b. Lockbox or general delivery service may be provided at the nearest postal facility where carrier delivery emanates.

155.41 [Amended]

2. The following sentence is added at the end of 155.41:

Purchase, installation, maintenance, and replacement of delivery box equipment are not the responsibility of the U.S. Postal Service.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be

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published in the FEDERAL REGISTER as provided in 39 CFR 111.3. (39 U.S.C. 101, 401(2), 403, 404(a)(1), 410(a).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-28034 Filed 10-3-78; 8:45 am]

[6820-25]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Temp. Reg. E-47, Supp. 4]

APPENDIX—TEMPORARY REGULATIONS

Teleprocessing Services Program

AGENCY: Automated Data and Telecommunications Service, General Service Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to April 30, 1979, the expiration date of FPMR temporary regulation E-47 regarding teleprocessing services program (TSP).

DATES: Effective date: October 1, 1978. Expiration date: April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

L. Perlman, 202-566-0834, Policy and Evaluation Division.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR chapter 101, this temporary regulation is listed in the appendix at the end of subchapter E.

Dated: September 26, 1978.

JAY SOLOMON,
Administrator of General Services.

FEDERAL PROPERTY MANAGEMENT REGULATIONS TEMPORARY REGULATION E-47 SUPPLEMENT 4

TO: Heads of Federal agencies.

SUBJECT: Teleprocessing Service Program (TSP).

1. *Purpose.* This supplement extends the expiration date of FPMR temporary regulation E-47.

2. *Effective date.* This regulation is effective October 1, 1978.

3. *Expiration date.* This supplement expires on April 30, 1979.

4. *Explanation of changes.* GSA issued FPMR temporary regulation E-47 on August 3, 1976, and extended its expiration date to September 30, 1977, through supplement 1 to E-47. Paragraph 9 of temporary regulation E-47 established interim procedures for acquiring teleprocessing services pending the determination that the TSP would be the mandatory means by which Federal agencies would acquire teleprocessing services. Supplement 2 to E-47 set August 1, 1977, as the effective date for mandatory use of the TSP, thereby eliminating any need for the interim procedures established under paragraph 9. Effective August 1, 1977, paragraph 9 was canceled and appropriately remains canceled with the issuance of this directive. Supplement 3 to E-47 extended the mandatory procedures of the TSP to September 30, 1978. This supplement 4 revises the expiration date in paragraph 3 of FPMR temporary regulation E-47 to April 30, 1979, and cancels supplement 3.

[FR Doc. 78-28080 filed 10-3-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-681]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: As a result of its continuing study of the reregulation of broadcasting, the Commission continues the restructuring of part 73 of its rules into a more concise and orderly form by transferring to subpart H of part 73 all rules, the subject matter of which is common to AM, FM, and TV broadcasting stations but are at present repeated in each of the subparts for those services. Revisions are made in the rules where needed. Rules which are unique to a particular broadcasting service will remain in their respective subparts.

EFFECTIVE DATE: November 1, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Reiser, Steve Crane, Philip Cross, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 22, 1978.

Released: October 16, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

Order. In the matter of reregulation of radio and TV broadcasting.

1. In this order, the Commission continues the reorganization and restructuring of its rule book for the AM, FM, and TV broadcast services.

2. With the adoption on July 12, 1978, of the reregulation order, FCC 78-502, 43 FR 32778, the Commission began its restructuring of parts 73 and 74 of volume III of the rules. Upon completion of the project, all rules in part 73 with subject matter common to AM, FM, and TV, will have been transferred to subpart H, which will bring about simplified access and better understanding of the regulations.

3. Implementation of the project continues in this order. Where appropriate, rule clarifications have been made for the reasons shown in the text. The alphabetical index will reflect each transfer and redesignation of section numbers, thus insuring the user of our rules a continuing, instant and easy-to-follow guide to FCC regulations in part 73. Also, the order continues the cross-referencing of the new section numbers under the old rule section headnotes in subparts A, B, C, and E. Much case law, many documents and policy statements reference these old section numbers and, for the present, we will retain them with the direction to "See § 73. New Subpart H number." When the restructuring is finished, a complete listing of the transfers will be made a part of the rules for such number of years as this type of record is needed.

4. The following sets forth in detail the changes[1] made in this order:

(a) The rules regarding the hours for inspections of stations by FCC personnel, and the logs and records that the licensee must make available for such inspections are now found in §§ 73.97 (AM), 73.263 (FM), 73.563 (NCE-FM), and 73.665 (TV). Rules for availability of logs and records for inspections and investigations are further stated in § 1.6 (in subpt. A of pt. 1) which contains (FCC) "General Rules of Practice and Procedure," in § 1.613 (in subpt. D of pt. 1) which contains rules pertaining to (FCC) "Broadcast Application and Proceedings;" and in §§ 73.116 (for AM), 73.286 (FM), 73.586 (NCE-FM), and 73.674 (TV). Via this order, these requirements are restated into two new rules: § 73.1225, "Station inspections by FCC," and § 73.1226, "Availability to FCC of station logs and records," and placed in subpart H, of part 73. Sections 1.6 and 1.613 will remain in part 1, and the eight separate broadcast rules will be deleted from subpart A, B, C, and E. The rules pertaining to public inspection of station's program logs are revised and designated new

[1] Certain changes relax present requirements. No substantive changes are made which impose additional burdens or remove provisions relied upon by licensees or the public.

§ 73.1850 in subpart H, and positioned to follow the log rules. (See paragraph (h) of this order.) Rewriting is done for clarification purposes in these revisions.

(b) The rules regarding the posting of station and operator licenses are presently found in § 73.92 (AM stations), § 73.264 (FM stations), § 73.564 (NCE-FM stations), and § 73.660 (TV stations). These separate sections are deleted from their respective subparts, and the rule, which is applied exactly the same for all broadcast stations, is relocated in subpart H as § 73.1230, and retitled "Posting of operator and station licenses."

(c) Our rules prescribe certain procedures and make certain allowances for stations broadcasting emergency information to listeners/viewers in their areas when conditions exist which imperil life and peoperty. These rules are titled "Operation during emergency" and are numbered §§ 73.98, 73.298, 73.597, and 73.675 in the separate subparts of part 73.

The rule title is herein changed to "Broadcasting emergency information." The present title, "Operation during emergency" has led many to conclude these rules pertained to station equipment emergencies which result in reduced broadcast service, caused by such "emergencies" as downed towers, equipment fires, power underages, and so forth.

Clarification revisions are made in the rule's text for ease of understanding and use with EBS activation directions. Relocated in subpart H as applicable to all broadcast services, it will be designated as § 73.1250, "Broadcasting emergency information."

(d) Extension meter regulations are in §§ 73.70 (AM stations), 73.276 (FM), 73.574 (NCE-FM), and 73.678 (TV). They are combined in this order into a single rule appropriate to all services, revised as needed for clarification, placed in subpart H and renumbered § 73.1550.

(e) References to international broadcast agreements which the United States has signed with other countries are presently found in part 73 in:

§ 73.15 NARBA and the United States/Mexican agreement (for AM);
§ 73.204 International agreements and other restrictions on use of channels (for FM);
§ 73.504 Noncommercial educational channel assignments under the United States-Mexico FM broadcast agreement (for NCE-FM); and
§ 73.608 International agreements (for TV).

The text of the AM and TV rules are fairly specific to the rule subject: International agreements. The FM and NCE-FM rules include, in addition, restrictions on use of channels in the FM subpart and, in the NCE-FM subpart, a table of allotment of NCE-FM channels in the area within 199 miles of the United States-Mexican border. Since these tables and restrictions are unique to these two services, they will remain there.

The new rule, placed in subpart H, has been streamlined and, for parties interested in the agreements, directions are given for reviewing them at the FCC in Washington, D.C., or procuring copies from our copy-contractor. The rule is designated § 73.1650, International agreements.

The sections retained in the FM and NCE-FM subparts will be redesignated:

§ 73.220 Restrictions on use of channels; and
§ 73.504 Channel assignments under the United States-Mexico FM broadcast agreement.

(f) The umbrella term, "time of station operation," covers numerous rule sections which are spread throughout the subparts for the separate services. Some of the specific regulations are buried within a rule section, the title of which fails to reveal their location within that section.

Via this order, we redefine and rearrange these rules into 11 sections, with their titles clearly and solely related to the subject matter therein. The general term, "Operating Hours," will be used as an undersignated headnote for this group of rules.

The rules are relocated in subpart H with designations of section numbers and titles as follows:

OPERATING HOURS

Sec.
73.1700 Broadcast day.
73.1705 Time of operation.
73.1710 Unlimited time.
73.1715 Share time.
73.1720 Daytime.
73.1725 Limited time.
73.1730 Specified hours.
73.1735 Presunrise service authority.
73.1740 Minimum operating schedule.
73.1745 Unathorized operation.
73.1750 Discontinuance of operation.

(g) The present TV rule for "Time of operation" (§ 73.651)—see paragraph immediately above—contains, in addition to that subject, directions for the functional operation of TV aural and visual transmitters (§ 73.651(c)). These "functional" directions are left in the TV subpart, edited for timeliness, placed in new § 73.653 and titled "Operation of TV aural and visual transmitters."

(h) The requirements relating to the various types of logs which a licensee must maintain are to be found in 24 different sections in the AM, FM, NCE-FM, and TV Subparts.

These 24 sections are herein rewritten and consolidated into 6 new sections, and placed in subpart H. The new section designations are:

Sec.
73.1800 General requirements relating to logs.
73.1810 Program logs.
73.1820 Operating logs.
73.1830 Maintenance logs.
73.1840 Retention of logs.
73.1850 Public Inspection of program logs.

As part of these revisions, we have excised from the rules §§ 73.116, 73.286, 73.586, and 73.674, "Availability of logs and records." These rules state which logs and records must be available for FCC inspection and also the terms of the availability of program logs for public inspection. The requirements pertaining to the logs and records to be made available to an FCC representative are relocated in the new section entitled "Station inspections by FCC" (new § 73.1225) and "Availability to the FCC of station logs and records." (New § 73.1226. See paragraph (a) of this order.) The terms of the program logs' availability for inspection by the public are then set forth in a new rule, § 73.1850 in subpart H, and titled "Public inspection of program logs" (as listed above).

A sensible relaxation pertaining to the automatic logging portion of the operating log rule is also made herein: Heretofore, the rule provided that an alarm circuit must operate continuously or the devices which recorded the parameters must read each parameter once during each 10-minute period. This is relaxed to once each 30-minute period.

Additionally, the rules on log corrections are moved into the general requirements section and plainly stated; clarification is added regarding computation of commercial time for religious and political programs; the texts of the automatic program and operating log regulations are embellished to clarify employee certifications and procedures in the event of equipment malfunction; and rewrites of the log rule texts and reformatting of paragraphs and subparagraphs are done as needed for easier comprehension.

(i) With this order, we add to the rules a separate section, and a new separate listing in tha alphabetical index for "Fairness Doctrine." Heretofore, references to this important area of Commission policy were merely footnoted in the rule pertaining to personal attacks and political editorials. The new rule simply states that the Fairness Doctrine is in section 315(a) of the Communications Act, directs the rule user to the FCC public notice "Fairness Doctrine and the Public Interest Standards," 39 FR 26372, and includes information on obtaining copies of this document from the FCC.

The present rule section concerning personal attack and political editorials is herein divided into two separate rule sections (except NCE-FM, where edi-

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torializing is not allowed). After appropriate test revisions, the three rules will be redesignated in subpart H as:

Sec.
73.1910 Fairness Doctrine.
73.1920 Personal attacks.
73.1930 Political editorials.

(j) The rules pertaining to broadcasts by candidates for public office were formerly contained in subparts A, B, C, and E of part 73. The rule numbers were §§ 73.120, 73.290, 73.590, and 73.657 for AM, FM, NCE—FM, and TV, respectively. These rules were combined into one rule and redesignated § 73.1940 in the report and order, "In the matter of • • • Broadcasts • • • By Candidates for Public Office." (BC Docket No. 78—103, adopted July 12, 1978; effective August 28, 1978).

In this order the rule is further clarified for broadcast licensees by additional paragraphs, which will reflect the requirements of sections 315 and 312 if the Communications Act. One further addition to the new rule directs the broadcasts attention to the new "Primer" in the public notice adopted by the Commission on July 20, 1978, entitled "The Law of Political Broadcasting and Cablecasting."

(k) The part 73 alphabetical index is revised to reflect the rule changes described herein. (Appendix B.)

5. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions, and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b)(3)(B).

6. *Therefore, it is ordered,* That pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules and regulations are amended as set forth below, effective October 16, 1978.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. Section 1.526 is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by commercial applicants, permittees, and licensees.

(a) • • •

(4) Such records as are required to be kept by § 73.1940 of this chapter, concerning broadcasts by candidates for public office.

• • • • •

(c) • • •

(3) Although not part of the regular file for public inspection, program logs for TV and radio stations will be available for public inspection under the circumstances set forth in § 73.1860 and discussed in the Public and Broadcasting Procedural Manual; Revised Edition.

• • • • •

(g) *Period of retention.* the records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 of this chapter. The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The records specified in paragraphs (a) (1), (2), (3), (5), (7), (b), and (c) of this section shall be retained as follows:

• • • • •

3. Section 73.6 is amended to read as follows:

§ 73.6 Daytime.

See § 73.1720.

4. Section 73.9 is amended to read as follows:

§ 73.9 Broadcast day.

See § 73.1700.

5. Section 73.15 is amended to read as follows:

§ 73.15 NARBA and the U.S./Mexican Agreement.

See § 73.1650.

6. Section 73.23 is amended to read as follows:

§ 73.23 Time of operation of the several classes of stations.

See § 73.1705.

7. Section 73.38 is amended to read as follows:

§ 73.38 Limited time operation.

See § 73.1725.

8. Section 73.70 is amended to read as follows:

§ 73.70 Extension meters.

See § 73.1550.

9. Section 73.71 is amended to read as follows:

§ 73.71 Minimum operating schedule.

See § 73.1740.

10. Section 73.73 is amended to read as follows:

§ 73.73 Specified hours.

See § 73.1730.

11. Section 73.74 is amended to read as follows:

§ 73.74 Sharing time.

See § 73.1715.

12. Section 73.76 is amended to read as follows:

§ 73.76 Sharing time; experimental period.

See § 73.1715.

13. Section 73.77 is amended to read as follows:

§ 73.77 Sharing time; departure from regular schedule.

See § 73.1715.

14. Section 73.78 is amended to read as follows:

§ 73.78 Sharing time stations; notification to Commission.

See § 73.1715.

15. Section 73.79 is amended to read as follows:

§ 73.79 License to specify sunrise and sunset hours.

See § 73.1720.

16. Section 73.80 is amended to read as follows:

§ 73.80 Secondary station; filing of operating schedule.

See § 73.1725.

17. Section 73.81 is amended to read as follows:

§ 73.81 Secondary station; failure to reach agreement.

See § 73.1725.

18. Section 73.82 is amended to read as follows:

§ 73.82 Departure from schedule; material violation.

See § 73.1725.

19. Section 73.87 is amended to read as follows:

§ 73.87 Times and modes of program transmission.

See § 73.1745.

20. Section 73.91 is amended to read as follows:

§ 73.91 Discontinuance of operation.

See § 73.1750.

21. Section 73.92 is amended to read as follows:

§ 73.92 Station and operator licenses; posting of.

See § 73.1230.

22. Section 73.97 is amended to read as follows:

§ 73.97 Station inspection.

See § 73.1225.

23. Section 73.98 is amended to read as follows:

§ 73.98 Operation during emergency.

See § 73.1250.

24. Section 73.99 is amended to read as follows:

§ 73.99 Presunrise service authority.

See § 73.1735.

25. Section 73.111 is amended to read as follows:

§ 73.111 General requirements relating to logs.

See § 73.1800.

26. Section 73.112 is amended to read as follows:

§ 73.112 Program logs.

See § 73.1810.

27. Section 73.113 is amended to read as follows:

§ 73.113 Operating logs.

See § 73.1820.

28. Section 73.114 is amended to read as follows:

§ 73.114 Maintenance logs.

See § 73.1830.

29. Section 73.115 is amended to read as follows:

§ 73.115 Retention of logs.

See § 73.1840.

30. Section 73.116 is amended to read as follows:

§ 73.116 Availability of logs and records.

See §§ 73.1225 and 73.1850.

31. Section 73.123 is amended to read as follows:

§ 73.123 Personal attacks; political editorials.

See §§ 73.1910, 73.1920, and 73.1930.

32. Section 73.204 is amended to read as follows:

§ 73.204 International agreements and other restrictions on use of channels.

See §§ 73.220 and 73.1650.

33. New § 73.220 is added to subpart B, part 73, to read as follows:

§ 73.220 Restrictions on use of channels.

(a) The frequency 89.1 MHz (channel 206) is reserved in the New York City metropolitan area for the use of the United Nations with the equivalent of an antenna height of 500 feet above average terrain and effective radiated power of 20 kilowatts, and the FCC will make no assignments which would cause objectionable interference with such use.

(b) In Alaska, the frequency band 88-100 MHz is allocated exclusively to Government radio services and the non-Government fixed service. The frequencies 87.9 through 99.9 MHz (channels 200 through 260) will not be assigned in Alaska for use by FM broadcast stations.

(c) In Hawaii, the frequency band 98-108 MHz is allocated for nonbroadcast use. The frequencies 98.1 through 107.9 MHz (channels 251 through 300) will not be assigned in Hawaii for use by FM broadcast stations.

34. Section 73.261 is amended to read as follows:

§ 73.261 Time of operation.

See §§ 73.1705 and 73.1740.

35. Section 73.263 is amended to read as follows:

§ 73.263 Station inspection.

See § 73.1225.

36. Section 73.264 is amended to read as follows:

§ 73.264 Station and operator licenses; posting of.

See § 73.1230.

37. Section 73.271 is amended to read as follows:

§ 73.271 Discontinuance of operation.

See § 73.1750.

38. Section 73.276 is amended to read as follows:

§ 73.276 Extension meters.

See § 73.1550.

39. Section 73.281 is amended to read as follows:

§ 73.281 General requirements relating to logs.

See § 73.1800.

40. Section 73.282 is amended to read as follows:

§ 73.282 Program logs.

See § 73.1810.

41. Section 73.283 is amended to read as follows:

§ 73.283 Operating logs.

See § 73.1820.

42. Section 73.284 is amended to read as follows:

§ 73.284 Maintenance logs.

See § 73.1830.

43. Section 73.285 is amended to read as follows:

§ 73.285 Retention of logs.

See § 73.1840.

44. Section 73.286 is amended to read as follows:

§ 73.286 Availability of logs and records.

See §§ 73.1225 and 73.1850.

45. Section 73.298 is amended to read as follows:

§ 73.298 Operation during emergency.

See § 73.1250.

46. Section 73.300 is amended to read as follows:

§ 73.300 Personal attacks; political editorials.

See §§ 73.1910, 73.1920, and 73.1930.

47. Section 73.504 headnote is amended to read as follows:

§ 73.504 Channel assignments under the U.S.A.-Mexico FM Broadcast Agreement.

• • • • •

48. Section 73.561 is amended to read as follows:

§ 73.561 Operating schedule; time sharing.

• • • • •

NOTE.—See §§ 73.1705, 73.1715, and 73.1740.

49. Section 73.563 is amended to read as follows:

§ 73.563 Station inspection.

See § 73.1225.

50. Section 73.564 is amended to read as follows:

§ 73.564 Station and operator licenses; posting of.

See § 73.1230.

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51. Section 73.571 is amended to read as follows:

§ 73.571 Discontinuance of operation.

See § 73.1750.

52. Section 73.574 is amended to read as follows:

§ 73.574 Extension meters.

See § 73.1550.

53. Section 73.581 is amended to read as follows:

§ 73.581 General requirements relating to logs.

See § 73.1800.

54. Section 73.582 is amended to read as follows:

73.582 Program logs.

See § 73.1810.

55. Section 73.583 is amended to read as follows:

§ 73.583 Operating logs.

See § 73.1820.

56. Section 73.584 is amended to read as follows:

§ 73.584 Maintenance logs.

See § 73.1830.

57. Section 73.585 is amended to read as follows:

§ 73.585 Retention of logs.

See § 73.1840.

58. Section 73.586 is amended to read as follows:

§ 73.586 Availability of logs and records.

See §§ 73.1225 and 73.1850.

59. Section 73.597 is amended to read as follows:

§ 73.597 Operation during emergency.

See § 73.1250.

60. Section 73.598 is amended to read as follows:

§ 73.598 Personal attacks.

See §§ 73.1910 and 73.1920.

61. Section 73.608 is amended to read as follows:

§ 73.608 International agreements.

See § 73.1650.

62. Section 73.623 is amended to read as follows:

§ 73.623 Applications for sharing of television channels.

See § 73.1715

63. Section 73.651 is amended to read as follows:

§ 73.651 Time of operation.

See §§ 73.653, 73.1705, and 73.1740.

64. New § 73.653 is added to Subpart E, Part 73, to read as follows:

§ 73.653 Operation of TV aural and visual transmitters.

(a) The aural and visual transmitters of a TV station shall not be operated separately, or to present different or unrelated program material, except in the following cases:

(1) Emergency fills due to either visual or aural equipment failures leaving the licensee with only the audio or video programming to announce the equipment failures to the audience;

(2) For equipment tests or experimentation pursuant to § 73.1510 (Experimental authorizations) and § 73.1520 (Operation for tests and maintenance).

(b) During visual transmissions of a test pattern, still pictures or slides, the aural transmission shall consist of a single tone, or series of variable tones; a presentation of the upcoming program schedule; aural news broadcasts; or music. This type program material shall not exceed 15 minutes immediately prior to the start of the station's programming for the day or for a total period not to exceed more than one hour in any broadcast day.

65. Section 73.660 is amended to read as follows:

§ 73.660 Station and operator licenses; posting of.

See § 73.1230.

66. Section 73.665 is amended to read as follows:

§ 73.665 Station inspection.

See § 73.1225.

67. Section 73.667 is amended to read as follows:

§ 73.667 Discontinuance of operation.

See § 73.1750.

68. Section 73.669 is amended to read as follows:

§ 73.669 General requirements relating to logs.

See § 73.1800.

69. Section 73.670 is amended to read as follows:

§ 73.670 Program logs.

See § 73.1810.

70. Section 73.671 is amended to read as follows:

§ 73.671 Operating logs.

See § 73.1820.

71. Section 73.672 is amended to read as follows:

§ 73.672 Maintenance logs.

See § 73.1830.

72. Section 73.673 is amended to read as follows:

§ 73.673 Retention of logs.

See § 73.1840.

73. Section 73.674 is amended to read as follows:

§ 73.674 Availability of logs and records.

See §§ 73.1225 and 73.1850.

74. Section 73.675 is amended to read as follows:

§ 73.675 Operation during emergency.

See § 73.1250.

75. Section 73.678 is amended to read as follows:

§ 73.678 Extension meters.

See § 73.1550.

76. Section 73.679 is amended to read as follows:

§ 73.679 Personal attacks; political editorials.

See §§ 73.1910, 73.1920 and 73.1930.

77. New § 73.1225 is added to part 73, subpart H, to read as follows:

§ 73.1225 Station inspections by FCC.

(a) The licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station's business hours, or at any time it is in operation.

(b) In the course of an inspection or investigation, an FCC representative may require special equipment tests, program tests or operation with nighttime or presunrise facilities during daytime hours pursuant to § 0.314, Part 1, of the FCC rules.

(c) The following logs and records shall be made available upon request by representatives of the FCC:

(1) *For AM stations.* (i) Program, operating and maintenance logs.

(ii) Equipment performance measurements required by § 73.47.

(iii) Copy of the most recent antenna resistance or commonpoint impedance measurements submitted to the Commission.

(iv) Copy of the most recent field strength measurements made to establish performance of directional antennas required by § 73.151.

(v) Copy of the partial and skeleton directional antenna proofs of performance as directed by § 73.154 and made pursuant to the following requirements:

(A) Section 73.67, Remote control operation.

(B) Section 73.68, Sampling systems for antenna monitors.

(C) Section 73.69, Antenna monitors.

(D) Section 73.93, Operator requirements.

(vi) Chief operator agreement; and contracts with first-class operators employed part time for maintenance duties.

(2) *For FM stations.* (i) Program, operating and maintenance logs.

(ii) Equipment performance measurements required by §§ 73.254 and 73.554.

78. New § 73.1226 is added to part 73, subpart H, to read as follows:

§ 73.1226 Availability to FCC of station logs and records.

The following shall be made available to any authorized representative of the FCC upon request:

(a) Station records and logs shall be made available for inspection or duplication at the request of the FCC or its representative. Such logs or records may be removed from the licensee's possession by an FCC representative or, upon request, shall be mailed by the licensee to the FCC by either registered mail, return receipt requested, or certified mail, return receipt requested. The return receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. A receipt shall be furnished when the logs or records are removed from the licensee's possession by an FCC representative and this receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. When the FCC has no further need for such records or logs, they shall be returned to the licensee. The provisions of this rule shall apply solely to those station logs and records which are required to be maintained by the provisions of this Chapter.

(b) Where records or logs are maintained as the official records of a recognized law enforcement agency and the removal of the records from the possession of the law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency promptly certifies in writing to the FCC that removal of the logs or records will hinder law enforcement activities of the agency, stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records will be released to the FCC.

(c) The following contracts, agreements, or understandings, which need not be filed with the FCC (per § 1.613, Filing of contracts), shall be kept at the station and made available for inspection by any authorized representative of the FCC upon request: Contracts relating to the sale of broadcast time to "time brokers" for resale; subchannel leasing agreements for subsidiary communications authorization operation; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs, and special events) broadcast pursuant to the contract is not under control of the station; and contracts with the chief operators and other engineering personnel.

(iii) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties.

(3) *For TV stations.* (i) Program, operating and maintenance logs.

79. New § 73.1230 is added to subpart H, part 73, to read as follows:

§ 73.1230 Posting of station and operator licenses.

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter. At all other control or ATS monitoring and alarm points a photocopy of the station license and other authorizations shall be posted.

(b) The operator license or form 759 (verification of operator license or permit) of each station operator employed full-time or part-time or via contract, shall be permanently posted and shall remain posted so long as the operator is employed by the licensee. The operator license shall be posted where the operator is on duty, either:

(1) At the transmitter; or

(2) At the extension meter location; or

(3) At the remote control point, if the station is operated by remote control; or

(4) At the monitoring and alarm point, if the station is using an automatic transmission system.

(c) Posting of the operator licenses and the station license and any other instruments of authorization shall be done by affixing the licenses to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.

80. New § 73.1250 is added to subpart H, part 73, to read as follows:

§ 73.1250 Broadcasting emergency information.

(a) Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to the following: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders and school closings and changes in school bus schedules resulting from such conditions.

(b) If requested by responsible public officials, a station may, at its discretion, and without further FCC authority, transmit emergency point-to-point messages for the purpose of requesting or dispatching aid and assisting in rescue operations.

(c) If the Emergency Broadcast System (EBS) is activated for a national level emergency while a local or State level emergency operation is in progress, the national level EBS operation shall take precedence. If, during the broadcasting of local or State emergency information, the attention signal described in § 73.906 is used, the broadcasts are considered as being carried out under a State level or local level EBS operational plan.

(d) Any emergency operation undertaken in accordance with this section may be terminated by the FCC if required in the public interest.

(e) Immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC in Washington, D.C., setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the noncommercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

(f) AM stations may, without further FCC authority, use their full daytime facilities during nighttime hours to broadcast emergency information (examples listed in paragraph (a) of this section), when necessary to the safety of life and property, in dangerous conditions of a general nature and when adequate advance warning cannot be given with the facilities authorized. Because of skywave interference impact on other stations assigned to the same channel, such operation may be undertaken only if regular, unlimited-time service, is non-existent, inadequate from the standpoint of coverage, or not serving the public need. All operation under this paragraph must be conducted on a non-

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commerical basis. Recorded music may be used to the extent necessary to provide program continuity.

(g) Broadcasting of emergency information shall be confined to the hours, frequencies, powers and modes of operation specified in the station license, except as otherwise provided for AM stations in paragraph (f) of this section.

(h) Any emergency information transmitted by a TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV stations may use any method of visual presentation which results in a legible message conveying the essential emergency information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when emergency operation is being conducted under a national, State or local level Emergency Broadcast System (EBS) plan, emergency information shall be transmitted both aurally and visually.

81. New § 73.1550 is added to subpart H, part 73, to read as follows:

§ 73.1550 Extension meters.

(a) A broadcast station may, without further authority from the FCC, install and use extension meters and monitoring devices provided:

(1) The transmitter is in the same building as the normal operating location of the station's licensed operator and is no more than one floor above or below the normal operating location.

(2) The path from the normal operating location to the transmitter is no longer than 100 feet and provides the operator with ready access to the transmitter.

(3) The required extension meters and monitoring devices are sufficiently close to the operator's normal operating location that deviations from normal indications of such instruments can be observed from that location.

(4) The transmitter is installed and protected so it is not accessible to unauthorized persons.

(5) Each extension meter or monitoring device required for the type of station, pursuant to paragraph (b) of this section, shall continuously sample the parameter for which it is installed and constantly indicate that parameter.

(6) Installation and operation of these meters shall be in accordance with the requirements prescribed for their corresponding regular meters and monitoring devices.

(7) Devices used for obtaining extension meter indications do not affect the accuracy of their corresponding regular meters.

(b) Extension metering and monitoring devices shall be installed as follows:

(1) *AM stations.* (i) Meters for indicating the DC input power of the last radio frequency power amplifier stage of the transmitter.

(ii) A meter for indicating non-directional antenna current or directional antenna common point current.

(iii) The modulation monitor or a percentage modulation meter and peak indicating device which provides continuous and accurate indications of the modulation levels.

(iv) For stations using directional antenna systems, either the antenna monitor or external meters meeting the specifications for accuracy and repeatability prescribed for the monitor itself.

(2) *FM stations operating with transmitter output power more than 10 watts.* (i) Meters for indicating the DC input power to the last radio frequency power amplifier stage of the transmitter.

(ii) A meter for indicating the relative transmission line voltage, current or power.

(iii) The modulation monitor or a percentage modulation meter and peak indicating device which provide continuous and accurate indications of total modulation levels.

(3) *FM stations operating with transmitter power of 10 watts or less.* (i) An indicator to show when the transmitter is in operation.

(ii) A percentage modulation indicator or a calibrated program level meter from which a satisfactory indication of the percentage of modulation can be determined.

(4) *TV stations.* (i) Meters for indicating the DC input power to the last radio frequency power amplifier stages for the aural and visual transmitters.

(ii) Meters for indicating the relative transmission line voltage, current or power for the aural and visual transmitters.

(iii) The aural modulation monitor or a percentage modulation meter and peak indicating device which provide continuous and accurate indications of modulation levels.

(iv) Visual monitoring equipment suitable for monitoring the visual signal so that it may be maintained in accordance with the FCC requirments.

(c) The extension meters required, pursuant to paragraph (b) of this section, must be calibrated against their corresponding regular meters as often as necessary to insure their accuracy, but in no event less than once each week, and

(1) The results of such calibrations shall be entered in the station's maintenance log.

(2) In no event shall an extension meter be calibrated against another remote or extension meter.

(3) Each extension meter shall be accurate to within 2 percent of the value read on its corresponding regular meter.

(4) For AM stations, such calibrations shall be made for each mode of operation.

(d) If a malfunction of any component of the extension metering or monitoring system causes inaccurate readings, the following procedures shall apply:

(1) *All stations.* If the malfunction affects the meters for indicating the DC input power to the last radio stage of the transmitter power amplifier, the indications must be read at the transmitter and entered in the operating log at the same intervals. If the malfunction affects the extended indications of the modulation monitor (aural) the licensee shall, pending repair or replacement, provide other suitable means for monitoring modulation at the extended meter location.

(2) *AM stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the antenna or common point current indications, the regular antenna or common point ammeter may be read and the indications entered in the operating log once daily for each mode of operation pending the return to service of the extension antenna or common point ammeter. If the malfunction affects the extended indications of the directional antenna monitor, the pertinent entries required in the operating log must be read and logged at the specified intervals at the monitor location.

(3) *FM stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the transmission line meter, the indications must be read at the transmitter and entered in the operating log at the same intervals.

(4) *TV stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the transmission line meter(s), indications must be read at the transmitter and entered in the operating log at the same intervals. If the malfunction affects the indications of the visual monitoring equipment, the licensee shall, pending repair or replacement, provide other suitable means for monitoring the visual modulation at the extension meter location.

(e) When a malfunction in the extension metering or monitoring equipment is detected, an appropriate entry shall be made in the station's maintenance log showing the date of the observance and identifying the indicating device(s) affected. A dated entry shall also be made when repair or replacement is completed. If a malfunc-

tioning component cannot be repaired or replaced within 60 days from the date faulty operation is detected, the Engineer in Charge of the radio district in which the station is located shall be notified and request made for such additional time as is needed to complete the necessary repairs or replacement.

82. New § 73.1650 is added to subpart H, part 73, as follows:

§ 73.1650 International broadcasting agreements.

(a) *AM broadcast station agreements.* (1) The U.S.A. is signatory to the North American Broadcasting Agreement (NARBA) with the Bahama Islands and Jamaica, Canada, Cuba and the Dominican Republic.

(2) The U.S.A. and Mexico are signatories to a separate agreement (U.S./Mexican Agreement).

(3) The U.S.A. has separate, bilateral agreements with Canada, Mexico and the Bahama Islands pertaining to presunrise authority.

(b) *FM broadcast stations agreements.* The U.S.A. is a signatory to separate, bilateral agreements concerning FM broacast stations with the governments of Canada and Mexico.

(c) *TV broadcast station agreements.* The U.S.A. is signatory to separate, bilateral agreements concerning TV broadcast stations with the governments of Canada and Mexico.

(d) All AM, FM and TV broadcast stations agreements to which the U.S.A. is a signatory are available for inspection in the Office of the Chief, Broadcast Bureau of the FCC in Washington, D.C. Copies may be ordered from the FCC copy contractor. The contractor is:

Downtown Copy Center, 1114 21st Street NW., Washington, D.C. 20037.

83. A new undesignated headnote, OPERATING HOURS, is added to subpart H, immediately preceding § 73.1700, Broadcast Day.

OPERATING HOURS

84. New § 73.1700 is added to subpart H, part 73, to read as follows:

§ 73.1700 Broadcast day.

The term "broadcast day" means that period of time between the station's sign-on and its sign-off.

85. New § 73.1705 is added to subpart H, part 73, to read as follows:

§ 73.1705 Time of operation.

(a) Commercial and noncommercial educational TV and commercial FM stations will be licensed for unlimited time operation. Application may be made for voluntary share-time operation.

(b) Noncommercial educational FM stations will be licensed for unlimited and share time operation according to the provisions of § 73.561.

(c) AM stations will be licensed for unlimited time, limited time, daytime, share time or specified hours.

86. New § 73.1710 is added to subpart H, part 73, to read as follows:

§ 73.1710 Unlimited time.

Operation is permitted 24 hours a day.

87. New § 73.1715 is added to subpart H, part 73, to read, as follows:

§ 73.1715 Share time.

Operation is permitted by two or more broadcast stations using the same channel in accordance with a division of hours mutually agreed upon and considered part of their licenses.

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in triplicate original with each application to the FCC in Washington, D.C. for renewal of license. If and when such written agreements are properly filed in conformity with this section, the file mark of the FCC will be affixed thereto, one copy will be retained by the FCC, one copy forwarded to the engineer in charge of the radio district in which the station is located, and one copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.

(b) If the licensees of stations authorized to share time are unable to agree on a division of time, the FCC in Washington, D.C. shall be so notified by a statement filed with the applications for renewal of licenses. Upon receipt of such statement, the FCC will designate the applications for a hearing and, pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

(c) A departure from the regular schedule in a time-sharing agreement will be permitted only in cases where an agreement to that effect is put in writing, is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the FCC in Washington, D.C. prior to the time of the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of written agreement, provided appropriate notice is sent to the FCC.

(d) If the license of an AM station authorized to share time does not specify the hours of operation, the station may be operated for the transmission of regular programs during the experimental period provided an agreement thereto is reached with the other stations with which the broadcast day is shared: *And further provided,* Such operation is not in conflict with § 73.72 (Operating during the experimental period). Time-sharing agreements for operation during the experimental period need not be submitted to the FCC.

(e) Noncommercial educational FM stations are authorized for share time operation according to the provisions of § 73.561.

88. New § 73.1720 is added to subpart H, part 73, to read as follows:

§ 73.1720 Daytime.

Operation is permitted during the hours between average monthly local sunrise and average monthly local sunset.

(a) The controlling times for each month of the year are stated in the station's instrument of authorization. Uniform sunrise and sunset times are specified for all of the days of each month, based upon the actual times of sunrise and sunset for the fifteenth day of the month adjusted to the nearest quarter hour. Sunrise and sunset times are derived by using the standardized procedure and the tables in the 1946 American Nautical Almanac issued by the United States Naval Observatory.

89. New § 73.1725 is added to subpart H, part 73, to read as follows:

§ 73.1725 Limited time.

(a) Operation is applicable only to class II (secondary) AM stations on a clear channel with facilities authorized before November 30, 1959. Operation of the secondary station is permitted during daytime and until local sunset if located west of the dominant station on the channel, or until local sunset at the dominant station if located east of that station. Operation is also permitted during nighttime hours not used by the dominant station or stations on the channel.

(b) No authorization will be granted for:

(1) A new limited time station;

(2) A limited time station operating on a changed frequency;

(3) A limited time station with a new transmitter site materially closer to the 0.1 mV/m contour of a co-channel U.S. class I station; or

(4) Modification of the operating facilities of a limited time station result

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ing in increased radiation toward any point on the 0.1mV/m contour of a co-channel U.S. class I station during the hours after local sunset in which the limited time station is permitted to operate by reason of location east of the class I station.

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the dominant station (or stations) on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule. It shall bear a signed notation by the licensee of the dominant station of its objection or lack of objection thereto. Upon approval of such operating schedule, the FCC will affix its file mark and return one copy to the licensee authorized to operate limited time. This shall be posted with the station license and considered as a part thereof. Departure from said operating schedule will be permitted only pursuant to §73.1715 (Share time).

(d) If the licensee of a secondary station authorized to operate limited time and a dominant station on a channel are unable to agree upon a definite time for resumption of operation by the station authorized limited time, the FCC in Washington, D.C. shall be so notified by the licensee of the station authorized limited time. After receipt of such notice, the FCC will designate for hearing the applications of both stations for renewal of license and, pending the hearing, the schedule previously adhered to shall remain in full force and effect.

90. New §73.1730 is added to subpart H, part 73, to read as follows:

§73.1730 Specified hours.

(a) Specified hours stations must operate in accordance with the exact hours specified in their license. However, such stations, operating on local channels, unless sharing time with other stations, may operate at hours beyond those specified in their licenses to carry special events programing. When such programs are carried during nighttime hours, the station's authorized nighttime facilities must be used.

(b) Other exceptions to the adherence to the schedule of specified hours of operation are provided in §73.72 (Operating during the experimental period), §73.1250 (Broadcasting emergency information) and §73.1740 (Minimum operating schedule).

91. New §73.1735 is added to subpart H, part 73, to read as follows:

§73.1737 Presunrise service authority (PSA).

Licensees of certain classes of AM stations are eligible to request presunrise service authority (see §73.99).

92. New §73.1740 is added to subpart H, part 73, to read as follows:

§73.1740 Minimum operating schedule.

(a) All commercial broadcast stations are required to operate not less than the following minimum hours:

(1) *AM and FM stations.* Two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m. local time and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local time, each day of the week except Sunday.

(i) Daytime AM stations need comply only with the minimum requirements for operation between 6 a.m. and 6 p.m., local time.

(2) *TV stations.* (i) During the first 36 months of operation, not less than 2 hours daily in any 5 broadcast days per calendar week and not less than a total of:

(A) 12 hours per week during the first 18 months.

(B) 16 hours per week during the 19th through 24th months.

(C) 20 hours per week during the 25th through 30th months.

(D) 24 hours per week during the 31st through 36th months.

(ii) After 36 months of operation, not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week.

(iii) Visual transmissions of test patterns, slides, or still pictures accompanied by unrelated aural transmissions may not be counted in computing program service (see §73.653).

(3) "Operation" includes the period during which the station is operated pursuant to temporary authorization or program tests, as well as during the license period.

(4) In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

(b) Noncommercial educational AM and TV stations are not required to operate on a regular schedule and no minimum hours of operation are specified; but the hours of actual operation during a license period shall be taken into consideration in the renewal of noncommercial educational AM and TV broadcast licenses. Noncommercial educational FM stations are subject to the operating schedule requirements according to the provisions of §73.561.

93. New §73.1745 is added to subpart H, part 73, to read as follows:

§73.1745 Unauthorized operation.

(a) No broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part.

(b) Any unauthorized departure from an operating schedule which is required to be filed with the FCC in Washington, D.C., will be considered as a violation of a material term of the license.

94. New §73.1750 is added to subpart H, part 73, to read as follows:

§73.1750 Discontinuance of operation.

The licensee of each station shall notify the FCC in Washington, D.C., and the Engineer in Charge of the radio district where such station is located of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the Washington, D.C., office of the FCC for cancellation.

95. New §73.1800 is added to subpart H, part 73, to read as follows:

§73.1800 General requirements relating to logs.

(a) The licensee of each station shall maintain program, operating and maintenance logs as set forth in §§73.1810, 73.1820, and 73.1830. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required. The person keeping the log must make entries that accurately reflect the operation of the station. In the case of program and operating logs, the employee shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each. In the case of maintenance logs, the employee shall sign the log upon completion of the required maintenance and inspection entries. When the employee keeping a program or operating log signs it upon going off duty or completing maintenance log entries, that person attests to the fact that the log, with any corrections or additions made before it was signed, is an accurate representation of what transpired.

(b) The logs shall be kept in an orderly and legible manner, in suitable form and in such detail that the data required for the particular class of station concerned are readily available. Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., e.d.t.) or non-advanced time (e.g., e.s.t.).

(c) Any necessary corrections of a manually kept log after it has been signed in accordance with paragraph (a) of this section shall be made only by striking out the erroneous portion and making a corrective explanation on the log or attachment to it. For program logs, such corrections shall be dated and signed by the person who kept the log or the program director, or the station manager or an officer of the licensee. For operating and maintenance logs, such corrections shall be dated and signed by the person who kept the log or the station technical supervisor, the station manager, or an officer of the licensee.

(d) No automatically kept log shall be altered in any way after entries have been recorded. When automatic logging processes fail or malfunction, the log must be kept manually for that period and in accordance with the requirements of this section.

(e) No log, or portion thereof, shall be erased, obliterated or willfully destroyed during the period in which it is required to be retained. (Section 73.1840, Retention of logs.)

(f) Entries shall be made in the logs as required by §§73.1810, 73.1820 and 73.1830. Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the FCC's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(g) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the licensee.

(h) Application forms for licenses and other authorizations require that certain operating and program data be supplied. These application forms should be kept in mind in connection with maintenance of station program and operating records.

96. New §73.1810 is added to subpart H, part 73, to read as follows:

§73.1810 Program logs.

COMMERCIAL STATIONS

(a) Commercial stations shall keep a program log in accordance with the provisions of §73.1800 for each broadcast day which, in this context, means from the station's sign-on to its sign-off.

(b) *Entries.* The following entries shall be made in the program log:

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once. The program units which the licensee wishes to count separately shall then be entered underneath the entry for the longer program, with the beginning and ending time of each such unit.

(iii) An entry classifying each program as to type, using the definitions given in paragraph (d)(1) of this section.

(iv) An entry classifying each program as to source, using the definitions set forth in paragraph (d)(2) of this section. (For network programs, also give name or initials of the network, e.g., ABC, CBS, NBC, Mutual.)

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidate.

(2) *For commercial matter.* (i) An entry identifying: The sponsor(s) of the program, the person(s) who paid for the announcement or the person(s) who furnished materials or services. The entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and §73.1212 of the FCC's rules. See paragraph (d)(3) of this section for the definition of commercial matter.

(ii) An entry or entries showing the total duration of commercial matter in each hourly time segment (beginning on the hour) or the duration of each commercial message (commercial continuity in sponsored programs, or commercial announcements) in each hour. See paragraph (d)(3)(ii) of this section concerning computation of commercial time.

(3) *For public service announcements.* An entry showing that a public service announcement (PSA) has been broadcast together with the name of the organization or interest on whose behalf it is made. See paragraph (d)(4) of this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required station identification announcement is made (pursuant to §73.1201).

(ii) An entry for each announcement presenting a political candidate, showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of §§1.580 (pregrant), 1.594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

(iv) An entry for each announcement made pursuant to §73.1208 concerning the broadcast of taped, filmed or recorded material.

(5) *For Emergency Broadcast System Operations.* An entry for tests of the EBS procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

(c) *National network programming.* A station broadcasting the programs of a national network which will supply it with all information as to such programs for the composite week need not log such data but shall record in its log the time when it joined the network, the name of each network program broadcast, the time it leaves the network, and any non-network matter broadcast which is required to be logged. The information supplied by the network for the composite week which the station will use in its renewal application, shall be retained with the program logs and associated with the log pages to which it relates.

(d) *Definitions.*—(1) *Program type.* The definitions of the first eight types of programs (i) through (viii), below, are intended not to overlap each other and will normally include all the various programs broadcast. Definitions (ix) through (xi) are subcategories and the programs classified thereunder will also be classified under one of the appropriate first eight types. There may also be further duplication within types (ix) through (xi) (e.g., a program presenting a candidate for public office, prepared by an educational institution, would be classified as public affairs (PA), political (POL) and educational institution (ED)).

(i) *Agricultural programs* (A) include market reports, farming or other information specifically addressed, or primarily of interest to the agricultural population.

(ii) *Entertainment programs* (E) include all programs intended primarily

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as entertainment, such as music, drama, variety, comedy, quiz, etc.

(iii) *News programs* (N) include reports dealing with current local, national, and international events, including weather and stock market reports; and commentary, analysis and sports news when an integral part of a news program.

(iv) *Public affairs programs* (PA) are programs dealing with local, State, regional, national, or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, editorials, political programs, documentaries, mini-documentaries, panels, roundtables, vignettes, and extended coverage (whether live or recorded) of public events or proceedings, such as local council meetings, congressional hearings and the like.

(v) *Religious programs* (R) include sermons or devotionals; religious news; and music, drama and other types of programs designed primarily for religious purposes.

(vi) *Instructional programs* (I) are primarily intended to instruct. They further the appreciation or understanding of such subjects as literature, music, fine arts, history, geography, the natural and social sciences, hobbies and occupations and vocations.

(vii) *Sports programs* (S) include play-by-play and pre-game or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instruction, etc.)

(viii) *Other programs* (O) include all programs not falling within definitions (i) through (vii).

(ix) *Editorials* (EDIT) include programs presented for the purpose of stating opinions of the licensee.

(x) *Political programs* (POL) include those which present candidates for political office or which give expressions (other than in station editorials) to views on such candidates or on issues subject to public ballot.

(xi) *Educational Institution programs* (ED) include those prepared by, in behalf of, or in cooperation with, educational institutions, educational organizations, libraries, museums, PTA's, or similar organizations. Sport programs shall not be included.

(2) *Program source.*—(i) *A local program* (L) is any program originated or produced by the station or for the production of which the station is primarily responsible, employing live talent more than 50 percent of the time. Such a program, taped, recorded or filmed for later broadcast, shall be classified as local. A local program fed to a network shall be classified by the originating station as local. Programs primarily featuring records, tapes, syndicated or feature film or other nonlocally recorded programs, shall be classified as recorded (REC) even though a station announcer appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local. For example, if during the course of a program featuring records or films, a nonnetwork 2-minute news report is given and logged as a news program, the report may be classified as local.

(ii) *A network program* (NET) is any program furnished to the station by a network (national, regional or special). Delayed broadcasts of programs originated by networks are classified as network.

(iii) *A recorded program* (REC) is any program not otherwise defined in this paragraph including, without limitation, those using recordings, tapes or films.

(3) *Commercial matter* (CM) includes commercial continuity (network and nonnetwork) and commercial announcements (network and nonnetwork) as follows: (Distinction between continuity and announcements is made only for definition purposes. There is no need to distinguish the two types of commercial matter when logging.)

(i) *Commercial continuity* (CC) is the advertising message of a program sponsor.

(ii) *A commercial announcement* (CA) is any other advertising message for which a charge is made, or other consideration is received. Included are bonus spots, trade-out spots, promotional announcements of a future program where consideration is received for such an announcement or where such announcement identifies the sponsor of a future program beyond mention of the sponsor's name as an integral part of the title of the program, and promotional announcements broadcast by any AM, FM or TV station for another commonly owned or controlled station serving the same community.

(iii) *Computation of commercial time:* Duration of commercial matter shall be as close an approximation to the time consumed as possible. The amount of commercial time scheduled will usually be sufficient. It is not necessary, for example, to correct an entry of a 1-minute commercial to accommodate varying reading speeds even though the actual time consumed might be a few seconds more or less than the scheduled time. However, it is incumbent upon the licensee to ensure that the entry represents as close an approximation of the time actually consumed as possible. For certain sponsored programs, it is difficult to measure the exact length of what would be considered as commercial matter, e.g., some sponsored religious and political programs. For such programs, the licensee is not required to compute the amount of commercial matter, but merely to log and announce the program as sponsored. This exception does nor apply to any program advertising commercial products or services, not to any commercial announcements.

(4) *Public service announcement* (PSA) in one for which no charge is made and which promotes programs, activities or services of Federal, State or local governments (e.g., recruiting, sales of U.S. Savings Bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g. UGF, Red Cross, Blood Donations, etc.) or any other announcements regarded as serving community interests.

NONCOMMERCIAL EDUCATIONAL STATIONS

(e) A program log for stations licensed or operating as noncommercial educational stations shall be kept in accordance with the provisions of § 73.1810 for each broadcast day, which, in this context means from the station's sign-on to its sign-off.

(f) *Entries:* The following entries shall be made in the program log:

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once. The program units which the licensee wishes to count separately shall then be entered underneath the entry for the longer program with the beginning and ending time of each such unit.

(iii) An entry classifying each program as to source using the definitions set forth in paragraph (h)(1) of this section. (For network programs, also give name or initials or network, e.g., PBS, NPR, etc.)

(iv) An entry classifying each program as to type, using the definitions set forth in paragraph (h)(2) of this section.

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidates.

(2) *For donor announcements.* An entry giving the name(s) of any donor(s) or person(s) furnishing money, service or other valuable consideration, in accordance with the provisions of §§ 73.503, 73.621, including Notes, and § 73.1212, respectively; and the entry shall constitute a representation that identification was announced on the air in accordance with

the provisions of those sections and section 317 of the Communications Act. As an alternative to giving the name, an entry of the word "Donor(s)" may be made, provided that the log shall clearly indicate that the name of the donor(s) or person(s) is retained in the station's public file. Such information for a given series of programs need be entered in the public file only once: *Provided,* The information is identical for each program in the series. The information shall be retained in the public file for a period of two years. Program logs submitted to the FCC must include a list of the names of donors indicated thereon.

(3) *For public service announcements.* An entry showing that a public service announcement (PSA) has been broadcast, together with the name of the organization or interest on whose behalf it is made. See paragraph (h)(3) of this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required station identification announcement is made pursuant to § 73.1201.

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of § 1.580 (pregrant) and § 1.594 (designation of hearing), showing the time it was broadcast.

(iv) An entry for each announcement made pursuant to § 73.1208 concerning the broadcast of taped, filmed or recorded material.

(5) *For emergency broadcast system operations.* An entry for each test of the EBS procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

(g) *Network programming.* A station broadcasting the programs of a network (see "network program," paragraph (h)(1)(iii) of this section) which will supply it with all information as to such programs necessary for the "full week of operation" (FCC form 342) need not log such data but shall record in its log the name of each network program broadcast, the time the program was broadcast (beginning and ending) and any non-network matter broadcast which is required to be logged. The information supplied by the network for the "full week" which the station will use in its renewal application shall be retained with the program logs and associated with the log pages to which it relates.

(h) *Definitions.*—(1) *Program source.*—(i) *A local program* (L) is any program originated or produced by the station or for the production of which the station is primarily responsible, employing live talent more than 50 percent of the time. Such a program, taped, filmed or recorded for later broadcast, shall be classified as local. A local program fed to the network shall be classified by the originating station as local.

(ii) *A record program* (REC) (radio only) is any program not falling within the definition of "local" above, which utilizes records, transcriptions or taped music, with or without commentary by a local announcer or other station personnel.

(iii) *A network program* (NET) is any program furnished to the station by a network (national, regional or special). Delayed broadcasts of programs originated by networks are classified as network.

(iv) *Other programs* (OTHER) are any programs not defined above, including, without limitation, syndicated and feature films, and taped or transcribed programs.

(2) *Program type.*—(i) *Instructional* (I) include all programs designed to be utilized by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers and college credit courses are examples of instructional programs.

(ii) *General educational* (GEN) is an educational program for which no formal credit is given.

(iii) *Performing arts* (A) is a program in which the performing aspect predominates such as drama or concert, opera or dance.

(iv) *News* (NS) programs include reports dealing with current local, national and international events, including weather and stock market reports; and commentary, analysis or sports news when an integral part of a news program.

(v) *Public affairs* (PA) includes programs dealing with local, state, regional, national or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, political programs, documentaries, mini-documentaries, panels, roundtables, vignettes and extended coverage (whether live or recorded) of public events or proceedings such as local council meetings, congressional hearings, and the like.

(vi) *Light entertainment* (LE) includes programs consisting of popular music or other light entertainment.

(vii) *Other* (O) includes all programs not falling within the definitions of Instructional, General Education, Performing Arts, News, Public Affairs or Light Entertainment. Sports programs should be reported as "Other."

(3) *Public service announcement* (PSA) is one which promotes programs, activities, or services of Federal, State or local governments (e.g., recruiting, sales of U.S. Savings Bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g., UGF, Red Cross, Blood Donations, etc.), or any other announcement regarded as serving community interest. See, however, §§ 73.503(d) and 73.621(e) with respect to the preclusion of announcements promoting the sale of a product or service.

ALL STATIONS, COMMERCIAL AND NONCOMMERCIAL

(i) *Manually kept logs.* Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are preprinted prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(j) *Automatically kept logs.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(k) *Automatic maintenace of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log

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shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature, when going off duty, constitutes a certification that the employee periodically checked the automatic maintenance of data equipment throughout the tour and to the best of his knowledge and belief it did not fail or malfunction, unless otherwise noted above the signature. The signature further certifies that any part of the log which was kept manually is an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the FCC or its duly authorized representative and submit it in written form, together with the underlying recording, tape or other means employed, within such time as the FCC may specify.

(1) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able to accurately furnish the FCC with all information required to be logged.

97. New § 73.1820. is added to subpart H, part 73, to read as follows:

§ 73.1820 Operating logs.

(a) Entries shall be made in the operating log either manually by a properly licensed operator in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section. Indications of operating parameters shall be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications shall be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by modulation of the carrier shall be read without modulation. The actual time of observation shall be included in each log entry. The following information must be entered.

(1) *All stations:* (i) Entries of the time the station begins to supply power to the antenna and the time it ceases to do so.

(ii) Entries required by § 17.49(a), (b) and (c) of this chapter concerning the time the tower lights are turned on and off each day if manually controlled, the time the daily check of proper operation of the tower lights was made if an automatic alarm system is not used, and any observed failure of the lighting system. See § 17.47(a) for daily tower lighting observation or automatic alarm system requirements.

(iii) Any entries not specifically required in this section, but required by the instrument of authorization or elsewhere in this part.

(iv) An entry of each test of the emergency broadcast system procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station program log.

(2) *AM stations.* (i) An entry at the beginning of operations and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used).

(B) Antenna current for nondirectional operation or common point current for directional operation.

(ii) The additional entries required by § 73.51(c)(2) when power is being determined by the indirect method.

(iii) For stations with directional antennas, the following additional indications shall be read and entered in the operating log at the time of commencement of operation in each mode and thereafter, at successive intervals not exceeding three hours in duration:

(A) Antenna monitor phase or phase deviation indications.

(B) Antenna monitor sample currents, current ratios, or ratio deviation indications.

(3) *FM stations.* (i) For each station licensed for transmitter output power greater than 10 watts, an entry, at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual reading observed prior to making any adjustments to the equipment and an indication of any corrections made to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used).

(B) RF transmission line meter readings when the transmitter operating power is determined by the direct method.

(4) *TV stations.* (i) An entry at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the aural transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used) if power of the aural transmitter is being determined by the indirect method.

(B) RF transmission line meter readings for visual transmitter, and also for the aural transmitter when the aural transmitter operating power is determined by the direct method.

(C) For remote control operation, the results of observations of vertical interval test signal (VIT) transmissions (see § 73.676(f)).

(b) Automatic devices accurately calibrated and with appropriate time, date and circuit functions may be utilized to record the entries in the operating log provided:

(1) The recording devices do not affect the operation of circuits or accuracy of indicating instruments of the equipment being recorded;

(2) The recording devices have an accuracy equivalent to the accuracy of the indicating instruments;

(3) The calibration is checked against the original indicators at least once each calendar week and the results noted in the maintenance log;

(4) Provision is made to actuate automatically an aural alarm circuit located near the operator on duty if any of the automatic log readings are not within the tolerances or other requirements specified in the rules or station license;

(5) The alarm circuit operates continuously or the devices which record each parameter in sequence must read each parameter at least once during each 30-minute period;

(6) The automatic logging equipment is located at the remote control point if the transmitter is remotely controlled, or at the transmitter location if the transmitter is manually controlled;

(7) The automatic logging equipment is located in the near vicinity of the operator on duty and is inspected periodically during the broadcast day. In the event of failure of malfunctioning of the automatic equipment, the employee responsible for the log shall make the required entries in the log manually at that time.

(8) The indicating equipment conforms to the requirements of § 73.1215 (Indicating instruments—specifications) except that the scales need not exceed 2 inches in length. Arbitrary scales may not be used.

(c) In preparing the operating log, original data may be recorded in rough form and later transcribed into the log.

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(d) If required by AM or FM station operator requirements, each completed operating log shall bear a signed notation by the station's designated chief operator of the results of the review of that log, and show the date and time of such review.

98. New § 73.1830 is added to subpart H, part 73, to read as follows:

§ 73.1830 Maintenance logs.

(a) The licensee of each broadcast station shall keep a maintenance log. Entries in the log shall be made by the holder of a radiotelephone first-class license (or the holder of a radiotelephone second-class license for noncommercial educational FM stations authorized to operate with a transmitter output power of 1 kilowatt or less), and shall reflect the results of maintenance procedures or of observations performed. The following information shall be entered.

(1) *All stations.* (i) An entry of the time and result of auxiliary transmitter test(s).

(ii) An entry of the calibration check of automatic logging devices when used under the provisions of § 73.1820 (Operating logs).

(iii) An entry of all carrier frequency measurements, including the date performed and description of method used as required by § 73.1540 (Carrier frequency measurements).

(iv) An entry of the results of calibration of extension meters used against their corresponding regular meters as required by § 73.1550 (Extension meters).

(v) An entry of the results of calibration of indicating instruments at each remote control point against the corresponding instruments at the transmitter site, as required by the rules for use of remote control (AM, § 73.67; FM, § 73.275; NCE-FM, § 73.573; and TV, § 73.676).

(vi) The entries required by § 17.49(d) of this chapter concerning quarterly inspections of the condition of tower lights and associated control equipment and entries when towers are cleaned or repainted as required by § 17.50 of this chapter.

(vii) An entry to describe fully any experimental operation pursuant to § 73.1510 (Experimental operation) and § 73.1520 (Operation for tests and maintenance).

(viii) An entry of the date and time of removal from and restoration to service of any of the following equipment in the event it becomes defective:

(A) Modulation monitor (aural).

(B) Any transmission system meter, the reading of which is required to be entered into the station operating or maintenance log.

(C) Devices for monitoring or generating the EBS Attention Signal.

(2) *AM stations.* In addition to the entires specified in subparagraph (a)(1) of this section:

(i) An entry of the calibration check of remote reading antenna and common point ammeters against their corresponding regular meters when used under the provisions of § 73.57, including the actual readings of the meters prior to and after calibration.

(ii) For stations using directional antennas, an entry of the calibration of the antenna monitor using procedures specified by the monitor manufacturer's instructions.

(iii) For stations using directional antennas, an entry of the result of field strength measurements made at the specified monitoring points if such measurements are required either by the terms of the station license or § 73.93(e)(4) (Operator requirements).

(iv) For stations using directional antennas, an entry of the following observations (made without modulation if readings are affected by modulation) for each directional radiation pattern. Observations must be made at least three days of each calendar week, not less than 44 hours, nor more than 76 hours, apart.

(A) Common point current.

(B) Base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization.

(C) Antenna monitor sample currents or current ratios and computed deviations of current ratios, in percent, from values specified in the station authorization.

(D) Antenna monitor phase indications and the deviations of those indications, in degrees, from values specified in the station authorization.

NOTE.—Direct control stations having a radiotelephone first-class operator on duty for all periods of directional antenna operation and having a station authorization permitting antenna base current readings at less frequent intervals than specified in this subparagraph, may make entries pursuant to the schedule specified in that authorization.

(v) Entries specified in § 73.68 (Sampling systems for antenna monitors) or § 73.69 (Antenna monitors), for stations using directional antennas, when the antenna sampling system or the antenna monitor is out of service.

(vi) A signed statement by the inspecting operator upon completion of the inspection required by § 73.93 showing that the inspection has been made. The statement shall include details of tests, adjustments and repairs which were accomplished in order to insure operation in accordance with the provisions of the technical operating standards for AM stations and the station authorization. If repairs could not be completed, include details of the items of equipment concerned, the manner and degree in which they are defective, and the reasons complete repairs could not be made.

(3) *FM stations.* In addition to the entries specified in paragraph (a)(1) of this section:

(i) For stations using the direct method of power determination, an entry for each six month period of the results of calibration of the transmission line meter used for determining operating power as specified for FM stations in § 73.267, or for NCE-FM stations, in § 73.567 (Operating power, determination and maintenance of).

(ii) For stations transmitting stereophonic programs, an entry each calendar month of measurements of the stereophonic pilot carrier frequency, including the date performed and description of the procedure used as specified for FM stations in § 73.397 or for NCE-FM stations in § 73.596.

(iii) For stations using SCA, an entry, once each calendar month, of the measurements of each subcarrier frequency, including the date performed and description of the procedure used as required by § 73.295 for FM stations or § 73.595 for NCE-FM stations (Operation under subsidiary communications authorizations).

(iv) A signed statement by the inspecting operator upon completion of the inspections specified in Operator requirements for FM stations in § 73.265 or for NCE-FM stations in § 73.565, showing that the inspection has been made. The statement shall include details of tests, adjustments and repairs which were accomplished in order to insure operation in accordance with the provisions of the technical operating standards for FM stations and the station authorization. If repairs could not be completed, include details of the items of equipment concerned, the manner and degree in which they are defective, and the reasons complete repairs could not be made.

(4) *TV stations.* In addition to the entries specified in paragraph (a)(1) of this section;

(i) An entry of the date and time of removal from and restoration to service of the visual modulation monitoring equipment.

(ii) An entry of the results of calibration of the transmission line meters used for determining the operating power as specified in § 73.689 (Operating power, determination and maintenance of).

(b) As entries of these maintenance procedures are made, the operator shall sign and date them. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

99. New § 73.1840 is added to subpart H, part 73, to read as follows:

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§ 73.1840 Retention of logs.

Logs of all stations shall be retained by the licensee for a period of 2 years. However, logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the FCC and about which the license has been notified, shall be retained by the licensee until specifically authorized in writing by the FCC to destroy them. Logs incident to or involved in any claim or complaint of which the licensee has notice shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

100. New § 73.1850 is added to Part 73, Subpart H, to read as follows:

§ 73.1850 Public inspection of program logs.

(a) The station program logs shall be made available for public inspection and reproduction at a location convient and accessible to the residents of the community to which the station is licensed. All such requests for inspection shall be subject to the procedural requirements in paragraph (b) of this section. Where good cause exists, the licensee may refuse to permit such inspection. (See paragraph 64, the Public and Broadcasting Procedural Manual.) The licensee shall remain responsible for the safekeeping of the logs when permitting inspections.

(b) The following procedural requirements apply to requests for inspection:

(1) Parties wishing to inspect shall make a prior appointment with the licensee and at that time identify themselves by name and address; identify the organization they represent, if any; and state the general purpose of the examinaion.

(2) Inspection of the logs shall take place at the station or at any other convenient and accessible location specified by the licensee. At its option the licensee may make an exact copy available in lieu of the original program logs.

(3) Copies of logs shall be available provided the inspecting party pays the reasonable cost of reproduction.

(4) An inspecting party shall have a reasonable time to examine the program logs. If examination is requested beyond a reasonable time, the licensee may condition such further inspection upon the inspecting party's willingness to either duplicate such logs at the examiner's expense, or reimburse the licensee for whatever reasonable expense is incurred if supervision is deemed necessary.

(5) No log need be made available for public inspection until 45 days have elapsed from the day covered by the log in question.

(6) In cases where the logging system used does not provide for a written program log, the licensee shall retain, subject to the above provisions, either copies of the station's pre-logs (operating schedules), which have been updated and certified correct, or recordation produced by an automatic maintenance of logging data device (i.e., tapes or encoded printouts). See § 73.1810 (Program logs).

101. New § 73.1910 is added to Subpart H, Part 73, to read as follows:

§ 73.1910 Fairness Doctrine.

The Fairness Doctrine is contained in section 315(a) of the Communications Act of 1934, as amended, which provides that broadcasters have certain obligations to afford reasonable opportunity for the discussion of conflicting views on issues of public importance. See FCC public notice "Fairness Doctrine and the Public Interest Standards," 39 FR 26372. Copies may be obtained from the FCC upon request.

102. New § 73.1920 is added to Subpart H, Part 73, to read as follows:

§ 73.1920 Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the persons or group attacked:

(1) Notification of the date, time and identification of the broadcast;

(2) A script or tape (or an accurate summary if a script or tape is not available) of the attack; and

(3) An offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable:

(1) To attacks on foreign groups or foreign public figures;

(2) To personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign on other such candidates, their authorized spokesmen or persons associated with the candidates in the campaign; and

(3) To bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event, including commentary or analysis contained in the foregoing programs.

(c) The provisions of paragraph (a) of this section shall be applicable to editorials of the licensee, except in the case of noncommercial educational stations since they are precluded from editorializing (section 399(a), Communications Act).

103. New § 73.1930 is added to subpart H, part 73, to read as follows:

§ 73.1930 Political editorials.

(a) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to, respectively, (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial, (A) notification of the date and the time of the editorial, (B) a script or tape of the editorial and (C) an offer of a reasonable opportunity for the candidate or a spokesman of the candidate to respond over the licensee's facilities. Where such editorials are broadcast within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

(b) Inasmuch as noncommercial educational stations may not engage in editorializing nor may support nor oppose any candidate for political office (section 399(a), Communications Act), the provisions of paragraph (a) of this section, do not apply to such stations.

104. Section 73.1940 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 73.1940 Broadcasts for candidates for public office.

* * * * * * *

(g) *General requirements.* (1) Except as otherwise indicated in paragraph (g)(2) of this section, no station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such licensee shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any (i) bona fide newscast, (ii) bona fide interview, (iii) bona fide documentary (if the appearance of the candidate is incidental to the presentation of the subject covered by the news documentary), or (iv) on-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a broadcasting station. (Section 315(a) of the Communications Act.)

(2) Section 312(a)(7) of the Communications Act provides that the Commission may revoke any station license or construction permit for willful or repeated failure to allow reasonable access to, or to permit purchase of, reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(h) *Political broadcasting primer.* A detailed study of these rules regarding broadcasts by candidates for Federal and non-Federal public office is available in the FCC public notice of July 20, 1978, "The Law of Political Broadcasting and Cablecasting." Copies may be obtained from the FCC upon request.

APPENDIX B

1. Part 73 is amended with the following revised "Alphabetical Index of Rules Titles—Part 73." This index contains all rule revisions adopted in Reregulation Order FCC 78-681, mimeo: 4013.

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[1] See subpart G.

[FR Doc. 78-27874 Filed 10-3-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S. O. No. 1332]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Second Revised Service Order No. 1332.

SUMMARY: There are severe shortages of freight cars throughout the country. Revised Service Order No. 1332 requires all railroads to place, remove, forward, weigh, clean, or repair cars within 60 hours in order to expedite the handling of freight cars and to increase their availability for reloading. Gondola cars, flatcars, and boxcars with mechanical designations LC and LU are removed from the order. The expiration date of the

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order is extended until November 30, 1978.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: September 27, 1978.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1332 Second Revised Service Order No. 1332.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on page 1167-1169 under the headings: "Class 'X'—Box Car Type," "Class 'H'—Hopper Car Type," and those special type cars described under the heading "Class 'L'—Special Car Type" which bear mechanical designation "LO"—Covered Hopper Car.

(iii) *Exception.* Empty cars owned by the Alaska Railroad, while held in the State of Washington, pursuant to instructions of the carowner, are exempt from the provisions of this order.

(iv) *Exception.* Empty cars of private ownership reported and awaiting instructions from the carowner, are exempt from the provisions of this order.

(v) *Exception.* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, with a copy to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C. 20036.

(vi) *Exception.* Cars held less than 7 days because daily train or switching service required for movement from point where held is not scheduled, are exempt from the provisions of this order.

(vii) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(viii) Holidays shall be those listed in item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(ix) *Definitions.* System cars are cars bearing the registered reporting marks of the railroad holding the cars, including any railroad identified as a component part of a system of railroads as defined in the list of "Home Roads" published on page 1112 of the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof. Foreign cars are cars bearing the registered reporting marks of a railroad other than the one holding the cars neither of which is listed in the list of "Home Roads" as being a part of the same system. Private cars are cars bearing the registered reporting marks of a company or person other than a railroad.

(x) *Records required.* Carriers shall maintain a written record showing for each car the actual date and time of arrival, forwarding placement, notice, release, removal, designation for repairs, cleaning or weighing, and completion of repairs, cleaning, or weighing. It is not intended that carriers make and maintain duplicative records in order to comply with this section. Compliance can be made by augmenting existing records so that they contain all of the required information, but such records shall be maintained at the yard or station where such cars are held, or if held at a nonagency station, at the station responsible for such nonagency station.

(2) *Placing of cars.* (i) Loaded cars other than cars requiring notice of constructive placement, shall be placed within 60 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty foreign and private cars, other than cars requiring notice of constructive placement, which after placement will be subject to demurrage, storage, or detention rules applicable to cars for loading, shall be placed within 60 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, and cars subject to storage rules applicable to assigned cars, shall be placed on hold, or inspection, tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage, detention or storage charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 60 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 60-hour period. Empty foreign or private cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 60 hours following removal of empty cars. Empty system cars not required for loading may be held on carrier tracks at any point on the lines of the carowner, after completion of any light repairs, cleaning or weighing that may be required. (See pt. (5) of this section.)

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 60 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipper instructions covering the cars.

(iii) Cars subject to parts (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of rules 14 and 27 of the Uniform Freight Classification, ICC 9, issued by G. F. Earl, supplements thereto, or reissues thereof.

Exception. Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty: *Provided,* That proper shipper instructions are received by the carrier prior to 5 p.m., of the first day which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) *Forwarding of cars.* (i) Loaded cars and empty foreign or private cars shall be forwarded within 60 hours, except cars described in parts (ii) or (iii) of this section, or cars described in part (ii) of section (2).

(ii) *Exception.* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception.* Cars held for repairs, weighing, or cleaning. (See sec. (5).)

(5) *Cars held for repairs, weighing, or cleaning.* (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks within 60 hours after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restenciled, if required, within 60 hours, exclusive of Sundays and holidays, after it becomes available for weighing at the point at which weighing is to be accomplished.

(iv) Cars which have been repaired, cleaned, or weighed shall become subject to sections 2, 3, or 4, as applicable, from the date such repairs, cleaning, or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Backhauling cars for the purpose of increasing the time in transit is prohibited.

(iii) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(iv) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(7) *Force majeure defence protected.* Nothing in this order shall deny any carrier its defense of force majeure as construed by the courts.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 11:59 p.m., September 30, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission:

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission. Commissioners O'Neal, Christian, Brown, Stafford, Gresham, and Clapp.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28049 Filed 10-3-78; 8:45 am]

[7035-01]

[Amdt. No. 1 to service order No. 1324]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co. Authorized to Operate Over Tracks of Burlington Northern Inc.

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order amendment No. 1 to service order No. 1324.

SUMMARY: The line of the Chicago, Rock Island & Pacific Railroad between Eldon, Iowa, and Keokuk, Iowa has become inoperable because of track conditions. An alternative route between Keokuk and other stations on the Chicago, Rock Island & Pacific exists by use of the tracks of the Burlington Northern between Keokuk and Burlington, Iowa. Service order No. 1324 authorizes the Chicago, Rock Island & Pacific to operate over these tracks of the Burlington Northern in order to provide continued railroad service to shippers served by the Chicago, Rock Island & Pacific at Keokuk. Service order No. 1324 is published in full in volume 43 of the FEDERAL REGISTER at page 19395. Amendment No. 1 extends the order until March 31, 1979.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Upon further consideration of service order No. 1324 (43 FR 19395), and good cause appearing therefor:

It is ordered service order No. 1324 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

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§ 1033.1324 Service Order No. 1324.

(a) *Chicago, Rock Island & Pacific Railroad Co., authorized to operate over tracks of Burlington Northern Inc.* • • •

• • • • • •

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28048 Filed 10-3-78; 8:45 am]

[7035-01]

[Amdt. No. 2 to Service Order No. 1321]

PART 1033—CAR SERVICE

Lenawee County Railroad Co., Inc., Authorized To Operate Over Tracks of Consolidated Rail Corp.

Decided: September 28, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 2 to service order No. 1321).

SUMMARY: The Lenawee County Railroad operates two separate lines of railroad in the vicinity of Grosvenor, Mich. Service order No. 1321 authorizes the Lenawee County Railroad to operate over 3.6 miles of a line of the Consolidated Rail Corp. between Lenawee Junction, Mich., and Grosvenor, Mich., which permits their single locomotive to serve both line segments. The order is printed in full in the FEDERAL REGISTER volume 43 at page 16341. The amendment extends this order until December 15, 1978.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Upon further consideration of service order No. 1321 (43 FR 16341 and 34150), and good cause appearing therefor:

It is ordered service order No. 1321 is amended by substituting the following paragraph (d) for paragraph (d) thereof:

§ 1033.1321 Service order No. 1321.

(a) *Lenawee County Railroad Co., Inc., authorized to operate over tracks of Consolidated Rail Corp.* • • •

• • • • • •

(d) Expiration date. The provisions of this order shall expire at 11:59 p.m., December 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28048 Filed 10-3-78; 8:45 am]

[7035-01]

[Second Revised Service Order No. 1315]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order revised service order No. 1315.

SUMMARY: Second revised service order No. 1315 establishes minimum periods for the detention of cars by shippers and receivers free of demurrage and increases demurrage charges for cars held beyond the free time. Class G-Gondola cars are removed from the order, and the expiration time is extended 2 months.

DATES: Effective 6:59 a.m., October 1, 1978. Expires 6:59 a.m., December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1315 Demurrage and free time on freight cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application:*

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC R.E.R. No. 408, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 inclusive, under the following headings:

"Class 'X'—Box Car Type," except mechanical designation 'XLI' and 'XT' XXX

"Class 'H'—Hopper Car Type"

"Class 'L'—Special Car Type" mechanical designation 'LO', covered hopper, only.

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) *Exception:* This order shall apply to cars while such cars are subject to section 1900, Items 1900-1950, inclusive, or to Section 2000, Items 2000-2005, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) *Exception:* This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) *Exception:* This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Tex., Laredo, Tex., Eagle Pass, Tex., Presidio, Tex., El Paso, Tex., Douglas, Ariz., XXXX, Nogales, Ariz., Calexico, Calif.

(vii) *Exception:* This order shall not apply to cars subject to items 710, 720, 725, 730, 740, 750, 755, 760, or 765 of General Car Demurrage Tariff 4-K ICC H-74, issued by D. M. Rogers, supplements thereto or reissue thereof.

(viii) *Exception:* The provisions of section 1400, items 1400-1440, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) *Exception:* Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and "forwarding directions" as defined in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in item 525 of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free time:* (i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in paragraphs (i) or (ii) of this section, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, detention, or storage charges—Cars not subject to average demurrage basis:* (i) After the expiration of the free-time period described in part (2) of this order, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

$10 per car per day, or fraction of a day, for each of the first two days.

$20 per car per day, or fraction of a day, for each of the next two days.

$30 per car per day, or fraction of a day, for each of the next two days.

$50 per car per day, or fraction of a day, for each subsequent day.

(ii) Except as provided in item 1225, General Car Demurrage Tariff 4-K, ICC H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday, or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in paragraph (i) of this section, the rates provided in such tariffs shall apply.

(4) *Cars subject to average demurrage basis:* (i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expiration of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charged for each of the first two days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of $20 per car per day, or fraction of a day, will be made for each of the next two days; $30 per car per day, will be made for each of the next two days; and $50 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(a) Purposes other than loading and unloading.

(b) Loading or unloading in intraplant switching service.

(iv) Credits cannot be earned by private cars subject to section 700, item 765, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged on such cars while under constructive placement may be offset by credits earned on other cars.

(v) At the end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and $10 per debit will be charged for the remainder. (See note). If the total number of debits are offset by credits through deduction at the above ratio of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

NOTE.—For the purpose of applying part (v) of this paragraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits ac-

xxx "Class 'G'—Gondola Car Type" eliminated.

xxxx Naco, Arizona, eliminated. No longer used for interchanges with Mexican railroads.

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cruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundredweight, per bushel, or other unit of measure, for all freight held in cars, in excess of the free-time periods provided in paragraph (2) herein.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of arrival, constructive placement, etc.:* (i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival or constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Part 1, Section 22 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.* (1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in paragraph (1) of this section has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by paragraph (1) of this section shall not be deemed as nullifying the requirements of sections (a) and (b) of this order.

(d) Effective date. This order shall become effective at 7 a.m., October 1, 1978.

(e) Expiration date. This order shall expire at 6:59 a.m., December 1, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28082 Filed 10-3-78; 8:45 am]

[7035-01]

[Service Order No. 1290, Amdt. No. 2]

PART 1033—CAR SERVICE

Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, amendment No. 2 to service order No. 1290.

SUMMARY: Service order No. 1290 authorizes the Chesapeake & Ohio Railway to operate over tracks of Consolidated Rail Corp. between Hallett, Ohio, and Walbridge, Ohio, to avoid congestion on the tracks of the Toledo Terminal Railroad Co., formerly used by the Chesapeake & Ohio to traverse this territory. Service order No. 1290 is published in full in volume 42 of the FEDERAL REGISTER at page 63890. Amendment No. 2 to service order No. 1290 extends this order for 6 months.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: September 28, 1978.

Upon further consideration of service order No. 1290 (42 FR 63890 and 43 FR 14021), and good cause appearing therefor:

It is ordered, That § 1033.1290 *The Chesapeake & Ohio Railway Co. authorized to operate over tracks of Consolidated Rail Corp.,* service order No. 1290 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

EFFECTIVE DATE: This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28040 Filed 10-3-78; 8:45 am]

[7035-01]

[Service Order No. 1329, Amdt. No. 1]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, amendment No. 1 to service order No. 1329.

SUMMARY: Because of damage to a bridge on its line the Chicago & North Western Transportation Co. is unable to operate to or from Livermore, Iowa. Several shippers served by that line require continued rail service. Service order No. 1329 authorizes the Chicago, Rock Island & Pacific Railroad to operate over tracks of the Chicago & North Western Transportation Co. in Livermore, in order to provide urgently needed railroad service to these shippers. Service order No. 1329 is published in full in volume 43 of the FEDERAL REGISTER at page 26581. Amendment No. 1 extends this order for 6 months.

DATES: Effective 12:01 a.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: September 28, 1978.

Upon further consideration of service order No. 1329 (43 FR 26581), and good cause appearing therefor:

It is ordered, That § 1033.1329 *Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western transportation Co.,* service order No. 1329 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

EFFECTIVE DATE: This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28041 Filed 10-3-78; 8:4.. am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—HUNTING

Opening of Wildlife Management Areas 10 and 11 to Public Pheasant Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will supply additional recreational opportunities to the public.

DATES: October 21, 1978 through December 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551, or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; hunting ringnecked pheasant; for individual wildlife refuge areas.

Public hunting of cock ringneck pheasant on the Lacreek National Wildlife Refuge, S. Dak., is permitted in those parts of wildlife management areas 10 and 11 (2,800 acres) delineated on maps available at designated parking areas, at Refuge Headquarters, Martin, S. Dak. 57551 and at the U.S. Fish and Wildlife Service, Area Office, Pierre, S. Dak. 57501, and not designated closed. Hunting shall be according to State and Federal regulations governing the hunting of cock pheasants subject to the following special conditions:

a. The hunting of other than cock pheasant is prohibited.

b. Designated hunting access and parking sites will be available. Entering and parking at other sites will be prohibited.

c. Hunting will be allowed only by special permit/report forms available at designated parking sites.

The provisions of this special regulation supplements the regulations which governs hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. fish and Wildlife Service had determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

ROLF H. KRAFT,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

[FR Doc. 78-27937 Filed 10-3-78; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

Compensation for Damage Caused by Foreign Vessels in the Fishery Conservation Zone

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Final regulations.

SUMMARY: The National Marine Fisheries Service previously proposed, and is now adopting, regulations to govern section 10 ("Section 10") of the Fishermen's Protective Act of 1967, as amended (the "Act"). Section 10 provides a program to compensate domestic fishermen who have suffered vessel or gear damage, loss, or destruction as the result of foreign vessel operations in the U.S. Fishery Conservation Zone (and beyond, in appropriate instances).

EFFECTIVE DATE: Immediately October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Services Division, or Kathryn E. Hensley, Financial Assistance Specialist, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7496.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 18, 1977, the Act was amended by adding a new section 10 (Pub. L. 95-194). Section 10 authorizes the establishment of a loan program for domestic fishermen whose fishing vessels or gear were damaged, lost, or

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destroyed as the result of foreign vessel operations. The program will apply to incidents occurring in the geographical area defined in these regulations as the "fishermen's protective zone" (which consists of the fishery conservation zone ("FCZ") established by the Fishery Conservation and Management Act of 1976 and an area beyond the FCZ in appropriate instances).

The proposed regulations published May 11, 1978, set forth procedures and standards for the loan program authorized by section 10. Rules governing the Act currently appear at 50 CFR 258.1 through 258.9. 50 CFR will be amended to include regulations governing section 10 by adding a new heading "Subpart A" for the Act's existing regulations (§§ 258.1 through 258.9) and adding a new "Subpart B" for these rules implementing section 10.

Section 10 authorizes the Secretary of Commerce (the "Secretary") to make low-interest loans to eligible fishermen after making a determination that the eligibility and evidentiary criteria of section 10 relating to the lost, destroyed, or damaged property have been met. After making the loan, the Secretary is directed to investigate the circumstances of the incident resulting in the compensated loss, damage, or destruction and determine whether the loan will continue according to its original terms, be canceled, or be repaid over a shortened time period.

This rulemaking governs: (1) Eligibility for the program, (2) evidence to be submitted with loan applications, (3) procedures for making loans, (4) guidelines for determining the amount of the loan, (5) procedures and standards by which the Secretary will determine whether to modify or cancel loans, and (6) loan repayment and cancellation requirements.

One section governing the Government's disposition of rights assigned to it by loan recipients is being reserved for a proposal of rules to be made at a later time.

COMMENTS

Response to the proposal for comments on these rules questioned the need for three estimates of the purchase price of replacement gear. The requirement for those estimates was retained, since this will tend to assure the reasonability of estimates upon which the Secretary will determine loan amounts.

A 60-day time requirement was suggested for loan processing (approval/denial) and a 30-day time requirement for notification of preliminary determination of fault. This suggestion was not incorporated since time constraints could result in an incomplete review of applications. All claims will be processed as promptly as circumstances permit. If a loan is approved, disbursement of the proceeds will not be held pending determination of fault, but will be accomplished as soon as possible.

Another comment objected to a proposed loan fee. The Act allows the Secretary to charge a fee to cover the costs of administering this program. The loan fee will be retained. The proposed fee will probably be insufficient to cover the administrative costs and, in any event, appears to be reasonable in view of the expected costs in processing loan applications and the substantial benefits to claimants from section 10 assistance.

Another comment requested that damages resulting from lost income during the period in which claimant did not have use of the damaged, lost, or destroyed gear be included for compensation. A thorough review of the statute and its legislative history does not substantiate inclusion of these damages and that previously reserved section has been eliminated.

Another comment, requested whether payment could be made directly to loan recipients instead of suppliers. Payment will ordinarily be made directly to suppliers, but may be made to loan recipients if circumstances warrant.

Dated: September 28, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

50 CFR Part 258 is amended as follows:

1. Add a new heading "Subpart A—Seizures of U.S. Commercial Fishing Vessels" for §§ 258.1 through 258.9.

2. Add a new subpart B as follows:

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishermen's Protective Zone

Sec.
258.20 Purpose.
258.21 Definitions.
258.22 Eligibility.
258.23 Applications.
258.24 Approval of loan applications.
258.25 Terms and conditions of loans.
258.26 Determination of amount of loss, damage, or destruction.
258.27 Determination of fault.
258.28 Loan Repayment or cancellation.
258.29 Government collection. [Reserved]

AUTHORITY: Sec. 10, 91 Stat. 1413 (22 U.S.C. 1980).

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishermen's Protective Zone.

§ 258.20 Purpose.

This subpart provides rules and procedures for the granting, repayment, and cancellation of loans to owners and operators of U.S. commercial fishing vessels for the loss, damage, or destruction of their fishing vessles or gear caused by a vessel (or its crew or fishing gear) of a foreign nation operating in the Fishermen's Protective Zone.

§ 258.21 Definitions.

Unless the context otherwise requires, in this subpart:

(a) "Alternative claim" means any claim not made under this subpart which seeks compensation for the same loss, damage, or destruction of a fishing vessel or fishing gear as a claim under this subpart.

(b) "At fault" means negligence or willfulness, through action or inaction, causing the loss, damage, or destruction involved.

(c) "Fishermen's Protective Zone" means; (1) The area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured, (2) all areas in which U.S. Continental Shelf fishery resources are found, and (3) the area representing the migratory range of any species of anadromous fish of the United States; except that such area shall not extent within any foreign nation's territorial sea or fishery conservation zone (or the equivalent) to the extent that such sea or zone is recognized by the United States.

(d) "Foreign vessel" means a vessel of a foreign nation, its crew, or fishing gear.

(e) "Secretary" means the Secretary of Commerce or his or her designated representative.

(f) "Loan" means a loan under section 10 of the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1980).

§ 258.22 Eligibility.

(a) *Applicants.* An applicant must be the owner or operator of a vessel which is used primarily for the commercial catching, processing, or transporting of fish or shellfish and which is either documented under the laws of the United States in the fisheries trade or certified or registered under

the laws of any political subdivision of the United States.

(b) *Loss, damage, or destruction.* The applicant's vessel or its fishing gear must have been lost, damaged, or destroyed after July 1, 1976, as a result of the operation of a foreign vessel (or its crew or gear) in the Fishermen's Protective Zone. The total amount of such loss, damage, or destruction must exceed $2,000, as determined by the Secretary under § 258.26.

(c) *Alternative claims.* Any applicant who has made an alternate claim shall not be eligible for a loan if the Secretary determines that the alternative claim is substantially resolved at the time of the application or at the time of the loan. An alternative claim shall be regarded as substantially resolved if, at the time of the application or loan, the alternative claim proceeding has resulted in compensation for the claimant (whether or not such compensation is less than the amount applied for under a loan application) or in a final denial of the claims.

(d) *Insurance.* An applicant's claim for such loss, damage, or destruction cannot be of such a nature as would ordinarily be covered under the collision clause, or other clauses, of a full hull and machinery policy of commercial insurance or under a full protection and indemnity of policy of commercial insurance.

§ 258.23 Applications.

(a) *Form.* Applications for loan shall be submitted to the Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, by the owner or operator of the vessel concerned. Each application must be in a form suitable to establish that the situation involved meets the eligibility criteria in § 258.22 and must include as attachments the affidavits and estimates referred to in this section.

(b) *Affidavit of vessel master.* Applications shall include an affidavit by the master of the applicant's vessel (or by different masters if more than one was involved during any material period) fully describing the circumstances before, during, and after the incident resulting in loss, damage, or destruction which states, among other things:

(1) Time, date, and locational coordinates (longitude and latitude) of the incident;

(2) Actions of the foreign vessel alleged to have caused the loss, damage, or destruction, before, during, and after the incident (if such actions were observed);

(3) Actions of the applicant's vessel or crew before, during, and after the incident, including a full description of circumstances involving deployment and retrieval of fishing gear (for example: time, date, locational coordinates, and circumstances of the gear's retrieval, and all attempts at retrieval);

(4) Description of the size, type, flag, identifying number, color of house or hull, or other identifying characteristics, including a photograph, if available, of the foreign vessel alleged to have caused the loss, damage, or destruction (if such vessel was observed);

(5) A full statement of the reasons for belief that the loss, damage, or destruction was caused by a foreign vessel rather than by: wind, weather, sea, or other natural conditions; defective gear; defective deployment (for example, means of fixing gear); defective retrieval (for example, means to have been used for relocating gear); or a domestic vessel;

(6) Names and statements of any material witnesses;

(7) Nature and extent of loss, damage, or destruction, including, if possible, photographs of the damage, even if taken after return to port; and

(8) Description of the property which was lost, damaged, or destroyed, including type, size, material of construction, number of units, and remaining economically useful life at the time of the incident.

(c) *Affidavit of owner or operator.* Applications shall include an affidavit from the owner or operator of the vessel or gear for which a claim is being made stating the date, cost, and place of acquisition of the property which was lost, damaged, or destroyed, as well as its age and remaining economically useful life when acquired, and shall attach, if available, a copy of the original invoice or bill of sale of the property concerned.

(d) *Estimates.* Applications shall include three estimates from commercial sources, acceptable to the Secretary, setting forth the replacement cost of the property concerned as well as its repair cost, if repairable.

(e) *Evidence of foreign vessels in the area.* Applications shall include documentation from the U.S. Coast Guard or National Marine Fisheries Service indicating all foreign vessels known to have been in the vicinity of the incident at any time after deployment of the gear lost, damaged, or destroyed and before its retrieval or attempted retrieval.

(f) *Other evidence.* The Secretary may, in his or her discretion, require further affidavits, other evidence, or supplementary information.

(g) *Application fee.* Applications shall be accompanied by a fee in the form of a check or money order made payable to "National Marine Fisheries Service" in the amount of $50. This fee shall not be refunded.

(h) *Time requirement.* After October 1, 1978, applications must be postmarked not later than 60 calendar days after the date the claimed loss, damage, or destruction occurred.

(i) *Abandoned applications.* As soon as practicable after receipt of an incomplete or improperly executed application, the applicant shall be notified by the National Marine Fisheries Service of any deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 calendar days following the date of notification, the application shall be considered abandoned.

§ 258.24 Approval of loan applications.

A loan may be made to the applicant, if the Secretary finds that:

(a) The eligibility requirements of § 258.22 are met;

(b) The application satisfies the requirements of § 258.23; and

(c) The Secretary reasonably determines that the claimed loss, damage, or destruction was caused, or could reasonably have been caused, by the operation of a foreign vessel in the Fishermen's Protective Zone.

§ 258.25 Terms and conditions of loans.

(a) *Loan amount.* The amount of a loan will equal the extent of the loss, damage, or destruction involved as determined under § 258.26.

(b) *Time period.* The terms of a loan shall not exceed the economically useful life of the vessel or gear acquired or repaired with the proceeds of the loan, and may, at the discretion of the Secretary, be for a shorter period of time.

(c) *Collateral.* Collateral for the loan shall be required at the discretion of the Secretary and may include a secured interest in the vessel or gear acquired or repaired with the proceeds of the loan. All loans will be evidenced by a promissory note payable to the Secretary from the owner of such vessel or gear.

(d) *Interest rate.* The interest rate for loans will be 3½ percentum per annum.

(e) *Loan fees.* A fee for granting the loan shall be charged and deducted from the proceeds of the loan. The amount of this fee shall be equal to the difference during the loan's first year between the loan's 3½ percent interest rate and the approximate cost of Government borrowings of about a 7-year maturity.

(f) *Payment.* The Secretary may require that the proceeds of a loan be escrowed and subsequently paid directly to the supplier of goods or services in connection with the replacement or repair of vessels or gear after the Secretary's receipt of all properly executed loan documents and upon presentation of proper invoices and authorizations to pay. Payment may be made to

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loan recipients if circumstances warrant.

(g) *Assignment.* Loan recipients shall assign, or agree to assign, to the Secretary any rights they might have to recover moneys or damages from any person for the loss, damage, or destruction for which a loan is made.

(h) *Repayment or cancellation.* Loans shall be repaid or canceled in accordance with § 258.28.

(i) *Collection efforts.* Loan recipients shall agree to assist the Secretary's efforts under § 258.29.

(j) *Other terms and conditions.* Loans shall be subject to such other terms and conditions as the Secretary deems necessary and appropriate.

§ 258.26 Determination of amount of loss, damage, or destruction.

(a) *Value of property.* In the case of property which has been lost or destroyed, the Secretary shall determine the value of the loss or destruction by using the replacement cost of such property as if it had been the original acquisition cost of such property and by depreciating such replacement cost on a straight line basis over the economically useful life of such property. In the case of property which is capable of being repaired, the Secretary shall determine the value of damage in light of the estimates of repair submitted under § 258.23(d), but in no event shall damage determinations exceed the depreciated, present, replacement cost of the property concerned. Example: 100 lobster pots with a present replacement cost of $100 each were totally lost. Each pot had an economically useful life of 36 months and was 18 months old, leaving a remaining economically useful life of 18 months. The value of loss would be calculated as follows:

(1) 100 pots × $100 = $10,000 present replacement cost.

(2) $10,000 ÷ 36 months = $277.78 depreciation per month.

(3) $277.78 × 18 months remaining useful life = $5,000 for depreciated, present, replacement cost.

If the casualty were confined to property which could be repaired, the value of the casualty would be the actual cost of repair up to, but not exceeding, the depreciated, present, replacement cost of $5,000 as calculated above. If partial loss, damage, or destruction occurs, and the applicant is unable to determine which receipts of purchase pertain to the lost, damaged, or destroyed gear, the applicant must submit proof of purchase for all gear involved in the incident in order that an averaging method may be used to determine the depreciation. If the gear involved was purchased on several dates, the number of months between the first and last purchases will be divided in half and depreciation will start from the midpoint. The following is an example: Purchase dates are January, March, and June. Date of loss is December. Computation will be made as follows:

(1) January to June = 6 months.

(2) 6 months ÷ 2 = 3 months.

(3) Three months from the first date of purchase (January) is April.

(4) Depreciation will be computed from April to the date of the incident in December. The allowable depreciation in this example is 9 months.

§ 258.27 Determination of fault.

(a) *Investigation.* Following the granting of each loan, the Secretary shall investigate the circumstances of the incident resulting in the loss, damage, or destruction concerned in an attempt to ascertain the facts required for a determination of whether or not the loan recipient was at fault for the loss, damage, or destruction.

(b) *Factors to be considered.* In making a determination of fault, the Secretary shall take into account: (1) Evidence submitted with the application in accordance with § 258.23; (2) whether the loan recipitent, prior to the incident involved, reported the location of the fishing gear to the U.S. Coast Guard for broadcasting to foreign vessels in accordance with 50 CFR 611.11 (failure to do so will create a presumption that the loan recipient was at fault); and (3) such other matters as the Secretary may deem appropriate.

(c) *Notification of preliminary determination.* Upon completing the investigation, the Secretary shall make a preliminary determination of whether it is possible to ascertain who was at fault for the incident and, if so, whether the loan recipient was at fault and notify the loan recipient of these determinations.

(d) *Review of record.* The loan recipient may examine the complete record upon which the determinations of the Secretary are made under this section.

(e) *Comments.* The loan recipient shall have 30 calendar days after the receipt of notification under paragraph (c) of this section to submit any comments, data, or other information concerning the preliminary determination of the Secretary. All timely comments, data, or other information shall be considered by the Secretary prior to making a final determination.

(f) *Final determination.* As soon as practicable after the termination of the period described in paragraph (e) of this section, the Secretary shall make a final determination of fault and shall notify the loan recipient of the determination.

§ 258.28 Loan repayment or cancellation.

Based upon the final determinations made under § 258.27 the Secretary shall:

(a) If it is determined that the loan recipient was not at fault, cancel repayment of the loan and refund any principal and interest payments made thereon;

(b) If it is determined that the loan recipient was at fault, require that the loan be repaid prior to its original term within a reasonable time as determined by the Secretary, taking into account its original duration and the percentage of fault attributable to the loan recipient; or

(c) If it cannot be determined whether or not the loan recipient was at fault, continue the loan according to its original terms.

§ 258.29 Government collection [Reserved].

[FR Doc. 78-28020 Filed 10-3-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH REGULATIONS

Approval of Fishery Management Plan Amendments, Emergency Regulations, and Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Approval of amendments to the Fishery Management plan for the Atlantic groundfish fishery; emergency regulations and proposed rulemaking.

SUMMARY: Amendments to the Fishery Management plan for the Atlantic groundfish fishery (FMP), submitted by the New England Fishery Management Council (the Council), to regulate fishing during a fishing year beginning October 1, 1978, and ending on September 30, 1979, are approved. Regulations implementing these amendments are promulgated as emergency regulations under section 305(e) of the Fishery Conservation and Management Act, as amended (the Act). These amendments reinstate the optimum yields and quotas adopted by the Council in March 1978. The Council's earlier FMP amendment establishing separate haddock commercial quotas for the Gulf of Maine and for Georges Bank and south is approved. At the request of the Council, the Secretary is also promulgating emergency regulations which amend the provisions in the FMP on incidental catches. The regulations implementing the FMP are also amended on an emergency basis to provide for closure of the fisheries in sufficient time to avoid an overrun of the quarterly quotas specified in the FMP. The regulations are completely revised to make them more effective and understandable.

EFFECTIVE DATE: The revised regulations take effect on October 1, 1978, and will remain in effect on an emergency basis until November 14, 1978. These emergency regulations are also being published as a proposed rulemaking; public comments on the amendments and regulations are invited until November 14, 1978.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235. Mark "Groundfish Comments" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: On March 31, 1978, emergency regulations were published in the FEDERAL REGISTER implementing the Fishery Management plan for the Atlantic groundfish fishery (cod, haddock, and yellowtail flounder). On April 24, allocations of quotas to vessel classes were instituted. On May 5, the Assistant Administrator for Fisheries, using the authority provided in the emergency regulations, adjusted the landing restrictions. On June 30, the emergency regulations became final; the revised landing restrictions were continued. Effective July 2, the landing restrictions were further amended. Further emergency amendments to the regulations were made on July 19. The April 24 regulations were made final on July 21. All emergency regulations in effect were extended on August 30 to October 14, 1978. All prior regulations are rescinded and replaced by the regulations promulgated today.

The Council has submitted to the Secretary an amendment to the FMP and requested that the quotas of the March 31, 1978, regulations be reinstated, and that a new fishing year begin on October 1, 1978, to run through September 30, 1979. The Council believes that managing the fishery on a fishing year, rather than a calendar year, basis will facilitate the best utilization of new scientific information, and will coincide better with actual fishing patterns.

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In taking this action, the Council has not continued the increase in optimum yield for cod in the Gulf of Maine, contained in an amendment to the FMP proposed by the Secretary on July 19, 1978. This represented an increase in the quota for commercial fishermen of 33⅓ percent. In starting a new fishing year beginning October 1, 1978, there will be impacts on stock sizes in each fishing area. With the exception of cod in the Gulf of Maine, these will be insignificant. The determination to discontinue the increase in the optimum yield for cod in the Gulf of Maine indicates the Council's judgment that the benefits of the increase would not be sufficient to justify such impacts on that stock.

One of the effects of the Council's amendment is to "open the season" for fishing groundfish 3 months earlier than would have occurred without the amendments. Experience in managing this fishery has indicated that the fishery is less predictable and harder to control than originally believed. The influx of new vessels into this fishery has affected the determination of optimum yield. Socioeconomic impacts of the management of this fishery have been more severe than anticipated.

The Council has embarked on the formulation of a comprehensive fishery management plan to replace the plan currently in effect. These interim amendments are designed to provide for a limited and more orderly fishery while this major revision is accomplished. Questions concerning the description of an appropriate fishery management unit as well as the whole range of conservation and management measures appropriate for this fishery, will be considered.

The Assistant Administrator has authority to revise catch limits under the FMP. These limits for haddock in all areas and for cod in Georges Bank and south remain at the levels which took effect May 7. These limits for cod in the Gulf of Maine and for yellowtail flounder are more restrictive than the May 7 limits, in order to spread fishing over the entire quarter.

The catch limitations for yellowtail flounder are applied differently from those for cod and haddock because of the different nature of the fishery. The yellowtail flounder fishery is characterized by two basic types of fishing: Short trips lasting 3 days or less; and longer trips lasting about 9 days. Catch limitations for the former type of fishing regulate catch per fishing week; for the latter type, catch per trip. The catch limitations for yellowtail flounder are the same, both east and west of 69° west longitude, and apply equally to all vessel classes. This is not intended to be a departure from the area and vessel class allocation systems, but rather an adjustment of catch limitations as authorized by the FMP and regulations to these levels. Further adjustments may be made based on areas and/or vessel classes.

The plan amendments submitted by the Council on March 31, 1978, differentiated between the haddock stocks in the Gulf of Maine and those on Georges Bank and south. By oversight, this distinction was not incorporated into the FMP regulations. That action is now taken.

The regulations implementing the FMP have been revised and are published here both as emergency regulations effective October 1, 1978, and as proposed regulations for public comment prior to final implementation, pursuant to section 305(a) of the Act. These regulations do not incorporate any significant changes in the policy of management for this fishery. They are basically a restructuring and rewording of the current regulations. The above-discussed policy issues have been incorporated. Some of the other changes incorporated and the effects of the new regulations are discussed below.

A number of definitions have been added. "Discard" has been defined to allow the release of live fish before they have been taken onboard the vessel. "Fishing week" has been defined and is significant in terms of reporting requirements and catch limitations.

Reporting requirements have been revised to clarify the requirement that any vessel which catches groundfish within the fishery conservation zone (FCZ) during any voyage must report its total catch for that voyage, including species other than groundfish, and also including all fish taken within the territorial sea. The former regulations required this reporting, but were read by some as applying only to those groundfish which were caught within the FCZ.

These new regulations also require mandatory reporting by all vessels. The National Marine Fisheries Service is currently in the process of revising its logbook and dealer reporting forms. The Regional Director, Northeast Region, National Marine Fisheries Service, will implement this regulation gradually over the next few months, with full implementation anticipated in January 1979.

In order more clearly to state the norm of conduct required under these regulations, all of the prohibitions have been grouped together at § 651.7.

The revised procedures for closing a fishery are designed to implement more effectively the Council's intent that optimum yield shall not be exceeded. The new regulations contain a revised provision for incidental catches during a closure. The Secretary has

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found that this action is necessary for conservation and management, and that the Council has failed to prepare an amendment accomplishing this action within a period of time which would be reasonable under the circumstances. During the period these regulations are in effect as emergency regulations, this provision will be treated as an FMP amendment. Before the regulations are adopted as final, this secretarial amendment will have to have been approved pursuant to section 304(c) of the Act.

The Council's amendments to the Atlantic Groundfish FMP are approved; the secretarial amendments discussed above are proposed. The secretarial amendment will be transmitted to the Council pursuant to section 304(c) of the Act. The resulting changes to be made in the FMP are as follows:

1. Table 54 is amended by deleting the number 10,500 under the column headed "Optimum Yield" for cod, 5Y, and substituting the number 8,500.

2. Section II.C.3(a) is amended by deleting the last paragraph and substituting the following:

The annual optimum yields for cod are specified as follows: Gulf of Maine—8,500 metric tons; Georges Bank/southern New England—26,000 metric tons.

3. Section II.C(b) is amended by deleting the words "in 1978."

4. Section II.C.4.(A)(1)(a) is amended by deletion and substituting the following:

(a) It is recommended that the annual catch of cod in the Gulf of Maine be limited to 6,000 metric tons (U.S. commercial) and 2,500 metric tons (U.S. charter boat and headboat).

5. Section II.C.4.(A)(I)(c) is amended by deletion and substituting the following:

(c) It is recommended that the cod quotas for the U.S. commercial fishery be allocated on a quarterly basis during the fishing year as follows:

[In metric tons]

Quarter	Gulf of Maine	Georges Bank[1]
Oct. 1 to Dec. 31	1,420	5,640
Jan. 1 to Mar. 31	1,400	4,600
Apr. 1 to June 30	1,760	6,130
July 1 to Sept. 30	1,420	5,630

[1]Southern New England.

The catch of the fixed gear vessel class shall be allocated quarterly to reflect the historic record of landings.

6. Section II.C.4.A.(3)(b) is amended by deletion and substituting the following:

(b) It is recommended that the haddock quota of 14,900 metric tons for the U.S. commerical fishery be allocated on a quarterly basis during the fishing year as follows:

[In metric tons]

Quarter	Gulf of Maine	Georges Bank[1]
Oct. 1 to Dec. 31	728	1,902
Jan. 1 to Mar. 31	767	2,167
Apr. 1, to June 30	991	4,463
July 1 to Sept. 30	644	3,236

[1]Southern New England.

The catch of the fixed gear vessel class shall be allocated quarterly to reflect the historic record of landings.

7. Section II.C.4.E.(4) is amended by deletion and substituting the following:

(4) Incidental catches during a closure. During a closure all affected vessels shall be permitted to fish, so long as catches of any species to which the closure applies do not exceed the following amounts:

(a) Cod and haddock:

Vessel Class and Trip Limit

0–60 gross registered tons—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

61–125 gross registered tons—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

126 gross registered tons or more—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(b) Yellowtail flounder:

Vessel Class and Trip Limit

All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

8. A new section II.C.4.(I) is added as follows:

(I) *Fishing year.* It is recommended that the fishing year, for purposes of this fishery management plan, shall be from October 1 to September 30 of the following calendar year.

NOTE.—An emergency continues to exist in this fishery, which justifies the use of section 305(e) procedures to implement the amendments.

NOTE.—This emergency makes it unnecessary, impractical and contrary to the public interest to withhold action to obtain further public comment. Public comment is invited, however, on these emergency regulations as proposed rulemaking.

NOTE.—A supplement to the environmental impact statement covering these amendments will be filed with the Environmental Protection Agency.

NOTE.—This action does not constitute a major proposal requiring preparation of an economic impact statement under E.O. 11821, as amended by E.O. 11949 and OMB Circular A-107.

Signed at Washington, D.C., this 28th day of September 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

Part 651 is revised to read as set forth below:

Subpart A—General

Sec.
651.1 Purpose and scope.
651.2 Definitions.
651.3 Relation to other laws. [Reserved]
651.4 Vessel permits.
651.5 Recordkeeping and reporting requirements.
651.6 Vessel identification.
651.7 Prohibitions.
651.8 Enforcement.
651.9 Penalties.

Subpart B—Management Measures

651.20 General limitations.
651.21 Closed areas.
651.22 Gear limitations.
651.23 Catch limitations.
651.24 Closures.

AUTHORITY: Sec. 305(e), Fishery Conservation and Management Act, as amended.

Subpart A—General

§ 651.1 Purpose and scope.

The regulations in this part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority. These regulations implement the Atlantic groundfish fishery management plan developed by the New England Fishery Management Council.

§ 651.2 Definitions.

Some definitions in the Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Act, the terms used in this part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882, as amended.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means: (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Discard means to release a fish into the wild. Releasing a live fish before it is brought on board a vessel shall not be considered a discard.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) Fishing; or (b) aiding or assiting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period running from 0001 hours Sunday through 2400 hours Saturday.

Fixed gear includes, but it not limited to, all gill nets, longlines, and line trawls.

Georges Bank and south means that area of the northwest Atlantic Ocean subject to the fishery jurisdiction of the United States, except the Gulf of Maine.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Gulf of Maine means that portion of the northwest Atlantic Ocean north of 42°20′ N. latitude, plus that area south of 42°20′ N. latitude which is west of 70°00′ W. longitude and which is bounded on the south by the northern shore of Cape Cod.

Land means to begin offloading fish, or to arrive in port with the intention of offloading fish.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means: (a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person in (a), (b), or (c).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, or his designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

Trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel begins to offload fish in port.

Vessel of the United States means: (a) Any vessel documented or numbered by the Coast Guard under U.S. law; or

(b) Any vessel, under 5 net tons, which is registered under the laws of any State.

§ 651.3 Relation to other laws. [Reserved]

§ 651.4 Vessel permits.

(a) *General.* Any vessel of the United States which is fishing for groundfish must have been issued a permit under this part.

(b) *Application.* (1) An application for a vessel permit for the groundfish fishery must be submitted and signed by the vessel owner on an appropriate form, which may be obtained from the Regional Director. The application must be submitted to the Regional Director, prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's U.S. Coast Guard documentation number or State license number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) *Expiration.* A permit shall expire when the owner or name of the vessel changes.

(e) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(f) *Alteration.* Any permit which has been substantially altered, erased, or mutilated shall be invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit shall not be considered a new application.

(h) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this part must be carried on board the fishing vessel at all times. The permit shall be displayed for inspection upon request of any Authorized Officer.

(j) *Revocation.* Subpart D of 50 CFR Part 621 shall govern the imposition of sanctions against a permit issued under this part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Act or by this part; or if a civil penalty or criminal fine imposed under the Act and pertaining to such a vessel is not paid.

(k) *Fees.* No fee shall be required for any permit under this part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section shall be reported to the Regional Director within 15 days of any such change.

§ 651.5 Recordkeeping and reporting requirements.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel conduct-

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ing any fishing operation subject to this part shall:

(i) Maintain an accurate and complete fishing logbook on forms supplied by the Regional Director, according to the requirements of § 651.5(a)(2);

(ii) Make the fishing logbook available for inspection by an Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspection, at any time during or after a trip;

(iii) Keep each fishing logbook for 1 year after the date of the last entry in the logbook;

(iv) Submit fishing logbook reports, as specified in § 651.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this part shall submit a complete fishing logbook report to the Regional Director within 48 hours after the end of any fishing week or fishing trip, whichever is the longer time period. Fishing logbooks shall contain information on a daily basis for the entirety of any trip during which any regulated species are caught, and shall contain information for all fish which are caught.

(3) The Assistant Administrator may revoke, modify, or suspend the permit of a vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

(b) *Fish dealer or processor reports.* Any person who receives groundfish for a commercial purpose from a fishing vessel subject to this part shall:

(1) File a report with the Regional Director on forms supplied by him, within 48 hours of the end of any fishing week. Such report shall include information on all transfers, purchases or receipts of all fish made during that fishing week; and

(2) Permit an authorized officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make inspections, to inspect any records of transfers, purchases or receipts of groundfish.

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part over 25 feet in length shall display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above. The official number is the documentation number issued by the Coast Guard or the certificate of number issued by a State or by the Coast Guard for undocumented vessels.

(b) *Numerals.* The official number shall be permanently affixed to each vessel subject to this part in contrasting block arabic numerals at least 18 inches in height for vessels over 65 feet and at least 10 inches in height for all other vessels over 25 feet in length.

(c) *Vessel length and number.* The length of a vessel, for purposes of this section, shall be that length set forth by Coast Guard or State records.

(d) *Duties of operator.* The operator of each vessel subject to this part shall:

(1) Keep the identifying markings clearly legible and in good repair; and

(2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(e) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be permanently affixed. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for, take, catch or harvest any groundfish in an area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(b) Fish for, take, catch, harvest or land any groundfish during a closure under § 651.24, except to the extent allowed by that section;

(c) Fish for, take, catch, harvest or land any groundfish in excess of the fishing vessel's applicable catch limitation, if any, established by § 651.23;

(d) Fish for, catch, take, harvest or land any groundfish caught with nets having smaller than the minimum mesh size allowed by § 651.22 except as provided for under § 651.22(e);

(e) Discard, at sea, any groundfish;

(f) Use any vessel for taking, catching, harvesting or landing of any groundfish unless the vessel has a valid permit issued pursuant to this part, and the permit is on board the vessel;

(g) Fail to report to the Regional Director, within 15 days of any such change, any change in the information contained in a permit application for a vessel;

(h) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this part;

(i) Refuse to permit an authorized officer, or any employer of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any logbooks or records relating to the taking, catching, harvesting, landing, purchase or sale of any groundfish;

(j) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale or transfer of any groundfish;

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Act, this part, or any other regulation promulgated under the Act;

(l) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this part, or any other regulation promulgated under the Act;

(n) Forcibly assault, resist, oppose, impede, intimidate or interfere with any authorized officer in the conduct of any inspection or search described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(q) Interefere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Act;

(r) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(s) Violate any other provision of this part, the Act, or any other regulation promulgated pursuant thereto.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," which is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by § 651.6(a).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the authorized officer and his/her party to come aboard;

(2) Provide a ladder for the authorized officer and his/her party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to insure the safety of the authorized officer and his/her party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable Federal law.

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Subpart B—Management Measures

§ 651.20 General limitations.

(a) *Fishing year.* The fishing year for groundfish begins on October 1 and ends on September 30.

(b) *Headboat and charter boat quotas.* Quotas limiting the amount of groundfish which may be taken during the fishing year by headboats and charter boats are: For cod in the Gulf of Maine, 2,500 metric tons; for haddock in all areas, 2,000 metric tons.

(c) *Other quotas.* Quarterly and annual quotas limiting the amount of groundfish which may be taken by commercial and recreational vessels subject to this part are set forth in appendix A to this part. The quotas for cod and haddock apply only to commercial fishing vessels. The quotas for yellowtail flounder apply to commercial and recreational fishing vessels.

(d) *Adjustment of quarterly quotas.* The Assistant Administrator may adjust the quarterly quotas set forth in appendix A in the following circumstances:

(1) If a quarterly quota is not reached, to add the surplus onto quotas in subsequent quarters;

(2) If a quarterly quota is exceeded, to deduct the overage from quotas in subsequent quarters.

§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section, during the months of March, April and May, no person may fish for, catch, take or harvest any groundfish within the following areas:

(1) An area known as closed area I bounded by straight lines connected by the following coordinates in the order stated:

69°55' W., 42°10' N.; 69°10' W., 41°10' N.; 68°30' W., 41°35' N.; 68°45' W., 41°50' N.; 69°00' W., 41°50' N.;

(2) An area known as closed area II bounded by straight lines connected by the following coordinates in the order stated:

67°00' W., 42°20' N.; 67°00' W., 41°15' N.; 65°40' W., 41°15' N.; 65°40' W., 42°00' N.; 66°00' W., 42°40' N.;

(b) *Exceptions.* Paragraph (a) of this section shall not apply to:

(1) Vessels that fish in closed area I with hooks having a gape of not less than 1.18 inches;

(2) Vessels that fish in either closed area I or II or both using only the following fishing gear:

(i) Pot gear designed and used to take lobster; or

(ii) Dredges designed and used to take scallops.

(c) *Prohibition.* It shall be unlawful for any person fishing in closed areas I or II to attach any protective device to midwater fishing gear or to employ any modification to any gear that would, in effect, make it possible to fish for groundfish.

§ 651.22 Vessel class and gear limitations

(a) *Vessel classes.* The following vessel classes are established:

(1) Mobile gear

(i) 0–60 gross registered tons.

(ii) 61–125 gross registered tons.

(iii) Over 125 gross registered tons.

(2) Fixed gear.

(3) Charter boats and headboats.

(4) Recreational. All other vessels, including but not limited to those using hand-held hook and line and jig lines, shall be treated as recreational vessels.

(b) *Trawl nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any trawl net used by a vessel subject to this part is 5⅛ inches in the cod end, and 4½ inches in the body of the net.

(c) *Gill nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any gill net used by a vessel subject to this part is 5½ inches.

(d) *Mesh measurements.* Mesh sizes are measured when wet after use by a wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of 5 kilograms. The mesh size of the body of the net shall be the average of the measurements of any series of 20 consecutive meshes. The cod end shall be measured in the same manner at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(e) *Exceptions.* The mesh size limitations contained in paragraphs (b) and (c) of this section do not apply to a vessel which can demonstrate that its catch of groundfish for the entire trip:

(1) Is less than each of the following amounts:

(i) The larger of 1,000 pounds or 10 percent of the total fish landed, by weight, for any groundfish species;

(ii) The amount allowed under any applicable catch limitation established under § 651.23;

(iii) During a closure, the amount allowed under incidental catch provisions contained in § 651.24(d); and

(2) Includes at least 2,000 pounds of fish other than groundfish caught on the same trip (this subparagraph (2) does not apply to vessels in the northern shrimp fishery).

§ 651.23 Catch limitations

(a) *General.* Appendix B to this part sets forth the catch limitations which govern fishing for groundfish.

(b) *Overruns.* A mobile-gear vessel may overrun its applicable trip limitation for cod and haddock, as set forth in appendix B to this part. The amount of any overrun will be deducted from the vessel's limitation for the following week. No overruns are allowed for fixed-gear vessels or for yellowtail flounder.

(c) *Fishing weeks.* For purposes of this section, a vessel which is at sea during more than 1 fishing week may count its fish against any fishing week during which fishing was conducted on that trip. However, a vessel whose logbook fails to indicate when fishing was conducted shall have its fish counted against the fishing week in which they were landed.

(d) *Cod and haddock.* The catch limitations in appendix B govern the amount of cod and haddock which may be caught, taken, harvested or landed during a fishing week.

(e) *Yellowtail flounder.* The catch limitations in appendix B govern the amount of yellowtail flounder which may be caught, taken, harvested or landed during a trip or during a fishing week, whichever time period is longer.

(f) *Adjustments.* (1) The Assistant Administrator shall, upon a finding that any vessel class in any area is likely to exceed its quarterly quota for any species, adjust the limitations and overrun allowances set forth in appendix B to this part for any or all such species and vessel classes, if he finds such adjustment necessary to achieve any of the following purposes:

(i) To spread fishing effort over the entire quarter;

(ii) To reduce the need for quarterly or annual closures;

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(iii) To allow each of the vessel classes to harvest its historic percentage of the catch.

(2) In making the findings and adjustments referred to in subparagraph (1) of this paragraph, the Assistant Administrator shall consider:

(i) Landings for the current or previous quarters;

(ii) Projected harvests;

(iii) Geographic and seasonal availability of fish;

(iv) Traditional and anticipated fishing patterns;

(v) Number of vessels of each class in the fishery;

(vi) Capability of vessels to fish in other locations or for other species;

(vii) Status of unregulated species in the trawl fishery; and

(viii) Incidental catch of cod, haddock, and yellowtail flounder during fishing for unregulated species.

§ 651.21 Closures.

(a) *Projected catch.* The Regional Director shall monitor catches and landings of groundfish, and other data, and shall, on or about the 1st and 16th day of each month, project a date when the allocation of any species of groundfish, by vessel class, less an anticipated amount of such species to be taken incidentally pursuant to paragraph (d) of this section, below, shall have been taken for each relevant area and quarterly or annual period.

(b) *Recommendation of closure.* As soon as possible after projecting a closure date pursuant to paragraph (a) of this section, if such closure date is within 30 days of the projection, the Regional Director shall recommend to the Assistant Administrator that the groundfish fishery be closed on that date for the relevant species, vessel class, area, and quarter or fishing year. The Regional Director may, based upon subsequent information, rescind or revise such recommendation at any time before the Assistant Administrator has taken action pursuant to paragraph (c) of this section.

(c) *Notice of closure.* The Assistant Administrator shall, by publication in the FEDERAL REGISTER, close the fishery for groundfish for the relevant species, vessel class, and area, on the date recommended under paragraph (b) of this section or on such other date as the Assistant Administrator determines will prevent the quarterly or annual quota from being exceeded.

(d) *Incidental catch.* During any closure, any vessel in the following vessel classes to which the closure applies may catch, take, harvest or land no more than the following amounts of the species to which the closure applies:

(1) Cod and haddock:

0 to 60 GRT—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

61 to 125 GRT—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

Over 125 GRT—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(2) Yellowtail flounder:

All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

APPENDIX A - QUARTERLY QUOTAS

	Oct. - Dec. 78	Jan. - Mar. 79	April - June 79	July - Sept. 79	Annual
COD - Gulf of Maine (Commercial)					
Mobile gear					
1-60 GRT	581	699	798	479	2557
61-125 GRT	342	277	262	266	1147
Over 125 GRT	180	171	55	55	461
Fixed gear	317	253	645	620	1835
Total	1420	1400	1760	1420	6000
COD - Georges Bank and South (Commercial)					
Mobile gear					
1-60 GRT	501	593	648	364	2106
61-125 GRT	1777	1567	2232	1361	6937
Over 125 GRT	2958	2129	2426	2365	9878
Fixed gear	404	311	824	1540	3079
Total	5640	4600	6130	5630	22000
HADDOCK - Gulf of Maine (Commercial)					
Mobile gear					
1-60 GRT	183	146	460	200	989
61-125 GRT	261	209	183	160	813
Over 125 GRT	178	202	83	86	549
Fixed gear	106	210	265	198	779
Total	728	767	991	644	3130
HADDOCK - Georges Bank and South (Commercial)					
Mobile gear					
1-60 GRT	86	40	150	157	433
61-125 GRT	650	662	1782	1023	4117
Over 125 GRT	1133	1393	2449	1720	6695
Fixed gear	33	72	82	338	525
Total	1902	2167	4463	3238	11770
YELLOWTAIL FLOUNDER - East of 69° W. (Commercial and Recreational)					
All classes	810	1500	640	1450	4400
YELLOWTAIL FLOUNDER - West of 69° West (Commercial and Recreational)					
All classes	960	1150	830	760	3700

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APPENDIX B – CATCH LIMITATIONS

COD (pounds/week)

Vessel Class	Gulf of Maine limits	Gulf of Maine overruns	Georges Bank and South limits	Georges Bank and South overruns
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	5,000	1,500	9,800	3,500
Over 125 GRT	7,000	1,500	14,000	3,500
Fixed gear	5,000	-0-	13,000	-0-

HADDOCK (pounds/week)

Vessel Class	Gulf of Maine limits	Gulf of Maine overruns	Georges Bank and South limits	Georges Bank and South overruns
0-60 GRT	3,500	2,500	3,500	2,500
61-125 GRT	7,000	2,500	7,000	2,500
Over 125 GRT	10,000	2,500	10,000	2,500
Fixed gear	8,000	-0-	8,000	-0-

YELLOWTAIL FLOUNDER*

Vessel Class	West of 69° West	East of 69° West
0-60 GRT	5,000	
61-125 GRT	5,000	
Over 125 GRT	5,000	

*Pounds per week or trip, whichever time period is longer. A vessel may land no more than 5,000 pounds, even if it fished on both sides of the 69° W. line. No overruns are allowed.

[FR Doc. 27908 Filed 10-3-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1064 and 1065]

[Docket Nos. AO 23-A51 and AO-86-A38]

MILK IN THE GREATER KANSAS CITY AND NEBRASKA-WESTERN IOWA MARKETING AREAS

Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a cooperative association's proposal to amend the Greater Kansas City and Nebraska-Western Iowa milk marketing orders. The proposal would increase the funding rate for the advertising and promotion programs of each order and would tie the rate to the level of producers' pay prices. The rate under each order is now at a fixed level. The cooperative association contends that the requested change for each order is needed to keep the funding rate current with the inflationary trend in the economy.

DATE: October 23, 1978.

ADDRESS: Airport Ramada Inn, 2002 Locust East, Omaha, Nebr. 68110.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Airport Ramada Inn, 2002 Locust East, Omaha, Nebr., beginning at 1:30 p.m. on October 23, 1978, with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the Greater Kansas City and Nebraska-Western Iowa orders by changing the funding rate for the advertising and promotion programs of each order from a 5 cent per hundredweight assessment to a rate determined yearly by multiplying the average of each order's uniform price for the last quarter of the year by 0.75 percent and rounded to the nearest full cent. The resulting figure would be the funding rate beginning the following April and would continue for a 12 month period until the procedure was repeated. This proposal would require conforming changes in several sections of each order.

PROPOSED BY THE DAIRY DIVISION AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreements and orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and orders may be procured from the Market Administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kans. 66204; or from the Hearing Clerk, Room 1077-South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Greater Kansas City and Nebraska-Western Iowa marketing areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: September 29, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-28045 Filed 10-3-78; 8:45 am]

[3410-02]

[7 CFR Part 1065]

[Docket No. AO-86-A39]

MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider industry proposals to amend certain provisions of the Nebraska-Western Iowa milk marketing order. The major proposals would modify the shipping requirements for pool supply plants, change the Class I price structure within the marketing area, modify location adjustment provisions and revise the diversion limitations on producer milk. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: October 24, 1978.

ADDRESS: Airport Ramada Inn, 2002 Locust East, Omaha, Nebr. 68110.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public

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hearing to be held at the Airport Ramada Inn, 2002 Locust East, Omaha, Nebr., beginning at 9:30 a.m., local time, October 24, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Nebraska-Western Iowa marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Proposals 13 and 15 redefine the territory included in the present pricing zones of the marketing area. Such proposals do not open for consideration at the hearing any changes in the presently defined marketing area.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the pool plant provisions of § 1065.7(b) to provide that a supply plant must ship 50 percent of its receipts of grade A milk from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) to a pool distributing plant(s) during each of the months of September through December and 30 percent of such receipts during each of the months of January through August. The percentages specified in this paragraph may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain needed milk shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons and, if his investigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views and arguments with respect to the proposed revision.

PROPOSED BY WELLS DAIRY, INC.

PROPOSAL NO. 2

Amend § 1065.7(b), *Pool plant*, to provide for a 60 percent minimum shipping requirement for the pooling of a supply plant each month of the year, except that if the plant is a pool supply plant in each of the months of August through December, the shipping requirement for the succeeding months of January through July shall be a minimum of 40 percent.

PROPOSED BY ROBERTS DAIRY CO.

PROPOSAL NO. 3

Amend § 1065.7(b), *Pool plant*, to change the minimum 40 percent shipping requirement now required for the pooling of a supply plant to a minimum of 50 percent, to be applicable for each month of the year.

PROPOSED BY FAIRMONT FOODS CO.

PROPOSAL NO. 4

Amend § 1065.7(b), *Pool plant*, as follows:

Eliminate the present minimum pooling requirements for supply plants and provide that the market administrator announce on the 5th day of the month the shipping requirement for the following month, such shipping requirement to be about 90 percent of the projected Class I utilization.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 5

Amend § 1065.7(b), *Pool plant*, to provide that a cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1065.9(c).

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 6

Amend § 1065.7 by deleting the present provisions of paragraph (b) and substituting the following:

§ 1065.7 Pool plant.

* * * * * *

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) (except receipts of milk diverted pursuant to § 1065.13) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers.

(ii) A proprietary handler may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1065.13(d).

(2) Or, located within 100 miles of the nearest edge of the marketing area, by

(i) Giving notification to each Order 65 pool distributing plant, with copy to the market administrator, on or before the 20th day of the month, of the supply plant's schedule of its estimate of the pounds of milk, by days, for the ensuing month that such plant shall have available for delivery to Order 65 pool distributing plants";

(ii) Delivering to such distributing plants according to a schedule, providing for 24 hours advance notice, directed by the market administrator (except in case of deliveries not made by reason of Act-of-God, catastrophe, strike, labor dispute or similar unusual event), such deliveries for any day not to exceed 90 percent of the producer milk received by the supply plant on that day and the total of such deliveries for the month not to exceed the quantity obtained by applying the percentage of the Class I utilization of the Order 65 producer milk for the same month of the previous year to the receipts of producer milk at such supply plant during the current month.

PROPOSAL NO. 7

Amend § 1065.13 by deleting the present provisions and substituting the following:

§ 1065.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c).

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Received from producers by a handler described in § 1065.9(b), subject to the conditions stated in paragraph (d) of this section.

(d) Diverted from the pool plant of a propietary handler for the account of the handler operating such plant to another pool plant; or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such plant or for the account of a handler described in § 1065.9(b), subject to the following conditions:

(1) A cooperative association handler described in § 1065.9(b) may divert to nonpool plants for its account the milk of any member producer if at least 2 days' production of such producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted to nonpool plants by the cooperative association handler shall not exceed, in each of the months of January, February, March, September, October and November, 30 percent, and in any other month 40 percent of the larger of:

(i) The total quantity of milk of member producers received at all pool plants during the current month; or

(ii) The average daily quantity of milk of member producers received at all pool plants during the immediately preceding month, multiplied by the number of days in the current month;

(2) A handler, other than a cooperative association, in his capacity as the operator of a pool plant, may divert to nonpool plants for his account the milk of any producer other than a member of a cooperative association, if at least 2 days' production of such producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted to nonpool plants by the handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of producers received at his pool plant(s) during the current month exclusive of milk received from producers who are members of a cooperative association; or

(ii) The average daily quantity of milk of producers received at his pool plant(s) and diverted from such plant(s) during the immediately preceding month, exclusive of milk received from producers who are members of a cooperative association, multiplied by the number of days in the current month;

(3) In the event the quantity of milk diverted is in excess of the applicable quantity specified in paragraph (d)(1) and (2) of this section, the diverting handler may designate the dairy farmers whose milk will not be producer milk, otherwise the milk last diverted in lots of an entire day's production shall be excluded first in determining which milk shall not be producer milk; and

(4) For the purpose of location adjustment pursuant to §§ 1065.52 and 1065.75, milk so diverted shall be priced at the location of the plant to which diverted.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 8

Amend § 1065.13(c)(1) and (2) may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain needed milk shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons, and if his investigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views and arguments with respect to the proposed revision.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 9

Amend § 1065.13 by revising paragraph (c)(1) to read as follows:

§ 1065.13 Producer milk.

* * * * * *

(c) * * *

(1) A cooperative association handler described in § 1065.9(b) may divert for its account the milk of any member producer if at least 1 day's production of such milk producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted by the cooperative handler shall not exceed, in each of the months of September through December, 40 percent, and in the months of January through August, 50 percent, of the total quantity of milk of producer members received at or diverted from all pool plants during the current month.

* * * * * *

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 10

Revise § 1065.41(b)(2) by replacing the words "except that" with the words "and milk diverted to such plant from another pool plant, except that in either case".

PROPOSAL NO. 11

Amend § 1065.42 by revising paragraph (a) as follows:

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1065.9(c) to another handler's pool plant shall be classified as follows:

(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee plant or the divertee plant after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b);

(ii) If the transferor plant or divertor plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(7) or the corresponding step of § 1065.44(b); the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor handler or divertor plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(11) or (12) or the corresponding steps of § 1065.44(b) the skim milk or butterfat so transferred or diverted up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent that would be the case if the other source milk had been received at the transferee plant or divertee plant.

* * * * * *

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 12

Amend § 1065.45(d), *Market administrator's reports and announcements concerning classification*, to provide that the report to a cooperative that so requests the amount and class utilization of milk received by each handler shall also include shipments of supply plant milk.

PROPOSED BY ROBERTS DAIRY CO.

PROPOSAL NO. 13

a. Amend § 1065.2 (a) and (b), *Nebraska-Western Iowa marketing area*, to combine Zones 1 and 2 into a single zone for pricing purposes;

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b. Amend § 1065.50(a) *Class I price,* to apply the $1.60 price adjustment to the combined Zones 1 and 2 pricing area and change the Zone 3 pricing adjustment from $1.75 to $1.70.

PROPOSED BY WELLS DAIRY, INC.

PROPOSAL NO. 14

Amend § 1065.50(a) by changing the price adjustment applicable to Zone 2 from $1.50 to $1.40.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 15

In § 1065.2 (a) and (c) revise the defined areas of Zones 1 and 3 to include in Zone 1 the following Nebraska counties now included in Zone 3; Adams, Buffalo, Custer, Dawson, Franklin, Frontier, Furnas, Gosper, Greeley, Hall, Harlan, Howard, Kearney, Keith, Lincoln, Phelps, Red Willow, Sherman, Valley and Webster.

PROPOSED BY LAND O'LAKES, INC.

PROPOSAL NO. 16

Revise § 1065.52 (a), *Plant location adjustments for handlers,* by deleting the words "more than 100 miles".

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 17

Amend § 1065.73 by revising paragraph (b)(2) to read as follows:

§ 1065.73 Payments to producers and cooperative associations.

* * * * *

(b) * * *

(2) Who had not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month for milk of 3.5 percent butterfat, less proper deductions authorized by such producer.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 18

Amend §§ 1065.71, 1065.72, 1065.73, and 1065.85 to extend the due dates for handler payments as follows:

a. In § 1065.71(a), change "13th" to "15th";

b. In § 1065.72, change "14th" to "16th";

c. In § 1065.73(a), change "15th" to "17th"; and where it appears elsewhere in § 1065.73, change "14th" to the "16th"; and

d. In § 1065.85, change "14th" to "15th".

PROPOSAL NO. 19

Add the provisions of a new section to the order to read as follows:

§ 1065.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1065.71, 1065.76, 1065.77(a), 1065.85, and 1065.86, for which remittance has not been made (or, if mailed, postmarked) by the date specified for such payment, shall be increased three-fourths of 1 percent, and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 20

Make such changes as may be necessary to make the entire marketing agreement and the order confirm with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kansas 66204; or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Nebraska-Western Iowa marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: September 29, 1978.

JAMES E. SPRINGFIELD,
Acting deputy Administrator, Marketing Program Operations.

[FR Doc. 78-28044 Filed 10-3-78; 8:45 am]

[3410-02]

[7 CFR Part 1207]

[Amdt. 8]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Amendment Regarding Designated Handler

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on an amendment proposed by the Potato Board to clarify the responsibilities of seed potato handlers regarding assessments. Under the proposed amendment, the seed potato producer would be the handler required to pay assessments unless he can show that the first person who obtained potatoes from him disposed of them other than by planting.

DATE: Comments due by October 19, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, phone 202-447-6393.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The proposal is as follows:

In § 1207.512 revise paragraph (a)(8) by adding the following:

§ 1207.512 Designated handler

(8) * * *

However, the seed producer will be the designated handler responsible for filing reports and making payments, unless he can show that the first person who obtained the potatoes from him disposed of them other than by planting. To show this the seed producer must submit to the Potato Board the name and address of the first person who obtained the potatoes from him and an invoice of sale or settlement sheet on which it is indicated that such person will be the designated handler and therefore will be responsible for the payment of the assessments. Only by showing this is the seed producer no longer considered the designated handler and therefore not liable for the assessments.

* * * * *

Dated: September 29, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 78-28029 Filed 10-3-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 146]

FOREIGN-TRADE ZONES

Advance Notice of Proposed Rulemaking Relating to Processing Costs Incurred in Foreign Trade Zones

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Customs includes the cost of processing "nonprivileged" merchandise in a foreign trade zone, and profit realized, in the dutiable value of that merchandise when it enters the Customs territory of the United States. The present policy results in Customs assessing duty on the costs of American labor, overhead and facilities, and profit. This document requests the public to comment on the advisability of a change in appraisement practice so as to exclude the cost of processing and profit realized in a foreign trade zone when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

DATE: Comments must be received on or before December 4, 1978.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT

R. Keith Thomas, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-2938.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Foreign trade zones ("zone") are established under the Foreign Trade Zones Act (19 U.S.C. 81a-81u) and the general regulations and rules of procedure of the Foreign Trade Zones Board contained in 15 CFR Part 400. Part 146 of the Customs Regulations (19 CFR Part 146) governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone; exportation of merchandise from a zone; and transfer of merchandise from a zone into the Customs territory of the United States ("Customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal Customs entry procedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise enters the Customs territory.

Upon approval of the required application filed with the District Director of Customs (19 CFR Part 146 Subpart C), foreign or domestic merchandise may attain "privileged" status. Privileged foreign merchandise is subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date the application is filed with the district director, regardless of when the merchandise actually leaves the zone and enters the Customs territory. Privileged domestic merchandise may be returned to the Customs territory free of quota, duty or tax. A component of foreign privileged merchandise would be appraised and dutiable in its character and condition on the date the application is filed for privileged status. A component of domestic privileged merchandise would not be included in the dutiable value of the article.

Merchandise admitted to a zone which is not accorded "privileged" status or "zone-restricted" status (as set forth in § 146.25, Customs Regulations (19 CFR 146.25)) is "nonprivileged." Section 146.48(e) of the Customs Regulations (19 CFR 146.48(e)) sets forth the appraisement and tariff classification treatment of articles composed solely of nonprivileged merchandise (whether foreign or domestic) and articles composed both of privileged and nonprivileged merchandise (whether foreign or domestic). Under § 146.48(e), an article composed in whole or in part of nonprivileged merchandise is subject to appraisement and tariff classification according to its character and condition at the time of its "constructive transfer" to the Customs territory. A "constructive transfer" means that the merchandise is considered to have been transferred to the Customs territory without physical removal from the zone, and takes place upon approval of the required application by the district director of Customs.

DISCUSSION

Section 146.48(e) of the Customs Regulations requires the dutiable value of nonprivileged merchandise to be determined under section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Labor and overhead costs incurred, and profit realized, in the zone are included in the dutiable value of articles composed entirely of, or derived entirely from, foreign or domestic nonprivileged merchandise, and articles composed in part of, or derived in part from, foreign or domestic nonprivileged merchandise and in part of or from foreign or domestic privileged merchandise.

Processing costs and profit attributable to nonprivileged merchandise or nonprivileged components are included in the dutiable value of the article when it subsequently enters the Customs territory. Since 1954 (Treasury Decision 53493(2)) when privileged and nonprivileged components (foreign or domestic) are combined in a zone to produce an article, the processing costs incurred have been distributed between the privileged and nonprivileged components according to their relative values.

For example, if nonprivileged merchandise valued at $200 and privileged merchandise valued at $100 are combined in a zone to manufacture an article, the total value of the components is $300 and the relative value of the nonprivileged merchandise ($200) would be twice the value of the privileged merchandise ($100), or two third the value of all components ($300). If processing costs and profit are $150, the processing costs and profit allocable to be nonprivileged components would be two third of $150, or $100, and would be included in the dutiable value of the article. Therefore, the dutiable value of the article would equal the value of the nonprivileged component ($200) plus the value of the processing cost allocable to the nonprivileged component ($100), or a total of $300. Neither the value of the privileged component ($100) nor the value of the processing cost and profit allocable to the privileged component ($50) is included in the dutiable value. Consequently, the effect of § 146.48(e) is to assess duty on the use of Ameri-

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can labor and facilities, overhead expenses, and profits, thus increasing the cost of utilizing a zone.

COMMENTS

The Customs Service invites written comments (preferably in quadruplicate) from all interested parties on the advisability of changing its appraisement practice so as to exclude the cost of processing and profit when determining the dutiable value of articles produced entirely or in part from nonprivileged components in foreign trade zones.

Commenters should address themselves to the economic consequences of such a change, as well as to legal and other relevant considerations. (For example, the following questions are relevant: Will a change in appraisement practice encourage foreign investment in the United States, encourage the use of U.S. labor, and encourage exporting from the United States? Will such a change adversely affect U.S. parts manufacturers? Will such a change disadvantage U.S. manufacturers of products which, when imported are dutiable at a lower rate than their constituent parts (e.g., automobiles)?

Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Treasury Department participated in its development.

AUTHORITY

This document is issued under authority of R.S. 251, as amended, (19 U.S.C. 66), and section 8, 48 Stat. 1000 (19 U.S.C. 81h).

R. E. CHASEN,
Commissioner of Customs.

Approved: September 27, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-27978 Filed 10-3-78; 8:45 am]

[4310-05]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

[INT DES 78-42]

PERMANENT REGULATORY PROGRAM

Availability of the Draft Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, (OSM), U.S. Department of the Interior.

ACTION: Notice of availability of draft programmatic Environmental Impact Statement (DES) analyzing the environmental consequences of the proposed permanent program regulations.

SUMMARY: The Office has prepared a DES in connection with its proposed rulemaking for permanent program regulations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Copies of this DES are being made available today. Public hearings will be held to receive comments on this DES.

DATES: All comments on the DES must be received by 5 p.m. on November 17, 1978. Public hearings on the DES will occur between October 31, 1978 and November 2, 1978, in Washington, D.C., Denver, Colo., and Indianapolis, Ind.

ADDRESSES: Copies of the DES are available for inspection and copies may be obtained at the following OSM offices:

OSM Headquarters, Department of the Interior, Room 120, 1951 Constitution Ave. NW., Washington, D.C. 20240.
OSM Region I, First Floor—Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W. Va. 25301, 304-342-8125.
OSM Region II, 530 Gay Street SW., Suite 500, Knoxville, Tenn. 37902, 615-637-8060.
OSM Region III, Federal Building, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46205, 317-269-2609.
OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo., 64116, 816-374-5162.
OSM Region V, Room 270—Post Office Building, 1823 Stout Street, Denver, Colo. 80205, 303-837-5511.

Written comments on the DES must be mailed only to the following address: The Office of Surface Mining, U.S. Department of the Interior, P.O. Box 682, Benjamin Franklin Station, Washington, D.C. 20044. Comments may be hand-delivered only to OSM Headquarters, Room 120, at the address given above.

Public comments received on the draft Environmental Impact Statement will be on file and available for inspection at the OSM Headquarters location given above.

FOR FURTHER INFORMATION CONTACT:

Frank Anderson, Chief, Branch of Environmental Analysis, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-5287.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act and section 702 of SMCRA, OSM has prepared a draft programmatic Environmental Impact Statement (DES).

OSM has considered the analysis in the DES in the development of the proposed rules published in the FEDERAL REGISTER on September 18, 1978.

The DES evaluates the adverse and beneficial environmental impacts of those regulations issued under section 501(b) of SMCRA. The three major components of the regulations issued under section 501(b) include:

(1) Regulations concerning environmental performance standards, and permit application and bonding requirements;

(2) Regulations covering the procedures for preparaion and submission of State programs for the Secretary's approval and for the substantive review criteria used for approval; and

(3) Regulations governing the development and implementation of a Federal program for a State.

OSM encourages the public to comment on the content and organization of the DES. In particular, OSM solicits comments which point out errors, omissions, and alternatives not yet considered, as well as suggestions as to the titles and locations of recent technical literature or other sources which appear to have not been considered in preparation of the DES. Whenever possible, public comments should be supported by reference to statutes, regulations, legislative history, technical literature, or other source materials.

All comments from the public on the DES will be considered and responses to timely comments prepared for inclusion in the final Environmental Impact Statement expected to be available on or about December 15, 1978.

PUBLIC HEARINGS

Public hearings on the DES will occur between October 31, 1978, and November 2, 1978. The hearings will be located in Washington, D.C., Denver, Colo., and Indianapolis, Ind., at the following locations and on the dates noted:

WASHINGTON, D.C. HEARING

October 31, 1978, Main Auditorium, Department of Interior, 18th and C Streets NW., Washington, D.C.

INDIANAPOLIS, INDIANA HEARING

November 1, 1978, Indiana World War Memorial Auditorium, 431 North Meridian Street, Indianapolis, Ind.

DENVER, COLO. HEARING

November 2, 1978, Room 269, Post Office Building, 1823 Stout Street, Denver, Colo.

Those who desire to speak at any of the public hearings may be scheduled on the programs in advance by telephoning Frank Anderson in Washington, D.C., 202-343-5287. Individual testimony at these hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony will be helpful and will facilitate the job of the court reporter.

The public hearings will commence at 9 local time on the days identified above and will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of the scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned on any given day unless they are present in the audience at the time all scheduled speakers have been heard.

WRITTEN COMMENTS

Written and oral comments should be as specific as possible. OSM will appreciate any and all comments on the draft programmatic statement, but those most helpful will be comments which include references to source material, including legislative history, technical data and research, and other material which provides a basis for any given recommendation.

An explanation of the rationale for each recommendation should also be given. The final Environmental Impact Statement will respond specifically to all reasonable and substantive comments.

The close of the public comment period on the draft Environmental Impact Statement will coincide with the close of the comment period on the proposed permanent program rulemaking. Therefore, the formal comment period on this draft Environmental Impact Statement will end on November 17, 1978. Comments must be received by 5 p.m. on that date, at the address specified above. Comments received after that time will not be responded to in the final Environmental Impact Statement. OSM cannot insure that comments on the draft Environmental Impact Statement received at or delivered to any other location than specified above during the comment period will be responded to in the final Environmental Impact Statement.

Dated: October 2, 1978.

HOPE M. BABCOCK,
Deputy Assistant Secretary, Energy and Minerals.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary for Policy, Budget and Administration.

[FR Doc. 78-28109 Filed 10-3-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Parts 206 and 233]

APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING OF ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Prior Month Budgeting and Monthly Reporting

COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Income Averaging

AGENCY: Social Security Administration, HEW.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw notice of proposed rulemaking published in the FEDERAL REGISTER, August 19, 1975 (40 FR 36141), in which it was proposed to require States to utilize a prior month budgeting system and to average income received under contract in calculating AFDC benefits. The regulations also would have required individuals receiving AFDC to make monthly reports about their current income, resources and circumstances to the IV-A Agency.

The proposal is hereby withdrawn. The comments received from States administering the programs and the Department's further study of the proposed regulations revealed that there would be an increase in cost to States, undue hardship on the recipients, difficult administrative problems, and States would have no flexibility in their methods of administration.

FOR FURTHER INFORMATION CONTACT:

Miss Carolyn Peiper, Social Security Administration, Office of Family Assistance, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0982.

EFFECTIVE DATE: This notice is effective October 4, 1978.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A notice of proposed rulemaking was published in the FEDERAL REGISTER on August 19, 1975 (40 FR 36141). One hundred comments were received from Governors and State agencies, city and county welfare agencies, legal aid groups, Congressmen, other agencies and organizations, and individuals.

Approximately one-third of the comments expressed some support for the proposal—the remainder were opposed. The proposed regulations would have required:

1. That the State plan specify a 30-day budget period and a corresponding payment month.

2. That eligibility and the amount of assistance be established on the basis of circumstances during a fixed budget period. However, this would not preclude a State from promptly terminating or adjusting the assistance payment when it has knowledge of changes in circumstances, other than income changes, subsequent to the budget period and prior to the payment month.

3. That for applicants, the budget period would be the 30-day period immediately prior to the date of application.

4. That the payment month would begin no later than 34 days after the end of the corresponding prior month budget period.

5. That an individual employed under a contract would have the income from such contract apportioned equally over the full period of the contract, even though the income from such contract is received in fewer months than are covered by the contract.

6. That recipients of AFDC must make timely and accurate monthly reports of their current income, resources, and circumstances on forms provided by the State agency.

The Department has reevaluated these provisions in part and has published today proposed regulations which immediately follow this document (FR Doc. 78-27795) and which would provide allowable budgeting methods which States may use to determine financial eligibility and the amount of an assistance payment.

Hence, the withdrawal of the August 19, 1975 notice is considered appropriate at this time.

RESPONDENTS REASONS FOR OPPOSING THE PROPOSED REGULATIONS

The regulation would:

1. Violate section 402(a)(10) of the Social Security Act. This provision of the Act specifies that aid be furnished with reasonable promptness to all eligible individuals.

2. Conflict with the "available income" rule in 45 CFR 233.20.

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3. Increase general assistance costs.

4. Have the effect of denying aid up to 30 days. Some States do not have an emergency assistance program; even in EA States, the program was not designated to fill the gap.

5. Cause administrative problems in having to figure the budget period for food stamps.

6. Restrict States' flexibility.

7. Result in harassment of recipients and would seem to be another administrative barrier created to prevent giving assistance to eligible individuals.

The proposed regulations are hereby withdrawn.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: June 2, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 26, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education and Welfare.

[FR Doc. 78-27796 Filed 9-29-78; 8:45 am]

[4110-07]

Social Security Administration

[45 CFR Part 233]

AID TO FAMILIES WITH DEPENDENT CHILDREN

Need and Amount of Assistant; Methods for Budgeting Income

AGENCY: Social Security Administration, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendments to the regulation provide that a State may opt for a prospective (estimated income) or retrospective (actual reported income) budgeting method to determine a recipient's financial eligibility for AFDC and the amount of the assistance payment. States choosing a retrospective method will be required to provide for: (1) supplemental payments in hardship situations if they are unable to disburse the monthly assistance payment with 25 days of the end of the budget month, and (2) monthly income reporting for recipients who have earned income. The method selected by each State will be identified in the State plan. The methods are discussed below.

The proposed amendments would affect recipients of AFDC and the adult assistance titles of the Social Security Act (I, X, XIV, and XVI (AABD)) administered in Guam, Puerto Rico, and the Virgin Islands.

DATE: Comment must be received by December 4, 1978.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulation, consideration will be given to any data, views, or arguments which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mrs. Constance Katz, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0982.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The proposed amendments specify the budgeting methods which States are permitted to use in determining financial eligibility for and the amount of the assistance payments under titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act. These proposed amendments implement sections 402(a)(5), 402(a)(7), and 402(a)(10) of the Social Security Act covering the title IV-A program (AFDC), and parallel provisions for the other titles. Section 402(a)(5) requires a State plan to "provide such methods of administration • • • as are found by the Secretary to be necessary for the proper and efficient operation of the plan." Section 402(a)(7) requires that a State plan must "provide that the State agency shall, in determining need, take into consideration any other income and resources" of any person claiming AFDC benefits. Section 402(a)(10) requires a State plan to provide that AFDC "shall • • • be furnished with reasonable promptness to all eligible individuals."

PROVISIONS OF THE PROPOSED AMENDMENTS

The proposed amendments require the States to select one of two budgeting methods and to identify that method in the State plan. The first method is a prospective (estimated income) budgeting method. Under this method, the AFDC assistance payment for a particular month is based on an estimate of income the assistance until will receive during that month. The prospective budgeting method has been the most widely used method to measure income under title IV-A.

The second method is a retrospective (actual reported income) budgeting method. Under this method, States have two options. Under the first option the payment for the first 2 months will be based on the prospective budgeting method. Thereafter, the payment for a given month (the payment month) depends directly on the recipient's report of the actual income received in a previous month (the budget month). (For example, a State could examine income in May based upon a report of the recipient in early June, and use that income as the basis for the assistance payment that must be dispensed within 45 days of the end of May.) For purposes of this option, States must disburse the assistance payment within 45 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report. States selecting this option must also provide supplemental payments within 3 working days upon the request of a recipient, when a significant reduction of income in a payment month results in hardship to the assistance unit.

The second option under retrospective budgeting requires that the payment for the first month is based on a prospective budgeting method. Thereafter, a recipient's assistance payment will be computed under a retrospective budgeting method, based on the recipient's report of actual income received in the budget month. Supplemental payments are not mandatory under this option. To select this option, the State must be able to disburse the assistance payment within 25 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report.

Under both options of retrospective budgeting, States may limit the monthly reporting requirements to recipients with earned income.

As noted above, the proposed amendments specify the budgeting methods a State may use to measure income and compute the amount of AFDC assistance payments. This clarification is needed because the statute does not speak to the frequency with which income should be measured and reported or the proper correlation between an income measurement period and the date of the corresponding assistance payment. Similarly, regulations to date contain no periodic income reporting rules and no requirement that the amount of AFDC benefits be calculated by reference to income received during a particular interval.

The lack of clarification has resulted in substantial variation among the income reporting and budgeting methods adopted by the States. (See Congressional Research Service, U.S. Library of Congress, Administration of the AFDC program—A Report to the House Committee on Government Operations (1977).) The divergent approaches manifest the considerable independence retained by the States in their administration of the AFDC program. While the budgeting systems adopted by the States have generally been accepted by the Secretary, the absence of specific Federal guidelines has led to uncertainty as to the parameters of Federal law. The proposed amendments are designed to clear up this uncertainty.

The Department published an earlier notice of proposed rulemaking on August 19, 1975 (40 FR 36141), which would have required States to adopt a retrospective, "prior month budgeting system." This NPRM supersedes that notice. The withdrawal notice is published elsewhere in this issue of the FEDERAL REGISTER. The amendments proposed here have been drafted with the benefit of extensive comments on the earlier NPRM received from Governors, State agencies, city and county welfare agencies, legal aid groups, Congressmen, and other organizations and individuals. Provisions that respond to many of the concerns raised by those comments have been incorporated in these proposed amendments. In addition, recent research and demonstration projects conducted by the Department and further State experience with diffrent budgeting methods have provided new evidence on the feasibility of the proposed retrospective budgeting method.

METHODS FOR BUDGETING INCOME

The following paragraphs provide details regarding the proposed amendments, indicate how these amendments respond to some of the concerns raised by the comments with respect to the 1975 notice of proposed rulemaking, and discuss the evidence considered in developing this proposed regulation.

I. PROSPECTIVE BUDGETING

Under this method, financial eligibility for and the amount of the AFDC assistance payment for a month is based on the best estimate of the income to be received by the applicant and recipient during that month. This method codifies into Federal regulations the most widely used method by which States have measured income under the AFDC program. Ideally, a prospective budgeting system would allow adjustments in AFDC assistance to be made immediately after a change in income has occurred or as soon as a change is anticipated. As a practical matter, however, most States are not able to respond immediately to an AFDC recipient's change in income. Income changes may not be discovered for several months, and even if a change is reported promptly, States with prospective budgeting systems normally do not adjust assistance payments until the following month, or later. Thus States have historically been allowed a grace period of at least 60 days within to make adjustements in AFDC assistance payments after a change in income has come to the attention of the State. Moreover, a prospective budgeting system is necessarily imprecise because it is based on estimates of income rather than actual income. When a change in income occurs and an adjustment in the amount of the assistance payment is not made in a timely fashion, an underpayment or overpayment may result.

II. RETROSPECTIVE BUDGETING

The proposed retrospective budgeting method, which bases assistance payments on acutal rather than estimate measures of income, has been recommended as a means by which program error rates can be reduced and changes in recipient's income can be more rapidly and more accurately addressed. Under this method, financial eligibility for and the amount of the assistance payment is based on actual income and resources of the AFDC assistance unit. The assistance unit is required to report on a monthly basis the income it has received in a "budget month." The amount of income and resources reported is then used to compute the amount of the assistance payment in the corresponding payment month. The payment thus computed is considered to be the correct payment for the payment month. States at their discretion may limit the monthly reporting requirement to AFDC assistance units with earned income.

As noted above, States may select one of two options under retrospective budgeting. Under the first retrospective budgeting option, income will be measured using the prospective budgeting method for the initial 2 months of eligibility. This is a departure from the 1975 NPRM, which mandated use of the 30-day period to application as the budget month. Many of the comments on the NPRM viewed the 30-day period as imposing a waiting period for assistance in violation of section 402(a)(10) of the Social Security Act, 42 U.S.C. 602(a)(10), as well as increasing the use of State funded general assistance programs. In response to these concerns, this retrospective budgeting method adopts the suggestions of several commentors that income be measured prospectively for at least the first month of eligibility. For months subsequent to the initial 2 months, assistance payments are computed under a retrospective budgeting method in which States are required to disburse assistance payments within 45 days after the end of the budget month to recipients who file on time a completed monthly income report and to those who are required to file such a report.

This option also recognizes that the 45-day period between the budget month and the payment month may result in hardship to recipients who suffer a sudden and significant loss of income. To cushion this hardship, States adopting the first option under retrospective budgeting must provide, if requested by the beneficiary, supplemental payments in all instances where a significant reduction in income, which is not reflected in the corresponding budget month, results in a situation in which the recipient has insufficient funds to meet his or her needs at least for housing, utilities, or food under the State's standard of need. The supplemental payment is not considered to be part of the State standard of need as determined under section 233.20(a)(2) (i) and (v). The supplemental payment must equal at least the difference between 75 percent of the amount of a State's payments for a like family with no income and the total income and liquid resources available to the assistance unit during the payment month.

For the purpose of these supplemental payments, total income and liquid resources include the monthly assistance payment and any income or liquid resources received by or available to the unit. The State, at its option, may include any amounts disregarded in determining need and the amount of the assistance payment, unless that income or liquid resource is set aside for a specific purpose under section 233.20(a)(4)(ii).

The Department does not believe that it should require supplemental payments equal to the difference between the full amount of a State's payment for a like family with no income and the total income and liquid resources available to the assistance unit. Such an approach would be inconsistent with the concept of the supplemental payment as minimal assistance necessary for an assistance unit to maintain itself, if a drop in income occurs, until the budgeting method compensates for that drop. For similar reasons the Department believes that a State should be allowed to include sums disregarded in computing monthly entitlements when the State computes the amount of the supplemental payment; these sums are in fact available to the family in the

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situation which gives rise to the supplemental payment. Yet, the Department feels obligated to establish some minimum supplemental payment so that assistance units which experience a loss of income that leads to hardship will have available some meaningful level of temporary aid. Setting the minimum at 75 percent of the payment standard, the Department feels, can yield a sufficient supplemental payment to tide a family over a hardship period caused by loss of income while, at the same time, reinforcing the concept that the supplemental payment should be used only where there is significant need. In addition, we believe the 75 percent minimum strikes a balance between the need to provide hardship aid in a retrospective system and significant fiscal pressures which exist both at the Federal level and in the States. The Department specifically solicits comment on the 75 percent minimum.

Under the second retrospective budgeting option, the assistance payment for the first month is computed using a prospective budgeting method. As in the first option, this responds to the comments on the 1975 NPRM regarding the determination of assistance in the month of application. Thereafter, assistance payments are computed under a retrospective system in which States are required to disburse assistance payments within 25 days of the end of the budget month to recipients who timely file a completed monthly income report and to those who need not file a report. By meeting this requirement, the potential hardship caused by a reduction of income will be mitigated. This requirement will insure that adjustments in the amount of the assistance payment will, in most cases, be effected at least as rapidly as similar adjustments under a prospective budgeting system and with greater accuracy.

Under the prospective budgeting method, if an adjustment to benefit levels is not made in the month that the change occurred, an underpayment or overpayment may result because the estimated income and resources do not match reality. Under a retrospective system, the assistance payment is correct in the payment month because it is based on actual income. Thus, States that disburse assistance payments withing 25 days of the end of the budget month are not required to adopt a system of mandatory supplemental payments. However, States may elect to make supplemental payments under the proposed section 233.20(a)(2)(ix)(*a*)(*2*). Since such payments are at State option, the Department does not believe that it should require a minimum payment standard.

State experience with retrospective budgeting and monthly reporting systems. Retrospective budgeting systems are not new. Their feasibility is demonstrated by the fact that in recent years a number of States have adopted such systems. While these systems vary somewhat in the reporting requirements they place on recipients, and the speed with which the reports are processed and payment made, they have three principal features in common: (1) There is a mandatory reporting requirement for at least some portion of the caseload; (2) benefits for ongoing cases are based on actual income reported for a prior month; and (3) the system is supported by an automated data processing capability. The States' experience to date with monthly retrospective budgeting systems indicates: (a) Such systems are administratively feasible; (b) recipients can master the reporting requirements; (c) the systems are responsive to changes in recipients' circumstances; and (d) the systems can contribute to lower error rates by basing payments on actual rather than estimated income, by clarifying reporting requirements for recipients and by organizing the flow of information important to the administering agency.

The evidence on actual income budgeting systems derives from the experience of several States including California, Michigan, and Oregon; and from an HEW supported experimental pilot project in Denver and Boulder, Colo. In the latter project 10 percent of the Denver County AFDC caseload was randomly assigned to an automated monthly reporting system. A comparable number of AFDC cases were randomly assigned to control status with the existing Denver County AFDC system. This procedure permitted evaluators to develop statistically reliable measures of the impact on total grant payments, average grant sizes, turnovers, discontinuance, and other items of interest. At the same time, the entire AFDC caseload of Boulder County, Colo., was converted to a retrospective budgeting system with a monthly reporting requirement. This test enabled evaluators to assess the impact on administrative functioning, performance, and cost.

(a) *Administrative feasibility.* Several States have now amassed considerable experience in the administration of retrospective budgeting systems with monthly reporting requirements. California adopted the system in 1973, and has demonstrated that regular reporting is feasible in large urban areas, such as Los Angeles County, with dense and mobile caseloads. Michigan has successfully administered a retrospective budgeting system with a monthly reporting requirement statewide for recipients with earned income and for all recipients in two counties. The State of Colorado has successfully administered a pilot monthly reporting project in two counties. Oregon has administered a retrospective budgeting system with a monthly reporting requirement for AFDC cased identified as regular earners.

Collectively, these State experiences demonstrate that monthly actual income reporting systems can be operated in a variety of settings, with regular income maintenance staff, and with varying degrees of data processing suport. Administrators, associated with these systems report an improved ability to track, process, and manage assistance cases. They are also of the opinion that these systems contribute to an improved ability to organize workload and staff, and identify areas where greater administrative effort is required.

(b) *The reporting requirement.* The breadth of State experience with mandatory reporting requirements in retrospective budgeting systems indicates that recipients can manage the requirements of periodic reporting. The Department is in the process of completing an indepth study of the nature of the reporting burden on recipients within the Colorado project. Preliminary results from this study indicate that on the basis of objective measures of burden (e.g., amount of time spent completing reports), the time and effort that recipients must devote to a monthly reporting requirement is comparable to the reporting burden imposed by prospective AFDC systems.

Moreover, administrative data from Denver County indicate that between 80 and 90 percent of all reports are filed within 5 days after close of the budget month. Approximately 50 percent of all reports are processed without further action by either recipients or caseworkers.

The Department recognizes that a periodic reporting requirement shifts somewhat the traditional allocation of responsibilities under the AFDC program by asking recipients to play a greater role in the regular provision of information to the administering agency. The Department believes, however, that such a shift can contribute to improved program administration without imposing an unwarranted burden on recipients. Moreover, permitting some State discretion in the imposition of reporting requirements will encourage the development of further refinements in repoeting procedures that can reduce the burden on recipients.

(c) *Responsiveness.* Responsiveness is a measure of the extent to which the assistance payment is adjusted to reflect changes in recipient circumstance. Data drawn from the Colorado project indicate that retrospective budgeting with monthly reporting identifies 2½ times as many status and income changes that affect the assistance payment than the more commonly used prospective budgeting systems which only require a report upon a change in circumstances or at the time of a regularly scheduled redetermination. The assistance payments, therefore, change more rapidly as recipients' circumstances change.

The Colorado project also provides evidence that the retrospective budgeting system reduces total outlays for assistance payments by approximately 5 percent. This outcome results primarily from the rapid identification of terminating cases. There is no evidence that the system is terminating otherwise eligible cases. The department is concerned, of course, that this should not occur.

Data drawn from Boulder County also indicate that a monthly retrospective budgeting system with a monthly reporting rrequirement reduces the incidence of payment reconciliations, recoupments, and stopped checks. Such actions can be burdensome to administrators and recipients. Moreover, such adjustments are often unresponsive to recipient needs in that they take time to process and may become effective well after the change in income has occurred.

(d) *Error rates.* Quality control payment error rates in California declined from over 12 percent to less than 5 percent between 1973 and 1977 after the introduction of its retrospective budgeting system. About one-half of this reduction was attributable to lower client reporting error. Although California's administering agencies have instituted a number of management reforms that may have been responsible for the decline in agency errors, monthly reporting was the main initiative that affected the manner in which client information reaches the agency. Thus, a substantial portion of the reduction in client-related errors appears to be related to monthly reporting. The Department believes that States which adopt a retrospective budgeting method with its monthly reporting requirement will add further evidence on the impact of this method on error rates. The Department does not assume that a retrospective budgeting method is the only way to reduce eligibility and payment errors, merely that it is a promising approach to this desirable goal.

Based on the evidence to date, the Department believes that retrospective budgeting will contribute to the proper and efficient administration of title IV-A. Because assistance payments will be based on known circumstances rather than future estimates of income; the accuracy and responsiveness of the system can be improved. At the same time, through the provision of supplementary payments, States will have the flexibility to assist recipients who suffer hardship due to a significant change in income.

The retrospective budgeting method with its monthly reporting requirement generates information on a regular basis which the administering agency must act upon, and thus requires a higher level of data processing capability than is needed in the prospective budgeting method. The Department is concerned that all States act to improve their data processing capability in a manner that is commensurate with their needs. A retrospective budgeting system places an obligation on States, however, to provide an adequate data processing support system as the agency must be able to respond to recipient generated changes within the next payment cycle. While the Department believes that all States should process recipient reported changes promptly and adjust future payments accordingly, States electing to use a retrospective budgeting method have a special duty to perform this task rapidly so that the information on which benefits are to be based is as current as possible.

Under the Colorado project, the administering agency is able to process income reports and pay most recipients (80 to 90 percent), 16 days after the close of the reporting period, although 23 days is allowed for this process. The Department recognizes that not all States currently have the capability to meet this standard. It is desirable, nevertheless, to propose a processing standard that will encourage States to respond rapidly to meet the needs of recipients who have fulfilled their obligation to report in a timely manner. Such a standard conforms with the traditional 60-day grace period within which States have been allowed to make adjustments to assistance payments after a change in income has been brought to their attention. A 25-day processing and payment standard will permit States to respond to new information and provide recipients whose income changes with adequate and timely assistance. A 25-day period is consistent with the data processing capability that is now available to administering agencies.

Despite the advantages that can result from retrospective budgeting, the Department does not believe that it is desirable to mandate such a system on all States at this time. A retrospective system may not make sense in all States. Many States do not possess the data processing capability to meet the timeliness requirements and information volume of a mandatory reporting system. Moreover, some States are not convinced that the additional investment in data processing capability is cost efficient. Finally despite the growing body of experience with retrospective budgeting systems, a number of questions remain open concerning the frequency with which different recipients should report, the kind of information that should be elicited, and the range of policies that should be developed to deal with special cases and unusual circumstances. For these reasons, the Department believes that an optional approach to the adoption of retrospective budgeting system will: (1) Facilitate the proper degree of further refinement that is desirable, and (2) permit States to reach their own conclusions with respect to the feasibility and desirability of introducing this budgeting method. Such an approach is consistent with the grant-in-aid nature of the title IV-A program.

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: June 28, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 26, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 233 of chapter II, title 45 of the Code of Federal Regulations is amended as follows:

In § 233.20, new paragraphs (a)(2)(ix), (a)(2)(x), and (b)(4) are added to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.* A State plan for OAA, AFDC, AB, APTD, or AABD must, as specified below: • • •

(2) *Standards of assistance.* • • •

(ix) Specify whether the amount of the assistance payment will be computed by determining income using prospective budgeting for all months or retrospective budgeting. States electing retrospective budgeting must provide that: *(a)(1)* Income will be determined under a prospective budgeting method for the first 2 months and under a respective budgeting method thereafter with provision for supplemental payments if requested by the recipient when a significant reduction in income results in hardship to the assistance unit. Under this option, the State agency must disburse the monthly assistance payment within 45 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report. The plan must define the circumstances under which a sup-

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plemental payment will be granted and include the method for computing the amount of that payment; or

(2) Income will be determined under a prospective budgeting method for the first month and under a retrospective budgeting method thereafter. Under this option States must disburse the monthly assistance payment within 25 days of the end of the budget month to recipients who have timely filed a completed income report and to those who are not required to file such a report. The State plan must provide whether supplemental payments shall be made.

(b) States electing retrospective budgeting must require recipients with earned income to report income on a monthly basis.

(x) For purposes of paragraph (a)(2)(ix):

(a) "Prospective budgeting" means that the monthly assistance payment is computed by estimating expected income for the payment month on the basis of the best information available. Such information may be obtained from knowledge of current or past circumstances which are reasonably expected to continue or from future circumstances which are reasonably expected to occur. For States using prospective budgeting for all months, payments would be based on this estimate until the 6-month redetermination (or a shorter period if a State requires more frequent redeterminations), or a report of change in income is received.

(b) "Retrospective budgeting" means that the amount of the monthly assistance payment is computed on the basis of actual income reported for a previous month.

(c) "Budget month" means a fiscal or calendar month established by the State agency. The income of the assistance unit during that period provides the basis for the amount of assistance for the corresponding payment month.

(d) "Payment month" means the fiscal or calendar month for which a particular assistance payment (or two successive payments, if the State pays on a semimonthly basis) is received by the assistance unit.

(e) "Supplemental payment" means a payment which is equal to the difference between at least 75 percent of the amount a State pays for a like family with no income and the total income and liquid resources available to the assistance unit during the payment month. For the purpose of these supplemental payments, total income and liquid resources include the monthly assistance payment and any income received by or available to the assistance unit. The State, at its option, may include any amounts disregarded in determining need and in determining the amount of the monthly assistance payment, unless that income or liquid resource is set aside for a specific purpose under § 233.20(a)(4)(ii). States that elect to make supplemental payments under option 233.20(a)(2)(ix)(a)(2) may compute that payment without regard to the 75-percent minimum but must specify the percentage in the plan. Supplemental payments meeting this definition are not considered to be part of the State standard of need as determined under § 233.20(a)(2) (i) and (v).

(f) "Hardship" exists if the recipient does not have income and liquid resources in an amount sufficient to meet his/her needs at a minimum for housing, utilities or food under the State's standard of need.

* * * * *

(b) *Federal financial participation; general.* * * *

(4) Federal financial participation is available in supplemental payments for purposes of retrospective budgeting when the amount of that payment, together with the monthly assistance payment and any income and liquid resources specified by the State under § 233.20(a)(2)(x)(e), do not exceed the amount a State pays for a like family with no income.

* * * * *

(Secs. 405, 406, 1102, of the Social Security Act, as amended; 49 Stat. 629, as amended, 47 Stat. 647; 42 U.S.C. 605, 606, and 1302; 91 Stat. 1354.)

[FR Doc. 78-27795 Filed 9-29-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PARTS 42 and 43]

[CC Docket No. 78-302; FCC 78-659]

TELEPHONE COMMON CARRIERS

Reporting of Detailed Traffic Statistics

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission institutes a rulemaking to amend its rules to require telephone companies which maintain records of detailed traffic data to submit magnetic tapes of such information. The proposed rules also require tariff rate information be submitted on magnetic tape. Detailed traffic information is now prepared and submitted on magnetic tape by certain carriers. The rulemaking proposes to finalize this submission format and extend it to the tariff rate submissions.

DATES: Comments to be filed on or before October 30, 1978, and responses no later than December 1, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Boyd L. Nelson, room 530, 202-623-7084.

Adopted: September 19, 1978.

Released: September 28, 1978.

By the Commission: Commissioner Quello absent.

In the matter of changes in parts 42 and 43 of the Commission's rules so as to provide for the reporting of detailed traffic statistics of telephone common carriers, CC Docket No. 78-302.

1. Notice is hereby given of proposed rulemaking in the above entitled matter.

2. In connection with its regulatory responsibilities the Federal Communications Commission has been involved in traffic and demand studies for interstate message toll telephone service (MTS). To assist the Commission's efforts, A. T. & T., on behalf of the Bell System, has voluntarily submitted certain traffic data. These data presently arrive on magnetic computer tape. In the past, they have come in the form of punched cards, or computer printout. The Commission will have continuing need for these data in the future, so it is essential that it receive them in standardized compatible format. It is the purpose of this rulemaking procedure to develop such a format, which will be responsive to the present and anticipated future needs of the Commission, yet be compatible with the data collection procedures used by the industry.

3. Since the early 1970's the American Telephone & Telegraph Co., as part of an industrywide project, has been developing a system for the automated exchange of toll billing information, and the collection of samples of toll calls which serve as the basis for various studies, many of which are of interest to this Commission. For example, the system in question, the centralized message data system (CMDS), provides the basic toll traffic statistics used in toll separations and division of revenue studies. Other data subfiles are produced by the CMDS for developing and applying the MTS and WATS demand models on which Bell has relied in rate cases before this Commission. Still other data files generated by CMDS are used to study the design and utilization of toll plant.

4. Since CMDS is an industrywide project, although implemented and managed by A.T. & T., it includes a very large fraction on non-Bell traffic: All traffic transiting Bell facilities, and also traffic from non-Bell operating companies that have voluntarily chosen to have their data processed by A.T. & T. These data are of importance to the Commission in the study of demand for toll services and for developing accurate estimates of effects of proposed rate changes on carrier revenue requirements.

5. Accordingly, we propose to modify parts 42 and 43 of the rules to provide for the timely submission of these traffic data in the manner that will be most useful to the Commission as follows.

6. We propose that § 42.9 of the Commission's rules be modified by the insertion in item 103 of new sections (d) and (e), to read:

Item No.	Description of records	Period to be retained (years)
103.....	d. Computer format traffic and tariff reports to Commission.	20
	e. Computer format facilities reports to Commission.	

7. We propose that a new § 43.32 be inserted to read:

§ 43.32 Traffic Reports of Telephone Common Carriers.

(a) Each telephone common carrier or company controlling or controlled by a common carrier that manages or operates on behalf of itself and other carriers a centralized message data system or which directs, supervises or causes to be performed the operation of such a system, wherein traffic data from telephone common carriers are collected, sorted, compiled, summarized or otherwise handled, shall file periodic reports of such data, in computer readable form, as specified by the Commission. Reports shall be due 60 days after the close of the reporting period specified by the Commission. Technical requirements, computer formats and codes will be specified by the Commission. Proposed formats are stated in appendix A below.

(b) Data to be reported include a sample of not more than 5 percent (1 in 20) of all international (including transiting), interstate and intrastate message telephone messages or messages made using wide area telecommunication service. The sample shall be drawn from all messages using the common switched network, and charged under any message toll or WATS tariff or which would have been so charged except that they are franked, official, or otherwise free of all charge. The instructions for taking the sample and the precise sample proportion, if less than 5 percent, will be specified by the Commission. Proposed instructions are stated in appendix A.

(c) If the precise sample proportion as specified by the Commission is less than 5 percent for any class of traffic, the Commission may at any time require the submission of a full 5 percent sample for the future, retroactive for any period in the preceding 60 months (60).

(d) The reporting company will maintain a copy of the traffic data report, in computer format, and will supply a copy on request to any of the telephone common carriers whose traffic it is reporting.

(e) The report as filed will be considered business sales statistics and customer lists, since large customers can be readily identified. As such, it will not be routinely available for public inspection under § 0.457 (c) and (d) of the Commission's rules. Publicly released summary data and results of studies based on the information contained in those reports will be so formatted as to prevent the identification of particular customers.

(f) Paper copies of the traffic data report (printed or typewritten) need not be maintained. Each monthly report in computer format shall contain all the information called for therein as prescribed by the Commission.

(g) Nothing in this section shall be construed as in any way modifying the requirements of any uniform system of accounts prescribed by the Commission, or of any other periodic or special reports.

(h) Reports filed under this section shall be preserved as provided in § 42.9, item 103d.

8. We propose that part 43 of the Commission's rules be modified by the addition of a new section, § 43.33.

§ 43.33 Special Rules, Computer Format Tariff Reports.

(a) All companies filing domestic or international traffic reports in computer format under § 43.32 shall file a semiannual report in computer readable form which will show all tariff rates which have been in effect in the previous 6 months for any of the reported traffic. The reports will be due on September 1 and March 1 for the immediately preceding periods of January 1 to June 30, and July 1 to December 31, respectively. The format of these reports will be as prescribed by the Commission. Proposed formats are stated in appendix B.

(b) The report called for will not be considered a tariff filing, but as a supplemental traffic report. Accordingly, none of the provisions of these rules relating to format, posting, or retention of tariffs will apply. The report will be preserved as provided in § 42.9, item 103(d).

9. We propose that Part 43 of the Commission's Rules be modified by the addition of a new section, § 43.34, to read as follows:

§ 43.34 Reports of Facilities in Place.

(a) All companies filing domestic or international traffic reports in computer format under § 43.32 will file a periodic report of plant and facilities in place in computer readable form which will show all toll plant and facilities, whether transmission, switching, or other, which have been traversed by the traffic reported, and shall be in such detail as to permit the determination of the standard or most probable routing of each call.

(b) The report will be filed at such times, and in such formats as may be prescribed by the Commission, but will not in any case be filed more frequently than twice each year. Proposed formats are stated in appendix C.

(c) The report called for will not be considered an application under section 214 of the Communications Act.

(d) The report will be preserved as provided in § 42.9, item 103(e).

10. Comments are solicited regarding the proposed rules and regarding appropriate formats for submission of tariff rates and facilities data. Such formats will be contained in appendices B and C, respectively.

11. Authority for the rulemaking proposed herein is contained in sections 4(i), 219, and 220 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That any interested person participating in the proceeding herein shall file comments and responses in accordance with the following schedule:

(a) Comments shall be filed on or before October 30, 1978;

(b) Responses to those comments may be filed on or before December 1, 1978; and

It is further ordered, In accordance with the provisions of § 1.419 of the Commission's rules and regulations, that all participants in the proceeding ordered herein shall file with the Commission an original and eleven (11) copies of all comments, responses, replies or other pleadings provided for herein. In addition to the material filed in response to this notice, the Commission may consider any other relevant material before it. Copies of responses filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street NW., Washington, D.C.

FEDERAL COMMICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

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APPENDIX A.—Formats Proposed by the Commission for the Submission of Traffic Information

1. The samples of traffic submitted will be based on monthly systematic samples with a pseudo-random start. The samples will include 5 percent (0.005) of all international traffic (sampling every twentieth (1/20) call, after the first drawn), one-tenth (1/10) percent (0.001) of all domestic intrastate and two-tenths (2/10) percent (0.002) of all interstate toll calls (sampling every one-thousandth (1/1000) and five hundreth (1/500), after the first drawn, or alternatively, sampling every fiftieth (1/50) and every twenty-fifth (1/25) call respectively of previously drawn samples of every twentieth (1/20) call.

2. The calls will be reported in files as follows:

a. International and overseas calls, with subfiles;

b. Interstate domestic calls with subfiles;

c. Intrastate domestic calls with subfiles.

3. The subfiles to be used are:

a. Direct dialed sent paid traffic;

b. Operator handled sent paid traffic;

c. Operator handled received collect traffic;

d. Operator handled sent collect traffic. (The calls reported herein need not be rearranged or sorting of the previous file, but may be a fresh sample.)

4. Where some or all calls in a class must be "generated" in the sampling process, or must have characteristics inputted to them which could not be derived from the source of the data, such calls will be clearly distinguished, as provided below.

5. Each selected sampling unit is to be observed so as to provide the information in the attached format sheet, encoded on magnetic tape, 9 track, 1600 characters per inch, phase encoded. EBCDIC letters and numerals, with minus signs punched in the leading position, and decimal points omitted, shall be encoded so as to be readily useable by computer programs written in the FORTRAN computer language. No special character other than the minus sign shall be used. Other special characters will be replaced with blanks. The tape shall be one-half (1/2) inch, 9 track, 2,400 ft., certified.

See USA standard X3.39-1973 for complete technical specifications. (Available from American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.) The blocking factor shall be twelve thousand (12,000) character per block.

APPENDIX A

ATTACHMENT I.—*Overseas Layout*

Position	Number of characters	Field Name
1	1	Settlement code.
2	1	Message type.
3	1	STA/PER IND.
4	1	Rate class.
5-8	4	Error indicators.
9	1	Weekday indicator.
10-11	2	Toll service class.

APPENDIX A—Continued

Position	Number of characters	Field Name
12-15	4	Minutes.
16	1	Tenths of Minutes.
17-19	3	USOC.
20-21	2	Connect hour.
22-27	6	Message charge.
28-30	3	To time zone.
31	1	To independent and reversal indicator.
32-34	3	To NPA*.
35-37	3	To NNX*.
38-40	3	From time zone.
41	1	From independent and reversal indicator.
42-44	3	From NPA*.
45-47	3	From NNX*.
48	1	Special change indicator.
49	1	Other indicator.
50	1	Aldi and reversal indicator.
51-53	3	UCB.
54	1	Holiday code.
55-57	3	Billing NPA.
58-60	3	Billing NNX.

APPENDIX A—Continued

Position	Number of characters	Field Name
61-65	5	To vertical coordinate.
66-70	5	To horizontal coordinate.
71-75	5	From vertical coordinate
76-80	5	From horizontal coordinate.
81-86	6	Date format.
87	1	Method of message recording.
88-91	4	Mileage.
92-102	11	From CLLI.
103-113	11	To CLLI.
114-115	2	Billing State.
116-117	2	Billing company.
118-119	2	Billing area code.
120	1	Type sample: bit 0 = 1 (SP) 1 = 2 (SC) 2 = 4 (RC) Drop Pos bit 6 (Type 4 SP)

*If overseas, identifies country and city.

ATTACHMENT II.—*Interstate and Intrastate Layout*

Positions	Field name	Format	Contents
1	Type of customer	C	See exhibit A.
2-3	Customer breakdown	C	See exhibit B.
4-7	Billed miles	C	Airline miles of call.
8	Type of message	C	See exhibit A.
9	Type of billing	C	Do.
10	Day	C	Do.
11	Holiday	C	Do.
12-17	Date of message	C	YYMMDD.
18-21	Time	C	HHOO.
22-27	Originating number	C	NPA-NNX.*
28-33	Terminating number	C	NPA-NNX.*
34-43	Originating rate center	C	V & H. coordinates.
44-53	Terminating rate center	C	Do.
54-57	Minutes	C	XXX.X.
58-63	Revenue	C	XXX.XX.
64-67	Sample expansion factor	C	Number of messages represented by this sample record.
68	Originating time zone	C	See exhibit A.
69	Terminating time zone	C	Do.
70	Toll service class	C	Do.
71-74	Originating toll center	C	Toll center code.
75-78	Terminating toll center	C	Do.
79	WATS	C	0=Not WATS.
		C	1=Full.
		C	2=Measured.
80	WATS band purchased	C	0=Not WATS.
		C	1-6=WATS.
81	Special billing indicator	C	0=Not being used.
		C	1=Optional calling.
		C	2=Official.
82-87	Billed number	C	NPA-NNX.
88-97	Billed rate center	C	V. & H. coordinate (if sent paid or collect).
98-108	To CLLI	C	Common language.
109-119	From CLLI	C	Location indicator: Town (4), State (2), independent (1), building (1), entity (3).
120	Independent company and reversal indicator.		See exhibit A.

*If overseas, identifies country and city.

Exhibit A

Field name	Code	Meaning
Type of customer	0	Canadian-billed, no USOC.
	1	Business.
	2	Public (coin).
	3	Residence.
	4	Mobile.
	5	Official.
Type of Message	1	Person—non-TSPS.
	2	Person—TSPS.
	3	Station—DDD.
	4	Station—OPH—non-TSPS.
	5	Station—OPH—TSPS.
Type of billing	1	Sent paid.
	2	Collect.
	3	Third number.
	4	Credit card.
	5	Other.
Day	1	Monday.
	2	Tuesday.
	3	Wednesday.
	4	Thursday.
	5	Friday.
	6	Saturday.
	7	Sunday.
Holiday (see p. 2)	0	Not a holiday.
	1	Rate holiday.
	2	Legal holiday.
	3	Both rate and legal.
Time zone	0	Atlantic DT.
	1	Atlantic ST/EDT.
	2	EST/CDT.
	3	CST/MDT.
	4	MST/PDT.
	5	PST/Yukon DT.
	6	Yukon ST/Alaska-Hawaii DT.
	7	Alaska-Hawaii ST/Bering DT.
	8	Bering ST.
Independent company and reversal indicator.	0	To and from Bell.
	1	To independent from Bell.
	2	From independent to Bell.
	3	To and from independent.
	4	To independent from Bell.[1]
	5	Do.[1]
	6	From independent to Bell.[1]
	7	To and from independent.[1]

[1]Generated by reversal.

ATTACHMENT II.—*Exhibit B*

Customer	Code	Meaning
Other than business or residence.	00	
Residence	01	One-party.
	02	Multiparty (all other).

UCB

Field name	Code	Meaning
Business	01	(x)01-(x)14
	02	(x)16-(x)19
	03	(x)20-(x)24
	04	(x)25-(x)27
	05	(x)28-(x)33
	06	(x)34-(x)38
	07	(x)37-(x)45
	08	(x)46-(x)48
	09	(x)49-(x)52
	10	(x)53-(x)61
	11	(x)62-(x)63
	12	(x)64-(x)68
	13	(x)69-(x)70
	14	(x)71-(x)77
	15	(x)79-(x)82
	16	(x)83-(x)88
	17	(x)89-(x)90
	18	(x)91-(x)95
	19	(x)97
	20	710-714
	21	720-727
	22	730-739
	23	740-750
	24	755-757
	25	760-763
	26	770-777
	27	780-784
	28	790-795
	29	801-809
	30	820-826
	31	840-843
	32	850-859
	33	900-905
	34	911-917
	35	920-927
	36	930-939
	37	991-992

NOTE.—Where (x) appears, the first position can be 0-6; therefore, only the second and third positions are checked. Only the first 3 positions of the 5-digit UCB code are used.

Field name	Code	Meaning
Toll service class	1	LLDI.
	2	ALDI.
	3	INWATS.
	4	OUTWATS
	5	U.S.—Overseas.
	6	U.S.—Canada.
	7	U.S.—Mexico.
	8	Other—includes official.
	9	Mobile.
Rate holidays: New Year's Day Washington's Birthday Independence Day Labor Day Thanksgiving Day Christmas Day		
Legal holidays: New Year's Day Lincoln's Birthday Valentine's Day Washington's Birthday Good Friday Easter Sunday Mother's Day Memorial Day Father's Day Independence Day Labor Day Rosh Hashana Yom Kippur Columbus Day Election Day Veteran's Day Thanksgiving Day Day after Thanksgiving Christmas Eve Christmas Day: New Year's Eve		

APPENDIX B AND APPENDIX C

Suggestions are solicited as to the appropriate initial formats to be delineated in these appendices.

[FR Doc. 78-27839 Filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-309; FCC 78-682]

NETWORK REPRESENTATION OF TV STATIONS IN NATIONAL SPOT SALES; REQUEST OF SPANISH NATIONAL NETWORK (SIN)

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC proposes to consider changes in the rule (§ 73.658(i)) barring TV stations from using as a national spot representative an organization owned by the network with which the station is affiliated. Changes may include limiting the prohibition to representative firms associated with the three national networks, and providing that it does not apply to stations having some but less than total, common ownership with the network. The proceeding is designed to consider whether the regulation should apply to representative firms connected with all network companies or just those connected with the three national networks, (ABC, CBS, and NBC).

DATES: Initial comments must be received on or before November 20, 1978, and reply comments on or before December 11, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John H. Bass, Jr., Office of Network Study—(Broadcast Bureau), 202-632-6339.

MEMORANDUM OPINION AND ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: September 22, 1978.

Released: September 29, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

In the matter of amendment of § 73.658(i) of the Commission's rules, concerning network representation of

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TV stations in national spot sales; request of Spanish International Network (SIN), for waiver of § 73.658(i), BC Docket No. 78-309.

1. This document, and the rulemaking proceeding begun herein, relate to the rule barring television stations from using as their national sales representative (in nonnetwork sales) an organization connected with or owned by the network with which they are affiliated—§ 73.658(i), a rule adopted in 1959.[1] The matter arises from a letter request by Spanish International Network (SIN) seeking waiver of the rule as to it and eight stations that it serves as "national rep" as well as supplier of programs by interconnection.

2. For reasons discussed below, we believe that the complete waiver for 5 years sought by SIN is by no means necessarily warranted, but that the public interest, overall, would be served by maintaining the status quo for a 1-year period; and that during that time, comments in a rulemaking proceeding should be invited, with respect to some questions raised by the SIN request. While these questions apply particularly to SIN and its situation, since that is where they arise, they have potentially wider significance, perhaps especially because the availability of communication satellites for program distribution appears likely to result in a larger number of interconnected networks, e.g., those distributing religious programing. If the information developed in this proceeding appears pertinent only with respect to SIN and its affiliated stations, action on an individual basis will be taken and the rulemaking proceeding terminated.

3. The three questions involved, discussed more fully below, are:

(a) Should the rule's prohibition, on use of representative firms owned by or with networks, extend only to firms associated with the three national networks (ABC, CBS, NBC), or to all firms which are associated with any entity falling within the definition of "network"?

(b) Should the exemption from the rule, for stations which are licensed to the network organization or a subsidiary of it, apply also to stations with a substantial degree of, although not complete, common ownership, such as the interests of Mr. Reynold Anselmo in SIN and in six of the stations involved here?

(c) Whether the rule, to the extent it applies to stations, should apply the same to stations served by the network entity via interconnection, and stations provided with the same material by the network entity via physical delivery (mail, express, etc.) and thus, arguably, not part of a "network", such as two stations in Chicago and Albuquerque so served by SIN (and not included in the eight stations referred to above). We are presently of the view that the rule should apply in both situations.

Spanish-Language TV Operations

4. As of spring 1978 there are in the 50 States of the United States about a dozen TV stations (all UHF) which devote a substantial portion of their time-from about 35 percent to all or almost all—to Spanish-Language material.[2] These include six stations having an ownership connection with SIN and using its network programing and national representative services; two stations using the SIN network programing and national representative service but without any ownership connection; two stations (not connected ownershipwise) receiving the same kind of material from SIN but not on an interconnected basis, the Chicago station (WCIU) but not the Albuquerque station (KMXN-TV) using SIN as a national rep; and two stations having no connection with SIN or Mr. Anselmo. The six stations first mentioned include outlets in the New York area (WXTV, Paterson, N.J.), Miami (WLTV), San Antonio (KWEX-TV), Los Angeles (KMEX-TV), Hanford, Calif. (KFTV), and San Francisco (KDTV).[3] The two stations receiving interconnected SIN service and national rep service but without any ownership connection are KLOC-TV, Modesto, Calif. and KORO, Corpous Christi, Tex. The two stations having no connection with SIN are KEMO-TV, San Francisco, and WNJU-TV, Linden, N.J. (near New York City).

5. Spanish International Network (SIN) is a U.S. corporation, 25 percent owned by Mr. Anselmo and 75 percent by Televisa, a Mexican television network and program production enterprise. For a number of years SIN has been supplying Spanish-language programs to several U.S. television stations specializing in this type of material, but only recently has it been using electronic interconnection and thus has come to be a "network" as that term is generally used in its strict sense. The SIN network affiliation agreement guarantees the stations a minimum of 42 hours of programs per week; in practice, we are told, the material per week varies from 45 to 55 hours.[4] It includes entertainment programs, sports, a long Sunday news and commentary program, etc., and much of it (including the news program) originates in Mexico City. It comes by terrestrial microwave to San Antonio, Tex., where it is fed to the Western Union satellite and distributed to earth stations at New York, Miami and Los Angeles, and is distributed by terrestrial interconnection from there. With respect to the 9 stations which it serves as "national rep", SIN serves as their agent in the sale of the station's non-network time on a national or regional basis. Of the three Spanish-language stations not represented by SIN, one is represented by Caballero Spanish Media, Inc., a firm which also represents some Spanish-language radio stations; it is not known who represents the other two.[5]

The Background of the Rule

6. One of the recommendations of the 1957 "Barrow Report", issued following a network investigation by a special staff, was that the three national TV networks be barred from acting as national representatives for stations other than those they own (*Network Broadcasting*, H. Rept. No. 1297, 85th Cong., 2d Sess., January 1958, pp. 528-540). A rulemaking proceeding looking toward such a rule was begun in January 1959 (docket 12746), and ended in October 1959 with the decision adopting a rule essentially as proposed except that it would bar net-

[1] § 73.658(i): "No license shall be granted to a television broadcast station which is represented for the sale of nonnetwork time by a network organization or by an organization directly or indirectly controlled by or under common control with a network organization, if the station has any contract, arrangement, or understanding, express or implied, which provides for the affiliation of the station with such network organization: *Provided, however,* That this rule shall not be applicable to stations licensed to a network organization or to a subsidary of a network organization." See "Network Representation of Stations in National Spot Sales," 27 FCC 697 (October 1959).

[2] In addition to the 12 mentioned, 2 other stations—KMUV, Sacramento, Calif. and WKID, Fort Lauderdale, Fla.—devote considerable time to such material though apparently less than the proportion mentioned. They have no connection with SIN or its principals. Some other stations devote smaller amounts of time to Spanish programs. Three additional stations are listed in the 1978 "Broadcasting Yearbook" as Spanish-language stations; but two of these (in Fontana, Calif. and Phoenix, Ariz.) are now primarily religious outlets and the third (Houston, Tex.) is now owned by Metromedia, Inc.

This summary does not include the numerous stations in Puerto Rico which are entirely or very largely Spanish-language, nor several Mexican border stations.

[3] The first five of these are licensed to Spanish International Communications Corp., of which Reynold Anselmo is president and about a 15 percent stockholder (there are two larger stockholders). The San Francisco station is licensed to another corporation of which he is president and the largest shareholder (about 44 percent).

[4] This is roughly half of the amount of programming which the three national commercial networks feed their affiliates (according to the rulemaking petition filed by Westinghouse Broadcasting Co., Inc. in 1976, CBS and NBC were then feeding 179.5 half-hours weekly).

[5] SIN served a copy of its waiver petition on Caballero; no responsive material has been filed.

work rep organizations only from representing stations affiliated with the network, and not other stations. It was decided not to adopt a similar rule for radio. See footnote 1, above; 27 FCC 697, 720, 725-726.

7. The decision to bar TV networks from serving as national reps for their affiliates reflected two general areas of concern, in which such a role served to inhibit competition. The first was the competition among national rep firms for station clients, where a station might choose the network's representative service in order to improve its chances of getting or retaining a network affiliation (even though this was recognized as a potential rather than an actual evil). The second was the competition between networks and national spot as the channels of television advertising, so that a network organization serving as a national rep for affiliates represents a basic conflict of interest.[6] For example, a national rep firm often advises its client stations as to the appropriate level of their national spot rates; if the rep firm is owned by a network it will tend to take into accout the network's interest (in reasonably high spot rates so as to reduce competition with network rates) in rendering such advice. Also, although perhaps to a lesser extent, network-associated rep firms could tend to unduly influence station programming decisions, in favor of the network's program rather than a national spot program. In sum, network involvement in national spot representation of affiliates "involves interference with the licensee's independent duty to operate his station in the public interest." (27 FCC 720). However, it was concluded that this is true only where the affiliation relationship is present for use as a lever and therefore the rule should be limited so as to bar only representation of the network's affiliates. The decision with respect to radio reflected the conclusion that the degree of network importance in radio was much less than in television (and the CBS and NBC role in radio spot representation was less than in TV spot representation despite the vastly greater number of stations), so that a rule appeared unwarranted at that time. (27 FCC 725-726).

Arguments of Petitioner

8. In support of its waiver request, SIN argues, essentially, that the rule in question was adopted as a restriction on stations vis-a-vis the three national networks—ABC, CBS and NBC—and was not really intended to, and should not apply to, stations in relation to other network entities such as SIN. Rather, it is claimed that the Commission should in effect do here what it did in 1970 with respect to the prime time access and financial interest-syndication rules, in effect expressly limiting them to the three national entities. By way of specific points, SIN advances the following:

(a) The rule was adopted principally to avoid restraint on competition among spot representatives for stations, which the networks could unduly influence if permitted to represent their affiliates. That does not apply here.

(b) SIN is much less of a powerful force than the three national networks; one difference is that it expects to sell in 1978 no more than one-third of the inventory of its network program time to national and regional advertisers, and never more than two-thirds, thus leaving substantial amounts for local sale and avoiding an unduly anticompetitive situation.

(c) One of the points noted in the 1959 decision adopting the rule was that there are numerous large and qualified rep firms available to stations besides those connected with the networks. It is asserted that, by contrast, here there is only one other rep firm selling Spanish-language advertising for mainland U.S. stations. SIN itself does not have enough people, and, with total national and regional revenues for its stations amounting to no more than $10 million for 1978, there is not enough economic support, to permit it to set up separate national spot and network sales organizations. Thus, denial of waiver would leave many Spanish-language stations with no choice of a representative.

(d) Waiver here would further the same objectives as the other network rules, in increasing the opportunity for the development of other networks and increased competition and diversity. It will encourage minority-format stations. Denial of waiver, assertedly, would force SIN, and other newly emerging network organizations, to "reconsider the extent to which programming is provided on an interconnected basis."

Discussion and Questions Presented

9. As indicated in par. 3, above, the SIN request raises the question of how far, beyond the three national networks and representative entities affiliated with them, the rule and its prohibition should go; and whether it should apply where the station in question is partly, even though not entirely, owned in common with the network organization.

10. As to the first question, the Commission is simply not in a position to say, at this point, whether application of the rule is or is not warranted in the case of SIN and other existing or potential new network operations such as those in the religious program field. Unquestionably, § 73.658(i), like the Commission's TV and radio "network rules" generally, was adopted with the major national networks (three in television) primarily in mind, and therefore there may well be a question as to whether its application in other situations is appropriate. It appears likely that there is one important factual difference: the 1959 decision adopting the rule noted that there are numerous qualified television national reps, but here there is said to be only one other rep firm in the Spanish-language advertising area. This might be an afirmative reason not to apply the rule in these cases, since it would tend to cut down an already narrow area of choice for the stations affected;[7] it also means that one of the reasons for adopting the rule for the national networks in 1959—to prevent restraints on competition among representatives for client stations—may be of less significance.

11. The other area of concern leading to the 1959 decision was possible network-owned rep influence over station operating policies, including the level of nonnetwork rates and, possibly, network or nonnetwork program selection. It does not appear to what extent these are pertinent considerations in the present situation. To the extent that there is competition between the sale of the station's time on a network basis in a SIN program, and on a nonnetwork basis, there may well exist the same inherent conflict of interest as that noted in the 1959 decision (par. 7, above). On the other hand, bearing in mind the fact that SIN now sells only about one-third of the commercial time in its programs on a network basis, giving the rest to the station to sell locally, this may be a matter of less significance. Comments are invited on this point—whether there is any significant difference in this respect between the national network-affiliate relationship and that of SIN, and other new network entities, with their affiliates.[8]

[6] "... we are convinced that the conduct, by a network, of two operations so inherently competitive with each other unavoidably creates incentive to moderate or regulate the conduct of the less significant operation in such a manner as to maximize the network's revenues and profits." (27 FCC 715)

[7] If the rule were to apply in the case of SIN's San Francisco outlet, KDTV, it might mean that the other Spanish-language rep firm (Caballero) would, of necessity, represent both of the two Spanish-language stations in the market, which is hardly a desirable situation.

[8] Comments are also invited on whether there is any difference flowing from the form of the compensation specified in the SIN agreement compared to those of the national networks. The national network agreements specify a fixed percentage of a "network rate" figure specified in dollars; the SIN agreement simply specifies a fixed percentage of "the gross SIN advertising sales (before agency commissions) attributa-

Footnotes continued on next page

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12. There are, of course, other points to be considered. One is the tremendous difference in the amounts of revenue involved: the 12 stations mentioned had in 1977 total network and national-regional spot revenues of some $9,600,000 compared to revenues of $2.6 billion for the three national networks and nearly $2 billion in national and regional spot revenue for the industry.* This is also the fact that the three national networks, and in general their affiliates, are well established and quite successful economically, whereas SIN and some of its client stations are new and in a sense just getting started. Arguably, it may not be appropriate to apply the same regulatory restrictions to these "fledgling" entities and risk hindering their development. On the other hand, there is one other aspect of the matter to be considered: to the extent the Spanish-speaking populaion forms a distinct audience or "market", it is apparent that there is a high degree of control of the TV stations serving it, with SIN's principals involved in six of the 12 or 14 stations, 10 of them presenting SIN programs, and SIN serving as national rep for 9 of them. It may be that we should not consider any change in the rule, or waiver, which would tend to increase or even to continue this degree of concentration of control. Comments on this point, and similar circumstances in other situations, are invited.

13. *Application to stations under partial common ownership.*—As mentioned, SIN and six of the stations which it serves have a substantial degree of common ownership, on the part of Mr. Reynold Anselmo and some other individuals; Mr. Anselmo is also president of the two companies which are licensees of these stations. It appears quite likely, therefore, that there will always be a considerable degree of common viewpoint and action between SIN and these stations, no matter what the identity of the representative is. To this extent, application of the rule would be meaningless. Comments are invited on the extent to which the rule in these circumstances serves any real purpose.

14. Comments are also invited on whether, if this concept is to be made part of any general regulation, some standards should be specified. Should the rule not apply only where there is 10 percent or more common ownership between network and station licensee, or where a principal officer is involved? Or, should the concept be put generally, such as "substantial comon ownership resulting in a substantial degree of common control"?

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ble to affiliate in all programs offered • • • and broadcast by affiliate."

*For the 12 stations as a group, a much higher percentage of their revenue is local than for TV stations generally.

15. *Applicability to noninterconnected stations.*—As mentioned earlier, there appears no reason why the rule should not apply to the two stations served by SIN on a noninterconnected basis, those in Albuquerque and Chicago, just as much as it does to the stations in the interconnected network. The same appears to be true in other situations which might be affected by the regulation here under consideraion. We do not intend to adopt a rule which would bar a station from using as a national rep any firm associated with any entity which is a program source. But, on the other hand, nothing should turn on the fact that some stations receive the material electronically while others receive it by mail or express. See par. 16, below, for the formulation proposed.

RULEMAKING PROPOSALS

16. In view of the matters discussed above, the following changes in § 73.658(i) are advanced for comment:

(a) Limiting its application to representative firms owned by or commonly with the three national networks. This would be done by adding to this paragraph (or incorporating by reference) the definition now contained in § 73.658(j):

The term network means any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states.

(b) Exempting from the rule stations which have a substantial and significant degree of common ownership with the network company. This would be done by adding, following the phrase "network organization" at the end of the present paragraph (i), the language "or to stations where there is substantial common ownership between the station licensee and the network organization resulting in a significant degree of common control." Comments are invited on whether more specific standards should be set forth.

(c) Applying the rule to stations provided by the network organization with substantial amounts of programming on a regular basis, even though they do not receive it by wire or radio interconnection. This would be done by adding to present § 73.658(i) the following language after "affiliation of the station with such network organization": "Or which receives on a regular basis substantial amounts of programming from such network organization." Comments are invited on whether a fixed minimum amount of programming, per day or per week, should be specified as necessary to bring this rule into operation as to noninterconnection stations.

INTERIM ACTION

17. As discussed above, there appears some doubt as to whether the provisions of § 73.658(i) should apply to Spanish International Network and stations served by it, because of the basic differences between this situation and those of the national networks and their affiliates which were the subject of the consideration leading to the rule. As to six of the ten stations, there is the additional point that, because of the degree of common ownership of the licensees and SIN, they perhaps should be exempted from the rule just as the national networks' owned stations are exempt. Accordingly, it does not seem appropriate to take action at this time to require SIN to cease serving as national representative for any of the 9 stations it now serves in this capacity. Accordingly, the status quo is being maintained for 1 year from now, or until 60 days after final decsion in this proceeding, whichever is later.

18. In view of the foregoing;

(a) Comments are invited on the matters mentioned above, and summarized in paragraph 16;

(b) Notwithstanding the provisions of § 73.658(i) of the Commission's Rules, Spanish International Network may continue to serve as national representative, until October 1, 1979, or 60 days after final decision in this proceeding, whichever is later, for the following stations: KDTV, San Francisco, Calif.; KFTV, Hanford, Calif.; KLOC-TV, Modesto, Calif.; KMEX-TV, Los Angeles, Calif.; KORO, Corpus Christi, Tex.; KWEX-TV, San Antonio, Tex.; WCIU, Chicago, Ill.; WLTV, Miami, Fla.; and WXTV, Paterson, N.J.

(c) In all other respects, the letter request for waiver of § 73.658(i) of the Commission's rules, filed by Spanish International Network on March 9, 1978, is denied.

19. Pursuant to applicable procedures set forth in §§ 1.415 and 1.46 of the Commission's rules, interested parties may file comments on or before November 20, 1978 and reply comments on or before December 11, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

20. In accordance with the provision of § 1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number, including the entire designation (BC docket No. 78-309) in the heading. All filings made in this proceeding will be made available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27973 Filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-291; FCC 78-639]

AMENDING RULES REGARDING PERSONAL ATTACKS, AND APPLICABILITY OF THE FAIRNESS DOCTRINE TO SECTION 315 "USES"

Notice of Proposed Rulemaking and Notice of Inquiry

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking and Notice of Inquiry.

SUMMARY: The Federal Communications Commission is proposing to amend its regulations relating to the personal attack rule which provides that broadcast licensees must afford reasonable opportunity for response to persons who are personally attacked under circumstances set forth in the rule. The amendment would exempt from the rule those situations which are covered by section 315 of the Communications Act which provides that licensees must afford equal opportunities to legally qualified candidates for public office. The intended effect is to make the personal attack rule consistent with the Commission's policy that the fairness doctrine does not apply to uses of broadcast facilities by legally qualified candidates. Comments are also invited on this present policy.

DATE: Interested parties may file comments on or before December 15, 1978; reply comments are due on or before January 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Milton O. Gross, Chief, Fairness Political Broadcasting Branch, Broadcast Bureau (202-632-7586).

SUPPLEMENTARY INFORMATION:

In the matters of amendment of part 73 of the rules regarding personal attacks, and applicability of the Fairness Doctrine to section 315 "uses."

Adopted: September 14, 1978.

Released: September 28, 1978.

By the Commission: Commissioners Lee, Fogarty, concurring in the result.

1. The Commission has before it a request by the National Broadcasting Co., Inc. (NBC), for a declaratory ruling that the personal attack rule [1] is not applicable to broadcast uses covered by section 315 of the Communications Act.[2] NBC urges the Commission to accept the position that the Fairness Doctrine and the equal opportunities requirement of section (315a) are mutually exclusive, thus, overruling *Capital Cities Broadcasting Corp.*, 13 FCC 2d 869 (1968). For the reasons set forth below we believe there is merit to NBC's request regarding the personal attack rule in light of prior Commission decisions. Therefore we are instituting this Notice of Proposed Rulemaking and seek comments from the public on this matter. We also believe it appropriate to invite comments from the public on the Commission's present policy that the Fairness Doctrine does not apply to broadcasts which constitute uses of stations by legally qualified candidates for public office.

2. NBC's request arises from the following factual situation, according to NBC: In his 1977 campaign for President of New York City's Manhattan Borough, Andrew Stein emphasized his record as a State legislator, especially his participation in public investigation into nursing homes. Through public hearings on this subject, various abuses were discovered. Bernard Bergman, who held some financial interests in such homes, apparently refused to testify at the public hearings and left the country until their conclusion. Subsequently, Bergman was indicted, convicted, and sentenced in both State and Federal Courts on fraud and corruption charges. Stein's campaign dealt with his role in this matter, as compared to that of other politicians. In the audio portion of one videao tape advertisement, Stein, in his criticism of nursing home conditions, attacked Bergman by name.[3] This was part of a paid political advertisement that was broadcast on NBC's WNBC-TV, New York, N.Y. According to NBC, Bergman was not an opposing candidate, an associate of an opposing candidate, or an authorized spokesman of an opposing candidate, and thus did not fall within any of the specific exemptions cited in the personal attack rule. The tape in question was broadcast 16 times during the period September 1 through September 8, 1977. NBC notified Bergman of the attack and offered him an opportunity to respond, as required by *Capital Cities, supra.*

3. Although NBC adhered to the *Capital Cities* ruling in its treatment of the advertisement at issue, NBC questions the applicability of that ruling to this situation. In the *Capital Cities* case, the personal attack rule was held not to exempt a personal attack on a private individual by a candidate during a political broadcast. NBC submits that *Capital Cities* conflicts with the 1974 *Fairness Report*, 48 FCC 2d 1 (1974), in its interpretation of the Fairness Doctrine in regard to this situation. Citing the *Fairness Report, supra*, and *Gloria Sage (WHEN-TV)*, 62 FCC 2d 135 (1976), Application for Review denied, 63 FCC 2d 148 (1977), NBC's complaint states, at page 3, "Thus, a broadcast may be subject to equal opportunities; or it may be subject to the Fairness Doctrine. But it may not be subject to both." Further, NBC argues that since the Fairness Doctrine is not applicable to section 315 uses, the personal attack rule does not apply. In support of this, NBC maintains that the 1974 Fairness Report treats the Fairness Doctrine and the equal opportunities provisions as mutually exclusive. It cites the *First Fairness Report and Order*, 36FCC 2d 40 (1972),[4] which in paragraph 27, at page 47, states the following:

> In section 315(a), Congress has specified that equal opportunities shall be applicable to appearances of legally qualified candidates and that in *other instances* "fairness" be applicable—that is, that there be affored "• • • reasonable opportunity for the discussion of conflicting viewpoints on issues of public importance."(Emphasis added.)

NBC also cites *Sage, supra*, which stated that "• • • the Commission has not held that the fairness doctrine is applicable to uses by candidates for public office." *Id.* at 136. The *Sage* ruling cites the 1974 Fairness Report, as quoted in the preceding paragraph, and then adds, "Therefore, it appears that the fairness doctrine is not applicable to 'uses' by a candidate." *Id.*

4. In *Capital Cities, supra*, the Commission held the personal attack rule applicable to a personal attack, made during a section 315 use, against a private citizen who did not fall within the exceptions set forth in subsection (b) of the personal attack rule. At issue

[1] *See* Appendix I for text of the present personal attack rule.

[2] *See* Appendix II for text of section 315(a) of the Communications Act.

[3] NBC considers the following language to contain a personal attack:

Andrew Stein: "This is Bernard Bergman. His nursing homes treated sick people like animals. And nobody stopped him because he had a lot of political connections.

"I'm Assemblyman Andrew Stein. A lot of important politicians tried to stop my nursing home investigation. But I knew the corruption and mistreatment had to be stopped so I fought Bergman and I fought his political friends, and I won.

"That's the kind of job I did as an assemblyman and that's the kind of job I'll do as Manhattan Borough President.

[4] Also found as Appendix A to the 1974 Fairness Report.

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were remarks made by a legally qualified candidate during a televised broadcast in which he commented on the indictments of the complainants for sedition, along with mention of their alleged communist involvements and subversive activities. The complainants charged that the station would sell but not give time for them to respond to the alleged attack. In the ruling, the Commission defined the question presented as "* * * whether there should be an exemption or waiver in the case of an attack by a candidate on a person not a candidate or associated with a candidate." *Id.* at 870. In deciding not to create such an exemption, the Commission focused primarily on practical considerations. The Commission felt that a new exemption would be unnecessary in light of the infrequency of such fact patterns. Also, the ruling continued, "* * * the obligation to notify a person that he has been attacked and to send him a copy of the attack and an offer of an opportunity to reply is not comparable to the possible liability for large sums of money in damages which may result from civil action based on the broadcast of defamatory remarks." *Id.* at 870. No actual consideration was given to the applicability of the Fairness Doctrine to a section 315 use.

5. The scope and applicability of section 315, including its no censorship provision, have been the subject of various Commission and judicial decisions. In *Farmers Educational & Coopperative Union of America, North Dakota Division* v. *WDAY, INC.*, 360 U.S. 525 (1959) (hereinafter cited as *WDAY*), the United States Supreme Court interpreted the censorship prohibition in relation to station liability for certain libelous statements made by legally qualified candidates during political broadcasts. The case arose after a legally qualified Senatorial candidate, in an uncensored speech broadcast by WDAY in compliance with section 315 "* * * accused his opponents, together with petitioner, Farmers Educational and Cooperative Union of America, of conspiring to 'establish a Communist Farmers Union Soviet right here in North Dakota.' " *WDAY, supra*, at 526-7. discussing the argument that section 315 provided immunity to licensees in such situations, the court stated;

> The term censorship, however, as commonly understood, connotes *any* examination of thought or expression in order to prevent publication of "objectionable" material. We find no clear expression of legislative intent, nor any other convincing reason to indicate Congress meant to give "censorship" a narrower meaning in section 315. *Id.* at 527.

The Court concluded "* * * that section 315 grants a licensee an immunity from liability for libelous material it broadcasts * * *." *Id.* at 535.

6. The no-censorship provision of section 315 has become a primary basis for distinguishing section 315 uses from those broadcasts to which the fairness Doctrine is applicable. *See Fairness Report, supra; Gloria Sage, supra.* A licensee has no control whatsoever over the content of a use by a candidate. However, it not only has control over other broadcasts, but is responsible for the content of them. It follows, therefore, that there should be a distinction between (1) the equal opportunities requirements of section 315 and (2) the Fairness Doctrine which governs controversial issues of public importance.

7. The 1974 *Fairness Report, supra* at 7, ascribes a two-fold duty to broadcasters under the Fairness Doctrine:

> * * * (1) the broadcaster must devote a reasonable percentage of this broascast time to the coverage of public issues; and (2) his coverage of these issues must be fair in the sense that it provides an opportunity for the presentation of contrasting points of view.

The very concept of the Fairness Doctrine is based upon a presumption of licensee discretion in dealing with controversial issues of public importance. The personal attack rule is one aspect of the Fairness Doctrine.* Generally, when a personal attack is made on an individual or group during the discussion of a controversial issue of public importance, an adequate opportunty to respond must be offered by the licensee, with three exceptions as set out in section 73.1920 (See Appendix I). In our Report and Order adopting the personal attack rule we stated, "This duty devolves upon the licensee, because other than in the case of a broadcast by political candidates, the licensee is responsible for all material broadcast over his facilities." *Amendment to Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a station Editorializes as to Political Candidates*, 8FCC 2d 721, 723 (1967). Thus, when we adopted the personal attack rule we recognized that licensees had no responsibility for the material broadcast during section 315 "uses."

8. In view of the foregoing, we believe that all "uses" by a legally qualified candidate should be exempt from the personal attack rule. Accordingly, we propose to amend subparagraph (b) of the personal attack rule to read as follows:

> (b) The provisions of paragraph (a) of this section shall not be applicable (i) to attacks on foreign groups or foreign public figures (ii) to personal attacks which are made by legally qualified candidates; (iii) to personal attacks made by the authorized spokespersons of legally qualified candidates or those associated with such candidates in the campaign on other such candidates their authorized spokespersons, or persons associated with the candidates in the campaging and (iv) to bona fide newscasts, bona fide news interviews, and on on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) shall be applicable to editorials of the licensee).

9. In light of the *Fairness Report* and *Gloria Sage, supra*, the proposed rule change would eliminate all applicability of the Fairness Doctrine to section 315 "uses." We invite comments from the public regarding this policy of the Commission. In particular, we would welcome comments on whether the public's right to be informed about contrasting views on controversial issues of public importance should take precedence over our policy that since licensees have no control over material broadcast during section 315 "uses," they should have no oligations based upon such broadcasts. In commenting on this, the public should take into consideration the fact that the Fairness Doctrine applies to a licensee's *overall* programming. Thus, if the Fairness Doctrine were to apply to a controversial issue of public importance broadcast during a section 315 "use," additional programming might not be necessary since a licensee may be able to show that contrasting views were broadcast in its other programming. Since the section 315 uses may involve paid programming, the applicability of our "Cullman" principle (*Cullman broadcasting Co.*, 40 FCC 576 (1963)) may be pertinent. *Cullman held that:*

> Where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a controversial issue, has not presented (or does not plan to present) contrasting view points in other programming, and has been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the licensee—and *thus leave the public uninformed*—on the ground that he cannot obtain paid sponsorship for that presentation. (Emphasis in original.)

. In *Nicholas Zapple*, 23 FCC 2d 707 (1970), we held that *Cullman* does not apply to the "political supporters" policy set forth in *Zapple*. Thus, if the Fairness Doctrine were to apply to section 315 uses, should *Cullman* also apply? The foregoing are suggested areas of inquiry which interested persons may wish to address. We will of course give careful consideration to all comments regarding the matters raised herein.

* In the 1974 *Fairness Report*, it was stated that "* * * the personal attack and political editorializing rules are a particularization of what fairness requires in those situations." (citations omitted) 1974 *Fairness Report, supra* at 43, n. 8.

10. Pursuant to applicable procedures set out in §§ 1.4, 1.415, 1.419 and 1.430 of the Commission's Rules and Regulations, interested parties may file comments on or before December 15, 1978 and reply comments on or before January 16, 1979. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such reply comments shall be accompanied by a certificate of service (See § 1.420(a), (b) and (c) of the Commissions's Rules).

11. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnshed the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the hearing. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW. Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX I

The personal attack rule presently states:

Section 73.1920 [formerly 73.123 ect.] Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time, and identification of the broascast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) of this section shall be applicable to editorials of the licensee).

NOTE.—The fairness doctrine is applicable to situations coming within (b)(3), above, and, in a specific factual sitution, may be applicable in the general area of political broadcasts (b)(2), above. See, section 315(a) of the act; 47 U.S.C. 315(a); Public Notice: Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 29 FR 10415. The categories listed in (b)(3) are the same as those specified in section 315(a) of the act.

APPENDIX II

Section 315(a). If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broascasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed *under this subsection* upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) Bona fide newscast;

(2) Bona fide news interview;

(3) Bona fide news documentary (if the appearance of the candidate is incidential to the presentation of the subject or subjects covered by the news documentary); or

(4) On-the-spot coverage of bona fide news events (included but not limited to political conventions and activities incidental thereto).

shall not be deemed to be use of a broascasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

[FR Doc. 78-28092 filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 83]

[Gen. Docket No. 78-310; FCC 78-687]

SOUTHERN LOUISIANA SECTION OF MISSISSIPPI RIVER SYSTEM

Proposed Designation of a Second Frequency for Bridge-to-Bridge Operations

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This action proposes to amend the rules to designate a second frequency for bridge-to-bridge communications. This second frequency (156.375 MHz) will replace the use of Channel 13 (156.65 MHz) in the southern Louisiana section of the Mississippi River system. This action is taken at the request of the United States Coast Guard to provide for more effective bridge-to-bridge operation in this area.

DATES: Comments must be received on or before November 9, 1978, and reply comments must be received on or before November 20, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 25, 1978.

Released: September 29, 1978.

Amendment of Part 83 of the Commission's rules to designate a second frequency for bridge-to-bridge operations in the southern Louisiana section of the Mississippi River System, Gen Docket No. 78-310.

1. Notice of Proposed Rule Making is hereby given.

2. The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq. (Supp. I, 1971)) was enacted "to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station." The Act also called for the "need for a specific frequency *or frequencies* dedicated to the exchange of navigational information" (emphasis added). The Commission in Docket No. 19343 (37 FR 11245) set aside Channel 13 (156.65 MHz) for this purpose. While the bridge-to-bridge radiotelephone system has generally proven very effective in most areas of the country, this has not been the case in the southern Louisiana section of the Mississippi and the Gulf Intracoastal Waterway (ICW). According to the Coast Guard this results from the following factors:

(a) The large user population of the several waterways within VHF communications range of one another.

(b) The flat terrain of the area which permits communication ranges longer than would normally be expected. This causes confusion as to the location of signals being exchanged at critical navigational and meeting situations.

(c) The use of the high transmitter power mode rather than the one watt mode when users judge the situation demands higher power to avoid receiver capture under critical situations.

3. Section 8A of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1207) tasks this Commission after consultation with other cognizant agencies to specify, among other things, "operating and technical conditions and characteristics including frequencies * * *." The U.S. Coast Guard as the agency primarily responsible for the safety of ship navigation in the United States has, accordingly, requested the Commission's "immediate

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assistance" in initiating action leading to the designation of a second frequency for bridge-to-bridge operations. This second frequency will replace the use of Channel 13 in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass Entrance Midchannel Light Whistle Buoy to mile 242.4 AHP (above head of Passes) near Baton Rouge. In addition, this channel will be used in the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal. These areas are included to facilitate the frequency configuration of the portable transceivers used by pilots on the river system.

4. The Coast Guard noted that the operational requirement for designation of a second bridge-to-bridge frequency is also based on the recommendations of the Industry Ad Hoc Committee for Ports and Waterways. The Coast Guard did indicate that several other groups had recommended that Channel 13 remain the bridge-to-bridge channel on the Mississippi River and that the new or second bridge-to-bridge frequency be established for use on the parallel waterways. However, in recommending that the new channel be used on the river system, the Coast Guard indicated that this would provide "geographical boundaries readily recognized by a vessel operator as he crosses them." We believe the Coast Guard's approach is valid both from a user and an enforcement standpoint. Further, in the Report and Order in Docket No. 19343 implementing the provisions of the Bridge-to-Bridge Radiotelephone Act, the Commission, at paragraph 4, specifically addressed the question of sectorization as follows:

> There is no doubt that throughout the long legislative process culminating in the Bridge-to-Bridge Radiotelephone Act, the predominant theme and understanding was that bridge-to-bridge communications were to be accomplished on a single channel, dedicated frequency, party-line system. The possibility of having the sectorize some of the more congested port and harbor areas and use a different frequency in each sector was recognized but this was not considered to be a departure from the basis single, exclusively navigation, channel concept.

Accordingly, we propose to amend the rules as requested. We will, however, take into consideration any comments regarding where the new frequency should be used.

5. After reviewing the frequencies available, it appears that Channel 67 (156.375 MHz) is the most suitable choice for use as a second bridge-to-bridge frequency. It was felt that it would be impractical and not in the public interest to choose one of the ship-to-shore commercial frequencies because of the large number of limited coast stations authorized on these frequencies in the New Orleans area. This situation has been further aggravated due to the loss of certain frequencies for use in the Coast Guard's Vessel Traffic Service (VTS) system. It is felt, therefore, that the choice of an intership frequency would be the least disruptive of present operations in this area. Channel 67 is also designated for ship movement activities by the International Radio Regulations, which would be consistent with the general purposes of the bridge-to-bridge operations. It is also proposed that other use of Channel 67 be prohibited in the New Orleans VTS radio protection area[1] to prevent harmful inteference to bridge-to-bridge operations on the river system.

6. The proposed amendments to the rules, as set forth in the attached Appendix, are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Section 8(a) of the Vessel Bridge-to-Bridge Radiotelephone Act.

7. Under the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 9, 1978, and reply comments on or before November 20, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commision may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

9. Regarding questions on matters covered by this document contact Bruce A. Franca (202) 632-7197.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

In part 83 Stations on Shipboard in the Maritime Services:

1. Section 83.351 is amended to read as follows:

§ 83.351 Frequencies available.

(a) • • •

Carrier frequency (MHz)	Conditions of use	
	Section	Limitations
•	•	•
156.350	83.359	40, 41, 49
156.375	83.359	40, 49, 64, 65, 76
156.400	83.359	40, 49, 76
•	•	•
156.625156	83.359	40, 50, 52, 76
156.650	83.359	40, 41, 46, 53, 59
156.675	83.359	40, 41, 45
•	•	•

(b) • • •

(53) Not available for use in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass entrance entrance Midchannel Lighted Whistle Buoy to mile 242.4 AHP (above head of passes) near Baton Rouge; and in addition, the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal.

(64) The frequency 156.375 MHz is available for navigational communications only in the Mississippi River from South Pass lighted buoy "2" and Southwest Pass entrance midchannel lighted whistle buoy to mile 242.4 AHP near Baton Rouge; and, in addition, over the full length of the Mississippi River-Gulf Outlet, Canal from entrance to its junction with the inner harbor navigational canal, and over the full length of the inner harbor navigation canal from its junction with the Mississippi River to its entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

(65) Use of the frequency 156.375 MHz for intership commercial communications is not permitted in the New Orleans VTS radio protection area specified in § 83.361.

• • • • •

2. Section 83.359 is amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

(a) The frequencies in the following table are available for assignment to stations as indicated.

Channel designator	Frequency (MHz)		Points of communication
	Ship	Cost	
•	•	•	•
NAVIGATIONAL			
67	156.375	156.375	Intership and ship to coast.
13		156.650	Do.
•	•	•	•

(b) • • •

(6) Use of the frequency 156.375 MHz by aircraft is not permitted in the New Orleans VTS radio protection area specifed in § 83.361.

[FR Doc. 78-27863 Filed 10-3-78; 8:45 am]

[1] The New Orleans VTS radio protection area is specified as: The rectangle between north latitudes 27°30' and 31° 30' and west longitudes 87° 30' and 92°.

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Ch. II]

[Docket No. RSGC-1; Notice 2]

STANDARDS FOR THE MAINTENANCE, INSPECTION, AND TESTING OF HIGHWAY GRADE CROSSING WARNING DEVICES

Termination of Rulemaking Proceeding

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Termination of rulemaking proceeding.

SUMMARY: The purpose of this notice is to terminate a rulemaking proceeding initiated by FRA to determine the need for mandatory Federal standards governing the installation, maintenance, operation, inspection, and testing of highway grade crossing warning devices. This action is prompted by a recent review of accident statistics by FRA which indicated that the adoption of mandatory Federal standards cannot be justified at the present time.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: William R. Paxton, Office of Safety, 202-426-0912.

Principal Attorney: Danvers E. Long, Office of the Chief Counsel, 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

FRA responded to an independent initiative of a joint railroad labor-management committee composed of representatives of the Brotherhood of Railroad Signalmen (BRS) and the Communication and Signal Section (C&S Section) of the Association of American Railroads (AAR), by publishing in the FEDERAL REGISTER (41 FR 26580) on June 28, 1976, an advance notice of proposed rulemaking (ANPRM). That notice stated that FRA was studying the need for Federal regulations governing the maintenance and testing of railroad-highway grade crossing warning devices.

The ANPRM published, as an appendix, the proposal developed by the BRS-C&S Section committee. Interested persons were encouraged to submit comments both on the particular provisions presented in the BRS-C&S Section proposal as well as the perceived need for regulation in this area.

At the time the ANPRM was published, FRA stated that additional information and opportunity for public comment were required before a decision could be made regarding the need for Federal regulations governing the maintenance and testing of grade crossing warning devices. Comments as to the necessity for, the cost of, and the benefits to be derived from such regulations were submitted by 9 States agencies, 11 railroads, 1 city government, 1 manufacturer of railway equipment, AAR, BRS, Railway Progress Institute (RPI), Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), and 1 individual.

The ANPRM presented 13 questions which the commenters were requested to address. The bulk of these questions focused upon issues raised by specific provisions of the BRS-C&S Section proposal. Therefore, responses to these questions were technical in nature.

Since Federal standards governing the maintenance and testing of railroad-highway grade crossing warning devices cannot be justified at the present time, FRA has decided to terminate this rulemaking proceeding. Therefore, a discussion of comments regarding the technical merits of the BRS-C&S Section proposal is not considered necessary. However, all comments will be retained and fully considered in the event that a similar proceeding is intiated in the future. The comments addressing the accident statistics set forth in the ANPRM are summarized and discussed below.

DISCUSSION OF COMMENTS RECEIVED

In the ANPRM, FRA stated that its preliminary analysis of the accident/incident reports submitted by carriers indicated that there were 12,130 accidents at grade crossings during 1975. Of this total, 6,863 occurred at grade crossings where warning devices were installed. The following table, which was included in the ANPRM, indicated that 192 warning devices were not operating when accidents occurred:

Type	Number of accidents	Not operating when accident occurred
Gates with flashing light signal	976	41
Cantilever with flashing light signals	428	11
Standard flashing light signals	3,771	99
Wig-wag signals	318	11
Audible devices	1,368	30
Total	6,863	192

A number of commenters challenged the accuracy of the statistics presented in the ANPRM table. For example, the AAR concluded that, if its research were accurate, the percentage of grade crossing accidents involving nonoperating protective devices may be as low as two-tenths of 1 percent (.2 percent) of the total number of accidents occurring at protected grade crossings. AAR contends that this percentage "approaches the limit of what can realistically be expected of men and machines."

The Southern Railway System (Southern) indicated that 3 of the 192 failures reported in the table occurred on its lines, but that only 1 of the failures resulted in an accident. Southern maintains that a history of only one accident (which involved no personal injury) on its 10,500 miles of line during 1975 does not indicate the existence of a safety problem of such magnitude as to require Federal regulation.

Several other commenters also complained that no cause and effect relationship was demonstrated between the accidents and the malfunctioning devices. For example, the Pennsylvania Public Utilities Commission submitted the following comment:

> Under the breakdown of accidents, in relation to the type of warning devices and the warning devices not operating when the accident occurred, the Commission has no positive evidence that any crossing accidents were caused by nonoperating warning devices.

FRA REVIEW OF STATISTICS

The table published in the ANPRM was compiled from the accident/incident reports filed with the FRA by the railroads pursuant to 49 CFR Part 225. Under that part, each railroad is required to "submit to FRA a monthly report of all railroad accidents/incidents • • • within 30 days after expi-

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cation of the month during which the accidents/incidents occurred * * *."

Shortly after the ANPRM was published, FRA reviewed the 1975 statistics presented in the ANPRM and similar statistics for 1976. As a result of this review, FRA discovered that some of those statistics were incomplete. For example, the table published in the ANPRM indicated that, in 1975, 192 warning devices were not operating when accidents occurred. However, the table did not indicate how many accidents occurred at the time the 192 devices were not operating. The review indicated that 137 accidents occurred at grade crossings with nonoperational warning devices and, at the time of those accidents, 192 warning devices were not operating. In other words, some accidents occurred at grade crossings which had two or more active warning devices that were not operating.

Furthermore, the review indicated that only 37 of the 137 accidents were attributable to failures of warning devices. Seventeen of these failures were caused by equipment failure, 15 were attributed to human error, and 4 were attributed to vandalism. Even if the 17 equipment failures could be eliminated by the adoption of maintenance and testing standards, only 17 of the total of 6,863 accidents at grade crossings in 1975, or less than three-tenths of 1 percent (.3%), could be eliminated.

In 1976, 5,434 accidents occurred at grade crossings. Forty-one of these accidents were attributable to the failure of grade crossing warning devices. Twenty of these failures were caused by equipment failure, 18 by human error, and 3 by vandalism. If all of the 20 equipment failures could be eliminated by maintenance and testing standards, the total number of accidents would be reduced by 20, or less than four-tenths of 1 percent (.4%).

The following table reflects the findings of the FRA review for 1975 and 1976 and indicates that a number of the accident/incident reports submitted by carriers for those years were miscoded and did not involve the failure of active grade crossing warning devices:

Year	Miscoded reports		Unintended nonoperational					
	Working[1]	Passive[2]	Equipment insulated[3]	Equipment failure	Human error	Vandalized	Unknown	Total
1975	44	27	24	17	15	4	6	137
1976	29	16	33	20	18	3	6	125
Total	73	43	57	37	33	7	12	262

[1] "Working" means the protective devices were in fact operating when the accident occurred.
[2] "Passive" means the protective devices were passive rather than nonoperating active devices.
[3] "Equipment insulated" means the rail rolling equipment involved in the accident was insulated to preclude its activating of protective grade crossing devices.

In sum, FRA's review of accident/incident statistics indicates that Federal standards governing the maintenance and testing of warning devices might reduce accidents at grade crossings by approximately three-tenths of 1 percent (0.3%). However, this reduction is based on the presumption that Federal standards would prevent all grade crossing accidents caused by equipment failure.

While statistics indicate that Federal maintenance and testing standards might reduce accidents at grade crossings by three-tenths of 1 percent (0.3%), FRA believes that even this small reduction is unrealistic in view of other factors. For example, maintenance and testing standards, no matter how comprehensive, cannot be expected to eliminate all equipment failures. In addition, FRA cannot be certain that the 37 equipment failures were in fact the sole cause of 37 grade crossing accidents in 1975 and 1976. Driver recklessness or inattentiveness and other factors may also have been significant causal factors in many of these accidents. Accordingly, FRA believes that Federal standards would reduce railroad-highway grade crossing accidents by substantially less than three-tenths of 1 percent (0.3%).

Finally, it should be noted that most of the Nation's railroad-highway grade crossings are now protected by passive warning signs only. Active warning devices provide considerably more protection at grade crossings than do the more prevalent passive warning signs. Since active warning devices are designed to "fail safe," they very rarely experience mechanical failure in other than a "fail-safe" mode. Therefore, FRA believes that installation of more active protective devices would be much more beneficial from the standpoint of safety than a Federal regulation requiring expenditure of additional resources to maintain and test those devices.

Economic Impact

FRA has determined that this notice does not contain significant regulations. Therefore, a regulatory analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this notice in accordance with DOT's existing and proposed policies for the evalutation of regulatory impacts. Since the notice would not impose a burden on any person, FRA concludes that it would have no measurable regulatory impact and that a detailed evaluation is not warranted. (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, Mar. 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

Conclusion and Action

While FRA remains concerned about the hazards presented by highway-railroad grade crossings, it believes that Federal standards for maintenance, inspection, and testing of highway-railroad grade crossing warning devices should not be adopted unless a need for those standards can be demonstrated. In this connection, it should be noted that Executive Order 12044 directs Federal agencies to clearly establish the need for and purposes of their regulations. In addition, in the absence of a clear need for Federal standards for maintenance and testing of grade crossing warning devices, FRA believes that the allocation of Federal safety resources for this purpose, and Federal preemption of State authority, cannot be justified.

In consideration of the foregoing, FRA has determined that the issuance of a rule requiring standards for the maintenance, inspection, and testing of highway grade crossing warning devices cannot be justified. Accordingly, the proceeding initiated on June 28, 1976 (41 FR 26580) is hereby terminated.

Authority

(Secs. 202, 204, and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 433, and 437); sec. 6(e) and (f), Department of Transportation Act (49 U.S.C. 1655 (e) and (f).)

Issued in Washington, D.C., on September 29, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-28012 Filed 10-3-78; 8:45 am]

OCT 4 1978

[4910-06]

[49 CFR Chapter II]

[Docket No. RSSI 78-5, Notice No. 5]

GENERAL SAFETY INQUIRY

Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Change of Hearing Dates.

SUMMARY: The purpose of this notice is to reschedule the fourth and fifth 2-day public hearings that FRA will conduct to evaluate and improve the effectiveness of its safety regulatory program. The effect of this action will be to postpone the fourth hearing on FRA track safety standards from October 18 and 19 to November 15 and 16, 1978. The fifth hearing concerning signal and communications systems, which was scheduled to take place on November 15 and 16, has been rescheduled for January 17, and 18, 1979. This action is taken in response to numerous requests received from persons and organizations desiring to participate in these public hearings.

DATES: (1) The fourth 2-day public hearing will begin at 10 a.m. on November 15, 1978. The fifth 2-day hearing will be held on January 17, and 18, 1979.

(2) Prepared written statements for the November hearing should be submitted by November 3, 1978, in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-1), Federal Railroad Administration, Room 4406, 2100 Second Street, SW., Washington, D.C. 20590.

(3) Persons desiring to participate in the November hearing should notify the principal program person by November 3, 1978, and indicate the amount of time they need to present their views.

ADDRESS: Hearing location: Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Room 4414N, 2100 Second Street, SW., Washington, D.C. 20590, phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of the Chief Counsel (RCC-30), FRA Room 4406, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 25, 1978, FRA published in the Federal Register a notice of public hearing (43 FR 43339). That notice announced that the fourth 2-day public hearing concerning FRA track safety standards would be held on October 18, and 19, 1978. The notice also announced that the fifth 2-day hearing concerning signal and communications systems would be held on November 15 and 16, 1978.

FRA has recently received communications from numerous interested persons and organizations requesting that these hearings be postponed to facilitate their participation. FRA wishes to encourage the participation of all interested persons and organizations in the hearings being held to improve its safety regulatory program. Therefore, the fourth and fifth 2-day public hearings have been rescheduled at a later date as indicated in this notice.

Although the hearings have been postponed, it should be noted that the issues to be addressed are in no way affected by this postponement. Accordingly, interested persons should refer to the notice published in the Federal Register on September 25, 1978 (43 FR 43339), for a summary of the issues that will be addressed at the fourth hearing.

Public Participation

FRA requests that the Association of American Railroads, the American Short Line Railroad Association, individual railroads, track material suppliers, the National Transportation Safety Board, railroad employee organizations, and other interested persons participate actively in the fourth 2-day hearing. Specifically, FRA requests that these persons and organizations provide knowledgeable spokespersons and pertinent technical, manufacturing, service, and cost data. These spokespersons should present detailed information to justify their positions.

Drafting Information

The principal author of this document is Danvers E. Long, Office of the Chief Counsel.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); § 1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 (n).)

Issued in Washington, D.C. on October 2, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-28096 Filed 10-3-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 226]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Porposed Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles

AGENCY: National Marine Fisheries Service.

ACTION: Proposed Designation of Critical Habitat.

SUMMARY: The National Marine Fisheries Service (NMFS) hereby proposes to designate Critical Habitat for the Kemp's ridley, *Lepidochelys kempii*, and loggerhead, *Caretta caretta*, sea turtles in the Port Canaveral navigation channel, Cape Canaveral, Fla. The proposed action is being taken under section 7 of the Endangered Species Act of 1973 (the Act) to provide protection to hibernating sea turtles. This proposal would establish a new Part 226 in Title 50 of the Code of Federal Regulations for designating Critical Habitat for endangered and threatened species under the jurisdiction of NMFS.

DATES: Comments must be received on or before December 4, 1978. Requests for a public hearing and justification for such a request must be received by November 20, 1978.

ADDRESSES: Submit comments to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, 202-634-7287.

SUPPLEMENTARY INFORMATION:

Background

Mature Kemp's ridley sea turtles are found within the Gulf of Mexico and immature Kemp's ridleys range from central Florida as far north as Massachusetts, and across the Gulf Stream to Europe. The only remaining established nesting beach for Kemp's ridleys is at Rancho Nuevo, Mexico.

The loggerhead sea turtle occurs in tropical and temperate regions of the World and has been recorded from Chile to California and from Rio de la Plata to Nova Scotia. In the western

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Atlantic, the major loggerhead nesting region is from North Carolina to Florida, and to a lesser extent along the gulf coast of the United States. Significant nesting occurs on the Yucatan Peninsula and in Cuba, but is either sparse or absent farther south in Central America and the West Indies. Other places where loggerhead sea turtles have been found include Africa and the western Pacific.

The Kemp's ridley sea turtle was listed as endangered on December 2, 1970 (35 FR 18320) and the loggerhead sea turtle recently was listed as threatened (43 FR 32800). This latter listing took effect on September 6, 1978.

In accordance with a July 18, 1977, Memorandum of Understanding between the NMFS and the Fish and Wildlife Service (FWS), the NMFS was given the responsibility for sea turtles while in the marine environment and the FWS was given the responsibility for sea turtles while on land.

A definition of the term "Critical Habitat" was published by the FWS and the NMFS in the FEDERAL REGISTER on January 4, 1978 (43 FR 870) (hereinafter referred to as Regulations) and is reprinted below:

> "Critical Habitat" means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of Critical Habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the Regulations, the Director (Assistant Administrator for Fisheries) will consider the psysiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The continued survival and recovery of the Kemp's ridley and loggerhead sea turtle species depends in part on the maintenance of suitable and undistributed hibernation areas. The NMFS believes that such hibernation areas qualify for designation as Critical Habitat as referred to in section 7 of the Act and defined in the Regulations.

In early 1978, the NMFS received reports that shrimp vessels had incidentally captured large numbers of loggerhead sea turtles while trawling late November 1977, in the Port Canaveral ship channel, Brevard County, Fla. One shrimp vessel caught 15 turtles during a 20 minute tow, and another vessel caught 66 turtles in 60 minutes. The turtles were reported to be listless and their shells showed clearly demarked bare areas and muddy, barnacle encrusted zones. The appearance and behavior of the turtles led the fishermen to believe that the turtles had been buried in the sediment.

These observations, in addition to other reports of high incidental turtle capture by shrimp vessels, prompted NMFS to conduct trawl surveys of the middle and outer reach of the Port Canaveral ship channel on February 14-15 and March 15-17, 1978. Results from these trawl surveys corroborated the earlier reports.

Results from the February survey indicated that the turtles were hibernating in the mud. Their bodies were stained black from long-term contact with these sediments. The captured animals were torpid and appeared to experience difficulty in diving when released. Turtles captured during the March survey appeared to be emerging from hibernation, being more active, and diving quickly upon release. During the 2 surveys a total of 271 loggerhead, mostly subadult, and 3 immature Kemp's ridley turtles were captured; 98 percent of these turtles were taken in the navigation channel, although only 64 percent of the sampling effort was conducted in the channel. Turtles captured during the surveys exhibited shell damage which may have been caused by contact with trawl doors or vessels.

Although only three Kemp's ridleys were captured during the trawl surveys, the status of this species is so fragile that the habitat and animals found therein must be protected.

Based on the trawl surveys and other observations, NMFS investigators believe that: (1) Some unknown number of loggerhead and Kemp's ridley sea turtles hibernate in the Port Canaveral ship channel from at least November to March; (2) turtles dislodged from their hibernaculum may not successfully reenter their muddy retreats, especially if the water temperature is so low that normal swimming and reburrowing activity is inhibited; and (3) the dislodged turtles may be further weakened by exposure to the lower ambient seawater temperature and possible shell passively at the surface.

The Assistant Administrator has concluded that designating the Port Canaveral navigation channel as Critical Habitat is necessary for the continued survival and recovery of Kemp's ridley and loggerhead sea turtles which hibernate there. Activities of Federal agencies including but not limited to maintenance dredging of the channel and passage of variable draft vessels (submarines) at other than minimum draft conditions at certain times of the year should be reviewed under section 7 of the act.

Consultation with representatives of the State of Florida on the designation of the Cape Canaveral ship channel as Critical Habitat has been conducted by the NMFS.

As information becomes available, additional areas may be proposed as Critical Habitat for these species.

EFFECT OF THE RULEMAKING

Section 7 of the Endangered Species Act states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as apropriate with the affected States, to be critical.

Critical Habitat designation affects only the actions of Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

Questions of whether, and to what extent, certain kinds of actions would adversely affect listed species are not relevant to the biological basis of Critical Habitat delineations. Such questions are properly dealt with after Critical Habitat has been designated. In this respect, the NMFS and FWS, in cooperation with other agencies, have draown up a set of regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of action on Critical Habitat. The Regulations were published to assist Federal agencies in complying with section 7 of the Act.

PUBLIC COMMENTS SOLICITED

The Assistant Administrator desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested person on these proposed rules. Any final promulgation of Critical Habitat regulations will take into consideration the comments received by the Assistant Administrator. Such statements and any additional information received may lead the Assistant Administrator to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the NMFS Office of Marine Mammals and Endangered Species, Page Building No. 2, 3300 Whitehaven Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail.

The primary author of this proposed rule is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species, 202-634-7287.

REGULATIONS PROMULGATION

Accordingly, NMFS proposes to add a new Part 226 to read as follows:

PART 226—DESIGNATED CRITICAL HABITAT

Subpart A—Introduction

Sec.
226.1 Purpose of regulations.
226.1 Scope of regulations.

Subpart B—Critical Habitat for Marine Mammals

226.11-.30 [Reserved].

Subpart C—Critical Habitat for Marine Fish

226.31-.70 [Reserved].

Subpart D—Critical Habitat for Marine Reptiles

226.71 Port Canaveral Navigation Channel, Cape Canaveral, Florida.
226.72-.99 [Reserved].

AUTHORITY: Endangered Species Act of 1973, section 7, Pub. L. 93-205, 16 U.S.C. § 1536, 87 Stat. 884.

Subpart A—Introduction

§ 226.1 Purpose of regulations.

The regulations contained in this Part identify those habitats designated as critical under section 7 of the Endangered Species Act by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, for those endangered and threatened species under his jurisdiction. The list of these species is found in 50 CFR § 222.23(a) for endangered species and 50 CFR § 227.4 for threatened species.

§ 226.2 Scope of regulations.

(a) The critical habitat designations contained in this Part apply only to the endangered and threatened species listed in this Part.

(b) Regulations implementing section 7 of the Endangered Species Act are found in 50 CFR Part 402.

(c) the provisions in this Part are in addition to, and not in lieu of other regulations of Parts 217-227 and 402 of this Chapter.

Subpart B—Critical Habitat for Marine Mammals

§ 226.11-226.30 [Reserved]

Subpart C—Critical Habitat for Marine Fish

§§ 226.31-226.70 [Reserved]

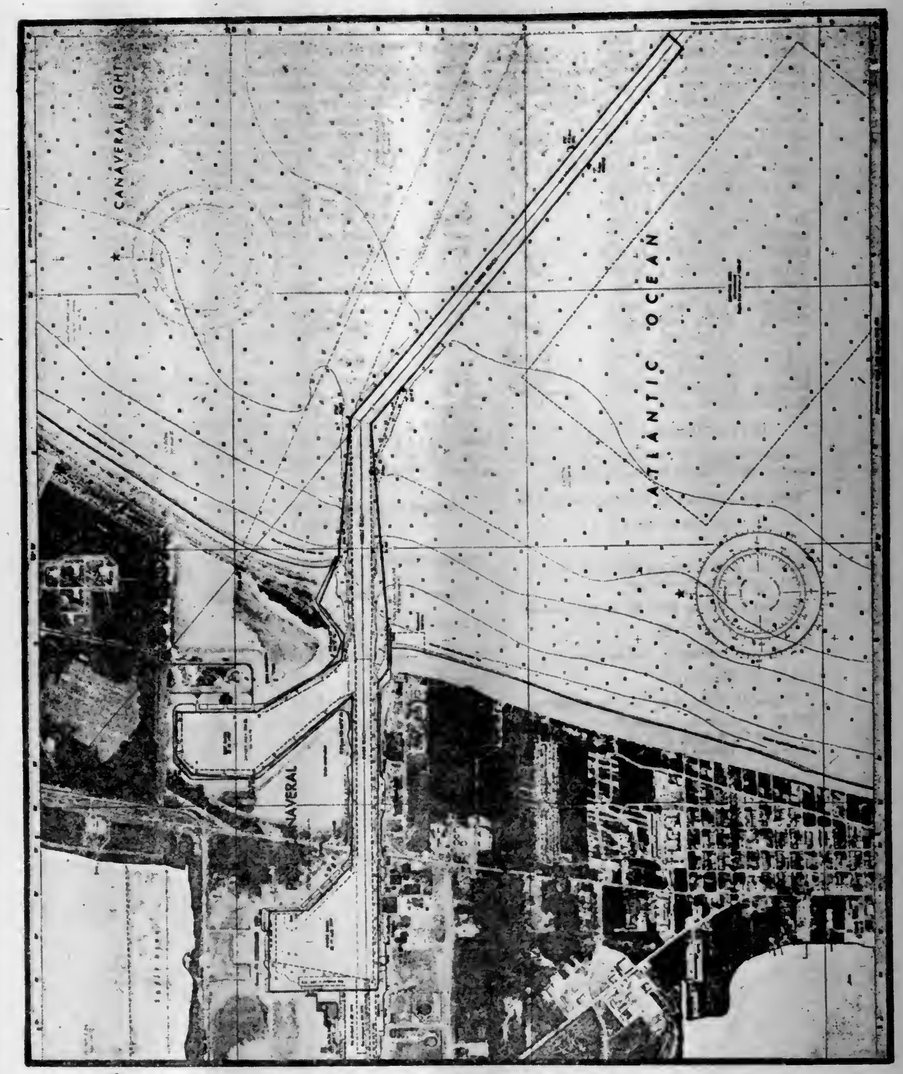
Subpart D—Critical Habitat for Marine Reptiles

§ 226.71 Port Canaveral Navigation Channel, Cape Canaveral, Florida.

Kemp's Ridley (*Lepidochelys kempii*) and Loggerhead (*Caretta caretta*) Sea Turtles.

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Proposed Critical Habitat for the Kemp's ridley and Loggerhead sea turtles

§§ 226.72–226.99 [Reserved]

NOTE.—The NMFS has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 28, 1978.

JACK W. GEHRINGER,
Acting Assistant Administrator for Fisheries, NMFS.

[FR Doc. 78-27979 Filed 10-3-78; 8:45 am]

[3510-22]

[50 CFR Part 675]

FOREIGN FISHING

Draft Fishery Management Plan; Halibut Off The Coast Of Alaska; Public Hearings Amendment

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended Notice.

SUMMARY: The agenda for the public hearings on the Draft Fishery Management Plan for Halibut Off The Coast Of Alaska (FR Vol. 43, No. 180, pages 41244 and 41245 September 15, 1978) will also include the discussion of the Draft Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT:

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska, 99510, telephone: 907-274-4563.

Dated: September 29, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-28018 Filed 10-3-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

ADVISORY COMMITTEE ON STATE AND PRIVATE FORESTRY

Meeting

The Advisory Committee on State and Private Forestry will meet in Monterey, Calif., November 7-9, 1978. The meeting will convene at 9 a.m. at the Doubletree Inn of Monterey.

This Committee, comprised of 15 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and various agencies of the Department on the protection, management and development of the Nation's non-Federal forest land and resources. Dr. M. Rupert Cutler, Assistant Secretary for Conservation, Research and Education, will chair the meeting. He and representatives of the Forest Service, Farmers Home Administration, Science and Education Administration, Soil Conservation Service, and the Agricultural Stabilization and Conservation Service will attend from the Department of Agriculture.

The discussion will center on interagency coordination in California forestry and a number of other topics suggested by the committee including the public involvement process, tax legislation, and urban and community forestry activities. The meeting is structured to provide members of the Committee ample time for participation.

The meeting will be open to the public. Persons who wish to attend, should notify the Committee's Executive Secretary, Dr. Charles F. Krebs, USDA-Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 202-447-8921. Written statements may be filed with the Committee before or after the meeting.

DOUGLAS LEISZ,
Acting Chief, Forest Service.

[FR Doc. 78-27967 Filed 10-3-78; 8:45 am]

[3410-03]

Science and Education Administration

NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD

Cancellation of Open Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) notice was published in 43 FR 42287 on September 20, 1978, that meeting of the National Agricultural Research and Extension Users Advisory Board would be held October 10 and 11, 1978. Notice is given that the meeting has been canceled.

Dated: September 28, 1978.

JAMES NIELSON,
Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 78-28033 Filed 10-3-78; 8:45 am]

[3410-16]

Soil Conservation Service

AUTHORIZATION FOR WATERSHED PLANNING

Concerned State Conservationists of the Soil Conservation Service have been authorized to porvide planning assistance to local organizations for the indicated watersheds. The State Conservationists may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Public Law 83-666, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190.

Persons interested in these projects may contact the State Conservationists listed below:

Dry Gulch Area Watersheds, Duchesne County, Utah State Conservationist, George D. McMillan, Soil Conservation Service, 4012 Federal Building, 125 South State Street, Salt Lake City, Utah 84138; 801-524-5051.

LaPlatte River Watershed, Chittenden County, Vt. State Conservationist Robert R. Shaw, Soil Conservation Service, 1 Burlington Square, Suite 205, Burlington, Vt. 05401; 802-862-6501 ext. 6261.

North Hocking River Watershed, Fairfield County, Ohio State Conservationist, Robert E. Quilliam, Soil Conservation Service, Federal Building, Room 522, 200 North High Street, Columbus, Ohio 43215; 614-469-6962.

Dated: September 26, 1978.

R. M. DAVIS,
Administrator.

(Catalog of Federal Domestic Assistance Program No. 10 904, Watershed Protection and Flood Prevention Program.)

[FR Doc. 78-28003 Filed 10-3-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 32830]

FLORIDA-MEXICO CITY INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding will be held beginning on November 14, 1978, at 9:30 a.m. (local time) in the Leon Room, Host International Hotel, Tampa International Airport, Tampa, Fla. 33622, before me.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Prehearing Conference report served August 7, 1978, and other documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 28, 1978.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-28039 Filed 10-3-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

REGIONAL FISHERY MANAGEMENT COUNCIL CHAIRMEN

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: The Assistant Adminstrator for Fisheries will meet with the Chairman of each of the eight Regional Fishery Management Councils created under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

DATES: The meeting will convene at 8:30 a.m. on Tuesday, October 24, 1978, and recess at 5 p.m. On Wednesday, October 25, 1978, the meeting will convene at 8:30 a.m. and adjourn at approximately noon.

ADDRESS: The meeting will be held at the Kona Hilton Hotel, in Kailua-Kona, Hawaii.

FOR FURTHER INFORMATION CONTACT: Wilvan C. Van Campen, Executive Director, Western Pacific Regional Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone: 808-523-1368

SUPPLEMENTARY: INFORMATION: This meeting will be open to the public on a first-come first-served basis, with seating available for about 75 members of the public. Public participation in discussion will be permitted to the extent time permits. For information on seating arrangements, changes to the agenda and/or written comments, contact the Executive Director.

PROPOSED AGENDA

OCTOBER 24-25, 1978.

(1) Fishery Management Plan review procedures; (2) Organization of Fishery Management Plan development and the roles of advisory bodies in the process; (3) Role of the Council in regard to fishery development; (4) Council involvement in international fishery management and research; (5) Report of the DOC audit of Council operations; (6) Other appropriate issues.

Dated: September 29, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.78-27966 Filed 10-3-78; 8:45 am]

[3510-22]

RECEIPT OF APPLICATION FOR PERMIT

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: George B. Rabb, Director, Chicago Zoological Park.

b. Address; Brookfield, Ill. 60513.

2. Type of permit: Public display.

3. Name and number of animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 2.

4. Type of take: To capture and maintain permanently in a facility.

5. Location of activity: Melbourne, Fl.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientic Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Fl. 33702.

Dated: September 28, 1978.

R.V. MILLER,
Acting Director, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-28036 Filed 10-3-78; 8:45 am]

[3510-22]

RECEIPT OF APPLICATION FOR PERMIT

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. A. van den Oever, Dolfirodam B.V.

b. Address: Gebouw de Hoffdpoort, Blaak 101, 3011 GB Rotterdam, Netherlands.

2. Type of permit: Public display.

3. Name and number of animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 2.

4. Type of take: To capture and maintain permanently in a facility.

5. Location of activity: Rockport, Tex.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammals Commission and the Committee of Scientific Advisors.

Written data or veiws, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All Statements and opinions contained in ths application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 F.R. 11614, March 12, 1975). In this regard, the application:

(*a*) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Ministerie Van Cultuur, Recreatie en Maatschappelijk Werk, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity:

(*b*) Includes:

i. A verification from the Ministerie Van Cultuur of the Netherlands of the

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information set forth in the application:

ii. A certification from the Ministerie Van Cultuur that the Government of the Netherlands is perpared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Ministerie Van Cultuur will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministerie Van Cultuur, Recreatie en Maatschappelijk Werk have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: September 29, 1978.

R. V. MILLER,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-28037 Filed 10-3-78; 8.45 am]

[3510-22]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On August 9, 1978, notice was published in the FEDERAL REGISTER (43 FR 35874) that an application had been filed with the National Marine Fisheries Service by Quinlan Marine Attractions, Route 3, Box 540, Lincolnton, N.C. 28092, to take six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on September 29, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries service issued a Permit to Quinlan Marine Attractions subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Gloucester, Mass. 01930.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

SEPTEMBER 29, 1978.

[FR Doc. 78-28038 Filed 10-3-78; 8:45 am]

[3510-22]

MARINE FISHERIES ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). The meeting (MAFAC XXI) will be held on Thursday and Friday, October 26 and 27, 1978, at the Kona Hilton Hotel, in Kailua-Kona, Hawaii. The meeting will convene at 8 a.m. on October 26, 1978, and recess at 5:30 p.m. On October 27, 1978, the meeting will convene at 8:30 a.m. and adjourn at approximately 12:30 p.m.

Agenda items include: current DOC/NOAA/NMFS activities in fisheries development; budget process in Federal Government; discussion of 1979, 1980, and 1981 NMFS budget; discussion of 1981 draft NMFS program emphasis document; Scientific and Statistical Committees interface with and service to Regional Fishery Management Councils in fulfillment of responsibilities under Fishery Conservation and Management Act; issues and items of interest coming out of meeting of Regional Fishery Management Council Chairmen on October 24-25, 1978; status of Inter-American Tropical Tuna Commission negotiations; current status and future development of fisheries associated with the Western Pacific Islands; Department of Commerce policy on tradeoffs with foreign countries, i.e., foreign vessel access to U.S. fishery conservation zone in exchange for preferential U.S. access to foreign markets; meeting environmental assessment and monitoring responsibilities in the Coastal Zone; and other miscellaneous items.

The committee meeting is open to the public and there will be seating for approximately 75 members of the puolic available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Ms. Phyllis Bentz, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235; 202-634-7355.

At the discretion of the chairman, interested members of the public may be permitted to speak at times which allow an orderly conduct of committee business, and a reasonable time relationship between the committee's discussion of a given subject, and comments to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so at the address noted above. To receive due consideration and fallitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the committee meeting.

Dated: September 29, 1978.

JACK W. GEHRINGER,
Acting Assistant Administrator for Fisheries.

[FR Doc. 78-28046 Filed 10-3-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE INSTITUTE OF TECHNOLOGY SUBCOMMITTEE OF THE AIR UNIVERSITY BOARD OF VISITORS

Meeting

SEPTEMBER 25, 1978.

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 11 a.m. on November 21, 1978, in Room 2004 (10 seats available), Building 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the institute's educational programs. The findings of the Subcommittee will also be reported to the Commander, Air University, at the next regulary scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Lt. Col. Jonathan H. Snead, Chief, Degree Programs Division, Directorate of Educational Plans and Operations, Air Force Institute of Technology, 513-255-4219 or 5402.

CAROL M. ROSE,
Air force, Alternate Federal Register Liaison Officer.

[FR Doc. 78-27944 Filed 10-3-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 26, 1978.

The USAF Scientific Advisory Board will hold its Fall General Meeting at the Andrews Officers' Club, Andrews Air Force Base, Md. on October 26, 1978 from 9 a.m. to 5 p.m., and on October 27, 1978 from 8:30 a.m. to 1 p.m.

The Board will receive classified briefings and hold classified discussions on Tactical Issues in the NATO Environment. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

CAROL M. ROSE,
Air Force, Alternate Federal Register Liaison Officer.

[FR Doc.78-27943 Filed 10-3-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL78-43]

BOUNTIFUL, UTAH

Petitions for Declaratory Orders and Notice of Consolidation

SEPTEMBER 27, 1978.

In the matter of City of Bountiful, Utah, Utah Power and Light Co., City of Santa Clara, Calif., and Pacific Gas and Electric Co.

Take notice that two petitions have been filed under the Federal Power Act [Act], 16 U.S.C. §§ 791a-825r, for declaratory orders determining that a "municipality" within the meaning of Section 3(7) the Act [16 U.S.C. § 796(7)], as an applicant for a new license under Section 15(a) [16 U.S.C. § 808(a)], is entitled to a preference under Section 7(a) [16 U.S.C. § 808(a)].

The City of Bountiful, Utah [Bountiful] filed its petition on July 21, 1978. Bountiful has applied for a new license for the existing Weber River Project, designated FERC Project No. 2747 in reference to Bountiful's application. The Weber River Project was designated Project No. 1744 when the original long-term license was issued to the Utah Power and Light Co. [UP&L]. The original license has expired, and UP&L has filed an application for a new license.

Bountiful states that it is a municipality and requests the Federal Energy Regulatory Commission to order that Bountiful is entitled to preference within the meaning of Section 7(a) in the issuance of a new license for the Weber River Project. Bountiful also states that the question of whether a municipality is entitled to preference in this situation is entirely one of law and is thus suitable for resolution by declaratory order. Bountiful asserts that resolution of the question of the applicability of the preference provisions of the Act in the issuance of a new license upon expiration of an original license is a matter of interest not only to Bountiful but to other similarly situated municipal corporations, and would reduce uncertainty in this and other similar proceedings involving competing applications by municipalities for new licenses.

The City of Santa Clara, Calif. [Santa Clara] filed a similar petition on August 15, 1978. Santa Clara has applied for a new license for the existing Mokelumne River Project, now licensed to the Pacific Gas and Electric Company [PG&E] as FERC Project No. 137.[1] The original license for this project has also expired, and PG&E has filed an application for a new license. The Mokelumne River Project is designated FERC Project No. 2745 in reference to Santa Clara's application.

Santa Clara also states that it is a municipality and requests the Commission to order that Santa Clara is therefore entitled to preference within the meaning of Section 7(a) in the relicensing of the Mokelumne River Project. Santa Clara states that a decision by the Commission on this question in advance of any hearing in the matter of the competing application for a new license for the Mokelumne River Project would narrow the issues in such a hearing and reduce litigation expenses. Santa Clara also asserts that such a decision would reduce uncertainty in this and other proceedings involving competing municipal applications for new licenses after expiration of existing licenses.

Because both petitions present similar or perhaps the same questions of law regarding the applicability of municipal preference in relicensing proceedings, the petitions are consolidated under a single docket number. This will eliminate unnecessary duplicative effort and expense for all parties who may have an interest in the ultimate question presented in both petitions and who want the opportunity to express their views.

Anyone desiring to be heard or to make any protest about the petitions should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party and participate fully in any hearing or briefing in the proceeding, a person must file a petition to intervene in accordance with the Commission's Rules (18 CFR § 1.8). This requirement applies as well to anyone who is now on the official service list for any of the relevant individual project applications (*i.e.*, FERC Nos. 137, 1744, 2745, and 2747), because this docket constitutes a separate proceeding. Any protest or petition to intervene must be filed on or before November 6, 1978. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The applications are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27946 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-701, CI77-799]

CITY OF PERRYTON, TEX., et al.

Certification of Stipulation and Agreement

SEPTEMBER 26, 1978.

In the matter of City of Perryton, Tex., Falcon Petroleum Co., Amoco Production Co., and Northern Natural Gas Co.

Take notice that on September 12, 1978, Presiding Administrative Law Judge Stephen L. Grossman certified a proposed stipulation and settlement agreement and certain motions and responses to the Commission for its consideration.

On December 28, 1977, the Commission issued an order in which it set for hearing the following questions: whether the applications for abandonment filed by the City of Perryton, Tex. (City) and Falcon Petroleum Co. (Falcon) should be approved; whether Amoco Production Co. (Amoco) had ceased deliveries to Northern Natural Gas Co. (Northern) from the Purdum No. 1 Well, located in Lipsomb County, Tex., Section 901, H. and T.C. Railway Survey, without authorization pursuant to Section 7(b) of the Natural Gas Act; and whether, by reason of any unauthorized cessation of deliveries, Amoco or Northern acted in violation of the Natural Gas Act.

The proposed Stipulation and Agreement submitted by Falcon, *et al.*,[1]

[1] Project No. 137 was originally licensed to J. W. Preston, Jr. The license was later transferred to PG&E. 6th Annual Report of the Federal Power Commission at 97 (1926).

[1] Parties joining in this motion were City, Northern, Transwestern Pipeline Co. and High Plains Natural Gas Co.

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would, if approved, resolve the issues posed by Falcon's and City's abandonment application. The Agreement states that Falcon and City would withdraw their pending application for abandonment authorization. Furthermore, Falcon would sell all gas production from the Purdum Well to Northern and Transwestern Pipeline Co. (Transwestern) at whatever price the Commission determines is just and reasonable. In addition, Falcon submitted a separate statement in support of its eligibility to collect the national rate set in Opinion No. 770-A for the Purdum gas.

Northern's Motion to Dismiss would, if granted, dispose of all questions concerning violations of the Natural Gas Act posed by the Commission's December 28 order. Northern states in its Motion to Dismiss that the proposed settlement agreement in this case would result in the Purdum Unit gas being sold to the same two pipelines who had received the gas before the alleged violative activities occurred and that deliveries would be made in the same proportions as each had previously received the gas. Northern states that in view of the fact that there is no longer any dispute concerning the disposition of the gas, and in view of the fact that the gas will be delivered to the same pipelines which had previously taken deliveries, "no useful purpose would be served in continuing the show cause aspect of the proceeding."

The Presiding Administrative Law Judge also submitted to the Commission the Commission Staff's response to the above-referenced motions, a motion of the Commission Staff to Add Parties Respondent, and responsive pleadings thereto.

Comments with respect to the proposed settlement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 10, 1978. Such comments will be considered in determining appropriate action, but those filing comments will not as a result of such action become parties to this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27947 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP73-65 (PGA78-4) (AP78-1)]

COLUMBIA GAS TRANSMISSION CORP.

Deferring Procedural Dates and Scheduling Prehearing Conference

SEPTEMBER 25, 1978.

On September 18, 1978, Counsel for Columbia Gas Transmission Corp. (Columbia) filed a motion to defer procedural dates and schedule a prehearing conference for the above captioned proceeding in compliance with the Commission order issued August 31, 1978. The motion stated that Staff Counsel is agreeable to the procedures requested therein.

Upon consideration, notice is hereby given that a prehearing conference is scheduled in this proceeding for November 28, 1978, provided that Columbia furnish (at Staff's request) any additional documentation that Columbia may have to support its July 31, 1978, revised tariff sheet filing. Notice is also given that the filing of Columbia's case-in-chief and of Staff's statement of position are deferred until dates to be determined by the Presiding Administrative Law Judge after the prehearing conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27948 Filed 10-3-78; 8:45 am]

[6750-02]

[Docket No. RP73-66 (PGA No. 78-4) (AP No. 78-1)

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 26, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 12, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Columbia states that this filing amends its filing of July 31, 1978, and proposes an effective date of September 2, 1978. Columbia states that the proposed changes are the result of the revised rates of Texas Eastern Transmission Corp., at Docket No. RP74-41, et al., filed September 7, 1978, to become effective August 9, 1978. As a result of this revision, Columbia's revised rates herein proposed to become effective September 2, 1978 reflect a Purchased Gas Cost Adjustment which is $2,075,276 less than that approved, subject to refund, by Commission Order issued August 31, 1978.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for pubic inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27949 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RI78-88]

JOSEPH P. MUELLER

Petition for Special Relief

SEPTEMBER 26, 1978.

Take notice that on August 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78476, filed a petition for special relief in Docket No. RI78-88 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76).

Petitioner seeks a rate increase from 60¢ per Mcf to $1.26 per Mcf for the sale of gas from the Ramirena, North (Pettus) field, Live Oak County, Tex. to United Gas Pipeline Co. Petitioner states that this rate will be required to meet the costs associated with a proposed installation of equipment for removal of excessive water interfering with increased gas production.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before October 17, 1978. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27950 Filed 10-3-78; 8:45 am]

[6740-02]

MICHIGAN WISCONSIN PIPE LINE CO.

[Docket No. RP73-14 (PGA78-3) (DCA78-2)]

PGA Rate Increase

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) tendered for filing Twenty-first Revised Sheet No. 27F to its F.E.R.C. Gas Tariff, Second Revised Volume No. 1. Michigan Wisconsin proposed an effective date of November 1, 1978 for said revised sheet.

The foregoing tariff sheet reflects in the two-part rates a commodity increase of 8.56¢ per Mcf and a demand charge decrease of $0.31 occasioned by (1) a Purchase Gas Adjustment of 15.61¢ per Mcf, together with the demand charge decrease of $0.31, which reflects principally the combined effect of (a) the replacement of old sources of gas supply with higher priced new gas, (b) contractual increases and escalations due to producers under Opinion Nos. 699, 749 and 770, and (c) rate changes by pipeline suppliers; (2) a decrease of 6.17¢ per Mcf in the surcharge level to 5.92¢; and (3) a reduction of .88¢ per Mcf in the Demand Charge Adjustment to .39¢. One-part rates have been increased 7.88¢ to reflect the Purchase Gas Adjustment and the surcharge adjustment referred to in (1) and (2) above.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Twenty-first Revised Sheet No. 27F to be made and to become effective November 1, 1978. However, in the event the Commission does not accept Twenty-first Revised Sheet No. 27F to become effective November 1, 1978, Michigan Wisconsin requests that Alternate Twenty-first Revised Sheet No. 27F, which excludes one-hundreth of a cent (.01¢) from the surcharge adjustment representing the cost of emergency purchases above rates prescribed by Opinion No. 770-A, be accepted and Twenty-first Revised Sheet No. 27F be suspended for 1 day to become effective November 2, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27951 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-519]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

SEPTEMBER 26, 1978.

Take notice that on September 14, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-519 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to divert and transport up to 500 Mcf of gas per day for delivery to Amoco Production Co. (Amoco) for use as field compressor fuel, and to construct and operate facilities necessary to make such delivery, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that Applicant purchases natural gas produced by seven producers from the Campbell Reservoir, Old Ocean Field, Brazoria and Matagorda Counties, Tex., pursuant to seven separate gas purchase contracts designating Amoco as operator in the field, and that Amoco processes such gas in Amoco's Old Ocean Gasoline Plant. Applicant purchases the gas at the interconnection between Applicant's facilities and those of Amoco, located near the outlet of the gasoline plant. Applicant asserts that due to substantial decline in the pressure of the gas produced in the Campbell Reservoir compression is necessary for the maintenance of deliveries on a full time basis.

It is indicated that pursuant to a letter agreement dated April 1, 1978, Amoco has agreed to acquire, construct and operate the required compression facilities at Amoco's expense. Applicant proposes to provide fuel gas for such compression facility, up to a maximum of 500 Mcf per day. Applicant further proposes to construct and operate at Applicant's expense, 3,300 feet of two inch lateral pipeline extending from a point of Applicant's existing pipeline facilities to the site of said compression equipment, along with measuring and related facilities needed to effectuate the delivery of the fuel gas. Applicant asserts that the estimated cost of the facilities proposed to be installed by it is $43,000, and that such cost would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to interfere is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27952 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. EL78-21]

SEMINOLE ELECTRIC COOPERATIVE, INC. v. FLORIDA POWER CORP.

Granting Further Extension of Time

SEPTEMBER 25, 1978.

On September 18, 1978, Seminole Electric Cooperative, Inc., Florida Power Corp. and the Intervening Cities [1] filed a motion for a further extension of time within which to answer the complaint and to respond to Cities' petition to intervene. The

[1] Cities of Alachua, Bartow, Bushness, Chattahoochee, Ft. Meade, Kissimmee, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, and Sebring Utilities Commission.

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motion states that a number of related actions are pending in the U.S. District Court in Tampa, Florida. The motion further states that the report of a special investigator to the Florida Public Service Corporation, to be issued shortly, may provide a basis for a settlement which would render a separate proceeding before the FERC unnecessary.

Upon consideration, notice is hereby given that a further extension of time to answer Seminole Electric Cooperative, Inc.'s Complaint and to respond to the Cities' Petition to Intervene is granted to and including October 5, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27953 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. SP78-6]

SINCLAIR OIL CORP.

Order Granting Special Permission Request

SEPTEMBER 25, 1978.

On January 31, 1978, Sinclair Oil Corp. (Sinclair Oil) requested that the Commission grant its wholly-owned subsidiary, Sinclair Pipeline Co. (Sinclair Pipeline) exemptions from the tariff filing requirements of Section 6 of the Interstate Commerce Act (Act); the valuation reporting requirements of Section 19a and maintenance of a uniform system of accounts required by Section 20. (49 USC Sections 6, 19a, 20).[1]

Sinclair Oil based its requests on the assertion that Sinclair Pipeline[2] is a private carrier rather than a common carrier and thus not subject to Section 6 and the other provisions of the Act.[3]

Nevertheless, we find that Sinclair Pipeline is a "common carrier" as that term is defined under the Act (49 USC Section 1 et seq.)[4] "Common Carrier" for the purposes of the Act is not limited only to common carrier for hire but rather encompasses all pipeline carriers.[5] This interpretation is consistent with legislative history and case law. *Champlin Refining Co.* v. *United States*, 329 U.S. 29 (1946). *United States* v. *Champlin Rfg. Co.*, 341 U.S. 290 (1950); *Valvoline Oil Co.* v. *U.S.* 308 U.S. 141 (1939) ("* * * the fact that the oils transported belonged to the owner of the pipeline is not conclusive against the transportation being such commerce.")[6]

However, we believe that Sinclair Pipeline should be granted a temporary waiver of the filing and reporting requirements of Section 6, 19a and 20 of the Act. This finding is based in part, on the Commission's authority to exempt a common carrier from the tariff filings requirements of Section 6 of the Act when good cause is shown, as is the case here.[7] Further, the discretionary language of Sections 19a and 20 of the Act provides the statutory predicate for our decision to exempt Sinclair Pipeline from the reporting requirements thereunder.

Sinclair Pipeline is a common carrier subject to all of the provisions of the Act, however, we hold that present circumstances warrant the requested exemptions. Any change in the carrier's situation, as defined in ordering paragraph C, shall be reported immediately to this Commission.

The Board orders:

(A) Sinclair Oil Corp.'s request to exempt its subsidiary, Sinclair Pipeline Co., from certain reporting and filing requirements is hereby granted on a temporary basis.

(B) Until further ordered, Sinclair Pipeline Co. shall not be required to comply with Sections 6, 19a, and 20 of the Interstate Commerce Act (49 U.S.C. §§ 6, 19a, 20), except as indicated in paragraph "(D)" below.

(C) Sinclair Pipeline Co. shall promptly report to this Commission any change in its operational status including but not limited to: (1) Increased accessibility of other pipelines or refiners to its pipeline system; (2) changes in its competitive position in the Denver, Colo. area; (3) changes in the ownership of the pipeline facilities; (4) changes in ownership of oil and petroleum by-products in transit; and (5) shipment tenders or the demand for services made by any person.

(D) Sinclair Pipeline Co. shall maintain all books and records in a manner consistent with recognized accounting principles in accordance with the Uniform System of Accounts for Oil Pipelines 49 CFR 1204 and shall make such books and records accessible to the Commission or its duly authorized agents on request.

(E) Sinclair Pipeline Co. shall keep in readiness information needed to update its most recent valuation report on file with this Commission.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Oil Pipeline Board.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27954 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP72-121; PGA 78-3a]

SOUTHWEST GAS CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

SEPTEMBER 26, 1978.

Take notice that on September 19, 1978, Southwest Gas Corp. ("Southwest") tendered for filing Substitute First Revised Sheet No. 10, constituting the Statement of Rates of its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to adjust rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of the General Terms and Conditions contained in said tariff, as a result of changes in rates from its supplier, Northwest Pipeline Corp. ("Northwest"), effective October 1, 1978. The proposed effective date for Southwest's proposed change in rates is October 1, 1978.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Co., and CP National (formerly California-Pacific Utilities Co.).

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27955 Filed 10-3-78; 8:45 am]

[1] On April 11, 1978 a Notice of Request for Change in Carrier Status was issued. Petitions and protests were directed to be filed on or before April 24, 1978. None have been filed.

[2] Sinclair pipeline consists of three wholly-owned pipeline systems, one of which crosses state boundaries. Sinclair Pipeline consists of a "Gathering System" originating at Sand Draw Station, Wyoming and extending to Rasvoil Station, Wyoming where it connects with a segment of the "Crude Trunk System". The Crude Trunk System terminates at Sinclair Oil's refinery in Sinclair, Wyo. The crude oil is refined into petroleum products and then transported via the Medicine Bow System to Sinclair Oil's terminal facility in Denver, Colo. Title to the crude oil and the petroleum products transported within the Sinclair Pipeline System is in Sinclair Marketing, Inc., a sister subsidiary of Sinclair Pipeline. Sinclair Oil maintains that no other refiner or pipeline company has connections with the Medicine Bow System.

[3] Sinclair primarily bases its request as to Sections 19 and 20 of the Act on the discretionary language found in these statutes.

[4] Section 1(1) states: "The provisions of this chapter shall apply to common carriers engaged—* * * (b) the transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line * * * From one State * * * to any other State * * * Section 1(3)(a) explains "The term 'common carrier' as used in this chapter shall include all pipe-line companies * * * engaged in such transportation * * * as common carriers for hire."

[5] See footnote 2 describing the salient characteristics of the Sinclair Pipeline System.

[6] The Supreme Court, after reviewing the legislative background of Section (1)(b)(3) determined that all pipeline companies engaged in the transportation of oil or other commodities in interstate commerce are "common carriers" subject to the Act.

[7] Sinclair asserts that all systems are 100 percent owned by Sinclair. Title to all commodities transported in the systems is held by Sinclair Marketing, Inc., a sister subsidiary of Sinclair Pipeline. Sinclair further asserts that no other refinery is so situated geographically as to request use of its Pipeline System.

[6740-02]

[Docket No. RP73-114]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following: First Revised Sheet Nos. 213A and 213B; and Second Revised Sheet Nos. 213 and 213C.

Tennesse states that the sole purpose of these revised tariff sheets, which are to be effective on October 13, 1978, is to make certain minor changes in the PGA provision in Article XXIII of the General Terms and Conditions in its Ninth Revised Volume No.1

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27956 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. CP71-304]

UNION LIGHT, HEAT AND POWER CO AND COLUMBIA GAS TRANSMISSION CORP.

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978,[1] The Union Light, Heat and Power Co. (Union), 107 Brent-Spence Square, Covington, Ky. 41012, and Columbia Gas Transmission Corp. (Columbia) 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP71-304 a joint petition to amend the order issued by the Federal Power Commission on February 14, 1972 (47 FPC 325)[2], in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the rate of return component included in the cost of service tariff approved therein, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Union states that pursuant to the order issued February 14, 1972, it was authorized to receive at the southern termini of its jurisdictional feeder lines natural gas which it transports and delivers, for the account of Columbia, to points of intersection between the facilities of Union and The Cincinnati Gas and Electric Co. (Cincinnati) at the Kentucky-Ohio state line. Union further states that the gas delivered to Cincinnati for the account of Columbia represents such quantities of natural gas as Cincinnati is entitled to receive from Columbia at the subject delivery points. It is asserted that for such transportation service, Columbia pays Union an allocated portion of Union's annual costs pertaining to the facilities used in the service, and Cincinnati reimburses Columbia for all payments made by Columbia to Union for the Transportation.

It is stated that the rate of return component in the cost of service formula utilized to calculate Union's monthly transportation charge is determined as an amount equal to 6¼ percent per annum of its rate base as of November 30 of each year.

Union states that this rate of return is no longer adequate and requests that the order be amended to allow a rate of return which more adequately reflects current capital costs. Union further states that since it is primarily an electric company with a capital structure and capital costs not closely attuned to its jurisdictional gas transmission operations which account for less than 1.2 percent of its gross gas revenues, it proposes to adopt in the costs of service formula prescribed under its Rate Schedule X-4, the rate of return ultimately allowed by the Commission for Union's affiliated gas transmission company, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) in Lawrenceburg's pending rate case in Docket No. RP78-37. Union asserts that there is currently a settlement agreement in that proceeding before the Commission which allows a 9.87 percent overall rate of return for Lawrenceburg.

Columbia requests amendment of the certificate issued in Docket No. CP71-304 to the extent necessary to permit Columbia simultaneously to track in its Rate Schedule X-33 the increase in Union's rate of return thus permitting Columbia to be reimbursed by Cincinnati for any increased payments made to Union as a result of the change in rate of return.

Petitioners submit that this petition to amend the existing certificate is warranted in lieu of a rate filing pursuant to Section 4 of the Natural Gas Act since Union's rate schedule is a cost of service formula whose other cost elements will be unchanged by the rate of reutrn increase requested by Union.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a a party in any hearing therein must file a petition to in-

[1] The application was initially tendered for filing on August 28, 1978, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 18, 1978; thus, the filing was not completed until the latter date.

[2] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27957 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP 73-3 (PGA 78-3) et al.]

TRANSCONTINENTAL GAS PIPE LINE CO.

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, Transcontinental Gas Pipe Line Corp. (Transco) filed a letter requesting an extension of time for the filing of Tenth Revised Tariff Sheet No. 12 and Ninth Revised Tariff Sheet No. 15 in the above captional proceeding as instructed in the Commission order of August 31, 1978. The letter stated that Transco intends to petition for rehearing in this case and that the extension of time is required to preserve Transco's right to rehearing.

Upon consideration, notice is hereby given that the time period in Ordering Paragraph (C) of the Commission order of August 31, 1978, with respect to the filing of Tenth Revised Tariff Sheet No. 12 and Ninth Revised Tariff Sheet No. 15 is extended to and including October 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27958 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP77-108]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Filing of Stipulation and Agreement

SEPTEMBER 26, 1978.

Take notice that on September 25, 1978, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing and "Agreement as to Rates" in this docket. Transco states that this agreement, if approved by the Commission, would resolve most of the issues in this proceeding. Specifically reserved for hearing in this docket are two issues, rate of return and the proper depreciation rates.

Any person desiring to be heard or to protest said Stipulation and Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 17, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27959 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-133 (PGA78-2), et al.]

UNITED GAS PIPE LINE CO.

Notice Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, Commission Staff Counsel filed a motion for extension of time to file top sheets in the above captioned proceeding. The motion states that Staff received an incomplete response from United on its data requests and must make a further data request of United before top sheets can be prepared.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 15, 1978, for Staff's filing of top sheets in this proceeding.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-27960 Filed 10-3-78; 8:45 am]

[3128-01]

Office of Assistant Secretary for International Affairs

UNITED STATES AND JAPAN

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the United States and Japan (Atomic Energy, Cooperation for Civil Uses), and the additional Agreement for Cooperation between the United States and the European Atomic Energy Community (Atomic Energy, Cooperation for Peaceful Uses).

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of a transfer of 65 spent fuel assemblies containing 190 kilograms of plutonium and 29,000 kilograms or uranium containing 274 kilograms of U-235 from the Kansai Electric Power Co., Japan, to the Euratom Supply Agency for Compagnie Generale des Matieres Nucleaires, LaHague, France for the purpose of reprocessing.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than October 19, 1978.

For the Department of Energy.

Dated: October 2, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs International Programs.

[FR Doc. 78-28112 Filed 10-3-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 981-8; OPP—30154]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredient

ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897, has submitted to the Environmental Protection Agency (EPA) applications to register the following pesticide products each containing 0.005 percent of the active ingredient 3-[3-(4'-bromo[1,1'-biphenyl]-4-yl)-1,2,3,4-tetrahydro-1-naphthalenyl]-4-hydroxy-2*H*-1-benzopyran-2-one which has not been included in any previously registered pesticide products. The applications propose that the products all be classified for general use for the control of the Norway and roof rats and house mice in homes, industrial, and agricultural buildings.

EPA file symbol	*Product name*
10182-EA	Talon Rodenticide Pellets.
10182-ER	Talon Rodenticide Bait Pack (mini pellets).
10182-EL	Talon Rodenticide (mini pellets) in mouse box.
10182-EU	Talon Rodenticide Bait Pack (pellets).
10182-EG	Talon Rodenticide Bait Bits in Trays.
10182-EE	Talon Rodenticide Pellets in Trays.
10182-EN	Talon Rodenticide Mini Pellets.

Notice of receipt of these applications does not indicate a decision by this Agency on the applications. Interested persons are invited to submit written comments on these applications to the Federal Register section, Program Support Division (TS-757), Office of Pesticide Programs, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before November 3, 1978, and should bear a notation indicating the EPA File Symbol to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying

processing of the application. Specific questions concerning these applications should be directed to Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-755-9315. The labels furnished by ICI Americas, Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: September 26, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-27928 Filed 10-3-78; 8:45 am]

[6560-01]

[FRL 981-6]

UNDERGROUND INJECTION CONTROL

List of States Requiring Program; Correction

On September 25, 1978, EPA published a Notice which lists States needing underground injection programs under the Safe Drinking Water Act. (FR Doc. 78-26715, 43 FR 43420.) The following corrections should be made to the Notice.

1. On page 43420, left column, add the following immediately after the "FOR FURTHER INFORMATION CONTACT" paragraph:

"SUPPLEMENTARY INFORMATION: Section 1421 of the Safe Drinking Water Act (Pub. L. 93-523, as amended by Pub. L. 95-190) requires the Administrator of the Environmental Protection Agency (EPA) to publish regulations which set forth minimum requirements for State underground injection control programs to protect drinking water sources."

2. On page 43420, right column, last paragraph, change "H.R. Report No. 93-11895" to "H.R. Report No. 93-1185."

Dated: September 28, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-27930 Filed 10-3-78; 8:45 am]

[6560-01]

[(FRL 981-7); OPP-50376A]

RHODIA INC., ET AL

Issuance of Experimental Use Permit; Correction

In FR Doc. 78-22490 appearing at page 36000 in the issue of Monday, August 14, 1978, in experimental use permit No. 359-EUP-56, the following correction should be made in the center section describing the experimental use permit granted to Rhodia, Inc., Monmouth Junction, N.J. 08852.

Starting on the third line, the description should read: "• • • allows the use of 1,480 pounds of the herbicide oxadiazon • • •."

Dated: September 26, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-27929 Filed 10-3-78; 8:45 am]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORP.

INTERNATIONAL BANKING ACT OF 1978

Order Extending Federal Deposit Insurance Coverage to Branches of Insured Puerto Rico Banks Located in the United States

The Board of Directors of the FDIC has reviewed the International Banking Act of 1978 (the "IB Act") which provides for the first time that a branch of a foreign bank located in the United States is eligible for Federal deposit insurance. The Board of Directors has also considered the provision of the IB Act which denotes a branch of a bank organized under the laws of Puerto Rico as a branch of a foreign bank when the branch is located in the United States. The Board concludes that these provisions of the IB Act render doubtful the continued insured status of domestic branches of insured Puerto Rico banks even though the branches were insured prior to enactment of the IB Act and even though the banks themselves remain insured. In order to resolve any questions regarding the insured status of these branches and in order to avoid undue hardship to any branch or depositor that might otherwise be adversely affected by the sudden loss of deposit insurance coverage: *It is hereby ordered,* That any branch of an insured Puerto Rico bank that is located in any State will continue to be insured beginning with the date of enactment of the IB Act.

By order of the Board of Directors.

Dated at Washington, D.C., this 28th day of September 1978.

FEDERAL DEPOSIT INSURANCE CORP.,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-27975 Filed 10-3-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 16, 1978 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3688-1.

Filing party: Mr. D. W. Gwin, L. A. Parish, Inc., 61 Saint Joseph Street, Mobile, Ala. 36601.

Summary: Agreement No. T-3688-1, between the Lake Providence Port Commission (Port) and Lake Providence Terminal Co., Inc., (LPTC), modifies the parties' basic agreement providing for the Port's lease to LPTC of certain premises at Lake Providence, East Carroll Parish, La. to be

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operated as a marine terminal facility. The purpose of the modification is to define the term "wharfage;" provide for additional insurance; provide that LPTC shall pay all taxes on the facilities; provide additional default conditions; change the term "terminal use charge" to "wharfage charge;" and provide for LPTC's retention of three percent of such wharfage use charges as a collection and handling charge.

Agreement No.: T-3688-A.

Filing party: Mr. D. W. Gwin, L. A. Parish, Inc., 61 Saint Joseph Street, Mobile, Ala. 36601.

Summary: Agreement No. T-3688-A, between the Lake Providence Port Commission (Port) and Lake Providence Terminal Co., Inc., (LPTC), provides for the Port's three-year (with renewal options) lease to LPTC of a pneumatic tire crane and a clam shell bucket, to be used at certain facilities leased to LPTC under FMC Agreement No. T-3688, at Lake Providence, East Carroll Parish, La. As compensation, LPTC shall pay Port those tonnage rental amounts stipulated in Agreement No. T-3688, together with wharfage charges, less a three percent collection and handling charge, and thirty percent of the gross earnings and revenues of LPTC from any work performed outside of the port area utilizing said crane. The terms of Agreement No. T-3688 are incorporated in and made a part of T-3688-A for all purposes by reference.

By order of the Federal Maritime Commission.

Dated: September 29, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-28035 Filed 10-3-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

WEST GEORGIA FINANCIAL CORP.

Formation of Bank Holding Company

West Georgia Financial Corp., Tallapoosa, Ga., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of West Georgia Bank of Tallapoosa, Tallapoosa, Ga. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

West Georgia Financial Corp., Tallapoosa, Ga., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage in the activities of acting as insurance agent or broker for the sale of credit life and accident and health insurance that is directly related to the extension of credit by a bank or bank-related firm. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Notice of the application was published on September 13, 1978, in the *Tallapoosa Journal-Beacon*, a newspaper circulated in Tallapooosa, Ga.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 23, 1978.

Board of Governors of the Federal Reserve System, September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28043 Filed 10-3-78; 8:45 am]

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

MODEL ADOPTION LEGISLATION AND PROCEDURES ADVISORY PANEL

Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266, Title II, section 202) to advise and assist the Secretary of HEW in the review of current conditions, practices, and laws relating to adoption, with special reference to their effect on facilities or impending the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children. The Panel will propose to the Secretary model adoption legislation and procedures not later than 12 months after its appointment.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting October 16 through 19, 1978. The meeting will be held at the following times and locations:

October 16, 9 a.m.-5 p.m., Room 529A, Hubert H. Humphrey Building, 200 Independent Avenue SW., Washington, D.C.

October 17 and 18, 9 a.m.-5:30 p.m., Room 5549, Donohoe Building, 400 Sixth Street SW., Washington, D.C.

October 19, 9 a.m.-4:40 p.m., Room 339A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

On October 16, the Panel will establish rules for decisionmaking and will consider and approve an agenda for the remainder of the meeting. The Panel's agenda will address the basic specifications for the model adoption legislation in response to a number of adoption issues identified in Pub. L. 95-266 and elsewhere. The Panel will meet in both plenary and task force sessions during the 4-day meeting.

Further information on the Panel may be obtained from Ms. Susan Weber, Acting Chief, Training and Technical Assistance Division, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, telephone 202-755-7820. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observations.

Dated: September 29, 1978.

ARNOLD SAMPSON,
HDS Committee Management Officer.

[FR Doc.78-28015 Filed 10-3-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Meeting

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of public meetings of the Advisory Council on Social Security and the Panel of Actuaries and Economists.

SUMMARY: Notice is hereby given pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to Section 706 of the Social Security Act, as amended, will meet on Monday, October 16, 1978 from 9 a.m. to 5 p.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The meeting will be devoted to the topic of social security financing.

There will be a meeting of the Advisory Council's panel of actuaries and economists on Tuesday, October 17, 1978 from 9 a.m. to 12 p.m. in Room 503A, Hubert H. Humphrey Building. The panel will continue its review of the economic and actuarial assumptions used in social security cost projections.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION, CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council, P.O. Box 17054, Baltimore, Md. 21235. Telephone inquiries should be directed to Mr. John T. Sabo, telephone number 301-594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program)

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-28094 Filed 10-3-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DES 78-41]

NEW MEXICO

Availability of Draft Star Lake-Bisti Regional Coal Environmental Statement and Holding of Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on possible development of coal resources in the Star Lake-Bisti Region of northwestern New Mexico.

The draft statement analyzes the environmental impacts that would result from the rights-of-way for the proposed Star Lake Railroad and the Fruitland Coal Load Transmission Line which would service coal mines in the region, and examines the cumulative impacts of potential coal development through 1990 in McKinley, Rio Arriba, Sandoval, and San Juan Counties in northwestern New Mexico.

Single copies of the draft statement can be obtained from the:

BLM District Manager, Albuquerque District Office, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107.

BLM State Director, New Mexico State Office, Post Office Building, P.O. Box 1449, Santa Fe, N. Mex. 87501.

BLM Area Manager, Farmington Resource Area Headquarters, 900 La Plata Road, P.O. Box 568, Farmington, N. Mex. 87401.

Copies of the draft statement are also available for inspection at the following locations:

Washington Office of Public Affairs, Bureau of Land Management, Room 5627, 18th and C Streets NW., Washington, D.C. 20240.

Albuquerque City Library, 501 Copper Avenue NW., Albuquerque N. Mex. 87107.

Farmington City Library, 302 North Orchard Avenue, Farmington, N. Mex. 87401.

Gallup Public Library, 115 West Hill Avenue, Gallup, N. Mex. 87301.

Santa Fe Public Library, 121 Washington Avenue, Santa Fe, N. Mex. 87501.

Grants Public Library, 525 West High, Grants, N. Mex. 87020.

Written comments on the draft environmental statement should be submitted by December 4, 1978, to the District Manager, Albuquerque District Office, Bureau of Land Management, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107.

Oral and written comments will also be received at public hearings to be held:

November 14, 1978 at the San Juan College Theatre, San Juan College, 4601 College Boulevard, Farmington, N. Mex.

November 16, 1978, at the Holiday Inn, 2020 Menaul Boulevard NE., Albuquerque, N. Mex.

The hearings will be held at 2 p.m. and 7 p.m. at each location.

Oral testimony of 10 minutes maximum length will be accepted from each witness at the hearing in lieu of written comments or in addition to any written comments submitted by each witness. The 10-minute time limitation will be strictly enforced. The complete text of prepared testimony may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Speakers will be heard, if present, in their established order on the witness list. After the last listed witness has been heard the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to present the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Albuquerque District Office at the above address prior to close of business on November 9, 1978. Requests should identify the organization represented and should be signed by the prospective witness.

Written and oral comments on the draft statement will receive equal consideration in preparation of the final environmental statement scheduled for publication in February 1979.

Approved: September 29, 1978.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

[FR Doc. 78-27974 Filed 10-3-78; 8:45 am]

[4310-84]

[Colorado 27134]

WESTERN SLOPE GAS CO.

Pipeline Application

SEPTEMBER 26, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Col. 80201, has applied for a right-of-way for 3.5-inch o.d. natural gas distribution pipeline totaling approximately 7 linear miles across the following public lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 S., R. 99 W., Section 34; T 2 S., R. 99 W., Sections 2, 3, 11, 12, 13, 24, 25, and 36; T. 2 S., R. 98 W., Sections 19 and 30; T 3 S., R. 99 W., Section 1, all in Rio Blanco County.

The primary purpose for construction of the proposed pipeline is to enable the applicant to convey natural gas from the West Douglas Natural Gas Field by way of the West Douglas to Black Sulphur Natural Gas Transmission Line to an industrial customer.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Col. 80202, as

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promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc.78-27942 Filed 10-3-78; 8:45 am]

[4310-84]

[Colorado 25122 C&D]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for right-of-way additions 78298 disconsencutively through 78424, for the Foundation Creek Gathering System of approximately 15 miles of pipeline on the following Public Land:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 3 S., R. 103 W.,
Sec. 18: SW¼
Sec. 19: SW¼
Sec. 20: SW¼NW¼
Sec. 29: NW¼NE¼
T. 3 S., R. 104 W.,
Sec. 13: E½
Sec. 24: SE¼SE¼
Sec. 25: N½
T. 4 S., R. 103 W.,
Sec. 15: SW¼NW¼
Sec. 16: All
Sec. 17: S½
Sec. 18: S½
Sec. 19: E½NW¼, NE¼SW¼, W½SE¼
Sec. 20: E½NW¼, NE¼SW¼, NW¼SE¼
Sec. 30: NW¼NE¼, SW¼SE¼
Sec. 31: NW¼NE¼
T. 4 S., R. 104 W.,
Sec. 2: Lot 1
Sec. 11: NE¼, E½SE¼
Sec. 12: SW¼, SW¼
Sec. 13: N½
Sec. 25: NW¼NW¼

The above-named gathering system will enable the applicant to collect natural gas and to convey it to its customers. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the applicantion should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the applicantion; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team
Branch of Adjudication.

[FR Doc. 78-28001 Filed 10-3-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Zoological Society of Cincinnati, 3400 Vine Street, Cincinnati, Ohio 45220.

The applicant requests a permit to import one (1) male captive-bred Bactrian camel (*Camelus bactrianus*) from the Assiniboine Park Zoo; Winnipeg, Canada, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3270. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHNN,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-27989 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. James D. Lazell, Jr., Massachusetts Audubon Society, 346 Grapevine Road, Wenham, Mass. 01984.

The applicant requests a permit to search for and attempt to capture eight specimens of the giant anole (*Anolis roosevelti*) on Isla Culebra. The specimens will be used for morphometric and behavior studies and killed for voucher specimens.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3277. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-27990 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Regional Director, Regional VI, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Lakewood, Colo. 80225.

The Applicant requests a permit to take (capture) and relocate wolves (*Canis lupus*) that have been identified as being a threat to human safety or livestock, in order to enhance the survival of the species. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3276. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-27991 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: James C. McMurry, Route V, Box 98, Tulia, Tex. 79088.

The applicant requests a permit to import two hite-eared pheasants (*Crossoptilon crossoptilon*) and eight brown-eared pheasants (*C. mantchurium*) from Mr. Jack Schuiteman of Devlin, Ontario for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H. Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3305. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.,

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-27992 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Henry Doorly Zoo, Riverview Park, Omaha, Neb. 68107.

The applicant requests a permit to import two male and three female cheetahs (*Acinonyx jubatus*) from the Metropolitan Toronto Zoo for enhancement of propagation. The animals were removed from the wild in 1976 in Namibia, South Africa. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H. Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3306. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-27993 Filed 10-3-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before November 3, 1978, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Lake Tobias and Animal Haven, PRT 2-3272, R.D. No. 4, Halifax, Pa. 17032.

Applicant: John L. Autrey, PRT 2-3271, Route 2, Box 233, Mantachie, Miss. 38855.

Applicant: Edward M. Otter, PRT 2-2460, R.D. No. 1, Lynch Road, Baldwinsville, N.Y. 13027.

Please refer to the individual applicant and the appropriately assigned PRT 2-file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-27987 Filed 10-3-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Geneva R. Byers, 16109 358th Avenue SE., Sultan, Wash. 98294.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3196. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-27988 Filed 10-3-78; 8:45 am]

[4310-70]

National Park Service

SHILOH NATIONAL MILITARY PARK, TENN.

Boundary Change

Section 7(c) of the Land and Water Conservation Fund Act of 1965, as added by section 1(5) of the Act of June 10, 1977, Pub. L. 95-42 (91 Stat. 210), provides for publication of boundary changes in units of the National Park System.

Notice is given that the boundary of Shiloh National Military Park is hereby changed by the acquisition of certain lands by donation. The change is delineated on a map, Drawing No. 5580/80,001, dated May 1978 and prepared by the Division of Land Acquisition, Southeast Region. Copies of the map will be available for inspection in the office of the National Park Service, Department of the Interior, Washington, D.C.

Dated: September 27, 1978.

ROBERT STANTON,
Acting Associate Director, Management and Operations, National Park Service.

[FR Doc. 78-27986 Filed 10-3-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-26]

PROPOSED LIVESTOCK GRAZING IN THE TULE-DAD-HOME CAMP AREAS OF LASSEN AND MODOC COUNTIES, CALIF., AND WASHOE COUNTY, NEV.

Availability of final environmental statement pursuant to the section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared the final environmental statement for proposed livestock grazing in Modoc and Lassen Counties, Calif. and Washoe County. Nev.

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The proposal involves construction of fences and facilities to implement livestock grazing systems, providing adequate forage and habitats for wildlife species, and consideration of other public uses on approximately 600,000 acres of public lands.

Copies are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building 18th and C Streets, NW., Washington, D.C. 20240, telephone 202-343-5717.
California State Office, Bureau of Land Management, Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825, telephone 916-484-4541.
Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, Calif. 96103, telephone 916-257-5385.

A limited number of single copies may be obtained from the Office of Public Affairs, Bureau of Land Management (Washington, D.C. 20240) and the Bureau of Land Management, P.O. Box 1090, Susanville, Calif. 96103.

Dated: September 29, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27995 Filed 10-3-78; 8:45 am]

[4310-84]

[INT FES 78-25]

PROPOSED UPPER GILA-SAN SIMON ENVIRONMENTAL STATEMENT AREA LIVESTOCK GRAZING MANAGEMENT PROGRAM

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposed livestock grazing management program in the Upper Gila-San Simon Environmental Statement Area, Ariz. The proposal involves intensive management of grazing on 1,040,329 acres of public lands; custodial management of grazing on 38,161 acres of public lands; ephemeral management of grazing on 250,155 acres of public lands; deferment of grazing on 14,050 acres of public lands, and 4,014 acres of public lands unallotted for grazing. In addition, the proposal calls for the construction of range improvements to facilitate grazing management, including three detention dams for erosion control and sediment retention.

A limited number of copies are available upon request to the Arizona State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5717.
Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, telephone 602-261-3706.
Safford District Office, Bureau of Land Management, 425 E. Fourth Street, Safford, Ariz. 85546, telephone 602-428-4040.

Dated: September 29, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27996 Filed 10-3-78; 8:45 am]

[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Competition

AGENCY: Employment and Training Administration.

ACTION: Announcement of additional jurisdictions to be open for competition and grantees to be funded without competition.

SUMMARY: This notice announces additional areas to be open for competition as outlined in the FEDERAL REGISTER of July 14, 1978, "Change of Funding Cycle and Related Changes." Also announced are grantees that will be funded without competition.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Kranz, Acting Director, Office of Farmworker Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-6128.

ADDITIONAL AREAS OPEN FOR COMPETITION

On July 14, 1978, the following areas were announced as open for competition: Alabama; county of Los Angeles, Calif.; Iowa; Louisiana; Massachusetts; Michigan; Minnesota; New Jersey; New Mexico; Tennessee; Texas (all counties); and Wisconsin. The purpose of this notice is to announce additional jurisdictions open for competition pursuant to section 97.204(c)(4), title 29, subtitle A, for migrant and other seasonally employed farmworker programs operated under title III, section 303, of the Comprehensive Employment and Training Act. These additional areas are Pennsylvania, Nebraska, Oregon, and Idaho.

Preapplications for Federal assistance, standard form 424, must be submitted no later than October 10, 1978, to serve the four new States. Grant applications from potential grantees seeking to serve migrant and seasonal farmworkers in jurisdictions subject to competition must be submitted no later than November 1, 1978. Funding requests will be prepared in accordance with CFR, January 7, 1977, sections 97-212 through 97-218.

GRANTEES TO BE EXTENDED WITHOUT COMPETITION

Noncompetitive grantees will be extended by the major modification process for the period January 1, 1979, through September 30, 1979. Modifications for existing section 303 grants for continuing grantees must be submitted no later than October 23, 1978. These grantees, by State, are listed below:

ARIZONA

Migrant Opportunity Programs, Phoenix, Ariz.

ARKANSAS

Arkansas Council for Farmworkers, Inc., Little Rock, Ark.

CALIFORNIA

Center for Employment Training of the Central Coast Counties, San Jose, Calif.
Proteus Adult Training, Inc., Visalia, Calif.
Campesinos Unidos, Brawley, Calif.
California Human Development Corp., Santa Rosa, Calif.
Central Coast Counties Development Corp., Aptos, Calif.
City of Stockton, Stockton, Calif.

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, Wheat Ridge, Colo.

CONNECTICUT

New England Farmworkers Council, Inc., Hartford, Conn.

DELAWARE

Migrant and Seasonal Farmworkers Association, Inc., Dover, Del.

FLORIDA

Florida State Department of Education, Tampa, Fla.

GEORGIA

Migrant and Seasonal Farmworkers Association, Inc., Atlanta, Ga.

HAWAII

Office of the Governor, Department of Labor and Industrial Relations, Honolulu, Hawaii.

ILLINOIS

Illinois Migrant Council, Chicago, Ill.

INDIANA

Indiana Office of Manpower Development, Indianapolis, Ind.

KANSAS

ORO Development Corp., Wichita, Kans.

KENTUCKY

Tennessee Opportunity Programs, Bowling Green, Ky.

MAINE

Penobscot County Manpower Administration, Bangor, Maine.

MARYLAND

Migrant and Seasonal Farmworkers Association, Inc., Princess Anne, Md.

MISSISSIPPI

Mississippi Delta Council for Farmworker Opportunities, Clarksdale, Miss.

MISSOURI

Rural Missouri, Inc., Jefferson City, Mo.

MONTANA

Human Resources Division, State of Montana, Helena, Mont.

NEVADA

CET-State of Nevada, Carson City, Nev.

NEW YORK

Program Funding, Inc., Rochester, N.Y.

NORTH CAROLINA

Migrant and Seasonal Farmworkers Association, Inc., Raleigh, N.C.

NORTH DAKOTA

North Dakota Migrant Council, Grand Forks, N. Dak.

OKLAHOMA

ORO Development Corp., Oklahoma City, Okla.

PUERTO RICO

Commonwealth of Puerto Rico, Department of Labor, San Juan, P.R.

RHODE ISLAND

New England Farmworkers Council, Inc., Pawtucket, R.I.

SOUTH CAROLINA

South Carolina Office of the Governor, Columbia, S.C.

SOUTH DAKOTA

Minnesota Migrant Council, St. Cloud, Minn.

UTAH

Utah Migrant Council, Midvale, Utah.

VERMONT

Orleans County Council of Social Agencies, Inc., Newport, Vt.

VIRGINIA

Migrant and Seasonal Farmworker Association, Inc., Richmond, Va.

WASHINGTON

Northwest Rural Opportunities, Grandview, Wash.

WEST VIRGINIA

Governor's Manpower Office, Charleston, W. Va.

WYOMING

Northwestern Community Action Programs of Wyoming, Inc., Worland, Wyo.

Grantees should consult title 29, CFR, section 97.220.

Special instructions concerning grants and modifications will be issued in accordance with § 97.217, "Negotiations of Final Grant." All applicants should obtain these special instructions for the preparation of the grant applications from the Office of Farmworker Programs.

Signed at Washington, D.C., this 26th day of September 1978.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc. 78-28208 Filed 10-3-78; 9:43 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

SEPTEMBER 29, 1978.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, October 19-20, 1978. The sessions will be open to the public and will be held in the Penthouse of Page Building No. I, 2001 Wisconsin Avenue NW., Washington, D.C. The Thursday session will begin at 9 a.m.; the session on Friday at 8 a.m.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by the Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

October 19, 1978—Page Building I, 2001 Wisconsin Avenue NW.

9 a.m. Plenary session (Penthouse)—Plans for meeting, Chairman.
9:30 a.m. Working group sessions:
Transportation workshop (Penthouse), Mr. Michael Naess, NACOA:
Ocean Use panel (room 416)—Coastal Zone Management issues and legislative options, Dr. E. Murphy, NACOA.
12 m. Lunch.
1 p.m. Working group sessions (continued from a.m.).
5 p.m. Adjourn.

October 20, 1978—Page Building I, 2001 Wisconsin Avenue NW.

8 a.m. Plenary session (Penthouse)—Coastal Zone Management issues and legislative options (continued), Dr. E. Murphy, NACOA.
10 a.m. NACOA position on Federal organization, Mr. M. Dubs, NACOA.
12:30 p.m. Working lunch.
3 p.m. Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, Page Building I), Washington, D.C. 20235. The telephone number is 254-8414.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc. 78-28141 Filed 10-3-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on October 27, 1978, in room 6510, 2020 K Street, NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extension Act of 1975, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the

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procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meeting will begin at 9:30 a.m. to discuss state and local labor force statistics. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 28th day of September, 1978.

SAR A. LEVITAN,
Chairman.

[FR Doc. 78-27962 Filed 10-3-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ABNORMAL OCCURRENCE REPORT

13th Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the 13th periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 1, No. 2). The release date is September 29, 1978.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the FEDERAL REGISTER (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The 13th report to Congress is for the second quarter of 1978. The report identifies the occurrances or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were two abnormal occurrences at the 69 nuclear power plants licensed to operate. One involved a generic concern pertaining to fuel assembly control rod guide tube integrity. The second involved an overexposure of two radiation protection technicians.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear power plants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There was one abnormal occurrence reported by an agreement State. The event involved willful violations of regulations and subsequent termination of a license.

The incidents involved temporary reductions in margins of safety normally provided.

The 13th report to the Congress also contains updating information on abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street NW., Washington, D.C., or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG-0090, Vol. 1, No. 2, may be purchased from the National Technical Information Service, Springfield, Va. 22161, at $4.50 a copy on or about October 13, 1978.

Dated at Washington, D.C., this 28th day of September, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28005 Filed 10-3-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Procedures for Meetings

BACKGROUND

Procedures to be followed with respect to meetings conducted by the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards, which were published October 31, 1977 (42 FR 56972) are renewed by this notice. No changes have been made, and they are reprinted for the information and convenience of interested persons. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safegards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee, Subcommittee, and Working Group meetings are conducted in accordance with sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.).

GENERAL RULES REGARDING ACRS MEETINGS

An agenda is published in the FEDERAL REGISTER for each meeting. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee, Subcommittee or Working Group which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, D.C., reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the designated Federal employee specified in the FEDERAL REGISTER notice for the individual meeting in care of the ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than 1 calendar week prior to a meeting will normally be received in time for reproduction, distribution and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee, Subcommittee or Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor

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can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone 202-634-3265, attention: the designated Federal employee specified in the FEDERAL REGISTER Notice for the meeting) between 8:15 a.m. and 5 p.m., Washington, D.C. time.

(d) Questions may be asked only by ACRS members, consultants and staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, for inspection within 1 week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before 3 months following the meeting. Copies may be obtained upon payment of appropriate charges.

Copies of the above-mentioned minutes and transcript will also be placed in the NRC Local Public Document Room, when appropriate, on the same time schedule. The location of the Public Document Room will be indicated in these cases in the individual FEDERAL REGISTER notice for the meeting.

SPECIAL PROVISIONS WHEN PROPRIETARY SESSIONS ARE TO BE HELD

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements or orders permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Employee prior to the beginning to the meeting.

Dated: September 27, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-28004 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-368]

ARKANSAS POWER AND LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Issuance of Amendment to Facility Operating License and Granting of Exemptions from Certain Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-6 to Arkansas Power and Light Co. for operation of Arkansas Nuclear One, Unit 2 (the facility) at steady state reactor core power levels not in excess of 2815 megawatts thermal, in accordance with the provisions of the amended license and the Technical Specifications. However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in license conditions are completed to the written satisfaction of the Commission. The facility is located at the licensee's site in Pope County, Arkansas. The amended license is effective as of its date of issuance and shall expire at midnight on December 6, 2012.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amended license. The application for the license complies with the standards and requirements of the act and the Commission's regulations.

This action is in furtherance of the licensing action encompassed in the combined Notice of Receipt of Application for Facility Operating License; Notice of Availability of Applicant's Environmental Report; and Notice of Opportunity for Hearing published in the FEDERAL REGISTER on April 23, 1974 (39 FR 14371).

The Commission has determined that the facility requires exemptions from certain requirements of (1) § 50.55a of 10 CFR Part 50, (2) Appendices G and H to 10 CFR Part 50, and (3) Appendix J to 10 CFR Part 50 for a period of 3 years. These exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. In making this determination, the Commission has given due consideration to the burden that could result if these requirements were imposed on the facility.

The exemption from certain requirements of § 50.55a of 10 CFR Part 50 relates to the preservice and inservice examination requirements of section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (the ASME Code) for pump scroll welds, nozzle welds, longitudinal and circumferential vessel welds, integrally welded supports, pump studs, vessel cladding, valve bodies, circumferential and longitudinal piping welds, calibration blocks and testing requirements.

The Commission has evaluated the preservice examination program for Arkansas Nuclear One, Unit 2 and has determined that a large portion of the ASME Code required preservice examinations were performed, and has concluded that failure to perform 100 percent preservice examination of the welds identified in the exemption will not significantly affect of assurance of the initial system integrity or the ability to subsequently detect and correct service-induced defects.

The exemptions from certain requirements of Appendices G and H to 10 CFR Part 50 relates to the fracture toughness requirements for the ferritic materials of the pressure-retaining components of the reactor coolant pressure boundary and the reactor vessel material surveillance program.

Although the Arkansas Nuclear One, Unit 2 reactor vessel was ordered and fabricated and its testing program was developed well before the requirements of Appendices G and H to 10 CFR Part 50 became effective, alternative methods for providing adequate margins of safety against brittle fracture and an alternative material surveillance program were proposed.

The Commission has evaluated the alternative methods for providing adequate margins of safety against brittle fracture and the alternative material surveillance program and has concluded that they are acceptable.

The exemption, which shall be granted for a period of three years, from certain requirements of Appendix J to 10 CFR Part 50 relates to the leakage testing requirements for the containment airlocks. Implementation of the specific Appendix J require-

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ments would result in the testing of the entire containment airlock volume after each entry. The Commission has determined that the testing of the airlock door seals at least once each 22 hours for multiple entries occurring during that interval will provide adequate assurance of the leak tightness of the containment airlock including the containment airlock door seals.

The Commission has determined that the granting of these exemptions and the issuance of this amendment will not result in any significant environmental impact and that pursuant to § 51.5(d)(4) of 10 CFR Part 51, and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared.

For further details with respect to this action, see (1) Amendment No. 1 to Facility Operating License No. NPF-6 complete with Preoperational Tests and Other Items Which Must Be Completed Prior to Loading Fuel (Attachment 1); and (2) the Commission's related Safety Evaluation supporting Amendment No. 1 to License No. NPF-6; and (3) the Office of Nuclear Reactor Regulation's Safety Evaluation Report (NUREG-0308) Supplement No. 2 dated September 1978. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Ark. 72801.

A copy of Items (1) and (2) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Project Management. Copies of the Safety Evaluation Report Supplement No. 2 (NUREG-0308) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

JOHN ANGELO,
Acting Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-28006 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. NPF-6 to Arkansas Power & Light Co. for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amendment is effective as of the date of its issuance.

The amendment temporarily suspends the Technical Specification 3.4.1 which allows for only 1 hour operation without core flow in Operational Modes 3, 4, and 5. The temporary suspension is granted for one 96-hour period valid through October 9, 1978, to allow repairs to be completed on a decay heat suction valve prior to initial reactor criticallity.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the licensee's application for amendment dated September 18, 1978 (2) Amendment No. 2 to License No. NPF-6, and (3) the Commission's related Safety Evaluation supporting Amendment No. 2 to License No. NPF-6. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated at Bethesda, Md., this 22d day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS P. ALLISON,
Acting Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-28007 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-20, issued to Consumers Power Co. (the licensee), which revised the technical specifications for operation of the Palisades plant (the facility) located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

The amendment changes the Palisades technical specifications relating to the limits on axial power distribution.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 15, 1978, and supplements thereto dated August 15, 21, and 25, 1978, (2) amendment No. 43 to License No. DPR-20, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 8th day of September, 1978.

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For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-28008 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-416]

ILLINOIS POWER CO., ET AL.

Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-137 issued to the Illinois Power Co. on February 24, 1976. The amendment reflects a change in the ownership of the Clinton Power Station, Unit 1 (the facility) located in DeWitt County, Ill. The amendment is effective as of its date of issuance.

The amendment provides for the addition of Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc., as co-owners for all licenses previously requested for the facility and the transfer of 10.5 percent ownership interest to Soyland Power Cooperative, Inc., and 9.5 percent ownership interest to Western Illinois Power Cooperative, Inc., of the 100 percent ownership interest held by Illinois Power Co. in the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter dated January 31, 1978, (2) Amendment No. 1 to CPPR-137, and (3) the Commission's related Safety Evaluation supporting Amendment No. 1 to CPPR-137. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Local Public Document Room located in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Ill. 61727.

A copy of items (2) and (3) may be obtained upon written request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN.: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 25th day of September 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-28009 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co., which amended the license and its appended Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2, located in the Town of Waterford, Conn. The amendment is effective as of its date of issuance.

This amendment adds a license condition relating to the completion of facility modifications and the implementation and maintenance of administrative controls for fire protection and modifies the Technical Specifications to require three operable fire pumps and additional spray and/or sprinkler systems and fire hose stations to be operable in the turbine building.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 2, 1978, (2) the licensee's submittals dated June 2, 1978, February 28, 1977, April 12, July 11 and 14, August 2 and 17, 1978, (3) Amendment No. 43 to License No. DPR-65, and (4) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-28010 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO., DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective 20 days after its date of issuance, unless the applicant informs the Commission in writing prior to that time that he disagrees with this course of action.

The amendment revises the requirements for nonroutine environmental operating reports to make them agree with Regulatory Guide 4.8.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

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license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see Amendment No. 13 to License No. NPF-3. This item is available for public inspection at the Commission's Public Document Room, 1717, H Street, N.W., Washington, D.C. 20555 and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of Amendment 13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-28011 Filed 10-3-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 27, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503; 202-395-4529; or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of East-West Trade, exception to requirement of order party signature, EAR 372.6(d), on occasion, commercial exporters, 12 responses, 3 hours, Kincannon, C. Louis, 395-3211.

DEPARTMENT OF DEFENSE

Departmental and other program information—institutional providers, CHAMPUS 200, A, B, C, D, annually, nursing facilities, handicapped and psychiatric facilities, 2,500 responses, 1,250 hours, Richard Eisinger, 395-3214.

Departmental and other, determination of eligibility/civilian health and medical program of the uniformed services, CHAMPUS 88, other (see SF-83), military personnel, 250,000 responses, 250,000 hours, Richard Eisinger, 395-3214.

Departmental and other, report of mental health evaluation team, CHAMPUS 345B, weekly, mental health professionals, 480 responses, 1,440 hours, Richard Eisinger, 395-3214.

Departmental and other, medical records request, CHAMPUS 345, other (SF-83), psychiatric residential treatment CTRS for children and adolescents, 2,400 responses, 2,400 hours, Richard Eisinger, 395-3214.

Departmental and other, treatment plan RTC, CHAMPUS 345A, weekly, civilian health providers, 1,500 responses, 3,000 hours, Richard Eisinger, 395-3214.

Departmental and other, OCHAMPUS record information from residential treatment centers, CHAMPUS 296, weekly, CHAMPUS approved residential treatment centers, 1,500 responses, 3,000 hours, Richard Eisinger, 395-3214.

Departmental and other, diagnostic evaluation, program for the handicapped CHAMPUS 141, weekly, CHAMPUS approved institutional providers, 3,500 responses, 7,000 hours, Richard Eisinger, 395-3214.

Departmental and other, application for preauthorization or recertification of CHAMPUS/CHAMPVA benefits, CHAMPUS 190, other (see SF-83), health care providers, 7,000 responses, 7,000 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, study of special incentive work experience program, MT-295, single time, AFDC-WIN registrants; WEP work sponsors; WEP officials, 1,602 responses, 802 hours, Arnold Strasser, 395-6132.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics and Cooperatives Service, fruit tree surveys, annually, fruit growers, 10,000 responses, 2,625 hours, Ellett, Charles A., 395-6132.

Science and Education Administration, 1977-78 nationwide food consumption survey and food intake of individuals, single-time, households, interviewers in United States and Puerto Rico, 3,900 responses, 2,480 hours. Office of Federal Statistical Policy and Standards, Ellett, Charles A., 673-7977.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics and Cooperatives Service, Kentucky Burley Tobacco objective yield survey, other (see SF-83), tobacco growers, 460 responses, 35 hours, Ellett, Charles A., 395-6132.

Economics, Statistics and Cooperatives Service, popcorn processor survey—June and December, semi-annually, popcorn processors, 100 responses, 33 hours, Ellett, Charles A., 395-6132.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing production and mortgage credit, application for project mortgage insurance (rehabilitation), FHA 2013R, apartment owners, builders, 600 responses, 3,600 hours, Caywood, David P., 395-3443.

NATIONAL SCIENCE FOUNDATION

Applicant information form, NSF-54, teachers, 11,000 responses, 2,250 hours, Warren Topelius, 395-6134.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-28032 Filed 10-3-78; 8:45 am]

[8410-01]

OHIO RIVER BASIN COMMISSION

REGIONAL WATER AND LAND RESOURCES PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT

Available for Review

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has prepared a document summarizing the Comprehensive, Coordinated Joint Plan for the Ohio River Basin entitled, The Ohio River Basin—The Regional Water and Land Resources Plan and Draft Environmental, Economic, and Social Impact Statements. The Ohio River Basin Plan and Draft EIS, as presented in this summary, are being reviewed by the Governors and the heads of each Federal and Interstate Agency from which a member of the Commission has been appointed.

Views, comments and recommendations on the Ohio River Basin Plan summary and Draft EIS, are requested by December 22, 1978. Copies are available on request from the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc. 78-28000 Filed 10-3-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. CM-8/113]

OCEAN AFFAIRS ADVISORY COMMITTEE, ANTARCTIC SECTION

Partially Closed Meeting

The Ocean Affairs Advisory Committee, Antarctic Section will meet at 2 p.m. on November 8, 1978, in conference room 6320 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic matters in the Department of State, will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

The Ocean Affairs Advisory Committee will continue its work on November 9, and 10, 1978, at 10 a.m. in room 7835, in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552 b(c)1 and 5 U.S.C. 552 b(c)(9)(B). The disclosure of classified material and revelation and considerations which go into policy development, would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policies on Antarctic marine living resources and on Antarctic mineral resources. Other matters and issues relating to the Antarctic, which may be considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 11652.

Requests for further information on the meetings should be directed to Lisle Rose, OES/OFA/OCA, Room 5216, Department of State. He may be reached by telephone on 202-632-3262.

Dated: September 18, 1978.

BENOIT BROOKENS, II,
Special Assistant to the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 78-27941 Filed 10-3-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket RSOR-78-3]

SEABOARD COAST LINE RAILROAD

Petition for Waiver of Railroad Radio Standards

As required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Seaboard Coast Line Railroad (SCL) has submitted a waiver petition to the Federal Railroad Administration (FRA). The petition requests that the SCL be granted a permanent waiver of compliance with 49 CFR Part 220 (Radio Standards and Procedures). That part requires railroads to have certain carrier operating rules governing the use of radios during train operations.

Part 220 was published in the FEDERAL REGISTER on January 27, 1977 (42 FR 5065). Compliance with the provisions of that part became mandatory on August 1, 1977.

SCL notes that it has attempted to fully comply with the regulation but has now ascertained that considerable delays to its train operations are being caused by this regulation. These delays are resulting in increased costs and wasted energy. Consequently, SCL seeks a limited waiver of compliance.

The waiver of compliance sought by SCL involves the provisions of § 220.61(b). This section prescribes the procedures which a dispatcher or operator and a crew of a train must adhere to when communications, identified as train orders for the purpose of this regulation, are being transmitted by radio.

The SCL seeks a waiver of compliance with these procedures for several types of radio communications that are used during train operations and which were not previously considered to be train orders by the SCL or the railroad industry. The types of radio communications identified by SCL include verbal permission to proceed through an interlocking; verbal advice to trains that are operating under the authority for train movement that is conveyed by a signal system; and verbal instructions authorizing occupancy of a track or compliance by maintenance of way personnel and trains crews with certain train orders.

The SCL indicates that it has conducted train operations safely for in excess of ten years by utilizing these types of verbal communications and believes that granting this waiver would be consistent with railroad safety.

Interested persons are invited to participate in this proceeding by submitting written comments or views. The FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, the FRA will provide an opportunity for oral comment if requested to do so by any interested party. Such requests must be in writing and must be submitted to the FRA before October 20, 1978.

All communications concerning this proceeding should identify the Docket Number, Waiver Petition Docket Number RSOR-78-3, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 10, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

(Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C. on September 27, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-27999 Filed 10-3-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

MICROFICHE OF TEXT OF ADMINISTRATIVE DECISIONS

Availability

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of availability of new service.

SUMMARY: The text of administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, including those contained in the list of unpublished administrative decisions which is published biweekly in the Customs Bulletin, as well as those published as Treasury Decisions, is now available in microfiche format. In addition, a cumulative list of the decisions contained in the biweekly Customs Bulletin listings will appear in the annual bound volume of the Customs Bulletin.

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EFFECTIVE DATE: The first set of microfiche is now available. Supplements will be issued periodically covering those decisions which are subsequently issued

FOR ADDITIONAL INFORMATION CONTACT:

Sandra J. Reese, Legal Reference Area, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5095.

SUPPLEMENTARY INFORMATION: The Office of Regulations and Rulings at Customs Service Headquarters issues thousands of administrative decisions (rulings) each year applying the Customs laws and regulations to specific factual situations. Many of these decisions are issued to importers and other interested parties who have written to Customs Service headquarters requesting an administrative ruling under the provisions of Part 177 of the Customs Regulations (19 CFR Part 177). Other decisions are issued to Customs Service field offices under the Customs Service's internal advice program or under other Headquarters review procedures provided for in the Customs Regulations (protest review decisions, for example).

The effective administration of the Customs laws and regulations requires that significant administrative decisions be brought to the attention of Customs officers and the importing community. To this end, the Customs Service has substantially increased the number of decisions published in the Customs Bulletin as Treasury Decisions and, on June 21, 1978, began to publish in the Customs Bulletin a biweekly list of other decisions which have been determined to be significant, but not of sufficient general interest to warrant publication as Treasury Decisions. The biweekly lists are not cumulative, but the will be reproduced in the annual bound volume of the Customs Bulletin.

The decisions included in the biweekly listings are identified by the date of the decision, the six-digit control number assigned to the decision by the Office of Regulations and Rulings, and a brief statement of the issue involved. Copies of these decisions, in a form appropriate for public distribution, may be obtained upon written request to the Legal Reference Area, room 2404, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, at a cost of $0.10 per page (the Customs Service will waive this charge if the total number of pages copied is 10 or less). In addition, the text of these decisions, as well as those published in the Customs Bulletin of Treasury Decisions, is also available in microfiche format through subscription. The cost of the first set of microfiche, which includes a numerical index and covers those decisions contained in the biweekly lists published through September 27, 1978, and those issued after May 1, 1978, which have been published as Treasury Decisions, is $2.55 ($0.15 per sheet of fiche). It is anticipated that supplementary sets of microfiche, covering the decisions set forth in lists and Treasury Decisions, contained in future issues of the Customs Bulletin, will be made available quarterly. Requests for the first set of microfiche and for subcriptions should be directed to the Legal Reference Area at the above address. Subscribers will automatically receive supplementary sets of microfiche as they are issued and will be billed accordingly.

The Customs Bulletin is published each week by the Customs Service and is offered for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current single copy price of the Customs Bulletin is $0.85, with yearly subscriptions available for $43.70 ($10.95 additional for foreign mailing).

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

FR Doc. 78-27935 Filed 9-29-78; 10:44 am]

[4810-22]

Office of the Secretary

AUTOMOTIVE AND MOTORCYCLE REPAIR MANUALS FROM UNITED KINGDOM

Termination of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to advise the public that the antidumping investigation of automotive and motorcycle repair manuals from the United Kingdom is being terminated. The termination is based on a determination that in this case antidumping duties should not be assessed upon the importation of the repair manuals in question in the light of the provision in the "Florence Agreement" that such merchandise shall be imported free of any "customs duties or other charges."

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-2938.

SUPPLEMENTARY INFORMATION: On June 30, 1978, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Counsel on behalf of Clymer Publications, Los Angeles, Calif., alleging that automotive and motorcycle repair manuals from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an antidumping proceeding notice published in the FEDERAL REGISTER of August 8, 1978 (43 FR 35139).

On the basis of the evidence submitted, it was concluded that there was substantial doubt of injury or liklihood of injury to an industry in the United States by virtue of such imports. Accordingly, the U.S. International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)). On September 6, 1978, the Commission advised that there was insufficient basis to terminate the investigation (43 FR 40935).

However, subsequent to the initiation of this investigation, a question was raised whether dumping duties should not be imposed on the subject merchandise in the light of the "Florence Agreement," the Agreement on the Importation of Educational, Scientific, and Cultural Material, dated June 24, 1959, T.I.A.S. No. 6129, 17 U.S.T. 1835; as implemented pursuant to the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651), 80 Stat. 897.

It has been the uniform practice of the Customs Service, under the Act and judicial interpretations thereof, to treat antidumping duties the same as ordinary customs duties. Section 211 of the Act also provides that dumping duties "shall be treated as regular customs duties within the meaning of all laws relating to the drawback of customs duties" (19 U.S.C. 170). In construing this language, the Court of Customs and Patent Appeals has concluded that "• • • Congress desired and intended that the additional duties provided for in this act should be considered as duties for all purposes." *C. J. Tower & Sons* v. *United States*, 71 F. 2d 438, 445, 21 C.C.P.A. 417, 434 (1934). Also, in *Imbert Imports, Inc.* v. *United States*, 331, F. Supp. 1400 (Cust. Ct. App. Term 1971), the court held that dumping duties are "duties" within the meaning of article I, section 8 of the U.S. Constitution.

The agreement provides that certain specified articles, which include the subject manuals, shall upon importation be free of "any customs duties or other charges." In the instant case, in which "substantial doubt" of injury has already been expressed, there appears to be no reason to exclude antidumping duties from the term "any customs duties or other charges," as used in the Florence Agreement. Accordingly, I hereby terminate this investigation.

The United States became a party to the Florence Agreement subject to a reservation permitting suspension of any obligation under the agreement with respect to any covered product which, as a result of obligations incurred under the agreement, is imported in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive products. This reservation was given effect in section 9 of the implementing legislation (Pub. L. 89-651, 80 Stat. 897), and can presently be invoked through the procedure of section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)). Accordingly, if pursuant to that procedure, it were determined that the subject merchandise is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry; duty-free treatment could then be suspended with respect to the subject merchandise. This would eliminate the preclusion against imposing dumping duties, and as a result a dumping investigation could be reinitiated upon receipt of a petition in proper form.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-28019 Filed 10-3-78; 8:45 am]

[4810-40]

[Supplement to Dept. Circular Public Debt Series—No. 23-78]

TREASURY BONDS—PUBLIC DEBT SERIES—No. 23-78

Interest Rate

SEPTEMBER 28, 1978.

The Secretary of the Treasury announced on September 27, 1978, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 23-78, dated September 20, 1978, will be 8¾ percent. Interest on the bonds will be payable at the rate of 8¾ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-27994 Filed 10-3-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice 722]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133689 (Sub-187), Overland Express, Inc., now being assigned for Pre-hearing Conference November 27, 1978, at, Chicago, IL, in a hearing room to be later designated.

MC 139577 (Sub-12F), Adams Transit, Inc., now being assigned November 28, 1978 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 113678 (Sub-740F), Curtis, Inc., now being assigned November 29, 1978 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 102616 (Sub-948F), Coastal Tank Lines, Inc., now being assigned December 4, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC C 9859, John Septon Produce Co., Inc.—Revocation of Certificates, No. MC F 12793, B. J. McAdams, Inc.—Control and Merger—John Sephton Produce Co, Inc., and No. MC F 13350, Bob McAdams, B. J. McAdams, Inc., Wiley A. Sanders, Wiley A. Sanders, Inc., E. W. McKean, Jr., Clairborne W. Patty, Jr.—Investigation of Control—John Sephton Produce Co., Inc., now being assigned for continued hearing on November 14, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 139495 (Sub-310), National Carriers, Inc., now being assigned November 28, 1978, at Dallas, Tex (1 day), in a hearing room to be later designated.

MC 133233 (Sub-58F), Clarence L. Werner DBA Werner Enterprises, now being assigned for hearing on November 29, 1978, at Dallas, TX (1 day), in a hearing room to be later designated.

MC 115841 (Sub-589), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on November 30, 1978 (2 days); at Dallas, TX in a hearing room to be later designated.

MC 100666 (Sub-389F), Melton Truck Lines, Inc., now being assigned for hearing on December 4, 1978 (1 week), at Dallas, TX in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28021 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 723 [1]]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

MC 130223 (Sub-M2F), Peter Pan World Travel, Inc., now being assigned for hearing on November 8, 1978 (2 days), at Boston, MA, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28022 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 724 [1]]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

No. 36867, Nevada Power Company V. Union Pacific Railroad Company, et al., now being assigned for hearing on October 10, 1978 (4 days), at Las Vegas, Nev., and Continued to December 11, 1978 (1 week), at Salt Lake City, UT, in hearing rooms to be later designated and continued to January 16, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H.G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-28023 Filed 10-3-78; 8:45 am]

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[1] This notice corrects the number of days of the hearing.

[1] This notice corrects the year for the January hearing date.

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[7035-01]

[Revised Service Order No. 1332]

CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Revised Service Order No. 1332.

SUMMARY: There are severe shortages of freight cars throughout the country. Revised Service Order No. 1332 requires all railroads to place, remove, foward, weigh, clean or repair cars within 60 hours in order to expedite the handling of freight cars and to increase their availability for reloading. Gondola cars, flat cars and boxcars with mechanical designations LC and LU are removed from the order.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: In a petition filed September 1, 1978, the Association of American Railroads (ARR) seeks various revisions of Service Order No. 1332.

Revised Service Order No. 1332 was issued on Augus 31, 1978, (43 FR 39883, Sept. 7, 1978) in accordance with our findings on August 29, 1978, that an acute shortage of boxcars, gondola cars, hopper cars, flat cars and covered hopper cars exists throughout the country.

The AAR now contends that although shortages of boxcars, gondola cars and flat cars still exist, the magnitude of these shortages does not justify the continued subjection of these cars to the requirements of the order.

Service Order No. 1332 was issued on August 7, 1978, in accordance with a decision of the Commission dated August 4, 1978, that an acute shortage of freight cars including boxcars, gondola cars and flat cars exists throughout the country. In a subsequent decision on August 29, 1978, the Commission repeated its finding that acute shortages of these cars exist.

Prior to the issuance of Service Order No. 1332, the Commission had issued a similar order, Service Order No. 1309, on March 9, 1978, applicable to boxcars, covered hopper cars and flat cars used for Trailer-on-Flat Car traffic. Effective April 15, 1978, this order was revised to include gondola cars, hopper cars, all flat cars and two minor car types. This order and its various revisions were also issued because of an acute shortage of these various car types.

Cars subject to Service Order No. 1309 were required to be placed, removed, forwarded, weighed, cleaned, or given light repairs within 24 hours. This order was permitted to expire on July 31, 1978, In its place the Commission issued Service Order No. 1332 which allows the carriers 60 hours to perform all of these car movement functions except that the 24-hour time limitation continues to apply to the giving of required notices and to placement on hold or inspection tracks.

The AAR argues that the reported levels of car shortages have declined and, as to boxcars, gondola cars and flat cars, these shortages are below the levels which the AAR considers critical. Consequently, it believes that these cars should no longer be subject to the order. We do not entirely agree. In its petition the AAR stated that the average daily shortages of all cars had declined to approximately 20,000 cars as of September 1, 1978. However, the actual level of shortages reported by the carriers did not reach the 20,000 car level until September 9. During this period the average daily shortages of boxcars increased from a low level of 3,997 cars for the week ending August 12 to 4,735 cars for the week ending September 2, then declined to 4,420 cars on September 9. The average daily shortage of gondola cars during this period ranged between a high of 1,778 cars on August 12 and a low of 1,478 cars on September 2. It stood at 1,623 cars on September 9. The average daily shortage of flat cars reported by the carriers during this time approximated 250 cars. It was 252 cars on September 9.

Recently, weekly loadings of boxcars have increased slightly from 88,733 cars during the week ending August 12 to 95,755 cars during the week ending September 2. Similarly, the weekly loadings of gondola cars increased by slightly more than 4,500 cars and the weekly loadings of flat cars slightly less than 4,500 cars during this same period.

In summary, although the reported levels of shortages of these cars has remained relatively stable, weekly car loadings have increased throughout the period that Service Order No. 1332 has been in effect. Further, we are now entering that time of year when railroad carloads normally reach their peak. Crop forecasts recently released by the United States Department of Agriculture indicate that record crops of corn and soybeans will be harvested during the next few weeks. These harvests will result in sharp increases in the demand for boxcars, which the AAR asks we eliminated from the order as well as increased demands for covered hopper cars which are also subject to this order.

We do not consider the 60-hour time limits imposed upon the carriers by Service Order No. 1332 to be unduly burdensome or harsh particularly during a period when the railroads are failing to fill orders for boxcars by several thousand cars per day. Neither do we subscribe to the idea, as expressed by the AAR in its petition, that a requirement to move cars within two and one half days (60 hours) after they become available for movement can be categorized as "special handling."

We do agree that gondola and flat car shortages have diminished sufficiently to justify the removal of these cars from the order.

It is ordered. Revised Service Order No. 1332 shall be revised as provided herein. The petition of the AAR in all other respects is denied.

By the Commission. Commissioners O'Neal, Christian Brown, Stafford, Gresham, and Clapp.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28081 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 181]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is publishd in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

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Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 1450 (Sub-95TA), filed August 2, 1978. Applicant: POWER FUELS, INC., Highway No. 2 and No. 52 West, Box 969, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North Fourth Street, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid molten sulfur* between points in Billings, Dunn, Stark and McKenzie Counties, ND, restricted to traffic having a subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Warren Petroleum Co., a Division of Gulf Oil Corp., P.O. Box 1589, Tulsa, OK 74102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 74416 (Sub-17TA), filed August 2, 1978. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, on vehicles equipped with mechanical unloading devices, from Eddystone, PA to points in NJ; DE; MD and DC, for 180 days. Supporting shipper(s): Concrete Products, Eddystone Industrial Park, Eddystone, PA 19013. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 78400 (Sub-61TA), filed August 2, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel coils*, from the facilities of Steelabrade Corp. at Granite City, IL to Sedalia, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Steelabrade Corp., 1603 Cleveland, Branite City, IL 62040. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 111729 (Sub-741TA), filed July 20, 1978. Applicant: PUROLATOR COURIER CORP., (a New York corporation), 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting medial of all kinds*, between Ashland, VA, on the one hand, and, on the other, Deptford and Maple Shade, NJ, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 114273 (Sub-415TA), filed July 17, 1978. Applicant: CRST, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparation and washing and cleaning compounds* (except in bulk, in tank vehicles) from Houloke, MA to Chicago, IL; (2) *black protective coatings and cleaners and metal cleaners* (except in bulk, in tank vehicles) from Milford, CT to Chicago; (3) *paints, varnishes, preservatives and fillers* (except in bulk, in tank vehicles), from Avon, CT to Nevada, IA; (4) *drugs, medicines, chemicals, and toilet preparations* (except in bulk, in tank vehicles), from Brooklyn, NY; Groton, CT, and Parsippany, NJ to points in IL; (5) *toilet preparations, cleaning compounds, shampoos and equipment, materials and supplies* used in the manufacture and distribution thereof, from West Springfield, MA to Fort Madison, IA; (6) *paper and paper articles*, from Warwick, NY to Chicago, IL. The purpose of this filing is to substitute single-line service for existing joint-line service. Supporting shipper(s): There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the filed office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines. IA 50309.

NOTE.—Common control may be involved.

MC 116763 (Sub-423TA), filed July 20, 1978. Applicant: CARL SUBLER TRUCKING, INC. (a FL Corporation), North West Street, Versailles, OH 45380. Representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in MN, for 180 days. Supporting shipper: Bowater Southern Paper Corp., George C. Lessig, Assistant Transportation and Distribution Manager, Calhoun, TN 37309. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 118560 (Sub-6TA), filed August 2, 1978. Applicant: GENERAL TRUCKING CO., INC., a TN corporation, 1100 School Street, P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, Middle Tennessee Bank Building, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, from the plantsite of Southern Stone Co., Inc., Cherokee, AL, to the Tennessee Valley Authority Nuclear Plant, Yellow Creek, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Stone Co., Inc., 2111 Eighth Avenue South, Birmingham, AL 35233. Send protests to: Glenda Kuss, Transportation Assistant, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 119489 (Sub-51TA), filed August 2, 1978. Applicant: PAUL ABLER, d.b.a. CENTRAL TRANSPORT CO., 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Representative: A. J. Sindelar, 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Asphalt*, from Cheyenne and Casper, WY, to points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dave Rau, Equipment Superintendent, Western Engineering, Inc., Box 350, Harlan, IA; Bud Knight, President, Knight Bros., Chapman, NE; Harry R. Duryea, Highway Superintendent, Custer County, Broken Bow, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

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MC 123872 (Sub-87TA), filed July 20, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper at or near Calhoun, TN, to points in IA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 128246 (Sub-29TRA), filed July 17, 1978. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A.D., Watonville, CA 95076. Representative: William F. King, Suite 400, Overlook Building, 6126 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (*a*) *Cheese, including cheese foods and cheese spreads*, (1) from the facilities of Safeway Stores, Inc., at or near LaCrosse, WI, to the facilities of Safeway Stores, Inc., at or near Tempe, AZ; Little Rock, AR; National City, Richmond, Sacramento, and Santa Fe Springs, CA; Denver, CO; Kansas City, MO-KS; Landover, MD; Butte, MT; Omaha, NE; Oklahoma City and Tulsa, OK; Clackamas, OR; El Paso, Garland, and Houston, TX; Salt Lake City, UT; Richmond, VA; and Bellevue and Spokane, WA; and (2) between the facilities of Safeway Stores, Inc., at or near LaCrosse, WI; and (*b*) *cheese*, from points in IA and MN to the facilities of Safeway Stores, Inc., at or near LaCrosse, WI, under a continuing contract or contracts with Safeway Stores, Inc. Supporting shipper: Safeway Stores, Inc., 5725 East 14th Street, Oakland, CA 94621. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128527 (Sub-119TA), filed July 28, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Representative: Michael Alexander, 136 Wyndwood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business between points in ID, OR, WA, UT, and NV on the one hand, and CA on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 39 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 134201 (Sub-10TA), filed July 18, 1978. Applicant: JAMES V. PALMER, d.b.a. JIM PALMER TRUCKING, 3515 Hwy 10 West, Missoula, MT 59801. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles (except commodities the transportation of which because of size or weight require the use of special equipment)*, from the facilities of Keystone Consolidated Industries, Inc. at or near Peoria, IL, to points in ID, MT, ND, OR, SD, WA, and WY. Restricted to a transportation service to be performed under a continuing contract or contracts with Keystone Consolidated Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard J. Heynen, Keystone Consolidated Industries, Inc., Peoria, IL 61607. Send protests to: Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 134224 (Sub-14TA), filed July 18, 1978. Applicant: HAUSER TRUCKING CORP., P.O. Box 241, Cobleskill, NY 12043. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and scrap;* ferro alloys from Albany, NY, to Providence, Cranston, and Phillipsdale, RI; Bridgeport, CT; and Reading, PA. Scrap from Boston, Greenfield, Tewksbury, and Worcester, MA; Albany, Syracuse, Chili, and Buffalo, NY; Newark, NJ; Williamsport and Reading, PA; New Haven and North Haven, CT; to ports of entry on the international boundary between the United States and Canada located in NY and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Airco Alloys, P.O. Box 368, Niagara Falls, NY 14302; Intermetco Ltd., P.O. Box 70, Hamilton, ON, Canada. Send protests to: Robert Al Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

MC 138181 (Sub-5TA), filed August 2, 1978. Applicant: TRANSPORT EXPRESS, INC., a Colorado corporation, P.O. Box 663, Dodge City, KS 67801. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., 3001 LBJ Freeway, Suite 139, Dallas, TX, 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 139629 (Sub-4TA), filed August 2, 1978. Applicant: BOOTH REFRIGERATED LINES, INC., a Nebraska corporation, 1308 16th Avenue, Central City, NE 68826. Representative: Donald E. Booth, 1308 16th Avenue, Central City, NE 68826. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food products*, from the plantsite and storage facilities of Delicious Foods Co., at Grand Island, NE, to points in GA, KY, MO (except Kansas City), TN, FL, OH, IN, AL, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ernest Petersen, Executive Vice President, Delicious Foods Co., Box 730, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centenneal Mall North, Lincoln, NE 68608.

MC 139923 (Sub-47TA), filed August 2, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Box D, Stroud, OK 74079. Representative: Edward L. Handlin, President, 105 South Eighth Street, Stroud, OK 74079. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses and discount houses and drugstores* (except commodities in bulk and frozen commodities), from the facilities of The Clorox Co. located in Houston, TX, to points in the State of OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, CA 94612. Send protests to: Connie Stanely Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 NW Third, Oklahoma City, OK 73102.

MC 142757 (Sub-2TA), filed August 2, 1978. Applicant: WAYNE H. ROBERTSON, d.b.a. ROBERTSON TANK SERVICE, P.O. Box 305, Elkhart, KS 67950. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., Suite 139, 3001 LBJ Freeway, Dallas, TX 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita KS 67202.

MC 142843 (Sub-1TA), filed August 2, 1978. Applicant: HOLMAN TRANSPORTATION, INC., P.O. Box 31, Dodge City, KS 67801. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Cheveron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., Suite 139, 30001 LBJ Freeway, Dallas, TX 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita KS 67202.

MC 143277 (Sub-10TA), filed August 1, 1978. Applicant: PRINTERS EXPRESS, INC., One Hackensack Avenue, South Kearny, NJ 07032. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, magazines, periodicals, records, advertising media, and educational film strips*, (1) from Chicago, IL, Versailles, KY, Cambridge, MD, Plympton, Lowell, and Boston, MA, St. Cloud, MN, St. Louis and Jefferson City, MO, Concord, NH, Buffalo and New York, NY, Dayton and Canton, OH, Dresden, TN, Brattleboro, VT, Menasha, Madison, Milwaukee, Berlin, and Wisconsin Rapids, WI, and points in their respective commercial zones; points in NJ and Nassau and Suffolk Counties, NY, to Pleasanton, CA, St. Louis and Jefferson City, MO, and New York, NY, and points in their respective commercial zones; (2) between St. Louis, MO, Jefferson City, MO, Pleasanton, CA, New York, NY, and points in their respective commercial zones; (3) from New York, NY, and points in its commercial zone to Versailles, KY, and points in its commercial zone, under a continuing contract or contracts with Scholastic Magazine, Inc., for 180 days. Supporting shipper(s): Scholastic Magazine, Inc., 50 West 44th Street, New York, NY 10036. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144326 (Sub-1TA), filed July 18, 1978. Applicant: RICHARDSON TRUCKING, INC. (a Colorado corporation), 330 East Eighth Street, P.O. Box 967, Greeley, CO 80631. Representative: William Fred Cantonwine (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from the facilities of Miller Brewing Co. at Milwaukee, WI, Fort Worth, TX, and Azussa, CA, and their commercial zones; from the facilities of Olympia Brewing Co. at Olympia, WA, St. Paul, MN, and San Antonio, TX, and their commercial zones; from the facilities of Anheuser Busch, Inc. at St. Louis, MO; from the facilities of Carling-National Brewing Co. at Phoenix, AZ, and Belleville, IL, and their commercial zones; to the facilities of Orrison Frontier & Distributing, Inc. at Cheyenne, Laramine, and Torrington, WY; and Glenwood Springs and Minturn, CO, and their commercial zones; from the facilities of Joseph Schlitz Brewing Co. at Milwaukee, WI, and Los Angeles, CA, and their commercial zones; from the facilities of Pabst Brewing Co. at Milwaukee, WI, Peoria, IL, and Los Angeles, CA, and their commercial zones; to the facilities of Duck Bar Beverage Co. at Cheyenne and Torrington, WY, and their commercial zones, from the facilities of Joseph Schlitz Brewing Co. at Milwaukee, WI, Longview, TX, and Los Angeles, CA, and their commercial zones; from the facilities of Wisdom Imports, Inc. at Irvine, CA; to the facilities of Twin City Distributing, Inc. at Greeley and Niwot, CO, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately four statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 144353 (Sub-1TA), filed August 2, 1978. Applicant: CLARISA LUCERO CAMACHO, d.b.a. LUCERO'S TRUCKING, P.O. Box 5555, Calexico, CA 92231. Representative: Clarisa Lucero Camacho, P.O. Box 5555, Calexico, CA 92231. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rechargeable lead acid batteries and parts thereof*, between Santa Ana, CA and the United States Border at Calexico, CA, under a continuing contract or contracts with Elpower Corp., for 180 days. Supporting shipper(s): Elpower Corp., P.O. box 5130, Calexico, CA 92231. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145065 (Sub-1TA), filed July 20, 1978. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, or irregular routes, transporting: *Nondairy milk and cream substitutes; salad dressings; and whipped toppings, chilled and frozen*, from the facilities of Presto Food Products, Inc. at Los Angeles, CA to points in OR and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Presto Food Products, Inc. 628 South Brandon, Seattle, WA 98109. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau Of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 145071 (Sub-1TA), filed August 1, 1978. Applicant: EATON BROS. INC., 1020 West Brady, Clovis, NM 88101. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts* (except commondities in bulk, in tank vehicles). From the facilities of McCasland Enterprises, Inc., at or near Clovis, NM to the port of entry on the international boundry line between the United States and Canada at Niagara Falls, NY. Restricted to a transportation service performed under a continuing contract or contracts with McCasland Enterprises, Inc., Clovis, NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCasland Enterprises Inc., P.O. Box 1801, 1201 Fairway Terrace, Clovis, NM 88101. Send protests to: District Supervisor, Interstate Commerce Com-

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mission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 145075 (Sub-1TA), filed August 1, 1978. Applicant: ALLIED BAKERY DELIVERY, INC., a New York Corporation, 437 Railroad Avenue, Westbury, NY 11590. Representative: Piken & Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* from the facilities utilized by Allied Bakers Co., Inc., located at or near Westbury, LI, NY, to points in MA, PA, MI, IL, MO, KY, TN, AR, MS, KA, TX, NC, SC, GA, AL, FL, MD, VA, OH, and Washington, DC, under a continuing contract or contracts with Allied Bakers Co., Inc., Drake Bakeries, for 180 days. Condition: Operations and services restricted to traffic moving under a contract or continuing contracts with Allied Bakers Co., Inc., of Westbury, LI, NY and Drake Bakeries Foods Division of Borden, Inc., of Wayne, NJ. Supporting shipper(s): Allied Bakers Co., Inc., 437 Railroad Avenue, Westbury, NY 11590. Drake Bakeries, Food Division of Borden, Inc., 75 Demarest Drive, Wayne, NJ 07470. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 145141 TA, filed August 2, 1978. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxes; corrugated containers; scrap paper; ink in containers; wax roll stock; paints in container; and machinery* used in the production of paper products, (1) from Huntington, WV to points in the states on and east of the Mississippi River, including TX; and (2) interplant movements between the plant site of Western Kraft Paper Corp., Corco Division located at Grand Rapids, MI; Bowling Green and Hawesville, KY; Compti, LA; Huntington, WV, Delaware, OH and Muncie, IN, under a continuing contract or contracts with Western Kraft Paper Group, Corco Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terry A. Flaugher, Assistant to the General Manager, Western Kraft Paper Group, Corco Division, 409 Buffington Street, P.O. Box 3064, Huntington, WV 25702. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27888 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 180]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 1978.

The following are notices of filing of applications for temporary under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 47171 (Sub-113TA), filed August 1, 1978. Applicant: COOPER MOTOR LINES, INC., a South Carolina corporation, P.O. Box 4259, Greenville, SC 29608. Representative: Harris G. Andrews, P.O. Box 4259, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide and by-products thereof*, dry (except in bulk), from facilities of American Cyanamid Co. at Savannah, GA to points in CT, DE, MD, MA, NJ, NY, PA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cyanamid Co., Bound Brook, NJ 08805. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 48017, filed July 25, 1978. Applicant: CAMEL TRUCKING, INC., 143 Addison Street, East Boston, MA 02128. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Detroit Metropolitan Airport, Detroit, MI, and John F. Kennedy International Airport, New York, NY, restricted to the transportation of shipments having an immediately prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Seaboard World Airlines, Seaboard World Airlines Building, 260 John F. Kennedy Airport, Jamaica, NY 11430. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 61977 (Sub-11TA), filed July 25, 1978. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps and closures thereof*, from Vienna, WV, to points in MD, PA, NJ, NY, RI, MA, IL, IN, and KY, for 180 days. Supporting shipper(s) Richard D. Moreland, manager, Traffic and Distribution, National Bottle Co., One Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston WV 25301.

MC 113784 (Sub-70TA), filed August 1, 1978. Applicant: LAIDLAW TRANSPORT LIMITED, an Ontario corporation, 65 Guise Street, Hamilton, ON L8L 4MI. Representative: Douglas R. Gowland, 65 Guise Street, Hamilton, ON. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nepheline syenite in pneumatic tank*, between ports of entry on the United States-Canadian boundary line located

on the Detroit and St. Clair Rivers to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s); Insusmin Ltd., 365 Bloor Street East, Suite 200, Toronto, ON. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building 111 West Huron Street, Buffalo, NY 14202.

MC 113908 (Sub-446TA), filed August 1, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G. S. S., 2105 East Dale Street, Springfield, MO 65804. Representative: B.B. Whitehead, traffic manager, P.O. Box 3180 G. S. S., 2105 East Dale Street, Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, from Hammondsport, NY, to Buchanan, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tabor Hill Vineyard and Vinecellar, Buchanan, MI. Send protests to: DS John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 115213 (Sub-2TA), filed July 18, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., 414 National Building, Pine Bluff, AR 71601. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing supplies, and roofing materials: and supplies, equipment, and materials* used in the manufacture of roofing from the facilities of Masonite Corp., Meridian, MI, to AL, AR, FL, GA, KY, LA, MO, NC, SC, TN, VA; and from the above destination States to Meridian, MI. From the facilities of Masonite, Little Rock, AR, to AL, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, OK, TN, TX, and from the above destination States to Little Rock, AR, for 180 days. Supporting shipper(s): Masonite Corp., P.O. Box 5777, Meridian, MS. Send protests to: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201

MC 117686 (Sub-216TA), July 21, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, CA, to points in IA, MN, NE, ND, and SD., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ben E. Klein, senior vice president-marketing, Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL. 33101. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, NE. 68102.

MC 118159 (Sub-278TA), August 1, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC. PO. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Battery boxes, covers and vents, rubber and plastic.* From Indianpoli, IN, and Philadelphia, MS to points in AL, CT, DE, GA, KS, KY, MS, MA, NH, NJ, NC, OH, PA, RI, SC, TN, TX, VA, and WI. For 180 days. Supporting shipper(s): The Richardson Co., 2701 Lake Street, Melrose Park, IL 60160. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 North West third, Oklahoma City, OK 73102.

MC 119493 (Sub-224TA), August 1, 1978. Applicant: MONKEM CO., INC. P.O. Box 1196, West 20th Street, Joplin, MO 64801. Representative: Lawrence F. Kloeppel, P.O. Box 1196, West 20th Street, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour, flour mixes, and ingredients* thereof, from: Alton, IL, To: AR, AL, IN, GA, FL, IA, IL, KS, KY, LA, MS, MO, NE, OL, OH, TN, TX, MI, MN, SD, WO, CO, NC, SC, and *materials and supplies* used in the manufacture and distribution of *flour, flour mixes and ingredients* From: Above named destinations to Alton, IL for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peavey Co., Minneapolis, MN. Send protests to: District Supervisor John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119702 (Sub-63TA), filed July 26, 1978. Applicant: STAHLY CARTAGE CO., 119 South Main Street, Edwardsville, IL 62025. Representative: Jeff S. Wohlford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, (in bulk, in tank vehicles), from Ashkum, IL, to points in IN on and north of I-70, for 180 days. Supporting shipper(s): Michael M. Meier Secretary, Meier Oil Service, Inc., Box 8, Ashkum, IL 60911. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 125368 (Sub-34TA), filed July 26, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holy Ridge, NC 28445. Representative: C.W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glass products*, from the plantsite and storage facilities of Libbey-Owens Ford Glass, Inc., at or near Laurinburg, NC, to points in FL and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Libbey-Owens-Ford Co., 811 Madison Avenue, Toledo, OH 43695. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 126276 (Sub-197TA), filed July 20, 1978. Applicant: FAST MOTOR SERVICE, INC. (an Illinois corporation), 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Metal containers and metal container ends* from Milwaukee, WI, to Fulton, Liverpool, Syracuse and Oswego, NY, under a continuing contract(s) with Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126822 (Sub-50TA), filed August 1, 1978. Applicant: WESTPORT TRUCKING CO., 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf Avenue, Suite 322, Shawnee Mission, KS. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products and commodities used in the installation* thereof; (except commodities in bulk), from Chicago, IL, to points in KS, and MO. Applicant states it does not intend to tack or interline. For 180 days. Supporting shipper(s): The Ferris Kimballs, 1401 Fairfax Trafficway, Kansas City, KS 66115. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 136343 (Sub-148TA), filed July 25, 1978. Applicant: MILTON TRANS-

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PORTATION, INC., P.O. Box 355, R.F.D. 1, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, between the facilities of Midland Glass Co., at or near Cliffwood, NJ, on the one hand, and, on the other, Williamsburg, VA, and points within its commercial zone, and the facilities of Midland Glass Co. at or near Newport News and Suffolk, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 141958 (sub-6 TA), filed July 26, 1978. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Route 32 South, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62704. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, for the account of Procter & Gamble Distributing Co., between Chicago, IL, and Cincinnati, Ohio, under a continuing contract, or contracts, with the Procter & Gamble Distributing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norman Homleid, Traffic Analyst, the Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Charles D. Little, District Supervisor, Interstate Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 142447 (Sub-7 TA), filed July 26, 1978. Applicant: LOUISIANA-PACIFIC TRUCKING CO., P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chips, sawdust, and shavings*, from the Louisiana-Pacific Corp. plant, at or near Carthage, TX, to the Western Craft plant, at or near Campti, LA, under a continuing contract, or contracts, with Louisiana-Pacific Corp., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Louisiana-Pacific Corp., P.O. Drawer AA, New Waverly, TX 77358. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 142811 (Sub-4 TA), filed July 26, 1978. Applicant: S.R.I. TRUCKING CO., 1000 North Cindy Lane, Carpinteria, CA 93013. Representative: J. W. Conner, 431 Keith Avenue, Akron, OH 44313. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides), from the facilities of Beef Processors of Arizona, Inc., at or near Phoenix, AZ, to Los Angeles, CA, and points in its commercial zone, under a continuing contract, or contracts, with Beef Processors of Arizona, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beef Processors of Arizona, Inc., 2601., 2601 North 31 Avenue, Phoenix, AZ 85009. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143555 (Sub-3TA), filed July 26, 1978. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, NC 27893. Representative: Robert B. Walker, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and landscape timbers*, from the facilities of Weyerhaeuser Co. at Lewiston, Plymouth, Jacksonville, and Askin, NC, to points in DE, MD, NJ, NY, PA, VA, and DC, for 180 days. Supporting shipper(s): Weyerhaeuser Co., P.O. Box 787, Plymouth, NC 27962. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 143787 (Sub-4TA), filed July 25, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from the facilities of Seven-Up Bottling Co., Salt Lake City, UT, to points in ID, NV, CO, AZ, and WY, under a continuing contract or contracts, with Seven-Up Bottling Co., of Salt Lake City, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Seven-Up Bottling Co., of Salt Lake City, 959 South 800 West, Salt Lake City, UT 84104. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 144407 (Sub-3TA), filed August 1, 1978. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets, sink tops, materials, equipment, and supplies* used or useful in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of AMPCO, Division of Chromalloy American Corp. at or near Rosedale, MS, and Tyrone, PA, on the one hand, and, on the other, points in the States of MO, IL, WI, IN, KY, OH, PA, WV, VA, MD, DE, NJ, NY, CN, MA, and RI. (Hearing site: Jackson, MS, or Washington, DC.) Authority between Tyrone, PA, and points in PA is required for import, export, and interstate highway movements on stopoff shipments, for 180 days. Supporting shipper(s): AMPCO, Division Chromalloy American Corp., P.O. Box 608, Rosedale, MS. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144740 (Sub-3TA), filed July 25, 1978. Applicant: L. G. DeWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Jacob P. Billig, 2033 K Street NW, Suite 300, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Pet Inc., at Chambersburg and Allentown, PA, to Santa Fe Springs, CA, restricted to a transportation service performed under a continuing contract, or contracts, with Pet Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pet Inc., Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145064 (Sub-1TA), filed July 25, 1978. Applicant: HUNTER TRUCKING, INC., 805 32d Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in TN, KY, MO, IL, IN, AR, AL, and MI, to points in WA, OR, ID, CA, UT, NV, and AZ, under a continuing contract or contracts, with Portland Hardwoods, Inc., for 180 days. Supporting shipper(s): Portland Hardwoods, Inc., P.O. Box 988, Portland, OR 97207. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145064 (Sub-2TA), filed July 25, 1978. Applicant: HUNTER TRUCKING, INC., 805 32d Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Broadstown, IL; Frohna, MO; Kansas City, KS; Memphis and Nashville, TN; Scottsville, KY; Utica, MS; Camden, AL; and Tullalah, LA, and points in their commercial zones to point in WA, OR, ID, CA, and UT, under a continuing contract, or contracts, with Portland Hardwoods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Portland Hardwoods, Inc., P.O. Box 988, Portland, OR 97207. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145101 (Sub-1TA), filed July 26, 1978. Applicant: BILLY P. RUPPE, d.b.a. RUPPE MOTOR LINES, 309 Kraft Street, Gaffney, SC 29340. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonwoven synthetic fabric*, from the facilities of Phillips Fibers Corp. at or near Startex, SC, to points in MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phillips Fibers Corp., P.O. Box 666, Startex, SC 29377. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145187TA, filed July 14, 1978. Applicant: W. R. HURST, INC., P.O. Box 416, 349 South Main Street, Blanding, UT 84511. Representative: William Reed Hurst (same address as abve). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Any and all types or ores, rock, sand, and gravel in bulk and as a backhaul such mining supplies as power caps, drill still, groceries, small amounts of lumber, nails, diesel fuel, oil, and gasoline in barrels and other mining supplies that could be carried in dump trucks which would not require the use of special equipment* between points within the area defined as follows: Beginning at Salina, UT, then east on Interstate 70 to Grand Junction, CO, then south on U.S. Hwy 50 to Montrose, CO, then south on U.S. Hwy 550 to Shiprock, NM, then south on U.S. Hwy 666 to Gallup, NM, then west on Interstate 40 to Flagstaff, AZ, then north on U.S. Hwy 89 to Salina, UT, for 180 days. Supporting shipper(s): There are approximately four statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-27889 Filed 10-3-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6712-01]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 3, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

Agenda, Item No., and Subject

General—1—Briefing on preparations of WARC 1979, including status of consultations with foreign countries.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2006-78 Filed 10-2-78; 3:37 pm]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following open meeting which is scheduled to commence at 9:30 a.m.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition to terminate renewal proceeding and approve plan to assign WETT's license; requests for clarification and official notice; petition to deny the assignment application, and a motion to dismiss the petition to deny, in the WETT Ocean City, Md., AM renewal proceeding (Docket No. 20674).

Hearing—2—Reconsideration of the designation of KLBK-TV, KMON-TV, KWAB-TV and KTXS-TV (Docket No. 21283).

General—1—Discussion of personnel problem.

General—2—*Los Angeles Women's Coalition for Better Broadcasting* v. *FCC and CBS, Inc.*, Case No. 76-1133 and *Los Angeles Women's Coalition for Better Broadcasting* v. *FCC and Metromedia, Inc.*, Case No. 76-1711.

General—3—*American Security Council Education Foundation* v. *FCC, USA and CBS, Inc.*, Case No. 77-1443.

Cable Television—1—Instructions to General Counsel on conduct of litigation in *N.C.C.B* v. *FCC*, Nos. 75-1933, et al. D.C. Cir.

Complaints and Compliance—1—Field investigation into the operation of Radio Station WFIF, Milford, Conn., licensed to Colonial Broadcasting, Inc.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2007-78 Filed 10-2-78; 3:37 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED.

Agenda, Item No. and Subject

Hearing—1—Request for waiver of the provision requiring the presiding judge's permission to appeal to the Commission from an adverse interlocutory ruling in the Gilmer, Tex., FM broadcast proceeding (Docket Nos. 21281-82).

Hearing—2—Vue-Metrics, Inc.'s appeal of Judge's order dismissing with prejudice its applications for construction permit for new TV station and subscription TV authorization in the Philadelphia, Pa., comparative proceeding. (Docket Nos. 20842-20845).

General—1—Rules implementing the new forfeiture statute; Pub. L. 95-234, February 21 1978.

General—2—Citations to the record in decisions of the Commission, the Review Board and Administrative Law Judges.

General—3—Measurement techniques of television receiver noise figures.

General—4—Delegation of authority to consolidate related hearing proceedings to the Chief Administrative Law Judge.

General—5—Applications for review of staff ruling partially granting the Freedom of Information Act request jointly filed by Classical Radio for Connecticut, Inc., and the WTIC-FM Listeners' Guild.

Safety and Special Radio Services—1—VHF frequency assignments to the Maritime Mobile Services along the coastline and the Mississippi River System.

Common Carrier—1—American Telephone & Telegraph Co., revision to Tariff FCC No. 263 880th revised page 1 and amendment of part 68 of the rules to provide for certain exceptions required to protect the national defense and security as well as other appropriate exceptions.

Common Carrier—2—Amendment of part 21 of the rules to reflect the availability of land mobile channels in the 470-512 MHz band in 13 urbanized areas of the United States (Docket No. 21039).

Common Carrier—3—Spanish International Network request for authorized user status under the Communications Satellite Act of 1962.

Common Carrier—4—Tariff revisions filed by ITT to implement flow through of Comsat rate reductions.

Cable Television—1—Applications for construction permits for two new stations in the cable television relay service filed by American Television of Midwest City, Inc.

Cable Television—2—Petition for waiver filed by Meyer Broadcasting Co., North Dakota.

Cable Television—3—Petition for waiver filed by Jonesboro Cable TV, Inc.

Cable Television—4—Petition for reconsideration filed by People's Cable Co., Henrietta, N.Y.

Cable Television—5—Petition for special relief filed by WBOY-TV, Inc., Clarksburg, W. Va.

Assignment and Transfer—1—Petition to deny and for special relief filed by the New Jersey Coalition for Fair Broadcasting against the application (BALCT-675) for the voluntary assignment of license of WGAL—TV, Lancaster, Pa.

Renewal—1—Petition for partial reconsideration of Commission action denying petition to deny renewal applications of KUHT (TV) and KUHF (FM), Houston, Tex.

Renewal—2—Action pursuant to the order of the U.S. Court of Appeals in *Committee for Open Media* v. *FCC*, D.C. Cir. No. 77-1135, November 21, 1977.

Renewal—3—Petition to deny renewal application of noncommercial station WYEP-FM, Pittsburg, Pa.

Aural—1—Application for major change in the facilities of a commercial FM station filed by Hall Broadcasting Co., WIYD—FM, Palatka, Fla., et al.

Aural—2—Joint request for approval of agreement contemplating reimbursement of expenses and dismissal of the application for Huntsville, Ark., filed by JEM Broadcasting Co., Bentonville, and Mountain Media Corp., Huntsville, Ark.

Aural—3—Application for an AM construction permit filed by *Millard* v. *Oakley*, Dayton, Tenn.

Aural—4—Applications of Radio Greenbrier, Inc., and Lewisburg FM Broadcasters for a new FM broadcast station at Ronceverte and Lewisburg, W. Va. Respectively and petition to deny the Lewisburg application filed by Greenbrier.

Television—1—Application of Puerto Rico Broadcasting, Inc., for a CP for a new TV on Channel 18, San Juan, P.R.

Broadcast—1—Amendment of the Commission's rules to add a new program type, "Community Service" program, to the program definitions for commercial broadcast stations and related matters.

Broadcast—2—Applicability of distress sale policy to those licensees in adjudication at the time of the adoption of the policy.

NOTE.—Items 1 and 2 hearing agenda rescheduled from closed to open meeting.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2008-78 Filed 10-2-78; 3:37 pm]

[6210-01]

4

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43813, September 27, 1978

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, September 29, 1978.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Proposed Board position regarding a congressional amendment of the grandfather provisions of the Bank Holding Company Act.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2002-78 Filed 10-2-78; 8:58 am]

[7020-02]

5

[USITC SE-78-49]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 12, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Nylon yarn from France (Inv AA1921-185)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on investigation 332-301 (MTN) (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2001-78 Filed 10-2-78; 8:58 am]

[3710-6X]

6

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 4 p.m., October 18, 1978.

PLACE: On board MV *Mississippi* at City Front, Foot of Crawford Street, Vicksburg, Miss.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2005-78 Filed 10-2-78; 3:37 pm]

[3710-6X]

7

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 2:30 p.m., October 20, 1978.

PLACE: On board MV *Mississippi* at Coast Guard Wharf, Morgan City, La.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2009-78; Filed 10-2-78; 3:37 pm]

[3710-EX]

8

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 9 a.m. October 16, 1978.

PLACE: On board MV *Mississippi* at Foot of Eighth Street, Cairo, Ill.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Memphis District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2010-78 Filed 10-2-78; 3:37 p.m.]

[3710-6x]

9

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 9 a.m., October 17, 1978.

PLACE: On board MV *Mississippi* at City Front, Vicinity of Beale Street, Memphis, Tenn.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2)

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Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2011-78 Filed 10-2-78; 3:37 p.m.]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: October 3, and 4, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

TUESDAY, OCTOBER 3; 10 A.M.

1. Discussion of 10 CFR Part 21, Applicability to Non-Licensee Suppliers of Commercial Grade Items (approximately 1 hour, public meeting), postponed from September 29, 1978.

2. Discussion of employee allegations (approximately 1 hour, closed—exemption 6) as announced.

WEDNESDAY, OCTOBER 4; 2 P.M.

1. Discussion of personnel matter (approximately 1 hour, closed—exemption 6), postponed from October 3, 1978.

ADDITIONAL INFORMATION: Regarding the discussion of 10 CFR Part 21: Those persons who planned to attend this meeting on September 29, 1978 and are now unable to attend this rescheduled meeting should call the contact below for a copy of the meeting transcript.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 29, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-2004-78 Filed 10-2-78; 2:48 pm]

SUNSHINE ACT MEETINGS

[4410-01]

11

PAROLE COMMISSION. National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, October 13, 1978, at 9:30 a.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 25 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2003-78 Filed 10-2-78; 11:27 am]

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federal register

WEDNESDAY, OCTOBER 4, 1978
PART II



CENTRAL INTELLIGENCE AGENCY

DEPARTMENT OF STATE

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES SECTION

SMALL BUSINESS ADMINISTRATION

■

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

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[6310-02]

CENTRAL INTELLIGENCE AGENCY
PRIVACY ACT ISSUANCES
Notice of Incorporation by Reference

Agency: Central Intelligence Agency.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this Agency has amended since publication of the 1977 Compilation.

Dates. This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mr George W Owens,
Information and Privacy Coordinator,
Central Intelligence Agency,
Washington, D.C. 20505.

Approval of the Director

The notices of systems of records of this Agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on 13 July 1978.

1977 Compilation Up-To-Date

Information about this Agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this Agency has made no changes to its systems of records

Availability of 1977 Compilation

"Privacy Act Issuance—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be obtained from this Agency free of charge by writing to the Information and Privacy Coordinator or by calling (703) 351-7486. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this Agency's systems of records appear in Volume I of the 1977 Compilation at page 48050 (Vol. 42, No. 184, pp. 48050-48074, 22 September 1977). The price of this Volume is six dollars and fifty cents.

John F. Blake,
Deputy Director for Administration.

[FR Doc 78-27008 Filed 10-3-78; 8:45 am]

[4710-05]

DEPARTMENT OF STATE
(Public Notice 628)
PRIVACY ACT ISSUANCES
Notice of Incorporation by Reference

Agency: Department of State.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference th notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Ms. Sharon Kotok,
Chief, Privacy Staff,
Room 1239,
Department of State,
Washington, D.C. 20520, 202-632-1267.

Approval of the Director, Federal Register: The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval on July 13, 1978 to incorporate these Privacy Act Issuances by reference. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

Availability of 1977 compilation: "Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of notices in 1977 compilation: Notices of this agency's systems of records appear in Volume II of the Privacy Act Issuances—1977 Compilation page 49699 (42 FR 49699) September 27, 1977. The price of this Volume is six dollars and seventy-five cents.

Dated: September 13, 1978.

For the Secretary of State. Ben H. Read,
Deputy Under Secretary for Management.

State—36

System name: Security Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Employees and former employees of the Department of State; applicants for Departmental employment who have been or are presently being investigated; contractors working for the Department; recipients of Cultural Grants; individuals requiring access to the official Department of State premises who have undergone or are undergoing security clearance; individuals involved in matters of passport and visa fraud, munitions control, unauthorized access to classified information, and alien prospective spouses of American personell of the Department of State; individuals whose activities have a potential bearing on the security of Departmental or Foreign Service Operations. In addition, security files contain information needed to provide protective services for the Secretary of State and visiting foreign dignitaries and heads of state, and to protect the Department's official premises. There are also information copies of investigations of individuals conducted abroad at the request of Federal agencies. Finally, security files contain documents and reports furnished to the Department by other agencies concerning individuals whose activities the other agencies believe may have a bearing on U.S. foreign policy interests.

Categories of individuals covered by the system: Investigatory material relating to any category of individual described above; applications for employment; intelligence reports; fingerprints; photographs; internal memoranda; security violations records.

Authority for maintenance of the system: 5 U.S.C. 7311 and 7531-33; 8 U.S.C. 1104; 18 U.S.C. 111, 112, 201, 202, 1114, 1116, 1117, 1541, 1542, 1543, 1544, 1545, 1546; 22 U.S.C. 211a, 846, 911, 2454, and 2667; Executive Order 10450; Executive Order 11652; Executive Order 10865; 22 CFR Subchapter M.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The principal users of this information outside the Department of State are: Department of Treasury; Civil Service Commission; Agency for International Development; U.S. Information Agency; Arms Control and Disarmament Agency; U.S. Secret Service; Immigration and Naturalization Service; Department of Defense; Central Intelligence Agency; Department of Justice; National Security Agency; Drug Enforcement Administration; any other Federal agency inquiring pursuant to law or Executive Order in order to make a determination of general suitability for employment or retention in employment, to grant a contract or issue a license, grant, or security clearance; any other Federal, State, or municipal law enforcement agency for law enforcement purposes; any other agency or Department of the Federal Government pursuant to statutory intelligence responsibilities or other lawful purposes, any other agency or Department of the Executive Branch having oversight or review authority with regard to its investigative responsibilities; to the extent necessary to identify the individual adequately, to any other record custodian in order to obtain information relevant to a legitimate investigative or intelligence interest of the Department of State. The information may also be released to other Government agencies who have statutory or other lawful authority to maintain such information. Also see 'Routine Uses' of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy; microfilm; microfiche; computer media.

Retrievability: By individual name.

Safeguards: All employees of the Department of State have undergone a thorough security investigation. Access to the Department of State building and its annexes is controlled by security guards, and is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: Retention of these records varies, depending upon the specific kind of record involved. They are retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address: Deputy Assistant Secretary for Security, Room 2513, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who wish to find out if the Office of Security has records pertaining to them should write to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. At a minimum, the individual must include: Name; date and place of birth; current mailing address and ZIP code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affairs Document and Reference Center (address above).

Contesting record procedures: (See above).

Record source categories: The individual; persons having knowledge of the individual; persons having knowledge of incidents or other matters of investigative interest to the Department; pertinent records of other Federal, State, or local agencies or foreign governments; pertinent records of private firms or organizations; public sources.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), and (H), and (I), and (f). See 22 CFR 6a.6. Pursuant to Section (j)(2) of the Act, records compiled by the Passport and Visa Fraud Branch of the Office of Security may be exempted from the requirements of any part of the Act except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes.

State—49

System name: Skills Catalogue Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Family members of U.S. Government employees (specifically family members of Department of State, Agency for International Development, and International Communications Agency personnel).

Categories of records in the system: Biographic data, including educational background, language skills, special skills, work experience, availability for employment.

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Authority for maintenance of the system: 22 U.S.C. 2693.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Family Liaison Office will use this record system to assist family members of U.S. Government employees in acquiring employment and other services. Information from this system will be made available to personnel offices of other Government agencies having employment opportunities. Information may also be disclosed to multinational corporations, international organizations, business firms, foundations, foreign governments, and families at overseas posts who are interested in hiring Foreign Service family members to perform a task commensurate with their work experience or to utilize their services in performing voluntary work.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy, computer media.

Retrievability: By individual name, education, work experience, language facility, overseas experience, current address, Foreign Service post, country, regional bureau.

Safeguards: All employees of the Department of State have undergone a thorough background investigation. Access to the Department of State building and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: These records will be maintained for two years and then retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to Director of Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, 20520.

System manager(s) and address: Director, Family Liaison Office, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Skills Catalogue Records might have records pertaining to them should write to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specifically request that the Skills Catalogue Records be checked. At a minimum, the individual must include name, date and place of birth, current mailing address and ZIP code, and signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to them should write to the Chief of the Privacy Staff (address above).

Contesting record procedures: (see above).

Record source categories: The individual; Who's Who and other such reference publications; newspapers and periodicals; testimony and comments from other persons having knowledge of the individual; pertinent records of other Federal, State, or local agencies and foreign governments; pertinent records of private firms or organizations; other public sources.

State—50

System name: Family Liaison Office Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Foreign Service employees (primarily State, AID, ICA) and their dependents who have asked the Department of State to provide information regarding governmental and community services available to them.

Categories of records in the system: Name, address, phone number and description of the service requested by the individual; description of steps taken to meet the needs of the individual, i.e. persons/agencies contacted and the results of these contacts.

Authority for maintenance of the system: 22 U.S.C. 811a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this record system will be used to assist Foreign Service employees and their dependents in acquiring governmental and community services available to them. Personal information (name, address, phone number and a brief description of the service requested) may be made available to persons or agencies who can perform the requested service, i.e. information may be disclosed to schools to register dependents; to marriage counselors to solve marital grievances; to hospitals to find out services offered.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy.

Retrievability: By individual name.

Safeguards: All employees of the Department of State have undergone a thorough background investigation. Access to the Department of State building and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: These records will be maintained for two years and then retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to Director of Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address: Director, Family Liaison Office, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Family Liaison Office Records might have records pertaining to them should write to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specifically request that the Family Liaison Office Records be checked. At a minimum, the individual must include name, date and place of birth, current mailing address and ZIP code, and signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to them should write to the chief of the Privacy Staff (address above).

Contesting record procedures: (see above).

Record source categories: The individual, personnel of the Family Liaison Office, employee supervisors, employee counselor, personnel, security, and medical offices, grievance and appeals board.

State—43

System name: Congressional Correspondence and Voting Records.

System location: Department of State, 2201 C Street, NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Members of Congress and their constituents who request Congressional assistance in obtaining information or services from the Department of State.

Categories of records in the system: Copies of correspondence to and from Members of Congress, which may include inquiries on behalf of constituents and letters to Congressional committees; Congressional voting records on matters pertaining to international relations.

Authority for maintenance of the system: 22 U.S.C. 811a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The principal user of this information outside the Department of State is the Member of Congress. See also "Routine Uses" paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy and computer media.

Retrievability: By name of Member of Congress and constituent; by foreign policy issue.

Safeguards: All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restrictive areas, access to which is limited to authorized employees.

Retention and disposal: The Congressional Correspondence information will be retained for one year; the Congressional Voting Records will be retained for six years.

System manager(s) and address: Assistant Secretary of State for Congressional Relations, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Congressional Correspondence and Voting Records might have information pertaining to them should write to the Director, Foreign Affairs Document and reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specify that he/she wishes the Congressional Correspondence and Voting records to be checked. At a minimum, the individual should include: name, date and place of birth, current mailing address and ZIP code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affairs Document and Reference Center (address above).

Contesting record procedures: (See above).

Record source categories: The Member of Congress, constituent, the Office of the Department which drafted the reply to the Congressional inquiry, the Congressional Record, Congressional Quarterly, Congressional Directory.

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INTERNATIONAL BOUNDARY AND WATER COMMISSION—UNITED STATES SECTION

PRIVACY ACT OF 1974

Notices of Systems of Records; Annual Publications

In accordance with Section 552a(e)(4) of the Privacy Act of 1974, the U.S. Section of the International Boundary and Water Commission hereby publishes the system of records and rules currently maintained by the Section. The last publication was on September 7, 1977 (42 FR 48166-48296).

Dated this 12th day of September, 1978.

For the United States Section, International Boundary and Water Commission:

Frank P. Fullerton,
Legal Advisor.

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IBWC/US SEC.-1

System name: Attendance, Leave, and Payroll records of employees.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Name, Social Security Number and employee number, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; Internal Revenue Service tax lien data; savings bond and charitable deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost-of-living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to United States Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: Tax withholding to Internal Revenue Service and appropriate State and local authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health insurance to the insurance carriers and the United States Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance when open is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Cut off at the end of a calendar year; retained for 3 years or until after General Accounting Office audit, whichever is earlier; and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Request from individuals should be addressed to the FOIA Administrator, same address as stated in the notification Section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individuals concerned appear in the Section's rules and published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, and Internal Revenue Service.

IBWC/US SEC.-2

System name: Accounts Receivable.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons owing money to the United States Section, including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Names and addresses; amounts owed and services performed, overpayment or other accounting therefor; invoice numbers, if any; and United States Treasury certificates of deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For billing purposes to obtain funds due the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and invoice number, as appropriate.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained until payment is received and account audited, then disposed of in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79002.

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Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual; Procurement Section; and accounting records.

IBWC/US SEC.-3

System name: Confidential statements of employment and financial interests.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees paid at a level of the Executive Schedule in subchapter II of 5 U.S.C. 53, and Section employees who are required by Executive Order 11222 to file such statements, including former employees.

Categories of records in the system: Statements of personal and family holdings and other interests in business enterprises; listing of creditors, outside employment and opinion of reviewing official; and any confirmation material.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To comply with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 735). Records form an effective system of review for disclosing conflicts or apparent conflicts of interest on the part of employees. Records from this system may be forwarded to the United States Civil Service Commission when requested. Information may not be disclosed from a statement other than to designated employees who have an official need, except as the Chairman of the United States Civil Service Commission, or the Commissioner of the Section, may determine for a good cause shown.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in sealed envelopes.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a locked box in a combination safe-metal file cabinet in a secured room, with access limited under very controlled conditions to those individuals whose official duties require access.

Retention and disposal: The records are disposed of 2 years after separation of the employee, in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Employees on whom records are required to be maintained:

IBWC/US SEC.-4

System name: Individual identification cards.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Categories of records in the system: Names, titles, nationalities, places of birth, physical descriptions (color of hair, eyes, and height, etc.), and photographs.

Authority for maintenance of the system: 1944 Water Treaty; 5 U.S.C. 301, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the identification of key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in metal card-file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for 6 years after cancellation, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individuals to whom identification cards pertain.

IBWC/US SEC.-5

System name: Certificates of Medical Examination.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Medical certificates (SF-78* or equivalent) and any other medical records of examinations used to determine and employee's fitness for the job, and may include employee's name, date of birth, and Social Security Number. (* Parts D, E, and F of SF-78 are not considered a medical record, and are filed in the Official Personnel Folder.)

Authority for maintenance of the system: 5 U.S.C. 3301, 3302; and Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine medical elegibility for appointment, and for changes in assignment within the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Upon employee's transfer to another agency or separation from Federal service, the sealed envelope with medical records attached on the right side of the Official Personnel Folder will be forwarded to National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, within thirty (30) days after separation from Federal service, or to the agency to which the employee is transferring within thirty (30) days from such transfer. In the case of disability retirements, medical information is obtained and forwarded to the United States Civil Service Commission's Medical Officer in the El Paso, Texas area.

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System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above. Information may be released upon receipt of a subpoena, or to a nonfederal entity or person, upon written authorization from employee, and the extent of the information will be in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Contesting record procedures: Rules for access to records for contesting contends and appealing initial determinations by the individual concerned, as published in the Section's rules in the Federal Register (42 FR-48291), are in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Record source categories: Individual's physician or Section's designated physician covering individuals to whom the records pertain.

Systems exempted from certain provisions of the act: Subject system from Pub. L. 93-579, 552a, Sec. 3.(k)(6), unless approved for release by the Regional Medical Officer of the United States Civil Service Commission. Information will be given to the employee if determined by the Regional Medical Officer that the material is not considered detrimental to the employee's well-being. Medical information may also be released to a licensed physician designated in writing for that purpose by the individual to whom the information pertains, or to his or her designated representative.

IBWC/US SEC.-6

System name: Equal Employment Opportunity

System location: Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees or applicants for employment who have filed complaints of discrimination against the Section.

Categories of records in the system: Affidavits concerning the complaint; correspondence and written documentation related to the complaint; and copies of personnel records and information covering how the complaint was resolved.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; and Pub. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain records of discrimination complaints filed by employees or applicants for employment with the Section, and all documentation and information pertaining thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Records are retained for 7 years after close of the matter, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, Equal Employment Opportunity, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Bulding, 4110 Rio Bravo El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From employees of, or applicants for employment with, the Section involved as complainants, witnesses, etc., in discrimination complaints; reports of investigations, and other materials prepared by the Equal Employment Opportunity Director, Equal Employment Opportunity Assistant, counselors, coordinators, and investigators; copies of Section documents relevant to any Equal Employment Opportunity investigations; and records of hearings on complaints.

IBWC/US SEC.-7

System name: Occupatinal Health and Injury Files

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who have sustained injuries or have other occupational health problems.

Categories of records in the system: Accident reports (CA-1 and CA-2); claims for compensation for injury or occupational disease (CA-4); claims for continuance of compensation on account of disability (CA-8); logs of employees receiving medical services or who have sustained a work-related injury or disease; health and medical records, including medical reports on the compensation forms or in response to medical treatment and examination; and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 81; 5 U.S.C. 7153; 5 U.S.C. 7901; The Occupational Safety and Health Act of 1970; and Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information, including statistical data, required by the Occupational Safety and Health Administration, Department of Labor, and Office of Worker's Compensation Programs, Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a lockable metal file cabinet in a secured area, with access limited to those individuals whose official duties require access.

Retention and disposal: Files are maintained indefinitely while individual is in employ of the Section. Upon separation, records are retained for 5 years and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United states Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Official records are maintained by the Office of Workers' Compensation Programs (OWCP), New Orleans, Louisiana, or other district offices of the OWCP, and records contested must be filed with that agency under its contesting procedures. Information and address may be obtained from the Comptroller, address as noted under notification section above.

Record source categories: From employees who have suffered a work-related illness or injury; Section supervisory personnel; medical authorities treating or examining employee; and witnesses to an accident or occurrence giving rise to a claim.

Systems exempted from certain provisions of the act: Pub. L. 93-579, 552a, Sec. 3.(k) (1) and (4). Records maintained under this system are unofficial copies of OWCP records and are maintained to assist in processing compensation claims. Persons seeking information under this system should follow the directions given in the notification procedure above. Information will be given to supervisors and to the employee covered by the record if the material is not considered detrimental to the employee's well-being. Requests for information which appear detrimental will be referred to the OWCP for opinion prior to release.

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IBWC/US SEC.-8

System name: Motor Vehicle Operator Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are seeking or holding a United States Government Motor Vehicle Operator's Identification Card.

Categories of records in the system: Applications for Government driver's licenses, Social Security Numbers, physical fitness statements, driving violation records, road test results, and pertinent correspondence.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide the Section with information necessary and relevant to the accomplishment of its functions covering motor vehicle operators; and to request information from State and local police departments to determine an employee's eligibility for a Government license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained 3 years after separation of employee or 3 years after rescission of authorization to operate a government-owned vehicle, whichever occurs earlier; then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individuals to whom records pertain, witnesses to driving violations, police and court records, and road test examiners.

IBWC/US SEC.-9

System name: Employees' travel records—initial appointment and/or change of duty stations.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees and applicants selected for appointment in shortage category occupations.

Categories of records in the system: Names, addresses, estimated travel expenses, modes of travel, employment service agreements, and travel orders.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document authority for change of duty station travel and the payment of authorized travel expenses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: Filed in chronological order.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained according to General Services Administration Federal Travel Regulations, and then disposed of and destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual, supervisors, and Finance Office standard references.

IBWC/US SEC.-10

System name: Freedom of Information Act requests for records.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons requesting copies of records from the United States Section under the provisions of the Freedom of Information Act, as amended.

Categories of records in the system: Names, addresses and telephone numbers of requesters; description or identification of records requested, furnished, and/or denied; dates of request and response; amount of fees paid, reduced, or waived, if any; payment delinquencies, if any; petitions of indigency; appeals of denials; final determinations; and names and titles of denying officials and determining officials.

Authority for maintenance of the system: Freedom of Information Act, as amended (Pub L. 93-502).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Annual Report to the Congress under section (d) of the Freedom of Information Act, as amended; and available for public inspection at all times.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed chronologically by date received.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved requests and denied requests which do not result in appeals or litigation: completed actions cut off at close of fiscal year and destroyed two years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation: cut off at close of fiscal year in which final determination is made. Transferred to Federal Archives Records Center, Fort Worth, Texas, two years after cut off, and destroyed ten years after cutoff in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individuals, Section officers, and employees engaged in processing or making determinations with respect to Freedom of Information Act requests.

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IBWC/US SEC.-11

System name: General Personnel Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902, or Field Office where individual is employed.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: General correspondence and files relating to employment or conditions of employment; promotion, Notification of Personnel Action (SF-50), and Request for Personnel Action (SF-52) files; leave and training records; Central Personnel Data File (CPDF), and retirement records relating to personnel actions and determinations concerning an individual while employed. These records may contain information about an individual relating to name; date of birth; home address; telephone number; emergency addresses; Social Security Number; Veteran's Preference; tenure; work connected injuries; handicap code; employment history; qualification background; past and present salaries; grades and position titles; training; awards and other recognition; counseling; performance appraisal; conduct; pay and leave; and data documenting reasons for personnel actions; decisions or recommendations concerning an employee; and background data and documentation leading to an adverse action being taken against an employee.

Authority for maintenance of the system: 5 U.S.C. 1302, 2951, 4118, 4308, 4506, 7501, 7511, 7521; and Executive Order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

A) By an agency of the Federal government having oversight or review authority, such as the United States Civil Service Commission.

B) In the event an appeal is made outside the Section, records which are relevant may be referred to the appropriate agency charged with rendering a decision on the appeal.

C) Information, without prior employee consent, can be disclosed as follows:

1. To the Public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5 To a credit firm:

a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

b) May only be verified (the firm may be advised if its information is correct; if not correct, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, and computer printouts.

Retrievability: Records are indexed by any combination of name, date of birth, Social Security Number, or employee identification number.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained during the period of individual's employment with the Section; transferred to individual's Official Personnel Folder upon resignation, transfer or separation from Section service.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From information supplied by applicable individuals, or as provided by applicable Section supervisors.

IBWC/US SEC.-12

System name: Investigative records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: Name, address, date and place of birth; citizenship status; physical characteristics; employment and military service history; arrest records; Federally-employed relatives; dates and purposes of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and conflicts of interest, security, and suitability material.

Authority for maintenance of the system: Executive Orders 10450 and 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine suitability for Federal employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: The records consist of confidential background investigations for Section employees; and are filed in manila envelopes attached on the outside of the Official Personnel Folder, the envelopes bearing employee name and Social Security Number. When the employee transfers or separates, these records are placed in the Official Personnel Folder and disposed of as part of such Official Personnel Folder.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applications and other personnel and security forms furnished by the individual; investigative and other record material furnished by other Federal agencies; notices of personnel actions furnished by other Federal agencies; personal investigations or written inquiries from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and published hearings of Congressional Committees.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f). Reference Section's rules published in the FEDERAL REGISTER (42 FR-48291).

IBWC/US SEC.-13

System name: Employee's vehicle accident reports.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

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Categories of individuals covered by the system: All employees of the United States Section.

Categories of records covered by the system: Full names and addresses of persons involved and their individual statements; vehicle tag number; service and repairs required; invoice number; cost code; and applicable appropriation symbol.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1941, as amended (40 U.S.C. 471, et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Finance Section employees to complete billing procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, date of accident, and invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retain on hand 3 fiscal years, and then dispose of and destroy in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From subject individual, supervisors and/or Finance Section's standard references.

IBWC/US SEC.-14

System name: Records of cash receipts.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals and companies making payments to cover goods acquired and services rendered; reimbursements for overpayments; and miscellaneous monies received by the Section.

Categories of records in the system: Names of individuals or companies; goods acquired or services rendered; amounts, dates; check numbers; locations; bank deposit information; and United States Treasury deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accounting for all monies received by the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: By name and/or account or invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center, Fort Worth, Texas.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual and/or company.

IBWC/US SEC.-15

System name: Disciplinary Action, Appeal, and Grievance Files; and Unfair Labor Practice Charges/Complaints.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Section employees who have had disciplinary actions taken against them, and who have filed appeals or grievances.

Categories of records in the system: Warning letters and official reprimand files; grievance files (Section or negotiated); adverse action decision letters; disciplinary action files; appeals hearing transcripts (if held); background information in support of disciplinary and adverse actions; and unfair labor practice charges/complaints.

Authority for maintenance of the system: Executive Orders 10987, 11491, 11787; and 5 U.S.C. 77.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a) To the United States Civil Service Commission upon request in conjunction with any appeal or in conjunction with its official duties pertaining to personnel matters and investigations regarding complaints of Federal employees or applicants for employment.

b) To designated officers and employees of other Federal agencies conducting investigations of an individual for the purpose of granting security clearance or access determination, and having a need to evaluate qualifications, suitability and loyalty to the United States Government in connection with employment.

c) In the event of any indication of violation or potential violation of the law, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcement or implementation of the statute, rule, regulation or order issued pursuant thereto.

d) To respond to a court subpoena or response to a district court in connection with a civil suit.

e) To designated hearing examiners, arbitrators, and third-party appellate authorities involved in the hearing or appeal processes.

f) To investigative officials of the Department of Labor and Federal Labor Relations Council for settlement of a complaint or appeal.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, filed alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Records involving court actions are retained permanently; all others retained 7 years after completion of action, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

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Record source categories: Individuals to whom records pertain; Section officials; affidavits or statements from employees; testimony of witnesses; official documents relating to appeals, grievances, or complaints; and correspondence from specific organizations or individuals.

IBWC/US SEC.-16

System name: Official Personnel Folders

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official Personnel Folders containing name, Social Security Number; date of birth; employment history; education; job and pay data; performance reviews; letters of commendation; reprimands; training certificates; salary and benefits information, to include allowance and insurance data; travel orders and general correspondence; other personnel data such as security clearance, loyalty, military service evidence, injury reports, suggestions, health qualification records, etc.

Authority for maintenance of the system: Executive Order 10561; and United States Civil Service Commission Regulations (Federal Personnel Manual Chapters 293 and 294).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(A) To provide hard-copy documentation on employees' current job and pay data, past job history, career progression, etc. Used to determine qualifications and to provide information for processing personnel actions.

(B) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3 To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal Government); and date/reason for separation (from notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal Government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name—alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Retained for duration of employment, and then folders are transmitted to the Personnel Records Center (Civilian) at 111 Winnebago Street, St. Louis, Missouri 63118, within 30 days after separation—except for those employees leaving on military furlough, or with retirement applications pending, or compensation cases which are pending and which have not been adjudicated.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (41 FR-19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applications for employment; applications for fidelity bonds; college transcripts; personnel actions; performance reviews and/or personnel evaluation reports; letters of commendation or reprimand; training certificates; travel orders; employee insurance data; certificates of clearance; and loyalty affidavits.

IBWC/US SEC.-17

System name: Service records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official summary of employment history to include name, Social Security Number, date of birth, service computation date, Veteran's Preferance, life insurance enrollment, retirement data, handicap code, performance reviews (date and type), service award data, and employment record to include date, type, job, pay, and separation data.

Authority for maintenance of the system: United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 293-31).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To have a ready reference to official summary of employment histories, chronology of personal and service data of employees, and provide information for processing personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records filed in Kardex or file box.

Retrievability: Arranged by (a) budgeted position in organization sequence; (b) pay plan; and (c) descending grade level within each pay plan.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retain 3 years after employee's separation from the Section, then dispose of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Personnel actions, performance reviews and/or personnel evaluation reports; application forms, and training and service award certificates.

IBWC/US SEC.-18

System name: Employment resources files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Applicants for employment with the United States Section.

Categories of records in the system: Applications for employment; personal qualifications statement (SF-171); and other pertinent employment data.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 634(b)(6); and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain a source of qualified applicants for the purpose of filing vacancies.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records files in file folders.

Retrievability: Grouped by positions for which applicants appear qualified; arranged by name within position groupings.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Applications considered active for 2 years; then destroyed after 2 years from date signed, in accordance with standard procedures—except upon written request that they be returned to individuals.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applicants; previous employers.

IBWC/US SEC.-19

System name: Incentive Awards files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section, or non-employees who submit suggestions.

Categories of records in the system: Award certificates; letters of commendation, citation, and awards; letters of non-adoption of suggestions.

Authority for maintenance of the system: 5 U.S.C. 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document staff or other agency comments in support of justification for, or disapproval of, award nominations in order to present findings to Incentive Awards Committee or other Section officials or, at its request, to the United States Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Suggestions—by number; performance nominations—chronologically by type of award.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured room or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of calendar year, retained for 2 years, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (42 FR-48291).

Record source categories: Employees, supervisors, management officials, Incentive Awards Committee, officials of other agencies, and members of the public, if appropriate.

IBWC/US SEC.-20

System name: Travel advance information files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are required to travel.

Categories of records in the system: Employees' names, areas of assignment, and dollar amounts advanced.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Finance Section to monitor travel advance expenditures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by employee name, alphabetically.

Safeguards: Records are located in metal card file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of fiscal year; retained for 3 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From Imprest fund receipts signed by employee-traveler when amount is under $150.00, and from Bureau schedules for checks issued by the United States Treasury to employee-traveler when the amount is above $150.00.

IBWC/US SEC.-21

System name: Employer's tax return files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Federal and State Monthly and/or quarterly employee withholding tax form information; computer printouts, magnetic tapes and related documents showing reports of Federal and State taxes withheld from employees, and the banking and payment thereof.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reconciliation and payment of taxes withheld from employees and employer's share; to provide Internal Revenue Service with record representing wages covered by Social Security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

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Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at the close of fiscal year, retained for 2 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Data stored in payroll master file.

IBWC/US SEC.-22

System name: Privacy Act request file.

System location: IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals requesting information on records concerning them or someone on whose behalf the individual is authorized to act which are in the custody of the United States Section, or individuals requesting access or amendment to such records under the provisions of The Privacy Act of 1974, 5 U.S.C. 552a.

Categories of records in the system: Copies of correspondence between individuals and Section custodian official; written summaries of conversations with individuals; coordination documents between the Section and other Federal, State, and local government agencies when records which are the subject of an individual inquiry were originated by another agency; and copies of documents which are the subject of an individual inquiry. Originals of amendment requests, refusals, and appeals accumulated by the custodian of the records concerned are included in the file containing those records.

Authority for maintenance of the system: The Privacy Act of 1974, 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process and coordinate requests for information, access, and amendment of personal records; to process and record appeals by individuals against Section rulings; and to assure timely response to requesters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by requester's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved and/or denied requests not resulting in appeals or litigation—completed actions cut off at close of fiscal year and destroyed 2 years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation—cut off at close of fiscal year in which final determination is made; transferred to Federal Archives Record Center, Fort Worth, Texas, 2 years after cutoff; destroyed 10 years after cutoff in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individual requesters, and agencies of the Federal, State, and local governments.

[FR Doc. 78-27010 Filed 10-3-78; 8:45 am]

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[8025-01]

SMALL BUSINESS ADMINISTRATION
PRIVACY ACT ISSUANCES
Notice of Incorporation by Reference

Agency: Small Business Administration

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this Agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Nicholas Kalcounos, Freedom of Information Act and Privacy Act Officer.

Approval of the Director

The notices of systems of records of this Agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this Agency has amended since publication of the 1977 Compilation.

SBA285

System name: Official Travel Files—SBA285.

System location: Central Office, at address listed in Appendix A, Federal Records Centers, at addresses listed in Appendix B.[1]

Categories of individuals covered by the system: SBA employees.

Categories of records in the system: Files include Travel Voucher and Applications for Advance of Funds submitted by each employee.

Authority for maintenance of the system: 5 U.S.C. 301.44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are reviewed by the General Accounting Office in the course of an audit of the Agency.

In the event that a system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulatory rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcement of implementing the statute, rule, regulation or order issued pursuant thereto.

Storage: Records are kept in file folders.

Retrievability: Records are indexed by employee name and Social Security Number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

Retention and disposal: Records are maintained for 2 years after the end of a fiscal year, or until a GAO audit. Records are then transferred to the Federal Records Center, where they will be disposed of 10 years after the end of the fiscal year in which the records were compiled.

System manager(s) and address: Privacy Act Officer. See Appendix A for address.

Notification procedure: An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, at the address contained in Appendix A.

Record access procedures: In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: Travel Vouchers and Applications for Advance of Funds sumbmitted by employees.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this Agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this Agency's systems of records appear in Volume 11, of the 1977 Compilation at page 48785 (42 FR 48785, September 23, 1977). The price of this Volume is six dollars and seventy-five cents.

Dated: September 15, 1978.

Patricia M. Cloherty,
Acting Administrator.

[FR Doc. 78-27011 Filed 10-3-78; 8:45 am]

federal register

WEDNESDAY, OCTOBER 4, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

Department of Labor

PROPOSED RESCISSION IN EMPLOYMENT AND TRAINING FUNDS

V 43 / 193

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF LABOR

Proposed Rescission in Employment and Training Funds

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $10.8 million in employment and training funds appropriated to the Department of Labor.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, September 28, 1978.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Department of Labor:	
	Employment and Training Administration	
R78-8	Community Service Employment for Older Americans	10,800

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message:		
New items	10,800	---
Effect of eleventh special message	10,800	---
Previous special messages	635,923	4,966,813
Total amount proposed in special messages	646,723 (in 8 rescissions)	4,966,813 1/ (in 66 deferrals)

1/ This amount represents budget authority except for $14,573,000 consisting of four Department of the Treasury deferrals of outlays only (D78-28B, D78-50, D78-58, D78-66).

[illegible] proposal No.: R78-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Labor	New budget authority (P.L. 95-205; 95-355): $211,700,000
Bureau: Employment and Training Administration	Other budgetary resources:
Appropriation title & symbol: Community Service Employment for Older Americans 1680175	Total budgetary resources: 211,700,000
	Amount proposed for rescission: $10,800,000
OMB identification code: 16-0175-0-1-504	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Community Service Employment for Older Americans (CSEOA) program provides part-time work opportunities, generally at the minimum wage, for low-income persons over age 55. The 1978 appropriation, which funds the program for the period from July 1, 1978, to June 30, 1979, did not take into account the statutory increases in the minimum wage effective January 1, 1978, and January 1, 1979. The President requested 1978 supplemental funds to finance the minimum wage increases for the 47,500 recipient level provided for by the 1978 appropriation.

The Congress reduced the request to $21.3 million. The reports of the House and Senate Appropriations Committees discussing this appropriation state:

> "The funds in this bill will provide for the cost of these [minimum wage] increases for the 47,500 enrollees from enactment of this supplemental bill to June 30, 1979. The Committee has reduced the budget request to reflect the fact that a portion of the time period covered by the request will have elapsed by the enactment date of this supplemental." (House Rep. No. 93-1350)

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"The additional funds are necessary to sustain the current level of 47,500 enrollees at the new minimum wage...The reduction from the budget request takes into account the fact that less funds are needed to cover the remaining time period subsequent to enactment of this supplemental." (Senate Rep. No. 95-1061)

Final calculation of the amount needed to fulfill the intent of financing the minimum wage increases for 47,500 enrollees through June 30, 1979, indicates an actual need of $10.5 million. Since the only purpose for which the funds were appropriated can be accomplished at this level, the remaining $10.8 million is not required. Therefore, a rescission of $10.8 million is proposed.

Estimated Effect: This rescission proposal has no programmatic effect since the planned level of the program can be achieved without these funds.

Outlay Effect: This rescission proposal will have no outlay effect since it is consistent with the planned, congressionally-appproved enrollment level.

TITLE I - DEPARTMENT OF LABOR

Employment and Training Administration

Community Service Employment for Older Americans

Of the funds appropriated under this head in the Second Supplemental Appropriations Act, 1978, $10,800,000 are rescinded.

[FR Doc. 78-28031 Filed 10-3-78; 8:45 am]

federal register

WEDNESDAY, OCTOBER 4, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DEPARTMENT OF ENERGY

Office of the Secretary

■

NATIONAL ENERGY TRANSPORTATION STUDY

Announcement of Public Hearings

V 43 / 193

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST File No. 61; Notice 78-13]

DEPARTMENT OF ENERGY

Office of the Secretary

NATIONAL ENERGY TRANSPORTATION STUDY

Announcement of Public Hearings

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Announcement of public hearings.

SUMMARY: In conjunction with the President's national energy plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to meet the future energy demands of the United States. A series of three public hearings has been scheduled to receive oral presentation of information and comment from interested individuals and groups concerning the issues involved and regional and local impacts of anticipated changes in the energy transportation system. These hearings are in addition to the open file announced in the FEDERAL REGISTER of August 30, 1978, to which the public is invited to submit information.

ADDRESS: Address requests to speak to: National Energy Transportation Study Public Hearings, Office of Intermodal Transportation, P-10, room 9217, Department of Transportation, Washington, D.C. 20590.

DATES: Hearing dates: 9 a.m. e.s.t., Monday, October 30, 1978, Sheraton Biltmore Hotel (Georgia Ballroom), 817 West Peachtree Street NE., Atlanta, Ga.; 9 a.m. m.s.t., Friday, November 3, 1978, Executive Tower Inn (Beethoven Room), 1405 Curtis Street, Denver, Colo.; 9 a.m. p.s.t., Monday, November 6, 1978, Holiday Inn-Downtown (Crown Room), 750 Garland Avenue, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Nancy MacRae, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT, 202-426-4203, or Diana Diamond, Office of Policy and Evaluation, DOE, 202-566-9037.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand which in turn will require changes in the way energy is transported. The changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources. The Nation's transportation system established during the last 50 years must adjust to accommodate new markets and new energy sources. These adjustments may have broad social, economic, and environmental impacts.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network. While the major emphasis of the study is the transportation needs to 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

II. SCOPE OF STUDY

The study is intended to be an overview of energy transportation needs, based on various scenarios of energy use in 1985 and beyond, and of the adaptation that will be necessary in present energy production and transportation patterns. This will be done by computer-based analysis of transportation network flows by mode of various energy materials. These include crude oil, syncrude, petroleum products, natural gas, electricity transmission, and nuclar materials. The modes included in the network are pipelines, inland and intracoastal waterways, highways, railroads, and tankers; terminals and ports are also included. The study will attempt to identify future shortfalls in transportation capacity, recognizing the limitations of this type of analysis.

In addition, major issues affecting efficient energy distribution will be considered. Examples are: The ability of railroads to invest for required capacity; impact of unit trains on rail/highway crossings; capacity and investment requirements of water transportation; coal slurry pipelines (constraints and competition); highway requirements for coal movement; oil distribution; natural gas distribution (including LNG and LPG); electric power transmission; safety requirements for the movement of nuclear waste; new fuel sources; and major regional shifts. The study team will review alternatives for action and conclude with recommendations for Federal action, if appropriate.

III. TOPICS FOR PUBLIC HEARING

DOT and DOE are interested in receiving information on constraints which would affect the ability and capacity of the transportation system to carry future energy commodities. These potential constraints can be divided into four categories:

- *Financial,* such as investment requirements to handle increased capacity (terminals, locks, highways, port facilities);
- *Technological,* such as future availability of advanced techniques for transporting energy materials;
- *Environmental/social,* such as impacts of increased coal unit train movement, long-range health effects of high-voltage electrical transmission, impacts of coal slurry pipelines, and disposal of scrubber sludge;
- *Institutional,* for example, constraints of economic regulation and the need for safeguards to the movement of potentially hazardous materials such as liquified natural gas (LNG), liquified petroleum gas (LPG), or spent nuclear fuel.

Interested persons are invited to make oral presentations on these four or any related topics. DOT and DOE are particularly interested to learn about regional or local constraints or problems which might otherwise be overlooked.

IV. HEARING PROCEDURES

1. *Request procedure.* Public hearings to receive oral presentation of data, views, and arguments from interested persons will be held at the times and places indicated earlier in this notice. Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class or persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Office of Intermodal Transportation, P-10, Room 9217, Department of Transportation, 400 Seventh, Street SW., Washington, D.C. 20590. Requests must be received before 4:30 PM E.T.D. on October 20, 1978, for the Atlanta hearing and October 24, 1978, for the other two hearings. A request should be labled, both on the document and on the envelope, "National Energy Transportation Study Public Hearings."

The person making the request should be prepared to describe the interest concerned, to state why he or she is a proper representative of a group or class or persons which has such an interest, and to give a concise summary of the proposed statement and a telephone number where he or she may be reached through October 28, 1978, for the Atlanta hearing and November 1, 1978, for the other two hearings.

Each person selected to be heard will be notified by DOT before 4:30 PM, October 25, 1978, for the Atlanta hearing and October 31, 1978 for the Denver or Los Angeles hearing, and must submit 10 copies of his or her statement to the registration desk at the hearing at which he or she is to speak.

2. *Conduct of hearing.* DOT and DOE reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The time allotted to each presentation may be limited, depending on the number of persons requesting to be heard. Each person testifying should be prepared to submit his or her statement and attachments for the record and to make a summary oral presentation. DOT and DOE officials will preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings.

If time permits at the end of a hearing, any person who makes an oral statement may ask a question of any other person making a statement, but questions must be submitted in writing to the presiding officer, who determines whether the question is relevant and whether time limits permit it to be presented for answer. Any further procedural rules needed for the proper conduct of this hearing are announced by the presiding officer.

A transcript of each hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOT and DOE and made available for inspection in the DOE Freedom of Information Offices, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday; and the DOT/DOE Open File in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Nassif (DOT Headquarters) Building, Washington, D.C., between 9 a.m. and 5:30 p.m. local time, Monday through Friday except holidays.

Issued in Washington, D.C., on September 29, 1978.

CHESTER DAVENPORT,
Chairman, NETS, Assistant Secretary for Policy and International Affairs. Department of Transportation.

ALVIN L. ALM,
Vice Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-28042 Filed 10-3-78; 8:45 am]

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Slip Laws

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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[3195-01]

Title 3—The President

Proclamation 4604 • **October 2, 1978**

Termination of Increased Rates of Duty on Certain Ceramic Tableware

By the President of the United States of America

A Proclamation

1. By Proclamation No. 4125 of April 22, 1972, the President proclaimed increased duties on certain types of ceramic tableware that are defined in items 923.01 through 923.15 of the Tariff Schedules of the United States (TSUS). These increased duties were to be effective from May 1, 1972, through April 30, 1976, unless modified or terminated earlier. This action was taken under the following legal provisions: section 350(a)(1)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(1)(B)); and sections 201(a)(2), 302(a)(2) and (3), and 351(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(2), 19 U.S.C. 1902(a)(2) and (3), and 19 U.S.C. 1981(a)).

2. By Proclamation No. 4436 of April 30, 1976, the President proclaimed the extension and modification of the increased rates of duty then in effect on imports of some of the articles of ceramic tableware provided for in items 923.01, 923.07, 923.13, and 923.15 of the TSUS. This was done under section 203(h)(3) of the Trade Act of 1974 (19 U.S.C. 2253(h)(3)).

3. I have determined, pursuant to section 203(h)(4) of the Trade Act of 1974 (19 U.S.C. 2253(h)(4)) and section 351(c)(1)(A) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(c)(1)(A)), after taking into account the advice of the U.S. International Trade Commission and after seeking the advice of the Secretaries of Commerce and Labor as required by those sections, that it is in the national interest to terminate the increased rates of duty currently in effect on imports of the articles of ceramic tableware now provided for in items 923.01, 923.07, 923.13 and 923.15 of the TSUS.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including section 203(h)(4) of the Trade Act of 1974 (19 U.S.C. 2253(h)(4)) and section 351(c)(1)(A) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(c)(1)(A)), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT), do proclaim that—

(1) The modifications of tariff concessions on ceramic tableware provided for in items 533.28, 533.38, 533.73, and 533.75 in Part I of Schedule XX to the GATT made by Proclamations Nos. 4125 and 4436 are terminated;

(2) Subpart A, part 2 of the Appendix to the TSUS is modified by deleting items 923.01, 923.07, 923.13, and 923.15, including the superior headings thereto;

(3) The modifications of Part I of Schedule XX to the GATT and of the Appendix to the TSUS made by paragraphs (1) and (2) hereof shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after the date of publication of this Proclamation in the FEDERAL REGISTER.

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IN WITNESS WHEREOF, I have hereunto set my hand this second day of October in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-28333 Filed 10-4-78; 10:18 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (GRADING, CERTIFICATION, AND STANDARDS), DEPARTMENT OF AGRICULTURE

SUBCHAPTER—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

FEES

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations are being changed to reflect an increase in fees for the grading and certification of livestock accepted for futures trading and Commodity Credit Corporation deliveries. The Agricultural Marketing Act of 1946 provides for the collection of fees approximately equal to the cost of livestock grading services rendered under its provisions. Salaries paid to Federal employees have been increased under the provisions of Pub. L. 92-210. Therefore, it has been determined that the hourly fee must be adjusted as provided herein because of the increased costs that will be incurred.

EFFECTIVE DATE: October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul M. Fuller, U.S. Department of Agriculture, Agricultural Marketing Service, Livestock, Poultry, Grain, and Seed Division, Livestock Market News Branch, 202-447-2222.

SUPPLEMENTARY INFORMATION: The need for the increase and the amount thereby are dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedures with respect to this amendment are impractical and unnecessary and good cause is found to make the amendment effective less than 30 days after publication in the FEDERAL REGISTER. Accordingly, the provisions of 7 CFR 53.18(a) prescribing fees for Federal livestock grading services are hereby amended by changing the phrases "$19.00 per hour," "$23.00 per hour," and "$38.00 per hour" to "$20.00 per hour," "$23.00 per hour," and "$40.00 per hour," respectively.

(Agricultural Marketing Act of 1946, sec. 203, 205, 60 Stat. 1087, 1090 (7 U.S.C. 1622, 1624).)

Done at Washington, D.C., on this 22d day of September 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-28102 Filed 10-4-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Amdt. 1]

PART 948—IRISH POTATOES GROWN IN COLORADO

Handling Regulation; Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment 1 to the handling regulation requires fresh market shipments of potatoes grown in Colorado, area No. 2 to be inspected and meet minimum grade, size, and maturity requirements. The regulation will promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 97 and order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado area No. 2 potato committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the September 8, 1978, FEDERAL REGISTER (43 FR 40027) inviting comments by September 23, 1978. None was received.

This amendment is based upon recommendations made by the committee at its public meeting held in Monte Vista, Colo., on August 17 to review the marketing situation and make handling recommendations for the remainder of the 1978-79 season through October 31, 1979.

Acreage in the production area is 1,000 acres larger this year than last, with prospects of increased supplies of round potatoes and of long varieties other than Russet Burbanks. In addition, total fall crop acreage is up slightly and growing conditions generally have been favorable, pointing to a relatively large total U.S. supply. This will tend to preclude orderly potato marketing. Therefore, the committee recommended increasing the minimum size of round varieties by ⅛ inch to 2⅛ inches in diameter. The committee also recommended an increase in the minimum size of long varieties except Russet Burbanks to 2 inches or 4 ounces. Maturity requirements would be tightened to call for "slightly skinned" in U.S. No. 1 grade lots of all varieties. For lower grades, the maturity requirement would remain "moderately skinned."

Potato prices this fall and coming winter are expected to average close to those of a year earlier and be well below parity. The proposed quality standards for production area potatoes would enable Colorado growers to compete more effectively in the market, thereby improving returns to producers. At the same time, consumers would be assured of an adequate supply of good quality potatoes of proper maturity, consistent with the overall quality of the large crop.

Findings. After consideration of all relevant matter presented, including

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the proposal set forth in the notice which was recommended by the Colorado area No. 2 potato committee, established pursuant to said marketing agreement and order, it is hereby found that the amendment No. 1 to the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area have already begun, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the remainder of the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

The amendment is as follows:

In § 948.380 (43 FR 37982) the introductory paragraph and paragraphs (a), (b), and (h) are amended to read as follows:

§ 948.380 Handling regulation.

During the effective period herein through October 31, 1979, no person shall handle any lot of potatoes grown in area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements.*

(1) *Round varieties.* U.S. No. 2, or better grade, 2⅛ inches minimum diameter.

(2) *Russet Burbank.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(4) *All varieties.* Size B, if U.S. No. 1, or better grade.

(5) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* During September and October minimum maturity requirements shall be:

(1) *For U.S. No. 2 grade.* Not more than "moderately skinned."

(2) *All other grades.* Not more than "slightly skinned."

* * * * *

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 Import regulations (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period October 6, 1978, through June 30, 1979; and September 1, 1979, through October 31, 1979, shall meet the minimum grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: October 2, 1978 to become effective October 6, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28198 Filed 10-4-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

DETERMINING ELIGIBILITY OF RH APPLICANTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Section 502 Rural Housing Loan regulations to more clearly define eligibility standards for Section 502 Rural Housing Loans. This rule change is being issued in compliance with a consent order in the U.S. District Court for the District of Columbia. (*Vickers* v. *Bergland*, C.A. 77-0355). It is the policy of FmHA to make loans to applicants with incomes as low as possible and FmHA personnel will work closely with applicants so as to better understand all sources of income and cash substitutes. The purpose of this amendment is to provide more guidance to FmHA personnel in determining eligibility.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerry B. Ireton, 202-447-4295.

SUPPLEMENTARY INFORMATION: On pages 34489-34490 of the FEDERAL REGISTER, dated August 4, 1978, there was published a notice of proposed rulemaking amending § 1822.11(b) to subpart A of part 1822, subchapter B of chapter XVIII, title 7 in the Code of Federal Regulations. Advance notice of the proposed rule was published April 5, 1978. Interested persons were given the opportunity to submit not later than September 5, 1978, comments and suggestions or objections regarding the proposed revision. Several comments were received and given due consideration. Certain comments received concerning the determination of what constitutes good credit history will be incorporated into part 1910, subpart A to subchapter B to chapter XVIII. Comments were incorporated herein to more clearly show how the consideration of the payment of previous housing cost will be considered, and to indicate that repayment ability will be based on the fact that planned income is equal to or greater than planned expenses. The Farmers Home Administration will determine the eligibility of applicants based on these criteria and other provisions of section 502 of title V of the Housing Act of 1949.

Accordingly, § 1822.11(b) reads as follows:

§ 1822.11 Processing applications and county committee certification.

* * * * *

(b) *Determining eligibility of RH applicants.* The county committee will determine eligibility of RH applicants who are also applying for a farmer program loan, or who are already indebted for a farmer program loan. The county supervisor will determine eligibility for all other RH applicants

(1) County supervisors will work closely with applicants so as to better understand all sources of income and cash substitutes. Determination of repayment ability will be based on the following:

(i) If the applicant can verify payment of a comparable or greater amount for housing cost for the previous 12 months, the applicant will be presumed to have repayment ability for the requested loan unless:

(A) Projected annual income is less than current or past income,

(B) Planned expenses are greater than current expenses, or

(C) The applicant has increased debts, or failed to pay existing debts in order to maintain the present standard of living.

(ii) The short budget on form FmHA 410-4 will be used to determine obvious eligibility. Ineligibility can be determined from this form in cases where projected income is clearly not sufficient to pay annual payment on debts including the requested loan, living expenses, real estate taxes, property insurance, utilities, and maintenance.

(iii) Form FmHA 431-3, "Family Budget," will be completed by the applicant and county supervisor if eligibility cannot be determined from the short budget. In preparing form FmHA 431-3 the following will be considered.

(A) Noncash items (e.g. food stamps, scholarships, free clothing, or transportation which help reduce the applicant's budgeted expenses) will be properly documented and budgeted expenses will be reduced accordingly.

(B) Income from all sources not used to determine adjusted annual income, such as earnings from employment of minors or full-time students, foster care payments, and similar income items, will be considered to the extent it is used to offset budgeted expenses even though such income will not be included in "annual income."

(2) Eligibility will be based on the circumstances surrounding the individual case, and under no condition will arbitrary guidelines or "rules of thumb" be used in determining eligibility. Repayment ability will be based on a determination that planned income is equal to or greater than planned expenses.

(3) When the county supervisor determines that the applicant does not have sufficient income to repay the requested loan, the county supervisor will suggest other alternatives such as reducing the amount of loan needed by making a larger downpayment, reducing amenities in the dwelling, selecting a less expensive dwelling or site, obtaining a cosigner, or when appropriate, building the dwelling by the self-help or borrower method of construction.

* * * * *

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: September 27, 1978.

JAMES E. THORNTON,
Associate Administrator, Farmers Home Administration.

[FR Doc. 78-28111 Filed 10-4-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Security Personnel Qualification Training and Equipment Requirements

ACTION: U.S. Nuclear Regulatory Commission.

ACTION: Approval of reporting and recordkeeping requirements by Comptroller General.

SUMMARY: On August 23, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of rulemaking, effective October 23, 1978, amending its regulation "Physical Protection of Plants and Materials" to impose upgraded guard qualification, training and equipment requirements for security personnel protecting against theft of special nuclear materials and industrial sabotage of nuclear facilities or nuclear shipments.

The notice included the following note:

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirements under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2).)

Notice is hereby given that the reporting requirements set out in the rule have been approved by the U.S. General Accounting Office.

EFFECTIVE DATE: October 23, 1978.

The reporting requirements set out in the notice of rulemaking amending 10 CFR Part 73 which was published in the FEDERAL REGISTER on August 23, 1978 (43 FR 37421) have been approved by the U.S. General Accounting Office under No. B-180225(R0039).

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7086.

Dated at Bethesda, Md. this 27th day of September 1978.

For the Nuclear Regulatory Commission.

WILLIAM J. DIRCKS,
Deputy Executive Director for Operations.

[FR Doc. 78-28149 Filed 10-4-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-GL-6; Amdt. 39-3312]

PART 39—AIRWORTHINESS DIRECTIVES

Firestone Aircraft Tires

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all Firestone tires, size 18x5.5, Mach I, 10 ply rating, P/N 00490, serial Nos. having the first four numbers 0677, by airmail letter dated September 6, 1978, The AD requires replacement by Firestone tire part No. 00518, or other approved tire, to prevent tread separation.

DATE: Effective October 5, 1978, except with respect to certain persons specified in the body of the AD. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service letter, dated August 22, 1978, may be obtained from Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317. A copy of the service letter is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Alfred A. Malla, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, 2300 East Devon Avenue, Des Plaines, Ill. 60018, 312-694-4500, extension 424.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Federal Aviation Act of 1958, delegated to me by the Administrator, the following airworthiness directive applicable to all Firestone tires, size 18x5.5, Mach I, 10 ply rating, P/N 00490, serial numbers having the first four numbers 0677, and is effective upon the receipt of this AD.

Tire tread separations have been recently experienced on certain aircraft which could occur in other tires of this same part number and result in loss of hydraulic pressure, brake and flap damage, and faulty steering. FAA has determined that this could occur in similar tires of the same series and date of manufacture (0677). Accord-

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ingly this airworthiness directive is considered an initial action pending further investigation.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known Firestone tires having the first four numbers 0677. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

FIRESTONE AIRCRAFT TIRES. Applies to all Firestone size 18x5.5, Mach I, 10 ply rating part number 00490, serial numbers having the first four numbers 0677, to be replaced on, but not limited to, Lear jet models 23, 24, 25; Beech models 99 series, B100, 200; Swearingen SA 226-TC and Cessna models 336/337 or T-337 series aircraft.

(a) Inspect for serial numbers having the first four numbers 0677 P/N 00490.

(b) Replace with Firestone tires having serial numbers outside of this subject group or with Firestone tire P/N 00518 or with any other tire approved for these aircraft.

Obliterate TSO markings on tires identified in this AD to prevent future use on aircraft.

This amendment is effective October 5, 1978, as to all persons except those persons to whom it was made immediately effective by the airmail letter dated September 6, 1978, which contained this amendment.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).)

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Des Plaines, Ill., September 21, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-27971 Filed 10-4-78; 8:45 am]

[4910-13]

[Docket No. 78-CE-17-AD; Amdt. 39-3311]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 76 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Beech model 76 airplanes. It requires, prior to further flight, the replacement of the elevator and rudder trim control push rods with new designed push rods and the rebalancing of these control surfaces where necessary. The AD, which is of an emergency nature, is necessary to prevent in-flight push rod failures which may cause the rudder and elevator trim tabs to become disengaged with possible resultant control surface flutter and ensuing hazard to occupants.

EFFECTIVE DATES: October 12, 1978, to all persons except those to whom it has already been made effective by telegram from the FAA dated September 9, 1978. Compliance: As required in the body of the AD.

ADDRESSES: Beechcraft liberal service letter No. 78-4, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106, and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

E. L. Tankesley, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3146.

SUPPLEMENTARY INFORMATION: The FAA has determined that the problem described in the summary is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. Since the agency also determined that an emergency situation existed and that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest. Accordingly, all known registered owners/operators of the affected airplanes were notified of the AD by telegram from the FAA dated September 9, 1978. The AD became effective as to those individuals upon receipt of the notification telegram. Since the unsafe condition described in the summary may still exist on other Beech Model 76 airplanes, the AD is being published in the FEDERAL REGISTER as an amendment to part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the telegram notification.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

BEECH. Applies to model 76 (serial Nos. ME-1 through ME-62 and ME-66) airplanes.

To preclude failure of the rudder and elevator trim tab push rods, prior to further flight:

(A) If not previously accomplished, replace Beech part No. 105-520024-5 rudder trim tab push rod with new Beech part No. 105-520045-9 rudder trim tab push rod and rebiance the rudder control surface, where necessary, in accordance with Beechcraft liberal service letter No. 78-4, dated September 14, 1978, or later approved revisions.

(B) If not previously accomplished, replace Beech part No. 105-520024-1 elevator trim tab push rod with new Beech part No. 105-520048-1 elevator trim tab push rod and rebalance the elevator control surfaces, where necessary, in accordance with Beechcraft liberal service letter No. 78-4, dated September 14, 1978, or later approved revisions.

(C) Aircraft may not be flown in accordance with FAR 21.197 to a base to accomplish this AD, unless authorized by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 22, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-27872 Filed 10-4-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-9-AD; Amdt. 39-3310]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model-DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a modification to hydraulic systems 1 and 3, in McDonnell Douglas model DC-10 series airplanes, by installing three check valves and, when applicable, new hydraulic piping. There have been reports of incidents in which tire debris has damaged hydraulic lines in the wheel well area with subsequent complete loss of associated hydraulic systems. This AD is needed to prevent the loss of associated powered flight controls due to loss of fluid, through brake return line failure.

DATE: Effective December 6, 1978. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket, Room 916, FAA, 800 Independence Avenue SW, Washington, D.C. 20591, or Rules Docket, Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive to require installation of three check valves and, when applicable, new hydraulic piping was published in the FEDERAL REGISTER (43 FR 29584). Tire debris from failure of main wheel tires during takeoff has fractured lines in hydraulic systems 1 and 3. Two occurrences resulted in eventual loss of both hydraulic systems 1 and 3. Six occurrances resulted in loss of a single hydraulic system, either 1 or 3.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposed rulemaking.

Only one comment was received. The Air Transport Association of America agrees with the intent of the AD, however, some airlines believe that the proposed 1,800 hour compliance time is too restrictive and request that compliance time be extended to 2,400 hours. The FAA disagrees. In view of the elapsed time required for completion of the modifications, the DC-10 utilization rate and the safety considerations, the 1,800 hour compliance time is not restrictive.

The phrase "or later FAA approved revisions" has not been included in the service bulletin citation in this AD and a note has been added indicating that the cited version of the service bulletin is the only version acceptable for demonstrating compliance with the AD under terms of paragraph a.

After careful review of all available data, including the comments above, the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule with a clarifying note, as a Final Rule.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. Applies to DC-10-10, -10F, -30, -30F, and -40 airplanes certificated in all categories.

Compliance required within the next 1,800 hours time in service after the effective date of this AD, unless already accomplished.

To prevent the loss of related powered flight controls due to loss of fluid through brake return line failure accomplish the following:

(a) Revise hydraulic systems 1 and 3 by installing three check valves and, when applicable, new hydraulic piping, in accordance with McDonnell Douglas DC-10 Service Bulletin No. A29-113, revision 2, dated April 4, 1978.

NOTE.—Service Bulletin A29-113, revision 2, dated April 4, 1978, is the only version of this service bulletin suitable for compliance with paragraph (a) of this AD.

(b) Equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections required by this AD.

This amendment becomes effective December 6, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, Calif., on September 22, 1978.

M. C. BEARD,
Acting Director,
FAA Western Region.

[FR Doc. 78-27881 Filed 10-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Taos, N. Mex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Taos, N. Mex. The intended effect of the action is to provide controlled airspace for aircraft executing the newly established instrument approach procedure to the Taos Municipal Airport. The circumstance which created the need for the action was the development of a new nondirectional radio beacon (NDB) instrument approach procedure to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 3, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 34157) stating that the Federal Aviation Administration proposed to alter the Taos, N. Mex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regu-

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lations (14 CFR Part 71) alters the Taos, N. Mex., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing the newly established instrument approach procedure to the Taos Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is altered to read:

TAOS, N. MEX.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Taos Municipal Airport (lat. 36°27'33" N., long. 105°40'31" W.); within 9.5 miles on the northwest side and within 4.5 miles on the southeast side of the 203° bearing from the Ski NDB (lat. 36°27'40" N., long. 105°40'10" W.), extending from the NDB to 18.5 miles southwest of the NDB excluding that airspace within the 6.5-mile airport radius area; and that airspace extending upward from 1,200 feet above the surface beginning at latitude 36°07'00" N., longitude 105°50'00" W., thence via a 25-mile arc centered on the Taos Municipal Airport coordinates (lat. 36°27'33" N., long. 105°40'31" W.) clockwise to latitude 36°48'00" N., longitude 105°49'15" W., thence direct to latitude 36°30'00" N., longitude 105°30'00" W., thence direct to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines. (43 FR 9582; Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 22, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27868 Filed 10-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Castroville, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Castroville, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing instrument approach procedures to the Castroville Municipal Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) on the airport to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 27, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 32434), stating that the Federal Aviation Administration proposed to designate the Castroville, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR 71), designates the Castroville, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Castroville Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is added:

CASTROVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Castroville Municipal Airport (lat. 29°20'32" N., long. 98°51'03" W.), within 3.5 miles each side of the 170° bearing from the proposed NDB (lat. 29°20'45" N., long. 98°50'56" W.), extending from the 5-mile radius to 11.5 miles northwest of the proposed NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 22, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27869 Filed 10-4-78; 8:45 am]

[4910-13]

[Airspace Docket Number 78-CE-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area—Warrensburg, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Warrensburg, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure which is being developed for the Skyhaven Airport, Warrensburg, Mo., based on the Napoleon visual omni range (VOR) navigational aid.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE—537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Skyhaven Airport, Warrensburg, Mo., is being established based on the Napoleon VOR, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Warrensburg, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DISCUSSION OF COMMENTS

On pages 28209 and 28210 of the FEDERAL REGISTER dated June 29, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Warrensburg, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440) is amended effective 0901 GMT December 28, 1978, by adding the following new transition area:

WARRENSBURG, MO.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Skyhaven Airport, Warrensburg, Mo. (lat. 38°47' N., long. 93°48' W.); and within 2.5 miles either side of the Napoleon, Mo. VORTAC 140° radial, extending from the 5.5-mile radius to 7 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 21, 1978.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc. 78-27870 Filed 10-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Beeville, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Beeville, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Beeville Municipal Airport. The circumstance which created the need for the action was the establishment of a navigation facility on the airport to provide additional capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 31942) stating that the Federal Aviation Administration proposed to alter the Beeville, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Beeville, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing the newly established instrument procedure to the Beeville Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is altered to read:

BEEVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of NAS Chase Field (lat. 28°21'50" N., long. 97°39'40" W.); within 2 miles each side of the NAS Chase TACAN 129° and 321° radials extending from the 7-mile radius area to 10 miles northwest and southeast of the TACAN; within 2 miles each side of the 339° bearing from the NAS Chase RBN extending from the 7-mile radius area to 12 miles north of the RBN; within a 6.5-mile radius of Beeville Municipal Airport (Lat. 28°22'00" N., long. 97°48'00" W.) within 3.5 miles each side of the 138° bearing from the Beeville NDB (lat. 28°22'03" N., long. 97°47'39" W.) extending from the 6.5-mile radius to 11.5 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on September 22, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27972 Filed 10-4-78; 8:45 am]

[4910-13]

[Docket No. 18320; Amdt. No. 95-281]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum end route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribe new, amended, sus-

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pended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COP's) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the national airspace system, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: November 2, 1978.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 25 FR 6489 and paragraph 802 of order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 27, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

§95.4004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM		MEA
Lamar, Pres. VOR		11500
Flees INT, Kan.		10000
*Cogar INT, Colo.		7000
	Cogar INT, Colo.	
	Denver, Colo. VOR	
*7800—MCA Cogar INT, Colo. N bound		
	Denver, Colo. VOR	8000
Lamar, Pres. VOR		11000
	Flees INT, Kan.	
Flees INT, Kan.		10000
	Via N alter.	
	Lusk INT, Colo.	
	Via N alter.	
	Hayden INT, Colo.	9900
	Via N alter.	
	Gill, Colo. VOR	7000
	Via N alter.	
	Denver, Colo. VOR	7000
	Via N alter.	

§95.4005 VOR FEDERAL AIRWAY 5
is amended to read in part:

FROM	TO	MEA
Tropic, Tex. VOR	Buzzi INT, Tex.	3500
	Via N alter.	
	Mason INT, Okla.	7000
FROM	TO	MEA
Cincinnati, Ohio VOR	Mason INT, Ohio	2500

§95.4007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Council City, Tex. VOR	Centerville, Ind. VOR	2500
	*1900—MCA	

§95.4008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Kremmling, Colo. VOR	Sulphur, Colo.	15100
12300—MCA Sulphur INT N bound		
Sulphur INT, Colo.	Bryan INT, Colo.	9500
Bryan INT, Colo.	Denver, Colo. VOR	9300
*7500—MCA		

§95.4011 VOR FEDERAL AIRWAY 11
is amended to read in part:

FROM	TO	MEA
	Centerville, Ind. VOR	2900
Marion INT, Ky.	Centerville, Ind. VOR	2600
Centerville, Ky. VOR	Vine E Alter.	
1900—MCA		

§95.4013 VOR FEDERAL AIRWAY 13
is amended to read in part:

FROM	TO	MEA
Greensburg, Pa. VOR	Brown INT, Minn.	3500
*3000—MEA		
10000—MAA		
*2500—MCA		

§95.4015 VOR FEDERAL AIRWAY 15
is amended to read in part:

FROM	TO	MEA
	Buzzi INT, Tex.	7800
Buzzi INT, Tex.	Via W alter	
2700—MCA Buzzi INT, S bound		

§95.4017 VOR FEDERAL AIRWAY 17
is amended to read in part:

FROM	TO	MEA
Pecos INT, Tex.	Waco, Tex. VOR	3500
Buzzi INT, Tex.	Buzzi INT, Tex.	2800
Via E Alter.	Via E Alter.	
2200—MCA Buzzi INT, S bound		

§95.4019 VOR FEDERAL AIRWAY 19
is amended to read in part:

FROM	TO	MEA
Kiowa, Colo. VOR	Denver, Colo. VOR	8900
Malvo INT, Colo.	Malvo INT, Colo.	7000

§95.4026 VOR FEDERAL AIRWAY 74
is amended to read in part:

FROM	TO	MEA
Aberdeen, S.D. VOR	Watertown, S.D. VOR	3600
Via N alter.	Via N alter.	

§95.4044 VOR FEDERAL AIRWAY 44
is amended to read in part:

FROM	TO	MEA
	Linden INT, N.J.	1800
Allentown, Pa. VOR	Lehigh INT, N.J.	1800
Lehigh INT, N.J.	Gardy INT, N.J.	2000
Gardy INT, N.J.	Sawyer INT, N.J.	4000
*2000—MOCA		
Sawyer INT, N.J.	Deer Park, N.Y. VOR	4000
*2000—MOCA		

§95.4047 VOR FEDERAL AIRWAY 47
is amended to read in part:

FROM	TO	MEA
Peotone INT, Ky.	Evansville, Ind. VOR	2000

§95.4051 VOR FEDERAL AIRWAY 51
is amended to read in part:

FROM	TO	MEA
Evansville, Ind. VOR	Carmel City, Ky. VOR	2500
*1900—MOCA		

§95.4053 VOR FEDERAL AIRWAY 53
is amended to read in part:

FROM	TO	MEA
Kevin INT, Ind.	Peotone, Ill. VOR	2600

§95.4059 VOR FEDERAL AIRWAY 59
is amended to read in part:

FROM	TO	MEA
Pulaski, Va. VOR	Elkon INT, W.Va.	6000
Elkon INT, W.Va.	Beckley, W.Va. VOR	5000

§95.4077 VOR FEDERAL AIRWAY 77
is amended to read in part:

FROM	TO	MEA
*Wiley INT, Kans.	Hayden INT, Kans.	*4000
*5000—MRA		
*4700—MOCA		
Hayden INT, Kans.	Topeka, Kans. VOR	3100

§95.4080 VOR FEDERAL AIRWAY 80
is amended to delete:

FROM	TO	MEA
Flees INT, Colo.	Wray INT, Colo.	7500
Wray INT, Colo.	Akron, Colo. VOR	7000

§95.4081 VOR FEDERAL AIRWAY 81
is amended to read in part:

FROM	TO	MEA
Colorado Springs, Colo. VOR	Foles INT, Colo.	9700
Foles INT, Colo.	Denver, Colo. VOR	9000

Route 3 is amended to read in part:

FROM	TO	MEA
San Juan, P.R. VOR	Quebo INT, P.R.	*7000
*7000—MRA		
*11800—MOCA		

Route 4 is amended to read in part:

FROM	TO	MEA
Barbazon, P.R. VOR	Aleli INT, P.R.	5600
Vieques INT, P.R.	Sinaz INT, P.R.	2400
Sinaz INT, P.R.	St. Croix, V.I. VOR	2400

Route 5 is amended to read in part:

FROM	TO	MEA
Barbazon, P.R. VOR	Bravo INT, P.R.	1800
*3000—MRA		
Bravo INT P.R.	Oleo INT P.R.	5600

Route 7 is amended to read in part:

FROM	TO	MEA
Point Tune INT, P.R.	Sasha INT, P.R.	3700
*4000—MRA		
Sasha INT, P.R.	San Juan, P.R. VOR	3500
San Juan, P.R. VOR	Lilac INT, P.R.	2500
Lilac INT, P.R.	Dumas INT, P.R.	2500
*12700—MOCA		
Dumas INT, P.R.	Oleo INT, P.R.	*9000
*9700—MOCA		

Route 9 is amended to read in part:

FROM	TO	MEA
*Ponce, P.R. VOR	Gasbo INT, P.R. VOR	5000
12000—MCA Ponce VOR, NE bound		
Gasbo INT, P.R.	San Juan, P.R. VOR	3800
San Juan, P.R. VOR	*Cerib INT, P.R.	1500
*2500—MRA		
Cerib INT, P.R.	Vieno INT, P.R.	*8000
*9700—MOCA		

§95.6000 VOR FEDERAL AIRWAY 1
is amended to read in part:

FROM	TO	MEA
	Kinston, N.C. VOR	2000
Wells INT, N.C.		

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Fort N.D. VOR	Alexandria, Minn. VOR	*3500
Via N alter.	Via N alter.	
*9100—MOCA		

§95.6004 VOR FEDERAL AIRWAY 4
is amended to delete:

FROM	TO	MEA
Downs, Colo. VOR	Redic INT, Colo.	7800
Via N alter.	Via N alter.	
Redic INT, Colo.	Thurman, Colo. VOR	7000
Via N alter.	Via N alter.	

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§95.6085 VOR FEDERAL AIRWAY 85
is amended to delete:

FROM	TO	MEA
*Drake INT, Colo.	Benson INT, Colo.	13400
*13400—MCA Drake INT, NW-bound		
Benson INT, Colo.	Estes INT, Colo.	15600
Estes INT, Colo.	Medicine Bow, Wyo. VOR	*15600
*14700—MOCA		

§95.6085 VOR FEDERAL AIRWAY 85
is amended by adding:

FROM	TO	MEA
Denver, Colo. VOR	Henry INT, Colo.	*9000
*7690—MOCA		
Henry INT, Colo.	Drake INT, Colo.	11000
Drake INT, Colo.	*Benson INT, Colo.	11000
*15000—MCA Benson INT, SW-bound		
Benson INT, Colo.	Estes INT, Colo.	16000
Estes INT, Colo.	Medicine Bow, Wyo. VOR	*16000
*14700—MOCA		

§95.6089 VOR FEDERAL AIRWAY 89
is amended to delete:

FROM	TO	MEA
Logan INT, Colo.	*Silow INT, Colo.	12000
*13000—MCA Silow INT, S-bound		
Silow INT, Colo.	Denver, Colo. VOR	10000
Denver, Colo. VOR	*Platt INT, Colo.	7000
10500—MRA		
Platt INT, Colo.	Nunns INT, Colo.	7000

§95.6089 VOR FEDERAL AIRWAY 89
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR Via E alter.	Gill, Colo. VOR Via E alter.	7000

§95.6089 VOR FEDERAL AIRWAY 89
is amended by adding

FROM	TO	MEA
Chalk INT, Colo.	Silow INT, Colo.	12000
Silow INT, Colo.	Denver, Colo. VOR	10000
10800—MCA Silow INT, S-bound		
Denver, Colo. VOR	Nunns INT, Colo.	7000

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Tress INT, Colo.	Chalk INT, Colo. SW-bound	16200
	NE-bound	13600
Chalk INT, Colo.	Meeth INT, Colo.	11400
12600—MCA Chalk INT, SW-bound		
Meeth INT, Colo.	Foles INT, Colo.	9600
Foles INT, Colo.	Kiowa, Colo. VOR	9000

§95.6097 VOR FEDERAL AIRWAY 97
is amended to read in part:

FROM	TO	MEA
Grant INT, Ga.	Atlanta, Ga. VOR	3000

§95.6101 VOR FEDERAL AIRWAY 101
is amended to read in part:

FROM	TO	MEA
Gill, Colo. VOR	Lubbock INT, Colo.	10000
13100—MCA Lubbock INT, W-bound		

§95.6112 VOR FEDERAL AIRWAY 112
is amended by adding

FROM	TO	MEA
Portland, Ore. VOR Via Salter	The Dalles, Ore. VOR Via Salter	7000

§95.6121 VOR FEDERAL AIRWAY 121
is amended to read in part

FROM	TO	MEA
Mabee INT, Ore. Via Salter	Redmond, Ore. VOR Via Salter	
	SW-bound	8000
	NE-bound	10000

§95.6128 VOR FEDERAL AIRWAY 128
is amended to read in part

FROM	TO	MEA
Pocatello, Ida. VOR	Kemmerer, Wyo. VOR	26000

§95.6134 VOR FEDERAL AIRWAY 134
is amended to delete

FROM	TO	MEA
Funds INT, Colo. Via Salter	Thurman INT, Colo. Via Salter	16200
Shrew INT, Colo. Via Salter	Byson INT, Colo. Via Salter	14500
Byson INT, Colo. Via Salter	Nunns INT, Colo. Via Salter	*13000
12000—MOCA		
Nunns INT, Colo. Via Salter	Denver, Colo. VOR Via Salter	9000
11500—MCA Nunns INT, SW-bound		

§95.6134 VOR FEDERAL AIRWAY 134
is amended to read in part

FROM	TO	MEA
Trec INT, Colo.	Pawn INT, Colo.	11000
9700—MOCA		
Pawn INT, Colo.	Shrew INT, Colo.	13000
Glenn INT, Colo.	Byson INT, Colo.	*14000
12600—MOCA		
Byson INT, Colo.	Nunns INT, Colo. E-bound	16000
	W-bound	14000
Nunns INT, Colo.	Funds INT, Colo.	*17000
16200—MOCA		
Funds INT, Colo.	Gates INT, Colo.	*17000
16300—MOCA		
*Gates INT, Colo.	Denver, Colo. VOR	10000
*14100—MCA Gates INT, SW-bound		

§95.6140 VOR FEDERAL AIRWAY 140
is amended to read in part

FROM	TO	MEA
Stacy INT, W. Va.	Kenna INT, W. Va.	5600
7700—MRA		
Kenna INT, W. Va.	Bluefield, W. Va. VOR	5130
Bluefield, W. Va. VOR	Obers INT, W. Va.	5600
Obers INT, W. Va.	Montebello, Va. VOR	6000

§95.6156 VOR FEDERAL AIRWAY 156
is amended to read in part

FROM	TO	MEA
Bradford, Ill. VOR	Pontiac, Ill. VOR	2700

§95.6160 VOR FEDERAL AIRWAY 160
is amended to read

FROM	TO	MEA
Denver, Colo. VOR	Sidney, Neb. VOR	7000

§95.6172 VOR FEDERAL AIRWAY 172
is amended to delete

FROM	TO	MEA
Denver, Colo. VOR	Wiggins INT, Colo.	7500
Wiggins INT, Colo.	*Fowls INT, Colo.	**8000
*8000—MRA		
**6600—MOCA		
Fowls INT, Colo.	Holyoke INT, Colo.	*13000
*6600—MOCA		
Holyoke INT, Colo.	North Platte, Neb. VOR	*6000
*4800—MOCA		

§95.6187 VOR FEDERAL AIRWAY 187
is amended to read in part:

FROM	TO	MEA
Rivet INT, Mont.	Dillon, Ida.	*13000
**9900—MOCA		

§95.6190 VOR FEDERAL AIRWAY 190
is amended to read in part:

FROM	TO	MEA
Tonks INT, Ill.	Evansville, Ind. VOR	2200

§95.6200 VOR FEDERAL AIRWAY 200
is amended to delete:

FROM	TO	MEA
Kremmling, Colo. VOR	Surfs INT, Colo.	*16000
*14900—MOCA		
*Surfs INT, Colo.	Denver, Colo. VOR W-bound	16000
	E-bound	9600
*13400—MCA Surfs INT, W-bound		

§95.6207 VOR FEDERAL AIRWAY 207
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Gill INT, Colo.	7000

§95.6220 VOR FEDERAL AIRWAY 220
is amended to read in part:

FROM	TO	MEA
Kremmling, Colo. VOR	Henry INT, Colo.	17000
*Henry INT, Colo.	Denver, Colo. VOR	**9000
*13000—MCA Henry INT, SW-bound		
**7600—MOCA		
Denver, Colo. VOR	Flors INT, Colo.	*7500
*7000—MOCA		
Flors INT, Colo.	Wiggins INT, Colo.	7500
Wiggins INT, Colo.	Akron, Colo. VOR	7000

§95.6263 VOR FEDERAL AIRWAY 263
is amended to read in part:

FROM	TO	MEA
Hugo, Colo. VOR	Gill, Colo. VOR	8000

§95.6280 VOR FEDERAL AIRWAY 280
is amended to read in part:

FROM	TO	MEA
*Wiley INT, Kans.	Hoxie INT, Kans.	**4500
*5000—MRA		
**2900—MOCA		
Hoxie INT, Kans.	Topeka, Kans. VOR	3100

§95.6328 VOR FEDERAL AIRWAY 328
is amended to read:

FROM	TO	MEA
Jackson, Wyo. VOR	Big Piney, Wyo. VOR	13500
Big Piney, Wyo. VOR	Rock Springs, Wyo. VOR	*10000
*9700—MOCA		
Rock Springs, Wyo. VOR	Smoky INT, Wyo.	11000
Smoky INT, Wyo.	Hayden, Colo. VOR	10000
Hayden, Colo. VOR	Hebro INT, Colo.	10000
Hebro INT, Colo.	Kremmling, Colo. VOR	13000
Kremmling, Colo. VOR	Funds INT, Colo.	15500
Funds INT, Colo.	Shrew INT, Colo.	16000
Shrew INT, Colo.	*Byson INT, Colo.	14000
*13900—MCA Byson INT, SW-bound		
Byson INT, Colo.	*Tress INT, Colo.	12000
*9600—MCA Tress INT, SW-bound		
Tress INT, Colo.	Denver, Colo. VOR	7500

§95.6361 VOR FEDERAL AIRWAY 361
is amended to read:

FROM	TO	MEA
Kremmling, Colo. VOR	*Benson INT, Colo.	16000
*15000—MCA Benson INT, SW-bound		
Benson INT, Colo.	Lusbe INT, Colo.	13000
*Lusbe INT, Colo.	Cheyenne, Wyo. VOR	9000
*10300—MCA Lusbe INT, SW-bound		

§95.6366 VOR FEDERAL AIRWAY 366
is added to read:

FROM	TO	MEA
Hugo, Colo. VOR	Akron, Colo. VOR	8000

§95.6440 VOR FEDERAL AIRWAY 440
is amended to read in part:

FROM	TO	MEA
*Winer INT, Alas.	McGrath, Alas. VOR E-bound	7000
	W-bound	4000
*8600—MCA Winer INT, E-bound		

§95.6463 VOR FEDERAL AIRWAY 463
is amended to read

FROM	TO	MEA
Logan INT, Ga.	*Turna INT, Ga.	**5000
*5900—MCA Turna INT, N-bound		
**4200—MOCA		
Turna INT, Ga.	Harris, Ga. VOR	7000

§95.6471 VOR FEDERAL AIRWAY 471
is amended to read in part:

FROM	TO	MEA
Bangor, Me. VOR	Millinocket, Me. VOR	2400

§95.6506 VOR FEDERAL AIRWAY 506
is amended to read in part:

FROM	TO	MEA
Mercy DME Fix, Alas.	*John DME Fix, Alas.	#7000
*11000—MRA		
#MEA is established with a gap in navigation signal coverage		
John DME FIX, Alas.	Kriss INT, Alas.	7000

§95.6518 VOR FEDERAL AIRWAY 518
is amended to read in part:

FROM	TO	MEA
McGrath, Alas. VOR	*Winer INT, Alas. E-bound	7000
	W-bound	6000
*8600—MCA Winer INT, E-bound		

§95.7010 JET ROUTE NO. 10 is amended to read in part:

FROM	TO	MEA	MAA
Gunnison, Colo. VORTAC	Shrew INT, Colo.	22000	45000
Denver, Colo. VORTAC	Int. 046 M rad Denver VORTAC & 249 M rad North Platte, VORTAC	23000	45000
Int. 046 M rad Denver VORTAC & 249 rad North Platte VORTAC	North Platte, Neb. VORTAC	18000	45000

§95.7020 JET ROUTE NO. 20 is amended to delete:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§95.7020 JET ROUTE NO. 20 is amended by adding:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000
Kiowa, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§95.7024 JET ROUTE NO. 24 is amended to delete:

FROM	TO	MEA	MAA
Hayden, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000
Kiowa, Colo. VORTAC	Hugo, Colo. VORTAC	18000	45000

§95.7037 JET ROUTE NO. 37 is amended to delete:

FROM	TO	MEA	MAA
New Orleans, La. VORTAC	Montgomery, Ala. VORTAC	18000	45000

§95.7037 JET ROUTE NO. 37 is amended by adding:

FROM	TO	MEA	MAA
New Orleans, La. VORTAC	Semmes, Ala. VORTAC	18000	45000
Semmes, Ala. VORTAC	Montgomery, Ala. VORTAC	18000	45000

§95.7044 JET ROUTE NO. 44 is amended to read in part:

FROM	TO	MEA	MAA
Alamosa, Colo. VORTAC	Shrew INT, Colo.	24000	45000
Shrew INT, Colo.	Byson INT, Colo.	18000	45000

§95.7052 JET ROUTE NO. 52 is amended to delete:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§95.7052 JET ROUTE NO. 52 is amended by adding:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000
Kiowa, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§95.7054 JET ROUTE NO. 54 is amended by adding:

FROM	TO	MEA	MAA
Tatoosh, Wash. VORTAC	Olympic, Wash. VORTAC	18000	45000

§95.7052 JET ROUTE NO. 56 is amended to delete:

FROM	TO	MEA	MAA
Hayden, Colo. VORTAC	Drake INT, Colo.	18000	45000

§95.7056 JET ROUTE NO. 56 is amended by adding:

FROM	TO	MEA	MAA
Hayden, Colo. VORTAC	Denver, Colo. VORTAC	18000	45000

§95.7058 JET ROUTE NO. 58 is amended to read in part:

FROM	TO	MEA	MAA
Sarasota, Fla. VORTAC	Biscayne Bay, Fla. VORTAC	18000	45000

§95.7060 JET ROUTE NO. 60 is amended to read in part:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	#19000	45000
#MEA is established with a gap in navigation signal coverage			

§95.7075 JET ROUTE NO. 75 is amended to delete:

FROM	TO	MEA	MAA
Miami, Fla. VORTAC	Lakeland, Fla. VORTAC	18000	45000

§95.7075 JET ROUTE NO. 75 is amended by adding:

FROM	TO	MEA	MAA
Biscayne Bay, Fla. VORTAC	Lakeland, Fla. VORTAC	18000	45000

§95.7080 JET ROUTE NO. 80 is amended to read in part:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	#19000	45000
#MEA is established with a gap in navigation signal coverage			

§95.7086 JET ROUTE NO. 86 is amended to delete:

FROM	TO	MEA	MAA
Sarasota, Fla. VORTAC	Biscayne Bay, Fla. VORTAC	18000	45000

§95.7086 JET ROUTE NO. 86 is amended by adding:

FROM	TO	MEA	MAA
Sarasota, Fla. VORTAC	Miami, Fla. VORTAC	18000	45000

§95.7089 JET ROUTE NO. 89 is amended to read in part:

FROM	TO	MEA	MAA
Biscayne Bay, Fla. VORTAC	Lakeland, Fla. VORTAC	18000	45000

§95.7104 JET ROUTE NO. 104 is amended to delete:

FROM	TO	MEA	MAA
Pueblo, Colo. VORTAC	Denver, Colo. VORTAC	18000	45000

§95.7110 JET ROUTE NO. 110 is amended to delete:

FROM	TO	MEA	MAA
Boulder City, Nev. VORTAC	Tuba City, Ariz. VORTAC	18000	45000
Tuba City, Ariz. VORTAC	Farmington, N.M. VORTAC	18000	45000

§95.7110 JET ROUTE NO. 110 is amended by adding:

FROM	TO	MEA	MAA
Boulder City, Nev. VORTAC	Farmington, N.M. VORTAC	#28000	45000
#MEA is established with a gap in navigation signal coverage.			

§95.7114 JET ROUTE NO. 114 is amended to read in part:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	O'Neill, Neb. VORTAC	#23000	45000
#MEA is established with a gap in navigation signal coverage.			

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§ 95.7523 JET ROUTE NO. 523 is amended to read:

FROM	TO	MEA	MAA
Seattle, Wash. VORTAC	Tatoosh, Wash. VORTAC	18000	45000
Tatoosh, Wash. VORTAC	U.S. Canadian Border	18000	45000

2. By amending Sub-part D as follows:

§ 95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM
V-1 is amended to delete:		
Cleveland, Ohio VORTAC	London, Canada	55 Cleveland
V-10 is amended to delete:		
Revloc, Pa. VORTAC	Youngstown, Ohio VOR	49 Revloc
V-20 is amended to delete:		
Athens, Ga. VOR	Electric City, S.C. VOR	20 Athens
V-81 is amended to delete:		
Colorado Springs, Colo. VOR	Denver, Colo. VOR	13 Colorado Springs
V-119 is amended to delete:		
Clarion, Pa. VOR	Bradford, Pa. VOR	27 Clarion
Indian Head, Pa. VOR	Parkersburg, W.Va. VOR	60 Indian Head
V-134 is amended to read in part:		
Grand Junction, Colo. VOR	Denver, Colo. VOR	114 Grand Junction
V-184 is amended to delete:		
Millville, N.J. VOR	Atlantic City, N.J. VOR	10 Millville
V-187 is amended to read in part:		
Missoula, Mont. VOR	Lewiston, Ida. VOR	30 Missoula
V-268 is amended to delete:		
Westminster, Md. VOR	Baltimore, Md. VORTAC	12 Westminster
V-309 is amended to delete:		
Allegheny, Pa. VOR	Charleston, W.Va. VOR	70 Allegheny

[FR Doc. 78-27969 Filed 10-4-78; 8:45 am]

§ 95.7119 JET ROUTE NO. 119 is amended to delete:

FROM	TO	MEA	MAA
Miami, Fla. VORTAC	St. Petersburg, Fla. VORTAC	18000	45000

§ 95.6130 JET ROUTE NO. 130 is amended to read in part:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Bacca INT, Colo.	18000	45000
Bacca INT, Colo.	Int. 075 M rad Grand Junction VORTAC & 243 M rad Kiowa VORTAC	26000	45000

§ 95.7157 JET ROUTE NO. 157 is amended to read in part:

FROM	TO	MEA	MAA
Keenn INT, Colo.	Smity INT, Colo.	23000	45000
Smity INT, Colo.	Scottsbluff, Neb. VORTAC	18000	45000

§ 95.7163 JET ROUTE NO. 163 is amended to delete:

FROM	TO	MEA	MAA
Hayden, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000
Kiowa, Colo. VORTAC	Hugo, Colo. VORTAC	18000	45000
Hugo, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§ 95.7168 JET ROUTE NO. 168 is amended by adding:

FROM	TO	MEA	MAA
Lamar, Colo. VORTAC	Hugo, Colo. VORTAC	18000	45000
Hugo, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000

§ 95.7170 JET ROUTE NO. 170 is amended to delete:

FROM	TO	MEA	MAA
Medicine Bow, Wyo. VORTAC	Drake INT, Colo.	18000	45000

§ 95.7170 JET ROUTE NO. 170 is amended by adding:

FROM	TO	MEA	MAA
Medicine Bow, Wyo. VORTAC	Denver, Colo. VORTAC	18000	45000

§ 95.7172 JET ROUTE NO. 172 is amended to read:

FROM	TO	MEA	MAA
Keenn INT, Colo.	Int. 046 M rad Denver VORTAC & 176 M rad Sidney VORTAC	23000	45000
Int. 046 M rad Denver VORTAC & 176 M rad Sidney VORTAC	Sidney, Neb. VORTAC	18000	45000

§ 95.7501 JET ROUTE NO. 501 is amended to delete:

FROM	TO	MEA	MAA
Hoquiam, Wash. VORTAC	Neah Bay, Wash. NBN	18000	45000
Neah Bay, Wash. NDB	U.S. Canadian Border	18000	45000

§ 95.7501 JET ROUTE NO. 501 is amended by adding:

FROM	TO	MEA	MAA
Hoquiam, Wash. VORTAC	Tatoosh, Wash. VORTAC	18000	45000
Tatoosh, Wash. VORTAC	U.S. Canadian Border	18000	45000

§ 95.7534 JET ROUTE NO. 534 is added to read:

FROM	TO	MEA	MAA
Bellingham, Wash. VOR	U.S. Canadian Border	18000	45000

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. FI-56]

PART 200—ORGANIZATION, CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Availability of Records Under the Freedom of Information Act

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and request for comment.

SUMMARY: This amendment revises the Commission's rules which specify the Commission offices at which records may be made available for public inspection.

EFFECTIVE DATE: September 27, 1978. Comments must be received on or before November 27, 1978.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to file No. S7-756. All comments received will be available for public inspection and copying in the Commission's public reference room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Linda A. Schneider, Attorney, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1339.

SUPPLEMENTARY INFORMATION: These amendments are intended to correct and clarify the Commission's rules under the Freedom of Information Act as they were last amended in August 1977. Those last amendments inadvertently lent themselves to the interpretation that all Commission records available under the Freedom of Information Act for public examination or copying were to be available in the New York, Chicago, and Los Angeles regional offices, as well as in the public reference room in Washington, D.C. These amendments revise the Commission's rules to specify the Commission offices at which records will be made available for inspection under the Freedom of Information Act. The rule provides that records will be made available at the Commission's public reference room in Washington, D.C. In addition, upon request, and if the records are not needed by the staff in connection with its ongoing work, records will be sent to any of the three Commission offices which have public reference facilities (New York, Chicago, and Los Angeles) for inspection at those offices. Finally, when suitable arrangements can be made with respect to the storage and inspection of records, records may also be sent, upon request, to other Commission offices for inspection at those offices. The requestor must pay the cost of transporting the records in all instances.

Accordingly, part 200, chapter II, title 17 of the Code of Federal Regulations is amended as follows:

Subpart D—Information and Requests

In § 200.80 paragraph (c)(1) is revised by amending subdivision (i) by deleting the word "other" from the first sentence of subdivision (ii), and adding subdivision (iii) as follows:

§ 200.80 Commission records and information.

* * * * *

(c)(1) * * *

(i) The public reference room in Washington has available for public inspection all of the publicly available records of the Commission as described in paragraph (a) of this section. In addition, upon request, such records will be sent to the Commission's regional offices in New York, Chicago, or Los Angeles, for inspection in the public reference facilities at those offices, if the records are not needed by the Commission or the staff in connection with the performance of official duties. Also upon request, and only when suitable arrangements can be made with respect to the transportation, storage, and inspection of records, records may be sent to any other Commission office for inspection at that office, if the records are not needed by the Commission or the staff in connection with the performance of official duties. When records are sent to another office at the request of a member of the public, the requestor shall be charged all costs incurred by the Commission in transporting the records.

(ii) [Amended]

(iii) In the New York, Chicago, and Los Angeles regional offices, microfiche of all recent registration statements filed pursuant to the Securities Act of 1933, registration statements and periodic reports filed pursuant to the Securities Exchange Act of 1934, and periodic reports filed pursuant to the Investment Company Act from 1969 to date are available for inspection and reproduction.

STATUTORY AUTHORITY

The foregoing action is taken pursuant to the authority set forth in the Freedom of Information Act, 5 U.S.C. 552, and is effective upon publication. Because this action relates solely to matters of procedure regarding requests made under the Freedom of Information Act, notice and prior publication for comments under the Administrative Procedure Act is not necessary. See 5 U.S.C. 553(b). However, the Commission will receive comments on this matter for 60 days after the effective date of the amendments. At the end of that period, the Commission will reexamine and reevaluate these amendments, and will determine whether further amendment to its rules is necessary or appropriate.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

SEPTEMBER 27, 1978.

[FR Doc. 78-28199 Filed 10-4-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 803-78]

ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Establishment of the Office of Information Law and Policy

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends, revises, and redesignates certain Department of Justice regulations pertaining to the Freedom of Information Act (5 U.S.C. 552), and pertaining to the Privacy Act (5 U.S.C. 552a), to establish the Office of Information Law and Policy to be headed by a Director who will report directly to the Associate Attorney General. The purposes of the office will be to advise this Department and other departments and agencies on all questions of policy, interpretation, and application of the Freedom of Information Act and to advise the Department on questions of policy interpretation and application of the Privacy Act; to coordinate Freedom of Information Act policy among the executive agencies; to coordinate the Department's response to requests for information under the Freedom of Information Act and the Privacy Act; and to undertake training, research, and informational programs concerning both acts.

EFFECTIVE DATE: October 1, 1978.

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FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530, 202-739-2041.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, parts 0, 16 and 50, of chapter I of Title 28, Code of Federal Regulations are amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

§ 0.1 [Amended]

1. Section 0.1 of subpart A is amended by inserting "Office of Information Law and Policy" immediately after "Office of Professional Responsibility."

§ 0.15(b)(2) [Redesignated as § 0.29(a)]

2. Section 0.15(b)(2) of subpart C is revised in part and redesignated as § 0.29(a) of new subpart E-2 as set out below.

§ 0.18 [Redesignated as § 0.19a]

3. Section 0.18 of subpart C is revised in part and redesignated as § 0.19a of subpart C-1 to read as follows:

§ 0.19a Office of Privacy and Information Appeals.

The Office of Privacy and Information Appeals is established in the Office of the Associate Attorney General under the supervision of the Associate Attorney General to assist in acting on Privacy and Freedom of Information appeals under §§ 16.47 and 16.7, respectively, of this chapter, except that in the case of appeals from initial decisions in which the Associate Attorney General participated this assistance shall be provided by the Office of Legal Counsel. The Office of Privacy and Information Appeals shall provide staff support to the Department Review Committee, established by § 17.38 of this chapter.

§ 0.25(i) [Redesignated as § 0.29(b)]

4. Section 0.25(i) of subpart E is revised in part and redesignated as § 0.29(b) of new subpart E-2 as set out below:

Subpart E-2—Office of Information Law and Policy

Sec.
0.28 Organization.
0.29 Functions.
0.29a Freedom of Information Committee.

AUTHORITY: 28 U.S.C. 509, 510 and 5 U.S.C. 301.

Subpart E-2—Office of Information Law and Policy

§ 0.28 Organization.

The Office of Information Law and Policy shall be headed by a Director, appointed by the Attorney General. The Director shall be subject to the general supervision and direction of the Associate Attorney General.

§ 0.29 Functions.

The Director of the Office of Information Law and Policy shall:

(a) Coordinate the Department's response to requests for production or disclosure of information under the Freedom of Information Act (5 U.S.C. 552), see part 16(A) in this chapter, and under the Privacy Act (5 U.S.C. 552a), see part 16(D) in this chapter, and provide assistance in furnishing information to the public under the acts.

(b) Advise executive agencies and organizational units of the Department on questions relating to interpretation and application of the Freedom of Information Act and advise the Department on questions relating to interpretation and application of the Privacy Act.

(c) Coordinate the development and implementation of and compliance with Freedom of Information Act policy within the executive agencies and all organizational units of the Department and Privacy Act policy within all organizational units of the Department.

(d) Undertake, arrange, or support training and informational programs concerning both acts for the executive agencies and the Department.

(e) Undertake such other responsibilities as may be assigned by the Associate Attorney General.

§ 0.29a Freedom of Information Committee.

(a) The Freedom of Information Committee is established within the Office of Information Law and Policy to encourage compliance with the Freedom of Information Act throughout the executive branch. The Committee consists of Justice Department attorneys who were members of the Committee on the effective date of this provision and Justice Department attorneys designated by the Director, Office of Information Law and Policy: *Provided*, That attorneys in other organizational units of the Department shall be so designated only with the consent of the head of the other organizational unit. The Committee through the Office of Information Law and Policy shall provide assistance and encouragement to Federal agencies in complying with the letter and spirit of the Freedom of Information Act through training of Federal personnel and consultation with agencies on particular matters arising under the Freedom of Information Act. In consulting with agencies proposing to issue final denials under the Act, the Committee through the Office of Information Law and Policy shall, in addition to advising the agency with respect to legal issues, invite the attention of the agency to the range of public policies reflected in the Act, including the central policy of fullest responsible disclosure. The Office of Information Law and Policy may also undertake studies and make recommendations to carry out the intent of this subsection.

(b) All Federal agencies which intend to deny requests for records under the Freedom of Information Act should consult with the Freedom of Information Committee through the Director of the Office of Information Law and Policy, to the fullest extent practicable, before litigation ensues. After litigation begins, contacts regarding the matter should be primarily with the Civil Division or other component of the Department of Justice responsible for conducting the defense of the suit.

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart A [Amended]

5. Subpart A of part 16 is amended by substituting "Associate Attorney General" for "Deputy Attorney General" each place where it appears in subpart A.

§ 16.1(b) [Amended]

6. Section 16.1(b) of subpart A, part 16, is amended by substituting "Office of Information Law and Policy" for "Office of Legal Counsel".

Subpart D [Amended]

7. Subpart D of part 16, is amended by substituting "Associate Attorney General" for "Deputy Attorney General" each place where it appears in subpart D.

PART 50—STATEMENTS OF POLICY

§ 50.9 [Redesignated]

8. Section 50.9 of part 50 is revised in part and redesignated as § 0.29a in the new subpart E-2, part 0, as set out above.

Dated: September 27, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-28105 Filed 10-4-78; 8:45 am]

[4410-01]

[AAG/A Order No. 14-78]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending 28 CFR 16.85 to permit the U.S. Parole Commission to revise its alternate means of access under the Privacy Act of 1974 in order to bring its rules relating to disclosure under the Privacy Act into conformity with the prehearing disclosure provisions of the Parole Commission and Reorganization Act of 1976. The authorization specifically permits the Commission to apply the same substantive exemptions to all disclosure requests by prisoners which will avoid the possibility of inconsistent disclosure decisions relating to the same information.

DATE: This rule will be effective October 5, 1978.

ADDRESS: Legal and Legislative Group, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Bronson E. Clayton, 202-739-4165.

SUPPLEMENTARY INFORMATION: No comments were received regarding the proposed regulations. Pursuant to the authority vested in me by 5 U.S.C. 552a and 553, 28 CFR 16.85(e), is revised as set forth below.

Dated: September 22, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

§ 16.85 Exemption of Parole Commission system—limited access.

* * * * *

(c) Consistent with the legislative purpose of the Privacy Act of 1974 the U.S. Parole Commission will initiate a procedure whereby present and former prisoners and parolees may obtain copies of material in files relating to them that are maintained by the U.S. Parole Commission. Disclosure of the contents will be affected by providing copies of documents to requesters through the mails. Disclosure will be made to the same extent as would be made under the substantive exemptions of the Parole Commission and Reorganization Act of 1976 (18 U.S.C. § 4208) and rule 32 of the Federal Rules of Criminal Procedure. The procedure relating to disclosure of documents may be changed generally in the interest of improving the Commission's system of disclosure or when required by pending or future decisions and directions of the Department of Justice.

[FR Doc. 78-28106 Filed 10-4-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 972-2]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking responds to comments and makes necessary amendments to the designations of attainment status relative to the national ambient air quality standards (NAAQS) for Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. This rulemaking supplements the national EPA rulemaking of September 11, 1978 (43 FR 40412), and incorporates by reference EPA's position on certain general issues raised in comments on the designations found in the supplementary information section of that rulemaking.

DATE: Effective date—October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas Mateer, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2334.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 (the 1977 Amendments), Pub. L. 95-95, added section 107(d) to the Clean Air Act (the Act) which directed each State to submit to the Administrator a list of the NAAQS attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications. For each standard, areas are classified as either not meeting the standard (nonattainment areas), meeting the standard (attainment areas), or lacking sufficient data to be classified (unclassifiable areas). The U.S. Environmental Protection Agency (EPA or the Agency) published these lists in the FEDERAL REGISTER on March 3, 1978 (43 FR 8962), and invited the public to submit comments to the Agency by May 2, 1978.

Certain issues raised in these comments were similar to those raised by others throughout the nation. These issues are addressed in the national EPA promulgation. Additional issues which are specific to the States in EPA region V are addressed in this action. Several of the comments have caused EPA to modify earlier designations. In some cases, the designation has been changed by redefining the boundaries of the area; in others, the designation itself has been changed but no new nonattainment areas have been designated in counties which were previously attainment or unclassifiable.

For good cause, the amendments to designations made final today are being made effective immediately. As discussed in the national EPA rulemaking, the only effect of these designations is to identify problem areas for which State planning must be completed by a statutory deadline. These designations impose no obligation on any source. There would therefore be no point in deferring the effective date. The issues raised in the comments are discussed below by State.

ILLINOIS

One commenter stated that no opportunity was provided for public participation in the designation process implemented by the Illinois Environmental Protection Agency (IEPA). While the Clean Air Act does not require the States to provide opportunity for public participation in the designation process, IEPA held two public meetings in November 1977 in order to discuss the criteria to be utilized in the designation process. Written comments were accepted by IEPA until the end of that month.

TOTAL SUSPENDED PARTICULATES (TSP)

One commenter questioned the criteria used by the State of Illinois in determining the nonattainment boundaries, monitor siting, and monitoring data used to support the nonattainment designations for Bremen, Orland, and Palos Townships in AQCR 67 (Cook County). The nonattainment designations for these townships are supported by monitored violations. The State of Illinois chose to designate an area surrounding monitored violations which included the surrounding townships. EPA review of the monitoring data and site locations reaffirms that the TSP primary and secondary nonattainment status of Bremen and Orland Townships is sup-

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ported by the data. This review also demonstrates the need to redesignate Palos Township from attainment of the primary standard and nonattainment of the secondary standard to nonattainment for both the primary and secondary standards.

One commenter questioned the monitoring data used to support the nonattainment designations for Hyde Park, Hennepin, and Mount Vernon Townships. Upon review of the monitoring data from these townships, EPA reaffirms the nonattainment designations. However, in the case of Hennepin Township, if 1978 monitoring data continues to indicate improved air quality, a redesignation may be justified.

One commenter questioned the siting of a monitoring station and air quality data used to support the nonattainment designation for Capital Township, Sangamon County. The designation of Capital Township was based on air quality data from third quarter 1975 through second quarter 1977. Upon review of monitored data and information regarding site location, EPA reaffirms the nonattainment designation.

One commenter recommended that the geographic areas for the TSP nonattainment designations be made smaller than entire townships within major metropolitan areas such as the city of Chicago. The commenter recommended the utilization of specific street boundaries for smaller areas of nonattainment. The commenter did not provide sufficient support for revising the nonattainment boundaries as suggested. Therefore, EPA reaffirms the nonattainment designations within the city of Chicago.

One commenter noted that seven townships in south Chicago are listed as exceeding the primary TSP standards when there are many monitoring sites located in south Chicago which meet the primary TSP standards. Upon review of the 1977 monitoring data from the monitoring sites mentioned by the commenter, EPA reaffirms the nonattainment designations.

Sulfur Dioxide (SO_2)

One commenter indicated that a copy of a preliminary air quality modeling study was not available for review and that comment on the nonattainment designation for the Peoria major metropolitan area was thereby hindered. The commenter also questioned the modeling results used to support this designation, specifically the emissions inventory used in the modeling. The above-mentioned draft report was made available to the commenter by the State EPA in May. Before that time commenter was afforded information available for commenting on the designation status of Peoria. EPA approved the State's recommended designation after review of the emission inventory used in the modeling which supported the designation. Therefore, the nonattainment designation for the Peoria metropolitan area is supported by the evidence. Upon the finalization of a detailed modeling study for the Peoria area and obtaining additional monitoring results, the State may request a redesignation to attainment status, if justified.

One commenter questioned the unclassifiable designation for Capital Township, Sangamon County, in view of the fact that sulfur dioxide has been monitored for four years without a violation of the NAAQS. The unclassifiable designation for Capital Township is justified in that dispersion modeling shows the potential for violations of the NAAQS in several townships within Sangamon County, while the State of Illinois determined that there was not enough evidence to support a nonattainment designation. Therefore, EPA reaffirms the current unclassifiable designation.

The State of Illinois commented that Leepertown Township, Bureau County, should be designated attainment for primary and secondary SO_2 NAAQS and Shelby Township, Bureau County, should be designated unclassifiable due to error in the location of a monitoring site. EPA supports the State of Illinois designation changes. Therefore, Leepertown Township is designated attainment and Selby Township is designated unclassifiable.

Carbon Monoxide (CO)

One commenter questioned the unclassifiable designation for Capital Township, Sangamon County, in view of the fact that carbon monoxide has been monitored for 4 years without a violation of the NAAQS. The unclassifiable designation for Capital Township is justified since transporation data indicated the potential for violation of the NAAQS within portions of the township, while the State of Illinois determined that there was not enough evidence to support a nonattainment designation. Therefore, EPA reaffirms the current unclassifiable designation.

One commenter questioned the designation of the nonattainment area boundaries within the Chicago major metropolitan area. The commenter recommended specific alternative boundaries, but provided no support for the redesignation. Repeated violations of the NAAQS at several locations within the designated nonattainment area support the current nonattainment designation. Traffic data and dispersion studies support the current nonattainment designations for expresssway areas located within the Chicago major metropolitan area. Therefore, EPA must retain the current nonattainment designations.

Nitrogen Dioxide (NO_2)

One commenter questioned the siting of the continuous air monitoring program (CAMP) monitoring station located in downtown Chicago and recommended specific alternative street boundaries for the nonattainment area. Upon review, EPA determined that the CAMP monitoring station is correctly sited. Further, the commenter did not provide sufficient technical data to support a redesignation. There were two monitoring sites located within the Chicago central business district which recorded violations of the NAAQS in 1977. Therefore, EPA confirms the current designation boundaries.

Photochemical Oxidants (Ozone)

One commenter questioned the location of a monitoring site and air quality data used to support a nonattainment designation for Capital Township. Review of the monitoring site location and air quality data confirmed numerous violations of the NAAQS in 1977 despite a conservative site location. Therefore, EPA reaffirms the current designation.

Indiana

The Agency received a total of 24 comments on designations in the State of Indiana. Also, the State of Indiana on June 12, 1978, petitioned the Agency under section 107(d)(5) of the Clean Air Act to revise the designations for several counties, in some cases revising its previous recommendations. Normally, the Agency's approval or disapproval of such a petition would be proposed as rulemaking and subsequently promulgated; however, since Indiana's petition was submitted in time to be reviewed along with all of the other comments on designations and since there is no prejudice to sources in areas where the designation is revised, the State's recommendations in the petition were reviewed and are discussed below in conjunction with all other comments on the same areas.

Total Suspended Particulates (TSP)

One commenter recommended that Vigo County be designated as an attainment area for suspended particulates. One commenter recommended revision of the geographic size of the TSP nonattainment area in Vigo County to include only the industrialized portions of the county. Similarly the State of Indiana recommended that the primary TSP nonattainment area be restricted to Harrison, Sugar Creek, Fayette, Otter Creek, Lost

Creek, and Honey Creek Townships. Since violations of the TSP NAAQS have been monitored in Vigo County, revision of the designation is not supported. However, the portion of the county recommended for nonattainment designation by the State of Indiana includes all areas of monitored violations as well as all significant point sources of particulate matter. EPA therefore concurs in the Indiana recommendations and has revised the geographic boundary of the TSP nonattainment area in Vigo County accordingly.

Two commenters, as well as the State of Indiana, recommended that the primary TSP nonattainment designation in St. Joseph County be reduced to secondary nonattainment and that the geographic boundary of the nonattainment area be changed to the industrialized portion of the county, including all areas of monitored violations. After reviewing the available technical data, USEPA concurs with these recommendations. The designation for St. Joseph County has been revised to secondary nonattainment for particulate matter for those areas of St. Joseph County east of Pine Road and north of Kern Road.

One commenter stated that fugitive dust may be a significant contributor to secondary particulate nonattainment in and around Kokomo, in Howard County and requested that USEPA reevaluate the area to determine the significance of the contribution of fugitive dust. An examination of the analysis of the high volume filters registering excursions of the secondary standard indicate that nonfugitive dust such as fly ash and carbonaceous material make up a significant portion of the particulate matter. Therefore, a revision of the designation for the secondary standard is not supported.

The State of Indiana recommended revising the boundaries of the secondary TSP nonattainment area in Howard County to Center and Howard Townships only. USEPA concurs and has redefined the boundaries of the nonattainment area accordingly.

Two commenters disputed the designation of Vanderburgh County as a secondary nonattainment area for TSP citing the transport of fugitive dust from outside the county as the primary source of nonattainment. A third commenter supported the nonattainment designation. The State of Indiana recommended revising the geographic boundary of the nonattainment area to Pidgeon Township only. An analysis of high volume filters from monitors in the Evansville area which measured violations of the secondary particulate standard indicated that while fugitive dust was present, a significant portion of the particulate matter was man made in origin. Therefore, a change in the designation is not supported. Since Pidgeon Township contains the city of Evansville's significant industrial point sources of particulate matter, EPA concurs with the State's recommendation and has redefined the boundaries of the nonattainment area accordingly.

One commenter objected to the designation of Floyd County as unclassifiable for TSP and recommended a classification of attainment. Upon review, EPA finds that there is not enough data to support either an attainment or nonattainment classification. Therefore, the TSP designation for Floyd County will remain unclassifiable.

The State of Indiana recommended that the following full county designations of TSP primary nonattainment be changed to subcounty designations: *Clark County* (to Silver Creek, Charlestown, Utica, and Jeffersonville Townships only); *Dearborn County* (to Lawrenceburg, Center, Manchester, and Hogan Townships only); *Lake County* (to the area bounded by a line running east along U.S. 30 between the Illinois State line and I-65, north on I-65 to the intersection of I-94, east along I-94 to Lake-Porter County line, north along the county line to Lake Michigan, and west along the lake shore to the Illinois State line); *Marion County* (to the entire county with the exception of Washington Township east of Fall Creek, and Franklin Township south and east of Five Points Road and Thompson Road); and *Wayne County* (to Webster, Boston, Center, and Wayne Townships only).

The State also recommended that the description of the primary TSP nonattainment designation for Dubois County (an area within a 10-mile radius of the center of Jasper) be changed to Bainbridge, Marion, and Patoka Townships; and that the secondary TSP nonattainment area for La Porte County (as area within a 10-mile radius of the city of La Porte sampling site) be changed to primary nonattainment in Center, Scipco, Kankakee, New Durham, and Pleasant Townships, and the area north and west of Interstate 94. USEPA concurs in these recommendations and has revised the designations accordingly.

Sulfur Dioxide (SO_2)

Ten commenters requested revisions to the size of the sulfur dioxide (SO_2) primary nonattainment area in Lake County. With the exception of the State of Indiana, each commenter recommended that the city where the commenter was located be excluded from the nonattainment area, for the following reasons: Relatively few monitors within the area registered violations of the SO_2 national ambient air quality standards (NAAQS) and most of the heavy industry in the area was not responsible for the violations which were monitored. Commenters generally believed that sources unfairly placed within the nonattainment area would suffer potentially serious adverse impacts due to restrictions on economic growth and unnecessarily restrictive emission limitations.

The northern portion of Lake County, Ind., is heavily industrialized with a significant number of large SO_2 emission sources and relatively few continuous SO_2 monitors in operation. Despite the scarcity of the monitors, violations of the standard have been monitored. For this reason, the area must remain in nonattainment area for SO_2. Also, the impact of the designation need not be adverse to emission sources not causing or contributing to violations of the standard as explained in more detail in the national EPA rulemaking.

The State of Indiana comment recommended redescription of the southern boundary of the Lake County nonattainment area (currently U.S. 30 between the Illinois State line and the Porter County line) to U.S. 30 east from the Illinois State line to the intersection of U.S. 30 and I-65, north along I-65 to the intersection of I-65 and I-94, and east along I-94 to the Porter County line. The area recommended by the State of Indiana encompasses all significant emission sources and is therefore acceptable. The southern boundary of the Lake County nonattainment area for SO_2 is revised as noted above.

Two commentors recommended that the designation for Porter County be changed from partial nonattainment for SO_2 to attainment for the full county. The State of Indiana recommended that the nonattainment area (the area bounded by Lake Michigan on the north, by the Lake-Porter County line on the west, by I-80-90 on the south, and by the La Porte-Porter County line on the east) be redesignated as unclassifiable. On June 12, 1978, the State of Indiana petitioned EPA under 107(d)(5) of the Clean Air Act, to revise the Porter County designation from attainment in part to attainment for the entire county. In all cases commenters noted that the original designation was based on computer dispersion modeling utilizing the urban version of the RAM model, rather than on monitored violations of the SO_2 air quality standards. All commenters indicated that the rural version of the RAM model would be more appropriate for use in Porter County.

Upon evaluation, EPA concurred in that assessment and the Indiana Division of Air Pollution Control remodeled Porter County utilizing the rural

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version of RAM. While the results of the rural RAM model showed no predicted violations of the primary or secondary NAAQS for SO_2, EPA noted certain technical deficiencies in the modeling. The modeling performed by Indiana did not utilize maximum allowable emission rates in determining whether there would be attainment of the 3-hour and 24-hour SO_2 standards, and background concentrations of SO_2 were not adequately considered. For the above reasons, we cannot concur that the State's rural RAM modeling of Porter County demonstrates attainment of the SO_2 NAAQS, however, that portion of Porter County designated as nonattainment in the March 3 promulgation will be redesignated as unclassifiable. The remainder of Porter County will remain attainment.

One commenter recommended that the portion of La Porte County designated as primary and secondary nonattainment for sulfur dioxide be reclassified as attainment. The State of Indiana recommended that Center, Scipio, Kankakee, New Durham, and Pleasant Townships and the area north and west of I-94 be redesignated as unclassifiable. On June 12, 1978, the State of Indiana formally petitioned under 107(d)(5) of the Clean Air Act for a redesignation of La Porte County from nonattainment in part to attainment for the entire county. There have been measured violations of the SO_2 NAAQS in the nonattainment portion of La Porte County and additionally, the rural RAM analysis of northern Porter County conducted by the Indiana DAPC predicted nonattainment. For the above reasons revision of the designation is not supported at the present time.

One commenter recommended reclassifying Wayne County from primary nonattainment of the SO_2 standard to unclassifiable stating that during at least one excursion, the company's electrostatic precipitators were out of service. The State of Indiana recommended changing the boundaries of the nonattainment area from the full county, to Webster, Boston, Center, Franklin, and Wayne Townships only. The State's recommendation was formalized in the June 12, 1978, 107(d)(5) petition. Since electrostatic precipitators are control devices used primarily for particulate control, their breakdown would be expected to have a negligible effect on SO_2. Moreover, of the three monitored excursions of the SO_2 standard, only one occurred during a period of precipitator malfunction. Therefore the evidence supports the nonattainment designation for Wayne County, however, the recommendation of the State of Indiana to revise the geographic boundaries of the primary nonattainment area is accepted since all major sources and their areas of major impact are included in the area designated.

Four commenters recommended redesignation of Marion County from nonattainment for primary and secondary SO_2 standards to unclassifiable. Commenters challenged the validity of the monitored data which demonstrated violations of the 24-hour primary SO_2 standard and the accuracy and validity of dispersion models which predicted violations of the annual and short-term primary SO_2 standards. Upon evaluation, EPA finds that the monitored data is valid and the dispersion modeling done for Marion County used an accepted model (CDM), which predicted annual violations of the SO_2 standard. These results have been supplemented by urban RAM runs which predicted short-term violations of the SO_2 standard. The overwhelming weight of evidence supports primary SO_2 nonattainment in Marion County and that designation will remain unchanged. Since secondary violations have been neither monitored nor predicted by dispersion modeling, Marion County is being reclassified as attainment for the secondary SO_2 standard.

One commenter recommended redesignation of Vigo County from primary SO_2 nonattainment to attainment. The commenter submitted a dispersion modeling report as evidence of attainment. The State of Indiana submitted the same report with a recommendation that Vigo County be changed from primary nonattainment to unclassifiable. This recommendation was formalized in the State's June 12, 1978, petition. The modeling report disputed the appropriateness of the urban RAM model in Vigo County, recommending in its place a modified version of rural RAM. The Agency reviewed the modeling report and determined that it does not meet the Agency's modeling standards. Computer dispersion studies using acceptable modeling procedures have predicted primary SO_2 standard violations. Therefore, revision of the designation is not supported at this time.

One commenter recommended that the designation of Gibson County be revised from unclassifiable for SO_2 to attainment. The State of Indiana also requested redesignation of Gibson County from unclassifiable to attainment in its June 12, 1978, petition. The commenter submitted a modeling study of Gibson County, indicating attainment of SO_2 standards. However, a previous USEPA modeling analysis of air quality in Gibson County indicated a potential for violations of the SO_2 NAAQS. Due to the number of unanswered questions concerning air quality in Gibson County, the designation for Gibson County should remain unclassifiable.

On June 12, 1978, the State of Indiana also petitioned that Jefferson County be redesignated from unclassifiable for SO_2 to attainment. A dispersion modeling study was submitted in support of the petition. A dispersion modeling study submitted by the State to region V, USEPA, indicated violations of the secondary standard. Region V is currently preparing an anayisis of Jefferson County to resolve the discrepancies between these two studies. Until that anayisis is completed, the SO_2 designation for Jefferson County will remain unclassifiable for the primary standard, and will be revised to nonattainment for the secondary standard.

Photochemical Oxidants (Ozone)

One commenter stated that the designation of Floyd County as nonattainment for the photochemical oxidant standard was based "solely on its proximity to probable nonattainment areas" and therefore is inappropriate. Since violations of the oxidant standard have been monitored in New Albany (located in Floyd County), this designation is clearly supported by the evidence and will not be revised.

Two commenters stated that designating Vanderburgh County as nonattainment for photochemical oxidants was arbitrary, would serve no practical purpose, was counter to congressional intent, and should not be undertaken until it is determined whether the national ambient air quality standard for oxidants will be revised. Air quality values in excess of the photochemical oxidant standard have been monitored in Vanderburgh County for the past 3 years. Even if USEPA revises the standard as proposed, Vanderburgh County would still experience violations of the standard. The Clean Air Act clearly states that the purpose of the designation process is to identify areas where public health related air pollution standards are being violated. Therefore, the designation of Vanderburgh County will remain as nonattainment for photochemical oxidants.

One commenter recommended that the oxidant nonattainment area designation for St. Joseph County be limited to the urbanized area. The county was classified as nonattainment because the South Bend urbanized area has a population greater than 200,000. Subsequent air quality measurements in South Bend has resulted in the monitoring of numerous violations of the NAAQS for oxidants. Limiting the designation to the urbanized area would not be consistent with the physical nature of oxidant formation and transport. Additionally, a large portion of the South Bend urbanized area is Elkhart County. The omission of Elkhart County from the list of counties not attaining the oxidant standard

in the March 3, 1978, FEDERAL REGISTER (43 FR 8962) was an error which has been corrected in this action. Therefore, St. Joseph and Elkhart Counties are designated as nonattainment for photochemical oxidants.

One commenter stated that designating Porter County as nonattainment for oxidants was a misapplication of USEPA policy. The nonattainment designation of Porter County was based on the fact that portions of Porter County are part of the Chicago-northwest Indiana urbanized area. To declare solely the urbanized area as nonattainment would be inconsistent with the physical nature of ozone formation and transport. Therefore, nonattainment designation of Porter County will remain in effect.

One commenter stated that Marion County should be designated unclassifiable for oxidants until a number of questions concerning control strategies have been answered. The designation of Marion County was based on monitored violations of the air quality standard. Issues relating to the effectiveness of a control strategy are not relevant to the designation which is a description of air quality. Therefore Marion County should remain nonattainment for photochemical oxidants.

Carbon Monoxide (CO)

One commenter recommended that the portion of downtown Indianapolis designated as nonattainment for the carbon monoxide standard should be redesignated unclassifiable since the monitor in question is "unduly influenced" by exhaust from buses. This monitor has been sited according to national monitoring guidelines and has been quality assured. The data is therefore accurate and valid. Furthermore, the influence of the buses in generating high ambient levels of carbon monoxide should be considered in development of a control stategy. Therefore, the designation is supported by the data and is not being revised.

Michigan

The Michigan Department of Natural Resources (MDNR) submitted a list to typographical errors found in the March 3, 1978 publication. These corrections are being made today.

Total Suspended Particulates (TSP)

Branch County

Originally, this area had been erroneously designated "nonattainment" for secondary particulate standards instead of "unclassifiable". MDNR submitted monitoring data which indicates that the particulate standards have been attained in the area. EPA has reviewed this new data and has determined that redesignation to "attainment" for particulate standards is appropriate for Branch County.

Sulfur Dioxide (SO_2)

Ingham County

MDNR suggested that the nonattainment area for SO_2 be the subcounty area defined in the State draft designation document. In view of the State's dispersion modeling and monitoring support, EPA will amend the designation to include only the subcounty area proposed by the State.

Midland County

A subcounty designation by MDNR is being accepted by EPA for the same reason set forth in the Ingham County comment.

L. W. Pribila, on behalf of Dow Chemical U.S.A., objected to designation of any part of Midland County as nonattainment for sulfur dioxide standards primarily because current air monitoring data indicates all SO_2 standards are being achieved. Such achievement is attributed to utilization of a supplemental or intermittent control system (SCS) by Dow Chemical, the principal source of SO_2 in the Midland County area. The air quality report prepared by Michigan in 1974 showed 15 monitored violations of the sulfur dioxide 24-hour primary (health-related) standard at the Abbott Road site in Midland, Mich., near the Dow Chemical plant. The same site also recorded violations of the 3-hour secondary (welfare-related) standard.

In 1975, no violations were recorded at the Abbott Road site according to the air quality report published by Michigan. However, excursions (nonviolation exceedences of standards) of both the 24-hour and 3-hour standards were recorded at the Dow Corning lot site on Saginaw Road and, in 8 months of monitoring, two violations of the 24-hour standard in addition to an excursion of the 3-hour standard were recorded at the Dow Biochem building site on Austin Street.

In 1976, the Michigan air quality report showed an excursion of the 24-hour standard at both the Dow Corning and Abbott Road sites, and an excursion of the 3-hour standard at the Austin Street site. Subsequent air quality data reported to EPA indicate no violations of SO_2 standards occurring in the Midland area.

On May 7, 1974, Dow Chemical and the Michigan Air Pollution Control Commission entered into a consent order (No. 12-73-05) which exempted Dow from meeting SO_2 emission limitations in the applicable Michigan rule provided Dow installed an intermittent control system (ICS), a dispersion technique which limits emissions during times when violations of air quality standards would otherwise occur because of meteorological conditions. Dow's choice of permanent controls was a reliance on a nuclear powerplant to be constructed by the Consumers Power Co. By July 1, 1975, the ICS at Dow was operational (statement of Mr. L. Pribila at EPA sec. 113 Enforcement Conference, Feb. 4, 1977, p. 13 transcript) and, as indicated above, fairly successful in preventing violations of the standards.

The Clean Air Act requires use of continous emission reduction technology to attain and maintain national standards.[1] A dispersion technique may not be used to reduce the amount of constant emission controls required to attain and maintain standards, unless the dispersion technique was implemented prior to December 31, 1970.[2] Accordingly, in view of the air quality violations in 1974 and 1975 and the admission by the principal source of SO_2 in the area (Dow Chemical Co.) that an intermittent control system was being utilized to prevent current violations of air quality standards, EPA concluded that the county of Midland was required to be designated nonattainment for the sulfur dioxide standard.

Neither the comment by Dow nor any of the air quality data analyzed prior to implementation of the Dow ICS indicate that SO_2 standards are being achieved in Midland County solely by constant emission controls. In fact, there is no evidence of any constant SO_2 emission control at the Dow plant. Because no new information has been presented which would provide a basis for changing the nonattainment designation, it is retained for the subcounty area in which Dow is located.

Minnesota

Total Suspended Particulates (TSP)

Mesabi Iron Range—Itasca and St. Louis Counties

Several commenters objected to designation of the 100-mile strip constituting the Mesabi Iron Range (portions of Itasca and St. Louis Counties) as a notattainment area for secondary particulate standards because the monitored air quality data relied on in making the designation represented conditions in a very limited portion of this vast area.

In designating certain townships and ranges nonattainment, Minnesota Pollution Control Agency (MPCA) analyzed data from 8 State monitoring sites and 36 industrial sites. Taking the most conservative position in

[1] Secs. 110(a)(2)(B) and 302(k), 42 U.S.C. 7410(a)(2)(B) and 7602(k).

[2] Sec. 123(a), 42 U.S.C. 7423(a). See discussion in the national rulemaking package of Sept. 11, 1978, 43 FR 40414.

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terms of protecting the welfare of this area, MPCA determined to designate the entire range nonattainment based on available data recognizing that pockets of attainment could exist within the area and that appropriate changes would be made when sufficient data became available. Based on a review of the monitored 24-hour particulate standard violations, EPA concurred in this determination.

Two companies, Erie Mining Co. and Hanna Mining Co. submitted extensive modeling data in support of their requests for redesignation of certain townships in the designated area. Based on an analysis of this data, MPCA has recommended certain changes in the designation of the Mesabi Range. EPA has reviewed these recommendations and concurs as more fully discussed in a background document for section 107 designations in Minnesota which is available in the regional office.

U.S. Steel also objected to designation of the central portion of the Mesabi Iron Range as nonattaainment particularly because they claimed the closest monitor could not accurately represent the air quality surrounding U.S. Steel facilities. However, the commenter failed to specify which particular townships should be redesignated and to submit data in support of any proposed redesignations. Accordingly, EPA and MPCA have no basis for altering the designation.

U.S. Steel also complained about the location of the monitors closest to their facility. The sites in Virginia and Mount Iron were inspected by EPA in 1976 and found to be situated such that they would not be affected by fugitive sources which could lead to exaggerated levels.

Typographical errors in the legal descriptions published on March 3, 1978, are being corrected today. In reassessing available data, EPA determined that the violation at industrial site 07 was not caused by fugitive dust. Therefore, the nonattainment boundary has been extended to include T56N, R18W, the location of this monitor.

As part of its analysis of the air quality problem along the Mesabi Range, MPCA has contracted with Midwest Research Institute for a detailed study which may lead to further redesignations.

Photochemical Oxidants (Ozone)

St. Louis, Sherburne, Carlton, Lake, and Olmstead Counties

Two comments were received with objections to designation of the above counties as nonattainment areas for photochemical oxidants. Concern with imposition of the offset policy over a wide area was expressed.

The nonattainment designations in these counties were based on monitored violations therein. If the State would submit attainment determinations for subcounty areas along with adequate justification, EPA would evaluate such a submission. Until such time, the nonattainment designations are retained. The ramifications of the nonattainment designation are discussed more fully in the supplementary information section of the EPA national promulgation.

Ohio

The Agency received a total of 20 comments on designations in the State of Ohio, most regarding more than one geographic location and pollutant.

Sulfur Dioxide Designations

Some comments requested an attainment designation for SO_2 everywhere in Ohio, despite the fact that the standard is now violated in several areas, because the current EPA-promulgated SIP provides for emission reductions that are projected to result in attainment by the attainment date in the SIP. However, the Act requires a nonattainment designation for all areas that violate a standard, regardless of whether implementation of the existing SIP is projected to result in attainment before the attainment date in the SIP.

As explained more fully in the EPA national promulgation, projected future violations of a standard may provide the basis for a nonattainment designation in currently clean areas. However, the reverse is not true: Projected future attainment may not provide the basis for an attainment designation in currently dirty areas. The reason is that sections 171(2), 172, and 107(d)(1) (A) through (C) establish two alternative criteria for designating an area as nonattainment. Any area that currently violates the standard is to be designated as nonattainment, and any area where in the State's judgment the primary standard for SO_2 or TSP may not be maintained may also be designated as nonattainment. Regardless of whether the standard may be attained in the future, an area that currently violates the standard satisfies the first statutory criterion and must therefore be designated as nonattainment. The attainment designation will continue to apply until the State demonstrates that the air quality standards are no longer violated.

Applying a nonattainment designation regardless of projected future attainment is required by both the legislative history and the purposes of the Act. Both the House and Senate bills considered in 1977 would have applied nonattainment requirements to all areas with violations, regardless of projected future attainment.[3] When the nonattainment provisions of these bills were amalgamated to form the bill eventually enacted, the application of nonattainment designation to all areas that violate the standards was retained.

Furthermore applying a nonattainment designation to dirty areas where future attainment is projected will further the purposes of the Act. Even if emission reductions under the current SIP would be sufficient, if fully implemented, to provide for attainment, a nonattainment designation is essential, to satisfy the requirements in sections 171–173 of the Act insuring that the necessary emission reductions are actually achieved, calling for reasonable further progress prior to attainment, and imposing stringent conditions on new construction. And even aside from these regulatory requirements, a nonattainment designation should apply to identify for the public every area with an existing air quality problem in violation of the standards.

Many comments received questioned the basis for the SO_2 designations in Ohio. The SO_2 designations are supported by available monitoring as well as the modeling analysis performed by EPA in the development of the federally promulgated SO_2 regulations. This modeling analysis has been extensively documented in several support documents and has been upheld as an appropriate tool for setting source specific emission limitations as the result of litigation on the regulations. Section 171 of the Clean Air Act defines nonattainment area as an "• • • area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator to be reliable) to exceed any national ambient air quality standard for such pollutant." Thus air quality modeling is specifically authorized as a basis for determining whether an area is attaining the standards. The Agency has determined that where air quality modeling results are available, such results will be used to determine the designation, taking precedence over air quality monitoring data which is usually not sufficiently comprehensive to cover any given area. Therefore, EPA designated most of the SO_2 nonattainment areas in Ohio based upon its modeling analyses.

Several commenters suggested that the boundaries of the SO_2 nonattainment areas be revised to restrict the nonattainment designation to an area smaller than the entire county. EPA has reviewed the designations and reduced the size of the nonattainment areas where supportable along easily recognizable political and geographical lines.

[3] Proposed sec. 127(c)(2)(A) of the Act, in report to accompany H.R. 6161, H.R. Rept. No 95-294, 95th Cong., 1st Sess. 389 (May 12, 1977); proposed secs. 110(a)(3)(A) and 113(g)(1) of the Act, in report to accompany S. 252, S. Rep. No. 95-127, 95th Cong., 1st Sess. 146, 169 (May 10, 1977).

Comments

One commenter, Cincinnati Gas & Electric Co. (CGE), objected to the SO_2 and TSP nonattainment designations for Clermont and Hamilton Counties. Specifically, CGE commented as follows:

1. Pierce Township, Clermont County, should be designated attainment for the TSP secondary standard.
2. Miami Township, Hamilton County, should be designated attainment for the TSP secondary standard.
3. Clermont and Hamilton Counties should be designated attainment for the SO_2 primary standard.

Clermont County TSP

Based upon monitoring data, EPA must reaffirm its nonattainment designation for Pierce Township, Clermont County, for the TSP secondary standard. Also, based upon the location of the monitor showing violations of the secondary 24-hour TSP standard, EPA must additionally designate Batavia Township as nonattainment for the TSP secondary standard. A monitor site (SAROAD site 007) located at 297 Main Street, Hamilton, Ohio, registered four exceedances of the secondary TSP standard in 1977. This monitor is located near the border of Batavia and Pierce Townships.

Hamilton County TSP

Based upon monitoring data, EPA must reaffirm its secondary TSP nonattainment designation of Miami Township, Hamilton County. The monitoring data submitted by CGE clearly shows violations of the secondary TSP standard at sites C and D and Dugan Gap.

Clermont and Hamilton SO_2

EPA must reaffirm the nonattainment designations for the SO_2 primary standard for Clermont and Hamilton Counties, based on EPA's modeling. However, the boundaries of the nonattainment areas have been revised. Reviewing CGE's own monitoring data for site B, Clermont County, shows one excursion of the short-term standard and violations of the primary SO_2 standard at both sites C and D, Hamilton County, during 1977.

Comment

One commenter, U.S. Steel (USS), made several comments regarding the SO_2 designation for Lorain County. Specifically, USS comments:

1. Lorain County should be designated attainment for SO_2 based upon the monitoring and modeling done by Ohio EPA.
2. Subcounty designations should be made for SO_2.
3. The data base in EPA's SO_2 modeling analysis was in error. USS is remodeling Lorain County and so far it indicates attainment.

The SO_2 nonattainment designation for Lorain County is based upon the modeling analysis performed by EPA in the development of the federally promulgated SO_2 regulations in Ohio. EPA must reaffirm the nonattainment designation for SO_2 in Lorain County but has reduced the size of the nonattainment area. The nonattainment area as listed in the Ohio SO_2 attainment status table below now includes Lorain County north of Route 80 and the city of Elyria.

USS cited several significant errors in EPA's data base which USS alleges caused inaccurate modeling results. EPA has agreed to a procedure to resolve the data questions including the remodeling of Lorain County by USS with an updated data base. However, until USS completes this modeling, there is no evidence to support an attainment status. Once USS submits its modeling results to EPA, a further analysis of the area's designation can be undertaken, and the designation changed if supported at that time.

Comment

One commenter, Dayton Power and Light (DPL), made the following objections to the nonattainment designations promulgated in the March 3, 1978 Federal Register:

1. DPL believes monitoring data indicates Montgomery County is attainment for SO_2 rather than nonattainment as it is designated. DPL objects to the use of "special models such as the RAM model" in the State of Ohio.
2. Subcounty designations for SO_2 should be made.
3. DPL indicates that the use of a double asterisk in the SO_2 designation list is in error.
4. 34 counties were omitted from the list of TSP designations in Ohio.

The nonattainment SO_2 designations for Montgomery County is supported by the modeling analysis performed by EPA in the development of the federally promulgated SO_2 regulations for Ohio. EPA did not single out the State of Ohio for the use of special models such as the RAM model but used modeling results whenever they were available. Therefore, EPA must reaffirm the nonattainment designation for Montgomery County, but has redefined the designation to a subcounty area. The double asterisk notation indicating that the Montgomery County designation was made by EPA because the State failed to submit its own recommendation is an error. The notation should have been one asterisk denoting an EPA change of the State recommendation. This is corrected in this publication. The omission of 34 counties from the TSP attainment status list was an error and is corrected in this publication.

Comment

One commenter, General Motors (GM), objected to the nonattainment designations for TSP in Defiance, Montgomery, Richland, and Erie Counties. Specifically, GM raised the following objections:

1. Defiance County should not have been designated nonattainment for the primary TSP standard because data indicates the excursions were caused by rural fugitive dust and the data from onsite monitors should not have been considered. GM believes the proper designation is nonattainment of the secondary TSP standard.
2. Kettering and Montgomery County should not have been designated nonattainment for the secondary TSP standard. GM believes the proper designation for the area surrounding its plant, Delco Products Division, is attainment.
3. Richland County should not have been designated nonattainment for primary TSP standard. GM believes subcounty designations should be made and that the proper designation for the area surrounding its plant, the Fisher Body—Mansfield plant, is attainment.
4. Erie County should be designated attainment for the primary TSP standard.

Defiance County

Based upon monitoring data, EPA must reaffirm its designation of Defiance County as primary TSP nonattainment area. However, based upon further data submitted by Ohio EPA, the nonattainment area for the primary TSP standard has been redefined as Richland Township not within the city of Defiance and the city of Defiance has been redesignated as nonattainment for the secondary TSP standard only. There is no support to show that violations indicated by onsite monitors are due to nonindustrial fugitive dust. Furthermore, onsite monitoring data is utilized by EPA if the data is quality assured, such as in this case.

Montgomery County

Based upon monitoring data and further information submitted by the Dayton Regional Air Pollution Control Agency, EPA has redefined the boundaries of the nonattainment areas for the TSP primary and secondary standard. The General Motors, Delco Products Division in Kettering is now in an attainment area.

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RICHLAND COUNTY

EPA must reaffirm its nonattainment designation of Richland County for the primary TSP standard. GM submitted monitoring data in support of their contention that the area surrounding their Fisher Body-Mansfield plant is attainment. However, the data submitted is not quality assured and therefore cannot be used in making the designation. Moreover, four of five Mansfield monitoring sites within the period of 1975–1977 showed violations of the primary annual TSP standard. The monitoring network in Richland County is not extensive enough to make subcounty designations.

ERIE COUNTY

EPA designated Erie County as nonattainment for the TSP primary standard. This appears to have been a clerical error. EPA has redesignated Erie County as nonattainment for the TSP secondary standard.

COMMENT

One commenter, Ohio Edison Co. (OEC), objected to the nonattainment designations made for Clark, Columbiana, and Trumbull Counties for TSP and for Columbiana, Lorain, Summit, and Trumbull Counties for SO_2.

Specifically, OEC commented as follows:

1. The secondary TSP nonattainment designation for Clark County, Springfield, west of Limestone Street should be attainment.

2. The secondary TSP nonattainment designation for the unincorporated areas of Weathersfield Township, Trumbull County should be attainment.

3. The primary TSP nonattainment designation for East Palestine, Columbiana County should be nonattainment for the secondary TSP standard only.

4. The primary SO_2 nonattainment designations for East Palestine in Columbiana County; Lorain County north of the Norfolk and Western Railroad tracks; Summit County north of Route 18; and the unincorporated areas of Weathersfield Township in Trumbull County should be attainment.

CLARK COUNTY TSP

Based upon monitoring data, EPA must reaffirm the nonattainment designation for the TSP secondary standard in Clark County. However, the nonattainment area has been redefined and the city of Springfield has been added to the nonattainment area. OEC submitted monitoring data to support their contention that the area west of Limestone Street is attainment. However, the data submitted was unsupported. No information was submitted as to the quality assurance procedures utilized and the data did not cover a full year. Additionally, key sampling days are missing for the Abattoir and Snyder Park sites which would have been likely to predict maximums. Therefore, EPA must reaffirm the nonattainment designation for the secondary TSP standard.

TRUMBULL COUNTY TSP

Based upon monitoring data, EPA must reaffirm the nonattainment designation for Weathersfield Township, Trumbull County for the secondary TSP standard. OEC submitted monitoring data to support their contention that the unincorporated area of Weathersfield Township, Trumbull County is attainment. However, this monitoring data supports the nonattainment designation for the secondary TSP standard. Ohio EPA concurs with this designation.

COLUMBIANA COUNTY TSP

Based upon monitoring data, EPA must reaffirm the nonattainment designation for the primary TSP standard for East Palestine, Columbiana County. The air quality monitor located in East Palestine shows a violation of the annual primary TSP standard in 1976. Therefore, the proper designation for East Palestine, Columbiana County is nonattainment for the primary TSP standard.

COLUMBIANA, LORAIN, SUMMIT, AND TRUMBULL COUNTIES SO_2

Based upon the modeling analysis performed by EPA in the development of the federally promulgated SO_2 regulations in Ohio, EPA must reaffirm the nonattainment designations for the primary SO_2 standard for Columbiana, Lorain, Summit, and Trumbull Counties. However, these nonattainment areas have been redefined on a subcounty basis.

COMMENT

One commenter, Republic Steel, made two separate comments during the public comment period. The first objected to the procedures followed by EPA in the promulgation of the nonattainment designations and the fact that no economic assessment was made. The second objected to the basis for the SO_2 designations, specifically objecting to EPA's overruling of Ohio EPA's recommendations which were based on monitoring data. Republic Steel therefore recommended that Cuyahoga, Stark, and Trumbull Counties be redesignated based upon monitoring data.

As to Republic Steel's comment that EPA failed to perform an environmental or economic assessment of these designations, there is no economic or environmental impact associated with the promulgation of the list of nonattainment areas. Therefore, there is no need at this time to conduct such an assessment. Environmental and economic impact will only result after the State revises its State implementation plan (SIP) to provide for attainment of the standards by December 31, 1982, and sets new emission limitations on sources. Further, EPA must reaffirm the SO_2 nonattainment designations for Cuyahoga and Stark Counties based upon EPA's modeling analysis. The nonattainment area in Trumbull County was based on monitored violations in the Youngstown-Campbell area. EPA has redefined the nonattainment areas on a subcounty basis.

COMMENT

One commenter, the Columbus and Southern Ohio Electric Co. (CSOE), objected to the designation of Coshocton County as nonattainment for the secondary TSP standard and to the designation of Athens, Coshocton, and Pickaway Counties as nonattainment for the primary SO_2 standard.

CSOE recommends that all these counties be designated as attainment based upon the following:

1. Modeling performed by CSOE indicates that the secondary TSP standard is not violated in Coshocton County and monitoring data confirms this finding.

2. Monitoring data collected by CSOE indicates that the primary SO_2 standard has been attained in Athens, Coshocton, and Pickaway Counties; the secondary SO_2 standard has been attained in Coshocton and Pickaway Counties; and the secondary SO_2 standard is exceeded in Athens County but modeling performed after the recent installation of a new 500-foot stack at the Poston Generating Station indicates that no violation of the secondary standard is expected to occur in the future.

Based upon additional monitoring data submitted by the Ohio EPA on April 12, 1978, EPA will reclassify Coshocton County as attainment for the TSP standard. However, based upon EPA's SO_2 modeling analysis, EPA must reaffirm the nonattainment designation of Athens, Coshocton, and Pickaway Counties for the primary SO_2 standard but has redefined the nonattainment areas as including only York Township in Athens County, Franklin Township in Coshocton County and Harrison Township in Pickaway County. CSOE contended that modeling performed since the new 500-foot stack at the Poston Generating Station in Athens County has been operational indicates no violation of the secondary SO_2 standard in the near future, even though previous monitoring results indicated exceedances of the secondary standard. No support was submitted to justify finding that this new stack is consistent with section 123 of the Clean Air Act which prohibits the use of any dispersion enhancement techniques to achieve attainment except in those cases where it can be demonstrated that downwash would occur. Therefore, the previous designation must remain.

COMMENT

Two commenters, the Goodyear Tire & Rubber Co. and the B. F. Goodrich Co., filed comments after the close of the comment period in response to the Agency's request for comments from companies challenging the designations under section 307 of the Clean Air Act.[4] The Agency made the request in order to clarify the issues and assess the potential for administrative resolution prior to continuing litigation. Both commenters challenge the Agency's use of its RAM modeling to support the primary SO_2 nonattainment designation for Summit County, Ohio. Specifically, the commenters contend as follows: (1) That since the Agency is remodeling Summit County, the old modeling results should not have been used to designate the area; (2) that the RAM modeling is not reliable; (3) that monitoring data alone should be used to support an attainment designation; (4) that the RAM modeling does not reflect actual air quality because it uses the maximum operating assumption; (5) that since commenters are participating in studies which evaluate RAM modeling, the use of RAM modeling should await the outcome of the studies.

In Summit County, the Agency's modeling demonstrated that the area was not attaining the primary SO_2 standards. While the Agency has recently remodeled the area in order to correct data base errors, the errors in the data base were not such that a change in attainment status was expected. A new regulation for Summit County will be proposed as rulemaking shortly supported by the remodeling which still shows that the area is not achieving standards and is therefore properly designated nonattainment. Second, the RAM model has been upheld by the U.S. Court of Appeals for the Sixth Circuit as a reasonable tool to use in setting source specific emission limitations. See *Cleveland Electric Illuminating Co.* v. *EPA*, 572 F. 2d 1150 (6th Cir. 1978). Since RAM modeling is a reasonable tool for setting emission limitations which directly impacts sources, it is reasonable to use it in designating nonattainment areas of the State, an action which has no immediate effect on sources, but merely triggers the State's evaluation of the areas for its nonattainment SIP. Third, given the availability of reliable modeling results, the modeling analysis takes precedence over the much less comprehensive monitoring data available. Fourth, as to the maximum operating assumption employed in RAM modeling, the assumption has also been specifically upheld by the sixth circuit as a reasonable input to the RAM modeling used to set emission limitations. It is an easily ascertainable figure which reflects the source's actual operation capability. Since it is reasonable to use the assumption in setting source specific emission limitations, it is also reasonable to employ it in designating nonattainment areas triggering the State's study of those areas.

Finally, because the designation is supported by the RAM modeling and because there is no immediate prejudice to sources stemming from the designation, it is not reasonable to delay designating Summit County as a nonattainment area until the commenters' studies have been completed. The Agency has evaluated the studies to date and will publish its preliminary comments in the technical support document accompanying the Summit County regulation which will be proposed as rulemaking shortly. Upon completion of the studies, further analysis of the designation may be made.

ADDITIONAL COMMENTS ON TOTAL SUSPENDED PARTICULATES (TSP)

One commenter requested the TSP nonattainment designation for Coshocton County be revised to attainment based on air quality data submitted. Based on further information submitted by Ohio EPA, as discussed in EPA's response to the Columbus & Southern Ohio Electric Co. comments above, Coshocton County will be redesignated as attainment.

One commenter stated that the boundary description for the Clark County nonattainment designation for the TSP secondary standard was incorrect. EPA has made these corrections. Additionally, upon further review of air monitoring data, EPA has determined that the nonattainment area for the secondary TSP standard in Clark County must also include the city of Springfield.

Two commenters pointed out that the EPA designation of Darke County as a TSP primary standard nonattainment area was a clerical error and should be secondary standard nonattainment on the same subcounty basis. Upon additional review of the monitoring data, EPA has redesignated Darke County as nonattainment for the TSP secondary standard. Minor wording changes for the purpose of clarification and spelling corrections were also made.

One commenter indicated Erie County should be nonattainment for the secondary TSP standards rather than the primary standard. This issue is addressed above in the discussion of the General Motors public comment. Erie County will be redesignated as nonattainment for the secondary TSP standard.

One commenter requested redefinition of the subcounty boundaries for the Greene County nonattainment designation for the secondary TSP standard. Upon further review, EPA has redefined the boundaries of Greene County nonattainment area.

One commenter objected to the Hamilton County nonattainment designation for TSP primary standard for areas other than Carthage, Corryville, City Center, Fairmount, Lockland, and St. Bernard. Upon further review of air quality data, EPA must reaffirm the primary TSP nonattainment designation for Hamilton County as it appeared in the March 3, 1978, FEDERAL REGISTER.

One commenter indicated certain areas in Lucas County were designated incorrectly for TSP based on air quality data. Specifically, the commenter argues:

1. Ottawa Hills should be designated as attainment for the primary and secondary TSP standards.

2. The city of Oregon should be designated as attainment for the secondary TSP standard.

Upon further review of monitoring data, EPA has redesignated Ottawa Hills and the city of Oregon as attainment for the primary and secondary air quality standards.

One commenter objected to the designation of Madison County as nonattainment for the secondary standards for TSP. Based upon further information submitted by the Ohio EPA, EPA will redesignate Madison County as attainment.

One commenter objected to the designation of Medina County as nonattainment for the TSP primary standards. Based upon air quality data submitted, the commenter believed the county should be nonattainment for secondary standard. The air quality data submitted supports the position that Medina County is nonattainment with respect to secondary TSP standard. Therefore, EPA will redesignate Medina County nonattainment for the secondary TSP standard.

One commenter objected to the city of Piqua in Miami County being designated as nonattainment for the primary TSP standard rather than the sec-

[4] Shell Oil Co., intervenor in the *Goodrich* case, filed a comment on September 1, 1978. Because it was filed so late, this comment has not been fully analyzed; however, it basically makes procedural and SO_2 modeling points treated elsewhere in this package.

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ondary standard. Upon further review, EPA reaffirms that the city of Piqua is nonattainment for the primary TSP standard.

One commenter requested a redefinition of the TSP primary and secondary nonattainment area boundaries for Montgomery County. Upon further review, EPA has redefined the boundaries of the TSP nonattainment areas.

One commenter submitted clarification of the nonattainment area boundaries for the TSP secondary standard in Preble County. EPA has corrected the designation in this publication.

One commenter objected to the Ross County nonattainment designation for the primary TSP standards. Based upon monitoring data, EPA reaffirms the nonattainment designation for the primary TSP standard.

ADDITIONAL COMMENTS ON SULFUR DIOXIDE (SO_2)

Five commenters objected to the manner in which the SO_2 designations were made in Ohio for Greene, Lucas, Mahoning, Montgomery, Stark, Summit, and Trumbull Counties. The support for the SO_2 designations is discussed above. The seven counties mentioned remain nonattainment based on EPA's modeling analysis and any available monitoring data. As a result of the public comments, EPA has redefined the SO_2 nonattainment areas on a subcounty basis.

COMMENTS ON CARBON MONOXIDE (CO)

One commenter indicated that Lucas County should be designated attainment for CO based on monitoring data. EPA reaffirms that the Lucas County area was properly designated as nonattainment with respect to CO, based on monitored violations occurring between October 1975 and January 1977 in Toledo at the 2927 Monroe Street monitoring site.

WISCONSIN

MADISON

John E. Knight of Boardman, Suhr, Curry, and Field, on behalf of Oscar Mayer & Co., Inc. objected to designation of a subcity area of Madison, Wis. as nonattainment for primary sulfur dioxide standards because: (1) The EPA did not follow the Wisconsin Department of Natural Resources' (DNR) determination that the area was unclassifiable; (2) air quality data relied on by EPA in making the designation was incomplete and unreliable; (3) the designation occurred more than 180 days after enactment of the 1977 Clean Air Act Amendments so the area should be unclassified; and (4) notice and opportunity to comment were not available to the public prior to final rulemaking contrary to EPA requirements.

The Administrator has determined that none of the objections presented provide an adequate basis for altering the subject designation because (1) EPA may change State designations; (2) EPA has determined the air quality data used is adequate for classification of the area as nonattainment; (3) the short delay in promulgation does not preclude nonattainment/attainment designations; (4) the public has been adequately involved subsequent to the rulemaking and no one has suffered any harm by the designation. For more complete discussion of this response see background document for Wisconsin Part 107 designations available in the region V office.

Other issues raised by commenters in response to the Madison designation included a concern that additional control needs, if any, be determined in an expeditious fashion. Any necessary new regulations are required to be submitted by January 1, 1979. Another commenter alleged that the SO_2 monitoring instruments were old and worn out so that they produced invalid data. The instruments used meet the minimum requirements of 40 CFR 51.17a, and the State found that the instruments were working properly at the time the two excursions were monitored.

The EPA has determined that the monitored air quality violations are adequate to provide a basis for overriding the State's designation of unclassifiable and designating the subcity of Madison as nonattainment for SO_2 under 107(d) of the Clean Air Act (42 U.S.C. 7407(d)). Accordingly, the designation made on March 3, 1978, is retained.

GREEN BAY

A general comment related to use of more than one year of air quality data in making the designations. Because of meteorological variations from year to year, EPA guidance to the states recommended analysis of two years' data to determine attainment of standards.

Comments received in response to the nonattainment for particulate designation included suggestions that the monitoring network was unreliable, that construction or a drought condition contributed to high TSP concentrations and that the designated area should be expanded to include a major particulate source. An EPA evaluation of the four Green Bay monitoring sites revealed that the sites were acceptable, conformed to siting guidelines and provided valid air quality data. The causes of nonattainment of standards will be appropriately addressed in the revised control strategy by the State agency, regardless of location or duration.

One commenter objected to the unclassifiable designation of the area for SO_2 standards inasmuch as violations of the SO_2 standards were recorded. Subsequent to the recorded violations, a major source of SO_2 emissions substantially reduced same. The unclassifiable designation simply permits the State to continue its monitoring for an additional period of time to determine whether the emission reductions permitted attainment of the standards.

Objection to the nonattainment designation of the area for oxidants was made because the causes of violations are unknown. The causes will be addressed in the revised control strategy.

The EPA has determined that the original designations based on State recommendations were properly made and, therefore, the nonattainment designations for particulate and oxidants and the unclassificable designation for SO_2 made on March 3, 1978, are retained.

NEENAH

Objection to designation of a subcity portion for nonattainment of secondary particulate standards is based on contentions that the violations were caused by fugitive dust rather than point sources. Also, the location of the monitor recording the 1977 violations is questioned.

As discussed above, the causes of nonattainment whether they be fugitive or stationary will be addressed in development of the revised control strategy.

EPA has determined that the original designation of a subcity portion of Neenah as nonattainment for secondary particulate standards based on the State recommendation was properly made and that the designation made March 3, 1978, should be retained.

BIRON

Consolidated Papers, Inc., objected to the unclassfiable designation of this area for primary and secondary standards of SO_2. After the violations were recorded in March of 1976, Consolidated Paper raised its stack height from 170' to 233' and increased the stack exit velocity. Because of these changes, Consolidated contends that the area should be designated attainment.

Section 123 of the Clean Air Act precludes EPA from designating an area as attainment unless no violations of the standards occur because proper control techniques have been used on major point sources which otherwise contribute to a violation. It may be that the stack height increase at Consolidated meets good engineering practice and is an acceptable means of meeting the standard. Until this determination is made, however, EPA must retain the unclassifiable designation made on March 3, 1978.

MANITOWOC

The subcity area should have been designated nonattainment for secondary particulate standards based on the State's recommendation. This is a technical correction to the March 3, 1978, designations.

MILWAUKEE

One commenter objected to designation of the Mitchell Field area as attainment for particulates since there were recorded violations of the secondary standard. EPA is revising the designation to nonattainment for secondary particulate standards for an area defined by the Wisconsin Bureau of Air Management.

The same commenter thought a recorded violation of the primary standard at 5132 West Lincoln should cause a nonattainment designation for primary standards. The State has advised that a major emitting source has ceased operations in the area since the violation was recorded. However, the area remains nonattainment for secondary standards which will insure that an appropriate analysis of the area's problems will be made.

The commenter also complained about the siting of the boundary between primary and secondary particulate nonattainment areas in the Menominee River Valley. Because these designations require further analysis of the problem areas, the exact boundaries are not significant. Present boundaries together with designation of the Mitchell Field area as nonattainment will insure analysis adequate to detect any trouble spots.

WAUWATOSA

One commenter objected to the attainment designation for particulate standards in this area because a monitor had recorded violations of the secondary standard. Because of the monitor's proximity to a now-completed construction project, the State concluded that the violation was a one-time occurrence and thus, the area should be designated attainment. Continued monitoring in this area should reveal whether this analysis is correct. Accordingly, EPA is retaining the attainment designation until further data has been collected.

MARINETTE

A commenter objected to the unclassifiable designation for particulate standards because of monitored violations of the secondary standard in this area. Because the monitor was improperly sited and because construction activities may have contributed to a temporary violation, the State determined that more air quality data was needed before a designation could be made. EPA concurred in this analysis and retains the unclassifiable designation until further data is available.

NOTE.—The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Secs. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)).)

Dated: September 26, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended by revising specific pollutant categories in specific sections of subpart C as follows:

Subpart C—Section 107 Attainment Status Designations

Section	State	Pollutant Category
81.314	Illinois	TSP
81.314	....do	SO_2
81.315	Indiana	TSP
81.315	....do	SO_2
81.315	....do	Ox
81.323	Michigan	TSP
81.323	....do	SO_2
81.323	....do	Ox
81.323	....do	CO
81.324	Minnesota	TSP
81.336	Ohio	TSP
81.336	....do	SO_2
81.336	....do	Ox
81.336	....do	CO
81.350	Wisconsin	TSP

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Subpart C—Section 107 Attainment Status Designations

§ 81.314 Illinois. Illinois - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Knox County				
Galesburg (City)		X		
All other twps.				X
Peoria County				
Kickapoo Twp.	X	X		
Limestone	X	X		
Medina		X		
Peoria	X	X		
Richwoods	X	X		
All other twps.				X
Tazewell County				
Cincinnati Twp.	X	X		
Pondulac	X	X		
Groveland	X	X		
Pekin	X	X		
Washington	X	X		
All other twps.				X
Fulton County				X
Hancock				X
Henderson				X
Mason				X
McDonough				X
Warren				X
Woodford				X
Lee				X
AQCR 66				
Coles County				X
McLean County				
Bloomington Twp.		X		
All other twps.				X
Vermillion County				X

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Winfield		X		
York		X		
All other twps.				X
Kankakee County				
Bourbonnais Twp.		X		
All other twps.				X
Kendall County				
Little Rock Twp.		X		
All other twps.				X
Lake County				
Waukegan		X		
All other twps.				X
Will County				
Crete Twp.		X		
DuPage	X	X		
Frankfort		X		
Joliet	X	X		
Lockport	X	X		
Monee		X		
New Lenox		X		
Plainfield		X		
Troy		X		
All other twps.				X
Grundy County				
Aux Sable Twp.			X	
Morris Twp.			X	
All other twps.				X
Kane County				X
McHenry County				X
AQCR 68				
Jo Daviess County				
East Galena Twp.		X		
Rawlins		X		
West Galena		X		
All other twps.				X

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Champaign County				X
Clark				X
Cumberland				X
DeWitt				X
Douglas				X
Edgar				X
Ford				X
Iroquois				X
Livingston				X
Moultrie				X
Piatt				X
Shelby				X
AQCR 67				
Cook County				
Calumet Twp.	X	X		
Hyde Park	X	X		
Jefferson		X		
Lake	X	X		
Lakeview		X		
North Town	X	X		
Rogers Park		X		
South Town	X	X		
West Town	X	X		
Bloom		X		
Bremen	X	X		
Cicero		X		
Elk Grove		X		
Lyons	X	X		
Maine		X		
Niles		X		
Orland	X	X		
Palatine		X		
Palos	X	X		
Proviso		X		
Rich		X		
Stickney	X	X		
Thornton	X	X		
Wheeling		X		
Worth	X	X		
All other twps.				X
DuPage County				
Addison Twp.	X	X		
Wayne		X		

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 69				
Rock Island County				
Blackhawk Twp.	X	X		
Coal Valley	X	X		
Hampton	X	X		
Moline	X	X		
South Moline	X	X		
South Rock Island	X	X		
Rock Island	X	X		
All other twps.				X
Whiteside County				
Coloma Twp.		X		
All other twps.				X
Carroll County				X
Henry				X
Mercer				X
AQCR 70				
Monroe County				
T.1S.-R.10W		X		
All other				X
Madison County				
Alton Twp.	X	X		
Chouteau	X	X		
Collinsville	X	X		
Godfrey	X	X		
Granite City	X	X		
Hamonki	X	X		
Venice	X	X		
Wood River	X	X		
All other twps.				X
St. Clair County				
Canteen Twp.	X	X		
Caseyville	X	X		
Centerville	X	X		
St. Clair	X	X		
Stites	X	X		
Stookey	X	X		
Sugar Loaf	X	X		

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
All other twps.				X
Bond County				X
Clinton				X
Randolph				X
Washington				X
AQCR 71				
Bureau County				
Shelby Twp.		X		
All other twps.				X
LaSalle County				
Dear Park	X			
LaSalle	X	X		
Ottawa		X		
South Ottawa		X		X
All other twps.				X
Putnam County				
Hennepin Twp.		X		
All other twps.				X
Lee County				X
Marshall County				X
Stark County				X
AQCR 72				
Pope County				
T. 14S-R.5E		X		
All other twps.				X
Massac County				
Metropolis Pct.		X		
Grant		X		
Washington		X		
All other pct.				X
Alexander County				X
Johnson				X
Pulaski				X

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Richland				X
Saline				X
Wabash				X
Wayne				X
White				X
AQCR 75				
Adams County				
Ellington Twp.		X		
Melrose		X		
Riverside		X		
All other twps.				X
Macon County				
Decatur Twp.	X			
Hickory Point		X		
Long Creek		X		
South Wheatland		X		
Whitmore		X		
All other twps.				X
Menard County				
Petersburg East Twp.		X		
Petersburg North		X		
Petersburg South		X		
All other twps.				
Sangamon County				
Capital Twp.	X	X		
All other twps.				X
Brown County				X
Calhoun				X
Cass				X
Christian				X
Greene				X
Jersey				X
Logan				X
Macoupin				X
Montgomery				X
Morgan				X
Pike				X

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Fulton				X
AQCR 73				
DeKalb County				
DeKalb Twp.		X		
All other twps.				X
Winnebago County				
Cherry Valley Twp.		X		
Owen		X		
Rockford		X		
All other twps.				X
Boone County				X
Ogle				X
Stephenson				X
AQCR 74				
Jefferson County				
Dodds Twp.		X		
Mt. Vernon		X		
Shiloh		X		
All other twps.				X
Williamson County				
East Marion Twp.		X		
West Marion		X		
All other twps.				X
Clay County				X
Crawford				X
Edwards				X
Effingham				X
Fayette				X
Franklin				X
Gallatin				X
Hamilton				X
Hardin				X
Jackson				X
Jasper				X
Lawrence				X
Marion				X
Perry				X

Illinois - TSP (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Schuyler				X
Scott				X

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Illinois - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Peoria County				
Hollis Twp.	X			
Limestone Twp.	X			
Medina Twp.	X			
Peoria Twp.	X			
Kickapoo Twp.	X			
Richwoods Twp.	X			
All other twps.				X
Tazewell County				
Cincinnati Twp.	X			
Elmgrove Twp.	X			
Groveland Twp.	X			
Pekin Twp.	X			
All other twps.				X
Fulton County				X
Hancock County				X
Henderson County				X
Knox County				X
McDonough County				X
Mason County				X
Warren County				X
Woodford County				X
Lee County				X
AQCR 66				
Champaign County				X
Clark County				X
Coles County				X
Cumberland County				X
DeWitt County				X
Douglas County				X
Edgar County				X
Ford County				X
Iroquois County				X
Livingston County				X
McLean County				X
Moultrie County				X
Piatt County				X
Shelby County				X
Vermilion County				X

Illinois - SO_2 (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
All other Madison Twps.				Y
Bond County				X
Clinton County				X
Monroe County				X
Randolph County				X
St. Clair County				X
Washington County				X
AQCR 71				
Bureau County				
Selby Twp.			X	
All other Bureau twps.				Y
LaSalle County				X
Lee County				X
Marshall County				X
Putnam County				X
Stark County				X
AQCR 72				
Massac County				
Crest Pct	X	X		
Metropolis Pct	X	X		
Millermen Pct	X	X		
All other Massac Cty Pc				X
Alexander County				X
Johnson County				X
Pope County				X
Pulaski County				X
Union County				X
AQCR 73				
Boone County				X
DeKalb County				X
Ogle County				X
Stephenson				X
Winnebago County				X

Illinois - SO_2 (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 67				
Cook County				
Bremen Twp.			X	
Calumet Twp.			X	
Thornton Twp.			X	
Worth Twp.			X	
All other Cook County twps.				X
Will County				
Channahon Twp.			X	
DuPage Twp.			X	
Joliet Twp.			X	
Lockport Twp.			X	
Troy Twp.			X	
All other Will County twps.				X
DuPage County				X
Grundy County				X
Kane County				X
Kankakee County				X
Kendall County				X
Lake County				X
McHenry County				X
AQCR 68				
Jo Daviess County				X
AQCR 69				
Carroll County				X
Henry County				X
Mercer County				X
Rock Island County				X
Whiteside County				X
AQCR 70				
Madison County				
Wood River Twp.			X	
Alton Twp.			X	

Illinois - SO_2 (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 74				
Clay County				Y
Crawford County				X
Edwards County				X
Effingham County				X
Fayette County				X
Franklin County				X
Gallatin County				X
Hamilton County				X
Hardin County				X
Jackson County				X
Jasper County				X
Jefferson County				X
Lawrence County				X
Marion County				X
Perry County				X
Richland County				X
Saline County				X
Wabash County				X
Wayne County				X
White County				X
Williamson County				X
AQCR 75				
Christian County				
South Fork Twp.			X	
All other twps.				X
Sangamon County				
Capital Twp.			X	
Cooper Twp.			X	
Cotton Hill Twp.			X	
Rochester Twp.			X	
Woodside Twp.			X	
All other twps.				X
Adams County				X
Brown County				X
Calhoun County				X
Cass County				X
Greene County				X
Jersey County				X
Logan County				X
Macon County				X

Illinois - SO_2 (Continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Macoupin County				X
Menard County				X
Montgomery County				X
Morgan County				X
Pike County				X
Schuyler County				X
Scott County				X

Indiana - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
intersection of I-65 then following I-65 to the intersection of I-94 then following I-94 to the Lake-Porter County line & on the east by the Lake-Porter County line.				
The remainder of Lake County				X
LaPorte County				
The area included in Center, Kankakee, New Durham, Pleasant and Scipco Townships & that area north and west of I-94	X			
The remainder of LaPorte County				X
Marion County				
The area of Washington Township east of Fall Creek and the area of Franklin Township south of Thompson Rd. & east of Five Points Rd.				X
The remainder of Marion County	X			
Porter County	X			
St. Joseph County				
The area north of Kern Rd. & east of Pine Rd.		X		
The remainder of St. Joseph County				X
Sullivan County			X*	
Tippecanoe County			X*	

*EPA designation replaces State designation

§ 81.315 Indiana.

Indiana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Indiana Counties				
Clark County				
The area included in Charlestown, Jeffersonville, Silver Creek & Utica Townships	X			
The remainder of Clark County				X
Dearborn County				
The area included in Center, Hogan, Lawrenceburg & Manchester Townships	X			
The remainder of Dearborn County				X
Dubois County				
The area included in Bainbridge, Marion & Patoka Townships	X			
The remainder of Dubois County				X
Floyd County			X	
Howard County				
The area included within Center & Howard Townships		X		
The remainder of Howard County				X
Lake County				
An area bounded on the north by Lake Michigan, on the west by the Indiana-Illinois State line, on the south by U.S. 30 from the State line to the	X			

Indiana - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Vanderburgh County				
The area included in the City of Evansville & Pidgeon Township		X		
The remainder of Vanderburgh County				X
Vigo County				
The area included within Harrison, Honey Creek, Fayette, Lost Creek, Otter Creek & Sugar Creek Townships	X			
The remainder of Vigo County				X
Wayne County				
The area included within Boston, Center, Wayne and Webster Townships	X			
The remainder of Wayne County				X
All portions of all other counties in Indiana				X

X* EPA designation replaces State designation

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Indiana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Dearborn County			x	
Gibson County			x*	
Jefferson County			x*	
Lake County				
An area bounded on the north by Lake Michigan, on the west by the Indiana-Illinois State line, on the south by U.S.30 from the State line to the intersection of I-65 then following I-65 to the intersection of I-94 then following I-94 to the Lake-Porter County line, & on the east by the Lake-Porter County line.	x			
The remainder of Lake County				x
LaPorte County				
An area bound on the north by Lake Michigan & the Indiana-Michigan State line, on the west by the LaPorte-Porter County line & on the south & east by I-94	x	x		
The remainder of LaPorte County				x
Marion County	x			
Porter County				
An area bound on the north by Lake Michigan, on the west by the Lake-Porter County line, on the south by I-80 & 90 & on the east by the LaPorte-Porter County line			x	

*EPA designation replaces State designation

Indiana - O_3

Designated Area*	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Allen County	x*	
Clark County	x*	
Elkhart County	x*	
Floyd County	x	
Lake County	x	
Marion County	x	
Porter County	x*	
St. Joseph County	x*	
Vanderburgh County	x	
All portions of all other Indiana counties		x

a* EPA designations replace State designations.

Indiana - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The remainder of Porter Co.				x
Vigo County	x			
Warrick County			x*	
Wayne County				
The area included within Boston, Center, Franklin, Wayne & Webster Townships	x			
The remainder of Wayne County				x
All portions of all other Indiana Counties				x

a* EPA designations replace State designations

§ 81.323 Michigan.

Michigan - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan Portion) Except subareas defined by range and township numbers:				x
1. Berrien County R18W, T4S, Sections 7, 8, 17-20, 29, 30 R19W, T4S, Sections 13-14 & 23-27		x		
AQCR 122 Except subareas defined:				x
1. Bay County R5E, T14N, Sections 14-16 & 21-23		x		
2. Genesee County a. Starting at intersection of Stewart Av. and E. Saginaw St. then E. along Stewart Av. to Dort Highway to Franklin Av. to Hamilton Av. to Saginaw St. to Stewart Av.	x*			
b. Starting at intersection of Carpenter Rd. and DuPont St. then E. on Carpenter Rd. to Center Rd. then S. to M-21 then W. to I-475 to Bristol Rd. then W. to I-75 then N. to Corunna Rd (M-36) then E. to Flint city limits then N. to Pasadena Av. then E. to DuPont St. to Carpenter Rd.		x*		

*EPA designation replaces State designation

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
3. Kent County R11W, T7N, Sections 19, 30, 31 R12W, T7N, Sections 22-27 & 34-36		x		
4. Wasen County R18W, T18N, Sections 13, 14, 23 & 24		x		
5. Midland County R2E, T14N, Sections 14-16, 21-23, 26-28 & 33-35		x		
6. Muskegon County R16W, T9N, Sections 5 & 6, R16W, T10N Sections 21, 22 & 27-34		x		
7. Saginaw County a. R4E, T21N, Sections 1, 12-15, 22-27 & 34-36 R5E, T12N, Sections 4-6, 9, 16, 19-21 & 28-33		x		
b. R5E, T12N, Sections 7, 8, 17 & 18	x			
AQCR 123 Except subareas defined:				x
1. Macomb County a. R14E, T4N, Sections 27, 28, 33, & 34		x		
b. All of County South of 20 Mile Rd.		x		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
b. Area included within: Lake St. Clair-Moross Rd. to 7 Mile Rd. to Van Dyke Rd. to 8 Mile Rd. to Wyoming Rd. to 7 Mile Rd. to Schaefer Rd. to Fenkell Rd. to Greenfield Av. to Joy Rd. to Southfield Expressway to Ford Rd. to Telegraph Rd. to Cherry Hill Rd. to Beech-Daly Rd extended to Michigan Av. to Inkster Rd. to Carlysle St. to Middle Belt Rd. to Van Born Rd. to Wayne Rd. to Pennsylvania Rd. to Middle Belt Rd. to Sibley Rd. to Telegraph Rd. to King Rd. to Grange Rd. to Sibley Rd. to Jefferson Av. to Bridge St. (Grosse Ile) extended to Detroit River.	x			
AQCR 124 (Michigan Portion) Except subareas defined by following townships:				x
1. Monroe County Exeter, Ash, Berlin, Raisinville, Monroe & Frenchtown Townships including all incorporated municipalities.		x		
AQCR 125				x
Except subareas defined:				
1. Calhoun County R4W, T2S, Section 34	x			
2. Ingham County R2W, T4N, Sections 2-11 & 14-23		x		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
2. Oakland County a. R10E, T3N, Sections 15, 16, 21, 22, 27 & 28		x		
b. Area included within: Coolidge Rd. 10 Mile Rd. Campbell Rd. 14 Mile Rd. Dequindre Rd. & 8 Mile Rd.		x		
3. St. Clair County R17E, T6N Sections 2-4, 9-11, 14-16, 21, 22 & 28		x		
4. Wayne County a. Area included within: Lake St. Clair to 8 Mile Rd. to Schaefer Rd. to McNichols Rd. to Greenfield Av. to Schoolcraft Av. to Evergreen Rd. to Joy Rd. to Telegraph Rd. to Ford Rd., to Beech-Daly Rd. to Cherry Hill Rd. to Inkster Rd. to Carlysle St. to Middle Belt Rd. to Van Born Rd. to Wayne Rd. to Ecorse Rd. to Haggerty Hwy. to Tyler Rd. to Belleville Rd. to I-94 to Rawsonville Rd. to Oakville - Waltz Rd. to Will - Carlton Rd. to the Huron River to Lake Erie except for the subareas under b.		x		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
3. Washtenaw County Area near Ypsilanti within Cross St., Huron St., Harris Rd. & I-94		x		
AQCR 126 Except subareas defined:				x
1. Delta County, R22W, T39N, Sections 6-8, 17-20, 29-30, R23W, T39N, Sections 1, 12 & 13.		x		
2. Emmet County R6W, T34N, Sections 1-3 & 9-12		x		
3. Manistee County R16W, T21N, Sections 7, 18 & 19 R17W, T21N, Sections 12 & 13		x		
4. Marquette County R25W, T48N, Sections 1 & 2			x	

Michigan - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan portion)				X
AQCR 122				
Except subareas defined:				X
1. Midland County, R2E, T13N, Sections 1-5, R2E, T14N, Sections 7-36	X			
AQCR 123				X
AQCR 124 (Michigan portion)				X
AQCR 125				X
Except subareas defined:				
1. Ingham County, R2W, T4N, Sections 7-11, 14-23, and 26-35	X			
AQCR 126				X

*EPA designation replaces State designation

Michigan - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan Portion)		X
AQCR 122		X
Except subareas defined:		
1. Saginaw County R4E, T12N, Sections 1, 12, 13, & 24 R3E, T12N, Sections 4-9, 16-21	X	
AQCR 123		X
Except subareas defined:		
1. Macomb, Oakland, Wayne Counties, Lake St. Clair-14 Mile Rd. to Kelly Rd. E. to 13 Mile Rd. to Hayes Rd. S. to 14 Mile Rd. to Clawson northern city boundary to Royal Oak northern city boundary to 13 Mile Rd. to Evergreen Rd. to Beverly Hills southern city boundary to Bingham Farms southern city boundary to Franklin southern city boundary to Inkster Rd. to 8 Mile Rd. to Livonia western city boundary to Westland western city boundary to Wayne western city boundary to Romulus southern city boundary following Pennsylvania Rd. to Detroit River.	X	
AQCR 124 (Michigan Portion)		X
AQCR 125		X
AQCR 126		X

§ 81.324 Minnesota.

Minnesota - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan portion)	X	
AQCR 122		
Except subareas defined:		X*
1. Muskegon, Ottawa, Allegan, Kent, Montcalm, Ionia, Gratiot, Midland, Bay, Saginaw, Shiawassee, Genesee, Tuscola, Lapeer, Sanilac and Huron Counties	X	
AQCR 123	X	
AQCR 124 (Michigan portion)	X	
AQCR 125	X	
AQCR 126		
Except subareas defined:		X*
1. Marquette County	X*	

*EPA designations replace State designations

Minnesota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 131	X*			
City of International Falls	X			
City of Duluth	X*			
City of Red Wing		X		
City of E. Grand Forks		X		
City of Cloquet		X		
City of Silver Bay		X		
Mesabi Iron Range Identified by county and township and range boundaries:				
St. Louis County				
T56N, R18W		X*		
T57N, R17-19W		X		
T57N, R20 Section 7		X		
T58N, R16-18W		X		
T59N, R13W; R16-18W		X		
T60N, R12-13W		X		
Sherburne County			X	
St. Clouds Township (Stearns County)			X	
City of Springfield and Burnstown Township (Brown County)			X	
Remainder of State				X

*EPA designation replaces State designation

§ 81.336 Ohio.

Ohio - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Ohio Counties				
Allen				
Ashtabula				
City of Ashtabula, Ashtabula Township & portion of Plymouth Township north of I-90	X	X		
The remainder of Ashtabula County				X
Belmont				
Cities of Martins Ferry, Bridgeport, Brookside, Bellaire, Shadyside & Powhatan Point in addition to Townships of Pease, Pultney, Mead & York	X			
Townships of Colerain, Richland, Smith & Washington excluding primary nonattainment areas		X		
The remainder of Belmont County				X
Butler				
City of Middletown	X			
Cities of Monroe, Trenton, New Miami, Fairfield, and that portion of the City of Hamilton within Fairfield Township & also the Townships of Madison, Lemon, St. Clair, Liberty, Fairfield & Union		X		
The remainder of Butler County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Carroll		X		
Champaign		X		
Clark				
The area south and east of the line determined by: Route 41 east from the Clark-Miami County line east to Route 235, north to the Clark-Champaign County Line; and bounded by the north-south line determined by: State Route 72 south to Interstate 70, Interstate 70 west to Old Mill Road, south to Fairfield Pike, northeast to Cross Road, east to Route 68, south to Jackson Road, east to Mosier Road, south to Clark-Greene County Line.		X		
The remainder of Clark County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Clermont				
Pierce and Batavia Townships		X*		
The remainder of Clermont County				X
Clinton	X			
Columbiana				
The Cities of East Palestine, East Liverpool & Wellsville, plus the Townships of Fairfield, Unity, Elk Run, Middleton, Madison, St. Clair, Liverpool & Yellow Creek	X			
Knox & West Townships				X
The remainder of Columbiana County		X		
				X
Coshocton				
Cuyahoga				
The Cities of Brooklyn Hts., Cuyahoga Hts., Newburgh Hts., Bratenahl & the City of Cleveland east of W. 117th St. & Highland Ave.	X			
Olmsted & Chagrin Falls Townships & the Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Strongsville, North Royalton, Broadview Hts.,				X

*EPA designation replaced State designation

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Brecksville, Glenwillow, Solon, Bentleyville, Grange, Moreland Hills, Chagrin Falls, Pepper Pike, Hunting Valley, Lyndhurst, Mayfield Hts., Highland Hts., Mayfield & Gates Mills				
The remainder of Cuyahoga County		X		
Darke				
The subareas defined as north of the line formed by Road T358 east from the Indiana-Ohio line to Richmond Road, south to Moore Road, east to Payne Road, south to Rush Road, east to end thru New Madison (emerging as Wilt Road east of New Madison), east from New Madison on Wilt Road to Preble County Butler Township Road, north to Hollandsburg-Arcanum Road, east to Jaysville-St. John's Road, north to Delisle-Fourman's Road, east to Gordon Landis Road, north to Painter Creek-Argamon Road,		X		

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Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
east to Teagues- South Road, south to Delisle-Fourman's Road, east to Darke-Miami County line (where road becomes Fenoot Road)			x	
The remainder of Darke County				x
Defiance				
Richland Township not within the City of Defiance	x			
City of Defiance		x		
The remainder of Defiance County				x
Erie		x		
Franklin				
Includes an area encompassed by Alum Creek on the east, Livingston Ave., Lockbourne Road, Thurman Ave., and Greenlawn Ave. on the south; on the west by I-71 & S.R. 315; & on the north by Leon Ave., North High St., Weber Road, Westerville Pike & Agler Road.	x			
The area within I-270 outerbelt excluding primary nonattainment area		x		
The remainder of Franklin County				x
Gallia		x		
Geauga		x		
Greene				
Includes those areas west of the line determined by the following:		x		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Blue Ash				
Area south & east of U.S. 50 & north & east of S.R. 125, & an area to the north including the Cities of Forest Park, Greenhills, Mt. Healthy, North College Hill, Wyoming, Woodlawn, Glendale, Springdale, Sharonsville & Lovelend & the Townships of Colerain, Springfield, Sycamore & Symmes				x
The remainder of Hamilton County		x		
Hancock		x		
Henry	x			
Jackson		x		
Jefferson				
Cities of Stratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandria, Brilliant, Rayland, Tiltonsville, Toch-ville & Townships of Saline Knox, Island Creek, Cross Creek, Steubenville, Wells & Warren	x			
Springfield Township				x
The remainder of Jefferson County		x		
Lake				
Area bounded by the west County lines north of I-90 & west of S.R. 306 in addition to Cities of Painesville, Grand River, Fairport Harbor & Painesville Township	x			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The remainder of Lake County				x
Lawrence				
The Cities of Ironton, Coal Grove & South Point & the Townships of Upper & Perry	x			
Fayette Township		x		
The remainder of Lawrence County				x
Logan	x			
Lorain				
The portion of the City of Lorain north of S.R. 611	x			
The City of Lorain east of S.R. 58, & Sheffield Township excluding primary nonattainment areas		x		
Remainder of Lorain County				x
Lucas				
The Cities of Toledo & Maumee	x			
Townships of Waterville, Monclova & Washington		x		
The remainder of Lucas County				x
Madison				x
Mahoning				
The Cities of Campbell, Struthers & Youngstown & that portion of Poland Township north of U.S.R. 224 & that portion of Coitsville Township south of U.S.R. 422	x			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Meredith Rd. south from the Greene-Clark County Line, converts to S.R. 370 south to Bryan Park Rd., southeast to Clifton Rd., southwest to Rte. 68, south to Rte. 235, northwest to Hill Top Rd., southwest to Fairground Rd., west to Beaver Valley Rd., south to Lantz Rd., west to Fairfield Rd., south to Sweigart Rd., southwest to Little Sugarcreek Rd., south on Little Sugarcreek Rd. to Feed Wire Rd., east on Feed Wire Rd. to Mead Rd., south on Mead Rd. to Mill Rd., follow Mill Rd. south, then east to Lower Bellbrook Rd., Lower Bellbrook Rd. northeast to Schneebly Rd., Schneebly Rd. southeast, then south to S.R. 725, follow S.R. 725 east to the residential area of Spring Valley and take road which becomes Spring Valley-Painterville Rd. through residential area to Cornstalk Rd. Cornstalk Rd. south to Greene-Warren County Line.				
The remainder of Greene County				x
Hamilton				
The subarea bounded on the east by I-71, on the south by the Ohio River, on the west by the Cincinnati City Limits & on the north by the north & west boundaries of the Cities of Cincinnati, Lockland, Lincoln Hts., Evendale &	x			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The remainder of Scioto County				x
Seneca		x		
Shelby		x		
Stark				
Portion of the City of Canton to the south of 12th Ave.	x			
The political boundaries of City of Canton & Canton Township excluding primary nonattainment areas		x		
The remainder of Stark County				x
Summit				
Area encompassed on the north by S.R. 261 on the east by S.R. 91, on the south by U.S.R. 224 & on the west by S.R. 93	x			
Area bounded on the north by S.R. 18 from the Medina County line to the Fairlawn city limits, & the city limits of Fairlawn, Akron, Cuyahoga Falls & Stow; on the east by the Summit-Portage, Summit-Stark County lines; on the south by S.R. 619, S.R. 93 & the Summit-Stark County line; & on the west by the Summit-Wayne, Summit-Medina County lines, excluding primary nonattainment areas.		x		
The remainder of Summit County				x

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Townships of Coitsville (excluding portion south of U.S.R. 422), Boardman & Poland (excluding portion north of U.S.R. 224) & that portion of Austintown Township east of S.R. 46		x		
The remainder of Mahoning County				x
Medina		x		
Meigs	x			
Miami				
The City of Piqua	x			
That area in Miami County north of the line determined by Pasmar Road from the Darke-Miami County line east to Pamberton Road, south to Horse Shoe Bend Road, east to Rte 55, Rte 55 northeast thru Troy to Troy Urbana Road, Troy-Urbana Road northeast to Miami-Champaigne County line & south of the line determined by Rte 40 north from the Montgomery-Miami County line to Rte 202, north to Rte 571, east to Rte 201, north to Rte 41, east to the Miami-Clark County line & excluding the City of Piqua		x		
The remainder of Miami County				x
Monroe				
The City of Clarington & the Townships of Salem & Switzerland	x			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Bigger Road, north to Wilmington Pike, northwest to Woodman Dr., north to Yale Dr., east to County Line Rd. north to Patterson Rd., west to Spaulding Rd., north to Woodbine Ave., west to Smithville Rd., south to Dorothy Ln., west to South Dixie Dr., southwest to I-75, south to the Montgomery-Warren County Line.				
The remainder of Montgomery County				x
Muskingum		x		
Noble			x	
Portage		x		
Preble				
That area within Preble County southeast of the line described by:		x		
The Montgomery-Preble County Line Rd. at Spitler Rd., south to Kinsey Rd., west to S.R. 503, south to the Preble-Butler County Line.				
The remainder of Preble County				x
Richland	x			
Ross	x			
Sandusky	x			
Scioto				
The Cities of Portsmouth, New Boston & South Webster & Bloom Township	x			
Township of Harrison excluding primary nonattainment areas		x		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Townships of Adams, Greene, Lee, Ohio & Sunbury		x		
The remainder of Monroe County				x
Montgomery				
The Cities of Miamisburg & Dayton excluding that portion of the City of Dayton bounded by Patterson Rd., Spaulding Rd., Woodbine Av., and Smithville Rd.	x			
That area in Montgomery Co. south & east of the following: Rte. 440 (U.S.40) at the Montgomery-Miami County Line south to Bridgewater Rd., south to Taylorsville Rd., west to Little York Rd., west to Peters Rd., south to Frederick Rd., northwest to Dog Leg Rd., southwest to Westbrook Rd., west to Olive Rd., south to Shiloh Springs Rd., west to Dutus Rd., south to Little Richmond Rd., west to Snyder Rd., south to Old Dayton Rd., west to Luthern Church Rd., south to Mile Rd., west to Cuntle Rd., south to Havermale Rd., west to Clayton Rd., south to Chicken Bizkin Rd., west to Montgomery-Preble County Line. However, there is an attainment area within this nonattainment area which is described by the following boundaries: north on S.R. 48 from the Montgomery-Warren County Line to Whipp Road, east to		x		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The remainder of Scioto County				x
Seneca		x		
Shelby		x		
Stark				
Portion of the City of Canton to the south of 12th Ave.	x			
The political boundaries of City of Canton & Canton Township excluding primary nonattainment areas		x		
The remainder of Stark County				x
Summit				
Area encompassed on the north by S.R. 261 on the east by S.R. 91, on the south by U.S.R. 224 & on the west by S.R. 93	x			
Area bounded on the north by S.R. 18 from the Medina County line to the Fairlawn city limits, & the city limits of Fairlawn, Akron, Cuyahoga Falls & Stow; on the east by the Summit-Portage, Summit-Stark County lines; on the south by S.R. 619, S.R. 93 & the Summit-Stark County line; & on the west by the Summit-Wayne, Summit-Medina County lines, excluding primary nonattainment areas.		x		
The remainder of Summit County				x

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Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trumbull				
The area encompassed on the north by S.R. 82, on the east by S.R. 11, S.R. 304 & S.R. 516, on the south by the County line & on the west by the Mahoning River	x			
The Townships of Warren, Howland, Weathersfield, Liberty & Bubbard; & of Vienna Township the area south of the north boundary of Vienna Township to S.R. 193 & the area of Bronkfield Township south of S.R. 82 excluding primary nonattainment areas		x		
The remainder of Trumbull County				x
Tuscarawas		x		
Washington		x		
Wayne		x		
Wood		x		
Wyandot		x		

Ohio - Sulfur Dioxide (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Olmsted and Riveredge.				
The remainder of Cuyahoga County				x*
Erie				
Perkins Township	x*			
The remainder of Erie County				x*
Franklin				
The entire area within the boundary of Rte 270, Madison & Hamilton Townships.	x*			
The remainder of Franklin County				x*
Gallia				
Addison Township		x*		
The remainder of Gallia County				x*
Greene				
Bath Township	x*			
The remainder of Greene County				x*
Hamilton				
Whitewater Township	x*			
The remainder of Hamilton County				x*
Jefferson				
Cities of Steubenville & Mingo Junction, Townships of Steubenville, Island Creek, Cross Creek, Knox	x*			

*EPA designation replaces State designation

Ohio - Sulfur Dioxide

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Allen				
Townships of Bath & American, City of Lima	x*			
The remainder of Allen County				x*
Athens				
York Township	x*			
The remainder of Athens County				x*
Clermont				
Pierce Township	x*			
The remainder of Clermont County				x*
Columbiana				
Cities of East Palestine & East Liverpool & Unity Township	x*			
The remainder of Columbiana County				x*
Coshocton				
Franklin Township	x*			
The remainder of Coshocton County				x*
Cuyahoga				
The Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Rock River, Fairview Park, Berea, Middleburg Hts., Strongsville, North Royalton, Broadview Hts., Brecksville and the Townships of	x*			

Ohio - Sulfur Dioxide (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
and Wells				
The remainder of Jefferson County				x*
Lake				
Entire area northwest of the following line: Rte 90 (north) east to western boundary of Madison Township, north on western boundary of Madison Township line to end of county.	x*			
The remainder of Lake County				x*
Lorain				
The entire area north of Rte 80 & the City of Elyria	x*			
The remainder of Lorain County				x*
Lucas				
The area east of Rte 23 & west of eastern boundary of Oregon Township	x*			
The remainder of Lucas County				x*
Mahoning				
The entire area southeast of the following line: Rte 46 south to Rte 76, Rte 76 southeast to county boundary; the City and Township of Canfield; and the entire area within the following boundary: Rte 268 (Lake Park Rd.) east to Rte 17 (Sandy Rd.) Rte 17 south to county	x*			

*EPA designation replaces State designation

Ohio - Sulfur Dioxide (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
boundary.				
The remainder of Mahoning County				x*
Marion				
City of Marion & Marion Township	x*			
The remainder of Marion County				x*
Medina				
City & Township of Wadsworth	x*			
The remainder of Medina County				x*
Montgomery				
The entire area southeast of the following line: Rte 4 northeast to Union Rd. Union Rd. north to Rte 70, Rte 70 east to county boundary	x*			
The remainder of Montgomery County				x*
Morgan				
Center Township		x*		
The remainder of Morgan County				x*
Muskingum				
Harrison Township	x*			
The remainder of Muskingum County				x*

Ohio - Sulfur Dioxide (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trumbull				
The area from the Mahoning-Trumbull County Line, Rte 46 north to the City of Niles southern limits. Eastward along the city limits (Niles) to Tibbette Corner (28) to Rte 11. Rte 11 south to Rte 304. Rte 304 east to Rte 193. Rte 193 south to Mahoning-Trumbull county line.	x*			
The remainder of Trumbull County				x*
Washington				
Belpre Township	x*			
Waterford Township		x*		
The remainder of Washington County				x*
Wood				
The area north of the following line: Rte 80 southeast to Rte 795. Rte 795 east to County Line.	x*			
Remainder of Wood County				x*
All other counties in the State of Ohio				x*

*EPA designation replaces State designation

Ohio - Sulfur Dioxide (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Pickaway				
Harrison Township	x*			
The remainder of Pickaway County				x*
Seneca				
The City of Fostoria (east side; north of Norfolk and Western R.R.)	x*			
The remainder of Seneca County				x*
Stark				
Cities of Alliance, Hartville, Louisville, North Canton, Canton & Fairhope. Townships of Lexington, Lake, Plaintkillen, Plain, Canton, and Perry.	x*			
The remainder of Stark County				x*
Summit				
Entire area northwest of the following line: Rte 80 east to Rte 91. Rte 91 north to county line and the entire area between the following lines: 1) Bath Rd. (48) east to Rte 8, Rte 8 north to Barlow Rd. (T-121). Barlow Rd. east to county boundary. 2) Vanderhoof Rd. (215) east to Rte 91. Rte 91 north to Rte 619. Rte 619 east to county boundary.	x*			
The remainder of Summit County				x*

*EPA designation replaces State designation

Ohio - Photochemical Oxidants

Designated Area	Primary Standard Exceeded §(d)(1)(C)	Unclassifiable and/or Attainment §(d)(1)(C)
Adams		x
Allen	x	
Ashland	x	
Ashtabula	x	
Athens		x
Auglaize		x
Belmont	x	
Brown	x	
Butler	x	
Carroll	x	
Champaign	x	
Clark	x	
Clermont	x	
Clinton	x	
Columbiana	x	
Coshocton		x
Crawford		x
Cuyahoga	x	
Darke	x	
Defiance		x
Delaware	x	
Erie	x	
Fairfield	x	
Fayette	x	
Franklin	x	
Fulton	x	
Gallia		x
Geauga	x	
Greene	x	
Guernsey		x
Hamilton	x	
Hancock	x	
Hardin		x
Harrison	x	
Henry	x	
Highland	x	
Hocking	x	
Holmes	x	
Huron	x	
Jackson		x
Jefferson	x	
Knox	x	

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Ohio - Photochemical Oxidants (continued)

Designated Area	Primary Standard Exceeded §(d)(1)(A)	Unclassifiable and/or Attainment §(d)(1)(E)
Lake	X	
Lawrence	X	
Licking	X	
Logan	X	
Lorain	X	
Lucas	X	
Madison	X	
Mahoning	X	
Marion	X	
Medina	X	
Meigs		X
Mercer		X
Miami	X	
Monroe		X
Montgomery	X	
Morgan		X
Morrow	X	
Muskingum		X
Noble		X
Ottawa	X	
Paulding		X
Perry	X	
Pickaway	X	
Pike		X
Portage	X	
Preble	X	
Putnam		X
Richland	X	
Ross	X	
Sandusky	X	
Scioto		X
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union	X	
Van Wert		X
Vinton		X
Warren	X	
Washington		X
Wayne	X	
Williams		X
Wood	X	
Wyandot		X

Ohio - Carbon Monoxide

Designated Area	Primary Standard Exceeded §(d)(1)(A)	Unclassifiable and/or Attainment §(d)(1)(E)
Cuyahoga	X	
Franklin	X	
Hamilton	X	
Jefferson	X	
Lucas	X	
Mahoning	X	
Montgomery	X	
Summit	X	
All portions of all other counties in State of Ohio		X

Ohio - Nitrogen Dioxide

Designated Area	Primary Standard Exceeded §(d)(1)(A)	Unclassifiable and/or Attainment §(d)(1)(E)
State of Ohio		X

§ 81.350 Wisconsin.

Wisconsin - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 68				
Green County				X
AQCR 73				
Rock County				
Beloit				
Sub-city area defined as follows: North: Woodward Ave. from 3rd St. and Portland east to Park Avenue. West: Corner of 3rd St., Portland and Woodward South on 3rd St. to Second St., Southwest on Bacond St. to Grand Avenue. Then southeast on Grand to State St. and South on State to the Illinois-Wisconsin Border. South: Illinois-Wisconsin Border East: Park Avenue from Illinois-Wisconsin Border,	X			
Sub-city area defined as follows: North: From Washburn and Wisconsin Ave. west to the intersection of Chicago Northwestern Railroad tracks and Lenmigen Creek West: From Chicago Northwestern intersection RR tracks and Lenmigen Creek South on RR tracks to the Illinois-Wisconsin border South: Illinois-Wisconsin Border East: Dearborn Ave. from the Ill-WI border north to Grand Ave. continuing northwest on Grand Ave. to Wisconsin Ave. and north on Wisconsin to Washburn Street.		X		
Remainder of Rock County				X
AQCR 128				
Barron County				X
Buffalo County				X

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Chippewa County				X
Clark County				X
Crawford County				X
Dune County				X
Eau Claire County				X
Jackson County				X
LaCrosse County				
LaCrosse				
Sub-city area defined as follows: North: Corner of LaCrosse St. and Second Ave., East on LaCrosse St. to 10th Street. West: Corner of Second St. and Main St. to LaCrosse St. South: Corner 10th St. and Main St., West to Second Street. East: Corner of 10th St. South to Main Street		X		
Remainder of LaCrosse County				X
Monroe County				X
Pepin County				X
Pierce County				X
Polk County				X
St. Croix County				X
Trempealeau County				X
Vernon County				X
AQCR 129				
Ashland County				X
Bayfield County				X
Burnett County				X
Douglas County				X
Superior				
Sub-city areas defined as follows: AREA 1 West: Superior Bay and St. Louis Bay shoreline from intersection with Belknap St. to intersection with E St. East. South: East from intersection of Belknap St. and Minnesota-Wisconsin border to Oaks Ave. south on Oaks Ave. from Belknap		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South: Corner west Mason St. and Ashland Ave., east along west Mason St. to Irwin Ave. East: Corner west Mason St. and Irwin Ave. north along Irwin Ave. to Green Bay.				
Remainder of Brown County				X
Calumet County				X
Door County				X
Fond du Lac County				X
Green Lake County				X
Kewaunee County				X
Manitowoc				
Manitowoc				
Sub-city area defined as follows: North: East from Manitowoc River to 10th St. to Lake Michigan. West: 14th St. south from Wollmer St. to Hamilton St. South: Hamilton St. east from 14th St. to Lake Michigan East: Lake Michigan		X		
Remainder of Manitowoc Co.				X
Marinette County				
Marinette--corporate limits of Marinette			X	
Remainder of Marinette Co.				X
Marquette County				X
Menominee				X
Oconto				X
Outagamie				X
Shawano				X
Sheboygan				X
Waupaca				X
Waushara				X
Winnebago				X
Neenah				
Sub-city area defined as follows: North: Corner Caroline St. and Harrison St. east to Franklin St.		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Street and 19th Street east on 19th Street from Oaks Ave. to Hill Ave. North on Hill Ave. to E St. East. Northeast on E. St. East to WI-MI border to Superior Bay				
AREA 2 North: Corner East Eighth St. and 37th St., North along 37th St. to Superior Bay. West: Corner east Eighth Street and 37th St., east along East Eighth St. to intersection with last set of railroad tracks. South: Intersection of last set of railroad tracks, north to Allouez Bay. East: Allouez Bay and Superior Bay North from point where South boundary intersects to intersection of 37th Ave. and shoreline.				
Remainder of Douglas County				X
Iron County				X
Price County				X
Rusk County				X
Sawyer County				X
Taylor County				X
Washburn County				X
AQCR 237				
Brown County				
Green Bay				
Sub-city area defined as follows: North: Green Bay West: Corner west Mason St. and Ashland Ave. north to Mather St., west to Crocker Street, north on Crocker St. to Bylsby St., then to Green Bay,		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
continue southeast on Franklin St. to Oak St. West: Corner Dixie and Cecil Streets north to Harrison St., continue north on Harrison Street to Caroline Street South: Corner Dixie Street and Cecil Street East on Cecil St. to Higgins Ave. East: Corner Franklin St. and Oak St. south on Oak St. to Lauden Boulevard, west on Laudse Blvd. to Higgins Ave., south on Higgins Ave. to Cecil St.				
Oshkosh				
Sub-city area defined as follows: North: Corner Irving Ave. and Wisconsin Ave. east to Bowen Street West: Corner Ohio St. and west 11th Ave. north to Route 26/44, continue northeast along Route 26/44 to intersection with Irving Avenue. South: Corner Ohio St. and west 11th Ave., east along west 11th Ave. to Lake Winnebago. East: Corner Irving Ave. and Bowen St., South along Bowen to Lake Winnebgo.		X		
Remainder of Winnebago Co.				X
AQCR 238				
Adams County				X
Florence County				X
Forest County				X
Juneau County				X
Langlade County				X
Lincoln County				X
Marathon County				X
Brokaw--corporate limits of Brokaw		X		

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Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Remainder of Marathon Co.				X
Oneida County				X
Portage County				X
Vilas County				X
Wood County				
Marshfield				
Sub-city area defined as follows:				
North: Chicago and Northwestern railroad track.				
West: Western border of section 18 north to Chicago and Northwestern railroad tracks.				
South: Southern border of section 17 and 18.				
East: Eastern border of section 17 north to Chicago and Northwestern railroad tracks.				
Remainder of Wood County				X
AQCR 239				
Kenosha County				
Kenosha				
Sub-city area defined as follows:				
North: 52nd Street east from 39th Avenue to Lake Michigan				
West: 39th Avenue south from 52nd Street to 67th Street.				
South: 67th from 39th Avenue to Lake Michigan.				
East: Lake Michigan				
Remainder of Kenosha Co.				X
Milwaukee County				
Milwaukee				
Sub-city area defined as follows:	X			
North: St. Paul Avenue from corner 16th Street to Lake Michigan				
West: 16th Street south from St. Paul Avenue to Pierce Street, east on				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Intersection with Forest St. west to intersection with west boundary.				
West: North from corner of Grange Avenue and Washington Avenue north to Freres Avenue north to intersection with north boundary				
South: Washington Avenue west from Grange Avenue to Marquette Street				
East: Marquette Street north from Washington Avenue to Douglas Ave.				
Remainder of Racine County				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Pierce Street to 6th St., south on 6th Street to Becher Street		X		
South: Becher Street east from 6th to Lake Michigan.				
East: Lake Michigan				
Sub-city areas defined as follows:		X		
Area 1:				
North: Center Street east from 55th Street to Lake Michigan				
West: 55th Street south from North Avenue extended to 56th Street				
South: Oklahoma Avenue east from 56th St. to 6th St., south on 6th St. to Morgan Ave., east on Morgan Ave. to Lake Michigan.				
East: Lake Michigan				
Area 2:				
North: From Pennsylvania Ave. to 13th St. on Howard Ave.				
West: From Howard to College Ave. on 13th St.				
South: From 13th St. to Pennsylvania Ave. on College Ave.				
East: From College Ave. to Howard Ave. on Pennsylvania Ave.				
Remainder of Milwaukee Co.				X
Ozaukee County				X
Racine County				
Racine				
Sub-city area defined as follows:		X		
North: Douglas Avenue south from Marquette St. To Rapids Drive, northwest on Rapids Drive to				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Walworth County				
Lake Geneva			X	
Remainder of Walworth Co.				X
Washington County				X
Waukesha County				
Waukesha				
Sub-city area defined as follows:	X			
North: East on Eales Ave. from Whiterock Ave. to Niagara St.				
West: Whiterock Avenue north from Main Street to Eales Avenue				
South: Southwest along Main Street from intersection of railroad track and Main Street to Whiterock Avenue.				
East: Southeast from the intersection of Eales Ave. to the intersection of the railroad tracks and Main Street.				
Sub-city area defined as follows:		X		
North: West along Margaret St. from corner of Margaret St. and Highland Ave. to North St.				
West: North St. north from Union St. to intersection with north boundary				
South: West on Arcadian Avenue from intersection of railroad track and Arcadian Ave. to East Ave. north on East Ave. to Buckley St., across Fox River to Union St. then to North St.				
East: South on Highland Avenue to Moreland Blvd.				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
west on Moreland Blvd. to Waukesha Ave., south on Waukesha Ave. to intersection of railroad tracks and railroad tracks to Arcadian Avenue.				
Remainder of Waukesha Co.				X
AQCR 240				
Columbia County				
Pacific Township				
Sub-township area defined as follows:	X			
Pacific Township (from Township Map T.12 N.-R.9E				
North: Northern border of section 22 from USH 16 east to section 23.				
West: C.M. St. P&P Railroad south from northern border of section 22 to southern border of section 22.				
South: Southern border of section 22 east from C.M. St. P&P Railroad to section 23.				
East: Eastern border of section 23.				
Sub-township area defined as follows:		X		
Sections 22, 23,26 and 27 of T.12 N.-R.9 E.				
Remainder of Columbia Co.				X
Dane County				
Madison				
Sub-city area defined as follows:		X		
North: Corner of Schlimgen Ave. and Packers Ave. west to Lakewood Blvd.				
Northwest: Corner of Lakewood Blvd. and Del Mar Drive south to Lake Mendota, continue along				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
eastern shoreline of Lake Mendota to Charter Street				
West: Charter St. north from Vilas St. to Lake Mendota				
South Southeast: Vilas St. east from Charter St. to west Washington Ave., continue southeast to Lake Monona, continue along west shoreline of Lake Monona northeast to Starkweather Creek.				
North Northeast: Western branch of Starkweather Creek northeast to Fair Oaks Ave., then north along Bryan St. to Milwaukee St. continue west to Oak St. then north to Aberg Ave., continue northwest to Packers Ave., then north to Schlimgen Ave.				
Remainder of Dane County				X
Dodge County				X
Green County				X
Iowa County				X
Jefferson County				X
Lafayette County				X
Richland County				X
Sauk County				X

[FR Doc. 78-27931 Filed 10-4-78; 8:45 am]

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[6560—01]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 982-7]

PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

Notice of Revocation

AGENCY: Environmental Protection Agency.

ACTION: Revocation.

SUMMARY: EPA is today revoking its new source pretreatment standards for the following subcategories of the phosphate manufacturing point source category: Phosphorus production, phosphorus consuming, and phosphate.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold Coughlin, Effluent Guidelines Division (WH-552), Office of Water Planning and Standards, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On February 20, 1974 (34 FR 6582), EPA Promulgated effluent guidelines and new source performance and new source pretreatment standards for subparts A (phosphorus production), B (phosphorus consuming), and C (phosphate) of the phosphate manufacturing point source category, 40 CFR part 422. The effluent guidelines and new source performance standards were subsequently challenged by industry, and in 1976, the U.S. Court of Appeals for the Second Circuit remanded EPA's definition of "process waste water" and portions of the challenged regulations to EPA for further study and clarification. *Hooker Chemical & Plastics Corp.* v. *Train*, 537 F.2d 620 (2d Cir. 1976); *Hooker Chemical & Plastics Corp.* v. *Train*, 537 F.2d 639 (2d Cir. 1976).

Because the new source pretreatment standards for subparts A, B, and C were based on the new source performance standards or the "process waste water" definition (or both) which were remanded by the Second Circuit, EPA is revoking those standards to avoid confusion concerning their applicability to new sources which discharge into publicly owned treatment works.

Pretreatment standards for new sources covered by subparts A, B, and C are currently being studied as part of EPA's ongoing phosphate manufacturing point source category remand study, and will be repromulgated when that study is completed.

For the foregoing reasons, 40 CFR 422.16 (Pretreatment standards for new sources, phosphorus production subcategory), 40 CFR 422.26 (Pretreatment standards for new sources, phosphorus consuming subcategory), and 40 CFR 422.36 (Pretreatment standards for new sources, phosphate subcategory) are hereby revoked.

Dated: September 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-28059 Filed 10-4-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 100a—GENERAL PROVISIONS REGULATIONS

Corrections in the Code of Federal Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of corrections.

SUMMARY: In the Code of Federal regulations revised as of October 1, 1977, under § 100a.29 paragraph (b) on page 18, item (c) should be corrected to (3), and § 100a.494, item (c) on page 45 should be corrected to (6) for consistency. These are technical changes only.

FOR FURTHER INFORMATION CONTACT:

Dr. A. Neal Shed, 202-245-7091.

Dated: September 27, 1978.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-28017 Filed 10-4-78; 8:45 am]

[4110-02]

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

Final Regulations; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction, final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on October 3, 1977, pages 53822-53891, a technical correction needs to be made. The document is corrected as follows: On page 53861, first column, paragraph "(b) Institutional capability and commitment," should be changed to paragraph "(h) Institutional capability and commitment."

FOR FURTHER INFORMATION CONTACT:

Michael Brustein, telephone 202-245-8952.

Dated: September 27, 1978.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-28030 Filed 10-4-78; 8:45 am]

[4110-02]

PART 180—DESEGREGATION OF PUBLIC EDUCATION

Final Rule; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction, final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on July 26, 1978, pages 32372-32387, certain technical corrections need to be made. The document is corrected as follows:

(1) On page 32381, third column, § 180.13(b), the reference to § 180.12(b) should be changed to § 180.12(c).

(2) On page 32384, first column, § 180.33(a)(2), the reference to § 180.32(b) should be changed to § 180.32(c).

(3) On page 32386, second column, § 180.57(a), "ranking" should be changed to "rankings."

FOR FURTHER INFORMATION CONTACT:

Elton Ridge, telephone 202-245-8484.

(Catalog of Federal Domestic Assistance No. 13.405, Desegregation of Public Education.)

Dated: September 27, 1978.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-28016 Filed 10-4-78; 8:45 am]

[1505-01]

PART 180—DESEGREGATION OF PUBLIC EDUCATION

Correction

In FR Doc. 78-20565 appearing at page 32372 in the issue for Wednesday, July 26, 1978, make the following corrections:

(1) In § 180.03, at the top of the third column of page 32380, "State role stereotype" should have read "Sex role stereotype".

(2) At the bottom of the third column of page 32380, the section heading now designated "§ 180.6" should have been "§ 180.06".

* * * * *

(3) On page 32383, paragraph (b) of § 180.20 should have read as follows:

(b) *Amount of award.* (1) The Commissioner sets the amount of an award on the basis of the magnitude of the expected needs of responsible governmental agencies for race, sex, or national origin desegregation assistance (as applicable), and the cost of providing assistance to meet those needs, in the State for which an application is approved, compared with the magnitude of the expected needs for that assistance, and the cost of providing it, in all States for which applications are approved. In setting the amount of an award to provide race desegregation assistance, the Commissioner gives the greatest weight to the expected needs of responsible governmental agencies that have recently adopted race desegregation plans.

(2) In assessing the magnitude of expected needs, the Commissioner considers the needs described in the applications submitted under this subpart and such other information concerning those needs as may be relevant.

* * * * *

(4) At the top of the middle column of page 32385, the section heading now reading "§ 180.39 Funding procedures." should have read "§ 180.38 Funding procedures."

(5) On page 32386, the following sentence should be added to the end of the text of § 180.63: "That notice describes the information to be included in the application."

[6050-01]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1201—STANDARDS OF CONDUCT

Conflict of Interests; Final Rule

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: ACTION is revising its standards of conduct to include seven new rules on conflict of interests. These rules were drafted by a special Agency Task Force on Conflict of Interests and on April 4 published for comment in the FEDERAL REGISTER. The final, revised rules are now being incorporated into the Agency standards of conduct and can be found at § 1201.735-101(b), 102, 302-305, and 402. The remaining standards, which contain provisions based on Executive Order 11222, criminal prohibitions found in title 18 of the United States Code, and civil service regulations, have not been substantively changed. The list of employees required to submit statements of employment and financial interests has also been expanded to include certain positions below the GS-13 or FSR 5 level which involve activities which could place employees in possible conflict-of-interest situations.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry MacLean, General Counsel, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525, 202-254-3116.

SUPPLEMENTARY INFORMATION: On April 4, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 14072) proposing to amend ACTION's standards of conduct by the adoption of seven new rules dealing with conflict of interests. Interested persons were given thirty days to submit comments and views on the new rules. The proposed amendments were also submitted for comment to approximately 20 Federal, State, and public interest agencies and organizations.

No comments were received from the public as a result of the FEDERAL REGISTER notice. Approximately 10 responses were received from the Federal, State, and public interest agencies and organizations that had received copies of the new rules with the result that several revisions, discussed below, have been made in the proposed regulations. Following is a summary of the principal comments and the major revisions to the regulation.

1. Several comments questioned the distinction made in rule 1(a) and 1(b) between the ACTION Director and his top assistants and all other ACTION employees' participating in decisions involving organizations with which they have been associated. The latter past association (1(a)) was limited to the last 2 years, but the Director and his assistants' disqualification (1(b)) was without time limit. The Committee on Conflict of Interests agreed that a dual standard was not warranted and that the 2-year time limit for everyone was a sufficient cooling off period. The final rule reflects this revision.

2. One commentator suggested that the scope of rule 1(a) was too broad and that by including within its scope "any person subject to the supervision of the employee who had the association," the Agency would be excluding from the decisionmaking process numerous employees whose participation might be necessary even though no real or apparent conflict existed on the part of those employees. After careful consideration of this point, the Committee on Conflict of Interests decided that "persons subject to the supervision of the employee" should remain under the rule to prevent the "potential for" a conflict of interest in the form of pressure, whether real or imagined, by a supervisor on his or her subordinates.

3. Several comments suggested that proposed rules 3(a)(2) and 3(b)(2) were unnecessarily harsh in suspending from consideration for a grant or contract any organization which a present ACTION employee, prior to his or her employment at ACTION, had aided in developing a proposal. In the words of one commentator: "[a]n organization that has invested time and effort in a grant or contract proposal should not be suspended simply because its employee later obtains a job with ACTION, unless that employee, as an ACTION employee, would necessarily be involved with the particular grant or contract. It would be more effective to prevent the employee from becoming involved in a situation that creates the conflict, rather than to punish the potential contractor or grantee." The Committee agreed with this reasoning and changed the rule to prohibit such employees from participating in any aspect of the decision process regarding the grant or contract or in any oversight or management capacity in relation to that grant or contract. The organization itself, however, is no longer precluded from being considered for award of the grant or contract.

4. One commentator urged the amendment of rule 4 to permit desig-

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nees of the officials named to sit on the committee. This suggestion was not adopted, as the Committee was of the opinion that conflict-of-interest questions were of sufficient importance to the Agency to warrant the attention of the highest level of personnel possible.

5 There was a suggestion from one commentator that rule 5 was too broad in prohibiting a person who participated "personally" in a program while employed at ACTION from working for 1 year in any activity supported by ACTION funds received from that program. It was suggested that the language be changed to "personal participation in a significant decisionmaking or advisory capacity while at ACTION" because in many instances an employee who "personally participates" is not in a position to influence–the awarding of a contract or grant. While the Committee agreed that there would probably be examples of "personal participation" which were so insignificant as to warrant exclusion from the rule, it felt that the new Committee on Conflict of Interests should consider those cases on an individual basis and grant the necessary relief under its authority to grant specific relief from the provisions of rules 3, 5, and 6.

Accordingly, 45 CFR Part 1201 is revised to read as follows:

Subpart A—General

Sec.
1201.735-101 Introduction.
1201.735-102 Definitions.

Subpart B—General Conduct and Responsibilities of Employees

1201.735-201 Proscribed actions—Executive Order 11222.
1201.735-202 General conduct prejudicial to the Government.
1201.735-203 Criminal statutory prohibitions—Conflict of interest.

Subpart C—Outside Employment, Activities, and Associations

1201.735-301 In general.
1201.735-302 Association with potential grantee or contractor prior to ACTION employment.
1201.735-303 Association with ACTION grantee, contractor, or potential grantee or contractor while ACTION employee.
1201.735-304 Employment after leaving ACTION.
1201.735-305 Employment with ACTION grantee or contractor.
1201.735-306 Association with non-ACTION grantee or contractor while an ACTION employee.
1201.735-307 Gift, entertainment, and favors.
1201.735-308 Economic and financial activities of employers abroad.
1201.735-309 Information.
1201.735-310 Speeches; participation in conferences.
1201.735-311 Partisan political activities.
1201.735-312 Use of Government property.
1201.735-313 Indebtedness.
1201.735-314 Gambling, betting, and lotteries.
1201.735-315 Discrimination.
1201.735-316 Related statues and regulations.

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

1201.735-401 Submission of statements.
1201.735-402 Review of statements.

AUTHORITY: E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964-1965, Supp., p. 306, 5 CFR 735.104.

Subpart A—General

§ 1201.735-101 Introduction.

(a) Executive Order No. 11222 directs the Civil Service Commission to require each agency head to review and reissue his or her agency's regulations regarding the ethical conduct and other responsibilities of all its employees. One of the main purposes of the regulations in this part is to encourage individuals faced with questions involving subjective judgment to seek counsel and guidance. The general counsel is designated to be the counselor for ACTION with respect to these matters. Associate and assistant general counsels are designated to be deputy counselors. They will provide authoritative advice and guidance in this area to any ACTION employee who seeks it.

(b) The ACTION Committee on Conflict of Interests will review and monitor the agency's policies and procedures on conflict of interests. The committee shall consist of the general counsel, the Assistant Director of Administration and Finance, the Assistant Director of the Office of Compliance, the Director of Contracts and Grants Management Division, a Deputy Associate Director of Domestic Operations, a Deputy Associate Director for International Operations, a Deputy Assistant Director for the Office of Policy and Planning, and the Director's designee, who shall be a nonvoting member. The committee shall have the authority to:

(1) Adopt the procedures necessary to insure the implementation of and compliance with the conflict of interest regulations found at §§ 1201.735-301 through 1201.735-305.

(2) Issue interpretive opinions or clarifying statements on actual or hypothetical situations involving the provisions of §§ 1201.735-301 through 1201.735-305.

(3) Accept and review reports filed under § 1201.735-302(b).

(4) Grant specific relief from the provisions of §§ 1201.735-303 through 1201.735-305 by a majority vote of the committee, if, after due consideration, the committee finds that:

(i) No actual conflict of interest exists, and

(ii) The purpose of the rule would not be served by its strict application, and

(iii) A substantial inequity would otherwise occur. In each such case the committee shall issue a written decision setting forth its findings as required above. The committee may make any exception subject to such conditions and restrictions as it deems appropriate.

(c) Any violation of the regulations in this part may be cause for disciplinary action. Violation of those provisions of the regulations in this part which reflect legal prohibitions may also entail penalties provided by law.

(d) This part applies to all employees of ACTION. "Employee" as used in this part includes regular employees, Presidential appointees, "special Government employees," experts, and consultants whether employed on a full-time or intermittent basis.

§ 1201.735-102 Definitions.

(a) "Special Government employee" as used herein means a person appointed or employed to perform temporary duties for ACTION with or without compensation, on a full-time or intermittent basis, for not to exceed 130 days during any period of 365 days.

(b) "Regular Government employee" as used herein means any officer or employee other than a special Government employee.

(c) "Organization" as used herein includes profit and nonprofit corporations, associations, partnerships, trusts, sole proprietorships, foundations, and State and local government units.

(d) "Grantee" as used herein means any organization that receives financial assistance from ACTION including the assignment of volunteers.

(e) "Potential Grantee or Contractor" means any organization that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek a specific grant or contract.

(f) "Associated with" means:

(1) That the person is a director of the organization or is a member of a board or committee which exercises a recommending or supervisory function in connection with an ACTION project;

(2) That the person or his or her spouse, minor child or other member of his or her immediate household serves as an employee, officer, owner, trustee, partner, consultant, or paid adviser (general membership in an organization is not included within the definition of "associated with");

(3) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, 1 percent or more of the voting shares of an organization;

(4) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, either beneficially or as trustee, a financial interest in an organization through stock, stock options, bonds, or other securities, or obligations, valued at $50,000 or more; or

(5) That a person has a continuing financial interest in an organization, such as a bona fide pension plan, valued at $5,000 or more, through an arrangement resulting from prior employment or business or professional association.

The term "associated" does not include an indirect interest, such as ownership of shares in a mutual fund, bank or insurance company, which in turn owns an interest in an organization which has, or is seeking or under consideration for a grant or contract. Such and "indirect" interest, as well as financial interests of amounts less than those stated in subparagraphs (3) through (5) of paragraph (f) of this section, are hereby determined pursuant to 18 U.S.C. 208(b)(2) to be too remote to affect the integrity of the employee's services.

Subpart B—Conduct and Responsibilities of Employees

§ 1201.725-201 Proscribed actions—Executive Order 11222.

As provided by the President in Executive Order No. 11222, whether specifically prohibited by law or in the regulations in this part, no U.S. regular or special Government employees shall take any action which might result in, or create the appearance of:

(a) Using public office or employment for private gain, whether for themselves or for another person, particularly one with whom they have family, business, or financial ties.

(b) Giving preferential treatment to any person.

(c) Impeding Government efficiency or economy.

(d) Losing complete independence or impartiality.

(e) Making a Government decision outside official channels.

(f) Affecting adversely the confidence of the public in the integrity of the Government.

(g) Using Government office or employment to coerce a person to provide financial benefit to themselves or to other persons, particularly anyone with whom they have family, business or financial ties.

§ 1201.735-202 General conduct prejudicial to the Government.

An employee may not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct prejudicial to the Government (5 CFR 735.209).

§ 1201.735-203 Criminal statutory prohibitions: Conflict of interest.

(a) *Regular Government employees.* Regular employees of the Government are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies to both paid and unpaid representation of another (18 U.S.C. 205).

(2) They may not, after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(3) They may not for 1 year after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restraint described in subparagraph (3) of this paragraph if the matter is one in which the employee participated personally and substantially (18 U.S.C. 207).

(4) They may not receive any salary, or supplementation of their Government salary, from a private source as compensation for services to the Government (18 U.S.C. 209).

(b) *Special Government employees.* Special Government employees are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which they have at any time participated personally and substantially for the Government (18 U.S.C. 205).

(2) They may not, except in the discharge of official duties, represent anyone else in a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365. They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially (18 U.S.C. 205). (See § 1201.735-303(b) for additional nonstatutory Agency restrictions on a special employee representing any other person or organization in a matter pending before the Agency.) The restrictions described in subparagraphs (1) and (2) of this paragraph apply to both paid and unpaid representation of another.

(3) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208).

(4) They may not, after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(5) They may not, for 1 year after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restraint described in subparagraph (3) of this paragraph if the matter is one in which the employee participated personally and substantially (18 U.S.C. 207).

Subpart C—Outside Employment Activities and Associations

§ 1201.735-301 In general.

(a) There is no general prohibition against ACTION employees holding outside employment, including teaching, lecturing, or writing. But no employee may engage in outside employment or associatons if they might result in a conflict or an appearance of conflict between the private interests of the employee and his or her official responsibility.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

(c) An employee shall not have a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his or her Government duties and responsibilities. Nor may an employee engage in, directly or indirectly, a financial transaction as a result of or primarily relying on information obtained through his or her Government employment.

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§ 1201.735–302 Association with a potential grantee or contractor prior to ACTION employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a grant or a contract to an organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a grant or a contract with the Agency, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision processes regarding the grant or contract.

(b) When the Director, Deputy Director, or an Associate or Assistant Director, becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a grant or contract with the Agency, he or she shall refrain from participating in the decision process and immediately notify the Assistant Director of the Office of Compliance, who shall select an independent third party, not in any way connected or associated with the concerned official. The third party shall participate in and review the decision process to the extent he or she deems necessary to insure objectivity and the absence of favoritism. Said third party shall preferably be a person experienced in the area of government contracts and grants. The third party shall file a report in writing with the Committee on Conflict of Interest stating his or her conclusions, observations, or objections, if any, to the decision process concerning the grant or contract, which document shall be attached to and become a part of the official file.

§ 1201.735–303 Association with ACTION grantee or contractor or potential grantee or contractor while an ACTION employee.

(a) No regular employee may be associated with any ACTION grantee, contractor, or potential grantee or contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a grantee or contractor.

(b) No regular or special employee, except in his or her official capacity as an ACTION employee, shall either participate in any way on behalf of any orgainzation in the preparation or development of a grant or contract proposal involving ACTION or represent any other organization in a matter pending before ACTION. In the event that a regular or special employee participates while an employee of ACTION in any aspect of the development of a grant or contract proposal on behalf of an organization, or represents another organization in a matter pending before ACTION, that organization shall be suspended from consideration for the grant or contract.

(c) No regular or special employee who, prior to his or her employment at ACTION, participated in the development of a grant or contract proposal on behalf of another organization, shall participate as an ACTION employee, in any aspect of the decision process regarding that grant or contract, or, if the grant or contract is awarded, in any oversight or management capacity in relation to that grant or contract. In addition, any such grant or contract shall only be awarded through a competitive process. In the event a regular or special employee who participated in the development of the grant or contract proposal prior to being employed at ACTION does participate as an ACTION employee in the decision process for such grant or contract, the organization shall be suspended from consideration.

(d) If a special employee participates as an employee of ACTION in any aspect of the development of a proposal or project, whether or not such participation is minimal or substantial, any organization with which he or she is associated shall be suspended from consideration for the grant or contract.

(e) If an organization with which a special employee is associated submits a proposal for a grant or contract, and the special employee did not participate either as an employee of ACTION or an associate of the organization in any aspect of the project or proposal or the application therefor, the matter shall be referred to the Committee on Conflict of Interests for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employees's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the proposed grant or contract.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policy making or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed grant or contract.

(3) Whether awarding the grant or contract to the organization would result in the appearance of or the potential for a conflict of interest.

(4) The process to be used in awarding the grant or contract.

(f) If a special employee wishes to become or remain associated with an ACTION grantee or contractor while he or she is an employee of ACTION, subject to the restrictions (b) through (e) of § 1201.735–303, the matter shall be referred to the Committee on Conflict of Interests for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the grant or contract.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policymaking or supervision of other employees and the relationship of the postion with the organization to the work to be performed under the proposed grant or contract.

(3) Whether such a relationship would result in the appearance of or the potential for a conflict of interest.

(g) Any suspension involving proposed contracts under this rule shall be in accordance with procedures set forth in 41 CFR 1–1.600 et seq.

§ 1201.735–304 Employment after leaving ACTION.

(a) Employees may negotiate for prospective employment with non-Government organizations only when they have no duties as ACTION employees which could affect that organization's interest, or after they have disqualified themselves, on the written permission of their supervisor, from such duties.

(b) For 1 year after leaying ACTION, no regular or special employee may serve pursuant to a personal or nonpersonal services contract or accept employment with an ACTION grantee or contractor for a position in which he or she would be working in any activity supported in whole or in part by ACTION funds received under an ACTION program which was within the boundaries of the employee's official responsibility or in which he or she participated personally while employed at ACTION.

(c) If, within 1 year after leaving ACTION, an individual accepts employment in violation of this rule, ACTION will disallow the costs allocated under the grant or contract for that position. In addition, a letter describing the violation will be placed in the employee's personnel file.

§ 1201.735–305 Employment with ACTION grantee or contractor.

An employee of an ACTION grantee or contractor who is compensated directly or indirectly from ACTION funds will be ineligible to be compensated under any personal or nonpersonal services contract with this Agency which will result in the employee being paid twice for the same time or product.

§ 1201.735–306 Association with non-ACTION-grantee or contractor while an ACTION employee.

(a) An employee shall not engage in outside employment which tends to impair the employee's mental or physical capacity to perform his or her official responsibility in an acceptable manner.

(b) *Teaching, lecturing, and writing*—(1) *Use of information.* An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his or her Government employment, except when that information has been or on request will be made available to the general public or when the agency head gives advance written authorization for the use of nonpublic information on the basis that the proposed use is in the public interest.

(2) *Compensation.* No employee may accept compensation or anything of value for any lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the ACTION programs or which draws substantially on official data or ideas which have not become part of the body of public information.

(3) *Clearance of publications.* No employee may submit for publication any writing, other than recruiting information, the contents of which are devoted to the ACTION programs or to any other matter which might be of official concern to the U.S. Government without in advance clearing the writing with the Office of Communications or regional communications specialists, as appropriate. Before clearing any such writing, the Office of Communications will consult with the appropriate ACTION office.

(c) *State and local government employment.* Regular employees may not hold office or engage in outside employment under a State or local government except with prior approval of the General Counsel, ACTION.

(d) All employees not required by § 1201.735–401 to report their outside employment and financial interests shall inform their supervisors of all outside employment they hold or accept.

§ 1201.735–307 Gifts, entertainment, and favors.

(a) *From donors dealing with ACTION.* (1) No regular or special employees may solicit or accept, directly or indirectly, for themselves, for any member of their family, or for any person with whom they have business or financial ties, any gift, gratuity, favor, entertainment, or loan or any other thing of value, from any individual or organization which:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with ACTION;

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's official responsibility;

(iii) Is in any way attempting to affect the employee's exercise of his or her official responsibility; or

(iv) Conducts operations or activities that are regulated by ACTION.

(2) Subparagraph (1) of this paragraph does not prohibit, even if the donor has dealings with ACTION:

(i) Acceptance of things of value from parents, children, or spouse if those relationships rather than the business of the donor is the motivating factor for the gift;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of breakfast, luncheon, or dinner meeting or other meetings;

(iii) Solicitation and acceptance of loans from banks or other financial institutions to finance proper and usual activities of employees, such as home mortgage loans, solicited and accepted on customary terms;

(iv) Acceptance on behalf of minor dependents of fellowships, scholarships, or educational loans awarded on the basis of merit and/or need;

(v) Acceptance of awards for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

(3) Regular or special employees need not return unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other things of nominal intrinsic value.

(b) *From other ACTION employees.* No employees in superior official positions may accept any gifts presented as contributions from employees receiving less salary than themselves. No employees shall solicit contributions from other employees for a gift to an employee in a superior official position, nor shall any employees make a donation as a gift to an employee in a superior official position. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(c) *From foreign governments.* No regular employee may solicit or, without the consent of the Congress, receive any present, decoration, emolument, pecuniary favor, office, title, or any other gift from any foreign government. See 5 U.S.C. 7342; Executive Order 11320; and 22 CFR Part 3 (as added, 32 FR 6469).

(d) *Gifts to ACTION.* Gifts to the United States or to ACTION may be accepted in accordance with ACTION regulations.

(e) *Reimbursement for expenses.* Neither this section nor § 1201.735–310(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part and for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. Nor does it allow an employee to receive non-Government reimbursement of travel expenses for travel on official business under ACTION orders; but rather, such reimbursement, if any, should be made to ACTION and amounts received should be credited to its appropriation. If an employee receives accommodations, goods, or services in kind from a non-Government source, this item or items will be treated as a donation to ACTION and an appropriate reduction will be made in per diem or other travel expenses payable.

§ 1201.735–308 Economic and financial activities of employees abroad.

(a) *Prohibitions in any foreign country.* A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency;

(3) Sales to unauthorized persons (whether at cost or for a profit) of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an

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employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds from persons in one country to persons in another country, including the United States;

(8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) *Prohibitions in country of assignment.* (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which he or she is assigned or detailed in his or her own name or through the agency of any other person.

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in his or her country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee of the U.S. Government.

§ 1201.735–309 Information.

(a) Release of information to press.

(1) Regular or special employees shall not withhold information from the press or public unless that information is classified or administratively controlled (limited official use). All responses to requests for information from the press should be referred to the Office of Communications or regional communications officers as appropriate who will be responsible for all releases. Regular and special employees should be certain that information given to the press and public is accurate and complete.

(2) Any questions as to the classification or administrative control of information should be referred to the general counsel.

(3) No regular or special employee may record by electronic or other device any telephone or other conversation. No regular or special employee may listen in on any telephone conversation without the consent of all parties thereto.

(b) Disclosure and misuse of inside information. No employee may, directly or indirectly, disclose or use for his or her own benefit, or for the private benefit of another, inside information as described in paragraph (c) of this section. The use of such information by an employee is restricted to the proper performance of his or her official duties. The disclosure of such information is restricted to official ACTION channels unless disclosure is authorized by the Director, the Deputy Director, an Associate Director, or a Regional Director of ACTION. In particular, no employee may:

(1) Engage in, directly or indirectly, a financial transaction as a result of or primarily relying on such information; or

(2) Publish any book or article, or deliver any speech or lecture, based on or using such information.

(c) Definition: The term "inside information" as used in this section means, generally, information obtained under Government authority which is not known by the general public and which could affect the rights or interests of the Government or of a non-Government organization or person. Such information includes information about ACTION operations or administration, and personnel which could influence someone's dealing with ACTION.

(d) This section is not intended to discourage the disclosure through proper channels of information which has been or should be made public, or which is by law to be made available to the public. Also, employees are encouraged to teach, lecture, and write, provided they do so in accordance with the provisions of this section and §§ 1201.735–301, and 1201.735–306.

§ 1201.735–310 Speeches; participation in conferences.

(a) *Fees and expenses.* (1) Although an employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is ACTION or ACTION programs or if such services are part of the employee's official ACTION duties, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to ACTION.

(2) When a meeting, discussion, etc., to which subparagraph (1) of this paragraph refers takes place at a substantial distance from the employee's home he or she may accept reimbursement for the actual cost of transportation and necessary subsistence, or expenses, but in no case shall he or she receive any amount for personal benefit. Such reimbursements shall be reported by the employee to his or her immediate supervisors.

(3) An employee may accept fees for speeches, etc., dealing with subjects other than ACTION or ACTION programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties.

(b) *Racial segregation.* No employee may participate for ACTION in conferences or speak for ACTION before audiences where any racial group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

(1) When a request for ACTION speakers or participation is received under circumstances where segregation may be practiced, the Director of the Office of Communications shall make specific inquiry as to the practices of the organization before the request is filled.

(2) If the inviting organization shows a willingness to modify its practices for the occasion, ACTION will cooperate in such efforts.

(3) Exceptions to this paragraph may be made only by the Director, ACTION and in his or her discretion.

§ 1201.735–311 Partisan political activity.

(a) **Prohibited activities:** No employee may:

(1) Use his or her official authority or influence for the purpose of interfering with an election or affecting the result thereof; or

(2) Take any active part in partisan political management or in political campaigns, except as may be provided by or pursuant to statute 5 U.S.C. 7324.

(b) Intermittent employees: Persons employed on an irregular or occasional basis are subject to paragraph (a) of this section only while in active duty status and for the 24 hours of any day of actual employment.

(c) Excepted activities: Paragraph (a) of this section does not apply to:

(1) Nonpartisan campaigns and elections in which none of the candidates is to be nominated by or elected as representing a national or State political party, such as most school board elections; or

(2) Political activities connected with questions of public interest which are not specifically identified with national or State political parties, such as constitutional amendments, referenda, and the like (5 U.S.C. 7326).

(d) Excepted communities: Paragraph (a) of this section does not apply to employees who are residents of certain communities. These communities, which have been designated by

the Civil Service Commission (5 CFR 733.301), consist of a number of communities in suburban Washington, D.C., and a few communities elsewhere in which a majority of the voters are Government employees. Employees who are residents of the designated communities may be candidates for, or campaign for others who are candidates for, local office if they or the candidates for whom they are campaigning are running as independent candidates. An employee may hold local office only in accordance with §§ 1201.735–301 through 1201.735–306 relating to outside employment and associations.

(e) Special Government employees are subject to the statute for the 24 hours of each day on which they do any work for the Government.

(f) While regular employees may explain and support governmental programs that have been enacted into law, in exercising their official responsibilities they should not publicly support or oppose pending legislation, except in testimony required by the Congress.

(g) The Foreign Service Act generally prohibits any Foreign Service employee from: (1) Corresponding in regard to the public affairs of any foreign government, except with the proper officers of the United States; and (2) recommending any person for employment in any position of trust or profit under the government of the country to which he or she is detailed or assigned.

§ 1201.735–312 Use of Government property.

A regular or special employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government for other than officially approved activities. All employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to them. By law, penalty envelopes may be used only for official Government mail.

§ 1201.735–313 Indebtedness.

ACTION considers the indebtedness of its employees to be a matter of their own concern and will not function as a collection agency. Nevertheless, a regular or special employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State, or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of a dispute between an employee and an alleged creditor, this section does not require ACTION to determine the validity or amount of the disputed debt.

§ 1201.735–314 Gambling, betting, and lotteries.

A regular or special employee shall not participate, while on Government owned or leased property or while on duty for the Government in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1201.735–315 Discrimination.

No regular or special employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action and may not practice, threaten, or promise any action against or in favor of an employee or applicant for employment because or race, color, religion, sex, or national origin and in the competitive service on the basis of politics, marital status, or physical handicap.

§ 1201.735–316 Related statutes and regulations.

Each employee should be aware of the following related statutes and regulations:

(a) House Concurrent Resolution 175, 8th Congress, second session, 72A Stat. B12, the "Code of Ethics for Government Service."

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against accepting honorariums of more than $2,000 per speech, appearance or article or aggregating more than $25,000 in any calendar year (2 U.S.C. 441i).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provisions relating to the habitual use of toxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuses of a Government vehicle (31 U.S.C. 638(a) (c)).

(h) The prohibition against the misuses of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against: (1) Embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, 607, and 608.

(p) The prohibition against gifts to employee's superiors and the acceptance thereof (Rev. Stat. 1784, 5 U.S.C. 113).

(q) Chapter 11 if title 18, United States Code, relating to bribery, graft, and conflicts of interest, which is specifically applicable to special Government employees as well as to regular employees.

(r) The prohibitions against: (1) Accepting gifts from foreign governments; (2) engaging in business abroad; (3) corresponding on the affairs of foreign governments; and (4) discrimination on political, racial, or religious grounds contained in sections 1002 through 1005 of the Foreign Service Act of 1946, as amended.

(s) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(t) The prohibition against appointing or advocating the appointment of a relative to a position within the Agency (5 U.S.C. 3110).

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

§ 1201.735–401 Submission of statements.

(a) (1) Regulations of the Civil Service Commission (5 CFR Part 735) require ACTION to adopt regulations providing for the submission of statements of employment and financial interests from certain regular ACTION employees and all special ACTION employees.

(2) All special employees and those regular employees designated in paragraph (b) of this section shall com-

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plete statements of employment and financial interests and submit them to the Office of General Counsel not later than 5 days after their entrance on duty. The Director of Personnel Management shall be responsible for supplying all new employees with the necessary forms either prior to or on the first day of their employment.

(3) The statement of employment and financial interests shall include information on organizations with which the employee was associated during the 2 years prior to his or her employment by ACTION, as well as information about current associations. Special employees shall also indicate to the best of their knowledge which organizations listed currently on their form have contracts with or grants from ACTION, or are applying for ACTION contracts or grants. If any information required to be included on the statement, including holdings placed in trust, is not known to an employee but is known to another person, he or she is required to request that other person to submit information on his or her behalf.

(4) Changes in or additions to the information contained in a regular or special employee's statement must be reported in a supplementary statement as of June 30 each year. The Director of Personnel Management shall be responsible for insuring that such supplementary statements are submitted by June 30. If there are no changes or additions, a negative report is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a conflict of interest and a violation of the conflict-of-interest provisions of section 208 of Title 18, United States Code, or the conflict-of-interest provisions of this part.

(5) In the case of temporary summer employees hired at FSR-7 or equivalent and below to perform duties other than those of an expert or consultant, the reporting requirement will be waived. It may also be waived by the Director of Personnel Management with respect to other appointments, except as experts or consultants, upon a finding that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the reporting of employment and financial interests is not necessary to protect the integrity of the Government.

(6) Regular or special employees are not required to submit in a statement of employment and financial interests or supplementary statements any information about their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization not conducted as a business enterprise. For this purpose, any organizations, doing work involving or potentially involving grants of money from or contracts with the Government are considered business enterprises and are required to be included in a regular or special employee's statement of employment and financial interests.

(7) The statements of employment and financial interests and supplementary statements required are in addition, and not in substitution for or in designation of, any similar requirement imposed by law, order, or regulation. The submission of a statement of supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or other persons' participation is prohibited by law, order, or regulations.

(8) A regular employee who believes that his or her position has been improperly included under ACTION regulations as one requiring the submission of a statement of employment and financial interests shall be given an opportunity for review through ACTION's grievance procedures to determine whether the position has been improperly included.

(b) Statements shall be submitted by the following employees:

(1) Office of the Director:
(i) Director.
(ii) Deputy Director.
(iii) Executive Officer.
(iv) Special Assistants to Director and Deputy.
(v) Executive Assistants to Director and Deputy.

(2) Office of Domestic and Anti-Poverty Operations:
(i) Associate Director.
(ii) Deputy Associate Directors.
(iii) Special Assistants to Associate Director and to Deputy Associate Directors.
(iv) Supervisory program specialists.
(v) Program specialists and analysts.
(vi) Regional Directors.
(vii) Deputy Regional Directors.
(viii) Regional training chiefs.
(ix) Regional staff members with contracting and disbursing authority.
(x) Regional program operations officers.
(xi) State program directors.
(xii) State program officers.
(xiii) Deputy Directors, VISTA, and OAVP.

(3) Office of Administration and Finance:
(i) Assistant Director.
(ii) Deputy Assistant Director.
(iii) Director, Management and Organization.
(iv) Director, Administrative Services.
(v) Chief, Paperwork and Management.
(vi) Chief, Transportation.
(vii) Chief, Communications and Property.
(viii) Director, Accounting Division.
(ix) Chief, Fiscal Services.
(x) Chief, Accounting Operations.
(xi) Cashier.
(xii) Director, Personnel Management.
(xiii) Deputy Director, Personnel Management.
(xiv) Director, Health Services.
(xv) Director, Contracts and Grants Management.
(xvi) Chief, Procurement Division.
(xvii) Contract specialists, negotiators, and administrators.
(xviii) Purchasing agents.
(xix) Chief, Grants Division.
(xx) Senior Grants Administrator.
(xxi) Grants Administrator.
(xxii) Director, Computer Services.
(xxiii) Director, Staff Training and Development.

(4) Office of Recruitment and Communications:
(i) Assistant Director.
(ii) Deputy Assistant Director.
(iii) Special Assistant to Assistant Director.
(iv) Director, Planning and Evaluation.
(v) Director, Recruitment Resources.
(vi) Director, Office of Communications.
(vii) Director, Public Affairs.
(viii) Director, Creative Services.

(5) Office of Voluntary Citizen Participation:
(i) Assistant Director.
(ii) Director program operations.
(iii) Director, International and Special Assistance.
(iv) Program specialists.
(v) Director, School Partnership program.

(6) Office of the General Counsel:
(i) General Counsel.
(ii) Deputy General Counsel.
(iii) Associate General Counsels.
(iv) Assistant General Counsels.

(7) Office of Policy and Planning:
(i) Assistant Director.
(ii) Deputy Assistant Director.
(iii) Special Projects Officer.
(iv) Director, Budget Division.
(v) Director, Policy Development.
(vi) Director, Evaluation.
(vii) Director, Planning.
(viii) Special Assistants to Assistant Director.
(ix) Program analysts.
(x) Policy development analysts.
(xi) Supervisory program specialists.
(xii) Evaluation specialists.

(8) Office of Legislative and Governmental Affairs:
(i) Assistant Director.

(9) Office of Compliance:
(i) Assistant Director.
(ii) Inspector General.
(iii) Auditors, inspectors, program operations analysts.
(iv) Director, Division of Equal Opportunity.

(10) Office of International Operations:
(i) Associate Director.
(ii) Deputy Associate Directors.
(iii) Director, Programing and Training.
(iv) Director, Multilateral and Special programs.
(v) Director, Special Services.
(vi) Director, Office of Management.
(vii) Director, Office of Peace Corps Volunteer Placement.
(viii) Regional Directors.
(ix) Country Directors and those overseas staff members to whom contracting or procurement authority has been duly delegated by the Country Director.

§ 1201.735–402 Review of statements.

(a) The Office of General Counsel shall review all statements and forward the names of all listed organizations to the Director of Contracts and Grants Management. In addition, if the information provided in the statement indicates on its face a real, apparent, or potential conflict of interest under § 1201.735–301 through 305 of these standards, the General Counsel will review the situation with the particular employee. If the General Counsel and the employee are unable to resolve the conflict to the General Counsel's satisfaction, or if the employee wishes to request an exception to any of the above enumerated rules, the case will be referred to the Committee on Conflict of Interests. The Committee is authorized to recommend appropriate remedial action to the Director, who is authorized to take such action as may include, but is not limited to, changing assigned duties, requiring the employee or special employee to divest himself of a conflicting interest, taking disciplinary action, or disqualifying or accepting the self-disqualification of the employe or special employee for a particular assignment.

(b) The Office of Contracts and Grants Management shall maintain a list of all the organizations with which employees are or have been associated, as well as a list of all current grantees of and contractors with the Agency. When names of organizations with which new employees are or have been associated are submitted to the Grants office, they shall be checked against the list of current grantees or contractors. Similarly, before any new grants or contracts are awarded, the names of the potential grantees and contractors will be checked against the master list of organizations with which employees are or have been associated. Any real, apparent, or potential conflicts which come to light as a result of these cross checks will be referred to the Office of General Counsel for review. The General Counsel will proceed as in paragraph (a) of this section, referring the matter to the Committee on Conflict of Interests if necessary.

(c) Whenever an organization submits a proposal or application or otherwise indicates in writing its intent to apply for or seek a specific grant or contract, ACTION shall immediately forward a copy of the Agency standards of conduct to that organization and shall note which particular rules apply to potential grantees and contractors.

(d) Whenever a regular or special employee terminates his or her employment with ACTION, the Office of Personnel Management shall provide that employee with a copy of the rule which restricts a person's employment for a period of 1 year after leaving ACTION. Personnel shall also notify the Office of General Counsel when an employee terminates. One year after the date of termination, General Counsel will instruct the Office of Grants and Management to remove from the master list any organizations with which the terminated employee was associated. Three years after the date of termination, General Counsel will destroy the statement of employment and financial interests.

SAM BROWN,
Director, ACTION.

[FR Doc. 78-28205 Filed 10-4-78; 8:45 am]

[4310–55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of the Great Swamp National Wildlife Refuge, N.J., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 5, 1978, through December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

John L. Fillio, Great Swamp National Wildlife Refuge, Rural Delivery 1, Box 148, Basking Ridge, N.J. 07920, telephone 201–647–1222.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer of either sex with shotguns on the Great Swamp National Wildlife Refuge, N.J., is permitted, except on areas designated by signs as closed, during the period of December 5, 1978, to December 9 1978, inclusive, and December 14, 1978. Hunting of deer with firearms shall be in accordance with all State and Federal regulations subject to the following special conditions:

Deer may be taken throughout the hunt between the hours of 7 a.m., e.s.t., and 5 p.m., e.s.t. Participation will be limited to the 400 hunter permittees randomly selected for the special Great Swamp hunt. Only 150 hunters will be allowed to hunt on any given day during the hunt period. Armbands and parking area permits will be issued and must be displayed as designated. Armbands and permits must be surrendered prior to departure from the refuge. Hunters must furnish and wear a minimum of 200 square inches of blaze or hunter orange. All deer taken must be checked out at the refuge check station. Vehicles are restricted to public roads and areas designated by parking permits.

A shotgun not smaller than 12 gage will be permitted for hunting deer, and buckshot not smaller than No. 4, nor larger than No. 000, will be permitted in possession during the hunt. Hunter permittees will be required to have shotguns and loads certified prior to the hunt. Target practice or test firing is not permitted, and guns must be unloaded when in areas posted as "closed." Baiting or hunting with the aid of bait is prohibited.

Regulations, summaries, maps delineating open hunting areas, and shotgun and load certification forms and requirements are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The refuge will be closed to the general public during the above hunting dates. Other than on the days of the hunt, permitted entry will be allowed only on approved public use areas as designated by signs.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in 50 CFR Part 32. The public is invited to offer suggestions and comments at any time.

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NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
Fish and Wildlife Service.

SEPTEMBER 28, 1978.

[FR Doc. 78-28103 Filed 10-4-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in the States of Arizona, California, New Mexico, Oklahoma, and Texas, is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for migratory game birds.

EFFECTIVE DATES: October 1, 1978 through January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

The refuge manager at the address or telephone number listed below in the body of these special regulations.

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to migratory game bird hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on hunting leaflets available at the individual refuge headquarters. Vehicular travel is restricted to designated roads and trails.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Listed migratory game bird species may be hunted on the following refuges:

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225, telephone 714-922-4433. Ducks, geese, coots, and gallinules.

Special conditions: (1) All hunting equipment, including decoys, must be removed from the refuge immediately after the end of each hunt. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (3) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling or within 250 yards of any farmworker. (4) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (5) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (6) Possession of handguns and all rimfire firearms is prohibited. Rifled firearms of legal caliber for deer hunting may be possessed on the refuge, but only during the legal deer hunting season. (7) It is not permissible to possess shotgun shells containing slugs, a single ball or shot of a size larger than "BB". (8) No decoys may be used that exceed 36 inches in any dimension; i.e., length, width or height.

Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363, telephone 714-326-3853. Ducks, geese, coots, gallinules, and common (Wilson's) snipe.

Special conditions: (1) Hunting in the Pintail Slough management unit will be permitted only on Fridays, Saturdays, and Sundays. This unit includes all refuge lands north of the north dike. (2) Hunters in Topock Marsh are required to use shotgun shells loaded with steel (iron) shot. It is not permitted to possess shotshells other than steel shotshells in this area. This area includes all refuge lands and waters open to hunting and lying north of the south dike; it includes the Pintail Slough management unit with other lands and waters. (3) Hunters may be required to check in or check out of the hunting area for the purpose of giving hunting information to managers. (4) Hunters are required to enter the hunting areas by way of designated parking areas. (5) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (6) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (7) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (8) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling or concession operation.

Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Ariz. 85364, telephone 602-783-3400. Ducks, geese, coots, and gallinules.

Special conditions: (1) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (2) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (3) Neither hunters nor dogs may enter areas closed to hunting to retrieve game.

NEW MEXICO

Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201, telephone 505-622-6755. Ducks, geese, coots, common (Wilson's) snipe, and lesser sandhill cranes.

Special conditions: (1) Steel (iron) shot shotgun ammunition only may be used for taking ducks, geese, coots, snipe, or sandhill cranes on the south refuge unit (area C). Further, it is not permissible to have shotgun ammunition other than steel shotshells in possession in area C during the waterfowl season. (2) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (3) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (4) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt.

Sevilleta National Wildlife Refuge, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone 505-835-1828. Ducks, geese, and coots.

Special conditions: (1) Hunting days and hours are: Tuesdays, Thursdays, and Saturdays, from thirty (30) minutes before sunrise until 1 p.m. local time. (2) Vehicular entry and parking will be restricted to areas as posted and designated on a hunting map which is available from the refuge. (3) Camping is not permitted. (4) Entry into the hunting area will be no earlier than two (2) hours before sunrise. (5) All hunters must be out of the hunting area by one-half hour after shooting hours. (6) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving. (7) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (8) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt.

OKLAHOMA

Sequoyah National Wildlife Refuge, P.O. Box 398, Sallisaw, Okla. 74955, telephone 918-775-6223. Ducks, geese, coots, common (Wilson's) snipe, and woodcock.

Special conditions: (1) Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel, where weapons must be cased or broken down. (2) Camping or possession of firearms on the refuge at night is prohibited. (3) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (4) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460, telephone 405-371-2402. Ducks, geese, and coots.

Special conditions: (1) All waterfowl hunting on the wildlife management unit of the Tishomingo National Wildlife Refuge will be by use of 12 gage shotguns using steel (iron) shot shotshells. Shotguns other than 12 gage and shotshells loaded with other than steel shot are prohibited in hunting zone 3 during the waterfowl season. (2) Ducks and coots may be hunted only in management unit zones 1 and 2. Duck and coot hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m., local time, on Tuesdays, Thursdays, Saturdays, Sundays, and national holidays. (3) Duck and coot hunting in zone 2 is restricted to hunters using retrieving dogs. (4) Eight (8) duck blinds are provided in zone 1, and hunters will be assigned to these blinds on a first-come-first-choice basis. Construction of temporary blinds is permitted in the "pothole" area of zone 1; however, no hunter may have possessory rights to any blind. These temporary blinds may be placed where desired after giving due consideration to safety and hunting opportunities of hunters already in the area. Blinds may not be constructed or used within 80 yards of a blind already in use. (5) Geese may be hunted in zone 3 only. Goose hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m., local time, on Tuesdays, Thursdays, Saturdays, Sundays, and national holidays. (6) Thirty-five (35) goose blinds are provided in zone 3; all goose hunting must be from these blinds. Hunters must apply in writing to the refuge manager at the above address for blind reservations. Reservation requests for 5 days may be submitted. Hunting applications for specific dates will be processed in the order in which they are received at the refuge until available blind spaces are filled. Confirmations and rejections of applications will be made by mail if time permits. (7) Blind assignments to those whose applications have been accepted will be determined by a punchboard procedure just prior to each day's hunt. (8) Each hunter in zone 3 is limited to the possession of six (6) steel shot shotgun shells. (9) The management unit will be closed to waterfowl hunting on November 13 and 14, 1978, for public safety due to a control deer hunt. (10) During the hunts, hunters in zones 1 and 3 must remain in blinds to which they have been assigned except to place or adjust decoys and to retrieve birds. (11) All hunters in all zones, upon entering or leaving the area, shall report to designated checking stations for the purpose of blind assignment and to furnish information on their hunting activities. (12) Skybusting; i.e., firing at birds in excess of 45 yards from the hunter, is prohibited in all hunting zones.

TEXAS

Brazoria National Wildlife Refuge, Box 1088, Angleton, Tex. 77515, telephone 713-849-6062. Ducks, geese, and coots.

Special conditions: (1) Access to the hunting areas must be entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt.

San Bernard National Wildlife Refuge, Box 1088, Angleton, Tex. 77515, telephone 713-849-6062. Ducks, geese, and coots.

Special conditions: (1) The waterfowl hunting area on this refuge is divided into two parts: Special permit waterfowl hunting area (SPWH area) and free waterfowl hunting areas (also locally known as the Cedar Lakes and the Smith Marsh tract). (2) A refuge permit will be required for participation in the SPWH area. Permit applications are available at the Refuge Office, 1014 North Velasco Street, Angleton, Tex., and must be returned to the refuge office by October 20, 1978, to be eligible for drawing for advanced reservations. (3) Due to a special on-refuge transportation problem, no dogs will be permitted in the SPWH area. (4) Hunters participating in the special permit waterfowl hunt are required to be present at the check station by 4:30 a.m., local time. (5) The refuge will furnish duck decoys for the special permit waterfowl hunt and no other duck decoys may be used in this segment of the hunt. Goose decoys are permitted but will not be furnished. (6) Hunters participating in the special permit waterfowl hunt may not leave their blinds except to retrieve dead or wounded waterfowl or to rearrange their decoys. (7) Hunting days for the SPWH area will be Saturdays, Sundays, and Wednesdays. (8) Hunters will stop hunting and shooting at 10 a.m., local time, in the SPWH area and be prepared to be transported out of the hunt area. (9) Any available hunting blinds in the SPWH area will be filled by hunters without reservations on a standby basis immediately prior to each day's hunt. (10) A "special hunter service recreation fee" of $3 will be collected from each hunter for each hunting trip on the SPWH area. Holders of "Golden Age Passports" will be charged $1. (11) Transportation from the check station to the SPWH area will be provided. (12) In the SPWH area guns may not be loaded until hunters reach their assigned blinds. (13) Upon returning to the check station from the SPWH area, hunters may be required to answer questions regarding the hunt to further the management of the hunt. (14) No guest or observers are permitted in the blinds, only properly selected hunters. (15) Access to the free waterfowl hunting areas (Cedar Lakes and Smith Marsh tract) must be primarily over public water routes. (16) On the free waterfowl hunting areas pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (17) Birds may not be plucked on the refuge. (18) Alcoholic beverages and controlled drugs are prohibited in all hunt areas on the refuge.

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550, telephone 512-423-8328.

Special condition: The hunting of migratory game birds on the Laguna Atascosa National Wildlife Refuge is suspended for the 1978-79 hunting

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season. It has been determined that the entire refuge is required for resource protection, especially in that the redhead, a bird in short supply is a major wintering species.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic input statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joshua J. Harman, Albuquerque Regional Office, telephone 505-766-2036.

W. O. NELSON, Jr.
Regional Director,
Albuquerque, N. Mex.

SEPTEMBER 23, 1978.

[FR Doc. 78-28104 Filed 10-4-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Iowa, to Migratory Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory bird hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1978, through December 9, 1978, both dates inclusive.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, Route 1, Box 114, Missouri Valley, Iowa 51555, telephone area code 712-642-4121.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the DeSoto National Wildlife Refuge, Iowa, only on the area designated as open to hunting. This area, comprising 355 acres, is delineated on maps available at the refuge headquarters and from the office of the area manager, Kansas City area office, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116, telephone area code 816-374-5951. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Only waterfowl species (ducks, geese, coots) may be taken;

2. Shooting hours will be from one-half hour before sunrise to 12 noon each day;

3. All hunting will be by refuge permit only. Advanced reservations for a specific date will be accepted, by mail, or in person, at refuge headquarters between the hours of 8 a.m.-5 p.m., Monday through Friday, through Saturday, September 30, 1978. A drawing to determine successful applicants will be held on Monday, October 2, 1978. Should openings remain following the drawing, reservations will be accepted on a first-come-first-serve basis on and after October 6, 1978. Reservations will not be accepted by telephone;

4. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date;

5. Applicants for reservations must be at least 16 years of age or older. A $3 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters with him in order to utilize the three-man blinds. Each person will be charged a $1 blind-use fee when he registers to hunt;

6. Reservations are nontransferrable and fees will not be refunded. No provision shall be made for "standby" hunters;

7. All hunters must hunt from refuge-constructed three-man blinds only. Blinds will be assigned on a drawing basis each day of the hunt. All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone (within 40 yards of blind, as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line (within 100 yards of blind, as posted), but guns must remain within the shooting zone;

8. Hunters will be required to check in and out at the refuge check station on each hunting day.

9. Permit holders must park in assigned parking lots within the hunting area. Nonrefuge hunters may not use the refuge parking areas as access to private lands;

10. Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys, up to 3 dozen per blind, may be rented at the refuge check station at a charge of $1 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged;

11. Only shotguns capable of holding three shells or less will be permitted.

12. Only steel shot loads will be allowed in the hunting area:

13. A maximum of 25 shells per hunter will be allowed per day.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 22, 1978.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc. 78-28146 Filed 10-4-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1978, to January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201, telephone 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 26, 1978.

[FR Doc. 78-28002 Filed 10-4-78; 8:45 am]

[3510-22]

CHAPTER VI—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

Part 652—Surf Clam and Ocean Quahog Fisheries

Amendment to Increase Fishing Time and Reallocation of Quota

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to final regulations.

SUMMARY: This amendment increases the hours during which surf clams may be harvested in the fourth quarter of 1978. The current 24-hour weekly fishing period is extended to 36 hours. The longer hours are permitted because of a projected surplus of surf clams from the surf clam quota for the third quarter of 1978, and the expected high incidence of adverse fishing conditions during the winter months. It is expected that the additional hours will permit fishermen to harvest and not exceed the total adjusted surf clam quota during the fourth quarter.

EFFECTIVE DATE: 12:01 a.m. October 1, 1978, through 12 midnight December 31, 1978.

FOR FURTHER INFORMATION:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Pursuant to section 302 of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (Act), a fishery management plan (FMP) for the surf clam and ocean quahog fisheries was prepared by the Mid-Atlantic Fishery Management Council. The FMP was approved in accordance with section 304 of the Act and published on November 25, 1977 (42 FR 60438). Regulations implementing the FMP were published on February 17, 1978 (43 FR 6952) and codified at 50 CFR Part 652.

Section 652.7 of the initial regulations implementing the FMP provides for a 4-day fishing week, Monday through Thursday, subject to adjustment by the Regional Director of the National Marine Fisheries Service to permit the continued catch of surf clams throughout an entire quarter, and to protect the integrity of the quarterly quotas on the harvest of surf clams. Based upon determinations by the Regional Director § 652.7 was amended on February 21, 1978 (43 FR 7208), March 31, 1978 (43 FR 13581), May 5, 1978 (43 FR 19397), and June 26, 1978 (43 FR 27549). These amendments were necessary to prevent the quarterly quota from being exceeded, and to permit the continued harvest of surf clams throughout the entire quarter.

Section 652.7(a)(2) requires the Regional Director, prior to the beginning of each quarter, to determine the level of effort which will permit the continued harvest of surf clams throughout the entire quarter. There is a projected surplus of 50,000 bushels of surf clams from the quota for the third quarter which expires on September 30, 1978. In addition, adverse weather conditions occur during the winter months. Consequently, in accordance with § 652.6(e)(1), the Regional Director has added the surplus of 50,000 bushels of surf clams to the fourth quarter quota of 350,000 bushels for a total of 400,000. The Regional Director also has determined that a thirty-six- (36) hour weekly fishing period will permit the harvest of the total adjusted surf clam quota of 400,000 bushels throughout the fourth quarter.

This change from the present 24-hour weekly fishing period will relieve the present reductions in the fishery. Because of this, the extensive discussion of the fishing effort restrictions in § 652.7 during a series of public hearings held earlier this year and because of the closeness of the fourth quarter, the Assistant Administrator for Fisheries further finds it is unnecessary, impractical, and contrary to the public interest to delay implementation of these amendments. Consequently, the new fishing hours are effective at 12:01 a.m. October 1, 1978.

The Assistant Administrator has determined that this action does not constitute a significant action requiring the preparation of a regulatory impact analysis under Executive Order 12044.

Signed in Washington, D.C., this Friday of September 29, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

50 CFR 652.7(a)(1) is revised as follows:

§ 652.7 Effort restrictions.

(a) *Surf Clams.* (1) Fishing for surf clams shall be permitted during 4 days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday. However, no fishing vessels shall engage in fishing for surf clams for more than 36 hours in any week. For the period from October 1, 1978 to December 31, 1978, inclusive, the authorized fishing periods for surf clams for each vessel shall be periods designated on the letter of authorization from the Regional Director. The letter shall be kept aboard the vessel at all times and shall state those periods in which the vessel is authorized to fish for surf clams. Such periods shall be 12, 18, 24, or 36 hours in duration and cumulatively cannot exceed 36 hours total in one week. No changes in authorized fishing periods will be permitted once a quarter has commenced. All requests for changes for subsequent quarters must be received by the Regional Director 15 days prior to the beginning of the next quarter. Fishing for any part of an authorized period will be counted as one period of fishing. In this paragraph "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

* * * * *

50 CFR 652.6(a) is amended as follows:

§ 652.6 Catch quotas.

* * * * *

(a) * * *

Oct. 1, 1978 through Dec. 31, 1978	400,000

* * * * *

(Section 302 of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (Act).)

[FR Doc. 78-28064 Filed 10-4-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 25 and 121]

[Docket No. 16854; Notice No. 78-15]

AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Airplane Cabin Ozone Contamination

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to establish specific airplane cabin ozone concentration standards for the issuance of type certificates for transport category airplanes. Cabin ozone standards are also proposed for the operation of transport category airplanes by all air carriers and commercial operators. The circumstances which created the need for this action were complaints of crewmembers and passengers of physical discomfort, due to ozone gas, on high-altitude flights. This action is intended to alleviate problems due to high-altitude ozone by placing limitations on acceptable levels of cabin ozone concentrations.

DATE: Comments must be received on or before January 5, 1979.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 16854, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before January 5, 1979, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

AVAILABILITY OF NPRM'S

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF THE PROPOSED RULE

A. BACKGROUND

During the winter of 1976, the FAA received several crewmember and passenger complaints of physical discomfort on high-altitude flights. By March 1977, information from FAA air carrier inspectors, air carriers, and aircraft manufacturers led the FAA to believe that ozone gas (O_3) was the probable cause of many of the crewmember and passenger complaints.

The FAA Flight Standards Service published on July 21, 1977, Advisory Circular No. 00-52, Ozone Irritation During High Altitude Flight, which defined ozone irritation, discussed its causes and symptoms, and described a means of dealing with the problem should it occur in flight.

The FAA initiated a research project on May 26, 1977, to study the health effects of exposure to ozone in the aviation environment. Respiratory, hematologic, visual, and performance parameters are being assessed. In support of this research, an extensive scientific literature search and a review of flight crewmember complaints have been undertaken.

An advance notice of proposed rulemaking (ANPRM) No. 77-22 was issued on September 29, 1977 (42 FR 54427, Oct. 6, 1977), to seek information concerning ozone contamination from air carriers, aircraft manufacturers, crewmember organizations, high-altitude research organizations, health organizations, and other interested persons. The closing date for receiving comments on the ANPRM was December 6, 1977.

B. DISCUSSION OF COMMENTS

The FAA received 42 comments in response to this ANPRM. A synopsis of the comments received on each question asked in the ANPRM follows.

Question one, regarding statistics of ozone contamination of aircraft cabins, drew 17 comments. The comments ranged from in-flight measurements of ambient and aircraft cabin ozone concentrations to a log containing 111 flights with reported crewmember and passenger complaints.

High-altitude ambient ozone concentration levels were reported by several commenters. One comment included data from the National Aeronautics and Space Administration, global atmospheric sampling program (GASP). These reports show, for example, an average ambient ozone concentration at 37,000 feet above New York City to be 0.16 parts per million by volume (ppmv) with peaks to 0.58 ppmv during the high ozone season of March, April, and May. These average and peak values rise with increases in altitude and latitude. Measurements over Anchorage, Alaska, for the same period and conditions show a mean of 0.48 ppmv with peaks to 0.66 ppmv. In addition, GASP measurements in the cabin of a B-747SP airplane without ozone filters showed ozone concentrations which ranged from 0.05 to 0.65 ppmv due to differences in altitude, latitude, season, and weather patterns. Similar cabin data for a B-747-100 ranged from 0.04 to 0.40 ppmv. One commenter completed a cabin monitoring study and reported hourly averages below 0.3 ppmv with peaks of 1.035 ppmv for 2 to 3 minutes. Three commenters stated that they have no

knowledge of ozone contamination in aircraft cabins and thus feel no action beyond a program of continuing research is necessary.

Ozone contamination symptoms were primarily reported on long flights and were usually associated with the B-747 airplane (symptoms were also reported on B-707, DC-8, and DC-10 airplanes).

One commenter reported no problems with corporate jet airplanes at altitudes up to 51,000 feet.

The second question, regarding the health effects of ozone contamination, drew 17 comments. Several commenters submitted extensive summaries of previous research done in the area of ozone toxicology. All but one commenter agreed that there is a potential health problem associated with present cabin ozone concentration levels at jet operating altitudes. An extensive review of ozone research on humans, conducted under the sponsorship of the Environmental Protection Agency (EPA), cited convincing evidence showing that pronounced effects on the mechanical functions of the lungs occur at ozone exposures of 0.37 to 0.75 ppmv for 2 hours under conditions of intermittent moderate exercise. On the basis of other evidence, this review also concluded that changes in mechanical lung function may occur in some persons at ozone concentrations less than 0.25 ppmv for 2 hours, and that there may be some risk of inducing functional changes at levels in the range of 0.15 to 0.25 ppmv.

The risk of harmful effects on a person's respiratory system increases with the concentration of ozone experienced, the frequency of exposure, and the intensity of exercise of the exposed person. The EPA concluded that there is not a sharp dividing line between protective responses and potential for pathological consequences. However, the biochemical effects induced by ozone concentration levels of 0.1 to 0.2 ppmv appear to be largely adaptive while effects caused by levels of 0.5 and greater have definite toxic potential. Other comments pointed out the increased effects ozone contamination can produce on young children and persons with respiratory disease.

Comments to the third and seventh questions dealing with possible aircraft design changes and the best solution to the aircraft cabin ozone contamination problem are grouped together, as virtually all commenters believe that the solution to the ozone problem is a mechanical fix rather than an operational or forecasting solution. Two basic ozone reduction design concepts were submitted: Charcoal filters and catalytic converters. Some commenters reported that available charcoal filter designs have unacceptable weight and fuel penalties. A few commenters reported new catalytic converter designs which they consider effective and economically feasible. Four comments were also received suggesting ozone monitors and backup systems such as the use of high-pressure bleed air at a temperature sufficient to disassociate ozone and a readily available supply of auxiliary oxygen for passenger use.

Question four, regarding the feasibility and availability of ozone meters, drew 20 comments from various interested commenters. Some of these commenters reported systems which they felt were operationally feasible and functional, or expressed confidence that such units would be available as soon as a demand is created. Five commenters recommended requiring ozone meters on aircraft and one recommended that the FAA or an independent group monitor ozone. Three commenters indicated that an ozone meter for use by flightcrews is infeasible and unnecessary.

Forecasting of atmospheric ozone concentration, as mentioned in question five, received eight direct comments. The consensus was that forecasting may be of some general value but that forecasting techniques were not available to predict ozone concentrations for a given flight, date, and altitude.

Question six, concerning the use of operational procedures to reduce ozone contamination, received 11 comments. Nine commenters suggested procedures such as switching on high-pressure bleed air to disassociate the ozone or reducing flight altitude to seek a lower ozone concentration. Two commenters reported that changing operational procedures would not be practical or economical, especially considering that atmospheric ozone concentrations can vary dramatically in the time it would take to get clearance to change altitude or the aircraft's flightpath.

The last question, number eight, asked whether each certificate holder should warn passengers on high-altitude flights of the possibility of exposure to high levels of ozone and the ensuing health effects. This query received 19 comments with 11 commenters against and 8 for the proposal. The majority of those opposed to warning the passengers cited: (1) The numerous other physiological problems and health risks associated with flying for which no warning is given, (2) the expense of written warnings, and (3) the alternative of fixing the problem and avoiding undue alarm to the public. Three commenters expressed the view that there is not enough evidence of a health hazard to justify a written warning to the passengers. Those in favor of the warning felt that the passengers should be warned of the hazards to allow sensitive persons to avoid the irritation and adverse health effects.

C. ANALYSIS

Based on a review of comments received in response to ANPRM No. 77-22, the FAA has concluded that specific airplane cabin ozone concentration standards should be established in parts 25 and 121 of the Federal Aviation regulations (14 CFR Parts 25 and 121). The FAA belives that it is not necessary to establish cabin ozone concentration standards for aircraft certificated under part 23 or operated solely under part 91 or 135 (14 CFR Parts 23, 91, and 135). This belief is based upon a review of the comments to the ANPRM which indicated that there was no problem justifying the institution of rulemaking procedures for these types of aircraft and operations. However, additional comments may be submitted by interested persons with respect to the desirability of extending the coverage of this proposal to encompass these areas.

The part 25 amendment would establish a limitation for in-cabin high-altitude ozone of 0.3 ppmv for all new transport category airplane design specifications. It would also establish a 2-hour time-weighted average limit of 0.1 ppmv. Consistent with this, the part 121 amendment would require certificate holders to demonstrate, for transport category airplanes, by analysis or tests, that in-cabin high-altitude ozone levels will not exceed a 0.3 ppmv limit for all flight segments. Further, for flight segments with scheduled block times in excess of 3 hours, a concentration standard of 0.1 ppmv is proposed. This standard is computed as a time-weighted average over the scheduled length of an individual flight segment.

For the purpose of this notice, high-altitude ozone is the natural ozone manufactured by the sun in the atmosphere above 18,000 feet (FL 180). Flight level 180 has been selected as a place to start controlling airplane cabin ozone because it is implicit in a review of atmospheric statistics that some division is needed to separate the upper atmosphere-controlled ozone region from that region where a significant portion of the pollution is derived from human activities, especially near large urban areas.

The 0.1 ppmv time-weighted average is the primary controlling standard, and eliminates the possibility that relatively long-duration flights will expose passengers and crewmembers to ozone levels which might prove symptomatic or unhealthy. This standard is adopted from Occupational Safety and Health Administration

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(OSHA) standards instead of the U.S. ambient air quality standard because the OSHA standards more accurately reflect the nature of the exposure aboard airplanes than does the U.S. ambient air quality standard. Section 1910.1000 of chapter XVII, Occupational Safety and Health Regulations (29 CFR 1910.1000), provides that an employee's exposure to ozone in any 8-hour work shift of a 40-hour workweek shall not exceed the 8-hour time-weighted average limit of 0.1 ppmv.

The limit of 0.3 ppmv is taken from standards adopted by government and industrial hygiene specialists. A 0.3 ppmv exposure is allowable under the OSHA 0.1 ppmv 8-hour time-weighted average limitation which would permit a 2-hour exposure to ozone of 0.3 ppmv. The intent of incorporating this limit for aviation is to eliminate the possibility of exposures to relatively high ozone levels for brief periods of time.

Compliance with the proposed parts 25 and 121 ozone concentration standards must be demonstrated by analysis or tests of atmospheric and cabin ozone concentration for each airplane type. This will be accomplished by showing that the airplane's systems are capable of destroying enough atmospheric ozone prior to its entering the cabin the meet the cabin ozone standards or that the airplane will not penetrate atmospheric ozone concentrations above the standards. It is expected that many short-range transport category airplanes will be able to demonstrate compliance without a hardware modification. Demonstrations that cabin ozone concentrations are in compliance with the proposed standards may be based on specific routes, altitudes flown, and atmospheric ozone statistics acceptable to the Administrator. One such set of statistics is contained in appendix A of Department of Transportation Report No. FAA-EQ-78-03, Guidelines for Flight Planning During Periods of High Ozone Occurrence. To demonstrate compliance, a statistical analysis must show, at a statistical confidence of 84 percent, that the applicable standards are met.

While the 0.3 ppmv in-cabin ozone limit applies to all flight segments, above flight level 180, of transport category airplanes under part 121 operations, the 0.1 ppmv time-weighted average has been applied only to those flight segments that exceed a scheduled flight time of 3 hours. An airplane on a flight segment with a scheduled flight time of 3 hours could only be flying in high concentrations of high-altitude ozone (above FL 180) for approximately 2 hours, based on conservative times for start, taxi, takeoff, climb, descent, approach, and landing. Thus, the total high-altitude ozone exposure on a flight of 3 hours or less could not exceed that exposure permitted by OSHA for an 8-hour work shift.

This notice is specifically requesting comments on the ozone concentration levels proposed. The FAA will also consider any other levels, that are based upon proper scientific data, which commenters propose.

The FAA believes that a 6-month period should be sufficient for part 121 certificate holders to comply with this proposal. This is in part based on GASP data which shoes that modifying the air conditioning system of one airplane type and adding a currently available ozone filter have reduced the cabin ambient ozone concentration ratio from 80 percent to 5 percent. The FAA does, however, solicit comments regarding the problems involved in compliance and the scope of the proposed amendment.

Regulatory Evaluation

Under the regulatory reform policies of the Secretary of Transportation and the FAA Administrator, a draft regulatory evaluation of this proposed rule has been completed and is available in the FAA rules docket at the address above, in docket No. 16854, for public review and comment.

This notice proposes requirements which would provide an increase in health and safety to crewmembers and passengers on flights above FL 180. The FAA has decided to set airplane cabin ozone concentration standards, for transport category airplanes, as a means of solving the cabin ozone contamination problem rather than to prescribe a specific corrective action or to warn passengers. This regulatory approach will insure a safe solution to the problem without imposing overly burdensome requirements. By not requiring a specific corrective action, the FAA is encouraging the development of ozone disassociation technology and providing part 121 certificate holders and transport category airplane manufacturers the flexibility to comply with the proposed amendment in a manner best suited to their specific airplanes or operations. They may show compliance with the ozone concentration standards by presenting to the Administrator an analysis which demonstrates that the standards will not be exceeded in their airplanes in specific flight operations. If a flight operation cannot meet the standards, the certificate holder has the option of selecting an alternate route of flight amending its flight operations procedures, or modifying its airplane to insure that the standards are met.

The FAA has elected not to warn passengers of the ozone contamination problem because it believes that the public interest can best be served by correcting the problem. With the adoption of this amendment, the problem of in-cabin high-altitude ozone should be solved and therefore there is no reason for a warning. Setting ozone concentration standards serves to protect all passengers in a much more effective way than does a requirement to warn passengers of a potential problem.

Due to the lack of economic data received in response to the ANPRM, comments are solicited from all interested parties on the economic effect of this proposed amendment. These comments will be considered prior to final rulemaking and should specify capital investment, operating, maintenance, administrative, and other costs.

Drafting Information

The principal authors of this document are Charles H. Huettner, Flight Standards Service, and Howard A. Bartnick, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend parts 25 and 121 of the Federal Aviation Regulations (14 CFR Parts 25 and 121) as follows:

1. By the addition of a new section to part 25 to read as follows:

§ 25.832 Cabin ozone concentration.

The airplane cabin ozone concentration during flight above flight level 180 must be shown not to exceed—

(a) 0.3 parts per million by volume; and

(b) 0.1 parts per million by volume time-weighted average during any 2-hour interval. Compliance with this section must be shown by analysis or tests based on airplane operational procedures and performance limitations.

2. By the addition of a new section to part 121 to read as follows:

§ 121.578 Transport category airplane: Cabin ozone concentration.

After (6 months after effective date) no certificate holder may operate a transport category airplane above flight level 180 unless it has successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed—

(a) 0.3 parts per million by volume; and

(b) For each flight segment that exceeds 3 hours, 0.1 parts per million by volume time-weighted average over that flight segment.

For the purpose of this section "flight segment" means the scheduled nonstop flight time between any two airports. Compliance with this section must be shown by analysis or tests

baed on airplane operational procedures and performance limitations.

(Secs. 313, 601, 603, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.45 of the Federal Aviation Regulations (14 CFR 11.45).)

Issued in Washington, D.C., September 27, 1978.

J. A. Ferrarese,
Acting Director,
Flight Standards Service.

[FR Doc. 78-27968 Filed 10-4-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 78-WE-14-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection and possible rework of certain autopilot wiring in DC-10 series airplanes. Deactivation of the automatic landing mode is an alternative to inspection rework. Results of inspections have revealed wire-to-wire chafing in the wires associated with the automatic landing system which could produce landing performance outside of FAA certification limits. The proposed AD is needed to prevent potentially unsafe landing performance.

DATES: Comments must be received on or before December 8, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009.

The applicable DC-10 service bulletin may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, CI-750, (54-60).

Also a copy of the service bulletin may be reviewed at, or a copy obtained from: Rules docket in room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules docket in room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on a proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

Inspection of 22 airplanes have revealed instances of wire damage caused by wires chafing in the empennage area of DC-10 series airplanes. The wire chafing causes wire-to-wire faults in the empennage location near the No. 2 engine. Most of the chafing wires are associated with the flight guidance system and some are critical to the autopilot "land" mode, (automatic landing system). These wire-to-wire faults when coupled with a second failure in the autopilot "land" mode could allow performance outside the certified landing limits. The critical wire-to-wire faults are detectable through the use of the electric inspections specified herein.

Since this condition is likely to exist or develop on other airplanes of the same type design with an activated autopilot "land" mode, the proposed AD would require the following to be accomplished.

Deactivation of the autopilot "land" mode, unless specified inspections of certain wire bundles are made. While the inspections will prolong the use of the "land" mode, eventual deactivation is required unless the specified wire bundles are replaced. If the wire bundles are replaced, the replacement wire bundles are also subject to inspection considering the age of the wire bundles rather than the age of the airplane. The manufacturer plans to develop wire bundles which, when available, will provide for intrinsic detection of the wire-to-wire faults and operation of the autopilot "land" mode without the inspections defined herein.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to DC-10-10, -10F, -30, -30F and -40 series airplanes certificated in all categories.

Compliance is required as indicated.

To reduce the probability of an autopilot "land" mode failure that could cause automatic landing system performance outside the certification limits, accomplish the following, unless already accomplished:

a. Within the next 100 hours' time in service from the effective date of this AD, on airplanes with 30,000 or more hours of service on wire bundles serviced by receptacles R5/P1-226, R5/P1-267, R5/P1-281 or R5/P1-282:

1. Deactivate the autopilot "land" mode in accordance with paragraph (d) of this AD; or

2. Replace wire bundles with like serviceable parts and comply with the inspection schedule of paragraph (b) of this AD.

b. Within the total time in service on the wire bundles identified in paragraph (a) and as specified in the following table:

Total hours' time in service on wire bundles	Initial inspection	Repetitive inspections
10,000 to 12,999	Within 3,000 additional hours' time in service after the effective date of this AD.	3,000 hours' time in service intervals.
13,000 to 14,999	Prior to accumulation of 16,000 hours' time in service.	3,000 hours' time in service intervals.
15,000 to 24,999	Within 1,000 additional hours' time in service after the effective date of this AD.	3,000 hours' time in service intervals.
25,000 to 25,999	Within 1,000 additional hours' time in service after the effective date of this AD.	1,000 hours' time in service intervals.

1. Perform the initial and repetitive inspections indicated in paragraph 2 of McDonnell Douglas Alert Service Bulletin A24-99, dated June 19, 1978; or

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2. Deactivate the autopilot "land" mode in accordance with paragraph (d) of this AD.

NOTE.—Service Bulletin A24-99, dated June 19, 1978, is the only version of the service bulletin suitable for compliance with paragraphs (a) and (b) of this AD.

c. If wire-to-wire faults are found during the inspection of (b)(1), before further flight:

1. Deactivate the autopilot "land" mode in accordance with paragraph (d) of this AD; or

2. Replace wire bundles with like serviceable parts and comply with the inspection schedule of paragraph (b) of this AD.

d. Deactivation of the autopilot "land" mode shall be accomplished as follows:

1. Coil and stow wires 1C512B24 and 2C512B24 or 1C512M24 and 2C512M24 as applicable.

2. Placard the autopilot "land" mode inoperative.

e. For autopilot wiring defined in paragraph (a) with 10,000 or more hours' time in service, prior to reactivation of autopilot "land" mode following deactivation for any reason, the initial inspection of paragraph (b) of this AD must be accomplished.

f. Upon request of an operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the initial and repetitive inspections at intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

g. Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

h. Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of aircraft to a base where the modification required by this AD may be performed.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in the interim Department of Transportation guidelines.

Issued in Los Angeles, Calif., on September 22, 1978.

M. C. BEARD,
Acting Director,
FAA Western Region.

[FR Doc. 78-27871 Filed 10-4-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-45]

TRANSITION AREA

Proposed Alteration: Killeen, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Killeen, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Killeen Municipal Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) south of the airport.

DATES: Comments must be received on or before November 6, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (43 FR 440) of FAR part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the transition area at Killeen, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before November 6, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Killeen, Tex. The FAA believes this action will enhance IFR operations at the Killeen Municipal Airport by providing additional controlled airspace for aircraft executing proposed instrument approach procedures using the newly established NDB located south of the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by altering the Killeen, Tex., transition area to read as follows:

KILLEEN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hood AAF (lat. 31°08'15" N., long. 97°42'50" W.); within a 7-mile radius of Robert Gray AAF (lat. 31°04'20" N., long. 97°49'45" W.); within 9.5 miles west and 5 miles east of the Hood VOR 352° and 172° radials extending from 2 miles north of the VOR to 12 miles south of the VOR; within 5 miles southeast and 9.5 miles northwest of the Hood VOR 219°T(210°M) radial extending from the VOR to 19 miles southwest of the VOR; within 3.5 miles each side of the 337° bearing from STARN RBN (lat. 31°10'03" N., long. 97°52'41" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN; within a 5-mile radius of Killeen Municipal Airport (lat. 31°05'15" N., long. 97°41'00" W.), within 3.5 miles each side of the 197° bearing from the proposed NDB (lat. 31°01'26" N., long. 97°42'28" W.), extending from the 5-mile radius to 11.5 miles southwest of the proposed NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978.).

Issued in Fort Worth, Tex., on September 22, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27970 Filed 10-4-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 170]

REGISTERED FUTURES ASSOCIATIONS

Proposed Standards Governing Commission Review of Applications for Registration As a Futures Association; Form of Registration Statement

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is proposing to adopt standards to be applied by the Commission in determining whether to register an applicant futures association under section 17 of the Commodity Exchange Act.[1] In order for a futures association to be registered by the Commission, section 17(b) requires that "the Commission finds, under standards established by the Commission" that an applicant association is in the public interest and that it will be able to comply with the provisions of and to carry out the purposes of section 17.[2] The proposed standards reflect the Commission's preliminary views on the more general requirements imposed on futures associations in section 17 as well as the Commission's perception of the nature of activities in which associations should engage and the types of rules an association should be able to develop and implement in order to effectuate the purposes of that section. In addition, the Commission is requesting comment on the proposed form of the registration statement to be filed with the Commission by an applicant futures association as well as the information that should be contained in that statement.

DATE: Comments must be received on or before November 8, 1978.

ADDRESS: Written comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT:

Mark D. Young, telephone 202-254-5716.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Commodity Futures Trading Commission Act of 1974, only commodity exchanges that had been designated as contract markets were specifically authorized under the Commodity Exchange Act to exercise self-regulatory authority by monitoring certain aspects of futures trading. However, title III of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, § 301, 88 Stat. 1406 (1974), added section 17 to the Commodity Exchange Act and contemplates the creation of new self-regulatory organizations—registered futures associations—of persons engaged in commodity futures trading and related activities. Title III provided the Commission with discretionary authority to register futures associations, should the Commission find that an applicant organization could serve the public interest and could satisfy the requirements of section 17.

The Commodity Exchange Act sets forth certain specific functions that registered futures associations may perform. For example, futures associations might adopt and administer written proficiency examinations for persons wishing to register with the Commission as futures commission merchants, associated persons and floor brokers.[3] In addition, associations might promulgate and assure adherence to association rules designed to combat unethical behavior, thereby assisting the Commission in detecting and punishing fraudulent, manipulative or other unlawful conduct by persons subject to the Commission's jurisdiction.[4]

Once an association is registered by the Commission, section 17 further contemplates that the Commission will perform a continuing and extensive oversight role concerning the activities of the association. For example, the Commission is empowered to review and approve all association rule changes,[5] to abrogate any rule of an association if it appears to the Commission that such action "is necessary or appropriate to assure fair dealing by the members of such association, to assure a fair representation of its members in the administration of its affairs or effectuate the purposes of this title," and to supplement or alter association rules in the public interest or for other purposes.[6] In addition, any person disciplined by or denied membership in an association may seek review by the Commission of the association's action or the Commission, on its own motion, may review the action.[7] The Commission is also authorized to revoke or suspend the registration of a futures association,[8] to expel or suspend the membership of any person in such an association,[9] and to remove from office any director or officer of a registered association for willfully failing to enforce association rules or for willfully abusing his or her authority.[10]

LEGISLATIVE HISTORY OF TITLE III

During the congressional deliberations which culminated in the Commodity Futures Trading Commission Act of 1974, one of the most consistent themes of the hearings and debates was a concern that the existing self-regulatory emphasis of Federal futures regulation no longer adequately served the broad public interests involved in the Nation's rapidly expanding futures markets.[11] As a result, the Commodity Futures Trading Commission was created and was armed with new and enhanced oversight and enforcement powers for regulating contract markets. In addition, the 1974 amendments brought three classes of commodity professionals under regulation by the Federal Government for the first time: Commodity trading advisers, commodity pool operators and associated persons of futures commission merchants. Unlike floor brokers and futures commission merchants who are members of commodity exchanges and who were previously regulated under the Act, these three newly-regulated categories of persons are not directly subject to the self-regulation that exchanges provide. Furthermore, the Commission believes that a growing number of futures commission merchants have relinquished their exchange memberships with the advent of negotiated commission rates. To deal with this phenomenon, the Act specifically empowers the Commission to impose regulatory requirements on those persons who are not members of contract markets.[12] In ad-

[1] 7 U.S.C. 21 (1976).
[2] 7 U.S.C. 21(b) (1976).
[3] Sec. 4p of the Act, 7 U.S.C. 6p (1976).
[4] Sec. 17(b)(7) of the Act, 7 U.S.C. 21(b)(7) (1976).
[5] Sec. 17(j) of the Act, 7 U.S.C. 21(j) (1976).
[6] Sec. 17(k) of the Act, 7 U.S.C. 21(k) (1976).
[7] Sec. 17(h) of the Act, 7 U.S.C. 21(h) (1976).
[8] Sec. 17(c) and (*l*)(1) of the Act, 7 U.S.C. 21(c) and (*l*)(1) (1976).
[9] Sec. 17(*l*)(2) of the Act, 7 U.S.C. 21(*l*)(2) (1976).
[10] Sec. 17(*l*)(3) of the Act, 7 U.S.C. 21(*l*)(3) (1976).
[11] See, e.g., H.R. Rept. No. 93-975, 93d Cong., 2d Sess. 44-48 (1974); S. Rept. No. 93-1131, 93d Cong., 2d Sess. 18-19 (1974).
[12] Sec. 8a(8) of the Act, 7 U.S.C. 12a(8) (1976), added by the Commodity Futures Trading Commission Act of 1974, section 214, 88 Stat. 1404.

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dition, futures associations formed under section 17 could prove to be a valuable self-regulatory mechanism to complement Commission regulation of these commodity professionals.

In hearings before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry on legislation to amend the Commodity Exchange Act, many witnesses addressed the propriety of authorizing the creation of registered futures associations as a new form of self-regulation for the industry.[13] A recurrent theme of this testimony was the comparison of such an association to the National Association of Securities Dealers, Inc. ("NASD").[14] Proponents of futures associations believed that such organizations, like the NASD, could complement the regulatory efforts of the Federal agency overseeing the industry and assist in improving the caliber of persons in the industry who deal with the public.[15]

[13] See, Hearings Before the House Committee on Agriculture Concerning Review of Commodity Exchange Act and Discussion of Possible Changes, 93d Cong., 1st Sess. Ser. No. 93-GG, 94 (1973) ("October House Hearings"); Hearings Before the House Committee on Agriculture on H.R. 11195, 93d Cong., 2d Sess. Ser. No. 93 TT, 18-19, 46, 55, 101-102, 116, 127, 262 (1974) ("January House Hearings"); Hearings Before the Senate Committee on Agriculture and Forestry on S. 2485, S. 2578, S. 2837 and H.R. 13113, 93d Cong., 2d Sess. 231, 510, 542-543, 548-549, 718-719, 721, 729, 739-740 (1974) ("Senate Hearings").

[14] See, October House Hearings at 94, January House Hearings at 19, 46, 101-102, 184 and 328. See, Senate Hearings at 718-719, 721 and 740.

[15] See, October House Hearings at 94, January House Hearings at 262 and 328-329; Senate Hearings at 427 and 751; 120 Cong. Rec. 10737 (Apr. 11, 1974) (statement of Representative Poage); 120 Cong. Rec. 10749 (Apr. 11, 1974) (statement of Representative Thone).

There are two significant limitations on the value of any analogy drawn between registered futures associations as contemplated by section 17 of the Act and the NASD, which has been registered as a securities association under the Securities Exchange Act of 1934. First, the NASD, was established in order to regulate directly a specific market: the over-the-counter securities market. As such, the Maloney Act of 1938, which amended the Securities Exchange Act, authorized the creation of registered securities associations in order to fill a regulatory gap by providing for an exchange-like organization to regulate the over-the-counter market. (See H.R. Rept. No. 75-2307, 75th Cong., 3d Sess. (1938) and S. Rept. No. 75-1455, 75th Cong., 3d Sess. (1938).) There is, however, no lawful over-the-counter market in the futures industry. Thus, futures associations, as contemplated by section 17, would not regulate directly a specific, single market. Since futures associations lack the sharp primary purpose of the NASD, the establishment of a futures association is necessarily a more difficult task.

Secondly, it is important to note that the NASD evolved from other industry associations that had been monitoring the over-the-counter securities markets prior to the enactment of the Maloney Act. Under the National Recovery Administration, the Investment Bankers Code Committee was formed in 1933 to prepare and enforce an industry code governing conduct relating to the over-the-counter market. This committee was disbanded as a result of the Supreme Court's decision in *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935) (National Recovery Act held to be unconstitutional). However, shortly after this decision a new organization was created under the supervision of the Securities and Exchange Commission—the Investment Bankers Conference Committee—which assumed the responsibilities of its predecessors. It was soon determined that legislation was the only appropriate means for affording adequate self-regulation to the over-the-counter market. Thus, a new group was formed—the Investment Bankers Conference—which assisted the SEC in developing and implementing the legislation which became the Maloney Act. See, Report of the Special Study of the Securities Market of the Securities and Exchange Commission, H. Doc. No. 95, pt. 4, 88th Cong., 1st Sess. 604-607 (1963). The Commission has not had the benefit of an ongoing regulatory relationship with an association analogous to the forerunners of the NASD.

The House Committee on Agriculture reported out a bill, H.R. 13113, which authorized the creation of registered futures associations. The committee explained that its legislation

> • • • provides enabling authority at the discretion of the Commission for persons registered under the Act and in the commodity trading business to establish a voluntary futures association or associations which would have authority to regulate the practices of its members in the public interest. Such an association would register with the Commission and establish a uniform code of professional conduct for those in the commodities business and have disciplinary authority over its members. • • • Association activity would serve solely as a complement rather than a displacement to the authority of the new Commission.
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> There would be two stated inducements for belonging to a registered futures association: Each registrant not a member of such an association would (1) be required to pay such fees and charges as the CFTC would establish to defray any costs of additional regulatory duties required to be performed by the [CFTC] because such person is not a member of a registered futures association, and (2) be subject not only to the obligations and requirements of the Act imposed on other persons but such other requirements and obligations as the CFTC found necessary to protect the public interest and promote just and equitable principles of trade.
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> The Committee reiterates that the authority provided for the recognition of an association as provided in this title is a grant of discretion for registration to the Commission, to be exercised by the Commission under the terms and conditions provided in this title, and orders and regulations adopted by the Commission to implement the statutory language. However, an association once registered with the Commission may be suspended under the terms and conditions provided in title III.[16]

The House of Representatives adopted H.R. 13113 as recommended by its Committee on Agriculture on April 11, 1974.[17]

The Senate Committee on Agriculture and Forestry was uncertain of the benefits that would result from the immediate creation of a new self-regulatory association. Consequently, that Committee's report on H.R. 13113 authorized the "Commission to investigate the need for legislation providing for the registration of futures associations • • • [and] to report its findings to Congress within two years." [18] The Senate adopted the approach taken by the Committee on Agriculture and Forestry.[19]

The Conference Committee generally accepted the House provisions concerning futures associations and required the new Commission to inform Congress annually of the developments relating to registered futures associations.[20] These provisions subsequently were enacted and signed into law as title III to the Commodity Futures Trading Commission Act of 1974.

Commission Experience to Date

Title III of the Commodity Futures Trading Commission Act of 1974 envisioned that the members of the futures industry would generate and create proposals for the formation of futures associations. The Commission would assist this process by establishing appropriate standards and the precedural framework required by the Act in order that organizations could apply for registration and the Commission could determine whether to register particular applicants. In addition, section 17 vested in the Commission statutory power that would allow the Commission to act as a catalyst for the formation of a futures association. Under sections 17 (d) and (e) of the Act,[21] the Commission may impose additional fees to defray the costs of regulating nonmembers of futures associations and may adopt specific regulations governing the conduct of such persons. As stated by the House Committee on Agriculture in its report cited above, such fees and regulations could provide a possible incentive for the creation of futures associations.

[16] H.R. Rep. No. 93-975, 93d Cong., 2d Sess. 4, 17 and 30 (1974).

[17] 120 Cong. Rec. 10769 (Apr. 11, 1974).

[18] S. Rep. No. 93-1131, 93d Cong., 2d Sess. 4 (1974).

[19] 120 Cong. Rec. 30468 (Sept. 9, 1974).

[20] Section 17(m) of the Act, 7 U.S.C. 21(m) (1976); H.R. Rep. No. 93-1383, 93d Cong., 2d Sess, 39 (1974) (Report of Conference Committee).

[21] 7 U.S.C. 21 (e) and (f) (1976).

And, as noted above, section 8a(8) of the Act grants broad rulemaking authority over registrants who are not members of contract markets.

To date the Commission has not utilized these statutory provisions. Instead, the Commission has undertaken to study the concept and practice of self-regulation in the futures industry. This analysis, it was hoped, would provide the Commission with a realistic understanding of the contribution futures associations might make to the existing scheme of regulation of commodity professionals. Accordingly, on August 5, 1975, the Commission created the Advisory Committee on the Regulation of Contract Markets and Self-Regulatory Associations, chaired by Commissioner Read P. Dunn, Jr.[22] In his final report on the activities of his Advisory Committee, Commissioner Dunn explained:

> The Committee members expressed interest in discussing specific items in the areas of Commission-industry interface and industry self-regulation, but did not seem ready to try to develop general principles applicable to these areas. Lacking such principles, the Committee did not appear to be ready to face the question of whether a title III organization is necessary or even desirable.
>
> Considering this atmosphere, the Chairman decided that further Committee discussions in this area would not be fruitful. Rather, he believed that better purpose would be served if industry members gave such questions further consideration. It was recognized that there had been ongoing discussions among the exchanges and among certain FCM's.
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> • • • • •
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> As this report is being finalized in December 1976, active industry discussions are ongoing looking toward the formulation of a proposal to the Commission for an industry-wide self-regulatory association under title III of the Act.[23]

Certain of the industry discussions referred to by Commissioner Dunn in his report are reflected in correspondence received by the Commission. In August 1976, John W. Clagett, president of the Futures Industry Association, Inc. ("FIA"), proposed that his organization "apply initially (for registration as a futures association) for the limited responsibility of establishing minimum training and experience qualifications and to conduct preliminary investigations and examinations of competency for associated persons."[24] Mr. Clagett also suggested that once his association had established its capability to perform these functions, the responsibilities of the association might be expanded to include customer suitability rules, advertising and public relations guidelines, customer complaints and public protection, industrywide arbitration procedures, disciplinary sanctions on a standardized basis, and minimum financial competency standards for futures commission merchants, commodity pool operators, and commodity trading advisers.

In September 1976, the Commission received a letter concerning formation of the National Futures Association ("NFA"), which was designed to fulfill the requirements of section 17 of the Act as a registered futures association.[25] In this letter counsel for the organizing committee of the NFA outlined the organization's initial precepts and plans, and contended that the

> public interest would be best served by a single organization under § 17 with the capability to undertake all functions contemplated in § 17. • • • [A] § 17 organization should give priority to regulatory and administrative functions that lie outside the jurisdiction of the designated contract markets and should undertake functions within contract market jurisdiction only with such markets, prior concurrence.[26]

Membership in the NFA was to be limited to three categories or classes: (1) Contract markets, (2) futures commission merchants with contract market membership privileges, and (3) all other commodity professionals. NFA proposed to begin by concentrating on the performance of four functions: (a) Adoption of comprehensive standards of surveillance and discipline of its members, (b) financial rules for members not subject to the Commission's financial requirements or those of contract markets, (c) a nationwide customer grievance procedure, and (d) standards for examination and registration of associated persons.

Subsequently, the board of directors of the FIA reviewed the organizational documents of the NFA and determined to defer further development of its plans to apply for registration as a futures association.[27] The FIA stated that in its view the public interest could be better served if the NFA were organized so that the commodity exchanges, if they so desire, could avail themselves of certain audit and investigative services provided by the NFA.

At the same time another group was considering applying to the Commission for registration as a futures association. The Commodity Options Dealers Association, Inc. ("CODA") informed the Commission that the organization's principal purpose was to register as a title III association under section 17 of the Act.[28] Counsel for CODA recognized that the Commission had not established the procedural requirements necessary for entertaining applications from futures associations and, accordingly, submitted to the Commission on a "pre-filing basis" a draft version of CODA's articles of incorporation and bylaws. CODA purported to be an independent self-regulatory organization designed to regulate its members—futures commission merchants or other persons registered with the Commission who engage in commodity options transactions. Counsel for CODA explained his organization's rationale for proposing the registration of an association of option dealers to be independent from a proposed national futures association:

> We are aware that the National Futures Association ("NFA") has also been organized for the purpose of registering as a "Title III" organization. However, some of the issues and problems inherent in the commodity options business may be sufficiently separate and distinct from the issues and problems of the futures industry at large that a separate organization, such as CODA, would be appropriate. In our opinion, CODA, or a similar organization, is required in the public interest.[29]

Shortly thereafter the Commission was informed of the further activities of the organizers of CODA. In a letter from counsel to CODA it was stated

> it is appropriate and in the public interest to proceed with the continued organization of CODA on a track which parallels the Commission's promulgation of its definitive option regulations • • •. [W]e intend to shortly resolicit the 25 to 30 firms with which CODA has previously communicated, together with ICCH [International Commodity Clearing House, Ltd., London] in an attempt to bring such firms together to more actively participate in more formally structuring CODA and with an eye toward registering CODA as a title III organization with the Commission.[30]

However, the Commission never has been officially informed of the results of CODA's resolicitation efforts. Therefore, the Commission assumes that the organization's development faltered or has been held in abeyance.

On January 31, 1977, the organizing committee of the NFA submitted to the Commission draft articles of incorporation, a document entitled "Points of Agreement—With Committee Intent" and a memorandum to the organizing committee from its counsel. This informal proposal was placed before the Commission in order to facilitate and encourage discussion of certain issues involved in the registration of futures associations. The NFA proposal included a new aspect which

[22] 40 FR 32866 (Aug. 5, 1975).

[23] Report of the Chairman of the Advisory Committee on the Regulation of Contract Markets and Self-Regulatory Associations. Read P. Dunn, Jr., Chairman, Dec. 23, 1976, pp. 32-33.

[24] Letter from John W. Clagett, president, Futures Industry Association, Aug. 26, 1976.

[25] Letter from Philip F. Johnson, Sept. 13, 1976.

[26] Id.

[27] Letter from John W. Clagett, president, Futures Industry Association, Sept. 20, 1976.

[28] Letter from Gerald L. Fishman, Nov. 15, 1976.

[29] Id.

[30] Letter from Gerald L. Fishman, Feb. 7, 1977.

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was explained by counsel for NFA as "the difficult problem of how to assure that all companies handling customer business in the futures or options industry will join the NFA * * *."

The organizing committee proposes that the NFA take the initiative in the following way:

(1) The NFA would prohibit its own members from handling customer business in futures or options for any firm that is not a member of NFA; and

(2) Independently, contract markets would require their member firms doing customer business to join the NFA.[31]

This approach, in effect, would make NFA membership a prerequisite for futures commission merchants and commodity professionals to conduct a customer's business in futures contracts or commodity options.[32]

The NFA proposal also envisioned a 15-member board of directors, with 5 members representing each of the classes of membership contemplated by NFA: Class 1 to represent the exchanges, 2 directors representing the largest exchanges and 3 representing the remaining exchanges; class 2 to be comprised of futures commission merchant members who were also members of contract markets; and class 3 to represent all other segments of the industry as well as the public.[33]

Subsequent to this submission, the Commission held a public meeting to discuss title III issues and agreed to the following statement of guidance issued on February 10, 1977:

The organizing committee of the National Futures Association has presented, in outline form, its concept of a title III association and has asked for some preliminary Commission reaction before proceeding with more organizational work.

The Commodity Exchange Act envisions that the orderly functioning of the futures markets is the joint responsibility of the exchanges and the CFTC and also envisions an industrywide responsibility under title III of the Act. The CFTC endorses this concept of cooperative regulation and considers the NFA proposal to be a valuable first step toward implementing the purposes of title III.

There are certain aspects of the NFA proposal which need further study and perhaps modification, such as those involving incentives to membership, fair representation and fair implementation. The Commission wishes, however, to emphasize that it stands ready to work with the representatives of NFA to establish a viable title III association. While the Commission cannot and will not ignore its responsibilities under the Act, it can and will help to find solutions to problems and to seek alternatives where required.[34]

During the ensuing months, Commission staff and representatives of the NFA corresponded and met to discuss a number of the staff's concerns regarding the NFA's proposals, including the structure of the board of directors and the question of compulsory membership. At a meeting on June 7, 1977, the Commission, recognizing that a formal registration application had not been filed, agreed to the following statement:

The Commission, as a matter of policy, approves the concept of "uniform required membership" as proposed by the NFA organizing committee. This approval is stated "in the abstract," would be applicable to any title III association, and would be the basis for the proposed NFA structure, subject of course to all of the continuing powers and processes of the Commission in the further structuring and implementation of the NFA proposal, or any other title III proposal.[35]

On July 20, 1977, a revised version of the NFA articles of incorporation was submitted to the Commission along with revised "points of agreement" setting forth the organizing committee's intent.[36] While the compulsory membership aspect of NFA's proposal was not amended from the January version, a modifed scheme of selecting an expanded board of directors was proposed in an apparent effort to respond to expressed concerns. The board was to be expanded to 17 directors. Five directors would represent contract markets, and would be selected so that two would represent the exchanges with the largest and second largest contract volume, two would represent contract market members headquartered in New York (unless one or both of these contract markets qualifes as the largest or second largest) and one director selected by those contract markets not represented by the other four directors. There would be five representatives of futures commission merchant members on the board, elected by all futures commission merchants whether or not they were members of exchanges. One director would represent futures commission merchants having 15 or less offices; one would represent futures commission merchants having more than 15 and no more than 50 offices and three would represent futures commission merchants having more than 50 offices.

Five directors would represent and be directly elected by the third category of members, "other participants" in the industry: (1) Persons engaged in manufacturing, processing, refining, or merchandising a commodity traded for future delivery on a contract market, (2) commodity pool operators, (3) commodity trading advisors, (4) broker-dealers in commodity options or leverage contracts, and (5) commercial bankers. To be elected as a director representing one of these classifications, one would not be required to be a member of NFA. Finally, the NFA proposed to select two public directors from among those persons nominated by the Commission or by NFA members.

Additionally, the NFA's modified proposal included an exemption for contract markets against enforcement of association rules,[37] an arbitration or settlement procedure allowing NFA members to bring claims against customers and customers to bring claims against members and the authorization for the assumption by the NFA of the Commission's trial function in reparation cases (see NFA articles of incorporation July 20, 1977, article III, sections 1(c), 1(d), and 2).

A number of reservations about this modified proposal were expressed. Of particular concern was whether NFA's compulsory membership provision was the least anticompetitive means available to the Commission to accomplish the Act's regulatory objectives and, therefore, was consistent with section 15 of the Act.[38] Also, there was concern whether the proposed composition of NFA's board of directors comports with the "fair representation" standard of section 17(b)(5) of the Act.[39] Similar and additional concerns have been expressed by the Antitrust Division of the Department of Justice.[40]

Although the Commission does not necessarily share the views of the Department and is, of course, not obliged to accede to them, the Commission determined, on October 19, 1977, that due to the widespread dissemination of the Department of Justice's comments and the vigor with which they were put forth, the NFA should be afforded an adequate opportunity to respond. NFA's response was received by the Commission on February 2, 1978, and contained its legal analysis supporting NFA's opposition to the substantive matters addressed by the Department.[41]

In addition, the Public Interest Economic Center ("PIE-C"), under contract with the CFTC, undertook a study of the competitive aspects of the futures trading industry and expressed some reservations on the NFA proposal. PIE-C also suggested that as an alternative to compulsory membership, the CFTC require "all persons who transact business in futures markets for third parties to be members of a regulated exchange."[42]

Finally, the Commission recently has received a letter from an attorney purporting to represent a number of commodity professionals interested in establishing under section 17 of the Act "a professional organization to protect the public in the Los Angeles area from the fraudulent selling of commodity futures, commodity options, and leverage contracts." While recognizing that "the ideal situation" would be a national organization, the attorney asserts that people involved in

commodity futures ought to be able to do what they can to keep the crooks out. A regional organization, furthermore, may give some impetus to the formation of a national organization.[43]

Subsequent Legislative Developments

During the present congressional session, successful efforts have been made by the NFA organizers and others to amend certain provisions of section 17 of the Act. Subcommittees of both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry heard testimony from many witnesses expressing their opinion that a futures association should be created.[44] For example, the House subcommittee was informed that

[w]ith the complete elimination of minimum commissions on March 7, 1978, some futures commissions merchants who are now members of one or more of the commodity exchanges will no longer find it advantageous to retain their exchange membership(s). In which case they will not be subject to the rules or regulations of any exchange.

An association formed under the provision of title III of the Act could provide such uniform rules and regulations as well as audits and investigations of their unscrupulous and unfair business practice.[45]

The Senate subcommittee was told that

[t]he industry has worked to develop a regulatory organization which would apply to the CFTC for approval * * *. This title III organization is designed to regulate all FCM's taking over the responsibility in this area formerly carried out by the exchanges, whereby the exchanges will regulate all activities at the exchange level, such as floor trading practices, contract details, financial integrity of clearinghouse members, et cetera.

Thus, the industry would be regulated through the exchanges concerning exchange operations, and through the title III organization concerning FCM's and their contacts with the public.[46]

Subsequently, the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry recommended the adoption of legislation concerning the powers and scope of futures associations.

The Senate committee reported favorably S. 2391, a bill which, among other things, provided authority for (1) the Commission to delegate certain aspects of the registration of associated persons to futures associations, (2) futures associations to adopt procedures to have customers seek reparations from members of the association, (3) increasing the limit on the amount in controversy in a futures association arbitration proceeding from $5,000 to $15,000, and (4) Commission approval of rules of futures association or contract market requiring compulsory membership in such futures association.[46]

In its report to accompany S. 2391, the Senate committee explained that it had

adopted an amendment to section 17 of the Act to make it clear that the Commission has authority to approve mandatory membership rules of a title III association or of a contract market of persons eligible for membership. The committee believes that the Commission should approve any such rules only after public hearings to determine whether such rules are necessary or appropriate to achieve the purposes and objectives of the Act. The amendments adopted by the committee permit, but do not require, the formation of a title III association or associations in which membership would be mandatory for futures professionals registered under the Act.[47]

During the senate floor debate on this legislation, Senator Patrick J. Leahy stated that the proposed amendments concerning futures associations were being offered in order

to speed the establishment of these associations and to allow them to assume some of the duties currently being conducted by the Commission. These associations could free Commission personnel to engage in other activities.[48]

On July 12, 1978, the Senate passed S. 2391 without amending any of the committee's provisions affecting futures associations.[49]

The House Committee on Agriculture reported favorably H.R. 10285, a bill containing one modification of the Act's provisions concerning membership in future associations. This amendment expressly allows the Commission to approve rules of futures associations that make membership in at least one futures association mandatory for persons eligible for membership.[50] The committee commented that

[u]se of the authority in this amendment would be completely discretionary with the Commission. The committee was persuaded that such discretion may be useful to the Commission if it should decide that such a provision is necessary for an effective self-regulatory program and is otherwise in the interest of the objectives of section 17.[51]

The House passed H.R. 10285, including this amendment, on July 26, 1978.[52]

On August 17, 1978, the Committee of Conference of the Senate and House on S. 2391 agreed to the membership provision contained in the House bill which became the House amendment to S. 2391, expressly permitting the Commission to approve futures association mandatory membership rules. The Conferees also adopted the provisions in S. 2391 that increase the limit on the amount in controver-

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[31] Memorandum from Philip F. Johnson to organizing committee, dated Jan. 20, 1977.

[32] Since sec. 4h(1) of the Act, 7 U.S.C. 6h(1) (1976), basically makes it unlawful for any person to engage in the offer and sale of commodity futures contracts if "such orders, contracts, or dealings are executed or consummated otherwise than by or through a member of a contract market," NFA's proposal would, in effect, assure that all customer transactions involving futures contracts will be handled by NFA members from the point of origin through execution at the market.

[33] Proposed articles of incorporation of NFA, article VI, Jan. 15, 1977.

[34] CFTC Advisory to the Media, Feb. 15, 1977.

[35] CFTC Press Release No. 297-77, June 7, 1977.

[36] Letter from Philip F. Johnson, July 20, 1977.

[37] This provision appears inconsistent with sec. 17(b)(8) of the Act which requires an association's rules to provide appropriate discipline to be imposed on all members.

[38] 7 U.S.C. 19 (1976).

[39] 7 U.S.C. 21(b)(5) (1976).

[40] The Justice Department offered its opinion that compulsory membership in a futures association would be unconstitutional under the fifth amendment to the Constitution. Comments of the U.S. Department of Justice, *In the Matter of The National Futures Association* (Oct. 7, 1977).

[41] Response of the National Futures Association to objections to its preliminary proposal, Jan. 31, 1978.

[42] Public Interest Economics Center, Executive Summary: *Competition and Efficiency in the Commodity Futures Markets*, May 1978, p. 3.

[43] Letter from M. Van Smith, June 29, 1978.

[44] See, Hearings on H.R. 10285 Before the Subcommittee on Conservation and Credit of the House Committee on Agriculture, 95th Cong., 2d, Sess. (pp. VIII-IX for summary of testimony) (1978) ("1978 House Hearings"; Hearings on the Reauthorization of the Commodity Futures Trading Commission Before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry, 95th Cong., 2d Sess., pt. II at 12, 13, 26, 27, 29, 30, 47, 48, 50, 51, 68, 72, 116, 119, 121, 122, 136, 137, 186, 190, and 191 (1978) ("1978 Senate Hearings").

[45] 1978 House hearings at 266, testimony of John T. Gelderman, chairman of the board, Futures Industry Association.

[46] 1978 Senate hearings at 121, testimony of David T. Johnston, senior vice president, E. F. Hutton & Co., Inc.

[46] S. 2391, 95th Cong., 2d Sess., §§ 6(2), 18(4), 19(1) and 19(2) (May 15, 1978).

[47] S. Rept. 95-850, 95th Cong., 2d Sess., 31 (1978).

[48] 124 Cong. Rec. S10535 (daily ed. July 12, 1978). See also, 124 Cong. Rec. H7206 (daily ed. July 24, 1978) (remarks of Representative Foley).

[49] 124 Cong. Rec. S10571 (daily ed. July 12, 1978).

[50] H.R. 10285, 95th Cong., 2d sess., § 18 (May 15, 1978). In contrast to the Senate bill, the House committee's amendment did not refer to Commission approval of rules of contract markets regarding compulsory membership.

[51] H.R. Rept. 95-1181, 95th Cong., 2d sess., 20 (1978).

[52] 124 Cong. Rec. H7335 (daily ed. July 26, 1978).

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sy in futures association arbitration proceedings to $15,000 and authorize the Commission to delegate to a futures association certain aspects of the Commission's registration function for associated persons.[53]

POLICY QUESTIONS

The Commission is in basic agreement with the views expressed by Justice William O. Douglas, then Chairman of the Securities and Exchange Commission, in 1938 when that Commission was considering the formation of a national securities association.

> Self-dicipline is always more welcome than discipline imposed from above * * *. Self-regulation of this kind can be pervasive and subtle in its conditioning influence over business practices and business morality. By and large, government can operate satisfactorily only by proscription. That leaves untouched large areas of conduct and activity; some of it susceptible of government regulation but in fact too minute for satisfactory control; some of it lying beyond the periphery of law in the realm of ethics and morality.[54]

The Commission would like to apply, and believes there is a need to apply, this concept to the formation of registered futures associations. During the past 3 years, the Commission has received and reviewed the comments of many interested persons concerning futures associations. In that time, the Commission has also studied and considered the essential elements of a self-regulatory program and has acquired a better understanding of the professionals and the industry it regulates. The Commission believes that its experience during the past 3 years has served to crystallize some of the major issues of law and policy involved in the registration of futures associations.

The Commission has received many suggestions concerning the possible activities of prospective futures associations. Indeed, the Commission is hopeful that consistent with the requirements of section 17(b) of the Act, futures associations could also perform effectively the following regulatory functions: (1) Devising proficiency standards for commodity trading professionals and related training and testing programs, (2) establishment of safeguards with respect to the financial responsibility of its members, (3) adoption of standards for handling customer orders and funds and related recordkeeping requirements, (4) promulgation of standards for soliciting customer business and preserving the integrity of the marketplace, including advertising and other forms of promotion, and (5) educating the public as to the economic benefits of futures trading. The Commission believes that performance of these functions could be an appropriate means for accomplishing the self-regulatory goals outlined in 1938 by Justice Douglas and for shifting part of the burden and cost of regulation and enforcement to market participants. The Commission believes it more appropriate for persons who directly participate in the futures markets to assume a greater portion of the cost of regulation of those markets than to have general tax revenues pay for the entire cost of regulation.

Of course, even if a futures association is created and registered under the Act, the Commission wishes to make clear that it will not abdicate any of its statutory responsibilities and intends to pay particular attention to monitoring and evaluating the actions of futures associations. It should also be pointed out that the Commission has not made, at this time, any final determination concerning the best mechanism for encouraging the development of futures associations under the Act. Accordingly, the Commission is soliciting public comment not only on the standards it is proposing to apply to registration applications, but also with respect to the following policy questions.

(1) Whether there exists a need for futures association to assist in regulating the futures industry and other enterprises regulated by the Commission? What regulatory void will futures associations fill? What functions should such an association perform?

(2) Should futures associations be structured to allow for self-regulation by particular classes of commodity professionals, e.g., commodity trading advisers regulating commodity trading advisers, rather than to encompass all professionals on an industrywide basis?

(3) What are the benefits and detriments of a national rather than regional futures association?

(4) The Act provides that contract markets may be members of futures associations. What role, if any, should contract markets play in a futures association?

(5) How can a futures association best be structured to assure fair representation of members and otherwise to combat any anticompetitive implications or impact upon its members with respect to its membership policy, financing structure, and professional activities?

(6) Is some compulsory membership aspect of a futures association in the public interest? What public interest would be served by requiring a person to join an association with those with whom he is in competition and to become subject to the full range of the association's disciplinary powers, including expulsion from the association and, therefore, from the commodity industry?

(7) If compulsory membership is desirable, should it be accomplished directly by the rules of associations or through Commission regulations requiring membership in some futures association or indirectly through the imposition by the commission of fees to defray regulatory costs or of other regulatory requirements providing a strong incentive to membership?

(8) In the alternative, should compulsory membership be so structured so as to require all commodity professionals to be members either of a futures association or a contract market?

(9) If permitted by law in the futures, should the Commission delegate to futures associations the responsibility for performing certain functions the Commission presently performs, e.g., registration of associated persons?

(10) Should public hearings be held on the issues surrounding futures associations?

Interested persons are invited to submit comments on these questions and on any other aspect of futures associations discussed in this release or on which they wish to express a view.

PROCEDURAL REQUIREMENTS OF SECTION 17 AND THE COMMISSION'S PROPOSED STANDARDS

Section 17 of the Act provides certain procedural steps for the Commission to take prior to its consideration of an application for registration as a futures association. Section 17(b) of the Act provides that, in making a determination to register an applicant, the Commission must find, "under standards established by the Commission" that the applicant association (A) "is in the public interest" and will be able to comply with and carry out the provisions and purposed of section 17 and (B) meets the specific requirements set forth in section 17(b)(2).[55] In accordance with this authority and its general rulemaking authority under sections 8a (5) and (8) of the Act, 7 U.S.C. 12a (5) and (8), the Commission is proposing these standards as the initial step in the registration procedure. Establishing standards would not only meet this statutory requirement, but should also facilitate the registration process by affording any applicant association an opportunity to develop and to present its qualifications in a manner consistent with the Commission's view of the requirements of section 17(b).

Many of the requirements of subsections 17(b) (1) through (10) of the Act are very specific and need little, if any, elaboration. Other requirements enumerated in section 17(b), however, are more general in nature, and it is toward these that the Commission believes it should direct its efforts to establish appropriate "standards." As indicated above, section 17(b)(5) provides that an association must have "fair representation" for its members. In addition, section 17 requires associations to provide for "equitable allocation of dues among its members" and to establish a "fair and orderly procedure" for disciplining its members.[56] The Commission is proposing these standards as an expression of its views on these general requirements embodied in section 17. Of course, any standards the Commission adopts will merely supplement the requirement of section 17(b)(1) that an association demonstrate "that it will be able to comply with the provisions" of section 17 of the Act.

The standards also are designed to reflect the Commission's preliminary judgment concerning those activities in which a futures association should engage consistent with the "public interest" and to ensure that the association can "carry out" the purposes of section 17. A primary purpose of section 17, expressed by the Conference Committee in 1974, is that futures associations be established to regulate the practices of its members.[57] Accordingly, proposed new § 170.1 of the Commission's regulations requires that an association should be able to demonstrate its ability to require its members to adhere to regultory requirements governing their business practices at least as stringent as those imposed by the Commission. As an example, § 170.1 provides that an association must be able to establish and maintain a financial compliance program for its members who are futures commission merchants.[58]

The Commission understands that associations may wish to phase in certain of the functions contemplated by the Act. We are, however, soliciting comment on what other functions a futures association should be required to perform as a condition of registration. We suggest, for purposes of comment, that associations might be required under new § 170.1 (1) to develop and administer training programs and proficiency exams for all members, (2) to develop and enforce minimum financial standards for members who are not futures commission merchants, or (3) to establish and enforce standards for advertising and disclosure by its members.

The Commission recognizes that the standards it adopts may have a substantial impact upon the types of futures associations that will apply for registration, as well as the registration process itself. Accordingly, any standards that may be adopted by the Commission will be the result of an extensive Commission analysis of the self-regulatory policies to be fulfilled by a futures association.

In conjunction with the Commission's adoption in the future of final standards under section 17(b), the Commission also plans to set forth its requirements for a registration application for futures associations. Section 17(a)(1) of the Act provides that an applicant for registration as a futures association may file with the Commission for review and approval a "registration statement in such form as the Commission may prescribe" setting forth

> * * * (1) Data as to its organization, membership, and rules of procedure, and such other information as the Commission may by rules and regulations require as necessary or appropriate in the public interest * * *.[59]

Under section 17(a)(2), an applicant must accompany the registration statement with its "rules of the association," [60] i.e., copies of its charter, with all amendments thereto, and its bylaws. Accordingly, the commission is now soliciting comments regarding the form an applicant's registration statement should take and specifying the additional information the registration statement should contain as "necessary or appropriate in the public interest." In the Commission's view the registration statement need not be complicated, and might take the form of a transmittal letter containing the information specified in section 17(a)(1) and the additional information prescribed by the Commission. Comments are requested on this point. To the extent that the "rules of the association" contain the information required by the registration statement, it has been suggested that the applicant be permitted to incorporate the information by reference.

Additional information necessary or appropriate in the public interest might include such matters as the method by which the association is to be funded and the number of employees the association intends to hire in its first year of operation in order to discharge its responsibilities.

Once an application for registration of a futures association is filed with the Commission in compliance with the Commission's requirements, the Commission intends to establish the following procedure for consideration of that application. First, the Commission will publish the application in the FEDERAL REGISTER and request comment from the public. Second, the Commission will request comment from the NASD and those Government agencies whose expertise might assist the Commission in its deliberations. Third, the Commission may hold a public hearing in order that all interested persons will be allowed to communicate their views on the application to the Commission and that the Commission and its staff may question the applicant association in order to ascertain additional information or the association's rational for offering certain aspects of its proposal. The Commission intends to solicit meaningful public participation in the registration process and would appreciate receiving any additional suggestions of appropriate procedures for considering applications from futures associations under section 17 of the Act.

The Commission will proceed deliberately in determining the proper manner of implementing the discretionary authority vested in the Commission in section 17 of the Act. In the view of the Commission, the issues surrounding the evolution of futures associations are among the most significant presently facing both the Commission and those persons regulated by the Commission.

Accordingly, the Commission hereby proposes to adopt a new part 170 of 17 CFR chapter I, as follows:

PART 170—REGISTERED FUTURES ASSOCIATIONS

Subpart A—Proposed Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act

Sec.

170.1 Demonstration of purposes (section 17(b)(1) of the Act).
170.2 Membership restrictions (section 17(b)(2) of the Act).
170.3 Fair and equitable representation of members (section 17(b)(5) of the Act).
170.4 Allocation of dues (section 17(b)(6) of the Act).
170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).
170.6 Disciplinary proceedings (sections 17 (b)(8) and (b)(9) of the Act).
170.7 Membership denial (section 17(b)(9) of the Act).

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[53] 124 Cong. Rec. H10685, H10687, H10689, H10691 (daily ed. Sept. 25, 1978) report of the Committee of Conference). In anticipation of the enactment of this legislation proposed § 170.8 reflects the statutory amendment that increases the maximum amount in controversy in futures association arbitration proceedings to $15,000.

[54] Address of William O. Douglas, Chairman, Securities and Exchange Commission before the Bond Club of Hartford, Jan. 7, 1938.

[55] 7 U.S.C. 21(b) (1976).

[56] Secs. 17(b)(6) and 17(b)(8); 7 U.S.C. 21(b)(6) and 21(b)(8) (1976).

[57] H.R. Rept. 93-1383, 93d Cong., 2d sess., 39 (1974). See also, H.R. Rept. 93-975, 93d Cong., 2d sess., 4, 16-17 (1974); S. Rept. 95-850, 95th Cong., 2d sess., 11-12 (1978).

[58] In this connection, the Commission notes that it has recently adopted § 1.52(b) of its regulations, effective June 30, 1979, requiring all self-regulatory organizations, including futures associations that may be registered by the Commission, to have in effect minimum financial and related reporting requirements with respect to futures commission merchants which are members of the organization. 43 FR 39981-39982 (Sept. 8, 1978).

[59] 7 U.S.C. 21(a)(1) (1976).

[60] 7 U.S.C. 21(a)(2) (1976).

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170.8 Settlement of customer disputes (section 17(b)(10) of the Act).

AUTHORITY: 7 U.S.C. 21 (1976).

Subpart A—Proposed Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act

§ 170.1 Demonstration of purposes (section 17(b)(1) of the Act).

A futures association must demonstrate that it will be able to carry out the purposes of section 17. Since a basic purpose of a futures association is to regulate the practices of its members, an association should demonstrate that it will require its members to adhere to regulatory requirements governing their business practices at least as stringent as those imposed by the Commission. For example, the association should be prepared to establish and maintain in accordance with § 1.52 of this chapter, a financial compliance program for those members of the association who are futures commission merchants.

§ 170.2 Membership restrictions (section 17(b)(2) of the Act).

A futures association may restrict its membership to individuals registered by the Commission in a particular capacity—floor brokers, futures commission merchant, commodity trading advisers, commodity pool operators and associated persons—or to individuals doing business in a particular geographical region or to firms having a particular level of capital assets or which engage in a specified amount of business per year.

§ 170.3 Fair and equitable representation of members (section 17(b)(5) of the Act).

A futures association must assure fair and equitable representation of the views and interests of all association members in the procedures providing for the adoption, amendment, or repeal of any association rule, in an association's procedure for the selection of association officers and directors and in all other phases of the association's affairs and activities, including disciplinary and membership hearings. No single group or class of association members shall dominate or otherwise exercise disproportionate influence on any governing board of an association or on any disciplinary or membership panel of such an association. Nonmembers of the association shall be represented wherever practicable on any board or hearing panel of the association.

§ 170.4 Allocation of dues (section 17(b)(6) of the Act).

Dues imposed on members of a futures association must be allocated equitably among members and may not be structured in a manner constituting a barrier to entry to any person seeking to engage in commodity-related business activities.

§ 170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).

A futures association must establish and maintain a customer protection program, including the adoption of rules to protect customers and customer funds and to promote fair dealings with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of and adherence to the ethical standards, and to monitor and enforce compliance with the customer protection program and rules.

§ 170.6 Disciplinary proceedings (sections 17 (b)(8) and (b)(9) of the Act).

A futures association must provide a fair and orderly procedure with respect to disciplinary actions brought against association members or persons associated with members. These rules governing such disciplinary actions shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act. In addition, an association, in disciplining its members should demonstrate that it will (a) take vigorous action against those who engage in activities in violation of association rules; (b) conduct proceedings in a manner consistent with the fundamental elements of due process; and (c) impose discipline which is fair and has a reasonable basis in fact.

§ 170.7 Membership denial (section 17(b)(9) of the Act).

A futures association must provide a fair and orderly procedure for processing membership applications and for affording any person denied membership an oral hearing to respond to the grounds for denial stated by the association. The procedures governing denials of membership in the association shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act.

§ 170.8 Settlement of customer disputes (section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair and equitable procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance of less than $15,000 brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with section 17(b)(10) of the Act and be consistent with part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

Issued by the Commodity Futures Trading Commission in Washington, D.C., on October 2, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-28142 Filed 10-4-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[22 CFR Part 6a]

[Docket No. SD-138]

PRIVACY ACT POLICIES AND PROCEDURES

Proposed Amendments

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend Title 22, Part 6a of Title 22 of the Code of Federal Regulations by exempting a portion of a record system from certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The proposed amendment would exempt the records of the Special Assignments Staff, which are described in the Security Records (State-36), from the provisions of subsection (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f).

DATES: Comments must be received on or before November 20, 1978.

ADDRESS: Send comments to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Sharon B. Kotok, 202-632-1267.

SUPPLEMENTARY INFORMATION: The Department has found it necessary to exempt from disclosure records compiled by the Special Assignments Staff of the Office of Security, which are included among the Security Records (State-36). Pursuant to subsection (j)(2) of the Privacy Act, the Department intends to exempt these records in order to assure effective investigative and judicial proceedings in criminal cases. The Special Assignments Staff conducts criminal and counterintelligence investigations and investigations to determine suitability for continued employment. If the records of these investigations are not investigations to determine suitability for continued employment. If the records of these investigations are not exempt from disclosure under the provisions of the Privacy Act, the investigative and judicial processes will be seriously impaired. The Department of State therefore proposes to amend its Privacy Act regulations as set forth below.

1. In § 6a.6, paragraph (h) will be amended to read as follows:

§ 6a.6 Exemptions

• • • • •

(h) Records originated by another agency when that agency has determined that the record is exempt under 5 U.S.C. 552a(j). Also, pursuant to section (j)(2) of the act, records compiled by the Special Assignments Staff and by the Passport and Visa Fraud Branch of the Office of Security may be exempt from the requirements of any part of the act, except subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9),(10), and (11); and (i), to the extent necessary to assure the effective completion of the investigative and judicial process.

• • • • •

AUTHORITY: Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658); Pub. L. 93-579 (88 Stat. 1897); 5 U.S.C. 552a.

Dated: September 13, 1978.

For the Secretary of State.

BEN H. READ,
Deputy Under Secretary for Management.

[FR Doc. 78-28095 Filed 10-4-78; 8:45 am]

[4201-01]

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

[25 CFR Part 700]

RESALE OF PROPERTY

Proposed Revision of Regulations

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes revisions in the resale of property regulations which would allow the Navajo and Hopi Indian Relocation Commission to dispose of property which has been purchased from relocatees by selling it to the tribal government having jurisdiction over said property at its fair market value or by giving it to the tribal government having jurisdiction over said property.

DATE: Comments must be received on or before November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, 2708 North Fourth Street, Suite E-1, Flagstaff, Ariz. 86001, Telephone 602-779-3311, extension 1512 or 1513, FTS: 261-1512.

SUPPLEMENTARY INFORMATION: This notice is published for reason that the Commission, after reviewing its regulations concerning resale of property, became aware that the regulations were in conflict with tribal law concerning land use and may have been in conflict with tribal sovereignty.

The following sections of 25 CFR Part 700, § 700.12 are proposed to be revised as follows:

§ 700.12 Resale of property.

The Commission is authorized to dispose of dwellings and other improvements acquired pursuant to the Act in such manner, including resale of such dwellings and improvements to members of the tribe exercising jurisdiction over the area at prices no higher than the acquisition cost, as best effects section 8 of the Act and the order of the district court pursuant to section 3 or 4 of the Act. All resale of said property shall proceed as follows:

(a) The tribe acquiring jurisdiction of the partitioned area shall have the first opportunity to purchase the acquired property at the fair market value at the time of the sale.

(b) If the tribe does not purchase any of said improvements on the property, the impovements may be sold to persons designated by the tribe for the fair market value of the property at the time of the sale.

(c) If neither tribe nor the designated persons purchase said property, the Commission may dispose of it by giving it to tribal government having jurisdiction over said property or by giving it to any Federal agency, designated by the tribe having jurisdiction of the area, which has programs that can make use of said improvements. In the event the Commission determines that any habitations or other improvements purchased from any relocatee are unsafe or in any manner dangerous to the health and welfare of any persons or animals that may be in the area, the Commission may contract to destroy and/or remove said improvements from the property.

(d) Notices for any such sales shall be mailed to the tribal government and the tribal government shall excecise its option to purchase said property within sixty (60) days of said notice unless the Commission extends the option purchase date. If the tribal government does not purchase said property and an individual is designated by the tribe to purchase said property, said individual shall have sixty (60) days from the date of notice of his option in which to exercise his option to purchase the improvements, unless such period of time is extended by the Commission.

Interested persons may submit written comments regarding the proposed rule change to the Chairman, Navajo and Hopi Indian Relocation Commission, 2708 North Fourth Street, Suite E-1, Flagstaff, Ariz. 86001, on or before November 6, 1978.

ROBERT E. LEWIS,
Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 78-27792 Filed 10-4-78; 8:45 am]

[7600-01]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Parts 2200 and 2201]

RULES OF PROCEDURE

Informal Hearing on Proposed Rulemaking

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of informal hearing on proposed rules of procedure.

SUMMARY: The Occupational Safety and Health Review Commission will hold an informal hearing on its proposal, published on August 18, 1978 (43 FR 36854), to amend certain of its present Rules of Procedure, as well as the adoption of certain additional rules.

DATES: Public hearing: October 30, 1978.

Persons who wish to present testimony at the informal hearing must notify the Commission in writing by October 20, 1978. The notice should indicate an estimate of the amount of time needed for the testimony presentation, as well as the witness' business telephone number.

ADDRESSES: The hearing will be conducted at the Commission's Chicago field office at 1 p.m. on October 30, 1978, in Room 1530, 55 East Monroe Street, Chicago, Ill.

All communications should be addressed to: Robert C. Gombar, Counsel for Appellate and Administrative Legal Services, 1825 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gombar, Counsel for Appellate and Administrative Legal Services, 202-634-4015.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Occupational Safety and Health Review Commission

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proposed the amendment of several of its Rules of Procedure as well as the adoption of certain additional Rules of Procedure (43 FR 36854). One of the more significant proposals was a new set of rules of simplified proceedings, designed to reduce both paperwork and expense to the parties as well as to make Commission adjudications less complex and time consuming. The Commission also proposed a new rule on interlocutory appeals, the elimination of the 20-day reconsideration period between the mailing of the judge's initial decision to the parties and the filing of his report with the Commission, the reinstitution of a 25-day deadline for the filing of petitions for discretionary review, a new rule on briefs, and a rule on settlements designed to give better notice of settlement proposals to affected employees.

The Commission considers it desirable to encourage public debate on these proposals and to hear oral comments of interested persons at places and times convenient both to the interested persons and to the Commission. Thus, in addition to the opportunity to submit written comments on its rulemaking proposal, the Commission has decided to hold an informal hearing that all interested persons are invited to attend. Any person who wishes to testify at the hearing must notify the Commission in writing by October 20, 1978. This notice must state the witness' business telephone number as well as the amount of time the testimony is expected to consume. The Commission will contact each witness concerning the schedule of testimony. Timothy F. Cleary, Chairman of the Commission, will preside at the hearing.

Signed at Washington, D.C., this 29th day of September 1978.

ROBERT C. GOMBAR,
Counsel for Appellate and Administrative Legal Services.

[FR Doc. 78-28203 Filed 10-4-78; 8:45 am]

[4310-05]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Part 715]

SURFACE COAL MINING RECLAMATION AND RECLAMATION OPERATIONS

Appendix—Alluvial Valley Floors Technical Guidelines; Public Hearing; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects the proposed Technical Guidelines that begin on page 38035 of the FEDERAL REGISTER of August 25, 1978, from Doc. 78-23668.

ADDRESSES: Regional Director, Office of Surface Mining Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 80202.

FOR FURTHER INFORMATION CONTACT:

John Hardaway, Office of Surface Mining and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 80202, 303-837-5511. Additional copies may be obtained from Mr. Hardaway.

WALTER N. HEINE,
Director.

The following corrections are made:

1. On page 38036, "Introduction", quotation of the 1st paragraph, line 16 of the quotation "granting areas would be removed from use", is corrected to read "grazing areas would be removed from use."

2. On page 38036, "Introduction", 6th paragraph, which begins "Relevant sections of the law include:" and in particular, line 3 of subparagraph (3), "No permit or revision application affirma-" is corrected to read "No permit or revision application shall be approved unless the application affirma-." The corrected line is the 20th line from the bottom of page 38036 in the third column.

3. On page 38040, section I.A. Geomorphic Characteristics—Relationship of surface landform (terrace) to underlying material (valley fill)", first full paragraph in the second column, line 2, "are found in flatlying of terraces." is corrected to read "are found in flatlying valley fills and there is no development of terraces."

4. On page 38040, section "I.A. Geomorphic Characteristics—Relationship of surface landform (terrace) to underlying material (valley fill)", first full paragraph in the second column, line 17 (last line), "stream side area alluvial valley floor.", is corrected to read, "stream side area shall not be mapped as an alluvial valley floor.

5. On page 38041, section "I.B. Water Availability Characteristics—Guideline Procedure I.B.2. Discussion", line 4, "sufficient for floor irrigation or subirriga-", is corrected to read, "sufficient for flood irrigation or subirriga-".

[FR Doc. 78-28238 Filed 10-4-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[GEN Docket No. 19142; FCC 78-665]

RADIO BROADCAST SERVICES

Children's Programing and Advertising Practices

AGENCY: Federal Communications Commission.

ACTION: Extension of deadlines for filing comments and reply comments in the Secod Notice of Inquiry, GEN Docket No. 19142.

SUMMARY: On August 21, 1978 (43 FR 37136), the Commission published in the FEDERAL REGISTER its Second Notice of Inquiry regarding children's programing and advertising practices. The Second Notice of Inquiry is hereby amended, but only to the extent necessary to incorporate the extension of filing dates as contained herein.

DATES: Initial comments must be received on or before January 15, 1979. Reply comments must be received on or before March 1, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Susan C. Greene, Children's Television Task Force, 202-632-6312.

SUPPLEMENTARY INFORMATION:

Adopted: September 21, 1978.

Released: September 27, 1978.

In the matter of the Second Notice of Inquiry Regarding Children's Programing and Advertising Practices; order to extend time for filing comments and reply comments.

By the Commission.

1. On July 27, 1978, the Comnmission reactivated the proceedings of docket 19142 and announced November 1, 1978, as the deadline for filing comments and December 15, 1978, as the deadline for filing reply comments therein. *Second Notice of Inquiry*, GEN Docket No. 19142, —— FCC 2d —— (adopted July 27, 1978).

2. Since the adoption of the *Second Notice of Inquiry*, we have received several informal expressions of concern from members of interested parties suggesting that the original deadlines preclude sufficient time for formulating effective comments. We also note that the Federal Trade Commission has recently postponed its filing and hearing dates which we were scheduled in its initial notice of proposed rulemaking regarding children's advertising. 43 FR 37203 (1978). In view of overlapping issues and the participation of many of the same parties in both our inquiry and the FTC proceedings, we are of the opinion that an extension of the deadlines originally announced in our *Second Notice of Inquiry* is in the public interest.

3. We desire to conduct these proceedings in a timely fashion. However, we recognize that additional time may result in the submission of useful information. No further extension beyond this time period is anticipated.

4. Accordingly, *it is ordered*, That the date for filing coments is extended to January 15, 1979, and the date for filing reply comments is extended to March 1, 1979.

5. This action is taken pursuant to authority found in section 4(i) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28084 Filed 10-4-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-313; RM-3052]

TELEVISION BROADCAST STATION IN SAN DIEGO, CALIF.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of UHF television channel 69 to San Diego, Calif. The proposed assignment would provide for a station which could furnish additional television service to a steadily growing community.

DATES: Comments must be filed on or before November 21, 1978, and reply comments must be filed on or before December 12, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 22, 1978.

Released: October 3, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations (San Diego, Calif., BC Docket No. 78-313, RM-3052.

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by Center City Complex, Inc, ("petitioner"), requesting the amendment of the Television Table of Assignments (§ 73.606(b) of the Commission's rules) by the assignment of Channel 27 to San Diego, Calif. No responses to the proposal have been received.

2. San Diego (pop. 697, 027), seat of San Diego County (pop. 1,357,854)[2], is located in the extreme southwest corner of California at the United States-Mexican border. San Diego is presently assigned Channel 8 (KFMB-TV), Channel 10 (KGTV), educational Channel *15 (KPBS-TV), Channel 39 (KCST-TV), and Channel 51 (construction permit granted to Gross Broadcasting Company (KJOG-TV) BPCT-3842).

3. Petitioner asserts that San Diego, which includes all of San Diego County, has grown in population from 573,224 in 1960 to 697,027 in 1970, and continues to increase with an estimated population of 787,153 in 1976.[3] According to petitioner, the economic growth of San Deigo continues to be healthy and notes that the median household effective buying income figure for the city is $11,548 and for the county $11,876. Petitioner has submitted detailed information with respect to population and economic growth in order to demonstrate the need for an additional television assignment.

4. Since the filing of the instant petition, Channel 27 was assigned to Tijuana, Mexico, by the United States of Mexico and therefore its assignment to San Diego is precluded under the provisions of the United States-Mexico Television Agreement. However, a channel study by the Commission staff indicates that Channel 69 is available for assignment to San Diego. We make that proposal here.

5. Channel 69 can be assigned in conformity with all minimum distance separation requirements and other technical criteria. Since San Diego is located within 320 kilometers (199 miles) of the United States-Mexican border, the proposed assignment of Channel 69 to that city is subject to concurrence by the Mexican Government.

6. In view of the foregoing, the Commission proposes to amend the Television Table of Assignments (§ 73.606(b) of the Commission's rules) with respect to San Deigo, Calif., as follows:

City	Channel No. Present	Channel No. Proposed
San Diego, Calif.	8, 10, *15, 39, 51	8, 10, *15, 39, 51, 69

7. Authority to institute rulemaking proceedings, showings required, cutoff proceedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 21, 1978, and reply comments on or before December 12, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, *It is proposed* to amend the FM Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of

[1] Public notice of the petition was given on February 7, 1978, Rept. No. 1099.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[3] 1977 Editor and Publisher Market Guide, page 68.

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such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-28148 Filed 10-4-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 172]

[Docket No. HM-141]

COLOR CODING OF COMPRESSED GAS PACKAGES

Termination of Docket

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Termination of docket HM-141.

SUMMARY: Docket HM-141 is closed without issuance of a final rule. The advance notice of proposed rulemaking, establishing docket HM-141, requested information from the public to develop a system of color coding for compressed gas packages and to substantiate whether any such color coding system would significantly enhance safety. Upon additional analysis and consideration of comments received, the Materials Transportation Bureau has concluded that further consideration of color coding of compressed gas packages is not justified.

EFFECTIVE DATE: Docket HM-141 is terminated on October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, 2100 Second Street SW., Washington, D.C. 20590, 202-426-2075.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking (41 FR 43188, Sept. 30, 1976) was published by the Materials Transportation Bureau (MTB) in response to requests and to bills considered by both Houses of Congress in the past several years seeking the establishment of a system of color codes for compressed gas packages. The purpose of a color code would be to provide safety for any person within the sphere of hazard surrounding a compressed gas package, whether the package is in transportation, use, or storage, by facilitating ready identification of the gas contained in the package.

Most commenters objected to the concept of a color code system because:

(1) Some degree of color blindness affects a significant segment of the population (variously described as 10 percent to 15 percent of the working population).

(2) The great multiplicity of gases and the almost infinite number of mixtures (sometimes including up to five different gases) would require a complex color code system.

(3) The complexity of such a system would require a reference source that would be unwieldy in size and possibly of limited usefulness.

(4) The continual development of new mixtures would require frequent updating of the reference source.

(5) The variable appearance of color pigments under different light sources, and the possible fading of pigments, might result in substantial confusion.

(6) The many years of transition, while older compressed gas packages of varying color combinations are emptied and returned to a source for filling and application of a new color code, would be a major source of confusion.

(7) Labels, placards and/or markings already provide identification of each gas by means of color, symbol and text.

Comments from organizations and individuals associated with the delivery of health care services questioned the value of modifying existing medical gas color codes even though medical gases constitute only a small part of the total number of gases and gas mixtures in use at the present time. The American Association for Respiratory Therapy addressed color coding as being probably the least important mechanism for safe handling of compressed gases.

The National Society for the Prevention of Blindness, Inc., strongly disagreed with the premise that any color code system would enhance safety for personnel involved in loading, handling or storage. This society viewed color codes as impractical and possibly dangerous.

Various military organizations suggested use of a number of standards dependent on the intended use of compressed gas packages, such as diving, medical, or general application. These commenters did not address fire fighting or emergency response uses of compressed gases. However, MTB notes that the color red is widely used at present to identify fire extinguishers that may contain any of a number of different gases, such as carbon dioxide, nitrogen, or various refrigerant gases.

Few comments were received from persons concerned with fire protection. The Fire Equipment Manufacturers' Association, Inc., requested to be excluded from any color code system that might be established. The association was concerned with the cosmetic and esthetic acceptance of portable fire extinguishers in both the workplace and the home. Further, the association remarked that for industrial use, a color coding system already is employed to identify certain agents for special fire application. This system was not explained further.

The Florida State Fire Marshal's Office limited comment to liquefied petroleum gas transportations safety and stated that changing the color of packagings used to transport this material could lead to confusion with resultant danger to the public. Similarly, the California Division of Industrial Safety suggested that extending the use of a color code system to shipping containers would confuse people accustomed to differing color code systems in use within their workplace. The Safety Department of the University of Wisconsin further supported this view by stating that color markings would be more detrimental than advantageous and cannot be substituted in any conceivable way for a label.

The docket also includes a letter from the Deputy Assistant Secretary of the Department of Labor (DOL) to a Member of the House of Representatives relating to color code legislation. The letter explains that with the advent of many sophisticated mixtures of exotic gases, color coding alone became too complex to assure the necessary recognition of hazards. A vendor's catalog is cited as containing a list of over 200 gas mixtures, including a mixture of carbon monoxide, helium, oxygen, argon, and nitrogen. The letter also states that the Occupational Safety and Health Administration is working with the Department of Transportation and a number of other Federal agencies in an attempt to standardize labeling requirements, including the use of color, symbol and legend. (The MTB published new standards for labeling requirements including the use of color, symbol and legend on April 15, 1976 (41 FR 15972), docket HM-103/112. The DOL currently has this and other standards under consideration.)

The MTB wrote the DOL, on October 15, 1976, requesting statistics on deaths or injuries involving compressed gas cylinders where the cause of death or injury was the injured or deceased's lack of knowledge as to the gas contained in the cylinders. The DOL injury data system is based on investigations where one fatality, or five hospital admissions occur. In subsequent communication, MTB was informed that no such deaths or injuries had been reported.

The single accident situation cited by the primary and virtually single proponent of the color coding concept occurred on his company's premises in 1955 and involved a compressor test in which oxygen was inadvertently used rather than an inert gas. In his statement, he suggests the infrequency of such accidents by saying, "The amazing thing to us is that we can find no case so far where this type of accident has occurred in the past." Similarly, the MTB has not found one case that has occurred since. While the proponent has stated that "we know of no safety precautions we could have taken, except an actual analysis of all gases, which could have prevented this disaster," the facts as presented by the proponent indicate that insufficient planning had led to an exhaustion of suitable supplies of gases to be used for the tests. To hasten delivery of the needed gas the company made an uncustomary pickup rather than waiting for delivery by fully trained personnel. This can be considered the primary causal factor in the unfortunate incident. The proponent stated September 14, 1955, that "we (the company) are taking every possible step to make certain that such substitution cannot occur again." The MTB notes that the precautions taken by the proponent's company have been successful in the subsequent 23 years, which suggests that color coding is not necessary to prevent death and injury.

The proponent of the color code system maintains that only six colors are specified by MIL-STD-101B. However, the DOD lists 115 various color combinations of four or more colors, representing only a small number of the gas mixtures possible. The coding of cylinders in the six basic colors referred to may adequately prevent the particular kind of accident referred to by the proponent, but it would not prevent the inadvertent mixture of gases within a grouping that could lead to adverse reactions in a laboratory or industrial environment. As pointed out earlier in this document, commenters indicate that even the military does not have only one color code system, but several systems patterned for specific uses.

The staff conclusions of the MTB on the major economic and public safety issues involved in the adoption of a uniform, nationwide color code system for compressed gas cylinders are quoted below:

A uniform, nation-wide system of color coding compressed gas cylinders as a means of preventing serious cylinder accidents in the normal, routine environment characterizing the workplace or households is felt to be of little or marginal value as a safety measure; and the adoption of such a system may increase, rather than decrease, serious accidents involving such cylinders.

The costs of adopting a uniform, nationwide system of color coding compressed gas cylinders would not be negligible. With an estimated 110 million cylinders in existence, and a unit conversion cost of $1 to cover such expenses as conversion of current workplace procedures, new safety training requirements, the development of new owner identification systems, sandblasting and repainting cylinders, and so forth—the cost of the new system could easily exceed $110 million. When viewed against the expected marginal benefits to be derived from it, the color coding system does not appear to be the most cost-effective way to improve the public safety associated with the transportation, handling and storage of compressed gas cylinders.

The use of color code systems for cylinders in emergency response situations where rapid reaction time is of vital importance to save life or limb (as in hospitals, or in the military) does have an obvious and demonstrated value. However, a color code system for the purpose of improving emergency response/reaction times involving (after-the-fact) transportation accidents is of less obvious value, since cylinders are usually stored or packed together in a manner that allows only a few cylinders to be taken in at a glance; and since shipping paper requirements provide a much more rapid means for identifying cargo content.

The complete staff summary of "The Economic and Public Safety Implications of a Uniform Nationwide Color Code System for Compressed Gas Cylinders," is available for public review in the Dockets Branch, Office of Program Support, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Primary drafters of this document are Paul H. Seay, Technical Division, and Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, MTB.

Based on the comments received, and the conclusions reached, docket HM-141 is hereby terminated without further action.

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53(e) and paragraph (a)(4) of app. A. to part 102.)

NOTE.—The Materials Transportation Bureau has determined that this notice will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582).

Issued in Washington, D.C., on September 27, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulations, Materials Transportation Bureau.

[FR Doc. 78-27821 Filed 10-4-78; 8:45 am]

[4910-60]

[49 CFR Part 195]

[Docket No. PS-51, Notice 2]

TRANSPORTATION OF LIQUIDS BY PIPELINE

Procedures for Operation, Maintenance, and Emergencies

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comment on a notice of proposed rulemaking concerning procedures for operation, maintenance, and emergencies involving transporation of hazardous liquids by pipeline. This proposed rule was published on Augsut 10, 1978, at 43 FR 35513. The comment period is extended from October 6, 1978 to November 6, 1978. The extension is being granted because of a request from the American Petroleum Institute.

DATE: Comments must be received on or before November 6, 1978.

ADDRESS: Comments should identify the docket and notice and should be submitted in triplicate to the Docket Section, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590. Comments are available at MTB's Docket Room 6500.

FOR FURTHER INFORMATION CONTACT:

Frank Robinson, 202-426-2082.

SUPPLEMENTARY INFORMATION: Request for an extension of time was submitted by the American Petroleum Institute (API) on September 29, 1978. The API requested that the comment period be extended from October 6, 1978, to December 6, 1978. The API argued that more meaningful data could be developed by the industry if the comment period is extended. The API also argued that the industry personnel qualified to comment on the proposed rulemaking are the same key people who are required to make day-to-day company decisions and that these same key people cannot devote full time to the proposed rulemaking.

The MTB has decided that in light of the request by API and in light of the urgency of the proposed rulemaking, a reasonable extension of the

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Comment closing date is 30 days from the existing closing date (October 6, 1978) and the comment period is hereby extended to November 6, 1978. Late filed comments will be considered as far as practicable.

(18 U.S.C. 831-835, 49 U.S.C. 165, 49 CFR 1.53(b), appendix A of part 1, and paragraph (b)(1) of appendix A to part 106.)

Issued in Washington, D.C. on October 3, 1978.

MELVIN A. JUDAH,
Acting Associate Director for Pipeline Safety Regulation.

[FR Doc. 78-28329 Filed 10-4-78; 9:36 am]

[4910-06]

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-6; Notice No. 1]

SPECIAL SAFETY INQUIRY

Association of American Railroads Requirement for Lifting Lugs; Notice of Safety Inquiry

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of safety inquiry.

SUMMARY: The Federal Railroad Administration (FRA) is initiating a special safety inquiry to examine a requirement of the Association of American Railroads (AAR) that each new freight car used in interchange service be equipped with appliances (lugs) permitting the car body to be lifted by means of hooks in case of derailment. The inquiry is intended to be responsive to a petition filed by four tank car builders and a lessor of tank cars questioning the safety of these devices as applied to tank cars carrying hazardous materials. The safety inquiry will provide FRA with adequate information to determine whether regulatory action is appropriate with respect to the application of lugs to freight cars, generally, or to particular types of cars.

DATE: The public hearing in this inquiry will begin at 10 a.m. on October 31, 1978. Written comments should be submitted by that date.

ADDRESSES: The public hearing will be held in roon 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C. Written comments should be submitted to the Docket Clerk, Office of Chief Counsel (RCC-1), 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Rolf Mowatt-Larssen, 202-426-0924, or Grady Cothen, Jr., 202-426-8220.

SUPPLEMENTARY INFORMATION: The Association of American Railroads (AAR) has adopted a requirement for all new and rebuilt cars used in interchange service which are ordered after July 1, 1978. FRA believes that this requirement should be examined in a public safety proceeding prior to the construction of cars subject to its terms.

AAR Mechanical Division Circular D.V. 1897 specifies that new cars must be equipped with rings or openings for lifting hooks "to provide a means to vertically lift a loaded upright car." Such a provision for lifting is known as a lifting "lug." The purpose of the requirement is "to improve the method of handling derailed cars." The Circular further states that lugs shall be provided "at four places, preferably in or near the body bolster at the side sill."

On September 19, 1978, FRA received a petition from four major tank car builders and a major lessor of cars requesting an emergency exemption of tank cars from the AAR Circular. The petition recited efforts to dissuade the AAR from issuance of the Circular and discussed the petitioners' reasons for opposition to the lifting lug requirement. Receipt of the petition followed testimony by the lessor of cars on this topic at the FRA General Safety Inquiry on freight car and safety applicance standards on July 13, 1978. The railroad industry has not directly responded to that testimony.

In brief, the petitioners object to the requirement of lifting lugs on tank cars because of the alleged likelihood of misue of the devices in the course of wreck clearance and because the presence of the devices might prompt wreck crews to act without properly assessing damage to equipment or the need for transferring product prior to rerailing. Petitioners point out that the AAR Circular specifies design criteria for the lugs which contemplate use only when the car is essentially upright and is to be lifted within 15 degrees of the vertical. Concern is expressed by the petitioners that, since most serious derailments result in cars being displaced from their trucks and distributed in various positions, wreck crews may improperly rely on lifting lugs to drag or lift overturned cars. Possible consequences of misuse are said to be release of hazardous materials and/or direct injury to wreck crew members or bystanders.

While the petitioners have limited their request for relief to an "exemption" from AAR lifting lug requirements with respect to tank cars used to transport hazardous materials, the FRA believes that the questions raised by petitioners concerning the safety of wreck clearance operations may have application to other kinds of freight cars, as well. Therefore, FRA is taking two steps designed to assure adequate public examination of the relevant safety considerations prior to the construction of significant numbers of new cars under the requirements of the Circular and their introduction into commerce. First, by separate order published in another portion of today's FEDERAL REGISTER, FRA is temporarily staying the effectiveness of the AAR Circular pending examination of the merits of the Circular. Second, FRA is instituting a special safety inquiry into the requirements of the Circular and the safety of alternate methods used to lift freight car bodies in wreck clearance operations. See 49 CFR 211.61 (FRA Rules of Practice).

A public hearing will be held in furtherance of the inquiry at 10 a.m. on October 31, 1978, in room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C. Representatives of the railroad industry, car builders and owners, wreck clearance contractors, and other interested persons are invited to attend the hearing and to make informal oral presentations. An FRA board of inquiry will direct questions to each witness for the purpose of developing a full factual background to inform FRA decisions. Written comments are also solicited and should be submitted to the address indicated above not later than the date of the hearing.

Commenters are encouraged to provide information concerning all issues relevant to the topic under examination. Comment is specifically solicited on the following issues:

1. Under the design specification of Circular D.V. 1897, each lifting lug must be able to support 40 percent of the gross weight of a loaded car when the car is essentially upright and is lifted from a position within 15 degrees of the vertical. In view of the fact that many cars do not come to rest in an upright position, would lifting lugs designed to the minimum requirements of the Circular present an unreasonable possibility of misuse and consequent injury to persons at the scene of a derailment? What are the specific possibilities of misuse which bear on safety? Should the AAR Circular be changed to require adequate strength to allow for lifting at angles greater than 15 degrees from the vertical? What should that angle be? Would the presence of a warning stencil at each lug reduce the possibilities of abuse?

2. What design specifications for lifting lugs are actually planned for applications on general purpose box cars, hopper cars, tank cars, and other freight cars? Does the standard box car, for example, permit the application of a lifting lug which would exceed the minimum AAR requirement with respect to the directionality of load capacity and, thereby, reduce the possibilities for misuse involving hazard to personnel at a derailment site?

3. Wreck clearance operations are often conducted by local construction companies and other entities under contract to the railroads or by crews specifically hired for the purpose. To what extent can the railroads assure that operations at a derailment site will be conducted according to accepted procedures, including proper use of lifting lugs?

4. Would the application of lifting lugs to tank cars or other cars used to carry hazardous materials involve risks qualitatively or quantitatively different from any risks common to freight cars in general? What is the current procedure for evaluating whether hazardous materials should be unloaded prior to the rerailing of cars containing such materials? Would misuse of lifting lugs applied to a body bolster or pressure tank materially increase the risk that hazardous materials might be released? Would wreck crews or contractors be tempted to forego unloading of damaged cars if lifting lugs were available? Should special requirements be imposed for cars used to carry hazardous materials? Should tank cars and/or cars used to carry explosives be excepted from the lifting lug requirement?

5. Present wreck clearance techniques involve the use of slings applied around car bodies in two locations. Crane hooks are sometimes used on side sills, center sills and other portions of car bodies. What risks are presented by current methods of clearing wrecks? Can slings be applied securely in all situations? How frequently are hooks used directly on portions of the car body not designed for lifting? Have cars been dropped or caused to lose lading because of improper handling by wreck crews or wreck contractors? What is the history of injuries and fatalities related to wreck clearances? Have lifting lugs presently in service been subject to failure or misuse (provide details of each occurrence)? What are the dimensions and load characteristics of lugs presently in service?

6. Are the AAR specifications contained in Circular D.V. 1897 adequate? (See text of Circular below.) Will the recommended dimensions of the Circular accommodate crane hooks currently in use, assuring that hook and lug mate securely? Is it possible to design a lifting lug so that a hook will not engage unless the direction of lift is within the specified angle from the vertical?

7. To what extent would lifting lugs (a) expedite the restoration of train operations and (b) reduce damage to rail equipment associated with wreck clearance? What is the estimated economic benefit to the railroad industry from the Circular? Of the total benefit anticipated, what portion is attributable to avoidance of damage to tank car jacketing and tank appurtenances?

Information gathered in this safety inquiry may form the basis of rulemaking under the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.); or FRA may recommend that the Department's Materials Transportation Bureau take action under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). As soon as possible following the public hearing, a determination will be made concerning whether the stay of Circular D.V. 1897 should be lifted or extended pending further regulatory action.

(Secs. 202, 208, 84 Stat. 971, 974 (45 U.S.C. 431, 437); § 1.49(n) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C., on October 2, 1978.

JOHN M. SULLIVAN,
Administrator.

The text of AAR Mechanical Division Circular D.V. 1897 follows:

PROVISION FOR LIFTING FREIGHT CAR

Standard

Adopted, 1977

Effective: Cars ordered new after July 1, 1978

1. The purpose of this provision is to provide a means to vertically lift a loaded upright car. This provision is for new and rebuilt cars to facilitate rerailing operations and to improve the method of handling derailed cars.
2. The provision shall be made available at four places, preferably in or near the body bolster at the side sill.
3. The design force at each provision for the upright car must be 40 percent of the gross rail load applied within 15 degrees of the vertical axis of the upright car. Each connection zone must be designed to support the above load without exceeding the yield strength of the material except that local deformation is permitted to achieve hook bearing area.
4. The provision may be similar to that shown below and should have rounded ends and provide sufficient opening to accommodate lifting means.

[Illustration omitted.]

[FR Doc. 78-28245 Filed 10-4-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1062]

[Ex Parte No. MC 107]

TRANSPORTATION OF GOVERNMENT TRAFFIC

Extension of Time for Filing Public Comments

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: By an interim decision served July 21, 1978, and printed at 129 MCC 623, the Commission (Commissioners Murphy and Stafford dissenting), reached certain tentative conclusions as to the major issues presented and the resolution of those issues through a comprehensive plan of motor carrier licensing for the transportation of government traffic. Appropriate rules and regulations embodying those provisional findings were proposed. All parties and other interested persons were invited to file comments respecting those tentative conclusions and the effectuating rules and regulations proposed. September 25, 1978, was designated as the date on or before which such comments would be received. At the request of several interested parties, and in order to insure a full opportunity to prepare their comments a 30-day extension of time for filing comments is being given.

DATES: Comments regarding the tentative conclusions and the effectuating rules and regulations proposed to be adopted in this proceeding should now be submitted to the Commission on or before October 25, 1978.

ADDRESS: Copies of the Commission's interim decision can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

Decided September 29, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28200 Filed 10-4-78; 8:45 am]

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[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING

Proposed Incremental Apportionment

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of proposed amendment to regulations.

SUMMARY: Under the provisions of the preliminary fishery management plan (PMP), the National Marine Fisheries Service will continually monitor U.S. fisheries, periodically re-evaluate U.S. processing and catching capacities and make appropriate changes. This proposed amendment revises the total allowable level of foreign fishing for Pacific cod and sablefish in the Bering Sea. The effect of the amendment will be to make available the surpluses of U.S. capacity estimates to foreign nations desiring additional fishery allocations.

DATE: Comments are invited until October 15, 1978.

ADDRESS: Send comments to Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: On September 6, 1977, the National Marine Fisheries Service (NMFS) published a notice of availability of a supplement to the final environmental impact statement for the preliminary fishery management plan for the trawl fisheries and herring gillnet fishery of eastern Bering Sea and northeast Pacific (PMP) (42 FR 9298), which in § 2.3.1.1 stated that:

> Periodic re-evaluation of the U.S. capacity will be required to determine what portions of the reserves are required by the United States or what portions of the reserves and the stated U.S. capacities are surplus to U.S. needs. The NMFS will continually monitor U.S. fisheries, periodically re-evaluate U.S. processing and catching capacities, and make appropriate changes in U.S. capacities, appropriate distribution of reserves, and appropriate increases in TALFF's. Notice of the incremental apportionments of the reserve between U.S. capacities and TALFF's will be published in the FEDERAL REGISTER within 7 days after the end of March, June, August, and October. Those publications will provide the mechanism for the Secretary of State to allocate to foreign nations those portions of U.S. capacities and reserves surplus to U.S. needs.

The Director of the Alaska regional office has reassessed the U.S. capacity to harvest sablefish and Pacific cod and has determined that domestic fishermen will harvest only 200 mt of sablefish and 1,000 mt of cod in the Bering Sea and northwest Pacific fisheries. In keeping with the intent of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et. seq.), as amended (FCMA), the resulting surpluses of U.S. capacity estimates should be made available to foreign nations desiring additional fishery allocations.

The Assistant Administrator for Fisheries (Assistant Administrator), for good cause, has determined: (1) That the U.S. capacity estimate of sablefish in the Bering Sea and northeast Pacific is reduced from 600 mt to 200 mt, and the resulting surplus of 400 mt of the sablefish reserve is added to the TALFF, and; (2) that the U.S. capacity estimate of Pacific cod in the Bering Sea and northeast Pacific is reduced from 1,500 mt to 1,000 mt, and the resulting surplus of 500 mt of the Pacific cod reserve is added to the TALFF.

Accordingly, the PMP is (further) amended as follows:

1. The original sablefish TALFF of 5,000 mt which appeared in table 18 (42 FR 9325), on February 15, 1977, for areas I, II, and III combined, was reduced to 2,400 mt with a 600 mt reserve in the supplemental environmental impact statement (42 FR 60945) on November 30, 1977. That 600 mt reserve is hereby reduced to 200 mt and the TALFF for sablefish in areas I, II, and III combined, is increased to 2,800 mt.

2. The original cod TALFF of 58,000 mt which also appeared in table 18 was reduced to 56,500 mt with a 1,500 mt reserve on November 30, 1977. That 1,500 mt reserve is hereby reduced to 1,000 mt and the TALFF for cod is increased to 57,000 mt.

This amendment does not modify the optimum yield for those species established in the PMP, nor does it adversely affect the conservation of the resource.

The Assistant Administrator finds that a 15-day notice of proposed rulemaking is adequate because this amendment involves only a very small number of people, all of whom have had prior notice of this proposed action.

Signed in Washington, D.C., this 29 day of September 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

§ 611.20 [Amended]

It is proposed to amend 50 CFR 611.20(c) by revising table I as follows:

Lines 24 and 31 are revised to read:

"Species Code:" 006; "Species" Cod, Pacific; "Ocean Area" Aleutians and Bering Sea; "Amended TALFF (mt)" 57,000.

• • • • • •

"Species Code:" 007; "Species" Sablefish; "Ocean Area" Bering Sea; "Amended TALFF (mt)" 2,800.

§ 611.93 [Amended]

Amend 50 CFR 611.93(b) by revising table I as follows:

1. In column one, bottom line, add words "and revised" between the words "initial" and "TALFF".

2. In column seven headed "Sablefish, Areas I-III" strike "2,400," substitute "2,800."

In column nine headed "Pacific Cod," strike "56,500," substitute "57,000."

[FR Doc. 78-28267 Filed 10-4-78; 8:45 am]

[3510-22]

[50 CFR Part 611]

FISHERY MANAGEMENT PLAN, "HALIBUT OFF THE COAST OF ALASKA"

Change in Public Hearing Schedule for Draft Environmental Impact Statement

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of change in public hearing schedule.

SUMMARY: Cancellation and new dates for the public hearing schedule as listed in the FEDERAL REGISTER of 43 FR 41244 and 43 FR 41245 for the Fishery Management Plan, "Halibut Off the Coast of Alaska" are as follows: Cancel Sitka, Alaska on October 24; cancel Seattle, Wash. on October 26. Add: Petersburg, Alaska, October 25, 1978, 1:30 p.m. to 5:30 p.m. and in the evening, if everyone is not heard; City Council Chambers, Maine Street, 99833; Seattle, Wash., October 27, 1978, 9 a.m. to 5 p.m., Vance Airport Inn at Sea-Tac, 18220 Pacific Highway South, 98199.

DATE: Comments will be received until October 31, 1978.

ADDRESS: Comments should be addressed to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510. This Notice of Public Hearings is being published at the request of and in cooperation with the North Pacific Fishery Management Council.

Dated: September 25, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-28098 Filed 10-4-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

NEZ PERCE (NEE-MEE-POO) NATIONAL HISTORIC TRAIL STUDY IN OREGON, IDAHO, WYOMING AND MONTANA

Intent to Prepare an Environmental Statement

Pursuant to paragraph 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, in cooperation with the National Park Service, Department of Interior, will prepare an environmental statement for the Nez Perce (Nee-Mee-Poo) National Historic Trail study which will involve 1,350 miles of the route traveled by the nontreaty Nez Perce Indians from the vicinity of Wallowa Lake, Oreg., to Bear Paw Mountain, Mont.

By enactment of Pub. L. 94-527, October 17, 1976, Congress amended the National Trails System Act of 1968 to authorize a study to determine the feasibility of designating the Nez Perce (Nee-Mee-Poo) Trail as a component of the National Trails System.

Key issues evolve from the complex nature of landownership and land use. This trail enters 4 States and 21 counties within these States. It crosses portions of four Forest Service regions (1, 2, 4, and 6), 10 national forests, and three national parks. Also involved are four State offices of the Bureau of Land Management. Several RARE II roadless areas, the North Absaroka Wilderness, and the Snake, Salmon, Clark Fork of the Yellowstone and Missouri Rivers, all designated as wild or scenic rivers are crossed by this trail. There are several national and State historic sites along the route. The trail also passes through a portion of critical grizzly bear habitat in Yellowstone Park and the Shoshone National Forest.

The responsible official is Forest Service Chief John McGuire. Robert Torheim, who has initiated this cooperative study, is the Regional Forester of the Northern Region in Missoula. Ray Thompson is the study leader working with Gene Balaz of the National Park Service.

The draft feasibility report/environmental statement is scheduled for completion by December 1978, with a 60-day review period. The final report/ES is scheduled for submission to Congress in June 1979.

Comments on the notice of intent or on the trail study should be sent to the Regional Forester, Attention: Director, Recreation and Lands, Forest Service, Federal Building, Missoula, Mont. 59807.

Dated: September 25, 1978.

JAMES E. REID,
Acting Regional Forester,
Northern Region.

[FR Doc. 78-28114 Filed 10-4-78; 8:45 am]

[3410-16]

Soil Conservation Service

BROAD BROOK WATERSHED PROJECT, MASSACHUSETTS

Notice of Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of deauthorization of Federal funding for the Broad Brook Watershed Project, Hampshire and Hampden Counties, Mass., effective on September 15, 1978.

A notice of intent to deauthorize Federal funding was published on June 26, 1978. Appropriate committees of Congress and concerned local, State, and Federal agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Date: September 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-28115 Filed 10-4-78; 8:45 am]

[3410-16]

DARRS CREEK WATERSHED, TEXAS

Intent To Not File an Environmental Impact Statement for Deauthorization of Funding of the Darrs Creek Watershed

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service; Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Darrs Creek Watershed, Bell County, Tex.

The environmental assessment of this action indicates that deauthorization of funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures and the installation of four floodwater retarding structures.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, P.O. Box 648, 101 South Main Street, Temple, Tex. 76501; 817-774-1214. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on the proposal will be taken until December 4, 1978.

(Catalog of Federal Domestic Assistance program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

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Dated: September 27, 1978.

NORMAN A. BERG,
Associate Administrator.

[FR Doc. 78-28116 Filed 10-4-78; 8:45 am]

[3410-16]

NORTHEAST MISSISSIPPI R.C. & D. AREA CRITICAL AREA TREATMENT R.C. & D. MEASURES, MISSISSIPPI

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Northeast Mississippi Resource Conservation and Development Area Critical Area Treatment Measures in Alcorn, Benton, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, Calhoun, and Lafayette Counties, Miss.

The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, concrete and grass flumes, grassed waterways, and tree planting.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Miss. 39205, telephone 601-969-4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: September 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-28117 Filed 10-4-78; 8:45 am]

[3410-16]

NORTHWEST MISSISSIPPI R.C. & D. AREA CRITICAL AREA, TREATMENT R.C. & D. MEASURES, MISSISSIPPI

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Northwest Mississippi Resource Conservation and Development Area Critical Area Treatment Measures in Attala, Bolivar, Carroll, Coahoma, De Soto, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica, Washington, Yalobusha, and Yazoo Counties, Miss.

The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, concrete and grass flumes, grassed waterways, and tree planting.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Miss. 39205, telephone 601-969-4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: September 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-28118 Filed 10-4-78; 8:45 am]

[3410-16]

SOUTHEAST MISSISSIPPI R.C. & D. AREA, CRITICAL AREA TREATMENT R.C. & D. MEASURES, MISSISSIPPI

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Southeast Mississippi R.C. & D. Area Critical Area Treatment Measures in Clarke, Covington, George, Greene, Forrest, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Lauderdale, Leake, Marion, Neshoba, Newton, Pearl River, Perry, Scott, Smith, Stone, and Wayne Counties, Miss.

The environemtal assessment of this federally assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, concrete and grass flumes, grassed waterways, and tree planting.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 601, Jackson, Miss. 39205, telephone 601-969-4335. An environmental impact

appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No adminsitrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-28119 Filed 10-4-78; 8:45 am]

[3410-16]

SOUTHWEST MISSISSIPPI R.C. & D. AREA, CRITICAL AREA TREATMENT R.C. & D. MEASURES, MISSISSIPPI

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Southwest Mississippi Resource Conservation and Development Area Critical Area Treatment Measures in Adams, Amite, Claiborne, Franklin, Jefferson, Lawrence, Lincoln, Pike, Walthall, and Wilkinson counties, Miss.

The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, concrete and grass flumes, grassed waterways, and tree planting.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Miss. 39205, telephone 601-969-4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-28120 Filed 10-4-78; 8:45 am]

[3410-16]

HERMITAGE PUBLIC SCHOOL CRITICAL AREA TREATMENT R.C. & D. MEASURE, ARKANSAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hermitage Public School Critical Area Treatment R.C. & D. Measure, Bradley County, Ark.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. M. J. Spears, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating about 9 acres of critical eroding areas on the school ground. The planned works of improvement include topsoil, shaping, grading, sprigging and sodding Bermuda grass, constructing a grassed waterway, mulching, fertilizing, and irrigation. One road will be removed and another road constructed. Two parking areas will also be installed.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. M. J. Spears, State Conservationist, Soil Conservation Service, Federal Office Building, 700 West Capitol Avenue, Little Rock, Ark. 72203, telephone 501-378-5445. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No, 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-28068 Filed 10-4-78; 8:45 am]

[3410-16]

MISPILLION PROJECT WATER-BASED RECREATION R.C. & D. MEASURE, DELAWARE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mispillion Project Water-Based Recreation R.C. & D. Measure, Sussex County, Del.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation. The planned works of improvement include the installation of a 10' x 30' fishing peir along the south shoreline of Silver Lake in Milford, Del. The pier will be located near the intersection of Maple and Lakeview Avenues at the eastern end of the lake.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Otis D.

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Fincher, State Conservationist, Soil Conservation Service, Treadway Towers, Suite 204, 9 East Loockerman Street, Dover, Del. 19901, telephone 302-678-0750. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 28069 Filed 10-4-78; 8:45 am]

[3410-16]

MITCHELL SWAMP-PLEASANT MEADOW BRANCH WATERSHED PROJECT, SOUTH CAROLINA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the proposed action in Mitchell Swamp-Pleasant Meadow Branch Watershed, Horry County, S.C.

The watershed project was planned in 1964 and authorized by congressional committees in 1965. None of the planned structural measures have been installed.

The proposed action is to deauthorize the planned project. The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basis data developed during the environmental assessment is on file and may be reviewed by contacting Mr. George E. Huey, State Conservationist, Soil Conservation Service, One Greystone West, 240 Stoneridge Drive, Columbia, S.C. 29210; 803-765-5681. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties.

No administrative action on implementation of the proposal will be taken until 60 days from the time congressional committees are notified.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated: September 27, 1978.

NORMAN A. BERG,
Associate Administrator,

[FR Doc. 78-28067 Filed 10-4-78; 8:45 am]

[3410-16]

MOORE UNITED GAS GULLY CRITICAL AREA TREATMENT R. C. & D. MEASURE, FLORIDA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moore United Gas Gully Critical Area Treatment R. C. & D. Measure, Escambia County, Fla.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William E. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for gully stabilization. The planned works of improvement include a grade stabilization structure and 1.5 acres of vegetative cover.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. William E. Austin, State Conservationist, Soil Conservation Service, 401 SE. First Avenue, Gainesville, Fla. 32601, telephone 904-377-8732. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-28070 Filed 10-4-78; 8:45 am]

[3410-16]

RONALD RIGBY GULLY CRITICAL AREA TREATMENT R.C. & D. MEASURE, FLORIDA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ronald Rigby Gully Critical Area Treatment R.C. & D. Measure, Escambia County, Fla.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William E. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for gully stabilization. The planned works of improvement include an earthen embankment with a pipe drop inlet and conduit, plunge basin, and 3.5 acres of vegetative cover.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. William E. Austin, State Conservationist, Soil Conservation Service, 401 Southeast First Avenue, Gainesville, Fla. 32601, telephone 904-377-8732. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-28071 Filed 10-4-78; 8:45 am]

[6820-32]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on October 12, 1978, from 7 a.m. to 7 p.m. at Strategic Air Command Headquarters, Offutt Air Force Base, Omaha, Nebr., and on October 13, 1978, from 8 a.m. to 12 noon at Ellsworth Air Force Base, Rapid City, S.D.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of September 5, 1978, made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: September 25, 1978.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc. 78-28247 Filed 10-4-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 24048]

BRANIFF AIRWAYS, INC. AND BRANIFF INTERNATIONAL CORP.

Notice of Proposed Approval

Notice is hereby given, pursuant to statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the Civil Aeronautics Board intends to issue the attached order. Interested persons are hereby afforded until October 16, 1978, to file or request a hearing on the action proposed in the order.

Dated at Washington, D.C., September 20, 1978.

PHYLLIS T. KAYLOR,
Secretary.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By Order 73-5-17, May 14, 1973, the Board authorized Braniff Airways, Inc. to establish and acquire control of A-B Aircraft, Inc. (Aircraft, Inc.) as a wholly owned subsidiary for the special purpose of immediately coverting into cash some portion of the value of certain conditional sales contracts for 11 BAC-111's, spare parts, and related equipment delivered to Allegheny Airlines, Inc.[1] Also, the Board authorized Braniff to lease the aircraft and related equipment from Aircraft, Inc. if the latter repossesses such aircraft on termination of the conditional sales contract with Allegheny. Further the Board's authorizations were made effective only so long as the activities of Aircraft, Inc. are limited to the legal or beneficial ownership and leasing of the aircraft and to the winding up of its corporate affairs as a special-purpose corporation.[2]

Braniff and Braniff International Corporation (BIC) now request that the Board approve, under section 408 of the Federal Aviation Act of 1958, as amended, and authorize, under the conditions of Order 73-11-8, October 23, 1973, the acquisition of control of Aircraft, Inc. by BIC through an interaffiliate transaction.[3]

Braniff proposes to sell its interest in Aircraft, Inc. to BIC by exchanging the capital stock for cash in the amount of the net book value of the stock at the end of the month preceding the transfer. According to the applicants, the aggregate book value of Aircraft, Inc., as of April 30, 1978, was approximately $2,609,500 and the purchase price is to be paid in cash at the date of the transfer.[4]

In support of their request, the applicants state that Braniff's financial statements carry the amount of the stockholders' equity on the books of Aircraft, Inc. as the book value of Braniff's investment in it; that the net effect of the proposed sale will be to substitute cash on Braniff's balance sheet for the book value of its nonairline investment, asset in Aircraft, Inc.; that this transfer will improve Braniff's attractiveness to creditors and simplify its corporate structure. The applicants further state that they have selected book value as the most reasonable selling price in the absence of a readily acceptable alternative means of valuing the Aircraft, Inc. stock. Also, they note that the Board has approved this method of valuation in authorizing the transfer of other Braniff subsidiaries to BIC.[5]

Applicants further assert that no one will be adversely affected by the transfer. None of the obligaitons of any of the parties to the lease and financing agreements would be affected and the two financing banks have consented to the present transaction.

No one has filed any objections to this application or requested a hearing.

We have concluded that BIC is a person controlling an air carrier, that Aircraft, Inc. is a person engaged in a phase of Aeronautics, and that the transaction is subject to Board approval under section 408 of the Act and under the conditions of Order 73-11-8 supra.[6] We further conclude, however, that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in

[1] According to Braniff, if Aircraft, Inc. borrows from the lending banks on the security of the conditional sales contracts, Braniff would not incur recourse obligations, thus avoiding a contingent liability on its books.

[2] The conditional sales contracts involved 11 BAC-111's on which there was an outstanding balance plus accrued interest of approximately $17,650,000 as of March 1, 1973. Under the terms of the Braniff's arrangements with Aircraft, Inc. following the latter's establishment, Braniff was to turn over the conditional sales contracts to Aircraft, Inc. which in turn was to borrow about $13,200,000 from two banks using the conditional sales contracts as security and transmit the proceeds to Braniff. The difference between the $17,650,000 and the $13.2 million represented Braniff's investment in Aircraft, Inc. As between the latter and the lending banks, the principal and interest payments from Allegheny were to be applied to the $13.2 million bank loans.

[3] By this order the Board granted interim approval, subject to conditions, of BIC's acquisition of Braniff and the latter's subsidiaries, including Aircraft, Inc., which was established earlier in the same year.

[4] Applicants state that as of April 30, 1978, the remaining balance due Aircraft, Inc. from Allegheny was $3,859,748, with the final payment scheduled in August, 1980. As of the same date, the remaining balance owed by Aircraft, Inc. on the loan to the banks was $1,166,000 with the final payment due in August, 1978.

[5] Braniff Airways, Inc., and Braniff International Corp., Order 73-11-8 (transfer of Braniff International Hotels, Inc. and Braniff Education Systems, Inc.); Order 75-1-23, January 7, 1975 (transfer of International Resort Properties, Inc. and Western Restaurante, Ltd.); and Order 78-4-59, April 13, 1978 (transfer of BIC Guardian Services, Inc.)

[6] See Order 78-4-59, *supra.*, n. 5 above; Braniff Airways, Inc., and Braniff International Corp., Orders 75-1-23, January 7, 1975, and 75-2-56, February 13, 1975, at n. 1 (also involving Guardian Services, Inc.)

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creating a monopoly or tend to restrain competition. No person disclosing a substantial interest in this matter requests a hearing and we conclude that the public interest does not require one.

The transfer of Aircraft, Inc. to BIC does not raise any issues which the Board did not consider in approving Braniff's and, through Braniff, BIC's acquisition of Aircraft, Inc. in Orders 73-5-17 *supra.*, and 73-11-8, *supra.*[7] Aircraft, Inc., a person engaged in a phase of aeronautics, will still be affiliated with the certificated air carrier, Braniff, under the common control of BIC. It appears that the basic findings and conclusions concerning that affiliation which the Board made in the earlier orders still are valid.[8]

The transaction will not impair Braniff's integrity or its ability to fulfill its certificate obligations. The Board finds, therefore, that the control relationships which the acquisition of direct control of Aircraft, Inc. by BIC create are consistent with the public interest and that the requirements of section 408 are otherwise fulfilled. Our action is not a major Federal action within the meaning of the National Environmental Policy Act of 1969.[9]

We have published in the FEDERAL REGISTER a notice of intent to dispose of this application without a hearing and have furnished a copy of the notice to the Attorney General not later than the day after its publication, both in accordance with the requirements of section 408(b) of the Act.

Accordingly, we approve the acquisition of A-B Aircraft, Inc. by Braniff International Corp. under section 408(a)(6) of the Act and in accordance with the conditions of Order 73-11-8, dated October 23, 1973.

The Board retains jurisdiction in this proceeding for the purpose of amending or revoking the approval granted here, with or without hearing, as the public interest may require.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28201 Filed 10-4-78; 8:45 am]

[7] See also Order 78-4-59, *supra*, and Tiger International, Inc., Orders 76-3-96, March 15, 1976, and Order 77-2-124, February 25, 1977.

[8] See Santa Fe Industries, Inc. and Santa Fe Natural Resources, Order 72-4-40, April 10, 1972, and Order 78-4-59, *supra*. The applicants have stated BIC's willingness to liquidate Aircraft, Inc., according to Braniff's commitment, when the purpose for which it was established has been accomplished.

[9] From the examination of the application it appears that a grant of the requested relief will not cause any of the results set forth in section 312.9 of the Board's Procedural Regulations.

[3510-2]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 95-265), will meet to discuss: (1) Foreign fishing regulations for 1979; (2) Foreign fee schedules for 1979; (3) Gear conflicts committee report; (4) Groundfish trip limits analysis and new plan development; and (5) Other business.

DATES: The meeting will convene on Monday, October 23, 1978, at approximately 10 a.m. and adjourn on Tuesday, October 24, 1978, at approximately 5 p.m. This meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton Inn, 291 Jones Road, Falmouth, Mass.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 2, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-28097 Filed 10-4-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 700, 467: Bag for Storing Whole Blood, filed June 26, 1978.

Patent application 730, 468: Surfactant-Assisted Liquefaction of Particulate Carbonaceous Substances, filed October 7, 1976.

Patent application 741, 749: Coupling Apparatus for Ultrasonic Medical Diagnostic System, filed November 15, 1976.

Patent application 814, 384: Process for Manufacturing Cannula, filed July 11, 1977.

Patent application 848, 428: Formulated Plastic Separators for Soluble Electrode Cells, filed November 3, 1977.

Patent application 858, 761: High Temperature Resistant Cermet and Ceramic Compositions, filed December 8, 1977.

Patent application 858, 768: High Temperature Resistant Cermet and Ceramic Compositions, filed December 8, 1977.

Patent application 861, 389: High Visibility Air Sea Rescue Panel, filed December 16, 1977.

Patent application 863, 770: Method for Fabricating Solar Cells Having Integral Collector Grids, filed December 23, 1977.

Patent application 891, 246: Soft X-Ray Laser Using Crystal Channels as Distributed Feedback Cavities, filed March 29, 1978.

Patent application 891, 358: A Solar Array Strip and a Method for Forming the Same, filed March 29, 1978.

Patent application 899, 123: Improved Back Wall Cell, filed April 24, 1978.

Patent application 900, 841: Secure Communication System, filed April 28,1978.

Patent application 901, 892: Cesium Thermionic Converters Having Improved Electrodes, filed May 1, 1978.

Patent application 906, 297: Low Cost Solar Energy Collection System, filed May 15, 1978.

Patent application 907, 421: Power Control for Hot Gas Engines, filed May 19, 1978.

Patent application 907, 431: Hot Gas Engines with Dual Crankshafts, filed May 19, 1978.

Patent application 907, 435: Heat Resistant Polymers of Oxidized Styrylphosphine, filed May 19, 1978.

Patent application 907, 479: Heat Resistant Polymers of Oxidized Styrylphosphine, filed May 19, 1978.

Patent application 909, 100: Toggle Mechanism for Pinching Metal Tubes, filed May 19, 1978.

Patent application 910, 707: Satellite Personal Communications System, filed May 30, 1978.

Patent application 910, 709: A Tool for Use in Joining Connectors to Shielded Cables, filed May 30, 1978.

Patent application 910, 793: Stainless Steel Panel for Selective Absorption of Solar Energy and the Method of Producing Said Panel, filed May 30, 1978.

Patent application 911, 747: Ceramic Fiber Insulating Material and Method of Producing Same, filed June 11, 1978.

Patent application 914, 260: Electrochemical Cell for Rebalancing REDOX Flow System, filed June 9, 1978.

Patent application 915, 050: Solar Cell System Having Alternating Current Output, filed June 9, 1978.

Patent 4,077,231: Multistation Refrigeration System, filed August 9, 1976, patented March 7, 1978; not available NTIS.

Patent 4,078,110: Flexible Pile Thermal Barrier Insulator, filed April 28, 1976, patented March 7, 1978; not available NTIS.

Patent 4,082,569: Solar Cell Collector, filed February 22, 1977, patented April 4, 1978; not available NTIS.

Patent 4,083,097: Method of Making Encapsulated Solar Cell Modules, filed November 30, 1976, patented April 11, 1978; not available NTIS.

Patent 4,083,380: Fluid Valve Assembly, filed May 27, 1976, patented April 11, 1978; not available NTIS.

Patent 4,083,765: Polymeric Electrolytic Hygrometer, filed December 21, 1976, patented April 11, 1978; not available NTIS.

Patent 4,084,124: Method and Apparatus for Conditioning of Nickel-Cadmium Batteries, filed November 24, 1976, patented April 11, 1978; not available NTIS.

Patent 4,084,612: Flow Compensating Pressure Regulator, filed March 21, 1977, patented April 18, 1978; not available NTIS.

Patent 4,084,985: Method for Producing Solar Energy Panels by Automation, filed April 25, 1977, patented April 18, 1978; not available NTIS.

Patent 4,085,241: Inorganic-Organic Separators for Alkaline Batteries, filed September 7, 1976, patented April 18, 1978; not available NTIS.

Patent 4,085,332: Apparatus for Extraction and Separation of a Preferentially Photo-Dissociated Molecular Isotope into Positive and Negative Ions by Means of an Electric Field, filed June 3, 1976, patented April 18, 1978; not available NTIS.

[FR Doc. 78-28072 Filed 10-4-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN WOOL TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

Announcing Additional Import Controls

SEPTEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling certain shoe soles and uppers of wool felt in Category 459 (only T.S.U.S.A. numbers 700.7510 through 700.7560) from the Republic of Korea at 2,850,000 pounds during the 12-month period which began on January 1, 1978.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 3421) and September 5, 1978 (43 Fr 39408).

SUMMARY: Under the terms of paragraph 16 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, the Government of the United States has decided to control imports of wool textile products in Category 459 (only T.S.U.S.A. numbers 700.7510 through 700.7560), produced or manufactured in the Republic of Korea and exported to the United States during the 12-month period which began on January 1, 1978, in addition to those categories previously designated.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5423.

SUPPLEMENTARY INFORMATION: On December 30, 1977, there was published in the FEDERAL REGISTER (42 FR 65246) a letter dated December 27, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the 12-month period which began on January 1, 1978 and extends through December 31, 1978. On June 30, 1978, a further notice was published in the FEDERAL REGISTER (43 FR 28531) which established levels of restraint for wool and man-made fiber textile products in Categories 440 and 605 during the agreement year which began on January 1, 1978.

In accordance with the terms of the bilateral agreement, the U.S. Government has decided also to control imports of wool textile products in Category 459 (only T.S.U.S.A. numbers 700-7510 through 700.7560) produced or manufactured in the Republic of Korea and exported to the United States during the 12-month period which began on January 1, 1978. The level of restraint of 2,850,000 pounds will be adjusted to reflect imports of 1,917,967 pounds during the period beginning on January 1, 1978 and extending through July 31, 1978. Further adjustments will be made to account for imports during the period beginning on August 1, 1978 and extending through the effective date of this action.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

SEPTEMBER 28, 1978

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on December 27, 1977 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 2, 1978 and for the 12-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 459 (only T.S.U.S.A. numbers 700.7510 through 700.7560), produced or manufactured in the Republic of Korea, in excess of 2,850,000 pounds.[1]

Wool textile products in Category 459 (only T.S.U.S.A. numbers 700.7510 through 700.7560) which have been exported to the United States prior to January 1, 1978 shall not be subject to this directive.

Wool textile products in Category 459 (only T.S.U.S.A. numbers 700.7510 through 700.7560) which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).

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In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of wool textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-28107 Filed 10-4-78; 8:45 am]

[3510-25]

NEW MULTIFIBER AGREEMENT

Announcing Import Restraint Levels With Columbia

SEPTEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products from Columbia during the 12-month period beginning on July 1, 1978, pursuant to a new bilateral agreement.

SUMMARY: On August 3, 1978, the Governments of the United States and Colombia exchanged notes establishing a new Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement for the 4-year period begining on July 1, 1978 and extending through June 30, 1982. Within the applicable group limits, the agreement establishes specific limits for Categories 313, 443, 633, and 641 during the 12-month period beginning on July 1, 1978. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption, of cotton, wool, and man-made fiber textile products in Categories 313 (cotton sheeting), 443 (men's and boys' wool suits), 633 (men's and boys' suit-type coats of man-made fibers), and 641 (man-made fiber blouses, not knit) to the designated amounts, pursuant to the new agreement. The levels of restraint in the letter have not been adjusted to account for imports during the period beginning on July 1, 1978 and extending through the effective date of this action. Imports during this period will be charged to the new levels.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

SEPTEMBER 28, 1978

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 3, 1978, between the Governments of the United States and Colombia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 2, 1978, and for the 12-month period beginning on July 1, 1978 and extending through June 30, 1979, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products, exported from Columbia in the following categories, in excess of the indicated 12-month levels of restraint:

Category and 12-month level of restraint[1]

313—8,500,000 square yards.
443—11,292 dozen.
633—66,298 dozen.
641—124,138 dozen.

In carrying out this directive entries of cotton, wool, and man-made fiber textile products in the foregoing categories, produced or manufactured in Columbia and exported to the United States prior to July 1, 1978 and entered on and after the effective date of this directive, shall not be charged against the levels of restraint established in this directive.

[1] The levels of restraint have not been adjusted to reflect any imports after June 30, 1978.

Cotton, wool, and man-made fiber textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C 1448 (b) before the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43FR 39408).

In carring out the above directions, entry in the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Columbia and with respect to imports of cotton, wool, and Man-made fiber textile products from Columbia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-28108 Filed 10-4-78; 8:45 am]

[6330-01]

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will meet in open session on Tuesday, October 24, 1978, at 10 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice of December 27, 1977, published at 42 FR 64651.

Dated in Washington, D.C., September 26, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-28122 Filed 10-4-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Air Force.

ACTION: Notification of a new system of records.

SUMMARY: The Department of the Air Force proposes a new system of records identified as F03001 SAC A, entitled: "Drug Rehabilitation Action Management Information System".

DATES: This system shall become effective as proposed without further notice on November 6, 1978, unless comments are received on or before November 6, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Jon Updike, HQ USAF/DAAD(S), Bolling Air Force Base, Washington, D.C. 20330, telephone 202-767-4545.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50784), September 28, 1977.
FR Doc. 78-25819 (43 FR 42376), September 20, 1978.

The Department of the Air Force has submitted a new system report on August 28, 1978, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 2, 1978.

F03001 SAC A

System name:

Drug Rehabilitation Action Management Information System.

System location:

At servicing Air Force (AF) installation Social Actions Offices, Consolidated Base Personnel Offices, Strategic Air Command Headquarters, SAC Drug Rehabilitation Center and Air Force Manpower and Personnel Center. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty military personnel who are identified as drug abusers.

Categories of records in the system:

As a minimum, the system contains computerized data and manual files related to drug abuse identification, category of abuse, acceptance of treatment, and subsequent personnel actions.

Authority for maintenance of the system:

5 U.S.C. 301, Departmental regulations; and 10 U.S.C. 8074, Commands: territorial organization.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To identify and track a person's acceptance/declination and progress in the Strategic Air Command drug rehabilitation program and ultimate disposition (retained on active duty, separated, demoted, etc.). Those authorized to have access to the files are base and command level social actions staffs, drug rehabilitation instructors, and selected command staff personnel. The files are used to maintain information on drug abusers, to measure the success of program objectives, to substantiate personnel actions, provide analysis reports to concerned managers, and to support separation actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposition of records in the system:

Storage:

Computer disk/tape files and manual file folders.

Retrievability:

Filed by name, by other identification number, or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. The computer file is secured on computer disk/tape by computer operations personnel. Manual file folders are stored in security file containers/cabinet safes.

Retention and disposal:

Computerized and manual files will be retained indefinitely; disposed of in accordance with AFM 12-50.

System manager(s) and address:

Deputy Chief of Personnel, Strategic Air Command, SAC Drug Rehabilitation Center, McConnell AFB KS, and base level Social Actions Offices.

Notification procedures:

Chief, Social Action, Strategic Air Command Headquarters for Computer Files or Det 1, 3902 ABW/CC, McConnell AFB KS, and base level Social Actions Offices for manual files. Requests to determine existence of record on file should include full name, grade, and unit of assignment. Personal visit proof of identification requires full name and possession of Department of Defense (DD Form 2AF) Armed Forces Identification Card, or driver's license and personal recognition of counselor.

Record access procedure:

Chief of Social Actions, Strategic Air Command Headquarters, Det 1, 3902 ABW/CC, McConnell AFB KS, or base level Social Actions Offices. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for accessing records and for contesting and appealing initial determinations by the individual concerned may be obtained from the systems manager.

Record source categories:

Information obtained from medical institution, personnel records, individuals.

Systems exempt from certain provisions of the Act:

None.

[FR Doc. 78-28090 Filed 10-4-78; 8:45 am]

[3910-01]

ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Proposed Closure of Chanute AFB, Ill.

SEPTEMBER 26, 1978.

The Air Force has begun the formal environmental impact analysis process for the proposed closure of Chanute Air Force Base (AFB), Ill.

Since the late sixties, there has been a significant downward trend in the number of Air Force installations, down 38 percent; aircraft, down 40 percent; and manpower, down 35 percent. These reductions in overall activity have resulted in a decrease in technical training requirements and a study as to whether reductions could be made in the Air Force base structure supporting technical training.

There are five technical training centers (TTC's) located at the follow-

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ing major installations: Chanute Air Force Base, Ill.; Keesler Air Force Base, Miss.; Lackland Air Force Base, Tex.; Lowry Air Force Base, Colo.; and Sheppard Air Force Base, Tex. An evaluation of each of these locations led to the recommendation that Keesler Air Force Base, Lackland Air Force Base, and Sheppard Air Force Base be excluded from further consideration of either a complete closure or relocation of the technical training center mission.

The proposed action is the closure of Chanute Air Force Base, Ill., with the alternative being to reduce Lowry Air Force Base, Colo., by relocation of the technical training and other activities to other DoD installations.

The environmental impact analysis process will consider the impact on the area surrounding Chanute Air Force Base of the departure of approximately 2,850 assigned military personnel, plus an average student load of approximately 5,000 students, and an estimated change in civilian jobs as follows:

Loss of approximately 1,450 Department of the Air Force Civil Service jobs.

Loss of other jobs (base exchange, concessionaire, nonapproriated fund), approximately 1,100 full and part-time.

The process will also consider the impact of the increase of personnel at Keesler Air Force Base by approximately 1,600 permanent party and students, at Lowrey Air Force Base by approximately 1,090 permanent party and students, and at Sheppard Air Force Base by approximately 4,890 permanent party and students.

The environmental impact analysis of the altenative action will consider the impact on the area surrounding Lowry Air Force Base of the departure of approximately 3,700 assigned military personnel, plus an average student load of 4,100 students, and an estimated change in civilian jobs as follows:

Loss of approximately 1,270 Department of the Air Force civil service jobs.

Loss of other jobs (base exchange, concessions, nonappropriated fund), approximately 1,400 full and part time.

The analysis of the alternative will also consider the impact of an increase of personnel at Keesler AFB by approximately 2,120 permanent party and students, at Chanute AFB by approximately 3,610 permanent party and students, at Sheppard AFB by approximately 1,560 permanent party. Approximately 3,470 permanent party manpower authorizations and 100 base operating support contract man-years would remain at Lowry Air Force Base and 280 manpower authorizations and 160 students in the Denver area.

The environmental impact analysis process will lead to a formal environmental assessment which will be used to determine if a draft environmental impact statement (EIS) should be prepared or if a finding of no significant impact is appropriate.

If the formal environmental assessment indicates there is significant impact on the quality of the human environment, the Air Force will file a Draft EIS with the Environmental Protection Agency and release it to the public.

If such impact is not found, a finding of no signficant impact will be prepared and released.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, the Pentagon, Washington, D.C. 20330, telephone 202-697-0800.

CAROL M. ROSE,
Air Force, Alternate
Federal Register Liaison Officer.

[FR Doc. 78-28138 Filed 10-4-78; 8:45 am]

[3910-01]

ADVANCED TANKER/CARGO AIRCRAFT PROCUREMENT

Environmental Determination

AUGUST 29, 1978.

The Air Force is contemplating the procurement of approximately 20 modified DC-10-30F wide-bodied freighter aircraft for use as tankers with cargo-carrying capability. A limited pre-delivery test program would begin in April 1980 and operational aircraft delivery to the Strategic Air Command would begin in October 1980. In accordance with the National Environmental Policy Act, the Air Force has prepared a Candidate Environmental Impact Statement (EIS) for the proposed procurement. After careful review of the Candidate EIS, it was determined that the proposed action was not a major Federal action significantly affecting the quality of the human environment nor was it likely to be highly controversial with regard to its environmental impacts. This conclusion is based upon the following:

a. The KC-10 is a derivative of the DC-10-30CF wide-bodied convertible freighter aircraft currently flying in commercial service with several commercial U.S. and foreign airlines. Minimum modifications to the aircraft would be made.

b. It is estimated that the KC-10 fleet would fly about 1900 hours/year in the stratosphere based on current projected typical missions. This would have a minimal climatic impact. The injection of oxides of nitrogen into the atmosphere by the proposed KC-10 fleet has been investigated by the Air Force Geophysics laboratory and they have determined that the effects on the ozone layer would be negligible (less than .01% change in ozone).

c. The KC-10 fleet would consume approximately 22 million gallons of fuel per year. The KC-10 uses fuel more efficiently than most other current Air Force aircraft in terms of ratio of fuel transferred to fuel burned. The propulsion systems would operate with JP-4, JP-5, and JP-8 fuel, all of which are low in sulfur and metal content.

d. The KC-10 would utilize the General Electric CF6-50C1 engine. These engines will comply with the Environmental Protection Agency air pollutant emission standards applicable to commercial engines at the time of procurement.

e. The KC-10 is quieter than the turbo jet, turbofan tanker/cargo aircraft presently in the Air Force inventory and meets Federal Aviation Regulation (FAR) Part 36 noise standards.

f. Existing avionics equipment would be used to the greatest extent possible. The navigation and other electronic systems would also comply with civilian air traffic control requirements. The KC-10 utilizes a search/weather radar which except for system checkout, would not be operated on the ground and would therefore not pose a hazard to personnel. System checkout would be conducted in accordance with AFR 127-101 and other safety provisions to prevent any on-ground radar hazards.

g. Logistic support concepts for tanker and cargo forces are not expected to change with the addition of the KC-10 force. Existing ground support equipment and existing maintenance facilities would be utilized; maintenance support would be performed in existing facilities.

For the reasons outlined above, the United States Air Force has decided not to file a Draft EIS with the Environmental Protection Agency and has prepared a negative determination.

Copies of the negative determination and the supporting documentation are available, upon request, from the Deputy for Environment and Safety, SAF/MIQ, Office of the Secretary of the Air Force, Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-28139 Filed 10-4-78; 8:45 am]

OCT 5 1978

[3810-71]

Department of the Navy

SECRETARY OF THE NAVY'S ADVISORY COMMITTEE ON NAVAL HISTORY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. I), notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History will meet on October 26, 1978, at 9 a.m., in Room 4D710, the Pentagon, Washington, D.C.

The purpose of the meeting is to review the naval historical activities of the past 18 months and to make comments and recommendations on these activities to the Secretary of the Navy.

Depending on available space, public attendance may be limited to those persons who have given written notice at least 5 days prior to the meeting of their intention to attend.

For further information about this notice and the Secretary of the Navy's Advisory Committee on Naval History contact: Captain A. D. Thomson, U.S. Navy, Deputy Director of Naval History, Building 200, Washington Navy Yard, Washington, D.C. 20374, telephone 202-433-2379.

Dated: September 27, 1978.

P. A. WILLE,
Captain, JAGC, U.S. Navy
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-28123 Filed 10-4-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. 77-001-LNG; (CP74-160, CP74-207, CP75-83-3)]

PAC INDONESIA LNG CO. AND WESTERN LNG TERMINAL ASSOCIATES

DOE/ERA Opinion No. 2, Opinion on Rehearing—Issues Related to the Escalator and Currency Adjustor Contract Provisions

SEPTEMBER 29, 1978.

I. INTRODUCTION

A. SUMMARY

In Opinion No. 1, the Department of Energy (DOE) conditionally approved a proposed importation of liquefied natural gas (LNG) from Indonesia to the West Coast. Among other things, the DOE disallowed certain escalation and currency adjustment clauses in the LNG purchase contract between the U.S. importer (Pac-Indonesia LNG Co., hereinafter "Pac-Indonesia") and the Indonesian supplier (Perusahaan Pertambangan Minyak Dan Gas Bumi Negara, hereinafter "Pertamina"). The DOE also disapproved Pac Indonesia's proposal that its tariff provide for automatic flow-through of any price increases under those clauses. Opinion No. 1 did indicate, however, that DOE would consider revisions to the escalation and currency adjustment provisions.

Following procedures described below, Pac Indonesia has filed an amendment to tis contract with Pertamina, which contains revised escalation provisions, and has requested that flow-through of the cost increases resulting from the new escalator provisions and the currency adjustor provision as orginally proposed be approved.

After considering the applications for rehearing, the revisions filed by Pac Indonesia, and the comments filed thereon, the DOE finds that the amended contract escalation clause would not be inconsistent with the public interest in the special circumstances of this proceeding. Moreover, the DOE now withdraws its objections to the currency adjustment clause, and conditionally sanctions the operation of that clause, as explained below.

The DOE will shortly address remaining matters raised by the applications for rehearing of Opinion No. 1 and then issue the justiciable order under section 19(b) of the Natural Gas Act.

B. PROCEDURAL BACKGROUND

In reviewing the pricing clauses in the Pertamina-Pac Indonesia contract, we take note of the special history of these proceedings. The first application for permission to import the LNG, filed on November 30, 1973, with the Federal Power Commission (FPC), reflected Pertamina's September 6, 1973, contract to sell LNG for 63 cents per million Btu (MMBtu) with escalation at 2 percent per year. On January 9, 1975, upon the refusal of the Indonesian government to approve a contract containing an escalator which did not reflect world energy prices, Pertamina and Pac Indonesia's predecessor revised the contract, as follows:

To set a base price of $1.25 per MMBtu for LNG FOB the tanker at the loading dock in Sumatra;

To escalate the base price by a formula based on two energy price indicators: (a) 50 percent on changes in the actual average price of exported Indonesian crude oil, and (b) 50 percent on changes in the U.S. Department of Labor, Bureau of Labor Statistics, (BLS) Code 05 Wholesale Price Index for Fuels and Related Products.

On October 28, 1975, the parties again revised the contract to fix a minimum pricing provision designed to cover the amortization of interest on Pertamina's debt as well as its operating costs.

The Administrative Law Judge conditionally approved the import on July 22, 1977. On October 1, 1977, the FPC ceased to exist and its gas import jurisdiction vested in the Secretary of Energy.

The DOE issued Opinion No. 1 on December 30, 1977. Pac Indonesia and others submitted applications for rehearing within the 30 day period allowed by section 19(a) of the Natural Gas Act. On February 22, 1978, the Administrator of the DOE's Economic Regulatory Administration held a conference to consider the applications for rehearing. An Order Granting Rehearing for the Purpose of Further Consideration was issued on February 28, 1978.

The Order allowed Pac Indonesia until May 1, 1978, to submit a contract amendment containing revised escalation provisions, and all parties were given 15 days to comment on any submissions. After four extensions of time, Pac Indonesia filed the revised provisions on July 28, 1978. Comments were filed by the staff of the Federal Energy Regulatory Commission (FERC staff) on August 7, 1978, by Hollister Ranch Owners' Association and the Santa Barbara Citizens for Environmental Defense (Hollister) on August 10, 1978, and by San Diego Gas & Electric Co. (San Diego) on August 11, 1978. Pac Indonesia filed a limited response to Hollister on August 21, 1978.

C. ECONOMIC BACKGROUND

Opinion No. 1 explicitly recognized that some escalation provisions might be appropriate in the present LNG contract. We recognize Pertamina's concerns with respect to revenues over the life of a long-term contract which will not terminate until the next century, 20 years after initial delivery. The necessity for a long-term contract reflects the large capital outlays involved in an LNG venture, including the liquefaction plant, the cryogenic tankers, and the receiving, storage and regasification terminal. Such projects must wed a substantial, dedicated gas supply (over 4 trillion cubic feet of non-associated gas in this project) to a large, assured market.

These factors support our favorable consideration of appropriate escalation provisions. However, the approval of price provisions in LNG import contracts must also be based upon a careful assessment of the impact the provisions would have on national energy goals as well as a determination of the extent to which the resulting prices in particular projects are justified in terms of national and regional needs for gas.

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Domestic natural gas consumption will continue to draw primarily on the conventional supplies obtainable in the contiguous United States. Such natural gas resources are within the reach of drilling technology—on shore and on the continental shelf—at locations near the established pipeline infrastructures. National energy policy recognizes the primacy of these proximate supplies of conventional gas, as enterprise develops them and claims access to U.S. markets. Other potential supplies are marginal or at least intramarginal with respect to U.S. markets, principally by reasons of remoteness (as reflected in the transportation costs) or uncertain technology. Intramarginal supplies include gas from the Alaskan North Slope, various supplies from advanced technology applied to domestic resources, and overland supplies from neighboring sovereign countries, as mutual benefits may dictate such transactions. Marginal supplies include synthetic natural gas (SNG) from imported petroleum and LNG from abroad.

Even though capital-intensiveness, price, long-term commitment and vulnerability make remote foreign LNG supplies most marginal for U.S. markets, there is a place for some such projects. We must take care, however, that decisions taken with respect to LNG imports from remote sources do not discourage the ultimate development of proximate resources, and that only those LNG projects are approved in which the need for the gas cannot be satisfied by more basic sources of supply. In that context, we must also protect the consumer from unacceptable risks of escalation in the price of the gas.

In Opinion No. 1, DOE found that the need for this import and its general acceptability as a source of supply did not outweigh the risk to the consumer of unreasonable price increases posed by the contract escalator provisions. Applicants now present us with a revised escalator which we must evaluate with respect to that risk, bearing in mind California's special needs for gas, as discussed in Opinion No. 1.

II. Discussion

A. The Revised Price Escalation Provision

In Opinion No. 1, DOE disapproved the Pac-Indonesia FOB price escalator provision (based 50 percent on Indonesian crude oil prices and 50 percent on the BLS Wholesale Price Index-Fuels and Related Products) on the grounds that it was tied too directly to future movements in world petroleum prices and that the BLS fuels element would be influenced by future domestic energy pricing policy and by the price of the import itself, thus creating a significant self-compounding effect. DOE did not object, however, to the concept of an escalator provision and suggested, alternatively, the use of an index generally reflecting world or U.S. economic conditions in order to provide a more broadly-based means of adjusting prices over the life of the contract.

The applicants submitted an amendment on July 28, 1978, reflecting a revised escalator provision. The revised escalator continues to modify 50 percent of the base price of $1.25/MMBtu on the basis of changes in Indonesian crude oil prices, but with the added constraint of a 15 percent floor and ceiling on annual price fluctuations, which allows any increase above the 15 percent annual limitation and any downward adjustment in excess of 15 percent to be carried forward and applied in future years to the extent permitted by the floor or ceiling. The remaining 50 percent of the revised escalator now reflects a broad-based U.S.A. economic index, the BLS Index of Wholesale Prices All Commodities (WPI-AC).

In commenting on the filing of the revised escalator, Hollister and the FERC staff objected to the use of any indicator based on Indonesian prices for crude oil. Hollister further requested formal hearings to explore the operation of the escalator and to develop an evidentiary record. Objections to Hollister's request were filed by Pac Indonesia. San Diego stated that the revised escalator should be approved.

DOE finds that the revised escalator acceptably responds to the objections raised in Opinion NO. 1, and we will, therefore, approve the flow-through of costs associated therewith. It must be stressed that our conclusion is based on the specific circumstances of this case, including the fact that the escalator provisions in this contract have now been revised twice in an effort to reach terms acceptable to both governments. Our approval in the circumstances of this protracted case, however, should not necessarily be viewed as a precedent for approval of similar contract pricing provisions in proposed import cases involving different circumstances with respect to supply alternatives, market requirements or other salient factors.

While DOE continues to have grave reservations concerning the acceptability of any LNG supply contract which substantially or totally links the price of gas to cartel-influenced oil prices, there are also features of this contract which tend to mitigate the inclusion of a crude oil-based element in the escalation clause. We note, for example, that the contract generally establishes a fair and symmetrical basis for the relationship between buyer and seller. The contract sets terms for a fixed 20-year period with no option to reopen. It includes a "most favored nation" clause under which Pac Indonesia would be entitled to a price for LNG no higher, on an FOB equivalent basis, than that paid any other purchaser under any other contract with Pertamina in existence as of January 9, 1975. The escalator provisions do not apply to the full cost of the LNG as imported and delivered to the United States, but only to the price of the LNG in Sumatra near the point of production.

Further, the contract's terms provide symmetrical and countervailing responsibilities and penalties for buyer and seller. Each may terminate the contract if the other fails to meet its obligations. Quantities underlifted by Pac Indonesia will be made up at the contract sales price in effect at the time of actual delivery. Quantities under-delivered by Pertamina will be made up at the price prevailing at the time of Pertamina's failure to deliver. In addition, if Pertamina fails to deliver at least 90 percent of contract requirements and fails to make up those quantities, Pac Indonesia may terminate the contract or require Pertamina to deliver a quantity equivalent to that not delivered previously, at a 10 percent discount from the contract sales price (Article 7.7).

The base price of the LNG is not arbitrarily inflated. Most of the initial FOB price of $1.25 per MMBtu consists of the extensive capitalization expenses necessary for the liquefaction plant. The portion of the base price remaining for production and pipeline transmission to the liquefaction plant is estimated to be in the range of $0.20–$0.60 per MMBtu. The wellhead portion of the base price, after deducting the pipeline transmission costs, will be somewhat less.

In summary, the contract generally establishes a reasonable base price for the gas and terms which are fair to buyer and seller alike. These generally equitable provisions, when balanced against the provisions of the escalator clause, tend to weigh in favor of acceptance of provisions which otherwise might be found to be unacceptable.

We find the revised escalator formula to be a substantial improvement over the original provision. The escalator provision disapproved in Opinion No. 1 was linked entirely to energy price movements. The revision limits the direct tie to energy prices, thereby providing greater protection from future increases in world oil prices.

In addition, the 15 percent annual limitation provides some protection against the consequences to gas consumers of a drastic rise in world oil prices. Although any such increases will eventually be reflected in this

component, the limitation effectively spreads their impact over time, and would tend to mitigate partially the economic dislocation that could occur in the event of any significant price increases for Indonesian crude oil. Although a lower ceiling may well be essential in other circumstances, we are persuaded that this limitation provides sufficient protection to the consumer when viewed in the context of all the facts in this case.

We also note that the Indonesian crude oil portion of the formula continues to compute increases from the actual sales prices paid for Indonesian exports (as opposed to posted prices), and as such represents a broad and accurate mechanism for measuring changes in actual energy prices. Moreover, the more volatile spot market prices paid for Indonesian crude are excluded from the calculations. The use of such a price quotation mechanism, which appears to reflect the market for the bulk of Indonesian exports, assures greater stability and clarity in this component than would be provided if it were based on commodities with a more volatile and limited market.

We will also approve the use of the WPI-AC for the other 50 percent of the escalator provision in order to provide a broader basis for price adjustments, as called for in Opinion No. 1. We note that the contract amendment specifies a procedure for development of an alternative index in the event that BLS ceases to compile and publish the WPI-AC. Indeed, we have been advised by the Department of Labor that its current series of indices is undergoing significant revisions with possible abolishment of some. DOE will direct, therefore, that the applicants submit for approval any new index adopted pursuant to these contract provisions. We suggest that the GNP-deflator published by the United States Department of Commerce would be an acceptable alternative, since it is also a broad-based domestic indicator which avoids any significant self-compounding effect in relation to this project.

Hollister requested further hearings in which to explore the operation of the revised contract provisions. However, the revised escalator formula is clearly defined by the Applicants' filing and information regarding operation of the WPI-AC is readily available to all parties. Therefore, the opportunity given all the parties to comment on the proposal provided an adequate airing of views concerning this issue. Moreover, Hollister has not met its burden of showing that hearings on the subject of the escalator would provide us with additional material information. We note finally that Hollister's intervention in this proceeding was granted for the limited purpose of participation in the siting and environmental aspects. No need has been established for further hearings, and Hollister's request will be denied.

B. The Currency Revaluation Factor

In Opinion No. One, DOE disapproved the automatic flow-through of costs associated with the currency revaluation factor contained in the sales contract, based upon a finding that the factor did not afford "equitable distribution of currency fluctuation risk between buyer and seller." On rehearing, the applicants argue that DOE's finding is in error, because it is based on conclusions (a) that the contract sales price would never be adjusted downwards in the event of an appreciation of the dollar, and (b) that the 25-percent limitation on adjustments due to dollar depreciation applies quarterly and therefore has no ceiling. Applicants state that neither conclusion is correct, and therefore request that DOE approve the currency revaluation factor as negotiated.

Hollister and the FERC staff oppose the applicants' request. Hollister suggests that DOE should take notice of recent announcements by the Organization of Petroleum Exporting Countries that it intends to adopt a mechanism which will provide for automatic adjustments in crude oil prices to reflect changes in the value of the U.S. dollar. They argue that if DOE accepts an escalator clause which is tied to Indonesian crude oil prices, the adoption of such a mechanism, in conjunction with the currency adjustor, would provide a double adjustment for fluctuations in the value of the dollar. The FERC staff opposes the currency revaluation factor "because its proposed use is satisified by use of the escalator based on the United States Wholesale Price Index."

DOE has reexamined the currency adjustment provision in light of Pac Indonesia's explanations, and finds that its objections in Opinion No. 1 were based upon a misconstruction of its operation. Paragraph 9.6 of the amended contract does provide an absolute limit of 25 percent on the amount of adjustment called for by this clause, and further provides for downward adjustment in the event of appreciation of the dollar (although such downward adjustment cannot carry the price below the price on the date of first initial delivery in any quarter when the Calculated Contract Sales Price exceeds the price on the date of initial delivery). Properly understood, the currency reevaluation factor, while not perfectly symmetrical in its operation, is not unreasonable in this long-term contract; flow-through of costs associated therewith will thus be approved.

The FERC staff's argument that use of the WPI satisfies the need for a currency adjustor is not persuasive. As stated in Opinion No. 1, we do not object to the concept of a currency revaluation factor, per se, as a means by which Indonesia may assure itself of stability of real revenues under this long-term contract.

Hollister's objection would have serious merit if Pertamina were to adopt a mechanism that adjusted Indonesian crude oil prices to reflect changes in the value of the dollar. However, Pertamina has not taken any such action. Our order will require that if such a mechanism is adopted in the future, appropriate action be taken to remove the potential for duplicative adjustment of the LNG price.

III. Conclusion

The DOE finds that good cause exists to modify Opinion No. 1, as described in the body of this Opinion. Upon completion of the DOE's consideration of other matters raised in the applications for rehearing, an appropriate Order shall be issued, reflecting the DOE's findings with respect to such matters as well as those set forth herein.

Issued in Washington, D.C., September 29, 1978.

David J. Bardin,
Administrator
Economic Regulatory Administration.

[FR Doc. 78-28093 Filed 10-4-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-616]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing New Connection Point

September 27, 1978.

Take notice that Central Illinois Public Service Co. ("CIPS") on September 19, 1978, tendered for filing two additional connection points to be included in Appendix "A" of the Interconnection Agreement between Illinois Power ("IP"), Union Electric Co. ("UE") and Central Illinois Public Service Co. CIPS indicates that the revised connection point identified as CIPS-IP Connection Point 9—Canton, eliminates the condition whereby CIPS made payment to Illinois Power covering cost of capital investment for facilities at the 138 kV Cuba Switching Station and telemetering equipment at Decatur. CIPS further indicates that the new connection point, identified as CIPS-IP Connection Point 36—East of West Frankfort, provides for installa-

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tion of a 345/138 kV substation East of West Frankfort. Effective dates of June 26, 1978 and May 17, 1978, are respectfully requested.

A copy of this filing has been served upon Illinois Power and Union Electric by mailing a copy postage prepaid according to CIPS.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commision and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28160 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-619]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Cancellation

SEPTEMBER 27, 1978.

Take notice that on September 20, 1978, the Central Illinois Public Service Co. (CIPSC) tendered for filing pursuant to the Facility Use Agreement between CIPSC and Illinois Power Co. dated January 15, 1956, a letter of cancellation of Appendix "I".

CIPSC proposes an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to CIPSC a copy of this filing have been mailed to Illinois Power Co. and the Illinois Commerce Commission.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28161 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-525]

COLUMBIA GULF TRANSMISSION CO. AND TEXAS GAS TRANSMISSION CORP.

Application

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, Columbia Gulf Transmission Co. (Columbia), 3805 West Alabama Avenue, Houston, Tex. 77027, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-525 a joint application, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authority to transport and exchange gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In the instant proposal Columbia proposes to transport for Texas Gas natural gas through existing facilities, pursuant to an agreement of July 6, 1978. Columbia proposes to receive up to 3,000 Mcf of gas per day at its existing facilities at the terminus of Exxon Corp.'s Garden City gas plant in St. Mary Parish, La., and to transport it to Columbia's Rayne, La. compressor station, at which point Columbia would retain the subject gas as exchange gas.

Columbia and Texas Gas further seek authority to exchange gas, as provided in their July 6, 1978, agreement. Columbia proposes to deliver to Texas Gas at existing facilities of Columbia connecting with Texas Gas' pipeline near Egan, La., the thermal equivalent of the gas received by Columbia at the terminus of Exxon Corp.'s Garden City plant, less a *pro rata* share of the volume of gas unaccounted for and 1 percent used as fuel in the facilities through which the gas is transported to the Rayne Exchange Point.

It is asserted that Texas Gas agreed to pay Columbia for the transportation portion of the service a monthly demand charge of 71 cents per Mcf (at 14.73 psia) of gas. The transportation service and the exchange of gas is proposed to commence upon the date of first delivery of gas and would continue for a term of 3 years and thereafter as provided in the agreement.

It is asserted that the reason for the proposed transportation and exchange is that purchases Texas Gas have made from Texas Gas Exploration Corp. (Exploration) have become unavailable absent the addition of compression facilities. It is indicated that Exploration has accordingly arranged for the delivery of the gas which Texas Gas purchases from Exploration to Exxon Corp.'s Garden City gasoline plant where Columbia has facilities and Texas Gas does not. Columbia would transport the volumes received for the account of Texas Gas at the Garden City plant and deliver, by exchange, such volumes to Texas Gas at a point near Egan, La.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28162 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. CP61-92]

EL PASO NATURAL GAS CO.

Petition to Amend

SEPTEMBER 28, 1978.

Take notice that on September 19, 1978, El Paso Natural Gas Co. (Petitioner), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP61-92 a petition to amend the order of January 11, 1965, issued in the instant docket[1] pursuant to section 7(c) of the Natural Gas Act so as to authorize an additional delivery point between Petitioner and Northern Natural Gas Co. (Northern) in Roger Mills County, Okla., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of January 11, 1965, Petitioner was authorized to construct and operate certain facilities and deliver natural gas on an exchange basis to Northern at certain designated points on Petitioner's facilities in Ochiltree County, Tex. Such arrangement is a part of the authorized exchange of natural gas provided pursuant to the 1963 service agreement, dated August 17, 1962, as amended, between Petitioner and Northern on file with the Commission as special Rate Schedule Z-1 to Petitioner's FERC Gas Tariff, Third Revised Volume No. 2, it is stated.

It is indicated that Northern has acquired additional quantities of natural gas attributable to its 9.788 percent purchase interest in the production of the No. 1 W. H. Wright Unit well in Roger Mills County, which gas Northern desires to make available to Petitioner as part of the authorized exchange arrangements. Petitioner states that it and Northern have entered into a letter agreement dated May 1, 1978, wherein the parties have agreed to revised exhibit A to special Rate Schedule Z-1 so as to reflect the proposed additional point necessary for the delivery of natural gas to Petitioner.

Petitioner indicates that it has constructed and now operates as part of its South Zybach gathering system in Roger Mills, County, Okla., approximately 0.06 mile of 4½-inch O.D. pipeline, with appurtenances, including a 4½-inch O.D. standard orifice meter run, which connects the No. 1 W. H. Wright Unit well to Petitioner's existing gathering system. Petitioner proposes to utilize such facilities for the receipt of volumes of natural gas attributable to Northern's interest in production from said well, which Northern would cause to be delivered to Petitioner at the wellhead. It is stated that Northern may cause the delivery of up to 500 Mcf of Natural gas per day to Petitioner from the No. 1 W. H. Wright Unit well, and that Petitioner would receive such gas from said well and subsequently transport and redeliver it to Northern as part of the total exchange volume now authorized under special Rate Schedule Z-1. It is stated that Northern would pay Petitioner 2.0 cents for each Mcf of gas exchanged and attributable to Northern's interest in the No. 1 W. H. Wright Unit well.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28163 Filed 10-4-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[6740-02]

[Docket No. CP78-527]

GREAT LAKES GAS TRANSMISSION CO.

Application

SEPTEMBER 28, 1978.

Take notice that on September 18, 1978, Great Lakes Gas Transmission Co. (Applicant), 2100 Buhl Building, Detroit, Mich. 48226, filed in Docket No. CP78-527 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for Michigan Wisconsin Pipe Line Co. (Mich-Wis), and authorizing the construction and operation of certain metering facilities necessary for the proposed transportation and exchange service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that it has entered into a gas transportation and exchange contract dated May 30, 1978, with Mich-Wis, which contract provides that Applicant would exchange up to 300,000 Mcf of natural gas per day with Mich-Wis during the summer period (April 1 through October 31). Applicant states that it would receive the gas from Mich-Wis at the interconnection of the facilities of Applicant and Mich-Wis near Farewill Mich. (Farwell interconnection), and redeliver a thermally equivalent quantity of gas to ANR Storage Co. (ANR) for the account of Mich-Wis at a new point of interconnection to be established between the existing facilities of Applicant and those to be constructed by ANG in Crawford County, Mich. (Crawford interconnection). Applicant further states that during the winter period (November 1 through March 31) it would receive up to 550,000 Mcf of natural gas per day at the Crawford interconnection and transport and redeliver thermally equivalent quantities to Mich-Wis at the Farwell interconnection.

It is indicated that applicant would charge Mich-Wis a rate of 2.66 cents per Mcf for the proposed transportation service.

Applicant states that in order for it to perform the proposed transportation and exchange services it would install metering facilities at the Crawford interconnection. The total cost of the proposed facilities is estimated to be $1,294,100, which cost Applicant would finance with funds generated internally, together with borrowings from banks under short-term lines of credit, if required, it is said.

It is asserted that this application is a companion to the application filed by ANR in Docket No. CP78-432, by which application ANR requested authorization to construct and operate the facilities required for its storage project.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natu-

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ral Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28164 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-620]

IDAHO POWER CO.

Filing

SEPTEMBER 27, 1978.

Take notice that Idaho Power Co., on September 20, 1978, tendered for filing an Agreement dated September 11, 1978, for the purchase and delivery of electric power between Idaho Power (as Seller) and Portland General Electric Co. (as Buyer).

Idaho Power indicates that the Agreement states that Portland General Electric's Trojan Nuclear Generating Plant has been ordered to temporarily suspend generation, and as a result, Portland General Electric finds it necessary to procure additional sources of energy. Idaho Power further indicates that it has a contract for the purchase of electric power from the Utah Power & Light Co. with such electrical power being made available out of Utah's Emery Unit No. 1, and is willing to make a portion of this electric power available to Portland General Electric.

Idaho Power requests an effective date of August 6, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Portland General Electric Co., the Idaho Public Utilities Commission and the Public Utility Commissioner of Oregon, according to Idaho Power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28165 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-103]

INDIANA & MICHIGAN ELECTRIC CO.

Extension of Time.

SEPTEMBER 27, 1978.

On September 26, 1978, Staff Counsel filed a motion on behalf of all parties to this proceeding requesting a postponement of the initial conference set by the Commission order of January 6, 1978 and extended by the notices of March 29, 1978 and April 14, 1978. The motion states that counsel for Indiana & Michigan Electric Co. has a scheduling conflict and that the company and intervenor are engaged in settlement negotiations.

Upon consideration, notice is hereby given that the initial conference is rescheduled for November 28, 1978 at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28166 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ES77-50]

IOWA SOUTHERN UTILITIES CO.

Application

SEPTEMBER 27, 1978.

By order issued September 15, 1977, the Federal Power Commission[1] authorized Iowa Southern Utilities Co. (Applicant) to issue up to 200,000 additional shares of common stock pursuant to its Automatic Dividend Reinvestment and Stock Purchase Plan (Plan). As part of the Plan, the optional cash payment was set at not less than $30 per month nor more than $5,000 per quarter.

On September 22, 1978, Applicant filed an application with the Commission, pursuant to section 204 of the Federal Power Act, seeking authority to amend the prior Commission order to the extent that the maximum cash contribution shall be $5,000 per month rather than $5,000 per quarter and that in every other instance the order shall remain unchanged.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa and is engaged in the electric utility business in 24 counties in Iowa.

The proceeds from the issuance of the common stock pursuant to the plan will be used to provide funds to finance, in part, the Applicant's construction program for 1978, the principal item of which, is $31,735,000 for the Applicant's 33 percent ownership share in a 675,000 kilowatt turbo-generator station near Ottumwa, Iowa. Any person desiring to be heard or to make any protest with reference to the application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28167 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-526]

NATURAL GAS PIPELINE CO. OF AMERICA AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

SEPTEMBER 25, 1978.

Take notice that on September 18, 1978, Natural Gas Pipeline Co. of America, 122 South Michigan Avenue, Chicago, Ill. 60603 and Transcontinental Gas Pipe Line Corp., 2700 South Post Oak Road, Houston, Tex. 77056 (applicants), filed in Docket No. CP78-526 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of joint offshore gas gathering facilities in the Ship Shoal area, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they have the right to purchase natural gas reserves located in Ship Shoal Block 272. Applicants propose to construct jointly a gathering line from a production platform in Block 272 to a production platform in Block 269 for further transportation onshore through Transcontinental Gas Pipe Line Corp. existing offshore facilities. Applicants estimate the total cost of the proposed facilities will be $5,616,900. Applicants state that their respective shares of said costs will be financed initially through revolving credit arrangements, short-term loans and from funds on hand. Permanent financing will be undertaken as part of applicant's respective long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestant's parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28168 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-44]

NEW ENGLAND POWER CO.

Compliance Filing

SEPTEMBER 27, 1978.

Take notice that New England Power Co. (NEP) on September 19, 1978, tendered for filing an unexecuted power contract dated as of May 1, 1977, between the town of Hudson, Mass., and NEP.

NEP states that the power contract has been amended in compliance with the presiding administrative law judge's initial decision dated July 13, 1978, which was made a final decision by the Commission's notice issued September 5, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28169 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. EL78-42]

OGLETHORPE ELECTRIC MEMBERSHIP CORP. V. GEORGIA POWER CO.

Complaint and Motion for Summary Disposition and Rejection of Illegal Practice and Order Directing Immediate Refund

SEPTEMBER 28, 1978.

Take notice that on September 11, 1978, Oglethorpe Electric Membership Corp. (OEMC) tendered for filing a Complaint and Motion for Summary Disposition and Rejection of Illegal Practice and Order Directing Immediate Refund. OEMC states that by this filing it complains strongly about the recently attempted Georgia Power Co. (GPC) practice of additionally including variable operation and maintenance (variable O. & M.) expenses within the energy charge component of its PR-3 rate for partial requirements wholesale electric service to OEMC and the other PR-3 customers in contravention of GPC's filed PR-3 rate and tariff.

OEMC further states that this practice by GPC of recovering variable O. & M. costs as part of its energy charge to its partial requirements customers constitutes a blatant violation of the filed rate doctrine because it patently fails to comport with GPC's present PR-3 rate on file with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28170 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ID-1866]

OWEN H. LEWIS

Filing

SEPTEMBER 26, 1978.

Take notice that on September 19, 1978, Owen H. Lewis, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions: Vice President, Kentucky Utilities Co., Public Utility; Vice President, Old Dominion Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28171 Filed 10-4-78; 8:45 am]

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[1] This proceeding began before the FPC. Pursuant to the Department of Energy Organization Act, it is now before this Commission effective as of October 1, 1977. The term "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise the reference is to the FERC.

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[6740-02]

[Docket No. CP78-523]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001 filed in Docket No. CP78-523 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Bay State Gas Co. (Bay State), a distributor customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Bay State has arranged to purchase volumes of liquefied natural gas (LNG) from Distrigas of Massachusetts Corp. (DOMAC), pursuant to an agreement between these parties dated February 10, 1976. In Docket No. CP77-216, et al., DOMAC received temporary certificate authorization from the Commission to make the sale, it is said.

Applicant states that it is requesting authorization to transport gas for Bay State in order to enable Bay State to receive volumes of natural gas equivalent to volumes of LNG which Bay State would purchase from DOMAC.

Applicant proposes to receive from Boston Gas Co. (Boston Gas), a distributor customer of Applicant, daily volumes of natural gas as requested by Bay State, up to a maximum daily volume of 5,000 Mcf, and to transport and deliver equal volumes to Bay State at Applicant's existing Agawam Sales Meter Station Delivery Point in Hampden County, Mass. Boston Gas would receive daily volumes of LNG from DOMAC and would release equivalent volumes of gas to Applicant, it is said.

For the proposed transportation service, Applicant would charge Bay State a volume charge of 5.03 cents per Mcf and a monthly demand charge of 42.0 cents per Mcf, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be dully given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28172 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. AR64-2, etc.]

TEXAS GULF COAST AREA RATE PROCEEDING, ET AL.

Filing of Refund Distribution Plan

SEPTEMBER 28, 1978.

In the matter of Texas Gulf Coast Area Rate Proceeding, Docket No. AR64-2, et al.; Other Southwest Area Rate Proceeding, Docket No. AR67-1, et al.; South Louisiana Area Rate Proceeding, Docket Nos. AR61-2 and AR69-1, et al.

Take notice that on September 22, 1978 Florida Gas Transmission Co. (Florida Gas) P.O. Box 44, Winter Park, Fla. 32790, filed a report of distribution of additional refunds in the above captioned dockets. Of the $622,715.99 refunds received, Florida Gas has determined that $265,966.66 pertains to jurisdictional sales. Florida Gas states that the method employed to allocate the refunds between jurisdictional and nonjurisdictional sales of Florida Gas is the same as that employed in its plan for distribution of supplier refunds previously received in the above-captioned dockets which was accepted by the Commission September 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28173 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. CP77-417]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend Certificate of Public Convenience and Necessity

SEPTEMBER 27, 1978.

Take notice that on September 13, 1978, Transcontinental Gas Pipe Line Corp. (Transco), filed in Docket No. CP77-417 a petition to amend the permanent certificate of public convenience and necessity issued on July 19, 1977, as previously modified on September 16, 1977, by vacating Ordering Paragraphs (C) of the former and (A) of the latter Order to the extent such provisions require adjustments depending on the outcome of the rate proceedings in Docket No. RP77-108.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed and with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28174 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-617]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Filing

SEPTEMBER 27, 1978.

Take notice that on September 19, 1978, Central Louisiana Electric Co., Inc. (CLECO) tendered for filing an agreement for electric service with the City of Franklin, La. (City), dated July 7, 1978, which provides for the sale by CLECO to the City for wholesale service for resale.

CLECO states that the City was in an emergency condition and had requested 1,700 Kw of power for three (3) years.

CLECO has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the sale of wholesale service for resale to commence on June 7, 1978.

Copies of the filing were served upon the City and upon the Louisiana Public Service Commission, according to CLECO.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28175 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-66]

CIMARRON TRANSMISSION CO.

Order Approving Rate Increase Application, Accepting Certain Gas Rate Supplements, and Rejecting Other Gas Rate Supplements

SEPTEMBER 15, 1978.

On August 16, 1978, Cimarron Transmission Co. (Cimarron) filed in Docket No. RP78-66 a proposed minor rate increase and proposed supplements to its FERC Gas Rate Schedule No. 1. The rate increase application would increase jurisdictional revenues by $34,067 annually, based on costs and sales volumes for the 12 months ended April 30, 1978, as adjusted. Cimarron requests that the proposed rate increase and supplements to its gas rate schedule become effective on September 18, 1978. For the reasons stated below, the Commission shall approve the proposed rate increase and allow it to become effective on September 18, 1978, without suspension, and shall accept in part the various proposed supplements to Cimarron's gas schedule.

Public notice of Cimarron's filing was issued on August 25, 1978, providing for the filing of protests or petitions to intervene on or before September 6, 1978.

Cimarron operates under a cost of service tariff which is a fixed allowance for rate of return and for depreciation. According to Cimarron, the $34,067 annual increase is due solely to an increase from 4.5 percent to 6.0 percent in the annual depreciation rate to reflect a decrease in its reserve estimates and declining field pressures and an increase in overall rate of return from 7.0 percent to 11.0 percent on net investment rate base which will yield a return of 12.51 percent on common equity. As discussed hereafter, Cimarron also filed a proposed "Fourth Supplement" to its Gas Rate Schedule No. 1 which would remove the rate ceiling of 3.5 cents per Mcf contained in its First Supplement to Gas Rate Schedule No. 1 and allow Cimarron to charge any higher rate authorized by the Commission.

Based on a review of Cimarron's filing, the Commission finds that the rate increase proposed therein is just and reasonable. Accordingly, the Commission shall approve Cimarron's rate increase application, and allow the proposed rate increase to become effective on September 18, 1978, without suspension. The Commission shall also accept for filing and approve Fourth Supplement to become effective as of September 18, 1978, because it provides that Cimarron shall receive its total costs including the depreciation expense at the rate approved by this Commission plus a return allowance equal to that approved by this Commission.

Simultaneous with its rate increase application, Cimarron filed three supplements to its Gas Rate Schedule No. 1. Those supplements, which are amendments to the sales contract between Cimarron and its sole customer, Natural Gas Pipeline Co. of America (Natural), are as follows:

(1) Second Supplement to Gas Rate Schedule No. 1 is an amendment dated March 2, 1964, which revises the daily average quantity of gas to be sold;

(2) Third Supplement is an amendment dated October 31, 1976, which increases the rate limitation under the contract from 3.5 to 3.65 cents per Mcf; and

(3) The Fourth Supplement is an amendment dated April 11 1978, which removes the rate limitation under the contract and allows Cimarron to charge any higher rate authorized by the Commission.

Since the Second Supplement was previously filed with and accepted by the Federal Power Commission, it is currently an effective provision of Cimarron's gas rate schedule and requires no further action by the Commission at this time. As discussed above, we shall accept the Fourth Supplement to become effective September 18, 1978. The Third Supplement, however, presents a different problem. As noted above, it is dated October 31, 1976, and would raise the 3.5 cents per Mcf ceiling contained in Supplement No. 1 to 3.65 cents per Mcf. In light of the fact that we have previously accepted Fourth Supplement which removes the 3.5 cents per Mcf overall ceiling as of September 18, 1978, there would be no purpose in accepting the Third Supplement as of September 18, 1978. Accordingly, we shall reject Third Supplement as being moot.

Examination of Cimarron's Form No. 2 reveals that for both 1976 and 1977, Cimarron charged average annual rates in excess of the maximum rate of 3.5 cents per Mcf allowed under its effective rate schedule. Cimarron's average rates for 1976 and 1977 were 3.69 and 4.6 cents per Mcf respectively, despite the 3.5 cents per Mcf maximum rate limitation in its rate schedule. Such excessive rates constitute an apparent violation of the Natural Gas Act and of our regulations because, prior to the instant filing, Cimarron never filed a notice of rate change pursuant to section 4 of the Natural Gas Act and § 15422 of the

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Regulations to modify the 3.5 cents per Mcf rate ceiling. Furthermore, to charge rates in excess of the filed rate violates § 154.21 of the Regulations. By separate letters we shall require Cimarron and Natural to explain why these rates have been collected. Upon receipt of the responses the Commission shall take such further action as it may deem appropriate.

The Commission orders:

(A) Cimarron's August 18, 1978 rate increase application is accepted and approved, and may become effective on September 18, 1978, without suspension.

(B) Cimarron's proposed Third Supplement to its Gas Rate Schedule No. 1 is rejected.

(C) Cimarron's proposed Fourth Supplement is accepted for filing as the 24th Supplement to its Gas Rate Schedule No. 1, and shall become effective September 18, 1978, without suspension.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28176 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RI75-21]

INDEPENDENT OIL & GAS ASSOCIATION OF WEST VIRGINIA

Petition for Declatory Order

SEPTEMBER 28, 1978.

Take notice that on August 17, 1978, Independent Oil & Gas Association of West Virginia filed a petition for a declatory order pursuant to § 1.7(c) of the Commission's rules of practice and procedure requesting that the Commission remove an uncertainty with respect to the pricing provisions governing sales of gas made by its producer members and other similarly situated small producers in West Virginia to Equitable Gas Co. and other interstate pipelines operating in West Virginia. Specifically, petitioner asks that the Commission confirm that the personal property tax imposed by section 11-5-1 of the West Virginia Code is "a production, severance, or similar tax" which would subject the rate received by petitioner to upward adjustment pursuant to § 2.56a(b) of the Commission's General Policy and Interpretations.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28177 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RI77-108, etc.]

JOHN P. BOOTH & ASSOCIATES, ET AL.

Amended Petition for Special Relief

SEPTEMBER 25, 1978.

Take notice that on June 23, 1977, as amended May 2, 1978, John P. Booth & Associates (Petitioner), 209 Philtower Building, Tulsa, Okla. 74103 filed a petition for special relief, joined in by Sun Oil Co. (Sun) as owner of an undivided 0.155631 working interest in the leases covered by the application (original Sun filing noticed in Docket No. RI78-48) for natural gas sales to Northern Natural Gas Co. (Northern) from the Sitka Unit, Hugoton-Anadarko Area, Clark County, Kans. Petitioner seeks an increase from a rate of 35 cents per Mcf to a rate of 58 cents per Mcf plus applicable ad valorem tax, as agreed to by Northern. Petitioner states that the applicable four wells are currently being operated at a loss and that the requested rate increase is necessary to prevent abandonment of these wells.

Take further notice that Atlantic Richfield Co. (Atlantic), North American Producing Division, Natural Gas Department, Post Office Box 2819, Dallas, Tex. 75221, filed on May 1, 1978, as amended May 2, 1978, a petition for special relief pursuant to 18 CFR 2.76 requesting a base rate of 58.0 cents per Mcf at 14.65 psia plus 100 percent State tax reimbursement and subject to Btu adjustment for the sale of its gas from Bick, Well No. 1; McMinimy, Well No. 1; E. McMinimy, Well No. 1; and Swayze, Well No. 1, Sitka Field, Clark County, Kans., to Northern Natural Gas Co. The sale is currently being made pursuant to contracts dated August 18, 1961, and June 12, 1961, under the certificate issued in Docket Nos. CI62-531 and CI62-105 and Rate Schedule Nos. 462 and 234 at the rate of 29.5 cents per Mcf.

Atlantic states that in order to continue gas production from the subject wells that it will be necessary to install a compressor to compress the gas. Atlantic further states that the operator and holder of an interest, John P. Booth & Associates (Petition For Special Relief in Docket No. RI77-108), estimates a cost of $22,622 to install a rental compressor and total operating expenses of $31,176 annually. Atlantic estimates that this work cannot be economically justified at the current price level of the gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28178 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RP73-43 (PGA 78-4)]

MID-LOUISIANA GAS CO.

Notice Granting Extension of Time

SEPTEMBER 27, 1978.

On September 18, 1978, Commission staff counsel filed a motion for extension of time within which to file top sheets in the above captioned proceeding pursuant to the Commission order of July 31, 1978. The motion noted that Mid-Louisiana Gas Co. supports the extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 12, 1978, for staff to file top sheets in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28179 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-524]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

SEPTEMBER 27, 1978.

Take notice that on September 15, 1978, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Ave., Chicago, Ill. 60603, filed in Docket No. CP78-524, an application pursuant to section 7(c) of the Natural Gas Act for authorization to construct and operate 31.03 miles of 36-inch loop pipeline on its gulf coast pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate a 36-inch loop pipeline to close the existing loops between its compressor stations 302 and 304. The proposed loop lines, applicant states, would be located in the counties of Liberty, San Jacinto, Rush, and Panola, Tex. The current annual average capacity of applicant's lines flowing north from its compressor station 304, applicant states to be approximately 1,589,000 Mcf of gas per day. Applicant's supply available for its gulf coast system is in excess of its line capacity, it is stated. Applicant estimates that the proposed loop lines would increase capacity by approximately 186,000 Mcf per day thus increasing supply management and flexibility, it is stated. It is estimated that the cost of the proposed facilities would be $15,477,000, which would be financed through interim and permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28180 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RP71-125 (PGA78-2)]

NATURAL GAS PIPELINE CO. OF AMERICA

Purchased Gas Cost Adjustment to Rates and Charges

SEPTEMBER 27, 1978.

Take notice that on September 11, 1978, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets, to be effective as indicated:

	To be effective
Revised Substitute Thirty-Fourth Revised Sheet No. 5.	Sept. 1, 1978
Second Substitute Thirty-Fourth Revised Sheet No. 5.	Sept. 2, 1978

The tariff sheets reflect base rates in effect subject to refund in Docket No. RP77-98.

Natural states that the purpose of this submittal is to file a revised tariff sheet to become effective September 1, 1978, reflecting increased purchased gas costs other than increased costs associated with emergency purchases from Oklahoma Natural Gas (ONG) in excess of the appropriate nationwide rate. Natural further states that the tariff sheet to be effective September 2, 1978 reflects the inclusion of the increased costs associated with the emergency purchases from ONG in excess of the appropriate nationwide rate. These rates were permitted to become effective September 2, 1978, subject to refund, per Commission order issued August 31, 1978. Both tariff sheets also reflect the elimination of purchased gas costs associated with the subsequent reduction in rates by United Gas Pipe Line, as required by the Commission order.

Copies of the filing have been mailed to Natural's jurisdictional customers and to interested State regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28181 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-618]

PUBLIC SERVICE CO. OF COLORADO

Filing

SEPTEMBER 27, 1978.

Take notice that Public Service Co. of Colorado (PSCO) on September 20, 1978, tendered for filing as a rate schedule a Power Purchase Agreement (Agreement) with the Town of Julesburg, Colo. (Town).

PSCO states that the Agreement provides for PSCO to sell and deliver to the Town and the Town agrees to receive and purchase from PSCO all purchased electric power and energy required by the Town for distribution and use in and adjacent to the Town. PSCO proposes an effective date of October 20, 1978.

According to PSCO copies of this filing were served upon parties to the Agreement and affected State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28182 Filed 10-4-78; 8:45 am]

OCT 5 1978

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[6740-02]

[Docket No. RP78-84]

RATON NATURAL GAS CO.

Amendment to Rate Filing

SEPTEMBER 27, 1978.

Take notice that on September 19, 1978, Raton Natural Gas Co. (Raton) tendered for filing an amended Eighteenth Revised Sheet No. 3a. This filing amends rate changes proposed by Raton's August 28, 1978, rate filing in Docket No. RP78-84.

Raton states that the result of the revision is to reduce Raton's proposed rate of return on its net investment rate base to 10 percent.

The company states that copies of this filing were served on its jurisdictional customer and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28183 Filed 10-4-78; 8:45 am]

[6740-02]

[Project No. 199; Docket No. E-9110]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Filing of Offer of Settlement

SEPTEMBER 27, 1978.

Take notice that on June 9, 1978, South Carolina Public Service Authority (Applicant) filed an Offer of Settlement in this docket with the Presiding Administrative Law Judge. The Offer of Settlement was certified to the Commission by the Judge on June 19, 1978.

If accepted and approved by the Commission, the Offer of Settlement would settle all of the outstanding issues in this relicensing proceeding with respect to the Santee Cooper Project with the exception of the complaint involving three canals on Lizzie Creek, Lake Marion, and the complaint involving the Applicant's rates.

In its offer of settlement, the Applicant proposes to adopt and to enforce a land use plan whereby certain portions of the project lands would be set aside as natural areas, public recreation areas, residential areas, and forestry management areas. The Applicant also agrees to accept a 30-year license under section 15 of the Federal Power Act which would contain the standard license conditions as well as certain special conditions providing for the protection of water quality and for various studies to be undertaken by the Applicant with respect to the ecological values of the project.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR §§ 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before October 20, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28184 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-92]

SOUTHWEST GAS CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 27, 1978.

Take notice that southwest Gas Corp. ("Southwest") on September 20, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by $1,389,178 based on the 12-month period ending June 30, 1978, as adjusted.

Southwest states that the reason for the proposed increase in rates is to compensate Southwest for increases in virtually all items of costs, such as capital, labor, materials and supplies, taxes, and including a claimed rate of return of 10.61 percent.

The company proposes an effective date of October 20, 1978.

Copies of the filing were served upon Southwest's jurisdictional customers, Sierra Pacific Power Company and CP National, including the California Public Utilities Commission and the Public Service Commission of Nevada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28185 Filed 10-4-78; 8:45 am]

[6740-02]

[Docket No. ID-1857]

WILLIAM N. ENGLISH

Filing

SEPTEMBER 28, 1978.

Take notice that on September 19, 1978, William N. English, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Assistant treasurer, Kentucky Utilities Co.—Public utility
Assistant treasurer, Old Dominion Power Co.—Public utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28186 Filed 10-4-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 982-8; PP 8G2054/T169]

CYCLIC METHYLENE (DIETHOXYPHOSPHINYL) DITHIOIMIDOCARBONATE

Establishment of Temporary Tolerances

American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, N.J. 08540, submitted a pesticide petition (PP 8G2054) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the nematocide cyclic methylene (diethoxyphosphinyl) dithioimidocarbonate in or on the raw agricultural commodities corn grain (except popcorn), field corn fodder (except popcorn), sweet corn (kernels plus cob with husk removed), and sweet corn fodder at 0.05 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 12, 1979. Residues not in excess of 0.05 ppm remaining in or on corn grain (except popcorn), field corn fodder (except popcorn), sweet corn (kernels plus cob with husk removed), and sweet corn fodder after this expiration date will not be considered actionable if the pesticide is legally applied during the term of an in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Dr. Eugene Wilson, Product Manager 21, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460, 202-426-2456.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: September 27, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-28058 Filed 10-4-78; 8:45 am]

[6560-01]

[FRL 983-3; PP 4G1470/T166]

DIQUAT

Renewal of a Temporary Tolerance

On September 26, 1977, the Environmental Protection Agency (EPA) announced (42 FR 48923) the renewal of a temporary tolerance for residues of the herbicide diquat (6,7-dihydrodipyrido (1,2-a:2',1-c) pyrazidiinium) derived from application of the dibromide salt and calculated as the cation in or on the raw agricultural commodity potatoes at 0.2 part per million (ppm).

This tolerance was established (40 FR 41833) in response to a pesticide petition (PP 4G1470) submitted by Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804. This renewal expired August 29, 1978.

Chevron Chemical Co. requested a 15-month renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant materials were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires November 30, 1979. Residues not in excess of 0.2 ppm remaining in or on potatoes after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. George LaRocca, Acting Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460, 202-755-1397.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: September 27, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-28055 Filed 10-4-78; 8:45 am]

[6560-01]

[FRL 983-4, PP 7G1944/T168]

MEFLUIDIDE

Extension of a Temporary Tolerance

On May 8, 1978, the Environmental Protection Agency (EPA), in response to a pesticide petition (PP 7G1944) submitted to the Agency by 3M Co., 3M Center, St. Paul, Minn. 55101, established a temporary tolerance for residues of the plant growth regulator mefluidide (*N*-[2,4-dimethyl-5[[(trifluoromethyl)sulfonyl]amino]phenyl] acetamide) in or on the raw agricultural commodity sugarcane at 0.2 part per million (ppm).

This temporary tolerance is scheduled to expire May 8, 1979. The 3M Co. requested a 4-month extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

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1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. 3M Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires September 8, 1979. Residues not in excess of 0.2 ppm remaining in or on sugarcane after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: September 27, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-28054 Filed 10-4-78; 8:45 am]

[6560-01]

[FRL 983-2; OPP-31017A]

PESTICIDE PROGRAMS

Receipt of Application to Register a Pesticide Product Entailing a Changed Use Pattern, Correction

In FR Doc. 78-23108 appearing at page 36683 in the issue of August 18, 1978, first column, change the second sentence of the first paragraph to read, "The application received from Chempar Chemical Co. proposes that the use pattern of this pesticide product be changed from hand application of the powder in tracking patches inside of buildings to include foot-pump application into burrows inside and outside of buildings in the control of mice and rats."

Dated: September 27, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-28056 Filed 10-4-78; 8:45 am]

[6560-01]

[FRL 983-1; OPP-31018A]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern; Correction

In FR Doc. 78-23109 appearing at page 36684 in the issue of August 18, 1978, first column, change the second sentence of the first paragraph to read, "The application received from Chempar Chemical Co. proposes that the use pattern of this pesticide be changed from use in and around buildings to control the Norway rat, roof rat, and house mouse to include use in orchards to control the meadow mouse."

Dated: September 27, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-28057 Filed 10-4-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1144]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

OCTOBER 2, 1978.

Docket or RM No.	Rule No.	Subject	Date received
20846	Pts. 89, 91, 93, and 95.	Amendment of pts. 89, 91, and 95 (General Mobile Radio Service, only) of the Commission's rules to prescribe policies and regulations to govern interconnection of private land mobile radio systems with the public, switched, telephone network.	
		Filed by Larry Bird	Sept. 25, 1978.
		Filed by Richard G. Somers, president for California Mobile Radio Association.	Sept. 28, 1978.
		Filed by Kenneth E. Hardman, attorney for Telocator Network of America.	
		Filed by Francis E. Fletcher, Jr., attorney for the Fort Wayne Medical Society, Inc.	Sept. 27, 1978.
		Filed by James M. Hubbard, president and Charles M. Meehan, attorney for Utilities Telecommunications Council.	Do.
		Filed by Wayne V. Black and Larry S. Solomon, attorneys for Central Committee on Telecommunications of the American Petroleum Institute.	Do
		Filed by David E. Weisman, attorney for National Association of Business and Educational Radio, Inc.	Do.
		Filed by Kenneth Shelton, Capitol Communications Inc..	Sept. 25, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this public notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28144 Filed 10-4-78; 8:45 am]

[6712-01]

[FCC 78-698]

Emergency Broadcast System

CLOSED CIRCUIT TEST

SEPTEMBER 29, 1978.

A test of the Emergency Broadcast System (EBS) has been scheduled for Wednesday, October 18, 1978 between 2:03:30 to 2:09 p.m. Washington, D.C. e.s.t. Only ABC, AP Radio, CBS, IMN, MBS, NBC, NPR, and UPI audio radio network affiliates will receive the test program for the closed circuit test. AP and UPI wire service clients will receive activation and termination messages of the closed circuit test. Television networks are not participating in the test.

Network affiliates will be notified of the test procedures via their network beginning 4 days in advance of the test. Test messages will also be run by AP and UPI radio press wire services for 4 days in advance of the test to insure wide dissemination of the test announcement and schedule.

A final evaluation report will be made by the end of November 1978.

THIS IS A CLOSED CIRCUIT TEST AND WILL NOT BE BROADCAST OVER THE AIR.

Action by the Commission September 28, 1978. Commissioners Ferris (chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28143 Filed 10-4-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 537]

D'AMATO FREIGHT FORWARDING CO.

Order of Revocation

On September 26, 1978, D'Amato Freight Forwarding Co., 17 Murray Street, New York, N.Y. 10007, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 537 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 501.(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 537 issued to D'Amato Freight Forwarding Co. be and is hereby revoked effective September 26, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon D'Amato Freight Forwarding Co.

ROBERT G. DREW,
Director, Bureau of
Certification and Licensing.

[FR Doc. 78-28140 Filed 10-4-78; 8:45 am]

[6820-96]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. H-20]

SECRETARY OF THE INTERIOR

Delegation of Authority

SEPTEMBER 8, 1978.

SUBJECT: Delegation of authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Interior to outlease oil and gas deposits underlying Ellington Air Force Base, Houston, Tex. (GSA Control No. D-Tex-420-AU).

2. *Effective date.* This delegation of authority is effective immediately.

3. *Background.* The Department of the Interior, by letter dated March 10, 1978, advised that Ellington Air Force Base has oil and gas deposits in significant quantities. The Secretary of the Interior recommends that because of the short supply of such minerals the deposits be outleased to control development in a timely manner, and the Bureau of Land Management, Department of the Interior, act as the Federal leasing agent. It is considered that the best interest of the Government would be served by GSA's delegating authority to the Department of the Interior to outlease the oil and gas deposits underlying Ellington Air Force Base since the Department of the Interior has expertise and organizational support for leasing and controlling the development of these deposits.

4. *Delegation.* a. Pursuant to the authority vested in me by sections 203 and 205(d) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484, 486(d)), authority is delegated to the Secretary of the Interior to outlease the oil and gas deposits in Ellington Air Force Base, Houston, Tex. When the Department of the Interior has completed the disposal of all the oil and gas that is commercially salable, it shall notify GSA that the project has been completed.

b. The Secretary of the Interior may redelegate this authority to any officer, official, or employee of the Department of the Interior.

c. This authority shall be exercised in accordance with the Federal Property and Administrative Services Act of 1949, as amended, other applicable statutes, and regulations issued pursuant thereto. In this regard, the Department of the Interior, as the disposal agency, shall be responsible for (1) securing, in accordance with FPMR 101-47.303-4, any appraisals deemed necessary by the Secretary; (2) complying with the provisions of the National Environmental Policy Act of 1969; (3) complying with section 106 of the National Historic Preservation Act of 1966, if appropriate; (4) coordinating with all present and subsequent occupants, Federal or otherwise, so as not to impede use of the facilities or impair the integrity of utilization; and (5) insuring that lands that are disturbed or damaged are restored after removal of the oil and gas deposits are completed.

d. A copy of any documents executed under this delegation shall be forwarded immediately to the General Services Administrative, Federal Property Resources Service, Office of Real Property (DR), Washington, D.C. 20405.

JAY SOLOMON,
Administrator of
General Services.

[FR Doc. 78-28066 Filed 10-4-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Reestablishment

Pursuant to the Federal Advisory Committee Act (Pub. L. (92-463), 5 U.S.C., Appendix I, the Center for Disease Control accounces the reestablishment of the Safety and Occupational Health Study Section on August 31, 1978, by the Secretary of Health, Education, and Welfare, with concurrence by the General Services Administration.

Authority for this study section will expire June 30, 1980, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 27, 1978.

WILLIAM H. FOEGE,
Director,
Center for Disease Control.

[FR Doc. 78-28113 Filed 10-4-78; 8:45 am]

[4110-84]

Health Services Administration

ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1978:

Name: National Advisory Council on Migrant Health.

Date and Time: October 23-25, 1978—9 a.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open for entire meeting.

Purpose: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 319 of the Public Health Service Act.

Agenda: Agenda items include: (1) Orientation of new Council members; (2) general review of Council legisla-

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tion regulations; (3) report of the number of migrants being serviced in Migrant Health Centers and Projects, Rural Health Initiative Projects and Community Health Center Projects; (4) report of the revision of the National Migrant Referral System; and (5) updates on the Adolescence Health and Improved Pregnancy Outcome Program; Migrant Assurance Program; Immunization Programs; ADAMHA training of BCHS Primary Project Providers on mental health problems of migrant and other poor people; eligibility of migrants for Medicaid coverage; and Interagency Agreement with the Departments of Agriculture and Labor.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. Jaime Manzano, Bureau of Community Health Services, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-1153.

Agenda items are subject to change as priorities dictate.

Dated: September 25, 1978.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc. 78-28129 Filed 10-4-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 31863]

MONTANA

Centennial Mountains Primitive Area Modification

SEPTEMBER 27, 1978.

The designation of the Centennial Mountains Primitive Area published in the FEDERAL REGISTER, August 5, 1975 (p. 32848 FR vol. 40, No. 151), described lands not intended to be managed as primitive. The Centennial Mountains Primitive Area is hereby modified to delete the following described lands:

PRINICIPAL MERIDIAN, MONTANA

T. 14 S., R. 1 E.,
Sec. 21, Lots 4, 5, 6, 7, and 8;
Sec. 22, Lots 3 and 4, and N½SE¼; and
Sec. 23, Lots 2, 3, 4, 5, 6, 7, and 8.
T. 14 S., R. 1 W.,
Sec. 31, Lot 5.
T. 14 S., R. 2 W.,
Sec. 18, SE¼NE¼ and E½SE¼;
Sec. 19, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; and
Sec. 26, Lots 1, 2, 3, 5, and 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼.
T. 14 S., R. 3 W.,
Sec. 23, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and N½SE¼; and
Sec. 26, Lot 1 and SE¼NE¼.
T. 14 S., R. 4 W.,
Sec. 11, NW¼; and
Sec. 15, Lots 2, 3, and 4.

The above-described lands are to be managed as access points with campsites, parking areas, and other facilities supporting the use of the adjoining Centennial Mountains Primitive Area.

KANNON RICHARDS,
Acting State Director.

[FR Doc. 78-28124 Filed 10-4-78; 8:45 am]

[4310-84]

[NM 34780]

NEW MEXICO

Notice of Application

SEPTEMBER 28, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northern Natural Gas Co. has applied for one 8-inch; one 12-inch; and three 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 27 E.,
Sec. 1, lots 11, 13, 14, 15, E½SW¼, NW¼SW¼ and NW¼SE¼;
Sec. 12, E½W½ and W½SE¼;
Sec. 13, E½W½;
Sec. 24, E½W½;
Sec. 25, NE¼NW¼ and SE¼SW¼.
T. 17 S., R. 27 E.,
Sec. 1, lot 3, SE¼NW¼ and E½SW¼;
Sec. 12, NE¼NW¼ and SE¼SW¼;
Sec. 13, E½W½;
Sec. 24, E½SW¼;
Sec. 25, E½W½.
T. 18 S., R. 27 E.,
Sec. 1, lot 3, SE¼NW¼ and E½SW¼;
Sec. 12, E½W½, SW¼SW¼ and SW¼SE¼.

These pipelines will convey natural gas across 12.01 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28125 Filed 10-4-78; 8:45 am]

[4310-84]

[Wyoming 65073]

WYOMING

Notice of Application

SEPTEMBER 26, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 112 W.,
Sec. 30, lot 4.

The pipeline will transport natural gas produced from the Wilson Ranch No. 1 well located in the SW¼SE¼ sec. 25, T. 20 N., R. 113 W., to a point of connection with an existing gathering system in lot 4 sec. 30, T. 20 N., R. 112 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

MARLA B. BOHL,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28126 Filed 10-4-78; 8:45 am]

[4310-84]

[Wyoming 64970]

WYOMING

Notice of Application

SEPTEMBER 27, 1978.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Colorado Interstate Gas Co. filed an application for a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 92 W.,
Secs. 8, 16, 17, 21, 22, and 27.

The proposed pipeline will transport natural gas produced from an existing well located in NE¼ of sec. 27, T. 14 N., R. 92 W., Carbon County, Wyo., into existing natural gas pipeline facilities located in the SW¼ of sec. 8, T. 14 N., R. 92 W. The proposed 4½ O.D. natural gas pipeline will extend from said point of connection with an existing line in SW¼ of sec. 8, T. 14 N., R. 92 W., in a generally northeasterly direction to a point in said sec. 8; then in a generally southeasterly direction to an existing well in NE¼ of sec. 27, T. 14 N., R. 92 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28127 Filed 10-4-78; 8:45 am]

[4310-84]

[Wyoming 65099]

WYOMING

Notice of Application

SEPTEMBER 28, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Co. of Casper, Wyo. filed an application for a right-of-way to construct a 4½-inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 77 W.,
Sec. 3, SE¼SW¼;
Sec. 10, E½NW¼.

The proposed pipeline will transport crude oil produced from a point in the SE¼NW¼ sec. 10, T. 46 N., R. 77 to a point of connection with an existing pipeline in the SE¼SW¼ sec. 3, T. 46 N., R. 77 W., Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28128 Filed 10-4-78; 8:45 am]

[4310-84]

WESTERN AND CENTRAL GULF OF MEXICO OUTER CONTINENTAL SHELF (TENTATIVE SALE NO. 62)

Call for Nominations and Comments on Areas for Oil and Gas Leasing; Correction

In FR Doc. 78-25804, appearing at page 40933 in the issue of Wednesday, September 13, 1978, under Outer Continental Shelf Official Protraction Diagrams: NG 15-12—Ewing Banks should be NH 15-12—Ewing Banks.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: September 27, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-28121 Filed 10-4-78; 8:45 am]

[4310-84]

ARIZONA

[Serial No. A 11243]

Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Co. has applied for a cathodic protection station to maintain and operate its pipelines on the following described lands:

T. 5 S., R. 1 E., GSR Mer., Arizona.
Sec. 2, SE¼NE¼, NE¼SE¼.

The cathodic protection station, situated in Maricopa County, Ariz., will serve to protect its four gas pipelines extending from Ehrenberg, Ariz., to Waha and Midland, Tex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Phoenix District Office, Bureau of Land Management, 2929 W. Clarendon, Phoenix, Ariz. 85017.

Dated: September 28, 1978.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28073 Filed 10-4-78; 8:45 am]

[4310-84]

CASPER DISTRICT GRAZING ADVISORY BOARD

Meeting

SEPTEMBER 26, 1978.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Casper District Grazing Advisory Board will be held on November 1, 1978.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 951 Union Boulevard, Casper, Wyo.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) the expenditure of range betterment funds for range improvements; (3) a review of the current policy and program relating to allotment management plans including the future grazing environmental statement effort; (4) election of officers; (5) discussion of the board's future involvement in the allotment management plan program, and; (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on November 1, 1978, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. by October 27, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection within 30 days following the meeting.

ROBERT E. WILBER,
District Manager.

[FR Doc. 78-28074 Filed 10-4-78; 8:45 am]

[4310-84]

[NM 34540]

NEW MEXICO

Application

SEPTEMBER 25, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16,

V 43/194

1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 12 W.
Sec. 7, E½SE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.235 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 28075 Filed 10-4-78; 8:45 am]

[4310-84]

[M 34980(ND)]

NORTH DAKOTA

Coal Lease Offering by Sealed Bid and Oral Auction

SEPTEMBER 27, 1978.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower, 222 North 32d Street, P.O. Box 30157, Billings Mont. 59107. Notice is hereby given that the coal resources in the lands described below, located in Mercer County, N. Dak., near the communities of Beulah and Zap, and being offered for lease to the qualified bidder of the highest cash amount per acre or fraction thereof:

T 143 N, R 89 W, 5th P.M.
Sec. 2: Lots 1, 2, S½N½, SW¼, NW¼SE¼.
Containing 440.96 acres.

The coal resources offered are limited to the Beulah-Zap bed. The Conservation Division, Geological Survey, has reported that the tract contains 2,610,000 short tons of lignite coal recoverable by surface mining methods. The average coal thickness projected over the entire proposed leasehold is about 9 feet. The heating value of the noncoking coal is about 7,080 Btu's per pound with a sulfur content of about 0.7 percent. The coal resources are within the Knife River Known Recoverable Coal Resources Area. The offer is made as a result of an application filed by the North American Coal Co.

The lands are being offered for lease by sealed bid followed by oral auction starting at the level of the highest sealed bid received. The minimum bonus bid is $25 per acre figured on 441 acres. The sale will be held at 2 p.m., October 25, 1978, in the Conference Room on the 6th Floor of the Granite Tower Building. At that time all sealed bids will be opened and read and oral bids, beginning at the level of the highest sealed bid, will be received. The successful high bidder will be notified in writing if his bid is acceptable. No bids received after 2 p.m. October 25, 1978, will be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for the opening of such bids. The successful bidder is obligated to pay for the newspaper publications of this notice.

Public comments: The public is invited to submit written comments to the Bureau of Land Management on the fair market value of the tract to be sold. Public comments should be sent to the State Director, Bureau of Land Management, at the address given above, to arrive no later than October 20, 1978.

Notice of availability: Copies of the detailed statement including bidding instructions and proposed coal lease are available at the office listed above. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary by the commenter, and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office, at the address given above.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28076 Filed 10-4-78; 8:45 am]

[4310-84]

[Wyoming 64967]

WYOMING

Application

SEPTEMBER 26, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to constuct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 36 N., R. 93 W.,
Sec. 19, lot 3.

The propopsed pipeline will transport natural gas produced from the No. 12-19 Federal Fuller Well at a location in the SW¼ of section 19, in a generally northwesterly direction into their existing natural gas pipeline facilities also located in the SW¼ of section 19, T. 36 N., R. 93 W., Fremont County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

MARLA B. BOHL,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28077 Filed 10-4-78; 8:45 am]

[4310-84]

[Wyoming 64965]

WYOMING

Application

SEPTEMBER 28, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. N., R. 93 W.,
Sec. 30, lots 2 and 3.
T. 36 N., R. 94 W.,
Sec. 25, E½NE¼.

The proposed pipeline will transport natural gas produced from the No. 12-30 Federal Fuller Well located in the SW¼ sec. 30, T. 36 N., R. 93 W., to a point of connection with Colorado Interstate Gas Co's existing pipeline located in the NE¼NE¼ sec. 25, T. 36 N., R. 94 W., in Fremont County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28078 Filed 10-4-78; 8:45 am]

[4310-70]

National Park Service

FORT BOWIE NATIONAL HISTORIC SITE, ARIZONA

Boundary Modification

Notice is hereby given that the boundaries of Fort Bowie National Historic Site, established by publication in the FEDERAL REGISTER, Vol. 37, No. 150, Thursday, August 3, 1972, are adjusted to include 30 additional acres pursuant to the authority contained in section 1 of Public Law 88-510, 78 Stat. 681 (16 U.S.C. 461) which provides for inclusion of 1,000 acres in the Site.

The boundary of Fort Bowie National Historic Site is hereby extended to include the following described land within Cochise County, Ariz.:

GILA AND SALT RIVER BASE AND MERIDIAN

PARCEL 1

T. 15 S., R. 28 E.
Sec. 3, S½SW¼SW¼;
Sec. 10, N½N½NW¼NW¼, excepting southerly 18 feet.

PARCEL 2

A strip of land 20 feet in width, extending 10 feet on both sides of the hereinafter described centerline and located within the S½NW¼NW¼, section 7 T. 15 S., R. 29 E., Gila and Salt River Base and Meridian, Cochise County, Ariz., the said centerline being more particularly described as follows:

Beginning at a point on the existing Cochise County-maintained and graded road which leads from the Apache Pass County Road to the Knape Ranch near Bear Spring in the SW¼ of said section 7, which point is within the land owned by Sam and Josephine Moseley adjacent to and easterly of the Fort Bowie National Historic Site; thence northwesterly and southwesterly over the existing dirt road, extending thru the Moseley's property and leading toward the area of the Fort Bowie Ruins, to the intersection with the east boundary of the Fort Bowie National Historic Site in Section 12, T. 15 S., R. 28 E., G & S.R. B. & M.

Dated: May 26, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region.

[FR Doc. 78-28089 Filed 10-4-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[303-TA-3]

CERTAIN FISH FROM CANADA

Determination of No Injury or Likelihood Thereof

On the basis of information developed during the course of investigation No. 303-TA-3, undertaken by the U.S. International Trade Commission under section 303(b) of the Tariff Act of 1930, as amended, the Commission determines unanimously[1] that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of certain duty-free fish from Canada, provided for in items 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, and 111.6800 of the Tariff Schedules of the United States Annotated (1978) (TSUS), upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

On June 27, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to certain duty-free fish imported from Canada that are entered under TSUS items 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, and 111.6800. Accordingly, the Commission, on July 13, 1978, instituted investigation No. 303-TA-3, under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation, public hearing, and request for written views was published in the FEDERAL REGISTER of July 19, 1978 (43 FR 31072). On August 15, 1978, a public hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

The Treasury investigation resulting in the countervailing duty determination was initiated as a result of a petition filed with the Treasury Department on June 10, 1977, by the Fishermen's Marketing Association of Washington, Inc., Seattle, Wash. The petition was supported by the Point Judith Fishing Cooperative, Point Judith, R.I.

STATEMENT OF REASONS FOR CHAIRMAN JOSEPH O. PARKER, VICE CHAIRMAN BILL ALBERGER, AND COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On June 27, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury, in accordance with section 303(b) of the Tariff Act of 1930, as amended, that a bounty or grant is being paid with respect to certain duty-free fish and fish products from Canada that enter the United States under items 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, and 111.6800 of the Tariff Schedules of the United States Annotated (1978) (TSUS). Accordingly, the Commission, on July 13, 1978, instituted investigation No. 303-TA-3 under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of information obtained in the investigation, we determine that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established,[2] by reason of the importation of certain duty-free fish from Canada, provided for in items 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, and 111.6800 of the TSUS upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

THE PRODUCTS UNDER INVESTIGATION AND THE RELEVANT U.S. INDUSTRY

The imported articles that are the subject of this investigation are: Whole cod, fresh, chilled, or frozen; salted, pickled, smoked, or kippered code, cusk, haddock, hake, and pollock; cod and flatfish (except turbot) meat frozen in blocks of 10 pounds or more each; flatfish fillets, fresh or chilled (except halibut); and flatfish fillets, frozen (except halibut or turbot). The principal imported flatfish products included in the investigation are fillets and frozen blocks of

[1] Chairman Joseph O. Parker, Vice Chairman Bill Alberger and Commissioners George M. Moore, Catherine Bedell, and Italo H. Ablondi concurred in the negative determination. Commissioner Daniel Minchew did not participate in the determination.

[2] Prevention of establishment is not an issue in this investigation and will not be discussed further in this statement of reasons.

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flounder. Whole cod and frozen cod blocks are also important in terms of imports. Together, the cod, cusk, hake, pollock, and flatfish covered herein are referred to as groundfish.

In this determination we consider the relevant U.S. industry to consist of those facilities, including fishing boats, devoted to the catching or processing of cod, cusk, haddock, hake, pollock, and flatfish. The groundfish that are the subject of this investigation are landed by an estimated 700 east coast and 300 west coast fishing vessels and are processed by about 100 east coast and 25-30 west coast processing plants.

NATURE OF EXTENT OF COUNTERVAILABLE CANADIAN BOUNTIES AND GRANTS

Treasury's investigation of Canadian bounties and grants covered the period 1976 through mid-1978. The countervailable bounties and grants found by Treasury applied to virtually the entire output of the Canadian fishing and fish processing industry. Only a small proportion of the bounties and grants prior to April 1, 1978, did not apply to the entire Canadian catch of groundfish. These are certain bounties and grants given to the Newfoundland fishermen and fishermen in other Atlantic Provinces in the form of loans and other assistance from the Federal and Provincial governments. Treasury found the total countervailable bounties and grants to be equal to 17.22 percent of the value of U.S. imports of groundfish and groundfish products from Canada prior to April 1, 1978. Effective April 1, 1978, some of the bounties and grants were eliminated and the remainder were estimated by Treasury to be equivalent to 5.22 percent of the value of U.S. imports from Canada. With the termination of direct cash grants to fishermen, effective October 1, 1978, Treasury estimates the Canadian bounties and grants remaining will be equivalent to 1.22 percent of the value of all of U.S. imports of groundfish and groundfish products from Canada. Furthermore, for those groundfish and groundfish products imported from the Canadian west coast fisheries, the remaining level of Canadian bounties and grants will be equivalent to only 0.85 percent of the value of the imports. Based on the actions by the Canadian Government to eliminate virtually all of the bounties and grants by October 1, 1978, and the other statutory criteria for granting a waiver, Treasury has stated its intention to waive countervailing duties under section 303(d) of the Tariff Act of 1930, as amended.

NO INJURY

In making its determination the Commission has construed the statutory criteria of section 303(b) in the same way it has construed the identical language in section 201(a) of the Antidumping Act, 1921, as amended. This construction is supported by the report of the House Ways and Means Committee which states in part:

> The relevant language regarding injury determinations by the Tariff Commission was derived verbatim from the Antidumping Act, 1921, and is intended to have the same meaning.[3]

After considering these criteria we have determined that the information obtained in this investigation does not establish that the domestic industry is being or is likely to be injured within the meaning of the statute.

While total U.S. imports from Canada of groundfish and groundfish products subject to countervailable bounties and grants increased from 84 million pounds in 1975 to 126 million pounds in 1977, such imports accounted for only 17 percent of total U.S. imports of groundfish and groundfish products in 1977. Although imports from Canada of groundfish and groundfish products subject to countervailable bounties and grants accounted for an increasing percentage of apparent of U.S. consumption from 1975 to 1977, the percentage of apparent U.S. consumption accounted for by domestic producers also increased during this period. It is, therefore, apparent that the impact of the imports from Canada was primarily on imports from other sources, which declined as a percentage of apparent domestic consumption.

U.S. production (landings) of all groundfish rose from 147 million pounds fillet weight in 1975 to 174 million pounds in 1977, or by 18 percent. The 1977 production level was the highest reached in recent years. In January–June 1978, U.S. production amounted to 96 million pounds fillet weight, 8 percent above the January–June 1977 level. Landings of cod increased by 28 percent between 1975 and 1977, and by 28 percent between 1976 and 1977 and by another 20 percent between January–June 1977 and January–June 1978. Landings of all subject groundfish increased by 21 percent between 1975 and 1977, and increased by 15 percent between January–June 1977 and January–June 1978. Increased boat building activity is believed to have substantially increased the capacity of the New England groundfishing fleet in recent years.

Although data on overall employment trends in the domestic industry were sought through the Commission's questionnaires, the domestic industry did not supply such information. It might be inferred, however, that U.S. employment in the production of groundfish and groundfish products has probably risen in line with the recent increases in groundfish landings and in the production of groundfish products.

Specific profit-and-loss data for U.S. producers were also requested through Commission questionnaires but most respondents indicated that they could not provide such data. Despite the absence of such data, rising prices for most categories of groundfish and groundfish products coupled with increases in production indicate that the financial situation for U.S. producers may be improving.

Price comparisons for domestic and imported groundfish can be made only at principal markets. Nearly half of the constructed monthly prices compared for whole cod at Boston (the major east coast groundfish market) during the period January 1976–June 1978, showed Canadian cod selling for higher prices than U.S. cod. Since March 1978, there have been no months when the average constructed price of Canadian whole cod was below the price of the U.S. product in the Boston market. In the west coast market Canadian and United States whole cod bring virtually the same price. While east coast prices for whole cod may have dropped recently, west coast prices have increased. In 1977, cod accounted for 26 percent of the total U.S. catch of the subject groundfish; over 80 percent of the groundfish covered by this investigation are caught by the Atlantic fleet. Most other sales of Canadian groundfish and groundfish products appear to have been at approximately the same prices as the U.S. products. In addition, it appears that the most rapid drop in the U.S. prices for groundfish, occurring in the Boston Market for whole cod, occurred during April–June 1978, at the same time that Canadian subsidies were in the process of being considerably reduced.

NO LIKELIHOOD OF INJURY

The bounties and grants found by Treasury to be bestowed upon Canadian exports of groundfish and groundfish products are scheduled to be virtually eliminated, effective October 1, 1978. The remaining bounties and grants, estimated by Treasury to be equivalent to 1.22 percent of the value of the imports from Canada, are not likely to have any injurious impact on the U.S. industry. In addition, imports into the west coast will be subject to bounties and grants equivalent to only 0.85 percent of the value of such imports. Other factors indicate that fish stocks presently depleted will be replenished and that many foreign vessels will be excluded from the recently expanded territorial fishing grounds of the United States.

[3] H. Rept. No. 93-571 93d Cong. 1st Sess. (1973), p. 74.

CONCLUSION

Based on the foregoing, it is our determination that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of certain duty-free fish and fish products from Canada which Treasury has determined are subject to Canadian bounties and grants.

Issued: October 2, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-28204 Filed 10-4-78; 8:45 am]

[4410-09]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES

Proposed Aggregate Production Quotas for 1979

Section 306 of the Controlled Substances Act (21 U.S.C 826), requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for (1) the estimated medical, scientific, research, and industrial needs of the United States, (2) lawful export requirements, and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1979 aggregate production quotas, the Administrator considered pursuant to section 302 subsection (a) of the Public Health Services Act (42 U.S.C. 242(a)) the "results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States" which were supplied by the Department of Health, Education, and Welfare. In addition, the proposed aggregate quotas were established considering the following factors:

(1) Total actual 1977 and estimated 1978 and 1979 net disposals of each substance by all manufacturers.

(2) Projected trends in the national rate of net disposals of each substance.

(3) Estimates of inventories of each substance and of any substance manufactured form it, and trends in accumulation of such inventories.

(4) Projected demand as indicated by procurement quota applications which were filed pursuant to § 1303.12 of Title 21 of the Code of Federal Regulations.

Pursuant to Title 21 Code of Federal Regulations § 1303.23(c), the Administrator of the Drug Enforcement Administration will in early 1979 adjust individual manufacturing quotas allocated for the year based upon end of year inventory and actual 1978 disposition data for each basic class of Schedule I and II controlled substance which will be provided by quota applicants.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1979 for the following controlled sustances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1979 quota
SCHEDULE I	
2,5-Dimethoxyamphetamine	36,960,000
SCHEDULE II	
Alphaprodine	59,000
Amobarbital	7,498,000
Amphetamine	3,245,000
Anileridine	251,500
Cocaine	1,482,000
Codeine (for sale)	50,473,000
Codeine (for conversion)	2,962,000
Desoxyephedrine (2,213,000 grams for the production of levodesoxyephedrine for use in a non-controlled, non-prescription product, and 359,000 grams for the production of methamphetamine.)	2,572,000
Dihydrocodeine	1,023,000
Diphenoxylate	1,330,000
Ecgonine (for conversion)	1,000,000
Ethylmorphine	26,000
Pentanyl	2,000
Hydrocodone	1,163,000
Hydromorphone	122,000
Levorphanol	8,000
Meperidine	11,383,000
Methadone	1,458,000
Methadone Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane.)	1,970,000
Methaqualone	16,023,000
Methylphenidate	1,632,000
Mixed Alkaloids of Opium	20,000
Morphine (for sale)	815,000
Morphine (for conversion)	59,571,000
Opium (tinctures, extracts, etc. expressed in terms of powdered opium)	2,334,000
Oxycodone (for sale)	1,838,000
Oxycodone (for conversion)	8,000
Oxymorphone	4,000
Pentobarbital	13,984,000
Phenmetrazine	3,084,000
Secobarbital	4,596,000
Thebaine (for sale)	2,660,000
Thebaine (for conversion)	1,617,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposals relating to any one or more of the above mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, U.S. Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by November 3, 1978. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing (which shall not be less than 30 days after the date of the order).

Dated: September 26, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-28100 Filed 10-4-78; 8:45 am]

[4410-09]

[Docket No. 78-11]

TWELVE OAKS TOWER PHARMACY, TIMOTHY HAYES, R.PH., HOUSTON, TEX.

Hearing

Notice is hereby given that on May 25, 1978, the Drug Enforcement Administration, Department of Justice, issued to Twelve Oaks Tower Pharmacy, Timothy A. Hayes, R.Ph., Houston, Tex., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke Respondent's DEA Certificate of Registration, AT6058906, and deny Respondent's pending application for registration executed October 11, 1977.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on Monday, October 16, 1978, in the U.S. Tax Court Courtroom, Room 7006, Federal Building and Courthouse, 515 Rusk Avenue, Houston, Tex.

Dated: September 27, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-28099 Filed 10-4-78; 8:45 am]

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[4410-18]

Law Enforcement Assistance Administration

ADVISORY COMMITTEE OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Notice of Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on October 23, 1978, from 9 a.m. to 5 p.m. and October 24, 1978, from 9 a.m. to 12 p.m. at the Marriott Dulles Hotel, Dulles Airport, 331 West Service Road, Chantilly, Va.

The major topic of discussion will concern long-range planning for Institute-sponsored research in the field of corrections.

The meeting will be open to the public.

For further information, please contact Blair G. Ewing, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531 202-376-3606.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-28130 Filed 10-4-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING

ACTION: Notice of meeting under emergency circumstances.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), announces a public meeting.

TIME AND DATE: Friday, October 6, 1978; 12 a.m.-4 p.m.

PLACE: General Services Administration Departmental Auditorium, Conference Room A, Main Lobby Entrance, Constitution Avenue between 12th and 14th Street NW., Washington, D.C.

AGENDA: (1) Consideration of old business; (2) report on financial situation; (3) reorganization of Commission; (4) report from the Drafting Committee; (5) consideration of internal personnel adjustments.

STATUS: Open to the public.

CONTACT PERSON:

Mr. John Eade, Administrative Officer, telephone 202-632-5200.

JOHN EADE,
Administrative Officer.

[FR Doc. 78-28248 Filed 10-3-78; 1:37 pm]

[3610-05]

NATIONAL COMMUNICATIONS SYSTEM

TELECOMMUNICATIONS: DIGITAL COMMUNICATION PERFORMANCE PARAMETERS

Proposed Federal Standard 1033; Extension of Comment Period

AGENCY: National Communications System.

ACTION: Extension of comment period.

SUMMARY: This extension is necessary because delay in the printing of the proposed Federal Standard 1033 (described in 43 FR 41314, September 15, 1978) has, in turn, caused delays in making it immediately available to requesters. This extension will allow interested parties the full 60 days to respond.

DATE: Comments must be received on or before December 29, 1978.

ADDRESS: Office of the Manager, National Communications System, Attention: NCC-TS, Washington, D.C. 20305.

FOR FURTHER INFORMATION CONTACT:

Mr. Dennis Bodson, 202-692-2124.

MAURICE W. ROCHE,
Director Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 29, 1978.

[FR Doc. 78-28091 Filed 10-4-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-327 and 50-328]

TENNESSEE VALLEY AUTHORITY—SEQUOYAH NUCLEAR PLANT, UNITS 1 AND 2

Order Extending Construction Completion Dates

Tennessee Valley Authority (TVA) is the holder of Provisional Construction Permit No's. CPPR-72 and CPPR-73, issued by the Atomic Energy Commission [1] on May 27, 1970 for construction of the Sequoyah Nuclear Plant, Units 1 and 2, presently under construction at the licensee's site in Hamilton County, Tenn.

On February 14, 1978, TVA filed a request, superseding their previsous request of July 29, 1977, for an extension of the completion dates because construction has been delayed due to:

1. Delays in delivery of critically needed equipment and materials;
2. Additions to the plant fire protection systems;
3. Interference problems in the installation of seismic and pipe rupture restraints;
4. Modification of the feedwater design to include all volatile treatment for water chemistry, and addition of the requirement for acid cleaning of the secondary system prior to hot functional testing; and
5. Indirect effect of additional construction activities associated with additions to the scope of the project.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated September 28, 1978.

A negative declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402.

It is hereby ordered That, the latest completion dates for Provisional Construction Permit No's. CPPR-72 and CPPR-73 be extended from September 1, 1977 and May 1, 1978 to August 1, 1979 and April 1, 1980 for Units 1 and 2, respectively.

Dated of issuance: September 29, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-28134 Filed 10-4-78; 8:45 am]

[1] Effective Jan. 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

[7590-01]

[Docket Nos. 50-327 and 50-328]

SEQUOYAH NUCLEAR PLANT, UNITS 1 AND 2 TENNESSEE VALLEY AUTHORITY (TVA)

Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Tennessee Valley Authority's (permittee) request to extend the expiration date of the provisional construction permits for the Sequoyah Nuclear Plant, Units 1 and 2 (CPPR-72 and CPPR-73) which is located near Daisy in Hamilton County, Tenn. The permittee has requested an extension of the latest completion dates specified in the permits to August 1, 1979 for Permit No. CPPR-72 (Unit 1) and April 1, 1980 for Permit No. CPPR-73 (Unit 2) so as to allow for a reasonable period for completion of construction of the Sequoyah Nuclear Plant, and further allowance for contingencies. The principal cause of delay is attributable by the permittee to schedule impacts of new fire protection design requirements, delays in delivery of critical equipment, and other required retrofits and add-ons.

The Commission's Division of Site Safety and Environmental Analysis (staff) has prepared an environmental impact appraisal relative to this change to CPPR-72 and CPPR-73. Based upon this appraisal, the staff has concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this change to the construction permits is not a major Federal action significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555; and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402.

Dated at Bethesda, Md., this 25th day of July 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-28206 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co. (the licensees), which revised the license and its appended Technical specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to reflect plant operating limitations for operation in Cycle 4 beyond 125±5 effective full power days. This amendment also deletes paragraph 2.c.(3) from the license. This paragraph, which was added by Amendment No. 40, set forth a license condition applicable to operation during the early portion of Cycle 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 23, 1978, as supplemented by letter dated August 7, 1978, (2) Amendment No. 45 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-28132 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Co., Jersey Central Power & Light Co. and Pennsylvania Electric Co. (the licensees), which revised the license for operation of the Three Mile Island Nuclear Station, Unit No. 1, located in Douphin County, Pa. The amendment is effective as of its date of issuance.

This amendment adds a license condition relating to the completion of facility modifications for fire protection.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated May 16, 1977, and June 12, July 14, July 20, July 28, August 15, August 28, and September 8 and 18, 1978, (2) Amendment No. 44 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of September 1978.

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For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-28133 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44 and 43 to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric and Power Co. (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Va. The amendments are effective within 30 days of the date of issuance.

These changes to the Technical Specifications, (1) reduce the allowable pressurizer heatup rate from 200° F/hr to 100° F/hr, (2) reflect a new title of "Resident Quality Control Engineer" to replace "Quality Control Engineer," and (3) correct a typographical error on page TS 3.16-2 which was issued on May 10, 1978.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 55.1(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 19, 1977, (2) Amendment Nos. 44 and 43 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Va. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md, this 27th day of September 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-28135 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corp., Wisconsin Power & Light Co., and Madison Gas & Electric Co. (the licensee) which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wis. The amendment is effective as of the date of issuance.

The amendment reduces the allowable pressurizer heatup rate from 200° F per hour to 100° F per hour and changes the frequency of the tests for permissives P8 and P10 and the 25 percent reactor trip.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 20, 1978, (2) Amendment No. 22 to Facility Operating License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wis. 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of September 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-28136 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket No. 40-8502]

WYOMING MINERAL CORP.

Availability of Final Environmental Statement for Irigaray Uranium Solution Mining Project

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards, related to the proposed Irigaray uranium solution mining project to be located in Johnson County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The Final Environmental Statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

The notice of availability of the Draft Environmental Statement for the Irigaray uranium solution mining project and requests for comments from interested persons was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19488). The comments received from Federal agencies, State, and local officials and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG-0481) may be purchased on or about October 13, 1978 from the National Technical Information Service, Springfield, Va. 22161. (Printed copy: $10.75; Microfishe: $3.)

Dated at Silver Spring, Md., this 26th day of September, 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-28137 Filed 10-4-78; 8:45 am]

[7590-01]

[Docket Nos. 50-237, 50-249, 50-254, 50-265]

COMMONWEALTH EDISON CO., AND IOWA-ILLINOIS GAS & ELECTRIC CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS & ELECTRIC CO.

(Dresden Nuclear Power Station, units 2 and 3.) (Quad Cities Nuclear Power Station, units 1 and 2.)

This action is in reference to a notice published by the Commission on August 22, 1978, in the FEDERAL REGISTER (43 FR 37245) entitled "Proposed Issuance of Amendments to Facility Operating Licenses."

The Chairman of this Board and his address is as follows:

Gary L. Milhollin, Esq., 1815 Jefferson Street, Madison, Wis. 53711.

The other members of the Board and their addresses are as follows:

Mrs. Elizabeth B. Johnson, Union Carbide Corp., Nuclear Division, P.O. Box X, Oak Ridge, Tenn. 37830.
Dr. Quentin J. Stober, Fisheries Research Institute, University of Washington, Seattle, Wash. 98195.

Dated at Bethesda, Md., this 28th day of September 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28131 Filed 10-4-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-40]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

AIRCRAFT ACCIDENT REPORT

The formal report of investigation into the April 28, 1977, crash of a corporate jet at McLean, Va., has been released by the National Transportation Safety Board. The report, No. NTSB-AAR-78011, shows that the twin-jet Beech-Hawker 125 plunged into a populated residential area of Fairfax County less than 4 minutes after takeoff from Washington National Airport. The Southern Company Services, Inc., plane was returning to its headquarters in Birmingham, Ala.

After a flightcrew member reported that the aircraft was climbing through 9,300 feet, monitoring radar stations lost continuous reception of the aircraft's primary and secondary radar target information. Shortly thereafter, ground witnesses saw an explosion in the sky followed by wreckage of the aircraft falling to the ground. The sky was overcast and light rain was falling. The four persons aboard were killed and the aircraft was destroyed. One residence and two automobiles were destroyed by impact and fire, and several other homes were damaged by falling debris.

The Safety Board has determined that the probable cause of the accident was a failure or malfunction of an undetermined nature in the pilot's attitude indicating system which led to a loss of control and overstress of the aircraft structure.

The McLean crash was one of five cited by the Safety Board last April 13 when it recommended Federal Aviation Administration action on requirements for recorders on turbine-powered aircraft in air taxi and corporate operations. The Board recommended that FAA (1) develop recorder standards for "complex aircraft" based on intended aircraft use; (2) research and develop a family of low-cost recorders, including a composite flight data-cockpit voice recorder, for "complex general aviation aircraft"; and (3) require, in the interim, a cockpit voice recorder on all turbine aircraft certificated for two pilots and six or more passengers. These recommendations, Nos. A-78-27 through 29, are reproduced in the report. (See also 43 FR 18073, April 27, 1978.)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-74-5.—Letter of September 15 from the Federal Aviation Administration is a followup to initial response dated April 23, 1974, to a recommendation issued as a result of investigation of the Pan American World Airways B-707 freighter accident at Boston, Mass., on November 3, 1973. The recommendation asked FAA to require that transport category airplanes certificated under Part 4b of the Civil Air Regulations prior to the effective date of Amendment 4b-8 comply with § 25.1439 of the Federal Aviation Regulations.

FAA's recent response indicates that Proposal 2-91 to amend §§ 25.1439 (a) and (b), and Proposal 2-213 to amend § 121.337, were included in Notice 75-10 published March 7, 1975. Also, Airworthiness Review Program Amendment No. 3 covering Proposals 2-91 and 2-213 was published on December 20, 1976. The proposed amendment to § 25.1439(a) was withdrawn, based on comments which stated that the action was premature in view of the current testing by the FAA. The proposal to amend § 121.337 was also withdrawn since the proposal (§ 25.1439(b)) to which it refers was withdrawn. As a result of this testing, FAA initiated a project to develop proposals to amend §§ 25.1439(b) and 121.337. FAA expects to issue a notice of proposed rulemaking for this project within the next year.

A-78-18 through 20.—FAA's letter of September 11 is in response to Safety Board recommendations issued last April 6, which called for more detailed information about mountain pass routes to be depicted on sectional charts. The Board's recommendation letter cited several fatal crashes which occurred when pilots became trapped in box canyons while attempting to cross mountain passes.

FAA, recognizing this hazard to VFR flying as a matter requiring a continuing safety education emphasis to instill pilot awareness, reports that the *FAA General Aviation News*, with a current circulation of 69,000, has been an effective media for bringing such recurring as well as current safety matters to the attention of general aviation pilots. The August 1978 issue (copy attached to FAA's response letter) features safety aspects of mountain flying. Other affirmative actions taken by FAA in response to these recommendations were stated in FAA's initial comments of June 19 (43 FR 31248, July 20, 1978).

A-78-27 and 28.—FAA on September 11 replied to the Safety Board's letter of August 10 concerning two of the recommendations issued in connection with the McLean, Va., crash (see summary of report, above). The Board's letter, replying to FAA's June 30 response (43 FR 32477, July 27, 1978), states that the Board's concerns in making the recommendations were based on the current scarcity of gov-

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ernment/industry economic and technical information that is directly related to low-cost aircraft recorders. The Board cited a U.S. Army program to develop and install low-cost recorders on several thousand aircraft, based on emerging technology which appears to have almost direct and timely civil application.

FAA's June 30 response indicated intention to implement recommendations A-78-27 and 28 through advanced rulemaking action (ANPRM). Also, the ANPRM action was cited as obviating the need for Government-sponsored research and development, based on preliminary work already done by industry.

The Board's August 10 letter reports that on July 12 its Bureau of Technology hosted a U.S. Army/FAA/NASA meeting to brief FAA and NASA representatives, at the technical level, on the Army program to include safety and technical requirements, cost effectiveness, and goals for the next several years.

The Board further reports that NASA has undertaken research to develop solid-state recording devices. One objective is to demonstrate the feasibility of utilizing advanced low-cost digital systems to provide a solid-state general aviation crash recorder that would retain critical accident investigation parameters in a nonvolatile storage system. Another goal is to provide in fiscal year 1978 a solid-state data storage system suitable for replacing electromechanical tape recorders in aerospace vehicles. This data recorder will use "bubble memory" technology. NASA also indicates interest in conducting economic studies of new recorder technology as it relates to aircraft size and use.

Considering these developments, the Board on August 10 requested FAA to accelerate the proposed ANPRM action. In response, FAA on September 11 noted that its regulatory proposals are now subject to the criteria of Executive Order 12044, "Improving Government Regulations," and the proposed Department of Transportation Regulatory Policies and Procedures as published in the FEDERAL REGISTER on March 24 and June 1, respectively. FAA states that a major impact of these documents on the agency regulatory process is the emphasis placed on the procedures employed to determine: (1) what are significant regulatory projects and (2) what priority these projects will be assigned when the Department regulatory agenda is developed. At this time, FAA does not believe there is sufficient research data available to justify changing the regulatory agenda, but will consider such action should sufficient data become available prior to issuance of an ANPRM.

FAA acknowledges that NASA's recorder research projects should be useful in helping FAA accomplish its regulatory goals in developing crash recorder requirements. In this respect, FAA is now completing final action on major amendments to 14 CFR Part 135 to require that cockpit voice recorders be installed on turbojet airplanes with 10 or more passenger seats.

A-78-42.—Also on September 11, FAA responded to the recommendation issued following investigation of the crash of a Douglas DC-7BF after takeoff from the Yakutat (Alaska) Airport.

In response to this recommendation, which asked FAA to revise 14 CFR Part 91, Subpart D, to assure that an adequate level of safety is provided wherever these rules are applicable, FAA reports that its flight Standards Service has recently conducted two extensive reviews of certain regulations, both of which included Part 91. FAA also notes that the Airworthiness and Operations Review Programs generated many proposals still being that have been adopted as amendments to the regulations and other proposals still being considered in its rulemaking process. Further, FAA has recently initiated a comprehensive regulatory project to review Part 91, including Subpart D.

FAA states that its review of the 65 accidents cited by the Board as occurring between 1972 and 1976 indicates a 25-percent maintenance involvement could be identified as a cause or factor, rather than the 46-percent cause factor given in the Board's recommendation letter. FAA states, "We do not find that the supporting data identifies specific deficiencies in 14 CFR 91, Subpart D, but that it appears to relate to accidents caused by noncompliance with the current rule."

FAA is aware of the increasing number of surplus airline and military aircraft being operated under Part 91—approximately 5 percent of the total number of large aircraft. FAA has placed a high priority on the surveillance of operators using these aircraft and has so indicated in FAA Order 1800.12D, Flight Standards Program Guidelines, a copy of which is attached to FAA's response.

A-78-47 and 48.—Recommendations resulting from the crash of an Aero Commander 560E near Queen, Pa., last November 17 were answered by FAA on September 11.

Recommendation A-78-47 asked FAA to direct accident prevention specialists, flight instructors, and flight examiners, as part of their training or biennial review programs, to inform all owners and pilots of aircraft which use injection-type, pressure carburetors of the aircrafts' subceptibility to impact ice in the induction system. FAA reports that in keeping with established policy in its Accident Prevention Program and flight instructor courses, FAA will continue to stress to pilots the need to know the contents of aircraft owners' manuals and pilot operating handbooks. Copies of this recommendation have been forwarded to FAA accident prevention coordinators with the request that the information be used in meetings with pilots.

Recommendation A-78-48 asked FAA to require manufacturers of aircraft equipped with injection-type, single-barrel, low-pressure carburetors to publish and provide to all owners the necessary information about the hazard of impacting ice in the induction system and how to cope with it in flight. FAA notes that this information is required by FAR 23.1581(c) and 23.1585(a), and that the General Aviation Manufacturers Association Specification for Pilots Operating Handbook, Section 7, Paragraph 7.25(g), also contains a requirement for the information concerning air induction system ice protection. FAA says that future pilot handbooks will be prepared by the airplane manufacturers in compliance with the specification in this handbook, a copy of the pertinent part of which is attached to FAA's response. FAA is requesting its regions with type certification responsibility for airplanes equipped with the Stromberg PS Series carburetors to review the manufacturers' operating instructions for induction icing and take any necessary corrective action; this project will be completed by the end of February 1979.

A-78-49.—The FAA, also on September 11, responded to the recommendation issued following an incident last July 14 in which the pilot of a Bell 212 helicopter, conducting water-drop operations under contract for the Department of Interior near Vernel, Utah, made a precautionary landing after hearing a noise and excessive vibration emanating from the main transmission. He found that four teeth had separated from the main transmission input spiral bevel gear (PN 204-940-701-3).

The recommendation urged FAA to determine immediately the potential risks of operating the Bell 212 helicopter with the main transmission input spiral bevel gear PN 204-040-701-3 installed and act to minimize those risks. FAA states that an Airworthiness Directive, No. 78-17-03, was issued August 17 and effective on August 21; a copy is provided. FAA believes that this action will minimize the probability of failure of the main transmission input spiral bevel gear PN 204-040-701-3.

Highway

H-77-38- and 39.—Letter of September 6 from the Ohio Department of Transportation responds to the Safety Board's inquiry of August 7 regarding recommendations developed as a result of investigation of the truck collision with 10 automobiles in Valley View, Ohio, August 10, 1976. Reference is made in the Board's inquiry to ODOT's initial response of June 15 which cited efforts made in implementing recommendation H-77-38 to upgrade the traffic control of State Route 17 at the accident site.

Recommendation H-77-39 asked that the State of Ohio consider amending State laws to allow the Director of Transportation to place and maintain traffic control devices that conform to its manual and specifications upon all extensions of State highways through local jurisdictions. The Safety Board inquiry, noting that the problem of local jurisdictional lack of capability in traffic engineering is one of national concern, quotes from the Federal Highway Administration's Highway Safety Program Standard No. 13, "Traffic Engineering," which calls for: "A comprehensive manpower development plan to provide the necessary traffic engineering capability, including provision for supplying traffic engineering assistance to those jurisdictions unable to justify a full-time traffic engineering staff." The Board believes that an acceptable alternative to its recommendation, concerning a change in the State code to provide direct State responsibility for traffic control devices on State roads, would be a high degree of involvement with this section of Standard No. 13. The Board asked for a description of ODOT's activities in working with this standard to provide traffic engineering capability to local jurisdictions.

ODOT's September 6 letter notes that each of its 12 districts has been assigned an assistant District Traffic Engineer for Safety, 40 percent of whose time is spent in providing technical assistance to all non-State governmental units within his district. This assistance includes instructions on proper methods of identification and surveillance of high accident locations, signing, pavement marking, and traffic signal control. Among other local assistance programs for traffic engineering, ODOT distributed until last December 31 standard signs, primarily stop signs, to replace nonstandard regulatory signs. ODOT has, through the pavement marking demonstration program, provided thermoplastic pavement markings at signalized intersections and school zones within numerous municipalities throughout the State.

Further, ODOT reports, for many years it has furnished, free of charge, copies of the Ohio Manual of Uniform Traffic Control Devices for Streets and Highways to local jurisdictions; revisions to the manual are regularly distributed to holders. Copies of ODOT Traffic Control Application Standards, which are essentially departmental policy guidelines or problem treatments, have been sent to all Ohio county engineers and other selected local officials with updates distributed periodically. Other publications in late stages of development for local distribution include a "Recommended Walking Route to School" program manual and a Pavement Marking Handbook. Training in traffic engineering and related subjects is sponsored and funded by ODOT, including attendance at Northwestern University and Georgia Institute of Technology short courses.

H/78-13.—Letter of August 29 from the Federal Highway Administration responds to a recommendation issued following investigation of the March 8, 1977, collision of a tractor-semitrailer with a schoolbus near Rustberg, Va. The recommendation asked FHWA's Bureau of Motor Carrier Safety to request from the Interstate Commerce Commission the identity and categories of all current ICC-registered carriers operating in interstate commerce and of future registrants as soon as possible following their registration.

FHWA's response provides a great deal of data about the ICC as related to agricultural cooperatives and their operations. FHWA states that there is a notification procedure through which BMCS is provided with records of new operating authority given to common or contract motor carriers. The exempt agricultural cooperatives are not handled in the same manner as common or contract carriers and thus 339 cooperative firms that had filed intent to haul for nonmembers had not been given to BMCS. These cooperative carriers are not required to notify ICC when they discontinue this service, and FHWA notes that 159 of these names were not listed with BMCS. BMCS has initiated a field investigation of these 159 firms to determine status.

FAA notes that rules governing agricultural cooperatives (49 CFR 1047.20-23) have been amended, effective July 21, 1978. The most notable change is a new requirement that notifications of intent to haul for nonmembers be filed with the ICC annually. Carriers failing to renew their notification will be dropped from the active record and cannot legally perform transportation under this provision. The amendments also contain additional recordkeeping requirements and prohibit the use of one-way trip lease equipment in nonmember transportation. Arrangements have been made for ICC to furnish BMCS with copies of the new carrier notification forms as they are received. The BMCS records in this connection will then correspond with those of the ICCc and will be kept current.

Pipeline

P-78-53 through 55.—Letter of September 6 from the Oklahoma Natural Gas Company (ONG) is in response to the three Class I (urgent action) recommendations issued August 28 following investigation of the death of four ONG workmen in Oklahoma City, Okla., last April 24. The men were overcome by gas while working in a regulator vault to restore customer service. (See 43 FR 39871, September 7, 1978.)

ONG reports, in line with the Board's recommendations, that its modified policy requires employees to use a valve or other means to stop the flow of gas before disconnecting or reconnecting active gas lines in confined space. Further, ONG's current training for both new and long-term employees emphasizes the need to have safety equipment available while performing certain hazardous work in confined spaces as well as the importance of testing the atmosphere, the use of safety devices, and the use of safe procedures. ONG also states that its operating procedure now includes instruction on where and how to use all safety equipment presently available and that instructions and procurement of additional safety equipment are being expedited.

Railroad

R-77-40.—Letter of September 11 from Amtrak responds to the Board inquiry of August 18 regarding a recommendation which resulted from investigation of the Marland, Okla., grade-crossing collision of December 15, 1976. The recommendation asked the National Railroad Passenger Corporation (Amtrak) to strengthen and improve its locomotive units' operating compartments to that they effectively resist impact forces and deter entry of flammable liquids into locomotive cabs.

The Board's August 18 letter states that while Amtrak's retrofitting program to seal and weld the hinged nose door openings appears to be an effective method to deter entry of flammable liquids into locomotive cabs, there is concern that the schedule of retrofitting will result in many of Amtrak's SDP-40F locomotives continuing operation with the same design as the locomotive involved in the cited accident for an unacceptably long period of time. The Safety Board asked for further review of this matter and advice as to whether the retrofitting timetable might be shortened and whether

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any temporary sealing methods have been considered.

Amtrak, in response, reports that it has accelerated the program of SDP40F modifications and conversions since previous contact with the Board. During fiscal year 1979, Amtrak plans to retrofit 31 SDP40F units. During fiscal year 1980, 19 or more SDP40F units are scheduled for retrofitting. Nose doors will be sealed by welding or, in the case of conversion to F40PH configuration, eliminated entirely. Amtrak also reports that its operating personnel have been instructed to insure that nose doors of locomotives so equipped are latched securely before locomotives are dispatched. These personnel have been advised of the safety implications of securing these doors. Amtrak is continuing to develop an improved latching device for nose doors of its few remaining units which have these doors.

NOTE: The above notice summarizes Safety Board documents recently released and recommendation response letters received. Single copies of accident reports are available without charge as long as supplies last. Copies of the Board's recommendation letters and letters in response to such recommendations may be obtained free of charge.

All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 2, 1978.

[FR Doc. 78-28159 Filed 10-4-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SCIENCE, TECHNOLOGY AND DEVELOPMENT ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Science, Technology and Development Advisory Committee.
Date: October 20 and 21, 1978.
Time: 9 a.m. to 4 p.m.
Place: Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.
Type of Meeting: Part open:

Closed (Friday, October 20, 9 a.m. to 12 noon; and Saturday, October 21, 9 a.m. to 1 p.m.)

Open (Friday, October 20, 1 to 4 p.m.)

Contact Person: Mr. William J. Montgomery, Executive Officer, Office of Science and Technology Policy, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500 (telephone: 202-395-4692). Anyone who plans to attend the open part of the meeting should contact Mr. Montgomery by October 17, 1978.

Summary Minutes—Open Portion: May be obtained from Mr. William J. Montgomery at the address listed above.

Purpose of Advisory Committee: In March 1978, the President decided to create a Foundation for International Technological Cooperation in the reorganized foreign aid structure. To develop detailed plans for the Foundation, a Planning Office has been established reporting to Governor Gilligan, Chairman of the Development Coordination Committee. OSTP has been instrumental in developing the concept of the Foundation and the Planning Office; the Advisory Committee being established will advise the Director of OSTP on the concept and early planning of the Foundation, as well as on related policy issues and programs of the U.S. Government.

Tentative Agenda:

Open portion: Discussion of planning alternatives for the Foundation for International Technological Cooperation.

Closed portion: Discussion of interagency documents which treat possible program and budget initiatives involving Executive Branch decisions.

Reason for Closing: The committee will review and discuss interagency documents which bear on possible program and budget initiatives involving agencies in the Executive Branch.

Authority for Closing: The Director of OSTP determined on September 29, 1978 that the portion of the meeting dealing with interagency budgetary discussions is within the exemption provided in 5 U.S.C. 552b (9)(B) and should therefore be closed to the public.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc. 78-28028 Filed 10-4-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[(SR-Amex-78-16) Rel No. 15182]

Order Approving Proposed Rule Change

SEPTEMBER 22, 1978.

On August 2, 1978, the American Stock Exchange, Inc. (Amex) 86 Trinity Place, New York, N.Y. 10005 filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the Act) and rule 19b-4 thereunder, copies of a proposed rule change which would subject options market-makers on other exchanges, for orders sent to the Amex in dually-traded options, to the same rules of execution priority to which Amex market-makers, called registered options traders, are subject.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15054, August 10, 1978) and by publication in the FEDERAL REGISTER (43 FR 36726, August 18, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's public reference room.

The Amex proposed rule change is similar to a rule change of the Chicago Board Options Exchange, Inc. (CBOE), approved by the Commission in Securities Exchange Act Release No. 14677 (April 18, 1978), which extended to all nonmember broker-dealers the rules governing execution priority applicable to CBOE members. As in the case of the earlier CBOE rule, the proposed Amex rule appears reasonably calculated to further the protection of investors and to enhance the ability of investors' orders to meet without participation by a dealer and the Commission concludes that furtherance of these statutory goals, in this circumstance, outweighs any burden on competition which may be imposed upon nonmember broker-dealers.

The Commission therefore finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, the proposed rule change is consistent with the investor protection purposes of section 6 and furthers the purpose of section 11A(a)(1)(C)(v) by enhancing the ability of investors' orders to meet without participation by a dealer.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28190 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 15188; SR-OCC-78-1]

THE OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change

SEPTEMBER 25, 1978.

On May 15, 1978, OCC filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which increased the margin requirements for certain low-priced, volatile, spot month options. Specifically, the proposals prescribes minimum marking prices for short positions in such options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14798, May 24, 1978) and by publication in the FEDERAL REGISTER (43 FR 23775, June 1, 1978). No written comments were received by the Commission. By letter dated July 18, 1978, OCC submitted the results of a test which, among other things, determined the effect of the proposal on clearing members' margin obligations.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28207 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 15191; File Nos. 4-196, 4-273, 4-274, 4-267]

BOSTON STOCK EXCHANGE, INC., ET AL.

Temporary Order Granting Approval

SEPTEMBER 26, 1978.

In the matter of Boston Stock Exchange, Inc., 53 State Street, Boston, Mass. 02109; Cincinnati Stock Exchange, Inc., 209 Dixie Terminal Building, Cincinnati, Ohio 45202; Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Ill. 60604; Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, Calif. 90014; National Association of Securities Dealers, Inc., 1735 K Street NW., Washington, D.C. 20006.

Notice is hereby given that the Securities and Exchange Commission (the "Commission") has issued an Order, pursuant to Sections 17(d)(1) and 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78q(d)(1) and 78k-1(a)(3)(B)) granting approval, for a period of 270 days from the date of this Order, of plans for allocating regulatory responsibilities (the "Plans") filed pursuant to 17 CFR 240.17d-2 ("Section 240.17d-2") by the National Association of Securities Dealers, Inc. ("NASD") in conjunction with each of the Boston Stock Exchange, Inc. ("BSE"), Cincinnati Stock Exchange, Inc. ("CSE"), Midwest Stock Exchange, Inc. ("MSE"), and Pacific Stock Exchange, Inc. ("PSE") (the "participating exchanges" and, with the NASD, the "parties").[1]

Accordingly, for the period of temporary approval, the NASD shall assume, in addition to the regulatory responsibilities it already has under the Act, regulatory responsibilities allocated to it by the Plans, subject to the terms and conditions set forth in this Order, with respect to certain brokers and dealers which belong to both the NASD and one or more of the participating exchanges. At the same time, the BSE, CSE, MSE, and PSE shall be relieved of the regulatory responsibilities thus allocated to the NASD. The Commission expects temporary approval of the Plans to give it the opportunity to review and evaluate the findings of the Special Study of the Options Markets (the "options Study")[2] before taking further action on the Plans.

In addition, the Commission has determined not to give further consideration to the Plans unless the parties submit, within 180 days of the date of this Order or later if the Commission grants an extension to the parties, amendments which would allocate regulatory responsibilities not covered by the Plans as filed and supplementary information which would facilitate Commission oversight of broker-dealer examination programs under the Plans.

I. BACKGROUND

Absent reasonable justification or excuse, Section 19(g)(1) of the Act (15 U.S.C. 78s(g)(1)) obligates every self-regulatory organization ("SRO") (as defined in Section 3(a)(26) of the Act, 15 U.S.C. 78c(a)(26)) to examine for and enforce compliance with its own rules and the Act and rules and regulations thereunder by each of its members (as defined in Section 3(a)(3) of the Act, 15 U.S.C. 78c(a)(3)), persons associated with its members (as defined in Section 3(a)(18) of the Act, 15 U.S.C. 78c(a)(18)), or its participants (as defined in Section 3(a)(24) of the Act, 15 U.S.C. 78c(a)(24)).[3] For a broker or dealer which belongs to more than one SRO ("dual member"), this statutory obligation could result in a pattern of multiple examinations by each such SRO, creating unnecessary regulatory duplication and added expense for a firm and the industry. At the same time, violations by a firm could escape detection since they might fall between the perceived responsibilities of the SROs.[4]

Section 17(d)(1) of the Act (15 U.S.C. 78q(d)(1)), was intended, in part, to eliminate overlaps and gaps in the regulatory pattern.[5] With respect to a member or participant of more than one SRO, section 17(d)(1) authorized the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes rules and regulations, or to perform other specified regulatory functions.

On April 20, 1976, the Commission adopted 17 CFR 240.17d-1 ("Section 240.17d-1").[6] The rule provides that, with respect to a member of the Securities Investor Protection Corporation ("SIPC") which is also a member or participant of more than one SRO, the Commission shall name a single SRO as designated examining authority ("DEA")[7] to examine the firm for compliance with all financial responsibility rules which apply, including those promulgated by the Commission.[8] Once an SRO has been named a

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[1] Citations to a particular allocation Plan will be to "NASD/(name of exchange)."

[2] See Securities Exchange Act Release No. 14056 (October 17, 1977), 42 FR 56706 (1977), announcing the commencement of this investigative proceeding concerning trading of standardized options and its regulation.

[3] The responsibility which Section 19(g)(1) imposes is subject to Sections 17(d) and 19(g)(2) of the Act, 15 U.S.C. 78q(d) and 78s(g)(2).

[4] Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Sess. 32 (1975) (hereinafter cited as Senate Report).

[5] *Id.*

[6] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (1976).

[7] Hereafter, unless otherwise indicated, the terms "DEA" and "designation" will be used to refer only to allocations of the responsibility to examine for compliance with applicable financial responsibility rules made pursuant to delegated authority by the Division of Market Regulation (the "Division") under section 240.17d-1. Pursuant to plans filed by the SROs under 17 CFR 240.17a-5, a broker or dealer must file its Financial and Operational Combined Uniform Single ("FOCUS") report with only its DEA.

[8] Formerly, SIPC had the authority to make designations for financial responsibility compliance under section 9(c) of the Se-

Footnotes continued on next page

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dual member's DEA, all other SROs to which the dual member belongs are relieved of the responsibility to examine the firm for compliance with financial responsibility rules.

On its face, section 240.17d-1 deals with financial responsibility compliance and no other aspect of an SRO's responsibilities. Thus, every SRO continues to be obligated, whether or not it is the DEA, to examine a dual member for compliance with its own rules and provisions of the Act and rules and regulations thereunder governing matters other than financial responsibility. Such matters include sales practices, standardized options transactions and marketmaking and trading activities and practices.

On October 28, 1976, the Commission adopted section 240.17d-2.[9] That section is significantly broader in scope than section 240.17d-1. It permits SROs to submit to the Commission joint plans proposing allocations of their regulatory responsibilities with respect to dual members.[10] It also permits the Commission to relieve an SRO of any regulatory responsibilities imposed on the SRO with respect to a dual member, including the responsibility to examine the dual member for compliance with the Act, rules and regulations thereunder, and the SRO's own rules, and, in effect, to allocate such responsibility to another SRO.

On October 25, 1977, the Commission published notice of filing of the NASD's Plans with the BSE, CSE, MSE, and PSE,[11] as required by section 240.17d-2(c). No comments were received.

II. Discussion

A. Description of the Operation of the Plans Subject to the Terms and Conditions Set Forth in This Order

1. Examinations

The NASD is allocated responsibility for monitoring the financial and operational condition, and for conducting on-site examinations, of each dual member for which it is the DEA under section 240.17d-1. The NASD's on-site examining responsibility shall require it to conduct both routine and special examinations for compliance with the provisions of the Act, rules and regulations thereunder, its own rules, and exchange rules which are comparable to any of these. The NASD shall also examine a dual member whose DEA it is under Rule 17d-1 for compliance with "unique exchange rules," i.e., those exchange rules (1) with which compliance cannot be monitored by surveillance on or through the exchange's trading facilities ("marketplace surveillance") and (2) to which neither provisions of the Act and rules and regulations thereunder nor NASD rules are comparable, if such unique exchange rules are regulatory, as opposed to purely administrative or housekeeping, in nature. Under the MSE and PSE Plans all MSE and PSE standardized options rules with which compliance cannot be monitored through marketplace surveillance shall be deemed to be unique rules of those exchanges and regulatory in nature, and accordingly, subject to NASD examination. While the NASD shall be responsible in general for examining for compliance with unique exchange rules (including unique CSE rules) which are regulatory in nature, the CSE plan and this order shall not require the NASD to assume responsibility for compliance with any unique CSE rules governing trading in the CSE multiple dealer trading system,[12] whether or not they are regulatory in nature.

In addition, the NASD shall examine a dual member for which it is DEA under Rule 17d-1 for compliance with unique administrative or housekeeping rules of a participating exchange if the exchange had been the dual member's DEA before the NASD was named DEA. Each exchange shall retain the responsibility, however, to enforce compliance with its unique administrative or housekeeping rules by a dual member whose DEA under section 240.17d-1 is the NASD, if that exchange was not previously the dual member's DEA. In that case the exchange shall examine the dual member for compliance with its unique administrative or housekeeping rules, unless the exchange monitors compliance by alternative means which the Commission deems to be satisfactory.

Each exchange shall retain responsibility for marketplace surveillance.

2. Membership Services

"Membership services" includes processing and acting upon a member's requests to open, close, or relocate branch offices and maintaining related records. It also includes processing and acting upon applications submitted by a member on behalf of persons seeking to become associated, or to change the nature of their association, with such member and maintaining related records.

Pursuant to this order, the NASD shall be responsible for performing membership services with respect to all dual members for the CSE under that exchange's plan with the NASD. The NASD shall also be responsible for performing membership services for the BSE, MSE, and PSE under their respective plans with respect to dual members for which the NASD is the DEA, i.e., those as to which the NASD is also allocated on-site examining responsibility under the Plans.[13]

Accordingly, the NASD shall maintain appropriate records for the exchanges with regard to requests by dual members covered by the Plans to open, close, or relocate branch offices. The dual members shall submit such requests to the NASD, and the NASD shall maintain such information and advise the exchanges monthly of openings, closings, and address changes of branch and main offices and of the names of branch office managers.[14] Although the NASD shall be responsible for performing this function, it shall forward dual members' applications for opening branch offices to the appropriate exchanges for approval, because the NASD's rules do not require its members to obtain prior approval of branch office openings. In its examinations of dual members under the Plans the NASD shall, however, ascertain whether they obtained exchange approval, if required, for the opening of branch offices.

The NASD shall be decision-maker as well as recordkeeper with respect to persons requiring NASD and exchange approval to become associated, or to change the nature of their association, with dual members covered by the Plans. A dual member shall submit Form U-4 [15] and other pertinent information to the NASD on an applicant's behalf. The NASD shall be responsible for processing and either approving or disapproving the application.[16] If it bars a person from becoming associated with a dual member based on failure to pass a required examination or to comply with qualification standards or administrative requirements, the NASD shall provide the necessary due process to the applicant or aggrieved person, and if its action becomes final, the NASD shall file the appropriate notice with the Commission under 17 CFR 240.19d-1 ("Section 240.19d-1").

The NASD shall forward to each interested exchange for its review the application of a person seeking association of a type not requiring NASD approval, e.g., as a shareholder associate or approved person.

If the NASD discovers, as a result of processing submissions, that a dual member or person associated, or seeking to become associated, with a dual member is subject to a statutory disqualification, the NASD shall decide whether the person is, or continues to be, acceptable under Sections 15A(g) and 6(c) of the Act (15 U.S.C. 78o-3(g) and 78f(c)). The NASD shall notify the interested exchanges of the commencement of any proceeding to determine the acceptability of the person and keep the exchanges apprised of the pertinent facts. The NASD shall consider any supplementary information the exchanges might furnish, but the NASD's National Business Conduct Committee, or, if appropriate, its Board of Governors, shall make the final decision.

Once the NASD renders its decision, matters shall proceed as they would have proceeded prior to approval of the Plans. The Plans shall not preclude an exchange from taking different action than the NASD. If it disagrees with the NASD, an exchange may file notice separately either under Section 240.19d-1, or 17 CFR 240.19h-1 ("Section 240.19h-1"). The Commission would settle a dispute by reviewing, as it would absent a dispute, the Section 240.19h-1 notice filed by either the exchange or the NASD.

The Plans apply only to brokers and dealers which are members of both the NASD and the given exchange. Accordingly, a broker or dealer not yet a member of either the NASD or the given exchange, or both, must still submit separate membership applications to the NASD and/or the exchange. Each SRO shall independently decide whether to admit the applicant to membership.[17] Both the NASD and the exchanges shall maintain their own membership records for dual, as well as sole, members.

The NASD shall advise the exchanges monthly of changes in the status of persons associated with the dual members covered by the Plans.[18]

3. Disciplinary Proceedings

The NASD shall advise an interested exchange with which it has a Plan of any apparent violations of NASD rules, the Act and rules and regulations thereunder or the exchange's rules which the NASD discovers while discharging its responsibilities under the given Plan. The NASD, however, shall have the responsibility to conduct disciplinary proceedings ("enforcement responsibility") for apparent violations of NASD rules and/or provisions of the Act and rules and regulations thereunder.[19]

The NASD shall refer to the BSE, MSE, or PSE, for such disciplinary action by the exchange as the exchange deems necessary or appropriate, any apparent violation of unique exchange rules which the NASD discovers in the performance of its regulatory responsibilities under the Plans. On a case-by-case basis, the BSE, MSE, or PSE may authorize the NASD to conduct any such disciplinary proceedings.[20] In addition, the BSE, MSE, or PSE may intervene and assume jurisdiction if a dual member is the subject of an NASD investigation relating to a transaction on the given exchange.[21] The BSE or PSE may assert jurisdiction, as provided in their Plans, over an investigation of a dual member commenced by the NASD and related to a transaction in connection with which an extension of time under 12 CFR 220.1-.8 ("Regulation T") was requested of, or granted by, the exchange.[22]

The NASD shall conduct all disciplinary proceedings for apparent violations of its own rules, provisions of the Act, rules or regulations thereunder or CSE rules which it discovers in the performance of its responsibilities under the CSE Plan. The CSE, however, may assume jurisdiction and responsibility for conducting disciplinary proceedings for apparent violations related to transactions on the CSE affecting CSE-listed securities or any other activities having a unique reference to the CSE.[23]

4. Extension Requests Under Regulation T and 17 CFR 240.15c3-3 ("Section 240.15c3-3")

Under the Plans and pursuant to this Order, the NASD as well as the BSE, CSE, MSE, and PSE shall continue to process requests which they receive for extensions of time under Regulation T and section 240.15c3-3.[24] The Commission understands that all parties shall retain both the responsibility and the authority to process these requests, whether or not specifically provided in the Plans as filed, because the Plans do not make any allocation of the responsibility to a single SRO.

The NASD shall have examining responsibility for compliance with Regulation T and section 240.15c3-3, and the NASD shall have exclusive responsibility with respect to related enforcement activities, except in instances where the BSE or PSE asserts jurisdiction concurrently with the NASD.[25] To permit the parties to fulfill their responsibilities for handling extension requests and related examining and enforcement responsibilities, each party shall keep the other informed of its activities in this area.[26]

5. Collection and Sharing of Information

The NASD shall be obligated to make any information it obtains in the performance of regulatory responsibilities under the Plans available to the BSE, CSE, MSE, or PSE, in response to a particular request. In addition to, but not in limitation of that obligation, the NASD shall be responsible for reporting to the BSE, CSE, MSE, or PSE any adverse information which the NASD discovers about a dual member's financial condition which should be known by the exchange or, in the case of the MSE or PSE, by its subsidiaries. The NASD shall also furnish the results of examinations it conducts under the Plans to a participating exchange on a routine basis if, after its Plan becomes effective, the exchange requests the NASD to do so.

Footnotes continued from last page

curities Investor Protection Act of 1970 ("SIPA"). Pub L. No. 91-598, § 9(c), 84 Stat. 1654. Section 26 of the Securities Acts Amendments of 1975 (the "1975 Amendments"), Pub. L. No. 94-29, § 26, 89 Stat. 163, amended section 9(c), current version at 15 U.S.C. 78ii(c)), and transferred to the Commission the authority to make the designations under Section 17(d) of the Act.

[9] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (1976).

[10] The Commission extended the filing date for initial plans from March 15 to May 15, 1977. Securities Exchange Act Release No. 13537 (May 12, 1977), 42 FR 26274 (1977). The rule permits proposals for reallocation subsequent to this period when changes are necessary or appropriate.

[11] Securities Exchange Act Release Nos. 14091, 14094, 14098, and 14095, respectively (October 25, 1977), 42 FR 57197-198 (1977).

[12] See Securities Exchange Act Release No. 14675 (April 18, 1978), 43 FR 17894 (April 26, 1978). The CSE expects to engage under a separate agreement an auditor or another SRO to conduct any examinations required during the course of the pilot program to regulate the trading system.

[13] While the NASD has indicated that it will provide membership services to the BSE with respect to certain sole BSE members, the Commission does not, by virtue of this Order, express an opinion as to either the merits or the legality of such an arrangement.

[14] NASD/BSE, § 7; NASD/CSE, § 6; NASD/MSE, § 6; NASD/PSE, § 7.

[15] Form U-4 is a uniform registration form for securities industry representatives, agents and certain associated persons. It has been adopted by all SROs, 49 States, and the Commission.

[16] Although a dual member shall no longer be required to make duplicate filings with the NASD and the participating exchanges regarding both branch offices and associated persons, such dual member shall continue to be subject to comparable filing requirements of the nonparticipating exchanges to which it belongs.

[17] Where a member of only one party applies for membership in the other party, the Plans do not expressly provide for the first party to furnish any material in its files about such member to the second party. Neither do the Plans provide for such a transfer of information if a member of only one party withdraws and joins the other party. The Commission understands, however, that there will be a free exchange of such information between the NASD and the exchanges.

[18] NASD/BSE, section 6; NASD/CSE, section 6; NASD/MSE, section 5; NASD/PSE, section 6.

[19] The NASD shall conduct such proceedings under the Plans only against dual members for which it is the DEA or against persons associated with such dual members, because the Plans so limit the persons with respect to which the NASD is allocated enforcement responsibility.

[20] NASD/BSE, section 4; NASD/MSE, section 3; NASD/PSE, section 4.

[21] Concurrently with the NASD under the BSE and PSE Plans and alone under the MSE Plan.

[22] See discussion infra.

[23] NASD/CSE, section 4.

[24] NASD/BSE, section 9; NASD/MSE, section 8; NASD/PSE, section 9.

[25] See discussion supra.

[26] NASD/BSE, section 9; NASD/MSE, section 8; NASD/PSE, section 9.

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The BSE, MSE, and PSE undertake explicitly to maintain the confidentiality of information they receive from the NASD.[27]

Similarly, the exchanges shall provide the NASD with any information relevant to the NASD's examining and enforcement responsibilities under the Plans. In particular, they shall make known to the NASD all customer complaints about dual members for which the NASD has examining responsibility under the Plans.

6. Invalidation of Terms

To the extent they are inconsistent with the provisions of the Plans, subsequent changes in applicable laws or Commission rules or regulations, or restructuring of the regulatory framework shall supersede such provisions.[28]

7. Cancellation and Fees

For 3 years the NASD shall not charge the BSE or PSE any fees for performing regulatory responsibilities under the plans. If after 3 years the NASD chooses to impose charges, it shall give prior notice to the BSE and PSE which then may unilaterally terminate their agreements with the NASD subject to Commission approval.[29] In addition, the BSE may terminate its agreement without reason, subject to Commission approval, if it gives the NASD 30 days' notice and an opportunity to be heard.[30] The PSE may, subject to Commission approval, terminate its agreement for cause if it gives 30 days' notice to the NASD and an opportunity to the NASD to be heard.[31]

The NASD shall charge the MSE no fee for performing regulatory responsibilities under the MSE Plan during the period of temporary approval. The NASD or the MSE may cancel their agreement without cause with 1 year's written notice and Commission approval. If at any time the NASD imposes charges for performing regulatory responsibilities under the CSE Plan, the CSE may unilaterally terminate the agreement subject to Commission approval.[32]

The Commission may amend, modify, or terminate any of the Plans in a manner consistent with the provisions of the Act and Section 240.17d-2.

8. Limitation of Liability

The civil liability of one party to a plan and its officers, directors, governors, and employees (personnel) shall be limited to actual damages suffered by the other party and attributable to the willful misconduct of the first party or its personnel in fulfilling its regulatory responsibilities under the Plans.

Both parties disclaim all warranties regarding performance of their respective responsibilities.[33] This disclaimer provision shall have no impact on the rights of third parties under Federal law.[34]

B. STATUTORY CRITERIA

In deciding to approve the proposed allocation plans on a temporary basis the Commission has considered

> the regulatory capabilities and procedures of the self-regulatory organizations, availability of staff, convenience of location, unnecessary regulatory duplication, and such other factors as the Commission may consider germane to the protection of investors, cooperation and coordination among self-regulatory organizations, and the development of a national market system and a national system for the clearance and settlement of securities transactions . . .[35]

as required by section 17(d)(1) of the Act and § 240.17d-2.

1. Regulatory Capabilities and Procedures

By comparing the examination checklists of the BSE, MSE, and PSE with those of the NASD, the parties isolated those items which were designed for ascertaining compliance by a member with unique exchange rules, including rules governing standardized options transactions, with which the exchanges monitor compliance by on-site examination.[36] The NASD has added new items for reporting compliance with these unique exchange rules to its own examination checklists and has adopted examination procedures for ascertaining the extent of compliance with such rules. In addition, the NASD has conducted training seminars to introduce the new items on its examination checklists to its examiners and to advise them concerning related examination procedures.

The Commission is at present unable to determine whether the comparison of examination checklists which the NASD conducted with each of the BSE, CSE, MSE, and PSE identified all of those exchanges' unique rules. The Commission has therefore conditioned further consideration of the BSE, CSE, MSE, and PSE Plans on submission by the respective parties within 180 days of the date of this Order of a side-by-side comparison of those rules of the NASD and the given exchange which cannot be monitored by marketplace surveillance. Unique exchange rules shall be identified and then categorized as either regulatory rules or administrative and housekeeping rules. In addition, all parties must submit as a condition of further consideration of their Plans an index correlating the rules and regulations under the Act and the NASD and exchange rules with which compliance cannot be monitored by marketplace surveillance with the items under which compliance is to be reported in existing examination checklists of both the NASD and the given exchange.[37] These exercises will further clarify the parties' respective responsibilities under the plans and enable the Commission's staff to upgrade its oversight of the NASD's and exchanges' examining programs for both dual and sole members.

Although the parties have not persuaded the Commission thatt hey have isolated every unique exchange rule with which the NASD must examine for compliance both under the plans and in accordance with the terms and conditions set forth in this Order, the Commission does not find that the NASD's examination program as contemplated is inadequate. To the contrary, the Commission has determined that while the NASD's checklists and procedures may require amendment or revision, they nevertheless constitute an acceptabe mechanism for monitoring compliance with applicable statutes, rules, and regulations. The Options Study and other Divison staff are currently reviewing the NASD's proposed standardized options compliance procedures and, after the conclusion of the Options Study, the Division staff will continue to monitor, as a matter of course, the sufficiency of all examination procedures established by the NASD. Division staff will also continue to conduct oversight examinations of the NASD and the exchanges to determine whether they are conscientiously discharging their regulatory responsibilities under both the Act and the plans.

2. Availability of Staff

Shortly after the plans were signed and disclosure of their terms was made, the Division staff redesignated to the NASD, pursuant to delegated authority, nearly 180 dual members for which either the BSE, MSE, or PSE had been the DEA under § 240.17d-1, substantially decreasing the examining staff requirements of those exchanges.[38]

The NASD, on the other hand, has assimilated into its regular surveillance and annual examination programs for NASD-designated firms those dual members redesignated to the NASD from the BSE, MSE, and PSE. The total number of routine examinations to be conducted annually by the NASD has increased, however, by only half as many as the number of dual members redesignated to the NASD, because the firms were formerly staggered on a two-year examination cycle.

The Commission's staff is reviewing the NASD's proposed budget for the fiscal year beginning September 1, 1978, which was submitted in connection with a proposed rule change recently filed by the NASD under section 19(b)(3) of the Act (15 U.S.C. 78s(b)(3)) to amend its schedule of member assessments.[39] The NASD based its proposed examining staff authorizations on a review of its current manpower requirements.

Commission staff will continue to monitor the NASD's performance under the Plans as a matter of course, and the Commission may consider alternative allocations of regulatory responsibilities if its review of the NASD's regulatory capabilities and procedures and its staffing, among other factors, indicates that it is unable to fulfill adequately its responsibilities under the Act and Plans, or if the allocation of responsibilities in these Plans becomes inconsistent with the purposes of the Act.

3. Convenience of Location

The NASD has district offices in fourteen cities throughout the country, including four of the five cities in which the BSE, CSE, MSE, and PSE have trading floors. The Commission believes that the allocation to the NASD of regulatory responsibility with respect to dual members is consistent with considerations of convenience of location.

4. Unnecessary Regulatory Duplication

The designation of the NASD as examining authority for dual members under § 240.17d-1 relieved the exchanges only of their responsibility to monitor such firms for financial responsibility compliance. The BSE, CSE, MSE, and PSE retained their responsibility with respect to such dual members to conduct on-site examinations for compliance with other than financial responsibility rules. The Plans eliminate unnecessary regulatory duplication by consolidating the on-site examining responsibilities which the NASD and the exchanges otherwise would continue to have and then allocating it to a single SRO, i.e., the NASD.

The Plans, however, will subject approximately 20 dual members to duplicative standardized options compliance examinations by both the NASD and the American Stock Exchange, Inc. ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), or Philadelphia Stock Exchange, Inc. ("Phlx").[40] The Commission has decided, however, not to object to this apparent overlap in examining responsibility at least until it has had an opportunity to review the findings and recommendations of the Options Study regarding surveillance of brokers and dealers transacting business in standardized options.

The Commission has also determined that centralization of membership services reduces unnecessary regulatory duplication with respect to dual members subject to the applicable portions of the Plans. The Plans consolidate the processing of requests concerning branch office openings, closings, and address changes as well as the review of Form U-4 and other submissions regarding persons associated, and seeking to become associated, with certain dual members, and the Plans allocate responsibility for these functions to the NASD. The Commission believes that this allocation of responsibility will reduce the aggregate cost of self-regulation and, by eliminating the exchanges' individual filing requirements, will reduce the cost of compliance to dual members subject to the membership services provisions of the Plans. In addition, as contemplated by the Commission in adopting §§ 240.19d-1 and 240.19h-1, the Plans establish procedures for coordinating the parties' notice filings with respect to persons denied association with such dual members or admitted or continued despite a statutory disqualification.

The Commission has determined that the allocation Plans also reduce unnecessary regulatory duplication by consolidating and allocating to a single SRO the responsibility for performing investigative and disciplinary functions which might otherwise be performed both by the NASD and one or more of the exchanges. The NASD is allocated enforcement responsibility unless an exchange has a peculiar interest in a proceeding, and the Commission finds this allocation to be reasonable, because the NASD's on-site examinations would make the surrounding facts more readily accessible to the NASD than to the exchanges. In both cases, a single SRO shall be responsible for filing notice under § 240.19d-1 if any action it takes results in a final disposition of charges.

C. STATUTORY PURPOSES

Motivated in part by concern that significant segments of the securities industry had been unresponsive to economic change and technological innovation, Congress enacted the 1975 Amendments which gave the Commission "broad authority" to oversee the implementation, operation and regulation of [a] national market system. . . ." [41] Major goals of the 1975 Amendments are to promote efficiency in the nation's capital markets and to provide protection to investors transacting business in those markets.[42] In furtherance of these goals not only does section 17(d)(1) of the act permit the Commission to relieve an SRO of regulatory responsibilities with respect to its dual members, but section 11A(a)(3)(B) also permits the Commission to authorize or require SROs to act jointly with respect to, among other things, regulating matters as to which they share authority under the Act.

While the Commission anticipates that the regulatory pattern will undergo changes as a national market system emerges, the Commission believes that these Plans may facilitate the development of a rational regulatory pattern for the national market system. The Plans promote efficiency by reducing costs to both the dual members subject to the Plans and the exchanges which have been granted relief from responsibility under then.

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[27] NASD/CSE, section 5; NASD/BSE, section 5; NASD/MSE, section 4; NASD/PSE, section 5.

[28] NASD/BSE, section 3; NASD/CSE, section 3; NASD/MSE, section 2; NASD/PSE, section 3.

[29] NASD/BSE, Section 2; NASD/PSE, Section 2.

[30] NASD/BSE, Section 10.

[31] NASD/PSE, Section 10.

[32] NASD/CSE, Section 2.

[33] NASD/BSE at 8; NASD/CSE at 4; NASD/MSE at 8; NASD/PSE at 8.

[34] SRO's were not intended to become insurers of their members' compliance. *Senate Report, supra* note 4, at 33-34.

[35] Section 17(d)(1) of the Act, 15 U.S.C. 78q(d)(1).

[36] The NASD has not amended its examination checklists or procedures to accommodate unique CSE rules since the CSE currently is in the process of an extensive revision of its rules and, had the NASD adopted new checklist items or procedures based on existing CSE rules, they would soon have been obsolete.

[37] Since the CSE has indicated that it intends to file extensive revisions to its existing rules, those rule changes should be used as the basis for the CSE's comparison, classification, and correlation. If the Commission does not approve the rule change proposal in sufficient time to permit the parties to prepare the rules comparison, classification, and correlation within 180 days of the date of this Order, the CSE may petition the Commission eitehr to extend the time within which such submissions must be made or to direct the parties to use the CSE's unamended rulesd. In the event that the CSE becomes the examining authority for any dual or sole member, it will be required to submit promptly an examination checklist and correlation of its rules to its examination checklist.

[38] The CSE had no firms designated to it under § 240.17d-1.

[39] *See* Securities Exchange Act Release No. 15067 August 16, 1978), 43 FR 37046 (August 21, 1978).

[40] This pattern would continue if the Commission approves an allocation plan filed by the five exchanges which trade standardized options. This Amex/CBOE/Phlx/MSE/PSE plan would allocate the responsibility to conduct on-site examinations of brokers and dealers qualified to trade standardized options on two or more such exchanges for compliance with rules governing such transactions. *See* Securities Exchange Act Release No. 14153 (November 9, 1977), 42 FR 59337 (1977).

[41] *Senate Report, supra* note 4, at 7.

[42] *Id.* at 2.

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In addition, the Plans promote investor protection by reallocating the respective responsibilities of the parties so that the locus of the parties' examining and enforcement responsibilities is in one SRO with established interfaces with the other parties.

The Plans and the preparations for their implementation which the parties have made are achievements in cooperation. By coordinating their regulatory functions in accordance with the Plans, the BSE, CSE, MSE, NASD, and PSE will reduce unnecessary regulatory duplication.

D. CONDITIONS

1. Conditions of Approval

This Order gives effect to the Plans subject to the terms and conditions set forth herein. This Order therefore gives no effect to any provision of such Plans as proposed by the parties which is either inconsistent or incompatible with the parties' respective responsibilities under the Plans as described in this Order. Furthermore, any responsibility performed in accordance with such description shall be deemed by all persons to be a responsibility performed under the Plans, whether or not such responsibility is consistent with the proposed allocation of responsibility under the Plans as filed by the parties. The parties shall notify any dual member affected by the Plans of its rights and obligations thereunder.

2. Conditions of Further Consideration

The Commission has determined, upon due consideration of the factors which it must consider in taking action on an allocation plan filed pursuant to § 240.17d-2, that the Plans between the NASD and each of the BSE, CSE, MSE, and PSE are necessary and appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among SROs, and to remove impediments to and foster the development of a national market system. In addition, the Commission has determined that temporary approval of the Plans is not inconsistent with the requirements of sections 6(b)(1) and 15A(b)(2) of the Act (15 U.S.C. 78f(1) and 78o-3(b)(2)).

The parties must nevertheless allocate certain regulatory responsibilities and articulate certain procedures, which the Plans as filed do not explicitly address, before the Commission will consider the Plans further. The Commission understands that some of these functions and procedures are already the subject of informal, working agreements among the parties, although the Commission has not formally relieved any SRO of responsibility thus allocated.

Specifically, as a condition of further consideration of any Plan which is the subject of this Order, the parties must submit within 180 days of the date of this Order or any extension of such time granted by the Commission ("submission period"), remedial amendments to such Plan (1) conforming the allocation of responsibility thereunder to that mandated by the Commission in this Order, (2) allocating the responsibility to receive and process customer complaints, (3) allocating the responsibility to review and approve or disapprove dual members' advertising, (4) committing to the discretion of the NASD the decision whether to conduct a special or cause examination of a dual member under the Plans, and (5) providing for the resolution of disputes which may arise between the parties regarding the interpretation of the Plans or the parties' performance thereunder. Further consideration of any such Plan is also conditioned on the parties' submission of the rules comparison, correlation, and classification described herein during the submission period. As an additional condition on further consideration of the MSE Plan, the NASD and the MSE must submit within the submission period an amendment establishing whether, subsequent to the period of temporary approval, the MSE shall compensate the NASD for performing regulatory functions under the Plan and, if not, what procedural steps the NASD must take to impose charges at a future date.

It is therefore ordered, pursuant to sections 17(d) and 11(a)(3)(B) of the Act (15 U.S.C. 78q(d) and 78k-1(a)(3)(B)) that, for a period of 270 days from the date of this Order, unless such period is otherwise extended by the Commission, that the Plans, between the NASD and BSE, the NASD and CSE, the NASD and MSE, and the NASD and PSE filed pursuant to § 240.17d-2 are approved subject to the terms and conditions set forth in this Order.

It is further ordered that the BSE, CSE, MSE, and PSE are relieved of those responsibilities allocated to the NASD by such Plans as approved subject to the terms and conditions set forth in this Order.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28191 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 20715; 70-6209]

CONSOLIDATED NATURAL GAS CO.

Notice of Proposal by Holding Company To Act as Surety on Bond of Public Utility Subsidiary Company

SEPTEMBER 25, 1978.

Notice is hereby given that Consolidated Natural Gas Co. ("Consolidated"), 30 Rockefeller Plaza, New York, N.Y. 10020, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

On May 3, 1978, Hope Natural Gas Co., a division of Consolidated's wholly owned public utility subsidiary company, Consolidated Gas Supply Corp. ("Supply Corporation"), filed revisions in its rate schedules with the Public Service Commission of West Virginia providing for increased rates and charges approximating $25,068,634 per year for furnishing natural gas service in the State of West Virginia. By action of the State commission, the effectiveness of the new rates was suspended until October 1, 1978. The new rates may now become effective upon the filing by Supply Corp. of a bond, with satisfactory surety, in the amount of $25,000,000, for the payment of any customer refunds which the State commission may order. The State commission has indicated that Consolidated may act as surety on such bond. Consolidated proposes, without fee or other consideration, to act as surety on the bond of Supply Corp. to save the cost of securing an outside corporate surety.

The fees and expenses incurred by Supply Corp. in connection with the proposed transaction are estimated at $2,250, including charges of $200 for the services, at cost, of Consolidated Natural Gas Service Co., Inc., Consolidated's wholly owned service company, and miscellaneous out-of-pocket expenses estimated at $50. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28192 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 20714; 70-6093]

FALL RIVER ELECTRIC LIGHT CO. AND MONTAUP ELECTRIC CO.

Notice of Proposed Increase in Short-term Borrowing Authorization

SEPTEMBER 22, 1978.

Notice is hereby given that Fall River Electric Light Co. ("Fall River") 10 North Main Street, Fall River, Mass. 02722, and Montaup Electric Co. ("Montaup"), P.O. Box 391, Fall River, Mass. 02722, both electric utility subsidiary companies of Eastern Utilities Associates, a registered holding company, have filed a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to sections 6(a)(1), 7 and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2) and 50(a)(2) promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 22, 1977 (HCAR No. 20355), Fall River and Montaup were authorized to make borrowings from banks through December 26, 1978, in the amounts of $5,850,000 and $21,600,000, respectively. By post-effective amendment Montaup requests that its borrowing authorization be increased to $32,300,000 through December 26, 1978. It is stated that such increase is necessary due to an increase in Montaup's estimated construction expenditures and the postponement of previously contemplated long-term financing of Montaup.

With respect to such notes to banks for which compensating balances of 20 percent are required, the notes will bear interest at not in excess of the prime or base rate in effect on the date of issuance of from time to time. With respect to such notes to banks for which no compensating balances are required, the notes will bear interest at not in excess of an effective rate derived from the prime or base rate in effect on the date of issuance, or from time to time, together with an assumed compensating balance of 20 percent. All notes will provide for prepayment in whole or in part without penalty. Based on a prime rate of 9½ percent, the effective cost of money would be 11.9 percent.

Proceeds from the borrowings will be used for construction expenditures, for meeting compensating balance requirements of lending banks, and to pay short-term debt at or before maturity through December 26, 1978. Construction expenditures for Fall River and Montaup for the 12-month period ending December 26, 1978, are estimated at $2,426,000 and $19,062,000, respectively. It is stated that the proposed issuance of notes is exempted from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(2).

There are no additional fees or expenses to be incurred in connection with the proposed transaction. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 19, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact of law raised by said amended application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28193 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 10416; 811-2705]

FINANCIAL MUNICIPAL BOND FUND, INC.

Notice of Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That the Company Has Ceased to be an Investment Company

SEPTEMBER 25, 1978.

Notice is hereby given that Financial Municipal Bond Fund, Inc. ("Applicant") P.O. Box 2040, 1050 South Broadway, Denver, Colo. 80201, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 21, 1978, and an amendment thereto on September 15, 1978, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicat has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of Colorado, registered under the Act on November 15, 1976, and concurrently filed a registration statement on Form S-5 under the Securities Act of 1933 for the public offer and sale of shares of its common stock. Applicant states that this registration statement was never declared effective and has caused such registration statement to be withdrawn.

Applicant represents that it currently has no assets, no outstanding debts, and no security holders, and that it is not a party to any pending litigation or administrative proceeding. Applicant states that it is not currently engaged, and does not propose to engage,

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in any business activities, and that it is currently in the process of being dissolved pursuant to Colorado State law, and in accordance with the requirements thereof, has filed a statement of intent to dissolve with the Colorado Secretary of State.

Section 8(f) provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28194 Filed 10-4-78; 8:45 am]

[8010-01]

[Release No. 10417; 812-4364]

INVESTORS MUNICIPAL-YIELD TRUST, SERIES 1 (AND SUBSEQUENT SERIES) AND VAN KAMPEN SAUERMAN INC.

Notice of Filing of Application for an Order Granting Exemptions

SEPTEMBER 25, 1978.

Notice is hereby given that Investors' Municipal-Yield Trust, Series 1 (and Subsequent Series) ("Trust") 208 South LaSalle Street, Chicago, Ill. 60604, a unit investment trust registered under the Investment Company Act of 1940 ("Act") and its Sponsor, Van Kampen Sauerman Inc. ("Sponsor") (hereinafter the Sponsor and the Trust are referred to collectively as "Applicants"), have filed an application on September 8, 1978, and an amendment thereto on September 22, 1978, for an order of the Commission (a) pursuant to Section 6(c) of the Act exempting the Applicants from the provisions of Sections 14(a) and 22(d) of the Act, and Rules 19b-1 and 22c-1 under the Act, and (b) pursuant to section 11 of the Act permitting the Trust to offer its Units at net asset value plus a fixed dollar sales charge pursuant to a conversion option. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summerized below.

Series 1 of the Trust is a unit investment trust, and is the first of a series of similar but separate trusts which the Sponsor intends to form (hereinafter all such subsequent Series are collectively referred to as the "Series"). The Series will be created under the laws of the Commonwealth of Massachusetts pursuant to separate trust agreements, such agreements containing certain standard terms and conditions of trust common to all the Series. The Applicants represent that the investment objective of each Series will be to seek both federally tax-exempt income and the preservation of capital through the investment in a portfolio of tax-free municipal bonds ("Bonds") and, subject to certain limitations, Units of previously issued Series of the Trust (the Bonds and previously issued Units are collectively called herein the "Trust Securities"). The Trust Securities which will constitute the portfolio of each Series will be selected in advance and will be identifiable in respect of each Series on the date of deposit with the Trustee.

The Sponsor has filed a Form S-6 Registration Statement under the Securities Act of 1933 ("1933 Act") covering fractional undivided interests in Series 1 to be offered to investors at a public offering price set forth in the prospectus included in the S-6 Registration Statement. The 1933 Act Registration Statement has not yet become effective. The Sponsor has also filed a Form N-8A Notification of Registration and a Form N-8B-2 Registration Statement under the Act relating to Series 1.

Each Series of the Trust will be governed by the provisions of a trust indenture and agreement ("Indenture") to be entered into by the Sponsor and a corporation organized and doing business under the laws of the United States or a State thereof, which is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus, and undivided profits of not less than $2,500,000 ("Trustee"). It is contemplated that the Bradford Trust Co. will serve as Trustee for Series 1. Standard & Poor's Corp. will serve as Evaluator for Series 1. A separate Indenture will be entered into each time a Series is created and activated and the Trust Securities which comprise its portfolio (or delivery statements relating to contracts for the purchase of such Trust Securities together with funds represented by cash or an irrevocable letter of credit issued by a major commercial bank in the amount required for their purchase) are deposited with the Trustee. Each Series will be substantially identical except as to size, number of Units and the individual Trust Securities in the portfolio.

When a Series of the Trust is created, the Sponsor and the Trustee will enter into an Indenture and the Trust Securities to constitute such Series of the Trust (or delivery statements relating thereto and funds for the purchase thereof as set forth above) will be delivered to and deposited with the Trustee by the Sponsor. Substantially concurrently, the Trustee will issue in the name of the Sponsor, or such other name as the Sponsor may direct, one or more certificates evidencing the ownership of all of the undivided interests in such Series of the Trust. These Units will be separately offered for sale to the public at prices based upon their then respective current net asset values, after the registration statement filed in respect thereto under the 1933 Act has become effective.

Applicants state that Trust Securities will not be pledged or be in any other way subjected to any debt at any time after they are deposited with the Trustee. The Sponsor has been accumulating Trust Securities for the purpose of deposit in Series 1 and will follow a similar procedure of accumulating Trust Securities for each subsequent Series.

The assets of the Trust may consist of Bonds initially deposited, such Bonds as may continue to be held from time to time in exchange for or substitution of any of the Bonds, accrued and undistributed interest, undistributed cash and Units of previously issued Series of the Trust. On the date of deposit, the maximum number of Units in the Trust of a Series and the Bonds which will comprise the respective portfolios are determined. No additional Units can be issued, although the number of Units outstanding may be reduced by redemptions. No additional Bonds can be deposited

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in the Trust except that under certain circumstances, refunding bonds issued in exchange and substituted for outstanding Bonds may be deposited with the Trustee. The Trustee may dispose of Bonds when events occur which may affect their investment stability and distribute the proceeds thereof in partial liquidation to Unitholders; and the Trustee must sell Bonds if necessary for the payment of the redemption price of Units tendered for redemption. The proceeds from such dispositions will be distributed to the holders of Units of the Trust ("Unitholders"), and not reinvested.

Each Unit of the Trust will represent a fractional undivided interest, the numerator of the fractional interest represented will be 1 and the denominator will be the number of Units issued and outstanding in any particular Series. Units are redeemable, and in the event that any Units are redeemed, the fractional undivided interest represented by each Unit will be increased accordingly. Units will remain outstanding until redeemed or until the termination of the Indenture. The Indenture may be terminated by 100 percent agreement of the Unitholders or, in the event that the value of Trust Securities shall fall below an amount specified, either upon direction of the Sponsor to the Trustee or by the Trustee without such direction. There is no provision in the Indenture for the issuance of any Units after the initial issuance and such activity will not take place (except to the extent that the secondary trading by the Sponsor in the Units is deemed the issuance of Units under the Act).

The Sponsor and/or certain of the Underwriters, while under no obligation to do so, intend to maintain a market for whole Units of the Trust and to offer to purchase such Units at prices in excess of the redemption price as set forth in the Indenture. In the absence of such a market, Unitholders may only be able to dispose of their Units by redemption.

SECTION 14(a)

Section 14(a) of the act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless: (1) The company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than 25 responsible persons within 90 days, or the entire proceeds received, including sales charge, will be refunded.

Applicants seek an exemption from the provisions of section 14(a) in order that a public offering of Units of the Trust as described above may be made. In connection with the requested exemption from section 14(a) the Sponsor agrees: (1) To refund, on demand and without deduction, all sales charges to purchasers of Units of a Series if, within 90 days from the time that a registration statement for a Series becomes effective under the Securities Act of 1933, the net worth of the Series shall be reduced to less than $100,000, or if such Series is terminated; (2) to instruct the Trustee on the date Trust Securities are deposited in each Series that in the event that redemption by the Sponsor of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 40 percent of the principal amount of Trust Securities originally deposited for such Series, the Trustee shall terminate the Series in the manner provided in the Indenture and distribute any Trust Securities or other assets deposited with the Trustee pursuant to the Indenture as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales charges to any purchasers of Units purchased from the Sponsor on demand and without any deduction.

The Sponsor has further represented that no Series of the Trust will be created which will contain in the portfolio on the date of deposit, Trust Securities (or delivery statements relating thereto and funds for the purchase thereof) having a face amount of less than $3,000,000. In the event the value of such Series should decrease to the greater of $1,000,000 or 20 percent of the amount of the Trust Securities initially deposited, for any reason, the Trustee may, and when so directed by the Sponsor shall, terminate and liquidate the Series. Thus, Applicants represent that it is highly unlikely that, except during the course of liquidation, the net worth of any Series would ever decline to $100,000 or less.

RULE 19b-1

Rule 19-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Distributions of interest and principal on each Series will be made to Unitholders semiannually unless a Unitholder elects to receive them monthly or quarterly. Applicants represent that distributions of principal constituting capital gains to Unitholders may arise in the following instances: (1) If an issuing authority calls or redeems an issue of Bonds held in the portfolio, the sums received by the Trust will be distributed on a pro-rata basis to each Unitholder on the next distribution date; (2) if Units are redeemed by the Trustee and Trust Securities from the portfolio are sold to provide the funds necessary for such redemption, each Unitholder will receive his pro-rata portion of the proceeds from the Trust Securities sold over the amount required to satisfy such redemption distribution; (3) if Bonds held in the portfolio are sold to maintain the investment stability of a Series of the Trust, the sums received by the Trust may be distributed on a pro-rata basis to each Unitholder on the next distribution date; and (4) as Bonds mature by their terms, the sums received by the Trust will be distributed on a pro-rata basis to each Unitholder on the next distribution date. In such instances, a Unitholder may receive in his distribution funds which constitute capital gains, since in some cases the value of the Trust Securities redeemed or sold may have increased since the date of their acquisition by the Trust.

As noted above, Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicants assert that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end, and that the operations of Applicants in this regard are squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, each Series of the Trust would be forced to hold any moneys which would constitute capital gains upon distribution until the end of its taxable year. The application contends that such practice would clearly be to the detriment of the Unitholders.

In support of the requested exemption, Applicants state that the dangers against which Rule 19b-1 is intended to guard do not exist in the situation at hand since neither the Sponsor nor the Trust has control over events which might trigger capital gains, e.g., the tendering of Trust Units for redemption and the prepayment of portfolio bonds by the issuing authorities. In addition, it is alleged that any capital gains distribution will be clearly indicated as capital gains in the accom-

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panying report by the Trustee to the Unitholder. Furthermore, Applicants assert that the sale of Bonds in an effort to maintain the investment stability of a Series of the Trust is an activity designed generally to prevent or to retard deterioration of values when certain adverse factors exist. These factors include a default in the payment of principal or interest on its Bonds, or an adverse change in the market, revenue, or credit factors affecting the investment stability of the Bonds. Finally, Applicants contend that sale of Bonds in an effort to maintain investment stability of any Series is not expected to result in capital gain dividends to the Trust or its Unitholders because the above factors will normally have a depressing effect on the market value of the Bonds.

RULE 22c-1

Applicants state that following the initial offering period, the Sponsor and/or certain of the Underwriters, while not obligated to do so, intend to offer to purchase whole Units in the secondary market at prices based on the offering side evaluation of the Trust Securities in any Series, determined on the last business day of each week, effective for all sales made during the following week.

Applicants also state that the Sponsor has undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide estimate evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsor will order a full evaluation. The Sponsor agrees that, in case of the resale of Units in the secondary market, if the Evaluator cannot state that the previous Friday's price is not more than one-half point ($5 on a Unit representing $1,000 principal amount of underlying Trust Securities) greater than the current offering price, a full evaluation will be ordered. Under these circumstances, the Applicants contend that the exemption of the Sponsor from the provisions of Rule 22c-1 will in no way affect the operations of the Trust and will benefit the Unitholders by providing a repurchase price for their Units which is in excess of the current net asset value of such Units as computed for redemption purposes.

Rule 22c-1 provides, in pertinent part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants state that Rule 22c-1 has two purposes: (1) To eliminate or to reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption or repurchase of such securities at prices other than their current net asset values; and (2) to minimize speculative trading practices in the securities of registered investment companies.

The secondary market activities of the Sponsor and/or the Underwriters and the manner for the acquisition by investors of new Units, may be deemed to violate Rule 22c-1 because of the absence of daily pricing. Applicants contend, however, that the purposes of Rule 22c-1 will not be offended by the Sponsor and/or the Underwriters in the secondary market activities. Applicants assert that the pricing of Units by the Sponsor in the secondary market will in no way dilute the assets of the Trust, and that Unitholders will benefit from the sponsor's pricing procedure in the secondary market since they will normally receive a higher repurchase price for their Units than they could by redeeming their Units at the current net asset value, and that this will be accomplished without the cost burden to the Trust of daily evaluations of the Unit redemption value.

Applicants also contend that speculation in Units of any Series is unlikely because price changes are limited in respect to the kind of Trust Securities which will be held by such Series. In addition, Applicants argue that because of the nature of the Trust Securities price changes are gradual and depend largely on general changes in interest rates. To avoid the Sponsor receiving more than the specified sales charge on the resale of Units, the Sponsor has undertaken not to resell any Units which it may repurchase at a price below the offering side evaluation of the Trust Securities in any Series.

Applicants therefore request an exemption from the provisions of Rule 22c-1 for Series 1 and for all subsequently created Series insofar as the Rule may apply after completion of the primary distribution of Units of such Series.

SECTION 22(d)

A. ARO PLAN

Applicants propose to offer the right to participate in an automatic reinvestment option ("ARO Plan") to Unitholders of record in each of its Series who have selected the semiannual plan of distribution. This ARO Plan will permit Unitholders to invest income and capital gain dividends made to them on a predecessor Series of the Trust into Units of a subsequent series of the Trust ("Reinvestment Series") at a reduced sales charge. Applicants state that its Unitholders will be able to join the ARO Plan at any time by delivering to the Trustee an Authorization Form. Likewise, a participant may withdraw at any time upon written notice to the Trustee. To assist in withdrawals, the Trustee intends to establish a toll-free telephone number. However, if notification of withdrawal has not been given to the Trustee prior to a particular semiannual distribution date, the participant will be deemed to have elected to participate in the ARO Plan with respect to that particular distribution, and his withdrawal will become effective for the next succeeding distribution. Unless the withdrawing participant specifically indicates in his withdrawal notice that he wishes to withdraw from the ARO Plan for less than all of the Series of the Trust which he might then own (specifically indentifying which Series he desires to continue in the ARO Plan), he will be deemed to have withdrawn completely from the ARO Plan in all respects. Once a participant has withdrawn completely from the ARO Plan he will only be allowed to again participate in that Plan by submitting an Authorization Form stating that he desires to again participate in the ARO Plan.

Each participant will have his interest and principal distributions reinvested on the corresponding distribution date in the appropriate Reinvestment Series of the Trust. Applicants represent that they intend to see to it that each Reinvestment Series will be declared effective by the Commission in sufficient time to allow distribution to Plan participants of final prospectuses relating to such Reinvestment Series. As presently contemplated, it is intended that each Reinvestment Series will become effective on or before each semiannual record date for determining who is eligible to receive distributions on the related Distribution Date. Applicants state that if a Reinvestment Series has not been declared effective in such sufficient time, the ARO Plan will be suspended with respect to that Series and recommenced with the next succeeding Series. In such a case, a participant would receive his normal cash distribution. Applicants represent that fractional Units in the denomination of tenths will be purchased under the ARO Plan and any excess cash from each distribution not used to purchase such Units will be distributed to the respective Plan participants.

Applicants have agreed that in the event any Reinvestment Series should materially differ from the particular Series of the Trust into which participants in the ARO Plan originally invested or the preceding Reinvestment Series, the Unitholders' authorization

to participate in the ARO Plan will be voided, and after filing of a registration statement under the 1933 Act for such Reinvestment Series, ARO Plan participants will be provided with a prospectus meeting the requirements of section 10(a) of the 1933 Act for such Reinvestment Series, a notice of the material change and an Authorization Form which would have to be returned to the Trustee before a Unitholder would again be able to participate in the ARO Plan.

In order that distributions may be reinvested on the next succeeding Distribution Date, the Authorization Form must be received by the Trustee no later than the 15th day of the month preceding such Distribution Date. Any Authorization Form received after such date will result in the commencement of reinvestment on the second Distribution Date thereafter. Once delivered to the Trustee, an Authorization Form will, except in the following instance, constitute a valid election to participate in the ARO Plan for each subsequent distribution as long as the Unitholder continues to participate in the ARO Plan.

Unless a Unitholder notifies the Trustee in writing to the contrary, any Unitholder who has acquired Units through the ARO Plan will be deemed to have elected the semiannual plan of distribution and to participate in the ARO Plan with respect to distributions made in connection with Units so purchased under the ARO Plan. A Unitholder may withdraw from the ARO Plan with respect to distributions related to Units purchased under the ARO Plan and remain in the ARO Plan with respect to Units acquired other than through the ARO Plan. All distributions made with respect to Units purchased under the ARO Plan will be accumulated with distributions generated from the Units of the Series of the Trust used to purchase such additional ARO Plan Units, but no distributons generated from Units of other Series of the Trust will be accumulated with the foregoing disributions for ARO Plan purchases. Thus, if a person owns Units in more than one Series of the Trust (which are not the result of purchases under the ARO Plan), distributions with respect thereto will not be aggregated for purchases under the ARO Plan. Any funds not utilized to purchase Units in the denomination of tenths in the Reinvestment Series will be automatically distributed by the Trustee on the Distribution Date. Confirmations of sales relating to Units purchased under the ARO Plan will be provided in the name of the ARO Plan participant in the normal course of business. However, certificates representing Trust Units purchased under the ARO Plan will not be sent to participants, except upon request. Both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the ARO Plan at any time. All participants will receive notice of any such suspension, modification, or termination.

Units of each existing Series of the Trust will be offered at a public offering price of approximately $1,050 per Unit plus accrued interest. However, as noted above, it is the Sponsor's intention to permit purchases under the ARO Plan of fractional Units in the denomination of tenths rather than require purchases of full Units. The purpose of allowing purchases of fractional Units is to allow a minimum purchase requirement in the primary distribution of Trust Units, but at the same time permit maximum use of distributions for purchases through the reinvestment program.

Applicants propose to offer Reinvestment Series Units under the ARO Plan at a price reflecting a sales charge of 3½ percent of the underlying net asset value of the Trust Securities in such Series rather than the customary 4½ percent sales charge which applies to all primary and secondary sales of Units in the various Series of the Trust (including primary and secondary sales of Reinvestment Series Units purchased other than through the ARO Plan).

Section 22(d) of the act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus. Rule 22d-1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed ARO Plan.

In support of the request, Applicants assert that applying a sales charge of less than the customary 4½ percent charge in the case of ARO Plan purchases is beneficial to ARO Plan participants, and also warranted in light of the related cost savings. Applicants state that approximately 3½ percent of the customary 4½ percent sales charge is attributable to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Sponsor's specific product. Applicants represent that each Reinvestment Series will be substantially similar to the Series of the Trust which the ARO Plan participant originally purchased with the exception of the make-up of the Series portfolio and certain portfolio related information. Consequently, the support for that portion of the sales charge attributable to counseling the participant on the Sponsor's product is reduced, as is the selling effect relating to initial solicitations. It is the Applicants' belief that cost savings related thereto should be passed on to ARO Plan participants.

However, with respect to any particular Reinvestment Series, Applicants believe a participant may seek professional advice and, thus, a reduced sales charge for such financial services is warranted. It is the Applicants' belief that a charge of 1½ percent of the net asset value of the underlying Trust Securities in each Reinvestment Series (or assuming a net asset value of approximately $1,000 per Unit, a sales charge of $15 per Unit) is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series.

Applicants further assert that implementation and continuation of the ARO Plan will create special out-of-pocket costs which should properly be borne by the ARO Plan participants. It is the Sponsor's belief that the special out-of-pocket expenses related to the ARO Plan (including such items as: (a) Maintaining Trustee records on participants, (b) mailing, shipping, and miscellaneous delivery charges, (c) maintaining a toll-free telephone number with knowledgeable operators, and (d) separate printing charges) will amount to $10 per unit (assuming the above net asset value, 1 percent of such value). Finally, prior experience indicates that the normal out-of-pocket costs for establishing each Series of the Trust approximate 1 percent of the underlying net asset value of the Trust's portfolio. Applicants represent that all such costs will be covered in the proposed 3½ percent sales charge. Thus, Applicants conclude that the proposed 3½ percent sales charge for ARO Plan purchases not only passes through certain cost savings to ARO Plan participants but also charges such persons for reasonable expenses related to the creation of the ARO Plan, and for fees relating to periodic, professional, financial advice.

B. CONVERSION PLAN

Applicants propose to introduce a conversion option program (the "Conversion Plan") to Unitholders of the various series of Insured Municipals—Income Trust (the "Municipal Fund"), Investors' Corporate Income Trust (the "Corporate Fund") and Investors' Government-Guaranteed Income Trust (the "Government Fund") (Such Funds are collectively called

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herein the "Conversion Funds"). The Municipal Fund is comprised of a series of unit investment trusts, the portfolios of which are made up of tax-free municipal obligations (all of which are insured as to the timely payment of principal and interest by an independent insurance company or companies); the Corporate Fund is comprised of a series of unit investment trusts, the portfolios of which are made up of taxable corporate debt obligations; and the Government fund is comprised of a series of unit investment trusts, the portfolios of which are made up primarily of mortgage-backed securities of the modified pass-through type fully guaranteed as to principal and interest by the Government National Mortgage Association. The Conversion Funds are sponsored by Van Kampen Sauerman Inc. Under the Conversion Plan, as proposed, a Unitholder wishing to dispose of his Units in a Series of a Conversion Fund for which a secondary market is being maintained will have the option to convert his Units into Units of any Series of the Trust for which Units are available for sale. Applicants state that the purpose of the Conversion Plan is to provide investors in the Conversion Funds a convenient and less costly means of transferring interests as their investment requirements change. Applicants state that the Sponsor and/or certain of the Underwriters have indicated that they intend to maintain a market for the Units of each Series of the Conversion Funds and the Trust; however, there is no obligation to maintain such a market. Consequently, the Sponsor reserves the right to modify, suspend or terminate the Conversion Plan at any time without further notice to Unitholders.

Assuming a secondary market exists and Units of the Trust are available, a Unitholder who notifies the Sponsor of his desire to exercise his conversion option will be mailed a current prospectus for each Series in which the Unitholder indicates interest. The Unitholder may then select the Series into which he desires his investment to be converted. The conversion transaction will operate in a manner essentially identical to any secondary market transaction, except that Applicants propose to allow a reduced sales charge for all transactions effected under the Conversion Plan. Units of the Trust will be repurchased by the Sponsor and other Underwriters of them at the aggregate offering price per Unit of the underlying securities in the Trust and will be resold at that price per Unit plus a sales charge of 4½ percent of such offering price. Applicants propose (subject to the limitations set forth in the next paragraph with respect to conversions of Units of the Government Fund) to resell Units under the Conversion Plan at the Unit offering price of the underlying securities of the Trust plus a fixed charge of $15 per unit (or about 1½ percent of such offering price at current market values). The Unitholder will receive payment for any excess funds remaining in his account after the proceeds from his investment in the Conversion Funds are converted into full Units of the Trust.

Conversion transactions will only be effected in whole Units. To illustrate: Under the Conversion Plan a holder of three Units of a Series in the Municipal Fund with an offering price of $1,020 might seek conversion into Units of a Series of the Trust with an offering price of $880. In this example, the Unitholder's Units will total $3,060, which amount may be invested in Units of the Trust Series. Should three Units in a Series of the Trust be purchased the cost would be $2,685 ($2,640 for the Units and a $45 sales charge). The remaining $375 would be returned to the Unitholder in cash.

In connection with any conversion of Government Fund Units into Trust Units, certain limitations on the reduced sales charge are proposed, however, since certain inequities could arise in such conversions. Under the Conversion Plan, as it applies to Corporate Fund and Municipal Fund Unitholders, Applicants propose that such Unitholders be allowed to convert their Units into Units of the Trust for a special sales charge of $15 per Unit. Applicants assert that this porcedure is equitable to holders of all Funds involved since the sales charge relating to original purchases of Units in all such Funds amounts to 4½ percent of the net asset value of the portfolio underlying such Units (4.712 percent of the net amount invested). On the other hand, the sales charge relating to original purchases of Units in the Government Fund amounts to 3½ percent of the net asset value of the portfolio underlying the Units of the Government Fund (3.627 percent of the net amount invested). Thus, Applicants state that, although it is unlikely, it could be possible under certain circumstances for a person to acquire Units in the Government Fund and immediately convert such Units into Trust Units and pay a lower total sales charge than a person acquiring Trust Units at the same time directly. Under normal circumstances this situation is unlikely, since the initial sales charge on direct purchases of Units of the Government Fund (3½ percent of the net asset value) plus the conversion sales charge ($15 per Unit or approximately 1½ percent of the net asset value of Trust Units based on current market values) usually will exceed the sales charge related to direct purchases of Trust Units (4½ pecent of the net asset value). However, Applicants state that if the price of Trust Units were to increase sharply, the $15 sales charge on conversion could represent less than 1 percent of the net asset value in the Trust Units, in which case the converting Government Fund Unitholder could obtain an unfair price advantage when compared to investors making direct purchases of Units of the Trust.

Applicants assert, however, that after a Government Fund Unitholder has held his Government Fund Units for an adequate period of time the discriminatory nature of his effecting a conversion transaction is not as compelling, and thus argue that the possible abuses outlined above are not material if the converting Government Fund Unitholder has held his Government Fund units for at least an 8-month period of time.

Accordingly, Applicants propose that Unitholders of the Government Fund who have held their Units for a period of at least 8-months be allowed to acquire Trust Units under the Conversion Plan at net asset value plus a sales charge of $15 per Unit. Furthermore, Applicants propose that Government Fund Unitholders who wish to convert their Units into Units of the Trust prior to the expiration of the 8-month period be allowed to exchange such Units at net asset value plus a sales charge based on the greater of $15 per Unit or an amount which together with the initial sales charge paid in connection with the acquisition of the Units being converted equals 4½ percent of the net asset value of the Units of the Trust, determined as of the date of conversion.

Section 11(c) of the act provides among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of section 11(a) of the Act, irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any prinicpal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

As noted above, section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal under writer thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge for effecting regular secondary market purchases and sales of Units of the Trust will be greater than the sales charge which would be applicable to transactions under the Conversion Plan. Rule 22d-1 under the act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Applicants assert that applying a sales charge of less than the customary 4½ percent in the case of Conversion Plan transactions is both beneficial to investors and warranted in light of the related cost savings. Applicants state that a large portion of the customary 4½ percent sales charge is attributable to brokerage efforts to make the initial customer solicitation, and the remainder is primarily attributable to the ascertainment of the customer's financial requirements and to counselling on their specific products. Applicants represent that under the Conversion Plan the selling effort relating to initial solicitations will be eliminated, and thus Applicants argue that the cost savings related thereto should be passed on to the participating investors.

Applicants contend, however, that some investor charge is clearly warranted at the time of conversion since a broker may well need to review his customer's financial objectives and likely will have to counsel the customer on the particular investment vehicle involved. Applicants have concluded that the proposed $15 per Unit sales charge for Plan conversions will not only pass through cost savings to investors but also will charge such persons a reasonable fee which is related to the periodic, professional, financial advice that it is anticipated will be furnished to them.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 16, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E HOLLIS,
Assistant Secretary.

[FR Doc. 78-28195 Filed 10-4-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held October 24 through October 27, 1978, from 9 a.m. e.d.t. to 4 p.m. daily, except for the last day which will terminate at 1 p.m., in conference rooms 8A and B at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. Franklin L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 22, 1978.

F. L. CUNNINGHAM,
Executive Director, ATPAC.

[FR Doc. 78-27861 Filed 10-4-78; 8:45 am]

[4910-13]

[Docket No. AMS-550-34]

REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES FOR THE NATIONAL AIRPORT AND AIRWAY SYSTEM

Request for Recommendations from Users

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for recommendations.

SUMMARY: This notice requests, and is intended to elicit, recommendations from the users of the national airport and airway system on methods of reducing nonessential Federal expenditures for aviation. Congressional legislation requires annual consultation with the users of this system.

DATE: Recommendations must be received on or before January 25, 1979.

ADDRESS: Send recommendations in duplicate to: Federal Aviation Administration, Office of Management Systems, AMS-500, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Leonard B. Bell, Chief, Management Analysis Division (AMS-500), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8060.

SUPPLEMENTARY INFORMATION:

RECOMMENDATIONS INVITED

Interested users of the national airport and airway system are invited to submit such recommendations as they may desire in response to this notice. Communications should identify the docket number and be submitted in duplicate to: Federal Aviation Administration, Office of Management Systems, AMS-500, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before January 25, 1979, will be considered by the Administrator.

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AVAILABILITY OF NOTICE OF REQUEST FOR RECOMMENDATIONS

Any person may obtain a copy of this notice of request for recommendations by submitting a request to the Federal Aviation Administration, Office of Public Affairs, attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058.

DISCUSSION

Section 25 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704) provides as follows:

The Secretary of Transportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such system on methods of reducing nonessential Federal Expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users.

By § 1.47(f)(3) of the regulations of the Office of the Secretary of Transportation, the authority of the Secretary of Transportation in section 25 is delegated to the Administrator of the Federal Aviation Administration.

The first request for user views pursuant to section 25 was published in the FEDERAL REGISTER on August 1, 1977 (42 FR 38953). That notice drew 103 suggestions from 42 users, including the major organized user groups. The areas of principal interest shown by these users were: The way the air traffic control system operates, the amount of certification authority the FAA should turn over to State and aviation groups, and methods for controlling and reducing costs by reducing staffing, making organization changes, and improving administration.

The Administrator gave due consideration to all views and also advised users that the FAA has many significant activities under way that bear directly on the suggestions the users made. These include:

(1) Implementation of the first two phases of a Flight Service Automation Plan.

(2) Development of the Area Navigation Plan for direct flight routing.

(3) Proposals now in the rulemaking process to (a) develop new criteria for tower closings, and (b) revise Part 135 of the Federal Aviation Regulations which relates to air taxi operators and commercial operators of small aircraft.

(4) Elimination of approximately 320 internal headquarters reports, as the result of a special effort to reduce nonessential reporting requirements.

(5) Reduction of personnel, through hiring limitations, in many staff and support positions has resulted in considerable monetary savings.

(6) Development of Discrete Address Beacon Systems, Intermittent Positive Control, and other third generation projects, which will electronically provide the pilot with additional cockpit information.

(7) Consolidation of parts of the Airman's Information Manual into regional parts.

The principal authors of this document are James R. Askew, Office of Management Systems, and Howard A. Bartnick, Office of the Chief Counsel.

Accordingly, views and recommendations of users of the national airport and airway system are solicited on methods of reducing nonessential Federal expenditures for aviation and, in particular, on reducing, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from users.

(Sec. 25, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704); sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3)).)

Issued in Washington, D.C., on September 25, 1978.

BROOKS C. GOLDMAN,
Director, Office of Management Systems.

[FR Doc. 78-27860 Filed 10-4-78; 8:45 am]

[4910-06]

Federal Railroad Administration

[Docket No. RSSI-78-6; Notice No. 2]

ASSOCIATION OF AMERICAN RAILROADS REQUIREMENT FOR LIFTING LUGS

Temporary Stay

AGENCY: Federal Railroad Administration, DOT.

ACTION: Order temporarily staying effectiveness of industry standard.

SUMMARY: The Federal Railroad Administration (FRA) has determined that requirement of the Association of American Railroads (AAR) imposed with respect to all new freight cars ordered after July 1, 1978, should be temporarily stayed pending inquiry into the consequences of the requirement for railroad safety. The AAR action requires that lugs which could be used to lift an upright freight car be provided at four locations on the car body.

DATES: The order is effective October 5, 1978.

FOR FURTHER INFORMATION:

Rolf Mowatt-Larssen, 202-426-0924, or Grady Cothen, Jr., 202-426-8220.

SUPPLEMENTARY INFORMATION: The FRA has published in the Proposed Rules portion of today's FEDERAL REGISTER a notice of special safety inquiry soliciting comment on the impact of lifting lugs required by AAR Mechanical Division Circular D.V. 1897, entitled "Provisions for Lifting Freight Car," on the safety of wreck operations in the railroad industry. In light of the considerations set forth in the notice of special safety inquiry, *It is ordered*, That:

1. The requirements of AAR Mechanical Division Circular D.V. 1897 are hereby temporarily stayed;

2. The AAR may not deny issuance of a certificate of construction based on nonconformity to Circular D.V. 1897; and

3. This order shall remain in effect pending review by the FRA of the potential impact of Circular D.V. 1897 on the safety of railroad wreck clearance operations.

This order is effective on October 5, 1978, since the purpose of the stay is to permit car builders to construct cars without the lifting provisions required by the Circular pending review of the industry standard

(Sec. 202, 84 Stat. 971 (45 U.S.C. 431); § 1.49(n) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C., on October 2, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-28246 Filed 10-4-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. LVM 77-07; Notice 1]

OFFICINE ALFIERI MASERATI S.P.A.

Petition for Exemption from Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of receipt of a petition for exemption from average fuel economy standards.

SUMMARY: This notice announces the receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition submitted by Officine Alfieri Maserati S.p.A. (Maserati). The petition requests that the NHTSA exempt model year 1978-1980 passenger automobiles manufactured by Maserati from the generally applicable passenger automobile average fuel economy standards for those model years, and establish lower, alternative standards for those vehicles. In accordance with agency procedures, this notice summarizes the petition, describes the options available to the NHTSA in responding to the petition, and invites written public comment thereon.

COMMENT CLOSING DATE: October 30, 1978.

ADDRESS: Comments on the Maserati petition should refer to Docket No. LVM 77-07 and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automobile Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9383.

SUPPLEMENTARY INFORMATION: Part A of Title III of the Energy Policy and Conservation Act (Pub. L. 94-163) amended the Motor Vehicle Information and Cost Savings Act (hereinafter referred to as "the Act") by adding a new Title V. That title requires the Secretary of Transportation to implement and administer a program for improving the fuel economy of new automobiles sold in the United States. Authority to administer the program was delegated by the Secretary to the Administrator of the NHTSA; 41 FR 25015, June 22, 1976.

Section 502(a)(1) of the Act establishes average fuel economy standards for passenger automobiles at 18.0 miles per gallon (mpg) for 1978, 19.0 mpg for 1979, and 20.0 mpg for 1980. They then steadily rise to a level of 27.5 mpg for 1985 and thereafter. Under 49 CFR Part 523, Vehicle Classification, published at 42 FR 38362, July 28, 1977, passenger automobiles include station wagons, sedans, coupes, and sport cars.

Section 502(a) of the Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards if those standards are more stringent than the maximum feasible average fuel economy achievable by the low volume manufacturer, and if the NHTSA establishes alternative standards for the low volume manufacturer at the manufacturer's maximum feasible level. A low volume manufacturer under the Act is one which manufactures (within or without the United States) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (hereinafter "the affected model year"), and which manufactured fewer than 10,000 passenger automobiles in the second model year preceding the affected model year. In its determination of the maximum feasible average fuel economy, the NHTSA is required by the Act to consider—

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Part 525 of Title 49, Code of Federal Regulation, establishes the format and content requirements for petitions requesting exemption from the generally passenger automobile average fuel economy standards and describes the procedures that the NHTSA follows in acting on these petitions. Section 525.8 of that rule states that the NHTSA will publish a notice announcing receipt of a petition. This notice is published in response to that section.

Publication of this notice of receipt of a petition does not represent any agency decision or other exercise of judgment concerning the merits of Maserati's petition.

MASERATI'S PETITION

Maserati is an independent producer of "high performance automobiles". Maserati states that its "success in the passenger car market is largely based on its reputation for building high performance winning race cars and subsequently providing that same high performance know-how in commercial passenger cars." Annual sales in the United States are estimated as between 250 and 400 automobiles in the 1978 model year, and between 900 and 1600 automobiles in each of the 1979 and 1980 model years. To permit this increase in production, Maserati indicates that it will combine plant expansion with the use of outside contractors to produce components and subassemblies currently manufactured by Maserati.

At the present and through the end of model year 1980, this company will sell three vehicle configurations in the United States. A vehicle configuration is a classification of automobiles that includes all automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine, emission control system, transmission type (e.g., manual, automatic, or semi-automatic) and axle ratio. This is a simplification of the Environmental Protection Agency's definition of the term, which can be found at 40 CFR § 600.002-77(a)(24).

The V-6 Maserati for the 1978 model year achieves a combined fuel economy of 12.1 miles per gallon (mpg). The combined fuel economy for both the two- and four-door V-8 models for the 1978 model year is said to be 10.5 mpg. Maserati projects that 50 to 60 percent of its U.S. sales will be the V-6 model, 20 to 25 percent will be the two-door V-8, and 20 to 25 percent will be four door V-8 models. Based on this projected sales mix, Maserati indicated that its 1978 average fuel economy will be 11.3 mpg to 11.5 mpg.

For the 1979 and 1980 model years, Maserati projects that it will sell between 22 and 25 percent V-6 models, 11 to 19 percent two-door V-8's and 56 to 67 percent four-door V-8's. This mix shift will reduce Maserati's possible fuel economy for the 1979 model year. However, Maserati indicates in its petition that it will increase the combined fuel economy of its V-6 model by 0.5 mpg in the 1979 model year by producing a new more fuel efficient V-6 engine. No change is projected in the fuel economy to be achieved by Maserati's V-8 models in the 1979 model year. The net result of these changes will be to lower Maserati's average fuel economy for the 1979 model year to a level of 11.0 mpg.

For the 1980 model year, Maserati hopes to further refine the new V-6 engine, so that the fuel economy of V-6 models will increase 0.5 mpg over the 1979 levels to a combined fuel economy of 13.1 mpg. Additionally, Maserati's petition indicates that it plans to offer a small block V-8 engine in its V-8 models for the 1980 model year, and indicates that the use of this smaller engine will increase the fuel economy of V-8 models by 0.5 mpg above the 1979 level to a combined fuel economy of 11.0 mpg. The result of these engine improvements will be to raise Maserati's 1980 average fuel economy to a level of 11.4-11.5 mpg.

Maserati urges that its projected average fuel economy in each model year be found to be its maximum feasible average fuel economy in that model year. The company emphasizes in the petition that it produces high performance vehicles for a select group of customers. The petition states that when comparing power to fuel economy for other production engines of similar size, Maserati is always in the top bracket, and that this is especially true when compared to similar U.S. vehicles.

Maserati uses "rich-burn thermal reacters" as its emission control approach, and states that this gives it very low levels of exhaust emissions. Maserati states, however, that this emission control approach does not lend itself to optimization of fuel economy. The petition states that when the approach was selected in 1974, Maserati did not anticipate the need to satisfy fuel economy standards since fuel economy had never been a serious motivation for prospective Maserati purchasers.

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The petition indicates Maserati's opinion that the company's resources should be applied to the development of new fuel efficient high performance engines rather than to the improvement of existing engines, and that Maserati is currently engaged in that development. This opinion is based upon Maserati's conclusion that the existing engines could be recalibrated only to achieve a 10 percent fuel economy improvement, and this still leaves the fuel economy far below the requirements of the standards.

Maserati also states that its financial position will not allow it to make any major investments or explore alternative avenues for improving fuel economy. According to the petition, Maserati's plant was shut down for over a year because of the company's financial problems, which culminated in a reorganization. The company showed a net loss for the 1977 model year and expects a loss for the 1978 model year. With the increased sales projected for the 1979 and 1980 model years, Maserati hopes to show profits. The revenue could then be used by the company, according to the petition, to some degree to enable it to improve its fuel economy, while maintaining its high performance image.

The petition further indicates that Maserati intends to use a more advanced emission control technology on its automobiles for the 1981 and 1982 model years. Application of these technologies are expected to result in large fuel economy gains on Maserati automobiles. Maserati is also exploring the possibility of weight reduction and decreases in straight line acceleration for those model years.

Federal emission standards have impacted the fuel economy capabilities of Maserati's automobiles in the manner explained above. With respect to the Federal safety standards, Maserati states that the effects of these standards on fuel economy has not been measured by the company, but the company believes that the effect would be in direct proportion to the added weight requirements, and states that it believes the effects to be insignificant. However, the engineering and testing necessary to comply with the safety standards is said by Maserati to be inordinately expensive considering the few automobiles it sells in the U.S. each year, and any diversion of funds from fuel economy research for Maserati detracts from potential economy.

Because of all the foregoing factors, Maserati states that its currently planned average fuel economy levels of 11.3-11.5 mpg, 11.0 mpg, and 11.4-11.5 mpg for the 1978, 1979, and 1980 model years, respectively, are the maximum feasible average fuel economy levels for the company in those model years. However, the petition requests that the NHTSA exempt Maserati from the otherwise applicable average fuel economy standards for those model years, and establish alternative average fuel economy standards for Maserati of 11.0, 11.2, and 11.5 mpg for the respective model years. No reason was given for this discrepancy.

NHTSA Options

The NHTSA will carefully evaluate the Maserati petition and all comments received thereon. Following this evaluation, the NHTSA could find that Maserati plans to use all reasonably available means and strategies for improving its average fuel economy and that its projected average fuel economy for each affected model year is its maximum feasible average fuel economy for that model year. Alternatively, the NHTSA could find that Maserati has some additional means and strategies available to it to improve its average fuel economy above the projected level for one or all of the affected model years, and make a determination of the maximum feasible average fuel economy that could be achieved for each affected model year if those means and strategies were implemented.

If Maserati's maximum feasible average fuel economy for any affected model year is determined by this agency to be equal to or greater than the generally applicable standard, the petition will be denied for that model year. If Maserati's maximum feasible average fuel economy for any affected model year is determined to be less than the generally applicable standard, the petition may be granted for that model year.

If the petition is granted for any affected model year, the NHTSA will establish an alternative average fuel economy standard applicable to Maserati during that model year. The Act permits the NHTSA to establish that standard in one of three ways: (1) a standard may be established specifically for Maserati (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

Copies of the Maserati petition as well as supporting materials, other information, and any comments received, are available for public inspection in the docket section between 8 a.m. and 4 p.m., Monday through Friday.

Comments on the Maserati petition are invited from the public. These comments must be in writing, refer to Docket No. LVM 77-07, be submitted to the address for comments, and must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion. It is requested, but not required, that five copies of the comments be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered. Comments received after the closing date will be considered to the extent practicable. Comments received too late for consideration in developing a proposed decision on this petition will be considered in reaching a final decision.

Issued in Washington, D.C. on October 2, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-28110 Filed 10-4-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[520747]

AMERICAN MANUFACTURER'S PETITION

Further Extension of Time for Comments Concerning an American Manufacturer's Petition to Reclassify Cotton Denim Trousers Known as "Blue Jeans"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of further extension of time for comments.

SUMMARY: This notice further extends the period of time permitted for the submission of comments in response to a recent American manufacturer's petition to the Customs Service to reclassify certain cotton denim trousers for men and women, commonly referred to as "blue jeans." This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before November 3, 1978.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, attention: Regulations and Legal Publications Division, U.S. Customs Service, Room 2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Philip Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5865).

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 34236) a notice of receipt of an American manufacturer's petition, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting the reclassification of certain imported men's and women's cotton denim trousers known as "blue jeans". The petitioner contends that, under headnote 3, Schedule 3, Tariff Schedules of the United States (TSUS), the blue jeans are ornamented for tariff purposes, and are properly classifiable under item 380.00, TSUS, if for use by men or boys or item 382.00, TSUS, if for use by either sex or by women, girls, or infants.

Comments concerning the American manufacturer's petition were to have been received on or before September 5, 1978. The Customs Service was requested to extend the period of time for submission of comments in order to allow additional time for the preparation of responses to the American manufacturer's petition. Accordingly, a notice extending the period of time for submission of comments to October 4, 1978 was published in the FEDERAL REGISTER on September 6, 1978 (43 FR 39624).

Comments

The Customs Service has again been requested to extend the period of time for submission of comments in order to allow additional time for the preparation of responses to the American manufacturer's petition. On the basis of the interest which has been expressed by the public, as demonstrated by the substantial volume of comments received, the Customs Service has decided to extend the period of time for submission of comments to November 3, 1978. No further extensions of time will be granted.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

SEPTEMBER 29, 1978.

[FR Doc. 78-28088 Filed 10-4-78; 8:45 am]

[4810-22]

Fiscal Service

[Dept. Circ. 570. 1978 Rev., Supp. No. 5]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Correction

In FR Doc. 78-27088, appearing on page 43792, in the issue for Wednesday, September 27, 1978, the first paragraph should read as follows:

In FR Doc. 78-18299 appearing in the issue of Friday, June 30, 1978, on page 28693, the underwriting limitation listed for American Fidelity Fire Insurance Company of $371,000 should be corrected to read $532,000.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 35]

DECISION-NOTICE

Decided: September 21, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before November 6, 1978. Failure to file a protest, on or before November 6, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after October 5, 1978.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed on or before November 6, 1978 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 2, Members Boyle, Eaton, and Liberman (Review Board Member Boyle not participating).

H. G. HOMME, Jr.,
Acting Secretary.

MC 5470 (Sub-156F), filed August 31, 1978. Applicant: TAJON, INC., Rural Delivery 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over *irregular* routes, transporting: *Lime, limestone, and li-*

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mestone products, in dump vehicles, from Maple Grove, OH, to points in IL, IN, KY, MI, NY, PA, and WV. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 17051 (Sub-19F), filed August 4, 1978. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Elizabeth, NJ 07202. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, and *equipment, materials, and supplies* used in the manufacture and distribution of wearing apparel, (1) between the facilities of Ideal Outerwear, Inc., and Almax Sportswear, at (a) East Newark, NJ, and (b) New York, NY, on the one hand, and, on the other, points in TN, (2) between the facilities of Cooper Sportswear Manufacturing Co., Inc., at (a) Carteret, Newark, Perth Amboy, and Trenton, NJ, and (b) Johnstown, NY, on the one hand, and, on the other, points in GA, MS, and TN, (3) between the facilities of Bugaboo Manufacturing, Inc., at New York, NY, on the one hand, and, on the other, points in AL and TN, and, (4) between the facilities of Wendy Watts, Inc., at New York, NY, on the one hand, and, on the other, points in TN. (Hearing site: New York, NY, or Newark, NJ.)

MC 25798 (Sub-333F), filed August 25, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends of corn products* (except commodities in bulk), from Hammond, IN, to points in AL, FL, GA, NC, and SC. (Hearing site: Chicago, IL.)

MC 25798 (Sub-334F), filed August 25, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk, in tank vehicles), (1) from East Pepperell, MA, to points in CA, FL, GA, KY, LA, SC, and VA, (2) from Fitchburg, MA, to points in AL, CA, GA, OR, and VA, and (3) from Richmond, VA, to points in CA, CO, IA, NE, NV, NM, OR, and UT. (Hearing site: Washington, DC.)

MC 41404 (Sub-149), filed July 27, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, SC, OH, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Chicago, IL.)

MC 47142 (Sub-115F), filed July 28, 1978. Applicant: C. I. WHITTEN TRANSFER CO., a DE corporation, P.O. Box 1833, Huntington, WV 25719. Representative: J. G. Dall, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural limestone and gypsum*, in bags, from Irvington, KY, to those points in the United States in and east of LA, AR, MO, IL, and WI. (Hearing site: Washington, DC.)

MC 50935 (Sub-23F), filed August 21, 1978. Applicant: WOLVERINE TRUCKING CO., a corporation, 1020 Doris Road, Pontiac, MI 48057. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, MI, to Milwaukee, WI. (Hearing site: Detroit, MI.)

MC 52214 (Sub-1F), filed July 21, 1978. Applicant: RELIABLE TRANSPORT (U.S.), Ltd., 64 Mackinaw Street, Buffalo, NY 14202. Representative: S. Harrison Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Buffalo, NY, and the port of entry on the international boundary line between the United States and Canada at Buffalo, NY; over city streets, serving no intermediate points, restricted to the transportation of traffic originating at or destined to points in the Provinces of ON and PQ, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Buffalo, NY.)

NOTE.—The restriction and condition contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada," published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 59306 (Sub-5F), filed July 27, 1978. Applicant: NIEDERGERKE TRUCK LINE, INC., 107 West Fourth Street, Fulton, MO 65251. Representative: Frank W. Taylor, Jr., Suite 800, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Warrenton, MO, and East St. Louis, IL. (Hearing site: Kansas City or St. Louis, MO.)

MC 59367 (Sub-124F), filed July 24, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk), from the facilities of Termicold Corp., at or near Plover, WI, to points in AR, CO, IL, IN, IA, KS, MI, MN, MO, NE, NM, ND, OH, OK, and SD, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Portland, OR, or Milwaukee, WI.)

MC 103926 (Sub-74F), filed July 26, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal tanks*, (2) *aircraft refueler units*, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of General Steel Tank Co., at Birmingham, AL, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 105566 (Sub-177F), filed July 26, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Meredosia, IL, to points in AL, AZ, CA, CT, DE, FL, GA, ID, MA, MD, ME, NC, NJ, NV, NY, OR, PA, SC, TX, UT, and VA. (Hearing site: Washington, DC.)

MC 106398 (Sub-828F), filed August 23, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail home improvement, home furnishing, and lumber stores, (except commodities in bulk), between points in AL, AR, FL, GA, KS, KY, LA, MS, MO, NC, OK, SC, TN, TX, and VA. (Hearing site: Saginaw, MI.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106398 (Sub-832F), filed August 28, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and fittings, and accessories for pipe*, from the facilities of Consolidated Pipe & Supply Co., at Birmingham, AL, to points in the United States (except AK and HI). (Hearing site: Birmingham or Mobile, AL.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106398 (Sub-833F), filed August 31, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, (1) from the facilities of the GAF Corp., at (a) Annapolis, Kansas City, and St. Louis, MO, (b) Joliet, IL, and (c) Dallas, TX, and the facilities of GAF Corp., in Posey and Vanderburgh Counties, IN, to points in the United States (except AK and HI), (2) from the facilities of the GAF Corp., at Minneapolis, MN, to points in IA and WI, (3) from the facilities of the GAF Corp., at Baltimore, MD, to points in GA, NC, SC, PA, VA, and WV, (4) from the facilities of the GAF Corp., in Chatham County, GA, to points in AL, FL, KY, MS, NC, SC, TN, and VA, and (5) from the facilities of the GAF Corp., at Mobile, AL, to points in TX. (Hearing site: Washington, D.C.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107002 (Sub-532F), filed July 28, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay*, in bulk, in tank vehicles, from Jackson, MS, to points in CT, DE, IA, KS, MD, ME, MA, NE, NH, NY, ND, RI, SD, and VT. (Hearing site: Jackson, MS.)

MC 107002 (Sub-533F), filed July 28, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reclaimed solvent*, in bulk, in tank vehicles, from Corinth, MS, to New Albany, IN. (Hearing site: Jackson, MS, or Louisville, KY.)

MC 109124 (Sub-47F), filed July 31, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: *lime, limestone*, and *limestone products*, from the facilities of the National Lime & Stone Co., at or near Carey, OH, to points in IN, KY, NJ, PA, TN, WV, WI, and MO. (Hearing site: Columbus, OH.)

MC 110325 (Sub—88F), filed August 21, 1978. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90245. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, and Shreveport, LA, over Interstate Hwy 20, (2) between junction Interstate Hwy 20 and U.S. Hwy 80, near Terrell, TX, and junction Interstate Hwy 20 and U.S. Hwy 80, near Waskom, TX, from junction Interstate Hwy 20 and U.S. Hwy 80, near Terrell, over U.S. Hwy 80 to junction Interstate Hwy 20 and U.S. Hwy 80, near Waskom, and return over the same route, serving in routes (1) and (2) above, all intermediate points and all off-route points in Rockwall, Kaufman, Hunt, Van Zandt, Hopkins, Wood, Rains, Henderson, Smith, Upshur, Gregg, Rusk, Cass, Marion, Harrison, and Panola Counties, TX, (3) between Dallas and Port Arthur, TX, from Dallas over U.S. Hwy 175 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Port Arthur, and return over the same route, serving all intermediate points and all off-route points in Kaufman, Van Zandt, Henderson, Smith, Anderson, Cherokee, Houston, Nacogdoches, Angelina, Polk, Tyler, Jasper, Hardin, Orange, and Jefferson Counties, TX, (4) between Dallas and Houston, TX, over U.S. Hwy 75, serving all intermediate points, (5) between Houston and Orange, TX, over Interstate Hwy 10, (6) between junction Interstate Hwy 10 and TX Hwy 73 and Orange, TX, from junction Interstate Hwy 10 and TX Hwy 73, over TX Hwy 73 to Junction TX Hwy 87, then over TX Hwy 87 to Orange, and return over the same route, serving in routes (5) and (6) all intermediate points, and all off-route points in Jefferson, Orange, Hardin, Polk, Tyler, and Jasper Counties, TX, (7) between Houston and junction TX Hwy 35 and 288, over TX Hwy 35, serving all intermediate points, (8) between Houston and Freeport, TX, over TX Hwy 288, serving all intermediate points, (9) between Houston and Corpus Christi, TX, from Houston over U.S. Hwy 59 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Corpus Christi, and return over the same route, serving all intermediate points, and all off-route points in San Patricio, Neuces, Jackson, Victoria, and Refugio Counties, TX, (10) between Waco and Browns-

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ville, TX, from Waco over Interstate Hwy 35 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Brownsville, and return over the same route, serving all intermediate points, and the off-route points in Hill, McLennan, Bell, Falls, Caldwell, Milam, Williamson, San Patricio, Nueces, Travis, Hays, Comal, Guadalupe, Bexar, Hidalgo, Willacy, and Cameron Counties, TX, (11) between San Antonio and Brownsville, TX, over U.S. Hwy 281, serving all intermediate points, (12) between junction U.S. Hwy 281 and 59, and Brownsville, from junction U.S. Hwy 281 and 59, over U.S. Hwy 59 to junction Interstate Hwy 37, then over Interstate Hwy 37 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Brownsville, and return over the same route, serving all intermediate points, (13) between Waco and Corpus Christi, TX, over U.S. Hwy 77, serving all intermediate points, and the off-route points in San Patricio, Hill, McLennan, Bell, Milam, Williamson, Falls, Caldwell, Travis, Hays, Comal, Guadalupe, and Nueces Counties, TX, (14) between Victoria and San Antonio, TX, over U.S. Hwy 87, serving all intermediate points, (15) between San Antonio, TX, and junction Interstate Hwys 10 and 20, near Kent, TX, over Interstate Hwy 10, serving no intermediate points, (16) between Houston and San Antonio, TX, over Interstate Hwy 10, serving no intermediate points, (17) between San Antonio and Corpus Christi, TX, over U.S. Hwy 181, serving all intermediate points, and all off-route points in Bexar, Comal, Guadalupe, San Patricio, and Nueces Counties, TX, (18) between Angleton, TX, and junction TX Hwy 35 and U.S. Hwy 181 near Corpus Christi, TX, over TX Hwy 35, serving all intermediate points, and all off-route points in Matagorda, Jackson Calhoun, Victoria, Refugio, Aransas, San Patricio, and Nueces Counties, TX, (19) between Orange, TX, and Lake Charles, LA, over Interstate Hwy 10, (20) between junction Interstate Hwy 10 and U.S. Hwy 90, near Orange, TX, and Lake Charles, LA, over U.S. Hwy 90, serving in routes (19) and (20), all intermediate points, and all off-route points in Orange and Jefferson Counties, TX, and (21) between Marshall, TX, and Memphis, TN, from Marshall over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, serving no intermediate points, (Hearing site: Corpus Christi or Dallas, TX)

MC 113434 (Sub-105F), filed July 31, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (except commodities in bulk), from Napoleon OH, to points in MI, IN, and PA, (2) *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), from the facilities of Fostoria Distribution Service Co., at or near Fostoria, OH, to points in MI. (Hearing site: Detroit, MI, or Columbus, OH.)

MC 113678 (Sub-761F), filed August 31, 1978. Applicant: CURTIS, INC., a Delaware corporation, 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Frozen foods* (except commodities in bulk), from Tampa, FL, to points in AR, LA, OK, and TX. (Hearing site: Orlando; FL.)

NOTE.—In view of the findings in No. MC 113678 (Sub-No. 557) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 113678 (Sub-762F), filed August 31, 1978. Applicant: CURTIS, INC., a Delaware corporation, 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in section A of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except skins and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Garden City, KS, to points in AL, AR, FL, LA, and MS, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, KS/MO.)

NOTE.—In view of the findings in No. MC 113678 (Sub-No. 557) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 113678 (Sub-763F), filed August 31, 1978. Applicant: CURTIS, INC., a Delaware corporation, 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Washing and cleaning compounds*, (except commodities in bulk), from Los Angeles, CA, to points in CO. (Hearing site: Los Angeles, CA.)

NOTE.—In view of the findings in No. MC 113678 (Sub-No. 557) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 113855 (Sub-443F), filed August 18, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, between St. Joseph, MO, on the one, hand, and, on the other, points in the United States (including AK, but excluding HI and MO). (Hearing site: Kansas City, MO.)

MC 115496 (Sub-98F), filed July 26, 1978. Applicant: LUMBER TRANSORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corp., at (a) Canfield, Mingo Junction, Martins Ferry, Steubenville, and Yorkville, OH, (b) Beechbottom, Benwood, Follansbee, and Wheeling, WV, and (c) Allenport and Monessen, PA, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Cochran, GA, or Pittsburgh, PA.)

MC 115654 (Sub-102F), filed July 28, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th & Pennsylvania Avenue NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in AL, AR, GA, IL, IN, KY, LA, MI, MS, MO, and

OH. (Hearing site: Hackettstown, NY, or Nashville, TN.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115904 (Sub-111F), filed July 20, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, gypsum, gypsum products, and building materials*, and (2) *Materials* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), (1) between the facilities of United States Gypsum Co., at or near Sigurd, UT, on the one, hand, and, on the other, points in the United States in and west of MT, WY, CO, and NM (except AK and HI), and (2) between the facilities of United States Gypsum Co., at or near Heath, MT, on the one, hand, and, on the other, points in CO. (Hearing site: Washington, DC, or Salt Lake City, UT.)

MC 116254 (Sub-212F), filed July 28, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products*, in bulk, in tank vehicles, from Detroit, MI, to points in AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 117765 (Sub-245F), filed August 21, 1978. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, (1) from New Ulm, MN, Cincinnati, OH, and Monroe, WI, to points in OK, and (2) from Peoria, IL, to Marysville, KS. (Hearing site: Oklahoma City, OK.)

MC 117786 (Sub-28F), filed July 25, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting such commodities as are dealt in or used by cosmetics manufacturers, from the facilities of Avon Products, Inc., at Springdale, OH, to Kansas City, MO. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 117786 (Sub-29F), filed July 25, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting such commodities as are dealt in or used by cosmetics manufacturers, from the facilities of Avon Products, Inc., at Springdale, OH, to the facilities of Avon Products, Inc., at Monrovia and Pasadena, CA. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 118535 (Sub-125F), filed July 28, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Salt and salt products*, and (2) such commodities as are used by agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when moving in mixed loads with salt and salt products, from Grand Saline, TX, to points in AR, LA, NM, and OK. (Hearing site: Kansas City, MO.)

MC 119435 (Sub-4F), filed August 7, 1978. Applicant: WADDELL TRANSFER, INC., P.O. Box 168, Atkins, VA 24311. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Such commodities as are dealt in by a manufacturer and distributor of (a) *clay and clay products*, (b) *concrete and concrete products*, (c) *shale and shale products*, and (d) *mortar mixes* (except commodities in bulk, in tank vehicles), (2) materials and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), (a) between the facilities of General Shale Products Corp., at or near Groseclose, Glasgow, and Richlands, VA, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX (except KY, NC, TN and WV), (b) between the facilities of General Shale Products Corp., at or near (i) Atlanta, GA, and (ii) Chattanooga, TN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX, and (c) between the facilities of General Shale Products Corp. at or near Elizabethton, Johnson City, Kingsport, and Knoxville, TN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX (except KY, NC, VA, and WV), under continuing contract(s) with General Shale Products Corp., of Johnson City, TN. (Hearing site: Washington, DC.)

MC 119654 (Sub-55F), filed July 27, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except frozen), from the facilities of Campbell Soup Co., at Napoleon, OH, to points in IL, IN, KY, MI, and those points in PA on and west of a line beginning at the NY-PA State line and extending along U.S. Hwy 219 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-MD State line, and (2) *materials, equipment, and supplies* used in the processing and distribution of the commodities in (1) above (except commodities in bulk), from the destination territory in (1) above, to the facilities of Campbell Soup Co., at Napoleon, OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119656 (Sub-42F), filed July 21, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46240. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 40659. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railway car parts*, from the facilities of Evans Products Co., at Woodstock, IL, to the facilities of U.S. Railway Equipment Co., at Washington, IN. (Hearing site: Chicago, IL.)

MC 119700 (Sub-42F), filed August 24, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, at or near Jewett, TX, to points in AR, IL, IN, LA, MS, MO, and OH. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 119726 (Sub-137F), filed July 21, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. To oper-

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ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, corrugated boxes, and container closures*, from the facilities of Kerr Glass Manufacturing Corp., at or near Dunkirk, IN, to points in CT, DE, FL, KY, KS, MA, MD, ME, MO, NE, NH, NJ, NY, OH, PA, VA, VT, WV, and DC. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119988 (Sub-157F), filed August 24, 1978. Applicant: GREAT WESTERN TRTUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gas and electrical applicances*, and (2) *materials, supplies, and equipment*, used in the manufacture, distribution, and repair of the commodities in (1) above, from the facilities of Whirlpool Corp., at Evansville, IN, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, AND TX. (Hearing site: Detroit, MI, or Washington, DC.)

MC 119988 (Sub-158F), filed August 25, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by nursery and horticultural stores (except commodities in bulk), and (2) *agricultural commodities* otherwise exempt from economic regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, (except commodities in bulk), between Lenexa, KS, Dallas, TX, Atlanta, GA, Milwaukee, WI, Victory Gardens, NJ, Indianapolis, IN, Cleveland, OH, Charleston, WV, Nashville, TN, Columbia, SC, Charlotte, NC, Memphis, TN, and Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

MC 121060 (Sub-73F), filed August 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, from the facilities of Charlotte Pipe and Foundry Co., at Charlotte and Bakers, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Charlotte, NC.)

MC 121060 (Sub-74F), filed August 25, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials*, and (2) *materials and supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk), between the facilities of The Celotex Corp., at or near Elizabethtown, KY, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Tampa, FL.)

MC 123048 (Sub-411F), filed August 25, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Breummer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of aluminum articles (except commodities in bulk), between Oswego, NY, Warren, OH, and Fairmont, WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

MC 123048 (Sub-412F), filed August 25, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of aluminum articles, (except commodities in bulk), between the facilities of The Celotex Corp., at or near Elizabethtown, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

MC 123255 (Sub-174F), filed August 22, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen cabinets and vanities*, and (2) *materials and equipment* used in the installation of the commodities in (1) above, from the facilities of I.X.L. Furniture Div. of Triangle Pacific Corp., at or near Elizabeth City, NC, to points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

MC 124170 (Sub-103F), filed August 24, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Dr., Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* and *pet foods*, from the facilities of Continental Freezers of Illinois, at Chicago, IL, to points in IN, KY, MI, and OH, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 124692 (Sub-215F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wallboard, sounding board, insulation materials, siding materials*, and *building materials*, from the facilities of Boise Cascade Corp., at International Falls, MN, to points in ND and SD. (Hearing site: Portland, OR.)

MC 125358 (Sub-25F), filed June 19, 1978, and previously noticed in the FEDERAL REGISTER issue of August 8, 1978. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, MB, Canada. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture, assembly, and repair of automotive buses, from points in IN, MI, and OH, to Pembina, ND, under continuing contract(s) with Motor Coach Industries, of Winnipeg, MB, Canada. (Hearing site: St. Paul, MN.)

NOTE.—(1) Dual operations are involved in this proceeding. (2) The purpose of the republication is to delete all reference relating to the transportation of traffic moving in foreign commerce only.

MC 126118 (Sub-91F), filed August 22, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of motor vehicle parts, accessories, and attachments, between points in the United States (including AK, but excluding HI) (Hearing site: Chicago, IL, or Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 126574 (Sub-6F), filed July 17, 1978. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., 3818 Patterson Street, Greensboro, NC 27407. Representative: Peter R. Gilbert, 1725 K Street, NW., Suite 303, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those requiring special equipment) (a) between those points in NC in an area on and bounded by a line beginning at the VA-NC State boundary line and extending south along NC Hwy 93 to junction NC Hwy 113, then along NC Hwy 113 to Laurel Springs, then along NC Hwy 18 to Wilkesboro, then along NC Hwy 116 to Taylorsville, then along NC Hwy 90 to Statesville, then along U.S. Hwy 21 to Davidson, then along NC Hwy 73 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction NC Hwy 73, then along NC Hwy 73 to Eastwood, then along U.S. Hwy 15/501 to junction NC Hwy 24/27, then along NC Hwy 24/27 to Johnsonville, then along NC Hwy 27 to Lillington, then along NC Hwy 210 to Angier, then along NC Hwy 55 to junction NC Hwy 42; then along NC Hwy 42 to junction NC Hwy 96, then along NC Hwy 96 to junction U.S. Hwy 401 then along U.S. Hwy 401 to Warrenton, then along NC Hwy 58 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-VA State boundary line, and (b) between Eden, NC, on the one hand, and, on the other, Charlotte, NC; and (2) bagging, from Eden, NC, to Henderson, NC. The certificate shall be limited in point of time to a period expiring 5 years from date of issue to the extent it authorizes the transportation of classes A and B explosives. This application is to convert applicant's certificate of registration in No. MC 126574 (Sub-No. 2), to a certificate of public convenience and necessity. Issuance of a certificate here is conditioned upon coincidental cancellation at applicant's written request of the above described certificate at registration. (Hearing site: Raleigh, NC.)

MC 128016 (Sub-7F), filed July 23, 1978. Applicant: BRUCE G. BESH, d.b.a. BRUCE G. BESH TRUCKING, 4101 Center Street, Cedar Falls, IA 50613. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* and *wood products*, from the facilities of Weyerhaeuser Co., at or near Cedar Falls, IA, to points in Vernon, Crawford, and Grant Counties, WI, under a continuing contract(s), with Weyerhaeuser Co., of Chicago, IL. (Hearing site: Waterloo or Des Moines, IA.)

MC 128741 (Sub-8F), filed July 27, 1978. Applicant: AMERICAN TRANSCONTINENTAL VAN LINES, INC., 4108 Progressive Avenue, Suite 1, Lincoln, NE 68504. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Self-propelled vehicles, lawn mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters*, and *trailers*, and (b) *accessories, attachments, and parts* for the commodities named in (1)(a) above, from the facilities of OMC—Lincoln, Division of Outboard Marine Corp., at Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) (a) and (b) above, from points in the United States (except AK, HI, and NE), to the facilities of OMC—Lincoln, Division of Outboard Marine Corp., at Lincoln, NE, restricted in (1) (a) and (b) above to the transportation of traffic originating at the named origin and in (2) above to the transportation of traffic destined to the named destination(s). (Hearing site: Lincoln, NE.)

MC 128746 (Sub-42F), filed July 28, 1978. Applicant: D'AGATA NATIONAL TRUCKING CO., a corporation, 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Columbus, OH to Deptford, NJ. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 133221 (Sub-32F), filed August 3, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy, Lawrenceville, GA 30245. Representative: Alvin Button, 1644 Tullie Circle NE, Suite 102, Atlanta, GA 30329. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rigid polystyrene*, from the facilities of Southeastern Foam Products Inc., at (1) Conyers, GA, (2) Adamstown, MD, (3) Bargersville, IN, (4) Burlington, NC (5) Elkhorn, WI, (6) Fogelsville, PA, (7) Jonesboro, TN, (8) New Middleton, OH, (9) Ocala, FL, (10) Petersburg, VA, and (11)Wentzville, MO, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

MC 133591 (Sub-47E), filed July 31, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: RICHARD A. KERWIN, 180 North La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors*, from Springfield, MO, to points in AZ, NV, and CA. (Hearing site: Kansas City or St. Louis, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 133689 (Sub-219F), filed September 1, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of paper products, from points in ME, MA, MN, NH, and VT, points in NY on, north, and east of a line beginning at the MA-NY State line on U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 11, then along U.S. Hwy 11 to Pulaski, and then along NY Hwy 13 to Lake Ontario, to the facilities of Moore Business Forms, Inc., at (a) Green Bay and Monroe, WI, (b) Charleston and Chicago, IL, (c) Angola, and Rochester, IN, (d) Fremont, OH, and (e) Iowa City, IA, restricted to the transportation of traffic destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-220F), filed September 5, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), from Minneapolis, MN, to points in IL, IN, KY, MI, and OH. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-221F), filed September 5, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), (1) from Faribault and Cokato, MN, to points in AL, FL, GA, IL, IN, KY, MI, MS, NC, OH, SC, and TN; and (2) from Cokato, MN, to points in CT, DE, MA, MD, MS, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: St. Paul, MN.)

MC 134082 (Sub-13F), filed July 28, 1978. Applicant: K. H. TRANSPORT, INC., 4796 Linthicum Road, Dayton, MD 21036. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Mt. Airy Cold Storage, at Mt. Airy, MD, to points in IN, IL, IA, NE, TX, and MO. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

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MC 135598 (Sub-17F), filed August 28, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Pabst, GA, to points in IA, IL, MO, and WI. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 135641 (Sub-7F), filed July 31, 1978. Applicant: M. B. CUTHBERTSON and B. G. CUTHBERTSON, a partnership, d.b.a. M. B. CUTHERBERTSON & SON., RR No. 2, P.O. Box 37, Toledo, IA 52342. Representative: Kenneth F. Dudley, 611 Church Street, P.O. 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated house*, and (2) *materials, equipment, and supplies* (used in the manufacture assembly and distribution of prefabricated houses (except commodities in bulk), from Toledo, IA, to points in IL, MO, ND, SD, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 136318 (Sub-54F), filed August 30, 1978. Applicant: COYOTE TRUCK LINE, INC., A DE corporation, 302 Cedar Lodge Road, P.O. Box 756, Thomasville, NC 27360. Representative: David R. Parker, 1600 Broadway, Suite 2310, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and new furnishings*, from points in GA, MS, NC, SC, TN, and VA, to points in IL, under continuing contract(s) with John M. Smyth Co., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 136818 (Sub-37F), filed August 25, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Los Angeles County, CA, to points in ID and UT. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138304 (Sub-15F), filed July 14, 1978. Applicant: NATIONAL PACKERS EXPRESS, INC., an IL corporation, 3445 Patterson Plank Road, North Bergen, NJ 07047. Representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible grain flour, dry beverage preparations, breadcrumbs, non-medicated syrup, and bread cubes*, and (2) *materials* used in the manufacture of the commodities in (1) above, from points in Queens County, NY, to points in KY, OH, IN, PA, MI, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 138882 (Sub-99F), filed June 20, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquets, hickory chips, vermiculite, charcoal lighter fluid, and fireplace logs* (except commodities in bulk), and (2) *materials and equipment* used in the distribution of the commodities named in (1) above (except commodities in bulk), between Jacksonville and Dallas, TX, on the one hand, and, on the other, points in NM, AZ, CA, LA, MS, OK, CO, UT, and AL. (Hearing site: Louisville, KY, or Montgomery, AL.)

MC 138882 (Sub-125F), filed July 28, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum resins* (except in bulk), from the facilities of Southern Resins, at or near Moundsville, AL, to Chicago, IL, Lancaster, PA, Gulfport and Jackson, MS, Columbus and Coshocton, OH, Windsor, VT, Dallas, TX, South Kearny, NJ, Monrovia, CA, Holland, MI, Clarksville, TN, and Simpsonville, SC. (Hearing site: Birmingham or Montgomery, AL.)

MC 139858 (Sub-28F), filed August 21, 1978. Applicant: AMSTAN TRUCKING INC., a Delaware corporation, 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic plumbing supplies* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic plumbing supplies (except commodities which because of size or weight require the use of special equipment), from Walden, GA, to points in IL, IN, OH, WV, MI, KY, and PA, under continuing contract(s) with American Standard, Inc., of New Brunswick, NJ. (Hearing site: Cincinnati, OH, or Atlanta, GA.)

MC 139858 (Sub-29F), filed August 29, 1978. Applicant: AMSTAN TRUCKING INC., a Delaware corporation, 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel doors*, and (2) *equipment, materials, and supplies* used in the framing and installation of steel doors (except commodities which because of size or weight require the use of special equipment), from Cincinnati, OH, to points in the United States (except AK and HI), under continuing contract(s) with American Standard Inc., of New Brunswick, NJ. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 140829 (Sub-135F), filed August 28, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweeping compounds*, and *absorbents*, (except commodities in bulk), from the facilities of Oil-Dri Corp. of America, at or near Ochlocknee, GA, to points in AL, AR, CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, PA, OH, OK, RI, SD, TN, TX, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 141124 (Sub-22F), filed July 27, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, by manufacturers or converters of paper and paper products, (except commodities in bulk), from Chillicothe, OH, to points in PA, MD, DE, NJ, NY, CT, MA, RI, NH, VT, ME, and DC. (Hearing sites: Columbus, OH or Washington, DC.)

MC 141124 (Sub-23F), filed July 27, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), between Indianapolis, IN, Philadelphia, PA, and Newark, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Columbus, OH.)

MC 142416 (Sub-3F), filed July 24, 1978. Applicant: HAMILTON TRANSFER, STORAGE & FEEDS, INC., Box H, Hwy 26 West, Torrington, WY 82240. Representative: John H. Lewis, 1650 Grant Street Building, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Torrington, WY and Scottsbluff, NE, over U.S. Hwy 26, serving all intermediate points in WY. (Hearing site: Scottsbluff, NE, or Casper, WY.)

MC 142516 (Sub-16F), filed July 26, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sealing tape*, from Linden, NJ, to points in the United States (except AK and HI), under continuing contract(s) with Gentech Industries, Inc., Linden, NJ. (Hearing site: New York, NY, or Washington, DC.)

MC 142559 (Sub-42F), filed September 5, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies for automobiles*, from Oakland, CA, Schenectady, NY, Flemington, NJ, Winnsboro, SC, and points in Kings County, NY, to the facilities of Standard Products Co., at Dearborn, MI. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-44F), filed August 24, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fixtures and plumbing supplies*, and (2) *such commodities* as are used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between Knoxville, TN, Abingdon and Robinson, IL, on the one hand, and, on the other, points in AZ and CA and points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-45F), filed August 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs and charcoal briquettes*, from Marion, OH, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, PA, RI, VT, VA, WI, WV, and DC. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-46F), filed August 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and marble chips*, (1) from Lancaster, PA and Newton, NJ, to points in IL, IN, MD, MI, NC, OH, SC, VA, and WI, and (2) from Crestline, OH, to points in IL, IN, KY, MI, NC, PA, SC, TN, VA, and WI. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-47F), filed August 28, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between Rittman and Mentor, OH, on the one hand, and, on the other, Kansas City, KS, and those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142645 (Sub-5F), filed August 4, 1978. Applicant: DONALD H. FREYMILLER, RALPH HUNTINGTON, AND THOMAS F. McARDLE, a partnership, d.b.a. FH&M TRUCKING CO., P.O. Box 98, Shullsburg, WI 53586. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles, cleaning compounds, electrical appliances, gaskets, glassware, handles, household utensils, plastic articles, and timing devices*, from the facilities of Mirro Aluminum Co., at or near Manitowoc, WI, to San Francisco, CA. (Hearing site: Madison, WI.)

MC 142665 (Sub-1F), filed August 16, 1978. Applicant: MERCURY FREIGHT, INC., 15 South Kaiser Avenue, Taylor, PA 18517 Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Steel articles, tools, tools parts, blades, and metal powder*, and (b) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1)(a) above, between Fairlawn, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Sandvik, Inc., of Fairlawn, NJ; and (2)(a) *such commodities* as are dealt in by manufacturers of hand industrial cutting and power tools and blades, and (b) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (2)(a) above (except commodities in bulk), between the facilities of Disston, Inc., near Danville, VA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Disston, Inc., of Danville, VA. (Hearing site: New York, NY.)

MC 142888 (Sub-5F), filed August 31, 1978. Applicant: COX TRANSFER, INC., Box 168, Eureka, IL 61530. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, from the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Streator, IL, to St. Louis, MO; and (2) (a) *glass containers*, and (b) *accessories for glass containers*, from the facilities of Kerr Glass Manufacturing Corp., at Plainfield, IL, to St. Louis, MO, and Milwaukee, WI, restricted in (1) and (2) above to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 142948 (Sub-12F), filed August 11, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Edward C. Blank II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics, hair and body care products*, and (2) *supplies*, used in the distribution of the commodities in (1) above, from the

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facilities of W. H. Feronce Co., at Philadelphia, PA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Nashville, TN, or Philadelphia, PA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142948 (Sub-13F), filed August 14, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Edward C. Blank II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shoes*, (2) *supplies*, used in the manufacture and distribution of shoes, and (3) *clothing*, from the facilities of Genesco, Inc., at (a) Nashville, TN, and (b) Huntsville, AL, to points in AZ, CA, and UT, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Nashville, TN, or Huntsville, AL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145064 (Sub-3F), filed July 31, 1978. Applicant: HUNTER TRUCKING, INC., a Nebraska corporation, 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Table Rock, NE, Kansas City, KS, and points in the United States in and east of MN, IA, MO, AR, and LA, to points in the United States in and west of AZ, CO, WY, SD, and ND (except AK and HI), under continuing contract(s) with Portland Hardwoods, Inc., of Portland, OR. (Hearing site: Portland, OR.)

MC 145076F, filed July 21, 1978. Applicant: JOHN MANS, INC., Rural Route 2, Haubstadt, IN 47639. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, excavating, and mining equipment*, the transportation of which requires, by reason of their size and weight, the use of special equipment, and (2) *supplies* used in the conduct of construction, excavating, and mining business, between those points in IL, on and south of U.S. Hwy 24, points in IN on and south of U.S. Hwy 40, and points in KY west of U.S. Hwy 31E. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145095 (Sub-2F), filed August 21, 1978. Applicant: POWER FUELS, INC., P.O. Box 969, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North Fourth Street, Bismarck, ND 58501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid molten sulfer*, between points in Billings, Dunn, Stark, and McKenzie Counties, ND, restricted to the transportation of traffic having a subsequent movement by rail. (Hearing site: Bismarck or Dickinson, ND.)

MC 145108 (Sub-1F), filed August 31, 1978. Applicant: BULLET EXPRESS, INC., 919 Third Avenue, New York, NY 10022. Representative: Jacob P. Billig, 2033 K Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Ontario, NY, and Jersey City, NJ, to Chicago, IL, Los Angeles and Hayward, CA, Kent, WA, Houston, TX, and Jacksonville and Miami, FL, under continuing contract(s) with S. Gumpert, Inc., of Jersey City, NJ. (Hearing site: Washington, DC.)

MC 145114F, filed July 28, 1978. Applicant: PICO TRANSPORTATION CO., INC., 5700 Avalon Boulevard, Los Angeles, CA 90011. Representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and parts for new furniture*, between points in CA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Gillespie Furniture Co., of Los Angeles, CA, and Slyter Chair, Inc., of Tacoma, WA. (Hearing site: Los Angeles, CA.)

MC 145198 (Sub-1F), filed August 31, 1978. Applicant: PENN TRANSFER, INC., 131 North Summit Street, P.O. Box 808, Akron, OH 44309. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic materials* (except commodities in bulk), between points in IN, MI, OH, PA, and WV, under continuing contract(s) with Hinds Co., Inc., of Akron, OH. (Hearing site: Columbus, OH.)

MC 145298F, filed August 31, 1978. Applicant: J. R. BUTLER, INC., 1031 Reeves Street, P.O. Box 155, Dunmore, PA 18512. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by mail order houses and retail chain department stores (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the conduct of such businesses (except commodities in bulk), between points in DE, MD, NY, NJ, and PA, under continuing contract(s) with Hess's Inc., of Allentown, PA. (Hearing site: Allentown, PA, or Washington, DC.)

PASSENGER AUTHORITY

MC 1515 (Sub-249F), filed August 4, 1978. Applicant: GREYHOUND LINES, INC., a California corporation, Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *Common carrier*, by motor vehicle, transporting: *Passengers and their baggage* and *express and newspapers*, in the same vehicle with passengers, between Terre Haute, IN and junction U.S. Hwy 41 and U.S. Hwy 52, from Terre Haute over IN Hwy 63 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction U.S. Hwy 52, and return over the same route, serving all intermediate points. (Hearing site: Terre Haute, IN.)

[FR Doc. 78-28024 Filed 10-4-78; 8:45 am]

[7035-01]

[Decisions Volume No. 36]

DECISION-NOTICE

Decided: September 26, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before November 6, 1978. Failure to file a protest on or before November 6, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after October 5, 1978.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered, In the absence of legally sufficient protests, filed on or before November 6, 1978 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Acting Secretary.

MC 4483 (Sub-24F), filed August 21, 1978. Applicant: MONSON DRAY LINE, INC., Rural Route No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the port of entry on the international boundary line between the United States and Canada at or near Sault St. Marie, MI, to points in IA, KS, MN, MO, ME, ND, and SD. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 10343 (Sub-32F), filed August 17, 1978. Applicant: CHURCHILL TRUCK LINES, INC., P.O. Box 250, Chillicothe, MO 64601. Representative: Charles L. Williams (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Des Moines and Boone, IA, from Des Moines, IA, over U.S. Hwy 69 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Boone, IA, and return over the same route, serving all intermediate points. (Hearing site: Kansas City, MO.)

MC 11592 (Sub-21F), filed July 19, 1978. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: Frank E. Myers (same address as applicant). To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to Wichita, KS. (Hearing site: Omaha or Lincoln, NE.)

MC 23618 (Sub-35F), filed September 11, 1978. Applicant: McALISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, from Elk Grove Village and Chicago, IL, to points in TX, restricted to the transportation of traffic originating at the facilities of Joseph T. Ryerson & Son, Inc., at Elk Grove Village and Chicago, IL. (Hearing site: Chicago, IL.)

MC 25869 (Sub-143F), filed September 5, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., an IA corporation, P.O. Box 7184, Omaha, NE 68107. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. To Operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or distributed by grocery and food business houses (except commodities in bulk, in tank vehicles), from the facilities of Lever Brothers Co., at or near St. Louis, MO, to Denver, Co, and points in IA and NE. (Hearing site: Chicago, IL.)

MC 28088 (Sub-38F), filed September 11, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20423. To Operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen Italian ice*, from Gaithersburg, MD, to St. Louis, MO; Bonner Springs, KS; New Orleans, LA; and those points in the United States in and east of WI, IL, KY, TN, and MS. Dual operations may be in issue. (Hearing site: Roanoke, VA, or Washington, DC).

MC 31389 (Sub-259F), filed September 1, 1978. Applicant: McLean Trucking Co., a corporation, P.O. Box 213, Winston-Salem, NC 27102. Representative: David F. Eshelman (same address as applicant). To Operate as a *common carrier*, by motor vehicle, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Louisville and Bear Wallow, KY, from Louisville over U.S. Hwy 31E to junction KY Hwy 470, then over KY Hwy 470 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to Bear Wallow, and return over the same route, serving all intermediate points, (2) between Louisville and cloverport, KY, from Louisville over U.S. Hwy 60 to junction KY Hwy 144, then over KY Hwy 144 to junction KY Hwy 448, then over KY Hwy 448 to Bradenburg, then over KY Hwy 79 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Cloverport, and return over the same route, serving all intermediate points, and (3) between Louisville and Elizabethtown, KY, over U.S. Hwy 31W, serving all intermediate points and the off-route point of Vine Grove, KY. (Hearing site: Louisville, KY, or Washington, DC.)

MC 31389 (Sub-260F), filed September 5, 1978. Applicant: McLEAN TRUCKING CO., a corporation, P.O. Box 213, Winston-Salem, NC 27107. Representative: David F. Eshelman (same address as applicant). To operate as a *common carrier* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Nolan Co., at or near

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Bowerston, OH, as an off-route point, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Columbus, OH.)

MC 35807 (Sub-84F), filed August 4, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., a Deleware corporation, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coins, currency, and securities*, between Dallas, TX, on the one hand, and, on the other, points in Marshall, Johnston, Bryan, Atoka, Coal, Choctaw, Pushmataha, and McCurtain Counties, OK, and those in LA in and north of Concordia, Catahoula, La Salle, Grant, Natchitoches, and Sabine Parishes, under continuing contracts with banks and banking institutions. (Hearing site: Dallas, TX, or Washington, DC.)

MC 52709 (Sub-350F), filed September 5, 1978. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products* (except commodities in bulk, in tank vehicles), from the facilities of U.S. Lime, Division of Flintkote Co., at or near Dolomite, UT, to points in CO, ID, MT, OR, WA, WY, and those in CA in and north of Monterey, Kings, Tulare, and Inyo Counties. (Hearing site: Denver, CO, or Salt Lake City, UT.)

MC 52709 (Sub-351F), filed September 5, 1978. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except commodities in bulk, in tank vehicles), from Saltair, UT, to points in ID, MT, OR, and WA. (Hearing site: Denver, CO.)

MC 54203 (Sub-2F), filed August 7, 1978. Applicant: V. SENG TEAMING CO., a corporation, 600 North Thomas Drive, Bensenville, IL 60106. Representative: V. James Seng, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Paper, *paper products, and paper mill supplies*, between Marinette and Oconto Falls, WI, on the one hand, and, on the other, Chicago, IL. (Hearing site: Chicago, IL, or Madison, WI.)

MC 59457 (Sub-38F), filed August 8, 1978. Applicant: SORENSEN TRANSPORTATION CO., INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Hugh M. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter, and* (2) *equipment, materials, and supplies used in the manufacture and distribution of printed matter*, (except commodities in bulk), between points in CT, DE, FL, GA, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, TN, VA, VT, WV, and DC. (Hearing site: New York, NY, or Washington, DC.).

MC 61977 (Sub-12F), filed August 7, 1978. Applicant: ZERKLE TRUCKING CO., an OH corporation, 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container closures*, between the facilities of Kerr Glass Mfg. Corp., at or near Huntington, WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Charleston, WV.)

NOTE.—Dual operations are at issue in this proceeding.

MC 70832 (Sub-22F), filed July 21, 1978. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17402. Representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, transporting: (A) *Shoes and materials* used in the manufacture and distribution of shoes, (1) from Wilmington, DE, to Baltimore, MD, over U.S. Hwy 40 serving the intermediate point of Belcamp, MD, (2) from Harrisburg, PA, to Belcamp, MD; from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 283, then south over Interstate Hwy 283 to junction PA Hwy 283, then east over PA Hwy 283 to Lancaster, PA, then south over U.S. Hwy 222 to junction U.S. Hwy 40, then south over U.S. Hwy 40 to Belcamp, MD, serving no intermediate points, (3) from Harrisburg, PA, to Baltimore, MD, over Interstate Hwy 83, serving no intermediate points, and (4) from Harrisburg, PA, to Hagerstown, MD; (a) from Harrisburg over Interstate Hwy 83 to junction U.S. Hwy 15, then south over U.S. Hwy 15 to Thurmont, MD, then west over MD Hwy 77 to Hagerstown, serving the intermediate point of Thurmont, MD, and (b) from Harrisburg over Interstate Hwy 83 to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction Interstate Hwy 81, then over U.S. Hwy 81 to Hagerstown, serving no intermediate points; and (B) shoes, (1) from Baltimore, MD, to Wilmington, DE, over U.S. Hwy 40, serving the the immediate point of Belcamp, MD, (2) from Belcamp, MD, to Harrisburg, PA, from Belcamp over U.S. Hwy 40 to junction U.S. Hwy 222, then over U.S. Hwy 222 to junction PA Hwy 283 at Lancaster, PA, then over over PA Hwy 283 to junction Interstate Hwy 283, then over Interstate Hwy 283 to junction Interstate Hwy 83, then over Interstate Hwy 83 to Harrisburg, serving no intermediate points, (3) from Baltimore, MD, to Harrisburg, PA, over Interstate Hwy 83, serving no intermediate points, and (4) from Hagerstown, MD, to Harrisburg, PA, (a) from Hagerstown over MD Hwy 77 to Thurmont, MD, then over U.S. Hwy 15 to junction Interstate Hwy 83, then over Interstate Hwy 83 to Harrisburg, serving the intermediate point of Thurmont, MD, and (b) from Hagerstown over Interstate Hwy 81 to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction Interstate Hwy 83, then over Interstate Hwy 83 to Harrisburg, serving no intermediate points, (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 83539, (Sub-506F), filed September 5, 1978. Applicant: C & H TRANSPORTATION CO. INC., P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). To operate as a *common carrier*, by motor vehilce, transporting: *Water and sewage treatment equipment* and parts for water and sewage treatment equipment, from points in Benton County, OR, to points in the United States (except AK and HI). (Hearing site: Portland, OR, or Dallas, TX.)

MC 98733 (Sub-4F), filed August 4, 1978. Applicant: PAUL E. REED d.b.a. PUNCHERS TRUCK LINE, 200 West First Street, Topeka, KS 66605. Representative: E. Richard Brewster, 400 Croix, P.O. Box 5186, Topeka, KS 66605. To operate as a *common carrier*, by motor vehicle, (a) over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Topeka, Ottawa, Lawrence, and Baldwin City, KS, restricted against the transportation of traffic between Topeka and Lawrence, KS; and (b) over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Topeka and Michigan Valley, KS, from Topeka over U.S. Hwy 75 to unnumbered county road approximately 8 miles south of Topeka to Richland, then over unnumbered county road to Michigan Valley, and return over the same route, serving the intermediate points of Overbrook and Richland, KS, (2) between Topeka and Lyndon, KS, from Topeka over U.S. Hwy 75 to junction KS Hwy 31, then over KS Hwy 31 to Lyndon, and return over the same route, serving all intermediate points and the off-route points of Vassar, Quenemo, Melvern, Olivet, Pauline, Carbondale, Berryton, Clinton, Richland, Centropolis, Pomona, Richter, and Baldwin City, KS, and (3) between Topeka and Baldwin City, KS, from Topeka over U.S. Hwy 75 to junction U.S. Hwy 56, then over U.S. Hwy 56 to Baldwin City, and return over the same route, serving the intermediate points of Globe and Worden, KS. (Hearing site: Topeka or Kansas City, KS.)

NOTE.—Applicant states that by this application it seeks to convert its Certificate of Registration MC 98733 (Sub-3) to a certificate of public convenience and necessity, Issuance of a certificate is conditioned upon applicant's written request for the coincidential cancellation of its Certificate of Registration in Sub-3.

MC 105813 (Sub-246F), filed August 16, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk) from Hammondsport and Westfield, NY, and Latrobe and Philadelphia, PA, to Gainesville, Jacksonville, and St. Augustine, FL. (Hearing site: Chicago, IL.)

MC 106398 (Sub-834F), filed September 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of EBAA Iron, Inc., at or near Eastland and Frisco, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106398 (Sub-835F), filed September 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis*, in initial movements, from the facilities of the Fruehauf Corp., in Fresno County, CA, to points in the United States (including AK, but excluding HI); and (2) *trailers and trailer chassis*, in secondary movements, betwen points in the United States (including AK, but excluding HI). (Hearing site: Detroit, MI.)

NOTE.—In view of the findings in MC 106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date, unless prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107403 (Sub-1109F), filed August 21, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles (except liquid ethyl alcohol, liquid denatured alcohol, and denatured alcohol solvents), from the facilities of IMC Chemical Group, Inc., at Harvey, LA, to points in AL, AR, MS, FL, and TX. (Hearing site: Washington, DC.)

MC 107515 (Sub-1170F), filed August 22, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Northeast, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Louisville Freezer Center, at or near Louisville, KY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Louisville, KY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 108207 (Sub-483F), filed August 3, 1978. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, in vehicles equipped with mechanical refrigeration, from Cade and Lozes, LA, to points in IA, KS, MO, MN, NE, and OK, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New Orleans, LA.)

MC 109638 (Sub-34F), filed September 7, 1978. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, from points in Nash County, NC, to points in DE, FL, GA, MD, NJ, NY, PA, SC, VA, and the DC. (Hearing site: Raleigh, NC, or Washington, DC.)

MC 110098 (Sub-170F), filed September 7, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Miami Margarine Co., Inc., at Albert Lea, MN, to points in AR, KS, LA, MO, NM, OK, and TX. (Hearing site: Minneapolis, MN.)

MC 110525 (Sub-1259F), filed August 24, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between the facilities of Dow Chemcial Co., at points in Brazoria County, TX, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Houston, TX.)

MC 110563 (Sub-236F), filed July 24, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts, and articles distributed by meat packing houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), and (2) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., at or near (1) Scottsbluff, NE, (2) Fremont, NE, (3)

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Ottumwa, IA, and (4) Austin, MN, to points in CT, MA, NJ, NY, and PA, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111729 (Sub-743F), filed September 1, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ, on the one hand, and, on the other, points in VA, restricted (1) against the transportation of packages or articles weighing more than 50 pounds and (2) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 112617 (Sub-404F), filed August 7, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from the facilities of Ashland Oil, Inc., at or near Catlettsburg, KY, to the facilities of Ashland Oil, Inc., at Canton, OH. (Hearing site: Louisville, KY, or Washington, DC.)

NOTE.—The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof.

MC 112989 (Sub-76F), filed September 5, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint and paint products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of paint and paint products, between the facilities used by Inmont Corp., in CA, on the one hand, and, on the other, points in OR, WA, and ID. (Hearing site: Los Angeles or San Francisco, CA.)

MC 113434 (Sub-106F), filed August 3, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Vienna, WV, to points in IL, IN, KY, MI, OH, PA, and that part of NY on and west of Interstate Hwy 81, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 113855 (Sub-445F), filed August 24, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a ND corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and agricultural implement parts*, from Clearfield, UT, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 114273 (Sub-449F), filed August 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chimney assemblies* and *materials, equipment, and supplies* used in the installation and maintenance of chimney assemblies, from Logan, OH, to points in IL, IA, KS, MN, MO, and NE. Condition: The certificate to be issued shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114829 (Sub-18F), filed September 5, 1978. Applicant: GENERAL CARTAGE CO., INC., an IA corporation, P.O. Box 417, Sterling, IL 61081. Representative: Bernard J. Kompare, Ten South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Iron and steel articles, zinc articles, and lead articles*, (b) *springs*, and (c) *construction materials, supplies and equipment*, (except commodities in bulk), from the facilities of Penn-Dixie Steel Corp. and Stevens Spring Co., Inc., at or near Ft. Wayne, Kokomo, Elkhart and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction, under continuing contracts with Penn-Dixie Steel Corp. and Stevens Spring Co., Inc., both of Kokomo, IN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 116457 (Sub-36F), filed August 4, 1978. Applicant: GENERAL TRANSPORTATION, INC., 1804 South 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard, gypsum lath, gypsum wallboard systems, gypsum products, and plaster*, (except commodities in bulk, in tank vehicles), from points in AZ, to points in CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY; and (2) *materials, supplies, and equipment* used in the installation of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in Contra Costa County, CA, to points in OR and WA. (Hearing site: Phoenix, AZ.)

MC 116763 (Sub-429F), filed August 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, from points in MI, and those in IL on and north of Interstate Hwy 70, to the facilities of Oconomowoc Canning Co., at Sun Prairie, Poynette, Waunakee, Deforest, Cobb, and Oconomowoc, WI. (Hearing site: Chicago, IL.)

MC 116763 (Sub-432F), filed August 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from Elwood, Galveston, Hobbs, Orestes, Plumtree, Point Isable, and Swayzee, IN, to those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 116763 (Sub-433F), filed August 17, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden care products, agricultural insecticides, and agricultural fungicides,*

(except commodities in bulk), from the facilities of O. M. Scott & Sons Co., Inc., at or near Marysville, Columbus, and Vermillion, OH, to those points in NY on and north of NY Hwy 7, and points in LA, KY, MN, TN, and WI. (Hearing site: Columbus, OH.)

MC 116763 (Sub-434F), filed August 21, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products*, (except commodities in bulk), from Paris, TN, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 117165 (Sub-46F), filed August 18, 1978. Applicant: ST. LOUIS FREIGHT LINES, INC., a Michigan corporation, P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction materials*, from the facilities of the Celotex Corp., at Wilmington and Chicago, IL, to points in IA, KY, MO, OH, and WI, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 119493 (Sub-229F), filed August 16, 1978. Applicant: MONKEM INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood poles, wood cross ties, wood crossings*, and *lumber*, (1) from Texarkana, TX, to points in MO, AR, OK, and IL, and (2) from Meridian, MS, to points in IL, IN, WI, IA, KS, TN, and KY. (Hearing site: Oklahoma City, OK, or Kansas City, MO.)

MC 119864 (Sub-73F), filed August 1, 1978. Applicant: CRAIG TRANSPORTATION CO., an Ohio corporation, 26699 Eckel Road, Perrysburg, OH 43551. Representative: Dale K. Craig (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* and *glass container accessories*, from the facilities of Kerr Glass Manufacturing Corp., at or near Dunkirk, IN, to points in IL, IA, MI, MO, OH, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Detroit, MI.)

MC 123255 (Sub-175F), filed August 23, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of glass and glass products, (except commodities in bulk), between the facilities of or used by Anchor Hocking Corp., at points in CA, FL, IL, IN, MD, MN, NJ, OH, PA, TX, and WV, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH).

MC 123272 (Sub-20F), filed July 31, 1978. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients*, and *additives, materials, and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc., at Mattoon, IL. (Hearing site: Chicago, IL.)

MC 124692 (Sub-216F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic fittings*, and *accessories* for plastic pipe, from Bristol, IN, to points in AZ, CA, CO, ID, MT, OR, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 124692 (Sub-230F), filed July 31, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Scrap batteries* and *lead*, between Omaha, NE, on the one hand, and, on the other, points in ID. (Hearing site: St. Paul, MN.)

MC 127187 (Sub-39F), filed August 7, 1978. Applicant: FLOYD DUENOW, INC., a Minnesota corporation, 1728 Industrial Park Blvd., Fergus Falls, ND 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds, and animal and poultry feed ingredients* (except commodities in bulk, in tank vehicles, from points in WI, to points in IA, IL, IN, MN, and MO. (Hearing site: Minneapolis, MN.)

MC 127539 (Sub-70F), filed September 1, 1978. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in CA, to points in OR and WA. (Hearing site: San Francisco, CA, or Seattle, WA.)

MC 128205 (Sub-56F), filed August 24, 1978. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Chicago, IL, to points in NJ, MD, DE, CT, VA, and WV. (Hearing site: Chicago, IL.)

MC 128205 (Sub-57F), filed August 24, 1978. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Manistee, MI, to points in OH, IA, and KY. (Hearing site: Chicago, IL.)

MC 128273 (Sub-315F), filed August 22, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc* (except in bulk, in tank vehicles), from Three Forks, MT, to points in the United States (except AK, HI, and MT). (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 128527 (Sub-121F), filed August 4, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by grocery and food business houses, and (2) *equipment, materials, and supplies* used in the conduct of such business, between

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points in CA, ID, MT, NV, OR, UT, and WA. (Hearing site: Boise, ID.)

MC 134477 (Sub-265F), filed August 7, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the conduct of such businesses (except commodities in bulk), from points in CA, CT, DE, IL, IN, MD, MA, NJ, NY, OH, PA, and RI, to St. Paul, MN, restricted to the transportation of traffic originating at the indicated origins and destined to the facilities of Gourmet Foods, Inc., at St. Paul, MN. (Hearing site: St. Paul, MN.)

MC 134574 (Sub-30F), filed August 3, 1978. Applicant: FIGOL DISTRIBUTORS, LTD., 11233 156th Street, Edmonton, AB, Canada T5M 1Y2. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Insulation*, from the port of entry on the international boundary line between the United States and Canada, at or near Sweetgrass, MT, to Willows, CA, restricted to the transportation of traffic originating in the Province of Alberta, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Great Falls, MT.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and From Points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect. Dual operations may be involved in this proceeding.

MC 135152 (Sub-24F), filed June 20, 1978, and previously published in the FEDERAL REGISTER issue of August 15, 1978. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 2, P.O. Box No. 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, knocked down and in cartons*, from the facilities of Fame Furniture at (1) Florence, KY, and (2) Union Township, Butler County, OH, to those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Washington, DC.)

NOTE.—This republication states the correct origin.

MC 135797 (Sub-137F), filed August 7, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust fireplace logs* (except in bulk), from the facilities of Duraflame, Inc., at (a) Stockton, CA, (b) Fairless Hills, PA, and (c) Trenton, NJ, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

MC 135797 (Sub-140F), filed August 7, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Humboldt, KS and points in MO, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 135895 (Sub-22F), filed May 8, 1978, previously noticed in the FEDERAL REGISTER issue of July 6, 1978. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1895, Greenville, MS 38701. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, sand products, and mineral fillers* (except commodities in bulk), between the facilities of Radcliff Material, Inc., at or near Mobile, AL, and points in LA and MS. (Hearing site: Mobile, AL.)

NOTE.—This republication is to reflect a nonradial between movement.

MC 136315 (Sub-34F), filed August 21, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Pipe, fittings, valve boxes, water boxes, and castings*, and (b) *accessories* for the commodities in (1)(a) above, from the facilities of the Central Foundry Co., Inc., at or near Holt, AL, to points in AR, IL, IN, IA, KS, LA, MS, MO, OK, and TX, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Jackson, MS, or Birmingham, AL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 136605 (Sub-66F), filed July 31, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt composition roofing, shingles, rolled roofing, and asphalt impregnated sheathing board*, from the ports of entry on the international boundary line between the United States and Canada, at points in ID and MT, to points in WA, OR, ID, and MT, restricted to the transportation of traffic originating at points in the Province of Alberta, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Billings, MT, or Spokane, WA.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and From Points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 136897 (Sub-26F), filed August 7, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automatic machinery* used for storing or retrieving merchandise, between the facilities of Eaton-Kenway Corp., at (a) Bountiful, UT, and (b) Wichita Falls, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Eaton-Kenway, of Bountiful, UT. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

NOTE.—Dual operations are at issue in the proceeding

MC 138283 (Sub-6F), filed August 16, 1978. Applicant: DANA TRUCKING CORP., Round Lake, MN 56167. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cookies*, from the facilities of Interbake Foods, Inc., at or near Battle Creek, MI, to points in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, MT, NE, NM, ND, OH, OK, PA, SC, TN, TX, WI, and WY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cookies (except commodities in bulk), in the reverse direction, under a continuing contract with Interbake Foods, Inc., of Richmond, VA. (Hearing site: Richmond, VA.)

MC 138313 (Sub-41F), filed August 21, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, from ports of entry on the international boundary line between the United States and Canada in MT and ID, to points in WY, UT, ID, MT, ND, and SD, restricted to the transportation of traffic originating in foreign commerce. (Hearing site: Portland, OR, or Washington, DC.)

MC 138882 (Sub-124F), filed July 31, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Suite 200, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipes, fittings, valves, hydrants, and materials and supplies* used in the installation thereof (except commodities in bulk), from the facilities of Clow Corp., at or near Lincoln, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Birmingham, AL.)

MC 138884 (Sub-5F), filed August 1, 1978. Applicant: CONDOR CORP., P.O. Box 630, Dixfield, ME 04224. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glued wood furniture panels*, from the facilities of Andover Wood Products, at Andover, ME, to points in TN, IN, AR, and VA, under a continuing contract with Andover Wood Products, Inc., of Andover, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 139235 (Sub-3F), filed August 24, 1978. Applicant: MAYNARD NADLER, 113 West Corning, Peotone, IL 60468. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Iron containers, steel containers, and plastic containers*, and (b) *closures and handles* for the commodities in (1)(a) above, from the facilities of Bennett Industries, Division of Growth International Industries Corp., at Peotone, IL, to Des Moines, IA, and points in AL, CT, KY, MI, MN, MD, MA, NJ, NY, PA, TN, VA, WV, and WI, and (2) *dies and die molds*, between Lithonia, GA, and Peotone, IL, under continuing contracts in (1) and (2) above, with Bennett Industries, Division of Growth International Industries Corp., of Peotone, IL. (Hearing site: Chicago, IL.)

MC 139349 (Sub-8F), filed August 23, 1978. Applicant: E Z FREIGHT LINES, a corporation, 348 Ocean Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water softeners and equipment*, from Linden, NJ, to points in FL, GA, IL, IN, MI, NC, OH, PA, SC, TX, and WV, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under a continuing contract in (1) and (2) above, with Epicor, Inc., of Linden, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 139482 (Sub-63F), filed July 31, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail and drug stores* (except commodities in bulk), from Cheshire and Stamford, CT, Lakewood and Saddlebrook, NJ, and Garden City and Long Island, NY, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origins. (Hearing site: Minneapolis or St. Paul, MN.)

MC 139495 (Sub-380F), filed August 23, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthethic fibers and synthethic yarns, fiber waste, plastic materials, and resin* (except commodities in bulk, in tank vehicles), from points in SC, to points in AR, CA, CT, IN, IL, LA, MA, E, MD, MI, MO, NH, NJ, NY, OH, OK, PA, RI, TX, VT, and WI. (Hearing site: Washington, DC.)

MC 140024 (Sub-122F), filed August 2, 1978. Applicant: J. B. MONTGOMERY, INC. (a DE corporation), 5565 East 52d Avenue, Commerce City, CO 80022. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Norfolk Iron & Metal Co. at or near Norfolk, NE, to points in CO, IL, IN, IA, MI, MN, MO, and WI. (Hearing site: Omaha, NE.)

MC 140033 (Sub-65F), filed August 17, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 45538. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper magnet wire and aluminum magnet wire*, from Abingdon, VA, to El Paso, Beaumont, Dallas, and Houston, TX. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140273 (Sub-7F), filed August 14, 1978. Applicant: BUESING BROS. TRUCKING, INC., North 520 Tamarack Avenue, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Park equipment, playground equipment, benches, tables, planters, litter receptacles, and finished redwood products*, from Delano, MN, to points in the United States (including AK, but excluding HI). (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140273 (Sub-9F), filed August 21, 1978. Applicant: BUESING BROS. TRUCKING, INC., North 520 Tamarack Avenue, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural limestone and gypsum*, from points in Marion County, IA, to points in ND, SD, MN, MT, WY, NE, WI, and CO. (Hearing site: Minneapolis, MN.)

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NOTE.—Dual operations may be at issue in this proceeding.

MC 140563 (Sub-15F), filed August 16, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products and woodpulp*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in NY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141033 (Sub-47F), filed August 16, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, transporting: *Charcoal, charcoal briquettes, sawdust fireplace logs, charcoal lighter fluid in containers, hickory chips, and vermiculite (except crude vermiculite), from Burnside, KY, to points in IN, OH, IL, WI, and MI. (Hearing site: Louisville, KY, or Washington, DC.)*

NOTE.—Dual operations may be at issue in this proceeding.

MC 141033 (Sub-48F), filed August 16, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, sawdust fireplace logs, charcoal lighter fluid in containers, hickory chips, and vermiculite* (except crude vermiculite), from Dallas and Jacksonville, TX, to points in AZ and CA. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141385 (Sub-3F), filed August 24, 1978. Applicant: LARRY A. PENNER, d.b.a. PENNER'S FEED & SUPPLY, Inman, KS 67546. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed products* (except in bulk), from Clay Center, KS, to points in AL, CA, FL, GA, KY, MD, MI, MN, NJ, PA, TX, UT, and WA, under a continuing contract with Key Milling Co., Inc., of Clay Center, KS. (Hearing site: Wichita, KS, or Washington, DC.)

MC 142508 (Sub-25F), filed September 1, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Deran Confectionery-Borden, Inc., at or near (a) Boston, MA, and (b) Grosvenor Dale, CT, to those points in the United States in and west of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Boston, MA, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 142508 (Sub-26F), filed September 1, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Philadelphia, PA, to points in CO, IL, KS, MN, MO, NE, ND, and SD. (Hearing site: Philadelphia, PA, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 143053 (Sub-5F), filed August 15, 1978. Applicant: B & B TRANSPORT, INC., P.O. Box 5310, Kent, WA 98031. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gardening materials and gardening supplies*, (1) between Kent, WA, and Portland, OR; (2) from Kent, WA, to Boise, ID, and Salt Lake City, UT; and (3) from Chicago, IL, and points in Humboldt, Los Angeles, Mendocino, Orange, Riverside, and San Diego Counties, CA, to Kent and Spokane, WA, Boise, ID, Portland, OR, and Salt Lake City, UT, under a continuing contract with Cole's Plant Soils, Inc., of Kent, WA. (Hearing site: Seattle, WA.)

MC 143103 (Sub-4F), filed August 17, 1978. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Avoset Foods Corp., Gustine, CA, to points in IL, IN, MI, OH, KY, WV, VA, MD, DE, PA, NY, NJ, CT, RI, MA, VT, NH, MO, IA, MN, WI, NE, KS, CO, and DC, under a continuing contract with Avoset Foods Corp., Gustine, CA. (Hearing site: Oklahoma City, OK, or San Francisco, CA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143910 (Sub-4F), filed May 10, 1978, previously noticed in the FEDERAL REGISTER issue of July 6, 1978. Applicant: NEW HAMPSHIRE CONTINENTAL EPRESS, INC., P.O. Box 4956, Manchester, NH 03108. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), and (2) *commodities*, the transportation of which are exempt from regulation under the provisions of section 203(b) of the Interstate Commerce Act, in mixed loads with the commodities in (1) above, (a) between Salinas, Gilroy, San Francisco, Vacaville, and San Fernando, CA, on the one hand, and, on the other, points in AL, GA, ID, IL, IN, IA, KS, LA, MS, MD, MI, MN, MO, NJ, NE, OK, OH, NY, OR, NC, SC, TN, TX, UT, VA, WI, and WA; (b) between Baltimore, MD, on the one hand, and, on the other, points in AL, GA, ID, IL, IN, IA, KS, LA, FL, MI, MN, MO, MS, OH, NC, SC, TN, TX, VA, and WI; (c) between South Bend and Bremen, IN, on the one hand, and, on the other, points in AZ, AR, CA, CO, CT, GA, ID, IL, IA, KS, KY, LA, MD, MI, MS, MA, MN, MO, MT, NE, NV, NJ, NM, NY, OH, OR, PA, TN, UT, WA, WV, WI, and WY; (d) from Atlanta, GA, to points in NJ, NY, PA, DE, VA, MD, and DC; and (e) between Baltimore, MD, on the one hand, and, on the other, points in VA, NJ, DE, NY, PA, MA, CT, ME, RI, NH, VT, and DC, under a continuing contract with McCormick & Co., Inc., of Baltimore, Md. (Hearing site: Washington, DC.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 143590. The purpose of this republication is to show the addition of part (2) above.

MC 144407 (Sub-2F), filed August 3, 1978. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, over irregular routes, transporting: (1) *Such commodities* as are dealt in by do-it-yourself home

centers, (except foodstuffs and commodities in bulk), and (2) *materials, equipment, and supplies* used in the conduct of such business, (except foodstuffs and commodities in bulk), between Macedonia, Kent, and Cleveland, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144437 (Sub-4F), filed August 7, 1978. Applicant: WALTERS ENTERPRISES, INC., 16935 Hummel Road, Brookpark, OH 44142. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between points in OH, on the one hand, and, on the other, points in KY and those in IN on and south of U.S. Hwy 24. (Hearing site: Cleveland or Columbus, OH.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144827 (Sub-2F), filed August 7, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by department stores, and (2) *advertising materials*, from New York, NY, to Blytheville, Fort Smith, and Little Rock, AR, Evansville and Terre Haute, IN, Lexington and Louisville, KY, Springfield, MO, Cincinnati, OH, Oklahoma City and Tulsa, OK, and Cookeville, Jackson, Kingsport, Knoxville, Lebanon, Memphis, and Nashville, TN. (Hearing site: Nashville, TN.)

MC 144858 (Sub-4F), filed September 1, 1978. Applicant: DENVER SOUTHWEST EXPRESS, INC., a Nebraska corporation, P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated soft drink beverages* (except in bulk, in tank vehicles), from Camden, AR, to Anniston, AL, and Indianola, MS. (Hearing site: Little Rock, AR, or St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 145005 (Sub-1F), filed August 4, 1978. Applicant: U & I INC., d.b.a. U & I INC., TRUCKING DIVISION, P.O. Box 2696, Pasco, WA 97302. Representative: Dick E. Jones (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), from the facilities of Gourmet Food Products, Inc., at or near Boardman and Metolius, OR, to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, and those in IL, IN, MI, and WI, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Portland, OR or Salt Lake City, UT.)

NOTE.—In view of the *Geraci* and *Toto* policies (*See* e.g., 43 FR 33945) (8-2-78), applicant must satisfy the Commission that its operations will not result in objectionable private and for-hire operations.

MC 145233F, filed August 10, 1978. Applicant: MORGAN TRUCKING CORP., P.O. Box 367, Gaston, IN 47342. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46250. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, (a) from the facilities of Dairy Farm Products Co., at Muncie, IN, to those points in the United States in and east of WI, IL, KY, TN, and MS, and (b) from Orville, Dayton, and Greenville, OH, to the facilities of Dairy Farm Products Co., at Muncie, IN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of dairy products, in the reverse direction, under a continuing contract with Dairy Farm Products Co., of Strongsville, OH. (Hearing site: Indianapolis, IN.)

PASSENGERS AUTHORITY

MC 143427 (Sub-2F), filed July 31, 1978. Applicant: WINSTON LIMOUSINE SERVICE, INC., 41 Pembrook Drive, Stony Brook, NY 11790. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in one-way and round-trip specials operations, in nonscheduled door-to-door service, between New York, NY, Newark, NJ, and points in Fairfield, New Haven, and Middlesex Counties, CT, restricted to the transportation of (1) not more than eleven (11) passengers in any one vehicle, and (2) passengers having an immediately prior or subsequent movement by air. (Hearing site: Stamford or New Haven, CT.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 78-28025 Filed 10-4-78; 8:45 am]

[7035-01]

[Volume No. 117]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Petitions for modification, interpretation or reinstatement of operating rights authority

SEPTEMBER 27, 1978.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1F, M2F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with special rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 8744 (M1F) (notice of filing of petition to modify certificate), filed July 19, 1978. Petitioner: CONSOLIDATED MOTOR EXPRESS, INC., P.O. Box 1160, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Petitioner holds a motor *common carrier* certificate in MC 8744 issued April 27, 1954, authorizing transportation, over irregular routes,

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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as pertinent, of (a) *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (1) Between North Tazewell, VA, on the one hand, and, on the other, points in those parts of VA and WV located within 50 miles of North Tazewell, and (2) From Richlands, Tazewell, St. Paul, Norton, Pennington, Gap, and Haysi, VA, to points in Tazewell, Buchanan, Lee, Scott, Russell, Wise, and Dickenson Counties, VA.

By the instant petition, petitioner seeks an interpretation by the Commission that the 50 mile radius of North Tazewell, VA includes the points of Bristol and Radford, VA. In the alternative, petitioner seeks to modify the authority in (1) above to include Bristol and Radford, VA as radial points.

MC 41406 (Sub-52,53) (M-1F) (notice of filing of petition to modify certificates to add commodities), filed August 8, 1978. Petitioner: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Petitioner holds motor *common carrier* certificates in MC 41406 (Sub-52 and 53), issued March 4, 1976 and March 15, 1978, respectively, authorizing transportation, over irregular routes, as follows: MC 41406 (Sub-52), authorizes transportation as pertinent, of: (1) *Steel, steel products,* and *machinery,* (a) from Pittsburgh, PA, and Youngstown, OH, and points within 50 miles of each, Cleveland, Lorain, Zanesville, Cambridge, Mansfield, Cincinnati, Middletown, and Portsmouth, OH, Buffalo, NY, Monroe and Detroit, MI, and those points in that part of KY within 5 miles of the Ohio River, to points in MI, OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, (b) from Gibraltar, MI, to points in OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, (c) from the site of the Ford Motor Co. plant located at the northeast intersection of Mound Road and 17-Mile Road in Sterling township, Macomb County, MI, to points in OH, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, (d) between the site of the Kalsey-Hayes Co. plant located at the intersection of North Line Road and Huron River Drive in Romulus Township, Wayne County, MI, on the one hand, and, on the other, points in MI, OH, PA, NY, WV, and that part of KY within 5 miles of the Ohio River. (2) *Steel* and *steel products,* (a) from points in the Detroit, MI, Commercial Zone, as defined by the Commission, except Detroit, to points in NY, OH, PA, WV, and those in that part of KY within 5 miles of the Ohio River, (b) from points in the Cleveland, OH, Commercial Zone, defined by the Commission, except Cleveland, to points in MI, PA, NY, WV, and points in that part of KY within 5 miles of the Ohio River, (c) from points in Lackawanna and Hamburg Townships, Erie County, NY, to points in MI, OH, PA, WV, and those in that part of KY within 5 miles of the Ohio River. MC 41406 (Sub-53) authorizes transportation as pertinent, of: *Steel* and *steel products,* (1) from points in IL, IN, and St. Louis, MO, to points in OH, PA, NY, WV, and points in KY within 5 miles of the Ohio River, and (2) from Pittsburgh, PA, Youngstown, OH, and points within 50 miles of each, Lackawanna and Hamburg Townships, Erie County, NY, points in KY within 5 miles of the Ohio River, Cleveland, Lorain, Zanesville, Cambridge, Mansfield, Cincinnati, Middletown and Portsmouth, OH, Monroe and Detroit, MI, and Buffalo, NY, to points in IL, IN, IA, MO, and WI. Restriction: That portion of the operations authorized in part (2) involving traffic to points in MO, WI, and points in IA (except those points in IA on and east of a line beginning at Keokuk, IA, and extending along U.S. Hwy 218 to Cedar Rapids, then along U.S. Hwy 151 to junction IA Hwy 13, then along IA Hwy 13 to Marquette), is restricted to the transportation of traffic destined to those points. By the instant petition, petitioner seeks to modify the above certificates as follows: (A) Substitute "Iron and steel, iron and steel articles and products, pig iron, and machinery" for "Steel, steel products and machinery" in (Sub-52 part (1)). (B) Substitute "Iron and steel, iron and steel articles and products and pig iron" and "Steel and steel products" in (Sub-52 part (2) and in Sub-53).

MC 82735 (Sub-3) (M1F) (Correction) (Notice of filing of petition to modify permit), filed July 7, 1978, previously noticed in the FEDERAL REGISTER issue of September 7, 1978. Petitioner: HUDSON BERGEN TRUCKING CO., a corporation, 200 Central Avenue, Teterboro, NJ 07608. Representative: Charles Williams, 1815 Front Street, Scotch Plains, NJ 07076. Petitioner holds a *contract carrier* permit in MC 82735 (Sub-3), issued October 22, 1971, authorizing transportation over irregular routes, of *Such merchandise* as is dealt in by wholesale and retail grocery stores, from the facilities of Marschall Warehouse Co. at Teterboro, NJ, to points in NY, NJ, PA, CT, RI, and MA, under a continuing contract or contracts with Marschall Warehouse Co., of Teterboro, NJ. By the instant petition, petitioner seeks to delete the word "grocery", from the commodity description, and to modify the territorial description to read: Between the facilities of Marschall Warehouse Co., at Teterboro and South Hackensack, NJ, on the one hand, and, on the other, points in NY, NJ, PA, CT, RI, and MA.

NOTE.—The purpose of this correction is to indicate the modification of the territorial description as a between radial movement, and to add the facilities of Marschall Warehouse Co. at Hackensack, NJ.

MC 108859 (M1F) (Notice of filing of petition to modify certificate), filed August 7, 1978. Petitioner: CLAIRMONT TRANSFER CO., a corporation, 1803 Seventh Avenue North, Escanaba, MI 49829. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Petitioner holds a motor *common carrier* certificate in MC 108859, issued April 4, 1969, authorizing transportation, over regular routes, as pertinent of *General commodities* (usual exceptions), between St. Ignace, MI and Cheboygan, MI, serving no intermediate points: From St. Ignace over Interstate Hwy 75 to junction U.S. Hwy 23, thence over U.S. Hwy 23 to Cheboygan, and return over the same route. Restriction: The operations granted above are subject to the following conditions: (1) Said operations are restricted to the transportation of traffic having prior or subsequent movement by carrier from or to points which it is authorized to serve in the Upper Peninsula of Michigan west of Interstate Hwy 75 and in Wisconsin north of U.S. Hwy 18; (2) Said operations are restricted against the transportation of traffic interlined in the Upper Peninsula of Michigan and said area of Wisconsin which did not originate at, or which is not destined to, points in the Upper Peninsula of Michigan and said area of Wisconsin; (3) Said operations are restricted against the transportation of traffic originating at or destined the Cheboygan, MI. By this petition, petitioner seeks to amend the first restriction above noted to read as follows: Said operations are restricted to the transportation of traffic having a prior or subsequent movement by carrier from or to points which it is authorized to serve, except those in the Upper Peninsula of Michigan on and east of Interstate Hwy 75; and to delete the second restriction.

MC 111307 (Sub-4) (M1F) (Notice of filing of petition to modify certificate), filed August 16, 1978. Petitioner: OVERLAND WESTERN LTD., Box 3030, station A, 5200 Maingate Drive, Mississauga, ON, CD L5A 3S3. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Petitioner holds a motor *common carrier* certificate in MC

111307 (Sub-4), issued February 4, 1965, authorizing transportation, over regular routes, as pertinent, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Detroit, MI, and the port of entry at Port Huron, MI, serving no intermediate points: From Detroit over U.S. Hwy 25 to Port Huron, and return over the same route. Restriction: The authority granted herein is restricted to the transportation of traffic moving from or to points in Canada and against the transportation of shipments originating at or destined to Sarnia, ON, Canada. By the instant petition, petitioner seeks to modify the above authority by deleting the above restriction.

MC 113678 (Sub-533) (MIF) (Notice of filing of petition to modify certificate), filed August 21, 1978. Petitioner: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (Same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 113678 (Sub-533), issued September 8, 1977, authorizing transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of ABC-Trans National Transport at New York, NY, Boston, MA, Newark, NJ, and Chicago, IL, to Denver, CO. By the instant petition, petitioner seeks to modify the above authority by deleting the facility references in the territorial description.

MC 125910 (MIF) (Notice of filing of petition to modify certificate), filed August 14, 1978. Petitioner: CUSTOM TRANSPORT, INC., P.O. Box 310, Lincolnton, 28092. Representative: S. Harrison Kahn, 1511 K Street NW., Washington, D.C. 20005. Petitioner holds a motor *common carrier* certificate in MC 125910, issued August 4, 1975, authorizing transportation, over irregular routes, of (1) *Textile waste materials* and *used bagging,* and *textile waste materials,* and *cotton,* which are within the exemption of section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle with the commodities specified herein, and (2) synthetic textile fibers, between points in NC, VA, TN, SC, GA, AL, AR, and MS. By the instant petition, petitioner seeks to have the commodity description read: "(1) Textile materials, (2) textile waste materials and used bagging, and textile waste materials, and cotton, which are within the exemption of section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle with the commodities specified herein, and (3) synthetic fibers".

MC 138351 (Sub-2) (MIF) (Notice of filing of petition to modify permit), filed August 24, 1978. Petitioner: DENIS & ROBERT TRANSPORT, INC., 787 Denison Ouest, Granby, PQ, Canada J2G 8C8. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Petitioner holds a motor *contract carrier* Permit in No. MC 138351 (Sub-1), issued December 2, 1975, authorizing transportation, over irregular routes, of *Paper and paper products, materials* used for packing, *parts and supplies* used in the maintenance and repair of packing machinery and *supplies, materials,* and *equipment* used in the printing of paper, between ports of entry on the United States-Canada Boundary Line located in New Hampshire, Vermont, and New York (except Niagara Falls and Buffalo, NY), on the one hand, and, on the other, points in NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, OH, and DC, Detroit, MI, and Chicago and East St. Louis, IL. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: Denis & Robert Engr., Granby, PQ, Canada, Imprimerie Montreal-Granby Press, Ltee, Granby, PQ, Canada. By the instant petition, petitioner seeks to add Scott Paper Co. as an additional contracting shipper.

MC 139206 (M3F), MC 139206 (Subs 1, 2, 3, 4, and 5) (M1F) (Notice of filing of petition to modify permits), filed August 8, 1978. Petitioner: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, Washington, DC 20001. Petitioner holds motor *contract carrier* permits in MC 139206 and (Sub-Nos. 1, 2, 3, 4, and 5), issued December 6, 1977; March 10, 1978; July 5, 1978; March 30, 1978; March 30, 1978; and May 2, 1978, respectively, authorizing transportation, over irregular routes, as follows: MC 139206 authorizes transportation of: (1) *Textiles* and *textile products, chemicals,* and *materials, equipment, and supplies,* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between Arlington, Laredo, Brenham, and Houston, TX, Wellsville, MO, and Johnson City, TN, on the one hand, and, on the other, points in the United States (except AK and HI). MC 139206 (Sub-1) authorizes the transportation of *textiles, textile products, chemicals,* and *materials, equipment, and supplies* used in the sale, manufacture, processing, and distribution of textiles, textile products and chemicals (except commodities in bulk), between New Orleans and Houma, LA, on the one hand, and, on the other, points in the United States (except AK and HI).

MC 139206 (Sub-2) authorizes the transportation of *textiles* and *textile products, chemicals,* and *materials, equipment, and supplies* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between Graniteville, SC, on the one hand, and, on the other, points in the United States (except AK and HI). MC 139206 (Sub-3) authorizes the transportation of *textiles, textile products, chemicals,* and *materials, equipment, and supplies* used in the sale, manufacture, processing, and distribution of textiles, textile products, and chemicals (except commodities in bulk), between St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI). MC 139206 (Sub-4) authorizes the transportation of *textiles* and *textile products, chemicals,* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of textiles and textile products and chemicals (except commodities in bulk), between Pensacola, FL, and Charleston, TN, on the one hand, and, on the other, points in the United States (except AK and HI). MC 139206 (Sub-5) authorizes the transportation of *textiles* and *textile products, chemicals,* and *materials, equipment, and supplies* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except in bulk), between Boston, MA, and Kearny, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). All of the above permits are restricted to a transportation service to be performed under a continuing contract(s) with Chromalloy American Corp. By the instant petition, petitioner seeks to modify the above permits as follows: Add as additional contracting shippers in all of the above permits (1) Accron Chemical Distributors Houston/San Antonio, Inc. and (2) Accron Chemical Distributors Dallas/Ft. Worth, Inc., in order to reflect a change in the corporate structure of petitioner's contracting shipper, Chromalloy American Corp.

MC 141269 (MIF) (Notice to filing of petition of modify permit), filed August 22, 1978. Petitioner: CHAS. R. MORGAN, INC., 18574 South High-

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way 99 East, Oregon City, OR 97045. Representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Petitioner holds a motor *contract carrier* permit in MC 141269, issued April 25, 1977, authorizing transportation, over irregular routes, transporting: (1) *Malt beverages*, in bottles, (a) from the facilities of Pabst Brewing Co., at or near Los Angeles, CA, to the facilities of Morgan Distributing, Inc., at or near Oregon City, OR, and (b) from the facilities of Anheuser-Busch, Inc., at or near Los Angeles and Fairfield, CA, to the facilities of M.C. Distributing Co., at or near Oregon City, OR, and (2) *Wine*, in bottles, from the facilities of Browne Vintners, at or near San Francisco, CA, United Vintners, at or near Modesto, CA, Franzia Winery, at or near Lodi, CA, and Gibson Winery, at or near Elk Grove, CA, to the facilities of M.C. Distributing Co., at or near Oregon City, OR. Restriction: The authority granted under (1)(a) above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Morgan Distributing, Inc., of Oregon City, OR, and (1) (b) and (2) above are limited to a transportation service to be performed, under a continuing contract, or contracts, with M.C. Distributing Co., of Oregon City, OR. By the instant petition, petitioner seeks to modify the above authority by (I) substituting "in containers" for "in bottles" in the commodity description in (1) above, (II) substitute Morgan Distributing Inc., for M.C. Distributing Co., as the facility destination in (1)(b), (III) add a third movement which reads: *Empty bottles* returned after a loaded movement, from Oregon City, OR, to Winters, CA, and (IV) modify the restriction to read: The authority granted under (1) (a) and (b) and (3) above are limited to a transportation service to be performed under a continuing contract(s) with Morgan Distributing, Inc., of Oregon City, OR, and in (2) above is limited to a transportation service to be performed, under a continuing contract(s) with M.C. Distributing Co., of Oregon City, OR.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 5227 (Sub-35) (republication), filed January 23, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. A Decision of the Commission, Review Board No. 1, decided August 30, 1978, and served September 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Solar heating units, collectors, and duct work*, from Alamosa and Denver, Co, Manhattan, KS, and Janesville, WI, to points in the United States (except AK and HI); and (2) *equipment, materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, in the reverse direction, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 19193 (Sub-14F) (republication), filed March 13, 1978, published in the FEDERAL REGISTER issue of April 27, 1978, and republished this issue. Applicant: LAFFERTY TRUCKING CO., a corporation, 3703 Beale Avenue, Altoona, PA, 16601. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA, 17108. A Decision of the Commission, Review Board No. 1, decided August 28, 1978, and served September 14, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery, and food business houses and in connection therewith, *equipment, materials and supplies*, used in the conduct of such business, (1) between points in Jefferson, OH, and Brooke, Doddridge, Hancock, Harrison, Lewis, Marshall, Ohio, Pleasants, Ritchie, Tyler, Upshur, Wetzel, and Wood Counties, WV; and (2) between points in part (1) above, on the one hand, and, on the other, points in Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Ottawa, Portage, Sandusky, Stark, Summit, and Trumbull Counties, OH, Baltimore, MD, and those in Garrett, Allegany and Washington Counties, MD, those in Greene, Washington, Fayette, Westmoreland, Armstrong, Clarion, Forest, Elk, McKean, Cameron, Clinton, Lycoming, Union, Snyder, Junita, Perry, Dauphin, Cumberland, Franklin, Fulton, Bedord, Somerset, Cambria, Indiana, Jefferson, Clearfield, Centre, Blair, Huntingdon, and Mifflin Counties, PA, and those in Monogalia, Marion, Taylor, Preston, Barbour, Randolph, Tucker, Grant, Mineral, Hampshire, Morgan, and Hardy Counties, WV, under a continuing contract with The Great Atlantic & Pacific Tea Co., Inc., of Montvale, NJ, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 29910 (Sub-183F) (republication), filed December 19, 1977, published in the FEDERAL REGISTER issue of February 24, 1978, and republished this issue. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR, 72902. A Decision of the Commission, Review Board No. 1, decided August 30, 1978, and served September 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Prefabricated buildings, equipment, supplies, and building materials*, (1) from the facilities of Carolina Log Buildings, Inc., in Surry County, NC, to those points in the United States in and east of MT, WY, CO, and NM; and (2) from the plant-site of Carolina Log Buildings, Inc., at Fletcher, NC, to points in FL, AL, GA, SC, NC, VA, WV, MD, DE, NJ, PA, NY, CT, MA, RI, VT, NH, ME, and DC, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations.

The purpose of this republication is to indicate the origin point in part (1) above, as Surry County, NC, in lieu of Yadkin County, NC.

MC 41635 (Sub-49), (2d republication), filed October 5, 1977, published in the FEDERAL REGISTER issue of December 8, 1977, and July 20, 1978, and republished this issue. Applicant: DEALERS TRANSPORT CO., a corporation, P.O. Box 482, Memphis, TN 38101. Representative: Richard D. Gleaves, 631 Stahlman Building, Nashville, TN 37201. A decision of the Commission, Review Board No. 3, decided June 12, 1978, and served August 28, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *New motor vehicles*, in secondary movements, in truckaway service, from Baton Rouge, LA, to points in Angelina, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, Shelby, San Jacinto, San Augustine, and Tyler Counties, TX, restricted to the transportation of shipments manufactured, assembled, imported, and distributed by Ford Motor Co., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of San Augustine County, TX, as a destination point, modify the commodity and territorial description, and add a restriction.

MC 51146 (Sub-569), (republication), filed January 18, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Wayne Downing (same address as applicant). A decision of the Commission, Review Board No. 3, decided August 25, 1978, and served September 21, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Paper and paper products*, from Monroe, MI, to (a) points in NY west of a line beginning at the international boundary line between the United States and Canada and extending along U.S. Hwy 9 to its junction with NY Hwy 7, then along NY Hwy 7 to its junction with U.S. Hwy 11, and then along U.S. Hwy 11 to the NY-PA State line; (b) points in MD west of a line beginning at the PA-MD State line and extending along MD Hwy 45 to its junction with MD Hwy 2, then along MD Hwy 2 to the Chesapeake Bay and then north along the Chesapeake Bay and the Susquehanna River to the PA-MD State line; and (c) points in IL on and within an area bordered on the north by Interstate Hwy 64, on the west by the Mississippi River, on the south by IL Hwy 146, and on the east by the Wabash River; (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (1) above, to Monroe, MI; and (3) *wood products*, from New Freedom, PA, to points in IL, IN, MI, MN, and WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify territorial description in part 1(c); delete IA and add IN as a destination point in part (3) above.

MC 103993 (Sub-903) (republication), filed September 29, 1977, published in the FEDERAL REGISTER issue of December 8, 1977, and republished this issue. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant). A Decision of the Commission, Review Board Number 3, decided August 15, 1978, and served September 12, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Motor homes*, in driveaway service, from Elkhart, Goshen, Middlebury, Nappanee, and Wakarusa, IN, to points in the United States (including AK, but excluding HI and IN), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 130477 (republication), filed February 2, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: JEFFERY J. WELCH AND CODY F. WELCH, a partnership, d.b.a., ALPENA TRAVEL SERVICE, 118 West Washington, Alpena, MI 49707. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. A Decision of the Commission, Review Board Number 1, decided August 31, 1978, and served September 7, 1978, finds that the present and future public convenience and necessity require operations by applicant to operate as a *broker*, at Alpena, MI, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *Passengers and their baggage*, in round-trip tours, in special or charter operations, between points in the United States (including AK, but excluding HI), restricted to the transportation of passengers in tour service originating at and destined to points in Cheboygan, Presque Isle, Montmorency, Alpena, Otsego, Oscoda, Alcona, Roscommon, Ogemaw, and Iosco Counties, MI, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description and add a restriction.

MC 134183 (Sub-5) (republication), filed December 22, 1977, published in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: C. E. ZUMSTEIN, d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. A Decision of the Commission, Review Board Number 2, decided August 22, 1978, and served September 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Pipe fittings;* and (2) *materials, equipment and supplies* used in the manufacture and distribution of pipe fittings (except commodities in bulk), between the facilities used by Parker-Hannifan Corp., at or near Eaton, and Lewisburg, OH, on the one hand, and, on the other, points in the United States (except AK, OH, and HI), under a continuing contract(s) with North Parker-Hannifan Corp., will be consistent with the public interest and the national transportation and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and indicate the applicant's actual grant of authority.

MC 138054 (Sub-22F) (republication), filed February 14, 1978, published in the FEDERAL REGISTER issue of April 20, 1978, and republished this issue. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P. O. Box

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82028, Lincoln, NE 68501. A Decision of the Commission, Review Board Number 2, decided August 29, 1978, and served September 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Infant feeding equipment*, from Tionesta and Oil City, PA, and Ravenna, OH, to points in and west of ND, SD, NE, KS, OK, AND TX (except AK and HI), under continuing contract(s) with Questor Corp., of Toledo, OH, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of Ravenna, OH, as an origin point.

MC 138134 (Sub-9F) (republication), filed February 24, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, and republished this issue. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main Street, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church Street, Ottumwa, IA 52501. A decision of the Commission, Review Board Number 3, decided August 28, 1978, and served September 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Calcium carbide*, in containers, from Keokuk, IA, to points in AL, AR, AZ, FL, GA, KY, LA, MS, NM, OK, TN, and TX, under a continuing contract or contracts with Midwest Carbide Corporation of Keokuk, IA, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to add AZ as a destination point.

MC 144025 (Sub-1) (republication), filed January 16, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: THE BLUE DIAMOND CO., a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. A Decision of the Commission, Review Board Number 2, decided August 10, 1978, and served August 25, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Corrugated paper* and *paper products*, from the facilities of Union Camp Corporation, at Trenton, NJ, to points in NY, PA, MD, and DE, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the grant of common carrier authority in lieu of contract carrier authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonable file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 4810 (Sub-5F), filed September 11, 1978. Applicant: ROCKY MOUNTAIN TRUCKING CO., a corporation, P.O. Box 2131, Casper, WY 82601. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts; and (2) *Machinery, equipment, materials and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (a) Between points in CO, MT, NE, ND, SD, and WY, on the one hand, and, on the other, points in ID, KS, NV, NM, OK, OR, TX, UT, and WA; (b) between points in NE, on the one hand, and, on the other, points in ND and SD; (c) between points in SD (except points west of the Missouri River and on and north of U.S. Hwy 14), on the one hand, and, on the other, points in that part of SD west of the Missouri River and on and north of U.S. Hwy 14, and points in CO, MT, ND, and WY; and (d) between points in ID, KS, NV, NM, OK, OR, TX, UT, and WA. (Hearing: November 28, 1978 (3 weeks), Denver, CO, hearing room to be designated.)

MC 94265 (Sub-261F), filed February 21, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Illini Beef Packers, Inc., at Joslin, IL, to points in MD, NJ, NY, NC, PA, SC, VA, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114211 (Sub-367F), filed August 17, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Such commodities* as are dealt in, or used by agricultural equipment and industrial equipment dealers, and manufacturers (except commodities in bulk, Motor vehicles as defined in section 203(A)(13) of Part II of the Interstate Commerce Act, Foodstuffs, Paper and Paper Products, and Petroleum Products from Bradford, Emlenton, Farmers Valley, Freedom, Reno, Rouseville, Karns City and Petrolia, PA to IL and MI and from Cincinnati, OH to IL and IN, and truck cabs from Louisville, KY) between points in the United States (except AK and HI). Restriction: The above authority is restricted to movements from, to, or between the facilities of Ford Motor Co. (Tractor Operations) and its dealers and further restricted as follows: (A) On movements from the facilities of Ford Motor Co. (Tractor Operations) and its dealers to traffic originating at said facilities or dealers, (B) On movements to the facilities of Ford Motor Co. (Tractor Operations) or its dealers to traffic destined to said facilities or dealers, (C) On movements between the facilities of Ford Motor Co. (Tractor Operations) and/or its dealers to traffic originating at and destined to said facilities and/or dealers, (D) On all movements to traffic originating at and destined to points in the United States (except AK and HI), except on traffic moving in foreign commerce. (Hearing: October 30, 1978, at 9:30 a.m. local time at the Offices of the Interstate Commerce Commission, Washington, DC, for prehearing conference.)

MC 119641 (Sub-150F), filed August 30, 1978. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Such commodities* as are dealt in, or used by agricultural equipment and industrial equipment dealers, and manufacturers (except commodities in bulk, motor vehicles as defined in section 203(A)(13) of Part II of the Interstate Commerce Act, Foodstuffs, Paper and Paper Products, and Petroleum Products from Bradford, Emlenton, Farmers Valley, Freedom, Reno, Rouseville, Karns City and Petrolia, PA to IL and MI and from Cincinnati, OH to IL and IN, and truck cabs from Louisville, KY), between points in the United States (except AK and HI). Restriction: The above authority is restricted to movements from, to, or between the facilities of Ford Motor Co. (Tractor Operations) and its dealers and further restricted as follows: (A) On movements from the facilities of Ford Motor Co. (Tractor Operations) and its dealers to traffic originating at said facilities or dealers, (B) On movements to the facilities of Ford Motor Co. (Tractor Operations) or its dealers to traffic destined to said facilities or dealers, (C) On movements between the facilities of Ford Motor Co. (Tractor Operations) and/or its dealers to traffic originating at and destined to said facilities and/or dealers, (D) On all movements to traffic originating at and destined to points in the United States (except AK and HI), except on traffic moving in foreign commerce. (Hearing: October 30, 1978, at 9:30 a.m. local time at the Offices of the Interstate Commerce Commission, Washington, DC, for a prehearing conference.)

MC 120181 (Sub-11F), filed August 8, 1978. Applicant: MAIN LINE HAULING CO., INC., a corporation, P.O. Box C, St. Clair, MO 63077. Representative: William H. Shawn, 1730 M Street NW., Washington, DC. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles), between Memphis, TN and Parkway Village, MO: From Memphis over Interstate 55 to junction U.S. 63, then over U.S. 63, to junction U.S. 167, then over U.S. 167 to junction 62, then over U.S. 62 to junction U.S. 65, then over U.S. 65 to junction Interstate 44, then over Interstate 44 to junction MO 13, then over MO 13 to junction MO 7, then over MO 7 to junction MO 291, then over MO 291 to junction Interstate 70, then over Interstate 70 to junction MO 47, then over MO 47 to Parkway Village, serving the intermediate and off-route points within 15 miles of Grandview, MO (excluding Grandview), for the purposes of interchange or joinder only, and return over the same routes. (Hearing site: Kansas City, KS; St. Louis, MO; or Washington, D.C.)

MC 140241 (Sub-17F), filed August 7, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Bentonite and lignite, from points in Phillips County, MT; Big Horn County, WY, and Crook County, WY, to points in AZ, AR, CA, CO, ID, IL, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI and WY; and (2) lignite, from points in Bowman County, ND, to points in AZ, CA, LA, NM, OK and TX, restricted in (1) and (2) above to movements originating from the facilities of American Colloid Co.

NOTE.—Hearing October 10, 1978 (3 days) at Denver, CO, in a hearing room location to be later designated.

MC 144961 (Sub-1F), filed September 11, 1978. Applicant: REED TRANSPORTATION, a corporation, 4051 Gannett, Casper, WY 82601. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Machinery, equipment, materials, and supplies and facilities* used in, or incidental to, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum, and their products and by-products, electrical energy, ore, coal, geothermal and nuclear resources; and (2) *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, sevicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in CO, ID, MT, NV, ND, SD, WY, and UT. (Hearing November 28, 1978 (3 weeks) at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall in-

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clude a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13708F. Authority sought for purchase by TIAGO, INC., 7725 De Palma, Downey, CA 90241, of the operating rights of Duqal, Ltd., 3308 Bandini Boulevard, Los Angeles, CA 90023. Representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Operating rights sought to be purchased: *Livestock*, as a common carrier, over irregular routes, from points in Arizona to points in Los Angeles, Orange, Kern, Tulare, San Bernardino, Riverside, San Diego, and Imperial Counties, CA, with no transportation for compensation on return except as otherwise authorized. *Farm products* (other than those suitable for human consumption), *grain, feeds, salt, potatoes*, and *fertilizer*, in lots of 10,000 pounds or over, and *cement*, in lots of 40,000 pounds or over, from points in Los Angeles, Orange, Kern, San Bernardino, Riverside, and Imperial Counties, CA, to points in AZ, except points located on and with 1 mile of U.S. Hwy 70 and U.S. Hwy 80 between the AZ-CA State line and Mesa, AZ; AZ Hwy 87 between Mesa and Picacho, AZ; AZ Hwy 84 between Gila Bend and Tucson, AZ; U.S. Hwy 89 between Tucson and Nogales, AZ; U.S. Hwy 80 between Tucson and Douglas, AZ; U.S. Hwy 66 between the AZ-CA State line and the AZ-NM State line; U.S. Hwy 89 and Alternate U.S. Hwy 89 between Wickenburg and Clarkdale, AZ; and AZ Hwy 287 between its junction with AZ Hwy 87 and Florence, AZ; and *Empty cement containers*, from the above-specified destination points to points in Los Angeles, Orange, Kern, San Bernardino, Riverside, and Imperial Counties, CA. *Box-shook* and *empty produce and vegetable crates*, from points in Los Angeles, CA, to points in AZ, except those located on and within 1 mile from the described portions of the above-specified highways, with no transportation for compensation on return except as otherwise authorized. *Feeds and fertilizer*, except liquids in bulk, from points in Los Angeles, Orange, Kern, San Bernardino and Riverside Counties, CA, (except Blythe, CA), to points in AZ, with no transportation for compensation on return except as otherwise authorized. *Fertilizer*, in bags, from San Diego, CA, to points in AZ, with no transportation for compensation on return except as otherwise authorized. *Potting soil* (except in bulk), *pesticides* (except in bulk) and *pottery*, in mixed loads with feeds and fertilizers, from points in Los Angeles, Orange, Kern, San Bernardino, and Riverside Counties, CA, (except Blythe, CA), to points in AZ, with no transportation for compensation on return except as otherwise authorized. *Fertilizer*, in bulk, from points in San Diego County, CA, to points in AZ, with no transportation for compensation on return except as otherwise authorized. Transferee holds authority to transport: *Dry manufactured fertilizer*, in bulk, from points in that part of CA lying in and south of San Luis Obispo, Kern, and San Bernardino Counties, CA, to points in AZ, with no transportation for compensation on return except as otherwise authorized. From points in Fresno County, CA, to points in AZ, with no transportation for compensation on return except as otherwise authorized. From points in Imperial County, CA, to San Diego, CA, and points in the Los Angeles Harbor, CA, Commerical Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized. From points in Yuma County, AZ, to points in Imperial County, CA, with no transportation for compensation on return except as otherwise authorized. *Aggregates* used in the manufacture of concrete and concrete products, between points in that part of CA lying in and south of San Luis Obispo, Kern, and Inyo Counties, CA, and points in AZ. *Aggregates* (except cement and pozzolan), from points in Inyo, Mono, San Bernardino, Ventura, and Riverside Counties, CA, to points in Nyé and Clark Counties, NE, with no transportation for compensation on return except as otherwise authorized. *Aggregates* (except cement and pozzolan), in bulk, from Las Vegas, NE, to points in Riverside, San Bernardino, San Diego, Ventura, Mono, and Inyo Counties, CA, with no transportation for compensation on return except as otherwise authorized. *Potash*, in bulk, from Trona, CA, to points in AZ, with no transportation for compensation on return except as otherwise authorized. Application has not been filed for temporary authority under section 210a(b) of the act.

MC-F-13716F. Transferee: S & C Transport Company, Inc., 1020 Sunshine Road, Kansas City, KS 66115. Transferor: Midwest Transport, Inc., 65 State Street (SH), Hutchinson, KS 67505 Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 141912, issued October 1, 1976; Sub Nos. 1,2,3,4,5, issued October 1, 1976; Sub No. 7, issued December 9, 1977; and Sub No. 8, issued February 13, 1978, respectively, as follows: *Canned goods*, as a common carrier over irregular routes from Nebraska City and Plattsmouth, NE, to points in KS (except Wichita) on and east of KS Hwy. 14, with no transportation for compensation on return except as otherwise authorized; From Hutchinson and Wichita, KS, to Ada, Tulsa, Blackwell, Enid, Sapulpa, and Oklahoma City, OK; and, from Hutchinson, KS, to Lincoln, Superior, and Omaha, NE; and, *salt*, from Hutchinson, Lyons, and Kanopolis, KS, to points in OK, and points in that part of CO on and east of a line beginning at the WY-CO State line, and thence extending along U.S. Hwy 85 to junction unnumbered Hwy near Larkspur, CO, thence along unnumbered hwy. to junction CO Hwy. 105 at or near Palmer Lake, CO, thence along CO Hwy 105 via Monument, CO, to junction U.S. Hwy 85, thence along U.S. Hwy 85, to junction CO Hwy 165 near Crow, CO, thence along CO Hwy 165 to junction unnumbered Hwy at or near Crow, CO, thence along unnumbered Hwy to junction U.S. Hwy 85, thence along U.S. Hwy 85 to junction unnumbered hwy. (formerly portion U.S. Hwy 85), thence along unnumbered highway through Aguilar, CO, to junction U.S. Hwy 85, and thence along U.S. Hwy 85 to the CO-NM State line, with no transportation for compensation on return except as otherwise authorized. From South Hutchinson, KS, to points in NE and OK, and in that part of CO as specified immediately above, with no transportation for compensation on return except as otherwise authorized. From Hutchinson, KS, to points in NE, with no transportation for compensation on return except as otherwise authorized. From Hutchinson, South Hutchinson, and Lyons, KS, and points within one mile of each, to points in MN, ND, SD, and WY, with no transportation for compensation on return except as otherwise authorized. From Hutchinson and Lyons, KS, to points in AR, and points in Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallam, Cottle, Hall, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Kent, Terry, Motely, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Donley, Moore, Hockley, Parmer, Deaf Smith, Hemphill, Hardeman, and Garza Counties, TX, and points in Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, and Rio Arriba Counties, NM, with no transportation for compensation on return except as otherwise authorized. *Grain*, from points in MN, ND, SD, and WY, to points in KS, with no transportation for compensation on return except as otherwise authorized. *Pepper*, in packages, in mixed shipments with salt, from Hutchinson, KS, to points in MN, AR, NE, OK, ND, SD, WY, points in that part of CO on and east of U.S. Hwy 85, points in Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, and Rio Arriba Counties, NM, and points in Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallas, Cottle, Hall, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Terry, Motley, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Donley, Moore, Hockley, Parmer, Deaf Smith, Hemphill, Hardeman, Garza and Kent Counties, TX; and *empty containers or other such incidental facilities used transporting the above-specified commodity*, from the above specified destination territory to Hutchinson, KS. *Flour*, in sacks, from Hutchinson, KS, to Alva, Chickasha, Clinton, Duncan, Durant, Edmond, Lawton, Muskogee, and Oklahoma City, OK, with no transportation for compensation on return except as otherwise authorized. *Glass containers*, from Okmulgee and Muskogee, OK, to Hutchinson, KS, with no transportation for compensation on return except as otherwise authorized. *Products* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries when shipped in mixed shipments with salt or salt products otherwise authorized, From points in the Hutchinson-South Hutchinson, KS, Commercial Zone as defied by the Commission, to points in MN, AR, NE, OK, ND, SD, and WY, points in that part of CO on and east of U.S. Hwy 85, points in Curry, Bernalillo, Mora, Santa Fe, Colfax, Harding, Los Alamos, Taos, Quay, Guadalupe, Union, San Miguel, Torrance, and Rio Arriba Counties, NM, and those in Cochran, Bailey, Randall, Roberts, Crosby, Swisher, Potter, Sherman, Wichita, Lubbock, Castro, Oldham, Dallas, Cottle, Hall, Gray, Ochiltree, Yoakum, Dickens, Briscoe, Carson, Hansford, Floyd, Collingsworth, Hartley, Foard, Terry, Motley, Childress, Wheeler, Lipscomb, Lamb, Armstrong, Hutchinson, Wilbarger, Lynn, Hale, Conley, Moore, Hockley, Parmer, Deaf Smith, Hemphill, Hardeman, Garza, and Kent Counties, TX, with no transportation for compensation on return except as otherwise authorized. *Foodstuffs*, not frozen, except dairy products, from the plantsite and storage facilities of Western Food Products Company, Inc., at or near Hutchinson, KS, to points in CO (except Denver), MO, NE, ND, and SD, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized immediately above are restricted to the transportation of shipments originating at the above-named origin points and destined to the above-named destination points. *Foodstuffs*, not frozen, except fresh meats and dairy products, from Hutchinson, KS, to points in AR, OK, and TX, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under the three commodity descriptions next-above are restricted against the transportation of commodities in bulk. *Glass, glass containers*, and *glassware*, from Okmulgee and Muskogee, OK, to the plantsite and storage facilities of Western Food Products Company, Inc., at or near Hutchinson, KS, and the plantsite and storage facilities of Wichita Cider and Vinegar Works at or near Wichita, KS, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized immediately above are restricted to the transportation of shipments originating at the above-named origin points and destined to the above-named destination points. *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Henryetta, OK, to points in AR, CO, IL, IA, KS, LA, MN, MS, MO, NE, NM, ND, SD, TN, TX, WI, and WY, with no transportation for compensation on return except as otherwise authorized. *Paper and paper products*, from the facilities of Fort Howard Paper Co. at or near Muskogee, OK, to points in AR, CO, KS, LA, MO, NE, NM, OK, and TX; and, *equipment, materials and supplies* used in the manufacture and distribution of these commodities (except commodities in bulk, or those which because of size or weight require the use of special equipment), from the destinations named directly above to the facilities of Fort Howard Paper Co. at or near Muskogee, OK. Restriction: The authority granted herein is subject to the following restrictions: The authority granted in part (1) above is restricted to the transportation of shipments originating at the named origin. The authority granted in part (2) above is restricted to the transportation of shipments destined to the indicated destination. Vendee is authorized to operate as a common carrier in KS, OK, NB, MO, & CO. Application has been filed for temporary authority under section 210a(b).

MC 13734F. Authority sought for purchase by Cowen Truck Line, Inc., Rt. 2, Perrysville, OH 44864, a portion of the operating rights of Jesco Motor Express, Inc., 162 Columbus Road, Mt. Vernon, OH 43050, and for acquisition by Robert H. Cowen and LaVone F. Cowen (same address as transferee), in control of Cowen Truck Line, Inc., for control of the rights through purchase. Applicant's representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Operating rights sought to be purchased: (1) Under Permit No. MC-17211 (Sub-5), plumbing fixtures and supplies, from Perrysville, OH, and points in Ripley Township, Holmes County, OH, to Points in DE, IL, IN, IA, KY, MD, MI, MO, MN, NJ, NY, PA, TN, VA, WV, WI, and DC; and materials used in the manufacturing of plumbing fixtures and supplies from the above-specified destination points to Perrysville, OH, and points in Ripley Township, Holmes County, OH; (2) Under Permit No. MC-17211 (Sub-9), plumbing fixtures and supplies, from Perrysville, OH, and points in Ripley Township, Holmes County, OH, to points in CT, ME, MA, NH, RI, and VT; and materials used in the manufacture of plumbing fixtures and supplies, from the above-specified destination points, to Perrysville, OH, and points in Ripley Township, Holmes County, OH; and (3) Under Permit No. MC-17211 (Sub-12), plumbing fixtures and supplies (except commodities in bulk), from Perrysville, OH, and points in Ripley Township, Holmes County, OH, to points in AL, FL, GA, NC, and SC; and materials used in the manufacture of plumbing fixtures and supplies (except commodities in bulk), from points in AL, FL, GA, NC, and SC, to Perrysville, OH, and points in Ripley Township, Holmes County, OH. All of the above authority is restricted to a transportation service to be performed, under a continuing contract, or contracts, with Mansfield Sanitary, Inc. of Perrysville, OH. Approval of the transaction will not result in (a) dual operations; (b) splitting of operating authority; or (c) duplicating authority. Vendee is authorized to operate as a contract carrier in IL, OH, MS. Application has been filed for temporary authority under section 210a(b) of the Act. (Hearing sites: Columbus, OH or Washington, DC.)

MC-F-13735F. Authority sought for purchase by HYMAN FREIGHTWAYS, INC., 1745 University Avenue, St. Paul, MN 55104, of the operating rights of Blackwood's Motor Service, Inc., 319 Pearl St., Montgomery IL 60538, and for acquisition by Eugene Pikovsky, 1745 University Avenue, St. Paul, MN 55104, of control of such rights through the transaction. Applicants' representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402

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and Robert H. Levy, 29 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration in MC-85454 (Sub-1) issued September 22, 1966, as follows: "Commodities general within a fifty (50) mile radius of 848 Charles Street, Aurora, IL, and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area." Transferee holds extensive regular route authority from this Commission to transport general commodities, over regular route, between Chicago and Minneapolis-St. Paul, MN, and from Minneapolis-St. Paul to points in IA, MN, MO, NE, ND, SD, and the Province of Manitoba, Canada. Application has been filed for temporary authority under section 210a(b). (Hearing site: Chicago, IL.)

NOTE.—MC 108835 (Sub-45F) is a directly related matter.

MC-F-13736F. Authority sought for purchase by HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, MA 02740 of the operating rights of Johnstown-Pittsburgh Express, Inc., 859 Progress Street, Pittsburgh, PA 15212. Attorneys: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036, and Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Operating rights sought to be purchased are set forth in Certificates MC-116506 and MC-116506 (Sub-2 and 4) and authorize the following: (A) Regular routes, *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Pittsburgh, PA, and Johnstown, PA, serving intermediate points and off-route points within 10 miles of Johnstown; (B) irregular routes, *general commodities*, except those of unusal value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Johnstown, PA, to points in Pennsylvania within 45 miles of Johnstown, with no transportation for compensation on return except as otherwise authorized, *petroleum products*, from Baltimore, MD, to Johnston, PA; and *empty petroleum product containers*, from Johnstown, PA, to Baltimore, MD, and (C) alternate routes for operating convenience only: *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between junction U.S. Hwy 22 and PA Hwy 403, and Cresson, PA, in connection with carrier's authorized regular route operations, serving no intermediate points and serving the termini for purpose of joinder only, and between junction U.S. Hwys 22 and 219, and Johnstown, PA, in connection with carrier's authorized regular route operations, serving no intermediate points and serving the junction of U.S. Hwys 22 and 219 for purpose of joinder only. Vendee is a common carrier by motor vehicle authorized to conduct operations, pursuant to certificate No. 30204 and sub numbers thereunder, in the States of CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV, and the province of PQ, Canada. Application has been filed for temporary authority under section 210a(b) of the act.

MC-F—13742F. Authority sought for control by TRANSPORTATION CONSULTANTS, INC., P.O. Box 487, 5950 Fisher Road, East Syracuse, NY 13057 of operating authority of De Witt Transportation Corp., P.O. Box 487, 5950 Fisher Road, East Syracuse, NY 13057 through acquisition of the stock of De Witt Transportation Corp. and control of such rights by Frederic J. Durkin and John C. Durkin, Jr., through the acquisition. Applicant's representatives: Martin Werner, Esq. and Michael R. Werner, Esq. P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Motor *contract carrier* operating rights sought to be controlled: under MC-145029F (Pending). Irregular routes, *color cathode ray tubes, television sets, and materials, equipment, and supplies used in the manufacture and distribution of television sets*, between Syracuse, NY and Portsmouth, VA, under continuing contract(s) with General Television of America, Inc. of Syracuse, NY. Transportation Consultants, Inc. holds no authority from this Commission. However, it is in control of the following contract carriers: Food Haul, Inc. is authorized to operate as a contract carrier in AK, FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, SC, TN, TX, VA, and WV; J.C.D. Transportation Corp. is authorized to operate as a contract carrier in CT, MA, NY, and PA; Fleetwood Transportation Corp. is authorized to operate as a contract carrier in PA, NY, NJ, MD, DE, DC, VA, WV, CT, MA, RI, MI, OH, KY, and IN; Fairfield Transportation Corp. is authorized to operate as a contract carrier in NY, CT, MA, NJ, and PA; Barr Transportation Corp. is authorized to operate as a contract carrier in MA, CT, NH, MD, PA, NY, RI, VT, NJ, DE, OH, WV, and DC. Application has not been filed for temporary authority under section 210a(b).

NOTE.—This application is directly related to the pending proceeding in Docket No. MC-145029F, FEDERAL REGISTER date August 22, 1978.

MC-F-13743F. Authority sought for purchase by DAN GAICH TRUCKING, INC., P.O. Box 452, Rillton, PA 15678, of the operating rights of Irene H. Brindle and Florence B. Padule, d.b.a. Ralph L. Brindle Motor Freight, of 1105 Lakeview Drive, Latrobe, PA, and for acquisition of control of such rights by Dan Gaich, P.O. Box 452, Rillton, PA 15678, through the purchase. Representative: Jerome Solomon, 3131 United States Steel Building, Pittsburgh, PA 15219. Operating rights to be transfered are as a *common carrier* over regular routes general commodities (with the usual exception) between Latrobe, PA, and Pittsburgh, PA, serving the intermediate point of Greensburg, PA. Vendee is authorized to operate as a common carrier within PA. Application has been filed for temporary authority under section 210a(b). (Hearing site: Pittsburgh, PA).

MC-F-13745F. Authority sought for purchase by R-W SERVICE, INC., 20225 Goddard Road, Taylor, MI 48180, of a portion of the operating rights of KEY LINE FREIGHT, INC., 15 Andre Street SE., Grand Rapids, MI 49507, and for acquisition by McLouth Steel Corp., 300 South Livernois, Detroit, MI 48209, of control of such rights through the transaction. Applicants' representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Operating rights sought to be purchased: *Iron and steel products*, as a *common carrier* over irregular routes between Gibralter, MI, on the one hand, and, on the others, Evansville and Vincennes, IN, points in IN on and north of U.S. Hwy 40, those in IL on and north of a line beginning at the IN-IL State line and extending along U.S. Hwy 36 to Springfield, IL, then along IL Hwy 124 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction IL Hwy 103, then along IL Hwy 103 to junction U.S. Hwy 24 to the IL-MO State line, and those in WI on and south of a line beginning at the MN-WI State line and extending along U.S. Hwy 12 to junction WI Hwy 29, then along WI Hwy 29 to Green Bay, WI, and then along U.S. Hwy 141 to Manitowoc, WI. Vendee is authorized to operate as a common carrier in OH, MI, IN, IL, WI, IA, MO, PA, and WV. Application has been filed for temporary authority under section 210a(b).

MC-F-13747F. Authority sought for purchase by IDEAL TRUCK LINE, INC., P.O. Box 330, Norton, KS 67654, of a portion of the operating rights of G & H Truck Line, Inc., 3930 Blake Street, Denver, CO 80205, and for acquisition by R. E. Blickenstaff (same address as applicant), of control of such rights through the transaction. Applicant's attorney: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Operating rights to be purchased: *General commodities*, except those of unusual value, high explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Denver, CO and Pueblo, CO, serving the intermediate point of Colorado Springs, CO: from Denver over U.S. Hwy 85 to Pueblo, and return over the same route. (Hearing site: Denver, CO.)

NOTE.—Vendee is authorized to conduct operations in IA, KS, MO, NE and CO. No dual operations involved. Application has been filed for temporary authority under section 210a(b).

MC-F-13748F. Authority sought for purchase by KSS TRANSPORTATION CORP., P.O. Box 3052, North Brunswick, NJ 08902, of the operating rights of K.N.K. Transco, Inc., 930 South Grand Street, P.O. Box 1433, Spencer, IA 51301. Applicant's attorney: Daniel C. Sullivan, esq., Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be purchased: (1) *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), as a *common carrier* over irregular routes, from the facilities used by Hygrade Food Products Corp., located at or near Storm Lake and Cherokee, IA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named origin facilities, and destined to points within the named destination states; (2) *meats, meat products, and meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except hides and commodities in bulk, as a *common carrier* over irregular routes, from the plantsites and storage facilities of Spencer Foods, Inc., located at/or near Spencer, Hartley, and Cherokee, IA; Sioux Falls, SD; and Schuyler, NE, to points in CT DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, with no transportation for compensation on return, except as other wise authorized. Restriction: The authority granted herein is restricted to traffic originating at the above-named plantsites and storage facilities and destined to the above-named destinations; (3) *meats, meat products, and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), as a *common carrier* over irregular routes, from the plantsite and storage facilities utilized by Wilson-Sinclair Co. at Albert Lea, MN, to points in PA, NY, MD, DE, NJ, CT, RI, MA, VT, NH, ME, and DC, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the plantsite or storage facilities utilized by Wilson-Sinclair Co. at Albert Lea, MN and destined to the above-named destination points; (4) *meats, meat products, and meat byproducts, and articles* distributed by meat packinghouses (except hides and commodities in bulk), as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, as a *common carrier* over irregular routes, from the plantsites and storage facilities of Wilson-Sinclair Co. at Cedar Rapids, IA, to points in PA, NY, MD, DE, NJ, CT, RI, MA, VT, NH, ME, and DC, with no transportation for compensation on return, except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destination points; (5) *meats, meat products, and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk or commodities in bulk in tank vehicles, as a *common carrier over* irregular routes, from the plantsite and storage facilities of Wilson Certified Foods, Inc., at or near Cherokee, IA and Omaha, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, with no transportation for compensation on return, except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above-named points and destined to the above-named destinations. Vendee is authorized to operate as a *contract carrier* from Metuchen, North Brunswick, Newark, and Linden, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). Approval of this transaction will result in dual operations. Application has been filed for Temporary Authority under section 210a(b).

MC-F-13749F. Authority sought for purchase by EDSON EXPRESS, INC., 1270 Boston Avenue, Longmont, CO 80501, of a portion of the operating rights of RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207, and for acquisition by Jack E. Edson, Jack B. Edson, Marjorie J. Edson, and Jeffrey S. Edson, all of 1270 Boston Avenue, Longmont, CO 80501, of control of such rights through the transaction. Applicants' representatives: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209 and Russell R. Sage, Major, Sage & King, P.O. Box 11278, Alexandria, VA 22312. Operating rights sought to be purchased: A portion of Certificate MC 52709 authorizing the transportation of: *General commodities*, except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over regular routes, between Fort Collins, CO, and Ault, CO, serving no intermediate points: from Fort Collins, CO over CO Hwy 14 to Ault, CO, and return over the same route; between Greeley, CO and Loveland, CO, serving no intermediate points: from Greeley, CO over U.S. Hwy 34 to Loveland, CO, and return over the same route; between Denver, CO and Cheyenne, WY, serving all intermediate points: from Denver, CO over U.S. Hwy 287 (formerly U.S. Hwy 87), to junction unnumbered highway approximately 2 miles north of Fort Collins, thence over unnumbered highway to junction U.S. Hwy 87, and thence over U.S. Hwy 87 to Cheyenne, WY, and return over the same route. Application has been filed for temporary authority under section 210a(b). Vendee is authorized to operate as a *common carrier* in Colorado.

MC-F-13752F. Authority sought for the continuance of common control and management by Gertrude Meier Watson, Robert S. Meier, Richard A. Meier, Calvin H. Meier and Ruth M. Schoenwetter, 200 West Beltline Highway, Madison, WI 53713 of BADGER COACHES, INC. and of BADGER BUS LINES, INC., both being *common motor carriers* of passengers and their baggage in interstate and intrastate commerce and both of 200 West Beltline Highway, Madison, WI 53713. Applicant's attorney, Adolph J. Bieberstein, 121 West Doty Street, Madison, WI. Operating rights sought to be continued in control: BADGER BUS LINES, INC. is a *motor carrier* authorized under MC 802 to transport passengers and their baggage between Madison, WI and Freeport, IL, serving all intermediate points. BADGER COACHES, INC. is a *common motor carrier* of passengers and their baggage authorized under MC 106120 and Subs 2 and 3 to transport passengers and their baggage between Madison, WI and Milwaukee, WI, serving the intermediate points of Lake Mills, Johnson Creek and Delafield, WI. It is also

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authorized to transport passengers and their baggage in special operations between Milwaukee, WI and Wonder Lake, IL and between points in Milwaukee County, WI and points in Cook County, IL. On June 8, 1978, the Commission granted BADGER COACHES, INC. authority to operate in interstate or foreign commerce as a *common carrier* by motor vehicle of passengers and their baggage in charter and special operations in round trip and sightseeing and pleasure tours beginning and ending at points in Dane, Jefferson, Waukesha and Milwaukee Counties, WI and extending to points in the United States, including Alaska, but restricted against the transportation of passengers to and from race tracks. Such grant was conditioned upon the persons engaged in the common control and management of BADGER COACHES, INC. and BADGER BUS LINES, INC. applying for approval thereof of the Interstate Commerce Commission as required by section 5(2) of the Interstate Commerce Act. The instant application is made to comply with that condition. Common control was previously exercised by H. E. Meier, who died on August 14, 1968. The applicants constitute the widow and children of the decedent, H. E. Meier, and are requesting authority to continue such common control.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 108835 (Sub-45F), filed September 13, 1978. Applicant: HYMAN FREIGHTWAYS, INC., 1745 University Avenue, St. Paul, MN 55104. Representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment) (1) between points in IL on and east of a line beginning at the WI-IL boundary, then along IL Hwy 26 to its junction with IL Hwy 71, then along IL Hwy 2 to its junction with IL Hwy 26, then along IL Hwy 71 to its junction with U.S. Hwy 51, then along U.S. Hwy 51 to its junction with IL Hwy 17, then along IL Hwy 17 to its junction with the IL-IN State line, and (2) between points in (1) above, on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity. This matter is directly related to a section 5(2) finance proceeding docketed MC-F-13735F, published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket 58344, filed September 8, 1978. Applicant: PINO FREIGHTWAYS, INC., 125 Piedmont Avenue, San Bruno, CA 94066. Representative: Daniel W. Baker, 100 Pine Street, San Francisco, CA 94111. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except the following): (a) Used household goods and personal effects not packed in accordance with the crated property requirements; (b) livestock; (c) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers and a combination of such highway vehicles; (d) commodities when transported in bulk in dump trucks or in hopper-type trucks; (e) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (f) logs; (g) fresh fruits and vegetables; (h) articles of extraordinary value; (i) automobiles, trucks, busses, and trailer coaches and campers. Between all points and places in the San Francisco territory, as described in Note A, and between all points within 10 miles of any point therein. In performing the service, applicant may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of the service.

NOTE A

SAN FRANCISCO TERRITORY

San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Meteo County line meets the Pacific Ocean; thence easterly along said county line to a point 1 mile west of State Highway 82; southerly along an imaginary line 1 mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Hwy 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly, and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Hwy 123); northerly along San Pablo Avenue to and including the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate, and foreign commerce authority sought. Hearing: date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Georgia Docket 9186-M, filed May 9, 1978. Applicant: ATLANTA DISPATCH AND DISTRIBUTION, INC., 4779 Fulton Boulevard, Atlanta, GA 30326. Representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities*, (1) between Atlanta, GA and Toccoa, GA, serving all intermediate points, from Atlanta over U.S. Hwy 23 to junction U.S. 123 then over U.S. 123 to Toccoa, and return over the same route; (2) between Atlanta, GA and GA-SC State line serving all intermediate points, from Atlanta over I-65 to the GA-SC State line near Lavonia, GA, and return over the same route; (3) between Commerce, GA and Clarkesville, GA, serving all intermediate points, from Commerce over U.S. Hwy 441 to Clarkesville, and return over the same route; (4) between Hartwell, GA and Toccoa, GA, serving all intermediate points, from Hartwell over GA Hwy 77 to junction GA 17, then over GA 17 to Toccoa, and return over the same route; (5) between Atlanta, GA and Cornelia, GA, serving all intermediate points, from Atlanta over I-85 to junction GA Hwy 365, then over GA Hwy 365 to junction U.S. 23, then over U.S. 23 to Cornelia, and return over the same route; (6) between Atlanta, GA, and Gainesville, GA serving all intermediate points, from Atlanta over U.S. Hwy 19 to junction I-285 at Sandy Springs, GA, then over I-285 to junction GA Hwy 400, then over GA Hwy 400 to junction GA Hwy 141, then over GA Hwy 141 to U.S. Hwy 19, then over U.S. Hwy 19 to junction GA Hwy 369, then over GA Hwy 369 to Gainesville, and return over the same route; (7) between Sandy Springs, GA and Ducktown, GA, serving all intermediate points, from Sandy Springs over U.S. Hwy 19 to junction GA Hwy 20, then over GA Hwy 20 to Ducktown, GA, and return over the same route; (8) between Buford, GA and Cumming, GA, serving all intermediate points, from Buford over GA Hwy 20 to Cumming, and return over the same route; (9) between Jefferson, GA and Gainesville, GA, serving all intermediate points, from Jefferson over U.S. Hwy 129 to Gainesville, and return over the same route; (10) between Commerce, GA and Jefferson, GA, for operating convenience only, from Commerce over GA Hwy 15 to Jefferson, and return over the same route, serving no intermediate points; with the right to serve points in Hart, Franklin, Banks, Jackson, Stephens, Habersham, Rabun, White, and Hall Counties, as off-route points in connection with routes (1) through (9) above; also for corresponding authority to engage in interstate and foreign commerce within the limits of the intrastate authority granted, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 24, 1978, at the Georgia Public Service Commission, Commissioner's Hearing Room, 177 State Office Building, 244 Washington Street SW., Atlanta, GA. Requests for procedural information should be addressed to Georgia Public Service Commission, 162 State Office Building, 244 Washington Street SW., Atlanta, GA 30334, and should not be directed to the Interstate Commerce Comission.

Tennessee Docket MC 933 (Sub-3), filed September 18, 1978. Applicant: MOUNT PLEASANT TRANSFER, INC., P.O. Box 267, Mount Pleasant, TN 38474. Representative: Stephen L. Edwards, 806 Nashville Bank and Truck Building, Nashville, TN 37201. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment or handling), (1) between all points in Maury County, TN, on the one hand, and, on the other, Nashville, TN, over U.S. Hwy 31 with alternate use of Intersate 65 for convenience, with closed doors between Maury County, TN, and Nashville, TN, and (2) between all points in Maury County, TN, on the one hand, and, on the other, Chattanooga, TN, over State Rte. 50 from Maury County, TN, to junction of U.S. Hwy 431; thence over U.S. Hwy 431 to junction of U.S. Hwy 64; thence over U.S. Hwy 64 to junction of Interstate 24; thence over Interstate 24 to junction of State Rte. 28; thence over State Rte. 28 to the junction of U.S. Hwys 41, 64, and 72; thence over U.S. Hwys 41, 64, and 72 to junction of Interstate 24; thence over Interstate 24 to Chattanooga, TN, and return over same route; with closed doors between Maury County, TN, and Chattanooga, TN; and co-extensive authority in interstate and foreign commerce pursuant to section 206(a)(6) of the Interstate Commerce Act; restricted against through service between Nashville, TN, and Chattanooga, TN. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 13, 1978, at 9:30 a.m., C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28026 filed 10-4-78; 8:45 am]

[7035-01]

[Notice No. 725]

ASSIGNMENT OF HEARINGS

OCTOBER 2, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of can-

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cellation or postponements of hearings in which they are interested.

No. 36867, Nevada Power Co. v. Union Pacific Railroad Co., et al., now assigned for hearing on October 10, 1978, at Las Vegas, Nev., is postponed to October 30, 1978 (4 days), at Las Vegas, Nev., in a hearing room to be later designated.

No. 36874, Notice of Intent to File Divisions Complaint by Long Island Rail Road Co., now being assigned for continued prehearing conference on October 12, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 59531 (Sub-107F), Auto Convoy Co., now assigned for hearing on October 10, 1978, at Denver, Colo., is postponed indefinitely.

No. MC-F-13434, Central Transfer Co.—Purchase (Portion)—Robert Emanuel and Margaret Emanuel and Margaret Emanuel d.b.a. Emanuel's Express and No. MC 1403 (Sub-No. 4), now being assigned for continued hearing on October 4, 1978 (3 days), at Philadelphia, Pa., Room 2609, Courthouse, 600 Market Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28155 Filed 10-4-78; 8:45 am]

[7035-01]

[Disaster Decision No. 14; Sub-No. 1]

SOUTHERN PACIFIC TRANSPORTATION CO. AND NORTHWESTERN PACIFIC RAILROAD CO.

Decided October 2, 1978.

An application has been filed jointly by the Southern Pacific Transportation Co. (SP) and the Northwestern Pacific Railroad Co. (NWP) seeking authority under section 22 of the Interstate Commerce Act to publish allowances in order to provide reduced rates for persons who would normally ship via the NWP and AMR but who cannot do so because of a fire in a tunnel on the NWP at mileage post 195 near Island Mountain, Calif.

It is ordered: The applicant carriers are authorized to publish and file allowances to afford reduced rates under section 22 of the Interstate Commerce Act in the manner prescribed in section 6 upon not less than one day's notice and authority to publish in blanket supplements with relief from Rule 9(e) of Tariff Circular 20 [49 CFR 1300.9] to publish in a separate non-counting supplement, all the authority granted herein to expire with December 12, 1978.

The class of persons entitled to such allowances are shippers or receivers via the NWP and the AMR who, because of the fire in the tunnel, assume the cost of transporting freight by highway to or from the SP stations Girvan and Anderson, Calif.

During the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under authority of this order.

Any tariffs or tariff provisions published under this authority shall make reference to this decision by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this decision in the Office of the Acting Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register. Copies will be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Ill., and the Vice-President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

By the Commission, Betty Jo Christian, Vice Chairman.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28156 Filed 10-4-78; 8:45 am]

[7035-01]

[Finance Docket No. 28862]

WILLAMINA AND GRAND RONDE RAILROAD CO.

Acquisition and Operation

Willamina and Grand Ronde Railroad Co., P.O. Box 5724, San Bernardino, CA, represented by Mr. David P. Root, P.O. Box 5724, San Bernardino, CA, hereby give notice that on the 25th day of September, 1978, it filed with the Interstate Commerce Commission at Washington, DC an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing the acquisition and operation of a line of railroad owned by the Longview, Portland and Northern Railway Co. extending westward from the Southern Pacific transportation Co. interchange trackage in Willamina, OR to the end of trackage at Grand Ronde, OR, a distance of 9.89 miles in Polk and Yamhill Counties, OR, which application is assigned Finance Docket No. 28862.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of he human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451(1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. *See Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washingon, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such applicaion.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28158 Filed 10-4-78; 8:45 am]

[7035-01]

[Notice No. 111]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by November 6, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with

particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77768, filed July 11, 1978. Transferee: Ralph W. Southers, P.O. Box 988, Staunton, VA 24401. Transferor: W. J. Landes, d.b.a. Landes Garage, P.O. Box 2386, Staunton, VA 24401. Representative: Harry J. Jordan, Esquire, 1000-16th Street, NW., Washington, DC 20036. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-124868 issued January 28, 1976, as follows: Wrecked and disabled motor vehicles and replacement vehicles therefor, by use of wrecker equipment only, in truckaway service, over irregular routes; between points in VA; and between points in VA on the one hand, and, on the other, points in DE, GA, MD (except points in the Baltimore, MD, commercial zone, as defined by the Commission), NJ, NY, NC, PA, SC, TN, VT, WV, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77790, filed July 28, 1978. Transferee: Billie Orton, Memphis, MO 63555. Transferor: Cecil B. McCabe, d.b.a. McCabe Truck Line, Kahoka, MO 63445. Representative: Billie Orton, Memphis, MO 63555. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC-109804 issued June 12, 1962, as follows: Malt beverages, in containers, over irregular routes, from St. Louis, MO to Grinnell, IA; and empty malt-beverage containers, from Grinnell, IA to St. Louis, MO. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77810, filed August 15, 1978. Transferee: FRISELLA GLOBAL MOVING & STORAGE CO., 2517 Adie Road, Maryland Heights (St. Louis County) MO 63043. Transferor: Preslar Moving & Storage, Inc., 3344 Greenwood Boulevard, Maplewood, (St. Louis County) MO 63143. Representative: Donald A. Doheny, Attorney at Law, 2284 Weldon Parkway, St. Louis, MO 63141. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-142902, issued April 6, 1978, as follows: *Household goods*, between St. Charles, MO and points within 50 miles thereof on the one hand, and, on the other, points in IL. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77811, filed August 17, 1978. Transferee: KERMIT CONTRACTORS, INC., 1047 South Poplar (Box 751), Kermit, TX 79745. Transferor: Charles Wright and C. Weldon Wright, a partnership, d.b.a. Charles Wright Lease Work & Construction, South Highway (Drawer V), Kermit, TX 79745. Representative: Robert Scogin, 211 North Oak, P.O. Box 920, Kermit, TX 79745. Authority sought for purchase of the operating rights set forth in Certificate of Registration No. MC-99320 (Sub-1), issued January 7, 1970, as follows: Specified commodities, solely within the State of TX. Transferee presently holds no authority from this Commission. Application has not been filed for section 210a(b) authority.

MC-FC-77812, filed August 15, 1978. Transferee: CARL COLLINS, d.b.a. COLLINS WHOLESALE BUILDING MATERIALS, 4073 Hooker Road, Roseburg, OR 97470. Transferor: Herbert S. Watson, d.b.a. Herb's Trucking, Route 1, Box 225, Myrtle Creek, OR 97457. Representative: Robert R. Hollis, Attorney at Law, 400 Pacific Building, Portland, OR 97204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-140592 Sub 2 issued June 2, 1978, as follows: Abrasive grit (granulated slag), over irregular routes, from points in Douglas County, OR to points in CA, OR, and WA, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77819, filed August 21, 1978. Transferee: CTC VAN LINES INC., 134-41 Springfield Boulevard, Springfield Gardens, NY. Transferor: Columbus Moving & Shipping Co., Inc., 1029 East 167th Street, Bronx, NY 10459. Representative: Bruce J. Robbins, Esq., Robbins & Newman, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority sought for purchase of the operating rights set forth in Certificate No. MC-78926, issued November 27, 1972, as follows: Household goods, between New York, NY on the one hand, and, on the other points, in CT, NY, NJ, PA, and MA; between NY, NY on the one hand, and, on the other, points in DE, MD, VA, OH, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for section 210a(b) authority.

MC-FC-77821, filed August 22, 1978. Transferee: EUGENE ALLEN KINCAID, 676A Main Street, Laconia, NH 03246. Transferor: Abraham Dadian, d.b.a. E. J. Pelletier & Son, 676A Main Street, Laconia, NH 03246. Representative: Eugene A. Kincaid, 108 Ridgefield Road, Wilton, CT 06879. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-17814 issued November 27, 1974, as follows: Such merchandise as is dealt in by wholesale, retail, and chain grocery and business houses, from railroad and rail sidings in Laconia, NH to Wells River, and White River Junction, VT, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized is subject to the condition that shipments transported by said carrier shall be confined to those having an immediately prior movement by railroad in carload lots. (2) Such merchandise as is dealt in by wholesale, retail, and chain grocery stores and food business houses, from Laconia, NH to points in Belknap, Carroll, Grafton, Merrimack, and Strafford Counties, NH, with no transportation for compensation on return except as otherwise authorized. (3) Household goods, between points in Belknap County, NH, on the one hand, and, on the other, points in VT, MA, RI, and CT. (4) Household goods, as defined by the Commission, between points in Belknap County, NH, on the one hand, and, on the other, points in ME and NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77830, filed September 18, 1978. Transferee: HOWARD LARRIMORE, INC., Morgner Road, Chestertown, MD 21620. Transferor: Hollon Moving, Inc., Box 166A Earlville, MD 21919. Representative: Chester A. Zyblut, Esquire, 366 Executive Building, Washington, DC 20005. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate No. MC-134116 and Sub-1, issued March 30, 1971, as follows: (1) Used household goods, between points in New Castle County, DE, Cecil and Harford Counties, MD, Chester, DE, Lancaster, Montgomery and Philadelphia Counties, PA, and Gloucester, Salem and Cumberland Counties, NJ; and (2) household goods between points in Carolina, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, MD, on the one hand, and,

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on the other, points in DE, NJ, Philadelphia, PA, and those points in PA within 50 miles of Philadelphia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77833, filed August 28, 1978. Transferee: PHILIP K. EMPSON, R.D. No. 1, Ulysses, PA 16948. Transferor: Robert W. Gibson, R.D. No. 1, Ulysses, PA 16948. Representative: Thomas F. X. Foley, Esq., State Hwy 34, Colts Neck, NJ 07722. Authority sought by transferee to acquire all of the authority of transferor in MC-124795 issued July 22, 1977, as follows: *Wood*, from points in McKean, Potter, Cameron, and Tioga Counties, PA, to Niagara Falls, Buffalo, and Rochester, NY, with no transportation for compensation on return except as otherwise authorized. *Fertilizer and lime*, from Niagara Falls, Buffalo, Rochester, and Olean, NY, to points in McKean, Potter, Cameron, and Tioga Counties, PA, with no transportation for compensation on return except as otherwise authorized. Transferee is presently authorized to operate as a carrier under MC-142825. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77839, filed September 5, 1978. Transferee: STORE WIDE DELIVERY CO., INC., 815 Jersey Avenue, Jersey City, NJ 07302. Transferor: A-1st Trucking & Leasing Corp., 311 17th Street, Jersey City, NJ 07302. Representative: Arthur J. Piken, Piken & Piken, Esqs., One Lefrak City Plaza, Flushing, NY 11368. Authority sought for purchase by transferee of a portion of the operating rights of the transferor, as set forth in Permit No. MC-135952 (Sub 4), issued October 5, 1977, as follows: *Such commodities* as are dealt in and used by retail department stores, between the facilities of Caldor, Inc., on the one hand, and, on the other, points in CT, MA, NY, NH, NJ, PA, RI, and VT. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77846, filed September 8, 1978. Transferee: BROOKLYN MOVERS, INC., 4600 Winterlane, Brooklyn, OH 44144. Transferor: Roush & De Nardy Trucking, Inc., d.b.a. Parma Movers, 3584 West 67 Street, Cleveland, OH 44102. Representative: Earl N. Merwin, Attorney at Law, 85 East Gay Street, Columbus, OH 43215. Authority sought for purchase by transferee of a portion of the operating rights of the transferor, as set forth in Certificate No. MC-124714, issued July 25, 1968, as follows: *Household goods*, as defined by the Commission, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in IL, IN, MI, MO, NJ, NY, OH, PA, WV, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28157 Filed 10-4-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY LETTER NOTICES

September 27, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 16, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 32882 (Sub-E25), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). *Machinery*, which because of size or weight, requires special equipment which is embraced within the term self-propelled vehicles, weighing 15,000 pounds or more (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act) transported on trailers, between points in Sedgwick County, CO, on the one hand, and, on the other, points in Washoe County, NV, and points in Humboldt County, NV, on and west of U.S. Hwy 95. (Gateways eliminated: Lake County, OR, and points in UT.)

MC 32882 (Sub-E26), filed August 29, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, OR 97217. Representative: Lex F. Page (same as above). (1) *Machinery* and (2) *contractors' equipment* restricted in (1) and (2) above to those articles embraced by the term self-propelled vehicles, weighing 15,000 pounds or more (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act), transported on trailers, between Lookout Pass, MT, on the one hand, and, on the other, points in Prowers, Brent, Otero, Baca, Kiowa, Los Animas, Cheyenne, and Kit Carson Counties, CO. (Gateways eliminated: points in UT and WA.)

MC 83539 (Sub-E354), filed May 31, 1977. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery parts, materials and supplies when moving in connection with such commodities, between points in AR in and west of Boone, Carroll, Madison, and Crawford Counties, on the one hand, and, on the other, points in DC. (Gateways eliminated: Oil City or Braddock, PA, and Philadelphia, PA.)

MC 83539 (Sub-E385), filed May 31, 1977. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and, related machinery, parts, materials, and supplies when moving in connection with such commodities, between points in DC, on the one hand, and, on the other, points in RI. (Gateways eliminated: Philadelphia, PA, and points in PA.)

MC 83539 (Sub-E580), filed May 31, 1977. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Heavy machinery*, between points in DE, on the one hand, and, on the other, points in VT. (Gateways eliminated: Philadelphia, PA, points in PA, Worcester, MA, and points within 25 miles of Worcester.)

MC 88368 (Sub-E44) (correction), filed May 15, 1974, published in the Federal Register issue of September 4, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC. 1109 Cartwright Ave., Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Ste. 600, 1250 Connecticut Ave. NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (21) from points in CO to points in AL; (22) from points in CO to points in AR; (23) from points in CO to points in CT; (24) from points in CO to points in DE; (25) from points in CO to points in FL; (26) from points in CO to points in GA; (27) from points in CO to points in IL; (28) from points in CO to points in IN; (29) from points in CO to points in LA; (30) from points in CO to points in ME; (31) from points in CO to points in MA; (32) from points in CO to points in MS; (33) from points in CO to points in NH; (34) from points in CO to points in NJ; (35) from points in CO to points in NC; (36) from points in CO to points in OH; (37) from points in CO to points in PA; (38) from points in CO to points in RI; (39) from points in CO to points in TN; (40) from points in CO to the DC. (Gateways eliminated: (21) Sharon Springs, KS, Houston, MS, and Florence, AL; (22) Newton, KS; (23) Newton, KS, Bloomington, IL, Steubenville, OH, Philadelphia, PA; (24) Newton, KS, Bloomington, IL, Steubenville, OH, Philadelphia, PA; (25) Hays, KS, Tupelo, MS, Birmingham, AL, Valdosta, GA; (26) Sharon Springs, KS, Corinth, MS, Tuscumbia, AL or Kinsley, KS, Grenada, MS, Eutaw, AL; (27) Marysville, MO, Bloomington, IL or Marysville, MO and Newton, KS; (28) Newton, KS; (29) Arkansas City, KS, Jacksonville, TX; (30) Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA, Lawrence, MA; (31) Newton, KS, Bloomington, IL, Steubenville, OH, Philadelphia, PA; (32) Arkansas City, KS; (33) Newton KS, Clinton, IL, Steubenville, OH, Philadelphia, PA, Lawrence, MA; (34) Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (35) Hutchinson, KS, Corinth, MS, Florence, AL; (36) Newton, KS, Clinton, IL, Newton, KS, Clinton, IL; (37) Newton, KS, Clinton, IL, Steubenville, OH; (38) Newton, KS, Clinton, IL, Steubenville, OH; (39) Newton, KS; (40) Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA.)

Note.—The purpose of this partial republication is to add the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 106644 (Sub-E58), filed February 10, 1975. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Ste. 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith and (2) *commodities*, the transportation of which because of size, weight or shape require the use of special equipment or special handling, with operations in (1) and (2) above restricted against the transportation of pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, servicing and dismantling of pipelines and the stringing or picking up thereof, (a) between points in TX and points in the States of IL, IN, OH, and KY, (b) between points in TX and points in MO on and east of a line beginning at MO Hwy 15, then south along MO Hwy 15 to junction MO Hwy 22, then along MO Hwy 22 to junction MO Hwy 19, then south along MO Hwy 19 to junction MO Hwy 49, then southeast along MO Hwy 49 to junction MO Hwy 21, then south along MO Hwy 21 to the MO-AR State line, (c) between points in TX and points in IA on and east of U.S. Hwy 63, and (d) between points in TX and points in TN on and east of a line beginning at the TN-MS State line, and extending along U.S. Hwy 45 to the junction TN Hwy 20, then southwest along TN Hwy 20 to the TN-MO State line. (Gateway eliminated: points in MO on and east of U.S. Hwys 61 and 67.)

MC 106644 (Sub-E59), filed February 10, 1975. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Ste. 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Electric controllers and instruments* which because of size or weight require the use of special equipment, from points in OK and TX, to points in DE, CT, VT, NH, ME, and DC. (Gateways eliminated: points in MO on and east of U.S. Hwy 61, TN, NC, and Roanoke, VA.)

MC 106644 (Sub-E60), filed February 10, 1975. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Ste. 713, 3384 Peachtree Road NE., Atlanta, GA 30326. (1) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith and (2) *commodities*, the transportation of which because of size, weight or shape require the use of special equipment or special handling, with operations in (1) and (2) above restricted against the transportaion of pipe, pipeline machinery, equipment and supplies incidental to and used in connection with the construction, operation, repair, servicing and dismantling of pipelines and the stringing or picking up thereof, between points in TX on, west and north of a line beginning at the TX-OK State line extending along U.S. Hwy 287 to junction U.S. Hwy 87, then south along U.S. Hwy 87 to junction U.S. Hwy 80, then west and south along U.S. Hwy 80 to the TX-NM State line, and points in AL on and east of a line beginning at the AL-FL State line extending along U.S. Hwy 231 to junction I Hwy 65, then northwest along I Hwy 65 to the AL-TN State line. (Gateways eliminated: points in MO on and east of U.S. Hwy 61 and points in TN.)

MC 106644 (Sub-E61), filed February 10, 1975. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road NW., Atlanta, GA 30318. Representative: Guy H. Postell, Ste. 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. (1) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith and (2) *commodities*, the transportation of which because of size, weight or shape require the use of special equipment or special handling, with operations in (1) and (2) above restricted against the transportation of pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operations, repair, servicing and dismantling of pipelines and the stringing or picking up thereof, between points in TX on, west and north of a line beginning at the TX-OK State line extending along U.S. Hwy 287 to junction U.S. Hwy 87, then south along U.S. Hwy 87 to junction U.S. Hwy 80, then west along U.S. Hwy 80, to junction at the TX-NM State line, and points in MS on and east of a line beginning at the MS-TN State line extending along U.S. Hwy 45 to junction U.S. Hwy Alt 45, then south along U.S. Hwy Alt 45 to junction U.S. Hwy 45, then south along U.S. Hwy 45 to junction MS Hwy 16, then east along MS Hwy 16 to the MS-AL State line. (Gateways eliminated: points in MO on and east of U.S. Hwy 61 and points in TN.)

MC 112304 (Sub-E618), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, between points in Indiana County, PA, on the one hand, and, on the other, points in VA on and south of a line beginning at the WV-VA State line, and extending along U.S. Hwy 250 to junction U.S. Hwy 360 at Richmond, then east along U.S. Hwy 360 to the Chesapeake Bay. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

MC 112304 (Sub-E619), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Colum-

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bus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, between points in Cambria County, PA, on the one hand, and, on the other, points in VA on and west of a line beginning at the WV-VA State line, and extending along U.S. Hwy 250, then east along U.S. Hwy 250 to junction U.S. Hwy 29, then south along U.S. Hwy 29 to the VA-NC State line. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

MC 112304 (Sub-E620), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, between points in Blair County, PA, on the one hand, and, on the other, points in VA on and west of U.S. Hwy 220. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

MC 112304 (Sub-E621), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire* in coils, between points in Armstrong County, PA, on the one hand, and, on the other, points in VA on and south of a line beginning at the WV-VA State line, and extending along U.S. Hwy 250, then south along U.S. Hwy 250 to junction U.S. Hwy 360 at Richmond, then east along U.S. Hwy 360 to the Chesapeake Bay. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

MC 112304 (Sub-E622), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in MS. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E623), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in AR. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E624), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in MO. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E625), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in LA. Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E626), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in IA. Limitation: The certificate in MC-112304 Sub-65shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E627), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in MN. Limitation: The certificate in MC-112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 123407 (Sub-E448), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber and composition board* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Georgia-Pacific Corp. at Taylorsville, MS, to points in WA, OR, ID, NV, CA; points in and north of Inyo, Kern and Venture Counties, UT; points in WY; points in CO (except points in Costillo, Las Animas, Baca, Bent and Prowers Counties), points in MI, OH, PA, NY, VT, NH, ME, NJ, CT, MA, and RI. (Gateway eliminated: IL.)

MC 123407 (Sub-E448), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Gypsum products, building materials, and insulating materials, and materials and accessories used in the installation thereof* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in MN. Limitation: The certificate in MC-112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 123407 (Sub-E448), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber and composition board* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Georgia-Pacific Corp. at Taylorsville, MS, to points in WA, OR, ID, NV, CA; points in and north of Inyo, Kern and Venture Counties, UT; points in WY; points in CO (except points in Costillo, Las Animas, Baca, Bent and Prowers Counties), points in MI, OH, PA, NY, VT, NH, ME, NJ, CT, MA, and RI. (Gateway eliminated: IL.)

MC 123407 (Sub-E448), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Gypsum products, building materials, and insulating materials, and materials and accessories used in the installation thereof* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in Cuyahoga, Summit, Stark, Carroll, Harrison, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, and Portage Counties, OH, to points in MN. Limitation: The certificate in MC-112304 Sub-65 shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 123407 (Sub-E450), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Gypsum products, building materials, and insulating materials, and materials and accessories* used in the installation thereof (except commodites in bulk, and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Port Clinton, OH, to points in TX, OK, AR, LA, Memphis, TN, and Greenville, Vicksburg, and Natchez, MS. (Gateway eliminated: IL.)

MC 123407 (Sub-E451), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds and glue;* and (4) *advertising material* (except commodites in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AR, AL, FL, GA, LA, MS, and TN, to points in the Upper Peninsula of MI. (Gateway eliminated: facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E452), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in section, including all component part, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodites in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in PA, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC-123407 (Sub-E453), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from Wilmington, NC, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E455), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition building board and composition ceiling tile, and supplies and accessories* used in the installation, thereof (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in ID on and north of U.S. Hwy 12 and points in OR to points in IN on and north of a line beginning at the IL–IN State line, and extending along I Hwy 74 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction IN Hwy 46, then along IN Hwy 46 to junction IN Hwy 7 to Madison, and to points in MI and OH. (Gateway eliminated: International Falls, MN.)

MC 123407 (Sub-E456), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Metal building materials, and parts, materials, and accessories* incidental to the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Niles, OH, to Mobile, AL, Panama City and Pensacola, FL, and points in AR, LA, NM, OK, and TX, restricted to the transportation of traffic originating at the facilities of National Gypsum Co. (Gateway eliminated: points in IL (except points in IL in the St. Louis, MO-East St. Louis, IL Commercial zone and the Chicago, IL Commercial zone as defined by the Commission).

MC 123407 (Sub-E457), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Metal building materials, and parts, materials, and accessories* incidental to the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of the Clow Corp., at Lincoln, Talladega County, AL, to points in WA, OR, ID, CA, NV, UT, WY, CO, (except Baca County), and those points in KS in and north of Wallace, Logan, Gove, Trego, Ellis, Russell, Ellsworth, Saline, Dickinson, Clay, Pottawatomie, Jackson, and Atchison Counties, KS. (Gateway eliminated: points in IA.)

MC 123407 (Sub-E459), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MA, RI, VT, NH, and ME, to points in the Upper Peninsula of MI except those points in Luce, Mackinac, and Chippewa Counties, MI. (Gateway eliminated: facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E460), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition building board and composition ceiling tile and supplies and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in IN, MI, and OH. (Gateway eliminated: International Falls, MN.)

MC 123407 (Sub-E461), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CO on, west or north of a line beginning at the NM-CO State line, and extending along U.S. Hwy 550 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction U.S. Hwy 285, then north along U.S. Hwy 285 to Denver, then north along U.S. Hwy 6 to the NE-CO State line, to points in IN. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E462), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same

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as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KS to those points in IN in and north of Warren, Fountain, Montgomery, Clinton, Howard, Grant, Wells, and Adams Counties, IN. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E463), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in OK in and west of Kay, Noble, Payne, Lincoln, Pottawattamie, Seminole, Hughes, Pittsburgh, Atoka, and Choctaw Counties, OK, to those points in IN on and north of a line beginning at the IL-IN State line, and extending east along U.S. Hwy 136 to Indianapolis, then along I Hwy 74 to the IN-OH State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E464), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MO to those points in IN on and north of a line beginning at the IL-IN State line, and extending along IN Hwy 14 to the IN-OH State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E465), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in OK in and west of Kay, Noble, Payne, Lincoln, Pottawattamie, Seminole, Hughes, Pittsburgh, Atoka, and Choctaw Counties, OK, to those points in IN on and north of a line beginning at the IL-IN State line, and extending east along U.S. Hwy 136 to Indianapolis, then along I Hwy 74 to the IN-OH State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E466), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in WY in, north and west of Sweetwater, Fremont, Washakie, Johnson, Campbell, and Weston Counties, WY, and those points in ID, NV, and UT on and west of I Hwy 15, to points in IN. (Gateway eliminated: Custer, SD.)

MC 123407 (Sub-E467), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds and glue;* and (4) *Advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in SC to points in the upper peninsula of MI. (Gateway eliminated: facilities of Montgomery Ward paint factory at Chicago Heights, IL.)

MC 123407 (Sub-E468), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) engine coolant, lubricating oil, cleaning compounds and glue; and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from DC, and points in CT, DE, IN, KY, MD, NJ, NY, NC, PA, VA, and WV, to points in the upper peninsula of MI (except those points in Alger, Schoolcraft, Luce, Mackinac, and Chippewa Counties, MI). (Gateway eliminated: facilities of Montgomery Ward paint factory at Chicago Heights, IL.)

MC 123407 (Sub-E469), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AR to those points in IN on and north of U.S. Hwy 24. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E470), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CO to those points in IN on, north and east of a line beginning at the IL-IN State line, and extending along U.S. Hwy 40 to junction IN Hwy 46, then along IN Hwy 46 to junction IN Hwy 37, then along IN Hwy 37 to junction U.S. Hwy 150, then along U.S. Hwy 150 to the IN-KY State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E471), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in NM on and west of a line beginning at the CO-NM State line, and extending along U.S. Hwy 285 to junction NM Hwy 14, then along NM Hwy 14 to junction U.S. Hwy 54, then along U.S. Hwy 54 to the NM-Tx State line, to points in IN. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E472), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in NM on and north of I Hwy 40, to those points in IN on and north of U.S. Hwy 150. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E473), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts,

equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in NE, NH, VT, MA, CT, and RI, to points in CO. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E474), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in NY, to points in CO. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E475), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from those points in NJ on, east and south of a line beginning at the PA-NJ State line, and extending along NJ Hwy 57 to junction I Hwy 80, then along I Hwy 80 to the NJ-Hudson River Border at or near Fort Lee, NJ, to points in CO (except Baca, Las Animas, Otero Bent, Prowers, and Kowa Counties). (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E476), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in OH, to points in WY (except Laramie, Goshen, Platte, Albany, and Carbon Counties). (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E477), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories used* in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having immediately prior or subsequent movement by water, or water-rail or by air, from the facilities of the Celotex Corp., at Marrero, LA, to points in CT, RI, MA, VT, NH, ME, WA, OR, ID, WY; those points in CO in and north of Mesa, Pitkin, Chaffee, Park, Teller, El Paso, Lincoln, and Kit Carson Counties; those points in UT in and north of Millard, Sevier, Carbon, and Vintah Counties; those points in NV in and North of Mineral, Lander, Eureka, and White Pine Counties; and those points in CA in and north of Monterey, Fresno, and Mono Counties. (Gateway eliminated: Points in IL.)

MC 123407 (Sub-E478), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition building board* (except when special equipment is required) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Greenville, MS, to points in IN, MI, OH, KY, NY, PA, WV, VA, MD, DE, NJ, CT, RI, MA, VT, NH, ME, UT, ID, OR, WA, CA (except Imperial, San Diego, Riverside, Los Angeles, Ventura, San Barnardino, and Orange Counties), NV (except Nye and Clark Counties), CO on and north of a line beginning at the KS-CO State line, and extending along U.S. Hwy 36 to junction I Hwy 70, then along I Hwy 70 to the CO-UT State line. (Gateway eliminated: Points in IL.)

MC 123407 (Sub-E479), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Baltimore, MD, to those points in CO in and west of Logan, Morgan, Adams, Arapahoe, Elbert, El Paso, Pueblo, Custer, Saguache, Alamosa, and Conejos Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E480), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Wilmington, DE, to points in CO (except Cheyenne, Kiowa, Crowley, Otero, Bent, Prowers, Baca, and Las Animas Counties). (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E481), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Federalsburg, MD, to points in WA, OR, CA, ID, NV, UT, and AZ, restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 MCC 450, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, (d) the injection of removal of commodities into or from holes or wells, from Hastings, NE, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, and TX. (Gateway eliminated: Points in IL.)

MC 123407 (Sub-E483), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Wallboard, pulpboard and hardboard* (except commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, and ID, to points in

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MI. (Gateway eliminated: Superior, WI.)

MC 123407 (Sub-E485), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Philadelphia, PA, to points in CO (except Cheyenne, Kiowa, Prowers, Bent, and Baca Counties). (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E486), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Cleveland, OH, to those points in CO in and west of Weld, Morgan, Adams, Arapahoe, Elbert, El Paso, Pueblo, Huerfano, and Costilla Counties. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E487), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from the District of Columbia; Cheriton, Newport News, Fredericksburg, Norfolk, Virginia Beach, and Williamsburg, VA; Elizabeth City, Plymouth, and Wilmington, NC; and points in PA, NJ, and DE, to points in KS. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E490), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials, supplies, and accessories* used in the manufacture and installation of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, ID, NV, UT, AZ, WY, and NM, to the facilities of the Abitibi Corp., at Roaring River, NC. (Gateway eliminated: Points in IL.)

MC 123407 (Sub-E491), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from the facilities of the Abitibi Corp. at Roaring River, NC, to points in WA, OR, CA, ID, NV, UT, AZ, WY, and NM. (Gateway eliminated: Points in IL.)

MC 123407 (Sub-E492), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NY and MI, to points in KS and OK. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E494), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in ME, NH, MA, RI, and CT, to points in KS, OK, and those points in MO on and north of U.S. Hwy 24. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E495), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail, or by air, from points in OH and IN on and north of I Hwy 80, to points in KS, OK, and those points in MO on and west of I Hwy 35. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E496), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials used in the installation and application of such commodities* (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in CO in and north of the counties of Cheyenne, Lincoln, El Paso, Teller, Park, Lake, Pitkin, Delta, and Mesa, to points in MS. (Gateway eliminated: Facilities of Certain-Teed Products, East St. Louis, IL.)

MC 123407 (Sub-E499), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid, and barbecue grill base materials* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in MI, IN, OH, KY, and MO. (Gateway eliminated: Facilities of Husky Briquetting, Inc., near Isanti, MN.)

MC 123407 (Sub-E500), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid, and barbecue grill base materials* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR and ID, to points in MI, IN, OH, and KY. (Gateway eliminated: Facilities of Husky Briquetting, Inc., at Isanti, MN.)

MC 123407 (Sub-E501), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials used in the installation and application of such commodities* (except iron and steel, and commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or

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by water-rail, or by air, from those points in NV north of a line beginning at the CA-NV State line, and extending along I Hwy 80 to junction U.S. Hwy Alt. 50, then along U.S. Hwy Alt 50 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the NV-UT State line, to points in MS. (Gateway eliminated: Facilities of Certain-Teed Products, at East St. Louis, IL.)

MC 123407 (Sub-E502), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Roofing, building, and paving materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of size or weight require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Brookville, IN, to those points in Baldwin, Mobile, Washington, and Clarke Counties, AL. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E503), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Roofing, building and paving materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Brookville, IN, to those points in MO in and south of Cape Girardeau, Bollinger, Madison, Iron, Reynolds, Shannon, Texas, Wright, Greene, Lawrence, Webster, and Jasper Counties. (Gateway eliminated: Cairo, IL)

MC 123407 (Sub-E504), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Roofing, building, and paving materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Brookville, IN, to those points in KS in and south of Sherman, Thomas, Sheridan, Graham, Rooks, Russell, Ellsworth, Saline, Marion, Chase, Greenwood, Woodson, Allen, and Bourbon Counties. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E505), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Materials and supplies* used in the manufacture or roofing, building and paving materials (except commodities in bulk, chemicals and commodities the transportation of which because of size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in MO in and south of the counties of Cape Girardeau, Bollinger, Madison, Iron, Reynolds, Shannon, Texas, Wright, Greene, Lawrence, Webster, and Jasper Counties, to Brookville, IN. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E506), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials and supplies* used in the manufacture or roofing, building, and paving materials (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in Baldwin, Mobile, Washington, and Clarke Counties, AL, to Brookville, IN. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E507), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Precast concrete structures* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Hammond, IN, to points in IN (except points in Lake County, north of IN Hwys 8 and 202). (Gateway eliminated: Calumet City, IL.)

MC 123407 (Sub-E508), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials and supplies* used in the manufacture or roofing, building and paving materials (except commodities in bulk, lumber, chemicals and commodities, the transportation of which because of size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in and south of Sherman, Thomas, Sheridan, Graham, Rooks, Russell, Ellsworth, Saline, Marion, Chase, Greenwood, Woodson, Allen, and Bourbon Counties, KS, to Brookville, IN. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E509), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials and supplies* used in the manufacture or roofing, building, and paving materials (except commodities in bulk, lumber, chemicals and commodities the transportation of which because of size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, ID, NV, UT, AZ, WY, CO, NM, OK, TX, AR, LA, and MS, to Brookville, IN. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E510), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Charleston, SC, to points in Fulton, Hickman, Graves, Calloway, Marshall, Lyon, Caldwell, Livingston, Crittenden, Union, Webster, McCracken, Carlisle and Ballard Counties, KY. (Gateway eliminated: IL.)

MC 123407 (Sub-E511), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Charleston SC, to points in Lake, Obion, Weakley, Henry, Dyer, and Lauderdale Counties TN. (Gateway eliminated: IL.)

MC 123407 (Sub-E512), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Charleston SC, to points in TX on, north and west of a line beginning

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at Texarkana, TX, then along U.S. Hwy 67 to Dallas, TX, then along I Hwy 35 to Laredo, TX. (Gateway eliminated: IL.)

MC 123407 (Sub-E513), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Orangeburg, SC, to points in CO, OR, ID, CA, NV, UT, AZ, MO, KS, OK, WA, WY, and NM. (Gateway eliminated: IL.)

MC 123407 (Sub-E514), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Orangeburg, SC, to points in AR on, north and west of a line beginning at the MO-AR State line, and extending along U.S. Hwy 67 to the AR-TX State line. (Gateway eliminated: IL.)

MC 123407 (Sub-E515), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Orangeburg, SC, to points in Lake, Obion, Weakley, and Dyer Counties, TN. (Gateway eliminated: IL.)

MC 123407 (Sub-E516), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Orangeburg, SC, to points in Fulton, Union, Webster, Calloway, Hickman, Graves, Marshall, McCracken, Ballard, Carlisle, Livingston, Crittenden Counties, KY. (Gateway eliminated: IL.)

MC 123407 (Sub-E517), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Orangeburg, SC, to points in TX on, north and west of a line beginning at Texarkana, TX, and extending along U.S. Hwy 67 to Dallas, then along I Hwy 35 to Laredo, TX. (Gateway eliminated: IL.)

MC 123407 (Sub-E518), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Precast concrete structures* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Hammond, IN, to points in NC, SC, GA, FL, AL, MS, WA, OR, CA, NV, ID, UT, AZ, and WY. (Gateway eliminated: IL.)

MC 123407 (Sub-E522), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Charleston, SC, to points in AR on, north and west of a line beginning at the MO-AR State line, and extending along U.S. Hwy 67 to the AR-TX State line. (Gateway eliminated: IL.)

MC 123407 (Sub-E523), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plywood, composition board, and wood moldings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Charleston, SC to points in WA, WY, NM, CO, OR, ID, CA, NV, UT, AZ, MO, KS, and OK. (Gateway eliminated: IL.)

MC 123407 (Sub-E524), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and building materials and materials*, used in the installation and application of such commodities (except iron and steel, commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from to points in UT in and north of Beaver, Plute, Sevier, Sanpete, Carbon, and Uintah Counties, to points in MS. (Gateway eliminated: facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E525), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and building materials and materials* used in the installation and application of such commodities (except iron and steel, commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water/rail or by air, from points in CT, to points in MS. (Gateway eliminated: facilities of Certain-Teed Products Corp., at East St. Louis, IL.)

MC 123407 (Sub-E526), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass and glass glazing units* (except commodities requiring special equpment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from Carleton, MI, to points in WA, OR, ID, CA, NV, UT, and AZ. (Gateway eliminated: Rockford, IL.)

MC 123407 (Sub-E527), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Joists, rafters and roof trusses* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Trus Joist Corp. at Winchester, VA, to points in WA, OR, CA, ID, WY, NV, UT, AZ, CO, and NM. (Gateway eliminated: Danville, IL.)

MC 123407 (Sub-E528), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials*, used in the manufacture of joists, rafters, and roof trusses (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from WA, OR, CA, NV, ID, UT, AZ, WY, CO, and NM, to the facilities of Trus Joist Corp. at Winchester, VA. (Gateway eliminated: Danville, IL.)

MC 123407 (Sub-E529), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in WA, to points in IN, OH, PA, KY, TN, MS, AL, and MI and points in LA in and east of Union, Lincoln, Jackson, Winn, Grant, Rapides, Evangeline, Acadia, and Vermillion Parishes. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E530), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and building materials* used in the installation and application of such commodities (except iron and steel, commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in NH, VT, RI, MA, ID, WA, WY, and OR, to points in MS. (Gateway eliminated: facilities of Certain-Teed Products Corp., at East St. Louis, IL.)

MC 123407 (Sub-E531), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass, glass glazing units and automotive glass* (except commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water or water-rail or by air, from the facilities of PPG Industries, Inc., at South Greensburg, PA, to points in WA, OR, ID, CA, NV, UT, and AZ; and those points in KS on and west of U.S. Hwy 54 and I Hwy 35. (Gateway eliminated: Jonesville, WI.)

MC 123407 (Sub-E532), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass, glass glazing units and automotive glass* (except commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water or water-rail or by air, from the facilities of PPG Industries, Inc., at Ford City, PA, to points in WA, OR, ID, CA, NV, UT, and AZ, those points in KS on and north and west of U.S. Hwy 54 and I Hwy 35; those points in OK on and west of I Hwy 35; and those points in MO on and north of U.S. Hwy 36. (Gateway eliminated: Jonesville, WI.)

MC 123407 (Sub-E534), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Wallboard, pulpboard and hardboard* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in Crook, Weston, Campbell, Johnson, Sheridan, Big Horn, Teton, Washakie, Park, Hot Springs, Fremont and Sublette Counties, WY, to points in and south of Mason, Lake, Osceola, Clare, Midland, Bay, Tuscola and Huron Counties, MI (except points in south and west of U.S. Hwy 31-33 from St. Joseph to the MI-IN State line.) (Gateway eliminated: Superior, WI.)

MC 123407 (Sub-E535), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in CA, NV, UT and WY, to points in IN, OH and PA, and the Lower Peninsula of MI. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E536), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Iron and steel articles* (except in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, ID, NV, WY, UT, CO, and AZ; and those points in NM on and north of U.S. Hwy 60. (Gateway eliminated: Beloit, WI.)

MC 123407 (Sub-E537), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Wallboard, pulpboard and hardboard* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in CA and NV, to points in MI. (Gateway eliminated: Superior, WI.)

MC 123407 (Sub-E538), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NM, to points in MI and PA. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E539), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Wallboard, pulpboard and hardboard* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from to points in WI, to points in MI on and north of MI Hwy 55. (Gateway eliminated: Superior, WI.)

MC 123407 (Sub-E559), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Iron and steel; iron and steel articles* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Continental Steel Corp. at Kokomo, IN, to points in WA, OR, CA, ID, NV, UT, WY, AZ, CO, NM, and points in KS on and west of U.S. Hwy 83 and points in TX and Cimmarron Counties, OK. (Gateway eliminated: Beloit, WI.)

MC 123407 (Sub-E561), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Wallboard, pulpboard, hardboard, insulation and insulation materials*, (2) *accessories and materials* used in the installation of the products in (1) above and (3) *padding and cushion materials and mulch* (except lumber, commodities in bulk and commodities requiring special equipment in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air) from points in CA and NV

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on and north of Interstate Hwy 80, to points in NC, SC, and Savannah, GA. (Gateway eliminated: Cloquet, MN.)

MC 123407 (Sub-E562), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in WY, on the one hand, and, on the other, points in MI, PA, NY, NJ, VT, NH, ME, MA, CT, and RI. (Gateway eliminated: Chamberlain, SD.)

MC 123407 (Sub-E563), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in WY, on the one hand, and, on the other, points in IN, OH, WV, MD, DE, DC, KY, VA, NC, SC, MO, AR, KS, OK, and TX. (Gateway eliminated: Sidney, NE.)

MC 123407 (Sub-E564), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately by water, or by water-rail, or by air, between Portland, OR, on the one hand, and, on the other, points in Campbell, Crook, Weston, Converse, Niobrara, Platte, Goshen, and Laramie Counties, WY. (Gateway eliminated: Belle Fourche, SD.)

MC 123407 (Sub-E565), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between Los Angeles, CA, on the one hand, and, on the other, points in Albany, Laramie, Platte, Goshen, Converse, Niobrara, Weston, Campbell and Crook Counties, WY. (Gateway eliminated: Bushnell, NE.)

MC 123407 (Sub-E566), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in MI on and north of a line beginning at Muskegon, MI, extending along Interstate Hwy 96 to junction MI Hwy 21, then along MI Hwy 21 to Port Huron; points in NY, NH and VT on and north of a line beginning at Sacket Harbor, NY, extending along NY Hwy 3 to Watertown, NY, then along NY Hwy 12 to junction NY Hwy 8, then along NY Hwy 8 to junction NY Hwy 30, then along NY Hwy 30 to junction NY Hwy 67, then along NY Hwy 67 to junction VT Hwy 67, then along VT Hwy 67 to junction VT Hwy 67-A, then along VT Hwy 67-A to Bennington, VT, then along VT Hwy 9 to the VT-NH State line, then along NH Hwy 9 to junction NH Hwy 49 to junction U.S. Hwy 202, then along U.S. Hwy 202 to the NH-ME State line, to points in TX, OK, KS, and CO on and west of a line beginning at Corpus Christi, TX, extending along Interstate Hwy 37 to San Antonio, TX, then along Interstate Hwy 35 to Wichita, KS, then along Interstate Hwy 81 to the KS-NE State line. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459 and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E567), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite charcoal fireplace logs, lighter fluid and barbeque grill base material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, water-rail or by air, from points in AZ, to points in MI. (Gateway eliminated: facilities of Husky Briquetting, Inc., at Isanti, MN.)

MC 123407 (Sub-E569), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valaraiso, IN 46383. Representative: Richard L. Loftus (same as above). *Fabricated steel* (except commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of Henderson Steel Corp. at Lauderdale County, MS, to points in ME, MI, VT, NH, MA, RI, CT, WA, OR, CA, ID, NV, UT, WY, CO, KS, points in NJ on and north of NJ Hwy 33; points in AZ on and north of Interstate Hwy 40 and points in NM on and north of U.S. Hwy 64. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E570), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement, by water, or by water-rail, or by air, between Detroit, MI, on the one hand, and, on the other, points in WA, OR, ID, CA, NV, UT, CO, NM, AZ, WY, KS, TX, OK, points in MO on and north of U.S. Hwy 24, and points in AR on and west of U.S. Hwy 71. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E571), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment, in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between Burns Harbor, IN, on the one hand, and, on the other, points in WA, OR, ID, CA, NV, UT, WY, CO, AZ, NM, OK, TX, and KS (except Cherokee and Crawford Counties). (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E572), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Used construction forms* (except commodities requiring special equipment and commodities in bulk) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between San Diego, CA, on the one hand, and, on the other, points in Albany, Laramie, Platte, Goshen, Niobrara, Converse, Weston, Crook and Campbell Counties, WY. (Gateway eliminated: Bushnell, NE.)

MC 123407 (Sub-E574), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Building materials* (except commodities in bulk, lumber, chemicals, and commodities which because of their size or weight require the use of special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in CA and NV on and north of Interstate Hwy 80, to points in WV, VA, NC, and KY on and east of U.S. Hwy 41. (Gateways eliminated: Warren, IL, and Brookville, IN.)

MC 123407 (Sub-E633), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (Same as above). *Materials used in the manufacture and distribution of widows, doors, building woodwork and the materials and accessories used in the installation thereof* (except commodities in bulk and commodities because of size or weight require the use of special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Norfolk, VA, to points in WA, OR, CA, ID, NV, UT, WY, points in CO on and north of a line beginning at the CO–NE State line, and extending along Interstate Hwy 76 to junction Interstate Hwy 70, then along Interstate Hwy 70 to the CO–UT State line, and points in AZ on, west and north of a line beginning at the AZ–NM State line, and extending along Interstate Hwy 40 to junction Interstate Hwy 25, then along Interstate Hwy 25 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the AZ–CA State line. (Gateway eliminated: Dubuque, IA.)

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28152 Filed 10-4-78; 8:45 am]

[6050-01]

ACTION

COMPETITIVE NATIONAL VISTA GRANTS

Proposed Procedures

AGENCY: ACTION.

ACTION: Proposed notice of competitive national VISTA grants.

SUMMARY: The following proposed notice sets out the competitive procedure under which applications for national VISTA grants will be accepted and reviewed in fiscal year 1979. The notice describes the program purpose, applicant eligibility, grant scope, selection criteria and application review process for national VISTA grants.

In accordance with ACTION's response to Executive Order 12044 ("Improving Government Regulations"), a working group met on August 25, 1978 and determined that a regulation was not necessary to accomplish the purposes of this notice, but that the alternative of a guideline was sufficient. In addition, because the group determined that the notice affects an important Agency program (VISTA) and imposed substantial compliance and reporting requirements, it was decided that the notice was significant and therefore should be published in proposed form for a 60-day period during which written comments would be accepted and regional meetings held for public discussion and input.

In order to allow sufficient time for an orderly and yet comprehensive review of all fiscal year 1979 applications, VISTA has set December 16, 1978 as the date by which all such applications must be submitted to ACTION. Under the 60-day comment period, however, this notice will not be finalized in time for that deadline. The working group therefore approved the use of the proposed notice as an interim guideline so that the December 16 date could remain intact and the VISTA program not be disrupted. The final guideline, with any changes that have been incorporated as a result of the public comment, will be utilized in all future fiscal years and in the event a second round of applications is solicited in fiscal year 1979.

DATE: Written comments should be submitted no later than December 4, 1978, to Ms. Diana London, VISTA, 806 Connecticut Avenue NW., Washington, D.C. 20525. For information as to dates and locations of regional meetings, contact the appropriate Regional Office listed below.

ACTION—Region I: John W. McCormack Federal Bldg., Room 1420, Boston, Mass. 02109.
ACTION—Region III: 320 Walnut St., Suite 600, Philadelphia, Pa. 19106.
ACTION—Region V: 1 North Wacker Dr., Third Floor, Room 322, Chicago, Ill. 60606.
ACTION—Region VII: II Gateway Center, Suite 330, 4th and State, Kansas City, Kans. 66101.
ACTION—Region IX: 211 Main St., Room 533, San Francisco, Calif. 94105.
ACTION—Region II: 26 Federal Plaza, 16th Floor, Suite 1611, New York, N.Y. 10007.
ACTION—Region IV: 101 Marietta St., NW., Room 2524, Atlanta, Ga. 30303.
ACTION—Region VI: Corrigan Tower Bldg., Suite 1600, 212 North St. Paul St., Dallas, Tex. 75201.
ACTION—Region VIII: Columbine Bldg., Room 201, 1845 Sherman St., Denver, Colo. 80203.
ACTION—Region X: 1601 Second Ave., Seattle, Wash., 98101.

FOR FURTHER INFORMATION CONTACT:

Ms. Diana London, VISTA, 806 Connecticut Avenue NW., Washington, D.C. 20525, 202-254-5195.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the authority contained in sections 103, 108 and 402(12) of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, title I, part A (42 U.S.C. sections 4953, 4958, 5042(12)), applications will be accepted from eligible organizations wishing to compete for grants in fiscal year 1979 to operate VISTA volunteer programs on a national or multi-regional basis.

Applications are due by close of business on December 16, 1978 in order to be competitively reviewed. Grant awards will be announced on or about April 16, 1979, subject to the availability of fiscal year 1979 funding.

Applications from current national VISTA grantees for second and third year continuation grants are not subject to the competitive procedures outlined below. Grantees applying for fourth year continuation grants will be required to follow the procedures outlined below.

A. *Program purpose.* National VISTA grants are made for the purpose of providing full-time VISTA volunteers to sponsoring organizations which are working to alleviate poverty and poverty-related human, social and environmental problems on a multi-regional or national basis. VISTA Volunteers are assigned to local offices or project affiliates of the national grantee which are joined together by commonality of program purpose. VISTA will use national grants to impact on the basic human needs of the poor.

The national grantee is required to identify, develop and provide technical assistance to local groups which will serve as project sponsors of the volunteers. The grantee will also provide overall training, technical assistance and management support for the projects' operations.

B. *Eligibility.* Applicants for national VISTA grants must be public or private nonprofit incorporated organizations with ability to program full-time volunteers in antipoverty efforts. Applicants must have local offices or project affiliates in two or more of the ten Federal domestic regions. Both the applicant organization and its affiliates must have goals that are in accord with VISTA's legislative mission, which is:

to strengthen and supplement efforts to eliminate poverty and poverty-related human, social and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, insti-

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tutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

(Sec. 101, Pub. L. 93-113, 42 U.S.C. Sec. 4951.)

Applicants must be able to demonstrate sufficient administrative and fiscal expertise to manage a national grant as well as the capability of providing adequate training, technical assistance and supervision to the Volunteers and local project affiliates.

C. *General criteria for grant selection.* Grant applications will be reviewed and evaluated against the general criteria outlined below. Specific evaluation criteria are included in the application kit (see section F below).

1. The proposed project(s) operating at the local level must:

(a) Contribute to the creation of more self-reliant communities by developing in and among the poor the capability for leadership, problem-solving and active participation in the decisionmaking processes which affect their lives;

(b) Have as a method of attacking poverty-related problems (1) the organization of low-income community residents to bring long-term benefits to the community through their own collective efforts or the establishment of an advocacy system controlled and operated by those to be served; or (2) the support of efforts of low-income citizen participation or grassroots advocacy organization(s);

(c) Demonstrate that the goals, objectives, and volunteer tasks are attainable within the timeframe during which the volunteers will be working on the project and will produce a measureable result(s);

2. The applicant organization must:

(a) Provide assignments for volunteers which are consistent with the requirements and restrictions for VISTA volunteer service contained in the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113) and applicable regulations and VISTA policies;

(b) To the maximum extent practicable, involve the low-income people to be served in the planning, development and implementation of the project(s);

(c) Identify resources needed and make them available for volunteers to perform their tasks;

(d) Demonstrate sufficient administrative, supervisory and fiscal expertise to manage a multiple-unit, geographically-dispersed grant and multiState volunteer payroll system;

(e) Demonstrate ability to recruit full-time volunteers into the project as appropriate;

(f) Demonstrate ability to provide pre- and in-service training and technical assistance appropriate to VISTA Volunteer assignments.

D. *Scope of grant.* Subject to the availability of fiscal year 1979 funding, approximately $1 million will be available for approximately 5 new national VISTA grants ranging in size from approximately $200,000 to $400,000. They will be awarded for a period of up to fifteen (15) months to allow for preoperational planning and volunteer recruitment prior to the twelve (12) months of volunteer service.

A national VISTA grant will cover only the direct costs of operating the project which are: Volunteer recruitment, volunteer allowances and stipends, volunteer payroll administration, volunteer transportation, provision of training and technical assistance, project management and supervisory staff salaries, fringe benefits, staff travel, and postage and reproduction expenses. All other direct costs, as well as all indirect costs, must be borne by the grantee. Grant applications must demonstrate ability of applicant organization to provide these types of support.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof, for national VISTA grants. Awards will be made only to the extent that the Director of VISTA deems national grants as the most effective way of using available VISTA funds.

E. *Application review process.* All eligible applications which have been submitted by the deadline date (see G below) will be reviewed and rated by an ACTION headquarters rating panel composed of a minimum of five (5) ACTION staff members having expertise in volunteer programs operating within low-income communities. No more than two members of the Board shall be members of the VISTA program office appointed by the VISTA Director. The remaining panel members shall be appointed by the Director of ACTION.

The panel shall establish a best qualified list which shall consist of the highest rated applicants in ranked order. The number of applicants on this list may be less than, but may not exceed, twice the number of grants anticipated. To determine that number, the panel will use $250,000 as the average grant size. The Director of VISTA shall select the grantees from the best qualified list.

Prior to making that final selection, the VISTA Director will transmit to the ten ACTION Regional Directors and appropriate State Directors copies of the best qualified list grant applications along with the evaluation criteria used by the panel. The ACTION Regional and State Directors (or their designees) will review and comment on the grant applications with State Directors assessing local project affiliates within their jurisdictions. Regional and State Directors will submit written recommendations to the director of VISTA. These recommendations will be considered by the Director of VISTA in making the final selection of grantees as well as in determining the size and actual composition of each national VISTA grant.

The final selection of National VISTA grantees will be made in accordance with the purposes of the Act, ACTION/VISTA policies and regulations, and within the limits of available funds.

The notice of grant award (NGA) will be made by the chief of the Grants Branch, Contracts and Grants Management, ACTION. The NGA sets forth in writing the amount of funds granted, the terms and conditions of the grant award, the effective date of the award, and the budget period for which support is given. It also incorporates the project narrative submitted by the grantee and all subsequent project narratives and volunteer work plans related to local project sites as specified by the VISTA Grant Project Manager.

F. *Availability of forms.* To be eligible for consideration, an application must be prepared and submitted in accordance with this announcement and with forms, instructions, and program guidelines contained in the National VISTA grant application kit. The application kit may be obtained on October 16, 1978 or thereafter from the Chief, ACTION Grants Branch, Room P-315, 806 Connecticut Avenue NW., Washington, D.C. 20525. To expedite requests, please furnish a self-addressed gummed label, including "Request for Grant Application (RGA) No. 79-01" on the label. Telephone requests will not be honored.

G. *Application submission and deadline.* One signed original and two (2) copies of all completed applications must be submitted to the Chief, Grants Branch at the above address. Applications are due by close of business on December 11, 1978. All applications received by that date, or postmarked on or before December 8 by the U.S. Postal Service, will be considered.

Applications which do not conform to this announcement, or are received late, or are incomplete, will not be accepted for review.

SAM BROWN,
Director, ACTION.

[FR Doc.78-28332 Filed 10-4-78; 11:06 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 190, September 29, 1978, page 44965.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 3, 1978.

CHANGES IN THE MEETING: The meeting has been postponed until Wednesday, October 4, 1978, at 10 a.m.

[S-2016-78 Filed 10-3-78; 10:41 am]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:15 a.m. on September 29, 1978, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of assets acquired by the Corporation from the Hamilton National Bank of Chattanooga, Chattanooga, Tenn. (Case No. 43,524-L).

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Action Chairman John G. Heimann, that Corporation business required its consideration of the matter on less than 7 days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and, that the matter was eligible for consideration in a closed meeting pursuant to subsections (c)(6) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6) and (c)(9)(B)).

Dated: September 29, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2015-78 Filed 10-3-78; 9:01 am]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS S-1935-78 and S-1989-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Monday, October 2, 1978.

CHANGES IN THE MEETING: Litigation matters previously announced for consideration at the closed portion have been postponed and the entire meeting is open to the public.

The following items have been postponed:

Freedom of Information Act Appeal No. 78-7-F01A-154.
Proposed procedures to implement Executive Order 12044, and
Proposed EEO complaints appeals procedures for Federal employees.

The following item is added to the open portion:

Proposed resolution commending the Dallas District Office.

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.

Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued October 2, 1978.

[S-2012-78 Filed 10-3-78; 9:01 am]

[6715-01]

4

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. FR-S-1987.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 5, 1978, at 10 a.m.

CHANGE IN MEETING: The following item has been added to the open portion of the meeting:

Recordkeeping and reporting of particulars for expenditures—Presidential candidates and authorized committees.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2018-78 Filed 10-3-78; 12:01 pm]

[6740-02]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 44965, published September 29, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 4, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-8. ER78-39, ER76-340, and ER76-363, Kansas Power & Light Co.
ER-9. ER76-304, ER76-317, and ER76-498, New England Power Co.

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ER-10. ER76-205, Southern California Edison Co. E-7777 (Phase II), Pacific Gas & Electric Co., E-7796, Pacific Gas & Electric Co.
M-2. R-441, Revision in section 2.75 of title 18 of the Code of Federal Regulations to amend optional procedure requirements.
M-3. RM78-14, Revision in section 2.56a, section 154.94, and section 260.6 of title 18 of the Code of Federal Regulations to eliminate certain rate change filing requirements.
M-4. RM78- , Amendments relating to the automatic issuance of temporary certificates to producers.
M-5. RM78- , Policy with respect to the amendment of certificates to conform to actual construction.
M-6. Suggested procedures to simplify pipeline certificate agenda.
RP-4. RP71-18, et al., and RP73-86, Columbia Gas Transmission Corp.
RP-5. RP78-72, Algonquin Gas Transmission Co.
CP-5. CP78-272, The Brooklyn Union Gas Co. CP77-495, et al., Transcontinental Gas Pipe Line Corp.
CP-6. CP77-363, Columbia Gas Transmission Corp., and National Fuel Gas Supply Corp.
CP-7. CP76-492, National Fuel Gas Supply Corp., and National Gas Storage Corp.
CP-8. Docket No. , The Montana Power Co.
CP-9. CP76-85, et al., Algonquin Gas Transmission Co.
CI-1. CI75-45, Tenneco Oil Co. CI75-107 and CI75-684, Shell Oil Co.
CI-2. CI77-412, Phillips Petroleum Co.
CI-3. (A) RI76-124, Glen E. Jeffrey. (B) RI77-38, Mesa Petroleum Co.

LOIS D. CASHELL,
Acting Secretary.

[S-2016-78 Filed 10-3-78; 9:17 am]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 190, Page 44966, Friday, September 29, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 3, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open portion of the meeting:

Concurrent consideration of branch office applications: (1) Home Federal Savings & Loan Association of San Diego, San Diego, Calif.; and (2) Republic Federal Savings & Loan Association, Altadena, Calif.

No. 187, October 3, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2019-78 Filed 10-3-78; 3:27 pm]

[6210-01]

7

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 11:30 a.m., Monday, October 2, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTER CONSIDERED: Proposed Board position regarding a congressional amendment of the grandfather provisions of the Bank Holding Company Act. (This matter was originally announced for a meeting on Friday, September 29, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2013-78 Filed 10-3-78; 9:01 am]

[4910-58]

8

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, October 12, 1978 [NM-78-36].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first four items on the agenda will be open to the public; the last item will be closed under exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Marine accident report—Collision between Liberian tankship MV *Stolt Viking* and U.S. Crew Boat *Candy Bar* in the Gulf of Mexico, January 7, 1978.
2. Special study—Safe Service Life for Liquid Petroleum Pipelines.
3. Discussion—Lack of national standard for minimum skid number value.
4. Closeout - Aviation safety recommendations A-77-56, A-78-13, A-78 33, A-78-38, and A-78 39.
5. Opinion and order—*Administrator* v. *Ribler*, Dkt. SE 3593; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-2014-78 Filed 10-3-78; 9:01 am]

[8010-01]

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 44612, September 28, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED DATE: Tuesday, October 3, 1978.

CHANGES IN THE MEETING: Deletion of items to be considered.

The following items will not be considered by the Commission at the closed meeting scheduled for Tuesday, October 3, 1978, at 10 a.m.:

Institution of injunctive action.
Personnel action.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

OCTOBER 3, 1978.

[S-2017-78 Filed 10-3-78; 11:05 am]

federal register

THURSDAY, OCTOBER 5, 1978
PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

OPERATIONS REVIEW PROGRAM AMENDMENT NO. 6

General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training

V 43/194
OCT 5 1978

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17154; Amdt. Nos. 23-22; 25-44; 27-15; 29-16; 91-154; 121-148]

OPERATIONS REVIEW PROGRAM; AMENDMENT NO. 6

General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to update and improve certain requirements applicable to aircraft, training programs, and airmen. These amendments are part of the operations review program.

DATES: Effective date December 4, 1978, except for section 121.417 which is September 29, 1978. Compliance dates for certain provisions are different than the effective date.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Adminstration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

HISTORY

These amendments are the sixth in a series of amendments to be issued as part of the operations review program. The following amendments of the series have previously been issued as part of the operations review program:

Title and FR Citation

Clarifying and Editorial Changes (41 FR 47227; Oct. 28, 1976).
Rotorcraft External-Load Operations (42 FR 24196; May 12, 1977 amended by 42 FR 32531; June 27, 1977).
Airspace, Air Traffic and General Operating Rules (to be issued at a later date).
Development of Major Repair Data (43 FR 3084; Jan. 23, 1978).
Miscellaneous Amendments (43 FR 22636; May 25, 1978).
Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commerical Operators of Large Aircraft (43 FR 22643; May 25, 1978 amended by 43 FR 28403; June 29, 1978).

These amendments are based on a notice of proposed rule making (notice 77-20) published in the FEDERAL REGISTER on September 1, 1977 (42 FR 44204). All interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below these amendments and reasons for their adoption are the same as those contained in notice 77-20.

DISCUSSION OF COMMENTS

The following discussions are keyed to like-numbered proposals in notice 77-20 and amendments to §§ 121.417, 121.437 and 121.439. Since these amendments to §§ 121.417, 121.437 and 121.439 are clarifying and relaxatory in nature and do not impose a burden on the public, I find that notice and public procedure are unnecessary and that the amendments may be made effective without notice.

Proposal 6-1. Proposed § 91.33(b)(12) would require that safety belts have metal to metal buckles or latching devices. Implementation of this amendment necessitiates corollary amendments to the airworthiness provisions of §§ 23.1413, 25.1413, 27.1413 and 29.1413.

Most commenters favored the proposal with some of the commenters suggesting various effective dates for compliance, ranging from 1 to 5 years instead of the 2-year period proposed. These suggestions were based on consideration of equipment availability and the economic burden of purchasing the new type safety belts. Considering these comments, the FAA concluded that a 3-year period for compliance will suffice and the final rule is amended accordingly. One commenter asked whether the "metal to metal" requirement applied to both buckles and latching devices. After further review, the FAA believes that the requirement could be misinterpreted. Since a "buckle" is a "latching device", the word "buckle" is deleted in the rule.

One commenter noted that current § 91.33(b)(12) uses the plural form when referring to "occupants" and "belts". Since it was not FAA's intention to change the current rule in this regard, the plural form is retained.

Proposal 6-2. The proposed revision of § 25.1413 would reflect, in the airworthiness standards, amendments made to § 91.33. See the discussion for proposal 6-1.

Proposal 6-3. The proposed revision of § 27.1413 would reflect, in the airworthiness standards, amendments made to § 91.33. See the discussion for proposal 6-1.

Proposal 6-4. The proposed revision of § 29.1413 would reflect, in the airworthiness standards, amendments made to § 91.33. See the discussion for proposal 6-1.

Proposal 6-5. The proposed revision to § 91.4 would have required a person who releases an aircraft for flight to another person to first determine who intends to serve as pilot in command and to then determine that the pilot in command has current certificates and ratings as required in the regulations.

A large majority of the comments received were unfavorable. Many commenters objected to the proposal on the basis that current rules make the pilot responsible for being properly certificated and rated for the operation intended and the implementation of one regulation to assist in the enforcement of another is not only unnecessary but would impose an economic burden on the industry.One commenter said the added responsibility imposed upon the "releasor" would involve third parties in possible litigation and the additional inspections would not bring about an increase in safety commensurate with the effort required. Another commenter questioned whether, in light of the wording of § 61.3(h) which limits who can request a person to present his certificate for inspection, the Administrator can, in another rule, designate inspection responsibility to everyone who uses, causes to use, or authorizes the use of aircraft.

A few commenters called attention to the fact that it is just good business to assure that the person to whom they lease aircraft is properly certificated, but there is not sufficient justification to make the lessor responsible for determining all aspects of a pilot's currency.

After consideration of all of the comments received and after further review, the FAA believes that there exists insufficient justification to amend the regulations as proposed. Accordingly, the proposal to amend § 91.4 is withdrawn.

Proposal 6-6. Current § 91.14 requires the pilot in command to ensure that each person on board has been notified, before each takeoff and landing, to fasten that person's safety belt. The proposal would require the pilot in command of the aircraft to insure that each person on board is briefed on how to fasten and unfasten that person's safety belt.

A number of commenters incorrectly concluded that the proposed rule would require the pilot in command to personally conduct the briefing. The proposed rule would only require the

pilot in command to insure that the passengers are briefed.

One commenter stated that the pilot in command could brief the passengers in the event of an emergency. The FAA believes that, when an emergency develops, the pilot in command would not have the time to brief passengers on how to buckle and unbuckle their safety belts.

A few commenters stated that anybody familiar with automobile seat belts should know how to fasten and unfasten airplane safety belts and, therefore, the briefing is unnecessary. The FAA does not agree. Certain aircraft safety belts are different from those used in automobiles and it cannot be assumed that all passengers are familiar with automobile safety belts.

Since the pilot in command is currently responsible to ensure that persons are notified to fasten their safety belts, the FAA believes that little additional effort will be involved for the pilot in command to also ensure that persons on board are briefed on how to fasten and unfasten their safety belts. Accordingly, § 91.14 is amended as proposed.

Proposal 6-7. Current § 91.21 prohibits a person from operating a civil aircraft for flight instruction unless that aircraft has fully functioning dual controls. The proposed rule would allow the use of a single, functioning, throwover control wheel for instrument flight, instrument flight instruction and simulated instrument flight. The FAA received a large number of favorable responses to this proposal and it is adopted without change.

Proposal 6-8. This proposal would move the 30 minute VFR day fuel reserve requirement, now prescribed in § 91.207 (which applies to large and turbojet-powered multiengine airplanes), to a new § 91.22 so that this requirement would apply to all airplanes. Additionally, fuel requirements would be added for night VFR flight and rotorcraft operations.

Although a number of commenters supported the proposed amendment, a larger number disagreed. Some of those who disagreed stated that the proposed amendment was an attempt to legislate safety in an area which has been governed by common sense. Judging from the increasing number of fuel exhaustion accidents which occur each year, the FAA believes there must be a more precise means to determine an adequate fuel reserve for VFR flight.

A few commenters stated that the fuel requirements are already contained in § 91.5 and that proposed § 91.22 was, therefore, redundant. Section 91.5 requires the pilot to be informed regarding "fuel requirements". It does not, however, contain a requirement for fuel reserves beyond the first point of intended landing.

Three commenters favored simplification of the regulation by making the fuel reserves the same for both day and night. One of the commenters favored 1 hour and two favored 30 minutes for both. The FAA believes that the distance between adequately lighted airports warrants the additional fuel reserves for night VFR operation.

One commenter recommended that § 91.22 be made consistent with § 91.23 by using the term "civil aircraft" instead of "airplane" in § 91.22. The FAA agrees and the term "civil aircraft" is used in the title to § 91.22.

One commenter suggested that the phrase "normal cruising speed" be used rather than "normal cruising fuel consumption" to make the nomenclature the same as in § 91.23(c). The FAA agrees, and § 91.22, as adopted, is revised accordingly.

Proposal 6-9. The purpose of proposed § 91.23 was to simplify flight planning by eliminating the reference to minimum obstruction clearance altitude (MOCA) and minimum enroute IFR altitude (MEA). A number of commenters said that the proposed revision was somewhat simpler than the current rule but that it was still cumbersome. They suggested that it would be much simpler if criteria were established which would require the pilot to determine only that a certain ceiling and visibility would exist 1 hour before and 1 hour after the estimated time of arrival at the airport of first intended landing. Most commenters supported a ceiling of 2,000 feet above the airport elevation and 3 miles visibility. However, a number of commenters recommended ceilings of 2,500 and 3,000 feet and one commenter suggested a visibility of 4 miles. After further review, the FAA believes that, in the interest of simplicity, this proposal should be modified to require only a ceiling of 2,000 feet above the airport elevation and 3 miles visibility for the period 1 hour before and 1 hour after the estimated time of arrival at the first airport of intended landing.

Another commenter stated that the proposed rule would do little or nothing for safety and would be almost impossible to enforce. The FAA does not agree. The FAA believes that the amendment was designed to provide a simpler and less restrictive means for determining fuel requirements and that the amendment is enforceable.

Additionally, § 91.83(b) is amended to make the information required for a flight plan consistent with the ceiling and visibility requirements of § 91.23 as adopted. See proposal 6-16.

One commenter suggested that the word "applicable", as used in § 91.23(b)(2)(ii), should be explained. Since § 91.23, as adopted, deletes the reference "applicable visibility minimums", this no longer presents a problem. Section 91.23, as adopted, is revised accordingly.

Proposal 6-10. Current § 91.25(a)(2) requires an operational check of the VOR within the preceding 10 hours of flight time and within 10 days before flight. Proposed § 91.25(a)(2) and (d) would delete the 10-day requirement and predicate the VOR equipment check requirement on 10 hours of flight time. Numerous commenters pointed out that it would be inconsistent to refer to flight time in § 91.25(a)(2) and to refer, in § 91.25(d), to "tachometer time" and "aircraft time". A number of commenters suggested that only days be used as the guide and a period of 30 days to 90 days would be feasible considering the improved reliability of VOR equipment and the need to reduce the aircraft operator's recordkeeping burden. The FAA agrees. Accordingly, proposed § 91.25(a)(2) is revised to require that the VOR equipment be checked at least every 30 days rather than after 10 hours of flight time. Since § 91.25(a)(2), as adopted, no longer contains a reference to flight time, there is no longer a need to amend § 91.25(d) to require tachometer time, or, in its absence, aircraft time to date. Accordingly, these references are deleted. The FAA believes, after further consideration, that there would be no useful purpose in retaining a permanent record of the VOR equipment check. Therefore, the word "permanent" is deleted in both places where it appears in § 91.25(d) as adopted.

Proposal 6-11. Proposed § 91.29 would require the pilot in command of a civil aircraft to enter in the aircraft log and maintenance record of the aircraft any mechanical discrepancy noted during flight. The majority of commenters opposed the proposed amendment. They stated that the log and maintenance records are permanent records which should not be cluttered with discrepancies noted by the pilot, the term discrepancy is not defined and, as worded, the proposed amendment stipulates that the discrepancy must be entered in both the aircraft log and maintenance record. They also stated that the proposed rule is unenforceable, the proposed amendment would require the pilot/owners to write a note to themselves and persons operating under part 121, 123, 127, and 135 have established procedures for reporting mechanical irregularities.

After further review and careful consideration of all the comments, the FAA believes that the current regulations are adequate and proposed § 91.29 is withdrawn.

Proposal 6-12. This proposal would amend § 91.33(b)(12) to require safety

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belts to have metal to metal latching devices. See the discussion for proposal 6-1. One commenter called our attention to the fact that current § 91.33(b)(12) states "• • • approved seat belts for all occupants • • •" whereas the proposed amendment states "• • • for each occupant • • •". Since it was not our intention to make this change, the proposal has been amended to use the wording of the current rule.

Proposal 6-13. This proposal would amend § 91.36(b) to require that the equipment be tested to the maximum operating altitude of the aircraft. Almost all of the comments received were favorable. One commenter asked what is meant by maximum operating altitude and stated that a definition is needed somewhere. The definition is contained in §§ 23.1527, 25.1527, 27.1527, and 29.1527 which describe maximum operating altitude limitations. These limitations are also contained in the aircraft flight manual. The proposed amendment is adopted without change.

Proposal 6-14. Proposed § 91.45(a)(3)(ii) would allow a takeoff on a wet runway with one engine inoperative based solely on engineering findings. Several commenters objected to this proposal, contending that the initial approval must be based upon a demonstration under actual conditions. Other commenters stated that one engine inoperative takeoffs from a wet runway should not be allowed on the basis of analytical data alone. In view of these comments and after further review, this proposal is withdrawn.

Proposal 6-15. Proposed § 91.54(a)(2) would require a typed or printed name and address and the signature of the person responsible for operational control of large aircraft. Two commenters concurred with the proposal as written.

One commenter stated it was not necessary for the Government to regulate the manner in which a form is completed. The commenter further stated that, if the form is not completed in a manner acceptable to the FAA, it should be refused. The FAA believes that it should regulate the manner in which the form is completed and that the person making out the form should know in advance what is acceptable to the FAA. Accordingly, proposed § 91.54(a)(2) is adopted without substantive change.

Proposal 6-16. Proposed § 91.83(b), as adopted, makes the information required for a flight plan consistent with the ceiling and visibility requirements of amended § 91.23. See the discussion for proposal 6-9.

Proposal 6-17. The proposed change to § 91.193 would require a hand fire extinguisher in the passenger compartment of each airplane accommodating less than 31 passengers.

The commenters who opposed the rule change stated that the fire extinguisher would add unnecessary weight to the aircraft, would discharge all over the cabin when used, and would create a hazard if it became loose during turbulence. One commenter said that small airplanes which carry up to six passengers usually operate at lower altitudes and can, therefore, be landed readily if an in-flight fire starts.

Another commenter had never heard of an in-flight fire except an engine fire, and that a fire extinguisher in the cabin would be of no help in such a situation. In view of the comments and after review, this proposal is withdrawn.

Proposal 6-18. Proposed § 91.201(b) would require a sideward restraint for under seat baggage. Commenters who opposed the proposed amendment cited the installation costs, extra weight, and out-of-service time for installation of such restraining devices. The FAA believes the costs and added weight would be minimal and justified considering the improved safety provided. After further review, the FAA believes that the operator should be given additional time to install these restraint devices. Accordingly, this amendment provides a compliance date of 1 year from the effective date of this amendment. Since the operator has been given 1 year to make these installations, there should be little or no disruption of flight operations. Commenters also contended that since, in an emergency, most of the forces are forward, there is little tendency for the baggage to move sideward, and, in emergency evacuation demonstrations conducted by the airlines, items of mass placed in the aisle were found to create no delay. The FAA believes that these commenters limited their observations to crash landings where the motion would be forward. Severe turbulence may also create a potential hazard to passengers when large articles become dislodged. The FAA cannot agree that, in emergency evacuation demonstrations, items of mass cause no delay. They cause delay when placed in the aisles during evacuation tests to simulate actual conditions caused by unrestrained under seat items moving into the aisles during a crash landing. Several commenters in favor of the proposal stated that they had observed under seat baggage that moved sideward blocking the aisles during heavy turbulence or emergencies.

Accordingly, § 91.201(b) is adopted as proposed with the delayed compliance date as noted.

Proposal 6-19. The proposed deletion of § 91.207 is related to the proposal for a new § 91.22 (see the discussion for proposal 6-8) which would make the requirement for fuel reserves of 30 minutes for day VFR and 45 minutes for night VFR applicable to all airplanes operated under part 91. No commenters objected to the deletion of current § 91.207 if new § 91.22 is adopted. Since § 91.22 is adopted, § 91.207 is deleted.

Proposal 6-20. No opposing comments were received concerning proposed § 91.213(c). Accordingly, § 91.213(c) is adopted as proposed.

AMENDMENT TO § 121.417

Amendment No. 121-144 (43 FR 22643; May 25, 1978) amended the crewmember emergency training provisions of § 121.417 by requiring each crewmember to actually operate each item of equipment required for the deployment and use of emergency evacuation slides. However, as stated in notice No. 77-12 (42 FR 37417), while flight attendants would be required to operate the associated escape devices during initial and recurrent training, automatic and manual escape chutes need not be deployed each time that the associated exit is cycled.

However, since publication of amendment No. 121-144, it has come to the attention of the FAA that this amendment could be given an overly restrictive interpretation and that further clarification is necessary. Accordingly, this amendment revises § 121.417(c) to make it clear that the emergency drill requirements prescribed for crewmembers apply to both initial and recurrent training. Also, it more clearly specifies that each crewmember is not required to actually operate (removal, transfer, or inflation of the life raft, or slide/raft pack) the equipment specified in paragraphs (c)(6)(v), (c)(6)(vi), and (c)(6)(vii) during emergency drills. Additionally, this amendment clarifies the fact that the evacuation slide need be used only once during each training phase.

Finally, the phrase "or training device" has been inserted in §§ 121.417(c)(6) (v) and (vii) respectively to clarify the fact that the training specified may be conducted in a training device.

Since this amendment is relaxatory and clarifying in nature and does not impose a burden on the public, I find that notice and public procedure are unnecessary and this amendment may be made effective without notice.

AMENDMENT TO § 121.437

Amendment No. 121-144 (43 FR 22643; May 25, 1978) amended § 121.437(b) to require pilots to hold a category and class ratings appropriate for the type of aircraft being used. After the amendment to § 121.437(b) became effective, the FAA was informed by the Air Transportation Association (ATA) that this amendment would be extremely costly and very difficult for the airlines to comply within the specified time, as it would require the airlines to provide aircraft flight checks for more than 5,000 pilots to obtain the required category and class ratings. Consequently, the effective date of § 121.437(b) was extended to July 1, 1980, by amendment No. 121-146 (43 FR 28403; June 29, 1978).

In addition, ATA stated the training provided to pilots, other than pilots in command, under the provisions of part 121 and the proficiency checks requirements of § 121.441 are equivalent to the standards required for a commerical pilot to obtain an airplane category and class rating.

Accordingly, § 121.437(b) is amended to allow pilots who are currently employed by a certificate holder and have satisfactorily completed the approved training program under subpart O, including the proficiency flight check required by § 121.441, of this part, to be issued the appropriate category and class rating by presenting proof of compliance with those requirements to an Air Carrier or Flight Standards District Office. The FAA believes that this amendment would provide an equivalent level of safety.

To delay this amendment would pose an undue burden to the certificate holders and pilots affected by the amendment. For this reason, the FAA has determined notice and public procedure hereon are impractical and contrary to the public interest.

AMENDMENT TO § 121.439

Amendment No. 121-144 (43 FR 22643; May 25, 1978) amended § 121.439(c)(2) to require pilots to be currently qualified in another airplane of the same group prior to that pilot receiving recency of experience training in a visual simulator.

After further review, the FAA believes that this requirement is too restrictive in that it would not allow certificate holders that operate only one type of airplane in the same group to allow their pilots to use a visual simulator to reestablish recency of experience requirements, as it would be impossible for their pilots to be dual qualified, or currently qualified in another airplane of the same group. This amendment deletes § 121.439(c)(2) and allows use of the visual simulator to reestablish recency of experience requirements. As these changes are relaxatory and clarifying in nature and do not impose a burden on the public, notice and public procedure are unnecessary and these changes are adopted as noted.

ADOPTION OF THE AMENDMENTS

Accordingly, parts 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 23, 25, 27, 29, 91, and 121 are amended as follows, effective December 4, 1978, except for § 121.417 which is effective September 29, 1978.

PART 23—AIRWORTHINESS STANDARDS; NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By amending § 23.1413 by adding a new paragraph (c) to read as follows:

§ 23.1413 Safety belts and harnesses.

• • • • •

(c) Each safety belt must be equipped with a metal to metal latching device.

PART 25—AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY AIRPLANES

2. By amending § 25.1413 by adding a new paragraph (d) to read as follows:

§ 25.1413 Safety belts.

• • • • •

(d) Each safety belt must be equipped with a metal to metal latching device.

PART 27—AIRWORTHINESS STANDARDS; NORMAL CATEGORY ROTORCRAFT

3. By amending § 27.1413 by adding a new paragraph (c) to read as follows:

§ 27.1413 Safety belts.

• • • • •

(c) Each safety belt must be equipped with a metal to metal latching device.

PART 29—AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT

4. By amending § 29.1413 by designating the current provision as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 29.1413 Safety belts; passenger warning device.

• • • • • •

(b) Each safety belt must be equipped with a metal to metal latching device.

PART 91—GENERAL OPERATING AND FLIGHT RULES

5. By amending § 91.14 by amending the heading; by redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a)(2) and (a)(3) respectively; by amending paragraph (b) by deleting "(a)(2)" and substituting "(a)(3)"; and by adding a new paragraph (a)(1) to read as follows:

§ 91.14 Use of safety belts.

(a) Unless otherwise authorized by the Administrator—

(1) No pilot may take off a U.S. registered civil aircraft (except a free balloon that incorporates a basket or gondola and an airship) unless the pilot in command of that aircraft ensures that each person on board is briefed on how to fasten and unfasten that person's safety belt.

• • • • • •

6. By amending § 91.21 (a) and (b)(3) to read as follows:

§ 91.21 Flight instruction; simulated instrument flight and certain flight tests.

(a) No person may operate a civil aircraft (except a manned free balloon) that is being used for flight instruction unless that aircraft has fully functioning, dual controls. However, instrument flight instruction may be given in a single-engine airplane equipped with a single, functioning throwover control wheel, in place of fixed, dual controls of the elevator and ailerons, when:

(1) The instructor has determined that the flight can be conducted safely; and

(2) The person manipulating the controls has at least a private pilot certificate with appropriate category and class ratings.

(b) • • •

(3) Except in the case of lighter-than-air aircraft, that aircraft is equipped with fully functioning dual controls. However, simulated instrument flight may be conducted in a single-engine airplane, equipped with a single, functioning, throwover control wheel, in place of fixed, dual controls of the elevator and ailerons, when—

(i) The safety pilot has determined that the flight can be conducted safely; and

(ii) The person manipulating the control has at least a private pilot certificate with appropriate category and class ratings.

• • • • • •

7. By adding a new § 91.22 to read as follows:

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§ 91.22 Fuel requirements for flight under VFR.

(a) No person may begin a flight in an airplane under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising speed—

(1) During the day, to fly after that for at least 30 minutes; or

(2) At night, to fly after that for at least 45 minutes.

(b) No person may begin a flight in a rotorcraft under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least 20 minutes.

8. By revising § 91.23 to read as follows:

§ 91.23 Fuel requirements for flight in IFR conditions.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft in IFR conditions unless it carries enough fuel (considering weather reports and forecasts, and weather conditions) to—

(1) Complete the flight to the first airport of intended landing;

(2) Fly from that airport to the alternate airport; and

(3) Fly after that for 45 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if—

(1) Part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing; and

(2) For at least 1 hour before and 1 hour after the estimated time of arrival at the airport, the weather reports or forecasts or any combination of them, indicate—

(i) The ceiling will be at least 2,000 feet above the airport elevation; and

(ii) Visibility will be at least 3 miles.

9. By revising § 91.25 (a)(2) and (d) to read as follows:

§ 91.25 VOR equipment check for IFR operations.

(a) • • •

(2) Has been operationally checked within the preceding 30 days and was found to be within the limits of the permissible indicated bearing error set forth in paragraph (b) or (c) of this section.

• • • • •

(d) Each person making the VOR operational check as specified in paragraph (b) or (c) of this section shall enter the date, place, bearing error, and sign the aircraft log or other record. In addition, if a test signal radiated by a repair station, as specified in paragraph (b)(1) of this section, is used, an entry must be made in the aircraft log or other record by the repair station certificate holder or the certificate holder's representative certifying to the bearing transmitted by the repair station for the check and the date of transmission.

10. By revising § 91.33(b)(12) to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

• • • • •

(b) • • •

(12) Except as to airships, an approved safety belt for all occupants who have reached their second birthday. After December 4, 1980, each safety belt must be equipped with an approved metal to metal latching device. The rated strength of each safety belt shall not be less than that corresponding with the ultimate load factors specified in the current applicable aircraft airworthiness requirements considering the dimensional characteristics of the safety belt installation for the specific seat or berth arrangement. The webbing of each safety belt shall be replaced as required by the Administrator.

• • • • •

§ 91.36 [Amended]

11. By inserting the words "for altitudes from sea level to the maximum operating altitude of the aircraft" immediately before the semicolon and the word "or" at the end of § 91.36(b).

12. By revising § 91.54(a)(2) to read as follows:

§ 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.

(a) • • •

(2) The name and address (printed or typed) and the signature of the person responsible for operational control of the aircraft under the lease or contract of conditional sale, and certification that each person understands that person's responsibilities for compliance with applicable Federal Aviation Regulations.

• • • • • •

13. By amending § 91.83(b) to read as follows:

§ 91.83 Flight plan; information required.

• • • • •

(b) *Exceptions to applicability of paragraph (a)(9) of this section.* Paragraph (a)(9) of this section does not apply if part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing and, for at least one hour before and one hour after the estimated time of arrival, the weather reports or forecasts or any combination of them, indicate—

(1) The ceiling will be at least 2,000 feet above the airport elevation; and

(2) Visibility will be at least 3 miles.

• • • • •

14. By revising § 91.201(b) to read as follows:

§ 91.201 Carry-on-baggage.

• • • • •

(b) Under a passenger seat in such a way that it will not slide forward under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter, or the requirements of the regulations under which the airplane was type certificated. After December 4, 1979 restraining devices must also limit sideward motion of under-seat baggage and be designed to withstand crash impacts severe enough to induce sideward forces specified in § 25.561(b)(3) of this chapter.

§ 91.207 [Deleted]

15. By deleting § 91.207.

16. By amending § 91.213(c) to read as follows:

§ 91.213 Second in command requirements.

• • • • •

(c) No person may designate a pilot to serve as second in command nor may any pilot serve as second in command of an airplane required under this section to have two pilots, unless that pilot meets the qualifications for second in command prescribed in § 61.55 of this chapter.

"(or training device)" after the word "airplane".

5. By revising paragraph (c) to read as follows:

§ 121.417 Crewmember emergency training.

• • • • •

(c) Each crewmember must perform at least the following emergency drills and (except with respect to the equipment specified in paragraphs (c)(6)(v), (c)(6)(vi), and (c)(6)(vii) of this paragraph) actually operate the following emergency equipment during initial training and once each 24 calendar months during recurrent training on each type aircraft in which they are to serve. Each crewmember is only required to participate in one emergency evacuation using a slide during initial training and each 24 calendar months during recurrent training. (Alternate recurrent periods required by § 121.433(c) may be accomplished by approved pictorial presentation or demonstration).

• • • • •

18. By revising § 121.437(b) to read as follows:

§ 121.437 Pilot qualification: certificates required.

• • • • •

(b) After July 1, 1980, no certificate holder may use nor may any pilot act as a pilot in a capacity other than those specified in paragraph (a) of this section unless the pilot holds at least a commercial pilot certificate with appropriate category and class ratings for the aircraft concerned, and an instrument rating. Notwithstanding the requirements of §§ 61.63 (b) and (c), until July 1, 1980, a pilot who is currently employed by a certificate holder and meets applicable training requirements of subpart O, and the proficiency check requirements of § 121.441 of this part, may be issued the appropriate category and class ratings by presenting proof of compliance with those requirements to an Air Carrier or Flight Standards District Office.

§ 121.439 [Amended]

19. By amending § 121.439 as follows:

1. By deleting paragraph (c)(2).

2. By renumbering paragraph (c)(3) as (c)(2).

3. By inserting "(c)(2)" in place of "(c)(3)" in paragraph (d).

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 28, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27963 Filed 10-4-78; 8:45 am]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

17. By amending § 121.417 effective September 29, 1978 as follows:

1. By amending paragraph (c)(1) by deleting the words "and use of" and substituting the words "of the".

2. By amending paragraph (c)(4) by adding at the end the words "including the use of a slide."

3. By amending paragraphs (c)(6)(vii) by deleting the word "aircraft" and substituting the word "airplane".

4. By amending paragraphs (c)(6)(v) and (c)(6)(vii) by adding the phrase

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

TRANSPORT CATEGORY AIRPLANES

Fatigue Regulatory Review Program Amendments

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16280; Amdt. No. 25-45]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Fatigue Regulatory Review Program Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to improve and update the airworthiness standards applicable to the type certification of transport category airplanes by revising the structural fatigue evaluation requirements. These revisions take into account state-of-the-art developments and accumulated service experience.

DATES: Effective date—December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8714.

SUPPLEMENTARY INFORMATION: During recent years, there have been significant state-of-the-art and industry-practice developments in the area of structural fatigue and fail-safe-strength evaluation of transport category airplanes. Recognizing that these developments could warrant some revision of existing fatigue requirements contained in §§ 25.571 and 25.573 of part 25 of the Federal aviation regulations, the FAA, on November 18, 1976, gave notice of its transport category airplane fatigue regulatory review program and invited interested persons to submit proposals to amend those requirements (see 41 FR 50956). Subsequently, the FAA convened a Transport Category Airplane Fatigue Regulatory Review Conference during March 15-17, 1977, in Arlington, Va., to obtain the views of all concerned on the proposals submitted for the review.

Participants in the Review Conference discussed the proposals submitted for the review. Those proposals and the related discussions formed the basis for the FAA's belief that a comprehensive revision of the structural fatigue evaluation standards of §§ 25.571 and 25.573 was warranted. To that end, on August 9, 1977, the FAA issued notice 77-15 (42 FR 41236; Aug. 15, 1977) which proposed regulatory changes directed at upgrading and improving those standards. These amendments are based on that notice.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. The more significant comments received in response to notice 77-15 are discussed below. A number of substantive, editorial, and clarifying changes have been made to the proposed rules based on relevant comments received and on further review within the FAA. Except for minor editorial and clarifying changes and the changes discussed below, these amendments and the reasons for their adoption are the same as those contained in notice 77-15.

Discussion of General Comments

Sixteen comments were received in response to notice 77-15. Several of the commenters were associations that presented the views of manufacturers and air carriers. In general the commenters concerned themselves with those areas of the proposal they believed could be improved and they raised no objection to the basic concept of the proposal.

Two commenters recommended that full-scale fatigue tests of the whole airplane structure be required, so as to insure reliable identification of those locations and detail design points at which a fatigue failure, if not detected in time, could cause catastrophic failure of the airplane. The FAA disagrees. Although full-scale testing can be useful in predicting possible locations of fatigue failures, the test results do not always correlate with service experience because of differences in the loading spectrum, varying environmental conditions, scatter in the test data, and unpredictable operational effects. Under the rules being adopted the manufacturer is required to: (1) Determine the probable locations and modes of damage due to fatigue, corrosion, and accidental damage; (2) support that determination by tests on either the whole structure or components of the structure and by reference (as applicable) to previous operational experience; and (3) establish a related inspection program. This practice has been used successfully in the past.

A commenter recommended that the applicant be required to determine the "time to first failure" of critical structural components, and to establish information on the frequency, extent, and methods of inspection, by repeating the fatigue test program on an appropriate number of identical samples of those components and by employing probabilistic evaluation and risk analysis. The FAA recognizes that this procedure may be necessary for some critical safe-life components but not for those evaluated by means of the damage-tolerance approach covered in this amendment. Damage-tolerance (fail-safe) evaluations take into account the possibility that structural damage can occur due to causes other than classical fatigue (for example: Corrosion, foreign-object impact, and maintenance errors) and recognizes that this damage can be detected before catastrophic failure by an adequate inspection procedure. The frequency, extent, and methods of inspection are determined by repeated load analyses and tests (including a statistical approach where necessary), by fracture mechanics analyses and tests, and by reference to service experience.

The same commenter, referring to damage-tolerance evaluation tests, suggested that such tests should be carried out to final failure to demonstrate the residual strength of the remaining structure and that the loading conditions for this purpose should take into account the effects of structural flexibility, the rate of loading, and the most unfavorable expected temperature in heavy gusts. This commenter also contended that simulation of cracks artificially should not be allowed since this method would predetermine the location of failure and would in many cases indicate a greater residual strength than a genuine fatigue crack. The FAA does not agree with these comments. The nature and extent of tests on complete structure, or on portions of the primary structure, will depend upon applicable previous design, construction, tests, and service experience. If previous experience with similar structure is available, an analytical approach rather than tests may be sufficient to show adequate residual strength. The applicant is required in either event to take into account the factors mentioned by the commenter. For example, § 25.571(a)(1)(i) of this amendment requires that each evaluation include the "typical loading spectra, temperatures, and humidities expected in service." And § 25.571(b) of this amendment requires that "if significant changes in structural stiffness or geometry, or both, follow from a structural failure, the effect on damage-tolerance must be further investigated." Concerning the matter of simulating cracks artificially, the FAA has found from past experience that it may not be practical to produce actual fatigue cracks. Artificial crack simulation has proven satisfactory in the past.

In addition, the commenter, referring to the proposed requirements for damage-tolerance (fail-safe) evaluation, contended that the pilot should be instantaneously warned of the occurrence of a failure of a single principal structural element, because no hidden strength reserves are required. The FAA questions whether the crack detection and monitoring system that would be needed for this purpose could be relied upon to detect all critical damage. In any event, the FAA believes such a warning system is unnecessary, for the following reasons. This amendment specifies a residual static strength level of 100 percent of limit load (up from the previously prescribed 80 percent) and requires residual repeated load strength consistent with crack growth analysis and with the anticipated inspection program, thereby raising the level of safety for structure in a "damaged" condition. Structure designed to these requirements remains capable of supporting static limit loads after partial failure until the failure is detected, since those loads are the maximum loads expected to occur in service. In addition, to account for the fatigue spectrum, the damage-tolerance evaluation must incorporate repeated load and static analyses supported by test evidence. On the basis of past experience, the FAA believes that these requirements provide an adequate level of safety when combined with a sound inspection program that insures detection of damage before catastrophic failure occurs.

Several commenters objected to the use of mandatory language in proposed appendix H contending that it was inconsistent with statements in the notice preamble, and in proposed § H25.1 of the appendix, that the appendix contained guidance material and that deviations from this guidance material may be necessary to take into account new design features and methods of fabrication, new evaluation approaches, and new configurations. The FAA agrees in principle with these comments. However, with the removal of the mandatory language objected to by the commenters, the proposed appendix would not be regulatory in nature. Placement in the Federal aviation regulations would therefore not be appropriate. In this connection, the FAA's advisory circular system is an effective vehicle for providing guidance information to the public relating to regulatory matters. Accordingly, proposed appendix H, with mandatory language removed and with additional changes as discussed below, is being issued concurrently with this amendment in the form of a new advisory circular. A reference to the new advisory circular is included in § 25.571(a), as adopted, and copies of the advisory circular may be obtained from U.S. Department of Transportation, Publications Section M443.1, Washington, D.C. 20590.

Discussion of Specific Comments

§ 25.571(a)

Several commenters objected to the wording of the first sentence of proposed § 25.571(a), contending that it would impose an absolute requirement that would be impossible to comply with. The purpose of the proposal was to establish an evaluation requirement rather than an absolute requirement for the strength, detail design, and fabrication of the airframe structure. Based on the comments, the first and second sentences of proposed § 25.571(a), as adopted, are revised to make this clear.

A commenter suggested that the term "engine mounting" be added to the examples of structure listed (in parentheses) in the second sentence of proposed § 25.571(a) since it is an important structural element that should be considered. The FAA agrees, and this change is incorporated in the adopted rule. In addition, the word "including" inside the parentheses is changed to "such as" to make it clearer that the structural elements listed are examples only.

A commenter objected to the sonic fatigue evaluation requirement in the third sentence of proposed § 25.571(a), contending that while such an evaluation is necessary for turojet-powered airplanes there has been no service experience indicating that it is also necessary for turbopropeller-powered airplanes. The FAA agrees. Based on a reevaluation of the information available to the FAA, the term "turbine-engine-powered" in the third sentence of proposed § 25.571 (fourth sentence as adopted) is changed to "turbojet-powered."

Several commenters objected to proposed § 25.571(a)(3) on the grounds that: (1) The required inspection or other procedures to prevent catastrophic failure are best developed after type certification by the combined efforts of the FAA, the manufacturers, and the operators, using the Maintenance Review Board (MRB) process described in advisory circular AC 121-22; and (2) if the inspection and other procedures were to be established as a certification requirement, operators would find it burdensome to have them adjusted in the light of operational experience after an airplane enters service. The FAA firmly believes that in this critical safety area (involving measures to prevent catastrophic failure) the initial set of inspection and other procedures must be established by the manufacturer under a type certification requirement. Since the manufacturer conducts the evaluation tests and analyses upon which those procedures must be based, it is appropriate that he take prime responsibility for establishing them. However, there is nothng in proposed § 25.571(a)(3) that would prevent later adjustments of the established inspection, or other procedures, based on operational experience after type certification. See also the related discussion under proposed appendix § H25.2(h). Accordingly, proposed § 25.571(a)(3) is adopted without change.

§ 25.571(b)

A commenter noted that the parenthetical term "(fail-safe)" in the title of proposed § 25.571(b) is not a synonym for "damage-tolerance." The FAA used the term "(fail-safe)" in the title merely to indicate that this was the previously accepted evaluation method. Some fail-safe design features may still be incorporated in a damage-tolerance approach. The term "(fail-safe)" is therefore retained in the title.

The same commenter recommended that the phrase "test evidence and service experience" in the second sentence of proposed § 25.571(b) be changed to "test evidence or service experience," contending that the proposed language would prevent designers from doing anything new. The FAA's intent is to require that the analysis be supported by test evidence in every instance and (if available) by service experience. To make this intent clear, the parenthetical phrase "(if available)" is inserted before the term "service experience" in the adopted rule.

The commenter also objected to the third sentence of proposed § 25.571(b) on the ground that it limits the concern to prior fatigue exposure only. No change to the proposal is being made based on this comment since the FAA believes the proposed language adequately reflects the intent.

In addition, the commenter contended that the fourth and fifth sentences of proposed § 25.571(b) were not sufficiently specific and suggested a general revision of the proposed language. The FAA does not agree. The FAA believes that the proposed language is clear and expresses the intent accurately.

Another commenter suggested that the words "at V_c" in proposed § 25.571(b)(1) be changed to "up to V_c", contending that maneuvers at speeds lower than V_c should also be covered. The FAA believes that the words "at V_c" provide for a realistic and adequate condition for residual strength evaluation that is consistent with a similar loading condition applied under the rule being amended.

This commenter also suggested that proposed § 25.571(b)(2) be revised to

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insure that dynamic effects are covered for gust conditions. The FAA believes that the gust conditions in proposed § 25.571(b)(2), which are similar to those applied under the rule being amended, are adequate for residual strength evaluations.

In addition, the commenter noted that § 25.351(a), which is referenced in proposed § 25.571(b)(4), does not specify yaw maneuvers at speeds above V_A and suggested a revision to specify such maneuvers. The FAA, in airworthiness review notice No. 75-26 (40 FR 24802, June 10, 1975) has proposed changing the V_A in current § 25.351(a) to V_B. This issue will be considered as part of the airworthiness review program.

A commenter suggested that the term "normal operating pressure" used in proposed §§ 25.571(b)(5) (i) and (ii) be changed to "normal operating differential pressure" because it is more precise and is used elsewhere in part 25. The FAA agrees, and this change is incorporated in §§ 25.571(b)(5) (i) and (ii) as adopted.

A commenter recommended that the 1.1 factor in proposed § 25.571(b)(5)(ii) be changed to 1.15 to be consistent with existing design practice based on the present Federal Aviation regulations, and to cover variations in strength due to material properties and undetected corrosion. The FAA disagrees. The only purpose of the 1.1 factor is to take into account pressure relief valve tolerances. Material variations are covered elsewhere in the regulations. The FAA does not believe an increase to 1.15 is justifiable.

Two commenters suggested revisions to the flush paragraph at the end of proposed § 25.571(b) to make clear which effects are to be considered. The FAA believes that the proposed language adequately covers the range of effects to be considered.

§ 25.571(c)

Several commenters noted the typographical error in the title of proposed § 25.571(c). The parenthetical term "(safe-fail)" should be "(safe-life)." This error is corrected in the final rule.

A commenter objected to proposed § 25.571(c) on the ground that it would give the FAA new powers to overrule the manufacturer's judgement as to whether it would be impractical, for a given structure, to comply with the damage-tolerance requirements of proposed § 25.571(b). Under the rules being amended, the commenter noted, the manufacturer has the option of selecting either the "safe-life" or "fail-safe" approach. The FAA has considered this comment; however, service experience has shown conclusively that the damage-tolerance (fail-safe) approach is more reliable than the safe-life approach, particularly since the safe-life approach does not take into account the probability of damage due to foreign-object impact, corrosion, or improper maintenance. The FAA firmly believes that safety is best served by requiring the manufacturer to use the damage-tolerance approach unless he shows to the FAA's satisfaction that it would be impractical to do so.

Several commenters pointed out that the third sentence of proposed § 25.571(c) would improperly allow cracking to occur. The FAA agrees. As noted by the commenters, the intent of the proposal was to require that the structure be able to withstand the repeated loads of variable magnitude expected during its service life without detectable cracks. Accordingly, in the adopted rule, the third sentence of proposed § 25.571(c) is deleted, and the words "without detectable cracks" are added to its second sentence for clarification. One of these commenters suggested that the last sentence of proposed § 25.571(c) also be deleted since it is covered in the proposed appendix. The FAA believes that this sentence is necessary in the basic rule as well as in associated guidance material.

A commenter contended that proposed § 25.571(c) omitted a key requirement—that no reduction in strength be allowed. The FAA disagrees. Experience with transport airplane structure and materials has shown that there is no significant reduction in ultimate strength due to repeated load application unless detectable cracks have developed. Therefore, if it is shown that no detectable cracks will be initiated during the service life of the structure, the FAA considers that no reduction in ultimate strength will occur.

§ 25.571(d)

No adverse comments were received concerning proposed § 25.571(d). Accordingly, § 25.571(d) is adopted as proposed.

§ 25.571(e)

A commenter objected to proposed § 25.571(e), contending that it would be impossible to obtain a type certificate for a propeller-driven airplane under its provisions. This commenter stated that it is difficult to imagine designing airplanes strong enough to withstand a 200- to 300-pound propeller, or even a single propeller blade, coming loose and crashing through the fuselage. The FAA believes that a transport category airplane making use of structural design features such as slow crack growth, crack arrestment, and multiple-load-path construction, can be designed for discrete source damage, including propeller impact damage. This would require that the structure withstand the static loads expected during completion of the flight (on which the impact damage occurred). The extent of the damage would be determined on the basis of a rational assessment of operational experience and potential damage. The FAA has no reason to believe that designers of propeller-driven airplanes would not be able to comply with proposed § 25.571(e), as adopted.

Another commenter expressed concern lest interpretation of proposed § 25.571(e), insofar as it would apply to structural damage caused by propeller blade impact, might discourage the development of new advanced turboprop airplanes and, therefore, would not be in the public interest. The FAA anticipates no interpretation problem in administering § 25.571(e), as adopted, and has no reason to believe that designers of turboprop airplanes would not be able to comply with its provisions.

A commenter recommended that proposed § 25.571(e) be deleted on the ground that each of the items listed in subparagraphs (1) through (4) necessitates special consideration of the circumstances under which the event arises and that they therefore warrant separate treatment in the regulations, as is done currently in part 25. Moreover, this commenter contended, no detailed justification has been provided for proposed § 25.571(e), which in general represents an increase in severity over current regulations. The FAA believes that it is appropriate to consider the items in subparagraphs (1) through (4) together since the concern in each instance is the probability of structural damage. The need for these requirements is dictated by service experience. Modern damage-tolerance (fail-safe) techniques, such as slow crack growth, crack arrestment, and multiple-load-path construction, make it possible to provide a capability of surviving discrete source damage.

A commenter suggested that proposed § 25.571(e) be transferred to subpart D of part 25 since it covers more than structural implications. The FAA disagrees. The intent is to cover only the structural implications of the listed impacts and failures, as the proposed language makes clear. The FAA is concerned here only with structural damage.

A commenter considered that the word "likely" in the lead-in of proposed § 25.571(e) was not necessary. The FAA disagrees. The word "likely" has a substantive probability connotation in this context.

Two commenters noted that the bird strike condition in proposed § 25.571(e)(1) is different from those in current §§ 25.631 and 25.775, and one commenter suggested they be made

consistent. The FAA believes there may be merit in this suggestion but does not have sufficient information, at this time, on which to base any revision of current §§ 25.631 and 25.775. The FAA believes, however, that proposed § 25.571(e)(1) is a realistic condition for structural damage assessment in general.

A commenter suggested that the sources of structural damage listed in proposed § 25.571(e) include "faulty maintenance" and "faulty operation." The FAA disagrees. Likely sources of this kind are considered during damage-tolerance (fail-safe) evaluation.

A commenter suggested that the word "static" in the first sentence of the flush paragraph at the end of proposed § 25.571(e) is unnecessary and should be deleted. The FAA disagrees, since the word "static" is necessary to describe the internal ultimate design loads expected to occur.

Several commenters objected to the third sentence of the flush paragraph at the end of proposed § 25.571(e), contending that dynamic effects are adequately taken into account when determining the likely structural damage caused by the listed discrete-source impacts and failures and the magnitude of the static loads that would subsequently occur in flight. The FAA agrees, and the flush paragraph in the adopted rule is revised to make this point clear.

Two commenters suggested revisions to the last sentence of the flush paragraph at the end of proposed § 25.571(e) to make clear which effects are to be considered. The FAA believes the proposed language adequately covers the range of effects to be considered.

§ 25.573

There were no adverse comments on the proposal to delete § 25.573. Accordingly, § 25.573 is deleted.

§ 25.629(d)(4)(v)

A commenter, noting that the proposed amendment to § 25.629(d)(4)(v) referred only to proposed § 25.571(b), suggested that it also refer to proposed § 25.571(e), which could have an effect not only on flutter but also on handling characteristics. The FAA disagrees. The intent of proposed § 25.571(e) is to insure that the airplane, after receiving discrete-source damage, has sufficient residual static strength capability to successfully complete the flight. Evaluating flutter and handling characteristics goes beyond that intent.

APPENDIX H

As discussed previously, proposed appendix H is being adopted in the form of a new advisory circular. In addition to removing the inappropriate mandatory language proposed in the appendix, a number of changes have been incorporated based on the comments received and further review. Those comments and changes are discussed below.

APPENDIX H, § H25.1

A commenter suggested that the first sentence of the second lead-in paragraph of proposed § H25.1 be revised to allow the consideration of "good design practice" in determining whether an effective damage-tolerant structure can be achieved. The FAA agrees and the suggested change is incorporated in the new advisory circular.

A commenter suggested that "engine mounts" be added to the examples given in the last sentence of the second lead-in paragraph of proposed § H25.1 since it is not only in the attachments of these structures that difficulties may be experienced in achieving damage-tolerant designs. The FAA agrees, and this change is incorporated in the new advisory circular.

A commenter objected to the phrase "at critical regions in" as used in the first sentence of proposed § H25.1(c) because if stresses are of low order, the regions could hardly be called "critical." The FAA agrees, and in the new advisory circular the phrase "in specific regions of" is substituted for "at critical regions in".

A commenter objected to the reference to "probability" in the first sentence of proposed § H25.1(c), contending that it has an unfavorable connotation. The FAA disagrees. The use of probability terminology is appropriate in this context. However, the language in this sentence is editorially revised in the new advisory circular without substantive change.

A commenter noted that the words "tensile area" (modifying "cutouts") in the second sentence of proposed § H25.1(c) tend to restrict attention inappropriately since cutouts in shear and compression areas also warrant attention. The FAA agrees, and the words "tensile area" are deleted in the new advisory circular.

Two commenters contended that it was not always possible to complete the repeated load tests necessary to show compliance with the damage-tolerance evaluation requirements in proposed § 25.571(b) within a reasonable time. This would lead, it was asserted, to a burdensome and costly delay in obtaining type certificates for airplanes. One of these commenters suggested that proposed § H25.1(c) be revised so that an applicant can obtain the type certificate without having completed those tests if the applicant substantiates at least 1 year of safe operation. The other commenter suggested that a somewhat similar provision be added to proposed § H25.2(g). The FAA believes that the circumstances described by these commenters will occur only rarely and that the need for the suggested relief (and the proper extent of that relief) can only be judged on the merits of each individual case. For these reasons, the FAA believes that it would be inappropriate to incorporate the revision suggested. Instead, the FAA will consider requests for relief on an individual basis.

APPENDIX H, §§ H25.2 (a), (b), AND (c)

A commenter asserted that proposed §§ H25.2(a) (1), (2), and (3) were essentially variations of the same proposal and should be combined in a single general statement. The FAA agrees, and proposed §§ H25.2(a). (1), (2), and (3) are revised accordingly and appear in a combined form in the new advisory circular.

A commenter stated that, in the lead-in sentence of proposed § H25.2(a)(6), the phrase "due to fatigue" rules out concern for corrosion damage, and the phrase "high life conditions" is not a useful concept. This commenter suggested that the lead-in be revised to read: "Provision to limit the probability of concurrent multiple damage, particularly after long service, which could conceivably contribute to a common fracture path. Examples of such multiple damage are;". The FAA agrees and proposed § H25(a)(6), as contained in the new advisory circular, incorporates this change.

A commenter objected to proposed § H25.2(a)(6)(i), contending that the word "initial" implies the cracks were present when the structure was built, and that the phrase "each of which being less than the minimum detectable length" was unnecessarily restrictive, since cracks that small are not likely to cause major concern. The commenter suggested that proposed § H25.2(a)(6)(i) be revised to read "A number of small cracks which might coalesce to form a single long crack." The FAA believes the suggested language clarifies the intent. The new advisory circular incorporates this language.

The same commenter objected to proposed § H25.2(a)(6)(ii), contending that the word "initial" here implies the failure was built in and that the phrases "following an initial failure" and "due to redistribution of loading" should be in reverse order to avoid confusion. The commenter suggested that proposed § H25.2(a)(6)(ii), be revised to read "Failures, or partial failures, in adjacent areas due to the redistribution of loading following a failure of a single element." The FAA

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agrees, and this language is used in the new advisory circular.

This commenter also objected to proposed § H25.2(c), contending that it deals with several reasonably simple concepts in a complex, obscure way. A specific revision was suggested. The FAA believes that the intent of this paragraph is clear as proposed.

APPENDIX H, §§ H25.2 (d), (e), AND (f)

A commenter suggested that the last sentence of proposed § H25.2(d) be placed at the beginning of the paragraph and revised (to emphasize the preference for damage-tolerance evaluation to read: "Every reasonable effort should be made to ensure inspectability of all structural parts, and to qualify them under the damage-tolerance provisions." The FAA agrees, and the suggestion has been followed in the new advisory circular. This change also responds to another commenter who suggested several changes to proposed § H25.2(d) which were aimed at emphasizing the preferability of avoiding completely uninspectable areas.

A commenter noted that in proposed § H25.2(e) the words "damage" and "failure," which were apparently intended to be synonymous, convey separate concepts. The FAA agrees, and in the new advisory circular the sentence is clarified.

APPENDIX H, §§ H25.2 (g) AND (h)

A commenter recommended a general revision of the lead-in paragraph of proposed § H25.2 (g), contending that: (1) The phrase "damage extent for residual strength" should convey a different idea than it does in proposed § H25.2(c); (2) the phrase "the time at which the damage becomes initially detectable" is not quite accurate since "initially detectable" implies a much smaller dimension than is likely to be appropriate; and (3) the second sentence appears to be a rather academic requirement. The FAA disagrees. The intent of proposed § H25.2(g) is to identify damage-tolerance criteria (analytical and test) with respect to residual strength, damage growth rate, inspection programs, repeated loads, damage-tolerance characteristics, and discrete source damage. The FAA believes this intent is clear in the language proposed. However, based in part on a comment concerning proposed §§ H25.2(g) (1), (2), and (3), the FAA believes that proposed § H25.2(g) (2) would be clearer if it read "By demonstrating that the damage would be detected before it reaches the value for residual strength evaluation." In addition, based on a review of proposed § H25.2(g)(3), the FAA believes that the previously verified design should also have a similar configuration. These changes are incorporated in the new advisory circular.

Two commenters suggested a revision to make it clear that the applicant can use any one of the methods listed in §§ H25.2(g) (1), (2), and (3) for showing damage-tolerance characteristics. The FAA agrees, and appropriate changes are incorporated in the new advisory circular.

A commenter suggested that a provision be added to proposed § H25.2(g) to enable an applicant to obtain a type certificate without having completed the repeated load tests necessary to support damage-tolerance evaluation (where practical) of structure. For a discussion of this and a similar suggestion submitted by another commenter, see the preamble discussion for proposed § H25.1.

A commenter agreed with proposed § H25.2(h), but suggested that it should contain a factor on inspection intervals to allow for scatter in structural behavior, operational usage, and inspection reliability. The FAA recognizes that the inspection interval should be conservative, but believes that it would be inappropriate to prescribe a specific factor. It is preferable that the factor be established by the manufacturer after all contributing parameters have been considered. Final approval would be by the FAA.

Several commenters objected to the last sentence of proposed § H25.2(h), contending that it should mention (as an example of a document that provides for revision as a result of operational experience) the operator's FAA-approved structural inspection program developed through the Maintenance Review Board (MRB) procedures for part 121 operators. The FAA agrees, and the new advisory circular references the MRB-generated programs. In addition, a reference to § 25.571(a)(3) is also added.

APPENDIX H, § H25.3

A commenter objected to the reference to "probability" in the first sentence, contending that it has an unfavorable connotation. The FAA disagrees. The use of probability terminology is appropriate in this context. However, the language in this sentence is editorially revised in the new advisory circular, without substantive change, for consistency with similar provisions elsewhere.

A commenter suggested that the words "consideration of" in the third sentence of proposed § H25.3(a) should be deleted. With the elimination of the mandatory language from the proposed appendix, these words are superfluous. They do not appear in the new advisory circular.

Three commenters objected to the phrase "to prevent catastrophic failure" in proposed § H25.3(a)(5). The FAA believes that the intent of proposed § H25.3(a) is adequately expressed in general terms in the first sentence of proposed § H25.3(a), and that this intent need not be repeated in § H25.3(a)(5). An appropriate revision is contained in the new advisory circular.

A commenter, referring to proposed § H25.3(c)(5), suggested that FAA specify approved methods and procedures (for rework or repair of the structure) that might gain further life. The FAA disagrees, since this suggestion, if adopted, would tend to unnecessarily dictate design.

ADOPTION OF THE AMENDMENT

Accordingly, part 25 of the Federal Aviation regulations (14 CFR Part 25) is amended as follows, effective December 1, 1978:

1. By revising § 25.571 to read as follows:

§ 25.571 Damage tolerance and fatigue evaluation of structure.

(a) *General.* An evaluation of the strength, detail design, and fabrication must show that catastrophic failure due to fatigue, corrosion, or accidental damage, will be avoided throughout the operational life of the airplane. This evaluation must be conducted in accordance with the provisions of paragraphs (b) and (e) of this section, except as specified in paragraph (c) of this section, for each part of the structure which could contribute to a catastrophic failure (such as wing, empennage, control surfaces and their systems, the fuselage, engine mounting, landing gear, and their related primary attachments). Advisory Circular AC No. 25.571-1 contains guidance information relating to the requirements of this section (copies of the advisory circular may be obtained from U.S. Department of Transportation, Publications Section M443.1, Washington, D.C. 20590). For turbojet-powered airplanes, those parts which could contribute to a catastrophic failure must also be evaluated under paragraph (d) of this section. In addition, the following apply:

(1) Each evaluation required by this section must include—

(i) The typical loading spectra, temperatures, and humidities expected in service;

(ii) The identification of principal structural elements and detail design points, the failure of which could cause catastrophic failure of the airplane; and

(iii) An analysis, supported by test evidence, of the principal structural elements and detail design points identified in paragraph (a)(1)(ii) of this section.

(2) The service history of airplanes of similar structural design, taking due account of differences in operating conditions and procedures, may be used in the evaluations required by this section.

(3) Based on the evaluations required by this section, inspections or other procedures must be established as necessary to prevent catastrophic failure, and must be included in the maintenance manual required by § 25.1529.

(b) *Damage-tolerance (fail-safe) evaluation.* The evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. The determination must be by analysis supported by test evidence and (if available) service experience. Damage at multiple sites due to prior fatigue exposure must be included where the design is such that this type of damage can be expected to occur. The evaluation must incorporate repeated load and static analyses supported by test evidence. The extent of damage for residual strength evaluation at any time within the operational life must be consistent with the initial detectability and subsequent growth under repeated loads. The residual strength evaluation must show that the remaining structure is able to withstand loads (considered as static ultimate loads) corresponding to the following conditions:

(1) The limit symmetrical maneuvering conditions specified in § 25.337 at V_C and in § 25.345.

(2) The limit gust conditions specified in §§ 25.341 and 25.351(b) at the specified speeds up to V_C, and in § 25.345.

(3) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427, at speeds up to V_C.

(4) The limit yaw maneuvering conditions specified in § 25.351(a) at the specified speeds up to V_C.

(5) For pressurized cabins, the following conditions:

(i) The normal operating differential pressure combined with the expected external aerodynamic pressures applied simultaneously with the flight loading conditions specified in paragraphs (b) (1) through (4) of this section, if they have a significant effect.

(ii) The expected external aerodynamic pressures in 1 g flight combined with a cabin differential pressure equal to 1.1 times the normal operating differential pressure without any other load.

(6) For landing gear and directly-affected airframe structure, the limit ground loading conditions specified in §§ 25.473, 25.491, and 25.493.

If significant changes in structural stiffness or geometry, or both, follow from a structural failure, or partial failure, the effect on damage tolerance must be further investigated.

(c) *Fatigue (safe-life) evaluation.* Compliance with the damage-tolerance requirements of paragraph (b) of this section is not required if the applicant establishes that their application for particular structure is impractical. This structure must be shown by analysis, supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected during its service life without detectable cracks. Appropriate safe-life scatter factors must be applied.

(d) *Sonic fatigue strength.* It must be shown by analysis, supported by test evidence, or by the service history of airplanes of similar structural design and sonic excitation environment, that—

(1) Sonic fatigue cracks are not probable in any part of the flight structure subject to sonic excitation; or

(2) Catastrophic failure caused by sonic cracks is not probable assuming that the loads prescribed in paragraph (b) of this section are applied to all areas affected by those cracks.

(e) *Damage-tolerance (discrete source) evaluation.* The airplane must be capable of successfully completing a flight during which likely structural damage occurs as a result of—

(1) Impact with a 4-pound bird at likely operational speeds at altitudes up to 8,000 feet;

(2) Propeller and uncontained fan blade impact;

(3) Uncontained engine failure; or

(4) Uncontained high energy rotating machinery failure.

The damaged structure must be able to withstand the static loads (considered as ultimate loads) which are reasonably expected to occur on the flight. Dynamic effects on these static loads need not be considered. Corrective action to be taken by the pilot following the incident, such as limiting maneuvers, avoiding turbulence, and reducing speed, must be considered. If signficant changes in structural stiffness or geometry, or both, follow from a structural failure or partial failure, the effect on damage tolerance must be further investigated.

§ 25.573 [Reserved]

2. By deleting § 25.573 and marking it "[Reserved]."

§ 25.629 [Amended]

3. By amending § 25.629(d)(4)(v) by deleting "§ 25.571(c)" and inserting in its place "§ 25.571(b)."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 28, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27964 Filed 10-4-78; 8:45 am]

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THURSDAY, OCTOBER 5, 1978
PART IV



ENVIRONMENTAL PROTECTION AGENCY

NATIONAL AMBIENT AIR QUALITY STANDARD FOR LEAD

Final Rules and Proposed Rulemaking

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 937-5]

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

National Primary and Secondary Ambient Air Quality Standards for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is setting a national ambient air quality standard for lead at a level of 1.5 micrograms lead per cubic meter of air (μg Pb/m³), averaged over a calendar quarter. This final rulemaking follows a 1976 court order to list lead as a criteria pollutant for the development of an ambient standard, and the Agency's issuance of a proposed standard on December 14, 1977. In response to comments received on the proposed standard, EPA has changed the averaging period for the standard from a calendar month to a calendar quarter, and has clarified the health basis used in selecting the standard level.

In establishing the level of the final standard, EPA has determined that young children (age 1-5 years) should be regarded as a group within the general population that is particularly sensitive to lead exposure. The final standard for lead in air is based on preventing most children in the United States from exceeding a blood lead level of 30 micrograms lead per deciliter of blood (μg Pb/dl). Blood lead levels above 30 μg Pb/dl are associated with the impairment of heme synthesis in cells indicated by elevated erythrocyte protoporphyrin (EP), which EPA regards as adverse to the health of chronically exposed children. There are a number of other adverse health effects associated with blood lead levels above 30 μg Pb/dl, in children as well as in the general population, including the possibility that nervous system damage may occur in children even without overt symptoms of lead poisoning.

DATES: Effective: October 5, 1978. After promulgation, States will have nine months (until July 5, 1979), to prepare and submit to EPA plans for attainment of the standard by no later than October of 1982. EPA's final regulations for the development of State implementation plans appear elsewhere in this FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Padgett, Director, Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5204.

AVAILABILITY OF RELATED INFORMATION

A docket (No. OAQPS-77-1) containing the information used by EPA in the development of the proposed standard is available for public inspection and copying between 8 a.m. and 4:30 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The Federal reference method for collecting and measuring lead and its compounds in the ambient air is published in appendix G to this promulgation. This FEDERAL REGISTER also contains proposed regulations under 40 CFR Parts 51 and 53 for equivalent lead air monitoring methods, final rules for the development of State implementation plans promulgated under 40 CFR Part 51, and an advance notice of proposed rulemaking under 40 CFR Part 51 for ambient monitoring in the vicinity of certain industrial plants with lead emissions. Additional information for the development of the State implementation plans is contained in the document Supplementary Guidelines for Lead Implementation Plans. The environmental and economic impacts of implementing this standard are described in an environmental impact statement and an economic impact assessment. These documents are available for public inspection and copying at the Central Docket Section (address above). Copies may be obtained upon request from Mr. Joseph Padgett at the above address.

The documents Air Quality Criteria for Lead and Control Techniques for Lead Air Emissions were issued at the time of proposal. The Control Techniques Document is available upon request from Mr. Joseph Padgett at the above address. The Air Quality Criteria Document can be obtained from: Mr. Michael Berry, Environmental Criteria and Assessment Office, MD-52, Office of Research and Development, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-2266.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Lead is emitted to the atmosphere by vehicles burning leaded fuel and by certain stationary sources. Lead enters the human body through ingestion and inhalation with consequent absorption into the bloodstream and distribution to all body tissues. Clinical, epidemiological, and toxicological studies have demonstrated that exposure to lead adversely affects human health.

EPA's initial approach to controlling lead in the air was to limit the lead emissions from automobiles, the principal source of lead air emissions. Regulations for the phasedown of lead in the total gasoline pool were promulgated in 1973, and, following litigation, modified and put into effect in 1976. The Agency has also established regulations requiring the availability of no-lead gasoline for catalyst-equipped cars. EPA also intended to control emissions from certain categories of industrial point sources under section 111 of the Clean Air Act.

In 1975, the Natural Resources Defense Council (NRDC) and others brought suit against EPA to list lead under section 108 of the Clean Air Act as a pollutant for which air quality criteria would be developed and a national ambient air quality standard established under section 109 of the Act. The Court ruled in favor of NRDC. (*NRDC, Inc. et al.* v. *Train*, 411 F. Supp. 864 (S.D.N.Y., 1976) aff'd 545 F. 2d 320 (2d Cir. 1976).) EPA listed lead on March 31, 1976, and proceeded to develop air quality criteria and the proposed standard.

On December 14, 1977, EPA proposed a standard of 1.5 μg Pb/m³, calendar month average, proposed the Federal reference method for monitoring air lead levels, issued the documents Air Quality Criteria for Lead and Control Techniques for Lead Air Emissions and proposed regulations for State implementation plans. EPA invited public comments during the period from December 14, 1977, to March 17, 1978, on the standard, reference method, and the SIP regulations. Additional comments on these matters were provided to EPA at a public hearing held on February 15-16, 1978.

LEGISLATIVE REQUIREMENTS FOR NATIONAL AMBIENT AIR QUALITY STANDARDS

Sections 108 and 109 of the Clean Air Act govern the development of national ambient air quality standards. Section 108 instructs EPA to document the scientific basis for the standard:

> Section 108(a)(2). The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—
>
> (A) Those variable factors (including atmospheric conditions), which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;
>
> (B) The types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and
>
> (C) Any known or anticipated adverse effects on welfare.

Section 109 addresses the actual setting of the standard:

> Section 109(b)(1). National primary ambient air quality standards, prescribed under subsection (a) shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.
>
> (2) Any national secondary ambient air quality standard prescribed, under subsection (a) shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

In order to conform to the requirements of section 109, EPA has based the level of the lead air quality standard on information presented in the criteria document pertaining to the health and welfare implications of lead air pollution. This is in contrast to other sections of the Act under which EPA considers economic costs and technical availability of air pollution control systems in determining emissions limitations. It is clear from section 109 that the Agency should not attempt to place the standard at a level estimated to be at the threshold for adverse health effects, but should set the standard at a lower level in order to provide a margin of safety. EPA believes that the extent of the margin of safety represents a judgment in which the Agency considers the severity of reported health effects, the probability that such effects may occur, and uncertainties as to the full biological significance of exposure to lead.

Comments resulting from external review of the air quality criteria and the proposed standard highlight disagreements on a number of areas critical to EPA's rationale for the standard. However, the scientific data base provided in the document Air Quality Criteria for Lead is as extensive as that for any other regulated air pollutant. Also, at every stage of development of the air quality criteria and the standard, EPA has facilitated and received broad external participation.

EPA regards as inevitable the presence of scientific disagreement and uncertainty about key factors relevant to environmental standards. Provisions of the Act requiring timely promulgation of the standard, and requirements for periodic future review of air quality criteria and standards indicate congressional intent that the Agency proceed even where scientific knowledge is not complete or full scientific consensus is absent.

SUMMARY OF GENERAL FINDINGS FROM AIR QUALITY CRITERIA FOR LEAD

Following the listing of lead as a criteria pollutant, EPA developed the document, Air Quality Criteria for Lead. In the preparation of this document, EPA provided opportunities for external review and comment on three successive drafts. The document was reviewed at three meetings of the Subcommittee on Scientific Criteria for Environmental Lead of EPA's Science Advisory Board. Each of these meetings was open to the public and a number of individuals presented both critical review and new information for EPA's consideration. The final criteria document was issued on December 14, 1977.

From the scientific information in the criteria document, EPA draws conclusions in several key areas with particular relevance for the ambient air quality standard for lead.

1. There are multiple sources of lead exposure. In addition to air lead, these sources include: Lead in paint and ink, lead in drinking water, lead in pesticides, and lead in fresh and processed food.

2. Exposure to air lead can occur directly by inhalation, or indirectly by ingestion of lead contaminated food, water, or nonfood materials including dust and soil.

3. There is significant individual variability in response to lead exposure. Even within a particular population, individual response to lead exposure may vary widely from the average response for the same group. Certain subgroups within the general population are more susceptible to the effects of lead or have greater exposure potential. Of these, young children represent a population of foremost concern.

4. Three systems within the human body appear to be most sensitive to the effects of lead—the blood-forming or hematopoietic system, the nervous system, and the renal system. In addition, lead has been shown to affect the normal functions of the reproductive, endocrine, hepatic, cardiovascular, immunologic, and gastrointestinal systems.

5. The blood lead level thresholds for various biologic effects range from the risk of permanent, severe, neurological damage or death as blood leads approach and exceed 80 to 100 μg Pb/dl in children down to the inhibition of an enzymes system as low as 10 μg Pb/dl.

6. Lead is a stable compound, ubiquitously distributed, which persists and accumulates both in the environment and in the human body. In developing the proposed standard, EPA used these findings to arrive at a standard level of 1.5 μg Pb/m³, calendar month average. This level was derived from the Agency's judgment that the maximum safe blood lead level (geometric mean) for a population of young children was 15 μg Pb/dl and, of this amount, 12 μg Pb/dl should be attributed to nonair sources. The difference of 3.0 μg Pb/dl was estimated to be the allowable safe contribution to mean population blood lead from lead in the air. With epidemiological data indicating a general relationship of 1:2 between air lead (μg Pb/m³) and blood lead (μg Pb/dl), EPA determined that the level for the proposed standard should be 1.5 μg/m³.

SUMMARY OF ANTICIPATED IMPACTS

While the level of the standard is based on health considerations, EPA has conducted economic and environmental studies to assess the potential impacts of the standard selected. EPA estimates that the existing regulations for the phase-down of lead in gasoline, combined with the increasing use of no-lead gasoline for catalyst-equipped cars, will result in attainment of the standard in urban areas where automobile exhaust is the dominant source of air lead. No additional pollution controls are anticipated for these areas.

EPA's economic analysis does indicate that there may be significant problems in attainment of the standard in the vicinity of nonferrous smelters and other large industrial sources of lead emissions. This assessment is based, however, on studies using general emission factors and plant configurations, combined with dispersion modeling. In the development of State plans to implement the standard, EPA is encouraging affected industries and State agencies to gather plant-specific technical data, ambient air quality data, and assessments of alternative engineering controls. With this information, the Agency will be able to more accurately evaluate the impact of the standard and better consider approval of alternative approaches to emission control in the State plans.

Also, EPA is encouraging affected firms and State agencies to evaluate in the early design phase, strategies which take into consideration the workplace standard for airborne lead which will be promulgated by the Occupational Health and Safety Admin-

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istration (OSHA). EPA believes that this approach will facilitate application of control technologies which meet the requirements of both agencies. In working with OSHA to estimate the combined impact of the OSHA and EPA standards, in coordinating compliance strategies, and in reviewing State plans implementing the ambient standard, EPA intends to avoid an approach which would foster uncertainty in the investment decisions of affected firms.

The Agency will make every effort to insure that all opportunities to avoid plant closures are examined, while at the same time assuring protection from clear risks to the public health.

Summary of Comments Received

During the comment period from December 14, 1977, to March 17, 1978, and at the public meeting on February 15-16, 1978, EPA received 95 written and oral comments addressing the proposed standard or the requirements for State implementation plans. All comments opposing the standard as excessively stringent (25) came from representatives of affected industries, and 20 of these counter-proposed 5.0 μg Pb/m³, calendar quarter average, as the appropriate level for the standard.

Comments Received Opposing the Proposed standard of 1.5 μg/m³ Calendar Month Average as Excessively Stringent

Company	Opposed [1]	Endorsed [2]
Amax Lead & Zinc, Inc	X	X
American Mining Congress	X	X
American Petroleum Institute	X	
ASARCO	X	X
Associated Octel Co., Ltd	X	X
Battery Council International	X	X
Bethlehem Steel Corp	X	X
Bunker Hill Co	X	X
C & D Batteries Division	X	X
E. I. du Pont de Nemours & Co., Inc	X	X
ESA Laboratories, Inc	X	X
Ethyl Corp	X	X
General Battery Corp	X	X
General Motors Corp		
Getty Refining & Marketing Co	X	
HECLA Mining Co	X	
Houston Chemical	X	X
Hunt Oil Co	X	
Kerr-McKee Corp		
Lead Industries Association	X	X
Naico Chemical	X	X
N L Industries, Inc	X	X
Prestolite Battery Division	X	X
Secondary Lead Smelters Association	X	X
Shell Oil Co	X	
St. Joe Minerals Corp	X	X
Texaco, Inc	X	X
United Machinery Group		
Vulcan Materials Co		

[1] 1.5 μg/m³, calendar month.
[2] 5.0 μg/m³, calendar quarter (or other averaging period).

Summary: Forty-five comments received from 29 corporations or their representatives; 25 of the 29 firms opposed the proposed standard of 1.5 μg/m³, calendar month average; 20 endorsed an alternative standard of 5.0 μg/m³, calendar quarter average (or other averaging period).

Four comments opposed the proposed standard on the grounds that it was not sufficiently protective of health.

Comments Received Opposing Proposed Lead Air Quality Standard of 1.5 μg/m³, Calendar Month Average, in Favor of a More Stringent Standard

Natural Resources Defense Council
Dr. Sergio Piomelli, Director, Pediatric Hematology, New York University Medical Center Public Interest Campaign
University of Connecticut School of Medicine

Comments supporting the level of the proposed standard (17) came from the medical community, Federal agencies, State and local public health agencies, and public interest groups.

Comments Received Endorsing Proposed Lead Air Quality Standard of 1.5 μg/m³, Calendar Month Average

State and Local Agencies

California Department of Health
Massachusetts Department of Public Health
New York State Department of Environmental Conservation
New York City Department of Environmental Protection
Tennessee Department of Public Health
Wisconsin Department of Natural Resources

Federal Agencies

Center for Disease Control, Public Health Service
Department of Transportation
Food and Drug Administration
Occupational Safety and Health Administration

Public Interest Groups and the Medical Community

Committee on Environmental Hazards, American Academy of Pediatrics
D.C. Committee for Lead Elimination in the District
League of Women Voters of the United States
National Urban League
Herbert Needleman, Boston Children's Hospital Medical Center
University of North Carolina School of Public Health

In addition, EPA has received numerous comments and correspondence on the proposed standard after the official end of the comment period. Though EPA does not have a legal obligation to review these documents, it has, in the interest of fostering full public participation in the rulemaking process, reviewed these comments and correspondence as time permitted. As with all other documents considered or examined by EPA as part of its decision process, these documents have been placed in the public docket and have become part of the administrative record of this decision.

The comments received by EPA did not challenge three aspects of the proposed standard:

1. The basic structure of the rationale used by the Agency in deriving the level of the proposed standard.
2. The selection of young children as a population particularly at risk to lead exposure.
3. The attribution of 12 μg Pb/dl out of the target mean population blood lead level of 15 μg Pb/dl to nonair sources of lead for the purposes of setting the air standard.

Significant comments were received, however, on the following key areas relating to the standard:

1. The elevation of erythrocyte protoporphyrin (EP) as the first adverse health effect with increasing lead exposure rather than the decline of hemoglobin levels.
2. The blood lead threshold level for elevated EP.
3. The incidence of health effects in populations residing in the vicinity of industrial sources of lead particulate emissions.
4. The relationship describing the response of lead in the blood to lead in the air.
5. The statistical form and averaging period for the standard.
6. The appropriate margin of safety.
7. The limitation of the standard to the respirable fraction of total air lead particles.
8. The economic impact of the standard.
9. The State implementation plan regulations.
10. The Federal reference method for monitoring lead air quality.
11. The administrative procedures employed by EPA in the development of the standard and the provision for public participation.

A review of the comments received and their disposition has been placed in the rulemaking docket (OAQPS-77-1) for public inspection. The following paragraphs summarize the significant comments and present the Agency's findings.

The Health Significance of Erythrocyte Protoporphyrin Elevation

Ten commenters disagreed with EPA's conclusion that the impairment of heme synthesis indicated by elevated erythrocyte protoporphyrin (EP) constituted an adverse health effect. Reasons for this disagreement included:

1. An elevated level of EP is not itself toxic to the cells in blood or other tissues.
2. EP elevation, while indicating a change in heme synthesis, does not indicate an insufficient production of heme, or hemoglobin.
3. EP elevation and the alteration of heme synthesis does not imply impairment of other mitochondrial functions.
4. EP elevation is not associated with impairment of other heme proteins, particularly cytochrome P-450.
5. Elevated EP may be caused by conditions other than exposure to lead, particularly iron deficiency.

Five commenters agreed with EPA's conclusions about the health significance of elevated EP citing the following arguments:

1. The interference of lead in a fundamental cellular metabolic function to the extent that there is accumulation of a substrate is physiological impairment, even without the presence of clinical evidence of disease.
2. It is prudent medical practice to intervene where subclinical indicators of physiological impairment are present.
3. The impairment of heme synthesis resulting from genetic or dietary factors places a child at enhanced risk to lead exposure.
4. There is evidence to suggest that impaired heme synthesis may affect the function of neural or hepatic tissue even at levels where heme production is sufficient for hematopoiesis.

Agency Response

EPA agrees with the comments received that the initial elevation of EP as a result of exposure to lead, while indicating an impairment of heme synthesis, may not be a disease state or be seen as a clinically detectable decline in performance. However, the criteria document points out (p. 1-13) that this impairment does increase progressively with lead dose.

The hematological effects described above are the earliest physiological impairments encountered as a function of increasing lead exposures as indexed by blood lead elevations; as such, those effects may be considered to represent critical effects of lead exposure. Although it may be argued that certain of the initial hematological effects (such as ALAD inhibition) constitute relatively mild, nondebilitating symptoms at low blood lead levels, they nevertheless signal the onset of steadily intensifying adverse effects as blood lead elevations increase. Eventually, the hematological effects reach such magnitude that they are of clear-cut medical significance as indicators of undue lead exposure.

The fact that other conditions, such as iron deficiency may also impair heme synthesis, does not obviate concern that lead is interfering with an essential biological function. There is the possibility that a nutritional deficiency is an additional stress to the heme synthetic system which may increase the sensitivity of a child to the adverse effects of lead exposure.

EPA notes that there is general agreement that heme and heme-containing proteins play important roles in the oxygen fixation pathways in all cells. While the effects of low-level lead exposure on the heme synthetic pathway in erythroid tissue have been extensively studied in part because of the ease with which this tissue may be obtained, other cellular metabolic systems utilizing heme are less well understood. EPA does not have sufficient information to conclude that impairment of heme synthesis in other tissues is not of concern until blood lead levels are reached greater than those associated with hematological effects. The air quality criteria document does point out that this effect has been established in other tissues and that other dose-response factors may apply.

The effect of lead on the formation of heme is not limited to the hematopoietic system. Experimental animal studies have shown a lead effect on the heme-requiring protein, cytochrome P-450, an integral part of the hepatic mixed-function oxidase (chapter 11), the systemic function of which is detoxification of exogenous substances. Heme synthesis inhibition also takes place in neural tissue. (P. 13-5.)

In summary, the criteria document states:

Elevation in protoporphyrin is considered not only to be a biological indicator of impaired mitochondrial function of erythroid tissue but also an indicator of accumulation of substrate for the enzyme ferrochelatase. It therefore has the same pathophysiological meaning as increased urinary δ-ALA (vide supra). For these reasons, accumulation of protoporphyrin has been taken to indicate physiological impairment in humans, and this clinical consensus is expressed in the 1975 Statement of the Center for Disease Control (CDC), USPHS. The criterion used by CDC to indicate an effect of lead on heme function is an FEP level of 60 μg/dl in the presence of a blood lead level above 30 μg/dl whole blood.

More recent information relating to threshold of lead effects indicates that FEP levels begin to increase at a blood lead value of 15 to 20 μg Pb/dl blood in children and women and, at a somewhat higher value, 20 to 25 μg Pb/dl blood, in adult men. (P. 13-5.)

EPA concludes that the state of elevated EP must be regarded as potentially adverse to the health of young children. While the onset or a mild experience of this condition may be tolerated by an individual, as with other subclinical manifestations of impaired function, it is a prudent public health practice to exercise corrective action prior to the appearance of clinical symptoms. The criteria document reports that symptoms of anemia in children may occur at blood lead levels of 40 μg/dl. EPA has adopted 30 μg Pb/dl as a maximum safe blood lead level for individual children.

The Blood Lead Threshold for Elevated Erythrocyte Protoporphyrin

Comments provided by ten organizations challenged EPA's conclusion that the threshold for the elevation of EP occurs in children at a blood lead level of 15 μg/dl. Evidence offered for a higher threshold included:

1. The threshold accepted by EPA is based on a study in which an inappropriate statistical technique, probit analysis, was employed.
2. Application of a more appropriate technique, segmented line analysis, results in a higher threshold.
3. The study in question excluded data on children with blood lead levels in excess of 30 μg/dl.
4. Other investigators have reported higher thresholds.

Comments in support of the 15 μg/dl threshold maintained:

1. It is proper to exclude values considered abnormal if the intent of the analysis is to determine an unbiased effect threshold.
2. Other studies have reported thresholds with error bands which include 15 μg/dl.
3. Probit analysis is an appropriate technique and differs only slightly from the results obtained from segmented line analysis.

Agency Response

EPA agrees that the segmented line technique provides a more accurate estimate of the correlation threshold of EP elevation with increasing blood lead, about 16.7 μg Pb/dl, and for this reason considered changing its judgments as to the maximum safe blood lead level for a population of children. However, as the target geometric mean for a population is increased, a greater percentage of children in the population will exceed the maximum safe individual level of 30 μg Pb/dl. EPA estimates that at a population geometric mean of 15 μg Pb/dl, 99.5 percent of children will be below 30 μg Pb/dl. At 16.7 μg Pb this percentage falls to 98.7. EPA regards the number of children predicted to be below 30 μg Pb/dl as the critical health consideration. For this reason, EPA has maintained its estimate of a geometric mean of 15 μg Pb/dl as the target for population blood lead.

The Incidence of Health Effects in Populations Residing in the Vicinity of Industrial Sources of Lead Particulate Emissions

Several comments cited situations in which proximity to significant point sources of airborne lead emissions appear to have little or no health impact on resident populations. This was taken to imply that the air standard was not necessary to protect public health.

Agency Response

EPA acknowledges the variability of the impact of exposure to air lead on the potential for adverse health consequences. It is clear that direct exposure to air lead is only one of the

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routes through which human exposure occurs. It is for this reason that the Agency has accepted the concept that only a portion of the safe population mean blood lead level should be attributable to air lead exposure. The presence or absence of health effects in an exposed population is influenced by a variety of factors including: Meteorology, terrain characteristics, geological and anthropological history, personal and domestic hygiene, the occupations of the population members, and the food and nonfood materials with which they come into contact. Taking into account such variability, it remains the Agency's belief that airborne lead directly and indirectly contributes to the risk of adverse health consequences and that sufficient clinical and epidemiological evidence is available to form a judgment as to the extent of this contribution. This evidence includes epidemiological studies showing higher blood lead levels in urban areas where air lead levels were elevated in comparison to rural areas. There have also been a number of studies linking elevated blood lead levels to industrial sources of lead emissions. With regard to the 1972 study at El Paso, Tex., by the Center for Disease Control, the criteria document reports:

> It was concluded that the primary factor associated with elevated blood lead levels in the children was ingestion or inhalation of dust containing lead. Data on dietary intake of lead were not obtained because the climate and proximity to the smelter prevented any farming in the area. It was unlikely that the dietary lead intakes of the children from near the smelter and farther away were significantly different. (P. 12-15.)

With regard to the report of Yankel et al. at Kellogg, Idaho, the criteria document states:

> Five factors influenced, in a statistically significant manner, the probability of a child developing an excessive blood lead level:
> 1. Concentrations of lead in ambient air ($\mu g/m^3$).
> 2. Concentration of lead in soil (ppm).
> 3. Age (years).
> 4. Cleanliness of the home (subjective evaluation coded 0, 1, and 2, with 2 signifying dirtiest).
> 5. General classification of the parents' occupation (dimensionless).
>
> Although the strongest correlation found was between blood lead levels and air lead level, the authors concluded that it was unlikely that inhalation of contaminated air alone could explain the elevated blood lead levels observed. (P. 12-16.)

THE APPROPRIATE RELATIONSHIP BETWEEN LEAD IN AIR AND LEAD IN BLOOD

Several commenters questioned the Agency's estimate that, for children, one microgram of lead per cubic meter air (μg Pb/m^3 results in an increase of two micrograms lead per deciliter blood (μg Pb/dl).

AGENCY RESPONSE

EPA has reviewed the studies discussed in the criteria document which report changes in blood lead levels with different air lead levels. The Agency believes that one of the strongest epidemiological studies is that by Azar et al. in which personal dosimeters were used to measure lead intake. This eliminated some of the uncertainty about the extent to which air quality observations accurately reflect actual exposure. From the Azar data, the relationship of lead in the air to lead in the blood, evaluated at 1.5 μg Pb/m^3 was 1:1.8. The Azar study was, however, limited to an adult population.

A clinical study of adults, Griffin et al., gives roughly the same conclusion for a group of adults confined to a chamber with controlled exposure to lead aerosol. This study was conducted over a three month period with control over lead ingestion. As air lead levels in the chamber were increased from 0.15 μg Pb/m^3 to 3.2 μg Pb/m^3, the air lead to blood lead relationship was 1:1.7.

Because children are known to have greater net absorption and retention of lead than adults, it is reasonable to assume that the air lead to blood lead relationship for this sensitive population, exposed to air lead levels in the range of the proposed standard, is equal to if not greater than for adults. EPA also notes that the air lead to blood lead relationship is nonlinear and may result in a higher ratio at lower air levels.

In an epidemiological study of children near a smelter, Yankel et al., the response of blood lead to air lead, averaged over the exposure range, was 1.9. EPA believes that these studies as well as others reported in the criteria document, support the criteria document's conclusion that:

> Ratios between blood lead levels and air lead exposures were shown to range generally from 1:1 to 2:1. These were not, however, constant over the range or air lead concentrations encountered. There are suggestive data indicating that the ratios for children are in the upper end of the range and may even be slightly above it. There is also some slight suggestion that the ratios for males are higher than those for females. (P. 12-38.)

THE STATISTICAL FORM AND PERIOD OF THE STANDARD

One commenter expressed the view that, due to the lognormal distribution of measured air lead, a not-to-be-exceeded standard of 1.5 $\mu g/m^3$, calendar month average, would require sources of air lead to achieve control of their emissions to a geometric monthly mean of 0.41 $\mu g/m^3$ in order to prevent the occurrence of a violation. Another comment expressed the opinion that, with the normal operation of a 6-day sampling schedule, the number of samples which could be collected in the course of a calendar month would not provide a statistically valid estimate of the actual lead air quality for the period.

Several comments questioned the health basis for the selection of the calendar month averaging period.

EPA RESPONSE

EPA accepts the consensus of comments received on the scientific and technical difficulties presented by the selection of a calendar month averaging period. The Agency believes that the key criterion for the averaging period is the protection of health of the sensitive population. In proposing the 1.5 $\mu g/m^3$ standard, EPA concluded that this air level as a ceiling would be safe for indefinite exposure of young children. The critical question in the determination of the averaging period is the health significance of possible elevations of air lead above 1.5 $\mu g/m^3$ which could be sustained without violation of the average of 1.5 $\mu g/m^3$. In the proposed standard, EPA chose a monthly averaging period on the basis of a study showing an adjustment period of blood lead level with a change of exposure (Griffin et al.). Because of the scientific and technical difficulties of the monthly standard, EPA has reexamined this question and concludes that there is little reason to expect that the slightly greater possibility of elevated air lead levels within the quarterly period is significant for health. This conclusion is based on the following points:

(1) From actual ambient measurements, the distribution of air lead levels is such that where the quarterly standard is achieved, there is little possibility that there could be sustained periods greatly above the average value.

(2) While it is difficult to relate the extent to which a monitoring network actually represents the exposure situation for young children, it seems likely that where elevated air lead levels do occur, they will be close to point of mobile sources of lead air pollution. Typically, young children will not encounter such levels for the full 24-hour period reported by the monitor.

(3) There is medical evidence indicating that blood lead levels reequilibrate slowly to changes in air exposure. This serves to dampen the impact of a short-term period of exposure to elevated air lead.

(4) Direct exposure to air is only one of several routes of total exposure. This lessens the impact of a change in air lead on blood lead levels.

On balance, the Agency concludes that a requirement for the averaging of air quality data over calendar quarter will improve the validity of air quality data gathered without a significant reduction in the protectiveness of the standard.

THE APPROPRIATE MARGIN OF SAFETY

Several comments received by the Agency criticized the proposed standard for incorporating an excessive margin of safety. This criticism was based either on the view that the critical health effect, impaired heme synthesis, was not of health significance or on the view that EPA had employed conservative estimates of the several factors used in calculating the standard which, when combined, resulted in an excessively stringent standard.

Other comments were received which expressed concern that the standard had little or no margin of safety, particularly for certain subgroups within the general population of young children.

AGENCY RESPONSE

EPA does not agree that the impairment of heme synthesis is a physiological response to lead exposure that is without health significance. While EPA does not find that this impairment is necessarily serious to health at the point at which it first can be detected by the elevation of erythrocyte protoporphyrin, at a threshold in a range of 15-20 μg Pb/dl, the Agency does believe that above blood levels of 30 μg Pb/dl this effect has progressed to the extent that it should be regarded as an adverse health effect.

In determining the final ambient air standard for lead, EPA has used margin of safety considerations principally in establishing a maximum safe blood lead level for individual children at 30 μg Pb/dl and in determining the percentage of children to be placed below this maximum level, about 99.5 percent. Using these factors, results in a target geometric mean population blood lead of 15 μg Pb/dl.

In establishing other factors used in calculating the standard, EPA has used margin of safety in the sense of making careful judgments based on available data, but these judgments have not been at the precautionary extreme of the range of data available to the Agency. In the case of the geometric standard deviation (GSD), studies reviewed in the criteria document showed a range of 1.3 to 1.5. A standard based on a 1.5 GSD would be far more stringent than using 1.3, EPA took the 1.3, however, because of its concern that the total geometric standard deviation contains variation attributable to monitoring and analytical methodology. In estimating the relationship between air lead and blood lead to be 1:2, the Agency used an epidemiological study of children near a smelter, Yankel et al., where response of blood lead to air lead averaged over the exposure range was 1 to 1.9. In adopting 12 μg Pb/dl as the part of blood lead attributable to nonair sources, EPA is concerned that typical levels for this component may be much greater, and that regulatory actions by other public health programs may be necessary to achieve a 12 μg level.

Because of the variability between individuals in a population experiencing a given level of lead exposure, EPA finds it is impossible to provide the same amount of margin of safety for all members in the sensitive population, or to define the margin of safety in the standard as a simple percentage. EPA does believe that the factors it has used in designing the standard provide an adequate margin of safety for a large proportion of the sensitive population. The Agency does not believe that this margin is excessively large or on the other hand that the air standard can protect everyone from elevated blood lead levels.

THE IMPORTANCE OF THE RESPIRABLE FRACTION OF TOTAL AIR LEAD LEVEL

The Agency received a number of comments expressing concern that, because only a fraction of airborne particulate matter is respirable, an air standard based on total air lead is unnecessarily stringent.

AGENCY RESPONSE

EPA agrees that some lead particles are too small or too large to be deposited in the respiratory system. EPA cannot conclude, however, that particles outside of the respirable range do not represent an exposure hazard. A significant component of exposure can be ingestion of materials contaminated by deposition of lead from the air. In addition to the indirect route of ingestion and absorption from the gastrointestinal tract, nonrespirable lead in the environment may, at some point, become respirable through weathering or mechanical action. EPA concludes, therefore, that total airborne lead, both respirable and nonrespirable fractions, should be addressed by the air standard.

THE ECONOMIC IMPACT OF THE PROPOSED STANDARD

A number of commenters were critical of the Agency's economic impact assessment, and argued that the forecast underestimated the severity of the economic impact to certain lead industries.

AGENCY RESPONSE

The comments critical of the draft impact statement did not include data which would allow EPA to confirm the possibility of more severe economic impacts on certain source categories including primary and secondary lead smelters which could have difficulty in limiting emissions sufficiently to assure attaining the standard in their immediate vicinity. Under the Clean Air Act, the primary responsibility for implementing the standard is assigned to the States and each State is required to submit a plan to EPA demonstrating how attainment is to be achieved. The actual economic impacts of implementation are difficult to estimate at this time since, following promulgation, States will have 9 months to develop and submit these plans to EPA. The plans must demonstrate attainment as soon as practicable, but no later than 3 years following the date of plan approval. However, under certain circumstances, States may request up to a 2-year extension of this deadline. Other sections of the Clean Air Act may be used with the Administrator's discretion to grant further extensions of compliance deadlines for impacted industrial facilities.

EPA cannot at this time accurately predict the impact of this standard, but with the timetable in the Act, sees no reason to expect imminent closure of any facility. The Agency is committed to developing accurate data for specific plants in cooperation with the industry and State agencies in order to avoid the imposition of unnecessary controls. EPA's principal concern, however, must be to follow the mandate of the Clean Air Act relating to the protection of the public health.

EPA believes that the economic impact assessment is a reasonable forecast of the economic consequences of implementation of the standard.

THE PROPOSED STATE IMPLEMENTATION PLAN (SIP) REGULATIONS

A summary of comments and the Agency response is included in the preamble to the final regulations published elsewhere in this FEDERAL REGISTER.

THE FEDERAL REFERENCE METHOD FOR MONITORING LEAD AIR QUALITY

A summary of comments and the Agency's disposition is included in the preamble to the final method published elsewhere in this FEDERAL REGISTER.

THE ADMINISTRATIVE PROCEDURES EMPLOYED BY EPA IN THE DEVELOPMENT OF THE PROPOSED STANDARD AND THE PROVISION FOR PUBLIC PARTICIPATION

Two commenters requested that cross examination of witnesses be al-

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lowed in the post-proposal public hearing on the proposed standard and implementation regulations. EPA also received a request to postpone the public hearing and to extend the comment period, citing the need to complete ongoing studies.

AGENCY RESPONSE

Both the request for cross-examination and the extension of the comment period were denied by the Agency. With regard to the request for cross-examination, the Agency determined that, in light of the extensive review already conducted, cross-examination was not likely to produce new information or results that would justify such a significant departure from the normal rulemaking process. Also the existence of the normal comment period was sufficient to allow interested members of the public to raise questions concerning the Agency's determinations. Further, due to the extensive review opportunities available at all stages of the regulatory development, an extension of the comment period was not believed to be sufficiently necessary to further delay the schedule for preparation of the final rule.

CLARIFICATION OF ELEMENTS OF THE STANDARD

From reviewing the comments received, EPA wishes to clarify the following points in the presentation of the rationale for the final standard:

(1) EPA is making a distinction between the blood lead level that is the threshold for detection of the biological effect, impaired heme synthesis, and the blood lead level at which this effect has progressed to an extent that it is regarded as adverse to health.

(2) EPA is making a distinction between estimating a maximum safe blood lead level for an individual child, and establishing a population target geometric mean blood lead level for the sensitive population.

(3) EPA is making a distinction between what the contribution to blood lead levels from nonair sources actually may be, and attributing a contribution from nonair sources for the purpose of standard setting.

DERIVATION OF THE NUMERICAL LEVEL OF THE FINAL STANDARD

EPA's objective in setting the level of the standard is to estimate the concentration of lead in the air to which all groups within the general population can be exposed for protracted periods without an unacceptable risk to health.

This estimate is based on EPA's judgment in four key areas:

(1) Determining the "sensitive population" as that group within the general population which has the lowest threshold for adverse effects or greatest potential for exposure. EPA concludes that young children, aged 1 to 5, are the sensitive population.

(2) Determining the safe level of total lead exposure for the sensitive population, indicated by the concentration of lead in the blood. EPA concludes that the maximum safe level of blood lead for an individual child is 30 μg Pb/dl and that population blood lead, measured as the geometric mean, must be 15 μg Pb/dl in order to place 99.5 percent of children in the United States below 30 μg Pb/dl .

(3) Attributing the contribution to blood lead from nonair pollution sources. EPA concludes that 12 μg Pb/dl of population blood lead for children should be atttributed to nonair exposure.

(4) Determining the air lead level which is consistent with maintaining the mean population blood lead level at 15 μg Pb/dl. Taking into account exposure from other sources (12 μg Pb/dl) EPA has designed the standard to limit air contribution after achieving the standard to 3 μg Pb/dl. On the basis of an estimated relationship of air lead to blood lead of 1 to 2, EPA concludes that the ambient air standard should be 1.5 μg Pb/m³.

Each of these four areas is discussed further in the following sections.

SENSITIVE POPULATION

EPA believes that the health of young children is at particular risk from lead exposure. This is because children have a greater physiological sensitivity to the effects of lead than do adults and may have greater exposure to environmental lead from playing in contaminated areas. Other sensitive populations identified by EPA include those occupationally exposed, and pregnant women and their fetuses. Comments received on the proposed standard did not challenge EPA's position that young children are the most sensitive population for determining the standard. A number of comments did point out that within the general population of children there were subgroups with enhanced risk due to genetic factors, dietary deficiencies, or residence in urban areas. EPA acknowledges the higher risk status of such groups but does not have information either in the air quality criteria or in the comments received for estimating a threshold for adverse effects separate from that of all young children. Concern about these high risk subgroups has, however, influenced EPA's determination of the percentage of the population of children (99.5 percent) to be maintained below 30 μg Pb/dl.

EPA continues to be concerned about the possible health risk of lead exposure for pregnant women and their fetuses. The stress of pregnancy may place pregnant women in a state more susceptible to the effects of lead, and transplacental transfer of lead may affect the prenatal development of the child. There is, however, insufficient scientific information for EPA to either confirm or dismiss this suggestion, or to establish that pregnant women and fetuses are more at risk than young children.

THE MAXIMUM SAFE EXPOSURE FOR CHILDREN

In determining the maximum safe exposure to lead for children, EPA has taken the measurement of blood lead as the indicator of total lead dose. There are other possible indicators of exposure, for example the level of zinc protoporphyrin (ZPP), but most health studies reported in the criteria document utilize blood lead levels as indications of the mobile body burden of lead. The criteria document reports the following table of effect thresholds for children with increasing blood lead levels.

SUMMARY OF LOWEST OBSERVED EFFECT LEVELS IN YOUNG CHILDREN

	μg Pb/dl
δ-ALAD inhibition	10
Erythrocyte protoporphyrin elevation	15–20
Increased urinary δ-ALA excretion	40
Anemia	40
Coproporphyrin elevation	40
Cognitive (CNS) deficits	50–60
Peripheral neuropathies	50–60
Encephalopathic symptoms	80–100

(P. 13–8.)

The first physiological effect associated with increasing blood lead levels is the inhibition of the enzyme δ-aminolevulinic acid dehydratase (δ-ALAD), both in red blood cells (erythrocytes), and in cells in other tissues. This enzyme catalyzes the condensation of two molecules of δ-aminolevulinic acid (δ-ALA) to form porphobilinogen, one of the components involved in the cellular synthesis of heme. The criteria document reports that the threshold for δ-ALAD inhibition in children is 10 μg Pb/dl.

At blood lead levels above 10 μg Pb/dl, the function of δ-ALAD is increasingly inhibited by lead. The criteria document states that 40 μg Pb/dl is the threshold for elevation of δ-ALA recognized as δ-ALA in the urine or δ-ALA-U, an indication that δ-ALA has begun to accumulate in cells.

EPA does not regard the inhibition of δ-ALAD above 10 μg Pb/dl as adverse to health because of the absence of evidence that there is an impairment of heme synthesis until a threshold of 40 μg Pb/dl is reached. The accumulation of δ-ALA above normal levels, indicated by δ-ALA-U, is regarded as adverse to health, both because of impaired heme synthesis, and

the possibility that δ-ALA accumulation is itself toxic to cells.

The criteria document reports that above a threshold of 15–20 μg Pb/dl there is an elevation of protoporphyrin in erythrocytes. Protoporphyrin is an organic chemical compound used by all cells in the production of heme. In the final stage of heme synthesis, erythorocyte protoporphyrin (EP) and iron are brought together in the cell mitochondria. In the presence of lead, this step is blocked, possibly by inhibition of the enzyme ferrochelatase or by interference in the transport of iron across the mitochondrial membrane. Without incorporation into heme, the levels of protoporphyrin in the cell become elevated.

From review of the information provided by the air quality criteria document as well as the evidence and arguments offered by medical professionals commenting on the proposed standard, EPA has concluded that the effects of lead on the cellular syntheis of heme, as indicated by elevated erythrocyte protoporphyrin, are potentially adverse to the health of young children. This appears, however, to be a question of the degree to which the effect has progressed. EPA does not believe that there is significant risk to health at the point where the elevation of EP can first be correlated with an increase in blood lead (15 to 20 μg Pb/dl). On the other hand, EPA regards as clearly adverse to health the impairment of heme synthesis, and other effects of lead which result in clinical symptoms of anemia above 40 μg Pb/dl. These effects are followed quickly by the risk of nervous system deficits for some children with blood lead levels of 50 μg Pb/dl.

EPA has concluded that the maximum safe blood lead level for an individual child is 30 μg Pb/dl. This is based on the following factors:

(1) The maximum safe blood lead level should be somewhat lower than the threshold for a decline in hemoglobin levels (40 μg Pb/dl).

(2) The maximum safe blood lead level should be at an even greater distance below the threshold for risks of nervous system deficits (50 μg Pb/dl).

(3) The maximum safe blood lead level should be no higher than the blood lead range characterized as undue exposure by the Center for Disease Control of the Public Health Service, as endorsed by the American Academy of Pediatrics, because of elevation of erythrocyte protoporphyrin (above 30 μg Pb/dl).

(4) The maximum safe blood lead level for an individual need not be as low as the detection point for the initial elevation of EP (15–20 μg Pb/dl).

The criteria document points out that data from epidemiological studies show that the log values of measured individual blood lead values in a uniformly exposed population are normally distributed with a geometric standard deviation (GSD) of 1.3 to 1.5. Using standard statistical techniques, it is possible to use the geometric standard deviation to calculate the mean population blood lead level which would place a given percentage of the population below the level of an effects threshold. A GSD of 1.5 would result in a lower geometric mean, and a more stringent standard. However, because some of the variability in the GSD is from measurement systems, EPA has used a GSD of 1.3.

Recently, analysis of the data collected by New York City's Bureau of Lead Poisoning has shown that populations of children in the New York area consistently have distributions of blood lead values with a GSD of 1.4 to 1.5. With a geometric mean of 15.0 μg Pb/dl, a GSD of 1.4 results in about two percent of the population over levels of 30 μg Pb/dl. A GSD of 1.5 would place more than four percent over 30 μg Pb/dl. EPA is concerned that such results may imply that the standard is not as precautionary as it would be if the actual GSD was 1.3. However, the Agency's best estimate is that some of the GSD is from analytical and monitoring variance, and for this reason, EPA is using the 1.3 value in calculating the final standard.

In EPA's view, use of the 99.5 percent range is not excessive. From 1970 statistics, there are approximately 20 million children in the United States below the age of 5 years, 12 million in urban areas, and 5 million in center cities where lead exposure may be high. Again, knowledge that there are special high risk groups of children within the general population deters EPA from considering lower percentages.

CONTRIBUTION TO TOTAL LEAD EXPOSURE FROM NONAIR SOURCES

In the proposed standard, EPA argued that the air standard should take into account the contribution to blood lead levels from lead sources unrelated to air pollution. No comments were received challenging this argument. EPA continues to base its calculation of the ambient air standard on the assumptions that, to an extent, the lead contribution to blood lead from nonair sources should be subtracted from the estimate of safe mean population blood lead. Without this subtraction, the combined exposure to lead from air and nonair sources would result in a blood lead concentration exceeding the safe level.

EPA notes that the level of the standard is strongly influenced by judgments about nonair contribution to total exposure, and that there are difficulties in attempting to estimate exposure from various lead sources. Studies reviewed in the criteria document do not provide detailed or widespread information about the relative contribution of various sources to children's blood lead levels. Estimates can only be made by inference from other empirical or theoretical studies, usually involving adults. Also, it can be expected that the contribution to blood lead levels from nonair sources can very widely, is probably not in constant proportion to air lead contribution, and in some cases may alone exceed the target mean population blood lead level.

In spite of these difficulties, EPA has attempted to assess available information in order to estimate the general contribution to population blood lead levels from air and nonair sources. This has been done with evaluation of evidence from general epidemiological studies, studies showing decline of blood lead levels with decrease in air lead, studies of blood lead levels in areas with low air lead levels, and isotopic tracing studies.

Studies reviewed by the criteria document show that the geometric mean blood lead levels for populations of children are frequently above 15 μg Pb/dl. In studies reported, the range of mean population blood lead levels for children was from 16.5 μg Pb/dl to 46.4 μg Pb/dl with most studies showing mean levels greater than 25 μg Pb/dl (Fine, 1972; Landrigan, 1975; von Lindern, 1975). EPA believes that, for many of these populations, the contribution to blood lead levels from nonair sources may exceed the desired target mean blood lead level.

In a number of studies, reduction in air lead levels resulted in a decline in children's blood lead levels. A study of blood lead levels in children in New York City showed that children's mean blood lead levels declined from 30.5 μg Pb/dl from 1970 to 1976, while during the same period air lead levels at a single monitoring site fell from 2.0 μg Pb/dl to 0.9 μg/Pb (Billick, 1977). Studies at Omaha, Nebr. (Angle, 1977) and Kellogg, Idaho (Yankel, von Lindern, 1977) also show a drop in mean blood lead levels with declines in air lead levels. As air lead levels decline there appears to be a rough limit to the drop in blood lead levels.

EPA has also examined epidemiological studies in the criteria document where air lead exposure is low, and can be assumed to be a minor contributor to blood lead. These studies provide an indication of blood lead levels resulting from a situation where nonair sources of lead are predominant.

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STUDIES REPORTING BLOOD LEAD LEVELS IN CHILDREN EXPOSED TO MODERATE TO LOW AIR LEAD LEVELS

Investigator	Blood lead[1]	Air lead[2]	Comment
Hammer, 1972	11.6	0.1	Children in Helena, Mont.
Angle, 1974	14.4	0.14	Suburban Children ages 1 to 4 in Omaha, Nebr.
Goldsmith, 1974	13.7	0.2 to 0.7 0.3 to 0.6	Children in Benecia, Calif. Children in Crocket, Calif..
Johnson, Tillery, 1975	10.2	0.6	Female children—mean age 9 in Lancaster, Calif.

[1] In micrograms of lead per deciliter.
[2] In micrograms of lead per cubic meter.

The range of mean blood lead levels in those studies is from 10.2 μg Pb/dl to 14.4 μg Pb/dl, with an average at 12.7 μg Pb/dl.

In addition to epidemiological investigations, EPA has reviewed studies that examine the source of blood lead by detecting characteristic lead isotopes. A study using isotopic tracing (Manton, 1977) suggests that for several adults in Houston, Tex., 7 to 41 percent of blood lead could be attributed to air lead sources. An earlier isotopic study (Rabinowitz, 1974) concluded that for two adult male subjects studied, approximately one-third of total daily intake of lead could be attributed to exposure to air lead levels of 1–2 μg Pb/m³. While these results cannot be directly related to children, it is reasonable to assume that children may exhibit the same or higher percentages of air lead contribution to blood lead level because of a greater potential for exposure to indirect air sources, soil and dust.

From reviewing these areas of evidence, EPA concludes that:

1. In studies showing mean blood lead levels above 15 μg Pb/dl, it is probable that both air and nonair sources of lead contribute significantly to blood lead with the possibility that contributions from nonair sources exceed 15 μg Pb/dl.

2. Studies showing a sustained drop in air lead levels show a corresponding drop in blood lead levels, down to an apparent limit in the range of 10.2 to 14.4 μg Pb/dl.

3. Isotopic tracing studies show air contribution to blood lead to be 7–41 percent in one study and about 33 percent in another study.

In considering this evidence, EPA notes that if, from the isotopic studies, approximately two-thirds of blood lead is typically derived from nonair sources, a mean blood lead target of 15 μg Pb/dl would attribute 10 μg Pb/dl to non-air sources. On the other hand, the average blood lead level from the limited studies available where air exposure was low is 12.7 μg Pb/dl. In the absence of more precise information, EPA is calculating the lead standard based on the attribution of 12 μg Pb/dl of the blood lead level in children to lead sources unaffected by the lead air quality standard. EPA is aware that actual population blood lead levels, either individually or as a population mean, may exceed this benchmark. However, if EPA were to use a larger estimate of non-air contribution to blood lead, the result would be an exceptionally stringent standard, which would not address the principal source of lead exposure.

THE RELATIONSHIP BETWEEN AIR LEAD EXPOSURE AND RESULTING BLOOD LEAD LEVEL

EPA has reviewed the studies discussed in the criteria document which report changes in blood lead levels with different air lead levels. The Agency believes that one of the strongest epidemiological studies is that by Azar et al., which used personal dosimeters to measure lead intake. This eliminated some of the uncertainty about the extent to which air quality observations accurately reflect actual exposure. From the Azar data, the relationship of lead in the air to lead in the blood, evaluated at 1.5 μg Pb/m³, was 1:1.8. The Azar study was, however, limited to an adult population.

A clinical study of adults, Griffin et al., gives roughly the same conclusion for a group of adults confined to a chamber with controlled exposure to lead aerosol. This study was conducted over a three month period with control over lead ingestion. As air lead levels in the chamber were increased from 0.15 μg Pb/m³ to 3.2 μg Pb/m³, the air lead to blood lead relationship was 1:1.7.

Because children are known to have greater net absorption and retention of lead than adults, it is reasonable to assume that the air lead to blood lead relationship for this sensitive population, exposed to air lead levels in the range of the proposed standard, is equal to if not greater than for adults. EPA also notes that the air lead to blood lead relationship is nonlinear which will result in a higher ratio at lower air levels.

In an epidemiological study of children near a smelter, Yankel et al., the response of blood lead to air lead, averaged over the exposure range, was 1.95. This study provided information on the relationship of blood lead to air lead over a very large range of air lead values. The air lead values in the study are the result of a model calibrated by monitoring data. The relative error of the individual values, especially in the low range is larger than in the Azar study.

The authors of the study, Yankel and von Lindern, chose a log-linear model which provided a good fit to the data and gave an estimated slope of about 1.2 at an air lead of 1.5. However, EPA sees a problem with a log-linear model in that it forces a lower slope at low air lead values and a higher slope at higher lead values. This is in direct contradiction to the Azar and the Griffin studies, both of which indicate higher slopes at lower air lead values.

Because of the uncertainties in the low air lead values in the Idaho study, EPA felt that the calculation of an average slope or ratio over the entire range of data would be a moderate compromise. The calculation of an average slope gives a value of 1.95. EPA believes that these studies as well as others reported in the criteria document support the document's conclusion that:

> ratios between blood lead levels and air lead exposures were shown to range generally from 1:1 to 2:1. These were not, however, constant over the range of air lead concentrations encountered. There are suggestive data indicating that the ratios for children are in the upper end of the range and may even be slightly above it. There is also some slight suggestion that the ratios for males are higher than those for females. (pp. 12-38.)

CALCULATION OF THE AIR STANDARD

EPA has calculated the standard based on the conclusions reached in the previous sections;

1. Sensitive population: Children, ages 1–5.
2. Health basis: Maximum safe blood lead level for individual children is 30 μg Pb/dl based on concern for impaired heme synthesis above 30 μg Pb/dl and margin of safety for anemia above 40 μg Pb/dl and nervous system deficits above 50 μg Pb/dl.
3. Maximum safe geometric mean blood lead for children based on placing 99.5 percent of the sensitive population below the 30 μg Pb/dl level of concern: 15 μg Pb/dl.
4. Estimate of blood lead level attributed to non-air sources: 12 μg Pb/dl.
5. Allowable contribution to blood lead from air sources after achieving the standard: 15 μg Pb/dl–12 μg Pb/dl=3 μg Pb/dl.
6. Air lead concentration consistent with blood lead contribution from air sources: 3 μg Pb/dl×1 μg Pb/m³ air/2 μg Pb/dl blood=1.5 μg Pb/m³.

SELECTION OF THE AVERAGING PERIOD FOR THE STANDARD

Based on comments received and consideration by the Agency, the proposed averaging period of a calendar month is extended to a calendar quarter. EPA believes that this change will significantly improve the validity of lead air quality data which will be gathered to monitor progress toward attainment without placing an undue burden of State and local environmental agencies, or significantly reducing the protectiveness of the standard.

The Agency believes that the key criteria for the averaging period is the protection of the health of the sensitive population. In proposing the 1.5 μg Pb/m³ standard, EPA concluded that this air level was safe for young children with an indefinite exposure period. The critical factor in the determination of the averaging period is the health significance of possible elevations of air lead above 1.5 μg Pb/m³ which could be encountered for short periods without causing average levels to exceed the standard. In the proposed standard, EPA chose a calendar month averaging period on the basis of a study (Griffin et al.) showing an adjustment period of blood lead level with a change in exposure. Because of the scientific and technical difficulties of the monthly standard, EPA has reexamined this question and concluded that there is little reason to expect that the slightly greater possibility of elevated air lead levels sustainable by the calendar quarter standard is significant for health. This conclusion is based on the following factors:

(1) From actual ambient measurements, there is evidence that the distribution of air lead levels is such that if the quarterly average was achieved there is little possibility that there could be sustained periods greatly above the average value.

(2) While it is difficult to relate the extent to which a monitoring network actually represents the exposure situation for young children, it seems likely that where elevated air lead levels do occur, they will be close to point or mobile sources. Typically, young children will not encounter such levels for the full 24-hour period reported by the monitor.

(3) There is medical evidence indicating that blood lead levels reequilibrate slowly to changes in air exposure. This serves to dampen the impact of a short-term period of exposure to elevated air lead.

(4) Direct exposure to air is only one of several routes of total exposure. This lessens the impact of a change in air lead on blood lead levels.

On balance, the Agency concludes that a requirement for the averaging of air quality data over a calendar quarter will improve the validity of air quality data gathered without a significant reduction in the protectiveness of the standard.

MARGIN OF SAFETY

The Clean Air Act instructs EPA to set the level of an ambient air quality standard at a level which protects the public health with a margin of safety. One approach to using margin of safety is to estimate the air concentration of a pollutant that is the threshold for the first adverse effect detected with increasing air levels, and then set the air standard at a somewhat lower level. The extent of the safety margin between the standard and the estimated threshold for adverse effects is influenced by such factors as the severity or irreversibility of effects, the degree of uncertainty about known or suspected health effects, the size of the population at risk, and possible interactions of several pollutants in potentiating health effects. While the margin of safety is based on available scientific information, this factor is judgmental in that the Administrator must weigh the acceptability of estimated risk.

Estimating an appropriate margin of safety for the air lead standard in complicated by the multiple sources and media for lead exposure. Because of this, EPA has elected to use margin of safety considerations in estimating the maximum safe level for blood lead, and the percentage of the sensitive population to be placed below this level, rather than making a final adjustment to concentration of lead in the air. EPA has adopted 30 μg Pb/dl as the maximum safe blood lead level for individual children, and the air standard is calculated to maintain most children below this target. On the basis of information developed in the criteria document and from public comment, blood lead levels between 30 and 40 μg Pb/dl are associated with impairments of the heme synthetic pathway which EPA regards as adverse to health. Blood lead levels above 40 μg Pb/dl are associated with a decline in hemoglobin levels, and levels above 50 μg Pb/dl are associated with the risk of nervous system deficits for some children. With a geometric mean population blood of 15 μg Pb/dl lead, most children will be well below these thresholds, but a small percentage can be expected to have blood lead levels of concern.

Because of the variability between individuals in a population experiencing a given level of lead exposure, EPA finds that it is not possible to provide the same amount of margin of safety for all members in the sensitive population, or to define a margin of safety in this standard as a simple percentage. In developing the numerical level of the standard, EPA used evidence in the criteria document that the blood lead levels for individuals in a given population of children are log-normally distributed. The statistical properties of this distribution make it possible to calculate the percentage of the population which will fall below any given blood lead level. Individuals at each of these levels would have a different margin of safety below the maximum safe blood lead level. As a rough example, with a population of children with a geometric mean blood lead of 15 μg Pb/dl, 86 percent of the children would be below 20 μg Pb/dl, 97.5 percent would be below 25 μg Pb/dl and 99.5 percent would be below 30 μg Pb/dl. Assuming a population of children in central urban areas where air lead was at the standard level, 693,000 children would be over 20 μg Pb/dl, 126,500 over 25 μg Pb/dl, and 20,605 above 30 μg Pb/dl.

In determining the appropriate margin of safety, the Agency has also included consideration of the following factors:

(1) In addition to the health effects discussed, the "Air Quality Criteria for Lead" report multiple biological involvements of lead in practically all cell types, tissues, and organ systems. The significance for health of these has not been fully studied.

(2) There are no beneficial effects of lead at current environmental levels.

(3) EPA has incomplete data about the extent to which children are indirectly exposed to lead from air lead which moves to other environmental media, such as water, soil and dirt, and food.

(4) Lead is chemically persistent and with continued uncontrolled emissions will continue to accumulate both in human tissue and in the environment.

(5) There is a possibility that lead exposure resulting in blood lead levels previously considered safe may in fact influence the neurological development and learning abilities of the young child. EPA does not have evidence, however, that provides more than a suggestion that this could occur at blood lead levels below 30 Pb/dl for individual children.

IMPACT OF LEAD DUSTFALL ON BLOOD LEAD

In the preamble for the proposed air standard for lead, EPA pointed out that the significance of dust and soil lead as indirect routes of exposure has been of particular concern in the case of young children. Play habits and mouthing behavior between the ages of 1 and 5 have led to the conclusion that greater potential may exist in these children for ingestion and inhalation of the lead available in contaminated dust and soil. EPA is also concerned that the deposition of lead particles can lead to general contamination of the environment and increased

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lead exposure from surface waters and foodstuffs.

Studies reviewed in the criteria document indicate a correlation between soil and dust levels and childrens' blood lead levels in highly contaminated environments (Yankel and von Lindern, 1977; Baritrop, 1974; Galke, in press). The lead threshold for concern has been reported as 1,000 parts per million (ppm) in soil (Yankel and von Lindern, 1977). At levels of between 500 and 1,000 ppm in soil, the criteria document concludes that blood lead levels begin to increase. A twofold increase in soil concentration in this range is predicted to result in a 3–6 percent rise in blood lead levels. Below 500 ppm lead in soil, no correlation has been observed with blood lead levels.

The normal background for lead in soil is cited in the criteria document as 15 ppm. Due to human activities, the average levels in most areas of the United States are considerably higher. Soil studies conducted by EPA's Office of Pesticides Programs from 1974 to 1976 in 17 urban areas reported only 3 cities with arithmetic mean concentrations in excess of 200 ppm, with the highest value 537 ppm. Concentrations in the soils surrounding large point sources of lead emissions, or heavily travelled roads may reach many thousand ppm.

Because of the many factors involved, EPA is unable to predict the relationship between air lead levels, dustfall rates, and resulting soil accumulation. Complicating factors include: Particle size distribution, rainout, other meteorological factors, topographical features affecting deposition, and removal mechanisms.

EPA believes, however, that significant impacts on blood lead of soil and dust lead are mainly limited to areas of high soil concentration (in excess of 1,000 ppm) around large point sources and heavily travelled roads. Evidence suggests that soil lead levels in areas with air lead levels in the range of the standard are below the threshold for lead health impact (Johnson, Tillery, 1975; Johanson, 1972; EPA, 1975 Air Quality Data and Soil Levels).

Comments received on the proposed standard argued that the lead air standard should be limited to respirable size lead particulate matter, as larger particles would fall to the ground without being deposited or absorbed in the lung. EPA has decided not to accept this recommendation because, as discussed above, larger particles can contribute to lead dose by human ingestion of airborne particles, by contamination of other environmental media, or by eventual reduction to respirable size by mechanical action or weathering.

Welfare Effects

Comments received on the proposed lead air quality standard did not address the issue of welfare effects or the need for a secondary air quality standard more restrictive than the primary standard. EPA maintains its position that the primary air quality standard will adequately protect against known and anticipated adverse effects on public welfare. EPA does not have evidence that a more restrictive secondary standard would be justified.

Available evidence cited in the criteria document indicates that animals do not appear to be more susceptible to adverse effects from lead than man, nor do adverse effects in animals occur at lower levels of exposure than comparable effects in humans.

Lead is absorbed but not accumulated to any great extent by plants from soil. Lead is either unavailable to plants or is fixed in the roots and only small amounts are transported to the above ground portions. Lead may be deposited on the leaves of plants and present a hazard to grazing animals. Although some plants may be susceptible to lead in the natural environment, it is generally in a form that is largely nonavailable to them.

There is no evidence to indicate that ambient levels of lead result in significant damage to manmade materials. Effects of lead on visibility and climate are minimal.

Based on such data, EPA promulgates the secondary air quality standard for lead at 1.5 μg Pb/m^3, calendar quarter average.

Economic Impact Assessment

As required by Executive Orders 11821 and 12044, EPA has conducted a general analysis of the economic impact which might result from the implementation of the lead regulations. This analysis was not intended for nor was it used in the development or promulgation of the standard, and was issued for informational purposes only.

The economic impact assessment points out that the categories of sources likely to be affected by control of lead emissions are primary lead and copper smelters, secondary lead smelters, gray iron foundries, gasoline lead additive manufacturers, and lead storage battery manufacturers. This analysis further indicates that some primary and secondary lead smelters and copper smelters may be severly strained economically in achieving emission reductions that may be required in implementing the proposed air quality standard.

There are, however, uncertainties associated with evaluating the impact of attaining the standard. For smelters and foundries, attaining the standard may require control of fugitive lead emissions, i.e., those emissions escaping from individual process operations, other than emissions from smoke stacks. Fugitive emissions are difficult to estimate, measure, and control; and it is also difficult to predict their impact on air quality near the facility. From the information available to EPA, nonferrous smelters may have great difficulty in achieving lead air quality levels consistent with the proposed standard in areas immediately adjacent to the smelter complex.

The change in averaging time from a monthly average to a calendar quarter average will affect the economic impacts associated with the lead standard because for a given level of the standard, a longer averaging period is theoretically less stringent than a shorter averaging period.

Other Lead Regulatory and Control Programs

EPA's ambient air quality standard is only one of a number of Federal, State, and local programs designed to limit exposure to lead.

In 1975, EPA promulgated the national interim primary drinking water regulation, setting a maximum contaminant level for lead. The standard, aimed at protecting children from undue lead exposure, was set at 50 μg Pb/liter. In 1977, the National Academy of Sciences concluded that a lead level at which adverse health effects are observed cannot be set with assurance at any value greater than 25 μg Pb/liter. The Office of Drinking Water is currently considering the need to revise the interim drinking water standard for lead.

Based on its toxicity, EPA has included lead on its list of priority water pollutants for which effluent guidelines are being developed under the Clean Water Act. Effluent guidelines are being developed for lead for nonferrous smelters, based on achievement of best available technology.

EPA's Office of Pesticide Programs has promulgated regulations based on the toxicity of lead which require the addition of coloring agents to the pesticide lead arsenate and specify disposal procedures for lead pesticides. Use of lead in pesticides is a small and decreasing proportion of total lead consumption in the United States.

The Resource Conservation and Recovery Act (RCRA) of 1976, through which EPA is to establish standards on how to treat, dispose, or store hazardous wastes, provides a means for specifying how used crankcase oil and other waste streams containing lead should be recycled or safely disposed of. Regulatory actions related to wastes containing lead are currently being developed under subtitle C of RCRA.

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EPA has regulations for reducing the average lead content in the total gasoline pool to 0.5 grams/gallon by October 1, 1979, and regulations providing for lead-free gasoline required for cars equipped with catalytic converters and other vehicles certified for use of unleaded fuel. The former regulations are based on reducing exposure to airborne lead to protect public health. Other EPA actions which result in the reduction of airborne lead levels include ambient standards and State implementation plans for other pollutants such as particulate matter and sulfur dioxide and new source performance standards limiting emissions of such pollutants. Existing and new sources of particulate matter emissions generally use control techniques which reduce lead emissions as one component of particulate matter.

The Occupational Safety and Health Administration proposed regulations in 1975 to limit occupational exposure to lead to 100 μg Pb/m^3, 8-hour time-weighted average. The exposure limit was based on protecting against effects, clinical or subclinical, and the mild symptoms which may occur below 80 μg Pb/dl, providing an adequate margin of safety. The level of 100 μg Pb/m^3 is anticipated to limit blood lead levels in workers to a mean 40 μg Pb/dl and a maximum of 60 μg Pb/dl. OSHA is presently reviewing the latest information on lead exposure and health effects in preparation for promulgation of the workplace standard for lead.

The Department of Housing and Urban Development (HUD) has requirments for reducing human exposure to lead through the prevention of lead poisoning from ingestion of paint from buildings, especially residential dwelling. Their activities include (1) prohibition of the use of lead-based paints on structures constructed or rehabilitated through Federal funding and on all HUD-associated housing; (2) the elimination of the immediate hazard from lead-based paint; (3) notification of purchases of HUD-associated housing constructed prior to 1950 which may contain lead-based paint; and (4) research activities to develop improved methods of detection and elimination of lead-based paint hazards, and the nature and extent of lead poisoning.

The Consumer Product Safety Commission (CPSC) promulgated regulations in September 1977 which ban: (1) Paint and other surface coating materials containing more than 0.06 percent lead; (2) toys and other articles intended for use by children bearing paint or other similar surface coating material containing more than 0.06 percent lead; and (3) furniture coated with materials containing more than 0.06 percent lead. These regulations are based on CPSC's conclusion that it is in the public interest to reduce the risk of lead poisoning to young children from ingestion of paint and other similar surface-coating materials.

The Food and Drug Administration (FDA) adopted in 1974 a proposed tolerance for lead of 0.3 ppm in evaporated milk and evaporated skim milk. This tolerance is based on maintaining children's blood lead levels below 40 μg Pb/dl. FDA has also proposed an action level of 7 μg Pb/ml for leachable lead in pottery and enamelware, although the exact contribution of such exposure to total human dietary intake has not been established.

The Center for Disease Control (CDC) concluded in 1975 that undue or increased lead absorption exists when a child has confirmed blood lead levels of 30–70 μg Pb/dl or an EP elevation of 60–189 μg Pb/dl except where the elevated EP level is caused by iron deficiency.

In developing the lead air standard, EPA has estimated both individual and population blood lead levels which it regards as safe targets. The Agency believes that these targets do not necessarily serve as precedents for other regulatory programs. There are three reasons for this view:

(1) These targets were selected on the basis of what the Clean Air Act requires. Other programs have other legislative requirements which would lead to adoption of different but equally legitimate goals.

(2) The scientific data provided by the air quality criteria allow comparison of air levels with blood lead levels, but analogous information is not available for other media. At this time, there does not appear to be the same extent of information about the impact on blood lead of lead in food, water, and nonfood ingested items. Because of this, FDA, CPSC and other EPA standards have been based on estimates of acceptable daily dose rather than on blood lead targets.

(3) Studies currently underway may provide new information relevant to estimating safe levels of lead exposure.

Comments by Other Federal Agencies

Comments on the proposed lead air quality standard were received from eight Federal Agencies. Five of the Agencies endorsed the air standard while three of the Agencies commented on specific issues and neither endorsed nor opposed the standard. The Center for Disease Control and the U.S. Public Health Service voiced support for the proposed standard of 1.5 μg Pb/m^3 and urged basing the decision on the standard solely on considerations of public health. CDC is fully satisfied that EP elevation does indeed represent a subclinical manifestation of lead toxicity and that young children are the population most at risk from lead exposure, while some subgroups of children are at special risk to lead because of conditions such as malnutrition, genetic factors, or iron deficiency.

The Consumer Product Safety Commission endorsed the approach and some of the judgments made in arriving at the proposed air standard. CPSC concurred with the position that children are the population at enhanced risk to lead exposure, and that the goal of a mean population blood lead level for children of 15 μg Pb/dl is sufficiently low to be protective of the population at enhanced risk of exposure. CPSC views the selection of EP elevation as the adverse health effect of concern as open to challenge and suggests basing the standard on a more generally recognized severe health effect. CPSC concurs that the contribution of nonair sources to lead body burden must be evaluated in setting the air standard and suggests that a larger nonair contribution, such as 13.5 μg Pb/dl used in the California standard, might be considered.

The Food and Drug Administration commended EPA's proposal of an ambient air quality standard for lead. FDA agrees that children aged 1-5 years old comprise the most critically sensitive population. FDA concurs that 15 μg Pb/dl is a reasonable maximum blood lead level to use as an average national goal for children aged 1 to 5, although FDA suggests that for young children the margin of safety is disturbingly narrow. The division of the 15 μg Pb/dl into 12 μg Pb/dl for nonair sources and 3 μg Pb/dl for air sources was not unreasonable in FDA's view.

The Occupational Safety and Health Administration endorsed EPA's proposed standard for lead and agrees with EPA that 15 μg Pb/dl as an average national blood lead level goal for young children is reasonable. OSHA views their proposed standard of 100 μg Pb/m^3, 8-hour time-weighted average, and their establishment of 40 μg Pb/dl as the threshold effect level for workers as consistent with the EPA proposed standard.

The Department of Transportation (DOT) endorsed the proposed standard of 1.5 μg Pb/m^3. Based on an analysis of the impact of the proposed standard on the highway program, DOT concluded that it is highly probable that transportation-related violations of the proposed standard would be limited to large urban areas.

In commenting on the proposed standard, the Department of the Interior (DOI) expressed concern that the burden for meeting the proposed standard will fall primarily on lead and copper smelters and battery manufacturers, and commented on the

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impact of lead dustfall on ground water quality. The Tennessee Valley Authority provided specific comments on the proposed State implementation plan regulations and the proposed Federal reference method. The Department of Commerce offered comments on the potential impacts of the standard, pointing out that more consideration should be given to the potential impact of the standard on the petroleum industry.

THE FEDERAL REFERENCE METHOD

The reference method for the determination of lead in suspended particulate matter collected from ambient air describes the appropriate techniques for determining the concentration of lead and its compounds as measured as elemental lead in the ambient air. A total of eight organizations submitted written comments on the method and two persons made comments at EPA's February public hearing on the proposed air quality standard. Since proposal of the Federal reference method for lead, EPA has completed additional testing of the method and added new information on the precision of the extraction analysis procedure.

Two of the commenters recommended the addition of a nitric plus hydrochloric acid extraction procedure. The extraction procedure of the proposed method contains only nitric acid. Use of a mixed acid procedure would permit the analyst to quantitatively extract more metals than just lead, thereby allowing him to analyze the same extract for more than one metal. The analysis for lead would not be affected. EPA agrees that a mixed acid extraction procedure should be added, and the revised method contains a mixed nitric-hydrochloric acid extraction procedure.

One commenter questioned the reliability of the air volume measured in the sampling procedure because of differences between initial and final flow rates caused by buildup of particulate matter on the collecting filter. The method of sampling specifies that initial and final flow rates must fall between 40 and 60 cubic feet per minute and variations within this range cause only a slight error. If the flow rate specification is not met, the sample should be voided. For these reasons, EPA believes the air volume measurement does not suffer unduly from inaccuracies.

A question was raised as to the effect of variation in lead content across the filter of the collected sample on lead analysis, since the method calls for analysis of only one strip or one-twelfth of the filter. Our work has shown that strips taken from different positions within the filter can, on occasion, produce different lead values, but the effect appears to be significant only when sampling near a heavily traveled roadway. The proposed method recommends analyzing additional strips, when sampling near a roadway, to minimize this error.

One commenter pointed out that the proposed sampling procedure does not collect gaseous (organic) lead compounds and recommended that EPA consider requiring the use of a method for monitoring gaseous lead. As the criteria document states, reported ambient levels of gaseous lead are very low and EPA has determined that the effort required to carry out the difficult task of monitoring for ambient gaseous lead is not justified in view of the extremely low concentration.

It was pointed out in the preamble to the proposed method that other analytical principles would probably be handled by provision for approval of the equivalent methods (40 CFR Part 53) proposed elsewhere in this FEDERAL REGISTER. Two organizations submitted requests that alternate methods (X-ray fluorescence and anodic stripping voltametry) for lead analysis be declared equivalent to the reference method. These requests will be considered when the procedures for determining equivalency are promulgated.

The final Federal reference method is based on measuring the lead content of suspended particulate matter on glass fiber filters using high volume sampling. The lead is then extracted from the particulate matter with nitric acid facilitated by heat or by a mixture of nitric acid and hydrochloric acid facilitated by ultrasonication. Finally, the lead content is measured by atomic absorption spectrometry.

The reference method specified for lead measures the lead for a single sampling period by extraction of a portion of a high-volume glass fiber filter used to collect particulate matter over a 24-hour period. Some agencies may prefer to composite filter strips from a number of sampling periods and extract and analyze it for lead. This procedure is acceptable provided the Agency shows that the compositing procedure results in the same average lead value as would be obtained from averaging individual values.

Dated: September 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

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40 CFR Part 50 is amended by adding a new § 50.12 and a new appendix G as follows:

§ 50.12 National primary and secondary ambient air quality standards for lead.

National primary and secondary ambient air quality standards for lead and its compounds, measured as elemental lead by a reference method based on appendix G to this part, or by an equivalent method, are: 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter.

(Secs. 109, 301(a) Clean Air Act as amended (42 U.S.C. 7409, 7601(a)).)

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APPENDIX G—REFERENCE METHOD FOR THE DETERMINATION OF LEAD IN SUSPENDED PARTICULATE MATTER COLLECTED FROM AMBIENT AIR

1. *Principle and applicability.*

1.1 Ambient air suspended particulate matter is collected on a glass-fiber filter for 24 hours using a high volume air sampler.

1.2 Lead in the particulate matter is solubilized by extraction with nitric acid (HNO_3), facilitated by heat or by a mixture of HNO_3 and hydrochloric acid (HCl) facilitated by ultrasonication.

1.3 The lead content of the sample is analyzed by atomic absorption spectrometry using an air-acetylene flame, the 283.3 or 217.0 nm lead absorption line, and the optimum instrumental conditions recommended by the manufacturer.

1.4 The ultrasonication extraction with HNO_3/HCl will extract metals other than lead from ambient particulate matter.

2. *Range, sensitivity, and lower detectable limit.* The values given below are typical of the methods capabilities. Absolute values will vary for individual situations depending on the type of instrument used, the lead line, and operating conditions.

2.1 Range. The typical range of the method is 0.07 to 7.5 μg Pb/m³ assuming an upper linear range of analysis of 15 μg/ml and an air volume of 2,400 m³.

2.2 *Sensitivity.* Typical sensitivities for a 1 percent change in absorption (0.0044 absorbance units) are 0.2 and 0.5 μg Pb/ml for the 217.0 and 283.3 nm lines, respectively.

2.3 Lower detectable limit (LDL). A typical LDL is 0.07 μg Pb/m³. The above value was calculated by doubling the between-laboratory standard deviation obtained for the lowest measurable lead concentration in a collaborative test of the method.(*15*) An air volume of 2,400 m³ was assumed.

3. *Interferences.* Two types of interferences are possible: chemical and light scattering.

3.1 *Chemical.* Reports on the absence (*1, 2, 3, 4, 5*) of chemical interferences far outweigh those reporting their presence, (*6*) therefore, no correction for chemical interferences is given here. If the analyst suspects that the sample matrix is causing a chemical interference, the interference can be verified and corrected for by carrying out the analysis with and without the method of standard additions.(*7*)

3.2 Light scattering. Nonatomic absorption or light scattering, produced by high concentrations of dissolved solids in the sample, can produce a significant interference, especially at low lead concentrations. (*2*) The interference is greater at the 217.0 nm line than at the 283.3 nm line. No interference was observed using the 283.3 nm line with a similar method.(*1*)

Light scattering interferences can, however, be corrected for instrumentally. Since the dissolved solids can vary depending on the origin of the sample, the correction may be necessary, especially when using the 217.0 nm line. Dual beam instruments with a continuum source give the most accurate correction. A less accurate correction can be obtained by using a nonabsorbing lead line that is near the lead analytical line. Information on use of these correction techniques can be obtained from instrument manufacturers' manuals.

If instrumental correction is not feasible, the interference can be eliminated by use of the ammonium pyrrolidinecarbodithioate-methylisobutyl ketone, chelation-solvent extraction technique of sample preparation.(*8*)

4. *Precision and bias.*

4.1 The high-volume sampling procedure used to collect ambient air particulate matter has a between-laboratory relative standard deviation of 3.7 percent over the range 80 to 125 $\mu g/m^3$.(*9*) The combined extraction-analysis procedure has an average within-laboratory relative standard deviation of 5 to 6 percent over the range 1.5 to 15 μg Pb/ml, and an average between laboratory relative standard deviation of 7 to 9 percent over the same range. These values include use of either extraction procedure.

4.2 Single laboratory experiments and collaborative testing indicate that there is no significant difference in lead recovery between the hot and ultrasonic extraction procedures.(*15*)

5. *Apparatus.*

5.1 Sampling.

5.1.1 High-volume sampler. Use and calibrate the sampler as described in reference 10.

5.2 Analysis.

5.2.1 Atomic absorption spectrophotometer. Equipped with lead hollow cathode or electrodeless discharge lamp.

5.2.1.1 Acetylene. The grade recommended by the instrument manufacturer should be used. Change cylinder when pressure drops below 50–100 psig.

5.2.1.2 Air. Filtered to remove particulate, oil, and water.

5.2.2 Glassware. Class A borosilicate glassware should be used throughout the analysis.

5.2.2.1 Beakers. 30 and 150 ml. graduated, Pyrex.

5.2.2.2 Volumetric flasks. 100-ml.

5.2.2.3 Pipettes. To deliver 50, 30, 15, 8, 4, 2, 1 ml.

5.2.2.4 Cleaning. All glassware should be scrupulously cleaned. The following procedure is suggested. Wash with laboratory detergent, rinse, soak for 4 hours in 20 percent (w/w) HNO_3, rinse 3 times with distilled-deionized water, and dry in a dust free manner.

5.2.3 Hot plate.

5.2.4. Ultrasonication water bath, unheated. Commercially available laboratory ultrasonic cleaning baths of 450 watts or higher "cleaning power," i.e., actual ultrasonic power output to the bath have been found satisfactory.

5.2.5 Template. To aid in sectioning the glass-fiber filter. See figure 1 for dimensions.

5.2.6 Pizza cutter. Thin wheel. Thickness <1mm.

5.2.7 Watch glass.

5.2.8 Polyethylene bottles. For storage of samples. Linear polyethylene gives better storage stability than other polyethylenes and is preferred.

5.2.9 Parafilm "M".* American Can Co., Marathon Products, Nennah, Wis., or equivalent.

6. *Reagents.*

6.1 Sampling.

6.1.1 Glass fiber filters. The specifications given below are intended to aid the user in obtaining high quality filters with reproducible properties. These specifications have been met by EPA contractors.

6.1.1.1 Lead content. The absolute lead content of filters is not critical, but low values are, of course, desirable. EPA typically obtains filters with a lead content of <75 μg/filter.

It is important that the variation in lead content from filter to filter, within a given batch, be small.

6.1.1.2 Testing.

6.1.1.2.1 For large batches of filters (>500 filters) select at random 20 to 30 filters from a given batch. For small batches (<500 filters) a lesser number of filters may be taken. Cut one ¾"x8" strip from each filter anywhere in the filter. Analyze all strips, separately, according to the directions in sections 7 and 8.

6.1.1.2.2 Calculate the total lead in each filter as

$$F_b = \mu g\ Pb/ml \times \frac{100\ ml}{strip} \times \frac{12\ strips}{filter}$$

where:

F_b = Amount of lead per 72 square inches of filter, μg.

6.1.1.2.3 Calculate the mean, F_b, of the values and the relative standard deviation (standard deviation/mean × 100). If the relative standard deviation is high enough so that, in the analysts opinion, subtraction of F_b, (section 10.3) may result in a significant error in the μg Pb/m³ the batch should be rejected.

6.1.1.2.4 For acceptable batches, use the value of F_b to correct all lead analyses (section 10.3) of particulate matter collected using that batch of filters. If the analyses are below the LDL (section 2.3) no correction is necessary.

6.2 Analysis.

6.2.1 Concentrated (15.6 *M*) HNO_3. ACS reagent grade HNO_3 and commercially available redistilled HNO_3 has found to have sufficiently low lead concentrations.

6.2.2 Concentrated (11.7 *M*) HCl. ACS reagent grade.

6.2.3 Distilled-deionized water. (D.I. water).

6.2.4 3 *M* HNO_3. This solution is used in the hot extraction procedure. To prepare, add 192 ml of concentrated HNO_3 to D.I. water in a 1 *l* volumetric flask. Shake well, cool, and dilute to volume with D.I. water. *Caution:* Nitric acid fumes are toxic. Prepare in a well ventilated fume hood.

6.2.5 0.45 *M* HNO_3. This solution is used as the matrix for calibration standards when using the hot extraction procedure. To prepare, add 29 ml of concentrated HNO_3 to D.I. water in a 1 *l* volumetric flask. Shake well, cool, and dilute to volume with D.I. water.

6.2.6 2.6 *M* HNO_3+0 to 0.9 *M* HCl. This solution is used in the ultrasonic extraction procedure. The concentration of HCl can be varied from 0 to 0.9 *M*. Directions are given for preparation of a 2.6 *M* HNO_3+0.9 *M* HCl solution. Place 167 ml of concentrated HNO_3 into a 1 *l* volumetric flask and add 77 ml of concentrated HCl. Stir 4 to 6 hours, dilute to nearly 1 *l* with D.I. water, cool to room temperature, and dilute to 1 *l*.

6.2.7 0.40 *M* HNO_3 + X *M* HCl. This solution is used as the matrix for calibration standards when using the ultrasonic extraction procedure. To prepare, add 26 ml of concentrated HNO_3, plus the ml of HCl required, to a 1 *l* volumetric flask. Dilute to nearly 1 *l* with D.I. water, cool to room temperature, and dilute to 1 *l*. The amount of HCl required can be determined from the following equation:

$$y = \frac{77\ ml \times 0.15 \times}{0.9\ M}$$

*Mention of commercial products does not imply endorsement by the U.S. Environmental Protection Agency.

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where:

y = ml of concentrated HCl required.
x = molarity of HCl in 6.2.6.
0.15 = dilution factor in 7.2.2.

6.2.8 Lead nitrate, $Pb(NO_3)_2$. ACS reagent grade, purity 99.0 percent. Heat for 4 hours at 120° C and cool in a desiccator.

6.3 Calibration standards.

6.3.1 Master standard, 1000 μg Pb/ml in HNO_3. Dissolve 1.598 g of $Pb(NO_3)_2$ in 0.45 *M* HNO_3 contained in a 1 *l* volumetric flask and dilute to volume with 0.45 *M* HNO_3.

6.3.2 Master standard, 1000 μg Pb/ml in HNO_3/HCl. Prepare as in 6.3.1 except use the HNO_3/HCl solution in 6.2.7.

Store standards in a polyethylene bottle. Commercially available certified lead standard solutions may also be used.

7. *Procedure.*

7.1 Sampling. Collect samples for 24 hours using the procedure described in reference *10* with glass-fiber filters meeting the specifications in 6.1.1. Transport collected samples to the laboratory taking care to minimize contamination and loss of sample. (*17*).

7.2 Sample preparation.

7.2.1 Hot extraction procedure.

7.2.1.1 Cut a ¾" x 8" strip from the exposed filter using a template and a pizza cutter as described in figures 1 and 2. Other cutting procedures may be used.

Lead in ambient particulate matter collected on glass fiber filters has been shown to be uniformly distributed across the filter (*1, 3, 11*) suggesting that the position of the strip is unimportant. However, another study (*12*) has shown that when sampling near a road-way lead is not uniformly distributed across the filter. The nonuniformity has been attributed to large variations in particle size. (*16*) Therefore, when sampling near a road-way, additional strips at different positions within the filter should be analyzed.

7.2.1.2 Fold the strip in half twice and place in a 150-ml beaker. Add 15 ml of 3 *M* HNO_3 to cover the sample. The acid should completely cover the sample. Cover the beaker with a watch glass.

7.2.1.3 Place beaker on the hot-plate, contained in a fume hood, and boil gently for 30 min. Do not let the sample evaporate to dryness. *Caution:* Nitric acid fumes are toxic.

7.2.1.4 Remove beaker from hot plate and cool to near room temperature.

7.2.1.5 Quantitatively transfer the sample as follows:

7.2.1.5.1 Rinse watch glass and sides of beaker with D.I. water.

7.2.1.5.2 Decant extract and rinsings into a 100-ml volumetric flask.

7.2.1.5.3 Add D.I. water to 40 ml mark on beaker, cover with watch glass, and set aside for a minimum of 30 minutes. This is a critical step and cannot be omitted since it allows the HNO_3 trapped in the filter to diffuse into the rinse water.

7.2.1.5.4 Decant the water from the filter into the volumetric flask.

7.2.1.5.5 Rinse filter and beaker twice with D.I. water and add rinsings to volumetric flask until total volume is 80 to 85 ml.

7.2.1.5.6 Stopper flask and shake vigorously. Set aside for approximately 5 minutes or until foam has dissipated.

7.2.1.5.7 Bring solution to volume with D.I. water. Mix thoroughly.

7.2.1.5.8 Allow solution to settle for one hour before proceeding with analysis.

7.2.1.5.9 If sample is to be stored for subsequent analysis, transfer to a linear polyethylene bottle.

7.2.2 Ultrasonic extraction procedure.

7.2.2.1 Cut a ¾" x 8" strip from the exposed filter as described in section 7.2.1.1.

7.2.2.2 Fold the strip in half twice and place in a 30 ml beaker. Add 15 ml of the HNO_3/HCl solution in 6.2.6. The acid should completely cover the sample. Cover the beaker with parafilm.

The parafilm should be placed over the beaker such that none of the parafilm is in contact with water in the ultrasonic bath. Otherwise, rinsing of the parafilm (section 7.2.2.4.1) may contaminate the sample.

7.2.2.3 Place the beaker in the ultrasonication bath and operate for 30 minutes.

7.2.2.4 Quantitatively transfer the sample as follows:

7.2.2.4.1 Rinse parafilm and sides of beaker with D.I. water.

7.2.2.4.2 Decant extract and rinsings into a 100 ml volumetric flask.

7.2.2.4.3 Add 20 ml D.I. water to cover the filter strip, cover with parafilm, and set aside for a minimum of 30 minutes. This is a critical step and cannot be omitted. The sample is then processed as in sections 7.2.1.5.4 through 7.2.1.5.9.

NOTE.—Samples prepared by the hot extraction procedure are now in 0.45 *M* HNO_3. Samples prepared by the ultrasonication procedure are in 0.40 *M* HNO_3 + X *M* HCl.

8. *Analysis.*

8.1 Set the wavelength of the monochromator at 283.3 or 217.0 nm. Set or align other instrumental operating conditions as recommended by the manufacturer.

8.2 The sample can be analyzed directly from the volumetric flask, or an appropriate amount of sample decanted into a sample analysis tube. In either case, care should be taken not to disturb the settled solids.

8.3 Aspirate samples, calibration standards and blanks (section 9.2) into the flame and record the equilibrium absorbance.

8.4 Determine the lead concentration in μg Pb/ml, from the calibration curve, section 9.3.

8.5 Samples that exceed the linear calibration range should be diluted with acid of the same concentration as the calibration standards and reanalyzed.

9. *Calibration.*

9.1 Working standard, 20 μg Pb/ml. Prepared by diluting 2.0 ml of the master standard (6.3.1 if the hot acid extraction was used or 6.3.2 if the ultrasonic extraction procedure was used) to 100 ml with acid of the same concentration as used in preparing the master standard.

9.2 Calibration standards. Prepare daily by diluting the working standard, with the same acid matrix, as indicated below. Other lead concentrations may be used.

Volume of 20 μg/ml working standard, ml	Final volume, ml	Concentration μg Pb/ml
0	100	0
1.0	200	0.1
2.0	200	0.2
2.0	100	0.4
4.0	100	0.8
8.0	100	1.6
15.0	100	3.0
30.0	100	8.0
50.0	100	10.0
100.0	100	20.0

9.3 Preparation of calibration curve. Since the working range of analysis will vary depending on which lead line is used and the type of instrument, no one set of instructions for preparation of a calibration curve can be given. Select standards (plus the reagent blank), in the same acid concentration as the samples, to cover the linear absorption range indicated by the instrument manufacturer. Measure the absorbance of the blank and standards as in section 8.0. Repeat until good agreement is obtained between replicates. Plot absorbance (y-axis) versus concentration in μg Pb/ml (x-axis). Draw (or compute) a straight line through the linear portion of the curve. Do not force the calibration curve through zero. Other calibration procedures may be used.

To determine stability of the calibration curve, remeasure—alternately—one of the following calibration standards for every 10th sample analyzed: concentration ≤ 1μg Pb/ml; concentration ≤ 10 μg Pb/ml. If either standard deviates by more than 5 percent from the value predicted by the calibration curve, recalibrate and repeat the previous 10 analyses.

10. *Calculation.*

10.1 Measured air volume. Calculate the measured air volume as

$$V_m = \frac{Q_i + Q_f}{2} \times T$$

where:

V_m = Air volume sampled (uncorrected), m^3.
Q_i = Initial air flow rate, m^3/min.
Q_f = Final air flow rate, m^3/min.
T = Sampling time, min.

The flow rates Q_i and Q_f should be corrected to the temperature and pressure conditions existing at the time of orifice calibration as directed in addendum B of reference *10*, before calculation V_m.

10.2 Air volume at STP. The measured air volume is corrected to reference conditions of 760 mm Hg and 25° C as follows. The units are standard cubic meters, sm^3.

$$V_{STP} = V_m \times \frac{P_2 \times T_1}{P_1 \times T_2}$$

V_{STP} = Sample volume, sm^3, at 760 mm Hg and 298° K.
V_m = Measured volume from 10.1.
P_2 = Atmospheric pressure at time of orifice calibration, mm Hg.
P_1 = 760 mm Hg.
T_2 = Atmospheric temperature at time of orifice calibration, °K.
T_1 = 298° K.

10.3 Lead concentration. Calculate lead concentration in the air sample.

$$C = \frac{(\mu g\ Pb/ml \times 100\ ml/strip \times 12\ strips/filter) - F_b}{V_{STP}}$$

where:

C = Concentration, μg Pb/sm^3.
μg Pb/ml = Lead concentration determined from section 8.
100 ml/strip = Total sample volume.
12 strips/filter = Useable filter area, 7" × 9"/Exposed area of one strip, ¾" × 7".
F_b = Lead concentration of blank filter, μg, from section 6.1.1.2.3.
V_{STP} = Air volume from 10.2.

11. *Quality control.*

¾" × 8" glass fiber filter strips containing 80 to 2000 μg Pb/strip (as lead salts) and blank strips with zero Pb content should be used to determine if the method—as being used—has any bias. Quality control charts should be established to monitor differences between measured and true values. The frequency of such checks will depend on the local quality control program.

To minimize the possibility of generating unreliable data, the user should follow practices established for assuring the quality of air pollution data, (*13*) and take part in EPA's semiannual audit program for lead analyses.

12. *Trouble shooting.*

1. During extraction of lead by the hot extraction procedure, it is important to keep the sample covered so that corrosion products—formed on fume hood surfaces which may contain lead—are not deposited in the extract.

2. The sample acid concentration should minimize corrosion of the nebulizer. However, different nebulizers may require lower acid concentrations. Lower concentrations can be used provided samples and standards have the same acid concentration.

3. Ashing of particulate samples has been found, by EPA and contractor laboratories, to be unnecessary in lead analyses by atomic absorption. Therefore, this step was omitted from the method.

4. Filtration of extracted samples, to remove particulate matter, was specifically excluded from sample preparation, because some analysts have observed losses of lead due to filtration.

5. If suspended solids should clog the nebulizer during analysis of samples, centrifuge the sample to remove the solids.

13. *Authority.*

(Secs. 109 and 301(a), Clean Air Act as amended, (42 U.S.C. 7409, 7601(a)).)

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[FR Doc. 78-28050 Filed 10-4-78; 8:45 am]

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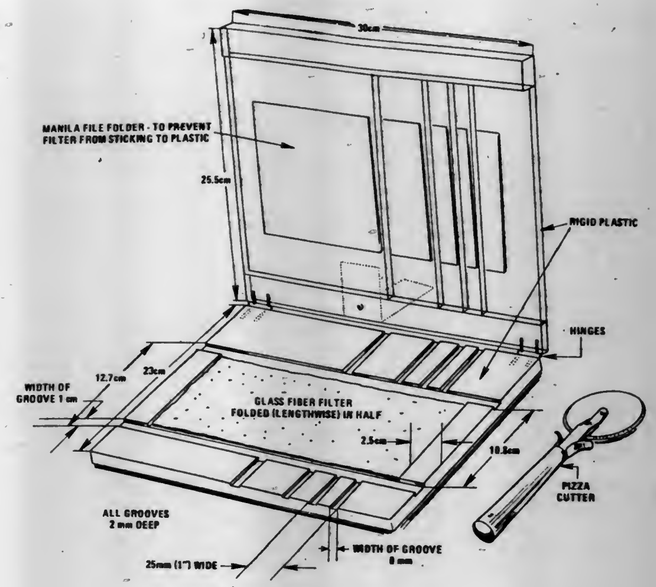


Figure 1

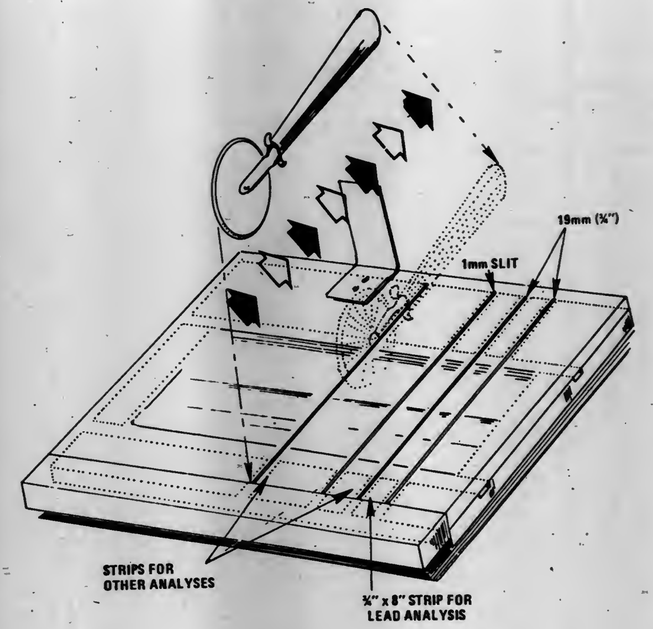


Figure 2

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PART 51—PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Implementation Plans for Lead National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The regulations promulgated below, together with the current requirements of 40 CFR Part 51, set forth the requirements for States to follow in developing, adopting, and submitting acceptable implementation plans for the lead national ambient air quality standards (NAAQS'), promulgated elsewhere in the FEDERAL REGISTER. The implementation plans are required under section 110 of the Clean Air Act. Amendments to the existing regulations for implementation plans are necessary because lead differs from other pollutants for which the existing regulations were designed. The amendments address the following topics: definitions of point source and control strategy; control strategy requirements; and air quality surveillance.

EFFECTIVE DATE: This rulemaking is effective October 5, 1978; State implementation plans for lead are due by July 5, 1979.

ADDRESSES: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD 15), Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT:

Joseph Sableski, Chief, Plans Guidelines Section, at the above address or at 919-541-5437 (commercial) or 629-5437 (FTS).

SUPPLEMENTARY INFORMATION:

1. BACKGROUND

On December 14, 1977, EPA proposed regulations for the preparation, adoption, and submission of implementation plans to achieve the national ambient air quality standards for lead, which were also proposed on that same date (42 FR 63087). EPA invited comments from interested persons and held a hearing on the proposed NAAQS and State implementation plan (SIP) regulations on February 15 and 16, 1978. EPA received comments on the proposed lead implementation plan requirements from 25 commenters. Of these, there were 10 representatives from industry, 9 from State and local governmental agencies, 4 from citizens' organizations and private citizens, and 2 from other federal agencies.

2. SUMMARY OF COMMENTS AND RESPONSES

The following discussion summarizes most of the comments received on the proposal. There were a few other comments that EPA felt were not significant to warrant discussion in the FEDERAL REGISTER and that did not affect the final regulation. A summary of all the comments received and EPA's response is available for public inspection during normal business hours in EPA's Public Information Reference Unit (PM 215), 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0707.

2.1 POINT SOURCE DEFINITION

There were several comments concerning the definition of a point source. One commenter indicated that the definition of a point source is confusing and differs from that used in the provisions in the Clean Air Act concerning prevention of significant deterioration (PSD). Parts of that comment were directed toward the existing definition of point source in § 51.1(k), which, as the commenter acknowledged, is not the subject of the proposal and will not be discussed here.

Currently, § 51.1(k) defines point sources in terms of emissions per year and location of the source, as well as a listing of individual source categories. Currently, point sources of other pollutants for which NAAQS' exist that are located in urban areas are defined as those that emit pollutants in excess of 100 tons per year; point sources in less urbanized areas are defined as those that emit pollutants in excess of 25 tons per year. In light of the low level of the lead standard in relation to the other standards (e.g., for particulate matter), good reason exists to define point sources for lead at a lower level of emissions than that for the current set of pollutants for which EPA has established NAAQS'. Based on an analysis contained in EPA's "Supplementary Guidelines for Lead Implementation Plans," (1) EPA is defining a point source of lead as "any stationary source causing emissions in excess of 4.54 metric tons (5 tons) per year of lead or lead compounds measured as elemental lead." This represents a slight change from the proposal, which failed to account for lead compounds.

The significance of the definition of § 51.1(k) is that the emission inventory, which is used to determine the extent of possible violations of the air quality standard and determine the effectiveness of control strategies, must include a determination of emissions from each point source. All emissions from sources other than point sources may be grouped together as area (or line) sources.

The definition of point source, which was intended to be based on actual emissions, differs from the definition in section 169 of the Clean Air Act (which pertains to prevention of significant deterioration), which is based on potential emissions. The reason for the difference is that for planning purposes, the inventory of existing sources must be based on an actual situation to be used as a baseline upon which one develops a plan. For new source review (including review for prevention of significant deterioration), one must be aware of the emissions that could be emitted from the proposed source as well as actual emissions; hence, the source size criteria for selection of new sources to be reviewed under the recently promulgated PSD regulations incorporate potential, as well as actual, emissions. The definitions of point source in § 51.1(k) for all pollutants have been revised from the proposal to clarify that the size criteria are based upon actual emissions. This implies the emissions that are emitted after any control is applied.

2.2 CONTROL STRATEGY

A number of persons provided comments concerning the control strategy aspects of the proposed regulations.

One commenter correctly noted a discrepancy between the list of source categories in §§ 51.80 ("Demonstration of attainment") and 51.84 ("Areas around significant point sources"), for which the State must perform an analysis. The lists should have been identical—§ 51.84(a) should have also included lead-acid storage battery manufacturing plants that produce 1,200 or more batteries per day. The rulemaking promulgated below incorporates this change. The criterion for production of batteries, which was based on a monthly standard, has been raised to 2,000 batteries per day, however, to account for the slightly less stringent quarterly lead ambient standard.

Several commenters indicated that the requirements in §§ 51.83 ("Certain urbanized areas") and 51.85 ("Other areas") appeared identical and therefore one of the sections was redundant. The difference between the two sections lies in the required geographical scope of the analysis. Section 51.83 requires that the plan contain an analysis of each urbanized area that has a measured lead air concentration that is in excess of 4.0 $\mu g/m^3$ quarterly mean (monthly mean in the proposal). The distinguishing provision is that

the analysis must cover at least the entire urbanized area. Section 51.85, on the other hand, requires that for any area (urbanized or not) with a recorded lead concentration that does not meet the national standard of 1.5 $\mu g/m^3$ quarterly mean (monthly mean in the proposal), the plan must contain an analysis of at least the area in the vicinity of the monitor that has recorded the concentration. Therefore, the analysis may be restricted to an evaluation of only those sources within a relatively small radius from the monitor.

Several commenters suggested that the control strategy requirements insure that the burden for solving the lead air problem be equitably distributed between mobile and stationary sources. The commenters realized that either kind of control is expensive and difficult to implement. In response, EPA maintains that the allocation of the burden of control in the SIP is the primary responsibility of the States, and therefore EPA will avoid setting criteria in 40 CFR 51 that favor control of one source category over another. EPA acknowledges that measures that are expensive and difficult to implement may have to be adopted in order to demonstrate attainment of the lead standard.

Two commenters indicated that the regulations did not provide a satisfactory treatment to problems related to background concentration. They claimed that a facility in an area of high background concentrations may be unduly penalized in efforts to attain the standard. EPA acknowledges that this problem may exist. In most cases, however, the high background air concentrations are generally due to other sources in the vicinity. It is the primary responsibility of the State to allocate the burden of emmission control to the various sources causing the problem. Sources will have an opportunity to comment on the plan at the public hearing that is required before the plan is submitted to EPA.

One commenter suggested that EPA recommend analysis of fugitive dust and on-premise soil before a State initiates a program of prolonged monitoring in the vicinity of gray iron foundries. As mentioned in the preamble to the proposed regulations, EPA identified gray iron foundries as having the potential for causing violations of the national standard for lead, but this identification was based on limited data concerning the amount of fugitive emissions from the facilities. Although EPA does not feel that the degree of confidence in this identification justifies a requirement for States to analyze all gray iron foundries (of which approximately 1,500 exist), EPA encourages States to consider analysis of these sources to the extent that time and resources permit. The commenter's suggestion concerning the analysis of fugitive dust and on-premise soil before undertaking extensive monitoring and analysis appears to offer the potential for conserving scarce resources in that States may want to restrict their monitoring and analysis efforts to those plants with relatively high lead levels in dust and soil.

The same commenter also indicated that secondary lead smelters and similar sources probably cannot be modeled because of fugitive dust and low stacks. EPA recognizes the difficulty in quantifying fugitive dust and fugitive emissions and recognizes that low stacks will generally cause higher concentrations closer to the stack than will higher stacks. The Clean Air Act requires that an approved plan must demonstrate attainment of the standard, however. EPA has, based upon preliminary analyses, determined that secondary lead smelters and other sources listed in § 51.84 have the potential for causing violations of the lead standard. EPA also believes that attainment of the lead standard around such sources can best be demonstrated by the use of an atmospheric dispersion model. In many cases, States will not have the time or resources to perform detailed studies to quantify the fugitive dust and fugitive emissions from individual facilities and may have to rely on factors that were based on limited studies of other facilities or best estimates. In complying with § 51.84, for cases where no ambient lead data were collected in the vicinity of the source and where a State must thus estimate the air quality impact of the sources, the State will have to decide for itself what level of control is warranted by the confidence in the data upon which the analysis is based.

In another comment concerning modeling, one commenter from a State agency claimed that the models used for assessing the monthly impact of point sources are not accessible to most air pollution control agencies. In the initial analysis of the impact of the proposed standard on point sources, it is true that EPA used the Oak Ridge National Laboratory model, "Atmospheric Transport and Dispersion Model" (ATM), (2) which is probably not available to most agencies. That analysis was revised subsequently, and another model was used, however. Also, EPA is recommending the use of other models, specifically those models for particulate matter described in EPA's "Guideline on Air Quality Models," (3) for modeling point sources for SIP development. These models are generally available.

The same commenter indicated that only ambient monitoring or upwind-downwind sampling can give a reliable assessment of the impact of sources with a large fugitive emission component. EPA acknowledges that monitoring studies generally give a more reliable estimate of the air quality impact of sources that emit fugitive emissions because no estimate need be made of the fugitive emissions, which are difficult to measure directly. Such studies cannot be done for many areas within the time and resource constraints facing the States, however, and therefore EPA regulations require the use of modeling around such point sources. States will have to make estimates of the fugitive emissions based on whatever information may exist. EPA is, however, in another part of this FEDERAL REGISTER giving advance notice of proposed rulemaking to require the installation of ambient monitors in the vicinity of three categories of point sources that have major fugitive emissions—Primary and secondary lead smelters and primary copper smelters. Presumably, after these monitors have been in place for a few years, the data yielded will provide more accurate information concerning the nature and magnitude of the lead problem from these sources. After those data become available, EPA may require States to revise their implementation plans. Furthermore, EPA intends to develop fugitive lead emission factors that are more accurate than those that currently exist.

One commenter recommended that the regulations place the proof of compliance with emission regulations on the stationary source. The commenter claimed that local enforcement agencies do not have the funds for continuous monitoring. In response, EPA has found that there are no techniques for continuous monitoring of lead emissions. The State will be required under existing regulations (40 CFR 51.19) to carry out a source surveillance program which generally consists of visual inspection of the installation of control equipment and testing of stack emissions.

Several comments addressed issues concerning control of lead in gasoline. One commenter indicated that any reduction of the lead content of gasoline or any other similar kinds of programs (presumably meaning control of fuels or the control of lead emissions from individual vehicles) that may be needed in the SIP over and above the current Federal program should be done through Federal rather than local regulation. EPA has already taken steps to control the amount of lead in gasoline through the phasedown of lead in leaded gasoline and the requirement that cars equipped with catalyst mufflers must burn un-

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leaded gasoline. The level of control of lead in leaded gasoline was based on average conditions concerning lead air quality concentrations. Areas that have unique problems and that will find it impossible to demonstrate attainment of the lead standard through stationary source control or through transportation control measures may have to adopt measures such as requirements for further reduction of lead in gasoline or control of lead emissions from the tailpipe of vehicles. Currently, EPA does not foresee the need for additional mobile source control strategies and does not intend to require further nationally applicable lead-in-gasoline reductions.

Other comments concerning further reductions of the lead content of gasoline suggested that such reductions be undertaken only after sufficient data is available to indicate that the lead air quality problem is geographically broad enough and only after a finding that such a limitation is necessary to achieve a national ambient air quality standard. The commenters enumerated the problems with instituting further control of the lead content of gasoline. The commenters contended that application of more stringent local limitations of lead in gasoline could seriously disrupt the nation's gasoline distribution system, resulting in severe spot shortages, especially during the summer months when gasoline demand is at its highest.

EPA recognizes this problem and advises the States to consider the comment. Also, under section 211(c)(4)(C) of the Clean Air Act, EPA will not approve State or regional programs for further reductions of lead content of gasoline unless the State demonstrates that no other reasonable measures are available.

Also, two of the commenters recommended that 40 CFR Part 51 regulations be modifed to reflect the restrictions in section 211(c)(4)(C) of the Act regarding State limitation of the lead content of gasoline. In response, EPA has incorporated the intent of the Act into the definition of "control strategy" as it pertains to restrictions on fuel additives.

Two commenters representing primary lead smelting companies recommended an alternative approach to protecting the health of persons from the ambient lead levels in the vicinity of primary lead smelters. They recommended that sources that cannot control emissions so that the lead standard will be met be allowed to conduct a public health screening and hygiene program aimed at reducing the amount of lead that children in the vicinity of the source take in and insuring that safe blood lead levels are satisfactorily maintained.

EPA believes that there are legal, technical, and equity problems with the programs that render it unacceptable as the sole means of implementation of the national standard for lead.

Concerning the legal problem, such a program assumes that the air quality standard will be violated, and presumably, the plan will not contain a demonstration that the air quality standard will be attained. Under the Clean Air Act, EPA must disapprove a plan that does not contain a demonstration that the air quality standard will be attained by the mandatory attainment date. The Act provides for the protection of health through the standard setting, planning, and implementation processes; it does not allow for a surrogate procedure whereby public health may be protected even though the ambient standards are not met.

Concerning technical problems, the relationship between emissions from a source and blood lead levels is not quantitatively certain. Even assuming a biological monitoring system were to be established, it is unclear what the source would have to do concerning its operation or emissions if the monitoring program revealed unacceptable blood lead levels. Even if a course of action were clear, the damage would have already been done, while the basic purpose of the standard setting and implementation process envisioned by section 110 of the Act is prevention of public health problems.

Concerning equity, the biological monitoring program would inconvenience the very people that are supposed to benefit from the Act. The Act envisioned that all people have an equal right to healthy air. The commenters who recommended that biological monitoring approach apparently believe that people who happen to live in areas with elevated lead levels should not be accorded equal protection, but should be made to pay extra for their health through presumably continuous participation in a blood sampling program. If a person did not want to participate, it is doubtful whether he could be forced to, so therefore his health could be placed in jeopardy.

One commenter representing a primary lead smelter warned that enclosure of smelter operations to control fugitive lead emissions may present a severe occupational health hazard to employees who must work within the enclosed space. EPA realizes these potential problems. If a source installs such enclosures, it must of course also meet any applicable regulations set forth by the Occupational Safety and Health Administration as well as control emissions to the extent specified in the applicable implementation plan.

One other commenter expressed concern that there appears to be nothing that can be done in areas where a source is employing best available control technology, yet the standard is still not being met. The Act requires that for approval, an implementation plan must demonstrate that the control strategy contained in the plan is adequate to attain and maintain the NAAQS. EPA realizes, however, that a plan which meets this criterion may, even after full implementation, not actually result in attainment by the attainment date. This would generally indicate that assumptions concerning the amount of emissions and the relationship between emissions reductions and air concentrations that were made when the plan was developed eventually were proven erroneous. If an approved plan is later found to be inadequate to attain the standard, EPA will require the State to revise the plan. If that plan has already required all measures short of those that would force significant source closures, EPA will at that time decide whether the closure must be effected or whether there are alternatives to this in the discretion given to EPA under the Act in sections 110 or 113. States should make every effort to develop and submit plans that demonstrate attainment of the standard using the best data available.

Several commenters from State air pollution control agencies indicated that the development of lead SIP's will be difficult within the timeframe provided. EPA realizes that the development of the lead plans will be competing in priorities and resources with the development of plan revisions by title I, part D, of the Clean Air Act for nonattainment areas. Where a State needs additional assistance in the development of its lead plan, or where it is unsure as to the priority of development of its lead plan, the State should consult with the appropriate EPA regional office.

2.3 AIR QUALITY MONITORING

Several commenters recommended that a minimum number of samples be taken to determine whether the standard is being attained. Also, several persons commented that the sampling should be performed more frequently, such as daily. One person indicated that determination of the attainment status should be done by annual rather than monthly averaging. At least a 3-month average would be more desirable. Another person indicated that the shorter the averaging period, the more the number of samples should be.

Concerning the minimum number of valid samples needed to determine an average, it is general practice to require at least 75 percent of the scheduled samples to be valid. EPA will prepare a guideline on this and other issues concerning the determination of attainment of the standard. Concerning the frequency of sampling, EPA is promulgating a national ambient air quality standard for lead in this FEDERAL REGISTER that is based on a calendar quarter, rather than calendar month as had been proposed. EPA has determined that a sampling schedule of once every 6 days is adequate to give a representative sample for a quarter.

One commenter indicated that monitoring the inner city area should be given top priority because the vehicle mix in these areas favors older cars that burn leaded gasoline. EPA's response is that if maximum exposures occur in these areas, then monitoring these areas should in fact receive first priority. The determination of acceptability of the sites will be the joint responsibility of the States and the cognizant EPA regional office.

One commenter recommended that EPA change the recommendation in the draft "Supplementary Guidelines for Lead Implementation Plans" (*1*) for locating lead monitors near roadways that are at or below grade level rather than near elevated roadways. The commenter suggested that the guideline require measurements to be representative of emissions and environmental exposure. The commenter indicated that the proposed guidance would exclude monitoring play areas that are located beneath elevated roadways. EPA agrees with this comment. The purpose behind excluding below grade level monitoring and monitoring near elevated roadways was to insure adequate exposure at the monitoring site. If significant population exposures consistent with the averaging time of the NAAQS were encountered in these situations, then monitoring in these locations would meet the intent of the guidance. EPA has revised the siting guidance to account for these considerations.

Several comments were directed toward the recommended location of a monitor at a given location. Two persons indicated that the allowance of 5 meters in elevation of lead air monitors is too high and that it should be changed or should allow for numerical adjustment of the data. One person suggested that the monitors be required to be placed closer to roadways because he felt that would be more representative of exposure; another suggested that the monitors are required to be placed too close to the street already in some cases and that the data from the monitors would be unrepresentative. EPA proposed a range of heights for lead monitors from 0 to 5 meters above ground level. The proposed required distance from major roadways for the peak concentration site was 5 to 15 meters. The intent was to sample ambient air to which significant portions of the population are being exposed over the averaging time of the standard. During a typical day, even the most susceptible population group does not spend more than one-half of their time in the ambient air below the 2-meter level or within 15 meters of a major roadway. They are indoors or at considerable distances from roadways for the remainer of their time. Consequently, requiring samplers to be placed below 2 meters above the ground or closer than 5 meters to a roadway would lead to concentration measurements that would be unrepresentative of lead exposures. Further, some range of heights and distances is necessary due to practicalities involved in finding suitable sites, power availability, protection against vandalism, allowing free pedestrian movement along sidewalks, etc.

One commenter recommended that the criteria for monitoring in the vicinity of roadways not include specific distance restrictions, such as the requirement for placement of monitors between 5 and 15 meters from the traffic lane. The commenter indicated that many areas do not have housing that close to major roadways and therefore the numerical restrictions would be counterproductive to insuring accurate monitoring of maximum population exposure. EPA's response is that even though housing may not exist that close to roadways in all cases, the public has access to many such areas.

One commenter recommended that the monitoring guidelines require monitoring lead below ground level in public places such as subway stations and underground shopping areas. In response, EPA's monitoring guidance was written for purposes of determining attainment of a standard. Locating monitors in subways to determine exposures would be considered special purpose monitoring and thus could be performed if desired by the State or local agency. EPA however, does not feel that monitors placed in these situations would yield data suitable for developing implementation plans or determining national trends and strategies and thus will not require it. Furthermore, since no member of the public spends more than perhaps 8 hours out of 24 hours in such locations, monitoring there would not be representative of population exposure for a standard based upon 24-hour sampling for an entire quarter.

One commenter recommended that the regulations require ambient monitoring in the vicinity of major point sources. Not doing so may allow potentially significant public health impacts that result from fugitive emissions at major point sources to be ignored. As mentioned above, in another part of this FEDERAL REGISTER, EPA is giving advance notice of proposed rulemaking to modify the regulations to require source owners or operators to monitor in the vicinity of primary and secondary lead smelters and primary copper smelters. EPA chose these source categories because they are considered to have the potential for causing the greatest concentrations of air lead in their vicinity and because the nature and magnitude of their fugitive emissions are relatively unknown compared to other source categories. The regulations will continue to vest authority in the regional administrators to require monitors in the vicinity of other sources. EPA will prepare guidance concerning the recommended number and siting of monitors in the vicinity of lead point sources.

Another commenter claimed that the regulations do not adequately address the locations where air quality samples will be taken and at what distance from a facility they will be taken. As mentioned above, EPA will develop guidance on the placement of lead monitors in the vicinity of point sources. The guidance for locating monitors elsewhere is highly specific in that the distances from obstructions and interferences are quantitatively described. It is not possible from a national perspective, however, to develop general regulations that would cover every conceivable situation that could occur without making the regulations unduly complex.

One commenter suggested that the lead monitors should not be required to be permanent until the State has more experience in sampling and monitoring lead. Also, several commenters recommended that EPA require initial monitoring by mobile vans or other procedures to locate the most critical sites. EPA does not intend that the required monitoring stations would remain at one place in perpetuity. EPA does, however, need some stability in monitoring site locations to allow for trends analysis. If a station once established is later found to be unrepresentative, it should be moved to a new location. EPA agrees with the intent of the comments and has always encouraged special purpose monitoring prior to establishing a permanent monitoring station. EPA will not require resource-intensive procedures to locate critical sites, however.

Several commenters recommended that the regulations require more than a minimum of two monitors per area. EPA's response is that the regulations do not preclude placing out more than two monitors. EPA is interested nationally in obtaining only enough data to establish a data trend,

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determine if the Federal programs that result in the reduction of automobile lead emission are causing decreases in lead air concentrations, and determine the approximate attainment status of areas. Furthermore, the regulations would allow EPA to require additional monitors on a case-by-case basis where EPA believes that two monitors are insufficient to determine whether the national standard is being attained and maintained.

One of the commenters who recommended that the regulations require more than two monitors per area objected to placing responsibility on the EPA regional offices to require additional monitors and determine their location. The commenter claimed that this precludes both accountability of the State's actions and public participation. EPA's response is that requiring a limited number of samplers specifically to meet data needs at the national level and leaving the determination of the number and location of the remaining stations in the State network to the State and the regional office is consistent with the recommendations of EPA's Standing Air Monitoring Work Group (SAMWG). (4) In a recent action (43 FR 34892, published Aug. 7, 1978), EPA proposed that the locations of stations (for all pollutants) need not actually be included in the implementation plan, but the plan must contain a monitoring program which includes a monitoring network that is based upon negotiations between the State and the EPA regional office. The plan would also have to contain a commitment to annually review the adequacy of the network and to establish new stations and relocate or terminate existing stations as needed in order to keep the network responsive to data needs. EPA feels that if the entire system were part of the SIP, the only way the State could make modifications would be to propose the change, hold a public hearing, and submit the change to EPA as a plan revision. EPA would then have to propose to approve the revision, entertain public comment, and then finally promulgate its approval. EPA feels that this process is too time-consuming and would defeat the purpose of the annual review, which is to make timely adjustments to the network. Also, EPA feels that the potential benefits from this process would be too few to warrant its implementation. The proposed requirements concerning air quality monitoring, however, would require that the locations of the monitors be available at all times for public inspection. Therefore, when the State revises its SIP in order to implement the forthcoming air quality monitoring requirements, the public can at that time comment on the State system. The public can also comment on changes to the networks at any time by submitting written comment on changes to the State or EPA regional office.

One commenter indicated that the low-volume sampler compares favorably in measurement with the high-volume sampler, which is the reference method for collection of the sample, and excludes larger particles that are not respirable and which the commenter feels are not significant from a health standpoint. The commenter implies that EPA should allow the use of the low-volume sampler. Low-volume sampling will be allowed if the agency that wishes to use it demonstrates that the method is equivalent to the reference method, using the procedures that EPA is proposing in another portion of this FEDERAL REGISTER.

3.0 OTHER CHANGES FROM PROPOSAL

3.1 AIR QUALITY SURVEILLANCE REQUIREMENTS

EPA has revised the air quality surveillance requirements for lead slightly from the proposal to render them clearer and more consistent with the general air quality surveillance requirements currently under revision that will apply to all pollutants. These revised general requirements will closely follow and implement the recommendations of EPA's Standing Air Monitoring Work Group. (4) The significant revisions of the lead requirements from the proposal include the following: A change of the date by which the entire monitoring system must be established; deletion of the references to the terms, "National Air Quality Trends Stations" (or "NAQTS") (which are now called "National Air Monitoring Stations") (or "NAMS") and "State and Local Air Monitoring Stations" (or "SLAMS"). These terms have not yet been defined by regulation, so reference to them is meaningless. Modification to the requirement that the plan contain a description of the monitoring system; and revision of the "Supplementary Guidelines on Lead Implementation Plans" to account for location of monitoring stations in urban street canyons.

As mentioned in the preamble to the proposal, EPA will eventually incorporate the lead monitoring requirements into the air quality monitoring requirements that apply to all pollutants for which NAAQS' exist.

3.2 REPORTING OF DATA BASE

Under the proposal in § 51.86(c), the State would have been required to submit the air quality data collected since 1974 in the format of EPA's storage and retrieval of aerometric data (SAROAD) system. The final regulation below retains this requirement, but provides the regional administrator with the authority to waive the requirement concerning the format of the data.

3.3 LISTS OF URBANIZED AREAS

There were several errors in the two tables of areas in the preamble to the proposal. In table 2, "Urbanized areas with lead air concentrations exceeding or equal to 1.5 $\mu g/m^3$, maximum monthly mean (1975)", the Norfolk, Va. AQCR number should have read 223 instead of 233. Table 3, "Urbanized areas with lead air concentrations equal to or exceeding 4.0 $\mu g/m^3$, maximum monthly mean (1975)" should have read as follows:

*AQCR	Urbanized area
15	Phoenix, Ariz.
24	Los Angeles—Long Beach, Calif.
29	San Diego, Calif.
30	San Francisco—Oakland, Calif.
30	San Jose, Calif.
67	Chicago, Ill.—northwestern Indiana.
215	Dallas, Tex.

SOURCE: Data from EPA's Environmental Monitoring Support Laboratory, Statistical and Technical Analysis Branch."

These corrections, however, are now academic, since the averaging time of the lead standard is now quarterly. Therefore, tables 2 and 3 are revised to reflect the quarterly average. Table 2 (renumbered table 1) appears at the end of the preamble. Table 3, revised to reflect the quarterly average, now contains only one area, the Los Angeles—Long Beach, Calif., urbanized area. The list reflects only the data currently available to EPA, and generally the quarterly averages available are not truly representative due to insufficient data. There are other data available to State and local air pollution control agencies, however, that may indicate that other areas have concentrations in excess of the concentrations specified in the criteria for performing the analysis.

3.4 EXAMPLE LEAD CONTROL STRATEGY

The preamble to the proposal indicated that EPA was developing an example lead control strategy to assist the States in developing their lead implementation plans. The preamble indicated that the example was scheduled for completion by March 1978. Because EPA has received an extension for promulgating the national ambient air quality standard for lead, because the example control strategy would be based on the final implementation plan regulations promulgated below, and because of other delays, the example controls strategy will probably not be available until November or December of 1978.

4.0 REFERENCES

1. "Supplementary Guidelines for Lead Implementation Plans." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. (OAQPS No. 1.2-104).

2. Culkowski, W. M. and M. R. Patterson, "A Comprehensive Atmospheric Transport and Diffusion Model." (ORNL/NSR/EATS-17. Oak Ridge National Laboratory, Oak Ridge, Tenn., 1976.

3. "Guideline on Air Quality Models." Monitoring and data Analysis Division, Office of Air Quality Planning and standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. EPA-450/2-78-027 (OAQPS No. 1.2-080), April, 1978.

4. "Air Monitoring Strategy for State Implementation Plans." Prepared by the Standing Air Monitoring Work Group. U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. EPA-450/2-77-010. June, 1977.

TABLE 1—*Urbanized Areas With Lead Air Concentrations Exceeding or Equal to 1.5 $\mu g/m^3$, Maximum Quarterly Mean (1975)*

AQCR No.	Area
004	Birmingham, Ala.
015	Phoenix, Ariz.
031	Fresno, Calif.
024	Los Angeles—Long Beach, Calif.
028	Sacramento, Calif.
024	San Bernardino—Riverside, Calif.
029	San Diego, Calif.
030	San Francisco—Oakland, Calif.
030	San Jose, Calif.
038	Denver, Colo.
043	New York, N.Y.—northeastern New Jersey.
042	Waterbury, Conn.
042	Springfield, Chicopee-Holyoke, Mass.—Connecticut.
045	Wilmington, Del.—New Jersey.
045	Philadelphia, Pa.—New Jersey.
047	Washington, D.C.—Maryland—Virginia.
067	Chicago, Ill.—northwestern Indiana.
131	Minneapolis—St. Paul, Minn.
070	St. Louis, Mo.—Illinois.
013	Las Vegas, Nev.
148	Reno, Nev.
184	Oklahoma City, Okla.
151	Scranton, Pa.
244	San Juan, P.R.
200	Columbia, S.C.
202	Greenville, S.C.
207	Knoxville, Tenn.
018	Memphis, Tenn.—Mississippi.
215	Dallas, Tex.
153	El Paso, Tex.
216	Houston, Tex.

SOURCE: Data from EPA's Environmental Monitoring Support Laboratory, Statistical and Technical Analysis Branch.

Dated: September 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

The Code of Federal Regulations, Title 40, Chapter I, Part 51, is amended as follows:

1. In § 51.1, paragraph (k) is revised and paragraph (n) is amended by adding paragraph (11) as follows:

§ 51.1 Definitions.

* * * * *

(k) "Point source" means the following:

(1) For particulate matter, sulfur oxides, carbon monoxide, hydrocarbons, and nitrogen dioxide—

(i) Any stationary source the actual emissions of which are in excess of 90.7 metric tons (100 tons) per year of the pollutant in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was equal to or greater than 1 million;

(ii) Any stationary source the actual emissions of which are in excess of 22.7 metric tons (25 tons) per year of the pollutant in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census was less than 1 million; or

(iii) Without regard to amount of emissions, stationary sources such as those listed in appendix C to this part.

(2) For lead, any stationary source the actual emissions of which are in excess of 4.54 metric tons (5 tons) per year of lead or lead compounds measured as elemental lead.

* * * * *

(n) * * *

(11) Control or prohibition of a fuel or fuel additive used in motor vehicles, if such control or prohibition is necessary to achieve a national primary or secondary air quality standard and is approved by the Administrator under § 211(c)(4)(C) of the Act.

* * * * *

2. Section 51.12, paragraph (e) is amended by adding subdivision (3) as follows:

§ 51.12 Control strategy: General.

* * * * *

(e) * * *

(3) This paragraph covers only plans to attain and maintain the national standards for particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

* * * * *

3. Section 51.17 is amended by (1) revising the heading to read "Air quality surveillance: Particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide," and (2) adding paragraph (d) as follows:

§ 51.17 Air quality surveillance: Particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

* * * * *

(d) This section covers only plans to attain and maintain the national standards for particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen dioxide.

4. A new § 51.17b is added as follows:

§ 51.17b Air quality surveillance: Lead.

(a) This section covers only plans to attain and maintain the national standards for lead.

MONITORING IN CERTAIN AREAS

(b) The plan must provide for the establishment of a monitoring system that contains at least two permanent lead ambient air quality monitoring stations in each urbanized area (as defined by the U.S. Bureau of the Census)—

(1) That has a 1970 population greater than 500,000; or

(2) Where lead air quality concentrations currently exceed or have exceeded 1.5$\mu g/m^3$ quarterly arithmetic mean measured since January 1, 1974.

(c) The EPA Regional Administrator may specify more than two monitoring stations if he finds that two stations are insufficient to adequately determine if the lead standard is being attained and maintained. He may also specify stations in areas outside the areas covered in paragraph (b) of this section.

(d) The monitoring system must contain at least one roadway type monitoring site and at least one neighborhood site and be sited in accordance with the procedures specified in EPA's "Supplementary Guidelines for Lead Implementation Plans."

(e) The monitors must be operated on a minimum sampling frequency of one 24-hour sample every 6 days.

(f) Existing sampling sites being used for sampling particulate matter may be designated as sites for sampling lead if they meet the siting criteria of "Supplementary Guidelines for Lead Implementation Plans."

(g) The plan must provide that all lead air quality monitoring stations will be established and operational as expeditiously as practicable but no later than 2 years after the date of the Administrator's approval of the plan for the stations specified under paragraph (b) of this section.

(h) The analysis of the 24-hour samples may be performed for either individual samples or composites of the samples collected over a calendar month or quarter.

(i) [Reserved]

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REQUIREMENTS APPLICABLE TO ALL MONITORS

(j) The plan must provide for having a description of the system available for public inspection and submission to the Administrator at his request. The description must be available at all times after the date the plan is made available for public inspection. The description must include the following information:

(1) The SAROAD site identification form.

(2) The sampling and analysis method.

(3) The sampling schedule.

(k) The monitoring method used in any station in the monitoring systems required in this section must be a reference or equivalent method for lead as defined in § 50.1 of this chapter.

5. A new subpart E is added as follows:

Subpart E—Control Strategy: Lead

Sec.
51.80 Demonstration of attainment.
51.81 Emissions data.
51.82 Air quality data.
51.83 Certain urbanized areas.
51.84 Areas around significant point sources.
51.85 Other areas.
51.86 Data bases.
51.87 Measures
51.88 Data availability.

AUTHORITY: Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7601).

Subpart E—Control Strategy: Lead

§ 51.80 Demonstration of attainment.

(a) Each plan must contain a demonstration that the standard will be attained and maintained in the following areas:

(1) Areas in the vicinity of the following point sources of lead:

Primary lead smelters.
Secondary lead smelters.
Primary copper smelters.
Lead gasoline additive plants.
Lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day.
Any other stationary source that actually emits 25 or more tons per year of lead or lead compounds measured as elemental lead.

(2) Any other area that has lead air concentrations in excess of the national standard concentration for lead, measured since January 1, 1974.

(b) The plan must demonstrate that the measures, rules, and regulations contained in the plan are adequate to provide for the attainment of the national standard for lead within the time prescribed by the Act and for the maintenance of that standard for a reasonable period thereafter.

(c) The plan must include the following:

(1) A summary of the computations, assumptions, and judgments used to determine the reduction of emissions or reduction of the growth in emissions that will result from the application of the control strategy.

(2) A presentation of emission levels expected to result from application of each measure of the control strategy.

(3) A presentation of the air quality levels expected to result from application of the overall control strategy presented either in tabular form or as an isopleth map showing expected maximum concentrations.

§ 51.81 Emissions data.

(a) The plan must contain a summary of the baseline lead emission inventory based upon measured emissions or, where measured emissions are not available, documented emission factors. The point source inventory on which the summary is based must contain all sources that emit 5 or more tons of lead per year. The inventory must be summarized in a form similar to that shown in appendix D.

(b) The plan must contain a summary of projected lead emissions for—

(1) At least 3 years from the date by which EPA must approve or disapprove the plan if no extension under section 110(e) of the Clean Air Act is granted;

(2) At least 5 years from the date by which EPA must approve or disapprove the plan if an extension is requested under section 110(e) of the Clean Air Act; or

(3) Any other longer period if required by the appropriate EPA Regional Administrator.

(c) The plan must contain a description of the method used to project emissions.

(d) The plan must contain an identification of the sources of the data used in the projection of emissions.

§ 51.82 Air quality data.

(a) The plan must contain a summary of all lead air quality data measured since January 1974. The plan must include an evaluation of the data for reliability, suitability for calibrating dispersion models (when such models will be used), and representativeness. When possible, the air quality data used must be for the same baseline year as for the emission inventory.

(b) If additional lead air quality data are desired to determine lead air concentrations in areas suspected of exceeding the lead national ambient air quality standard, the plan may include data from any previously collected filters from particulate matter high volume samplers. In determining the lead content of the filters for control strategy demonstration purposes, a State may use, in addition to the reference method, X-ray fluorescence or any other method approved by the Regional Administrator.

(c) The plan must also contain a tabulation of, or isopleth map showing, maximum air quality concentrations based upon projected emissions.

§ 51.83 Certain urbanized areas.

For urbanized areas with measured lead concentrations in excess of 4.0 $\mu g/m^3$, quarterly mean measured since January 1, 1974, the plan must employ the modified rollback model for the demonstration of attainment as a minimum, but may use an atmospheric dispersion model if desired.

§ 51.84 Areas around significant point sources.

(a) The plan must contain a calculation of the maximum lead air quality concentrations and the location of those concentrations resulting from the following point sources for the demonstration of attainment:

Primary lead smelters.
Secondary lead smelters.
Primary copper smelters.
Lead gasoline additive plans.
Lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day.
Any other stationary source that actually emits 25 or more tons per year of lead or lead compounds measured as elemental lead.

(b) In performing this analysis, the State shall use an atmospheric dispersion model.

§ 51.85 Other areas.

For each area in the vicinity of an air quality monitor that has recorded lead concentrations in excess of the lead national standard concentration, the plan must employ the modified rollback model as a minimum, but may use an atmospheric dispersion model if desired for the demonstration of attainment.

§ 51.86 Data bases.

(a) For interstate regions, the analysis from each constituent State must, where practicable, be based upon the same regional emission inventory and air quality baseline.

(b) Each State shall submit to the appropriate EPA Regional Office with the plan, but not as part of the plan, emissions data and information related to point and area source emissions as identified in the "Supplementary Guidelines for Lead Implementation Plans."

(c) Air quality data.

(1) Each State shall submit to the appropriate EPA Regional Office with the plan, but not as part of the plan, all lead air quality data measured since January 1, 1974. This requirement does not apply if the data has already been submitted.

(2) The data must be submitted in accordance with the procedures and data forms specified in chapter 3.4.0 of the "AEROS User's Manual" concerning storage and retrieval of aerometric data (SAROAD) except where the Regional Administrator waives this requirement.

§ 51.87 Measures.

(a) The lead control strategy must include the following:

(1) A description of each control measure that is incorporated into the lead plan.

(2) Copies of or citations to the enforceable laws and regulations to implement the measures adopted in the lead plan.

(3) A description of the administrative procedures to be used in implementing each selected control measure.

(4) A description of enforcement methods including, but not limited to, procedures for monitoring compliance with each of the selected control measures, procedures for handling violations, and a designation of agency responsibility for enforcement or implementation.

§ 51.88 Data availability.

(a) The State shall retain all detailed data and calculations used in the preparation of the lead analyses and plan, make them available for public inspection, and submit them to the Administrator at his request.

(b) The detailed data and calculations used in the preparation of the lead analyses and control strategies are not considered a part of the lead plan.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7601).)

[FR Doc. 78-28051 Filed 10-4-78; 8:45 am]

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 51 and 53]

[FRL 937-7]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS FOR LEAD

Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On December 14, 1977, new national primary and secondary ambient air quality standards for lead were proposed (42 FR 63076). Atmospheric lead is proposed to be measured as elemental lead, either by the proposed reference method or "by an equivalent method." The amendments proposed below would provide the necessary and appropriate changes in the existing equivalent method regulations (primarily contained in 40 CFR Part 53) to allow the designation of equivalent methods for measuring atmospheric lead concentrations.

DATES: Comments relative to these proposed regulations must be received by November 20, 1978.

ADDRESS: Send comments to Mr. Larry J. Purdue, Department E (MD-76), Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency; Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry Purdue, telephone 919-541-3076 (FTS 629-3076).

Incidental information: The proposed reference method for measuring atmospheric lead, as well as much associated information, was published in the December 14, 1977, issue of the FEDERAL REGISTER (vol. 42), starting on page 63076.

SUPPLEMENTARY INFORMATION:

BACKGROUND

When the first national ambient air quality standards were promulgated in 1971 (36 FR 8186, Apr. 30, 1971), EPA established the concept that measurements of ambient air pollutants used to determine compliance with the standards must be made with either a specified "reference method" or with an alternate method which could be shown to be "equivalent" to the reference method. The air quality standards are now contained in part 50 of title 40 of the Code of Federal Regulations (40 CFR Part 50). Appendixes to part 50 specify either a prescribed reference method, or a measurement principle and calibration procedure applicable to reference methods, for each pollutant for which a standard has been promulgated.

On February 18, 1975, EPA promulgated regulations to establish definitive requirements and procedures by which methods for measuring specified air pollutants may be designated "reference methods" or "equivalent methods" (40 FR 7044, Feb. 18, 1975). These regulations are contained in 40 CFR Part 53. Originally these "equivalency" regulations were applicable only to methods for measuring SO_2, CO, and photochemcial oxidants (O_3), but were subsequently amended to cover methods for NO_2 as well (41 FR 52692, Dec. 1, 1976).

On December 14, 1977, EPA proposed amendments to 40 CFR Part 50 to establish new national primary and secondary ambient air quality standards for lead. Also proposed was a new appendix to part 50 specifying a reference method for measuring atmospheric lead. The method proposed measures the lead content of suspended particulate matter collected on glass fiber filters using high volume samples. The lead is extracted from the particulate matter and measured by atomic absorption spectroscopy. The procedure proposed is necessarily very restrictive and specific in order to maintain the high level of accuracy and reproducibility and the low level of variability requisite for a reference method. However, other procedures are available for measuring lead which are likely to be as good as the reference method and may be advantageous to particular users. For example, using the same sampling procedure as the reference method (high volume sampler), several alternate analytical principles (flameless atomic absorption, optical emission spectrometry, and anodic stripping voltametry) are known to be suitable for lead analysis. If these alternate procedures can be designated as "equivalent" methods, then users would have much more flexibility in selecting a method for lead measurements which fits their own circumstances of available equipment, personnel, and expertise.

Also, EPA sees no reason why lead measurements must be restricted to a particular sampling technique, such as the high volume sampler. For example, low volume particulate samples can be analyzed for lead by X-ray fluorescence. Other non-high-volume techniques may also be available or under development. By allowing for the possibility of qualifying such alternate methods as equivalent methods, EPA hopes to permit and encourage continued advancement in the technology of measuring atmospheric lead.

For the reasons given above, EPA believes it is advantageous to propose appropriate amendments to 40 CFR Part 53 to extend the equivalent method regulations to cover methods for measuring lead in the atmosphere. Since most, if not all, candidate equivalent methods for lead are likely to be manual methods, EPA expects relatively little initial incentive for commercial organizations to apply for equivalent method determinations. Consequently, most equivalent method applications for lead methods will have to be originated by EPA under § 53.7 "Testing of Methods at the Initiative of the Administrator." Specifically, EPA intends to pursue designation of some of the methods noted earlier, which are already in use among some monitoring agencies. These would include methods which use the same sampling procedure as the reference method, but use alternate analytical principles such as flameless atomic absorption, optical emission spectrometry, and anodic stripping voltametry. Direct analysis of high volume filters by X-ray fluorescence is also a likely candidate method for early designation by EPA.

GENERAL APPROACH

As suggested above, any method which purports to measure atmospheric lead could be considered as a candidate equivalent method, regardless of the sampling procedure or analytical technique used. To be designated as an equivalent method, the candidate method must demonstrate a "consistent relationship" to the reference method. This is done by taking simultaneous measurements with both methods in accordance with the procedures and requirements to be specified in 40 CFR Part 53. In addition, the candidate method must also demonstrate adequate precision among repeated analyses of the same sample.

Since the proposed reference method provides 24-hour integrated measurements, candidate methods would have to be compared on that basis. Shorter term integrated methods or even automated methods could be considered as candidate methods. But only 24-hour averages could be compared to the reference method. Therefore, any subsequent designation of such a method as an equivalent method would apply only to 24-hour averages.

AMENDMENTS TO 40 CFR PART 51

Paragraph (a) of § 51.17a provides general requirements for air quality monitoring methods used by States in their implementation plan monitoring networks. Subparagraph (1) requires use of reference or equivalent methods for SO_2, CO, O_3, and NO_2, and would be amended to also include lead. Subparagraph (3) provides certain "grandfather" periods for use of existing methods for SO_2, CO, O_3, and NO_2. It would be amended by adding a similar "grandfather" provision allowing existing methods for lead to be used until February 18, 1980—the same expiration date as that for existing methods for SO_2, CO, and O_3.

AMENDMENT TO PART 53

Subpart C of part 53 contains the test procedures prescribed for determining a consistent relationship between the reference method and a candidate equivalent method. Since these tests procedures were originally designed for gaseous pollutants, several significant changes and additions are required to adapt the procedures for lead.

DETERMINATION OF CONSISTENT RELATIONSHIP

Section 53.30, paragraph (a) pertaining to the determination of a consistent relationship would be changed to indicate that the specifications for lead appear in a separate table (table C-3) than the specifications for SO_2, CO, O_3, and NO_2.

TEST SITE

Section 53.30, paragraph (b), pertaining to test sites would be changed in several ways. First, the paragraph would be subdivided to differentiate the various requirements applicable to: (1) All methods, (2) methods for gaseous pollutants, and (3) methods for lead. Multiple test sites would be allowed for lead methods in order to facilitate measurements in the required range, since pollutant augmentation would not be feasible for particulate methods. Also, a new provision would allow an applicant to request approval of the test site or sites from EPA prior to conducting the tests.

A final minor change proposed for paragraph (b) would delete the stipulation that test sites be "* * * away from large bodies of water * * *." This change has nothing to do with lead, but is prompted by general confusion among applicants as to its specific meaning. Since the requirement is not essential, the current revision of the paragraph provides a good opportunity to eliminate both the stipulation and the confusion.

OTHER GENERAL PROVISIONS

Paragraphs (c), (d), and (e) of § 53.30 would also be revised and reorganized to reflect the differences in requirements for methods for gaseous pollutants and for lead particulates. Revised paragraph (c) specifies the general requirement for simultaneous measurements at the test site in each of the required concentration ranges indicated by tables C-1 or C-3. Paragraph (d) would be revised and subdivided to clarify the different requirements for sample collection. Subparagraph (1) indicates the general requirement for homogenous samples. Subparagraph (2) specifies the use of a common distribution manifold and allows artificial pollutant augmentation for gaseous pollutants. Subparagraph (3) specifies the relative location requirements for lead samplers. And paragraph (4) would specifically allow the use of a common sample when the candidate method uses a sampling procedure identical to that of the reference method. Finally, the present paragraph (d) on "Submission of Test Data * * *" would be changed to paragraph (e).

TEST CONDITIONS

In § 53.31 on "Test Conditions," paragraphs (a), (c), and (d) would be revised slightly to clarify certain differences between gaseous and particulate methods, and to clarify the requirements pertaining to calibration and range.

TEST PROCEDURE

Because the test procedures being proposed for lead differ considerably from those for gaseous pollutants, existing § 53.32 would be retitled "Test Procedures for Gaseous Pollutants" and a new § 53.33, "Test Procedures for Lead," would be added. The proposed new § 53.33 is similar in form to § 53.32, but the specific requirements for lead methods differ in several ways from the requirements for gaseous pollutant methods. First, a new table C-3 summarizes the test specifications pertinent to methods for lead. Only one concentration range is specified, into which five or more of the measurements must fall. The difference specification for lead is specified as a percent of the reference method measurement, as opposed to the fixed, absolute values specified for gaseous pollutant methods. An accuracy specification for the reference method based on analysis of audit samples supplied by EPA is specified. In addition, a performance specification for analytical precision is also being proposed to apply to lead methods.

Because most methods for lead provide a result only after collected samples are analyzed in a laboratory, the test acceptance criteria are based on a single sampling plan rather than the double sampling plan prescribed for gaseous pollutant methods. Ten or more (simultaneous) samples are collected and analyzed to provide at least five samples which fall into the required range of 0.5 to 4.0 $\mu g/m^3$. Each sample is analyzed three times and the results of all samples in the range are subjected to both the precision test prescribed in paragraph (e) and the consistent relationship test prescribed in paragraph (f). For the candidate method to qualify for designation, no test failures would be permitted in either test.

PUBLIC PARTICIPATION

Interested persons are invited to comment on any aspect of these proposed amendments. Comments should be submitted in duplicate and must be received by November 20, 1978. Address comments to Mr. Larry Purdue, Department E (MD-76), Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: September 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend chapter I, title 40, Code of Federal Regulations, as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. In § 51.17a, paragraph (a) is amended by revising the first sentence of paragraph (a)(1) and adding a sentence to the end of paragraph (a)(3) to read as follows:

§ 51.17a Air quality monitoring methods.

(a) *General requirements.* (1) Except as otherwise provided in this paragraph (a), each method for measuring SO_2, CO, O_3, NO_2, or lead used for purposes of § 51.17a shall be a reference method or equivalent method as defined in § 53.1 of this chapter. * * *

(2) * * *

(3) * * * Any manual method for lead in use before (date of promulgation of these amendments) may be used for purposes of § 51.17(a) until February 18, 1980.

PART 53—AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

2. In § 53.30 the last sentence of paragraph (a) is deleted and new subparagraphs (1) and (2) are added; and paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 53.30 General provisions.

(a) * * *

(1) A consistent relationship is shown for SO_2, CO, O_3, and NO_2 methods when the differences between: (i) Measurements made by a candidate manual method or by a test analyzer representative of a candidate automated method, and (ii) measurements made simultaneously by a reference method are less than or equal to the value specified in the last column of table C-1.

(2) A consistent relationship is shown for lead methods when the dif-

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ferences between: (i) Measurements made by a candidate method, and (ii) measurements made simultaneously by the reference method are less than or equal to the value specified in table C-3.

(b) *Selection of test sites.*—(1) *All methods.* Each test site shall be in a predominately urban area which can be shown to have at least moderate concentrations of various pollutants. The site shall be clearly identified and shall be justified as an appropriate test site with suitable supporting evidence such as maps, population density data, vehicular traffic data, emission inventories, pollutant measurements from previous years, concurrent pollutant measurements, and wind or weather data. If desired, a request for approval of the test site or sites may be submitted prior to conducting the tests. The Administrator may in his discretion select a different site (or sites) for any additional tests he decides to conduct.

(2) *Methods for gaseous pollutants.* All test measurements are to be made at the same test site. If necessary, the concentration of pollutant in the sampled ambient air may be augmented with artificially generated pollutant to facilitate measurements in the specified ranges. (See paragraph (d)(2) of this section.)

(3) *Methods for lead.* Test measurements may be made at any number of test sites. Augmentation of pollutant concentrations is not permitted, hence an appropriate test site or sites must be selected to provide lead concentrations in the specified range. Test sites for lead measurements must be between 5 and 100 meters from the edge of a heavily traveled roadway.

(c) *Test atmosphere.* Ambient air sampled at an approriate test site shall be used for these tests. Simultaneous concentration measurements shall be made in each of the concentration ranges specified in table C-1 or table C-3.

(d) *Sample collection.*—(1) *All methods.* All test concentration measurements or samples shall be taken in such a way that both the candidate method and the reference method receive air samples that are homogenous or as nearly identical as practical.

(2) *Methods for gaseous pollutants.* Ambient air shall be sampled from a common intake and distribution manifold designed to deliver homogenous air samples to both methods. Precautions shall be taken in the design and construction of this manifold to minimize the removal of particulates and trace gases, and to insure that identical samples reach to two methods. If necessary, the concentration of pollutant in the sampled ambient air may be augmented with artificially generated pollutant. However, at all times the air sample measured by the candidate and reference methods under test shall consist of not less than 80 percent ambient air by volume. Schematic drawings, physical illustrations, descriptions, and complete details of the manifold system and the augmentation system (if used) shall be submitted.

(3) *Methods for lead.* The intake points of the candidate and reference samplers for lead shall be located between 3 and 5 meters apart, and between 1.5 and 5 meters above ground level.

(4) *Methods employing a common sampling procedure.* Candidate methods which employ a sampler and sample collection procedure which are identical to the sampler and sample colection procedure specified in the reference method may be tested by analyzing common samples in accordance with the candidate and reference analysis procedures. The common samples are to be collected according to the sample collection procedure specified by the reference method, and must be divided such that identical portions are analyzed by the analysis procedures of the two methods.

(e) *Submission of test data and other information.* All recorder charts, calibration data, records, test results, procedural descriptions and details, and other documentation obtained from (or pertinent to) these tests shall be identified, dated, signed by the analyst performing the test, and submitted.

3. In § 53.31, paragraphs (a), (c), and (d)(1) are revised to read as follows:

§ 53.31 Test conditions.

(a) *All methods.* All test measurements made or test samples collected by means of a sample manifold as specified in § 53.30(d)(2) shall be at a room temperature between 20° and 30° C, and at a line voltage between 105 and 125 volts. All methods shall be calibrated as specified in paragraph (c) of this section prior to initiation of the tests.

(b) • • •

(c) *Calibration.* The reference method shall be calibrated according to the appropriate appendix to part 50 of this chapter (if it is a manual method) or according to the applicable operation manual(s) (if it is an automated method). A candidate manual method (or portion thereof) shall be calibrated if such calibration is a part of the method. • • •

(d) *Range.* (1) Except as provided in paragraph (d)(2) of this section, each method shall be operated in the range specified for the reference method in the appropriate appendix to part 50 (for manual reference methods), or specified in table B-1 of this part (for automated reference methods).

4. In § 53.32, the title of the section is revised to read as follows:

§ 53.32 Test procedures for gaseous pollutants.

• • • • •

5. Section 53.33 is added to read as follows:

§ 53.33 Test procedure for lead methods.

(a) *Sample collection.* Collect simultaneous 24-hour samples (filters) of lead at the test site or sites with both the reference and candidate methods until at least 10 filter pairs have been obtained. If the conditions of § 53.30(d)(4) apply, collect at least 10 common samples (filters) in accordance with § 53.30(d)(4) and divide each to form the filter pairs.

(b) *Audit samples.* Three audit samples must be obtained from the Director, Environmental Monitoring and Support Laboratory, Department E, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. The audit samples are ¾ × 8-inch glass fiber strips containing known amounts of lead at the following nominal levels: 100 μg/strip; 300 μg/strip; 750 μg/strip. The true amount of lead in total μg/strip will be provided with each audit sample.

(c) *Filter analysis.* (1) For both the reference method and the audit samples, analyze each filter extract 3 times in accordance with the reference method analytical procedure. The analysis of replicates should not be performed sequentially (i.e., and single sample should not be analyzed three times in sequence). Calculate the indicated lead concentratons for the reference method samples in μg/m³ for each analysis of each filter. Calculate the indicated total lead amount for the audit samples in μg/strip for each analysis of each strip. Lable these test results as R_{1A}, R_{1B}, R_{1C}, R_{2A}, R_{2B}, . . ., Q_{1A}, Q_{1B}, Q_{1C}, . . ., where R denotes results from the reference method samples; Q denotes results from the audit samples; 1, 2, 3 indicates filter number and A, B, C indicates the first, second, and third analysis of each filter, respectively.

(2) For the candidate method samples, analyze each sample filter or filter extract three times and calculate, in accordance with the candidate method, the indicated lead concentration in μg/m³ for each analysis of each filter. Label these test results as C_{1A}, C_{1B}, C_{1C}, . . ., where C denotes results from the candidate method. (For candidate methods which provide a direct measurement of lead concentrates without a separable procedure, $C_{1A} = C_{1B} = C_{1C}$, $C_{2A} = C_{2B} = C_{2C}$, etc.)

(d) For the reference method, calculate the average lead concetration for each filter by averaging the concentrations calculated from the three analyses:

$$R_{i\ ave} = \frac{R_{iA} + R_{iB} + R_{iC}}{3}, \text{ where i is the filter number.}$$

(e) Disregard all filter pairs for which the lead concentration as determined in the previous paragraph (d) by the average of the three reference method determinations, falls outside the range of 0.5 to 4.0 μg/m³. All remaining filter pairs must be subjected to both of the following tests for precision and consistent relationship. At least five filter pairs must be within the 0.5 to 4.0 μg/m³ range for the tests to be valid.

(f) *Test for precision.* (1) Calculate the precision (P) of the analysis (in percent) for each filter and for each method, as the maximum minus the minimum divided by the average of the three concentration values, as follows:

$$P_{Ri} = \frac{R_i\ max - R_i\ min}{R_i\ ave} \times 100\%, \text{ or } P_{Ci} = \frac{C_i\ max - C_i\ min}{C_i\ ave} \times 100\%,$$

where i indicates the filter number.

(2) If any reference mthod precision value (P_{Ri}) exceeds 15 percent, the precision of the reference method analytical procedure is out of control. Corrective action must be taken to determine the source(s) of imprecision and the reference method determinations must be repeated according to paragraph (c) of this section, or the entire test procedure (starting with paragraph (a)) must be repeated.

(3) If any candidate method precision value (P_{Ci}) exceeds 15 percent, the candidate method fails the precision test.

(4) The candidate method passes this test if all precision values (i.e., all P_{Ri}'s and all P_{Ci}'s) are less than 15 percent.

(g) *Test for accuracy.* (1) For the audit samples calculate the average lead concentration for each strip by averaging the concentrations calculated from the three analyses:

$$Q_{i\ \ ave} = \frac{Q_{iA} + Q_{iB} + Q_{iC}}{3},$$

where i is audit sample number.

Calculate the percent difference (D_{qi}) between the indicated lead concentration for each audit sample and the true lead concentration (T_{qi}) as follows:

$$D_{qi} = \left(\frac{Q_i\ ave - T_{qi}}{T_{qi}} \times 100\right)$$

(2) If any difference value (D_{qi}) exceeds ±5 percent the accuracy of the reference method analytical procedure is out of control. Corrective action must be taken to determine the source of the error(s) (e.g., calibration standard discrepancies, extraction problems, etc.) and the reference method and audit sample determinations must be repeated according to paragraph (c) of this section or the entire test procedure (starting with paragraph (a)) must be repeated.

(h) *Test for consistent relationship.* (1) For each filter pair, calculate all nine possible percent differences (D) between the reference and candidate methods, using all nine possible combinations of the three determinations (A, B, and C) for each method, as:

$$D_{in} = \frac{C_{ij} - R_{ik}}{R_{ik}} \times 100\%, \text{ where i is the filter number, and n}$$

numbers from 1 to 9 for the nine possible difference combinations for the three determinations for each method (j= A, B, C, candidate; k= A, B, C, reference).

(2) If none of the percent differences (D) exceeds ±20 percent, the candidate method passes the test.

(3) If one or more differences (D) exceeds ±20 percent, the candidate method fails the test for consistent relationship.

(i) The candidate method must pass both the precision test and the consistent relationship test to qualify for designation as an equivalent method.

TABEL C-3—TEST SPECIFICATIONS FOR LEAD METHODS

Concentration range, μg/m³	0.5 to 4.0
Minimum number of 24-hr measurements	5
Maximum analytical precision, percent	15
Maximum analytical accuracy, percent	±5
Maximum difference, percent of reference method	±20

[FR Doc. 78-28052 Filed 10-4-78; 8:45 am]

[6560-01]

[40 CFR Part 51]

[FRL 937-8]

IMPLEMENTATION PLANS FOR LEAD NATIONAL AMBIENT AIR QUALITY STANDARD

Proposed Requirements for Ambient Air Quality Monitoring in the Vicinity of Certain Lead Point Sources; Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This is an advance notice of EPA's intent to propose regulations that would require the State implementation plans (SIP's) for attainment and maintenance of the national ambient air quality standard (NAAQS) for lead to provide for the owner or operator of each primary or secondary lead smelter or primary copper smelter to establish a lead air quality monitoring system in the vicinity of the source and report the data to the State. EPA intends to propose this requirement partly in response to a comment received on the proposed lead implementation plan requirements of December 14, 1977 (42 FR 62087), but mainly as the initiation of a procedure for obtaining information concerning the nature, extent, and impact of fugitive lead emissions from the smelters since very little accurate information is currently available. The intended effect of this requirement would be to obtain sufficient air quality data around the subject sources to determine if they are causing violations of the lead NAAQS. If violations are recorded, the States and EPA will determine whether additional or alternative control strategies would be adequate to attain and maintain the NAAQS for lead.

DATES: Comments on this advance notice must be received on or before December 4, 1978. Comments submitted in duplicate will facilitate internal distribution and public availability.

ADDRESSES: Persons may submit written comments on this advance notice to: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD 15), Research Triangle Park, N.C. 27711, attention: Mr. Joseph Sableski. EPA will make all comments received on or before December 4, 1978, available for public inspection during normal business hours at: EPA Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460.

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FOR FURTHER INFORMATION CONTACT:

Mr. John Silvasi, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD 15), Research Triangle Park, N.C. 27711, telephone: Commercial—919-541-5437; FTS—629-5437.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In another part of this FEDERAL REGISTER, EPA promulgated the national ambient air quality standards (NAAQS) for lead and requirements for the preparation, adoption, and submission of State implementation plans (SIP's) for the attainment and maintenance of those standards. Further information about the standards and the SIP's appears in those notices.

States must now prepare and submit to EPA within 9 months SIP's that demonstrate that the NAAQS will be attained. In doing so, the States will have to quantify the lead emissions from sources and determine the effect of those emissions on the ambient air concentrations. For emissions that originate from stacks or tailpipes, the quantification can be done with a fair degree of accuracy. For emissions that originate from other than a primary exhaust system, such as through a plant's doors, windows, leaks in equipment, and so forth, the quantification is far more difficulat. Such emissions are commonly called fugitive emissions. Fugitive emissions are difficult to quantify accurately since they are dependent on a wide range of site-specific parameters, such as the lead content of the raw materials used in the process; number and size of open windows, doors and vent; wind speed and direction; rainfall; and so on—factors other than process throughput or production rates.

Furthermore, there has not been much lead air quality data gathered around sources of these fugitive emissions. Also, there have never been any specific requirements in the regulations that apply to SIP's for requiring such data to be collected around individual sources. Consequently, there is little accurate information concerning the amounts of fugitive emissions and the ambient air lead levels in the vicinity of sources of large amounts of lead emissions. EPA's assessments of the environmental and economic impacts of the lead NAAQS' *1,2* indicate that several categories of sources that emit predominantly fugitive lead emissions have the potential for the greatest air quality impacts. The categories of concern are primary and secondary lead smelters and primary copper smelters.

NATURE OF PROPOSAL

EPA intends to propose regulations to enable the States and EPA to obtain an air quality data base needed to determine compliance with the NAAQS' around sources in the abovementioned categories. The regulation would require the subject sources to establish an operate an air quality monitoring system in the vicinity of the sources. If the ambient data reveals tht concentrations are not as high as had originally been predicted when the State developed its initial lead SIP, and the source has not yet implemented the control called for in that SIP, the State may wish to revise its SIP to require less stringent control, thereby requiring a lesser burden on the source. Conversely, if the ambient data reveals that concentrations greater than the NAAQS occur after the control strategy in the SIP has been implemented, EPA could require the State to revise the SIP to require additional control of the sources.

The regulations would require that the method of sample collection be the reference method as defined in 40 CFR Part 50; this method is the high-volume sampler. No other collection methods woud be allowed for monitoring in the vicinity of point sources, since it appears that other samplers would not sample the same quantity of larger particles that the high-volume sampler would collect. The analysis method could be the reference method or an equivalent method as defined in 40 CFR Part 50. The sources would also have to obtain certain meteorological data to properly locate the samplers.

EPA intends to restrict this requirement only to primary and secondary lead smelters and primary copper smelters because EPA modeling studies (*3*) of the six major lead point source categories (the other three being gasoline additive plants, lead-acid battery manufacturing plants, and gray iron foundries) indicate that these three categories have a potential for an air quality impact that far esceeds that of the sources in the other categories.

EPA would require the States to place the requirement for monitoring directly on the source owners and operators, using the authority of section 114(a)(1)(C) of the Clean Air Act. This section authorizes the Administrator to require any source subject to a requirement of the Act to "* * * install, use, and maintain such monitoring equipment or methods * * *" The implementation plan would have to require the source owners or operators to periodically report a summary of the data to the States and EPA. The data would then be used to determine whether a future plan revision is indicated.

The amount of ambient point source monitoring needed would vary and depend on the number of emission points at the source, the emission patterns, the topography, and the meteorology. EPA will develop a guidance manual on the number, siting, and operation of monitors around point sources. EPA estimates that the guidance will recommend that a network of about five samplers be placed in the vicinity of each source to which the regulation applies. States would have 9 months after the promulgation of this requirement to revise their lead implementation plans to require the monitoring around the selected point sources. The sampling network would then have to be in place within 1 year after the date required for submission of the plan revision to account for this requirement if sufficient meteorological data were available for use in siting the monitors. If the meteorological data were not available, the source may have to collect a year's worth of data before siting the air quality monitors.

EPA solicits comments on any issues concerning the intended proposed rulemaking and particularly solicits comments on the following topics:

The need for the requirement for ambient monitoring in the vicinity of the lead point sources mentioned above or alternatives to this requirement that will accomplish the objective of obtaining more accurate data concerning these sources.

Other sources around which EPA should require ambient monitoring.

The criteria for the number, operation, and location of the samplers.

The criteria for the length of period of each sampler, sampling frequency, and duration of the existence of the sampling system.

Procedures for accounting for other sources in the vicinity of the source, including roadways.

Procedures for accounting for complex topography.

Procedures for accounting for meteorological conditions and obtaining meteorological data.

Procedures for accounting for the nature and magnitude of fugitive emissions.

Procedures for accounting for background concentrations.

Procedures for accounting for source configuration.

Procedures for reporting the collected data to the State and EPA.

The time allowed for revision of the State implementation plan to account for the requirement.

Time allowed for compliance with the requirement contained in the implementation plan.

Whether the burden of responsibility should lie with the State agency or with the source.

The cost to the States or the sources for compliance with these requirements.

EPA intends to propose rulemaking on this matter by December 1978, and intends to make available for public review at the same time a draft of the detailed guidance on ambient lead monitoring in the vicinity of lead point sources.

FUGITIVE EMISSION FACTORS

Also, EPA intends to develop more accurate emission factors that relate the operation of a source to the amount of fugitie emissions the source generates. These factors will not be available, however, until some time after the States must submit their implementation plans. Therefore, the States will have to rely on available fugitive emission factors to perform their air quality analyses in support of their implementation plans or develop their own factors based on any data that may be available, such as emission factors for total particulate matter and information concerning the lead content of that particulate matter.

Alternatively, States could develop their own emission factors based on field studies. There are several methods for doing this. (*3,4,5*)

After EPA develops emission factors for fugitive lead emissions, States could then determine whether their initially developed plans require too much or too little control; they could then make any necessary adjustments to their implementation plans through revisions of those plans. The initial plan could require that sources phase in their control fairly slowly so that significant resources are not expended by the sources before EPA develops its fugitive emission factors.

REFERENCES

1. National Ambient Air Quality Standard for Lead: Final Draft: Environmental Impact Statement. U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. July 1978.

2. Economic Impact Assessment for the National Ambient Air Quality Standard for Lead and the Economic Implications of a Quarterly Mean Averaging Time for the Lead National Ambient Air Quality Standard. U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Rsearch Triangle Park, N.C. June 1978.

3. Technical Manual for the Measurement of Fugitive Emissions: Upwind-Downwind Sampling Method for Industrial Fugitive Emissions. U.S. Environmental Protection Agency, Industrial and Environmental Research Laboratory, Research Triangle Park, N.C. April 1976. Publication No. EPA-600/1-76-089a.

4. Technical Manual for the Measurement of Fugitive Emissions: Roof Monitor Sampling Method for Industrial Fugitive Emissions. U.S. Environmental Protection Agency, Industrial and Environmental Research Laboratory, Research Triange Park, N.C. May 1976. Publication No. EPA-600/2-78-089b.

5. Technical Manual for Measurement of Fugitive Emissions: Quasi-Stack Sampling Method for Industrial Fugitive Emissions. U.S. Environmental Protection Agency, Industrial and Environmental Research Laboratory, Research Triangle Park, N.C. May 1976. Publication No. EPA-600/a-76-089c.

(Secs. 110, 114(a)(1), and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7417, and 7601).)

Dated: September 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-28053 Filed 10-4-78; 8:45 am]

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federal register

THURSDAY, OCTOBER 5, 1978
PART V



INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

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INFORMATION SECURITY OVERSIGHT OFFICE

National Security Information

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[6820-27]

Title 32—National Defense

CHAPTER XX—INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

[Directive No. 1]

INFORMATION SECURITY OVERSIGHT OFFICE

National Security Information

AGENCY: Interagency Classification Review Committee (ICRC).

ACTION: Implementing directive.

SUMMARY: The Interagency Classification Review Committee is publishing this directive to implement Executive Order 12065, relating to the classification, downgrading, declassification and safeguarding of national security information. This directive was approved by the National Security Council for publication and issuance on September 29, 1978. The Executive order is intended to increase openness in Government by limiting classification and accelerating declassification but at the same time, providing improved protection against unauthorized disclosure for that information that requires such protection in the interest of national security. This directive sets forth guidelines to agencies on original and derivative classification, downgrading, declassification and safeguarding of national security information.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert W. Wells, Executive Director, ICRC, Telephone: 202-724-1578.

SUPPLEMENTARY INFORMATION: This directive is issued pursuant to the provisions of section 6-204 of Executive Order 12065. The purpose of the directive is to assist in the implementation of Executive Order 12065, and users of the directive shall refer concurrently to the Executive order for guidance.

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I. ORIGINAL CLASSIFICATION

A. *Definition.* "Original classification" as used in the order means an initial determination that information requires protection against unauthorized disclosure in the interest of national security, and a designation of the level of classification (1).[1]

B. *Classification authority.* In the absence of an authorized classifier, anyone designated to act in that person's absence may exercise the classifier's authority (1-204).

C. *Request for classification authority.* Requests for original classification authority for agencies not listed in section 1-2 of the order shall be submitted to the President through the Information Security Oversight Office. Requests shall include: (1) The designation of the officials for whom or positions for which authority is sought, (2) the level of authority requested, and (3) the justification for such requests, including a description of the type of information that is anticipated to require original classification (1-2).

D. *Record requirements.* Agencies and officials granted original classification authority pursuant to section 1-2 of the order shall maintain a current listing, by classification designation, of individuals to whom or positions to which original classification authority has been delegated (1-2).

E. *Classification procedure.* Except as provided in section 1-303 of the order, the fact that the information concerns one or more of the qualifying criteria or categories of information shall not create any presumption as to whether the information meets the damage tests (1-302 and 1-303).

F. *Foreign government information.*—1. *Identification.* "Foreign government information" is:

a. Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or

b. Information produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments requiring that either the information or the arrangement, or both, be kept in confidence. Such a written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record (1-303 and 6-103).

2. *Duration of classification.* Unless the guidelines developed pursuant to section 3-404 of the order or other guidelines prescribe dates or events for declassification or for review for declassification:

a. Foreign government information shall not be assigned a date or event for automatic declassification unless such is specified or agreed to by the foreign government or international organization of governments.

b. Foreign government information classified after the effective date of the order shall be assigned a date for review for declassification up to 30 years from the time the information was classified or acquired. (1-402 and 3-404).

G. *Standard identification and markings.* At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

1. *Identity of classifier.* The identity of the classifier, unless also the signer or approver of the document, shall be shown on a "classified by" line; e.g., "Classified by John Doe" or "Classified by Director, XXX" (1-501(a)).

2. *Date of classification and office of origin.* The date and office of origin on a document at the time of its origination may be considered the date of classification and identification of the office of origin (1-501(b)).

3. *Date or event for declassification or review.* The date for automatic declassification or for declassification review shall be shown on a "declassify on" or a "review for declassification on" line; e.g., "Declassify on 1 November 1984," "Declassify on completion of State visit," or "Review for declassification on 1 November 1998" (1-501(c)).

4. *Downgrading markings.* When it is determined (e.g., in a classification guide) that a classified document should be downgraded automatically

[1] Parenthetical references are to related sections of Executive Order 12065.

at a certain date or upon a certain event, that date or event shall be recorded on the face of the document; e.g., "Downgraded to Secret on 1 November 1990" or "Downgraded to Confidential on 1 December 1985" (1-5).

5. *Identity of extension authority.* The identity of the official who authorizes a date for declassification or for review for declassification that is more than 6 years beyond the date of the document's classification shall be shown on the document, unless that official also is the classifier, signer, or approver of the document. This marking shall be shown substantially as follows: "Extended by (Insert name or title of position of agency head or Top Secret classification authority)" (1-502).

6. *Reason for extension.* When classification is extended beyond 6 years, the reason shall be stated on the document either in narrative form or by reference to an agency regulation that states the reason for extension in narrative form. The reason shall be shown substantially as follows: "Reason for extension: (State reason or applicable reference)" (1-502).

7. *Overall and page marking of documents.* The overall classification of a document shall be marked, stamped, or affixed permanently at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when appropriate, or according to the highest overall classification of the document. In any case, the classification marking of the page shall not supersede the classification marking of portions of the page marked with lower levels of classification (1-501(d)).

8. *Subject and titles.* Whenever practicable, subjects and titles shall be selected so as not to require classification. When the subject or title is classified, an unclassified identifier may be assigned to facilitate receipting and reference (1-5).

9. *Mandatory portion marking.* Classifiers shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. Portion marking shall be accomplished by placing a parenthetical designator immediately preceding or following the text that it governs. The symbols "(TS)" for top secret, "(S)" for secret, "(C)" for confidential, and "(U)" for unclassified shall be used for this purpose. If individual portion marking is impracticable, the document shall contain a description sufficient to identify the information that is classified and the level of such classification. A waiver of the portion marking requirement may be granted by the Director of the Information Security Oversight Office. Requests for such waivers shall be made by the head of an agency or designee to the Director and shall include: (a) Identification of the information or classes of documents for which such waiver is sought, (b) a detailed explanation of why the waiver should be granted, (c) the agency's best judgment as to the anticipated dissemination of the information or class of documents for which waiver is sought, and (d) the extent to which the information subject to the waiver may form a basis for classification of other documents (1-504).

10. *Material other than documents.* The classification and associated markings prescribed by this directive of documents shall, where practicable, be affixed to material other than documents by stamping, tagging, or other means. If this is not practicable, recipients shall be made aware of the classification and associated markings by notification or other means as prescribed by the agency (1-5).

11. *Transmittal documents.* A transmittal document shall indicate on its face the highest classification of the information transmitted by it and the classification, if any, of the transmittal document. For example, an unclassified transmittal document should bear a notation substantially as follows: "Unclassified When Classified Enclosure is Detached" (1-5).

12. *Marking foreign government information.* Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practicable, be identified in such manner as to ensure that the foreign government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments shall, if the foreign classification is not in English, be marked with the equivalent U.S. classification. Foreign government information not classified by a foreign government or an international organization of governments but provided to the United States in confidence by a foreign government or by an international organization of governments shall be classified at an appropriate level and shall be marked with the U.S. classification accordingly (1-5).

H. *Additional markings required.* In addition to the marking requirements in paragraph G, the following markings shall, as appropriate, be displayed prominently on classified information. When display of these additional markings is not practicable, their applicability to the information shall be included in the written notification of the assigned classification (1-5).

1. *Restricted data or formerly restricted data.* For classified information containing restricted data or formerly restricted data as defined in the Atomic Energy Act of 1954, as amended, such markings as may be prescribed by the Department of Energy in regulations issued pursuant to the act shall be applied.

2. *Intelligence sources and methods information.* For classified information involving intelligence sources or methods: "Warning Notice—Intelligence Sources and Methods Involved".

3. *Dissemination and reproduction notice.* For classified information that the originator has determined, pursuant to section 1-506 of the order, should be subject to special dissemination or reproduction limitations, or both, a statement placing the user on notice of the restrictions shall be included in the text of the document or on its cover sheet; e.g., "Reproduction requires approval of originator," or "Further dissemination only as directed by (Insert appropriate office or official)" (1-506).

I. *Abbreviations.* Classified documents that are transmitted electrically may be marked with abbreviations or codes in a single line to satisfy the requirements of each subsection of paragraphs G and H in a manner consistent with economic and efficient use of electrical transmission systems, provided that the full text represented by each such abbreviation or code and its relation to each subsection of paragraphs G and H is readily available to each expected user of the classified documents affected.

II. DERIVATIVE CLASSIFICATION

A. *Definition.* "Derivative classification" as used in the order means a determination that information is in substance the same as information that is currently classified, and a designation of the level of classification (2-1).

B. *Responsibility.* Derivative application of classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized classifier or in accordance with an authorized classification guide. Persons who apply derivative classification markings should take care to determine whether their paraphrasing, restating, or summarizing of classified information has removed the basis for classification. Where checks with originators or other appropriate inquiries show that

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no classification or a lower classification than originally assigned is appropriate, the derivative document shall be issued as unclassified or shall be marked appropriately (2-101 and 2-102).

C. *Marking derivatively classified documents.* Paper copies of derivatively classified documents shall be marked at the time of origination as follows:

1. The classification authority shall be shown on a "classified by" line; e.g., "Classified by (Insert identity of classification guide)" or "Classified by (Insert source of original classification)." If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each such source is maintained with the file or record copy of the document (2-102(c));

2. The identity of the office originating the derivatively classified document shall be shown on the face of the document (2-102);

3. Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information (2-102(c));

4. The classification marking provisions of sections I.G. 7 through 9 and I.G. 12 are also applicable to derivatively classified documents (2-102(c));

5. Any additional marking under section I.H. of this directive appearing on the source material shall be carried forward to the new material when appropriate (2-102(c)); and

6. Any abbreviation or code permitted under section I. I. of this directive may be applied to derivatively classified documents.

D. *Classification guides.*—1. *Requirements.* Classification guides issued pursuant to section 2-2 of the order shall:

a. Identify the information to be protected, using categorization to the extent necessary to insure that the information involved can be identified readily and uniformly (2-201);

b. State which of the classification designations (i.e., top secret, secret, or confidential) applies to the information (2-201);

c. State the duration of classification in terms of a period of time or future event. When such duration is to exceed 6 years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination, those reasons need be recorded only on or with the record copy of the guide (2-201); and

d. Indicate how the designations, time limits, markings, and other requirements of the order and this directive are to be applied, or make specific reference to agency regulations that provide for such application (2-201).

2. *Review and record requirements.* Each classification guide shall be kept current and shall be reviewed at least once every 2 years. Each agency shall maintain a list of all its classification guides in current use (2-2).

III. Declassification and Downgrading

A. *Record requirements.* Agencies and officials granted original classification authority pursuant to section 1-2 of the order shall maintain a record of individuals or positions designated as declassification authorities pursuant to section 3-103 of the order (3-103).

B. *Declassification policy.* In making determinations under section 3-303 of the order, officials shall respect the intent of the order to protect foreign government information and confidential foreign sources (3-303).

C. *Systematic Review for Declassification.*—1. *Systematic review guidelines.*

a. *U.S. originated information.* Systematic review guidelines shall be kept current through review at least every 2 years, unless earlier review for revision is requested by the Archivist of the United States (3-402).

b. *Foreign government information.* Within 1 year after the effective date of the order, heads of affected agencies shall, in consultation with the Archivist and in accordance with the provisions of section 3-404 of the order, develop systematic review guidelines for 30-year-old foreign government information. These guidelines shall be kept current through review by agency heads at least once every 2 years, unless earlier review for revision is requested by the Archivist of the United States. A copy of these guidelines and any revisions thereto shall be furnished to the Information Security Oversight Office. Upon request, the Department of State shall provide advice and such assistance as is necessary to effect foreign government coordination of the guidelines (3-404).

2. *Systematic review procedures.*—a. *Scheduling for systematic review.* Classified nonpermanent records that are scheduled to be retained for more than 20 years need not be systematically reviewed but shall be reviewed for declassification upon request. Within 60 days of the effective date of the order, heads of agencies and officials designated by the President pursuant to section 1-2 of the order shall direct that all classified records 20 years old or older, whether held in storage areas by the agency or in Federal records centers, be surveyed to identify those that require scheduling for future disposition. Such scheduling shall be accomplished within 2 years of the effective date of the order (3-401).

b. *Extending classification after review.*—(1) *Foreign government information.* Agency heads listed in section 1-2 and officials designated by the President pursuant to section 1-201 of the order may extend the classification of foreign government information beyond 30 years, but only in accordance with sections 3-3 and 3-404. This authority may not be delegated. When classification is extended beyond 30 years, a date no more than 10 years later shall be set for declassification or for the next review. Subsequent reviews for declassification shall be set at no more than 10-year intervals (3-404).

(2) *Waivers of further review.* Heads of agencies listed in section 1-2 and officials designated by the President pursuant to section 1-201 of the order may request from the Director of the Oversight Office a waiver of the 10-year review requirement for both U.S.-originated and foreign government information. Such requests shall include a personal certification by the agency head that the classified information for which the waiver is sought has been systematically reviewed as required, and that a definitive date for declassification could not be determined. Waivers should not be requested unless the results of the review have established an identifiable need to continue classification for a period in excess of 20 additional years. Each request shall include a recommended date or event for subsequent review or automatic declassification (3-401).

c. *Assistance to the Archivist.*—(1) The head of each agency shall designate experienced personnel to assist the Archivist of the United States in the systematic review of 20-year-old U.S.-originated information and 30-year-old foreign government information accessioned into the National Archives of the United States. Such personnel shall:

(a) Provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification; and

(b) Submit to the head of the agency recommendations for continued classification that identify documents or specific categories of information so separated.

(2) The head of the agency shall then make the determinations personally and in writing required under section 3-401 of the order as to which documents or categories of information require continued protection. The agency shall inform the Archivist of the United States of this determination (3-4).

d. *Special procedures.* Special procedures for systematic review and declassification of classified cryptologic information and classified information concerning the identities of clandestine human agents promulgated in accordance with the provisions of section 3-403 of the order shall be binding on all agencies (3-403).

e. *Foreign relations series.* In order to permit the editors of foreign relations of the United States to meet their mandated goal of publishing 20 years after the event, heads of departments and agencies are requested to assist the editors in the Department of State by facilitating access to appropriate classified materials in their custody and by expediting declassification review of items from their files selected for publication (3-4).

D. *Procedures for mandatory declassification review.*

1. *U.S.-originated information.*—a. *Action on an initial request.* Each Agency shall designate, in its implementing regulations published in the Federal Register, offices to which requests for mandatory review for declassification may be directed. Upon request for declassification pursuant to section 3-5 of the order, agencies shall apply the following procedures:

(1) The designated offices shall acknowledge receipt of the request.

(2) Whenever a request does not reasonably describe the information sought, the requestor shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken (3-501).

b. *Information in the custody of and under the exclusive declassification authority of an agency.* The designated office shall determine whether, under the declassification provisions of section 3-3 of the order, the requested information may be declassified and, if so, shall make such information available to the requestor, unless withholding is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to a designated agency appellate authority (including name, title, and address of such authority), and a notice that such an appeal must be filed with the agency within 60 days in order to be considered (3-501).

c. *Information classified by agencies other than the custodial agency.* When an agency receives a request for information in its custody that was classified by another agency, is shall forward the request to the appropriate agency for review, together with a copy of the document containing the information requested where practicable, and with its recommendation to withhold any of the information where appropriate. Unless the agency that classified the information objects on grounds that its association with the information requires protection, the agency that received the request shall also notify the requestor of the referral. After the agency that classified the information completes its review (in coordination with other agencies that a direct interest in the subject matter), a response shall be sent to the requestor in accordance with the procedures described above. If requested, the agency shall also communicate its determination to the referring agency (3-501).

d. *Action on appeal.* The head of an agency or a designee shall establish procedures to act within 30 days upon all appeals of denials of requests for declassification. These procedures shall provide for meaningful appellate consideration, shall be forwarded to the Oversight Office for review, and shall be published in the Federal Register. In accordance with these procedures, agencies shall determine whether continued classification is required in whole or in part, notify the requestor of the determination, and make available any information that is declassified and otherwise releasable. If continued classification is required under the provisions of section 3-3 of the order, the requestor shall be notified of the reasons therefor. If requested, the agency shall also communicate the appeal determination to any referring agency (3-5 and 5-404(c)).

e. *Fees.* If the request requires the rendering of services for which fair and equitable fees may be charged pursuant ot title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a (1976), such fees may be imposed at the discretion of the agency rendering the services. Schedules of such fees shall be published in the Federal Register (3-501).

2. *Foreign government information.* Except as provided hereinafter, requests for mandatory review for the declassification of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions of section D.1 above. If the agency receiving the request is also the agency that initially received or classified the foreign government information, it shall determine whether the foreign government information in the document may be declassified and released in accordance with agency policy or guidelines, after consulting with other agencies that have subject matter interest as necessary. If the agency receiving the request is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency, which shall take action as described above, including its recommendation to withhold any of the information where appropriate. In those cases where agency policy or guidelines do not apply, consultation with the foreign originator through appropriate channels may be advisable prior to final action on the request (3-5).

IV. Safeguarding

A. *General.* Information classified pursuant to Executive Order 12065 or prior orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification (4-1).

B. *General restrictions on access.*

1. *Determination of need-to-know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in section 4-3 of the order, that access is essential to the accomplishment of official Government duties or contractual obligations (4-101).

2. *Determination of trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by agency heads based upon appropriate investigations in accordance with applicable standards and criteria (4-101).

C. *Access by historical researchers and former Presidential appointees.* Agencies shall obtain: (1) Written agreements from requestors to safeguard the information to which they are given access as permitted by the order and this directive; and (2) written consent to the agency's review of their notes and manuscripts for the purpose of determining that no classified information is contained therein. A determination of trustworthiness is a precondition to a requestor's access. If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requestor shall be so notified and the fees may be imposed (4-3).

D. *Dissemination.* Except as otherwise provided by section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 and Supp. V 1975), classified information originating in one agency may not be disseminated outside any other agency to

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which it has been made available without the consent of the originating agency (4-403).

E. *Accountability procedures.*—1. *Top secret.* Top secret control officers shall be designated to receive, transmit, and maintain current access and accountability records for top secret information. An inventory of top secret documents shall be made at least annually; however, heads of agencies may authorize the annual inventory of top secret documents in repositories, libraries, or activities that store large volumes of such information to be limited to documents to which access has been afforded within the past 12 months. The Director of the Oversight Office may grant a waiver with respect to the requirement of an annual inventory for storage systems involving large volumes of information if security measures with respect to such storage systems are adequate to prevent access by unauthorized persons (4-103).

2. *Secret and confidential.* Secret and confidential classified information shall be subject to such controls and current accountability records as the head of the agency may prescribe (4-103).

F. *Storage.* Classified information shall be stored only in facilities or under conditions adequate to prevent unauthorized persons from gaining access to it (4-103).

11. *Top secret.* Top secret information shall be stored in a GSA-approved, safe-type, steel file cabinet having a built-in, three-position, dial-type combination lock or within an approved vault, or vault-type room, or in other storage facility that meets the standards for top secret established under the pfovisions of subsection 3 below. In addition, heads of agencies shall prescribe such additional, supplementary controls as are deemed appropriate to restrict unauthorized access to areas where such information is stored (4-103).

2. *Secret and confidential.* Secret and confidential information shall be stored in a manner and under the conditions prescribed for top secret information, or in a container or vault that meets the standards for secret or confidential, established pursuant to the provisions of subsections 3 or 4 below (4-103).

3. *Standards for security equipment.* The General Services Administration shall, in coordination with agencies originating classified information, establish and publish uniform standards, specifications, and supply schedules for containers, vaults, alarm systems, and associated security devices suitable for the storage and protection of all categories of classified information. Any agency may establish more stringent standards for its own use. Whenever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, General Services Administration (4-103).

4. *Exception to standards for security equipment.*—a. Secret and confidential information may also be stored in a steel filing cabinet having a built-in, three-position, dial-type, changeable combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a three-position, changeable, combination padlock approved by GSA for the purpose. The storage of secret information in the steel filing cabinets described above requires the use of such supplementary controls as the head of the agency deems necessary to achieve the degree of protection warranted by the sensitivity of the information involved (4-103).

b. For protection of bulky secret and confidential material (for example, weaponry containing classified components) in magazines, strong rooms, or closed areas, access oenings may be secured by changeable combination or key-operated, high-security padlocks approved by GSA. When key-operated padlocks are used, keys shall be controlled in accordance with subsection 6 below (4-103).

5. *Combinations.*—a. *Equipment in service.* Combinations to dial-type locks shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination no longer requires access to the combination, whenever a combination has been subjected to possible compromise, whenever the equipment is taken out of service, and at least once every year. Knowledge of combinations protecting classified information shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned (4-103).

B. *Equipment out of service.* When security equipment having a built-in combination lock is taken out of service, the lock shall be reset to the standard combination 50-25-50. Combination padlocks shall be reset to the standard combination 10-20-30 (4-103).

6. *Keys.* Heads of agencies shall establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the classified information being protected. Under no circumstances may keys be removed from the premises. They shall be stored in a secure container (4-103).

7. *Responsibilities of custodians.* Persons entrusted with classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures that insure unauthorized persons do not gain access to classified information (4-103).

8. *Inspections.* Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. Agency security officers shall insure that periodic inspections are made to determine whether procedural safeguards prescribed by agency regulations are in effect at all times (4-103).

G. *Transmittal.*—1. *Preparation and receipting.* Classified information shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender. Any of these wrapping and receipting requirements may be waived by agency heads under conditions that will provide adequate protection and prevent access by unauthorized persons (4-103).

2. *Transmittal of top secret.* The transmittal of top secret information shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system specially created for that purpose, or over authorized secure communications circuits (4-103).

3. *Transmittal of secret.* The transmittal of secret material shall be effected in the following manner:

a. *The 50 States, District of Columbia, and Puerto Rico.* Secret information may be transmitted within and between the 50 States, District of Columbia, and Puerto Rico by one of the means authorized for top secret information, by the U.S. Postal Service registered mail, or by protective services provided by U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the agency concerned (4-103).

b. *Canadian Government Installations.* Secret information may be transmitted to and between United States Government and Canadian Government installations in the 50 States, the District of Columbia, and Canada by United States and Canadian registered mail with registered mail receipt (4-103).

c. *Other areas.* Secret information may be transmitted from, to, or within areas other than those specified in subsections a or b above by one of the means established for top secret information, or by U.S. registered mail through Army, Navy, or Air Force Postal Service facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government and U.S. Government contract vehicles or aircraft, ships of the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately cleared may be designated as escorts (4-103).

4. *Transmittal of confidential information.* Confidential information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by U.S. Postal Service certified, first class, or express mail service when prescribed by an agency head. Outside these areas, confidential information shall be transmitted only as is authorized for higher classifications (4-103).

H. *Loss or possible compromise.* Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to an official designated by the agency or organization. In turn, the orginating agency shall be notified about the loss or compromise in order that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of such a compromise. An immediate inquiry shall be initiated by the agency under whose cognizance the loss or compromise occurred, for the purpose of taking corrective measures and appropriate administrative, disciplinary, or legal action (4-103).

I. *Destruction.* Nonrecord classified information that has served its intended purpose shall be destroyed in accordance with procedures and methods approved by the head of the agency. The method of destruction selected must preclude recognition or reconstruction of the classified information or material (4-103).

V. Implementation and Review

Challenges to classification. Agency programs established to implement the order shall encourage holders of classified information to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. These programs shall provide for action on such challenges or appeals relating thereto within 30 days of receipt and for notification to the challenger of the results. When requested, anonymity of the challenger shall be preserved (5-404(d)).

VI. General Provisions

A. *Notification.* Notification of unscheduled changes in classification or changes in duration of classification may be by general rather than specific notice (4-102).

B. *Posted notice.* If prompt remarking of large quantities of information would be unduly burdensome, the custodian may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, and the storage units to which it applies. Items permanently withdrawn from such storage units shall be marked promptly in accordance with the marking provisions herein. However, when information subject to a posted downgrading, upgrading, or declassification notice is withdrawn from one storage unit solely for transfer to another, or a storage unit containing such information is transferred from one place to another, the transfer may be made without marking if the notice is attached to or remains with each shipment (4-102).

C. *Downgrading, declassification, and upgrading markings.* Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled when practicable (4-102).

D. *Combat operations.* The provisions of the order and this Directive with regard to dissemination, transmittal, or safeguarding of classified information may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe (4-103).

E. *Publication and effective date.* This directive shall be published in the Federal Register. It shall become effective December 1, 1978 (6-204).

James B. Rhoads,
Acting Chairman, Interagency Classification Review Committee.

October 2, 1978.

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ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518–474–5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214–749–2131.

FORT WORTH, TEXAS

WHEN: October 31, 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817–334–3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 1008, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512–475–6725.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service under schedule A all staff positions of the President's Commission On World Hunger with the provision that no one may serve under this authority after June 30, 1980, or earlier as directed by the President. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199 (1) is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * * *

(l) *President's Commission On World Hunger.* (1) All positions on the staff of the President's Commission On World Hunger. No one may serve under this authority after June 30, 1980, or earlier as directed by the President.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27938 Filed 10-5-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The title of the Schedule A Merchant Marine Academy position of Assistant Dean is changed to Associate Dean to conform with the title of similar positions at other service academies.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3114(h)(11) is amended as follows:

§ 213.3114 Department of Commerce.

* * * * * *

(h) *Maritime Academy.* * * *

(11) U.S. Merchant Marine Academy positions of: Superintendent, Special Assistant to the Superintendent; Assistant Superintendent for Planning and Administration; Dean; Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; and three Academy Training Representatives.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27939 Filed 10-5-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant Director of Literature Programs is excepted under schedule A until September 30, 1980, in the National Endowment for the Arts because examination is impracticable for this position.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3182(a)(8) is added as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* * * *

(8) Until September 30, 1980, one position of Assistant Director of Literature Programs.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28210 Filed 10-5-78; 8:45 am]

[6325-01]

PART 539—CONVERSIONS BETWEEN PAY SYSTEMS

Transfer of Functions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following amendments correct editorial oversights to (1) correct the title of Subpart B of Part 539, which covers conversions to the General Schedule, and (2) clarify that, for an employee who has been converted with his or her position to the General Schedule from another pay system, a subsequent movement to another agency as a result of a transfer of function does not terminate or defeat the employee's eligibility for saved pay. This protection in transfers of function is substantially the same as § 531.510 of Part 531, dealing with salary retention after reductions in grade. This clarification of the original protective intent of the conversion regulations is particularly necessary and appropriate at this time because a number of employees whose pay is currently based on Part 539 are now being transferred to another agency as

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a result of Government reorganization.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry A. Wolf, 202-632-6553, Bureau of Policies and Standards, Technical Services Staff, Room 3351, 1900 E Street NW., Washington, D.C. 20415.

Accordingly, the headnote of 5 CFR Part 539, Subpart B, is amended and § 539.204 is added as set out below:

Subpart B—Conversions to General Schedule

* * * * *

§ 539.204 Transfer of functions.

The movement of an employee with his or her function in a transfer of function between agencies does not terminate or defeat the employee's eligibility for saved pay in determining whether he or she remained "in the same agency," as required by § 539.203(d).

(5 U.S.C. 5334, 5338)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28209 Filed 10-5-78; 8:45 am]

[6325-01]

PART 550—PAY ADMINISTRATION (GENERAL)

Adjustment of Work Schedules for Religious Observances

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following amendments are issued pursuant to title IV of Pub. L. 95-390, enacted September 29, 1978. Under the law and these regulations an employee of an executive agency may elect to work compensatory overtime for the purpose of taking compensatory time off because of religious obligations when an employee's personal religious beliefs require that the employee abstain from work during certain periods. A Federal agency may, under appropriate regulations, disapprove such modifications in work schedules if they interfere with the efficient accomplishment of an agency's mission. The Civil Service Commission is responsible for promulgating regulations for implementation of title IV of the act for executive agencies no later than 30 days after enactment. Because of this requirement, and in view of the President's wish that regulations be issued immediately due to the imminence of religious holidays, we could not delay the effective date to allow for proposed rulemaking and public procedures. Development of subsequent regulations will be made subject to public participation. The following regulations are interim regulations.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwight W. Brown, Room 3353, Office of Leave and Pay Administration Policy, Bureau of Policies and Standards, 1900 E Street NW., Washington, D.C. 20415, area code 202-632-5604.

Accordingly, 5 CFR part 550 is amended by adding subpart J as follows:

* * * * *

Subpart J—Adjustment of Work Schedules for Religious Observances

Sec.
550.1001 Coverage.
550.1002 Compensatory time off for religious observances.

AUTHORITY: 5 U.S.C. 5550a

Subpart J—Adjustment of Work Schedules for Religious Observances

§ 550.1001 Coverage.

This subpart applies to each employee in or under an executive agency as defined by section 105 of title 5, United States Code.

§ 550.1002 Compensatory time off for religious observances.

(a) These interim regulations are issued pursuant to title IV of Pub. L. 95-390, enacted September 29, 1978. Under the law and these regulations, an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in overtime work for time lost for meeting those religious requirements.

(b) To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, the agency shall in each instance afford the employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee requesting such time off for religious observances when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.

(c) For the purpose stated in paragraph (b) of this section, the employee may work such compensatory overtime before or after the grant of compensatory time off. A grant of advanced compensatory time off should be repaid by the appropriate amount of compensatory overtime work within a reasonable amount of time. Compensatory overtime shall be credited to an employee on an hour for hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory overtime earned and used.

(d) The premium pay provisions for overtime work in subpart A of part 550 of title 5, Code of Federal Regulations, and section 7 of the Fair Labor Standards Act of 1938, as amended, do not apply to compensatory overtime work performed by an employee for this purpose.

(e) These interim regulations shall remain in effect until superseded by further regulations on this subject by the Civil Service Commission.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28218 Filed 10-5-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 167]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 8-14, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION:

FINDINGS

Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 3, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good for sizes 140's and larger but easier on sizes 200's and 235's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.467 Lemon Regulation 167.

ORDER

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 8, 1978, through October 14, 1978, is established at 215,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 5, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28580 Filed 10-5-78; 11:43 am]

[3410-02]

PART 1201—TYPE 62 SHADE-GROWN CIGAR-LEAF TOBACCO GROWN IN DESIGNATED PRODUCTION AREA OF FLORIDA AND GEORGIA

Order Terminating Remaining Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Order terminating remaining provisions.

SUMMARY: This order terminates the remaining provisions of marketing agreement and order No. 195, as amended (7 CFR part 1201) regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Florida and Georgia. This order is being terminated at the request of the Control Committee because the order no longer is needed to effectuate the policy of the Act.

DATE: Effective October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2097.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Proposed rule: Issued September 16, 1977, published September 22, 1977 (42 FR 47848); order terminating marketing agreement and order, as amended: Issued January 12, 1978, published January 18, 1978 (43 FR 2627).

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) hereinafter referred to as the "Act," and of the marketing agreement and order regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Georgia and Florida (7 CFR part 1201), it is hereby found and determined that:

(a) The following remaining provisions of the marketing agreement and order no longer tend to effectuate the declared policy of the Act: Section 1201.71 (Proceedings after termination).

On January 12, 1978, the Secretary terminated all the provisions of this marketing agreement and order except § 1201.71 relating to proceedings after termination of the order. In that termination order the Secretary ordered that the Control Committee continue as trustees for the purpose of liquidating the affairs of the Committee. Since that time, the Committee has wound up its affairs by distributing the assessment funds collected prior to June 3, 1973 (the date on which the program became inactive) pro rata, to growers qualified to receive such funds, after deducting audit and postage expenses. Accordingly, the function of liquidating the affairs of the Control Committee has been completed.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in view of the fact that all affected parties have been fully notified of the termination proceeding and have had sufficient opportunity to make their views known to the Secretary.

It is therefore ordered, That the remaining provisions of order No. 195, § 1201.71, regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Georgia and Florida (7 CFR part 1201), are hereby terminated and part 1201 is vacated effective on or after October 31, 1978, subject, however, to the following condition: That such termination of the remaining provisions of that order shall not affect or waive any right, obligation, duty, or liability under the agreement or order which shall have arisen under these provisions or the regulations issued thereunder prior to February 1, 1978, or release or extinguish any violation of these provisions of the regulations issued thereunder, or affect or impair any right or remedies of the Secretary, or any other person, with respect to any such violation that has arisen or occurred or which may arise or occur prior to the time that the termination of such remaining provisions become effective.

Dated: October 3, 1978.

P. R. "BOBBY" SMITH,
Assistant Secreary for Marketing Services.

[FR Doc. 78-28301 Filed 10-5-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

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SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

[FmHA Instruction 1904-C]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Subpart C—Farmer Program Loans

EMERGENCY LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is amending its emergency loan regulation to comply with recent legislation. This action sets forth the interest rate for actual loss loans made as a result of disasters occurring before October 1, 1978, and approved on or after October 1, 1978; and the interest rate for actual loss loans made as a result of disasters occurring on or after October 1, 1978. The amount of actual loss loan which may be made to any one applicant based on disasters occurring before October 1, 1978, and approved after that date has been limited to a maximum of $250,000.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

James E. Lee, Director, Emergency Loan Division, phone 202-447-6257.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1904.170 (b)(2) and (e) (1) and (2) of Subpart C to Part 1904, Chapter XVIII, Title 7, in the Code of Federal Regulations. The interest rates published in this amendment are authorized by the Agricultural Credit Act of 1978, and are consistent to the extent possible with the interest rates which the Small Business Administration will charge farmers and ranchers for similar loans based on disasters occurring before October 1, 1978. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is being made to comply with recent legislation. Therefore, notice of proposed rulemaking and public procedure thereon are unnecessary. Accordingly, §§1904.170 (e)(1)(ii) (A) and (B) are deleted and §§ 1904.170 (b)(2) and (e) (1) and (2) are amended and read as follows:

§ 1904.170 Emergency loans.

* * * * *

(b) *Eligibility.* (1) * * *

(2) No ceiling has been established on the size of operations that may be financed with EM loans nor on the dollar limit of loans which may be made, except that actual loss loans based on disasters occurring on or after July 1, 1978, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or $250,000 for any one authorized or declared disaster. Therefore, subject to the eligibility requirements and other provisions of this regulation, EM loans may be made to finance larger than family farm operations.

* * * * *

(e) *Rates and terms.*—(1) *Interest rates.* * * *

(i) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, all actual loss loans (physical and production) approved on or after October 1, 1978, will be at 3 percent interest with a maximum loss loan limitation of $250,000.

(ii) For disasters occurring on or after October 1, 1978, all actual loss loans (physical and production) will be at 5 percent interest and limited to the amount of the actual dollar loss.

* * * * *

(2) *Establishing repayment terms and delay of principal payments.* EM actual loss loans made at the 1, 3, and 5 percent interest rates and approved before October 1, 1978, will be scheduled for repayment so that principal and interest on that portion of the loan bearing the lowest interest rate will mature before principal payments are scheduled for portions of the loan bearing higher rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM loans for other than actual losses.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-28379 Filed 10-5-78; 8:45 am]

[3410-07]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-B]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart B—Farmer Program Loans

EMERGENCY LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is amending its guaranteed emergency loan regulation to comply with recent legislation. This action sets forth the interest rate for loss loans guaranteed as a result of disasters occurring before October 1, 1978, and approved on or after October 1, 1978; and the interest rate for loss loans guaranteed as a result of disasters occurring on or after October 1, 1978. The amount of actual loss loans which may be made to any one applicant based on disasters occurring before October 1, 1978, and approved after that date has been limited to a maximum of $250,000.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

James E. Lee, Director, Emergency Loan Division, phone 202-447-6257.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1980.170 paragraphs (a), (d)(1)(i) and (e) (1) and (2) of Subpart B to Part 1980, Chapter XVIII, Title 7, in the Code of Federal Regulations. The interest rates published in this amendment are authorized by the Agricultural Credit Act of 1978, and are consistent to the extent possible with the interest rates which the Small Business Administration will charge farmers and ranchers for similar loans based on disasters occurring before October 1, 1978. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is being made to comply with recent legislation. Therefore, notice of proposed rulemaking and public procedure thereon are unnecessary. Accordingly, paragraphs

1980.170(e)(1)(i), (ii) (A) and (B) are deleted and §§ 1980.170 paragraphs (a), (d)(1)(i), and (ii), (e)(1) (i) and (e)(2) are amended to read as follows:

§ 1980.170 Emergency loans.

* * * * *

(a) *Objectives.* The basic objectives of EM loan guarantees are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the dollar limit of loans which may be made, except that actual loss loans based on disasters occurring on or after July 1, 1976, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or $250,000 for any one authorized or declared disaster.

* * * * *

(d) *Loan purposes.* * * *

(1) *Actual loss loans.* (i) Loans may be made to applicants for the amount of actual losses and expenses for disaster damaged or destroyed farm property, or production enterprises or both resulting from the disaster, except that actual loss loans based on disasters occurring on or after July 1, 1976, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or $250,000 for any one authorized or declared disaster. Actual loss loan funds may be used for any authorized EM loan purpose. Applications for actual losses must be processed within 1 calendar year after they are filed.

* * * * *

(e) *Interest rates and terms.*—(1) *Interest rates.* * * *

(i) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, all actual loss loans (physical and production) approved on or after October 1, 1978, will be at 3-percent interest with a maximum loss loan limitation of $250,000.

(ii) For disasters occurring on or after October 1, 1978, all actual loss loans (physical and production) will be at 5-percent interest and limited to the amount of the actual dollar loss.

* * * * *

(2) *Establishing repayment terms and delay of principal payments.* EM actual loss loans made at the 1-, 3-, and 5-percent interest rates and approved before October 1, 1978, will be scheduled for repayment so that principal and interest on that portion of the loan bearing the lowest interest rate will mature before principal payments are scheduled for portions of the loan bearing higher rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM loans for other than actual losses.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-28378 Filed 10-5-78; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document adjusts the rates charged for inspection and grading service to reflect recently announced Federal employees' salary increase and deletes the overtime surcharge to plants operating under a full-time year-round, inspection contract.

EFFECTIVE DATE: October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Jacob J. Vollman, Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4693.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 authorizes the official inspection, grading, and certification of processed fruits, vegetables, processed products thereof, and certain other processed food products. Such service is voluntary and is made available upon request of financially interested parties and upon payment of a fee. The Act requires the fees to be reasonable and, as nearly as possible, to cover the cost of rendering the service.

The rising cost of maintaining the inspection service has made it necessary to adjust inspection and grading fees. These adjustments will compensate for 1978 increases in Government employee salaries as authorized by Congress, as well as increased personnel benefits resulting therefrom.

Accordingly, sections 2852.42 and 2852.52—Schedule of Fees and Charges for Inspection on a Contract Basis—are being revised to recover the increased costs.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621-1627), §§ 2852.42, 2852.52(c); and 2852.52(d) are hereby amended to read as follows:

§ 2852.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, including analyses specified in § 2852.47, shall be at the rate of $20.80 per hour plus an additional $5 per hour for all scheduled overtime hours.

* * * * *

§ 2852.52 Charges for inspection services on a contract basis.

* * * * *

(c) Charges for year-round inplant inspection services on a contract basis will be charged to the applicant at least monthly for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned on a year-round basis: Each inspector—$16 per hour.

(2) For personnel assigned on less than a year-round basis: Each inspector—$18.50 per hour. Each subordinate inspector on the same shift with an inspector—$13.50 per hour.

(3) *Travel expense.* No reporting charge will be made for regular full-time inspection personnel assigned on a year-round basis. Per diem and/or mileage will be charged when paid to

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each inspector assigned on less than a year-round basis.

(4) *Holiday pay.* • • •

(5) *Night differential.* • • •

(6) *Overtime.* All overtime hours will be charged at the regular rates specified in (c) (1) and (2) of this section.

(d) Charges for less than year-round inplant inspection services on a contract basis will be billed to the applicant at least monthly for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule: (1) Each inspector—$23.

• • • • •

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than October 8, 1978 (5 U.S.C. 553), are impractical, unnecessary, and contrary to the public interest in that: (1) The Agricultural Marketing Act of 1946 provides that the fees charged be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) The increase in fee rates set forth herein are necessary to more nearly cover such cost including, but not limited to, Federal employee salary adjustments, and (3) Additional time is not required by the users of the inspection service to comply with the amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended. 1090, as amended (7 U.S.C. 1622, 1624).)

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated to become effective at 12:01 a.m., October 8, 1978.

Done at Washington, D.C. on October 4, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-28526 Filed 10-5-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Distribution of Applications and Environmental Statements to Local Officials

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to provide for notice to the chief executives of the appropriate alternative municipalities or counties which have been identified in the application or environmental report as alternative sites for nuclear facilities or activities. The notice will include a brief description of, and other pertinent information regarding, the site and facility proposed or alternatively listed. The notice will include a statement that if a request is received from the appropriate chief executive of the alternative site, a copy of the application or environmental report, and any changes to such documents which affect the alternative site location, will be transmitted to the executive who makes the request. This amendment will assure that local officials of communities which are preferred or alternative sites for nuclear facilities are notified at the same time the initial application or environmental report is submitted to the Commission.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7086.

SUPPLEMENTARY INFORMATION: By letter dated July 7, 1976, the township of Lower Alloways Creek, N.J., filed with the Nuclear Regulatory Commission a petition for rulemaking to amend 10 CFR 2.101 and 10 CFR 51.24 of the Commission's regulations.

In response to the petition for rulemaking PRM-51-2 the Commission published a notice of proposed rulemaking in the FEDERAL REGISTER on January 17, 1977 (42 FR 3178) to amend 10 CFR Parts 2 and 51.

The proposed amendment of § 2.101 set out in the January 17, 1977 notice would add a provision to paragraph (a)(3)(ii) that the applicant will also be requested to serve a copy of the tendered application and/or environmental report on the chief executives of the appropriate municipalities or counties which have been identified in the application or environmental report as alternative sites.

The proposed amendment of § 2.101 would add a provision to paragraph (b) which pertains to applications for licenses for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, that the applicant will also serve a copy of the application and environmental report, as appropriate, on the chief executives of the appropriate alternative municipalities or counties which have been identified in the application or environmental report as alternative sites.

The proposed amendment of § 51.24 would revise paragraph (c)(4) to provide that if the draft environmental impact statement is for a licensing action, copies of the draft statement and the applicant's environmental report will be provided to all parties to the licensing proceeding and the chief executives of all municipalities or counties which are identified in the draft statement as either preferred or alternative sites for the proposed facility or activity.

Six letters of comment were received on the petition for rulemaking and the notice of proposed rulemaking.

One commenter opposed the proposed rule, contending that jurisdictional officials and the public are aware of proposed projects even before the filing of an application; that the filing of applications with jurisdictional officials at alternative sites could have adverse impacts on local planning and land values; and that filing of the application would only serve to cause infighting between jurisdictions, possibly resulting in delays in the licensing process.

Although officials and the public may be aware of preferred sites before the filing of an application there is no assurance under present procedures that all officials with jurisdiction over alternative sites will know that a site in their area is under consideration or that the relative merits of such a site may have been the subject of dispute at hearings held in a different locale. The Commission is not convinced that furnishing such information to officials over alternative sites would have adverse impacts on local planning and land values, or cause jurisdictional conflicts resulting in licensing delays.

Three commenters opposed the proposed amendments on the grounds that they would require the service of voluminous and expensive documents upon individuals who have no real interest in receiving them, thereby placing an unjustified burden on applicants and municipal and county officials, without corresponding benefits to the public, the licensing process, or the municipalities or counties considered as alternative sites. These commenters suggested, however, that if some action is desired in this area, a more reasonable approach would be to notify the chief executives of municipalities or counties which have been designated as an alternative site in the application or environmental report of the availability of the documents. To the extent that such officials are interested, they could request copies of the documents.

It is the Commission's view that local officials of all of the communites or counties involved should be informed of the plans for a facility or a commercial waste disposal service or activity at the time the application or environmental report is submitted to the Commission. The Commission has concluded, however, that this objective can be accomplished in accordance with the alternative approach suggested by the three commenters noted in the preceding paragraph. Accordingly, the amendments set forth below have been revised to provide for notice to the chief executives of sites which have been identified in the application or environmental report as alternative sites. The notice will include a brief description of the proposed site and facility, the location of the site and facility proposed or alternatively listed, and will include a statement that if a request is received from the appropriate chief executive of the alternative site, a copy of the application or environmental report, and any changes to such documents which affect the alternative site location, will be transmitted to the executive who makes the request. A sentence has been added to §§ 2.101(a)(3)(ii) and 2.101(b) that an applicant in complying with those paragraphs should not make public distribution of those parts of the application subject to § 2.790(d); that is, information which identifies a licensee's or applicant's procedures for safeguarding licensed special nuclear material or detailed security measures for the physical protection of a licensed facility or plant in which licensed special nuclear material is possessed or used. A sentence has been added also that the applicant shall submit to the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, an affidavit that service of the notice of availability of the application and environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

One firm commented favorably upon the proposed rule and suggested that local public document rooms be set up in the region of the alternative sites for displaying to the public the environmental report, draft environmental impact statement, and any other documents affecting the alternate sites. The Commission agrees that it may be desirable to establish a local public document room, or a mini-LPDR, in the region of the alternative sites in some cases. The Commission does not consider, however, that this should be done routinely. A determination will be made on a case-by-case basis after a survey of the public interest in the area of the alternative site.

One commenter encouraged the adoption of the proposed rule, but suggested that applications for amendments to existing licenses as well as new nuclear facilities and waste management facilities shoud be included, and notification and service of an application upon the appropriate governor or designated State government official should be included as well as municipal and county government. The suggestion regarding applications for amendments to existing licenses is outside the scope of this amendment inasmuch as the site would have been determined when the license was issued. The Commission's regulations already provide for distribution of applications and environmental reports to appropriate State officials.

The commenter also suggested that a provision for an early notice of intent to file and application be considered. It is the Commission's view that the present regulation, as amended below, provides for early notice to officials of alternative sites and notice of intent to file and application would not serve a useful purpose.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 2 and 51 are published as a document subject to codification.

1. Section 2.101 of 10 CFR Part 2 is amended by revising § 2.101(a)(3)(ii) and § 2.101(b) to read as follows:

§ 2.101 Filing of application.

(a) • • •

(3) • • •

(ii) Serve a copy on the chief executive of the municipality in which the facility is to be located or, if the facility is not to be located within a municipality, on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the following information: Docket number of the application, a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, and telephone number of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph (a)(3)(ii) the applicant should not make public distribution of those parts of the application subject to § 2.790(d). The applicant shall submit to the Director of Nuclear Reactor Regulation an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

• • • • •

(b) After the application has been docketed, each applicant for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee shall serve a copy of the application and environmental report, as appropriate, on the chief executive of the municipality in which the activity is to be conducted or, if the activity is not to be conducted within a municipality on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the following information: Docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, and telephone number of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents

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which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph (b) the applicant should not make public distribution of those parts of the application subject to § 2.790(d). The applicant shall submit to the Director of Nuclear Material Safety and Safeguards an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

2. Section 51.24 is amended by revising paragraph (c)(4) to read as follows:

§ 51.24 Distribution of draft environmental impact statement; news releases.

• • • • •

(c) • • •

(4) If the draft environmental impact statement is for a licensing action, (i) all parties to the licensing proceeding and the chief executive of the municipality or county identified in the draft environmental impact statement as the preferred site for the proposed facility or activity and (ii) the chief executives of municipalities or counties identified in the draft environmental impact statement as alternative sites who have requested a copy of the application.

(Secs. 53, 62, 81, 103, 104, 161i, Pub. L. 83-703, as amended; 68 Stat. 930, 932, 935, 936, 937, 948 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201(i)); Sec. 201, Pub. L. 93-438, as amended; 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841); Sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332).)

Dated at Washington, D.C. this 2d day of October, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28147 Filed 10-5-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1076; Amdt. No. 33]

PART 241—UNIFORM SYSTEMS OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Accounting for Troubled Debt Restructurings, Prior Period Adjustments, and Forward Exchange Contracts

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule would update the accounting and reporting provisions of the Uniform System of Accounts and Reports for Certificated Air Carriers (USAR) to reflect generally accepted accounting principles relating to troubled debt restructurings, prior period adjustments, and forward exchange contracts. This would be accomplished by: (1) Incorporating new sections in the USAR dealing with accounting and reporting for troubled debt restructurings and (2) revising the sections in the USAR relating to prior period adjustments and forward exchange contracts. This rule was developed at the initiative of the Board.

DATES: Adopted: September 29, 1978. Effective: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION:

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 2, 1978.

In EDR-357, dated June 1, 1978 (43 FR 25138, June 9, 1978) the Board gave notice of its intention to update the USAR to reflect three recent statements by the Financial Accounting Standards Board relating to troubled debt restructurings, prior period adjustments, and forward exchange contracts. It has been the Board's practice to revise the USAR periodically to include relevant pronouncements by authoritative bodies responsible for molding accounting principles and disclosure standards for American Business. This has been done to sustain the conformity of the Board's accounting regulations with generally accepted accounting principles. This conformity is important because it assists in maintaining the comparability of accounting practice throughout the air transportation industry and enables carriers to operate accounting systems which yield information acceptible for financial and governmental reporting purposes.

Comments were received in response to the rulemaking notice from American Airlines, Inc., and Hughes Airwest. Both were in support of the proposed rule. Hughes Airwest offered some suggestions of an editorial nature which have been considered and incorporated into the final rule where necessary to clarify the regulations. These changes involved adding cross-references in section 2-21 "Accounting for troubled debt restructurings."

Only one additional change was made to the specific language of the proposed rule, and it concerned the accounting instructions for forward exchange contracts. These contracts are agreements to exchange at a specified future date the currencies of different countries at a specified rate.

As discussed in EDR-357, this rulemaking proposed to amend the Board's accounting regulations to reflect the position of the Financial Accounting Standards Board (FASB) on accounting for forward exchange contracts in two ways: Setting the denomination of the forward contract and in corporation the FASB standard concerning the accounting for forward contracts when the amount of the contract exceeds the amount of the related commitment. The final rule adds a paragraph to section 2-3, specifying the FASB limitation that allows gains or losses to be deferred only on the amount in excess of the related commitment which is intended to be a hedge on an after-tax basis, as explained in EDR-357.(p. 5).

EFFECTIVE DATE

Although this amendment will be made effective after the normal 30-day period from publication in the FEDERAL REGISTER, this effective date should not be viewed as prohibiting earlier implementation of the following accounting requirements. Carriers are encouraged to apply these regulations to transactions occurring during calendar year 1978.

Accordingly, the Board amends part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports by adding a new section 2-21 identified as follows:

Sec.

• • • • •

2-20 Accounting for leases.
2-21 Accounting for troubled debt restructurings.

• • • • •

2. Revise paragraph (g)(2)(ii) of section 2-3 to read as follows:

Sec. 2-3 Transactions in foreign currencies.

• • • • •

(g) • • •

(2) • • •

(ii) The forward contract is denominated in the same currency as the foreign currency commitment,

• • • • •

3. Add a new paragraph (i) to section 2-3 to read as follows:

Sec. 2-3 Transactions in foreign currencies.

• • • • •

(i) The portion of a forward contract that shall be accounted for in accordance with paragraph (h) of this section is limited to the amount of the related commitment. If a forward contract that meets all of the conditions described in paragraphs (g)(2) (i) through (iii) of this section exceeds the amount of the related commitment, the gain or loss pertaining to a portion of the forward contract in excess of the commitment shall be deferred to the extent that the forward contract is intended to provide a hedge on an after tax-basis. A deferred gain or loss shall be offset against the related tax effects in the period the tax effects are recognized. A gain or loss pertaining to the portion of a forward contract in excess of the amount that provides a hedge on an after-tax basis shall not be deferred.

• • • • •

4. Revise paragraph (f) of section 2-7 to read as follows:

Sec. 2-7 Extraordinary items, discontinued operations, prior period adjustments, and accounting changes.

• • • • •

(f) Prior period adjustments are classified as those affecting previous fiscal years and those affecting previous interim periods of the current fiscal year.

(1) Corrections of errors in earlier financial statements and adjustments resulting from the tax benefits of preacquisition loss carryforwards of purchased subsidiaries may be treated as prior period adjustments of previous fiscal years. They are reflected as adjustments to the opening balance of retained earnings.

(2) Adjustments which are related to previous interim periods of the current fiscal year are adjustments or settlements of litigation or similar claims, of income taxes or of renegotiation proceedings. The total adjustment shall be included in the determination of net income for the current interim period. If the interim period is a period in which monthly reports are filed, a statement showing the effects of the adjustment on the current quarter and previous quarters should be attached to the submission. When the quarterly schedules are filed, these effects should again be stated on Schedule P-2, Notes to CAB Form 41 Report.

• • • • •

5. Add a new section 2-21 to read as follows:

Sec. 2-21 Accounting for troubled debt restructurings.

(a) *Accounting by debtors.* (1) A gain on the restructuring of debt shall be recognized in accordance with paragraph (a)(6) of this section when the debtor transfers assets to the creditor in full settlement of the debt. The gain shall equal the difference between the carrying amount of the payable and the fair value of the assets transferred. A gain or loss on the transfer of assets measured by the difference between the fair value and the book value of the assets transferred shall be recognized and recorded in account 88.6 Capital Gains and Losses—Other.

(2) A gain on the restructuring of debt shall be recognized in accordance with paragraph (a)(6) of this section when the debtor transfers an equity interest to the creditor in full settlement of the debt. The gain shall be equal to the amount that the carrying amount of the payable exceeds the fair value of the equity interest transferred.

(3) The modification of the terms of the debt in a troubled debt restructuring may take any or a combination of the following forms: (i) Reduction of the stated interest rate or accrued interest; (ii) reduction of the face amount or the maturity amount of the debt; or (iii) extension of the maturity date at a stated interest rate which is lower than the current market rate for new debt with similar risk. When the terms of the debt are modified so that the total future principal and interest payments are not less than the recorded amount of the payable, the effects of the restructuring shall be accounted for prospectively from the time of the restructuring by adjusting the effective interest rate so that it equates the present value of the future cash payments specified by the new terms with the carrying amount of the payable. If the total future principal and interest payments are less than the recorded amount of the payable, the amount of the payable shall be reduced so that it equals the total future principal and interest payments specified by the new terms and a gain shall be recognized in accordance with paragraph (a)(6) of this section which equals the amount of the reduction. In this case, all future principal and interest payments shall be treated as reductions of the payable and none shall be designated as interest. If the restructuring of the payable involves indeterminate future cash payments, no gain on the restructuring of the debt shall be recognized as long as the maximum total future cash payments may exceed the carrying amount of the payable.

(4) When there is a combination involving both the transfer of assets or equity interests and the modification of the terms of the debt, the carrying amount of the payable shall be reduced by the total fair value of those assets or equity interests. The difference between the fair value and the carrying amount of the assets transferred shall be recognized as a gain or loss on the transfer of assets and recorded in account 88.6 Capital Gains and Losses—Other. The remaining balance of the payable shall be accounted for as discussed in paragraph (a)(3) of this section.

(5) All legal fees and other direct costs incurred to effect a troubled debt restructuring shall be deducted when measuring the gain on restructuring, or, if no gain is recognized, they shall be included in expense for the period.

(6) Gains recognized on the restructuring of debt shall be aggregated and included in measuring net income for the period. If material, the aggregate amount, net of any tax effect, should be recorded in account 96 Extraordinary Items. If not, it should be recorded in account 88.9 Other Miscellaneous Nonoperating Credits.

(7) The following information shall be disclosed on Schedule P-2 Notes to CAB Form 41 Report for all troubled debt restructurings occurring during the current period:

(i) A description of the principal changes in terms and/or the major features of settlement for each restructuring;

(ii) The aggregate gain on restructuring of payables and the related income tax effect;

(iii) The aggregate net gain or loss on the transfer of assets;

(iv) The extent to which amounts contingently payable are included in the carrying amount of restructured payables; and

(v) The total amount contingently payable on restructured payables and the conditions under which the amounts would be payable or forgiven.

(b) *Accounting by creditors.* (1) A loss on the restructuring of debt shall be recognized in accordance with paragraph (b)(6) of this section when the debtor transfers assets to the creditor in full settlement of the debt to the

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extent that his recorded investment in the receivable exceeds the fair value of the assets received. The assets shall be recorded in the books of account as if they had been acquired for cash.

(2) A loss on the restructuring of debt shall be recognized in accordance with paragraph (b)(6) of this section when the debtor transfers an equity interest to the creditor in full settlement of the debt to the extent that the recorded investment in the receivable exceeds the fair value of the equity interest. The equity interest shall be recorded in the books of account as if it had been acquired for cash.

(3) The modification of the terms of the debt in a troubled debt restructuring may take any or a combination of the following forms: (i) Reduction of the stated interest rate or accrued interest; (ii) reduction of the face amount or the maturity amount of the debt; or (iii) extension of the maturity date at a stated interest rate which is lower than the current market rate for new debt with similar risk. When the terms of the debt are modified so that the total future principal and interest receipts are not less than the recorded investment in the receivable, the effects of the restructuring shall be accounted for prospectively from the time of restructuring by adjusting the effective interest rate to equate the present value of the future cash receipts specified by the new terms with the recorded investment in the receivable. When the terms of the debt are modified such that the total future principal and interest receipts are less than the recorded investment in the receivable, the amount of the receivable shall be reduced so that it equals the total future principal and interest receipts specified by the new terms and a loss shall be recognized in accordance with paragraph (b)(6) of this section which is determined by the amount of the reduction. In this case, all future principal and interest receipts shall be treated as reductions of the receivable and none shall be designated as interest. A loss shall not be recognized on a restructuring involving indeterminate future cash receipts as long as the minimum future cash receipts specified by the new terms at least equal the recorded investment in the receivable.

(4) When the troubled debt restructuring involves both the transfer of assets or equity interests and the modification of the terms of the debt, the recorded investment in the receivable shall first be reduced by the fair value of the assets or equity interests received. The remaining portion of the receivable shall be accounted for as discussed in paragraph (b)(3) of this section.

(5) All legal fees and other direct costs incurred to effect a troubled debt restructuring shall be expensed when incurred.

(6) Losses recognized on the restructuring of debt shall be included in account 89.9 Other Miscellaneous Nonoperating Debits to the extent that they are not offset against valuation accounts, such as account 1290 Allowance for Uncollectible Accounts.

(7) The following information shall be disclosed on Schedule P-2 Notes to CAB Form 41 Report for each major category of receivables whose terms were modified in the current period such that the effective interest rate is less than the rate that the creditor would be willing to accept for a new receivable with comparable risk. The first three disclosure requirements listed below need not be followed if the effective interest rate for the modified receivable is greater than or equal to the rate that the creditor would be willing to accept for a new receivable with comparable risk:

(i) The aggregate recorded investment;

(ii) The gross interest income that would have been recorded in the period if the restructured receivables had been current according to their original terms;

(iii) The amount of interest income on the affected receivables included in the net income for the period; and

(iv) The amount of any commitments to lend additional funds to debtors owing receivables whose terms have been modified in a troubled debt restructuring.

6. Amend Section 14 by revising paragraphs 88.6, 88.9 and 89.9 to read as follows:

* * * * * *

§ 88.6 Capital Gains and Losses—Other.

Record here gains or losses not required to be reported in accounts 88.3, 88.4 and 88.5 such as gains or losses on retirement of nonoperating property and equipment, investments in other than marketable equity securities, and the transfer of assets in a troubled debt restructuring.

* * * * * *

88.9 Other Miscellaneous Nonoperating Credits.

Record here all credits of a nonoperating character not provided for otherwise, such as royalities from patents, gains from reacquisition and retirement or resale of debt securities issued by the air carrier, and gains resulting from troubled debt restructurings.

* * * * * *

§ 89.9 Other Miscellaneous Nonoperating Debits.

Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities, amortization expense attributable to capital leases recorded in balance sheet account 1795 Leased Property under Capital Leases; costs related to property held for future use; donations for charitable, social or community welfare purposes; losses on reacquired and retired or resold debt securities of the air carrier; losses resulting from troubled debt restructurings; losses on uncollectible nonoperating receivables; or accruals to allowance for uncollectible nonoperating receivables. This account shall be charged with the amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjustment, unless otherwise approved or directed by the Civil Aeronautics Board.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, as amended (49 U.S.C. 1324(a), 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28276 Filed 10-5-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 456—ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

Interpretation of Trade Regulation Rule and Reply to Request for Exemption from Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Interpretation of Trade Regulation Rule; Reply to Request for Exemption from Trade Regulation Rule.

SUMMARY: The Federal Trade Commission has issued two interpretations of its trade regulation rule concerning the Advertising of Ophthalmic Goods and Services (16 CFR 456). One interpretation states that a refusal by a newspaper, or other advertising medium, to accept or publish an ophthalmic advertisement does not violate the provisions of the rule. The other interpretation states that a refractionist may deliver to his or her patients a written statement which says that the refractionist believes that the seller of the ophthalmic goods dispensed pursuant to the refractionist's prescription is responsible for the accuracy of those goods.

The Commission also answered a request by the Virginia State Board of Examiners in Optometry for an exemption from this trade regulation rule for certain disclosure requirements which were recently adopted by the Board. The Commission found that some of those requirements conflict with the trade regulation rule while others do not, and the Commission granted no exemption for those requirements that do conflict.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary D. Hailey or Scott P. Klurfeld, Room 279, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3427.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission has issued two interpretations of its final trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456. The first interpretation concerns the rule's proscription of conduct which prohibits, limits or burdens the dissemination of information. The Commission has determined that the refusal of a newspaper, or any other media, to accept or publish an ophthalmic advertisement does not constitute a prohibition, limitation or burden on the dissemination of information as those terms are used in 16 CFR Part 456.

The second interpretation concerns the meaning of § 456.7(d) of the rule which prohibits refractionists from "warning or disclaiming" responsibility for the accuracy of ophthalmic goods sold by another seller. The restriction does not cover statements by the refractionist as to whom the refractionist believes is liable or responsible. Thus, the Commission has interpreted its rule to permit refractionists to inform their patients as to whom they believe is responsible for the accuracy of goods dispensed, as long as the statement is not coupled with a waiver or disclaimer of the refractionist's liability. The complete interpretations are set out below:

Federal Trade Commission Interpretations of 16 CFR Part 456

In § 456.1 of the Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, the term "dissemination of information" is defined to include the use of any media to provide to the public information concerning ophthalmic goods, services, and eye examinations. In §§ 456.2, 456.3, 456.4, and 456.6 of the rule, prohibitions, limitations and burdens on the dissemination of information are proscribed.

The question has arisen as to whether the refusal of a newspaper or any other media to accept an ophthalmic advertisment consistitutes a prohibition, limitation or burden on the dissemination of information. The Commission has determined that the refusal of a newspaper, or any other media, to accept or publish an ophthalmic advertisement does not constitute a prohibition, limitation or burden on the dissemination of information as those terms are used in 16 CFR Part 456.

The Commission's intent in adopting the rule was to permit, not to require, persons to provide information to the public. The issue of whether the media should be compelled to accept advertisements was not considered in the course of the rulemaking proceeding in this matter nor was its inclusion as an issue in this proceeding ever contemplated by the Commission. Other situations exist in which the refusal by an individual to "permit" an advertisement would not be considered a "prohibition, limitation or burden." For example, the refusal of a property owner to permit a seller or refractionist to post a sign or billboard advertising ophthalmic goods or services on the land of the property owner would similarly not violate the rule.

A second interpretive question has arisen concerning the meaning of § 456.7(d) of the rule which prohibits refractionists from "waiving or disclaiming" responsibility for the accuracy of ophthalmic goods sold by another seller. By its terms, the rule proscribes only "waivers or disclaimers" of responsibility. This restriction does not encompass statements by the refractionist as to whom the refractionist believes is liable or responsible.

The Commission has interpreted its rule to permit affirmative statements concerning responsibility. For example, a statement "the person who dispenses your eyeglasses is responsible for their accuracy" would not violate § 456.7(d) even if delivered in writing.

Thus, any refractionist may, without violating § 456.7(d), include on the prescription or deliver to the patient a written statement stating the refractionist's belief that the seller of the ophthalmic goods dispensed pursuant to the refractionist's prescription is responsible for the accuracy of those goods. However, this cannot be coupled with a waiver or disclaimer of the refractionist's liability.

In adopting § 456.7(d), the Commission was concerned that negative statements disclaiming liability served to confuse consumers on the issue of responsibility. The Commission has been unable to find any legal precedent under which a refractionist has been held liable for the accuracy of ophthalmic goods dispensed by another seller (absent a contractual relationship between the refractionist and the seller).

The Commission expresses no opinion as to the desirability of making affirmative statements on the issue of liability. Nor does the Commission express any opinion as to where liability properly rests in any dispute between a refractionist and a person who dispenses ophthalmic goods pursuant to that refractionist's prescription. Rather, the Commission is simply permitting refractionists to inform their patients as to whom they believe is responsible for the accuracy of goods dispensed.

Virginia's Request for Exemption From 16 CFR Part 456

On August 2, 1978, the Commonwealth of Virginia, through its Board of Examiners in Optometry, requested an exemption from the Federal Trade Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, for certain disclosure requirements mandated by Virginia law. The Commission determined that some of the Virginia requirements do not conflict with the rule, and are therefore permissible. Other Virginia requirements were found to conflict with the Commission's rule and no exemption from the rule was granted.

The letter from the Virginia Board is set out below as Appendix A. The Federal Trade Commission's reply is set out below as Appendix B.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

Appendix A

The Federal Trade Commission
6th and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

GENTLEMEN: I am herewith submitting application for exemption to the Federal Trade Commission's regulations governing the price advertising of ophthalmic goods and services. This exemption is being sought under § 456.5(c).

The rules and regulations of the Virginia State Board of Examiners in Optometry containing permissive advertising practices for which we seek exemptions are as follows:

"3. *Advertising disclosure requirements.* The following regulations are promulgated pursuant to section 54-396(9) of the Code of Virginia (1950) which permits the advertising of prices, or discounts from such prices of eyeglasses, spectacles, lenses, frames, mountings and prosthetic devices under the condition that such advertising include and specify the kind, type, and quality of the advertised item in accordance with these regulations. Under section 54-397 of the Code of Virginia (1950), a violation of these regulations is a criminal offense punishable by up to six (6) months in jail and a five hundred

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dollar ($500.00) fine. Each separate advertisement in violation of these regulations published in any media shall be considered a separate offense.

(a) *Kind, type, and quality of ophthalmic frames.* All advertisements of ophthalmic frames or temples shall specify (1) the name of the manufacturer, (2) the manufacturer's identifying name or number of the frame, (3) the country of manufacture and (4) material as plastic, metal, or combination plastic and metal unless the frame is illustrated. This information may not be abbreviated, except that the United States of America may be identified as "U.S.A.".

(b) *Kinds and types of ophthalmic lenses.* Where applicable advertisements for ophthalmic lenses must indicate that prices are variable depending on the individual's specific prescription. All lenses shall be described as clear, tinted, or photochromic and as glass or plastic, single vision, bifocal, trifocal, occupational and aphakic lenses shall be identified as such. Advertisements for bifocal lenses, except for executive/dualens types, shall state segment size. Advertisements for trifocal lenses, except for executive/dualens and variable focus types, shall state segment size. Occupational lenses shall be further described as double bifocal or quadrifocal. Aphakic lenses shall be further described as lenticular aspheric, lenticular non-aspheric, full field aspheric, or full field non-aspheric. All advertisements of ophthalmic lenses shall specify (1) the name of the manufacturer, (2) the manufacturer's identifying name or number of the lens, and (3) the country of manufacture.

(c) *Kinds and types of contact lenses.* All advertisements of contact lenses must specify: (1) name of manufacturer, (2) country of manufacturer, and (3) type as "hard" or "soft". Bifocal contact lenses must be identified as such.

(d) *Quality of ophthalmic and contact lenses.* The advertisements of any lens which is (1) not purchased from a munufacturer or wholesaler who warrants that the lens meet American National Standards Institute (ANSI) specifications, or (2) does not in fact meet ANSI specifications, shall contain the statement "Does Not Meet ANSI Standards".

(e) *Kinds and types of prosthetic devices.* Artificial eyes must be identified as stock, modified stock, or custom.

(f) All advertisements quoting prices or discounts from prices of eyeglasses, spectacles, lenses, frames, mounting or prosthetic devices shall contain the statement—"Does Not Include Eye Examination".

(g) All disclosure items must be in type no smaller than ten (10) point type.

(h) If discounts are advertised, they must include the regular price of items to be "discounted."

The Virginia Board of Examiners in Optometry seeks the exemption in whole or in part to the aforementioned regulations which were lawfully promulgated in this State in the public's interest.

Your immediate attention and early response to this application will be greatly appreciated.

Sincerely,

BERNARD STIER,
President.

APPENDIX B

Re Application for Exemption from Trade Regulation Rule on the Advertising of Ophthalmic Goods and Services (16 CFR Part 456).

BERNARD STIER, O.D.,
President, State Board of Examiners in Optometry, Commonwealth of Virginia, Seaboard Building, Room 457, 3600 West Broad Street, Richmond, Va. 23230.

DEAR DR. STIER: We are writing this letter in response to your request dated July 21, 1978 (which was received by the Commission on August 2, 1978), for an exemption from the Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, for certain disclosure requirements applicable to the advertising of ophthalmic goods and prosthetic devices adopted by the Virginia State Board of Examiners in Optometry pursuant to its statutory authority.

As you are aware, prior to the promulgation of this trade regulation rule by the Commission, many States specifically proscribed all ophthalmic advertising. During the course of the Commission's rulemaking proceedings on this matter, many persons testified that the imposition of disclosure requirements that were not necessary to curb unfairness or deception would serve to burden advertising unduly.

Our response to your exemption application will address, first, those disclosure requirements contained in your regulations which are specifically permitted under the Commission's rule.

1. Section 456.5(a)(1) of the Commission's rule specifically authorizes the States to require that ophthalmic advertisements state "whether an advertised price includes single vision and/or multifocal lenses." The Commission did not thereby limit the permissible wording of disclosure requirements in this area. Rather, the Commission set forth the subject matter on which disclosures could be imposed by the States. Thus, the Commission determined that Virginia's Rule 3(b), which requires that advertisements state whether "single vision, bifocal, trifocal, occupational and aphakic lenses" are included within an advertised price does not contravene 16 CFR 456.5.

2. Virginia's Rule 3(c), which requires that advertisements for contact lenses specify whether the price applies to hard or soft contact lenses, or bifocal contact lenses, is authorized by § 456.5(a) (1) and (2).

3. Virginia's Rule 3(e), concerning prosthetic devices, does not conflict with the Commission's rule. The Commission's rule applies only to advertisements of ophthalmic goods, services, and eye examinations. The rule does not extend to artificial eyes. Thus, Virginia's rule 3(e) is not affected by the Commission's rule.

4. Virginia's rule 3(g) is not inconsistent with the Commission's rule. The trade regulation rule adopted by the Commission places no limitation on the manner in which the States require information to be disclosed, so long as the subject matter of the disclosure does not conflict with the trade regulation rule. Accordingly, Virginia's requirement that all disclosures be in 10-point type is not inconsistent with the Commission's rule.

5. Rule 3(f) of the Virginia rule is, to a degree, inconsistent with the Commission's rule and the Commission has determined than an exemption would be inappropriate. The Commission's rule authorizes refractionists to advertise their eye examination services. Section 456.5(a)(3) authorizes the States to require that price advertisements state whether an eye examination is included in the stated price. Thus, Virginia remains totally free to require that advertisements state whether or not an eye examination is included. However, it would be inconsistent with the Commission's rule for Virginia to require that all sellers state that an eye examination is not included in an advertised price.

6. Section 456.5(b) of the Commission's rule permits the States to impose on advertising for ophthalmic goods and services any disclosure requirements that the State applies across-the-board to all advertising for consumer goods and services. However, Virginia's rules 3 (a), (b) (insofar as it requires the disclosure of the "name of the manufacturer • • • the manufacturer's identifying name or number of the lens • • • and, the country of manufacturer"), (c) (1) and (2), and (h) apply to ophthalmic advertising burdensome disclosure requirements which apparently are not required in all advertisements for consumer goods or services. While this information may be of interest to some consumers, it does not appear to be necessary to prevent deception. Moreover, the Commission can find no justification, and you have suggested none, for limiting such disclosures to ophthalmic advertising.

Accordingly, the Commission has determined that Virginia's rules 3 (a), (b) (in part, as set forth above), (c) (1) and (2), and (h) are inconsistent with the Commission's rule and that no exemption should be granted. As noted above, if the Commonwealth of Virginia should require such disclosures in advertising for all consumer products and services, rather than singling out ophthalmic advertising, the Commission's rule will permit their application to advertising for ophthalmic goods.

7. Virginia's rule 3(d) also conflicts with the Commission's rule, and the Commission has determined that an exemption should not be granted. The Commission fully supports the concept of maintaining high quality in the provision of vision care products and services, and Virginia remains free to, for example, require that all lenses meet ANSI specifications. However, Virginia apparently has no such rules. Nor, apparently, is a seller who chooses not to advertise prohibited from providing consumers with lenses not satisfying the ANSI Z80 standards without disclosing that fact. Some recent empirical research indicates that the lenses produced by manufacturers and wholesale laboratories which claim to meet the ANSI standard frequently do not.[1] The testimony offered at the public hearings on the TRR indicates that it is very unlikely that an optometrist would verify each lens sold against each and every parameter of the ANSI standard, when that lens is warranted to meet the standard by the supplier. Accordingly, most, if not all, sellers who advertise would be required to state that their products do not meet the ANSI standard. The Commission finds that this would constitute an unwarranted burden on advertising.

8. Finally, the disclosure requirements embodied in Virginia rule 3(b) (except those discussed above) conflict with the Commission's rule, and the Commission has determined that an exemption should not be granted. The Commission has concluded that detailed information on segment size in multifocal lenses, the types of occupational lenses and aphakic lenses, and whether glasses include tint or are composed of glass or plastic, are not necessary to prevent deception. The Commission has not determined that this information is not of interest to consumers, rather, it has simply determined that an advertisement, absent this information, is not deceptive.

Thus, to summarize the Commission's response, rule 3(b), insofar as it requires the disclosure of "(whether a lens is) single vision, bifocal, trifocal, occupational (or) aphakic", 3(c)(3), 3(e), and 3(g) are deemed not to conflict with the Commission's trade regulation rule.

All of the other disclosure requirements promulgated by the Virginia Board of Examiners in Optometry are deemed to be inconsistent with the Commission's rule. It is determined that no exemption should be granted for these requirements.

We would like to reiterate our position that any disclosure requirements imposed on all advertising for consumer goods and services by the Commonwealth of Virginia are automatically excluded from the coverage of the Commission's rule.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28216 Filed 10-5-78; 8:45 am]

[1] "An Examination of Ophthalmic Prescription Spectacle Quality Relative to American National Standard Z80.1-1972," George A. Chase, Ph. D., and Ben E. Lynch, Optical Index, vol. 53, No. 3, March 1978, pp. 17-52.

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15195; File No. S7-757]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Annual Assessment Form for SECO Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of form.

SUMMARY: The Securities Exchange Act of 1934 authorizes the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to broker-dealers who are not members of a registered national securities association ("nonmember" or "SECO" broker-dealers). This form sets forth the annual schedule under which SECO broker-dealers are to be assessed for fiscal year 1978.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel Bateman, Division of Market Regulation, Room 501, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, 202-755-1300.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has adopted form SECO-4-78 which sets forth the annual assessment payable to the Commission for fiscal year 1978 by registered broker-dealers who are not members of a registered national securities association. Form SECO-4-78 was proposed and published for public comment on August 25, 1978 (43 FR 38028) (Securities Exchange Act Release No. 34-15074, August 18, 1978).

In adopting form SECO-4-78, for this year, the Commission has determined to modify the annual SECO assessment schedule by reducing the gross income assessment from 0.2 percent to 0.17 percent for municipal securities transactions and from 0.25 percent to 0.21 percent for other OTC securities transactions. These assessments are being reduced to adjust the anticipated revenues to more closely approximate the expected regulatory costs of the SECO program and to continue the Commission's policy over the years of maintaining general comparability with the fees and assessments charged by the National Association of Securities Dealers, Inc. (NASD). The annual base member assessment and the annual personnel assessment ($250 and $5 respectively) will remain unchanged.

NOTICE OF DUE DATE FOR FILING FORM SECO-4-78

SECO broker-dealers filing form SECO-4-78 should note that they are required to file the form and remit any assessments payable to the Commission by October 31, 1978.

STATUTORY BASIS

The modifications of 1978 assessments for SECO broker-dealers are adopted pursuant to the Securities Exchange Act of 1934 and particularly sections 15(b)(7), 15(b)(8), and 23(a) thereof. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly to implement the Commission's continuing mandate under section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to nonmember broker-dealers. The Securities and Exchange Commission, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)) and particularly sections 15(b)(7), 15(b)(8), and 23(a) thereof, amends part 249 of title 17 of the Code of Federal Regulations by adopting § 249.504*l* as follows:

§ 249.504*l* Form SECO-4-78, 1978 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before October 31, 1978, pursuant to § 240.15b9-2 of this chapter, accompanied by the annual assessment fee required thereunder, for the fiscal year ended September 30, 1978, by every registered broker and dealer not a member of a registered national securities association. Those broker-dealers which are exempt from the payment of any assessment or fee pursuant to the provisions of § 240.15b9-2(e) must still file the form.

Copies of the form have been filed with the Office of the Federal Register, and additional copies are available on request from the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 28, 1978.

[FR Doc. 78-28242 Filed 10-5-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 78N-0118]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

CERTIFICATION OF TRUE COPIES; CORRECTION

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 78-18559 appearing at page 29286 in the FEDERAL REGISTER of July 7, 1978, § 5.22 Certification of true copies and use of the Department Seal (21 CFR 5.22) is corrected in paragraph (a)(ii) by changing "the Associate Director for Regulatory Policy" to read "the Assistant Director for Regulations Policy."

EFFECTIVE DATE: July 7, 1978.

V 43 / 195 OCT 6 78

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28211 Filed 10-5-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Lidocaine Hydrochloride Injection with Epinephrine

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., for an injectable local anesthetic for use in horses, cattle, dogs, and cats.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., 5160 West Bethany Home Road, Glendale, Ariz. 85301, filed NADA 45-578V providing for the safe and effective use of lidocaine hydrochloride injection with epinephrine as a local anesthetic for use in horses, cattle, dogs, and cats.

The drug was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review, published in the FEDERAL REGISTER of August 5, 1970 (35 FR 12493). The Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product is probably effective for use as a local anesthetic in cattle, horses, dogs, and cats. The Academy stated:

1. The use of a central nervous system stimulant is contraindicated in the treatment of overdoses of local anesthetics. Use of oxygen and an arterial pressor agent such as norepinephrine are to be preferred over the use of an analeptic or central nervous system agent, i.e., pentamethylenetetrazole, in treatment of shock induced by lidocaine hydrochloride.

2. Under the caution portion of the package insert, the user should be warned of the possibility of central nervous system excitation or convulsive seizures when lidocaine hydrochloride is employed for local anesthetic purposes. The use of ultrashort or short-acting barbiturates and oxygen are recommended in antidoting convulsive seizures produced by overdoses of a local anesthetic

The NAS/NRC review was published to inform holders of NADA's of the findings of the Academy and FDA, and to inform all interested persons that such articles may be marketed provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's submitted for lidocaine injection with epinephrine, which reflect those conditions of use set forth in the August 1970 notice, do not require efficacy data as specified by §§ 514.1(b)(8)(ii) or 514.111(a)(5)(vi) (21 CFR 514.1(b)(8)(ii) and 514.111(a)(5)(vi)). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs. Those conditions of use are identified in § 522.1258 by a footnote. The guideline is available from the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support the approval of this application is publicly released. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), at the above address from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 522 is amended by adding new § 522.1258 to read as follows:

§ 522.1258 Lidocaine injection with epinephrine.

(a) *Specifications.* Each milliliter of the drug contains 20 milligrams (2 percent) of lidocaine hydrochloride, 0.01 milligram of epinephrine, with sodium chloride, and with methylparaben as a preservative, in water for injection.

(b) *Sponsor.* See No. 000381 in § 510.600(c) of this chapter.

(c) *Conditions of use.*[1]—(1) *Amount.* The drug is administered by injection as a 2-percent solution or diluted with bacteriostatic water for injection to a 0.5 percent solution for local anesthesia of large and small animals, as follows:

(i) Cats: Administer approximately 2 milliliters of 2 percent solution with epinephrine by caudal injection.

(ii) Cattle: Administer 5 milliliters of 2 percent solution with epinephrine by epidural injection (standing animal). Administer 10 to 20 milliliters of 2 percent solution with epinephrine by cornural nerve block injection. For teat operations and infiltration, inject 0.5 percent solution with epinephrine to effect.

(iii) Dogs: Administer 2 to 10 milliliters of 2 percent solution with epinephrine by caudal injection. Do not give intravascularly. For infiltration, administer 0.5 percent solution with epinephrine to effect.

(iv) Horses: Administer 5 to 10 milliliters of 2 percent solution with epinephrine by volar nerve block. Administer 10 to 15 milliliters of 2 percent solution with epinephrine by epidural injection. For standing animal, apply slowly and observe individual sensitivity. For infiltration, administer 0.5 percent solution with epinephrine to effect.

(2) *Limitations.*—(i) The drug is contraindicated in the presence of sepsis in the region of proposed injection, shock and heart block, neurologic disease, spinal deformities, septicema, and hypertension.

(ii) Do not give intravascularly.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulaton shall be effective October 6, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-28085 Filed 10-5-78; 8:45 am]

[4110-03]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins

AGENCY: Food and Drug Administration.

[1] These conditions are National Academy of Science/National Research Council reviewed and deemed effective for this drug. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter but may require bioequivalency and safety information.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Hoechst Corp., providing for safe and effective use of a lower concentration bambermycins premix for subsequent manufacture of swine feed. The resulting swine feed would increase the rate of weight gain.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Agricultural Division, Route 202-206, North, Somerville, NJ 08876, filed a supplemental NADA (44-759V) providing for use of a 0.4-gram-per-pound bambermycins premix in manufacturing a 2-gram-per-ton complete swine feed. The resultant feed would increase the rate of weight gain and improve feed efficiency. The feed would be used in accordance with approved conditions of use. Under the original application, the firm also holds approval for production of a 2-gram-per-ton complete swine feed from a 2-gram-per-pound bambermycin premix.

Approval of this supplement does not constitute a reevaluation of the original application nor does it reaffirm the safety and effectiveness of this drug.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 558 is amended in § 558.95 by revising paragraph (b) to read as follows:

§ 558.95 Bambermycins.

• • • • • •

(b) *Approvals.* (1) Premix level of 2 grams of bambermycins activity per pound of premix has been granted to No. 012799 in § 510.600(c) of this chapter for use as provided in paragraph (e) (1) and (2) of this section.

(2) Premix level of 0.4 gram of bambermycins activity per pound of premix has been granted to No. 012799 for use as provided in paragraph (e)(2) of this section.

• • • • • •

Effective date. This regulation shall be effective October 6, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-28086 Filed 10-5-78; 8:45 am]

[4110-03]

SUBCHAPTER L—REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION

[Docket No. 75N-0115]

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

Tea Standards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes tea standards for the year beginning May 1, 1978, and ending April 30, 1979. The tea standards are provided for under the Tea Importation Act.

DATES: Effective October 6, 1978; comments by November 6, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ralph A. Strand, Bureau of Foods (HFF-314), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1567.

SUPPLEMENTARY INFORMATION: This amendment is based on the recommendation of the Board of Tea Experts, which comprises tea experts drawn from the Food and Drug Administration (FDA) and the tea trade, who are representative of the trade as a whole. By law (21 U.S.C. 42), the tea standards are to be revised annually, and FDA has set the effective date for the standards as May 1 by regulation (21 CFR 1220.41). The standards have been publicly available since the Board's report on April 4, 1978 and have been enforced in accordance with 21 U.S.C. 41 since then. Because the official publication date has passed and FDA has been enforcing the standards, the Commissioner concludes that the standards for the current year should be published without delay. For these reasons, the Commissioner finds also that it is unnecessary, impractical, and contrary to the public interest to initiate a notice and comment rulemaking proceeding at this time.

The Commissioner therefore is invoking the good cause exemption provisions of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3) and 21 CFR 10.40(c)(4) and (e)(1)) and is issuing this notice as a final rule effective immediately without notice of proposed rulemaking. However, interested persons may submit comments on this notice by November 6, 1978, as provided by 21 CFR 10.40(f)(10). If the comments necessitate agency action, the Commissioner will publish a notice in the FEDERAL REGISTER, discussing the comments and announcing the action determined to be necessary.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment.

Therefore, under authority vested in the Secretary of Health, Education, and Welfare by the Tea Importation Act (secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50)) and delegated to the Commissioner (21 CFR 5.1), Part 1220 is amended by revising § 1220.40(a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on April 4, 1978, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1978, and ending April 30, 1979:

(1) Formosa Oolong.

(2) Black Tea other than China, Formosa, Japan Type (to be used for all black teas except those from China, Formosa, and Japan).

(3) Black Tea, China, Formosa, Japan Type (to be used for black teas from China, Formosa, and Japan).

(4) Green Tea (to be used for all green teas).

(5) Canton Oolong Type (to be used for all Canton type teas of Formosa or China origin).

(6) Scented Black Tea.

(7) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1978. Tea shipped prior to May 1, 1978 will be governed by the standards that became effective on May 1, 1977.

• • • • • •

Effective date. This regulation shall become effective October 6, 1978.

(Secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50))

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Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-27961 Filed 10-5-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 194]

PART 1-3—PROCUREMENT BY NEGOTIATION

Proposal Evaluations and Contract Pricing

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment makes a number of changes in Part 1-3, Procurement by Negotiation, to strengthen competitive negotiation procedures. The need for the changes has been established by ongoing Office of Federal Procurement Policy (OFPP) and General Accounting Office (GAO) reviews and evaluations of competitive negotiation procedures. To the extent practicable, uniformity with the Defense Acquisition Regulation (DAR (ASPR)) is provided. The intended effect is to promote economy, efficiency, and effectiveness in Federal procurement.

EFFECTIVE DATE: November 6, 1978, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

SUPPLEMENTARY INFORMATION: The amendment prescribes an additional level of review for noncompetitive procurements, based on a Comptroller General (CG) Report (B-160725, Sept. 15, 1977) entitled "Competition for Negotiated Government Procurement Can and Should Be Improved" and OFPP memorandum to the executive departments and establishments, January 25, 1978, subject: Competition for Negotiated Procurement. The amendment also prescribes circumstances in which preaward notices to offerors are required, based on a CG decision (B-190667, Feb. 22, 1978).

The amendment also removes references in the FPR that heretofore have recognized that some agencies have prescribed procedures which administratively imposed blanket fee limitations for cost-plus-fixed-fee (CPFF) contracts which are lower than the ceilings specified in section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)). The need for removing these references is based on OFPP reviews and evaluations of contract pricing and profit policies, including a public meeting on November 4, 1976. This action will not affect an agency determination to pay a fee that is lower than the statutory blanket ceilings, or preclude agency guidance to contracting officers in determining fair and reasonable fees applicable to certain classes of procurements.

The amendment prescribes changes in the provisions regarding pricing techniques. An earlier proposal would have added provisions essentially uniform with ASPR in regard to a contractor's claim for exemption from the submission of certified cost or pricing data. However, OFPP has determined that the action should be deferred pending an effort to develop a Standard form and uniform provisions which will be responsive to agencies' needs while minimizing the paperwork burden on Government contractors.

Based on GAO recommendations reflected in CG decisions (B-176223 (52 Comp. Gen. 161); B-185860, Sept. 14, 1976; and B-187587 (56 Comp. Gen. 725)); the amendment provides that requests for proposals shall state the relative importance of evaluation criteria the Government will use to select a contractor. Where an agency uses numerical weights in the evaluation process, the amendment also provides that they may be disclosed in the solicitation.

Subpart 1-3.1—Use of Negotiation

1. Section 1-3.101 is amended to revise paragraph (d), as follows:

§ 1-3.101 General requirements for negotiation.

* * * * *

(d) Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the procuring activity is responsible not only for ensuring that competitive procurement is not feasible but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action shall include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurements. Except for procurement of electric power or energy, gas (natural or manufactured), water, or other utility services, and procurement of educational services from nonprofit institutions, contracts of more than $10,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer to ensure compliance with this § 1-3.101(d).

2. Section 1-3.103 is amended to add a new paragraph (b) and to redesignate existing paragraphs (b) and (c) as (c) and (d) respectively, as follows:

§ 1-3.103 Dissemination of procurement information.

(a) * * *

(b) Preaward notices of proposal status shall be provided to offerors under the following specific conditions.

(1) In any procurement of more than $10,000 in which it appears that it will take longer than 30 days to make an award after (i) a proposal has been determined to be unacceptable or (ii) a competitive range determination has been made (see § 1-3.805), the contracting officer shall provide a prompt notice to the source submitting the proposal when a determination has been made that the proposal will not be considered further for award. Such a notice need not be given where the proposed contract is to be awarded within a few days after the determination and a notice pursuant to paragraph (c) of this § 1-3.103 would suffice.

(2) Notices pertaining to unacceptable proposals normally shall (i) indicate in general terms the basis for the determination, (ii) advise that, since further negotiation with the offeror concerning the procurement is not contemplated, a revision of the proposal will not be considered, and (iii) specify that no further information will be available until a later time.

(3) Notices pertaining to determinations of competitive range shall be provided to all offerors at the same time, whether or not their proposals are within the competitive range (see also § 1-3.802-2(g)). Notices to offerors that are not within the competitive range normally shall include information as described above for unacceptable offers. Where sources that are determined to be outside the competitive range number over 15, the basis for the determination may be omitted if the notified offerors are informed that the basis for the determination or nonselection for further discussion or negotiation will be furnished at a later time, upon inquiry. Notices to offerors that are within the competitive range need only state that fact.

(4) Notices pertaining to late proposals are addressed in §§ 1-3.802-1 and 1-3.802-2.

(c) Promptly after making awards in any procurement in excess of $10,000, the contracting officer normally shall give written notice to the unsuccessful offerors that their proposals were not accepted. Upon request, unsuccessful offerors whose offered prices were lower than those of the contractor which received the award shall be furnished the reasons why their proposals were not accepted; but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, or other confidential business information be disclosed to any other offeror.

(d) Classified information shall be furnished only in accordance with agency regulations governing the handling of classified information.

Subpart 1-3.4—Types of Contracts

Section 1-3.405-5 is amended to revise the introductory material in paragraph (c)(2), as follows:

§ 1-3.405-5 Cost-plus-a-fixed-fee contract.

* * * * *

(c) * * *

(2) The fixed fees shall not exceed the limitations set forth in the first sentence of section 304(b) of the Act (41 U.S.C. 254(b)), which sentence reads in part as follows:

* * * * *

Subpart 1-3.8—Price Negotiation Policies and Techniques

1. Section 1-3.802 is amended to revise paragraph (c), as follows:

§ 1-3.802 Preparation for negotiation.

* * * * *

(c) *Requests for proposals.* (1) Requests for proposals shall contain the information necessary to enable a prospective offeror to properly prepare a quotation or proposal. The request for proposals shall be as complete as possible with respect to (i) item descriptions or statements of work, (ii) specifications, (iii) Government-furnished property, if any, (iv) required delivery schedule, (v) special provisions, (vi) cost or pricing data requirements (see § 1-3.807-3), and (vii) contract clauses.

(2) Each request for proposals shall state the relative importance of cost or price, technical considerations, and other factors for purposes of proposal evaluation and contract award. Numerical weights which may be employed in the evaluation of proposals may be disclosed in solicitations.

(3) Requests for proposals shall specify a date and time for the submission of proposals. Any extension of time granted to one prospective offeror shall be granted uniformly to all.

(4) The initial release of requests for proposals shall be made to all prospective offerors at the same time, and no offeror shall be given the advantage of advance knowledge that proposals are to be requested.

(5) Requests for proposals shall be in writing except in those cases in which the urgency of the procurement is such that there is not sufficient time to prepare a written request. In such cases oral requests are authorized.

2. Section 1-3.807-1 is amended to revise paragraph (b)(2), as follows:

§ 1-3.807-1 General.

* * * * *

(b) * * *

(2) *Established catalog or market prices of commercial items sold in substantial quantities to the general public.* (i) Application of this exception also requires judgment and analysis on a case-by-case basis. In making this judgment, the various elements of the term must be considered, and a price must meet all these conditions in order to be considered for exception. In other words, the price must be, or be based on, (A) an established catalog or market price, (B) of commercial items, (C) sold in substantial quantities, (D) to the general public.

(ii) The following criteria should be applied in determining whether an item falls within the scope of this exception:

(A) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that (*1*) is regularly maintained by the manufacturer or vendor, (*2*) is published or otherwise available for inspection by customers, and (*3*) states prices at which sales are currently or were last made to a significant number of buyers constituting the general public. An "established market price" is a current price established in the usual and ordinary course of trade between buyers and sellers free to bargain which can be substantiated from sources independent of the manufacturer or vendor.

(B) A "commercial item" is an item, which term includes both supplies and services, of a class or kind which (*1*) is regularly used for other than Government purposes and (*2*) is sold or traded in the course of conducting normal business operations.

(C) Supplies are "sold in substantial quantities" when the facts or circumstances are sufficient to support a reasonable conclusion that the quantities regularly sold are sufficient to constitute a real commercial market for the item. Nominal quantities, such as models, specimens, samples, and prototype or experimental units, cannot be considered as meeting this requirement. Services are sold in substantial quantities if they are customarily provided by the contractor, with personnel regularly employed, and with equipment, if any is necessary, regularly maintained, solely or principally for the purpose of providing such services. There must be a sufficient number of commercial buyers so that their purchases establish an ascertainable going price for the service. Substantial quantity cannot be precisely defined.

(D) An item is sold "to the general public" if it is sold to other than affiliates of the seller for end use by other than the Government. Items sold to affiliates of the seller and sales for end use by the Government are not sales to the general public.

(iii) A price may be considered to be "based on" established catalog or market prices of commercial items sold in substantial quantities to the general public if the item being purchased is sufficiently similar to a commercial item to permit the difference between the prices of the items to be identified and justified without resort to cost analysis.

(iv) Even though an item qualifies for exemption from the requirements for submission of certified cost or pricing data, price analysis must be performed to determine the reasonableness of the price and the need for further negotiation. While the additional information required may be available from Government sources, it may be necessary to obtain it from the prospective supplier. The specific information will vary with the procurement involved but may include: (A) The supplier's marketing system; i.e., use of jobbers, brokers, sales agencies, distributors, etc.; (B) the services normally provided to commercial purchasers; e.g., engineering, financing, advertising, or promotion; (C) normal quantity per order; and (D) annual volume of sales to largest customers. Altered terms, minor configuration changes, or quantity differences are all good reasons for pricing items differently from the formal catalog or market prices. The ultimate objective is to achieve fair and reasonable prices for items bought. The Government and contractor personnel must recognize this fact by seeking innovative methods of satisfying the needs clearly but with a minimum of burdensome paperwork.

3. Section 1-3.807-2 is amended to revise paragraph (c)(4), as follows:

§ 1-3.807-2 Requirements for price or cost analysis

* * * * *

(c) * * *

(4) forecasting future trends in costs from historical cost experience is of primary importance, but care must be taken to insure that the effects of past

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inefficient or uneconomical practices are not projected into the future. An adequate cost analysis must include an evaluation of trends and their effect on future costs. In cases involving production of recently developed complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken.

4. Section 1-3.807-3 is amended to revise paragraphs (a)(1) and (c) and to add paragraphs (j) and (k), as follows:

§ 1-3.807-3 Cost or pricing data.

(a) • • •

(1) The award of any negotiated contract (other than a letter contract) expected to exceed $100,000 in amount; or

• • • • •

(c) The furnishing and certification or cost or pricing data shall be required prior to the award of any negotiated contract not expected to exceed $100,000 in amount, or prior to the pricing of any contract modification not expected to exceed $100,000 in amount to any formally advertised or negotiated contract, whether or not cost or pricing data were required in connection with the initial pricing of the contract: *Provided*, That it is considered that the circumstances warrant this action, such as in paragraphs (f) and (g) of this § 1-3.807-3.

• • • • •

(j) [Reserved].

(k) Negotiated final pricing actions, such as total final price agreements under fixed-price incentive and redeterminable contracts or termination settlement agreements under terminated contracts, are contract modifications for which certified cost or pricing data are required in accordance with paragraph (a)(2) of this § 1-3.807-3. A certificate in accordance with § 1-3.807-4 shall be submitted as soon as practicable after agreement is reached on the amount of the modification. A certificate is required when the amount of the total price agreement or of the final termination settlement agreement exceeds $100,000.

5. Section 1-3.807-10 is amended to revise paragraph (d), as follows:

§ 1-3.807-10 Subcontracting considerations in cost analysis.

• • • • •

(d) In considering cost-plus-fee subcontracts while negotiating prime contracts where cost analysis is performed, the contracting officer shall make every effort to ensure, and in consenting to cost-plus-fee subcontracts the contracting officer shall ensure, that fees under such subcontracts do not exceed the limits prescribed by § 1-3.405-5(c)(2). These limits should not be inserted in the prime contract because insertion of them might tend to inflate fees customarily negotiated at lower rates.

6. Section 1-3.808-1 is revised, as follows:

§ 1-3.808-1 General.

A fair and reasonable provision for profit or fee cannot be made by simply applying a certain predetermined percentage to the cost estimate or selling price of a product. Rather, the profit or fee should be first established as a dollar amount after considering the factors set forth in this § 1-3.808. Therefore, where a fee is involved and it is necessary to determine the percentage relationship between the fee and the estimated cost of the contract in order to comply with statutory limitations on fees for cost-reimbursement-type contracts (see § 1-3.405-5(c)(2)), the percentage shall be determined only after the dollar amount of the fee has been established for negotiation purposes.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: September 21, 1978.

PAUL E. GOULDING,
Acting Administrator
of General Services.

[FR Doc. 78-28240 Filed 10-5-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Proposed Container Requirements

Correction

In FR Doc. 78-27219, appearing at page 43721 in the issue for Wednesday, September 27, 1978, in the sixth line from the bottom of the first column, the reference to "• • • paragraph (a)(1)(v) • • •" should have been to "paragraph (a)(1)(iv) • • •."

[3410-02]

[CFR Part 1064]

[Docket No. AO-23-A52]

MILK IN THE GREATER KANSAS CITY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider changes in the order that have been proposed by dairy farmer cooperatives and a milk distributor. The major proposals would change the shipping requirements for pool supply plants and would permit milk to be diverted from pool supply plants to other plants. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: October 30, 1978.

ADDRESS: Holiday Inn, 1301 Wyandotte Street, Kansas City, Mo. 64105.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn, 1301 Wyandotte Street, Kansas City, Mo., beginning at 1:30 p.m., local time, on October 30, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modificaions thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the pool plant provisions of § 1064.7(b) to provide that a supply plant must ship 50 percent of its receipts of Grade A milk from dairy farmers (including receipts from handlers described in § 1064.9(c), except receipts of milk diverted pursuant to § 1064.13) as fluid milk products (except filled milk) which is physically received at pool distributing plants (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other supply plant operated by the operator of the supply plant) during each of the months of September through January and 30 percent of such receipts during each of the months of February through August. The percentages specified in this paragraph may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain needed shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons and, if his investigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision.

PROPOSED BY FAIRMONT FOODS CO.

PROPOSAL NO. 2

Amend § 1064.7(b), *Pool plant*, as follows:

Eliminate the present minimum pooling requirements for supply plants and provide that the market administrator announce on the 5th day of the month the shipping requirement for the following month, such shipping requirement to be about 90 percent of the projected Class I utilization.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 3

Amend § 1064.13, *Produced milk*, to permit allowable diversions from both pool distributing plants and pool supply plants.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 4

Amend § 1064.45(d), *Market administrator's reports and announcements concerning classification*, to provide that the report of the amount and class utilization of milk received by each handler shall also include shipments of supply plant milk.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kans. 66204; or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from dis-

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cussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For the particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Greater Kansas City marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on September 29, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-28217 Filed 10-5-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1924]

[FmHA Instruction 1924-F]

CONSTRUCTION AND REPAIR

Compensation for Construction Defects

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to add a new regulation to implement a public law. The action will authorize FmHA to compensate borrowers for defects resulting from construction financed under the section 502 Rural Housing Program. There have been instances where serious construction defects occurred and were not corrected by the contractor because of bankruptcy or other problems. The borrower had no other recourse except to repair these defects themselves. It is difficult, if not impossible, for the low-to-moderate income borrowers to correct these defects with their own resources. The intended effect of the action is to compensate borrowers for construction defects not due to their fault or neglect.

DATES: Comments must be received on or before November 6, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Elvon H. Spencer, 202-447-4295.

SUPPLEMENTARY INFORMATION: The FmHA proposes to add Subpart F, "Compensation for Construction Defects" to Part 1924, Subchapter J, Chapter XVII, Title 7 in the Code of Federal Regulations. This proposal contributes to the implementation of Pub. L. 95-128 by providing for compensation to borrowers in the form of cash payments, conveyance by the borrower back to the Government in satisfaction of the indebtedness, or repair at the Government's expense. The regulation will apply only to section 502 Rural Housing loans. The compensation aspects of this regualtion are contingent on funds being made available in appropriation acts (42 U.S.C. 1487(j)(6)); as of this date, no funds are available. Due to the need to implement these regulations as soon as possible we are publishing this subpart with a 30-day comment period.

As proposed Subpart F reads as follows:

PART 1924—CONSTRUCTION AND REPAIR

* * * * * *

Subpart F—Compensation for Construction Defects

Sec.
1924.251 General.
1924.252 Definitions.
1924.253 Eligibility.
1924.254 Purpose for which claims may be approved.
1924.255 [Reserved]
1924.256 Processing applications.
1924.257 Approval disapproval.
1924.258 Final inspection.
1924.259 Action against contractor.
1924.260 [Reserved]
1924.261 Conveyance of mortgaged property.
1924.262 Notification of borrowers.
1924.263—1924.300 [Reserved]
Exhibit A.

AUTHORITY. 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart F—Compensation for Construction Defects

§ 1924.251 General.

This Subpart contains policies and procedures for compensating borrowers for structural defects under section 509(c) of the Housing Act of 1949. Provisions of this subpart apply only to owner's of newly constructed dwellings financed with an insured section 502 Rural Housing (RH) loan. It does not apply to dwellings financed through the guaranteed section 502 program.

§ 1924.252 Definitions.

(a) *Newly constructed dwelling.* A Newly Constructed Dwelling is one which is not more than 1 year old, not previously occupied as a residence, and was built under an FmHA conditional commitment or section 502 construction loan.

(b) *Structual Defect:* A Structural Defect is a defect in the dwelling including the siting and grading directly affecting the dwelling, or a related facility, which directly and significantly reduces the useful life, the habitability, or the integrity of the dwelling. The defect may be due to faulty material, poor workmanship, or latent causes that existed when dwelling was constructed. The term includes but is not limited to:

(1) Structural failures which directly and significantly affect the basic integrity of the dwelling such as in the foundation, footings, slabs, floors, framing walls, or roof.

(2) Major deficiencies in the structural components of the building such as faulty wiring, or failure of sewage disposal or water supply systems located on the property securing the loan.

(3) Serious defects in installation of heating systems, central air conditioners, water heaters, or water pumps.

§ 1924.253 Eligibility.

To be eligible for assistance under this subpart, all of the following must exist:

(a) The claim must be one for repairs to, or compensation for, damages arising from major structural defects to a newly constructed dwelling financed with a section 502 RH loan or one to have the Government acquire the property because of such defects.

(b) The dwelling must be both newly constructed and financed with a section 502 RH loan closed on or after April 12, 1976.

(c) The claim must be filed with the local Farmers Home Administration (FmHA) County Office within 18 months after the loan is closed except for claims involving loans closed on or between April 12, 1976, and October 12, 1977, which may be filed through April 12, 1979.

(d) The claim must be submitted by the FmHA borrower who is also the current owner of the newly constructed dwelling. The claimant need not be the original owner of the newly constructed dwelling. However, the date of closing of the initial loan establishes the eligibility date for filing a claim under this section.

(e) The obligation of the contractor or builder to correct the defect(s) (under a builders warrant) must have expired or the contractor or builder is

liable to make corrections under the builder's warranty, but is unable or unwilling to do the work. The claimant, when applicable, must provide evidence that the contractor has been contacted and the reasons, if known, why the contractor will not correct the defect(s).

(f) The construction must have been completed under a FmHA approved contract or a conditional commitment, except that a dwelling built by borrower or self-help method of construction is also eligible if the defect is the result of poor workmanship performed or materials supplied and installed by a subcontractor; or the defect is the result of soil movement caused by other than improper compaction or other negligence on the part of the claimant; or the defect occurs in the home equipment described in § 1924.252.

§ 1924.254 Purposes for which claims may be approved.

(a) *Eligible purposes.* A claim may be approved to:

(1) Compensate for costs to repair major structural defects, including costs approved by FmHA for professional reports by engineers, architects or others needed to determine causes of or means of repairing the defect.

(2) Compensate the owner for funds expended for emergency repairs, or repairs made in accordance with plans and specifications after approval by FmHA. Emergency repairs are those repairs necessary to preserve the intergrity of the structure, to prevent damage or further damage to personal property or fixtures in the dwelling and related facilities, or to prevent or eliminate immediate health-hazards. Receipts or other evidence of owner's expenditures must be provided.

(3) Acquire title to the property and, when appropriate, compensate claimant for any loss of borrower contribution at the time the loan was closed. A borrower contribution may be such thing as:

(i) A borrower's land or cash contribution,

(ii) Development work done by the borrower, the cost of which was not included in the loan funds.

(iii) Attorney fees, abstract costs or title insurance costs actually paid by the claimant in connection with closing the loan.

Compensation allowed for the land or development work will be the value established by the appraisal on which the loan was based or present market value, whichever is less.

(4) Compensate the claimant for damages, which are a direct result of the defect to permanent additions, remodeling, upgrading, etc., of the dwelling or related facilities. Reimbursement under this paragraph will be based on actual cost of the development, or the replacement cost of the improvement, whichever is less. If the actual cost method is used, the borrower must provide evidence to reasonably establish the development cost.

(5) Compensate the claimant for temporary living expenses, miscellaneous expenses, storage of household goods and moving expenses incurred as a result of the defect.

(i) Payment under this paragraph may be made under either of the following circumstances:

(A) The property is acquired by the Government because FmHA determines that the dwelling is not habitable and the severity of the defects prevents the property from being repaired and made suitable as a permanent residence for the borrower. Payment of expenses covered by this paragraph is not authorized in cases where the Government accepts conveyance of the property as a convenience to the borrower and the dwelling is or can feasibly be made suitable as a permanent residence.

(B) The property is not acquired by the Government but FmHA determines that the dwelling is not habitable or must be vacated to repair the defects.

(ii) Claims for compensation are limited as follows:

(A) Compensation may be granted for temporary living expenses for not more than 45 calendar days per claim. Compensation will be paid for actual cost to the claimant not to exceed $40 per day. Reimbursement may be claimed for expenses such as food, lodging, cleaning, etc., which would not have been incurred had the claimant remained in the house.

(B) Compensation may be granted for actual miscellaneous expenses not to exceed $200 to cover such items as utility connect and disconnect fees.

(C) Compensation may be granted for moving and storage expenses not to exceed $2,500 unless authorized by the State Director and not to exceed the actual cost of moving the claimant household with personal belongings, a distance of not more than 50 miles from the original residence. Compensation for storage expenses may not exceed that amount paid to store household furnishings for 45 days.

(6) Compensate the claimant for reasonable interest paid on loans obtained for the sole purpose of correcting structural defects or other approved purposes under this Subpart.

(b) *Ineligible purposes.* Compensation will not be granted for:

(1) Damages resulting from alterations in construction not approved by FmHA, or additions or remodeling of dwellings and related facilities not financed by FmHA.

(2) The loss of past, present, or future wages or salary directly or indirectly resulting from the defect.

(3) Treatment for physical or psychological damages including medical and dental claims.

(4) Death benefits or funeral expenses.

(5) Damages encountered as a result of war, flood, tornado, lightening, earthquake or other acts of nature which the structure was not designed to withstand.

(6) Damages resulting from the homeowner's negligence or failure to properly maintain the property.

(7) Correction of defects such as a damp basement or malfunctioning septic system unless the defect is so serious that the Board of Health condemns the property, or the affected part of the dwelling cannot continue to be used for its intended purpose.

(8) Damage to personal property.

§ 1924.255 [Reserved]

§ 1924.256 Processing applications.

(a) An application for financial assistance under Section 509(c) of the Housing Act of 1949 as amended shall be submitted by the claimant to the County Supervisor on Form FmHA 424-4 "Request for Compensation for Construction Defects." The application form shall be completed in its entirety. All structural defects and claims for which compensation is sought will be listed. If necessary, the County Supervisor may assist the claimant in preparing and submitting the application.

(b) The County Supervisor will review applications for financial assistance to determine if the applicant and claim appear to meet the eligibility requirements as detailed in § 1924.253.

(c) If the claim is not eligible for compensation, the County Supervisor will notify the claimant in writing of the specific reasons for lack of eligibility and of appeal rights in accordance with Subpart B of Part 1900 of this chapter.

(d) The County Supervisor will process claims that appear to be eligible for compensation as follows:

(1) If the builder's warranty appears to cover the defect and the contractor has not been notified in writing about the defect, the County Supervisor will advise the borrower of the provisions of the builder's warranty and, if needed and if requested by the borrower, assist in completing appropriate notice to the contractor with the request that the defect be corrected within 30 days.

(2) If the builder's warranty covers the defect and the contractor has received written notice and is unable or unwilling to make repairs in accordance with the provisions of the build-

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er's warranty, the County Supervisor will notify the contractor in writing that the Government is considering compensating the borrower and the contractor may be liable for costs paid by the Government. Further actions against the contractor will be in accordance with Subpart E, Part 1924, of this chapter.

(e) If the defect is not covered by a builder's warranty or the contractor does not appear to be liable, or the contractor has failed to perform after proper notification under the warranty or the County Supervisor has evidence that the contractor is unable or unwilling to make the repairs, the following action will be taken:

(1) A copy of the claim will be sent to the District Director.

(2) The County Supervisor will be responsible for having an onsite inspection made by a qualified FmHA employee within 30 days of receipt of the claim. The inspector should not indicate to the claimant whether or how much financial assistance might be given. If eligibility of the defect or the proper method of making repairs is not clear, the State architect should be consulted. A narrative inspection report will be prepared and include at least the following information:

(i) A description of the defect and a statement as to whether the defect is a structural defect as defined in § 1942.252(b).

(ii) The cause or probable cause of the defect.

(iii) A list of any other damages to the structure and related facilities.

(iv) A description of the work necessary to correct the defect and an estimate of the repair cost, or a recommendation as to whether it is feasible to repair the property.

(f) After the inspection and report have been completed, the County Supervisor will send the claim file to the District Director who will inform the claimant by letter that:

(1) An inspection has been completed and a copy of the report is attached. Furthermore, a determination has been made as to which defects:

(i) Are the responsibility of the contractor, or equipment manufacturer.

(ii) Are not eligible for assistance under this subpart.

(iii) May be eligible for assistance under this regulation.

(2) The claimant must indicate in writing whether there is a desire to repair the eligible defects or convey the property to the Government in satisfaction of the indebtedness on the rural housing loan(s) to the Agency with the Government paying for borrower investment in the property as authorized in § 1924.254. The option to convey to the Government is available to the claimant only if the estimated cost of correcting the defect, as determined by FmHA, exceeds $2,000 or if FmHA determines that after the proposed corrections are made the dwelling would not be suitable for the borrower considering the borrower's needs and circumstances. Should the decision be to repair, the claimant must provide plans, specifications, and cost estimates for planned repairs.

(3) The claim, if approved, will be subject to the availability of funds.

§ 1924.257 Approval—Disapproval.

(a) The District Director may approve or disapprove claims up to $2,000. All other claims will be approved or disapproved by the State Director. The approval official must in writing, inform the claimant of the decision within 30 days after the claim is received by that official. In no case will the County Supervisor or the District Director hold a claim docket for more than 30 days unless they inform the claimant of the reason(s) why it is being delayed. If the claim or any part of the claim is denied at any level, the claimant will be informed in writing of the reason(s) for the denial and advised of appeal rights in accordance with Subpart B of Part 1900 of this chapter.

(b) The assembled claim docket to be submitted to the District Director in accordance with § 1924.256 (f) will contain all of the following completed forms and documents as well as other information bearing upon the validity of the claim.

(1) Form FmHA 424-4 completed and signed by claimant.

(2) Report of inspection completed and signed by the FmHA employee who made the inspection.

(3) Plans, specifications, and cost estimates.

(4) The County Supervisor's comments and recommendations.

(c) Claims will be approved subject to availability of funds. The approving official will enter the amount for which the claim is approved and sign the original Form FmHA 424-4. Two copies will be mailed to the State Office, one copy to the borrower, and the original will remain in the borrower's case file. When the State Office allocates funds for the claim, two copies of Form FmHA 424-4 will be stamped "funded" and returned to the County Supervisor. The County Supervisor, when ordering the check, will send one copy with the "funded" stamp to the Finance Office. The Finance Office will send the check to the county office on the basis of this form. It will not be necessary to use Standard Form 1034. The check will be made payable to the claimant and may be, as appropriate, released to the claimant to reimburse claimant for approved costs incurred by applicant, endorsed by the claimant to be applied on an account, or deposited in a supervised bank account.

§ 1924.258 Final inspection.

All repair work will be performed in accordance with FmHA Instruction 424.1. In all cases, a final inspection of the repair work performed will be made before final payment is made for the work. If practical, the inspection will be made by the same employee who made the initial inspection to determine eligibility. Interim inspections may be made to insure that minimum property standards are met. The inspection report for the final inspection will be signed by both borrower and inspector.

§ 1924.259 Action against contractor.

Compensation by the Government will not be approved until after reasonable efforts to obtain corrective actions by the contractor have failed. However, if it becomes necessary for FmHA to pay for correction of construction defects in a dwelling which are the responsibility of the contractor, debarment proceedings will be initiated against the contractor in accordance with subpart C of part 1918 of this chapter. An assignment of the borrower's claim against the contractor or other party may be obtained if is appears to the approval officials, with any necessary advice from OGC, that recovery is reasonably possible.

§ 1924.260 [Reserved]

§ 1924.261 Conveyance of mortgaged property.

If a borrower, eligible under this subpart, requests, because of a structural defect, that the FmHA debt be canceled, the borrower will be requested to convey the mortgaged security to the Government if FmHA approves the borrower's request. The conveyance will be handled in accordance with applicable provisions of part 1955, subpart A.

§ 1924.262 Notification of borrowers.

Each borrower potentially eligible for compensation will be notified in writing by the County Supervisor within 30 days of the receipt of this subpart of the borrower's rights under this subpart. The County Supervisor will also give the notification to loan applicants at or before loan closing, and to borrowers at any time construction defects are apparent and favorable results cannot be obtained from the contractor. Exhibit A of this subpart may be used as a guide in preparing the notification letter to be sent to potentially eligible borrowers.

§ 1924.263–1924.300 [Reserved]

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 2, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

EXHIBIT A

DEAR ————,

Recent legislation has enabled Farmers Home Administration (FmHA) to provide financial assistance to correct major structural deficiencies in new dwellings financed on or after April 12, 1976.

The assistance may be granted to correct deficiencies in the major structural components of single family houses not corrected under thae builder's warranty.

A major structural defect is considered to be a defect(s) which significantly reduces the useful life or habitability of the dwelling or unit or threatens its integrity. The defect may be due to faulty material, poor workmanship, or latent unpredictable causes.

If you have such a defect in your house, you should contact our office at ——. You will be provided with additional information as well as the necessary forms for filing a claim. Any claim submitted for loans closed on or between April 12, 1976 and October 11, 1977, must be received in the County Office by April 12, 1979. For loans closed after October 12, 1977, the claim must be received no later than 18 months after the date of loan closing.

Sincerely,

————,
County Supervisor.

[FR Doc. 78-28241 Filed 10-5-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 72]

STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

Proposed Licensing Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The proposed new regulation specifies procedures and requirements for issuance of licenses to store spent fuel in an independent spent fuel storage installation (ISFSI). In addition to general provisions, the proposed regulation contains requirements for the siting, general design criteria and certain operational aspects of such an activity.

DATE: Comment period expires January 4, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed new regulation may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The Commission is particularly interested in comments on Subpart E, "Siting Criteria" and Subpart F, "General Design Criteria."

FOR FURTHER INFORMATION CONTACT:

Russell E. L. Stanford, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5910.

SUPPLEMENTARY INFORMATION: The present policy of the United States is to store commercial reactor spent fuel without reprocessing pending a decision to reprocess it or to dispose of it directly as high level waste. As a result of this policy, spent fuel is accumulating in storage basins throughout the U.S. The Nuclear Regulatory Commission has evaluated the environmental impacts of the accumulation of spent fuel and recently published a draft Generic Environmental Impact Statement (GEIS) on this subject.[1] The GEIS concludes that there is a need for independent spent fuel storage installations (ISFSI), or as these are sometimes called, away-from-reactor (AFR) storage installations, to accommodate some of the accumulating spent fuel. The GEIS also recognizes the need for a more definitive regulatory basis for future licensing of facilities of this type. The GEIS identifies the development of 10 CFR Part 72, as coming to meet the need.

The Nuclear Regulatory Commission has under consideration this new regulation covering the requirements for extended spent fuel storage at installations built specifically for this purpose that are not coupled to either a nuclear power plant or a fuel reprocessing plant.

The present regulations covering the possession of source, byproduct and special nuclear materials are largely designed for relatively short-term possession in conjunction with operations involving such materials. The Nuclear Regulatory Commission recognizes that there is a need for a new regulation covering the requirements for extended spent fuel storage under static storage conditions involving no operations on such materials. The proposed new regulation specifies procedures and requirements for the issuance of licenses to store spent fuel in an independent spent fuel storage installation. To ensure adequate protection of the public health and safety, the proposed regulation establishes siting, design, operation and records requirements for away-from-reactor spent fuel storage. Specific features of licensing under Part 72 are:

1. Single license—Part 72 provides for issuance of a single license as early as practical in the licensing process—before the start of construction of any physical facilities involved. This license would contain a provision that it be reevaluated by NRC and its "license conditions" be updated prior to the receipt of spent fuel at an ISFSI.

2. Safety analysis report—A single safety analysis report will be submitted with the license application. This will be updated as the project progresses and changes submitted to the NRC, with any final changes submitted at least 90 days prior to the receipt of spent fuel at an ISFSI.

3. Licenses covering the storage of spent fuel in an ISFSI will not be issued by Agreement States because of the significant quantities of special nuclear materials involved. Agreement States are prohibited by section 274b(3) of the act from licensing special nuclear material in quantities sufficient to form a critical mass.

4. Such licenses are limited to the temporary storage only of spent fuel; no license under this part will be granted for the later permanent storage or disposal of spent fuel.

An opportunity for public hearings will be provided before issuing a license for an ISFSI. Appropriate amendments to the regulations to include ISFSIs in the public hearing procedures will be issued for public review and comment.

Underwater storage of spent fuel has been standard practice in the nuclear industry for more than 30 years. The basic technology involved is well established and readily lends itself to the contemplated extended storage of spent fuels under water for periods of more than 10 years.

However, the storage of spent fuels in an ISFSI is not limited to underwater storage. Although many of its specific requirements apply to water pool installations, the storage of aged spent fuel under dry storage conditions is also covered by this regulation. The storage of spent fuels under water is only necessary for those fuels which have not undergone sufficient aging since their discharge from a reactor to make cooling by some other means feasible.

The proposed rule is applicable only to "aged" fuel, with more than one year's decay since reactor shutdown. Aged spent fuel, having lost the short-lived radionuclides by decay, need not have a high degree of protection from

[1] NUREG-0404 Draft Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Reactor Fuel—March 1978. Copies may be obtained from the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

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weather extremes, tornadoes, or tornado generated missiles.

The large inventory of radionuclides in an ISFSI represents a potential hazard to public health and safety. Storage conditions must provide an environment which will insure the long-term integrity on the fuel cladding as the primary containment for the radioactive materials contained in spent fuel. For underwater storage, the pool water is also an effective medium for the containment of the small amounts of radioactive materials, primarily cesium, that may escape from defective fuel.

To assure the long-term integrity of the stored spent fuel, the storage racks and other important components of an ISFSI, there must be provisions for periodic inspection and surveillance of critical components.

The rationale underlying the siting requirements is that although the potential risk is small due to the relatively inert nature of aged spent fuel, sound sites should be selected for such installations. An ISFSI could be located on the site of another license facility or a separate site. The population distributions at licensed reactor sites would be acceptable for the location of ISFSI.

The Commission is considering whether a new seismic siting approach for an ISFSI should be adopted which recognizes that the simple static nature of an ISFSI makes seismic risk less serious than it is for a reactor. The Commission also recognizes from experience that substantial resources can be expended in investigation work to establish site-specific seismic design values and further resources on debate of the exact values and review of different viewpoints to meet these site-specific values. By including requirements in the proposed regulations which limit the location of an ISFSI to sites with an earthquake ground motion potential of no more than 0.25g (with a recurrence interval of 500 years) [2] and which specify that all ISFSI's shall be designed to withstand a 0.25g acceleration, the integrity of the ISFSI can be assured without the need for costly seismic site investigations, analyses and review unless some unusual geologic characteristic is identified. The limiting earthquake ground motion potential of 0.25 g with a recurrence interval up to 500 years is not considered unduly restrictive. It rules out sites of high seismic potential as being generally unsuitable. However, if special circumstances and special design treatment are shown, exemption from this site restriction is possible. The imposition of this site restriction does raise the possibility that a small amount of additional transportation of spent fuel might be necessary to reach an acceptable ISFSI site from a few reactors in the U.S. Based on previous evaluations of the impact of transporting spent fuel,[3,4] the savings achieved by the site restriction are justified.

For underwater storage, the pool structure and the spent fuel storage racks within the pool must be designed and constructed to resist potential seismic forces to insure sub-critical geometry at all times.

Spent fuel in storage under water requires a cooling system for the removal of decay heat. However, the heat capacity of the large volume of water in a spent fuel storage pool allows adequate time to take corrective action if the cooling system fails, provided there is an assured source of makeup water and some means of getting it to the storage pool, if needed. Therefore, the cooling system need not be designed to withstand the extremes of natural phenonmena. Likewise, the emergency water supply system need not be permanently installed, provided it is available within the time span needed.

The activity level of the pool water must be kept within control and equipment such as the pool water cleanup system and the waste treatment system must be designed to meet ALARA objectives for operating personnel.

Experience has shown that the level of radioactive materials in the ambient air in the spent fuel storage area of an ISFSI is normally about 5 percent of 10 CFR 20 limits for occupied areas. However, there is a potential for the release of radioactive materials in the venting of shipping casks before these are unloaded, hence cask unloading must be handled under controlled conditions.

The proposed Part 72 includes an operational dose limit to any member of the general public of 25 mrem per year from the uranium fuel cycle in accordance with the regulations of the Environmental Protection Agency (40 CFR Part 190). The EPA regulations were prepared with a reprocessing fuel cycle in mind, but the Commission considers it reasonable to apply them to the ISFSI since the storage of fresh spent fuel at reactors and reprocessing plants was already envisioned and the storage of aged spent fuel at an ISFSI entails much lower potential releases.

Part 72 also sets a limit of 5 Rem in 2 hours for the calculated dose to individuals off the ISFSI site from design basis accidents. With such a limit, an ISFSI, if located on a reactor site, will not add substantially to the risk to the public off site. Accident analyses for an ISFSI presented in the GEIS and in previous licensing cases show that this limit is reasonably achievable.

With spent fuel committed to storage for an idefinite period of time, and its ultimate disposition unknown, there is a need for the maintenance of adequate records of the identify and history of the spent fuel in storage.

It is the Commission's judgment that an NRC review of the licensee's training program and a certification by the licensee that his operators are adequately trained are adequate. The provisions of Section 107 of the Atomic Energy Act, as amended, which provide for licensing of operators, do not apply to ISFSI personnel.

Although the proposed regulation does not contain specific requirements relating to financial protection and responsibility for public liability, the Commission is considering the question of whether it should exercise its discretionary authority under the Price-Anderson Act to prescribe such requirements and would be interested in any comments or views which might be offfered on this issue. The question is also undergoing review in the context of a broad study by the NRC staff of whether, and if so in what manner, the Commission should exercise its discretionary authority to impose financial protection requirements on its materials licensees.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following new regulation 10 CFR Part 72 is contemplated.

A new Part 72 is added which reads as follows:

PART 72 "LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION" (ISFSI)

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NUCLEAR CRITICALITY SAFETY

RADIOLOGICAL PROTECTION

SPENT FUEL AND RADIOACTIVE WASTE STORAGE AND HANDLING

DECOMMISSIONING

Subpart G—Quality Assurance

72.75 Quality Assurance Program; Records.

Subpart H—Plant Protection

72.81 Physical Security Plan.

Subpart I—Training and Certification of ISFSI Personnel

Sec.
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72.92 Responsibility for Training Program.
72.93 Physical Requirements.
72.94 Submission for Approval.

AUTHORITY: Atomic Energy Act of 1954, as amended, secs. 51, 53, as amended, 62, 63, 65, 81, 161 b, h, i, o, 182a as amended, 183 as amended, 184 as amended, 186, 187, Pub. L. 83-703, 68 Stat. 929, 930 as amended by 71 Stat. 576, 72 Stat. 632 and 79 Stat. 602, 932, 933, 935, 948, 953 as amended by 70 Stat. 1069, 954 as amended by 78 Stat. 602, 955, (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201 (b), (h), (i), (o), 2232, 2233, 2234, 2236, 2237); sec. 234, Pub. L. 91-161, 83 Stat. 444, 42 U.S.C. 2282; sec. 274c, Pub. L. 86-273, 73 Stat. 688, (42 U.S.C. 2021(c)); under sec. 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 853, (42 U.S.C. 4332), and under the Energy Reorganization Act of 1974, as amended, sec. 201, as amended, 202, and 206, Pub. L. 93-438, 88 Stat. 1242, as amended by 89 Stat. 413, 1243, 1246 (42 U.S.C. 5841, 5842, 5846).

Subpart A—General Provisions

§ 72.1

§ 72.1 Purpose.

The regulations in this part establish requirements, procedures and criteria for the issuance of licenses to receive title to, own, acquire, receive, or possess special nuclear material, byproduct material, and source material in spent fuel for the purpose of storage in the United States in an independent spent fuel storage installation (ISFSI) as defined in § 72.3 and establish and provide for the terms and conditions under which the Commission will issue such licenses. Such licenses are limited to the temporary storage only of spent fuel; no license under this part will be granted for the later permanent storage or disposal of spent fuel.

§ 72.2 Scope.

The regulations in this part apply to all persons in the United States, including persons in Agreement States. The regulations in this part are limited to spent fuel. This includes the byproduct, special nuclear and source materials in the spend fuel to be stored or in storage in an independent spent fuel storage installation as defined by § 72.3. With respect to licenses covering the storage of spent fuel in an ISFSI issued prior to the effective date of this regulation, such licenses will not be renewed unless the operating requirements of this Part 72 are met.

§ 72.3 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "As low as is reasonably achievable" means as low as is reasonably achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety.

(c) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(d) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(e) "Commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings or excavations to determine subsurface materials and foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Construction of environmental monitoring facilities;

(3) Procurement or manufacture of components of the installation.

(f) "Confinement system" means those systems, including ventilation, between areas containing radioactive substances and the environment.

(g) "Controlled area" means that area immediately surrounding the ISFSI complex, the use of which is controlled by the licensee.

(h) "Design basis" means the parameter values associated with that level of severity of an external event or combination of events selected for design of all or part of an ISFSI to insure that the structures, systems, and components important to safety (in relation to that event or combination of events) will maintain their integrity and will not suffer loss of function during or after the event or before completing its design function. These values may be (1) restraints derived from generally accepted "state-of-the-art" practices for achieving functional goals, or (2) requirements derived from analysis (based on calculation and/or experiments) of the effects of a postulated event under which a structure, system, or component must meet its functional goals.

(i) "Historical data" means a compilation of the available information concerning a particular type of event derived from human history.

(j) "Independent spent fuel storage installation (ISFSI)" means a self-contained installation designed for the storage of spent fuel and capable of independent operation with all necessary supporting services.

[2] As demonstrated by authorities such as Algermissen and Perkins, USGS, Open File Report 76-416, 1976, "A Probabilistic Estimate of Maximum Acceleration in Rock in the Contiguous United States."

[3] WASH-1238, "Environmental Survey of Transportation of Radioactive Materials to and From Nuclear Power Plants."

[4] NUREG-0170, "Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes."

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(k) "Neighboring area" means that area immediately surrounding the controlled area in which population distribution and density and land and water uses are considered with respect to the possibility of implementing contingency measures.

(l) "NEPA" means the National Environmental Policy Act of 1969 including any amendments thereto.

(m) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department of Energy (DOE), except that the DOE shall be considered a person within the meaning of the regulations of this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(n) "Region" means a geographical area surrounding and including the site sufficiently large to contain all the features related to a phenomenon or to the effect from a particular event.

(o) "Site" means the real property on which the ISFSI is located. The site includes the controlled area.

(p) "Source material" means (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of 1 percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(q) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material; or (2) any material artifically enriched by any of the foregoing but does not include source material.

(r) "Spent fuel" suitable for storage in an ISFSI means irradiated light water reactor nuclear power plant fuel which has undergone at least one year's decay since reactor shutdown.

(s) "Structures, systems and components important to safety" means those items whose function is to (1) maintain the required spent fuel storage conditions, (2) prevent damage to the spent fuel during transfer and storage, (3) protect plant personnel from exposure to radiation in excess of design objectives.

§ 72.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to:

The Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, Washington, D.C. 20555

Communications, reports, and applications may be delivered in person at the Commission's Offices at:

7915 Eastern Avenue, Silver Spring, Md., or 1717 H Street NW., Washington, D.C.

§ 72.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 72.6 License required.

(a) No person may receive title to, own, acquire, receive, or possess special nuclear material, byproduct material, or source material in spent fuel for the purpose of storage in an independent spent fuel storage installation except as authorized by the general license in § 72.7, or as authorized in a specific license issued by the Commission in accordance with the regulations in this part.

(b) Licenses for special nuclear material are of two types: General and specific. Any general license provided in this part is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

§ 72.7 General license to own spent fuel.

A general license is hereby issued to receive title to and own source material, special nuclear material and byproduct material contained in spent fuel without regard to quantity. Regardless of any other provision of this chapter, a general licensee under this section is not authorized to acquire, deliver, receive, or possess source material, special nuclear material and byproduct material contained in spent fuel, except as authorized in a specific license.

§ 72.8 Specific exemptions.

The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

§ 72.9 Denial of licensing by agreement states.

Licenses covering the storage of spent fuel in an ISFSI will not be issued by Agreement States.

Subpart B—License Application, Form, Contents

§ 72.11 Filing of applications for licenses; oath or affirmation.

(a) *Place of filing.* Each application for a license under this part, or amendment thereof, should be filed with:

The Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Applications, communications, reports, and correspondence may be delivered in person at the Commission's offices at 7915 Eastern Avenue, Silver Spring, Md., or 1717 H Street NW., Washington, D.C.

(b) *Oath or affirmation.* Each application for a license or license amendment, including amendments to such applications, should be executed in three signed originals by the applicant or duly authorized officer thereof under oath or affirmation.

(c) *Number of copies of applications.* Each filing of an application for a license or license amendment under this part (including amendments to such applications) shall include in addition to three signed originals the required documents listed in Table I in the number of copies specified.

(d) *Fees.* The application, amendment and inspection fees applicable to a license covering the storage of spent fuels in an ISFSI are those shown in § 170.31 of this chapter.

§ 72.12 Elimination of repetition.

In any application, under this part, the applicant may incorporate by reference information contained in previous applications, statements or reports filed with the Commission: *Provided,* That such references are clear and specific.

§ 72.13 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with provisions of the regulations contained in Part 2 and Part 9 of this chapter.

CONTENTS OF APPLICATION

§ 72.14 Contents of application: General and financial information.

Each application shall state;

(a) Full name of applicant;

(b) Address of applicant;

(c) Description of business or occupation of applicant;

(d) (1) If applicant is an individual, state citizenship and age.

TABLE I.—*Required licensing documents*

Section	Document	No. of copies
72.11	License application	[1] 25
72.15	Safety analysis report	70
72.19	Emergency plan	25
72 20	Environmental report	150
72.34	Report of installation and procedures changes	[2] 12
72.36	Application for transfer of license	[2] 25
72.38	Application for termination of license	[2] 25
72.39	Amendment to license	[2] 25
72.75	Quality assurance program	25
72.81(a)	Physical security plan [3]	10
72.81(c)	Safeguards contingency plan	10
72.94	Personnel training program	10

[1] Plus 3 signed originals.
[2] Plus 1 signed original.
[3] Physical protection plans should be held exempt from public disclosure pursuant to 10 CFR 2.790(d).

(2) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business.

(3) If applicant is a corporation or an unincorporated association, state:

(i) The State, where it is incorporated or organized and the principal location where it does business;

(ii) The names, addresses and citizenship of its directors and principal officers.

(4) If the applicant is acting as an agent or representative of another person in filing the application, identify the principal and furnish information required under this paragraph with respect to such principal.

(e) Information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the license is sought. This information shall state the place at which the activity is to be performed, the general plan for carrying out the activity and the period of time for which the license is requested. The information shall show that the applicant either possesses the necessary funds or that the applicant has reasonable assurance of obtaining the necessary funds, or that by a combination of the two, the applicant will have the necessary funds available to cover the following:

(1) Estimated construction costs.

(2) Estimated operating costs over the planned life of the installation.

(3) Estimated shutdown and decommissioning costs and the necessary financial arrangements prior to licensing that will insure shutdown, decontamination and decommissioning will be carried out.

§ 72.15 Contents of application: Technical information.

Each application for a license under this part shall include: (a) Safety Analysis Report describing the proposed installation (ISFSI) for the storage of spent fuel, including how the ISFSI will be operated. The minimum information to be included in this report shall consist of the following:

(1) A description and safety assessment of the site on which the ISFSI is to be located, with appropriate attention to features affecting installation design. Such assessment shall contain an analysis and evaluation of the major structures, systems and components of the ISFSI which bear on the suitability of the site assuming that the installation will be operated at the ultimate capacity [1] which is contemplated by the applicant.

(2) A description and discussion of the ISFSI structures with special attention to design and operating characteristics, unusual or novel design features, and principal safety considerations.

(3) The preliminary design of the installation including:

(i) The principal design criteria for the installation pursuant to subpart F of this part, with any additions to or departures from the general design criteria identified and justified.

(ii) The design bases and the relation of the design bases to the principal design criteria;

(iii) Information relative to materials of construction, general arrangement, and approximate dimensions, sufficient to provide reasonable assurance that the final design will conform to the design bases with an adequate margin for safety; and

(iv) Applicable codes and standards.

(4) A preliminary analysis and evaluation of the design and performance of structures, systems, and components of the ISFSI with the objective of assessing the risk to public health and safety resulting from operation of the installation and including determination of

(i) The margins of safety during normal operations and expected operational occurrences during the life of the installation and

(ii) The adequacy of structures, systems, and components provided for the prevention of accidents and the mitigation of the consequences of accidents, including natural and man-made phenomena and events.

(5) The means for controlling and limiting occupational radiation exposures to meet the objective of as low as is reasonably achievable and the limits shown in Part 20 of this chapter.

(6) The features of ISFSI design and operating modes to minimize waste volumes generated by the facility.

(7) An identification and justification for the selection of those variables, conditions, or other items which are determined as the result of the safety analysis and evaluation to be probable subjects of license conditions, with special attention given to those items which may significantly influence the final design of the installation.

(8) A preliminary plan for the applicant's organization, training of personnel pursuant to § 72.91, and conduct of operations, including the planned managerial and administrative controls system.

(9) An identification of those structures, systems or components of the installation, if any, which require research and development to confirm the adequacy of their design; an identification and description of the research and development program which will be conducted to resolve any safety questions associated with such structures, systems or components; and a schedule of the research and development program showing that such safety questions will be resolved prior to the initial receipt of materials to be stored at the ISFSI.

(10) The technical qualifications of the applicant to engage in the proposed activities as required by § 72.17.

(11) A description of the applicant's plans for coping with emergencies as required by § 72.19.

(12) A description of the equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal operations and expected operational occurrences. The description shall identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas as low as reasonably achievable and within the limits shown in Part 20 of this chaper. The description shall include:

(i) An estimate of;

(A) The quantity of each of the principal radionuclides expected to be released annually to unrestricted areas in liquid effluents produced during normal ISFSI operations; and

(B) The quantity of each of the principal radionuclides expected to be released annually to unrestricted areas in gaseous effluents produced during normal ISFSI operations.

(ii) A general description of the provisions for packaging, storage, and disposal of solid wastes containing radioactive materials resulting from treat-

[1] "Capacity" in this context refers to the quantity in metric tons of spent fuel, its contained radioactivity (curies) and heat generation rate (Btu/hr).

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ment of gaseous and liquid effleunts and from other sources.

(iii) A description of the equipment and procedures for the maintenance and use of equipment installed in radioactive waste systems.

(iv) Prior to the first receipt of material to be stored, a revised estimate of the infomation required in paragraph (a)(12)(i)(B) of this section if the expected releases and exposures differ significantly from the estimates submitted in the application.

(v) A description of the measures taken to control the quantities of radioactive wastes for offsite disposal to as low as reasonably achievable levels.

(13) A conservative analysis of the potential dose to an individual off site from accidents and natural phenomena which result in (i) criticality, (ii) release of radioactive materials to the site and surrounding areas, and (iii) the loss of water for water pool type installations. The calculations of dose from any pathway may be limited to direct exposure, inhalation or ingestion occurring within 24 hours of the postulated event.

(b) Periodically during design and normally prior to construction, with final completion at least 90 days prior to the planned receipt of materials to be stored, and annually thereafter, the safety analysis report (SAR) will be updated and submitted to the Commission for approval and shall include the following:

(1) All current information relating to applicable site evaluation factors, including the results of environmental monitoring programs.

(2) A description and analysis of changes in the structures, systems, and components of the installation, with emphasis upon performance requirements, the bases, with technical justification therefor, upon which such requirements have been established, and the evaluations required to show that safety functions will be accomplished.

(i) Such items as the instrumentation and control systems, ventilation and filter systems, electrical systems, auxiliary and emergency systems, and radioactive waste handling systems shall be discussed insofar as they are pertinent.

(3) A final analysis and evaluation of the design and performance of structures, systems, and components taking into account any pertinent information developed since the submittal of the license application.

(c) A description of the quality assurance program to be applied to the design, fabrication, construction, testing and operation of the safety-related structures, systems, and components of the ISFSI as required by § 72.75. The description of the quality assurance program shall identify safety-related structures, systems and components and shall show how the criteria in Appendix B of Part 50 of this chapter will be applied to such identified safety-related components, systems, and structures in a manner consistent with their importance to safety.

(d) A description of the detailed security measures for physical protection, including design features and a plan as required by § 72.81.

(e) A description of the planned program covering preoperational testing and initial operations.

(f) The decommissioning plan required under § 72.18 of this part.

§ 72.16 Contents of application: license conditions.

Each application under this part shall include proposed license conditions in accordance with the requirements of § 72.33 together with a summary statement of the bases or reasons for such conditions.

§ 72.17 Contents of application: technical qualifications.

An application under this part shall include:

(a) The technical qualifications, including training and experience of the applicant and members of the applicant's staff to engage in the proposed activities in accordance with the regulations in this chapter.

(b) A description of the personnel training program required under Subpart I of this part.

(c) A commitment by the applicant to have an adequate complement of trained and certified plant personnel prior to the receipt of spent fuel for storage.

§ 72.18 Decommissioning Plan, Including its Financing.

(a) Each application under this part shall include a decommissioning plan which shall contain information on proposed procedures for the disposal of radioactive material, decontamination of the site and other procedures, sufficient to provide reasonable assurance that the dismantling and disposal of the ISFSI at the end of its useful life will not be inimical to the common defense and security or to the health and safety of the public. This plan shall include an evaluation of the ISFSI design features which have been selected to facilitate to the maximum degree reasonable its decontamination and decommissioning at the end of its useful life. This plan shall include provisions for minimizing the amount of solid, airborne and liquid wastes generated during decommissioning.

(b) The decommissioning plan will include the financial arrangements for its execution.

§ 72.19 Emergency plan.

An application to store spent fuel in an ISFSI, will include plans for coping with emergencies. These plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to Part 50 of this chapter.

§ 72.20 Environmental report.

Each application for a license under this part shall be accompanied by an Environmental Report which meets the requirements of Part 51 of this chapter; 150 copies are required.

Subpart C—Issuance and Conditions of licenses

§ 72.31 Issuance of Licenses.

(a) The Commission will issue a license under this part and updated prior to the receipt of spent fuel in such form and containing such conditions and limitations as it deems appropropriate or necessary upon a determination that an application for a license meets the standards and requirements of the act and regulations, that the applicant's proposed site, installation and equipment for the storage of spent fuel are adequate to protect health and minimize danger to life or property; and that:

(1) The proposed site complies with the requirements of § 72.66.

(2) The applicant is qualified by reason of training and experience to conduct the operation covered by the regulations in this part.

(3) The applicant's personnel training program complies with Subpart I of this part.

(4) The applicant's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(5) The applicant is financially qualified to engage in the proposed activities in accordance with the regulations in this part.

(6) The applicant's physical security plan complies with § 72.81.

(7) The applicant's quality assurance plan complies with § 72.75.

(8) The applicant's emergency plan complies with § 72.19.

(9) The applicant's decommissioning plan and its financing pursuant to § 72.18 are adequate.

(10) Before commencement of construction of the installation, the Director of the Office of Nuclear Materials Safety and Safeguards or his designee, has concluded, or after a public hearing, the Atomic Safety and Licensing Board has made the finding that on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, and after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for

is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion or finding may be grounds for denial of a license to store spent fuel in an ISFSI.

(11) No license will be issued by the Commission to any person within the United States if the Commission finds that the issuance of such a license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

§ 72.32 Duration of license; renewal.

Each license will be issued for a fixed period of time to be specified in the license but not to exceed 20 years. Licenses may be renewed by the Commission upon expiration of that period, upon application of the licensee.

§ 72.33 License conditions.

(a) Each license issued under this part will include license conditions. The license conditions will be derived from the analyses and evaluations included in the safety analysis report, and amendments thereto, submitted pursuant to § 72.15, and from the proposed license conditions submitted by the applicant pursuant to § 72.16. The Commission may also include such additional license conditions as the Commission finds appropriate.

(b) License conditions will include items in the following categories:

(1) *Functional and operating limits and monitoring instruments and limiting control settings.* (i) Functional and operating limits for an ISFSI are limits upon fuel handling and storage conditions which are found to be necessary to protect the integrity of the stored fuel and guard against excessive occupational exposures and the uncontrolled release of radioactive materials. (ii) Monitoring instruments and limiting control settings for an ISFSI are settings for alarms or mechanical devices related to those fuel handling and storage conditions having significant safety functions.

(2) *Limiting conditions.* Limiting conditions are the lowest functional capability or performance levels of equipment required for safe operation.

(3) *Surveillance requirements.* Surveiliance requirements are requirements relating to tests, calibrations, and inspections to assure that the necessary integrity of required systems, components and the fuel in storage is maintained, that operation of the installation will be within the required safety limits, and that the limiting conditions required for safe storage will be met.

(4) *Design features.* Design features to be included are those features of the installation such as materials of construction and geometric arrangements, which, if altered or modified, would have a significant effect on safety and are not covered in categories described in subparagraphs (1), (2), and (3) of this paragraph (c).

(5) *Administrative controls.* Administrative controls are the provisions relating to organization and management procedures, recordkeeping, review and audit, and reporting necessary to assure that the operations involved in the storage of spent fuel in an ISFSI are performed in a safe manner.

(c) In addition to the conditions described in paragraph (a) of this section, every license issued under this part shall be subject to the following conditions, whether stated therein or not:

(1) Neither the license, nor any right thereunder, shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act and give its consent in writing.

(2) The license shall be subject to revocation, suspension, modification, or amendment as provided in the Atomic Energy Act and Commission regulations, in accordance with the procedures provided by the Atomic Energy Act and Commission regulations.

(3) The licensee shall at any time before expiration of the license, upon request of the Commission, submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(4) Prior to the receipt of spent fuel for storage at an ISFSI, the licensee shall have in effect an NRC approved program covering the training and certification of ISFSI personnel which shall meet the requirements of subpart I of this part.

(5) the licensee shall not permit the manipulation of the safety-related equipment and controls of the installation by any one whom the licensee has not certified as being adequately trained to perform such manipulations.

(d) *Effluent controls.* Effluent controls are operating controls, including monitoring and testing controls and systems, and procedures required to keep releases of radioactive materials to unrestricted areas during normal operations and expected operational occurences within the limits stated in EPA regulation, 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," as an upper limit. Each license authorizing the storage of spent fuels under this part will include license conditions that, in addition to requiring compliance with the limits and the as low as reasonably achievable provisions of part 20 of this chapter and the design objective included (or referenced) in paragraph (2) below, require:

(1) That operating by procedures for control of effluents by established and followed and equipment installed in the radioactive waste system be maintained and used as to meet the requirements of 40 CFR Part 190 as established in the license conditions.

(2) The submission of a report to the Commission within 60 days after June 30 and December 31 of each year specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 6 months of operation, and such other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resultifig from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report shall cover this specifically. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

(e) Maintenance of safeguards contingency plan procedures pursuant to § 72.81(d).

§ 72.34 Changes, tests and experiments.

(a)(1) The holder of a license issued under this part may (i) make changes in the installation as described in the safety analysis report, (ii) make changes in the procedures as described in the safety analysis report, and (iii) conduct tests or experiments not described in the safety analysis report, without prior Commission approval, unless the proposed change, test or experiment involves a change in the license conditions incorporated in the license or an unreviewed safety question.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (iii) if the margin of safety as

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defined in the basis for any license condition is reduced.

(b) The licensee shall maintain records of changes in the installation and of changes in procedures made pursuant to this section, to the extent that such changes constitute changes in the installation as described in the safety analysis report or constitute changes in procedures as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. The licensee shall furnish to the Commission, or the appropriate regional office, annually or at such shorter intervals as may be specified in the license, a report containing a brief description of such changes, tests and experiments, including a summary of the safety evaluation of each. Any report submitted by a licensee pursuant to this paragraph will be made a part of the public record of the licensing proceeding. In addition to a signed original, 12 copies of each report of changes shall be filed. The records of changes in the installation and of changes in procedures and records of tests shall be maintained for the lifetime of the installation.

(c) The holder of a license issued under this part who desires (1) a change in license conditions or (2) to make a change in the installation or the procedures described in the safety analysis report or to conduct tests or experiments not described in the safety analysis report, which involve an unreviewed safety question or a change in license conditions, shall submit an application for amendment of his license pursuant to § 72.39.

(d) The licensee shall make no change which would decrease the effectiveness of the physical security plan prepared pursuant to § 72.81 without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license purusant to § 72.39. The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of 2 years from the date of the change, and shall furnish the Commission a report containing a description of each change within 2 months after the change is made.

TRANSFERS OF LICENSES—CREDITORS' RIGHTS—SURRENDER OF LICENSES

§ 72.36 Transfer of licenses.

(a) No license issued under this part or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing.

(b)(1) An application for transfer of a license shall include as much of the information described in §§ 72.14, 72.15 and 72.16 with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the applications were for an initial license. One signed original of the application executed under oath or affirmation plus 25 copies shall be submitted.

(2) The Commission may require additional information such as data respecting proposed protection from radioactive materials and the applicant's qualifications in this technology. The application shall include also a statement of the purposes for which the transfer of the license is requested and the nature of the transaction necessitating or making desirable the transfer of the license.

(3) The Commission may require any person who submits an application for license pursuant to the provisions of this section to file a written consent from the existing licensee or a certified copy of an order or judgment of a court of competent jurisdiction attesting to the person's right subject to the licensing requirements of the Act and these regulations to possession of the spent fuel and the storage installation involved.

(c) After appropriate notice to interested persons, including the existing licensee, and observance of such procedures as may be required by the act or regulations or orders of the Commission, the Commission will approve an application for the transfer of a license, if the Commission determines:

(1) That the proposed transferee is qualified to be the holder of the license; and

(2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

§ 72.37 Creditor regulations.

(a) Pursuant to section 184 of the act, the Commission consents, without individual application, to the creation of any mortgage, pledge, or other lien upon special nuclear material contained in spent fuel not owned by the United States which is the subject of a license or upon any interest in such special nuclear material in spent fuel: *Provided:*

(1) That the rights of any creditor so secured may be exercised only in compliance with and subject to the same requirements and restrictions as would apply to the licensee pursuant to the provisions of the license, the Atomic Energy Act of 1954, as amended, and regulations issued by the Commission pursuant to said act; and

(2) That no creditor so secured may take possession of the spent fuel pursuant to the provisions of this section prior to either the issuance of a license from the Commission authorizing such possession or the transfer of the license.

(b) Any creditor so secured may apply for transfer of the license covering such spent fuel by filing an application for transfer of the license pursuant to § 72.36(b). The Commission will act upon such application pursuant to § 72.36(c).

(c) Nothing contained in this regulation shall be deemed to affect the means of acquiring, or the priority of, any tax lien or other lien provided by law.

(d) As used in this section, "Creditor" includes, without implied limitation, the trustee under any mortgage, pledge or lien on spent fuel in storage made to secure any creditor, any trustee or receiver of such spent fuel appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by such mortgage, pledge or lien, any purchaser of such spent fuel at the sale thereof upon foreclosure of such mortgage, pledge, or lien or upon exercise of any power of sale contained therein, or any assignee of any such purchaser.

§ 72.38 Applications for termination of licenses.

(a) Any licensee may apply to the Commission for authority to surrender a license voluntarily and to dismantle the installation and dispose of the materials stored therein. The Commission may require information, including information as to proposed procedures for the disposal of radioactive material, decontamination of the site, to provide reasonable assurance that the decommissioning and disposal will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public. The application for termination of a license issued under this part shall be submitted as one signed original plus 25 copies.

(b) If the application demonstrates that the decommissioning of the installation and disposal of the materials stored therein will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public, and after notice to interested persons, the Commission may issue an order authorizing such decommissioning and disposal, and providing for the termination of the license upon completion of such procedures in accordance with any conditions specified in the order.

AMENDMENT TO LICENSE AT REQUEST OF HOLDER AND REVOCATION, SUSPENSION AND MODIFICATION OF LICENSES

§ 72.39 Application for amendment to license.

Whenever a holder of a license desires to amend the license, an application for an amendment shall be filed with the Commission, fully describing the changes desired, and the reasons for such changes, and following as far as applicable the form prescribed for original applications.

§ 72.40 Issuance of amendment.

In determining whether an amendment to a license will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses to the extent applicable and appropriate.

§ 72.41 Revocation, suspension and modification of licenses

(a) The terms and conditions of all licenses are subject to amendment, revision, or modification by reason of amendments to the Atomic Energy Act of 1954, or by reason of rules, regulations or orders issued in accordance with the Act or any amendments thereto.

(b) Any license may be revoked, suspended or modified in whole or in part for any material false statement in the application or any statement of fact required under Section 182 of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to operate an installation in accordance with the terms of the license, or for violation of, or failure to observe any of the terms and conditions of the Act, or any regulation, license or order of the Commission.

(c) Upon revocation, suspension or modification of a license, the Commission may immediately cause the retaking of possession of all special nuclear material contained in spent fuel held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security, or to the health and safety of the public, the Commission may take possession of any spent fuel held by the licensee prior to any of the procedures provided under sections 551-558 of title 5 of the United States Code.

§ 72.42 Backfitting.

(a) The Commission may require the backfitting of an ISFSI if it finds that such action will provide substantial, additional protection which is required for either occupational or public health and safety. As used in this section, "backfitting" means a change in storage conditions which may require the addition, elimination or modification of structures, systems or components of an ISFSI, after the license has been issued.

(b) Nothing in this section shall be deemed to relieve a holder of a license from compliance with the rules, regulations, or orders of the Commission.

(c) The Commission may at any time require a holder of a license to submit such information concerning the backfitting or the proposed backfitting of the installation as it deems appropriate.

Subpart D—Records, Reports, Inspections and Enforcement

§ 72.51 Material balance, inventory, and records requirements for stored materials.

(a) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, and transfer of all spent fuel in storage regardless of its origin or method of acquisition.

(b) Each licensee shall conduct a physical inventory of all spent fuel in storage at intervals not to exceed 12 months or as otherwise directed by the Commission.

(c) Each licensee shall establish, maintain and follow written material control and accounting procedures which are sufficient to enable the licensee to account for the spent fuel in storage under license.

(d) Records of spent fuel in storage shall be kept in duplicate for as long as the spent fuel is in storage at an ISFSI. The duplicate set of records shall be kept at a separate location far enough removed from the original records so that a single event would not destroy both sets of records. Records of spent fuel transferred out of an ISFSI shall be preserved for a period of 5 years after the date of transfer.

§ 72.52 Reports of accidental criticality or loss of special nuclear material.

Each licensee shall report immediately to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office by telephone, and telegram, or teletype, any case of accidental criticality and any loss of special nuclear material contained in spent fuel.

§ 72.53 Material Status Reports.

Each licensee shall complete and submit to the Commission Material Status Reports on Form NRC-742, in accordance with printed instructions for completing the form, concerning special nuclear material contained in spent fuel possessed, received, transferred, disposed of or lost by the licensee. All such reports shall be made as of March 31 and September 30 of each year and shall be filed with the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee, 37830, within thirty (30) days after the end of the period covered by the report. The Commission may permit a licensee to submit Material Status Reports at other times when good cause is shown.

§ 72.54 Nuclear Material Transfer Reports.

Each licensee who transfers and each licensee who receives spent fuel shall complete and distribute a Nuclear Material Transaction Report on Form NRC-741, in accordance with printed instructions for completing the form, whenever he transfers or receives spent fuel. Each licensee who transfers spent fuel shall submit a copy of Form NRC-741 to the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830, and three copies to the receiver of the material promptly after the transfer takes place. Each licensee who receives spent fuel shall submit a copy of Form NRC-741 to the Department of Energy and to the shipper of the material within 10 days after the spent fuel is received.

§ 72.55 Inspections and tests.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect spent fuel in storage and the premises and installation wherein such spent fuel is stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to his receipt, possession, or transfer of spent fuel.

(c) Each licensee shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of (1) spent fuel during handling and storage, (2) spent fuel handling and storage facilities, (3) radiation detection and monitoring equipment, and (4) other equipment used in connection with spent fuel storage.

§ 72.56 Maintenance of other records and reports.

(a) Each licensee shall maintain such records and make such reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regula-

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tions, and orders of the Commission in effectuating the purposes of the Act.

(b) Each licensee shall, upon each issuance of its annual financial report, including the certified financial statements, file a copy thereof with the Commission.

(c) Records which are required by the regulations in this part or by the license conditions shall be maintained for a period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified, such records shall be maintained until the Commission authorizes their disposition.

(d) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(e) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 72.8, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

§ 72.57 Violation.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, or Title II of the Energy Reorganization Act of 1974, as amended, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act for violation of section 53, 57, 62, 63, 81 or 82 of the Atomic Energy Act, or section 206 of the Energy Reorganization Act of 1974, or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Atomic Energy Act. Any person who willfully violates any provision of the Atomic Energy Act, or any regulation or order issued thereunder, may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Subpart E—Siting criteria

§ 72.61 General Criteria.

(a) Site characteristics which may directly affect the safety of the ISFSI shall be investigated and assessed.

(b) Proposed sites for the ISFSI shall be examined with respect to the frequency and the severity of external natural and man-induced events that could affect the safe operation of the installation.

(c) Design basis external events shall be determined for each combination of proposed site and proposed installation design.

(d) Proposed sites with design basis external events for which adequate protection cannot be provided through installation design shall be deemed unsuitable for the location of the ISFSI.

(e) For each proposed site, the potential for radiological consequences in the region shall be evaluated with due consideration of the characteristics of the population, including its distribution.

(f) For each proposed site, pursuant to Part 51 of this chapter, the potential for environmental impact to the region shall be evaluated with due consideration of the characteristics of the regional environs, including its historical and aesthetic value.

§ 72.62 Criteria for design basis external natural events.

(a) Natural phenomena which may exist or can occur in the region of a proposed site shall be identified and assessed according to their potential effects on the safe operation of the installation. The important natural phenomena for which design basis should be derived shall be identified.

(b) Historical records of the occurrence and severity of those important natural phenomena shall be collected for the region and evaluated for reliability, accuracy and completeness.

(c) Appropriate methods shall be adopted for establishing the design basis natural events for important natural phenomena. The methods should be justified as being compatible with the characteristics of the region and the current state of knowledge.

§ 72.63 Criteria for design basis external man-induced events.

(a) The region shall be examined for man-made facilities and activities that might endanger the proposed ISFSI. The important man-induced phenomena for which design basis external man-induced events should be derived shall be identified.

(b) Information concerning the occurrences and severity of those important man-induced phenomena shall be collected and analyzed for reliability, accuracy and completeness.

(c) Appropriate methods shall be adopted for establishing the design basis external man-induced events for those phenomena. The methods should be justified as being campatible with the characteristics of the region and the current state of knowledge.

§ 72.64 Criteria for defining potential effects of the ISFSI on the region.

(a) The proposed site shall be examined with respect to the effects on people in the region resulting from the release of radioactive materials under normal and accident conditions; in this evaluation unusual regional and site characteristics shall be taken into account.

(b) Each site shall be examined with respect to the effects on the regional environment resulting from construction, operation and decommissioning of the ISFSI; in this evaluation unusual regional and site characteristics shall be taken into account.

(c) Effects which would otherwise be unacceptable shall be compensated for by the ISFSI design or the site shall be deemed unsuitable.

§ 72.65 Criteria for regional distribution of population.

(a) The proposed site shall be evaluated with respect to the present and future character and distribution of the human population of the region. Such evaluation, which should include consideration of present and projected future uses of land and water within the region, shall also take into account any special characteristics which may influence the potential consequences of a release of radioactive material during the operational lifetime of the ISFSI.

(b) A controlled area and a neighboring area shall be established for each site.

(c) The licensee shall have authority within the controlled area to determine all activities including exclusion or removal of personnel and property from the area.

(d) The neighboring area of a proposed site shall be evaluated from the perspective of the potential for adverse consequences to the human population or environment and of the capability of implementing protective measures as may be necessary to mitigate the immediate effects of a release of radioactive material.

(e) The distribution of the human population in the region surrounding the site shall be evaluated with respect to both the potential for adverse consequences to regional populations from normal and potential accidental releases of radioactive material during operations and decommissioning of the ISFSI.

(f) Effects which would otherwise be unacceptable shall be compensated for by the ISFSI design or the site shall be deemed unsuitable.

§ 72.66 Criteria for defining acceptable seismic characteristics.

(a) A peak horizontal ground acceleration of not greater than 0.25 g with a recurrence interval of at least 500 years (equivalent to a 90 percent probability of not being exceeded in 50 years) shall be deemed suitable for an ISFSI site and require only the foundation engineering and geologic hazards investigations covered in the following paragraph (b). However, as an alternative approach the applicant has the optionof establishing a site specific "g value" by the procedures of Part 100 of this chapter.

(b) An ISFSI founded on bedrock and (and meeting criterion "a") is acceptable, and no detailed site-specific earthquake analysis is required unless some unusual geologic characteristic is identified (e.g., active faulting, mass wasting, cavernous or karst terrain, subsidence collapse or uplift potential, etc.). If not founded on bedrock and where a potential exists for soil liquefaction or other soil instability due to vibratory ground motion or other anomaly, it must be shown by site-specific investigations and laboratory analysis that soil failure could not occur in the foundation materials during the operating life of the installation.

(c) For ISFSI designs other than the water basin type proposed sites will be evaluated on the basis of a site-specific investigation and analysis.

§ 72.67 Criteria for defining potential radiological consequences.

(a) During normal operations and anticipated occurrences, the annual dose equivalent shall not exceed 25 mrem to the whole body, 75 mrem to the thyroid and 25 mrem to any other organ of an actual individual located outside the controlled area as a result of planned discharges of radioactive materials in the general environment.[2] In this evaluation unusual regional and site characteristics shall be taken into account.

(b) Under accident conditions, the calculated exposure from the controlling design basis accident shall not exceed 5 Rem in 2 hours at the outside boundary of the controlled area.

Subpart F—General Design Criteria

§72.71 General design criteria.

Pursuant to the provisions of § 72.15, an application to store spent fuel in an ISFSI must include the principal design criteria for the proposed storage installation. The principal design criteria establish the design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to safety, as defined in § 72.3. The general design criteria identified in this section establish minimum requirements for the principal safety-related design criteria for an ISFSI. Any omissions in these general design criteria do not relieve the applicant from the requirement of providing the necessary safety features in the design of this installation.

OVERALL REQUIREMENTS

(1) *Quality standards.* Structures, systems, and components important to safety shall be designed, fabricated, erected, and tested to quality standards commensurate with the importance of the function to be performed.

(2) Protection against Environmental Conditions and Natural Phenomena.

(i) Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with site characteristics and environmental conditions associated with normal operation, maintenance and testing of the ISFSI, and with postulated accidents.

(ii) Structures, systems, and components important to safety shall be designed to withstand the effects of natural phenomena such as earthquakes (with a horizontal ground motion acceleration of at least 0.25g), tornadoes (excluding tornado missiles), lightning, hurricanes, floods, tsunami, and seiches without impairing their capability to perform safety functions. The design bases for these structures, systems, and components shall reflect: (A) Appropriate consideration of the most severe of the natural phenomena reported for the site and surrounding area, with appropriate margins to take into account the limitations in the quantity of the historical data and the period of time in which the data have been accumulated; and (B) appropriate combinations of the effects of normal and accident conditions and the effects of natural phenomena.

(iii) Capability for determining the intensity of natural phenomena which may occur for comparison with design bases of structures, systems, and components important to safety shall be provided.

(iv) If an ISFSI is located over an aquifer, measures must be taken to preclude the transport of radioactive materials to man and the environs through this potential pathway.

(3) *Protection against fires and explosions.* Structures, systems, and components important to safety shall be designed and located so as to continue to perform their safety functions effectively under fire and explosion exposure conditions. Noncombustible and heat-resistant materials shall be used wherever practical throughout the installation, particularly in locations vital to the control of radioactive materials, and to the maintenance of safety control functions. Explosion and fire detection, alarm, and suppression systems shall be designed and provided with sufficient capacity and capability to minimize the adverse effects of fires and explosions on structures, systems, and components important to safety. The design of the facility shall include provisions to protect against adverse effects which might result from either the operation or the failure of the fire suppression system.

(4) *Sharing of structures, systems, and components.* Structures, systems, and components important to safety shall not be shared between an ISFSI and other plants unless it is shown that such sharing will not impair the capability of the ISFSI to perform its safety functions, including the capability for return to a safe condition in the event of an accident or incident.

(5) *Proximity of sites.* An ISFSI located near other nuclear facilities shall be designed and operated to ensure that the cumulative effects of their combined operations will not result in a significant additional risk to the health and safety of the public.

(6) *Testing and maintenance of systems and components.* Systems and components that have safety-related functions shall be designed to permit inspection, maintenance, and testing to ensure their continued functioning to meet their design objectives.

(7) *Emergency capability.* Structure, systems, and components important to safety shall be designed to assure capability of continuity of operations and handling of the emergency. The design shall ensure capability for use, as necessary, of onsite facilities and available offsite facilities and services such as hospitals, fire and police departments, ambulance service, and other emergency agencies.

(8) *Confinement barriers and systems.* (i) The fuel cladding shall be protected against degradation and gross ruptures.

(ii) For underwater storage of spent fuel in which the pool water serves as a shield and a confinement medium for radioactive materials, systems designed for maintaining water purity and the pool water level shall be designed so that any maloperation or failure in those systems from any cause will not cause the water level to fall below safe limits. Drains, permanently connected systems and other features that by maloperation or failure could cause a significant loss of water shall not be installed or included in the design. Pool water level monitoring equipment shall be provided to alarm both locally and in a continuously manned location if the water level in the fuel storage pools falls below a predetermined level.

(iii) Ventilation systems shall be provided where necessary, e.g., for the cask venting station, to assure the confinement of airborne radioactive particulate materials during normal or off-normal conditions.

(9) *Instrumentation and control systems.* Instrumentation and control systems shall be provided to monitor safety-related systems over anticipated ranges for normal operation and off-normal operation. Those instruments and control systems which must remain operational under accident conditions must be identified and designed to remain operable.

(10) *Control room or control areas.* A control room or control areas shall be designed to permit occupancy and actions to be taken to operate and monitor the ISFSI safely under normal conditions and to maintain the ISFSI in a safe condition under off-normal or accident conditions.

(11) *Utility services.* (i) The design of each utility service system required for emergency conditions shall provide for the meeting of safety demands under normal and off-normal conditions. The design of safety-related utility services and distribution shall include redundant systems to the extent

[2] 40 CFR 190.11.

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necessary to maintain, with adequate capacity, the ability to perform safety functions assuming a single failure.

(ii) Emergency utility services shall be designed to permit testing of the functional operability and capacity, including the full operational sequence, of each system for transfer between normal and emergency supply sources, and the operation of associated safety systems.

(iii) Provisions shall be made so that, in the event of a loss of the primary electric power source or circuit, reliable and timely emergency power will be provided to instruments, utility service systems, and operating systems including the security central alarm station, in amounts sufficient to allow safe storage conditions to be maintained with all safety devices essential to safe storage functioning.

NUCLEAR CRITICALITY SAFETY

(12) *Design for criticality safety.* All handling, transfer and storage systems shall be designed to be maintained subcritical and to insure that no nuclear criticality accident can occur unless at least two unlikely (i.e., very low probability), independent, and concurrent or sequential changes have occurred in the conditions essential to nuclear criticality safety. The design of handling, transfer and storage systems shall include margins of safety for the nuclear criticality parameters that are commensurate with the uncertainties in the handling, transfer, and storage conditions, in the data and methods used in calculations, and in the nature of the immediate environment under accident conditions.

(13) *Acceptable methods of control.* (i) Favorable geometry (spacing) is the standard method of nuclear criticality control. Subcriticality is assured by limiting the reactivity through the control of spacing of the individual storage unit (one or more fuel assemblies), and for underwater storage, by the neutron absorption by the water between storage units. Storage racks must be structurally compatible with seismic design criteria.

(ii) The use of permanently fixed neutron-absorbing materials (poisons) is an alternative method of criticality control. Where solid neutron-absorbing materials are used for the prevention of nuclear criticality, the design shall provide for positive means to verify their continued efficacy.

RADIOLOGICAL PROTECTION

(14) *Exposure control.* Appropriate radiation protection systems and programs shall be provided for all areas and operations where plant personnel may be exposed to levels of radiation or airborne radioactive materials significantly above background levels to insure that exposures are within the limits of Part 20 and are as low as is reasonably achievable. Structures, systems, and components for which operation, maintenance, and required inspections may involve such exposure shall be designed, fabricated, located, shielded, controlled and tested so as to control external and internal radiation exposures to personnel. This shall include means to:

(i) Prevent the accumulation of or provide for decreasing the content of radioactive material in those systems to which access by personnel is required;

(ii) Provide for control of access to areas of potential contamination or high radiation within the ISFSI;

(iii) Assure that contamination can be monitored and controlled;

(iv) Minimize the time required to perform work in the vicinity of radioactive components, such as by providing sufficient space for ease of operation and designing equipment for ease of repair and replacement; and

(v) Provide shielding to assure that exposures to personnel in accessible areas are within the limits of Part 20 and are as low as is reasonably achievable.

(15) *Radiation alarm systems.* Radiation alarm systems shall be provided to warn operating personnel of significant increases in radiation levels in accessible work areas and of excessive concentrations of radioactive material in effluents. Such systems shall be designed with capability to permit testing of their operability.

(16) *Effluent monitoring.* Effluent systems shall be designed to include means for measuring the amount of radionuclides in any effluent. In order that the data thus measured and recorded can be used, a means of measuring the flow of environmental diluting media, either air or water, shall be provided.

(17) *Effluent control.* The design of the ISFSI shall include means to minimize the release in effluents of radioactive materials in any form, during normal operations and under accident conditions. Systems provided to guard against the release of radioactive materials shall be designed to be monitored and tested, and shall be provided with alarms. Capability shall be provided for prompt cessation of the flow of contaminated effluents or for retention of such effluents as is necessary to ensure that the concentrations and total quantities of radioactive materials in effluents are maintained within the limits of Part 20 and are as low as is reasonably achievable.

SPENT FUEL AND RADIOACTIVE WASTE STORAGE AND HANDLING

(18) *Spent fuel and radioactive waste storage and handling systems.* Spent fuel storage, radioactive waste storage, and other systems that might contain or handle radioactive materials shall be designed to assure adequate safety under normal and accident conditions. These systems shall be designed (i) with a capability to test and monitor components important to safety, (ii) with suitable shielding for radiation protection under normal and accident conditions, (iii) with confinement systems, (iv) with a heat removal capability having testability and reliability consistent with the importance to safety, and (v) to minimize the quantity of radioactive wastes generated.

(19) *Waste treatment.* Radioactive waste treatment facilities shall be provided. These facilities shall be designed to concentrate all site generated wastes and convert them into a form suitable for interim storage and ultimate final disposal.

DECOMMISSIONING

(20) *Decommissioning.* An ISFSI shall be designed to facilitate decontamination of structures and equipment and to minimize the quantity and facilitate the removal of radioactive wastes and contaminated equipment at the time the installation is permanently decommissioned.

Subpart G—Quality Assurance

§ 72.75 Quality assurance program; records.

(a) A quality assurance program based on the criteria in Appendix B of Part 50 of this chapter shall be established and implemented to provide assurance that the safety-related structures, systems and components of an ISFSI will perform their safety functions. The application of the quality assurance program should be commensurate with the importance of individual structures, systems and components to safety. The quality assurance program should cover the activities of designing, purchasing, fabricating, handling, shipping, storing, cleaning, erecting, installing, inspecting, testing, operating, maintaining, repairing, and modifying.

(b) As used in this section, "quality assurance" means all those planned and systematic actions necessary to provide confidence that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

(c) Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the licensee throughout the life of the installation.

Subpart H—Plant Protection

§ 72.81 Physical security plan.

(a) The plan for detailed security measures for physical protection shall consist of two parts. Part I shall demonstrate how the applicant plans to comply with the applicable requirements of Part 73 of this chapter at the proposed installation. Part II shall list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements. Ten copies are required.

(b) A description of the design for physical protection shall show the site layout and ISFSI design features which will make the installation less vulnerable to sabotage, and shall include:

(1) The principal design criteria for the physical protection of the proposed installation.

(2) The design bases and the relation of the design bases to the principal design criteria submitted pursuant to paragraph (a) of this section; and

(3) Information relative to materials of construction, equipment, general arrangement, and proposed quality assurance program sufficient to provide reasonable assurance that the final installation will conform to the design bases for the principal design criteria submitted pursuant to paragraph (a) of this section.

(c) The licensee safeguards contingency plan for dealing with threats and industrial sabotage are defined in Part 73 relating to nuclear facilities licensed under Part 50 of this chapter. This plan shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

(d) The licensee shall prepare and maintain safeguards contingency plan Procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of his safeguards contingency plan. The licensee shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 72.81(c) and 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 72.39 of this chapter. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to any such plan made without prior approval for a period of 2 years from the date of the change and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made.

Subpart I—Training and Certification of ISFSI Personnel

§ 72.91 Scope of training program.

Manipulation of equipment and controls which have been identified as safety-related in the safety analysis report shall be limited to trained personnel, or in an emergency situation, under the direct supervision of an individual with adequate training in such operation. Supervisory personnel who direct the manipulation of safety-related equipment and controls must have a level of training in such operations comparable to that of trained operating personnel.

§ 72.92 Responsibility for training program.

The training and proficiency certification of operating personnel is the responsibility of the licensee under this part.

§ 72.93 Physical requirements.

(a) The physical condition and the general health of personnel certified for the manipulation of safety-related equipment and controls must not be such as might cause operational error endangering other in-plant personnel or the public health and safety. Any physical or mental condition which might cause impaired judgment or motor coordination must be considered in the selection of personnel for safety-related activities. Such conditions need not categorically disqualify a person provided appropriate provisions are made to accommodate such defect.

§ 72.94 Submission for approval.

The applicant for a license under this part must submit his program for training, proficiency testing and certification of ISFSI personnel to the Commission for approval at least 6 months prior to the scheduled receipt of the first materials for storage.

Dated at Washington, D.C., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28154 Filed 10-5-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, and 812]

[Docket No. 76N-0324]

TENTATIVE FINAL REGULATION RELATING TO INVESTIGATIONAL DEVICE EXEMPTIONS

Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation; extension of comment period.

SUMMARY: This document extends the time for submission of comments of the tentative final order for investigational device exemptions (IDE's) and all matters discussed at the Food and Drug Administration's (FDA) hearing August 7, 1978 on the tentative final order. The agency is taking this action in response to several requests for an extension.

DATE: The deadline for written comments is extended until December 5, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Frank Morlock, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, telephone 301-427-7114.

SUPPLEMENTARY INFORMATION: On August 7, 1978, a hearing before the Commissioner of Food and Drugs was held at FDA headquarters in Rockville, Md., to receive comments and views from interested persons on the tentative final order on procedures for IDE's. The tentative final order was published in the FEDERAL REGISTER on May 12, 1978 (43 FR 20726) and the notice of hearing in the FEDERAL REGISTER on June 9, 1978 (43 FR 25142). The notice of hearing provided that the administrative record of the hearing would remain open until the end of the comment period on September 11, 1978, so that additional written comments and views concerning matters discussed during the hearing could be submitted.

The Commissioner has received two written and five oral requests for an extension of the comment period as a result of subsequent issuance of the following four related documents concerning clinical investigations and protection of human subjects: (1) Proposed rules of research involving children published by the Department of Health, Education, and Welfare in the FEDERAL REGISTER of July 21, 1978 (43 FR 31786); (2) proposed standards for institutional review boards for clinical investigators (43 FR 35186), and (3) proposed obligations of clinical investigators of regulated articles (43 FR 35210), both published by FDA in the FEDERAL REGISTER of August 8, 1978; and (4) Report and Recommendations on Institutional Review Boards, authored by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (the Commission) on September 1, 1978.

The element common to these seven requests is that it is in the public interest to extend the comment period to allow all interested parties suffi-

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cient time to analyze all related documents.

One request asked that the comment period for IDE's and obligations of clinical investigators be extended to the close of the comment period for the proposed rules on institutional review boards, which is December 6, 1978, or, alternatively, that the IDE comment period be extended for 30 days. Another request asked that the comment period be extended to November 1, 1978.

The Commissioner agrees that an extension of the comment period is in order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1053 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 587 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby grants an extension of the comment period until December 5, 1978 to allow all interested parties an opportunity to review and analyze the transcript of the proceedings and all outstanding proposals relating to IDE's. This extension will also enable interested parties to comment on matters discussed at the hearing and on the effect of all the FDA proposals and Commission recommendations. A copy of the transcript of the hearing is available at the office of the Hearing Clerk.

Interested persons may, on or before December 5, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding the tentative final regulation and the matters relating to it discussed above. Four copies of all comments, identified by Docket No. 76N-0324, shall be submitted, except that individuals may submit single copies of comments. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28087 Filed 10-5-78; 8:45 am]

[1505-01]

[21 CFR Parts 16, 54, 71, 170, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 510, 511, 514, 570, 571, 601, 630, 1003, and 1010]

[Docket No. 77N-0278]

OBLIGATIONS OF CLINICAL INVESTIGATORS OF REGULATED ARTICLES

Proposed Establishment of Regulations

Correction

In FR Doc. 78-21790, appearing at page 35210 in the issue for Tuesday, August 8, 1978, the following changes should be made:

1. On page 35229, in the third column, the heading "§ 170.6" should read "§ 171.6."

2. On page 35233, in the third column, paragraph (iv), sixth line, "parts" should read "Parts" and "51" should read "511."

[1505-01]

[21 CFR Part 320]

[Docket No. 78N-0178]

PROCAINAMIDE HYDROCHLORIDE BIOEQUIVALENCE REQUIREMENTS

Correction

In FR Doc. 78-21943 appearing at page 35056 in the issue for Tuesday, August 8, 1978, make the following changes:

1. On page 35056, first column, fifth line of the SUMMARY, "hearbeat" should read "heartbeat"; second column, first line at the top, "bioequivalence" should read "bioinequivalence".

2. On page 35058, third column, fourth line of § 320.108(c)(2)(i), insert "measured" after "comparing".

[1505-01]

[21 CFR Part 558]

[Docket No. 77N-0318]

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Animal Feeds Containing Penicillin and Tetracycline; Postponement of Final Action

Correction

In FR Doc. 78-21788, appearing at page 35059 in the issue for Tuesday, August 8, 1978, on page 35060 in the first column, first paragraph, last line "firm's" should read "firms'"; third paragraph, last line should read "veterinarian's order procedure."

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-112]

ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

Public Hearings

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of public hearings.

SUMMARY: On July 21, 1978, OSHA published a proposed rule on access to employee exposure and medical records and gave interested persons until September 22, 1978, to submit written comments. Based on the widespread interest expressed on the proposal, OSHA has decided to hold informal public hearings on the proposed rule, to be held on December 5, 12, and 15, 1978, in Washington, D.C., Chicago, and San Francisco, as set forth below.

DATES: Notices of intention to appear must be submitted by November 13, 1978, and copies of testimony and accompanying documents must be submitted by November 22, 1978.

ADDRESS: Documents pertaining to the hearing should be submitted to the OSHA Division of Consumer Affairs, Docket No. H-112, Room N-3635, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, 202-523-8024.

FOR FURTHER INFORMATION CONTACT:

Mr. Kevin Conlon, OSHA Division of Consumer Affairs, Room N-3635, U.S. Department of Labor, 3d Third Street and Constitution Avenue NW., Washington, D.C. 20210, 202-523-8024.

SUPPLEMENTARY INFORMATION: On July 21, 1978, OSHA published in the FEDERAL REGISTER a proposed rule on access to employee exposure and medical records (43 FR 31371). The proposed rule includes requirements for the retention of all employee exposure and medical records which are maintained by employers, and for the availability of these records to employees, former employees, their designated representatives, and to OSHA and the National Institute of Occupational Safety and Health (NIOSH). The text of the proposed rule and a discussion of its background, purpose, and significant issues appeared in the July 21 FEDERAL REGISTER document.

In accordance with 5 U.S.C. 553, OSHA gave interested persons until September 22, 1978, to present written comments, views or arguments on any

issue raised by the proposal. As a result, OSHA has recieved a total of 212 comments to date. Several of these comments either requested extensions of time in which to file comments or asked that OSHA hold public hearings on this matter.

Based on the comments, it is evident that there is widespread interest in the proposed rule. In addition, OSHA is mindful of Executive Order 12044's ("Improving Government Regulations," 43 FR 12661) encouragement of the fullest possible public participation in agency rulemakings. Consequently, OSHA has decided that in this instance it is appropriate to go beyond the minimal requirements of the APA by providing public hearings on this proposal.

Accordingly, pursuant to section 8 of the OSH Act and 4 of the APA, an opportunity to submit oral testimony concerning all the issues raised by the proposed rule of July 21, including any environmental and economic impacts, will be provided at informal public hearings scheduled to begin at 9:30 a.m. as follows:

1. December 5, 1978, New Department of Labor Auditorium, New Department of Labor Building, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

2. December 12, 1978, John C. Kluczynski, Federal Building, Conference Room 3619, 230 South Dearborn, Chicago, Ill. 60604.

3. December 15, 1978, Quality Inn, 2775 Van Ness, San Francisco, Calif. 94109.

OSHA witnesses will appear only at the Washington hearing. However, all testimony submitted prior to the hearing will be available at the Technical Data Center, Docket Office.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at any of the hearings must file in quadruplicate a notice of intention to appear, postmarked on or before November 13, 1978, addressed to Mr. Kevin Conlon, OSHA Division of Consumer Affairs, Third Street and Constitution Avenue NW., Washington, D.C. 20210; telephone: 202-523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OHSA Technical Data Center Docket Office, Room S-6212, telephone 202-523-7895, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The city where the person intends to appear;

(4) The approximate amount of time requested for the presentation;

(5) The specific issues that will be addressed;

(6) A detailed statement of the position that will be taken with respect to each issue addressed; and

(7) Whether the person intends to submit documentary evidence, and if so, a brief summary of that evidence.

Persons who have not filed such notice will be permitted to present brief oral statements to the extent that time permits. Priority, however, will be given those who have previously filed a notice of intention to appear.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any person requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by November 22, 1978, and will be available for inspection and copying at the Technical Data Center, Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any person who has not substantially complied with this requirement may be limited to a 15-minute presentation and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearings will commence at 9:30 a.m. on December 5, 12, and 15, 1978 with a resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. The hearing will be conducted in as expedited a manner as possible consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an administrative law judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post-hearing comment period, the presiding administrative law judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a rule will be issued based on the entire record in this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 8 of Occupational Safety and Health Act of 1970 (84 Stat. 1598, 29 U.S.C. 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 part 1911, notice of public hearings on the proposed rule on access to employee exposure and medical records is hereby given.

(Sec. 8, 84 Stat. 1598 (29 U.S.C. 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); (5 U.S.C. 553)).

Signed at Washington, D.C., this 3d day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-28303 Filed 10-5-78; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

SALE AND DISPOSAL OF TIMBER

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes certain changes to the regulations in this part on the sale and disposal of timber. Several editorial changes are made to correct minor problems. Substantive changes would allow for shortening the advertising period for emergency or administrative use sales, and would eliminate the dollar limit on log sales not covered by export so that sales of logs under $2,000 would no longer be exempt from the substitution restrictions. The shortened advertising period is allowed under the National Forest Management Act of 1976 (NFMA). The exemption of sales under $2,000 from substitution restrictions is designed to relieve forest officers of the burden of surveillance of these categories of logs to determine their eligibility for exportation. Change is also made which would remove the authority to refuse awards to high bidders because of the infrequent use of that authority.

DATE: Comments must be received before December 5, 1978.

ADDRESS: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for

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public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C. during regular business hours.

FOR FURTHER INFORMATION CONTACT:

George Leonard or Peter Wagner, Timber Management Staff, Forest Service, Department of Agriculture, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: This is a proposal to revise 36 CFR 223, to make editorial changes or correct minor problems which developed from the rewrite of this part in 1977.

The first substantive change would allow the Chief or Regional Forester authority to shorten the advertising period for administrative use sales and emergency situations. This authority existed for administrative use sales prior to the passage of the National Forest Management Act of 1976 (NFMA). The NFMA expanded the authority to shorten the advertising period, but when the applicable regulations were promulgated, this authority was inadvertently deleted. The proposed change would replace and expand the old authority.

The second substantive change would remove the exemption of sales under $2,000 from substitution restrictions. When the restrictions were first promulgated, these small sales were exempted because of the very minor volume and the unlikelihood that these logs would be suitable for export. This is still true; however, the existence of exempt logs has caused a significant surveillance problem. Forest officers are required to determine the individual sale from which each log originated in order to determine whether or not the logs were eligible for export. Under the proposed change, the determination could be limited to finding out if the logs originated from a National Forest.

The third substantive change would remove existing authority which allows the Chief to refuse award to a high bidder if he determines such award would be detrimental to local labor. This authority has been used only once since it was first granted (sometime prior to 1962). The need is therefore doubtful especially since oral bidding now allows local manufacturers to protect their timber supply. Further, the authority has been misinterpreted and is causing confusion among bidders.

All other changes either correct processing mistakes, update references, or remove conflicts. None are intended to change the basic intent.

The following changes are therefore proposed.

1. Section 223.1(e)(3) be revised to read:

§ 223.1 Authorization for sale and disposal of timber.

* * * * *

(e) * * *

(3) Supervisors may designate portions or all of a National Forest as free-use areas where such action is compatible with land management plans and shall give public notice of their action. Within such free-use areas, any dead timber or any green timber previously marked or designated by forest officers may be cut and removed for personal use for domestic purposes. Cutting and removal of timber in free-use areas shall be in accordance with such rules as may be prescribed by the district ranger to prevent fires, minimize damage to uncut trees and other resources, and to avoid confusion among users. Similar material may be cut outside of a free-use area without permit in cases of emergency, but the person taking such material shall promptly notify the district ranger. Small quantities of material needed by transients while in the forest may also be taken without permit; subject to such rules as may be prescribed pursuant to § 261.70. In all other cases permits will be required for green material.

* * * * *

2. Section 223.5(b) be revised to read:

§ 223.5 Advertisement and bids.

* * * * *

(b) In emergency situations where prompt removal of timber included in a sale is essential to avoid deterioration or to minimize the likelihood of the spread of insects, the approving officer may authorize shortening the formal advertising period to not less than 7 days. In other emergency situations, or for timber sold under 36 CFR 223.1(b) the Regional Forester or Chief may authorize shortening the formal advertising period to not less than 7 days.

* * * * *

3. Section 223.7 be revised to read:

§ 223.7 Awards.

(a) Advertised timber will be awarded to the highest bidder upon satisfactory showing by him of ability to meet financial requirements and any other conditions of the sale offer unless:

(1) Determination is made to reject all bids.

(2) Two or more bidders, all of whom meet the requirements, submit equal bids which are the highest bids, in which case award may be by the drawing of lots. Equal bids from parties having direct or indirect common control or association in logging, processing or marketing may be consolidated to the extent deemed necessary by the awarding officer in order to give to any others who have bid the same amount an equitable opportunity in the drawing of lots.

(3) The highest bidder is notoriously or habitually careless with fire, or has failed to comply with the requirements of previous contracts for National Forest timber.

(4) Monopoly, injurious to the public welfare, would result from the control of large amounts of public or of public and private timber.

(5) The high bidder has elected Forest Service road construction in response to an advertisement extending such an option, the Forest Service cannot perform the construction and in response to solicitation has not received a satisfactory bid for such construction within the period stated in the advertisement and the high timber sale bidder is unwilling to perform the construction.

(b) Any bidder or applicant for a sale may be required to furnish a statement of his relation to other bidders or operators, including, if desired by the supervisor or Regional Forester, a certified statement of stockholders or members of the firm, and the holders of bonds, notes or other evidences of indebtedness, so far as known, so that the statement will show the extent of the interest of each in the bidder or applicant.

(c) If the highest bid is not accepted and the sale is still deemed desirable, all bids may be rejected and the timber readvertised; or, if the highest bidder cannot meet the requirements under which the timber was advertised or the withholding of award to him is based on one or more of paragraphs (a) (3), (4), and (5) of this section, award at the highest price bid may be offered to the next highest qualified bidder or to the other qualified bidders in order of their bids until the award is accepted by one or refused by all of the qualified bidders.

(d) If timber is advertised as set aside for competitive bidding by small business concerns, award will be made to the highest bidder who qualifies as a small business concern and who has not been determined by the Small Business Administration to be ineligible for preferential award of set-aside sales. If there are no qualified small business bidders any readvertisement shall be without restriction on the size of bidders.

(e) When necessary in the judgment of the approving officer, any applicant or bidder may be required to submit, before expense is incurred in acting on the application or before award is made in response to a bid, a satisfactory showing of financial ability and

bidder may be required to show that he has or can obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract.

4. Section 223.10 be revised to read:

§ 223.10 Timber export and substitution restrictions.

(a) Unless restricted as provided in this section or unless it is determined by the Secretary of Agriculture that the supply of timber for local use is endangered, timber lawfully cut on any National Forest may be exported from the State where grown to any other State for processing. As used in this paragraph, "supply of timber for local use" means the supply of timber necessary for consumption by local users.

(44 Stat. 242, 16 U.S.C. 616)

(b) Unprocessed timber as defined in paragraph (c) of this section, purchased after March 8, 1974, from National Forest System lands located west of the 100th Meridian in the contiguous 48 States, may not be exported from the United States nor used as a substitute for timber from private lands exported by the purchaser. The above limitations on export and substitution do not apply to species of timber previously found to be surplus to domestic needs; or to additional species, grades, or quantities of timber found by the Secretary of Agriculture after public hearing to be surplus to domestic needs. As used in this section and as further defined in paragraph (d) of this section, "export" means either direct or indirect export and "purchaser" means the purchaser or his affiliates. "Private lands" means lands held or owned by a private person (individual, partnership, corporation, association, or other legal entity). Nonprivate lands include but are not limited to, lands held or owned by the United States, a State or political subdivision thereof, or other public agency, or lands held in trust by the United States for Indians.

(c) As used in this section, the term "unprocessed timber" shall mean any logs of species, quantities, or grades which have not been found surplus to domestic needs and having a net scale content not less than 33⅓ percent of the gross volume in material meeting the peeler or sawmill requirements published in the January 1, 1978, official Log Scaling And Grading Rules used by West Coast Log Scaling and Grading Bureaus; cants to be subsequently remanufactured exceeding 8¾ inches in thickness; cants of any thickness reassembled into logs; and split or round bolts, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean pulp (utility) grade logs and Douglas-fir special cull logs or timber processed into the following:

(1) Lumber and construction timbers, regardless of size, sawn on four sides;

(2) Chips, pulp, and pulp products;

(3) Green veneer and plywood;

(4) Poles and piling cut or treated for use as such;

(5) Cants cut for remanufacture, 8¾ inches in thickness or less.

(d) As used in this section, unprocessed timber, either from National Forest System lands or from private lands, is exported directly when exported by the National Forest timber purchaser, his subsidiary, subcontractor, parent company, or any other affiliate. Business entities are considered to be affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third entity. Timber is exported indirectly when export occurs as a result of a sale to another person or as a consequence of any subsequent transaction.

(e) As used in this section, substitution is the purchase of timber from National Forest System lands to be used as replacement for timber exported from private lands. Such replacement occurs when with respect to historic levels (1) the purchaser continues to export and increases his purchase of National Forest timber, or (2) the purchase of National Forest timber continues while the purchaser increases his export of unprocessed timber from private lands tributary to the plant for which National Forest timber covered by a specific contract is expected to be delivered. Historic level is defined as the purchase or export during 1974 or any subsequent calendar year of not to exceed 110 percent of the average annual volume purchased or exported in calendar years 1971, 1972, and 1973.

(f) To be eligible to bid on a sale of timber from National Forest System lands west of the 100th Meridian in the 48 contiguous States, a bidder must:

(1) Certify that purchase of the timber will not constitute substitution as defined in paragraph (e) of this section.

(2) Agree to furnish to the Forest Service, prior to beginning operations under the contract: the names and addreses of processing plants or other locations to which the timber is expected to be delivered; the names and advertised volumes of timber sales purchased by the purchaser for delivery to each such location in calendar years 1971, 1972, and 1973; the volumes of timber from private lands tributary to each location listed, exported by the purchaser in calendar years 1971, 1972, and 1973.

(3) Agree to furnish the information required by paragraph (f)(2) of this section to the Forest Service prior to log hauling to any location not included in the list required by paragraph (f) of this section.

(4) Agree to make available to the Forest Service, upon request, all of his records dealing with origin and destination of exported timber. For false certification the Forest Service may cancel the contract, debar the purchaser from bidding on Federal timber, and impose such other penalties as may be provided by law or regulation.

(g) Contracts for sales of unprocessed timber from National Forest System lands as described in paragraph (b) of this section, entered into after March 8, 1974, shall, with respect to the timber covered by said contracts, prohibit the purchaser from exporting said timber or selling it for export and from substituting said timber for timber which the purchaser has exported or sold for export from private lands, except that these limitations will not apply to species of timber previously found surplus to domestic needs and additional species, grades, or quantities of timber found by the Secretary of Agriculture, after public hearing to be surplus to domestic needs. Where appropriate, contracts shall include:

(1) Restrictions on the export of unprocessed timber or the use of said timber in substitution of timber exported from private land, including a provision that before the purchaser sells, exchanges, or otherwise disposes of the included timber restricted from export, the purchaser shall require his buyer, exchanger, or other recipient to enter into an agreement not to export unprocessed timber as defined in this section.

(2) Requirements for showing compliance with the timber export restrictions and exemptions and the restrictions against the purchaser using said timber in substitution for timber exported from private land.

(3) The quantities and species of unprocessed timber, if any, which may be exported.

(h) No additional species not previously determined to be surplus, specified quantities or grades of unprocessed timber may be sold for export as surplus to domestic needs unless: a public hearing is authorized by the Secretary of Agriculture and is held to seek advice and counsel as to the quantities, grades, and species of unprocessed timber, if any, surplus to the needs of domestic users and processors, and a determination is made by the Secretary of Agriculture that the specific quantities, grades, and species of unprocessed timber are surplus to the needs of domestic users and pro-

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cessors. The Secretary of Agriculture shall give notice in the FEDERAL REGISTER of the quantities, grades, and species of unprocessed timber which are determined to be surplus. Hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in a newspaper of general circulation within the area of the specific quantities, grades, and species under consideration at least 15 days prior to the hearings, and known parties or organizations with special interest in the quantities, grades, and species should be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and held at a convenient, contralized location within the area of the specific quantities, grades, and species under consideration.

(3) The hearing record shall remain open for at least 5 calendar days following the hearing for receipt of additional written statements.

(i) Subject to the other provisions of this section, timber cut from the National Forests in the State of Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester. This requirement is determined to be necessary in order to assure the development and continued existence of adequate wood processing capacity in that State essential to the sustained utilization of timber from the National Forests located therein which is geographically isolated from other processing capacity. In determining whether consent will be given to the export of such timber, consideration will be given, among other things, to whether such export will (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (2) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market, (3) permit the salvage of timber damaged by wind, insects, or fire, (4) bring into use a minor species of little importance to local industrial development, or (5) provide material required to meet urgent and unusual needs of the Nation.

(Sec. 301, 90 Stat. 1063, Pub. L. 94-373)

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research, and Education.

OCTOBER 3, 1978.

[FR Doc. 78-28360 Filed 10-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0, 2, and 18]

[Docket No. 20718; FCC 78-656]

INDUSTRIAL, SCIENTIFIC AND MEDICAL EQUIPMENT

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission is proposing to revise its regulations relating to industrial, scientific, and medical equipment to control the interference potential of microwave ovens, industrial heaters, and similar equipment. The revision is necessary because present regulations are not sufficient to protect radio communications. The proposed rules would reduce the interference potential of these devices and make enforcement easier.

DATES: Comments are requested by January 15, 1979, and reply comments are requested by February 15, 1979.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Art Wall or Herman Garlan, Office of Chief Engineer, FCC, 202-632-7095.

Adopted: September 19, 1978.

Released: September 29, 1978.

By the Commission: Commissioner Quello absent.

1. The Commission proposes herewith to revise part 18 of its rules governing the interference potential of microwave ovens, industrial heaters, and similar equipment coming under the heading of Industrial, Scientific, and Medical (hereinafter ISM) equipment. The first step in this proceeding was a notice of inquiry (NOI) [1] soliciting answers to a number of questions and inviting the public to participate in the formulation of new rules for ISM equipment. A list of the parties filing comments in response to the NOI is given in appendix A.[2] A summary of the comments received and our reasons for revising part 18 begins with paragraphs 15 and 35, respectively. The proposed rules are attached as appendix C. Examples of the radiofrequency (RF) emissions from various sources is presented in graph form in appendix B. Comments are hereby invited on all aspects of this proposal.

BACKGROUND

2. ISM equipment is a general term referring to equipments that generate and use RF energy to perform some work, such as heating, other than for communications. Included in this category of equipments are microwave ovens, high frequency heating equipments including RF plastic welders, RF stabilized arc welders, ultrasonic cleaners, and medical diathermy.

3. Microwave ovens are by far the most prolific of the ISM equipments, where "* * * industry sources estimated that there were about 1.5 million microwave ovens sold in the United States in 1976. * * * Some industry sources have projected that by 1980, four million microwave ovens will be produced in the United States and about one million imported." Also, "the market value of microwaves will then exceed the total market value of all other microwave equipment." [3] Most home ovens operate in the ISM band at 2450 MHz with an output of less than 700 watts. A relatively small number of ovens operate in the ISM band at 915 MHz, but to our knowledge they are no longer in production. Other frequencies (5800, 10525, and 24125 MHz) are being considered by oven manufacturers with one manufacturer petitioning the Commission to make the band 10525 MHz available as an ISM band for microwave ovens.[4]

4. High frequency (HF) heating equipment is a general term which includes induction heating, dielectric heating, and microwave heating equipment. Members of the HF Heating Committee of the IEEE conservatively estimate * * * "that at least 75,000 kilowatts of high frequency dielectric heating power is being applied in industrial applications by at least 5,500 different equipments in the U.S.A. only." The Committee further states that "of the three basic HF industries, induction heating has probably 10 times the power of dielectric heating and 5 times the number of units of dielectric heaters installed so that the total kilowatts of power used in industrial high frequency heating exceeds the total kilowatts used for all communication purposes".[5] Some of the larger industrial heating equipment, such as those used in the lumber industry range from 2.5 kW to 100 kW output.[6]

5. One type of dielectric heater, which is widely used by many industries throughout the U.S. is the RF Plastic Welder. Operating on frequencies between 10 MHz and 2450 MHz, such equipment is used to heat mold, cut, and form plastics and vinyl.[7] According to one manufacturer * * * "there are in use in the United States roughly six to eight thousand equipments of various sizes ranging from 100 watts of output to above 100 kilowatts producing a very wide variety of low-cost plastic products that otherwise would not be made available to the public." [8]

6. RF stabilized welders are machines that generate and use RF energy to initiate and stabilize the arc for welding nonferrous metals. In a RF welder the common source of RF energy is a spark gap oscillator because of its ruggedness and simplicity in design and construction. Furthermore, its broadband characteristics-emissions extending over a broad band of frequencies, commonly from 1 to 30 MHz—is insurance that a random change in circuit constants or welding conditions will have little effect on the RF energy available for excitation. Unfortunately, this same ideal source of RF energy for welders is also a prolific source of radiation and a potential source of interference. Such welders ranging in size from 3'x3'x3' to 20'x20'x100' are extensively used in the aerospace industry.[9]

7. Ultrasonic cleaners use sound energy to vibrate loose dirt and other imbedded particles from dirty tools and equipment. The mechanical vibrations (sound) are produced by feeding RF energy to a transducer—a device that converts electrical energy to mechanical energy or vice versa. (A common example of a transducer is the speaker.) Present day cleaners operate in above audible range of 20 kHz to several megahertz and have a power output ranging from a few watts to several thousand watts depending on the application. These ISM equipments are used in both industrial and medical applications. Other ultrasonic devices use sound energy for diagnostic and therapeutic purposes.

8. Medical Diathermy are therapeutic machines used by the medical profession to apply heat to a selected area of the body. The rapidly varying alternating fields increased the number of molecular collisions which in turn results in a heating affect. Most present day diathermy equipment operate on one of three frequencies 13.56 MHz, 27.12 MHz and 2450 MHz. This is the same process that occurs in a microwave oven. Electrosurgical units (ESU), a special class of diathermy equipment, use RF energy to cut and cauterize blood vessels and tissue during surgical procedures. Many of these use a spark gap type oscillator producing a broadband emission in the range of 1 to 10 MHz.

9. Inasmuch as we are concerned about all ISM equipment—present and new—the Commission will also consider comments about any new equipment being developed. For example, we are aware of the development of at least two new consumer ISM products—induction heating range and RF excited light bulb. As we understand it, the range, unlike the conventional cooking range, heats only the metal pot, not the cooking surface. RF energy is used to induce eddy currents to flow in a metal pan placed over the cooking surface, which in turn heats the pan and its contents—not the surface. The RF excited light bulb which uses RF energy to excite a gas in the bulb to produce illumination, is intended according to our understanding to be screwed or fitted into the present standard incandescent light bulb socket. The primary advantage of this bulb is its efficiency, which is several times better than the present incandescent bulb. Whether these devices are ultimately successful and widely accepted remains to be seen, but in any case, we believe new equipments like these should be considered in this rewrite of part 18.

10. In each of these equipments RF energy is generated by an oscillator in much the same way RF energy is produced in a transmitter. The only difference between the two is what is done with the RF energy after it is produced. In a transmitter intelligence is added and the signal is radiated into space through an antenna. In ISM equipment, the RF energy is used to do work, ionize a gas or heat food, for example. With the exception of microwave ISM equipments, RF stablized arc welders and electrosurgical units (ESU), emissions from ISM equipments are essentially continuous wave (CW) in nature. For most ISM equipment there is very little attempt to suppress the harmonic (multiples of the fundamental operating frequency) frequencies as can be seen from the first seven graphs in appendix D. Ideally ISM equipments are not supposed to radiate RF energy (radiated energy actually represents a loss of power in the system) but unless proper precautions (shielding, filtering, etc.) are taken sufficient radiowaves are radiated into space and therefore have the inherent possibility of causing interference to radio communications.

11. Before 1948, ISM equipments were a major source of interference to radio-communications. Although the present ISM rules have gone a long way in reducing that interference, they are no longer considered adequate to protect communication systems for the reasons discussed below.

PRESENT RULES FOR ISM EQUIPMENTS

12. The Federal Communications Commission, under the Communications Act of 1934, as amended, is charged with the responsibility of managing the non-U.S. Government use of radio. Soon after the act was passed into law, it became apparent that other devices, beside transmitters, such as industrial heaters radiate and thereby can and do interfere with legitimate radio communications. Hence, our primary concern with ISM equipment is its effect on radio communications. Other aspects of ISM equipment, e.g., potential health hazards from nonionizing radiation, come under the jurisdiction of other Government agencies and, in some instances, are subject to additional regulations. For instance, domestic microwave ovens must comply with FCC specifications to protect against radiofrequency interference (hereinafter RFI) in addition to regulations promulgated by the Department of Health, Education, and Welfare to protect against possible health hazards of microwave radiation. We might add at this point that in instances where there are different Government regulations for the same equipment, FCC approval will be subject to the equipment complying with all applicable specifications imposed by other U.S. Government agencies.

13. The present part 18 rules, which were adopted in 1948 and essentially have remained unchanged, permit operation of ISM equipment without an individual license,[10] provided the equipment complies with both the technical and administrative requirements in part 18, and provided further that it does not cause harmful interference to radio communications. This regulatory approach will not change with the proposed rules.

14. Part 18 permits unlimited radiation for any emission from ISM equipment that lies within the seven bands allocated for that purpose.[11] The ISM bands, as they are called, are both national and international allocations. ISM emissions that lie outside these bands are required to be limited. Although the level in the present part 18 varies depending on how the equipment is classified, the two most commonly used limits for out of band emissions are:

10 microvolts per meter measured at 1 mile for industrial heaters.

25 microvolts per meter measured at 1,000 feet for medical diathermy and miscellaneous ISM equipment.[12]

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[1] Notice of inquiry, adopted Mar. 9, 1976, FCC 76-221, 58 FCC 2d 636, 41 FR 11626.

[2] For convenience, the acronym listed beside the name of each commentor listed in appendix A will be used throughout this notice.

[3] AHAM, page 1.

[4] Petition, designated RM-2788, filed by Litton Microwave Cooking on Nov. 5, 1976.

[5] HF Heating Committee, page 2.

[6] Mann Russell, page 3.

[7] SPI, page 2.

[8] Solidyne, page 2.

[9] AFTRCC, p. 1 of appendix.

[10] 47 CFR 18.1(bX1).

[11] 47 CFR 18.13; section 18.100 of appendix C.

[12] The present technical requirements for ISM equipment are contained in the proposed rules in subpart C of part 18 in appendix C.

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Equipment approvals are mandatory for most ISM equipment. With the exception of ultrasonic equipment there is no limit on the level of radio frequency voltage feed back into the power lines to which the equipment is connected.

COMMENTS IN RESPONSE TO THE NOI

15. As stated, the notice of inquiry in this proceeding invited the public to assist the Commission in formulating new rules to control the interference potential of ISM equipment. This was done by soliciting answers to a number of questions addressing technical specifications, test methods, equipment authorization and administrative procedures, screened enclosures, interference control and the FAA study.[13] With a few notable exceptions, the comments received mainly expressed the interests of ISM manufacturers who unfortunately did not take full advantage of the opportunity to assist the Commission in formulating new ISM rules. Moreover, individuals who were expected to comment, did not. For example, communication users, who have in the past voiced the strongest complaints about the overly liberal present limits for ISM equipment were strangely silent.

16. With the exception of HEW, the parties filing comments were either users or manufacturers of ISM equipments, who naturally would oppose changes to the present ISM rules. Many of the commentors either explicitly stated or implied that they saw no reason why the Commission should change the present ISM rules, except for some minor administrative changes. Internationally many administrations have incorporated recommendations made by CISPR to control the interference potential of ISM equipment.[14] The Canadian Standards Association is also circulating draft proposals modelled after the CISPR recommendations. In the NOI, we asked for comments (questions 6 and 7) regarding the feasibility of adoption of the international standard. The comments were inconclusive. Basically, manufacturers exporting equipment favored such adoption; whereas, those whose market is only in the U.S.A. opposed this. A summary of the comments follows.

17. AHAM, an association of home appliance manufacturers, and manufacturers Litton, Amana, Panasonic and Toshiba restricted their comments to matters relating to microwave ovens. AHAM took the approach that the microwave oven industry is new and "when the new rules are written they should be framed so as to encourage development of the microwave oven industry".[15] AHAM concludes that the basic requirement should be that microwave ovens operate so as to stay in the ISM band and that any spurious outside band should not cause harmful interference. AHAM opposes FCC adoption of the CISPR recommendations for ovens on the grounds that the CISPR instrumentation is not available in this country and that peak or quasi-peak measurements are not a good measure of the interference potential of ovens to communications systems.[16] Both Litton and Amana supported the comments submitted by AHAM. Panasonic and Toshiba on the other hand support adoption of a single standard with Panasonic stating that the single standard should coincide with the CISPR recommendations for microwave equipment. With respect to equipment authorizations, AHAM recommends that the present type approval requirement, where the FCC tests production samples for compliance, be replaced with certification.[17]

18. As previously stated, most present day domestic microwave ovens operate in the ISM band at 2450 MHz. Both AHAM and Litton indicate that oven manufacturers are now investigating other frequencies for microwave cooking. In particular, Litton stated they are looking at the frequency 10,525 MHz as well as the ISM bands at 915 MHz, 5800 MHz and 24,125 MHz. Litton has since filed a petition for rulemaking (RM-2788) requesting the Commission to make 10,675 MHz band available for the use of microwave ovens. The firm also requested the USA to recommend that the bands 915 MHz and 10,525 MHz be allocated for ISM equipment on a worldwide basis.

19. Raytheon, a major supplier of microwave processing equipment for industrial applications in the food processing, foundry and rubber industries, manufacture microwave ISM equipment that operates in the ISM Bands At 915 MHz and 2450 MHz with the output powers ranging from 10 to 75 kW per system. For such equipment operating with a power output of less than 500 watts, Raytheon recommends a single maximum radiated limit of 2500 microvolts per meter measured at a distance of 10 feet. For ISM equipment with output powers above 500 watts, the maximum radiated field may increase by the square root of the ratio of the generated power to 500 watts up to a maximum of 5300 microvolts per meter at 10 feet.[18] The firm said the specification is based on economics, the present noninterference provisions section 18.120-18.121 and the environment in which such equipment is normally operated, which Raytheon asserts and industrial areas located away from residential areas.

20. The firm opposes adoption of the CISPR recommendations for ISM equipment on the grounds that the CISPR limit, which specifies an instrument having a quasi-peak detector is not representative of the interference potential of ISM equipment to modern communication systems, which Raytheon asserts is more fundamentally predictable on the basis of an average or rms detector. Specifications requiring CISPR instrumentation would require a substantial investment in new equipment to test ISM equipment, which Raytheon claims poses an unnecessary burden on ISM manufacturers and users in the United States. Specifications for line conducted emissions are also unnecessary for ISM equipment according to Raytheon because of the environment in which ISM equipment is normally operated and because there are no documented cases of interference.

21. Manufacturers Solidyne, Mann-Russell, Lepel and SPI and the HF Heating Committee representing manufacturers and users submitted comments on the matters relating to industrial heaters. With the exception of Solidyne, each participant essentially requested little or no change in the present technical specifications and filed statements opposing adoption of the CISPR recommendations for ISM equipments on the grounds that the quasi-peak detector in the test instrument recommended by CISPR had less relevance than the average or peak detectors. Both Mann-Russell and SPI question the need for tighter specifications and line conducted limits for industrial heating equipment. All three manufacturers and both SPI and the HF Heating Committee recommend some changes in the present test procedures for industrial equipment. SPI requests simplifi-

[13] See paragraph 26 of NOI, in this proceeding.

[14] CISPR is the acronym for Comite International Special des Perturbations Radioelectrique (International Special Committee on Radio Interference). The CISPR recommendation for limits and measurement procedures is contained in CISPR Publication 11 (1975): Limits and Methods of Measurement of Radiofrequency Interference Characteristics of Industrial, Scientific and Medical (ISM) Equipment. This publication is available from American National Standards Institute Inc., 1430 Broadway, New York, N.Y., 10018 at a cost of $27.25.

[15] AHAM p. 10.

[16] It is unclear why AHAM and Litton are objecting to the use of the CISPR instrumentation since the CISPR field strength meter is not recommended for measuring microwave ISM equipment operating above 1 GHz. A spectrum analyzer is the recommended test equipment for tests above 1 GHz.

[17] See par. 40, below for a discussion of the FCC equipment authorization program.

[18] The recommendation is the same as the present limit for medical diathermy equipment when an inverse distant relationship is used to extrapolate the field from 1,000 feet to 10 feet.

cation of the present equipment authorization procedures in line with the procedures now in force for prototype certification of ISM equipment.

22. The HF Heating Committee also makes the point that " * * * " additional, or more restrictive rules will not guarantee the prevention of interference. It is an unfortunate fact that there exists in these United States a certain element whose selfish interests causes it to attempt to avoid compliance with regulations of proper governmental bodies. This element of our society will not heed further restrictive rules any more than they heed present ones. Enforcement seems to be the only tool available to society for this problem. Meanwhile the public right to the products made available or less costly by high frequency heating should not be removed by restrictions which will stifle use of presently installed equipment or the development of new machines and processes which will benefit mankind. We are confident the Commission agrees with the principle."[19]

23. Solidyne, a corporation with domestic and International Divisions, claims to have manufactured 60 to 75 percent of the heat sealing now in operation in the United States. In their comments on such equipment Solidyne takes a position that is the reverse of that taken by other industrial heater manufacturers. Solidyne supports adoption of the CISPR recommendations for ISM equipment on the grounds that they are technically and economically feasible. The firm remarks:

> Heat sealing is being done within CISPR radiation limits on a large scale in European countries. We have studied the engineering problems involved and we feel the redesign of presently made American equipment will not be prohibitively expensive and the production costs will be only moderately higher than at present. Most of the new equipment will be operated on the assigned frequency bands, thereby drastically reducing noise pollution due to radiation from the fundamental operating frequency. Because harmonics are much better controlled, there will be a much lower level of pollution from that source. Because most equipments will operate on the assigned bands, anything not on these bands immediately becomes suspect, so that inspection and policing is easier.
>
> Some equipments cannot operate on the assigned bands, by reason of the size of the electrodes or the heatability of the material being processed. In that case, self-shielding of equipment or operation in a screen room is required. For both of these methods, it is possible to meet CISPR radiation limits; the cost will be moderately above costs incurred for present FCC limits, but certainly not economically prohibitive. In some cases it is thought that uniform voltages are not attainable on assigned bands and that lower frequencies must be used. However, there are techiques available to equalize voltages for uniform heating on assigned bands. Again, the cost is somewhat higher, but not unreasonable.[20]

24. Solidyne, Litton, Mann-Russell and AHAM requested widening the present ISM bands, particularly at 13 MHz and 40 MHz; or adding additional ISM bands for a number of reasons, but largely because the present bands are not considered adequate. Requests for additional frequency allocations are outside the scope of this proceeding and cannot be considered here. Individuals wishing to change the present national frequency allocations are advised to file a separate petition for rule making with the Commission in accordance with the procedures in part 1 of FCC rules. Individuals wishing to change worldwide frequency allocations should be participating in the proceeding in FCC docket No. 20271 which is developing U.S. proposals to be presented at the next World Administrative Radio Conference (WARC) in 1979.[21]

25. Branson, a manufacturer of ultrasonic equipment and the Ultrasonic Industries Association (UIA) submitted actual proposals for ultrasonic equipment. Both parties recommended a conducted limit of 0.1 volts rms, instead of the present limit of 1,000 microvolts at frequencies up to 490 kHz, with a minimum measurement frequency of 150 kHz, instead of the present 10 kHz. The proposed change, says Branson, will ease the economic impact, manifest under the present specification and would encourage industry compliance with FCC regulation. In support of this, Branson stated:

> The cost of providing a filter network to reduce conducted radio frequency voltage to a value within the presently prescribed limits of 1,000 microvolts at frequencies up to 490 kilohertz and 200 microvolts at frequencies above 490 kiloherts is substantial. So much so that many, if not most, of the manufacturers of small ultrasonic cleaning systems, for example, introduce ISM equipment into commerce which does not meet the present FCC regulations concerning conducted noise. The proposed less restrictive specification will undoubtedly result in the allowance of the use of less expensive filters, thereby lessening the economic impact of the regulations upon industry while concurrently encouraging greater industrywide compliance.[22]

26. Alternatively, if the first proposal is not acceptable, Branson offered the following proposal:

> The FCC should adopt new standards for conducted interference as recommended by the CISPR, which standards are being adopted in Europe and Canada.[23] By conforming United States standards to an international uniform standard, the flow of goods from the United States to these countries will be greatly increased. Moreover, manufacturers will no longer be required to maintain two inventories, one for United States consumption and the other for European consumption.[24]

Furthermore, the firm recommends measurements to be made at a standard test site with a standard line impedance stabilization network (LISN) for the CISPR standard to assure repeatability of results. Such a standard would provide insurance that U.S. goods are shipped in international commerce without contravening radiation specifications of other countries, says Branson.

27. With respect to responsibility for compliance, Branson states: "When the equipment is an assemblage of components, the generator manufacturer should be held responsible for obtaining an equipment authorization for the generator for use under specified operating conditions. The person assembling the components should then be held responsible for complying with the generator manufacturer's installation and operating instructions." [25] For ultrasonic equipment operating on a frequency below 100 kHz, both Branson and UIA, recommended that only conducted interference data be sent to the Commission to show proof of compliance, since experience has shown that such equipment which complies with the conducted limit can also be expected to comply with radiation limit. Consequently, they argue that radiation test data is only necessary for equipment operating on a frequency above 100 kHz.

28. IBM, primarily a user of ISM equipment but also a fabricator of special purpose ISM machines that cannot be purchased, endorsed the need * * * "for reasonable technical standards for the operation of ISM equipment in order to minimize the possibility of such edquipment causing harmful interference to authorized radio communication service, polluting the radio spectrum and having adverse effects on other electronic equipment." [26] However, IBM urged that the limits and methods of measurements be founded on a sound technical basis similar to those studies included in the FAA reports,[27] the CBEMA proposal for data processing equipment [28] and

[19] HF Heating Committee, p. 9.

[20] Solidyne, pp. 3 and 4.

[21] See Sixth, Seventh and Eighth notice of inquiry in FCC docket 20271.

[22] Branson, p. 2.

[23] The Canadian Standards Association is presently circulating a draft standard for ISM equipment that includes the recommendations in CISPR Publication 11.

[24] Branson, p. 7.

[25] Branson, p. 7.

[26] IBM, p. 1.

[27] See par. 26 of the NOI in this proceeding.

[28] In response to the notice of proposed rulemaking in FCC docket 20780, the Computer and Business Equipment Manufacturers Association filed a report, CBEMA/ESC5/77/29, titled: "Limits and Methods of Mea-

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to a limited extent the CISPR recommendations. With respect to CISPR, IBM stated that they applaud • • • "the detailed technical treatment of many of the considerations for controlling ISM electromagnetic interference and support adoption by the FCC of certain of these recommendations; however, IBM cannot endorse the entire program recommended in CISPR Publication 11." The principal reasons given by IBM for this position are:[29]

(1) CISPR limits are designed to protect frequency assignment in region 1 of the World (Europe, Africa and the USSR);

(2) CISPR instrumentations based on their investigations would place an overly stringent requirement on ISM equipment having broadband emission characteristics; and

(3) The LISN recommended by CISPR Publication No. 11 for measuring RF line conducted voltage from ISM equipment with current output less than 25 amps is not representative of U.S. power line impedance and therefore would produce results of questionable validity.

29. With respect to test procedures, the computer firm supports revising the present procedures in part 18 to eliminate what they allege are unnecessarily complicated and time consuming testing practices and replacing it with a single unified procedure for all ISM equipment. Moreover, they state that clause 5 of CISPR Publication 11, "Method of Measurement", can be used as the structure and scope of such a standard. However, the following modifications are recommended:

Define the limits at 30 meters, but permit tests at shorter distances (e.g., 3 or 10 meters) using acceptable propagation models.

(2) A 50 ohm/50 microhenry LISN network for measuring conducting RF voltage from all ISM equipment having power requirements of 100 amperes or less.[30]

30. IBM agrees with the Commission that the manufacturer of discrete items should be required to obtain an equipment authorization for his products; however, in the case where the equipment is an assembly of components the individual marketing the components should be responsible for obtaining FCC approval.

31. AFTRCC, a council representing the aerospace manufacturing industry, one of the principal users of ISM equipment, including radio frequency stablized arc welders filed comments that not only opposed the CISPR recommendations for ISM equipment, but questioned the need for tightening the specifications for ISM equipment. Second, in view of the portable nature of RF Welding, AFTRCC, "strongly urged the Commission to adopt a 'Yard' or 'Premises' approach—a concept which appears to be within the contemplation of the CISPR regulation and which was put forward for consideration by AFTRCC some 10 years ago."[31] [32]

32. RCA, a user of ISM equipment, filed comments supporting . . . "a single standard for industrially-used equipment based on the current radiation limit for industrial heating equipment." [33] Different limits for different industrial equipment is difficult to justify from a technical point of view, says the firm. For equipment used by the general population, RCA states that a conducted interference limit of the RF voltage fed back into the power lines is most appropriate. But it should not apply to equipment in a large industrial location, since power line distribution transformers used at such locations provided a natural form of isolation. For ISM equipment consisting of a number of components that must be assembled at the installation site, RCA recommended the following:

(1) Any technical standards adopted should apply to the RF generator alone. (2) For the purposes of equipment approval, the manufacturer should be required to adequately specify the configurations, uses, or attachments for or with which an RF generator will continue to meet the equipment authorization. For example, under the rules for prototype certification, the manufacturer should specify the maximum limits of coil size, lead length, other appropriate operating restrictions and operating conditions. (3) The manufacturer should specify the radiation actually measured at the proper certification distance. Thus providing the user with information about the limits of proper operating conditions.[34]

33. In a letter stating that they were the largest American manufacturer of short wave diathermy and possibility in the world, Mettler expressed deep concern with any Part 18 revision, especially if patterned after CISPR recommendations. Mettler claims that the international standards has virtually eliminated their units from the European market. No details or information of the equipment are furnished to support this claim.

34. While Mettler is concerned about tighter limits for medical equipment, FDA, on the other hand is concerned about the problem of conducted and radiated interference in the hospital. Sensitive medical equipment either malfunctions or doesn't function at all due to the high level of radio noise in many hospitals. Because of this problem, FDA is proposing a susceptibility standard which would require equipment used in a hospital to be able to accept a certain amount of RF noise and continue to operate normally. Since ISM equipment, particularly medical diathermy and electrosurgical units produce the highest levels of RF noise in the hospital, FDA said that the proposed susceptibility levels could be reduced if the ISM limits are reduced. The proposed susceptibility standard is based on the present hospital ambient levels according to the agency. Reducing the ISM limits could result in lower ambient levels which could reduce the technical burden and associated costs of sensitive hospital instrumentation.

Reasons for Revising Part 18

35. The following is a list of the more important reasons for revising part 18. An elaboration of each is presented in subsequent paragraphs.

(a) ISM equipment is considered to be the largest source of manmade radio noise.

(b) Present limits are inadequate to protect future communication needs. ISM limits are out of line with limits for other equipment.

(c) Requests for tighter limits have been made.

(d) Present ISM specifications are much more liberal than those imposed by other administrations.

(e) Present equipment approval procedure requires clarification.

(f) Responsibility for compliance requires clarification.

(g) Present test procedures are inadequate.

(h) Present equipment classifications are difficult to apply.

36. As previously discussed, some ISM equipment generated and use tens of thousands of RF watts,[35] which means that unless such energy is contained, it is radiated into space and conducted/radiated from power lines. Consequently, ISM equipment is and always has been a major contributor to the manmade radio noise problem. Our emphasis in controlling RFI has been not to eliminate radiated emissions from equipment—a desirable but economically unacceptable (and probably an unnecessary) solution—but to keep the number of instances of harmful interference down to an enforceable level. We feel this approach is justified because it takes into account the environment in which the equipment is operated.

37. In general most of the commentors, agreed with the above approach. Most quickly point to the fact that the record for ISM equipment has been relatively good, since the number of documented cases where ISM equipment was identified as the source is now relatively small. However, this evidence is misleading, at best, for the following reasons:

(1) Most ISM equipment manufacturers have learned from experience to produce equipment to operate on those frequencies where the potential of receiving a compliant is least probable.

(2) For every documented interference complaint where ISM equipment is identified as the source of interference, there are many more instances where the source is never identified. The reasons for this are numerous. Among other things, emissions from ISM equipment are difficult to identify and locate, so much so that unless a communication service is deemed completely unusable, the source is left unidentified and never located.

(3) In the past, most ISM equipment were operated in large industrial environments where the probability for interference was small. This separation of the ISM equipment and communication user is changing for a number of reasons. First, some ISM equipment, e.g., domestic microwave ovens, are consumer products that are or will be used throughout the country.[36] Second, more and more people, most of whom expect reliable communications are living closer to industrial complexes. Lastly, all manmade radio noise adds to the ambient backgrounds of radio noise which in a complex manner decreases the use and reuse of the radio spectrum for communication.[37]

38. The graphs in appendix B show the radiated emissions in microvolts per meter at some distance from a number of ISM equipments installed and tested by the respective manufacturer. The data for these graphs was taken from the report of measurements filed by each manufacturer to support their application for prototype certification. No attempt was made to convert the filed data to field strength at a standard distance for purposes of making comparisons, since there is some disagreement about how the value should be extrapolated. We did not want to get into this argument. The graphs are included to show the number of emissions and relative level of each emission from ISM equipment. Emissions above the tenth harmonic (10 times the fundamental operating frequency) is not shown, because tests above the tenth harmonic are not required. Note, also, that a harmonic of two equipments was higher than or equal to the level at the fundamental operating frequency. Each emission has the potential for interfering with radio communications and does interfere if the conditions (e.g., location, frequency, relative level of emission compared to desired signal) are right.

39. Two Government agencies, FDA and FAA, have indicated a desire to have tighter technical specifications for ISM equipment. The Electromagnetic Compatability Analysis Center in their contract report to FAA [38] requested tighter technical specifications for emissions that lie within the aeronautical navigation and communication frequency bands of 108-136 MHz. FDA comments that more restrictive technical specifications for ISM equipment—the greatest offender of RFI in the hospital—would reduce the burden of severe susceptibility standards for electronic equipment used in a hospital.[39] In addition, several NATO (North Atlantic Treaty Organization) countries have informally requested tighter technical specifications for ISM equipment. Moreover, many countries have already adopted the tighter technical specifications recommended by CISPR in publication No. 11, as noted above by Solidyne and Branson.[40]

40. At present, there are four types of FCC equipment approvals. Type approval, type acceptance, and certification apply to RF devices including ISM equipment. The fourth procedure, registration of telephone terminal equipment applies only to equipment interconnected to the telephone network and is of no concern in the present rulemaking. Type approval is an equipment authorization granted by the Commission based on measurments made on a sample device by the FCC Laboratory. Certification and type acceptance are based on representations and test data submitted by the applicant and are considered representative of similarly produced units. The only difference between certification and type acceptance is the type of equipment they apply to—the latter applies to licensed transmitters, whereas certification is required for devices that operate without an individual license under parts 15 and 18 of the rules.[41]

41. In part 18, the terms prototype and onsite certification are also used. Prototype certification is the same as certification described above. Onsite certification, as the name infers, means that the equipment is tested and found to comply at that one location. Onsite certification does not carry the implication, as does certification, or prototype certification, that similarly manufactured equipment installed at a different location can be expected to comply.

42. Contrary to intention of the marketing rules of placing some responsibility for compliance on the manufacturer, the present ISM rules permits a manufacturer in some instances, to choose between the three equipment authorizations: Type approval, prototype certification or onsite certification. For example, manufacturers of ultrasonic equipment now have the option of choosing between type approval or prototype certification, or, he may elect to sell the equipment and let the purchaser worry about certifying the equipment. Under these conditions it is not possible to determine who has the responsibility for assuring compliance—the manufacturer or the purchaser. As a result, there are some individuals (either informed or uninformed), who are not adhering to any minimum technical specifications, as so clearly stated by UIA and Branson and several other commentors. The proposed rules are intended to clarify this responsibility in line with the present equipment authorization rules for other equipment in subpart J of part 2 of FCC rules.

43. A major area of concern and one which has long needed clarification is the procedure for assuring compliance of ISM equipment. Under section 302 of the Communications Act, and the subsequent marketing, equipment authorization and import rules in Subparts I, J, and K of part 2 of FCC rules,[42] the Commission imposes an equipment authorization requirement on the manufacturer as a precondition for marketing in order to provide some assurance that equipment placed into operation can be expected to comply with the applicable technical specifications. The rules are based on the consideration that it is much easier to control a device with an interference potential at the manufacturing level than it is to tell a purchaser that his device is causing interference and that he must stop using it until the interference is corrected. Moreover, it is far less expensive to incorporate interference controls into a device at the design stage than to try and fix an interference problem once it is discovered and identified, which in itself presents costly manhours in searching for unidentified emissions. Up to now, ex-

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surements of Electromagnetic Emanations from Electronic Data Processing and Office Equipment".

[29] Ibid., pp.5-7.

[30] Ibid. pp. 8 and 9.

[31] AFTRCC, pp. 4-5.

[32] AFTRCC comments in the Commission Third notice of proposed rulemaking in FCC docket No. 11467. This proceeding, which has never been resolved, will be terminated by a separate order and the issue of how to regulate the interference potential of RF Arc Welders will be considered herein.

[33] RCA, pp. 2 and 3.

[34] See pars. 21-24, above.

[35] See Par. 3 above.

[36] Problems associated with manmade radio noise are widely published. Two of the more quoted examples are: (a) Spaulding, A. D., "Manmade Noise: The Problem and Recommended Steps Toward Solution", Office of Telecommunications, Report No. 76-85. (b) JTAC (1968), "Spectrum Engineering: The Key to Progress", Joint Technical Advisory Committee, 345 East 47th Street, New York, N.Y. 10017.

[37] See par. 26 of NOI, of this proceeding.

[38] See par. 34 above.

[39] See par. 26 above.

[40] 47 CFR 2.901-2.906.

[41] 47 U.S.C. 302, Pub. L. 90-379, approved July 5, 1978, 82 Stat. 290. Subpart I of part 2, adopted May 18, 1970, FCC docket 18426, 23 FCC 2d 79. Subpart J of part, adopted February 6, 1974, FCC docket 19356, 39 FR 5912. Vol. 45, FCC 2d 52 (FCC 74-113). Subpart K of part 2, report and order adopted December 10, 9175, docket 20194, vol. 59, FCC 2d 1083 (FCC 75-1352).

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ceptions have been made in the marketing rules for ISM equipment until such time as the problem could be considered in total. Several of the commentors stated that they would like to see the exemptions continue but they failed to adequately justify why ISM equipment should be exempt from the marketing rules while other equipment with far less RFI potential is subject to those rules.

44. To assure compliance with our technical specifications, equipment must be measured in a prescribed manner. The present test procedures in part 18, are not considered adequate, as stated in some of the comments to the NOI, for measuring RFI from ISM equipment. Too much room is left to interpretations, which means the maximum level of emissions is sometimes left undetected. As a result, the data may not be meaningful or reproducible. And from a regulatory point of view test results must be reproducible.

45. An example of a problem with the present test procedures in part 18 is the requirement in § 18.107 to make field strength measurements along a specified number of radials from the source. The procedure for making measurements is satisfactory for industrial heaters operating below, say 490 kHz. However, it is much less applicable for high frequency (HF) (3 to 30 MHz) devices now used for plastic preform heating and far less satisfactory for microwave heaters and ovens. Leakage radiation patterns from HF and microwave devices are by nature directional; much more so than from devices operating at lower frequencies. The present test methods in part 18 were written in 1947 for devices operating at lower frequencies. At higher frequencies care needs to be taken to assure that measurements on a given frequency are made in the direction in which leakage radiation is greatest.

46. Another problem with the present test methods in part 18 concerns the effect of the load on the radiation patterns from the equipment. The load is the dielectric or other material being heated or changed with the application of RF energy. In many ISM equipments, the load is designed to be in the plate circuit of the RF oscillator. When the material is heated its dielectric constant is changed resulting in a frequency shift, unless there is a frequency compensating network in the equipment. This in turn changes the radiation characteristic of the equipment. This affect is not considered in the present test methods in part 18. To overcome this difficulty we are proposing the equipment be measured with the kind of applicators or work fixtures to be used with the equipment containing both the largest and smallest expected loads. In cases where this is not practical, we will consider the use of dummy loads when such a load can be expected to develop interference conditions reasonably similar to those expected in actual operation. The measurement problem has been a source of concern that we are addressing in the proposal by prescribing measurement procedures for a number of different classes of equipment.

FCC Proposal

47. The proposed rules are set in appendix C. The following is a list of some of the more important points of the proposed rules followed by a brief discussion of each item in subsequent paragraphs.

(a) Technical specifications and test procedures are modeled after CISPR recommendations for ISM equipment.

(b) Test procedures set out in detail in OCE bulletins.

(c) CISPR instrumentation is recommended but not required.

(d) Administrative provisions are clarified and consolidated.

(e) Certification and ISM-registration will replace all existing FCC approvals for ISM equipment.

(f) ISM-registration (similar to on-site certification) will be permitted only for equipment that cannot be tested on an approved test site.

(g) Responsibility for obtaining ISM-registration is placed on the RF generator supplier.

(h) Effective date of new rules is 18 months after adoption of final rules in this proceeding.

48. For the same reasons given by IBM, Solidyne and Branson, we are proposing to model the new ISM rules after the recommendations in CISPR publication No. 11.[43] As already mentioned, CISPR recommendations are internationally agreed upon standards having a sound technical basis, even though there is some disagreement whether they should be used in the U.S.A.

49. CISPR's recommendations are designed to reduce the interference potential of all types of electrical equipment, including ISM equipment. Besides the fact that they have international agreement, many foreign administrations have or are in the process of adopting the CISPR recommendations for ISM equipment as their national regulation. As a result U.S. manufacturers are finding that they are at disadvantage when they try to market their products abroad. Because of this a manufacturer wishing to market ISM equipment in another country is faced with making extensive modifications to his equipment in order that it can comply with foreign specifications which in most cases follow CISPR recommendations. The cost of incorporating RFI suppression into the design of equipment is far less expensive than adding suppression after the equipment has been built. Because of this, some manufacturers have gone to the expense of developing two equipments—one for the U.S. market and a second for the international market.[44]

50. In view of objections raised by IBM and others the following changes to the CISPR recommendations are proposed:

(a) The CISPR field strength meter is recommended, but not mandatory for testing ISM equipment.

(b) The CISPR recommendation for measurements at 100 meter distance is not included in the FCC proposal.

(c) The proposed radiation limit and test procedure for ISM equipment operating on a frequency above 1,000 MHz differs from the CISPR recommendation.

(d) Test procedures are set out in OCE Bulletins.

(e) In lieu of the 150 ohm line impedance stablization network, a 50 ohm network is proposed.

(f) An electrosurgical unit will be subject to a line conducted limit, but not the radiation limit, if certain conditions are met.

51. The major objection to adoption of the international standard is the measuring instrument recommended by CISPR. The primary difference the CISPR instrument and other field strength meters is the quasi-peak detector, as opposed to peak, average or rms detectors. In the past few years more and more instrument manufacturers have been adding the quasi-peak detector function to their instrumentation. So the argument that it is no longer available in the U.S.A. may no longer be valid. Secondly, since RFI emissions from most ISM equipment is basically CW (continuous wave or sinusoidal) in nature and since there is little difference in the results when using a field strength meter with an average or quasi-peak detector to measure CW emissions, the Commission is recommending the use of the CISPR instrument, but will permit the use of a meter with an average detector. Instruments having an average detector and meeting certain minimal specifications such as those specified by the American National Standard Institute (ANSI) for such instruments will be permitted for testing ISM equipment.

52. ISM equipment operating on frequencies in the microwave region above 1,000 MHz presents a special problem. For ISM equipment operating on a frequency between 1 and 18 GHz, CISPR Publication 11 recommends that the radiated energy not exceed 57 dB above a picowatt when referred to half-wave dipole using a spectrum analyzer as the measuring instrument. Our preliminary investigation of this recommendation agreed

[43] See footnote 13, above.

[44] See par. 23, above.

with the comments from Litton that manufacturers will not be able to meet the CISPR microwave limit using the specified spectrum analyzer. Furthermore, only one country to our knowledge is enforcing the CISPR recommendation for microwave ISM equipment.

53. The problem is further aggravated by the fact that the present field strength instrumentation used for measuring RFI from microwave ovens, may not be readily available. Ideally, the spectrum analyzer is the most desirable instrument for making RFI measurements, since it is readily available and it can be used for other purposes. Unfortunately, however, additional investigations are needed to adapt the spectrum analyzer into an acceptable procedure for making measurements of RFI from microwave ovens. In the meantime, we are proposing the CISPR limit, converted to field strength (1,500 microvolts per meter at 3 meters) and permitting the use of a field strength meter with an average detector. In addition, we are inviting manufacturers to submit alternative proposals for measuring microwave ISM equipment.

54. Draft test procedures, which are under consideration and will be released as soon as practical, follow CISPR recommendations, but do include some differences. For example, in lieu of CISPR 150 ohm line impedance stabilization network used to measure RF terminal voltage, a 50 ohm, 50 μH network is proposed. Testing of microwave ovens will continue to be made pursuant to present procedure in Bulletin OCE 20. The Bulletin will be revised slightly to take care of the revision in the new rules when adopted but the test procedure will not change. Comments on the proposed test procedures are also invited, when they are released. A public notice will be issued announcing their release. When available, copies may be obtained by writing: Federal Communications Commission, OCE, Room 7306, 2025 M Street NW., Washington, D.C. 20554.

55. At present, RF stabilized arc welders and electrosurgical units (ESU) are not included in the recommended limits and method of measurements for ISM equipment in CISPR publication 11. This is in part, due to the wideband emissions radiated by these equipments and the difficulty in measuring these emissions. However, because of their high interference potential, we do not believe they can be ignored indefinitely. For all practical purposes the present part 18 provisions do not control the interference potential of either of these ISM equipments. Earlier attempts to regulate them have not been successful.[45] [46]

[45] In 1955, the Commission initiated the proceeding in FCC docket No. 11467 proposing alternative rules for RF stabilized arc welders. Three proposals were issued in this proceeding with little agreement reached. FCC docket 11467 will be terminated in a separate order and the issued involved in docket 11467 are reconsidered in this proceeding.

[46] The present rules in part 18 exempt low power electrosurgical units from complying with any technical requirements. The proceeding in FCC docket 18731 tried to define the term low power ESU. FCC docket 18731 will also be terminated in a separate proceeding with the issue of how to control the interference potential of ESU considered herein.

56. For the present proposal, RF arc welders will be subject to the same technical restrictions that will be applied to other industrial ISM equipment. ESU's, however, present a special problem. As previously stated, ESU's produce extremely high level broadband emissions, particularly in the frequency range of 1 to 10 MHz. Because of this ESU's are the primary source of interference to electronic equipment in the hospital. During use, the emissions emanating from an ESU may render hospital instrumentation useless. But because it is a very useful instrument during surgery and since actual use is brief, doctors have learned and are willing to accept brief interruptions to other hospitals instrumentation caused by ESU's. In the operating room where almost all ESU's are used this willingness to accept interference may be acceptable since the doctor can control its use, but outside the operating room it presents obvious hazards. To overcome this problem, we encourage hospital designers to provide shielding for hospital operating rooms to reduce such emanations outside the room. Because the proposed limits would probably preclude most present day ESU's, we are proposing, at least for the time being, to exempt ESU's operating pursuant to conditions in section 18.114 from the out-of-band limits in section 18.108. This is a temporary proposal and we are encouraging alternative proposals for this equipment.

57. In lieu of the present equipment authorization for ISM equipment, prototype certification, onsite certification and type approval, we are proposing to require certification for those equipments that can be tested at an approved measurement facility and ISM-registration for ISM equipment that cannot be tested at such a facility. Responsibility for obtaining ISM-registration will be on the supplier of the RF generator.

58. Certification is a procedure where the manufacturer or his representative makes measurements on the equipment and submits an application with the report of measurements to the Commission. If acceptable, a grant is issued.[47] Certification applies to all similarly produced equipment. The same procedure is followed for ISM-registration however, the grant only applies to the equipment measured at that one location. We are deleting the type approval requirement for ISM equipment, since adequate test facilities are now available to manufacturers for the required test. Moreover, our experience over the last several years shows that most equipments submitted for type approval meet our requirements without adjustment or changes. We reserve to the right, of course, to test the equipment at any time. In this connection, we plan to increase enforcement efforts as recommended by many of the comments by randomly testing approved devices and applying administrative sanctions against manufacturers of noncomplying equipment.

59. In recognization of the fact that some of the ISM manufacturers may have to make some design changes in their equipment to comply with these more stringent technical requirements, we are proposing an 18 month lead period before the rules take effect. That is, ISM equipment manufactured 18 months after the adoption of these rules will be required to comply with the new rules for ISM equipment. Existing ISM equipment and equipment in operation before the effective date of the new rules will continue to operate under the present rules for a period of 10 years after adoption of the new rules.

Conclusion

60. The Commission believes that the present text of part 18 of FCC rules is not satisfactory for governing the interference potential of ISM equipment to protect current and future radio communication needs. We find, therefore, that proposed ISM rules in appendix C which are modeled after CISPR recommendation in Publication No. 11, would serve the public interst. It is recognized, however, that in rule changes as voluminous, technically involved and far-reaching as those proposed herein, there are bound to be provisions that could be further clarified or consolidated. Interested persons, including spectrum users, as well as ISM manufacturers and ISM users, are urged to recommend other possible modifications that can be incorporated within the scope of this rulemaking action. At the same time, it would be helpful if any observed omissions and errors were brought to our attention so that they can be corrected. Further, there may be a number of concurrent Commission proceedings that affect or change specific rules being proposed herein. Such changes will be included at the time final action is taken in this docket.

61. In accordance with the foregoing, notice of proposed rulemaking is

[47] See footnote 13, above.

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hereby given to revise all aspects of part 18 of FCC rules. The specific changes proposed are set forth in appendix C. Authority for these proposed amendments are contained in sections 4(i), 301, 302 and 303(r) of the Communications Act, as amended.

62. Pursuant to applicable procedures in section 1.415 of FCC rules, interested persons may file comments on or before January 15, 1979, and reply comments on or before February 15, 1979. In accordance with the provisions of §1.419(b) of FCC rules an original and five copies of all statements, briefs and comments or reply comments shall be furnished to the Commission. Members of the public who wish to express their interest by participating informally in this rule-making proceeding may do so by submitting one copy of their comment, without regard to form, provided the submission is identified as a comment in docket No. 20718. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. Comments and reply comments, when received will be available for public inspection during regular business hours in the Commission's Docket Reference Room 239 at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

ATTACHMENTS

Appendix A—List of Parties Filing Comments to NOI.
Appendix B—Examples of Emissions From ISM Equipment.
Appendix C—Proposed Rules.

APPENDIX A

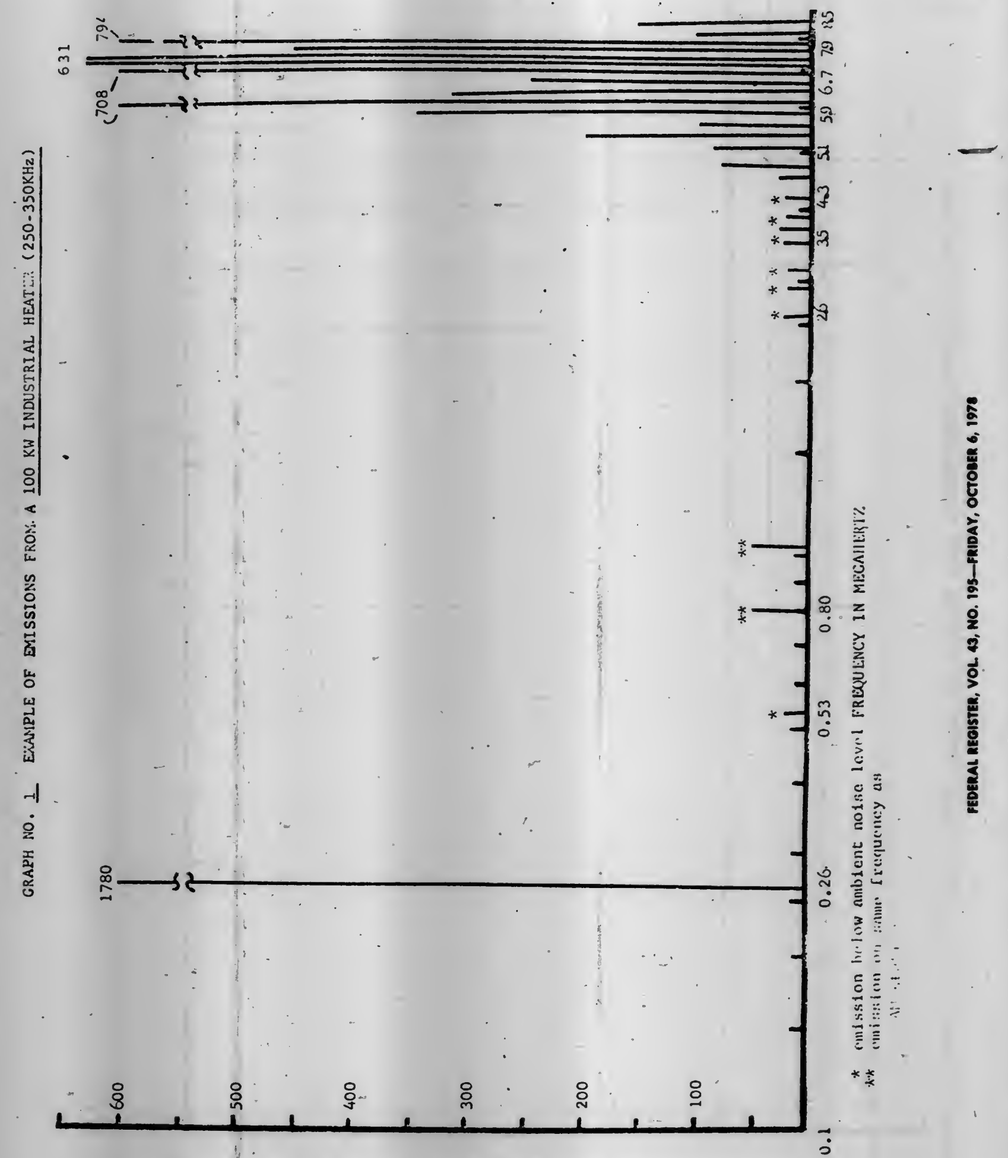
The following parties filed comments in response to the notice of inquiry in this proceeding:

Party	Acronym
1. Ultrasonics Industry Association, Inc	UIA.
2. International Business Machines Corp	IBM.
3. Branson Ultrasonic Corp	Branson.
4. Toshiba America, Inc	Toshiba.
5. RCA Corp	RCA.
6. Matsushita Electric Corp. of America (Panasonic)	Panasonic.
7. Industrial Electronics and Control Instrumentation Group of the Institute of Electrical Electronic Engineers.	IEEE.
8. Mann-Russell Electronics, Inc	Mann-Russell.
9. The Society of the Plastic Industry, Inc	SPI.
10. Miller Electric Manufacturing Co	Miller.
11. Lepel High Frequency Laboratories, Inc	Lepel.
12. Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Medical Devices and Diagnostic Products.	HEW.
13. Computer and Business Equipment Manufacturers Association	CBEMA.
14. Aerospace and Flight Test Radio Coordinating Council	AFTRCC.
15. Association of Home Appliance Manufacturers	AHAM.
16. Raytheon Co	Raytheon.
17. Litton Industries	Litton.
18. Amana Refrigeration, Inc	Amana.
19. Solidyne, Inc	Solidyne.
20. Scott-Campbell Engineering	Campbell.
21. Liebel-Flarsheim, a Sybron corporation	Liebel-Flarsheim.
22. Mettler Electronics, Corp	Mettler.

APPENDIX B

EXAMPLE OF EMISSIONS FROM ISM EQUIPMENT

The seven graphs in this appendix give a pictorial display of RFI emissions from seven different ISM equipments. The level of each emission is field strength in microvolts per meter at a specified distance. The data for these graphs was taken from the report of measurement submitted by the manufacturer in support of his application for prototype certification. Emissions above the 10th harmonic (10 times the operating frequency) are not required to be measured, nor reported. In almost all cases, the measurements on this equipment were made either at the manufacturer's plant or at the user's facility. Because of this, it is questionable whether the data reported is representative of the same equipment at a different location. Additional discussion is provided in paragraph 38 of the text of the NPRM.



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GRAPH NO. 2 EXAMPLE OF EMISSIONS FROM A 20 KW INDUSTRIAL HEATER (84.5 MHz)

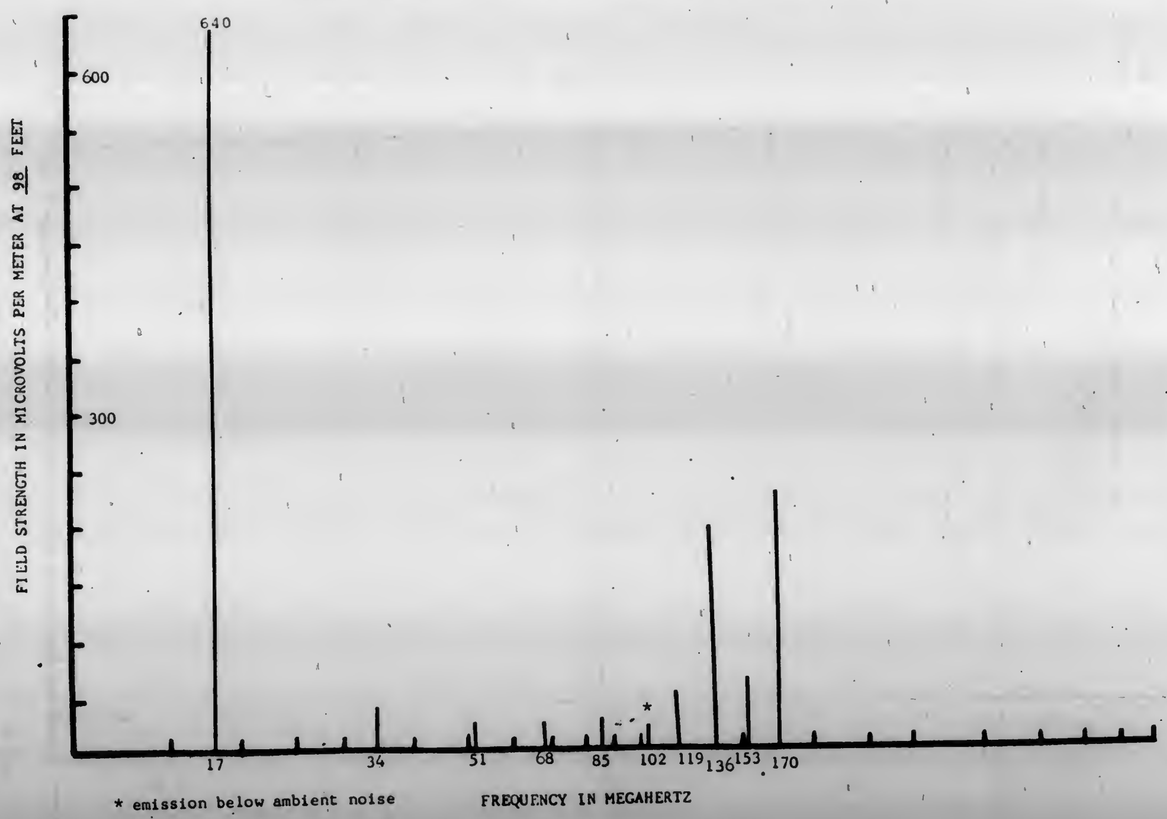
GRAPH NO. 3 EXAMPLE OF EMISSIONS FROM A 1 KW VINYL HEATER (27.12 MHz)

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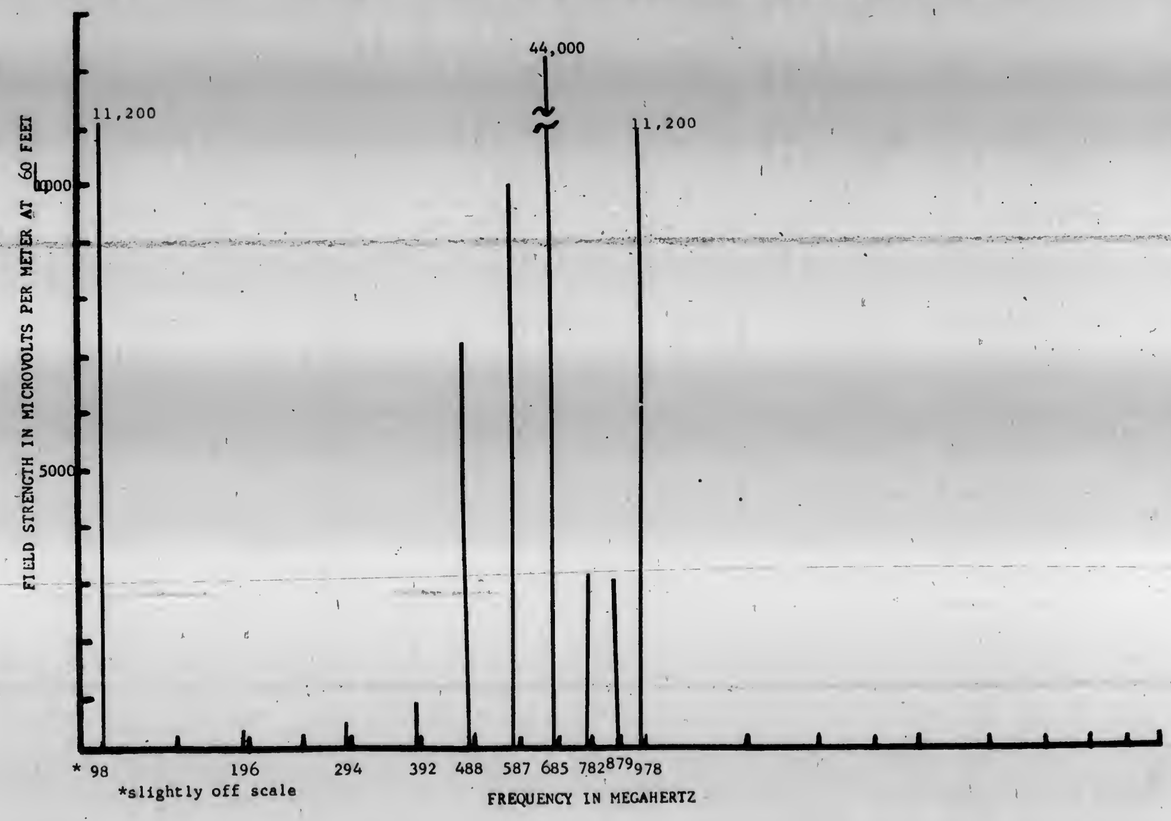
GRAPH NO. 4 EXAMPLE OF EMISSIONS FROM A 25 KW INDUSTRIAL PREHEATER (915 MHz)

GRAPH NO. 5 EXAMPLE OF EMISSIONS FROM A 8.5 KW DIELECTRIC HEATER (89-107 MHz)

GRAPH NO. 6 EXAMPLE OF EMISSIONS FROM A 20 KW PAPER DRYER (17 MHz)



GRAPH NO. 7 EXAMPLE OF EMISSIONS FROM A 8.5 KW Dielectric Heater (89-109 MHz)



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APPENDIX C

The following items are proposed amendments to parts 0, 2, and 18 of chapter I of title 47 of the Code of Federal Regulations.

PART 0—COMMISSION ORGANIZATION

§ 0.455 [Amended]

1. Section 0.455(e)(2) is deleted in its entirety.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

2. The present text of § 2.809 is deleted and the following new text is inserted. As revised § 2.809 reads as follows:

§ 2.809 Exemption for equipment subject to ISM-registration.

Section 2.803 shall not apply to ISM equipment requiring ISM-registration under part 18 of this chapter, provided all the following conditions are met:

(a) The supplier of such ISM equipment or, in the case of ISM equipment which is a composite of subassemblies supplied by a number of different manufacturers, the supplier of the radio frequency generator section of the equipment, has submitted an application for ISM-registration (FCC form 731) pursuant to the procedures in subpart J of this part before the complete equipment is placed into operation.

(b) A grant of ISM-registration is issued by the Commission for the complete ISM equipment 90 days after it is placed into operation.

(c) The completed equipment complies with all other applicable requirements in part 18 of this chapter.

(d) ISM equipment which has not received a grant of ISM-registration within 90 days after it is placed into operation shall cease being operated and shall not be operated again until said ISM-registration is granted by the Commission. The 90-day grace period may be extended by the Chief Engineer to permit operation of the equipment for an additional 30 days when there are sufficient reasons given to justify the extension.

3. The title of subpart J of part 2 is revised to read as follows:

Subpart J—Equipment Authorization Procedures—Type Approval; Type Acceptance; Certification; ISM-Registration

4. Section 2.901 is amended to read as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment receive equipment authorization from the Commission by one of the following procedures: Type approval, type acceptance, certification, or ISM-registration.

(b) The following sections describe the procedures to be followed in obtaining type approval, type acceptance, certification, or ISM-registration from the Commission and the conditions attendant to such a grant.

5. A new § 2.906 is added to read as follows:

§ 2.906 ISM-registration.

(a) ISM-registration of equipment operating under the provisions of part 18 of this chapter is an equipment authorization issued by the Commission based on representations and test data submitted by the applicant.

(b) Unlike the other equipment authorizations, a grant of ISM-registration applies only to the equipment measured at the user's premise. The grant of ISM-registration does not apply to subsequently produced units.

6. Section 2.915 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 2.915 Grant of application.

(a) The Commission will grant an application for type approval, type acceptance, certification, or ISM-registration if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

(1) The equipment is capable of complying with pertinent technical standards of the rule part(s) under which it is to be operated; and,

(2) A grant of the application would serve the public interest, convenience, and necessity.

• • • • •

(c) The mere fact that an application for an equipment authorization has been filed with the Commission does not constitute an approval by the Commission.

(d) Grant of an equipment authorization shall not be deemed effective until on or after the date inscribed on the written grant of equipment authorization.

7. Paragraph (b) of § 2.929 is amended as follows:

§ 2.929 Nonassignability of an equipment authorization.

• • • • •

(b) The grantee of an equipment authorization other than ISM-registration may license or otherwise authorize a second party to manufacture or market the equipment covered by the grant of the equipment authorization provided:

(1) The equipment manufactured by such second party bears the identical name and number as is set out in the grant of the equipment authorization.

NOTE.—Any change in the name or number desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in § 2.933.

(2) The grantee of the equipment authorization shall continue to be responsible to the Commission for the equipment produced pursuant to such an agreement.

(3) Notice that such a licensing agreement has been entered into shall be provided to the Commission within 30 days after the execution of the agreement. The notice shall indicate with specificity the equipment involved, the date of application and date of grant of the equipment authorization, and shall indicate the provisions that the grantee has made to insure that equipment manufactured by such licensee will continue to comply with the Commission's regulations. The Commission may require the submission of additional information (new measurement data, etc.) depending on the circumstances in the particular case.

8. The text of § 2.931 is amended as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of equipment authorization, other than a grant of ISM-registration, the grantee warrants that each unit of equipment marketed under such grant and bearing the name and type or model number specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for type acceptance or certification, or measured by the Commission in the case of type approved equipment, continues to be representative of the equipment being produced under such grant within the variation than can be expected due to quantity production and testing on a statistical basis.

9. Section 2.932 is amended by revising paragraph (a) and adding a new paragraph (e) to read as follows:

§ 2.932 Modification of equipment.

(a) A new application for an equipment authorizaion shall be filed whenever there is a change in the design, circuitry, construction, or location in the case of ISM-registration under part 18 of this chapter, of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b), (c), (d), and (e) of this section.

• • • • •

(e) For changes in equipment for which an ISM-registration was issued, the procedure and permissive changes in § 2.1055 shall apply.

10. The headnote and text of § 2.1037 are revised to read as follows:

§ 2.1037 Application for certification of ISM equipment.

(a) An application for certification of ISM equipment shall be sumbitted for equipment that can be tested on a test site.

(b) The application shall be filed on FCC form 731 with all items answered. Items that do not apply shall be so noted.

(c) The application shall be accompanied by the required fees, technical report, photographs, expository statement, instruction manual, and other attachments specified in part 18 for the particular equipment.

(d) The application shall be accompanied by photographs sufficient in number to show the general appearance, construction, RF generator, operating controls, attachments, and accessories (if any) and placement of electronic parts. At least one photograph must show the identification label in sufficient detail so that the information required by § 2.1045 is legible. The photographs should be 8 x 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on a sheet of letter size paper. In lieu of a photograph of the label, a sample label or engineering drawing of the label may be submitted together with a sketch showing where this label will be placed on the equipment. The label and sketch should be mounted on a sheet of letter size paper to facilitate handling and filing.

(e) The expository statement shall include the following information:

(1) A description of the equipment explaining how it operates supported by graphs, charts, and diagrams, as needed. The description shall include a circuit diagram complete with a written description and a block diagram of the circuitry noting each frequency generated in the equipment.

(2) A description of all accessories and attachments, if any, used with the equipment along with a description of how they are used.

§ 2.1039 [Reserved]

11. The present text and title of § 2.1039 are deleted in its entirety and replaced with "Reserved."

12. A new § 2.1040 is added to read as follows:

§ 2.1040 Technical report for ISM equipment.

The application for certification of ISM equipment shall include a technical report containing the following information:

(a) The full name, mailing address, street address (if different), and telephone number of the manufacturer of the equipment.

(b) The model number, trade name (if any), or FCC identifier of the equipment pursuant to § 2.1045.

(c) A copy of the installation and operating instructions furnished to the user. A draft copy of such instructions may be submitted with the application provided a copy of the final document furnished to the user is submitted to the Commission as soon as it is available, but no longer than 60 days after the grant of the application.

(d) A report of measurements clearly showing that the equipment is capable of complying with the applicable technical specifications in part 18 of this chapter. The procedure for making the measurements is specified in part 18. Measurement report shall include test data showing that the equipment complies when any attachments specified in 2.1037(e)(2) are used with the equipment.

(e) A statement of the technical parameters that includes:

Electrical power requirements of equipment.
Maximum RF energy generated.
Nominal operating frequency.
Measured frequency variations due to changes in temperature and load.
Any other pertinent operating characteristics.

(f) A statement of the operating conditions that must be observed to insure that radiation during routine operation does not exceed the technical specifications that were measured and reported herewith.

(g) The name and location of the test facility where the equipment was measured.

NOTE.—If the rules proposed in FCC docket 21371 are adopted, the individual making measurements on the equipment will be required to file a description of his test facility with the Commission.

13. Section 2.1045 is amended by adding two new paragraphs, (f) and (g), to read as follows:

§ 2.1045 Identification label for certificated equipment.

• • • • •

(f) For ISM equipment requiring certification under part 18 of this chapter the words "Model No." followed by the number assigned to the equipment by the grantee. If the identification label contains other numbers in addition to that required by this paragraph, such as "Service No.," "Catalog No.," or other similar terms, the words "Model No." should be preceded by the term "FCC Data" to avoid confusion and to facilitate recognition of the identifying number used for FCC.

NOTE.—This requirement may change if the rules in FCC docket 20790 are adopted as proposed.

(g) The identification label for ISM equipment requiring certification under part 18 of this chapter shall also legibly bear the following statement: "This equipment, as of date of manufacture, complies with 47 CFR Part 18. If harmful interference to radio communications is caused by its operation, the operator shall take the necessary steps to remedy the interference."

14. A new undesignated subheading and §§ 2.1050 to 2.1055 are added to read as follows:

ISM-REGISTRATION

§ 2.1050 General.

(a) Part 18 of this chapter provides for ISM-registration of an ISM equipment when the size, power requirement, or need for other auxiliary capability for such equipment makes it impractical to test for compliance on a standard test site.

(b) Such equipment shall be tested for compliance with the technical specifications in part 18 after it has been installed and is ready for use.

(c) The equipment shall not be placed into operation until it has been tested and found to comply with the technical specifications in part 18 and an application for ISM-registration of the equipment has been filed with the Commission pursuant to the procedures in this subpart.

(d) Pending grant of ISM-registration by the Commission such equipment may be operated on a temporary basis for a period not to exceed 90 days from the date the application was filed with the Commission. (See 2.901 et seq.) A 30-day extension may be granted by the Chief Engineer in unusual circumstances.

§ 2.1051 Cross reference.

The general provisions of this subpart, § 2.901 et seq., shall apply to applications for grants of ISM-registration of ISM equipment.

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§ 2.1052 Application for ISM-registration.

(a) An application for ISM-registration shall be filed on FCC Form 731 with all questions answered. Items that do not apply shall be so noted.

(b) The applications shall be accompanied by the required technical report, photographs, expository statement, instruction manual, and such other documents that are specified in part 18 for the particular equipment.

(c) The application shall be accompanied by a sufficient number of photographs showing the general appearance, construction, RF generator, operating control attachments (accessories), if any, and placement of electronic parts. At least one photograph must show the identification label in sufficient detail so that the information required by § 2.1054 is legible. The photographs should be 8 x 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on a sheet of letter size paper. In lieu of a photograph of the label, a sample label or engineering drawing of the label may be submitted together with a sketch showing where this label will be placed on the equipment. The label or drawing should be mounted on a sheet of letter size paper.

(d) The expository statement shall include the following information:

(1) A description of the equipment explaining how it operates supported by graphs, charts, and diagrams, as needed. A circuit diagram shall be included, complete with a written description and where appropriate, block diagrams of the circuitry noting each frequency generated in the equipment.

(2) A description of all attachments (accessories), if any, used with the equipment with an explanation of how they are used.

(e) A statement signed and dated by the engineer who performed the tests that he had tested the assembled equipment and found it complies with the specifications in part 18 of this chapter and that in his opinion the operation of the equipment is not expected to cause harmful interference to radio communications.

§ 2.1053 Technical report.

An application for ISM-registration shall include a technical report containing the following information:

(a) The full name, mailing address, and telephone number of the manufacturer of the equipment. For composite ISM equipment, the name, address, and telephone number of the manufacturer of the RF generator part of the equipment is also required.

(b) The model number, trade name (if any), or FCC identifier of the equipment pursuant to § 2.1054.

(c) A copy of the installation and operating instructions furnished to the user. The operating manual supplied to the user shall include a list of items the user can check to insure continued compliance of the equipment with the provisions of this chapter. A draft copy of such instructions may be submitted with the application provided copies of the final documents that will be furnished to the user are submitted to the Commission as soon as they are available, but no longer than 120 days after the application is filed.

(d) The name, address, and telephone number of the firm operating the equipment accompanied by a drawing showing its physical location in the plant.

(e) A report of measurements clearly showing that the equipment with all attachments specified in § 2.1052(d)(2) is capable of complying with the applicable technical specifications in part 18 of this chapter. The procedure for making the measurements is specified in part 18.

(f) A technical description of the equipment that includes the nominal operating frequency, measured range of frequency variations due to changes in temperature and load, power requirements, RF power generated, and any other pertinent technical characteristics.

(g) A statement of the operating conditions that must be observed to insure that radiation during routine operation does not exceed, the technical specifications that were measured and reported herewith.

(h) A list of the measuring equipment used, including the manufacturer and model of equipment and the date when last calibrated.

(i) A sample calculation showing how the readings from the measurement instrument are equated to the limits in part 18.

§ 2.1054 Identification of ISM-registered equipment.

In the case of an ISM equipment registered under part 18 of this chapter, the identification label shall contain the following information:

(a) name of the grantee of the ISM-registration.

(b) The words "Model No." followed by a unique number assigned to the equipment.

NOTE.—This requirement will be conformed with any new identification rules that are adopted in FCC docket 20790.

(c) The following statement:

This equipment as of date of installation (date) complies with 47 CFR Part 18 of FCC rules. In the event that this equipment is identified as the source of harmful interference to radio communications, operation of this equipment must cease and may not be resumed until the interference problem has been corrected.

§ 2.1055 Changes in ISM-registered equipment.

(a) Any modification, or change in location, of registered ISM equipment that affects the data reported to and accepted by the Commission must comply with the provisions of this section.

(b) Two classes of permissive changes are permitted for ISM-registered equipment without requiring a new application for and grant of ISM-registration.

(1) A class I permissive change includes those modifications, or changes in location of the equipment which do not degrade the characteristics reported by the applicant and accepted by the Commission when registration is granted. No filing with the Commission is required for a class I permissive change.

(2) A class II permissive change includes those modifications or changes in location which degrade the performance characteristics as reported to the Commission at the time of initial ISM-registration. Such degraded peformance must still meet the minimum requirements of the applicable rules. The user of the equipment must supply the Commission with complete information and results of tests of the characteristics affected by such change. The Commission may require additional tests and information to verify continued compliance of the equipment and, if necessary, may require a complete new ISM-registration of the equipment.

(3) When a class II permissive change is made by other than the grantee of ISM-registration, the information and data specified in paragraph (b)(2) of this section shall be supplied by the person making the change. The modified equipment shall not be operated prior to acknowledgement by the Commission that the change is acceptable.

(c) The following changes are not considered permissive changes as defined in paragraph (b) of this section and require a new grant of ISM-registration:

(1) The addition of new or modified equipment requiring ISM-registration to the user's premise, regardless of the fact that ISM-registration has been granted to existing equipment. Test data need only be submitted for the new equipment, unless specifically requested otherwise by the Commission.

(2) Reconstruction or modification of a screen room that houses ISM-registered equipment.

(3) Relocation of ISM-registered equipment to a building where the construction and consequently the attenuation provided by the building is different.

(4) Any other change not covered by the permissive changes in paragraph (b) of this section.

(d) A user desiring to make a change other than a permissive change described in paragraph (a) of this section shall file a new application pursuant to the procedure in § 2.1052. The applicant shall attach a description of the changes to be made along with a new report of measurements.

15. Part 18 is revised as follows:

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

Subpart A—General

Sec.

18.1 Scope of the part.
18.2 Cross reference.
18.3 Definitions.
18.5 General conditions of operation.
18.7 Interference to a safety or radionavigation service.
18.30 Certification of ISM equipment.
18.31 Marketing requirement.
18.32 ISM-registration of equipment.
18.34 Interim operation permitted pending ISM-registration.
18.36 Inspection of ISM equipment by operator.
18.38 Description of measurement facilities.

Subpart B—Technical Specifications

18.100 ISM frequencies.
18.102 Reduced frequency tolerance for certain ISM equipment.
18.104 General technical requirement.
18.106 In-band emission limits.
18.108 Out-of-band emission limits.
18.110 Prohibited frequency bands.
18.112 Conducted RF voltage limits.
18.114 Exemption for electrosurgical units.
18.116 Exemption for ultrasonic equipment.
18.118 Measurement site.
18.120 Measurement procedure: At a test site.
18.122 Measurement procedure: At the user's premises.
18.124 Measurement procedure: Domestic microwave oven.
18.128 Measurement procedure: Ultrasonic equipment.
18.130 Measurement procedure: Medical diathermy equipment.

Subpart C—Interim Requirments for Existing ISM Equipment

18.200 ISM equipment manufactured before (date to be specified).
18.202 Technical specifications for ultrasonic ISM equipment manufactured before (date to be specified).
18.204 Technical requirements for industrial heating equipment manufactured before (date to be specified).
18.206 Technical requirements for medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified).

AUTHORITY: Secs. 4(i), 301, 302, and 303(r) of the Communications Act as amended.

Subpart A—General

§ 18.1 Scope of this part.

(a) This part sets out the requirements and conditions under which the operation of ISM equipment is not considered to be a source of harmful interference and is therefore not required to be licensed under 47 U.S.C. 301.

(b) This part sets out the procedures governing the application for and grant of an equipment authorization to implement the requirements of 47 U.S.C. 302.

§ 18.2 Cross reference.

The requirements in subparts I, J, and K of part 2 of this chapter shall apply to an ISM equipment.

§ 18.3 Definitions.

For purposes of this part the following definitions shall apply:

(a) *"Radiofrequency energy" (RF energy).* Electromagnetic energy on any frequency or over a band of frequencies that lie between 10 kHz and 3000 GHz.

(b) *"ISM equipment."* Any apparatus or system which generates and uses "RF energy" for industrial, scientific, medical or any other purpose including the transfer of RF energy by conduction, induction or radiation and which is neither used, nor intended to be used for radiocommunications. The following devices are subject to other parts of this chapter and are not considered ISM equipment:

(1) Industrial controllers, including those that use sonic, ultrasonic, or RF energy to control other devices or equipment (see part 15 of this chapter).

(2) RF switching power supplies (see part 15).

(3) Test equipment.

(4) Any device that transfers energy or signals to an electronic apparatus, e.g., implanted pacemakers.

(5) Data processing equipment, computers, and office machines (see part 15).

(6) Carrier current or radiofrequency distribution system (see part 15).

(c) *"ISM frequency."* The frequencies, including variations due to frequency tolerance, specified in § 18.100 of this part.

(d) *"Harmful interference."* Any emission, radiation, or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeately interrupts a radiocommunication service operating in accordance with this chapter.

(e) *"Ultrasonic equipment."* An apparatus which generates radiofrequency energy and utilizes that energy to excite or drive an electromechanical transducer for the production of sound, sonic or ultrasonic mechanical energy for industrial, scientific, medical, or other noncommunicative purposes. Equipment that generates and uses RF energy to produce ultrasonic or sonic waves for communication or control purposes is subject to rules in other parts of this chapter.

(f) *"Consumer ISM product."* Any ISM equipment used or intended to be used and operated by the general public, e.g., microwave ovens.

(g) *"Equipment authorization."* A collective term referring to type approval, type acceptance, certification, and ISM-registration of radio frequency devices. The specific equipment authorization required is specified in the rules governing that equipment (see § 2.901 et seq.). Registration of telephone equipment subject to the specification of part 68 of this chapter is not included in this definition.

(h) *"User premises."* The building in which the ISM equipment is or will be operated.

(i) *"Medical diathermy equipment."* Any apparatus, including electrosurgical units, which generate and utilize radiofrequency energy for therapeutic purposes.

(j) *"Miscellaneous ISM equipment."* Includes equipment other than industrial heating equipment and medical diathermy equipment that generate and apply RF energy to materials to produce physical, biological, or chemical effects such as heating, ionization of gases, mechanical vibrations, hair removal, and acceleration of charged particles, which do not involve communications or the use of receiving equipment.

(k) *"Low-voltage ISM equipment."* ISM equipment with input operating voltages of up to 600 volts d.c. or RMS a.c.

§ 18.5 General conditions of operation.

(a) Persons operating ISM equipment shall not be deemed to have any vested or recognizable right to the continued use of any given frequency, by virtue of prior ISM-registration or certification of equipment.

(b) Operation of ISM equipment is subject to the condition that no harmful interference is caused to radiocommunications.

(c) Notwithstanding whether the equipment complies with the rules herein, the operator of ISM equipment that causes harmful interference to any authorized radio service (with exception of interference to authorized devices operating on ISM frequencies on a secondary basis) shall promptly take steps as may be necessary to remedy the interference.

NOTE.—The Commission may also require the person receiving the interference to take corrective measures, depending on the

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circumstances of the particular interference.

(d) The premises upon which ISM equipment is located and any documents required under these rules shall be available for inspection by representatives of the Commission at all reasonable hours. Upon receipt of a reasonable request by Commission representative, the owner or operator of ISM equipment shall furnish to the representative such information as may be requested pertaining to the operation, maintenance, and use of his equipment.

§ 18.7 Interference to a safety or radionavigation service.

(a) Upon notification by a Commission representative that an ISM equipment is endangering the functioning of a radio navigational or safety radio service, the operator shall cease operating the interfering equipment immediately.

(b) Corrective measures must be taken before operation of the interfering equipment may be resumed.

(c) Before operation is resumed, a report must be filed and accepted by the engineer in charge of the local Commission district office which explains in detail what corrective measures have been taken to insure that the harmful interference has been eliminated. A copy of this report shall also be concurrently filed with the Office of Chief Engineer, Federal Communications Commission, Washington, D.C. 20554. A new report of measurements showing compliance with all the requirements of this part may also be required.

(d) Upon receipt of the report, the local engineer in charge will notify the operator of the equipment within 10 days that the report is acceptable or, if not, state in writing what additional information is required to insure compliance.

(e) With the permission of the local engineer in charge, operation may be resumed on a temporary basis pending acceptance of the report required in paragraph (c) of this section. Requests for permission to operate on a temporary basis may be made and granted by telephone, provided that the request and grant are promptly confirmed in writing.

§ 18.30 Certification of ISM equipment.

(a) ISM equipment capable of being measured on a test site shall be certificated pursuant to the procedures in subpart J of part 2 of this chapter to show compliance with the technical specifications in this part.

(b) Certification is mandatory for the following ISM equipment:

(1) Domestic microwave oven;

(2) Consumer ISM products;

(3) Ultrasonic equipment having less than 500 watts output;

(4) Medical ISM products.

§ 18.31 Marketing requirement.

Importation and marketing of ISM equipment are proscribed under subpart I of part 2 of this chapter until certification if required, has been granted by this Commission. Equipment requiring ISM-registration shall comply with requirements in § 2.809 of this chapter.

§ 18.32 ISM-registration of equipment.

(a) ISM equipment that does not lend itself to measurement on a test site because of size, power requirements, or some other special consideration, shall be ISM-registered at the user's premises pursuant to the procedures in subpart J of part 2 of this chapter to show compliance with the technical specifications of this part.

(b) The supplier of the equipment requiring ISM-registration shall have the primary responsibility in submitting the application for and obtaining the grant of ISM-registration of such equipment for the user, except under the following circumstances:

(1) When the equipment is a composite of a number of subassemblies each supplied by a different manufacturer, the supplier of the RF generator shall have primary responsibility for applying for and obtaining ISM-registration of the complete ISM equipment for the user.

(2) When a previously ISM-registered equipment has been modified or changed so as to require a new grant of ISM-registration, the equipment user shall apply for and receive a new grant of ISM registration. User shall notify grantee of such application.

(3) When an ISM equipment is fabricated by the user, he shall bear the responsibility for applying for and obtaining the grant of ISM-registration of such equipment.

(c) The user shall be listed as the grantee with the supplier listed as the manufacturer on the application for ISM registration. After ISM-registration is granted the user is responsible for insuring continued compliance of the equipment.

(d) The application for ISM-registration of ISM equipment must be filed within 10 days after the equipment is placed into operation.

§ 18.34 Interim operation permitted pending ISM-registration.

After the application for ISM-registration has been filed with the Commission pursuant to § 18.32 of this part, the equipment may be operated for a maximum of 90 days pending receipt of the grant of ISM-registration. This interim operating period may be extended by the chief engineer for an additional 30 days when there is justification for the extension.

§ 18.36 Inspection of ISM equipment by operator.

(a) ISM-registered equipment shall be routinely inspected by the user's representative to insure continued compliance of the equipment. Inspections shall be made semiannually in accordance with the list of inspection items in the operating manual and pursuant to the instructions in Bulletin OCE-8. (See note under § 18.124)

(b) A log shall be maintained of the inspections. The inspector shall enter a note of his findings and shall date and sign each entry.

(c) The log shall be maintained at the same location as a copy of the report of measurements and grant of ISM-registration.

(d) A Commission representative may require the operator of the equipment to file a new application for ISM-registration if he determines, as a result of an inspection, that such action is necessary in order to assure compliance with this part.

§ 18.38 Description of measurement facilities.

Each person making measurements to be filed with an application for certification shall file a description of his measurement facility pursuant to section 2.951.

NOTE.—This requirement is being proposed in a separate rulemaking proceeding in FCC docket 21371.

Subpart B—Technical Specifications

§ 18.100 ISM frequencies.

(a) The following frequencies and tolerances are allocated for use by ISM equipment:

Frequency	Tolerance	Notes
13.56 MHz	±6.78 kHz	(1)
27.12 MHz	±160 kHz	(1)
40.66 MHz	±20 kHz	(1) (2)
915 MHz	±13 MHz	(3)
2,450 MHz	±50 MHz	(1)
5,800 MHz	±75 MHz	(1)
24,125 MHz	±125 MHz	(1)

[1] Frequencies allocated worldwide for ISM equipment.

[2] Frequencies allocated for ISM equipment worldwide, except in the United Kingdom and Italy.

[3] Frequencies allocated for ISM equipment in North and South America only (ITU Region 2).

(b) Other radiofrequency devices, including licensed transmitters, operating on frequencies in any of the bands in paragraph (a) of this section shall be operated on a secondary basis and must accept any interference received from ISM equipment.

§ 18.102 Reduced frequency tolerance for certain ISM equipment.

Medical diathermy and consumer ISM equipment designed to operate in an ISM band, shall not have frequency variations that exceed 70 percent of the tolerance listed in section 18.100(a) after a 5-minute warmup period. Emissions outside this reduced band shall be below the levels specified in section 18.108 for out-of-band emissions.

§ 18.104 General technical requirement.

ISM equipment shall be designed and constructed in accordance with good engineering practice with sufficient shielding and filtering to provide adequate suppression of emissions on frequencies outside the ISM frequency bands.

§ 18.106 In-band emission limits.

ISM equipment operating on a frequency specified in section 18.100 is permitted unlimited conducted and radiated energy in the band specified for that frequency or the band reduced by

$$\text{Field Strength} = 30\sqrt{\frac{\text{RF Power in Watts}}{1000}}$$

(Frequency of Emission in the range 30 to 470 MHz)

$$\text{Field Strength} = 100\sqrt{\frac{\text{RF Power in Watts}}{1000}}$$

(Frequency of Emission in the range 470 to 1000 MHz)

This relaxation of the out-of-band emissions does not apply to emissions that fall on frequencies within the TV channel in use at the user's site.

NOTE 3: ISM equipment within 80 km (50 mil) distance of a nondirectional beacon transmitter employed in the aeronautical radio navigation service shall not operate on a frequency that is within 20 kHz of the frequency assigned to such nondirectional beacon.

§ 18.110 Prohibited frequency bands.

The following frequency bands are allocated for safety, search and rescue operations: 490-510 kHz, 2170-2194 kHz, 8354-8374 kHz, 121.5 MHz, 156.8 MHz, 243 MHz. Operation of ISM equipment on these frequencies is prohibited.

§ 18.112 Conducted RF voltage limits.

ISM equipment designed to be connected to low or middle voltage (100 to 600 volts) public utility powerlines that also feed power to residential dwellings shall be capable of limiting the RF voltage conducted back into the powerlines in accordance with the levels specified below when measured in accordance with the procedure in Bulletin OCE 47—"FCC Test Procedure for Measuring Conducted RF Voltage" (see note under § 18.124).

Conducted RF Voltage Limits in Millivolts (Average Value)

Frequency range in kHz	Consumer ISM equipment (mV)	All other ISM equipment (mV)
10 to 100	[1]10 to 1	10
100 to 150	1	10
150 to 200	1	3
200 to 500	1	2
500 to 30,000	0.1	1

[1] Linear interpolation.

§ 18.114 Exemption for electrosurgical units.

Until further notice, an electrosurgical unit is exempt from complying with out-of-band radiation limits of Section 18.108 only when used pursuant to one of the following conditions:

(a) When used by a licensed medical doctor, dentist, or veterinarian in the performance of surgical procedures, provided the RF energy generated by the unit can only be activated when needed during surgical procedures.

(b) For testing and servicing by a qualified technician in a shielded room.

§ 18.116 Exemption for ultrasonic equipment.

An ultrasonic equipment that complies with the conducted RF voltage limits in § 18.112 when measured using the procedure in FCC Bulletin OCE-47 (see note under § 18.124) is considered to have sufficient RF interference suppression to meet the out-of-band emission limits of section 18.108. Tests to show compliance with section 18.108 are not required, unless such data is specifically requested by the Commission.

§ 18.118 Measurement site.

(a) ISM equipment shall be measured for compliance on an FCC approved test site pursuant to § 2.951, unless there is some compelling reason why the equipment cannot be tested on such a site. Measurements on such a site are mandatory for the following equipment:

(1) Domestic microwave ovens;

(2) Consumer ISM products;

(3) Ultrasonic equipment having less than 500 watts output;

(4) Medical ISM products.

(b) ISM equipment which, because of its size, power requirements, or other special considerations, cannot be measured on an FCC approved test site may be measured for compliance at the user's premise.

NOTE.—The user's premises are defined for the purposes of this Part as the building where the equipment is being operated.

§ 18.120 Measurement procedure: At a test site.

Unless otherwise specified, ISM equipment required to be measured for compliance with the specifications of this part on an FCC approved test site shall be measured pursuant to the procedures in FCC Bulletin OCE-48—"FCC Test Procedures for ISM Equipment Measured on an Approved Site" (see note under § 18.124).

§ 18.122 Measurement procedure: At the user's premises.

Unless otherwise specified, ISM equipment measured for compliance with the specifications of this part at the user's premise shall be measured pursuant to the procedure in FCC Bulletin OCE-49—"FCC Test Procedure for ISM Equipment Tested at the User's Premises."

NOTE 1: For certification, measurements are made on a test site and the distance is measured from the ISM equipment under test. For ISM-registration, measurements are made at the user's premises where the equipment is installed and the distance is measured from the perimeter of the building in which the equipment is installed.

NOTE 2: For ISM-registered equipment having RF power outputs in excess of 1000 watts, the permitted level of out-of-band emissions in the above-noted frequency bands may be increased in accordance with the following relations, but in no case shall the level exceed 500 uM/m at 30 meters.

Out-of-Band Emission Limits

Frequency (MHz)	Field Strength (uv/m)	Distance (note 1) (meters)
0.01 to 0.285	200 (note 3)	30
0.285 to 0.49	900 (note 3)	30
0.49 to 1.605	200	30
1.605 to 3.95	900	30
3.95 to 30	200	30
30 to 108	30 (500 note 2)	30
108 to 135	30	30
135 to 470	30 (500 note 2)	30
470 to 1,000	100 (500 note 2)	30
1,000 to 18,000	1,500	3

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§ 18.124 Measurement procedure: Domestic microwave oven.

A domestic microwave oven shall be tested for compliance with the out-of-band emission limits using the procedure in FCC Bulletin OCE-20, "FCC Test Procedure for Microwave Ovens."

NOTE.—Draft measurement procedures are still under consideration for this equipment and will be released as soon as practical. A public notice will be issued announcing their release. When available, copies may be obtained by writing to: Federal Communications Commission, OCE, Room 7306, 2025 M Street NW., Washington, D.C. 20554.

§ 18.128 Measurement procedure: Ultrasonic equipment.

An ultrasonic equipment shall be tested for compliance with the conducted RF voltage limits by using the procedure in FCC Bulletin OCE-47, "FCC Procedure for Measuring RF Line Conducted Voltage" (see note under § 18.124).

§ 18.130 Measurement procedure: Medical diathermy equipment.

A medical diathermy equipment, excluding an electrosurgical unit shall be tested for compliance with the out-of-band emission limits using the procedure in Bulletin OCE-39, "FCC Test Procedure for Medical Diathermy Equipment."

Subpart C—Interim Requirements for Existing ISM Equipment

§ 18.200 ISM equipment manufactured before (date to be specified).

In lieu of meeting the requirements in subparts A and B of this part, ISM equipment manufactured before (date to be specified) shall comply with all the conditions in paragraphs (a) through (d) of this section. An individual license is not required for ISM equipment that complies with these requirements. These interim provisions shall terminate on (date to be specified). All ISM equipment operated after (10 years after effective date of new rules) shall comply with the requirements in subpart A and B of this part.

(a) The equipment complies with the appropriate technical specifications in §§ 18.202-18.206 for the particular class of equipment.

(b) The equipment has been type approved or certificated and the certification is attached to the equipment or is prominently posted in the room in which it is being operated.

(c) If the equipment was certificated or type approved before (date to be specified) renewal of such certificate or type approval is not required, provided no change is made to the equipment. In the event that the equipment is changed or modified so that the data previously reported to the Commission is no longer valid, or if the Commission has reason to believe that operation of the equipment may be inconsistent with the terms of the certificate or type approval, the Commission may require a new certification pursuant to the procedures in subpart B of this part. Operation of such equipment must terminate (10 years after effective date of rules) or thereafter must comply with requirements in subpart A and B of this part.

(d) Ultrasonic equipment operating on frequencies below 90 kHz and generating less than 500 watts of radiofrequency power may be operated without a license, type approval or certification, provided it complies with all other applicable requirements in § 18.202.

§ 18.202 Technical specifications for ultrasonic ISM equipment manufactured before (date to be specified).

(a) Under varying conditions of operation, emissions from ultrasonic equipment shall not exceed the following limits:

Frequency	Distance in meters	Field strength in μV/m
Below 490 kHz	300	2400 F(kHz).
490 to 1600 kHz	30	24000 F(kHz).
Above 1600 kHz	30	15.

(b) The operation of ultrasonic equipment on frequencies below 490 kHz using radiofrequency power in excess of 500 watts shall be in compliance with the requirements of this section except that the maximum radiated field permitted may be increased as the square root of the ratio of the generated radiofrequency power to 500 watts: *Provided*, That the field shall in no case exceed the field of 10 microvolts per meter at 1,600 meters (1 mile), and provided further, that equipment used in predominantly residential areas shall not be permitted the increase in field with power as indicated in this paragraph.

(c) On any frequency above 490 kHz, the radiofrequency voltage appearing on each power line shall not exceed 1,000 microvolts. Measurement shall not exceed 200 microvolts. On any frequency below 490 kHz, the radiofrequency voltage appearing on each power line shall be made from each power line to ground with the equipment itself both grounded and ungrounded.

§ 18.204 Technical requirements for industrial heating equipment manufactured before (date to be specified).

(a) Industrial heating equipment operating on an ISM frequency may be operated with unlimited radiation on that frequency. Equipment operated on other frequencies must suppress radiation on the fundamental carrier frequency as well as other frequencies as required by this section. Industrial heating equipment shall include any apparatus which generates and uses RF energy for or in connection with industrial heating operations utilized in manufacturing or production process.

(b) Industrial heating equipment designed for operation on an ISM frequency shall be adjusted to operate as close to that ISM frequency as practicable.

(c) Radiation of radiofrequency energy from any industrial heating equipment on any frequency below 5725 MHz, except ISM frequencies, shall be suppressed so that the radiated field strengtrh does not exceed 10 microvolts per meter at a distance of one mile or more from the equipment.

(d) Radiation of radiofrequency energy from any industrial heating equipment on any frequency above 5725 MHz, except ISM frequencies, shall be reduced to the greatest extent practicable.

(e) Filtering between the industrial heating equipment and powerlines must be provided to the extent necessary to prevent the radiation of energy from power lines on frequencies other than ISM frequencies with a field strength in excess of 10 microvolts per meter at a distance of 1 mile (1,600 meters) or more from the industrial heating equipment and at a distance of 50 feet from the powerline.

§ 18.206 Technical requirements for medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified).

(a) Medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified) and operating on an assigned ISM frequency may be operated with unlimited rediation on that frequency. Spurious and harmonic emissions on frequencies other than on the assigned ISM frequencies from each equipment shall be suppressed so that they do not exceed 25 microvolts per meter at a distance of 300 meters or more from the equipment.

(b) Medical diathermy and miscellaneous ISM equipment operating on a frequency outside the ISM bands shall limit all emissions to 15 microvolts per meter at a distance of 300 meters or more from the equipment.

(c) The maximum radiated field from miscellaneous equipment generating in excess of 500 watts may be increased as the square root of the ratio of the generated power to 500 watts, provided that the radiated field does not exceed 10 microvolts per meter at 1600 meters.

[FR Doc. 78-28188 Filed 10-5-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 672]

GROUNDFISH OF THE GULF OF ALASKA

Fishery Management Plan Amendment; Proposed Implementary Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of approval of fishery management plan amendment; proposed regulations.

SUMMARY: An amendment to the fishery management plan (FMP) for the Gulf of Alaska Groundfish Fishery submitted by the North Pacific Fishery Management Council is approved. This amendment increases the portion of each species' optimum yield (OY) set aside as a reserve. Amendments to the regulations which were proposed to implement to FMP are proposed. These amendments set forth the procedures and criteria to be used by the Regional Director of the National Marine Fisheries Service in making allocations from the reserve to Total Allowable Level of Foreign Fishing (TALFF) for harvesting by vessels of foregin nations.

DATE: Comments are invited until November 17, 1978.

ADDRESS: Comments should be addressed to the Assistant Administrator for Fisheries, National Oceanic Atmospheric Administration, Washington, D.C. 20235. Please mark "Alaska Groundfish" on outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone number 907-586-7221.

SUPPLEMENTARY INFORMATION: On April 21, 1978, a FMP for the Gulf of Alaska Groundfish Fishery prepared by the North Pacific Fishery Management Council (the Council) was approved (43 FR 17242). That FMP established conservation and management measures for both the foreign and domestic groundfish fisheries in the Gulf of Alaska under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended. Proposed regulations to implement the FMP were also published on April 21, 1978 (43 FR 17013 for foreign vessels; 43 FR 17242 for vessels of the United States).

On August 7, 1978, an amendment of the FMP submitted by the Council was published in the FEDERAL REGISTER (43 FR 34825). That amendment extended the established optimum yields (OY's), statement of U.S. capacity, and total allowable level of foreign fishing (TALFF) from December 31, 1978 to October 31, 1979.

On August 28, 1978, the Council submitted another amendment to the FMP for approval. This amendment raises the pollock reserve to 133,800 metric tons, with appropriate increases in the reserves of species that will be taken incidental to a directed fishery for pollock, in order to assure that an adequate supply of fish is available for harvest through October 31, 1979 by U.S. fishermen in potential joint venture operations involving sale of U.S. caught fish to foreign processing vessels at sea.

The proposed implementary regulations for this amendment set forth the procedure for making allocations from this reserve to the TALFF during the plan year. In order to assure that any portion of the reserve that will not be utilized by U.S. fishermen is made available to foreign fisheries in an expeditions manner, the proposed regulations provide that 25 percent of the initial reserve will be allocated to the TALFF every 2 months (bimonthly, beginning January 2, 1979, unless it is determined by the Regional Director that United States fishing vessels will harvest all of the remaining reserve during the remainder of the plan year. If such a determination is made, the Regional Director will withhold from allocation to the TALFF all or part of the scheduled bimonthly allocation of the reserve.

A determination that the remaining reserves will be harvested by United States fishing vessels would be based on consideration of: (1) Reported U.S. catches by species and area; (2) projected U.S. catch and effort by species and area; and (3) projected and utilized processing capacity of United States fish processors. Interested persons are afforded a period of 15 days in which to submit comments supported by data or other factual material prior to the time of making each determination. If, on the basis of such a determination, the Regional Director withholds all or a portion the normal bimonthly allocation to the TALFF, and the subsequent performance of United States fishing vessels fails to achieve the anticipated harvest levels upon which the determination was made, then any amount of fish in the reserves previously withheld from allocation are to be added to the next bemonthly allocation to TALFF.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that this amendment to the FMP is (1) necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources; (2) is consistent with the national standards and other provisions of the Act and other applicable laws; and (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement.

NOTE.—It has been determined that this amendment does not require a Regulatory Impact Analysis under Executive Order 12044.

Signed at Washington, D.C., this 29th day of September, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

The FMP (43 FR 17244, Apr. 21, 1978) is revised as follows:

FEDERAL REGISTER, page 17245—No. 2

Recommend the initial foreign allocation of surplus stocks be computed by the following formula: Initial Foreign Allocation=(0.8 OY)—DAH—Special JV Reserve. The 20 percent of OY and the Special Joint Venture Reserves are to be reevaluated beginning January 2, 1979 and reallocated to the domestic or foreign fisheries following reassessment of U.S. development—both in terms of Joint Venture activities and delivery to U.S. shorebased processors.

Page 17245—No. 3: Sentence 1, add after "• • • to U.S. processors" • • •:

• • • and later reallocate from special joint reserves the amounts needed to handle the delivery of raw fish to foreign processors by U.S. fishermen.

(Delete all of sentence 2.)

Page 17312—Section 5.2.1 Domestic annual capacity (DAC).

Add an additional paragraph directly after paragraph No. 1 to read as follows:

In addition to the U.S. shore-based harvesting and processing capacity surveyed, at least two joint U.S./foreign ventures intend to opeate in the management areas. Both operations will buy pollock and other groundfish from American fishermen delivered directly to foreign processing ships in the FCZ. The catching and processing capacity identified in this plan for those ventures has been furnished by the two joint U.S./foreign firms active in developing these enterprises.

Page 17312—Section 5.2.1.2 Processing capacity.

And a paragraph directly after paragraph No. 4 to read as follows:

In addition to the purely domestic processing capacity as indicated in the preceding, two U.S./foreign ventures intend to fish in the Gulf of Alaska with foreign processing ships receiving raw fish, primarily pollock, from U.S. fishing vessels. One venture

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has a stated capacity of 300 metric tons of raw product per day while the other has capacity up to 600 tons per day based on up to three processing ships receiving 200 tons apiece. Based on these figures, a total of 900 tons per day for an estimated 200 days, their capacity is 180,000 metric tons.

Page 17312—Section 5.2.1.3 Freezing capacity.

Add a second paragraph to read as follows:

The intended U.S./foreign joint ventures will be working solely on groundfish and their capacity is figured for a 200-day fishing year. The two ventures, involving up to four processing ships, are capable of processing and freezing 900 tons of raw product a day, or 180,000 metric tons for the year.

Page 17312—Section 5.2.1.4 Holding capacity.

Add a second paragraph to read as follows:

Holding capacity for the foreign processing ships that might be involved in joint U.S./foreign ventures in the Gulf of Alaska is not considered a factor since the product will be moved on a regular basis.

Page 17313—Section 5.2.2 Expected domestic annual harvest (DAH).

Delete paragraph 2 and insert the following;

In order to ascertain just how much of the total domestic capacity would be utilized in 1978, the industry representatives were asked to furnish their projections for moving into the groundfish fisheries. Considerable planning has been done to establish joint ventures or contracts for foreign processing ships to purchase raw fish directly from U.S. fishing vessels. This form of domestic utilization will be allowed during the last four months of 1978 and for the fishing year 1979. The expected domestic annual harvest (DAH) for 1978 however, has been considered only from the standpoint of deliveries to domestic processing plants. A special J/V reserve allocation has been created to handle the potential joint venture catches and is described fully in Section 7.0.

Page 17313—Section 5.2.2.2 Delivered to foreign factory ships.

Revise to read as follows:

Delivery of U.S.-caught groundfish to foreign processing vessels has been permitted during the last four months of 1978. It is expected that such delivery will again be permitted for the period from November 1st, 1978, through October 31st, 1979. The two operations that have been currently issued permits estimate a take of 155,000 metric tons of pollock and associated by-catch during that period. If, in fact, this quantity is necessary, it will be reallocated from the reserve to DAH as their ability to catch and process these quanitities becomes apparent.

Page 17314—Section 4.0 Foreign allowable catch (FAC).

Completely revise to read as follows:

United States fishermen will have reserved for their use during the 1979 fishing year any amount of any species up to the optimum yield based on credible projections of catch. The optimum yield (OY) of any species or species group shall not be exceeded by the all nation fishery. Optimum yields for each groundfish species or species group in the Gulf of Alaska are shown in Table 58. Expected domestic annual harvest (DAH) projections are shown in Table 61. The foreign allowable catch (FAC) will be determined and applied as described below.

Because: (1) Growth of the domestic groundfish fishery cannot be accurately forecast; (2) constraints against growth of the domestic fishery up to the level of optimum yield are contrary to the intent of Pub. L. 94-265; (3) optimum yield should neither be exceeded nor should it go unrealized; and (4) recognizing that domestic fishermen are often restricted in their activity during a season, it is, therefore, not unreasonable to make in-season amendments to measures applying to foreign fishermen. FAC will be set in a manner so as to allow in-season adjustments between foreign and domestic fisheries. Such adjustments will be dictated by domestic fishery performance and will be accomplished as follows:

The initial FAC for each species for the 1979 fishing year will equal DAH subtracted from 80 percent of OY less specific amounts for each species held in reserve until January 2, 1979 at which time progress of the proposed joint ventures using foreign processing ships can be evaluated.

Initial FAC will be computed as follows: FAC=(0.8 OY)—DAH—special J/V reserve. The amount of special J/V reserve for each species is shown in the following table.

	Metric tons
Pollock	100,000
Other rockfish	2,000
POP	3,000
Sablefish	1,500
Pacific cod	3,000
Flounders	3,000
Squid	500
Atka mackerel	500
Other species	1,500

The reserve (20 percent of OY + amounts in the preceding table) will be apportioned to foreign or domestic fisheries as the season progresses on the basis of continuing reappraisals of DAH. The gulfwide schedule of OY/reserve/DAH/FAC is given in table 62. FAC and reserve have also been apportioned to individual statistical areas (table 64).

Page 17317—Section 8.3.1.1(D)(2). Revise to read as follows:

(2) December 1 to May 31: When the total incidental trawl catch of halibut in any statistical area exceeds that amount listed below, that statistical area shall be closed to domestic trawling for the remainder of this period.

Shumagin—29 mt.
Chirikof—18 mt.
Kodiak—34 mt.
Yukutat—17 mt.
Southeast—14 mt.

Page 17315—Change table 62 to read as follows:

TABLE 62.—*Derivation of Foreign Allowable Catch (FAC)[1] for Gulf of Alaska Groundfish in 1978–79*

[In thousand metric tons]

Species	OY	Reserve	Additional reserve for possible J/V ventures	DAH	FAC[1]
Pollock	166.6	33.8	100.0	14.2	20.8
Cod	34.8	7.0	3.0	15.5	[2]9.3
Flounders	33.5	6.7	3.0	7.2	16.6
Pacific Ocean perch	25.0	4.9	3.0	1.1	16.0
Other rockfish	7.6	1.5	2.0	2.0	2.1
Sablefish	13.0	2.6	1.5	4.0	4.9
Atka mackerel	24.8	5.0	.5	0	19.3
Squid	2.0	.4	.5	0	1.1
Other species	16.2	3.2	1.5	.5	11.0
Totals	325.7	65.1	115.0	44.5	101.1
Total reserve		180.1			

[1]Initial FAC; may be increased as reserve is apportioned during year.
[2]The area landward of the 500-m isobath and west of 157° west longitude is designated as a longline fishery for Pacific cod.

Proposed amendments to regulations 50 CFR Part 672 (43 FR 17243) and 50 CFR 611.92 (43 FR 17013).

50 CFR 672: (Revise Table I, page 17243, to read as follows:

TABLE I—*Metric Tons*

[OY/Reserve/DAH Schedule, by area, in thousand metric tons]

Species	Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock:						
OY	57.0	54.4	40.3	12.5	4.1	166.8
Reserve	45.2	43.1	32.4	9.9	3.2	133.8
DAH	4.6	4.6	3.4	1.1	.3	14.2
Cod:						
OY	9.6	4.1	15.3	4.3	1.5	34.8
Reserve	2.73	1.15	4.42	1.27	.43	10.0
DAH	4.3	1.8	6.8	1.9	.7	15.5
Flounders:						
OY	10.4	2.7	12.0	6.4	2.0	33.5
Reserve	3.0	.8	3.5	1.8	.6	9.7
DAH	2.2	.6	2.6	1.4	.4	7.2
Pacific Ocean perch:						
OY	2.7	2.7	5.2	7.9	6.5	25.0
Reserve	.9	.9	1.6	2.5	2.0	7.9
DAH	.1	.1	.2	.4	.3	1.1
Other rockfish:						
OY	.3	.2	.6	3.4	3.1	7.6
Reserve	.1	.1	.3	1.6	1.4	3.5
DAH	.1	Trace	.2	.9	.8	2.0
Sablefish:						
OY	2.1	1.4	2.4	3.4	3.7	13.0
Reserve	.6	.4	.7	1.1	1.2	4.1
DAH	.1	Trace	.1	.8	3.0	4.0
Atka mackerel:						
OY	4.4	3.6	15.6	1.0	0	24.8
Reserve	1.0	.6	3.5	.2	0	5.5
DAH	0	0	0	0	0	0
Squid:						
OY	.4	.4	.4	.4	.4	2.0
Reserve	.2	.2	.2	.2	.1	.9
DAH	0	0	0	0	0	0
Other species:						
OY	4.4	3.6	5.0	2.1	1.1	16.2
Reserve	1.3	1.0	1.5	.6	.3	4.7
DAH	.1	.1	.2	.1	Trace	.5

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(2) Revise 50 CFR 672.3(d) to read as follows:

§ 672.3 Domestic annual harvest, optimum yield, and reserve.

* * * * *

(d) The reserves set out in table I of this section represent 20 percent of OY, plus an additional amount set aside as a special reserve for possible joint venture operations.

(1) The reserves for all species will be allocated to the total allowable level of foreign fishing (TALFF) every 2 months (bimonthly) as soon as practicable after each of the following dates, in the amount indicated:

January 2—25 percent.
March 2—25 percent.
May 2—25 percent.
July 2—25 percent.

(2) The Regional Director may withhold from allocation all or part of each of the bimonthly allocations in paragraph (d)(1) of this section if he/she determines that the remaining reserves will be harvested by fishing vessels of the United States. Such a determination shall be based upon consideration of the following factors:

(i) Reported U.S. catches by species and area;

(ii) Projected U.S. catch and effort by species and areas;

(iii) Projected processing capacity by U.S. processors; and

(iv) Utilized processing capability by U.S. processors.

(3) Interested persons may file comments with the Regional Director concerning whether or not, and the extent to which vessels of the United States will harvest all of the remaining reserve during the plan year.

(4) Comments may be submitted no later than 15 days prior to the dates specified in paragraph (d)(1) of this section.

(5) The Regional Director shall consider any timely comments filed in accordance with this section, in making the determination specified in paragraph (d)(2) of this section.

(6) The Regional Director shall compile, in aggregate form, the most recent available reports on level of catch and effort by vessels of the United States in the groundfish fishery. This data shall be open for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during each 15 day period.

(7) If domestic fishermen fail to utilize any portion of a 25 pervent dimontly allocation withheld from allocation by the Regional Director pursuant to paragraph (d)(2) of this section, the unutilized portion shall be added to the amount allocated to the TALFF's in the next bimonthly allocation.

43 FR 17014: (1) Revise 611.92(b)(1), table I to read as follows:

TABLE 1.—*Gulf of Alaska Groundfish Fishery: Initial Foreign Fishing Allocations by Nation and Area for 1978/79 (Metric Tons) Reserves*

(A) Shumagin Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod [1]	Squid	Other species
Japan									
Korea									
Mexico									
Poland									
USSR									
Initial TALFF	7,000	1,700	100	5,200	800	3,400	2,570	200	3,000
Shumagin area	45,200	900	100	3,000	600	1,000	2,730	200	1,300
Reserves									

(B) Chirikof Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod [1]	Squid	Other species
Japan									
Korea									
Mexico									
Poland									
USSR									
Initial TALFF	6,700	1,700	100	1,300	500	2,800	1,150	200	2,400
Chirikof area	43,100	900	100	800	400	800	1,150	200	1,000
Reserves									

(C) Kodiak area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod [1]	Squid	Other species
Japan									
Korea									
Mexico									
Poland									
USSR									
Initial TALFF	5,000	3,300	100	5,900	900	12,300	4,080	200	3,400
Kodiak area	32,400	1,600	300	3,500	700	3,500	4,420	200	1,500
Reseves									

(D) Yakutat Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod [1]	Squid	Other species
Japan									
Korea									
Mexico									
Poland									
USSR									
Initial TALFF	1,500	5,100	900	3,200	1,300	800	1,130	200	1,400
Yakutat Area	9,900	2,500	1,600	1,800	1,100	200	1,270	200	600
Reserves									

[1] Of the total Pacific Cod TALFF (including the reserve), only 8,233 metric tons may be caught west of 157° W. longitude.

TABLE 1.—*Gulf of Alaska Groundfish Fishery: Initial Foreign Fishing Allocations by Nation and Area for 1978/79 (Metric Tons)*

Reserves —Continued

(F) Southeast Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod [1]	Squid	Other species
Japan									
Korea									
Mexico									
Poland									
USSR									
Initial TALFF	600	4,100	900	1,000	0	0	370	300	800
Southeast area	3,200	2,000	1,400	600	1,200	0	430	100	300
Reserves									
Total initial TALFF	20,800	16,000	2,100	16,600	4,900	19,300	[2]9,300	1,100	11,000
Reserves	133,800	7,900	3,500	9,700	4,100	5,500	10,000	900	4,700

(2) Revise 611.92(b)(1) as follows:

(b) * * *

(1)(i) The initial TALFF's set out in table 1 of this section represent the amount of fish remaining after the expected domestic annual harvest (DAH) and additional reserves (in the amounts indicated in table 1) were subtracted from the optimum yields (OY's) for each species.

(A) * * *

(B) The reserves for all species will be allocated to the TALFF's every 2 months (bimonthly) as soon as practicable after the following dates, in the amount indicated:

January 2—25 percent.
March 2—25 percent.
May 2—25 percent.
July 2—25 percent.

(C) The Regional Director may withhold from allocation all or part of each of the bimonthly allocations in paragraph (b)(1)(i)(B) of this section, if he/she determines that the remaining reserves will be harvested by fishing vessels of the United States. Such a determination shall be based upon consideration of the following factors:

(1) Reported U.S. catches by species and area;

(2) Projected U.S. catch and effort by species and areas;

(3) Projected processing capacity by U.S. processors; and

(4) Utilized processing capability by U.S. processors.

(D) Interested persons may file comments with the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest all of the remaining reserve during the remainder of the plan year.

(1) Comments may be submitted no later than 15 days prior to the dates specified in paragraph (b)(1)(i)(B) of this section.

(2) The Regional Director shall consider any timely comments filed in accordance with this section, in making the determination specified in paragraph (b)(1)(i)(C) of this section.

(3) The Regional Director shall compile, in aggregate form, the most recent available reports on level of catch and effort by vessels of the United States in the groundfish fishery. This data shall be open for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau Alaska 99802, during each 15 day period.

(D) If domestic fishermen fail to utilize any portion of a 25 percent bimonthly allocation withheld from allocation by the Regional Director pursuant to paragraph (b)(1)(i)(C) of this section, the unutilized portion shall be added to the amount allocated to the TALFF's in the next bimonthly allocation.

* * * * *

50 CFR 611.20(c), Table I is revised as follows:

50 CFR 611.20(c), table 1 is revised as follows:

Species code	Species	Ocean area	Initial TALFF (metric tons)	U.S. capacity review dates
*	*	*	*	
006	Cod, Pacific	Gulf of Alaska	[3]9,300	January 2. March 2. May 2. July 2.
002 and 003	Flounders, including Yellowfin	do	[3]16,600	Do.
008	Mackerel, Atka	do	[3]19,300	Do.
011	Perch, Pacific Ocean	do	[3]16,000	Do.
005	Pollock	do	[3]20,800	Do.
012	Rockfishes, other than Pacific Ocean Perch	do	[3]2,100	Do.
007	Sablefish	do	[3]4,900	Do.
001	Squid	do	[3]1,100	Do.
099	Other species	do	[3]11,000	Do.
*	*	*	*	

Delete note 2.

[3] Does not include an additional amount held in reserve.

[FR Doc. 78-28063 Filed 10-5-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 2]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1978, Through May 31, 1979); Cheddar Cheese

The CCC monthly sales list for the period June 1, 1978, through May 31, 1979, published at 43 FR 29819 (July 11, 1978), as amended at 43 FR 35737 (August 11, 1978), is further amended by deleting the provisions of section 29 entitled "Cheddar Cheese—Unrestricted Use Sales (Instore—Carlot Quantities)."

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: August 31, 1978, 2:30 p.m. (e.d.t.).

Signed at Washington, D.C., on October 2, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-28283 Filed 10-5-78; 8:45 am]

[3410-15]

Rural Electrification Administration

ASSOCIATED ELECTRIC COOPERATIVE, INC.

Intent To Prepare Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare an environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing for Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Mo. 65801.

This financing is related to proposed construction of approximately 55 miles of 500 kV transmission line in the counties of New Madrid, Pemiscott, and Dunklin, Mo., and Mississippi County, Ark.

Interested persons are invited to submit comments which may be helpful in preparing the draft EIS.

Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20240, with a copy to Associated, whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Any financing which may be made pursuant to this possible application will be subject to, and the release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28261 Filed 10-5-78; 8:45 am]

[3410-15]

ASSOCIATED ELECTRIC COOPERATIVE, INC., AND WESTERN FARMERS ELECTRIC COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has issued a final environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Mo. 65801, and for Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.

The anticipated financing assistance would provide Associated and Western Farmers with the financing required to participate with the Public Service Co. of Oklahoma in the joint construction of the Black Fox Station, a 2,300 MW (net) nuclear generating plant, to be located in Rogers County, Okla. Also, related to the project would be 278 circuit miles of new transmission lines in northeastern Oklahoma, northwestern Arkansas, and southwestern Missouri to interconnect with existing transmission systems.

Additional information may be secured on request, from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental impact statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C., Room 4314, or at the headquarters of Associated Electric Cooperative, Inc., or Western Farmers Electric Cooperative whose addresses are given above.

Final action may be taken with respect to this matter after November 6, 1978.

Any loan guarantee which may be made pursuant to this application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final REA action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28262 Filed 10-5-78; 8:45 am]

[3410-15]

MINNKOTA POWER COOPERATIVE

Negative Determination; Environmental Impact Statement

Notice is hereby given that the Rual Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with the construction of a 35 MW combustion turbine by Minnkota Power Cooperative (Minnkota). The combustion turbine will be located on a Minnkota-owned site located 1.5 miles northeast of Larimore in Grand Forks County, N. Dak. Funding for the turbine is proposed to be obtained from non-REA sources.

REA has prepared an environmental assessment on the proposed action. Minnkota has prepared an environmental analysis of the proposed action in which REA had extensive input. The environmental analysis is in compliance with REA's environmental guidelines and numerous commitments have been made by Minnkota to satisfy Federal, State, and local requirements.

Responsible officials have been contacted in their areas of expertise, and no objections to the project were expressed. Rare and endangered species, prime and unique farmlands, archaeological and historic sites, and other potential impacts of the project are adequately considered, and we do not anticipate any significant effects as a result of the project. Findings related to the compliance with applicable statutes, Executive orders, or memorandums have been made and attached to the environmental assessment.

Our independent evaluation of the proposed project leads us to conclude that installation of this turbine is not a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our environmental assessment, our review of the environmental analysis and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under section 5K of REA Bulletin 20-21.

Copies of the environmental assessment with the attached list of non-NEPA findings and environmental analysis may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after October 23, 1978, but only after REA has reached satisfactory conclusions with respect to its environmental effects and under procedural requirements set forth in he National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28260 Filed 10-5-78; 8:45 am]

[3410-15]

WESTERN FARMERS ELECTRIC COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a final environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for financing assistance from Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.

This request includes financing for a 376 MW (net) coal-fired electric generating station and 29 miles of transmission lines and related facilities to be located near Hugo, Okla.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental impact statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4043, or at the office of Western Farmers Electric Cooperative, whose address was given above.

Final REA action may be taken with respect to this matter after November 6, 1978.

Any financial assistance which may be made pursuant to this application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final REA action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28259 Filed 10-5-78; 8:45 am]

[3410-05]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

Name: Advisory Committee on Export Sales Reporting.
Date: October 23, 1978.
Time: 1 to 4 p.m.
Place: Room 218-A, Administration Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.
Type of meeting: Open.
Contact person: Dr. Kelly Harrison, General Sales Manager, USDA, Washington, D.C. 20250, telephone 202-447-5651.
Summary minutes: May be obtained from the Office of the General Sales Manager, USDA, Washington, D.C. 20250.
Purpose: On August 1, 1978, the Secretary of Agriculture created the Advisory Committee on Export Sales Reporting to review the present reporting requirements and make recommendations to strengthen and improve the effectiveness of the monitoring capability.

Agenda: 1 to 4 p.m.—A discussion of the organization, functioning, and planning for future activities of the Advisory Committee.

Dated: October 2, 1978.

KELLY HARRISON,
General Sales Manager and Executive Secretary, Advisory Committee for Export Sales Reporting.

FR Doc. 78-28284 Filed 10-5-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 33091; Order 78-9-122]

ALLEGHENY AIRLINES, INC., ET AL.

Order Regarding Florida Service Case

Issued under delegated authority, September 28, 1978.

By order 78-7-128, July 25, 1978, the Board instituted the *Florida Service Case*, docket 33091, to consider whether the public convenience and necessity require new or improved authority between and among Fort Lauderdale, Gainesville, Jacksonville, Melbourne, Miami, Orlando, Panama City, Pensacola, Tallahassee, Tampa-St. Petersburg-Clearwater, West Palm Beach, Atlanta, Mobile, and New Orleans.

In addition, the Board delegated to the administrative law judge the authority to consolidate any applications which conform to the scope of the proceeding. The following listed applications conform to the scope of the issues in the *Florida Service Case*:

Allegheny Airlines, Inc., docket 33255.
Air Florida, Inc., docket 33272.
Braniff Airways, Inc., docket 33246.
Continental Air Lines, Inc., docket 33263.
Delta Air Lines, Inc., docket 33222 (with the exception of the request to serve Daytona Beach).
Frontier Airlines, Inc., docket 33273.
National Airlines, Inc., docket 33271.
North Central Air Lines, Inc., docket 33259.
Northwest Airlines, Inc., docket 33198.
Piedmont Aviation, Inc., docket 33245.
Ozark Air Lines, Inc., docket 33282.
Southeast Air Lines, Inc., docket 33207.
Southern Airways, Inc., docket 31680 (amendment No. 1).
Texas International Airlines, Inc., docket 33194.
Trans World Airlines, Inc., docket 33261.
Western Air Lines, Inc., docket 33251.

In addition, American's application in docket 33256, as amended, is within the scope of the issues insofar as it seeks authority between New Orleans, Tampa/St. Peterburg/Clearwater, Orlando, West Palm Beach, Fort Lauderdale, and Miami.

The above listed applications conform to the scope of the issues in the *Florida Service Case*, and it is found that consolidation of those applications will be conducive to the proper dispatch of the Board's business and

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to the ends of justice and will not unduly delay the proceeding.

By motion filed on September 20, 1978, Coastal Airlines, Inc., D. 31917, has requested leave to withdraw as a party. No objections have been filed. Accordingly, it is found that it is in the public interest to permit Coastal to withdraw as a party to the *Florida Service Case.*

Petitions for leave to intervene in the above-entitled proceeding have been filed by Dade County, Fla., and the Greater Miami Traffic Association; the city of Mobile, Ala., and the Mobile Area Chamber of Commerce; the Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce; and the county of Volusia, Fla.

Pursuant to authority duly delegated by the Board in its regulations, 14 CFR 385.11, it is found that the petitioners have sufficient economic interest in this proceeding to justify their participation as parties.

Accordingly, *it is ordered:*

1. That the following applications be and they hereby are consolidated for hearing and decision with the *Florida Service Case,* docket 33091: American Airlines, Inc., docket 33256, as amended (consolidated to the extent it seeks authority between New Orleans, Tampa/St. Petersburg/Clearwater, Orlando, West Palm Beach, Fort Lauderdale, and Miami); Allegheny Airlines, Inc., docket 33255; Air Florida, Inc., docket 33272; Braniff Airways, Inc., docket 33246; Continental Air Lines, Inc., docket 33263; Delta Air Lines, Inc., docket 33222 (with the exception of the request to serve Daytona Beach); Frontier Airlines, Inc., docket 33273; National Airlines, Inc., docket 33271; North Central Air Lines, Inc., docket 33259; Northwest Airlines, Inc., docket 33198; Ozark Air Lines, Inc., docket 33282; Piedmont Aviation, Inc., docket 33245; Southeast Air Lines, Inc., docket 33207; Southern Airways, Inc., docket 31680 (amendment No. 1); Texas International Airlines, Inc., docket 33194; Trans World Airlines, Inc., docket 33261; and Western Air Lines, Inc., docket 33251;

2. That the petitions for leave to intervene filed by Dade County, Fla., and the Greater Miami Traffic Association; the city of Mobile, Ala., and the Mobile Area Chamber of Commerce; the Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce; and the county of Volusia, Fla., be and they hereby are granted;

3. That the motion of Coastal Airlines, Inc., to withdraw as a party be and it hereby is granted;

4. Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order; and

5. This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28277 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket Nos. 32327, etc.; Order 78-9-153]

DHL AIRWAYS, INC., ET AL.

Order Regarding Policy Regarding Public Need for Charter Services

Former large irregular air carrier investigation, dockets 32327, 33361, 33362, 33363; *Alaska International Air Certification Case,* docket 29237; *AIA Control Case,* docket 29237; DHL Airways, Inc., docket 31540; Harold S. Low and Lawrence Rosenthal, dockets 33233, 33232; Maverick International, Inc., dockets 33337, 33338; Air Fleets International, Inc., dockets 33285, 33286, 33287; David Travels, Inc., dockets 33310, 33311; Development International, dockets 33291, 33292; Arthurs Travel Center, Inc., docket 32630.

Adopted by the Civil Aeronautics Board at its office in Wahington, D.C., on the 29th day of September 1978.

In our decision adopted on July 21, 1978, order 78-7-106, we announced our basic policy concerning admission of new entrants into the supplemental air carrier industry, defined the scope of the issues and established the procedural ground rules for this investigation, and requested comments from interested persons. We made some modest procedural adjustments in order 78-9-26, September 7, 1978.

Comments basically supporting our proposed policy regarding the public need for charter services have been filed by Jet Fleet Corp., Inc. and Central American Air Taxi, Inc. Transocean Airlines, Inc. filed comments urging us to provide for a gradual implementation of new supplemental operating authority by way of a transition period similar to the one established in the recently enacted all-cargo legislation. Specifically, Transocean recommends that new authority issued to currently authorized carriers and former large irregular and supplemental carriers become effective as soon as possible and that all other authority become effective 1 year later. Global American Transport Co. opposes Transocean's request, arguing that conditions today are completely different from those of 20 years ago, so the former large irregular operators are not entitled to a preferred position.

Central American and Alaska International Air, Inc. (AIA) filed petitions for reconsideration, urging a change in the scope of the case and a waiver of our environmental regulations.[1] Central American asks us to include the issue of charter transportation (1) among U.S. territories and possessions, (2) between U.S. territories and possessions and nearby foreign points, and (3) between Puerto Rico and the Virgin Islands, on the one hand, and points in the United States, Canada, Mexico, Central and South America, the Caribbean, and the Pacific and Atlantic, on the other. AIA urges us to delete the issue of interstate supplemental cargo transportation since such authority is covered by recently enacted section 418 of the Act. TIA suggests including intra-Alaska authority. In addition, five companies—Air Fleets International, Development International Corp., Harold S. Low and Lawrence Rosenthal (joint applicants), Maverick International, Inc., and David Travels, Inc.—seek permission to late file applications and one applicant—Arthurs Travel Center—wants its application dismissed. Finally, AIA and Air Fleets International ask us to resolve certain section 408/409 matters, which we discuss below.

1. LICENSING ISSUES

We shall modify the scope of the proceeding as requested by Central American and AIA. The issues in this case do not currently comprehend service between and among U.S. territories and possessions, and between those territories and possessions, on the one hand, and domestic and foreign points, on the other. There is no reason to exclude these. Inclusion will not expand the case substantially and the possibility of granting such authority will provide greater decisional flexibility for the Board and increased operational flexibility for successful applicants. We shall exclude from the case the issue of interstate supplemental cargo authority: That is already held by carriers who have received section 418 certificates and new applicants can obtain such certificates starting November 9, 1978, under procedures likely to be completed in advance of this case. We agree with AIA, therefore, that it is neither necessary nor desirable to include the issue in this proceeding. We see no reason to reconsider our earlier decision to exclude the intra-Alaska markets from this case, as TIA suggests. See order 78-7-106, p. 21. The carrier is, of

[1] AIA's petition is accompanied by a motion for leave to late file, which we will grant.

course, free to request institution of a separate proceeding in accordance with the requirements of part 302 of our procedural regulations.

We will grant the motions for leave to late-file applications to the extent consistent with the scope of the case. Their inclusion will neither delay nor disrupt it.

We will not waive the requirements of part 312 as requested by Central American. While we recognize that the nature of charter demand makes a prediction about future operations at particular cities difficult, we are not prepared to conclude that the environmental implications of a decision in this case should not be fully considered. See *Palisades Citizens Association* v. *CAB,* 420 F. 2d 188 (D.C. Cir. 1969). We would be unable to make a reasonable environmental evaluation in the absence of information required by section 312 of our regulations.

We will not at this stage provide for a transition as requested by Transocean. Global American correctly observes that the former large irregular operators are not entitled to a priority solely because of their earlier operations; we believe that the question of transition is one which should be resolved during the course of the hearing, rather than in advance.

2. CONTROL ISSUES

Issues arising under sections 408 and 409 of the Act will be examined in this case as in all cases involving the possible certification of new entrants. We shall, therefore, resolve those issues insofar as Air Fleets International is concerned. Alaska International's application raises some unique problems, however.

AIA is an Alaskan commercial airline which provides various air services, including scheduled, charter, and contract cargo services within Alaska, air services within the United States, between points outside the United States, and some transatlantic charter cargo services.[3] According to the applicants' submissions, the 408/409 issues involving AIA arise as follows: First, in 1972, Mr. Neil Bergt acquired a controlling interest in Interior Airways, Inc. (the predecessor of AIA) from National Equipment Rental Ltd.[3] During that year the corporated name was changed to Alaska International, Inc. Second, in 1973, AIA acquired all the stock of Weaver Brothers, Inc. (Weaver), a motor common carrier of freight.[4] Third, in 1974, AIA reorganized into a holding company structure, in which AIA and Weaver became the wholly owned subsidiaries of AII. Since 1974, AII has acquired several nonaeronautical concerns,[5] and also formed a subsidiary, Alaska International Sales Corp. (AISC), which is engaged in the export sale of aircraft and aircraft parts.

AIA originally filed its section 408/409 applications in connection with its application for certificate authority in the *Alaska International Air Certification Proceeding,* docket 29237. There applications were transferred to the *Transatlantic Cargo* case, docket 30789, and the *D.O.D. Contract-Eligible Certification* case, docket 30221, leaving the 408/409 applications as the sole issues in docket 29237. See order 76-12-97, December 15, 1976. Those issues have been deferred since May 1977. See order 77-5-143, May 26, 1977.

On March 23, 1977, AIA filed a motion to terminate docket 29237 and, on June 24, 1977, the carrier filed a supplemental motion requesting disposition of its section 408/409 requests through a disclaimer of jurisdiction or, alternatively, grant of an exemption or entry of an order of approval. AIA argues that the Board has received enough information to decide the control and interlocking questions without a hearing, that AIA and Weaver transact little business with each other, and that AIA's operations subject to Board's jurisdiction have little to do with Weaver's trucking operations. Seaboard World Airlines, Inc., Trans International, Inc., and Evergreen International Airlines filed answers contending that the issues raised are of sufficient complexity to warrant a hearing.

On August 22, 1978, AIA filed its petition for reconsideration in the *Former Large Irregular* case, renewing its request for nonhearing disposition of its section 408/409 applications in docket 29237. AIA alleges that its opponents have used the control issues to frustrate its entry and that this is likely to occur again in a large case like the *Former Large Irregular* proceeding. AIA indicates that it will soon file an application for a section 418 certificate to provide domestic all-cargo transportation, and that the section 408/409 applications should be disposed of in connection with that application. Trans International Airlines opposes AIA's request. It denies that it seeks to delay or frustrate consideration of AIA's application, restating its view that what it describes as "the various complex and unique § 408 and § 409 issues raised by AIA's corporate structure * * *" should be examined in a hearing. AIA offers an alternative plan in the event the Board agrees that the *Former Large Irregular* case is the wrong vehicle for considering AIA's intercorporate relationships; it recommends that the Board reestablish the AIA certification case, expand it to include all geographical authority now sought by AIA in the *Former Large Irregular* case as well as intra-Alaska charter authority, and consolidate additional applications.

We have decided to dispose of AIA's section 408/409 applications promptly in docket 29237. AIA indicates that it will soon file an application for an all-cargo certificate and the Board may be required to examine at least some section 408/409 issues in connection with that application. See EDR-359, setting out the conditions under which the Board proposes to exempt holders of all-cargo certificates from the requirements of sections 408(a) and 409. AIA is also an applicant in the *Transatlantic Cargo Service* case, docket 30789, and will presumably pursue its request for charter authority in the *Former Large Irregular* case as well. It is unclear which of these cases will be decided first (the section 418 proceeding seems to be the most likely candidate) but we have an obligation to decide the section 408/409 issues in connection with AIA's application for its first certificate. Clearly, the applicants and the opponents should not be required to litigate these issues in three or more cases. Given the length of time the control issues have already been before the Board, we think the best plan is to set all of them for prompt disposition. We will use docket 29237 as the vehicle.

We cannot at this time determine what procedures will be necessary to dispose of AIA's applications. The series of intercorporate transactions is intricate and occurred over a period of 4 years, being completed in 1975. The record which the applicants claim is now adequate to decide the issues is dispersed over several dockets and may contain inaccurate or outdated information. The potential anticompetitive elements which we must consider in connection with the section 408/409 requests may be somewhat different insofar as AIA seeks international as opposed to domestic authority. We, therefore, urge AIA to submit, within

[2] AIA holds no certificate of public convenience and necessity. For its current operations, it relies on various ad hoc exemptions from title IV provisions, and a general temporary exemption to conduct outsized cargo charter flights between the United States and points in the Middle East and Africa until 90 days after the Board's final decision in the *Transatlantic Cargo Service Case,* docket 30789.

[3] See Flying Tiger Corp. et al., order 72-7-26, July 10, 1972.

[4] Weaver is a motor common carrier transporting commodities within Alaska and between Alaska and the Pacific Northwest. No authorization for the acquisition of Weaver was requested or granted by the Board (see order 76-5-30).

[5] In 1974, AII acquired Valdez Alaska Terminals, Inc., which is engaged in real estate leasing, and its subsidiary, Valdez Stevendoring Co., Inc., which is engaged in leasing of dock facilities. During 1975, AII formed as subsidiaries, Aleasco, Inc. and Alaska International Construction, Inc., both of which are engaged in construction activities.

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21 days, such updated information as is necessary, and to identify what information in docket 29237 remains accurate. In addition, the exact nature of AIA's operations and the authority for each type of operation should be set forth clearly. For convenience it would be useful to us if all such information is contained in a single document or set of documents. Parties to the case will then have 21 days to file rebuttal comments and documents. Opponents may at the same time request oral evidentiary hearings if there are material factual issues to be decided which can be resolved only through cross-examination. AIA will have 7 days to reply. We will then decide whether or not to hold an oral hearing. We expect parties to specify the exhibits or information which require cross-examination and state precisely the matters they find necessary to explore at an oral hearing. We plan to act expeditiously whether or not we find oral hearings necessary.

Accordingly, *we order*, that:

1. The primary issues in docket 32327 shall be:

(a) Whether the public convenience and necessity may require the grant of additional certificated supplemental authority for the transportation of persons, property, and military traffic in interstate, overseas, or foreign supplemental air transportation between (i) any point in any State of the United States, the District of Columbia, or any U.S. territory or possession, on the one hand, and any other point in any State of the United States, or any U.S. territory or possession, on the other hand, and (ii) any point in any State of the United States, the District of Columbia, or any U.S. territory or possession, and the following areas: Canada, Mexico, the Caribbean, Central and South America, the transpacific, and transatlantic;

(b) Whether the applicants for such authority are fit, willing, and able to perform the supplemental air transportation found by the Board to be required by the public convenience and necessity; [6]

2. The following authority will not be considered:

(a) Property between points in the United States and points in the transatlantic area;

(b) Air transportation between points in the United States, on the one hand, and points in the polar regions or in outer space, on the other hand;

(c) Air transportation between points within the State of Alaska;

(d) All-cargo air service as defined in section 102(11) of the Act.

3. The motions for leave to late-file are granted, and the following applications are consolidated to the extent consistent with the issues in the case.

Docket 33363:
Air Fleets International, Inc.
Development International Corp.
Harold S. Low and Lawrence Rosenthal
David Travels, Inc.

Docket 33362:
Maverick International, Inc.

4. AIA's motion in docket 32327 for leave to late-file is granted;

5. Docket 29237, renamed the *AIA Control Case*, is reopened for expeditious disposition in accordance with the procedures established in this order;

6. The motion of AIA in docket 29237 for leave to file a reply to the answers of Evergreen, Seaboard, and TIA be granted;

7. Except to the extent granted by this order, the motion of AIA, AII, and Neil G. Bergt in docket 29237 for final disposition without further proceedings is denied; and

8. The applications of Arthurs Travel Center in docket 32630, and DHL Airways in docket 31540, are dismissed. [7]

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [8]
Secretary.

[FR Doc. 78-28278 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket No. 32752; Order 78-9-135]

PAN AMERICAN WORLD AIRWAYS, INC.

Order to Show Cause and Granting Temporary Suspension at Fairbanks, Alaska on Route 150

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

On May 26, 1978, Pan American World Airways filed an application under part 205 of the Board's regulations and section 401(j) of the Act for authority to suspend service to Fairbanks, Alaska, on Route 150 for an indefinite period. It asks that the authority be effective September 30, 1978.

In support of its request, the applicant states that the route has historically been financially marginal and the end of the oil pipeline boom has brought a return of loss operations; that it continued to operate at a loss in anticipation of the construction of the Alcan pipeline, but with its construction deferred, Pan American can no longer afford to hang on hoping a boom will materialize; that it should be allowed to end this strain on its resources and to improve the quality and efficiency of service on its remaining routes; that Alaska Airlines provides multiple daily Fairbanks-Seattle one-stop flights via Anchorage; that connecting service is available between Fairbanks and Portland; and that several carriers are currently seeking to provide nonstop service in the *West Coast-Alaska Investigation*.

No answers have been received.

We have decided (1) to issue an order to show cause which proposes to make Pan American's authority to serve the Fairbanks-New York/Seattle-Portland markets over Route 150 permissive, and (2) to authorize Pan American to suspend its Fairbanks-Seattle-Portland services over segment 1 of Route 150.

TENTATIVE FINDINGS AND CONCLUSIONS

We have tentatively concluded, on the basis of the tentative findings below, that the public convenience and necessity require the amendment of Pan American's certificate for Route 150 to make its Fairbanks-New York/Seattle/Portland authority over the route permissive. [1]

Pan American will be able to discontinue service at will, but, by our making its authority permissive instead of suspending or deleting it under section 401(g), it will also be able to resume service should its assessment of the markets change, without the costly delay otherwise required to obtain our approval. Thus, should the Alcan pipeline be constructed or some other major traffic increase occur the carrier could help meet the immediate demand for additional service. As noted in several cases, we view the possible preemptive effect of such dormant authority as small, and counterbalanced by its used as a competitive spur. [5]

The Seattle-Fairbanks segment is a vestige of an earlier era, when Pan Amercian served Fairbanks and points in southeastern Alaska with propeller aircraft from Seattle. The segment has historically been financially marginal, and for many years Pan American (as well as Alaska Airlines) suffered substantial losses providing Seattle-Fairbanks nonstop service. [3] With the end of the oil pipeline boom, it is again faced with unacceptable operating losses. In 1977, Pan American estimates it experienced a seat load factor of 31.4 percent and suffered an operating loss of $3,414,000 on its Fairbanks-Seattle/Portland services (segment 1 of Route 150). [4] This estimate appears reasonable, and there is no prospect for improved results for Pan American in the near term.

Similarly, Pan American's operations over segment 2 of Route 150 have proved unprofitable. By the terms of its certificate the carrier has to serve a point west of Fairbanks on its Pacific Route 130 on all flights over segment 2. Until 1975, it provided service over a New York-Fairbanks-Tokyo routing; however, service over the Fairbanks-Tokyo portion of the flights was uneconomic. By order 75-8-144, August 28, 1975, the Board granted Pan American exemption authority to provide turnaround service between New York and Fairbanks as an alternative to suspension at Fairbanks on segment 2 and allowed it to suspend its Fairbanks-Tokyo services. Unfortunately, the results of the New York-Fairbanks turnaround operations were not encouraging. For the first year of operations, Pan American carried only 6,522 coupon O. & D. passengers, which produced an operating loss of $628,000 or $96 per passenger. As a result, the Board allowed Pan American to suspend service between Fairbanks and New York for a 2-year period, stating that direct service was not required by the public interest and noting the existence of ample connecting service available via Seattle (order 77-5-22, May 5, 1977). There is little reason to believe that Pan American's chances for economic operations over segment 2 will improve in the near term.

Pan American wishes to concentrate on large markets requiring larger aircraft and it should be allowed to do so. Under these circumstances, we believe its authority over the Fairbanks-Seattle/Portland and Fairbanks-New York portion of the route should be made permissive.

TEMPORARY SUSPENSION

For the above reasons, we will also authorize Pan American to suspend its Fairbanks-Seattle/Portland services on segment 1. We recognize that Pan American's Fairbanks-Seattle operations provide the only nonstop services in the market, continuation of which is vital to the commerce of Alaska. It is imperative that there be little, if any, interruption in nonstop service. To meet these needs, we will grant nonstop exemption authority in the Seattle-Fairbanks market along with the suspension authority (order 78-9-149). [5] Thus, discontinuation of Pan American's service will not result in substantial inconvenience to the public. Under these circumstances, we find that grant of the suspension is in the public interest.

PROCEDURES

Interested persons will be given until 30 days following the date of adoption of this order to show cause why the above tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final these tentative findings and conclusions and amending Pan American's certificate for Route 150 to make its Fairbanks-Seattle/Portland (segment 1) and Fairbanks-New York (segment 2) authority over that route permissive;

2. Any interested person having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment shall, no later than October 30, 1978, file with the Board and serve upon all persons listed in paragraph 9 a statement of objection together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections. Answers to objections shall be filed 10 days later;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board; [6]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for further action;

5. We suspend, under section 401(j), the authority of Pan American World Airways to serve the Fairbanks-Seattle/Portland markets on segment 1 of Route 150 until 90 days after final decision on the proposed certificate amendment;

6. The authority granted in paragraph 5 shall become effective on October 1, 1978;

7. We dismiss Pan American's request for a waiver of the filing requirements of part 312;

8. The authority granted in paragraph 5 may be amended or revoked at any time in the discretion of the Board without hearing; and

9. A copy of this order shall be served on all persons named in the service lists of dockets 30170, 30435, 32749, 32752, 32787, 32799, 32878, and 32897 and any persons who filed answers to those applications.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [7]
Secretary.

[FR Doc. 78-28279 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket No. 33341]

TIGERAIR, INC., ET AL.

Proposed Approval of Application

Application of TigerAir, Inc., the Flying Tiger Line, Inc., and Tiger International, Inc., for approval under section 408 of the Federal Aviation Act of 1958, as amended, of the acquisition of control of Aircraft Tank Services, Inc., and WEF Manufacturing, Inc., docket 33341.

I hereby give notice pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that I intend to issue the attached order under dele-

[1] We also tentatively find that Pan American is fit, willing, and able within the meaning of sec. 401 of the Act. Since the proposed suspension and certificate amendment will induce, at most, only a minor decrease in operations, our actions will not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975. Pan American originally requested a waiver of the filing requirements of pt. 312. Later it filed an environmental evaluation. We will dismiss its waiver request.

[2] This will include all issues arising under other sections of the Act including secs. 408 and 409, except insofar as AIA is concerned.

[3] See *Pacific Northwest-Alaskan Service Case*, 42 CAB 489, 509-11 (1965).

[4] Pan American's authority to serve Portland on segment 1 is temporary and expires February 7, 1979. The carrier is also suspended at Ketchikan and Juneau on segment 1 until Feb. 7, 1979. Service between the latter points and Seattle is in issue in the *Southeast Alaska Service Investigation*, docket 31570. Consequently, we are not proposing to give Pan American permissive authority at those points, but will await developments in that case.

[5] Six carriers have applied for temporary certificate or exemption authority to provide Seattle-Fairbanks nonstop service pending the outcome of the *West Coast-Alaska Investigation:* Alaska Airlines (docket 32749), Western (docket 32787), Wien Air Alaska (docket 32799), Northwest (docket 32878), Pacific Alaska Airlines (docket 32897), and Aeroamerica (docket 33114). Issues in the above case include (1) whether the 13-year-old suspension of Alaska Airlines' Fairbanks-Seattle nonstop authority should be removed, and (2) whether a new carrier other than Alaska should be certificated in the Fairbanks-Seattle market.

[6] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests or petitions for reconsideration of this order will be entertained.

[7] All Members concurred.

[8] All members concurred.

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gated authority. Interested persons have until October 13, 1978, to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., October 3, 1978.

BARBARA A. CLARK,
Deputy Director-Designate.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

ORDER OF APPROVAL

Issued under delegated authority.

Application of TigerAir, Inc., the Flying Tiger Line, and Tiger International, Inc., for approval of acquisition of control, Docket 33341.

TigerAir, the Flying Tiger Line (FTL), and Tiger International (TI) have requested that the Board approve, under section 408 of the Act and ordering paragraph 6 of order 70-6-119 [1] the acquisition of control resulting from the purchase by TigerAir of 100 percent of the equity of Aircraft Tank Services, Inc. (ATS), and WEF Manufacturing, Inc. They also filed a motion requesting expedited handling, noting that ATS and WEF can withdraw from the agreement if final Board approval is not obtained before October 31, 1978.

TigerAir is a wholly owned subsidiary of National Equipment Rental, which is a wholly owned subsidiary of Tiger Leasing Group, which is itself a wholly owned subsidiary of TI. TI also owns all the outstanding stock of FTL, a certificated all cargo carrier.

TigerAir is engaged in the sale and leasing of aircraft and it has three subsidiaries in aeronautical fields. One of them, TigerAir Service Center (TSC), is a fixed base operator engaged primarily in aircraft repair and maintenance.[2]

ATS and WEF are both owned by Merril E. and Wilman June Fuller. Operating adjacent to the Hollywood-Burbank Airport, where TSC is located, ATS is engaged in the manufacture, sale, and installation of aircraft fuel expansion systems. WEF operates a sheet metal shop whose production is used almost exclusively by ATS. The applicants argue that because of this fact and because of common management and ownership, ATS and WEF should be viewed as a single entity.

TSC is currently engaged in the design and installation of fuel expansion systems but it specializes in systems for conversion of commercial aircraft into long-range corporate aircraft, and it does not have production facilities. The applicants assert that TSC will benefit from gaining ATS's production capabilities and its broader product line, and that ATS will benefit from TSC's Hollywood-Burbank Airport facilities, and its broader aviation industry sales base.[3]

The applicants assert that the acquisition will not threaten any other carriers for a number of reasons: ATS and TSC currently have almost no dealings with commercial carriers; commercial carriers generally deal with aircraft manufacturers for this type of work and have the potential for doing it themselves; [4] and that numerous independent firms provide similar services in the United States.

We have received no comments on this application or requests for a hearing.

We have concluded that TI is a person controlling an air carrier; that ATS and WEF are persons engaged in a phase of aeronautics; [5] and that the purchase of ATS and WEF results in acquisitions of control that are subject to section 408(a)(6) and ordering paragraph 6 of order 70-6-119. However, we have also concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation; does not result in creating a monopoly or otherwise lessen comnpetition; [6] and that the transaction will be consistent with the public interest.

The Board's focus in a conglomerate-type acquisition is on its potential effects in the air transportation industry,[7] and we have decided that the acquisition will not have any adverse results in that industry.[8] FTL is currently affiliated with a concern engaged in the design and installation of fuel expansion systems and the extension of these activities are unlikely to pose a competitive threat to certificated air carriers. ATS and TSC do not currently have significant dealings with certificated air carriers, and there are a variety of alternatives available to them for obtaining fuel expansion systems. We will, however, retain jurisdiction to amend or revoke the approval granted here as the public interest requires.

We therefore find, under authority delegated by the Board in its regulations, 14 CFR 385.6 and 385.13, that approval of the acquisition of control of ATS and WEF by TigerAir and through it by TI, under section 408(a)(6) of the Act and ordering paragraph 6 of order 70-6-119 is in the public interest and that the public interest does not require a hearing on this matter; [9] that our action is not a major Federal action within the meaning of the National Environmental Policy Act of 1969; [10] that our action is governed by prior Board precedent and policy,[11] that immediate action is required to enable the transaction to take place; that the filing of petitions therefore will not preclude this order from becoming effective immediately; and that all other requests in the docket should be dismissed.[12]

Accordingly, 1. We approve the acquisition of control of ATS and WEF by TigerAir and through it, by TI;

2. We grant the motion of the parties for expedited treatment;

3. We dismiss all other requests in this docket; and

4. We retain jurisdiction for the purpose of amending or revoking the approval granted here, with or without hearing, as the public interest requires.

Persons entitled to petition the Board for review of this order under the Board's regulations, 14 CFR 385.50 may file petitions within 10 days after the date of service of this order.

This order shall be effective immediately and the filing of such petitions shall not stay its effectiveness.

MICHAEL E. LEVINE,
Director, Bureau of Pricing and Domestic Aviation.

Secretary.

[FR Doc. 78-28280 Filed 10-5-78; 8:45 am]

[1] The applicants assert that their request for approval under the order is without prejudice to TI's right to challenge it.

[2] See *TigerAir, Inc., the Flying Tiger Line, Inc., and Tiger International, Inc.*, order 78-8-52, Aug. 10, 1978, for a fuller description of TigerAir and its subsidiaries.

[3] Thirty percent of ATS's current business comes from a single customer.

[4] The applicants state that Hughes Airwest has its own installation facilities.

[5] Sheet metal fabrication is not, of course, per se an aeronautical activity, but in view of WEF's almost exclusive dealing with ATS and the historic unity of ownership and management, we will treat WEF as a person engaged in a phase of aeronautics.

[6] Our findings are limited to the field of air transportation.

[7] *International Air Service Company Acquisition of Control of Aloha Airlines, Inc.*, order 78-6-208, June 29, 1978.

[8] In any event, our approval here goes only to the acquisition itself and not any subsequent actions of the affiliated companies.

[9] We have published in the FEDERAL REGISTER a notice of intent to dispose of this application without a hearing and have furnished a copy of the notice to the Attorney General not later than the day following the date of its publication, both in accordance with the requirements of section 408(b) of the Act.

[10] From examination of the application, it appears that approval will not cause any of the results set forth in § 312.9 of the Board's procedural regulations.

[11] See e.g., order 78-8-52, supra.

[12] The applicants had requested a disclaimer of jurisdiction over interlocking relationships which might arise from the acquisition of control. We find that to the extent that they do, they fall within the exemption and approval afforded by part 287 of the Board's economic regulations.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by the tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between September 1, 1978, and September 30, 1978.

Dated: October 2, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Bentonville City	Benton	June 13	7,832
Hoxie City	Lawrence	Aug. 7	2,918
Norristown City	Pope	July 24	556
Illinois:			
Buffalo Grove Village	Cook and Lake	May 10	20,609
Round Lake Beach Village	Lake	June 27	12,148
Sauk Village	Cook	June 29	10,544
Puerto Rico:			
Toa Baja Municipio		Mar. 6	76,935

[FR Doc. 78-28153 Filed 10-5-78; 8:45 am]

[3510-24]

Economic Development Administration

INFANTA KNITTING MILLS, INC., KIRSTEIN LEATHER CO., AND LAWRENCE MAID FOOTWEAR, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistence

Petitions have been accepted for filing from three firms: (1) Infanta Knitting Mills, Inc., 27 Jarrett Avenue, Rockledge, Pa. 19111, a producer of sweaters and other sportswear for children (accepted September 28, 1978); (2) Kirstein Leather Co., 72 Main Street, Saco, Maine 04072, a processor of leather (resubmitted petition accepted Sept. 29, 1978); and (3) Lawrence Maid Footwear, Inc., 50 Island Street, Lawrence, Mass. 01840, a producer of women's footwear (accepted Sept. 29, 1978). The petitions were accepted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the adjustment assistance regulations for firms and communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the 10 calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-28249 Filed 10-5-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

JONES & LAUGHLIN STEEL CORP.

Business Development Program; Application for Assistance

Notice of application for assistance under the Economic Development Administration's (EDA) special program to guarantee loans to firms in the basic steel industry.

Firm	Amount of loan	Percent guaranteed	Products
Jones & Laughlin Steel Corp..	$111,100,000	90	Hot and cold rolled sheet; tin mill products; flat rolled coated products; hot rolled and cold finished bars; tubular products; light plates and structural shapes; rod and wire products; hot rolled and cold rolled stainless steel sheets; cold rolled strips in carbon, alloy, and stainless grades; electricweld tubing.

Dated: September 27, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-27801 Filed 10-5-78; 8:45 am]

[1505-01]

Economic Development Administration

ROUNDS I AND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT (LPW) PROGRAM

Closing Date for Requests for Project Modification

Correction

In FR Doc. 78-27291, appearing at page 44560 in the issue of Thursday, September 28, 1978, on page 44560, the second sentence should read:

"All requests for changes in a project's scope or modifications which involve a project's cost must be received and accepted in the appropriate EDA Regional Office by C.O.B. December 29, 1978."

[3510-13]

National Bureau of Standards

SIMPLIFIED PRACTICE RECOMMENDATION

Action on Withdrawal

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of simplified practice recommendation R163-48, "Coarse Aggregates (Crushed Stone, Gravel, and Slag)."

It has been determined that this standard is technically inadequate, no longer used to any extent, and not in the public interest to maintain. In view of the existence of the American Society for Testing and Materials (ASTM) D448, "Standard Sizes of Coarse Aggregate for Highway Construction," and various other industry standards, revision of this simplified practice recommendation would serve no useful purpose.

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of July 13, 1978 (43 FR 30090) to withdraw this standard. The effective date for the withdrawal of this standard will be 60 days after the publication of this notice. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: October 2, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-28243 Filed 10-5-78; 8:45 am]

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[3510-49]

National Fire Prevention and Control Administration

BOARD OF VISITORS FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Academy for Fire Prevention and Control (Board).
Date of meeting: October 26, 1978.
Place: Board Room, Olympic Hotel, Fourth and Seneca, Seattle, Wash.
Time: 8:30 a.m. to 5 p.m.
Proposed agenda: Semiannual update on activities of National Academy for Fire Prevention and Control. Preparation for Annual Report submission. Review of staffing, course offerings and delivery schedule for fiscal year 1979.

The meeting will be open to the public with approximately 20 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C.

Copies of the minutes will be available upon request 30 days after the meeting.

Dated: October 2, 1978.

JOSEPH A. MORELAND,
Acting Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-28252 Filed 10-5-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Correction of Addition

The document adding five wheel chock assemblies to Procurement List 1978 published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44877) is amended to add the following:

The above for all requirements for facilities located west of the Mississippi River and any requirements for facilities located east of the Mississippi River which are not furnished by Federal Prison Industries.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28273 Filed 10-5-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 8, 1978.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 7331

Typing and Proofreading, General Services Administration, PBS, CMD, Region 5, Chicago, Ill.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28274 Filed 10-5-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1978 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 6, 1978.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On June 23, 1978, the Committee for Purchase From the Blind and Other Severely Handicapped published a notice (43 FR 27229) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1978:

SIC 0782

Grounds Maintenance, Edwards Air Force Base, Calif., for the following buildings: 1200, 1220, 1400, 2650, 2860, 2800, 3940, P-1.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28275 Filed 10-5-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Southwestern Power Administration

SALARY ADJUSTMENT FOR ADMINISTRATOR

Pursuant to section 5364 of Title 5 of the United States Code, the salary of the Administrator, Southwestern Power Administration, is adjusted to $44,756 per annum, effective October 8, 1978.

Issued in Washington, D.C., on October 4, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28353 Filed 10-5-78; 8:45 am]

[3128-02]

Federal Energy Regulatory Commission

[Docket No. RI78-43]

CORDILLERA CORP.

Order Granting Special Relief

SEPTEMBER 25, 1978.

On March 28, 1978, Cordillera Corp. (Cordillera) filed its initial petition for special relief pursuant to § 2.76 of the Commission's general policy and interpretations (18 CFR 2.76), requesting authorization to charge a total rate of $2.12 per Mcf for the sale [1] of 100 percent of its working interest in the gas produced from the Sugar Creek No. 1 well, Sugar Creek field, Carbon County, Wyo., and sold to Western Transmission Corp. (Western). On June 2, 1978, Cordillera amended its initial petition, requesting a lower total rate of $1.91 per Mcf for the sale of the subject gas. Currently, the maximum authorized rate which Cordillera may charge for the subject gas is 52.7 cents per Mcf.

Notices of the initial petition for special relief and the amendment thereto in docket No. RI78-43 were issued on April 19, 1978, and August 9, 1978, respectively. These notices were published in the FEDERAL REGISTER respectively on April 27, 1978, at 43 FR 18005 and August 16, 1978, at 43 FR 36303. Colorado Interstate Gas Co. filed a timely petition to intervene in support of Cordillera's initial petition.

As justification for the requested special relief rate, Cordillera states that the gas which would be produced from the Sugar Creek No. 1 well contains a significant amount of hydrogen sulfide (1.505 mole percent). Further, Cordillera states that due to the high hydrogen sulfide content of the gas, it has been unable to make delivery of gas to Western in accordance with the terms of their gas sale contract. Additionally, Cordillera states that it proposes to remedy the situation by installing an amine unit to remove hydrogen sulfide from the gas and by installing, in order to meet environmental standards, a sulfur recovery unit, all at a total cost of $547,000. Also, Cordillera proposes the installation of a water disposal system to dispose of saltwater produced as a byproduct of extracting the gas from the subject well; the cost of installing the water disposal unit would be $54,000. Moreover, Cordillera asserts that if special relief is granted, permitting it to install the proposed facilities, then it will be able to recover an estimated gross remaining 1,422,405 Mcf of gas over the next 7 years. If special relief is denied, Cordillera states that it will seek abandonment of the subject well.

In connection with this proceeding, staff conducted a field investigation. Based on the results of that investigation, staff determined that Cordillera's remaining net book investment of $191,419, proposed new investment of $601,000, and estimated production expenses of $1,214,549 over the estimated 7 years of production were reasonable.

After utilizing the above cost figures in a traditional cost study [2] wherein the modified Btu method was used to allocate cost between gas and liquids, staff concludes that, in order for Cordillera to recover the cost associated with this project—including a 15-percent rate of return—over a 7-year life, the special relief rate should be $1.91 per Mcf.

Upon consideration of the data submitted by petitioner and staff's analysis thereof, we conclude that the proposed rate is cost justified and that the granting of the proposed rate is in the public interest.

The Commission orders: (A) The petition for special relief, as amended, is hereby granted.

(B) Petitioner is authorized to collect a total rate of $1.91 per Mcf at 14.73 psia for the sale of natural gas from its Sugar Creek No. 1 well in Sugar Creek field, Carbon County, Wyo., to Western effective on the date of completion of the proposed work or the date of the issuance of this order, whichever is later, subject to Cordillera filing a statement signed by Western attesting to the fact that the proposed work has been completed to Western's satisfaction within 30 days of the effective date specified above.

(C) This order is further conditioned upon the filing by Cordillera, within 30 days of the issuance of this order, of an executed amendment to its contract with Western providing for payment of the rate granted above and a notice of independent producer rate change reflecting the above authorized rate.

(D) Colorado Interstate Gas Co. is permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And provided, further* That the admission of such intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Cordillera Corp., Docket No. RI78-43*

[Unit cost of gas]

Line No.	Item (a)	Amount (b)
1.	Net working interest volumes:	
2.	Gas—Mcf at 14.73 psia [1]	1,244,604
3.	Liquids—Bbls [2]	12,379
4.	Cost of production:	
5.	Return on rate base at 15 pct [3]	$435,690
6.	D.D. & A. [4]	660,387
7.	Production expense [5]	1,214,549
8.	Subtotal	2,310,625
9.	Allocated to gas [6]	2,128,549
10.	Regulatory expense [7]	1,245
11.	Total cost of production	2,129,794
12.	Unit cost of gas (cents per Mcf):	
13.	Cost of production [8]	1.71
14.	Production and ad valorem taxes [9]	.20
15.	Total unit cost	1.91

[1] 1,422,405 Mcf times 0.875 net working interest.
[2] 14,148 bbls times 0.875 net working interest.
[3] Line 14 of sheet 3 times 0.15 times 7-year production life.
[4] From line 6 of sheet 2.
[5] Based on estimated 1977 production expense of $145, 377 escalated 5 pct annually for the first 5 years.
[6] Line 8 times line 12 of sheet 2.
[7] Line 2 times 0.1 cents per Mcf per opinion No. 749.
[8] Line 11 divided by line 2.
[9] (Line 12 ÷ 8948) − line 12: Production tax at 4.03 pct; ad valorem tax at 6.49 pct.

[Investment and allocation of costs]

Line No.	Item (a)	Amount (b)
1.	Investment:	
2.	Remaining net book value, Dec. 31, 1977	$191,419
3.	Investment [1]	601,000
4.	Total investment	792,419

[1] Includes $547,000 for amine unit with hydrogen sulfide recovery unit and $54,000 for water disposal system.

[1] Cordillera was issued a small producer certificate in docket No. CS77-87 on May 11, 1977, pertaining to the sale of the subject gas.

[2] See appendix A, attached hereto.

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Line No. and item (a)	Amount (b)
5. Less salvage value [2]	132,032
6. Depreciable investment	660,387
7. Depreciation per unit of production [3]	0.5306
8. Allocation of costs: [4]	
9. Gas—MMBtu [5]	1,162,374
10. Liquids—MMBtu [6]	101,161
11. Total MMBtu	1,263,535
12. Percentage allocated to gas [7]	92.12

[2] Salvage value as estimated by petitioner.

[3] Line 6 divided by 1,244,604.

[4] Modified Btu method per opinion No. 749.

[5] 1,244,604 Mcf times 0.950 MMBtu/Mcf.

[6] 12,379 bbls times 5.448 MMBtu/bbl times 1.5 modifier.

[7] Line 9 divided by line 11.

Cordillera Corp., Docket No. RI78-43

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment [2] (f)
1. Average investment:					
2. 1979	293,186	$792,419	$155,564	$636,855	$714,637
3. 1980	241,128	636,855	127,943	508,912	572,884
4. 1981	195,458	508,912	103,710	405,202	457,057
5. 1982	166,714	405,202	88,458	316,744	360,973
6. 1983	140,525	316,744	74,563	242,181	279,463
7. 1984	115,933	242,181	61,514	180,667	211,424
8. 1985	91,661	180,667	48,635	132,032	156,350
9. Total	1,244,604		$660,387		$2,752,788
10. Average annual investment [3]					393,255
11. Average annual rate base:					
12. Average annual investment					393,255
13. Average annual working capital allowance [4]					21,688
14. Total annual rate base					414,943

[1] Column (b) times line 7 of sheet 2.

[2] Column (c) plus column (e) divided by 2.

[3] Column (f) of line 9 divided by 7 year productive life.

[4] 0.125 times line 7 of sheet 1 divided by 7 year productive life.

[FR Doc. 78-28187 Filed 10-5-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

NOTICE OF CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of September 1 through September 8, 1978

Notice is hereby given that during the week of September 1, 1978, through September 8, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

SEPTEMBER 27, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 1 through Sept. 8, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 1, 1978	El Paso Natural Gas Co., El Paso, Tex	DEE-1810	Price exception (sec. 212.165). If granted: El Paso Natural Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Midkiff plant.
Do	Special Counsel, Washington, D.C	DEX-0105	Supplemental order. If granted: An escrow account would be established for refunds made by Gulf Oil Corp. pursuant to a consent order entered into by Gulf and the Office of Special Counsel.
Sept. 5, 1978	Bultman, Inc., Jefferson City, Mo	DEH-0106	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to a statement of objections submitted by Bultman, Inc., in response to a proposed decision and order issued to the firm (case No. DEO-0106).
Do	Cabot Corp., Houston, Tex	DXE-1816 and DXE-1817.	Extension of relief granted in *Cabot Corporation*, case Nos. DXE-0535 and DXE-0536 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect non-product cost increases incurred in producing natural gas liquids and natural gas liquid products at its Beaver and Estes plants.
Do	Gene L. Bolin, Philmath, Oreg	DRD-0026 and DRH-0026.	Motion for discovery request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Gene L. Bolin in response to a proposed remedial order issued to the firm. Discovery would be granted to Mr. Bolin with respect to his objection to a proposed remedial order issued DOE region X.
Do	Hill, Christopher, & Phillips, Washington, D.C.	DFA-0208	Appeal of freedom of information request denial. If granted: Hill, Christopher, & Phillips' freedom of information request of Aug. 1, 1978, would be deemed denied and the firm would be granted access to documents relating to strategic petroleum reserve program.
Do	Mapco, Inc., Tulsa, Okla	DEE-1819	Price exception (sec. 212.165). If granted: Mapco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Southwest Davis plant.
Do	Quincy Oil Co., Boston, Mass	DRH-0026	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with Quincy Oil Co.'s objections to a proposed decision and order issued with respect to an application for exception which the firm filed.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 1 through Sept. 8, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Sun Company, Inc., Dallas, Tex	DXE-1818	Extension of relief granted in *Sun Company, Inc.*, case No. DXE-0853 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Red Fish Bay plant.
Do	Taunton Municipal Lighting Plant, Taunton, Mass.	DRH-0029	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with Taunton's objections to a proposed decision and order issued with respect to an application for exception submitted by Quincy Oil Co.
Sept. 7, 1978	Acomi Corp., Peabody, Mass	DEE-1821	Exception to change supplier. If granted: Acomi Corp. would be assigned a new supplier of petroleum to replace its base period suppliers, Frontier Petroleum and North East Petroleum.
Do	Chevron, U.S.A., Inc., San Francisco, Calif.	DEE-1820	Application for exception to pricing and entitlements classifications. If granted: Chevron U.S.A., Inc., would receive exceptions to pt. 212, subpt. D and pt. 211, subpt. C with respect to the crude oil produced from the State lease PRC 1824 South Flank Pool Property.
Do	Cities Service Co., Tulsa, Okla	DEE-1822	Price exception (sec. 212.83). If granted: Cities Service Co. would be granted an exception from the provisions of 10 CFR 212.83 with respect to the firm's propane prices.
Do	Hedrick & Lane, Washington, D.C.	DFA-0209	Appeal of an information request denial. If granted: The DOE July 19, 1978, information request denial would be rescinded and Hedrick & Lane would be granted access to DOE data concerning the document "Joint Committee, Policy and Program: A Chronology of Leading Events, Jan. 1, 1953, *AEC*" and other documents included therewith.
Do	Special Counsel for Compliance, Washington, D.C.	DSG-0029	Petiton for special redress. If granted: The Office of Hearings and Appeals would promulgate procedures for handling claims for refunds filed by purchasers of Conoco motor gasoline and No. 2 heating oil from Foremost Petroleum Co. and M & A Petroleum Co. in connection with proposed consent orders entered into on Aug. 11, 1978.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 7, 1978	Milltown Skelgas, Inc., Minneapolis, Minn	DEE-0958
Do	South Hampton Co., Washington, D.C.	FEE-4778
Do	Union Oil Co. of California, Los Angeles	DXE-0413

Proposed Remedial Orders—Notices of Objection Received

Sept. 5, 1978	Mobil Oil Corp., Washington, D.C.	DRO-0105
Do	Charles F. Haas, Corpus Christi, Tex	DRO-0106
Do	W. B. Osborn, Seminole, Okla	DRO-0107

[FR Doc. 78-28244 Filed 10-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-241; Transmittal Nos. 91-92; FCC 78-635]

MCI TELECOMMUNICATIONS CORP.

Memorandum Opinion and Order Instituting Investigation

Adopted: September 14, 1978.

Released: October 2, 1978.

By the Commission: Commissioner Washburn dissenting; Commissioner Fogarty dissenting and issuing a statement; Commissioner White concurring in the result.

In the matter of MCI Telecommunications Corp., revisions to tariff F.C.C. No. 1, transmittal Nos. 86 and 88, CC Docket No. 78-241; MCI Telecommunications Corp., revisions to tariff F.C.C. No. 1, metered use service, transmittal No. 91; revisions to tariff F.C.C. No. 1, shared private line service, transmittal No. 92.

1. On June 2, 1978, MCI Telecommunications Corp. (MCI) filed its transmittal No. 91 to modify the rate structure for its metered use service and to add another option to that service. That filing is to become effective on October 1, 1978. On June 13, 1978, MCI filed its transmittal No. 92, which contains revisions to the shared private line service (SPLS) rate structure, and adds a new option to the service. That filing is scheduled to become effective September 15, 1978.

2. American Telephone & Telegraph Co. (A.T. & T.) filed a petition for suspension and investigation of MCI's transmittal No. 91 on June 27, 1978, to which MCI replied. On July 7, 1978, A.T. & T. filed a petition for suspension and investigation of MCI's transmittal No. 92. MCI replied to that petition also. Since the revisions to the

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metered use service and SPLS offerings are interrelated and the issues raised against both tariff filings are essentially the same, we will consider them together.

I. Description of the Tariff Revisions

A. Transmittal No. 91 (Metered Use Service)

3. Metered use service[1] consists of several arrangements for originating and terminating calls. Common to these options are an MCI premises in the originating city, switched intercity circuits shared by all subscribers to the service between the city pairs and an MCI premises in the terminating city. As we understand MCI's tariff, the individual metered use service options can originate via: (a) A dedicated access line provided by MCI from the customer premises to the MCI premises, (b) calls from the customer's local exchange service into shared access facilities obtained by MCI at its premises, or (c) a customer-provided means of access. Likewise, the various options can terminate via: (a) A dedicated access line provided by MCI from the MCI premises to the customer premises, (b) MCI obtained shared access facility and exchange service, or (c) a customer-provided exit facility. Our interpretation of the MCI tariff provisions leads us to believe that any one of the access arrangements can be coupled with any of the terminating configurations to form a metered use service option. However, we note that MCI's cost support material filed with transmittal Nos. 91 and 92 apparently contemplates customers will use only the following three options. The first, known as Execunet, allows the customer, through the telephone company's local exchange service, to access the MCI premises in the originating city. This requires MCI subscription to local exchange service also. In the terminating city, calls are terminated through local exchange service subscribed to by MCI and shared among customers, thereby allowing the caller to complete calls to any telephone company subscriber of local exchange service in the terminating city. The second, called Service 12, utilizes a dedicated access line from a customer premises to the MCI premises in the originating city. This option terminates in the distant city through local exchange facilities obtained by MCI and shared with other customers. The third option added by this filing includes a dedicated access line to originate and terminate the service (hereinafter referred to as "Option III").

4. MCI proposes metered use service rate structure revisions which primarily focus on the intercity circuit rate element.[2] A flat distance insensitive rate of $0.0265 per minute, subject to a $75 monthly minimum per subscriber charge, would replace the distance sensitive rate. This change would result, for example, in an intercity rate of $1.59 for a 6-minute metered use service call between any two cities served. The current rate for the intercity portion of a 6-minute call between Washington, D.C., and New York City is $1.46 and between New York City and Phoenix is $2.13. The same $75 minimum is currently applicable. Based on this comparison, it appears the customer making a call between two city pairs close in distance will experience a rate increase because of the distance insensitive intercity rate element. While the $0.265 rate would be applicable to all Execunet calls, alternative rates for the intercity portion of the service would be available for Service 12 and option III. The alternative for Service 12 requires a $910 monthly minimum charge for intercity facilities for each dedicated access facility used to access the service. This enables a customer to obtain a 55 percent reduction of rates for intercity usage to $0.119 per minute for that customer's calls between metered use service cities. It should be noted that a customer would have to make 7,647 minutes of calls per month at $0.119 per minute to reach the $910 charge. However, a customer agreeing in advance to take service under the $910 minimum would still pay less than the $0.265 per minute rate if that customer makes over 3,434 minutes of calls per month. The alternative offered in conjunction with option III involves a $6.50 monthly minimum charge for each set of dedicated facilities used to access and exit the service. Such customers also pay a $0.119 per minute rate for use of intercity facilities. This alternative was not available previous to this filing. Similar to the situation with Service 12, an option III customer would have to make 5,462 minutes of calls per month at $0.119 per minute to reach the $650 charge, but would still pay less than the $0.265 per minute rate if that customer makes over 2,453 minutes of calls per month.

5. MCI also proposes to revise the metered use service rate structure to change the access charge which relates to a customer's entry to an exit from the shared intercity circuits via local exchange facilities leased by MCI. These facilities are utilized at both the originating and terminating end of Execunet and at the terminating end of Service 12. The revised charge is to be based on the customer's usage and is prorated as a per-minute charge. The rate is to be based on the local telephone company's local exchange service charges. MCI would eliminate the current maximum on prorated access charges. MCI has provided basic discrete billing information without charge but imposed a $5 monthly charge for the first additional 25 individuals for which the information was provided and a $1 monthly charge for every individual thereafter. Under the new revisions, MCI would charge $10 monthly for the basic discrete billing information and $8 per month for each additional individual or group of individuals for which the information is provided.

B. Transmittal No. 92 (SPLS)

6. SPLS[3] consists of a dedicated customer access line from a customer premises to MCI premises, switched intercity circuits shared by all SPLS subscribers between the city pairs, and MCI premises in the terminating city, and one of several alternative distant location connections. The first option utilizes a dedicated access line to terminate the service in the distant city (hereinafter referred to as "Option I"). The second option terminates the service in the distant city by using customer-obtained lines or service (hereinafter referred to as "Option II"). MCI proposes to add a third option to SPLS in this filing which would provide for termination of SPLS calls through local exchange facilities obtained by MCI and shared with other customers (hereinafter referred to as "Option III").

7. The SPLS rate structure would be revised in several respects.[4] The rates for the intercity circuits would be based on a subscriber's total cumulative monthly usage of the service in hours from all individual originating locations. This hourly rate would consist of the sum of a customer's usage over all the access facilities used by that customer in each originating location. The distance insensitive rate would be $13.98 per hour (0.233 per minute) for the first 60 hours of use per month, $10.98 per hour (0.183 per minute) for 61 to 240 hours of use per month, and $3.48 per hour (0.058 per minute) for each hour over 240. All customers, regardless of total number of hours, used in a month would pay the $13.98 rate for the first 60 hours each month and the $10.98 rate for 61 to 240 hours. This would replace the present intercity circuit charge, which varies for each city pair, and would eliminate the monthly minimum charge for designated city pairs and cumulative total monthly minimums now found in the SPLS rate structure. Thus, for example, the new rate for the intercity portion of a 6-minute SPLS call between any two cities served would be $1.40 where the customer's total monthly usage is 60 hours or less, or $1.10 for usage between 61-240 hours and $0.35 for usage over 240 hours. The current rate for the intercity portion of the same call between Washington, D.C., and New York City is $0.75 and between New York City and Phoenix it is $0.93, both of which are subject to a minimum monthly usage charge. Based on this comparison, all customers would experience a rate increase for their first 240 hours of calls each month, with the greater increases being for the first 60 hours of calls and for those calls between city pairs closer in distance. Of course, customers making over 240 hours of calls per month would have a rate decrease for those additional calls. The fact that the minimum usage charge for each city pair and the cumulative total minimums would be replaced with an intercity rate based on total usage among all city pairs could mitigate the apparent differences between the old and new rates in the above examples, depending upon a customer's usage configuration among given city pairs.

8. MCI would further revise the SPLS rate structure to reduce the monthly charge for terminating customer dedicated access facilities in an MCI switch located in the originating city from $50 to $10. MCI calls this a dedicated access arrangement charge. The nonrecurring installation charge for each dedicated access arrangement and each distant location dedicated access line to a customer designated premises would be increased from $50 to $60. Finally, MCI proposes to expand the number of cities in which SPLS is offered so that SPLS and metered use service would be offered among the same designated city pairs.

[1] See appendix I, attached, for an illustration of the specific metered use service options described in this paragraph.

[2] See appendix II, attached.

[3] See appendix I, attached, for an illustration of the SPLS options.

[4] See appendix II, attached.

II. Contentions of the Parties

A. A.T. & T.

9. *General public interest questions.* In its petition against the SPLS revisions, A.T. & T. contends that the new SPLS option constitutes a public switched message service and, as such, raises the same public interest questions as the expansion of Execunet (MCI transmittals Nos. 86 and 88). A.T. & T. also argues that when the Commission rejected the same SPLS option as being outside the scope of MCI's service authorizations in *MCI Telecommunications corporations (SPLS II)*, 63 FCC 2d 237 (1977), it did not reach the public interest issues raised by that offering, and therefore they should be considered now. A.T. & T. relies on *MCI Telecommunications Corporation* v. *FCC (Execunet I)*, 561 F. 2d 365 (D.C. Cir. 1977), *cert. denied*, 54 L. Ed. 2d 790 (1978) and *MCI Telecommunications corporation* v. *FCC (Execunet II)*, No. 76-2071 (D.C. Cir. April 14, 1978).

10. *Cost support material.* A.T. & T. contends that the cost support material submitted with the metered use service and the SPLS tariff filings is deficient and in violation of the requirements of § 61.38 of the Commission's rules, 47 CFR 61.38. Specifically, A.T. & T. argues that MCI has failed to supply cost justification for either the metered use service or the SPLS distance insensitive rate structures. Although overall costs for metered use service are provided, A.T. & T. contends that costs are not supplied for each of the service options, such as Execunet, Service 12 and the newly added option. A.T. & T. alleges that total costs for all of MCI's services and for each service individually are not included in the cost support material for either the metered use service of the SPLS revisions. Furthermore, A.T. & T. claims that the reduction in the charge for the dedicated access line, the increase in installation charges and the elimination of the minimum charges for SPLS are not cost justified. A.T. & T. argues that the allocation of indirect costs to both metered use service and SPLS is not adequately cost supported. It states that these indirect costs represents approximately 50 percent of the total costs reported for each of the two services. A.T. & T. contends that MCI bases its metered use service allocation on the number of metered use circuits used in relation to MCI's total installed circuits, but that MCI has not demonstrated that the allocated costs are related to the number of circuits. In addition, A.T. & T. argues that MCI has not provided justification for total costs to be allocated to SPLS for the 3-year projections or for the percentage allocations assumed. Also, A.T. & T. questions the SPLS cost assumptions when compared to past experience. In particular, A.T. & T. claims that MCI shows that its direct and indirect costs increased by 128 percent from April 1977 to March 1978, but that MCI's projections show direct costs will increase 1,848 percent each year over the next 3-years and indirect costs increasing only 298 percent by comparison.

11. A.T. & T. also argues that the traffic and revenue material submitted with both MCI filings is deficient and violative of § 61.38(a)(ii) of the rules. A.T. & T. maintains that the market forecasts for neither service are substantiated, thereby making it impossible to assess their reasonableness or their derivation. A.T. & T. further contends that both MCI filings are deficient in providing estimates of changes in traffic and revenues resulting from the proposed revisions.

12. A.T. & T. questions the basis for the change in MCI's position in transmittal No. 91 that no cross-elasticity existed between metered use service and SPLS to the estimate made my MCI in transmittal No. 92 that 10 percent to 25 percent of the traffic and revenues could be diverted from metered use service to SPLS.

13. *Like services.* A.T. & T. contends that the new metered use service Option III and the SPLS dedicated access option are like services at different rates. A.T. & T. claims that both services provide the customer with the same service configuration, including dedicated access to MCI facilities, shared intercity lines, and termination over customer provided local exchange facilities or a dedicated facility between the local MCI office and the customer's premises. A.T. & T. raises the question of whether MCI uses the same intercity switching and facilities for metered use service and SPLS. A.T. & T. also contends that the new SPLS Option III and Service 12 option are like services offered at different rates. In this regard, A.T. & T. argues that both services provide dedicated access to MCI facilities, shared intercity lines and temination over exchange service provided to MCI by the local telephone companies.

B. MCI

14. *Public interest questions.* MCI argues that the public interest issues raised by A.T. & T. are properly the subject of the *MTS/WATS Market Structure Inquiry*, CC Docket No. 78-72, FCC 78-144 (released Mar. 3, 1978), and not of individual tariff revisions.

15. *Cost support material.* MCI replies to A.T. & T.'s contentions by stating that it has adequately justified the changes to its metered use service and SPLS tariffs. In regard to the distance insensitive rate structures, MCI argues that they more appropriately distribute the costs. This is so, MCI contends, because each call for these services must pass through an MCI switch prior to its completion, to route the call and enable call records to be made. Since the MCI switches are located in only 4 of the 24 cities served, MCI maintains that calls emanating from cities where switches are not present must pass over intercity lines to reach the appropriate switch and to reach the destination city. For example, MCI maintains that a call from Los Angeles to Phoenix would have to pass through the MCI switch in Dallas. Thus, MCI claims that the majority of the calls traverse distances which significantly differ from the actual mileage between the originating and terminating cities. MCI acknowledges that the disparity between airline miles and actual route miles does not occur for all city pairs served by metered use service and SPLS, but claims that as these services expand to

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additional cities, the condition of disparity will increase in the short run. Since MCI argues that a majority of the traffic does not bear this direct relation to airline miles between originating and termination locations, it takes the position that the portion of costs related to the intercity network should not be allocated in direct proportion to distance. MCI also notes that most of the other costs related to metered use service and SPLS are not related to distance. MCI claims that other carriers have distance insensitive rate structures.

16. MCI contends that § 61.38 of the rules does not require a carrier to provide costs for each option within a particular service, or to provide the costs of service for services not affected by the filing or for the carrier as a whole. Thus, MCI admits that cost data for each individual option is not supplied in its metered use service or SPLS filings. MCI responds to A.T. & T.'s contentions regarding allocated or indirect costs by maintaining that such costs cannot be directly attributed to a particular service but by definition are allocated on a percentage basis from total costs. MCI argues that the indirect costs for metered use service were allocated on the basis of the number of circuits used for that service compared to the total number of MCI's installed circuits. MCI expands its contentions in regard to SPLS and explains that it employs several different allocation methods to assign the indirect costs associated with SPLS. These methods are based on such factors as direct costs, backbone costs, active circuits, number of customers and revenue contribution, MCI explains. In addition, MCI argues that A.T. & T.'s comparison of direct and indirect cost increases for SPLS have no significance in determining the lawfulness of rates. MCI contends that most indirect costs do not increase in direct proportion to volume increases in a given service and, if they did, they would not be considered indirect costs.

17. MCI further contends that it has provided the necessary traffic and revenue data to comply with the requirements of § 61.38. MCI claims that it has no incentive to exaggerate its metered use service market forecasts to justify low rates. It also maintains that since the revisions to the metered use service rates are not intended to change overall rate levels, no difference in impact or traffic and revenues for other services is expected. MCI argues that an estimate (in terms of percentage diversion) of the effects of the changes in SPLS traffic and revenues are provided and that the actual changes can be determined from the cost information provided. In addition, MCI claims that its intent in making the SPLS rate structure revisions is to make it more viable and, therefore, any estimates of changes would have little significance. MCI contends that historical information concerning past sales and installations generally is not useful in preparing future forecasts and, in such instances, MCI bases the forecasts on marketing estimates.

18. Finally, in response to A.T. & T.'s contentions regarding the changes in cross-elasticity estimates, MCI argues that when the metered use service revisions were filed, the SPLS revisions had not been made and no cross-elasticity existed. However, when the SPLS revisions were submitted, MCI states that new cross-elasticity became apparent and was reflected in the more recent studies.

19. *Like services.* MCI distinguishes the different options of metered use service and SPLS which A.T. & T. argues are like services on the basis of different rates. MCI acknowledges that there are "similarities" in the provision of the services. MCI contends that its service options are designed to offer different combinations of service features and rates to meet customer demand and that they do not constitute a violation of section 202(a).

III. Discussion

20. Several fundamental changes to the metered use service and SPLS tariff offerings have been proposed by MCI. These revisions and the arguments of A.T. & T. and MCI are significant and require our careful consideration. In evaluating the tariff revisions, we find that it is necessary to discuss the merits of the parties' contentions and our concerns in several contexts. First, we will address the public interest questions raised by A.T. & T. Then, we will consider the adequacy of MCI's filings and the accompanying justification against the standards set forth in our rules and the Communications Act. Specifically, we will evaluate the compliance of MCI's submissions with § 61.38 of the rules, which requires a carrier to supply certain information in support of its tariff charges. We will also consider the justification for the revised rate structures based on the just and reasonable criteria of section 201(b) of the Act, 47 U.S.C. 201(b). Finally, we will address different discrimination issues raised under section 202(a) of the Act, 47 U.S.C. 202(a), such as whether the metered use service pricing alternatives constitute an unjust and unreasonable discrimination and whether various metered use service and SPLS options constitute like services and, if so, whether different rates for the same elements are unreasonably discriminatory.

A. Public interest questions

21. The arguments advanced by A.T. & T. are, by A.T. & T.'s own admission, the same as those made against the expansion of Execunet to 16 additional cities. We rejected A.T. & T.'s position in *MCI Telecommunications Corporation*, CC Docket No. 78-241, FCC 78-565 (released Aug. 18, 1978), para. 10. We find no new reason in this case to deviate from our determination made there that the public interest issues concerning competition in the interstate MTS field should be considered in the *MTS/WATS Market Structure Inquiry, supra*, rather than to seek separate resolution in connection with individual tariff filings.

B. Cost support material

22. At the outset, it should be noted that except for the cost of service study for SPLS, MCI's cost support material filed with both transmittal Nos. 91 and 92 is substantially the same as that supplied with its earlier filings expanding Execunet to an additional 6 and 10 cities (transmittal Nos. 86 and 88, respectively). Because of the similarity of this data, it is appropriate to consider the supplemental cost material supplied by MCI on May 16, 1978 in connection with transmittal Nos. 86 and 88. The economic and financial support data remains essentially unchanged from the earlier submissions. On the basis of insufficiencies in the data accompanying transmittal Nos. 86 and 88, we designated those MCI filings for investigation in CC Docket No. 78-241, FCC 78-565 (released Aug. 18, 1978).

23. In the metered use service filing, costs in the 3-year projections are shown to increase 10 percent each year. No explanation is given for this amount and therefore its validity cannot be verified. In the SPLS filing, MCI utilized a revised method for allocating costs and in its reply to the A.T. & T. petition, MCI offers an explanation of the methodology used. However, MCI does not show how any of the allocation factors are derived or supplied.

24. We do not believe that the changes in MCI's cross-elasticity projections between the two tariff filings are, in and of themselves, cause for great concern. A period of time existed between the two filings. In this case we do not necessarily expect MCI to include the effects of future tariff filings in present revisions.

C. Justification for rate structure

25. Closely related to the question of whether MCI has complied with the requirements of § 61.38 of the rules is the issue of whether the rate structure changes for metered use service and SPLS have been adequately cost justified and can be considered just and reasonable. We have consistently held that the costs of providing a service are a primary basis for determining whether a carrier's rates are just and reasonable within the meaning of section 201(b) of the Act. In considering the rate structure changes to metered use service and SPLS, we must examine the cost justification for the distance insensitive intercity rate, the pricing alternatives to those basic intercity rates, and the local exchange service charges.

26. Although the actual intercity rates for the two services differ, MCI relies on the same rationale for the distance insensitive aspect of both rate structures, i.e., that most of the costs involved in providing the intercity portion of the services are distance insensitive. An analysis of MCI's costs for both metered use service and SPLS indicates that certain distance insensitive costs are present. In the case of metered use service, MCI identifies such categories of costs as data processing, local interconnection, switches and salaries as being distance insensitive, representing approximately 58 percent of the total metered use service costs. In the case of SPLS, MCI categories costs such as communication system operation (engineering and maintenance), sales and marketing, customer service and installation, local interconnection, data processing and switches as distance insensitive, which comprise about 72 percent of the total estimated SPLS costs. These percentages are based on MCI's costs, which have not been adequately substantiated. We also question the categorization of some of the items as distance insensitive, such as the engineering and maintenance costs for SPLS. Those costs generally increase with distance, since more plant requires additional engineering and maintenance. Several other cost categories cannot be identified as being distance sensitive or not because of the lack of explanation offered by MCI of these cost categories. We are not convinced that a cost level of 58 percent or 72 percent is adequate to support a distance insensitive rate.

27. In addition, MCI supports this portion of its rate structure on the proposition that airline miles bear no relationship to the route miles a particular call travels. By way of illustration, in its reply to A.T. & T.'s petition against the metered use service filing, MCI sets forth a comparison between airline miles and route miles between selected city pairs for Execunet calls. A representative sample of these are repeated below:

Originating city	Terminating city	Airline miles	Route miles
Washington	Pittsburgh	191	522
Detroit	New York	481	949
Cleveland	Detroit	91	885
Los Angeles	Phoenix	359	2,128
Kansas City	Dallas	499	1,210
St. Louis	Tulsa	359	855

While MCI may have shown that, at least for some calls, airline miles between the originating city and the terminating city bear no consistent direct relationship to route miles between those locations, MCI has failed to show that no relationship exists between the two sets of mileage figures. MCI acknowledges that calls between several city pairs (particularly where MCI switches are located) travel much the same mileage as airline miles. In effect, MCI seems to be saying that it cannot define the relationship between the differing sets of mileage figures and thus that mileage is to be disregarded as a rate factor. Although as a common carrier, MCI's intercity facilities (both leased and owned) are primarily terrestrial and therefore have basically distance sensitive costs, we do not take the position that its rates must necessarily track these costs. But if MCI's rates do significantly vary from its costs, there must be justification for such deviation (e.g., bear costs that are caused by other users. In this case we are concerned that short haul users may unreasonably bear costs that are imposed by long haul users.

28. As previously stated, various pricing alternatives are offered to customers of certain Metered Use Service options whereby the customer pays only 45 percent of the basic $0.265 per minute rate (or $0.119) for intercity facilities if that customer agrees to pay a higher monthly minimum intercity charge. (See para. 4 above and appendix II, attached.) This minimum is $910 for Service 12 and $650 for Option III. MCI has provided no justification for either the amount of reduction in the per minute rate or the amount of the monthly minimums.[5] Also, the SPLS rate structure requires all customers to pay a given rate for intercity facilities for the first 60 hours of use per month, a lower rate for 61 to 240 hours and an even lower rate for over 240 hours. (See para. 7 above and appendix II, attached.) While the step method of employing discounts has been used by common carriers (see footnote 5), MCI has offered no justification for its selection of the various usage steps or the rate levels within each step.

29. Several questions relating to the cost justification for the MCI obtained exchange service portion of both metered use service and SPLS arise when the figures are compared with earlier MCI filings. In transmittal No. 91, MCI states that the current total monthly cost of 4,000 such local exchange lines is $314,000. This number excludes the 700 lines which MCI considers to be inactive and results in a per circuit cost of approximately $80 per month. In transmittal No. 92, MCI uses the same total costs, which we assume are based on the same figures, but it offers no explanation for these costs. Earlier, in transmittal Nos. 86 and 88, MCI provided a figure of $320,000 as the monthly cost of 3,200 active local exchange lines. This resulted in a per circuit cost of about $100 per month. However, in response to the Bureau's May 10, 1978, request for additional information, MCI stated that the total monthly cost for local exchange lines varied from $328,000 to $337,000 for 4,710 circuits which meant an average monthly cost of between $69.66 and $71.63 per circuit. MCI stated that those figures included inactive lines, which tended to reduce the average cost. Although MCI offers a superficial explanation for each of the above sets of figures, the frequency of change in these local exchange line costs and the number of lines included cause us to question further the validity of the most recent set of figures and the consistency in treatment of costs for local access lines.

30. The costs incurred by MCI in acquiring these exchange access lines from the telephone company are apportioned among MCI's metered use service and SPLS customers on a pro

[5] The traditional way of applying bulk discounts is by steps, with all usage within a step paying the same rate. For example, all usage under 100 hours pays x rate, 100-200 hours y rate, and above 200 hours z rate. Such a rate structure presumably reflects declining costs as volume increases. In MCI's metered use services rate structure, on the other hand, the same discounted rate is applied to all usage by high volume customers, i.e., those agreeing to the higher minimum charge in advance but is not given to other customers even if their usage exceeds the high volume minimum. In contrast, it is interesting to note that MCI does employ the step rate structure for its SPLS, but does not provide any significant reason for the different approaches between the services.

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rata basis. MCI determines a per minute cost based on the total number of minutes of usage of the exchange access lines divided by the total charges to MCI for the lines. Then, each customer's charge is computed by multiplying the per minute cost times the individual customer's number of minutes of usage. However, it is not clear whether this charge is calculated on a systemwide or servicewide basis. But more inportantly there is no apparent way a customer could calculate the charges applicable to him since these would depend on the number of lines leased by MCI in any given month and their average use by other customers. Even the maximum charge applied in the current tariff would be eliminated.

31. Section 61.55(f) of the rules, 47 CFR 61.55(f), states that explanatory statements shall be "in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application." Moreover, subsection (h) of that same rule states that tariffs shall contain "[a]n explicit statement of the charges in cents or in dollars and cents of United States currency, per chargeable unit of service for all communications services" * *." Therefore, aside from the general question of the reasonableness of a rate element that the customer has no way of calculating or reasonably ascertaining in advance, it appears that the instant filings may be contrary to the Commission's rules.

D. DISCRIMINATION

32. In paragraphs 25-31 above, we were concerned with the adequacy and reasonableness of specific charges, which is treated in section 201(b). Pursuant to section 202(a), we also must consider the justness and reasonableness of the relationship between different charges for "like communication services." Two separate issues arise under this subject. The first is whether the discounts for two of the metered use service options are discriminatory. The second involves the question of whether metered use service and SPLS, or various options within these categories, are like services and therefore whether rate differentials between them must be justified.

PRICING ALTERNATIVES

33. In brief summary, the various rates for the intercity facilities portion of the metered used service are as follows:

Service option	Minimum monthy charge	Per minute charge
Option I (Execunet)	$75	$0.265
Option II (Service 12)	75	.265
Option III	910	.119
	75	.265
	650	.119

For SPLS the same intercity portion is available for all options at the following rates:

Monthly hours use	Per minute charge
0 to 60	$0.233
61 to 240	.183
Over 240	.058

Before addressing the like service question, it become immediately obvious that there are two different rate schedules for metered use service Options II and III and that subscribers to those service options pay two different rates. While it is possible that MCI could justify differences in these rate schedules on the basis of costs or some other nationale, it has not attempted to do so. Absent any such justification these rate differentials within these service options would appear to be clearly discriminatory.

34. *Like services.* As already noted, MCI's response to A. T. & T.'s like services argument is primarily that the rates for the particular service options are different and that the individual options are offered to meet customer demand. The test for like services is whether the services in question differ in "any material functional respect." See *American Trucking Association, Inc.* v. *FCC*, 377 F. 2d 121, 127 (1966), *cert. denied*, 386 U.S. 943 (1967); *Commodity News Service, Inc.* v. *FCC*, Case No 75-2057 (D.C. Cir Aug. 5, 1977); *A.T. & T*, Series 7000, FCC 77-804 (released Mar. 30, 1978). MCI does not address the functional differences between any of the service options. However, it is evident that each of the SPLS options has a corresponding metered use service option which embodies the same type of access and terminating configurations, as well as the shared intercity facilities. This becomes apparent if we utilize the diagrams of appendix I to compare the options. Metered use Service 12 apparently corresponds to SPLS Option III, both of which utilize a dedicated access line to originate a call, shared intercity circuits and MCI obtained shared access facilities and exchange service in the terminating city. The new metered use service Option III appears to correspond to SPLS Option I, where dedicated access lines are utilized on both the originating and terminating ends and shared intercity circuits are used. SPLS Option II apparently corresponds to another metered use service option (not illustrated)[6] where a dedicated access line is used to originate a call, shared intercity circuits are utilized, and a customer obtained line or service is used to terminate the call. These facility comparisons raise substantial questions as to whether SPLS and metered use service options are like serivces since the facilities used for the various options appear to be identical and to perform the same functions. From the perception of the customer, the functions of each of the two options within the three sets of options compared would appear to be identical except for the differing charges incurred.

35. The rates for the metered use service and SPLS options compared above are clearly different. This can be seen from appendix II, where the rates for the various options of metered use service and SPLS are calculated based on 8,000 minutes of use per month. The comparisons of charges for the relevant options are repeated below:

Metered use service	SPLS
Option II (Service 12)	Option III
1. $2,177.90 plus prorated exit line	$1,711.53 plus prorated exit line.
2. $1,009.90 plus prorated exit line	

Option III	Option I
1. $2,235.80	$1,779.43.
2. $1,067.80	

Despite MCI's claim, rate differentials are not relevant in reaching a determination whether services are like. The costs of providing the service do not enter into the determination of whether there is a discrimination, but are only relevant to show whether a discrimination may be a reasonable one under the Act. See *A. Lindberg & Sons, Inc.*, v. *U.S.*, 408 F. Supp. 1032 (W.D. Mich. 1976); A. T. & T., series 7000, supra. Rate differentials are thus an indication of a possible discrimination rather than a justification for such a discrimination. We have already stated that MCI has offered no cost justification for these different charges.

36. Therefore, we have a situation in MCI's two filings which raises substantial questions as to whether the various options are like services and, if so, whether the rate differentials are justified to the extent that no lawful discrimination exists, pursuant to section 202(a) of the Act. In fact, since the various options seem to be functionally the same, it is imperative to raise

[6] This metered use service configuration appears to be available from tariff descriptions.

the question of whether metered use service and SPLS are like services at this time. If it is found that these services or options within them are like, MCI will have the burden of proving that the varying charges are not unreasonably discriminatory.[7]

IV. CONCLUSION

37. we have set forth what we find to be the major deficiencies with MCI's tariff filings before us. These problems fall within two separate categories: (1) Deficiencies which are so substantial that their unlawfulness is almost certain; and (2) deficiencies which need to be investigated to determine whether they are lawful or unlawful.

38. The first category includes the absence of specific charges for MCI obtained exchange access lines in the tariff (see pars. 29-31 above) and the pricing alternatives for the intercity circuits in the charges for metered use service 12 and option III (see par. 33 above). We are prescribing a different procedural approach for dealing with these two deficiencies than the other category. In so doing, we recognize that MCI is a relatively small carrier involved in competitive markets and does not exert a dominant influence in those markets. Moreover, since the current MCI tariff is already in hearing, consolidation of these filings with that proceeding will be administratively convenient. Therefore, we will not reject MCI's tariff revisions at this time.[8] Instead, we give MCI 30 days from the release date of this decision to either fully justify or modify the two tariff provisions set forth above. In the case of the exchange access lines, MCI should provide a detailed explanation of the reasons, as well as seek a waiver of § 61.55(h) of the rules, if it is unwilling to specify an exact charge or a formula by which a charge may be calculated in advance by the customer. With regard to the metered use service pricing alternatives, MCI should either provide complete justification for the alternative charges or remove one of the alternatives from the tariff and include specific justification for the remaining charge. All interested parties will have 15 days from the date of MCI's submission to comment and MCI will have 10 days from the date comments are filed to reply. Based on these submissions, we will reach a determination as to the lawfulness of those particular tariff provisions involved, insofar as rejection is concerned, prior to the suspended effective date of the tariff revisions.

39. The deficiencies included in the second category include the cost justification for changes to the metered use service and SPLS offerings, the justness and reasonableness of the distance insensitive intercity rate for both metered use service and SPLS and the block intercity rates for SPLS customer, and possible unreasonable discrimination among various options of metered use service and SPLS. These deficiencies are sufficient to warrant investigation. Because of the commonality of the cost data between the filings already being investigated in CC docket No. 78-241 and the filings before us here, we will consolidate the investigation of transmittal Nos. 91 and 92 with the investigation previously initiated in CC docket No. 78-241. This will allow a more complete investigation into the major aspects of and interrelationships between MCI's metered use service and SPLS offerings. In consolidating the investigations, we believe that the main thrust of the hearing should focus on the revised tariffs, reflecting the changes made in transmittal Nos. 91 and 92, rather than on the earlier revisions, which expanded Execunet service to additional cities. We believe the issues in the existing proceeding are sufficient to cover the specific issues we have raised herein with regard to transmittal Nos. 91 and 92. This also pertains to the like service questions discussed above, which are to be included in the section 202(a) issue of the designation order in CC docket No. 78-241.

40. We have already indicated that metered use service customers making calls between city-pairs close in distance will experience rate increases because of the distance insensitive intercity rate element. We also stated that all SPLS customers will realize a rate increase when making 240 or fewer hours of calls per month. In addition, substantial questions exist concerning the issues of discrimination among different customers to metered use service 12 and option III and between similar options of metered use service and SPLS. Because of the anticipated increases and the possibility that unreasonable discrimination exists, we are suspending the effectiveness of MCI's transmittal Nos. 91 and 92 for the full 5-month statutory period, pursuant to section 204 of the Act, 47 U.S.C. 204.

41. Accordingly, *It is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by MCI Telecommunications Corp. with transmittal Nos. 91 and 92.[9]

42. *It is further ordered*, That, pursuant to the provisions of section 204 of the Act, the revised tariff schedules filed by MCI with transmittal No. 91 are hereby suspended until March 1, 1979, and the revised tariff schedules filed by MCI with transmittal No. 92 are hereby suspended until February 15, 1979.

43. *It is further ordered*, That MCI will have 30 days from the release of this decision to make the appropriate filings concerning the issues specified in paragraph 38 above, that all interested parties will have 15 days from the date of MCI's submission to file comments, and that MCI will have 10 days from the date any comments are filed to reply.

44. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act, hearings in this investigation on the issues specified in paragraph 39 above are consolidated with those already established in CC docket No. 78-241.

45. *It is further ordered*, That the petitions to suspend and investigate filed by American Telephone & Telegraph Co. are granted to the extent indicated herein but otherwise are denied.

46. *It is further ordered*, That, the Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,[10]
WILLIAM J. TRICARICO,
Secretary.

[7] Even if these services are not determined to be like, a significant question remains as to whether the different rate levels for similar service elements, e.g., the intercity circuits, are reasonable.

[8] As we indicated in our Aug. 18, 1978 order (FCC 78-565) concerning MCI's previous tariff filing, the courts have not held that the duty to reject is absolute. Rather, they have recognized the need of agencies to exercise reasonable discretion not to reject when this best serves administrative purposes. *Municipal Light Boards* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971); *Associated Press* v. *FCC*, 448 F. 2d 1095 (D.C. Cir. 1971); *American Farm Lines* v. *Black Ball Freight Services*, 397 U.S. 532 (1970).

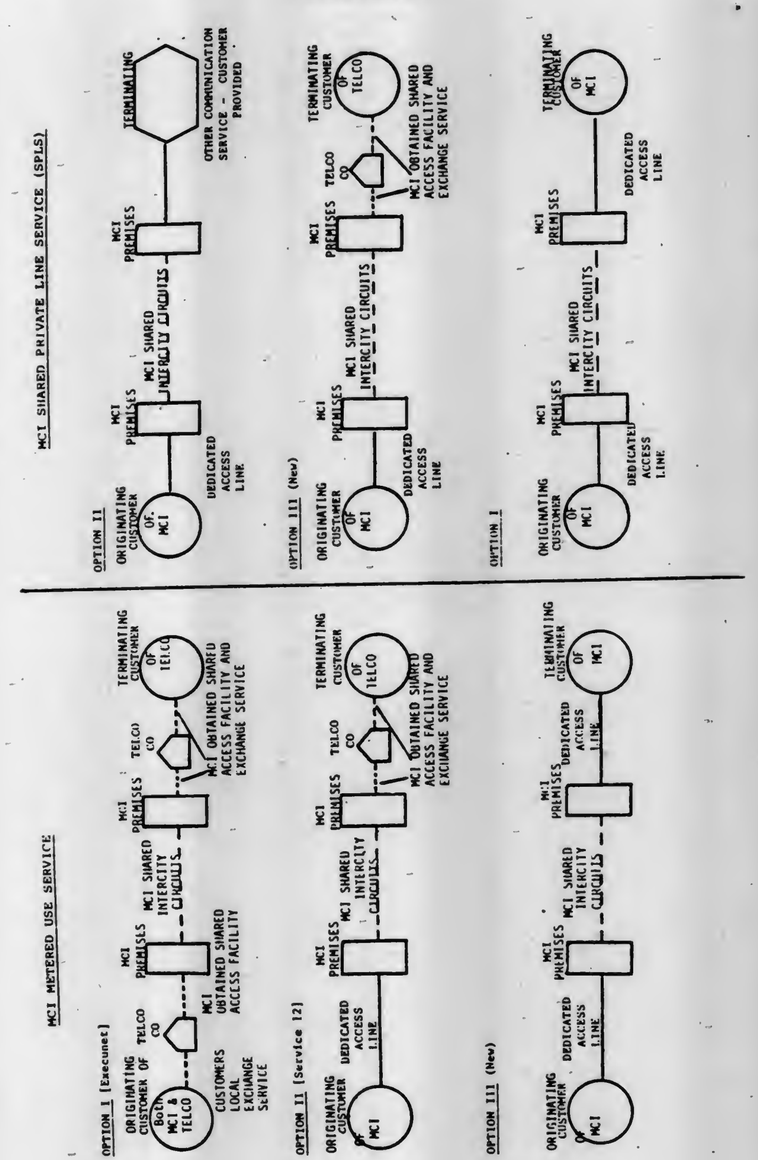
[9] Subsequent to the adoption of this memorandum opinion and order, but prior to its release, MCI withdrew both transmittal Nos. 91 and 92. Thus, there will be no investigation of those particular transmittals.

[10] See attached dissenting statement of Commissioner Joseph R. Fogarty.

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Appendix I



NOTE.—Appendix II "Summary of Monthly Rates for Metered Use Service and SPLS Options" has been deleted. For information related to this document, contact Mr John W. Hunter, 202-632-5550, Federal Communications Commission. Appendix II is filed as part of the original document.

DISSENTING STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

In re: MCI Telecommunications Corp. transmittals No. 91 and 92.

The majority here faces two tariff filings which, without question, violate on their face sections 202(a), 203(a), 203(c) of the Communications Act and §§ 61.38, 61.55(g), and 61.55(h) of our rules. Yet it merely finds that the filings raise questions of reasonableness and suspends them. Why?

These filings contain without question discriminatory rates for like services. MCI has made no attempt even to allege that there is a justification for this statutory [11] violation. These filings make the tariff so unclear that the Commission cannot determine what services are being offered. MCI has made no attempt to define its services, despite statutory and regulatory language requiring tariffs to delineate services clearly.[12] These filings contain no specific rates for local channels. MCI specifies a rate in its sales literature but not in the tariff, despite statutory and regulatory language requiring rates to be specified in the tariff [13] and making unlawful the marketing of services at any other rate.[14]

Under these circumstances, what is there to investigate? In order to cure the clarity and rate specificity defects, MCI must file a tariff revision. In order to make the discrimination lawful, MCI must present and support some justification. We cannot impute a justification under circumstances where the factors used in developing the rate are known only to MCI.

During the suspension period, the majority hopes to elicit additional information to enable the Commission to make a summary judgment. What more information do we need? MCI might make an attempt to justify the discrimination, but no additional pleadings or data can cure the other defects.

During the Commission meeting discussing this tariff, it was suggested that we should consider holding the specialized carriers to a standard different from that which we apply to A.T. & T. While it may be appropriate to modify our filing requirements to some extent to meet the realities of the competitive marketplace, we certainly should not summarily waive the rules on an ad hoc basis. Further, the Commission has no right to waive the Act, and no modification of our requirements could cure the statutory violations here. However, any modifications we do adopt should be after an inquiry or rulemaking proceeding, not on the basis of a particular tariff filing.

Meanwhile, our limited staff resources will be spent conducting a hearing on a tariff which "is so patently a nullity as a matter of substantive law, that Administrative efficiency and justice are furthered by obviating any docket at the threshold • • •" *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341, 1346 (D.C. Cir., 1974). I would reject.

[FR Doc. 78-28062 Filed 10-5-78; 8:45 am]

[11] 47 U.S.C. sec. 202(a).
[12] 47 U.S.C. sec. 203(a), 47 CFR 61.55(g).
[13] 47 U.S.C. sec. 203(c), 47 CFR 61.55(h).
[14] 47 U.S.C. sec. 203(c)(1).

[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

FMCS ARBITRATION SERVICES ADVISORY COMMITTEE

Recertification

Pursuant to section 9(c) of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Federal Mediation and Conciliation Service announces the intent to file recertification with the appropriate committees of the Senate and the House of Representatives on or before December 8, 1978.

The objectives of the committee are as follows: (1) Advise the Director of FMCS on the means and methods of providing better arbitration services; (2) review and evaluate the existing criteria for determining selection of applicants to the FMCS roster of arbitrators; (3) advise on the promulgation of new criteria to be utilized in selecting applicants; (4) advise on means to achieve a more efficient and effective utilization of the existing roster of arbitrators; (5) advise the Director of Arbitration Services on ways to utilize training programs and other technical assistance to and in improving arbitration services; (6) serve as a forum for exchange of ideas and opinions of interested persons.

Additional information regarding the FMCS Arbitration Services Advisory Committee may be obtained from John Grimes, Advisory Committee Management Officer, Federal Mediation and Conciliation Service, Washington, D.C. 20427, telephone 653-5226.

WAYNE L. HORVITZ,
Director.

[FR Doc. 78-28251 Filed 10-5-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

ALPHA AGENCY, INC., AND PIERCE AGENCY, INC.

Acquisition of Additional Shares of Bank

Alpha Agency, Inc., Aztec, N. Mex., and its subsidiary, Pierce Agency, Inc., Aztec, Inc., Aztec, N. Mex., have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 90,478 or more additional voting shares of the Citizens Bank, Farmington, N. Mex. The factors that are considered in acting on the application are set forth in section 3)c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 17, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28253 Filed 10-5-78; 8:45 am]

[6210-01]

CHENOA CORP.

Formation of Bank Holding Company

Chenoa Corp., Farmer City, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 51 percent or more of the voting shares of Bank of Chenoa, Chenoa, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Chenoa Corp., Farmer City, Ill., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to continue to perform certain nonbanking activities. Notice of the application was published on July 13, 1978 in the Clipper Times and Journal, a newspaper circulated in McLean County, Ill.

Applicant states that it would engage in the activity of serving as broker for the sale of credit life insurance and credit accident and health insurance directly related to extensions of credit by Bank. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to

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Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 25, 1978.

Board of Governors of the Federal Reserve System, October 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28254 Filed 10-5-78; 8:45 am]

[6210-01]

CITIZENS, INC.

Formation of Bank Holding Company

Citizens, Inc., Winsted, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 89.67 percent of the voting shares of Citizens State Bank of Winsted, Winsted, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 23, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28255 Filed 10-5-78; 8:45 am]

[6210-01]

CITIZENS BANKSHARES, INC.

Formation of Bank Holding Company

Citizens Bankshares, Inc., Farmington, N. Mex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Citizens Bank, Farmington, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 17, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28256 Filed 10-5-78; 8:45 am]

[6210-01]

OKLAHOMA NATIONAL BANSHARES, INC.

Formation of Bank Holding Company

Oklahoma National Banshares, Inc., Oklahoma City, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring more than 80 percent (less directors' qualifying shares) of the voting shares of Oklahoma National Bank & Trust Co., Oklahoma City, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Oklahoma National Banshares, Inc., Oklahoma City, Okla., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the beneficial interest in Myriad Co., Oklahoma City, Okla., a proposed business trust which will own shares of Myriad Insurance Agency, Inc., Oklahoma City, Okla., a proposed corporate insurance agency. Notice of the application was published on August 9, 1978 in The Daily Oklahoman, a newspaper circulated in Oklahoma County, Okla.

Applicant states that the proposed subsidiary would engage in the activities of offering credit life insurance and credit accident and health insurance in connection with extensions of credit by its proposed subsidiary bank. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 26, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28257 Filed 10-5-78; 8:45 am]

[6210-01]

ST. JOSEPH AGENCY, INC.

Acquisition of Bank

St. Joseph Agency, South Bend, Ind., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 1.7 percent of the voting shares of St. Joseph Bank & Trust Co., South Bend, Ind. Applicant presently owns 13.51 percent of the voting shares of bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 27, 1978.

Board of Governors of the Federal Reserve System, September 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28258 Filed 10-5-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of October 1978:

Minority Advisory Committee, ADAMHA, October 23-25, 9 a.m. to open Meeting, Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Va. 22150. Contact: Ernest F. Hurst, room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose. The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda. The Committee is meeting concurrently with the ADAMHA Annual Conference of the State and Territorial Alcohol, Drug Abuse, and Mental Health Authorities. Agenda items on October 23 include a status report of ADAMHA's response to recommendations of the First Annual Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues, and discussions with Executive Directors of National alcohol, drug abuse, and mental health associations. On October 24, the Committee will attend the Annual Conference. On October 25, 1 p.m., the Committee will reconvene to discuss the 1978-79 workplan and hear members' reports on liaison and special assignments. Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: October 3, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-28250 Filed 10-5-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78D-0330]

CLINICAL EVALUATION OF SLOW-ACTING DRUGS AGAINST RHEUMATOID ARTHRITIS

Availability of Proposed Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the availability of a proposed guideline that is intended to reflect acceptable standards for clinical evaluation of slow-acting drugs used to treat rheumatoid arthritis. The guideline is being made available for public comment to provide the agency and the Arthritis Advisory Committee with views to be considered for incorporation into the final published guideline.

DATES: Comments by February 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION OR FOR COPIES OF THE GUIDELINE CONTACT:

Joyce Creamer, Bureau of Drugs (HFD-150), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is making available for comment a proposed guideline, prepared with assistance from the FDA Arthritis Advisory Committee, which describes procedures for clinical evaluation of slow-acting drugs for treating rheumatoid arthritis. If, following the receipt of comments, the Commissioner concludes that the guideline reflects acceptable procedures for the evaluation of these drugs, the guideline will be made available under § 10.90(b) of agency regulations (21 CFR 10.90(b)). That section provides for use of guidelines to establish procedures of general applicability which are not legal requirements but which are acceptable to FDA. A person who follows a guideline is assured that his or her conduct will be acceptable to FDA. A person may also choose to use alternative procedures or standards even though they are not provided for in the guideline. A person who chooses to do so may discuss the matter further with the agency to prevent expenditure of money and effort or work that later may be determined to be unacceptable by FDA.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

The proposed guideline has been placed in the public file of guidelines and is available for public inspection at the office of the FDA hearing clerk (address given above), between 9 a.m. and 4 p.m., Monday through Friday. Copies may be obtained by contacting Joyce Creamer, Executive Secretary, Arthritis Committee, Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 201-443-4260.

On October 19, 1978, a subcommittee of the Arthritis Advisory Committee will meet to discuss the proposed guideline. The meeting will be held from 9 a.m. to 5 p.m. at the Food and Drug Administration, third floor, Conference Room G, 5600 Fishers Lane, Rockville, Md. Interested persons are invited to attend and participate in the discussion and review of the proposed guideline. Instructions for those who wish to participate in the discussion are contained in the notice of the meeting published in the FEDERAL REGISTER of September 15, 1978 (43 FR 41273), or may be obtained from the contact person named in this notice.

All comments received will be considered before the agency issues the final guideline.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28213 Filed 10-5-78; 8:45 am]

[4110-03]

[Docket No. 78D-0326]

DRUG COMBINATIONS FOR USE IN ANIMALS

Notice of Availability of Guidelines and Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

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SUMMARY: The agency announces the availability of the Bureau of Veterinary Medicine's revised guidelines regarding combination drug for use in animals. The agency also announces that a Combination Drug Workshop will be held for the purpose of illustration and exposition of these guidelines.

DATE: Open meeting on Wednesday, November 8, 1978, 9:30 a.m.

ADDRESS: Open meeting will be held in Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857; comments on the guidelines to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert J. Condon, Bureau of Veterinary Medicine (HFV-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1580.

SUPPLEMENTARY INFORMATION: Section 514.1(b)(8)(v) of the procedural new animal drug regulations (21 CFR 514.1(b)(8)(v)) establishes principles upon which new animal drug applications for combination products are reviewed. The section provides that:

> • • • Each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness.

The guidelines address more specifically the kind of data required to justify the approval of applications for new animal drugs containing more than one active ingredient.

Interested persons are invited to attend the combination Drug workshop being held at the time and place given above for the purpose of illustration and exposition of these guidelines.

The guidelines are available for public examination in the office of the hearing clerk at the address above, between 9 a.m. and 4 p.m., Monday through Friday. Written requests for single copies may be sent to the Food and Drug Administration, Bureau of Veterinary Medicine, Industry Information Branch (HFV-226), 5600 Fishers Lane, Rockville, Md. 20857.

Written comments on the guidelines may be submitted to the hearing clerk, preferably following the open meeting. All comments shall be identified by docket No. 78D-0326. Such comments will be considered in determining whether amendments or revisions to the guidelines are warranted.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28212 Filed 10-5-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78G-0284]

HOFFMAN-TAFF, INC.

Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of a petition proposing affirmation that choline stearate used as a source of nutritional choline in livestock and poultry feeds for fortification purposes is generally recognized as safe (GRAS).

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), notice is issued in accordance with § 571.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 571.7) that Hoffman-Taff, Inc., has withdrawn its petition (GRASP MF-3569), notice of which was published in the FEDERAL REGISTER of May 23, 1974 (39 FR 18126), proposing that choline stearate used as a source of choline in livestock and poultry feeds is GRAS.

Dated: September 26, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-27925 Filed 10-5-78; 8:45 am]

[4110-03]

NATIONAL CONFERENCE ON REFERRAL CRITERIA FOR X-RAY EXAMINATIONS

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administratioon (FDA) is announcing a Conference on Referral Criteria for X-Ray Examinations. The conference is being convened by the Honorable Paul G. Rogers, Chairman, Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, and Mr. Joseph A. Califano, Jr., Secretary, Department of Health, Education, and Welfare (HEW). Details of the Conference are being arranged by FDA and the Health Care Financing Administration. The conference is being held to foster collaboration between the private sector and the Government in formulating strategies to: (1) Reduce unnecessary X-ray procedures; (2) produce, disseminate, and evaluate the use of X-ray referral criteria; (3) ameliorate problems concerning defensive radiology; (4) eliminate unwarranted, administratively required X-ray examinations; and (5) heighten consumer understanding of the benefits and limitations of diagnostic radiology. Representatives of health-related Federal agencies, State health departments, various medical specialties, third-party carriers, and the legal profession, and consumers have been invited to participate.

DATE: The Conference will be open to the public from 9 a.m. to 6:30 p.m. on October 25, 1978; from 8:30 a.m. until 4 p.m. on October 26, 1978; and from 8:30 a.m. to adjournment on October 27, 1978.

ADDRESS: The general sessions on October 25 and 27, 1978, will be held in the HEW North Auditorium, 330 Independence Avenue SW., Washington, D.C. 20201. Workshop sessions on October 26, 1978, will be held in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Participation in the workshops is by invitation, and attendance by the public will be limited to space available.

FOR FURTHER INFORMATION OR TO RESERVE SEATS FOR OBSERVATION OF THE WORKSHOP SESSIONS CONTACT:

Phyllis Segal, Bureau of Radiological Health (HFX-70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4600.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28214 Filed 10-5-78; 8:45 am]

[4110-03]

[Docket No. 77N-0238]

VENDING OF FOOD AND BEVERAGES

Revision of Model Sanitation Ordinance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration has completed revision of the model sanitation ordinance, "Vending of Food and Beverages," which was last revised in 1965. The purpose of this model ordinance is to provide the vending machine industry with sanitary standards and State and local governments with a comprehensive model law.

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-245-1511.

SUPPLEMENTAL INFORMATION: In a notice published in the FEDERAL REGISTER of October 7, 1977 (42 FR 54626), the Commissioner of Food and Drugs proposed revisions in the model ordinance, "Vending of Food and Beverages," and invited comment on the proposal. The comment period closed on January 5, 1978.

A total of 14 letters containing 98 comments was received. The comments, which were used extensively in preparing the final document, dealt primarily with vending machine design and clarification of the language of the ordinance. Revision of the ordinance has been completed and submitted to the Government Printing Office.

A notice will be published in the FEDERAL REGISTER announcing availability of the model ordinance and procedures for obtaining copies. Prepublication copies of the ordinance are being sent to Federal and State offices for their review, and a prepublication copy is available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28061 Filed 10-5-78; 8:45 am]

[4110-03]

WHITMOYER LABORATORIES

Whitmoyer Pink Eye Powder; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

AGENCY: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application providing for use of Whitmoyer Pink Eye Powder intended for use in treating pink eye in cattle and in treating minor wounds in cattle, sheep, goats, and horses. This action is taken in response to a request by the sponsor, Whitmoyer Laboratories.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Whitmoyer Laboratories, 19 North Railroad Street, Myerstown, Pa. 17067, is the sponsor of NADA 12-797 providing for Whitmoyer Pink Eye Powder which is intended for use in the treatment of pink eye in cattle and for the treatment of minor wounds in cattle, sheep, goats, and horses. The product contains 2 percent neomycin sulfate, 2.5 percent *para*-aminomethylsulfonamide-hydrochloride, 1 percent benzocaine, and 94.5 percent boric acid. The application was originally approved on February 4, 1963.

The sponsor informed the agency by letter of December 16, 1977, that the product is no longer manufactured, that marketing had been discontinued in March of 1971, and that no remaining stocks of the product were in inventory. The sponsor requested withdawal of approval of the application and waived opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12-797 and all supplements for Whitmoyer Pink Eye Powder is hereby withdrawn, effective October 6, 1978.

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-28060 Filed 10-5-78; 8:45 am]

[4110-35]

Health Care Financing Administration

MEDICARE PROGRAM

Schedule of Guidelines for Physical Therapy Services

The Health Care Financing Administration (HCFA) has established an updated schedule of guidelines for medicare program reimbursement for the costs of physical therapy services furnished under an arrangement between a therapist and a hospital or other institution.

Section 1861(v)(5) of the Social Security Act requires that the Health Care Financing Administration establish criteria for determining the reasonable cost of services furnished by a therapist under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. The services include physical therapy, occupational therapy, speech therapy, and other therapy services and services of other health specialists (other than physicians). Medicare program reimbursement for these services may not exceed an amount equal to the prevailing salary, plus an allowance for fringe benefits and other expenses related to furnishing therapy services. The requirements of the statute are implemented under regulations at 42 CFR 405.432.

Section 405.432 provides that HCFA will issue guidelines, with updates as necessary, to be used by medicare program fiscal intermediaries as a maximum hourly amount to be reimbursed to providers for physical therapy services furnished to medicare beneficiaries under an arrangement. These guidelines apply only to the amount of reimbursement the medicare program will make to a provider for physical therapy services obtained under an arrangement. The guidelines do not mandate how the provider pays the contracting therapist, who may make any arrangements with the provider that he wishes.

Under this authority, the initial guidelines to evaluate physical therapy services were published in the FEDERAL REGISTER on February 7, 1975, and were effective for provider cost reporting periods beginning on or after April 1, 1975 (40 FR 5810). Updated schedules were published in the FEDERAL REGISTER on:

February 19, 1976—effective for physical therapy services performed on or after April 1, 1976 (41 FR 7542), as revised by notice in

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the FEDERAL REGISTER on August 3, 1976 (41 FR 36531).

August 3, 1977—effective for physical therapy services performed on or after October 1, 1977 (42 FR 39277).

The initial guidelines established a basic adjusted hourly salary equivalency amount consisting of the prevailing salary, plus a factor that accounts for fringe benefits and other expenses incurred in furnishing therapy services under arrangements and a standard travel allownace.

The pyhsical therapy guidelines are based on data from the latest Bureau of Labor Statistics (BLS) Triennial Hospital Wage Survey. The survey was conducted in August 1975 (January 1976 on the west coast) in 23 major standard metropolitan statistical areas (AMSA's) throughout the United States. The Health Care Financing Administration designated 10 geographic regions to group the data and develop the guideline amount for each State by using either salary data directly from that State or by using a regional average.

The prevailing salary is based on the 75th percentile of salary ranges paid by hospitals in each SMSA to physical therapists employed full time. The 75th percentile of the salary ranges has been used in accordance with the recommendations of the Senate Committee on Finance (p. 251, S. Rept. 92-1230).

The fringe benefit and expenses factor that is added to the basic salary amounts obtained from the BLS data includes amounts which are generally received by an employee therapist, such as vacation pay, insurance premiums, pension payments, as well as expenses for maintaining an office, appropriate insurance, etc., an individual not working as an employee might incur in furnishing services under arrangements. Provider overhead expenses such as space, heat, light, etc., are not included since these costs are absorbed by the provider, even when therapy services are provided under arrangements. In developing the guidelines, it was determined by the Health Care Financing Administration that this frings benefit and expenses factor would be 50 percent of the BLS salary amounts.

The fringe benefit component of this factor was derived from an analysis of a BLS study reported in Bulletin 1873, Employee Compensation in the Private Nonfarm Economy, 1972, and remains proximate according to the most recently available study reported in Bulletin 1963 issued in 1977. The expense component was developed from an analysis of data derived from trade journals and outside business organizations on the cost of maintaning an office.

This revised schedule of guidelines has been prepared using the same methodology as the original schedule and updated for inflation by using the most recently available figures for overall hospital wages determined by BLS (BLS Employment and Earnings Bulletin, line SIC-806 for April 1978). These figures were then used with the comparable figures for the month of the BLS Triennial Hospital Wage Survey (August 1975 or January 1976 as explained above) to obtain an overall percentage increase which was then applied to the physical therapy salary data.

EFFECTIVE DATE: The revised schedule of physical therapy guidelines which reflects an increase of approximately 13 percent will be applicable to physical therapy services performed on or after December 1, 1978, without regard to the beginning dates of providers' cost reporting periods; and will remain in effect until the effective date of any revised schedule that may be published.

FOR FURTHER INFORMATION CONTACT:

Mr. William Goeller, Medicare Bureau, Room 405 East Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

SCHEDULE OF GUIDELINES FOR PHYSICAL THERAPY SERVICES FURNISHED UNDER ARRANGEMENTS

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR QUALIFIED PHYSICAL THERAPISTS (FULL TIME, REGULAR PART TIME, OR HOME VISITS)

Effective for Services Furnished on or After Dec. 1, 1978

[This schedule is not to be used for physical therapy assistants or aides]

State	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$11.70	$5.85
Alaska [1]	17.00	8.50
Arizona	13.70	6.85
Arkansas	11.30	5.65
California	13.70	6.85
Colorado	11.40	5.70
Connecticut	11.60	5.80
Delaware	13.70	6.85
District of Columbia	12.50	6.25
Florida	12.50	6.25
Georgia	11.00	5.50
Hawaii [2]	16.10	8.05
Idaho	12.50	6.25
Illinois	12.50	6.25
Indiana	12.80	6.40
Iowa	11.40	5.70
Kansas	11.40	5.70
Kentucky	12.00	6.00
Louisiana	11.30	5.65
Maine	11.60	5.80
Maryland	12.00	6.00
Massachusetts	11.60	5.80
Michigan	13.50	6.75
Minnesota	12.20	6.10
Mississippi	11.70	5.85
Missouri	11.10	5.55

SCHEDULE OF GUIDELINES FOR PHYSICAL THERAPY SERVICES FURNISHED UNDER ARRANGEMENTS—Continued

[This schedule is not to be used for physical therapy assistants or aides]

State	Adjusted hourly salary equivalency amount	Standard travel allowance
Montana	11.40	5.70
Nebraska	11.40	5.70
Nevada	13.70	6.85
New Hampshire	11.60	5.80
New Jersey	13.70	6.85
New Mexico	11.30	5.65
New York	14.10	7.05
North Carolina	12.00	6.00
North Dakota	11.40	5.70
Ohio	12.60	6.30
Oklahoma	11.30	5.65
Oregon	13.20	6.60
Pennsylvania	12.80	6.40
Rhode Island	11.60	5.80
South Carolina	11.70	5.85
South Dakota	11.40	5.70
Tennessee	11.60	5.80
Texas	11.30	5.65
Utah	11.40	5.70
Vermont	11.60	5.80
Virginia	12.00	6.00
Washington	11.60	5.80
West Virginia	12.00	6.00
Wisconsin	12.30	6.15
Wyoming	11.40	5.70

[1] Adjusted for 25 pct salary differential.
[2] Adjusted for 17.5 pct salary differential.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act), 49 Stat. (42 U.S.C. 1302, 1395f(b), 1395(a), 1395x(v)(5), 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: September 29, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-28196 Filed 10-5-78; 8:45 am]

[4110-35]

MEDICARE PROGRAM

Schedule of Guidelines for Respiratory Therapy Services

The Health Care Financing Administration (HCFA) has established a schedule of guidelines for medicare program reimbursement for the costs of respiratory therapy services furnished under an arrangement between a therapist and a hospital or other institution.

Section 1861(v)(5) of the Social Security Act requires that HCFA establish criteria for determining the reasonable cost of services furnished by a therapist under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. These services include physical therapy, occupational therapy, speech therapy, and other therapy

services and services of other health specialists (other than physicians). Medicare program reimbursement for these services may not exceed an amount equal to the prevailing salary, plus an allowance for fringe benefits and other expenses related to furnishing therapy services. The requirements of the statute are implemented under regulations at 42 CFR 405.432.

Section 405.432 provides that HCFA will issue guidelines, with updates as necessary, to be used by medicare program fiscal intermediaries as a maximum hourly amount to be reimbursed to providers for therapy services furnished to medicare beneficiaries under an arrangement. These guidelines apply only to the amount of reimbursement the medicare program will make to a provider for therapy services obtained under an arrangement. The guidelines do not mandate how the provider pays the contracting therapist, who may make any arrangements with the provider that he wished.

The Health Care Financing Administration has already issued proposed guidelines on the cost of physical therapy services, one of the most common types of therapy services obtained under such arrangements (41 FR 7542). This schedule of guidelines covers respiratory therapy services, the next most common therapy services obtained under such arrangements. Previously, medicare program providers have been charged by therapy contractors on a fee-for-service basis or a percentage of the provider's billed charges and the providers have simply passed on these charges to the medicare program as costs. Thus, where therapy services were furnished under an arrangement, the costs claimed by providers for medicare program reimbursement may have had little relation to the actual cost of the services.

These guidelines establish a basic adjusted hourly salary equivalency amount that consists of the prevailing salary, plus a factor that accounts for fringe benefits and other expenses incurred in furnishing therapy services under arrangements. Additional allowances for travel, equipment, and supplies, and administrative responsibilities are also included as provided in 42 CFR 405.432.

The guidelines are based on data on salaries of hospital personnel from the latest Bureau of Labor Statistics (BLS) triennial hospital wage survey. The survey was conducted in August 1975 (January 1976 on the west coast) in 23 major standard metropolitan statistical areas (SMSA's) throughout the United States. The Health Care Financing Administration designated 10 geographic regions to group the data and develop the guideline amount for each State by using either the salary data from the survey data directly from that State or by using a regional average.

These data have been updated to account for inflation by using the most recently available figure for overall hospital wages determined by the BLS (BLS Employment and Earnings Bulletin line SIC-806 for April 1978). This figure was used with the comparable figure for the month of the BLS triennial hospital wage survey (August 1975 or January 1976 as explained above) to obtain an overall percentage increase, which was then applied to the respiratory therapy salary data.

The prevailing salary is based on the 75th percentile of salary ranges paid by hospitals in each SMSA to respiratory therapists employed full time. The 75th percentile of the salary ranges has been used in accordance with the recommendations of the Senate Committee on Finance (page 251, S. Rept. 92-1230).

The fringe benefit and expense factor that is added to the basic salary amounts obtained from the BLS data includes amounts which are generally received by an employee therapist, such as vacation pay, insurance premiums, pension payments, as well as expenses for maintaining an office, appropriate insurance, etc., an individual not working as an employee might incur in furnishing services under arrangements.

Provider overhead expenses such as space, heat, light, etc., are not included since these costs are absorbed by the provider, even when therapy services are provided under arrangements. In developing the guidelines, it was determined by the Health Care Financing Administration that this fringe benefit and expense factor would be 50 percent of the BLS salary amounts.

The fringe benefit component of this factor was derived from an analysis of a BLS study reported in Bulletin 1873, Employee Compensation in the Private Nonfarm Economy, 1972. (It remains proximate according to the most recent available study reported in Bulletin 1963 issued in 1977.) This BLS study has been used because of the large sample size on which the BLS study is based, as well as the explicit direction of the Congress to use BLS data where feasible (page 251, S. Rept. 92-1230).

The expense component of the factor was developed from an analysis of data derived from trade jounals and outside business orgainizations on the costs of maintaining an office.

The same factor has been used for the physical therapy guidelines to maintain consistency within the program. Any actual differences in the therapies will be recognized by differ-

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ing BLS salary amounts or in equipment and supply costs.

In addition to the adjusted hourly salary equivalency amount, payment may be made under the medicare program for certain other costs for respiratory therapy services provided under arrangements.

As provided in 42 CFR 405.432, there are allowances for administrative or supervisory responsibilities, and for supplies and equipment that include full depreciation, interest, and tax expenses on equipment furnished by the therapist. The guidelines also include a standard travel allowance that accounts for the time (30 minutes on the average) it takes the therapist to travel to the provider site. Furthermore, there is an additional travel expense factor that accounts for actual costs of traveling to the provider site, as well as allowances for the costs of assistants and aides furnished by the therapist, and for overtime.

This schedule contains separate guideline amounts for registered and certified respiratory therapists. This difference in amounts acknowledges the fact that registered respiratory therapists are more extensively trained and, on the whole, have greater responsibility and authority than do certified respiratory therapists and as a result, constitute distinct occupational categories. Moreover, section 1861(v)(5) requires that reimbursement be based on the salaries actually paid to employed therapists and the BLS survey clearly shows that registered respiratory therapists are paid more than certified respiratory therapists.

A registered respiratory therapist is defined as a graduate of a respiratory care education and training program approved by the American Medical Association, or an individual with equivalent training and qualifications who has been registered by the American Registry of Inhalation Therapists, Inc. (ARIT), following successful completion of the ARIT examination. A certified respiratory therapist is an individual who has success fully completed a 1-year respiratory care training program, usually in a hospital or junior college, and who has been certified by the American Association for Respiratory Therapy (AART) following successful completion of the certification examination administered by the AART.

As recommended by the Senate Committee on Finance, the guidelines were sent, in proposed form, to the organizations which have an interest in the application of guidelines to the cost of respiratory therapy services. Comments and suggestions received and our responses are summarized below:

1. *Applicability of section 1861(v)(5) of the Social Security Act to respiratory therapy.* A number of commentors stated that due to substantial differences between physical therapy, which is life-enhancing, and respiratory therapy, which is life-supporting, the same reimbursement methodology should not apply. They believe that respiratory therapy is not covered by section 1861(v)(5). In our view, the statute does not distinguish between life-enhancing and life-supporting therapies. The statutory terms are sufficiently broad to cover respiratory therapy and there is no indication that it was not intended to do so. These guidelines are designed to reflect the extent to which there are differences between the types of therapy.

2. *Effect on rural areas.* Some commentors felt that the guidelines will disadvantage rural areas which frequently have to obtain respiratory therapy services under arrangements. No evidence has been submitted to indicate that BLS data are inappropriate for rural areas. Survey data obtained from the Department of Commerce indicate that salaries in the health care field are generally lower in rural areas. Therefore, applying the higher urban salary rates from the BLS data does not disadvantage rural providers.

3. *Cost of equipment and supplies.* A number of commentors believed the guidelines do not include an allowance for the high costs of equipment required by respiratory therapists. As noted above, the reasonable costs of equipment and supplies are covered in accordance with 42 CFR 405.432.

EFFECTIVE DATE: This schedule is applicable to respiratory therapy services furnished on or after December 1, 1978, without regard to the beginning dates of providers' cost reporting periods; and will remain in effect until the effective date of any revised schedule that may be published.

FOR FURTHER INFORMATION CONTACT:

Mr. William Goeller, Medicare Bureau, Room 405, East Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

SCHEDULE OF GUIDELINES FOR RESPIRATORY THERAPY SERVICES FURNISHED UNDER ARRANGEMENTS

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR REGISTERED AND CERTIFIED RESPIRATORY THERAPISTS

[Full time or regular part time]

Effective for services furnished on or after December 1, 1978. (This schedule is not to be used for respiratory therapy aides.)

State	Registered therapists		Certified therapists	
	Adjusted hourly salary equivalency amount	Standard travel allowance	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$11.30	$5.65	$9.20	$4.60
Alaska[1]	14.70	7.35	13.50	6.75
Arizona	11.70	5.85	10.80	5.40
Arkansas	11.10	5.55	8.10	4.05
California	11.70	5.85	10.80	5.40
Colorado	10.70	5.35	9.80	4.90
Connecticut	12.00	6.00	10.20	5.10
Delaware	12.90	6.45	11.00	5.50
District of Columbia	11.70	5.85	11.30	5.65
Florida	11.30	5.65	9.50	4.75
Georgia	11.30	5.65	8.70	4.35
Hawaii[2]	13.80	6.90	12.80	6.40
Idaho	10.70	5.35	9.20	4.60
Illinois	11.60	5.80	10.40	5.20
Indiana	10.80	5.40	10.20	5.10
Iowa	10.40	5.20	8.90	4.45
Kansas	10.40	5.20	8.90	4.45
Kentucky	10.50	5.25	10.10	5.05
Louisiana	11.10	5.55	8.10	4.05
Maine	12.00	6.00	10.20	5.10
Maryland	10.70	5.35	10.70	5.35
Massachusetts	12.00	6.00	10.20	5.10
Michigan	10.80	5.40	10.80	5.40
Minnesota	9.90	4.95	8.90	4.45
Mississippi	11.30	5.65	9.20	4.60
Missouri	10.70	5.35	8.90	4.45
Montana	10.70	5.35	9.80	4.90
Nebraska	10.40	5.20	8.90	4.45
Nevada	11.70	5.85	10.80	5.40
New Hampshire	12.00	6.00	10.20	5.10
New Jersey	12.90	6.45	11.00	5.50
New Mexico	11.10	5.55	8.10	4.05
New York	14.70	7.35	11.40	5.70
North Carolina	10.50	5.25	10.10	5.05
North Dakota	10.70	5.35	9.80	4.90
Ohio	10.40	5.20	9.90	4.95
Oklahoma	11.10	5.55	8.10	4.05
Oregon	10.10	5.05	9.20	4.60
Pennsylvania	11.10	5.55	10.40	5.20
Rhode Island	12.00	6.00	10.20	5.10
South Carolina	11.30	5.65	9.20	4.60
South Dakota	10.70	5.35	9.80	4.90
Tennessee	9.30	4.65	8.40	4.20
Texas	11.10	5.55	8.10	4.05
Utah	10.70	5.35	9.80	4.90
Vermont	12.00	6.00	10.20	5.10
Virginia	10.50	5.25	10.10	5.05
Washington	11.30	5.65	9.20	4.60
West Virginia	10.50	5.25	10.10	5.05
Wisconsin	10.80	5.40	9.60	4.80
Wyoming	10.70	5.35	9.80	4.90

[1]Adjusted for 25 pct. salary differential.
[2]Adjusted for 17.5 pct. salary differential.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act), 49 Stat. (42 U.S.C. 1302, 1395f(b), 1395(a), 1395x(v)(5), 1395hh).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: September 29, 1978.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

[FR Doc. 78-28197 Filed 10-5-78; 8:45 am]

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[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF 2-CHLORO-P-PHENYLENEDIAMINE SULFATE FOR POSSIBLE CARCINOGENICITY

Availability

2-Chloro-p-phenylenediamine sulfate (CAS 61702-44-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of 2-chloro-p-phenylenediamine sulfate was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an ingredient of hair dyes. 2-Chloro-p-phenylenediamine sulfate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay there was insufficient evidence that dietary administration of 2-chloro-p-phenylenediamine sulfate was carcinogenic to Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27980 Filed 10-5-78; 8:45]

[4110-08]

REPORT ON BIOASSAY OF IODOFORM FOR POSSIBLE CARCINOGENICITY

Availability

Iodoform (CAS 75-47-8) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay for possible carcinogenicity of technical-grade iodoform was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an antiseptic. Iodoform in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, no convincing evidence was provided for the carcinogenicity of iodoform in Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27982 Filed 10-5-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF CHLOROTHALONIL FOR POSSIBLE CARCINOGENICITY

Availability

Chlorothalonil (CAS 1897-45-6) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade chlorothalonil for possible carcinogenicity was conducted by administering the test chemical in the diet to Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an agricultural fungicide and as an ingredient in paints and other products.

It is concluded that under the conditions of this bioassay, technical-grade chlorothalonil was carcinogenic to Osborne-Mendel rats, producing tumors of the kidney. Chlorothalonil was not carcinogenic for B6C3F1 mice.

Single copoes of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27981 Filed 10-5-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-564-DR; Docket No. NFD-645]

ARKANSAS

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the notice of major disaster declaration for the State of Arkansas (FDAA-564-DR), dated September 15, 1978.

DATED: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

John Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The notice of major disaster for the State of Arkansas dated September 15, 1978, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 15, 1978.

The county of Cross.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-28305 Filed 10-5-78; 8:45 am]

[4210-01]

[FDAA-564-DR; Docket No. NFD-646]

ARKANSAS

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FDAA-564-DR), dated September 15, 1978, and related determinations.

DATED: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

John Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on September 15, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms and flooding, beginning about September 13, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Arkansas.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle of the Federal Disaster Assistance Administration to act as the Federal coordinating officer for this declared major disaster.

I do hereby determine the following areas of the State of Arkansas to have been adversely affected by this declared major disaster.

The counties of Pulaski and Saline.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-28306 Filed 10-5-78; 8:45 am]

[4210-01]

[FDAA-565-DR; Docket No. NFD-647]

LOUISIANA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the Presidental declaration of a major disaster for the State of Louisiana (FDAA-565-DR) dated September 20, 1978, and related determinations.

DATED: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

John Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-78251.

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NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on September 20, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding, beginning about September 15, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Louisiana.

Notice is hereby that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285, I hereby appoint Mr. William H. Mayer of the Federal Disaster Assistance Administration to act as the Federal coordinating officer for this declared major disaster.

I do hereby determine the following areas of the State of Louisiana to have been adversely affected by this declared major disaster.

The parishes of Ouachita and Richland. (Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 78-28307 Filed 10-5-78; 8:45 am]

[7030-01]

INDIAN CLAIMS COMMISSION

PRIVACY ACT OF 1974

Transfer of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, the following records are transferred to the General Services Administration system of records, Defunct Agency Records, GSA/OAD-36:

Financial Records—To be retained by the General Services Administration for use in concluding administrative operations of the Indian Claims Commission.

Payroll Records—To be retained by the General Services Administration for use in concluding administrative operations of the Indian Claims Commission.

DAVID H. BIGELOW,
Executive Director.

[FR Doc. 78-28331 Filed 10-5-78; 8:45 am]

[4310-31]

DEPARTMENT OF THE INTERIOR

Geological Survey

COTEAU, N. DAK.

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, Aug. 4, 1976), Federal lands within the State of North Dakota have been reclassified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(34) NORTH DAKOTA

Coteau (North Dakota) known recoverable coal resource area; March 24, 1978; 20,626 acres previously classified (Velva known recoverable coal resource area), 1,400 acres deleted, and 112,947 acres added. Total area now reclassified 132,173 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: September 28, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-28264 Filed 10-5-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. ALLIED MAINTENANCE CORP., ET AL.

Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgement and a competitive impact statement as set out below have been filed with the U.S. District Court for the Southern District of New York in *United States of America v. Allied Maintenance Corporation, et al.*, Civil No. 76 Civ. 286. The complaint in this action alleges that the 11 corporate defendants conspired among themselves and other coconspirators to allocate customers for building maintenance services between and among themselves; to refrain from competing for customers so allocated; to submit noncompetitive, collusive, and complementary bids for contracts with customers and potential customers for building maintenance services; and to compensate each other for customers lost to one another in violation of section 1 of the Sherman Act. The proposed judgment enjoins each of the defendants for a period of 10 years from entering into any agreement with a competing contractor to fix prices for the rendering of any building maintenance service; to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services; to not compete for or allocate customers of such services; or to compensate a competitor for the transfer of its building maintenance customer by payment of moneys, exchange or return of customers, or by any other means.

The defendants, under the decree, will be permitted only to agree to not compete for customers transferred in connection with the purchase or sale of a building maintenance business or any part thereof or for customers transferred under a subcontracting agreement in which one of the agreeing parties undertakes to render building maintenance services to the customer of the other agreeing party. Further, a defendant is permitted under the decree to pay or receive compensation for the transfer of a customer to or from a competitor only if it is in connection with the purchase or sale of a business or any part thereof or in connection with a subcontract agreement.

The proposed judgment also requires the defendants to send a copy of it to each of its customers for whom they rendered building maintenance services during the period from January 1, 1970, through October 31, 1974. In addition thereto, each defendant desiring to transfer a customer to a competitor, except in connection with the sale of business or part thereof, must notify such customer of the intended transfer not less than 15 days before the transfer becomes effective and identify the name and address of the transferee.

Public comment is invited within the 60-day statutory time period. Such comments and response thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

Dated: September 28, 1978.

RICHARD J. FAVRETTO,
Deputy Director of Operations.

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc.*, Defendants.

Civil Action No. 76 Civ. 286 (CMM).

Filed: September 28, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the court, upon the motion of any party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the court.

2. In the event plaintiff withdraws its consent or if the proposed final jugment is not entered pursuant to stipulation, this stipulation shall be of no effect whatever and making of this stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: September 27, 1978.

For Plaintiff: John H. Shenefield, *Assistant Attorney General*, Richard J. Favretto, Ralph T. Giordano, Augustus A. Marchetti, Edward Friedman, *Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, N.Y. 10007.*

For the Defendants: Law firm of Malcolm A. Hoffmann, on behalf of *Allied Maintenance Corp.*; Spiro, Feistiner, Prager & Treeger, by Clarence R. Treeger, on behalf of *Anchor Cleaning Service, Inc.*; Orenstein Snitow Sutak & Pollack, P. C., by Alan M. Pollack, on behalf of *Coastal Enterprises, Inc.*; Seavey, Fingerit & Vogel, by Irwin K. Fingerit, on behalf of *MacClean Service Co., Inc.*; Skadden, Arps, Slate, Meagher & Flom, by Edward J. Yodowitz, on behalf of *Alpine Industries, Inc.*; Paul Weiss Rifkand Wharton & rison, by Martin London, on behalf of *National Kinney Corp.*; Kaye, Scholer, Fierman, Hays & Hand, by Fred A. Freund, on behalf of *Prudential Building Maintenance Corp.*; Stroock & Stroock & Lavan, by Charles G. Moerdler, on behalf of *Temco Service Industries Inc.*; Martin Obermeier & Morvillo, by Thomas J. Fitzpatrick, on behalf of *Eastern Maintenance Service, Inc., and Triangle Maintenance Service, Inc.*; Weil, Gotshal & Manges, by Robert G. Sugarman, on behalf of *Arcade Cleaning Contractors, Inc.*

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc.*, Defendants.

Civil Action No. 76, Civ. 286 (CMM).

Filed: September 28, 1978.

FINAL JUDGMENT

Plaintiff, United States of American, having filed its complaint herein on January 16, 1976; and all parties by their attorneys having severally consented to the making and entry of this final judgment, without admission by any party in respect to any issue and without this final judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before any testimony has been taken herein, without trail or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This court has jurisdiction of the subject matter hereof and the parties consenting hereto. The complaint states claims upon which relief may be granted against the defendants under section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. 1), commonly known as the Sherman Act.

II

As used in this final judgment:

(A) "Person" shall mean any individual, partnership, corporation, association, or any other business or legal entity.

(B) The term "building maintenance" shall mean the providing of janitorial, repair, security, elevator, landscaping, and other services in connection with the use and occupancy of commerical, industrial, or institutional buildings, including but not limited to: Interior cleaning and dusting, washing and waxing floors: vacuuming and cleaning carpets; cleaning and washing windows, walls and window coverings; servicing washrooms; operating and repairing elevator, heating, lighting, and ventilation facilities; providing security guard services; caring for landscaping; preparation of new buildings for occupancy and other related activities.

(C) The term "subcontracting agreement" shall mean any agreement or understanding to perform one or more building maintenance services or provide materials therefor so as to discharge a part or the whole of the obligation for which a supplier of building maintenance had committed itself to another person.

III

(A) Except as otherwise specifically stated herein, the provisions of this final judgment shall apply to the defendants, their respective officers, agents, servants, and employees, and to those persons in active concert or participation with any of them who shall receive actual notice of this final judgment by personal service or otherwise.

(B) The provisions of this final judgment shall not apply to activities between a defendant, and its officers, directors, agents, or employees, or between any of them, and its parent or subsidiary companies, their affiliate corporation (in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company or a single individual owning more than 50 percent of a defendant) or their officers, directors, agents, or employees.

IV

Each defendant is hereby enjoined and restrained from the following:

(A) Entering into any agreement with any supplier of building maintenance services to fix prices for such services, except in connection with subcontracting agreements;

(B) Entering into any agreement with any supplier of building maintenance services to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services;

(C) Entering into any agreement with any supplier of building maintenance services to not compete for, or to allocate, customers of such services, except in connection with transactions for the purchase or sale of a business or any part thereof, or in connection with a subcontracting agreement;

(D) Compensating another supplier of building maintenance services for the latter's transfer of a customer by payment of moneys, exchange, or return of customers, or any other means, except with regard to compensation to a seller for customers transferred in connection with the purchase or sale of a business, its shares, or any part of either.

V

Each of the defendants, and its subsidiaries and affiliates (as defined in paragraph III (B)), is ordered and directed to mail or cause to be mailed,

(A) To each of its customers of building maintenance services in New York County for the period January 1, 1970, through October 31, 1974, a copy of this final judgment together with the notice annexed hereto as exhibit A within sixty (60) days after the entry of this final judgment, and, within one hundred and twenty (120) days from the aforesaid date of entry, to file an affidavit with the clerk of this court setting forth the fact and manner of compliance with this section V(A); and

(B) To any customer in New York County it intends to transfer to another supplier of building maintenance services, not less than fifteen (15) days before such transfer, a statement of its intention to transfer any such customer to said supplier of building maintenance services, including therein the name and address of such transferee, except in connection with the sale of a business or shares thereof, or a subsidiary or division of said business.

VI

(A) For the purpose of determining or securing compliance with this final judgment,

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any duly authorized representative of the Department of Justice shall, on written request of the Attorney Geneal or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such defendant at its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this final judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview any officers, directors, agents, partners, or employees of such defendant, any of whom may have counsel present, regarding any such matters.

(B) Each defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this final judgment, as may from time to time be requested, subject to any legally recognized privilege.

No information obtained by the means provided in this section shall be divulged by any representative of the Department of Justice of any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

If at any time information or documents are furnished by any defendant to plaintiff pursuant to this section and such defendant represents that the material, or any portion thereof, in any such information or documents is of a type described in rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant identifies such material in writing and marks each pertinent page thereof, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give such defendant ten (10) days notice prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which such defendant is not a party.

VII

Jurisdiction is retained by this court for the purpose of enabling any of the parties to this final judgment to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this final judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

VIII

This final judgment shall terminate and cease to be effective ten (10) years from the date of its entry.

IX

Entry of this final judgment is in the public interest.

Dated: ————————, 1978.

————————,
U.S. District Judge.

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc.*, Defendants.

Civil Action No. 76, Civ. 288 (CMM).

LEGAL NOTICE OF FINAL JUDGMENT IN CIVIL ACTION BROUGHT BY GOVERNMENT

Pursuant to a final judgment entered on consent in the above action in this court on ————————, 1978, notice is being sent to all persons who purchased building maintenance services from the above-named defendants, their subsidiaries or affiliates in New York County from January 1, 1970, through October 31, 1974, to inform you that the above civil action, brought by the United States of America, has been settled on the consent of all parties.

This action was brought under section 1 of the Sherman Act, and was based upon the allegations of a separate Government proceeding that the defendants had conspired to restrain competition in New York County from January 1, 1970, to October 31, 1974. A separate class action, based on substantially the same allegations, was commenced in this court by four plaintiffs on behalf of customers of defendants, their subsidiaries and affiliates in New York County during the relevant period. That action is not affected by this settlement.

This action has been settled without the trial or adjudication of any issue of fact or law, and without admission by any party concerning any issue.

A copy of the final judgment is enclosed.

Dated: New York, N.Y., ————————, 1978.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK,
RAYMOND F. BURGHARDT,
Clerk of the Court.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle maintenance Service, Inc.*, Defendants.

Civil No. 76 Civ. 286.

Filed: September 28, 1978.

PROPOSED CONSENT DECREE: COMPETITIVE IMPACT STATEMENT

The United States of America, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), hereby submits this competitive impact statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

The United States, on January 16, 1976, filed a civil antitrust action under section 4 of the Sherman Act (15 U.S.C. 4) alleging that the above-named defendants and unnamed coconspirators from before 1970 had combined and conspired in violation of section 1 of the Sherman Act (15 U.S.C. 1) to allocate customers for building maintenance services between and among themselves; to refrain from competing for customers so allocated; to submit non-competitive, collusive, and complementary bids for contracts with customers and potential customers for building maintenance services; and to compensate each other for customers lost to one another. The complaint alleges further that, as a result of the said conspiracy, the prices for furnishing building maintenance services has been maintained and stabilized at artificial and noncompetitive levels; competition in building maintenance industries in New York has been restrained and eliminated; and customers of building maintenance companies in New York have been deprived of the right to purchase building maintenance services in an open and competitive market.

Entry by the court of the proposed consent judgment will terminate the action, except that the court will retain jurisdiction over the matter for possible further proceedings, within the 10 years next ensuing, which may be needed to interpret, modify, or enforce the judgment or to punish alleged violations of any of the provisions of the judgment.

II. DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATIONS

The defendants are among the largest building maintenance companies in the State of New York, who, in 1974, accounted for over $192 million in sales of building maintenance services in New York County alone. Building maintenance is broadly defined both in the complaint and the proposed consent judgment as the providing of janitorial, repair, security, elevator, landscaping, and other services in connection with the use and occupancy of commercial, industrial, or institutional buildings. During the period beginning as early as 1970, the defendants regularly purchased substantial quantities of materials, supplies, and equipment which were essential to the furnishing of building maintenance services. Substantial portions of such goods were shipped in a continuous and uninterrupted flow in interstate commerce from manufacturers outside the State of New York directly to the defendants or the customers of the defendants within the State. The rendering of building maintenance services and the use of the supplies described above were essential for the operation of buildings in New York county devoted to the use and occupancy by commercial, charitable, and quasi-public enterprises.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have stipulated that the proposed consent judgment, in the form negotiated by and among the parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation among the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the

Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the court that the proposed judgment in is the public interest.

A. PROHIBITED CONDUCT

The proposed judgment will prohibit each of the defendants from entering into any agreement with a competing contractor to fix prices for the rendering of any building maintenance service; to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services; to not compete for or allocate customers of such services; or to compensate a competitor for the transfer of its building maintenance customer by payment of moneys, exchange, or return of customers, or by any other means. The defendants will be permitted under the decree to agree to not compete for customers only with a competitor to whom defendant has transferred such customer in connection with the purchase or sale of a building maintenance business or any part thereof or for customers transferred under a subcontracting agreement in which one of the agreeing parties undertakes to render building maintenance services to the customer of the other agreeing party. Also, a defendant is permitted under the decree to pay or receive compensation for the transfer of a customer to or from a competitor only if it is in connection with the purchase or sale of a business or any part thereof or in connection with a subcontract arrangement.

Each defendant will be required within 60 days after entry of judgment to furnish a copy of the judgment to each of its customers for whom they rendered building maintenance services during the period from January 1, 1970, through October 31, 1974. Each defendant within 120 days from the date of entry of the judgment must file an affidavit with the clerk of the court setting forth the fact and manner of compliance to the foregoing. In addition thereto, each defendant desiring to transfer a customer to a competitor must notify such customer of the intended transfer not less than 15 days before such transfer becomes effective, identifying in such notice the name and address of the transferee. A limited exception is allowed to each defendant permitting the transfer of a customer without providing any notice to the customer in those instances in which the customer is to be transferred in connection with the sale of a business or part thereof to the transferee.

B. SCOPE OF THE PROPOSED JUDGMENT

The proposed judgment applies to each defendant, its officers, agents, servants, and employees and to those persons in active concert or participation with any of them who shall receive actual notice of this final judgment by personal service or otherwise. Unless the court either modifies or vacates the proposed judgment, the defendants are bound by its prohibition for a period of 10 years from the date of its entry and thereafter the judgment shall terminate and cease to be effective.

The judgment would apply to the defendants activities wherever they may occur in the United States.

EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The relief encompassed in the proposed consent judgment is designed to prevent any recurrence of the conduct alleged in the complaint. The prohibitive language of the judgment should insure that no future agreements or combinations will be arranged by, between or among the defendants to not compete or to allocate customers; to submit noncompetitive, collusive, and complementary bids to customers or potential customers of any contractor rendering building maintenance services or to compensate each other for customers lost to one another.

The judgment provides methods for determining defendants' compliance with the tems of the judgment. The Department of Justice, through duly authorized representatives, may interview officers, employees, and agents of each defendant regarding defendant's compliance with the judgment. the Government also is given access, upon reasonable notice, to examine each defendant's records for possible violations of the judgment and to request defendants to submit reports to the Government on matters contained in the judgment.

It is the opinion of the Department of Justice that the proposed consent judgment provides fully adequate provisions to prevent continuance or recurrence of violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint, and the additional cost of litigation necessarily involved if the issues were litigated would not result in any additional relief. Accordingly, the public benefit is best served by the consent disposition of the action herein proposed.

IV. ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

The defendants made several proposals for a consent judgment which the Government concluded would not insure that the conspiracy charged in the complaint would not continue or recur. The Division, at the request of the defendants, made a counterproposal from which the consent judgment was negotiated. Briefly, summarized, the points of difference that ultimately were compromised between the parties involved the Government's demand that the decree be nationwide and that each defendant notify its customers of the conclusion of the within action by forwarding to each customer a copy of the final judgment after it had been approved and entered by the court. The defendants admitted that some of them, in addition to operating in New York State, operated in other States; however, they pointed out the Government alleged wrongful conduct only in the State of New York. Under these circumstances, the defendants contended, there would be no basis to require defendants to give notice to their customers outside of the State. The defendants further urged that to give notice to customers outside New York would subject them to needless embarrassment and hardship. The defendants concluded, therefore, that if notice were limited to the customers of each defendant in New York County during the period alleged in the companion criminal case (*U.S.A. v. Allied Maintenance et al.*, 76 Cr. 613 S.D.N.Y.), i.e., from prior to January 1, 1970, through October 31, 1974, all persons that could have been adversely affected by the acts charged in the complaint, would receive notice of the judgment in this action. The Government accepted the defendants' arguments and the judgment contains the more limited notice requirements while remaining national in scope. The Government believes that the persons adversely affected by the defendants' covert actions during the period of their wrongful conduct as alleged in the complaint will receive notice of the consent judgment so that, if they so choose, they may pursue any private rights they may have against the defendants.

The Government, therefore, agreed to the limitation proposed by the defendants provided any future transfer of customers could be effected only after notice was given to the customer to be transferred. The Government's qualified acceptance of defendants' proposal, the defendants argued, would be acceptable except in those instances in which customers were transferred in connection with the sale of a building maintenance service business or a part thereof. In such instances, the defendants pionted out the value of the business or part thereof sold depended on the goodwill of such business, i.e., the maintenance service contracts in existence with customers at the time of the sale. Business realities, the defendants urged, mandates that customers be transferred without any prior notice of such sale since otherwise the goodwill of the vendor would deteriorate. Thus, if the judgment required that notice be given to such customers before the sale of a business or a part thereof, it would render the business unsalable regardless of the state of its goodwill. Accordingly, the defendants would agree to a judgment that required defendants to notify customers to be transferred only if defendants would be exempted from this obligation in those instances when such customer transfers were in connection with the sale of the business or part thereof. The Government does not dispute the defendants' analysis, and it has accepted defendants' requested exception. The Government notes further that the exception requested by the defendants, in light of the remaining injunctions in the judgment, will not enable the conduct alleged in the complaint to continue or recur.

V. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)) this consent judgment has no prima facie effect in any lawsuits which may be pending or hereafter brought against the defendants.

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Robert A. McNew, Antitrust Division, U.S. Department of Justice, Room 3630, 26 Federal Plaza, New York, N.Y. 10007, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and pub-

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lished in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such order as may be necessary or appropriate for its modification, interpretation, or enforcement.

VII. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The alternative to the proposed judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the final judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the judgment provides appropriate relief against the violations charged in the complaint.

VIII. OTHER MATERIALS

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) were considered in formulating this proposed judgment. Consequently, none are submitted pursuant to such section 2(b).

Dated: New York, N.Y., September 28, 1978.

AUGUSTUS A. MARCHETTI,
EDWARD FRIEDMAN,
Attorneys,
Department of Justice.

[FR Doc. 78-28263 Filed 10-5-78; 8:45 am]

[4410-02]

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35123), Applied Science Laboratories, Inc., Brush Valley Road, Oak Hall, Pa. 16827, made application to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinol, organic (7371), a basic class of controlled substance listed in schedule I.

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substance listed. The substance, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C 952(a)(2)(B) and 21 CFR 1311.42, and pursuant to section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator Drug
Enforcement Administration.

[FR Doc. 78-28269 Filed 10-5-78; 8:45 am]

[4410-09]

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 4, 1978, (43 FR 34547), U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
4-methyl-2,5-dimethoxy amphetamine (7395).	I
3,4-methylenedioxy amphetamine (7400).	I
Psilocybin (7437)	I
Psilocy (7438)	I

No comments or objections having been received, and, pursuant to section 1008 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of the basic class of controlled substances listed above.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 78-28270 Filed 10-5-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By notice dated August 2, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35124) Abbott Laboratories, 14th and Sheridan Road, Attn.: Customer Service D-345, North Chicago, Ill. 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital (2270), a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 78-28271 Filed 10-5-78; 8:45 am]

[4410-09]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34547), Winthrop Laboratory, Division of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, N.Y. 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Meperidine (9230), a basic class of controlled substances listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 78-28268 Filed 10-5-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from

one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area, when there is not sufficent demand for such goods, materials, commodities, services, or facilities to employ the effficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 2d day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 28, 1978

Name of applicant, location of enterprise, and principal product or activity

Columbian Rope Co., Auburn, N.Y.; manufacture of cordage and twine.
Coombs & Haddad, Ltd., Laurel County, Ky.; shopping center.
Wilcox Inc., Effingham, Ill.; auto/truck stop.
Buckhart Land Co., Ltd., Sherman, Ill.; shopping and business center.
Spears Carpet Mills, Inc., Hope, Ark.; manufacture of carpets.
Old Tucson Corp., between Henderson and Boulder City, Nev.; amusement and recreation service.

[FR Doc. 78-27998 Filed 10-5-78; 8:45 am]

[4510-23]

Office of the Secretary

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Competition

NOTE.—This document originally appeared in the FEDERAL REGISTER for October 4, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Employment and Training Administration.

ACTION: Announcement of additional jurisdictions to be open for competition and grantees to be funded without competition.

SUMMARY: This notice announces additional areas to be open for competition as outlined in the FEDERAL REGISTER of July 14, 1978, "Change of Funding Cycle and Related Changes." Also announced are grantees that will be funded without competition.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Kranz, Acting Director, Office of Farmworker Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-6128.

ADDITIONAL AREAS OPEN FOR COMPETITION

On July 14, 1978, the following areas were announced as open for competition: Alabama; county of Los Angeles, Calif.; Iowa; Louisiana; Massachusetts; Michigan; Minnesota; New Jersey; New Mexico; Tennessee; Texas (all counties); and Wisconsin. The purpose of this notice is to announce additional jurisdictions open for competition pursuant to section 97.204(c)(4), title 29, subtitle A, for migrant and other seasonally employed farmworker programs operated under title III, section 303, of the Comprehensive Employment and Training Act. These additional areas are Pennsylvania, Nebraska, Oregon, and Idaho.

Preapplications for Federal assistance, standard form 424, must be submitted no later than October 10, 1978, to serve the four new States. Grant applications from potential grantees seeking to serve migrant and seasonal farmworkers in jurisdictions subject to competition must be submitted no later than November 1, 1978. Funding requests will be prepared in accordance with CFR, January 7, 1977, sections 97-212 through 97-218.

GRANTEES TO BE EXTENDED WITHOUT COMPETITION

Noncompetitive grantees will be extended by the major modification process for the period January 1, 1979, through September 30, 1979. Modifications for existing section 303 grants for continuing grantees must be submitted no later than October 23, 1978. These grantees, by State, are listed below:

ARIZONA

Migrant Opportunity Programs, Phoenix, Ariz.

ARKANSAS

Arkansas Council for Farmworkers, Inc., Little Rock, Ark.

CALIFORNIA

Center for Employment Training of the Central Coast Counties, San Jose, Calif.
Proteus Adult Training, Inc., Visalia, Calif.
Campesinos Unidos, Brawley, Calif.
California Human Development Corp., Santa Rosa, Calif.
Central Coast Counties Development Corp., Aptos, Calif.
City of Stockton, Stockton, Calif.

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, Wheat Ridge, Colo.

CONNECTICUT

New England Farmworkers Council, Inc., Hartford, Conn.

DELAWARE

Migrant and Seasonal Farmworkers Association, Inc., Dover, Del.

FLORIDA

Florida State Department of Education, Tampa, Fla.

GEORGIA

Migrant and Seasonal Farmworkers Association, Inc., Atlanta, Ga.

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HAWAII

Office of the Governor, Department of Labor and Industrial Relations, Honolulu, Hawaii.

ILLINOIS

Illinois Migrant Council, Chicago, Ill.

INDIANA

Indiana Office of Manpower Development, Indianapolis, Ind.

KANSAS

ORO Development Corp., Wichita, Kans.

KENTUCKY

Tennessee Opportunity Programs, Bowling Green, Ky.

MAINE

Penobscot County Manpower Administration, Bangor, Maine.

MARYLAND

Migrant and Seasonal Farmworkers Association, Inc., Princess Anne, Md.

MISSISSIPPI

Mississippi Delta Council for Farmworker Opportunities, Clarksdale, Miss.

MISSOURI

Rural Missouri, Inc., Jefferson City, Mo.

MONTANA

Human Resources Division, State of Montana, Helena, Mont.

NEVADA

CET-State of Nevada, Carson City, Nev.

NEW YORK

Program Funding, Inc., Rochester, N.Y.

NORTH CAROLINA

Migrant and Seasonal Farmworkers Association, Inc., Raleigh, N.C.

NORTH DAKOTA

North Dakota Migrant Council, Grand Forks, N. Dak.

OKLAHOMA

ORO Development Corp., Oklahoma City, Okla.

PUERTO RICO

Commonwealth of Puerto Rico, Department of Labor, San Juan, P.R.

RHODE ISLAND

New England Farmworkers Council, Inc., Pawtucket, R.I.

SOUTH CAROLINA

South Carolina Office of the Governor, Columbia, S.C.

SOUTH DAKOTA

Minnesota Migrant Council, St. Cloud, Minn.

UTAH

Utah Migrant Council, Midvale, Utah.

VERMONT

Orleans County Council of Social Agencies, Inc., Newport, Vt.

VIRGINIA

Migrant and Seasonal Farmworker Association, Inc., Richmond, Va.

WASHINGTON

Northwest Rural Opportunities, Grandview, Wash.

WEST VIRGINA

Governor's Manpower Office, Charleston, W. Va.

WYOMING

Northwestern Community Action Programs of Wyoming, Inc., Worland, Wyo.

Grantees Should consult title 29, CFR, section 97.220.

Special instructions concerning grants and modifications will be issued in accordance with § 97.217, "Negotiations of Final Grant." All applicants should obtain these special instructions for the preparation of the grant applications from the Office of Farmworker Programs.

Signed at Washington, D.C., this 26th day of September 1978.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc. 78-28208 Filed 10-3-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE, PLANNING AND DESIGN ADVISORY PANEL

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Architecture, Planning and Design Advisory Panel to the National Council on the Arts which appeared in the FEDERAL REGISTER, Vol. 43, No. 174, p. 39868, Thursday, September 7, 1978, is amended as follows: The meeting will be held November 2, 1978, from 9 a.m. to 5:30 p.m., and on November 3, 1978, from 9 a.m. to 5:30 p.m., in Room 1426, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy and Guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National endowment for the Arts.

[FR Doc. 78-28272 filed 10-5-78; 8:45 am]

[3110-01]

List of Requests

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ACTION

Youth Community Service Volunteer Application Addendum, single time, Applicants of YCS, 1,500 responses, 375 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 637-7956.

DEPARTMENT OF COMMERCE

Bureau of Census, Local Review Program Response—1980 Decennial Census, D-71, single time, Highest Elected Official in 39,000 revenue-sharing entities, 39,000 responses, 3,250 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 673-7956.

DEPARTMENT OF COMMERCE

Bureau of Census, Lower Manhattan Applied Behavior Analysis and Attitude Survey, D85XN, single time, Households in Lower Manhattan, 500 responses, 250 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 673-7956.

NEW FORMS

DEPARTMENT OF DEFENSE

Departmental and Other Application for Discharge, on occasion, individuals Members of Active Duty Groups, 600 responses, 125 hours, Marsha Traynham, 395-3773.

DEPARTMENTAL OF THE TREASURY

Bureau of Customs, Foreign Trade Zone Forms, Customs, 214, 215, and 216, on occasion, Importers/Exporters, 84,000 responses, 8,400 hours, C. Louis Kincannon, 395-3211.

REVISIONS

VETERANS ADMINISTRATION

Statement of Income and Net Worth, 21-4100, on occasion, Pension Claimants, 350,000 responses, 175,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Annual Retail Trade Report, B-151, 152, 153, annually, Retail Business Firms, 32,000 responses, 21,440 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF LABOR

Employment Standards Administration, Report of Payments, LS-513, annually, Insurance Companies and Self-Insured Employers, 550 responses, 550 hours, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Weekly Weather and Crop Report, weekly, County Extension agents, 130,800 responses, 21,800 hours, Office of Federal Statistical Policy and Standard, Ellett, C.A., 673-7956.

DEPARTMENT OF COMMERCE

Bureau of Census:

Finishing Plant Report (Production, Stocks, and Backlog of Finishing Orders for Broadwoven Fabrics), monthly report, M-22B, monthly, Finishers of Gray Fabrics, Manufacturers, 2,400 responses, 1,200 hours, C. Louis Kincannon, 395-3211.

Consumption of Fibers in Woolen Spinning and Production of Tops and Noils and Tow to Top, M-22D, monthly, Manufacturing Establishments, 1,320 responses, 440 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Immediate Delivery Application, Customs 3461, on occasion, Importers Desiring Immediate Delivery of Merchandise, 610,000 responses, 30,500 hours, C. Louis Kincannon, 395-3211.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-28215 Filed 10-5-78; 8:45 am]

[4510-23]

THE PRESIDENT'S COMMISSION ON COAL

HEARINGS

The President's Commission on Coal (see 43 FR 41105) will hold public hearings at the following locations and times:

OCTOBER 20, 1978

State Capitol Conference Center, 1900 Washington Street East, State Capitol Complex, Charleston, W. Va.

OCTOBER 26, 1978

Main Auditorium, University of Denver College of Law, 200 West 14th Avenue, Denver, Colo.

These hearings are the first of several which will be held around the country to assure that the views of the public are heard and considered by the Commission in its study.

The Commission was created to conduct a comprehensive review of the state of the coal industry in the United States with particular emphasis on matters pertaining to productivity, capital investment, and the general economic health of industry; collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate; health, safety, and living conditions in the Nation's coal fields; the development and application of new technologies to the industry; the impact on the coal industry of Federal regulations and such other matters as the Commission deems appropriate.

Both the Charleston and Denver sessions will begin at 9 a.m. and continue, with a lunch break, until approximately 5 p.m. The Commission will also accept written statements for a period of 30 days following the hearing from anyone unable to appear in person.

Anyone wishing to testify at either hearing, or to submit a written statement, should contact Mr. James Childress, President's Commission on Coal, Box 1424, Washington, D.C. 20013, or call 202-673-7925.

Dated: October 3, 1978.

MICHAEL S. KOLEDA,
Executive Director, President's Commission on Coal.

[FR Doc. 78-28308 Filed 10-5-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[(File No. SR-BSECC-78-2) Rel. No. 15192]

BOSTON STOCK EXCHANGE CLEARING CORP.

Order of Summary Abrogation

SEPTEMBER 26, 1978.

Notice is hereby given that the Securities and Exchange Commission has issued an order, pursuant to section 19(b)(3)(C) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78s(b)(3)(C)), summarily abrogating a rule of the Boston Stock Exchange Clearing Corp. ("BSECC").

On August 30, 1978, BSECC filed with the Commission a rule change (the "Rule Change") establishing a charge on its members for the clearance and settlement of transactions effected through the Intermarket Trading System ("ITS").[1] BSECC designated the Rule Change to take effect upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) and, on September 1, 1978, the Commission published notice of the filing and effectiveness of the Rule Change.[2] In its notice, the Commission specifically noted that section 19(b)(3)(C) of the Act provides that, within 60 days of the filing of the Rule Change, it may summarily abrogate the Rule Change if its appears that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.[3]

The Rule Change imposes an additional charge for the clearance and

[1] The ITS, which has been implemented by the American, Boston, Midwest, New York, Pacific, and Philadelphia Stock Exchanges in accordance with a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage" (the "ITS Plan"), links the participating market centers and provides facilities for (i) the rapid and efficient routing of orders and administrative messages between and among participants and (ii) participation, under certain conditions, by members of all participating markets in opening transactions in these markets. The ITS Plan was filed with the Commission by the participating exchanges and, on Apr. 14, 1978, the Commission issued a temporary order, pursuant to section 11A(a)(3)(B) of the Act, authorizing the filing exchanges to act jointly in planning, developing, operating, and regulating the ITS in accordance with the terms of the ITS Plan for a period of 120 days from the date of the order (Securities Exchange Act Release No. 14661 (Apr. 14, 1978), 43 FR 17419). On Aug. 11, 1978, the Commission extended its temporary approval for an additional period of 1 year (Securities Exchange Act Release No. 15058 (Aug. 11, 1978)).

[2] Securities Exchange Act Release No. 15120 (Sept. 1, 1978), 43 FR 40968 (the "Notice").

[3] Id. at 2.

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settlement of transactions effected through ITS of 2 cents per share plus 1 day's interest on the dollar value of the securities traded, based upon the interest rate charged at that time by BSECC's principal lender.[4] BSECC has indicated that the imposition of this additional fee was necessary to reimburse it for additional expenses incurred in connection with the clearance and settlement of transactions effected through ITS, primarily personnel required to reconcile and report ITS transactions and finance charges incurred in order to make payments in other cities prior to receiving payments in Boston.

As stated in the notice, an organization representing specialists on the Boston Stock Exchange has expressed opposition to the imposition of these charges. Moreover, it appears that the Rule Change raises important questions relating to the Commission's statutory responsibility to facilitate the establishment of a national market system,[5] particularly whether the imposition of these charges will act as a disincentive to the use of the ITS.[6] In addition, the Commission believes that the procedures provided by section 19(b)(2) will provide a more appropriate mechanism for determining whether the Rule Change is consistent with the provisions of the Act. Therefore, it appears to the Commission that it would be appropriate in the public interest, for the protection of investors and otherwise in furtherance of the purposes of the Act for it to abrogate the Rule Change.

* * * * *

It is hereby ordered, pursuant to section 19(b)(3)(C) of the Act, that the BSECC Rule Change (File No. BSECC-78-2) is summarily abrogated as of this date, and that, if BSECC chooses to refile the Rule Change, it do so pursuant to section 19(b)(2) of the Act.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28219 Filed 10-5-78; 8:45 am]

[4] The text of the Rule Change was published as exhibit 1 to the notice.

[5] See Sec. 11A(a)(2) of the Act.

[6] See also the ITS Plan which provides that any fee or charge imposed by a participant not be of such size or so structured as to discourage use of the ITS.

[8010-01]

[(812-4369) Rel. No. 10422]

CAPITOL LIFE INSURANCE CO. AND MERRILL LYNCH HIGH INCOME FUND, INC.

Notice of Application for an Order Approving a Certain Offer of Exchange for Exemptions

SEPTEMBER 29, 1978.

Notice is hereby given that the Capitol Life Insurnce Co. ("Capitol Life"), Capitol Life Separate Account M, 1600 Sherman Street, Denver, Colo. 80203, a Colorado stock life insurer, Capitol Life Separate Account M ("Separate Account"), a separate account of Capitol Life, which is registered as a unit investment trust under the Investment Company Act of 1940 ("Act") and Merrill Lynch High Income Fund, Inc. ("Fund"), 165 Broadway, New York, N.Y. 10080, an open end management investment company registered under the Act (hereinafter collectively referred to as "Applicants") filed an application on September 26, 1978, and an amendment thereto on September 28, 1978, pursuant to section 11 of the Act for an order approving an offer of exchange and pursuant to section 6(c) of the Act for exemption from the provisions of section 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Capitol Life is a wholly owned subsidiary of Providence Capitol Corp. and an indirect subsidiary of Gulf & Western Industries, Inc.

The Separate Account was established by Capitol Life pursuant to Colorado law in connection with the proposed issuance of certain group and individual variable annuity contracts (hereinafter, collectively "Contracts"). Assets of Separate Account will be invested in shares of the Fund. The Fund is managed by Fund Asset Management, Inc., an affiliate of Merrill Lynch Funds Distributor, Inc., the distributor for the Fund.

The Fund's primary objective is to maximize current income by investing in a diversified portfolio of fixed income securities, such as corporate bonds and notes, convertible securities, preferred stocks, and government obligations which it believes will offer high yields without undue risk. As a secondary objective, the Fund intends to seek capital apreciation when consistent with its primary objective.

The Fund's shares will be offered during an initial period which is expected to end on October 27, 1978. The minimum initial and subsequent purchase amounts are $1,000 and $300 respectively. Shares are sold at net asset value plus a maximum 4-percent sales load.

Applicants propose that Fund shares may be exchanged by a shareholder who has held same for a 45-day period for a variable annuity contract issued by Capitol Life and the Separate Account. Two types of Contracts would be offered: Group single payment variable annuity contracts ("Group Contracts"), and individual single payment variable annuity contracts ("Individual Contracts"). Purchase payments for the Contracts are amounts which result from the redemption of shares of the Fund by a shareholder who has elected to purchase a Contract. The amount of the purchase payment is the net asset value of the Fund shares redeemed for the purpose of purchasing a Contract at the time the election to purchase is made. The minimum single purchase payment is required to be the value of 500 shares of the Fund. A conversion fee of $100 is deducted at the time an initial purchase payment is received for an Individual Contract or for a certificate under a Group Contract. This conversion fee is allocated, $20 for reimbursement of policy issue expense, and $80 for expected conversion expenses. That portion of the conversion fee allocated to conversion expenses may be deemed to be a sales charge pursuant to section 2(a)(35) of the Act.

An administrative charge of $20 is deducted from an individual's account on each anniversary of the date it was established. A $10 charge is made against an individual's account for each partial surrender and upon complete surrender of the account. When annuity payments begin, the value of an individual's account will be transferred to Capitol Life's general asset account in order to provide fixed annuity payments. Fixed annuity payments, once determined, may not be decreased by Capitol Life regardless of investment, mortality, or expense experience.

SECTION 11

Section 11(a) of the Act, as here pertinent, provides that it is unlawful for any registered open end investment company (or its principal underwriter) to make an offer to the holders of its securities (or of the securities of any other open end investment company), to exchange his shares for the shares of the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that section 11(a) is applicable, in any event, to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Applicants state that such exchange as proposed would occur on the application of the individual, and that any issued certificates would be tendered to the transfer agent for this purpose. The exchange would be on the basis of the net asset values of the securities to be exchanged except for the $100 conversion charge deducted at the time of exchange.

The Applicants assert that such conversion charge is deducted as reimbursement for the cost of establishing the variable annuity account, issuing the contract, and to cover expected expenses which result from the exchange of Fund shares for the variable annuity contracts. The amounts received from the conversion fee are not used to pay sales commissions but are devoted to costs related to initial administration and conversion expenses.

SECTIONS 26(a) AND 27(c)(2)

Section 26(a) of the Act, as here pertinent, provides, in substance, that a registered unit investment trust, and any depositor and underwriter for the trust, are prohibited from selling trust certificates unless the proceeds of all payments other than sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such agreement must provide, in part, that: (i) The custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and, if necessary, from the corpus of the trust for services performed and for reimbursement for expenses incurred; and (iv) that no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian. Although the assets of the Separate Account are held under a safekeeping agreement with the State Street Bank & Trust Co. of Boston, Mass. ("Bank"), a bank having the qualifications described in section 26(a) of the Act, the agreement does not create a trust with respect to the assets of Separate Account because Capitol Life, as a life insurance company, must retain ownership of and control of the disposition of its property under Colorado law. Accordingly, an exemption is requested to the extent necessary, from the requirement that the assets be held in a trust.

In support of the requested exemption from the foregoing provisions of the Act, Applicants state that, under the custodian agreement, Capitol Life will pay the expenses for the safekeeping of Separate Account assets. Applicants also state that the ownership of Fund shares by Separate Account will be held in an open account so that the ownership of Fund shares by Separate Account will be indicated only on the books of the Fund and Separate Account and not evidenced by transferable stock certificates; and that, under the agreement, the assets of the Separate Account will be kept physically segregated by the Bank and held separate from the assets of any other firm, person or corporation. The Bank will maintain a record of all purchases and redemptions of Fund shares and will assist in the preparation of reports to the Commission.

Applicants further state that Capitol Life is subject to the extensive supervision and control by the Colorado insurance commissioner and the comparable official of each State in which it does business. Such supervision requires Capitol Life to file complete and detailed periodic reports. Applicants also state that the activities of Capitol Life are subject to review by the Colorado Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Applicants allege that any substitution of an underlying Fund of the Separate Account can only take place by a majority vote of those having an interest in the Fund and with the prior approval of the Commission. Applicants finally state that Capitol Life maintains directly and through its parent, Providence Capitol, fidelity bonds covering its employees in the amount of $2 million.

Applicants contend that the foregoing laws, regulations, and arrangements will provide substantial assurance that all obligations under the Contracts issued by Separate Account will be performed.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) That the charge under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicant reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Applicants assert that the $10 charge levied upon a partial or total surrender of the Contract is a transaction charge designed to reimburse actual expense incurred upon processing surrender requests but that such charge may be deemed to be a redemption fee. Accordingly, Applicants request an exemption to the extent necessary from sections 26(a) and 27(c)(2) to permit the imposition of this charge.

SECTION 6(c)

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act, or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 24, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 24, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponement thereof.

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For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28220 Filed 10-5-78; 8:45 am]

[8010-01]

[Rel. No. 20720 (70-6163)]

CENTRAL & SOUTHWEST CORP., ET AL.

Notice of Proposed Revisions to System Money Pool Arrangement

SEPTEMBER 29, 1978.

In the matter of Central & South West Corp., Central & South West Services, Inc., 2700 One Main Place, Dallas, Tex. 75250, Central Power & Light Co., P.O. Box 2121, Corpus Christi, Tex. 78403, Southwestern Electric Power Co., P.O. Box 21106, Shreveport, La. 71156, Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Okla. 74102, West Texas Utilities Co., P.O. Box 841, Abilene, Tex. 79604.

Notice is hereby given that Central & South West Corp. ("CSW"), a registered holding company, and five of its subsidiary companies, Central Power & Light Co. ("CPL"), Southwestern Electric Power Co. ("SWEPCO"), West Texas Utilities Co. ("WTU"), Public Service Company of Oklahoma ("PSO") and Central & South West Services, Inc. ("CSWS") (collectively the "subsidiaries") have filed with this Commission post-effective amendments to their application-declaration previously filed and amended in this matter pursuant to sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rules 43, 45 and 50 promulgated thereunder concerning the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders dated December 30, 1976, December 29, 1977, January 13, 1978, and June 30, 1978 (HCAR Nos. 19829, 20355, 20385 and 20608), applicants-declarants were authorized to establish a CSW System money pool ("money pool") to coordinate their short-term borrowings and to make borrowing outside the money pool from banks and through the issuance of commercial paper. The money pool is composed from time to time of funds from the following sources: (i) Surplus funds of CSW; (ii) surplus funds of any of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper. The current money pool authorization, effective through December 31, 1979, provides for an aggregate borrowing limitation of $200,000,000 and individual borrowing limitations in the following amounts: CSW, $200,000,000; CPL, $71,000,000; PSO, $74,000,000; SWEPCO, $50,000,000; WTU, $20,000,000, and CSWS, $2,000,000.

CSW administers the money pool by matching up, to the extent possible, short-term cash surpluses and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, borrowings are made from outside the system. To that end CSW was authorized to issue and sell its commercial paper to A-G Becker & Company, Inc. ("Becker"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity sold by issuers to commercial paper dealers, and at an interest cost not exceeding the effective cost of money for unsecured prime-rate commercial bank loans prevailing on the date of issue of such commercial paper.

CSW and its subsidiaries were also authorized, in the event that such borrowings would produce a lower effective cost of money than the issuance by CSW of its commercial paper, to borrow from banks to meet short-term borrowing needs which could not be met by the money pool. Such bank borrowings were also authorized even when the cost of such borrowings is not less than the cost of equivalent borrowings through the money pool if and only to the extent that such bank requires that the borrowings be made as a condition of maintaining the subsidiary's line of credit with the bank, subject to an aggregate limit at any one time outstanding of $10,000,000 for all such bank borrowings and of $5,000,000 for any one subsidiary.

The interest rate applicable to all loans of surplus funds through the money pool is the rate published in the Wall Street Journal for commercial paper placed directly by a major finance company and having a term most nearly equal to the term of the particular money pool loan in question. The interest rate applicable to the funds borrowed by CSW from external sources and loaned through the money pool is equal to CSW's net cost for the external borrowings.

By post-effective amendments applicants-declarants seek authorization:

(1) For CSW to issue and sell commercial paper to dealers other than Becker;

(2) To allocate costs of CSW's external borrowings upon a basis approximating the peak load requirements of the operating subsidiaries; and

(3) To borrow from banks in addition to the banks heretofore authorized.

Applicants-declarants state it has now become possible, with some although not all commercial paper dealers, to split business among several dealers. By doing so alternative quotations may be secured on particular transactions as to interest rate and/or the dealer's discount, and the paper may be sold to the dealer quoting the lowest cost of money. CSW requests authority to establish arrangements with one or more prospective dealers and to select the dealer or dealers who, in the judgment of its executive vice president and chief financial officer or its treasurer, will furnish the lowest net cost to CSW on the commercial paper it issues. Each dealer would be restricted to sales to not more than 200 institutional purchasers on a list furnished to this Commission.

Concerning the allocation of costs it is stated that in the case of compensating balances and fees paid to banks to maintain credit lines, it is not possible to allocate costs accurately as part of any particular loan, since the principal function of credit lines is to be an available credit source in addition to CSW's commercial paper. Applicants-declarants propose to allocate costs in such cases upon the basis of 10 percent to WTU, 30 percent to CPL, 30 percent to PSO and 30 percent to SWEPCO, such percentages reflecting the approximate peak load of the subsidiary to CSW's total peak load. Determination of the cost of compensating balances will be done on a monthly basis by (1) Calculating the weighted average daily cost incurred by CSW and the subsidiaries for borrowings from external sources during the month (or, if there were no such borrowings, then the most recent direct issue commercial paper rate); (2) multiplying such daily cost times the aggregate amount of compensating balances maintained on each day during the month; and (3) adding the products obtained. In the event that a borrowing is made from a source other than the lowest available cost of money pursuant to the exception referred to earlier, the cost incurred in excess of the cost of the alternative lowest cost borrowing will be deemed to be the equivalent of a compensating balance or other indirect cost, and will be distributed on the same basis proposed for such costs rather than borne entirely by the direct borrower involved. At the end of each calendar year the costs allocated on the basis of the percentages specified above will be retroactively reallocated for the year

among the subsidiaries (and CSW, should CSW borrow for its own corporate needs) pro rata on the basis of the relative weighted average principal amounts of borrowings incurred from external sources during the year for the benefit of each of such companies.

Concerning bank borrowings applicants-declarants seek authorization to borrow from the banks listed below. Borrowings would be at the prime rate in all cases except for loans from First National Bank in Dallas, Republic National Bank & Irving Trust Co., in all three cases the rate being 107 percent of prime, and except for loans from Texas Commerce Bank, the terms of which are set forth below. Assuming a prime rate of 9 percent, the interest cost (including compensating balances and fees) would be 10 percent per annum for the nonfee banks, 10.52 percent for First National Bank in Dallas and 10.47 percent for the other fee banks. Applicants-declarants' bank lines as of August 31, 1978, were as follows:

Bank	Amount of line	Compensation basis[a]
Bankers Trust Co	$25,000,000	Balances.
First National Bank of Chicago	15,000,000	Do.
First National Bank in Dallas	[b]6,500,000	Balances and fees.
Republic National Bank	[c]5,000,000	Do.
Irving Trust Co	[c]5,000,000	Do.
Bank of Delaware	4,500,000	Balances.
Harris Trust & Savings	2,000,000	Do.
First City National Bank	2,000,000	Do.
Service area banks:		
Central Power & Light Co. (24 local banks)	29,345,000	Do.
Public Service Co. of Oklahoma	9,500,000	Do.
Southwestern Electric Power Co. (37 local banks)	20,615,000	Do.
West Texas Utilities (6 local banks)	8,515,000	Do.
Total	132,975,000	

[a] Balances maintained in support of lines of credit are generally nonsegregated working funds of the applicants and are not restricted as to withdrawal. These nonsegregated balances generally aggregate approximately 10 pct. of the line of credit. Substantial usage under these lines of credit could result in increased compensating balance requirements. Where a fee basis is maintained, a designated portion of the total line of credit is supported by a fee equal on an annual basis to the principal amount of that portion × 7 pct. × the prime rate. The balance of the line of credit in these situations is maintained on the compensating balances basis described above.

[b] $4 million is supported by compensating balances and $2.5 million by fees.

[c] $2.5 million is supported by compensating balances and $2.5 million by fees.

Borrowings of up to $10,000,000 from Texas Commerce Bank would be from funds managed by its trust department, pursuant to a short-term borrowing agreement. The notes would be payable on demand or a stated maturity date not exceeding 6 months from date of issuance, would bear interest at a rate equal to the 90-day rate on General Motors Acceptance Corp.'s commercial paper, or, if CSW has outstanding commercial paper with a 90- to 180-day maturity, at the highest effective rate to the ultimate purchases of such paper.

The proceeds of short-term borrowings will be used (i) in the case of borrowings by CPL, PSO, SWEPCO, and WTU, for the interim financing of their construction programs and to provide for other temporary working capital needs; (ii) in the case of borrowings by CSW, for loans or contributions to capital to the subsidiaries for such purposes; (iii) in the case of borrowings by CSWS, to provide working capital for its operations; and (iv) to repay borrowings previously incurred for such purposes.

The estimated capital programs for 1978 and 1979 for the operating companies are as follows:

	1978	1979
CPL	$247,000,000	$216,000,000
PSO	257,000,000	251,000,000
SWEPCO	110,000,000	142,000,000
WTU	21,000,000	24,000,000

None of the proceeds from such borrowings shall be utilized to pay the cost of facilities ("interconnection facilities") which would not be needed to provide service to customers of any of the operating companies if such operating company were not part of the CSW System, nor will any expenditures be made by any of the operating companies for the construction or acquisition of any facility not so needed prior to the time all funds covered by this application-declaration have been expended. For the purposes of the foregoing representation, there is included within the meaning of the term "interconnection facilities" all facilities, construction or acquisition of which is or would be part of any proposal for synchronous interstate operation of the CSW System forming the subject of the proceedings in *Central and South West Corporation, et al.* (Admin. Proc. file No. 3-4951) which would not also be required for the continuation of dissynchronous interstate/intrastate operation in the mode presently prevailing in the Central and South West System.

CSW requests exemption from the competitive bidding requirements of rule 50 under the Act in connection with the proposed issuance of commercial paper pursuant to paragraph (a)(5)(B) thereof.

No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The additional fees and expenses to be incurred in connection with the proposed transactions are estimated at $750.

Notice is further given that any interested person may, not later than October 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said posteffective amendments, which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as further amended by said posteffective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28221 Filed 10-5-78; 8:45 am]

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[8010-01]

[Rel. No. 20716 (70-6206)]

CENTRAL & SOUTH WEST CORP.

Notice of Proposed Issue and Sale of Unissued Common Stock Pursuant to an Employees Investment Plan and Request for Exception From Competitive Bidding

SEPTEMBER 27, 1978.

Notice is hereby given that Central & South West Corp. ("CSW"), One Main Place, Dallas, Tex. 75250, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and rules 20(a), 50 and 100(a) promulgated thereunder regarding the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transaction.

CSW proposes to issue and sell not to exceed 1,000,000 shares of its authorized and unissued common stock par value $3.50 per share (the "additional shares") pursuant to a CSW Employees Thrift Plan (the "Plan").

The Plan provides a means by which eligible employees of CSW and its direct and indirect subsidiaries, Central Power & Light Co., Central & South West Fuels, Inc., Central & South West Services, Inc., Public Service Company of Oklahoma, Transok Pipe Line Co., Southwestern Electric Power Co. and West Texas Utilities Co. (together, "CSW Subsidiaries"), may maintain a regular savings program and to provide additional benefits for such employees upon retirement. Under the Plan, the participating employers, i.e., the CSW Subsidiaries, make contributions of cash monthly, out of net income in an amount equal to 50 percent of the basic deposit made by each employee with less than 20 years of service and 75 percent of the basic deposit for those employees with 20 years of service or more.

The Plan permits each participating employee to make monthly payments to his plan account in an amount equal to 2 percent, 4 percent or 6 percent of his annual salary, and to make additional deposits in amounts not to exceed 4 percent of his annual salary for each year of service since he became a participant in the Plan.

The deposits by participating employees and the corresponding contributions by employers are paid monthly to the trustee under the Plan, the First National Bank in Dallas, for investment.

The trustee pursuant to written direction from each participating employee invests funds held in each such employee's Plan account. Presently purchases of common stock of CSW by the trustee are made in the open market. It is herein proposed that such purchases will in the future be satisfied through the issuance and sale from time to time of the additional shares.

The purchase price at which any of the additional shares shall be sold to the Plan shall be the average of the closing prices of the common stock of CSW reported as New York Stock Exchange Composite for the 20 consecutive trading days ending with the last trading day of the month in respect of which the employer contributions and employee basic deposits being invested were made.

It is stated that the purpose of the proposed transaction is to provide CSW with an additional source of common equity capital at an economical cost.

CSW requests an exception from the competitive bidding requirements of rule 50 under the Act for the sale of the additional shares pursuant to paragraph (a)(5) of that rule.

It is stated that no State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $51,500 including $38,500 in annual fees to the trustee of the Plan, and $1,000 in legal fees.

Notice is further given that any interested person may, not later than October 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28222 Filed 10-5-78; 8:45 am]

[8010-01]

[(File No. SR-NASD-78-11) Rel. No. 15198]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

SEPTEMBER 28, 1978.

On September 15, 1978, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, copies of a proposal (the "Proposal") to reduce NASDAQ subscription rates for the fiscal year ending September 30, 1978, by refunding 10 percent of total billings for that fiscal year to NASDAQ subscribers. The refund will be made by NASDAQ, Inc., a wholly owned subsidiary of the NASD which owns and operates the NASDAQ system, and will be payable to NASDAQ level 1, 2, and 3 subscribers on a pro rata basis.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission release (Securities Exchange Act Release No. 34-15172, September 19, 1978).

The Commission finds that the Proposal is consistent with the requirements of the Act and the applicable rules and regulations thereunder, and, in particular, the requirements of section 15A of the Act and the rules and regulations thereunder. In making that finding, the Commission has relied on the NASD's representation that it and NASDAQ, Inc. expect to have sufficient assets, independent of the amount included in the refund, to meet reasonably foreseeable expenses in connection with possible modifications or expansion of the NASDAQ system and fulfillment of self-regulatory obligations (including those relating to surveillance). Further, the Commission finds good cause for approving the Proposal prior to the 30th day after publication of notice of filing thereof. According to the NASD, unless all events necessary to establish the refund are accomplished prior to fiscal year end, September 30, 1978, there is a potential tax liability of up to 48 percent of the funds to be utilized for the refund should NASDAQ, Inc., be determined to be a taxable company.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28223 Filed 10-5-78; 8:45 am]

[8010-01]

[(SR-NYSE-78-20) Rel. No. 15202]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 29, 1978.

On April 23, 1978, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, N.Y. 10005, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal") to amend NYSE rule 345.15 to (a) allow registered representatives whose activities are limited solely to the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs to meet the NYSE's qualification standards by fulfilling specialized training and examination requirements either of the NYSE, or other self-regulatory organizations whose requirements are acceptable to the NYSE, and (b) to enable the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than those enumerated above. Notice of the Proposal together with its terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 14689, April 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 19089, May 3, 1978).

On July 24, 1978, the NYSE submitted an amendment (the "Amendment") to the Proposal. The Amendment deleted paragraph 345.15(3) of the Proposal. That paragraph was the portion of the Proposal which would have enabled the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs.

Notice of the Proposal, as amended (the "Amended Proposal") together with its terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 15072, August 16, 1978) and by publication in the FEDERAL REGISTER (43 FR 37506, August 23, 1978). All written statements with respect to the Proposal or the Amended Proposal which were filed with the Commission and all written communications relating to the Proposal or the Amended Proposal between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the Amended Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28224 Filed 10-5-78; 8:45 am]

[8010-01]

[Rel. No. 34-15194]

FAIR TREATMENT OF CUSTOMER ACCOUNTS

Notice to Broker Dealers

The Securities and Exchange Commission today expressed concern about certain practices engaged in by broker-dealers. During recent months the Commission has received investor complaints regarding:

(a) Issuance to customers of checks drawn on distant banks, a practice referred to as "remote checking";

(b) Retention of interest and dividend payments rather than disbursing such payments to customers promptly upon receipt, without affording customers adequate prior notice and a reasonable opportunity to elect either immediate or deferred payment;

(c) Imposition of increased commission rates without adequate prior notice;

(d) Imposition of custodial fees on "inactive" customer accounts without adequate prior notice; and

(e) Failure to transfer customer accounts promptly to another broker-dealer in response to customer requests.

REMOTE CHECKING

Many investors have complained that they are being deprived of the prompt use of their funds by a device currently being used by some broker-dealers. That practice, commonly referred to as "remote checking," involves the issuance of checks drawn on banks located far away from customers in order to delay clearance of those checks and thereby to prolong a broker-dealer's use of its customers' funds. For example, some brokerage firms have implemented a policy of paying customers located east of the Mississippi River with checks drawn on west coast banks and paying customers located west of the Mississippi with checks drawn on east coast banks. In fact, certain broker-dealers have acknowledged that they have engaged in this practice specifically to prolong the firms' use of customers' funds.

The selection of a distant bank for the purpose of prolonging a broker-dealer's use of customer funds unfairly deprives customers of their immediate use of funds, is inconsistent with a broker-dealer's obligation to deal fairly with its customers[1] and is inconsistent with just and equitable principles of trade.[2] Such a purpose may be inferred from the circumstances surrounding the selection of a distant bank and is particularly evident in cases where a broker-dealer arranges its use of two or more disbursing banks with a view to paying customers in a particular region from a bank in a distant location.[3]

RETENTION OF INTEREST AND DIVIDEND PAYMENTS

It has been reported to the Commission that customers of several broker-dealers have experienced prolonged delays in receiving dividend and interest payments on securities held for them by broker-dealers. In particular, it appears that some broker-dealers have recently instituted the practice

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[1] See, e.g., *Opper* v. *Hancock Securities Corporation*, 250 F. Supp. 668 (S.D.N.Y.), *aff'd* 367 F. 2d 157 (2d Cir. 1966); *Arleen W. Hughes*, 27 S.E.C. 629 (1948), *aff'd sub nom. Hughes* v. *Securities and Exchange Comm'n*, 174 F 2d 969 (D.C. Cir. 1949); *Charles Hughes & Co., Inc.*, 13 S.E.C. 676, *aff'd sub nom. Charles Hughes & Co., Inc.* v. *Securities and Exchange Comm'n*, 139 F. 2d 434 (2d Cir. 1943), *cert. denied*, 321 U.S. 786 (1944); *Duker & Duker*, 6 S.E.C. 386 (1939).

[2] See, e.g., art. III, sec. 1 of the National Association of Securities Dealers, Inc. bylaws, NASD Manual (CCH) par. 2151; art. XIV, sec. 8 of the New York Stock Exchange constitution, 2 New York Stock Exchange, Inc. Guide (CCH) par. 1656.

[3] The Commission recognizes, however, that it may be a desirable business practice for broker-dealers to limit the number of banks used for disbursing funds to customers, or indeed to use only a single bank for that purpose, so long as customers are not deprived of reasonably prompt access to their funds. As a result, some brokerage firm customers will be paid with checks drawn on out-of-State banks.

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of disbursing dividend and interest payments monthly rather than promptly upon receipt of the funds, and have done so without notifying their customers in advance or offering them the alternative of immediate payment. While the Commission recognizes that some customers, if adequately informed, may decide to receive payments on a monthly basis, it believes that dividend and interest payments should not be deferred unless the customer has been so informed sufficiently in advance and has been given a reasonable opportunity to elect either immediate or deferred payment. Indeed, the imposition of a system of deferred payments without informed and timely notice is inconsistent with a broker-dealer's obligation to deal fairly with its customers and is inconsistent with just and equitable principles of trade.

IMPOSITION OF INCREASED COMMISSION RATES WITHOUT PRIOR NOTICE

One of the most common investor complaints since the abolition of fixed commission rates has been that broker-dealers raise their commission rates without adequate prior notice. In some egregious cases, investors have been charged commissions exceeding those quoted at the time they placed their orders. That practice is inconsistent with a broker-dealer's obligation to deal fairly with its customers and is inconsistent with its responsibilities under the Federal securities laws. In other cases, customers have placed orders with broker-dealers with which they have recently done business and have not been notified of commission rate increases until the transactions were confirmed. In those situations, the customer's reasonable expectations with respect to the commission rates to be charged based on his prior dealings with the broker-dealer have not been fulfilled. The imposition of an increased rate in that fashion is inappropriate and, the Commission believes, is inconsistent with a broker-dealer's duty to deal fairly with its customers and inconsistent with just and equitable principles of trade.

IMPOSITION OF CUSTODIAL FEES ON CUSTOMER ACCOUNTS WITHOUT PRIOR NOTICE

It has also been reported to the Commission that a number of broker-dealers have recently imposed charges for custodial services on inactive accounts without giving adequate advance notice to enable customers to consider closing or transferring their accounts. The Commission believes that this practice is also inconsistent with a broker-dealer's obligation to deal fairly with its customers and inconsistent with just and equitable principles of trade.

DELAY IN TRANSFERRING ACCOUNTS

Finally, a number of investors have complained that, when they attempt to transfer their accounts from one broker-dealer to another, the broker-dealer who has the account does not transfer it promptly. Those investors have encountered unusual delays, frequently accompanied by attempts to persuade them to allow their accounts to remain with the first broker-dealer. During such delays, customers may experience difficulty in liquidating securities positions held in those accounts unless the transactions are effected through the broker-dealers retaining the accounts.

The Commission recognizes that unusual circumstances may necessitate some delay in transferring a customer's account. Where such circumstances do exist, they should, of course, always be explained to the customer. Where unusual circumstances are not present, however, such delays are improper and are inconsistent with a broker-dealer's obligation to deal fairly with its customers and inconsistent with just and equitable principles of trade.

* * * * *

The Commission is particularly disturbed to discover that many of the practices described above appear not to be isolated occurrences, but instead to reflect established policies and practices of several of the Nation's leading broker-dealers. The Commission believes that action to correct these abuses is overdue and should be undertaken promptly by broker-dealers and self-regulatory organizations. In addition to violating standards of fair dealing, and the rules of various self-regulatory organizations requiring members to refrain from conduct that is inconsistent with just and equitable principles of trade, some instances of the practices described above appear to violate the antifraud provisions of the Federal securities laws. Customers of broker-dealers who believe they have been victims of these practices should write to the Office of Consumers Affairs, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Brokers and dealers should be fully aware that the Commission will take prompt enforcement action against individual firms and persons if such action is warranted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 28, 1978.

[FR Doc. 78-28225 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15200; File No. SR-CBOE-78-27]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2(a)-(f) (no change).

INTERPRETATIONS AND POLICIES

.01 (No change.)

.02 The Submission Agreements, Statement of Claim, Answer and related counter claim or third party claim shall be forwarded by the Secretary to the Arbitration Committee which shall determine to accept or reject such filings for arbitration. If jurisdiction is not so declined, the Arbitration Committee shall assign the matter to a panel of arbitrators selected in accordance with rule 18.3.

PURPOSE OF PROPOSED RULE CHANGE

The proposed interpretation to rule 18.2 would allow for the Arbitration Committee to continue its policy of reserving discretion to deny jurisdiction over a proceeding submitted to them in the event any such submission would not be a proper matter to come before the committee. As a result of making recent amendments to this chapter, this policy of the Arbitration Committee was inadvertently omitted.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for the proposed interpretation is section 6(b)(5) in that the exchange believes the proposed interpretation will enhance its ability to protect investors and the public interest and provide a fair procedure for the hearing of arbitration matters between members and the public.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received on the proposed rule change.

BURDEN ON COMPETITION

The exchange does not believe that the proposed rules change will impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28226 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15201; File No. SR-MSE-78-17]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 5, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Brackets ([]) indicate deletions; *Italics* indicate new material

ARTICLE VIII

Arbitration of Small Claims

Rule 23. (a) Any dispute, claim or controversy, arising between a public customer(s) and a registered person, member, principal partner, principal stockholder, officer, director or member organization, involving a dollar amount not exceeding $2500.00, exclusive of attendant costs and interest, may upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The claimant shall file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is requested.

(c) The Claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. A related Counterclaim is defined as related to a customer's account or accounts with an Exchange member organization. If the Respondent(s) has interposed a Third Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding $2500.00, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $15.00.

(e) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant shall within ten (10) calendar days file a Reply to any Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s). In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) The arbitrator may, in his sole discretion, request that the Director of Arbitration appoint two (2) additional arbitrators so that the matter in controversy will be decided by three (3) arbitrators.

(j) In any case where there is more than one (1) Arbitrator, the majority will be public arbitrators.

STATEMENTS OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change was drafted by the Securities Industry Conference on Arbitration in answer to an SEC directive to the securities industry to establish a uniform system for the resolution of customers' small claims against brokers.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule change seeks to remove impediments to the establishment of a national market system and seeks to protect the public investors by creating a uniform rule for the resolution of customer disputes involving small claims.

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COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Comments have neither been solicited nor received.

BURDEN ON COMPETITION

The Midwest Stock Exchange, Inc. believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28227 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15199; File No. SR-PSD-78-4]

PACIFIC SECURITIES DEPOSITORY TRUST CO.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change, as amended, involves the implementation of a third party delivery service in the interface between Pacific Securities Depository Trust Co. ("PSDTC") and the Depository Trust Co. ("DTC").

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to implement a third party delivery service in the interface between PSDTC and DTC. This third party delivery service permits any participant in one depository to deliver securities to, or receive securities from, any participant in the other depository free (without money settlement) or for payment. Previously, only a participant affiliated with both depositories could use the interface and then only to move positions between its accounts in PSDTC and DTC.

The proposed rule change would carry out the purposes of section 17A of the Securities Exchange Act of 1934 by facilitating the prompt and accurate clearance and settlement of securities transactions for which PSDTC is responsible in that the proposed rule change eliminates the need for dual participants in PSDTC and DTC to initiate multiple book-entry movements with attendant charges to effect interdepository movements and the proposed rule change enables sole participants of one depository to effect book-entry deliveries to sole participants of the other depository, which would otherwise necessitate physical deliveries by intercity securities shipments.

PSDTC announced in its newsletter of November 1976 and March 1977 the progress of the interface with DTC. The final stage, full interface capability, including third party delivery service was announced to all participants by PSDTC member information notice attached as exhibit 2 to PSDTC's filing on form 19b-4A, file No. SR-PSD-78-1.

PSDTC perceives no burden on competition by reason of the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549.

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28228 Filed 10-5-78; 8:45 am]

[4710-10]

DEPARTMENT OF STATE

[Public Notice CM-8/114]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Monday, October 30, and in both open and closed sessions on Tuesday, October 31, 1978. The open session of the meeting will convene Tuesday at 2:30 p.m., in the Loy Henderson Conference Room, U.S. Department of State, 21st and C Streets NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the Eighth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning March 19, 1979. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552(b)(1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m., October 31, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada by October 24 and provide their name and affiliation to facilitate their attendance. Mr. Okada's telephone number is (area code 202) 632-9616.

ALAN BERLIND,
Director, Office of the Law of the Sea Negotiations.

[FR Doc. 78-28265 Filed 10-5-78; 8:45 am]

[4710-02]

Agency for International Development

ZAMBIA

Determination and Waiver Pursuant to Section 533(c)(2) of the Foreign Assistance Act of 1961, as Amended

The Agency for International Development has proposed a grant to Africare in the amount of $1 million. The primary purpose of the grant is to undertake a program of assistance to civilian refugees in the northern Zambian settlement of Meheba. The program is designed to assist the refugees in becoming agriculturally self-sufficient; to provide for more of their basic needs through sale of surplus farm products; and to assist in developing a local capability to sustain improved environmental health conditions and improved health care delivery. An Africare representative stationed in Lusaka will provide liaison with the Government of Zambia and will place major emphasis on developing additional refugee assistance activities.

These refugees at Meheba are mainly civilian Angolans who have settled in the northwestern province. They are quite apart from refugees who enter Zambia to join liberation movements who go to camps in the southern part of the country. The latter group is the Ministry of Defense's responsibility. The civilians are the responsibility of the Ministry of Home Affairs (the Commissioner for Refugees).

Funding for the proposed grant will be drawn from the southern African special requirements funds (FAA section 533).

FAA section 533(c)(2) prohibits utilization of southern African special requirements funds for Zambia unless it is determined that such assistance would further foreign policy interests of the United States.

Zambia occupies a key geographic and policital position in southern Africa. The number of refugees entering Zambia has increased dramatically as a result of turbulence in neighboring states. Considerable emphasis has been placed in the education of thousands of civilian school-age children. However, the Government of Zambia cannot sufficiently meet the financial demands of much needed classroom extensions, additional teachers, and housing.

U.S. foreign policy in southern Africa is to support self-determination, majority rule, equal rights, and human dignity for all people of the region. It is U.S. policy to assist the region in establishing foundations for economic and social growth and political stability.

The Government of Zambia's educational and self-help objectives for its civilian refugees is extremely important in contributing to the economic and social stability of southern Africa. These objectives reflect basic concerns and objectives of the United States.

The proposed grant to Africare will have a direct bearing on helping the Zambian Government meet its goals of providing education for refugee children and helping the refugees to become agriculturally self-sufficient and to maintain better health conditions.

Pursuant to the authority set forth in section 533(c)(2) of the Foreign Assistance Act of 1961, as amended, and delegated to me by Executive Order 10973 and Department of State delegation of authority 104, and for the reasons stated above, I hereby determine that it would further the foreign policy interests of the United States to provide assistance to Zambia from the southern African special requirements funds and hereby waive the prohibition set forth in the above cited provision of law with respect to Zambia.

This determination and waiver shall be reported to the Congress and shall be published in the FEDERAL REGISTER.

Dated: September 22, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-28266 Filed 10-5-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. 73, under Revised Service Order No. 1252]

ALTON & SOUTHERN RAILWAY CO., ET AL.

Rerouting Traffic

In the matter of the Alton & Southern Railway Co., Burlington Northern Inc., the Baltimore and Ohio Railroad Co., Chicago & North Western Transportation, Co., Chicago, Rock Island & Pacific Railroad Co., Consolidated Rail Corp., Illinois Central Gulf Railroad Co., Illinois Terminal Railroad Co., Louisville & Nashville Railroad Co., Manufacturers Railway Co., Missouri-Kansas-Texas Railroad Co., Missouri Pacific Railroad Co., Norfolk & Western Railway Co., St. Louis-San Francisco Railway Co., St. Louis Southwestern Railway Co., Southern Railway Co., Terminal Railroad Association of St. Louis.

In the opinion of Joel E. Burns, agent, the Terminal Railroad Association of St. Louis is unable to transport traffic over its lines because of a strike of certain of its employees.

It is ordered, That

(a) The Terminal Railroad Association of St. Louis being unable to transport traffic over its line because of a strike of certain of its employees, that line and its connections, are hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is

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to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of this Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:30 a.m., September 22, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads, subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 22, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-28285 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252, I.C.C. Order No. 75]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO. AND FERROCARRIL DE CHIHUAHUA AL PACIFICO, S.A. DE C.V.

Rerouting of Traffic

To all railroads:

In the opinion of Robert S. Turkington, Agent, The Atchison, Topeka & Santa Fe Railway Company (ATSF) and the Ferrocarril de Chihuahua al Pacifico, S.A. de C.V. (CHP) are unable to interchange traffic routed via Presidio, Tex., and Ojinago, Chihuahua, Mex., because of damage to the bridge connecting these points.

It is ordered, That

(a) *Rerouting traffic.* The ATSF and the CHP, being unable to interchange traffic routed via Presidio, Tex., and Ojinago, Chihuahua, Mex., because of the damage to the bridge connecting these points, are authorized to reroute or divert such traffic over any available route to expedite the movement, regardless of the routing designated on the waybill. The billing covering all such cars rerouted or diverted shall carry a reference to this order as authority for the rerouting. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as posssible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed, to the extent that these rates apply to movements within the United States.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 5 p.m., September 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 15, 1978, unless otherwise modified, changed, or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28295 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332, Exception No. 5 under Section (a), Paragraph (1), Part (v)]

BURLINGTON NORTHERN INC.

Exception

Decided: September 22, 1978.

By the Board:

The Western Pacific Railroad Co. (WP) has purchased one-hundred (100) new boxcars which will be delivered to Burlington Northern Inc. (BN), at Portland, Oreg., for movement to the WP. WP has allowed BN to load these cars on the west coast for movement to the WP. Reduced loadings of these cars on the BN to destinations a s directed by WP means the BN will hold some of the cars beyond the 60 hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Burlington Northern Inc., is authorized to assemble and hold up to one-hundred (100) new Western Pacific Railroad Co. (WP) boxcars for loading as directed by WP, regardless of the provisions of section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective: September 22, 1978.

Expires: October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-28286 Filed 10-5-78; 8:45 am]

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[7035-01]

[Revised S.O. 1252, Rev. I.C.C. Order 65, Amdt. No. 5]

CP RAIL AND DETROIT, TOLEDO & IRONTON RAILROAD CO.

Rerouting of Traffic

To All Railroads:

Upon further consideration of Revised I.C.C. Order No. 65 (CP Rail and Detroit, Toledo & Ironton Railroad Co.), and good cause appearing therefor:

It is ordered, That

Revised I.C.C. Order No. 65 is amended by substitutng the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1978, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28294 Filed 10-5-78; 8:45 am]

[7035-01]

[Second Rev. S.O. 1332; exception No. 1 under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 29, 1978.

To all railroads:

By the board.

the following exceptions to Revised Service Order No. 1332, issued to various railoads, are adopted in their entireties as exceptions to Second Revised Service Order No. 1332.

Exception No. 3 issued September 11, 1978.
Exception No. 4 issued September 20, 1978.
Exception No. 5 issued September 22, 1978.
Exception No. 6 issued September 27, 1978.
Exception No. 7 issued September 27, 1978.

Exceptions not listed above are no longer in effect.

Authority Section (a), Paragraph (1), Part (v) of Second Revised Service Order No. 1332.

Effective: September 30, 1978.

Expires: November 30, 1978.

ROBERT S. TURKINGTON,
Acting, Chairman,
Railroad Service Board.

[FR Doc. 78-28298 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 6 Under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 27, 1978.

To: Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

By the Board.

The Western Pacific Railroad Co. (WP) has purchased one-hundred (100) new boxcars which will be delivered to Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (MILW) at Portland, Oreg., for movement to the WP. WP has allowed MILW to load these cars on the west coast for movement to the WP. Reduced loadings of these cars on the MILW to destinations as directed by WP means the MILW will hold some of the cars beyond the 60 hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Chicago, Milwaukee, St. Paul & Pacific Railroad Co., is authorized to assemble and hold up to one-hundred (100) new Western Pacific Railroad Co. (WP) boxcars for loading as directed by WP, regardless of the provisions of section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective: September 27, 1978.

Expires: October 31, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-28299 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, 50th Revised Exemption No. 90]

MANDATORY CAR SERVICE RULES

Exemption

To all railroads:

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, That there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol (%) have 150% or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen & Rockfish Railroad Co.
Reporting Marks: AR
Atlanta & Saint Andrews Bay Railway Co.
Reporting Marks: ASAB
%The Baltimore & Ohio Railroad Co.
Reporting Marks: BO
%Bessemer & Lake Erie Railroad Co.
Reporting Marks: BLE
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT
%The Chesapeake & Ohio Railway Co.
Reporting Marks: CO-PM
XXX

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City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
%Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC-P&E-PAE-PC-PCA-PRR-RDG-TOC
%Delaware & Hudson Railway Co.
Reporting Marks: DH
Duluth, Missabe & Iron Range Railway Co.
Reporting Marks: DMIR
%Florida East Coast Railway Co.
Reporting Marks: FEC
Genessee & Wyoming Railroad Co.
Reporting Marks: GNWR

% Carriers having 150% or more of ownership on lines.

XXX Chicago & Illinois Midland Railway Co., Chicago, Rock Island & Pacific Railroad Co. and Western Maryland Railway Co. eliminated.

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%Grand Trunk Western Railroad Co.
Reporting Marks: GTW
Greenville & Northern Railway Co.
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF
Lenawee County Railroad Co., Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Co.
Reporting Marks: LOAM
Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: BKTY-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
%Norfolk & Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Peninsula Terminal Co.
Reporting Marks: PT
Providence & Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Co.
Reporting Marks: WCTR
%Western Railway of Alabama
Reporting Marks: WA
Youngstown & Southern Railway Co.
Reporting Marks: YS
Yreka Western Railroad Co.
Reporting Marks: YW

Effective October 1, 1978, and continuing in until further order of this Commission.

Issued at Washington, D.C., September 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28297 filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 7 Under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 27, 1978.

To all railroads:

By the Board.

Because of a series of work stoppages by their employees, numerous railroads are unable to move freight cars within the time limits established by Service Order No. 1332.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Revised Service Order No. 1332, the provisions of Service Order No. 1332 are suspended at any point or points at which a work stoppage of employees occurs effective with the time such work stoppage occurs and expiring at 11:59 p.m., of the second day following the day on which the employees return to duty.

Effective: September 27, 1978.

Expires: October 6, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-28300 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252; Revised ICC Order No. 69; Amdt. No. 1]

CHESAPEAKE & OHIO RAILWAY CO.

Rerouting of Traffic

Upon further consideration of Revised ICC Order No. 69 (The Chesapeak & Ohio Railway Co.), and good cause appearing therefor:

It is ordered,

Revised ICC Order No. 69 is amended by substitutng the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. September 27, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28290 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252, ICC Order No. 62, Amdt. No. 5]

CHESAPEAKE & OHIO RAILWAY CO.

Rerouting of Traffic

To all railroads:

Upon further consideration of ICC Order No. 62 (The Chesapeake & Ohio Railway Co.) and good cause appearing therefor:

It is ordered,

ICC Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28292 Filed 10-5-78; 8:45 am]

[7035-01]

[No. MC-126118 (Sub-No. 36), et al.]

CRETE CARRIER CORP.

Decision

In the matter of Crete Carrier Corp., Paper Products Conversion (No. MC-126118 (Sub-No. 36)), Crete Carrier Corp., Extension—Taylorville, IL, (No. MC-128375 (Sub-No. 149)), and Crete Carrier Corp., Extension—St. Francisville, LA (Lincoln, NE), (No. MC-128375 (Sub-No. 149)).

Decided: September 27, 1978.

Applicant is presently both a common and contract carrier. The title proceeding is one of five applications seeking conversion to certificates of public convenience and necessity of applicant's outstanding contract carrier authority. The other four "conversion" applications have been the subject of favorable final decisions. The title proceeding—which seeks to convert permits authorizing the transportation of paper and paper products for Western Paper Co., a division of Hammermill Paper Co.—is before us on applicant's exceptions to the Administrative Law Judge's recommended partial denial.

The embraced proceedings were filed as contract carrier applications seeking extension of authority to serve Western. They were initially processed under the modified procedure, but subsequently assigned along with the title proceeding for oral hearing to insure consistent disposition with respect to the status of the proposed operations as either contract or common carriage. The Administrative Law Judge recommended that common carrier authority be granted in these proceedings, subject to certain restrictions. No exceptions were filed in the embraced proceedings, but they will be reopened on our own motion.

The Administrative Law Judge's statement of facts, as supplemented and modified here, is correct and we adopt it as our own. We disagree with the recommended partial denial of the title proceeding and with the imposition of "for the account of" restrictions in each proceeding. We find that the public convenience and necessity require the operations proposed by applicant in each proceeding. Provision is made for publication in the FEDERAL REGISTER of the authority granted.

ORAL HEARING AND STIPULATIONS

The three proceedings were orally heard at the same time. Appearing in opposition were motor common carriers Michigan & Nebraska Transit Co., Inc., National Refrigerated Transport, Inc., and WNI, Inc. (opposing only the conversion proceeding), as well as Trans-National Truck, Inc., and Schneider Transport, Inc. (opposing both the conversion proceeding and the Sub-No. 148 application). The Sub-No. 149 application is unopposed.

By stipulation, it was agreed that (1) Schneider and affiliates derive about 60 percent of their revenue from paper and paper products traffic, (2) at least $8.5 million in revenue would be subject to diversion upon an unrestricted grant of the conversion applicaiton, (3) such diversion would "* * * so adversely affect Schneider and affiliates that it would materially diminish their ability to serve its [sic] shipping public * * *", (4) the imposition of appropriate interchange and "for the account of" restrictions was necessary adequately to protect protestants' interests, and (5) applicant expressly acknowledges that failure to impose a restriction of the type published in the Federal Register would necessitate reopening and rehearing the conversion proceeding. The restrictions referred to above were likewise proposed for the Sub-No. 148 application. Protestant Michigan & Nebraska's motion to intervene in that proceeding was granted. Documentary evidence submitted by Michigan & Nebraska was stipulated, as well.

The Administrative Law Judge recommended that the embraced applications be granted and that the conversion application be granted, in part. He recommended imposition of a "for the account of" restriction in each proceeding. The administrative Law Judge recommended denying authority to serve destinations in Alabama, Colorado, Idaho, Kentucky, Minnesota, Mississippi, Montana, Nevada, New Mexico, South Dakota, and Wyoming, reasoning that "* * * extremely limited traffic moving to such destinations over a substantial period of time * * *" rendered the authority dormant, notwithstanding shipper evidence of future need. A favorable recommendation on traffic moving from Hoquiam, WA, (except to Wyoming) was based on evidence of *Hammermill* traffic moving to that area,[1] as well as the asserted need for coloading Hammermill and Western traffic at the involved origin. No explanation is given for the recommended denial of authority to serve Kansas City, MO.

APPLICANT'S EXCEPTIONS

As the Administrative Law Judge recommended granting both embraced applications, applicant has excepted only to the recommended partial denial of the title conversion proceeding. The Administrative Law Judge assertedly erred in not according proper weight to (1) evidence establishing the substantiality of applicant's past operations for Western, (2) evidence of need for service beyond the scope of applicant's pertinent permits, (3) evidence of future need, and (4) the effect which a grant would have upon Hammermill's private carriage operations.

"FOR THE ACCOUNT OF" RESTRICTIONS

Restrictions on operating authority should generally be imposed only when consistent with the public interest and with effective and efficient regulation. *Fox-Smythe Transportation Co. Extension—Oklahoma,* 106 MCC 1, 9 (1967). Section 203(a)(14) of the Interstate Commerce Act defines the term "common carrier by motor vehicle" as "any person which holds itself out to the *general public* to engage in the transportation by motor vehicle in interstate of foreign commerce of passengers or property * * * for compensation * * *" (Emphasis supplied.) The proposed "for the account of" restrictions would preclude the rendition of service to the general public. As such, the restrictions are repugnant to the concept of common carriage and will not be imposed. Compare *North Star Transport, Inc., Extension—Lumber,* 128 MCC 803 (1978).

PUBLIC CONVENIENCE AND NECESSITY

Since we will not impose a restriction which is clearly contrary to the statutory definition of common carriage, we will determine whether the record suports a grant of common carrier authority in each proceeding.

THE CONVERSION PROCEEDING

A public need is shown for the proposed service. Western's use of applicant on traffic moving to points in Mississippi, Alabama, Minnesota, and South Dakota assertedly has increased. Applicant's traffic exhibits (7 through 12) do not substantiate this claim, but applicant asserts that these exhibits do not reflect the full extent of its operations for Western. The record establishes that applicant transported Western traffic to points in Kentucky and Montana. Representative destinations in Minnesota, Mississippi, Montana, and Kentucky are listed, as well as representative mulitple delivery shipments involving stopoffs at Mississippi, Minnesota, North Dakota, and Alabama points. Applicant's traffic abstracts establish that multiple deliveries to such points have in fact been made.

Western maintains branch "houses" where stocks are kept from which to serve customers at North Kansas City, MO (here Western maintains, as well, an office under the trade name Midwestern Paper Company), Fargo, ND, Salt Lake City, UT, and Billings, MT, among other places.

Substantial Hammermill traffic moves in private carriage from various involved origins to points in Alabama, Colorado, Kentucky, Minnesota, Mississippi, Montana, New Mexico, and South Dakota. Hammermill also has customers in Utah, Idaho, Nevada and Wyoming. Hammermill seeks to supplant its extensive private operations east of the Mississippi River with applicant's service, coloading traffic of its several divisions or filing out loads at various origins. The Administrative Law Judge appears to have accorded such evidence little weight, apparently reasoning that evidence of need for service beyond the scope of applicant's pertinent permits is irrelevant. We disagree. Conversion of permits to certificates endows the carrier with capbilities and obligations it would not possess as a contract carrier. Evidence of a present or future public need for services not performed under outstanding permits but within the scope of the conversion application is relevant to the determination of public convenience and necessity. See *Refrigerated Foods, Inc., Ext.—Conversion,* 125 MCC 887, 894-5 (1976) and *Continen-*

[1] The Administrative Law Judge notes that "virtually no" Western traffic is shown moving from Hoquiam save three shipments to Utah.

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tal Contract Car. Corp., Conversion Applic., 129 MCC 554, 560 (1978).

The Administrative Law Judge appears, as well, to have accorded little weight to evidence of future need, reasoning that there was "no probative evidence" of such need. We again disagree. Future need for a proposed service may be established by a showing that the supporting shipper is actually soliciting business or has some definite plan upon which it can reasonably be found that the proposed service will be used in the foreseeable future. *Gibbon Extension—Liquid Petroleum Wax*, 67 MCC 252, 253 (1956). Though it must have some foundation, proof of future need will be, in the nature of things, less definite than proof of existing need. *Miller Transporters Extension—Urea*, 84 MCC 684, 687 (1961).

Shipper lists representative multiple delivery shipments. Significantly, applicant's traffic abstracts substantiate this testimony: Five of nine shipments moving to Mississippi points involved multiple stops at points in Tennessee; all shipments to Minnesota points involved multiple stops, chiefly at points in North Dakota; one shipment from Mobile, AL, to Fargo, ND, involved a stop at Lincoln, NE—the Administrative Law Judge recommended denial of authority to serve Mississippi and Minnesota points, as well as points in North Dakota from Mobile, AL. We fail to see any rational basis for denial of authority to serve contiguous States on these facts.

Michigan & Nebraska, unlike Schneider and affiliates, holds limited territorial authority which would preclude it from rendering the complete service contemplated in the proposed operation. Though some diversion of traffic may occur, we are convinced that the proposed operation will serve a useful public purpose as detailed above. Though this purpose might conceivably be served as well by Schneider and affiliates, the present record does not warrant such a finding.

THE EMBRACED PROCEEDINGS

With regard to the embraced Sub-No. 148 application, Schneider is authorized to transport paper and paper products from Taylorville, IL, to points in Iowa. By interlining with its affiliate Trans-National Truck, Inc., at Oskaloosa, IA, Schneider can serve points in Kansas (except 16 named major points) and Nebraska as well. Schneider and affiliate hold no pertinent authority to serve points in Missouri. Michigan & Nebraska holds no authority to originate the involved traffic. Protestants chief interest appears to be in protecting their operations from additional competition—not in serving Western, and, hence, the "general public." Schneider and affiliate's inability to meet Western's expressed need for multiple deliveries is apparent. Michigan & Nebraska's interests will be protected by imposition of an appropriate "originating at" restriction.

The Sub-No. 149 application is unopposed and the evidence warrants a grant of the authority sought.

Service will be authorized as set forth in the appendix. While the "for the account of" restrictions must be eliminated, each grant of authority will be subject to an appropriate restriction against interlining, as requested. Cf. *Ferree Moving and Storage, Inc., Conversion Applic.*, 110 MCC 375, 379 (1969), *Bass Transp. Co., Inc., Ext.—St. Louis, Mo.*, 125 MCC 233, 256 (1976) and *Continental, supra*, at page 562.

REPUBLICATION

Since the authority conditionally granted in this decision will not include "for the account of" restrictions, we will require republication in the FEDERAL REGISTER. Within 30 days of the date of publication of this notice any person prejudiced by this deletion may file a petition to intervene setting forth in detail the precise manner in which it has been prejudiced by deletion of the restrictions. If parties already of record wish to file additional evidence they should advise the Commission of their desire to do so within the same 30 day period. At the end of the 30 day period disposition will be made of any petitions to intervene and an appropriate decision will be entered providing for submission of additional evidence by the protestants and intervenors.

We find:

The present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. Appropriate certificates should be granted, subject to the cancellation and republication conditions set forth in the appendix. This decision does not significantly affect the quality of the human environment.

It is ordered, That the proceedings in No. MC-128375 (Sub-Nos. 148 and 149) are, on our own motion, reopened for reconsideration on the present record.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian. Commissioner Gresham dissenting to the extent that the majority requires further delay through notice and comment.

H. G. HOMME, Jr.,
Acting Secretary.

APPENDIX

AUTHORITY CONDITIONALLY GRANTED

I. No. MC-126118 (Sub-No. 36).

Paper and paper products

(1) From Erie and Lock Haven, PA, Indianapolis, IN, Oswego, NY, and points in Michigan, Ohio and Wisconsin to points in Arkansas, Florida, Iowa, Kansas, Louisiana, Missouri, Nebraska, North Dakota, Oklahoma, Tennessee, Texas, Utah, Alabama, Colorado, Idaho, Kentucky, Minnesota, Mississippi, Montana, Nevada, New Mexico, South Dakota, and Wyoming.

(2) From Mobile, AL, to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, Oklahoma, Montana, Idaho, Nevada, Utah, Wyoming, North Dakota, South Dakota, Minnesota, Colorado, and New Mexico.

(3) From Hoquiam, WA, to points in Idaho, Montana, Nevada, Utah, and Wyoming.

(4) From Pinebluff, AR, to Kansas City, MO, and points in Nebraska.

(5) From Portland, OR, to points in Nebraska.

II. No. MC-128375 (Sub-No. 148) [To be issued under No. MC-126118 and an appropriate subnumber.]

Paper and paper products

From Taylorville, IL, to points in Iowa, Kansas, Missouri and Nebraska.

III. No. MC-128375 (Sub.-No. 149) [To be issued under No. MC-126118 and an appropriate subnumber.]

Paper and paper products

From St. Francisville, LA, to Memphis, TN, and points in Iowa, Kansas, Missouri, and Nebraska.

RESTRICTION

The authority granted in all three proceedings is restricted to traffic originating at the named origins and destined to the named destinations authorized above.

SPECIAL CONDITION FOR ISSUANCE OF CERTIFICATES IN I, II, AND III

Issuance of a certificate in each proceeding is subject to (1) coincidental cancellation of the carrier's outstanding permits in No. MC-128375 and subnumbers and (2) republication in the FEDERAL REGISTER of a notice of the authority actually granted.

[FR Doc. 78-28302 Filed 10-5-78; 8:45 am]

[7035-01]

[Revised S.O. 1252; Revised I.C.C. Order No. 68; Amdt. No. 1]

FORT WORTH & DENVER RAILWAY CO.

Rerouting of Traffic

To all railroads

Upon further consideration of Revised ICC Order No. 68 (Fort Worth & Denver Railway Co.), and good cause appearing therefor:

It is ordered,

Revised ICC Order No. 68 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. September 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28296 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, Exemption No. 152]

MANDATORY CAR SERVICE RULES

Exemption

To all railroads

It appearing, That there are certain railroads which are inoperable due to a strike of certain of the operating employees. Many of the railroads are unable to move rail cars in compliance with Car Service Rules 1 and 2 because of the strike, thus depriving those carriers still operating of the return of their cars. Compliance with Car Service Rules prevents the timely assembly and use of such cars as are available on the lines presently operating.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, because of a strike on certain railroads of certain operating employees, Car Service Rules 1 and 2 are suspended.

Effective: September 26, 1978.

Issued at Washington, D.C., September 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28288 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, Exemption No. 152]

MANDATORY CAR SERVICE RULES

Exemption

To all railroads

It appearing, That there are certain railroads which are inoperable due to a strike of certain of the operating employees. Many of the railroads are unable to move rail cars in compliance with Car Service Rules 1 and 2 because of the strike, thus depriving those carriers still operating of the return of their cars. Compliance with Car Service Rules prevents the timely assembly and use of such cars as are available on the lines presently operating.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, because of a strike of certain operating employees, Car Service Rules 1 and 2 are suspended as to cars owned by all except the following railroads:

Bangor & Aroostook Railroad Co. (BAR)
Maine Central Railroad Co. (MeC)

Freight Cars bearing reporting marks assigned to the BAR and to the MeC shall remain subject to all provisions of Car Service Rules 1 and 2.

Issued at Washington, D.C., September 29, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28287 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1252, ICC Order No. 74]

REROUTING OF TRAFFIC

To All Railroads: In the opinion of Robert S. Turkington, Agent, various railroads are unable to transport traffic over their lines because of work stoppage by certain of their operating employees.

It is ordered:

(a) *Rerouting traffic.* Certain railroads being unable to transport traffic over their lines because of work stoppage by certain of their operating employees these carriers and their connections are hereby authorized to reroute or divert such traffic over any available route to expedite the movement, regardless of the routing designated on the waybill. The billing covering all such cars rerouted or diverted shall carry a reference to this order as authority for the rerouting. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:30 p.m., September 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 3, 1978, unless otherwise modified, changed, or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28289 Filed 10-5-78; 8:45 am]

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[7035-01]

[Rev. S.O. No. 1252; I.C.C. Order No. 10; Amdt. No. 5]

SAN DIEGO & ARIZONA EASTERN RAILWAY CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 10 (San Diego & Arizona Eastern Railway Co.) and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 10 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28293 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1252; I.C.C. Order No. 31; Amdt. No. 4]

WESTERN MARYLAND RAILWAY CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 31 (Western Maryland railway Co.) and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 31 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Assiciation. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28291 Filed 10-5-78; 8:45 am]

[7035-01]

[Notice No. 183]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 40898 (Sub-20TA), filed August 4, 1978. Applicant: S. & W. MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Clarion, PA, to Eden, Greensboro, and Clemmons, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 103051 (Sub-44TA), filed August 4, 1978. Applicant: FLEET TRANSPORT CO., INC., P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blackstrap molasses and blackstrap molasses based feed ingredients*, (in bulk, in tank vehicles), from Nashville, TN, to points in IN, for 180 days. Supporting shipper(s): National Molasses Co., Willow Grove, PA 19090. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 109294 (Sub-25TA), filed July 26, 1978. Applicant: COMMERCIAL TRUCK CO., LTD., 90 Leeder Avenue, Coquitlam, BC, Canada V3J 6Z9. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolled paper*, from Longview, WA, to the United States-Canadian boundary at Blaine and Sumas, WA, restricted to shipments moving on specialized rolled paper flatbed equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mac Millan Bloedel Ltd., 1075 West Georgia, Vancouver, BC. Send protests to: Hugh H. Chaffee District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 110012 (Sub-47TA), filed August 4, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, P.O. Box 68, Morristown, TN 37814. Representative: John R. Sims, Jr. 915 Pennslyvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and returned shipments of new furniture*, from the plantsites of Lea Industries, Inc., Division of Sperry-Hutchinson Co., located at or near Richmond and Kenbridge, VA, to Morristown, TN, for 180 days. Applicant intends to tack the authority herein applied to their authority held in Subs-1, 7, 23 and 24. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lea Industries, Inc., Division of Sperry-Hutchinson Co., P.O. Box HP No. 3, 1 Plaza Center, High Point, NC 27261. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 113751 (Sub-24TA), filed July 31, 1978. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Street, P.O. Box 47, Waupaca, WI 54981. Representative: James A Spiegel, Olde Towne Office Park, 6401 Odana Road, Madison, WI 53719. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal and charcoal briquettes, and wood chips, vermiculite, lighter fluid, and accessories* used in outdoor cooking, in mixed loads with charcoal and charcoal briquettes, from plants of Husky Industries, Inc., located at Waupaca, WI, and Isanti, MN, to points in LA, MD, NC, NY, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346 (Vernon LeRoy Ekedahl Sr., vice president). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 114725 (Sub-88TA), filed August 2, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald F. Swerczek (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk), from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jonah Pollack, traffic representative, Chevron Chemical Co., 3001 L. B. J. Freeway, Suite 130, Dallas, TX 75234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 115092 (Sub-70TA), filed July 31, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap or waste paper*, from points in CA, to Toledo, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, OR 97204 (John R. Tuttle, Transportation Analyst-Motor). Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 116063 (Sub-149TA), filed July 31, 1978. Applicant: WESTERN COMMERCIAL TRANSPORT, P.O. Box 270, 72929 West 5th Street, Fort Worth, TX 76101. Representative: W. H. Cole, P.O. Box 270, Fort Worth, TX 76101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (in bulk, in tank vehicles), from Opelousas, LA, to points in MS, TN, GA, FL, AR, and KS, for 180 days. Supporting shipper(s): Lou Ana Foods, Inc., 731 North Railroad Avenue, Opelousas, LA 70570. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119700 (Sub-39TA), filed July 31, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill and wood products, plywood, particleboard, preservatively treated or untreated*, from the facilities of Willamette Industries, Inc., at Zwolle and Natchitoches, LA, to points in AR, IL, IN, IA, MI, MO, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Willamette Industries, Inc., P.O. Box 606, Ruston, LA 71270. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64119.

MC 119726 (Sub-138TA), filed August 4, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 East Washington Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising matter, and materials and supplies* used in the manufacture and distribution of malt beverages, between points in the United States in and east of IA, MN, MO, OK, and TX, on the one hand, and points in Houston County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Co., Georgia Highway 237 Spur, Pabst, GA. 31069. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 119726 (Sub-139TA), filed August 4, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Owens-Illinois, Inc., at or near Clarion, PA, to Eden, Greensboro and Clemmons, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis IN 46204.

MC 126673 (Sub-3TA), filed July 31, 1978. Applicant: REMO G. RICCI, d.b.a. RICCI BROTHERS TRUCKING, 600 Stage Gulch Road, Petaluma, CA 94952. Representative: Raymond A. Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed animal and poultry feed*, (in bulk), between Petaluma, CA, and Yerington, NV, under a continuing contract, or contracts, with Hunt & Behrens, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hunt & Behrens, Inc., P.O. Box 2040, Petaluma, CA 94952. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128270 (Sub-29TA), filed July 31, 1978. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant site and facilities of North-Western Steel & Wire Co., at Sterling & Rockfalls, IL, to points in

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CO, IA, MN, MO, KS, NE, ND, SD and WI, for 180 days. Supporting shipper(s): Northwestern Steel and Wire, Larry D. Mangon, manager, transportation services, Avenue B and Wallace Street, Sterling, IL 61081. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788, filed July 31, 1978. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Detroit, MI, to Decatur, Springfield, Champaign, and Jacksonville, IL. for 108 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Supporting shipper(s) Starr Bros., Inc., 300 Singer Avenue, Springfield, IL 62703 (2) Michael N. Maurer, President, Maurer Distributing Co., 2802 Woodford Street, Decatur, IL 65226; (3) Gary R. Mraz, General Manager, Pierson Distributors, 234 East Court, Jacksonville, IL 62650; and (4) James J. McNabney, President, Van Pickerett-Champaign Ltd., 606 East Kenyon, Champaign, IL 61820. Send protests to: Lois M. Stahl Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788, (Sub-12TA), filed July 31, 1978. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Milwaukee, WI, to Decatur, Champaign, Peoria, and Jacksonville, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Baumgarten distributing Co., Inc., P.O. Box 1466, Peoria, IL 61655; (2) Pierson Distributors, 234 East Court, Jacksonville, IL 62650; (3) Clark Distributing Co., 804 North Elm, Champaign, IL 61820; and (4) Maurer Distribution Co., 2802 North Woodford Street, Decatur, IL 62526. Send Protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133671 (Sub-5TA), filed July 26, 1978. Applicant: MILLER BROS. CO., INC., P.O. Box 1, Hyrum, UT 84319. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the facilities of E. A. Miller & Sons Packing Co., Inc., at or near Hyrum, UT, to points in the States of IA, IL, MN, NE, ND, SD, and WI, under a continuing contract, or contracts, with E. A. Miller & Sons Packing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. A. Miller & Sons Packing Co., Inc., P.O. Box EA, Hyrum, UT 84319. Send protests to: Lyle D. Hilfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 14405 (Sub-49TA), filed July 31, 1978. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), between Houston, TX, and Augusta, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Riffe Petroleum Co., 1111 Philtower Building, Tulsa, OK 74103. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 135797 (Sub-136TA), filed July 31, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacture and distribution of animal and poultry medicinal health products, pesticides and feed supplements, from points in the United States (except AK and HI), to the facilities of Pfizer, Inc., at or near Lee's Summit, MO, for 180 days. Supporting shipper(s): Pfizer, Inc., 1107 South Missouri 291, Lee's Summit, MO 64063. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138308 (Sub-54TA), filed July 31, 1978. Applicant: KLM, INC., 2102 Old Brand Road, P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1400 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of RJR Archer, at or near Aurora, OH, to points in TX, LA, MS, AL, GA, NC, SC, FL, AR, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): RJR Archer, 1450 South Chillicothe Road, Aurora, OH 44202. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 139973 (Sub-49TA), filed July 31, 1978. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Representative: Larry Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts and poleline hardware*, between Nacogdoches, TX, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX., restricted to traffic originating at or destined to the facilities of McGraw-Edison Co., for 180 days. Supporting shipper(s): McGraw-Edison Co., P.O. Box U, Columbia, MO 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City MO 64106.

MC 140389 (Sub-34TA), filed July 26, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77 North, Gadsden, AL 35902. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from Seattle, WA, and points in its commercial zone to points in CA and Sparks, NV, and points in its commercial zone, (1) restricted to traffic moving on bills of lading issued by Puget Sound Shipper Association, and (2) restricted to traffic having a prior movement by water or traffic not having a prior movement by water when moving or mixed with shipments having a prior movement by water; and (2) *rugs, carpets, carpeting, and textile products*, between points in CA and NV, and from points in CA and NV, to points in WA, OR, ID, UT, and CO, for 180 days. Supporting shipper(s): There are approximately (18) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 141266 (Sub-5TA), filed July 31, 1978. Applicant: WILLIAM T. AMERSON, d.b.a. BILL AMERSON TRUCKING, Route 1, Box 305, Georgetown, SC 29440. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the facilities of Charles Ingram Lumber Co. at or near Andrews and Florence, SC, to points in AL, DE, FL, GA, KY, MD, MS, NJ, NC, OH, PA, TN, VA, WV, and DC, under a continuing contract, or contracts, with Charles Ingram Lumber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles Ingram Lumber Co., P.O. Box 1690, Florence, SC. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 143274 (Sub-2TA), filed July 26, 1978. Applicant: BILLY P. RUPPE, d.b.a. RUPPE MOTOR LINES, 309 Kraft Street, Gaffney, SC 29340. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Disposable dental and hospital supplies*, from Spartanburg, SC, and points in its commercial zone, to Washington, DC; Miami and Tampa, FL; Chicago, IL; Louisville, KY; Bridgeton, NJ; and New York, NY, and points in their commercial zones; and to those ports of entry on the international boundary line between the United States and Canada located in NY, under a continuing contract, or contracts, with Spartan Mills (SC corporation) and Spartan Healthcare Products Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spartan Mills (SC corporation) and Spartan Healthcare Products Division, P.O. Box 5784, Spartanburg, SC 29301. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 144145 (Sub-5TA), filed August 4, 1978. Applicant: GILBERT TRUCK LINES, INC., Alger Road, Route No. 2, Ithaca, MI 48847. Representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean hulls*, in bulk, in hopper trucks, from the facilities of Cargill, Inc., located at Chicago, IL, to points in IN, WI, and MI, except points in MI south of M-55, and except Pickford and Sault Ste. Marie, MI, for 180 days. Supporting shipper(s): Cargill, Inc., 122d and Torrence Avenue, Chicago, IL 60617. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 145072 (Sub-1TA), filed July 31, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Items made totally or partially of styrofoam, toilets, lawnmowers, snowthrowers, snowblades, chains, grass trimmers, and materials, supplies, and equipment* utilized in the manufacture thereof, between Batesville, MS and its commercial zone, on the one hand, and, on the other, all points in the United States, (2) *such merchandise as is dealt in by retail discount stores, and materials, equipment, and supplies* utilized in the distribution thereof, from points in NY, NJ, PA, VA, WV, OH, MA, NC, SC, MD, and IL, to the facilities of Baddour, Inc., located at or near Memphis, TN, for 180 days. Supporting shipper(s): (1) Baddour, Inc., 4300 New Getwell Road, Memphis, TN 38118, (2) Poloron Products, P.O. Box 152, Batesville, MS 38606. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28151 Filed 10-5-78; 8:45 am]

[7035-01]

[Notice No. 182]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 6, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 48441 (Sub-21 TA), filed July 12, 1978, and published in the Federal Register issue of September 13, 1978, as MC 48441 (Sub-15 TA), and republished as corrected this issue. Applicant: R. M. E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and accessories therefor*, from the facilities of Owens-Illinois, Inc., at or near Streator, IL, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., Gerald C. Turner, Manager of Transportation, Glass Container Division,

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P.O. Box 1035, Toledo, OH 43666. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 48441 (Sub-22TA), filed July 12, 1978, and published in the FEDERAL REGISTER issue of September 13, 1978, as MC 48441 (Sub-16 TA), and republished as corrected this issue. Applicant: R. M. E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 11th Street, NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from the facilities of Miller Brewing Co., at Milwaukee, WI, to Fulton, Oswego, Syracuse, and Liverpool, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Niemann, Assistant Corporate Traffic Manager, Rates, Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 48958 (Sub-156TA), filed August 2, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representatives: Lee E. Lucero (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber and plastic articles* (except commodities in bulk, in tank vehicles), from the facilities of ENTEK Corp. of America, at or near Irving, TX, to points in AR, AZ, CA, CO, IL, IN, IA, KS, MO, NE, NM, NV, OH, OK, UT and WY, and (2) *materials and supplies* used in the manufacture of the above-named articles from the destinations shown in (1) to the facilities of ENTEK Corp. of America, at or near Irving, TX, for 180 days. Applicant states that it does not intend to tack the authority sought herein with any other held by it. Supporting shipper(s): ENTEK Corp. of America, Robert B. Nielsen, Vice President/Traffic, P.O. Box 61048, Dallas, TX 75261. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 492 U.S. Customs House, Denver, CO 80202.

MC 103051 (Sub-447TA), filed August 2, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Savannah, GA, to points in FL and SC, for 180 days. Supporting shipper(s): American Cyanamid Co., Bound Brook, NJ 08805. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 106194 (Sub-36TA), filed August 2, 1978. Applicant: HORN TRANSPORTATION, INC., 3008 East Fourth Street, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, except articles which, because of size or weight require the use of special equipment, when used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and when used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, from points in Pueblo County, CO, to points in TX, (2) *pipe, pipe coupling, and fittings therefor, iron and steel articles, machinery and agricultural implements and parts therefor, materials, equipment and supplies*, incidental to or used in the construction, development, operations, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, contractor's equipment, materials, and supplies, and petroleum products other than in bulk in tank vehicles, when used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and when used in, or in connection with, the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, between points in MO located in the Kansas City, MO-Kansas City, KS commercial zone as defined by the Commission, points in that part of NE on and south of the Platte and North Platte Rivers, points in that part of CO on and east of a line beginning at the WY-CO State line and extending along U.S. Hwy 87 to Wellington, CO, then along CO Hwy 1 to junction U.S. Hwy 287, then along U.S. Hwy 287 to Denver, CO, then along U.S. Hwy 85 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the CO-NM State line, on the one hand, and, on the other, points in KS, OK and TX, and (3) *iron and steel articles* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts and iron and steel articles when used in, or in connection with the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, from points in KS, OK, and TX to points in NM, ID, UT, WY, MT, and points in that part of CO on and west of U.S. Hwy 85, for 180 days. Supporting shipper(s): There are approximately (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor H. C. Ruoff, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 114569 (Sub-238 TA), filed August 2, 1978. Applicant: SHAFFER TRUCKING, INC., a Pennsylvania corporation, P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Serv-A-Portion, Inc., at or near Cincinnati, OH, to Minneapolis and St. Paul, MN, Ayer, MA, Kansas City and St. Louis, MO, New York City, NY, and their commercial zones, and points in PA, for 180 days. Restricted to traffic originating at the above origin and destined to the named destinations. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Serv-A-Portion, Inc., 6943 Morrison Place, Cincinnati, OH 45243. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 117993 (Sub-10 TA), filed August 2, 1978. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada L20 3H9. Representative: Robert D. Gunderman, Esq., 710 Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, except in

bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada, located in NY and MI, to points in ME, VT, MA, PA, MD, NY, NJ, CT, DE, VA, and DC, for 180 days. Restriction: This authority is restricted to traffic moving in foreign commerce and originating at the facilities of Gilbey Canada Ltd., Toronto, ON, Canada, and Hiram Walker & Sons Ltd., Walkerville and Toronto, ON, Canada. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons Ltd., P.O. Box 2518, Walkerville, ON M8Y 4S5. Gilbey Canada Ltd., 400 Kipling Avenue, Toronto, ON M8V 3L2. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 123885 (Sub-28 TA), filed August 2, 1978. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57701. Representative: Mark Menard, 5301 North Cliff, P.O. Box 480, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt and road oil and petroleum residual fuel oil*, in bulk, in tank trucks, from points in WY, restricted to shipments handled for the account of Little American Refining Co., to points in NE bounded by SD State line on the north, Hwy 281 on the east, KS State line on the south, and Hwy 83 on the west, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. L. Healy Construction Co., Box 512, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 124896 (Sub-65 TA), filed August 2, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Representative: Larry Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operte as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* for Fast Food Merchandisers, Inc., and Gol-Pak Corp., Inc., subsidiaries of Hardee's Food Systems, from Rocky Mount, NC, to Independence, MO, LaGrange, GA, Mason City, IA, Oneida, NY, and Quakertown, PA, from Oneida, NY, to Independence, MO, Mason City, IA, Quakertown, PA, and Rocky Mount, NC, from Calhoun, GA, to Rocky Mount, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fast Food Merchandiser, Inc., 1233 North Church Street, P.O. Box 1241, Rocky Mount, NC 27801. Gol-Pak Corp., Inc., P.O. Box 208, Oneida, NY 13421. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 128246 (Sub-31TA), filed August 2, 1978. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95076. Representative: Michael P. Groom, Esq., 500 the Swenson Building, 777 North 1st Street, San Jose, CA 95112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, meat byproducts and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from the facilities of Swift & Co. at or near Clovis, NM, to CO, KS, OK, TX, and UT, under a continuing contract or contracts with Swift & Co., Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor, Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 135895 (Sub-28TA), filed August 2, 1978. Applicant: B & R DRAYAGE CO., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages in containers, and materials, equipment, and supplies* used in the manufacture and distribution of carbonated beverages (except commodities in bulk) between the facilities of Shasta Beverages Co., Kenner, LA, on the one hand, and, on the other, points in AL, FL, LA, MS, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shasta Beverages Co., Inc., 755 East Airline, Kenner, LA 70063. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 136220 (Sub-57TA), filed July 3, 1978, and published in the FEDERAL REGISTER issue of August 30, 1978, and republished as corrected this issue. Applicant: ROY SULLIVAN, d.b.a. SULLIVAN'S TRUCKING CO., INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timonthy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron ore pellets* (in bulk in dump vehicles), from the facilities of St. Joe Lead Co. (Iron Ore Division) at or near Sullivan, MO, to Houston, TX, for 180 days. Supporting shipper(s): St. Joe Lead Co., 7733 Forsythe Boulevard, Clayton, MO 63105. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102. The purpose of this republication is to show *dump vehicles* in lieu of *tank vehicles*, as previously published.

MC 138875 (Sub-101TA), filed August 2, 1978. Applicant: SHOEMAKER TRUCKING CO., an Idaho corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, Executive Vice President, Shoemaker Trucking Co., 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats, meat products, and packinghouse products, and commodities used by packinghouses as described in sections A and C of appendix I to the descriptions in Motor Carrier Certificates, 61 MCC 209 and 766), *and potato products, other than frozen* (except products in bulk), from points in ID and those points on OR and WA that are located east of U.S. Hwy 97, to points in CT, DE, IN, MD, MA, NJ, NY, PA, OH, RI, VA, WV, DC, and to AR, LA, OK, KY, TN, NC, SC, MS, AL, GA, TX, and FL, for 180 days. Supporting shipper(s): James G. Wilson, Traffic Manager, Chef-Reddy Corp., Broadway and Lee Streets, Othello, WA 99344; Donald D. Fowle, Senior Manager-Traffic, Ore-ida Foods, Inc., P.O. Box 10, Boise, ID; W. F. Hansen, Vice President of Sales and Traffic, W. H. Moseley Co., Bank of Idaho Building, P.O. Box 861, Boise, ID 83702; Norman B. Towne, Director of Transportation, J. R. Simplot Co., 999 Main Street, Boise, ID 83702. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 140033 (Sub-61TA), filed August 4, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Winkle & Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from Oil City, PA, to Weatherford, TX, for 180 days. Ap-

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plicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Power Service Products, Inc., 1410 North Bowie, Weatherford, TX 76086. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140829 (Sub-129TA), filed August 2, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and chemicals* (other than bulk, in tank vehicles), from Freehold, NJ, and Toms River, NJ, to points in CA, TX, IL, and MO, restricted to traffic originating at the named origins and destined to points within the named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert F. Casper, Manager, Domestic Traffic Operations, CIBA-GEIGY Corp., Ardsley, NY 10502. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 141205 (Sub-8TA), filed August 2, 1978. Applicant: HUSKY OIL TRANSPORTATION CO., 600 South Cherry Street, Denver, CO 80222. Representatives: F. Robert Reeder and Stephen K. Schroeder, P.O. Box 11898, Salt Lake City, UT 84147. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil, scrubber oil, and condensate*, from Sherman and Cheyenne Counties, KS, to Washington, Weld, and Adams Counties, CO, under a continuing contract or contracts with Husky Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Co., 600 South Cherry Street, Denver, CO 80222. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 142368 (Sub-12TA), filed June 19, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, P.O. Box 3048, City of Industry, CA 91744. Representative: William H. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafoods*, from points in the Los Angeles Harbor, CA, commercial zone, the port facilities at Newport News and Hampton, VA, and the ports of entry between the United States and the Republic of Mexico at or near Brownsville, TX; Laredo, TX; Nogales, AZ; and San Ysidro, CA, to Houston, TX; Jacksonville, FL; Norfolk, VA; and Pico Rivera, CA, and, from Houston, TX; Jacksonville, FL; Norfolk, Va; and Pico Rivera, CA, to points in CA, AZ, NM, TX, OK, AR, LA, MS, AL, GA, FL, SC, NC, VA, MD, DE, PA, NJ, NY, and Washington, DC, for 180 days. Supporting shipper: Norwegian Fish Importers, Inc., 4821 Gregg Road, Pico Rivera, CA 90660. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012. The purpose of this republication is to show the complete scope of the application as previously omitted.

MC 142603 (Sub-2TA), filed August 2, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representatives: S. Michael Richards and Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Great Barrington, MA, to all points in the United States (except AK and HI), under continuing contract or contracts with Berkshire Paper Co. of Great Barrington, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bronly S. Boyd, Vice President, Berkshire Paper Co., Inc., River Street, Great Barrington, MA 01230. Send protests to: District Supervisor, Interstate Commerce Commission, 338-342 Federal Building, 436 Dwight Street, Springfield, MA 01103.

MC 144761 (Sub-1TA), filed July 31, 1978. Applicant: R. B. (PARKER GOODLOE, d.b.a. GOODLOE TRUCKING CO., 7919 Louisville Avenue, Lubbock, TX 79423. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by meat packinghouses, in bulk, in insulated tank vehicles, from the facilities of John Morrell & Co., at Lubbock and Amarillo, TX, to points in TX, for export only, for 180 days. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 145073 (Sub-1TA), filed August 2, 1978. Applicant: DANCO TRANSPORT CORP., 260 Northland Boulevard, Cincinnati, OH 45246. Representative: A. Charles Tell, Attorney, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Sand and gravel aggregates*, in bulk, from Hamilton County, OH, to the following counties in Kentucky: Breathitt, Clark, Estill, Fayette, Floyd, Gerrard, Harlan, Jackson, Jessamine, Johnson, Knott, Knox, Laurel, Lee, Letcher, Madison, Magoffin, Montgomery, Owsley, Perry, Powell, Rockcastle, Rowan, Whitley, Wolfe, and Clay; (B) *coal*, in bulk, from the following counties in Kentucky: Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Powell, Rockcastle, Whitley, and Wolfe to points in OH and IN, under a continuing contract or contracts with Hilltop Basic Resources, Inc., and Danis Coal Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hilltop Basic Resources, Inc., P.O. Box 11056, Cincinnati, OH 45211; Danis Coal Corp., 260 Northland Boulevard, Cincinnati, OH 45246. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145119TA, filed July 26, 1978. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tire parts, inner tubes, and materials, equipment, and supplies* used in the manufacture of tires and inner tubes, between the facilities of the Firestone Tire & Rubber Co., at Des Moines, IA, on the one hand, and, on the other, points in NE, and points in IL, in the Moline, East Moline, and Rock Island commercial zones, under a continuing contract, or contracts, with the Firestone Tire & Rubber Co., for 180 days. Supporting shipper: The Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, OH 44317. Sent protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145148 (Sub-1TA), filed August 2, 1978. Applicant: SUTTER TRUCKING & EQUIPMENT, INC., 277 Versailles Road, Irving, NY 14081. Representatives: S. Michael Richards and Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire and wire products*, from Tonawanda, NY, to all points in CT, DE, GA, KY, ME, MD, MA, MO, NC, ND, NH, NJ, OH, PA, RI, SC, SD, TN, VT, VA, and WV, and, (2) *Materials, supplies, and equipment used in the manufacture of wire and wire products*, from all points in the destination States in (1) above to Tonawanda, NY, under continuing contract or contracts with New York Wire Mills Corp., a subsidiary of Ivaco Industries, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ernest R. LaFever, General Traffic Manager, New York Wire Mills Corp., a subsidiary of Ivaco Industries, Ltd., 3937 River Road, Tonawanda, NY 14150. Send protests to: Interstate Commerce Commission, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 145151 (Sub-1TA), filed July 31, 1978. Applicant: GARY STEWART TRUCKING, INC., Rural Route No. 3, Box 112, Johnson Creek, WI 53038. Representative: Ronald E. Laitsch, 113 North Third Street, Watertown, WI 53094. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snow throwers and lawnmowers, and accessories, attachments, and parts* for snow throwers and lawnmowers, from Lake Mills, WI, to Agawam, Southboro, and West Newton, MA; Cleveland, OH; Fort Custer and Springfield, MI; Mankato, MN; Philadelphia, PA; Syracuse and Tonawanda, NY; Barington, IL, and Fargo, ND, under a continuing contract, or contracts, with Wisconsin Marine, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wisconsin Marine, Inc., P.O. Box 28, Lake Mills, WI 53551 (Dean Moon, Manufacturing Manager). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, WI 53202.

MC 145183TA, filed August 2, 1978. Applicant: R. L. LEE, d.b.a. L & T TRUCKING CO., Route 2, Box 132-B, Keithville, LA 71047. Representative: Eleanor B. Lee (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crossties, finished lumber, poles, pallets, roofing materials, and plywood*, between all points in LA, AR, TX, and MI, for 180 days. Supporting shipper(s): Southern Forest Products of Louisiana, Inc., P.O. Box 36890, 810 East 70th Street, Suite, E, Shreveport, LA 71103; Maston Nance, P.O. Box 244, Plain Dealing, LA 71064; A & M Wood Treating, Route 2, Box 81B, Greenwood, LA 71033. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 145199TA, filed August 2, 1978. Applicant: WESTERFELD TRUCK LEASING, INC., Rural Route 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equiped with mechanical refrigeration, between the plantsite of KB Specialty Foods at or near Greensburg, IN; Atlanta, GA; Charleston, WV; OH, MI, MO; Little Rock, AR; KY; Memphis and Nashville, TN; IL; Salem and Roanoke, VA; Houston and Dallas, TX; and Irwin and Pittsburgh, PA, from the facilities of the Kroger Co., Cincinnati, OH, to St. Louis, MO; Indianapolis, IN; Louisville, KY; and Detroit, MI, for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with the Kroger Co. Supporting shipper: Kroger Co., 1014 Vine Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, IN 46204.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28150 Filed 10-5-78; 8:45 am]

[1505-01]

[Vol. No. 105]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-20685, appearing at page 32494 in the issue of Thursday, July 27, 1978, on page 32496, in the first column, in the paragraph beginning MC 95540, "(Sub-101F)" should read "(Sub-1015F)."

[1505-01]

[Decisions Vol. No. 7]

ORDER-NOTICE

Correction

In FR Doc. 78-16999, appearing at page 26836 in the issue for Thursday, June 22, 1978, on page 26838, in the middle column, in the fifteenth line in the paragraph beginning "No. MC 107515 (Sub-1149F)", "NM" should read "MN."

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OCT 6 1978

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2022-78 Filed 10-4-78; 8:45 am]

[6320-01]

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[M-167, Amdt. 3; Sept. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 21a. Docket 30356, *Transcontinental Low-Fare Route Proceeding* (Instructions to staff).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board heard oral argument on this case yesterday, September 28, 1978, and had announced its intention to issue instructions to staff at its October 2, 1978, meeting. As announced by Meeting Announcement Amendment No. 168, Amdt. 1, issued today, the Board will not be meeting on Monday, October 2, 1978. The Chairman will not be available for Board meetings in Washington from October 4 through October 16. So that the Chairman can participate and the Board can continue its policy of issuing instructions to staff as soon as possible after the oral argument, the following Members have voted that agency business requires the addition of item 21a to the September 29, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[6320-01]

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[M-167, Amdt. 4; Sept 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion from the September 29, 1978, meeting.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 17. Dockets 28366 and 32710, *Denver-Alaska Service Investigation, San Francisco-Reno-Albuquerque-Texas Service Investigation*—Orders on Reconsideration (Memo 8193, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the Board meeting today, the Bureau of Administrative Law Judges requested that item 17 on the agenda be deleted so that the Bureau could submit an additional memorandum to the Board on this subject. Accordingly, the following Members have voted that agency business requires the deletion of item 17 from the September 29, 1978, meeting and the addition of that item to the October 5, 1978, agenda as item 6a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S-2021-78 Filed 10-4-78; 8:45 am]

[6320-01]

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[M-168, Amdt. 2; Sept. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition to the October 5, 1978, meeting.

TIME AND DATE: 10 a.m., October 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 6a. Dockets 28366 and 32710, *Denver-Alaska Service Investigation, San Francisco-Reno-Albuquerque-Texas Service Investigation*—Orders on Reconsideration (Memo 8193, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the Board meeting September 29, 1978, the Bureau of Administrative Law Judges requested that item 17 on the agenda—Dockets 28366 and 32710—be deleted so that the Bureau could submit an additional memorandum to the Board on this subject. Accordingly, the following Members have voted that agency business requires the deletion of item 17 from the September 29, 1978, meeting and the addition of that item to the October 5, 1978, agenda as item 6a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S-2025-78 Filed 10-4-78; 8:45 am]

[6740-02]

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 44965, published September 29, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 4, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

RP-6. RP77-58, Mid Louisiana Gas Co.

CAP-11. ER78-522, Virginia Electric and Power Co.

KENNETH F. PLUMB,
Secretary.

[S-2033-78 Filed 10-4-78; 2:12 pm]

[6740-02]

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FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 4, 1978, approximately 1 p.m.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Initiation of private investigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2032-78 Filed 10-4-78; 2:12 pm]

[6720-01]

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FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 11, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Application for Modification of Condition for Insurance of Accounts—Amigo Savings & Loan Association, Brownsville, Tex.
Merger Application—First Federal Savings & Loan Association of Buffalo, Buffalo, N.Y., into Franklin Society Federal Savings & Loan Association, New York, N.Y.
Limited Facility Application—First Federal Savings & Loan Association of Fort Pierce, Port Pierce, Fla.
Application for Permission to Organize a Federal Association—Clarence T. Hellums, Jr., et al., Centreville, Ala.
Application for Insurance of Accounts—Aztec Savings & Loan Association, Copperas Cove, Tex.
Preliminary Application for Conversion into a Federal Mutual Association—United Savings & Loan Association, Oceanside, N.Y.
Branch Office Application—Piggot Federal Savings & Loan Association, Piggot, Ark.
Branch Office Application—Home Federal Savings & Loan Association, Algona, Iowa.
Application for Bank Membership and Insurance of Accounts—Tri-Cities Savings & Loan Association, Kennewick, Wash.
Satellite Office Application—Collective Federal Savings & Loan Association, Egg Harbor, N.J.
Branch Office Application—Wolverine Federal Savings & Loan Association, Wolverine, Mich.
Branch Office Application—First Federal Savings & Loan Association of Campbellsville, Campbellsville, Ky.
Consideration of Voluntary Termination of Insurance of Accounts and Withdrawal from Bank Membership—New Bern Savings & Loan Association, New Bern, N.C.
Consideration of post-approval amendment to the application of First Federal Savings & Loan Association of Okeechobee County, Okeechobb, Fla., for permission to convert from mutual to stock form.
Application for Permission to Organize a New Federal—P. Brian Spurlock et al., Marrero, La.
Consideration of proposed revisions to the conversion regulations and related forms.

No. 188, October 4, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2035-78 Filed 10-4-78; 3:34 pm]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 12, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public:

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 57-111: Modification of the Pacific Westbound Conference Agreement to include divulgence of confidential Conference matters as a breach of the agreement.
2. Proposed reduced and initial through rates and provisions between U.S. Atlantic and Gulf Ports and Ports in the U.S. Virgin Islands filed by Trailer Marine Transport Corp.
3. Section 21 Order: Baltic Shipping Co.—Rates on buses in the U.S. Gulf Coast/North Europe Trade.
4. Informal Docket 534(I): *Aquino Sailcloth, Inc.*, v. *United States Lines, Inc.*—Discussion of the record.
5. Docket No. 74-30: Sea-Land Service, Inc.—General Increase in Rates in the U.S. West Coast/Puerto Rico Trade—Discussion of the record.
6. Docket No. 75-57: Matson Navigation Co.—Proposed rate increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade—Discussion of the record.
7. Docket No. 76-43: Matson Navigation Co.—Proposed rate increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade—Discussion of the record.
8. Docket No. 77-11: Petition for Declaratory Order of Pacific Cruise Conference—Discussion of the record.
9. Docket No. 78-23: *Roberts Steamship Agency, Inc.* v. *The Board of Commissioners of the Port of New Orleans and Atlantic and Gulf Stevedores, Inc.*—Review of order of dismissal.
10. Docket No. 76-46—Agreement Nos. T-3191, et al.—Petition for reconsideration of amended order of investigation.

Portion closed to the public:

1. Docket No. 71-29: *Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.*—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2023-78 Filed 10-4-78; 8:45 am]

[6210-01]

8

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, October 11, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2026-78 Filed 10-4-78; 10:20 am]

[6750-01]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 12, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS:

1. Approval of minutes on nonadjudicative matters considered at meetings of September 19, and 27, 1978.
2. Consideration of possible courses of action and dispositions of investigation in Unnamed Arrangers and Sellers of Travel Services, File No. 762 3079.

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ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-532-3806.

[S-2024-78 Filed 10-4-78; 8:45 am]

[7020-02]

10

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, October 10, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Consideration of fiscal year 1980 budget.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2034-78 Filed 10-4-78; 2:33 pm]

[7910-01]

11

RENEGOTIATION BOARD.

DATE AND TIME: Friday, September 29, 1978; 11 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: ESL, Inc., MB Associates.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2027-78 Filed 10-4-78; 11:33 am]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, October 11, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 and 2 are open to public observation. Matter 3 is closed to public observation. Matters 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held October 3, 1978, and other Board meetings, if any.

2. Recommended clearances without assignment—List 1921:

A. Wyle Laboratories, fiscal year ended January 31, 1976.

B. Brooks & Perkins, Inc., fiscal year ended July 31, 1976.

C. West Point Pepperell Inc., fiscal years ended August 30, 1975 and August 28, 1976.

D. E-A Industrial Corp. fiscal years ended March 31, 1975 and 1976.

E. The Garrett Corp., fiscal years ended December 31, 1973 and 1974.

E-1 The Garrett Manufacturing Ltd., fiscal years ended December 31, 1973 and 1974.

E-2 Aero Hydraulics Inc., fiscal years ended December 31, 1973 and 1974.

E-3 Greer Products Inc., fiscal years ended December 31, 1973 and 1974.

E-4 Mack Truck Inc., fiscal years ended December 31, 1973 and 1974.

E-5 Dunham Bush Inc., fiscal years ended December 31, 1973 and 1974.

Court of Claims Settlement: *Plessey, Incorporated* v. *United States*, Court of Claims No. 1-78.

4. Approval of agenda for meeting to be held October 24, 1978.

5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2028-78 Filed 10-4-78; 11:33 am]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, October 12, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Clark Equipment Co., fiscal year ended December 31, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2029-78 Filed 10-4-78; 11:33 am]

[7910-01]

14

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, October 18, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: IBM Corp., fiscal years ended December 31, 1969 and December 31, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2030-78 Filed 10-4-78; 11:33 am]

[7910-01]

15

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, October 19, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: U.S. Electronic Publications, Inc., fiscal years ended May 27, 1969 and December 31, 1969, 1970, 1971, 1972, and 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2031-78 Filed 10-4-78; 11:33 am]

federal register

FRIDAY, OCTOBER 6, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basis hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisons for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federallly assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisons of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purposes of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Georgia—GA77-1117; GA77-1118	Sept. 30, 1977
Kansas—MO78-4047; MO78-4048	May 5, 1978
Kentucky—KY77-1124	Sept. 30, 1977
Maryland—MD78-3020	Apr. 14, 1978
Massachusetts—MA78-2079; MA78-2081	Sept. 22, 1978
Michigan:	
MI78-2001	Feb. 3, 1978
MI78-2054	June 2, 1978
New Jersey—NJ77-3092	Oct. 7, 1977
Pennsylvania:	
PA78-3005	Feb. 24, 1978
PA78-3012	Apr. 28, 1978
PA78-3013	Apr. 14, 1978
PA78-3014	Mar. 24, 1978
PA78-3015; PA78-3043	May 13, 1978
PA78-3054	Aug. 11, 1978
South Dakota —78-5001	Jan. 20, 1978
Texas:	
TX78-4041	Apr. 14, 1978
TX78-4079	Aug. 11, 1978
TX78-4080	Aug. 4, 1978
TX78-4081	Aug. 18, 1978
TX78-4082; TX78-4083; TX78-4084; TX78-4085; TX78-4087; TX78-4088	Aug. 25, 1978
TX78-4096	Sept. 22, 1978

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida—FL78-1105(FL78-1086)	Sept. 17, 1976
Louisiana—LA78-4077(LS78-4099)	Aug. 11, 1978
Missouri—MO77-4269(MO78-4098)	Sept. 30, 1977
New Hampshire:	
NH77-2001(NH78-2100)	Jan. 21, 1977
NH77-2003(NH78-2101)	Jan. 28, 1977
Pennsylvania:	
PA77-3125(PA78-3069)	Sept. 9, 1977
PA78-3048(PA78-3071)	Aug. 11, 1978
Utah—UT78-5012(UT78-5128)	Mar. 17, 1978
Vermont—VT76-2170(VT78-2091)	Dec. 10, 1976

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. CA78-5106, Fresno County, Calif., *only* is cancelled. Agencies with residential construction projects pending in this location should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. CA78-5106 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 29th Day of September 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[FR Doc. 78-28013 Filed 10-5-78; 8:45 am]

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO78-4048-Mod. #1 (43 FR 19455 - May 5, 1978) Cass, Clay, Jackson, Platte & Ray Counties, Missouri; Johnson & Wyandotte Counties, Kansas.					
Change:					
Boilermakers	$12.00	1.15	1.00		.02
Bricklayers & stonemasons	11.025	.80	.35	1.00	
Marble & tile setters	11.95	5%	4.25%		
Marble & tile setters' helpers	10.25	.85	1.05		.12
Plumbers	13.14	.65	.60		.14
Roofers	11.05	.50	.75	10%	1%
Soft floor layers	9.21	.50	4.25%		
Terrazzo workers	11.61	5%			
DECISION #KY77-1124 - Mod. #2 (42 FR 53044 - September 30, 1977 Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliot, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington, & Woodford Counties, Kentucky					
Change:					
Power Equipment Operators:					
Heavy Construction:					
Class A	$10.80	.50	.60		.05
Class B	8.33	.50	.60		.05
Class C	7.63	.50	.60		.05
Highway Construction:					
Class A	9.50	.50	.60		.05
Class B*	7.55	.50	.60		.05
Class C	7.16	.50	.60		.05
*Greasers on Grease Facilities servicing heavy equipment	7.80	.50	.60		.05

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA77-1117 - Mod. #2 (42 FR 52990 - September 30, 1977) Chatham County, Georgia					
Change:					
Electricians:					
Wiremen	$ 9.90	.60	3% + .65		1/5 of 1%
Cable splicers	10.15	.60	3% + .65		1/5 of 1%
DECISION #GA77-1118 - Mod. #1 (42 FR 53000 - September 30, 1977) Richmond County, Georgia					
Change:					
Electricians:					
Wiremen	9.76	.50	3% + .20		1/5 of 1%
Cable splicers	10.01	.50	3% + .20		1/5 of 1%
DECISION #MO78-4047 - Mod. #1 (43 FR 19530 - May 5, 1978) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson, & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.					
Change:					
Boilermakers	$12.00	1.15	1.00		.02
Bricklayers & stonemasons	11.025	.80	.35	1.00	
Marble & tile setters	11.95	5%	4.25%		
Marble & tile setters' helpers	10.25	.85	1.05		.12
Plumbers	13.14	.65	.60		.14
Roofers	11.05	.50	.75	10%	1%
Soft floor layers	9.21	.50	4.25%		
Terrazzo workers	11.61	5%			

DECISION #MD78-3020 - Mod. #5
(42 FR 16045 - April 14, 1978)
Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford & Howard Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	$10.63	.70	.50		.07
Electricians:					
Zone 1	11.00	.80	3%+1.00		3%
Zone 2	11.25	.80	3%+1.00		3%
Zone 3	11.50	.80	3%+1.00		3%
Laborers, Heavy:					
Laborers	6.60	.30	.50		.075
Power tool Operators	6.70	.30	.50		.075
Pipelayers, wagon drill operators, air track driller, burners (demolition)	7.10	.30	.50		.075
Line Construction:					
Zone 1					
Linemen, cable splicers, digging & equipment operator	12.30	.50	3%		
Winch trucks & trucks with pole or steel handling	8.24	.50	3%		
Trucks without winch	7.69	.50	3%		
Groundmen	7.75	.50	3%		
Zone 2					
Linemen, cable splicers, digging & equipment operators	12.55	.50	3%		
Winch trucks & trucks with pole or steel handling	8.49	.50	3%		
Trucks without winch	7.94	.50	3%		
Groundmen	8.00	.50	3%		
Zone 3					
Linemen, cable splicers, digging & equipment operators	12.80	.50	3%		
Winch trucks & trucks with pole or steel handling	8.74	.50	3%		
Trucks without winch	8.19	.50	3%		
Groundmen	8.25	.50	3%		
Marble Setters	10.63	.70	.50		.07
Marble, Tile, and Terrazzo Workers Finishers	6.975	.45	.20		

DECISION #MD78-3020 - Mod. #5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Building & Heavy Construction:					
Group 1	10.84	.95	1.00	a	.12
Stone Masons	10.63	.70	.50		.07
Tile & Terrazzo Workers	8.76	.70	.50		.04
Truck Drivers:					
Goosenecks, drop frame trailers	9.40	1.05	.75	d+e	
All "A" frames, winch trucks fork lifts, and trailers	9.20	1.05	.75	d+e	
Flat beds & pickups	8.20	1.05	.75	d+e	
Euclid wagons & dumpsters	8.25	1.05	.75	d+e	
Dump trucks	7.94	1.05	.75	d+e	
Truck Drivers (Excavation):					
Dump truck	7.94	1.05	.75	d+e	
Euclid wagons & dumpsters	8.25	1.05	.75	d+e	
Drop frame, goosneck & trailer	8.14	1.05	.75	d+e	
Pickups	7.76	1.05	.75	d+e	
DECISION NO. MA78-2079- Mod #1 (43 FR 43135- Sept. 22, 1978 Barnstable County, Massachusetts					
Change:					
Brush, roller tapers, steel on ground to:	$9.25	.70	.65		
Brush, rollers, steel on ground	9.25	.70	.65		
DECISION NO. MA78-2081- Mod #1 (43 FR 43164- Sept. 22, 1978 Bristol County, Massachusetts					
Add:					
Heading of "Heavy & Highway" to following schedule:					
Class I	8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI78-2001 - MOD. #3 (43 FR 4817 - February 3, 1978) Kent County, Michigan					
CHANGE:					
Painters - Brush & Tapers	$8.55	.50	.25		.02
Sheet Metal Workers	10.40	.77+c	.65	.67	.02
Footnote: c-$40,000 Life Insurance Paid by Employer					
DECISION #MI78-2054 - MOD. #5 (43 FR 24200 - June 2, 1978) Statewide, Michigan					
CHANGE:					
Ironworkers:					
Structural & Reinforcing					
ZONE 1	$10.00	.70	1.00	1.70	.04
ZONE 2	11.26	6%	8%		.03
Highway Construction:					
Planting of Trees & Shrubs Only					
LANDSCAPE LABORERS:					
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, Saint Clair & Macomb Counties					
ZONE 2 Remiander of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment					
Zone 1	6.89				
Zone 2	6.57				
CLASS B Landscape laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	5.14				
Zone 2	4.82				

DECISION NJ77-3092 - Mod. #6
(42 FR 54726 - October 7, 1977)
Bergen, Essex, Hudson, & Passaic Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Roofers:					
Essex County					
Slate & tile					
Slate & tile helpers					
Hudson County					
Slate & tile					
Slate & tile helpers					
Add:					
Roofers:					
Essex & Hudson (west of the Hackensack River) Counties:					
Slate & tile	12.37	1.00	1.00		
Change:					
Areas covered by Carpenters, Insulators, and Millwrights:					
Area 1: Essex County and that part of Hudson County west of the Hackensack River					
Area 3: Bergen (east of the Hackensack River including but not limited to Cliffside, Fort Lee, Grantwood, Palisades Park, Ridgefield, Edgewater, Fairview, Leonia, & Coytesville) County and that part of Hudson County east of the Hackensack River,					
Carpenters, Insulators, & Millwrights:					
Area 1					
Carpenters & Insulators	11.70	8%	7%		1/5%
Millwrights	11.95	8%	7%		1/5%
Area 2					
Carpenters & Insulators	11.70	8%	7%		1/5%
Millwrights	11.95	8%	7%		1/5%
Area 3	11.16	.90	1.40		.02
Area 4					
Carpenters & Insulators	11.70	8%	7%	5%	.002
Millwrights	11.95	8%	7%	5%	.002
Electricians & Cable Splicers:					
Other residential construction:					
Bergen & Hudson Counties	13.29	10%	9%+.58		1.5%

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians & Cable Splicers: (Cont'd)					
Passaic County	13.70	7%	9%		
Glaziers:					
Essex & Hudson Counties	11.95	1.00	1.50		.05
Laborers:					
Area 2 Group 1	8.00	1.00	.70		.07
Area 4 Unskilled laborers	8.60	.70	.40		.07
Area 5 Unskilled laborers	8.10	.75	.85		.07
Area 6 Group 1	8.00	.90	.80		.07
Area 7 Unskilled laborers	7.15	.80	.80	1.00	.07
Lathers	11.40	.15	.40		.02
Line Construction:					
Bergen and Hudson Counties: Linemen, cable splicers, equipment operators and groundmen	13.29	10%	9%+.58		3/4%
Painters:					
Hudson (remainder of County) Painters, paperhangers, tapers, coverers, spacklers, and preparatory and cleaning work	10.30	.90	1.75	.50	
Sandblasting & spraying	12.00	.90	1.75	.50	
Repainting	8.50	.90	1.75	.50	
Pipefitters:					
Bergen and Hudson Counties and the city of Passaic in Passaic County	12.30	1.00	1.00	1.00	.25
Plumbers:					
Area 1	13.25	.75	1.35		.25
Area 2	13.25	.75	1.35		.25
Area 3	13.25	.75	1.35		.25
Area 4	13.25	.75	1.35		.25
Plumbers & Pipefitters:					
Area 2	11.67	1.005	1.36	1.00	.04
Plumbers & Steamfitters:					
Essex (remainder of county) Co.	12.05	.84	1.08	1.21	.06
Roofers:					
Essex County: Composition, Damp & Waterproofing	12.37	1.00	1.00		
Hudson County: Composition, Damp & Waterproofing; west of the Hackensack River	12.37	1.00	1.00		
Sprinkler Fitters	13.38	.75	1.05		.07
Tile Setters' Finishers	9.25	.85	.75		

MODIFICATIONS P. 8

DECISION #PA78-3005 - Mod. #3
(43 FR 7923 - February 24, 1978)
Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin and Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Line Construction: Butler, Cameron, Clinton, Crawford, Elk, Erie, Forest, Lawrence, McKean, Mercer, Venango, Warren & Potter Cos., Pennsylvania					
Journeyman Lineman	$10.80	.50	.32		.08
Dynamite Man	10.80	.50	.32		.08
Heavy Equipment Operator	10.80	.50	.32		.08
Experience Winch Truck Operator	7.59	.50	.22		.05
2nd 6 months	7.41	.50	.22		.05
1st 6 months	7.21	.50	.21		.05
Experience Truck Driver	7.43	.50	.22		.05
2nd 6 months	7.21	.50	.21		.05
1st 6 months	7.04	.50	.21		.05
Experienced Groundman	7.26	.50	.22		.05
2nd 6 months	7.04	.50	.21		.05
1st 6 months	6.82	.50	.20		.05

DECISION #PA78-3012 - Mod. #6
(43 FR 18476 - April 28, 1978)
Clinton, Centre, Huntingdon, Fulton, & Mifflin Counties, Pennsylvania

Change:					
Bricklayers & Stonemasons Zone 1	$ 9.90	.75	.80		.01
Carpenters & Soft Floor Layers	10.40	6%	8%	9%	1½%
Ironworkers Zone 1	11.095	.975	1.47		.04
Sheet Metal Workers Zone 2	10.47	1.40	1.18		.13

MODIFICATIONS P. 9

DECISION #PA78-3013 - Mod. #4
(43 FR 16097 - April 14, 1978)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers Zone 2	$10.74	.45	.70		.02
Bricklayers & Stonemasons					
Zone 2	11.40	.75	.95		.05
Zone 3	11.90	.80	.40		
Zone 5	9.90	.75	.80		.01
Carpenters & Soft Floor Layers Zone 1	10.40	6%	8%	9%	1½%
Electricians Zone 4	12.60	3%	3%+.60		¼%
Ironworkers					
Zone 3	11.59	1.86	1.01		.15
Zone 4	12.03	.40	1.30		.07
Zone 5	11.095	.975	1.47		.04
Lathers Zone 2	11.40		.35		.01
Laborers: Zone 2					
Class I	8.72	.82	.70		
Class II	8.795	.82	.70		
Class III	8.82	.82	.70		
Class IV	8.87	.82	.70		
Class V	8.97	.82	.70		
Class VI	9.22	.82	.70		
Class VII	9.27	.82	.70		
Marble Setters Zone 5	9.90	.75	.80		.01
Plasterers Zone 4	10.85				.01
Plumbers & Steamfitters					
Zone 2	11.62	.55	1.05		.06
Zone 3	11.50	.65	1.00		.10
Sheet Metal Workers Zone 2	10.47	1.40	1.18		.13

MODIFICATIONS P. 10

DECISION #PA78-3014 - Mod. #4
(43 FR 12603 - March 24, 1978)
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers Zone 3	$11.25	.75	.60		.02
Electricians Zone 3	12.60	3%	3%+.60		¼
Painters:					
Zone 2					
Commercial					
Brush	9.20	.85	.40	.80	
Spray	9.72	.85	.40	.80	
Industrial					
Brush	10.65	.85	.40	.80	
Spray	11.33	.85	.40	.80	
Plasterers Zone 3	10.85				.01

DECISION #PA78-3015 - Mod. #3
(43 FR 20697 - May 12, 1978)
Greene, Somerset & Potter Counties, Pennsylvania

Change:					
Carpenters Zone 1	10.40	6%	8%	9%	1½%
Ironworkers Zone 2	11.095	.975	1.47		.04
Plasterers Zone 2	10.85				.01

DECISION #PA78-3043 - Mod. #2 (43 FR 20707 - May 12, 1978) Elk, Forest, McKean & Warren Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons					
Zone 2 - Forest Co.	$11.40	.75	.95		.05
Carpenters & Soft Floor Layers					
Zone 1 - Elk, Forest, all of McKean County except Kane and Bradford	10.40	6%	8%	9%	1½%
Ironworkers					
Zone 1 - Forest and Warren Cos.	11.59	1.86	1.01		.15
Zone 2 - Elk & McKean Cos.	11.095	.975	1.47		.04
Plumbers & Steamfitters:					
Zone 2 - Forest County only	11.50	.65	1.00		.10
Zone 3 - McKean and Warren Counties					
Contracts under $500.00	8.75	.68	.55		.04
Contracts over $500.00	12.12	.68	.55		.04

DECISION #PA78-3054 - Mod. #1 (43 FR 35868 - August 11, 1978) Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Truck Drivers					
Class I	$ 8.545	.7675	.775	a+b	
Class II	8.645	.7675	.775	a+b	
Class III	8.845	.7675	.775	a+b	
Add:					
Cement Masons	10.00	1.94	1.85		
Omit:					
Tunnel Compressed Air					
Laborers:					
Blasters, shield drivers	48.29	.10	.10		
Miners	46.86	.10	.10		
Brakemen, trackmen, miners' helpers	44.74	.10	.10		
Groutmen, lock tenders' helpers	44.74	.10	.10		
Laborers and other men	44.74	.10	.10		
Mucking machines	52.83	.10	.10		
Laborers (surface)	4.05	.10	.10		
Between Locks					
Lock tenders, motor men	46.86	.10	.10		
All other men	44.75	.10	.10		
Outside of Locks					
Outside lock tenders, gauge tenders	44.74	.10	.10		
Outside lock tenders' helpers	42.64	.10	.10		
Air Pressure*	WORKING HOURS PER DAY	AMOUNT IN ADDITION TO BASE RATE (NOT CUMULATIVE)			
15 pounds and up to 26 pounds	6 hours			$1.00	
26 " " " " 33 "	4 "			1.50	
33 " " " " 38 "	3 "			2.00	
38 " " " " 43 "	2 "			2.50	
43 " " " " 48 "	1½ "			3.00	
48 " " " " 50 "	1 "			3.50	

DECISION NO. SD78-5001 - Mod. #1 (43 FR 3028 - January 20, 1978) Statewide South Dakota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
LINE CONSTRUCTION:					
Group 1	$10.53	.45	3%		1/2%
Group 2	8.46	.45	3%		1/2%
Group 3	7.04	.45	3%		1/2%
Group 4	6.46	.45	3%		1/2%

Group 1: Cable splicer; lineman; tractor dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension pulling machines

Group 2: Groundmen - operating special equipment hole digging machines; aerial baskets on energized circuits; Tractors (D-4 and larger); transmission line pole hauling; all fifth wheel trucks and other setting and assembly equipment excluding steel tower and "H" fixture section.

Group 3: Groundman - truck or tractor driver (with winch); operators of trucks up to and including 2½ tons; tractor including D-2 and smaller, including wheel tractors and crawler tractors.

Group 4: Groundman - truck or tractor driver (without winch); operators of trucks up to and including 2½ tons D-2 and smaller, including wheel tractors and crawler tractors; groundmen

DECISION #TX78-4041 - Mod. #6 (43 FR 16133 - April 14, 1978) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers - Group 1	$ 5.525	.275	.27		
Group 2	5.80	.275	.27		
Group 3	5.725	.275	.27		
Group 4	5.875	.275	.27		
Group 5	6.125	.275	.27		
DECISION #TX78-4079 - Mod. #3 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Carpenters - Carpenters	8.19	.51	.35		.05
Cement masons	9.00				
Ironworkers	8.52	.55	1.15		.07
Soft floor layers	8.19	.51	.35		.05
Power Equipment Operators:					
Group 1	8.60	.32	.75		
Group 2	7.475	.32	.75		
Group 3	6.675	.32	.75		
Group 4	6.825	.32	.75		
DECISION #TX78-4080 - Mod. #4 (43 FR 35886 - August 4, 1978) Jefferson & Orange Cos., Texas					
Change:					
Sheet metal workers: Commercial	11.30	.45	.55		.11
DECISION #TX78-4081 - Mod. #2 (43 FR 36851 - August 18, 1978) Bexar County, Texas					
Change:					
Carpenters - Carpenters	9.24	.48	.50	.40	.05
Millwrights	9.54	.48	.50	.40	.05
Cement masons	9.45	.45		.65	.02
Ironworkers	8.75	.55	1.15	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4082 - Mod. #1 (43 FR 38278 - August 25, 1978) Brazos County, Texas					
Change:					
Pipefitters	$11.85	.50	.70		.045
Sheet metal workers	11.41	.375	.695	.42	.06
DECISION #TX78-4083 - Mod. #2 (43 FR 38279 - August 25, 1978) El Paso County, Texas					
Change:					
Ironworkers	9.15	.55	1.15		.15
Power Equipment Operators:					
Group 1	7.44	.60	.60		.15
Group 2	8.02	.60	.60		.15
Group 3	8.11	.60	.60		.15
Group 4	8.46	.60	.60		.15
Group 5	8.54	.60	.60		.15
Group 6	8.98	.60	.60		.15
Group 7	9.14	.60	.60		.15
Group 8	8.61	.60	.60		.15
Group 9	8.84	.60	.60		.15
Group 10	9.14	.60	.60		.15
DECISION #TX78-4084 - Mod. #2 (43 FR 38281 - August 25, 1978) Galveston & Harris Cos., Texas					
Change:					
Pipefitters + that part of Galveston Co. west of the Trinity River & all of Harris Co.	11.85	.50	.70		.045
Sheet metal workers-Harris Co.	11.41	.375	.695	.42	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4085 - Mod. #1 (43 FR 38253 - August 25, 1978) Travis County, Texas					
Change:					
Bricklayers & stonemasons	$10.42	.50	.40		.05
Cement masons	9.34	.60	.55		
Laborers - Group 1	6.105	.275	.40		.02
Group 2	6.255	.275	.40		.02
Group 3	6.43	.275	.40		.02
Group 4	6.505	.275	.40		.02
Plasterers	9.99	.60	.55		.01
DECISION #TX78-4087 - Mod. #1 (43 FR 38285 - August 25, 1978) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Ironworkers	9.95	.55	1.15		.10
DECISION #TX78-4088 - Mod. #2 (43 FR 38287 - August 25, 1978) Wichita County, Texas					
Change:					
Bricklayers & stonemasons	10.14		.60		.05
DECISION #TX78-4096 - Mod. #1 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Cement masons	9.34	.60	.55		
Plasterers	9.99	.60	.55		.01
Plumbers & pipefitters-Zone 1	9.50	.30	.33		.03
Zone 2	9.90	.30	.33		.03
Incidental Paving & Utilities (Bell & Coryell Cos.):					
Plumbers - Zone 1	9.50	.30	.33		.03
Zone 2	9.90	.30	.33		.03

SUPERSEDEAS DECISION

STATE: Florida COUNTIES: Brevard & Volusia
DECISION NUMBER: FL78-1086 DATE: Date of Publication
Supersedes Decision No. FL76-1105 dated September 17, 1976 in 41 FR 40365
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	6.17				
Bricklayers	7.00				
Carpenters	5.80				
Cement Mason	6.50				
Electricians	7.50				
Drywall Hanger	6.00				
Drywall Finisher	6.25				
Laborers	3.52				
Plasters	7.00				
Plumber & Pipefitters	6.47				
Roofers	5.76				
Sheet Metal Workers (Volusia Co.	7.63	.55	.30	.50	.04
Power Equipment Operators					
Front End Loader	5.00				
Grader	4.00				

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA78-4099 DATE: Date of Publication
Supersedes Decision No. LA78-4077, dated August 11, 1978, in 43 FR 35841.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building strucutes in rest area projects) & Parking Area (except those let with a building contract). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation, includes site preparation & incidental paving & utilities outside the building.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS - ZONE 1	$11.47	.525	.90		.04
ZONE 2	10.43	.40	.76		.03
ZONE 3	10.00	.55	1.20		.05
ZONE 4	9.82	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	10.39	.80	.75		.31
ZONE 2	9.90	.53			
ZONE 3	11.25	.53	.30		.02
ZONE 4	10.80	.45	.30		.035
ZONE 5	10.25				
ZONE 6	9.90	.40	.45		
ZONE 7	8.95		.30		
ZONE 8	10.40		.25		
ZONE 9	10.70				

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	9.35	.50			
Millwrights	10.07	.50			
Piledrivermen	10.25	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	10.05	.50	.33		.07
Millwrights	11.73				.07
ZONE 3 - Carpenters	10.10	.35	.30		
Millwrights	11.75	.35	.30		
Piledrivermen	10.40	.35	.30		
ZONE 4 - Carpenters & piledrivermen	11.00	.40	.50		.05
Millwrights	12.275				.08
ZONE 5 - Carpenters & soft floor layers	10.42	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 6 - Carpenters & soft floor layers	10.255	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 7 - Carpenters & soft floor layers	9.75				
Millwrights	10.50				
Piledrivermen	10.25				
ZONE 8 - Carpenters & soft floor layers	9.55	.40	.35		.04
Millwrights	10.30	.40	.35		.04
Piledrivermen	9.80	.40	.35		.04

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & soft floor layers	9.60				
Millwrights	10.35				
Piledrivermen	10.10				
ZONE 10 - Carpenters & soft floor layers	9.60	.55	.35		.05
Millwrights	10.50	.55	.35		.05
Piledrivermen	10.10	.55	.35		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	10.06				
ZONE 2	11.06				
ZONE 3	11.17				
ZONE 4	10.475				
ZONE 5	9.17				
ZONE 6	8.95				
ZONE 7	8.40				

ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION):					
ZONE 1	9.81				
ZONE 2	9.45				
ZONE 3	8.90	.50	.50		.05
ZONE 4	10.145	.45	.40		.04
ZONE 5	9.35				
ZONE 6	7.00				
ZONE 7	9.05	.35			
ZONE 8	9.12		.25		
ZONE 9	7.30		.30		

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Par
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachit Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	9.20	.45	.40		
ZONE 2	6.45				
ZONE 3	9.05	.35			
ZONE 4	9.40				
ZONE 5	8.90				
ZONE 6	8.40				
ZONE 7	8.90				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 8	8.40				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 9	6.30				
ZONE 10	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U. S. Hwy. 61 in East Feliciana & West Feliciana Pars.
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
ZONE 8 - St. Mary Parish
ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
ZONE 2 - Electricians	11.35	.35	3%		.02
Cable splicers	12.05	.35	3%		.02
ZONE 3 - Electricians	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
ZONE 4 - Electricians	12.30	.35	3%		2/10%
Cable splicers	12.55	.35	3%		2/10%
ZONE 5 - Electricians	11.65	.35	3%+.30		.03
Cable splicers	11.65	.35	3%+.30		.03
ZONE 6 - Electricians	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
ZONE 7 - Electricians	11.80	1.00	3%		1%
Cable splicers	12.30	1.00	3%		1%
ZONE 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
ZONE 2 - Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	10.15				.02
ZONE 2	8.15				.01
ZONE 3	10.225	.17	.30		.01
ZONE 4	8.28		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	10.76	.63	.35		.04
ZONE 2	10.99	.45	.65		.04
ZONE 3	10.75	.45	.90		.06
ZONE 4	10.75	.45	.95		.06
ZONE 5	8.80	.45	.85		.04
ZONE 6	10.70	.35	.60		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)

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ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)

ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)

ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	11.22				
ZONE 2	8.70				
ZONE 3	10.80				
ZONE 4	10.66				
ZONE 5	8.95				
ZONE 6	8.40				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.

ZONE 2 - East Baton Rouge Parish

ZONE 3 - Calcasieu Parish

ZONE 4 - Bossier & Caddo Parishes

ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouachita & Rapides Parishes

ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Pars.

ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION)					
ZONE 1 - Group 1	6.45	.15			
Group 2	6.60	.15			
Group 3	6.70	.15			
ZONE 2 - Group 1	6.32	.20	.10		.05
Group 2	6.52	.20	.10		.05
ZONE 3 - Group 1	7.80	.20	.10		.05
Group 2	7.90	.20	.10		.05
Group 3	7.95	.20	.10		.05
Group 4	8.76	.20	.10		.05
Group 5	8.32	.20	.10		.05
Group 6	8.16	.20	.10		.05
Group 7	7.85	.20	.10		.05
ZONE 4 - Group 1	7.12	.25	.27		.05
Group 2	7.22	.25	.27		.05
Group 3	7.27	.25	.27		.05
ZONE 5 - Group 1	6.72	.25	.27		.05
Group 2	6.82	.25	.27		.05
Group 3	6.87	.25	.27		.05
ZONE 6 - Group 1	7.65	.25	.27		.05
Group 2	7.75	.25	.27		.05
Group 3	7.90	.25	.27		.05
Group 4	7.81	.25	.27		.05
Group 5	7.91	.25	.27		.05
ZONE 7 - Group 1	7.325	.25	.27		.05
Group 2	7.475	.25	.27		.05
Group 3	7.525	.25	.27		.05
ZONE 8 - Group 1	5.91	.20	.10		.05
Group 2	6.11	.20	.10		.05
Group 3	6.16	.20	.10		.05
Group 4	6.21	.20	.10		.05
Group 5	6.56	.20	.10		.05
ZONE 9 - Group 1	6.50	.20	.10		.05
Group 2	6.60	.20	.10		.05
Group 3	6.65	.20	.10		.05
Group 4	6.70	.20	.10		.05
ZONE 10 - Group 1	6.25	.20	.10		.05
Group 2	6.35	.20	.10		.05
Group 3	6.50	.20	.10		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction

GROUP 2 - Stone mason helpers; mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

LABORERS ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman

GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers, wrappers & dopers

LABORERS - ZONE 3

GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners

GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment

GROUP 3 - Mortar mixers

GROUP 4 - Blasterers

GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete

GROUP 7 - Interior of closed tanks & vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders

GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc.); pipelayers (non-metallic)

GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers

GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sand blaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

GROUP 4 - Bricklayers tenders and mason tenders

GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers

GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone masons helpers; concrete workers; scaffold builders

GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)

GROUP 3 - Chain saw operator

GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers

GROUP 5 - Powderman

LABORERS - ZONE 9

GROUP 1 - Building laborers

GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers

GROUP 3 - Mortar mixers

GROUP 4 - Air jack op.; vibrator ops.; sewer pipelayers, sewer pipe wrappers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring

GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters helpers

GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy). then west on U. S. 61 to Blind River & on a direct line to Manchac)

ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. RIver as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to th Miss. State Line at Pearlington) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)						
GROUP 1 -	Zone 1	6.33	.25	.27		.05
	Zone 2	4.80	.15	.10		.05
	Zone 3	5.76	.25	.14		.05
	Zone 4	6.46	.25	.14		.05
	Zone 5	5.56	.25	.14		.05
	Zone 6	5.36	.25	.14		.05
	Zone 7	4.10	.15	.10		.05
	Zone 8	3.85	.15	.10		.05
	Zone 9	3.75	.15	.10		.05
GROUP 2 -	Zone 1	6.43	.25	.27		.05
	Zone 2	4.90	.15	.10		.05
	Zone 3	5.86	.25	.14		.05
	Zone 4	6.56	.25	.14		.05
	Zone 5	5.66	.25	.14		.05
	Zone 6	5.46	.25	.14		.05
	Zone 7	4.20	.15	.10		.05
	Zone 8	3.95	.15	.10		.05
	Zone 9	3.85	.15	.10		.05
GROUP 3 -	Zone 1	6.88	.25	.27		.05
	Zone 2	5.35	.15	.10		.05
	Zone 3	6.31	.25	.14		.05
	Zone 4	7.01	.25	.14		.05
	Zone 5	6.11	.25	.14		.05
	Zone 6	5.91	.25	.14		.05
	Zone 7	4.65	.15	.10		.05
	Zone 8	4.40	.15	.10		.05
	Zone 9	4.30	.15	.10		.05
GROUP 4 -	Zone 1	7.13	.25	.27		.05
	Zone 2	5.60	.15	.10		.05
	Zone 3	6.56	.25	.14		.05
	Zone 4	7.26	.25	.14		.05
	Zone 5	6.31	.25	.14		.05
	Zone 6	6.11	.25	.14		.05
	Zone 7	4.85	.15	.10		.05
	Zone 8	4.60	.15	.10		.05
	Zone 9	4.50	.15	.10		.05

GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man

GROUP 2 - Raker, concrete spreader, carpenter helpers, distributor man, finisher helpers, formsetter helpers, jackhammer op.; jetting laborer, painter helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree prunes, stone mason helpers, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.

GROUP 3 - Formsetter, head or master--high type pavement

GROUP 4 - Powderman

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - East Baton Rouge Parish

ZONE 3 - Bossier & Caddo Parishes

ZONE 4 - Calcasieu Parish

ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouachita & Rapides Parishes

ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes

ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	9.48	.20	.30		.05
ZONE 2	9.63	.20	.30		.05
ZONE 3	9.88	.20	.30		.05
ZONE 4	10.23	.20	.30		.05
ZONE 5	10.07				.01
ZONE 6	8.90				.01
ZONE 7	10.585	.30			.01
ZONE 8	10.75				.01
ZONE 9	9.05				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans

ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.

ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Pars. which are within a 32.5 mile radius of New Orleans center

ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Rymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa (north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Ponchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Pars.
ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberville (eastward to lower Grand River), Lafayette, St. Landry, St. Martin (excluding lower separated section), St. Mary (east to Berwick) & Vermilion Pars
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - GROUP 1	11.65	.35	3%+.30		.03
GROUP 2	75%JR	.35	3%+.30		.03
GROUP 3	65%JR	.35	3%+.30		.03
GROUP 4	45%JR	.35	3%+.30		.03
GROUP 5	50%JR	.35	3%+.30		.03

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)
GROUP 4 - Op. using truck without winch; Groundmen (starting rate to 1½ yrs. service)
GROUP 5 - Groundmen (1½ yrs. service or over)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
Linemen, line equipment & line truck ops.	12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
ZONE 3 - Linemen, equipment ops.	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
Groundmen	11.05	.35	3%+.40		1/10%
ZONE 4 - Linemen, equip ops.	12.30	.35	3%		
Cable splicers	12.55	.35	3%		
Groundmen	80%JR	.35	3%		
ZONE 5 - Linemen & equip., ops.	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Groundmen	60%JR		3%	.30	1/2%
ZONE 6 - Linemen & equip., ops.	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
Groundman, 1st 6 months	2.65	.65	3%		1/2%
Groundman, 2nd 6 months	3.24	.65	3%		1/2%
Groundmen, after 1 year	3.53	.65	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	11.80	1.00	3%		1%
Cable splicers	12.30	1.00	3%		1%
Groundmen	9.70	1.00	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	10.80	.45	.30		.035
Tile & terrazzo workers	9.10	.25			
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 2 - Marble & terrazzo workers	11.25	.53	.30		.02
Tile setters	8.30	.48	.30		.02
ZONE 3 - Marble setters	10.70				
Terrazzo workers	8.75				
ZONE 4 - Marble, tile & terrazzo workers	9.37		.25		
ZONE 5 - Marble, tile & terrazzo workers	8.85	.30			
ZONE 6 - Marble, tile & terrazzo workers	12.00				
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 7 - Tile setters	10.25				
Tile finishers	6.75	.25			

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ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	10.685		.10		
GROUP 2	10.885		.10		
GROUP 3	11.03		.10		
GROUP 4	12.475		.10		
ZONE 2 - GROUP 1	9.35		.25		.05
GROUP 2	10.32		.25		.05
ZONE 3 - GROUP 1	8.965	.425	.40		.06
GROUP 2	9.34	.425	.40		.06
GROUP 3	10.215	.425	.40		.06
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	8.50				
GROUP 2	9.00				
GROUP 3	9.50				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	9.20	.40	.30		.05
ZONE 7 - GROUP 1	7.30				
GROUP 2	8.30				
GROUP 3	7.80				

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machines
GROUP 4 - Bridge work, water towers, radio & TV towers
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.; tanks, airconditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray-steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 5 - GROUP 1 - Painters, paperhangers; tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work-brush spray, stage, window jacks, flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandoville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

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ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS -	ZONE 1	9.70				
	ZONE 2	9.00				.01
	ZONE 3	10.07				
	ZONE 4	9.75				.01
	ZONE 5	7.05	.30	.20		.03
	ZONE 6	7.00				.01
	ZONE 7	9.75			1.00	
	ZONE 8	10.40		.25		
	ZONE 9	8.95		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabins Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS -	ZONE 1	11.00	.45	.75		.08
	ZONE 2	10.85	.64	.875		.06
	ZONE 3	10.65	.50	.55		.10
	ZONE 4	10.54	.50	.60	.95	.09
	ZONE 5	11.97	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)						
ZONE 1 -	GROUP 1	7.19	.55	.48		.05
	GROUP 2	7.55	.65	.48		.05
	GROUP 3	7.88	.65	.48		.05
	GROUP 4	7.97	.65	.48		.05
	GROUP 5	8.29	.65	.48		.05
	GROUP 6	9.77	.65	.48		.05
ZONES 2, 3 & 4 -	GROUP 1	7.59	.65	.48		.05
	GROUP 2	7.95	.65	.48		.05
	GROUP 3	8.31	.65	.48		.05
	GROUP 4	8.37	.65	.48		.05
	GROUP 5	8.73	.65	.48		.05
	GROUP 6	10.27	.65	.48		.05

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 -	GROUP 1	7.43	.65	.48		.05
	GROUP 2	7.11	.65	.48		.05
	GROUP 3	6.90	.65	.48		.05
	GROUP 4	7.71	.65	.48		.05
	GROUP 5	10.095	.65	.48		.05
	GROUP 6	8.12	.65	.48		.05
	GROUP 7	8.80	.65	.48		.05
ZONE 6 -	GROUP 1	8.01	.65	.48		.05
	GROUP 2	7.41	.65	.48		.05
	GROUP 3	7.20	.65	.48		.05
	GROUP 4	7.71	.65	.48		.05
	GROUP 5	8.45	.65	.48		.05
	GROUP 6	9.62	.65	.48		.05
	GROUP 7	10.73	.65	.48		.05
	GROUP 8	10.98	.65	.48		.05
	GROUP 9	11.23	.65	.48		.05
	GROUP 10	11.48	.65	.48		.05
ZONE 7 -	GROUP 1	10.33	.65	.65		.05
	GROUP 2	10.58	.65	.65		.05
	GROUP 3	7.50	.65	.65		.05
	GROUP 4	7.89	.65	.65		.05
	GROUP 5	8.65	.65	.65		.05
	GROUP 6	10.08	.65	.65		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Oiler
GROUP 2 - Mechanic helper
GROUP 3 - Oiler-Driver
GROUP 4 - Scaleman
GROUP 5 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)
GROUP 6 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5
GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant
GROUP 2 - Pumps under 3 inch suction; mechanic helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.
GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps
GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6
GROUP 1 - Snatch cat; pumps, 3 inch suction or more
GROUP 2 - Pumps, under 3 inch suction; mechanic helper
GROUP 3 - Oiler
GROUP 4 - Batch plant operator
GROUP 5 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16S; Oiler driver; pump crete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment
GROUP 6 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; traxcavator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over
GROUP 7 - Backhoe; cableway; concrete mixer, 16S & up; derrick; crane; dragline; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crete)
GROUP 8 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over
GROUP 9 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

GROUP 10 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; mechanic helpers; oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors, asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bullfloats, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractors; pump, pump crete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track mahines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	9.96	.65	.65		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.43	.65	.65		.05
ZONE 4	9.61	.65	.65		.05
ZONE 5	7.65	.65	.65		.05
ZONE 6	7.15	.65	.65		.05
ZONE 7	6.69	.25	.30		.05
ZONE 8	6.14	.25	.30		.05
ZONE 9	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.21	.65	.65		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.68	.65	.65		.05
ZONE 4	9.86	.65	.65		.05
ZONE 5	7.90	.65	.65		.05
ZONE 6	7.40	.65	.65		.05
ZONE 7	6.94	.25	.30		.05
ZONE 8	6,39	.25	.30		.05
ZONE 9	5.78	.25	.30		.05
GROUP 3 - ZONE 1	9.71	.65	.65		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	9.18	.65	.65		.05
ZONE 4	9.36	.65	.65		.05
ZONE 5	7.40	.65	.65		.05
ZONE 6	6.90	.65	.65		.05
ZONE 7	6.44	.25	.30		.05
ZONE 8	5.89	.25	.30		.05
ZONE 9	5.28	.25	.30		.05
GROUP 4 - ZONE 1	8.46	.65	.65		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	8.13	.65	.65		.05
ZONE 4	8.14	.65	.65		.05
ZONE 5	6.43	.65	.65		.05
ZONE 6	5.93	.65	.65		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 5 - ZONE 1	8.11	.65	.65		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.54	.65	.65		.05
ZONE 4	7.53	.65	.65		.05
ZONE 5	5.91	.65	.65		.05
ZONE 6	5.41	.65	.65		.05
ZONE 7	5.02	.25	.30		.05
ZONE 8	4.48	.25	.30		.05
ZONE 9	3.97	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 6 - ZONE 1	7.26	.65	.65		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.68	.65	.65		.05
ZONE 4	6.68	.65	.65		.05
ZONE 5	5.13	.65	.65		.05
ZONE 6	4.63	.65	.65		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 7 - ZONE 1	6.95	.65	.65		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.34	.65	.65		.05
ZONE 4	6.34	.65	.65		.05
ZONE 5	4.84	.65	.65		.05
ZONE 6	4.34	.65	.65		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.13	.65	.65		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.98	.65	.65		.05
ZONE 4	7.99	.65	.65		.05
ZONE 5	6.33	.65	.65		.05
ZONE 6	5.83	.65	.65		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.56	.65	.65		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.23	.65	.65		.05
ZONE 4	8.24	.65	.65		.05
ZONE 5	6.58	.65	.65		.05
ZONE 6	6.08	.65	.65		.05
ZONE 7	5.83	.25	.30		.05
ZONE 8	5.27	.25	.30		.05
ZONE 9	4.71	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 10 - ZONE 1	7.20	.65	.65		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.59	.65	.65		.05
ZONE 4	6.59	.65	.65		.05
ZONE 5	5.09	.65	.65		.05
ZONE 6	4.59	.65	.65		.05
ZONE 7	5.11	.25	.30		.05
ZONE 8	4.56	.25	.30		.05
ZONE 9	4.06	.25	.30		.05

GROUP 1 - 60 ton crane & over; crane with 125' boom

GROUP 2 - Crane with 175' boom

GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pubs all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (truck type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; grsdall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork, lifts over 10 ton capacity; foundation drilling machines

GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats

GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats

GROUP 6 - Mechanic helper; batch plant operator

GROUP 7 - Oiler

GROUP 8 - Fireman

GROUP 9 - Fireman operating steam valve

GROUP 10 - Oiler on crane using air to drive piles

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes

ZONE 3 - Bossier & Caddo Parishes

ZONE 4 - Calcasieu Parish

ZONE 5 - Cameron, Jefferson Davis & Red River Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouachita & Rapides

ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes

ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitochos, Pointe Coupee, Sabine, St. Helena, St. Martin, (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana, & Winn Parishes

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	10.03		.20		
ZONE 2 - Roofers	8.06	.70	.75	.28	.70
ZONE 3 - Roofers	9.06	.35	.60		.04
ZONE 4 - Roofers	8.30		.10		
Kettlemen	7.35		.10		
ZONE 5 - Roofers	9.35		.20		.04
Kettlemen	6.48		.20		.04

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	ZONE 1	11.47	.45	.55		.13
	ZONE 2	11.00	3%+.60	.91		.14
	ZONE 3	11.70	.50	.80		.12
	ZONE 4	10.14	3%+.55	.40		.16

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	10.80	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1 - GROUP 1	4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.45				
GROUP 6	5.37				
GROUP 7	5.76				
ZONE 2 - GROUP 1	6.70				
GROUP 2	6.95				
GROUP 3	7.50				
GROUP 4	7.35				
GROUP 5	7.80				
GROUP 6	7.90				
GROUP 7	8.20				
GROUP 8	8.35				
ZONE 3 - GROUP 1	5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				
ZONE 4 - GROUP 1	7.80				
GROUP 2	8.10				
GROUP 3	8.25				
GROUP 4	8.45				
GROUP 5	8.60				
GROUP 6	8.40				

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds
ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters; tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.
ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons; pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift
ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	6.63	.45			
ZONE 2	5.49				
ZONE 3	6.81				
ZONE 4	7.24				
ZONE 5	5.92				
ZONE 6	6.02				
ZONE 7	4.45				
ZONE 8	4.35				
ZONE 9	4.25				
GROUP 2 - ZONE 1	6.76	.45			
ZONE 2	5.61				
ZONE 3	6.91				
ZONE 4	7.37				
ZONE 5	6.05				
ZONE 6	6.15				
ZONE 7	4.56				
ZONE 8	4.46				
ZONE 9	4.36				
GROUP 3 - ZONE 1	6.82	.45			
ZONE 2	5.66				
ZONE 3	7.14				
ZONE 4	7.43				
ZONE 5	6.11				
ZONE 6	6.21				
ZONE 7	4.61				
ZONE 8	4.51				
ZONE 9	4.41				
GROUP 4 - ZONE 1	6.90	.45			
ZONE 2	5.73				
ZONE 3	7.35				
ZONE 4	7.50				
ZONE 5	6.18				
ZONE 6	6.28				
ZONE 7	4.67				
ZONE 8	4.57				
ZONE 9	4.47				
GROUP 5 - ZONE 1	7.09	.45			
ZONE 2	5.89				
ZONE 3	7.77				
ZONE 4	7.69				
ZONE 5	6.38				
ZONE 6	6.47				
ZONE 7	4.83				
ZONE 8	4.73				
ZONE 9	4.63				

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spottar & dumper
GROUP 2 - 1¼ tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Cameron & Jefferson Davis Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Missouri COUNTIES: Jasper, McDonald and Newton
DECISION NO.: MO78-4098 DATE: Date of Publication
Supersedes Decision No. MO77-4269 dated September 30, 1977, in 42 FR 53066
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.12	.50	1.00		
BOILERMAKERS	12.00	1.15	1.00		.02
BRICKLAYERS & STONEMASONS	10.20		.30		
CARPENTERS:					
Carpenters	8.77	.33	.30		
Millwrights & piledrivermen	9.02	.33	.30		
CEMENT MASONS	7.40				
ELECTRICIANS:					
Electricians	9.98	.65	3%+.50	5%	.01
Cable splicers	10.33	.65	3%+.50	5%	.01
ELEVATOR CONSTRUCTORS:					
Elevator constructors	11.97	.745	.56	3%+a	.025
Helpers	70%JR	.745	.56	3%+a	.025
Helpers probationary	50%JR				

FOOTNOTES: a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as vacation Pay Credit. Also 6 Paid Holidays.

GLAZIERS	8.05			.25	
IRONWORKERS	10.60	.45	.65		.12
LABORERS:					
Group 1	6.70	.40	.40		.10
Group 2	6.95	.40	.40		.10
Group 3	7.00	.40	.40		.10
Group 4	7.05	.40	.40		.10

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Common labor, carpenter tenders, trackmen, wreckers handling and carrying of reinforced steel

Group 2 - Pipelayers, air tool operators, pier hole diggers, vibrators, jackhammer, chipping hammer operators, asphalt rakers, mastic kettlemen, sandblasting, gunnite nozzlemen and barco operator

Group 3 - Plasterers and mason tenders, stone mason tenders

Group 4 - Powdermen, cutting torch and welders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	11.73	.45	3%+.15		4%
Linemen operators	11.18	.45	3%+.15		4%
Groundman	7.50	.45	3%+.15		4%
Groundman, 1st 6 mos.	5.69	.45	3%+.15		4%
Groundman, powderman	8.13	.45	3%+.15		4%
PAINTERS:					
Brush, roller, tapers, floor tile & carpet layers, paper-hangers	9.17		.40		
Spray	9.545		.40		
PLASTERERS	7.30				
PLUMBERS	11.175	.35	.55		.02
POWER EQUIPMENT OPERATORS:					
Group 1	10.00	.50	.50		
Group 2	9.65	.50	.50		
Group 3	9.22	.50	.50		
Group 4	8.72	.50	.50		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
Group 1 - Crane; dragline; derrick; drum or tower hoist (2-drum); power shovel or back hoe (on tracks); piledriver; power blade, motor patrol; mechanic; hydraulic, self-propelled crane; stringer or cherry picker crane
Group 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1 drum); loader (track or rubber tire); tractor, pusher; roller (asphalt); tractor or back hoe (on rubber tires); tractor (compaction roller or pull blade track)
Group 3 - Fork lift; roller; industrial tractor; tractor (compaction roller or pull blade-rubber tire); distributor (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over); small machine (operator)
Group 4 - Oiler, oiler-driver

ROOFERS	7.55	.46	.20		
SHEET METAL WORKERS	9.75	.82	.55		.04
SPRINKLER FITTERS	11.48	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Pickup or station wagon	7.15	.25			
Dump and under 5 tons, flat-bed, warehousemen	7.25	.25			
Transit mix	7.48	.25			
Tandem dump over 5 tons, winch, semi-trailer, lowboy, euclids or other similar equipment	7.52	.25			

SUPERSEDEAS DECISION

STATE: New Hampshire
DECISION NUMBER: NH78-2100
COUNTIES: Hillsboro & Merrimack
DATE: Date of Publication
Supersedes Decision No. NH77-2001, dated January 21, 1977 in 42 FR 4087, NH77-2002, dated January 21, 1977 in 42 FR 4090
DESCRIPTION OF WORK: Building & Heavy Construction

DECISION NO. NH78-2100

HILLSBORO COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.36	1.10	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, AND TILE SETTERS	8.89	.80	.60		.02
CARPENTERS:					
Pelham & Greenville					
Carpenters & Soft Floor Layers	10.45	.85	1.00		.07
Millwrights	10.28	.60	.50		.07
Remainder of County:					
Carpenters & Soft Floor Layers	8.62	.65	.50		.01
Piledrivermen & Millwrights	8.80	.65	.50		.01
ELECTRICANS:					
Pelham	10.02	.35	3%+.20		.02
Remainder of County	10.75	.50	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	10.665	.495	.32	4%+a+b	.02
Helpers	7.465	.495	.32	4%+a+b	.02
Helpers (Prob.)	5.33	.495	.32	4%+a+b	.02
GLAZIERS	8.52	.62	.69		.03
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.15	1.00	1.00		.02
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8 of 1%
Equipment Operator	8.74	.70	3%+.50	d	3/8 of 1%
Groundman	6.36	.70	3%+.50	d	3/8 of 1%
Driver Groundman	7.38	.70	3%+.50	d	3/8 of 1%
PAINTERS:					
Brush	6.90	.25			
Paperhangers	7.15	.25			
Spray & Sandblasting	8.40	.25			
Open Structural Steel	8.15	.25			
Enclosed Structural Steel & Steeple jack	7.90	.25			
PLUMBERS AND STEAMFITTERS:					
Hudson and Pelham	$11.52	1.10	.60		.02
Remainder of County	10.75	.68	.55		.02
ROOFERS:					
Roofers	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SPRINKLER FITTERS	10.46	.65	.95		.08
TERRAZZO WORKERS' HELPERS	7.40	.20	.10		
TILE SETTERS' HELPERS	7.94	.40	.25		

DECISION NO. NH78-2100

MERRIMACK COUNTY BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.36	1.10	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERRES, STONE MASONS, TERRAZZO WORKERS, & TILE SETTERS	8.8	.80	.60		.02
CARPENTERS	8.62	.65	.50		.01
Millwrights & Piledrivers	8.80	.65	.50		.01
ELECTRICIANS:					
Hookset	10.75	.50	3%		.03
Remainder of County:					
Gen. Contracts $300,000 & over	10.70	.70	3%+.50		.02
General Contract less than $300,000	7.00	.70	3%+.50		.02
ELEVATOR CONSTRUCTORS:					
Constructors	10.665	.495	.32	4%+a+b	.02
Helpers	7.465	.495	.32	4%+a+b	.02
Helpers (Prob.)	5.33	.495	.32	4%+a+b	.02
GLAZIERS	8.52	.62	.69		.03
IRONWORKERS - Structural, Ornamental and Reinforcing	10.15	1.00	1.00		.02
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8 of 1%
Equipment groundman	8.74	.70	3%+.50	d	3/8 of 1%
Groundman	6.36	.70	3%+.50	d	3/8 of 1%
Driver groundman	7.38	.70	3%+.50	d	3/8 of 1%
PAINTERS:					
Brush	6.90	.25			
Open structural steel work to 25'	8.15	.25			
Enclosed structural steel work & steeplejack	7.90	.25			
Paperhangers	7.15	.25			
Spray & Sandblasting	8.40	.25			
PLUMBERS AND STEAMFITTERS	10.75	.68	.55		.02
ROOFERS:					
Roofers	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SOFT FLOOR LAYERS	6.56	.25	.20		.01
SPRINKLER FITTERS	10.46	.65	.95		.08

DECISION NO. NH78-2100

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

c. Holidays: A through F; Washington's Birhtday, Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calender days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday

d. Holidays: B through F, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

e. Holidays: B, C, E provided employee works day before and after each holiday.

DECISION NO. NH78-2100

LABORERS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers	$ 7.27	.60	.80		.10
Plasterers' Tenders	7.42	.60	.80		.10
Pipelayers, fence & guard rail erectors	7.52	.60	.80		.10
Pneumatic tool ops., pavement breakers, drillers, chipping gun ops., powdermen & Blasters	7.77	.60	.80		.10
All other pneumatic tool ops. on boiler and stack work	8.17	.60	.80		.10
Heavy Construction					
Laborers and pipelayers	6.67	.60	.80	e	.10
Pneumatic tool ops., drillers, concrete vibrators, & electric chipping machines	7.17	.60	.80	e	.10
Blasterers and powdermen	7.42	.60	.80	e	.10

DECISION NO. NH78-2100

NH 1-PEO R

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.50	.85	.75	a	.05
CLASS 2	9.25	.85	.75	a	.05
CLASS 3	9.05	.85	.75	a	.05
CLASS 4	8.425	.85	.75	a	.05
CLASS 5	8.40	.85	.75	a	.05
CLASS 6	7.70	.85	.75	a	.05
CLASS 7	7.90	.85	.75	a	.05
CLASS 8	10.50	.85	.75	a	.05
CLASS 9	10.00	.85	.75	a	.05

CLASS 1 - Shovel, crane, dragline, derrick, backhoe, elevator with Chicago boom, gradall, elevating grader, front end loader 6 yds. and over, cherry picker, pile driving rigs, concrete road pavers, all three drum hoisting and Trenching machines.
CLASS 2 - Rotary drill with mounted compressor, compressor house (3-6 compressors), rock and earth boring machines excluding McCarthy and similar drills, graders, 4 yds. and over front end loader, two drum hoists, high fork lifts with capacity of 15' & over, scrapers, sonic hammer, vibratory hammer.
CLASS 3 - Bulldozers, push cats, scrapers (tractor drawn), asphalt paver, front end loader 3/4 yds. to 4 yds., well driller, mechanics, pumpcrete machines, concrete pumps and similar type pumps, engineer or firemen on high pressure boiler (on job), self loading batch plant, well point operators including installing, engineer-in-charge of powered grease truck, all automatic elevators permanent or temporary operated manually or by remote controls
CLASS 4 - Single drum hoist, self-powered roller, self-propelled compactors, power pavement breakers, concrete pavement finishing machines, two bag mixers with skip, front end loaders under 3/4 yds. McCarthy and similar drills, batch plant not self loading, bulk cement plants, self-propelled material spreaders, A-frame trucks, fork lifts up to 15'.
CLASS 5 - Compressor 315 cubic ft. and over, (one or two), pumps (4 inches & over total discharge) when total discharge is over 12 inches, classification 3 will be paid, tractor (without blade or bucket) drawing roller compactors or other machines.
CLASS 6 - Compressors (up to 315 cubic feet) small mixers, pumps (up to 4 inches), power heaters, welding machines (When 3 or more heaters or welding machines are used on one job, classsification 4 rate will be paid), conveyor oiler including helpers on grease trucks and grease trucks with hand greasing equipment.
CLASS 7 - Oilers on truck cranes and gradalls.
CLASS 8 - Cranes with boom lengths of 200 feet or more
CLASS 9 - Crane with boom length of 150 feet or more

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, Veterans Day; Washinton's Birthday and Columbus

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DECISION NO. NH78-2100

NH 2-PEOp2-3-S

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.15	.85	.75	a	.05
CLASS 2	8.90	.85	.75	a	.05
CLASS 3	8.70	.85	.75	a	.05
CLASS 4	8.15	.85	.75	a	.05
CLASS 5	7.825	.85	.75	a	.05
CLASS 6	7.30	.85	.75	a	.05
CLASS 7	9.65	.85	.75	a	.05

CLASS 1 - Shovels, Crawler & Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradall, Piledrivers, Concrete Pavers, Engineers on site processing plant, Dragline, Clamshell, Cableways.
CLASS 2 - Rotary drill (with mounted compressor), Compressor house (3 to 6 compressors) Rock and earth boring machine (excluding McCarthy and similar drills), Grader, Front end loader (4 yds. or over)
CLASS 3 - Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-powered Asphalt paver, (Front end loader 3/4 to4 yds.), Mechanics, Well driller, Pumpcrete machine, Engineer or Fireman on high pressure boiler (on job) Self-loading Batch plant (on job), Well point operators.
CLASS 4 - Hoists, Conveyors, Self-powered rollers and Compactors, Self-propelled Material spreader, Self-powered concrete finishing machine, Mixers (2 bag with skip), front end loader (under 3/4 yd.), McCarthy & similar drills, Batch plant (not a self-loading), Bulk cement plant.
CLASS 5 - Compressor (315 C.F. or over-one or two), Pump 4" or over, Tractor without blades, Drawing sheeps-foot, rubber roller or other type compactor including machines for pulverizing and aerating soil
CLASS 6 - Compressor (up to 315 C.F.), Small mixers with skip, Oiler, Pumps up to 4", Grease truck, Power heaters, Welding machines (When 3 or more welding machines Class 4 rate applied), A-Frame, Forklifts, (Where grease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)
CLASS 7 - Crane with boom length of 200 feet or more including jib.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Veteran's Day; Columbus Day

DECISION NO. NH78-2100

NH 5-PEO-4-F

POWER EQUIPMENT OPERATORS MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 6.335	.275	.30	a	.02
CLASS 2	6.285	.275	.30	a	.02
CLASS 3	6.215	.275	.30	a	.02
CLASS 4	5.965	.275	.30	a	.02
CLASS 5	5.755	.275	.30	a	.02
CLASS 6	5.23	.275	.30	a	.02
CLASS 7	4.555	.275	.30	a	.02
CLASS 8	5.18	.275	.30	a	.02
CLASS 9	4.605	.275	.30	a	.02

Booms over 150' including jib-additional $.25 per hour.
Booms over 185' including jib-additional $.50 per hour.
Booms 220' including jib-additional $.75 per hour.
Booms over 275' including jib-additional $1.00 per hour.

CLASS 1 - Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lightner, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, for, lift
CLASS 2 - Swinger engine
CLASS 3 - Sonic or vibratory hammer, grader, scraper (over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. struck or less).
CLASS 4 - Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.
CLASS 5 - Assistant engineer (fireman).
CLASS 6 - Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer.
CLASS 7 - Oiler (other than truck crane and gradall).
CLASS 8 - Oiler on scow.
CLASS 9 - Oiler on truck crane and gradall.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the holidays.

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DECISION NO. NH78-2100

NH 1-TD-1-2-3-L

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 5.21	.55	.40	a	
CLASS 2	5.44	.55	.40	a	
CLASS 3	5.67	.55	.40	a	

CLASS 1 - Two Axle equipment
CLASS 2 - Three axle equipment including low beds
CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: New Hampshire COUNTIES: ROCKINGHAM & STRAFFORD
DECISION NO.: NH78-2101 DATE: Date of Publication
Supersedes Decision No. NH77-2003, dated January 28, 1977 in 42 FR 5625; NH77-2004, dated January 28, 1977 in 42 FR 5629
DESCRIPTION OF WORK: Building, Heavy, and Marine Construction

ROCKINGHAM COUNTY BUILDING, HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.36	1.10	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, STONEMASONS, TILE SETTERS & TERRAZZO WORKERS	8.89	.80	.60		.02
CARPENTERS:					
Salem:					
Carpenters & Soft Floor Layers	10.75	.90	1.00		.05
Remainder of County:					
Carpenters & Soft Floor Layers	8.62	.65	.50		.01
Piledrivermen, wharf & dock builders & millwrights	8.80	.65	.50		.01
ELECTRICIANS:					
Twps, of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook Strathan & S. New Market	10.85	.75	3%+.25		.02
Kingston, Kensington, N. Kingston, Hampstead, Plaistow, Westville, Atkinson N. Salem & Salem	10.02	.35	3%+.20		.02
Remainder of County	10.75	.50	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	10.665	.495	.32	4%+a+b	.02
Helpers	7.465	.495	.32	4%+a+b	.02
Helpers (Prob.)	5.33	.495	.32	4%+a+b	.02
GLAZIERS	8.52	.62	.69		.03
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.15	1.00	1.00		.02
LABORERS, Building:					
Auburn, Candia, Chester, Danville, Deerfield, Center, Derry, E. Derry, Fremont, Hampstead, Londonderry, Raymond Sandown, W. Epping & Windham					
Laborers	7.27	.60	.80		.10
Plasterers tenders	7.42	.60	.80		.10

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DECISION NO. NH78-2101

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drillers, pavement breakers, pneumatic tool ops., chipping gun ops., blasters & powdermen	$ 7.77	.60	.80		.10
All other pneumatic tool ops. on boiler & stack work	8.17	.60	.80		.10
Pipelayers, fence & guard rail erectors	7.52	.60	.80		.10
Laborers: Heavy					
Auburn, Candida, Chester, Danville, Deerfield, Deerfield Center, Derry, E. Derry, Fremont, Hampstead, Londonderry, Raymond, Sandown, W. Epping & Windham:					
Laborers & Pipelayers	6.67	.60	.80	f	.10
Pneumatic tool op., drillers concrete vibrators, & pneumatic breakers	7.17	.60	.80	f	.10
Blasters & powdermen	7.42	.60	.80	f	.10
Remainder of County:					
Building & Heavy					
Laborers	6.76	.60	.70		.10
Pneumatic tool operator, drillers, pavement breakers	7.26	.60	.70		.10
Blasterers & powdermen	7.26	.60	.70		.10
Plasterers tenders	6.91	.60	.70		.10
LATHERS	9.25	.45	.55		.01
LEAD BURNERS	8.75	.30		c	.01
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8of1%
Equipment Operator	8.74	.70	3%+.50	d	3/8of1%
Groundman	6.36	.70	3%+.50	d	3/8of1%
Driver Groundman	7.38	.70	3%+.50	d	3/8of1%

PAGE 3

DECISION NO. NH78-2101

PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Deerfield, Candida, Raymond, Auburn, Chester, Dondonderry, Derry & Windham:					
Brush	$ 6.90	.25			
Paperhangers	7.15	.25			
Spray & Sandblasting	8.40	.25			
Open Structural Steel	8.15	.25			
Enclosed Structural Steel and Steeplejack	7.90	.25			
Salem:					
Brush	10.06	.82	1.15		.04
Structural Steel	12.18	.82	1.15		.04
Spray & Sandblasting	11.06	.82	1.15		.04
Repaint	8.61	.82	1.15		.04
Townships of Northwood, Deerfield, Gandia, Raymond, Auburn, Chester, Londonderry, Derry & Windham:					
Brush	4.70	.175			
Open structural steel, work to 25'	5.95	.175			
Enclosed Steel, over 25'	5.80	.175			
Remainder of County:					
Brush	6.35		.25		
Spray	7.35		.25		
Structural steel	6.96		.25		
Structural steel 45' or more	7.96		.25		
Taping Paperhanging	6.60		.25		
PLUMBERS & STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	10.55	1.35	.62		.05
Salem and Windham	11.15	.87	1.00		.05
Remainder of County	10.40	.68	.55		.02
ROOFERS	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SPRINKLER FITTERS	10.46	.65	.95		.08

DECISION NO. NH78-2101

STRAFFORD COUNTY
BUILDING & HEAVY
CONSTRUCION

9-NH-1-2-3-E 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.36	1.10	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, Cement masons, Marble setters, Plasterers, Stone masons, Terrazzo workers and Tile setters	8.89	.80	.60		.02
CARPENTERS & SOFT FLOOR LAYERS	8.05	.55	.60		.01
ELECTRICIANS	10.85	.75	3%+.25		.02
ELEVATOR CONSTRUCTORS:					
Constructors	10.665	.495	.32	4%+a+b	.02
Helpers	7.465	.495	.32	4%+a+b	.02
Helpers (Prob.)	5.33	.495	.32	4%+a+b	.02
GLAZIERS	8.52	.62	.69		.03
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.15	1.00	1.00		02
LABORERS:					
Laborers	7.27	.60	.80		.10
Plasterers Tenders	7.42	.60	.80		.10
Boilers, stack work, Pneumatic tool op., drillers, pavement breakers, electirc chipping ops., blasters & Powdermen, Creosote work	7.77	.60	.80		.10
Pipelayers, fence & guardrail erectors	7.52	.60	.80		.10
Pneuamtic tools on boiler & Stack work	8.17	.60	.80		.10
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION: Linemen	8.84	.65	3%+.50	d	3/8of1%
Equipment Operator	8.24	.65	3%+.50	d	3/8of1%
Groundman	5.86	.65	3%+.50	d	3/8of1%
Driver Groundman	6.88	.65	3%+.50	d	3/8of1%
PAINTERS: Brush	6.35		.25		
Sprsy and Tender	7.35		.25		
Structural Steel	6.96	.25			
Structural Steel (45 ft. or more)	6.90		.25		
Taping & Paperhanging	6.60		.25		
PILEDRIVERMEN & MILLWRIGHTS	8.05	.55	.50		.01
PLUMBERS & STEAMFITTERS	10.75	.68	.55		.02
ROOFERS	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SPRINKLER FITTERS	10.46	.65	.95		.08

DECISION NO. NH78-2101

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independnece Day; D-Labor Day; D-E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basoc hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: a through F; Washington's Birthday,Good Friday and Christmas Eve providing employee has worked at least 45 fulls days during the 120 caldendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holiday; B through F provided employee has beene mployed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays.

e. $.25 contribution to annuity fund.

f. Holiday: B,C, & E provided employee works the scheduled work days before & after each holiday.

DECISION NO. NH78-2101

BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

NH 3-PEO-P

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.18	1.10	1.00	a	.03
CLASS 2	10.06	1.10	1.00	a	.03
CLASS 3	9.37	1.10	1.00	a	.03
CLASS 4	8.63	1.10	1.00	a	.03
CLASS 5	8.11	1.10	1.00	a	.03
CLASS 6	7.70	1.10	1.00	a	.03

Boom lengths including jib" over 150' add $.55; over 185' add $.90; over 210' add $1.25; over 250' add $1.90; over 295' add $2.65.

CLASS 1 - Shovels,cranes, truck cranes, cherry pickers, dragline, trench hoe, backhoe, 3 drum machine, derricks, pile, elevator tower, hoist, gradall, shovel dozer (except when pushing), front end loader (except when pushing), fork lift auger, boring machine, rotary drill, post hole hammer, post hole digger, pumpcrete machine.
CLASS 2 - Sonic or vibratory hammer, grader, scraper more than 21 yds. struck, tahdem scraper, concrete pump, bulldozer, scraper 21 yds. struck or less, portable steam boiler, portable steam generator, roller, spreader, tamper, asphalt paver, Mechanics, Maintenance.
CLASS 3 - Assistant engineers (firemen).
CLASS 4 - Pumps (1-3 grouped), compressor, welding machine (1-3 grouped), generator, concrete vibrator, lighting plant, heater (power driven 1-5), wellpoint system (operating & installing), syphons-pulsometers, conc. mixers, valves controlling permanent plant air or steam conveyor, Jackson tyep tamper cranes & gradalls.
CLASS 5 - Oilers on truck cranes & gradalls
CLASS 6 - Oilers (other than truck cranes & gradalls.

FOOTNOTE: a 10 paid holidays; New Year's Day; Memorial Day, Independence day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day.

DECISION NO. NH78-2101

HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.77	1.10	1.00	a	.03
CLASS 2	10.57	1.10	1.00	a	.03
CLASS 3	9.65	1.10	1.00	a	.03
CLASS 4	8.535	1.10	1.00	a	.03
CLASS 5	9.13	1.10	1.00	a	.03
CLASS 6	7.77	1.10	1.00	a	.03
CLASS 7	7.84	1.10	1.00	a	.03

Boom length including jib: over 150' - additional $.25 per hour; over 185' additional $.5o per hour; over 220' - additional $.75 per hour; over 275' additional $1.00 per hour; over 295' additional $2.00 per hour.

CLASS - Power shovels, cranes, truck cranes, derrick, pile drivers, trenching machines, mechanical hoist, pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines elevating graders, shovel dozers, (when used for digging or loading), front end loaders (when used for digging or loading), mucking machines (when used as in shafts and tunnels), shaft hoists,steam engineers, backhoes, gradalls and cableways.
CLASS 2 - Master Mechanics
Class 3 - Grader, scrapers, more than 21 yds., struck and tandem scrapers, bulldozer, scrapers, 21 yds., struck or less, grout pumps, portable steam boilers, roller, spreaders, asphalt pavers, locomotive and tampers, self-propelled or tractor-drawn, Mechanics, maintenance, sonic or vibratory hammers.
CLASS 4 - Pumps (s) (1-3 grouped), compressors welding machine (s) (1-3 grouped) generators, lighting plants, heaters (power driven (105), syphons, pulsometers, concrete mixers, valves controlling pernament plant air or steam, conveyors, wellpoint systems (operating and installing).
CLASS 5 - Assistant engineers (Firemen).
CLASS 6 - Oilers (other than truc cranes and gradalls).
CLASS 7 - Oilers on truck cranes and gradalls.

PAID HOLIDAYS: A-NewYear's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays A through F; Washington's Birthday; Columbs Day; Veterans' Day; Fast Day.

DECISION NO. NH78-2101

NH 5-PEO-4-F

POWER EQUIPMENT OPERATORS MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 6.335	.275	.30	a	.02
CLASS 2	6.285	.275	.30	a	.02
CLASS 3	6.215	.275	.30	a	.02
CLASS 4	5.965	.275	.30	a	.02
CLASS 5	5.755	.275	.30	a	.02
CLASS 6	5.23	.275	.30	a	.02
CLASS 7	4.555	.275	.30	a	.02
CLASS 8	5.18	.275	.30	a	.02
CLASS 9	4.605	.275	.30	a	.02

Booms over 150' including jib-additional $.25 per hour.
Booms over 185' including jib-additional $.50 per hour.
Booms 220' including jib-additional $.75 per hour.
Booms over 275' including jib-additional $1.00 per hour.

CLASS 1 - Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lightner, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, for, lift
CLASS 2 - Swinger engine
CLASS 3 - Sonic or vibratory hammer, grader, scraper (over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. struck or less).
CLASS 4 - Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.
CLASS 5 - Assistant engineer (fireman).
CLASS 6 - Pump, compressor, welding machine, heater (power driven), valve controlling pernament plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer.
CLASS 7 - Oiler (other than truck crane and gradall).
CLASS 8 - Oiler on scow.
CLASS 9 - Oiler on truck crane and gradall.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the holidays.

DECISION NO. NH78-2101

NH 1-TD-1-2-3-L

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 5.21	.55	.40	a	
CLASS 2	5.44	.55	.40	a	
CLASS 3	5.67	.55	.40	a	

CLASS 1 - Two Axle equipment
CLASS 2 - Three axle equipment including low beds
CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Berks
DECISION NO.: PA78-3069 DATE: Date of Publication
Supersedes Decision No. PA77-3125 dated September 9, 1977 in 42 FR 45620.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers & Stonemasons	9.95	.70	.75		
Carpenters	9.48	.72	.45		
Cement Masons	9.64		1.05		
Electricians:					
Herford, Longswamp & Washington, Twps., portion of Maxatawney, Twp., east of Sacony Creek	11.25	.50	3%+.80		.02
Marion, Tulpehocken & Bethel Twps.	9.59	.65	3%+.49		1/2 of 1%
Remainder of County	11.69	.78	3%+.20		.03
Elevator Constructors	11.41	.745	.56	b+c	.025
Elevator Constructors' Helpers	7.99	.745	.56	b+c	.025
Elevator Constructors' Helpers (Prob.)	5.705				
Glaziers	9.19	.40	.30		.01
Ironworkers, structural & ornamental, bridge	11.80	.84	1.36		.02
Ironworkers, reinforcing	11.80	.84	1.36		.02
General Laborers	7.60	.45	.35		
Operators of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools coming under the jurisdiction of laborer, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operators and concrete power buggies	7.83	.45	.35		
Cofferdam, (below 10'), tunnel free air muckers	7.88	.45	.35		
Handling and Using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold builders and removal for plasterers	7.99	.45	.35		
Mason tenders, scaffold builders removal for mason and power buggies	8.03	.45	.35		
Blasters	8.05	.45	.35		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	9.83		.15		.01
Lead Burners	10.75	.40	.25	a	.01
Line Construction:					
Cable Splicers	11.91	.45	3%		3/4 of 1%
Groundman	7.15	.45	3%		3/4 of 1%
Linemen	11.91	.45	3%		3/4 of 1%
Winch truck operator	8.34	.45	3%		3/4 of 1%
Millwrights	10.00	.72	.45		
Painters:					
Brush	9.35	.70	.65		
Bridge, tower, stacks & tanks	10.80	.70	.65		
Spray and steel	10.40	.70	.65		
Piledrivermen	11.12	2.33	1.35	g	.12
Plasterers	9.66		1.05		.01
Plumbers	12.26	.80	1.45		.11
Roofers:					
Albany, Maxstany and Windsor Composition and slate	11.78		1.05		
Remainder of County					
Composition, damp & waterproof	10.80	.95		d	
Precast slab	11.60	.95		d	
Slate, tile & asbestos	11.25	.95		d	
Sheet metal workers	10.05	1.39	1.18		.05
Soft floor layers	9.48	.72	.45		
Sprinkler Fitters	12.31	.75	1.05		.08
Steamfitters	12.26	.80	1.45		.11
Stone masons	9.95	.70	.75		
Truck Drivers:					
Truck drivers	6.23	e	f		
Truck drivers, helpers	6.18	e	f		

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Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F, plus the Friday after Thanksgiving.

d. Paid holidays: Election Day and Labor Day.

e. Employer contributes $58.37 per month to a Health and Welfare.

f. Employer contributes $43.34 per month to a Pension Fund.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1 - Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above

GROUP 3 - Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operators, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above

GROUP 5 - Fireman, grease truck

GROUP 6 - Oilers and deck hands (personnel boats), core driller helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.): 100 ft and over

GROUP 7A - 150 ft. and over

GROUP 7B - 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Erie
DECISION NO.: PA78-3071 DATE: Date of Publication
Supersedes Decision No. PA78-3048, dated August 11, 1978, in 43 FR 35865.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.54	.65	.60		.02
BOILERMAKERS	12.98	.60	1.20		.03
BRICKLAYERS	12.11	.80	.40		
CARPENTERS	10.47	.60	.30		.02
CEMENT MASONS	9.92	.45	.75		.015
ELECTRICIANS	12.30	4%h	3%+.39	.75	.065
ELEVATOR CONSTRUCTORS	11.04	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.41	.60	.80		
IRONWORKERS:					
Structural	11.59	1.86	1.01		.15
Ornamental	11.59	1.86	1.01		.15
Reinforcing	11.59	1.86	1.01		.15
LATHERS	11.28	.30	.10		.02
LABORERS:					
Group I	8.84	.80	.60		.01
Group II	8.95	.80	.60		.01
Group III	9.05	.80	.60		.01
Group IV	9.11	.80	.60		.01
Group V	9.16	.80	.60		.01
Group VI	9.26	.80	.60		.01
Group VII	9.32	.80	.60		.01

LABOR CLASSIFICATIONS

Group I - Building & common, carpenter tender, heaters & salamanders, power sweepers, power vacuum sweepers, pumps including 1-1/2", signal man concrete bucket, wrecking & demolition, window washing

Group II - Bricklayer & mason tenders, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander

Group III - Burners, concrete saw operator, hod carriers, mortar mixers, plasterer tankers, powered wheel-barrows & buggies

Group IV - Dual vibrator roller (walk behind type) Berfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrator air or otherwise

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LABORERS CONT'D

Group V - Mixing mortar for more than 3 masons by hand

Group VI - Blasters, drill operators, gunite nozzle man & machine man

Group VII - Plasterer mixing machine & pump

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, Heavy Equipment Operator	10.80	.50	3%		3/8 of 1%
Winch - Truck Driver	7.59	.50	3%		3/8 of 1%
Groundmen	7.26	.50	3%		3/8 of 1%
MARBLE SETTERS	10.75	.40	.70		
MILLWRIGHTS	10.27	6%	6%		.02
PAINTERS:					
Brush	9.30	.60	.50		.02
Structural steel	10.05	.60	.50		.02
Spray	9.80	.60	.50		.02
PILEDRIVERMEN	11.14	.60	.50		.02
PLASTERERS	9.96	.60	1.00		.015
PLUMBERS	11.62	.55	1.05		.06
ROOFERS:					
Composition	10.64	.60	.30		.05
SHEET METAL WORKERS	9.58	.75	.90		.075
SOFT FLOOR LAYERS	10.47	.60	.30		.02
SPRINKLER FITTERS	12.31	.75	1.05		.08
STEAMFITTERS	11.62	.55	1.05		.06
STONEMASONS	12.11	.80	.40		
TERRAZZO WORKERS	10.75	.70	.40		
TILE SETTERS	10.75	.70	.40		
TRUCK DRIVERS	7.12	c	d	e	
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Class 1	$11.27	.95	1.00		.10
Class 1-A	11.56	.95	1.00		.10
Class 1-B	11.83	.95	1.00		.10
Class 1-C	12.11	.95	1.00		.10
Class 2	10.77	.95	1.00		.10
Class 3	10.60	.95	1.00		.10
Class 4	9.72	.95	1.00		.10
Class 5	9.11	.95	1.00		.10
Class 6	9.82	.95	1.00		.10
Class 6-A	9.11	.95	1.00		.10
Class 6-B	9.59	.95	1.00		.10

POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch Plant - Automatic, Boom - side, Cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting operating Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Leverman, Mix Mobile or similar type, Mixer - concrete paving, Mixer - paving (self-propelled), Multiple Bowel Machines or Multi-engine, Pile Driver - Franki or similar type, Pile Driver (when assistance is required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - Boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or outboard), Bull-dozer, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core, Drill - Well and Core (truck mounted), Engineer - mantenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic back-hoe attached), Cranes, Tower, Metro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pump-crete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), Spray Cure Machine (power drivern), Spreader, Steam Jenny (or similar type), Syphon (steam or air) Tractors (all types with hydraulic backhoe attached)

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POWER EQUIPMENT OPERATORS (Cont'd)

Class 1-A: Austin Western or similar type with jib + 25¢, Austin Western or similar type 25 tons or over with jib + 25¢, Cranes (excluding over head cranes), Crane - placed on building structure, Hoist single cage with Chicago Boom attached + 25¢, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet.

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

Class 2: Backfilling Machine, Boat - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and gunite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - lull or similar type generators - two Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section IC), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), post Driver - guard rail (truck mounted), Pumpcrete or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder, Welding Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for snaking and hauling), Truck - winch, Tugger

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POWER EQUIPMENT OPERATORS (Cont'd)

Class 4: Compressors single over 65 cu. ft. regardless of power used, Hoist - monorail (regardless of power used), Pump (over 1½ inch discharge regardless of power used), Oiler - truck crane (50 tons or over and Fireman)

Class 5: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladevator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1½ inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane.

Class 6: Brake man, Deck hand, Helicopter, signalman, Oiler, Mechanic helper

Class 6-A: Oiler, Truck crane

Class 6-B: Oiler, Truck crane (50 tons or over)

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F, plus Friday after Thanksgiving Day.

c. Employer agree to contribute $67.94 per month to a Health and Welfare Fund.

d. Employer agree to contribute $20.00 per week to a pension fund.

e. One week vacation after 1 years work; two weeks vacation after five years of service.

SUPERSEDEAS DECISION

STATE: Utah
COUNTIES: Statewide
DECISION NUMBER: UT78-5128
DATE: Date of Publication
Supersedes Decision No. UT78-5012 dated March 17, 1978, in 43 FR 11454
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 11.21	.84	$ 1.20		
BOILERMAKERS	11.825	1.075	1.00	.75	.02
BRICKLAYERS	11.61	.45	.42		.09
CARPENTERS:					
Building Construction:					
Carpenters	10.25	.55	.65		.03
Saw operators; Carpenters handling creosote materials	10.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Carpenters	10.25	.55	.65		.03
Saw operators; Carpenters handling creosote materials	10.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Carpenters	11.25	.55	.65		.03
Saw operators; Carpenters handling creosote materials	11.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Zone 3: Area over 60 miles from the above-named Cities:					
Carpenters	12.25	.55	.65		.03
Saw Operators; Carpenters handling creosote materials	12.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Building Construction:					
Cement Masons	$ 9.99	.55	.65		
Machine Operator; Mastic Floor Materials	10.17	.55	.65		
Swing Scaffold; Swing Stage	10.29	.55	.65		
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Cement Masons	9.99	.55	.65		
Machine Operator; Mastic Floor Materials	10.12	.55	.65		
Swing Scaffold, Swing Stage	10.24	.55	.65		
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Cement Masons	10.99	.55	.65		
Machine Operator; Mastic Floor Materials	11.12	.55	.65		
Swing Scaffold; Swing Stage	11.24	.55	.65		
Zone 3: Area over 60 miles from the above-named Cities:					
Cement Masons	11.99	.55	.65		
Machine Operator; Mastic Floor Materials	12.12	.55	.65		
Swing Scaffold; Swing Stage	12.24	.55	.65		
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	10.64	.51	.30		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
North section of Utah - Box Elder, Cache, Davis County (north of 41st Parallel), Morgan, Rich, Weber Counties:					
Zone 1: That area 10 miles on either side of Interstate Hwy. #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Hwy. #91 Interstate 15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Hwy #91:					
Electricians; Technicians	$ 11.60	.70	3%+.75		8/10%
Cable Splicers	11.85	.70	3%+.75		8/10%
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel and south of the 40th Parallel in Cache, Morgan, Weber Cos.:					
Electricians; Technicians	12.10	.70	3%+.75		8/10%
Cable Splicers	12.35	.70	3%+.75		8/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
North Section of Utah (Cont'd)					
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Hwy. #87:					
Electricians; Technicians	$ 12.60	.70	3%+.75		8/10%
Cable Splicers	12.85	.70	3%+.75		8/10%
Zone 3-A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91:					
Electricians; Technicians	12.60	.70	3%+.75		8/10%
Cable Splicers	12.85	.70	3%+.75		8/10%
Zone 4: All other area west of Zones 3 and 3-A in Box Elder County:					
Electricians; Technicians	14.35	.70	3%+.75		8/10%
Cable Splicers	14.60	.70	3%+.75		8/10%
In the above Zones 2, 3, and 3-A, on any job or project not exceeding $200,000 electrical, labor and material including, Zone 1 rates shall apply.					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
South section of Utah (Remaining Counties):					
Zone 1: Davis County (south of 41st Parallel); Salt Lake Co.; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):					
Area A: Ten miles either direction (east or west) from Interstate Hwy. 815, bounded on the north by the 41st Parallel and on the south by the 40th Parallel:					
Electricians; Technicians	$ 11.00	.70	3%+.50		8/10%
Cable Splicers	11.50	.70	3%+.50		8/10%
Area B: The balance of Zone 1 that lies in Davis, Salt Lake, Utah Counties:					
Electricians; Technicians	11.75	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%
Area C: That portion of the remainder of Zone 1 that lies in Tooele County:					
Electricians; Technicians	12.50	.70	3%+.50		8/10%
Cable Splicers	13.00	.70	3%+.50		8/10%

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone 2: Remainder of Counties and all portions of Counties not included in Zones 1 and 2 of south section of Utah:					
Electricians; Technicians	$ 13.75	.70	3%+.50		8/10%
Cable Splicers	14.25	.70	3%+.50		8/10%
ELEVATOR CONSTRUCTORS	10.555	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.39	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.28				
GLAZIERS:					
Iron and Washington Counties	14.17	.65	.40		.05
Remaining Counties	9.51	.51	.40	b+1.12	
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Structural	10.65	.65	1.15		.05
LATHERS	10.32	.55	.50		.01
LINE CONSTRUCTION WORKERS:					
Groundman	8.24	.45	3%		1/4%
Line Equipment Serviceman	9.82	.45	3%		1/4%
Line Equipment Mechanic:					
Base Shop	9.82	.45	3%		1/4%
Right-of-way	10.49	.45	3%		1/4%
Line Equipment Operators	9.98	.45	3%		1/4%
Linemen	11.07	.45	3%		1/4%
Cable Splicers	12.18	.45	3%		1/4%
MARBLE SETTERS	10.52	.37	.30		
MASON TENDERS	8.72	.40	.35		
PAINTERS:					
Area north of the 41st Parallel:					
Brush; Roller	9.69	.51	.50		.03
Spray; Sandblaster; Steeplejack	9.91	.51	.50		.03
Spray (swing stage; Sandblaster (swing stage)	10.11	.51	.50		.03
Remaining part of State:					
Brush; Roller	9.70	.51	.30		.02
Brush (swing stage); Brush (steel and bridge); Spray, Sandblaster Steeplejack	10.00	.51	.30		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	10.25	.51	.30		.02
Wallcovering Hanger	9.95	.51	.30		.02

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS' TENDERS	$ 8.80	.40	.35		
PLASTERERS	10.40	.55	.65		.01
PLUMBERS; Pipefitters	10.95	.66	1.00		.06
REFRIGERATION and AIR CONDITIONING	10.95	.66	1.00		.06
ROOFERS	9.99	.57	.35		.05
SHEET METAL WORKERS	11.13	.54	.60		.08
SOFT FLOOR LAYERS	8.65	.51	.30		
SPRINKLER FITTERS	11.13	.75	1.05		.08
TERRAZZO WORKERS & TILE LAYERS	10.52	.37	.30		
WELDER: Receive rate prescribed for craft performing operation to which Welding is incidential.					

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within a employee's vacation period he shall be allotted an additional day's vacation. 8 Paid Holidays: A thru F and President's Day and Pioneer Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS Building Construction					
Group 1	$ 7.77	.50	.35		.04
Group 2	7.90	.50	.35		.04
Group 3	8.02	.50	.35		.04
Group 4	8.27	.50	.35		.04
Group 5	8.77	.50	.35		.04

LABORERS
Building Construction

Group 1: General Laborer

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump (head hoseman); Signalman and dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser instrument operator; Refinery tank and vessel cleaner; Sandblaster

Group 4: Air track and similar drills

Group 5: Powderman

LABORERS* Heavy & Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$7.77	$9.27	.50	.35		.04
Group 2	7.90	9.40	.50	.35		.04
Group 3	8.02	9.52	.50	.35		.04
Group 4	8.27	9.77	.50	.35		.04
Group 5	8.77	10.27	.50	.35		.04
Tunnel and Shaft Work						
Group 1	7.92	9.42	.50	.35		.04
Group 2	8.02	9.52	.50	.35		.04
Group 3	8.22	9.72	.50	.35		.04
Group 4	8.67	10.17	.50	.35		.04

*LABORERS - AREA DEFINITION: See "Area Definition" - following Truck Drivers.

LABORERS
Heavy and Highway Construction

Group 1: General Laborers

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump head hoseman; Signalman and dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser instrument operator; Refinery tank and vessel cleaner; Sandblaster

Group 4: Air tank and similar drills

Group 5: Powderman

Tunnel and Shaft Work

Group 1: Underground laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman helper; Puddler; Nipper; Tapman; Vibrator; Screedmen

Group 3: Cutting machine operator; Drill doctor; Finisher; Gunite gunman; Miner; Powder makeup man; Spader and tugger; Steelman; Gunite groundman; Gunite nozzleman; Gunite rodman; Concrete head hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$ 8.06	$ 9.06	.90	$ 1.565	.75	.05
Group 2	8.45	9.45	.90	1.565	.75	.05
Group 3	8.65	9.65	.90	1.565	.75	.05
Group 4	8.76	9.76	.90	1.565	.75	.05
Group 5	8.76	9.76	.90	1.565	.75	.05
Group 6	9.27	10.27	.90	1.565	.75	.05
Group 7	9.44	10.44	.90	1.565	.75	.05
Group 7-A	9.56	10.56	.90	1.565	.75	.05
Group 8	9.89	10.89	.90	1.565	.75	.05
Group 8-A	9.96	10.96	.90	1.565	.75	.05
Group 9	10.12	11.12	.90	1.565	.75	.05
Group 10	10.30	11.30	.90	1.565	.75	.05
Group 11	10.79	11.79	.90	1.565	.75	.05
Group 11-A	11.75	12.75	.90	1.565	.75	.05
Group 11-B	12.24	13.24	.90	1.565	.75	.05
Group 12	12.52	13.52	.90	1.565	.75	.05

*POWER EQUIPMENT OPERATORS - AREA DEFINITIONS: See "Area Definition" - following Truck Drivers

POWER EQUIPMENT OPERATORS
Building Construction

Group 1: Assistant to engineer; Elevator operator; Hydraulic monitor; Material loader or conveyor operator

Group 2: Air compressor operator; Concrete mixer operator (skip-type); Concrete pump or pumpcrete gun operator; Generator operator (100 KW or over); Mixer box operator or similar (concrete or asphalt plant continuous mix); Pump operator; Truck crane oiler

Group 3: Front end loader (up to and including 1 cu. yds. struck M.R.C.); Hoist operator - 1 drum; Slip form pumps

Group 4: Heavy duty repairman and welder

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Group 5: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 6: A Frame Truck and Tugger Hoist; Fork Lift (construction jobsite); Kolman Loader and similar; Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 7: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without dozer

Group 7-A: Tractor Operator (bulldozer or tractor-drawn scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Motor Patrol

Group 10: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 11: Remote Controlled Cranes and Derricks; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 11-B: Operator of helicopter (when used in erection work)

Group 12: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$ 8.96	$10.46	$1.15	$ 1.75	.95	.14
Group 2	9.24	10.74	1.15	1.75	.95	.14
Group 3	9.59	11.09	1.15	1.75	.95	.14
Group 4	9.77	11.27	1.15	1.75	.95	.14
Group 5	9.88	11.38	1.15	1.75	.95	.14
Group 6	10.34	11.84	1.15	1.75	.95	.14
Group 7	10.49	11.99	1.15	1.75	.95	.14
Group 7-A	10.60	12.10	1.15	1.75	.95	.14
Group 8	10.90	12.40	1.15	1.75	.95	.14
Group 8-A	10.96	12.46	1.15	1.75	.95	.14
Group 9	11.02	12.52	1.15	1.75	.95	.14
Group 10	11.18	12.68	1.15	1.75	.95	.14
Group 11	11.62	13.12	1.15	1.75	.95	.14
Group 11-A	12.58	14.08	1.15	1.75	.95	.14
Group 11-B	13.03	14.53	1.15	1.75	.95	.14
Group 12	13.19	14.69	1.15	1.75	.95	.14

*SEE AREA DEFINITION following TRUCK DRIVERS

Underground and Shaft Work:
Underground Work: Employees working underground shall receive $.30 per hour in addition to their straight-time hourly wage rate.
Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $.50 per hour in addition to their straight-time hourly rate.

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 1: Asphalt plant fireman; Assistant to engineer; Brakeman-locomotive; Elevator operator; Fireman; Hydraulic monitor; Material loader or conveyor operator; Partsman-field; Repairman helper-field; Chainman; Rodman

Group 2: Air compressor operator; Concrete mixer operator (skip-type); Concrete pump or pumpcrete gun operator; Engineer, dinky operator; Generator operator (100 KW or over); Mixer box operator or similar (concrete or asphalt plant continuous mix); Pump operator; Screedman; Self-propelled, automatically applied concrete curing machine (on street, highways, airports and canals); Truck crane oiler; Boxman, asphalt plant

Group 3: Ballast jack tamper; Ballast regulator; Ballast tamper-multiple-purpose; Front end loader (up to and including 1 cu. yd. struck MRC); Hoist

Group 4: Slurry Seal Machine or similar

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 5: Air Compressor Operator (2 or more compressors); Batch Operator (asphalt plant); Motorman; Pavement Breaker Operator (Essco and similar type); Shuttlecar; Signalman; Small rubber-tired tractor; Small self-propelled pneumatic rollers; Tower-mobile Operator; Welding Machine (2 or more); Lube and Service Engineer (mobile and grease rack); Concrete Conveyor (building site)

Group 6: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled units on streets, highways, airports and canals); Engineer-locomotive; Fork Lift (construction jobsite); Kolman Loader (and similar); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck MRC); Maginnis Internal Full Slab Vibrator (on airports, highways, canal and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Surface Heater (self-propelled); Gradesetter

Group 7: Bridge Crane; Chip Box Spreader (Flaherty-type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marin); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High Lift (40 ft. or similar); Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-Joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor Combination; Pavement Breaker, truck mounted, compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Compressor Drill combination; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Mechanical Burm, Curb and/or Curb and Gutter Machine, Concrete or Asphalt; Self-propelled Compactor with or without dozer; Drilling and Boring Machinery, Horizontal and Vertical (not to apply to waterliners, wagon drills or jackhammers); Self-propelled Compactor (with multiple-propulsion power units)

Group 7-A: Side Boom Operator; Tractor Operator (Bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, up to and including D-7 or similar); Instrument Man

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-more Loader and Adams Elegrader; Euclid Loader and similar types; Koehring Skooper (or similar) (up to 5 cu. yds. struck MRC); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck MRC); Mechanical Trench Shield; Mucking Machine Operator; Rubber-tired Scrapers (under 35 cu. yds. struck MRC); Saurman-type Dragline (under 5 cu. yds. struck MRC); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC); Self-propelled Elevating Grade Planer; Soil Stabilizer (P&H or equal); Subgrader (automatic subgrader - fine grader); Tri-batch Paver; Tunnel Mole (or similar); Asphalt Plant Engineer; Engineer, crushing plant; Combination Backhoe and Loader (3/4 yds. and over struck MRC)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden-type or similar designs and capacity)

Group 10: D.W. 10, 20, etc. (Tandem Scrapers); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck MRC); Locomotive (over 100 tons) (single or multiple units); Prestress Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck MRC); Tractor (tandem scrapers); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, gradeall, etc.) (up to and including 5 cu. yds. struck MRC); Self-propelled Boom-type lifting device (center mount (over 10 tons)

Group 11: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar) (5 cu. yds. and over struck MRC); Multiple Propulsion power unit earth movers (up to and including 75 cu. yds. struck MRC); Power Equipment with Shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck MRC); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over struck MRC); Slip Form Paver (concrete or asphalt); Tandem Tractors; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck MRC up to 18 cu. yds. MRC); Multi-purpose earth moving machines (2 or more scrapers) (over 75 cu. yds. struck MRC); Power Shovels and Draglines (over 7 cu. yds. struck MRC)

Group 11-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 12: Cranes (over 125 tons)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Steel Erection					
Group 1	$10.19	$1.15	$ 1.75	.95	.14
Group 2	10.60	1.15	1.75	.95	.14
Group 3	11.69	1.15	1.75	.95	.14
Group 4	11.84	1.15	1.75	.95	.14
Group 4-A	12.15	1.15	1.75	.95	.14
Group 5	12.67	1.15	1.75	.95	.14
Group 6	13.11	1.15	1.75	.95	.14
Group 6-A	13.72	1.15	1.75	.95	.14
Group 7	14.81	1.15	1.75	.95	.14
Piledriving					
Group 1-A	9.68	1.15	1.75	.95	.14
Group 1-B	10.05	1.15	1.75	.95	.14
Group 1-C	10.28	1.15	1.75	.95	.14
Group 2-A	10.28	1.15	1.75	.95	.14
Group 2-B	11.10	1.15	1.75	.95	.14
Group 3	11.42	1.15	1.75	.95	.14
Group 3-A	11.86	1.15	1.75	.95	.14
Group 4	12.43	1.15	1.75	.95	.14
Group 5	12.61	1.15	1.75	.95	.14
Group 6	13.77	1.15	1.75	.95	.14

Underground and Shaft Work:
Underground Work: Employees working underground shall receive $.30 per hour in addition to their straight-time hourly wage rate.
Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $.50 per hour in addition to their straight-time hourly rate.

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Assistant to Engineer (oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over) (structural steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Fork Lift

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual-purpose A-Frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons MRC or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons MRC); Derricks; Highline Cableway; Gantry Rider (or similar equipment); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); 2 or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1-A: Assistant to Engineer (deckhand, firsman, oiler)

Group 1-B: Compressor Operator

Group 1-C: Assistant to Engineer (truck crane oiler)

Group 2-A: Operator of Tugger Hoist (hoisting materials only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machines (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frame; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) up to and including 1 cu. yd. rating; Self-propelled Boom-type lifting device (center mount) (over 10 tons); Truck Cranes Operator (up to and including 25 tons) (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) over 2 cu. yd. rating; Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS*	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS - Water level capacity (bottom, end and side) (including Dumpster Trucks, Euclid type Trucks, Turnawagons, Turnarockers and Dumperete)						
Less than 8 yards	$ 9.65	$ 11.15	.75	.77	$1.00	.10
8 yds. and less than 14 yds.	9.80	11.30	.75	.77	1.00	.10
14 yds. and less than 35 yds.	9.95	11.45	.75	.77	1.00	.10
35 yds. and less than 55 yds.	10.15	11.65	.75	.77	1.00	.10
55 yds. and less than 75 yds.	10.35	11.85	.75	.77	1.00	.10
75 yds. and less than 95 yds.	10.55	12.05	.75	.77	1.00	.10
95 yds. and less than 105 yds.	10.75	12.25	.75	.77	1.00	.10
105 yds. & less than 130 yds.	10.87	12.37	.75	.77	1.00	.10
130 cu. yds. and over to be paid one-half cent ($.005) per cu. yds. capacity per hour in addition to rate for 105 yards and less than 130 yards						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity):						
Pickup	9.475	10.975	.75	.77	1.00	.10
Less than 10 tons	9.55	11.05	.75	.77	1.00	.10
10 tons and less than 15 tons	9.70	11.20	.75	.77	1.00	.10
15 tons and less than 20 tons	9.80	11.30	.75	.77	1.00	.10
20 tons and over	9.95	11.45	.75	.77	1.00	.10
TRANSIT MIX TRUCKS:						
Less than 8 cu. yds. capacity	9.875	11.375	.75	.77	1.00	.10
Over 8 to 14 cu. yds.	9.975	11.475	.75	.77	1.00	.10
CONCRETE PUMPING TRUCKS	9.875	11.375	.75	.77	1.00	.10

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NOTICES

TRUCK DRIVERS* CONT'D)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
WATER, FUEL & OIL TANK TRUCKS:						
Less than 1200 gallons	$ 9.525	$11.025	.75	.77	$1.00	.10
1200 gallons to less than 2500 gallons	9.65	11.15	.75	.77	1.00	.10
2500 gallons to less than 4000 gallons	9.80	11.30	.75	.77	1.00	.10
4000 gallons to less than 6000 gallons	10.10	11.60	.75	.77	1.00	.10
6000 gallons to less than 10,000 gallons	10.35	11.85	.75	.77	1.00	.10
10,000 gallons to less than 15,000 gallons	10.60	12.10	.75	.77	1.00	.10
15,000 gallons to less than 20,000 gallons	10.85	12.35	.75	.77	1.00	.10
20,000 gallons to less than 25,000 gallons	11.10	12.60	.75	.77	1.00	.10
25,000 gallons and over	11.35	12.85	.75	.77	1.00	.10
OILER SPREADER OPERATOR (on single man operation where Boot Man is not required)	10.35	11.85	.75	.77	1.00	.10
CONSTRUCTION JOB SERVICEMEN:						
Fork Lift; Straddle Truck	9.85	11.35	.75	.77	1.00	.10
Chauffeurs	9.425	10.925	.75	.77	1.00	.10
Sweeper or Vaccum Truck	9.80	11.30	.75	.77	1.00	.10
Warehousemen (counter clerk)	9.85	11.35	.75	.77	1.00	.10
Washers	9.625	11.125	.75	.77	1.00	.10
Tireman and Greaser	10.05	11.55	.75	.77	1.00	.10
Gas Station Attendants	9.475	10.975	.75	.77	1.00	.10
Teamster Mechanic and Welder	10.66	12.16	.75	.77	1.00	.10
Teamster Driving two Horses	10.425	11.925	.75	.77	1.00	.10
Teamster Driving three or more horses	10.525	12.025	.75	.77	1.00	.10

*SEE AREA DEFINITION following this page.

AREA DEFINITIONS

Laborers
(Heavy and Highway Construction)
Power Equipment Operators
(Building Construction)
(Heavy and Highway Construction)
Truck Drivers

Area 1: All areas included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S. E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;
Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;

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NOTICES

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence northerly to the S. E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S. E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S. E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;
Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning; commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south; range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning

AREA 2: All areas not included in Area 1 as defined.

SUPERSEDEAS DECISION

STATE: Vermont
DECISION NO. VT78-2091

COUNTIES: Bennington, Caledonia, Essex, Lamoille, Orange, Rutland, Washington, Windham, and Windsor

Supersedes Decision No. VT76-2170 (above counties only), dated December 10, 1976 in 41 FR 54146. DATE: Date of Publication

DESCRIPTION OF WORK: Highway Construction (and airport runway and taxiway construction, but does not include bridges over navigable water; tunnels; buildings in highway rest areas; and railroad construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Bennington County	$6.36	.40	.50		.04
Rutland County	6.55				
Windham County	6.20				
Windsor County	6.17				
Remainder of Counties	6.65	.35	.30		
Cement masons:					
Rutland County	5.75				
Caledonia and Essex	7.75	.35	.50		.05
Lamoille and Washington	6.65	.35	.30		
Ironworkers:					
Reinforcing	6.46	.24			.05
Structural	7.40	.45	.60		
Laborers:					
Laborers:					
Bennington	3.95				
Rutland	3.98				
Windham	4.52				
Remainder of Counties	3.85	.15		a	
Asphalt rakers:					
Rutland	4.48				
Windsor	4.35				
Blasters/powdermen:					
Bennington	5.53				
Caledonia	5.15				
Essex	5.56				
Lamoille (Blasters/powdermen)	4.86/5.65				
Chain saw ops:					
Bennington	4.90				
Caledonia, Lamoille	5.00				
Essex	5.52				
Drillers:					
Bennington	4.85				
Essex	5.00				
Caledonia and Lamoille	5.00	.15		a	
Washington	5.33				
Pipelayers:					
Caledonia	4.10	.15		a	
Air tool operators:					
Caledonia, Essex, Lamoille, Orange, and Washington	4.10	.15		a	

DECISION NO. VT78-2091

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pildrivermen:					
Caledonia	$7.00	.35	.30		
Truck Drivers:					
2 axle: Bennington, Essex, Lamoille, Orange, Washington, Windham, and Windsor	5.35				
3 axle:					
Rutland	4.20				
Remainder of Counties	5.50				
Specialized earth moving equip.:					
Bennington	6.55				
Caledonia, Essex, and Lamoille	6.10				
Auger/Post driver:					
Bennington, Essex, and Windsor	5.50				
POWER EQUIPMENT OPERATORS:					
Backhoe:					
Bennington, Lamoille, Orange, Washington, and Windham	8.20	.35	.50	b	.05
Caledonia and Essex	8.65	.55	.70	b	.05
Rutland	6.93				
Windsor	6.885				
Broom:					
Lamoille and Orange	6.35	.35	.50	b	.05
Bulldozer:					
Bennington, Lamoille, Orange, and Windham Counties	7.75	.35	.50	b	.05
Windsor	8.04				
Rutland	5.25				
Remainder of Counties	8.20	.55	.70	b	.05
Compactor:					
Caledonia	7.65	.55	.70	b	.05
Essex	8.20	.55	.70	b	.05
Lamoille	7.75	.35	.50	b	.05
Washington	7.20	.35	.50	b	.05
Compressor:					
Bennington	8.57				
Caledonia	8.40	.55	.70	b	.05
Essex	8.35	.55	.70	b	.05
Lamoille	7.17				
Crane:					
Essex, Lamoille, & Washington	8.20	.35	.50	b	.05

DECISION NO. VT78-2091

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gradall:					
Bennington	$8.20	.35	.50	b	.05
Lamoille	7.75	.35	.50	b	.05
Grader:					
Bennington, Lamoille, and Washington	7.95	.35	.50	b	.05
Essex	8.20	.35	.50	b	.05
Rutland	5.00				
Caledonia	8.40	.55	.70	b	.05
Farm-type hoe & bucket (Lamoille)	7.95	.35	.50	b	.05
Front-end Loaders:					
Bennington	8.75	.80	.75	b	.05
Caledonia	8.65	.55	.70	b	.05
Lamoille & Washington	7.75	.35	.50	b	.05
Essex	8.75	.55	.70	b	.05
Rutland	5.025				
Windsor	7.76				
Mechanic:					
Rutland	5.23				
Windsor	7.76				
Bennington, Essex, Lamoille, and Washington	7.75	.35	.50	b	.05
Oilers:					
Caledonia	6.80	.55	.70	b	.05
Essex	6.75	.55	.70	b	.05
Lamoille	6.65				
Pavers:					
Bennington	7.33				
Rutland	4.30				
Windsor	7.76				
Caledonia (self-powered)	8.20	.55	.70	b	.05
Essex, Lamoille, Orange, Washington, Windham	7.75	.35	.50	b	.05
Rollers:					
Bennington	9.82				
Rutland	4.30				
Windham	7.46				
Windsor	7.76				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VT78-2091					
Rollers (Cont.):					
Caledonia	$8.20	.55	.70	b	.05
All other counties	7.75	.35	.50	b	.05
Roller (self-powered)-Caledonia	7.65	.55	.70	b	.05
Scrapers:					
Bennington	8.50	.80	.75	b	.05
Caledonia, Lamoille, & Essex	8.20	.55	.70	b	.05
Shovels:					
Bennington	8.75	.80	.75	b	.05
Caledonia, Lamoille, and Essex	8.65	.55	.70	b	.05
Spreaders:					
Essex, Orange, and Lamoille	7.75	.35	.50	b	.05
Caledonia (self-propelled)	7.65	.55	.70	b	.05
Line Stripers	6.75				

Footnotes:

a. 2 paid holidays: Memorial Day & Independence Day, provided the employee has been employed for at least 7 days por more prior to the holiday and has worked the day before and the day after the holiday.

b. 9 paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, and Veterans' Day, provided the employee has been employed for at least 7 days or more prior to the holiday and has worked the holiday and the day before and the day after the holiday.

federal register

FRIDAY, OCTOBER 6, 1978
PART III

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

POSTED STOCKYARDS

Rates and Charges

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[3410-02]

Title 9—Animals and Animal Products

CHAPTER II—AGRICULTURAL MARKETING SERVICE (PACKERS AND STOCKYARDS), DEPARTMENT OF AGRICULTURE

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Posted Stockyards; Rates and Charges

AGENCY: Packers and Stockyards—Agricultural Marketing Service, Department of Agriculture.

ACTION: Statement of general policy.

SUMMARY: On March 30, 1978, Packers and Stockyards—AMS issued a proposed statement of general policy and revisions to the regulations issued under the Packers and Stockyards Act (7 U.S.C. 181 et seq.) (43 FR 13488). Comments were elicited and considered in connection with the new statement of general policy which follows. The new policy reduces the Department's regulations of stockyard rates and charges by providing that the agency will not investigate the reasonableness of rates and charges stockyard operators and market agencies assess livestock producers unless a valid complaint is filed with the Department or compelling circumstances warrant such an investigation. Stockyard operators and market agencies must post current tariffs in a place at the market conspicuous to consignors and file a copy with the Department. At least 10 days before tariffs are to be altered, the new rates and charges must be posted in a place at the markets conspicuous to consignors, and a copy filed with the Department. The proposed September 30, 1978, deadline for conversion to per head rates is rescinded since Congress has enacted legislation authorizing percentage tariffs.

EFFECTIVE DATE: Policy statement will be effective October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack W. Brinckmeyer, Chief, Rates, Services, and Facilities Branch, Livestock Marketing Division, Packers and Stockyards, AMS, USDA, Washington, D.C. 20250, 202-447-4336.

SUPPLEMENTARY INFORMATION: On March 30, 1978, a notice of a proposal was published in the FEDERAL REGISTER (43 FR 13488) concerning rates and charges at posted stockyards. Over 700 comments were filed in response to the notice. More than 500 comments were from firms subject to the Packers and Stockyards Act. Livestock producers and producer organizations filed over 170 comments. The remainder were from bankers, accountants, Members of Congress, and others.

I. Analysis

Some of the comments received opposed any form of regulation of rates while some opposed any reduction in regulation. Under the currently effective provisions of the Packers and Stockyards Act and case law, the Department is precluded from total deregulation of rates.

The proposed policy statement and revision of the regulations would have required a 30-day notice to livestock consignors before a tariff would be accepted for filing. The 30-day period was designed to allow consignors time to file any complaints they might have with the Department. Comments from most stockyard operators, some market agencies, and some auction markets opposed any additional notice requirements beyond those currently contained in the Act because they said the 30-day requirement would increase operating costs and would invite complaints from livestock producers concerning tariff charges. Some comments supported the notice requirement. The 30-day notice proposal has not been adopted since the majority of the comments were opposed to lengthening the notice period; the statute now requires only a 10-day notice period; and interested persons may file complaints during the 10-day period or thereafter.

Under the currently effective provisions of the Act, all market agencies conducting business at a terminal stockyard are required to assess rates and charges under the same tariff schedule. Comments received from market agencies at terminal stockyards in response to the Department's proposed decrease in rate regulation opposed any change in this respect. The legislative history of the recent amendments of the Act (Pub. L. 95-409) makes it clear that the amendments do not change the authority of the Secretary to prescribe or require uniform rates and charges by all market agencies operating at a particular stockyard. Accordingly, no change is being made in the requirement for uniform rates and charges at a particular stockyard. The rulemaking proposal published on March 30, 1978, included a requirement that all tariffs be on a per head basis on or before September 30, 1978. Legislation enacted by the Congress authorizes percentage tariffs. Therefore, the September 30, 1978, conversion deadline is rescinded. Tariffs containing percentage charges will be accepted for filing.

II. Effect on Existing Program

The present rate regulation program of the Department involves investigation of the business activities of each firm on an individual basis to determine if the rates and charges are just, reasonable, and nondiscriminatory. The investigation determines fair return on investment, reasonable expenses for operating the business, and compensation for any personal services that may be furnished by the owner. Rates and charges are established to provide funds to cover these costs of providing stockyard services. The policy to be established will eliminate the investigation process concerning the reasonableness of the rates and charges except when a valid complaint is filed or compelling circumstances warrant such an investigation. The notice proposed that there be no investigation unless a valid complaint is filed. However, in view of the duty imposed by the statute, it is found necessary to amend the proposal by providing for investigation under compelling circumstances in the event unforeseen circumstances develop requiring an investigation in order to fulfill the statutory duty.

Based on statements received by the Department at oral hearings in early 1978 and other data, it is likely that the new procedure will result in some increases in market charges. Many witnesses believed, however, that sufficient competition exists between markets to hold charges at a reasonable level.

The Deputy Administrator issues a new statement of general policy designated as 9 CFR 203.17 as set forth below.

Dated: October 3, 1978.

CHAS B. JENNINGS,
Deputy Administrator,
Packers and Stockyards, AMS.

A new statement of general policy 203.17 (9 CFR 203.17) is issued to read as set forth below:

§ 203.17 Statement of general policy with respect to rates and charges at posted stockyards.

(a) Requests have been received from stockyard operators, market agencies, and livestock producers urging a reduction of rate regulation at posted stockyards. Their requests are based on the belief that competition among markets will set a level of rates and charges fair to both the market operator and to the livestock producer. Packers and Stockyards—AMS will accept for filing tariffs containing any level of charges after ten (10) days' notice to the public and to the Secretary as required by the Act.

(b) Packers and Stockyards—AMS will not investigate the level of the

rates and charges established by stockyard owners and market agencies for reasonableness except upon receipt of a valid complaint or under compelling circumstances warranting such an investigation. Stockyard owners and market agencies will have substantial flexibility in setting their own rates and charges.

(c) Rates and charges for market agencies operating on the same posted stockyard shall be assessed under the same tariff.

(d) Complaints filed about the reasonableness of rates and charges will be investigated to determine the validity of such complaints and appropriate action taken if warranted.

(e) Packers and Stockyards—AMS will continue to insure that the schedules of rates and charges filed with the Department are applied uniformly and in a nondiscriminatory manner.

(f) Sections 201.17 through 201.26 of the regulations issued under the Act pertaining to schedules of rates and charges will be amended as appropriate to conform with this policy statement.

[FR Doc. 78-28282 Filed 10-5-78; 8:45 am]

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FRIDAY, OCTOBER 6, 1978
PART IV

NUCLEAR REGULATORY COMMISSION

FLOODPLAINS PLANS

Compliance with Executive Order 11988 to Revise Regulatory Guidelines

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PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Interior Department, Bureau of Land Management...	Sept. 28	44798
Commerce Department, Office of the Secretary...	Sept. 29	45284
Transportation Department, Office of the Secretary.	Sept. 29	45285

[7590-01]

NUCLEAR REGULATORY COMMISSION

COMPLIANCE WITH E.O. 11988 ON FLOODPLAINS

Plans to Revise Regulatory Guides

Executive Order 11988 expresses the policy of the Federal Government that Federal agencies should attempt to reduce the risk of flood loss and to minimize the effects of floods by avoiding, where practicable, development in floodplains. Under the order, Federal agencies with responsibilities for conducting Federal activities and programs affecting land use are required to evaluate the potential effects of any action they might take in a floodpain. In addition, each agency is to amend its regulations within one year to comply with the order and must explain what means the agency will employ to pursue non-hazardous uses of riverine, coastal, and other floodplains in connection with the activities under its authority. The NRC staff routinely considers the environmental impact of its action pursuant to the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). The NRC believes that the procedures and purposes of the order can be appropriately accommodated as a part of the agency's compliance with NEPA. NRC's NEPA regulations in 10 CFR Part 51 do not specify in detail the kinds of environmental considerations that are to be addressed in the NEPA review. However, these matters are addressed in regulatory guides and other staff documents. The NRC has identified the following regulatory guides and related staff documents for revision to specifically include floodplain considerations:

1. Regulatory Guide 4.2: Preparation of Environmental Reports for Nuclear Power Stations (Revision 2).
2. Regulatory Guide 4.7: General Site Suitability Criteria for Nuclear Power Stations (Revision 1).
3. Regulatory Guide 3.8: Preparation of Environmental Reports for Uranium Mills.
4. NUREG-0180: Early Site Review, Procedures and Possible Technical Review Options.
5. NUREG-0158: Draft Environmental Standard Review Plans for the Environmental Review of Construction Permit Applications for Nuclear Power Plants.

Regulatory guides are periodically revised to reflect public comments and licensing experience. As each of the above guides is revised, floodplain considerations will be incorporated into the revision. Also, as new guides and regulations are developed, floodplain considerations will also be included. In the meantime, specific technical instructions have been given to NRC staff that will result in floodplain considerations being included in individual licensing reviews.

Dated at Washington, D.C. this 28th day of September, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28550 Filed 10 5-78; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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IMPROVING GOVERNMENT REGULATIONS

SCHEDULE OF SEMIANNUAL AGENDAS OF REGULATIONS

Executive order 12044, Improving Government Regulations, (43 FR 12661) requires that executive agencies publish semiannual agendas of significant regulations under development. At a minimum each agenda is to describe the regulations being considered by the agency, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and the status of regulations previously published.

The agencies have chosen the following dates to publish their agendas. The Office of the Federal Register compiled this schedule as a public service.

Agency for International Development	Feb. 15, 1979; July 16, 1979.
Civil Service Commission	Dec. 1, 1978; May 1, 1979.
Federal Mediation and Conciliation Service	May 1, 1979; Oct. 1, 1979.
Federal Reserve System	Feb. 2, 1979; Aug. 2, 1979.
Treasury Department:	
Government Financial Operations Bureau	Mar. 30, 1979; Sept. 30, 1979.
Internal Revenue Service	Mar. 31, 1979; Sept. 30, 1979.
Public Debt Bureau	Apr. 15, 1979; Oct. 15, 1979.
All other offices and bureaus	Feb. 1, 1979; Aug. 1, 1979.

NOTE.—The entry for "All other offices and bureaus" of the Treasury Department was omitted from last week's listing.

[3195-01]

Title 3—The President

Executive Order 12086 • **October 5, 1978**

Consolidation of Contract Compliance Functions for Equal Employment Opportunity

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), in order to provide for the transfer to the Department of Labor of certain contract compliance functions relating to equal employment opportunity, it is hereby ordered as follows:

1-1. *Transfer of Functions.*

1-101. The functions concerned with being primarily responsible for the enforcement of the equal employment opportunity provisions under Parts II and III of Executive Order No. 11246, as amended, are transferred or reassigned to the Secretary of Labor from the following agencies:

(a) Department of the Treasury.
(b) Department of Defense.
(c) Department of the Interior.
(d) Department of Commerce.
(e) Department of Health, Education, and Welfare.
(f) Department of Housing and Urban Development.
(g) Department of Transportation.
(h) Department of Energy.
(i) Environmental Protection Agency.
(j) General Services Administration.
(k) Small Business Administration.

1-102. The records, property, personnel and positions, and unexpended balances of appropriations or funds related to the functions transferred or reassigned by this Order, that are available and necessary to finance or discharge those functions, are transferred to the Secretary of Labor.

1-103. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

1-2. *Conforming Amendments to Executive Order No. 11246.*

1-201(a). In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, Section 201 of Executive Order No. 11246, as amended, is amended to read:

"Sec. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.".

(b) Paragraph (7) of the contract clauses specified in Section 202 of Executive Order No. 11246, as amended, is amended to read:

"(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of

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Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.'".

1-202. In subsection (c) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency" in the proviso and substitute "Secretary of Labor" therefor.

1-203. In both the beginning and end of subsection (d) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency or the" in the phrase "contracting agency or the Secretary".

1-204. Section 205 of Executive Order No. 11246, as amended, is amended by deleting the last two sentences, which dealt with agency designation of compliance officers, and revising the rest of that Section to read:

"Sec. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.".

1-205. In order to delete references to the contracting agencies conducting investigations, Section 206 of Executive Order No. 11246, as amended, is amended to read:

"Sec. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.".

"(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.".

1-206. In Section 207 of Executive Order No. 11246, as amended, delete "contracting agencies, other" in the first sentence.

1-207. The introductory clause in Section 209(a) of Executive Order No. 11246, as amended, is amended by deleting "or the appropriate contracting agency" from "In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:".

1-208. In paragraph (5) of Section 209(a) of Executive Order No. 11246, as amended, insert at the beginning the phrase "After consulting with the contracting agency, direct the contracting agency to", and at the end of paragraph (5) delete "contracting agency" and substitute therefor "Secretary of Labor" so that paragraph (5) is amended to read:

"(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.".

1-209. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement functions, substitute "Secretary of Labor" for "each contracting agency" in Section 209(b) of Executive Order No. 11246, as amended, so that Section 209(b) is amended to read:

"(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.".

1-210. In order to reflect the responsibility of the contracting agencies for prompt compliance with the directions of the Secretary of Labor, Sections 210 and 211 of Executive Order No. 11246, as amended, are amended to read:

"Sec. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.".

"Sec. 211. If the Secretary of Labor shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.".

1-211. Section 212 of Executive Order No. 11246, as amended, is amended to read:

"Sec. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.".

1-212. In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, references to the administering department or agency are deleted in clauses (1), (2), and (3) of Section 301 of Executive Order No. 11246, as amended, and those clauses are amended to read:

"(1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order,".

1-213. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement functions "Secretary of Labor" shall be substituted for "administering department or agency" in Section 303 of Executive Order No. 11246, as amended, and Section 303 is amended to read:

"Sec. 303(a). The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the

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Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.".

"(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.".

"(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.".

1-214. Section 401 of Executive Order No. 11246, as amended, is amended to read:

"Sec. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.".

1-3. *General Provisions.*

1-301. The transfers or reassignments provided by Section 1-1 of this Order shall take effect at such time or times as the Director of the Office of Management and Budget shall determine. The Director shall ensure that all such transfers or reassignments take effect within 60 days.

1-302. The conforming amendments provided by Section 1-2 of this Order shall take effect on October 8, 1978; except that, with respect to those agencies identified in Section 1-101 of this Order, the conforming amendments shall be effective on the effective date of the transfer or reassignment of functions as specified pursuant to Section 1-301 of this Order.

Jimmy Carter

THE WHITE HOUSE,
October 5, 1978.

[FR Doc. 78-28701 Filed 10-6-78; 10:26 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 297—PROTECTION OF PRIVACY IN PERSONNEL RECORDS

Specific Exemptions

AGENCY: U.S. Civil Service Commission.

ACTION: Final rule.

SUMMARY: This notice announces the adoption of changes to the Commission's regulations at 5 CFR 297.117. These changes will exempt certain, limited and specific records in the Presidential Management Intern Program Records (CSC-9) system of records. The notice of adoption of that system appears elsewhere in this issue of the FEDERAL REGISTER. This exemption is designed only to assure the protection of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the fairness or objectivity of the testing or examination process and does not exempt the remaining records in the system. These records will be exempt from the provisions of subsections (d), (e)(4)(H), and (f) of the Privacy Act of 1974, 5 U.S.C. 552a.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William H. Lynch, Bureau of Personnel Management Information Systems, 202-254-9778.

SUPPLEMENTARY INFORMATION: On page 35721 of the FEDERAL REGISTER of August 11, 1978, the Commission published a proposal to amend § 297.117(a) and to add § 297.117(b)(3) to the Commission's regulations at 5 CFR Part 297. The change to § 297.117(a) provides for reference to a new system of records (CSC-10), while the addition of § 297.117(3) provides for exemption from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a, for limited and specific records in that system. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. No comments have been received and the regulations are hereby adopted with one change, i.e., the identification symbol for the system is to be CSC-9 rather than CSC-10, necessitated by the canceling of the former CSC-9 system (see 43 FR 31426). The complete text of the changes are set forth below.

Accordingly, 5 CFR 297.117 is amended by correcting § 297.117(a) and by adding § 297.117(b)(3) as follows:

§ 297.117 Specific exemptions.

(a) Some systems of records under the Act that are maintained by the Commission contain material subject to exemptions appearing at 5 U.S.C. 552a (k) (1), (2), (5), and (6) relating to national defense and foreign policy materials, civil law enforcement in connection with the administration of the merit system, information obtained from a source who furnished such information under a properly granted promise that the identity of the source would be held in confidence, and to testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The systems of records published in the FEDERAL REGISTER by the Commission which are within these exemptions are: CSC-8, CSC-9, CSC/GOVT-4, and CSC/GOVT-5. The Commission hereby asserts a claim to specific exemptions of such systems of records. The materials can be exempt from 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f).

(b) The specific exemptions determined to be necessary and proper with respect to systems of records maintained by the Commission or an agency for the Commission, including the reasons and parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justifications for the exemptions, are as follows:

. . . . . .

(3) Presidential Management Intern Program Records. All material and information about an individual that meet the criteria stated in 5 U.S.C. 552a (k)(6) are exempt from the requirements of 5 U.S.C. 552a (d), (e)(4) (H), and (f) relating to access and contest, publication of specific material annually in the FEDERAL REGISTER, and provisions regarding agency rules, in that portions of this system relate to testing or examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity of fairness of the testing or examination process.

UNITED STATES CIVIL SERVICE COMMISSIOIN,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28599 Filed 10-6-78; 8:45 am]

[3410-07]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER P—GUARANTEED LOANS

PART 1980—GENERAL

Subpart D—Rural Housing Program Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning the guaranteed rural housing program. These new provisions include limiting the eligibility for guaranteed rural housing (RH, loans to above-moderate income applicants and terminating the eligibility for moderate-income applicants in the program, having the interest rate negotiated between the lender and borrower, and removing the "graduation" requirement. The intended effect of this action is to implement the provisions of a public law as it pertains to the guaranteed rural housing program.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Reed J. Petersen, Rural Housing Specialist, Single Family Housing Loan Division, phone 202-447-4295.

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SUPPLEMENTARY INFORMATION: Subpart D of part 1980, chapter XVIII, title 7 in the Code of Federal Regulations is amended, subchapter N is retitled as "Security Servicing", a new Subchapter P, "Guaranteed Loans" is established, part 1980 is retitled "General" and moved to subchapter P, and all regulations formerly in subchapter N are now under subchapter P. The Farmers Home Administration published a notice of proposed rulemaking at page 36952 of the FEDERAL REGISTER for Monday, August 21, 1978 regarding this regulation. Comments were received and accepted until September 20, 1978. Three comments were received. One comment was in total favor of the proposal. One comment suggested an interest rate ceiling be adopted. Section 1980.314 was, therefore, revised to say the interest rate will not exceed any applicable established usury rate. One comment suggests that paperwork requirements be kept to a minimum. The agency's intent has continually been to keep the paperwork at a minimum for the guaranteed rural housing program, and it is hoped that further reduction in paperwork will be possible in the future. Late comments received will be considered for future revisions of the regulations.

The purpose of this amendment is to implement those changes pertaining to the guaranteed rural housing program authorized by the Housing and Community Development Act of 1977.

The principal changes in the regulation are:

1. The eligibility requirement of applicants for guaranteed rural housing loans is changed from moderate to above moderate income and the above moderate income limits are defined.

2. The interest rate may be as agreed upon by the borrower and lender.

3. The "graduation" requirement is removed. Borrowers are no longer required to refinance the loan at a future date. Under the previous guaranteed loan program, borrowers were required to agree to refinance their loan if requested to do so by FmHA and if other credit was available.

4. The terms "local lender" and "minimum adequate site" are more fully defined.

5. The requirements for refinancing debts with an FmHA guaranteed loan are clarified.

6. The loan limits and down payment requirements are clarified.

7. Adequate but modest housing for above-moderate income applicants is clarified.

8. The statement signed by FmHA approving the appraisal made by the lender's appraiser is no longer required.

9. The need for a builder warranty for new construction and other improvements is clarified.

10. The proper time to prepare the conditional commitment for guarantee is clarified.

11. References to insured loans are removed because insured loans may not, under present regulations, be made to applicants with above moderate incomes.

12. Other minor corrections and changes are made for clarity.

Accordingly, the following changes are made;

1. Subchapter N of chapter XVIII—title amended to read "Security Servicing".

2. A new subchapter P is established in chapter XVIII and is titled "Guaranteed Loans".

3. The title of part 1980 is amended to read "General" and the part and all regulations in the part are moved to subchapter P.

4. As amended, subpart D of part 1980, subchapter P, chapter XVIII, title 7 in the Code of Federal Regulations reads as follows:

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER P—GUARANTEED LOANS

PART 1980—GENERAL

* * * * *

Subpart D—Rural Housing Program Loans

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AUTHORITY: 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

PART 1980—GENERAL

Subpart D—Rural Housing Program Loans

§ 1980.301 Introduction.

(a) *Policy.* This subpart, supplemented by subpart A of this part, contains regulations for unsubsidized single family (SF) rural housing (RH) loans to above-moderate income families guaranteed by the Farmers Home Administration (FmHA) and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, servicing, holding, or liquidating such loans.

(b) *Program objective.* The basic objective of the RH loan guarantee program is to assist above-moderate income families in obtaining adequate but modest, decent, safe, and sanitary dwellings and related facilities for their own use in rural areas by guaranteeing sound RH loans when loans would not be made without a guarantee.

(c) *Program administration.* The loan guarantee program, like other FmHA programs, is administered by the Administrator through a State director, serving each State, through a district director to the county supervisor. All applications for guaranteed loans should be made with an eligible lender. The county supervisor is the focal point for this FmHA loan guarantee program and the local contact person for processing and servicing guarantees although this subpart refers in various places to the duties and responsibilities of other FmHA employees.

(d) *Administrative provisions.* Throughout this regulation there appear administrative provisions for the FmHA State director, district director, and county supervisor. These provisions establish the internal duties, responsibilities, and procedures to carry out the requirements of the program. These provisions are identified as "Administrative" and follow appropriate sections of this subpart.

§ 1980.302 Definitions.

The following definitions, in addition to those in subpart A of this part, are applicable to RH loans:

(a) *Above moderate income.* An adjusted annual income of more than the maximum moderate income limit established for the State as shown in exhibit D to part 1822, subpart A (FmHA instruction 444.1, exhibit D), but not more than $20,000, except for Hawaii, Guam, and Alaska in which the maximum is $24,000, $24,000, and $30,000 respectively. (See also § 1980.330(h).)

(b) *Act.* Title V of the Housing Act of 1949, as amended. (42 U.S.C. 1471, et seq.).

(c) *Applicant.* An individual(s) who needs housing and applies for assistance in accordance with this regulation.

(d) *Development costs.* These costs include, but are not limited, to, those for acquisition, planning, construction, or repair of the proposed dwelling; purchase of buildings, land, easements, rights-of-way; and payment of interest during the period before the first principal payment becomes due, including interest on interim financing.

(e) *Dwelling.* A home suitable for the needs of a family. An existing dwelling is one which is more than 1 year old or was previously occupied as a residence.

(f) *Family.* One person or two or more persons who reside in or will reside in one dwelling.

(g) *Housing.* An adequate but modest single family dwelling and related essential equipment and facilities for which loans are authorized in § 1980.306. The term housing also includes an adequate site and related easements and appurtenances owned or being acquired by the applicant.

(h) *Minimum adequate site.* The smallest area sufficient for the dwelling and related facilities to be built, purchased or refinanced, and a yard. It is usually not more than 1 acre of nonincome producing land unless more than 1 acre is needed to comply with local code requirements or to provide for a safe and adequate water supply or waste disposal system.

(i) *Owner.* The holder of fee simple title or of a leasehold meeting the requirements of § 1980.309.

(j) *Packager.* A builder, developer, real estate agent, or other party who obtains and presents to an approved lender one or more applications from eligible applicant(s) for guaranteed RH loan(s) with which the applicant will obtain adequate housing that will be provided under an existing contract to buy, build, or repair at a fixed price.

(k) *Rural area.* Any town, village, city, or place including the immediately adjacent densely settled area which is not part of or associated with an urban area, and

(1) Has a population not in excess of 10,000 if it is rural in character; or

(2) Has a population in excess of 10,000 but not in excess of 20,000, is not contained within a standard metropolitan statistical area (SMSA), and has a serious lack of mortgage credit for low- and moderate-income families as determined by FmHA.

(l) *Senior citizen.* The term "senior citizen" refers to age only and not to nationality. It is a person who is 62 years of age or over and, in the case of a married couple, may be either spouse.

(m) *State.* Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, or the territories and possessions of the United States.

§ 1980.303 [Reserved]

§ 1980.304 Lenders.

(a) *Eligible lenders.* Eligible lenders as defined in § 1980.13(b)(1) of subpart A of this part are eligible for FmHA RH loan guarantees and do not need to apply to FmHA for an eligibility determination.

(b) *Other lenders.* All other lenders will apply to FmHA for, and receive, an eligibility determination for making RH guaranteed loans in accordance with § 1980.13 of subpart A of this part, before applying for an RH loan guarantee.

(c) *Local lender.* A local lender is defined in § 1980.13(a) of subpart A of this part and must, at a minimum, be represented in its main, branch, or agent's office by an employee or agent authorized to act for the lender. A local agent who "packages" loans for or refers applicant inquiries to the lender does not meet the requirement of a local lender.

Administrative. The State director is authorized to make lender eligibility determinations for RH loan guarantees in accordance with this section and § 1980.13 of subpart A of this part. The State director will submit the lender's application and the proposed eligibility notification to the national office for review and comment before notifying the lender of the eligibility determination.

§ 1980.305 Rural area determinations.

The State director is responsible for determining the rural areas in a State in accordance with § 1822.3(c) of subpart A of part 1822 of this chapter (FmHA instruction 444.1, paragraph III C). The lender may contact the FmHA county supervisor to determine if an area is rural for purposes of the guaranteed loan program.

§ 1980.306 Loan purposes.

A loan may be guaranteed if made to an eligible applicant for such of the following purposes as are necessary to enable the applicant to obtain adequate, decent, safe, and sanitary housing in a rural area for use by the applicant's family as a permanent residence:

(a) *Purchase existing dwelling and site.* Buy an existing dwelling and a minimum adequate site on which it is located.

(b) *Purchase site.* Buy a minimum adequate site on which to place a dwelling, if the applicant does not already own such a site.

(c) *Construct or purchase and relocate dwelling.* Build a dwelling on, or purchase and move an existing dwelling onto, a site whether already owned or being acquired by the applicant.

(d) *Rehabilitate or improve existing dwellings.* Repair, enlarge, or otherwise improve or rehabilitate an existing dwelling already owned by the applicant or being acquired with loan funds, whether located on a site already owned or being acquired by the applicant.

(e) *Utilities and facilities.* Provide adequate water, sewer, electric, heating, and other utilities and facilities that are necessary to make the housing adequate.

(f) *Equipment and material.* Purchase and install essential dwelling equipment and material such as a range, oven, refrigerator, clothes washer, or clothes dryer whether or not such equipment becomes real estate or fixtures under applicable State law. When such equipment is purchased with loan funds, it shall be in connection with the purchase, construction, or rehabilitation of the dwelling and shall be considered a part of the housing.

(g) *Site preparation.* Provide grading, seeding or sodding of lawns, trees, walks, yard fences, and driveways to building sites located adjacent to a road or street, and other such facilities, when included in a loan to buy, build, or repair a dwelling.

(h) *Real estate taxes.* For initial loans, pay real estate taxes on the security property that are owed by the borrower and that are due and payable at the time of loan closing: *Provided,* The amount to be used for taxes is not a substantial part of the loan.

(i) *Expenses, fees, and social security taxes.* Pay expenses incident to obtain-

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ing plans and making the loan, such as fees and charges for legal, appraisal, architectural, engineering, and other technical services, closing costs, reasonable connection fees for utilities, such as water, sewer, electric, and gas, guarantee fee, and a loan or origination fee or transfer fee, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with making the planned improvements.

(j) *Interim financing.* Pay interim financing debts incurred for authorized loan purposes. This is not considered to be refinancing.

(k) *Refinancing.* Refinance debts owed by the applicant when all of the following conditions exist:

(1) The debts were incurred by the applicant at least 5 years before the application for the loan was made.

(2) The debts were incurred for a purpose for which a loan is authorized to be made under another paragraph of this section.

(3) The payments on the debt are so seriously delinquent that the applicant is likely to lose the dwelling at an early date if the loan is not refinanced, or if combined with a loan for improvement, rehabilitation, or repairs and not refinanced, the applicant will experience a financial hardship in repaying the debts.

(4) The applicant's present creditors will not give rates and terms on the existing debts that can reasonably be expected to be met.

(5) The debts constitute a lien against the property on which a mortgage will be taken to secure the loan.

(6) A sound loan can be made.

§ 1980.307 Loan limitations and special provisions.

(a) *Prohibited loan purposes.* A loan will not be guaranteed if loan funds are to be used to buy furniture or other personal property except essential equipment and materials authorized in § 1980.306(f).

(b) *Limitations.* A loan for new or existing housing may not be made for more than 97 percent of the market value, selling price (including the cost of marketing which includes such costs or customary earned charges and fees and other costs), or cost of improvements or construction, whichever is less, up to $25,000 and 95 percent of the amount in excess of $25,000. However, a loan may not be made for more than 90 percent of the market value or selling price, whichever is less, for dwellings less than 1 year old when the lender or lenders, representative, Department of Housing and Urban Development (HUD), Veterans Administration (VA), or FmHA did not make inspections during construction. Inspection reports and FmHA acceptance must be included in the applicant's loan file. See § 1980.323 for applicant equity requirements. No discount points in the nature of prepaid interest are to be involved in the transaction.

(c) *Type of housing.* A dwelling financed for a family with an above-moderate income must meet the following requirements:

(1) Be adequate but modest in size, design, and cost and provide decent, safe, and sanitary housing consistent with the needs of the applicant and the market in the community but must not be of elaborate or extravagant design or material. Adequate housing ordinarily can be provided within less than 1,400 square feet of living area. When the applicant has an unusually large family, a somewhat larger house may be justified to provide adequate sleeping space. Living area does not include space such as a patio, carport, garage, porch not suited for year-around use, unfinished basement, and, if the dwelling does not have a basement, space for utilities such as furnace and hot water heater; however, such space must be kept within reasonable limits and not expanded to circumvent the limitations of this paragraph. Dwellings, however, may contain features such as two complete baths, a family room, double garage, fireplace, air conditioning, and carpeting if such design features or items are customarily included in other adequate but modest homes in the area for families with similar incomes.

(2) Any dwelling purchased, repaired, enlarged, or otherwise improved or rehabilitated with loan funds must be structurally adequate and in good condition before the loan is guaranteed. Existing housing will meet the minimum property standards for existing housing. (See § 1980.327.)

(d) *Subdivision clearance and approval—5 units or more.* (1) When housing units are proposed for a new or existing subdivision, the subdivision must be approved by FmHA before issuance of a conditional commitment for guarantee. The subdivision must meet the requirements of subpart D of part 1804 of this chapter (FmHA instruction 424.5).

(2) The builder, developer, or packager will submit the following information to the lender who will furnish a copy of it to FmHA with a request for subdivision approval:

(i) Subdivision plans and specifications with sufficient detail to show the intent, extent, kind, and quality of work and materials and the house location for each lot. The builder, developer, or packager will also certify to the lender that the subdivision meets planning, zoning, development, and all other requirements.

(ii) A realistic estimate of need and demand for the number of living units of the type proposed, based on the availability of existing suitable housing in the area.

(iii) Size of tract and advice as to its ownership and existing options to purchase; also, a map showing the location and other supporting information on the neighborhood and existing facilities and services, such as medical and dental services, shopping areas, schools, churches, hospitals, recreation and communication facilities; business and industrial enterprises; streets or roads; central water, electric, gas, and sewerage systems; solid waste disposals services; public and private transportation; and police and fire protection.

(iv) A preliminary plot plan and building plan, if available; advice as to type of construction; estimated total cost per living unit; utilities to be used and whether each is or will be publicly, community, or individually owned.

Administrative: FmHA subdivision approval. If the subdivision is approved in accordance with Subpart D of Part 1804 of this chapter (FmHA instruction 424.5), the FmHA county supervisor will advise the lender by letter that FmHA will issue loan note guarantee(s) in the subdivision if all applicable requirements of this regulation are met and if guarantee funding authority is available.

§ 1980.308 Transactions which will not be guaranteed.

The following transactions will not be guaranteed by FmHA:

(a) *Lease payments.* Lease payments.

(b) *Loans by other Federal agencies.* Loans made by other Federal agencies. This does not preclude the guaranteeing of loans made by the Bank for Cooperatives, or the Federal Land Bank.

§ 1980.309 Loans on leasehold interests.

A loan may be guaranteed if made on a leasehold owned or being acquired by the applicant on land owned by a State, political subdivision, public body, or public agency, on Indian tribal lands which are not available for purchase or on land where the lender determines that long-term leasing of homesites by nonpublic bodies is a well established practice and such leaseholds are freely marketable in the area provided the lender determines that:

(a) *Unable to obtain fee title.* The applicant is unable to obtain fee title to the property.

(b) *Unexpired term.* The lease has an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50-year lease), except when:

(1) A lease is granted for the purpose of permitting a family to obtain a housing loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 49 years; or

(2) A lease is in existence at last 1 year prior to the date of loan approval. A housing loan may be guaranteed: *Provided,* The unexpired term of the lease is at least 50 percent longer than the repayment period of the loan. In no case will the unexpired term of the lease be less than 15 years.

(c) *Lender certification.* The lender will certify to FmHA that the requirements of this section are met.

§§ 1980.310–1980.313 [Reserved]

§ 1980.314 *Interest rate.*

The loan shall bear interest at a rate agreed upon by the borrower and lender and must be not more than that being charged in the area by lenders for comparable loans without a guarantee. The interest rate will not exceed any applicable established usury rate. The interest rate will be shown in the conditional commitment for comparable loans guarantee and in the guaranteed loan promissory note. The interest rate will remain constant during the existence of the FmHA guarantee, except as provided in §§ 1980.343 and 1980.344 in transfer and assumption cases in which the interest rate to the transferee may be changed.

§ 1980.315 Terms of loan repayment.

(a) *Note.* Principal and interest on the loan will be due and payable as provided in the promissory note. Ordinarily, monthly payments will be made, however, when the borrower receives a majority of income on a seasonal basis such as from the sale of farm crops, the lender may structure payments annually, semi-annually, or quarterly.

(b) *Maximum term.* The maximum term allowable for final maturity of an FmHA guaranteed loan shall be not more than thirty-three (33) years from the date of the note. The term may be such shorter period as may be necessary to assure that the loan will be adequately secured. If a leasehold is involved, see § 1980.309.

§ 1980.316 [Reserved]

§ 1980.317 Clearinghouse considerations.

When the preapplication or application involves a loan or loans in a subdivision of 10 or more new dwelling units in which HUD, VA, or FmHA has not previously made, insured, or guaranteed a housing loan, the lender will see that the requirements of part 1901, subpart H, of this chapter are complied with (FmHA instruction 1901-H).

§ 1980.318 Flood plains and wetlands.

The lender is responsible for determining if the housing is located in a flood plain or a wetland. Refer to part 1940, subparts M and Q of this chapter.

§ 1980.319 Flood or mudslide hazard area precautions.

The lender is responsible for determining if the housing is located in a special flood or mudslide hazard area. Refer to § 1980.42 of subpart A of this part and subpart B of part 1806 of this chapter (FmHA instruction 426.2).

§ 1980.320 Equal opportunity and nondiscrimination requirements in use, occupancy, rental or sale of housing.

(a) *Compliance.* The lender and borrower are prohibited from discriminating or segregating on account of race, color, religion, sex, marital status, or national origin in connection with the use, occupancy, or sale of housing. The lender and borrower are responsible for seeing that no agent, lessee, or operator so discriminates or segregates. These requirements should be discussed with the applicant or packager, builder or developer, and other parties involved as early in the negotiations as possible. For specific statement of some of those responsibilities, see the following:

(1) *Executive Order No. 11063.* It is dated November 20, 1962 (27 FR 11527, 3 CFR 652 (1959–63 Compilation), 42 U.S.C.A 1982 note), and prohibits such discrimination or segregation when Federal financial assistance is involved in the provision, rehabilitation, or operation of housing and related facilities.

(2) *Fair Housing Act.* This is title VIII of the Civil Rights Act of 1968 (Pub. L. 90-294, 42 U.S.C. 3601 et seq.). It prohibits discrimination in the sale or rental of dwellings provided in whole or in part with loans guaranteed by the Federal Government; and provides for filing and handling complaints and investigations regarding, and enforcement of remedies for violations of, fair housing requirements.

(b) *Reporting.* If there is indication of noncompliance with these requirements, such facts will be reported by the borrower, lender, or county supervisor in writing to the State director for remedial action. Should the State director need assistance in handling any complaints of noncompliance, he will request assistance from the national office. Compliance and complaints will be handled in accordance with subpart E, part 1901 of this chapter.

§ 1980.321–1980.322 [Reserved]

§ 1980.323 Applicant equity requirements.

For new or existing housing, the applicant must contribute a down payment, in cash or equity in owned land and/or real estate improvements thereon, of 3 percent of the amount needed to buy, build, or improve the dwelling up to $25,000, and 5 percent of the amount in excess of $25,000. Except that a down payment of 10 percent is required for dwellings less than 1 year old if approved construction inspections have not been made. (See § 1980.329(b) for construction inspection requirements). If the down payment is in land or real estate improvements, an appraisal by the lender's appraiser must be made to determine the market value. The down payment must be from the applicant's own resources and may not be from such sources as a cash rebate, loan, reduced selling price, or agreement between the applicant and seller, builder, or any other party to the loan.

§ 1980.324 Collateral.

(a) *General.* The entire loan must be secured by a first lien, or a second lien in case of a repair loan, on the housing and the lender will maintain this lien priority. A guaranteed subsequent loan to a previously guaranteed loan must be secured by not less than a second lien. See § 1980.325 regarding provisions of security instruments. Also, see § 1980.309 regarding liens on leaseholds. The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interests of the lender, holder, and FmHA.

(b) *Third party liens, suits pending, etc.* Among other things in obtaining the required security, it is necessary to ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the security property or the borrower, and that there are no suits pending or anticipated that would affect the security property or the borrower.

(c) *All collateral must secure entire loan.* All collateral must secure the entire loan unless that is legally impossible as in some Texas homestead cases. The lender cannot take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. This also includes but is not limited to mortgage insurance, which, if obtained, must protect both the guaranteed and unguaranteed portions of the loan.

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§ 1980.325 Promissory notes and security instruments.

The lender may use its forms of promissory notes, real estate mortgages, including deeds of trust and similar instruments, and security agreements, including chattel mortgages in Louisiana and Puerto Rico. The lender is responsible for determining that the security instruments are adequate. The security instruments must:

(a) Contain a provision making it a default if the borrower does not continue to occupy the housing as a primary residence.

(b) Not contain any provisions that are in conflict or are inconsistent with the provisions of this subpart.

§ 1980.326 Appraisal of property serving as collateral.

(a) *Qualified appraiser.* The lender is responsible for seeing that the property that will serve as collateral for loans is appraised by a qualified appraiser. The appraisal will be the appraisers opinion regarding the market value of the collateral.

(b) *Lender responsible.* The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make the appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(c) *Appraisal report.* The appraisal report which the lender is required to submit to FmHA as an enclosure with the application will cover any property that is to serve as security.

Administrative. A. *FmHA review of appraisals.* Appraisal reports are part of the material to be reviewed by FmHA in determining whether to issue a conditional commitment to guarantee the loan or a loan note guarantee. The review of each appraisal will be made by the FmHA county supervisor or other FmHA personnel designated by the county supervisor.

§ 1980.327 Acquisition, construction, and development.

(a) *Acquisition of property.* The lender is responsible for seeing that any property to be acquired with loan funds is acquired as planned and that the required security is obtained. The lender is also responsible when financing an existing dwelling for seeing that a termite inspection is obtained if normally required in the area, and the requirements of paragraphs (b) (2), (4), (6), and (11) of this section are met.

(b) *Construction or development.* The lender and borrower are responsible for seeing that the loan purposes are accomplished with the loan funds. This includes, but is not limited to seeing that:

(1) Part 1804 of this chapter is used as a guide for planning and performing development work (FmHA instruction 424.5).

(2) Applicable laws, ordinances, codes, and regulations, including the Minimum Property Standards (MPS) for One and Two Family Dwellings No. 4900.1, issued by the HUD are complied with. Copies of the MPS may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(3) Drawings, specifications, and estimates are adequate.

(4) Adequate water, electric, heating, waste disposal, and any other necessary utilities and facilities are obtained.

(5) Construction or development contracts contain adequate provisions for the undertaking and are properly awarded and executed, and contractors are bonded when the lender considers bonding necessary.

(6) Equal opportunity and nondiscrimination requirements are met. See § 1980.41 of subpart A of this part.

(7) Construction or development is performed expeditiously and properly, including inspection of sites and construction or development in various stages of completion to determine that the work and material conform with the drawings and specifications and any other requirements.

(8) Periodic or partial payments for construction or development are limited to a reasonable percentage as determined by the lender of the actual value of the work and material in place.

(9) Final payment is made only after final inspection has been made and the construction or development has been found proper in all respects.

(10) A builder's warranty is issued when new construction, repair or rehabilitation is involved, which warrants the dwelling materials and workmanship for at least 1 year from the date of completion and acceptance of the work.

(11) No claims or liens of laborers, materialmen, contractors, subcontractors, or other parties exist against the borrower or the security property.

§ 1980.328 Overruns in development costs.

When it is determined that there will be an overrun, either at bid opening or after construction has begun, the lender and borrower, with the advice of FmHA, will determine how the overrun costs will be met.

(a) *Minor changes.* Minor changes in the project which do not effect the approved loan purposes, increase the cost, or adversely affect the objectives or soundness of the loan may be approved by the borrower and lender. If any line item as reflected in the use of proceeds is changed 10 percent or less and the total loan remains the same, the lender may approve the change.

(b) *Major changes.* If major changes are necessary, which cannot be handled as provided in paragraph (a) of this section, the lender and borrower, with the advice of FmHA, will determine how the change or overrun costs will be met. FmHA will determine and inform the lender in writing whether the loan can still be guaranteed. The county supervisor may approve cost overruns and line item changes on all loans. In any event, the loan will never exceed the limits specified in § 1980.307.

Administrative. The county supervisor will submit Form FmHA 440-1 "Request for Obligation of Funds," to the Finance Office for the new amount of any increased loan. Form FmHA 440-10 "Cancellation of Loan or Grant Check and/or Obligation," will be used to cancel the original obligation. The loan note guarantee will not be issued until the revised Form FmHA 440-57 "Acknowledgement of Obligated Funds/Check Request", is received from the Finance Office. If a loan was obligated in a prior fiscal year, form FmHA 440-1 will be prepared for the increased in obligation and the form noted in the upper right-hand margin: "Increase in obligation of previous loan."

§ 1980.329 Inspections of construction and compliance reviews.

(a) *Qualified inspectors.* Inspections will be made during construction by a qualified construction inspector approved by the lender. The lender will notify FmHA when construction begins so that it can also make inspections at various stages of construction, repair, or development if it desires to do so. The lender will also notify FmHA when the construction is completed as FmHA will also always make a final inspection for the protection of its financial interest. Any inspections made by FmHA are made only to determine the adequacy of the security for the loan guarantee and will not establish a duty on FmHA either to notify the borrower or lender if the construction is not adequate or to see that any defective work is corrected. In connection with inspections of construction, equal opportunity and nondiscrimination compliance reviews will be made as required by § 1980.41(b)(6) of subpart A of this part.

(b) *Inspections required by lender.* The lender will see that the following three inspections (and any additional inspections it deems necessary or advisable) are made:

(1) When footings and foundation are ready to be placed.

(2) When shell is closed in but plumbing, electrical, and mechanical work are still exposed.

(3) When construction is completed.

Administrative. A. *FmHA inspections.* If more than $2,500 of guaranteed loan funds

are used to construct or repair buildings, provide land development work, acquire real or personal property, or for similar purposes, the county supervisor or other qualified FmHA personnel will make such inspections as the county supervisor deems necessary in the particular case to ascertain the existence and condition of such property. Regardless of the number of inspections, one inspection will always be made when construction is completed. Such inspections will be reflected on Form FmHA 424-12 "Inspection Report." The borrower need not sign form FmHA 424-12. The final inspection certification on the bottom of Form FmHA 424-12 may be revised as follows: "I certify that I have inspected the above listed items of development and those shown as 100 percent complete appear to have been completed in accordance with the plans and specifications or other descriptive material. If the final inspection reveals that construction does not meet approved plans and specifications, the loan will not be guaranteed."

§ 1980.330 Borrower eligibility requirements for a loan.

The lender must determine that the applicant meets all the following requirements:

(a) *Citizenship.* Is a natural person (individual) who is a citizen of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or the territories and possessions of the United States, or resides there after being legally admitted for permanent residence or on indefinite parole.

(b) *Legal capacity.* Possesses legal capacity to incur the obligations of the loan.

(c) *Ability and experience.* Possesses ability and experience necessary to carry out the undertakings and obligations required of the applicant in connection with the loan.

(d) *Lack of housing.* Does not own adequate, decent, safe, and sanitary housing for the applicant's use. If the loan is to include funds for a site on which to build, the applicant must be without an adequate site for the proposed dwelling.

(e) *Owner occupant.* Is or will become the owner occupant of the housing with respect to which the loan is made.

(f) *Income.* Has adequate and dependably available income to meet the living expenses, obligations, necessary capital replacements, and repayment of debts including the proposed loan.

(g) *Other credit.* Does not have sufficient resources to provide the housing on the applicant's own account, and cannot obtain credit for that purpose from other sources on terms and conditions the applicant can reasonably be expected to meet without an FmHA guarantee.

(h) *Income level.* Has an above-moderate income.

(1) *Above-moderate income.* An above-moderate income is an adjusted annual income of more than the maximum moderate income limit established for the State as shown in exhibit D to subpart A, part 1822 of this chapter (FmHA instruction 444.1, exhibit D), but not more than $20,000, except for Hawaii, Guam, and Alaska in which the maximum is $24,000, $24,000, and $30,000, respectively.

(2) *Annual income.* This consists of planned income to be received by the applicant, spouse, and all other adults who live, or propose to live, in the dwelling during the next 12 months, or, in the case of a farmer, the period which most accurately reflects the annual cycle of the farmer's operation.

(i) *Income included.* All net farm and nonfarm business income and gross income from wages, salaries, commissions, pensions, social security, welfare, GI bill, fellowships, scholarships, assistantships, unemployment compensation, alimony, and all other sources, except as indicated in paragraph (h)(2)(ii) of this section, must be counted.

(A) Welfare, social security, child support payments, and other payments made on behalf of minors will be included.

(B) All expected overtime and bonus income will be counted.

(C) Projected farm and nonfarm business losses will be considered as "0" in determining annual income.

(ii) *Exempted income.* The following income will not be counted:

(A) Earnings from employment or income from GI bill, fellowships, scholarships, or assistantships for schooling received by a full-time student who is not the applicant or spouse of the applicant.

(B) Proceeds from the sale of equipment, mineral rights, or real estate sold under short-term contract (usually 3 years or less).

(C) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(D) Payments received for the care of foster children.

(E) The income of an applicant's spouse not living in the dwelling when:

(*1*) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings, or

(*2*) Papers have not been filed to commence divorce or legal separation proceedings provided the spouse has been living apart from the family for at least 6 months.

(iii) *Deductions from income.* In determining the applicant's annual income the following deductions will be allowed:

(A) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed, and this schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(B) A deduction may be made in the same manner as outlined in IRS regulations for necessary business expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving officials, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions are not permitted for the following:

(*1*) Transportation to and from work.

(*2*) Cost of meals incurred on 1-day business trips.

(*3*) Educational expenses except those incurred to meet the minimum requirements of the employee's present position.

(*4*) Fines and penalties for violation of laws.

(C) Income deductions for child care, disabled dependent care, or care of an incapacitated husband or wife may be made for expenditures actually paid to enable the applicant to be gainfully employed. The reason for any deduction must be recorded in detail in the applicant's loan docket. Such a deduction is authorized only if all the following conditions are met:

(*1*) For dependent children under the age of 15 cared for outside the home, the maximum monthly deduction will not exceed $200 for one child, $300 for two children, or $400 for three or more children.

(*2*) Expenses for child care services performed in the home are not limited to the above but are subject to the $400 maximum deduction each month.

(*3*) A deduction not to exceed $400 each month, for incapacitated husband or wife care, or care of disabled dependents age 15 or over who are incapable of self care is authorized only when service is performed in the home.

(*4*) In no case will the aggregate of all deductions for child care, disabled dependent care, or incapacitated husband or wife care exceed $400 per month.

(*5*) Payments for these services must have been to other than close relatives or dependent members of the applicant's household. Close relatives include: Son or daughter and their descendants, stepson or stepdaughter, brother or sister, stepbrother or stepsister, father or mother and their ancestors, stepfather or stepmother, nephew or niece, uncle or aunt, son-in-law or daughter-in-law, father-in-law

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or mother-in-law, and brother-in-law or sister-in-law.

(3) *Adjusted annual income.* This is annual income as defined in paragraph (h)(2) of this section, less 5 percent thereof and less an additional $300 for each minor person, excluding the applicant and applicant's spouse, who is a member of the immediate family and lives in the home. The immediate family includes those persons related to the applicant by blood, marriage, or operation of law, such as adoption or legal guardianship.

§ 1980.331 Filing and processing applications.

(a) *Applicant's contact.* Applicants desiring loan assistance as provided in this subpart must file loan applications with an eligible lender.

(b) *Loan priorities.* Applications and preapplications for loan guarantees received by FmHA from eligible lenders will be considered in the order received.

(c) *Veteran preference.* Applications for guarantees received for loans to veterans and from spouses and children of deceased servicemen who died in service during one of the periods described in this paragraph will be given preference by FmHA. A veteran is a person who has been discharged or released from the active forces of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces: (1) During the period April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

(d) *Filing preapplications and applications.* Lenders may file preapplications as described in paragraph (e) of this section if they desire an expression of FmHA interest before assembling the complete application and request for loan note guarantee or they may present the complete application, in one package, including the material required in paragraphs (e) and (g) of this section.

(e) *Preapplications.* Lenders may file preapplications with the county office. They shall include:

(1) An application form or letter which shall include:

(i) Name, address, telephone number, statement of current annual family income and expenses, net worth, age, and citizenship status of each applicant. If not a citizen of a State or the United States, include evidence of being legally admitted for permanent residence or indefinite parole. The sex, race, and veteran status of the applicant(s) will also be submitted to the county office when provided by the applicant(s).

(ii) Amount of loan request.

(iii) Name of the proposed lender, its address, contact person, and telephone number.

(iv) Brief description of the housing to be financed.

(v) Amount of applicant's equity.

(vi) Anticipated loan maturity.

(2) Comments of substate and State A-95 agencies when the preapplication involves a loan or loans for construction in a subdivision of 10 or more new dwelling units in which HUD, VA, or FmHA has not previously made, insured, or guaranteed a housing loan.

(3) Statement from the applicant certifying that the applicant does not own adequate, decent, safe, and sanitary housing for the use of the applicant's family and the applicant is unable to obtain the required credit without a guarantee at reasonable rates and terms in the community in or near the applicant's location(s) from private or cooperative lending sources who normally make loans for similar purposes and periods of time.

(4) Statement from lender that it will not make the loan as requested by the borrower without a guarantee and that applicant has received, in writing, a warning that the applicant is subject to criminal action if the applicant knowingly and willfully gives false information to obtain a federally guaranteed loan.

(f) *Preliminary determination by FmHA.* If preapplication information indicates the housing will not meet FmHA's minimum standards, the applicant is not eligible, or that guarantee authority is not available, FmHA will so inform the lender with specific reasons and reconsideration rights. (See § 1980.80.) The lender will notify the applicant in writing of all reasons for the decision reached. If the applicant may be eligible, the housing may meet FmHA standards, and loan guarantee authority may be available, FmHA might inform the lender in writing that it may submit a complete application.

(g) *Applications will consist of:* (1) Application for loan on a form approved by the lender, which includes at a minimum the information requested in paragraph (e) of this section. If a preapplication was submitted, it will be sufficient to verify that the information in the preapplication is still valid or provide revisions to the preapplication information.

(2) Architectural or engineering plans for dwelling and site if repair or new construction is planned, including a soils map and foundation design, if applicable.

(3) Cost estimates and forecasts of contingency funds to cover inflation or project changes.

(4) Appraisal reports.

(5) Credit report obtained by the lender.

(6) Form FmHA 400-1 "Equal Opportunity Agreement," if construction costing more than $10,000 is planned.

(7) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agencies having jurisdiction including any pollution control agency. (See also § 1980.44 of subpart A of this part.)

(8) A plot plan showing location of house and utilities, topography, landscaping, drainage, and other site development such as driveways, sidewalks, curbs, streets, etc.

(9) Information about the dwelling location with respect to the neighborhood and community services and facilities, business and industrial enterprises, and streets or roads serving the housing.

(10) Proposed loan documents between the borrower and lender (See paragraph VIII of Form FmHA 449-35 "Lender's Agreement").

(11) Evidence of compliance with the Privacy Act of 1974:

(i) Form FmHA 410-9 "Statement Required by the Privacy Act." The lender will furnish all applicants two copies of Form FmHA 410-9 at the time an application is filed. The applicant will sign both copies, retaining one and providing one to the lender which becomes a part of the loan file.

(ii) Form FmHA 410-10 "Privacy Act Statement to References." If the lender or FmHA desires to obtain information concerning the applicant from any source, two copies of Form FmHA 410-10 will be provided to the source. The source will sign both copies, retain one, and return the other copy, which becomes a part of the loan file.

(12) Any additional information required by FmHA.

(h) *Use of forms.* Lenders should use their forms, real estate mortgages, security instruments, and other agreements, provided such forms do not contain any provisions that are in conflict or are inconsistent with provisions of this subpart.

Administrative. The county supervisor will determine if the material and information submitted are complete and fill out a Form FmHA 444-2 "Single Family Housing Fund Analysis," for the county office file only.

§ 1980.332 FmHA evaluation of applications.

FmHA will evaluate the application. FmHA will make a determination as to whether the borrower is eligible, the proposed loan is for an eligible purpose and there is reasonable assurance of repayment ability, sufficient collateral, and sufficient equity. If FmHA determines it is unable to guarantee the loan, the lender will be informed in writing by use of Form FmHA 449-13 "Denial Letter." Such notification will include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, the county supervisor will proceed in accordance with administrative paragraph A of this section.

Administrative. A. When FmHA determines it is able to guarantee the requested loan, the county supervisor will prepare Form FmHA 440-1 in accordance with the forms manual insert (FMI). the county supervisor, except for the last 45 days in the fiscal year (FY), will then contact the State office by phone and request verbal authorization to immediately issue Form FmHA 449-14 to the lender. If the requested authorization is given, the county supervisor will complete Form FmHA 449-14, listing all requirements for such guarantee, sign the form, and forward the original and one copy to the lender. The county supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440-1 and make such copy a permanent part of the county office loan file. A copy of Form FmHA 440-1 will, in all cases, be mailed to the lender at the same time the form is mailed to the Finance Office for obligation of funding authority. The Finance Office, upon receipt of Form FmHA 440-1, will obligate guarantee authority and forward the original and one copy of Form FmHA 440-57 to the county office. During the last 45 days of each fiscal year and in all other cases when the State office declines phone authorization, the county supervisor will not issue Form FmHA 449-14 until the Form FmHA 440-1 has been mailed to the Finance Office and lender and Form FmHA 440-57 is received from the Finance Office indicating that guarantee authority has been obligated for the requested loan. Under no circumstances will the county office phone the Finance Office for authorization to issue a Form FmHA 449-14.

B. Each State office is authorized to give phone confirmation that guarantee authority is available to cover the loan guarantee requested and authorize the county supervisor to immediately issue Form FmHA 449-14 unless such confirmation would result in the State exceeding 80 percent of its guarantee authority for the current period, or the request for verbal authorization is received during the last forty-five (45) days of the fiscal year.

§ 1980.333 Review of requirements.

(a) *Accepting conditions.* Immediately after reviewing the conditions and requirements in Form FmHA 449-14, and the options listed on the back of the form, the lender should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the county supervisor. If conditions cannot be met, the lender and borrower may propose alternate conditions to FmHA. These alternatives will be considered and the lender will be advised of FmHA's decision. If altered conditions are acceptable, Form FmHA 449-14 will be revised.

(b) *Canceling commitment.* If the lender indicates in the "Acceptance or Rejection of Conditions" that it desires to obtain a loan note guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a loan note guarantee, the lender should immediately advise the county supervisor.

Administrative. A. The county supervisor will negotiate with the lender any changes, consistent with this regulation, to the initially issued or proposed Form FmHA 449-14.

B. The county supervisor will notify the Finance Office, in accordance with § 1980.61(e), of subpart A of this part, if a commitment is canceled.

§ 1980.334 Conditions precedent to issuance of the loan note guarantee.

(a) *Borrower copies.* The lender will see that the borrower is provided the original or copy, as appropriate, of:

(1) Drawings and specifications.

(2) Plot plan.

(3) Truth-in-Lending and Real Estate Settlement Procedures Act disclosure statements.

(4) Builder's warranty.

(5) Deed and mortgage or security instruments.

(b) *Lender file.* The lender will maintain a file for each guaranteed RH loan containing originals or copies, as appropriate, of all documents pertaining to that loan.

Administrative. A. *The county supervisor:* 1. Reviews all items required in accordance with § 1980.60 of subpart A of this part.

2. Reviews materials to see that all conditions imposed by Form FmHA 449-14 have been complied with.

3. Makes an onsite inspection of the property if the county supervisor has not already done so. Such inspection will be reflected on Form FmHA 424-12 as indicated in administrative paragraph A of § 1980.329 of this subpart.

4. Under no circumstances will the county supervisor issue Form FmHA 449-34 before Form FmHA 440-57 is received from the Finance Office.

B. To assure that all requirements of this regulation have been met, the District Director may conduct a postguarantee internal audit of selected cases before returning the loan documents to lenders and will document this review in the loan files examined.

§ 1980.335 Issuance of lender's agreement, loan note guarantee and assignment guarantee agreement.

Administrative (with reference to § 1980.61 of subpart A of this part): A. *See § 1980.61(a).* The original Form FmHA 449-35, will be kept in the county office. Paragraphs XC10 and XII4 of Form FmHA 449-35 will be crossed out for housing loans. Paragraphs XC 5 and 11 will be completed by adding -0- in the blank for housing loans.

B. *See § 1980.61(b)(1).* Copy(s) of all issued loan note guarantee(s) will be kept in the county office.

C. *See § 1980.61(b)(3).* For reporting purposes when multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

D. *See § 1980.61(b)(4).* The State director will notify the Finance Office of the transaction.

E. *See § 1980.61(d).* County supervisor signs all forms FmHA 449-13.

F. *See § 1980.61(f). The County supervisor will:* 1. Review Form FmHA 449-19 "Guarantee Fee Report," for completeness.

2. Forward the guarantee fee and original form FmHA 449-19 to Finance Office.

3. Retain in the county office loan file the original of Form FmHA 449-35 and copies of Form FmHA 449-19, Form FmHA 449-34, and Form FmHA 449-36 "Assignment Guarantee Agreement."

§ 1980.336 [Reserved]

§ 1980.337 Loan servicing.

The lender is responsible for loan servicing. See paragraph X of Form FmHA 449-35. Loan servicing is a preventive rather than a curative action. Prompt followup by the lender on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

Administrative. A. The county supervisor is authorized to approve any servicing action consistent with customary and reasonable private sector servicing practices, but not more lenient than subpart A of part 1872 of this chapter (FmHA instruction 465.1).

B. The State director may consult with the National Office on any servicing problem and if it cannot be handled at the State level, the file will be forwarded to the National Office with recommendations.

C. County supervisor: 1. Assists in loan monitoring.

2. When the county supervisor has been notified by the lender of borrower's failure to fulfull any conditions of the loan documents, the county supervisor will forward the notification, the financial reports, and any recommendations through the District Director to the State director indicating the date reports were received in the county office and requesting advice for future loan servicing.

3. Is responsible for establishing an office management system for guaranteed loans in accordance with FmHA instruction 405.1.

D. District Director: 1. Will make sure that the county supervisor obtains from the lender the necessary reports and that the county supervisor transmits them to the State director.

2. Will provide guidance and assistance to the county supervisor if a loan develops into a problem case.

§ 1980.338 Defaults by borrower.

Refer to paragraph XI of Form FmHA 449-35. In case of default, the lender will arrange a meeting with the borrower to resolve the problem. A memorandum of the meeting, individuals who attended, a summary of the problem, and proposed solutions will

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be forwarded to the county supervisor to be retained in the loan file.

Administrative. A. If the county supervisor receives a notice of default on a loan, the county supervisor will notify the State director in writing of the details. The county supervisor will notify the lender of decisions reached by FmHA.

B. Purchase of guaranteed portions by FmHA: See lender's agreement and assignment guarantee agreement.

1. The county supervisor monitoring the loan will normally coordinate and process requests for FmHA to purchase when the holder(s) are located in close proximity to the local lender. If holders are located outside the area, the State director of the State where the loan was made may handle the transaction and notify the county supervisor and District Director.

2. The county supervisor will review the material submitted, verify the amounts due the holder(s), and transmit the request by memorandum to the State director with copies to the District Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the county office. A proposed payment date will be established to calculate the interest due the holder(s).

3. The State director will verify the amounts payable to the holder(s) and assure that all necessary material has been obtained. The State director will request a check to pay the holder(s) on the appropriate data entry form. (See § 1980.63 of subpart A of this part.)

4. If FmHA owns any guaranteed portion of the loan, it will be considered in any future report of loss calculations. A record of any purchase by FmHA will be maintained in the loan file.

§ 1980.339 Liquidation.

Refer to paragraph XII of form FmHA 449-35. If either the lender or FmHA concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults of third-party actions that the borrower cannot or will not cure or eliminate within a reasonable period of time, it will notify the other party and the matter will be handled in accordance with paragraph XII of form FmHA 449-35.

Administrative. A. *Paragraph XIIB of Form FmHA 449-35.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. State directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate.

B. *Paragraph XIID of Form FmHA 449-35.* County supervisors are responsible for review and acceptance of accounting reports submitted by lenders and for submission of such reports to lenders when FmHA is conducting liquidation.

C. *Paragraph XIIE2 of Form FmHA 449-35.* County supervisors are authorized to accept report of loss determinations on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," from lenders and forward them to the State director. The State director will submit Form FmHA 449-30 to the Finance Office for payment of verified losses. The Finance Office forward loss payment checks to lender.

D. *Paragraph XIIE3 of form FmHA 449-35.* Final loss payments will be made within the 60 days required but only after an audit to assure all collateral for the loan has been properly accounted for. State directors are responsible to see that such audits are accomplished in time to be reviewed and accepted or otherwise resolved within the 60-day period. County supervisors may conduct such audits.

§ 1980.340 Protective advances.

(See subpart A, 1980.65.)

Administrative. A. It is not intended that protective advances be made in lieu of additional loans. Prior approval of the county supervisor is required on all protective advances in excess of $500. The county supervisor will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the repayment schedule.

§ 1980.341 Additional loans of advances.

(See subpart A, 1980.66.)

Administrative. Any additional loan that is to be guaranteed will meet the requirements of this regulation including area eligibility. The FmHA may approve additional loans or advances provided the approval official determines there will be no adverse changes in the borrower's financial situation and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

§ 1980.342 Transfer and assumptions.

(a) *FmHA approval.* All transfers and assumptions must be approved in writing by FmHA.

(b) *Eligibility preference.* Preference will be given to applicants who, after the transfer and assumption are made, will meet the eligibility requirements for the loan.

(c) *Eligible and ineligible.* Available transfer and assumption options to applicants include the following:

(1) The total indebtedness may be transferred to another eligible borrower.

(2) The total indebtedness may be transferred to an ineligible borrower.

(d) *Release of liability.* In any transfer and assumption case, the transferor may be released from liability by the lender with FmHA written concurrence.

(e) *Forms and case numbers.* The assumption will be made on the lender's form of assumption agreement. The assumption agreement must contain the FmHA case numbers of the transferor and the transferee.

(f) *Notations and notices.* It is the lender's responsibility to see that all transfers and assumptions will be noted on the loan note guarantee. The lender must give FmHA a copy of the transfer and assumption agreement. Notice must be given by the lender to FmHA indicating whether the loan and security can be properly transferred, the conveyance instruments filed, registered, or recorded, as appropriate, and whether the borrower will be released from liability.

(g) *Holder not consulted.* The holder, if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

(h) *Loan note guarantee.* The existing loan note guarantee will continue in effect, so a new loan note guarantee will not be issued. However, as soon as the transfer and assumption have been completed, the lender will so indicate on the original loan note guarantee by inserting a check in the assumption agreement box and inserting the name of the assuming party for those purposes on the loan note guarantee. If the loan note guarantee is held by a holder, the lender will notify the holder of the changes.

Administrative. A. The county supervisor may consent:

1. To all transfer and assumption cases that meet the requirements of this regulation.

2. To the release of the transferor from liability on the loan. The county supervisor may approve or disapprove the transfer and will notify the lender and the appropriate parties of his decision in writing. The loan note guarantee will be endorsed in the space provided on the form.

B. A copy of the assumption agreement will be retained in the county office file and the county supervisor will send a copy to the State director.

§ 1980.343 Eligible transferee—full assumption.

An "eligible transferee" is one who meets the eligibility requirements of this regulation. An eligible transferee is also one who meets the requirements of this regulation except that the housing being transferred is in an area which has ceased to be rural.

(a) *Changes in promissory note or security instrument provisions.* If the assumption arrangement changes the repayment schedule or interest rate, the changes must be approved in writing by the present debtors if they are not to be released from personal liability and by the holder. The interest rate may be any legal rate agreed to by the lender and the assuming parties provided the rate does not exceed rates charged on similar loans in the area. Any new repayment schedule needed to meet the repayment ability of the transferee may cover a period not to exceed 33 years from the date of the transfer. The lender's request for approval to FmHA will be accompanied by:

(i) An explanation of the reasons for the proposed change in the provisions of the promissory note or security instrument.

(2) A statement that the lender's determinations required by paragraph (b) of this section can be made.

(3) Advice as to whether the present debtors will sign an agreement to indicate their continued liability or will be released from personal liability.

(b) *Determinations by lender.* Before the transfer and assumption can be approved, the lender must determine that all of the following conditions exist or can be met:

(1) The transferee is an eligible applicant.

(2) The transferee will acquire all of the property securing the guaranteed loan balance.

(3) The transferee cannot acquire the security property without the guaranteed loan credit.

(4) The market value of the security property being acquired by the transferee is at least equal to the amount of the secured indebtedness against it.

(5) The priorities of the existing lien or liens securing the guaranteed loan will be maintained or improved.

(6) The transferee appears to have the ability and desire to pay the amount to be assumed.

(7) Proper hazard insurance will be obtained.

(8) The transaction can be properly closed and the conveyance instruments will be filed, registered, or recorded, as appropriate and legally permissible.

(c) *Closing transfer and assumption.* As soon as the lender finds that it will be able to make the determinations required in paragraph (b) of this section and has received FmHA's approval, the lender may proceed with closing the transfer and assumption transaction. The closing will include, but will not be limited to, obtaining execution and delivery of the conveyance instruments and the assumption agreement, compliance with any legal requirements, and the filing, registration, or recordation of said conveyance instruments, as appropriate and legally permissible.

(d) *Material furnished to FmHA after closing.* Immediately after the transfer and assumption have been closed, the lender will furnish to FmHA:

(1) Two conformed copies of the executed assumption agreement.

(2) A statement showing:

(i) What changes, if any, have been made in the provisions of the promissory note or security instruments.

(ii) That all of the conditions and requirements of paragraph (b) of this section have been met.

(iii) That insertions have been made on the original loan note guarantee as required in § 1980.342(h).

(iv) Whether the present debtors have been released from personal liability or have signed an agreement of continued personal liability.

Administrative. A. *Concurrrence of FmHA.* If the county supervisor approves the proposed transfer, including any proposed changes in the promissory note or security instrument provisions, the county supervisor will so advise the lender in writing and the lender may proceed with the transfer and assumption.

B. *Conformed copies—sent to and checked by FmHA county supervisor.* When the county supervisor receives the two conformed copies of the executed assumption agreement and the original statement from the lender as required in paragraph (d) of this section, the county supervisor will examine them to see whether they are proper in all respects.

(1) If county supervisor finds any errors or ommissions in the conformed copies, the county supervisor will return the defective material to the lender so that the errors or omissions may be corrected. If the original assumption agreement contains the same defects, it will first have to be corrected and the corrections initialed by the assuming parties and the lender and also by the present debtors if they will remain personally liable.

(2) If the county supervisor finds the material to be in proper order, either before or after correction, the county supervisor will notify the Finance Office in order that the Finance Office records may be adjusted accordingly.

§ 1980.344 Ineligible transferee—full assumption.

An "ineligible transferee" is one that does not meet the eligibility requirements of this regulation.

(a) *Continued liability of present debtors.* Since the terms of the promissory note will be changed in the assumption agreement, the present debtors will be required to sign the agreement of continued liability on the bottom of the assumption agreement if their continued personal liability is required because the assumption agreement repayment period is more than 5 years or for any other reason.

(b) *Interest rate and term of assumption.* The interest rate may be any legal rate agreed to by the lender and the assuming parties provided the rate does not exceed rates charged on similar loans in the area. The term in these cases cannot exceed 5 years except it may be up to 15 years if:

(1) The present debtors are not released from personal liability.

(2) FmHA makes a written determination that a period longer than 5 years is necessary to protect the financial interests of FmHA as guarantor.

(c) *Determinations by lender.* Before the transfer and assumption are consummated, the lender must obtain all holders' and FmHA's approval of the transaction. As a basis for obtaining that approval, the lender must furnish to FmHA a completed but unexecuted copy of the transfer document and a statement showing that the following determinations have been made:

(1) That the transferee is not an eligible applicant.

(2) That the proposed transfer and assumption appear to be the best method for most adequately protecting the financial interests of the lender and FmHA.

(3) That the market value of the security property to be transferred is equal to or more than the unpaid balance on the guaranteed loan plus any prior liens, or that the financial situation of the transferee is such that any difference could be readily collected.

(4) That the determinations, conditions and requirements of § 1980.343(b) (2), (5), (6), (7), and (8) are made.

(5) That the proposed term of the assumption is necessary and meets the requirements of paragraph (b) of this section.

(6) Whether the present debtors will sign an agreement of continued liability or will be released from personal liability.

(d) *Closing transfer and assumption.* Upon receipt of FmHA's approval letter, the lender may proceed with closing the transfer and assumption transaction. The closing will include, but will not be limited to, obtaining execution and delivery of the conveyance instruments and the assumption agreement, compliance with any legal requirements, and filing, registration, or recordation of said conveyance instruments, as appropriate.

(e) *Material furnished to FmHA after closing.* Immediately after the transfer and assumption have been closed, the lender will furnish to FmHA:

(1) Two conformed copies of the executed assumption agreement.

(2) A statement showing:

(i) That all of the conditions and requirements have been met in accordance with the approval letter issued by FmHA.

(ii) That the insertions have been made on the original loan note guarantee as required in § 1980.342(h).

(iii) Whether the present debtors have been released from personal liability or have signed an agreement of continued liability.

Administrative. A. *Approval by FmHA.* If the county supervisor approves the lender's determinations and agrees that the transfer and assumption should be made as proposed, the county supervisor will send a letter of approval to the lender. If the assumption term exceeds the 5-year limitation in paragraph (b) of this section, the letter will contain FmHA's express determination that the longer term is necessary to protect its financial interest as guarantor. If FmHA determines that it cannot approve the pro-

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posed transaction, it will inform the lender in writing of the reasons. If the lender satisfies FmHA's objections, it may submit the matter for reconsideration.

B. *Conformed copies—Sent to and checked by FmHA county supervisor.* The procedure set forth in § 1980.343 administrative paragraph B of this subpart will be followed in examining and handling the material furnished under paragraph (e) of this section.

§§ 1980.345–1980.400 [Reserved]

General administrative. A. *Office of the General Counsel (OGC).* In performing the FmHA functions, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loanmaking, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, only FmHA may consult with OGC.

B. *Delegation of authority.* The State director may delegate to State office rural housing and support staff those administrative duties and responsibilities set forth in the administrative sections of this subpart.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: September 29, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-28371 Filed 10-6-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Pork and Pork Products From Countries Where African Swine Fever Exists or is Reasonably Believed To Exist and Change in Disease Status of Haiti

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning the importation of pork and pork products from countries where African swine fever, a contagious and infectious disease of swine, exists, to include countries where African swine fever is reasonably believed to exist, under conditions constituting a risk of introduction or spread of the disease into the United States. This document also designates Haiti as a country in which the contagion of African swine fever is believed to exist, under conditions constituting a risk of introducing African swine fever into this country. The intended effect of this amendment is to restrict the entry into the United States of pork and pork products from countries where African swine fever is reasonably believed to exist.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. Such products constitute a grave danger to healthy swine. The only known practical method of destroying the disease virus in pork and pork products is by heat treatment.

In order to protect domestic swine from the effects of this disease, it is necessary to control the entry of all pork and pork products which may contain active African swine fever virus. On occasion, situations exist where there is reason to believe that African swine fever exists in a country, but a definitive diagnosis of the disease has not been made or if made is not reported expeditiously to the United States to allow appropriate measures to be taken to prevent the introduction or spread of the disease into this country. The present regulations only provide for restricting the importation of pork and pork products into the United States from countries in which the disease is known to exist. Therefore, it is necessary to amend the regulations in 9 CFR 94.8 to restrict the entry of pork and pork products into the United States from countries where African swine fever is reasonably believed to exist when such action is necessary to prevent the risk of introducing African swine fever into this country.

A reasonable determination of the probable existence of African swine fever within a country can be made by the Administrator, on a case by case basis, upon the following factors:

1. When a country allows the importation of host animals, pork or pork products or vectors of the disease from a country affected with African swine fever under conditions less stringent than those prescribed for importing host animals, pork or pork products or vectors of the disease into the United States from a country affected with African swine fever; or

2. When a country allows the movement or use of African swine fever virus or cultures under conditions less stringent than those prescribed for similar movements or use into or within the United States; or

3. The proximity of a country to another country or countries with known outbreaks of African swine fever; or

4. A country's lack of a disease detection, control or reporting system capable of detecting or controlling the disease and reporting it to the United States in time to allow the United States to take appropriate action to prevent the introduction of African swine fever into this country; or

5. Any other fact or circumstance found to exist which constitutes a risk of introduciton of the disease into the United States.

It is imperative that the entrance of pork and pork products into the United States from such countries be controlled as quickly as possible.

Section 94.8 of title 9 of the Code of Federal Regulations was amended to add the Dominican Republic as a country in which African swine fever exists on July 11, 1978, because of the confirmation of African swine fever in swine herds in that country. Since then, extensive outbreaks of the disease have occurred in the Dominican Republic.

Reports have been received that shipments of pork products, including smoked ham, salami, bologna, and sausage, move into Haiti from the Dominican Republic. Further, it is reported to be a common practice for Dominican Republic and Haitian officials stationed at border points on the Haiti-Dominican Republic international boundary to barter various items, including livestock, back and forth across the border. Consequently, there is a strong probability that swine from the Dominican Republic have moved into Haiti. Additionally, excessive death losses are reported to have occurred in swine on both sides of the Haiti-Dominican Republic international boundary and the Haitian government has been unable to either confirm the existence of the disease in the country of deny its existence.

On the basis of the available evidence, the Department has determined that African swine fever can be reasonably believed to exist in Haiti. Therefore, in order to prevent the introduction or dissemination of the contagion of African swine fever into the United States, the Department is designating Haiti in 9 CFR 94.8 as a country where it is reasonable to believe that African swine fever exists and restricting the importation of pork and pork products from that country into the United States.

This designation restricts the entry into the United States of pork and pork products from Haiti to pork and pork products which have been commercially sterilized by heat in hermetically sealed containers, or which are allowed controlled entry into the United States for further processing by heat in accordance with 9 CFR 94.8.

Accordingly, Title 9, Part 94, Code of Federal Regulations, is hereby amended in the following respects:

1. The title of § 94.8 is amended to read:

§ 94.8 Pork and pork products from countries where African swine fever exists or is reasonably believed to exist.

* * * * *

2. In § 94.8, the colon is deleted and the following is added to the end of the introductory paragraph: "• • • or the administrator has reason to believe the disease exists because of the following factors:

"1. When a country allows the importation of host animals, pork or pork products or vectors of the disease from a country affected with African swine fever under conditions less stringent than those prescribed for importing host animals, pork or pork products or vectors of the disease into the United States from a country affected with African swine fever; or

"2. When a country allows the movement or use of African swine fever virus or cultures under conditions less stringent than those prescribed for similar movements or use into or within the United States; or

"3. The proximity of a country to another country or countries with known outbreaks of African swine fever; or

"4. A country's lack of a disease detection, control or reporting system capable of detecting or controlling the disease and reporting it to the United States in time to allow this country to take appropriate action to prevent the introduction of African swine fever into this country; or

"5. Any other fact or circumstance found to exist which constitutes a risk of introduction of the disease into the United States."

3. In § 94.8, following the introductory paragraph, the name of Haiti is added after the reference to "France" and before "Italy."

4. In § 94.8 (a) and (c), the phrase "where African swine fever exists," is deleted and the phrase "listed in this section" is inserted in lieu thereof.

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141.)

This amendment is of an emergency nature and must be made effective immediately to protect domestic swine against the introduction of African swine fever from Haiti. It excludes intransit shipments of pork and pork products that are aboard a carrier moving to the United States at the time of issuance hereof. Such intransit shipments, upon arrival in the United States, shall either be allowed entry or be disposed of only under such specific requirements and in such a manner as the Administrator may determine, in each specific case, to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 3d day of October 1978.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-28370 Filed 10-6-78; 8:45 am]

[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION*

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the Office of the General Counsel of the Department of Energy under 10 CFR Part 205, subpart F, during the period September 1, 1978, through September 30, 1978. Also attached is a modification of interpretation 1978-33, issued to the Independent Oil Compounders Association on June 6, 1978. See appendix below for subjects and interpretations issued.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

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These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

Also published today is interpretation 1978-33 which was modified in accordance with 10 CFR 205.85(d). The modification does not alter the decision reached in interpretation 1978-33.

Issued in Washington, D.C., October 3, 1978.

EZRA C. LEVINE,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX

Number, To, Date, and Category

1978-57, Yellow Cab Co. of Philadelphia; Gulf Oil Co.—United States, September 20, Allocation.
1978-58, Campbell H. Elkins and El Ran, Inc., September 22, Price.
1978-59, E. E. Ryall, September 26, Allocation.
1978-33M, The Independent Oil Association, August 8, Allocation.

INTERPRETATION 1978-57

To: Yellow Cab Company of Philadelphia, Gulf Oil Company—U.S.
Date: September 20, 1978.
Rule Interpreted: 10 CFR 210.62(a).
Code: GCW-AI—Normal Business Practices, Supplier/Purchaser Relationship.

* EDITORIAL NOTE.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

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FACTS

Gulf Oil Company—U.S. (Gulf), a division of Gulf Oil Corporation, has for each month in 1972 and subsequent thereto sold motor gasoline to Yellow Cab Company of Philadelphia (Yellow Cab), the largest taxicab company operating in the Philadelphia metropolitan area. Yellow Cab is a wholesale purchaser-consumer [1] and its relationship with Gulf for the purchase of motor gasoline is therefore subject to the provisions of the Mandatory Petroleum Allocation Regulations.

Prior to April 1, 1978, and throughout 1972, the payment terms applicable to the supply of motor gasoline by Gulf to Yellow Cab were cash on delivery (c.o.d.) at Yellow Cab's delivery locations. Pursuant to these terms, Yellow Cab paid by check a total of XXXXXXXXXX on March 29 and 31, 1978, for deliveries of motor gasoline made on those dates.

On April 1, 1978, Yellow Cab filed a petition for arrangement under Chapter XI of the Federal Bankruptcy Act with the United States District Court for the Eastern District of Pennsylvania. In that proceeding, the bankruptcy judge ordered:

"that the bank accounts presently maintained by the Debtor [Yellow Cab] shall be closed, and all funds presently on deposit to the credit of the Debtor in said accounts shall be transferred to new accounts to be opened in said banks, or certain of said banks, entitled 'YELLOW CAB COMPANY OF PHILADELPHIA, Debtor-in-Possession.'"

As a result of this order, Yellow Cab lost all authority to pay out any sums of money for indebtedness accrued prior to April 1, 1978, except through a plan of arrangement or liquidation. Accordingly, the drawee bank dishonored the checks totaling XXXXXXXXXX which Yellow Cab had used as payment to Gulf for the March 29 and 31 deliveries of motor gasoline. Gulf, however, continued to supply Yellow Cab with its product allocation while demanding that the cab company make arrangements to pay the outstanding debt. On May 19, 1978, Gulf concluded that the necessary arrangements were not being implemented by Yellow Cab and therefore gave notice that all deliveries of motor gasoline would be terminated commencing May 25, 1978.

At the request of Yellow Cab, the United States District Court for the Eastern District of Pennsylvania per a bankruptcy judge granted on May 25, 1978, a temporary restraining order against Gulf directing the firm to continue supplying gasoline to Yellow Cab. Subsequently, the order was amended to provide:

"At such time as a final response of the United States Department of Energy to the Request for Interpretation has been issued, it shall be filed of record and the parties hereto or either of them, shall then be permitted to seek such further action with respect to continuation or termination of this injunction as they deem appropriate."

In the request for interpretation filed jointly by Yellow Cab and Gulf, the taxicab company contends that the supplier/purchaser relationship between the two parties should be preserved since there has been no breach of the normal business practices rule. Yellow Cab further argues that upon approval by creditors of an arrangement of debts, Gulf may subsequently be compensated in whole or in part for the outstanding debt, depending on its position with respect to the other creditors. Gulf, however, maintains that Yellow Cab's failure to pay for the product delivered on March 29 and 31 was not in compliance with the normal business practices rule, thereby warranting suspension of deliveries of motor gasoline until such time as Yellow Cab makes payment for its outstanding debt.

Presently, in accordance with the order from the District Court, Gulf is supplying gasoline to Yellow Cab on a c.o.d. basis, and Yellow Cab is making payment by certified check.

ISSUE

Does Yellow Cab's failure to meet its payment obligations of March 29 and 31 constitute a breach of the normal business practices rule in 10 CFR 210.62 warranting a suspension in the delivery of motor gasoline by Gulf?

INTERPRETATION

For the reasons set forth below, it has been concluded that Gulf may not suspend its deliveries of motor gasoline to Yellow Cab since there has not been a substantial failure to arrange proper payment by Yellow Cab for deliveries of that product.

The Mandatory Petroleum Allocation Regulations, set forth at 10 CFR Part 211, were adopted on January 14, 1974, 39 FR 1924 (January 15, 1974), and were intended to apply to the allocation of "crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States" (10 CFR 211.1). Those regulations were adopted to implement the statutory mandate of Section 4(a) of the Emergency Petroleum Allocation Act of 1973 (the EPAA), as amended, Pub. L. No. 93-159 (November 27, 1973).[2]

Subpart F of the Mandatory Petroleum Allocation Regulations provides for the mandatory allocation of "all motor gasoline produced in or imported into the United States." 10 CFR 211.101(a).[3] According to § 211.105(a) of that subpart, unless specified otherwise, the provisions of §§ 211.9-211.13 apply to supplier/purchaser relationships involving motor gasoline. Section 211.9(a)(1) directs the maintenance of certain supplier/purchaser relationships and provides:

"Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part."

The applicable "base period" for motor gasoline as set forth in § 211.102 is "the month of 1972 corresponding to the current month." Thus, pursuant to § 211.105 (with its reference to § 211.9(a)(1)) suppliers of motor gasoline must maintain their supplier/purchaser relationships with wholesale purchaser-consumers in effect during the 1972 base period, utilizing the allocation levels provided in § 211.103.

However, the allocation regulations do not require a supplier to sell allocated products to purchasers who do not arrange proper credit or payment for those products. In that regard, § 210.62(a) provides in part:

"Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product . . . *Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for allocated products, as customarily associated with that class of purchaser during the base period* (for seasonal credit), *or on May 15, 1973* (for other credit terms)." [Emphasis added.]

In light of the goals and purposes of the Mandatory Petroleum Allocation Regulations, the issue of whether a purchaser's failure to pay a supplier for deliveries of allocated product will result in a termination of a supplier/purchaser relationship will be scrutinized on a case by case basis. That examination will focus upon whether or not there has been a "substantial" deviation from normal credit practices to the detriment of the supplier. In a situation where the supplier alleges that the purchaser has failed to properly arrange credit and payment for sales of an allocated product, great consideration will be given to the magnitude and duration of harm to the supplier. Minor and infrequent delays in payment over an extended period of time do not usually warrant a total cessation of product deliveries. However, where a purchaser has exhibited a pattern of late payments or has failed to make payments altogether to the disadvantage of the supplier, termination of the supplier's obligation to supply that purchaser may be permissible. See *Mack C. Colt, Inc.*, Interpretation 1978-56, 43 FR 40209 (September 11, 1978).

In the case presently under consideration, Yellow Cab failed to make proper payment to Gulf for motor gasoline delivered on March 29 and 31 as a result of an order by a Federal bankruptcy judge directing that the bank accounts of Yellow Cab, effective April 1, 1978, "shall be closed." That order originated from a proceeding for arrangement under Chapter XI of the Federal Bankruptcy Act with respect to the taxicab business operated by Yellow Cab in and around Philadelphia. The judge further ordered that Yellow Cab be designated a "Debtor-in-Possession," and from April 1, 1978, forward, be directed to handle all future obligations on a priority basis as expenses of administration. Since that time Yellow Cab has made all payments for its allocation of gasoline on a timely basis and in accordance with the normal business practices in effect between Yellow Cab and Gulf. Thus, although Yellow Cab's checks totaling $15,391.10 were not honored by its bank upon presentment by Gulf on or after April 1, 1978, on all other occasions before and after that date Yellow Cab has conformed substantially with the terms of its agreement with Gulf and has thus complied with the normal business practices rule of § 210.62.[4]

After evaluating the facts presented by Gulf and Yellow Cab, the DOE has concluded that there are insufficient grounds for allowing Gulf to terminate or to temporarily suspend deliveries of motor gasoline to Yellow Cab.[5] This conclusion takes into consideration the lack of previous disruptions in the business relations of the two parties, as well as the priority status assigned by the bankruptcy judge to all future obligations incurred by Yellow Cab for purchases of motor gasoline. So long as Gulf is delivering product to Yellow Cab on a c.o.d. basis and is receiving certified checks for its product, it is not in any way disadvantaged by the continuance of this supplier/purchaser relationship. In addition, Gulf is only temporarily prevented from obtaining compensation for the product it delivered to Yellow Cab on March 29 and 31 until such time as a plan of arrangement is agreed upon. At that point, Gulf may be compensated in full or in part depending upon the number of other existing debts and the amount of funds available to pay them.

Based on the foregoing, a termination of Gulf's supplier/purchaser relationship with Yellow Cab, whether temporary or permanent, is not in accordance with the goals of the EPAA and the Mandatory Petroleum Allocation Program.[6] To permit a suspension or cessation of product deliveries by suppliers for occasional payment delays or other minor business difficulties could foster instability and uncertainty among all purchasers as to the security of their supplies. Accordingly, based on the facts presented at this time by Gulf and Yellow Cab, Gulf may not suspend or terminate deliveries of motor gasoline to Yellow Cab.[7]

INTERPRETATION 1978-58

To: Campbell H. Elkins and El Ran, Inc.
Date: September 22, 1978.
Rules Interpreted: 10 CFR 212.54 and 212.72.
Code: GCW-PI—Definition of Property.

FACTS

In August of 1977, Campbell H. Elkins (Elkins), a crude oil producer, acquired the production rights to oil and gas leases from Westland Energy Corporation (Westland), in a single lease instrument.[1] The leased area had formerly been leased to Sinclair Oil and Gas Company (Sinclair), which obtained working interest rights in 1967 and 1968 pertaining to a tract of land of approximately 40 acres. Sinclair failed to drill any producing wells on the tract, and all rights thereto were released in 1972 by Atlantic Refining Company, successor to Sinclair.

In 1974, the undivided interest owners leased their interest in the subject tract to Macdonald Oil Corporation and its successor Adobe Oil and Gas Corporation. Both companies failed to exercise their rights in the lease, and in 1977, Westland, the present lessee of the tract, exercised the right to assign the lease to Elkins.

El Ran, Inc. (El Ran), a crude oil producer, will operate the crude oil wells which Elkins proposes to drill on the leased acreage.

According to Elkins, crude oil was not produced from the leased area in 1972, and is not presently being produced from the leased area.

ISSUE

1. May crude oil produced from a property that did not produce crude oil in 1972, be treated as "new" crude oil pursuant to 10 CFR Part 212, Subpart D?

2. When would the Elkins property qualify as a stripper well property pursuant to 10 CFR 212.54?

INTERPRETATION

From the information presented by Elkins, it has been determined that the leased acreage acquired by Elkins in 1977, is a single property which did not produce crude oil in 1972.

The term "property" is defined in 10 CFR 212.72, in relevant part, as "the right to produce domestic crude oil, which arises from a lease or from a fee interest." The meaning of the terms "property" and "lease" was reviewed in detail by the Department of Energy (DOE) in Ruling 1977-1, 42 FR 3628 (January 19, 1977), in which it was concluded that, for price control purpose in those cases involving an oil and gas lease, "property" is the right to produce crude oil from specific leased premises, rather than the right only as vested in a particular lessee. Thus, since Elkins acquired the right to produce on the leased acreage, which was historically treated as a single tract since the original conveyance to Sinclair, Elkins acquired a "property" for purposes of 10 CFR Part 212, Subpart D. *See e.g. Meridian Oil Corp.*, Interpretation 1977-46, 43 FR 1481 (January 10, 1978).

Moreover, all crude oil produced from the property is "new" crude oil subject to the upper tier ceiling price rule in 10 CFR 212.74. "New crude oil," defined in 10 CFR 212.72, generally consists of the incremental crude oil *production above the property's historic base production control level (BPCL)*[2] (if any), less any current cumulative deficiency. If *no* crude oil was produced from a tract in 1972, the BPCL is zero. Therefore, with respect to the Elkins property, all crude oil production will qualify as upper tier crude oil, as defined in 10 CFR 212.74.

"Average daily production" is defined in 10 CFR 212.54(c) as:

In its submission, Elkins also requests guidance concerning the qualification of the property as a stripper well property. "Stripper well property" is defined in 10 CFR 212.54(c) as:

"a 'property' whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972."

"the qualified maximum total production of crude oil (excluding condensate recovered in non-associated production) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property in that 12-month qualifying period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production."

Thus, the property would qualify as a stripper well property if crude oil is produced from the property at the stripper well levels of less than 10 barrels per well per day for 12 consecutive months. *See e.g. H.H. Weinert Estate*, Interpretation 1978-9, 43 FR 15620 (April 14, 1978); *Rustex Oil, Inc.*, Interpretation 1978-5, 43 FR 12852 (March 28, 1978). Upon its certification as a stripper well property, crude oil produced from the Elkins property is eligible to receive "exempt" prices as set forth in 10 CFR 212.54(a).

INTERPRETATION 1978-59

To: E. E. Ryall.
Date: September 26, 1978.
Rules Interpreted: 10 CFR 211.9; 211.51.
Code: GCW - AI—Supplier/Wholesale Purchaser-Reseller Relationship.

FACTS

Since June 1, 1970, E. E. Ryall (Ryall) has operated as a consignee of petroleum products (principally motor gasoline), allocated under the Mandatory Petroleum Allocation Regulations, for Texaco, Inc. (Texaco), in

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[1] Wholesale purchaser-consumer is defined in 10 CFR 211.51 to mean: "Any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which * * * purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971."

[2] 15 U.S.C. § 751 *et seq.* (1976).

[3] Adopted January 5, 1974, 39 FR 1924 (January 15, 1974).

[4] Neither Yellow Cab nor Gulf has alleged any other difficulties with respect to their business dealings.

[5] The DOE has not addressed the issue of whether the facts presented would justify an alteration of credit terms since neither party raised that question in their interpretation request. The agency has previously considered that issue in *Crystal Oil Company*, 1 FEA ¶20,161 (November 8, 1974).

[6] It should be noted that in § 4(b) (1) (B) of the Emergency Petroleum Allocation Act, the Congress expressly directed that the mandatory petroleum allocation regulations "to the maximum extent practicable" provide for "maintenance of all public services * * * (including transportation facilities and services which serve the public at large)." The conclusion reached in this interpretation, with respect to the supply obligation of Gulf to Yellow Cab—a provider of transportation services to the public—is fully consistent with, and in furtherance of, this statutory objective.

[7] This interpretation relied upon the facts submitted by the parties on July 13, 1978, and does not constitute a permanent bar to any future termination of the supplier/purchaser relationship should it be warranted by a change in the facts.

[1] This leased acreage is located in the Southeast Quarter, Section 34, Township South, Range East in Roosevelt County, New Mexico.

[2] "Base production control level" means: * * *

"(2) with respect to months commencing after January 31, 1976, except as provided in § 212.76, either: (A) the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; or (B) if the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(1) [sic], the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned." (10 CFR 212.72)

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Vero Beach, Florida. Under the terms of the Consignment Agreement (Agreement), Ryall obtains motor gasoline and other products from Texaco storage facilities for delivery to retail outlets in and around Vero Beach at prices and terms fixed by Texaco. Title to the products remains with Texaco. The Agreement consists of Texaco standard Form S-82 as amended by standard Form S-368.

The Agreement provides that Ryall, as a consignee, is free to sell to any purchasers he selects for cash or properly authorized credit. Ryall may also extend credit to customers on his own account without authorization from Texaco, but in such cases becomes responsible to Texaco for the amount of the sale.

The Agreement further requires Ryall to keep records of all sales, deliveries, inventory, and receipts, which are subject to audit by Texaco. He is required to pay for any shortages of products consigned to him by Texaco if such shortages are disclosed in an audit by Texaco. He carries liability insurance on his business operations, which also covers the petroleum products consigned to him by Texaco, even though title to these products remains with Texaco. Ryall has a capital investment in trucks and operating equipment, and uses his own equipment to pick up and deliver Texaco products. He carries health and life insurance for his employees. Texaco does not withhold Federal income or Social Security taxes on the commissions it pays to Ryall.

Since June 1973, Texaco has made direct deliveries to three stations which were served by Ryall during each month of 1972—the base period for motor gasoline.

ISSUE

Is Ryall a wholesale purchaser-reseller as that term is defined in 10 CFR 211.51?

INTERPRETATION

It has been concluded that Ryall, a consignee agent of Texaco, operating pursuant to the Consignment Agreement mentioned above, is a wholesale purchaser-reseller as defined in 10 CFR 211.51.

Wholesale purchaser-reseller is defined in 10 CFR 211.51 as:

"any firm which purchases, receives through transfer, or otherwise obtains (*as by consignment*) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form." (Emphasis added.)

The use of the term "as by consignment" in the definition of wholesale purchaser-reseller was interpreted in Ruling 1975-8, 40 FR 30037 (July 17, 1975). In that Ruling, it was determined that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition of wholesale purchaser-reseller solely on the ground that they fail to take legal title to the allocated product. Those consignees which have a substantial degree of operational independence in conducting their business of transferring and selling a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers pursuant to § 211.51. These firms are subject to the same benefits and obligations of the Mandatory Petroleum Allocation Program which apply to other wholesale purchaser-resellers.

According to Ruling 1975-8, a consignee that qualifies under 10 CFR 211.51 as a wholesale purchaser-reseller will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's product; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing products solely to customers designated by the supplier.

The pertinent facts in this case are identical to those in another Texaco consignee case, *Warren Stevenson*, Interpretation 1978-46, 43 FR 34437 (August 4, 1978). In *Stevenson* it was noted at 34438:

"Although the Agreement specifies the status of its distributors as that of 'consignee-agent,' this nomenclature is not determinative of Stevenson's status. It is only necessary that the consignee meet most of the four qualifications contained in Ruling 1975-8 to satisfy DOE that the 'consignee' is in fact a wholesale purchaser-reseller as defined in 10 CFR 211.51."

Ryall, like Stevenson, has appropriate facilities and equipment for conducting his business, is responsible for the internal financial management and physical and administrative operations of his business, is responsible for certain of the expenses and liabilities arising from and connected with the business of transfer and sale of the products, and has independent control to enter into and to terminate supply relationships.

An additional element discussed in *Stevenson* which has a bearing on this case is the fact that Texaco's consignee agreement with Ryall, like that in *Stevenson*, is substantially the same as agreements analyzed in *National Association of Consignees, Inc.*, Interpretation 1975-19, 42 FR 23736 (May 10, 1977) and *John Hattenhauer*, Interpretation 1977-20, 42 FR 39963 (August 8, 1977). In those two interpretations, also involving Texaco consignee agreements, it was determined that under the terms of the consignee agreement, the Texaco consignees retained sufficient functional autonomy in the distribution and sale of Texaco products to qualify as wholesale purchaser-resellers.

In light of the standards set forth in Ruling 1975-8, as interpreted in *Stevenson*, *National Association of Consignees, Inc.*, and *Hattenhauer*, and the facts presented by Ryall, it has been determined that Ryall is a wholesale purchaser-reseller as defined by 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations.

In addition, Ryall's request for interpretation raises questions involving Texaco's direct supply of three motor gasoline retail outlets that were supplied by Ryall during the base period. Although, based on the facts presented by Ryall, it is clear that pursuant to § 211.9 Ryall is the base period supplier of the three retail outlets (since Ryall supplied them with motor gasoline during each month of 1972), it is also clear that the retail outlets need not purchase their base period allocation of product from that firm. *See Swann Oil, Inc.*, Interpretation 1974-19, 42 FR 25657 (May 18, 1977). Thus, the three retail outlets having a supplier/purchaser relationship with Ryall may elect to purchase motor gasoline from Ryall, Texaco, or any other supplier (subject, of course, to the provisions of § 211.10(g)(7) concerning surplus product). However, the only assured source of supply for these three retail gasoline stations is their base period supplier, Ryall. Texaco's supply of the three retail outlets that are not its base period purchasers does not unilaterally shift the § 211.9 supply obligation for those outlets from Ryall to Texaco. Texaco must continue to supply or offer to supply Ryall with its entire base period allocation of motor gasoline, including an amount representing base period entitlement of product for the three retail stations. *See John Hattenhauer, supra.*

Accordingly, Ryall is a wholesale purchaser-reseller as defined in § 211.51, and is entitled to receive its entire adjusted base period allocation of product from Texaco.

INTERPRETATION 1978-33M

To: The Independent Oil Compounders Association.
Date: August 8, 1978.
Rule Interpreted: 10 CFR 212.31.
Code: GWC-PI—Definitions of Refiner, Reseller, and Retailer.

FACTS

The Independent Oil Compounders Association (IOCA) is an association representing "independent compounders," that is, firms engaged in the sale of finished lubricants produced by blending and compounding lubricant oil base stocks. For purposes of this interpretation, IOCA has defined independent compounders as those firms which: (1) Have less than $75 million in annual sales of finished lubricants; (2) are neither owned nor controlled by a firm which is a producer or refiner of crude oil and which also refines lubricant base oil stocks; and (3) blend or compound lubricant oil base stocks purchased from crude oil refineries to produce finished lubricants, repackage and resell lubricants previously finished by crude oil refineries, or simply resell such previously finished lubricants without repackaging them.

In its request for interpretation, IOCA seeks a determination of whether the refiner price rule, contained in 10 CFR Part 212, Subpart E, or the reseller/retailer price rule, contained in 10 CFR Part 212, Subpart F, applied to sales of finished lubricants by independent compounders during the period when finished lubricants were subject to the Mandatory Petroleum Price Regulations.[1]

This determination turns on the definitions of "refiner," "reseller," and "retailer"

[1] Finished lubricants and lubricant oil base stocks were deleted from the definition of covered products effective September 1, 1976, in 41 FR 30096 (July 22, 1976). A previous interpretation was issued to IOCA dealing with the extent to which finished lubricants were subject to the price regulations prior to September 1, 1976. *See Independent Oil Compounders Association*, Interpretation 1977-50, 43 FR 1484 (January 10, 1978). This interpretation, however, did not reach the question of whether independent compounders were refiners or resellers and retailers for purposes of the price regulations

in 10 CFR 212.31. Pursuant to these definitions, it must be determined whether independent compounders "substantially change" the form of the lubricant oil base stocks they process, in order to determine which price rule is applicable. This is because refiners are those firms which blend and substantially change covered products, whereas resellers and retailers do not. To assist in this determination, IOCA has supplemented its request for interpretation with technical information on the basic processes by which the two main forms of finished lubricants—lubricating oils and greases—are produced. This information is summarized below.

In producing finished lubricating oils, independent compounders purchase various lubricant oil base stocks[2] from crude oil refineries, and blend and compound these stocks with various oil-soluble additives to achieve specified lubricating qualities for each finished lubricating oil. Industrial and commercial demand for various lubricating properties varies greatly, and independent compounders may produce as many as 100 different lubricating oils, each one blended to meet the specifications for a particular use.

The process of blending and compounding lubricating oils does not involve physical separation or chemical reaction processes. It is a mixing operation where lubricant oil base stocks and additives are mechanically mixed together in blending tanks. In some cases, heating is required to facilitate the blending process. In such cases, the materials are heated in an open (i.e., atmospheric pressure) kettle to temperatures less than 200 degrees fahrenheit.[3]

The second category of finished lubricants, greases, are produced by the interaction of three basic materials: Animal or vegetable fats, alkalies, and lubricant oil base stocks. Normally, lubricant oil base stocks and fats are combined in a pressurized kettle and heated and mechanically mixed until the fat dissolves in the oil, forming a colloidal mixture. An amount of alkali sufficient to neutralize the fat is then added, and the mixture is heated to approximately 350–400 degrees fahrenheit at pressures up to 100 psi for the required amount of time. The mixture is then blown into an open reduction kettle, where continued heating removes moisture. Next, the mixture is forced through a colloidal mill to complete dispersion of the fats. Finally, the mixture is placed through a deaerator/dehydrator, a vacuum device which removes air and moisture from the mixture, a process known as "polishing."

Although IOCA recognizes that the operations of independent compounders are more limited than those of crude oil refineries,[4] it nonetheless seeks a determination that the processes used to produce finished lubricating oils and greases substantially change the form of the lubricant oil base stocks, and that independent compounders are therefore refiners within the meaning of that term in the price regulations. IOCA makes this contention on behalf of all of its member firms, regardless of whether the firm actually blends and compounds lubricating oils and greases, apparently on the theory that it would be more equitable to apply one rule uniformly to all independent compounders.[5]

ISSUE

Prior to exemption from the Mandatory Petroleum Price Regulations, were sales of finished lubricants by independent compounders governed by the refiner price rule, 10 CFR 212.83, or the reseller/retailer price rule, 10 CFR 212.93?

INTERPRETATION

For the reasons discussed below, it has been determined that those independent compounders which blend and compound lubricating oils by a simple mechanical mixing process, and those independent compounders which merely repackage and resell, or simply resell, lubricants previously finished by crude oil refineries, are resellers or retailers for purposes of the Mandatory Petroleum Price Regulations, and are subject to the provisions of 10 CFR Part 212, Subpart F. Independent compounders which produce greases, however, are refiners for purposes of the price regulations, and are subject to the provisions of 10 CFR Part 212, Subpart E.

The starting point for an analysis of whether independent compounders are governed by the refiner price rule or the reseller/retailer price rule under the Mandatory Petroleum Price Regulations is the regulatory definitions of the terms "refiner," "reseller," and "retailer." 10 CFR 212.31 states that:

"Refiner means a firm (other than a reseller or retailer) or that part of such a firm which refines covered products or *blends and substantially changes covered products*, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquefied petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller-retailers or ultimate consumers. * * *

* * * * * *

"Reseller means a firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing covered products, and reselling them *without substantially changing their form* to purchasers other than ultimate consumers.

* * * * * *

"Retailer means a firm (other than a refiner or reseller) or that part of such a firm which carries on the trade or business of purchasing covered products and reselling them to ultimate consumers *without substantially changing their form.*" [Emphasis added.]

The use of a "substantial change in form" test originated in the Phase II price controls under the Economic Stabilization Act of 1970, as amended, Pub. L. No. 91-379 (August 15, 1970).[6] The test was used in the definitions of manufacturer, wholesaler, and retailer, defining a manufacturer as a firm which uses processes that involve a substantial change in the form of its products. *See* 6 CFR 300.5 (Phase II); *see also* 6 CFR 150.31 (Phase IV).

These definitions under the Economic Stabilization Program were the forerunners of the present definitions of refiner, reseller, and retailer. Refiners, who were previously grouped with manufacturers,[7] continue to be classified as firms which substantially change the form of their products. Neither the regulations under the Economic Stabilization Program nor the present Mandatory Petroleum Price Regulations, however, discuss what constitutes a "substantial change" in the context of petroleum refining.

Prior to analyzing the application to the present case of the substantial change in form test, it should be pointed out that the term "independent compounder" as used by IOCA incorporates some firms which only engage in repackaging previously finished lubricants, or simply reselling already finished and packaged lubricants. IOCA concedes in its supplemental submission that these "two categories of independent oil compounders do not 'substantially change' the lubricant base oil stocks * * *." It is clear that such firms are either resellers or retailers, and, during the period when finished lubricants were covered products,[8] such firms were governed by the reseller/retailer price rule.[9] The question which remains, then, is whether independent compounders which blend and compound lubricant oil base stocks to produce finished lubricants "substantially change" those stocks, and are thus to be treated as refiners rather than resellers or retailers.[10]

The question of what constitutes a substantial change in the context of blending

[2] These stocks are produced from the heavy fractions of crude oil, and include, but are not limited to, bright stocks, neutral oils, pale oils, and red oils.

[3] A second mixing process for lubricating oils, the "continuous in-line method," uses proportioning pumps to inject appropriate amounts of base stocks and additives into a stream, which is passed through a mixing unit. Where additives are highly viscous, they are injected through heated lines or by high-pressure pumps.

[4] It should be noted that many crude oil refineries produce finished lubricants by processes similar to those outlined above, as a final step in refining crude oil.

[5] As is apparent from IOCA's definition of independent compounder, some firms merely repackage and resell, or simply resell, lubricants previously finished by crude oil refineries.

[6] 12 U.S.C. § 1904 note (1976) (expired April 30, 1974).

[7] *See* 6 CFR 300.5 (Phase II); 6 CFR 150.31 (Phase IV).

[8] *See* n. 1, *supra.*

[9] As noted earlier, in its request for interpretation, IOCA seeks uniform price rule treatment for all of its member firms. The treatment to be accorded an independent compounder, however, must be determined on a case-by-case basis, with the activities of each firm being judged against the regulatory definitions of refiner, reseller, and retailer. The determinations reached in this interpretation with respect to certain blending and compounding processes, however, will provide valuable guidance to IOCA and its member firms in assisting them to determine whether their activities constitute refining rather than reselling or retailing.

[10] Any independent compounder which employs processes significantly different from those discussed in this interpretation may apply to the DOE for a determination of whether it is to be classified as a refiner or a reseller/retailer. Also, any firm which believes that it works a substantial change in the form of the products it produces may request an interpretation based upon the specific base materials and processes used by that firm, and the final products which that firm produces. Each such determination, of course, will depend upon the facts and circumstances of that case.

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and compounding processes was recently addressed in *Tristate Oil and Asphalt Sales, Inc.*, Interpretation 1978-22, 43 FR 25079 (June 9, 1978). Tristate is a firm which primarily produces asphalt products and road oil, but which also processes reduced crude oil and other unfinished products to produce residual fuel oils.

In *Tristate*, the DOE concluded that the blending and compounding processes used to produce the residual fuel oils were refining activities. This determination rested upon three factors. First, the residual fuel oil production was undertaken in the context of the manufacture of various asphalt products, which processes clearly involved substantial changes in form from the base materials. Second, Tristate significantly altered many characteristics of the unfinished base materials used to produce residual fuel oil. Third, the processes used by Tristate, which involved heating, secondary blending ingredients, and sophisticated technical control of the various changes effected, indicated that more than mere blending was taking place. The combination of all of these factors required that Tristate's activities be deemed refining activities within the meaning of § 212.31. The DOE cautioned, however, that:

"The determination that Tristate 'substantially changes' as well as blends covered products is based upon the unique factual situation presented in this case. Other firms which blend covered products do not necessarily 'substantially change' them, by virtue of the blending operation. In doubtful cases DOE will determine whether a firm is more appropriately classified as a refiner or reseller/retailer based on the particular facts and circumstances in each case."

Tristate makes clear, then, that determining whether a blending and compounding process substantially changes the form of the base materials requires an evaluation of all the factors surrounding the process. The first such factor is the context in which the process occurs. In the present case, independent compounders are engaged solely in the production of finished lubricants, and do not produce refined petroleum products other than lubricating oils and greases. This differs significantly from crude oil refineries, which may also produce finished lubricating oils and greases, but do so as a final step in the full range of refining processes, commencing with crude oil and ending with numerous refined petroleum products, including finished lubricants.

Second, it is important to note that lubricant oil base stocks are a form of finished petroleum product which does not require further distillation or related processing. The Federal Energy Administration (FEA), a predecessor agency to the DOE, recognized this in *Preliminary Findings and Views Concerning the Exemption of Naphtha, Gas, Oil, and "Other Products" from the Mandatory Petroleum Allocation and Price Regulations* (*Preliminary Findings*), a report issued June 4, 1976. The report noted that "[l]ubricating base stock oils are refined petroleum products which are primary components used in the compounding and blending of lubricants and greases." *Preliminary Findings* at 23. The report also stated that "• • • lubricating base stock oils • • • are finished products produced at the refinery • • •." *Preliminary Findings* at 182. "The fact that lubricant oil base stocks are deemed finished petroleum products suggests that further processing of those stocks would normally not involve a refining process.

A third factor which must be taken into account is the process used in blending and compounding the lubricant oil base stocks. As was noted earlier, lubricating oils are produced by a mechanical mixing process which occurs at atmospheric pressure and may be accompanied by heating. Greases are produced by dissolving fats and alkalies in lubricant oil base stocks under pressure and at high temperatures. The greater the scope of the process, and the more drastic the operation, the more it is likely that the process will substantially change the form of the lubricant oil base stocks.

Finally, and most important, a comparison between the condition and qualities of the lubricant oil base stocks and the finished lubricating oils and greases will indicate the degree to which the blending and compounding processes have changed the form of the lubricant oil base stocks. The important consideration here is a comparison of the degree of change from the lubricant oil base stocks, for, as the definition of refiner indicates, the change must be substantial in order to be considered refining.

Applying these four factors to the present case, of course, the first two factors mentioned above are identical in evaluating the production by independent compounders of both lubricating oils and greases. Independent compounders do not process crude oil or produce refined petroleum products other than lubricating oils and greases, and the beginning materials for both, lubricant oil base stocks (which are themselves a form of finished petroleum products), are the same. Both of these factors tend to indicate that the activities of independent compounders are not refining activities. Evaluation of the remaining two factors, however, reveals fundamental differences between the production of lubricating oils and greases, differences which compel the conclusion that a substantial change in form occurs in the manufacture of greases but not in the production of lubricating oils.

In considering the third factor as applied to lubricating oils, that is, the processes used to produce those oils, it is apparent from the outset that mere mechanical mixing of similar oils, resulting in a finished oil which is similar to its component parts, will not work a substantial change in the form of those component parts. For instance, in *Albina Fuel Co.*, Interpretation 1975-74, 42 FR 23787 (May 10, 1977), a retailer loaded light (PS 300) and industrial weight (PS 400I) residual fuel oil into a truck. By the time the truck reached its destination, the oil had become sufficiently mixed to permit the retailer to sell the oil as medium (PS 400M) residual fuel oil. There was no suggestion in *Albina* that this activity substantially changed the form of the residual fuel oil.

Similarly, the recent rulemaking entitled *Resellers and Retailers—Blends of Covered and Non-Petroleum-Based Products*, 43 FR 24265 (June 5, 1978), indicates that the blending of materials as diverse as gasoline and non-petroleum products such as ethyl alcohol is not a refining activity. In that amendment to the reseller/retailer price rule, there is no suggestion that firms engaging in such blending are substantially changing the form of the gasoline or otherwise acting as refiners.

Further, the condition and qualities of lubricant oil base stocks and finished lubricating oils do not differ substantially. The stocks are themselves lubricating oils which need only to be altered in relatively minor respects to achieve the precise lubricant qualities desired. The beginning and end products are similar in that they are both lubricating oils. The DOE concludes, therefore, that, taking all of the factors discussed above into consideration, the processes by which various lubricant oil base stocks are mixed, together with additives, to produce finished lubricating oils do not cause a substantial change in the form of the lubricant oil base stocks, and that independent compounders which produce lubricating oils are resellers or retailers for purposes of the Mandatory Petroleum Price Regulations.[12]

Greases, however, fare differently under an analysis of the third and fourth factors than do lubricating oils. First, the processes used to produce greases differ greatly from those used to produce lubricating oils. They involve the high temperature, pressurized dispersion of fats and alkalies in the lubricant oil base stocks, followed by milling and polishing. These processes, which involve a degree of chemical change, and are more extensive and technically more complicated than those used in blending lubricating oils, are indicative of the more substantial changes that lubricant oil base stocks undergo when being processed into greases.

Second, there is a dramatic difference between the condition and qualities of lubricant oil base stocks and finished greases. The stocks are transformed into a viscous lubricant with properties quite different from the base stocks. The DOE concludes, therefore, that the manufacture of greases brings about a sustantial change in the form of the lubricant oil base stocks, and that independent compounders which produce greases are refiners for purposes of the Mandatory Petroleum Price Regulations.

[FR Doc. 78-28336 Filed 10-6-78; 8:45 am]

"In this connection it should be noted that "unfinished oils" are defined in 10 CFR 212.31 as "all oils requiring further refining, i.e. any operation except mechanical blending or use as an additive."

[12] In reaching this conclusion, the DOE has also considered the decision and order in *Ryder System, Inc.*, 1 FEA ¶20,742 (December 16, 1974). There, a subsidiary of Ryder operated a "gasoline blending facility" at which it blended various chemicals, natural gasoline, and motor gasoline to produce different grades of motor gasoline. The decision and order found that Ryder's subsidiary was a refiner, noting that the "gasoline blending facility substantially changed the composition of the various products which are used to produce motor gasoline • • •." 1 FEA at 20,947. The decision and order, however, provides no discussion of the processes used to produce the motor gasoline, and apparently relies on a change in *composition* rather than a change in the *form* of the base materials. Accordingly, it is impossible to meaningfully apply the result in *Ryder* to the present case.

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-SO-46; Amdt. 39-3313]

PART 39—AIRWORTHINESS DIRECTIVES

Gulfstream American Corp., Model G-1159

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Since the issuance of AD 78-14-06, additional information has been obtained on the cause of the outer cabin window pane failures. This amendment revises AD 78-14-06 to require: (1) Compliance with the applicable Customer Bulletin, and (2) that an applicable Airplane Flight Manual Revision be incorporated. Since the issuance of AD 78-14-06, the manufacturer has issued service instructions dealing with this problem.

DATES: Effective October 9, 1978. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable GAC Customer Bulletin and Airplane Flight Manual Interim Revision may be obtained from Gulfstream American Corp., P.O. Box 2206, Savannah, Ga. 31402, telephone 912-964-3000. A copy of these documents is also located in Room 275, Engineering and Manufacturing Branch, Federal Aviation Administration, 3400 Whipple Street, East Point, Ga.

FOR FURTHER INFORMATION CONTACT:

Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: Since the issuance of AD 78-14-06, additional information has been obtained on the cause of the two cabin window outer pane failures so that the inspection and/or cabin pressure differential limitations are required only for aircraft which have any reduced thickness outer window panes installed, and have 600 or more landings on those window panes. Although only outer cabin window panes which have a reduced outer flange are affected; it is difficult to determine in the field, even with the frame assembly and window removed, whether that window has a reduced flange. A customer bulletin in now available which defines the inspection and replacement procedures. A requirement has also been added to incorporate an Airplane Flight Manual Interim Revision (AFM Interim Revision).

With respect to the requirements for the AFM Interim Revision, the FAA believes that since the operational limitations referenced in that Revision were required by AD 78-14-06, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days. The other provisions required by this revision relieve a restriction on some aircraft and impose no additonal burden on any person; therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-3261, AD 78-14-06, is amended to read as follows:

GULFSTREAM AMERICAN CORP. (GAC) (Formerly Grumman American Aviation Corp.): Applies to GAC Model G-1159, serial numbers 1 through 229, and 775, airplanes certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent cabin window pane failure and possible engine damage, accomplish the following:

1. Prior to the accumulation of 600 landings on any window, or within the next 10 landings after the effective date of this AD, whichever occurs later, accomplish the following:

A. Inspect and replace all outer cabin window panes in accordance with GAC Customer Bulletin 270A, dated September 18, 1978, or later revision approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region. The visual checks for cracks required by Customer Bulletin 270A may be performed by the pilot. The remaining provisions of this AD apply to aircraft with any reduced thickness outer cabin window pane installed with 600 or more landings.

B. Restrict airplane operations to a maximum cabin pressure differential of 8.0 psi and install one of the following placards on the instrument panel in full view of the pilot, or in an equivalent location approved by the FAA, utilizing a minimum of one-eighth inch high letters with the wording:

1. DO NOT EXCEED A MAXIMUM CABIN PRESSURE DIFFERENTIAL OF 8.0 PSI. THE TABLE CONTAINED IN GAAC LETTER DATED JUNE 20, 1978, MAY BE UTILIZED. COMPLY WITH THE INSPECTION REQUIREMENTS OF AD 78-14-06 PRIOR TO EACH FLIGHT.

2. DO NOT EXCEED A MAXIMUM CABIN PRESSURE DIFFERENTIAL OF 8.0 PSI.

C. Incorporate G-1159 Airplane Flight Manual Interim Revision No. 19-5 dated September 21, 1978, in the Basic Airplane Flight Manual dated April 1, 1969.

2. Repeat the inspection and replacement requirements of paragraph (1)(a) of this AD prior to each flight.

3. The inspection requirements and restrictions on operation may be discontinued, and the AFM Interim Revision removed once all affected outer cabin window panes are either replaced with full thickness outer panes identified in accordance with GAC Customer Bulletin 270A dated September 18, 1978, for later revision approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region; or replaced with windows with less than 600 landings.

4. For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type. Alternately, if an operator has recorded pressure cycles, the number of pressure cycles may be used in lieu of landings.

Amendment 39-3261 became effective July 20, 1978.

This Amendment 39-3313 becomes effective October 9, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in East Point, Ga., on September 26, 1978.

GEORGE R. LA CAILLE,
Acting Director.

[FR Doc. 78-28236 Filed 10-6-78; 8:45 am]

[4910-13]

[Docket No. 78-GL-8; Amdt. 39-3314]

PART 39—AIRWORTHINESS DIRECTIVES

Taylorcraft Corp., Model F-19 and BC-12D Series Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and possible replacement of the aileron control sprocket (Taylorcraft Part No. A-230) on the left control wheel. The AD is needed to prevent unsatisfactory aileron stops from working loose and possibly resulting in excessive aileron travel or jamming of the aileron controls.

DATES: Effective October 16, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Taylorcraft Aviation Corp., 14600

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Commerce NE., P.O. Box 243, Alliance, Ohio 44601.

A copy of the applicable service information is contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

T. Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 425.

SUPPLEMENTARY INFORMATION: It was recently determined that unsatisfactory aileron stop pins may have been installed on the aileron control sprocket (Taylorcraft P/N A-230). There is a possibility that these stop pins could work loose and allow excessive aileron travel or jamming of the aileron controls.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

TAYLORCRAFT: Applies to Model BC-12D, Serial Nos. 6923, 8378, 8444, 8570, and 10538, and Model F-19, Serial Nos. F-080 through F-105, F-107 through F-112, and F-115 through F-126 certificated in all categories.

To prevent malfunction of the aileron controls, accomplish the following:

(a) Inspect the two aileron stop pins (Taylorcraft P/N A-235) of the aileron control assembly (Taylorcraft P/N A-A231) prior to next 10 hours time in service after the effective date of this AD or by December 1, 1978, whichever occurs first. The assembly is located on the left side of the control column at the forward end of the control shaft and univeral joint. Determine whether the stop pins are AN393-9 clevis pins as follows: Remove the deck panel (above instrument panel) and set control wheel in neutral position. In this position aileron stop pins will be on top. The proper pins (2) are identified by the flat head of the pins against front face of the sprocket. The flat head is cut partially to clear chain and obtain smooth operation of control. The shank of the stop protrudes approximately ¼". If the sprocket has AN393-9 clevis pins, no further action is necessary.

(b) If the pins are made from 3/16" diameter rod (no head), inspect for the following:

(1) Bent pins,

(2) Loose pins, and

(3) Inadequate protrusion (less than ¼") of pin through aft of sprocket or improper functioning.

(c) If any of the conditions identified in (b) above are present, replace the sprocket prior to further flight.

(d) If the AN393-9 clevis pin is not installed and none of the three conditions in (b) are found, replace the sprocket within 50 flight hours or by May 1, 1979, with a sprocket in which clevis pins (AN393-9) have been installed. Until the sprocket is replaced, reinspect within 10 hours time in service from last inspection. A proper sprocket may be obtained from Taylorcraft Aviation Corp., 14600 Commerce NE., P.O. Box 243, Alliance, Ohio 44601.

Taylorcraft Bulletin No. 78-002 dated September 19, 1978, also applies to the subject matter of this AD.

This amendment becomes effective October 16, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, March 8, 1978).

The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Des Plaines, Ill., on September 25, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-28231 Filed 10-6-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-60]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Picayune, Miss., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Picayune, Miss., transition area. The name of the Picayune Municipal Airport has been changed to Picayune-Pearl River Airport. This action of the city of Picayune, officially changing the name, requires this to be reflected in the transition area description.

EFFECTIVE DATE: 0901 G.m.t., December 28, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: In a regular meeting, the city of Picayune officially changed the name of the Picayune Municipal Airport to Picayune-Pearl River Airport. Therefore, it is necessary to alter the description of the Picayune transition area to reflect the name change. Since this alteration is editorial in nature, notice and public procedures hereon are not necessary.

ADOPTION OF THE AMENDMENT

Accordingly, subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., December 28, 1978, as hereinafter set forth:

In subpart G, § 71.181 (43 FR 440), the Picayune, Miss., transition area is amended as follows:

"• • • Picayune Municipal Airport • • •" is deleted and

"• • • Picayune-Pearl River Airport • • •" is substituted therefor.

"(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on September 25, 1978.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-28230 Filed 10-6-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-50]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, Jamestown, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Jamestown, Tenn., transition area by lowering the base of controlled airspace in the vicinity of the Jamestown Municipal Airport from 1,200 feet to 700 feet above ground level. This action provides necessary airspace for accommodation of IFR operations at Jamestown Municipal Airport.

EFFECTIVE DATE: 0901 G.m.t., November 2, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Monday, July 31, 1978 (43 FR 33257), which proposed the designation of the Jamestown, Tenn., transition area and change of the airport operating status from VFR to IFR. No objections were received from this notice. Accordingly, the airport operating status is changed from VFR to IFR.

ADOPTION OF THE AMENDMENT

Accordingly, Subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation regulations (14 CFR 71) is amended, effective 0901 G.m.t., November 2, 1978, by adding the following:

JAMESTOWN, TENN.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Jamestown Municipal Airport (lat. 36°20'56" N., long. 84°56'47" W.) • • •

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on September 26, 1978.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc. 78-28233 Filed 10-6-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Denver Terminal Control Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: In the rule published in the FEDERAL REGISTER of September 11, 1978, volume 43, page 40213, the geographical coordinates of the Denver Stapleton International distance measuring equipment (DME), latitude 39°45'51" N., longitude 104°53'54" W., were incorrectly stated in the sixteenth line under, "Adoption of the Amendment," paragraph on page 40213. This correction reflects the correct geographic coordinates as latitude 39°45'21" N., longitude 104°53'54" W. Additionally, under "Adoption of the Amendment," boundaries, area A, thirtieth line, page 40213, 1.5 miles was stated incorrectly. This correction reflects the correct mileage as 3.5 miles

EFFECTIVE DATE: November 2, 1978, at 0901 G.m.t.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

SUPPLEMENTARY INFORMATION: FEDERAL REGISTER Document 78-25441 was published on September 11, 1978 (43 FR 40213) with an effective date of November 23, 1978, and altered the Denver Terminal Control Area, Denver, Colo. Incorrect geographical coordinates for the Denver Stapleton DME antenna were inadvertently published. The correct geographical coordinates should have been latitude 39°45'21" N., longitude 104°53'54" W. Additionally, area A, thirtieth line (43 FR 40213) a mileage was incorrectly published as 1.5 miles. The correct mileage should read 3.5 miles.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures, and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, FEDERAL REGISTER Document 78-25441, as published on September 11, 1978, on page 40213, is amended in the coordinates of the Denver Stapleton International DME antenna by deleting the sixteenth line under the "Adoption of the Amendment," paragraph to § 71.401 on page 40213 and substituting latitude 39°45'21" N., longitude 104°53'54" W.

Additionally, by deleting the mileage of 1.5 miles on the thirtieth line of the "Adoption of Amendment," paragraph, boundaries, area A, § 71.401 on page 40213, and substituting 3.5 miles.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on September 29, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-28234 Filed 10-6-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Transition Area, Apalachicola, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Apalachicola, Fla; 700-foot transition area as it is no longer required.

EFFECTIVE DATE: 0901 G.m.t., December 28, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The Apalachicola, Fla., transition area, described in § 71.181 (43 FR 440), was designated to provide controlled airspace for instrument operations at the Apalachicola Municipal Airport. The nondirectional radio beacon which supported the approach procedure at the airport has been decommissioned and the approach procedure has been canceled. Therefore, it is necessary to revoke the transition area as it no longer serves a useful purpose. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

ADOPTION OF AMENDMENT

Accordingly, Subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 28, 1978, by deleting the Apalachicola, Fla., transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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Issued in East Point, Ga., on September 28, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-28327 Filed 10-6-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Fort Stewart, Ga., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Fort Stewart, Ga., control zone. It is necessary to revoke a portion of the control zone since the need for airspace protection no longer exists.

EFFECTIVE DATE: Immediately.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: This amendment will reduce controlled airspace by revoking the control zone extension northeast of the Wright TVOR and remove from the description reference to the TVOR, which the U.S. Army decommissioned on August 11, 1978.

The aforementioned action will reduce the constraints and, in effect, the impact on the public. Therefore, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective immediately, as hereinafter set forth:

In Subpart F, § 71.171 (43 FR 355), the Fort Stewart, Ga., control zone is amended as follows: "• • •; within 3 miles each side of the Wright TVOR 059° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the TVOR • • •" is deleted.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on September 28, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-28328 Filed 10-6-78; 8:45 am]

[4910-13-M]

[Docket No. 18319, Amdt. No. 1121]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Inependence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification, and the amendment number.

This amendment to Part 97 is effective on October 10, 1978, and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking standard instrument approach procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

• • • Effective December 28, 1978:

Battle Creek, Mich.—W. K. Kellogg Regional, VOR Rwy 4 (TAC), Amdt. 12.
Battle Creek, Mich.—W. K. Kellogg Regional, VOR Rwy 22 (TAC), Amdt. 9.
Battle Creek, Mich.—W. K. Kellogg Regional, VOR Rwy 31 (TAC), Amdt. 7.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 17, Amdt. 10.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 23, Amdt. 11.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 35, Amdt. 9.

• • • Effective November 30, 1978:

Valdosta, Ga.—Valdosta Muni., VOR Rwy 35, Amdt. 24.
Bloomington, Ill.—Bloomington-Normal, VOR Rwy 21, Amdt. 13.
East St. Louis, Ill.—Bi-State Parks, VOR/DME-A, Amdt. 5.
Flint, Mich.—Bishop—VOR Rwy 9, Amdt. 17.
Flint, Mich.—Bishop—VOR Rwy 18, Amdt. 10.
Flint, Mich.—Bishop—VOR Rwy 27, Amdt. 13.
Flint, Mich.—Bishop—VOR Rwy 36, Amdt. 6.
Jackson, Mich.—Jackson County—Reynolds Field, VOR Rwy 5, Amdt. 11.
Jackson, Mich.—Jackson County—Reynolds Field, VOR Rwy 13, Amdt. 10.
Jackson, Mich.—Jackson County—Reynolds Field, VOR Rwy 23, Amdt. 13.
Tullahoma, Tenn.—William Northern Field, VOR Rwy 32, Amdt. 5.
Tullahoma, Tenn.—William Northern Field, VOR/DME Rwy 14, Amdt. 2.

• • • Effective November 16, 1978:

Decatur, Ark.—Crystal Lake, VOR/DME Rwy 13, Amdt. 5.
Harrison, Ark.—Boone County, VOR-A, Amdt. 6.
Algona, Iowa—Algona Muni., VOR/DME-A, Amdt. 2.
Abbeville, La.—Abbeville Muni., VOR/DME-A, Amdt. 3.
Boston, Mass.—General Edward Lawrence Logan Int'l, VOR/DME Rwy 15R, Amdt. 13.
Lawrence, Mass.—Lawrence Muni., VOR Rwy 23, Amdt. 6.
Kansas City, Mo.—Kansas City Downtown, VOR Rwy 18, Amdt. 16.
East Hampton, N.Y.—East Hampton, VOR-A, Amdt. 7.
Dickinson, N. Dak.—Dickinson Municipal, VOR Rwy 17, Amdt. 11.
Fargo, N. Dak.—Hector Field, VOR Rwy 35, Amdt. 8.
Oklahoma City, Okla.—Clarence E. Page Muni., VOR-B, Amdt. 3.
Oklahoma City, Okla.—Wiley Post, VOR Rwy 17L, Amdt. 6.
Oklahoma City, Okla.—Wiley Post, VOR-A, Original.
Woodward, Okla.—West Woodward, VOR/DME-A, Amdt. 2.
Bradford, Pa.—Bradford Regional, VOR Rwy 32, Amdt. 3.
Bradford, Pa.—Bradford Regional, VOR/DME Rwy 14, Amdt. 6.
Lancaster, Pa.—Lancaster, VOR Rwy 8, Amdt. 13.
Lancaster, Pa.—Lancaster, VOR Rwy 31, Amdt. 10.

• • • Effective November 2, 1978:

Hilo, Hawaii—General Lyman Field, VOR/DME or TACAN-A, Amdt. 2.
Kahului, Hawaii—Kahului, VOR Rwy 2 (TAC), Amdt. 4.
Kahului, Hawaii—Kahului, VOR Rwy 20, Amdt. 7.
Kahului, Hawaii—Kahului, VOR/DME or TACAN Rwy 20, Amdt. 1.
Kahului, Hawaii—Kahului, VOR/DME or TACAN-A, Amdt. 1.
Chicago (Wheeling), Ill.—Chicagoland, VOR-A, Amdt. 3, canceled.

• • • Effective September 25, 1978:

International Falls, Minn.—Falls International, VOR/DME or TACAN Rwy 31, Amdt. 1.

• • • Effective September 21, 1978:

Charlotte, N.C.—Douglas Muni., VOR Rwy 36R, Amdt. 8.

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

• • • Effective December 28, 1978:

Battle Creek, Mich.—W. K. Kellogg Regional, LOC BC Rwy 4, Amdt. 9.
Kalamazoo, Mich.—Kalamazoo Municipal, LOC BC Rwy 17, Amdt. 11.

• • • Effective November 16, 1978:

Lawrence, Mass.—Lawrence Muni., LOC Rwy 5, Amdt. 3.
Nantucket, Mass.—Nantucket Memorial, LOC (BC) Rwy 6, Amdt. 4.

• • • Effective November 2, 1978:

Kahului, Hawaii—Kahului—LOC/DME(BC) Rwy 20, Amdt. 5.

• • • Effective September 21, 1978:

Wrangell, Ark.—Wrangell, LDA/DME-C, Amdt. 5.
Wrangell, Ark.—Wrangell, LDA/DME-D, Amdt. 4.

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

• • • Effective December 28, 1978:

Battle Creek, Mich.—W. K. Kellogg Regional, NDB Rwy 22, Amdt. 8.
Kalamazoo, Mich.—Kalamazoo Municipal, NDB Rwy 35, Amdt. 11.

• • • Effective November 30, 1978:

Charlotte, N.C.—Douglas Muni., NDB Rwy 5, Amdt. 24.

• • • Effective November 16, 1978:

Algona, Iowa—Algona Muni., NDB Rwy 12, Amdt. 1.
Spirit Lake, Iowa—Spirit Lake Muni., NDB Rwy 16, Amdt. 3.
Concordia, Kans.—Blosser Muni., NDB Rwy 17, Original.
Lawrence, Mass.—Lawrence Muni., NDB Rwy 5, Amdt. 1.
Kansas City, Mo.—Kansas City Downtown, NDB Rwy 18, Amdt. 14.
Connellsville, Pa.—Connellsville, NDB Rwy 5, Amdt. 3.

• • • Effective November 2, 1978:

Kahului, Hawaii—Kahului, NDB Rwy 20, Amdt. 3.

• • • Effective September 18, 1978:

Hawesville, Ky.—Hancock Field, NDB-A, Amdt. 1.

4. By amending § 97.29 ILS-MLS SIAP's identified as follows:

• • • Effective December 28, 1978:

Battle Creek, Mich.—W. K. Kellogg Regional, ILS Rwy 22, Amdt. 9.
Kalamazoo, Mich.—Kalamazoo Municipal, ILS Rwy 35, Amdt. 13.

• • • Effective November 30, 1978:

Valdosta, Ga.—Valdosta Muni., ILS Rwy 35, Amdt. 2.
Flint, Mich.—Bishop, ILS Rwy 9, Amdt. 11.
Jackson, Mich.—Jackson County—Reynolds Field, ILS Rwy 23, Amdt. 5.
Charlotte, N.C.—Douglas Muni., ILS Rwy 5, Amdt. 27.

• • • Effective November 16, 1978:

Baton Rouge, La.—Ryan, ILS Rwy 22, Amdt. 1.
Boston, Mass.—General Edward Lawrence Logan Int'l, ILS Rwy 15R, Amdt. 3.
Kansas City, Mo.—Kansas City Downtown, ILS Rwy 18, Amdt. 16.
Fargo, N. Dak.—Hector Field, ILS Rwy 35, Amdt. 26.
Oklahoma City, Okla.—Wiley Post, ILS Rwy 17L, Amdt. 4.

• • • Effective November 2, 1978:

Kahului, Hawaii—Kahului, ILS Rwy 2, Amdt. 13.

5. By amending § 97.31 RADAR SIAP's identified as follows:

• • • Effective December 28, 1978:

Kalamazoo, Mich.—Kalamazoo Municipal, RADAR-1, Amdt. 1.

• • • Effective November 16, 1978:

Fargo, N. Dak.—Hector Field, RADAR-1, Amdt. 3.

• • • Effective November 2, 1978:

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Kahului, Hawaii—Kahului, RADAR-1, Amdt. 4.

• • • Effective September 21, 1978:

Charlotte, N.C.—Douglas Muni., RADAR-1, Amdt. 13.

6. By amending § 97.33 RNAV SIAP's identified as follows:

• • • Effective November 30, 1978:

Celina, Ohio—Lakefield, RNAV Rwy 26, Amdt. 1.

Tullahoma, Tenn.—William Northern Field, RNAV Rwy 36, Original.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); delegation: 25 FR 6489 and paragraph 802 of order FS P 1100.1, as amended Mar. 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

Issued in Washington, D.C., on September 29, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc. 78-28235 Filed 10-6-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM78-24]

PART 1—RULES OF PRACTICE AND PROCEDURE

Freedom of Information Act Requests and Appeals

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission's regulations implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552) are revised to provide a uniform manner of addressing and marking FOIA requests and FOIA appeals with the Commission. The purposes of this revision is to insure expeditious handling, routing, consideration and disposition of FOIA requests and appeals within the Commission.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Herbert C. Rice, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, telephone: 202-275-4788.

SUPPLEMENTARY INFORMATION: The processing of Freedom of Information requests and appeals has been delayed in the past due to confusing designations on the documents or the envelopes in which they are enclosed. Requests for information or administrative appeals, taken pursuant to the FOIA, supra, require expeditious response by the Commission's staff. If initial requests for access to Commission records are not clearly labeled, they do not give the Staff adequate notice so that the documents can be forwarded to the appropriate office without delay for processing in accordance with statutory time limits.

This rulemaking addresses this problem by requiring all FOIA requests and appeals to be clearly marked as such. If the request or appeal is not clearly marked, the Commission's staff will mark it upon identification and immediately forward it to the appropriate office. In any event, initial FOIA requests for access to records shall be considered to be received upon actual receipt by the Director of Public Information; appeals from denials of request for access shall be considered to be received upon actual receipt by the Chairman of the Commission.

A general notice of proposed rulemaking has not been published for this rulemaking pursuant to 5 U.S.C. 553, et seq., because it is a rule of Commission procedure and practice and affects only the Commission's management. Pursuant to 5 U.S.C. 553, the rulemaking also will be effective as of the date of issuance since the rule affects only Commission practice or procedure, and management and personnel, and therefore does not abridge the effect of any requests or appeals filed pursuant to the regulations prior to amendment.

(Administrative Procedure Act, 5 U.S.C. 553; Freedom of Information Act, 5 U.S.C. 552.)

In consideration of the foregoing, it is proposed to amend § 1.36, part 1, chapter 1 of title 18, the Code of Federal Regulations, as set forth below.

§ 1.36 [Amended]

1. Section 1.36(f)(1) and (f)(2) are amended by designating the present subparagraphs as § 1.36(f)(1)(i) and (f)(2)(i) and adding new subparagraphs § 1.36(f)(1)(ii) and (f)(2)(ii) to read as follows:

• • • • • •

(f) • • •

(1) • • • (i) • • •

(ii) Requests filed pursuant to this section shall be in writing, addressed to the Director of Public Information, and clearly marked "Freedom of Information Request". Any request for information received by the Commission not addressed and marked as indicated in this subparagraph will be so addressed and marked by Commission personnel as soon as it is properly identified and forwarded immediately to the Director of Public Information. Requests made pursuant to this paragraph shall be considered to be received, upon actual receipt by the Director of Public Information.

(2) • • • (i) • • •

(ii) Appeals filed pursuant to this section shall be in writing, addressed to the Chairman of the Commission, and clearly marked "Freedom of Information Appeals". Any such appeal received by the Commission not addressed and marked as indicated in this paragraph will be so addressed and marked by Commission personnel as soon as it is properly identified and forwarded immediately to the Chairman. Appeals taken pursuant to this paragraph shall be considered to be received, upon actual receipt by the Chairman.

• • • • • •

By the Commission. Commissioner Holden dissenting.

(5 U.S.C. 552, 553.)

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28525 Filed 10-6-78; 8:45 am]

[1505-01]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N-0339]

PART 229—CURRENT GOOD MANUFACTURING PRACTICE FOR CERTAIN OTHER DRUG PRODUCTS

HUMAN AND VETERINARY DRUGS

Current Good Manufacturing Practice in Manufacture, Processing, Packing, of Holding

Correction

In FR Doc. 78-27121 appearing at page 45014 in the issue for Friday,

September 29, 1978, the effective date of the regulation referred to in the center column of page 45087 as being "March 1, 1979" should have been "March 28, 1979".

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Procaine Penicillin G Aqueous Suspension (Injectable); Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 78-20719 appearing at page 32748 in the FEDERAL REGISTER of Friday, July 28, 1978, § 540.274b *Procaine penicillin G aqueous suspension* is amended by correcting paragraph (c)(3)(iv)(a), appearing on page 32749 near the top of the left column, to read "(a) *Amount.* 3,000 units per pound of body weight (1 milliliter per 100 pounds body weight) daily."

EFFECTIVE DATE: July 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1788.

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-28334 Filed 10-6-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-517]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adds fair market rents for three and four bedroom units in elevator buildings of five or more stories for the San Juan, Ponce, Mayaguez, and Arecibo, P.R., and New York, N.Y., market areas.

EFFECTIVE DATE: October 10, 1978.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7603. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-472-4810. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice was given on March 31, 1978, at 43 FR 13758 that HUD was proposing to amend title 24 of the Code of Federal Regulations by incorporating in part 888, subpart A, a revised schedule A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies program)" for all market areas. The final rule was published on June 13, 1978, at 43 FR 25604. The final rule stated that comments received in response to the March 31, 1978, publication received after April 14, 1978, would be carefully considered and additional amendments would be published at a later date if appropriate.

The fair market rents for three and four bedroom units in elevator buildings of five or more stories for the San Juan, Ponce, Mayaguez, and Arecibo, P.R., and New York, N.Y., market areas were included in the March 31, 1978, publication, but were omitted from the June 13, 1978, final rule. They are being published for effect in response to comments received from the Caribbean and New York area offices at the levels proposed in March.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the office of the rules docket clerk at the address set forth above.

Accordingly schedule A of part 888 is amended as set forth below:

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 27, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These fair market rents have been trended ahead 2 years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The fair market rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed two bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units and (3) single room occupancy dwelling units are those for 0 bedroom units of the same type.

[FR Doc. 78-28304 Filed 10-6-78; 8:45 am]

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AREA/INSURING OFFICE NEW YORK, N. Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4 or more
NEW YORK CITY	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	502	599	697	813
	WALKUP	390	461	555	652	753
	ELEVATOR-2-4 Sty 5 + Sty	448 560	523 646	623 779	710	801
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

AREA OFFICE SAN JUAN, P.R. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4 or more
SAN JUAN	DETACHED	---	---	343	404	439
	SEMI-DETACHED/ROW	---	323	343	404	439
	WALKUP	256	323	343	404	439
	ELEVATOR-2-4 Sty 5 + Sty	--- 301	--- 369	--- 391	--- 454	--- 490
PONCE	DETACHED	---	---	362	426	463
	SEMI-DETACHED/ROW	---	340	362	426	463
	WALKUP	273	340	362	426	463
	ELEVATOR-2-4 Sty 5 + Sty	--- 316	--- 387	--- 411	--- 477	--- 515
MAYAGUEZ	DETACHED	---	---	356	417	455
	SEMI-DETACHED/ROW	---	334	354	417	455
	WALKUP	265	334	354	417	455
	ELEVATOR-2-4 Sty 5 + Sty	--- 310	--- 380	--- 403	--- 466	--- 505
ARECIBO	DETACHED	---	---	354	417	455
	SEMI-DETACHED/ROW	---	334	354	417	455
	WALKUP	265	334	354	417	455
	ELEVATOR-2-4 Sty 5 + Sty	--- 310	--- 380	--- 401	--- 468	--- 505
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

[6735-01-M]

Title 29—Labor

CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PART 2700—PROCEDURAL RULES

Amendment of Interim Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of interim procedural rule.

SUMMARY: The Federal Mine Safety and Health Review Commission, having adopted on a provisional basis certain interim procedural rules (29 CFR Part 2700), notifies the general public that is is amending 29 CFR 2700.57 effective on date of publication of the amendment. The amendment revokes that section and substitutes therefor new § 2700.57 which clarifies procedures applicable to appeals pending before the Interior Department and transferred by section 301 et seq., of the Federal Mine Safety and Health Amendments of 1977, 30 U.S.C. 961 et seq.

DATE: Effective October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip Paschall, Attorney, Office of General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006, phone 202-632-4770.

The Federal Mine Safety and Health Review Commission has determined to continue in effect interim procedural rules until publication of final rules of procedure and amends effective upon publication § 2700.57 by revoking § 2700.57 and substituting therefor the following:

§ 2700.57 Appeals pending before Interior Department Board of Mine Operations Appeals on March 8, 1978.

With respect to any appeal pending before the Board of Mine Operations Appeals as of March 8, 1978, no further pleadings need be filed to perfect such appeal before the Commission.

(Sec. 113(d)(2), Pub. L. 95-164, 91 Stat. 1314 (30 U.S.C. 823).)

Issued in Washington, D.C., by the Commission on October 4, 1978.

JEROME WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 78-28486 Filed 10-6-78; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 242B—GENERAL PROCEDURES AND DELEGATIONS OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Alteration of Number and Responsibilities of Officers Reporting to the Dean of the University (President)

AGENCY: Uniformed Services University of the Health Sciences.

ACTION: Final rule.

SUMMARY: This document amends the general procedures and delegations to realine certain functions of officers reporting to the dean of the university (president). It adds one officer, and revises titles and responsibilities to correspond to the realinement of functions.

EFFECTIVE DATE: November 9, 1978.

ADDRESS: Legal Counsel, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Merel Glaubiger, Legal Counsel, 202-295-2113.

SUPPLEMENTARY INFORMATION: In FR DOC 77-36169 published in the FEDERAL REGISTER on December 20, 1977 (42 FR 63775), the Uniformed Services University of the Health Sciences published general procedures and delegations of the board of regents of the Uniformed Services University of the Health Sciences. The purpose of this amendment is to alter the number and responsibilities of officers reporting to the dean of the university (president). The rule changes the title of director of administrative affairs to director of resource management. It adds a new officer, the assistant dean for administration and sets forth the responsibilities of each.

Because these rules relate solely to matters of university organization and procedure, notice of proposed rulemaking and public participation in the rulemaking are not required by section 553 of title 5 of the United States Code.

Accordingly, pursuant ot the Uniformed Services Health Professions Revitalization Act, and sections 552 and 553 of title 5 of the United States Code, the board of regents of the Uniformed Services University of the Health Sciences, amends Part 242b.7, Chapter I, Title 32, Code of Federal Regulations by revising § 242b.7(a)(7) and § 242b.7(b)(3) and by adding § 242b.7(b)(4) as follows:

§ 242b.7 Officers of the university.

(a) * * *

(7) * * *

(iii) A director of resource management; and

(iv) An assistant dean for administration.

* * * * *

(b) * * *

(3) Director of resource management

(i) The director of resource management shall be responsible for the preparation of budget estimates and program submission presentations for the approval of the board.

(ii) He or she shall be responsible for:

(A) Accounting and financial management;

(B) Internal audit; and

(C) Manpower planning.

(iii) He or she shall make all books, records, and vouchers available for the inspection of any member of the board and shall report at each meeting of the administrative affairs committee.

(4) Assistant dean for administration

(i) The assistant dean for administration shall be responsible for:

(A) The management of the university property and facilities;

(B) Administrative support of the university educational and research programs; and

(C) Personnel management.

(ii) He or she shall report at each meeting of the administrative affairs committee regarding matters of importance in the university's administrative affairs.

Dated: October 3, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-28367 Filed 10-6-78; 8:45 am]

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[4910- 14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[OCGD3-78-7-R]

PART 165—SAFETY ZONES

Establishment of Safety Zone in Upper Bay, New York Harbor, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes a portion of the water of the Upper Bay, New York Harbor as a safety zone. This safety zone is established to protect vessels from possible damage due to the presence of a fireworks display at the southern tip of Governors Island, N.Y. No vessel may enter or remain in a safety zone without the permission of the captain of the port.

EFFECTIVE DATE: This amendment is effective on October 9, 1978, from 9:15 p.m., e.d.s.t., to 9:45 p.m., e.d.s.t.

FOR FURTHER INFORMATION CONTACT:

Captain J. L. Fleishell, Captain of the Port, New York, Building 109, Governors Island, N.Y., 212-668-7917.

SUPPLEMENTARY INFORMATION: This information is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication because the short time between scheduling of the event and its occurence made such procedures impractical. Extensive local public notice has been given.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Junior Grade Ristaino, Project Manager, Captain of the Port, New York, N.Y., and Commander James L. Walker, Project Attorney, Legal Office, Third Coast Guard District, New York, N.Y.

In consideration of the foregoing, part 165 of title 33 of the Code of Federal Regulations is amended by adding § 165.302 to read as follows:

§ 165.302 Upper Bay, New York Harbor, N.Y.

The water of the Upper Bay, New York Harbor, within 1,000 yards of the southern tip of Governors Island, N.Y., is a safety zone from 9:15 p.m., October 9, 1978, to 9:45 p.m., October 9, 1978.

(86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

Dated: October 4, 1978.

J. L. FLEISHELL,
Captain, U.S. Coast Guard,
Captain of the Port, New York.

[FR Doc. 78-28499 Filed 10-6-78; 8:45 am]

[8320-01-M]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Recognition of Organizations, Attorneys, and Agents

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations provide for representation of Veterans Administration claimants, including recognition of organizations and their representatives, agents, and attorneys to assure qualified representation in the preparation, presentation, and prosecution of claims for veterans' benefits. The Veterans Administration hopes to accomplish more complete claims representation for all veterans and their dependents.

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Lindekugel (02A1), Director, Management and Operations Staff, Office of General Counsel, Veterans Administration, Washington, D.C. 20420, 202-389-3730.

SUPPLEMENTAL INFORMATION: On pages 17482 to 17484 of the FEDERAL REGISTER of April 25, 1978, there was published a notice of proposed revision of regulations providing for representation of Veterans Administration claimants and recognition of organizations, accredited representatives, attorneys and agents. Interested parties were given 30 days to submit comments, suggestions or objections to the proposed revision of regulations. We received 25 comments, which are discussed in the following paragraphs.

Section 14.626

Two comments on the "Purpose" section of the proposed regulations suggested that the word "qualified" be changed to "competent," however, the "Purpose" section has not been changed since the Veterans Administration intended by the use of the word "qualified" to convey the meaning first given in Webster's New Collegiate Dictionary: "* * * (F)itted (as by training or experience) for a given purpose: competent." The Veterans Administration desires that those presenting claims on behalf of veterans and their dependents possess a skill sufficient to insure a high quality of representation and believes that the word "qualified" conveys that desire. It was also intended that representation be limited to those who can meet a standard of skill, thus, the requirement that representatives demonstrate their ability to present claims by either passing a test or showing some other ability which would enable them to effectively present claims. The word "qualified" conveys the intention of the Veterans Administration.

One group commented that the need to monitor an applicant's choice of representative was like other administrative agencies which do not so monitor claims representatives. No survey has been done by the Veterans Administration to determine that "no other administrative agency" requires regulation of representatives. However, because of the complexities of claims presentation related to veterans' benefits, we believe it is desirable to have a monitoring system to assure that veterans with valid claims receive the benefits to which they are entitled.

Section 14.627

One comment was that the definition of "National Organizations" should be altered to include the National Association of State Directors of Veterans Affairs. A national organization is not recognized to "improve the communication and flow of information between * * * (the State organizations) in assisting our mobile veteran population in the United States," as suggested, but rather to prepare, present and prosecute claims for veterans' benefits authorized by Federal law. Each State veterans' organization is recognized for this purpose in § 14.628(b).

Section 14.628

The previous regulations included "governmental services or organizations granted a charter or recognition by act of Congress" under "National Organizations." The proposed new regulation dropped the term "governmental services." One group was concerned that the new regulation appeared to preclude legal services organizations and their paralegals from presenting claims. It is not the intent of either the old or new regulations that legal service organizations, even though receiving governmental funds, be recognized as "National Organizations." However, legal service organizations and their paralegals may qualify to present claims under other sections of the new regulations.

Two suggested that there be more than one State organization recognized under § 14.628(b). This section remains unchanged because the Veterans Administration believes it is desirable to recognize only the one instrumentality set up by each State to handle veterans' affairs. County and city veterans' organizations may still qualify to represent claimants under other sections, however.

There were numerous comments on various aspects of § 14.628(c). The requirement for a paid-up membership of 1,000 in order to qualify as an "Other Organization" received 18 comments.

Of these, only one group commented that the 1,000 member requirement was too low. The rest stated that the requirement bore no relationship to qualified representation and was too difficult for small veterans' service groups to reach. The Veterans Administration agrees with this assessment and the regulation has been changed.

The intent was to insure that an organization recognized to represent claimants was stable, responsible and competent. The organization must now demonstrate this by showing organizational membership or by showing that it is a veterans' service organization primarily dedicated to helping veterans and their dependents with title 38, United States Code benefits and programs, or dedicated to assisting former armed forces personnel under other Federal and State programs designed for this purpose. The Veterans Administration considers that a veterans service organization which has a sizable membership or has served a sizable number of veterans in the area of the above programs has demonstrated that it is stable, responsible and competent. Prior experience in representation before the Veterans Administration or the Board of Veterans Appeals, or representation in a discharge upgrading proceeding may be examples of ability to represent.

Other groups may individually qualify their representatives as "agents" under § 14.629. One suggestion was that "the number of power of attorney forms filed by agents of an organization, the types of claims represented before the Veterans Administration and the percentage success rate before the Board of Veterans' Appeals" be considered. This type of criteria is reflected in the changes in § 14.628 (d) and (e) and will be considered when granting recognition.

Other suggestions of criteria which should be used to determine whether an organization can provide qualified representation have also been incorporated into the changes in § 14.628(e), information to be submitted.

Two groups commented on the requirement in the proposed regulations that "Other Organizations" be incorporated or chartered by a State. Both agreed with the Veterans Administration that this was indicative of a serious commitment by an organization seeking recognition. This requirement was kept in the final regulations. However, rather than being a prime requisite, it is now one item to be supplied, as appropriate, under information to be submitted.

Two critical comments were received on the requirement that "Other Organizations" have as their primary purpose the presentation of claims before the Veterans Administration. We agree and have changed the primary purpose for "Other Organizations" to providing services to veterans or to other former armed forces personnel and their dependents. We do not believe that organizations which primarily aid other individuals (elderly, etc.) would be as attuned to the specific needs and problems connected with Veterans Administration claims as veterans service organizations are. However, individual members of other groups who wish to deal with Veterans Administration claims may still be recognized under § 14.629(b).

Several comments were received concerning the provision in the proposed regulations requiring representation in some form before the Board of Veterans Appeals. Four commenters recognized the need for such a requirement but requested greater flexibility in affiliating with a national organization. One suggested that there be no requirement of representation before the Board of Veterans Appeals. The Veterans Administration believes the ability to provide representation before the Board of Veterans Appeals is an important aspect of claims' service. A claimant works closely with and becomes dependent upon an organization to provide representation at the local level, and if the nature of the claim requires representation beyond the regional office, the claimant should be guaranteed a continuous service. The changes in the final regulations reflect the importance of a complete claims service, yet provide the flexibility desired by the commenters. The organization now will not need to affiliate with a national organization, but instead, can affiliate with any organization recognized by the Veterans Administration to provide representation. Moreover, it will not now be mandatory that an organization provide representation before the Board of Veterans Appeals either directly or by affiliation, but instead such organization must make certain that the claimant is aware of the limited representation it can provide.

Four commenters suggested that the language "may be recognized" by the Veterans Administration gave too much discretion in granting recognition to an organization and should be replaced with "shall be recognized." "May" was not changed as this is an adoption of the statutory language used in 38 U.S.C. 3402-3404.

One comment stated that gratuities should be allowed. The word "fee" or "gratuity" is intended to refer to "fee or compensation" pursuant to statutory language. According to Webster's New Collegiate Dictionary, a gratuity is given in "return for or in anticipation of some service." If gratuities were allowed, the door would be open to an abuse which would completely circumvent the intent of 38 U.S.C. 3402.

Two comments on membership were received. One suggested that it be changed so that a showing of "(t)otal paid-up membership should only be required of membership organizations." The other, that the section would not be applicable to certain organizations. The section was changed to provide for nonmembership organizations.

Two groups objected to what they thought was a requirement that representatives of national organizations be full-time paid employees. This is not the case. The information requested here, and included in the final regulations as § 14.628(e)(6)(iii), applies only to those representatives who are also full-time paid employees. Nothing would prevent less than full-time paid workers from becoming representatives.

One group objected to requiring all recognized organizations to submit a copy of the last financial statement of the organization. Although the requirement has been modified somewhat in § 14.628(e)(3)(i), we believe it is important that the Veterans Administration receive financial information to determine the assets committed to veterans' services. This is indicative of a sincere purpose on the part of the organization to provide competent and qualified services. It also indicates that the organization is, indeed, one which provides the services outlined in § 14.628(c), i.e., that it is a veterans service organization.

Section 14.629

Two groups commented on the fact that representatives in § 14.629(a) and agents in § 14.629(b) must establish that they are "of good character and reputation," and expressed an unsureness of the meaning of the phrase. We do not believe that a definition is necessary, but instead have provided that if there is a challenge to the good character and reputation of a specific individual, the District Counsel, pursuant to § 14.629 will resolve the question of current qualifications of a representative, agent or attorney. The

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statutory language of 38 U.S.C. 3404 requires agent applicants to show that "they are of good moral character and in good repute."

Many commenters approved of the provisions in § 14.629(a) requiring some sort of testing and training of representatives. One group suggested annual seminars and exams with mandatory attendance. Another suggested that everyone be tested, and another stated that currently operating representatives be tested to retain their status. Section 14.629(a) was left unchanged. Because of the affirmative action requirement of § 14.628(d)(5) and the certification required, representatives will be closely supervised by the recognized organizations or risk losing their status. (See § 14.633(c)(1) of the new regulations.) A training program conducted by the organization (and approved by the Veterans Administration), or a past demonstration by the applicant of ability to present claims should provide a basis equal to that of passing a test to ensure qualified representation. Currently qualified representative should have demonstrated their ability to present claims and, in the absence of complaints concerning their service, will be allowed to continue their representation without reaccreditation.

One group commented that there was no provision to permit paralegals or law students supervised by attorneys to represent claimants. This comment is related to the suggestions of two others that § 14.629(a)(2) be changed to include part-time paid employees and volunteers. The section remains unchanged as the Veterans Administration believes that there is enough flexibility to include these situations. The use of the term "member" in § 14.629(a)(2) is intended to establish that an accredited representative is functioning as a part of an organization and subject to some control by that organization. There must be some affiliation between the representative and the recognized organization so that the Veterans Administration can look to the organization in cases where there are questions as to the functions and capacity of the representative. Paralegals, law students, volunteers, and part-time workers so affiliated with a recognized organization may become accredited representatives.

One group suggested a type of limited representation where those with expertise in only a certain area of claims representation would be limited to that area. With the training and testing provisions of § 14.629(a), sufficient safeguards exist to insure quality representation and it was therefore not believed necessary to provide for limited representation.

One group pointed out the lack of information given prospective agents in § 14.629(b). The Veterans Administration was in agreement with the comment, and the section was changed so that applicants will know that they must file their applications with the Office of General Counsel.

One suggestion was that attorneys should not be exempt from the requirement of testing or otherwise demonstrating their ability to present claims. The Veterans Administration did not change the section to include attorneys in a testing or training program because it accepts the basic premise that attorneys who have been licensed to practice law are assumed to have been trained to represent clients (including Veterans Administration claimants) and to protect the clients' rights. There are provisions for removal after a hearing, if ability is challenged.

Section 14.629(c) has been changed to reflect a suggestion by the Controller of the Veterans Administration to clarify the extent of information an attorney may receive from a claimant's file without the signature of the claimant.

Section 14.631

One group commented that § 14.631 was unclear whether more than one person in the same organization could act on the claimant's behalf. Paragraph (c) of § 14.631 points out that "only one organization, agent, or representative will be recognized at one time in the prosecution of a claim for one specific benefit." This paragraph seemed clear enough and was not changed. In the case of recognized organizations, the organization is given the power of attorney. This would enable several members to review the claimant's file in preparation of the claim. It is not appropriate that, in the case of an individual such as an agent or attorney, more than one person at a time have the ability to review an individual's file.

One suggestion was that the word "field" in § 14.631(a)(2) be eliminated because power-of-attorney forms may be filed at other than Veterans Administration field offices. This suggestion was accommodated.

Section 14.632

One group commented that challenges to recognition should apply to attorneys as well as agents and representatives. There are provisions for removal after a hearing if ability is challenged. Moreover, formal training and oversight by a bar association provide some degree of safeguard.

Two groups suggested the Veterans Administration provide greater due process safeguards to those seeking initial recognition as representatives or agents. The section remains unchanged as it is the Veterans Administration's opinion that the safeguards provided prospective representatives and agents at this stage in the recognition procedure are sufficient.

Section 14.633

One group commented that this section did not set out clearly whether an accused person will be suspended from practice before a final determination has been made by the General Counsel. The paragraphs were rearranged in an attempt to make it clearer that the accused person will be suspended from practice only after the initial inquiry justifies further investigation and hearings on the matter. They also suggested that a standard of proof be included. In response, the standard of "by clear and convincing evidence" was added to be used as the standard of proof in determining whether recognition should be suspended or revoked.

Several comments were received on the reasons listed for suspension or revocation of recognition. Two groups commented on the willfully withholding of material evidence as an unlawful, unprofessional, or unethical practice subject to suspension or revocation of recognition. It was suggested, and the Veterans Administration agrees that this requirement may run counter to several provisions in the Code of Professional Responsibility for attorneys. An attorney should not be required to furnish evidence detrimental to the client's claim, therefore, that language was eliminated from the section.

Two comments were that incompetent representation should also be specifically listed as an offense subject to suspension or revocation. The Veterans Administration chose not to list this offense specifically as instances of incompetence would be covered under § 14.633(c)(4).

Two groups commented that the provision "failing to furnish evidence within 90 days of request by the Veterans Administration" was unclear. No change was thought necessary as the passage clearly refers to cases where the claims representative, agent, or attorney has failed to furnish the evidence due to his or her own fault.

One comment suggested that the hearing provided for in the proposed regulations be changed so that a board of at least three members should preside at the hearing. This section was not changed as it does in reality conform to the spirit of the suggestion. The District Counsel will have made an initial decision. The hearing at the regional level will be by a hearing officer who is not a member of the Office of District Counsel. These two, plus the additional review at the General

Counsel level will mean that three people have reviewed the case.

Proposed § 14.633(c)(4), now § 14.633(d)(1) was changed to accommodate the comment from one group that it appeared the District Counsel's recommendation, rather than the hearing officer's recommendation, would be sent on to the General Counsel. It was intended, and now clearly states, that the District Counsel will submit the entire case to the General Counsel, including the hearing officer's findings as well as District Counsel recommendations.

Section 14.634

One group suggested that a list of allowable expenses be included; however it was concluded that a list would be overly lengthy. Other minor changes are for the purpose of clarity.

Section 14.637

Two groups suggested that space and office facilities be furnished to others besides the national organizations. This regulation implements 38 U.S.C 3402(a)(2) which states: "The Administrator may, in his discretion, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized". Because of limitation on space and because of the statute, we elected not to change the regulation.

The proposed regulations are hereby adopted as changed.

Approved: October 4, 1978.

MAX CLELAND,
Administrator of Veterans' Affairs.

The centerhead preceding § 14.626 is changed, §§14.626 through 14.660 are revoked and §§ 14.626 through 14.637 are added to read as follows:

REPRESENTATION OF VETERANS ADMINISTRATION CLAIMANTS; RECOGNITION OF ORGANIZATIONS, ACCREDITED REPRESENTATIVES, ATTORNEYS, AGENTS; RULES OF PRACTICE AND INFORMATION CONCERNING FEES, 38 U.S.C. 3401–3405

§ 14.626 Purpose.

The purpose of the regulation of representatives is to assure that claimants for Veterans' Administration benefits have qualified representation in the preparation, presentation, and prosecution of claims for veterans' benefits.

§ 14.627 Definitions.

As used in regulations on representation of Veterans' Administration claimants:

(a) "Agent" means a person who has met the standards and qualifications outlined in § 14.629(b).

(b) "Attorney" means a member in good standing of a State bar.

(c) "Cancellation" means termination of authority to represent claimants.

(d) "Claim" means application made under Title 38, United States Code, and implementing directives, for entitlement to Veterans' Administration benefits, reinstatement, continuation or increase of benefits, or the defense of a proposed agency adverse action concerning benefits.

(e) "Claimant" means a person who has filed a written application for determination of entitlement to benefits provided under Title 38, United States Code, and implementing directives.

(f) "National organization" means an organization chartered by act of the U.S. Congress or previously recognized by the Veterans Administration.

(g) "Recognition" means certification by the Veterans' Administration of organizations, their representatives, attorneys, and agents, to represent claimants.

(h) "Representative" means a person who has been recommended by a recognized organization and certified by the Veterans' Administration.

(i) "State" includes any State, possession, territory, Commonwealth, or the District of Columbia.

(j) "Suspension" means temporary withholding of authority to represent claimants.

§ 14.628 Requirements for recognition of organizations.

Authorized officers of an organization may request recognition by letter to the Administrator of the Veterans' Administration.

(a) *National organizations.* An organization chartered by act of Congress may be recognized as a national organization in the presentation of claims under the laws administered by the Veterans' Administration.

(b) *State organizations.* State organizations created for the purpose of serving the needs of veterans of that State may be recognized. Only one such organization may be recognized in each State.

(c) *Other organizations.* Organizations other than State and National organizations as set forth in paragraphs (a) and (b) of this section may be recognized when the Veterans Administration has determined that they are veterans service organizations primarily involved in delivering services connected with either title 38, United States Code benefits and programs or other Federal and State programs designed to assist veterans. The term "veteran" as used in this paragraph shall include veterans, former armed forces personnel and the dependents of either. Further, the organizations shall provide responsible, qualified representation in the preparation, presentation and prosecution of claims for title 38, United States Code benefits.

(d) *Requirements for recognition.* In order to be recognized under paragraph (c) of this section the organization:

(1) Shall have as a primary purpose, services to veterans; and

(2) Shall demonstrate a substantial service commitment to veterans either by showing a sizable organizational membership or by showing performance of those veterans' services to a sizable number of veterans; and

(3) Shall devote an appreciable portion of its assets to veterans' services; and

(4) Shall establish either that complete claims service will be provided to each veteran requesting representation, or shall give written notice of any limitation in its claims service with advice concerning alternate service. Complete claims service includes the ability to assure representation before the Board of Veterans Appeals. However, representation before the Board of Veterans Appeals may be provided by agreement with another organization recognized by the Veterans Administration; and

(5) Shall take affirmative action, such as training and monitoring of its recognized representatives, to ensure proper handling of claims.

(e) *Information to be submitted.* In order to be recognized under paragraph (c) of this section, the following information shall be supplied:

(1) *Purpose.* A statement outlining the purpose of the organization, the extent of services provided, and the manner in which veterans would benefit by recognition.

(2) *Service commitment.* (i) The number of members and number of posts, chapters, or offices and their addresses; and

(ii) A copy of the articles of incorporation, constitution, charter, and bylaws of the organization, as appropriate; and

(iii) The type of title 38, United States Code services performed with an approximation of the number of veteran and dependent clients served by the organization in each type of service designated; and/or

(iv) the type of services performed in connection with other Federal and State programs which are designed to assist former armed forces service personnel and their dependents, and an approximation of the number of veteran and dependent clients served by the organization under each program designated.

(3) *Assets.* (i) A copy of the last financial statement of the organization indicating the amount of funds allo-

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cated for conducting veterans' services; and

(ii) A statement of the skills, training and other qualifications for handling veterans' claims of paid or volunteer staff positions.

(4) *Complete claims service.* (i) The recofd of representation before a discharge review board or the Veterans Administration, or other proof of ability to present claims before the Veterans Administration; and

(ii) Some proof of capability to provide representation before the Board of Veterans Appeals; or

(iii) The proof of association or agreement for the purpose of representation before the Board of Veterans Appeals with another recognized service organization, or the proposed method of informing claimants of the limitations in service that can be provided, with advice concerning alternate service.

(5) *Affirmative action.* The organization shall execute an agreement which states that it shall take affirmative action, such as training and monitoring of its recognized representatives to ensure proper handling of claims.

(6) *Other.* (i) A statement that neither the organization nor its representatives will charge or accept a fee or gratuity for service to a claimant; and

(ii) The names, titles, and addresses of officers and the officials authorized to certify representatives; and

(iii) The names, titles, and addresses of full-time paid employees who are qualified to act as accredited representatives.

(f) *Recognition or denial.* A notice of recognition will be sent within 90 days of receipt of all information to be supplied. However, if recognition is denied an organization, the Veterans Administration will set forth an explanation of the reasons for denial. A denial of recognition may be appealed to the Administrator within 90 days of the denial. The Veterans Administration will consider the appeal within 30 days of receiving such request. The organization will have an opportunity to fully document its position, and the appeal will cover all aspects of the application for recognition and denial.

§ 14.629 Requirements for recognition of representatives, agents, and attorneys.

The District Counsel will resolve any question of current qualifications of a representative, agent or attorney. The claimant; the representative, agent or attorney, or an official of the organization for which they would act; or the appropriate Veterans Administration official may appeal such determination to the General Counsel.

(a) *Representatives.* Recognized organizations shall file with the Office of the General Counsel VA Form 2-21 (Application for Accreditation as Service Organization Representative) for each person they desire recognized as a representative of that organization. In recommending a person, the organization shall certify that the designee:

(1) Is of good character and reputation; and:

(i) Has successfully completed a Veterans Administration approved course of instruction on veterans' benefits; or

(ii) Has passed an examination approved by the Veterans Administration; or

(iii) Has otherwise demonstrated an ability to present claims before the Veterans Administration;

(2) Is either a member in good standing or a full-time paid employee of such organization, or is recognized and functioning as a representative of another recognized organization;

(3) Is not employed in any civil or military department or agency of the United States.

(b) *Agents.* Individuals desiring recognition as agents must file an application with the Office of General Counsel and establish that they are of good character and reputation. In addition, applicants shall pass a written examination concerning laws administered by the Veterans Administration which shall be prepared and graded in the Office of General Counsel. The examination may, however, be taken at any convenient District Counsel office under the supervision of the District Counsel.

(c) *Attorneys.* Attorneys shall state in writing on their letterhead that they are authorized to represent the claimant in order to have access to information in the claimant's file pertinent to the particular claims presented. For an attorney to have complete access to all information in an individual's records, the attorney must provide a signed consent from the claimant or the claimant's guardian. The consent shall be equivalent to an executed power of attorney. (38 U.S.C. 3401; 3404.)

§ 14.630 Authorization for a particular claim.

Any person may be authorized to prepare, present, and prosecute a particular claim. A proper power of attorney, and a statement signed by the person and the claimant that no compensation will be charged or paid for the services, shall be filed with the office where the claim is presented. A person recognized under this section shall represent only one claimant; however, in unusual circumstances, appeal of such limitation may be made to the General Counsel. (38 U.S.C. 3403.)

§ 14.631 Powers of attorney.

(a) A power of attorney, executed on either VA Form 23-22 (Appointment of Veterans Service Organization as Claimant's Representative) or VA Form 2-22a (Appointment of Attorney or Agent as Claimant's Representative), is required to represent a claimant, except when representation is by an attorney who complies with § 14.629(c). The power of attorney shall meet the following requirements:

(1) Contain signature by:

(i) The claimant, or

(ii) The claimant's guardian, or

(iii) In the case of an incompetent, minor, or otherwise incapacitated person without a guardian, the following in the order named—spouse, parent, other relative or friend (if interests are not adverse), or the director of the hospital in which the claimant is maintained; and

(2) Shall be presented to the appropriate Veterans Administration offiee for filing in the veteran's claims folder.

(b) Questions concerning powers of attorney shall be referred to the District Counsel of jurisdiction for initial determination. This determination may be appealed to the General Counsel.

(c) Only one organization, agent, or representative will be recognized at one time in the prosecution of a claim for one specific benefit. All transactions concerning the claim will be conducted exclusively with the recognized organization, agent, or representative of record until notice of a change, if any, is received by the Veterans Administration.

(d) A power of attorney may be revoked at any time and an attorney may be discharged at any time. A new power of attorney shall constitute a revocation of any existing power of attorney.

(e) The authority which a power of attorney provides may be continued for a reasonable time after the death of the claimant, to determine whether the claim will be continued by a new claimant and whether a new power of attorney will be executed. (38 U.S.C. 3402, 3403, 3404.)

§ 14.632 Letters of recognition.

If challenged, the qualifications of prospective representatives or agents shall be verified by the District Counsel of jurisdiction. The report of the District Counsel, if any, including any recommendation of Veterans Administration station directors, and the application shall be transmitted to the General Counsel for final action. If the designee is disapproved by the General Counsel, the reasons will be stated and an opportunity will be given to submit additional information. If the designee is approved, letters of recognition, or an identification card, will be issued by the General Counsel, and will constitute authority

to prepare, present, and prosecute claims in all Veterans Administration installations. Record of recognition will be maintained in the Office of General Counsel. (38 U.S.C. 3402.)

§ 14.633 Termination of recognition.

(a) Recognition may be canceled by request.

(b) Upon receipt of information indicating improper conduct, the District Counsel of jurisdiction will initiate an inquiry.

(1) If the result of the inquiry does not justify further action, the District Counsel will close the inquiry and maintain the record for 2 years.

(2) If the result of the inquiry justifies further action, the District Counsel shall take immediate action to suspend recognition. The notice of suspension will state the reason and will also advise that additional evidence may be submitted, or a hearing requested (or both), within 10 working days of receipt of the notice. The time may be extended for sufficient reason.

(c) Recognition shall be suspended or revoked upon a finding by clear and convincing evidence of one of the following:

(1) Violation or refusal to comply with the laws administered by the Veterans Administration or with the regulations or instructions governing practice before the Veterans Administration.

(2) Knowingly presenting or prosecuting a fraudulent claim against the United States.

(3) Demanding or accepting unlawful compensation for preparing, presenting, prosecuting, or advising or consulting concerning a claim.

(4) Any other unlawful, unprofessional, or unethical practice. (Unlawful, unprofessional, or unethical practice shall include but not be limited to the following—deceiving, misleading or threatening a claimant or prospective claimant; neglecting to prosecute a claim for 6 months or more; failing to furnish evidence within 90 days of request by the Veterans Administration; or willfully withholding of an application for benefits.)

(d) If a hearing is requested, a hearing officer will be appointed by the Director of the regional office involved. The hearing officer shall not be from the Office of the District Counsel. The hearing officer will have authority to administer oaths. A member of the district counsel's office will present the evidence. The suspended person will have a right to counsel, to present evidence and to cross-examine witnesses. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim.

(1) Within 10 working days after either the time allowed under paragraph (b)(2) of this section, or the close of the hearing if one is conducted, the District Counsel will submit the entire case to the General Counsel.

(2) The decision of the General Counsel is final. The records of the case will be maintained in the General Counsel's office for 5 years. (38 U.S.C. 3404, 3405.)

§ 14.634 Fees and expenses

Accredited representatives of national, State or other recognized organizations and individuals recognized for a particular claim shall not be entitled to receive fees. Attorneys and agents are entitled to receive fees as provided by statute. (38 U.S.C. 3404(c)).

(a) *Amount of fees.* For the successful prosecution of claims, attorneys and agents may receive the fee permitted by statute. The fee will be paid to the attorney or agent of record at the time of allowance, by deduction from the benefit allowed, after approval by the Veterans Administration. Questions concerning the amount or proper payee of fees allowed will be resolved by the District Counsel, or designee, who will consider the quality, nature, and extent of the services.

(b) *Expenses.* Without regard to entitlement to fees, an agent, attorney, or other person who incurs an expense in the prosecution of a claim, may submit a sworn itemized account of the expense to the Veterans Administration. It will be retained in the claims folder as part of the permanent record. Payment of expenses is the responsibility of the claimant; however, before demanding or receiving reimbursement from the claimant, the expense shall be approved by the District Counsel, or designee. Notice of the action taken shall be transmitted to the requestor by the service handling the claim. (38 U.S.C. 3404.)

§ 14.635 Reconsideration of denial of fees and expenses.

A request for reconsideration of a denied fee, or statement of expenses, must be received by the General Counsel within 1 year of the date of denial. If agreement cannot be reached and a hearing is requested, a hearing officer will be appointed by the Director of the regional office involved. The hearing officer shall not be from the Office of the District Counsel. The hearing officer will have authority to administer oaths. A member of the District Counsel's office will present the evidence. The complainant will have a right to counsel, to present evidence and to cross-examine witnesses. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim. Within 10 working days after the close of the hearing, the District Counsel will submit the entire case to the General Counsel. The decision of the General Counsel is final.

§ 14.636 Banks or trust companies acting as guardians.

Banks or trust companies, corporate entities, acting as guardians for claimants, may be represented before adjudicating agencies as authorized representatives of claimants by an officer or employee, including a regularly employed attorney, if the employee or attorney represents the corporation in its fiduciary capacity. No fee shall be allowed for such services under § 14.634(a).

§ 14.637 Space and office facilities.

The Administrator may furnish space and office facilities, if available, for the use of paid full-time representatives of recognized national organizations. (38 U.S.C. 3402.)

[FR Doc. 78-28528 Filed 10-6-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 983-7; PP 8E2102/R180]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

N-(Mercaptomethyl)Phthalimide S-(O,O-Dimethyl Phosphorodithioate)

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) on kiwi fruit. The regulation was requested by Stauffer Chemical Co. This rule establishes a maximum permissible level for residues of the subject insecticide on kiwi fruit.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy Gardner, Product Manager (PM) 15, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-9425.

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SUPPLEMENTARY INFORMATION: On August 18, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 36655) in response to a pesticide petition (PP 8E2102) submitted to the Agency by Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804. This petition proposed that 40 CFR 180.261 be amended by the establishment of a tolerance for the cholinesterase-inhibiting residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorothioate) in or on the raw agricultural commodity kiwi fruit at 25 parts per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.261 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before November 9, 1978, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectional and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on October 10, 1978, Part 180, Subpart C, § 180.261 is amended by adding a tolerance for residues of the subject insecticide on kiwi fruit at 25 ppm as set forth below.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 27, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

§ 180.261 N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog; tolerance for residues.

Tolerances are established for the cholinesterase-inhibiting residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorothioate) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa	40
Almonds, hulls	10
Apples	10
Apricots	5
Blueberries	10
Cattle, fat	0.2
Cattle, meat	0.2
Cattle, mby	0.2
Cherries	10
Citrus fruits	5
Corn, fresh (inc. sweet K+CWHR)	0.5
Corn, fodder	10
Corn, forage	10
Corn, grain	0.5
Cranberries	10
Goats, fat	0.2
Goats, mbyp	0.2
Goats, meat	0.2
Grapes	10
Hogs, fat	0.2
Hogs, mbyp	0.2
Hogs, meat	0.2
Horses, fat	0.2
Horses, mbyp	0.2
Horses, meat	0.2
Kiwi fruit	25
Nectarines	5
Nuts	0.1 (N)
Peaches	10
Pears	10
Peas	0.5
Peas, forage	10
Peas, hay	10
Plums (fresh prunes)	5
Potatoes	0.1
Sheep, fat	0.2
Sheep, mbyp	0.2
Sheep, meat	0.2
Sweet potatoes	10

[FR Doc. 78-28315 Filed 10-6-78; 8:45 am]

[4310-09-M]

Title 43—Public Lands: Interior

CHAPTER I—BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

PART 422—PROCEDURES FOR THE IDENTIFICATION AND ADMINISTRATION OF CULTURAL RESOURCES

Final Rule

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: These regulations establish policies and procedures to meet the Bureau of Reclamation's responsibilities in the identification, protection, preservation, and maintenance of cultural resources. These regulations fulfill requirements in Executive Order 11593 and applicable historic preservation laws and were developed in consultation with the Advisory Council on Historic Preservation pursuant to section 1(3) of Executive Order 11593.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. L. David Williamson, Chief, Recreation and Lands Branch, Division of Water and Land, Bureau of Reclamation, telephone 202-343-5204.

SUPPLEMENTARY INFORMATION: On June 9, 1977, the Bureau of Reclamation published proposed rulemaking (42 FR 29682 regarding the "Procedures for the Identification and Administration of Cultural Resources." Public comments were invited through July 11, 1977. All comments received through August 31, 1977, were considered. Written comments were received from 26 sources, and verbal comments were received from 10 persons.

Twenty-eight persons and interest groups expressed general concurrence with the rulemaking. No opposition was expressed. Public comments are summarized as "Comments Leading to Changes in the Rulemaking" or "Comments Not Leading to Changes in the Rulemaking."

COMMENTS LEADING TO CHANGES IN THE RULEMAKING

1. In § 422.2(b) it was recommended that the term "architectural" should be included in the list of resources for whose identification, protection, preservation, and mainterance the Bureau of Reclamation is responsible.

It was also recommended that the statutory language included in the Historic Preservation Act of 1966 describing eligibility for the National Register of Historic Places should be substituted for the language used here. The substituted language should be consistent with the definition of "National Register" that was given in § 422.7(p). (The "National Register" definition is given in the final rules in § 422.7(o).)

2. It was suggested to change "only cover 10 to 20 percent" to "covering an adequate sample percentage" in § 422.3(b)(2). (This change is given in the final rules in § 422.3(b)(1)(ii).)

3. It was suggested to add "Necessary measures to protect the resources shall not be implemented until such notification and consultation procedures can be completed" in § 422.3(h). Similar language was adopted in the final rule.

4. In the discussion of mitigation, § 422.3(k), it was recommended that the following paragraph be included: "Mitigation measures must be appropriate to the nature of the significance of the resource in question. Appropriate mitigation of adverse effects on properties possessing architectural merit or heritage values will necessarily differ from that of adverse effects on properties significant only for the information they contain. Avoidance or preservation may be the only appropriate mitigative measure in some cases." Language similar to that suggested is used in § 422.3(g).

5. It was recommended that the last sentence of § 422.5(b) should be changed to: "All direct contracts, purchase orders, or transfers of funds for cultural resource studies and the selection of contractors may be reviewed by the Archeologist, E. & R. Center, prior to final, execution of contracts or transfer agreements if determined by the contracting officer to be beneficial from a technical standpoint. Copies of all actions shall be provided to the Archeologist, E. & R. Center. Language similar to that suggested is used in § 422.5(c).

6. If was suggested that phases I, II, and III surveys be changed to classes I, II, and III surveys in § 422.3(b).

It was also suggested to qualify "excavations" as "test excavations" in § 422.3(b)(3). (This change is given in the final rules in § 422.3(b)(1)(iii).)

7. It was recommended that professional artists and architectural historians be involved in the process of identification and administration of cultural resources. Throughout the rules such professionals are considered under the category of "other professionals." Such professionals were specifically named and added to the definition of "Professional Examination" in § 422.7(r).

8. It was suggested not to specify a particular dated edition of Bureau of Reclamation specification paragraphs titled "Preservation of Historical and Archeological Data" in appendix A(10).

9. It was suggested to add "or retains" to § 422.2(b), line 19.

10. It was suggested to specify that copies of technical reports would be sent to the Department of the Interior Library and the National Technical Information Service in § 422.6(b). In addition to this change, § 422.6(b) was modified to specify that copies of technical reports would also be sent to the Water Resources Scientific Information Center.

11. In § 422.7 it was suggested that the "Historic" resources category include district, object, site, and structure. It was also suggested that National Register definitions of the terms "district, object, site, and structure" be used and that the term "building" be defined. Definitions taken from the January 1977 edition of "How to Complete National Register Forms" are used.

12. It was recommended that in § 422.7(dd) the more extensive discussion of survey in § 422.3(b) should be cross-refereuced. The definition of survey in § 422.7(y) now references the discussion of survey in the main body.

13. The word "maintained" was recommended rather than "used" in § 422.3(i). This change is given in the final rules in § 422.3(i).

14. It was suggested that the regulations be made compatible with the procedures for "Determinations of Eligibility for Inclusion in the National Register of Historic Places" (36 CFR Part 63) and that 36 CFR Part 63 be referenced. 43 CFR Part 422 is compatible with 36 CFR Part 63 and the rule has been referenced in § 422.1 and appropriately throughout these final rules.

15. It was recommended that class III surveys in § 422.3(b) be accomplished during Reclamation's feasibility planning stage. Reclamation agrees to carry out class III surveys during the preparation of a feasibility report as explained in § 422.3(b)(2).

16. It was recommended that Reclamation not distinguish between primary and secondary impacts on non-Federal lands. In § 422.2(b), Reclamation recognizes its responsibility for potential impacts it may have on non-Federal lands. The definitions for and distinction between "primary" and "secondary" impacts have been deleted. A definition of "effect" was also added in § 422.7(i).

17. Many general editorial changes were suggested and the proposed rules were carefully rewritten throughout for clarity and consistency. Many sections, particularly §§ 422.3 and 422.5 were also almost totally reorganized.

COMMENTS NOT LEADING TO CHANGES IN THE RULEMAKING

1. It was recommended that the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH) have (a) staff member(s) involved when a project is eligible to make application for NEA or NEH funds. Cultural resources on Bureau of Reclamation projects are ineligible for NEA and NEH funds.

2. The question of whether the Bureau of Reclamation possesses the authority to promulgate a regulation regarding the implementation of portions of the National Historic Preseva-tion Act was raised. Although section 211 of Pub. L. 94-422 states that "The Council is authorized to promulgate such rules and regulations as it deems necessary * * *," it does not give the Advisory Council the exclusive right to do so. Section 1(2) of Executive Order 11593 requires that Federal agencies "initiate measures and procedures necessary to direct their policies, plans and programs * * *," and section 1(3) of the Executive order provides that Federal agencies shall "initiate procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archeological significance."

3. It was recommended that Federal agencies be responsible for their construction impact (e.g., raw material sources) outside of the primary construction zone. These regulations include responsibility for such areas of impact.

4. It was suggested that State Historic Preservation Officers (SHPOs) and other qualified professionals be more involved in the review process outlined in the procedures. Reclamation believes that the procedures already allow for adequate involvement by and consultation with SHPOs and qualified professionals.

5. Suggestions for definitions were considered but it was determined that the existing definitions (other than those noted under "Comments Leading to Changes in the Rulemaking") are adequate for the Bureau of Reclamation's purposes.

It was also suggested to move the definitions section to the beginning of Part 422 but we have concluded that they should remain as § 422.7.

6. Comments on our survey phases (§ 422.3(b)) incorrectly included a belief that the class III surveys are an integral part of recovery, protection and/or preservation and should be accomplished under authority of the Archeological and Historical Preservation Act of 1974. The Bureau of Reclamation class I, II, and III surveys are an integral part of identification, protection, and/or preservation and are to be accomplished as part of the planning processes under the authority of the National Environmental Policy Act of 1969 and the National Historic Preservation Act of 1966; see provisions in § 422.3(b).

7. Comments on the delegation of authority were considered. For the purpose of this rulemaking, it was decided to remain with the language in Executive Order 11593 in reference to the authority of the Secretary of the Interior.

8. It was suggested that the "Procedures" should be organized according to three major types of tasks covered by historic preservation authorities. The separation of three major types of tasks would not be consistent with the Bureau of Reclamation's operational procedures.

9. Comments on program procedures and administration were considered. The program procedures and administration are organized to allow the Bureau of Reclamation to effectively integrate its cultural resource responsibilities into its planning, operation, and maintenance procedures and to be consistent with existing historic preservation legislation.

It is hereby determined that the publication of this regulation will not significantly affect the quality of the human environment and that no envi-

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ronmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(c), is required. For specific proposals requiring the Bureau of Reclamation to carry out its cultural resource responsibilities as set forth in this regulation, compliance with the National Environmental Policy Act will be accomplished on an individual basis.

The primary authors of this rulemaking are: Ward Weakly, Archeologist, Engineering and Research Center, Denver, Colo., telephone, 303-234-4348; Jean Kujawa and Diana Gelburd, Division of Water and Land, Department of the Interior, Washington, D.C., telephone, 202-343-5204.

NOTE.—The Department of the Interior has determined that the publication of this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 3, 1978.

JAMES A. JOSEPH,
Under Secretary of the Interior.

Pursuant to the authority of the Secretary of the Interior contained in Executive Order 11593 of May 13, 1971, it is hereby established a new part 422 of title 43 to read as follows:

Sec.
422.1 Purpose and scope.
422.2 Responsibilities.
422.3 Program procedures.
422.4 Coordination with other Agencies and entities.
422.5 Administration.
422.6 Records and reports.
422.7 Definitions.

AUTHORITY: E.O. 11593 of May 13, 1971.

§ 422.1 Purpose and scope.

This part sets forth regulations of the Bureau of Reclamation with regard to the following Public Laws, Federal Regulations, Departmental Manual provisions and Executive Order:

(a) Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431)

(b) Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461-467)

(c) Reservoir Salvage Act of 1960 (74 Stat. 220, 16 U.S.C. 469) as amended by Pub. L. 93-291, the Historical and Archeological Preservation Act of 1974 (88 Stat. 174, 16 U.S.C. 469)

(d) National Historic Preservation Act of 1966 (NHPA) (80 Stat. 915, 16 U.S.C. 470) as amended in 1973 by Pub. L. 93-54 and in 1976 by the Land and Water Conservation Fund Act, Pub. L. 94-422

(e) National Environmental Policy Act of 1969 (NEPA) (83 Stat. 852)

(f) Executive Order 11593, for "Protection and Enhancement of the Cultural Environment," May 13, 1971

(g) Preparation of Environmental Impact Statements Guidelines (40 CFR Part 1500)

(h) National Register of Historic Places (36 CFR Part 60)

(i) Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800)

(j) Determinations of Eligibility for Inclusion in the National Register of Historic Places (36 CFR Part 63)

(k) Protection of Properties in the National Register of Historic Places (426 DM 1)

(l) Preservation of Historic Property (519 DM 1)

(m) Environmental Quality (516 DM 1-3)

The scope of this part embraces the elements of Executive Order 11593, section 1, which states:

"The Federal Government shall provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch * * * shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally-owned sites, structures, and objects * * * are preserved, restored, and maintained for the inspiration and benefit of the people, and (3) * * * institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of nonfederally owned sites, structures, and objects of historical, architectural, or archeological significance."

§ 422.2 Responsibilities.

(a) *Secretary of the Interior.* The provisions of referenced Acts in § 422.1 assign Governmentwide overview and consultative responsibilities to the Secretary of the Interior for performing the functions necessary to execute the policies prescribed in Executive Order 11593 and applicable historic preservation laws.

(b) *Bureau of Reclamation.* The Bureau of Reclamation is responsible for the identification and protection of historical, archeological, architectural, scientific, and paleontological resources, hereinafter referred to as cultural resources, affected by Reclamation actions or on Reclamation lands. Reclamation will manage the cultural resources on Reclamation lands in compliance with national policies in an effort to protect, preserve, rehabilitate, restore and maintain the properties, as appropriate. Reclamation is also responsible for identifying and considering cultural resources on nonfederally owned areas which are or will be affected by Reclamation actions (includes Reclamation funded, licensed, or proposed activities). It is the responsibility of the Bureau of Reclamation to identify, evaluate and nominate to the National Register of Historic Places (National Register) all districts, sites, structures, buildings, and objects significant in American history, architecture, archeology, and culture which may be eligible under National Register criteria (36 CFR 60.6) on all areas affected by a Reclamation action and on all Reclamation owned, withdrawn, or acquired lands or land in which Reclamation acquires or retains an interest. These responsibilities shall be fully considered in project planning, construction, operation and maintenance. Reclamation responsibilities also include notification to the Secretary of the Interior when it is determined that a Reclamation project will cause irreparable loss or destruction of cultural resources listed on or eligible for listing in the National Register and the preparation of an annual report of activities carried out pursuant to Pub. L. 93-291.

(1) *Commissioner.* The Commissioner of the Bureau of Reclamation is responsible for Reclamation's compliance with Executive Order 11593 and the applicable provisions of the laws and regulations referenced in § 422.1.

(2) *Regional Directors.* Each Regional Director is responsible for insuring that proposed and existing Reclamation activities under his jurisdiction are executed according to the provisions of these regulations (43 CFR Part 422).

(3) *Archeologist, Engineering and Research Center (E&R Center).* The Archeologist, E&R Center, Denver, Colo., is Reclamation's chief archeologist. This person is responsible for providing advice to the Commissioner's office and for furnishing technical assistance to and coordinating with the regional offices about Reclamation's cultural resources program.

(c) *Advisory Council on Historic Preservation (Advisory Council).* Under the provision of section 106 of the National Historic Preservation Act and Executive Order 11593, the Advisory Council must be afforded an opportunity for comment on Federal, federally assisted or federally licensed undertakings that may affect properties listed in or eligible for listing in the National Register of Historic Places. The procedures for consultation with the Advisory Council are outlined in 36 CFR Part 800.

(d) *State Historic Preservation Officer (SHPO).* The SHPO is the State official, designated pursuant to 36 CFR Part 60, responsible for liaison with Federal agencies in their implementing the National Historic Preservation

Act of 1966 and Executive Order 11593, and for the coordination of the Statewide survey of historic properties and the development of a comprehensive State historic preservation plan.

§422.3 Program procedures.

(a) *Policy.* In all matters related to cultural resources, the Bureau of Reclamation regulations (43 CFR Part 422) and policy memorandums in further implementation of these regulations from the Commissioner govern the actions of Reclamation.

(b) *Surveys.* Cultural resources surveys and inventory reports will be completed for all Reclamation lands and existing projects as well as for those areas which may be affected by a Reclamation action or where Reclamation actions and projects are currently being planned.

(1) *Levels of surveys.* The Bureau of Reclamation conducts three levels of surveys.

(i) *Class I survey.* A class I survey is primarily a literature search. It consists of consulting the National Register of Historic Places and supplemental National Register listings to determine whether any National Register eligible/listed properties exist in the area of a Reclamation action or on lands under Reclamation's administration. It also includes contacting the SHPO, State Archeologist, State Historian, State Historical Society, and/or other appropriate individuals, agencies, or institutions to determine what cultural resources may be present in an area and what kind of additional information may be needed for an adequate inventory of cultural resources. Regional records shall also be examined for potentially eligible properties on lands under Reclamation's administration.

(ii) *Class II survey.* A class II survey is a field examination of the area to be affected by a Reclamation action or on lands under Reclamation's administration in an attempt to determine the presence or absence of cultural resources. This type of survey might be an on-the-ground examination and/or an evaluation covering an adequate sample percentage of the total study area which may be studied more intensively during class III surveys. Class II surveys might include remote sensing techniques and/or sampling procedures. Class II surveys are designed to aid in determining the necessity for a class III survey and may be combined with a class I survey or bypassed in favor of a class III survey.

(iii) *Class III surveys.* A class III survey consists of an intensive on-the-ground examination of all the areas to be affected by a Reclamation action or on lands under Reclamation's administration. It is designed to locate and make a preliminary professional evaluation of all identified cultural resources. All cultural resources identified as signficant as a result of a class III survey will then be nominated to the National Register of Historic Places or a determination of eligibility will be sought. A class III survey may require test excavations for the purpose of evaluating the cultural resources.

(2) *Surveys during preparation of pre-authorization appraisal investigation and feasibility investigations.* Each planning investigation conducted by Reclamation shall include, in its initial steps, a survey of the cultural resources in the planning area. The type of survey shall be consistent with the level of detail of the planning investigation. Class I surveys are normally undertaken during the preparation of an appraisal report or the compilation of initial resource base information for the multiple objective planning (MOP) effort. Class I surveys should be undertaken at the beginning of a cultural resources evaluation in order to minimize the possibility of duplication of effort. The results of a class I survey may be used in the evaluation of alternative plans. Class II surveys are normally undertaken during the feasibility investigation. To complete the feasibility investigation, a class III survey is necessary to permit the completion of the identification, determination of eligibility and nomination process when potential National Register sites are located or indicated to be present in a class II survey. If the projected cost of a class III survey is unusually high, clearance will be obtained from the Commissioner's office before proceeding with the survey. A class III survey may not be possible during preparation of pre-authorization appraisal investigation and feasibility investigation when access to private lands is denied or when pre-authorization planning investigations are terminated because of Congressional action.

(3) *Surveys during post-authorization definite plan report preparation and/or construction.* Class III surveys should be completed before approval of a definite plan report. For those projects where completion of surveys required in § 422.3(b)(2) was not done because project implementation preceded passage of applicable cultural resource laws, or because access was denied, or because Congress authorized the project, class III surveys must be completed on Reclamation project areas or areas subject to a Reclamation action at the earliest possible date.

(4) *Surveys on completed projects and surveys on Reclamation-administered lands.* On areas not previously surveyed for cultural resources, investigations shall begin with a class I survey. Class III surveys of the area should then be conducted unless it is established that surveys by others, consistent with these procedures (43 CFR Part 422), have already been performed to determine the existence of cultural resources and their significance.

(c) *Determination of significance of cultural resources.* (1) Evaluation of cultural resources that may qualify for the National Register of Historic Places.

All cultural resources inventoried during a class I, II, or III survey, except those already eligible/listed on the National Register, shall be evaluated for their potential significance based on National Register criteria (36 CFR 60.6) and other local or State interest. Qualified professionals, including the SHPO, State Historian and State Archeologist, may assist Reclamation in this early assessment of significance process. When there is general agreement that a specific cultural resource property has little or no signficance, no further consideration need be given to the property under this part (43 CFR Part 422).

(2) Determination of Eligibility of Cultural Resources for the National Register of Historic Places.

Reclamation shall apply the National Register criteria for evaluation contained in 36 CFR 60.6 to each cultural resource found to be of some signficance in § 422.3(c)(1). If Reclamation and the SHPO agree that a property meets the criteria, the documentation (36 CFR 63.3) will be sent to the Keeper of the National Register of Historic Places. An official determination by the Keeper will be made within 10 working days of receipt of the documentation. If any question exists on whether a property meets the criteria, Reclamation will send the documentation required in 36 CFR 63.2(d)—including the comments of the SHPO—to the Keeper of the National Register. In these cases, the Keeper has 45 days after receipt of the material in which to respond (See 36 CFR 63.2(e)). If Reclamation determines that a cultural resource does not appear to meet the critiera and the SHPO agrees, or if the Keeper of the National Register determine a property is not eligible for the National Register, further consideration of the property shall be handled according to § 422.3(e)(2). The procedures in § 422.3 (d) and (e)(1) shall be applied to all cultural resource properties determined to be eligible for the National Register of Historic Places.

(d) *Nomination to the National Register of Historic Places.* Reclamation will apply the nomination process set forth in 36 CFR Part 60 to all cultural resource properties determined to be

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eligible for the National Register. All regional level work will be conducted in consultation with the Archeologist, E&R Center.. Copies of the nomination forms will be sent to the SHPO for his comments. Information copies will be provided to the State Historian and State Archeologist. Regional Directors will submit completed nomination forms to the Archeologist, E&R Center, for review and processing in accordance with the Department of the Interior procedures.

(e) *Determination of project effect on cultural resource properties.* Each Reclamation action will be analyzed in consultation with the SHPO to determine its effect on identified cultural resources.

(1) For properties eligible/listed on the National Register of Historic Places.

(i) *Determination of no effect.* Determination that a Reclamation action will have no effect upon a National Register eligible/listed cultural resource must be adequately documented and shall be the result of a professional evaluation based on the application of the "Criteria of Effect" set forth in 36 CFR 800.6. Should such a finding ensue, Reclamation shall seek the concurrence of the SHPO in consultation with the Archeologist, E&R Center. Should the SHPO agree, the action may proceed without further consultation.

(ii) *Cultural resource affected.* Reclamation will apply the criteria of adverse effect, set forth in 36 CFR 800.9, to determine whether the effect of the undertaking is adverse.

(A) *Determination of no adverse effect.* Upon finding the effect not to be adverse, adequate documentation will be sent to the SHPO for his views. If the SHPO agrees, or if he disagrees but Reclamation still believes that the effect will not be adverse, the documented determination of no adverse effect along with the SHPO's comments will be submitted to the Advisory Council on Historic Preservation, after consultation with the Archeologist, E&R Center. Unless the Advisory Council objects to Reclamation's findings within 45 days of the Council's receipt of the documentation, Reclamation's action may proceed without further consultation.

(B) *Determination of adverse effect.* Should it be determined that a Reclamation action will have an adverse effect on a National Register eligible/listed cultural resource, Reclamation shall submit the documentation to the Advisory Council on Historic Preservation after consultation with the Archeologist, E&R Center (See § 422.3(f)). Subsequent consultation with the SHPO and the Advisory Council should follow the Advisory Council procedures set forth in 36 CFR 800.5.

(2) *Properties ineligible for the National Register of Historic Places.* If a cultural resource property is determined to be ineligible for the National Register, there may be State, local, or private interest in its conservation. Consultations concerning the disposition of an affected property shall be concluded with the interested parties and the Archeologist, E&R Center.

(f) *Notification to the Advisory Council on Historic Preservation.* The Advisory Council on Historic Preservation will be notified in accordance with either of the following two plans when Reclamation action will have an effect on any National Register eligible/listed cultural resources.

(1) When section 102(2)(C) of NEPA is applicable to a Reclamation action or when there is a proposal or action for which Reclamation has lead agency status for preparation of the environmental statement, notification should be accomplished through documentation of the effects incorporated in the draft environmental statement (DES). The DES should discuss, to the extent possible at the time of its issuance, all determinations of significance of cultural resources made pursuant to § 422.3(c).

(2) When section 102.(2)(c) of NEPA is not applicable to a Reclamation action or when the Reclamation action is a part of the post authorization activities (includes operation and maintenance) but an effect on one or more National Register eligible/listed cultural resources is identified, notification should be accomplished by providing the Advisory Council with documentation, as appropriate, in accordance with procedures in 43 CFR Part 422 and 36 CFR 800.4(e).

(g) *Cultural resources mitigation objectives.* It is the policy of Reclamation that mitigation funding for cultural resources, where appropriate, will be provided concurrent and proportionate with expenditures for construction activities as directed in the President's water resource policy message of June 6, 1978. To the fullest extent possible, it is Reclamation's objective to preserve cultural resources, in situ, and total avoidance of adverse effects should always be attempted. However, when all factors and elements related to a Reclamation action are evaluated from the overall public benefit standpoint, it is possible that some cultural resources may be adversely affected through destruction or alteration. In such cases, Reclamation will plan for and implement positive mitigating measures to reduce or counter those effects. Project planning reports and, when applicable, the final environmental statement (under section 102(2)(C) of NEPA), in addition to identifying the adverse effects, will describe the mitigation plans to the extent they have been resolved in consultation with the SHPO and the Advisory Council on Historic Preservation even though a memorandum of agreement has not yet been executed. Mitigation measures should be appropriate to the nature and importance of the cultural resource in question. For example, mitigation for a property possessing architectural merit or heritage values will necessarily differ from that for a property important only for the information it may contain. Mitigation measures may include recording by photographs and measured drawings of the cultural resource; archeological excavation to recover data and materials; relocation of a structure or salvage of its architectural features, or other steps that will insure full knowledge of the affected cultural resource. In all cases, there will be preservation of such physical features as may be possible. The measures also should include provisions for analysis and publication of information collected and deposition of recovered artifacts and materials where they may be of public and educational benefit. Recordation of cultural resources to be destroyed or altered by Federal action is required by section 2(c) of Executive Order 11593. Section 2(f) of Executive Order 11593 specifies certain provisions for historic preservation in the event of the transfer or sale of cultural resources to other agencies or owners. If any Federal cultural resource property is to be removed from Reclamation's jurisdiction or control, provisions for the protection of cultural resources shall be integrated into the action in conformance with the requirements of section 2(f). Such provisions would include mitigation of any adverse effects on cultural resources that might occur as an indirect result of the transfer.

(h) *Conclusion of consultation with the Advisory Council on Historic Preservation for cultural resources adversely affected.* The execution of a memorandum of agreement among the Advisory Council, SHPO and Reclamation normally concludes the consultation process set forth in 36 CFR 800.5 and no Reclamation action which would alter, destroy, modify or relocate the cultural resource will be initiated until the agreement is completed.

(i) *Cultural resources discovered during construction.* All construction contracts arising from a Reclamation action shall provide specifications for the contracting officer to order delays or changes in work when a cultural resource is discovered during the construction phase. If appropriate, the contract price may be adjusted because of delays or the work order change. Reclamation will apply the procedures in this part (43 CFR Part 422) before any further work on the site may proceed.

(j) *Curatorial responsibilities.* Cultural resources on Federal lands are the property of the United States and the Bureau of Reclamation may delegate curatorial responsibilities for materials recovered from cultural resources site explorations or studies done under contract. Arrangements may be made with museums, universities, institutions and/or other agencies to provide storage and curatorial services. These materials may be maintained by the holding institution, if not required by Reclamation for interpretive displays. All curatorial services will be arranged in consultation with the Archeologist, E. & R. Center. Curatorial responsibility for paleontological and archeological materials recovered under the American Antiquities Act of 1906 will be precessed in accordance with the uniform rules and regulations set forth in 43 CFR Part 3.

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§ 422.4 Coordination with other agencies and entities.

Coordination with other agencies and entities having responsibilities for cultural resources is required in all phases of the Bureau of Reclamation's project planning and execution. These contacts include the appropriate State Historic Preservation Officer, the Heritage Conservation and Recreation Service for properties eligible/listed in the National Register, and the advisory Council on Historic Preservation. Coordination should also occur with other public interest groups, State Archeologists and Historians, State and local archeological and/or historical societies, other State and Federal agencies, institutions, foundations, and/or individuals with special interests or expertise in cultural resources. A time frame should be specified and a reasonable response period negotiated. If Federal lands administered by, or in cooperation with, another Federal agency will be affected by a Reclamation action, coordination and consultation shall be required with that agency having responsibilites for existing or potential cultural resources on such lands.

§ 422.5 Administration.

(a) *Program establishment.* Reclamation, through each Regional Director, will establish a program to insure that proposed and existing Reclamation activities under his jurisdiction are executed according to the provisions of these regulations (43 CFR Part 422).

(b) *Funding.* (1) Pre-authorization activities. Cultural resource surveys, classes I, II, and III where needed, will be funded from monies appropriated for general investigations leading to preparation of appraisal and feasibility investigations as well as statements/assessments pursuant to the National Environmental Policy Act (NEPA).

(2) *Post-authorization activities.*—(i) *Surveys.* Funding for Reclamation's cultural resource surveys, classes I and II, if not already accomplished and class III which must be done within the post-authorization period, will be funded out of monies appropriated for a post-authorization work program.

(ii) *Recovery work.* Under the authority of Pub. L. 93-291, Reclamation may utilize up to 1 percent of the total cost of a project for data recovery, mitigation, protection and maintenance work, and may request additional funds when necessary.

(3) *Nonreimbursable.* Cost for cultural resource activities in the pre-authorization stage and pursuant to Pub. L. 93-291 will be considered as nonreimbursable project costs.

(c) *Contracts.* Contracting for consultant services, not available in Reclamation, may be either direct with a qualified firm, institution or individual, or through transfer of funds to other agencies with special expertise. Direct contracting, in accordance with existing procedures and procurement restrictions, will enable Reclamation to maintain more effective internal control over the contract. If determined appropriate by the contracting officer, all direct contracts, purchase orders, or transfers of funds for cultural resource work and the selection of contractors shall be reviewed by the Archeologist, E. & R. Center, prior to execution of the contract or transfer agreement. Copies of all actions taken by a Regional Director shall be provided to the Archeologist, E. & R. Center.

(d) *Concurrent actions.* Actions requiring compliance with Executive Order 11593 and 36 CFR Part 800, should be grouped together, to the extent possible, to eliminate repetitive reviews, particularly during pre-authorization activities. In some cases, it may be possible to group all 36 CFR Part 800 consultations on a number of properties into one package for an overall plan. In other cases, consultation on the plan may identify specific aspects of the plan that will require renewed consultations when more detailed project information is developed and affected resources are more completely identified. The Archeologist, E. & R. Center, shall be advised in the initiation of such "programmatic" consultations.

§ 422.6 Records and reports.

(a) *Record of actions involving cultural resources.* A record shall be kept of all Reclamation actions involving cultural resources. These records shall include, but are not limited to, contracts for work, contract completion reports, National Register nomination forms (36 CFR Part 60), relevant correspondence, and any other information that will aid future Reclamation actions in regard to cultural resources.

(b) *Technical reports.* Prior to Reclamation's acceptance of completed contractual obligations, all reports concerning surveys, studies, and/or mitigation efforts shall be reviewed for technical accuracy, completeness, and adequacy by the Archeologist, E. & R. Center, and/or others he may designate. Copies of final accepted reports shall be furnished to:

(1) Commissioner.
(2) Regional Director.
(3) Archeologist, Engineering and Research Center.
(4) Advisory Council on Historic Preservation.
(5) State Historic Preservation Officer.
(6) State Archeologist.
(7) State Historian.
(8) Denver or San Francisco Office of Interagency Archeological Services, Heritage Conservation and Recreation Service.
(9) Representatives of other Federal agencies whose lands may be affected.
(10) Smithsonian Institution.
(11) Seven copies to the Publications Section, Engineering and Research Center, Denver, for distribution to Department of the Interior Library, the National Technical Information Service, and the Water Resources Scientific Information Center.

(c) *Annual report.* Reclamation will be responsible for preparing an annual report to the Secretary of the Interior on actions taken under the provisions of the Reservoir Salvage Act of 1960 (74 Stat. 220, 16 U.S.C. 469) as amended in 1974 (88 Stat. 174, 16 U.S.C. 469).

§ 422.7 Definitions (assembled alphabetically).

For purposes of this part:

(a) "Advisory Council" refers to the Advisory Council on Historic Preservation, established pursuant to title II of the National Historic Preservation Act of 1966 (NHPA) (80 Stat. 915, 16 U.S.C. 470, as amended). Pursuant to section 106 of the NHPA and the provisions of Executive Order 11593, the Advisory Council must be afforded an opportunity for comment on Federal, federally assisted or federally licensed undertakings that may affect properties listed in or eligible for listing in the National Register of Historic Places.

(b) "Appraisal investigation" refers to the first stage in Reclamation's planning process and is a study focusing on water and land resources for a selected area or basin. The appraisal report identifies alternative plans. Detailed investigation of the alternatives

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occurs in later feasibility investigations.

(c) "Archeologist, E. & R. Center" refers to Reclamation's chief archeologist at the Engineering and Research Center, Denver, Colo. This person provides advice to the Commissioner's office and furnishes technical assistance to and coordinates with the regional offices about Reclamation's cultural resource program.

(d) "Building" is a structure created by humans to shelter or support any form of human activity. This may refer to a house, barn, church, hotel, or similar structure. "Buildings" may refer to a historically related complex, such as a courthouse and jail or a house and barn.

(e) "Consultation" means of the act of seeking advice or conferring with another party.

(f) "Cultural resource" refers to any building, site, district, structure, or object significant in history, architecture, archeology, culture, or science.

(g) "Definite plan" means the stage of Reclamation's project design and engineering development undertaken following authorization for construction. The definite plan report is used as the basis for project construction.

(h) "District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(i) "Effect" is the extent of project impact on a cultural resource as determined according to the Advisory Council's "Criteria of Effect" (36 CFR 800.8 and 800.9). See § 422.3(d) for a more extensive discussion of "effect".

(j) "Feasibility investigation" refers to Reclamation's second stage of project planning where applicable planning procedures are implemented in detail and alternatives evaluated. The feasibility report is normally utilized to obtain authorization for construction.

(k) "Federally licensed activity" refers to construction or development work carried out under specific Reclamation licenses, contracts, permits, or loans. Also see definition of Reclamation action.

(l) "Historic" or "historical" refers to any cultural resource that is related or associated with the period of written records or for which written documentation is available.

(m) "Land modification" is any major action that would result in a permanent or temporary disturbance of the land. Examples of land modification would be construction activity, the development of new facilities and/or expansion of existing facilities and includes, for example, the building of roads, delivery systems or recreation areas.

(n) "Mitigating measures" refers to those actions that will be taken to avoid, reduce or ameliorate possible or probable adverse effects on a cultural resource.

(o) "National Register" refers to the National Register of Historic Places which is maintained by the Secretary of the Interior under the authority of section 2(G) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a)(1) of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470). It is the register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology and culture. The entire National Register is published every February in the FEDERAL REGISTER and addenda are published monthly, usually on the first Tuesday.

(p) "Object" is a material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(q) "Prehistoric" or "prehistorical" refers to any cultural resource that is not related or associated with the period of written records.

(r) "Professional examination" consists of an investigation of the cultural resource or resources by a qualified professional. A "qualified professional" is an archeologist, architect, historian, architectural historian, artist or other appropriate person satisfactory to the Archeologist, E. & R. Center; the State Historic Preservation Officer; State Historian and/or State Archeologist. General guidance for selection of qualified professionals can be found in appendix C of proposed 36 CFR Part 66 (42 FR 5374; January 28, 1977).

(s) "Reclamation action" refers to any Bureau of Reclamation undertaking, project, project proposal or an operation and maintenance activity. It includes any work carried out under Reclamation licenses, permits, contracts, funded activities or Reclamation small loans to private individuals or corporations.

(t) "Reclamation jurisdiction" (or administration) includes all Bureau of Reclamation withdrawn public lands and private lands which the Bureau of Reclamation has acquired in fee title or has a lesser interest in the form of a lease, easement, license or permit.

(u) "Significance" means important to history or prehistory as determined by application of the National Register criteria (36 CFR 60.6) and in consultation with local interest groups, the SHPO, and the Archeologist, E. & R. Center.

(v) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archeological value regardless of the value of any existing structures. Examples are battlefields, historic campgrounds, ancient trails or gathering places, deposits of cultural debris and historic farms.

(w) "State Historic Preservation Officer (SHPO)" is the State official, designated pursuant to 36 CFR Part 60, responsible for liaison with Federal agencies in implementing the National Historic Preservation Act of 1966 and Executive Order 11593.

(x) "Structure" is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by humans, it is often an engineering project large in scale.

(y) "Survey" refers to a study relevant to an area in order to locate and evaluate the cultural resources that are, or may be, present. See § 422.3(b)(1) for a more extensive discussion of surveys.

[FR Doc. 78-28368 Filed 10-6-78; 8:45 am]

[4910-14-M]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CG 78-108]

MERCHANT VESSEL SAFETY REGULATIONS

Miscellaneous Editorial Amendments

AGENCY: U.S. Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document revises addresses and agency organizational information and corrects typographical and editorial errors in the Merchant Vessel Safety Regulations. The presence of outdated addresses and organizational information and typographical and editorial errors in the regulations creates difficulties for those persons who must use the regulations. These amendments should eliminate resulting confusion by bringing the regulations up to date.

EFFECTIVE DATE: These amendments are effective on October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank K. Thompson, Merchant Marine Technical Division (G-MMT/82), U.S. Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2174.

SUPPLEMENTARY INFORMATION: Since the amendments in this document are simply editorial or administrative, the Coast Guard finds for good cause under 5 U.S.C. 553 (b) and (d) that notice and public procedure are unnecessary and that these amendments may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are Mr. Frank K. Thompson, Office of Merchant Marine Safety, Project Manager and Lt. G. S. Karavitis, Office of Chief Counsel, Project Attorney.

DISCUSSION OF RULE

Current regulations, which permit the submittal of various types of plans for approval to field technical offices of certain Districts, do not reflect the fact that the 5th Coast Guard District may exercise approval authority for the geographical area covered by that district. The 5th District is added to the list of Coast Guard districts to which plans may be submitted and the area of responsibility of the 3d District is amended accordingly. The address given, in these same regulations, for the 8th Coast Guard District is out of date. The correct address is being substituted.

Additionally, typographical errors and accidental omissions that have been detected are corrected. A table showing requirements for certain hose installations which was erroneously printed with dual entries is also being corrected.

The Coast Guard has evaluated this rule under the Department of Transportation "Policies for Improving Government Regulations" published on March 8, 1978 (43 FR 9582). Since this rule merely updates and corrects portions of Title 46, there will be no environmental or economic impacts.

In consideration of the foregoing, Title 46, Code of Federal Regulations is amended as follows:

PART 50—GENERAL PROVISIONS

1. In § 50.20-5, by revising paragraphs (d)(1) and (d)(2) and adding a new paragraph (d)(5) to read as follows:

§ 50.20-5 Procedures for submittal of plans.

* * * * * * *

(d) * * *

(1) Commander, 3d Coast Guard District(mmt), Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st and 3d Coast Guard Districts.

(2) Commander, 8th Coast Guard District(mmt), Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, for the geographical area covered by the 2d, 7th, and 8th Coast Guard Districts.

* * * * * * *

(5) Commander, 5th Coast Guard District(mmt), Federal Building, 431 Crawford Street, Portsmouth, Va. 23705, for the geographical area covered by the 5th Coast Guard District

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PART 56—PIPING SYSTEMS AND APPURTENANCES

§ 56.25-5 [Amended]

2. In the second sentence of § 56.25-5(a), by striking the reference "§ 56.30-10(c)(5)" and inserting in its place "§ 56.30-10(b)(5)."

§ 56.50-50 [Amended]

3. In the first sentence of § 56.50-50(e), strike the word "direction" following the words "shall have such" and insert in its place the word "direct."

4. By inserting Table 56.50-105(a) after § 56.50-105(a)(1)(ii) to read as follows:

§ 56.50-105 Low temperature piping.

(a) * * *

(1) * * *

(ii) * * *

Table 56.50-105(a).—*Charpy V-notch energy multiplying factors*

Charpy V-notch specimen size [1]	Factor for minimum energy, average of 3 specimens [1]	Factor for minimum energy single specimen [1]
10×10 mm	1	2/3
10×7.5 mm	5/6	5/9
10×5.0 mm	2/3	4/9
10×2.5 mm	1/2	1/3

[1] Straight line interpolation for intermediate values is permitted.

* * * * * * *

5. By correcting Table 56.60-25(c) to read as follows:

§ 56.60-25 Nonmetallic materials.

* * * * * * * * * *

TABLE 56.60-25(c) - INSTALLATION REQUIREMENTS FOR NONMETALLIC FLEXIBLE HOSE

Type of Service	Maximum service pressure (p.s.i.)	Type cover required	Required hose reinforcement	Where permitted
Vital fresh and salt water	150	Self-extinguishing[1]	Wire or polyester	([2],[3]).
Nonvital fresh and salt water	150	do[1]	do	([4]).
Nonvital water and pneumatic	50	do[1]	None	([4]).
Do	150	do[1]	Fiber	([4]).
Lube oil and fuel Systems		do[1], [5]	Wire	For Flexibility only.[6]
Fluid power systems		do[1]	Wire or polyester	([7]).

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6. By correcting table 56.95-10 to read as follows:

§ 56.95-10 Type and extent of examination required.

• • • • •

TABLE 56.95-10-MANDATORY MINIMUM NONDESTRUCTIVE TESTS FOR WELDS

Class	Material	Nominal diameter[1]	Wall thickness[1]	Tests[2, 3] RT[4]	MT[5]	PT[6]	Notes
I, I-L, II-L	Any material	<3"	≤3/8"	No	No	No	(7,8)
I, I-L, II-L	P-1 materials or C-Mo P-3	≥3"	≤3/8"	No[7]	Yes	No	(7,8)
		<3"	>3/8"	Yes	No	No	
I, I-L, II-L	Materials other than P-1 or C-Mo P-3	≥3"	≤3/8"	No[7,9]	Yes	Yes	(7,8,9,10)
I, I-L, II-L	Any material	≥3"	>3/8"	Yes	No	No	(11)
		≥18"	Any				
II	do	<18"	Any	No	No	No	

PART 71—INSPECTION AND CERTIFICATION

PART 91—INSPECTION AND CERTIFICATION

PART 189—INSPECTION AND CERTIFICATION

7. In §§ 71.65-15, 91.55-15, and 189.55-15, by revising paragraphs (a)(3)(i) and (a)(3)(ii) and adding new paragraph (a)(3)(v) to read as follows:

§ -15 Procedure for submittal of plans.

(a) • • •

(3) • • •

(i) Commander, 3d Coast Guard District(mmt) Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st and 3d Coast Guard Districts.

(ii) Commander, 8th Coast Guard District(mmt), Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, for the geographical area covered by the 2d, 7th, and 8th Coast Guard Districts.

• • • • •

(v) Commander, 5th Coast Guard District(mmt), Federal Building, 431 Crawford Street, Portsmouth, Va. 23705, for the geographical area covered by the 5th Coast Guard District.

PART 111—ELECTRICAL SYSTEMS: GENERAL REQUIREMENTS

9. In § 111.05-5, by revising paragraphs (b)(4)(i) and (b)(4)(ii) and adding a new paragraph (b)(4)(v) to read as follows:

§ 111.05-5 Plan approval.

• • • • •

(b) • • •

(4) • • •

(i) Commander, 3d Coast Guard District(mmt), Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st and 3d Coast Guard Districts.

(ii) Commander, 8th Coast Guard District(mmt), Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, for the geographical area covered by the 2d, 7th, and 8th Coast Guard Districts.

• • • • •

(v) Commander, 5th Coast Guard District(mmt), Federal Building, 431 Crawford Street, Portsmouth, Va. 23705, for the geographical area served by the 5th Coast Guard District.

• • • • •

(5 U.S.C. 552, 14 U.S.C. 633)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB circular A-107.

Dated: September 29, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-28202 Filed 10-6-78; 8:45 am]

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. FE 77-05; Notice 5]

PART 533—AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES

Definition of "Basic Engine"; Technical Amendment

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Technical amendment.

SUMMARY: This notice amends the definition of "basic engine," as it appears in the light truck fuel economy standards of the National Highway Traffic Safety Administration. The amendment is intended to clarify the applicability of various light truck fuel economy standards for the 1980 and 1981 model years.

DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Roger Fairchild, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2992.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the agency published a definition of "basic engine" as part of its fuel economy standards for 1980-81 model year light trucks. See 43 FR 11995, 49 CFR 533.4. That definition is relevant solely to the determination of which light trucks are "limited product line light trucks," and therefore subject to less stringent fuel economy standards. The latter definition was intended to identify the class of light trucks manufactured by companies which had not had experience designing and applying the advanced emission control systems necessary to meet current and near-term future passenger automobile emission standards. Those systems will be required for many light trucks for the first time beginning in model year 1979. The agency had International Harvester primarily in mind, given the company's unique problems resulting from its limited sales volume, restricted product line, and the fact that its engines are derivatives of medium duty truck (above 10,000 pounds GVWR) engines. See 43 FR 11998.

The original "basic engine" definition incorporates the definition appearing in the Environmental Protection Agency's regulations, 40 CFR 600.002-80(21), which defines that term as "a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator." "Limited product line light truck" is in turn defined by NHTSA as "a light truck manufactured by a manufacturer whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles." See 49 CFR 533.4.

Although the EPA regulation defining "basic engine" does not on its face present any problem in NHTSA's definitional scheme, it grants EPA the authority to designate additional criteria to distinguish "basic engines." EPA has exercised this authority to classify otherwise identical engines used in both cars and trucks as two separate "basic engines," one for passenger cars, and the other for trucks. The effect of this administrative interpretation of the EPA regulation is arguably to cause virtually all light trucks to be "limited product line light trucks" under NHTSA's definitions, contrary to NHTSA's expressed limited intent. Therefore, NHTSA is revising the "basic engine" definition to exclude the additional characteristics specified by the EPA Administrator in that agency's advisory circular.

Since this amendment is in the nature of technical correction and makes the regulations conform to NHTSA's originally expressed intent, and because of the need to immediately clarify any ambiguity in the regulation, it is determined that a notice of proposed rulemaking is unnecessary and contrary to the public interest, within the meaning of 5 U.S.C. 553(b). Therefore, this amendment will be effective immediately.

The National Highway Traffic Safety Administration has determined that this document does not contain a significant regulation requiring a regulatory analysis under Executive Order 12044. Further, this action does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

In consideration of the foregoing, 49 CFR Chapter V is amended as follows:

1. By revising the definition of "basic engine" in § 533.4(b) to read as follows:

§ 533.4 Definitions.

• • • • •

(b) • • •

"Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), and catalyst usage.

• • • • •

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

The principal drafter of this document is Roger C. Fairchild.

Issued on October 2, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-28529 Filed 10-6-78; 8:45 am]

[4910-59-M]

(Docket No. 78-14; Notice 1)

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motorcycle Brake Systems

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Motor Vehicle Safety Standard No. 122, Motorcycle Brake Systems, to incorporate an interpretation, clarifying that the parking brake system test for a three-wheeled motorcycle does not require that a vehicle be held on a 30-percent grade for 5 minutes if the limit of traction of its braked wheels is reached on a lower grade so that the vehicle begins to slide. This notice also amends the standard to clarify the conditions under which traction is determined. The action is occasioned by a recent interpretation of the agency provided in response to a petition for temporary exemption from standard No. 122 by Daihatsu Motor Co. whose B-20 vehicle's limit of traction was reached on a 20-percent grade (43 FR 36548). The amendment has no effect upon safety since it is a statement and clarification of an existing agency interpretation.

EFFECTIVE DATE: As an interpretative rule, the amendment is effective October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Scott Shadle, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2153.

SUPPLEMENTARY INFORMATION: Paragraph S5.6 of 49 CFR 571.122, Motor Vehicle Safety Standard No. 122, requires in part that the parking brake system for a three-wheeled motorcycle "be capable of holding the motorcycle, for 5 minutes in both forward and reverse directions, on a 30-percent grade • • •." Recently the agency entertained a petition from Daihatsu Motor Co., Ltd. for a renewal of an exemption granted an electric motor driven cycle in 1976 because of the inability of its braked wheels to hold it on a 30-percent grade in the reverse direction. The agency disposed of the petition by publishing an interpretation allowing Daihatsu to certify compliance with standard No. 122, stating that the agency did not intend "to dictate design requirements such as center of gravity location and tire design mandating that the vehicle itself have a limit of traction sufficient to hold it on a grade that is 30 percent

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or greater when its wheels are braked" (43 FR 36548).

NHTSA has decided to incorporate this interpretation into standard No. 122 by appropriate amendments to the parking brake system requirement (S5.6) and test procedures (S7.9). A similar limit-of-traction provision already exists with respect to the parking brake system requirements for hydraulically braked vehicles (paragraph S5.2.1 of 49 CFR 571.105).

This notice also amends standard No. 122 to set forth the road surface on which traction is to be determined. As in the case of the parking brake test conditions in paragraph S6.9 of 49 CFR 571.105 and paragraph S5.6.2 of 49 CFR 571.121, Air Brake Systems, this notice specifies a surface of clean, dry, smooth portland cement concrete.

Because the amendment is an interpretative rule, under the Administrative Procedures Act it may be adopted without prior notice and public comment (5 U.S.C. 553(b)).

The principal authors of this amendment are Taylor Vinson of the Office of Chief Counsel and John Carson of the Office of Rulemaking.

In consideration of the foregoing, 49 CFR 571.122, Motor Vehicle Safety Standard No. 122 is amended as follows:

1. Paragraph S5.6 is revised to read:

S5.6 *Parking brake system.* The parking brake system shall be capable of holding the motorcycle stationary (to the limits of traction of the braked wheels), for 5 minutes, in both forward and reverse directions, on a 30-percent grade, with an applied force of not more than 90 pounds for a foot-operated system and 55 pounds for a hand-operated system (S7.9).

2. Paragraph S6.7 is revised to read:

S6.7 *Road surface.* Road tests are conducted on level roadway having a skid number of 81. The roadway is 8 feet wide for two-wheeled motorcycles, and overall vehicle width plus 5 feet for three-wheeled motorcycles. The parking brake test surface is clean, dry, smooth portland cement concrete.

3. The fourth sentence of paragraph S7.9 is revised to read:

S7.9 • • • Release the service brake and allow the motorcycle to remain at rest (to the limit of traction of the braked wheels) for 5 minutes. • • •

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on October 3, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-28530 Filed 10-6-78; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC 19 (Sub-No. 9(a))]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Extension of effective date

AGENCY: Interstate Commerce Commission.

ACTION: Extension of the Effective Date of the amended 49 CFR 1056.19(e).

SUMMARY: By decision served September 1, 1978, the Commission directed that agency statements filed previously with the Commission and still in effect be updated to conform to 49 CFR 1056.19(e), on or before October 1, 1978, the effective date of the modified regulations.

By petitions filed September 13 and 18, respectively, The American Movers Conference and Movers Round Table request 31 and 90 day extensions of time for principal carriers to comply with 49 CFR 1056.19(e), by updating agency statements previously filed and still in effect.

In order that principal carriers may have a sufficient opportunity to comply with the requirements of 49 CFR 1056.19(e), with regard to previously filed agency statements, and extension until November 1, 1978, is being given.

DATES: The time for compliance as required by 49 CFR 1056.19(e), for agency relationships existing prior to the effective date of the modified regulations, is hereby extended to November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

Joel E. Burns, 202-275-7849.

Decided September 28, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

FR Doc. 78-28359 Filed 10-6-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Revision of Migratory Game Bird Hunting Regulations for the Upper Mississippi River Wildlife and Fish Refuge in Wisconsin and Iowa

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revision of special regulations.

SUMMARY: This notice revises the migratory game bird regulations for the Upper Mississippi River Wildlife and Fish Refuge. The revision involves reopening an area within the refuge which had been closed by an earlier FEDERAL REGISTER document.

The intent of this reopening to migratory game bird hunting is to maintain the area as open until an intense study, including public participation, has been complete to determine if the area should remain open to hunting or be closed in future years.

DATES: As set by State laws.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager (Jerry J. Schotzko), 122 West Second Street, Winona, Minn. 55987, phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The following language in the FEDERAL REGISTER volume 43, FR 40023 (September 8, 1978) is hereby deleted: "A new closed area of approximately 5,000 acres above the Lansing Causeway Highway 82, River Mile 663.5-666 will be in effect beginning with the 1978 Iowa and Wisconsin waterfowl seasons."

All other sections of the above document remain in effect as printed in the FEDERAL REGISTER.

The provisions of this special regulation supplement the regulations which govern hunting on the wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until June 30, 1979. The public is invited to offer suggestions and comments at any time.

Dated: September 29, 1978.

CHARLES A. HUGHLETT,
Acting Regional Director.

[FR Doc. 78-28375 Filed 10-6-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

[Admt. 4]

CELERY GROWN IN FLORIDA

Proposed Revision of Base Quantity Formula

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: A recent amendment of the Florida celery marketing order provides for periodic review of base quantities and authorizes the Secretary of Agriculture to update base quantities by revising the formula used to determine them to reflect a more representative period of historical marketings. The proposed rule would specify this revised formula.

DATE: Comments due November 9, 1978.

ADDRESSES: Comments may be addressed to the hearing clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted. Comments will be made available for inspection at the office of the hearing clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, phone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 149 and order 967, both as amended, regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The amended order (42 FR 32762) provides that the Secretary will issue rules or regulations which set forth the procedures to be followed in implementing the amended provisions. Under the proposal hereinafter set forth, base quantities not used during both the 1977-78 and 1978-79 seasons would be declared invalid and canceled. Active producers would be issued revised base quantities which would reflect their recent history of celery sales. Also, a base quantity transferred on a temporary basis in 1974 would be transferred back to the original transferor. The purpose of the proposed revision is to have base quantities effective for the 1979-80 season that would be more in accord with the current status of the industry.

The proposal is as follows:

Amend subpart—rules and regulations (7 CFR 967.100-967.166) by adding a new § 967.155 to read as follows:

§ 967.155 Revised base quantity formula.

As soon as practicable following the May 1, 1979, registration deadline, base quantities for all producers of record with the Florida celery committee as of December 15, 1976, shall be revised to be effective for the 1979-80 season as follows and in the order enumerated:

(a) Application of the provisions of §§ 967.37(e) and 967.39 as it pertains to permanent transfers.

(b) Selection of the highest number of crates of celery produced and shipped by or for each producer during any one of the five seasons, 1974-75 through 1978-79, or his base quantity for the 1978-79 season, whichever is greater: *Provided however,* No producer who produced and shipped celery during each of the five seasons, 1974-75 through 1978-79 shall lose all or any portion of his base quantity by the application of § 967.39 pertaining to specified period of time transfers, which were approved by the committee prior to the commencement of the 1974-75 season; and provided further, any new producer who is issued a base quantity by the committee under § 967.37(d) or by transfer after December 15, 1976, shall retain his present base quantity.

(c) Any producer who transferred all or a portion of his base quantity for a specified period of time prior to the commencement of the 1974-75 season shall have all or the portion of his base quantity transferred reissued to him upon the expiration date of such transfer.

Dated: October 4, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28369 Filed 10-6-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-NE-17]

TRANSITION AREA

Alteration of Portsmouth, N.H. (Pease AFB) 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Portsmouth, N.H. (Pease AFB), 700-foot transition area so as to provide added protected airspace for aircraft executing a new special instrument approach procedure (RNAV-024) to the private Wheelabrator-Frye Heliport.

DATE: Comments must be recieved on or before November 16, 1978.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-17, 12 New England Executive Park, Burlington, Mass. 01803.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-17, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on

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or before November 16, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8085. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area. The proposed alteration will add a transition extension area to the southwest of the existing transition area approximately 2.5 miles long and 4.5 miles wide. This action is needed to provide added controlled airspace for aircraft executing a new Copter RNAV-024 standard instrument approach procedure to serve the private Wheelabrator-Frye Heliport at Hampton, N.H.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend the description of the Portsmouth, N.H., 700-foot transition area in section 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part) by adding the following:

and within 2.5 miles each side of the Pease AFB VOR 188° radial, extending from the 11 mile radius area to 14 miles south of the VOR.

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Mass., on September 22, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-28237 Filed 10-6-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 306]

RULES GOVERNING THE CERTIFICATION AND POSTING OF OCTANE RATINGS UNDER TITLE II OF THE PETROLEUM MARKETING PRACTICES ACT

Change in Time and Place of Hearings on Proposed Octane Certification and Posting Rule

AGENCY: Federal Trade Commission.

ACTION: Change of time and place of hearings on proposed Octane Certification and Posting Rule.

SUMMARY: This notice changes the time and place of the public hearings to be held on the proposed Octane Certification and Posting Rule.

DATE: The Public hearings will commence on October 16, 1978, beginning at 10 a.m. instead of 9 a.m.

ADDRESS: The hearings will be held in FTC Hearing Room No. 1, Old Pension Building, 440 G Street NW., Washington, D.C., instead of Room 524, 633 Indiana Avenue NW., as previously announced in the FEDERAL REGISTER, Friday, September 22, 1978 (43 FR 43028).

FOR FURTHER INFORMATION CONTACT:

Denis E. Hynes, Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3421.

SUPPLEMENTARY INFORMATION: By a notice appearing in the FEDERAL REGISTER Friday, September 22, 1978 (43 FR 43028), it was announced that public hearings on the proposed Octane Posting and Certification Rule would commence at 9 a.m. in Room 524, 633 Indiana Avenue NW., Washington, D.C.

This notice is to inform all interested parties that the time and place of the hearings have been changed to commence at 10 a.m. in FTC Hearing Room No. 1, Old Pension Building, 440 G Street NW., Washington, D.C.

In all other respects the previous notice of rulemaking remains the same.

Issued: October 5, 1978.

DENIS E. HYNES,
Presiding Officer.

[FR Doc. 78-28624 Filed 10-6-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 182]

[Docket No. 78N-0273]

CERTAIN HYPOPHOSPHITES

Proposed Removal From Gras Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove the generally recognized as safe (GRAS) status of calcium hypophosphite, manganese hypophosphite, potassium hypophosphite, and sodium hypophosphite as direct human food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review being conducted by the agency. The proposal would remove these ingredients from GRAS status unless the agency receives evidence of their use (foods that the substances are added to, levels of addition, intended technical effects, and food-grade specifications) during the comment period on this proposal.

DATE: Comments by December 11, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of human food ingredients classifed as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review, in which the safety of calcium hypophosphite, manganese hypophosphite, potassium hypophosphite, and sodium hypophosphite has been evaluated. Under § 170.35 (21 CFR 170.35), the Commissioner proposes to remove the GRAS status of these ingredients because no information exists that they are used in food and because of the absence of information regarding the current food usage levels, food-

grade specifications, and manufacturing procedures for these substances.

Manganese hypophosphite ($Mn(H_2PO_2)_2.H_2O$), sodium hypophosphite ($NaH_2PO_2.H_2O$), calcium hypophosphite ($Ca(H_2PO_2)_2$), and potassium hypophosphite ($KH\ PO_2$) are salts of hypophosphorous acid. Manganese hypophosphite is produced by the reaction of manganese sulfate and calcium hypophosphite. Sodium hypophosphite is produced by neutralization of hypophosphoric acid with sodium carbonate. Calcium hypophosphite is produced by boiling limewater and phosphorous acid together, with subsequent crystallization from solution. Potassium hypophosphite is produced by the reaction of potassium carbonate and calcium hypophosphite.

The hypophosphites were used for many years in medicine, being combined with cod liver oil and other ingredients (Scott's emulsion) and made into various syrups. Many of the biological effects attributed to them have been discredited, and their use has greatly diminished to the point that little, if any, is consumed at present.

Under a regulation published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), manganese hypophosphite is listed in § 182.5458 (21 CFR 182.5458) as GRAS for use as a nutrient and/or dietary supplement. Calcium hypophosphite, potassium hypophosphite, and sodium hypophosphite were acknowledged as GRAS for use in food in an opinion letter issued by FDA in 1961.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which these hypophosphites were used and the levels of usage. The survey obtained information from consumer consumption surveys and combined it with the manufacturing information to estimate consumer exposure to these ingredients. According to the 1970 survey, there were no reported food uses for calcium, sodium, potassium, or manganese hypophosphites.

Calcium, sodium, potassium, and manganese hypophosphites have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 59 abstracts on the hypophosphites was reviewed and 11 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Hypophosphites given orally or parenterally are rapidly excreted in the urine. In 1902, Panzer fed single 1 g doses (100 mg per kg of body weight) of calcium hypophosphite to a dog. He could detect no tissue concentrations of hypophosphite 6 hours after administration except in the stomach and intestines; but the urine gave a positive test after 15 minutes and continued positive until the next day. Panzer took 1 g (about 16 mg per kg) of calcium hypophosphite himself and found his urine gave a positive test for hypophosphite after 1 hour, and continued to be positive for another 24 hours. A woman given 5 g of sodium hypophosphite (0.5 g twice daily for 5 days, about 16 mg per kg daily) excreted the total dose as hypophosphite in the urine.

In rabbits given sodium hypophosphite, either subcutaneously or intravenously, 81 to 84 percent of the dose (500 and 1,000 mg per kg) was excreted as hypophosphite within 3 days.

Two cows (one pregnant) were given intravenously 0.3 moles (about 100 mg per kg) of hypophosphite salts half calcium and half sodium, and each experiment was repeated three or four times. Since at least two-thirds of the doses were excreted as hypophosphite in the urine each time, the authors concluded that hypophosphites were not used as a source of phosphate by the cows. Half of the hypophosphite excreted appeared within 2 hours, and a diuretic effect was noted during the period of hypophosphite excretion.

Studies on the acute toxicity of sodium hypophosphite and sodium phosphite were reported by Engel in 1924. He found hypophosphite to be less toxic than phosphite. The subcutaneous injection of 0.1 g of sodium phosphite killed frogs in a few hours, 0.15 to 0.20 g (about 7.5 g per kg) killed mice, and 0.2 to 0.5 g (about 500 mg per kg) killed guinea pigs. Similiar doses of sodium hypophosphite failed to kill frogs and guinea pigs; however, 0.2 g killed mice. Other workers measured the acute toxicity of sodium hypophosphite injected intraperitoneally in male Swiss albino mice. They calculated the LD_{50} (30 days) to be 1,584 mg per kg.

Two studies deal with the effect of feeding hypophosphite to rats. Takahashi placed 60 g male white rats on a phosphorus deficient basal diet containing 0.055 percent phosphate as P_2O_5 (about 20 mg P per kg body weight) from meat sources. Calcium level in the basal diet is estimated to have been about 3.2 mg per g diet (500 mg per kg body weight). He added various concentrations of hypophosphorous acid to the basal diet and found no growth over a period of 4 months at concentrations up to 0.5 percent (about 800 mg per kg); at 1.5 to 2 percent levels (2,400 to 3,200 mg per kg) the animals died within a few days. Presumably hypophosphorous acid is not oxidized and used as a source of phosphate to any appreciable extent under these experimental conditions. However, Meyer and Greenberg in evaluating calcium hypophosphite as a calcium source found that rats showed good growth on diets containing 0.43 to 4.3 percent calcium hypophosphite (about 430 to 4,300 mg per kg body weight). Groups of seven to eight young Sprague-Dawley rats were fed for 25 days a basal diet containing 0.33 percent phosphorus (330 mg per kg) and 0.03 percent calcium (30 mg per kg) supplemented with 0.43, 2.1, or 4.3 percent calcium hypophosphite; 0.43 percent each of calcium and sodium hypophosphites; 0.43, 3.0, or 4.3 percent calcium hypophosphite, each with added nucleic acid to equalize phosphorus and calcium levels without the addition of a phosphate salt; 0.43 percent dibasic calcium phosphate; 10.8 percent calcium gluconate or 2.5 percent calcium carbonate as alternate calcium sources. Growth was not depressed by calcium hypophosphite, and assimilation of calcium was about the same whether supplied by hypophosphite, gluconate, phosphate, or carbonate. Because the phosphorus level in the basal diet was sufficient to prevent phosphorus deficiency, no conclusion was reached concerning utilization of phosphorus in hypophosphites.

No direct information on the biological effects of manganous hypophosphite was available to the Select Committee. However, manganese is an essential nutrient and considerable information has been reported on the biological effects of manganous ion. This information has been reviewed by the Select Committee in an evaluation of other manganous salts as food ingredients. It was concluded that the available information indicates a wide margin exists between present intake levels of manganous ion and levels that have been reported to produce harmful effects. This information can be extended to manganous ion in manganous hypophosphite. No reports were available on long-term animal toxicity, carcinogenicity, teratogenicity, or mutagenicity of hypophosphites.

Qualified scientists of the Select Committee have carefully evaluated all available safety information on these hypophosphites. The Select Committee believes that:

The hypophosphites do not appear to be currently used as ingredients in foods as indicated by a survey of the food industry conducted by a National Research Council subcommittee in 1970 and more recent information obtained from industry by the Select Committee. They had limited medical use many years ago in tonics and as-theraputic agents but appear to be no longer used for these purposes.

The acute toxicity of hypophosphites is relatively low; injected intraperitoneally in mice, the LD_{50} (30 days) for the sodium salt was 1.6 g per kg body weight. Calcium and sodium hypophosphites given orally or parenterally to experimental animals and man are rapidly excreted as hypophosphites in the urine. It is the opinion of the Select Committee that potassium hypophosphites is comparable to the sodium salt in excretion and toxicity.

Although animal feeding experiments indicate that the phosphorus in hypophosphites is not biologically available, no adverse effects were reported in young rats fed diets containing calcium hypophosphite (up to 4.3 g per kg). Growth and calcium assimilation were as good as observed on diets containing salts recognized as good sources of calcium.

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Although no reports were available on the biological effects of manganese hypophosphite, an evaluation of the health aspects of other manganous salts by the Select Committee has found no evidence that would indicate a hazard from manganous hypophosphite if used as a nutrient or dietary supplement.

The Select Committee concludes that no evidence in the available information on manganous, calcium, potassium, or sodium hypophosphite has demonstrated, or suggests reasonable grounds to suspect, a hazard to the public when those substances are used in the manner now practiced and at the levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on the hypophosphites, the Commissioner finds there is no indication that these ingredients are currently used in food. The Commissioner requested use information for these and other GRAS ingredients in a notice published in the FEDERAL REGISTER of May 31, 1977 (42 FR 27676) and received no responses concerning hypophosphites. The Commissioner therefore proposes that calcium, manganese, potassium, and sodium hypophosphites be removed from GRAS status as direct human food ingredients unless evidence of their use (foods that the substances are added to, levels of addition, intended technical effects, and food-grade specifications) is submitted during the comment period on this proposal. It should be emphasized that use information is very important in judging the safety of food ingredients because it facilitates assessment of total dietary intake. In addition to being the subject of comments on this proposal, these substances can receive further consideration through a petition submitted under § 170.35 (21 CFR 170.35) or § 171.1 (21 CFR 171.1). Additionally, sodium, potassium, and manganese hypophosphites were included in the 1977 National Academy of Sciences/National Research Council (NAS/NRC) industry usage survey. If any usage information is submitted to FDA by NAS when the compilation of this survey is completed, the Commissioner will reconsider the GRAS status of hypophosphites based on this new usage information.

Copies of the scientific literature review on the hypophosphites and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price*
Hypophosphites (scientific literature review)	PB-228-544/AS	A02	$4.00
Hypophosphites (select committee report)	PB-274-476/AS	A02	4.00

*Price subject to change.

This proposed action does not affect the present use of hypophosphites for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701 (a) and (e), 52 Stat. 1055, 70 Stat. 919 as amended, 72 Stat. 1784-1787 as amended (21 U.S.C. 321(s), 348(d), 371(a), 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that part 182 be amended by deleting:

§ 182.5458 Manganese hypophosphite.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those discussed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under part 181 (21 CFR Part 181) incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 11, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28335 Filed 10-6-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Parts 803 and 888]

[Docket No. R-78-576]

SECTION 23 AND SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Amendment of Schedule B—Fair Market Rents for Section 8 Existing Housing and Section 23 Existing Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: HUD is proposing to amend the note to the schedules that set forth fair market rents for the section 23 and section 8 housing assistance payments programs for existing housing to provide for fair market rents for unit sizes larger than six bedrooms. This action is taken in order to facilitate participation in the program by families requiring more than six bedrooms.

COMMENTS DUE: November 9, 1978.

ADDRESS: All materials which persons wish to submit should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies of comments should be concurrently submitted to the appropriate HUD field office. A copy of each comment will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Bernard Horn, Acting Director, Office of Economic and Market Analysis, P.D. & R., HUD, Washington, D.C. 20410, 202-755-5870. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: At the present time, HUD has published fair market rents for unit sizes up to four bedrooms and established procedures for the calculation of fair market rents for five and six bedroom units. In order to facilitate participation in the program by families requiring more than six bedrooms, HUD is providing instructions for the calculation of fair market rents for unit sizes larger than six bedrooms. The note to the schedule of fair market rents is being amended to provide a formula for determining fair market rents for units with more than six bedrooms.

Interested persons are invited to submit written comments or suggestions to the rules docket clerk at the address set forth above and directly to the appropriate HUD field office. Communications should identify the subject matter by title, docket number, and date of publication. Each comment received on or before the date specified above will be considered before adoption of the final rule.

HUD has determined that this regulation does not constitute a major Federal action significantly affecting the quality of human environment. Accordingly, a finding of inapplicability of environmental impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the address specified above.

Accordingly, the note to title 24, part 888, schedule B and part 803, schedule B is revised to read:

NOTE.—Fair market rents (FMR) shall be calculated for five and six bedroom units as follows: 5-BR=150 percent of 2-BR FMR; 6-BR=175 percent of 2-BR FMR. Likewise, the fair market rents for unit sizes larger than six bedrooms shall be calculated by adding 25 percent to the percentage used for the next lower number of bedrooms.

This notice of proposed rulemaking is issued under the authority of section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 27, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-28363 Filed 10-6-78; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 984-4]

Proposed Revision to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of Massachusetts to revise its State implementation plan (SIP). If approved by the Environmental Protection Agency (EPA) this revision would allow the burning of a 30 percent to 70 percent coal/oil mixture in the New England Power Co. (NEPCo) Unit No. 1, Salem Harbor Station, Salem, Mass., for a period of 1 year, as a research project funded by the U.S. Energy Research and Development Administration (ERDA). The request includes variances from sulfur in fuel and visible emissions regulations in the Metropolitan Boston Air Quality Control Region (AQCR). Comments are solicited on the effect of this revision.

DATES: Comments must be received on or before November 9, 1978.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, room 2113, J. F. K. Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, room 320, 600 Washington Street, Boston, Mass. 02111. Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, room 2203, J. F. K. Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

Victor M. Trinidad, Air Branch, EPA Region I, room 2113, J. F. K. Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On July 5, 1978 the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the Massachusetts State implementation plan (SIP) for variances to Massachusetts regulations 310 CMR 7.05 (formerly regulation 5) and 310 CMR 7.06 (formerly regulation 6), sulfur in fuel and visible emissions, respectively.

Under the proposed SIP revision, the request will allow New England Power Co's. (NEPCo) Unit No. 1, Salem Harbor Station, Salem Mass. to burn a 30 percent to 70 percent coal/oil mixture as a research and development project funded by the Energy Research and Development Administration (ERDA). The plant will be burning fossil fuel with a maximum sulfur content of 1.21 pounds per million Btu release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil by weight) from January 1 to December 31, 1979. The second variance, if approved by EPA, will relax the Ringelmann requirements from 6 to 15 minutes during optimization runs.

On December 5, 1975 (40 FR 56889) the Regional Administrator approved a temporary revision to the Massachusetts SIP, applicable to the Metropolitan Boston Intrastate Air Quality Control Region (AQCR) which relaxed the sulfur in fuel limitations contained in regulation 5.1, "Sulfur Content of Fuels and Control Thereof," until July 1, 1977. The regulation permits fossil fuel utilization facilities located in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown having an energy input capacity of 2½ billion Btu per hour or greater to burn fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual oil by weight). All other sources located in these cities and towns are continuing to burn fossil fuel with a sulfur content not in excess of 0.28 pounds per million Btu heat release potential (approximately equivalent to 0.5 percent sulfur content residual fuel oil by weight), in accordance with the original SIP regulation. For other towns in the AQCR (Salem included) facilities having an energy imput capacity of 100 million Btu per hour or greater are permitted to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil by weight), and other sources are limited to burning fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual fuel oil by weight), in accordance with original SIP regulations.

A SIP revision approved by the Administrator on August 22, 1977 (42 FR 42218) extended the effective period of regulation 5.1 from July 1, 1977 to

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July 1, 1978. On June 22, 1978 the Regional Administrator published in the FEDERAL REGISTER a notice of proposed rulemaking for approval of an additional extension to the final date up to July 1, 1979. EPA's final decision on the extension will be published in the near future.

The aforementioned request will allow NEPCo's Unit No. 1, to burn the coal/oil mixture with a maximum sulfur content of 1.21 pounds per million Btu heat release potential until December 31, 1979, 6 months beyond the July 1, 1979 expiration date of regulation 310 CMR 7.05.

The requested variance to regulation 310 CMR 7.06 will also relax from six (6) to fifteen (15) minutes the Ringlemann and opacity requirement during combustion optimization test runs. The plume opacity shall at no time be equal to or greater than 40 percent or No. 2 of the Ringlemann chart.

The requested variances were filed with the Massachusetts Department by MEPCo representatives on April 1, 1977. Intially, in addition to the sulfur in fuel and visible emission variances, a third variance to particulate emissions regulations was requested. On December 12, 1977, NEPCo amended their request and formally withdrew the particulates variance.

On May 18, 1978 the Massachusetts Department, after appropriate hearings conducted July 20, 1977, approved NEPCo's request with the following provisions: (1) that the project shall be commenced using the following coal/oil slurry, 10 percent to 90 percent coal/oil respectively, and then gradually progressing to 20 percent to 80 percent coal/oil, and then to maximum 30 percent to 70 percent coal/oil, if feasible; (2) that stack testing shall take place after each increment and compliance with the particulate emission limitation (0.12 lbs/mm Btu) and all other applicable regulations shall be demonstrated prior to any increase in coal/oil slurry ratio; (3) if nuisance conditions occur as a result of any coal handling or burning operations, then the variance shall be subject to immediate termination; (4) the variances shall expire 1 year after NEPCo commences the case of the coal/oil slurry and in no case shall terminate later than December 1979.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the Massachusetts State implementation plan should be approved or disapproved.

The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of sections 110(a)(A)-(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: September 20, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 78-28310 Filed 10-6-78; 8:45 am]

[6560-01-M]

[40 CFR PART 52]

[FRL 984-5]

STATE OF VIRGINIA

Proposed Revision of the State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On November 30, 1977, the Commonwealth of Virginia sumitted a proposed amendment to the Virginia State implementation plan (SIP), under the Clean Air Act, and has requested that this amendment be reviewed and approved as a revision to the Virginia SIP. The proposed amendment provides for the reduction of nonmethane hydrocarbon emissions through a program of substitution of emulsion-based asphalt for "cutback material" (of nonmethane hydrocarbon based asphalts). Approval of the proposed amendment would satisfy the requirements of section 129(a)(1) of the 1977 Clean Air Act Amendments and the EPA December 21, 1976 interpretative ruling for the proposed Hampton Roads Energy Co. oil refinery in Portsmouth, Va.

DATES: Comments must be received on or before November 9, 1978.

ADDRESSES: Comments should be sent to Mr. Howard Heim, Chief, Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Copies of the proposed revision of the Virginia SIP and accompanying support documentation are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, attention: Mr. Glenn Hanson.

Virginia State Air Pollution Control Board, Region VI, Pembroke One, Suite 610, 281 Independence Boulevard, Virginia Beach, Va. 23462, attention: Mr. Lucien B. McDonald.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Glenn Hanson, Air and Hazardous Materials Division, 215-597-8170.

SUPPLEMENTARY INFORMATION: The purpose of this proposed amendment to the Va SIP, pursuant to section 129(a)(1) of the 1977 Clean Air Act Amendments and the EPA December 21, 1976 interpretative ruling (Ruling) (41 FR 55524), is to offset nonmethane hydrocarbon emissions resulting from the construction and operation of the proposed Hampton Roads Energy Co. oil refinery in Portsmouth, Va. As required by the Ruling, a new major stationary source may construct in an area currently exceeding any national ambient air quality standard(s) (NAAQS) only under certain conditions. One condition is the following: If there are achieved in that area (exceeding NAAQS[s]) emission reductions that more than offset air pollutants which cause or contribute to a violation of any NAAQS, then construction of the new source can be permitted. The geographical area within which the Hampton Roads Energy Co. oil refinery is proposed to be located is exceeding the NAAQS for photochemical oxidants. Nonmethane hydrocarbons have been determined to be a major contributor to the formation of ozone ambient air quality levels. Therefore, nonmethane hydrocarbon emission offsets are required to accommodate the construction and operation of the proposed Hampton Roads Energy Co. oil refinery.

The proposed revision to the Virginia SIP will result in a decrease of two thousand, one hundred and thirteen (2,113) tons per year of nonmethane hydrocarbons in a three-highway paving district area surrounding the proposed site of the oil refinery.

At no time will nonmethane hydrocarbon emissions from oil refinery storage facilities, process combustion, and fugitive sources exceed one thousand, two hundred and ninety-three (1,293) tons per year. This level of control of nonmethane hydrocarbon emissions from the operation of the oil refinery is required as a permit condition enforceable by the State and Federal governments. Any nonmethane hydrocarbon emissions which may result from other operations associated with the oil refinery (e.g., unloading of crude and loading of finished products) may require additional emission offsets and those emission offsets would have to be proposed as revisions to the Virginia SIP and approved by EPA.

The public is invited to submit comments on whether the amendment

submitted by the Commonwealth of Virginia should be approved or disapproved as a revision of the Commonwealth of Virginia State implementation plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be based on whether the amendment submitted by the Commonwealth of Virginia meets the requirements of section 110 of the Clean Air Act, 129(a)(1) of the 1977 Clean Air Act Amendments,. The EPA December 21, 1976 interpretative ruling, and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Sumittal of Implementation Plans."

(42 U.S.C. 7401.)

Dated: September 26, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-28309 Filed 10-6-78; 8:45 am]

[6560-01-M]

[40 CFR Part 162]

[FRL 984-1; OPP-210012]

DRAFT INTERIM FINAL REGULATIONS FOR CONDITIONAL REGISTRATION

Open Public Meeting

AGENCY: Office of Pesticide Programs, U.S. Environmental Protection Agency (OPP, EPA).

ACTION: Notice of open public meeting.

SUMMARY: In accordance with Executive Order 12044, EPA will convene a public participation meeting on Monday, November 6; Tuesday, November 7; and Wednesday, November 8, 1978, to solicit comments and information from industry, environmental groups, and the public on regulations concerning conditional registration of pesticides. It is the Agency's intention to present the following key issues for discussion: Risk assessment criteria Policy—Monday, November 6, 1978; data review and compensation—Tuesday, November 7, 1978; and related topics—Wednesday, November 8, 1978. The working group responsible for developing regulations for conditional registration under section 3(c)(7) of the Federal Pesticides Act of 1978 will discuss with interested parties a working draft of regulations for conditional registration and related matters, including compensation. A document concerning development of these regulations was previously published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32154). Copies of the working drafts will be available in advance of the meeting, and will be distributed at the meeting.

DATES: Meeting sessions will be held November 6, 7, and 8, 1978, from 10 a.m. to 4 p.m. See "Summary" above.

ADDRESS: The meeting hours will be 10 a.m. to 4 p.m. in rooms 3906 and 3908 of the Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Robert Rose or Jean Frane, Environmental Protection Agency, Office of Pesticide Programs (TS-767), Room 345, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2510.

Dated: October 2, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-28313 Filed 10-6-78; 8:45 am]

[6820-23]

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[41 CFR Part 101-20]

MANAGEMENT OF BUILDINGS AND GROUNDS

Smoking in GSA-Controlled Buildings and Facilities; Extension of Comment Period of Proposed Rulemaking

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period for comments to the proposed rule, published September 11, 1978 (43 FR 40250), proposing to prohibit smoking in certain areas of buildings controlled by GSA. Requests for additional commenting time were received. This notice extends the comment period to November 11, 1978.

DATE: Comments must be received on or before November 11, 1978.

ADDRESS: Comments should be addressed to the General Services Administration (PBOP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Winegarden, Director, Operations Division, Office of Buildings Management, General Services Administration, Washington, D.C. 20405, 202-566-1563.

Dated: October 2, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

[FR Doc. 78-28347 Filed 10-6-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR-3, Notice 17]

BLUE SIGNAL PROTECTION OF WORKMEN

Correction

In FR Doc. 78-27824 appearing at page 45416 in the issue for Monday, October 2, 1978, the following corrections should be made:

1. On page 45420, § 218.5(h) should read as follows:

"(h) 'Locomotive' means a self-propelled unit of equipment designed for moving other equipment in revenue service including a self-propelled unit designed to carry freight or passenger traffic, or both, and may consist of one or more units operated from a single control."

2. On page 45421, § 218.25(b) should read as follows:

"(b) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive; and"

[4910-22-M]

Federal Highway Administration

[49 CFR Part 393]

[BMCS Docket No. MC-56-1; Notice No. 78-12]

FRONT TIRE MARKING REQUIREMENTS

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration issues this notice to solicit comments and information on its intent to amend the Federal Motor Carrier Safety Regulations. The amendment would provide further exemptions from requirements for front tire markings and for tire loading on vehicles operating under a special permit issued by one of the States and operating at reduced speed.

DATE: Written comments must be received on or before January 8, 1979.

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ADDRESSES: Submit comments (original and 2 copies) to BMCS Docket No. 56-1; Notice No. 78-12, Room 3402, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. Kathleen S. Markman, Office of Chief Counsel, Motor Carrier and Highway Safety Law Division, 202-426-0790; Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.d.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice proposes an amendment to 49 CFR 393.75(f) to: (1) Exempt front tires from the DOT tire load marking requirements (49 CFR 571.119) on single unit property carrying vehicles and all property carrying vehicles operated in exempt intracity operation as set forth in section 390.16 (49 CFR 390.16), and and (2) further modify the exemption of tire loading requirements for other than front tires for vehicles operating under a special permit issued by one of the several States.

Section 393.75(f) of the Federal Motor Carrier Safety Regulations (FMCSR) as amended November 24, 1976, postponed the date that a front tire had to be in compliance with DOT tire marking requirements. Several portions of a petition filed by the American Trucking Associations, Inc. (ATA), were not considered in the cited amendment and the notice stated the outstanding petition would be dealt with in a future notice of proposed rulemaking. The issues not handled were those mentioned above pertinent to single unit vehicles and commercial zones.

The petitioner stated: (a) Single unit trucks were not involved in many accidents; (b) several years' tire life was not unusual; and (c) that operators of single unit vehicles usually only had one or two units and these may not accumulate many miles in a year's time. The lower mileage and fewer accidents of single unit vehicles, therefore, was offered as justification for relaxing the requirement for front tire marking for these vehicles.

The petitioner also asked for relief from front tire marking requirements for all property carrying vehicles operating in a municipality or the commercial zone thereof. This request is based on the fact that vehicles transporting hazardous materials and required to be placarded have to meet all of the requirements of part 393, including the tire marking requirement. The petitioner contends that a motor carrier does not always know if a pickup and delivery vehicle will have enough hazardous materials to require placards.

Accident report data for 1976 and 1977 received by FHWA indicates that a total of 1,014 wheel and tire failures were reported. Of this number, 934 involved over-the-road operations and 74 were local pickup and delivery. No information was reported as to type of operation for the 6 remaining accidents.

If only single unit vehicles are considered there were 61 accidents reported, about 6 percent of the total. Thirty-five were over-the-road operations, 25 local pickup and delivery, and 1 not reported. The remaining 94 percent of the accidents reported, 953, were attributed to combination vehicles. Of these, 899 were over-the-road operations, 49 in local pickup and delivery operations, and in the remaining 5 the type of operation was not reported. The numbers cited above were from a total of 54,192 accidents—5,373 single unit vehicles and 48,819 combinations. In brief, less than 2 percent of the accidents reported to FHWA resulted from wheel and tire failure.

This information does indicate that single unit vehicles are not usually involved in wheel and tire failure accidents. Also, wheel and tire failures in local pickup and delivery operations occur very seldom, regardless of the type of vehicle.

The Department of Housing and Urban Development (HUD) has issued standards for mobile homes. These standards permit tires to be loaded to 150 percent of their rated capacity.

Questions have been raised as to whether it is safe to allow a tire to be loaded to 150 percent of its rated capacity. The HUD has had two series of tests run on mobile home tires. One series was on new tires, the other on used tires. The tests indicated that new tires on mobile homes were capable of operating satisfactorily under 150 percent loading.

The HUD also sponsored tests of used mobile home tires. The tests were identical in nature to those run on new tires. The used tires tested included those manufactured before and after the tire standards contained in Federal Motor Vehicle Safety Standard (FMVSS) No. 119 went into effect. These tests indicated that the used tires do not perform as will as new tires. There were 3 failures out of 22 tires tested. One tire completed the test but had blisters on the sidewall. The tests were probably more severe than would be expected to be encountered during transportation of vehicle homes over the highway.

In consideration of the foregoing it is hereby proposed to amend Title 49, Code of Federal Regulations, Chapter III, Part 393 as follows:

Paragraphs (f)(1) and (2)(i) of § 393.75 are amended to read as follows;

§ 393.75 Tires.

* * * * *

(f) *Tire load rating.*[1] (1) Front wheels. No motor vehicle shall be operated with tires on the front wheels which carry a greater weight than that specified for the tires in any of the publications of the standardizing bodies listed in FMVSS No. 119 (49 CFR 571.119) and marked on the sidewall of the tire, except that tires on single unit property carrying vehicles and all property carrying vehicles operating in exempt intracity operations as defined in section 390.16 may use tires that do not have the FMVSS No. 119 load rating marked on them, but the load on the tire may not exceed that allowed by FMVSS No. 119 for the same size tire.

(2) * * *

(i) The vehicle is being operated under the terms of a special permit issued by the State; and

* * * * *

Interested persons are invited to submit written data, views, or arguments pertaining to adoption of the amendment proposed above.

All comments should refer to the docket number and notice that appear at the top of this document and should be submitted in three copies to the above address.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O 12044.

AUTHORITY: Sec. 204, 49 Stat. 546 as amended (49 U.S.C. 304); sec. 6, Pub. L. 89-670, 80 Stat. 93.7 (49 U.S.C. 1855); 49 CFR 1.48 and 49 CFR 301.60.

Issued on September 27, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-28350 Filed 10-6-78; 8:45 am]

[1] Footnote text unchanged.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS ACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

NAME: Grain Standards Act Advisory Committee.

DATE: October 25, 1978.

PLACE: U.S. Department of Agriculture, 1400 Independence Avenue, SW., room 6451 South Building, Washington, D.C. 20250.

TIME: 9 a.m.

PURPOSE: Allow for the Committee members to review, discuss and make recommendations to the Administrator, Federal Grain Inspection Service on the study draft regulation. Summary published in the FEDERAL REGISTER on July 31, 1978.

The meeting is open to the public space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons other than members who wish to address the Committee at the meeting should contact Dr. Leland E. Bartelt, Administrator, U.S. Department of Agriculture, Federal Grain Inspection Service, Washington, D.C., 20250, telephone 202-447-9170.

Dated: October 3, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-28487 Filed 10-6-78; 8:45 am]

[3410-16-M]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

UPPER BIG SWAMP CREEK WATERSHED, ALA.

Intent to Not File an Environmental Impact Statement for Deauthorization of Funding of the Upper Big Swamp Creek Watershed

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Upper Big Swamp Creek Watershed, Lowndes County, Ala.

The environmental assessment of this action indicates that deauthorization of funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on the proposal will be taken until December 11, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: September 27, 1978.

NORMAN A. BERG,
Associate Administrator.

[FR Doc. 78-28351 Filed 10-6-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 30777; Agreement C.A.B. 27546; R-1 through R-7; Order 78-9-152]

UNITED STATES-SOUTH AMERICA FREE-BAGGAGE ALLOWANCE AND EXCESS-BAGGAGE CHARGES

Order

SEPTEMBER 29, 1978.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's economic regulations, between various U.S. and foreign member air carriers of the International Air Transport Association (IATA). It was adopted at the TCl Passenger Traffic Conference held in Miami during July and August 1978.

The agreement, proposed for effectiveness October 15, 1978, through March 31, 1980, would establish new free-baggage allowances and excess-baggage charges for passenger air transportation between the United States and Canada, on the one hand, and most South American countries, on the other.[1]

The proposed allowances and charges are based on a piece system (rather than a weight system) like that established between the United States and many other world areas, as conditioned and approved by the Board by order 77-4-97, April 20, 1977. The proposed free allowances would permit first-class passengers to check two pieces of 62 inches (length plus width plus depth) each; economy-class passengers could check two pieces, either of which could be as large as 62 inches, provided that their sum does not exceed 107 inches; and all passengers would be permitted a carry-on piece of no more than 45 inches, provided that it could be stowed under the seat.

Excess-baggage charges, for oversized and/or additional pieces, would be levied on a per-piece basis at amounts varying with origin and destination. From Miami, for example, the charges for an excess piece would be $30 to Panama, $35 to Peru, $40 to Bo-

[1] The agreement covers transportation to and from Argentina, Bolivia, Brazil, Chile, Panama, Paraguay, Peru, and Uruguay, but excludes Colombia, Ecuador, French Guiana, Guyana, Surinam, and Venezuela.

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livia, and $50 to Argentina, Brazil, Chile, Paraguay, and Uruguay; the charges would be lower for Puerto Rico and the U.S. Virgin Islands and slightly higher for all other U.S. points. The agreement also provides for special treatment of such items as golf, ski and camping equipment, bicycles, and dogs trained to assist the blind and/or deaf.

We will approve the agreement.

The provisions and charges contained in the agreement conform with our conclusion in *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, docket 24869,[1] that weight should not be the sole factor determining the value of baggage service. Moreover, the terms of the agreement are virtually identical to those we found reasonable in order 77-4-97. We commend the participating carriers for finally reaching agreement on such an important issue.

Pursuant to sections 102, 204(a), and 412 of the Act, we do not find that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
27546:			
R-1	LA21	TC1 Limited Agreement—Baggage	1
R-2	001ff	Special Baggage Escape (new)	1
R-3	304	Carriage of Baggage at Cargo Rates U.S.A./Canada-South America (new).	1
R-4	310	Free Baggage Allowance U.S.A./Canada-South America (new).	1
R-5	310c	Pets—U.S.A./Canada-South America (new).	1
R-6	311	Excess Baggage Charges U.S.A./Canada-South America (new).	1
R-7	311e	Charges for Bulky Baggage U.S.A./Canada-South America (new).	1

Accordingly: We approve Agreement CAB 27546.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28281 Filed 10-6-78; 8:45 am]

[6320-01-M]

[Docket 28760]

AMERICAN ASSN. ZOOLOGICAL PARKS v. AMERICAN AIRLINES, INC.

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Greer M. Murphy to Administrative Law Judge John J. Mathias. Future communications should be addressed to Judge Mathias.

Dated at Washington, D.C., October 4, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-28516 Filed 10-6-78; 8:45 am]

[6320-01-M]

[Docket 30233]

ATLANTA-SEATTLE/PORTLAND SUBPART N PROCEEDING

Postponement of Hearing

On motion of counsel for the Bureau of Pricing and Domestic Aviation and without objection by counsel for Aeroamerica, Inc., the hearing herein regarding the application of Aeroamerica, Inc., heretofore postponed to October 4, 1978 (43 FR 45422, October 2, 1978), is further postponed to October 20, 1978 at 9 a.m. (local time) and will be held in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C. 20428

Dated at Washington, D.C., October 3, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-28519 Filed 10-6-78; 8:45 am]

[6320-01-M]

[Docket 32485]

BALTIMORE/WASHINGTON-ST. LOUIS ROUTE PROCEEDING

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Greer M. Murphy to Administrative Law Judge Richard J. Murphy.

Dated at Washington, D.C., October 3, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-28578 Filed 10-6-78; 8:45 am]

[6320-01-M]

[Docket 33465]

CONTINENTAL-WESTERN MERGER CASE

Prehearing Conference

A prehearing conference will be held in this proceeding on October 24, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

On or before October 10, 1978, the merger applicants are to serve copies of their exhibits J-100 through J-805 to all persons who have petitioned to intervene in this proceeding who have not already received those exhibits.[1] The Bureau of Pricing and Domestic Aviation is to circulate its prehearing conference materials[2] by October 12, 1978. All persons proposing to intervene are to circulate their prehearing conference materials by October 19.

Dated at Washington, D.C., October 3, 1978.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc. 78-28517 Filed 10-6-78; 8:45 am]

[1] See orders 76-3-81, served Mar. 12, 1976, and 76-5-26, May 10, 1976.

[1] On or about September 20, 1978, the applicants distributed copies of these exhibits to the Board, various other governmental agencies, all certificated air carriers, and various other persons. See the service list attached to the joint application.

[6320-01-M]

[Dockets 33112 and 33283]

TEXAS INTERNATIONAL—NATIONAL ACQUISITION CASE AND PAN AMERICAN—ACQUISITION OF CONTROL OF, AND MERGER WITH NATIONAL

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 31, 1978, at 10 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

For details of the issues involved in this proceeding, interested persons are referred to the prehearing Conference Report, served on September 25, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 4, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-28515 Filed 10-6-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

ALASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 11 a.m. on October 28, 1978, in the Anchorage Westward Hilton, 500 West Third Avenue, Anchorage, Alaska.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northwestern regional office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program planning for fiscal years 1979, 1980, and 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28500 Filed 10-6-78; 8:45 am]

[6335-01-M]

ARKANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Arkansas Advisory Committee (SAC) of the Commission will convene at 8:45 a.m. and will end at 10 p.m. on November 3, 1978, in Southeast Arkansas Arts and Science Center, 200 East Eighth Avenue (Civic Center), Pine Bluff, Ark. 71601, and again on November 4, 1978, at 8:45 a.m. to 6 p.m. at the Forrest City Civic Center, 1335 Washington Avenue, Forrest City, Ark. 72335.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the southwestern regional office of the Commission, 106 Broadway, San Antonio, Tex. 78205.

The purpose of these meetings will be that the Arkansas Advisory Committee will hold hearings on the community development block grant program.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28501 Filed 10-6-78; 8:45 am]

[6335-01-M]

IDAHO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 4 p.m. on November 4, 1978, in the Rodeway Inn, Malheur Room, 29th and West Chinden, Boise, Idaho 83704.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northwestern regional office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program planning for fiscal year 1979, 1980, and 1981; to review draft report on migrant housing project; and to discuss rechartering.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28502 Filed 10-6-78; 8:45 am]

[6335-01-M]

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on October 30, 1978, in the Ramada Inn, 1530 North Meridian Street, Indianapolis, Ind. 46202.

Persons wishing to attend this open meeting should contact that Committee chairperson, or the midwestern regional office of the Commission, 230 South Dearborn Street, 32d floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss and review a project proposal on the employment of minorities and women in the city of Indianapolis municipal workforce.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28503 Filed 10-6-78; 8:45 am]

[6335-01-M]

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 3 p.m. and will end at 5 p.m. on November 9, 1978, in the Ramada Inn Downtown, 929 Third Street, room 208, Des Moines, Iowa 50309.

[1] "Prehearing conference materials" include proposed statements of issues, proposed stipulations, requests for information and evidence, statements of position and proposed procedural dates.

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Persons wishing to attend this open meeting should contact the Committee chairperson, or the Central States regional office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to review status of current programs and develop input in USCCR, fiscal years 1980 and 1981 national programs.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28504 Filed 10-6-78; 8:45 am]

[6335-01-M]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on October 26, 1978, at Maine Teachers Association, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28505 Filed 10-6-78; 8:45 am]

[6335-01-M]

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 2 p.m. on October 23, 1978, in the Hacienda Restaurant, West Highway 20, Gordon, Nebr.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the Central States regional office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting will be to discuss the final statement on the Omaha private sector employment report, review the subcommittee activity relative to the western Nebraska health case study and plan activities. This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28506 Filed 10-6-78; 8:45 am]

[6335-01-M]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on October 23, 1978, in the Ramada Inn, New Brunswick, N.J.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28507 Filed 10-6-78; 8:45 am]

[6335-01-M]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the Oregon Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 7:30 p.m. on October 30, 1978, in the Thunderbird Motor Inn at Jansen Beach, 1401 North Hayden Island Drive, Portland, Oreg. 97217.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northwestern regional office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is an approval of findings and recommendations of the conference. "Asian Americans: Agenda for Action" plan press conference to release findings and recommendations.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28508 Filed 10-6-78; 8:45 am]

[6335-01-M]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the New York Advisory Committee of the Commission will convene at 4:30 p.m. and will end at 6:30 p.m. on November 8, 1978, at Phelps Stokes Fund, 10 East 87th Street, New York, N.Y.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28509 Filed 10-6-78; 8:45 am]

[6335-01-M]

OREGON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 7:30 p.m. on October 30, 1978, in the Thunderbird Motor Inn at Jansen Beach, 1401 North Hayden Island Drive, Portland, Oreg. 97217.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northwestern regional office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program planning for fiscal years 1979, 1980, and 1981; and to discuss rechartering.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28510 Filed 10-6-78; 8:45 am]

[6335-01-M]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 11 a.m. and will end at 3 p.m. on November 16, 1978, at 600 Arch Street, room 6310, Philadelphia, Pa. 19106.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the Mid-Atlantic regional office of the Commission, 2120 L Street NW., room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss current civil rights events in Pennsylvania; review of progress on State Advisory Committee projects; program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28511 Filed 10-6-78; 8:45 am]

[6335-01-M]

REGIONAL ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a Conference of Colorado, Montana, North Dakota, South Dakota, Wyoming, and Utah Advisory Committees (SAC) of the Commission will convene at 9:30 a.m. and will end at 4:30 p.m. on November 2, 3, 1978, at the Stapleton Plaza, 3333 Quebec, Denver, Colo. 80207.

Persons wishing to attend this conference should contact the Committee chairperson, or the Rocky Mountain regional office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this Conference is that there will be 6 panels of speakers dealing with issues relating to energy resource development and energy pricing as they impact woman and minorities in region VIII.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28512 Filed 10-6-78; 8:45 am]

[6335-01-M]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on October 24, 1978, in the Ramada Inn, Montpelier, Vt.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28513 Filed 10-6-78; 8:45 am]

[6335-01-M]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 11 a.m. on October 21, 1978, 915 Second Avenue, Suite 2854, Seattle, Wash. 98174.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the northwestern regional office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program planning for fiscal years 1979, 1980, and 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28514 Filed 10-6-78; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

PRIVACY ACT OF 1974

Adoption of System of Records

AGENCY: U.S. Civil Service Commission.

ACTION: Announcing the adoption of proposed alteration to an existing system of records and the adoption of a proposed new system of records.

SUMMARY: The purpose of this document is to give notice pursuant to 5 U.S.C. 552a(o) of the adoption of the alterations to the Commission's Recruiting, Examining, and Placement Records (CSC/GOVT-5), that were proposed in the FEDERAL REGISTER (43 FR 35739) on August 11, 1978. Contained in that notice was the Commission's proposal of a new system of records, Presidential Management Intern Program Records (CSC-10). This system is now adopted by this notice with the change that it will be identified as CSC-9 rather than CSC-10, due to the cancelling of the former CSC-9 system (see 43 FR 31426).

EFFECTIVE DATE: The changes to CSC/GOVT-5 and the adoption of CSC-9 systems of records are effective October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Andrew W. Boesel, Bureau of Intergovernment Personnnel Programs, 202-254-7316.

SUPPLEMENTARY INFORMATION: Executive Order 12008, dated August 25, 1977, created the Presidential Management Intern Program (PMIP), administered by the Commission. In the preliminary stages of program implementation, it was unclear whether records necessary to this program constituted an entirely new system of records, or should be construed as part of an existing Commission system of records (CSC/GOVT-5). As Program development efforts progressed, it became clear that to insure full public and participant awareness of the Program, these PMIP records should be

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published as a separate system of records.

Reports describing the new system were filed concurrently with the publication of the proposed new system with the Congress and OMB. The Commission requested and was granted a waiver of the Office of Management and Budget 60 day advance notice requirement, since to cease continued implementation of the program would adversely affect the public interest. A period for public comment was provided, during which Privacy Act responsibilities for the records were handled under the CSC/GOVT-5 notice. No comments were received during this period. Therefore, effective October 10, 1978 the Commission is adopting, as proposed, the alteration to the CSC/GOVT-5 system of records, the text of which appears in the FEDERAL REGISTER of September 8, 1978 (43 FR 40106), and the new system of records, CSC-9, with the only change being in the identification symbol, the text of which appears in the FEDERAL REGISTER of August 11, 1978 (43 FR 35739).

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28598 Filed 10-6-78; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE OF THE AMERICAN MARKETING ASSOCIATION

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Census Advisory Committee of the American Marketing Association will convene on October 31, 1978, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee of the American Marketing Association was established in 1946 to advise the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The Committee is composed of 15 members appointed by the president of the American Marketing Association.

The agenda for the meeting, which is scheduled to adjourn at 4 p.m., is: (1) Introductory remarks by the Director, Bureau of the Census, including staff changes and Bureau organization, major budget program developments, status of current legislative proposals affecting the Bureau, and other topics of current interest; (2) current status of the 1980 census; (3) advertising plans for the 1980 census; (4) Bureau electronic data processing—status, problems, and plans; (5) time series analysis—Census Bureau efforts to improve methodology; (6) a proposal for current estimates for small areas; (7) Committee discussion and recommendations; and (8) date and suggestions for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Tyler R. Sturdevant, Chief, Business Division, Bureau of the Census, Room 2633, Federal Building 3, Suitland, Md. (Mail address: Washington, D.C. 20233.) Telephone 301-763-7564.

Dated: October 4, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 78-28365 Filed 10-6-78; 8:45 am]

[3510-07-M]

SURVEY OF DISTRIBUTORS' STOCKS OF CANNED FOODS

Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct its annual survey of inventories, covering stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, as of December 31, 1978. This survey, which will be conducted under the provisions of Title 13, United States Code, Sections 182, 224, and 225, provides the only continuing source of information on stocks of the specified canned foods held by wholesalers and in warehouses of retail multiunit organizations.

On the basis of information received by the Bureau of the Census, these data will have significant application to the needs of the public, industry, and the distributive trades, as well as governmental agencies. The data are not publicly available from nongovernmental or other governmental sources.

This survey, if conducted, shall begin not earlier than November 9, 1978.

Reports will not be required from all firms, but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods in order to provide yearend inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases, with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms will be requested to update the list of their establishments maintaining canned food stocks.)

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233. Any suggestions or recommendations concerning the subject matter of this survey will receive consideration if submitted in writing to the Director on or before November 9, 1978.

Dated: October 4, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 78-28364 Filed 10-6-78; 8:45 am]

[1505-01]

Industry and Trade Administration

UNIVERSITY OF ALABAMA, DEPARTMENT OF BIOLOGY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 78-26413, appearing at page 42288 in the issue for Wednesday, September 20, 1978, on page 42288, in the middle column, in Docket No. 78-00381, Mount Holyoke College, in the 6th line, "model FX 900" should be corrected to read "model FX 90Q".

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES-ST. LAWRENCE SEAWAY

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Winter Navigation Board to be held on October 26, 1978, at the Host International Hotel at Detroit Metropolitan Airport in Romulus, Mich. The meeting will be in session from 10 a.m. until 3:30 p.m., e.d.s.t.

The Winter Naivgation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence

Seaway navigation season extension demonstration investigations being conducted pursuant to Pub. L. 91-611, as amended by Pub. L. 93-251, and 94-587.

The primary purpose of the meeting is to discuss the fiscal year 1979 Demonstration Activities and particularly the funding requirements and the St. Lawrence River activities. This includes the status of the Environmental Impact Statement, water levels and flows, reconciliation status report, status of permits application, and status of the development of engineering/environmental/operational plan. Other items to be discussed include a summary of the fiscal year 1978 funding allocation and a Status Report on the Draft Feasibility Report.

The meeting will be open to the public, subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Mich. 48231, telephone 313-226-6770.

Dated: October 5, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-28584 Filed 10-6-78; 8:45 am]

[3810-70-M]

Office of the Secretary of Defense

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 5, 1978; Tuesday, December 12, 1978; Tuesday, December 19, 1978; and Tuesday, December 26, 1978, at 9:45 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-643, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D281, the Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-28361 Filed 10-6-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact if Prohibition Orders Issued to Certain Powerplants Are Made Effective

AGENCY: Department of Energy.

ACTION: Notice of Negative Determination of Environmental Impact and Availability of Environmental Assessments.

SUMMARY: Pursuant to 10 CFR 208.4(c) and 305.9(c), the Department of Energy (DOE) hereby gives notice that, in accordance with 10 CFR 305.9(c) and 208.3(a)(4), it has performed an analysis of the environmental impact of the proposed issuance of notices of effectiveness (NOE's) to the following powerplants:

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-026	Potomac Electric Power Co.	1	Morgantown	Newburg, Md.
OFU-027	do	2	do	Do.

DOE has determined that making the prohibition orders effective will not have a significant impact on the quality of the human environment. Accordingly, an environmental impact statement need not be prepared.

DATE: Comments by October 31, 1978.

ADDRESS: Written comments to: Office of Public hearing Management, Department of Energy, Box VW, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Room 7202, 2000 M Street NW., Washington, D.C. 20461, 202-254-6246.

Robert J. Stern, Division of NEPA Affairs, Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Janine Landow-Esser, Office of the General Counsel, Room 8217, 20 Massachusetts Avenue NW., Washington, D.C. 20461, 202-376-4262.

SUPPLEMENTARY INFORMATION: Prohibition orders which, if made effective, would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source, were issued on June 30, 1975 (40 FR 28430, July 3, 1975) under authority of sec-

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tion 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 791 et seq., as amended by Pub. L. 94-163, and as further amended by Pub. L. 95-70. The prohibition orders: *Provided, however,* That in accordance with the requirements of 10 CFR 303.10(b) and 305.7, the orders would not become effective until DOE had considered the environmental impact of making the orders effective pursuant to 10 CFR 305.9 and until DOE had served the affected powerplants with NOE's.

The Economic Regulatory Administration (ERA), Department of Energy has analyzed the potential environmental impacts that would result from the proposed NOE issuance for these powerplants. DOE has determined that the proposed issuance of NOE's for the prohibition orders issued to the above-named powerplants will not constitute "major Federal action[s] significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 et seq. Therefore, pursuant to 10 CFR 208.4(c), DOE has concluded that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessments upon which it is based are available upon request from Mr. Steven A. Frank, at the address indicated above. Copies of the documents are also available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461.

COMMENT PROCEDURE: Interested parties are invited to submit written comments with respect to this negative determination to the Office of Public Hearing Management, Box VW, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Ten copies should be submitted. All comments should be received by DOE no later than October 31, 1978 in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in accordance with the procedures set forth at 10 CFR 205.9(f). Any material not filed in accordance with such section will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 29, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation Economic Regulatory Administration.

[FR Doc. 78-28344 Filed 10-6-78; 8:45 am]

[3128-01-M]

Energy Information Administration

ENERGY EMERGENCY MANAGEMENT INFORMATION SYSTEM

Development Plan, Public Hearings on Plan, and Opportunity for Written Comment

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of (i) the development of the program plan for the energy emergency management information system (EEMIS), (ii) public hearings on the plan, and (iii) opportunity for written comment.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces a program plan for development of the EEMIS, and solicits public comment. Written comments will be accepted through November 30, 1978. Hearings will be held during November 14-16 in Atlanta, Boston, Chicago, Denver and Washington, D.C. The proposed system is briefly described in the Supplementary Information section of this notice. Copies of the EEMIS program plan in its entirety are available at the Energy Information Administration Clearinghouse, room 200, 1726 M Street NW., Washington, D.C., and at all DOE Regional Offices.

DATES: Written comments by November 30, 1978; requests to speak by October 31, 1978; 100 copies of oral statements should be brought to room 2313, 2000 M Street NW., Washington, D.C., by November 15, 1978, for the hearing in Washington, D.C.; copies of oral statements for the hearings in Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; and Denver, Colo. should be brought to the hearing site on the day of the hearing.

HEARING DATES: Washington, D.C. hearing: November 16, 1978; Atlanta, Ga. hearing: November 14, 1978; Boston, Mass. hearing: November 14, 1978; Chicago, Ill. hearing: November 15, 1978; Denver, Colo. hearing: November 15, 1978.

ADDRESSES: All comments to: Public Hearing Management, Box VM, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461; a separate copy of written comments may be sent to: Barry Yaffe, Director, Energy Emergency Management Information System, Energy Information Administration, Department of Energy, Room 820, 1726 M Street NW., Washington, D.C. 20461. Copies of the EEMIS program plan are available at the following DOE regional offices: Region I, 150 Causeway Street, Boston, Mass. 02114; Region II, 26 Federal Plaza, New York, N.Y. 10007; Region III, 1421 Cherry Street, Philadelphia, Pa. 19102; Region IV, 1655 Peachtree Street NE., Atlanta, Ga. 30309; Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604; Region VI, 2626 Mockingbird Lane, Dallas, Tex. 75235; Region VII, 324 East 11th Street, Kansas City, Mo. 64106; Region VIII, 1075 South Yukon Street, Lakewood, Colo. 80226; Region IX, 111 Pine Street, San Francisco, Calif. 94111; Region X, 1992 Federal Office Building, 915 Second Avenue, Seattle, Wash. 98174.

REQUESTS TO SPEAK: Washington hearing: attention: Public Hearing Management, Room 2313, Department of Energy, Box VM, 2000 M Street NW., Washington, D.C. 20461; Atlanta hearing: Department of Energy, attention: Sylvia Orr, 1655 Peachtree Street, Atlanta, Ga. 30309; Boston hearing: Department of Energy, attention: Kathy Healy, 150 Causeway Street, Room 700, Boston, Mass. 02114; Chicago hearing: Department of Energy, attention: Charles Swank, 175 West Jackson Boulevard, Chicago, Ill. 60604; Denver hearing: Department of Energy, attention: Robert Drawe, P.O. Box 26247-Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226.

HEARING LOCATIONS: Washington, D.C.: Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C.; Atlanta, Ga.: Atlanta Civic Center, Room 201, 395 Piedmont Avenue NE., Atlanta, Ga. 30308; Boston, Mass., J. F. K. Government Center, room 1900A, Boston, Mass. 02203; Chicago, Ill.: Everett McKinley Dirksen Building, room 204A, 219 South Dearborne Street, Chicago, Ill.; Denver, Colo.: Room 269, Main Post Office, 19th and South Streets, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Barry Yaffe (Energy Emergency Management Information System Project Office), Department of Energy, 1726 M Street NW., Room 820, Washington, D.C. 20461, 202-634-2079.

Yvonne Allen (Energy Emergency Center), Department of Energy, 2000 M Street NW., Room 7204, Washington, D.C. 20461, 202-252-5155.

Robert Gillette (Office of Public Hearing Management), Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461, 202-254-5201.

William Luck (Office of General Counsel), Department of Energy, Federal Building, 12th and Pennsylvania Avenue, Room 6144, Washington, D.C. 20461, 202-566-9296.

SUPPLEMENTARY INFORMATION:

I. Legislative authority for energy emergency management information system.
II. Objectives of energy emergency management information system.
III. Historical development of energy emergency management information system.
IV. Implementation program.
V. Specific requests for comments.
VI. Hearing and written comment procedures.

I. Legislative Authority

Legislative authority for the development of EEMIS is provided for in section 102 of the Department of Energy Organization Act (Pub. L. 95-91), which provides in relevant part as follows:

> The Congress therefore declares that • • • it is the purpose of this Act— • • • (f) to facilitate establishment of an effective strategy for distributing and allocating fuels in periods of short supply • • •.

The Federal Energy Administration Act of 1974 (FEA Act) Pub. L. 93-275, as amended, states the (Secretary) shall—

> Section 5(b)(4) "develop plans and programs for dealing with energy production shortages;"
>
> Section 5(b)(9) "collect, evaluate, assemble, and analyze energy information on reserves, production, demands, and related economic data;".

II. Objectives of the Energy Emergency Management Information System

Within the DOE there are a number of individual information gathering instruments, each aimed at supporting specific, separate objectives. However, the use of multiple systems, varying data element definitions and reporting bases, and a wide variety of specialized software structures, has proven inefficient and inadequate to meet the requirements of policymakers and program managers in times of energy emergency. The EEMIS will entail a comprehensive program including more effective regional and State reporting and analysis capability, over a period of three years.

The basic objective of EEMIS is to assemble and provide rapid access to information that is used in the management of energy emergencies, including the capability to monitor and forecast supply/demand conditions and to assess the probable impact of alternative emergency response measures.

To be of greatest value to users, EEMIS should have the capability to provide extensive information exchange services. These services should include both structural Automated Data Processing systems and communications systems for general energy emergency information dissemination.

At a minimum, Federal and State government units will be offered "primary user" status, which would allow them to insert and extract information as needed. Selected data access may be offered to others. It is intended that arrangements permitting data-sharing with other Federal agencies and the States will be worked out early in EEMIS development, so that energy emergency information can be made available rapidly to those needing it to carry out emergency programs.

III. Historical Development of the Energy Emergency Management Information System

The development of an emergency-oriented information system is a basic component of DOE's overall program of improving its ability to deal with energy emergencies. The program began in the fall, 1977, with the issuance of the Energy Emergency Planning Guide: Winter 1977-78. In June, 1978, the EIA established the EEMIS Project Office to focus its energy emergency information activities and to oversee development of EEMIS. The draft EEMIS program plan is the first product of the EEMIS Project Office.

IV. Implementation Program

The EIA plans to implement the EEMIS incrementally over the next 3 years. During the 1978 winter, existing capabilities will be used, including current data collection mechanisms and communications. A detailed design analysis of the final 1981 system will be undertaken during fiscal year 1979. At the same time, interim improvements will be undertaken in 1979 to make the current systems more useful in an emergency. The interim improvements include combining existing data in an EEMIS-specific file; setting up an emergency actions file; development of preliminary monthly supply/demand forecasts; agreements for data sharing arrangements with the States; installation of computer terminals on a pilot basis in a selected number of States; introduction of special communication networks and linkages; agreements with other agencies to collaborate on procedures to assess weather and economic impacts in an emergency; and conversion of emergency background information (e.g., contingency plans, distribution system maps, etc.) to computer retrievable microfilm.

V. Specific Requests for Comment

Comments are invited on all aspects of the EEMIS Plan. In addition, however, the EIA requests that commenters direct particular attention to the following:

(1) *Scope of Users.* There will be three classes of users—primary, having full access to information and input privileges; secondary, having full access to information but no input privileges; and courtesy, having limited access and no input privileges. In addition to those offices within the DOE having direct responsibility for emergency actions, primary users will include the following State offices: Office of the Governor, State Energy Office (or equivalent), State Regulatory Office (e.g., Public Utilities Commission) or Emergency Services Office. Secondary users will include the DOE Office of Intergovernmental and Institutional Relations and the DOE Office of the Controller and may include other Federal departments such as the Department of Transportation and the Department of Defense. Outside of the Federal establishment, secondary users may include the State DOT's and the city manager or chief executive of cities or counties. Other interested parties may be given access as courtesy users.

(2) *Data sharing with States.* EEMIS will contain data submitted to the DOE that could be valuable to States in times of energy emergency. DOE intends to enter into sharing arrangements with State agencies with proper data access safeguards specified. The extent to which such information will be made available to non-DOE users is a key item of consideration in EEMIS development.

(3) *Emergency information collection and forecasting activities.* Suggestions are solicited, particularly from members of the energy industry, on those minimum key data elements deemed necessary to assess the magnitude of an energy emergency and to determine appropriate action. Comments are also sought on methods to reduce reporting burden and to facilitate the rapid collection, verification and analysis efforts required in times of emergency.

VI. Hearings and Written Comment Procedures

A. Written Comments

You are invited to participate in this public hearing by submitting data, views, or arguments with respect to EEMIS. Comments should be submitted by 4:30 p.m. on November 30, 1978, to the address indicated in the ADDRESS section of this notice and should be identified on the outside envelope and on documents submitted with the designation "DOE, EEMIS."

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Fifteen copies should be submitted. All comments that are received will be available for public inspection in the DOE Reading Room, room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

Commenters should identify separately any information or data considered to be confidential and submit it in writing, one copy only. EIA reserves the right to determine the confidential status of the information or data submitted and to treat it accordingly.

B. PUBLIC HEARINGS

1. *Request procedure.* The time and place for the public hearings are indicated in the DATES and ADDRESSES sections of this notice. If necessary to present all testimony, the hearings will be continued at 9:30 a.m. of the next business day following the day of the hearing.

Those wishing to make an oral presentation must submit a written request to the addresses given in REQUESTS TO SPEAK section of this notice. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding, and why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of your proposed oral presentation.

EIA will notify each person selected to be heard before 4:30 p.m., November 3, 1978.

2. *Conduct of the hearings.* EIA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. The hearing will not be judicial or evidentiary in nature. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions before 4:30 p.m., November 8, 1978, to be asked of any person making a statement at the hearing (to the address indicated above). Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officers. The DOE or the presiding officers, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any futher procedural rules needed for the proper conduct of the hearing will be announced by the presiding officers.

A transcript of the hearing will be made and EIA will retain the entire record of the hearings, including the transcript; these records will be made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the DOE to cancel the hearing, every effort will be made to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearing. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that the hearing will be held as scheduled.

Issued at Washington, D.C., on September 29, 1978.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

[FR Doc. 78-28345 Filed 10-6-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. ER78-494]

PENNSYLVANIA ELECTRIC CO.

Order Accepting Rates for Filing, Suspending Proposed Rate Increase, Allowing Interventions, Denying Motion and Establishing Procedures

SEPTEMBER 29, 1978.

On July 18, 1978, Pennsylvania Electric Co. (Penelec) submitted for filing revised rates applicable to 1 partial and 11 full requirement customers.[1] The filing was declared deficient in a letter dated August 14, 1978, and was completed on September 1, 1978. The proposed rate revision would increase revenues by approximately $7,587,000 based on the 12-month test period ending June 30, 1979. This would constitute approximately a 27 percent increase of the rates currently in effect.

The original July 18th submittal requested an effective date of August 16, 1978. The September 1st transmittal letter accompanying the curing documents indicated that Penelec continues to propose an August 16th effective date. In neither case would the date proposed satisfy the Commission's 30 day notice requirement; in neither case did Penelec request a waiver of 18 CFR 35.3 notice requirements. However, considering the intention evidenced in the September 1st letter, the Commission will view the submittal as containing an implicit request for waiver of the notice requirements. Notice of the filing was issued on July 26, 1978, with protests or petitions to intervene due on or before August 4, 1978.

On August 4, 1978, Allegheny Electric Cooperative, Inc., Borough of Berlin and Borough of Smethport (Petitioners) tendered for filing a Protest and Petition to Intervene. In support of their petition, Petitioners state that they are customers of Penelec and that their interests will be directly affected by the instant filing and can not be represented adequately by existing parties.

Petitioners contend that the proposed rates are unjust, unreasonable and unduly discriminatory, and that the filing should be rejected. They allege error in Penelec's cost-of-service calculations, asserting in particular that Penelec has functionalized general plant contrary to "appropriate ratemaking practices and Commission precedent" by applying gross plant ratios; that Commission precedent requires the use of labor ratios; and that Penelec's filing should be revised accordingly.

On August 8, 1978, Penelec submitted an Answer to Petition to Intervene and Motion to Reject and Suspend. Penelec argues that the cost of service is not excessive and that the motion to reject should be denied. In particular, Penelec asserts that the proper method for functionalizing general plant is an open question and that the Commission has approved both plant ratios and wage ratios.

In *Minnesota Power & Light Company*, Opinion No. 20, issued August 3, 1978, in Docket Nos. E-9499 *et al.*, we held that "General Plant as covered by Accounts 389-399 in the Commission's Uniform System of Accounts for Public Utilities and Licenses, should be properly allocated on the basis of labor costs", and that "the company's plant allocation method is not reasonable." We also "requir[ed] that labor ratios be used in allocating general plant * * * in succedding cases", *supra* at 16-17. In a subsequent order[2], we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable". Penelec—like all other future applicants—bears this same burden in the instant case.

Our review indicates that the rates filed by Penelec have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. In light of this review and (1) the fact that both the Petitioners' motion and Penelec's answer were filed prior to Staff's finding of deficiency and the subsequent submission of curing documents and (2) the determination that Petitioners' allegations present questions of law and fact more appropriately considered at hearing, the Commission will deny the petitioners' motion to reject the filing, accept the submittal for filing and suspend the proposed rates for 2 months. Accordingly, the rates will go into effect as of December 1, 1978, subject to refund.

The Commission finds that participation in this proceeding by the petitioners may be in the public interest.

The Commission orders: (A) The rates proposed by Pennsylvania Electric Co. are hereby accepted for filing and suspended for 2 months, to become effective as of December 1, 1978, subject to refund.

(B) Pennsylvania Electric Co. is hereby directed to file within 30 days of the issuance of this order a schedule of adjustments to its filed cost of service study, such adjustments being designed to show in detail the effects of utilizing labor ratios to functionalize general plant in the determination of the allocated wholesale costs of service.

(C) Waiver of the Commission's notice requirements is hereby denied.

(D) The Petitioners, Allegheny Electric Cooperative, Inc., Borough of Berlin and Borough of Smethport are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation by such intervenors shall be limited to matters set forth in their petition to intervene; *Provided further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) Petitioners' motion for rejection of the filing is hereby denied.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(A) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Pennsylvania Electric Co. in this proceeding.

(G) The Staff shall prepare and serve top sheets on all parties on or before January 30, 1978.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (*see,* Delegation of Authority, 18 CFR 3.6(d)) shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

ATTACHMENT A

PENNSYLVANIA ELECTRIC COMPANY DOCKET NO. ER78-494

Designation and Description

(1) Third Revised Sheet No. 2 and 4th Revised Sheet Nos. 13 and 14 under FPC Electric Tariff, Orig. Vol. No. 1 (Supersedes 2d Revised Sheet No. 2 and 3d Revised Sheet Nos. 13 and 14)—Table of Contents and Revised Rate—RP.

(2) Supplement No. 14 to Rate Schedule FPC No. 70 (Supersedes Supplement No. 10)—Exhibit B—Rate for Supplemental Power and Energy.

(3) Supplement No. 15 to Rate Schedule FPC No. 70 (Supersedes Supplement No. 11)—Exhibit C—Rate For Wheeling.

Customers

Allegheny Electric Cooperative, Inc. (partial requirements).
Berlin Borough.
East Conemaugh Borough.
Elkland Electric Company.
Girard Borough.
Hooversville Borough.
Rockingham Light, Heat & Power Co.
Smethport Borough.
Summerhill Borough.
West Penn Power Co.
Winber Electric Corp.
Wellsborough Electric Co.

[FR Doc. 78-28532 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket No. G-14562, et al.]

TENNESSEE GAS PIPEINE CO., ET AL.

Settlement Proposal

SEPTEMBER 29, 1978.

In the matter of Tennessee Gas Pipeline Co. (Successor to Tennessee Gas Transmission Co.) (Docket No. G-14562); Continental Oil Co. (G-13680); Mobil Oil Corp. (Successor to Magnolia Petroleum Co.) (G-13827); Newmont Oil Co. (G-13948); Continental Oil Co. (G-19855); Atlantic Richfield Co. (Successor to Atlantic Refining Co. (G-19580); Cities Service Co. (Successor to Cities Service Oil Co.) (G-19851); Getty Oil Co. (Successor to Tidewater Oil Co.) (G-19900).

Take notice that on August 8, 1978, the above-captioned parties filed a Settlement Proposal in these proceedings.* The substance of the proposal is as follows:

"Whereas Continental Oil Co. (Continental), Atlantic Richfield Co. (Atlantic Richfield), Cities Service Co. (Cities), Getty Oil Co. (Getty), Mobil Oil Corp. (Mobil), Newmont Oil Co. (Newmont), referred to collectively as Producers, sell natural gas to Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee), * * * pursuant to certificates of public convenience and necessity issued in Docket Nos. G-13680, G-13827, G-13948, G-19855, G-19580, G-19851, and G-19900, * * * and

"Whereas pursuant to the Orders of the Commission in the certificates issued to Producers in the respective docket numbers, a certain portion of the total initial price for sales under each docket was paid into an escrow account by the pipeline purchaser pending determination of the boundary between the Louisiana taxing jurisdiction and the Federal Domain and pending a final order of the Commission in Docket No. AR69-1; and

"Whereas the Supplemental Decree of the United States Supreme Court issued on December 20, 1971, in *United States of America* v. *The State of Louisiana, et al.*, 404 U.S. 386, 30 L. ed. 2d 525, 92 S. Ct. 544, has determined the title dispute as to that portion of the Continental Shelf from which the sales pursuant to Docket Nos. G-13680, G-13827, G-13948, G-19855, G-

[1] See Attachment A.

[2] Order Accepting Rates For Filing, Rejecting Rate For Filing, Waiving Notice, Suspending Rate Increases, Grant Summary Disposition and Granting Interventions", issued on August 25, 1978, in Docket No. ER78-513, Public Service Co. of Indiana.

*These proceedings were commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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19580, G-19851, and G-19900 are made; and

"Whereas Opinion Nos. 598 and 598-A issued July 16, 1971, and September 9, 1971, respectively, in Docket Nos. AR61-2, *et al.*, and Docket Nos. AR69-1 have been judicially affirmed by the United States Supreme Court in *Mobil Oil Corp.* v. *F.P.C.*, 417 U.S. 283, 41 L. ed. 2d 72, 94 S. Ct. 2328 on June 10, 1974; and

"Whereas Producers desire that such escrowed funds, including any interest accrued thereon, be utilized by the Producers for use in increasing natural gas supplies to be sold to Tennessee. [For more details on these proceedings see FPC *Notice of Proceeding for Disbursement of Escrowed Funds*, issued March 4, 1977 (43 FR 3744, Jan. 27, 1978).]

"Now, therefore, Continental, Atlantic Richfield, Cities, Getty, Mobil, and Newmont and Tennessee agree as follows:

"A. At any time within a 2-year period commencing on the date that Commission approval of this Settlement Proposal is no longer subject to judicial review, each of the Producers may request from Tennessee the total escrowed funds, together with any interest accrued thereon to the date of distribution, attributable to such requesting producers as set out • • •:

Escrow Account for CAGC-TGPL—$793,826.84 [as of June 30, 1978] [Footnote omitted.]

	Docket No.	Percent	
Continental Oil Co.	G-19855	25	$198,456.71
Atlantic Richfield Co.	G-19580	25	198,456.71
Cities Service Oil Co.	G-19851	25	198,456.71
Getty Oil Co	G-19900	25	198,456.71
Total			793,826.84

Escrow Account for MCN-TGPL—$1,233,997.00 [as of June 30, 1978] [Footnote omitted.]

	Docket No.	Percent	
Mobil Oil Corp	G-13827	50	$616,998.50
Continental Oil Co.	G-13680	37½	462,748.87
Newmont Oil Co.	G-13948	12½	154,249.63
Total			1,233,997.00

• • • • •

"C. The escrowed funds received by a Producer shall be utilized by such Producer in undertaking one of the respective projects set forth • • • [below] or projects later (but before the second anniversary date of the Commission's order approving this settlement) proposed and approved by the Producers and Tennessee (hereinafter referred to as 'Project Expenditure') in an attempt to increase the gas supplies which each Producer will sell to Tennessee. [Footnote omitted.] If for whatever reason, one Project Expenditure does not deplete a Producer's portion of the escrow funds, then such Producer may propose additional Project Expenditures.

[Project 1] "Project for Expenditures for

Continental Oil Co.—No. G-19855 and G-13680.
Atlantic Richfield Co.—No. G-19580.
Cities Service Oil Co.—No. G-19851.
Getty Oil Co.—No. G-19900.

"A well is proposed for East Cameron Block 47, offshore Louisiana to a total depth of 13,000'. The target sands are the "P" series at about 11,000' to 13,000' total depth. This depth of producing sand is not now committed to Tennessee Gas Pipeline.

"The total cost of the well, which includes casing for completion but does not include producing or completion costs, is estimated to be $4,986,000.

"The estimated recoverable potential gas reserves are: Development: 16,000 MMCF. Exploratory: 200,000 MMCF.

"Each of the above named companies owns a 25 percent working interest.

"Continental will combine its share of escrow funds under each docket shown.

[Project 2] "Project for Expenditure under (MCN) [Footnote omitted.]

Mobil Oil Corp.—No. G-13827.

"A well will be drilled in East Cameron Block 81, offshore Louisiana on acreage which is owned 100 percent by Mobil and on that portion of Block 81 which is comnmitted to NI-Gas Supply by an existing gas contract; however, through transportation agreements and as a result of Opinion Nos. 743 and 743-A, and the Federal Energy Regulatory Commission's policy statement in Opinion No. 789-A, Tennessee presently has the right to 56.67 percent of the gas produced from such Block 81 subject to the existing gas sales contract. "The total cost of the well is estimated to be $3,200,000.

"The estimated recoverable potential gas reserves are: Development: 0 MMCF. Exploratory: 15,700 MMCF.

"D. Up to the total escrowed funds paid to each producer as provided • • • above, two-fifths ($0.40) of each dollar spent by each Producer with respect to a Project Expenditure shall be credited against the escrowed funds paid to such Producer; with the result that three-fifths ($0.60) of each dollar spent by such Producer with respect to a Project Expenditure shall be such Producer's own money.

• • • • •

"F. Newmont states that it does not at this time have a viable project such as described herein for the other Producers. However, Newmont believes that it will within two (2) years have such a project and commits itself • • • to advise the Commission and parties of its project and expenditures.

"G. If, at the expiration of the 2-year period provided for in Paragraph A above, there remains any of the escrowed funds which have not been spent on a Project Expenditure by a Producer, such Producer shall pay to Tennessee such remaining escrowed funds held by it, plus interest at the rate of seven percent (7 percent) per annum accrued from the date such escrowed funds were paid to such producer. All such funds paid to Tennessee pursuant to this paragraph and all funds remaining in possession of the Escrow Agent, shall be flowed through by Tennessee to their customers.

"H. Production of natural gas from gas wells developed pursuant to these projects set forth . . . [herein] will be sold to Tennessee at the applicable nationwide rate or ceiling rate established by legislation. • • • No such production will be sold pursuant to emergency, limited term or any other special pricing procedures.

• • • • •

"J. If any expenditure hereunder results in the completion of a commercial oil well, then no part of that expenditure shall be credited against the Project Expenditure. • • •"

Comments to the Settlement Porposal may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 20, 1978. Such comments will be considered by the Commission in determining appropriate action, but will not serve to make commenters parties to the proceeding.

The record in this proceeding, including the Settlement Proposal, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28533 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-87]

TEXAS EASTERN TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase; Subject to Conditions; Granting Interventions; Initiating Hearing; Establishing Procedures; and Summarily Disposing of Costs Items

SEPTEMBER 29, 1978.

On August 31, 1978, Texas Eastern Transmission Corp. (Texas Eastern) filed revised tariff sheets,[1] listed in Appendix A of this order, to become effective October 1, 1978, which would increase annual revenues by $94.2 million. Of this increase, $38.5 million is attributable to costs of purchased gas and advance payments. The remaining $55.7 million increase is based on claimed need to recover higher rate of return, operating costs, taxes and other items of costs. The test period cost of service in support of the proposed rates is based on actual costs for 12 months ending May 31, 1978, as adjusted for changes in costs occuring during the base period and 4 month adjustment period ending September 30, 1978.

Public notice of the filing was issued on September 7, 1978, providing for filing of protests and interventions by September 21, 1978. The petitioners to intervene are listed in Appendix B to this order. All have demonstrated an interest in this proceeding which warrants their participation, and intervention by them shall be permitted.

Texas Eastern contends that this filing meets the requirements of both a filing under 18 CFR 154.38(d)(4)(vi)(a) and a change in rates under 18 CFR 154.63. The Company requests waiver of all Commission Rules and Regulations necessary to permit this filing, or any substitute filing, to be made effective on October 1, 1978.

The Company proposes, inter alia, an overall rate of return of 10.75 percent, including 13.085 percent on equity with a capitalization ratio of 51.50 percent common equity. It seeks a change in the General Terms and conditions of its Tariff to reflect a change in the standard unit of measure from a saturated, or wet, basis to a dry basis. Texas Eastern has also included under research and development expenses the costs of certain unsuccessful supplemental gas supply projects which were disallowed in a prior Commission rate-filing.[2]

The Commission finds that the present filing does not comply with 18 CFR 154.38(d)(4)(vi)(a), for Texas Eastern has adjusted its test period costs for known and measurable changes occuring during the 4 months following the base period as well as seeks to increase its allowed rate of return and associated Taxes. This section does not allow post test period asjustments, abut rather, provides for annualization of changes which actually occurred during the 12 month test period. This filing has all the ingredients of a rate increase filing under 18 CFR 154.63, in which Texas Eastern simply elected to make adjustments for a 4 month period instead of the 9 month period allowed by the Regulations. Accordingly, the filing is accepted as a section 4(e) rate increase application filed pursuant to 18 CFR 154.63.

Based on a review of Texas Eastern's filing, the Commission finds that the proposed rate increase and tariff modifications have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Texas Eastern's revised tariff sheets for filing, suspend their effectiveness for 5 months until March 1, 1978, subject to refund and the conditions stated below, and set the matter for hearing.

To continue to use its Purchased Gas Adjustment clause (PGA) Texas Eastern must comply with the requirements of 18 CFR 154.38(d)(4)(vi)(a) and restate its base tariff rates to include the current cost of purchased gas, supported by a cost and revenue study meeting the requirements of that section and justifying the restated rates. Texas Eastern shall file such a restatement to establish its base tariff rate, which will be effective on October 1, 1978, subject to refund. Texas Eastern may use the actual costs shown for the base period in this docket i.e.; the 12 months ended May 31, 1978, as annualized in accordance with Section 154.38(d)(4)(vi)(a) of the Commission's Regulations, to support the restated base tariff rates.

Texas Eastern's cost of service includes certain facilities which have not been certificated and placed in service by the end of the test period. Test period adjustments for new facilities may be made only for those facilities that have been certificated by the filing date and placed in service by the end of the test period. 18 CFR 154.63(e)(2)(ii). The Commission shall grant waiver of this regulation and accept Texas Eastern's filing as tendered, upon condition that by 30 days prior to March 1, 1979, the Company file revised tariff sheets reflecting elimination of all facilities not in service by the end of the test period. The Company shall also adjust its rates to reflect the actual balances of advance payments in Account 166 at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon condition that Texas Eastern shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provision, those adjustments required by this order, and those required by other Commission orders.

Finally, turning to the cost of certain projects which Texas Eastern once again is attempting to include as a research and development expense, despite specific disallowance in a prior rate determination, the Commission summarily rejects these items of costs. The Commission's authority to summarily dispose of issues without hearing has long been settled.[3] Summary disposition of an issue is appropriate where there are no material facts in dispute, where the dispositive Commission policy is firmly established and there is no need to probe further for underlying facts to support the specific application of that policy.[4] The Commission, and its predecessor, the FPC, has disposed of issues summarily where, as is the case here, portions of succeeding rate cases duplicate issues raised and resolved in the prior proceeding.[5]

Texas Eastern has included, inter alia costs for four projects in its Account No. 188 and in its rates for which rate treatment was denied by the FPC in Docket No. RP75-73.[6] Summary disposition to disallow these cost items from Texas Eastern's cost of service is appropriate for the same reasons they were disallowed by the FPC in the prior proceeding. No changed circumstances have intervened to warrant altering that prior determination.

These subject projects consist of unsuccessful efforts to develop supplemental gas supplies and were designed to employ existing technology. The first disallowed project relates to the production of synthetic natural gas from crude oil. The second involves production of substitute natural gas from liquid hydrocarbons (Naptha). Costs were incurred with respect to both projects to determine the technical feasibility of using such gas to, select the process technology of gasification of either the crude oil or

[1] FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2.

[2] Texas Eastern Transmission Corp., Docket No. RP75-73, Order Modifying and Accepting Settlement, June 6, 1977, at 14 and 15.

[3] *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Pennsylvania Gas and Water Company* v. *F.P.C.*, 463 F.2d 1242 (D.C. Cir. 1972).

[4] *United Gas Pipe Line Co.* v. *F.P.C.*, 551 F.2d 460 (D.C. Cir. 1977).

[5] *Panhandle Eastern Pipe Line Co.* v. *F.P.C.*, 236 F.2d 606 (3rd Cir. 1956).

[6] *Texas Eastern Transmission Corporation, supra.*

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naptha, to arrive at a realistic cost estimate for the projects, and to determine the feasibility of the project on a cost basis. The third disallowed project is an investigation in regard to production of gas from coal. Expenditures were made on the third project to determine the feasibility of developing a low cost process to convert coal to pipeline quality gas, establish the practical operating features of the process and rates of the various chemical reactions and the extent to which they would proceed, develop a preliminary plant design, and determine the investment cost and cost of service for the process. Texas Eastern terminated these projects because lower cost alternatives were developed. All three were cost feasibility studies, rather than experimental research. The fourth project, a natural gas transmission system from the Canadian Arctic Islands to the U.S. Border, was disallowed because Texas Eastern could not show any benefits accruing to the U.S. consumer through this project. Rather, it appeared that much of the gas transported through this system would benefit Canadian consumers. Because these four projects were not experimental in nature, the FPC found that, they did not qualify as research and development expenses under definitions 28(b), as it then existed, of the Uniform System of Accounts, 18 CFR, Part 201.[1] It was undisputed in the prior proceeding that these activities did not then fall within the definition of allowable research and development costs. This Commission concurs with the FPC's finding that these expenses do not meet the Order No. 483's definition of R. & D. This Commission further concurs with the FPC's determination that no other basis exists to justify including these costs in rate base, for the risks of these efforts should properly be born by shareholders and not ratepayers, as the projects are not used or useful to Texas Eastern's customers.

Accordingly, the Commission finds it is necessary and proper in carrying out the provisions of the Natural Gas Act that the Comission enter upon a hearing concerning the lawfulness of the rates, terms and conditions proposed by Texas Eastern, and that the proposed tariff changes be accepted for filing and suspended as ordered below.

The Commission orders: (A) Subject to the conditions of Ordering Paragraphs (B), (C), and (D) below, Texas Eastern's proposed Revised tariff sheets to its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2 are accepted for filing, suspended for five months until March 1, 1978, subject to refund.

(B) Waiver of the requirements of 18 CFR 154.63 shall be granted to allow Texas Eastern to file substitute revised tariff sheets by 30 days prior to March 1, 1978, to conform to the cost allocation, cost classification and rate design methodology prescribed in Opinion 21.

(C) Texas Eastern shall file within 15 days of the issuance of this order a restatement of its base tariff rates to include the current cost of purchased gas. The base tariff rates will be effective October 1, 1978, subject to refund. Texas Eastern shall also file a supporting cost and revenue study as required by 18 CFR 154.38(d)(4)(vi)(a). Texas Eastern may use the actual costs shown for the base period in this docket i.e.; the 12 months ended May 31, 1978, as annualized in accordance with § 154.38(d)(4)(vi)(a) of the Commission's Regulations to support the such restated base tariff rate rates.

(D) Texas Eastern shall, within 30 days prior to March 1, 1978, file revised tariff sheets to reflect:

1: removal of costs associated with facilities not certificated and in service as of February 28, 1978, provided that Texas Eastern shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders,

2. Adjustment of the estimated balance of advance payments in Account 166 to the actual balance at the end of the test period, provided that the inclusion of a higher advance payment balance shall not be permitted to increase the level of the original suspended rates,

3. Removal of the costs associated with the four projects for supplemental gas supplies identifiable with projects disallowed in Texas Eastern's prior RP75-73 rate determination.

4. The changes discussed in Ordering paragraph B above.

(E) The petitioners to intervene listed in Appendix B to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(F) Staff shall serve its top sheets on or before January 15, 1978.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A—Texas Eastern Transmission Corp., Docket No. RP78-87

REVISED TARIFF SHEETS

Fourth revised volume No. 1

Forty-Fourth Revised Sheet No. 14.
Forty-Fourth Revised Sheet No. 14A.
Forty-Fourth Revised Sheet No. 14B.
Forty-Fourth Revised Sheet No. 14C.
Forty-Fourth Revised Sheet No. 14D.
First Revised Sheet No. 28.
First Revised Sheet No. 29.
First Revised Sheet No. 77.
First Revised Sheet No. 78.
First Revised Sheet No. 79.
First Revised Sheet No. 80.
First Revised Sheet No. 81.
First Revised Sheet No. 96A.
Fourth Revised Sheet No. 97.
Fourth Revised Sheet No. 98.
Second Revised Sheet No. 99.
Third Revised Sheet No. 100.
Fourth Revised Sheet No. 101.
Second Revised Sheet No. 101A.
Third Revised Sheet No. 101B.
Second Revised Sheet No. 101C.
Second Revised Sheet No. 101D.
First Revised Sheet No. 101E.
Second Revised Sheet No. 112.
First Revised Sheet No. 173.
Second Revised Sheet No. 174.
Second Revised Sheet No. 175.
Second Revised Sheet No. 176.
Second Revised Sheet No. 177.
First Revised Sheet No. 178.
First Revised Sheet No. 179.
First Revised Sheet No. 180.
Second Revised Sheet No. 181.
Third Revised Sheet No. 182.
First Revised Sheet No. 183.
Third Revised Sheet No. 184.
First Revised Sheet No. 185.
First Revised Sheet No. 186.
Second Revised Sheet No. 187.
Second Revised Sheet No. 188.

Original volume No. 2

First Revised Sheet No. 230.
Second Revised Sheet No. 231.
Tenth Revised Sheet No. 232.
First Revised Sheet No. 233.
First Revised Sheet No. 234.
Twelfth Revised Sheet No. 235.
First Revised Sheet No. 236.
Second Revised Sheet No. 237.
First Revised Sheet No. 238.
First Revised Sheet No. 239.
First Revised Sheet No. 240.
Eighth Revised Sheet No. 241.
First Revised Sheet No. 242.
First Revised Sheet No. 243.
First Revised Sheet No. 244.
Original Sheet No. 244A.
Second Revised Sheet No. 319.
Second Revised Sheet No. 320.
First Revised Sheet No. 321.
Twelfth Revised Sheet No. 322.
First Revised Sheet No. 323.
Second Revised Sheet No. 324.
Second Revised Sheet No. 325.
Second Revised Sheet No. 326.
Second Revised Sheet No. 327.
First Revised Sheet No. 328.
Second Revised Sheet No. 329.
First Revised Sheet No. 330.
Second Revised Sheet No. 449.
First Revised Sheet No. 524.
First Revised Sheet No. 564.
First Revised Sheet No. 565.
First Revised Sheet No. 582.
First Revised Sheet No. 583.

APPENDIX B—Texas Eastern Transmission Corp. Docket No. RP78-86.

LIST OF INTERVENORS

Intervenors and filing date

Algonquin Customer Group, September 15, 1978.
Carnegie Natural Gas Co., September 13, 1978.
Indiana Gas Co., September 14, 1978.
New Jersey Natural Gas Co., September 15, 1978.
Public Service Electric and Gas Co., September 14, 1978.
South Jersey Gas, September 15, 1978.
United Cities Gas Co., September 11, 1978.
Municipal Defense Group, September 21, 1978.
Consolidated Gas Supply Corp., September 21, 1978.
Columbia Gas Transmission Corp., September 21, 1978.
Long Island Lighting Co., September 20, 1978.
Consolidated Edison Co., September 18, 1978.
Algonquin Gas Transmission, September 20, 1978.
Elizabethtown Transmission Corp., September 18, 1978.
Texas Gas Transmission Corp., September 18, 1978.
National Fuel Gas Supply Corp., September 20, 1978.

[FR Doc. 78-28535 Filed 10-6-78; 8:45 am]

[1] These regulations were promulgated by FPC Order No. 483, issued April 30, 1973. These regulations were modified on a prospective basis by FPC order No. 566 issued June 3, 1977 in Docket No. RM76-17.

[6740-02-M]

[Docket No. RP75-73 (AP No. 78-3)]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Proposed Changes in FERC Gas Tariff

SEPTEMBER 29, 1978.

Take notice that Texas Eastern Transmission Corp. on September 22, 1978, tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Substitute Forty-third Revised Sheet No. 14.
Substitute Forty-third Revised Sheet No. 14A.
Substitute Forty-third Revised Sheet No. 14B.
Substitute Forty-third Revised Sheet No. 14C.
Substitute Forty-third Revised Sheet No. 14D.

The above tariff sheets are being filed in substitution of Forty-third Revised Sheet Nos. 14, 14A through 14D, previously filed with the Commission on July 31, 1978. Texas Eastern has revised the rates reflected on the above listed tariff sheets to reflect the proper pipeline supplier rates being tracked at August 1, 1978. Texas Eastern has also incorporated into this filing the Zone D flow through of consolidated System LNG Company's exchange charge as previously accepted in the Commission's order issued July 5, 1978.

In addition to the aforementioned changes, the above listed tariff sheets have been revised to comply with Opinion No. 21 issued by the Commission August 9, 1978 in Docket No. RP74-41.

The proposed effective date is September 1, 1978.

Copies of the filing were served on the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28534 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-155 (PGA78-2) and RP78-18]

EL PASO NATURAL GAS CO.

Order Accepting for Filing and Suspending Rate Increase

SEPTEMBER 29, 1978.

On August 31, 1978, El Paso Natural Gas Co. (El Paso) filed revised tariff sheets[1] which incorporate (1) a semi-annual PGA rate increase, (2) changes in base tariff rates to reflect the settlement agreement approved by letter order dated September 5, 1978, in Docket No. RP78-18, and (3) adjustments to settlement rates in accordance with various tracking provisions contained in the Docket No. RP78-18 settlement.[2] El Paso asks that all of its proposed rate changes become effective on October 1, 1978.

The proposed PGA rate increase reflects a 13.04-cent-per-Mcf increase in El Paso's current rate adjustment. The proposed surcharge adjustment is 14.17 cents per Mcf for East-of-California customers and 12 cents per Mcf for California customers. These represent an increase of 1.98 cents for East-of-California customers and a decrease of 4.53 cents for California customers from the previously effective surcharge adjustments.[3] The surcharge adjustments are designed to recover deferred purchased gas costs of $47,957,399 and $14,710,014, respectively. El Paso's PGA is calculated in compliance with the modifications made to its PGA clause in the Docket No. RP78-18 settlement agreement.

Increased purchased gas costs are attributable to contractual price escalations permitted producers under their contracts with El Paso, producer rate increases in accordance with the quarterly escalation provisions of Opinion No. 770-A, and certain emergency purchases made at or below the applicable national rate.

El Paso's PGA increase also reflects the increased cost of purchases from certain reversionary interest owners selling gas under interim agreements. The issue of the rights and duties of these reversionary interest owners remains before the Supreme Court on rehearing from *California* v. *Southland Royalty Company*, 46 LW 4539 (May 31, 1978). Any rate level finally approved by this Commission must therefore be subject to the Court's decision in that case.

For this reason, the Commission shall suspend El Paso's filing for 1 day and shall reserve decision on the overall propriety of El Paso's rates pending

[1] Twenty-third Revised Sheet No. 3-B to FPC Gas Tariff, Original Volume No. 1. Thirteenth Revised Sheet No. 1-D to FPC Gas Tariff, Third Revised Volume No. 2, Fifteenth Revised Sheet No. 1-C and Eleventh Revised Sheet No. 1-D to FPC Gas Tariff, Original Volume No. 2A.

[2] The August 31, 1978, filing also contains alternative sheets which were developed on the assumption that the settlement agreement in Docket No. RP78-18 would not be approved prior to October 1, 1978. Since the settlement was approved by the Commission on September 5, 1978, the alternative sheets are deemed withdrawn.

[3] The surcharge for El Paso's California customers is less than the surcharge for East-of-California customers because El Paso's tariff permits costs associated with Rhodes Reservoir Storage to be assigned solely to East-of-California customers.

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the final outcome of the *Southland* proceeding. El Paso shall be permitted to file revised rates to be effective on October 1, 1978, which rates incorporate all rate changes proposed by El Paso's August 31, 1978, filing except for rate changes attributable to increases in the cost of gas purchased from reversionary interest owners.

El Paso's August 31, 1978, filing also incorporates changes in rates to reflect the settlement approved by the Commission on September 5, 1978, in Docket No. RP78-18. The Commission has reviewed these rate changes and finds that they comport with the terms of the settlement. Accordingly, El Paso's August 31, 1978, rate change filing, insofar as it reflects settlement rates, shall be accepted for filing.

Finally, El Paso's August 31, 1978, filing includes rate adjustments pursuant to advance payment, gas well royalty and transportation cost and revenue tracking provisions of the settlement agreement in Docket No. RP78-18.[4] These tracking adjustments are in compliance with the terms of the settlement and shall be allowed to become effective on October 1, 1978.

The Commission orders: (A) El Paso's proposed tariff sheets filed on August 31, 1978, are accepted for filing and are suspended for 1 day or until October 2, 1978, when they shall be permitted to become effective subject to refund.

(B) Following final Supreme Court action in *California* v. *Southland Royalty Company, supra,* the Commission shall take such further action in this proceeding as may be appropriate.

(C) El Paso shall be permitted to file revised rates to become effective October 1, 1978, without refund obligation (save for continuing refund obligations under previous Commission orders) which exclude increased costs of gas purchased from reversionary interest owners.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28537 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket No. ES78-59]

KANSAS CITY POWER & LIGHT CO.

Application

OCTOBER 2, 1978.

Take notice that on September 22, 1978, Kansas City Power & Light Co. (Applicant) filed an eighth supplemental application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $125,000,000 principal amount of short-term, debt instruments to be outstanding at any one time, of which aggregate amount a maximum of $60,000,000 may be in the form of commercial paper, said instruments to be issued not later than December 31, 1979, with maturities not later than December 31, 1980. By prior supplemental order issued December 31, 1977, the Commission authorized Applicant to issue prior to December 31, 1978, up to $100,000,000 short-term debt instruments to be outstanding at any one time, of which aggregate amount up to $45,000,000 could be in the form of commercial paper, with final maturities not later than December 31, 1979.

Applicant is incorporated under the laws of the State of Missouri with its principal business office of Kansas City, Missouri, and authorized to do business in the State of Kansas.

The proceeds will basically be used to finance in part Applicant's construction program to December 31, 1980, and might be used to finance acquisition and storage, prior to use, of coal and oil. The authorization to issue up to $125,000,000 of short-term, debt instruments will allow the Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28538 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER78-583 and ER78-584]

Mississippi Power & Light Co.

Order Accepting Transmission Rates for Filing, Suspending Rates, Granting Waivers, Consolidating Proceedings, Granting Interventions, and Establishing Procedures

SEPTEMBER 27, 1978.

On August 28, 1978, Mississippi Power & and Light Co. (Mississippi) tendered for filing, by separate transmittal letters dated August 25, 1978, unexecuted bulk power transmission service agreements—Service Schedule E. Bulk Transmission Service—as supplements to (1) its Interconnection Agreement with the City of Clarksdale (Clarksdale), Mississippi, dated February 13, 1976, and (2) its Interconnection Agreement with Greenwood Utilities Commission (Greenwood), Greenwood, Mississippi, dated September 19, 1975.[1] According to Mississippi, the proposed transmission service is not similar to any which Mississippi now provides.[2]

In its transmittal letters Mississippi states that Clarksdale and Greenwood have requested this transmission service be made immediately available and, therefore, Mississippi proposes that the service schedules become effective as of the date they were filed with the Commission. For this reason, Mississippi requests that the Commission waive the thirty (30) day notice requirement of section 35.3 of the Commission's Regulations. Mississippi further requests the Commission to waive its requirements concerning the filing of revenue estimates since, as of August 25, 1978, no schedules of deliveries of power had been developed by the parties.

The service schedules for Clarksdale and Greenwood provide for Mississippi to furnish transmission service over its transmission facilities between each municipality and any other entity receiving or supplying bulk power to which Mississippi is directly or indirectly connected. Mississippi is to furnish both firm and interruptible transmission service over its 115 kv facilities or at such higher voltage as may be available at the points of interconnection.

Notice of Mississippi's filings was issued on September 6, 1978 with protests and petitions to intervene due on or before September 15, 1978. Four petitions to intervene were filed on September 15, 1978.

Clarksdale (in ER78-583) and Greenwood (in ER78-584) filed nearly identical protests and petitions to intervene, and requests that the rates be suspended for one day [3] and the dockets be consolidated. The two Municipalities have raised substantive questions which the parties have not been able to resolve during their negotiations. In particular, the Municipalities allege in their pleadings that Mississippi has made no distinction in its pricing of firm and interruptible transmission service, that the proposed transmission rate is improperly derived [4] and designed, and that the conditions of providing service are inproper and require clarification. Clarksdale and Greenwood have also requested that the Commission direct a conference among the parties be held to determine whether any of the issues raised can be settled by agreement among the parties.

The Municipal Energy Agency of Mississippi (MEAN) petitioned to intervene in both dockets and also moved for their consolidation. MEAN is a joint agency authorized under Mississippi state law to own and operate generation and transmission facilities, to acquire power and energy, and to coordinate bulk power activities on behalf of its members, eight Mississippi cities—including Clarksdale and Greenwood—which are either interconnected with or are full requirements customers of Mississippi. In its filing MEAN concurs with and adopts the discussion concerning the deficiencies with regard to the proposed transmission service alleged by Clarksdale and Greenwood.

A Protest and Petition to Intervene was also filed by South Mississippi Electric Power Association (SMEPA) in Docket No. ER78-583. SMEPA is an incorporated, non-profit cooperative electric power association organized under Mississippi state law, owned and operated by its members, distribution rural electric power associations serving rural areas in Mississippi. SMEPA states that it is in the process of negotiating an interconnection agreement with Mississippi and asserts that it has been informed by a representative of Mississippi that Mississippi expects to apply in such an agreement rate-making principles contained in the proposed Clarksdale service schedule, principles to which SMEPA objects.

Review of Mississippi's filing indicates that the proposed transmission rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. We shall therefore accept Mississippi's submittal for filing and suspend the proposed rates for one day, as requested by Clarksdale and Greenwood, making them effective as of August 29, 1978, subject to refund. In so doing, we waive our notice requirements as well as our requirements with regard to the filing of revenue estimates. Furthermore, consolidation of the proceedings in Docket Nos. ER78-583 and ER78-584 is appropriate as similar issues arise in both dockets.

The Commission orders: (A) The proceedings in Docket Nos. ER78-583 and ER78-584 are hereby consolidated for purposes of hearing and decision.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and to the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Mississippi Power & Light Co.

(C) The Commission waives the notice provisions of § 35.3 of its Regulations and allows the rates tendered for filing on August 28, 1978 to be accepted for filing as of August 27, 1978, and suspends the rates for one day to become effective on August 28, 1978, subject to refund.

(D) The Commission waives the revenue estimate requirements of section 35.13 of its Regulations for the limited purpose of accepting Mississippi's Service Schedule for filing.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene for discussion purposes a conference in this proceeding to be held within thirty (30) days after issuance of this Order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to require Mississippi to file its case-in-chief in support of the proposed rates. Said Law Judge is authorized to establish all procedural dates and to rule upon such motions as are provided for in the Commission's rules of practice and procedure.

(F) For good cause shown, the City of Clarksdale, Mississippi, the Greenwood Utilities Commission of the City of Greenwood, Mississippi, the Municipal Energy Agency of Mississippi, and South Mississippi Electric Power Association are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That participation of these intervenors shall be limited to matters set forth in their petitions to intervene; *and provided, further,* That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

RATE SCHEDULE DESIGNATIONS

Mississippi Power & Light Co.

(1) Supplement No. 5 to Rate Schedule FPC No. 239 (Greenwood Utilities Commission, Greenwood, Mississippi).
(2) Supplement No. 5 to Rate Schedule FPC No. 243 (Clarksdale, Mississippi).

[FR Doc. 78-28539 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Project No. 5]

MONTANA POWER CO.

Filing of Settlement Agreement

SEPTEMBER 29, 1978.

Take notice that on August 31, 1978, The Montana Power Co. (Company), the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. (Tribes), and the Secretary of the Interior (Secretary) filed a motion for certification to the Commission of an agreement settling all issues in this proceeding. The Montana Consumer Counsel also joined in this settlement agreement. The settlement agreement was certified to the Commission by the Presiding Administrative Law Judge on September 11, 1978.

If accepted and approved by the Commission, the settlement agreement would settle all of the issues concerning the readjustment of the annual charges paid by the Company to the Tribes for the use of Indian lands for the Kerr Hydroelectric Project located in part of the Flathead Indian Reservation in Montana.[1]

The Settlement Agreement provides that the annual charge be increased by $1,650,000 to $2,600,000 effective May 20, 1975.[2] It further provides that the sum of $4,650,000 to be paid 10 days after Commission approval of the settlement agreement by the Compa-

[1] Articles VII, IX and VIII respectively.

[1] Although Mississippi has had negotiations with both Clarksdale and Greenwood concerning the rate for, and terms and conditions of the proposed transmission service, no agreement was reached and therefore the service schedules were filed without being executed by the parties. See Attachment A for rate schedule designations.

[2] The Interconnection Agreements between Mississippi and the muncipalities provide schedules for "Reserve Capacity", "Firm Capacity", "Economy Energy", and "Unintentional Energy". Both Clarksdale and Greenwood purchase power and energy from Mississippi in the form of certain interchange services.

[3] Clarksdale and Greenwood request that the service agreements be accepted as "additional rates" and make reference to the Order on Rehearing, "Cleveland Electric Illuminating Co.," Docket No. ER78-194, September 5, 1978.

[4] Clarksdale and Greenwood suggest that Mississippi apparently intends to interrupt firm service to them before interrupting service to its native load, and that, if this is the case, the fact has not been properly reflected in the rate for the transmission service.

[1] This proceeding was instituted by order issued July 19, 1977.

[2] The annual charge had been set at $950,000, effective May 20, 1959, by Federal Power Commission, Opinion No. 529, 38 FPC 766 (1967); *affirmed, The Montana Power Co.*, 459 F.2d 863 (D.C. Cir. 1972), *cert. denied*, 408 U.S. 930 (1972).

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ny to the Tribes as annual charges for the period May 20, 1969, to May 20, 1975, shall be deemed payment in full for that period.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 13, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-28544 Filed 10-6-78; 8:45 am]

[6740-02-M]

Docket Nos. CP78-398, etc.]

PACIFIC INTERSTATE TRANSMISSION CO., ET AL

Technical and Settlement Conference

OCTOBER 2, 1978.

Pacific Interstate Transmission Co., Docket No. CP78-398; Michigan Consolidated Gas Co., Docket No. CP78-401; Transwestern Pipeline Co., Docket No. CP78-418; Michigan Wisconsin Pipe Line Co., Docket No. CP78-452.

Take notice that at 9:30 a.m. on Tuesday, October 17, 1978, Staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of issues and certain data already submitted regarding the matters contemplated in the several applications herein, and possible discussion of settlement of some or all of the various issues.

The conference will be held in the Commission's offices at 825 North Capitol Street NE., and all interested persons may at their option attend; however, their attendance will not be deemed to authorize intervention in the captioned proceedings.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28540 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-50]

SUN OIL CO.

Order Granting Petition for Special Relief and Granting Intervention

SEPTEMBER 27, 1978.

On April 13, 1978, Sun Gas Co., a Division of Sun Oil Co. (Delaware) (Sun) filed a petition for special relief in Docket No. RI78-50 pursuant to the special exception for minor projects set forth in § 2.76(d)(1) of the Commission's General Policy and Interpretations. Sun requests a base rate of 46.12 cents per Mcf for the sale of its 75 percent working interest in the gas produced from the Headlee "A", Well No. 1, Mocane-Laverne Field, Harper County, Okla. (Oklahoma Panhandle Area), which is being sold to Michigan Wisconsin Pipe Line Co. (Michigan).[1]

The petition was noticed on May 23, 1978, and published in the FEDERAL REGISTER on May 31, 1978 (43 FR 23644) with petitions to intervene and protests due on June 14, 1978. On June 14, 1978, Michigan Wisconsin Pipe Line Co. filed a petition to intervene which stated that it is willing to amend its existing contracts to increase the base price up to 46.12 cents per Mcf if such rate is approved on a special relief basis.

Presently Sun, a large producer, is selling its gas under its contracts with Michigan dated April 24, 1959, and December 18, 1961, on file as Sun's FERC Gas Rate Schedule Nos. 365 and 146, Certificate Docket Nos. G-18630 and CI62-1111, respectively, and receiving a base rate of 24.5 cents at 14.65 psia for this gas.

Sun proposes a recompletion workover to add perforations in the Morrow sand at a cost of $15,659 in order to continue producing this well. This expenditure will enable Applicant to produce an additional 105,075 Mcf of gross working interest gas over the next 4 years according to Sun's reserve estimate.

Sun's proposed rate increase of 21.62 cents/Mcf at 14.65 psia will result in an increase in revenue of $19,878 over the life of the project which is less than $50,000; the proposed new investment of $15,659 exceeds 25 percent of the increased revenue; and the base rate of 46.12 cents/Mcf at 14.65 psia requested by Sun is less than 50 cents/Mcf at 14.73 psia; all as specified in § 2.76(d)(1). Thus, the petition meets the criteria set forth therein.

The Commission finds. (1) It is in the public interest to grant Sun's petition for special relief.

(2) The petition for special relief filed by Sun meets the criteria set forth in section 2.76(d)(1) of the Commission's General Policy and Interpretations.

(3) Participation by Michigan Wisconsin Pipe Line Co. in this proceeding may be in the public interest.

The Commission orders. (A) The petition for special relief by Sun Gas Co. in Docket No. RI78-50 is hereby granted.

(B) Sun is authorized to charge and collect from Michigan a base rate of 46.12 cents/Mcf at 14.65 psia effective upon the date that the proposed work is completed or the date of the Commission order herein, whichever is later, subject to the conditions set forth in paragraphs (C) and (D) below.

(C) Within 30 days of the effective date specified above, Sun must file a statement signed by Michigan that the proposed work has been completed to Michigan's satisfaction.

(D) Sun must file executed contract amendments providing for the payment of the approved rate and Notices of Independent Producer Rate Change within 30 days of the date of the order herein.

(E) Michigan Wisconsin Pipe Line Co. is permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this docket.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28541 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP69-13, etc.]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

Filing of Pipeline Refund Reports and Refund Plans

OCTOBER 2, 1978.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix below.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 16, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[1] The 25 percent working interest of Champlin Petroleum Co. is not covered by this petition for special relief.

APPENDIX

Filing date	Company	Docket No.	Type filing
Sept. 5, 1978	Texas Eastern	RP69-13	Report.
Sept. 13, 1978	Alabama-Tennessee	RP73-77	Do.
Sept. 18, 1978	South Texas	AR64-2 et al	Plan.
Sept. 19, 1978	South Georgia	RP73-49	Report.
Sept. 22, 1978	Florida Gas	AR64-2	Plan.
Sept. 25, 1978	Southern Natural	AR61-2	Report.
Sept. 28, 1978	Alabama-Tennessee	RP73-77	Do.

[FR Doc. 78-28542 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-88]

TRANSWESTERN PIPELINE CO.

Order Accepting for Filing and Suspending Proposed Rate Increase and Initiating Hearing

SEPTEMBER 29, 1978.

On August 31, 1978, Transwestern Pipeline Co. (Transwestern) filed in Docket No. RP78-88 revised tariff sheets [1] proposed to be effective October 1, 1978, which would increase its annual jurisdictional revenues by approximately $14 million or about 5.5 percent. For the reasons stated below, the Commission shall accept the revised tariff sheets for filing, suspend them for 5 months and set the matter for hearing.

Public notice of Transwestern's August 31, 1978, filing was issued on September 7, 1978, providing for protests or petitions to intervene to be filed on or before September 21, 1978. On September 11, 1978, a notice of intervention was filed by the Public Utilities Commission for the State of California.

Transwestern states that the principal reasons for the proposed rate increase are to recover increases in labor, supplies, and expenses; to recover an appropriate rate of return; to recover an appropriate overall depreciation rate; and to reflect lower sales quantities than those on which its current rates are based upon.

Based on a review of Transwestern's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Transwestern's proposed rate increase for filing, suspend its use for 5 months or until March 1, 1979, when it shall become eligible to become effective in the manner prescribed in section 4 of the Natural Gas Act, subject to refund, and shall set the matter for hearing.

Transwestern's filed tariff sheets also propose revisions [2] which establish carrying charges on the balance of the unrecovered purchased gas cost account and which also reflect the new base average gas cost of 71.26¢/dth. This request for the inclusion of carrying charges is based on the fact that all parties agreed in the settlement of Transwestern's last general rate increase filing in Docket No. RP77-19 to permit Transwestern to include carrying charges on its unrecovered purchased gas costs account. The settlement in Docket No. RP77-19 involves other issues and has not been accepted and approved by this Commission. Further, the Commission's regulations as presently constituted do not permit carrying charges on unrecovered purchased gas costs, absent specific waiver by the Commission for good cause shown. Accordingly, we shall reject without prejudice the proposed revisions, without prejudice to Transwestern's right to refile these revisions if the Commission approves the settlement in Docket No. RP77-19 or its right to file tariff sheets providing for carrying charges if those sheets conform to any rule adopted in Docket No. R-406. Furthermore, Transwestern may refile these tariff sheets excluding the proposed carrying charges provision contained therein.

The Commission finds. It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Transwestern and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Transwestern.

(B) Pending hearing and decision Transwestern's 11th Revised Sheet Nos. 5 and 6 are accepted for filing and suspended for 5 months, until March 1, 1979, when they shall be permitted to become effective, subject to refund, upon motion filed by Transwestern in accordance with the provisions of the Natural Gas Act.

(C) Transwestern's Second Revised Sheet No. 74 is rejected without prejudice to Transwestern's right to refile it if the Commission approves the settlement in Docket No. RP77-19 or its right to file tariff sheets providing for carrying charges if those sheets conform to any rule adopted in Docket No. R-406.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before January 16, 1979.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28543 Filed 10-6-78; 8:45 am]

[6740-02-M]

[Project No. 5]

MONTANA POWER CO.

Renotice of Filing of Settlement Agreement [1]

OCTOBER 6, 1978.

Take notice that on August 31, 1978, the Montana Power Co. (Company), the Confederated Salish and Kootenai

[1] Eleventh Revised Sheet Nos. 5 and 6 to FERC Gas Tariff, Second Revised Volume No. 1.

[2] Second Revised Sheet No. 74.

[1] This notice corrects an inadvertent omission in the first notice of the settlement agreement issued Sept. 29, 1978.

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Tribes of the Flathead Reservation, Mont. (Tribes), and the Secretary of the Interior (Secretary) filed a motion for certification to the Commission of an agreement settling all issues in this proceeding. The Montana Consumer Counsel also joined in this settlement agreement. The settlement agreement was certified to the Commission by the presiding administrative law judge on September 11, 1978.

If accepted and approved by the Commission, the settlement agreement would settle all of the issues concerning the readjustment of the annual charges paid by the Company to the Tribes for the use of Indian lands for the Kerr hydroelectric project located in part of the Flathead Indian Reservation in Montana.[2]

The settlement agreement provides that the annual charge be increased by $1,650,000 to $2,600,000 effective May 20, 1975.[2] It further provides that the sum of $4,650,000 to be paid 10 days after Commission approval of the settlement agreement by the Company to the Tribes as annual charges for the period from May 20, 1975, through December 31, 1977. The sums previously paid by the Company to the Tribes from May 20, 1969, to May 20, 1975, shall be deemed payment in full for that period.

Anyone desiring to be heard or to make any protest about this settlement agreement should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before October 20, 1978. The Commission's address is 825 North Capitol Street NE., Washington, D.C. 20426.

The settlement agreement is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28692 Filed 10-6-78; 8:45 am]

[1] This proceeding was instituted by order issued July 19, 1977.

[2] The annual charge had been set at $950,000, effective May 20, 1959, by the Federal Power Commission, opinion No. 529, 38 FPC 766 (1967)); *affirmed, The Montana Power Co.*, 459 F. 2d 863 (D.C. Cir. 1972), *Cert. denied*, 408 U.S. 930 (1972).

[3128-01-M]

Office of General Counsel

REQUESTS FOR INTERPRETATION

Month of September 1978

Notice is hereby given that during the month of September 1978, the requests of interpretation listed in the appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the requests for interpretation listed herein are on file in DOE's Public Reading Room, Information Access Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested parties may submit written comments on the listed interpretation requests on or before November 9, 1978. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 5134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information, contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9070.

EZRA C. LEVINE,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

OCTOBER 3, 1978.

APPENDIX.—*List of Requests for Interpretation Received by the Office of General Counsel*

[Month of September 1978]

Date received	Name and location of requestor	File No.
Sept. 11	Universal Mineral Corp., L. L. Shackelford, 1 Metro Square, Suite 274, 3655 Villa Creek Dr., Dallas, Tex. 77001. Issue: Does a property with an average daily production rate of less than 10 barrels per well per day qualify for the stripper well lease exemption (10 CFR 212.54) if the property experienced substantial down time during the 12 mo. qualifying period.	A-346
Sept. 26	John H. Hendrix Corp., L. E. Sawyer, Jr., Cotton, Bledsoe, Tighe, Morrow & Dawson, Suite 1930, Wilco Bldg., Midland, Tex. 79701. Issue: May a crude oil producer again treat two separate reservoirs which it had designated as separate properties pursuant to § 212.72 and Ruling 1977-1, as a single property, in order to qualify for the stripper well lease exemption as set forth in § 212.54 and Ruling 1977-7.	A-347

[FR Doc. 78-28343 Filed 10-6-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 984-3; OPP-50384]

ROHM & HAAS CO. ET AL.

Issuance of experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 707-EUP-85. Rohm & Haas Co., Philadelphia, Pa. 19105. This experimental use permit allows the use of 120 pounds of the herbicide oxyfluorfen on almonds, apricots, grapes, peaches, nectarines, and plums to evaluate control of many annual grasses and broadleaf weeds. A total of 60 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from August 15, 1978, to August 15, 1979. Temporary tolerances for residues of the active ingredient in or on apricots, peaches, nectarines, almonds, prunes, plums, and grapes have been established. (Room E-315, telephone 202-755-4851.)

No. 10182-EUP-10. ICI Americas, Inc., Wilmington, Del. 19897. This experimental use permit allows the use of one pound of the rodenticide 3-(3-4'-bromo [1,1'-biphenyl] 4-yl)-1,2,3,4-tetrahydro-1-naphthalenyl] 4-hydroxy-2H-1-beznopyran-2-one in or around buildings to evaluate control of Norway and roof rats and house mice. The program is authorized only in the States of Alabama, Alaska, Arizona, Arkansas,

California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, North Dakota, South Dakota, tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from August 10, 1978, to August 10, 1979. (Room E-229, telephone 202-755-9315.)

No. 41989-EUP-1. Mr. Bob Davis, Titusville, Fla. 32780. This experimental use permit allows the use of 8,000 gallons of a limonene product insecticide on from 1,600 to 5,000 fire ant mounds to evaluate control of fire ants. The program is authorized only in the States of Florida and North Carolina. The experimental use permit is effective from July 26, 1978, to July 26, 1979. (Room E-229, telephone 202-755-9315.)

Interested parties wishing to review the experimental use permits are referred to the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA headquarters office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 State. 973; 89 Stat. 751, 7 U.S.C. 136(a) et seq.)

Dated: September 28, 1978.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 78-28311 Filed 10-6-78; 8:45 am]

[6560-01-M]

[FRL 983-8; OPP-180235]

FOURTEEN COTTON PRODUCING STATES

Issuance of Specific Exemptions To Use Ambush, Bolstar 6, Curacron, Pounce and Pydrin To Control the Bollworm/Budworm Complex

The Environmental Protection Agency (EPA) has granted specific exemptions to 14 States (hereafter referred to as the "Applicants") to use Bolstar 6, Curacron 6E and the synthetic pyrethroids Ambush, Pounce, and Pydrin on a total of up to 4,623,500 acres of cotton to control the bollworm/budworm complex. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

STATES AND ACREAGE

The agency requesting the exemption and acreage to be treated in each State are as follows: Alabama Department of Agriculture and Industries, 365,000 acres; Arizona Commission of Agriculture and Horticulture, 300,000 acres; Arkansas Department of Commerce, 300,000 acres; California Department of Food and Agriculture, 1,000,000 acres; Florida Department of Agriculture and Consumer Services, 3,500 acres; Georgia Department of Agriculture, 200,000 acres; Louisiana Department of Agriculture, 300,000 acres; Mississippi Department of Agriculture and Commerce, 1,250,000 acres; New Mexico Department of Agriculture, 20,000 acres; North Carolina Department of Agriculture, 35,000 acres; Oklahoma Department of Agriculture, 75,000 acres; South Carolina Division of Regulatory and Public Service Programs, 175,000 acres; Tennessee Department of Agriculture, 150,000 acres; and Texas Department of Agriculture, 450,000 acres.

HISTORY OF THE BOLLWORM/BUDWORM COMPLEX ON COTTON

The bollworm (*Heliothis zea*) and the tobacco budworm (*Heliothis virescens*) are two major pests on much of the 10-12 million acres of cotton grown in the United States. According to the Applicants, increasingly severe and widespread losses have occurred over the past few years, especially in the higher rainfall areas, amounting to 47 percent of the Cotton Belt. The three main reasons for the increasing damage to the cotton industry, the Applicants claim, are: an increase in the level of resistance by the tobacco budworm to currently registered insecticides; the voluntary withdrawal of chlordimeform and the withdrawal of other insecticides as a result of regulatory action; and an increase in the population of the tobacco budworm. Currently there are three methods employed in controlling the budworm/bollworm complex. The first is through the use of cultural practices, which the Applicants claim is useful only when used in conjunction with pesticide spray programs; the second method is by growing short-season varieties of cotton, but varieties of these adapted to higher rainfall areas are not always available; the third is through the use of insecticides and microbial agents, but, as mentioned above, there is growing resistance to these.

Chlordimeform had been used effectively against the bollworm/budworm complex until its voluntary withdrawal from the market in 1976. This year, the manufacturers of chlordimeform, Ciba-Geigy and Nor-Am, will market this insecticide under extremely stringent safeguards. Because of the restrictions placed on application, there will be only 300,000 gallons (1.2 million pounds active ingredient) of chlordimeform formulation available this year. Since it will be used at half the maximal dosage rate, however, its effectiveness may be reduced. From 800,000 to 1,600,000 acres of cotton will be able to be treated with this amount of chlordimeform, or from approximately 17.3 to 34.6 percent of the requested acreage under these exemptions. Thus, while chlordimeform could reduce the emergency, it will not eliminate the need for new pesticides. Currently, registered insecticides (other than chlordimeform) in many cases failed to achieve economic control, that is, prevention of 5 percent or more square damage, of the bollworm/budworm complex.

ECONOMIC ANALYSIS

Cotton, a fiber, oil, and feed plant, is the highest value crop grown in the Cotton Belt states and ranks fourth in value among all crops grown in the United States. Approximately 40 percent of the cotton produced in this country is exported. EPA has concluded that a loss of from 20 to 40 million dollars can be expected if an efficacious control program is not made available.

PROPOSED CONTROL PROGRAM

The Applicants propose to use Bolstar 6, manufactured by Mobay Chemical Co.; Ambush, manufactured by ICI Americas; Pounce, manufactured by FMC Corp.; Pydrin, manufactured by Shell Chemical Co., and Curacron 6E, manufactured by Ciba-Geigy Corp. State-certified applicators will make from 5 to a maximum of 10 applications at 7-day intervals using air or ground equipment. Knowledgeable scouts will determine the existence of an emergency in each State using set criteria and State agencies and representatives of the manufacturers of the pesticides will monitor the applications to guard against accidental environmental contamination. Crop rotation limits, grazing restrictions, and preharvest intervals have been imposed to keep the residue levels of the active ingredients within the levels deemed adequate to protect human health. Each State will also take the

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precautions necessary to protect aquatic organisms from the five pesticides and to protect bees from drifts of Ambush, Curacron 6E, Pounce, and Pydrin.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of the bollworm/budworm complex has occured or is about to occur; (b) there is no pesticide presently registered and available in sufficient quantities for economic use to control the budworm/bollworm complex in cotton fields in the 14 States previously named; (c) there are no alternative mehods of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the budworm/bollworm complex is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticides noted above until October 31, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The following products are authorized under these specific exemptions:

A. Bolstar 6, which contains 6 pounds of *O*-ethyl *O*-[4-(methylthio)-phenyl] S-propyl phosphorodithioate per gallon, at a dosage rate of 2/3 to 2 pints of product (0.5 to 1.5 pounds active ingredient (a.i.)), per acre;

B. Ambush, which contains 2 pounds of permethrin, (3-phenoxyphenyl) methyl (±) cis-trans-3-(2,2-dichloroethenyl) 2,2-dimethylcyclopropanecarboxylate, per gallon, at a dosage rate of 0.4 to 0.8 pint of product (0.1 to 0.2 pound a.i.) per acre;

C. Pounce 3.2 EC (formerly Matadan and FMC 33297 3.2 EC), which contains 3.2 pounds of permethrin, at a dosage rate of 4.0 to 8.0 fluid ounces of product (0.1 to 0.2 pound a.i.) per acre;

D. Pydrin (SD-43775), which contains 2.4 pounds of cyano (3-phenoxyphenyl) methyl-4-chloro-alpha (1-methylethyl) benzeneacetate per gallon, at a dosage rate of 5⅓ to 10⅔ fluid ounces of product (0.1 to 0.2 pound a.i.) per acre; and

E. Curacron 6E, which contains 6 pounds of 0-(4-bromo-2-chlorophenyl) O-ethyl S-propyl phosphorothioate per gallon, at a dosage rate of 0.66 to 1.4 pints of product (0.495 to 1.05 pounds a.i.) per acre;

2. Each State may treat the number of acres mentioned above provided that an emergency condition as defined in paragraph 5 below exists in each area designated for treatment;

3. Applications may be made by either ground or air;

4. Five applications of the pesticides named above made at approximately five-seven day intervals should provide adequate control of the bollworm/budworm complex. However, under a heavy infestation of these pests, up to ten applications are authorized;

5. Before the five insecticides can be used in a given area, an emergency condition must exist. The minimal criteria which must be used in determining when an emergency condition exists are as follows:

A. If an employee of the State Extension Service or State Commission of Agriculture or a person under the direct supervision of the State, determines after the cotton has bloomed that (1) 5 percent or more of the squares are damaged by the bollworm/budworm complex, and (2) use of registered insecticides in accordance with their label is not providing economic control, an emergency condition may be declared, or

B. Five percent or more of the squares are damaged by the bollworm/budworm complex. Such person, as designated above, will determine that an emergency condition exists or is imminent because of the tobacco budworm, using one or more of the following criteria:

(1) Light trap ratios of bollworm/budworm catches indicate that a majority of the eggs laid are budworm eggs;

(2) Adult sugar bait lines indicate that a majority of the moths present are budworm;

(3) Number of budworm moths caught in sex attractant traps;

(4) Identification of field-collected larvae to species (to verify the presence of the tobacco budworm);

(5) The historical development of the budworm in the area, in particular, a past history of severe infestation; and

(6) Proper use of registered pesticides according to their label is not providing economic control of this pest.

6. All applicators, either private or commercial, must be certified by the State. The State shall be responsible for supervision of all spray treatment;

7. Cotton scouts must be either State Extension personnel, technicians trained by State Extension agents, or State-licensed private consultants. The State must insure that all personnel in the scouting program for bollworm/budworm are capable of understanding the emergency criteria contained in paragraph 5 above. Scouts are not permitted to determine whether an emergency condition exists unless they also have the qualification set forth in paragraph 5A.

8. No individual may purchase or use any pesticide approved for use under the specific exemption program until it has been determined that an emergency condition exists in the area in which the user grows cotton. Growers must obtain authorization from the State to purchase these chemicals and the State must prohibit dealers from selling and distributing these chemicals unless such authorization is made. Careful records must be kept regarding the amounts of each insecticide sold and applied, total acreage treated, and general benefits realized from the treatments;

9. Monitoring systems will be set up both by State agencies and also by Mobay, Ciba-Geigy, FMC, ICI, and Shell to guard against accidental environmental contamination;

10. The following preharvest intervals (PHI) and crop rotational limitations (CRL) will be observed:

A. Bolstar 6: 21-day PHI for Arizona, New Mexico, and California, 14-day PHI for the other 12 States. 60-day CRL for all 14 States;

B. Ambush: 14-day PHI, 60-day CRL;

C. Pounce: 14-day PHI, 60-day CRL;

D. Pydrin: 21-day PHI, 60-day CRL;

E. Curacron 6E: 14-day PHI, no crop rotational limit, provided that no more than six pounds a.i. per acre per season is applied;

11. Cattle may not be grazed on treated fields nor may they be fed the cotton forage from treated fields;

12. Cottonseed and byproducts of cottonseed may enter interstate commerce provided the residue level of the active ingredient in the authorized pesticide products does not exceed the following:

A. Bolstar 6: 0.5 part per million (ppm) in or on cottonseed;

B. Permethrin (Pounce and Ambush): 0.5 ppm in or on cottonseed;

C. Pydrin: 0.2 ppm in or on cottonseed;

D. Curacron 6E: cottonseed—3.0 ppm, cottonseed hulls—6.0 ppm, soapstock—15 ppm;

13. Meat, meat byproducts, milk, and eggs may enter interstate commerce provided the residue level of the active ingredient in the authorized pesticide products does not exceed the following levels:

A. Ambush, Pounce (a.i. permethrin): meat, meat byproducts of cattle, goats, hogs, horses, and poultry—0.05 ppm; milk and egg—0.05 ppm;

B. Bolstar 6 (a.i. O-ethyl-O-4-methylthiophenyl-S-propylphosphorodithioate): meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep—0.01 ppm; milk and eggs—0.001 ppm;

C. Curacron 6E (a.i. O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propylphosphorothioate): meat, fat, or meat byproducts of cattle, goats, hogs, horses, poultry, and sheep—0.05 ppm; milk—0.01 ppm; eggs—0.05 ppm; and

D. Pydrin (a.i. cyano-(3-phenoxyphenyl)methyl - 4 - chloro-alpha-(1-methylethyl)benzeneacetate: fat of meat—0.02 ppm; fat of milk—0.02 ppm. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of these actions;

14. Ambush, Bolstar 6, Curacron 6E, Pounce and Pydrin may present a hazard to aquatic organisms. The Governor's designee must implement each State's plan to avoid contamination of areas where fish and aquatic invertebrates are important resources. A copy of this plan shall be made available to employees of the EPA;

15. Ambush, Curacron 6E, Pounce, and Pydrin are toxic to bees. Care must be taken to avoid drift to nontarget areas;

16. All label precautions, directions, and restrictions must be adhered to;

17. All personnel involved in the preparation and application of Ambush, Pounce, and Pydrin must wear protective clothing (long-sleeve shirts, full-length trousers, and nonpermeable boots) and a respirator. During the mixing and loading operations, gloves and an apron must also be worn;

18. Each State must submit a final report which summarizes the following: amount of each pesticide used, the acreage treated, and the benefits realized from this program. This report must be submitted by December 31, 1978;

19. Any adverse effects (such as fish kills and phytotoxicity) will be reported immediately to the EPA; and

20. All unopened, unused containers will be returned to the manufacturer at the end of the 1978 growing season. Open containers must be disposed of in accordance with the label directions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: October 2, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, for Pesticide Programs.

[FR Doc. 78-28314 Filed 10-6-78; 8:45 am]

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[6560-01-M]

[FRL 984-2; OPP-180238]

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Issuance of Specific Exemption To Use Terramycin To Control X-disease on Peach and Nectarine Trees

The Environmental Protection Agency (EPA) has granted a specific exemption to the New York Department of Environmental Conservation (hereafter referred to as the "Applicant") to use a maximum of 33 pounds of Terramycin formulation for the control of X-disease on peach and nectarine trees located in nine counties in New York. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

The Applicant requested approval to use Terramycin Tree Injection Formula (oxytetracycline hydrochloride) on 3,000 peach and cherry trees located in Columbia, Dutchess, Monroe, Niagara, Orange, Orleans, Ulster, Wayne, and Westchester Counties, to control X-disease, which is caused by a pathogenic mycoplasma. X-diseased chokecherry bushes have always been associated with diseased nectarine and peach trees. Disease spread drops sharply when chokecherry bushes are removed from areas near infected orchards. The disease is transmitted from this host plant to nectarine and peach trees by several species of leafhoppers. These species of leafhoppers do not normally live on cultivated peach or nectarine trees; they occasionally stray or are forced by strong winds into commercial orchards and transmit the disease organism through chance feedings. The first indication of infection on a peach tree is on its foliage. Leaves on isolated branches tend to curl inward and develop water-soaked spots which turn yellow to reddish purple. Shortly thereafter, the affected leaves drop. Fruit set may appear normal, but most fruit on infected branches will drop prematurely. In 2 or 3 years, the entire tree shows symptoms.

There are no EPA-registered pesticides available for the control of X-disease in peach and nectarine trees. The traditional mode of suppression has been elimination of the chokecherry population. The Applicant stated that the chokecherry eradication has not been entirely successful because of the wide distribution of this plant in hedgerows and woodlots, and the inability of owners to approach control on neighboring property, public lands, rights-of-way, and roadsides. According to the Applicant, X-disease has continued to spread, and there has been a consistent rise in the percentage of infection in the State because of these factors.

It is estimated that of the 30,000 peach and nectarine trees in the Hudson Valley, 10 percent are infected with X-disease. According to the Applicant, if 2,000 trees can be returned to the average production level in the State, approximately $25,000 could be saved. This amount does not include the saving resulting from not having to replace diseased trees.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of X-disease has occurred; (b) there is no pesticide presently registered and available for use to control X-disease in New York; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the X-disease is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 1, 1978, to the extent and in the manner set forth in the application. The specific exemption will be conducted in accordance with the following program:

1. Terramycin Tree Injection Formula (containing oxytetracycline hydrochloride), EPA Reg. No. 1007-79, manufactured by Pfizer Chemical Division, is authorized. The product shall be supplementally labeled by Pfizer for use in New York against X-disease;

2. Application rate shall be at a maximum of 5.0 grams oxytetracycline hydrochloride formulation per tree;

3. A single application of Terramycin may be made post-harvest, but before leaf fall;

4. A maximum of 3,000 peach and nectarine trees located in the nine counties named above may be treated;

5. A maximum of 33 pounds of the active ingredient may be applied;

6. Application of Terramycin may be made by trunk infusion and pressure methods;

7. Application of Terramycin shall be made by private applicators from mid-August until November 1, 1978;

8. County Extension Service horticultural agents and New York State University personnel shall dispense information concerning treatment and program criteria. Supplemental bulletins shall be provided by Pfizer, giving dosage and treatment directions. Records of purchases and quantity purchased shall be required of Pfizer or their elected distributor. Program follow-up and evaluation shall be performed by the Applicant and the New York State Extension Service;

9. The Applicant shall submit a report to EPA by January 1, 1979, summarizing the results of this program;

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10. A residue level of oxytetracycline hydrochloride in or on peaches and nectarines not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All label precaution must be followed; and

12. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).)

DATED: September 27, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, for Pesticide Programs.

[FR Doc. 78-28312 Filed 10-6-78; 8:45 am]

[6560-01-M]

[FRL 983-6]

MICHIGAN DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control X-disease on Peach and Cherry Trees

The Environmental Protection Agency (EPA) has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use a maximum of 305.5 pounds of Terramycin formulation for the control of X-disease on peach and cherry trees located in 21 counties in Michigan. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Room E-315, Washington, D.C. 20460.

The Applicant requested approval to use Terramycin Tree Injection Formula (oxytetracycline hydrochloride) on 15,000 peach trees and 9,000 cherry trees to control X-disease, which is caused by a pathogenic mycoplasma. X-diseased chokecherry bushes have always been associated with diseased cherry and peach trees. Disease spread drops sharply when chokecherry bushes are removed from areas near infected orchards. The disease is transmitted from this host plant to cherry and peach trees by several species of leafhoppers. These species of leafhoppers do not normally live on cultivated peaches or cherries; they occasionally stray or are forced by strong winds into commercial orchards and transmit the disease organism through chance feedings. The first indication of infection in a peach tree is on its foliage. Leaves on isolated branches tend to curl inward and develop water-soaked spots which turn yellow to reddish purple. shortly thereafter, the affected leaves drop. Fruit set may appear normal, but most fruit on infected branches will drop prematurely. In 2 or 3 years, the entire tree shows symptoms.

There are no EPA-registered pesticides available for the control of X-disease in peach and cherry trees. The traditional mode of suppression has been elimination of the chokecherry population. The Applicant stated that the chokecherry eradication has not been entirely successful because of budget limitations in the State, manpower, and inability of owners to approach control on neighboring property, public lands, rights-of-way, and roadsides. According to the Applicant, there has been a consistent rise in the percentage of infection in the State because of these factors. The 1977 estimated increase in infected peach trees has been placed at 16 percent.

It is estimated that there are 236,000 trees infected with X-disease. Of this total, only 10 percent can be treated per year in this program. Restoration of this amount of trees to full crop production would prevent an economic loss of approximately $127,900. This amount does not include the saving resulting from not having to replace diseased trees.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of X-disease had occurred; (b) there is no pesticide presently registered and available for use to control X-disease in Michigan; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the X-disease is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 1, 1978, to the extent and in the manner set forth in the application. The specific exemption will be conducted in accordance with the following program:

1. Terramycin Tree Injection Formula (containing oxytetracycline hydrochloride), EPA Reg. No. 1007-79, manufactured by Pfizer Chemical Division, is authorized. The product shall be supplementally labeled by Pfizer for use in Michigan against X-disease;

2. Application rate shall be at a maximum of 1.25 grams oxytetracycline hydrochloride (active ingredient) per tree;

3. A single application of Terramycin may be made post-harvest, but before leaf fall;

4. A maximum of 24,000 peach and cherry trees located in eleven counties adjoining Lake Michigan to the Grand Traverse Bay region plus the 10 inland counties of Cass, St. Joseph, Kalamazoo, Barry, Kent, Montcalm, Macomb, Livingston, Lapeer, and Oakland, may be treated;

5. A maximum of 305.5 pounds of Terramycin formulation (66 pounds active ingredient) may be applied;

6. Application of Terramycin may be made by trunk infusion and pressure methods;

7. Application of Terramycin shall be made by private applicators from mid-August until November 1, 1978;

8. county Extension Service horticultural agents and Michigan State University personnel shall disperse information concerning treatment and program criteria. Supplemental bulletins shall be provided by Pfizer, giving dosage and treatment directions. Records of purchases and quantity purchased shall be required of Pfizer or their elected distributor. Program follow-up and evaluation shall be performed by the Applicant and the Michigan State Extension Service;

9. The Applicant shall submit a report to EPA by January 31, 1979, summarizing the results of this program;

10. A residue level of oxytetracycline hydrochloride in or on peaches and cherries not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All label precautions must be followed; and

12. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).)

DATED: September 27, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, for Pesticide Programs.

[FR Doc. 78-28316 Filed 10-6-78; 8:45 am]

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[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATION

Ready and Available for Processing Pursuant to § 1.573(d) of the Commission's Rules

Adopted: October 2, 1978.
Released: October 3, 1978.

By Chief, Broadcast Facilities Division.

Cutoff date: November 7, 1978.

Notice is hereby given that the FM Broadcast application listed below will be considered as ready and available for processing on November 8, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Communicators, Inc. (KRNA) (File No. BPH-10,439), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-10,538—NEW, Iowa City, Iowa, B-Q-A-, Inc., REQ: 93.9 MHz, No. 230; 100 kW; 780 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28524 Filed 10-6-78; 8:45 am]

[6712-01-M]

[SS Docket No. 78-305, File Nos. 20310/11-IS-88]

HUB OIL CO.

Memorandum Opinion and Order

Adopted: September 26, 1978.
Released: September 27, 1978.

By the Chief, Safety and Special Radio Services Bureau.

In the matter of Hub Oil Co., Inc., P.O. Box 22, Rochester, N.Y. 14601, for reinstatement of authorizations for Stations KO8427 and KER642 in the special Industrial Radio Service (See also 43 FR 45474, October 2, 1978).

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him the Bureau's Memorandum Opinion and Order (adopted September 20, 1978, and released September 21, 1978) designating the above-captioned applications for evidentiary hearing. That action was taken pursuant to authority delegated in § 0.131(a) and 0.331 of the Commission's Rules.

2. Because of certain conflicts in the Bureau's internal records, facts alleged in the Memorandum Opinion and Order were partially incorrect. This discrepancy came to the Bureau's attention subsequent to adoption of the designation order. For this reason, the Bureau believes that the public interest will be best served by setting aside the designation order on its own motion.

3. Accordingly, *it is ordered*, That pursuant to authority contained in section 1.113(a) of the Commission's Rules, the Memorandum Opinion and Order adopted September 20, 1978, designating the above-captioned applications for evidentiary hearing is set aside.

4. *It is further ordered*, That the above-captioned applications be returned to the processing line.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-28521 Filed 10-6-78; 8:45 am]

[6712-01-M]

LICENSING OF COMMUNICATION FACILITIES TO REAL ESTATE BROKERS

Clarification of Applicable Policies

Over the past 2 years, the Safety and Special Radio Services Bureau has been caused to examine proposals submitted by real estate brokers for radio facilities in the Business Radio Service. This review was prompted originally by requests by applicants for an unusually large number of mobile units. In looking into the matter, the Bureau discovered that most of these applicants planned to provide service to their sales agents and to charge for it. These and other factors taken together led the Bureau to conclude that this usage constitutes sharing which requires compliance with the Commission's Rules governing arrangements of this type.

While case-to-case variations exist, generally the Bureau has found the relationship between real estate brokers and their sales agents is contractual in nature, with agents earning "commissions" only through the consummation of sales of real property listed with brokers. This appears to be an industry-wide practice. The agents are not considered by the industry to be employees. There is usually neither income tax withheld nor payment of workmen's compensation or social security. Further, medical insurance and retirement plans are not ordinarily provided. In light of these factors, a broker's sales agents are, in effect, independent contractors or independent business persons; and, at least in the circumstances just described, the Bureau will treat them as such in licensing systems for their use in the Business Radio Service.

Each case necessarily depends upon the facts central to it. Nevertheless, when the above elements are present, as stated, the arrangements will be deemed to be ones coming within the cooperative use provisions of § 91.6. Where variations in the elements mentioned are present, consideration will be given to the particular facts of the case. However, in instances in which service is to be provided by the broker to persons other than its employees, this should be disclosed, so that the application can be reviewed properly.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28523 Filed 10-6-78; 8:45 am]

[6712-01-M]

UNAUTHORIZED INTERCEPTION AND USE OF SATELLITE TRANSMISSIONS

The Commission has been made aware that some licencee of domestic satellite earth station facilities may have received and distributed transmissions without authority from the sender.

The intent of this notice is to remind licensees of their affirmative obligation to assure that violations of law and abuses do not occur. Earth station licenses are conditioned on use of the facilities involved only for reception of such material as the permittee has been authorized to receive by its sender. Earth station operation is also subject to Section 605 of the Communications Act which makes it unlawful:

> For a person not authorized by the sender to intercept radio communications and divulge or publish the existence, contents, substance, purport, effect or meaning thereof to any person; or,
>
> For a person not entitled thereto to receive radio communications and use such communication or any part thereof for his own benefit or for the benefit of another who is not entitled thereto.

Material submitted over domestic satellites is not "broadcast" material within the meaning of section 605, and authority for reception and use must be given by the sender. Moreover, section 605 makes it unlawful for anyone to make use of unauthorized interceptions:

> No person having received any intercepted radio communication or having become acquainted with the contents, substance, effect, or meaning of such communication (or any part thereof) shall divulge or publish the * * * contents * * * or use such com-

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munication • • • for his own benefit or for the benefit of another not entitled thereto.

Therefore, broadcast stations or cable television systems, and other persons will be in violation of the law if they divulge, publish or use unauthorized intercepted communications.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28522 Filed 10-6-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Sanyo Electric Co., Ltd. and Tokyo Sanyo Electric Co., Ltd., are granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Sanyo E&E Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Sanyo Electric Co., Ltd. and Tokyo Sanyo Electric Co., Ltd. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[Fr Doc. 78-28389 Filed 10-6-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

CARTHAGE BANCSHARES, INC.

Formation of Bank Holding Company

Carthage Bancshares, Inc., Carthage, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of the First National Bank of Carthage, Carthage, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 26, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28377 Filed 10-6-78; 8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

NATIONAL FIRE CODES

Proposed Revision of Standards; Request for Proposals

AGENCY: Office of the Federal Register, GSA.

ACTION: Request for proposals.

SUMMARY: The Office of the Federal Register and the National Fire Protection Association (NFPA) request proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by the NFPA to develop standards which Federal agencies in turn use to develop Federal regulations.

DATES: Interested persons may submit proposals on or before the dates listed in the supplementary information.

ADDRESS: Assistant Vice President for Standards, 470 Atlantic Avenue, Boston, Mass. 02210.

FOR FURTHER INFORMATION CONTACT:

Ann Stevens at 202-523-4534.

SUPPLEMENTARY INFORMATION:

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register (OFR) incorporates these standards by reference under 5 U.S.C. 552(a) and 1 CFR part 51.

Interested persons may submit amendments, supported by written data, views, or arguments to the Assistant Vice President for Standards, 470 Atlantic Avenue, Boston, Mass. 02210. Each person who submits a proposal must include his or her name and address, must identify the notice, and must give reasons for the proposal. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

The NFPA will publish a copy of each written proposal that it receives and the disposition of each proposal by the NFPA Committee as the Technical Committee Report. The NFPA will send a copy of the Technical Committee Report to each person who submits a proposal.

The NFPA will make copies of the Technical Committee Report available for review at the Office of the Federal Register, 1100 L Street NW., Washington, D.C.

The NFPA requests proposals from the public to amend the following standards:

Committee	Document	Closing date
Air Conditioning	NFPA 90A, Air Conditioning and Ventilating Systems.	July 20, 1979.
	NFPA 90B, Warm Air Heating and Air Conditioning Systems.	Jan. 12, 1979.
Atomic Energy	NFPA 801, Facilities Handling Radioactive Materials.	(Open).
Automatic Sprinklers	NFPA 13, Installation of Sprinkler Systems	July 20, 1979.
	NFPA 13A, Care and Maintenance of Sprinkler Systems.	Do.
	NFPA 13D, Sprinkler Systems for One- and Two-Family Dwellings and Mobile Homes.	Jan. 12, 1979.
Aviation	NFPA 407, Aircraft Fuel Servicing	Do.
	NFPA 410, Safeguarding Aircraft Systems Maintenance Operations (combining existing NFPA 410A, 410B, 410C, 410D, 410E, and 410F).	Do.
	NFPA 421, Aircraft Interior Fire Protection	Do.
Carbon Dioxide	NFPA 12, Carbon Dioxide Extinguishing Systems	Do.
Chemicals and Explosives	NFPA 40, Cellulose Nitrate Motion Picture Film	Do.
	NFPA 44A, Code for the Manufacture, Transportation, and Storage of Fireworks.	Do.
Combustible Metals	NFPA 48, Storage, Handling and Processing of Magnesium.	Do.
	NFPA 481, Production, Processing, Handling, and Storage of Titanium.	Do.
	NFPA 482M, Zirconium	Do.
Dry Chemical Extinguishing Systems.	NFPA 17, Dry Chemical Extinguishing Systems	Do.
Dust Explosion Hazards	NFPA 61A, Manufacturing and Handling Starch	Do.
	NFPA 61C, Prevention of Fire and Dust Explosions in Feed Mills.	(Open).
	NFPA 61D, Prevention of Fire and Dust Explosions in the Milling of Agricultural Commodities for Human Consumption.	Do.
	NFPA 66, Pneumatic Conveying Systems for Handling Feed, Flour, Grain, and Other Agricultural Dusts.	Do.
	NFPA 651, Manufacture of Aluminum or Magnesium Powder.	Do.
	NFPA 655, Prevention of Sulfur Fires and Explosions.	Do.
Electrical Equipment Maintenance	NFPA 70B, Electrical Equipment Maintenance	Jan. 12, 1979.
Electrical Metalworking Machine Tools.	NFPA 79, Electrical Metalworking Machine Tools	Do.
Fire Department Equipment	NFPA 1904, Fire Department Aerial Ladders and Elevating Platforms.	Nov. 1, 1978.
	NFPA 1921, Fire Department Portable Pumping Units.	Do.
	NFPA 19B, Respiratory Protective Equipment for Fire Fighters.	(Open).
Fire Service Training	NFPA 1401, Training Reports and Records	Do.
Fire Prevention Code Committee	NFPA 1, Fire Prevention Code	May 1, 1979.
Firesafety Symbols	Proposed Standards on Firesafety Symbols for Architectural and Engineering Drawings, Risk Analysis Diagrams and Fire Fighting Operations.	Jan. 12, 1979.
Flammable Liquids	NFPA 30, Flammable and Combustible Liquids Code	(Open).
Foam	NFPA 11C, Mobile Foam Apparatus	Jan. 12, 1979.
Foam Water Sprinklers	NFPA 16, Foam Water Sprinkler and Spray Systems	(Open).
Halogenated Fire Extinguishing Systems.	NFPA 12A, Halon 1301 Systems	Jan. 12, 1979.
	NFPA 12B, Halon 1211 Systems	Do.
	NFPA 12C, Halon 2402 Systems	Do.
Health Care Facilities	NFPA 56C, Laboratories in Health-Related Institutions.	(Open).
Household Fire Warning Equipment.	NFPA 74, Standard on Household Fire Warning Equipment.	Jan. 12, 1979.
Libraries, Museums and Historic Buildings.	NFPA 910, Protection of Library Collections from Fire.	Do.
	NFPA 911, Protection of Museum Collections from Fire.	Do.
Loss Prevention Procedures and Practices.	NFPA 27, Organization, Training and Equipment of Private Fire Brigades.	Do.
	NFPA 601, Guard Service in Fire Loss Prevention	Do.
	NFPA 601A, Guard Operations in Fire Loss Prevention.	Do.
Marine	NFPA 302, Motor Craft	Do.
	NFPA 306, Gas Hazards on Vessels to be Repaired	Do.
Mobile Homes and Recreational Vehicles.	NFPA 501C, Recreational Vehicles	Do.
Piers and Wharves	NFPA 87, Piers and Wharves	Dec. 1 1978.
Portable Fire Extinguishers	NFPA 10L, Model Enabling Act for the Sale or Leasing and Servicing of Portable Fire Extinguishers.	Jan 12, 1979.
Record Protection	NFPA 232, Protection of Records	Do.
	NFPA 232AM, Fire Protection for Archives and Record Centers.	Do.
Safety to Life	NFPA 101, Life Safety Code	Jan. 8, 1979.
Standpipes and Outside Protection	NFPA 14, Installation of Standpipe and Hose Systems.	(Open).

FRED J. EMERY,
Director of the Federal Register.

[FR Doc. 78-28189 Filed 10-6-78; 8:45 am]

V 43/196 OCT 10 78

[6820-24-M]

Federal Supply Service

LIFE CYCLE COSTING IN GOVERNMENT PROCUREMENT

Research Support to Extend Use; Request for Comments

The Federal Supply Service (FSS) is mounting a research program in response to its mandate to encourage broader use of life cycle costing (LCC) in Government procurement. To this end FSS is undertaking a program to solicit comments from Government agencies and the private sector on those circumstances and products which are suited to LCC application.

Life cycle costing is an acquisition technique that specifically includes other costs of ownership besides the initial purchase price in the product selection process. Examples of additional considerations associated with the ownership of products are operating costs (e.g., energy costs, maintenance/repair costs), service life, and salvage or resale value. LCC strives for the lowest total cost of ownership rather than the lowest bid price.

The research effort will build an LCC data base and lead to an FSS program providing various forms of assistance to enable and encourage expanded use of LCC within GSA and among purchasing units in other Federal, State, and local agencies.

Because of the importance of this issue, interested parties are encouraged to submit comments to: General Services Administration (FCV), Washington, D.C. 20406.

Dated: September 27, 1978.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc. 78-28348 Filed 10-6-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77P-0158]

LIBBY, MCNEILL & LIBBY, INC.

Canned Peaches Deviating From Identity Standards; Amendment to a Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that Libby, McNeill & Libby, Inc., has requested and has been issued an amendment of a temporary permit to market test a new style of peaches designated as "chunky." The amendment provides for market testing of an additional 225,000 cases of twenty-four 16-ounce cans of the test product in an expanded area.

DATE: This amended permit is effective October 10, 1978, and shall terminate either on the effective date of an affirmative order ruling on a proposal based on the Libby, McNeill & Libby petition to amend the canned peach standard or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER of September 17, 1976 (41 FR 40205) of the issuance of the temporary permit to Libby, McNeill & Libby, Inc., in accordance with § 130.17 (21 CFR 130.17). The permit covered limited interstate marketing tests of canned peaches that deviate from the standard of identity prescribed in § 145.170(a) (21 CFR 145.170(a)) in that the peaches are cut into units predominantly greater than ½ inch and less than 1¾ inches in the largest dimension and designated as "chunky" peaches, an optional style not provided for in the standard. The product is packed in heavy syrup and contains artificial peach flavor, both of which are already provided for in the standard. In addition to the name "chunky" peaches, the principal display panel contains the words "in heavy syrup."

Notice of an extension and an amendment to the original permit issued to Libby, McNeill & Libby, Inc., was published in the FEDERAL REGISTER of September 20, 1977 (42 FR 47260). The amendment provided for the market testing of an additional 60,000 cases of twenty-four 16-ounce cans of the test product in an expanded marketing area. In conjunction with this request, Libby filed a petition as required by § 130.17 proposing to amend the standard for canned peaches to provide for the new style of peaches.

The petition which is being considered by the Food and Drug Administration is on file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, for review by interested persons. As was announced in the FEDERAL REGISTER of September 20, 1977 (42 FR 47260), all interested persons may participate in the market tests under the same conditions that apply to Libby, McNeill & Libby, Inc., except that the designated area of distribution does not apply to such interested persons. Any interested person who elects to participate in the market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution. Along with such notification, submissions shall include the labeling under which the food is to be distributed.

Libby, McNeill & Libby, Inc., now has requested that the permit be amended to provide for the market testing of an additional 275,000 cases of twenty-four 16-ounce cans of chunky peaches in the States of California, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and Wisconsin and the District of Columbia. The Commissioner of Food and Drugs concludes that it will be in the interest of consumers to amend the temporary permit as requested. This amended permit is effective October 10, 1978.

This permit amendment, as issued to Libby, McNeill & Libby, Inc., and such others who participate in accordance with the provisions set out above, expires either on the effective date of an affirmative order ruling on the petition of Libby, McNeill & Libby, Inc., or 30 days after a negative order ruling on the petition, whichever the case may be.

Dated: October 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28337 Filed 10-6-78; 8:45 am]

[4110-83-M]

Health Resources Administration

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the month of October 1978:

Name: National Council on Health Planning and Development.
Date and time: October 26, 1978, 10 a.m.
Place: Room 4173, HEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201.
Date and time: October 27, 1978, 8:45 a.m.

Place: Room 703A-727A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.
Open for entire meeting.

Purpose. The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of titles XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery, and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda. On October 26 the Council will discuss the proposed subcommittee charges, priorities and schedule for consideration of issues related to the national guidelines/goals and standards, implementation and administration of titles XV and XVI, and the Council's responsibilities in the area of new medical technology. On October 27 the Council will continue the discussion of proposed subcommittee charges and operations; consideration of goals and standards; and status reports from the Directors of the Bureau of Health Planning and the Bureau of Health Facilities, Financing, Compliance, and Conversion, including an update on legislation and implementation plans.

Anyone requiring information regarding the subject Council should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7175.

Agenda items are subject to change as priorities dictate.

Dated: September 29, 1978

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-28346 Filed 10-6-78; 8:45 am]

[4110-08—M]

National Institutes of Health

REPORT ON BIOASSAY OF AZINPHOSMETHYL FOR POSSIBLE CARCINOGENICITY

Availability

Azinphosmethyl (CAS 86-50-0) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of technical-grade azinphosmethyl for possible carcinogenicity was conducted by administering the test chemical in feed to Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an insecticide.

It is concluded that under the conditions of this bioassay, neoplasms of the thyroid and pancreatic islets suggest but do not provide sufficient evidence for the carcinogenicity of azinphosmethyl in male Osborne-Mendel rats. Azinphosmethyl was not shown to be carcinogenic in female Osborne-Mendel rats or in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal domestic assistance program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27983 Filed 10-6-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF DDT, TDE, AND P,P'-DDE FOR POSSIBLE CARCINOGENICITY

Availability

DDT, TDE, and p,p'-DDE (CAS 50-29-3) have been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. Bioassays of technical-grade DDT, TDE, and p,p'-DDE for possible carcinogenicity were conducted using Osborne-Mendel rats and B6C3F1 mice. TDE and p,p'-DDE are chemicals related to the insecticide DDT. Each compound was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of these bioassays there was no evidence for the carcinogenicity of DDT in Osborne-Mendel rats or B6C3F1 mice, of TDE in female Osborne-Mendel rats or B6C3F1 mice of either sex, or of p,p'-DDE in Osborne-Mendel rats, although p,p'-DDE was hepatotoxic in Osborne-Mendel rats. The findings suggest a possible carcinogenic effect of TDE in male Osborne-Mendel rats, based on the induction of combined follicular-cell carcinomas and follicular-cell adenomas of the thyroid. Because of the variation of these tumors in control male rats in this study, the evidence does not permit a more conclusive interpretation of these lesions. p,p'-DDE was carcinogenic in B6C3F1 mice, causing hepatocellular carcinomas in both sexes.

Single copies of the report available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal domestic assistance program No. 13.393, Cancer cause and Prevention Research)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27984 Filed 10-6-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF SULFALLATE FOR POSSIBLE CARCINOGENICITY

Availability

Sulfallate (CAS 95-06-7) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of sulfallate was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as a herbicide for vegetable crops. Sulfallate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay dietary administration of sulfallate was carcinogenic to Osborne-Mendal rats and to B6C3F1 mice, inducing mammary gland tumors in females of both species, tumors of the forestomach in male rats, and lung tumors in male mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal domestic assistance program No. 13.393, Cancer Cause and Prevention Research)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27985 Filed 10-6-78; 8:45 am]

V 43/196 OCT 78

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Cancellation of Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the meeting of the National Advisory Council on the Education of Disadvantaged Children scheduled to be held on October 13 and 14, 1978, at 425 13th Street NW., Suite 1012, Washington, D.C., is hereby cancelled.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C., on October 4, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-28531 Filed 10-6-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-895]

TASK FORCE ON TENANT PARTICIPATION IN THE MANAGEMENT OF LOW-INCOME HOUSING

Meeting

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is given announcing the seventh meeting date of the task force.

SUMMARY: The Secretary is announcing the seventh meeting and agenda for the Task Force on Tenant Participation in the Management of Low-Income Housing. Meetings are scheduled for October 29 and 30, 1978, and the agenda for the meetings are stated.

DATE OF SEVENTH MEETING: The seventh meeting of the task force is scheduled to be held over a two (2) day period beginning October 29, 1978, at 1 p.m. in the International Inn, located at 10 Thomas Circle NW., Washington, D.C.

ADDRESS: James F. Anderson, Director, Project Management Division, Office of Assisted Housing Management, Room 6248, or Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

James F. Anderson, 202-755-6429; Joseph Smith, 202-755-5360; Donald McLain, 202-755-5333.

SUPPLEMENTARY INFORMATION: Meetings of the Task Force on Tenant Participation in the Management of Low-Income Housing have been scheduled for the dates and time indicated above. The first meeting on October 29, will allow public participation in discussing the draft report to the Secretary. The second meeting day, October 30, discussions on the draft report to the Secretary will be limited to the task force members only. For additional information regarding the draft report to the Secretary, you may contact any of the following task force members.

Jesse Gray, Harlem Backstreet Youth, Inc., 348 West 121st Street, New York, N.Y. 10027, 212-749-4500.

Iris Paton, Massachusetts Union Public Housing Tenants, 33 Broad Street, Boston, Mass. 02109, 413-543-1085.

Shirley Wise, 130 Aisquith Street, Apartment 1K, Baltimore, Md. 21202, 301-728-9354.

William Ratzlaff, Executive Director, Housing Authority of Denver, P.O. Box 4226, Santa Fe Drive Station, Denver, Colo. 80204, 303-534-0821.

Dorothy O. Forbes, Executive Director, Housing Authority of Wilmington, P.O. Box 899, Wilmington, N.C. 28401, 919-762-8544.

Bertha Gilkey, 1121 North Seventh Street, Apartment No. 600, St. Louis, Mo. 63106, 314-436-3527.

Copies of the draft report will be available at the ten (10) HUD Regional Offices.

The agenda for the seventh meeting shall include the following:

1. Review report from the Drafting Committee.
2. Task force discussion on draft report to the Secretary.
3. Closing discussion.

The meeting of the task force will be open to the public.

Issued at Washington, D.C., October 2, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-28354 Filed 10-6-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE NO. 65

Correction

In FR Document 78-27234, appearing on page 44900 in the issue of Friday, September 29, 1978, the following printing errors are hereby corrected:

1. On page 44900, in paragraph 4, *Bonus bidding with a fixed sliding scale royalty,*

(a) In line 10, strike the word "solid" and substitute the word "sold".

(b) In the same paragraph, page 44900, column 3, fifth line from the top: strike "S=2.4" and substitute therefore "S=2.5". Bidders are reminded that this Notice corrects a printing error only. This formula is correctly stated in paragraph 14 on page 44903, where it is repeated as part of an amendment to the Lease Form 3300-1, to be used for tracts offered on a cash bonus basis with a fixed sliding scale royalty. (The "s" in that statement should be capitalized to read "S=2.5".)

(c) On page 44900, column 3, first line of the fourth paragraph, strike the word "quaterly" and substitute the word "quarterly".

2. On page 44904, middle column, Stipulation 5(a), line 4, the word "all" should be inserted between "to" and "other".

3. On page 44905, column 1, paragraph 17, *Suggested bid form,* line 16, strike "percent interest——." and substitute "Percent interest——%."

4. On page 44905, column 2, paragraph 18: *Required bidders statement,* in the fourth line from the top, the article "a" should be inserted between "before" and "notary".

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: October 4, 1978.

HEATHER L. ROSS,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-28545 Filed 10-6-78; 8:45 am]

[1505-01-M]

OUTER CONTINENTAL SHELF LEASE FORM

Revision of Form

Correction

In FR Doc. 78-27511 appearing at page 44893 in the issue of Friday, Sept. 29 make the following corrections.

1. On page 44894, second column, seventh line from the bottom the word, "lessee" should read, "Lessee."

2. On page 44896, first column, the fourteenth and fifteenth lines from the top should read, "this lease are hereby reserved to the Lessor. Without limiting the generality of the fore-"

3. On page 44896, first column, the seventh line from the bottom is corrected to read, "obligations or to abandon all wells on the area".

[4310-09-M]

Bureau of Reclamation

NORTH LOUP DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

Public Hearing on Draft Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement FES 72-31 dated September 18, 1972. This supplement (Int. Des. 78-39, dated September 22, 1978) was filed with EPA on September 22, 1978, and made available for public review and comment on September 25, 1978.

The draft supplement provides additional information in the areas of surface and ground water quality, geologic stability of damsites, sedimentation upstream of reservoir sites, flora and fauna of reservoir sites, and a research alternative to project irrigation development.

Public hearings will be held in Ord, Nebr., at the Elks Lodge on North Highway 11 beginning at 9 a.m., on November 9, 1978, to receive views and comments concerning the information presented in the draft supplement. Oral statements at the hearings will be limited to a period of 10 minutes each. Speakers will not be permitted to trade or consolidate the time in order to obtain a longer oral presentation; however, the person authorized to conduct the hearings may allow a speaker to provide additional oral comments after all persons wishing to comment have been heard. Such additional oral comments shall also be limited to 10 minutes each.

Persons wishing to make statements at the hearing will be scheduled upon receipt of their written or telephone request in the order received unless a specific time period is requested. If a speaker requests a specific time period, he will be scheduled to appear as close to the requested time as possible. Any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled after all other scheduled speakers have been heard.

Organizations or individuals desiring to present statements at the hearings should contact the Lower Missouri Regional Office, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3779, by letter or telephone and request to be scheduled for a presentation. Requests for scheduled presentations will be accepted until 4 p.m., on November 6, 1978. Speaking requests received subsequent to that time will be handled on a first-come-first-served basis following the scheduled presentations. Written comments from those unable to attend and from those wishing to supplement their oral presentations will be accepted for the record until 4 p.m., November 20, 1978. Such written comments should be addressed to the Regional Director at the address listed above.

Dated: October 3, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-28358 Filed 10-6-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 29, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 20, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Montgomery County

Montgomery, *Jones, Gov. Thomas C., House,* 323 Adams Ave.

HAWAII

Maui County

Wailuku, *Maui Jinsha Mission,* 472 Lipo St.

Oahu County

Haleiwa vicinity, *Kawailoa Ryusenji Temple,* N of Haleiwa at 179-A Kawailoa Dr.

INDIANA

Marion County

Indianapolis, *Mt. Pisgah Luthern Church,* 701 N. Pennsylvania St.

Tippecanoe County

West Lafayette, *West Lafayette Baptist Church,* 123 N. Chauncey St.

IOWA

Cerro Gordo County

Mason City, *Wagner-Mozart Music Hall,* 1st St. NE and Delaware Ave.

Polk County

Des Moines, *Sherman Hill Historic District,* roughly bounded by Woodland Ave., 19th, School, and 15th Sts.

Washington County

Washington, *Keck, Joseph, House,* 504 W. Washington St.

MASSACHUSETTS

Essex County

Lawrence, *Old Public Library,* 190 Hampshire St.

Lynn, *Lovejoy, Charles, House,* 64 Broad St.

Middlesex County

Cambridge, *Charles River Basin Historic District,* both banks of Charles River from Eliot Bridge to Charles River Dam (also in Suffolk County).

Newton, *Echo Bridge,* Ellis St. at Charles River (also in Norfolk County).

Worcester County

Athol, *Pequoig Hotel,* Main St.

MISSISSIPPI

Carroll County

Carrollton, *Carrollton Historic District,* MS 35.

Lafayette County

Oxford, *Barnard Observatory,* University of Mississippi campus.

NEW HAMPSHIRE

Rockingham County

Rye, *Locke, Elijah, House,* 5 Grove Rd.

NEW JERSEY

Atlantic County

Port Republic, *Blake, Amanda, Store,* 104 Main St.

NEW MEXICO

Taos County

Taos, *Luhan, Mabel Dodge, House,* Luhan Lane.

Torrence County

Mountainair, *Shaffer Hotel,* Broadway St.
Mountainair vicinity, *Rancho Bonito,* S. of Mountainair on Gran Quivera Rd.

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TENNESSEE

Lauderdale County

Henning, Palmer, *W. E., House (Haley, Alex, House,* off U.S. 51.

VIRGIN ISLANDS

St. Thomas County

Charlotte Amalie, *Militaire Hospital (Alton Adams House)* 1B Kongens Gade.
Charlotte Amalie, *Skytsborg,* 39 Dronningens Gade.
Charlotte Amalie, *von Scholten, Peter, House (Paiewonsky House)* 24 Dronningens Gade.

WASHINGTON

Clark County

Vancouver, *Evergreen Hotel,* 500 Main St.

King County

Seattle, *Arctic Building,* 306 Cherry St.
Seattle, Chelsea Family Hotel, 620 W. Olympic Pl.
Seattle, *Skinner building (Fifth Avenue Theatre,* 1300–1334 5th Ave.

Snohomish County

Everett, *Swalwell Cottage,* 2712 Pine St.
Index, *Bush House,* Index Ave. and 5th St.

Whatcom County

Bellingham, *Aftermath Clubhouse,* 1300 Broadway.
Bellingham, *Mount Baker Theatre,* 106 N. Commercial St.
Bellingham, *Roth, Lottie, Block,* 1106 W. Holly St.

WISCONSIN

Dane County

Madison vicinity, *Lake Farms Archeological District,* S of Madison.

[FR Doc. 78-28145 Filed 10-6-78; 8:45 am]

[4310-70-M]

National Park Service

[INT FES 78-27]

YOUGHIOGHENY WILD AND SCENIC RIVER

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Youghiogheny Wild and Scenic River in Maryland and Pennsylvania. The statement considers the probable impact of establishing a segment of the Youghiogheny River as a component of the National Wild and Scenic River System. The Notice of Availability inviting comments on the draft statement (DES 78-23) was published in the FEDERAL REGISTER on June 20, 1978.

Copies of the statement are available for inspection at the following locations;

Mid-Atlantic Regional Office, National Park Service, 143 South Third Street, Philadelphia, Pa. 19106, telephone 215-597-3679.
Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Annapolis, Md. 21302.
Council Chambers, Ohiopyle Muncipal Building, Ohiopyle, Pa. 15470.
Ruth Enlow Library, Friendsville Branch, Maple Street, Friendsville, Md. 21531.
Pennsylvania State Clearinghouse, Governor's Budget Office, Intergovernmental Relations Division, P.O. Box 1323, Harrisburg, Pa. 17120. Uniontown Public Library, 24 Jefferson Street, Uniontown, Pa. 15401.
Springfield Township, Municipal Building, Mill Run, Pa. 15464.
Ruth Enlow Library, 6 North 2nd Street, Oakland, Md. 21550.
Baltimore County Public Library, Cockeysville Branch, 10757 York Road, Cockeysville, Md. 21030

Single copies are available to the public and may be obtained by writing to the Regional Director, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania, 19106. Please refer to the statement number shown in the title.

Dated: October 3, 1978.

LARRY E. MEIEROTTO,
DEPUTY ASSISTANT
Secretary of the Interior.

[FR Doc. 78-28372 Filed 10-6-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-56]

CERTAIN THERMOMETER SHEATH PACKAGES

Notice of Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with the above styled investigation at 10 a.m. on January 11, 1979, in the Hearing Room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. No discovery will be obtained susequent to December 22, 1978. On or before January 2, Complainant will have completed service of its Prehearing Conference Statement on the other parties, and Respondents and Commission Investigative Attorney will have completed service of their Prehearing Conference Statements on or before January 8, 1979. The contents of these statements will be the subject of a subsequent order. The purpose of this Prehearing Conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the Hearing in this proceeding will commence at 10 a.m. on January 16, 1979, in the Hearing Room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C., or at 10 a.m. on a date as soon after as practicable, and will continue daily until completed. Counsel shall be ready to proceed on January 16, 1979, subject to at least 48-hour advance oral notification if the hearing is to commence on a subsequent date.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued: October 3, 1978.

DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-28527 Filed 10-6-78; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-37-M]

DELANO GRANITE, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Delano Granite, Inc., 265 North River Street, Delano, Minn. 55328, has filed a petition to modify the application of 30 CFR 56.24-4 (noise) to its Milbank Quarry Mine, located in Albertville County, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) At the present time, burner operators and drillers in the quarry hole at the above mine are exposed to noise levels above those required under the standard.

(2) Burner technology has not progressed to the point of lowering noise levels below the permissible levels contained in the standard.

(3) Petitioner has done and is continuing to do research and development in the area and has applied for a grant to continue research efforts.

(4) To change quarrying techniques would impose a severe hardship on petitioner and would entail an extended mine shutdown.

(5) Affected miners (a total of approximately six) will be issued the best available ear protection and will be rotated in their work duties to cut down the time of exposure.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 2, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28383 Filed 10-6-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-42-M]

H. E. FLETCHER CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that H. E. Fletcher Co., Groton Road, West Chelmsford, Mass. 01863, has filed a petition to modify the application of 30 CFR 56.16-14(b) (automatic switches on automatic cranes), to its Mill Creek No. 1, 2, and 3 mines, located in Middlesex County, Mass., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) The piece of equipment covered by this petition is a 50-ton, operator-carrying, overhead Bedford crane used in the northwest section of the mill. The crane was purchased over 40 years ago.

(2) The crane was delivered with a wound-rotor AC motor, external resistance and drum controller; automatic bolting of the uptravel of the block, as required by the standard, cannot be accomplished with this system because of the prohibitive cost of retrofitting an old crane.

(3) In lieu of the requirements of the standard, the petitioner proposes to install a red light, which will remain on under normal conditions, in front of the operator. Should the traveling block come within 1 foot of the hoist, the light will go out, so as to warn the operator of the closeness of the hoist and block. The light will also indicate to the operator that the system is operable.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: September 29, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28385 Filed 10-6-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-36-M]

INTERNATIONAL SALT CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that International Salt Co., 3846 Retsof Road, Retsof, N.Y. 14539, has filed a petition to modify the application of 30 CFR 57.14-13 (canopies), to its Retsof mine, located in Livingston County, N.Y., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

1. Forklift roof trucks, front-end loaders, and bulldozers are used in the above mine for cleanup work and moving up muck piles in production work.

2. Areas of roof in the above mine are too low to accommodate the above equipment, creating an extreme hazard to the equipment operator.

3. The collision of canopies against roof can cause head and neck injuries.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated; October 2, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28384 Filed 10-6-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-32-M]

McKEE QUARRIES CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that McKee Quarries Co., Inc., Box 292, Greenwood, Mo. 64034, has filed a petition to modify the application of 30 CFR 56.9-88 (ROPS), to its McKee quarry and mill, located in Cass County, Mo., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

1. A CAT 950 loader is used to clean out spillage from under the loading bins of petitioner's crusher and to add a roll-bar would not allow sufficient clearance.

2. It is impossible to dig out beneath the loading bins sufficiently to permit clearance of the loader.

3. The loader is operated on flat ground and is operated only by petitioner's vice president.

4. Operation of the loader under such circumstances would not diminish health and safety at the mine.

5. Petitioner therefore requests that a roll-bar be excluded from the loader.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 2, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28388 Filed 10-6-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-85-C]

SEWELL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Sewell Coal Co., General Delivery, Nettie, W. Va. 26681, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies), to its Meadow River No. 1 mine, located in Nicholas County, W. Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) Because of mining heights at the Meadow River No. 1 mine from 36 to 54 inches, with abrupt changes in seam heights and undulations in mine floor, petitioner asserts that installation of canopies will result in dimunition of safety to the miners. Additionally, mining equipment in this mine range in heights from 22 to 32 inches.

(2) Due to the undulations in seam heights, the likelihood of jamming the canopy against the roof is increased. Roof bolts have been and will continue to be dislodged, thereby creating a greater risk of roof fall and injury to employees than would otherwise exist.

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(3) Installing canopies over the equipment would result in cramped conditions, causing operators to leave the equipment more frequently, thus exposing them to hazards of moving equipment.

(4) Variations in seam heights cause inadequate equipment clearance, damages to crossbeams, and destroys equipment.

(5) The existence of the cab itself becomes a hazard because present equipment known to petitioner limits the paths of escape of an operator involved in a roof or rib fall.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: September 29, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28387 Filed 10-6-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-41]

WAVE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Wave Mining Co., Route 2, Box 177, Whitesburg, Ky. 41858, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies), to its No. 1 mine, located in Letcher County, Ky., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) This petition pertains to the Joy Loader, Model No. 1-14-BN-10-11CH, which is used at the above mine.

(2) The above Joy Loader is 42 inches in height.

(3) Mining heights at the Hazard No. 4 seam of the No. 1 mine range from 50 to 58 inches. The seam is of ascending and descending grades, resulting in dips in the coalbed.

(4) A canopy on the Joy Loader would result a diminution of the safety to the miners because it will reduce operator visibility, creating a hazard to them as well as to others in the mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 9, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: September 29, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28386 Filed 10-6-78; 8:45 am]

[4510-28-M]

Office of the Secretary

BICYCLE TIRES AND TUBES

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

On September 1, 1978, the International Trade Commission (ITC) determined that increased imports of bicycle tires and tubes are a substantial couse of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (43 FR 40067).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on bicycle tires and tubes. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received two petitions for certification of eligibility for adjustment assistance from workers engaged in the production of bicycle tires and tubes. The Department certified both cases. As of May 31, 1978, 360 workers in plants producing bicycle tires and tubes had received $590,245 in the form of trade readjustment allowances.

2. Employment of workers producing bicycle tires and tubes has fluctuated, but experienced an overall decline from 1973 through 1977. Employment was slightly higher in the first quarter of 1978 compared to the same quarter of 1977. However, additional reductions in employment are likely. Most separated workers should be eligible for trade adjustment assistance.

3. The unemployment rate in the one area with a bicycle tire and tube plant was below the national average of 5.5 percent (not seasonally adjusted) for May 1978. Labor market conditions for this area, located in the State of Pennsylvania, are unfavorable for those occupations typical of bicycle tires and tubes production and reemployment prospects appear to be at best fair.

4. The age distribution for workers in the bicycle tires and tubes industry indicates that these workers are older than clients targeted by the local CETA sponsor and are not likely to be eligible for CETA training programs. For displaced trade impacted workers not covered by CETA programs, the U.S. Department of Labor has the authority to purchase specific training.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7665.

Signed at Washington, D.C., this 27th day of September 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-28496 Filed 10-6-78; 8:45 am]

[4510-28-M]

HIGH-CARBON FERROCHROMIUM

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

On September 5, 1978, the International Trade Commission (ITC) determined that increased imports of "High-Carbon Ferrochromium" are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (43 FR 40555).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "High-Carbon Ferrochromium". The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received five petitions for certification of eligibility for adjustment assistance from workers engaged in the production of high-carbon ferrochromium. The Department has certified four cases and denied one. As of June 30, 1978 the Department had paid out $945,003 in trade readjustment allowances to 370 workers at plants producing high-carbon ferrochromium. In addition to the readjustment allowances the Department has paid out $2,858 in relocation allowances and $655 in job search allowances to certified workers in the industry. The total number of workers entering training through June 30, 1978 was eleven.

2. Employment of workers producing high-carbon ferrochromium declined in 1977 and the first half of 1978. High-carbon ferrochromium employment is not likely to show substantial improvement in the near future. Additional declines in high-carbon ferrochromium employment may occur in the second half of 1979.

3. Unemployment rates in three of the four areas with high-carbon ferrochromium plants were below the national unemployment rate of 6.2 percent unadjusted for June 1978. Some additional decline in industry employment may occur, so that the relatively lower local unemployment rates and somewhat improving local labor market conditions make reemployment prospects only fair.

4. The Comprehensive Employment and Training Act (CETA) programs appear to have sufficient funds and slots to meet the training needs of most of the displaced workers. However, the age distribution and economic position of a substantial portion of the workers in the high-carbon ferrochromium industry differ from the characteristics of the clients for CETA sponsors for impacted areas. These differences may limit the training opportunities of some displaced workers in the high-carbon ferrochromium industry. For displaced workers not covered by CETA programs the Department has the authority to purchase specific training.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7665.

Signed at Washington, D.C., this 27th day of September 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-28497 Filed 10-6-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Galeton Production Co. (company)	Galeton, Pa.	Sept. 21, 1978	Sept. 19, 1978	TA-W-4,203	Electronic receiving tubes.
Gramercy Mills, Inc. (ILGWU)	Passaic, N.J.	Sept. 18, 1978	Aug. 31, 1978	TA-W-4,204	Girl's bathing suits.
Jacoby-Bender, Inc. (Watch & Jewelry Workers Union).	Woodside N.Y.	Sept. 19, 1978	Sept. 14, 1978	TA-W-4,205	Metal watchbands and metal jewelry.
Kaiser Steel Corp. (workers)	Eagle Mountain, Calif.	Sept. 18, 1978	Sept. 13, 1978	TA-W-4,206	Mining and concentrating of iron ore.
T & S Apparel (ILGWU)	Passaic, N.J.	do.	Aug. 31, 1978	TA-W-4,207	Contractor of women's sportswear.

[FR Doc. 78-28380 Filed 10-6-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing. *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1978.

Interested persons are invited to summit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address

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shown below, not later than October 20, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Apex Leather Manufacturing Co. (company).	Englewood, N.J.	Sept. 25, 1978	Sept. 18, 1978	TA-W-4,208	Schoolbags, briefcases, totebags, etc.
Corporacion Azucarera de Puerto Rico, Taller Las Claras (company).	Plazuela-Cambalache, P.R	do	Sept. 21, 1978	TA-W-4,209	Service is provided for machinery repair that is used in the sugarcane farm.
Corporacion Azucarera de Puerto Rico, Taller Central (company).	Toa-San Vicente, P.R.	do	do	TA-W-4,210	Do.
Corporacion Azucarera de Puerto Rico, Administrative Office (company).	do	do	do	TA-W-4,211	Sugarcane.
Corporacion Azucarera de Puerto Rico, Taller Dolores (company).	Loiza, P.R	do	do	TA-W-4,212	Service is provided for machinery repair that is used in the sugarcane farm.
GAF Corp. (workers)	Rockville, Conn	Sept. 22, 1978	Sept. 20, 1978	TA-W-4,213	Papermakers felt.
Johnson Outboard Co. (workers)	Waukgan, Ill	Sept. 21, 1978	Sept. 10, 1978	TA-W-4,214	Outboard engines.
Outboard Marine Corp., Gale Products Division (workers).	Galesburg, Ill	do	do	TA-W-4,215	Lawnmowers, supply electrical components for outboard engines.
Waldon Manufacturing Co. (ACTWU)	Walnut, Miss	Sept. 22, 1978	Sept. 21, 1978	TA-W-4,216	Men's trousers.
Windon Manufacturing Co. (ACTWU)	Winona, Miss	do	do	TA-W-4,217	Men's sport shirts.

[FR Doc. 78-28381 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3715]

AMERICAN STAY CO., INC., MELROSE, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3715: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 16, 1978 in response to a worker petition received on April 24, 1978 which was filed on behalf of workers and former workers producing shoe trimmings at the Melrose, Massachusetts plant of the American Stay Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978. (43 FR 27923-24). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the American Stay Co., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The American Stay Co., Inc., Melrose, Mass. was formed as a Massachusetts Corporation in 1969. Workers at the firm produced shoe trimmings, until the company shutdown in 1978. While in operation, American Stay was an independent firm with no corporate affiliation with any shoe manufacturer.

Evidence developed in the Department's investigation revealed that there are no separately identifiable imports of shoe trimmings. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of shoe trimmings have been negligible in the 1970's

Imports of shoes, which incorporate shoe trimmings in the final product, are not like or directly competitive with shoe trimmings produced by workers at the American Stay Co., Inc. within the meaning of section 222(3) of the Trade Act of 1974.

CONCLUSION

After careful review, I determine that all workers at the American Stay Co., Inc., Melrose, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28390 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3878]

A.M. MILWAUKEE BODY EMPLOYEES CREDIT UNION, MILWAUKEE, WISC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3878: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in secton 222 of the Act.

The investigation was initiated on June 22, 1978 in response to a worker petition received on June 19, 1978, which was filed on behalf of workers and former workers providing credit union services to the employees of the Milwaukee plant of AMC at the A.M. Milwaukee Body Employees Credit Union.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the A.M. Milwaukee Body Employees Credit Union and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the act and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that the A.M. Milwaukee Body Employees Credit Union was founded in 1933 in Wisconsin, for the purpose of providing savings and loan services to the employees of the Milwaukee, Wisconsin body plant of American Motors Corp. Members of the Credit Union must be employees of the body plant.

The Credit Union occupies office space owned by AMC. The equipment used is owned by the Credit Union. There is no corporate affiliation between the Credit Union and AMC. Neither the Credit Union nor AMC have any controlling interest in each other.

The Credit Union provides saving and loan services to employees of the Milwaukee, Wisconsin body plant of AMC. Workers in the A.M. Milwaukee Body Employees credit Union are engaged in providing such services and do not produce an "article" within the meaning of section 222 (3) of the act.

Workers on whose behalf this petition was filed are employed by A.M. Milwaukee Body Employees Credit Union. All personnel actions and payroll transactions are controlled by the Credit Union. Workers are not at any time under the supervision or control of American Motors Corp. Thus, A.M. Milwaukee Body Employees Credit Union must be considered the "workers' firm."

CONCLUSION

After careful review, I determine that all workers at the A.M. Milwaukee Body Employees Credit Union, Milwaukee, Wis. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc. 78-28391 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3763]

ATRAX CEMENTED CARBIDE, WEST MIFFLIN, PA.

Negative Determination Regarding Eligibility to Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3763: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on May 19/ 1978 which was filed by the United Steel Workers of America on behalf of workers and former workers producing cemented tungstun carbides at Atrax Cemented Carbide, West Mifflin, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Atrax Cemented Carbide, its customers, the United Steel Workers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the criteria have been met, the following criterion has not been met:

That increased of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that workers at Atrax Cemented Carbide produced cemented carbides used as cutting tools and mining inserts.

A survey of major customers of Atrax Cemented Carbide evinced that those customers do not purchase imported cemented carbide cutting tools or mining inserts.

CONCLUSION

After careful review, I determine that all workers of Atrax Cemented Carbide, West Mifflin, Pa., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28392 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3824]

BARRINGER KNITTING MILLS, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3824: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 7, 1978, which was filed on behalf of workers and former workers producing ladies junior's and misses' knitted sweaters at Barringer Knitting Mills, Inc., Philadelphia, Pa.

This notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (42 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Barringer Knitting Mills, Inc., the International Ladies Garment Workers Union, Knit Good Workers Union, Local 190, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated

The Department's investigation revealed that the average number of production workers employed at Barringer Knitting Mills, Inc., increased in each successive quarter of each year beginning with the second quarter of 1976 and continued successive quarterly increases for the year 1977 and 1978.

CONCLUSION

After careful review I determine that all workers at Barringer Knitting Mills, Inc., Philadelphia, Pa., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28393 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3584]

BARON FASHIONS, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3584: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978,

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which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' woolen full length coats at Baron Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Baron Fashions, Inc., its customers, the U.S. Department of Commerce, U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all the criteria have been met.

U.S. imports of women's, misses, and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The sole customer of Baron Fashions, Paterson, N.J., increased purchases of imported ladies' coats between 1976 and 1977 and in the first 5 months of 1978 as compared to the same period of the previous year. This customer reduced orders with Baron Fashions during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' woolen full length coats produced by Baron Fashions, Paterson, N.J., contributed importantly to the decline in sales and production and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Baron Fashions, Paterson, N.J., who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28394 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3647]

BERNARDI FASHIONS, INC., JERSEY CITY, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' fake fur coats and some cloth coats at Bernardi Fashions, Inc., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Bernardi Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28395 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-4123]

BETHLEHEM STEEL CORP., VERNON, CALIF.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 31, 1978, in response to a worker petition received on August 14, 1978, on behalf of workers and former workers producing industrial fasteners, wire, and wire products at the Vernon, Calif., plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

Workers engaged in employment related to the production of industrial fasteners, wire, and wire products at the Vernon, Calif., plant of Bethlehem Steel Corp. were certified eligible to apply for adjustment assistance on August 19, 1977 (TA-W-1498). That certification applied only to workers separated on or after (impact date) November 15, 1975. Workers separated earlier than the impact date are denied.

Section 223(b) of the Trade Act of 1974 states that a certification under this section may not apply to any workers whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than 1 year prior to the date of the petition.

The petitioning workers cite their date of separation as May 5, 1975. The date of the petition in this case is August 9, 1978, and thus, workers terminated prior to August 9, 1977, are not eligible for program benefits under title II, chapter 2, subchapter B of the Trade Act of 1974. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

FR Doc. 78-28396 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA—W—3552]

BO-MAR FASHIONS, INC., PISCES FASHIONS, INC., AND MARI-BAR FASHIONS, INC., DEER PARK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3552: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978 which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing dye and print yarn used for cloth, rugs, and tapestry, etc., at Brawer Brothers, Inc., Empire Dyeing Division, Haledon, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 3, 1978. (43 FR 18789-90). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brawer Bros., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of all yarns (spun and texturized) increased from 117,000,000 pounds in 1975 to 163,900,000 pounds in 1976, and increased to 187,700,000 pounds in 1977. Imports increased to 63,300,000 pounds during the first quarter of 1978 compared to 37,400,000 pounds during the same period in 1977. The ratio of imports to domestic production increased from 1.3 percent in 1975 to 1.6 percent in 1976 and increased from 1.6 percent in 1976 to 1.7 percent in 1977.

Customers who were surveyed indicated that they did not increase purchases of imported dyed yarn and decrease purchases of dyed yarn from the subject firm.

CONCLUSION

After careful review, I determine that all workers of Brawer Brothers, Inc., Empire Dyeing Division, are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28398 Filed 10-6-78; 8:45 am]

requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 dozen in 1976 to 2,723 dozen in 1977. U.S. imports decreased to 572 thousand dozen in the first quarter of 1978 from 590 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 38.9 percent in 1975 to 48.3 percent in 1976 to 54.9 percent in 1977.

Bo-Mar Fashions, Inc., the name on the worker's petition, is the original name of a company known over the past 3 years as Bo-Mar Fashions, Inc., the Pisces Fashions, Inc., and finally Mari-Bar Fashions, Inc.

Customers representing a significant proportion of Bo-Mar Fashions, Inc.'s 1977 sales decreased their purchases from the subject firm and increased their import purchases in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the ladies' coats produced at Bo-Mar Fashions, Inc., Pisces Fashions, Inc., and Mari-Bar Fashions, Inc., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Bo-Mar Fashions, Inc., Pisces Fashions, Inc., and Mari-Bar Fashions, Inc., Deer Park, N.Y., who became totally or partially separated from employment on or after December 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28397 Filed 10-6-78; 8:45]

[4510-28-M]

[TA-W-3521]

BRAWER BROS., INC., EMPIRE DYEING DIVISION, HALEDON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3521: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescirbed in section 222 of the Act.

[4510-28-M]

[TA-W-2898]

BURLINGTON DRESS CO., ATLANTIC CITY AND BURLINGTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2898: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 27, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' Dresses and sportswear at the Burlington, N.J., plant of Burlington Dress Co. The investigation was expanded to include workers and former workers producing ladies' dresses and sportswear at the Atlantic City, N.J., plant of Burlington Dress Co.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Burlington DSress Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that U.S. imports of women's and misses' dresses increased from 645 thousand dozen in 1975 to 659 thousand dozen in 1976. The ratio of imports to domestic production remained unchanged at 4.5 percent in 1975 and 1976. Imports decreased from 659 thousand dozen in 1976 to 587 thousand dozen in 1977, a decline of 10.9 percent.

A survey of clothing manufacturers who provided contract work to Burlington Dress Co. indicated that the

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manufacturers did not use foreign contract firms and did not purchase imports of finished ladies' dresses and sportswear. A secondary survey of retail stores who purchased ladies' dresses from the clothing manufacturers revealed that the retail stores either increased purchases from the clothing manufacturers or did not import any dresses in 1976 and 1977.

CONCLUSION

After careful review I determine that all workers of the Atlantic City and Burlington, N.J., plants of Burlington Dress Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28399 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-329]

BUTTON CORP. OF AMERICA, NEWARK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3291: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 2, 1978, in response to a worker petition received on January 19, 1978, which was filed on behalf of workers formerly producing buttons at Button Corp. of America, Newark, N.J.

The notice of investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Button Corp. of America, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of plastic buttons (casein, urea resin, polyester, and acrylic) decreased from 5,870 thousand gross in 1975 to 4,212 thousand gross in 1976 and then increased to 7,227 thousand gross in 1977.

A Department survey of customers of Button Corp. of America revealed that major customers increased their purchases of imported buttons in each year from 1975 to 1977 and decreased their purchases from Button Corp. of America during this period of time.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with buttons produced by Button Corp. of America, Newark, N.J., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Button Corp. of America of Newark, N.J., who became totally or partially separated from employment on or after January 9, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28400 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3463]

CADBURY CORP, HAZELTON, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3463: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on April 4, 1978, which was filed by the Amalgamated Food Employees Union on behalf of workers and former workers producing solid chocolate candy bars at Cadbury Corp., Hazelton, Pa. During the course of the investigation it was determined that the petition was intended only to include workers producing cocoa crumb at the plant.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-61). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cadbury Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the of act must be met. The investigation has revealed that all of the requirements have been met.

Cadbury Corp., Hazelton, Pa., produces and imports cocoa crumb for use in its own production of chocolate candy bars.

U.S. imports of cocoa crumb increased from 4,409,000 pounds in 1975 to 11,850,000 pounds in 1976, and decreased to 9,242,000 pounds in 1977. The 1977 level of imports is 73 percent greater than average imports from 1973 through 1975.

Company imports of cocoa crumb increased in 1976 compared to 1975, decreased in 1977 compared to 1976, and increased in the first 6 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with cocoa crumb produced at Cadbury Corp., Hazelton, Pa., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Cadbury Corp., Hazelton, Pa., engaged in employment related to the production of cocoa crumb who became totally or partially separated from employment on or after March 27, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28401 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-4003]

CARNEY BROS. AUTOMOTIVE, ELY, NEV.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4003: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978, in response to a worker petition received on July 24, 1978, which was filed on behalf of workers and former workers engaged in general automotive repair at Carney Bros. Automotive, Ely, Nev.

The notice of investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carney Bros. Automotive and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not articles within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Carney Bros. Automotive was founded in 1974 and incorporated in Nevada. The firm is independently owned and operated and has no corporate affiliation with any other company.

Carney Bros. Automotive operates from a rented facility in Ely, Nev. The firm owns all of its equipment. Carney Bros. Automotive provides automotive repair services to the general public and to businesses. Workers at Carney Bros. are engaged in providing such repair services and do not produce an article within the meaning of section 222(3) of the Act.

Carney Bros. Automotive and its customers have no controlling interest in each other.

The workers on whose behalf this petition was filed are employed by Carney Bros. Automotive. All personnel actions and payroll transactions are controlled by Carney Bros. Automotive. All employee benefits are provided and maintained by the subject firm. Workers are not, at any time, under employment or supervision by customers of Carney Bros. Thus, Carney Bros. Automotive must be considered "the workers' firm."

CONCLUSION

After careful review, I determine that all workers of Carney Bros. Automotive, Ely, Nev., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28402 Filed 10-6-78; 8:45 am]

[4516-28-M]

[TA-W-3633]

CAROLE LYNN COATS, INC., PASSAIC, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing children's winter coats at Carole Lynn Coats, Inc., Passaic, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Carole Lynn Coats and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28403 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3535 and 3536]

CHICAGO BRIDGE & IRON CO., BIRMINGHAM, AND CORDOVA, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3535 and 3536: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 12, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated steel plate at the Birmingham and Cordova, Ala., plants of Chicago Bridge & Iron Co. The investigation revealed that process vessels, containment vessels for nuclear reactors, and storage tanks are produced. The company also erects tanks in the field.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Chicago Bridge & Iron Co., the Steel Plate Fabricators Association, the Steel Tank Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of metal tanks and vessels decreased absolutely from $14.5 million in 1976 and to $8.6 million in 1977. The ratio of imports to domestic shipments decreased from 0.67 percent in 1976 to 0.29 percent in 1977. The ratio of imports to domestic shipments have consistently been less than 1.0 percent each year from 1973 through 1977. Imports of field-erected tanks are also negligible.

CONCLUSION

After careful review, I determine that all workers of the Birmingham and Cordova, Ala., Plants of Chicago Bridge & Iron Co., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28404 Filed 10-6-78; 8:45 am]

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[4510-28-M]

[TA-W-3379]

CLINTON MILLS OF GENEVA, INC., (FORMERLY GENEVA MILL DIVISION AND J & M MILL DIVISION OF FABRICS AMERICA, INC.) GENEVA, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3379: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 21, 1978 in response to a worker petition received on March 3, 1978, which was filed on behalf of workers and former workers producing cloth from raw cotton at Clinton Mills of Geneva, Geneva, Ala. During the course of the investigation it was determined that the J & M Mill Division and the Geneva Mill Division of Fabrics America which produced industrial weight cotton fabric were sold in July 1977 and now comprise Clinton Mills of Geneva, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Clinton Mills of Geneva, Inc., Fabrics America, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that U.S. imports of gray woven industrial cotton fabric decreased from 332 million square yards in 1976 to 209 million square yards in 1977. The ratio of imports to domestic production decreased from 25.8 percent in the first nine months of 1976 to 20.2 percent in the same period of 1977. In the first quarter of 1978 imports increased to 69 million square yards compared to 49 million square yards in the same period of 1977.

A survey of several customers of the Geneva plant revealed very little importing of sheetings.

Customers of the J & M Mill indicated substantial import competition, but workers at that plant were laid off prior to February 28, 1977, the earliest possible impact date.

CONCLUSION

After careful review I determine that workers at Clinton Mills of Geneva, Incorporated (Geneva Mill Division and J & M Mill Division of Fabrics America, Incorporated) Geneva, Ala., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28405 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3919]

COLONIAL CRAFTSMEN PEWTER WORKSHOP, CAPE MAY, NEW JERSEY

Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3919: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 29, 1978 in response to a worker petition received on June 28, 1978 which was filed on behalf of all workers engaged in employment related to the production of pewter and wooden artifacts at the Colonial Craftsmen Pewter Workshop in Cape May, N.J. The investigation revealed that the company primarily produced pewter articles.

The Notice of Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Colonial Craftsmen Pewter Workshop, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

Imports of pewter miniatures are negligible and are not separately identifiable in the official trade statistics. Industry sources have stated that there are few foreign firms producing pewter miniatures. Representatives of major domestic manufacturers stated in a survey conducted by the Department that imports of pewter miniatures are negligible and are not adversely affecting the domestic industry.

CONCLUSION

After careful review I determine that all employees of the Colonial Craftsmen Pewter Workshop, Cape may, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28406 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3477]

COPA COATS, INC., LINDENHURST, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3477: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 27, 1978 which was filed on behalf of workers and former workers producing ladies' coats at Copa Coats, Inc., Lindenhurst, N.Y. The Department's investigation revealed that Copa Coats also produced ladies' raincoats and jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Copa Coats, Inc., its customers, customers of its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of women's misses', and children's raincoats increased from 191,000 dozen in 1975 to 261,000 dozen in 1976, and declined to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 36.8 percent in 1975 to 45.0 percent in 1976 and then declined to 40.3 percent in 1977.

Imports of women's, misses', and children's coats and jackets increased from 1,517,000 dozen in 1975 to 2,252,000 dozen in 1976 and 2,723,000 dozen in 1977.

The ratio of imports to domestic production increased from 38.9 percent in 1975 to 48.3 percent in 1976 and 54.9 percent in 1977.

Sales by the manufacturer for which Copa Coats produced a major portion of its garments declined in 1977 from 1976. A major customer of that manufacturer who was surveyed increased purchases of imports in 1977 from 1976 while reducing purchases from that manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' raincoats, coats and jackets produced by Copa Coats, Inc. contributed importantly to declines in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Copa Coats, Inc., Lindenhurst, N.Y., who became totally or partially separated from employment on or after September 18, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28407 Filed 10-6-78; 8:45 am]
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[4510-28-M]

[TA-W-3274]

DALE BROOK FINISHING CO., HOHOKUS, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3274: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 1, 1978, in response to a worker petition received on February 21, 1978 which was filed on behalf of workers and former workers finishing greige goods for the production of interlining material at the Dale Brook Finishing Co., Hohokus, N.J.

The Department's investigation revealed that workers at the Dale Brook Finishing Co. dyed greige goods and coated finished fabric with thermal plastic compounds to produce interlining material.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978. (43 FR 10649). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of DHJ Industries, Inc., its customers, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation of several commission weavers, printers, dyers and converters examined the allegations that increased imports of apparel adversely affected production and employment in these industries.

However, imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric must be considered in determining import injury to workers producing printed or finished fabric.

Imports of finished fabric, in absolute terms, increased from 1975 to 1976, decreased from 1976 to 1977 and increased in the first three months of 1978 compared to the first three months of 1977. The ratios of imports to domestic production and consumption increased from 1.8 percent and 1.8 percent, respectively in 1976 to 1.9 percent and 1.9 percent, respectively in 1977. The ratios remained below 2 percent during the period from 1975 to 1977.

The Department's survey of customers who purchased interlining material (finished fabric) from Dale Brook revealed that they did not decrease their purchases from the subject firm and increase their purchases from foreign sources during the 1975–1977 period.

The termination of production and all production-related employment at Dale Brook in March 1978 is attributable to a corporate decision to transfer interlining material production from Dale Brook to another corporate production facility.

CONCLUSION

After careful review, I determine that all workers at Dale Brook Finishing Company, Hohokus, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[Fr Doc. 78-28408 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3492]

DARLING AND CO., BONE GLUE DEPARTMENT, CHICAGO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3492: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on April 3, 1978 which was filed by the Amalgamated Meat Cutters and Butcher Workmen of North America on behalf of workers and former workers producing bone glue in the Bone Glue Department of the Chicago, Illinois plant of Darling and Co.

This notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790-91). No public hearing was requested and none was held.

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The information upon which the determination was made was obtained principally from officials of Darling and Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, U.S. industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligility requirements of section 222 of the act must be met. The investigation has revealed that all of the criteria have been met.

The ratio of U.S. imports of animal glue (including bone and hide glue) to domestic production amounted to 46.9 percent in quantity in 1975, 90.7 percent in 1976, and 233.3 percent in 1977. Imports of animal glue increased in quantity during January–March 1978 compared to January–March 1977.

In July 1977 the U.S. Department of the Treasury notified the U.S. International Trade Commission that animal glue and inedible gelatin are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921. In October 1977 the Commission determined by divided votes that the animal glue industry in the United States is being, or is likely to be, injured by reason of the importation of animal glue and inedible gelatin sold at less than fair value.

The investigation by the Commission revealed that nearly all sales of less than fair value animal glue were made at prices below those for domestic animal glue of comparable grade. The reduction of U.S. producers' prices to meet competition from less than fair value imports resulted in a substantial reduction in U.S. producers' profits on animal glue operations.

Sales, production and employment in the bone Glue Department of the Chicago, Ill. plant of Darling and Co. declined in 1977 from 1976. Darling and Co. discontinued production of bone glue in April 1977.

A customer survey conducted by the Department indicated that major customers who decreased purchases of bone glue from Darling and Co. in 1977 increased purchases of imported bone glue during the same period. Purchases of imported bone glue by Darling and Co. increased in 1977 from 1976.

CONCLUSION

After careful review, I determine that increases of imports of articles like or directly competitive with bone glue produced at the Bone Glue Department of the Chicago, Ill. plant of Darling and Co. contributed importantly to the decline in sales and production and to total or partial separation of workers of that department. In accordance with the provisions of the act, I make the following certification:

All workers of the Bone Glue Department of the Chicago, Illinois plant of Darling and Co. who become totally or partially separated from employment on or after March 16, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28409 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3098]

DAVENSHIRE, INC., DAVENPORT, IOWA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3098: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 9, 1978 in response to a worker petition received on January 27, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union, AFL-CIO on behalf of workers and former workers producing women's slacks and shorts at Davenshire, Incorporated, Davenport, Iowa. The investigation revealed that jeans are not produced as alleged in the petition.

This notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davenshire, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

IN order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the of act must be met. It is concluded that all of the requirements have been met.

United States imports of women's, misses' and children's slacks and shorts increased from 10,067 thousand dozens in 1975 to 11,040 thousand dozens in 1976, and further increased to 11,622 thousand dozens in 1977. Imports also increased relative to domestic production, from 35.2 percent in 1975 to 36.4 percent in 1976.

A survey of customers of Davenshire, Incorporated revealed that several customers accounting for a significant proportion of the subject firms sales increased purchases of imports of women's slacks and shorts while decreasing purchases from the subject firm, in 1976 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's slacks and shorts produced at Davenshire, Inc., Davenport, Iowa contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Davenshire, Inc., Davenport, Iowa who become totally or partially separated from employment on or after January 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28410 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3978]

DAY MINES, INC., TAMARACK MINE, WALLACE, IDAHO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3978: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 19, 1978, in response to a worker petition received on July 17, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc ore at the Tamarack Mine of Day Mines Inc., Wallace, Idaho.

The notice of investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Day Mines, Inc., *Metals Week, Metal Bulletin*, the American Bureau of Metal Statistics, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The ratio of imports of slab zinc to domestic production increased from 76.7 percent in 1975 to 127.0 percent in 1976 and 127.9 percent in 1977. In the first 3 months of 1978, the ratio of imports to domestic production increased to 152.1 percent from 94.0 percent in the first 3 months of 1977.

Industry sources maintain that domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic price is within 5 cents per pound of the London Metal Exchange price. Except for brief periods in the spring and summer of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producers' price for zinc was 7.6 cents per pound higher than the average LME zinc price in 1977, well above the 5-cent limit at which domestic suppliers can remain competitive. In the first quarter of 1978, the average U.S. producers' price was 7.2 cents per pound above the average LME price.

Evidence developed during the course of the investigation indicates that imports of refined zinc metal have been an important factor affecting domestic sales of zinc and depressing the price of zinc. The depressed price of zinc has brought about a reduction in the domestic production of refined zinc and has resulted in cutbacks and shutdowns at many mines and concentrators producing zinc ore and zinc concentrate including the Tamarack Mine of Day Mines, Inc.

The cost of extensive exploratory operations on the Tamarack Mines were expected to be recovered through long-term ore production at the mine. This was premised on increasing zinc prices in 1975 and 1976. When prices dropped sharply in the latter part of 1977 and early 1978, the mine was shut permanently and will not be reopened until zinc prices are higher than production costs.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increased imports of articles like or directly competitive with zinc ore produced by the Tamarack Mine of Day Mines Inc. contributed importantly to the decline in production and to the total or partial separations of workers at that mine. In accordance with the provisions of the act, I make the following certification:

All workers at the Tamarack Mine of Day Mines Inc., Wallace, Idaho, who became totally or partially separated from employment on or after March 31, 1978, and before July 31, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28411 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3361]

DELUCA SPORTSWEAR, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3361: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 20, 1978, in response to a worker petition received on February 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Deluca Sportswear, Inc., Philadelphia, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776-14777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Deluca Sportswear, Incorporated, its Customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tailored suits increased absolutely and relative to domestic production from 1976 to 1977 and decreased absolutely during the first quarter of 1978 compared to the first quarter of 1977.

Clothing manufactuers for which Deluca Sportswear, Incorporated did contract work reported that they do not purchase, either directly or indirectly, imported articles of men's tailored clothing. Moreover, total sales of the manufacturers increased from 1976 to 1977.

A retail firm which purchased men's tailored clothing from Deluca reported that it did not purchase, either directly or indirectly, imported articles of men's tailored clothing.

CONCLUSION

After careful review, I determine that workers at Deluca Sportswear, Inc., Philadelphia, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28412 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3577]

DOM ROSE FASHIONS, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3577: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 4, 1978, in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' rainwear at Dom Rose Fashions, Inc., Newburgh, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on May 23, 1978 (43 FR 22087-88). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dom Rose Fashions, Inc., its manufacturer, U.S. Department of Commerce, the U.S. International Trade Commission, the National Council of American, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

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requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

Imports of women's, misses' and children's raincoats increased 37 percent from 191 thousand dozens in 1975 to 261 thousand dozens in 1976 then declined 7 percent to 242 thousand dozens in 1977. Imports increased 54 percent from 84 thousand dozens in the first quarter of 1977 to 129 thousand dozens in the first quarter of 1978. The ratio of imports to domestic production increased from 36.8 percent in 1975 to 45.0 percent in 1976 then declined to 40.3 percent in 1977.

The Department's survey of customers purchasing rainwear from Dom Rose Fashions' manufacturer, whose sales have also declined, revealed that the impact of imports is substantial. All respondents to the survey reported direct purchases of imports and some respondents reported indirect import purchases as well. Import purchases by the respondents were large and increasing from 1976 through the first half of 1978 while purchases from the subject firm were in many cases declining.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with ladies' rainwear produced at Dom Rose Fashions, Inc., Newburgh, N.Y. contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Dom Rose Fashions, Incorporated, Newburgh, N.Y. who became totally or partially separated from employment on or after April 24, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[Fr Doc. 78-28413 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3634]

D&P CLOTHING CO., INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3634: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' winter coats and raincoats at D&P Clothing Co., Inc., Passaic, N.J. During the course of the investigation it was discovered that D&P manufactures ladies winter coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of D&P Clothing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which D&P Clothing Co. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 and 1977 reduced purchases from D&P Clothing Co. in 1977 and 1978, while increasing purchases of imported ladies' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at D&P Clothing Co., Passaic, N.J. contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of D&P Clothing Co., Inc., Passaic, N.J. who become totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28414 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3393]

FASHION PRINTS, NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3393: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 29, 1978, in response to a worker petition received on March 20, 1978, which was filed on behalf of workers and former workers producing printed fabrics (printing service for textile and apparel companies) at the New York, N.Y., sales office of Fashion Prints.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fashion Prints, its customers, the American Textile Manufacturers Institute the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met. It is concluded that all of the requirements have been met.

The petitioners allege that increased imports of finished printed apparel (sweaters, shirts, blouses and other finished garments) and printed fabrics have contributed to the decline in sales and production and to the separations of workers producing printed fabrics at Fashion Prints in Allentown, Pa. and in New York, N.Y. However, imported apparel cannot be considered like or directly competitive with printed fabrics. Imports of printed fabrics must be considered in determining import injury to workers producing printed fabrics.

Fashion Prints, Allentown, Pa. (TA-W-3392) and its sales office in New York, N.Y. produced printed fabrics (printing service for textile and apparel companies).

U.S. imports of finished fabrics (bleached, dyed, and printed) increased both absolutely and relatively from 1975 to 1976, decreased absolutely but increased relatively from 1976 to 1977 and increased 43 percent in the first quarter of 1978 compared with the similar period of 1977.

Responses to a survey of customers of the subject firm indicated that customers who reduced purchases from the subject firm from 1976 to 1977 increased their purchases of imports during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the print fabrics produced by Fashion Prints, Allentown, Pa. and its sales office in New York, N.Y. contributed importantly to the decline in production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Fashion Prints sales office in New York, N.Y. who became totally or partially separated from employment on or after March 16, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28415 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3392]

FASHION PRINTS, ALLENTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3392: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 29, 1978 in response to a worker petition received on March 20, 1978, which was filed on behalf of workers and former workers producing printed fabrics (printing service for textile and apparel companies) at the Allentown, Pa. plant of Fashion Prints.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fashion Prints, its customers, the American Textile Manufacturers Institute, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The petitioners allege that increased imports of finished apparel (sweaters, shirts, blouses and other finished garments) and printed fabrics have contributed to the decline in sales and production and to the separations of workers producing printed fabrics at Fashion Prints in Allentown, Pa. and in New York, N.Y. However, imported apparel cannot be considered like or directly competitive with printed fabric. Imports of printed fabrics must be considered in determining import injury to workers producing printed fabrics.

Fashion Prints, Allentown, Pa. and its sales office in New York, N.Y. (TA-W-3393) produced printed fabrics (printing service for textile and apparel companies).

U.S. imports of finished fabrics (bleached, dyed, and printed) increased both absolutely and relatively from 1975 to 1976, decreased absolutely but increased relatively from 1976 to 1977 and increased 43 percent in the first quarter of 1978 compared with the similar period of 1977.

Responses to a survey of customers of the subject firm indicated that customers who reduced purchases from the subject firm from 1976 to 1977 increased their purchases of imports during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the print fabrics produced by Fashion Prints at Allentown, Pa. contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Fashion Prints plant in Allentown, Pa. who became totally or partially separated from employment on or after March 16, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28416 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3787]

FRANZA COATS, BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3787: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 31, 1978, in response to a worker petition received on May 26, 1978, which was filed on behalf of workers and former workers producing ladies' coats at Franza Coats, Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497-98). No public hearing was requested and none was held.

The information upon which the determination was made, was obtained principally from officials of Franza Coats, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 1,517 thousand dozen in 1975, to 2,252 thousand dozen in 1976, to 2,723 thousand dozen in 1977. Imports decreased in the first quarter of 1978, compared to the first quarter of 1977, from 590 thousand dozen to 572 thousand dozen.

The ratio of U.S. imports to domestic production of women's, misses', and children's coats and jackets increased from 38.9 percent in 1975, to 48.3 percent in 1976, to 54.9 percent in 1977.

Customers of Franza Coats in 1976 were out of business in 1977. Customers of Franza Coats in 1977 placed spring orders with offshore manufacturers in late 1977. Franza Coats ceased production in December 1977 as a result of the loss of orders to offshore producers.

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CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the ladies' coats produced at Franza Coats, Brooklyn, N.Y., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of Franza Coats, Brooklyn, N.Y., who became totally or partially separated from employment on or after May 22, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28417 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3975]

F/V VICTORY II, PROVINCETOWN, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3975: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 13, 1978, in response to a worker petition received on July 10, 1978, which was filed on behalf of fishermen and former fishermen catching fish for the F/V Victory II, Provincetown, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885-6). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F/V Victory II, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm subdivision have decreased absolutely.

The F/V Victory II catches ground and flatfish. Sales of ground and flatfish by the F/V Victory II increased in value in 1977 compared to 1976 and in the first 7 months of 1978 compared to the first 7 months of 1977.

CONCLUSION

After careful review, I determine that fishermen of the F/V Victory II, Provincetown, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28418 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3589]

GLAMOUR FASHION, INC., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results ot TA-W-3589: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Glamour Fashion, Inc., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Glamour Fashion, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to separations, or threat threof, and to the absolute decline in sales or production.

The Department conducted a survey of the only manufacturer for which Glamour Fashion, Inc., worked in the period beginning in June of 1976, and ending in May 1977, and the period beginning in June 1977, and ending in May 1978. During these periods the manufacturer did not import ladies' coats or raincoats and sales by the manufacturer increased.

CONCLUSION

After careful review, I determine that all workers of Glamour Fashion, Inc., Paterson, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28419 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3560]

GRIFFITH-CUSTER STEEL CO., JOHNSTOWN, PA. AND R & W ENTERPRISES, INC., JOHNSTOWN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3560: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 27, 1978, in response to a worker petition received on April 14, 1978, which was filed on behalf of workers and former workers producing fabricated structural steel, plates, and angles at R & W Enterprises, Inc., Griffith-Custer Steel, Johnstown, Pa. Subsequent investigation revealed that Griffith-Custer Steel, Co. sold its assets to R & W Enterprises, Inc. in December 1977.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Griffith-Custer Steel Co., R & W Enterprises, Inc., their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the worker's firm or an appropriate subdivision thereof contributed importantly to the total or partial separation, or threats thereof, and to the absolute decline in sales or production.

The Department of Labor conducted a survey of some of the customers of Griffith-Custer Steel Co. and R & W Enterprises, Inc. This survey revealed that the responding customers of the Griffith-Custer Steel Co. did not purchase any imported fabricated structural steel, plates, or angles in the period 1975 through the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers of the Griffith-Custer Steel Co. and R & W Enterprises, Inc. of Johnstown, Pa., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28420 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3981]

GUTERAL SPECIAL STEEL CORP., SIMMONDS STEEL DIVISION, LOCKPORT, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3981: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 19, 1978, in response to a worker petition received on July 13, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing specialty steel, including saw steel at the Lockport, N.Y., plant of the Simmonds Steel Division of Guterl Speciality Corp. The investigation revealed that the correct name of the parent corporation is Guteral Special Steel Corp. and that stainless, magnet, heat resistant, high temperature, thermostatic, and tool steel are produced at the plant.

The notice of investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Simmonds Steel Division, industry analysts, and Department files.

IN order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligility requirements of section 222 of the of act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers at the Simmonds Steel Division increased in the first 7 months of 1978 compared to the same period in 1977. Employment in each month of 1978 increased compared to employment in the like month of 1977. Officials at Simmonds Steel indicated that no permanent layoffs occurred at the Lockport, N.Y., plant during 1978.

The average number of hours worked per week increased in the first 7 months of 1978 compared to the like period in 1977.

There is no threat of immediate separations to the workers.

CONCLUSION

After careful review I determine that all workers of the Simmonds Steel Division, of Guterl Special Steel Corp., Lockport, N.Y., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28421 Filed 10-6-78; 8:45 am]

[4510-21-M]

[TA-W-4038]

HOLDEN & QUICK, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4038: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 7, 1978, in response to a worker petition received on August 7, 1978, which was filed by the United Shoe Workers of America on behalf of all workers producing shoe patterns at Holden & Quick, Inc., New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635.) No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Holden & Quick, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Imported shoes cannot be considered to be like or directly competitive with shoe patterns used in the production of shoes. Imports of shoe patterns must be considered in determining import injury to workers producing shoe patterns.

Industry analysts revealed that imports of shoe patterns are negligible. Importation of shoe patterns is not profitable to shoe producers. It is essential that patterns be produced and shipped quickly to the shoe manufacturer due to the extremely competitive nature of the shoe manufacturing industry. Thus, as a result of the time constraints for production, imports of shoe patterns are negligible.

CONCLUSION

After careful review I determine that all workers of Holden & Quick, Inc., New York, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-28422 Filed 10-6-78; 8:45 am]

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[4510-28-M]

[TA-W-3916]

HUDSON WIRE CO., WINSTEAD, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3916: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 27, 1978, in response to a worker petition received on June 26, 1978, which was filed on behalf of all workers producing magnet wire at the Winstead, Conn., plant of Hudson Wire Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hudson Wire Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any other criteria have have met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threats thereof, and to the absolute decline in sales or production.

The Winstead, Conn., plant of Hudson Wire produced magnet wire. Hudson Wire also owns a plant in Trenton, Ga., which produces magnet wire.

Evidence developed during the Department's investigation revealed that the production of magnet wire has been transferred from the Winstead plant to the Trenton plant. Further evidence revealed that as sales and production have declined at the Winstead plant, sales and production at the Trenton plant have increased. Employment losses at the Winstead, Conn., plant are attributable to the transfer of production to the Trenton, Ga., plant.

CONCLUSION

After careful review I determine that all workers at the Hudson Wire Co., Winstead, Conn., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28423 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3181]

HY-GRADE COAT CO., INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3181: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored coats at Hy-Grade Coat Co., Inc., New York, N.Y. Hy-Grade Coat Co., Inc., is a division of Hy-Grade Sportswear Co., Inc., of New York, N.Y. During the course of the investigation, it was establish that Hy-Grade Coat Co. also produces women's tailored sportcoats.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hy-Grade Coat Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On January 10, 1976, the employees of Hy-Grade Coat Co., Inc., were certified as eligible to apply for trade adjustment assistance (TA-W-287). This certification expired on January 10, 1978.

Average employment of production workers at Hy-Grade Coat Co., Inc., was 40 percent higher in the first 6 months of 1978 than in the first 6 months of 1977. Average hours worked increased slightly over the same period. There is no threat of total or partial separations for the foreseeable future.

CONCLUSION

After careful review I determine that all workers of Hy-Grade Coat Co., Inc., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28424 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3335]

HY-GRADE SPORTSWEAR CO., INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3335: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 9, 1978, as an expansion of investigation TA-W-3181, which was initiated in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers at Hy-Grade Coat Co., Inc., New York, N.Y. Investigation TA-W-3335 covers workers and former workers producing men's tailored suits, sportcoats, suburban coats, and trousers at Hy-Grade Sportswear Co., Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hy-Grade Sportswear Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have have met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On January 10, 1976, the employees of Hy-Grade Sportswear Co., Inc., were certified as eligible to apply for trade adjustment assistance (TA-W-287). This certification expired on January 10, 1978.

Average employment of production workers at Hy-Grade Sportswear Co., Inc., was 66.7 percent higher in the first 6 months of 1978 than in the first 6 months of 1977. Average hours worked did not change significantly over the same period. There is no threat of total or partial separations for the foreseeable future.

CONCLUSION

After careful review I determine that all workers of Hy-Grade Sportswear Co., Inc., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28425 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3620]

ITALCRAFT, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3620: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Italcraft, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Italcraft, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of such firm or subdivision have decreased absolutely.

The value of sales by Italcraft increased from 1976 to 1977 and increased in the first 5 months of 1978 compared to the like period of 1977. Sales data were adjusted for price changes by use of the Wholesale Price Index for women's apparel. Italcraft produces coats on a contract basis. Therefore sales and production are equal.

CONCLUSION

After careful review, I determine that all workers of Italcraft, Inc., Hoboken, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28426 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-2731]

JOSEPH PICKARD'S SONS CO., PHILADELPHIA, PA.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2731: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 6, 1977, in response to a worker petition received on November 25, 1977, which was filed on behalf of workers and former workers producing tempered spring steel at the Steel Division of Joseph Pickard's Sons Co., Philadelphia, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (43 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Joseph Pickard's Sons Co., its customers, the U.S. Department of Commerce, U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

United States imports of tempered spring steel increased from 1975 to 1976 and from 1976 to 1977. The import to domestic production ratio increased from 1975 to 1976 and from 1976 to 1977.

A survey revealed that Pickard's major customer decreased purchases from all domestic sources and increased purchases from foreign sources in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tempered spring steel produced by the Steel Division of Joseph Pickard's Sons Co., Philadelphia, Pa. contributed importantly to the decline in sales and production and to the separation of workers engaged in employment related to such production in that Division. In accordance with the provisions of the act, I make the following certification:

All workers of the Steel Division of Joseph Pickard's Sons Co., Philadelphia, Pa. who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28427 Filed 10-6-78; 8:45 am]

[4510-28-M]

[TA-W-3774]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, BINGHAM CANYON, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978 in response to a worker petition received on May 22, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in the mining of copper ore at the

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Bingham Canyon, Utah plant of the Utah Mines Division of Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28428 Filed 10-6-78; 8:45 am]

[4510-27-M]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (43 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Big River Mfg. Co., Kittanning, Pa.; 8-31-78 to 8-30-79. (Boys' shirts.)

Bland Sportswear, Inc., Bland, Va.; 7-24-78 to 7-23-79; 10 learners. (Boys' shorts.)

Caraway Mfg. Corp., Caraway, Ark.; 8-22-78 to 8-21-79; 10 learners. (Women's dresses.)

Chatham Knitting Mills, Inc., Chatham, Va.; 7-22-78 to 7-21-79; 8 learners. (Men's jackets.)

Cordele Uniform Co., Cordele, Ga.; 9-8-78 to 9-7-79. (Men's pants.)

Crane Mfg. Co., Crane, Mo.; 8-14-78 to 8-13-79. (Women's and men's jeans.)

Elder Mfg. Co., Dexter, Mo.; 8-21-78 to 8-20-79. (Men's and boys' pants.)

Giles Mfg. Corp., Narrows, Va.; 9-3-78 to 9-2-79. (Children's shirts.)

Somerset Shirt & Pajama Co., Somerset, Pa.; 9-3-78 to 9-2-79. (Boys' nightwear.)

Soperton Mfg. Co. Soperton, Ga.; 9-10-78 to 9-9-79. (Men's shirts.)

The following plant expansion certificate was issued authorizing the number of learners indicated.

Busy B Mfg. Co., Boswell, Okla.; 7-13-78 to 1-12-79; 20 learners for plant expansion purposes. (Women's and children's dresses.)

The following certificates were issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended.)

Louis Gallet, Inc., Uniontown, Pa.; 6-21-78 to 6-20-79; 5 learners for normal labor turnover purposes. (Boys' and men's sweaters.)

Junior Form Lingerie Corp., Boswell, Pa.; 6-23-78 to 6-22-79; 5 percent of the total number of factory production workers for normal labor turnover purposes. (Ladies' underwear and pajamas.)

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration date, learner rates, occupation, learning periods, and number of learners authorized to be employed are indicated.

WMSI Puritan Caribbean Division, Aguas Buenas, P.R.; 7-26-78 to 7-25-79; 30 learners for normal labor turnover purposes in the occupation of machine knitting for a learning period of 480 hours at the rate of $2.20 an hour for the first 240 hours and $2.37 an hour for the remaining 240 hours. (Sweaters and shirts.)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employement of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 25, 1978.

Signed at Washington, D.C., this 3d day of October 1978.

DONALD T. CRUMBACK,
Authorized Representative of the Administrator.

[FR Doc. 78-28382 Filed 10-6-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

OCTOBER 3, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

1. Date: October 25, 1978. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review Special Projects applications in the area of cable television submitted to the National Endowment for the Humanities for projects beginning after November 1, 1979.
2. Date: November 3, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th Floor Conference Room. Purpose: To review Near Eastern language applications submitted to the Translations Program of the National Endowment for the Humanities for projects beginning April 1, 1979.
3. Date: November 6, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th Floor Conference Room. Purpose: To review Asian language applications submitted to the Translations Program of the National Endowment for the Humanities for projects beginning April 1, 1979.
4. Date: November 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th Floor Conference Room. Purpose: To review Romance language applications submitted to the Translations Program of the National Endowment for the Humanities for projects beginning April 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-28378 Filed 10-6-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NSF ADVISORY COUNCIL.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Date and time: Thursday, October 26, and Friday, October 27, 1978; 9 a.m. until 5 p.m. both days.
Type of meeting: Open.
Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, room 518, 1800 G Street NW., Washington, D.C. 20550. Telephone: 202-632-4368.
Purpose of advisory council: The purpose of the NSF Advisory Council is to provide advice and counsel to the NSF Director and principal members of his staff on Foundationwide issues which require the expertise of the many and varied disciplines and program interests represented in the Foundation.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, room 248, 1800 G Street NW., Washington, D.C. 20550.
Agenda: The agenda of the 2-day meeting will include discussion of the final reports of the three remaining task groups and introduction of new Advisory Council members and assignment and discussion of new tasks.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28317 Filed 10-6-78; 8:45 am]

[7555-01-M]

EXECUTIVE COMMITTEE OF THE OCEAN SCIENCES ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-563, as amended, the National Science Foundation announces the following meeting:

EXECUTIVE COMMITTEE OF THE OCEAN SCIENCES ADVISORY COMMITTEE

Date and time: October 26 and 27, 1978; 8:30 a.m. to 6 p.m. each day.
Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part-Open—October 26, closed; October 27, open.
Contact person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, room 609, National Science Foundation, Washington, D.C. 20550. Telephone: 202-632-5913.
Purpose of committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF's Division of Ocean Sciences.
Agenda: *October 26, 1978, closed.* Review and evaluation of research proposals as part of the selection process for the development and support of large-scale oceanographic research projects.
October 27, 1978, open. 8:30 a.m. to 2 p.m., Discussion of "A Plan for Research Project Support in the 1980's."
2 p.m. to 2:30 p.m., Report on the Status of Oceanographic Equipment.
2:30 p.m. to adjournment, Establish agenda for executive committee oversight reviews.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, room 248, 1800 G Street NW., Washington, D.C. 20550.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28325 Filed 10-6-78; 8:45 am]

[7555-01-M]

PRIVACY ACT OF 1974

Amendment to a System of Records

Notice is hereby given of an amendment to NSF System of Records No. 44 entitled, "Visiting Women Scientists Roster", as published in the FEDERAL REGISTER Volume 42, No. 138, page 37078 on July 19, 1977. Changes are being made to change the "Routine Use" for the system to allow the listing to be released to high schools and other groups who wish to bring women scientists into contact with junior high school, high school and college students. Interested persons are invited to submit written data, views or arguments to the Director, National Science Foundation, Attention: General Counsel, Washington, D.C. 20550, on or before October 27, 1978.

NSF-44

System name: Visiting Women Scientists Roster.
System location: Research Triangle Institute, P.O. Box 12194, Research Triangle Park, NC 27709.
Categories of individuals covered by the system: Women scientists who have asked to be included in a roster to be released to schools and professional groups.
Categories of records in the system: Name, address, telephone, ID number, science field, type of employment, highest degree earned, and race.
Routine uses of record maintained in the system, including categories of users, and the purposes of such uses: The roster will be released to high schools and other groups who wish to bring women scientists into contact with junior high school, high school and college students.
Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:
Storage: Information will be stored on computer disk.
Retrievability: Computer records retrievable by ID number, name, geographic location, science field, type of employment.
Retention and disposal: Maintained at the Research Triangle Institute until August 1979, then turned over to NSF for disposition.
System manager: Director, Division of Scientific Personnel Improvement. NSF, 2000 L Street NW., Washington, D.C. 20550.
Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.
Record access procedures: See "Notification" above.
Contesting record procedures: See "Notification" above.
Record source categories: Information obtained from individuals.

Dated: September 27, 1978.

RICHARD C. ATKINSON,
Director.

[FR Doc. 78-28330 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR OCEANOGRAPHY PROJECT SUPPORT OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

SUBCOMMITTEE FOR OCEANOGRAPHY PROJECT SUPPORT

Date and time: October 24 and 25, 1978; 9 a.m. to 6 p.m. each day.
Place: Rooms 642 and 628, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Robert E. Wall, Head, Oceanography Section, Room 611, National Science Foundation, Washington, D.C., 20550, telephone 202-632-4227.
Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanogrpahy.
Agenda: To review and evaluate research proposals as part of the selection process for awards.

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Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determination by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28318 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR SENSORY PHYSIOLOGY AND PERCEPTION OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

SUBCOMMITTEE FOR SENSORY PHYSIOLOGY AND PERCEPTION OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Date and time: October 25 and 26, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Terrence R. Dolan, Program Director for Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1624.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determination by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28324 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON ANTHROPOLOGY OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Date and time: October 23 and 24, 1978; 9 a.m. to 6 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, Room 321.

Type of meeting: Closed.

Contact person: Dr. John Yellen, Program Director, Anthropology, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4208.

Purpose of subcommittee: To provide advice and recommendations concerning support for anthropology (cultural antropology).

Agenda: To review and evaluate proposals as part of the selected process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28319 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON LAW AND SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON LAW AND SOCIAL SCIENCES OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Date and time: October 26 and 27, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Stephen L. Wasby, Program Director, Law and Social Sciences Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5816.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in law and social sciences.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28321 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Scienee Foundation announces the following meeting:

SUBCOMMITTEE ON MOLECULAR BIOLOGY, GROUP A, OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR AND MOLECULAR BIOLOGY

Date and time: October 26 and 27, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Frederick I. Tsuji, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C., 20550, telephone 202-632-4260.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in molecular biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including

technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28323 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON POPULATION BIOLOGY AND PHYSIOLOGICAL ECOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON POPULATION BIOLOGY AND PHYSIOLOGICAL ECOLOGY OF THE ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY.

Date and time: October 26 and 27, 1978; 8 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Donald W. Kaufman, Associate Program Director, Population Biology and Physiological Ecology Program, Room 336, National Science Foundation, Washington, D.C., 20550, telephone 202-632-7317.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28320 Filed 10-6-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON REGULATORY BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLUAR AND MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON REGULATORY BIOLOGY OF THE ADVISORY COMMITTEE FOR PHSIOLOGY, CELLULAR AND MOLECULAR BIOLOGY.

Date and time: October 26 and 27, 1978; 8:30 a.m. to 5 p.m.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert B. Sanders, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C., 20550, telephone 202-632-4298.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and project as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: October 3, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28322 Filed 10-6-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON PLANT ARRANGEMENTS

Meeting

The ACRS Subcommittee on Plant Arrangements will hold an open meeting on October 25, 1978, in Room 1046, 1717 H St. NW., Washington, D.C. 20555, to begin its review of the NRC Generic Issue, Systems Interaction in Nuclear Power Plants, Task A-17, and to review the Zion Station Systems Interaction Study. Notice of this meeting was published September 21, 1978 (43 FR 42826).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject, meeting shall be as follows: *Wednesday, October 25, 1978, 8:30 a.m. until the conclusion of business.* The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Commonwealth Edison Co., and their consultants, pertinent to the agenda items. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Robert L. Wright, Jr., telephone 202-634-3314 between 8:15 a.m. and 5 p.m., e.d.t.

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Dated: October 4, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-28556 Filed 10-6-78; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on September 21, 1978, the President received a report from the United States International Trade Commission (USITC) on the case of Certain Fishing Tackle (Investigation No. TA-201-34). The Commission submitted a report containing an affirmative determination that as a result of their being designated as eligible for duty-free treatment under the Generalized System of Preferences (GSP), artifical baits and flies, provided for in item 731.60 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.[1]

The Commission finds and recommends that, to prevent or remedy the serious injury to the domestic industry, it is necessary to suspend for a period of 5 years, the designation of artificial baits and flies, provided for in item 731.60 of the TSUS, as eligible for duty-free treatment under the GSP.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-34.)

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Friday, October 20, 1978.

WILLIAM B. KELLY Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-28352 Filed 10-6-78; 8:45 am]

[1] The Commission determined that snelled hooks; fishing rods and parts thereof; and fishing reels and parts thereof; provided for in items 731.05; 731.15; and 731.20 through 731.26, inclusive, of the Tariff Schedules of the United States (TSUS), are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.

[3210-01-M]

OVERSEAS PRIVATE INVESTMENT CORPORATION

[Redelegation of Authority No. A-78-19]

AUTHORITY OF OFFICERS

Redelegation of Authority

By virtue of the authority vested in me as Acting President of the Overseas Private Investment Corp. (the "Corporation"), I hereby rescind OPIC Redelegation of Authority No. A-71-2, OPIC Redelegation of Authority No. DL/B-(71)7, OPIC Redelegation of Authority No. A-74-10, OPIC Redelegation of Authority No. A-75-11 (§§ 703.15, 703.30-703.33), OPIC Redelegation of Authority No. A-78-13, and hereby redelegate authority as follows:

THE INSURANCE DEPARTMENT

GENERAL

(1) The Insurance Department of the Corporation is hereby established as the department primarily responsible for the administration of the Corporation's insurance and reinsurance authorities under section 234(a) and (f) of the act, 22 U.S.C. Sec. 2194(a) and (f). The Insurance Department shall be headed by the Vice President for Insurance.

VICE PRESIDENT FOR INSURANCE

(2) The Vice President for Insurance is hereby delegated the following authorities:

(a) To authorize and issue contracts of insurance or reinsurance covering risks of the type described in section 234(a) of the act, 22 U.S.C. Sec. 2194(a), in the name and on behalf of the Corporation, or to the extent that the Corporation is duly authorized to act as agent in the name and on behalf of any association, corporation or other entity, to execute and enter into in the name and on behalf of such association, corporation or other entity any such contract of insurance or reinsurance, provided that (i) no such contract of insurance shall cover an investment, as described in the terms and conditions of any such contract, that exceeds $10,000,000, (ii) the maximum contingent liability of the Corporation, or any such association, corporation or other entity, with respect to any investment insured under any such contract of insurance shall not exceed $30,000,000, and (iii) the maximum contingent liability of the Corporation, or any such association, corporation or other entity, with respect to any such contract of reinsurance shall not exceed $30,000,000;

(b) To make arrangements for sharing liabilities under section 234(a)(2) of the act, 22 U.S.C. Sec. 2194(a)(2), provided that the maximum contingent liability of the Corporation under any such arrangement shall not exceed $10,000,000;

(c) To administer contracts of insurance or reinsurance covering risks of the type described in section 234(a) of the act, 22 U.S.C. Sec. 2194(a), and arrangements for sharing of liabilities under Section 234(a)(2) of the Act, 22 U.S.C. Sec. 2194(a)(2), and otherwise exercise the rights of the Corporation or, as the case may be, of any association, corporation or other entity for which the Corporation is authorized to act as agent, with respect to any such contract or arrangement, or any such similar contract issued under any predecessor program and authority similar to that provided in section 234(a) of the Act, 22 U.S.C. Sec. 2194(a), and any related agreement or instrument which shall include, without limitation, the authority to amend, to consent to assignment of any such contract by the insured thereunder, and to concur in the issuance by the Treasurer of notice of cancellation of any such contract for failure to pay such fees, provided that such authority shall not extend to (i) the determination of the validity or settlement of any claim or application for compensation presented by the insured party thereunder against the Corporation or any such association, corporation or other entity, (ii) the initiation, conduct or settlement of any litigation, arbitration or other adjudication under or with respect to such contracts of insurance and arrangements, or (iii) any action that would cause the maximum contingent liability of the Corporation, or of any such association, corporation or entity, to exceed $30,000,000 under any such contract of insurance or reinsurance of the type described in section 234(a) of the Act, 22 U.S.C. Sec. 2194(a), or $10,000,000 under any arrangements of the type described in section 234(a)(2) of the act,—22 U.S.C. 2194(a)(2);

(d) In connection with the exercise of the authority delegated in subparagraphs 2(a) through (c) above, to execute and enter into, in the name and on behalf of the Corporation or any such association, corporation or other entity any related agreement or instrument, to exercise all related functions and powers, other than the further redelegation of such authority, and to make all such related approvals and determinations as may be necessary or appropriate to carry out such authority and which he deems to be in the best interest of the Corporation; and

(e) To designate any officer or employee of the Corporation assigned to the insurance Department to assume and perform in an acting capacity for a period of time not exceeding 60 days the duties of an Insurance Director as specified in paragraph (4) below.

DEPUTY VICE PRESIDENT FOR INSURANCE

(3) There shall be one or more Deputy Vice Presidents for Insurance, as appointed from time to time by the President. Each Deputy Vice President for Insurance is hereby delegated all of the authority delegated to the Vice President for Insurance under subparagrphs (2) (a) thru (d) above. In the temporary absence of the Vice President for Insurance, or in the event of his death or resignation, the Deputy Vice Presidents for Insurance, in such order of succession as may be designated from time to time by the President, shall assume and perform the duties of the Vice President for Insurance until the Vice President for Insurance shall reassume his duties or until a successor shall be duly appointed and assume office.

THE INSURANCE DIRECTORS

(4) There shall be various Insurance Directors as appointed from time to time by the President, to perform such duties of administration or with respect to a particular region or function as may be determined by the President. Each such Director of Insurance is hereby delegated the following authority:

(a) To authorize and issue contracts of insurance or reinsurance covering the risks of the type described in section 234(a) of the act, 22 U.S.C. 2194(a), in the name and on behalf of the Corporation, or to the extent that the Corporation is duly authorized to act as agent in the name and on behalf of any association, corporation or other entity any such contract of insurance or reinsurance, provided that (i) no such contract of insurance shall cover an investment, as described in the terms and conditions of any such contract, that exceeds $1,000,000, (ii) the maximum contingent laibility of the Corporation, or any such association, corporation or other entity, under any such contract of insurance shall not exceed $3,000,000, and (iii) the maximum contingent liability of the Corporation, or any such association, corporation or other entity, with respect to any such contract of reinsurance shall not exceed $3,000,000;

(b) To administer and otherwise exercise the rights of the Corporation or, as the case may be, of any association, corporation or other entity for which the Corporation is authorized to act as agent, with respect to contracts of insurance or reinsurance of the type described in subparagraph(4)(a) above, or any such similar contract issued under any predecessor progam and authority similar to that provided in section 234(a) of the act, 22 U.S.C. Sec. 2194(b), and any related agreement or instrument, in which the maximum contingent liability of the Corporation does not exceed $3,000,000,which shall include, without limitation, the authority to amend, to consent to assignment of any such contract by the insured thereunder, and to concur in the issuance by the Treasurer of notice of cancellation of any such contract for failure to pay such fees, provided that such authority shall not extend to (i) the determination of the validity or settlement of any claim or application for compensation presented by the insured party thereunder against the Corporation or any such association, corporation or entity, (ii) the initiation, conduct or settlement of any litigation, arbitration or other adjudication under such contracts of insurance, or (iii) any action that would cause the maximum contingent liability of the Corporation, or of any such association, corporation or other entity, under any such contract to exceed $3,000,000; and

(c) In connection with the exercise of the authority delegated in subparagraph (4) (a) and (b) above, to execute and enter into, in the name and on behalf of the Corporation or any such association, corporation or other entity, any related agreement or instrument, to exercise all related functions and powers other than the further redelegation of such authority, and to make all such related approvals and determinations as may be necessary or appropriate to carry out such authority and which he deems to be in the best interest of the Corporation.

THE FINANCE DEPARTMENT

GENERAL

(5) The Finance Department of the Corporation is hereby established as the department primarily responsible for administration of the Corporation's finance authorities under section 234(b) (c) and (d) of the act, 22 U.S.C. Sec. 2194(b), (c) and (d).

VICE PRESIDENT FOR FINANCE

(6) The Vice President for Finance is hereby delegated the following authorities:

(a) To amend, implement, and consent to the assignment of any investment guaranty issued under section 234(b) of the Act, or under predecessor programs and authorities similar to that provided for in section 234(b) of the Act and in connection therewith to execute, amend, and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, provided that no such amendment, related agreement, function, ap-

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proval or determination shall increase the principal amount of the investment guaranty;

(b) To amend and implement loan agreements denominated in United States dollars under section 234(c) of the Act and in connection therewith to execute, amend and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, provided that no such amendment, related agreement, function, approval or determination shall increase the principal amount of the loan;

(c) To authorize, execute, amend and implement loan agreements denominated in currencies other than United States dollars under section 234(c) of the act, and in connection therewith to execute, amend and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable; and

(d) To execute, amend and implement loan, grant and other agreements obligating amounts not to exceed $500,000 under section 234(d) of the act, and without regard to the amount obligated by such agreement, to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable in connection with such agreement issued under section 234(d) of the act or in connection with predecessor programs and authorities similar to those provided for in section 234(d) of the act, provided that no amendment to any such agreement shall increase the amount obligated thereby.

DEPUTY VICE PRESIDENTS FOR FINANCE

(7) There shall be one or more Deputy Vice Presidents for Finance, as appointed from time to time by the President. Each Deputy Vice President for Finance is hereby delegated all of the authority delegated to the Vice President for Finance under paragraph (6) above.

FINANCE MANAGERS

(8) There shall be various Senior Managers, Project Finance; Managers, Project Finance; and Managers for Agribusinee, Small Business and other Projects within the Finance Department, as appointed from time to time by the President, to perform under the supervision of the Vice President for Finance and the Deputy Vice Presidents for Finance such duties of administration or with respect to a particular region or function and with such delegation of authority as may be determined by the President.

OFFICE OF THE GENERAL COUNSEL

GENERAL

(9) The Office of the General Counsel is hereby established as the department responsible for providing legal advice and legal services to the Corporation. The Office of the General Counsel shall be headed by the Vice President and General Counsel.

VICE PRESIDENT AND GENERAL COUNSEL

(10) The Vice President and General Counsel is hereby delegated the following authority:

(a) To take all actions deemed necessary or appropriate with respect to the processing or disposition of actual or impending claims under section 234(a)(1) of the act or under similar predecessor or successor legislative authority, exercising all relevant authority of the Corporation, including the authority conferred by section 237(l) of the act, except that, with respect to claims in excess of $1,000,000, such authority shall not extend to the final rejection or acceptance of liability. All authority delegated by this subparagraph may be redelegated with the exception of authority with respect to the final acceptance or rejection of liability.

THE TREASURER

GENERAL

(11) The Treasurer of the Corporation is the chief accounting, administrative, contracting, financial, and personnel officer of the Corporation.

THE TREASURER

(12) The Treasurer is hereby delegated the following authorities:

(a) To establish and maintain accounting procedures for all receipts and disbursements of the Corporation including: (i) the preparation certification and timely presentation of financial accounts, analyses, and statements to authorized personnel; (ii) the selection of accountants and auditors engaged and relied upon by the Corporation; and (iii) the representation of the Corporation with accountants, auditors, examiners, or inspectors;

(b) To receive and disburse funds in the name of the Corporation, including the issuance and acceptance of receipts and vouchers he detemines proper, the collection of receivables, and the investment of funds derived from fees and other revenues in obligations of the United States.

(c) To issue and sign capital stock certificates of the Corporation;

(d) To perform all functions as Personnel Manager as set forth in Title 5, United States Code, and pertinent Civil Service Regulations;

(e) To perform all functions as Contracting Officer of the Corporation with authority to enter into and administer contracts pursuant to Title III of the Federal Property and Administrative Services Act (41 U.S.C. Sec. 251 et seq.) and the Federal Procurement Regulations (Title 41, Code of Federal Regulations) and to make related determinations and findings;

(f) To bill and collect fees due under any contract of insurance issued under section 234(a) of the act or under predecessor programs and authorities similar to those provided for in section 234(a) of the act, to issue written notice of delinquency to any investor who has failed to pay any such fees, and, with the concurrence of the Vice President for Insurance, to provide notice of cancellation of any such contract for failure to pay such fees;

(g) To amend, implement, and consent to the assignment of any investment guaranty issued under section 234(b) of the act, or under predecessor programs and authorities similar to that provided for in section 234(b) of the act and in connection therewith to execute, amend, and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, provided that no such amendment, related agreement, function, approval or determination shall increase the principal amount of the investment guaranty;

(h) To amend and implement loan agreements under section 234(c) of the act and in connection therewith to execute, amend and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, provided that no such amendment, related agreement, function, approval or determination shall increase the principal amount of the loan; and

(i) To sign and certify for the Corporation: (i) disbursement vouchers; (ii) letters of credit; (iii) transfers of funds; (iv) domestic and foreign transportation requests; (v) travel advances; (vi) expense and payroll vouchers; (vii) invoices; (viii) paid notes receivable; and (ix) inter-agency accounting reports.

The authority delegated in subparagraphs 12(a)-(i) may be further delegated.

This redelegation shall be deemed effective as of September 26, 1978 and any and all actions taken pursuant to the authority contained herein subsequent to September 26, 1978 are hereby confirmed and ratified.

RUTHERFORD M. POATS,
Acting President.

[FR Doc. 78-28520 Filed 10-6-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3631]

ALLEGHENY AIRLINES, INC.

Application To Withdraw From Listing and Registration

SEPTEMBER 29, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Allegheny Airlines, Inc. (the "Company") has been listed for trading on the Amex since November 5, 1951. On May 15, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. The Company does not wish to bear the expense of maintaining a dual listing on both exchanges and believes that dual listing would fragment the market for its common stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 27, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 28356 Filed 10-6-78; 8:45 am]

[8010-01-M]

[SR-DTC-78-10; Release No. 15193]

DEPOSITORY TRUST CO.

Order Approving Proposed Rule Change

SEPTEMBER 27, 1978.

On July 6, 1978, the Depository Trust Company ("DTC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change that allows DTC participants to make money payments through DTC when these payments are in connection with, but are not the direct result of, securities transactions in DTC.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14951, July 11, 1978) and by publication in the FEDERAL REGISTER (43 FR 30943, July 18, 1978). An amendment clarifying that DTC will make a good faith effort to contact both the payor and payee participants before exercising its authority not to act on the payment instructions was received by letter dated September 22, 1978. No written comments were received by the Commission. The Commission staff requested and received a written opinion from DTC's counsel that the proposed services are authorized by DTC's limited purpose trust company charter.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and, in particular, the requirements of section 17A and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28357 Filed 10-6-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1529; Amendment No. 1]

ARKANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 44580) is amended in accordance with the President's declaration of September 15, 1978, to include Cross County in the State of Arkansas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in Cross County and adjacent counties within the State of Arkansas. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on November 16, 1978 and for econmic injury until close of business on June 15, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 22, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-28341 Filed 10-6-78; 8:45 am]

[8025-01-M]

[License No. 09/09-5181]

FONG VENTURE CAPITAL CORP.

Termination of License

Notice is hereby given that Fong Venture Capital Corp. (Fong), 2245 Park Towne Circle, Sacramento, Calif. 95803, has surrendered its license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Fong was licensed by the Small Business Administration on August 25, 1975.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1978), the surrender of Fong's license is hereby approved.

Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

Dated: September 29, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 28338 Filed 10-6-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1533]

ILLINOIS

Declaration of Disaster Loan Area

Lake County and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on August 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of

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business on December 1, 1978, and for economic injury until the close of business on July 2, 1979, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Ill. 60604.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 2, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-28342 Filed 10-6-78; 8:45 am]

[8025-01-M]

REGION III ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, W. Va., will hold a public meeting at 9 a.m. on Thursday, November 2, 1978, at the Sheraton Inn, 153 West Main Street, Clarksburg, W. Va., to discuss such matters as may be presented by members, the staff of the Small Business Administration, or others present.

For further information, write or call Arthur J. Glick, District Director, U.S. Small Business Administration, 109 North Third Street, Clarksburg, W. Va. 26301, 304-622-6601.

Dated: October 2, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28339 Filed 10-6-78; 8:45 am]

[8025-01-M]

REGION IX ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Ariz., will hold a public meeting at 12 Noon on Wednesday, October 25, 1978, at the Fiesta Inn, 2100 S. Priest, Tempe, Ariz., to discuss such matters as may be presented by members, the staff of the Small Business Administration, or others present.

For further information, write or call Stanley D. Goldberg, District Director, U.S. Small Business Administration, 112 North Central Avenue, Phoenix, Ariz. 85004, 602-261-3700.

Dated: October 2, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28340 Filed 10-6-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 23rd meeting of the Board for International Food and Agricultural Development on October 26, 1978.

The purpose of this meeting is to receive and discuss progress reports of the Joint Research Committee, including status of Collaborative Research Support Programs (CRSPs), and discuss activities on contract research programs; to receive and discuss progress reports of the Joint Committee on Agricultural Development, including status of Title XII country projects and programs, eligible universities, baseline studies, and strengthening of universities; to discuss the role of BIFAD/JCAD in participating with A.I.D. in developing country programs; and to hear various other reports on conferences and activities, including the recommendations of the Women in Development seminar and the USDA Land Grant College Extension Retirement Status when involved in Title XII programs.

The meeting will begin at 9:00 a.m., adjourn at 4:30 p.m., and will be held in Room 1107, State Department Building, 22nd and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee representative, at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Deveopment, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: October 3, 1978.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 78-28373 Filed 10-6-78; 8:45 am]

[4710-02-M]

[Delegation of Authority No. 53]

PRINCIPAL DIPLOMATIC OFFICER IN MALAWI AND ZAMBIA

Delegation of Authority

AID Delegation of Authority No. 53, as amended, (29 FR 14860) is amended further, as follows:

1. Insert the following paragraph immediately preceding the last paragraph relating to the effective date of the delegation:

The authority delegated herein may be redelegated to the officer at the post principally responsible for AID activities.

This amendment is effective as of October 1, 1978.

Dated: August 10, 1978.

JOHN J. GILLIGAN,
Administrator.

LESLIE A. GRANT,
Authorized Representative.

[FR Doc. 78-28374 Filed 10-6-78; 8:45 am]

[4710-09-M]

Office of the Secretary

[Public Notice 631]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Department of State and U.S. Environmental Protection Agency have prepared a Draft Environmental Impact Statement for Incineration of Wastes at Sea Under the 1972 Ocean Dumping Convention. The draft statement is dated October 4, 1978. It considers the environmental effects of amending the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter to establish international regulations and guidelines for the incineration of wastes at sea to be enforced nationally.

Copies of the Draft Environmental Impact Statement may be obtained by writing to William H. Mansfield, Office of Environmental Affairs, Department of State, room 7820, Washington, D.C. 20520. Written comments on the proposed action should be submitted to Mr. Mansfield no later than November 24, 1978.

For the Secretary of State.

WM. ALSTON HAYNE,
Deputy Assistant Secretary, Environmental and Population Affairs.

OCTOBER 3, 1978.

[FR Doc. 78-28355 Filed 10-6-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER

Decommissioning

Notice is hereby given that on October 2, 1978, (2200 local time), the Federal Aviation Administration Part-Time Air Traffic Control Tower at Martha's Vineyard Airport, Martha's Vineyard, Mass., will be decommissioned.

Change to the effective hours of the Martha's Vineyard, Mass. Control Zone, has been reflected in advance by issuance of "Notice to Airman."

(Sections 313(a), 72 Stat. 752; 49 U.S.C. 1354(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on September 28, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-28232 Filed 10-6-78; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) EXECUTIVE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held November 2, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting held August 18, 1978; (2) Special Committee Activity Report for August and September; (3) Chairman's Report of RTCA Administration and Activities; (4) Consideration of Establishing New Special Committees; (5) Approval of Special Committee 122 Reports on Minimum Performance Standards for Airborne ILS Localizer and Glide Slope Receiving Equipment, Airborne Distance Measuring Equipment (DME), and Airborne VOR Receiving Equipment; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 2, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-28326 Filed 10-6-78; 8:45 am]

[4910-22-M]

Federal Highway Administration

[FHWA Docket No. 76-9]

BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE, AND OUTERBRIDGE

Crossing Tolls

The Federal Highway Administrator received on September 20, 1978, a request from the Port Authority of New York and New Jersey (PANYNJ) for an extension of time by which the PANYNJ was required by the Administrator's decision of August 9, 1977, "to prepare and submit to the Administrator and all parties a comprehensive feasibility study and recommendations for peak-hour charges and the impact that carpooling and commuter discounts have upon congestion." The Administrator had directed the PANYNJ to submit said study within one year from the date of the final order, November 7, 1977, and PANYNJ requests an extension to January 30, 1979.

The request of the PANYNJ which states its reasons for the extension was served by the General Counsel of the PANYNJ on all parties of record.

The purpose of this order is to notify parties of record that if they have objections to the extension of the time for filing the study, such objections must be filed with the Administrator no later than close of business, October 13, 1978. It is noted that the Administrator's order of August 9, 1977, stated that when the study is submitted, an opportunity will be provided for all parties to comment thereon.

Issued this 28th day of September 1978, in Washington, D.C.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-28349 Filed 10-6-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice 726]

ASSIGNMENT OF HEARINGS

OCTOBER 4, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139495 (Sub-310), National Carriers, Inc., now being assigned for hearing on November 28, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

MC 133233 (Sub-58F), Clarence L. Werner d.b.a Werner, Enterprises, now being assigned for hearing on November 29, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

MC 115841 (Sub-589), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on November 30, 1978, (2 days) at Dallas, TX in a hearing room to be later designated.

MC 100666 (Sub-389F), Melton Truck Lines, Inc., now being assigned for hearing on December 4, 1978, (1 week), at Dallas, TX in a hearing room to be later designated.

MC 111785 (Sub-62F), Burris Motor Freight, Inc., now being assigned for hearing November 14, 1978, (3 days), at Marlinton, WV, in the Main Court room, Marlinton County Courthouse, 9th, Avenue.

MC 136008, (Sub-100F), Joe Brown Co., Inc., and MC 119988 (Sub-152F), Great Western Trucking Co., Inc., and MC 119765 (Sub-55F), Eight Way Xpress, Inc., and MC 115904 (Sub-108F), Grover Trucking Co., and MC 105984 (Sub-20F), John B. Barbour Trucking Co. and MC 74321 (Sub-144F), B.F. Walker, Inc., and MC 68100 (Sub-21F), D.P. Bonham Transfer, Inc., and MC 52709 (Sub-349), Ringsby Truck Lines, Inc., and MC 143059 (Sub-16F), Mercer Transportation, Co., and MC 144875F Barton Trucking, Inc., and MC 120761 (Sub-39F), Newman Bros. Trucking Co., and MC 108119 (Sub-88F), E.L. Murphy Trucking Co., and MC 115603 (Sub-14F), Turner Bros. Trucking Co., Inc., and MC 32882 (Sub-95F), Mitchell Bros. Truck Lines and MC 115931 (Sub-65F), Bee Line Transportation, Inc., and MC 23618 (Sub-26F), McAlister Trucking Co., DBA Matco, and MC 26396 (Sub-182F) Popelka Trucking Co., Inc. DBA The Waggoners, and MC 43867 (Sub-42F), A. Leander McLister Trucking Co., and MC 83539 (Sub-494F), C & H Transportation, Co., Inc. and MC 83835 (Sub-149F) Wales Transportation, Inc., and MC 104523 (Sub-70F), Huston Truck Line, Inc. and MC 109397 (Sub-424F), Tri-State Motor Transit Co., and MC 113459 (Sub-

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117F) H.J. Jeffries Truck Line, Inc., and MC 114632 (Sub-146F), Apple Lines, Inc., and MC 115092 (Sub-67F), Tomahawk Trucking, Inc., and MC 115669 (Sub-167F), Dahlsten Truck Line, Inc., and MC 119176 (Sub-20F), The Squaw Transit Co., and MC 124692 (Sub-195F), Sammons Trucking, and MC 125433 (Sub-152F), F-B Truck Line Co. and MC 126555 (Sub-57F), Universal Transport, Inc., and MC 136605 (Sub-53F) Davis Bros. Dist., Inc., and MC 138313 (Sub-32F), Builders Transport, Inc., and MC 144330 (Sub-37F), Utah Carriers, Inc., are assigned for hearing October 10, 1978 at Denver, CO and will be held in the Copper room, U.S. Geological Survey, National Training Center, Building 53, Second Floor, Denver Federal Center.

MC 2835 (Sub-40), Adirindack Transit Lines, Inc., is assigned for hearing October 13, 1978 at Albany, NY and will be held in room 317, Leo W. O'Brien Federal Building, Clinton and North Pearl Streets.

MC 123048 (Sub-386), Diamond Transportation System, Inc., and MC 135562 (Sub-6), O.C.C., Inc., is assigned for hearing October 13, 1978 at Chicago, IL, and will be held at room 1614, Court of Claims, Dirksen Building, 219 South Dearborn Street.

MC 4405 (Sub-573), Dealers Transit, Inc., is assigned for hearing October 16, 1978 at Chicago, IL, and will be held at room 1614, Court of Claims, Dirksen Building, 219 South Dearborn Street.

MC 113855 (Sub-420F), International Transport, Inc., is assigned for hearing October 20, 1978 at Chicago, IL, and will be held at room 2568, Dirksen Building, 219 South Dearborn Street.

MC 109633 (Sub-32F), Arbet Truck Lines, Inc., is assigned for hearing October 17, 1978 at Chicago, IL, and will be held at room 2568, Dirksen Building, 219 South Dearborn Street.

MC 113855 (Sub-407F), International Transport, Inc., is assigned for hearing October 12, 1978 at Chicago, IL, and will be held at room 1614, Court of Claims, Dirksen Building, 219 South Dearborn Street.

MC 134017 (Sub-7F), R. M. Henderson d.b.a. H & M Motor Lines, now being assigned for hearing on November 28, 1978, (1 day), at Atlanta, GA in a hearing room to be later designated.

MC 133659 (Sub-3), Livingston Storage and Transfer Co., Inc., now being assigned for hearing on November 29, 1978, (3 days), at Atlanta, GA in a hearing room to be later designated.

MC 56679 (Sub-87), Brown Transport Corp.—Alternate Regular Route Authority of General Commodities, now being assigned for hearing on December 4, 1978, (2 days), at Atlanta, GA in a hearing room to be later designated.

MC 143296 (Sub-2F), Peach State Bus Lines, Inc., now being assigned for hearing on December 6, 1978, (3 days), at Atlanta, GA in a hearing room to be later designated.

MC 99610 (Sub-17), Ross Neely Express Inc., MC 99610, (Sub-19), Ross Neely Express, Inc., Extension, MI.

MC 99610 (Sub-27), Ross Neely Express Inc., now being assigned for hearing on January 9, 1979, (2 weeks), at Birmingham, AL in a hearing room to be later designated.

MC 138732 (Sub-12F), Osterkamp Trucking, Inc., now being assigned for hearing on December 11, 1978, (2 days), at San Francisco, CA, in a hearing room to be later designated.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28495 Filed 10-6-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

October 4, 1978.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before October 25, 1978.

FSA 43608, Southwestern Freight Bureau, Agent's No. B-772, rates on beet or cane sugar, from Minnesota and North Dakota, to Ft. Smith and Springdale, Ark., in supp. 270 to its Tariff 45-F, ICC 5010, to become effective November 13, 1978. Grounds for relief—market competition.

FSA 43609, Southwestern Freight Bureau, Agent's B-777, rates on rice combined with vegetables, from Baytown and Houston, Tex., to Eastern points, in Supp. 111 to its Tariff 326-C, ICC 5155, to become effective October 31, 1978. Grounds for relief—rate relationships.

FSA 43610, Kawasaki Kisen Kaisha, Ltd., No. 15, rates on general commodities in containers, between ports in the Far East, and rail terminals on the East Coast of the United States, in ICC Nos. 5, 8, 9, and 10 and other tariffs of various agents. Grounds for relief—all water competition.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28492 Filed 10-6-78; 8:45 am]

[7035-01]

[Notice No. 184]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 10, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protests must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the applicantion is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

Motor Carriers of Property

MC 531 (Sub-359TA), filed August 7, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Rd., Houston, TX 77021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, over irregular routes, destined to the Republic of Mexico in foreign commerce from Houston, Longview, Texas City, and Freeport, TX, to the TX U.S.-Mexican boundary at Laredo and Brownsville, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Euroquim, USA, Suite 115—Gazo Hillcroft, Houston, TX. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 720 (Sub-56TA), filed August 7, 1978. Applicant: BIRD TRUCKING CO., P. O. Box 227, Waupun, WI 53968. Representative: Michael J. Wyngaard. 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs in vehicles equipped with mechanical refrigeration* from the facilities of Wiscold, Inc., at or near Milwaukee, Wauwatosa, and Beaver Dam, WI, to points in IA, IL, MN, MB, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh Street, Milwaukee, WI 53226. Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 28307 (Sub-22TA), filed August 7, 1978. Applicant: FREDRICKSON MOTOR EXPRESS CORP., 3400 North Granham Street, P.O. Box 21098, Charlotte, NC 28206. Representative: Loy J. Foster, P.O. Box 21098, Charlotte, NC 28206. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Glass containers* (1) from Greensboro, NC, over US Hwy 29 to its junction with NC Hwy 14 then over NC Hwy 14 to Eden, NC; (2) from Clemmons, NC, over Interstate Hwy 40 to its junction with US Hwy 29 then over US Hwy 29 to its junction with NC Hwy 14 then over NC Hwy 14 to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 48958 (Sub-157TA), filed August 7, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Ave., P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero, P.O. Box 16404, 510 East 51st Avenue, Denver, CO 80216. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass; bronze or copper billets; rods, drawn or extruded; bars, rough cast, cakes, cathodes, ingots, pigs, or slabs*, from the facilities of Inspiration Consolidated Copper Co., located at or near Globe, Inspiration or Miami, AZ, to Hoisington, KS. Applicant does not intend to tack this authority with any other held by it. For 180 days. Supporting shipper: Inspiration Consolidated Copper Co., Mr. Frank E. Hanson, Jr., Traffic Manager, Inspiration, AZ 85537. Send protests to: Roger L. Buchana, District Supervisor, ICC, Bureau of Operations, 492 U.S. Customs House, Denver, CO 80202.

MC 51146 (Sub-619TA), filed August 7, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from Des Moines, IA, to Akron, Cincinnati, Cleveland, Columbus, Toledo, Youngstown, Steubenville, Canton, and Dayton, OH; Syracuse and Rochester, NY; and Lansing, Battle Creek, and Wyoming, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Meredith Corp., P.O. Box 1394, Des Moines, IA 50305. (C. Dwight Lammers). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-620TA), filed August 7, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from Detroit, MI, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Safron Printing, Traffic Consultants, Inc., 44 Brannan Street, San Francisco, CA 94107. (J. E. Saip). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-621TA), filed August 7, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture and furniture parts* from Bassett, VA, to points in WI and the Upper Peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Bassett Furniture Industries, 3320 East Crestview Drive, Appleton, WI 54911. (Gard P. Huff). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-622TA), filed August 7, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper* from Kansas City, MO, to Quincy, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Imperial Paper Stock Co., Inc., 2201 Scott Ave., St. Louis, MO 63103. (John D. Fudemberg). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 96328 (Sub-6TA), filed August 4, 1978. Applicant: ILLINOIS SHORT LINE, INC., 3525 S. Leavitt St., Chicago, IL 60609. Representative: Robert J. Gill, 29 S. LaSalle St., Chicago, IL 60603. Temporary authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *parts, equipment, materials, accessories and supplies used in the manufacture, distribution, maintenance and repair of agricultural equipment, heavy machinery, fork lift trucks and internal combustion engines*, between points in IN, MI, OH, and WI, and the facilities of Allis-Chalmers at Harvey, IL. Restricted to shipments in automobiles. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pleas Bennett, Traffic Manager, ALLIS-CHALMERS, P.O. Box 563, Harvey, IL 60426. Send protests to: Lois M. Stahl, Transporting Assistant, Interstate Commerce Commission, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 105886 (Sub-30TA), filed August 7, 1978. Applicant: MARTIN TRUCKING, INC., E. Poland Ave., P.O. Box 67, Bessemer, PA 16112. Representative: Henry M. Wick & David M. O'Boyle, Attorneys at Law, 2310 Grant Bldg., Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground slag*, in bulk, from Neville Island, PA, to Cheylan, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dravo Corp., Traffic Manager, Natural Resources, One Oliver Plaza, 18th Floor, Pittsburgh, PA 15222. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, PA 15222.

MC 109124 (Sub-48TA), filed August 7, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc or talc tailings*, in bulk, from the facilities of Windsor Minerals, in Windsor County, VT, to the facilities of CertainTeed Corp., at or near Avery, OH, for 180 days. Supporting shipper: CertainTeed Corp., Shelter Materials Group, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations—ICC 313 Federal Building and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

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al Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 111302 (Sub-136TA), filed August 7, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, for 180 days: *Liquid citric acid*, in bulk, in tank vehicles from the facilities of Miles Laboratories in Elkhart, IN to New Johnsonville, TN. Supporting shipper: Miles Laboratory, 1127 Myrtle Street, Elkhart, IN 46514. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 118535 (Sub-126TA), filed August 7, 1978. Applicant: TIONA TRUCK LINES, INC., 111 South Prospect, Butler, MO 64730. Representative: Tom Ventura (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal*, from Cameron, Dulac, Empire, Holmwood, and Morgan City, LA, to points in AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilbur Ellis Co., Little Rock, AR 72205. Send protests to: DS John V. Barry, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 123255 (Sub-171TA), filed August 7, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Representative: C. F. Schnee, Jr., Vice President—Traffic, 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of the Mead Corp., at Lynchburg, VA, to Marine City, Marshall, Mount Clemens, Pontica, Richmond, River Rouge, and Utica, MI, and Wapakoneta, OH, for 180 days. Supporting shipper: The Mead Corp., Courthouse Plaza NE., Dayton, OH 45463. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 124078 (Sub-848), filed August 7, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from the facilities of Georgia Power Plant Wansley, at or near Roopville, GA, to points in AL, FL, LA, MA, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amax Resource Recovery Systems, Inc., 5600 Roswell Road NE., Atlanta, GA 30342. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 127303 (Sub-46TA), filed August 7, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 63126. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to points in WA, OR, ID, MT, WY, CO, ND, SD, NE, KS, MN, IA, MO, IL, MI, IN, KY, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ed Geurts, Assistant Corporation Traffic Manager—Operations, Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788 (Sub-11TA), filed August 7, 1978. Applicant: NASS TRUCK LINES, INC., an Indiana corporation, Box "H," Wenona, IL 61377. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *commn carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from LaCrosse, WI to Champaign, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rear & Clark Distributing Co., 804 North Elm, Champaign, IL 61820. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, room 1386, Chicago IL 60604.

MC 139495 (Sub-374TA), filed August 7, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, in vehicles equipped with mechanical refrigeration, from facilities of FFV at or near Richmond, VA, to points in MA, CT, RI, and ME, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Interbake Foods, Inc., P.O. Box 27487 Richmond, VA 23261. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building Wichita, KS 67202.

MC 140241 (Sub-27TA), filed August 1, 1978. Applicant: DALKE TRANSPORT, INC., P.O. Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings, knocked down, and log buildings, materials and supplies*, between Claremore, OK and Red River, NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Beaver Log Homes, Division of Chisum Industries, Inc., P.O. Box 1145, Claremore, OK 74107. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 142672 (Sub-28TA), filed August 7, 1978. Applicant: DAIVE BENEUX PRODUCE AND TRUCKING, INC., P.O. Box Drawer F, Mulberry, AR 72947. Representative: Don Garrison 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and parts*, as defined by the Commission in Descriptions in Motor Carrier Certificates, 61 MCC 283 Appendix VII, and materials used in the manufacture thereof (except commodities in bulk). From the facilities of Gibson-Metalux Corp., at or near Americus, GA to points in AL, AR, CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MN, MS, MO, MT, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VA, VT, WI, WV, and WY, for 180 days. Supporting shipper: Gibson-Metalux Corp. P.O. Box 1207, Americus, GA 31709. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142703 (Sub-9TA), filed August 7, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in

Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading, between Cincinnati, OH, on the one hand, and, on the other, points in KY. Restricted to transportation of shipments having prior or subsequent rail or water movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 12 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations-ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 142703 (Sub-10TA), filed August 7, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading, between Louisville, KY, on the one hand, and, on the other, points in KY. Restricted to transportation of shipments having prior or subsequent rail or water movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations-ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 142703 (Sub-11TA), filed August 7, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading, between Louisville, KY, on the one hand, and, on the other, points in IN. Restricted to transportation of shipments having prior or subsequent rail or water movement, for 180 days. Supporting shipper: There are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations-ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 143236 (Sub-17TA) filed August 7, 1978. Applicant: TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, South Kearny, NJ 07032. Representative: Jay Schiffres, 1001 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee, tea, cocoa and related nondiary products*, between the facilities of Weshsler Coffee Corp., at or near Moonachie, NJ, and points in CA and points East of and including: MN, IA, MO, CO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wechsler, 10 Empire Boulevard, Moonachie, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 143456 (Sub-2TA) filed August 2, 1978. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Representative: William L. Rossi, Essex Green, Apt. C-1, Essex, VT 05451. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stone, stone working supplies, material and machinery*. Between the plantsites and quarries of Rock of Ages Corp. and Rock of Ages Building Granite Corp. in VT and NH, under a continuing contract or contracts with Rock of Ages Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating author< ity. Supporting shipper: Rock of Ages Corp., Rock of Ages Building Granite Corp., Barre, VT 05641. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28493 Filed 10-6-78; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 62-A; Rev. S.O. No. 1252]

CHESAPEAKE & OHIO RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 62 (The Chesapeake & Ohio Railroad Co.), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 62 is vacated effective at 8:30 a.m., October 2, 1978.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 2, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28488 Filed 10-6-78; 8:45 am]

[7035-01-M]

[Rev. I.C.C. Order No. 65-A; Rev. S.O. No. 1252]

CP RAIL AND DETROIT, TOLEDO & IRONTON RAILROAD CO.

Rerouting and Diversion Traffic

Upon further consideration of Revised I.C.C. Order No. 65 (CP Rail and Detroit, Toledo & Ironton Railroad Co.), and good cause appearing therefor:

It is ordered, Revised I.C.C. Order No. 65 is vacated, effective at 8:30 a.m., October 2, 1978.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

V 43/196 OCT 10 78

Issued at Washington, D.C., October 2, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28489 Filed 10-6-78; 8:45 am]

[7035-01-M]

[Rule 19, Ex Parte No. 241; Rev. Exemption No. 152-A]

EXEMPTION UNDER PROVISIONS OF MANDATORY CAR SERVICE RULES

Upon further consideration of Revised Exemption No. 152 issued September 29, 1978.

It is ordered, Under authority vested in me by Car Service Rule 19, Revised Exemption No. 152 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated and set aside.

This order shall become effective at 12:01 a.m., October 5, 1978.

Issued at Washington, D.C., October 2, 1978.

INTERSTATE COMMERCE COMMISSION
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28491 Filed 10-6-78; 8:45 am]

[7035-01-M]

[Notice No. 112]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 9, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicant's representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77739, filed July 3, 1978. Transferee: Anthony D. Fiamingo, d.b.a. Fiamingo Moving & Storage Co., R.D. Number 3, Box 678, Mansfield, PA 16933. Transferor: W. D. Leeds Storage Warehouse, Inc., 510 Fifth Avenue, Williamsport, PA 17701. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate No. MC-22304, issued August 20, 1968, as follows: Doors, door parts, and accessories, uncrated, between Williamsport, PA on the one hand, and, on the other, points in CT, RI, NJ, DE, MD (except in a specified portion), VA, IN, NC, WV, OH (except in the Cleveland, OH Commercial Zone), and the DC; doors and millwork between Williamsport, PA on the one hand, and, on the other, points in NY; new furniture between Williamsport, PA on the one hand, and, on the other, points in NJ; radiator covers, boiler jackets, and enclosures for steam equipment, between Williamsport, PA on the one hand, and, on the other, points in NY, NJ, CT, MD, DE, and the DC; and household goods between Williamsport, PA and points in PA within 25 miles of Williamsport on the one hand, and, on the other, points in RI, CT, NY, MD, DE, OH, IN, NC, and the DC. This application is directly related to a gateway elimination proceeding in No. MC-126900 Sub 1. Transferee presently holds authority in No. MC-126900. Application for temporary authority under Section 210a(b) has not been filed.

REPUBLICATION [1]

MC-FC-77789, filed July 28, 1978. Transferee: Walter J. Lubinski, and Kenneth E. Kocher, a partnership, d.b.a. L & K Transportation, RD Number 4, Box 199, Dallas, PA 18612. Transferor: Russell Parsons, RD Number 5, Box 98, Dallas, PA 18612. Representative: S. Berne Smith, Attorney at Law, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC-136480 and Sub-No. 1) issued August 20, 1975 and October 7, 1976 respectively as follows: *Foodstuffs* (except in bulk) from Penn Yan, Long Island City, Maspeth, and New York, NY, Pridgeton, East Rutherford, Elizabeth, and Vineland, NJ, and La Grange, IL, to the warehouse facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. *Wax candles,* from Newburgh and Brooklyn, NY, and Farmingdale, NJ, to the warehouse facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. *Wine (except in bulk), from points in the New York, NY, Harbor Limits as defined in 49 CFR 1070.1(a) to the warehouse facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. Anthracite filter media,* from points in Wyoming, Lackawanna, and Luzerne Counties, PA, to points in that part of the United States lying on and west of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. *Foodstuffs* (except in bulk and except frozen), from Farmingdale, NJ, to the facilities of J. Sosnick & Son at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(b).

H. G. HOMME, JR.,
Acting Secretary.

MC-FC-77800, filed August 3, 1978. Transferee: Lamp Delivery Service Corp. Route 3, North Brady Street Road, Davenport, IA 52804. Transperor: Central Delivery Service, Inc., Route 3, North Brady Street Road, Davenport, IA 52804. Representative: Patrick H. Smyth, Esq., Suite 521, 19 South LaSalle Street, Chicago, IL 60603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 139080 and Sub 2, issued November 1, 1974 and July 21, 1976, respectively, as follows: Such merchandise as is dealt in by retail department stores, and equipment, materials and supplies, from specified points in IA and IL to specified points in IL and IA, under contract with Montgomery Ward & Co., Inc. and home, laundry and toilet care preparations, cosmetics, cookware, cutlery and food supplements, from Davenport, IA to points in IA, under contract with Amway Corp. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77822, filed August 29, 1978. Transferee: Molerway Freight Lines,

[1] The purpose of this republication is to reflect Wyoming County, PA as an origin point, and to indicate the proper commodity description of Anthracite filter media.

Inc., 2707 Beartooth Drive, Billings, MT 59102. Transferor: Bill G. Carr and Phyllis R. Carr, d.b.a. Arrowhead Transportation, a partnership, Billings, MT 59102. Representative: Larry D. Herman, Esq., 111 West Main, Laurel, MT 59044. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate No. MC-116698 Sub 1, issued May 19, 1965, as follows: General commodities, with exception, over specified routes, between Billings and Absarokee, MT, and between Roundup and Billings, MT. Transferee presently holds authority in MC-135621 Sub 2. Application for temporary authority under section 210a(b) was denied on September 8, 1978.

MC-FC-77823 filed August 24, 1978. Transferee: Midland Transportation Co., d.b.a. Midland Moving, 1706 East Main, Marshalltown, IA 50158. Transferor: Modern Moving and Storage, Inc., 1706 Hillcrest Road, Marshalltown, IA, 50158. Representative: Gerald E. Mattox, 1902 Edgebrook, Marshalltown, IA 50158. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-135081 (Sub No. 1), and MC-135081 (Sub No. 2), issued May 15, 1972 and May 21, 1973, respectively as follows: Used household goods, between points in Douglas, Sarpy, Dodge, Washington, Saunders, Lancaster, Cass, and Otoe Counties, NE, and points in Iowa; Petroleum products and gasoline filling station supplies and equipment, between Waterloo, IA, and Monmouth, IL; household goods as defined by the Commission, between points in IL and IA; Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77828, filed August 30, 1978. Transferee: Ace Moving & Storage Inc., 600 East Broad Street, Texarkana, AR 75502. Transferor: Prescott Transfer & Storage, Inc., Walnut & West 2nd Street, Prescott, AR 71857. Representative: Herby Branscum Jr., Attorney at Law, P.O. Box 587, Perryville, AR 72126. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC-106836 and MC-106836 (Sub No. 2), issued October 10, 1952 and December 27, 1960, respectively, as follows: *Household goods,* between points within 50 miles of Prescott, AR, on the one hand, and, on the other, points in TX, LA, MS, TN, OK, MO, and AR, and related E-1, published June 2, 1975 and effective June 17, 1978. Transferee presently holds no authority from this Commission. Application has not been filed for authority under section 210a(b).

MC-FC-77836 filed August 24, 1978. Transferee: Lowther Trucking Co., Inc., 521 South Anderson Road, Rock Hill, SC, 29730. Transferor: Overcash Transfer, Inc., 21 ByPass, Rock Hill, SC, 29730. Representative: Lawrence E. Lindeman, Woods, Villalon, Hollengreen & Lindeman, Suite 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street, NW., Washington, DC, 20004. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC-52781 and MC-52781 (Sub-No. 2), issued May 1, 1963, and December 6, 1973, respectively, as follows: Pipe, pipe fittings, and such materials, supplies, and equipment as are used in the installation and maintenance of sprinkler, heating, and power piping system, and such tools and equipment as are used for installing and maintaining the aforementioned installations, between Charlotte, NC, on the one hand, and, on the other, points in NC and SC within 150 miles of Charlotte, NC, between Charlotte, NC, on the one hand, and, on the other, points in SC, except those within 150 miles of Charlotte, NC, and points in VA restricted to a transportation service to be performed under special and individual contracts or agreement with persons (as defined in section 203(a) of the Act) who are engaged in the installation and maintenance of sprinkler, heating, and power piping systems, for the transportation of the commodities indicated and in the manner specified; Pipe, pipe fittings, and materials, supplies, and equipment, used in the installation and maintenance of sprinkler, heating, and power piping system, between points in NC, SC, VA, GA, (except Chatham County), AL (except (a) between points in and on the Tennessee River and Ragland, AL, on the one hand, and, on the other, points in GA and TN, and (b) from points in Talladega County AL), and TN (except (a) from points in Roane County and (b) between points on the Mississippi River and Tennessee River, on the one hand, and, on the other points in AL and GA). Restricted to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: I.T.T. Grinnell Corp, of Providence, RI; I.T.T Grinnell Industrial Piping, Inc.; Grinnell Fire Protection Systems Co., Inc.; General Supply & Equipment Corp., of Charlotte, NC; and Monarch Sprinkler Co., of Charlotte, NC; Lumber (except plywood and veneer), from points in SC, to points in NC, restricted to a transportation service to be performed, under a continuing contract, or contracts, with Forest Lumber Company, Inc., of Charlotte, NC. Transferee is presently authorized to operate as a common and contract carrier under Certificate No. MC-114098 and Permit No. MC-115789.

MC-FC-77853, filed September 19, 1978. Transferee: Surface Transportation Co., Inc., 125 South Van Brunt Street., Englewood, NJ 07631.Transferor: Lapadula & Villani, Inc., P.O. Box 158, Cedarhurst, NY 11516. Representatives: Roy Jacobs, Esq. Attorney for Tranferor 550 Mamaroneck Avenue, Harrison, NY 10528. Ronald I. Shapss, Esq., Attorney for Transferee, 450 Seventh Avenue, New York, NY 10001. Authority sought for purchase by transferee of a portion of the operating rights of transferor, set forth in Certificate No. MC-42984, issued May 19, 1970, as follows: *Interior woodwork, machinery, and building materials,* between New York, NY and points within 50 miles of Columbus Circle, NY in CT, NJ, and NY. *General commodities,* with the usual exceptions, between points in Union County, NJ, on the one hand and, on the other, New York, NY, and *machinery, pipe and pipe fittings,* between points in Union County, NJ on the one hand, and, on the other points in CT, MD, MA, NY, PA and RI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77854 filed September 18, 1978. Transferee: Dial Transfer, Inc., 756 North Fourth Street, Minneapolis, MN, 55403. Transferor: Mid-North Furniture Transport, Inc., 1175 Cleveland Avenue South, St. Paul, MN, 55116. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN, 55403. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-138853, issued September 26, 1973, as follows: New furniture, from St. Paul, MN, to points in MN, ND, and SD restricted to the transportation of shipments having a prior movement by rail. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-119293. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77857, filed September 18, 1978. Transferee: The Kennedy Co., Inc., d.b.a. Kennedy Storage Co., Route 295 & Hartford Road, Mount Laurel, NJ 08054. Transferor: J.C. Services, Inc., 1621 Loretta Avenue, Feasterville, PA 19047. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Road & Cottman Street, Jenkintown, PA 19046. Authority sought for purchase of the operating rights of the transferor set forth in Certificate No. MC-9975, issued December 24, 1975, as follows: *Household goods,* between points in the Philadelphia, PA commercial zone, on the one

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hand, and, on the other points in PA, NJ, NY, DE, MD, and DC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210 a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28494 Filed 10-6-78; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 74-A; Rev. S.O. No. 1252]

REROUTING TRAFFIC

To all railroads. Upon further consideration of ICC Order No. 74, and good cause appearing therefor:

It is ordered, That:

ICC Order No. 74 is vacated, effective at 8:30 a.m., October 2, 1978.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 2, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28490 Filed 10-6-78; 8:45 am]

[1505-01-M]

[Decision Vol. No. 31]

DECISION-NOTICE

Correction

FR Doc. 78-26195, appearing at page 42070 in the issue of Tuesday, September 19, 1978, is corrected as follows:

1. On page 42072, first column, second full paragraph, first line, "MC 995540 (Sub-1030F)" should read "MC 95540 (Sub-1030F)".

2. On page 42073, third column, first full paragraph, "MC 116254, (Sub-21F)" is changed to read "MC 116254 (Sub-211F)".

3. Also on page 42073, the third column, in the second full paragraph, the first line, "MC 177068 (Sub-100F)" should read "MC 117068 (Sub-100F)".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-168 Amdt. 3; Oct. 3, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 5, 1978, meeting agenda.

TIME AND DATE: 10 a.m., October 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 6b. Dockets 33083, 32294; Application for exemption by Air Florida to provide scheduled service from Florida to points in the Bahamas pending the outcome of the *U.S.-Bahamas Service Investigation* (BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Existing service in the Florida-Bahamas Out Islands markets has been recently cut back and may be further disrupted, because of financial difficulties of the principal incumbent, Mackey International Airlines. Mackey has been named in a complaint for default on a bank loan exceeding $1,000,000 and the creditor is seeking foreclosure on Mackey aircraft. Furthermore, the Securities and Exchange Commission last week suspended Mackey stock from trading for 10 days.

The proposed exemption operations are imminent—Air Florida is ready and willing to institute service immediately, to fill the current void in Out Island service, and prepare for peak winter season traffic. Accordingly, the following Members have voted that agency business requires the addition of item 6b to the agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2040-78 Filed 10-5-78; 9:10 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., Wednesday, October 11, 1978.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed Administrative Action/Enforcement matter.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2042-78 Filed 10-5-78; 9:10 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 13, 1978.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2043-78 Filed 10-5-78; 9:10 am]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 11, 1978.

PLACE: 2033 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Leverage policy discussion.
Registration denial procedures.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2044-78 Filed 10-5-78; 9:10 am]

[6570-06-M]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., (eastern time), Tuesday, October 10, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Bulding, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeal No. 78-7-FOIA-150, concerning a request by a party filing a charge of discrimination for access to the investigative file after his right to bring a title VII civil action has expired.
2. Allocation of fiscal year 1979 funds for State and local agency charge resolution contracts.
3. Transfer of 846 charges from the Houston District Office to the Dallas District Office for processing.
4. Proposed procedures to implement Executive Order 12044 and final report required by that order.
5. Proposed EEO complaint appeals procedures for Federal employees.
6. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carred over to a later meting.

CONTACT PERSON FOR MORE INFORMATION:

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Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued October 3, 1978.

[S-2036-78 Filed 10-5-78; 9:10 am]

[6712-01-M]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following item has been added:

Agenda, Item No., and Subject

Complaints and Compliance—1—Complaint, filed on July 26, 1978, by the Younger Campaign Committee against 21 California television and 5 California radio stations.

If additional information is required concerning this meeting it may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 3, 1978.

[S-2037-78 Filed 10-5-78; 9:10 am]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted.

Agenda, Item No., and Subject

General—5—Applications for review of staff ruling partially granting the Freedom of Information Act request jointly filed by Classical Radio for Connecticut, Inc., and the WTIC-FM Listeners' Guild.

Cable Television—4—Petition for reconsideration filed by People's Cable Co., Henrietta, N.Y.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 3, 1978.

[S-2038-78 Filed 10-5-78; 9:10 am]

[6715-01-M]

8

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, October 12, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of the meeting open to the public and portions of the meeting closed to the public.

MATTERS TO BE CONSIDERED:

Portions of the meeting open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1978-69, AO 1978-73, AO 1978-62, AO 1978-77, AO 1978-78, and AO 1978-39.
Earmarked contributions.
Presidential campaign disclosure form.
Report to FEC on Advisory Panel Meetings.
Appropriations and budget.
Budget execution report.
Computer contract procurement.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Reports from division heads.
Recordkeeping and reporting of particulars for expenditures—Presidential candidates and authorized committees.
Classification Actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Audit reports, compliances, and personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2047-78 Filed 10-5-78; 3:23 pm]

[6740-02-M]

9

OCTOBER 14, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 11, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA—165TH MEETING, OCTOBER 11, 1978, REGULAR MEETING

CAP-1. Docket Nos. ER78-293, ER78-298, and ER78-302, Illinois Power Co.
CAP-2. Docket No. ER78-608, Bangor Hydro-Electric Co.
CAP-3. Docket No. ER78-609, Cliffs Electric Service Co.
CAP-4. Docket Nos. ER78-35, et al., Connecticut Light & Power Co., Hartford Electric Light Co.
CAP-5. Docket No. ID-1823, Robert P. Reuss.
CAP-6. Docket No. ID-1758, Charles T. Fisher III. Docket No. ID-1759, Richard C. Gerstenberg.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-489, Arkansas-Missouri Power Co.
ER-2. Docket No. ER78-511, Public Service Co. of Oklahoma.
ER-3. Docket No. ER78-388, Missouri Power & Light Co.
ER-4. Docket Nos. ER78-337 and ER78-338, Public Service Co. of New Mexico.
ER-5. Docket No. ER77-533, Louisiana Power & Light Co.
ER-6. Docket Nos. ER76-304, ER76-317, and ER76-498, New England Power Co.
ER-7. Docket No. ER77-311, Utah Power & Light Co.

II. LICENSE PROJECT MATTERS

P-1. Project No. 2774, Modesto and Turlock Irrigation Districts and city and county of San Francisco.

GAS AGENDA—165TH MEETING, OCTOBER 11, 1978, REGULAR MEETING

CAG-1. Docket No. RP78-91, West Texas Gathering Co.
CAG-2. Docket No. RP72-110, Algonquin Gas Transmission Co.
CAG-3. Docket No. RP77-13, Arkansas Louisiana Gas Co.
CAG-4. Docket No. RI78-24, Northern Pump Co.
CAG-5. Docket No. CI78-713, Champlin Petroleum Co.
CAG-6. Docket No. CI78-68, Exxon Corp.
CAG-7. Docket No. CI73-750, Chevron U.S.A., Inc., et al.
CAG-8. Docket No. CI75-608, et al., Skelly Oil Co.
CAG-9. Docket No. CI70-129, et al., Cities Service Co., et al.
CAG-10. Docket No. CP78-420, Louisiana-Nevada Transit Co.
CAG-11. Docket No. CP78-265, Panhandle Eastern Pipe Line Co.
CAG-12. Docket No. CP78-336, Trunkline Gas Co.
CAG-13. Docket Nos. CP76-241 and CP76-242, Transcontinental Gas Pipeline Corp.
Docket No. CP76-249, Southern Natural Gas Co.
Docket No. CP76-270, Gas Gathering Corp.
Docket No. CP77-156, Natural Gas Pipeline Co. of America.
Docket No. CP77-185, Texas Eastern Transmission Corp., National Fuel Gas Supply Corp.
CAG-14. Docket No. CP78-299, Tennessee Gas Pipeline Co.
CAG-15. Docket No. CP78-454, United Gas Pipeline Co.
CAG-16. Docket No. CP77-459, Midwestern Gas Transmission Co.
Docket No. CP77-520, Tennessee Gas Pipeline Co., a division of Tenneco Co., Northern Natural Gas Co.
Docket No. CP78-16, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-17. Docket No. CP78-189, Texas Eastern Transmission Corp.
CAG-18. Docket No. CP78-136, Transcontinental Gas Pipe Line Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket Nos. RP73-3 (PGA78-3), et al., Transcontinental Gas Pipe Line Corp.
RP-2. Docket No. RP76-31, Louisiana-Nevada Transit Co.
RP-3. Docket Nos. RP74-89 and RP73-35 (AP76-1), Trunkline Gas Co.

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. IN78-2, Florida Gas Transmission Co., Amoco Production Co., Florida Power & Light Co.
CP-2. Docket No. CP77-477, Panhandle Eastern Pipe Line Co.
CP-3. Docket No. CP78-533, Midwestern Gas Transmission Co., Truckline Gas Co., and Panhandle Eastern Pipeline Co.

KENNETH F. PLUMB,
Secretary.

[S-2046-78 Filed 10-5-78; 2:11 pm]

[7545-01-M]

10

NATIONAL LABOR RELATIONS BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 42853, published September 21, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3 p.m., Friday, October 6, 1978.

CHANGES IN THE MEETING: The time of the meeting has been changed to 2 p.m.

Dated: Washington, D.C., October 4, 1978.

By direction of the Board.

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[S-2039-78 Filed 10-5-78; 9:10 am]

[7590-01-M]

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NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, October 10, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, OCTOBER 10

10 a.m.—1. Discussion of personnel matter (approximately 1 hour, closed—exemption 6). 2. Discussion of EDO testimony of July-August, 1977 (approximately 1 hour, closed—exemption 6).

2. p.m.—1. Discussion of women's class action suit (approximately 1 hour, public meeting). 2. Continuation of morning meetings (approximately 1 hour, if necessary, closed—exemption 6). 3. Discussion of review of staff motion to withdraw its petition for review of ALAB-399, and review of ALAB-487, Consolidated Edison of New York, and related matters (approximately 1 hour, closed—exemption 10).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

OCTOBER 3, 1978.

[S-2045-78 Filed 10-5-78; 9:48 am]

[8010-01-M]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 9, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, October 10, 1978, at 10 a.m. An open meeting will be held on Thursday, October 12, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 10, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Report of investigation.
Settlement of injunctive action.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, October 12, 1978, at 10 a.m., will be:

1. Consideration of a Freedom of Information Act appeal of First National Finance Corp. ("First National"). First National has appealed the Freedom of Information Officer's determination that certain limited materials in the Comission's files would not be disclosed based upon exemption 5 to the Freedom of Information Act, 5 U.S.C. 552(b)(5). For further information, please contact Michael K. Wolensky at 202-755-1342.

2. Consideration of the transmittal to Senator Harrison A. Williams, Jr., of a Preliminary Report Concerning Market Inventory Funds, together with exhibits, prepared by the Division of Market Regulation, and a transmittal letter to Senator Williams from Chairman Harold M. Williams. For further information, please contact Roger D. Blanc at 202-755-1390.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Gary Matsko at 202-755-1133.

OCTOBER 3, 1978.

[S-2041-78 Filed 10-5-78; 9:10 am]

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federal register

TUESDAY, OCTOBER 10, 1978
PART II



FEDERAL COMMUNICATIONS COMMISSION

FEE REFUNDS AND FUTURE FCC FEES

Inquiry

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[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47CFR Part 1]

[Docket No. 78-316; FCC 78-695]

FEE REFUNDS AND FUTURE FCC FEES

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The FCC is beginning an inquiry into the refunding of fees collected between August 1, 1970, and January 1, 1977, and a future fee program. The FCC is taking this action in response to several decisions by the U.S. Court of Appeals for the District of Columbia Circuit.

DATES: Comments on the refund section of this notice of inquiry are due November 8, 1978. Comments on a future FCC fee schedule are due by January 8, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas P. Campbell, Chief, Financial Management Division, Federal Communications Commission, Washington, D.C. 20554, telephone 202-632-7194 (information on the refund section of the notice of inquiry).

Douglas W. Webbink, Office of Plans and Policy, Federal Communications Commission, Washington, D.C. 20554, telephone 202-632-6312 (information on the future fee schedule section of the notice of inquiry).

Adopted: September 27, 1978.

Released: October 6, 1978.

By the Commission: Commissioner Quello absent; Commissioner Washburn issuing a separate statement; Commissioner White concurring in part and dissenting in part and issuing a statement.

A. Background

1. On January 1, 1977, the Commission suspended the collection of all license fees following several court decisions by the U.S. Court of Appeals for the District of Columbia Circuit, which held that previous fee schedules were unlawful and which instructed the Commission to recalculate fees assessed between 1970 and 1976 and to make appropriate refunds.[1] This notice has three basic purposes. First: It explains the current status of the refund program and initiates procedures for public input into that process. Secondly: It is intended to begin the groundwork that will underlay a new fee schedule, based on the existing law for which we hope to be able to initiate a rule making proceeding in 1979. Finally: Given a possibility of new legislation, we are considering ways to establish spectrum usage charges that would not be constrained to recover the Commission's cost of providing services, but rather would reflect the value conferred on our licensees through their use of a publicly owned scarce resource. Thus, the final section of this notice raises questions concerning charging the fair market value for use of the spectrum. Prior to addressing these issues, however, we believe it would be advantageous to review those events that have led to the issuance of this Notice.

2. The Commission's authority to impose fees stems from title V of the Independent Offices Appropriations Act of 1952, 31 U.S.C. 483a, which provides that:

> • • • any work, service, [or] benefit • • • performed or issued by any Federal agency • • • shall be self-sustaining to the full extent possible, and [each agency] is authorized • • • to prescribe therefore such fee, charge, or price • • • as [it] shall determine • • • to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts • • •.

1963 SCHEDULE OF FEES

3. In 1963, the Commission enacted its first schedule of fees, which provided comprehensive fees in all areas of Commission regulation at the time. *Schedule of Fees,* 34 FCC 811 (1963). This schedule adopted what could generally be described as nominal fees—the maximum single fee being $100—intended to recoup about 25 percent of the Commission's costs. On judicial review, the seventh circuit affirmed the Commission's action. *Aeronautical Radio, Inc.* v. *United States,* 335 F. 2d 304 (7th Cir. 1964), *cert. denied,* 379 U.S. 966 (1965).

1970 SCHEDULE OF FEES

4. Consistent with its policy of continuing review of its fee schedule, and in line with congressional directives that the fees be "further reviewed and adjusted upward with the objective of assuring that the activities of the Commission are more nearly self-sustaining," [2] the Commission adopted a schedule of fees in 1970 that was designed to recover a total amount that approximated the Commission fiscal year 1971 budget. *Schedule of Fees, Report and Order,* 23 FCC 2d 880 (1970); *Schedule of Fees, Memorandum Opinion and order,* 28 FCC 2d 139 (1971). That schedule became effective on August 1, 1970. It reflected a broad revision of the existing fees, an imposition of fees in new areas in which the Commission had only recently exercised jurisdiction, (e.g., cable television and equipment testing and approval) and the levying of fees in a manner that more accurately reflected the "value to the recipient" factor of title V (e.g., the use of annual fees based on a station's commercial rates in place of renewal application fees in the broadcast services, the calculation of assignment or transfer grant fees which reflected the value the parties to the transaction placed on the sale and the use of annual fees for cable television systems based on the number of subscribers.)

5. Judicial review was sought of the Commission's action and in July 1972 the fifth circuit affirmed the Commission in all respects. *Clay Broadcasting Corp.* v. *United States,* 464 F. 2d 1313 (5th Cir. 1972). Shortly after the fifth circuit's decision, the District of Columbia Circuit set aside an order of the FPC promulgating annual fees for electric and gas companies under the same statutory authority as the FCC's. *New England Power Co.* v. *Federal Power Commission,* 467 F. 2d 425 (D.C. Cir. 1972).

6. Because of an apparent conflict between the two decisions, the Supreme Court granted petitions for certiorari. In opinions handed down in March 1974, *National Cable Television Association, Inc.* v. *United States,* 415 U.S. 316 (1974) and *Federal Power Commission* v. *New England Power Co.,* 415 U.S. 345 (1974), the Supreme Court reversed the decision in *Clay Broadcasting* and affirmed the *New England Power* decision. Justice Douglas, in an opinion expressing the views of five members of the Court, held that because the Court could not be sure that the Commission had used the correct standard in setting the annual fee for cable television systems, the *Clay Broadcasting* decision should be reversed in order that the case could be remanded to the Commission for further proceedings.

7. In *NCTA,* the Court initially distinguished between taxes and fees, pointing out that Congress is the sole organ for levying taxes and that in doing so it may "act arbitrarily and disregard benefits bestowed by the Government on a taxpayer • • •." 415 U.S. at 340. The Court explained that a fee, however,

> is incident to a voluntary act, e.g., a request that a public agency permit an applicant to practice law or medicine or construct a house or run a broadcast station. The public agency performing those services normally may exact a fee for a grant which, presumably, bestows a benefit on the applicant, not shared by other members of society.

415 U.S. at 340-41.

8. The Court construed title V narrowly to avoid the constitutional question of whether Congress had delegated its taxing powers to Federal regulatory agencies; thus it read title V "as authorizing not a 'tax' but a 'fee.' A 'fee' connotes a 'benefit' and [title V] by its use of the standard 'value to the recipient' carries that connotation." 415 U.S. at 341.

Accordingly, the court concluded that:

> The phrase "value to the recipient" is, we believe, the measure of the authorized fee. The words "public policy or interest served, and other pertinent facts" would not seem relevant to the present case, whatever may be their ultimate reach. The backbone of CATV is individual enterprise and ingenuity, not governmental largesse.

415 U.S. at 342-43.

9. While recognizing that cable television systems "may receive special benefits," the court was not sure "that the Commission used the correct standard in setting the fees for cable television systems." Id. Concluding that the congressional aim of title V could "be achieved within the framework of 'value to the recipient' as contrasted to the public policy or interest that is also served," the Court reversed the fifth circuit so that the case could be remanded to the Commission for further proceedings. 415 U.S. at 344.

10. In the companion opinion reviewing the *New England Power* decision, the Court essentially agreed with the D.C. circuit "that whole industries are not in the category of those who may be assessed, the thrust of the Act reaching only specific charges for specific services to specific individuals or companies." 415 U.S. at 349. The Court also relied upon Bureau of the Budget Circular A-25 as reflecting what it viewed as the "proper construction" of title V:

> That circular stated that a reasonable charge "should be made to each *identifiable recipient* for a measurable unit or amount of government service or property from which he derives a special benefit." • • • The circular also states that no charge should be made for services rendered, "when the identification of the ultimate beneficiary is obscure and the services can be primarily considered as benefitting broadly the general public." [Footnotes omitted.] [Emphasis added by the Court.]

415 U.S. at 349-50.

DENIAL OF REQUESTS FOR REFUNDS

11. In December 1974, the Commission adopted an order in response to requests for refund of annual fees paid by cable television systems, announcing that it would refund all the annual fees that had been paid by cable television systems. *Refund of Cable Television Annual Fees,* 49 FCC 2d 1089 (1974). However, in a series of orders beginning in January 1975, the Commission denied all other requests for refund of fees.[3]

THE 1975 SCHEDULE OF FEES

12. In December 1972, the Commission had instituted a new rulemaking proceeding, consistent with its policy of continuing review of its schedule of fees, looking toward another general revision of its schedule of fees both to bring the schedule in line with the Commission's continually increasing costs and to further refine certain fees. *Notice of Proposed Rule Making,* 38 FCC 2d 587 (1972). After review of extensive comments in the proceeding, the Commission adopted a *report and order* establishing a new schedule of fees that was to have been effective May 1, 1974. See, FCC News Report No. 9201, February 27, 1974. However, before the newly adopted schedule was publicly released, the Supreme Court handed down its decision in the *NCTA* case.

13. On August 12, 1974, the Commission adopted a further notice of proposed rulemaking in which it proposed extensive revisions of the fee schedule in light of the *NCTA* decision. 48 FCC 2d 402 (1974). Specifically, in this further notice the Commission proposed to charge fees for those services that provided a value to identifiable recipients, which it specified as activities associated with the processing of applications. It viewed this approach to be consistent with the Supreme Court's interpretation of title V since such fees would recover only so much of the Commission's total costs "as are attributable to work done to create value to the recipients." 48 FCC 2d at 404.

14. After considering the extensive comments filed to the further notice, the Commission adopted its revised fee schedule on January 15, 1975, to be effective March 1, 1975. 50 FCC 2d 906 (1975). The Commission explained the basic approach it had used in revising its schedule of fees in light of *NCTA* in the following manner:

> A fundamental ground upon which the further notice was based and upon which the schedule adopted herein is based is that the "value to the recipient" factor is reasonably related to a portion of the Commission's costs. When the *NCTA* decision is read together with title V, a clearly reasonable interpretation that will result in a workable statute is to base the fees as a reflection of value to the recipients upon the cost of Commission activities that confer a benefit on identifiable recipients. The comments have uniformly failed to recognize this. The value to the recipient cannot practicably be construed as an abstract concept unrelated to the other considerations set out in title V. The Court's decision in *NCTA* of the "protective services" the Commission renders the public as compared to the benefits it confers on individual recipients indicates, as does the statute itself, that the costs of providing those benefits constitute the base, and outer limit, for Commission recovery. Otherwise, the Commission could base its fees on the "true" value to the recipient in an economic sense, and we suspect that no one would argue that the value to individuals of the hundreds of thousands of authorizations issued each year by the Commission does not exceed the Commission's total costs of operation many fold. Thus, in attempting to revise our schedule of fees in a manner that will be consistent with title V as construed by *NCTA,* we have identified those areas, primarily processing of applications and other authorizations, which provide a clear value to identifiable recipients. The costs of providing these benefits were set as the upper limit of fee recovery in each area and viewed as equivalent to the total value to all recipients of the specific services.

50 FCC 2d at 908. The revised schedule was expected to recover approximately 40 percent of the Commission's total costs.

THE DECEMBER 1976 DECISIONS

15. In a series of four decisions handed down on December 16, 1976, the U.S. Court of Appeals for the District of Columbia set aside both major actions the Commission had taken in response to the Supreme Court decision—the revision of the schedule of fees and the denial of refunds.

THE FEE SCHEDULE DECISIONS

16. In *National Cable Television Ass'n., Inc.* v. *FCC,* 554 F. 2d 1094 (D.C. Cir. 1976) and *Electronic Industries Ass'n.* v. *FCC,* 554 F. 2d 1109 (D.C. Cir. 1976) the court of appeals set aside the schedule of fees which the Commission had adopted in 1975 in response to the Supreme Court's 1974 *NCTA* decision. The thrust of the D.C. circuit holdings was that the Commission had inadequately justified the fees it adopted by failing to provide specific showing of the "cost basis" for the fees and by failing to demonstrate that the fee reflected not only cost basis but also "value conferred upon the payor." The requirements to be met by the Commission's review of its 1975 schedule on remand were set out at the conclusion of the *EIA* opinion:

> In conclusion, we will attempt to summarize the major requirements which we have today decided must be met by the Commission when it reviews its fee schedule on remand. First, the Commission must *justify* the assessment of a fee by a clear statement

[1] *National Cable Television Ass'n* v. *FCC,* 554 F. 2d 1094 (D.C. Cir. 1976); *Electronic Industries Ass'n* v. *FCC,* 554 F. 2d 1109 (D.C. Cir. 1976); *National Ass'n of Broadcasters* v. *FCC,* 554 F. 2d 118 (D.C. Cir. 1976); *Capital Cities Communications, Inc.* v. *FCC,* 554 F. 2d 1135 (D.C. Cir. 1976).

[2] H. Rep. No. 91-316, 91st Cong., 1st sess. 8 (1969).

[3] *Refund of Fees,* 50 FCC 2d 730 (1975), *recon. denied,* 52 FCC 2d 666 (1975) and 53 FCC 2d 207 (1975); *Refund of Fees,* 51 FCC 2d 545 (1975), *recon. denied,* 53 FCC 2d 207 (1975); *Refund of Fees,* 51 FCC 2d 1136 (1975); *Refund of Fees,* 53 FCC 2d 854 (1975); *Refund of Fees,* 54 FCC 2d 515 (1975).

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of the particular service or benefit which it is expected to reimburse. Second, it must calculate the *cost basis* for each fee assessed. This involves (a) an allocation of the specific direct and indirect expenses which form the cost basis for the fee to the smallest practical unit; (b) exclusion of any expenses incurred to serve an independent public interest; and (c) a public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular terms. Finally, the Commission must set a fee calculated to return this cost basis at a *rate* which reasonably reflects the cost of the services performed and value conferred upon the payor. The fees may be imposed only on beneficiaries of agency services who satisfy the criteria of *NCTA* and *New England Power*. [Emphasis in the original.]

554 F. 2d at 1117.

17. The Court stated that title V must be interpreted to limit the Commission to assessing fees:

> • • • at a rate which reasonably reflects the cost of services performed or the expense of other value transferred to the payor. In order to assure this required relationship between the fee-rate and the services rendered, • • • the agency must look not at the value which the regulated party may immediately or eventually derive from the regulatory scheme, but at the value of the direct and indirect services which the agency confers.

554 F. 2d at 1107. The D.C. circuit decisions require the Commission to calculate what would have been a lawful fee under the 1975 fee schedule (using the standards set forth in the *National Cable* and *EIA* decisions) and to refund any difference.

THE REFUND DECISIONS

18. In *National Association of Broadcasters* v. *FCC*, 554 F. 2d 1118 (D.C. Cir. 1976) and *Capital Cities Communications, Inc.* v. *FCC*, 554 F. 2d 1135 (D.C. Cir. 1976), the D.C. Circuit held that the same standards were applicable to the 1970 schedule of fees as well, thus potentially requiring some refund of every fee the Commission collected from August 1, 1970, until all collections were suspended on January 1, 1977—in excess of 11 million separate fees totaling more than $160 million.

THE COMMISSION'S RESPONSE

19. In January 1978, the Commission submitted to the court of appeals a memorandum in which it proposed to recalculate what would have been lawful fees in 1970 (or in some cases 1975) pursuant to the guidelines in the December 1976 decisions and to refund the amount of any fee that had been paid in excess of the recalculated amounts. In addition, the Commission stated that its analysis indicated that because of the size of the administrative problems in making these refunds, it felt that refunds could best be handled if the refund program were to be split into two phases. Phase I would deal with all fees that had been greater than $20. Because there are only approximately 300,000 separate fees in this category, the Commission believed it could handle the planning for these refunds largely with its present staff, and could actually make the refunds without large additional resources. Phase II of the program described to the court of appeals dealt with fees of $20 and less. Because of the extremely large numbers involved in this category (more than 10,000,000 separate fee collections), the Commission did not believe that it could handle these refunds with its present staff—either in planning or implementation. Therefore, it indicated to the Court that further study would be required for this category. The Commission advised the court of appeals that it believed at that time it would be able to begin accepting claims for refunds under phase I of the refund program by late summer of 1978. The beginning of phase II was projected to be no earlier than the spring of 1979. In response to these representations, the court of appeals deferred action on a pending motion to enforce the mandate of its earlier cases. Since that time, the court has been provided reports every 60 days of the progress the Commission is making.

B. THE FEE REFUND PROGRAM

20. This part of the notice describes in some detail the nature of the fee refund program as it has been developed to this stage—with respect to both the reconstruction of a lawful fee schedule for the 1970-76 period and the administrative procedures that have been devised for actually making the refunds. We believe that the Commission's staff has recomputed a fee schedule which complies with the requirements of the court's decisions and has developed a system which will provide efficient review of claims and payment of refunds. However, input from those who will be filing refund claims is very important to the Commission's efforts at this point and we urge all potential claimants to review this notice carefully, along with the additional data that will be placed in the public docket file, in light of their own particular situation in order to assist us in identifying and correcting problems in both the reconstructed schedule and the refund system as quickly as possible.

REIMBURSABLE SERVICES

21. In constructing the recalculated schedule, we have retained a structure in which categories of services for which fees are charged closely parallel those used in previous fee schedules. This was done for three reasons. First: These services, which typically involve processing applications and authorizations which are necessary for orderly management of the radio spectrum and effective oversight of ratemaking and investment decisions, are clearly identifiable and unambiguously confer special benefits from services rendered. Second: The courts have reviewed our statutory authority to collect fees for virtually all of these activities and have not explicitly criticized our classification of reimbursable services.[4] Finally: Timely resolution of this matter necessitates that services defined in our retrospective fee schedule closely resemble those activities for which fees were previously assessed.

22. It must be emphasized that this notice deals only with phase I of the refund program, i.e., only with fees that were in excess of $20 under previous fee schedules. Because of the resources that have had to be devoted to phase I planning, the study and analysis necessary for Commission decisions with respect to phase II, i.e., the remaining fees of $20 and less, have not been completed. We expect at this time to publish a document similar to this, but related exclusively to phase II, within approximately 90 days.

23. As we pointed out earlier, the court of appeals has established relatively explicit requirements for compliance with title V. The requirement is basically in three parts: (1) Assessment of a fee must be justified by a clear statement of the service which it is intended to reimburse. (2) The cost basis for each fee must be calculated based on an allocation of direct and indirect costs, exclusion of expenses incurred to serve an independent public interest, and an explanation of the criteria used to include or exclude particular items. (3) The fee must be set at a rate which reflects the identified costs of services performed and value conferred on the recipient of the service.

24. A more comprehensive and detailed explanation of the services is under preparation and will be included in the final report in the refund section of this proceeding. In addition the basic costing analyses undertaken by the bureaus and offices (which are available for inspection in the public reference room in this docket) provide an additional level of detail on the nature of the services for which fees are being charged. We believe that all of these things, taken together, should satisfy the first requirement established by the court.

25. We wish to point out, however, that changes in the regulatory environment since 1970 likely will warrant redefinition of certain regulatory activities for which we expect to be reimbursed in years ahead. We propose to carefully review these definitions and, if necessary, make appropriate changes to be incorporated in a new, prospective fee schedule which is discussed in the following section.

[4] For example, the court rejected arguments that the Commission was without authority to impose any fees for services related to tariff processing and equipment testing and approval. *EIA* v. *FCC*, *supra*, 554 F. 2d at 1115-16.

THE COST OF REIMBURSABLE SERVICES

26. Having defined those services which confer special benefits it was then necessary to explicitly account for all costs incurred by the Commission in processing license applications, construction permits, tariff filings, and other authorizations. As we noted earlier, the D.C. circuit has been fairly explicit in establishing requirements for adoption of fees, which naturally apply whether the Commission is developing a new fee schedule for future application or recalculating past costs for purposes of making a refund.

27. Pursuant to this directive, the staff has derived direct and indirect cost of providing services for which fees were collected between 1970 and 1976. Preliminary estimates of these costs are summarized in attachment A of this notice. It must be emphasized that these estimates are not final and are based on the staff's analysis of four major elements of the costs of providing services for which a fee was charged: (1) The basic personnel and related overhead costs associated with direct provision of the service at the branch level and below; (2) the costs associated with supervision and review at the division and bureau or office level; (3) adjudicatory costs; and (4) costs of the Commissioners' offices, the General Counsel's Office, and the Office of Plans and Policy. A description of how these costs were developed and why they were allocated to specific fee categories is set out below.

28. A number of considerations should be observed in reviewing this system of cost accounting.

(1) Cost estimates are based on 1970 expenses (or, in the case of unique fee categories first imposed in 1975, on 1975 expenses) since the purpose of this exercise is to recalculate what would have been a lawful fee in 1970 (or 1975, where applicable) based on the D.C. circuit's most recent guidelines. These costs will be used only to calculate refunds and will apply regardless of when a fee was actually paid, i.e., if the recalculated fee is $50 and the original fee was $500, the refund will be $450 regardless of whether the $500 was paid in 1970 or in 1976.

(2) Costs presented in attachment A reflect only those costs that have been assigned to this point. Although we believe that the final recalculated schedule will not vary substantially from what is presented in attachment A, there is the possibility that some additional expenses will be allocated (e.g., a portion of enforcement costs) which would raise the recalculated fees and thus reduce refunds.

(3) The costs set out in attachment A necessarily involve some estimates and some projections. This has been necessary because of a lack of sufficiently detailed data for the early years of the 1970-76 period and because the Commission does not maintain cost accounting data in specific enough detail to have been useful for this purpose. However, the cost data that we have developed is a reasonably precise estimate of the costs associated with these service categories during the relevant period. A review of the basic data upon which attachment A is based will, we believe, support that view. As the court pointed out, "Any computation such as [these] must necessarily be based on numerous approximations and can only be expected to be accurate within reasonable limits." *NCTA* v. *FCC*, *supra*, 554 F. 2d at 1105.

(4) The format of the recalculated schedule does not track precisely earlier schedules. Filing and grant fees, for example, have been combined. The short descriptive titles of the new fee categories, however, should provide adequate guidance at this time.

DESCRIPTION OF COSTING ANALYSIS

a. *Direct processing costs*

29. The following is a detailed discussion of how the costs were compiled. The Commission in recalculating a proper fee schedule must initially identify the services rendered for which it could legally charge a fee and, having done so, delineate those activities which went into providing those services. Based on that analysis, each bureau and office in the Commission undertook to analyze its activities at the branch level and below and to make their best estimate based on the professional judgment and experience of the personnel involved. The bureaus and offices calculated the average number of work hours that went into each element of professional and nonprofessional activity and that made up every service for which the Commission charges a fee. Although somewhat different approaches were taken in each bureau based on its particular needs, the focus was to reconstruct for the 1971 fiscal year the type and extent of work activity that went into providing each service.

30. The foregoing data prepared by each bureau were provided in work hours or fractions thereof. These figures were converted into compensation dollars using fiscal year 1971 tables (or 1975 where appropriate). The basic compensation cost was figured by using the general schedule grades of the professional and nonprofessional personnel involved, assuming a step level of 4, and multiplying the hourly rate for the grade and step by the number of hours indicated by the bureaus' and offices' analysis. (The hourly rates used for making these calculations came from salary tables Nos. 54 and 60 for the 1970 and 1975 fees, respectively.) The result of these computations established the basic personal costs of providing each service.

31. The next step was to establish the personnel benefit cost associated with this basic compensation cost. An average benefits cost for the Commission as a whole was first determined. This figure was obtained by calculating total Commission benefits paid, in the correct fiscal year, as a percentage of total Commission compensation paid for each year. This percentage rate was then applied to the basic compensation costs outlined above, resulting in a dollar amount of personnel benefits for each category of service. The total of this figure and the basic manpower compensation figure derived earlier provided the total direct manpower cost for each fee category.

32. Third: The appropriate amount for "other objects" (i.e., general overhead) costs was calculated for each category. The first step in this calculation was to list those other objects which could be related to the overall support of the Commission and therefore associated with all of the services for which fees were charged, e.g., rent, utilities, mail, etc. The starting point was the actual amount obligated for these various other objects during the 2 relevant years, fiscal years 1971 and 1975. These overhead costs were then broken down on a cost per commission work year basis. Those cost elements applicable only to the Commission's headquarters operation were spread over total Commission work years less the work years associated with the Commission's field offices. The costs were then assigned to each fee category on a pro rata basis related to total direct work hours required for application processing.

33. Total expenses incurred by the Commission in providing the elements of compensation, benefits and overhead can properly be defined as direct processing costs. In addition to figuring direct processing cost, it was also necessary to calculate indirect expenses. Indirect costs refer to expenses that can properly be attributed to a particular service but are relatively insensitive to the number of applications or authorizations processed in accordance with the provision of that service. These particular cost components are as follows.

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b. *Indirect costs*

34. *Executive director support costs.* These costs included the manpower and overhead costs associated with functions performed by the Office of the Executive Director for the Commission as a whole. These functions included financial management, personnel, procurement, administrative services, and records management. These costs were developed by starting with the personnel compensation expended by the functional divisions and adding the appropriate cost for benefits. To this was added an overhead cost based on work hours associated with these divisions for the fiscal years 1971 and 1975. The sum of all personnel and overhead costs were then broken down on a per Commission work hour basis and applied to each fee category.

35. *Bureau and division office costs.* These costs were developed in several steps. Each bureau and office was directed to provide an estimate of the percentage of total time spent by supervisory personnel at the bureau and division level along with their professional and nonprofessional staff in supervising the services for which fees were charged. Work hours for these personnel were converted to compensation to which were added amounts for personnel benefits, other objects and other indirect costs. The total office cost figure for each bureau and division was charged against each fee category in proportion to the Branch cost of processing each fee category and number of applications processed. Time devoted to nonfee areas such as rulemaking, enforcement, or policy-related matters was not included.

36. *Adjudicatory costs.* Costs for the adjudicatory process involve costs for the administrative law judges, Office of Opinions and Review, Review Board, and the Hearing Division of the Broadcast Bureau. Data were collected in this area from each of the respective offices in the form of percentage of time spent by both professional and nonprofessional personnel in adjudicatory activities that were related to providing services for which fees were charged. Work hours were costed for compensation benefits, other objects, and indirect costs. Excluded from this were work hours related to such nonfee activities as enforcement adjudications. The total adjudicatory cost required to support a bureau was divided by the total number of applications processed by the bureau for each applicable fiscal year to obtain an adjudicatory cost per application. This cost was allocated to every fee category within a bureau regardless of whether a particular application was subject to a hearing during this period. Our rationale underlying this broad spreading, rather than having only those applications which went to hearing pay the adjudicatory costs, is that these costs are more akin to a form of fixed, overhead costs which benefit all applicants regardless of whether or not they directly participated in a hearing. Moreover, allocating adjudicatory costs in this manner results in a relatively small addition to each fee which is not burdensome to any applicant. Although at this point we believe that this method of allocating adjudicatory costs is the simplest and fairest method, we are still considering two alternative methods. The first would involve simply having each applicant who was involved in a hearing bear the cost of the hearing. This could be accomplished by adding some type of surcharge to the grant fees of applicants who were involved in hearings. A second alternative is to continue to spread the adjudicatory costs evenly, but to spread them only to applicants in fee categories that were involved in hearings during this period. Thus, there would be no adjudicatory element for categories such as broadcast call sign changes since there were no adjudications involving call sign change applications during this period. Depending on our further evaluation in light of the comments, the allocation of adjudicatory costs in the final recalculated schedule may be based on any one of these three methods.

37. *Commissioners, general counsel, plans, and policy.* The final element in the cost allocation process is the apportionment of the costs of the Commissioners' offices, the Office of General Counsel, and the Office of Plans and Policy. These costs have been treated as a general overhead type of cost since it has been concluded that they each provide a general type of support service that is essential to providing the services with which we are concerned here. Costs of compensation benefits, other objects, and executive director support for these organizations were obtained and converted to a work hour rate which was multiplied by the hours and fractions of hours required to provide the services in each fee category.

38. As we have emphasized at several points, this process of allocating costs is not yet completed. Although we do not expect any substantial diviations from the figures in attachment A and in the tables below, some minor adjustments may be made based on our continued analysis and on the comments which parties submit. The only significant element of which we are aware at the present time that has not yet been taken into account is the adjustment of personnel costs to account for annual leave, sick leave, administrative types of leave for such things as jury duty and training. This will result in a uniform percentage increase in costs in all categories. Our estimate at this time is that it will increase the costs approximately 10 to 15 percent.

39. Keeping in mind the preliminary nature of the cost allocation process, it is our estimate, based on the figures presently contained in attachment A, and assuming a 100 percent claim rate, that the Commission will refund and retain the following amounts in each service area:

TABLE 1.—*Preliminary Estimates of FCC Phase I Fee Refund Amounts*

Service	Collections	Estimated refund	Estimated retained	Items
Chief engineer	$4,397,729	$2,850,316	$1,547,413	20,705
Common carrier	31,781,837	22,590,457	9,191,380	81,108
Safety and special	3,773,500	826,520	2,946,980	106,900
Broadcast	47,768,470	32,728,495	15,059,975	75,540
Cable TV	274,674	0	274,674	12,901
Total	88,016,210	58,995,788	29,020,422	299,154

It should be pointed out that the results in table 1 are distorted somewhat by three fees which involve large numbers of dollars and substantial refund percentages. When those three fees are not considered, refunds in each service area are anticipated to be as follows:

TABLE 2

Service	Collections	Estimated refund	Estimated retained	Items
Chief engineer	$4,397,729	$2,850,316	$1,547,413	20,705
Common carrier*	13,421,293	4,986,554	8,435,239	78,645
Safety and special	3,773,500	826,520	2,946,980	106,900
Broadcast**	12,590,363	478,303	12,112,060	68,247
Cable TV	274,674	0	274,674	12,901
Total	34,457,559	9,141,193	25,316,366	289,398
*Does not include:				
Voice cable/carrier equipment	$18,360,544	$17,604,403	$756,141	2,463
**Does not include:				
Assignment and transfer	$24,673,333	$23,123,361	$1,749,972	3,514
TV annual fee	10,324,774	9,126,831	1,197,943	3,779

40. The foregoing are brief summaries of the relatively straightforward, but nevertheless complicated analysis and calculations that have been performed in order to identify reimbursable costs that are set out as attachment A. Needless to say, the data supporting that schedule have become quite extensive. In order not to unduly burden this notice, we have not included any of that data here. However, as we discussed earlier, all of that information as well as more exhaustive descriptions of the various costing methodologies have been included in the public docket file and is available for public inspection.

EXCLUSION OF VALUE TO THE RECIPIENT IN THE FEE REFUND PROGRAM

41. As noted previously, the courts have directed the Commission to calculate fees on the basis of both costs and value. However, definitive guidelines concerning the application of value to our retrospective fee schedule have not been provided. Consequently, we are not certain how value should be defined, measured, or used in calculating fees. Given this situation coupled with our desire to complete phase I of our refund program on a timely basis, we have decided to recalculate fees paid between 1970 and 1976 exclusively on the basis of costs.

42. Moreover, the 1970 and 1975 fee categories were not designed in such a way as to provide the information necessary to allocate indirect costs based on value to the recipient along the lines suggested in part C. If, for example, value to the recipient were to be based on population on market coverage or the value of spectrum used by a licensee, that information is not presently available for many nonbroadcasting station licensees who paid fees between 1970 and 1976. Thus, there would have to be a major data collection effort for many classes of licensees (such as licensees in the safety and special radio services). This would have greatly increased the time necessary to begin the refund program. In order to handle that program as expeditiously as possible, we have therefore decided not to include any value to the recipient in calculating the refunds.

43. We wish to make it quite clear that our decision to exclude value is not intended to establish a precedent concerning future fee schedules. Indeed, we intend to develop a new schedule of fees that will incorporate the concept of value to the recipient. Proposed methods by which this could be done are discussed in the section C below. Section D also describes a method of basing value to the recipient on the use of the frequency spectrum, if the Commission were given new legislative authority.

ADMINISTRATION OF THE REFUND PROGRAM

44. Because of the scope of the administrative impact of the refund program with a potential, in phase I, of 300,000 transactions involving nearly $90,000,000, it has been necessary to develop a detailed, computer based system to operate this program. Design of the basic elements of that system is largely completed. We should emphasize again that the system described below will deal only with over-$20 fees. Because of the much larger numbers of potential applicants in phase II of the refund program dealing with under-$20 fees, a different approach may have to be taken.

45. The phase I refund system will be applicant generated, i.e., refunds will be made only in response to claims filed with the Commission. In 1975 the Commission refunded annual fees to cable television systems on its own initiative without requiring that any claim be filed. Our staff initally considered employing that same procedure in this instance, but quickly found that it would not be workable. The cable television situation involved a complete refund of one type of fee to approximately 4,000 cable television systems and involved only one record system. This program will involve varying percentages of refund of hundreds of different types of fees to hundreds of thousands of different types of claimants covering several different record systems. We found that it would be impossible to make refunds on any basis other than a claims system. Although the Commission's records are adequate to permit verification of claims, those records would not provide an adequate basis for us to initiate refund payments on our own.

46. Because certain specific information will be required, claims will have to be submitted on special forms designed by the Commission. These forms will be distributed widely. Included as attachment B, is a preliminary draft of the proposed claim form and its instructions. Each fee will have to be listed and described separately on the claim form. In the case of parties who will be filing for a large number of refunds, certain grouping of claims may be requested to expedite processing (e.g., by call sign, geographic location, equipment type). In the case of claims for fees that exceed a certain amount (e.g., $100), some supporting documentation will be required, such as copies of cancelled checks, licenses, authorizations, letter of approval or denial.

47. The instructions, as indicated, will provide necessary tables and guidance and the form is structured in such a manner that the applicant will calculate the refund to which he/she is entitled. This should involve in most cases a relatively simple process of matching the fee paid against the recalculated fee, the refund amounting to the difference between the two figures.

48. Refunds will be paid only to the licensee/grantee, who will be required to sign all claims, although claims may be prepared and submitted by agents/attorneys. In unusual cases such as deaths, bankruptcies, corporate mergers, etc., where there has been some change in legal relationships, payment of the refund may be made to an estate or a trustee in bankruptcy or some other party upon a proper showing.

49. The claimant will also be required to sign a waiver whereby he agrees to accept the amount claimed as full satisfaction of any claim for refund of the particular fees involved. The purpose of this provision is to allow the refund program to go ahead immediately where individuals are satisfied with the proposed refund. We anticipate that renewed litigation will result from our decisions here and without such a waiver provision the entire program would have to be held up pending the outcome of the litigation. The waiver will apply only to the fees for which an individual seeks refund; therefore, this procedure would not prohibit an individual from claiming refund of some fees (and signing the waiver) while challenging the refund in the case of other fees.

50. Upon receipt of the claim forms, the respective bureau or office in the Commission will review the claims against its records, verify the amount of the refund requested, and approve or deny the refund. Claims will be processed on a first-in first-out basis. No claims will be accepted by the FCC

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under this program after 12 months from the starting date of the program. However, claims may be submitted to the Comptroller General after that time.

51. At this time we expect to operate the central processing section of the fee refund program in Hyattsville, Md. All refund requests will be required to be sent to a special post office box located there. We also plan a special unit in this central processing section to which inquiries on the status of a pending refund claim can be directed, and the system is being designed so that a constant record will be maintained of the status of each claim.

52. Undoubtedly, disputes will arise over whether a fee was paid or to whom the refund should be paid or a host of similar questions. Initial efforts will be made to resolve any questions informally seeking more information from the claimant. If that proves unsuccessful and the claim is denied by the responsible bureau, there will be made available an administrative appeals process by which the claimant can seek review within the agency of the bureau or office denial of his refund claim. The specifics of that procedure have not been completed at this time. However, it is likely that such appeals will be heard by a designated board of Commission employees proceeding under relatively informal and expedited procedures. For the Commission's purposes, we expect the decision of this board to be final, although section 5(d) of the Communications Act, 47 U.S.C. 155(d), may require the Commission to entertain applications for review. Parties who are denied refunds by the Commission have additional avenues of redress by filing claims with the Comptroller General or by filing suit in the Court of Claims.

53. One final aspect of the refund program merits consideration at this time. Common carriers might be ordered to pass on to customers all refunds less expenses incurred in obtaining these revenues. As noted previously, rates charged to telephone subscribers are regulated so as to allow carrier firms to raise revenues sufficiently large to cover all legitimate business expenses including fees assessed by the Commission. Thus, refunds could be counted against the carriers' revenue requirements. That is, if a particular firm realizes $10 million in refunds, rates for selected services could be reduced so as to afford customers an equivalent amount of savings. Interested parties are invited to comment on these propositions and to suggest methods by which refunds could properly be passed through to subscribers.

54. It should be evident that this is an extremely complicated program. The Commission is organized to grant licenses—not refunds. Therefore, it has taken us somewhat longer than anticipated to establish the procedures necessary to implement refunds. The fact that over 300,000 potential refunds and nearby $90,000,000 are involved at this point has made it imperative that we adopt careful and proper procedures. The primary purpose of this notice is to request comments of the many parties who will be applying for these refunds on our progress to this point. Comments will, of course, be considered with respect to whether the recalculated schedule is consistent with the court's mandate. We are interested also in comments with regard to procedures for claiming and processing refunds. To this end we have instructed the Commission's staff to hold a public meeting in early October to discuss the refund system, to explain the reasons for its design in the present form, to answer any questions, and to receive and give consideration to recommendations for changes in the system. Public notice of this meeting will be made shortly.

C. Prospective Fee Schedules Using Existing Legislative Authority

55. Up to this point we have focused exclusively on our proposed refund program, including the design of a retrospective fee schedule to be used for that purpose. We wish to make it quite clear, however, that the collection of fees in the years ahead will not necessarily be calculated on the basis of that schedule. The Commission is obligated to periodically review procedures used to establish fees and make necessary adjustments where needed. As a result we propose to undertake immediaely a thorough evaluation of an appropriate current licensee fee program. This will include a complete, zero-based review of all services provided by the Commission on behalf of both private and public interests. Specifically, we propose to review carefully each of the agency's processes culminating in an explicit, exhaustive catagorization of services rendered, irrespective of the beneficiaries of those services. In doing so we further propose to systematically identify each and every component or input that is necessary to the provision of each service. A new system of cost accounting will then be introduced to ascertain expenses incurred in providing individual services, the total cost of which will sum to the Commission's budget in any given fiscal year.

56. Having allocated all Commission activities to specific services, we shall determine which of those services confer benefits on private interests and as such form the basis of the new fee schedule. Finally, fees will be calculated through the use of a two-part schedule reflecting both costs and value to the recipient. Specifically, the direct costs of providing a particular service will be divided equally among the recipients while indirect costs will be distributed in accordance with value conferred. Individual fees will simply reflect the sum of direct and indirect costs assessed to each recipient.

57. We are prompted to recalculate a fee schedule at this time, partly because reliance on the schedule used to calculate refunds would likely result in the recovery of only a small fraction of the Commission's current budget. We believe it is important to look toward a fee schedule which would allow full recovery of all reimbursable Commission costs. To the extent that fees do not recover the true costs of reimbursable services, differences must be made up through the appropriation of general tax receipts. Because many taxpayers do not directly or indirectly benefit from each and every service rendered by the Commission, we fail to see why they should be required to pay for those regulatory activities that principally benefit private interests. Failure to recover all reimbursable costs is tantamount to forcing taxpayers to subsidize those firms and their customers who are engaged in the production, sale, and consumption of telecommunications services. Such subsidies may not be legal, necessary, equitable, economically efficient or in the public interest.

58. We shall make every effort therefore, to insure that future fee schedules recover all costs associated with those services that principally benefit our licensees. To that end, we plan to design a completely new schedule of fees and to implement that schedule as soon as possible. We welcome comments and suggestions concerning this project, the details of which are outlined below.

1. Specification of Services

59. As noted previously, the Commission, under Title V of the IOAA, is empowered to assess fees for any "work, service, publication, report, document, benefit, privilege, authority, use, franchise, permit, certificate, registration, or similar thing of value or utility" conferred on any person. Moreover, the Commission is mandated to become, through the assessment of fees, "self-sustaining to the fullest extent possible." The courts, however, have held that the cost of those regulatory activities which principally serve an independent public interest cannot be assessed to licensees but rather must be financed out of general tax receipts.

60. In view of the courts' directives, the development of a new, prospective fee schedule must commence with a very explicit description of services provided by the Commission. Having done so a nexus must be established between services rendered and recipients of value. Those activities that principally benefit an independent public interest could then be identified and distinguished from other regulatory activities for which we can legally assess fees.

61. Through this approach, all Commission activities would be expressed in terms of a service provided to some beneficiary, whether private and/or public. The staff would then be in a position to allocate the Commission's total resources between all services rendered, and in doing so define reasonably reliable and precise cost bases from which to calculate individual fees. We believe this can best be accomplished by defining services in accordance with those objectives which the Congress intended to achieve through the passage of the Communications Act of 1934 and our subsequent interpretation of that legislative mandate as reflected in our rules. For example, the Commission is essentially faced with two basic responsibilities. First, we are charged with allocating and assigning radio frequencies so as to insure that orderly use is made of this valuable and scarce public resource. Second, we are empowered to act as a surrogate for market forces in assuring that the price, quantity, and quality of telecommunication services offered by natural monopolies correspond with competitive market solutions.

62. In exercising these responsibilities it is necessary to confer exclusive or shared rights to use the spectrum in designated areas. Similarly, consideration of economic efficiency often dictates that monopolies retain exclusive rights to offer selected telecommunications services in selected markets. It is through the grant of exclusive rights that the Commission confers substantial benefits on those commercial enterprises that we regulate. Accordingly, we propose to identify all regulatory activities (e.g., processing license applications) that are directly related to the provision of exclusive or shared market rights and to recover the full cost of those services through our fee schedule.

63. Additionally we, propose to identify other activities that are designed to insure that regulated firms continue to offer a wide array of high quality telecommunications services at reasonable rates. Undoubtedly, expenses incurred in support of some of these activities (e.g., services rendered by the Commission's Consumer Assistance Office and the Public Information Office) will not be recovered because they exclusively or principally benefit the general public. Still other activities, however, such as those carried out by the Field Operations Bureau are mutually beneficial to both private and public interest and under certain circumstances could properly be defined as reimbursable services. In EIA, for example, the Court pointed out that "the Commission is not prohibited from charging an applicant or grantee the full cost of services rendered to an applicant or grantee which also result in some incidental public benefits." Moreover where joint benefits are involved, the courts have suggested that private interests are the principal recipients of a service, if the provision of that service is necessary to insure that the licensee complies with the Communications Act of 1934. Because compliance with the law is a condition of doing business, it would follow that expenses incurred by the Commission in providing such assurances should logically be regarded as necessary inputs into a regulated firm's production process and as such should be recovered in full by the Commission.

64. Admittedly, the discussion above is designed solely to give interested parties a general idea of the approach that we plan to take in redefining reimbursable service classifications. Although we can say that future classifications will exhaustively account for all services rendered to both private and public interests, the program has not developed to the point of disignating specific service categories for which fees will be assessed in the years ahead. Nevertheless, it is obvious that the methology outlined here could easily result in substantial changes in the definition of those services that will be employed in Phase I of the refund program. In that regard we request comments on the following points.

a. Do services listed in attachment A afford a reasonable and complete representation of services rendered by the Commission to the benefit of private interests?

b. Could or should some of these service categories be simplified by combining separate classifications as a single reimbursable service? Would such combinations be consistent with the law and our proposed methodology for redefining service categories? Would the simplification of service definitions and a subsequent fee schedule reduce the administrative burden of complying with our fee requirements?

c. Should certain regulatory activities not reflected in that list of reimbursable services contained in Attachment A be included in prospective fee schedule? If so what other activities should be included and why? Similarly, should any activities that are presently defined as reimbursable services be excluded from future fee schedules and if so for what reason?

d. Are we correct in suggesting that the cost of services that confer benefits to both private and public interest are fully recoverable, if provision of those services are necessary to insure that our licensees comply with the law? If this interpretation is correct, what standards should be used in determining whether particular regulatory activities are necessary to insure compliance? What if any additional activities would be defined as reimbursable services if such standards were used in designing a new fee schedule?

2. Specification of the Cost of Reimbursable Services

65. As noted previously, the courts have insisted that a legally defensible schedule of fees must include a detailed description of all direct and indirect costs incurred in providing reimbursable services, as well as a specific explanation of why those costs are attributable to that service. Moreover, the fee schedule should be structured in such a way so as to allow the court to review various expense elements comprising the cost basis of a particular service and to determine independently whether each of those elements can reasonably be attributed to that service.

66. Having expressed the Commission's regulatory functions through an exhaustive array of service definitions, we believe the courts' directives can be satisfied by identifying all resources that are directly or indirectly devoted to the provision of each of those services by all organizational units within the Commission. To this point we have focused our attention on development of a retrospective fee schedule to be used as the basis of our proposed refund program. We believe this schedule accurately reflects expenses associated with providing the reimbursable services as we have defined them for the period covered by the refund program. However, we wish to make it clear, that as a future schedule of fees is developed we will not necessarily formulate it in the same manner as employed for the refund schedule. The Commission is obligated to periodically review procedures used to establish fees and make adjustments where needed. Therefore, we propose to thoroughly evaluate all services rendered by the Commission and their costs. We will develop a list of each regulatory activity, as defined by our legislative mandate and our rules, that confers benefits on special interests and/or the general public. Once this list is established we plan, through cost accounting techniques, to develop a schedule of fees which reflects as accurately as is possible the

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expenses incurred by the Commission in rendering reimbursable services.

67. This approach we believe is superior to that used in phase I of our refund program in that it will provide a complete picture of how all of the agency's resources are being allocated between individual services. As such, a complete system of cost accounting should enable us to estimate the true cost of reimbursable services far more accurately than we have been able to achieve in previous fee schedules.

3. VALUE TO THE RECIPIENT

68. Having defined the cost bases of all reimbursable services, the Commission must then establish a schedule of fees so as to fully recover those costs. The Commission's statutory authority pursuant to title V of the independent Offices Appropriation Act of 1952, as well as court decisions interpreting that authority, includes, along with costs, value to the recipient as a factor to be considered in setting the fee. Admittedly, incorporating a concept of value into a fee schedule presents difficult problems. Title V and subsequent court constructions of that legislation do not contain explicit explanations of what value to the recipient means or how it should be treated in assessing license fees. Some have suggested, for example, that value is relevant only in determining which Commission services confer specific benefits on our licensees. Under this interpretation, the concept of value would not play a role in figuring the size or amount of the fees; but would only be used to determine those regulatory activities for which the Commission can legally recover expenses incurred on behalf of our licensees. Calculations of the actual charges would be done exclusively on the basis of costs.

69. This may not be the only interpretation of our enabling legislation. As noted previously, the D.C. circuit has stated that the first step in establishing a fee schedule involves justifying "the assessment of a fee by a clear statement of the particular service or benefit which it is expected to reimburse." We must then calculate the direct and indirect cost of that service. Finally, the court of appeals has said that "the Commission must set a fee calculated to return this cost basis at a rate which reasonably reflects the cost of the services performed and the value conferred upon the payor." This prescription might mean that value should be used for more than just determining whether the Commission can collect fees for services rendered. Had the D.C. circuit intended to confine the treatment of value in this manner it surely would have so ordered and most definitely would not have directed the Commission to calculate fees on the basis of both costs and value.

70. Still others have suggested that recoverable costs and value conferred are synonomous. Once again, the Supreme Court and the D.C. circuit distinguished cost and value, and have insisted that fees be calculated so as to reflect both concepts. In our view, the cost and value of the Commission's licensing processes are distinct concepts. The value of processing a television license application to a broadcaster bears little relationship to the Commission's cost of providing that service just as the value of insulin to a diabetic bears little relationship to the cost of manufacturing it.

71. There is an additional reason why we believe strongly that fees should take into account value to the recipient as well as the cost of the services provided by the Commission. Hypothetically, if fees were based exclusively on the Commission's cost of regulating various classes of licensees, such fees could potentially have a very adverse impact on regulation. Cost based fees logically imply that the more detailed and complex Commission regulations are, the more paperwork which the Commission requires from its licensees, and then processes, and the more inefficient the Commission is at processing paper, the higher the fees charged licensees. In the event that the appropriations process does not provide sufficient insulation, such a system might provide the wrong incentives if one wishes to minimize the regulatory burden on licensees and to operate the Commission as efficiently as possible. We are not saying that this has ever happened nor that it ever would happen at the Commission. We are only suggesting that this is a theoretical possibility in any regulatory agency which uses a system of fees based only on cost of service.

72. We suggest, therefore, that a new fee schedule should reflect both costs and value conferred. To that end we are proposing to use a two-part schedule to calculate future fees. Part One would reflect the average direct cost of processing various license applications. Part Two would entail an assessment of indirect costs based on value conferred. The fee would then be determined by summing both parts.

73. To illustrate, assume the Commission renders a reimbursable service to two recipients, A and B, at a total cost of $100. Further assume that 70 percent, or $70, of that amount is incurred as direct, processing costs with the remainder (i.e., $30) reflecting indirect costs such as those associated with supervisory, adjudicatory or policy making activities. Under a two-part fee schedule, each licensee would bear an equal share of the Commission's direct, processing costs (i.e., $35-$70 divided by 2) because these costs can be assigned directly to individual licensees. Each recipient also would be assessed some proportion of the total indirect cost of providing that service, depending on the relative amount of value conferred. Again, indirect costs would be distributed among licensees on the basis of value (rather than equally) because those expenses do not vary with the number of applications processed. Consequently, if the service in question was twice as valuable to recipient A as to recipient B, then recipient A would be assessed two-thirds of the indirect costs, while recipient B would pay the remaining one-third. Summing both parts, recipient A would be charged $55 (i.e., $35 in direct costs and $20 in indirect costs) while recipient B would be assessed $45 (i.e., $35 and $10 in direct and indirect costs, respectively). Both fees, of course, would sum to $100 or the total cost of providing the service. As such value would not be used to collect fees in excess of total recoverable costs but rather would only be used to determine how indirect costs should be distributed among recipients.

74. We believe this approach holds great promise in complying with our legislative mandate regarding the calculation of appropriate fees. First, it explicitly incorporates both costs and value conferred into the calculation of fees and as such should comply with the court's prescription. Second, the total amount of revenue collected under this approach will not exceed the total cost of providing the service. Additionally, fees assessed under a two-part schedule need not depend on the licensees ability to pay but rather could and should reflect the size of and possibly the nature of the licensees potential market which he/she is afforded access to by virtue of the Commission's regulatory activities. Fees calculated through this procedure therefore would not constitute a tax. Third, since fees paid by individual recipients would partially reflect both cost and value conferred, assessments could be more equitable and economically efficient than would be the case if fees were calculated exclusively on the basis of costs.

75. The latter consideration, in our view, merits particular consideration. Because the Commission has never charged licensees directly for the use of the radio spectrum, demand for certain frequencies exceeds supply. The Commission, therefore, must allocate and assign frequencies in order to protect the integrity of services from intolerable levels of interference. In carrying out this function, exclusive or shared rights to operate broadcast and nonbroadcast radio facilities (including common carriers and the safety

and special radio services) in a given area are conferred on the licensee. Quite obviously, benefits bestowed on recipients of licensing services rendered differ depending on the type of license processed, the nature of frequencies assigned, and population in the area covered by the applicant's signal. Consequently, if the value to the recipient is not taken into account in calculating fees, licensees assigned to small areas with few people (such as rural television markets) will necessarily bear an unreasonably large proportion of the cost of regulation, even though the spectrum they use is relatively low in value. Fees based exclusively on cost therefore could adversely effect the development of new telecommunications services in sparsely populated areas of the country.

76. Similarly, many services rendered by the Commission on behalf of domestic and international common carriers are made necessary by deficiencies in the market place and a subsequent desire on the part of Congress and the Commission to insure that the results of business decisions undertaken by regulated carriers are analagous to decisions that would be made if these lines of commerce were characterized by a high degree of competition and were unregulated. Subscriber rates of regulated carriers are fixed so as to assure that revenues earned by regulated carriers are just sufficiently large to cover all legitimate business expenses including a reasonable rate of return on invested capital. Since fees are legitimate expenses, they are reflected in allowable rates charged to the carriers subscribers. Thus, rather than dividing indirect costs of reimbursable services equally among all regulated carriers, those costs should be allocated in proportion to the number of installations served. Otherwise, a disproportionately large share of the Commission's budget will be borne by customers of relatively small firms that would, in effect, result in cross subsidies benefiting subscribers of large companies. Fees allocating both direct and indirect costs equally among common carriers also could increase revenue requirements faced by relatively small firms desiring to enter those markets that the Commission and the courts have deemed suitable to competition. As a result, those charges could give rise to additional barriers to entry and accordingly run counter to our policy of promoting competition.

77. Finally, we believe that this approach avoids establishing a tax that the Commission has no authority to assess in lieu of a true fee. The United States Supreme Court has stated that a fee "is incident to a voluntary act," which "bestows a benefit on the applicant, not shared by other members of society." 415 U.S. at 340-41. With few exceptions, no one is forced to submit applications to the Commission but those who do, more often than not, benefit from services rendered, albeit in differing degrees. On the basis of this reasoning, and the Supreme Court's definition of regulatory fees, we believe that our proposed two-part fee schedule cannot reasonably be construed as a tax, particularly since assessments will not depend on the level of revenues or profits earned by our licensees. Those who disagree with this particular assessment, however, are welcome to make their views known.

4. MEASURING VALUE TO THE RECIPIENT

78. Successful application of our proposed two-part fee schedule quite obviously requires that the concept of value conferred be carefully defined, accurately measured, and distinguishable from value derived. As suggested above, we believe this can be reasonably accomplished by defining value conferred in accordance with size and possibly the nature of the market covered by the radio licensee's signal. As an example, value conferred on commercial broadcasters would be measured by the size of the audience which the station is technically capable of reaching by virtue of its location, transmission power, authorized operation time, frequency assignment and other relevant technical considerations. Again, this definition is premised on the notion that the Commission confers exclusive rights to use radio and television channels with particular markets.

79. Populations residing within the grade A or B contour or the station's net weekly circulation are illustrative of possible measures of potential market size. Similarly, for licensees in the safety and special radio services, value conferred might be measured by the population contained in the area covered by the licensee's signal or the area protected from interference. Where many licensees share a particular channel equally, then it would be assumed that value conferred is also shared equally and should be divided equally among them. Whatever definition were chosen, the indirect costs attributable to, say, annual license fees for television stations would be distributed in accordance with the number of households residing within the range of the station's signal. We invite comments on the legality of this approach.

80. We are also especially interested in comments concerning the appropriateness of market definitions mentioned above as reasonable measures of value conferred and whether their application to a two-part fee schedule would result in an equitable and efficient distribution of the Commission's reimbursable costs. Suggestions Concerning proper measures of value conferred through the provision of other services are also welcome. Those interested in submitting recommendations, however, are requested to keep in mind that measures of value should reflect definitions of value that can be readily quantified, such as the population covered by a transmitting signal, or the number of subscribers served by a common carrier.

D. FUTURE SPECTRUM FEES NOT CONSTRAINED BY THE COMMISSION'S BUDGET

81. The discussion in part C of this notice of inquiry suggested the use of a two part fee: one part based on direct cost of Commission services, and a second part based on using some measure of value to the recipient to allocate indirect Commission costs among recipients. That discussion was grounded on the assumption that under existing legislation the Commission is only authorized to collect fees which at most equal its operating budget. However, because the Commission allocates and then assigns the frequency spectrum to all non-Federal Government users, it controls a resource whose value undoubtedly far exceeds the Commission's budget. Therefore, this part of the notice of inquiry raises issues concerning charges for use of the spectrum, if the Commission were to seek and obtain legislative authority to obtain the "fair market value" for the spectrum with the result that spectrum fees would not be constrained by the Commission's budget.

COSTS OF COMMISSION SERVICES

82. An important issue is to what extent fees to licensees should be based on both the Commission's cost of providing service and the value of the spectrum used by licensees. One possibility would be to charge users only for the value of the spectrum used. In that case, nonusers of the spectrum (such as some CATV systems, possibly some telephone common carriers, and some manufacturers of equipment who request type approval) would pay no fee at all. Also, common carriers would be charged only for spectrum use, and not for any other activities. However, because the Commission does provide a definite service through certification, type acceptance and type approval of manufactured equipment, and also provides service to common carriers, whether or not they use spectrum, it seems reasonable to assume that all recipients of any Commission service should pay the direct costs of providing that service.

83. A second alternative would be to base fees solely upon the costs of operating the bureaus which regulate par-

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ticular classes of users, and to tie fees closely to those costs. Thus, common carriers, broadcasting stations, cable TV systems, and safety and special radio services would pay fees based on the costs of regulating them. In that case, the fees charged each licensee or class of licensees would reflect the Commission's cost of regulating them. Fees would not have any close relationship to the value of the spectrum used. Unfortunately, as mentioned earlier, such an alternative could at least theoretically have very adverse effects, because it implies that the more complex are the regulations covering any industry, the more paper which licensees are required to file and which Commission bureaus must then process, and the less efficient is the Bureau at processing paper, the higher would be the fees to the licensees. In the event that the appropriations process does not provide sufficient insulation such a system might provide the wrong incentives if one wishes to minimize the regulatory burden on licensees and to operate the Commission as efficiently as possible. Moreover, it ignores the importance of the value of the spectrum which the Commission makes available to its licensees.

84. The third possibility is to base fees primarily on spectrum use, but also to include the directly allocable costs of licensing specific groups of users and possibly enforcing Commission regulations. Thus, each class of users would pay the costs of issuing its license and the cost of enforcing its rules. For commercial broadcasting stations and common carriers, we would expect that licensing and enforcement costs would be a very small fraction of the spectrum use fee. On the other hand, for CB users, for example, the spectrum fee and the cost of issuing the license would be minimal, whereas the enforcement costs might be a much larger fraction of the total fee. Manufacturers requesting type approval of equipment would only pay the cost of testing their equipment, but no spectrum fee, unless portions of the spectrum were reserved for use of that equipment. This approach raises a number of general questions:

(a) Should licensees be charged a fee both for the use of the spectrum and for the direct cost of processing their license?

(b) If licensees should pay both for spectrum use and for certain limited Commission costs, what Commission costs should be included and excluded?

(c) Should any classes of licencees be excluded from paying any Commission costs, or pay fees which are less than Commission costs?

85. Other questions concerning allocating the costs of Commission services were discussed in detail in parts B and C of this notice of inquiry. Many of the same questions concerning the definition and measurement of cost of service would be relevant under a new fee schedule which included both a spectrum usage charge and a cost of service charge. Thus, the remainder of this section of the notice of inquiry concerns issues related to charging directly for use of the spectrum.

SPECTRUM CHARGES

86. The radio frequency spectrum is a scarce and valuable natural resource. Users of the spectrum must obtain a license from the Commission to operate, just as individuals and companies who wish to drill for oil and gas, mine coal, or graze cattle or sheep, must obtain permission from a Federal agency before they can gain access to Federal lands.[6] Competitive bidding has been used in the leasing of offshore oil and gas rights in order to obtain a "fair market value" for the use of that scarce resource.[6] It is obvious that spectrum is just as necessary to radio communications as crude oil is to gasoline production and land is to coal mining, cattle grazing, and timber growing.[7] It is also clear that under the existing spectrum allocation plan and existing assignments the spectrum is particularly valuable in some locations and in some frequency bands as indicated by the fact that many existing users would presumably be willing to pay a substantial fee to obtain additional spectrum. Moreover, many nonusers would be willing to pay a fee to gain access to certain parts of the spectrum in particular locations (especially large metropolitan centers).

87. Nevertheless, at the current time there is no direct charge for use of the spectrum. It has been argued that in the absence of any price being attached to the use of the spectrum, users have little or no reason to use it efficiently or to consider what others must give up when they use a particular portion of the spectrum. The result is that some of the spectrum is left unused or is used for purposes for which it has little value while some potential users for which the spectrum has high value may get no spectrum at all or at least get less spectrum than they would be willing to pay for. Moreover, if users had to pay the value of the spectrum, they would be more likely to consider substitutes for spectrum such as coaxial cable.

88. Users would also have an incentive to conserve spectrum through the use of lower power transmitters, directional antennas, shorter antenna towers, narrower bandwidths, time sharing, etc. If spectrum charges were related to spectrum use, the amount of fees collected and the use of the spectrum by licensees would give some indication of whether or not additional frequency allocations should be made to a particular service. Therefore, there might be great economic benefits to society if users did have to pay for the use of the resource. In addition, there would be a better indication of what is given up when spectrum is allocated or reserved for a particular class of user.[8]

[6] It should be noted that oil, gas, and coal are usually said to be depletable or nonrenewable resources, whereas grazing land, timber, fish, and the radio frequency spectrum are usually said to be renewable resources. It is possible that the issues involved in establishing prices for renewable and nonrenewable resources may be somewhat different. Nevertheless, the agencies that make available for public use those tangible resources must deal with many of the same kinds of issues which are raised before the Commission in determining frequency allocations and assignments. For example, mineral leasing involves at least the following goals:
(1) Promoting efficient use of the resource through time,
(2) Promoting competition,
(3) Promoting innovation and technological change,
(4) Capturing economic rents, and
(5) Changing the initial distribution of resources.
See, for example: James Olson, "History of Public Land Mineral Policy," Charles Stone, "Economic Theory and Alternative Leasing Policies;" Philip Jaynes and David Garvin, "Policy Goals;" and Ernest Pantos, "Leasing Methods;" chapters 2, 3, 4, 5 in U.S. Federal Trade Commission, Report to the Federal Trade Commission on Federal Energy Land Policy: Efficiency, Revenue and Competition, October 1975, pp. 19-302; reprinted by the U.S. Senate, Committee on Interior and Insular Affairs, pursuant to S. Res. 45, The National Fuels and Energy Policy Study, Serial No. 94-28, 94th Congress, 2d sess., 1976.

[6] The Outer Continental Shelf Lands Act of 1953, 43 U.S.C. § 1331, et seq., states that:
"• • • the Secretary is authorized to grant to the highest responsible qualified bidder under regulations promulgated in advance, oil and gal leases on submerged lands in the Outer Continental Shelf • • •."

[7] See, for example, Harvey J. Levin, The Invisible Resource: Use and Regulation of the Radio Spectrum (Baltimore: The John Hopkins University Press, 1971); Harvey J. Levin, "The Radio Spectrum Resources," Journal of Law and Economics, 11 (October 1968), pp. 433-501; and Ronald H. Coase, "The Federal Communications Commission," Journal of Law and Economics, 2 (October 1959), pp. 21-40.

[8] See footnote 7, supra. See also John O. Robinson, "Spectrum Allocation and Economic Factors in FCC Spectrum Management," IEEE Transactions on Electromagnetic Compatibility, EMC-19 (August 1977), pp. 182-190; Douglas W. Webbink, "The Value of the Frequency Spectrum Allocated to Specific Uses," IEEE Transactions on Electromagnetic Compatibility, EMC-19 (August 1977), pp. 343-351; John O. Robinson, "An Investigation of Economic Factors in FCC Spectrum Management," Federal Communications Commission, Office of the

Footnotes continued on next page

89. According to Bureau of the Budget Circular No. A-25, dated September 23, 1959, "A reasonable charge, as described below, should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit." That Circular also states that:

> Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.

The Federal Land Policy and Management Act of 1976 also states that "• • • the United States (should) receive fair market value of the use of public lands and their resources unless otherwise provided for by statute; • • •"

43 U.S.C. 1701(a)(9).[9]

90. In the past the radio frequency spectrum has not been treated as a natural resource to be rented or leased. However, consideration should be given to treating it that way in the future. If the Commission were given legislative authority to obtain "fair market value" for spectrum use, it could collect such fair market value through the use of spectrum fees, auctions or some combination of the two. Spectrum fees could be applied to all users of the spectrum or certain classes of users could be exempted from all spectrum fees or be charged reduced fees, just as users of national parks, wilderness areas, and national forest may pay a charge which is less than the value of the services received, or may pay no service charge at all. Similarly, auctions could be used for all future transmitter applications, or only for selected classes of users in selected bands, especially when there were several mutually exclusive applicants for the same channel. In every case, the purpose would be to charge a price for spectrum use which accurately reflected the value of the spectrum to the user.

91. One result of such charges (whether obtained through direct spectrum fees or through auctions) is that the revenue collected would, in all probability, greatly exceed the current and future operating budget of the Commission. However, this is not an unreasonable result. In recent years the revenues from bonus bids, rentals, and royalties on the lease and production of offshore oil and gas have far exceeded the budget of the Bureau of Land Management and the Geological Survey (both of which agencies deal with many mineral resources besides oil and gas) and in some years have exceeded the entire budget of the Department of the Interior.

92. In the next part of this section we discuss a number of possible examples of how "fair market value" might be measured, and how such fair market value might be collected through the use of spectrum fees or auctions. Thus, a major set of questions to which we seek comments in this section of the notice of inquiry are these:

(a) On what basis should the fair market value of the spectrum be determined?

(b) Would the use of spectrum fees or auctions which are related to spectrum use lead to more efficient use of the spectrum?

(c) Would the use of spectrum fees or auctions which are related to spectrum use allow some nonusers to gain access to the spectrum and/or allow some users to obtain more spectrum? If so, which groups?

(d) Would the use of spectrum fees or auctions which are related to spectrum use force some groups of users to decrease or even completely stop their use of the spectrum? If so, which groups?

(e) Would the use of spectrum fees or auctions have any important positive or negative effects on the quality and quantity of services provided by radio and television broadcasting stations, common carriers, or other users of the spectrum?

(f) Would the use of spectrum fees or auctions which are related to spectrum use create incentives for recipients to use spectrum saving technologies such as narrow band transmitters, lower power transmitters, directional antennas, and shorter antenna towers?

(g) To what extent do Commission technical standards on radio and television signals, and the table of television assignments diminish the usefulness of spectrum fees or auctions?

(h) What is the impact of international treaty obligations on the possibility of using spectrum auctions or fees?

SOME EXAMPLES OF POSSIBLE FORMULAS WHICH RELATE FEES TO SPECTRUM USE

93. If the Commission were to charge users for the right to use the spectrum, one possibility would be to devise a simple formula which related spectrum fees to the amount of spectrum used by any individual user or group of users. If fees were related to the amount of spectrum used, several principles seem clear. The more spectrum anyone uses, the higher should be the fee charged. Similarly, the more valuable is any particular segment of the spectrum based on alternative uses for it, the higher should be the fee.

94. In the past there have been a number of suggestions made for relating spectrum fees to the amount of spectrum used. For example, one suggestion which has been made is that fees might be a function of the product of bandwidth multiplied by the area (or volume) covered by the transmitted signal multiplied by the fraction of the day during which the signal was broadcast multiplied by a power density factor.

Such a relationship might be presented by the following formula:[10]

$F = a(B)(A)(T)(X)$.

Where:

F = the fee in dollars.
a = a constant.
B = bandwidth in megahertz (taking into account any adjacent channel interference).

Footnotes continued from last page

Chief Engineer, Spectrum Allocations Staff, Report No. SAS 76-01, August 1976; John O. Robinson, "Introduction of Economic Factors into Spectrum Management," MA Thesis, University of Pennsylvania, Annenberg School of Communications, 1974; Bruce M. Owen, "Spectrum Allocation: A Survey of Alternative Methodologies," Office of Telecommunications Policy, Staff Research Paper OTP-SP-4, April 1972; Harvey J. Levin, "Spectrum Allocation Without Market," American Economic Review Papers and Proceedings, 60 (May 1970); pp. 209-218; Nichols Johnson, "Towers of Babel: The Chaos in Radio Spectrum Utilization and Allocation," Law and Contemporary Problems (Summer 1969), 503-534; William H. Meckling, "Management of the Frequency Spectrum," Washington University Law Quarterly (Winter 1968), pp. 26-34; William K. Jones, "Use and Regulation of the Radio Spectrum: Report on a Conference, "Washington University Law Quarterly (Winter 1968), pp. 71-115; "The Crisis in Electromagnetic Frequency Spectrum Management: Abatement Through Market Distribution," Iowa Law Review 53 (October 1967), pp. 437-479; Harvey J. Levin, "New Technology and Old Regulation in Radio Spectrum Management," American Economic Review Papers and Proceedings, 56 (May 1966), pp. 339-349; Harvey J. Levin, "Regulatory Efficiency, Reform and the FCC," Georgetown Law Journal (1961), pp. 1-45.

[9] In August 1978, the House and Senate each passed separate versions of bills which would increase the grazing fees on public lands. Both H.R. 10587 and S. 2475 explicitly mention obtaining "fair market value."

[10] Douglas W. Webbink, "The Value of the Spectrum Allocated to Specific Uses," IEEE Transactions on Electromagnetic Compatability, EMC-19 (August 1977), pp. 346-348; Joint Technical Advisory Committee of the Institute of Electrical and Electronics Engineers, Spectrum Engineering—The Key to Progress (New York: IEEE, 1968), pp. S8-84 through S8-85; R. P. Gifford, "EMC Revisited—1966," IEEE Transactions on Electromagnetic Compatibility, vol. EMC-8 (September 1966), pp. 123-129; Federal Communications Commission, Report of the Advisory Committee for the Land Mobile Radio Services (Washington, D.C.: Government Printing Office, 1967), pp. 409-415.

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A=area covered by the transmitted signal or excluded from receiving another signal on those frequencies.
T=fraction of the day that the licensee had exclusive use of those frequencies.
X=power density factor (which measures the effective energy per cycle of the given system relative to the energy per cycle of some "standard" system).

95. Another suggestion which has been made would be to relate fees to the information carrying capacity of the channels available to any particular licensee. Such a system would take into account the number of bits of information transmitted, and thus would be a function of both the bandwidth used and the mode of transmission.[11] This could be expressed as:

$F=c(I)$.

Where:

F=the fee in dollars.
c=a constant.
I=capacity in bits of information in a particular channel.

96. A third alternative which has been suggested would be to make spectrum fees a function of the product of bandwidth multiplied by the population in the area covered by the transmitted signal multiplied by the fraction of the day during which the signal was transmitted. Such a relationship could be represented by the following formula:[12]

$F=d(B)(P)(T)$.

Where:

F=the fee in dollars.
d=a constant.
B=bandwidth in megahertz (taking into account any adjacent channel interference).
P=population in millions receiving the given signal or excluded from receiving another signal on the same frequency.
T=Fraction of a day that the licensee had exclusive use of the frequency.

97. The first formula discussed above implies that 1 kilohertz of spectrum used 24 hours per day has the same value whether if is in the high frequency of the very high frequency band. Similarly, the third formula implies that for the same population (such as every 100,000,000 people) covered 24 hours a day, 1 kilohertz of bandwidth is equally valuable, whether it is at 1.5 MHz, 15 MHz, 150 MHz, or 1,500 MHz. Thus, both formulas imply that every kilohertz has the same value as every other kilohertz.

98. As a more realistic alternative, the spectrum might be broken down into a number of separate segments or zones using the assumption that a kilohertz has equal value within each zone but not necessarily between zones.[13] One reason why a kilohertz may have different values in different zones is that propagation characteristics vary widely across different frequencies. As an example, table 3 below divides the radio frequency spectrum into 12 separate zones. This table was developed using the assumption that propagation characteristics are relatively similar within each separate zone, but are relatively different between zones.

TABLE 3—*An Example of How the Spectrum Might be Zoned*

Frequency zone (in MHz)	Wave length (in meters)
0 to 0.5	600.00.
.5 to 5	600.00 to 60.00.
5 to 20	60.00 to 15.00.
20 to 50	15.00 to 6.00.
50 to 100	6.00 to 3.00.
100 to 300	3.00 to 1.00
300 to 600	1.00 to .50.
600 to 1,000	.50 to .30.
1,000 to 3,000	.30 to .10
3,000 to 6,000	.10 to .05
6,000 to 10,000	.05 to .03.
10,000 to 30,000	.03 to .01.

99. Thus the formulas suggested above might be sparately applied to each band or zone, with the constant term "a" or "c" or "d" having a different value in each zone.

100. The use of these 12 bands or zones, with different values per kilohertz of spectrum would be analoguous to the zoning of land. In any city, land may have one value per acre if it is zoned for single family homes, a second value per acre if it is zoned for apartment houses, a third value if it is zoned for retail use, and a fourth value if it is zoned for heavy manufacturing.

101. The proposed 12 zones based upon differences in propagation characterics would attempt to take into account one reason why some frequenceis are more valuable than others. It should be noted however, that these zones do not explicitly take in to account any of the other reasons why some bands may be more valuable than others. For example, allocation plans and assignments have limited the number of transmitters (especially TV and radio broadcasting station transmitters) in certain large cities, and have made certain VHF television and AM broadcasting channels especially valuable. Thus, it has been argued that the profits earned by some broadcasting stations is one indication of the value of the spectrum.[14] Presumably, therefore, one might wish to relate spectrum fees to the profits earned by certain classes of spectrum users.

102. It is also possible that spectrum fees should be related in some continuous way to the frequency being used, rather than having discrete changes in the level of fees from one zone to the next. For example, it might be more accurate to asume that:

$F=e(1/M)(B)(P)(T)$.

Where:

F=fee in dollars.
e=a constant.
M=frequency in megahertz.
B=bandwidth in megahertz.
P=population in millions receiving the given signal or excluded from receiving another signal on the same frequency.
T=fraction of the day that the licensee had exclusive use of the frequency.

103. In that case, the fee per kilohertz would vary inversely with frequency, so the highter the frequency the lower would be the fee. One can also imagine more complicated formulas which include more variables and where the relationship is not a simple linear function of the product of each of the independent variables.

104. Several of the proposed formulas reflect the fact that the use of 6 MHz of VHF television spectrum to cover 10,000 square miles in the New York City area is far more valuable than the use of 6 MHz of VHF television spectrum which covers 10,000 square miles in the Salt Lake City area. One reason why the spectrum may be more valuable in New York City is that it covers an area with a higher population density and thus a higher total population (as well as a higher per capita income). Hence, the demand for spectrum for alternatives uses is much greater in New York City and the fee charged for its use would be much greater. (In fact, it is conceivable that a spectrum fee should depend upon the per capita income in a particular location, as well as the total population covered by the signal).

105. It should be noted that most of these formulas imply that 1 kilohertz of UHF spectrum in a particular city which is used to cover the same population has the same value, whether it is used by a television station, a business radio system, or a police radio system. It should also be noted that with most of these particular formulas, spectrum used or reserved only 12 hours per day would pay a fee of one-half the amount of spectrum used or reserved 24 hours per day. Those formulas do not distinguish between whether the 12 hours are from 8 a.m. to 8 p.m., or from 8 p.m. to 8 a.m. Simlarly, the formulas imply that if 10 land mobile systems share the same 30 KHz channel in a particular city, they would each pay 1/10 the total spectrum fee for that channel.

106. Most of the formulas also imply that if four VHF television stations all operate in the same city and each cover the same population with the same signal, each would pay the same or nearly the same fee, regardless of their revenue, net income and whether or not they were affiliated with a national network.

107. It should be noted that the use of any kind of spectrum fee based on area or population covered by a signal or excluded from receiving some other signal assumes it is possible to determine the area of coverage or the area of exclusion of different signals on the same frequency, even though radio signals do not actually cease at discrete boundaries. While any such determination of the area of service must be arbitrary, the Commission's rules already do so for certain services when they determine the area or radius within which a particular signal is protected. Moreover, there have been many suggestions for methods of defining the appropriate geographic coverage of any signal.[15]

108. Finally it should be noted that the value of the constant term in any of the proposed formulas could be adjusted downward if Congress required revenues to be constrained to something less than the fair market value of the whole radio spectrum. If the Commission were to price spectrum at its fair market value, the constant term in any of the formulas would undoubtedly result in total spectrum fees collected that would equal many times the Commission's operating budget, just as revenues from lease bids and royalties on offshore oil and gas rights greatly exceed the cost of running that program by the Department of the Interior. At full fair market levels, spectrum fees could be somewhat less than what it would cost users to move to their next best alternative, or what users would be willing to pay for additional channels, or what nonusers would be willing to pay for access to the spectrum. For example, fees might be set at a rate somewhat below what users would be willing to pay to operate a land mobile system at 150 MHz using relatively inexpensive trnsceivers rather than at 900 MHz using more expensive transceivers.[16] Similarly, fees for VHF television channels in large cities might be set in such a way as to reflect what applicants (or viewers) would be willing to pay for all additional VHF television channel in that city. For example, one measure of the value to viewers of another VHF station would be the amount viewers would spend on powerful directional antennas to receive distant signals, or on receiving distant signals over a CATV system.

109. To implement such an approach the Commisson could start by using a value of the constant term in any of the proposed formulas which was believed to be lower than the "correct" value. If it became obvious in the first few years that the number of potential users willing to pay the specified fees still greatly exceed the number of channels available in some bands and in some cities, then the fee formula could be gradually adjusted upward until the number willing to pay was more closely equal to the number of channels available.

110. The use of any of these proposed formulas or others that might be more appropriate to measure the value of the spectrum and thus to collect spectrum fees by the Commission raises many questions. For example:

(a) Do any of these formulas adequately measure the value of the spectrum? If not, would some other formula or formulas do a better job? If no formula were adopted, is there some other method of setting fees in relation to the value of the spectrum?

(b) If these or other similar formulas were adopted, should it be assumed that 1 kilohertz has the same value regardless of the band in which it is located?

(c) If these or other similar formulas were adopted and it was assumed that a kilohertz has a different value in different bands, do the proposed set of bands or the fourth proposed formula adequately reflect that difference?

(d) If it were assumed that the proposed set of different bands correctly indicate differences in the value of the bands, how should charges across bands be related to each other? For example, should the charge per KHz in the 1-3 GHz band be more than the charge for the 3-6 GHz band? If so, how much more?

(e) If these or similar formulas were adopted, is it reasonable to assume that the value of the spectrum varies inversely with the frequency? Should the relationship between spectrum value and frequency be more complicated? For example, should the relationship be expressed in logarithms, or should it be assumed that the relationship follows some kind of a normal distribution?

(f) If these or similar formulas were adopted, should the fee be related to the population contained within the area served by the signal, or the population excluded from receiving any other signal on the same frequency?

(g) If these or other similar formulas were adopted, would it be possible to use existing Commission regulations and authorizations to determine the population covered by a particular signal and excluded from receiving another signal?

1. For example, would a grade A or B contour be an adequate basis for determining population covered by a television signal?

2. Would the use of some other measure such as net weekly circulation be preferable?

3. Similarly, would the zone for which any land mobile transmitter antenna is protected from the location of another antenna on the same frequency adequately reflect the population covered by the signal? How should po-

[11] Kenneth A. Norton, "FCC Fee Allocation," TV Communications (May 1970), pp. 18-23. In calculating this formula, Norton suggests using bandwidth and the signal to noise ratio following Shannon. See Claude E. Shannon, "The Mathematical Theory of Communication," Bell System Technical Journal (July and October 1948).

[12] D. W. Webbink, "Setting FCC License Fees According to Frequency Spectrum: A Suggestion," IEEE Transactions on Broadcasting, BC-17 (September 1971), pp. 64-69.

[13] See: "Frequency and Orbit," ch. 13 of Seyom Brown, Nina W. Cornell, Larry L. Fabian, and Edith Brown Weiss, Regimes for the Ocean, Outer Space, and Weather (Washington, D.C.: The Brookings Institution, 1977), pp. 193-194; and William K. Jones, "Use and Regulation of the Radio Spectrum: Report on a Conference," Washington University Law Quarterly, (winter 1968), pp. 103-105.

[14] See, for example: Robert W. Crandall, "Placing a Value on the Electromagnetic Spectrum: A Suggested Approach for FCC Decisionmaking," paper presented at the fifth Annual Telecommunications Research Policy Conference, Airlie, Va., Mar. 31, 1977; and Harvey Levin, "Economic Effects of Broadcast Licensing," Journal of Political Economy, 72 (April 1964), pp. 151-162. See also footnotes 7, 8, and 10 supra.

[15] See, for example: Charles L. Jackson, "Technologies for spectrum Usage Charges," paper presented at the fifth Annual Telecommunications Policy Research Conference, Airlie, Va., Mar. 31, 1978; Leslie A. Berry, "spectrum Metrics and spectrum Efficiency: Proposed Definitions," IEEE Transactions on Electromagnetic Compatibility, EMC-19 (Aug. 1977), PP. 254-260; Charles L. Jackson, "Technology for spectrum Markets," Massachusetts Institute of Technology, Department of Electrical Engineering and Computer Science, unpublished Ph. D. Thesis, 1976; Jora R. Minasian, "Property Rights in Radiation: An Alternative Approach to Radio Frequency Allocation," Journal of Law and Economics, XVIII (April 1975), pp. 221-272; Donald R. Ewing and Leslie A. Berry, Metrics for spectrum Space Usage, U.S. Department of Commerce, Office of Telecommunications, OT report 73-24 (November 1973); Arthur S. DeVany, Ross D. Eckert, Charles D. Meyers, Donald J. O'Hara, and Richard C. Scott, "A Property System for Market Allocation in the Electromagnetic spectrum: A Legal-Economic-Engineering Study", Stanford Law Review, 21 (1969), pp. 1499-1561; L. A. Rose, "Marketable spectrum Rights," IEEE International Conference on Communications, Conference Record (1969), pp. 13-7 to 13-12; A. DeVany, R. Eckert, S. Enke, D. O'Hara, and R. Scott, Electromagnetic spectrum Management: Alternatives and Experiments (Santa Barbara: GE Tempo, 1968), reprinted as app. G of The Use and Managment of the Electromagetic spectrum, pt. 2, Staff Paper 7, The President's Task Force on Communications, 1968.

[16] See footnotes 7, 8, and 14, supra. See also: Howard Allen Plotkin, "Measurement and Analysis of Some Economic Effects of Land Mobile Radio Congestion," Ph. D. Dissertation, Stanford University, 1972; and Douglas W. Webbink, "How Not to Measure the Value of a Scarce Resource: The Land Mobile Controversy," Federal Communications Bar Journal, XXIII (1969), pp. 202-209.

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tential interference on adjacent frequencies be dealt with?

4. Are there appropriate measures of the area covered for microwave and satellite facilities?

5. For example, in the case of satellites, would some other formula which takes into account both the population covered due to the beam width of the satellite, and the number of orbital slots be more accurate? Are all orbital slots of equal value?

6. Can the proposed formulas deal with satellite receive only stations which are protected from interference?

(h) If these or other similar formulas were adopted, should the fee depend upon the fraction of the day when the licensee was authorized to transmit a signal? Are all time periods of the day of equal value? If not, are the time periods of maximum value the same for all services?

(i) If these or other similar formulas were adopted, is it reasonable to assume that the relationship between the fee levels and the factors in the formula is a linear one? In other words, is it reasonable to assume that doubling bandwidth or doubling population covered should precisely double the fee?

(j) If these or other similar formulas were adopted, should radio and television broadcasting stations be treated differently than other users of the spectrum who were located in adjacent portions of the MF, VHF, or UHF spectrum?

(k) If these or other similar formulas were adopted, should some classes of users of the frequency spectrum be exempted from license fees or be charged lower fees? For example, should the public safety radio services, and State, county, and local governments, and noncommercial broadcasters be charged a reduced fee, or pay no fee at all? How should spectrum which is shared with Federal Government users be handled?

(l) If these or other similar formulas were used to collect fees, how should the total size of the fees collected be determined? In other words, with regard to the proposed formulas, how should the value of a or c or d be determined?

AUCTIONS

111. As an alternative or a supplement to license fees, some portions of the spectrum might be leased or rented to users on the basis of the highest bid in an auction. This would be easiest to administer and possibly least controversial as a test if certain nonbroadcast channels in specific cities were leased using an auction in cases where there were several competing or potentially competing applicants.[17] Possible candidates for auctions might be the multipoint distribution service, radio common carrier channels, and business radio channels. Not only would the use of such auctions allow the Federal Government to capture directly and immediately some of the "fair market value" of the spectrum, but it would also provide some indication of how some limited classes of users valued the spectrum. Thus, it would provide some information about the correct level of spectrum fees to be charged various classes of users. Many of the same general kinds of questions which were raised about spectrum use fees above can also be asked about auctions. Additionally, questions arise concerning the extent, if any, to which we should permit transfers of licenses between qualified users within the same generic class (e.g., land mobile radio service) or between classes (e.g., land mobile and broadcasting service).

[17] See John O. Robinson, "Assignment of Radio Channels in the Multipoint Distribution Service by Auction," paper presented at the sixth Annual Telecommunications Research Policy Conference, May 12, 1978; see also footnotes 7, 8, 14, 15, and 16 supra.

CONCLUSION

112. We welcome and encourage comments on specific questions which we have raised as well as on any of the issues which have been presented in this notice of inquiry. In addition we have instructed the Commission's staff to hold a public meeting in early October to discuss the refund system, to explain the reasons for its design in the present form, to answer any questions, and to receive and give consideration to recommendations for changes in the refund system. Public notice of the time and location of this meeting will be made shortly.

113. For the purpose of receiving written comments, we have decided to divide this inquiry into two sections. Written comments related to the fee refund section of the inquiry (discussed in part B above and in the attachments) must be submitted by November 8, 1978. Written comments relating to adoption of a new fee schedule under present statutory authority for prospective application and to future spectrum fees under new statutory authority (parts C and D above) must be submitted by January 8, 1979. Section 1.419 of the Commission's rules requires that the original and five copies of comments be filed. Comments should be sent to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Secretary.

ATTACHMENT A.—*Cost Based Fee Schedule*

Year of fee	Category	Branch cost	Bureau and office division cost	Adjudicatory cost	Comm. GC OPP cost	Total
Chief Engineer:						
1970	13-10-0010, certification, TV receiver	$15.16	$1.77		$1.89	$19.00
1970	13-10-0011, certification, FM receivers	14.27	1.67		1.82	18.00
1970	13-10-0012, certification, all others	14.27	1.67		1.82	18.00
1970	13-10-0020, prototype certification, pt. 18	17.81	2.09		2.08	22.00
1970	13-10-0030, certification, model TV receiver	15.16	1.77		1.89	19.00
1970	13-10-0031, certification, model FM receiver	14.27	1.67		1.82	18.00
1970	13-10-0033, certification, model, all others	14.27	1.67		1.82	18.00
1970	13-10-0050, certification, door opener	14.27	1.67		1.82	18.00
1975	13-10-0051, certification equipment other than receivers, pt. 15.	44.12	21.59		3.34	69.00
1970	13-10-0052, certification, field sensor	16.04	1.88		1.95	20.00
1970	13-10-0053, certification biomedical	15.60	1.83		1.92	19.00
1970	13-20-0001, type acceptance—Each equipment type	53.17	6.22		4.41	64.00
1970	13-20-0002, type acceptance—Addition of radio services.	25.29	2.96		2.36	31.00
1970	13-20-0003, type acceptance—Subscription TV	323.30	37.85		21.50	383.00
1975	13-20-0004, type acceptance—EBS, pt. 73	33.45	16.37		2.63	52.00
1970	13-30-0010, type approval, 73 broadcast modulation monitors—SCA.	1,888.18	780.60		163.80	2,833.00
1970	13-30-0011, type approval, 73 broadcast modulation monitor—Other.	983.33	406.52		85.80	1,476.00

ATTACHMENT A.—*Cost Based Fee Schedule*—Continued

Year of fee	Category	Branch cost	Bureau and office division cost	Adjudicatory cost	Comm. GC OPP cost	Total
1970	13-30-0012, type approval, 73, other equipment	983.33	406.52		85.80	1,476.00
1970	13-30-0020, type approval, 81, ship transmitters	1,163.89	481.17		104.00	1,749.00
1970	13-30-0021, type approval, 81, ship radar	798.61	330.16		57.20	1,186.00
1970	13-30-0022, type approval, 81, ship, automatic, systems.	7,721.95	3,192.35		676.00	11,590.00
1970	13-30-0023, type approval, pt. 81 keyers	482.18	199.34		44.20	726.00
1970	13-30-0024, type approval, 81, maritime devices	482.18	199.34		44.20	726.00
1970	13-30-0030, type approval, 15, wireless microphone	421.66	174.32		36.40	632.00
1970	13-30-0031, type approval, 15, other	421.66	174.32		36.40	632.00
1970	13-30-0040, type approval, 18, medical diathermy	421.66	174.32		36.40	632.00
1970	13-30-0041, type approval, 18, epilators	427.12	176.12		36.40	640.00
1970	13-30-0042, type acceptance, 18, microwave ovens	563.30	232.88		46.80	843.00
1970	13-30-0043, type approval, 18, medical ultrasonic	373.39	154.36		31.20	559.00
1970	13-30-0044, type approval, 18, industrial ultrasonic	373.39	154.36		31.20	559.00
1970	13-30-0045, type approval, 18, other	421.66	174.32		36.40	632.00
1970	13-30-0050, type approval, modification retesting, 73 and 18.	(*)				
1970	13-30-0051, type approval, modification retesting, 15 and 81.	(*)				
1970	13-30-0052, type approval, modification, all other	50.19	20.75		3.90	75.00
1970	13-30-0060, type approval, no testing required	10.46	4.32		.98	16.00
1975	13-30-0061, type approval correction of deficiency	(*)				
Common Carrier Bureau:						
1970	16-10-1001, construction or relocation of base station	$197.40	$46.63	$12.40	$14.92	$272.00
1970	16-10-2001, construction or relocation of dispatch station.	50.98	12.09	12.40	4.00	79.00
1971	16-10-3001, modification construction permit other than initial.	106.00	25.15	12.40	9.10	153.00
1970	16-10-3004, modification of construction permit or license for base station.	79.88	18.95	12.40	6.15	117.00
1970	16-10-4002, base station license renewal	79.94	18.97	12.40	4.76	116.00
1970	16-10-5002, dispatch station license renewal	1.39	.33	12.40	.16	14.00
1970	16-10-6001, modification of renewal of license for individual mobile stations.	5.58	1.32	12.40	.81	20.00
1970	16-10-6002, modification of renewal of license for individual mobile stations.	5.58	1.32	12.40	.81	20.00
1970	16-10-6003, application for license for each additional mobile unit.	5.58	1.32	12.40	.81	20.00
1970	16-20-1002, construction permit or relocation of central office.	46.59	11.05	12.40	3.86	74.00
1970	16-20-1501, modification of construction permit for central office.	24.40	5.79	12.40	2.33	45.00
1970	16-20-3002, operation of rural subscriber station at temporary fixed locations.	23.99	5.69	12.40	2.39	44.00
1970	16-20-4002, license or modification for individual subscribers stations.	11.41	2.71	12.40	1.15	28.00
1970	16-20-5002, license renewal of rural subscriber station.	6.74	1.60	12.40	.85	21.00
1970	16-20-4001, license renewal for central office station	6.74	1.60	12.40	.65	21.00
1975	16-20-7002, initial construction permit	52.37	7.14	15.23	2.93	78.00
1975	16-20-8002, other than initial construction permit	28.82	3.93	15.23	1.41	49.00
1971	16-20-9002, construction permit other than initial license for rural subscriber.	23.06	5.47	12.40	2.36	43.00
1970	16-30-1001, construction permit or modification to change communication points.	92.60	19.19	12.40	7.96	132.00
1970	16-30-2001, operation of station at temporary fixed locations.	37.28	7.73	12.40	3.90	61.00
1970	16-30-3001, modification of construction permit or license.	32.40	6.72	12.40	3.25	55.00
1970	16-30-4001, license renewal	46.08	9.97	12.40	4.23	75.00
1970	16-40-1001, construction permit or modification to add or change communication points.	92.60	19.20	12.40	7.96	132.00
1970	16-40-2001, license for operation of STL station	91.27	18.93	12.40	7.80	130.00
1970	16-40-3001, license for operation of mobile TV pick-up station.	37.28	7.73	12.40	3.90	61.00
1970	16-40-4001, modification of license	32.45	6.73	12.40	3.25	55.00
1970	16-40-5001, license renewal	46.08	9.97	12.40	4.23	75.00

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ATTACHMENT A.—*Cost Based Fee Schedule*—Continued

Year of fee	Category	Branch cost	Bureau and office division cost	Adjudicatory cost	Comm. GC OPP cost	Total
1970	16-51-1001, initial construction permit for new station	243.68	50.53	12.40	17.23	324.00
1970	16-51-2001, authorized station location change	(1)				
1970	16-51-4001, license modification	158.58	32.88	12.40	11.70	216.00
1970	16-51-5001, license renewal	329.00	68.23	12.40	24.05	434.00
1970	16-52-1001, construction permit for new station or additional transmitter.	(1)				
1970	15-52-2001, construction permit for replacement transmitter.	36.16	7.49	12.40	3.25	59.00
1970	16-52-3001, authorized station location change	(1)				
1970	16-52-4001, license modification	34.02	7.06	12.40	3.25	57.00
1970	16-52-5001, license renewal	34.02	7.06	12.40	3.25	57.00
1970	16-60-1002, assignment or transfer	83.04	17.22	12.40	5.85	119.00
1970	16-60-1004, assignment or transfer	83.04	17.22	12.40	7.54	120.00
1970	16-60-2001, all other	34.50	7.16	12.40	3.90	58.00
1970	16-70-1002, construction permit for Earth station	977.74	202.75	12.40	61.43	1,254.00
1970	16-70-1102, construction permit for commercial receive-only Earth station.	135.39	28.08	12.40	11.66	188.00
1970	16-70-1201, developmental Earth station	116.63	24.18	12.40	10.56	164.00
1970	16-70-1301, renewal license for developmental station	39.27	8.14	12.40	3.90	64.00
1970	16-70-1401, additional equipment-existing commercial Earth station.	68.27	14.15	12.40	6.18	101.00
1970	16-70-1501, operate transportable Earth station fixed site.	110.55	22.93	12.40	9.43	155.00
1970	16-70-1601, renewal Earth station license	32.98	8.29	12.40	3.90	58.00
1970	16-70-1602, license renewal-commercial transmit-receive Earth station.	87.95	18.23	12.40	7.48	126.00
1970	16-70-1603, license renewal-commercial transmit-receive Earth station.	52.54	10.89	12.40	4.88	81.00
1970	16-70-1801, construction permit or license-auxiliary station to Earth station.	262.21	54.37	12.40	23.56	353.00
1970	16-70-1901, renewal license of auxiliary station	39.78	8.25	12.40	4.23	65.00
1970	16-70-2002, initial construction permit per satellite	10,171.58	2,109.25	12.40	608.40	12,902.00
1970	16-70-2102, authority to launch and operate satellite	1,617.55	335.43	12.40	95.55	2,061.00
1970	16-70-2202, assignment commercial transmit-receive Earth station.	1,857.72	385.23	12.40	108.62	2,364.00
1970	16-70-2302, assignment commercial receive only or transportable Earth station.	73.87	15.32	12.40	5.90	107.00
1970	16-70-2401, stock in Comsat	50.61	10.49	12.40	3.90	77.00
1970	16-70-2501, other application under Communication Satellite Act.	39.78	8.25	12.40	4.23	65.00
1975	16-75-1002, relocation station or addition or change frequencies.	1,675.47	127.26	15.23	80.59	1,899.00
1975	16-75-1101, modification of construction permit or license.	43.08	3.27	15.23	2.84	64.00
1975	16-75-1201, license renewal	64.62	4.91	15.23	4.26	89.00
1970	16-80-1001, sec. 214—construction landline coaxial cable.	539.75	111.92	12.40	36.40	700.00
1970	16-80-1102, sec. 214—construction voice cables	230.27	47.75	12.40	16.99	307.00
1970	16-80-1105, sec. 214—construction voice cables	7,296.14	1,512.98	12.40	490.10	9,312.00
1970	16-80-1201, sec. 214—facility lease	146.69	30.42	12.40	13.00	203.00
1970	16-80-1301, sec. 214—overseas cable construction	36,102.97	7,486.59	12.40	1,976.00	45,578.00
1970	16-80-1401, sec. 214—establish communication channels.	193.20	40.06	12.40	11.70	257.00
1970	16-80-1501, cable landing license	121.01	25.09	12.40	9.10	168.00
1970	16-80-1602, overseas cable channels	946.43	196.26	12.40	62.40	1,217.00
1970	16-80-1712, domestic to international outside United States.	117.89	24.44	12.40	10.40	165.00
1970	16-80-1722, domestic to international within United States.	926.58	192.55	12.40	55.64	1,189.00
1970	16-80-1801, carrier equipment at Earth station	347.96	72.15	12.40	23.40	456.00
1970	16-80-1901, sec. 214-establish satellite channels	265.71	55.10	12.40	20.80	354.00
1970	16-80-2002, acquire satellite channels	211.53	43.86	12.40	15.21	283.00
1970	16-80-2122, discontinue service telephone companies	230.34	47.77	12.40	15.96	306.00
1970	16-80-2132, discontinue service telegraph companies	12.39	2.56	12.40	.94	28.00
1970	16-80-2141, discontinue service public coast station	11.91	2.47	12.40	.90	28.00
1975	16-80-2147, discontinue service all other	17.39	4.32	15.23	1.03	35.00
1970	16-80-2152, interlocking directorate applications	58.92	12.22	12.40	4.23	88.00

ATTACHMENT A.—*Cost Based Fee Schedule*—Continued

Year of fee	Category	Branch cost	Bureau and office division cost	Adjudicatory cost	Comm. GC OPP cost	Total
1970	16-80-2162, sec. 221—applications	107.53	22.30	12.40	7.80	150.00
1970	16-80-2171, tariff applications	25.09	4.23	12.40	1.95	44.00
1970	16-80-2181, all other	2,412.54	500.28	12.40	139.18	3,064.00
1975	16-80-2501, lease satellite domestic use	202.01	15.34	15.23	14.20	247.00
1975	16-80-2702, install or acquire equipment on overseas cable.	1,559.62	118.46	15.23	78.24	1,772.00
1975	16-80-2802, lease channels overseas cable or radio	952.76	72.37	15.23	45.83	1,086.00
1971	16-80-2926, acquire satellite channels international use.	211.53	43.86	12.40	15.21	283.00
1975	16-90-1002, tariff file under 1 million	30.26	4.00	15.23	1.64	51.00
1975	16-90-2002, tariff file, 1 million to 100 million	116.03	15.30	15.23	6.03	153.00
1975	16-90-3002, tariff file, 100 million to 1 billion	152.88	20.18	15.23	7.91	196.00
1975	16-90-4002, tariff file, 1 billion to 10 billion	22.47	3.14	15.23	1.35	42.00
1975	16-90-5002, tariff file over 10 billion	245.92	25.46	15.23	7.23	294.00
1970	16-95-0002, special temporary authority	34.02	8.07	12.40	3.37	58.00
Safety and Special:						
1970	17-11-0001, interim ship	$3.47			$5.80	$.55 $10.00
1970	17-12-0001, public coast—initial, renewal	32.87			5.80	2.93 42.00
1970	17-12-0002, public coast assignment	17.40			5.80	1.95 25.00
1970	17-13-0001, marine microwave	14.33			5.80	1.98 22.00
1970	17-21-0001, operational fixed-initial, renewal	7.43			5.80	.88 14.00
1970	17-21-0002, operational fixed—assignment	7.43			5.80	.88 14.00
1970	17-22-0001, industrial land—microwave	7.21			5.80	.85 14.00
1975	17-23-0001, 806-947 MHz commercial service	(1)				
1970	17-31-0001, aviation—microwave, new, renewal, assignment.	7.21			5.80	.85 14.00
1970	17-41-0001, special call	2.44			5.80	.36 9.00
Broadcast Bureau:						
1970	18-10-0002, construction permit, VHF, 50, nondirectional.	$1,053.37	$279.84	$222.86	$68.25	$1,624.00
1970	18-10-0004, construction permit, UHF, 50, nondirectional.	948.25	251.90	222.86	61.49	1,485.00
1970	18-10-0006, construction permit, VHF, next 50, nondirectional.	1,053.37	279.84	222.86	68.25	1,624.00
1970	18-10-0008, construction permit, UHF, next 50, nondirectional.	1,053.37	279.84	222.86	68.25	1,624.00
1970	18-10-0010, construction permit, VHF, balance, nondirectional.	987.67	262.38	222.86	64.03	1,537.00
1970	18-10-0012, construction permit, UHF, balance, nondirectional.	987.67	262.38	222.86	64.03	1,537.00
1970	18-10-0014, construction permit, FM, A, nondirectional.	389.59	103.50	222.86	35.75	752.00
1970	18-10-0016, construction permit, FM, B and C, VND	438.61	116.52	222.86	39.96	818.00
1970	18-10-0018, construction permit, AM, day, 50, nondirectional.	480.37	127.61	222.86	50.38	881.00
1970	18-10-0020, construction permit, AM, day, 500, nondirectional.	480.37	127.61	222.86	50.38	881.00
1970	18-10-0022, construction permit, AM, day, 10, nondirectional.	(1)				
1970	18-10-0024, construction permit, AM, day, 5, nondirectional.	328.52	87.27	222.86	34.91	674.00
1970	18-10-0026, construction permit, AM, day, 1, nondirectional.	328.52	87.27	222.86	34.91	674.00
1970	18-10-0028, construction permit, AM, day, 500, nondirectional.	328.52	87.27	222.86	34.91	674.00
1970	18-10-0030, construction permit, AM, day, 250, nondirectional.	328.52	87.27	222.86	34.91	674.00
1970	18-10-0032, construction permit, AM, IV, nondirectional.	409.69	132.74	222.86	45.24	901.00
1970	18-11-0001, construction permit—directional antenna, VHF/UHF.	20.63	5.48	222.86	1.30	250.00
1970	18-11-0004, construction permit—directional antenna, AM, day.	20.42	5.43	222.86	1.30	250.00
1970	18-11-0006, construction permit—directional antenna, AM, unlimited.	927.72	246.45	222.86	88.66	1,486.00
1970	18-21-0001, other—316—AM	24.94	3.70	222.86	2.60	254.00
1970	18-21-0002, other—316—FM	24.94	3.70	222.86	2.60	254.00
1970	18-21-0003, other—316—TV	24.94	3.70	222.86	2.60	254.00

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ATTACHMENT A.—*Cost Based Fee Schedule*—Continued

Year of fee	Category	Branch cost	Bureau and office division cost	Adjudicatory cost	Comm. GC OPP cost	Total
1970	18-22-0001, construction permit—replace expired permit—AM.	15.09	4.01	222.86	1.46	243.00
1970	18-22-0002, construction permit—replace expired permit—FM.	15.09	4.01	222.86	1.46	243.00
1970	18-22-0003, construction permit—replace expired permit—TV.	15.09	4.01	222.86	1.46	243.00
1970	18-22-0004, construction permit—replace expired permit—auxiliary.	6.13	1.63	222.86	.81	231.00
1970	18-23-0001, application for minor changes—AM	222.16	59.02	222.86	17.44	521.00
1970	18-23-0002, application for minor changes—FM	21.47	5.70	222.86	1.95	252.00
1970	18-23-0003, application for minor changes—TV	387.33	102.80	222.86	25.68	739.00
1970	18-25-0002, change call sign—AM	18.70	1.17	222.86	2.08	245.00
1970	18-25-0004, change call sign—FM	18.70	1.17	222.86	2.08	245.00
1970	18-25-0006, change call sign—TV	23.34	1.46	222.86	3.37	250.00
1970	18-26-0001, all other applications—AM	60.92	16.19	222.86	4.55	305.00
1970	18-26-0002, all other applications—FM	60.92	16.19	222.86	4.55	305.00
1970	18-26-0003, all other applications—TV	91.91	24.41	222.86	7.48	347.00
1970	18-26-0004, experimental and developmental applications.	869.34	230.94	222.86	66.95	1,390.00
1970	18-40-0001, application for subscriptions—TV—filing	870.92	231.36	222.86	64.66	1,390.00
1970	18-51-0002, application for assignments transfer	225.53	33.45	222.86	16.06	498.00
1970	18-60-0001, STA	7.61	2.03	222.86	.55	233.00
1970	18-70-0003, annual license fees—AM/FM	70.98	10.52	222.86	19.08	323.00
1970	18-70-0004, annual license fees—TV	56.23	9.83	222.86	18.32	317.00
1970	20-10-0001, CARS—construction permit	117.76	97.82	257.70	8.06	481.00
1970	20-20-0001, petition for special relief, 76.7	434.75	787.65	257.70	32.50	1,513.00
1970	20-20-0002, petition for special relief, 74.1100	485.69	201.26	257.70	31.53	976.00
1970	20-20-0003, petition for experimental operations	486.39	861.21	257.70	32.01	1,657.00
1970	20-20-0004, petition for waiver of hearings	486.39	201.62	257.70	32.01	978.00
1970	20-30-0001, certificates of compliance—routine	52.94		257.70	4.93	316.00
1970	20-30-0002, certificates of compliance—nonroutine	520.12		257.70	39.64	817.00
1970	20-50-0001, special temporary authority	69.40	7.04	257.70	5.33	339.00

*These fees are 75 pct of the fee for the original specific equipment category and are related to resubmissions and/or retesting.
¹None received.

OFFICE OF CHIEF ENGINEER

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
	Certification			
13-10-0010	Application for certification of each receiver model—television receivers	$19	$50	$250
	Application for certification each receiver model—combination TV/FM broadcast receiver (1975).	19	90	300
13-10-0011	Application for certification of each receiver model—FM receivers	18	40	150
	Application for certification of each receiver model—combination TV/FM broadcast receiver (1975).	18	90	300
13-10-0012	Application for certification of each receiver model—all others	18	35	150
13-10-0020	Application for prototype certification of equipment operating under pt. 18.	22	25	150
13-10-0030	Request for modification of a certified receiver with no change in model number—television receivers.	19	40	
13-10-0031	Request for modification of a certified receiver with no change in model number—FM receiver.	18	25	
13-10-0033	Request for modification of certificated receiver with no change in model number—all others.	18	25	
13-10-0050	Application for certification of a radio control transmitter for a door-opener under pt. 15, 1971.	69		150
13-10-0051	Application for certification of equipment (other than receivers) operating under pt. 15, 1975.	20	50	
13-10-0052	Certification, field disturbance sensor, 1972	19	35	
13-10-0053	Certification, transmitter for biomedical telemetry equipment under pt. 15, 1972.			

OFFICE OF CHIEF ENGINEER—Continued

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
	Type acceptance			
13-20-0001	Applications for type acceptance of each equipment type	64	100	200
13-20-0002	Application for the addition of one or more radio services to existing type acceptance for each equipment type as identified by manufacturer (or trade name) and type number.	31	100	150
13-20-0003	Approval of subscription television systems	383	1,000	1,500
13-20-0004	Application for tpye acceptance for EBS attention signal encoder operating under pt. 73, 1975.	52		200
	Type approval			
13-30-0010	Application or submission for type approval, pt. 73, broadcast modulation monitors—SCA and stereo.	2,833	500	3,200
13-30-0011	Application or submission for type approval, pt. 73, broadcast modulation monitors—other.	1,476	250	1,600
13-30-0012	Application or submission for type approval, pt. 73, other broadcasting equipment.	1,476	250	1,600
		1,476		3,200
13-30-0020	Application or submission for type approval, pt. 81 ship transmitters including lifeboat transmitters.	1,749	150	1,600
13-30-0021	Application or submission for type approval, pt. 81, ship radar	1,186	100	1,200
13-30-0022	Application or submission for type approval, pt. 81, ship automatic alarm system.	11,159	250	4,000
13-30-0023	Application or submission for type approval, pt. 81, ship alarm automatic keyers.	726	100	1,000
13-30-0024	Application or submission for type approval, pt. 81, other maritime devices	726	200	1,000
13-30-0030	Application or submission for type approval, pt. 15, wireless microphones	632	150	600
13-30-0031	Application or submission for type approval, pt. 15, other low-powered devices.	632	100	600
	Application or submission for type approval, pt. 15, auditory training transmitters, 1975.	632		1,600
	Application or submission for type approval, pt. 15, class I TV device if rated to operate on 1 or 2 channels, 1975.	632		2,000
	Application or submission for type approval, pt. 15, class I TV device if rated to operated on more than 2 channels, for each channel over 2, 1975.	632		1,000
13-30-0040	Application or submission for type approval, pt. 18, medical diathermy	632	500	1,000
13-30-0041	Application or submission for type approval, pt. 18 epilators	640	500	
13-30-0042	Application or submission for type approval, pt. 18, microwave ovens, medical diathermy.	843	1,000	1,200
13-30-0043	Application or submission for type approval, pt. 18, medical ultrasonic	569	250	600
13-30-0044	Application or submission for type approval, pt. 18, industrial ultrasonic	569	250	
13-30-0045	Application or submission for type approval, pt. 18, other ISM devices	632	250	1,000
13-30-0050	Application for modification of existing type approved equipment, modifications which require retesting, pts. 73 and 18.	(1)	250	(1)
13-30-0051	Application for modification of existing type approved equipment, modifications which require retesting, pts. 15 and 81.	(1)	100	(1)
13-30-0052	Application for modification of existing type approved equipment, all modifications.	76	50	100
13-30-0060	Application for type approval of equipment not requiring tests, 1975	16		100
13-30-0061	Correction of equipment deficiencies. Application for type approval where unit had previously been rejected for deficiency and is resubmitted for testing, 1975.	(1)		(1)

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COMMON CARRIER BUREAU

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
	Domestic public land mobile radio service			
16-10-1001	Application for initial construction permit or for relocation of a base station, including authority for mobile units, blanket dispatch station authority, and standby transmitters without independent radiating systems.	272	250	Var.
16-10-2002	Application for initial construction permit or for relocation of a dispatch station, control station or repeater station.	79	125	75
16-10-3002	Application for other than initial construction permit, modification of construction permit or license for base station, dispatch station, auxiliary test station control station or repeater station at an existing station location, 1971.	153	75	30
16-10-3004	Application for modification of construction permit or license for base station, dispatch station, control station or repeater station at an existing station location.	117	75	
16-10-4002	Application for renewal of license for base station	116	150	Var.
16-10-5002	Application for renewal of license for dispatch station, control station, or repeater station.	14	60	35
16-10-6001	Application for license, modification of license or renewal of license for individual mobile station—per mobile unit.	20	50	
16-10-6002	Application for license, modification of license or renewal of license for individual mobile stations—1 mobile unit per application, 1971.	20	50	15
16-10-6003	Application for license, modification of license or renewal of license for individual mobile stations—each additional mobile unit per application, 1971.	20	30	9
	Rural radio service			
16-20-1002	Application for an initial construction permit or for relocation of facilities—central office.	74	200	120
16-20-1501	Application for modification of construction permit or license—central office.	45	75	
16-20-3002	Application for license for operation of rural subscriber station at temporary fixed locations.	44	30	20
16-20-4002	Application for license or modification of license for individual subscriber stations.	28	25	
16-20-5002	Application for renewal of license for rural subscriber station	21	25	15
16-20-6001	Application for renewal of license for central office station	21	125	75
16-20-7002	Application for an initial construction permit or for relocation of rural subscriber facilities, 1975.	78		75
16-20-8002	Application for other than initial construction permit, modification of construction permit or license for rural subscriber facilities, 1975.	49		45
16-20-9002	Application for other than initial construction permit, modification of construction permit or license for central office, interoffice or relay facilities, 1971.	43	75	45
	Point-to-point microwave radio service			
16-30-1001	Application for construction permit or for modification of construction permit to add or change point(s) of communication or to increase service to existing points of communication or for relocation of facilities.	132	200	120
16-30-2001	Application for license for operation of a station at temporary-fixed locations.	61	150	90
16-30-3001	Application for modification of construction permit or license	55	200	30
16-30-4001	Application for renewal of license	75	125	75
	Local television transmission service			
16-40-1001	Application for construction permit or for modification of construction permit to add or change point(s) of communication or to increase service to an existing station location or for relocation of facilities.	132	200	120
16-40-2001	Application for license for operation of an STL station at temporary-fixed locations.	130	150	90
16-40-3001	Application for license for operation of a mobile television pickup station	61	150	90
16-40-4001	Application for modification of a license	55	100	30
16-40-5001	Application for renewal of license	75	75	75
	International fixed public radiocommunication services—International fixed public system			
16-51-1001	Application for an initial construction permit for a new station or an additional transmitter(s) at an authorized station.	324	650	500
16-51-2001	Application for change of location of an authorized station	NR	550	330
16-51-4001	Application for modification of license	216	125	75
16-51-5001	Application for renewal of license	434	300	180
	International fixed public radiocommunications—international control station			
16-52-1001	Application for initial construction permit for a new station or an additional transmitter(s) at an authorized station.	NR	500	300
16-52-2001	Application for construction permit for a replacement transmitter(s) at an authorized station.	59	300	180
16-52-3001	Application for change of location of an authorized station	NR	500	300
16-52-4001	Application for modification of license	57	125	75
16-52-5001	Application for renewal of license	57	150	90
	Other radio services			
16-60-1002	International fixed radio communications services. Application for assignment of an authorization or transfer of control.	119	60	35
16-60-1004	Domestic public land mobile radio service only. Application for assignment of an authorization or transfer of control.	120	60	
16-60-2001	All other common carrier radio applications	58	25	15
	Satellite communications services			
16-70-1002	Application for initial construction permit for Earth station	1,254	50,500	Var.
16-70-1102	Application for initial construction permit for a commerical receive-only or transportable Earth station, 1971.	188	Var.	Var.

COMMON CARRIER BUREAU—Continued

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
16-70-1201	Application for initial construction permit for an Earth station to be used solely for development or noncommerical purposes, 1971.	164	150	
16-70-1301	Application for renewal of license for a developmental or noncommercial Earth station, 1971.	64	150	
16-70-1401	Application for modification of construction permit for Earth station	101	2,200	Var.
16-70-1501	Application for authority to operate a transportable Earth station at a fixed site, 1971.	155	300	18
16-70-1601	Application for renewal of license—Earth station	58	500	
16-70-1602	Application for renewal of license for a commercial transmit/receive Earth station, 1971.	126	5,100	3,060
16-70-1603	Application for renewal of license for a commerical receive-only Earth station, 1971.	81	550	330
16-70-1801	Application for initial construction permit or modification of construction permit of license for an auxiliary station (boresight) to an Earth station or for a telemetry, tracking and control station, 1971.	353	Var.	Var.
16-70-1901	Application for renewal of license of an auxiliary station to an Earth station or for a telemetry, tracking, or control station, 1971.	65	250	180
16-70-2001	Application for initial construction permit satellite, 1971	12,902	5,250	3,150
16-70-2102	Application for authority to construct and launch satellites	2,061	100,500	Var.
16-70-2201	Application for assignment of a commercial transmit/receive Earth station or satellite construction permit or license or transfer of control of a licensee or permittee, per Earth station or satellite.	2,364	300	45
16-70-2302	Application for assignment of a commercial receive-only or transportable Earth station construction permit or license or transfer of control of a licensee or permittee, per Earth station, 1971.	107	75	45
16-70-2401	Application for communications common carrier for authorization to own stock in the Communications Satellite Corp.	77	75	45
16-70-2501	Any other application filed under the Communication Satellite Act	65	75	45
	Multipoint distribution service			
16-75-1002	Application for initial construction permit or for modification involving relocation of station or addition or change of frequencies or increase in power, 1975.	1,899		150
16-75-1101	Application for other modification of construction permit or license, 1975	64		30
16-75-1201	Application for renewal of license, 1975	89		75
	Common carrier nonradio applications			
16-80-1001	Sec. 214 applications for construction of landline coaxial cable	700	Var.	Var.
16-80-1102	Sec. 214 applications to extend or supplement facilities by construction of voice cables or installation of carrier equipment on landline wire, cable or radio routes.	307	Var.	Var.
16-80-1105	Sec. 214 applications to extend or supplement facilities by construction of voice cables or installation of carrier equipment on landline wire, cable or radio routes (A.T. & T. blanket).	9,312	Var.	Var.
16-80-1201	Sec. 214 applications to lease facilities from other carriers (except overseas).	2038	Var.	Var.
16-80-1301	Sec. 214 applications for overseas cable construction	45,578	Var.	Var.
16-80-1401	Sec. 214 applications to establish communication channels on overseas cables.	257	Var.	
16-80-1501	Cable landing license	168	200	120
16-80-1602	Sec. 214 application to acquire overseas cable channels	1,217	Var.	
16-80-1712	Sec. 214 application to acquire domestic circuits to interconnect international circuits—circuits outside of the United States.	165	25	15
16-80-1722	Sec. 214 application to acquire domestic circuits to interconnect international circuits—circuits within the United States or territories.	1,189	Var.	Var.
16-80-1801	Sec. 214 applications to install carrier equipment to establish channels of communication at an Earth station, 1971.	456	Var.	Var.
16-80-1901	Sec. 214 applications to establish and operate statellite channels	354	Var.	150
16-80-2002	Sec. 214 application to acquire satellite channels	283	Var.	Var.
16-80-2122	Sec. 214 applications to discontinue, reduce or impair services to the public—telephone companies.	306	100	
16-80-2132	Sec. 214 applications to discontinue, reduce or impair services to the public—telegraph companies.	28	25	15
16-80-2141	Sec. 214 applications to discontinue, reduce or impair services to the public, public coast stations, 1971.	28	25	15
16-80-2147	Sec. 214 application to discontinue, reduce or impair service to the public, all other, 1975.	35		60
16-80-2152	Interlocking directorate applications	88	50	30
16-80-2162	Sec. 221 applications	150	260	30
16-80-2171	Tariff applications to change charges or regulations on less than statutory notice.	44	25	25
16-80-2181	All other common carrier nonradio applications	3,064	25	15
16-80-2501	Sec. 214 application to lease satellite transponder for domestic use (per transponder), 1975.	247		25
16-80-2702	Sec. 214 application to establish or supplement international facilities by installation or acquisition of carrier equipment on overseas cable or radio routes (except satellite) or to acquire such facilities on a capital basis other than ownership, 1975.	1,772		Var.
16-80-2802	Sec. 214 application to lease channels on overseas cable or radio routers (except satellites), 1975.	1,086		Var.
16-80-2926	Sec. 214 application to acquire satellite channels (for international use), 1971.	283	Var.	Var.
	Tariff filings			
16-90-1002	Annual gross revenue of issuing carrier: Under $1 million, 1975	51		50
16-90-2002	Annual gross revenue of issuing carrier: $1 million to $100 million, 1975	153		100
16-90-3002	Annual gross revenue of issuing carrier: $100 million to $1 billion, 1975	196		300
16-90-4002	Annual gross revenue of issuing carrier: $1 billion to $10 billion, 1975	42		500
16-90-5002	Annual gross revenue of issuing carrier: Over $10 billion, 1975	294		700
	Special temporary authority			
16-95-0002	Special temporary authority	58	25	25

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SAFETY AND SPECIAL RADIO SERVICES BUREAU

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
	Maritime radio services			
17-11-0001	Interim ship permit including subsequent initial license	10	25	
17-12-0001	Common carrier public coast station—initial license and renewal	42	75	75
17-12-0002	Common carrier public coast station—assignment of license	25	75	75
17-13-0001	Marine radio service—microwave station (new, renewal, assignment)	22	75	20
	Industrial, land transportation and public safety services			
17-21-0001	Operational fixed stations using frequencies above 952 MHz—initial license and renewal.	14	75	20
17-21-0002	Operational fixed stations using frequencies above 952 MHz—assignment of license.	14	75	20
17-22-0001	Industrial land transportation and public safety services microwave station—new, renewal, assignment.	14	75	20
17-23-0001	Stations using frequencies in the 806-947 MHz band and providing service on a commercial basis—per channel, 1975.	NR		200
	Aviation radio service			
17-31-0001	Aviation radio service—microwave stations (new, renewal, assignment)	14	75	20
	Amateur radio service			
17-41-0001	Special call sign (plus other applicable fee)	9	25	25

BROADCAST BUREAU

	Construction permit			
18-10-0002	Application for construction permit for new station or for major changes in existing station—VHF, top 50 markets, nondirectional.	1,624	50,000	77,500
18-10-0004	Application for construction permit for new station or for major changes in existing station—UHF, top 50 markets, nondirectional.	1,485	25,000	25,000
18-10-0006	Application for construction permit for new station or for major changes in existing station—VHF, next 50 markets, nondirectional.	1,624	20,000	31,000
18-10-0008	Application for construction permit for new station or for major changes in existing station—UHF, next 50 markets, nondirectional.	1,624	10,000	10,000
18-10-0010	Application for construction permit for new station or for major changes in existing station—VHF, balance, nondirectional.	1,537	10,000	15,500
18-10-0012	Application for construction permit for new station or for major changes in existing station—UHF, balance, nondirectional.	1,537	5,000	5,000
18-10-0014	Application for construction permit for new station or for major changes in existing station—FM, class A, nondirectional.	752	1,000	1,550
18-10-0016	Application for construction permit for new station or for major changes in existing station—FM, class B and C, nondirectional.	816	2,000	3,100
18-10-0018	Application for construction permit for station or for major changes in existing station—AM, day 50 KW, nondirectional.	881	5,000	7,750
18-10-0020	Application for construction permit for new station or for major changes in existing station—AM, day, 25 KW, nondirectional.	861	4,000	6,200
18-10-0022	Application for construction permit for new station or for major changes in existing station—AM, day, 10 KW, nondirectional.	NR	3,000	4,650
18-10-0024	Application for construction permit for new station for major changes in existing station—AM, day, 5 KW, nondirectional.	674	2,000	3,100
18-10-0026	Application for construction permit for new station or for major changes in existing station—AM, day, 1 KW, nondirectional.	674	1,000	1,550
18-10-0028	Application for construction permit for new station or for major changes in existing station—AM, day, 500 W, nondirectional.	674	500	775
18-10-0030	Application for construction permit for new station or for major changes in existing station—AM, day, 250 W, nondirectional.	674	250	390
18-10-0032	Application for construction permit for new station or for major changes in existing station—AM, class IV, nondirectional.	901	1,000	1,550
18-11-0001	Application for construction permit for new station or for major changes in existing station. For directional antenna in addition to above (VHF/UHF top 50 markets, VHF/UHF next 50 markets, VHF/UHF balance).	250	500	
18-11-0004	Application for construction permit for new station or for major changes in existing station. For directional antenna in addition to above (AM, day, 50 KW, 25 KW, 10 KW, 5 KW, 1 KW, 500 W, 250 W).	250	500	
18-11-0006	Application for construction permit for new station or for major changes in existing station. For directional antenna, AM unlimited (50 KW, 25 KW, 10 KW, 5 KW, 1 KW, 500 W, 250 W).	1,486	500	
	Other applications			
18-21-0001	Applications filed on form 316 (where more than one broadcast station license is involved * * *), AM.	254	250	
	Assignment and transfer sales exchange. Application for assignment of license or transfer of control on form 316 filing—AM 1975.	254		100
18-21-0002	Applications filed on form 316 (where more than one broadcast station license is involved * * *), FM.	254	250	
	Assignments and transfers, sale exchange. Application for assignment of license or transfer of control on form 316 filing—FM, 1975.	254		100
18-21-0003	Applications filed on form 316 (when more than one broadcast station is involved * * *), TV.	254	250	
	Assignments and transfers, sales exchange. Application for assignment of license or transfer of control on form 316, filing—TV, 1975.	254		100
18-22-0001	Application for construction permit to replace expired permit, FCC form 321—AM.	243	500	250
18-22-0002	Application for construction permit to replace expired permit, FCC form 321—FM.	243	500	250
18-22-0003	Application for construction permit to replace expired permit, FCC form 321—TV.	243	500	250

BROADCAST BUREAU—Continued

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
18-22-0004	Application for construction permit to replace expired permit, FCC form 321—auxiliary.	231	50	50
18-23-0001	Application for modification other than major change—AM	521	50	
	Application for modification other than a major change, form 301; application to change antenna transmitter site, or to increase antenna height, or to change antenna pattern—AM, 1975.	521		Var.
	Application for modification other than a major change, form 301; application to change antenna transmitter site, or to increase antenna height, or to change antenna pattern—auxiliary (if AM), 1975.	521		Var.
	Application for modification other than a major change, form 301. All other FCC form 301 applications—AM, 1975.	521		100
18-23-0002	Application for modification other than a major change—FM	252	50	
	Application for modification other than a major change, form 301; application to change antenna transmitter site, or to increase antenna height, or to change antenna pattern—FM, 1975.	252		Var.
	Application for modification other than a major change, form 301; application to change antenna transmitter site, or to increase antenna height, or to change antenna pattern—auxiliary (if FM), 1975.	252		Var.
	Application for modification other than a major change, form 301; all other FCC form 301 applications—FM, 1975.	252		100
18-23-0003	Application for modification other than a major change—TV	739	50	
	Application for modification other than a major change, form 301; application to change antenna transmitter site, or to increase antenna height, or to change antenna pattern—TV, 1975.	739		Var.
	Application for modification other than a major change, form 301; all other FCC form 301 applications—TV, 1975.	739		100
18-25-0002	Application for change of call sign for broadcast station—AM	245	100	200
18-25-0004	Application for change of call sign for broadcast station—FM	245	100	200
18-25-0006	Application for change of call sign for broadcast station—TV	250	100	200
18-26-0001	All other applications in the broadcast service—AM	305	50	100
	Application for authorization in auxiliary broadcast services, FCC form 313, for modification of construction permit or license in auxiliary broadcast services (if AM), 1975.	305		50
	Application for authorization in auxiliary broadcast services, form 313; application for new remote pickup mobile station (if AM), 1975.	305		100
	Application for authorization in auxiliary broadcast services, form 313; application for new construction permit for intercity relay or for studio transmitter link or for remote pickup base station (if AM), 1975.	305		250
	Application for construction permit or license of auxiliary or alternate main transmitter (if AM), 1975.	305		50
	Application for construction permit or license of auxiliary or alternate main transmitter—auxiliary (if AM), 1975.	305		50
	Application for extension on FCC form 701—AM, 1975	305		100
	Application for extension on FCC form 701—auxiliary (if AM), 1975	305		50
	International broadcasting: Construction permits for new stations and major changes in existing stations (if AM), 1975.	305		700
	International broadcasting construction. Grant fee for application for seasonal schedule (if AM), 1975.	305		Var.
18-26-0002	All other applications in the broadcast services—FM	305	50	100
	Application for authorization in auxiliary broadcast services, FCC form 313, for modification of construction permit or license in auxiliary broadcast services (if FM), 1975.	305		50
	Application for authorization in auxiliary broadcast services, form 313; application for new remote pickup mobile station (if FM), 1975.	305		100
	Applications for authorization in auxiliary broadcast services, form 313; application for new station construction permit for intercity relay or for studio transmitter link or for remote pickup base station (if FM), 1975.	305		250
	Application for construction permit or license of auxiliary or alternate main transmitter—FM, 1975.	305		50
	Application for extension on FCC form 701—AM, 1975	305		100
	Application for extension on FCC form 701—auxiliary (if FM), 1975	305		50
	International broadcasting: Construction permits for new stations and major changes in existing stations (if FM), 1975.	305		700
	International broadcasting construction. Grant fee for application for seasonal schedule (if FM), 1975.	305		Var.
18-26-0003	All other applications in the broadcast service—TV	347	50	100
	Application for authorization in auxiliary broadcast services, FCC form 313, for modification of construction permit or license in auxiliary broadcast services (if TV), 1975.	347		50
	Application for authorization in auxiliary broadcast services, form 313; application for new remote pickup mobile station (if TV), 1975.	347		100
	Application for authorization in auxiliary broadcast services, form 313; application for new station construction permit for intercity relay or for studio transmitter link or for remote pickup base station (if TV).	347		250
	Application for construction permit or license of auxiliary or alternate main transmitter—TV, 1975.	347		50
	Application for construction permit or license of auxiliary or alternate main transmitter—auxiliary (if TV), 1975.	347		50
	Application for extension on FCC form 701—TV, 1975	347		100
	Application for extension on FCC form 701—auxiliary (if TV), 1975	347		50
	International broadcasting: Construction permits for new stations and major changes in existing stations (if TV), 1975.	347		700
	International broadcasting construction. Grant fee for application for seasonal schedule (if TV), 1975.	347		Var.
18-26-0004	All other applications in the broadcast service—experimental and developmental applications.	1,390	50	100
	Subscription television			
18-40-0001	Application for subscription television authorizations—application filing fee.	1,390	1,000	700

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BROADCAST BUREAU—Continued

Fee category code No.	Fee category (1970 except as noted)	Cost	1970 Fee	1975 Fee
	Assignments and transfers			
18-51-0002	Application for assignment of license or transfer of control exclusive of FCC, form 316 applications—filing, assignment, transfer, grant.	498	Var	Var.
	Application for assignment of license or transfer of control exclusive of FCC, form 316 applications—filing.	498		Var.
	Assignment and transfer grant fees on forms 314 and 315; for AM stations and joint assignment or transfer of AM/FM stations, with gross revenue of $400,000 or less, 1975.	498		Var.
	Assignment and transfer grant fees on forms 314 and 315; for AM stations and joint assignment or transfer of AM-FM stations, with gross revenues greater than $400,000, 1975.	498		Var.
	Assignment and transfer grant fees in forms 314 and 315; for all FM stations, 1975.	498		Var.
	Assignment and transfer, grant fees on forms 314 and 315; for television stations with gross revenue of $800,000 or less, 1975.	498		Var.
	Assignment and transfer grant fees on forms 314 and 315; for television stations with gross revenue greater than $800,000.	498		Var.
	Assignment and transfer grant fees on forms 314 and 315; in all other cases and/or when gross revenue is indeterminable.	498		Var.
	Special temporary authority			
18-60-0001	Special temporary authority (STA)	233	25	25
	Annual license fee			
18-70-0002	Annual license fees—for AM and FM stations	323	Var	Var.
18-70-0004	Annual license fees—for television broadcast stations	317	Var	Var.

CABLE TELEVISION BUREAU

	Cable television relay service			
20-10-0001	Cable television relay service (CARS)—construction permit	481	50	20
	Petitions			
20-20-0001	Petition for special relief sec. 76.7, 1972	1,513	25	
20-20-0002	Petition for special relief (other than that specified below) pursuant to 74.1109.	976	25	
20-20-0003	Petition for experimental operations (par. 51, 12/68 NPRM and notice of inquiry docket 18397 * * *.).	1,657	25	
20-20-0004	Petition for waiver of hearings with regard to carriage of distant signals within grade A contour of TV broadcast in top 100 market. Per proposed commercial (a) UHF station, or (b) network affiliated UHF station, distant signal.	978	25	
	Certificates of compliance			
20-30-0001	Certificates of compliance—routine, 76.11, 1972	316		
20-30-0002	Certificate of compliance—nonroutine, 76.11, 1972	817	35	
	Special temporary authority			
20-50-0001	Petition for special temporary authority	339	25	25

'75 pct (see notations).

Notations: 1970=Aug. 1, 1970, to Feb. 28, 1975. 1975=Mar. 1, 1975 to Dec. 31, 1976. NR=No applications received. Var.=Variable fee. 75 pct=75 pct of file and grant fee for that particular equipment.

ATTACHMENT B

UNITED STATES OF AMERICA, FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission has started a two-phased program to refund a portion of the fees it collected between August 1, 1970, and December 31, 1976. This first phase is limited to those fees which were more than $20. Partial refunds of fees of $20 or less, including all citizen band (CB) fees, will be handled in the second phase.

Please read the instructions in this booklet to determine if you are eligible to receive a refund. If you believe that you meet the criteria for filing a claim, then complete the claim form, sign where indicated, and mail the completed claim form and supporting evidence to this address: Federal Communications Commission, Over $20 Fee Refund Program, P.O. Box 12345, Some City, State ZIP Code.

We have tried to keep the claim form and instructions as simple as possible to cut down on needless paperwork. The information we are requesting is the minimum amount needed to process your claim while satisfying the legal requirements for a Federal system of this type.

If you have specific questions about the fee refund program you can call this toll-free number: 800-123-4567. (In the Washington, D.C., metropolitan area the number is 555-1212.)

Again, please read the instructions carefully. If your claim is accurate and complete, we can process it promptly and you will receive the refund to which you are entitled.

Thank you for your cooperation.

NOTE.—The proposed form included herein, is subject to General Accounting Office (GAO) clearance, and the public is invited to comment, particularly in terms of clarity of the data elements, instructions, format, and answering space.

GAO APPROVED OTHER DATA

FEDERAL COMMUNICATIONS COMMISSION CLAIM FORM INSTRUCTIONS

NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974

The Communications Act of 1934, as amended, and the Budget and Accounting Act of 1921, as amended, authorize the FCC to request the information on this claim form. The purpose of this information is to determine your eligibility for a refund of fees paid, as well as the amount of your refund. The information will be used by FCC staff to determine the accuracy, completeness, and correctness of your claim. No refund can be granted unless all information requested is provided, and the form is signed and dated.

Listings of amounts paid to claimants are a matter of public record and will be made available by the Commission. If you file for and receive a refund, then your name will appear on such a public listing.

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NOTICE TO ALL CLAIMANTS RECEIVING REFUNDS OF $5,000 OR MORE

The Internal Revenue Service has requested that the FCC give it a listing of all claimants who received refunds of $5,000 or more. The FCC will comply with this request.

GENERAL INFORMATION

Please read this section plus the specific instructions and the tables in this booklet before you start to fill out the claim form. You may find that you can file for refunds you did not think were included, or you may find that all or some of the fees you paid are not eligible for refunds because the amount you paid was less than the FCC's cost to process.

Use a typewriter or print clearly, except for your signature.

● What is the purpose of FCC form No. 199?

This form, when completed and signed, represents your claim against the U.S. Government. When you submit this form, you are stating that the Government owes you a portion of the fee(s) you paid to the Federal Communications Commission between August 1, 1970, and December 31, 1976, under the fee schedules in effect during that period.

● Who should file for a refund?

You should file for a refund if:

1. You (as an individual or an organization) paid a fee of $20.01 or more to the FCC between August 1, 1970 and December 31, 1976; *and*

2. The fee you paid was more than it cost the FCC to process your filing, applications, renewal, etc., as shown in the tables at the back of this booklet.

● Must the form be filed by the claimant?

The claim form must be signed by the claimant—that is, the person or organization entitled to the refund. The exceptions to this requirement are:

1. The person who would be eligible to receive the refund is dead; or

2. The organization which would be eligible to receive the refund is either bankrupt, in receivership, or otherwise under the protection of a court; or

3. The person who would be eligible to receive the refund has been judged to be legally incompetent.

In these three cases, claims may be submitted by persons who can demonstrate a power of attorney or other legal instrument which gives them the authority to act in behalf of the claimant.

● Are all fees eligible for refunds?

No. During the period when the FCC collected fees under the 1970 and 1975 fee schedules, there were more than 250 diffeent reasons (or "fee types") for which fees were collected. More than half of these fee types are *not* eligible for refunds because the cost to process was more than the amount collected.

You should refer to table 2 to find the description of the fee(s) you paid to determine if a claim should be filed.

● What information is required on the claim form?

The claim form has three parts. Part I asks for information that uniquely identifies each claimant, tells the FCC to whom the refund check should be issued, where it should be sent, as well as information that permits the Commission to control the flow of claims and to check for duplicate submissions.

Part II of the claim form asks for information about each of the fees you paid which are eligible for refunds. The claim form is designed so that you can file up to four claims on a single piece of paper. If you need more copies of part II, continuation sheets are provided in this booklet. (See the next question/answer for more information on filing a combined or consolidated claim.)

Part III of the form contains two paragraphs and space for your signature indicating that you have read the paragraphs and understand their meaning and significance. When you sign the form you are stating that (1) if the Commission pays you the amount of money you claimed, you waive all rights to seek additional money from the Commission for the claim involved, and (2) that the information you supply on the claim form and its attachments is true, accurate and complete. NOTE.—This is merely a paraphrasing of the text in part III. You should read the full text before you sign.

● Should I file a separate claim form for each fee paid?

Not necessarily. FCC form No. is a multipurpose form. If you are filing a single claim, you need only complete the front side of the form (parts I, II, and III).

If you are filing for more than one refund, you can do so by completing part I of the form for all of your claims and then using as many part II entries as you need so long as the following conditions are met:

1. The claimant remains the same for all the claims; *and*

2. Lines H through L on part I of the claim form remain constant.

In other words, if all of your claims will be processed by the same FCC bureau and service (lines H and I), and your filing status, employer identification number (or its equivalent) and call sign (or its equivalent) remain the same (lines J, K, and L, respectively), then you can file a consolidated claim. If there is a change in any of these fields, you must file a separate claim form.

NOTE.—Please refer to the specific instructions for part I for the detailed definitions used in the preceding paragraph.

● Is supporting evidence required?

Not necessarily. The nature and extent of supporting evidence depends on a number of factors.

If the amount of your claim (*not* the fee you paid) is $100 or less, then you do not have to submit additional evidence. The only excetion is if the FCC *denied* your application. You should attach a copy of the Commission's letter or notice of denial.

If the amount of your claim is $101 or more, then you must supply evidence indicating that you paid the fee which is the subject of this claim. Examples of the kind of evidence needed to substantiate your claim would be copies of:

1. Canceled checks (front and back).
2. FCC Fee Section receipts.
3. Licenses, grants, or other authorizing documents issued by the Commission. (Send only that portion containing fee-related information.)

If your claim involves a refund for fees paid at the time of license transfer, you must include that portion of the transfer agreement indicating that you are to receive any refunds issued by the Commission. If no such language exists refunds issued by the Commission. If no such language exists in the transfer agreement, the Commission will accept a notarized letter signed by both buyer and seller which incorporates any new agreements reached between them regarding the refund of fees paid.

● How will the FCC use the information on the claim form?

The FCC will compare the information you submit on your claim form with information in FCC files to verify your claim.

● What happens if my claim is denied?

If your claim is denied or if the amount you requested is reduced, the Commission will notify you of its decision and the reasons why. The Commission will also provide information on how you can appeal the decision.

● When will I get my refund check?

If your claim is approved for payment, you will get your refund check within ninety (90) days of the date when we receive your claim.

● Is there a time limit on filing claims?

You should file your claim before December 31, 1979. If you file after that date, you must file your claim with the General Accounting Office, not with the FCC. This procedure will likely delay the timely processing of your claim.

● Can I file a claim if my records are lost?

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You should complete as much of the claim form as possible. You should also attach an affidavit stating why or how the information you need to file a complete claim is not available. The Commission will undertake a good faith effort to locate the particulars of your claim in its files. You will be notified by the Commission of the result of its investigation.

● Where can I get more claim forms?

Claim forms are available by writing to the FCC, or at all FCC field offices, at all Federal Government information centers, an at local post offices, where they may be picked up.

Claim forms are available by writing to the FCC, or at all FCC field offices, at all Federal Government information centers, and at local post offices, where they may be picked up.

You can also make copies of the form using any good quality office copier or reproducing device.

● How can I get more information?

The FCC has established a toll-free number to answer any questions you have about the fee refund program. That number is 800-123-4567. In the Washington, D.C., metropolitan area the number is 123-4567.

● Where should I send my claim?

You should send one copy of your claim (and any supporting evidence that is required) to: Federal Communications Commission, Over $20 Fee Refund Program, P.O. Box , Some City, State ZIP code.

SPECIFIC INSTRUCTIONS

PART I.—CLAIMANT INFORMATION

The information requested on this part of the claim form is used by the FCC for several purposes. Lines A through E are used to identify uniquely each claimant. Lines F and G gives us the name and phone number of the person to contact if we need additional information about the claim. Lines H and I indicate which organizational unit in the FCC should process the claim. Lines J, K, and L give us detailed information with which to identify a claimant and to control claim forms within the system. Lines M and N permit us to relate this claim to other claims you may be filing.

NOTE.—You must file a separate claim form whenever a change occurs in any of the following lines: H, I, J, K, or L. If these lines are constant, you can file all of your claims by completing part I and then numbering consecutively the claims on the reverse side of this form and on the continuation pages provided at the end of this booklet.

Line A (Claimant name.)—Enter the name of the individual or organization on whose behalf the claim is being filed. All refund checks will be made payable to the claimant.

If the claim is made on behalf of a person who has died, a bankrupt organization, or a person who is legally incompetent, then the person filing the claim should attach a power of attorney or other legal instrument demonstrating his/her authority to file this claim.

Please limit this entry to 35 positions, including spaces and punctuation.

Line B (Mailing name.)—Enter the name of the person or organization to whom the refund check should be sent. If this name is the same as that of the claimant, leave blank (35 positions.)

Line C (Address line 1)—If applicable, enter the building name, suite, or room number of the address where the refund check will be mailed. (30 positions.)

Line D (Address line 2)—Enter the street address. (30 positions.)

Line E (City, State, and ZIP code)—Enter the city (23 positions), State (2), and ZIP Code (5) for check mailing. See table 1 for State abbreviations to be used.

If the refund check is to be mailed outside the United States, then ignore the state ZIP code requirements.

Line F (Person to contact)—Enter the name of the person we can contact to get additional information about this claim, or to whom we should address our questions.

Line G (Telephone number)—Enter the area code and telephone number of the person given in line F.

NOTE.—Please refer to table 2 to help you complete the next two entries.

Line H (Bureau code)—This field indicates the FCC bureau which will process your claim. To determine which bureau code to use, refer to table 2. This table defines the reasons fees were paid and the bureaus to which they were due. When you have identified the fee you paid, go to column 1 of the table to get the bureau code. (2 positions.)

Line I (Service code)—Enter the service code based on column 2 of table 2 for the fee you paid.

Line J (Filing status)—The filing status code should be completed using the following definitions:

If the claimant does not have an EIN, then enter "1."

If the claimant has an employer identification number (EIN) assigned by the Internal Revenue Service, then enter "2."

If this claim is being filed on behalf of a person who has died, a bankrupt organization, or a legally incompetent person, then enter "3."

Line K (Employer identification number, or equivalent)—If you entered "2" on line J, then enter your EIN. If you have more than one EIN, use the one under which you file your monthly statement of FICA and Federal withholding taxes. Enter this nine digit number without spaces or dashes.

If you entered a "1" on line J, then enter the first four letters of your last name as it appears on line A.

If you entered a "3" on line J, then enter the first four letters of the claimant's last name as it appears on line A.

Line L (Current call sign, or equivalent)—If you have a current call sign, then enter it on this line. (8 positions maximum; ignore dashes and spaces.)

If you do not have a current call sign, then follow these instructions:

If you are filing a claim with the Office of the Chief Engineer, then enter the first eight (8) positions of the equipment model number which is the subject of this claim. (See also the instructions for part II, line 4.)

If you are filing a claim with the Common Carrier Bureau, then enter the first eight (8) positions of the FCC file number which is the subject of this claim. (See also the instructions for part II, line 1.)

If you are filing a claim with the Safety and Special Radio Services Bureau, then enter your prior call sign—the one which is the subject of this claim. If you do not remember either call sign, then enter the first four letters of the vessel name which had the call sign.

Line M (Number of claims)—Enter the number of claims you are submitting with this form.

Line N (Total amount claimed)—Enter the total amount you are claiming with this form. If you are filing more than one part I because of changes in Lines H through L, enter only the total associated with *this* form.

PART II.—DETAILED CLAIM INFORMATION

The information requested on this part of the form will be used by the FCC to verify your claim. This means that the information you provide on the claim form will be compared with information in FCC files. Based on this comparison, the bureau which processes your claim will make a recommendation on the disposition of your claim. The bureau can recommend that the Commission: (1) Pay your claim in the amount you requested, or (2) pay the claim but for less than you requested because of discrepancies between your claim and our records, or (3) deny payment because your claim is not eligible for a refund.

If the Commission decides to pay you less than you requested or if the Commission denies your claim entirely, then you will receive a detailed explanation of the Commission's action. You will also receive instructions on how you can appeal the Commission's action.

NOTE.—Under the laws governing Federal claims reimbursement systems, the Commission cannot issue refunds for more than the amount of the claim even if you are entitled to such an amount. If the Commission believes that you are entitled to more than you claimed, it will return your claim indicating that you may wish to resubmit your claim.

Line 1 (File number)—This entry applies only to those claims submitted to the Common Carrier Bureau under one or more of the following services and fee type codes:

Service	Fee type codes
Domestic public land mobile radio	111-115
Rural radio	117-121
Point-to-point microwave radio	123-126
Satellite communications	141-154
Nonradio applications	155-181

The file number can be found on the authorization and contains a maximum of 23 positions.

Line 2 (Filing date)—If you entered a file number in line 1, then enter the date when you filed your application. Enter the date as a numeric in the form of month/day/year. For example, October 29, 1970, is entered as 10-29-70.

Line 3 (Transmittal number)—This entry applies only to those claims submitted to the Common Carrier Bureau for refunding fees associated with tariff filings (service code 059). The transmittal number can be found on the cover page of the tariff application and has no more than five (5) positions.

Line 4 (Class of equipment)—This entry applies only to those claims submitted to the Office of the Chief Engineer. Enter the class of equipment in the same way you did when you paid the original fee for a filing/grant of equipment authorization.

The maximum size of this entry is 15 positions.

Line 5 (Model number)—This entry applies only to those claims submitted to the Office of the Chief Engineer.

Enter the complete model number for the piece of equipment which is the subject of this claim. Enter the model number in the same format as that used when you originally sought certification, type approval, or type acceptance.

The maximum size of this entry is 17 positions.

Line 6 (FCC decision code)—Enter the FCC's decision regarding this part of your original (or amended) filing/application using the following codes:

Enter "0" if the FCC did not have to approve or deny your application, e.g., annual license renewal fees.

Enter "1" if the FCC approved your application or grant request.

Enter "2" if the FCC denied your application or request.

NOTE.—You must attach a copy of FCC notice of denial to your claim form.

Enter "3" if you withdrew your application or grant request before the FCC acted on it.

Line 7 (Vessel name)—This entry applies only to those claims submitted to the Safety and Special Radio Services Bureau for issuing a ship license with an interim authorization (type code *106*).

Enter the vessel name under which this fee was paid.

Line 8 (Prior call sign)—Enter the call sign under which (or for which) you paid the fee that is the subject of this claim.

If you have had more than one call sign change, then each change should be the subject of a claim. Each claim would therefore list the call sign you had before the new one was granted.

If your call sign has not changed, enter your current call sign (see part I, line L).

Line 9 (FCC validation number)—The FCC validation number is that number assigned by the Commission when you paid your fee. This is a 17 position number and will be found in one or more of the following places:

Fee cage receipt, if you paid your fee in person;

Reverse side of your canceled check to the FCC;

Bottom of the first page of an authorizing document issued by the FCC, such as a tariff filing, a temporary authorization, or any other Commission notice.

Line 10 (Attachment numbers)—If you are submitting evidence and supporting documentation with your claim as required, number all the attachments consecutively. Indicate here which of the attachments is (are) associated with this claim.

NOTE.—Make sure your supporting documents are attached to the proper numbered claim.

Line 11 (Claim number)—Claim numbers 1 through 4 are prenumbered on the form. If you need additional space, use the continuation sheet provided and number the claims consecutively beginning with 00005.

Line 12 (Date fee paid)—Enter the date when you paid the fee which is the subject of this claim. Enter the date as numerics in the format of month/day/year. For example, June 9, 1975, is entered as 06-09-75.

Line 13 (Amount paid)—Enter the amount you paid for this fee type code. In some cases you may have paid a single amount which covered more than one fee. You should refer to table 2 to determine how much of the total fee you paid belongs to this particular claim.

Here are some of the more common instances where more than one fee was paid by a single check:

Satellite communication systems;

Amateur licenses with special call signs;

Construction permit grants and directional antenna.

Line 14 (Refund claimed)—Using table 2, enter the amount you are claiming for a refund of this particular fee. In most cases, the amount of your refund is the difference between what you paid and the cost to the Commission to process your application or filing.

If the fee you paid was based on variables—such as the number of pages in a tariff filing, the number of channel miles in a communications system, or a percent of consideration for a commercial license transfer—Please submit an attachment indicating: (1) How you computed the original fee you paid, and (2) how you computed the amount of your claim.

All claims should be entered as dollars only.

Line 15 (Fee type code)—Using table 2, column 2, enter the fee type code that describes the fee you paid.

Line 16 (FCC decision date)—Enter here the date on which the FCC made its decision on your filing or application. This date will be found on one or more of the following: License; other authorizing document; letter or notice of denial.

Enter the date as month/day/year, using numeric codes. For example, July 12, 1971, is entered as 07-12-71.

NOTE.—Lines 17-20 are reserved for use by the FCC.

PART III.—WAIVER AND CERTIFICATION

This part of the claim form contains two paragraphs which you should read carefully. Both paragraphs, the *waiver* and the *certification*, apply to all claims submitted with the form.

NOTE.—You must sign part III (including your title and the date) before the FCC can process your claim. If the FCC receives an unsigned claim, we will return it to the name and address shown in part I (lines A-E).

PROPOSED FORM - SAMPLE

GAO APPROVED
OTHER DATA

FEDERAL COMMUNICATIONS COMMISSION
Fee Refund Program
Post Office Box 0000000
Somecity, State Name 00000

- ● A. CLAIMANT NAME (35)
- ● B. MAILING NAME
- ● C. ADDRESS LINE 1 (30)
- ● D. ADDRESS LINE 2 (30)
- ● E. CITY, STATE AND ZIP (30)
- F. PERSON TO CONTACT
- G. TELEPHONE NUMBER ( )
- ● H. BUREAU CODE (2)
- ● I. SERVICE CODE (4)
- ● J. FILING STATUS (1)
- ● K. EMPLOYER IDENT. No. (9)
- ● L. CURRENT CALL SIGN (6)
- M. NUMBER OF CLAIMS (5)
- N. TOTAL AMOUNT CLAIMED (10)

1.	FILE NUMBER	● 11.	CLAIM NUMBER (5) 00001
2.	FILING DATE	● 12.	DATE FEE PAID (6)
3.	TRANSMITTAL NUMBER	● 13.	AMOUNT PAID ($)
4.	CLASS OF EQUIPMENT	● 14.	REFUND CLAIMED ($)
5.	MODEL NUMBER	● 15.	FEE TYPE CODE (4)
6.	FCC DECISION	● 16.	FCC DECISION DATE (6)
7.	VESSEL NAME	17.	
8.	PRIOR CALL SIGN	18.	
9.	VALIDATION NUMBER	● 19.	TRANSACTION CODE (3)
10.	ATTACHMENT NUMBER(S)	● 20.	TRANSACTION DATE (6)

WAIVER

IF I AM PAID THE AMOUNT OF REFUND I HAVE CLAIMED ON THIS FORM, I VOLUNTARILY AGREE TO ACCEPT THAT AMOUNT AS FULL SATISFACTION OF ANY CLAIM THAT I MAY HAVE AGAINST THE UNITED STATES FOR REFUND OF THE FEES COVERED BY THIS CLAIM. I ALSO VOLUNTARILY AGREE TO WAIVE AND ABANDON ANY RIGHTS THAT I MAY HAVE NOW OR MAY ACQUIRE IN THE FUTURE TO REFUND OF ANY ADDITIONAL AMOUNTS FOR THE FEES INVOLVED IN THIS CLAIM.

CERTIFICATION

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS CLAIM, INCLUDING ACCOMPANYING DOCUMENTS AND STATEMENTS, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE, CORRECT, AND COMPLETE. I UNDERSTAND THAT IF I INTENTIONALLY MAKE FALSE STATEMENTS IN THIS CLAIM, I MAY BE PUNISHED BY AS MUCH AS FIVE YEARS IN JAIL AND $10,000 FINE. (TITLE 18, UNITED STATES CODE SECTION 1001.)

(SIGNATURE) (TITLE) (DATE)

FOR FCC USE ONLY

DATE/TIME STAMP
CONTROL NUMBER
FCC FORM NUMBER
OTHER DATA

1.	FILE NUMBER	● 11.	CLAIM NUMBER (5) 00002
2.	FILING DATE	● 12.	DATE FEE PAID (6)
3.	TRANSMITTAL NUMBER	● 13.	AMOUNT PAID ($)
4.	CLASS OF EQUIPMENT	● 14.	REFUND CLAIMED ($)
5.	MODEL NUMBER	● 15.	FEE TYPE CODE (4)
6.	FCC DECISION	● 16.	FCC DECISION DATE (6)
7.	VESSEL NAME	17.	
8.	PRIOR CALL SIGN	18.	
9.	VALIDATION NUMBER	● 19.	TRANSACTION CODE (3)
10.	ATTACHMENT NUMBER(S)	● 20.	TRANSACTION DATE (6)

1.	FILE NUMBER	● 11.	CLAIM NUMBER (5) 00003
2.	FILING DATE	● 12.	DATE FEE PAID (6)
3.	TRANSMITTAL NUMBER	● 13.	AMOUNT PAID ($)
4.	CLASS OF EQUIPMENT	● 14.	REFUND CLAIMED ($)
5.	MODEL NUMBER	● 15.	FEE TYPE CODE (4)
6.	FCC DECISION	● 16.	FCC DECISION DATE (6)
7.	VESSEL NAME	17.	
8.	PRIOR CALL SIGN	18.	
9.	VALIDATION NUMBER	● 19.	TRANSACTION CODE (3)
10.	ATTACHMENT NUMBER(S)	● 20.	TRANSACTION DATE (6)

1.	FILE NUMBER	● 11.	CLAIM NUMBER (5) 00004
2.	FILING DATE	● 12.	DATE FEE PAID (6)
3.	TRANSMITTAL NUMBER	● 13.	AMOUNT PAID ($)
4.	CLASS OF EQUIPMENT	● 14.	REFUND CLAIMED ($)
5.	MODEL NUMBER	● 15.	FEE TYPE CODE (4)
6.	FCC DECISION	● 16.	FCC DECISION DATE (6)
7.	VESSEL NAME	17.	
8.	PRIOR CALL SIGN	18.	
9.	VALIDATION NUMBER	● 19.	TRANSACTION CODE (3)
10.	ATTACHMENT NUMBER(S)	● 20.	TRANSACTION DATE (6)

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TABLE 1.—*Abbreviations of States and Territories*

AL Alabama
AK Alaska
AZ Arizona
AR Arkansas
CA California
CO Colorado
CT Connecticut
DE Delaware
DC District of Columbia
FL Florida
GA Georgia
HI Hawaii
ID Idaho
IL Illinois
IN Indiana
IA Iowa
KS Kansas
KY Kentucky
LA Louisiana
ME Maine
MD Maryland
MA Massachusetts
MI Michigan
MN Minnesota
MS Mississippi
MO Missouri
MT Montana
NE Nebraska
NV Nevada
NH New Hampshire
NJ New Jersey
NM New Mexico
NY New York
NC North Carolina
ND North Dakota
OH Ohio
OK Oklahoma
OR Oregon
PA Pennsylvania
RI Rhode Island
SC South Carolina
SD South Dakota
TN Tennessee
TX Texas
UT Utah
VT Vermont
VA Virginia
WA Washington
WV West Virginia
WI Wisconsin
WY Wyoming
SA American Samoa
CZ Canal Zone
GU Guam
MQ Midway Island
VI Virgin Islands
WQ Wake Island
TT Trust Territories of the Pacific
PR Puerto Rico
NQ Northern Mariana Islands

TABLE 2. *FCC Bureau and Service Codes (will be part of Table 2)*

13 Office of the Chief Engineer
- 01 Certification
- 02 Type Acceptance
- 03 Type Approval
- 04 Advance Approval of Subscription TV System

16 Common Carrier Bureau
- 10 Domestic Public Land Mobile Radio
- 11 Rural Radio
- 12 Offshore Systems
- 13 Individual Mobile Systems
- 14 Point-to-point Microwave Radio
- 15 Local Television Transmission
- 16 Multipoint Distribution
- 17 International Fixed Public Radio
- 18 Domestic Satellite Communications
- 19 International Satellite Communications
- 20 Tariff Filings
- 21 Nonradio Applications

17 Safety and Special Radio Services Bureau
- 30 Marine
- 31 Aviation
- 32 Private Operational Fixed Microwave
- 33 Amateur

18 Broadcast Bureau
- 40 International
- 41 AM
- 42 FM
- 43 TV
- 44 Foreign Program
- 45 Experimental TV
- 46 Developmental
- 47 Remote Pickup
- 48 Low Power
- 49 TV Inter-city Relay
- 50 Aural STL
- 51 TV Pickup
- 52 TV STL
- 53 Aural Inter-city Relay

20 Cable Television Bureau

TABLE 2

FCC BUREAU NAME AND CODE	SERVICE NAME AND CODE	NEW FEE TYPE CODE	NARRATIVE DESCRIPTION OF FEE TYPE CODE	OLD FEE TYPE CODE	OLD FEE AMOUNT	REFUND TO PAID BASIS FOR FEE	NEW FEE AMOUNT	NEW FEE EFFECTIVE DATE
OFFICE OF THE CHIEF ENGINEER CODE 13	CERTIFICATION CODE 10	0077	APPLICATION FOR CERTIFICATION OF EACH RECEIVER MODEL-TELEVISION RECEIVERS.	077	10.		25.	11/14/78
		0078	FILING FEE	078	50.		106.	11/14/78
			* GRANT FEE				75.	11/14/78
COMMON CARRIER BUREAU CODE 16	RURAL RADIO SERVICE CODE 11	1002	APPLICATION FOR AN INITIAL CONSTRUCTION PERMIT OR FOR RELOCATION OF FACILITIES	077	250.	18.	232.	11/14/78
		1117	FILING FEE	117	100.	59.	41.	11/14/78
		1118	* GRANT FEE	118	200.	59.	141.	11/14/78
			APPLICATION FEE ONLY				59.	11/14/78
SAFETY AND SPECIAL RADIO SERVICES BUREAU CODE 17	MARITIME RADIO SERVICES CODE 30	0001	COMMON CARRIER PUBLIC COAST STATION-INITIAL LICENSE AND RENEWAL.	146	75.	40.	35.	11/14/78
							75.	11/14/78
							40.	11/14/78
BROADCAST BUREAU CODE 18	TV.	0004	APPLICATION FOR CONSTRUCTION PERMIT FOR NEW STATION OR FOR MAJOR CHANGES IN EXISTING STATION - UHF - TOP 50 M MKTS	003	2500.	1114.	1386.	11/14/78
				004	25,000.	1114.	23,886.	11/14/78
			FILING FEE	001	2500.	1114.	1386.	11/14/78
			* GRANT FEE	002	25000.	1114.	23886.	11/14/78
			FILING FEE					
			* GRANT FEE					

* EXPLANATION OF COMPUTATION FOR VARIABLE FEE TYPES.
* GRANT FEE INCLUDES FILING FEE

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ATTACHMENT C

Phase I of the FCC fee refund program is intended to deal with all fees greater than $20 collected between August 1, 1970, and January 1, 1977. This attachment defines the types of fees that come within this "over-$20" category.

WHAT IS MEANT BY THE PHRASE "OVER-$20"?

Over-$20 fees consist of five classes or groups of fees. Taken together, these fee groups make up the universe of potential claims.

Definitions are given here and examples are provided in the following section.

Fee group No. 1 consists of all individual fee types which were more than $20 under a published fee schedule.

Fee group No. 2 includes all instances where the sum of the filing and grant fees for a single application was more than $20, even if one or both fees were $20 or less.

Fee group No. 3 includes all filings which contained more than one fee type, even if one or all fees were $20 or less.

Fee group No. 4 contains all filings in which the fee paid was based on a variable, rather than being a constant fixed fee for all applicants for a particular service.

Fee group No. 5 covers all fees which were imposed as a result of amending an application/filing in any of the other four fees groups.

NOTE.—These definitions are not mutually exclusive; that is, a single filing or application could fall in more than one fee group. The crucial point is that any filing or application which cannot meet at least one definition is not eligible for the over-$20 fee refund program.

Individual fees of more than $20

The first fee group, consisting of individual fees of more than $20 under a published fee schedule, is self-explanatory. Examples of fee types that become eligible through this definition are:

All Broadcast Bureau fees;

All grant fees associated with equipment type approval in the Office of the Chief Engineer;

All applications for microwave stations (Safety and Special Radio Services Bureau);

All application fees for construction of a base station for a domestic land mobile radio station (Common Carrier Bureau).

Sum of filing and grant fees more than $20

The second fee group, those in which the sum of filing and grant fees was more than $20 for a single application, will not cover many cases. It is included because the Commission's cost data cannot always distinguish between these fee types. Therefore, the Commission has decided to include in the over-$20 category those cases in which the potential fee was more than $20 when composed of a filing and grant fee.

This "threshhold" definition provides a ready example of fees which are excluded from the over-$20 category. Under the 1970 schedule, the OCE collected a $5 filing fee and a $15 fee grant fee for a "request for modification of a prototype certified equipment operating under part 18 with no change in model number." Because the sum of filing and grant fees is less than $20.01, these fees are ineligible.

One the other hand, if the request to the OCE was for modification of a certified receiver with no change in model number, the following fees are included in the over-$20 system:

Type of equipment	Filing fee	Grant fee	Total
Television receivers	$10	$30	$40
FM receivers	5	20	25
All others	5	20	25

Another example of fees to be included because of this definition comes from the Common Carrier Bureau. That Bureau required a filing fee of $10 for an application to renew a license for a dispatch or control station. The grant fee was $50 (1970 fee schedule).

Filings which contain more than one fee type

The third group of fees (those consisting of a single filing containing more than one fee type) is designed to cover "system" filings. This class of potentially eligible fees recognizes that there were many instances when: (1) A single filing or application contained more than one fee type, (2) that the different fee types in the filing are technically or administratively inseparable, and (3) payment was made with a single check. That is, the applicant would not seek Commission approval for only part of a system; or the Commission's own rules precluded an applicant from filing for only one element/authorization without payment of a fee for another element or authorization.

One important example comes quickly to mind: Some communication circuits are made up of diverse elements, e.g., single system could include land lines, satellite facilities, and marine cables. No one component makes much sense standing on its own.

Variable-based fees

The fourth fee group consists of variable-based fees—that is, the amount of the fee reflected either the product of a unit price times the number of units, or a fixed percent of a number which varied. Some examples of variable-based fees that are included in the over-$20 system are:

Fees based on channel or frequency miles used;

Fees based on the number of pages in a tariff filing;

Fees based on consideration for license transfer or assignment.

In the Common Carrier Bureau, an applicant for an individual mobile station paid a fee of $15 for the first mobile unit on an application and $9 for each additional mobile unit on the same application (1975 fee schedule). In most instances the applicant requested more than one mobile unit, and the system application fee was at least $24. The fee was paid with a single check.

This class of fees is included for several reasons. First: The total fee paid was usually more than $20 even if a single unit could be less than $20.01. Second: These fees were almost always part of system filings or amendments to existing configurations. Third: Even though the fee paid was a function of some variable, the FCC's cost-to-process was relatively stable. Finally: This definition dramatically simplifies the paperwork associated with filing a claim because the claimant need not file a separate claim for each unit; that is, a carrier which filed a 135 page tariff would not have to submit 135 discrete claims—one would be sufficient.

Fees paid to amend filings covered above

The fifth fee group, representing fees paid to amend a filing or application in one of the other four fee groups already discussed, is included for reasons of administrative convenience. A claimant can quickly assemble all of the fees paid which relate to a single filing or application and can request a refund using a single claim form. Equally as important, the Commission can process all claims related to the filing through one examination of the docket or file folder.

DOES THIS MEAN THAT EVERY FEE TYPE INCLUDED IN THE FIVE FEE GROUPS WILL RECEIVE A REFUND?

No. The definitions and examples given above address one aspect of the fee refund program. They set the limits on the potential universe of claims based on what, how, and why the original fee(s) was (were) paid. The other side of the fee refund equation involves the costs incurred by the Commission to process the application, request or filing. Where the FCC's cost exceeds the fee paid, no refund will be made even if the fee(s) paid falls within one of the five fee groups.

IF THE CLAIMANT PAID MORE THAN ONE FEE, HOW WILL THE CLAIM BE FILED?

As a general rule, the claimant will be instructed to file for a refund based on the individual fees paid. That is, if the claimant paid a filing and a grant fee which are eligible to refunds, the claimant will submit two claims—one reflecting the filing fee (and its refund), and another reflecting the grant fee (and its refund).

Where variable based fees are involved, the claimant will file for his/her refund according to the fee type in the application. If, for example, a common carrier sought permission to install 300 circuits, the claimant would file a single claim which defined the fee type involved and the total amount paid; 300 claims would not be required.

SEPARATE STATEMENT OF COMMISSIONER ABBOTT WASHBURN RE: FUTURE FCC FEES

SEPTEMBER 29,1978.

The spectrum allocation mechanism, whatever its nature should tend toward, if not achieve, economic efficiency. I fully appreciate that present practices provide little reason to suppose that is the case. Further, the institution of a free market in spectrum rights, if achievable, theoretically would provide strong incentives toward efficient spectrum use. However, in order to effect economic efficiency gains any proposal must affect user behavior. I am troubled that at least in the case of the mass media broadcasting services (i.e., AM, FM radio, and TV) the spectrum use fees proposed in today's inquiry and those incorporated in H.R. 13015 may not accomplish those objectives.

In order to be compatible with the hundreds of million of receivers in the hands of the public, the form and bandwith of the broadcast signal is tightly specified. Further, the licensee's leeway in altering the operating characteristics of broadcasting stations is severely limited through our extensive table of assignments and other technical rules required to keep electrical interference within tolerable limits. Given these necessary constraints I fail to see how spectrum fees at whatever level can (except in the extreme case of a broadcast station going off the air) affect licensee behavior or in any way increase economic efficiency.

It is suggested in the inquiry that a fundamental deficiency in our present procedure is the failure of spectrum managers to take economic factors into account. However, in the broadcast services this is not entirely true. There is a robust and essentially free market in the transfer of broadcast properties today. For instance a network affiliated VHF-TV station in a major market might sell for as much as $100 million. Surely, this price must reflect more than the net book value of the hardware—it must include some premium for the licensed right to use the frequency spectrum. I can not help but wonder why the prices derived from the elaborate theoretical formulae in the notice are superior to those determined in this relatively free private market place. Or, more basically, why should the Government set the prices at all? I would hope that parties responding to part D of today's notice would address my concerns expressed above, for without a reasonably clear indication of increased efficiency or other overriding public benefits associated with greatly increased spectrum-use fees, I would have to conclude that the mass media broadcasting services should be exempted from these burdens.

STATEMENT OF COMMISSIONER MARGITA E. WHITE CONCURRING IN PART AND DISSENTING IN PART

Today's notice of inquiry on the Commission fee program contains three proposals. The first (part B) deals with refunds and I am pleased that the process to refund fees of more than $20 will be under way by early next year. The second proposal (part C) is a two-part schedule for calculating future fees based on the cost of Commission services and the value of such service to the licensee, which the courts have held the Commission must take into account. Under the present law, total fees under this schedule may not exceed the Commission's budget.

The difficulty of measuring the "value conferred upon the payor" should not be underestimated. With respect to broadcasting, the Commission's notice states "we believe this can be reasonably accomplished by defining value conferred in accordance with size and possibly the nature of the market covered by the radio licensee's signals. As an example, value conferred on commercial broadcasters would be measured by the size of the audience which the station is technically capable of reaching by virtue of its location, transmission power, authorized operation time, frequency assignment, and other relevant technical considerations."

Perhaps that is the only way to meet the court's mandate, but I have serious reservations about a fee so dependent upon the number of potential households a broadcaster is technically capable of reaching in a given market. This, it seems to me, would escalate the already excessive importance of ratings at the expense of innovative, specialized or local quality programing. When I raised my concern that such a fee structure would handicap minority and specialty programers, it was suggested this might be ameliorated by taking into account the kind and total programed-to or actual audience and adjusting the fee accordingly. Yet such flexible formulas inevitably will force the Commission into passing judgment on format and programing decisions, invite enforcement problems (the incentive would be to claim a more narrow market for a smaller fee and to program to a wider audience for advertising revenue purposes), and raise new threats to broadcasters' first amendment rights.

These and other issues deserve serious discussion before a decision can be made as to whether it is feasible to assign the "value conferred" to Commission licensees. The issues also are distinct between licensees whose activity depends entirely upon the spectrum for their existence, such as broadcasting and radio common carriers, and those for whom the use of radio is either an adjunct to another enterprise or a substitutable resource. With respect to the safety and special radio services, the notice suggests that "where many licensees share a particular channel equally, then it would be assumed that value conferred is also shared equally and should be divided equally among them." Does Sears, sharing a channel for its delivery trucks with the local plumber, derive the same value from using this frequency? I doubt it. Such a formula would seem inherently biased against the smaller entrepreneur. And what of amateur radio and CB radio operators? Is there not a value conferred to society as a whole by allowing private citizens access to the spectrum?

While we must proceed to inquire as to whether and how a reasonable "value conferred" can be measured in order to expedite a decision as to future fee schedules,[1] now is not the time to pursue the Commission's third proposal for an expensive theoretical paper exercise with the purported goal of suggesting a "simple" spectrum fee to the Congress. The comments invited in part D merely will duplicate the information already being gathered by the House Subcommittee on Communications. Moreover, there is nothing "simple" about the various formulas to measure a "fair market value" on the basis of population, population density, bandwidth, propagation characteristics, per capita income, and other factors.

The implications of a spectrum fee to generate revenues exceeding by "many times" the Commission's

[1] While I understand the need for action on fees, the need is not so precipitous as to require consideration without public notice. The Commission's rush to judgment today does violence to the letter and spirit of the Sunshine Act and open government.

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budget are immense, going far beyond the narrow questions posed in part D.

What impact would such sizable fees have on the quality of broadcast programing and, as already noted, on specialty, minority, and local programing? How would they affect the structure of the broadcast and other industries? What of the consumer to whom the costs of the fees ultimately will be passed on? What discretion should the FCC have in setting, allocating and adjusting fees?

What should be done with the fee? While the notice begs this question, the Commission staff presenting it to us suggested it could be deposited in the U.S. Treasury or we "could earmark it." Would the Commission have the power both to determine the fees and their uses? While the courts fortunately have made a reasonably clear distinction between the powers to tax and to levy fees, it is essential that the Commission's jurisdiction be circumscribed carefully, and that Congress itself not become the arbiter of constant changes in fees and their earmarkings. For if the Government has the power to adjust broadcasters' financial base, it has the incentive to mete out rewards and punishment and a political tool to manipulate broadcasting's press and speech freedoms.

I dissent to the inclusion of part D of this notice. I fear it is a first step into a regulatory swampland. It is especially ironic that the Commission approved these proposals on the day the President vigorously renewed his call for less government intrusion and regulation, for more vigilance against inflation, for more Government efficiency and less wasteful Government spending. "We here in Washington must set the example," said the President.

The FCC has set the wrong example.

[FR Doc. 78-28229 Filed 10-6-78; 8:45 am]

federal register

TUESDAY, OCTOBER 10, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ANTIPERSPIRANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Establishment of a Monograph; Proposed Rule

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[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 350]

[Docket No. 78N-0064]

ANTIPERSPIRANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Establishment of a Monograph; Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) antiperspirant drug products are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Antiperspirant Drug Products, is part of the Food and Drug Administration's ongoing review of OTC drug products.

DATES: Comments by January 8, 1979; reply comments by February 7, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Pursuant to Part 330 (21C CFR Part 330), the Commissioner of Food and Drugs received on January 27, 1978, a report of the Advisory Review Panel on OTC Antiperspirant Drug Porducts. In accordance with § 330.10(a)(6) (21 CFR 330.10) (6)), the Commissioner is issuing (1) a proposed regulation containing the mongraph recommended by the Panel, which established conditions under which OTC antiperspirant drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the mongraph on the basis of a determination by the Panel that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph on the basis of a determination by the Panel that the available date are insufficient to classify such conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel to the Commissioner. The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

An earlier report of this Panel was submitted to the Commissioner and published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328). At that time, the Commissioner proposed that any aerosol drug or cosmetic product containing zirconium is a new drug or an adulterated cosmetic. The final regulation was published in the FEDERAL REGISTER of August 16, 1977 (42 FR 41374), and became effective September 15, 1977. It declared that any aerosol drug or cosmetic product containing zirconium is a new drug or an adulterated cosmetic. Any such drug or cosmetic may not be introduced in interstate commerce after September 15, 1977 until safety testing adequate for approval of a new drug application (NDA) has been done.

The purpose of issuing the unaltered conclusions and recommendations of the Panel is to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The Commissioner has not yet fully evaluated the report; the Panel's findings are being issued as a formal proposal to obtain full public comment before the agency reaches any decision on the Panel's recommendation. The report has prepared independently of the Food and Drug Administration (FDA). It represents the best scientific judgment of the members, but does not necessarily reflect the agency position on any particular matter contained in it.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2), all data and information concerning OTC antiperspirant drug products submitted for consideration by the Panel have been handled as confidential by the Panel and FDA. All such data and information will be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after November 6, 1978, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 33(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857.

Based on the conclusions and recommendations of the Panel, the Commissioner proposes the following:

1. That the conditions included in the mongraph, under which the drug products would be generally recognized as safe and effective and misbranded (Category I), be effective 30 days after the date of publication of the final monograph in the FEDERAL REGISTER.

2. That the conditions excluded from the monograph because they would cause the drug to be not generally recognized as safe and effective or to be misbranded (Category II), be eliminated form OTC drug products effective 6 months after the date of publication of the final monograph in the FEDERAL REGISTER, regardless of whether further testing is undertaken to justify their further use.

3. That the conditions excluded from the monograh because the available date are insufficient (Category III) to classify such conditions either as Category I or Category II be permitted to remain on the market, or may be introduced in to the market after the date of publication of the final monograph in the FEDERAL REGISTER, provided that FDA receives notification of testing in accordance with § 330.10(a)(13) (21 CFR 330.10(a)(13)). The period of time recommended by the Panel within which studies must be completed will be carefully reviewed by the Commissioner after receipt of comments on this document. The Commissioner will determine what time period to permit for Category III testing after that review is completed.

The Commissioner recognizes that changes will result in the current marketing practice of these products if the recommendations are fully implemented. The Panel's recommendations include effectiveness testing of the final product formulations for Category I ingredients. Also, the panel is recommending a statement on the lable explaining the level of effectiveness that can be expected from the use of these products.

At this time, the Commissioner seeks comment on these and all other Pannel recommendations. After careful review of all comments submitted in response to this proposal, the Commissioner will issue a tentative final regulation in the FEDERAL REGISTER to establish a monograph for OTC antiperspirant drug products.

In the FEDERAL REGISTER of January 5, 1972 (37 FR 85), the Commissioner announced a proposed review of the safety, effectiveness, and lableing of all OTC drugs by independent advisory review panels. In the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), the Commissioner published the final regulations providing for the OTC drug review under § 330.10 which were made effective immediately. Pursuant to these regulations, the Commissioner issued in the FEDERAL REGISTER of September 7, 1973 (38 FR 24391) a request for data and information on all active ingredients utilized in OTC antiperspirant drug products.

The Commissioner appointed the following panel to review the data and information submitted, and to prepare a report pursuant to § 330.10(a)(1) on the safety, effectiveness, and labeling of those products:

E. William Rosenberg, M.D., Chairman.
J. Wesley Clayton, Ph. D., terminated February 1976.
Charles Evans, M.D., Ph. D.
Zenona Mally, M.D.
Jane Rosenzweig, M.D.
Robert Scheuplein, Ph. D.
Eli Shefter, Ph. D.

The panel was first convened on March 15, 1974, in an organizational and informative meeting. Working meetings were held on April 25 and 26, July 9 and 10, August 8 and 9, September 19, 20, and 21, October 31 and November 1 and 2, December 16 and 17, 1974; January 30 and 31, March 24 and 25, April 24 and 25, May 22 and 23, July 9 and 10, August 14 and 15, September 18 and 19, November 20 and 21, December 18 and 19, 1975; January 22 and 23, February 26 and 27, April 29 and 30, June 24 and 25, August 26 and 27, October 28 and 29, December 2 and 3, 1976; February 3 and 4, August 22 and 23, November 17 and 18, 1977; and January 26 and 27, 1978.

Three nonvoting liaison representatives served on the Panel. Marsha W. Gardner served as the consumer liaison until September 1976 and was followed by Emily D. Londos. Both were nominated by the Consumer Federation of America. Robert Giovacchini, Ph. D., nominated by the Cosmetic, Toiletry and Fragrance Association (CTFA), served as the industry liaison.

Dr. Scheuplein, a voting member of the panel from its beginning on March 15, 1974, became employed with FDA in January 1977, as Chief, Dermal and Ocular Toxicology Branch, Division of Toxicology, Bureau of Foods. Although a full-time FDA employee, Dr. Scheuplein remained a voting member of the panel. It was decided that since the panel's basic review had been completed and all major decisions concerning the report already had been made when Dr. Scheuplein's employment with FDA commenced, it would not be necessary to seek a replacement panel member. However, it was also decided that on any formal decision, Dr. Scheuplein's vote should be specifically identified and placed in the public record.

Other employees of FDA served with the Panel as follows: Mary K. Bruch as executive secretary; Lee Geismar as Panel Admisistrator; Lloyd Scott, R. Ph., as Drug Information Analyst served until April 1974, followed by Gary Trosclair, R. Ph., until October 1974, followed by Joe Hussion, R. Ph., until July 1976, followed by Dennis Myers, R. Ph.

In addition to the panel members and liaison representatives, the following individuals were given and opportunity to appear before the panel to express their views either at their own or at the panel's request:

Harold Baer, Ph. D.; Dov Boros, Ph. D.; Edwin V. Buehler, Ph. D.; Frank Carabella, Ph. D.; Robert Choate: Arnold B. Christen, Esq.; George Comstock, M.D.; Ronald Croystal, M.D.; Helen Dickie, M.D.; Robert Drew, Ph. D.; Walter Elvers, D.D.S.; William Epstein, M.D.; D. B. Ericson; Kenneth Ericson; Leon Goldberg, M.D., Ph. D.; Leonard Harber, M.D.; Lester B. Hardy, Ph. D.; G. Hildick-Smith, M.D.; Herman Jass, Ph. D.; Frank Johnson, M.D.; Robert Jones, M.D.; William Jordan, M.D.; Clark Hoffman, Ph. D.; Albert M. Kligman, M.D.; Adalbert Koestner, D.V.M., Ph. D.; Edwin M. Larsen, Ph. D.; Michael Lebowitz, M.D.; Robert Lehnhoff, G. Lord, D.V.M., Ph. D.; Henry C. Maguire, Jr., M.D.; Bertil Magnusson, M.D.; Howard I. Maibach, M.D.; Paul Majors; Lollie Marchant; Joseph Page, Esq., F. Polley, Ph. D.; Joseph Robinson, Ph. D.; F. R. Rolle, Ph. D.; W. E. Smith, M.D.; W. G. Spector (Great Britain), M.A., M.B., B. Ch.; H. E. Stokinger, Ph. D.; Irwin Stolloff, M.D.; A. Wehner, D.M.D.; Hans Weill, M.D.; Sidney Wolfe, M.D.; William Wooding; and Ronald J. Wulf, Ph. D.;

No person who so requested was denied and opportunity to appear before the panel.

The panel has thoroughly reviewed the literature and the various data submissions, has listened to additional testimony from interested parties, and has considered all pertinent data and information submitted through January 27, 1978, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations (21 CFR 330.10), the panel's findings with respect to OTC antiperspirant drug products are set out in three categories:

Category I. Conditions under which OTC antiperspirant drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC antiperspirant drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. SUBMISSION OF DATA AND INFORMATION

Pursuant to the notice published in the FEDERAL REGISTER of September 7, 1973, requesting the submission of data and information on OTC antiperspirant products, the following firms made submissions:

A. SUBMISSIONS BY FIRMS.

Firm and marketed products

Aerosol Techniques, Inc., Milford, Conn. 06460—Super Dri-Mist Heavy Duty Antiperspirant, Rite-Aid Extra Dry Antiperspirant Spray.

Armour-Dial, Inc., Chicago, Ill. 60608—Dial Antiperspirant (Aerosol, Roll-on), (Scented, Unscented).

Bristol-Myers Products, New York, N.Y. 10022—Ammens Foot Cooler, Ban Roll-on Antiperspirant Deodorant (Scented and Unscented), Ban Antiperspirant Cream Deodorant, Ban Deodorant Spray, Dry Ban Antiperspirant Deodorant Spray, The Dry System Antiperspirant Cream Concentrate, The Dry System Antiperspirant Lotion Concentrate, Mum (Cream, Roll-on, Spray), Deodorant Mum Powder Spray Antiperspirant Deodorant, Softalc Deodorant Spray Powder (Scented and Unscented), Trig Antiperspirant Roll-on Deodorant (Scented and Unscented), Ultra Ban 5000 Antiperspirant (Scented and Unscented), Ultra Ban Powder Spray.

Carter Wallace Products Div., Cranbury, N.J. 08512—Arrid Cream, Arrid Cream with Chlorophyll, Arrid Antiperspirant Roll-on Deodorant, Light Powder Arrid Extra Dry Anti-Perspirant Spray (Scented and Unscented), Arrid Antiperspirant Spray (Scented and Unscented).

Colgate-Palmolive, Piscataway, N.J. 08854—Hour After Hour Antiperspirant.

Gillette Co., Boston, Mass. 02114—Gillette Right Guard (Antiperspirant, Natural Scent Antiperspirant, Powder Dry Antiperspirant), Soft and Dri Lightly Powdered Antiperspirant Deodorant, Soft and Dri Antiperspirant (Scented and Unscented), X-Hydra Antiperspirant Deodorant (Cream, Liquid), Right Guard Extra Strength Antiperspirant, Gillette Right Guard Double Protection Antiperspirant (Scented and Unscented), Super Dry Soft and Dri (Scented and Unscented).

Leon Products, Inc., Jacksonville, Fla. 32216—Certain Dri Antiperspirant Deodorant.

Pennwalt Corp., Rochester, N.Y. 14623—Fresh Stick.

Person and Covey, Inc., Glendale, Calif. 91201—Drysol.

Procter & Gamble Co., Cincinnati, Ohio 45224—Secret Antiperspirant, Sure Antiperspirant.

Redfoot Products Co., Inc., Detroit, Mich. 48228—Redfoot Powder.

Sterling Drug, Inc., New York, N.Y. 10016—Body All Powdery Spray Deodorant and Antiperspirant, Dorothy Gray Antiperspirant Atomist Deodorant, Dorothy Gray Spin Roll-on Deodorant Antiperspirant, Dorothy Gray Antiperspirant Cream, Givenchy Gentleman Antiperspirant Deodorant Spray, Tussy Dry Antiperspirant Spray, Tussy Roll-on Deodorant, Tussy Roll-on Deodorant Extra Strength (Scented and Unscented), Tussy Cream Deodorant, Tussy Extra Strength Cream Deodorant, Tussy Cream Deodorant Unscented.

Texas Pharmacal Co., San Antonio, Tex. 78296—Allercreme Aerosol Antiperspirant Deodorant (Scented and Unscented), Allercreme Antiperspirant Deodorant Creme (Scented and Unscented), Allercreme Liquid Spray Antiperspirant Deodorant (Scented and Unscented), Allercreme Roll-on Antiperspirant Deodorant (Scented and Unscented), Maxi-Dry Hypo-allergenic Antiperspirant, Roll-on (Scented and Unscented), Maxi-Dry Hypo-allergenic Antiperspirant Cream (Scented and Unscented).

USV Pharmaceutical Corp., Tuckahoe, N.Y. 10707—Mitchum Antiperspirant Spray (Scented and Unscented), Mitchum Antiperspirant Powder (Scented and Unscent-

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ed), Mitchum Cream Antiperspirant, Mitchum Antiperspirant Liquid (Scented and Unscented), Mitchum Antiperspirant Stick.

In addition, the following firms made related submissions:

Firm and submission

Aerosol Techniques, Milford, Conn. 06460—Aluminum chlorhydroxide.
Carter Wallace Products Division, Cranbury, N.J. 08512—Zinc phenol sulfonate.
Proctor & Gamble, Cincinnati, Ohio 45224—Zirconyl hydroxychloride.
Reheis Chemical Co., Berkely Heights, N.J. 07922—Chlorhydrol Powder, Chlorhydrol Solution, Micro-Dry, Micro-Dry Ultrafine, Basic Aluminum Bromide, Rehydrol, Chloracel Solid, Chloracel Solution.
Wickhen Products, Inc., Hugenot, N.Y. 12746—Wickenol 303, 321, 323, 324, 340, 363D.

B. LABLED INGREDIENTS CONTAINED IN MARKETED PRODUCTS SUBMITTED TO THE PANEL.

Aluminum chlorhydrate, aluminum chlorhydrate compound, aluminum chlorhydrate zirconium oxychloride aluminum glycinate, aluminum chlorhydroxide, aluminum chlorhydroxide complex, aluminum chlorhydroxide-propylene glycol complex, aluminum chlorhydrol, aluminum chloride, aluminum chlorohydrate, aluminum chlorohydroxide, aluminum glycinate, aluminum hydroxychloride, aluminum potassium sulfate, aluminum sulfate, aluminum-zirconium chlorohydrate complex, aluminum-zirconyl hydroxychloride complex, basic aluminum bromide, benzethonium chloride, boric acid, 8-hydroxyquinoline sulfate, magnesium stearate, potassium aluminum sulfate, salicylic acid, sodium aluminum chlorhydroxylactate, sodium aluminum lactate, water soluble lanolin, zinc phenolsulfonate, zirconium-aluminum-glycine complex, zirconium chlorhydrate-aluminum chlorhydrate-glycine complex, zirconium chlorhydrate, zirconium chlorohydrate, zirconyl hydroxychloride, zirconium oxychloride.

After reviewing the labeled ingredients contained in marketed antiperspirant products submitted to the Panel, there seemed to be no uniform system of nomenclature for describing the antiperspirant materials since many labeled ingredients appeared to have more than one name. For example, the submitted labels contained seven different names for aluminum chlorohydrate. In addition, the Panel was informed that when labels stated that products contained aluminum chlorohydrate and aluminum chloride, in fact it was one of the aluminum chlorhydrates (i.e., dichlorohydrate or sesquichlorohydrate), depending on the aluminum-to-chlorine ratio. The CTFA Antiperspirant Task Force developed a uniform system of nomenclature for the antiperspirant active ingredients which has been accepted by both the CTFA Cosmetic Ingredient Nomenclature Committee and the United States Adopted Names Council.

The Panel has decided to adopt this nomenclature and will use it throughout the report. A more complete definition of the antiperspirant active ingredients is included later in the report. The following table compares the submitted names to the adopted names for the antiperspirant active ingredients.:

COMPARISON OF SUBMITTED NAMES AND ADOPTED NAMES FOR ANTIPERSPIRANT ACTIVE INGREDIENTS

Adopted Nomenclature	Labeled Ingredient Nomenclature	Metal:Halide Ratio Range	Al:Zr Ratio Range
Aluminum chloride	Aluminum chloride	---	---
Aluminum chlorohydrate	Aluminum chlorhydrate Aluminum chlorhydrate compound Aluminum chlorhydroxide Aluminum chlorhydroxide complex Aluminum chlorohydrate Aluminum chlorohydroxide Aluminum hydroxychloride	2.1 down to but not including 1.9:1.	---
Aluminum dichlorohydrate	Aluminum chlorhydroxide, aluminum chloride Aluminum hydroxychloride, aluminum chloride Aluminum chlorhydrol, aluminum chloride	1.25 down to and including 0.9:1.	---
Aluminum sesquichlorohydrate	Aluminum chlorhydroxide, aluminum chloride Aluminum chlorhydrate, aluminum chloride Aluminum chlorhydrol, aluminum chloride	1.9 down to but not including 1.25:1.	---
Aluminum zirconium trichlorohydrate	Aluminum chlorhydrate, zirconium chlorhydrate Aluminum chlorohydrate, zirconium chlorohydrate Aluminum-zirconium chlorohydrate complex	2.1 down to but not including 1.5:1.	2.0 up to but not including 6.0:1.
Aluminum zirconium tetrachlorohydrate	---	1.5 down to and including 0.9:1.	2.0 up to but not including 6.0:1.
Aluminum zirconium pentachlorohydrate	---	2.1 down to but not including 1.5:1.	6.0 up to and including 10.0:1.
Aluminum zirconium octachlorohydrate	---	1.5 down to and including 0.9:1.	6.0 up to and including 10.0:1.
Aluminum chlorohydrex PG	Aluminum chlorhydroxide—propylene glycol complex	2.1 down to but not including 1.9:1.	---
Aluminum dichlorohydrex PG	---	1.25 down to and including 0.9:1.	---
Aluminum sesquichlorohydrex PG	---	1.9 down to but not including 1.25:1.	---
Aluminum chlorohydrex PEG	---	2.1 down to but not including 1.9:1.	---
Aluminum dichlorohydrex PEG	---	1.25 down to and including 0.9:1.	---
Aluminum sesquichlorohydrex PEG	---	1.9 down to but not including 1.25:1.	---
Aluminum zirconium trichlorohydrex Gly	Zirconium chlorhydrate-aluminum chlorhydrate-glycine complex. Zirconium-aluminum-glycine complex	2.1 down to but not including 1.5:1.	2.0 up to but not including 6.0:1.
Aluminum zirconium tetrachlorohydrex Gly	Aluminum chlorhydrate zirconium oxychloride aluminum glycinate. Aluminum-zirconyl hydroxychloride complex	1.5 down to and including 0.9:1.	2.0 up to but not including 6.0:1.
Aluminum zirconium pentachlorohydrex Gly	Zirconium chlorhydrate-aluminum chlorhydrate-glycine complex.	2.1 down to but not including 1.5:1.	6.0 up to and including 10.0:1.
Aluminum zirconium octachlorohydrex Gly	---	1.5 down to and including 0.9:1.	6.0 up to and including 10.0:1.
Aluminum bromohydrate	Basic aluminum bromide	2.1 down to but not including 1.9:1.	---
Aluminum sulfate	Aluminum sulfate	---	---
Buffered aluminum sulfate	Aluminum sulfate and sodium aluminum lactate	---	---
Potassium aluminum sulfate	Potassium aluminum sulfate	---	---
Sodium aluminum lactate	Sodium aluminum lactate	---	---
Sodium aluminum chlorohydroxy lactate	Sodium aluminum chlorhydroxy lactate	---	---

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C. CLASSIFICATION OF INGREDIENTS

1. *Active ingredients.* The Panel has classified the following as antiperspirants:

a. Aluminum bromohydrate.
b. Aluminum chlorhydrates.[1]
(1) Aluminum chlorohydrate.
(2) Aluminum dichlorohydrate.
(3) Aluminum sesquichlorohydrate.
(4) Aluminum chlorohydrex PG.[2]
(5) Aluminum sesquichlorohydrex PG.
(6) Aluminum dichlorohydrex PG.
(7) Aluminum chlorohydrex PEG.[3]
(8) Aluminum sesquichlorohydrex PEG.
(9) Aluminum dichlorohydrex PEG.
c. Aluminum chloride.
d. Aluminum sulfate.
e. Aluminum zirconium chlorhydrates.
(1) Aluminum zirconium trichlorohydrate.
(2) Aluminum zirconium trichlorohydrex Gly.[4]
(3) Aluminum zirconium pentachlorohydrate.
(4) Aluminum zirconium pentachlorohydrex Gly.
(5) Aluminum zirconium tetrachlorohydrate.
(6) Aluminum zirconium tetrachlorohydrex Gly.
(7) Aluminum zirconium octachlorohydrate.
(8) Aluminum zirconium octachlorohydrex Gly.
f. Buffered aluminum sulfate.
g. Potassium aluminum sulfate.
h. Sodium aluminum chlorohydroxy lactate.

[1]The Panel has designated this term as the generic term for the various aluminum chlorhydrate compounds listed above. Since the chemical properties of the various aluminum chlorhydrates are similar, and the evidence presented to the Panel on the toxicity of these materials suggest that they have the same risk potential, the Panel will discuss these ingredients as a group in this document. This same reasoning is applicable to the aluminum zirconium chlorhydrate compounds listed above.

[2]Propylene glycol complex.
[3]Polyethylene glycol complex.
[4]Glycine complex.

The Panel has included the following table in which the active ingredients have been categorized:

Categorization of Antiperspirant Ingredients

Active ingredient	Nonaerosol dosage form	Aerosol dosage form
Aluminum bromohydrate[1]	II (S, E)[2]	II (S, E)
Aluminum chlorhydrates	I	III (S)
Aluminum chloride (15 Pct. or less aqueous solutions)	I	III (S)
Aluminum chloride (alcoholic solutions)	II (S)	II (S)
Aluminum sulfate	III (S, E)	III (S, E)
Aluminum zirconium chlorhydrates	I	II (S)
Buffered aluminum sulfate	I	III (S)
Potassium aluminum sulfate	III (S, E)	III (S, E)
Sodium aluminum chlorohydroxy lactate	III (E)	III (S, E)

[1]This ingredient has never been marketed in this country for a material extent or material time and, therefore, cannot receive general recognition of safety and effectiveness.
[2](S) Refers to safety considerations. (E) Refers to effectiveness considerations.

2. *Other ingredients.* The following are not considered active antiperspirant ingredients:

Benzethonium chloride.[1]
Boric acid.[2]
8-Hydroxyquinoline sulfate.[2]
Magnesium stearate.[3]
Salicylic acid.[3]
Sodium aluminum lactate.[4]
Water soluble lanolin.[3]
Zinc phenolsulfonate.[5]

[1]Reviewed by Antimicrobial I Panel for antibacterial claims.
[2]Under review by Antimicrobial II Panel for antifungal claims.
[3]Considered to be inactive and/or pharmaceutical necessity.
[4]The Panel concludes that the presence of this ingredient in an antiperspirant is to act as a corrective agent rather than as an active antiperspirant ingredient. Therefore, it will not be discussed as an active ingredient in this document.
[5]This ingredient was not submitted as an antiperspirant active ingredient. It is not considered to have antiperspirant activity, and, therefore, will not be discussed further in this document.
[1]The Panel has designated this term as the generic term for the various aluminum chlorhydrate compounds listed above. Since the chemical properties of the various aluminum chlorhydrates are similar, and the evidence presented to the Panel on the toxicity of these materials suggest that they have the same risk potential, the Panel will discuss these ingredients as a group in this document. This same reasoning is applicable to the aluminum zirconium chlorhydrate compounds listed above.

D. REFERENCED OTC VOLUME SUBMISSIONS

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call for data notice published in the FEDERAL REGISTER of September 7, 1973 (38 FR 24391). The volumes shall be put on public display after November 9, 1978, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

II. GENERAL STATEMENTS AND RECOMMENDATIONS

A. INTRODUCTION

The charge to this Panel was to evaluate the safety and effectiveness of antiperspirant drug products. These products are widely used. In 1975, sales of antiperspirant and deodorant products in the United States were $619,350,000 (Ref. 1). According to section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), antiperspirants, because they affect a function of the body, i.e., reduce the amount of perspiration (sweat) production, are classified as drugs. Deodorants are classified as cosmetics because they do not affect a bodily function, and were, therefore, excluded from the Panel's charge in the call for data. Because most of the ingredients considered in this report have both antiperspirant and deodorant properties, it is necessary to keep in mind the distinction between these two interrelated functions. These two functions are discussed in more detail later in this document. (See part II., paragraph H. below—Effectiveness of Antiperspirants.)

REFERENCE

(1) Ryan, J., "What the Public Spent for Drugs, Cosmetics, Toiletries in 1975," Product Management, 5:25–31, 1976.

B. HISTORY OF ANTIPERSPIRANTS

The early Egyptian, Greek, and Roman literature note attempts to control body odor through the practice of various bathing, perfuming, and toilet procedures. During the time of Hippocrates, it was known that vaporous substances were given off through the skin. Galen discussed the insensible perspiration that is discharged from the skin's surface that can, on occasion, be so increased as to take the form of fluid. During the 17th century, the French raised to an art the use of perfumed oils and waters to disguise body odors.

The eccrine sweat glands were first described by Malpighi, who observed watery droplets issuing from the orifices. One hundred years later Purkinje and Wendt in 1833 and Breschet and Roussel de Vouzgeme in 1834 independently described the eccrine sweat gland. They were differentiated from the apocrine gland in 1922 by Schiefferdecker (Ref. 1).

The relationship between body odor and perspiration was undoubtedly little understood during ancient times, and the practices used either washed away or masked unpleasant body odor (Refs. 2 and 3). The first commercial products to alleviate the problem began to appear on the market during the late 1800's, with the first trade named product "Mum" appearing in

1888. The active ingredient in "Mum" was zinc oxide in a cream base. The claims dealt with diminishing axillary odor. "Everdry" appeared in 1902 and "Hush" in 1908. Both of these products were simple solutions of aluminum chloride. Ferric chloride was the active ingredient in "Nonspi," a product introduced in 1910. "Odo-Ro-No," a product introduced commercially in 1914, was the first product to use magazine advertising to nationally introduce a product; it was claimed to remedy excessive perspiration and keep dresses "clean and dainty." In 1919, the "Odo-Ro-No" advertising theme was changed to introduce, for the first time, the concept that perspiration and body odor are socially shocking and offensive.

These early products were mainly simple solutions of aluminim chloride which were applied with a dampened or cotton pledget. During the 1930's the American Medical Association discussed antiperspirants in its journal in the "Quacks and Nostrums" section. A formula for such products was printed in the journal, and physicians began prescribing solutions of aluminum chloride, as high as 25 percent, to patients. In addition, pharmacists began making their own solutions and an over-the-counter drug business developed. In the 1930's, the first aluminum chloride cream product, "Arrid," appeared. It stressed antiperspirant effectiveness and fabric safety (Ref. 4).

The active antiperspirant ingredients in these early products were invariably salts of aluminum, either aluminum chloride or aluminum sulfate. These highly acid products had among their disadvantages the rotting of clothing and the tendency to irritate the axillary tissue.

The introduction of cream products allowed the chemist to utilize buffers and/or anticorrosive agents which reduced the potential for fabric damage and skin irritancy. Unfortunately, these additives also decreased the product's ability to inhibit perspiration. a variety of buffer systems was utilized during this period, in attempts to decrease irritancy and fabric damage and not inhibit efficiency. However, in the late 1940's a new active ingredient, aluminum chlorihydrate, was introduced. This active ingredient was less acid than the former salts and, therefore, it was suggested, less irritating to the skin and less damaging to fabrics. In addition, this new ingredient gave the formulator a broader range of formulation capabilities (Refs. 5 and 6).

During the late 1950's, sodium zirconium lactate was introduced as an effective antiperspirant active ingredient. This ingredient, however, was later determined to be the cause of granulomatous reactions in the axillary vault of certain users. Its use was discontinued. Later other salts of zirconium were suggested as effective antiperspirant active ingredients (Ref. 7).

During the 1940's these products were used mainly by women, and use was generally seasonal. A survey taken during World War II concluded that women considered these products only slightly less important than soap, rouge, lipstice, and face powder. Since that time, however, these products have become as important to men, which may explain the 4- to 25-percent increase in sales per year since 1945.

Packaging for convenience has also played an important role in the history of these products. The original liquid formulations were "runny" and irritating to skin and fabric. The cream forms were easier to handle, less irritating to skin and fabric, but also less effective. In 1947, the squeeze spray package was introduced and in 1955 the roll-on package. Aerosol packaged products were first unsuccessfully introduced in the early 1950's, and the first successful products were marketed in the 1960's (Refs. 8 through 11).

Since the time that the ancients recognized body odor and Purkinje discovered the sweat glands, a considerable amount of research has been conducted on the anatomy, histology, physiology, biochemistry, and pharmacological aspects of the glands of the axillary vault. Further, studies have been conducted on the microbial flora of the axilla and the relationship of the microbial flora to perspiration and axillary odor. From this work two general categories of products have been developed. They are: (1) The deodorants, whose purpose is either to mask the odor, or by the use of antimicrobial agents, decrease the microbial flora of the axilla; and (2) the antiperspirants, whose purpose is to inhibit perspiration.

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(1) Schieferdecker, P., "Die Haurdrusen des Menschen und des Saugetieres, ihre Bedeutung Sowie die Muscularis Sexualis," Zoologica, 27:1–154, 1922.
(2) Kuno, J., "Human Perspiration," C. C. Thomas, Springfield, 1956.
(3) Stoller, L., "Deodorants Their Place in Modern Cosmetics," The Givaudanian, June 1960.
(4) Anonymous, "External and Internal Personal Deodorants and Antiperspirants," Redbook Magazine, August 1962.
(5) Govett, T., and M. G. deNavarre, "Aluminum Chlorohydrate, New Antiperspirant Ingredient," American Perfumer and Essential Oil Review, 49:365–368, 1947.
(6) Mueller, W., and R. P Quatrale, "Antiperspirants and Deodorants," in "The Chemistry and Manufacture of Cosmetics," vol. 3, edited by deNavarre, M. G., Continental Press, Orlando, pp. 205–226, 1975.
(7) Lewe, I. A., "Granulomas of the Axillae Caused by Deodorant," AMA Archives of Dermatology, 75:765–767, 1957.
(8) Anonymous, "Stopette Spray Deodorant," Modern Packaging, 26:136–141, 292, and 294, 1953.
(9) Anonymous, "The Roll-on Deodorant," Modern Packaging, 28:80–81, and 189–190, 1955.
(10) Anonymous, "Roll-On Applicator," Modern Packaging, 33:98–99, 1960.
(11) Anonymous, "Reheis: Soon Aerosol Antiperspirants Will Dominate Market," Drug Trade News, Mar. 10, 1969, p. 22.

ANATOMY AND PHYSIOLOGY OF THE AXILLA

The human axilla (underarm area) is a concave structure and is marked in adults by conspicuous hair tuft considered to be hallmark of secondary sexual development and by its secretion and perspiration, which is readily visible and often perceptible to the nose.

The specialized structures within the axillary area include the glands—apocrine, eccrine, and sebaceous—the terminal hairs and the various nerves and blood vessels that supply these structures, as well as the remaining nonspecialized epidermis, dermis, and subcutaneous tissues.

1. *Apocrine sweat glands*—a. *Embryology and developement.* At about 5 months of fetal life the fetal precursors of the apocrine glands appear from the side of the hair follicles as solid epithelial buds above the level of the sebaceous gland. At this point the hairs are fully formed. The buds then proceed to form cords which eventually canalize. The duct lies close to and parallel to the hair follicle. Rarely, instead of opening into the hair follicle, the duct opens directly onto the surface of the skin (Ref. 1). The ducts appear over the entire surface of the body. Subsequently, most disappear, so that in the adult the characteristic distribution of the apocrine glands is the axillary, perianal, and areolar areas. In the axilla of humans they are such flourishing organs that they cannot be considered rudiments of a waning organ system (Ref. 2). Modified apocrine glands form the mammary gland, ceruminous gland of the external auditory canal, and the glands of Mol of the eyelid.

The axillary apocrine glands are poorly developed in childhood and enlarge considerably at the approach of puberty. Although these axillary apocrine glands remain relatively undifferentiated up to 7 years of age, some individual glands may develop precociously even in children 5 years of age. There are incipient accumulations of fluid in the lumen, and some of the glands become distended, perhaps due to a blockage of the duct. Beginning in the seventh year and continuing through adolescence, the glands

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become progressively larger and gradually attain the structure and histochemical properties of functional glands (Ref. 2).

It is reported (Ref. 3) that in a high proportion of persons of Chinese and Japanese ancestry the apocrine glands are much less well developed than in the majority of blacks and Caucasians. The genetic basis of this difference and its significance in relation to axillary odor is discussed in the section on microbiology of the axilla.

These glands, even in preadolescent children, are larger than the eccrine glands, measuring up to 2 millimeters. They are therefore macroscopically visible from the cut surface, lying either deep in the dermis or in the subcutaneous tissue.

In old age the apocrine glands undergo gradual involution, but this is not clearly related to the fading of the sex hormones (Ref. 4).

b. *Innervation.* The innervation of the human apocrine sweat gland is derived from adrenergic fibers of the autonomic nervous system. The apocrine duct, however, does not receive nerve fibers (Ref. 4).

The myoepithelial cells resemble smooth muscle fibers, but arise from the ectoderm. Direct observation of axillary glands through and incision in the axillary skin shows the myoepithelium contracting synchronously in peristaltic waves with the appearance of a droplet of sweat at the orifice (Refs. 4 and 5). Pharmacologic, mechanical, and electrical stimuli which normally initiate contraction of smooth muscle also induce contraction in myoepithelial cells and concurrently bring about discharge of apocrine sweat.

c. *Secretory process.* The apocrine gland secretion is slow and scanty. Total sweat response to be given stimulus is less than 1 milliliter (ml). Glands do not secrete continuously, and there is a long latent period between active cycles (Refs. 4 and 6). There are great individual differences. The free border of tall cells has large microvilli through which the secretions into the lumen probably occur. Since the lumen of normal apocrine tubules only rarely contains visible granules and cell debris, the granules in each cell must dissolve in the terminal cytoplasm before secretion takes place. The secretion could take place by either fragmentation of the terminal part of the microvilli or by oozing out of the secretion through intact microvilli. True apocrine secretion—that is, a pinching off and loss of part of the cell to form the secretion—does not occur. Therefore, apocrine is a misnomer for these glands.

The secretion, sweat or perspiration, is milky, viscid, and pale gray, but may be colored otherwise (Ref. 2). It is odorless when it reaches the surface of the skin and becomes odoriferous only upon bacterial decomposition. When collected, the secretion dries into glistening gluelike granules.

d. *Endocrine factors.* Although the gonadal hormones may play an initial role in development and maintenance of the glands, once the glands mature, they seem relatively self-sufficient. Proof of this has been shown in ovariectomized women without hormonal replacement who have normal apocrine glandular function (Ref. 7). Additionally, topical application or implantation of estrogens or androgens have no effect on the glands. Biopsy specimens from the same woman obtained at weekly intervals in a menstrual cycle showed no changes (Refs. 7, 8, and 9). The same is true with monthly biopsies of pregnant women (Refs. 8 and 9).

e. *Pharmacological responses.* Intradermal injections of adrenalin were effective in producing apocrine sweat in all subjects tested (Ref. 10). The results of testing with acetyl-*beta*-methylcholine are confusing. In one report it was possible to see apocrine sweating responses to intradermal injections (Ref. 2). This conflicts with the data from Shelley and Hurley (Ref. 10) and Hurley and Shelley (Ref. 4), who report that cholinergic agents were completely ineffective in producing apocrine sweating in the axilla. Returning to Montagna's studies (Ref. 2), prior treatment with atropine followed by cholinergic agents inhibited the flow of both apocrine and eccrine sweat.

f. *Function.* The function of the apocrine glands in man is uncertain. The glands may play a role in interpersonal subliminal communications. (See part II. paragraph E.6. below—Pheromones.)

g. *Pathology.* Bromhidrosis or osmidrosis is malodorous sweat. This is often a function of hygiene. Sometimes, however, it may be caused by ingestants such as garlic.

Chromhidrosis is colored sweat. In true chromhidrosis the pigment is a lipofuchsin. Pseudochromhidrosis is a condition in which the sweat colors when it reaches the skin surface. This is usually due to chromogenic bacteria, especially corynebacteria. Ingested drugs and dyes may at times color the sweat.

Hematohidrosis (bloody sweat) is very rare (Ref. 11). It may occur as a part of a bleeding diathesis.

Fox-Fordyce disease is a disorder of the apocrine glands comparable to miliaria of the eccrine glands. The etiology is unknown. The pathophysiologic sequence is the appearance of a small vesicle in the apocrine duct which brings about the inflammatory response. This in turn leads to rupture and plugging of the duct (Ref. 12). It generally occurs in females after puberty and is amenable to therapy with the female hormones in anovulatory doses (Ref. 13).

Hidradenitis suppurativa is a chronic and indolent disorder of the apocrine sweat glands. The sexes are equally susceptible, but axillary lesions are relatively more common in women, and anogenital lesions are more common in men. Most cases occur between the ages of 16 and 40. The onset is more frequent in the hottest months of the year. The cause is unknown. No specific microorganism has been incriminated. The role of local factors is disputed. Maceration leading to keratinous obstruction of the sweat duct is probably an important factor in axillary hidradenitis (Ref. 14). Anogenital hidradenitis is frequently associated with acne conglobata and perifolliculitis capitis, but axillary hidradenitis frequently occurs alone. The earliest inflammatory changes are seen within and around the apocrine glands, the ducts of which may be distended with leucocytes. Groups of cocci may be seen within the glands and in the dermis. Later, the eccrine glands are similarly involved. In simple hidradenitis, cosmetics and especially antiperspirants are usually forbidden. Obesity should be corrected and any metabolic defects such as diabetes should also be corrected. Prolonged administration of an antibiotic is sometimes adequate for control. Superficial radiation therapy and systemic corticosteroid therapy have been advocated, but are less likely to provide lasting control than is surgical attack on the apocrine-bearing areas.

2. *Eccrine sweat glands.*—a. *Embryology and development.* In man there are 2 to 5 million glands spaced at 143 to 339 per square centimeter (Ref. 15). As they are all formed at birth, they are most dense at that time; their density is diluted by growth of the body. Infant skin has 8 to 10 times as many sweat glands per unit area as the skin of an adult. The first fetal precursors are seen in the fourth fetal month in the palms and soles. In the fifth fetal month they appear in the axilla. From the fifth month on, they appear generalized. Their distribution shows characteristic patterns around hair follicles (Ref. 16). They are found on all skin except lips, the glans penis, the inner surface of the prepuce, the clitoris, and the labia minora. The subsequent functioning of sweat glands may in some way reflect these differences in development; thus, sweating of the palms and soles is in response to different stimuli than from the general body surface. Kuno in 1956 suggested that sweat glands that develop earlier in fetal life may have arisen from

a more primitive stem cell than those with later development (Ref. 15).

The myoepithelial cells, which in functional glands resemble smooth muscle fibers insinuated between the epithelium and basement membrane, are not recognizable during fetal life. Nor is the connective tissue stroma around the entire gland differentiated until after birth (Ref. 17).

From the 5th to 10th months of age the glands become gradually active and attain their characteristic histologic features. All the histochemical attributes of the adult glands become discernible by the first postnatal year (Ref. 2).

b. *Anatomy.* The secretory coil lies deep in the lower dermis or in the subcutaneous tissue. It is composed of two cell types—the large clear cells which are secretory and the small dark cells whose function is uncertain. All the cells are attached to the basement membrane. The function of the secretory coil is to produce from plasma a watery secretion to be modified by the duct.

The duct is composed of two layers of uniform cuboidal cells. Its function is to propel the sweat toward the surface and using its active enzyme system to modify the secretion of the coil. The intra-epidermal sweat duct unit is a coil to the surface which travels in a helical manner through the epidermis.

c. *Histochemistry and staining properties.* Clear cells are stippled with delicate lipid granules, while the dark cells have only a few. These granules are not secreted even when the glands are stimulated (Refs. 18, 19, and 20). Most eccrine cells have a diffuse yellow pigment, probably a carotinoid, in their cytroplasm (Ref. 21.) Pigment granules are also noted, increasing in number as a person gets older. Large quantities of glycogen are found in both clear and dark cells (Ref. 22). A substantial amount of cytochrome oxidase is found in both coil and duct, indicating that these areas are rich in mitochondria. Large amounts of carbonic anhydrase are found in both the duct and secretory coil (Ref. 23). Monoamine oxidase is found in moderate amounts. Succinic dehydrogenase is found in large amounts (Refs. 24, 25, and 26). The eccrine gland has more phosphorylase than any other cutaneous appendage. The glands are high in *beta*-glucuronidase activity and aminopeptidase. Alkaline phosphatase is found only in the deeper coils.

The eccrine gland cells contain no cholinesterase. However, the surrounding nerves are rich in specific cholinesterases (Ref. 27 through 31). Delicate, strongly reactive nerve fibers are wound around the coils of the secretory segment. Some of the coils of the duct, but not the straight segments, are also surrounded by nerves that contain specific cholinesterases. The relation of sweat glands with cholinesterase-rich nerves is established as soon as the glands are formed in 4½-month-old fetuses (Ref. 29). The nerves around the sweat glands contain specific cholinesterase (Ref. 2).

d. *Pharmacological responses.* Dale and Feldberg (Ref. 32) in 1934 first demonstrated that eccrine glands are supplied with nerves that, although belonging anatomically to the sympathetic nervous system, are cholinergic. Sweating is readily induced by acetylcholine, pilocarpine, methacholine, carbachol, and even enhanced by physostigmine, a strong inhibitor of cholinesterase. It is inhibited by atropine (Refs 33, 34, and 35). The adrenergic drugs adrenalin, noradrenalin, and isopropyl noradrenalin also cause increased sweating (Refs. 36 through 39). Adrenergic-stimulated sweating is not inhibited by atropine, but is inhibited by dibenamine, tolazoline, and dihydroergotamine (Refs. 37, 38, and 39). Histamine has no sudorific effect.

Severance of the postganglionic sympathetic nerves to the eccrine sweat glands causes a prompt and remarkable decrease in their responsiveness to direct pharmacologic stimulations (Refs. 35 and 40 through 43).

e. *Function of the gland.* Adequate eccrine gland function is vital for maintenance of normal body temperature under usual climatic conditions. Subjects who are deprived of the cooling effect of sweat evaporation are unable to tolerate temperatures much higher than over 86° F. or the excess body heat that arises from exertion at evn lower temperatures. This cooling function of sweat is provided by the mass of sweat glands over the body surface. It has been repeatedly demonstrated, however, that even total inhibition of axillary sweat does not compromise the body's ability to maintain proper thermal regulation. However, since total body inhibition might interfere with the thermal regulatory process, the Panel concludes that antiperspirants should not be permitted for use over the entire body.

While the sweat contains measurable amounts of urea and lactic acid, the popular belief that sweating is necessary to "purify" the blood in an excretory manner analogous to the kidney is not born out by fact. Many people live in air-conditioned or other cool environments and suffer no ill effects from the fact that they sweat little or not at all (Ref. 44).

The techniques for studying the function of the gland are:

(1) Collection of sweat in bags or on pads (Ref. 45).

(2) Direct measurement of water loss (Refs. 44 and 46).

(3) Samping by means of microcanulae passed into the duct or coil.

(4) Measurement of electrical resistance. Resistance varies with moisture from sweat on the skin and within the duct (Refs. 46 and 47).

(5) Visualization of individual sweat droplets. This can be done in many ways—by direct microscopy, by forming plastic impressions (Ref. 48), or by indicators which color on contact with water. The test most commonly used is the starch-iodine test, in which starch and iodine applied to the skin react to produce a blue color in the presence of sweat (Refs. 49 and 50). The technique is to dry the skin, paint it with 2 percent iodine in alcohol, then press either a paper containing starch against the surface of the skin, or apply starch by painting it on the skin in a castor oil solution of 50 grams (g) of starch per 100 ml. Alternate color indicator tests are bromphenol blue (Refs. 51, 52, and 53) or quinizarin.

For the gland to function, an intact sympathetic nervous system is needed. Deprived of postganglionic nerves, the gland ceases to function, but remains histologically normal. As mentioned before, the sweat gland is unusual by being cholinergic in function, although supplied with sympathetic nerves. It may respond to adrenergic agents, but probably does not have a true adrenergic innervation. The activity of these glands from nervous stimuli is controlled by three factors:

(1) *Thermal.* This is controlled by the heat-regulating center in the hypothalamus, which in turn is activated by changes in the temperature of the blood perfusing it and also, to some extent, by afferent stimuli from the skin. The efferent pathways from the hypothalamus involve nerve fibers relaying in the medulla, lateral horn of the spinal cord, and the sympathetic ganglia (Ref. 54). Thermal regulation of sweating occurs more on the upper trunk and face (Ref. 35).

(2) *Mental.* The centers and pathways are not fully known. Some are in the frontal areas of the brain. Mental stimuli cause increased sweating on the palms and soles (postulated as acting to improve the grip in times of intense activity), in the axilla, and also, to a lesser degree, on the body surface in general.

(3) Gustatory. Sweating around the mouth and on the forehead and nose is stimulated after hot and spicy foods (Ref. 55). Neural reflexes for gustatory sweating have not been fully worked out.

f. *Composition of eccrine sweat.* Under basal conditions there are few impulses passing to the sweat gland. During basal conditions sweat contributes minimally or not at all to water loss. The water loss during nonsweating periods is termed transepidermal

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water loss and occurs at a low rate through the intact stratum corneum (Ref. 44). Maximal stimulation can induce 12 liters per 24 hours with an initial maximal rate of 3 liters in an hour (Ref. 56).

The sweat duct is largely responsible for modification and concentration of sweat. For that reason the composition of sweat may vary depending on the rapidity at which sweat passes through the duct. Sweat is usually hypotonic, but with rapid sweating it may approach isotonicity. The constituents of sweat are sodium chloride, potassium, urea, lactate, and glucose in small amounts. Lactate is present at 4 to 40 milliequivalents/liter (meq/liter), greater than the plasma concentration. The pH is 4 to 6.8.

Changes is electrolytes present in sweat may be found in Cushing's disease, Addison's disease, nephrosis, cardiac failure, and after administration of various hormones such as aldosterone.

An increase of sodium chloride in sweat has been reported in miliaria (Ref. 57). There is also a well-known increase of sweat electrolytes in fibrocystic disease, and this is used as a diagnostic test (Ref. 58). Normal children have up to 60 meq sodium chloride per liter of sweat. Fibrocystic children are above this and often above 90 meq. In adults, levels of sodium and chloride are naturally higher, so partial forms and carriers of fibrocystic disease in adulthood cannot be diagonosed with sweat tests.

Sweat glucose levels may be increased in diabetes, but such increases do not correlate with blood levels.

g. *Pathology.* Hyperhidrosis (excessive sweating) may be generalized or asymmetrical. Generalized (symmetrical) hyperhidrosis may be either thermoregulatory in etiology or from mental stimuli. Thermoregulatory causes may result from an instability of the hypothalamic center, induced by febrile illnesses. This may persist, after cessation of the fever, for many months. There may be an infectious cause such as malaria or tuberculosis. Other miscellaneous causes for generalized thermoregulatory hyperhidrosis are as follows: Gout, diabetes, hyperthyroidism, hyperpituitarism, obesity, menopause, malignancy, alcohol intoxication, and postvomiting.

Sweating produced from mental stimuli occurs especially on the palms, soles, and axillae. Most cases presented to the dermatologist are of this type. Only rarely are deep-seated emotional problems found. Usually the enhanced activity is considered a facilitation of already existing nervous pathways. It usually appears in childhood or around puberty, and often spontaneously improves around age 25 (Ref. 59).

Asymmetric hyperhidrosis can occur from lesions at any place along the sympathetic pathways to the nerve endings at the gland (Refs. 54 and 59). It may occur reflexly from visceral disturbances (Ref. 60) or around areas of anhidrosis (absence of sweating) (Ref. 54). Compensatory hyperhidrosis occurs on normal remaining sweat glands when those elsewhere are not functioning from neural disease or skin disease or after sympathectomy (Ref. 61).

In the treatment of hyperhidrosis, reassurance alone is often sufficient. Anticholinergic drugs such as 0.025 percent benzoyl scopolamine hydrobromide are effective, especially in the axilla (Ref. 62). Also effective are propantheline, formalin, and aluminum salts. Systemic treatment includes the atropinelike drugs (Ref. 63). Usually, however, the side effects are more troublesome than the sweating. These side effects are dryness of the mouth, visual disturbances, glaucoma, hyperthermia, and convulsions. Atropine is not used to control sweat because of its pronounced systemic actions. Propantheline is used in doses beginning at 15 mg three times daily. Ganglionic blocking agents can inhibit sweating, but side effects from hypotension are usually to troublesome. Sedatives and tranquilizing drugs have been used in cases with pronounced emotional factors. Surgical management of extreme hyperhidrosis has included sympathectomy and also local excision of the axillary vault (Ref. 64).

In contrast to hyperhidrosis, anhidrosis may occur. The cause may be from the brain with organic lesions at any level, hysteria, or hyperthermia. It may originate in the spinal cord and nerves from such organic lesions as tumor, syringomyelia, or leprosy. It will occur subsequent to sympathectomy or the use of ganglionic blocking agents or anticholinergic drugs.

The anhidrosis may also be caused by malfunction of the sweat gland itself. This occurs in the aplasias, such as congenital ectodermal dysplasia and ichthyosis and in the cutaneous atrophies such as acrodermatitis atrophicans, scleroderma, and Sjogrens disease.

Lack of sweating may occur from localized lesions distal to the gland at the level or the duct of the intraepidermal sweat duct unit with conditions such as miliaria and eczema.

Anhidrosis of uncertain origin include neonatal sweat gland fatigue and idiopathic acquired anhidrosis (Ref. 65).

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D. MICROBIOLOGY OF THE AXILLA

A knowledge of the microbial flora of the normal axilla and of the effect of antiperspirants on these organisms is pertinent to two aspects of the evaluation of safety and effectiveness of antiperspirants: (1) Is the use of antiperspirants associated with an increased risk of bacterial infection due to disturbance of the normal flora? This question is discussed in the section on safety (see part II. paragraph G.3. below—Microbiological safety considerations.); and (2) are the claims of deodorancy of antiperspirants in the nature of drug claims that are based on a change of body function, or are they cosmetic claims that are not based on a change of body function?

Knowledge of the microbial populations of the normal axilla has developed with remarkable slowness despite the fact that, as will be shown, bacteria are the immediate cause of the underarm odor which the American public spends hundreds of millions of dollars annually to combat. Among the more significant contributions to this subject are the papers by Shehadeh and Kligman in 1963 (Ref. 1), Somerville in 1969 (Ref. 2), Marples and Williamson in 1969 (Ref. 3), Prince and Rodgers in 1974 (Ref. 4), and Voss in 1975 (Ref. 5). A review of the subject will be found in the book by Noble and Somerville (Ref. 6).

The variation in total numbers of aerobic bacteria in the normal axilla was studied by Prince and Rodgers (Ref. 4). Among 10 subjects cultured repeatedly over a 2-week period, variations up to more than 100-fold were found. Only two subjects varied less than 10-fold. These data are important in showing that a "decline" in numbers of bacteria in a test subject in an evaluation of a soap, an antiperspirant, or some other product could be

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merely a chance fluctuation in numbers, even if the decline is as much as a 90 percent or even a 99 percent decrease in aerobic popuations.

Although anaerobic propionibacteria, both *P. acnes* and *P. granulosum*, are frequently present, often in substantial numbers, the predominant organisms in the axilla grow best in the presence of air. Most studies have been limited to aerobic culture methods.

In most axillae well over 90 percent of the organisms present are either aerobic diphtheroids, coagulase negative staphylococci, or a combination of these two groups. Both of these groups are heterogeneous.

Among the bacteria of the genus *Staphylococcus* that occur on the human body, the most important distinction is between *S. aureus* and all other staphylococci. *S. aureus* is a coagulase positive organism that has the capability of causing a wide variety of infections, some minor, some severe. The coagulase test is the most widely used method for making a distinction among them. Further classification of coagulase negative staphylococci is a matter of containing research and disagreement among specialists. Marples and Williamson, in their studies of axillary flora (Ref. 3), found that most of these organisms fell into Baird-Parker Group SII.

The aerobic diphtheroids of the axilla do not include any organisms with major disease-producing capability. A major differentiation in this group is based on their response to the addition to the growth medium of certain lipids such as Polysorbate 80 (which contains oleic acid). Most of the axillary aerobic diphtheroids are lipophilic, that is, they grow better and form larger colonies if a lipid supplement such as Polysorbate 80 is provided.

The relative numbers of coagulase negative cocci and aerobic diphtheroids in the axilla vary widely in different individuals. Marples and Williamson found that on the average, persons with a predominance of diphtheroids harbored total populations of several million per square centimeter, whereas those with more than 50 percent cocci averaged several hundred thousand total bacteria per square centimeter. They also showed that if the diphtheroids were selectively suppressed by antibiotic treatment, the cocci resistant to the antibiotic increased proportionately. Thus, the diphtheroids appear to limit the growth of cocci in the normal axilla (Ref. 3).

With respect to organisms other than propionibacteria, aerobic diphtheroids, and coagulase negative cocci, the data are fragmentary and sometimes conflicting. Noble and Somerville (Ref. 6) state that 5 to 10 percent of adults are carriers of *S. aureus* in the axilla, based on extensive studies by Somerville and a review of data by others. Prince and Rodgers found a much higher carrier rate of *S. aureus* and documented an interesting seasonal change with a substantial increase in the summer. Unfortunately, they based their identification on mannitol fermentation and pigment formation and did not confirm it with the coagulase test (Ref. 4).

Pseudomonas aeruginosa is a potential pathogen of considerable significance. Prince and Rodgers (Ref. 4) did not find this organism in any of their approximately 1,400 axillary cultures from 235 subjects over a 2-year period. Noble and Somerville (Ref. 6) agree that this organism does not appear to colonize the axilla in normal adults, but add that it may do so in persons with a reservoir of this organisms elsewhere, as in a burn.

Gram negative rods, other than *Pseudomonas*, have been a subject of interest in several studies. Prince and Rodgers (Ref. 4) found a substantial change in number of gram negative rods with the season. *Acinetobacter* was the most common gram negative rod by a wide margin, with coliforms the only other group present except for a single person who carried *Proteus* and *Achromobacter* as well as *Acinetobacter*. In winter, 21 percent of 33 subjects tested 6 times over 13 days were carriers of gram negative rods on at least one occasion. In summer, 80 percent of 20 subjects were similarly positive. However, the tests in summer were more numerous and extended over a longer time period (11 tests in 25 days). Some subjects were positive for these organisms in all tests, others in only one or two tests. Those with 60 percent or more of their cultures positive were called persistent carriers, the others transient carriers. Thirty-five percent of all subjects were persistent carriers in summer and 9 percent were persistent carriers in winter.

Somerville (Ref. 2) found that the axillary flora in children was more varied than in adults. Aerobic spore-forming bacilli and *Sarcina* were more common, and aerobic diphtheroids were less frequently present. Mimae (*Acinetobacter*) have been reported in children by a number of observers.

Two relatively mild diseases in which members of the normal flora are causally involved are trichomycosis axillaris and erythrasma. In both, certain of the aerobic diphtheroids are regularly present and contribute to the development of the condition.

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E. AXILLARY ODOR.

In deciding whether claims of deodorancy of antiperspirants are drug claims or cosmetic claims it is necessary to consider the mechanisms involved in producing the odor and the probable mechanism of the claimed deodorancy. The term "axillary odor" in this report denotes the strong smell characteristic of the axilla, which many persons seek to prevent by washing, shaving, and applying antiperspirants and other deodorants.

There is convincing evidence that axillary odor arises from the growth of bacteria in the secretion of apocrine sweat glands. Shelley, Hurley, and Nichols (Ref. 1) collected drops of secretion from the orifices of single apocrine glands of the axilla and showed that this fluid was odorless at the time of discharge but acquired the characteristic axillary odor if held under conditions permitting bacterial growth. Since apocrine glands are a part of the normal anatomy of the axilla, and bacteria are universally present in this region, one must inquire further for the reasons why odor may be present or absent.

A description of the mechanisms controling secretion by apocrine and eccrine sweat glands is presented in the section on the anatomy and physiology of the axilla. (See part II. paragraph C. above—Anatomy and Physiology of the Axilla.)

1. *Genetics of axillary odor and of cerumen.* In Japan, where axillary odor has long been viewed as a medical problem, laymen as well as physicians have observed an association between that condition and a particular type of cerumen (ear wax). Matsunaga of the National Institute of Genetics, Mishima, Japan (Ref. 2), reviewed previous studies and reported additional data on the dimorphism in human normal cerumen.

The cerumen of most Japanese is of the "dry" type. It is gray, brittle, and not sticky. Smaller numbers of Japanese have cerumen of the wet type; it is brownish and sticky. From surveys

of 23,000 Japanese reported by various authors from 1934 through 1958, Matsunaga found the mean frequency of wet cerumen to be 16.3 percent. Family studies from as early as 1932 supported the hypothesis that "the ear-wax types are controlled by a pair of autosomal alleles with complete dominancy, W and w, the genotype of wet cerumen being WW or Ww and the genotype of dry cerumen ww."

The frequency of wet cerumen in American Caucasians and Blacks was estimated by Matsunaga to be 97.5 percent and 99.5 percent, respectively, on the basis of studies of children of Japanese mothers married to American Caucasians or American Blacks. Other surveys of representative groups have reported low frequencies of the wet type of cerumen in peoples of East Asia, such as the Chinese and Koreans, and high frequencies in Caucasians, such as residents of Germany, as well as those native to African countries, such as Ghana and Nigeria. (Ref. 3).

The morphogenetic basis of the association between cerumen type and susceptibility to axillary odor is attributed to the morphologic and functional similarity between the cerumen glands of the external auditory canal and the apocrine glands of the axilla. The apocrine glands are reported to be much less well developed in those with dry cerumen than in persons with wet cerumen.

2. *Evidence concerning the kinds and numbers of bacteria that cause axillary odor.* The evidence presented by Shelley and his colleagues (Ref. 1) to prove that axillary odor resulted from multiplication of bacteria in the secretions of apocrine sweat glands included the following: (1) No odor was detected from freshly collected secretion; (2) a strong smell characteristic of axillary odor was produced in 6 hours if apocrine sweat collected from an uncleansed axilla was held at room temperature; (3) refrigeration at 0° C prevented the appearance of odor; (4) no odor developed in apocrine sweat from axillae that were shaved and disinfected with alcohol; (5) hexachlorophene prevented the development of odor in vitro for 14 days; (6) in vivo, the axillae cleansed with hexachlorophene remained odor free as much as 18 hours after control axillae had developed odor.

a. *Attempts to determine which kinds of bacteria cause axillary odor.* Although the evidence cited above supported the essentiality of microbial action, it did not identify the organisms involved. Strauss and Kligman (Ref. 4), in an attempt to resolve this problem, inoculated various organisms into apocrine sweat. They reported that some strains of *Aerobacter aerogenes, Escherichia coli, Proteus,* coagulase negative micrococci, coagulase positive micrococci, and diphtheroids produced the characteristic odor. However, in a later study, Shehadeh and Kligman (Ref. 5) found that suppression of gram-positive organisms in the axilla by treatment with topical neomycin prevented the development of axillary odor despite a high population of gram-negative rods (*Alkaligenes, Proteus,* and *Aerobacter*). They commented that the earlier report was in error, that gram-negative bacteria growing in apocrine sweat do not produce typical axillary odor but that "* * * gram-negatives have a putrid odor of their own in vitro * * *. This clinically inapparent odor is that of the organisms themselves and not a consequence of the decomposition of apocrine sweat."

Meyer-Rohn (Ref. 6) reported that *S. epidermidis* and corynebacteria isolated from the axilla can produce typical axillary odor when grown in "sterile sweat."

From the published evidence it is not possible to state which of the organisms of the axilla produce axillary odor nor what numbers must be present to generate the odor. The causative organism is probably one or more of the gram-positive species. *S. edidermidis,* propionibacteria, or aerobic diphtheroids of various kinds are obvious possibilities.

b. *Amount of reduction in bacterial populations required to produce a deodorant effect.* The Advisory Review Panel on OTC Topical Antimicrobial I Drug Products considered the issue of deodorancy of products under their purview. They reported in the FEDERAL REGISTER of September 13, 1974 (39 FR 33108) as follows:

> It was the estimate of a group of experts from industry and academia (who appeared before the Panel to discuss the effectiveness of antimicrobials in the classes of products currently being reviewed by the Panel) that approximately a "70 percent reduction" in the microbial flora (as measured by hand-washing tests) would produce a deodorant effect. The exact percent reduction required to achieve a deodorant effect either on the entire body or in the axillae was not established by the data submitted. The view of the Panel is that perhaps some bar soaps which achieve a 90 percent or more reduction of gram-positive organisms may be so active as to be harmful.

In the absence of any other evidence, the present Panel cannot accept a 70 percent or a 90 percent reduction in bacterial populations of the axilla as having any significance with respect to the deodorant effect or the possible harmful effect. This position is based on the knowledge that total numbers of bacteria in the healthy axillae of different people or of the same person at different times vary more than 100-fold (Refs. 7 and 8), and such differences have been observed without any noticeable axillary odor (Ref. 9). since the organisms that cause axillary odor are unknown, it is possible that they constitute less than 1 percent of the total population in axillae with or without odor. If that were the case, data with respect to changes in the total population of bacteria might not be a valid indicator of changes in the numbers of those odor-producing organisms.

3. *The role of eccrine sweat and of hair in the genesis of axillary odor.* From the preceding evidence it is clear that axillary odor depends upon an adequate supply of apocrine secretion and conditions favorable to the multiplication and metabolic activity of some as yet unidentified bacteria. Conditions that favor retention of the necessary substrate, and those favorable to rapid multiplication of bacteria, should be conducive to the development of odor. The following appear to be reasonable assumptions about variables that influence the axillary ecosystem and odor production:

Shaving the axilla is helpful in preventing axillary odor. Hair of the axilla tends to favor odor development by several mechanisms. The apocrine secretion is somewhat sticky and is presumably retained to an appreciable extent on hair. When the axilla is washed there may be a greater retention of bacteria as well as of apocrine secretions in the presence of hair than when the bare skin is fully exposed to the mechanical and detergent action of washing. Multiplication of the bacteria of the axilla is probably favored by the increased surface provided by hair, as this expands the environment in which there is a favorable combination of nutrients, wetness, and temperature. Relative wetness of the axilla is probably one important factor in determining whether odor develops. The principal source of wetness in the axilla is eccrine sweat. In this way eccrine sweat exerts some influence on odor production.

4. *Mechanisms of the deodorant effects of antiperspirants.* Advertising claims often assert that antiperspirants will prevent axillary odor, and it appears that consumers commonly use antiperspirants with the intention of suppressing axillary odor. Submitted data show that standardized use of a number of products was followed by an odor-free state or a diminished odor for time periods that would be meaningful to a user. Disregarding the masking effects of perfumes, which are clearly cosmetic in nature, there are two mechanisms that are at least theoretically possible in this deodorancy process: (1) Suppression of relative wetness and (2) direct antibacterial action.

Even though antiperspirants reduce the level of perspiration in the axilla,

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most antiperspirants do not make the axilla dry enough to interfere totally with bacterial growth. The deodorant effect of antiperspirants, therfore, is not merely secondary to their reducing the moisture necessary for bacteria to grow in.

In view of the probable inadequacy of the antiprespirant action as an explanation of the deodorant effect of antiperspirants, one might expect to find good evidence for an antibacterial mechanism. Unfortunately, the available evidence is fragmentary and inadequate to support a definitive conclusion as to this effect.

There is surprisingly little information on the question of a direct antibacterial action of antiperspirants on bacteria in the axilla. The only bacteriologically adequate data that we have found in the literature was that of Shehadeh and Kligman (Ref. 5) concerning neomycin, an ingredient not now used in antiperspirants. Other tests have been made using antiperspirant ingredients on the forearm or on callus or agar in vitro.

Leyden and Kligman (Ref. 10) found that a drop of 1 percent solution of aluminum chlorohydrate inhibited the growth of *S. aureus, Pseudomonas aeruginosa, Escherichia coli, Pityrosporum ovale,* and *Candida albicans* on agar. When applied to skin of a forearm, occluded by a sheet of polythylene, 0.1 ml of a 20 percent solution supressed growth of all bacteria over an area of 25 square centimeters. If the skin was occluded 48 hours before the test, an initial population of millions of bacteria per square centimeter was reduced to zero. In each case, the lowest concentration was reduced to zero. In each case, the lowest concentration of aluminum chlorohydrate tested gave the results cited. Similar results were obtained with various concentrations of aluminum chloride hexahydrate and aluminum acetate in vitro and in vivo.

Blank, Moreland, and Dawes (Ref. 11) reported that daily application of 20 percent solutions of aluminum chloride, aluminum chlorhydroxide, and aluminum sulfate to the axilla resulted in a reduction of numbers of gram-positive cocci. Their methods were only crudely quantitative and were not suitable for the detection of the diphtheroids which are reported to constitute the most abundant organisms in the axillae of most adults. In laboratory tests of the growth of bacteria on hydrated callus from the sole of the foot, they found that micrococci grew in the presence of 1 percent concentrations of the aluminum salts and were inhibited by 2 percent concentrations. Results were erratic in tests with diphtheroids and with coliform organisms at the concentration levels tested, 0.25 to 4 percent. All three salts in aqueous solution were bactericidal for micrococci and diphtheroids, but the killing concentrations ranged from 1:100,000 to below 1:100.

It is distressing to find no published data on the effects of active ingredients of currently used antiperspirants on odor-producing bacteria of the axilla in spite of the fact that this kind of evidence might be the most reliable way of determining the extent and duration of the deorant effect of antiperspirants.

Although the evidence is grossly deficient, the Panel concludes that it is highly probable that the principal deodorancy effect of antiperspirants in current use is a result of antibacterial actions of the products. Persumably these different products have variable levels of antibacterial activity, and in the axialla, this effect is modified by local conditions as well as by the elapsed time from application of the product. These and other factors were not investigated by the Panel when it became apparent that the deodorant effect was primarily one that did not depend upon alteration of body function.

5. *Conclusion.* The panel finds that axillary odor is produced by bacterial action on apocrine secretion, and this action is aided by the wetness of the axilla which is largely attributable to eccrine sweat glands. The deorant action of antiperspirants cannot be accounted for primarily as suppression of eccrine gland action. The evidence for direct antibacterial action is fragmentary, but this appears to be the probable mechanism insofar as antiperspirants are indeed deodorants.

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6. *Pheromones.* A discussion of axillary odor is incomplete without some discussion of pheromones. Since odoriferous secretions are widespread throughout the animal kingdom and recognized up and down the phylogentic scale as important elements of social communication, it is reasonable to consider the possibility of a human chemical communication. These chemical communicators are called pheromones and are defined as substances or mixtures of substances which are produced by an individual and received by a second individual of the same species in which they produce one or several specific actions.

The pheromones are classified in two ways. First, they can be discussed with reference to their mode of recognition, i.e., olfaction, ingestion, or absorption.

Second, they can be classified according to the action on the recipient. There are three kinds of pheromones that can be discussed according to their action on the recipient. There can be an immediate and reversible process rapidly acting through neurohumoral (chemical nerve transmitter) channels. These usually show fairly immediate responses and are known as "releaser" pheromones.

The second kind are known as "primer" pheromones. This action is slow to develop, demands prolonged stimulation, and initiates a chain of physiologic effects in the recipient.

The third kind of action on the recipient can be "imprinting." This is stimulation at a critical period in development, resulting in a permanent modification of behavior in the adult.

The presence and effects of pheromones have been studied both in the laboratory and under natural free conditions (Refs. 1 through 4).

In lower primates, Evans and Goy (Ref. 5) found while studying the ring tailed lemur that their social integration is dependent on a whole series of olfactory responses, and they felt that these animals possessed an olfactory repertoire whose complexity rivals the more sophisticated visual and acoustic systems of larger-brained primates.

Curtis, et al. (Ref. 6) in their studies of the rhesus monkey noted certain

volatile fatty acids of vaginal origin were trigger factors in the mating process and that similar chemicals are present in high concentration in ovulating or pregnant human females.

What is the likelihood that there is such a thing as a human pheromone? Pheromonal primer effects are nearly universal in mammals, including primates, while humans have a complete set of organs which are traditionally described as nonfunctional, but which if seen on some other mammal would be recognized as a part of a pheromonal system.

Consider the evidence that might suggest that the adult human axilla is a useful, functioning source of sexual attractant. Axillary sweating functions apart from the usual thermoregulatory sweating system. It is stimulated by emotional signals, not just heat. It becomes active only after puberty. The combination of a potentially odorous substrate; a hospitable, warm, moist environment for the requisite bacterial growth; a large volume of evaporate vehicle for odor dissemination; and a wicklike tuft of hair all point to an efficient system for broadcasting chemical signals.

That pheromonal stimulation from axillary odors is not consciously perceived does not militate against such a possibility; pheromones in the animal kingdom typically appear to act at an unconscious level. Nor is the requirement that bacteria are necessary for odor production evidence that the human axilla should, by nature, be odor free. Well-known vaginal sex attractants in monkeys are produced by the action of the vaginal flora on odorless precursors.

Obviously, discussions of putative human pheromones are now no more than speculative, but this Panel feels that it would be erroneous to dismiss out of hand the presence of useful olfactory exchange between humans, or that axillary odor might serve that purpose.

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F. Pharmacology of Antiperspirants

There is no agreement on the mechanism of action of the commonly used antiperspirant ingredients despite their widespread use for many years. Three possible mechanisms have been suggested in the recent scientific literature.

Shelley and Hurley (Ref. 1) believe that aluminum or zirconium ions bind to the COOH groups of keratin. They go on to state that metallic ions penetrate some distance into the sweat duct. A functional closure results from reaction of the metal ion with the intraductal keratin fibrils. They postulate further that the intraluminal pressure rises to the point where it acts by a feedback mechanism, stopping glandular secretion. The obstruction continues until the affected keratin is shed in the normal process of desquammation. The effects on the sweat duct reach deeper than the superficial regions located in the stratum corneum (the most superficial portion of the epidermis).

Experiments reported by Papa and Kligman in 1967 (Ref. 2) contradict in part the hypothesis that poral closure is responsible for anhidrosis. They suggested that the aluminum salts alter the permeability to water of the sweat duct and that the sweat then diffuses out into the skin instead of being deposited on the surface in droplets. In support of their view they cite evidence that show (1) the lack of restoration of function with cellophane tape stripping, (2) identification of patent sweat pores with methylene blue iontophoresis, (3) lack of distention of the ducts during thermal sweating, and (4) lack of formation of PAS positive, diastase resistant casts in the treated ducts. Shelley and Hurley (Ref. 1) term this "leaky hose" analogy a "strange theory."

Patocha (Ref. 3) reported that aluminum chloride is capable of markedly influencing the activity of cholinesterase and acetylcholinesterase. This suggests the possibility that aluminum ion might diminish sweating by interrupting the neurologic input to the gland.

Sato and Dobson (Ref. 4) demonstrated that the anhidrotic effect of glutaraldehyde, a well-known protein precipitant, could be removed by cellophane tape stripping. Gordon and Maibach (Ref. 5), however, showed that the effect of aluminum salts could not. This suggests a simple, superficial occlusive effect of glutaraldehyde which is different from the still disputed effects of the metallic salt antiperspirants.

At one of the Panel's meetings it was suggested by an industry representative that a complex of zirconium chlorhydrate, aluminum chlorhydrate, and glycine formed a totally inert gel which worked by superficially occluding the sweat pore (Ref. 6). The Panel received no data in support of this hypothesis.

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G. Safety of Antiperspirants

The Panel addressed the question of safety of antiperspirants in its discussion of aerosol drug and cosmetic products containing zirconium in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328). In that discussion it was pointed out that since the benefits derived from the use of OTC antiperspirant products are not large, there must be little or no risk associated with their use to be acceptable for OTC use. As was also pointed out in that discussion, there is a substantial potential difference in the kinds of adverse reactions that might result from the same ingredient, depending upon its route of application.

Antiperspirants are applied in two chief ways: one, directly to the skin in the form of a lotion, cream, stick, or roll-on; two, in the form of a spray, delivered either via a pressurized propellant system or by way of a mechanically actuated spray system.

1. *Systemic safety of antiperspirants applied directly to the skin.* Because of the relatively impermeable properties of the skin to metallic salts and complexes, there is no evidence to suggest that the direct application of antiperspirant products to intact skin has been associated with systemic toxic effects (Ref. 1).

Percutaneous dermal toxicity test have been performed on animals for a great number of antiperspirants. The reported results indicated no ill effects on the animals (Refs. 2 through 12).

2. *Skin safety of anitperspirants applied directly to the skin.* There is little doubt, however, that some users of antiperspirant products have experienced local cutaneous irritation as a result of using those products. In its discussion of aerosol drug and cosmet-

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ic products containing zirconium, published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24330), the Panel concluded that such reactions constitute an acceptable risk. The statement made at that time about locally applied zirconium salts applies similarly to the whole range of antiperspirant ingredients:

1. *Adverse reactions.* These adverse reactions are ordinarily not serious and are reversible.

2. *Site of reaction.* These reactions occur locally at the site of application where they are to be expected, where they are visible, and where, once detected, they can be treated and the product discontinued.

3. *Incidence.* The reported prevalance of such adverse reactions is extremely low, of the order of 6 per million units sold.

4. *Body burden.* Because these are applied topically, the entrance of zirconium-containing particles into the body is reduced virtually to zero when the skin's barrier is intact.

5. *Effectiveness.* This topically applied antiperspirant is reasonably effective.

6. *Misuse.* The Panel recommends that adequate labeling be provided to warn against applying the product to open, broken or abraded skin where the skin's barrier is breached. But even if this warning is ignored by the consumer, and the product is misused, the Panel believes the consequences will not be unreasonably severe.

The Panel believes that the risks of the nonaerosolized product are inherent in the effective use of the drug and are therefore unavoidable; other topically applied, nonaerosolized antiperspirants give comparable adverse reactions. Overall, the impact of these adverse reactions on the health of the target population is not large; these reactions are ordinarily not serious; they are reversible; and their prevalance is low.

Further on in this report it will be noted that certain antiperspirant ingredients for direct skin application are classified as category III on the basis of safety. This designation is based partly on published reports characterizing some ingredients as more irritating than others and on the inadequacy of safety information about some others (See part III., paragraph B.3. below—Category III conditions under which the available data are insufficient to permit final classification at this time.)

None of the metallic antiperspirant ingredients have been reported to cause allergic contact dermatitis to any significant extent (Ref. 13), and, as noted above, antiperspirant-induced irritation appears to be readily reversible.

Antiperspirant ingredients have been blamed by some users for inducing papular or follicular eruptions in the axillae, and it seems clear that certain individuals find themselves unable to use these products (Ref. 14). These eruptions are not treated as agent-specific conditions in standard dermatologic texts. In the judgment of the Panel, such eruptions may be secondary to a nonspecific irritation of follicular openings induced by these products. Individuals who have this difficulty appear able to associate the eruption with antiperspirant use clearly enough to discontinue use of the products. Long-term effects of such reactions do not appear to be a problem.

The dermatologic conditions that are indigenous to the axillae include hidradenitis suppurativa, Fox-Fordyce disease, and seborrheic dermatitis. While the use of antiperspirant products is frequently interdicted in those diseases, current medical thought does not implicate antiperspirants as significant initial etiologic agents.

3. *Microbiological safety considerations*—a. *Contaminants.* Since antiperspirants are often applied to the skin of the axilla after shaving, it is important that they should not contain pathogenic organisms that might cause infection of abraded skin. The limited microbiological information available currently is not adequate to establish that the antibacterial activity of aluminum chlorhydrates and other active antiperspirant ingredients is sufficient to suppress growth of all contaminants. The Panel is aware that there is a very low incidence of axillary infections attributed to the use of antiperspirants by the user. The Panel's judgment is that the antiperspirant ingredients placed in Category I and Category III have been so widely used with so little evidence of infection that they can be accepted as generally recognized as safe with respect to the question of infection.

If antiperspirants with new active ingredients are introduced in the future, they should be tested to determine whether such organisms as *Candida, Pseudomonas spp, Staphylococcus aureus* or *Streptococcus pyogenes* can survive or multiply in them on repeated challenge in use. It is possible that these organisms can in fact penetrate through sites of abrasion or cuts caused by shaving and set up foci of infection.

b. *Suppression of normal flora and possible compensatory multiplication of resistant organisms.* The deodorant action of antiperspirants now widely used appears to result from inhibition of bacteria normally present in the axilla. (See part II., paragraph E.4. above—Mechanisms of the deodorant effects of antiperspirants.) This suppressive action is far from complete and is commonly overridden by the organisms so that underarm odor develops after some hours. Probably, it is because this bacterial suppression of normal flora is only limited and partial and that other, more resistant, transient organisms are kept from multiplying and possibly causing infections. We are not aware of any evidence that infections have occurred on this basis.

If antiperspirants with new active ingredients are introduced in the future, they should be evaluated with respect to disturbances of the normal flora that might lead to infection due to secondary growth of organisms capable of causing infection.

4. *Safety of aerosol products.* The majority of safety concerns over antiperspirants involve those that are applied as sprays. In brief these concerns can be categorized as relating to (a) the added body burden which might be incurred by inhaling the antiperspirant product over many years, (b) problems with various propellant systems, and (c) other agents, such as talc, which are added to spray preparations to impart cosmetic properties to the products.

a. *Safety of long-term use of aerosolized antiperspirants.* The most popular method of applying antiperspirants to the axillae and other parts of the body is by aerosol-generating systems. The aerosol particles generated by these systems should have sufficient velocity to be directed at, and impact on, the target site. The particles must have adhesive properties so that they will stick to the skin on impact.

In the early 1960's pressurized aerosol delivery systems for antiperspirants were introduced into the market (Ref. 15). This method of applying the antiperspirant rapidly became the most popular dosage form. The consumer preferred the convenience in application of the antiperspirant and the feel of the material which impacted on the axillae.

The pressurized systems that are presently being marketed make use of liquified compressed gases (propellants) to discharge the antiperspirant formulation. The propellants by virtue of their high vapor pressure expel the formulation from its container as a fine particulate spray. The particle size distribution of the aersol produced by the escaping propellant depends on a number of formulation factors, including the pressure inside the container and the dimensions of the actuator chamber (Refs. 16 and 17). The actuator is the button which the consumer presses to activate the valve system, which in turn permits the contents of the container to be released. This button and the valve system influence not only the spray pattern of the generated aerosol but also the particle size distribution.

There are two general classes of antiperspirant pressurized aerosol formulations now marketed. In one case the antiperspirant is discharged from the container as fine solid particulates (suspension formulations) and in the other it is dissolved in fine droplets of

the spray. The former of these aerosol sprays has a cosmetic appeal to the public because it does not leave a moist feeling on the skin.

Although the majority of the aerosolized antiperspirant produced by these devices impacts on the area of skin toward which the spray is directed, there will always be some material which will reach the breathing zone of the user. The divergent nature of the spray will place some of the aerosol directly in the air. A substantial amount of turbulence is produced at the target site by the escaping propellant gases which hinders the impaction of some of the finer particles. These particles are carried away by the gases to the immediate envionment of the area sprayed. Some particles will also reach the environment by rebounding after hitting the skin (Ref. 18). The aerosol particles reaching the air about the user can remain suspended for relatively long periods of time.

The public is not able to purchase self-pressurized spray packagess of antiperspirants. There are two types available; the squeeze bottle and the spray pump (Ref. 19). The former of these consists of a soft squeezable plastic container which when compressed forces the antiperspirant formulation through a small orifice where it is broken up into coarse droplets. In general, the applied force is not sufficient to obtain as finely a dispersed aerosol as is derived from propellant pressurized systems. Spray pumps on the other hand do produce a fine spray of the formulation which can closely duplicate that obtained with pressurized systems (Ref. 19). These pumps are primed by depressing a spray actuator which forces the formulation through the nozzle.

The sprays produced by these systems will not experience the same degree of turbulence when they impact on the skin as the propellant devices. This means that a somewhat greater fraction of the aerosol spray will impact on the target site and less will escape to the environment than is the case with the propellant systems. The Panel was not provided with data that would conclusively rule out any potential inhalation risk for these products. For this reason, their safety is judged by the same standards as those for the pressurized aerosol systems.

Aerosol particles can invade the body through inhalation. Whether they will be deposited in or be exhaled from the respiratory tract depends on their physical characteristics and certain physiological parameters. Numerous depositon studies have been carried out to delineate the parameters which influence the degree and sites of deposition. These investigations have been summarized in a number of publications (Refs. 19, 20, and 21).

The most important fact in governing the deposition of aerosols in the respiratory tract is the size, shape, and density of the particles. It is customary to characterize aerosol particles in terms of their effective aerodynamic size (Ref. 20). The proposed deposition models suggest that particles with an aerodynamic diameter greater than 10 micrometers (um) will be deposited almost exclusively in the nose and mouth. The ability of aerosols to penetrate further into the respiratory system increases as the particle decreases below 10 um. Particles below 5 um can be deposited in the alveoli of the air-exchanging portions of the lung. Particle size data submitted to the Panel on commercial aerosol antiperspirants shows that most products produce a significant amount of particles which could deposit in all regions of the respiratory tract.

Particle characteristics alone do not determine the deposition site of aerosols. Individual variations that arise with aging, pathological processes, and nature of breathing (nose versus mouth) will influence the depositon (Ref. 20).

The fate of particles deposited in the respiratory system depend on the location of their impaction and the solubility of the particles (Refs. 21 and 22). Highly soluble particles will dissolve rapidly in the mucus where they deposit. Once dissolved the material will diffuse in the liquid milieu of the body. Many materials can be absorbed from all portions of the respiratory tract.

Insolube material impacting in the oral and nasal cavities will eventually be swallowed and pass through the gastrointestinal tract. When relatively insoluble particles deposit in the upper regions of the lung, they are usually removed by the mucociliary escalator. The cilia move mucus and particles to the pharynx where they are swallowed or coughed up. In the deeper portions of the lung (alveolar region) where cilia do not exist, insoluble particles may be engulfed by motile alveolar macrophages. These particles may be carried to the ciliated region of the lung for removal or they may remain in the alveolar regions. Phagocytized particles may be absorbed into the interstitium where they can be lodged for long periods or removed to the lymphatic system.

A most important factor in the consideration of the safety of relatively insoluble aerosol particles is the time it takes for the particles to be removed from the lung. This is known as the retention or clearance time. The retention times for relatively insoluble particles deposited in the ciliated portions of the lung are generally on the order of minutes or hours. In contrast, alveolar clearance of these insoluble materials requires a much greater time, with half lives on the order of weeks and months. Where the particles have penetrated the tissue of the pulmonary space, it may take years to clear them (Ref. 23).

Though aluminum salts are soluble in acidic solutions, they will form insoluble aluminum hydroxides as the pH of the solutions is raised, usually above a pH of 5. Since the lung surfactant system is maintained at physiological pH (approximately 7.4), the majority of aluminum antiperspirant material which reaches the lung probably will be converted to water insoluble salts. Aside from the hydroxides, aluminum salts most likely will form insoluble compounds with phosphates and carboxylic acids present in the lung. It is reasonable to believe that aerosol particles of aluminum antiperspirants that impact on the walls of the respiratory tract will behave in the same manner as other insoluble materials.

Recent inhalation studies with aluminum chlorhydrate aerosols provide some indication of the retention times that could be expected. It was shown that the overall clearance time (time it takes for the lung concentration of aluminum to return to normal background burden) of aluminum from the lungs of hamsters was in excess of 2 months after a single exposure to an aerosol of an aluminum chlorhydrate (Ref. 18). As a result of the long retention time, repeated daily exposures bring about accumulation of aluminum compounds in the lung (Ref. 24). The buildup of aluminum in the lungs of animals which are chronically exposed to aerosolized aluminum chlorhydrates was demonstrated in a series of inhalation studies with rats and guinea pigs (Refs. 25 and 26).

The average user of aerosol antiperspirant products would be expected to apply them at least once daily for a significant portion of his/her life. This type of use could very well lead to an accumulation of the insoluble forms of aluminum in the deeper portions of the lung. The actual burden on the lung would depend on the individual's clearance rate of the respirable material and the amount of respirable particles that reach the breathing zone. If the retention time is on the order of months, as was found in animal studies, it might take years of continual use before the steady state concentration in the lung is achieved (Ref. 27).

There are two types of inhalation testing procedures that have been routinely carried out to assess the safety of aerosol antiperspirant products. One is the standard acute Draize Test (Ref. 28), and the other, the Federal Hazardous Substances Act inhalation

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tests (16 CFR Part 1500). These acute tests can provide the LC_{50} (the aerosol concentration that is lethal for 50 percent of the test animals) for a particular material, but they do not foretell the safety of a product which is to be used daily on a long-term basis.

In two acute inhalation studies (Refs. 29 and 30) an assessment was made of the no effect/effect toxic level for an aerosolized aluminum chlorhydrate. Hamsters and rabbits were exposed to varying concentrations of particles with aerodynamic sizes of less than 10 um. This assured maximum accessibility of the particles to the lung. Granulomatous lesions of the lung were found at extremely high aerosol concentrations. The no effect level (concentration of aerosol where no adverse pathology could be detected) was found to be at a much greater concentration than would be experienced under normal human use. The most that can be concluded from these studies is that there is essentially little toxicological risk associated with short-term use of aerosol aluminum chlorhydrate products.

The other test procedure is a subchronic 90-day inhalation study. In the subchronic studies submitted (Refs. 2, 6, 8, 31, 32, and 33), the animals were exposed to a variety of aerosol concentrations, usually on a daily basis for the duration of the study. The aerosol concentrations to which the animals were exposed were always significantly greater than a human would be exposed to under normal use. A variety of animals has been used in these studies, including the cynomologus monkey, rat, mouse, hamster, and rabbit. During the course of the study the animals were watched for any abnormal behavior. At the conclusion of the study the animals were sacrificed and a thorough pathological examination, both gross and microscopic, was carried out.

The results of these subchronic studies suggest that the amount of material inhaled under normal use should not be harmful. However, no product data were submitted to demonstrate the safety of long-term use (years).

The Panel spent considerable time deliberating whether the subchronic 90-day inhalation test is an accurate predictor of what might be expected for long-term human use. In a previous report issued by the Panel on aerosolized zirconium-containing antiperspirants, published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328), the adequacy of the 90-day test period was questioned.

If one is to assess the potential of a material to produce granulomatous or fibrotic lung disease, it is necessary to carry out lifetime animal studies. These diseases, in humans, can take years to develop. The Panel has concluded that long-term safety should be measured for all aerosol antiperspirant materials to ensure their lack of pulmonary disease potential. The disease potential for aerosolized aluminum chlorhydrate compounds has been very well assessed for acute exposures. It has not been measured to the satisfaction of the Panel for long-term repeated exposure. Since there are other dosage forms for applying aluminum chlorhydrates to the axillae which are at least as effective as aerosol systems and have a zero potential pulmonary toxicological risk, the Panel is requiring that a long-term repeated inhalation study be carried out on aerosol formulae of these compounds. (See part III, paragraph D.2. below—Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.) All aerosol antiperspirant products have been classified in Category III until such time that the proposed studies are complete. The studies should be completed within 5 years after publication of the final monograph. Interim reports of these safety studies should be filed with FDA.

Further support of the Panel's decision to require long-term inhalation toxicity studies of 2 years' duration is found in two investigations on an aluminum chlorhydrate that are now in progress. In one of these, the animals are being exposed to three concentration levels of the material for 6 hours a day, 5 days a week (Refs. 25 and 26). The aerosolized material in the exposure chambers has an average particle size diameter between 2 and 3 um which assures access of the material to the deeper portions of the lung. After 1 year of exposure, granulomatous conditions were observed in the lungs of all animals sacrificed, even those exposed to the lowest concentration level (0.25 milligram (mg) of aluminum chlorhydrate per cubic meter). The other investigation is assessing the toxicological effects when the lung burden of aluminum is maintained at a steady-state concentration over an extended period of time (Ref. 24). The investigators suggest that the lung aluminum concentration used is approximately 100-fold greater than would be expected for a heavy user of antiperspirant aerosol products containing aluminum chlorhydrates. The lungs of the test animals sacrificed after 9 months exhibited distinct histopathology. Focally prominent accumulations of alveolar macrophages and mild alveolar wall thickening were observed. In both studies the most distinct pathological changes appeared after 6 months of exposure, which is significantly longer than the test period of the subchronic inhalation test.

Although these investigations suggest that aluminum chlorhydrates have a potential for producing pathological alterations of the lung, their designs are such that it is difficult to extrapolate the finding to normal human use of commercial aerosol products. The studies proposed by the Panel should delineate the toxicological risk of antiperspirant aerosol products. There are two approaches which the Panel could use to evaluate this risk. The first approach would maintain a constant lung burden in the animal throughout the duration of the test. The other approach would not maintain a constant lung burden, but would seek to exaggerate expected lung burden which would be obtained under normal human use. This exaggeration would be obtained by a graded series of high-exposure concentrations. The Panel has selected the latter approach for several reasons: (1) It does not require the prior delineation of pharmacokinetic parameters which would be required in the first approach; (2) the method adopted would provide for the toxicological assessment of the varying conditions of exposure that are likely to be experienced; and (3) the dose exaggeration included in this test procedure would ensure that the animal lung burden will exceed that experienced during long-term human use of aerosol antiperspirant ingredients. Among the parameters taken into account in designing the protocol, the Panel considered the normal time of exposure, the presence of formulation excipients, and the particle size distributions produced by the aerosol devices. The long-term repeated inhalation study will include preparations whose inhalation characteristics are comparable to those of the marketed formulations which have the greatest potential for pulmonary deposition. Once these reference formulations have been identified, the respirable aluminum concentrations generated in the breathing zone of human users will be considered the temporary upper limit for marketed aerosolized aluminum salt antiperspirants. At the conclusion of the long-range inhalation study, this upper limit will be adjusted, if necessary, to relate to the highest test level which will have been judged to be a no-effect level (defined as that level which produces no toxicologically significant product-associated pathology in the judgment of pathologists). For all aerosolized aluminum salt antiperspirants, the conformance to these respirable aluminum "upper limit" standards will be measured under the use conditions specified below in the testing guidelines.

The technology now exists for the formulation of suspension-type aerosol antiperspirant systems which have a

small fraction of solid particulates below 10 um (Refs. 34 and 35). Particle size analysis of some antiperspirant aerosols generated with this type of active ingredient indicates that they would have a greatly diminished potential for pulmonary deposition over the typical aerosol materials generally marketed. It now appears feasible to manufacture solid particulate aerosol sprays with 10 percent or less of the particles below 10 um. The Panel recommends that all marketed suspension-type aerosol systems be formulated to emit at least 90 percent of their particles over 10 um in size as obtained from impaction measuring devices.

b. *Problems with safety of propellants.* Pressurized antiperspirant systems make almost exclusive use of chlorofluorocarbon (F.C.) propellants. They are saturated organic compounds which contain both fluorine and chlorine. The ones which are most commonly employed in antiperspirant formulations (Ref. 36) are trichloromonofluoromethane (F.C. 11), dichlorodifluoromethane (F.C. 12), and dichlorotetrafluoroethane (F.C. 114). In the past decade a large number of toxicological studies have been carried out on these compounds. The results of these studies have been summarized in a number of recent publications (Refs. 36, 37, and 38). These compounds have been found to be cardio-toxic, but only when the concentration level of the propellant gas is many times greater than that which would be achieved under normal use of commercial household products. The concentration required to produce serious toxic effects is reached when aerosol product uses are perverted. In the Panel's opinion the scientific data indicate that when aerosol antiperspirants are properly used, the propellants will not pose any undue risk to the user.

However, the Panel recognizes that because of the environmental effects of chlorofluorocarbons, FDA published proposed regulations in the FEDERAL REGISTER of May 13, 1977 (42 FR 24535), which were made final on March 17, 1978 (43 FR 11301) concerning the use of these agents as propellants. These regulations prohibit the use of these agents as propellants in aerosolized products except for specified essential uses.

c. *Problems with the safety of talc in aerosol antiperspirants.* Talc is incorporated into a number of propellant aerosol antiperspirant formulations because of its cosmetic appeal. It serves as a dusting powder in this capacity. The Panel's concern about the presence of talc in these products stems from reports that certain talc constituents will produce toxicological responses when inhaled over extended periods (Refs. 39 and 40).

An open session of the Panel was held on July 9, 1975 to discuss this subject (Ref. 41). Presentations were made by a number of experts on talc chemistry and toxicology. In addition, the Panel received a submission from the Cosmetic, Toiletry and Fragrance Association, Inc., on this matter (Ref. 42).

Talc is a magnesium silicate which is sometimes found to contain two groups of asbestos minerals: the serpentine and amphibole groups. It is these asbestiform minerals which are associated with the toxic effects of talc (Refs. 39 and 40). The analytical procedures now used to detect asbestiform fibers in talc are sensitive to 0.5 percent (Ref. 42). The talc used in antiperspirant products is devoid of any asbestiform fibers when determined by this procedure.

After studying the scientific literature and the data presented at the open session, the Panel concluded that there is virtually no risk from asbestos in aerosolized talc in the amounts found in antiperspirant products if the material is determined to be free of asbestiform fibers by the Cosmetic, Toiletry and Fragrance Association, Inc., procedure (Ref. 42). This analytical procedure should be used until more sensitive techniques are available. It is important that further work be undertaken to set limits for asbestiform fibers and to reduce the limit of detection to as low as possible from the now accepted 0.5 percent.

The Panel did not consider the safety of talc in products other than antiperspirants.

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H. EFFECTIVENESS OF ANTIPERSPIRANTS

1. *General discussion.* The need to assure the effectiveness of OTC drugs has been underscored by recent Congressional decisions and is a major reason for the present OTC review. The average person expects the OTC drugs he/she buys to be safe. He/she purchases them for the drug manufacturers' promises of effectiveness and usually takes their safety for granted. The manufacturers' responsibility clearly does not end once its product is safe; its product also should do what the manufacturer claims it will do. This dual performance of OTC drugs is emphasized in the FDA charge to the Panel that the benefit to risk ratio of antiperspirant drug products be considered.

Americans spend more than ½ billion dollars annually on products claiming to reduce axillary odor and perspiration. These include a wide variety of antiperspirants, deodorants, and deodorant soaps. It is probable that relatively few consumers give much thought to how these products accomplish their purpose or what their limitations may be. It appears that many people are unaware of the distinction between antiperspirants and deodorants and often use antiperspirants expecting deodorant action or vice versa (Ref. 1).

The Panel has been made aware of the confusion about the use of these products and their limitations (Ref. 2). It feels that it is in the public interest to discuss these issues fully so that the individual's decision to use them may be an informed one.

Axillary odor and perspiration are closely interrelated phenomena. (See Part II, paragraph E. above—Axillary Odor.) Because of the confusion about the use and purpose of antiperspirant-deodorant products, it is helpful to distinguish between the purposes they are intended to serve.

OTC antiperspirants are designed primarily to reduce underarm (axillary) wetness. They are classified legally as drugs because their mode of action affects a body function, namely, eccrine sweating. Deodorants are designed to reduce axillary odor. Since this is considered a nontherapeutic purpose and a function of the body is not considered to be altered, they are classified as cosmetics. Many OTC antiperspirant drug products claim to perform both functions and indeed may do so. Some deodorant cosmetics may also reduce wetness, but may not carry a label claim to this effect.

The consumer who desires to know whether a given product acts as an antiperspirant, as a deodorant, or as both is not helped by these legal classifications or by current labeling practices. He/she really should know what specific active ingredients are present and be knowledgeable about their probable effects.

2. *Deodorant effectiveness of antiperspirants.* Laboratory studies indicate that both eccrine and apocrine sweat are sterile and odorless at the time of secretions (Ref. 2). The odor is produced later through the action of bacteria on primarily the apocrine sweat, which is rich in organic material and is an ideal substrate for bacterial growth. The far more abundant eccrine sweat, the source of axillary wetness, is a highly dilute water solution and has been shown to be much less important as a source of axillary odor (Ref. 3). However, the moisture from eccrine glands probably promotes odor production indirectly in two important ways. The small amount of sticky, oily material from the axillary apocrine glands is dispersed over a wider surface. Secondly, the moisture in the warm axillary vault completes an ideal environment for the rapid growth and proliferation of the resident bacteria feeding on this organic material. Axillary hair also has been found to promote the development of odor (Ref. 3). It is thought that axillary hair acts as a collecting site for apocrine sweat and increases the surface area available for bacterial proliferation.

These findings several obvious ways to reduce or control axillary odor: (a) Reduce apocrine sweating in the axillae; (b) remove the secretions from both types of sweat gland as quickly as practicable; (c) impede bacterial growth.

Of these, there can be little doubt that adequate personal hygiene including regular, effective bathing is the primary means of controlling both bacterial growth on skin and body odor. The effect of shaving the axillae is also quite helpful. In women who shave regularly there is a markedly reduced axillary odor (Ref. 3). Unlike eccrine glands, the apocrine glands are indifferent to ordinary thermal stimuli, but respond to emotional stress such as fear, anger, and strong pain and also to mechanical stimulation such as a mild stroking of the skin. Although the quantity of apocrine sweat produced is very small, there is no known OTC product that can eliminate it or indeed that has any apocrine antiperspirant effect.

Antiperspirant which are designed for the reduction of eccrine sweating might conceivably be capable of reducing odor by drying the axilla and creating arid and less favorable conditions for bacterial growth. However, commercially available OTC antiperspirants do not provide substantially more than a 20 to 40 percent reduction in axillary wetness. It is very doubtful that this limited reduction in wetness could in most individuals result in appreciable odor inhibition. However, some of the active ingredients in current OTC antiperspirants (in particular aluminum chlorhydrates and aluminum chloride) possess a degree of anitbacterial activity and may work as deodorants (Ref. 4). (See part II, paragraph E.4. above—Mechanisms of the deodorant effects of antiperspirants.)

The application of a deodorant is not substitute for cleansing, and deodorant use should follow adequate bathing. Some deodorants do not contain ingredients which affect bacterial growth. They depend entirely on odor substitution; that is, their perfume temporarily masks a disagreeable odor with a more pleasant one. Other deodorant products contain antimicrobial chemicals which are intended to reduce the microbial flora of the skin surface (e.g., deodorant soaps).

Deodorancy is considered a cosmetic claim and is a concern of the Panel only so far as labeling claims of deodorancy appear on antiperspirant products. Since these types of data were not requested in the call for data, full submissions to substantiate deodorant claims were not made.

From the data submitted on deodorancy, the Panel is satisfied that the submitted compounds of aluminum and zirconium that are effective as antiperspirants also appear to be effective as deodorants. This conclusion is based on data submitted by industry on "sniff tests" carried out with a representative range of products tested in the axilla (Refs. 5 through 17). Since the deodorancy is largely dependent on suppression of bacterial growth, washing the axilla to remove apocrine and eccrine secretion and desquamated epithelial debris is essential to achieving optimal deodorancy effectiveness. The Panel chooses not to be concerned with comparative deodorancy claims.

If new antiperspirant products or ingredients are reviewed for deodorancy, data on suppression of bacteria in the axilla should be a part of the data considered and should be correlated with assessments of odor reduction.

3. *Antiperspirant effectiveness of antiperspirants.* Eccrine sweating is a perfectly normal and often an essential part of the body's thermoregulatory system. Eccrine sweat glands are distributed in great numbers over the entire body surface (over 3 million on the average adult). Normally, these glands become active under conditions of thermal stress, i.e., (a) when the environmental temperature becomes high, (b) when internal heat is produced which must be eliminated (as in muscular exercise), and (c) when other mechanisms of heat loss such as air convection or thermal radiation are prevented. The cooling of the skin by

the evaporation of this moisture (and thereby cooling the circulating blood in the skin's blood vessels) is often the only effective way of maintaining a proper constant body temperature.

The axillary sweat glands and also those of the palms and soles do not appear to be essential to the proper functioning of this thermoregulatory system. The palms and soles in most individuals react only weakly or not at all to thermal stimulation (Refs. 18 and 19), and the sweat from the axillae usually cannot readily evaporate. Perceptible underarm wetness is the result of two processes—the amount of sweat produced and the rate of evaporation.

In certain specific regions of the body (palms, soles, axillae, and forehead) eccrine glands respond to emotional or sensory stimulation such as the pain produced by touching a hot object, and in some individuals the gustatory stimulation provided by eating spicy food. In contrast to thermal sweating, which begins only after a latent period, emotional or sensory sweating commences immediately and ceases immediately on withdrawal of the stimulus.

Available OTC antiperspirants are capable of reducing underarm wetness to some degree. The range of effectiveness (average percent sweat reduction) of OTC antiperspirants in laboratory hotroom tests submitted to the Panel is given below:

RANGE OF AVERAGE PERCENT SWEAT REDUCTION OF OTC ANTIPERSPIRANTS

Dosage form	Average percent reduction
Aerosols	20–33
Creams	35–47
Roll-ons	14–70
Lotions	38–62
Liquids	15–54
Sticks	35–40

No OTC antiperspirant product can eliminate wetness completely, but the partial reduction that can be achieved has been shown to be 20 to 40 percent in most tests.

The mechanism of antiperspirant action has not yet been established. It is possible that different active ingredients act in different ways. (See part II. paragraph F. above—Pharmacology of Antiperspirants.) The Panel has found no evidence that these products are harmful to the sweat glands. Completely normal axillary eccrine sweating is resumed usually within a week after antiperspirant use is discontinued.

In summary, the eccrine sweat glands of the axillae (and the forehead) are unique in that they can be stimulated both by thermal and emotional stimuli. Sweating in the axillae is not essential to the thermoregulatory function, and the onset, amount, and duration of sweating are highly variable factors dependent on the type of stimulus, its intensity, and the pattern of individual response. Axillary eccrine sweat can be reduced but not eliminated by the use of OTC antiperspirants. The Panel did not receive sufficient data to support a claim of activity for these OTC products and ingredients on body parts other than the axillae. Therefore, effectiveness in the axillae should not be extrapolated to signify effectiveness elsewhere on the body.

The effectiveness (percent reduction values) of most aerosolized OTC antiperspirant products containing an aluminum chlorhydrate, the most widely used active ingredient, falls between 20 and 33 percent. Variability in individual response, test protocols, data evaluation, test subject selection, method of administration, and dosage form and differences in formulation are some of the factors which contribute to this broad range of effectiveness. A summary of pooled percentage reduction data from submissions to the Panel is given in the table above. These include a variety of OTC antiperspirants containing different active ingredients. These data attest in particular to the very large role that variations in individual response play in antiperspirant effectiveness. One general conclusion which appears valid is that aerosolized versions of antiperspirants are generally not as effective as the other dosage forms. It is important to recognize that these numbers are averages from tests and that individual responses are far more variable.

The effectiveness range for aerosolized aluminum chlorhydrates can be restated by saying that an individual test subject using such an antiperspirant product may be expected to sweat with 67 to 80 percent efficiency rather than his normal 100 percent. Drawing upon the analogy of a "leaky raincoat," critics of currently available antiperspirants challenge the effectiveness of a formula that permits up to 80 percent of the perspiration to go unchecked.

The CTFA has argued against this view in its submission to the Panel (Ref. 20). This group states that the purpose of an antiperspirant is to reduce sweating below a critical level where "* * * frank wetness perceivable to the consumer begins to develop" and not necessarily totally to inhibit sweating. They contend that an antiperspirant effective even at the 20 percent level may well achieve this result and thereby prove beneficial to the consumer.

The Panel agrees in principle that total inhibition of axillary sweating is probably neither necessary nor desirable for an effective antiperspirant. The perception of a beneficial effect by an individual using an antiperspirant under normal everyday conditions is the desirable goal.

Antiperspirant manufacturers have universally adopted objective gravimetric tests for antiperspirant effectiveness evaluations. These tests show that currently marketed antiperspirants are generally limited in the pharmacologic ability to reduce axillary sweating.

4. *Effectiveness testing of antiperspirants*—a. *General discussions.* Several different approaches have been used to estimate the extent of perspiration on human skin. The simplest of these have been visual, such as Minor's or Wada's method and its modifications (Refs. 21 through 24). All these techniques enhance the visibility of sweat droplets on the skin by their colorimetric reaction with various dyes. In general, the visual methods are only semiquantitative, but are simple and suitable for screening purposes or for studies aimed at determining individual sweat pore patterns. Another type of method permits accurate measurements of sweat output from small and precisely defined areas of skin (Refs. 25, 26, and 27). These methods usually involve a cup glued to the skin through which dry air or gas is passed, carrying any moisture to a suitable sensing device. The methods are quantitative and often permit measurement truly reflective of the pulsatile nature of moderate sweating. But since these methods require complex equipment and considerable technical monitoring, they are not readily adaptable to a large number of subjects (Ref. 28). Other techniques using tiny micropipettes permit the entire sweat production from individual glands to be measured and analyzed (Refs. 29, 30, and 31). These measurements have provided the evidence for the presence of reabsorption phenomena in the sweat gland (Ref. 31) and are used routinely as diagnostic aids for the detection of fibrocystic disease.

b. *Gravimetric test.* The method used by most testing laboratories is based on gravimetric (weight) determinations of a constant fraction of the total sweat production from the axilla over a moderately long time interval (Refs. 32, 33, and 34). The test antiperspirant is used in one axilla of each subject, and the other is left as a control. Absorbent pads of known weight are placed in each axilla and kept in position during the test period. After this period the pads are removed, reweighted, and the reduction in sweat output of the treated axilla computed. This general procedure, with a few variants, is universally used by industry to test the effectiveness of marketed antiperspirants. The method is

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adaptable to large numbers of human subjects, is fairly rapid, and requires a minimum of special equipment. It is claimed that this method adequately represents the real-life situation, produces a minimum of interference with the normal physiological response of the subjects, and produces quantitative results suitable for conversion into a meaningful percent sweat reduction figure (Refs. 26 and 33).

(1) *"Hotroom" vs. ambient conditions.* One of the major variants in the way this test has commonly been conducted is the nature, duration, and intensity of the sweat-provoking stimulus given. In the more widely used hotroom procedure, test subjects are placed in controlled temperature rooms maintained at 100±2° F and at approximately 35 percent relative humidity (Refs. 28, 35, and 36). The use of controlled hotroom conditions rather than ambient conditions is predicated on the belief that a controlled environment with the test subjects under constant supervision offers the best opportunity for accurate and reproducible estimates of percent sweat reduction. Since thermal stimulation of sweating requires a latent period before a constant sweat rate is established, the usual procedure is to allow a 40-minute warmup period after hotroom entry before beginning the actual sweat collection. Sweat rate data obtained during one or two successive 20-minute collection periods are usually used for evaluation. It is claimed that testing after the warmup period eliminates extreme variations in individual sweating patterns and provides more reproducible data for a more precise evaluation of antiperspirant activity (Ref. 28). The warmup period also provides time for an individual's emotional adjustment to the conditions of testing. Because of this and because the test subjects used have often been through the procedure previously, it is likely that the sweat stimulus is largely, if not entirely, thermal. The Panel cannot find any evidence to support the hypothesis that 100° F hotroom conditions provoke nonthermal sweating (Ref. 36), although it is clear that the thermal stimulus provided by hotroom conditions is more intense than that likely to be experienced by most individuals in normal activity.

The normal activity or ambient method does not utilize controlled temperature conditions or constant supervision of the subjects. Test subjects are fitted with absorbent pads designed to retain absorbed moisture for a period of several hours. They are then free to pursue normal activities during the test period, usually 3 to 5 hours (Ref. 36). At the end of this period the pads are removed and weighed again and the determination of effectiveness made in the standard way. The results are claimed to give reproducible percent reductions, comparable to the hotroom methods, and in some cases at least, capable of better discrimination between similar antiperspirant formulations (Ref. 36). In this procedure the sweat stimuli are likely to be of lower intensity overall and could be of both emotional and thermal origin. These conditions are closer to those expected in the normal use of antiperspirants than are hotroom conditions, and this is the principal advantage claimed for the method.

(2) *Data evaluation methods.* Different computational procedures are used to convert antiperspirant data to a percent reduction figure and these methods can give different estimates of antiperspirant effectiveness from the same set of data (Ref. 37). These different procedures appear to arise largely from two areas of disagreement: The nature of the statistical distribution of the responses of subjects to antiperspirants, and the proper method of controlling the "handedness" or asymmetry of the antiperspirant response.

There is evidence that axillary sweating is asymmetric (Refs. 28, 32, and 38) and correlated with locomotor dominance. Crossed locomotor and sudomotor innervation has been found in the forearm (Ref. 39) and asymmetric sweating on other body areas has also been reported (Ref. 40). Similar hemihidrotic effects due to posture or applied pressure were noted by Kuno (Ref. 18) and are factors that have to be considered in designing and conducting a test protocal (Ref. 38).

Majors and Wild (Ref. 35) and others attempt to control for the asymmetry in axillary sweating by adjusting the test data with the use of predetermined ratios. In effect, the test and pretest ratios of the amount of sweat from opposite axillae are compared instead of the absolute milligram amounts. Their basic formula for the calculation of percent sweat reduction is:

$$\text{Percent sweat reduction} = 1 - \frac{\left(\frac{T}{C}\right)_{\text{Test}}}{\left(\frac{T}{C}\right)_{\text{Pretest}}} \times 100$$

where T is the milligrams of sweat collected from the test axilla (treated or to be treated) and C is that collected from the control or untreated axilla. This calculation assumes that the radio of sweat output from opposite axillae is constant and independent of sweat rate or the time of collection. Majors and Wild also report that the response of test subjects to antiperspirants follows an essentially normal distribution, thus justifying the use of arithmetic means of estimating the most probable value of the parent distribution.

Wooding and Finklestein (Ref. 37) contend that the responses of test subjects to antiperspirants are positively skewed and therefore require log-transformation before parametric statistical techniques can be applied. This procedure results in using geometric rather than arithmetic means and usually increases the apparent percent sweat reduction values. These authors also contend that the use of pretest ratios is, at best, unnecessary and, at worst, can introduce a serious bias into estimates of percent sweat reduction. They suggest that such ratios are not found to be strictly constant and that asymmetry effects are best controlled by the use of a suitable experimental design (Ref. 37).

Comparison of results of analysis of antiperspirant data using these two approaches show differences of from 1 to 6 percent in estimates of percent sweat reduction (Ref. 37).

c. *Minimum requirements for antiperspirant effectiveness.* The definition of drug effectiveness provided by FDA regulations states in part that OTC drugs "• • • will provide clinically significant relief of the type claimed" (21 CFR 330.10(a)(4)(i)). Furthermore, to establish effectiveness within a reasonable expectation, acceptable evidence which can withstand scientific scrutiny must be provided. The Panel is specifically instructed by its charge and by FDA regulations to exclude from consideration random experience and reports lacking the details which permit scientific evaluation.

The commonly used gravimetric tests of antiperspirant effectiveness reveal a wide range and a relatively low order of absolute effectiveness. Can tests of this kind provide a basis of evidence to establish a reasonable expectation for clinically significant relief of the type claimed? The Panel believes that they can if they are properly conducted and if appropriate standards governing the significance of the test data are established.

Gravimetric tests of antiperspirant effectiveness are not evaluations of clinical effectiveness. These tests simply measure the amount of sweat reduction under controlled conditions. In such a test, a product could achieve a statistically significant reduction in perspiration of only a few percent.

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Such a low level of gravimetrically detected antiperspirant effect, though real, could be of trivial significance and would not ordinarily be perceived by the average user. To base a test for antiperspirant effectiveness entirely on the mere detection of a pharmacological effect of possibly trivial significance could not be said to provide the user with a reasonable expectation of "• • • clinically significant relief of the type claimed."

The basic drug claim made for antiperspirants is a reduction in underarm wetness. The Panel maintains that this claim contains the implied representation that the reduction in wetness is not trivial and will be perceptible to the user. That a perceptible antiperspirant benefit will accrue to the user of these products is often made explicit on the label in the form of statements of cosmetic puffery and in the advertising media. On this basis the Panel has determined that antiperspirant products, in order to be considered effective, attain or exceed a specific minimum level of effectiveness in gravimetric tests and that this level be such as to provide a reasonable expectation that an antiperspirant effect will be perceptible to the user under ordinary conditions of use.

In an effort to establish this minimum level of gravimetric effectiveness, the Panel requested information from a major independent test laboratory with 22 years' experience in the evaluation of OTC antiperspirant effectiveness (Ref. 41). The results on the correlation between hotroom gravimetric tests and user perception tests of antiperspirant effectiveness were presented at the Antiperspirant Panel meeting of August 1975.

The results indicated that the hotroom effectiveness of an antiperspirant required for a perceptible subjective effect is approximately a sweat reduction equal to 20 percent. Or stated in another way: A hotroom sweat reduction of at least 20 percent is required before an individual, who notices his own underarm perspiration, is able to locate correctly at least half the time, the underarm treated with antiperspirant. The data also suggested that individuals who exhibit higher measured effectiveness in hotroom tests experience a greater subjective antiperspirant effect.

The Panel considers that these data validate the use of a properly conducted hotroom test for antiperspirant effectiveness and that a 20 percent reduction in sweating achieved under hotroom conditions is sufficient to justify the use of the label claim "antiperspirant" as long as it is accompanied by a statement explaining the level of effectiveness that can be expected. (See Part III. paragraph B.1. below—Category I Labeling.)

Since a product with a sweat reduction of 20 percent promises only a barely perceptible antiperspirant effect, antiperspirants that achieve less than 20 percent effectiveness in hotroom tests are probably worthless in terms of consumer benefit. Therefore, the Panel has proposed a statistical criterion that provides a reasonable assurance that only antiperspirant products that are likely to give a 20 percent sweat reduction in at least half of the subjects will be marketed. The Panel recognizes that the statistical criterion is more stringent than those conventionally used, but it believes this is necessary to insure that truly ineffective products, with no perceptible user benefit, are not marketed.

The Panel believes that both the ambient method and the hotroom method are generally acceptable and can provide the necessary objective test data. The minimum standard of antiperspirant effectiveness developed above in connection with hotroom data applies equally well to gravimetric data using the ambient method.

d. *Factors affecting antiperspirant effectiveness evaluation.* In its review of the scientific literature and industrial submissions, the Panel has become aware of the many factors which can alter the effectiveness of OTC antiperspirants. Additional considerations determine the accuracy, dependability, and predictive value of tests used to assay antiperspirant effectiveness. The following factors were specifically considered by the Panel in its determination of the methods and data evaluation to be followed in the proposed effectiveness test:

(1) Currently marketed OTC antiperspirants appear incapable of totally inhibiting axillary sweating except, possibly, in rare, isolated cases. Any benefit to the average user therefore must be measured in terms of reduction in sweating rather than in terms of total sweat inhibition.

(2) On the basis of the best evidence currently available, antiperspirants which in hotroom tests give percent sweat reductions of approximately 20 percent or less exert no perceptible antiperspirant effect on the average user (Ref. 41).

(3) Minor variations in formulation can critically affect a product's antiperspirant activity (Ref. 35). The fact that a known active ingredient is present in proper concentration cannot, per se, be taken as a guarantee of effectiveness of the finished product. Higher concentrations of known active ingredients in poorly formulated products are often less effective than lower concentrations of active ingredients in well formulated products.

(4) Individuals are extremely varied in their response to antiperspirant materials. Some individuals do not respond at all to certain active antiperspirant formulations, but do respond to others. Even properspirant (increase in sweating) effects are observed when antiperspirants are used in some individuals (Refs. 35, 41, and 42). There are sizable variations in determinations in average percent sweat reduction values with small numbers of test subjects. To some extent this can be overcome by using larger numbers of test subjects, 30 or more (Refs. 35 and 41).

(5) Axillary sweating is affected by unilateral pressure applied to the body (Ref. 38). Leaning against a chair, crossing the legs, or using a bulky collection device in one axilla can all produce unilateral effects on axillary sweating. This effect can be controlled by proper management of the subjects and design of the test.

(6) Axillary sweating during an individual's normal activity is intermittent and is responsive to emotional stress, as well as thermal stimuli. Emotional responses are potentiated in a warm environment, and a greater amount of sweat is secreted (Ref. 38).

(7) No clear correlation between sweating rate and the effectiveness of antiperspirant materials has been established (Ref. 35). But it remains possible that effectiveness is modified by sweat rate (Ref. 38). Emotional stimuli are known to generate more rapid sweating than thermal stimuli (Ref. 43).

(8) Conventional gravimetric effectiveness tests do not control for race, sex, conditioning, acclimatization or season. All these factors are known to affect the responsiveness of eccrine glands (Ref. 44). Only the influence of sex difference seems to have been determined, and even though men are known to sweat more than women in response to a standard stimulus, no significant differences in their response to antiperspirants were reported (Ref. 34).

(9) Axillary sweating does not appear to be as readily inhibited by at least some topical antiperspirant materials as sweating on other body sites (Ref. 4). Test results that are to be used in substantiation of the effectiveness of axillary antiperspirants must originate from procedures using axillary test sites.

(10) Currently marketed antiperspirants are normally not effective immediately after application to the skin. Some appear to become effective after a few hours (Ref. 38); others require more time and repeated applications to achieve maximum effectiveness (Refs. 34 and 35).

(11) The mechanism of action of topical antiperspirants is not known. It cannot be assumed that the mechanisms of action of different active in-

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gredients are identical. Data on the effect of sex difference, sweat rate, and other factors that have been obtained with unidentified antiperspirant materials or specific active ingredients cannot be generalized to apply to all antiperspirant materials.

(12) Differences between the two principal statistical methods for evaluating effectiveness do not appear to lead to serious differences in percent sweat reduction values (Refs. 28 and 35). The Panel is more concerned with the undisputed low overall level of measured effectiveness revealed by current tests and the predictive value of such tests for the population-at-large.

e. *Panel statements concerning effectiveness testing.* During its inquiries into the effectiveness of antiperspirant products, the Panel discussed two things that subsequently resulted in a pronounced difference of opinion among the Panel members:

(1) Although formulated with the same active ingredients, different antiperspirant products, especially those prepared for aerosol application, may vary widely in the percentage reduction in perspiration they produce (Ref. 35 and 41).

(2) Marketed antiperspirant products have been shown under test conditions to produce a reduction in perspiration that varies roughly from 20 percent to nearly 50 percent. At the same time, the Panel ascertained that the lower figure of 20 percent reduction in sweating is the lowest level at which most users would be subjectively aware that there was any antiperspirant effect at all from the product they were using. (Remember, however, that users apparently buy these products for both antiperspirant and deodorant effects, and there is not necessarily a correlation between the degree of effectiveness of these two actions).

Faced with this information, the Panel disagreed on what it should recommend to insure that marketed OTC antiperspirant products are effective.

The majority of the Panel (four voting members) felt that the facts warranted a requirement that even though an antiperspirant product was formulated with Category I (safe and effective) ingredients it should, in addition, be required to be tested as a product, to demonstrate proof of adequate effectiveness.

A minority of the Panel (two voting members) felt that even though antiperspirant products might vary in effectiveness, and might, in fact, be less effective than the recommended minimum levels, they should be allowed to remain on sale provided they were made with Category I ingredients.

f. *Antiperspirant effectiveness qualification test*—(1) *General discussion.* Because minor variations in formulation can alter the actual effectiveness of the product, the Panel has recommended that the effectiveness test be performed on the final product formulation regardless of the tests that may be carried out on the active ingredient in other forms or vehicles. The Panel recommends that a standard protocol be adopted.

It is a fact well known to the antiperspirant industry and testing laboratories that excipient ingredients added in the formulation of an antiperspirant product may seriously impede or even totally destroy the effectiveness of an otherwise active antiperspirant ingredient. This is not a rare circumstance, but occurs frequently with all forms of antiperspirant products. It occurs when special substances are added to aerosol formulations to prevent clogging of the spray nozzle. It occurs when emollients are added to enhance the cosmetic acceptability of powders, sticks, and roll-ons. And it occurs with aluminum chloride salt ingredients which are often buffered in formulations to reduce irritancy.

The effectiveness testing of antiperspirants in final product form has been the means by which manufacturers of these products monitor, assure, and improve the effectiveness of their products. Many of these products have been marketed in several versions which differ only with respect to the color and perfume ingredients which are present in very low concentrations and which do not materially alter the physical and chemical properties of the formula. They are not considered to have any material effect on antiperspirant activity. This can be contrasted to the interferences which have been reported to arise from the influence of other vehicle components. While such interferences are occasionally traceable to the presence of a particular excipient, they are generally not understood or predictable.

Product testing is the only way generally recognized by makers of antiperspirants to assure that the active ingredients remain active in the final product form available to the consumer.

Therefore, since antiperspirant active ingredients can and often do become ineffective when formulated, and since the mechanism of topically induced antiperspirancy is now unknown, and the effect of formulation on the final effectivensss of the purported active ingredients cannot be predicted, the Panel recommends that the final formulation of OTC antiperspirants be tested for effectiveness in the manner described herein and that the product must exceed the minimal standards set by the proposed effectiveness test or an acceptable equivalent test.

To qualify as effective in finished product form, an antiperspirant must meet or exceed the criteria established by the following test procedures and definitions.

This qualification requirement applies to all formulae except those variants which differ from a qualified formula only with respect to color and/or perfume ingredients.

A gravimetric test measuring the amount of axillary perspiration under either controlled hotroom or ambient conditions will be used. Multiple, independent testing is permitted provided that the evaluation of effectiveness is based on preset proper statistical analysis for a combined set of such experiments.

(2) *Protocol.* The test subjects will be required to abstain from the use of all antiperspirant materials for at least 1 week prior to pretreatment or treatment collections. Antiperspirants can have residual activity; a week or longer has been deemed sufficient for a washout period. The test subjects must be sufficiently representative in that the differences between the highest and lowest rates of sweating amongst the test subjects must exceed 600 milligrams/20 minutes/axilla.

When a large number of subjects were subjected to the hotroom conditions described below, differences in perspiration rate in excess of 600 milligrams/20 minutes/axilla were found. Information on the sweating rate will be obtained during pretreatment collections or by collections taken from the control axilla during treatment.

There are two generally accepted procedures for conducting antiperspirant tests. These are referred to as the hotroom and ambient condition tests. In the hotroom test the subjects are placed in a controlled environment which thermally stresses them to perspire. It has been found that temperatures around 100° F and humidities in excess of 35 percent will elicit sufficient axillary sweat from the subjects in reasonable lengths of time so that gravimetric measurements can be made of the axillary perspiration rate. The perspiration is usually collected on an absorbent material for a period of 10 to 30 minutes and weighed (Ref. 45). Care must be taken to insure that all factors which are known to influence axillary sweating and in particular those known to have a unilateral effect on sweating rate are properly controlled (Refs. 20, 33, 38, and 41). Aside from temperature and humidity, air movement and mental or emotional stimulation can influence sweating rate. There are some less well defined variables, such as the position of the trunk and extremities, which will produce unilateral effects (Refs. 18 and 38).

Ambient tests permit an assessment of antiperspirant activity of a formulation under normal use conditions. In these tests the subjects, after having the materials applied to the axillae, are allowed to go about their normal daily routines. Absorbent pads are placed in their axillae to collect perspiration. The pads usually collect sufficient perspiration for a gravimetric determination in 3 to 5 hours (Ref. 36).

A treatment will consist of the application of the product under evaluation to one axilla of a subject and the control formulation to the other axilla. The quantity of each formulation applied to all the test subjects must reflect the amount that a typical person would apply under normal use conditions. Half of the subjects will be randomly assigned to receive the test product under the left (L) axilla, leaving the other group of subjects to be assigned oppositely. If a pretreatment is desired to establish a control ratio of the left to right axillary sweating rate, it will consist of the application of the control product to both axillae. The control product will consist of a formulation devoid of the active ingredient and will be applied in the same manner as the product being evaluated. All treatment applications will be made once daily.

It is important that the number of treatments preceding the collections of axillary perspiration for evaluation be recorded. At least one daily treatment should be carried out before the test.

(3) *Data treatment.* Sweat reduction is defined for each subject by the formula:

$$\text{Percent sweat reduction} = \frac{C - T}{C} \times 100$$

where C is the raw milligram weight measure of moisture from the control axilla and T is the corresponding quantity for the test axilla. When pretreatment ratios are used appropriate modifications of this formula are acceptable.

A statistical analysis of the percent sweat reduction values will be conducted by a binomial test. This test will demonstrate that with high probability at least 50 percent of the target population will obtain a sweat reduction of at least 20 percent. In statistical terminology:

$H_o = P00.5$

$H_A = P00.5$ (=0.05, one sided),

where H_o is the null hypothesis, P is the probability, H_A is the alternative hypotheses and is the predetermined arbitrary level of significance.

This test reduces to the simple procedure of counting the number of subjects with a sweat reduction equal or greater than 20 percent and comparing it with tabulated values. If this number equals or exceeds the tabulated value for a given sample size, the product qualifies for effectiveness. For example, binomial statistics requires the following:

Total number of test subjects	Minimum number of subjects required to have at least a 20 percent sweat reduction
20	15
25	18
30	20
100	58

g. *Minority opinion.* Two members of the Panel disagreed with the majority of the Panel's recommendation that all antiperspirant formulated products, as well as ingredients, be subjected to specified testing for effectiveness. It was the feeling of these two members that product-by-product effectiveness testing would not be necessary for the following reasons:

(1) Although the Panel was told that variations in the formulation of antiperspirant products, all made with comparable concentrations of the same agents (mostly aluminum chlorhydrates), would produce differing amounts of antiperspirant effectiveness, the fact that so many different formulations of aluminum chlorhydrates seemed adequately effective suggested that Category I ingredients in proper amount could ordinarily be put into an effective product without any special compounding art.

(2) Despite the charge to the Panel to determine that all OTC drug products be safe and effective for their labeled indications, we feel that it is permissible, and even wise, to allow the possibility that some formulated antiperspirant products will, in fact, turn out not to be adequately effective, as defined. Even if a product were compounded in such a way as to make it less than adequately effective, no real harm would be done. The user should be able to perceive the difference, the ineffective product would be discarded, or not repurchased, and the purchaser of such a product would have suffered only a modest inconvenience and the loss of a very small purchase price.

(3) Eliminating the need for product-by-product effectiveness testing would reduce the complexity of testing new formulations. The resulting cost savings would be expected to be reflected in the market price of the products.

(4) Even more importantly, the requirement for product-by-product effectiveness evaluation would substantially increase the regulatory task of FDA. The OTC review process was designed as an ingredient rather than a product review in order to allow a relatively manageable review of the vast number of OTC products. While the review process as implemented is flexible enough to permit product-by-product review in certain compelling situations, if utilized throughout the review process it would vastly complicate this long-needed review of the OTC arena. Such a complication should be avoided whenever possible.

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I. COMBINATION POLICY.

The combination drug policy for OTC products is set forth in 21 CFR 330.10(a)(4)(iv):

An OTC drug may combine two or more safe and effective active ingredients and may be generally recoginzed as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

After reviewing the labels of the submitted antiperspirant products, it appeared to the Panel that many products contained combinations of two or more antiperspirant active ingredients. However, in an attempt to clarify the naming of the various antiperspirant ingredients (Ref. 1), the Panel was informed that these products were not combinations in the true meaning of the word. Rather, the chemistry involved in the combining of the labeled ingredients in the final product resulted in one of the identifiable ingredients listed by the Panel in the nomenclature section of the document. (See part I. paragraph B., in the table above—Comparison of Submitted Names and Adopted Names for Antiperspirant Active Ingredients.) The Panel is not aware of any product which contains more than one identifiable active antiperspirant ingredient.

One submitted product contained aluminum sulfate and sodium aluminum lactate. The Panel has concluded elsewhere in this document that the presence of sodium aluminum lactate is to act as a corrective agent to counteract the irritating nature of the aluminum sulfate, rather than to act as an active ingredient. (See part III. paragraph B.1.d. below—Buffered aluminum sulfate.)

The Panel recognizes the possibility of combining a Category I antiperspirant with Category I ingredients from other OTC monographs. For example, one submission to the Panel contained information on a product no longer marketed containing an antiperspirant ingredient and an antibacterial ingredient. The presence of the antibacterial in this product was for a deodorant effect rather than an antiperspirant effect. However, the Panel has concluded elsewhere in this document not to review deodorant claims since they are deemed cosmetic claims. (See part II. paragraph E. above—Auxillary Odor.)

The Panel was made aware of other products containing both antiperspirant and antifungal ingredients to be used in the treatment of athlete's foot. While the Panel has evaluated the antiperspirant ingredients in these combinations for their antiperspirant safety and effectiveness, it defers to the OTC Antimicrobial II Panel any evaluation of the usefulness of such a combination in the treatment of athlete's foot.

In summary, since the Panel has no data for actual combinations of antiperspirant active ingredients, these combinations are Category II. In addition, except for the antiperspirant/antifungal combinations which have been deferred to another OTC Panel for evaluation, combinations of antiperspirant active ingredients with active ingredients from other OTC monographs are also Category II since the Panel has no data on such combinations.

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III. ANTIPERSPIRANT AGENTS

A. GENERAL DISCUSSION

Most submissions to the Panel described formulations made with only a few common ingredients. Included with these submissions were descriptions of safety testing, hotroom effectiveness testing, and marketing experience.

Because most manufacturers use essentially the same ingredients, this meant that the Panel was presented with a truly massive amount of documentation about the leading antiperspirant ingredients, most notably the aluminum, chlorhydrates.

Despite the very large amount of information reviewed by the Panel about the safety and effectiveness of the aluminum chlorhydrates it was decided to categorize as Category I only products made for direct application to the skin. The decision to require added testing for aerosol products reflects the fact that damage to the lung, by occurring more insidiously, carries a greater potential for serious illness than damage to the skin.

B. CATEGORIZATION OF DATA

1. *Category I conditions under which antiperspirants are generally recognized as safe and effective and not misbranded.* The Panel recommends that the Category I conditions be effective 30 days after the date of publication of the final monograph in the FEDERAL REGISTER.

CATEGORY I ACTIVE INGREDIENTS

The Panel has classified the following antiperspirant active ingredients in topical nonaerosol dosage formulations as generally recognized as safe and effective and not misbranded:

Aluminum chlorhydrates:
Aluminum chlorohydrate
Aluminum dichlorohydrate
Aluminum sesquichlorohydrate
Aluminum chlorohydrex PG
Aluminum sesquichlorohydrex PG
Aluminum dichlorohydrex PG
Aluminum chlorohydrex PEG
Aluminum sesquichlorohydrex PEG
Aluminum dichlorohydrex PEG
Aluminum zirconium chlorhydrates:
Aluminum zirconium trichlorohydrate
Aluminum zirconium trichlorohydrex Gly
Aluminum zirconium pentachlorohydrate
Aluminum zirconium pentachlorohydrex Gly
Aluminum zirconium tetrachlorohydrate
Aluminum zirconium tetrachlorohydrex Gly
Aluminum zirconium octachlorhydrate
Aluminum zirconium octachlorohydrex Gly
Aluminum chloride
Buffered aluminum sulfate

a. *Aluminum chlorhydrates (aluminum chlorohydrate, aluminum dichlorohydrate, aluminum sesquichlorohydrate, aluminum chlorohydrex PG, aluminum sesquichlorohydrex PG, aluminum dichlorohydrex PG, aluminum chlorohydrex PEG, aluminum sesquichlorohydrex PEG, aluminum dichlorohydrex PEG).* The Panel concludes that those materials, known as aluminum, chlorhydrates, in 25 percent or less concentrations calculated on an anhydrous basis are safe and effective for use as OTC antiperspirants as specified in the dosage and labeling sections discussed below.

Aluminum chlorohydrate has also been referred to as aluminum oxychloride, aluminum hydroxychloride, aluminum chloride hydroxide, aluminum chlorhydrate, and chlorhydrol. The aluminum chlorhydrates are commercially available in a number of forms which differ in the ratio of aluminum to chlorine. The empirical formulae of the salts most widely used as antiperspirants are $Al_2(OH)_4Cl$, and $Al_2(OH)_5Cl$, which are known as ⅔ basic and ⅚ basic aluminum chloride, respectively.

The aluminum chlorhydrate compounds are also available as polyethylene glycol or propylene glycol complexes. These comlexes have higher alcohol solubility than the uncomplexed salts. This property is desirable in certain topical formulations. The Panel considers these glycols to be formulation necessities which do not substantially alter the skin safety or antiperspirant activity of the salt from which they were prepared.

In water these materials will undergo hydrolysis, forming cationic polymeric species. The molecular weights determined for extremely dilute solutions of the ⅔ basic and ⅚ basic compounds are 975 and 1571, respectively (Ref. 1). A number of chemicals, e.g., sodium lactate (Ref. 2), will have a pronounced effect on the size and nature of the complex polymeric species formed. Increasing the pH of these solutions will tend to increase the size of the polymers.

Solutions of the aluminum chlorhydrates are acidic. The greater the aluminum to chlorine ratio in the material, the less acidic are its solutions. The pH of a 10 percent solution of the ⅔ basic compound is 3.5, while the pH of a 10 percent solution of the ⅚ basic material is 4.4 (Ref. 1).

Although physico-chemical measurements on these materials show significant differences, they do not appear to behave differently when applied to the skin.

(1) *Safety.* The Panel concludes, based on laboratory tests and market experience, that those materials known as aluminum chlorhydrates when applied topically to the underarms in nonaerosol formulations in concentrations of 25 percent or less calculated on any anhydrous basis are safe for use as antiperspirants.

Prior and Cronk in 1959 (Ref. 5) performed an experimental study to determine changes in skin pathology in albino rabbits following application of aluminum chlorhydroxide, aluminum sulfate, sodium aluminum lactate, or zirconium tetraisopropoxide. Acute inflammatory reactions with tissue necrosis and ulceration were noted when the aluminum compounds were injected subcutaneously or intravenously, with a more marked reaction at sites which had been previously deliberately injured. Percutaneous application of aluminum chlorhydroxide did not produce any significant lesions.

Primary skin irritation studies in rabbits using 2 to 24 percent concentrations of aluminum chlorhydrates produced a range of primary irritation indexes on the Draize scale from 0 to 3.7 (Refs. 6 through 18). The aluminum chlorhydrates would be considered mild to moderate irritants in animals based on this scale.

Subchronic dermal toxicity studies have been performed in rabbits using 3.4 to 30 percent concentrations of aluminum chlorhydrates. Except for skin irritation, no other significant adverse findings that could be attributed to the test compounds were found in any of the parameters investigated, which included hematologic studies, clinical blood chemistry studies, urine analyses, pathologic studies, and effects on body and organ weights (Refs. 6, 9, 12, 13, 15, 17, and 19 through 22).

Primary irritation patch tests using 3.5 to 30 percent concentrations of aluminim chlorhydrates in humans resulted in little or no irritation (Refs. 14, 20, and 23). Most of the results of repeated insult patch tests with 3.5 to 20 percent concentrations of aluminum chlorhydrates did not produce visible skin changes consistent with the criteria deemed characteristic of a primary irritant, a "skin fatiguing" agent, or a sensitizer (Refs. 6, 7, 9, 11, 12, 13, and 15). Only two manufacturers' submissions noted mild to moderate irritation with the repeated insult patch tests (Refs. 20 and 22). Results of various other patch testing techniques were consistent in producing little or no irritation with the aluminum chlorhydrates (Refs. 14, 18, 20, 21, 22, 24, and 25).

Market experience with aluminum chlorhydrates is also favorable. The number of cutaneous adverse reactions reported on products containing aluminum chlorhydrates is on the order of 6-per-million units according to industry (from combined complaint files). This is a relatively low number for topical products.

Recent data have shown skin changes in rabbits from injection of an aluminum chlorhydrate (Ref. 26). The Panel concludes, however, that those data support the findings of the Panel, that these reactions are not serious enough to disallow their OTC use.

(2) *Effectiveness.* The Panel was presented with a large amount of effectiveness data for the various aluminum chlorhydrates. Various methods have been used to determine the effectiveness of antiperspirants. The controlled hotroom gravimetric procedure to determine the percent reduction of axillary sweat is most often used. The procedure for this test is discussed elsewhere in this document. (See part II. paragraph H.4. above—Effectiveness testing of antiperspirants.)

Hotroom tests with 20 percent aqueous aluminum chlorhydrates produced sweat reductions in a range of 26 to 46 percent. Concentrations of aluminum chlorhydrates used in aerosol formulations (3 to 3.5 percent) produced sweat reduction values from 20 to 32 percent. Control tests using the vehicle without any active ingredient in the formulation produced sweat reduction values from 0.7 to 3.6 percent (Refs. 6 through 17, 19, 22, 23, 24, and 27 through 34).

A hotroom test using a 9 percent aluminum chlorhydrex PG, a propylene glycol complex of an aluminum chlorhydrate, produced a sweat reduction value of 43 percent (Ref. 23).

A gravimetric test performed with a 20 percent concentration of an aluminum chlorhydrate under ambient conditions produced a mean sweat reduction value of 30 percent (Ref. 15).

Emotionally induced sweat tests have also been used to determine the effectiveness of aluminum chlorhydrates as antiperspirants. Quatrale (Ref. 35) states that the volume of persipiration produced under emotional stress far exceeds that produced by subjects under thermal stress. The emotional sweat test involves gravimetric determinations of axillary sweat secreted under conditions of emotional

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stress in an environment of 80° to 85° F and 35 to 50 percent relative humidity for a 15-minute timed interval. The amounts of sweat secreted from each axilla are compared by means of a ratio. Control ratios and rations obtained after treating one axilla with the antiperspirant are compared to obtain the percent sweat reduction. To induce emotional sweating, challenges are designed to produced tension, apprehension, frustration, or embarrassment. The word association list has been used most successfully, but alternative methods such as mental arithmetic and electric shock have also been used. Aerosel formulations containing 3 percent of an aluminum chlorhydrate were demonstrated to provide sweat reductions in the range of 25 to 33 percent, with an average of 30 percent. Two tests using 1.5 percent of an aluminum chlorhydrate aerosol produced sweat reductions of 11 and 13 percent, respectively (Ref. 18).

An exercise-induced sweat test in which sweating was generated by walking for 10 minutes at 3.5 miles per hour on a treadmill was also used to determine the effectiveness of an aluminum chlorhydrate. The results produced an average sweat reduction of 32 percent (Ref. 18).

A modified Wada's starch-iodine method using double-blind conditions was used to determine the effectiveness of 13 different products of varying concentrations of aluminum chlorhydrates (Ref. 21). The degree of inhibition of sweating was estimated to the nearest 25 percent. The scoring system was as follows: 0—treated side not different from control, 1—25 percent inhibition on treated side, 2—50 percent inhibition on treated side, 3—75 percent inhibition on treated side, 4— complete anhidrosis on treated side. Different groups of five men were utilized for each of the products tested. Total scores were determined for each product by adding the individual scores of each group of five men. The results were as follows:

RESULTS OF EFFECTIVENESS TESTING OF ALUMINUM CHLORYDRATES USING A MODIFIED WADA'S STARCH-IODINE METHOD

dosage form	Percent aluminum chlorhydrate	Total score of 5 subjects
Liquid	18	8
Cream	25	5
Cream	25	5
Roll-on	25	4
Cream	20	3
Cream	18	3
Liquid	22	2
Roll-on	24	2
Aerosol	3	2
Roll-on	21	1
Aerosol	5	1
Cream	11	1
Aerosol	4	0

It must be noted that this test is purely relative and estimates the effect of the treated axilla only in comparison to the untreated axilla. Results from this type of study do not permit conclusive judgments. However, it is interesting to note that the method of application can markedly influence the effectiveness of aluminum chlorhydrates, with the aerosols scoring the lowest.

The Panel concludes that those materials known as aluminum chlorhydrates in topical nonaerosol formulations in concentrations of 25 percent or below calculated on an anhydrous basis are effective as antiperspirants according to the criteria established above by the Panel. (See part II paragraph H.4.f. above—Antiperspirant effectiveness qualification test.) The ability of certain organic and inorganic compounds to form complexes with aluminum salts is well established (Ref. 36). The presence of certain excipients which would alter the chemical activity of the aluminum chlorhydrate species could conceivably alter its biological activity. The ability of the aluminum chlorhydrates to reduce perspiration is known to be influenced by the presence of a variety of excipients (Ref. 37). In certain instances the formulation excipients have been known to reduce the level of antiperspirant activity below the level required by the Panel for effectiveness. Therefore, the Panel recommends that final product formulations be tested according to the procedures outlined in the effectiveness testing section of this document. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(3) *Dosage.* Dosage is 25 percent or less concentration calculated on an anhydrous basis of a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. below—Category I Labeling.)

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b. *Aluminum zirconium chlorhydrates (aluminum zirconium trichlorohydrate, aluminum zirconium trichlorohydrex Gly, aluminum zirconium pentachlorohydrate, aluminum zirconium pentachlorohydrex Gly, aluminum zirconium tetrachlorohydrate, aluminum zirconium tetrachlorohydrex Gly, aluminum zirconium octachlorohydrate, aluminum zirconium octachlorohydrex Gly).* The Panel concludes that those materials, known as aluminum zirconium chlorhydrates, in 20 percent or less concentrations calculated on an anhydrous basis are safe and effective for use as OTC antiperspirants as specified in the dosage and labeling sections discussed below. There are now three types of aluminum zirconium chlorhydrate complexes which are commercially available for antiperspirant use. They differ in their atomic ratios of aluminum to zirconium to chlorine.

Glycine is sometimes added to these complexes for formulation purposes. It will coordinate with these polymeric species by displacing some of the waters of hydration. When glycine is present, the name given to the aluminum-zirconium complex should be suffixed with the letters "Gly."

These materials are cationic polymeric species which are loosely hydrated. Solutions of them are acidic, having a pH around 4. They will precipitate from solutions as gels when the pH is above 5. An evaluation of these compounds was discussed in a previous report of the Panel published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328).

While the Panel expressed serious concern over the advisability of permitting aerosolized forms of those salts to be sold, it found no reason not to permit their use for direct application to the skin.

(1) *Safety.* Safety testing and marketing experience with the aluminum zirconium chlorhydrates suggest that such products should be categorized as safe provided they are not in a respirable aerosol form. The safety of the zirconium-containing compounds was discussed in an earlier report of this Panel and published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328).

Subsequently, experimental data showed skin changes in rabbits that had undergone injections of zirconium aluminum glycine complex compound (Refs. 1 and 2). The Panel concludes, however, that those data support the earlier finding of the Panel—that these reactions are not serious enough to disallow their OTC use when applied topically by a nonaerosol method.

(2) *Effectiveness.* Effectiveness testing and marketing experience with the aluminum zirconium chlorhydrates in concentrations of not more than 20 percent calculated on an anhydrous basis suggest that such products should be Category I for effectiveness as antiperspirants. However, since the presence of certain excipients has been known to reduce the level of antiperspirant activity below the level required by the Panel for effectiveness, the Panel recommends that final product formulations of the aluminum zirconium chlorhydrates be tested for effectiveness according to the procedures outlined in the effectiveness testing section of this document. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(3) *Dosage.* Dosage is 20 percent or less concentration calculated on an anhydrous basis of a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. below—Category I Labeling.)

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c. *Aluminum chloride.* The Panel concludes that aluminum chloride in 15 percent or less concentration calculated on the hexahydrate form in aqueous solution is safe and effective for use as an OTC antiperspirant as specified in the dosage and labeling sections discussed below. Although the structure of this compound has been established in the solid state (Ref. 1), its structure in aqueous solutions has not been fully elucidated (Ref. 2). The compound hydrolyzes in water, resulting in the formation of oxychlorides and a high concentration of hydrogen ion. The pH of a 10 percent solution is approximately 2.5. Various experiments indicate that the oxychlorides formed are polymeric species (Ref. 2).

The hydrolysis of aluminum chloride can be influenced by the presence of other compounds in solution. For example, potassium chloride suppresses hydrolysis (ref. 3). Altering the pH of aluminum chloride solutions will have a profound effect on the polymeric species formed on hydroloysis.

(1) *Safety.* Results of primary skin irritation studies in rabbits using aluminum chloride in concentrations from 10 to 20 percent in aqueous solutions show that aluminum choride is a mild to moderate irritant producing primary irritation indexes in a range from 0.5 to 2.8 (Ref. 4).

An acute eye irritation study in rabbits using a 13.3 percent aqueous solution of aluminum chloride hexahydrate produced mild conjunctivitis at the 24 hour reading only. No irritation of the eye was noted after the 48 or 72 hour readings (Ref. 5).

The responses of mouse, rabbit, and pig skin to topically applied solutions of six aluminum salts (aluminum chloride, aluminum nitrate, aluminum sulfate, aluminum hydroxide, aluminum acetate, and an aluminum chlorhydrate) were also studied (Ref. 6). Test solutions wer applied daily for 5 consecutive days. The test sites remained uncovered throughout the test period. Epidermal changes consisted of hyperplasia, microabscess formation, dermal inflammatory cell infiltration and occasionally ulceration in all three species treated with aluminum chloride in a 10 percent concentration, but not with 10 and 25 percent concentrations of aluminum chlorhydrate.

A 21-day repeat insult patch test was used to evaluate in irritancy of a 20 percent aqueous solution of aluminum chloride hexahydrate in humans (Ref. 7). Test substance was applied to 1-inch squares of a nonwoven cloth and placed on the back of the subject with an occlusive tape. The patch remained in place for 24 hours and was reapplied daily at the same site. The end point was determined as the first day that redness appeared at the site. Twenty-five subjects were used in this study. Irritation was produced on day 2 in one subject, between days 3 and 5 in 23 of 25 subjects, and on day 7 in the final subject.

Ten and 15 percent aqueous solutions of aluminum chloride hexahydrate were tested for irritancy with 6 other formulations using the repeat insult patch method (Ref. 7). Both of these solutions proved relatively irritating to the skin compared to the other compounds with an average day of reaction at 7 days.

During a gravimetric hotroom effectiveness test with a 13.3 percent aqueous solution of aluminum cloride, all 6 test subjects tested during the first test period developed irritation. Four of these six test subject also complained of tenderness and burning of the axillae. Becasue of the irritation observed during the first test period, one of the applications of aluminum chloride was omitted during the second test period. Four of the six test subjects treated with aluminum chloride during this second test period showed slight erythema. The irritation during this period was much less severe than that observed during the first test period. There were no complaints of discomfort (Ref. 5).

Other effectiveness tests have also reported irritation (Ref. 8). Because of the high incidence of irritation in one test, only 4 of 12 test subjects received all 7 scheduled applications of a 15 percent aqueous solution of aluminum chloride hexahydrate. Six of the other eight test subjects received six applications, and two test subjects received only three applications of the antiperspirant material. No irritation was noted, however, in two subsequent effectiveness tests performed with the same concentration of aluminum chloride hexahydrate.

Market experience with aluminum chloride also suggests that it is more irritating than other compounds placed in Category I as antiperspirants.

The Panel concludes, based on the irritation studies and market experience presented, that aluminum chloride, in aqueous solutions of 15 percent or less calculated on the hexahydrate form, is safe for use as an antiperspirant. However, the Panel concludes that the consumer should be warned about the irritation potential of this material. (See part III. paragraph B.1.c.(4) below—Labeling.)

(2) *Effectiveness.* Herrmann, in 1961, noted that experimentally, a decline in

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axillary sweating may be achieved with an aqueous solution of 12 to 20 percent aluminum chloride (Ref. 9).

Several tests using the starch-iodine technique on the forearms of subjects show that aluminum chloride hexahydrate is an effective antiperspirant as compared to untreated sites (Ref. 8).

Zahejsky and Rovensky, in 1972 (Ref. 10), compared the effectiveness of several antiperspirants, including a 15 percent aqueous solution of aluminum chloride hexahydrate, on the forearms of human subjects. Changes in the sweat pattern were recorded with a resistance hygrometer and simultaneously with a contact indicator test when sweating was induced by exposing the subjects to heat (55° C) in a polypropylene tent. The authors noted a significant reduction in sweating after a 3-hour exposure to the aluminum chloride solution, and even greater reduction after a 10-hour exposure.

Three different gravimetric hotroom tests were performed to compare the effectiveness of a 15 percent aqueous solution of aluminum chloride hexahydrate and a 22 percent solution of an aluminum chlorhydrate (Ref. 8). In each of the three tests, both of the antiperspirants were found to be equally effective. It must be noted, however, that the procedures used in each of the three tests had weaknesses, since both axillae were treated during the test period, and the reduction in the amount of perspiration could be determined only in reference to the control period. Also, in one of the tests, the irritation produced with aluminum chloride hexahydrate caused a majority of the test subjects to discontinue applications of that test material prior to the final test day.

A study was performed to determine and compare the effectiveness of a 13.3 percent aqueous solution of aluminum chloride hexahydrate and a 22 percent solution of an aluminum chlorhydrate (Ref. 5). Evaluations of antiperspirant activity were made at 1 hour following the second sample application and 12 and 84 hours following the third and fourth applications, for each of the 2 test periods. The percent sweat reductions within 95 percent confidence limits were as follows:

EFFECTIVENES COMPARISON OF TWO ANTIPERSPIRANT MATERIALS

Sample	Percent sweat reduction		
	Hours after application		
	1	12	84
13.3 percent aluminum chloride hexahydrate	17.8	48.5	48.8
22 percent aluminum chlorhydrate	26.3	34.7	21.7

Significantly greater reductions in sweating were noted from the applications of aluminum chloride than from the aluminum chlorhydrate at 12 and 84 hours following application.

The Panel concludes that a 15 percent or less aqueous solution of aluminum chloride is an effective antiperspirant, but also has a greater potential for producing irritation compared with other Category I ingredients. However, since 15 percent or less aqueous solutions of aluminum chloride show significantly greater reductions in perspiration compared with other antiperspirant materials which produce little or no irritation, the Panel recommends that 15 percent or less aqueous solutions of aluminum chloride calculated on the hexahydrate form applied topically by a nonaerosol technique be placed in Category I. However, since the presence of certain excipients has been known to reduce the level of antiperspirant activity below the level required by the Panel for effectiveness, the Panel recommends that final product formulations of aluminum chloride preparations be tested for effectiveness according to the procedures outlined in the effectiveness testing section of this document. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(3) *Dosage.* Dosage is 15 percent or less concentration calculated on the hexahydrate form of an aqueous solution nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. below—Category I Labeling.) In addition to the standard warning required for antiperspirants, the following warning should prominently appear on the container to warn the user of the greater irritancy potential of aluminum chloride over other marketed antiperspirants: "*Warning:* Some users of this product will experience skin irritation."

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d. *Buffered aluminum sulfate.* A product containing 8 percent aluminum sulfate buffered with 8 percent sodium aluminum lactate has had wide use over many years. The discussion of unbuffered aluminum sulfate appears elsewhere in this document. (See part III. paragraph B.3.d. below—Aluminum sulfate.)

(1) *Safety.* The safety of aluminum sulfate as an antiperspirant ingredient is discussed elsewhere in this document. (See part III. paragraph B.3.d.(1) below—Safety.) Aluminum sulfate when used alone as an antiperspirant produces a high degree of irritation. The presence of sodium aluminum lactate alters the pH in such a way so as to decease the irritating nature of the aluminum sulfate.

A primary irritation study was performed using three different formulations of buffered aluminum sulfate (Ref. 1). The test material was applied to the shaved backs of three groups of six albino rabbits and held in place for 24 hours. Dermal irritation readings were taken at the end of the 24-hour period and again at 72 hours. Dermal irritation scores using the Draize scale (Ref. 2) were zero in all of the rabbits tested.

Numerous-use tests in humans, each test of 2 weeks' duration, have been performed to evaluate the safety of buffered aluminum sulfate (Ref. 1). Irritation or sensitization was not reported in any of the tests.

A standard Draize-Shelanski repeated insult patch test was also performed in 204 human subjects (Ref. 1). The scoring system was as follows: (0)—no reaction; (1+)—slight reaction; (2+)—marked erythema; (3+)—marked erythema, edema, with or without vesicles; (4+)—marked erythema, edema, with vesicles and oozing. Forty-six of the 204 subjects had a score of 1+, 20 had a score of 2+, and 4 subjects had a score of 3+. None of the subjects had a score of higher than 3+. The reactions produced with the test material (8 percent aluminum sulfate buffered with 8 percent sodium aluminum lactate) were milder and less numerous than those produced with the control, which was Ivory™ soap.

The incidence of complaints of adverse reactions with buffered aluminum sulfate is also low, on the order of 0.9 complaint per million units shipped (Ref. 1).

(2) *Effectiveness.* The effectiveness of unbuffered aluminum sulfate is discussed elsewhere in this document. (See part III. paragraph B.3.d.(2) below—Effectiveness.)

A gravimetric test performed under ambient conditions was conducted on 36 subjects to determine the effectiveness of buffered aluminum sulfate (Ref. 1). Mean percent sweat reductions were produced in the range of 25.43 to 28.94 percent.

Another gravimetric test was conducted under both ambient and hotroom conditions on 36 subjects (Ref. 3). Buffered aluminum sulfate proved effective as an antiperspirant producing mean percent sweat reductions of 29.1 percent under ambient conditions and 31.3 percent under hotroom conditions.

The Panel concludes that 8 percent aluminum sulfate when buffered with 8 percent sodium aluminum lactate is safe and effective when applied topically in nonaerosol form, and therefore places it in Category I. However, since the presence of certain excipients has been known to reduce the level of antiperspirant activity below the level required by the Panel for effectiveness, the Panel recommends that final product formulation of buffered aluminum sulfate be tested for effectiveness according to the procedures outlined in the effectiveness testing section of this document. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(3) *Dosage.* Dosage is 8 percent concentration of aluminum sulfate buffered with 8 percent concentration of sodium aluminum lactate in a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. below—Category I Labeling.)

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CATEGORY I LABELING

The Panel recommends the following Category I labeling for antiperspirant active ingredients to be generally recognized as safe and effective and not misbranded.

a. *Indications.* (1) "Helps reduce underarm wetness," or "Helps reduce underarm dampness," or "Helps reduce underarm perspiration."

(2) In addition, the Panel concludes that the following statement should appear on the label to explain to the consumer the level of effectiveness that can be expected: "Products described as antiperspirants can be expected to produce at least a 20 percent reduction in underarm perspiration in at least half the users when applied once daily."

The Panel concludes that a minimum effectiveness statement is necessary on the label to disclose material facts of significant benefit to the consumer. The facts are as follows: (1) The antiperspirant the consumer is buying has been tested for effectiveness; (2) the probable percent sweat reduction is as little as 20 percent; and (3) since individuals vary in their response to antiperspirants, the product may or may not acheive a 20 percent sweat reduction for the user.

Claims are made for antiperspirants in the advertising media which exaggerate their effectiveness. Strong marketing efforts of a highly competitive nature create an apparent necessity for these products. The Panel believes that there should be one place where the consumer can find accurate information about the product's effectiveness. This information should be accessible to all potential users; there seems to be no better place for it than on the label. The Panel believes that this information is of significant value to the consumer in that it counters the misleading statements of antiperspirant advertisers that antiperspirants are extremely effective.

b. *Warnings*—(1) *For products containing any antiperspirant ingredient.* The Panel concurs with the warning now required under 21 CFR 369.20 for antiperspirants: "Do not apply to broken skin. If a rash develops, discontinue use."

(2) *For products containing aluminum chloride*—"*Warning:* Some users of this product will experience skin irritation."

c. *Directions for use.* "Apply to skin of underarms. Not to be used generally over the body."

2. *Category II conditions under which antiperspirants are not generally recognized as safe as effective or are misbranded.* The Panel recommends that the Category II conditions be eliminated from OTC antiperspirant drug products effective 6 months after the date of publication of the final mongraph in the FEDERAL REGISTER.

CATEGORY II ACTIVE INGREDIENTS

The Panel has classified the following antiperspirant active ingredients as not generally recognized as safe and effective or are misbranded.

Zirconium-containing salts (aerosolized).
Aluminum chloride (alcoholic solution).
Aluminum bromohydrate.

a. *Zirconium-containing salts (aerosolized).* In the FEDERAL REGISTER of August 16, 1977 (42 FR 41374), the Commissioner issued a final rule that any aerosol drug or cosmetic product containing zirconium is a new drug or adulterated cosmetic. This action had the effect of removing these agents from the market until safety testing adequate for approval of a new drug application has been conducted.

The Commissioner's action had previously been urged by the Panel in a report published in the FEDERAL REGISTER of June 5, 1975 (40 FR 24328). The Commissioner's decision was based on the Panel's judgment of unresolved questions concerning the likelihood that zirconium-containing aerosol products might produce granulomas when inhaled by users over a period of many months or years. The Panel report cited published and submitted evidence that under certain conditions, zirconium-containing chemicals have produced granulomas in man and in experimental animals. The report concluded that in the light of such evidence, and in the absence of satisfactory chronic inhalation toxicity studies, benefit to risk considerations did not warrant the continued sale of aerosolized zirconium-containing salts.

b. *Aluminum chloride (alcoholic solutions).* Shelley and Hurley (Ref. 1) have reported that an alcoholic aluminum chloride solution is both safe and effective when applied to a fully dried axilla at bedtime or at the start of some other prolonged nonsweating period, and when covered with an impermeable polyethylene-type plastic wrap for a period of 6 to 8 hours. The Panel concludes, however, that alcoholic solutions of aluminum chloride are Category II for use as OTC antiperspirants. While one manufacturer submitted data to consider a 20 pecent alcoholic solution of aluminum chloride for OTC use, the Panel recognizes that the marketing history of the product has, heretofore, been limited to prescription use.

(1) *Safety.* An irritancy evaluation comparing a 15 percent aqueous aluminum chloride solution and a 20 percent alcoholic solution of aluminum chloride showed that the alcoholic solution was no more irritating than the aqueous solution (Ref. 2). The Panel concludes that this single test is not adequate to establish the safety of alcoholic solutions of aluminum chloride for OTC use since the product has been limited to carefully contolled conditions of use (applied to a fully dried axilla and covered with plastic wrap for 6 to 8 hours). Data are lacking to show that the product would be safe if proper attention was not given to these special conditions of use.

(2) *Effectiveness.* Shelley and Hurley (Ref. 1) claim not only the usual level of antiperspirant effectiveness for the 20 percent alcoholic aluminum chloride products, but they also state that

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when used as directed the product can provide total control of axillary wetness in patients who have sweating excessive enough to be classified as hyperhidrosis. While the submissions for the alcoholic solution of aluminum chloride did not include the vast quantity of hotroom data which accompanied most other product submissions, the Panel concluded that this ingredient would produce enough reduction in underarm perspiration to be classified as an effective antiperspirant (Refs. 2, 3, and 4).

(3) *Evaluation.* The Panel concludes that alcoholic solutions of aluminum chloride are Category II because of the paucity of skin irritancy data and the fact that this product has been limited to prescription use. Whether or not this product, if available OTC, would be used correctly, with proper attention to a dry axilla and plastic film occlusion, cannot be determined from the data submitted. It cannot be determined from the submitted data to what degree this product could be used without special attention to a dry axilla and/or plastic film occlusion without altering its safety and/or effectiveness.

Until each of these questions can be answered, the Panel concludes that alcoholic solutions of aluminum chloride should remain limited to prescription use as antiperspirants.

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(3) OTC Volume 140057.
(4) OTC Volume 140060.

c. *Aluminum Bromohydrate.* The Panel concludes that aluminum bromohydrate is Category II for use as an OTC antiperspirant. While aluminum bromohydrate could be proven both safe and effective with further testing, this material is a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) since it has never been marketed in this country as an antiperspirant. This material has a similar chemical formula to the 5/6 basic aluminum chlorohydrate. The aluminum to bromine ratio is 2 to 1 and the pH of a 10 percent aqueous solution is approximately 4.2.

(1) *Safety.* The oral LD_{50} of aluminum bromohydrate appears to be greater than 8,000 mg/kg in rats, which would be considered nontoxic (Ref. 1). Aluminum bromohydrate has been tested on animals for irritancy, sensitization, and acute inhalation toxicity. Aerosol applications of 3.5 percent and 10 percent concentrations of aluminum bromohydrate to the corneal surface of the eye of albino rabbits did not cause irritation when tested in accordance with procedures outlined in the Federal Hazardous Substances Act. However, when a 10 percent concentration of an aluminum bromohydrate aerosol was expelled and the liquid placed directly in the eye, the material was found to be a severe irritant (Ref. 1).

Aluminum bromohydrate has also been tested for primary skin irritancy (Ref. 1). When 3.5 or 10 percent concentrations of aluminum bromohydrate were applied to albino rabbits according to the Draize procedure (Ref. 2), neither concentration was deemed a primary skin irritant.

A 3-week dermal toxicity study was performed with 3.5 and 10 percent concentrations of aluminum bromohydrate (Ref. 1). Except for varying degrees of irritation, no other adverse findings were reported in any of the other parameters investigated which included hematology, biochemistry, and urinalysis studies.

Based on the Results of a dermal sensitization study performed in guinea pigs, a 10 percent concentration of aluminum bromohydrate would appear to be a sensitizer in man, whereas a 3.5 percent concentration would not (Ref. 1).

No adverse effects which could be attributed to the test material were noted in two separate 5-day acute inhalation studies using 10 percent aerosol formulations of aluminum bromohydrate in rats and guinea pigs (Ref. 1).

The Panel did not receive any human safety data on this material, nor was it able to find any such information in the scientific literature.

(2) *Effectiveness.* A gravimetric hotroom test was performed in humans with a 3.5 percent aerosol formulation and four other liquid formulations of aluminum bromohydrate varying in concentration from 20 to 32 percent. Reductions in sweating were reported in the range of 35 to 51 percent (Ref. 1).

(3) *Evaluation.* The Panel concludes that while aluminum bromohydrate could possibly be proven a safe and effective OTC antiperspirant with further testing, it is placed in Category II since it has never been marketed in this country as an antiperspirant. Before this material can be marketed as an OTC antiperspirant, an approved new drug application is required, or a determination must be made that this ingredient is generally recognized as safe and effective in a monograph.

REFERENCES

(1) OTC Volume 140014.
(2) Draize, J. H., "Dermal Toxcity," *in* "Appraisal of Safety of Chemicals in Foods, Drugs, and Cosmetics," Association of Food and Drug Officials of the U.S., Texas State Dept. of Health, Austin, Tex., pp. 46-59, 1959.

CATEGORY II LABELING

The Panel has examined the submitted labeling claims for antiperspirants and has placed certain claims into Category II:

a. Those implying the ability to totally stop underarm perspiration: "stops," "halts," or "ends," since antiperspirants are not capable of totally inhibiting perspiration production.

b. Those which may misled about enhanced antiperspirant effect by using descriptions of their formulation with terms like "dry" and "dry formula." The use of such terms to describe physical attributes of the product such as "goes on dry," or other descriptive terms such as "mild," "gentle," "pleasant," "comfortable," however, are considered cosmetic claims and will not be disallowed.

c. Those which suggest use for other areas of the skin beyond the axillae, except for hand and foot claims which are discussed in Category III. (See part III. paragraph B.3. below—Category III Labeling.)

The Panel discussed the rationale for this limitation earlier in this document. (See part II. paragraph C.2.e. above—Function of the gland.)

d. *Extra-strength claims:* The term "extra-strength" normally refers to increased concentration of the active ingredient which would normally mean added effectiveness. However, the Panel concludes that the presence of more active ingredient in an antiperspirant cannot be used as a basis for a claim of added effectiveness since additional amounts of antiperspirant active ingredient do not necessarily result in improved product effectiveness. (See part II. paragraph H. above—Effectiveness of Antiperspirants.) Therefore, the Panel concludes that the term "extra-strength" is Category II. However, the Panel will allow claims of "extra-effective" if properly substantiated. (See part III. paragraph B.3. below—Category III Labeling.)

e. *Unacceptable labeling claims:* The following is a list of unacceptable labeling claims that were submitted for the antiperspirant products: "Helps stop wetness," "Completely guards your family," "Helps stop embarrassing perspiration wetness," "Complete protection," "Super dry," "Really helps keep you dry," "Gentle enough for sensitive areas of the body."

MINORITY STATEMENT REGARDING LABELING

A minority opinion exists with regard to permissible labeling claims. Two Panel members believe that to enumerate allowable words and phrases and to disallow all others is unduly restrictive and subject to inherent difficulty in enforcement.

The Panel did not see scientific data to indicate that a consumer can differentiate between such words as "halts," "checks," "stops," and "ends" as disallowable words versus "diminishes" and "reduces" as allowable words. Further, to disallow such aptly descriptive words as "dry formula" for fear that they might imply complete cessation of perspiration is hardly likely and even if this confusion were to occur, no real harm is done to the consumer.

These phrases are historically and correctly part of American competitive marketing.

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.*

CATEGORY III ACTIVE INGREDIENTS

The Panel has concluded that the available data are insufficient to permit final classification of the following antiperspirant active ingredients listed below. The Panel believes it reasonable to provide 5 years for the development and review of the necessary data to prove the safety of long term use of aerosolized anitperspirants and 2 years for the development and review of the necessary data for all other Category III conditions. The active ingredients are as follows:

Aluminum chlorohydrates (aerosol formulations):

Aluminum chlorohydrate, aluminum dichlorohydrate, aluminum sesquichlorohydrate, aluminum chlorohydrex PG, aluminum sesquichlorohydrex PG, aluminum dichlorohydrex PG, aluminum chlorohydrex PEG, aluminum sesquichlorohydrex PEG, aluminum dichlorohydrex PEG, sodium aluminum chlorohydroxy lactate, aluminum chloride (aerosol formulations), aluminum sulfate, and potassium aluminum sulfate.

a. *Aluminum chlorohydrates (aluminum chlorohydrate, aluminum dichlorohydrate, aluminum sesquichlorohydrate, aluminum chlorohydrex PG, aluminum dichlorohydrex PG, aluminum sesquichlorohydrex PG, aluminum chlorohydrex PEG, aluminum dichlorohydrex PEG, aluminum sesquichlorohydrex PEG).* The Panel concludes that there are insufficient data to determine the safety and effectiveness of those materials known as aluminum chlorohydrates for use as OTC antiperspirants when used in aerosol formulations in concentrations of 25 percent or less calculated on an anhydrous basis.

(1) *Safety.* The Panel has concluded above that the aluminum chlorohydrates when applied topically in nonaerosol fomulations are safe for use as antiperspirants. (See part III. paragraph B.1.a.(1) above—Safety.) However, the Panel questions the safety of the long term use of these ingredients when applied in an aerosol form. (See part II. paragraph G.4.a. above—Safety of long time use of aerosolized antiperspirants.) The Panel concludes that the available data on the long term use of aerosolized aluminum chlorohydrates as antiperspirants are insufficient to permit final classification at this time.

The commerical aerosol aluminum chlorohydrate products will either spray the antiperspirant as solid particulates or fine liquid droplets. From the inhalation data provided to the Panel it is not possible to gauge which of these systems has a greater inhalation risk associated with its use. Therefore, the Panel expects that a series of preliminary studies on the different aluminum chlorohydrate active ingredients in a variety of vehicles will determine the inhalation risk of these aerosol sprays. This will require data on their aerodynamic particle size distributions, acute inhalation toxicologies, and rebound characteristics from the target site.

Acute inhalation studies have been performed in animals using the various aluminum chlorohydrates. In several tests albino rabbits were exposed to 20-second sprays of aluminum chlorohydrate every 30 minutes for at least 4 hours (Refs. 1 through 4). An equal number of animals were used as controls and were handled in the same manner as the test animals, but were not exposed to any test material. Each animal was observed for gross signs of systemic toxicity during the exposure period and daily thereafter for 14 days. At the conclusion of the 14 days each animal was sacrificed and necropsied. This same type of inhalation study has been performed in rats (Refs. 5 and 6). All of the tests produced consistent results. Observations for gross toxic signs, gross necropsy findings, and histopathology showed no difference between the test and the control animals.

In another type of acute inhalation test, 20 rats were exposed to a 200 mg/liter concentration of aluminum chlorohydrate for a single 1-hour period (Ref. 1). Twelve rats not exposed to the test material served as the control group. Twenty-four hours after exposure, half of the animals were necropsied. The remaining animals were observed daily for physical and behavioral changes and necropsied 14 days after the initial exposure. Fourteen of the 20 test animals developed wheezing within 24 hours after exposure to the aluminum chlorohydrate. Two of the 12 control animals also developed wheezing. Other gross signs, gross necropsy findings, and histopathology showed no difference between the test and untreated control animals.

The Panel has also reviewed a number of subchronic inhalation studies using aerosol formulations of the various aluminum chlorohydrates (Refs. 1 through 5). In one study (Ref. 1) cynomolgus monkeys were exposed to a 10 second aerosol burst of a 3.4 percent aluminum chlorohydrate every 5 minutes for 20 minutes in the morning and again in the afternoon for 90 consecutive days. The untreated control animals were also placed in an inhalation chamber for two 20-minute periods daily without any aerosol exposure.

Observations were made with respect to incidence of mortality and behavioral and body weight effects. Hematological and clinical blood chemistry studies, urine analyses, and pulmonary function tests were conducted on all animals. At the conclusion of the study, all animals were sacrificed and subjected to gross pathological examinations. This same procedure was used in another test (Ref. 2), except the cynomolgus monkeys were exposed to a 13-second burst aersolized 3.4 percent aluminum chlorohydrate every 5 minutes for 20 minutes in the morning and afternoon for 90 consecutive days.

In another inhalation study, rhesus monkeys were exposed to 5-second sprays every 5 minutes for a total of 3 sprays in the morning and again in 5 hours, 5 days a week for 13 weeks. The control animals were exposed to distilled water.

Albino rabbits have also been used in subchronic inhalation studies (Ref. 4). The test rabbits were exposed to a 30-second burst of 3.5 percent aluminum chlorohydrate followed by a 15-minute exposure to the resulting atmosphere. The procedure was repeated twice daily, 5 days a week for 13 weeks. Control animals were exposed to the aerosol minus the active ingredient using an identical exposure regimen. This same procedure has been used in rats (Ref. 5).

In all of the subchronic inhalation tests outlined above, there were no adverse effects produced in the animals which could be attributed to the inhalation of the test materials. Results of the test groups of animals were essentially the same as those for the controls.

The Panel concludes that the acute and subchronic toxicity studies adequately document the short-term safety of aluminum chlorhydrate aerosolized products. However, the Panel recognizes that consumers may use these products for a significant portion of their lives. Since the Panel has not been presented with any data to demonstrate the safety of long term use, it is requiring an inhalation toxicity study which would reflect this long term use. (See part III. paragraph C.2. below—Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.)

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(2) *Effectiveness.* The Panel concludes that the various aluminum chlorhydrates have been found to be effective antiperspirants. (See part III. paragraph B.1.a.(2) above—Effectiveness.) However, the aerosol method of application requires a number of excipients which are unique to these systems. Some of the excipients required can be expected to retard the activity of the antiperspirant to a level below that required under the Panel's definitin of an antiperspirant (Ref. 7).

Therefore, as with all other antiperspirant formulations, aerosol formulations of aluminum chlorhydrates will be required to be tested for effectiveness. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test).

(3) *Proposed dosage.* Dosage is 25 percent or less concentration calculated on an anhydrous basis applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. above—Category I labeling.)

(5) *Evaluation.* The Panel concludes that while the aluminum chlorhydrates may be effective as antiperspirants, the safety data on the long term use of these products in an aerosolized form are insufficient to permit final classification at this time. Therefore, aerosol formulations of the aluminum chlorhydrates are Category III until such data are made available. To become Category I, an inhalation test as outlined below is required by the Panel (See part III. paragraph C.2. below—Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.) In addition, since various excipients used in the formulation may retard the effectiveness of the aluminum chlorhydrates, aerosol formulations will be required to be tested for effectiveness as outlined above. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(1) OTC Volume 140001.
(2) OTC Volume 140005.
(3) OTC Volume 140007.
(4) OTC Volume 140011.
(5) OTC Volume 140020.
(6) OTC Volume 140033.
(7) Majors, P. A. and J. E. Wild, "The Evaluation of Antiperspirant Efficacy—Influence of Certain Variables," *Journal of the Society of Cosmetic Chemists*, 25:139-152, 1974.

b. *Sodium aluminum chlorhydroxy lactate.* This material is produced by the reaction of aluminum chlorhydrate (5/6 basic) with lactic acid and subsequent neutralization with alkali up to a pH of 8.5. The compound is used in stick formulations where a compound which is compatible with soaps is needed (Ref. 1). The acidic aluminum salts react with soaps. This complex will produce anionic aluminum species in solution.

(1) *Safety.* Although no specific human safety studies were reported in the scientific literature, a few authors note that the material is not a human skin irritant (Refs. 1 and 2). Studies using rabbits (Ref. 3) suggest that the material is not a primary irritant on the skin, but do show that the compound can produce severe irritation of the eye when placed in the conjunctival sack. A human primary irritancy and sensitization study as a stick formulation containing approximately 18 percent of the active ingredient was submitted (Ref. 3). The repeated patch test was performed on the upper back of the subjects by standard procedures. There was no indication of any primary irritation and no indication of a sensitization potential on the challenge performed after the patch testing.

(2) *Effectiveness.* Hotroom tests performed on a stick formulation of the compound showed a mean perspiration reduction of 12 percent (Ref. 3). This is far below the level required for antiperspirant effectiveness by the Panel. Formulation changes could possibly alter the activity of the ingredient sufficiently to meet the effectiveness requirement.

(3) *Proposed dosage.* Dosage is 18 percent or less concentration calculated on the anhydrous form of a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. above—Category I Labeling.)

(5) *Evaluation.* The Panel concludes that sodium aluminum chlorohydroxy lactate is safe, but has placed this compound in Category III because the available effectiveness data are insufficient to permit final classification at this time. To become Category I, evidence of effectiveness as described earlier in this document is required. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

REFERENCES

(1) Kalish, J., "Aluminum Chlorhydroxylactate Complex," *Drug and Cosmetic Industry*, 79:318-319, 1956.
(2) Alexander, P. and V. Kinglake, "Antiperspirants and Deodorants: Formulations and Techniques and a Tabular Guide to UK Products," *Manufacturing Chemist Aerosol News*, 40:25-40, 1969.
(3) OTC Volume 140041.

c. *Aluminum chloride.* The Panel concludes that aluminum chloride may be effective, but there are insufficient data to determine safety for use as an OTC antiperspirant when used in aerosolized aqueous solutions of 15 percent or less calculated on the hexahydrate form.

(1) *Safety.* In addition to topical nonaerosol formulations as discussed under the Category I conditions above, aluminum chloride is also available to the public as an aerosol spray which is generated by a pump delivery system (Ref. 1). The concentration of the material in these spray systems is between 10 and 15 percent. To date the Panel has not received any data on the inhalation safety characteristics of this material. Without such information it is impossible to assess the safety of these products.

These products are being classified in Category III until such time that chronic aerosol inhalation tests are complete. The inhalation test for aluminum chloride should be of the same design as the one required for the aerosolized aluminum chlorhydrates except that aluminum chloride will be the test material. (See part III. paragraph C.2. below—Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.) The dose selected for these inhalation studies will be derived from experimentation designed to measure the concentration and particle size distribution of the active ingredient that reaches the breathing zone (area in front of nose and mouth) under heavy use conditions.

(2) *Effectiveness.* The effectiveness of this ingredient has been discussed earlier in this document. (See part III. paragraph B.1.c.(2) above—Effectiveness.) While aluminum chloride may be effective as an OTC antiperspirant, aerosol formulations must conform to the standards of effectiveness set by the Panel. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

(3) *Proposed dosage.* Dosage is 15 percent or less concentration of an aerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III. paragraph B.1. above—Category I Labeling.) In addition, the following warning should prominently appear on the label to warn the user of the greater irritancy potential of aluminum chloride over other marketed antiperspirants: "*Warning:* Some users of this product will experience skin irritation."

(5) *Evaluation.* The Panel concludes that aluminum chloride in concentrations of 15 percent or less may be effective as an antiperspirant, but the safety data on the long term use of aerosolized formulations are insufficient to permit final classification at this time. Therefore, aerosolized formulations of 15 pertent or less concentrations of aluminum chloride are Category III until such data become available. (See part III. paragraph C.2 below—Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.) In addition, aluminm chloride in aerosol form must conform to the standards set by the Panel concerning effectiveness. (See part II. paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

REFERENCES

(1) OTC Volume 140044.

d. *Aluminum sulfate.* The Panel concludes that there are insufficient data to determine the safety and effectiveness of aluminum sulfate for use as an OTC antiperspirant when used in topical nonaerosol formulations in concentrations of 11 percent or less. This compound, also known as cake alum and patent alum, exists in a number of hydrated states; the most common commercial product is the octadecahydrate (18 water of hydration). Aqueous solutions of this material are acidic, having pH values around 3. The compound hydrolyzes in water to form a series of complex species similar to aluminum chloride.

This compound is either formulated as a single ingredient or in combination with sodium aluminum lactate. The sodium aluminum lactate reduces the acidity of the sulfate. The buffered combination will have chemical properties uniquely different from each ingredient alone.

(1) *Safety.* A number of products containing this compound in concentrations less than 11 percent are available to the consumer. Animal tests and consumer complaints (Ref. 1) indicate that this compound is capable of producing skin irritation. The Panel is unaware of any controlled human studies on the material to assess its irritation potential and dermal safety. Such studies are necessary before the Panel can recognize the material as being generally safe for use as an antiperspirant.

(2) *Effectiveness.* Although aluminum sulfate has been shown to exhibit antiperspirant activity (Ref. 2), the Panel has not received any data on controlled human effectiveness studies.

(3) *Proposed dosage.* Dosage is 11 percent or less concentration of a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III., paragraph B.1. above—Category I Labeling.)

(5) *Evaluation.* The Panel concludes that the available data on both the safety and effectiveness of topical nonaerosol Formulations of aluminum sulfate in 11 percent or less concentrations are insufficient to permit final classification at this time, and, therefore, classifies this ingredient as Category III. The Panel is requiring that a test be performed to determine the safety of this ingredient when applied to the skin. (See part III., paragraph C.1. below—Guidelines for products categorized as Category III because of inadequate data concerning their safety for the skin.) In addition, aluminum sulfate must conform to the standards set by the Panel concerning effectiveness. (See part II., paragraph H.4.f. above—Antiperspirant effectiveness qualification test.)

REFERENCES

(1) OTC Volume 140017.
(2) O'Malley, W. J., and J. E. Christian, "An Evaluation of the Ability of Antiperspirant Compounds to Reduce Perspiration Flow," *Journal of the American Pharmaceutical Association* (Scientific Edition), 49:402-404, 1960.

e. *Potassium aluminum sulfate.* This compound in its hydrated form is commonly referred to as alum. Aqueous solutions of it are acidic, having a pH of between 3 and 4. The compound is able to precipitate proteins from solution (Ref. 1). The styptic and astringent properties of the compound derive to a great extent from this property.

(1) *Safety.* Although the compound has been used as a topical astringent for an extensive period of time (Ref. 1) without any reports of adverse effects, the Panel is unaware of any controlled human safety data on the compound. Such tests must be carried out before the material can be recognized as being safe for topical use.

(2) *Effectiveness.* The Panel is unaware of any controlled human antiperspirant studies on this compound.

(3) *Proposed dosage.* Dosage is 1.5 percent or less concentration of a nonaerosol dosage form applied topically to the underarms.

(4) *Labeling.* The Panel recommends the Category I labeling for antiperspirant active ingredients. (See part III., paragraph B.1. above—Category I Labeling.)

(5) *Evaluation.* The Panel concludes that both the safety and effectiveness data on potassium aluminum sulfate as an antiperspirant are insufficient and, therefore, classifies this ingredient as Category III. In order become Category I, the Panel is requiring an effectiveness test as outlined above and safety tests as outlined below. (See part II., paragraph H.f.4. Above—Antiperspirant effectiveness qualification test and part III., paragraph C. below—Data Required for Evaluation.)

REFERENCES

(1) Stone, T. O., and C. O. Wilson, "Roger's Inorganic Pharmaceutical Chemistry," Lea and Febiger, Philadelphia, 1967.

CATEGORY III LABELING

The Panel has examined the submitted labeling claims for antiperspirants and has placed certain claims into Category III, for lack of adequate efficacy data.

a. *Claims of "extra-effective."* The presence of more active ingredient in an antiperspirant product cannot be used as a basis for a claim of "extra-effective" because additional amounts of active ingredient do not necessarily result in improved product effectiveness. (See part II., paragraph H. above—Effectiveness of Antiperspirants.) The Panel has placed the "extra-strength" claim in Category II because it implies improved performance through increases concentration. (See part III., paragraph B.2. above—Category II Labeling.)

The Panel concludes that antiperspirant products that can be proven to possess superior effectiveness ought to be allowed to claim this added benefit on their labels. However, the Panel believes it prudent and fair to both industry and the public to require satisfactory proof of additional effectiveness at a level meaningful to the user before such claims are allowed.

The Panel recommends the following to substantiate claim of "extra-effective": The product must produce at least a 30-percent reduction in perspiration as measured gravimetrically in adequately controlled, laboratory clinical tests using the procedures outlined by the Panel in the effectiveness testing section of this document. (See part II., paragraph H.4.f. above—Antiperspirant effectiveness qualification test.) In addition, a user perception test must be conducted to assure that the objectively validated increase in effectiveness is large enough to be perceptible by the user under normal conditions of use. The user perception test must be so designed as to measure the benefit attributable to the antiperspirant effect and not to the perfume or any other cosmetic feature. The statistical criteria and protocol for the user perception test are discussed later in this document. (See part III., paragraph C.3. below—Guideline for user perception test to be done for claims of "extra-effective" to be classified as Category I.)

b. *Claims for foot and hand antiperspirancy.* The materials placed in Category I have been shown through numerous clinical tests to be safe and effective antiperspirants when used in the axillae. Although these materials would very likely reduce perspiration from other surfaces of the body, notably the hands and feet, there is a dearth of clinical evaluations of this effect.

The Panel is aware of only two controlled studies (Ref. 1) which tested an aluminum chlorhydrate formulation

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as a foot antiperspirant. Although these investigations demonstrated a reduction of perspiration from the treated foot, the level of effectiveness was not correlated with user perception. To establish a standard for antiperspirant activity for the foot or hand, it is necessary to have information from the test subjects with regards to their perception of effectiveness. A user perception test similar in design to that required for Category III claims of extra-effective should be performed except that the test antiperspirant will be compared on the hands and/or feet to a placebo rather tha a standard antiperspirant. (See part III., paragraph C.3. below—Guidelines for user perception test to be done for claims of "extra-effective" to be classified as Category I.) Also, the test antiperspirant should produce at least a 20-percent reduction in the objectively measured test rather than the 30-percent reduction required for "extra-effective" antiperspirants. Until such information is provided, the claim of antiperspiracy on the hands and feet is to be considered a Category III claim.

c. *Claims for enhanced duration of effect.* The Panel has not received any scientific data which would support a claim of enhanced duration of antiperspiracy. The duration of the pharmacological effect of Category I and III ingredients has never been established. Without such information it is not possible for a product to claim prolonged or enhanced duration of effect. If a claim for a specific or prolonged duration of activity is to be made for an antiperspirant formulation it must be substantiated by a modification of the protocol described for the measurement of effectiveness. (See part II., paragraph H.4.f. above—Antiperspirant effectiveness qualification test.) The perspiration rate of the test subjects must be measured at various times after application. At least two times must be selected which span the period of the claim. The percent sweat reduction values determined at the various times must pass the statistical test outlined for data treatment.

d. *Claims suggesting use for "problem" or "especially troublesome" perspiration.* The Panel has not received any data which would support a claim for use in problem or especially troublesome perspiration. The Panel concludes that in order for claims of this type to become Category I, a user perception test, similar in design to that required for claims of "extra-effective," must be performed except that only the upper 5 percent of sweaters (heavy sweaters) should be included in the test. (See part III., paragraph C.3. below—Guidelines for user perception test to be done or claims of "extra-effective" to be classified as Category I.) The user perception test should be performed only if the test antiperspirant produces at least a 30-percent reduction using the objective gravimetric test.

e. *Claims for control of emotional sweating.* Axillary perspiration can also be elicited by emotional stimuli. Under certain psychologically stressful situations the amount of axillary sweat produced was found to be twice as great as that derived under typical hotroom procedures (Ref. 2). Although there is a sufficient amount of scientific evidence to make an assessment of the effectiveness of many materials in controlling thermally induced perspiration, such is not the case regarding emotional sweating.

Some general procedures have been described for the measurement of the effectiveness of a formulation in retarding emotionally stimulated axillary sweat (Refs. 2 and 3). The procedures are similar in many respects to those used in the hotroom test. The major exceptions are with regard to the environmental conditions, usually between 70° F and 80° F, and the challenge used to initiate emotional sweat. The test subjects can be challenged individually or as a group. The stimuli can take the form of mental arithmetic, memory games, word associations, lists, electric shock, singing, storytelling, and verbal quizzes. The degree of reduction of emotionally induced perspiration can be assessed by comparing a test formulation against a control. It is important that the control and test formulations be studied under similar stress conditions. For treatment of data see the antiperspirant effectiveness testing section of this report. (See part II., paragraph H.4. above—Effectiveness testing of antiperspirants.)

The copious amounts of perspiration stemming from psychological stress are exceedingly difficult to control. Shelley and Hurley (Ref. 4) suggested that many antiperspirants are washed away from their site of action by the large amounts of sweat produced by emotional stimuli. This could result in a greatly diminished activity.

The data available to the panel on aluminum chlorhydrate (Ref. 3) suggest that this material can be formulated in a manner which can reduce emotional sweating. Whether the degree of reduction measured is perceptible to the subjects was not determined. Since the sweat output is high under such stress, it is important to have information regarding the perceived degree of axillary wetness to establish standards for antiperspiracy.

A user perception test similar in design to the one required for "extra-effective" claims will be required for claims for control of emotional sweating to move from Category III to Category I. However, the test antiperspirant will be compared to a placebo rather than a standard antiperspirant, and sweating will be induced by emotional stimuli rather than the hotroom or ambient methods. (See part III., paragraph C.3. below—Guidelines for user perception test to be done for claims of "extra-effective" to be classified as Category I.)

Until such a time (within 2 years after the final monograph) that these data are made available and evaluated, all claims regarding control of emotional sweating are deemed Category III.

f. *Category III labeling claims.* The following is a list of submitted labeling claims which have been placed into Category III: "One spray keeps you comfortably dry all day," "Prolonged protection," "24-hour Protection," "Round the clock protection," "Long-lasting Protection," "Protects as you need it," "Reacts when you do," "Time-release," "Heat-Tension-Exercise. Fights all three kinds of wetness and odor."

REFERENCES

(1) OTC Volume 140027.
(2) Quatrale, R. P., K. L. Stoner, and C. B. Felger, "A Method for the Study of Emotional Sweating," Journal of the Society of Cosmetic Chemists, 28:91-101, 1977.
(3) OTC Volume 140033.
(4) Shelley, W. B., and H. J. Hurley, "Studies on Topical Antiperspirant Control of Axillary Hyperhidrosis," Acta Dermatovener, 55:241-260, 1975.

C. DATA REQUIRED FOR EVALUATION

The guidelines recommended in this document for the studies required to bring a Category III antiperspirant drug product into Category I are in accord with the present state of the art and do not preclude the use of any advances or improved technology in the future.

1. *Guidelines for products categorized as Category III because of inadequate data concerning their safety for the skin.* Skin reactions to topically applied agents are customarily thought to occur by one of two different mechanisms, either due to allergens or irritants.

It may be difficult to test for allergens prior to marketing because allergens depend for their effect on individual differences in susceptibility to sensitization (Refs. 1 through 4). Of the antiperspirant materials that have been reviewed, those in Category I are not sensitizers and the Panel feels that nothing more than the standard older tests (Refs. 1 and 2) should be required for other antiperspirants.

Primarily because of their low pH, however, all of the antiperspirant materials are capable of producing some skin irritation. Considering the irritating nature of these chemicals, it is fortunate that they are designed to be applied to the axillary vault. Dermatologists have long recognized that hairy areas are relatively resistant to the development of contact dermatitis from either allergens or irritants.

Lanman, Elvers, and Howard (Ref. 3) and Elvers and Lanman (Ref. 4) have suggested the use of comparative controls in evaluating the tendency of agents to irritate the skin. This concept of comparing the irritancy of the test agent with the irritancy of other widely used agents makes special sense in evaluating antiperspirant products. For one thing, a single ingredient, aluminum chlorohydrate, so dominates the present antiperspirant market that comparative testing against aluminum chlorohydrate affords a sensible, practical technique of evaluation. For another, the use of known marketed products for comparison permits the rational introduction of risk/benefit considerations into the question of "how much?" risk.

At this point it might be noted that the Panel applied such considerations to the topical application of aqueous solutions of aluminum chloride, deeming them more irritating than the aluminum chlorhydrates but at the same time more effective and, therefore, placed them in Category I with an additional warning, *"Warning:* Some users of this product will experience skin irritation."

The following is, therefore, suggested as a technique for deciding whether ingredients now in Category III because of questions of skin irritancy could be reclassified into Category I, or into Category I with special irritancy warnings, or into Category II.

a. If the ingredient in final product form is no more irritating than aluminum chlorohydrate in the same vehicle using the Lanman technique, it is acceptable as Category I.

b. Ingredients in final product form which are more irritating in the comparative irritancy test than aluminum chlorohydrate in the same vehicle, must demonstate a significantly greater reduction in perspiration than the effectiveness standard.

c. If the ingredient in final product form although more irritating than aluminum chlorohydrate in the same vehicle, is more effective, it must bear an additional label warning of irritation, *"Warning:* Some users of this product will experience skin irritation," but may be classifed as Category I.

Summary of Guidelines for Converting Category III Ingredients to Category I

Category	Skin irritation (compared with aluminum chlorohydrate)	Effectiveness
I	No more irritating	20 pct.
I plus warning label	More irritating	Statistically significantly better than 20 pct.
II	...do	Not statistically significantly better than 20 pct.

2. *Guidelines for tests to be done for aerosolized antiperspirant sprays to be classified as Category I.* Since the aluminum chlorohydrates are the predominant active ingredients in the antiperspirant market, the following guidelines are written specifically for them. Other aerosolized antiperspirant ingredients which are Category III should follow the same guidelines except that the test material will be the active ingredient used in the marketed formulation rather than the aluminum chlorohydrates as discussed below.

a. *Preliminary studies.* Prior to conducting the chronic animal inhalation study the following steps will be taken:

(1) *Determination of 1 times human exposure level.* The concentration, which shall be the 1 times level for the chronic animal inhalation study, of respirable aluminum to which persons are exposed during heavy usage of aerosolized antiperspirants in finished product form will be determined. Heavy usage is defined as the upper 95 percent tolerance limit (i.e., that concentration exceeded by only 5 percent of the population) of the distribution of individual respirable aluminum concentration values as determined by the following procedure.

A minimum of 20 subjects should participate in the test. They are given finished product samples of the aerosol antiperspirant to be used for a 1-week period prior to the exposure assay in order to permit them to become accustomed to the product. Subjects may not be selected for their pattern of use of antiperspirant products. Each subject should participate in a series of supervised normal use collections. The number of such collections (5 to 15) should be determined by the efficiency of the sampling instrument used; the objective being to collect a sufficient quantity of material to permit an accurate aluminum assay. For each of these collections the subject should be given a sample of the product and asked to spray both axillae according to his/her normal practice, and to remain in the test room (simulated home bathroom) for 15 minutes. During the application and 15-minute postapplication period the collection of respirable aluminum in the breathing zone should be continuous. Room air should be changed between subject runs, but not during the collection period.

Upon entering the test room the subject should be positioned near a respirable mass sampling device, with the collection port located in close proximity to the nose. The subject should be given an aerosol package and asked to apply the product to both axillae in his/her usual manner. Having had the opportunity in the pretest period to consult the label directions, the subject should receive no specific instructions on the test days with respect to distance, duration, or direction of product application. Air sampling of the breathing zone should be initiated at the start of product application and continued for 15 minutes. During the entire collection period a constant sampling flow rate should be maintained at the level appropriate for the specific instrument used.

At the end of each subject's scheduled series of 15-minute test exposures, the cumulative amount of aluminum in the collected respirable particles should be analyzed by a suitable analytical method. The quantity of aluminum so determined, divided by the product of exposure time and flow rate, represents that individual's respirable aluminum concentration value.

(2) *Determination of animal chamber conditions equivalent to human exposure.* Conditions of chamber flow rate and duration and frequency of actuation necessary to produce a chamber concentration equivalent to the human 1 times exposure levels and multiples thereof, should be determined.

(3) *Preparation of prototype product forms.* For the animal studies, prototype aerosolized antiperspirants should be formulated which are representative of marketed product forms and which, for each of these marketed forms, deliver the highest concentration of respirable aluminum in the breathing zone.

(4) *Pulmonary deposition of aluminum in animals.* Preliminary studies to relate exposure conditions to pulmonary deposition of aluminum from prototye product formulation and to provide the basis for the selection of dose levels and product formulation type to be used in the chronic animal inhalation studies should be conducted.

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b. *Chronic animal inhalation study.*—(1) *Test material.* The Panel believes that to test every chemical known as aluminum chlorhydrate would be an enormous undertaking that is not necessary to assess the chronic pulmonary toxicity of aerosol products of these materials. The chemical properties of the aluminum chlorhydrates are very similar and all evidence presented to the Panel on the toxicity of these materials suggests that they have the same risk potential. The Panel concludes that it would be sufficient to carry out the proposed test on the aluminum chlorhydrate formulation which in the preliminary studies has been demonstrated to show the greatest potential for pulmonary deposition.

(2) *Animals.* The respiratory systems of lower animals are sufficiently different from humans that it is difficult to assign the burden of proof of safety to one animal species (Refs. 5 and 6). By selecting two animal species, a large and a small one, a check on species variation would be provided. The two groups of animals to be selected for this long-term study are the cynomolgus monkey for the larger test animal, and the syrian hamster, rabbit, or rat for the smaller one. There is a substantial body of knowledge on the respiratory characteristics of these animals which should facilitate the extrapolation of the experimental results to humans (Ref. 5).

(3) *Exposure conditions.* The animals should be whole-body exposed to the test material from aerosol packages for 15 minutes twice daily in the morning and evening for 7 days a week for the duration of the study. Air control animals should be exposed to filtered room air in a similar chamber with flow characteristics identical to those of the treatment groups.

(4) *Duration of test.* The duration of the inhalation test should be 2 years. The Panel took into its consideration a number of factors in deciding on this duration. The primary factors considered were the period necessary to induce in animals or humans lung disorders of the type that might develop from the chronic use of aerosol antiperspirants, the length of time these products are used by the public, and the practicality of carrying out a long-term inhalation study on laboratory animals. In the case of the smaller animal, 2 years represents its life expectancy, while for the larger animal it is a significant fraction of their lives.

(5) *Group design.* The following group design should be followed:

Group Design for Inhalation Study

Group [1]	Number of large animals	Number of small animals
Air control	8 (4 males, 4 females)	200 (100 males, 100 females).
1 times [2]	8 (4 males, 4 females)	100 (50 males, 50 females).
10 times	8 (4 males, 4 females)	100 (50 males, 50 females).
100 times	8 (4 males, 4 females)	100 (50 males, 50 females).
Recovery group [3]	8 (4 males, 4 females)	None.

[1] The five groups listed are the minimum suggested for this test, although additional levels may be added to provide a more precise estimate of the maximum no-effect level.
[2] The 1 times will be determined by the preliminary studies.
[3] The recovery group will be exposed at the 100 times level for 24 months and sacrificed at 27 months. No recovery group is included for the small animal due to animal longevity.

(6) *Chamber monitoring.* Total particulate, particulate size distribution, and active ingredient analysis should be monitored in the chambers during exposure.

(7) *Biological measurements.*—(i) *Body weights.* The small animals should be weighed weekly for the first 13 weeks and every 2 weeks thereafter. The large animals should be weighed weekly throughout the study.

(ii) *Daily observations.* All animals should be observed twice daily during exposure for pharmacologic activity and/or toxic effects.

(iii) *Serum chemistry.* Serum chemistry should be performed on the large animals prior to exposure and every 3 months thereafter.

(iv) *Hematology.* Hematology studies should be performed on the large animals prior to exposure and every 3 months thereafter.

(v) *Urinalysis.* Urinalysis studies should be performed on the large animals prior to exposure and every 3 months thereafter.

(vi) *Ophthalmoscopic examination.* The large animals should have an ophthalmoscopic examination prior to exposure and prior to sacrifice.

(8) *Post-mortem examination.*—(i) *Gross pathology.* (a) The following tissues from each animal should be removed at necropsy and weighed: Brain, thyroids, lungs, adrenals, liver, kidneys, spleen, gonads, and heart. Organ/body-weight and organ/brain-weight ratios should be calculated and analyzed statistically.

(b) The following tissues should be removed at necropsy and fixed: Brain (cerebellum, midbrain, cerebrum); stomach; esophagus; thyroid, parathyroid; pituitary; eyes; thymus; heart; spleen; bone marrow (sternum); skeletal muscle; pancreas; small intestine; large intestine; adrenals; cervical lymph node; mesenteric lymph node; liver; skin; gonads; peripheral nerve; kidneys; aorta (thoracic); respiratory system (external nares, larynx, lungs, nasopharynx, trachea, tonsils, cervical lymph nodes, nasal turbinates, peribronchial lymph nodes).

(ii) *Histopathology.* The following organs from the 100-times and the air control group should be prepared for histopathologic examination. If effects at the 100-times level are noted, lower concentration groups should be examined, in order, until a no-effect level is established: Brain, stomach, pituitary, eyes, thymus, heart, peripheral nerve, kidneys, esophagus, thyroids, small intestine, cervical lymph node, skeletal muscle, spleen, bone marrow (sternum), adrenals, pancreas, large intestine, mesenteric lymph node, gonads, liver, skin, respiratory system (external nares, lungs, larynx, nasopharynx, trachea, cervical lymph nodes, nasal turbinates, peribronchial lymph node, tonsils). All animals that die during the study should be autopsied and the tissues saved for histopathology. Animals that appear moribund during the study should be sacrificed and the tissues saved for histopathology.

(9) *Deposition of aluminum.* Aluminum deposition in the tracheal-bronchial-aveolar systems of the large and the small animals will be determined. The measured level of aluminum in the lungs of the test animals exposed to the highest concentration of aluminum salt must be significantly above background.

(10) *Good laboratory practice.* The study should be conducted in accordance with good laboratory practices.

3. *Guidelines for user perception test to be done for claims of "extra-effective" to be classified as Category I.* The test antiperspirant should be compared with a standard antiperspirant (20 percent sweat reduction in at least half of the subjects using the binomial test). The perception trial should be properly blinded and randomized such that half the subjects will receive the test antiperspirant under the left arm and the standard antiperspirant under the right arm, and the other half of the subjects will have treatment assignments in the reverse order. Sweating may be induced by either the hotroom or ambient method. At the end of the trial, subjects will be asked whether they felt that their right axilla or their left axilla was kept drier. Questions such as: "Which product did you prefer?" should not be allowed as the only question, because greater preference for one product cannot be directly attributed to extra antiperspirant performance, but may be due to less stinging, perfume, etc.

After deleting the "no difference" response (i.e., those subjects who could not decide for either product) the binomial test with $H_0: p=0.5$ may be applied. That is, if the null hypothesis of no difference between the two products may be rejected at the 0.05 level in the reduced sample (ties removed), then the manufacturer may make an extra effective claim.

This statistical test reduces to the simple procedure of counting the number of subjects who expressed a preference for the test antiperspirant as follows:

Total number of test subjects expressing a preference	Number of subjects required to express preference for the test antiperspirant
20	15
25	18
30	20
100	58

This test will demonstrate that with high probability at least 50 percent of the target population will experience the added benefit.

REFERENCES

(1) Shelanski, H. A., and M. V. Shelanski, "A New Technique of Human Patch Tests," Proceedings of the Scientific Section of the Toilet Goods Association, 19:46–49, 1953.

(2) Draize, J. H., "Dermal Toxicity," in "Appraisal of Safety of Chemicals in Foods, Drugs, and Cosmetics," Association of Food and Drug Officials of the United States, Texas State Department of Health, Austin, Tex., pp. 46–59, 1959.

(3) Lanman, B. M., W. B. Elvers, and C. S. Howard, "The Role of Human Patch Testing in a Product Development Program," in "Proceedings of the Joint Conference on Cosmetic Sciences," Washington, D.C., pp. 135–145, 1968.

(4) Elvers, W. B., and B. M. Lanman, "The Role of Human Patch Testing in a Product Development Program: An Update," in "Proceedings of the Joint Conference on Cosmetic Sciences," Washington, D.C., 1972, copy is included in OTC volume 140065.

(5) Jones, R. K., letter to G. E. Thompson, FDA, October 3, 1975, copy is included in OTC volume 140065.

(6) Transcript of open session, December 18, 1975.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that subchapter D of chapter I of title 21 of the Code of Federal Regulations be amended by adding new part 350, to read as follows:

PART 350—ANTIPERSPIRANT PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
350.1 Scope.
350.3 Definitions.

Subpart B—Active Ingredients

350.10 Antiperspirants.

Subpart C—Testing Procedures

350.40 Effectiveness qualification test.
350.41 Test subjects.
350.42 Test conditions.
350.43 Test procedures.
350.44 Data treatment.

Subpart D—Labeling

350.50 Labeling of antiperspirant products.

AUTHORITY: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371) (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 350.1 Scope.

An over-the-counter antiperspirant is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part 350 and each of the general conditions established in § 330.1 of this chapter.

§ 350.3 Definition.

Antiperspirant. A product which when applied topically will help reduce the production of perspiration (sweat).

Subpart B—Active Ingredients

§ 350.10 Antiperspirants.

The active ingredients of the product consist of the following within the dosage limit estiblished for each ingredient:

(a) *Aluminum chlorhydrates (aluminum chlorohydrate, aluminum dichlorohydrate, aluminum sesquichlorohydrate, aluminum chlorohydrex PG, aluminum sesquichlorohydrex PG, aluminum dichlorohydrex PG, aluminum chlorohydrex PEG, aluminum sesquichlorohydrex PEG, aluminum dichlorohydrex PEG).* Dosage is 25 percent or less concentration (calculated on an anhydrous basis) of a nonaerosol dosage form.

(b) *Aluminum zirconium chlorhydrates (aluminum zirconium trichlorohydrate, aluminum zirconium tetrachlorohydrex Gly, aluminum zirconium pentachlorohydrate, aluminum zirconium pentachlorohydrex Gly, aluminum zirconium tetrachlorohydrate, aluminum zirconium tetrachlorohydrex Gly, aluminum zirconium octachlorohydrate, aluminum zirconium octachlorohydrex Gly).* Dosage is 20 percent or less concentration (calculated on an anhydrous basis) of a nonaerosol dosage form.

(c) *Aluminum chloride.* Dosage is 15 percent or less concentration (calculated on the hexahydrate form) of an aqueous solution nonaerosol dosage form.

(d) *Buffered aluminum sulfate.* Dosage is 8 percent concentration of aluminum sulfate buffered with 8 percent concentration of sodium aluminum lactate in a nonaerosol dosage form.

Subpart C—Testing Procedures

§ 350.40 Effectiveness qualification test.

To qualify as effective, and antiperspirant in finished product form must meet or exceed the criteria established in this subpart. This qualification requirement applies to all formulae except those variants which differ from a qualified formula only with respect to color and/or perfume ingredients.

§ 350.41 Test subjects.

(a) Test subjects must be sufficiently representative in that the differences between the highest and lowest rates of sweating among the test subjects must exceed 600 mg/20 minutes/axilla. Information on the sweating rate will be obtained during pretreatment sweat collections or by sweat collections taken from the control axilla during treatment.

(b) Test subjects are required to abstain from the use of all antiperspirant materials for at least 1 week prior to pretreatment or treatment sweat collections.

§ 350.42 Test conditions.

Either hotroom or ambient conditions may be used to obtain gravimetric measurements of axillary perspiration rate.

(a) *Hotroom conditions.* (1) Test subjects are placed in a controlled environment (100° F and 35 percent relative humidity) to thermally induce perspiration.

(2) Care must be taken to insure that factors which are known to influence axillary sweating (i.e., air movement, mental, or emotional stimuli, position of the trunk and extremities) are properly controlled.

(b) *Ambient conditions.* Test subjects are allowed to go about their normal daily routines during the collection period.

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§ 350.43 Test procedures.

(a) *Hotroom procedure.* (1) Treatments consists of the application of the test formulation to one axilla and the control formulation to the other axilla of each of the test subjects. (The control formulation is identical to the test formulation except that it is devoid of the active antiperspirant ingredient.)

(2) Half of the subjects will be randomly assigned to receive the test formulation under the left axilla and the control formulation under the right axilla, leaving the remaining subjects to be assigned oppositely.

(3) The quantity of each formulation applied to all the test subjects must reflect the amount that a typical person would apply under normal use conditions.

(4) Treatment applications are made once daily. It is important that the number of treatments preceding the collections of axillary perspiration for evaluation be recorded. At least one daily treatment should be carried out before the test.

(5) Preweighed absorbent pads are placed in both axillae of each of the test subjects.

(6) Test subjects are placed in the controlled environment for a period of from 10 to 30 minutes.

(7) Perspiration is collected on the absorbent pads, and the absorbent pads are again weighed at the end of the collection period.

(8) If a pretreatment evaluation is made to determine the ratio of right to left axillary sweating rate of each subject, the control formulation will be applied to both axillae of each test subject.

(b) *Ambient procedure.* The ambient procedure is performed in the same manner as the hotroom procedure except that the test subjects are allowed to go about their normal daily routines, and the collection period is for a period from 3 to 5 hours.

§ 350.44 Data treatment.

(a) Sweat reduction is defined for each subject by the formula:

$$\text{Percent sweat-reduction} = \frac{C - T}{C} \times 100$$

where C is the raw milligram weight measure of moisture from the control axilla and T is the corresponding quantity from the test axilla.

Appropriate modifications of this formula are acceptable if pretreatment ratios of the right to left axillary sweating rate are determined.

(b) A statistical analysis of the percent sweat reduction values will be conducted by a binomial test. In statistical terminology:

$H_0 = P < 0.5$.
$H_A = P > 0.5$ ($\alpha = 0.05$, one sided).

where H_0 is the null hypothesis, P is the probability, H_A is the alternative hypothesis, and α is the predetermined arbitrary level of significance.

(c) A product qualifies as effective if the number of subjects having a percent sweat equal to or greater than 20 percent is equal to or exceeds the number of a given sample size as follows:

Total number of test subjects:	*Sweat reduction* [1]
20	15
35	18
30	20
100	58

[1] Minimum number of subjects required to have at least a 20-pct. sweat reduction.

(d) The test will demonstrate that with high probability at least 50 percent of the target population will obtain a sweat reduction of at least 20 percent.

Subpart D—Labeling

§ 350.50 Labeling of antiperspirant drug products.

(a) *Statement of identity.* The labeling of the product shall contain the established name of the drug, if any, and shall identify the product as an "antiperspirant."

(b) *Indications.* The labeling shall contain a statement under the heading "Indication(s)" that shall be limited to one or more of the following phrases: "Helps reduce wetness," "Helps reduce dampness," "Helps reduce perspiration." The labeling shall also include the following statement: "Products described as antiperspirants can be expected to produce at least a 20-percent reduction in underarm perspiration in at least half the users when applied once daily."

(c) *Warnings.* The labeling of the product shall contain the following warnings under the heading "Warnings":

(1) For products containing any antiperspirant ingredient identified in § 350.10: "Do not apply to broken skin. If a rash develops, discontinue use."

(2) For products containing aluminum chloride identified in § 350.10(c): "*Warning:* Some users of this product will experience skin irritation."

(d) *Directions.* The labeling of the product shall contain the following statement under the heading "Directions": "Apply to skin of underarms. Not to be used generally over the body."

Interested persons are invited to submit their comments in writing (preferably in quadruplicate and identified with the hearing clerk docket number found in brackets in the heading of this document) regarding this proposal on or before January 8, 1979. Such comments should be addressed to the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be accompanied by a memorandum or brief in support thereof. Additional comments replying to any comments so filed may also be submitted on or before February 7, 1979. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the hearing clerk, Food and Drug Administration.

Dated: September 22, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-28083 Filed 10-6-78; 8:45 am]

federal register

TUESDAY, OCTOBER 10, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRWORTHINESS STANDARDS: RECIPROCATING AND TURBOPROPELLER POWER MULTIENGINE AIRPLANES

Increase in Approved Takeoff Weights and Passenger Seating Capacities

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[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 21, 23, and 135]

[Docket No. 18315; Notice 78-14]

AIRWORTHINESS STANDARDS: RECIPROCATING AND TURBOPROPELLER POWERED MULTIENGINE AIRPLANES

Increase in Approved Takeoff Weights and Passenger Seating Capacities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Special Federal Aviation Regulation (SFAR) and to amend the operating rules applicable to air taxi and commercial operators of small airplanes. This proposal would—(1) Prescribe additional airworthiness standards applicable to propeller driven multiengine small airplanes; and (2) depending on the standards those airplanes meet, allow their certification and operation at weights in excess of the current limitation of 12,500 pounds or with an increase in the number of passenger seats, or both. Adoption of these proposals would allow the desgn capabilities of these small airplanes to be more fully utilized.

DATES: Comments must be received on or before December 11, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 18315, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. In addition, commentators are encouraged to address the environmental, energy, economic, or social impact that might result from adoption of the proposals contained in this notice. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

The FAA requests that interested persons, when submitting comments, fully identify the proposal to which the comment relates.

Availability of This Notice

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed of a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

In notice No. 77-25, an advance notice of proposed rulemaking (42 FR 56702; October 27, 1977), the FAA requested recommendations concerning possible changes in certification requirements for certain small airplanes used by air taxi and commercial operators. Based on comments received in response to that advance notice, and upon further consideration, the FAA is proposing in this notice certification requirements and operating rules which will allow existing propeller driven airplanes to be better utilized under the Federal Aviation Regulations (FAR's).

In general, under the current FAR's relating to certification, airplanes are treated as either small or large. Numerous pilot, operating, and maintenance requirements of the FAR's utilize the same small and large distinction. In addition, the International Civil Aviation Organization (ICAO) uses this weight distinction. The distinction is based on the maximum certificated takeoff weight (MCTW) of the airplane. For airplanes with an MCTW of 12,500 pounds or less, the airplane is defined in §1.1 of the FAR's as small. Airplanes with an MCTW of more than 12,500 pounds are defined as large.

The 12,500 pound weight distinction was adopted on April 9, 1953 (18 FR 2213; April 18, 1953). The weight distinction was based in part upon certain airplane and powerplant design considerations which were considered significant in 1953. Over the past 25 years, numerous additional operational factors have developed and must be considered in airplane design. Certain manufacturers have asserted that the 12,500 pound weight distinction is arbitrary and no longer provides an appropriate demarcation between small and large airplanes.

It should be noted that part 23 of the FAR's contains airworthiness standards for small airplanes. However, for those airplanes that meet the requirements of part 23 including amendment 23-10 (36 FR 2863; February 11, 1971), which is included in current part 23, the maximum passenger seating configuration is limited to 9 seats.

Many potential commentators to this notice, whose views the FAA invites, may not be familar with the regulatory procedure for type and airworthiness certification of aircraft and for their subsequent operation; therefore, a general overall perspective to this somewhat specialized area is provided below.

The certification process begins when the manufacturer of an aircraft of new design submits an application (along with certain aircraft drawings) to the FAA. Aircraft of new design must meet the airworthiness standards which were effective on the date that the application was filed and any additional standards found to be necessary because of novel or unusual design features. After an application is filed and the applicable standards are established, the aircraft design is tested by the manufacturer to show that it meets these standards. Once the airworthiness standards are met, a type certificate is issued to the manufacturer. The airworthiness standards which were complied with are incorporated as part of the type certificate and become the regulatory basis for the certificate. These standards normally continue to be applicable to individual aircraft built in accordance with the design. Individual aircraft are certified by the aircraft manufacturer to conform to the type design for which the type certificate was issued and are issued airworthiness certificates.

Section 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1430) states that it is unlawful to operate a civil aircraft for which there is not currently in effect an airworthiness certificate or which is in violation of the terms of any such certificate. This statutory provision together with related provisions of the FAR's require that aircraft must be properly maintained. Proper maintenance includes recurrent inspections to insure continued conformity to the applicable type design. These provisions also require that the aircraft may not be operated in violation of its established limitations. One of these limitations is the maximum takeoff weight at which the aircraft design was certificated. Another is the maximum passenger seating configuration. Therefore, to change the MCTW or the maximum passenger seating configuration, the aircraft design must be recertificated in accordance with the applicable airworthiness standards.

An applicant for an airplane type certificate would be required, under current rules, to comply with the transport category requirements of part 25 of the FAR's if the maximum takeoff weight of its airplane exceeds 12,500 pounds or if the maximum passenger seating configuration exceeds 9 seats and the applicable airworthiness standards for the airplane includes amendment 23-10. Many commentators to the advance notice and petitioners for rulemaking and exemption have asserted that compliance with the transport category requirements of part 25 is too costly for small airplanes with a maximum takeoff weight very near 12,500 pounds. The commentators have asserted that many of the requirements of part 25 are intended for the very large air carrier airplanes such as the "wide-body" airplanes.

Recent requests for exemptions, or for a rule change, concerning this weight distinction have been made by operators that utilize airplanes with a MCTW of exactly or very near 12,500 pounds. These operators assert that these airplanes are capable of operating safely at maximum takeoff weights in exess of 12,500 pounds. In addition, these operators indicate that this weight limit has the effect of reducing safety margins by preventing the installation of additional navigational equipment and by preventing the carriage of increased fuel reserves. In this connection, the Acting Chairman of the National Transportation Safety Board (NTSB) recently informed the FAA that "* * * the Safety Board believes that a new airworthiness certification part designed specifically for this class of airplane which would be more stringent than the current FAR 23 supplemented by SFAR 23 (addlional airworthiness requirements met by certain airplanes in the past), but less costly than FAR 25, would be in the base interest of the safety of the flying public." Based upon these comments and requests and the claimed overall safety benefit, the FAA has determined that public comment should be invited upon a specific proposal to allow certification and operation at MCTW's in excess of 12,500 pounds which, if adopted, would be a step in the direction advocated.

In the light of the proposal to permit certification and operation of propeller driven multiengine airplanes at MCTW's in excess of 12,500 pounds, the FAA has reevaluated the current need for the 9 seat passenger capacity limit in part 23. Based on this evaluation, the FAA believes that on an interim basis, type certificates and changes to those certificates should be issued for propeller driven small airplanes in the normal category that have a passenger seating configuration, excluding pilot seats, of 10 seats or more (but not more than 19 seats), if compliance is shown with the airworthiness standards in part 23 together with the additional airworthiness requirements of appendix A of part 135 of the FAR's. The FAA's belief that only interim type certification rules are appropriate at this time is based on the FAA's continuing consideration of the need for, and substance and scope of, the new airworthiness certification part of the FAR's, recommended by comments received in response to notice No. 77-25 including that of the NTSB, for airplanes intended for use by commuter air carriers.

Discussion of Proposals

This proposal, consisting of a proposed new Special Federal Aviation Regulation (SFAR) and proposed changes to part 135, would allow either or both of the following:

(1) The certification of propeller driven multiengine small airplanes with a passenger seating configuration, excluding pilot seats, of 10 seats or more (but not more than 19 seats) that were originally type certificated in accordance with part 23 of the FAR's in effect on March 31, 1971 (the effective date of amendment 23-10) or later.

(2) The certification and operation, with appropriate restrictions and limitations, of propeller driven multiengine airplanes at maximum takeoff weights in excess of 12,500 pounds.

It should be noted that an application for certification under the proposed SFAR, would need to be filed with the FAA within 2 years after the effective date of the SFAR. Production of airplanes certificated, under the SFAR, with maximum takeoff weights in excess of 12,500 pounds, would be limited to 10 years after the effective date of the SFAR. This would be done by limiting to a 10 year period the privilege of obtaining original airworthiness certificates for airplanes type certificated under the SFAR. This 10 year period is intended to provide the time needed for the FAA to develop a new airworthiness certification part of the FAR's for airplanes intended for use by commuter air carriers and for airplane manufacturers to demonstrate compliance with the new part.

The restrictions and limitations which are included in the proposal are intended to ensure that each airplane meets the necessary airworthiness and operating standards and that international agreements are not violated. In this connection, the United States of America as a contracting State of ICAO, is under agreement to comply with the Convention on International Civil Aviation. Annex 8 to the convention contains international standards of airworthiness applicable to the certification of airplanes having a MCTW in excess of 5,700 kg (approximately 12,500 pounds). If an airplane does not comply with annex 8, under the convention the airworthiness certificate must be endorsed with respect to the noncompliance and international navigation of the airplane is prohibited unless the countries entered agree. In part, the airworthiness standards in the proposed SFAR would establish a minimum level of safety for propeller driven multiengine airplanes with MCTWs in excess of 12,500 pounds and maximum weights without fuel of 12,500 pounds. It should be noted that the proposed airworthiness standards are not intended to and do not meet the annex 8 provisions. Therefore, airplanes certificated in accordance with the proposed SFAR, that operate at weights in excess of 5,700 kg, would be prohibited from international navigation unless specifically allowed by the countries of overflight. These airplane's airworthiness certificates would be appropriately endorsed. In addition, the international airman licensing and aircraft operating provisions in annexes 1 and 6 to the convention on International Civil Aviation must be met to operate these airplanes on international flights.

With respect to those airplanes certificated under amendment 23-10 that are to be certificated with a maximum passenger seating capacity in excess of 9 seats but with an MCTW not in excess of 12,500 pounds, compliance with appendix A of part 135 would be required under the proposed SFAR. For airplanes that are to be certificated with an MCTW in excess of 12,500 pounds, the airworthiness requirements of the proposed SFAR include appendix A of part 135, and additional structural fatigue, crashworthiness, and fire protection requirements. In developing these additional standards, the FAA has drawn upon the experience gained during the many years of operation of small airplanes.

The table below references the sources of the proposed additional structural fatigue, crashworthiness,

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and fire protection requirements applicable to the certification of airplanes with MCTW's in excess of 12,500 pounds under the proposed SFAR. It should be noted that the various references in the chart to sections and parts of the Federal Aviation Regulations (14 CFR Chapter I) are those in effect on the date this NPRM was issued.

Subject	Section number in the SFAR	Source of the proposed airworthiness requirements
Fatigue evaluation of flight structure	5(b)	Based on sec. 26 of app. A of pt. 135 (see note below).
Door and exits	5(c)	Based on sec. 32 of app. A of pt. 135 and on § 25.783.
Fuel system lightning protection	5(d)	Same as § 23.954.
Cowlings	5(e)	Based on sec. 56 of app. A of pt 135.
Flammable fluid fire protection	5(f)	Same as § 25.863.
Compartment interiors	7	Based on § 25.853 and on Airworthiness Review Proposal Nos. 2-65 (40 FR 10810; Mar. 7, 1975) and 8-42 (40 FR 29419; July 11, 1975).
Landing gear	8	Same as § 25.721, for passenger seating configurations, excluding pilot seats, of 10 seats of more.
Fuel system components crashworthiness	9	Same as §§ 25.963(d), and 25.994.
Shutoff means	10	Same as § 23.1189.
Fire extinguishing systems	11	Based on § 25.1195.
Fire extinguishing agents	12	Same as § 25.1197.
Extinguishing agent containers	13	Same as § 25.1199.
Fire extinguishing system materials	14	Same as § 25.1201.
Acceptable test for showing compliance with secs. 7 (a)(1) thru (a)(5) of the SFAR..	Appendix	Based on app. F of pt. 25.

NOTE.—The requirements in sec. 5(b) of the proposed SFAR would apply to the vertical fin, horizontal stabilizer, and attaching structure, in addition to the wing, wing carrythrough, and attaching structure.

Appendix A of part 135 contains airworthiness requirements which when complied with in conjunction with part 23 provide a set of airworthiness standards that prescribe a level of safety exceeding that of part 23 alone. The additional standards proposed for airplanes to be certificated with an MTCW in excess of 12,500 pounds would provide for a level of safety improved over that provided by part 23 and appendix A. While the FAA is unaware of any propeller driven multiengine small airplane that currently meets appendix A of part 135 or the additional standards contained in the proposed SFAR, the FAA believes that the technology exists to perform modifications on a number of existing airplane types in order to meet the upgraded standards if so desired by the manufacturers or operators. Propeller driven multiengine small airplanes meeting these standards would provide a higher level of safety than similar airplanes currently in service.

Turbojet powered multiengine airplanes are not covered in the proposed SFAR because these high performance airplanes require more stringent airworthiness provisions than those applicable to propeller driven multiengine small airplanes. Therefore, at the present time, the FAA believes part 25 of the FAR's where applicable, continues to be an appropriate standard for these airplanes.

It should also be noted that the intent of the proposed SFAR is to allow airplanes certificated in accordance with the SFAR to operate under parts 91 and 135. Additional revisions to part 135, as revised in this issue of the FEDERAL REGISTER, are proposed below to allow operation under that part.

The FAA believes that the proposal, if adopted, would allow air taxi, commercial, and general aviation operators to more fully utilize the design capabilities of propeller driven multiengine small airplanes that are amenable to an expansion of their capabilities with no adverse effect on safety. In this connection, as indicated, the proposed SFAR provides additional airworthiness requirements and operating limitations. In addition, the FAA believes that the proposed SFAR in providing for an increase in MCTW will allow the operators to—(1) Install additional navigation equipment; (2) carry increased fuel reserves; and (3) install additional public conveniences, such as lavatories and food galleys. Furthermore, the proposal has the potential of reducing costs to the traveling public by allowing more efficient operation of these airplanes.

REQUEST FOR ECONOMIC DATA

A number of comments were received in response to advance notice No. 77-25 concerning the economic impact of imposing different categories of type certification requirements on commuter airplanes. However, because of the general nature of the questions presented in that advance notice, the FAA is convinced that additional data is required to determine the economic impact of the proposal covered in this notice.

While the FAA does not believe that this proposal will have any detrimental economic impact, it is aware that detailed economic impact information is exclusively in the possession of airplane manufacturers and commuter operators. Accordingly, comments concerning the economic impact of the proposal are strongly encouraged.

In submitting their comments, each operator and manufacturer should specify the proposal's anticipated economic effect on its operations or production. If an organization desires to submit economic data on behalf of groups of operators or manufacturers, an adequate breakdown of the anticipated effect on each member of the group is requested. Additionally, with respect to potential positive economic benefits operators and manufacturers should provide realistic comparisons of current airplane operating and airplane purchase costs with those that could result from the proposal. Also, airplane modification costs related to the proposal should be presented, and examples of potential positive monetary benefits to commuter passengers are also urged.

For those commentators that desire changes in the airworthiness standards included in the proposal, their comments should contain detailed cost-benefit analysis data. The analysis should specify the steps taken and the assumptions made in its preparation. In this connection, it should be emphasized that unsupported assertions as to the anticipated economic impact of this proposal will be given limited weight.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend the Federal Aviation Regulations (14 CFR Chapter I) as follows: 1. By adding the following Special Federal Aviation Regulation:

SPECIAL FEDERAL AVIATION REGULATION No.----

1. APPLICABILITY

(a) Contrary provisions of parts 21 and 23 of the Federal Aviation Regulations notwithstanding, an applicant is entitled to an amended or supplemental type certificate in the normal category for a reciprocating or turbopropeller powered multiengine small airplane originally type certificated in accordance with part 23 of the Federal Aviation Regulations in effect on March 31, 1971, or later, that is to be certificated with a passenger seating configuration, excluding pilot seats, of 10 seats or more (but not more than 19 seats) if the applicant complies with—

(1) The regulations incorporated in the type certificate; and

(2) The requirements of appendix A of part 135 of the Federal Aviation Regulations in effect on (the date this proposed SFAR was issued).

(b) Contrary provisions of parts 1, 21, 23, 91, 121, and 135 of the Federal Aviation Regulations notwithstanding, an applicant is entitled to an amended or supplemental type certificate in the normal category for a reciprocating or turbopropeller powered multiengine airplane that is to be certificated with a maximum takeoff weight in excess of 12,500 pounds and a maximum zero fuel weight not in excess of 12,500 pounds if the applicant complies with—

(1) The regulations incorporated in the type certificate;

(2) The requirements of appendix A of part 135 of the Federal Aviation Regulations in effect on (the date this proposed SFAR was issued) with the exceptions specified in section 5 of this Special Federal Aviation Regulation; and

(3) The additional requirements specified in sections 7 through 14 of this Special Federal Aviation Regulation.

(c) Contrary provisions of part 1 of the Federal Aviation Regulations notwithstanding, an airplane certificated under paragraph (b) of this section is defined as a small airplane for purposes of parts 21, 23, 36, 121, and 135 of the Federal Aviation Regulations and a large airplane for purposes of parts 61 and 91. Compliance with the small airplane provisions of part 36 of the Federal Aviation Regulations must be shown at the maximum certificated takeoff weight approved under this Special Federal Aviation Regulation.

2. ELIGIBILITY

Any person may apply for a supplemental type certificate (or an amended type certificate in the case of a type certificate holder) under this Special Federal Aviation Regulation.

3. PRODUCTION LIMITATION

An amended or suplemental type certificate issued pursuant to section 1(b) of this Special Federal Aviation Regulation is effective for the purpose of obtaining an original airworthiness certificate, until (a date 10 years after the effective date of this SFAR) unless the type certificate is sooner surrendered, suspended, revoked, or terminated.

4. RESTRICTIONS

For airplanes certificated under section 1(b) of this Special Federal Aviation Regulation—

(a) The maximum zero fuel weight of the airplane must be established as an operating limitation and may not exceed 12,500 pounds.

(b) The airworthiness certificate shall be endorsed "This airplane at weights in excess of 5,700 kg does not meet the airworthiness requirements of ICAO, as prescribed by annex 8 of the convention on International Civil Aviation."

5. EXCEPTIONS

For purposes of obtaining an amended or supplemental type certificate under section 1(b) of this Special Federal Aviation Regulation the following exceptions apply. All references in this section to specific sections of parts 23 and 25 of this chapter are to those in effect on (the date this proposed SFAR was issued):

(a) Compliance with section 1 of appendix A of part 135 of the Federal Aviation Regulations is not required.

(b) In lieu of compliance with section 28 of appendix A of part 135 of the Federal Aviation Regulations, comply with the following:

Fatigue evaluation of flight structure. Unless it is shown that the structure, operating stress levels, materials, and expected use are comparable from a fatigue standpoint to a similar design which has had substantial satisfactory service experience, the strength, detail design, and the fabrication of those parts of the wing, wing carrythrough, vertical fin, horizontal stabilizer, and attaching structure whose failure would be catastrophic must be evaluated under either—

(a) A fatigue strength investigation in which the structure is shown by analysis, tests, or both, to be able to withstand the repeated loads of variable magnitude expected in service; or

(b) A fail-safe strength investigation in which it is shown by analysis, tests, or both, that catastrophic failure of the structure is not probable after fatigue, or obvious partial failure, of a principal structural element, and that the remaining structure is able to withstand a static ultimate load factor of 75 percent of the critical limit load factor at V_c. These loads must be multiplied by a factor of 1.15 unless the dynamic effects of failure under static load are otherwise considered.

(c) In lieu of compliance with section 32 of Appendix A of Part 135 of the Federal Aviation Regulations, comply with the following:

Doors and exits. The airplane must meet the requirements of §§ 23.783 and 23.807(a)(3), (b), and (c) of this chapter, and in addition the following requirements:

(a) Each cabin must have at least one easily accessible external door.

(b) There must be a means to lock and safeguard each external door against opening in flight (either inadvertently by persons or as a result of mechanical failure or failure of a single structural element). Each external door must be operable from both the inside and the outside, even though persons may be crowded against the door on the inside of the airplane. Inward opening doors may be used if there are means to prevent occupants from crowding against the door to an extent that would interfere with the opening of the door. The means of opening must be simple and obvious and must be arranged and marked so that it can be readily located and operated, even in darkness. Auxiliary locking devices may be used.

(c) Each external door must be reasonably free from jamming as a result of fuselage deformation in a minor crash.

(d) Each external door must be located where persons using them will not be endangered by the propellers when appropriate operating procedures are used.

(e) There must be a provision for direct visual inspection of the locking mechanism by crewmembers to determine whether external doors, for which the initial opening movement is outward (including passenger, crew, service, and cargo doors), are fully locked. In addition, there must be a visual means to signal to appropriate crewmembers when normally used external doors are closed and fully locked.

(f) Cargo and service doors not suitable for use as an exit in an emergency need only meet paragraph (e) of section 5(c) of this regulation and be safeguarded against opening in flight as a result of mechanical failure or failure of a single structural element.

(g) The passenger entrance door must qualify as a floor level emergency exit. If an integral stair is installed at such a passenger entry door, the stair must be designed so that when subjected to the inertia forces specified in § 23.561 of this chapter, and following the collapse of one or more legs of the landing gear, it will not interfere to an extent that will reduce the effectiveness of emergency egress through the passenger entry door. Each additional required emergency exit except floor level exits must be located over the wing or must be provided with acceptable means to assist the occupants in descending to the ground. In addition to the passenger entrance door—

(1) For a total seating capacity of 15 or less, an emergency exit, as defined in § 23.807(b) of this chapter, is required on each side of the cabin;

(2) For a total seating capacity of 16 through 23, three emergency exits, as defined in § 23.807(b) of this chapter, are required with one on the same side as the door and two on the side opposite the door; and

(3) For a total seating capacity in excess of 23, the number of emergency exits and their kind and distribution must be approved by the Administrator.

(h) An evacuation demonstration must be conducted utilizing the maximum number of occupants for which certification is desired. It must be conducted under simulated night conditions utilizing only the emergency exits on the most critical side of the aircraft. The participants must be representative of average airline passengers with no prior practice or rehearsal for the demonstration. Evacuation must be completed within 90 seconds.

(i) Each emergency exit must be marked with the word "Exit" by a sign which has white letters 1 inch high on a red background 2 inches high, be self-illuminated or

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independently internally electrically illuminated, and have a minimum luminescence (brightness) of at least 160 microlamberts. The colors may be reversed if the passenger compartment illumination is essentially the same.

(j) Access to window type emergency exits must not be obstructed by seats or seat backs.

(k) The width of the main passenger aisle at any point between seats must equal or exceed the values in the following table:

Total seating capacity	Minimum main passenger aisle width	
	Less than 25 inches from floor	25 inches and more from floor
10 through 23	9 inches	15 inches.
Over 23	15 inches	20 inches.

(d) In lieu of compliance with section 45 of appendix A 135 of part of the Federal Aviation regulations, comply with § 23.954 of this chapter.

(e) In lieu of compliance with section 56 of appendix A of part 135 of the Federal Aviation regulations, comply with the following:

Cowlings. The airplane must be designed and constructed so that no fire originating in any engine compartment can enter, either through openings or by burning through external skin, any other region where it would create additional hazards."

(f) In lieu of compliance with section 57 of appendix A of part 135 of the Federal Aviation regulation, comply with § 25.863 of this chapter.

6. Additional Requirements—General

The additional requirements specified in sections 7 through 14 apply to the certification of airplanes pursuant to section 1(b) of this special Federal Aviation regulation.

7. Compartment Interiors

(a) Materials (including finishes or decorative surfaces applied to the materials) used in each compartment occupied by the crew or passengers must meet the following test criteria as applicable:

(1) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of the appendix to this regulation, or other approved equivalent methods. The average burn length may not exceed 6 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 3 seconds after falling.

(2) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and nondecorative coated fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, cargo compartment liners, insulation blankets, cargo covers, transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in paragraph (a)(4) of this section, must be self extinguishing when tested vertically in accordance with the applicable portions of the appendix to this regulation, or other approved equivalent methods. The average burn length may not exceed 8 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

(3) Motion picture film must be safety film meeting the standard specification for safety photographic film ph 1.25 (available from the United States of America Standards Institute, 10 East 40th Street, New York, N.Y. 10018), or an FAA-approved equivalent. If the film travels through ducts, the ducts must meet the requirements of paragraph (a)(2) of this section.

(4) Acrylic windows and signs, parts constructed in whole or in part of elastomeric materials, edge lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of the appendix of this regulations, or other approved equivalent methods.

(5) Except for electrical wire and cable insulation, and for small parts (such as knobs, handles, rollers, fasteners, clips, gromments, rub strips, pulleys, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, materials in items not specified in paragraphs (a)(1) through (a)(4) of this section may not have a burn rate greater than 4 inches per minute when tested horizontally in accordance with the applicable portions of the appendix of this regulation, or other approved equivalent methods.

(b) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays, and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) Be legible to each passenger seated in the passenger cabin under all probable lighting conditions, and

(ii) When illuminated, be so constructed that the crew can turn them on and off.

(c) Each disposal receptable for towels, paper, or waste must be fully enclosed and constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the disposal receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test. A placard containing the legible words "No Cigarette Disposal" must be located on or near each disposal receptable door.

(d) Lavatories must have "No Smoking" or "No Smoking in Lavatory" placards located conspicuously on each side of the entry door, and self-contained removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if it can be seen from the cabin side of each lavatory door served. The placards must have red letters at least one-half inch high on a white background at least one inch high. (A "No Smoking" symbol may be included on the placard).

(e) There must be at least one hand fire extinguisher conveniently located in the pilot compartment.

(f) There must be at least one hand fire extinguisher conveniently located in the passenger compartment.

8. Landing Gear

Comply with §§ 25.721(a)(2), (b), and (c) of this chapter in effect on (the date this proposed SFAR was issued).

9. Fuel System Components Crashworthiness

Comply with §§ 25.963(d) and 25.994 of this chapter in effect on (the date this proposed SFAR was issued).

10. Shutoff Means

Comply with § 23.1189 of this chapter in effect on (the date this proposed SAFR was issued).

11. Fire Extinguishing Systems

(a) Except for combustor, turbine, and tail pipe sections of turbine engine installations that contain lines or components carrying flammable fluids or gases for which it is shown that a fire originating in these sections can be controlled, there must be a fire extinguisher system serving each engine compartment.

(b) The fire extinguishing system, the quantity of the extinguished agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires. An individual "one shot" system may be used for auxiliary power units, fuel burning heaters, and other combustion equipment. For other engine compartments two discharges must be provided each of which produce adequate agent concentrations. It must be possible to direct each of these discharges to any main engine installation.

(c) The fire-extinguishing system for a nacelle must be able to simultaneously protect each compartment of the nacelle for which protection is provided.

12. Fire Extinguishing Agents

Comply with § 25.1197 of this chapter in effect on (the date this proposed SAFR was issued).

13. Extinguishing Agent Containers

Comply with § 25.1189 of this chapter in effect on (the date this proposed SFAR was issued).

14. Fire Extinguishing System Materials

Comply with § 25.1201 of this chapter in effect on (the date this proposed SFAR was issued).

15. Expiration

This special Federal Aviation regulation terminates on (a date two years after the effective date of this SFAR), unless sooner rescinded or superseded.

Appendix

Acceptable test procedures for showing compliance with sections 7(a)(1) thru (a)(5) of this regulation

(a) *Conditioning.* Specimens must be conditioned to 70 degrees F (plus or minus 5 degrees) and at 50 percent relative humidity (plus or minus 5 percent) until moisture equilibrium is reached, or for 24 hours. Only one specimen at a time may be removed from the conditioning environment before subjecting it to the flame.

(b) *Specimen configuration.* Materials must be tested either as a section cut from a fabricated part as installed in the airplane or as a specimen simulating a cut section, such as a specimen cut from a flat sheet of the material or a model of the fabricated part. The specimen may be cut from any location in a fabricated part; however, fabricated units, such as sandwich panels may not be separated for test. The specimen may not be thicker than the minimum thickness to be qualified for use in the airplane, except that: (1) Thick foam parts, such as seat cushions, must be tested in ½-inch thickness; and (2) When showing compliance with section 7(a)(4) of this regulation for materials used in small parts that must be tested, the materials must be tested in no more than ⅛-inch thickness. In the case of fabrics, both the warp and fill direction of the weave must be tested to determine the most critical flammability conditions. When performing the tests prescribed in paragraphs (d) and (e) of this appendix, the specimen must be mounted in a metal frame so that: (1) In the vertical tests of paragraph (d), the two long edges and the upper edge are held securely; (2) in the horizontal test of paragraph (e), the two long edges and the edge away from the flame are held securely; (3) the exposed area of the specimen is at least 2 inches wide and 12 inches long, unless the actual size used in the airplane is smaller; and (4) the edge to which the burner flame is applied may not consist of the finished or protected edge of the specimen but must be representative of the actual cross-section of the material or part installed in the airplane.

(c) *Apparatus.* Tests must be conducted in a draft-free cabinet in accordance with Federal Test Method Standard 191 method 5903 (revised method 5902) for the vertical test, or method 5906 for the horizontal test (available from the General Services Administration, Business Service Center, Region 3, Seventh and D Streets SW., Washington, D.C. 20407) or other approved equivalent methods. Specimens which are too large for the cabinet must be tested in similar draft-free conditions.

(d) *Vertical test, in compliance with sections 7(a)(1) and (a)(2) of this regulation.* A minimum of three specimens must be tested and the results averaged. For fabrics, the direction of weave corresponding to the most critical flammability conditions must be parallel to the longest dimension. Each specimen must be supported vertically, the specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch i.d. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550 degrees F The lower edge of the specimen must be ¾-inch above the top edge of the burner The flame must be applied to the center line of the lower edge of the specimen. For materials covered by section 7(a)(1) of this regulation, the flame must be applied for 60 seconds and then removed. For materials covered by section 7(a)(2) of this regulation, the flame must be applied for 12 seconds and then removed. Flame time, burn length, and flaming time of dripping, if any, must be recorded.

(e) *Horizontal test, in compliance with sections 7(a)(3) and (a)(4) of this regulation.* A minimum of three specimens must be tested and the results averaged. Each specimen must be supported horizontally. The exposed surface when installed in the airplane must be face down for the test. The specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch i.d. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550 degrees. The specimen must be positioned so that the edge being tested is ¾-inch above the top of, and on the center line of, the burner The flame must be applied for 15 seconds and then removed. A minimum of 10 inches of the specimen must be used for timing purposes, approximately 1½ inches must burn before the burning front reaches the timing zone, and the average burn rate must be recorded.

(f) *Burn length.* Burn length is the distance from original edge to the farthest evidence of damage to the test specimen due to flame inpingement, including areas of partial or complete consumption, charring, or embrittlement, but not including areas sooted, stained, warped, or discolored, nor areas where material has shrunk or melted away from the heat source.

2. By revising § 135.169 by deleting the word "or" at the end of § 135.169(b)(3); by deleting the period at the end of § 135.169(b)(4) and inserting a semicolon and the word "or" in its place; by adding a new § 135.169(b)(5) and by revising § 135.169(c)(2) to read as follows:

§ 135.169 Additional airworthiness requirements.

• • • • • • •

(b) • • •

(5) In the normal category and complies with (the SFAR proposed in this notice).

(c) • • •

(2) An airplane that complies with—

(i) Appendix A of this part provided that its passenger seating configuration, excluding pilot seats, does not exceed 19 seats; or

(ii) (The SFAR proposed in this notice).

3. By redesignating § 135.399 as § 135.399(a) and by adding a new § 135.399(b) to read as follows:

§ 135.399 Small nontransport category airplanes performance operating limitations.

• • • • • • •

(b) No person may operate an airplane that is certificated under § 135.169(b)(5) unless that person complies with the landing limitations prescribed in §§ 135.385 and 135.387 of this part.

(Secs. 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on September 26, 1978.

T. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-27490 Filed 9-26-78; 3:10 pm]

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TUESDAY, OCTOBER 10, 1978
PART V



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

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[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16097; Amdt. Nos. 121-147, 127-35, and Rev. of Part 135]

REGULATORY REVIEW PROGRAM; AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments substantially revise requirements for operations by persons holding air taxi/commercial operator (ATCO) operating certificates issued by the FAA. They will result in a higher level of safety and greater operational flexibility. They are necessary to keep the FAA's regulation of this vital segment of the industry consistent with the state-of-the-art from both a technological and operating standpoint. These amendments respond to the demand for commuter and air taxi operators to operate larger and more complex aircraft.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Sullivan, Chief, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

History

These amendments are based on notice of proposed rulemaking 77-17 (42 FR 34390; Aug. 29, 1977). Notice 77-17 also included five proposed amendments to current part 135 originally proposed in notice 76-28 (41 FR 56280; Dec. 27, 1976). Notice 77-17 also considered and disposed of the petition of Air Illinois, Inc., Golden West Airlines, Inc., and Swift Aire Lines, Inc., to amend part 135 (docket No. 15733).

After notice 77-17 was issued, notice 77-17A (42 FR 56702; Oct. 27, 1977) withdrew proposed § 135.169(e). The same day, advance notice of proposed rulemaking 77-25 (42 FR 56702; Oct. 27, 1977) requested comments on possible changes in the certification requirements for certain small airplanes used by air taxi operators and commercial operators. Advance notice 77-25 will be disposed of in a separate rulemaking action.

All interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. Except for the changes discussed below, these amendments and the reasons for their adoption are the same as those stated in notices 76-28 and 77-17.

Public Participation

The FAA completed the last general upgrading of part 135 in amendment 135-12 issued on November 26, 1969 (34 FR 19130; Dec. 3, 1969). That amendment took effect on April 1, 1970. Operating experience and changes in the air taxi industry soon required another effort to further improve part 135. The FAA began working on a project to propose further regulatory changes in May 1972. By the spring of 1976, the basic drafting of this massive project to amend part 135 was finished. That draft included recommendations the National Transportation Safety Board made in its "Air Taxi Safety Study" of September 27, 1972. The draft also included proposals received during the operations review program that was announced in February 1975.

During a "listening session" with the Commuter Airline Association of America on June 8, 1976, a review conference was suggested to receive ideas from anybody who had an interest and that those ideas be used in developing a notice of proposed rulemaking to amend part 135. Because of the merit of that suggestion, the FAA prepared proposals which served as a basis for discussions at the conference. Notice 76-18 announcing the part 135 Regulatory Review Conference was issued on September 9, 1976 (41 FR 38778; Sept. 13, 1976).

The conference was held at Denver, Colo., for 4 days beginning November 8, 1976. More than 400 persons attended the conference and 112 proposals were discussed. More than 100 written comments were received subsequent to the conference. After reviewing the conference transcripts and the written comments and suggestions, changes were made to conference proposals. Many were withdrawn, others were substantially modified and several new proposals were developed.

Notice 77-17 was issued on August 19, 1977. Comments were requested by November 28, 1977. More than 1,600 comments were received and numerous changes are made in response to them. They are discussed in detail below.

The revision and upgrading of part 135 is the largest, most complex safety rulemaking project that the Federal Aviation Administration has ever undertaken. We wish to acknowledge and express our appreciation for the participation of, and assistance from, members of the public, individual pilots, mechanics, flight attendants, and other aviation personnel, individual ATCO certificate holders, consumer interest groups, labor organizations, air taxi and commuter industry organizations, State governments, State and Federal legislators, manufacturers, the military services, transportation organizations, other agencies of the Federal Government and others too numerous to mention. Each commenter made our product better and the rules more workable.

Reasons for Revising Part 135

The primary objective of this revision of part 135 is to upgrade the level of safety for operations conducted by commuter air carriers,[1] on-demand air taxi operators and commercial operators. While the comments on each rule are discussed later in this preamble, the principal reasons for this action are summarized here.

First, in recent years the commuter air carrier industry has become an increasingly important part of the Nation's air transportation system. These carriers have experienced a strong 10.3 percent average annual passenger traffic increase since 1970. Most recently, Civil Aeronautics Board statistics for 1977 compared to 1976 show the number of passengers carried by commuters increased 16.5 percent to 8.5 million, passenger miles increased 22.8 percent to 946.2 million and passenger markets served increased 12.9 percent to 1,594. One factor contributing to the increase is growing public acceptance of this segment of the industry. Another factor is a decline in the service to the smaller cities rendered by trunk and local service air carriers. Since 1960, these carriers have discontinued service to 179 points. The commuter air carriers have stepped in and provided service at 96 of these points. Many commuter passengers connect with trunk, regional and local service air carriers. They expect to travel at a level of safety substantially similar to part 121, the safety rules applicable to air carriers. This revision of part 135 provides that level of safety.

Second, in the National Transportation Safety Board's "Air Taxi Safety Study," the Board analyzed accidents involving part 135 certificate holders.

[1] Under § 298.2(f) of the Civil Aeronautics Board (CAB) regulations (14 CFR 298.2(f)), " 'Commuter air carrier' means, an air taxi operator which (1) performs at least five round trips per week between two or more points and publishes flight schedules which specify the times, days of the week, and places between which such flights are performed, or (2) transports mail by air pursuant to contract with the United States Postal Service."

That study included specific recommendations from the Board to the FAA intended to upgrade safety in part 135. The Board's recommendations were considered and many were included in notice 77-17. There has been some improvement in the part 135 accident rate since the Board completed its 1972 report. The Board's statistics show that the fatal accident rate for each 100,000 hours flown still remains higher than the rate achieved by certificated route air carriers under part 121. Indeed, in 1976 the air taxi fatal accident rate increased significantly from the 1975 rate. The Board's preliminary statistics for 1977 indicate that the fatal accident rate remains above the 1975 rate. This revision of part 135 should reduce the accident rates in air taxi operations.

Third, many part 135 certificate holders have pointed up a need for greater operational flexibility in the size of aircraft they operate under part 135. The new rule raises the part 135 size limit to aircraft having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less. This is the same size aircraft which certificate holders have been able to operate under the blanket exemption authority of part 298 of the Economic Regulations of the Civil Aeronautics Board (14 CFR Part 298). This increase allows certificate holders to operate larger and more complex aircraft capable of flying higher and faster with increased passenger loads. In turn, this should result in greater productivity. Revised part 135 adopts the changes necessary to deal with the operation of these larger, more complex aircraft. The FAA is aware that the CAB is considering changes to the aircraft size limits under part 298 to 60 seats and 18,000 pounds payload capacity. Aircraft operating within these capacity levels are already covered by part 121. To date, there has been no showing that there is any requirement for the FAA to hold the operation of these aircraft to a lesser standard. The FAA will continue to monitor the commuter/air taxi operating environment and, if a reasonable case is found for some changes as a result of the CAB's proposed amendments, an appropriate rulemaking proceeding will be initiated.

Fourth, since 1969 when part 135 was last upgraded, there has been substantial increase in the number of certificate holders conducting operations in small airplanes carrying 10 or more passengers and in multiengine turbine-powered airplanes. For example, in the 12-month period ending June 30, 1977, the number of turbine-powered aircraft operated by commuter air carriers grew 61.7 percent from 225 to 364. A characteristic of the air taxi business is that operations are conducted to a broad spectrum of airports ranging from remote, infrequently used airports, to those which are high density air carrier facilities. Aircraft operated under part 135 must be adequately equipped and maintained and pilots must be properly trained to meet these varied circumstances.

Highlights of Revised Part 135

A major goal of this revision of part 135 is to provide the passenger traveling on an on-demand air taxi flight or a commuter air carrier flight with a level of safety comparable to part 121, considering the differences between these operations, the costs versus benefits and the overall feasibility of implementation. Balancing the safety considerations, the public interest, the economic consequences, and the feasibility of the rule requires that hard judgments be made. One of these judgments is whether to apply the upgraded standards equally to all aircraft types and all operations. The extensive public comment received by the FAA plus the FAA's own experience has shown this not to be practicable. The complexity of the problem stems in large measure from the varied nature of the aircraft operated and markets served by the commuter/air taxi market. To give but one example, there are approximately 25 and 118 aircraft types, respectively, operated by commuters and on-demand operators. This compares to approximately 13 aircraft types being operated by the trunk and local service carriers. In recognition of these facts, the FAA has designed a rule which, where possible, takes account of the varied nature of the part 135 operations.

Since both commuter and air taxi operations are governed by part 135, it is useful to analyze the safety impact on these two different types of operations separately. Focusing on the commuter air carrier, largely because of the scheduled nature of the operator's service and its increasingly important role as a replacement carrier for local service and trunk carriers, the significant safety impact of this rule is readily apparent. Commuters account for over 68 percent of all the revenue passenger miles (RPM's) operated by part 135 certificate holders.

Based upon the FAA's analysis of RPM's operated by commuters in 1976, the FAA has determined that under this rule approximately 75 percent of the RPM's flown by commuters will be in aircraft having either weather radar or thunderstorm detection equipment. Approximately 97 percent of the total RPM's flown by commuters will be in aircraft flown by a pilot in command having an air transport pilot certificate. To give but one other example, 67 percent of the commuter RPM's will be in aircraft maintained to part 121 type maintenance programs. The remaining 33 percent, all involving aircraft of nine or less seats, will be subject to more stringent maintenance programs than currently required. As the commuters continue to upgrade and modernize their fleets, these percentages will likely increase. A chart illustrating the impact of this safety upgrade is set forth in appendix A.

There are many factors that lead to differences in impact levels between the various rule changes. One of the principal reasons is the distinction in the final rules between aircraft capable of carrying 10 or more passengers and those capable of transporting only nine or less passengers. In each instance, the FAA has taken into account the relative complexity of the aircraft from an operational and maintenance standpoint with a view toward achieving levels of safety equal to part 121 to the maximum extent possible. The 10-passenger seating configuration point differentiation represents the FAA's best judgment, after considerable study, of the most realistic point at which to design differing standards.[2]

It is significant to note the increasing trend in the use of higher capacity aircraft. In 1976, commuter air carriers operated 344 airplanes having 10-30 seats. In 1971, only 175 airplanes having 10-30 seats were operated by commuter air carriers. This represents a 97-percent increase between 1971 and 1976.

Turning to individual items, revised part 135 requires aircraft that are type certificated for 10 or more passenger seats to be maintained under a continuous airworthiness maintenance program similar to that required under part 121. Aircraft that are type certificated for nine or less passenger seats will be maintained under a maintenance program upgraded from present standards.

The rule upgrades training, testing, and proficiency requirements to ensure that passengers on aircraft operated under part 135 are flown by well qualified crewmembers.

Under this rule, a ground proximity warning system (GPWS), or an approved alternate system, is required on turbojets capable of carrying 10 or

[2] It might be argued that some operators could remove one or two seats from aircraft that carry slightly more than the 10 passengers to avoid the otherwise applicable regulations. This is unlikely to present a problem for at least two reasons: (1) There are only 11 aircraft types that have 10 or 11 seats as a standard configuration, so seat removal is a relatively limited possibility; and (2) seat removal precludes the realization of aircraft's full productivity potential and results in a significant economic penalty to the operator.

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more passengers. These airplanes descend rapidly if attitude control is inadvertently neglected. They do not recover as quickly as propeller-driven airplanes because of the relatively slow response of the jet engine to throttle settings for increased power. In this connection, the FAA is emphasizing installation of a visual approach slope indicator (VASI) system on all runways with a non-precision approach. This system should materially reduce the number of accidents occurring during landing approaches.

Revised part 135 requires a shoulder harness for each pilot crewmember on all turbojets and all aircraft capable of carrying 10 or more passengers. The FAA has found this to be an important safety feature. However, the rule makes allowance for the serious retrofit problems encountered on smaller aircraft. In addition, § 91.33(b)(13) requires a shoulder harness for each front seat of small civil airplanes manufactured after July 18, 1978. Thus, new airplanes capable of carrying less than 10 passengers coming into service under part 135 will be equipped with shoulder harnesses when delivered by the manufacturer.

A third attitude gyro is required on all turbojets because of the performance characteristics of those airplanes. Requiring this instrument on turbopropeller airplanes was considered, but that was found to be unnecessary because immediate information showing loss of attitude control is less important for turbopropeller airplanes.

Operational flexibility has been enhanced in the rule. One example is that ATCO certificate holders will be allowed to operate larger aircraft under the rules of part 135. Another example is the provision for a minimum equipment list for multiengine aircraft which will increase schedule reliability and decrease out of service time.

Finally, under the rules of the Federal Election Commission (FEC), a candidate in a Federal election must pay for carriage in an aircraft (11 CFR Chapter 1). Ordinarily, receipt of payment for carriage is an operation for compensation or hire and requires a part 135 certificate. However, carriage of candidates is infrequent and the operator does not intend to engage in the business of an air carrier or commercial operator. This carriage would not be subject to new part 135 if (1) the principal business of the operator is not as an air carrier or commercial operator, and (2) the payment for the carriage is required by the FEC rules.

Revised part 135 does not require a flight data recorder (FDR). Requirements for a cockpit voice recorder (CVR) and ground proximity warning system (GPWS) apply to turbojets capable of carrying 10 or more passengers. In its letter of April 13, 1978, to the Administrator, the National Transportation Safety Board recommended new standards be developed for the FDR and CVR. Two of the Board's three specific recommendations were as follows:

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage.

Draft specifications and fund research and development for a low cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended.

The FAA is developing proposed rules to carry out the Board's recommendations. The Board also recommended that, until new standards are developed, turbine-powered aircraft capable of carrying six or more passengers which must have two pilots, be required to have a CVR. The current FAA study of revising the part 91 rules for general aviation operations will consider this recommendation. This is a more appropriate forum since it will have broader applicability and is more generally geared to the aircraft requirements. Because of this, the FAA concludes that the public interest is served best by not requiring an FDR under part 135 at this time and by requiring a CVR on turbojets capable of carrying 10 or more passengers.

Proposals Withdrawn or Deferred

In response to comments received on notice 77-17, three proposed sections to part 135 have been withdrawn completely. One proposal, flight and duty time regulations, is being deferred for reasons discussed below.

PERIODIC FINANCIAL STATUS REVIEW (PROPOSED § 135.37)

The more than 80 commenters on this proposed rule were almost unanimously opposed. They believe that FAA has neither the right nor the justification to periodically examine their books. They are concerned that the financial information acquired during this review would be released to the public under the Freedom of Information Act. Upon further consideration, the FAA has determined that a periodic review of an operator's financial records is not necessary. The FAA has general authority to conduct surveillance and investigations under the Federal Aviation Act, and may secure access to any records (including financial records) of an operator when necessary to carry out its safety responsibilities [§§ 313(a), 601(a)(6), and 604(a) of the Federal Aviation Act (49 U.S.C. 1354(a), 1421(a)(6), and 1424(a))]. This specific rule is not required and therfore it is withdrawn.

FLIGHT INFORMATION: FACILITIES AND SERVICES (PROPOSED § 135.51)

Nearly all commenters oppose this proposed rule. It was based on § 121.603 which is among the dispatch and flight release rules in subpart U of part 121. There are no dispatch or flight release requirements in revised part 135. Therefore, proposed § 135.51 is withdrawn.

HELICOPTER OPERATIONS: EMERGENCY LANDING AREAS (CURRENT § 135.89)

The Helicopter Association of America (HAA) petitioned the FAA to revoke this section. HAA argues that the rule discriminates against helicopters because the minimum safe altitude requirements in § 91.79 apply to all aircraft including helicopters. Notice 77-17 proposed to revoke current § 135.89 and no opposing comments were received. Current § 135.89 is no longer necessary and is revoked.

FLIGHT AND DUTY TIME REGULATIONS (PROPOSED SUBPART F)

An entire subpart dealing with flight crewmember flight and duty time limitations has been deferred for further consideration while the rulemaking proposed in notice 78-3 is completed. That notice proposed changes in flight and duty time limitations governing parts 121 and 123 operators. Since many of the concepts presented in notice 87-3 are similar to those proposed in notice 77-17, information received in response to notice 78-3 will be helpful to the FAA in completing the part 135 flight and duty time limitations rulemaking action. In view of the deferral, the present regulation is retained.

Regulatory Analysis

This revision imposes on all part 135 operators more stringent operating requirements. They are similar in certain respects to those being met by part 121 operators or by air taxi operators and commuter air carriers operating under § 135.2. The FAA has undertaken an extensive analysis to determine the monetary impact of the final rule. Careful attention was paid to determining alternative methods of achieving equivalent levels of safety with a view toward the cost impact of the alternatives. The analytical process is presented in appendix B and the full study is in docket 16097.

After factoring out the deferred flight time and duty regulations, the initial cost of equipment, manuals, programs, and other new requirements, plus annual recurring cost of the NPRM, less revenue offsets was $52,483,000. A comparable figure for the final rule is $33,398,000. Thus, the analysis performed after the receipt of public comment on the notice pared $19,085,000 from the impact of the rule. This is a 36-percent cost reduction. This cost will be spread over approximately 2,200 commuter/air taxi operators who operate 9,498 airplanes. It must be kept in mind that the various public steps which led up to the notice, and which were detailed above, had already helped focus the FAA on the most cost effective methods of achieving the needed safety levels.

The cost savings between the notice and the final rule are primarily from adjustments to the proposed requirements as to periodic financial reviews, management personnel, weather reports and forecasts and IFR requirements, and operations in icing conditions. These comparisions are shown in table I.

TABLE I

RESULTS OF COST IMPACT ASSESSMENT: FINAL RULE VERSUS NPRM 77-17 (MEAN VALUES)
($000)

Item No.	Rule Section No.	NPRM Section No.	Section Title	Total Cost Final Rule Basis	Total Cost NPRM Basis	Difference
1	135.2	(135.2)	Air Taxi Operations with Large Aircraft	-120	-120	0
2	135.21	(135.23)	Manual Requirements	1,819	1,819	0
3	Deleted	(135.37)	Periodic Financial Status Review	0	2,354	2,354
4	135.37, .39	(135.39, .41)	Management Personnel Required and Qualifications	9,581	15,690	6,109
5	135.63	(135.49)	Recordkeeping Requirements	3/	3/	
6	135.65	(135.53)	Reporting Mechanical Irregularities	526	526	0
7	135.69	(135.57)	Restriction or Suspension of Operations: Continuation of Flight in an Emergency	1,595	1,595	0
8	135.75	(135.63)	Inspection Credentials: Admission to Pilots Compartment: Forward Observers Seat	200	332	132
9	135.87,	(135.75)	Carriage of Cargo Including Carry on Baggage	697	697	0
10	135.89, .157	(135.77, .129)	Pilot Requirements: Use of Oxygen and Oxygen Equipment Requirements	0	385	385
11	135.97	(135.85)	Aircraft and Facilities for Recent Flight Experience	29	29	0
12	135.149, .151, .153	(135.125)	Equipment Requirements: General and Cockpit Voice Recorders and Ground Proximity Warning System	1,350	1,890 1/	540
13	135.155	(135.127)	Fire Extinguishers: Passenger-Carrying Aircraft	0	167	167
14	135.165	(135.137)	Radio and Navigation Equipment: Extended Overwater or IFR Operations	323	323	0
15	135.167	(135.139)	Emergency Equipment: Extended Overwater Operations	3	3	0
16	135.171	(135.143)	Shoulder Harness Installation at Flight Crewmember Stations	201	201	0

TABLE I

RESULTS OF COST IMPACT ASSESSMENT: FINAL RULE VERSUS NPRM 77-17 (MEAN VALUES)
($000)
(Continued)

Item No.	Rule Section No.	NPRM Section No.	Section Title	Total Cost Final Rule Basis	Total Cost NPRM Basis	Difference
17	135.173	(135.145)	Airborne Thunderstorm Detection Equipment Requirements	1,410	1,410	0
18	135.177	(135.147)	Emergency Equipment Requirements for Aircraft Having a Passenger Seating Configuration of More than 19 Passengers	0	0	0
19	135.179	(135.149)	Inoperable Instruments and Equipment for Multi-Engine Aircraft	16	16	0
20	135.213, .225	(135.171, .185)	Weather Reports and Forecasts and IFR: Takeoff, Approach and Landing Minimums	11,301	17,744	6,443
21	135.215	(135.175)	IFR: Operating Limitations	-2,133	-2,133	0
22	135.219	(135.179)	IFR: Destination Airport Weather Minimums	-2,140	-2,140	0
23	135.223	(135.183)	IFR: Alternate Airport Requirements	-544	-544	0
24	135.227	(135.187)	Icing Conditions: Operating Limitations	0	2,015	2,015
25	135.243	(135.193)	Pilot in Command Qualifications	485	485	0
26	135.245	(135.197)	Second in Command Qualifications	400	1,340	940
27	135.261	(135.200-.219)	Flight and Duty Time Limitations	2/	2/	
28	135.293	(135.225)	Initial and Recurrent Pilot Testing Requirements	-2,191	-2,191	0
29	135.297	(135.229)	Pilot in Command: Instrument Proficiency Check Requirements	-294	-294	0
30	135.299	(135.231)	Pilot in Command: Line Checks: Routes and Airports	586	586	0
31	135.321-.351	(135.237-.267)	Training	2,966	2,966	0
32	135.411-.443	(135.333-.365)	Maintenance, Preventive Maintenance, and Alterations	7,332	7,332	0
	TOTAL			33,398	52,403	19,085

1/ These costs are from a special "off-line" analysis because the sample of small air taxi operators did not include operators of affected turbojet aircraft.

2/ Flight and duty time limitation and associated recordkeeping deferred for further rulemaking action. See discussion in accompanying text.

3/ Major cost impacts in recordkeeping relate to flight and duty time and are, therefore, deferred. Other cost impacts are negligible.

NOTE: For a discussion of the derivation and additional analyses of these estimates, see the Regulatory Analysis appendix to this preamble.

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REVIEW OF REVISED PART 135

The FAA will announce an evaluation of revised part 135 early in 1980. By then, more than 1 year will have passed since these amendments take effect. The review will enable the public to discuss any problems relating to the implementation and application of the revised part. Ways to further improve the rules also will be discussed. In addition, comments submitted on notice 77-17 which could not be considered within the scope of that notice can be raised during this discussion. This action is in keeping with the spirit of Executive Order 12044, "Improving Government Regulations" (43 FR 12661; Mar. 24, 1978).

FORM OF REVISED PART 135

SECTION NUMBERS

Revised part 135 sections are renumbered so this part is consistent with the form of other Federal Aviation Regulations. In the following discussion of comments, the section number assigned in this revision is the one used. The section numbers in this revision differ from the numbers proposed for those sections in notice 77-17 in almost every instance. So that readers may refer back to discussion in the preamble to notice 77-17, the obsolete proposed section numbers are cited parenthetically after the new section number and title in the discussion that follows. A reference table is published at the end of the part which shows each section in the revised part and the comparable section in the current part.

EDITORIAL CHANGES

In adopting this revision of part 135, the drafters carefully reviewed the rule for both clarity and internal consistency. The rule has been extensively edited to improve it without changing substance. Nonsubstantive editorial changes are not discussed in the preamble. Clarifying changes are indicated where that is appropriate. In addition, the rule was extensively revised to eliminate personal pronouns indicating gender.

OTHER CHANGES

In addition to these editorial changes, the rule contains some changes that were not discussed in notice 77-17. These changes were made in the spirit of Executive Order 12044, "Improving Government Regulations," and the Department of Transportation implementing policies and procedures (43 FR 9582; Mar. 8, 1978). The reasons for each change are detailed in the following discussion. Because these changes are necessary for safety, are in the public interest, clarify the rules proposed, or relax a burden, I find that notice and public procedure are not necessary and good cause exists for adopting them in this revision of part 135.

DISCUSSION OF COMMENTS

Several sections are merely redesignated from current part 135. Comments were not requested on these redesignated sections. Other sections that notice 77-17 proposed to change drew only favorable comment or no comment at all. They are not mentioned in the discussion that follows. These sections are §§ 135.7, 135.15, 135.17, 135.27, 135.29, 135.31, 135.33, 135.35, 135.41, 135.61, 135.71, 135.73, 135.79, 135.83, 135.97, 135.99, 135.101, 135.107, 135.111, 135.113, 135.119, 135.141, 135.147, 135.163, 135.185, 135.201, 135.203, 135.205, 135.207, 135.209, 135.211, 135.217, 135.221, 135.241, 135.291, 135.303, 135.329, 135.365, 135.367, 135.369, 135.371, 135.373, 135.375, 135.377, 135.381, 135.383, 135.385, 135.387, 135.389, 135.391, 135.393, 135.395, 135.419, and 135.441.

COMPLIANCE TIME

As discussed earlier in the preamble, this revision of part 135 is the largest, most complex safety rulemaking project that the FAA has undertaken. Revised part 135 takes effect on December 1, 1978. Because of the scope of this rulemaking, a flexible mechanism is essential to provide for an orderly transition from the current rules to the new rules. Several provisions are added to allow this. They are patterned on the procedures used when part 135 was upgraded in 1970.

In general, an operator who holds a part 135 operating certificate on December 1, 1978, has 60 days (until February 1, 1979) during which to apply for new operations specifications under new part 135. If an operator elects not to apply for new operations specifications, then the operating certificate held expires on February 1, 1979, and must be returned to the Administrator. If an operator applies for new operations specifications, the FAA will ask for a schedule that reflects the operator's plan for compliance with the new rules. The operator also will be asked to select a date on which it will meet new part 135 and will be ready for an FAA inspection to determine that it, in fact, does so. When the inspection is completed and the operator is in compliance, the FAA will issue new operations specifications. During this time, the existing operating certificate and operations specifications continue in effect.

However, the existing operations specifications expire in any case on: (1) the date the new operations specifications are issued; (2) the date the application is denied; or (3) August 1, 1979, whichever date is the earliest.

Section 135.9(d) provides that, if the certificate holder cannot comply by the extension date due to circumstances beyond its control, that date in § 135.9(c) may be extended to December 1, 1979. The certificate holder must apply to the Director, Flight Standards Service, before July 1, 1979, and submit an acceptable schedule for compliance. Any expired operating certificate must be returned to the Administrator.

Certain part 135 certificate holders now operate large aircraft under operations specifications that require compliance with rules in part 121. Under § 135.2(d), they may continue these operations indefinitely if they wish. If they choose to apply for operations specifications under § 135.9(b), their authority to operate large aircraft continues until they are issued new operations specifications authorizing those operations.

Section 135.10 is added to establish separate compliance dates for certain rules which will require additional time to meet. Under § 135.10(a), certificate holders have until June 1, 1979, to comply with the requirements for a third attitude gyro (§ 135.149(c)), for shoulder harnesses (§ 135.171(a)), for airline transport pilot certificates (§ 135.243(a)) and for instrument ratings (§ 135.243(b)(iii)). Under § 135.10(b), certificate holders have until December 1, 1979, to comply with the requirements for CVR (§ 135.151), for GPWS (§ 135.153) and for airborne thunderstorm detection equipment (§ 135.173). These compliance dates are established to avoid placing an undue burden on certificate holders and pilots.

Section 135.10(c) provides that the Director, Flight Standards Service, may extend these specific compliance dates, but not beyond December 1, 1980. To get an extension, the certificate holder or pilot must: (1) Show it cannot comply due to circumstances beyond its control; and (2) submit before the original compliance date a schedule which indicates it will comply at the earliest practicable date.

FAA Flight Standards Inspectors are being given training in the differences between the current rules and revised part 135. Extensive guidance material has been prepared to assist them during the transition. Advisory material is also being prepared for operators and it will become available shortly. Several specific subjects of this material are discussed in detail under the rules involved. This training, written guidance, and advisory material and the changes made in §§ 135.2, 135.9, and 135.10 should ensure a smooth transition to the improved safety rules.

AIRCRAFT SIZE

Commenters generally state that the use of different terms in part 135 to describe passenger-carrying capacity is confusing. These comments have merit and the standard phase "maximum passenger seating configuration, excluding any pilot seat" is used throughout subparts A through I of revised part 135. Using the actual seating configuration of an airplane is the easiest way to determine the applicability of the operating rules because all the FAA or certificate holder need do is count the seats.

However, a different term is used to determine the applicability of the maintenance rules in subpart J (see the discussion of § 135.411). This is the number of seats which forms the type certification base of the aircraft. This is done because the certification basis of an aircraft is used to determine the maintenance requirements which will apply.

EXERCISE OF AUTHORITY

Under current §§ 135.15(d) and 135.17(d), a part 135 operator may petition the Administrator for reconsideration within 30 days after receiving a refusal to amend its certificate or operations specifications. Authority to consider these petitions for reconsideration is delegated to the Director, Flight Standards Service. This delegation is reflected in §§ 135.15(d) and 135.17(d) as adopted in this revision. Also, for uniformity in part 135, the term "FAA Flight Standards District Office charged with the overall inspection of the certificate holder" is used to describe the responsible FAA office.

APPENDIX A

COMMUTER RPMs	THUNDERSTORM DETECTION/ WEATHER RADAR EQUIP.	ATP CERTIFICATE FOR PILOT IN COMMAND	PART 121 TYPE MAINTENANCE PROGRAM	PILOT SHOULDER HARNESS
- Total - % covered	76	97	67	76
actual (millions)	515.4	659.6	457.0	515.5
- Multiengine - % covered	79	99	69	78
actual (millions)	515.4	659.6	457.0	515.5
- Turboprop - % covered	97	100	99	99
actual (millions)	347.1	356.2	354.8	354.8
ON-DEMAND RPMs				
- Total - % covered	20	23	11	24
actual (millions)	69.4	76.7	35.2	78.4
- Multiengine - % covered	37	42	18	42
actual (millions)	69.1	76.7	33.5	76.6
- Turboprop - % covered	69	71	71	71
actual (millions)	26.7	27.3	27.3	27.3

This table illustrates the substantial increase in the level of safety under new Part 135.

APPENDIX B—REGULATORY ANALYSIS

ECONOMIC CONSEQUENCES

In analyzing the economic consequences of this final rule and its major alternative, primary emphasis was placed on the burdens placed on the commuter and on-demand air taxi operators in the domestic fleet. This analysis was accomplished in several phases. First, preliminary data on the industry cost impact of the part 135 changes in notice 77-17 of August 29, 1977, as amended on October 27, 1977, were developed through a scientific sample of commuter and on-demand air taxi operators conducted under contract. These estimates by sampled operators were then subjected to a detailed statistical analysis to enhance the precision of industrywide cost impacts. The industry cost estimates were then adjusted for changes between the notice and the final rule. The reasonableness of the final rule estimates developed through this statistical sampling technique was then tested by comparison to an independently derived set of judgmental estimates based on FAA staff expertise in commuter and on-demand air taxi operations. Finally, the relationship of these industry cost estimates to other more general economic consequences was assessed.

INITIAL COST IMPACT ASSESSMENT

To obtain information on all factors relevant to a determination of which proposed part 135 changes were appropriate for final rulemaking, the FAA required more detailed and consistent data on industry cost impacts than it had previously developed or received through the notice and public comment process. The FAA, therefore, commissioned an independent and comprehensive assessment of the cost impacts likely to result from the proposed changes. This assessment, which examined the impact of individual proposed changes as well as of all changes taken together, was conducted between February 6, 1978, and April 20, 1978, by the Aerospace Corp. with support from Gellman Research Associates, Inc.

OUTLINE OF STUDY

The cost impact assessment was structured to include the following major elements:

- Identification, classification and characterization of potential cost impact areas, through a detailed analysis of the notice and by comparison with the existing part 135, in light of known industry practices and procedures.
- Analysis and test of a classification system for air commuter and air taxi operators designed to differentiate the varying cost impacts of the proposed changes across the diverse elements of the industry.
- Development and implementation of an optimal allocation method for choosing a scientific sample of operators with reasonable assurance of achieving high statistical significance of the results.
- Conduct of 64 air commuter and 20 on-demand air taxi operator interviews, utilizing an interview format designed to produce data on the specifically identified cost impacts.
- Processing of the collected data to produce preliminary assessments of cost impacts of the air commuter and on-demand air taxi industries for individual and aggregated proposed changes to part 135.

Information on the structure, conduct, and results of this cost impact study, along with discussions of limitations on the data developed, are provided in the sections that follow. Full documentation of the study and its associated data bases is provided in the three-volume report, "Cost Impacts of FAR Part 135 Changes on the Commuter and Air Taxi Industries," May 1978, the Aerospace Corp., which is in the docket.

IDENTIFICATION OF PART 135 CHANGES

To begin the cost impact assessment process, it was necessary to develop an indepth analysis of existing part 135 and the changes proposed in notice 77-17. For this purpose, a matrix was prepared to:

- Identify specific changes to part 135 proposed in the notice;
- Summarize the proposed changes to each affected subpart of part 135;
- Appraise the potential for cost impacts to air commuter and on-demand air taxi operators according to size of aircraft and fleet size; and
- Define the data required to assess and quantify the potential operator cost impacts.
- Two additional steps were taken to assure that all proposed changes resulting in operator cost impacts were properly identified:
- First, comments received by the FAA under the notice and public comment process from industry members, trade associations, and others, were reviewed and incorporated into the cost impact matrix.
- Second, the draft cost impact classifications were reviewed by three major air commuters and two major on-demand air taxi operators with aircraft in the size ranges affected by the proposed changes.

As a result of the analysis and review process, 32 specific proposed part 135 changes were identified that were likely to impose operator cost impacts. These rules are listed in table 1 according to the four cost source categories: Equipment, Maintenance and Training, Revenue Loss (Gain), and Personnel Duty Time and Proficiency.

TABLE 1

NPRM 77-17 RULE CHANGES WITH COST IMPACTS

EQUIPMENT		MAINTENANCE/TRAINING		REVENUE LOSS (GAIN)		PERSONNEL DUTY TIME/PROFICIENCY	
NPRM NO.	DESCRIPTION	NPRM NO.	DESCRIPTION	NPRM NO.	DESCRIPTION	NPRM NO.	DESCRIPTION
135.63	FAA Inspector Seat	135.2	30-Passenger Size Allowance	135.57	Continuation of Flight Criteria	135.39, .41	Management Qualifications
						135.49	Flight and Duty Records
135.75	Baggage Restraints	135.23	Procedure Manual	135.149	Minimum Equipment List	135.85	Aircraft to Maintain Proficiency
						135.193	Pilot in Command ATP Requirements
135.77, .129	Oxygen Requirements	135.37	Financial Review	135.171, .185	Airport-Specific Weather Reports	135.197	Second in Command Ratings
135.125	Large Aircraft, Turbojet Equipment	135.53	Flight Irregularity Records	135.175	IFR Outside of Controlled Airspace	135.200-.219	Duty Time Limitations
135.127	Fire Extinguishers	135.237-.267	Training Program	135.179	Weather Reports and/or Forecasts	135.225	Competency Checks
135.137	IFR Equipment Requirements	135.333-.365	Maintenance Program	135.183	Alternate Airport Fuel	135.229	IFR Proficiency Checks
135.139	Life Preservers			135.187	Icing Condition Operations	135.231	VFR Line Checks
135.143	Shoulder Harnesses						
135.145	Thunderstorm Detection Equipment						
135.147	Crash Axe, etc.						

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Preliminary analysis also indicated that industry cost impacts could be differentiated into the following categories according to the type of cost that would be incurred by the air commuter or on-demand air taxi operator:

- Initial cost (the one-time charge for purchase and installation of equipment, for launch of a new training program, for preparation of manuals, and so forth).
- Annual normal recurring cost (continuing costs to maintain additional equipment, for upkeep of new manuals, for continuing new proficiency checks, for salaries of added personnel, and so forth).
- Annual revenue loss (attributable to curtailed operations due to equipment downtime, reduced numbers of revenue passengers or amount of cargo, and so forth) or revenue gain (realized from improved operations resulting from added flights permissible with more flexible weather reporting, added revenue passengers or cargo because of lower fuel requirements, and so forth).

INDUSTRY CHARACTERIZATION

In parallel with the cost impact identification activity, a major effort was undertaken to acquire the data base needed to identify and characterize the air commuter and on-demand air taxi groups and then divide them into more definitive subcategories for analytical purposes. Data was gathered from various FAA, Civil Aeronautics Board (CAB), and other sources. For purposes of this cost impact assessment, the CAB form 298 series data proved to be the single most useful source, although data collected on several FAA forms relating to aircraft registration, certification, and airport development also provided needed supplementary information. Additional data from several industry associations provided further information on specific air commuter and on-demand air taxi characteristics.

The FAA report "Commuter Air Carrier Operators as of September 1976" was used as the basis for identifying the air commuter population. The report was compiled from CAB form 298-C data for the third quarter of 1976. Adjustments were made to the 181 operators listed to correct for three duplicate listings and for the inclusion of six operators utilizing large (over 30-passenger) aircraft not relevant for this analysis. Consequently, the net population of air commuter operators was set at 172. While this population was known to be incomplete to a small degree because of late filings of quarterly information, the selection population of 172 operators does comprise those air commuters accounting for over 95 percent of operations performed by the portion of the air commuter industry affected by part 135 changes.

Population data for on-demand air taxis were derived from CAB form 298-D filings for calendar year 1976. A computerized data base for this information was developed for the first time to conduct this cost impact assessment. The data base indicates that there is a total domestic on-demand air taxi population of 2,273 operators. Thus, on-demand industry is an order of magnitude larger than the air commuter industry in terms of numbers of operators.

Based on an analysis of these data bases, it was determined that the total commuter population could be categorized into three groups according to the size of the fleet operated in commuter service: 1-4 aircraft, 4-10 aircraft, and more than 10 aircraft. Similarly, size of aircraft operated by air commuters could be grouped into three convenient categories: 0-9 seats, 10-19 seats, and 20-30 seats. The break points in aircraft size groupings correspond to the differing regulatory requirements proposed for each of these categories under the part 135 notice. Finally, to assess whether geographic differences were important in the incidence of

United States was divided into five areas corresponding to the following aggregations of the 11 FAA regions:

Area 1: Alaska, Northwest, Rocky Mountain regions.

Area 2: Pacific, Southwest, Western regions.

Area 3: Southern region, including Caribbean.

Area 4: Great Lakes and New England regions.

Area 5: Central and Eastern regions.

These groupings were based on the likelihood of the geographic areas exhibiting similar weather and terrain characteristics.

A scientific sampling procedure was developed for selecting those air commuters and on-demand air taxis to be interviewed. Based on priorities established by the FAA, about 75 percent of study team resources during the cost impact data collection process were devoted to the air commuter industry; thus, the air commuter sampling procedure was defined to yield 64 carriers, representing more than one-third of the identified population. On the other hand, the on-demand air taxi sampling procedure was defined to yield only 20 carriers. While this sample size is less than 1 percent of the industry, an analysis of the industry and the likely cost impacts indicated that it would be sufficiently representative for purposes of this study, except for helicopter and turbine aircraft operators, who were analyzed by nonsample techniques.

The air commuter sample was optimally allocated across the total population by utilizing a 45-cell matrix (three fleet sizes, three aircraft sizes, and five geographical regions). The on-demand air taxi sample was optimally allocated utilizing a 15-cell matrix (three aircraft sizes and five geographical regions). In accomplishing the on-demand air taxi allocation, the available data base required the use of a surrogate measure for aircraft size. For this purpose, passengers per departure was selected.

CONDUCT OF INTERVIEWS

The interview process was structured by the development of a comprehensive interview guide designed to obtain from each sampled operator: (1) Confirming demographic information, (2) raw cost data concerning individual proposed changes to part 135, and (3) confirming information from operators for use in validating the consistency of raw cost impact estimates. Some operators contacted found it inconvenient to participate because of the limited time available. Several of the on-demand air taxi operators selected had gone out of business. More than a dozen substitutions were identified for these various reasons, using a replacement algorithm in the scientific selection process.

ANALYSIS OF DATA

The data obtained through the interview process consisted of operator cost impact estimates for each of the 32 proposed regulatory changes. For each change, cost data was elicited in three categories: Initial cost; normal recurring cost; and recurring revenue loss (gain). A data processing computer program was developed to permit the aggregation of cost impacts over any specified subset of the changes for any specified population subset. The computer program developed expected (mean) value estimates of cost impacts, the standard error of those estimates, and a 0.9 confidence interval of the cost impact.

A number of instances were found where air commuter and on-demand air taxi operators indicated that a cost impact would result but were unable to make a specific cost estimate. These instances occurred most frequently where equipment items, such as shoulder harnesses and thunderstorm detection devices, would be required under the proposed part 135 change. For those cases, independent cost estimates were developed utilizing data from manufacturers of this equipment. In some instances, it was also found that an occasional operator estimate would be extremely high. These observations were carried through the calculations and reflected as operator estimates. Each such case was, however, given special consideration, and when it was determined that there was no peculiar characteristic of the operator that would justify the higher cost, an independent cost estimate was made based on manufacturer or industry data and a second cost impact calculation performed. Several "off-line" analyses were also made to acquire information on operators of turbojet equipment, large aircraft, and helicopters, because most of the sampled operators did not operate such equipment.

STATISTICAL ANALYSIS

The preliminary industry cost impact estimates were then subjected to a comprehensive analysis that included the following steps: (1) Examination of the sampling and estimating methods used in the preliminary analysis; (2) analysis of the probability distribution of the data; (3) determination of the sensitivity of the preliminary estimates to analytical methods employed in sampling and impact; (4) enhancement of the data to satisfy the initial conditions necessary for the application of various statistical techniques; (5) estimation of costs and benefits for various combinations of subgroups within the sample of commuters and on-demand air taxi industries; and (6) tests of significance for various estimates of the cost of the proposed rule changes as a whole and of the costs due to individual rule changes. This analysis is documented in the report "Analysis of the Relationship of Costs and Benefits Estimated for proposed revision to FAR Part 135," Gellman Research Associates, Inc., June 1978, which is in the docket.

RESULTS OF INDUSTRY COST ASSESSMENT

The results of the above analysis are presented in table 2 for each rule change proposed in the notice with an industry cost impact. In addition to totals for each of the commuter and on-demand air taxi sectors, detailed breakouts are provided according to the cost categories of initial, normal recurring and revenue loss (gain), as defined above. The major results are summarized below.

TABLE 2

RESULTS OF INDUSTRY COST IMPACT ASSESSMENT OF NPRM 77-17
(MEAN VALUES)

Item No.	NPRM Change No.	Description	Cost Element ($000)											
			Initial			Normal Recurring			Revenue Loss			Total		
			Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total
1	135.2	30-Passenger Size Allowance	0	0	0	-120	0	-120	0	0	0	-120	0	-120
2	135.23	Procedure Manual	110	1,463	1,573	108	138	246	0	0	0	218	1601	1,819
3	135.37	Financial Review	9	690	699	53	1,602	1,655	0	0	0	62	2292	2,354
4	135.39, .41	Management Qualifications	10	1,187	1,197	829	13,664	14,493	0	0	0	840	14851	15,690
5	135.49	Flight and Duty Time Records	0	0	0	298	3,464	3,762	0	0	0	298	3464	3,762
6	135.53	Flight Irregularity Records	4	0	4	94	428	522	0	0	0	98	428	526
7	135.57	Continuation of Flight Criteria	0	0	0	69	1,327	1,396	187	12	199	256	1339	1,595
8	135.63	FAA Inspector Seat	46	2	48	0	0	0	284	0	284	330	2	332
9	135.75	Baggage Restraints	224	473	697	0	0	0	0	0	0	224	473	697
10	135.77, .129	Oxygen Requirements	0	369	369	0	16	16	0	0	0	0	385	385
11	135.85	Aircraft to Maintain Proficiency	0	0	0	29	0	29	0	0	0	29	0	29
12	135.125	Large Aircraft & Turbojet Equipment	0	0	0	0	0	0	0	0	0	0	0	0
13	135.127	Fire Extinguishers	22	142	164	1	2	3	0	0	0	23	144	167
14	135.137	IFR Equipment Requirements	311	0	311	12	0	12	0	0	0	323	0	323
15	135.139	Life Preservers	3	0	3	0	0	0	0	0	0	3	0	3
16	135.143	Shoulder Harnesses	148	14	162	39	0	39	0	0	0	187	14	201

TABLE 2 (cont'd.)

Item No.	NPRM Change No.	Description	Cost Element ($000)											
			Initial			Normal Recurring			Revenue Loss			Total		
			Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total
17	135.145	Thunderstorm Detection Equipment	1,136	0	1,136	90	0	90	184	0	184	1,409	0	1,409
18	135.147	Crash Axe, etc.	0	0	0	0	0	0	0	0	0	0	0	0
19	135.149	Minimum Equipment List	0	16	16	0	0	0	0	0	0	0	16	16
20	135.171, .185	Airport Specific Weather Reports	18	473	491	22	81	103	1,043	16107	17,150	1,083	16661	17,744
21	135.175	IFR Outside of Controlled Airspace	0	0	0	-153	-1,890	-2,043	-90	0	-90	-243	-1890	-2,133
22	135.179	Weather Reports and/or Forecasts	0	0	0	69	-158	-89	-161	-1890	-2051	-92	-2048	-2,140
23	135.183	Alternate Airport Fuel	0	0	0	-218	0	-218	-11	-315	-326	-229	-315	-544
24	135.187	Icing Condition Operations	59	0	59	81	0	81	299	1576	1,875	439	1576	2,015
25	135.193	Pilot in Command ATP Requirements	143	0	143	342	0	342	0	0	0	485	0	485
26	135.197	Second in Command Rating	0	0	0	484	856	1,340	0	0	0	484	856	1,340
27	135.200-.219	Duty Time Limitations	0	0	0	5,648	19,287	24,935	165	7951	8,116	5,813	27238	33,051
28	135.225	Competency Checks	0	0	0	-176	-2,015	-2,191	0	0	0	-176	-2015	-2,191
29	135.229	IFR Proficiency Checks	0	0	0	-73	-221	-294	0	0	0	-73	-221	-294
30	135.231	VFR Line Checks	22	0	22	244	320	564	0	0	0	266	320	586
31	125.237-.267	Training Program	269	1,077	1,346	894	726	1,620	0	0	0	1,163	1803	2,966
32	135.333-.365	Maintenance Program	302	12	314	1,349	5,669	7,018	0	0	0	1,650	5681	7,331
		TOTAL	2,835	5,918	8,753	10,014	43,296	53,310	1,901	23441	25,342	14,750	72655	87,405

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Total first year cost impact on the air commuter industry for the proposals in the notice would be approximately $14.7 million, 81 percent of which would be expected to recur each year thereafter. The corresponding on-demand air taxi industry total first year costs would be approximately $72.7 million, 92 percent of which would be expected to recur annually.

For air commuters, the individual changes proposed to part 135 with the greatest first year cost impacts would be those related to duty time limitations, upgraded maintenance programs, thunderstorm detection equipment, training programs, and airports specific weather reports. For air taxis, the greatest first year cost impacts would be those related to duty time limitations, airport specific weather reports, revised management qualifications, the upgraded maintenance program, and flight and duty time records.

Individual rule changes affect different portions of the commuter air carrier and on-demand air taxi industries differently. For example, 34 percent of the proposed changes would affect less than 10 percent of commuter operators, while 25 percent of the proposed changes would have no effect on on-demand air taxis. Furthermore, the duty time limitation would affect three-quarters of both commuter and on-demand air taxi operators and account for approximately 47 percent of total estimated normal recurring net costs and 38 percent of total costs.

Some of the changes proposed to part 135 in the notice produce important operator cost savings, including, for example, the effects of greater flexibility in uncontrolled airspace IFR operations, new alternate airport fuel requirements, greater flexibility in interpreting weather reports, and greater proficiency-check flexibility. The total of cost savings identified by the operators would be $7.4 million, of which 87 percent would accrue to on-demand air taxi operators.

The estimates of initial and recurring costs developed in this study are aggregate, making it difficult to judge the intensity of the impact on the operators, either as a group or subdivided into specific subgroups. To facilitate interpretation of the cost impact data, a comparison of costs and revenues was developed for the air commuters. From this analysis, it was determined that the greatest potential cost impacts in relation to revenues would be on those operators using the smallest aircraft (0-9 passengers) and having the smallest fleet size (1-4 aircraft). Air commuter operators of small fleets of large aircraft (20-30 passengers) would also experience relatively large cost impacts. Taken as a whole, air commuter industry cost impacts would represent about 4½-percent of revenues.

ADJUSTMENTS FOR CHANGES TO NOTICE PROPOSALS

Of the 32 proposed rule changes in the notice with a total cost impact of $52,483,000, nine items had changes that produced lower estimates of industry impact in the development of the final rule by $19,085,000. Two of these changes resulted from the deletion of the proposed requirement and seven changes resulted from a modification of the proposed rule that lessened its economic impact. Only two changes involved clarification of assumptions regarding availability of alternative means to meeting the proposed rule. Two other items were deferred for further rulemaking action. The comparison of industry costs impacts for the final rule and its major alternative (notice 77-17), detailing these adjustments in cost impacts, is discussed below and summarized in table 3 by cost item.

TABLE 3

RESULTS OF COST IMPACT ASSESSMENT: FINAL RULE VERSUS NPRM 77-17 (MEAN VALUES)

Item No.	Rule Section No.	NPRM Section No.	Section Title	Final Rule Cost Impact ($000)										Total Cost NPRM Basis
				Initial			Normal Recurring			Revenue Loss			Total	
				Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total		
1	135.2	(135.2)	Air Taxi Operations with Large Aircraft	0	0	0	-120	0	-120	0	0	0	-120	-120
2	135.21	(135.23)	Manual Requirements	110	1,463	1,573	108	138	246	0	0	0	218	1,601	1,819	1,819
3	Deleted	(135.37)	Periodic Financial Status Review	0	0	0	0	0	0	0	0	0	0	0	0	2,354
4	135.37, .39	(135.39, .41)	Management Personnel Required and Qualifications	8	712	720	663	8,198	8,861	0	0	0	671	8,910	9,581	15,690
5	135.63	(135.49)	Recordkeeping Requirements													3/
6	135.65	(135.53)	Reporting Mechanical Irregularities	4	0	4	94	428	522	0	0	0	98	428	526	526
7	135.69	(135.57)	Restriction or Suspension of Operations: Continuation of Flight in an Emergency	0	0	0	69	1,327	1,396	187	12	199	256	1,339	1,595	1,595
8	135.75	(135.63)	Inspection Credentials: Admission to Pilots Compartment: Forward Observers Seat	28	2	30	0	0	0	170	0	170	198	2	200	332
9	135.87,	(135.75)	Carriage of Cargo Including Carry on Baggage	224	473	697	0	0	0	0	0	0	224	473	697	697
10	135.89, .157	(135.77, .129)	Pilot Requirements: Use of Oxygen and Oxygen Equipment Requirements	0	0	0	0	0	0	0	0	0	0	0	0	385
11	135.97	(135.85)	Aircraft and Facilities for Recent Flight Experience	0	0	0	29	0	29	0	0	0	29	0	29	29
12	135.149, .151, .153	(135.125)	Equipment Requirements: General and Cockpit Voice Recorders and Ground Proximity Warning System	0	1,200	1,200	0	150	150	0	0	0	0	1,350	1,350	1,890 1/
13	135.155	(135.127)	Fire Extinguishers: Passenger-Carrying Aircraft	0	0	0	0	0	0	0	0	0	0	0	0	167
14	135.165	(135.137)	Radio and Navigation Equipment: Extended Overwater or IFR Operations	311	0	311	12	0	12	0	0	0	323	0	323	323
15	135.167	(135.139)	Emergency Equipment: Extended Overwater Operations	3	0	3	0	0	0	0	0	0	3	0	3	3
16	135.171	(135.143)	Shoulder Harness Installation at Flight Crewmember Stations	148	14	162	39	0	39	0	0	0	187	14	201	201

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TABLE 3 (Continued)

RESULTS OF COST IMPACT ASSESSMENT: FINAL RULE VERSUS NPRM 77-17 (MEAN VALUES)

Item No.	Rule Section No.	NPRM Section No.	Section Title	Final Rule Cost Impact ($000)										Total Cost NPRM Basis
				Initial			Normal Recurring			Revenue Loss			Total	
				Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	Commuters	Air Taxi	Total	
17	135.123	(135.145)	Airborne Thunderstorm Detection Equipment Requirements	1,136	0	1,136	90	0	90	184	0	184	1,410	0	1,410	1,410
18	135.177	(135.147)	Emergency Equipment Requirements for Aircraft Having a Passenger Seating Configuration of More than 19 Passengers	0	0	0	0	0	0	0	0	0	0	0	0	0
19	135.179	(135.149)	Inoperable Instruments and Equipment for Multi-Engine Aircraft	0	16	16	0	0	0	0	0	0	0	16	16	16
20	135.213, .225	(135.171, .185)	Weather Reports and Forecasts and IFR: Takeoff, Approach and Landing Minimums	18	473	491	22	81	103	1,043	9,664	10,707	1,083	10,218	11,301	17,744
21	135.215	(135.175)	IFR Operating Limitations	0	0	0	-153	-1,890	-2,043	-90	0	-90	-243	-1,890	-2,133	-2,133
22	135.219	(135.179)	IFR: Destination Airport Weather Minimums	0	0	0	69	-158	-89	-161	-1,890	-2,051	-92	-2,048	-2,140	-2,140
23	135.223	(135.183)	IFR: Alternate Airport Requirements	0	0	0	-218	0	-218	-11	-315	-326	-229	-315	-544	-544
24	135.227	(135.187)	Icing Conditions Operating Limitations	0	0	0	0	0	0	0	0	0	0	0	0	2,015
25	135.243	(135.193)	Pilot in Command Qualifications	143	0	143	342	0	342	0	0	0	485	0	485	485
26	135.245	(135.197)	Second in Command Qualifications	0	0	0	200	200	400	0	0	0	200	200	400	1,340
27	135.261	(135.200-.219)	Flight and Duty Time Limitations													2/
28	135.293	(135.225)	Initial and Recurrent Pilot Testing Requirements	0	0	0	-176	-2,015	-2,191	0	0	0	-176	-2,015	-2,191	-2,191
29	135.297	(135.229)	Pilot in Command: Instrument Proficiency Check Requirements	0	0	0	-73	-221	-294	0	0	0	-73	-221	-294	-294
30	135.299	(135.231)	Pilot in Command: Line Checks: Routes and Airports	22	0	22	244	320	564	0	0	0	266	320	586	586
31	135.321-.351	(135.237-.267)	Training	269	1,077	1,346	894	726	1,620	0	0	0	1,163	1,803	2,966	2,966
32	135.411-.443	(135.333-.365)	Maintenance, Preventive Maintenance, and Alterations	302	12	314	1,349	5,669	7,018	0	0	0	1,651	5,681	7,332	7,332
	TOTAL			2,726	5,442	8,168	3,484	12,953	16,437	1,322	7,471	8,793	7,532	25,866	33,398	52,483

1/ These costs are from a special "off-line" analysis because the sample of small air taxi operators did not include operators of affected turbojet aircraft.

2/ Flight and duty time limitation and associated recordkeeping deferred for further rulemaking action. See discussion in accompanying text.

3/ Major cost impacts in recordkeeping relate to flight and duty time and are, therefore, deferred. Other cost impacts are negligible.

NOTE: The estimates provided in this table are refined from the preliminary figures provided in the study "Cost Impact of FAR Part 135 Changes on the Commuter and Air Taxi Industries, May 1978. The revised estimates for cost impacts of the proposed rule can be found in the study "Analysis of the Relationships of Costs and Benefits Estimated for Proposed Revisions to FAR Part 135, June 1978." Comparison of the preliminary and revised estimates are shown in Figure 4-23, pages 83 to 85 of the latter report. A discussion of the methods of estimation and data base enhancement are included in Sections III and IV of that report. These reference reports are available for review in docket number 16097.

Cost reductions resulting from the deletion of requirements between the notice and the final rule total $4,369,000 and involves financial reviews and icing conditions operations (items 3, 24).

The proposed rule on management requirements (item 4) was modified to be more flexible. In addition, FAA believes that operator estimates took inadequate consideration of the cost reducing option for deviations that would be authorized for equivalent experience. Since on-demand air taxis would normally have less equipment and personnel and would benefit more by combining management positions, their cost impact was reduced more than that for the commuters. Similarly, the cost impact of the proposed rule on airport weather reports (item 20) was reduced for the on-demand air taxi estimate of revenue loss because of inadequate consideration by the operators of alternative means available including amendment of operating specifications for alternative sources of weather reports. These two adjustments resulted in cost impact reductions of $6,109,000 and $6,443,000, respectively.

Item 8, § 135.75, providing a forward observer seat for FAA inspectors, drew negative comment. The final rule was written to state what type of communication equipment was required to be furnished to the FAA inspector. In addition, the preamble clarified that it would not be FAA policy to "bump" revenue passengers unnecessarily. This resulted in a reduction of the estimated cost impact from $332,000 to $200,000.

Item 10, §§ 135.89 and 135.157, pilot requirements for use of oxygen and oxygen equipment requirements, was modified from the notice to the final rule in light of the comments received. This resulted in a reduction of the estimated cost impact from $385,000 to zero.

Item 13, § 135.155, fire extinguishers, was changed from requiring a fire extinguisher in the passenger compartment of each aircraft seating at least six passengers to an aircraft seating at least 10 passengers. This resulted in a reduction of the cost impact from $167,000 to zero.

Item 12, §§ 135.149, 135.151, and 135.153, equipment requirements, was reduced from the original notice by $540,000 by eliminating the flight data recorder requirement. Safety of flight will not be compromised by such a withdrawal.

It was estimated that § 135.245, second in command qualifications, would have an estimated cost of $1,340,000. The FAA believes that this figure is too high since only a few operators out of a very small sample reported an impact. When extrapolated to the total population, the estimated cost has been reduced to $400,000 (item 26). Also, many pilots currently serving in part 135 operations already possess the necessary rating since the ratings are required under the present rule for certain type operations.

FINAL RULE COST IMPACT ANALYSIS

When all adjustments to the notice are considered, the estimated first year costs to the industry will be $33,398,000. Of this total, $8,168,000, or 25 percent, will be initial costs; $16,437,000, or 49 percent, will be normal recurring costs; and $8,793,000, or 26 percent, will be from estimated revenue loss. The estimated cost of the significant changes to commuter air carriers is $2,726,000 in initial costs and $5,808,000 in annual recurring costs. The annual recurring costs are partially offset by estimated annual recurring savings of $1,002,000. The estimated initial cost to the air taxi segment is $5,442,000 with an annual recurring cost of $26,913,000. The annual recurring costs are partially offset by estimated annual recurring savings to the air taxi industry of $6,489,000.

In addition to the cost estimates derived from the scientific sampling of air commuter and on-demand air taxi operator estimates, the FAA conducted its own independent analysis of these proposed rules and their likely industry cost impacts. These estimates closely approximate the operator estimates taken as a whole across all rule changes. Estimates for individual cost items vary to some extent, reflecting differences primarily in assumptions as to current industry equipage and practice and the availability of alternative means for meeting proposed requirements.

In notice 77-17, four major proposals were highlighted as having major additional costs. Following a review of the response to notice 77-17 and the study of other pertinent data, the cost estimates of the economic impact of revised part 135 rules were reevaluated. These proposals are discussed below.

The first proposed to require airborne thunderstorm detection equipment for all equipment for all multiengine aircraft conducting passenger-carrying operations and having a passenger seating configuration of 10 seats or more, excluding any pilot seat. The FAA estimates that the airborne thunderstorm detection equipment requirement would result in an initial cost of $1,136,000 and an annual recurring cost including the loss of revenue of $274,000 (item 17).

The second proposed to require the use of a continuous maintenance program for all aircraft certificated to carry 10 passengers or more, exclusive of flight crew. The FAA estimates the initial cost to comply with this program will be $314,000 and the annual recurring cost will be $7,018,000 (item 32).

The third proposed to require all aircraft carrying 10 or more passengers to be type certificated in the transport category by 1984. This proposal was withdrawn by notice 77-17A.

The fourth proposed to require all turbojet aircraft, with a passenger seating configuration, excluding any pilot seat, of 10 passengers or more, to have a CVR, FDR, and GPWS installed. The requirement for an FDR is deleted in the final rule. Section 135.153 provides for approval of an alternate GPWS to that required. The initial cost is estimated to be $1,200,000 and the annual recurring cost to be $150,000 (item 12).

There were other sections of the proposed rules which, on further evaluation, do have a cost impact which should be discussed. These cost estimates are based on an analysis of imput received from part 135 operators and FAA evaluation. The following rules are expected to have an impact.

Section 135.21 (item 2) requires a manual setting forth the certificate holder's procedures and policies. Since a manual is already required by current part 135, there is only an incremental cost required to include additional information in the manual regarding the crew training program, the maintenance personnel data, and other company policy. In addition, some costs will be incurred for printing and distributing the revised manual. The FAA estimates this requirement will initially cost $1,573,000 and annual recurring costs will be $246,000.

Item 4, §§ 135.37 and 135.39 regarding management personnel requirements and qualifications will also increase costs to the operators. The rule has been revised from the notice to allow the director of operations and chief pilot to have a commercial pilot certificate instead of an ATP certificate. An ATP certificate would only be required if the certificate holder is conducting operators which would require the pilot in command to hold an ATP certificate. This would involve only a small portion of the certificate holders. The management personnel of many of these operators already meet this requirement. It should be noted that the rule provides for deviation authority from the FAA in combining positions or authorizing different positions when the size of the organization cannot support the type and number of positions in the rule. The FAA can also grant deviations from the experience requirements. Many operators were concerned that

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deviations would not be granted except in very unusual cases. Consequently, it appears they overestimated the cost impact.

A majority of the operators now have a management organization to some extent, thus, only minor changes would be required to meet the new rules regarding the number of persons and additional qualifications. The estimated additional cost to initially meet this requirement is $720,000 and annual recurring costs are estimated to be $8,861,000.

The recordkeeping changes as required by § 135.63 (item 5) also involve quantifiable cost increases. The primary additional cost factor in this area is in maintaining records for flight and duty time limitations. The proposals in subpart F dealing with flight and duty time limitations are deferred; consequently, the additional recordkeeping provision is also deferred and cost impacts, being minimal, are deleted.

A new requirement in § 135.69 to restrict or suspend operations, if conditions hazardous to safe operations are known to exist, is estimated to result in annual recurring costs of $1,595,000 (item 7).

New subpart H sets forth requirements for training and for the development of a training program. The estimated cost to initially meet these requirements is $1,346,000, with estimated annual recurring costs of $1,620,000 (item 31).

Section 135.87 (item 9), regarding the stowage of cargo and carry-on baggage, will require some modifications to be made to certain aircraft, especially in the stowage of under seat baggage. The estimated initial cost to industry is $697,000 with little annual recurring costs.

The proposals in subpart F (item 27), dealing with flight and duty time limitations, are deferred. Consequently, all potential cost impacts have been deleted.

Under the provisions of § 135.213, weather reports and forecasts and § 135.225, IFR: takeoff, approach and landing minimums (item 20), no pilot may begin an instrument approach to an airport unless the airport has designated weather reporting facilities. The weather reporting facility must be operated by the U.S. National Weather Service, a source approved by it, or a source approved by the Administrator. However, an operator's operations specifications may be amended, under certain circumstances, to allow weather observations to be taken at a location other than on that airport, thus allowing an operation to be conducted into that airport. The FAA estimates this rule change will result in an initial cost of $491,000 and an annual recurring cost including revenue loss of $10,810,000.

There are other rule changes, such as reporting mechanical irregularities (§ 135.65), aircraft and facilities for recent flight experience (§ 135.97), radio and navigation equipment requirements (§ 135.165), emergency equipment: extended overwater operations (§ 135.167), shoulder harness installation (§ 135.171), minimum equipment list (§ 135.179), pilot in command qualifications (§ 135.243), second in command qualifications (§ 135.245), and line checks (§ 135.299), which will have a total initial estimated cost of $881,000 and a total annual recurring cost of $1,908,000 (items 6, 11, 14, 15, 16, 19, 25, 26, 30).

Various changes were proposed to the current part 135 rules which will result in a cost savings to the part 135 operators. The implementation of §§ 135.1 and 135.2 will result in a savings because of the authorization to use larger aircraft under part 135 rules with the advantage of carrying more passengers or heavier payloads.

Section 135.177 (item 18), regarding the use of a minimum equipment list for multiengine aircraft, will result in an overall cost savings to the operators, especially commuter air carriers, who elect to take advantage of its provisions. However, if an ATCO certificate holder elects not to apply for such approval, no costs savings would be realized.

Another section where savings will be realized is that regarding IFR operating limitations, § 135.215 (item 21). This rule contains provisions relaxing IFR operations outside of controlled airspace and at airports that do not have approved procedures. The majority of the savings will accrue to on-demand air taxi operators.

The relief granted operators regarding destination airport requirements for IFR operations in § 135.219 will also result in cost savings to both commuter air carriers and air taxi operators. The rule allows over-the-top operations and the use of weather reports or forecasts or any combination of them for landing minimums at the destination airport (item 22).

In § 135.223 (item 23), the alternate airport weather minimum requirements for IFR operations have been amended to allow operators more flexibility in determining when an alternate airport would be necessary in flight planning. Reduction in fuel weight will reduce operating costs.

Section 135.293 (item 28) pertains to initial and recurrent pilot flight testing requirements. The use of simulators and relaxation of the requirements pertaining to each type of aircraft to be flown by the pilot for the check and the extent of maneuvers to be given, should result in a cost savings.

The last item deals with pilot in command, instrument proficiency checks, § 135.297 (item 29). Savings would result because a simulator could be used for a portion of the check. Additionally, only three typical instrument approach procedures need to be demonstrated in order for the pilot to be issued a letter of competency for all types of instrument approach procedures.

It is estimated that these changes (items 1, 18, 21, 22, 23, 28, and 29) will save commuter air carriers and on-demand air taxi operators $7,442,000 annually.

PART 121

§ 121.9 *Operations of airplanes having a maximum passenger seating configuration of 30 seats and a maximum payload capacity of 7,500 pounds or less.*

One commenter suggests that § 121.9 should except part 121 certificated air carriers from compliance with §§ 135.37 and 135.39 on management personnel requirements and qualifications. The commenter claims these requirements now are in part 121, those certificate holders already meet them and the part 121 rules meet or exceed those in part 135. The commenter submits safety would not be enhanced by requiring compliance with §§ 135.37 and 135.39 and compliance would be burdensome. These comments have merit, although the parallel part 121 rules apply only to supplemental air carriers and commercial operators. However, the corporate structure and management personnel qualifications of the domestic and flag air carriers are sufficient and the rule excepts those sections.

One commenter states that scheduled air carriers operating airplanes qualifying under part 135 should have an option to conduct their scheduled operations with those aircraft under either part 135 or part 121. Section 135.2(d) allows an operator who is now conducting operations in aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, to continue operating under part 121 rules for supplemental air carriers, if the operator elects to do that.

Two commenters suggest that part 121 and part 135 operators should have the option to selectively apply appropriate provisions of part 121 with the approval of the Administrator. They state that this provides a higher level of safety. The revision of part 135 achieves an appropriate level of safety and the suggestion would create administrative difficulties in

the uniform application of the rules to part 135 operators.

One commenter recommends that the maximum number of passengers and the maximum payload of each aircraft should be limited by Aircraft Flight Manual data, instead of specifying a passenger seating configuration or payload capacity in the rule. This comment is discussed at length under § 135.1.

One commenter suggests changing the title of part 135 to "Air Charter Operators and Commercial Operators" because the term "Air Taxi" is demeaning. The Civil Aeronautics Board established this classification of exempt air carriers and designated them as "Air Taxi Operators" in 14 CFR Part 298. The term now is widely used by the aviation industry and the traveling public. This segment of aviation offers both on-demand and scheduled service. The term "Air Taxi" is not generally described or known as demeaning in aviation circles or by users.

Current § 121.9(b) is no longer needed since the dates have passed and it is deleted.

§ 121.13 *Rules applicable to helicopter operations: Deviation authority.*

Revised part 135 applies to aircraft having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less. Current part 135 applies to "small aircraft," as defined in § 1.1. The reference in § 121.13 to the operation of a "small helicopter" is changed to be consistent with revised part 135.

PART 127

§ 127.5 *Operation of airplanes having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less.*

Section 127.5 is amended to be consistent with §§ 121.9, 121.11 and revised part 135 for the reasons just discussed. Current § 127.5(b) is no longer needed since the dates have passed and it is deleted.

SPECIAL FEDERAL AVIATION REGULATIONS (SFAR)

SFAR 23, "Airworthiness Standards; Small Airplanes Capable of Carrying More Than 10 Occupants," was issued on December 27, 1968 (34 FR 189; January 7, 1969). SFAR 23 is deleted from Title 14 CFR because it no longer is of current effect. Appendix A of part 135 supersedes SFAR 23 for airplanes type certificated after July 19, 1970 (see § 135.169(b)). This deletion does not affect the type certification basis of airplanes which demonstrated compliance with SFAR 23 before July 19, 1970. Appendix A is republished without substantive change in revised part 135.

Sections 135.151 and 135.153 supersede two other SFAR and they are revoked: SFAR 30, "Ground Proximity Warning Systems" and SFAR 33, "Flight Recorders and Cockpit Voice Recorders." Compliance with §§ 135.151 and 135.153 is discussed in detail above.

PART 135

SUBPART A—GENERAL

§ 135.1 *Applicability.* (*Proposed § 135.1.*)

One commenter on § 135.1(a)(3) recommends that the words "other than air carrier" and "commercial operations" be deleted. Part 135 applies both to commercial operator operations for compensation and hire and to air taxi operators who are exempt air carriers under 14 CFR Part 298. They are not the same and § 135.1(a)(3) is necessary.

One commenter on § 135.1(a)(3) states the limitations on the size of aircraft operated under part 135 should be determined under the Aircraft Flight Manual instead of specifying a passenger seating configuration or payload in the rule. An Aircraft Flight Manual contains technical data on operating limitations and flight parameters. The manual applies to a particular aircraft and not to all aircraft of the same make and model. Many manuals may not contain information on maximum passenger seating or payload capacities. A clear standard is necessary so there is no question about the applicability of revised part 135.

One commenter recommends that "on-demand" air taxi certificate holders be designated as category I, that they be considered "single entity charter" flights and that a category II apply to commuter air carriers and large airplane operators. Separating "on-demand" and commuter air taxi operators was considered in developing revised part 135. This concept was included in proposals considered during the part 135 Review Conference held at Denver in 1976. The concept was discussed at length during the conference. As discussed in the preamble of notice 77-17, rules based upon aircraft size (9 passengers or less excluding pilot seats and 10 passengers or more excluding pilot seats) are adopted to insure equal application of revised part 135.

One commenter states that part 135 should apply to sightseeing flights. Current § 135.1(b)(2) excepts sightseeing flights from part 135 and no facts have come to light that justify a change. The part 91 rules on flight operations and maintenance provide adequately for these operations.

Several commenters state that § 135.1(b)(7) is too restrictive. This exception to part 135 allows a limited kind of operation (for example, Santa Claus flights from an airport to a shopping center and back). The restrictions are necessary in the interest of safety. Of course, these operations are subject to part 91.

Another commenter objects to § 135.1(b)(7) because it prohibits sightseeing flights in helicopters. Section 135.1(b)(2) excepts from part 135 "nonstop sightseeing flights that begin and end at the same airport, and are conducted within a 25-statute-mile radius of that airport." This exception applies to sightseeing flights in any aircraft. Section 135.1(b)(7) applies to a more limited operation (for example, Santa Claus flights) that involves one or more stops. Section 135.1(b)(7)(iv) is changed to have the operator notify the "FAA Flight Standards District Office responsible for the geographic area concerned."

One commenter recommends retaining current § 135.1(b)(7) that excepts from part 135 "any other operation approved by the Administrator." The commenter states this rule provides operational flexibility. The commenter does not explain what operational flexibility is needed or cite examples of using that section in its operations. There is no provision like current § 135.1(b)(7) in any other Federal aviation regulation. There is no record of any recent use of that section. Part 11 provides procedures for obtaining exemptions and for petitioning for rulemaking. Several sections in the revised part 135 also contain deviation authority. In this light and in the absence of any persuasive justification from the commenter, current § 135.1(b)(7) is not included in the rule.

Several instances have occurred in which a person desires to carry without charge a candidate in a Federal election. The candidate must pay for the carriage under the rules of the Federal Election Commission (11 CFR Chapter I). Ordinarily, receipt of payment for carriage is an operation for compensation or hire and requires a part 135 certificate. Carriage of candidates is infrequent and the operator does not intend to engage in the business of an air carrier or commercial operator. A new § 135.1(b)(10) is added to except this carriage in an aircraft to which part 135 would otherwise apply. There are two conditions: (1) The principal business of the aircraft operator must not be that of an air carrier or commercial operator; and (2) the payment must be required and may not exceed the amount required by the Federal Election Commission rules. The FAA contemplates issuance of a special Federal aviation regula-

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tion which will relax the requirements of part 121 and present part 135 in time for the November 1978 Federal elections.

§ 135.2 *Air taxi operations with large aircraft.* (*Proposed § 135.2.*)

One commenter on § 135.2 recommends that the maximum passenger seating capacity of the aircraft operated under part 135 should be governed by the economic regulations of the Civil Aeronautics Board (14 CFR Part 298). Changes to the Board's rules then would automatically change the applicability of part 135. This would constitute a derogation of the FAA's responsibility for safety. Each change in the Board's definition of aircraft size could have significant safety implications. To properly discharge its responsibility for aviation safety, the FAA must conduct a thorough evaluation. If a change is appropriate, rulemaking is initiated to amend the Federal aviation regulations. For example, the Board is considering changes to the economic rules (14 CFR Part 298) that would allow larger aircraft to be used in air taxi operations. The FAA is now reviewing those proposals to determine what, if any, changes are appropriate in the safety rules.

One commenter wants the limits specified in the Airplane Flight Manual to determine the size of the airplane, the number of passengers and the payload for operations under § 135.2. This comment is discussed at length under § 135.1.

Two commenters state the definition of "maximum zero fuel weight" in § 135.2(e)(1) is not clear but did not elaborate. The definition of "maximum zero fuel weight" is defined in § 135.2(e)(3) and is the definition of 14 CFR 298.2.

Section 135.2(d) is advised to provide for compliance as discussed above.

§ 135.3 *Rules applicable to operations subject to this part.* (*Proposed § 135.3.*)

A sentence is added to § 135.3(b) to cite the incorporation of annex 2 by reference in § 91.1(c) and proposed paragraph (c) is withdrawn.

§ 135.5 *Certificate and operations specifications required.* (*Proposed § 135.7.*)

The commenter of § 135.5 states the limitations on the size of aircraft operated under part 135 should be determined under the Aircraft Flight Manual instead of specifying passenger seating configuration or payload in the rule. This comment is discussed at length under § 135.1.

§ 135.9 *Duration of certificate.* (*Proposed § 135.11.*)

Most commenters on § 135.9(a) suggest that the time for the certificate holder to return a revoked or suspended certificate should be 10 working days instead of 10 days. This comment has merit and the rule specifies no time for returning the certificate. Section 135.9(b) is added to provide for compliance as discussed above.

§ 135.10 *Compliance dates for certain rules.* (*New.*)

New § 135.10 is added to provide for compliance as discussed above.

§ 135.11 *Application and issue of certificate and operations specifications.* (*Proposed § 135.13.*)

Most commenters on § 135.11(b)(2) object to listing the "type" aircraft subject to the maintenance program in the certificate holder's operations specifications. They argue the rule is less flexible than the current rule. They claim delays will result when the operations specifications are amended to add or delete aircraft. They observe that they now must maintain a current list of aircraft that is available to the FAA on request. These comments have merit and this requirement is deleted. However, the make, model, and registration number of each aircraft that is subject to a continuous airworthiness maintenance program must be in the operations specifications to identify these aircraft to which the program applies.

Some commenters on § 135.11(b)(2) object to listing of registration numbers in the operations specifications regardless of the maintenance program required under part 135. Section 135.11(b)(2) requires this listing only for aircraft inspected under § 135.419 (an approved aircraft inspection program) or under § 135.411(a)(2) (a continuous airworthiness maintenance program). This is required under current part 135.

Several commenters on § 135.11(b)(2) object to listing "maintenance items required by the Administrator." Although they do not object to listing "time limitations," they argue the listing of maintenance items is not contained in comparable provisions of part 121. Listing additional maintenance items under § 135.11(b)(2) is limited, by reference to § 135.421, to those aircraft that are type certificated for a passenger seating configuration, excluding any pilot seat, of nine seats or less. This rule is necessary because there now are no time limitations or standards for those items which must be part of a maintenance program under § 135.421.

One commenter states that § 135.11(b)(2) is ambiguous. The comment has merit and § 135.11(b)(2) is reorganized for clarity.

§ 135.13 *Eligibility for certificate and operations specifications.* (*Proposed § 135.15.*)

Commenters on § 135.13(b)(2) object because the rule prevents an otherwise competent individual from obtaining employment with an applicant for an ATCO operating certificate. Section 135.13(b)(2) is similar to § 121.51(b)(2). Noncompliance data is a significant factor to consider with an application for an ATCO operating certificate. Similar information has been helpful in evaluating air carrier applicants and the persons they propose for management positions. The FAA revokes an operating certificate only for a very serious infraction of the regulations. If a person contributes materially to that infraction, this fact should be considered as a factor in evaluating the new application. This does not mean the approval of the application or employment position will be automatically withheld, but that each situation will be carefully evaluated on its merits.

Some commenters recommend a time limit so an individual is not subject to a "life sentence" due to a past violation. This comment was carefully evaluated but it is too rigid and impractical. After an operating certificate is revoked the FAA evaluates the performance and reliability in aviation employment of the people involved over a reasonable period of time. This varies from case to case.

§ 135.19 *Emergency operations.* (*Proposed § 135.21.*)

One commenter on § 135.19 states that the FAA should request a report when a deviation occurs. The other commenter suggests the report should be filed in 10 working days. The FAA would not know when a deviation occurs in most cases and thus could not request a report. To allow greater flexibility in filing a report, the reporting period is changed to 10 days excluding Saturdays, Sundays, and Federal holidays.

§ 135.21 *Manual requirements.* (*Proposed § 135.23.*)

The proposed rule contained too many paragraphs and it is divided into two sections for simplicity. Section 135.21 contains only the manual requirements (proposed paragraphs (a) and (c) through (h)). Section 135.23 contains the manual contents (Proposed paragraph (b)).

Two commenters on § 135.23(a) claim the deviation authority would not be consistently applied by regional and district offices. This provision is in the current rule and is meant to provide relief for smaller operators. No administrative problems have been encountered in dealing with deviation requests in the past.

Several commenters object to the phrase "acceptable to the Administrator" in § 135.21(a) because it gives the FAA too much latitude regarding manuals and uniform nationwide administration by the FAA will be a problem. Responsibility for determining whether a manual is acceptable insures that manual contents are correct, are not contrary to the rules and are adequate for the operations the certificate holder proposes to conduct. District offices have extensive experience in reviewing and accepting manuals.

Section 135.21(d) is changed so that a copy of the manual or appropriate portions must be "available" (not "furnished") to ground personnel to reduce the number of copies the certificate holder must prepare.

Section 135.21(g) is revised to allow a certificate holder who performs maintenance at specified stations to keep the appropriate sections of its manual at the station rather than carry it aboard the aircraft. The FAA believes this change is necessary since maintenance, in addition to inspections, may be performed at specified stations where a certificate holder provides the appropriate sections of its manual.

§ 135.23 *Manual contents.* (*Proposed § 135.23.*)

As discussed under § 135.21, new § 135.23 contains the rules on manual contents. Several commenters on § 135.23 object to requiring the manual to be in a form acceptable to the Administrator. They state the certificate holder should be responsible for the manual's form as long as it contains all of the required information. These comments have merit and that requirement is deleted.

Several commenters on § 135.23(a) state that "identity" requirement for management personnel is ambiguous. Section 135.37(a) identifies the management personnel required to be identified under § 135.23(a). Section 135.23 is clarified to reflect that.

Several commenters argue that § 135.23 (f), (g), and (h) are difficult to understand, should not be in the rules or should be in subpart J. These procedures are necessary in the certificate holder's manual for the pilot in command to report and record discrepencies, to determine the airworthiness status of the aircraft and to arrange for the maintenance or servicing of the aircraft. They are in current part 135.

Three commenters on § 135.23(p) state that the wording is excessive and unclear. This rule requires each certificate holder to train personnel to recognize hazardous material if presented for shipment even though the certificate holder has a policy prohibiting its carriage. This is the minimum training needed to recognize hazardous materials and limits the possibility of inadvertently carrying this material. Certificate holders who carry hazardous material need more extensive training to comply. Section 135.23(p) is revised for clarity.

The regulations of the Department of Transportation governing the transportation of hazardous materials in aircraft are in 49 CFR Parts 171 through 173 and 175. They are issued under the Hazardous Materials Transportation Act (49 U.S.C. 1801-1812). The Secretary of Transportation has delegated to the FAA Administrator (under 49 CFR 1.47(k)) the functions vested in the Secretary under sections 109, 110, and 111 of the Hazardous Materials Transportation Act relating to investigations, records, inspections, penalties, and specific relief for shipment of hazardous materials by air. The FAA's enforcement procedures for cases involving air transportation or shipment of hazardous materials are in part 13 of the Federal Aviation Regulations.

§ 135.25 *Aircraft requirements.* (*Proposed § 135.25.*)

Two commenters on § 135.25 state that certificate holders should have exclusive use of each aircraft used in their operation. They claim this provides adequate control for proper maintenance and use of the aircraft. Requiring operators to either own or have exclusive use of each aircraft they operate might be desirable. However, the current rule adequately insures proper control over maintenance and also is sufficiently flexible. A more stringent rule is not justified at this time.

One commenter states that § 135.25 should prohibit use of the same aircraft by two different air taxi operators. This practice is acceptable if the operator has a written agreement with the aircraft owner regarding its use which also deals with performing maintenance. If a certificate holder has an exclusive use agreement for an aircraft, that person may authorize another certificate holder to use it. However, only one certificate holder at a time can have an exclusive use contract for a given aircraft.

Another commenter states that § 135.25(b) is not necessary. This rule is in current part 135. There is no justification for changing it in the revision of part 135. An applicant or a certificate holder should reasonably expect to either own or have exclusive use of at least one aircraft and the rule provides positive control for both operation and maintenance of that aircraft.

§ 135.37 *Management personnel required.* (*Proposed § 135.39.*)

Commenters on § 135.37 object to the management requirements because sufficient justification was not presented, they lack provisions for the small operator and they overly complicate establishing and operating an air taxi operation.

Specific management personnel must be required in this revision of part 135. The increasing complexity of part 135 operations requires a management organization adequate to ensure that the operations are conducted safely. Different kinds and sizes of operations exist. Thus, § 135.37(a) is changed so the rule does not apply when the certificate holder is the only pilot. Also, § 135.37(b) provides for deviations. The Administrator may approve different positions or numbers of positions if the operation can be safely performed with fewer or different positions than § 135.37(a) requires. This flexibility also is necessary because of the varying size and complexity of part 135 operations. The FAA district office handles the request because they are familiar with the scope of the certificate holder's operation. Before approval, an evaluation is made to determine if a safe operation can be conducted.

Several commenters object to requiring the address of persons listed in § 135.37(c)(2). This comment has merit and the requirement is deleted.

One commenter states § 135.37 is more stringent than similar requirements in part 121, but fails to explain that contention.

§ 135.39 *Management personnel qualifications.* (*Proposed § 135.41.*)

Commenters on §§ 135.39 (a) and (b) object to requiring the director of operations and the chief pilot to hold an airline transport pilot (ATP) certificate. Most of these comments are from small operators or operators who are not authorized to operate under IFR. Not all types of operations require an ATP certificate (see § 135.243(a)). ATP certificates are required for the pilot in command in passenger-carrying operations of turbojet airplanes, multiengine airplanes operated by commuter air carriers and airplanes with a passenger seating configuration, excluding any pilot seat, of 10 or more. The pilot in command of any other operation must hold only a commercial pilot certificate with an instrument rating. The same concept that applies to pilot in command standards should apply to management personnel qualifications.

The director of operations must hold or have held a pilot certificate equal to the chief pilot's for the operations the certificate holder conducts. Although the pilot certificate an individual holds does not reflect the person's management capability, the holder of an ATP certificate has the broader operational background necessary for a more complex operation. Thus, if the certificate holder conducts any operation requiring the pilot in com-

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mand to hold an ATP certificate, then the director of operations and the chief pilot must have an ATP certificate. If the certificate holder does not conduct an operation requiring the pilot in command to hold an ATP certificate, then the director of operation and the chief pilot must have only a commercial pilot certificate.

Some commenters claim requiring the director of operations to hold an ATP certificate precludes the use of highly qualified persons who cannot meet first-class medical certification requirements. These commenters suggest the rule allow a person to serve as director of operations if that person has held an ATP certificate in the past. This comment has merit and the rule is changed to allow that.

Many commenters object to requiring both the director of operations and chief pilot to "know" the contents of the manual. They claim this implies that the person must be able to quote the manual verbatim. They state the rule may create liability problems. They recommend the word "familiar" be used instead of "know". The director of operations and the chief pilot should have a good working knowledge of the manual contents and be more than merely "familiar" with it. A larger and more complex certificate holder normally has a director of maintenance who meets the qualifications of § 135.39(c) even when the certificate holder has no maintenance facility and accomplishes its maintenance under contract. The management responsibility is sufficiently complex to require this standard to be met unless the certificate holder shows that a deviation would not compromise safety.

Many commenters on § 135.39(b)(3) state that requiring the director of maintenance to have 1 year of current experience in the "type" of aircraft used by the certificate holder is burdensome. Under part 1, "type" means make and model. The make and model of aircraft used in air taxi operations are changed frequently. The comments have merit and the words "category and class" are substituted for the word "type."

§ 135.43 *Crewmember certificate: International operations: application and issue. (Proposed § 135.45.)*

Commenters object to § 135.43 because it is unnecessary and requires additional paperwork. There is an increasing amount of international activity by U.S. air taxi operators. The crewmember certificate is a convenient means to identify U.S. crewmembers. The certification process is brief and is not necessary unless the operator believes that it would benefit crewmembers. A similar system exists in part 121. However, the proposed rule requires reissuance of a certificate at the conclusion of each assignment. Section 135.43(c) is revised to allow the crewmember to retain the certificate until employment with the certificate holder terminates. Also, § 135.43(c) allows the holder to submit the certificate for cancellation to the Airman Certification Branch, Oklahoma City, Okla.

SUBPART B—FLIGHT OPERATIONS

§ 135.63 *Recordkeeping requirements. (Proposed § 135.49.)*

Most commenters on § 135.63 oppose it. They mainly object to flight and duty time recordkeeping under § 135.63(a)(4)(vii) contending that the rule is too stringent, cannot be equally enforced, is structured for air carrier operations, should not apply to on-demand operators, and imposes an undue burden on certificate holders having two or more pilots. Since flight and duty time limitations proposals have been deferred, associated changes in recordkeeping requirements are also deferred.

The commenters do not cite adequate examples in support of their position. A primary objective of the rule is to produce the minimum records needed for the FAA to objectively judge compliance with the Federal Aviation Regulations and thus insure safety in part 135 operations. These records also provide information that is necessary to conduct daily operations to schedule crews and maintenance and to conduct other activities where current data is needed to operate safely. The rule requires some additional recordkeeping, but that is justified by the broader scope of air taxi operations under revised part 135. This is minimal and is not an undue burden. It is necessary for operators to maintain a safe operation and for the FAA to monitor the operator and to conduct surveillance.

Other commenters object to extending the record retention period to 12 months in § 135.63(b). These comments have merit. The pilot records specified in § 135.63(a)(4) must be kept for at least 12 months to establish a continuity for dates and results of competency and proficiency checks. Some pilots used in part 135 operations must take competency checks only once in each 12-month period under § 135.293(b). A record is necessary to establish that they have accomplished the required check until the next check. Section 135.63(b) is changed to require retention of § 135.63(a)(3) records for at least 6 months and § 135.63(a)(4) records for at least 12 months.

Commenters on § 135.63 (c) and (d) object to preparing a load manifest for multiengine aircraft. They also object to mailing (at the takeoff airport) a copy to the certificate holder or retaining a copy at the airport until completion of the flight. They argue that this generates more paperwork and that many airports have neither mail facilities nor a place to keep a copy of the manifest. Safety requires preparation of a load manifest for multiengine aircraft. The loading characteristics are critical for many multiengine aircraft now in use, or that will be used under revised part 135. Requiring a load manifest be completed before each takeoff insures that critical loading factors for multiengine aircraft are reviewed and the maximum weight and center of gravity are within approved limits. Because the mailing or retention requirement may impose a hardship on some certificate holders, that requirement is deleted. The last sentence of proposed § 135.63(c)(5) is revised to be consistent with the first sentence ("to a loading schedule or other approved method"). Also, § 135.63(a)(4)(i) is revised to be consistent with subpart G.

§ 135.65 *Reporting of mechanical irregularities. (Proposed § 135.53.)*

Several commenters on § 135.65 state that they would welcome a rule patterned on §§ 121.563 and 121.701, but many of their objections also would apply to those sections. Several commenters want an explanation of the difference between a maintenance "log" under § 135.65 (a), (b), and (c) and a maintenance "record" under § 135.65(d). The maintenance "log" is a maintenance "record" as the term is used in § 135.65(d).

Other commenters contend that the rule requires the keeping of duplicate aircraft records. Section 135.65 governs the recording, deferral, and correction of mechanical irregularities on aircraft used under part 135. The rule provides appropriate flight and maintenance personnel with a record of the continuing mechanical performance of the aircraft. Section 135.3(a) applies § 91.173 to operations under part 135. Thus, §§ 91.173 and 135.439 collectively govern all inspections, maintenance, repairs, and alterations under part 135.

Some commenters contend that § 135.65(d) means that the maintenance "log" must be kept aboard an aircraft "forever." Section 135.65(d) requires only that each certificate holder must have a procedure in its manual for keeping copies of the maintenance log in the aircraft. It is intended that this procedure provide for presence in the aircraft of maintenance information necessary for safe operation of a particular flight. It is not intended that unnecessary information be retained in the aircraft.

Several commenters contend that requiring small operators to keep detailed records is a significant burden. No substantial evidence was presented to support that claim. The rule increases the awareness of the certificate holder and its flight and ground personnel concerning the mechanical performance of each aircraft. This rule assists the certificate holder in executing its primary responsibility for maintaining its aircraft in an airworthy condition and in accordance with its manual. This rule also helps insure that mechanical irregularities are noted and corrected without delay.

Several commenters object to § 135.65(b) requiring a flight crewmember to log each irregularity noted and then to look at the same irregularity after landing. The rule is changed to eliminate that. Several other commenters suggest that the words "before each flight" be used in § 135.65(b) and this change also is made. Section 135.65(c) is revised to clearly require a description of the recordation, deferral, or corrective action taken as to a mechanical irregularity in accordance with part 43. Section 135.65(d) is revised to clearly require the aircraft maintenance log to be carried on board the aircraft to which it applies.

§ 135.67 *Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities. (Proposed § 135.55.)*

Almost all commenters on § 135.67 oppose it but agree that it represents good operating practice. They suggest that a good operating practice should not be a regulation but rather a part of the Airman's Information Manual or an advisory circular. Several commenters contend that § 91.125 makes § 135.67 unnecessary. Section 91.125 applies only to flight under IFR in controlled airspace. Section 135.67 applies to all operations conducted under part 135. The rule enhances safety and is consistent with the effort to improve the level of safety in part 135 operations. A similar rule, in part 121, works to insure that these conditions and irregularities are reported and no problems of compliance exist.

§ 135.69 *Restriction or suspension of operations: Continuation of flight in an emergency. (Proposed § 135.57.)*

Commenters on § 135.69(b) recommend that the rule allow a flight to continue toward an airport when the certificate holder or the pilot in command has reasonable assurance that the hazardous condition will be corrected by the estimated time of arrival and that a suitable alternate airport is available to the flight. Another commenter contends that a routine occurrence (for example, a deer on the runway) will give rise to an "emergency" and a report would have to be filed under § 135.19. The first comment has merit if continuation of the flight does not constitute an emergency under § 135.19. However, an alternate airport is not necessary in this situation. Section 135.69(b) is revised to allow this. The change also resolves the concerns of the second commenter.

§ 135.75 *Inspectors credentials: Admission to pilots compartment: forward observer's seat. (Proposed § 135.63.)*

Commenters on § 135.75 are concerned that FAA inspectors would, without notice, "bump" revenue passengers or cause cargo to be removed from the aircraft to accommodate them. They are needlessly alarmed. Proposed en route inspections are coordinated with the certificate holder well ahead of the proposed schedule to avoid, if at all possible, the need for an inspector to occupy a revenue passenger seat. For the FAA to properly discharge its responsibilities to the public, however, FAA inspectors must have the authority for access to the pilot compartment of an aircraft operated under revised part 135.

Some commenters on § 135.75(a) believe that a provision like § 121.547 should be added to indicate that the pilot in command has the authority to exclude any person from the flight deck in the interest of safety. This comment has merit and § 135.75(a) is changed to reflect that.

Some commenters on § 135.75(b) believe the words "appropriate communications equipment" provided for the inspector, mean complete transmitting and receiving capability. They suggest that the language be changed to require only equipment necessary to monitor ATC communications. Section 135.75(b) makes it clear that either a headset or a speaker for the inspector to monitor crew communications is required but that a transmitter is not.

§ 135.77 *Responsibility for operational control. (Proposed § 135.65.)*

Many commenters on § 135.77 ask what the term "operational control" means. "Operational control" is defined in Part 1. Section 135.77 states that the certificate holder is responsible for operational control, but may delegate authority to exercise operational control to another person. This delegation of authority does not relieve the certificate holder of the responsibility for operational control.

Some commenters object to listing each person who exercises operational control for the certificate holder. Operational experience under part 121 shows that this does not lead to an unreasonable number of revisions to manuals.

One commenter states that § 135.77 appears to be more stringent than § 121.537. Section 121.537 requires supplemental air carriers and commercial operators to list each person authorized to exercise operational control, just as § 135.77 does. Section 135.77 is clarified to require the name and title of each person authorized by the certificate holder to exercise operational control to be listed in the manual.

Several commenters believe that authority to exercise operational control confers a labor provision but did not explain their position. The FAA has reviewed this provision in light of this comment. This section provides that the certificate holder is responsible for operational control and must list in the manual the name and title of each person authorized to exercise operational control. The rule does not restrict the certificate holder's exercise of judgment in determining who is authorized to exercise operational control.

§ 135.81 *Informing personnel of operational information and appropriate changes. (Proposed § 135.69.)*

Many commenters on § 135.81 object to proposed paragraph (b). They state that the rule is unacceptable and unmanageable. Some commenters argue the rule will increase the operator's liability but do not explain why. Other commenters suggest changes to make the rule more acceptable. These comments have merit because part 135 does not contain flight following rules and there is no practical means to update the information once a flight departs. Proposed paragraph (b) is withdrawn. Section 135.81(a) is changed to allow use of chart supplements in Alaska and the Pacific instead of the Airman's Information Manual. Section 135.81(c) is revised for consistency.

§ 135.85 *Carriage of persons without compliance with the passenger-carrying provisions of this part. (Proposed § 135.73.)*

Commenters on § 135.85 suggest that proposed paragraph (b) read, "company employee." This comment has merit and the narrow change suggested gives greater flexibility to the operator without compromising safety. The words, "or other employee of the certificate holder" are added to § 135.85(a) and proposed paragraph (b) is withdrawn.

Commenters recommend additional categories of persons who could be carried aboard an aircraft without meeting the passenger-carrying requirements of part 135. Additional exceptions to passenger-carrying requirements beyond the limited exception made above would not be in the public interest and would compromise safety.

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§ 135.87 *Carriage of cargo including carry-on baggage.* (*Proposed § 135.75.*)

Two commenters on § 135.87 object because the rule applies to "any" aircraft. One suggest the section apply to aircraft carrying 10 passengers or more. The other suggests the section apply to aircraft carrying 20 passengers or more. Section 135.87 applies to any aircraft carrying cargo, including carry-on baggage, under part 135. The ability to store carry-on baggage in the passenger compartment of an aircraft certificated under part 25 often is greater than the ability to store carry-on baggage in the passenger compartment of an aircraft certificated under part 23. Loose items in the aisle or at the passenger's feet during flight under part 135 are a potential hazard to occupants of the aircraft in the event of an emergency evacuation.

One commenter objects because the rule is "unrealistic and mechanically impossible because of seat size and design" in small aircraft. If the seat size or design of an aircraft makes the storage of carry-on baggage items beneath the seats on that aircraft impossible or impractical, then those items may not be placed beneath the seats. If the aircraft seat size and design allows the storage of carry-on baggage items beneath the seat, then the certificate holder may allow under-seat storage. If this is done, then the seats must be fitted with a means to prevent articles stowed under them from sliding under crash impacts severe enough to produce the ultimate inertia forces specified in the emergency landing condition regulation under which the aircraft is certificated. The certification criteria in both §§ 23.561 and 25.561 require consideration for forward, sideward and downward motion. Part 135 does not require use of the under-seat area for stowing carry-on baggage, but that is allowed if the stated conditions are met. The rule is changed to clearly reflect its applicability to carry-on baggage. Also, the word "forward" is deleted in § 135.87(d).

One commenter states that it knows of no occasion in which the aisle of an aircraft was blocked by the placement of carry-on baggage. This commenter also states that it is difficult to believe that carry-on baggage could or would hinder the emergency evacuation of a small aircraft such as a four-passenger single-engine airplane. Section 135.87 insures that occupants aboard an aircraft are afforded the highest safety protection reasonably commensurate with the least possible burden. Passengers of an aircraft operated under part 135 should not needlessly be injured by unstowed items and should be able to exit the aircraft as rapidly as possible in the event of a survivable accident. Proper stowage of articles can prevent injuries from flying objects during air turbulence. Section 135.87(c)(1) is changed to distinguish between securing cargo and securing carry-on baggage.

One commenter states § 135.87(e) is unclear and recommends deletion. The rule has been reviewed and it is clear. It prohibits persons from loading cargo in a way that prevents a crewmember from extinguishing a fire in flight.

§ 135.89 *Pilot requirements: Use of oxygen.* (*Proposed § 135.77.*)

Some commenters oppose combining the requirements for pressurized and unpressurized aircraft. They urge retaining the current requirements. Inherent differences exist in operating characteristics between pressurized and unpressurized aircraft. A distinction should be made between them. Current § 135.77 contains requirements for pilot's use of oxygen and current § 135.129 contains oxygen equipment requirements. Both have separate provisions for pressurized and unpressurized aircraft. Section 135.89 is revised to carry forward this distinction, is limited to the use of oxygen only for pilots and the title is changed. Passenger oxygen equipment requirements are adopted in § 135.157.

Two commenters state § 135.89 should require that at least one pilot must wear an oxygen mask whenever a pressurized aircraft is operating above flight level 350. They cite the potential for rapid depressurization in a relatively small volume aircraft. This comment has merit and § 135.89 remains essentially the same as the current § 135.83.

§ 135.91 *Oxygen for medical use by passengers.* (*Proposed § 135.79.*)

One commenter on § 135.91 believes the rule should require maintenance of liquid type oxygen only. The problem of possible internal contamination exists with both liquid and gaseous oxygen containers.

One commenter on § 135.91(a)(1)(i) suggests that the rule require the equipment to be both an approved type and in conformity with title 49 CFR because more than one standard appears to be required. Another commenter states § 135.91(a)(1)(i) was not necessary. The rule is more flexible because the certificate holder may either get FAA approval or meet the requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1). Either standard of safety is acceptable for the safe carriage and operation of medical oxygen.

§ 135.93 *Autopilot: Minimum altitudes for use.* (*Proposed § 135.81.*)

Some airplanes with autopilots do not have, and are not required to have, an airplane flight manual. To reflect this, the words "approved airplane flight manual or equivalent" are used in § 135.93. The words "en route" are deleted from § 135,93(a) because the rule applies to all operations other than approaches.

The rule is rewritten for clarity. Proposed paragraphs (b)(1), (b)(2), and (c) are adopted as §§ 135.93 (b), (c), and (d), respectively. Section 135.93(b) provides for instrument approaches other than ILS. Section 135.93(c) provides for ILS approaches with an approach coupler.

§ 135.95 *Airmen: Limitations on use of services.* (*Proposed § 135.83.*)

Nearly all of the commenters on proposed paragraph (a)(2) oppose it because it is redundant and because it duplicates §§ 61.3 (a) and (c). They argue that requiring a certificate holder to inspect a pilot's certificate before each operation is unreasonable and will be difficult, if not impossible, to administer. These comments have merit and proposed paragraph (a)(2) is withdrawn.

§ 135.103 *Exception to second in command requirement: IFR operations.* (*Proposed § 135.91.*)

Commenters on § 135.103 state that it is not understandable, needs to be revised or withdrawn completely, is inappropriate for multiengine aircraft and is frequently abused. The comments of the National Transportation Safety Board cite the field investigation phase of the Board's "Air Taxi Study" (NTSB-AAS 72-9). The Board's comments are similar to others. The Board recommends that § 135.103 either be removed from the rules or rewritten so it is not misunderstood or misapplied.

Current § 135.75 provides flexibility to part 135 operators by allowing limited IFR operations without a second in command. Experience under part 135 shows these operations can be conducted safely. The rule continues to allow them. The comments recommending clarification of this rule have merit. Section 135.103 is rewritten to make it clearer, simpler, and easier to meet. This should make flight planning easier. Sections 135.103 (a), (b), and (c) contain the rules for takeoff, en route and approach operations, respectively. Section 135.103(d) contains the general requirements for the aircraft, pilot and ATC clearances.

Section 135.105(a) is clarified to reflect that a second in command is always required under §§ 135.99 and 135.105.

§ 135.105 *Exception to second in command requirement: Approval for use of autopilot system.* (*Proposed § 135.93.*)

One commenter on § 135.105 claims the use of an autopilot is no substitute for the increased safety margin two pilots afford for communications, navigation, system monitoring and emergency situations, especially in multiengine aircraft. Section 135.105(c)(2) requires each certificate holder to show that operations using an autopilot can be conducted safely. The commenter presents insufficient evidence of adverse operational experience in single-pilot operations with an autopilot to justify withdrawal of the rule.

One commenter objects to § 135.105(b) because the operations specifications must be amended each time there is a change in aircraft. The commenter believes this is unnecessarily complicated. This comment has merit and that part of § 135.105(b) is withdrawn.

§ 135.109 *Pilot in command or second in command: Designation required.* (*Proposed § 135.97.*)

Although adoption of subpart F is deferred as discussed there, proposed § 135.215(a) is more germane to flight operations than to flight time limitations. The rule is adopted as § 135.109(b).

§ 135.115 *Manipulation of controls.* (*Proposed § 135.103.*)

Several commenters on § 135.115(a) suggest that a pilot who manipulates the controls should be qualified in that aircraft. This comment has merit and § 135.115(a) is revised.

One commenter on § 135.115(b) asserts a pilot in command cannot determine whether an authorized safety representative of the Administrator can safely handle the controls of an aircraft. The pilot in command may make any reasonable inquiries which are deemed necessary to ascertain pilot qualifications. Another commenter contends that a safety representative of the Administrator should not manipulate the controls during a passenger-carrying flight. Section 135.115(b) is similar to § 121.545(b) which has not created any problems since it was adopted in 1967.

One commenter opposes the rule because the pilot in command should insure no unauthorized person manipulates the controls. Another commenter suggests the rule allow a prospective aircraft purchaser who is appropriately rated to manipulate the controls. Safety requires strict control of these actions during those flights and additional exceptions are not justified.

One commenter asks what "qualified in the aircraft" means. A person is qualified in the aircraft if that person holds a pilot certificate with the appropriate category, class, and type rating for the aircraft operated and also meets the recency of experience requirements for that aircraft.

§ 135.117 *Briefing of passengers before flight.* (*Proposed § 135.105.*)

Most commenters on § 135.117(a) object to the word "orally" and assert that printed briefing cards are satisfactory and do not compromise safety. Commenters also contend the rule is more restrictive than part 121 but present no other rationale. Part 121 requires oral briefing of passengers before takeoff. An oral briefing insures that passengers are adequately informed of basic information essential to their safety.

Other commenters are concerned that §§ 135.117(a) (4), (6), and (8) mean that actual demonstrations are required to show the mechanical means for opening doors and exits, the use of flotation gear, and the operation of fire extinguishers. Section 135.117(a) requires only that the pilot in command insure that passengers are orally briefed.

Two commenters state the rule should use the word "crewmember" instead of "pilot in command." The pilot in command is responsible for the operation and safety of the aircraft during flight time. The pilot in command should also be responsible for the briefing before the flight.

The National Transportation Safety Board states that the rule should require both oral briefings and printed cards. The information required under § 135.117(c) (1) and (2) should be available in the form of printed cards to insure clear communication of detailed information. The Board's comments have merit and § 135.117(c) is changed to accomplish this.

Other commenters note that "10,000 feet" in § 135.117(a)(7) should be "12,000 feet" for consistency with other rules in part 135. The comment has merit and the rule is changed.

§ 135.121 *Alcoholic beverages.* (*Proposed § 135.109.*)

Proposed paragraph (d) requires operators to report within 5 days certain incidents under § 135.121. The requirement was established in current § 135.115 to enable the FAA to determine if changes to the rule would be needed to control the conduct of passengers. The report has served its purpose and is no longer necessary. Proposed paragraph (d) is withdrawn.

§ 135.123 *Emergency and emergency evacuation duties.* (*Proposed § 135.113.*)

Most commenters object to the words "shall show" in § 135.123(a) because showing each emergency function can be accomplished is unreasonable and impractical. This comment has merit and the word "insure" is substituted for the word "show." Proposed paragraph (b) is withdrawn because it duplicates § 135.21(b)(13).

SUBPART C—AIRCRAFT AND EQUIPMENT

§ 135.143 *General requirements.* (*Proposed § 135.117.*)

The few commenters on § 135.143(b) were confused by the words "for single engine aircraft." These words are unnecessary and are deleted. However, § 135.179 provides for a minimum equipment list for multiengine aircraft and that is an exception to § 135.143(b). To make that clear, the lead-in phrase of that paragraph is changed to read: "Except as provided in § 135.179, no person may operate an aircraft * * *"

§ 135.145 *Aircraft proving tests.* (*Proposed § 135.121.*)

The language of §§ 135.145 (a) and (c) is not parallel. To correct this, the phrase "is not considered to be of similar design" is used in § 135.145(c) instead of the phrase "is considered to be materially altered in design." Also, proposed paragraph (d) is obsolete and is withdrawn.

§ 135.149 *Equipment requirements: General.* (*Proposed § 135.125.*)

A few commenters oppose requiring a third attitude gyro for turbojet airplanes because it is an unacceptable economic burden and it is unnecessary when the aircraft already has two of them, each on a different power source. The third attitude gyro is necessary to provide a margin of safety not otherwise available if the primary instrument system fails. This requirement is retained. Section 135.149(c) is revised to make clear that this third instrument must be electrically powered.

Other commenters object to requiring a lockable door. They state that a locked door has not deterred hijackers of large, air carrier aircraft and that a locked door reduces the possibility of safe egress of passengers under certain conditions after an accident. After reviewing the cost of installing the lockable door against the resulting benefits, the FAA is persuaded that the requirement does not contribute significantly to safety in part 135 operations. The interior design of some aircraft makes installation difficult and expensive to complete. Although the proposal is withdrawn, the FAA encourages operators to not remove a lockable door now installed and to continue to use it.

One commenter suggests that the public address system requirement should apply only to operators of multiengine aircraft under 14 CFR Part 298. Another commenter believes that the distinction should be at the 10 passenger seat level, not at the 19 passenger seat level. Amendment 121-105 (38

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FR 21493; Aug. 9, 1973) requires airplanes having a passenger seating capacity of more than 19 to be equipped with an approved public address system and interphone system. Under current § 135.2, this amendment applies to part 135 operators using large airplanes that have a passenger seating capacity greater than 19. Section 135.149(d) achieves consistency in part 135 by not differentiating between small and large aircraft but by using a 19 passenger seating configuration as the dividing point. In smaller aircraft, the crew can easily communicate with the passengers without the use of a public address system and interphone system.

One commenter expresses concern that § 135.149(e) is too open-ended, allows individual FAA inspectors to make arbitrary decisions, and gives them unlimited authority to require any type equipment. The rule gives the Administrator flexibility to require any additional equipment which is necessary in the interest of safety. Specific guidance is furnished to FAA inspectors about the administration of § 135.149.

§ 135.151 *Cockpit voice recorders. (Proposed § 135.125.)*

The majority of commenters strongly oppose requiring a cockpit voice recorder (CVR) and a flight data recorder (FDR). The reasons they cite are: The CVR and FDR impose unacceptable economic burden; they cause aircraft to be out of service during equipment repair; and they provide information for accident investigations "after the fact" and thus do not enhance the safety of a particular flight.

On the other hand, the National Transportation Safety Board recommends that the CVR and FDR requirements should apply to all aircraft capable of carrying 10 or more passengers. The Board states that the data obtained from the CVR and FDR has enabled it to determine the causes of airframe and system failures, environmental effects and operational deficiencies. The Board states that this has led to corrective actions in operational and air traffic control and in product design. The Board mentions that the inability to accurately determine the cause of an accident may result in liability to the manufacturer, the operator, or the Federal Government. One commenter supports the CVR and FDR for scheduled commuter operators because of the importance these devices have in determining the probable cause of an accident. Another commenter believes the CVR has more potential usefulness in accident investigations.

Certain benefits could be realized by the use of the CVR and FDR. The commenters cite no accidents involving commuter aircraft or aircraft capable of carrying 10 or more passengers in which the FDR and CVR information was essential to determining the probable cause of the accident. Experience during accident investigation shows the flight path of an aircraft can be duplicated without the aid of FDR data. On the other hand, CVR recordings provide information about crewmember actions in the pilot compartment before the accident and this record is not otherwise available. Also, CVR equipment is lighter in weight and less costly than FDR equipment.

Considering all the comments received, the justification submitted opposing the FDR requirement, and an analysis of the costs versus benefits, safety of flight is not compromised by withdrawing the requirement for a FDR. However, considering the comments, justification and cost versus benefits of the CVR, and the fact that the CVR provides an acceptable level of accident investigation information for turbojet airplanes with 10 or more passenger seats, the requirement for the CVR is retained in new § 135.151.

§ 135.153 *Ground proximity warning system. (Proposed § 135.125.)*

The majority of the comments received oppose the requirement for a ground proximity warning system (GPWS) because it is not justified based on benefit versus cost. They also state the GPWS has a history of poor performance. One commenter states that all commuter aircraft should be equipped with a CPWS. Another commenter states that a GPWS should be required on all aircraft capable of carrying 10 or more passengers, not just turbojet airplanes of that size.

The GPWS of today reflects the state-of-the-art. Reliable systems are available and their maintenance should pose no significant problem or require excessive downtime. Further, the GPWS contributes directly to the safety of flight. Experience demonstrates that the GPWS is beneficial as a warning device for crews to avoid accidents in large aircraft operations under part 121. Because of the complexity, size, speed, and flight performance characteristics of turbojet airplanes, a GPWS is required for turbojet airplanes with 10 or more passenger seats in new § 135.153. To give more flexibility to the certificate holder, § 135.153(b) allows the use of an alternate warning system to that approved under § 37.201. The alternate system must have the approval of the Director, Flight Standards Service.

Although limited benefits might be realized by requiring the GPWS in all aircraft, installation of the GPWS in smaller aircraft is not warranted at this time based on the cost of installation, maintenance, and operating weight penalties.

§ 135.155 *Fire extinguishers: Passenger-carrying aircraft. (Proposed § 135.127.)*

Most commenters on § 135.155 object to requiring two fire extinguishers in aircraft having a passenger seating configuration of more than 6 but less than 31. Operators now using aircraft carrying six passengers state that the cabin configuration gives the crew easy access to the passenger area in an emergency. The majority of the commenters state that the rule should require two fire extinguishers onboard an aircraft with a passenger seating configuration of 10 or more. Some commenters observe that only one fire extinguisher is needed if it is accessible to both crew and passengers. Others believe the rule should specify the least toxic agent must be used. Comments received on a proposed amendment to current § 135.161 in Notice 76-28 (41 FR 56280; Dec. 27, 1976) were also considered.

Only one fire extinguisher is necessary on an aircraft having a passenger seating configuration of nine or less. It is accessible to passengers or the crew in this size aircraft. However, safety requires two fire extinguishers on an aircraft having a passenger seating configuration of 10 or more, so the extinguishers are readily accessible to crewmembers or passengers.

The matter of toxicity is best left to the judgment of the operator. Many different extinguishing agents exist. Each has its own distinct advantages. With proper procedures and precautions, some toxic fire extinguishing agents can be used effectively. Of course, there is control because the FAA approves the type of fire extinguisher used.

§ 135.157 *Oxygen equipment requirements. (Proposed § 135.129.)*

Some commenters oppose combining the requirements for pressurized and unpressurized aircraft. They urge retaining the current requirements. The commenters also state that if the rule is adopted, certain pressurized aircraft now in service would require costly modifications which are not justified in the interest of safety. Inherent differences exist in operating characteristics between pressurized and unpressurized aircraft. A distinction should be made between them. Current § 135.77 contains requirements for pilot's use of oxygen and current § 135.129 contains oxygen equipment requirements. Both have separate provisions for pressurized and unpressurized aircraft. Section 135.157 is revised to carry forward this distinction.

Several commenters object to requiring pressure demand oxygen breathing equipment. Other commenters note

the rule includes design criteria for oxygen systems already included in parts 23 and 25. The requirement should not be in the operating rules and it is withdrawn.

Numerous commenters object to requiring supplemental oxygen for each passenger above 12,000 feet MSL. These comments have merit and § 135.157(a) is revised to require that 10 percent of the occupants (other than a pilot) must have supplemental oxygen between 10,000 feet and 15,000 feet MSL. Each occupant (other than a pilot) must have supplemental oxygen above 15,000 feet MSL. This parallels current §§ 121.327(c) and 121.329(c).

Section 135.157(b)(1) is adopted in this subpart instead of in § 135.89 because it is a passenger oxygen equipment requirement.

One commenter states § 135.157(c)(3), which allows the flight crewmembers to use undiluted oxygen at their discretion, requires the replacement of crew masks. The commenter claims this is an unreasonable burden. Allowing the flight crewmember to select undiluted oxygen may be a burden to an operator who now uses continuous flow systems which do not have this design feature. However, the potential need for the pilots to select undiluted oxygen is significant at altitudes above 25,000 feet. Thus, § 135.157(c)(3) requires the oxygen equipment to have a means to allow the pilots to use undiluted oxygen at their discretion at altitudes above 25,000 feet.

§ 135.159 *Equipment requirements: Carrying passengers under VFR at night or under VFR over-the-top conditions. (Proposed § 135.131.)*

Most commenters on § 135.159 oppose applying the gyroscopic instrument (gyro) requirement to helicopters. They cite the economic burden resulting from the acquisition, installation, and maintenance of gyros which are not now required for helicopter VFR operations. Only a relatively small percentage of the helicopter operators conduct VFR night or over-the-top operations. The cost of this additional equipment would not be large because of the small number of aircraft affected. The installation cost for each helicopter is not high.

Some commenters note that the history of helicopter operations does not support this rule. To provide an acceptable level of safety in passenger-carrying operations, a helicopter must be controllable during loss of visual ground reference.

New § 135.159(f) is added for clarity and contains the last sentence in paragraph (e)(3) proposed in notice 77-17.

§ 135.161 *Radio and navigational equipment: Carrying passengers under VFR at night or under VFR over-the-top. (Proposed § 135.133.)*

Most commenters on § 135.161 oppose requiring radio and navigational equipment for helicopters operating under VFR at night. They claim that the limited range of helicopter operations makes radio and navigational equipment unnecessary for safety and that the acquisition and installation of that equipment is an undue economic burden. The requirement for radio navigational equipment for helicopter VFR night operations is not necessary and § 135.133 is changed to reflect that. However, helicopter VFR over-the-top night operations must be equipped with proper radio and navigational equipment to provide an appropriate level of safety in passenger-carrying operations.

§ 135.163 *Equipment requirements: Aircraft carrying passengers under IFR. (Proposed § 135.135.)*

One commenter on § 135.163 notes that an acceptable practice is to mount generators on the main transmission of helicopters, rather than on the engine. Section 135.163(g) is revised to allow this.

Other commenters state that § 135.163 prohibits "splitting" gyro instruments between electrical and vacuum sources and that defeats safety. For instrument panels with both electric and vacuum instruments, a pump or generator is unable to drive all gyroscopic instruments. The pilot must be able to select an energy source which will drive all gyros if the other source fails. Anything less under IFR conditions would derogate safety. Where a split panel is desired, each engine must have both a generator and a vacuum pump.

§ 135.165 *Radio and navigational equipment: Extended overwater or IFR operations. (Proposed § 135.137.)*

One commenter on § 135.165 requests relief for inoperative equipment so that a flight does not have to be terminated. The commenter suggests that deviation be allowed or that the minimum equipment list in § 135.179 apply. The equipment in § 135.165 is essential to safe extended overwater and IFR operations. The need for maintaining communications during these operations is essential.

Another commenter states some radio equipment is unable to transmit and receive from at least one ground facility in certain remote areas. This may occur, but safety requires that this communications and navigational capability exist during extended overwater and IFR operations.

One commenter asks why two radio transmitters are required under § 135.165(a)(1) when only one is required under part 121. Two transmitters are required under part 121. To provide equipment flexibility, § 135.165(a)(5) no longer requires the navigational receivers to be VOR receivers.

§ 135.167 *Emergency equipment: Extended overwater operations. (Proposed § 135.139.)*

One commenter states that § 135.167(a)(1) should read "an approved life preserver." The word "approved" is added.

One commenter believes that "other flotation means" should not be allowed in place of life preservers. Another commenter states that "other approved flotation devices" derogate safety but provides no rationale. Other flotation means (such as buoyant seat cushions) are approved so safety is not compromised when they are used. The rule clearly requires that a life preserver or other flotation means be easily accessible to the occupants. If a flotation means other than a life preserver is used, it must be readily removable from the aircraft.

§ 135.169 *Additional airworthiness requirements. (Proposed § 135.141.)*

Notice 77-17A (42 FR 56702; October 27, 1977) withdrew proposed paragraph (e). The same day, the FAA issued advance notice of proposed rulemaking 77-25 (42 FR 56702; October 27, 1977) requesting recommendations concerning possible changes in certification requirements for certain small airplanes used in part 135 operations.

Proposed paragraph (c) prohibited the introduction of a new small airplane, with a passenger seating configuration of 10 or more, into part 135 operation after August 19, 1977, unless that airplane was type certificated in the transport category. That proposal is withdrawn at this time. This issue will be considered in the rulemaking based on the public response to notice 77-25.

For nonpart 25 small airplanes type certificated for 10 or more seats, proposed paragraph (d) prohibited an increase in the passenger seating configuration in part 135 operations above the number of seats approved for part 135 service prior to August 19, 1977. As adopted, § 135.169(c) also allows seating increases up to 19 seats, if the airplane is shown to comply with appendix A. This change allows operators to increase the number of passenger seats in their existing airplanes, but requires them to demonstrate compliance with the additional airworthiness requirements in appendix A. The rule advances safety in part 135 operation while not unduly inhabiting the growth of the air taxi industry. The FAA expects to propose rules based on notice 77-25 in the near future and

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may be considered further during that rulemaking.

§ 135.171 *Shoulder harness installation at flight crewmember stations. (Proposed § 135.143.)*

A few commenters on § 135.171 suggest that the shoulder harness requirement apply to all operations under part 135. This alternative was considered during the development of notice 77-17, but the study revealed this action would have a significant economic impact on part 135 operators. Therefore, § 135.171 is limited to turbojets and larger passenger-carrying airplanes (10 seats or more). Section 91.33(b)(13) requires each standard category small airplane manufactured after July 18, 1978, to have both front seats equipped with shoulder harnesses. If an airplane is equipped with a shoulder harness, a flight crewmember must fasten the shoulder harness for each takeoff and landing unless the crewmember cannot perform necessary duties with the harness fastened. This applies to all part 135 operations.

A considerable number of aircraft now in use have shoulder harnesses installed. Other owners are encouraged to install shoulder harnesses since they are a proven safety item. Although it might be desirable to have all part 135 aircraft meet the standard, § 135.171 is realistic.

For consistency, "front seat" is changed to "flight crewmember station" in § 135.171(a) and "seat" is changed to "station" in § 135.171(b).

§ 135.173 *Airborne thunderstorm detection equipment requirements. (Proposed § 135.145.)*

While some commenters generally support it, most commenters oppose § 135.173(a). They cite the cost of procuring, installing, and maintaining the equipment, the lack of a corresponding increase in safety benefits, and the weight penalty. After considering the cost factors during the development of notice 77-17, the use of airborne thunderstorm detection equipment was proposed instead of radar. Airborne thunderstorm detection equipment can be installed at a more reasonable cost and it is somewhat lighter than airborne weather radar.

Revised part 135 authorizes the use of larger, more complex aircraft with a greater passenger-carrying capacity. Despite the objection to § 135.173, requiring thunderstorm detection equipment is justified for these expanded operations. The rule is limited to turbojet and 10 or more passenger multiengine aircraft. They are used in operations that generate millions of revenue passsenger miles each year. Thus, a significant segment of the traveling public is benefitted by this advance in safety of flight.

Some commenters misunderstand the applicability of § 135.173(b). This rule applies only to the aircraft described in § 135.173(a). Also, § 135.173(a) allows operators to conduct operations when the equipment is inoperative if current weather reports indicate thunderstorms or other hazardous weather is not expected during the flight. This helps reduce flight cancellations due to equipment problems. To clarify the applicability of § 135.173(b), the words "required by paragraph (a) of this section" are inserted after the word "equipment."

Numerous commenters object to requiring thunderstorm detection equipment for VFR night operations. This equipment is beneficial for night operations because considerable thunderstorm activity occurs at night and this equipment aids in locating hazardous unseen storm activity. This rule contributes to greater safety in operations because it enables the pilot to detect and locate severe adverse weather areas early. The equipment also enables the pilot to avoid these areas or take other action necessary for safety of flight.

Commenters object to applying this rule to helicopter operations. The helicopter is as susceptible to thunderstorm hazards as the airplane if the pilot fails to avoid severe weather areas. Therefore, the rule applies to helicopters.

§ 135.175 *Airborne weather radar equipment requirements. (New.)*

Some commenters on § 135.173 state that airborne weather radar is more appropriate equipment than airborne thunderstorm detection equipment because radar can detect more than thunderstorms. The comment has merit. Aircraft now required under §§ 121.357 and 135.2 to have airborne weather radar equipment installed and operating should continue to meet that requirement. New § 135.175 is added to retain the current requirement for large, transport category aircraft.

§ 135.177 *Emergency equipment requirements for aircraft having a passenger seating configuration of more than 19 passengers. (Proposed § 135.147.)*

The few commenters on § 135.177 have only minor objections. One commenter opposes § 135.177(a)(4) which requires compliance with § 121.310 because that is an economic burden and not practical. Safety would be derogated by deleting the requirement to comply with § 121.310. The safety benefits outweigh the costs. Section 121.310 is not unduly burdensome for the operation of the higher passenger volume airplanes described. Aircraft now operating under part 135 have a seating capacity of 19 passengers or less. They do not have to meet § 121.310. The large aircraft that are now operating under part 121 of this chapter, and that will be operated under revised part 135 (30 seats or less and payload capacity of 7,500 pounds or less), already comply with § 121.310. New aircraft entering service under part 135 will comply with § 121.310 as part of their type certification.

Two commenters question the 19 or more passenger breakpoint. Current § 135.54 requires a flight attendant for an aircraft that has a passenger seating capacity of more than 19. The same distinction is appropriate for § 135.177 emergency equipment because a flight attendant is available to operate it.

§ 135.179 *Inoperable instruments and equipment for multiengine aircraft. (Proposed § 135.149.)*

Most commenters fully support § 135.179. This section relieves part 135 operators of a significant burden without compromising safety. The rule also reduces the potential for unnecessary delays to the traveling public. Part 135 does not now provide for the use of an approved minimum equipment list (MEL) to allow operations under certain conditions with inoperable equipment and instruments. Because of this, part 135 operators do not have the same operational flexibility as part 121 operators. This was a significant burden because they were required to make expedited repairs to provide scheduled service. In addition, passengers were delayed because of need to repair or replace inoperable instruments or equipment that was not necessary for the safe operation of a particular flight.

Section 135.179 relaxes that requirement and allows an operator to dispatch aircraft when certain pieces of equipment or instruments are inoperable. The MEL allows them to maintain schedule reliability and still maintains the necessary level of safety. The rule is a significant step forward that benefits both certificate holders and the traveling public.

The FAA Flight Standards Divisions of the region responsible for the type certification of a particular multiengine aircraft will administer the rule. This insures that each request for an MEL is handled properly and standardization is maintained for each aircraft. The responsible FAA District Office will give guidance to certificate holders about MEL requests and coordinate their approval.

Section 135.179(a)(1) is clarified to reflect the MEL may not include equipment and instruments that are essential for safe operation under all operating conditions and that are required, either specifically or otherwise, for the aircraft to meet the airworthiness standards under which it was type certificated. For instruments and equipment to be included on an MEL, the operator will show that the aircraft can comply with the airworthiness standards with those instruments and equipment inoperable. Proposed paragraph (a)(3) is deleted as unnecessary.

§ 135.181 *Performance requirements: Aircraft operated over-the-top or in IFR conditions. (Proposed § 135.151.)*

Some commenters on § 135.181 indicate the rule is inappropriate and hard to understand. They recommend it be rewritten. The National Transportation Safety Board cites the field investigation phase of its "Air Taxi Study" (NTSB-AAS 72-9) and also states the rule may be misunderstood and misapplied. The Board recommends that § 135.181 (currently § 135.145) be either withdrawn or rewritten so that it cannot be misunderstood or misapplied.

The rule is complex and is difficult to meet because it may be misunderstood. The rule is clarified and simplified in the interest of safety. The change allows an en route IFR operation and an IFR approach at the destination airport if unforecast weather conditions do not allow a VFR operation. The 15-mile distance is changed to 15 minutes of flying time because the 15-mile criterion does not lend itself to the current state-of-the-art and methods for forecasting and reporting weather conditions.

One commenter states § 135.181 is undesirable for helicopter operations because it imposes performance requirements on helicopters which exceed type certification requirements. The increasing number of helicopters certificated for flight under IFR in part 135 operations justifies their inclusion in this rule. Helicopters must be treated the same as airplanes under these circumstances to insure safe operation under IFR.

A few commenters are confused by §§ 135.181(c) (1) and (2) for a descent under VFR from an over-the-top flight. Section 135.181(c)(1) allows a multiengine aircraft that cannot meet the single-engine en route climb performance standards to operate over-the-top if adequate weather conditions exist. Section 135.181(c)(2) allows a single-engine aircraft to operate over-the-top if broken clouds exist that enable the aircraft to make an emergency descent clear of clouds when required due to an inoperative engine.

SUBPART D—VFR/IFR OPERATING LIMITATIONS AND WEATHER REQUIREMENTS

§ 135.213 *Weather reports and forecasts. (Proposed § 135.171.)*

Many commenters contend that requiring current weather to be available at an airport where an IFR approach is conducted is unduly restrictive. They argue that this would preclude service to many airports that have approved instrument approach procedures. Several commenters recommend higher approach minimums for airports where weather reports are not available. Others believe the pilot's decision to make the approach should be based only on pilot reports and an area forecast. some commenters want to allow IFR operations at airports that are clustered within a certain radius of an airport having weather reporting facilities.

The National Transportation Safety Board in *Administrator* v. *Sandoval* (SE-2084) found current § 135.105 is not clear regarding weather requirements at destination airports. Section 135.213 is intended to rectify this problem. Weather observations used for IFR operations at an airport must be taken at that airport to insure an appropiate level of safety. Section 135.213 insures that IFR operations are not conducted unless reliable weather information for the specific airport is available to the pilot.

Several commenters suggest that § 135.213 allow the use of U.S. military weather reports and forecasts. The U.S. National Weather Service recognizes only military weather observations and not their forecasts. Thus, use of U.S. military weather sources is not allowed under § 135.213.

One commenter states an experienced commercial, instrument rated pilot is qualified to assume responsibilities for weather observations. The current rules provide for pilot observation for operations under VFR. However, for IFR operations, weather information from persons trained and knowledgeable in weather reporting and forecasting is essential to maintain safety.

A few commenters object to the time needed to investigate and approve each source of weather reporting information and to issue amendments to the operations specifications. They believe this procedure is impractical for on-demand operators. Because of the changing nature of weather conditions and the influence of different geographic locations, amendments to the operations specifications must be contingent upon an investigation. This investigation establishes that the weather conditions at an airport that has no weather reporting facility do not differ significantly from a nearby airport that has a weather reporting facility, and that this otherwise allows a safe operation.

One commenter asks what the term "IFR operations" means in § 135.213. The term "IFR operations" includes operations in VFR weather under an IFR flight plan as well as IFR operations in instrument meteorological conditions.

§ 135.215 *IFR: Operating limitations. (Proposed § 135.175.)*

Several commenters want § 135.215 changed to accommodate on-demand air taxi operations but they did not elaborate. Section 135.215 provides sufficient flexibility for each certificate holder, including an on-demand air taxi operator.

One commenter does not believe § 135.215(c) is meant to require approval for IFR operations and suggests deleting the portion of the last sentence after the semicolon. Section 135.215(c) allows a part 135 certificate holder to operate under IFR outside of controlled airspace when necessary to use an approved instrument approach or departure procedure or when necessary to climb into controlled airspace during an approved missed approach procedure, if those operations are approved.

One commenter believes the term "IFR" in § 135.215 limits operations to instrument meteorological conditions. That limitation would be difficult to administer. The term "Instrument Flight Rules (IFR)" is not limited to operations in instrument meteorological conditions.

§ 135.219 *IFR: Destination airport weather minimums. (Proposed § 135.179.)*

One commenter states that § 135.219 is unduly restrictive and should be deleted because weather reports and forecasts are not always accurate. While weather conditions can change from those covered in reports and forecasts, § 135.219 is necessary to establish the minimum weather conditions for the destination airport which must exist before IFR or over-the-top operations may be conducted. The only change to the current rule is to include over-the-top operations and to allow the use of weather reports or forecasts, or any combination of them, as an indication of the weather at the next airport of intended landing. This makes the rule more liberal. The current rule requires the use of both weather reports and forecasts without regard to any favorable combination.

§ 135.223 *IFR: Alternate airport requirements. (Proposed § 135.183.)*

One commenter recommends that § 135.223(a)(3) allow helicopter operators to have a 30-minute fuel reserve, instead of the 45-minute reserve now required beyond the alternate airport for all aircraft. The FAA considered making the fuel reserve for IFR operations similar to that for VFR operations in helicopters. Although helicopters are more maneuverable than

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airplanes, the FAA concluded that the limited experience with helicopters in IFR operations under part 135 does not warrant reducing fuel requirements at this time.

To clarify the rule, the word "approach" is inserted after the word "circling" in § 135.223(b)(1), and words "instrument approach" are inserted after "circling" in § 135.223(b)(2).

§ 135.225 *IFR: Takeoff, approach and landing minimums. (Proposed § 135.185.)*

One commenter recommends using the phrase "the aircraft has passed the final approach fix," in § 135.225(c)(1) to clarify the rule and this is done.

Two commenters indicate the word "latest" could be interpreted differently as to weather reporting. They recommend using the word "current" in § 135.225. The word "latest" is used elsewhere in the Federal Aviation Regulations and is retained to achieve consistency of interpretation.

Two commenters believe that § 135.225 should be revised to eliminate repetitious use of the phrase "the U.S. National Weather Service, or a source approved by the U.S. National Weather Service, or a source approved by the Administrator." They also believe that current § 135.185(h)(4) should be deleted because it is unnecessary to repeat the same admonition that is given in § 135.227. These changes are made. Also, § 135.225(h)(2) is clarified to reflect that the ground installations (not the airborne equipment) are what "the landing minimums are predicated" upon. The requirements for operable airborne equipment are prescribed in subpart C.

§ 135.227 *Icing conditions: Operating limitations. (Proposed § 135.187.)*

Many commenters object to prohibiting IFR flights into known or forecast light or moderate icing conditions with present deicing or anti-icing equipment that is not certificated under part 23. They stated that the expense of meeting part 23 is unjustified and would impose an undue economic burden. One commenter suggests a "grandfather" clause for present aircraft. Other commenters believe IFR flight to VFR-on-top should be allowed under known or forecast light or moderate icing conditions. One commenter states the proposed rule is extremely restrictive for helicopters because there is no approved anti-icing or deicing equipment for main and tail rotor blades.

Based on these comments and after further deliberation, the FAA concludes the proposed rule is unworkable without major changes. Because of their magnitude, the proposed rule is withdrawn at this time and current § 135.85 is adopted as § 135.229. The reference to SFAR No. 23 in §§ 135.227 (b) and (c) is changed to the identical provision in section 34 of appendix A.

§ 135.229 *Airport requirements. (Proposed § 135.189.)*

Many commenters object to the words "properly equipped" and "facilities and public protection" in § 135.229(a). They contend that this language would place an air taxi operator in the position of qualifying an airport. Other commenters state that the rule would create an economic hardship to some operators and general aviation airports in meeting these requirements, if they mean security, fencing, crash, or rescue. Some commenters state there is not a clear definition of these required items and suggest they be deleted. These comments are accepted and the words are deleted.

Several commenters object to precluding the use of flare pots or lanterns, especially in remote areas where there is no electrical power available. They believe that approving the use of flare pots or lanterns should be left to the discretion of the local FAA district office or regional office. Other commenters recommend allowing the use of reflective material, or at least providing a mechanism for approval of its use in certain operations. A few commenters indicate that proposed paragraphs (b), (c), and (d) are not clear and recommended that current § 135.87 be reinstated.

These comments have merit. Current § 135.87 is retained and proposed paragraphs (b), (c), and (d) are withdrawn. The use of flare pots or lanterns for aircraft operations and reflective material for helicopter operations is allowed for marking the limits of the takeoff and landing areas. The use of flare pots or lanterns must be specifically approved.

One commenter believes the section should continue to apply to the carrying of passengers at night and § 135.229(b) provides for that.

SUBPART E—FLIGHT CREWMEMBER REQUIREMENTS

§ 135.243 *Pilot in command qualifications. (Proposed § 135.193.)*

Several commenters object to § 135.243(a). One commenter contends the airline transport pilot (ATP) certificate requirement is not justified because the part 135 6-month instrument proficiency check is equivalent to the ATP flight check and the ATP written examination now administered under part 121 serves no useful purpose in part 135 operations. Other commenters state that their objection to the ATP requirement would be reduced if the ATP written test were revised to relate it to part 135 operations. An ATP written exam more closely related to part 135 operations is appropriate and the FAA is developing one.

Each person who takes the part 135 instrument proficiency check need not be tested to the extent required for the original issuance of an ATP certificate. While the procedures and maneuvers required for the ATP certificate are included in the instrument proficiency check test, the check is not as extensive or comprehensive as an ATP certificate flight test. The purpose of the periodic instrument proficiency check is to determine that the pilot is competent to continue to be a pilot in command under IFR in part 135 operations.

A few commenters contend that § 135.243(a) is appropriate for large aircraft but not for air taxi operations conducted in small aircraft. A few commenters object because of the kinds of aircraft operations that are affected by § 135.243(a). This revision of part 135 makes the operation of certain large aircraft (those of more than 12,500 pounds maximum certificated takeoff weight having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less) subject to the rules of part 135. The ATP requirement is based on the complexity of aircraft currently in use and those to be approved for operations under revised part 135, as well as on their passenger-carrying capability. In establishing the need for this requirement, all known relevant factors were considered, including the classification of aircraft operations that are affected by § 135.243(a). Increased safety benefits will be provided by requiring pilots in command of the more complex operations under part 135 to hold an ATP certificate. A number of commenters state that they now require their pilots in command to possess an ATP certificate for part 135 operations. There is no indication that this voluntary action to increase the competence level of part 135 pilot personnel imposes an unnecessary burden on either these operators or their pilots.

Two commenters contend that an ATP certificate is not practical in Alaska and will not necessarily bring about a higher level of safety in the air taxi industry there. There is no reason to distinguish the part 135 pilot in command requirements in Alaska from the part 135 pilot in command requirements anywhere else.

One commenter contends that the requirements for an ATP have no resemblance to the kinds of flying conducted by commuter air carrier pilots and that the requirements for an ATP should be postponed until the ATP written test is more appropriate to part 135 operations. This commenter also recommends that if the require-

ment for an ATP certificate is adopted, it should be limited to commuter air carriers who hold authority to operate under IFR. The public interest is served by requiring pilots in command of the more complex part 135 operations to hold an ATP certificate. For this purpose, complex operations are operations conducted in turbojet airplanes, commuter air carrier operations conducted in mutiengine airplanes, and operations conducted in airplanes having a seating configuration, excluding any pilot seat, of 10 seats or more. Many of these operations are conducted under IFR into and out of the major terminal areas which have high volumes of air traffic. The requirement for ATP certificated pilots in command during these operations is essential to safety.

One commenter suggests that § 135.243(a) be extended to cover all multiengine air taxi operations. That action is unnecessary and not justified at this time. On-demand air taxi operations conducted in nonturbojet multiengine airplanes having a seating configuration, excluding any pilot seat, of nine seats or less are not affected.

Several commenters claim that the hours of flight experience required under § 135.243(b)(ii) are excessive. These requirements are unchanged from the present part 135 and no reduction is justified.

One commenter claims the requirement for pilots to hold an instrument rating under § 135.243(b)(iii) is an undue burden. Two other commenters contend that an instrument rating is not practical for many small singleengine airplanes with limited instrumentation and no radios that are operated in VFR conditions. Under current part 135, minimally equipped aircraft may be operated under VFR day conditions without benefit of either navigational or communications equipment. Sections 135.145 and 135.161 allow those operations to continue. However, a pilot's awareness of significant weather phenomena is enhanced if the pilot holds an instrument rating. Also, the present requirements of part 61 for a commercial pilot certificate (which is required before a pilot may fly for compensation or hire) include an instrument rating. This requirement is appropriate and necessary to achieve the desired level of safety in operations under part 135.

Throughout this subpart, the rules are revised to reflect that the certificate holder is held responsible for insuring the use of a qualified flight crewmember. For consistency, the words "No certificate holder may use any person, nor may any person serve as * * *" are used in each section.

§ 135.245 *Second in command qualifications. (Proposed § 135.197.)*

Several commenters on § 135.245 generally agree with the rule but object to requiring a class rating. Some of these commenters contend requiring a class rating and recent instrument flight experience places an unreasonable burden on the air taxi industry. There is ample justification for imposing those requirements because they insure the use of a more competent crewmember as a second in command. Under the rule, any person who acts as second in command of an aircraft is required to hold an appropriate category and class rating. The current rule does not require pilots acting as second in command to hold other than a commercial pilot certificate unless part 135 requires a second in command. Section 135.245 not only contributes to raising the level of safety in part 135, but also enhances crewmember qualifications.

One commenter contends that § 135.245 could be inflationary and redundant because § 135.293(b) requires a second in command to demonstrate proficiency in type (for multiengine airplanes). Section 135.245 is substantially the same as current § 135.127 except for the deletion of the words "when a second in command is required by this chapter." The requirement for a second in command to have an instrument rating is consistent with the current requirements of Part 61. The proficiency check requirement in § 135.293(b) is an annual competency check, in contrast to the recent instrument experience requirements of part 61 which must be met every 6 months.

One commenter states that the rule is more restrictive than part 121. Another commenter argues that the rule would discourage the use of a second in command when none is required, would result in a lower level of safety, and would cause the loss of valuable training experience for future second in command pilots. These requirements are now in part 135. They minimize crew errors because more qualified and proficient pilots are used as second in command. The more efficient use of qualified crewmembers does not significantly increase the burden on either the pilot or operator.

§ 135.247 *Pilot qualifications: Recent experience. (Proposed § 135.199.)*

One commenter contends that under § 135.247, a pilot may be current for night landings in a small multiengine airplane by virtue of currency in a large multiengine airplane even though the flight characteristics of the two airplanes are quite different. This comment ignores the initial and recurrent pilot testing requirements of § 135.293. They also must be met in a particular aircraft before a pilot may be used in operations under this part.

One commenter suggests that § 135.247 should apply only to passenger-carrying operations and should allow the carriage of cargo without the pilot having to make three takeoffs and landings within the preceding 90 days. This comment has merit and § 135.247(a) is revised.

Two commenters object to requiring the second in command to meet the same recent experience requirements as the pilot in command. They contend that imposes an unnecessary burden on the operator. As stated in notice 77-17, § 135.247 is patterned on § 61.57, which applies to the pilot in command. Consequently, it was not intended to apply this provision to the second in command. The rule is revised to carry out that intent.

Night recency of experience requirements were inadvertently omitted from § 135.247(a). Since they are essential to safety and § 61.57(d) does not apply to operations requiring an airline transport pilot certificate, § 135.247(a) is revised to include a night recency of experience requirements.

SUBPART F—FLIGHT CREWMEMBER FLIGHT AND DUTY TIME LIMITATIONS

§ 135.261 *Flight and duty time limitations. (Current § 135.136.)*

The FAA has decided to defer adoption of new flight and duty time limitations governing part 135 operators. As a result, current § 135.136 is retained and redesignated as § 135.261.

In notice 78-3 (43 FR 8070; Feb. 27, 1978), the FAA proposed to amend the flight and duty time limitations governing parts 121 and 123 operators. Notice 78-3 contains many of the same concepts proposed earlier in notice 77-17 for subpart F of part 135. Notice 78-3 has generated extensive public comment. As a result of these comments, and those submitted in response to notice 77-17 on proposed subpart F, the FAA has received a considerable amount of information which will be useful in formulating final flight and duty time rules.

The differences which exist between part 121 and part 135 operations justify separate rulemaking actions to revise the current flight and duty time limitations. However, some of the concepts involved are fundamental and should be treated consistently. These include the definitions of flight time, duty time, and rest period; the treatment of deadhead transportation; and the method for determining applicable flight and duty time limitations when a flight crewmember serves with more than one flight crew.

Therefore, the public interest is best served by deferring adoption of the part 135 flight and duty time limitations until the comments on notice 78-3 are received and evaluated. In this

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way, the agency would benefit by having additional information, views, and arguments to consider before adopting appropriate final rules governing part 135 operators.

SUBPART G—CREWMEMBER TESTING REQUIREMENTS

§ 135.293 *Initial and recurrent pilot testing requirements. (Proposed § 135.225.)*

Several commenters support § 135.293. One commenter objects to § 135.293(a) contending the testing of knowledge in each type of aircraft the pilot is authorized to fly will not improve safety. Operational experience shows that knowledge of each type of aircraft in which the pilot is authorized to perform a pilot crewmember function has a direct relationship to the pilot's overall competence and to safety.

One commenter suggests that the term "type" in §§ 135.293(a) (2) and (3) should be defined as it is in § 135.293(b) ("any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics"). Section 135.293(b) applies to flight competency checks. The definition of "type" in that paragraph relaxes the part 1 definition of "type" to contribute to the conservation of fuel. In contrast, §§ 135.293(a) (2) and (3) are written or oral test requirements and the part 1 definition of "type" is used. To clarify § 135.293(b), a definition of "type" for helicopters is added because the rule applies to both airplanes and helicopters.

One commenter on § 135.293(b) objects to leaving the extent of the competency check to the person conducting the check. This commenter contends that the rule would lead to a wide variance in the checking process, by leaving it to the whim of the local flight standards district office. The standard of performance in § 135.293(d) provides reasonable certainty of pilot competency, allows reasonable latitude in the conduct of the competency check and imposes no undue burden on either the pilot being tested or the operator. Another commenter states that the term "competency check" in § 135.293 (b) and (f) does not mean a "flight check." Section 135.293(b) clearly requires that this competency check be given in an aircraft. Section 135.293(f) allows portions of a required competency check to be given in an aircraft simulator or other appropriate training device if specifically approved.

One commenter suggests that helicopter competency checks be treated the same as competency checks in single-engine airplanes other than turbojects. The commenter argues that all light piston-engine helicopters should be in one "class" and all light turbine-engine helicopters should be in another "class," and that a competency check in "that type of aircraft, if helicopter" should not be required. The handling and flight characteristics of light helicopters are significantly different. The equipment available for them also is considerably different. A separate flight check is necessary to judge pilot competence properly. As additional helicopters become available and standardization of various models is accomplished, competency check requirements will be established similar to those for airplanes.

§ 135.295 *Initial and recurrent flight attendant crewmember testing requirements. (Proposed § 135.227.)*

Notice 77-17 proposed to redesignate current § 135.139 without change. However, that rule does not require flight attendant crewmembers to be knowledgeable and competent concerning the location and operation of other items of emergency equipment, such as a megaphone, crash ax, firstaid kit, and so forth. The equipment is on board an aircraft to enable flight attendants to respond to an emergency situation and they must be competent to use it. To provide an appropriate level of safety in revised part 135, § 135.295(e) is amended to reflect that requirement.

§ 135.297 *Pilot in command: Instrument proficiency check requirements. (Proposed § 135.229.)*

Several commenters object to § 135.297(b). They contend that there was no reason to require a demonstration of each approach to be used. Another commenter contends that a pilot who demonstrates the basic instrument approaches during an instrument proficiency check should then be allowed to use derivative approaches. Another commenter recommends that a specific combination of instrument approaches be demonstrated instead of requiring the demonstration of "any type" of instrument approach expected to be used.

These comments have merit. A pilot should not have to demonstrate all possible types of instrument approach procedures before that pilot may use them under part 135. Section 135.297(b) is revised to reflect that. A pilot who successfully demonstrates separate instrument approach procedures using ILS, VOR, and NDB facilities is considered qualified to conduct all of the published standard instrument approach procedures prescribed under part 97. A letter of competency is issued to reflect that under revised § 135.297(h). The instrument approach procedures demonstrated must include at least one straight-in approach, one circling approach in conjunction with a VOR or NDB, and one missed approach procedure. Each instrument approach procedure demonstrated must be conducted to published minimum for the procedure.

Pilots who demonstrate competency in at least the combination of instrument approach procedures described are equally competent to conduct other types of approach procedures. This does not apply, however, to the use of microwave landing systems because of the difference in glide slope gradient, instrumentation used and other differences which require a separate showing of competency.

One commenter on § 135.297(c) suggests that the second sentence be deleted and a reference to § 135.293(a)(2) be included instead. There is some similarity between the test areas listed in § 135.293(a)(2) and the test subject matter of § 135.297(c). However, the subjects of these tests are not identical and the two oral or written tests are not given for the same purpose. The test under § 135.293(a) covers subjects which are generally applicable, such as ground training requirements. The test under § 135.297(c) is an equipment test related to operational procedures in which the pilot must demonstrate competency before being used under IFR.

One commenter objects to § 135.297(c)(1) contending that the "procedures and maneuvers set forth for an ATPC (in FAR 61, appendix A)" is lengthy, many are not appropriate for 6-month instrument checks, and many could not be safely accomplished under IFR. Section 135.297(f) allows the use of a simulator or other appropriate training device for portions of the required flight check. Section 135.297(c)(1) is clarified to insure that each pilot in command is adequately tested on the procedures and maneuvers for the particular pilot certificate held and the privileges exercised under § 135.243. Also, the requirements of the instrument proficiency check for pilots in command required to hold an airline transport pilot certificate under § 135.243(a) and the requirements for pilots in command required to hold a commercial pilot certificate with an instrument rating under § 135.243(c) are stated in separate paragraphs. Another commenter suggests that the last sentence of § 135.297(c)(1) be deleted. The sentence is deleted because an instrument check is not required when operations are limited to VFR only.

Section 135.297(f) could be interpreted to allow a pilot in command to take the initial instrument proficiency check in a single-engine aircraft and then be authorized to pilot a multiengine aircraft without a check in it until the next 6-month check is due.

This paragraph is clarified to reflect that a pilot who is assigned to both single and multiengine aircraft must take the initial instrument proficiency check required by § 135.297(a) in a multiengine aircraft and succeeding checks alternately in single-engine and multiengine aircraft.

§ 135.299 *Pilot in command: line checks: routes and airports. (Proposed § 135.231.)*

Several commenters on § 135.299 argue that recurrent line checks in a part 135 operation are unnecessary and burdensome. Current § 135.122 covers specific areas not adequately covered by the testing requirements in current § 135.138. Section 135.299 insures that each pilot used in part 135 operations accomplishes line checks and that each certificate holder establishes procedures in the manual outlining company policy concerning the manner in which pilots are expected to keep current on routes and airports. The line check requirement is necessary to test the pilot's knowledge of routes and airports and to determine the manner in which the pilot applies company procedures and conducts flight operations.

Several commenters contend that line checks are not appropriate for "on-demand" operators because they do not have a "line operation." Another commenter suggests that all small "on-demand" air taxi operators in aircraft seating less than 10 passengers be exempt from § 135.299. Another commenter suggests that § 135.299 be limited to commuter air carriers as defined in part 298 of the Civil Aeronautics Board's Economic Regulations (14 CFR Part 298). The broad scope of checks and tests which must be satisfactorily accomplished during a specific period of time by pilots operating under part 135 is adopted in revised part 135 because of the many variations in air taxi operations, the qualifications of pilots, and the aircraft used. No single test or check requirement is more or less essential than any other to establish the appropriate level of safety. For these reasons, these checks and tests are considered necessary whether the operator is a single pilot owner-operator, helicopter operator, on-demand air taxi operator or commuter air carrier. They are for the express purpose of insuring that the pilots in command meet the applicable knowledge and skill requirements for use in operations under part 135.

One commenter asks how "takeoffs and landings (plural) over at least one route segment" in § 135.299(a)(2) could be accomplished and suggests that the word "segment" be deleted from § 135.299(a)(3). A line check may be as brief or as extensive as the person giving the check deems necessary to determine the pilot's competence. Consequently, more than one takeoff and landing may be needed.

Another commenter objects to § 135.299(a)(3) contending that the proposed requirement for takeoffs and landings at two or more representative airports would be costly for operators in areas of the country where no short routes exist. The commenter suggests that a requirement for takeoffs and landings at "one or more representative airports" would be equally appropriate for VFR line checks. These comments have merit and § 135.299 is revised by combining proposed paragraphs (a) and (b) and requiring takeoffs and landings at one or more representative airports for both VFR and IFR operations. However, for IFR operations, the requirement for at least one flight to be conducted over a civil airway, an approved off-airway route, or any portion of them is retained in § 135.299(a)(3).

One commenter objects to § 135.299(d) and suggests that it be deleted for the reason stated in the preamble to amendment 135-26 (36 FR 2481, Feb. 5, 1971). A number of other commenters claim § 135.299(d) is redundant because its substance is in § 91.5 and that it would require the pilot to research information that is not readily available. Amendment 135-26 was based upon conditions which existed in 1971. Conditions are sufficiently different today to justify § 135.299(c). The air taxi industry has grown, and, in many cases, has developed into specialized operations such as those of commuter air carrier. Not all air taxi operators would expect to travel to the same destinations. They also may not wish to acquire all available information concerning a flight in the same manner. Section 91.5 is sufficient for routine general aviation operations, but that section is not sufficient for the scope of operations presently conducted under part 135. Also, § 91.5 is not sufficient for the level of safety in revised part 135. Section 135.299(c) is intended to require the certificate holder to establish in the manual required by § 135.21 a procedure appropriate to that certificate holder's kind of operations. That procedure should insure that the certificate holder's pilots who have not flown over a specific route and into a specific airport within the preceding 90 days will become familiar with all available information required for the safe conduct of that particular flight. The list of specific items of information in proposed paragraph (e) is withdrawn because, in some cases, information on each item may not be available.

§ 135.301 *Crewmember: Tests and checks, grace provisions, training to accepted standards. (Proposed § 135.233.)*

Some of the comments on § 135.301 compliment the FAA on the provision which would allow additional training to be given to the pilot receiving the check.

One commenter requests an explanation of the phrase in § 135.301(a) "the calendar month before or after the calendar month in which it is required." If a test or check is required to be taken in January 1979, and it is satisfactorily completed in December 1978 or February 1979, then the test or check would be considered to have been completed in the month (Jaunary 1979) in which it was required. Of course, the date of the next required test or check would be based on the January 1979 date (not on December 1978 or February 1979).

Two commenters state that the prohibition in the last sentence of § 135.301(b) concerning the use of a person unable to demonstrate satisfactory performance on a required check is unreasonably burdensome. Another commenter suggests that the rule prohibit the use of a person who has failed a check in operations under part 135 in which the check is a requirement. If a pilot being checked under this part fails any of the required maneuvers, the person giving the check may elect to give the pilot additional training during that check. Thus, it is unlikely that a person who has received the required training under part 135 would be incapable of ultimately passing a required check under § 135.301(b). If a person is unable to pass the required check, then this is all the more reason why that person should not serve as a crewmember in operations under revised part 135 until that person has satisfactorily completed the check. The rule provides sufficient latitude in its present form.

SUBPART H—TRAINING

§ 135.321 *Applicability and terms used. (Proposed § 135.237.)*

One commenter objects to the need for establishing and maintaining an "approved training program" and suggests that the word "approved" in § 135.321(a) be changed to "acceptable." Under § 135.341, each certificate holder must have an approved training program which includes, in as broad terms as possible, those items which are essential to every training program. The rules make clear the basic requirements for initial and recurrent training for each crewmember. Revision of an approved training program may be made at the initiative of either the certificate holder or the Administrator. The rules for revision on the Administrator's initiative are comparable to those now in part 121. The basis for the requirement for an ap-

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proved training program is that operations under part 135 should not be exposed to the hazards that might be created by the use of a training program over which the FAA has only limited control. Thus, there is ample justification for requiring an approved training program to enhance safety in the revision of part 135.

One commenter on the entire subpart contends that since aircraft groups I and II defined in § 135.321(b) (1) and (2) are not used elsewhere in the subpart, their application is not clear. This comment has merit and those words are deleted.

Another commenter suggests that specific training hours be specified to preclude varying interpretations of the rules for similar operations. Another commenter lauded the FAA for not establishing specific training hours. The FAA is not persuaded that specific training hours would be beneficial to either the air taxi industry or to the FAA.

One commenter suggests that § 135.321(c) be amended to provide additional categories of training such as "maneuver" or "on line" training. The present categories of training are comparable to those now in part 121 and they are adequate.

§ 135.323 *Training program: general. (Proposed § 135.239.)*

Several commenters on § 135.323(a)(1) suggest that the word "approved" be changed to "acceptable." As discussed under § 135.321, there is ample justification for requiring the program to be subject to FAA approval.

Two commenters claim that "small on-demand air taxi certificate holders" should be exempt from subpart H. Under § 135.341(a), certificate holders who are the only pilots in their operation are exempt from the requirement to establish and maintain an approved pilot training program. Also, the Administrator may authorize a deviation from this section if, because of the limited size and scope of the operation, safety allows a deviation. The deviation authority contained in paragraph (a) will be limited to certain aspects of the training program. It allows the Administrator to place the proper emphasis on each element of the training program needed for each certificate holder's operation. It also allows the Administrator to refine, in light of current technology, the kinds of training that must be included in a particular training program.

Another commenter suggests that credit be given in the approved training program for factory-approved ground schools or their equivalent. The rule allows the inclusion of this kind of valid training in the program presented to the FAA. It will be evaluated by the FAA and, if satisfactory will be approved.

Another commenter expresses concern that requiring the use of "properly qualified ground instructors" in § 135.323(a)(2) may preclude the use of other persons available to the operator. The rule does not limit instructor personnel to certificated instructors. Other properly qualified persons identified by the certificate holder and approved by the FAA may be used in the approved training program.

One commenter suggests that § 135.323(a)(4) be revised by adding the words "if applicable" where referring to the use of simulators. The rule clearly allows the use of any specific simulator available if approved by the Administrator. Another commenter opposes this paragraph but gives no rationale.

Section 135.323(c) is revised to provide that a certifying signature is not required when entries are made in a computerized recordkeeping system where a signature is not practical.

§ 135.325 *Training program and revision: initial and final approval. (Proposed § 135.241.)*

One commenter suggests limiting the applicability of § 135.325 to "Commuter Air Carriers" as defined in part 298 of the Civil Aeronautics Board's Economic Regulations (14 CFR Part 298). This commenter also suggests exempting helicopter operations from this section because of the rapidly changing training concepts in helicopter operations. The approval process under § 135.241(a) is keyed to § 135.241(c). The certificate holder must show that the training conducted after the initial approval ensures that persons who complete the training program are adequately trained to perform their assigned duties. This is the key to the concept of training to proficiency in either airplanes or helicopters. The certificate holder has an opportunity to present for approval a training program which is as effective as the certificate holder can make it using current technology. The FAA explores each possibility to translate new technology into effective regulations and to facilitate the safest and most effective training programs possible.

Several commenters complain about the lack of standardized criteria for use by FAA Flight Standards District Offices in approving training programs. The FAA appreciates this concern and intends to ensure that standardized criteria are used for the initial and final approval of training programs and of any revisions presented for approval under this section.

Some commenters claim that this subpart would cause a paperwork burden. The enhanced training requirements will increase paperwork because of expanded curriculum standards and additional recordkeeping. After the curriculum is approved, the paperwork burden is limited to amendments to training requirements and continuing recordkeeping. Although the initial paperwork may appear significant, operational experience in administering the part 121 training rules shows that the anticipated burden is not that heavy. After the program is approved, the improved proficiency of crewmembers yields a more efficient, sensitive and smooth-running operation. In short, once an operator has a training program, its benefits outweigh the modest burden of obtaining it.

§ 135.327 *Training program: Curriculum. (Proposed § 135.243.)*

Several commenters object to § 135.327. They contend that it is a burden on smaller operators and that a written curriculum for each type of aircraft is unnecessary and unwieldly. One commenter suggests that written curriculums should be required only for turbojets and large aircraft.

The enormous technological advances and abundance of supportive information now available to the industry can be used without causing an undue burden on any operator. Acceptable written curriculums can be developed for each type of aircraft because of the wealth of aircraft information now available. The majority of affected operators now have written curriculums. Probably, many can be modified to apply to other aircraft. Also, the training curriculum may be applied to more than one aircraft and one need not be written for each aircraft the operator uses. Of course, as complexity increases in each operation, a more complex curriculum becomes necessary. The specific requirements of § 135.327 are the minimum essential items the FAA needs to approve the curriculum.

§ 135.331 *Crewmember emergency training. (Proposed § 135.247.)*

One commenter on § 135.331 suggests that it provide for exclusions based upon the certificate holder's operations and equipment, for example, operations which do not include pressurized aircraft or flotation devices. The substance of this comment is accommodated because § 135.331(a) limits emergency training to that which is applicable to each crewmember and certificate holder. Thus, if a pressurized aircraft is not operated, training for rapid decompression is not required. Similarly, if flotation devices are not required in the operation, training in the use of related equipment is not required. To emphasize this, the words "if applicable" are

added at the end of § 135.331(c) (4), (6) and (7).

One commenter on § 135.331(b)(4) contends that this paragraph will be difficult to comply with but offered no explanation. Because of this comment, the review in § 135.331(b)(4) is limited to the certificate holder's previous aircraft accidents and incidents. This information should be readily accessible. Another commenter suggests that the words "and discussion" be inserted after the word "review" to insure that the items are discussed during crewmember emergency training. Discussion should be a normal part of a review. Crewmembers may request discussion at any time and the change is not necessary.

Certain commenters contend that this rule should not apply to on-demand operators of small aircraft. This rule must apply to all certificate holders to insure the adequacy of the training in these procedures and to afford the appropriate protection to passengers carried under part 135.

§ 135.333 *Training requirements: Handling and carriage of hazardous materials. (Proposed § 135.249.)*

Because the requirements of paragraph (e) are covered in § 135.323(b), paragraph (e) is withdrawn.

§ 135.335 *Approval of aircraft simulators and other training devices. (Proposed § 135.251.)*

One commenter on § 135.335(b) suggests that the term "training device" could be construed to include "blackboards, visual aids" and similar items. This would necessitate the approval of these items as part of the training program. The commenter also suggests that "training device" be defined. Training devices are approved as elements of the program. A definition would be unduly restrictive. New § 135.335(c) is added to outline the elements the FAA considers in approving a training program.

§ 135.337 *Training program: Check airmen and instructor qualifications. (Proposed § 135.253.)*

One commenter claims § 135.337 (a)(2) is unworkable because it does not specify who or what agency provides the initial training for required check airmen and instructors. The initial designation of check airmen or instructors is based on their documented qualifications and demonstrated ability. Then, considerable emphasis is placed on periodic evaluation of their performance by the FAA District Office. In addition, these personnel must participate in the proficiency check program of the operator. This must be appropriate to the person's airman certificate, ratings and duty assignments which are related to the approved check airman and instructor function involved. Instructors and check airmen (who are approved by the FAA to conduct flight crewmember qualification, proficiency and en route checks) approvals are terminated when their performance is no longer satisfactory. This maintains the integrity of the check airman and instructor program.

One commenter on § 135.337(a)(3) contends that the term "appropriate proficiency and competency checks" should be changed to read "appropriate instrument and flight checks." The term "appropriate proficiency and competency checks" is more consistent with current industry standards than the term suggested by the commenter. Also, it is consistent with the language of §§ 135.293 and 135.297.

Several commenters on § 135.337 contend that § 135.337(a)(5) exceeds the requirements of current § 121.411(a)(6) which allows a check airman to hold a class III medical certificate. The commenters assert that this precludes the use of experienced senior pilots who can no longer meet class I or II medical standards. They claim that the traveling public's safety is not dependent on the class of medical certificate held by a check airman.

The objections presented do not make a persuasive case for amending or withdrawing this rule. The commenters, in comparing proposed § 135.337 with § 121.411, may have failed to consider certain requirements of part 135 which were not proposed to be changed. Current § 135.135 requires each certificate holder who desires FAA approval of a check pilot to submit a request in writing to the appropriate FAA District Office. The Administrator may issue a letter of authority to a person as a check pilot if that person meets the requirements of §§ 61.3, 61.31, 61.139, 61.149 and 61.151 and meets and accomplishes certain other requirements essential to that person's approval. Thus, current part 135 requires a check airman to hold at least a commercial pilot certificate with appropriate category and class ratings, an instrument rating, an appropriate type rating (if required) and at least a class II medical certificate. Under § 135.337, the check airman must hold the certificate and ratings required of a pilot in command in an operation conducted under § 135.243. Consequently, the check airman must hold the class I or class II medical certificate appropriate to the certificate privileges under § 135.243.

Safety would not be compromised if pilots who are used as check airmen in an aircraft simulator only hold a class III medical certificate. Of course, the pilot must meet the other requirements of this chapter. New § 135.337(a)(7) is added to allow that. This provides greater operational flexibility for certificate holders and airmen. Section 135.337(b)(2) is clarified by inserting the words "the following as evidenced by the approval of" in place of the word "for."

§ 135.339 *Check airmen and flight instructors: initial and transition training. (Proposed § 135.255.)*

One commenter contends § 135.339 (a) should be deleted because § 135.337 does not specify who is authorized to give the initial training for the check airmen and instructors. This comment is discussed at length under § 135.337.

Commenters on § 135.339(c)(3) criticize the requirement because they interpret it to be a mandate to accomplish this training in flight. The language of § 135.339(c) is clear that demonstration of unsafe practices in flight is not required. The paragraph closely follows the language of current § 121.413. This paragraph is intended to insure that the training program includes a discussion or an appropriate demonstration of the need for timely action in response to an in-flight situation having critical accident potential. Sufficient safeguards should be employed when simulating emergency procedures.

§ 135.341 *Pilot and flight attendant crewmember training programs. (Proposed § 135.257.)*

Commenters on § 135.341 suggest that all certificate holders be required to have a training program. One commenter claims that a training program patterned on current part 121 is unduly burdensome. Another commenter suggests that the word "approved" in § 135.341(a) be changed to "acceptable".

One of the purposes of this revision of part 135 is to update and improve the training requirements. Changes include provisions for approving and revising training programs, for extending the use of aircraft simulators, and for allowing improvements in present technology to be easily applied in training programs. These changes increase the quality of crewmember training without unduly burdening any operator. The suggestion to change the word "approved" to "acceptable" is discussed at length under § 135.321(a).

One commenter contends that compliance with subpart H will unnecessarily increase the cost of conducting air taxi operations in small aircraft with little increase in the level of safety. This comment overlooks the deviation authority in § 135.341(a). That section allows waivers of certain training requirements based on the size and scope of operations when the operator shows that literal compliance with the rules is not necessary in the interest of safety. This provides adequate flexibility to significantly

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reduce the cost of training for operators of small or light aircraft.

Another commenter suggests that every air taxi operator, regardless of size, be required to have an air taxi training program. This commenter contends that if an operator is not otherwise required to have an approved training program, then it should be required to contract with a company with an approved program to train that operator's personnel. The current rule does not require a training program if the certificate holder is the only pilot. No change in the current rule is justified. However, § 135.341(a) is editorially revised to clarify that language. Also the phrase "every 12 calender months" is deleted from § 135.341(b)(5) because it is not appropriate there.

§ 135.343 *Crewmember initial and recurrent training requirements.* (*Proposed § 135.259.*)

The concluding sentence of current § 135.137, was inadvertently omitted from this rule as proposed in Notice 77-17. To make § 135.257 and § 135.343 consistent, the sentence is restored.

§ 135.345 *Pilots: Initial, transition, and upgrade ground training.* (*Proposed § 135.261.*)

An Aircraft Flight Manual is not required in the certification of all aircraft. For example, one is not required for an airplane of 6,000 pounds or less maximum certificated takeoff weight type certificated under part 23. Sections 23.1581(a)(2) and 27.1581(a)(2) requires that if the required information is not furnished in an Aircraft Flight Manual, then it must be furnished in any combination of approved manual material, markings, and placards. To reflect this fact, the words, "or equivalent" are added after the words "Aircraft Flight Manual" in § 135.345(a)(2)(xi).

§ 135.347 *Pilots: Initial, transition, upgrade, and differences flight training.* (*Proposed § 135.263.*)

One commenter on § 135.347 contends that it prohibits a certificate holder, whose approved training program authorizes the use of an aircraft simulator, from reverting to an aircraft when the simulator is out of service. A reasonable and prudent element of an approved training program would authorize the use of an aircraft when the simulator is out of service.

One commenter suggests that the words "airplane simulator" in § 135.347(b) should be changed to the words "aircraft simulator." The FAA agrees and that is done. The phrase "or a static aircraft" in § 135.347(b) no longer serves any useful purpose and it is deleted.

§ 135.349 *Flight attendants: Initial and transition ground training.* (*Proposed § 135.265.*)

Section 135.349(b) is deleted because it is covered in § 135.295.

§ 135.351 *Recurrent training.* (*Proposed § 135.267.*)

Section 135.351(b)(3) is deleted because it is covered in § 135.295.

SUBPART I—AIRPLANE PERFORMANCE OPERATING LIMITATIONS

§ 135.361 *Applicability.* (*Proposed § 135.271.*)

One commenter agrees with this subpart, but goes on to state an understanding that the FAA does not intend to apply additional airplane performance standards beyond those now in the Federal Aviation Regulations. This subpart is needed to insure that these airplanes are operated within limits that meet the level of safety intended for part 135 flight operations. Their adoption does not imply that additional airplane performance standards may not be necessary in the future. These rules for airplane performance are adequate for the present generation of airplanes. However, future amendments to the current regulations may be necessary because of unforeseen circumstances.

One commenter states, without elaborating, that, "This subpart should not apply to on-demand air taxis due to the fact that there is insufficient data readily available as published by the Federal Government." Subpart I applies to the type of aircraft being operated and not the type of operation. In the interest of safety, each aircraft must meet these operating limitations, whether used in air taxi or commuter service. The requirements adopted in subpart I are in the current rules and they have not caused operators any problems.

Several commenters suggest that the FAA should make available the airport data necessary to comply with this subpart. The FAA cannot assume responsibility for the collection and publication of the information for all airports that is necessary to show compliance with this subpart. The certificate holder is responsible for obtaining the required data for each airport into which its operations are conducted. The basic data on specific airports should be requested from the airport authority which normally has that available.

Several commenters state that the "60-percent rule" should apply to all operators and an exception should allow operators with auxiliary stopping devices (such as drag chutes and propeller or thrust reversers) to use a 70-percent factor. The applicability of this subpart is consistent with current regulations governing airplane performance operating limitations. Allowing the use of a 70-percent factor for additional auxiliary stopping devices is not acceptable under this subpart. No valid data is available for these devices and extensive testing would be necessary before that data would be available. Performance data now available in the Airplane Flight Manual has proven adequate to comply with this subpart.

Four commenters suggest that subpart I apply to turbojet aircraft and large aircraft. This subpart applies to all large aircraft, including turbojet, operated under revised part 135. Section 135.155 in notice 77-17, which contained small airplane performance operating limitations, has been included in subpart I as §§ 135.397 and 135.399. Small airplane performance operating limitations do not currently apply to nontransport category turbojet airplanes and this rule was not proposed for change. However, notice 77-25 (42 FR 56702; Oct. 27, 1977) invited recommendations concerning the development of a new airworthiness certification standard for the airplanes intended for use by commuter air carriers in part 135 operations. These comments are being evaluated separately.

When published, notice 77-17 did not contain amendment 121-132 (41 FR 55475; Dec. 20, 1976) governing airplane performance. This amendment moved the definition of "effective length of runway" for takeoff from § 121.171(b) to § 121.199(b)(5), because this term is not used elsewhere in part 121. Having the definition in § 121.171 caused confusion in the past. Sections 135.361(b) and 135.389(b) are amended in a manner similar to amendment 121-132.

§ 135.363 *General.* (*Proposed § 135.273.*)

Section 135.363 is clarified by defining a large nontransport category airplane for the purposes of subpart I as one that was type certificated before July 1, 1942. A large airplane type certificated after that date must meet performance operating limitations for a transport category airplane to operate under part 135.

§ 135.379 *Large transport category airplanes: Turbine engine powered; takeoff limitations.* (*Proposed § 135.289.*)

Section 135.379(c) is clarified by inserting the words "as defined in § 25.109 of this chapter" after the word "distance." This is done because the definition of "accelerate-stop distance" has been removed from part 1 and now is defined in part 25.

§ 135.397 *Small transport category airplane performance operating limitations.* (*Proposed § 135.155.*)

Proposed § 135.155 (a) and (b) are moved from subpart C and redesignated as § 135.397 because they contain small transport category airplane performance operating limitations.

§ 135.399 *Small nontransport category airplane performance operating limitations.* (*Proposed § 135.155.*)

Proposed § 135.155(c) is moved from subpart C and redesignated as § 135.399 because it contains small nontransport category airplane performance operating limitations.

An Airplane Flight Manual is not required for airplanes of 6,000 pounds or less maximum certificated takeoff weight which are type certificated under part 23 of this chapter. Section 23.1581(a)(2) requires that if the information is not furnished in an Airplane Flight Manual, then it must be furnished in any combination of approved manual material, markings and placards. Thus, the words, "or equivalent" are added after "Airplane Flight Manual" in § 135.399. The applicability of this rule to small airplanes is unchanged from current § 135.148.

Some commenters on proposed § 135.155 believe it should apply to all multiengine turbine engine-powered airplanes. Others state that the proposal granted an unfair advantage to operators of those airplanes not affected by it. Where performance information is available in an Airplane Flight Manual, safety considerations require that the information be used with the other requirements in this subpart. The performance information required for the compliance with this section may not always be available for nontransport category airplanes.

SUBPART J—MAINTENANCE, PREVENTIVE MAINTENANCE, AND ALTERATIONS

§ 135.411 *Applicability.* (*Proposed § 135.333.*)

Several commenters contend that § 135.411(a)(1) imposes manual and recordkeeping requirements in addition to those now required in other parts of the Federal Aviation Regulations. Operators who must comply with § 135.411(a)(1) now must meet the maintenance and recordkeeping requirements of parts 91 and 43. Section 135.411(a)(1) does not add maintenance recordkeeping or manual requirements beyond those now required under parts 43, 91 and 135 for an operator using an aircraft type certificated, excluding any pilot seat, for nine or less passenger seats.

Two commenters state that a maintenance rule applied to one type of part 135 operator should be imposed on all of them. The different types and classes of aircraft now used in part 135 operations were considered in developing revised part 135. Subpart J provides an acceptable maintenance system considering those different types and classes of aircraft.

One commenter recommends that the passenger seating criteria for helicopters in § 135.411(a)(1) be increased from 9 to 19 and in § 135.411(a)(2) increased from 10 to 20. All types of aircraft, including helicopters, were considered during the development of subpart J. A helicopter is no less complex than an airplane. A helicopter is used to carry passengers in similar operating environments to an airplane. This includes approval of helicopters for use in IFR conditions. If the same maintenance standards were not imposed on helicopters and airplanes, the public interest would not be served. Passengers must have the same assurance of safety whether an air taxi operator conducts operations in airplanes or helicopters.

Some commenters suggest that § 135.411(a)(1) should apply to piston-powered aircraft and § 135.411(a)(2) should apply to turbine-powered aircraft. Basing the maintenance requirements on the type of powerplant installed is not acceptable and may compromise safety. For example, if § 135.411(a)(1) were applied only to piston-powered aircraft, an aircraft that carries 30 passengers would have lower maintenance requirements than a small turbine-powered aircraft that carries six passengers. Thus, the rule for maintenance and inspection of part 135 aircraft applies on the basis of the passenger-carrying capability rather than the type of powerplant installed.

Some commenters state that § 135.411 will burden operators in remote areas due to the shortage of personnel available to perform the required inspections. Some operators using aircraft that are type certificated for 10 or more seats, excluding any pilot seat, may experience difficulty in accomplishing required inspections. However, § 135.411(a)(2) should apply wherever the aircraft are operated to achieve the level of safety required for revised part 135. Section 135.411(a)(1), which applies to aircraft type certificated for nine or less passenger seats, excluding any pilot seat, will not burden air taxi operators in remote areas. The procedures for the performance of maintenance remains basically the same as the current rules, except for additional maintenance requirements in § 135.421 for engine, propeller, rotor and emergency equipment.

A number of commenters state that the lack of the maintenance program required by §§ 135.11 and 135.411(a)(2) has not caused many fatal accidents. A study of air taxi accidents made by the National Transportation Safety Board (NTSB-AAS 72-9) indicates that the lack of properly managed maintenance programs is a contributing factor in air taxi accidents. The Board concludes that there is a lack of clearly identifiable safety practices in the maintenance functions of commuter air carriers. The Board recommends part 135 require training for aircraft maintenance personnel and establish standard programs for using manufacturer maintenance requirements for aircraft components, powerplants and propellers. The Board's recommendation was considered in revising part 135.

Two commenters question whether a continuous maintenance program is justified in view of the cost. Subpart J is justified by the diversity of aircraft that certificate holders operate. This subpart provides the air taxi passenger with a level of airworthiness that is equivalent to a part 121 air carrier.

Some commenters want to know whether "certificated pertained to the configured capacity of an aircraft or the passenger capacity as listed on the aircraft type data sheet when an aircraft is type certificated." Under subpart J, "certificated" means the number of passengers listed on the type data sheet or as modified by a Supplemental Type Certificate (STC). To clarify that, the word "type" is added before the word "certificated" in §§ 135.411(a) (1) and (2).

§ 135.413 *Responsibility for airworthiness.* (*Proposed § 135.335.*)

Several commenters on § 135.413(a) state that there is no need to refer to having defects repaired between required maintenance under part 43 because part 135 requires a maintenance program. Although part 135 includes maintenance programs for air taxi aircraft, the performance standards for maintenance, preventive maintenance, rebuilding and alteration are prescribed in part 43. Thus, the reference is appropriate.

Section 135.413(a) applies to all part 135 certificate holders. This rule places the primary responsibility for airworthiness of its aircraft on the certificate holder. Each certificate holder must insure that all required maintenance is performed regardless of the program § 135.411 requires. The operator of an aircraft that is type certificated for nine seats or less, excluding any pilot seat, may have a properly certificated person maintain its aircraft. The person who performs this work for a certificate holder (who must comply with § 135.411(a)(1) must perform that work as the applicable Federal Aviation Regulations require. Section 135.413(b) places on the operators of aircraft type certificated for 10

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seats or more, excluding any pilot seat, the responsibility to perform the maintenance on their aircraft as required by the Federal Aviation Regulations. Section 135.413(b)(2) allows these operators to have their maintenance performed by another person but it does not relieve the certificate holder of the responsibility for that work.

Several commenters state that § 135.413(b)(2) is unrealistic because it makes air taxi operators who maintain their aircraft under § 135.411(a)(2) responsible for the maintenance someone else performs on its aircraft. They also state that an FAA-certificated repair station is found by the FAA to be qualified and it would be a duplication to have the operator assume this responsibility. An FAA-certificated repair station is qualified under the requirements of part 145. However, the operator must insure that each person who performs its maintenance is competent, has adequate facilities and has an organization to perform maintenance in accordance with the certificate holder's manual. The operator can consider the fact that the FAA has found that a repair station is technically qualified to perform its maintenance. The operator still is responsible for insuring that a repair station can, and in fact does, comply with the procedures outlined in the operator's manual.

Another commenter objects to the certificate holder being responsible for work an FAA-certificated repair station performs because this requires a periodic visit to each agency with whom the operator contracts for maintenance. The certificate holder must determine the repair station's capability and then monitor its performance. In effect, a repair station under contract is an extension of the certificate holder's organization and maintenance facility. The certificate holder is expected to make the same inquiries concerning the repair station's capability and performance that it does for its own facility. Since 1956, this system has been shown to be effective by large and small operators who maintain their aircraft under part 121.

Section 135.413(b) is revised from the proposal in notice 77-17 to make it clearer. Section 135.413(b)(2) (proposed as paragraph (c)) is reworded to clarify the responsibilities of a certificate holder who maintains its aircraft.

§ 135.415 *Mechanical reliability reports. (Proposed § 135.337.)*

One commenter recommends that the reporting period should be extended to 72 hours because the certificate holder's employees work irregular hours. This comment has merit and § 135.415(d) is changed.

Several commenters indicate that no significant data is obtained by requiring mechanical reliability reports (MRR) for single-engine airplanes and helicopters. Another commenter states requiring MRR for single-engine aircraft will not provide significant data because these aircraft are not complex. An MRR indicates a safety-of-flight item regardless of the type or size of aircraft. Many single-engine aircraft are not complex but the complexity of the environment in which they operate (including instrument flight conditions) is increasing. Also, single-engine aircraft form the major part of the part 135 fleet. The additional data received on these aircraft will significantly enhance safety because that data is used to determine safety trends in aircraft and aircraft systems.

One commenter states that helicopters certificated for a passenger seating configuration of 19 seats or less should be excluded from the MRR requirements. Helicopters are a growing segment of the part 135 fleet and they operate in the same environment that airplanes do. The data received on helicopters will provide the same safety information for helicopters that the current system does for airplanes.

The phrase "because of flame out" was inadvertently omitted from the proposed rule and is added to § 135.415(a)(6).

§ 135.417 *Mechanical interruption summary report. (Proposed § 135.339.)*

One commenter indicates that a monthly reporting requirement is an undue burden on the operator of single-engine aircraft due to the lack of complexity. The lack of complexity of single-engine aircraft alone is not sufficient reason to exclude them from a mechanical interruption summary reporting requirement. However, insufficient additional safety data would be acquired to justify that report for single-engine aircraft. Adequate safety data about them will be submitted under § 135.415. Section 135.417 is changed to exclude these aircraft.

Another commenter recommends that § 135.417 be revised to include only "Commuter Air Carriers, as defined in part 298 of this title, operating airplanes that are certificated for a seating configuration, excluding any pilot seat, of 10 seats or more, or operating helicopters that are certificated for a passenger seating configuration of 20 seats or more." As discussed under § 135.411, the public interest would not be served by distinguishing helicopters from airplanes on the basis of the number of seats under this rule.

§ 135.421 *Additional maintenance requirements. (Proposed § 135.343.)*

Several commenters state that the term "manufacturer's recommended maintenance programs" could require compliance with all service letters suggesting installation of kits which may not be available. Section 135.421 requires compliance with the manufacturer's maintenance and inspection instructions in the maintenance manual that is required under the airworthiness standards that apply to the aircraft, aircraft engine, propeller, rotor or item of emergency equipment. The manual that must be made available to the owner under § 23.1529 of this chapter would satisfy this requirement. The maintenance instructions that are required by §§ 33.3 or 35.5 also would satisfy § 135.421 for the propeller or aircraft engine. Service letters or bulletins that are not required by an Airworthiness Directive are not included unless they are part of the maintenance manual or maintenance instructions required under the rules. A new § 135.421(b) is added to make this clear.

One commenter states that it has been operating engines for many years. It has a maintenance program that is reliable and that provides for engine inspection and overhaul times that are in excess of those required by the engine manufacturer. The purpose of § 135.421 is to give the certificate holder the opportunity to develop just this kind of program based upon its operating experience.

Several commenters suggest that § 135.421 apply only to nonturbine-powered aircraft. As discussed in detail under § 135.411, § 135.421 applies based on the type certificated passenger seating capacity of the aircraft, not its powerplant.

§ 135.423 *Maintenance, preventive maintenance, and alteration organization. (Proposed § 135.345.)*

Commenters claim that § 135.423 imposes an undue burden on small operators. They also state that separating the inspection function from the maintenance function is the major problem. Section 135.423 applies to certificate holders that use aircraft type certificated for 10 seats or more, excluding any pilot seat. A certificate holder who operates this size aircraft must see to it that the maintenance is performed by an adequate maintenance organization whether the work is done at the certificate holder's facilities or at another person's facility. This requirement is similar to one currently in part 121. Separation of required inspections from maintenance functions is necessary to ensure that work on required inspection items is properly performed. Considering the modern air taxi industry of today, this requirement is necessary.

This rule does not limit each person who is authorized to inspect to doing only inspections. They may perform maintenance in other areas. This section provides that the person who conducts the required inspection of an item may not be the person who performs the work on that item. Also, these items are a relatively small percentage of an operator's overall maintenance program.

One commenter recommends that all words relating to "other maintenance and preventive maintenance" in § 135.423(c) be deleted because that requires reinspection of items to be completed away from home base. The required inspection items should be properly done wherever the item is maintained.

One commenter asked for clarification of the term "adequate" in § 135.423(a). "Adequate" means that the operator has a program that complies with § 135.425. The certificate holder must ensure that maintenance, preventive maintenance and alterations are performed in accordance with its manual, that the work is done by competent personnel, that proper facilities and equipment are provided and that the aircraft is airworthy when released to service. The same commenter asked where qualified personnel could be obtained since there now is a shortage of qualified mechanics in the industry. The rule should, in fact, relieve this problem. An operator who must comply with § 135.411(a)(2) may use its employees who are not certificated mechanics, but who are qualified to be certificated as repairman under § 65.101 when recommended by the certificate holder.

One commenter recommends that each reference to a person other than a certificate holder be deleted from §§ 135.423 (a) and (b) because they have probably already been approved by the Administrator. If not, the commenter states the certificate holder should assume responsibility and sign the airworthiness release. The commenter suggests §§ 135.423 (a) and (b) be changed to state "that each certificate holder must have an adequate organization to perform the work," including "required inspection items." This change would require each operator to have a maintenance organization. An operator could not use another person with an adequate organization to perform maintenance, preventive maintenance and alteration and required inspections in accordance with the operator's manual.

The same commenter suggests that the second sentence of § 135.423(c) be deleted because the first sentence adequately covers the desired separation between inspection and maintenance functions. The first sentence requires that inspections be separated from other maintenance, preventive maintenance and alteration functions. The second sentence identifies the level in a certificate holder's organization where required inspection functions must be separate from the maintenance, preventive maintenance and alteration functions.

§ 135.425 *Maintenance, preventive maintenance, and alteration programs. (Proposed § 135.347.)*

One commenter on § 135.425 states it should only apply to helicopters that are certificated for a passenger seating configuration, excluding any pilot seat, of 19 or less. As discussed under § 135.411, the public interest would not be served by doing this. The same commenter states that operators of helicopters in remote areas cannot comply with § 135.425. A similar comment is discussed at length under § 135.411.

One commenter states that operators with small aircraft that carry nine passengers or less should be exempt from § 135.425. Section 135.411(a)(2) explicitly provides that.

One commenter states that maintenance performed under FAA-approved procedure is adequate and § 135.425 is not necessary. In September 1972, the National Transportation Safety Board released a report (NTSB-AAS 72-9) following an air taxi safety study of accidents in air taxi and commuter operations. The Board found the lack of properly managed maintenance programs was a contributing factor in air taxi accidents. The Board's recommendation was considered in the development of this rule.

§ 135.427 *Manual requirements. (Proposed § 135.349.)*

Several commenters object to § 135.427(a) requiring the operator to list in the manual "persons with whom it has arranged for the performance of its required inspections, other maintenance, preventive maintenance, or alterations, including a general description of that work." The commenter claims that this is too restrictive and elminates the ability to obtain quality work without undue delay. Section 135.427 does not prevent an operator from having maintenance performed by persons who are not listed in the manual. That would be impractical. The rule is flexible enough to allow maintenance to be performed on an "on call" basis. The operator is responsible for the airworthiness of its aircraft whoever performs the maintenance. Section 135.21(h) requires procedures for a pilot to obtain maintenance at a place where previous arrangements have not been made by the operator. This is in the current rules and has not been an undue burden. The rule is necessary to inform the certificate holder's personnel of those persons who may perform maintenance on its aircraft.

One commenter states that § 135.427 should only apply to operators that carry 20 or more passengers. As discussed under § 135.411, the public interest would not be served by doing this.

One commenter agrees with § 135.427 but expresses concern that there is no definite guidance supplied by FAA to develop a standard manual. The FAA will develop an Advisory Circular to provide operators with information to assist in developing acceptable programs and manuals.

A new § 135.427(c) is added that requires an operator to establish a system in its manual for the retention of certain maintenance records. This parallels § 121.369(c) and is referenced in § 135.439. Without § 135.427(c), a certificate holder could not use modern methods of collecting, recording or storing maintenance records. Several § 135.2 operators now use coded systems to perform, control and record their maintenance programs under § 121.369(c). Operators also use various maintenance control programs and techniques that are available in coded form. This change does not impose any additional recordkeeping requirements. A certificate holder now must comply with § 91.173(a)(1) which requires a record of the work performed. Without § 135.427(c), part 135 operators who are using coded systems under § 121.369(c) would have to revert to an uncoded recordkeeping system. This is because § 91.173 requires signatures and a written description of work accomplished on aircraft for all owners except those exempted by § 91.161(b).

§ 135.429 *Required inspection personnel. (Proposed § 135.351.)*

Several commenters oppose the separation of the required inspection items under § 135.429(c) from maintenance functions because it would impose hardships on the small operator or the small shop. This issue is discussed at length under § 135.423.

One commenter states that separating required inspections will require an operator to send an inspector to various places for tire changes or other unexpected maintenance. This may happen, but occurrences can be minimized by selective classification of required inspection items based on the operator's experience. Many maintenance tasks that are essential to a reliable and safe aircraft are not necessarily so critical that they should be required inspection items. Enough flexibility is provided under § 135.429(c) to enable an operator to manage a program that provides both safe and economic operations.

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§ 135.431 *Continuing analysis and surveillance. (Proposed § 135.353.)*

Commenters on § 135.431 state that the rule should not apply to small operators. The applicability of the maintenance and inspection rules should not be based on the size of the certificate holder. They must be based on the type certificated seating capacity of the aircraft being used because that most appropriately reflects the size and complexity of the aircraft.

One commenter suggests combining §§ 135.431 (a) and (b) and deleting § 135.431(c). This would eliminate a certificate holder's privilege to petition the FAA to reconsider a notice of change of a program and should not be deleted.

§ 135.433 *Maintenance and preventive maintenance training program. (Proposed § 135.355.)*

The commenter on § 135.433 agrees with the concept of this rule but suggests that the statement "or a person performing maintenance * * * for it" in § 135.433 be deleted. The commenter states that it is impossible to insure that vendors or other organizations have adequate training programs. Adopting this suggestion would require each certificate holder to have a training program for each vendor or person who performs maintenance on its aircraft. Reviewing the qualifications and training of a person who performs maintenance for an operator is a more workable, less burdensome alternative.

§ 135.435 *Certificate requirements. (Proposed § 135.357.)*

Commenters object to § 135.435 because they assume that the words "appropriate airman certificate" in § 135.435(a) eliminate the certificate holder's prerogative to determine the qualifications of its management personnel, of persons who are directly in charge of maintenance, or of persons who perform inspection of required inspection items. This section only establishes the basic qualification that these people must hold an appropriate airman certificate. This insures that the person who performs these functions has basic knowledge of the regulations governing the performance of the maintenance, preventive maintenance or alterations.

§ 135.437 *Authority to perform and approve maintenance, preventive maintenance, and alterations. (Proposed § 135.359.)*

To allow a certificate holder to perform its own maintenance, preventive maintenance, and alterations, the words "perform or" are added to § 135.437(a) after the words "certificate holder."

§ 135.439 *Maintenance recording requirements. (Proposed § 135.361.)*

The commenters on § 135.439(a)(2)(i) object to the word "propeller." One suggests that the word "propeller" be deleted because the propeller consists of blades and hub and does not have a single time. The other commenter suggests that the word "propeller" be changed to read "propeller hub" because it is impossible to keep records on the blades. The definition of "propeller" in part 1 includes the hub and blades. Therefore, each propeller blade and hub is identified by model designation, part number, and serial number. Section 135.439(a)(2)(i) requires the total time in service for the blades, hub or other control component normally supplied by the manufacturer.

The commenters on §§ 135.439 and 135.439(a)(2)(iii) indicate that they consider the rule a duplication of recordkeeping requirements of part 91. The recordkeeping required under §§ 135.439 and 135.439(a)(2)(iii) is in place of the records required under § 91.173(a)(2)(i).

The word "rotor" is added to § 135.439(a)(2)(i) to require a record of the total time in service for a rotor. This is necessary because specific problems are being encountered with rotors and a number of airworthiness directives (AD) are being issued about rotors.

The words "date and" are added to § 135.439(a)(2)(v) to ensure that each AD is complied with by the date that it is due. The phrase "and, if the airworthiness directive involves recurring action, the time and date when the next action is required" also is added to § 135.439(a)(2)(v). A certificate holder is required to record the time and dates of recurring AD's because § 135.443 requires a certificate holder to maintain the current status of AD's. For an AD requiring recurring action, the time and date of the next required action is part of the current status. These changes clarify the rule.

The words "and repairs" are added to § 135.439(a)(2)(vi) because a repair is maintenance and repairs must be recorded to determine the airworthiness status of the aircraft.

§ 135.443 *Airworthiness release or aircraft log entry. (Proposed § 135.365.)*

Several commenters favor § 135.443 but object because making the statement outlined in § 135.443(b) each time a person performs maintenance on an aircraft is time consuming. One commenter suggests § 135.443 be amended to include the concept outlined in § 121.709(d). The procedures are included in § 135.443(c) as suggested.

One commenter suggests that the words "aircraft log entry" in § 135.443(b)(3) be changed to "aircraft maintenance records." The commenter states this requires an additional log because different times are used for the same documents in § 135.65. The aircraft log entry in § 135.443 is not an additional requirement. The log mentioned in § 135.65 may be the same log and may be part of the operator's system for maintenance recordkeeping. The log entry mentioned in § 135.443(b)(3) becomes a part of the aircraft records under § 135.439 and is not intended to duplicate other records. Section 135.439(a)(2) specifically requires the airworthiness release and the aircraft log entry to be made a part of the aircraft records.

Drafting Information

The principal authors of this document are B. L. Abram, L. D. Basham, D. W. Kress, F. E. Kurdys, D. A. Schroeder, W. J. Sullivan, T. G. Walenta, and L. J. Weston, Flight Standards Service, and R. C. Beitel and M. S. Filler, Office of the Chief Counsel.

Adoption of the Amendments

Accordingly, parts 121, 127, and 135 of the Federal Aviation regulations (14 CFR parts 121, 127, and 135) and special Federal Aviation regulations 23, 30, and 33 are amended as follows, effective December 1, 1978:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By revising § 121.9 to read as follows:

§ 121.9 Operations of airplanes having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less.

No person may conduct operations with an airplane having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, unless those operations are conducted under part 135 of this chapter, except §§ 135.5, 135.17, 135.27, 135.29, 135.31, 135.35, 135.37, and 135.39, and appropriate operations specifications in place of subparts E through K of this part. However, the holder of an air carrier operating certificate issued under this part may maintain its airplanes operated under part 135 of this chapter under a continuous airworthiness maintenance program that meets subpart L of this part and operations specifications issued to it under this part. Operations specifications issued under this section contain the operating limitations and requirements that the Administrator finds necessary.

§ 121.13 Rules applicable to helicopter operations: deviation authority. [Amended]

2. By amending § 121.13(d) by (a) deleting the word "small" between the words "with" and "helicopters"; and (b) adding the words "having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less" after the word "helicopters".

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

3. By revising § 127.5 to read as follows:

§ 127.5 Operation of airplanes having a maximum passenger seating configuration of 30 seats or less and a maximum payload capacity of 7,500 pounds or less.

No person may conduct operations with an airplane having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, unless those operations are conducted under part 135 of this chapter, except §§ 135.5, 135.17, 135.27, 135.29, 135.31, 135.35, 135.37, and 135.39, and appropriate operations specifications. However, the holder of an air carrier operating certificate issued under this part may maintain its airplanes operated under part 135 of this chapter under a continuous airworthiness maintenance program that meets subpart I of this part and operations specifications issued to it under this part. Operations specifications issued under this section contain the operating limitations and requirements that the Administrator finds necessary.

4. By deleting special Federal Aviation regulation 23 in part 135.

5. By revoking special Federal Aviation regulations 30 and 33 in parts 121 and 135.

6. By revising part 135 to read as follows:

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Subpart A—General

Sec.
135.1 Applicability.
135.2 Air taxi operations with large aircraft.
135.3 Rules applicable to operations subject to this part.
135.5 Certificate and operations specifications required.
135.7 Applicability of rules to unauthorized operators.
135.9 Duration of certificate.
135.10 Compliance dates for certain rules.
135.11 Application and issue of certificate and operations specifications.
135.13 Eligibility for certificate and operations specifications.
135.15 Amendment of certificate.
135.17 Amendment of operations specifications.
135.19 Emergency operations.
135.21 Manual requirements.
135.23 Manual contents.
135.25 Aircraft requirements.
135.27 Business office and operations base.
135.29 Use of business names.
135.31 Advertising.
135.33 Area limitations on operations.
135.35 Termination of operations.
135.37 Management personnel required.
135.39 Management personnel qualifications.
135.41 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.
135.43 Crewmember certificate: International operations: Application and issue.

Subpart B—Flight Operations

135.61 General.
135.63 Recordkeeping requirements.
135.65 Reporting mechanical irregularities.
135.67 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities.
135.69 Restriction or suspension of operations: Continuation of flight in an emergency.
135.71 Airworthiness check.
135.73 Inspections and tests.
135.75 Inspectors credentials: Admission to pilots' compartment: Forward observer's seat.
135.77 Responsibility for operational control.
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135.81 Informing personnel of operational information and appropriate changes.
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135.85 Carriage of persons without compliance with the passenger-carrying provisions of this part.
135.87 Carriage of cargo including carry-on baggage.
135.89 Pilot requirements: Use of oxygen.
135.91 Oxygen for medical use by passengers.
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135.97 Aircraft and facilities for recent flight experience.
135.99 Composition of flight crew.
135.101 Second in command required in IFR conditions.
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135.107 Flight attendant crewmember requirement.
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135.113 Passenger occupancy of pilot seat.
135.115 Manipulation of controls.
135.117 Briefing of passengers before flight.
135.119 Prohibition against carriage of weapons.
135.121 Alcoholic beverages.
135.123 Emergency and emergency evacuation duties.

Subpart C—Aircraft and Equipment

135.141 Applicability.
135.143 General requirements.
135.145 Aircraft proving tests.
135.147 Dual controls required.
135.149 Equipment requirements: General.
135.151 Cockpit voice recorders.
135.153 Ground proximity warning system.
135.155 Fire extinguishers: Passenger-carrying aircraft.
135.157 Oxygen equipment requirements.
135.159 Equipment requirements: Carrying passengers under VFR at night or under VFR over-the-top conditions.
135.161 Radio and navigational equipment: Carrying passengers under VFR at night or under VFR over-the-top.
135.163 Equipment requirements: Aircraft carrying passengers under IFR.
135.165 Radio and navigational equipment: Extended overwater or IFR operations.
135.167 Emergency equipment: Extended overwater operations.
135.169 Additional airworthiness requirements.
135.171 Shoulder harness installation at flight crewmember stations.
135.173 Airborne thunderstorm detection equipment requirements.
135.175 Airborne weather radar equipment requirements.
135.177 Emergency equipment requirements for aircraft having a passenger seating configuration of more than 19 passengers.
135.179 Inoperable instruments and equipment for multiengine aircraft.
135.181 Performance requirements: Aircraft operated over-the-top or in IFR conditions.
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135.185 Empty weight and center of gravity: Currency requirement.

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Subpart A—General

§ 135.1 Applicability.

(a) Except as provided in paragraph (b) of this section, this part prescribes rules governing—

(1) Air taxi operations conducted under the exemption authority of Part 298 of this title;

(2) The transportation of mail by aircraft conducted under a postal service contract awarded under section 5402c of Title 39, United States Code;

(3) The carrying in air commerce by any person, other than as an air carrier, of persons or property for compensation or hire (commercial operations) in aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less; and

(4) Each person who is on board an aircraft being operated under this part.

(b) This part does not apply to—

(1) Student instruction;

(2) Nonstop sightseeing flights that begin and end at the same airport, and are conducted within a 25 statute mile radius of that airport;

(3) Ferry or training flights;

(4) Aerial work operations, including—

(i) Crop dusting, seeding, spraying, and bird chasing;

(ii) Banner towing;

(iii) Aerial photography or survey;

(iv) Fire fighting;

(v) Helicopter operations in construction or repair work (but not including transportation to and from the site of operations); and

(vi) Powerline or pipeline patrol;

(5) Sightseeing flights conducted in hot air balloons;

(6) Nonstop flights conducted within a 25 statute mile radius of the airport of takeoff carrying persons for the purpose of intentional parachute jumps;

(7) Helicopter flights conducted within a 25 statute mile radius of the airport of takeoff, if—

(i) Not more than two passengers are carried in the helicopter in addition to the required flight crew;

(ii) Each flight is made under VFR during the day;

(iii) The helicopter used is certificated in the standard category and complies with the 100-hour inspection requirements of Part 91 of this chapter;

(iv) The operator notifies the FAA Flight Standards District Office responsible for the geographic area concerned at least 72 hours before each flight and furnishes any essential information that the office requests;

(v) The number of flights does not exceed a total of six in any calendar year;

(vi) Each flight has been approved by the Administrator; and

(vii) Cargo is not carried in or on the helicopter;

(8) Operations conducted under Part 133 or 375 of this title;

(9) Emergency mail service conducted under section 405(h) of the Federal Aviation Act of 1958; or

(10) Carriage of a candidate in a Federal election, an agent of the candidate, or person traveling on behalf of the candidate, if—

(i) The principal business of the person operating the aircraft is not that of an air carrier or commercial operator; and

(ii) The payment for the carriage is required, and does not exceed the amount required to be paid, by regulations of the Federal Election Commission (11 CFR Chapter 1).

The terms "candidate" and "election" have the same meaning as that set forth in the regulations of the Federal Election Commission.

§ 135.2 Air taxi operations with large aircraft.

(a) Except as provided in paragraph (d) of this section, no person may conduct air taxi operations in large aircraft under an individual exemption and authorization issued by the Civil Aeronautics Board or under the exemption authority of Part 298 of this title, unless that person—

(1) Complies with the certification requirements for supplemental air carriers in Part 121 of this chapter, except that the person need not obtain, and that person is not eligible for, a certificate under that part; and

(2) Conducts those operations under the rules of Part 121 of this chapter that apply to supplemental air carriers.

However, the Administrator may issue operations specifications which require an operator to comply with the rules of Part 121 of this chapter that apply to domestic or flag air carriers, as appropriate, in place of the rules required by paragraph (a)(2) of this section, if the Administrator determines compliance with those rules is necessary to provide an appropriate level of safety for the operation.

(b) The holder of an operating certificate issued under this part who is required to comply with Subpart L of Part 121 of this chapter, under paragraph (a) of this section, may perform and approve maintenance, preventive maintenance, and alterations on aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less as provided in that subpart. The aircraft so maintained shall be identified by registration number in the operations specifications of the certificate holder using the aircraft.

(c) Operations that are subject to paragraph (a) of this section are not subject to §§ 135.21 through 135.43 of Subpart A and Subparts B through J of this part. Seaplanes used in operations that are subject to paragraph (a) of this section are not subject to § 121.291(a) of this chapter.

(d) Operations conducted with aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less, and a maximum payload capacity of 7,500 pounds or less shall be conducted under the rules of this part. However, a certificate holder who is conducting operations on December 1, 1978, in aircraft described in this paragraph may continue to operate under paragraph (a) of this section.

(e) For the purposes of this part—

(1) "Maximum payload capacity" means:

(i) For an aircraft for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, foods and beverages and supplies and equipment related to foods and beverages, but not including disposable fuel or oil);

(ii) For all other aircraft, the maximum certificated takeoff weight of an aircraft, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, and flight crew). The allowance for the weight of the crew, oil, and fuel is as follows:

(A) Crew—200 pounds for each crewmember required under this chapter.

(B) Oil—350 pounds.

(C) Fuel—the minimum weight of fuel required under this chapter for a flight between domestic points 174 nautical miles apart under VFR weather conditions that does not involve extended overwater operations.

(2) "Empty weight" means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(3) "Maximum zero fuel weight" means the maximum permissible weight of an aircraft with no disposable fuel or oil. The zero fuel weight figure may be found in either the aircraft type certificate data sheet or the approved Aircraft Flight Manual, or both.

(4) For the purposes of this paragraph, "justifiable aircraft equipment" means any equipment necessary for the operation of the aircraft. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an aircraft to meet the maximum payload capacity specified in paragraph (d) of this section.

§ 135.3 Rules applicable to operations subject to this part.

Each person operating an aircraft in operations under this part shall—

(a) While operating inside the United States, comply with the applicable rules of this chapter; and

(b) While operating outside the United States, comply with Annex 2, Rules of the Air, to the Convention on International Civil Aviation or the regulations of any foreign country, whichever applies, and with any rules of Parts 61 and 91 of this chapter and this part that are more restrictive than that Annex or those regulations and that can be complied with without violating that Annex or those regulations. Annex 2 is incorporated by reference in § 91.1(c) of this chapter.

§ 135.5 Certificate and operations specifications required.

No person may operate an aircraft under this part without, or in violation of, an air taxi/commercial operator (ATCO) operating certificate and appropriate operations specifications issued under this part, or, for operations with large aircraft having a maximum passenger seating configuration, excluding any pilot seat, of more than 30 seats, or a maximum payload capacity of more than 7,500 pounds, without, or in violation of, appropriate operations specifications issued under Part 121 of this chapter.

§ 135.7 Applicability of rules to unauthorized operators.

The rules in this part which apply to a person certificated under § 135.5 also apply to a person who engages in any operation governed by this part without an appropriate certificate and operations specifications required by § 135.5.

§ 135.9 Duration of certificate.

(a) An ATCO operating certificate is effective until surrendered, suspended or revoked. The holder of an ATCO operating certificate that is suspended or revoked shall return it to the Administrator.

(b) Except as provided in paragraphs (c) and (d) of this section, an ATCO operating certificate in effect on December 1, 1978, expires on February 1, 1979. The certificate holder must continue to conduct operations under Part 135 and the operations specifications in effect on November 30, 1978, until the certificate expires.

(c) If the certificate holder applies before February 1, 1979, for new operations specifications under this part, the operating certificate held continues in effect and the certificate holder must continue operations under Part 135 and operations specifications in effect on November 30, 1978, until the earliest of the following—

(1) The date on which new operations specifications are issued; or

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(2) The date on which the Administrator notifies the certificate holder that the application is denied; or

(3) August 1, 1979.

If new operations specifications are issued under paragraph (c)(1) of this paragraph, the ATCO operating certificate continues in effect until surrendered, suspended or revoked under paragraph (a) of this section.

(d) A certificate holder may obtain an extension of the expiration date in paragraph (c) of this section, but not beyond December 1, 1979, from the Director, Flight Standards Service, if before July 1, 1979, the certificate holder—

(1) Shows that due to the circumstances beyond its control it cannot comply by the expiration date; and

(2) Submits a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

(e) The holder of an ATCO operating certificate that expires, under paragraphs (b), (c), or (d) of this section, shall return it to the Administrator.

§ 135.10 Compliance dates for certain rules.

(a) A certificate holder or pilot is allowed until June 1, 1979, to comply with the following sections:

(1) A third bank and pitch indicator (artificial horizon) (§ 135.149(c)).

(2) Shoulder harness at flight crewmember stations (§ 135.171(a)).

(3) Airline transport pilot certificate (§ 135.243(a)).

(4) Instrument rating (§ 135.243(b)(iii)).

(b) A certificate holder is allowed until December 1, 1979, to comply with the following sections:

(1) Cockpit voice recorder (§ 135.151).

(2) Ground proximity warning system or other approved system (§ 135.153).

(3) Airborne thunderstorm detection equipment (§ 135.173).

(c) A certificate holder or pilot may obtain an extension of the compliance date in paragraph (a) or (b) of this section, but not beyond December 1, 1980, from the Director, Flight Standards Service, if before the compliance date in paragraph (a) or (b) of this section—

(1) The certificate holder or pilot shows that due to the circumstances beyond its control they cannot comply by that date; and

(2) The certificate holder or pilot has submitted before that date a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

§ 135.11 Application and issue of certificate and operations specifications.

(a) An application for an ATCO operating certificate and appropriate operations specifications is made on a form and in a manner prescribed by the Administrator and filed with the FAA Flight Standards District Office that has jurisdiction over the area in which the applicant's principal business office is located.

(b) An applicant who meets the requirements of this part is entitled to—

(1) An ATCO operating certificate containing all business names under which the certificate holder may conduct operations and the address of each business office used by the certificate holder; and

(2) Separate operations specifications, issued to the certificate holder, containing:

(i) The type and area of operations authorized.

(ii) The category and class of aircraft that may be used in those operations.

(iii) Registration numbers and types of aircraft that are subject to an airworthiness maintenance program required by § 135.411(a)(2), including time limitations or standards for determining time limitations, for overhauls, inspections, and checks for airframes, aircraft engines, propellers, rotors, appliances, and emergency equipment.

(iv) Registration numbers of aircraft that are to be inspected under an approved aircraft inspection program under § 135.419.

(v) Additional maintenance items required by the Administrator under § 135.421.

(vi) Any authorized deviation from this part.

(vii) Any other items the Administrator may require or allow to meet any particular situation.

§ 135.13 Eligibility for certificate and operations specifications.

(a) To be eligible for an ATCO operating certificate and appropriate operations specifications, a person must—

(1) Be a citizen of the United States, a partnership of which each member is a citizen of the United States, or a corporation or association created or organized under the laws of the United States or any state, territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers are citizens of the United States and in which at least 75 percent of the voting interest is owned or controlled by citizens of the United States or one of its possessions; and

(2) Show, to the satisfaction of the Administrator, that the person is able to conduct each kind of operation for which the person seeks authorization in compliance with applicable regulations; and

(3) Hold any economic authority that may be required by the Civil Aeronautics Board.

However, no person holding a commercial operator operating certificate issued under Part 121 of this chapter is eligible for an ATCO operating certificate unless the person shows to the satisfaction of the Administrator that the person's contract carriage business in large aircraft, having a maximum passenger seating configuration, excluding any pilot seat, of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, will not result directly or indirectly from the person's air taxi business.

(b) The Administrator may deny any applicant a certificate under this part if the Administrator finds—

(1) That an air carrier or commercial operator operating certificate under Part 121 or an ATCO operating certificate previously issued to the applicant was revoked; or

(2) That a person who was employed in a position similar to general manager, director of operations, director of maintenance, chief pilot, or chief inspector, or who has exercised control with respect to any ATCO operating certificate holder, air carrier, or commercial operator, whose operating certificate has been revoked, will be employed in any of those positions or a similar position, or will be in control of or have a substantial ownership interest in the applicant, and that the person's employment or control contributed materially to the reasons for revoking that certificate.

§ 135.15 Amendment of certificate.

(a) The Administrator may amend an ATCO operating certificate—

(1) On the Administrator's own initiative, under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) and Part 13 of this chapter; or

(2) Upon application by the holder of that certificate.

(b) The certificate holder must file an application to amend an ATCO operating certificate at least 15 days before the date proposed by the applicant for the amendment to become effective, unless a shorter filing period is approved. The application must be on a form and in a manner prescribed by the Administrator and must be submitted to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder.

(c) The FAA Flight Standards District Office charged with the overall inspection of the certificate holder grants an amendment to the ATCO operating certificate if it is determined that safety in air commerce and the public interest allow that amendment.

(d) Within 30 days after receiving a refusal to amend the operating certificate, the certificate holder may petition the Director, Flight Standards Service, to reconsider the request.

§ 135.17 Amendment of operations specifications.

(a) The FAA Flight Standards District Office charged with the overall inspection of the certificate holder may amend any operations specifications issued under this part if—

(1) It determines that safety in air commerce requires that amendment; or

(2) Upon application by the holder, that District Office determines that safety in air commerce allows that amendment.

(b) The certificate holder must file an application to amend operations specifications at least 15 days before the date proposed by the applicant for the amendment to become effective, unless a shorter filing period is approved. The application must be on a form and in a manner prescribed by the Administrator and be submitted to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder.

(c) Within 30 days after a notice of refusal to approve a holder's application for amendment is received, the holder may petition the Director, Flight Standards Service, to reconsider the refusal to amend.

(d) When the FAA Flight Standards District Office charged with the overall inspection of the certificate holder amends operations specifications, that District Office gives notice in writing to the holder of a proposed amendment to the operations specifications, fixing a period of not less than 7 days within which the holder may submit written information, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, that District Office notifies the holder of any amendment adopted, or a rescission of the notice. The amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment, unless the holder petitions the Director, Flight Standards Service, for reconsideration of the amendment. In that case, the effective date of the amendment is stayed pending a decision by the Director. If the Director finds there is an emergency requiring immediate action as to safety in air commerce that makes the provisions of this paragraph impracticable or contrary to the public interest, the Director notifies the certificate holder that the amendment is effective on the date of receipt, without previous notice.

§ 135.19 Emergency operations.

(a) In an emergency involving the safety of persons or property, the certificate holder may deviate from the rules of this part relating to aircraft and equipment and weather minimums to the extent required to meet that emergency.

(b) In an emergency involving the safety of persons or property, the pilot in command may deviate from the rules of this part to the extent required to meet that emergency.

(c) Each person who, under the authority of this section, deviates from a rule of this part shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder a complete report of the aircraft operation involved, including a description of the deviation and reasons for it.

§ 135.21 Manual requirements.

(a) Each certificate holder, other than one who is the only pilot used in the certificate holder's operations, shall prepare and keep current a manual setting forth the certificate holder's procedures and policies acceptable to the Administrator. This manual must be used by the certificate holder's flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if the Administrator finds that, because of the limited size of the operation, all or part of the manual is not necessary for guidance of flight, ground, or maintenance personnel.

(b) Each certificate holder shall maintain at least one copy of the manual at its principal operations base.

(c) The manual must not be contrary to any applicable Federal regulations, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operating certificate or operations specifications.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions) shall be made available to maintenance and ground operations personnel by the certificate holder and furnished to—

(1) Its flight crewmembers; and

(2) Representatives of the Administrator assigned to the certificate holder.

(e) Each employee of the certificate holder to whom a manual or appropriate portions of it are furnished under paragraph (d)(1) of this section shall keep it up to date with the changes and additions furnished to them.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual on each aircraft when away from the principal operations base. The appropriate parts must be available for use by ground or flight personnel.

(g) If a certificate holder conducts aircraft inspections or maintenance at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the aircraft en route to those stations.

§ 135.23 Manual contents.

Each manual shall have the date of the last revision on each revised page. The manual must include—

(a) The name of each management person required under § 135.37(a) who is authorized to act for the certificate holder, the person's assigned area of responsibility, and the person's duties, responsibilities, and authority;

(b) Procedures for ensuring compliance with aircraft weight and balance limitations and, for multiengine aircraft, for determining compliance with § 135.185;

(c) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of aircraft authorized, crew complements, and types of operations authorized;

(d) Procedures for complying with accident notification requirements;

(e) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the aircraft has been approved for return to service in compliance with applicable maintenance requirements;

(f) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight;

(g) Procedures to be followed by the pilot in command for determining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(h) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the aircraft at a place where previous arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(i) Procedures under § 135.179 for the release for, or continuation of, flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route;

(j) Procedures for refueling aircraft, eliminating fuel contamination, protecting from fire (including electrostatic protection), and supervising and

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protecting passengers during refueling;

(k) Procedures to be followed by the pilot in command in the briefing under § 135.117;

(l) Flight locating procedures, when applicable;

(m) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with an emergency and emergency evacuation duties under § 135.123;

(n) En route qualification procedures for pilots, when applicable;

(o) The approved aircraft inspection program, when applicable;

(p) Procedures and instructions to enable personnel to recognize hazardous materials, as defined in Title 49 CFR, and if these materials are to be carried, stored, or handled, procedures and instructions for—

(1) Accepting shipment of hazardous material required by Title 49 CFR, to assure proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on their loading, storage, and handling;

(2) Notification and reporting hazardous material incidents as required by Title 49 CFR; and

(3) Notification of the pilot in command when there are hazardous materials aboard, as required by Title 49 CFR;

(q) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit if an emergency occurs; and

(r) Other procedures and policy instructions regarding the certificate holder's operations, that are issued by the certificate holder.

§ 135.25 Aircraft requirements.

(a) No certificate holder may operate an aircraft under this part unless that aircraft—

(1) Is registered as a civil aircraft of the United States and carries an appropriate and current airworthiness certificate issued under this chapter; and

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

(b) Each certificate holder must have the exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized in the certificate holder's operations specifications. In addition, for each kind of operation for which the certificate holder does not have the exclusive use of an aircraft, the certificate holder must have available for use under a written agreement (including arrangements for performing required maintenance) at least one aircraft that meets the requirements for that kind of operation. However, this paragraph does not prohibit the operator from using or authorizing the use of the aircraft for other than air taxi or commercial operations and does not require the certificate holder to have exclusive use of all aircraft that the certificate holder uses.

(c) For the purposes of paragraph (b) of this section, a person has exclusive use of an aircraft if that person has the sole possession, control, and use of it for flight, as owner, or has a written agreement (including arrangements for performing required maintenance), in effect when the aircraft is operated, giving the person that possession, control, and use for at least 6 consecutive months.

§ 135.27 Business office and operations base.

(a) Each certificate holder shall maintain a principal business office.

(b) Each certificate holder shall, before establishing or changing the location of any business office or operations base, except a temporary operations base, notify in writing the FAA Flight Standards District Office charged with the overall inspection of the certificate holder.

(c) No certificate holder who establishes or changes the location of any business office or operations base, except a temporary operations base, may operate an aircraft under this part unless the certificate holder complies with paragraph (b) of this section.

§ 135.29 Use of business names.

No certificate holder may operate an aircraft under this part under a business name that is not on the certificate holder's operating certificate.

§ 135.31 Advertising.

No certificate holder may advertise or otherwise offer to perform operations subject to this part that are not authorized by the certificate holder's operating certificate and operations specifications.

§ 135.33 Area limitations on operations.

(a) No person may operate an aircraft in a geographical area that is not specifically authorized by appropriate operations specifications issued under this part.

(b) No person may operate an aircraft in a foreign country unless that person is authorized to do so by that country.

§ 135.35 Termination of operations.

Within 30 days after a certificate holder terminates operations under this part, the operating certificate and operations specifications must be surrendered by the certificate holder to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder.

§ 135.37 Management personnel required.

(a) Each certificate holder, other than one who is the only pilot used in the certificate holder's operations, must have enough qualified management personnel in the following or equivalent positions to ensure safety in its operations:

(1) Director of operations.

(2) Chief pilot.

(3) Director of maintenance.

(b) Upon application by the certificate holder, the Administrator may approve different positions or numbers of positions than those listed in paragraph (a) of this section for a particular operation if the certificate holder shows that it can perform its operations safely under the direction of fewer or different categories of management personnel.

(c) Each certificate holder shall—

(1) Set forth the duties, responsibilities, and authority of the personnel required by this section in the manual required by § 135.21;

(2) List in the manual required by § 135.21 the name of the person or persons assigned to those positions; and

(3) Within 10 working days, notify the FAA Flight Standards District Office charged with the overall inspection of the certificate holder of any change made in the assignment of persons to the listed positions.

§ 135.39 Management personnel qualifications.

(a) *Director of operations.* No person may serve as director of operations under § 135.37(a) unless that person knows the contents of the manual required by § 135.21, the operations specifications, the provisions of this part and other applicable regulations necessary for the proper performance of the person's duties and responsibilities and:

(1) The director of operations for a certificate holder conducting any operations for which the pilot in command is required to hold an airline transport pilot certificate must—

(i) Hold or have held an airline transport pilot certificate; and

(ii) Have at least 3 years of experience as pilot in command of an aircraft operated under this part, Part 121 or Part 127 of this chapter; or

(iii) Have at least 3 years of experience as director of operations with a certificate holder operating under this part, Part 121 or Part 127 of this chapter.

(2) The director of operations for a certificate holder who is not conducting any operation for which the pilot

in command is required to hold an airline transport pilot certificate must—

(i) Hold or have held a commercial pilot certificate; and

(ii) Have at least 3 years of experience as a pilot in command of an aircraft operated under this part, Part 121 or Part 127 of this chapter; or

(iii) Have at least 3 years of experience as director of operations with a certificate holder operating under this part, Part 121 or Part 127 of this chapter.

(b) *Chief pilot.* No person may serve as chief pilot under § 135.37(a) unless that person knows the contents of the manual required by § 135.21, the operations specifications, the provisions of this part and other applicable regulations necessary for the proper performance of the person's duties, and:

(1) The chief pilot of a certificate holder conducting any operation for which the pilot in command is required to hold an airline transport pilot certificate must—

(i) Hold a current airline transport pilot certificate with appropriate ratings for at least one of the types of aircraft used; and

(ii) Have at least 3 years of experience as a pilot in command of an aircraft under this part, Part 121 or Part 127 of this chapter.

(2) The chief pilot of a certificate holder who is not conducting any operation for which the pilot in command is required to hold an airline transport pilot certificate must—

(i) Hold a current commercial pilot certificate with an instrument rating; and

(ii) Have at least 3 years of experience as a pilot in command of an aircraft under this part, Part 121 or Part 127 of this chapter; or

(iii) Have at least 3 years of experience as director of operations with a certificate holder operating under this part, Part 121 or Part 127 of this chapter.

(c) *Director of maintenance.* No person may serve as a director of maintenance under § 135.37(a) unless that person knows the maintenance sections of the certificate holder's manual, the operations specifications, the provisions of this part and other applicable regulations necessary for the proper performance of the person's duties, and—

(1) Holds a mechanic certificate with both airframe and powerplant ratings; and

(2) Has at least 3 years of maintenance experience as a certificated mechanic on aircraft, including, at the time of appointment as director of maintenance, the recent experience requirements of § 65.83 of this chapter in the same category and class of aircraft as used by the certificate holder, or at least 3 years of experience with a certificated airframe repair station, including 1 year in the capacity of approving aircraft for return to service.

(d) The Director, Flight Standards Service, may authorize a deviation from this section if the Director finds that the person has had equivalent aeronautical experience.

§ 135.41 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

If the holder of a certificate issued under this part allows any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

§ 135.43 Crewmember certificate: international operations: application and issue.

(a) This section provides for the issuance of a crewmember certificate to United States citizens who are employed by certificate holders as crewmembers on United States registered aircraft engaged in international air commerce. The purpose of the certificate is to facilitate the entry and clearance of those crewmembers into ICAO contracting states. They are issued under Annex 9, as amended, to the Convention on International Civil Aviation.

(b) An application for a crewmember certificate is made on FAA Form 8060-6, "Application for Crewmember Certificate," to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder by whom the applicant is employed. The certificate is issued on FAA Form 8060-42, "Crewmember Certificate."

(c) The holder of a certificate issued under this section, or the certificate holder by whom the holder is employed, shall surrender the certificate for cancellation at the nearest FAA Flight Standards District Office or submit it for cancellation to the Airmen Certification Branch, AAC-260, P.O. Box 25082, Oklahoma City, Oklahoma 73125, at the termination of the holder's employment with that certificate holder.

Subpart B—Flight Operations

§ 135.61 General.

This subpart prescribes rules, in addition to those in Part 91 of this chapter, that apply to operations under this part.

§ 135.63 Recordkeeping requirements.

(a) Each certificate holder shall keep at its principal business office or at other places approved by the Administrator, and shall make available for inspection by the Administrator the following—

(1) The certificate holder's operating certificate;

(2) The certificate holder's operations specifications;

(3) A current list of the aircraft used or available for use in operations under this part and the operations for which each is equipped; and

(4) An individual record of each pilot used in operations under this part, including the following information:

(i) The full name of the pilot.

(ii) The pilot certificate (by type and number) and ratings that the pilot holds.

(iii) The pilot's aeronautical experience in sufficient detail to determine the pilot's qualifications to pilot aircraft in operations under this part.

(iv) The pilot's current duties and the date of the pilot's assignment to those duties.

(v) The effective date and class of the medical certificate that the pilot holds.

(vi) The date and result of each of the initial and recurrent competency tests and proficiency and route checks required by this part and the type of aircraft flown during that test or check.

(vii) The pilot's flight time in sufficient detail to determine compliance with the flight time limitations of this part.

(viii) The pilot's check pilot authorization, if any.

(ix) Any action taken concerning the pilot's release from employment for physical or professional disqualification.

(x) The date of the completion of the initial phase and each recurrent phase of the training required by this part.

(b) Each certificate holder shall keep each record required by paragraph (a)(3) of this section for at least 6 months, and each record required by paragraph (a)(4) of this section for at least 12 months, after it is made.

(c) For multiengine aircraft, each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the loading of the aircraft. The manifest must be prepared before each takeoff and must include—

(1) The number of passengers;

(2) The total weight of the loaded aircraft;

(3) The maximum allowable takeoff weight for that flight;

(4) The center of gravity limits;

(5) The center of gravity of the loaded aircraft, except that the actual center of gravity need not be computed if the aircraft is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded aircraft is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a load-

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ing schedule or other approved method;

(6) The registration number of the aircraft or flight number;

(7) The origin and destination; and

(8) Identification of crew members and their crew position assignments.

(d) The pilot in command of an aircraft for which a load manifest must be prepared shall carry a copy of the completed load manifest in the aircraft to its destination. The certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.

§ 135.65 Reporting mechanical irregularities.

(a) Each certificate holder shall provide an aircraft maintenance log to be carried on board each aircraft for recording or deferring mechanical irregularities and their correction.

(b) The pilot in command shall enter or have entered in the aircraft maintenance log each mechanical irregularity that comes to the pilot's attention during flight time. Before each flight, the pilot in command shall, if the pilot does not already know, determine the status of each irregularity entered in the maintenance log at the end of the preceding flight.

(c) Each person who takes corrective action or defers action concerning a reported or observed failure or malfunction of an airframe, powerplant, propeller, rotor, or applicance, shall record the action taken in the aircraft maintenance log under the applicable maintenance requirements of this chapter.

(d) Each certificate holder shall establish a procedure for keeping copies of the aircraft maintenance log required by this section in the aircraft for access by appropriate personnel and shall include that procedure in the manual required by § 135.21.

§ 135.67 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities.

Whenever a pilot encounters a potentially hazardous meteorological condition or an irregularity in a ground communications or navigational facility in flight, the knowledge of which the pilot considers essential to the safety of other flights, the pilot shall notify an appropriate ground radio station as soon as practicable and request that the information be disseminated.

§ 135.69 Restriction or suspension of operations: continuation of flight in an emergency.

(a) During operations under this part, if a certificate holder or pilot in command knows of conditions, including airport and runway conditions, that are a hazard to safe operations, the certificate holder or pilot in command, as the case may be, shall restrict or suspend operations as necessary until those conditions are corrected.

(b) No pilot in command may allow a flight to continue toward any airport of intended landing under the conditions set forth in paragraph (a) of this section, unless, in the opinion of the pilot in command, the conditions that are a hazard to safe operations may reasonably be expected to be corrected by the estimated time of arrival or, unless there is no safer procedure. In the latter event, the continuation toward that airport is an emergency situation under § 135.19.

§ 135.71 Airworthiness check.

The pilot in command may not begin a flight unless the pilot determines that the airworthiness inspections required by § 91.169 of this chapter, or § 135.419, whichever is applicable, have been made.

§ 135.73 Inspections and tests.

Each certificate holder and each person employed by the certificate holder shall allow the Administrator, at any time or place, to make inspections or tests (including en route inspections) to determine the holder's compliance with the Federal Aviation Act of 1958, applicable regulations, and the certificate holder's operating certificate, and operations specifications.

§ 135.75 Inspectors credentials: admission to pilots' compartment: forward observer's seat.

(a) Whenever, in performing the duties of conducting an inspection, an FAA inspector presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an aircraft operated by the certificate holder, the inspector must be given free and uninterrupted access to the pilot compartment of that aircraft. However, this paragraph does not limit the emergency authority of the pilot in command to exclude any person from the pilot compartment in the interest of safety.

(b) A forward observer's seat on the flight deck, or forward passenger seat with headset or speaker must be provided for use by the Administrator while conducting en route inspections. The suitability of the location of the seat and the headset or speaker for use in conducting en route inspections is determined by the Administrator.

§ 135.77 Responsibility for operational control.

Each certificate holder is responsible for operational control and shall list, in the manual required by § 135.21, the name and title of each person authorized by it to exercise operational control.

§ 135.79 Flight locating requirements.

(a) Each certificate holder must have procedures established for locating each flight, for which an FAA flight plan is not filed, that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal place of business, or at other places designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions, unless those procedures are included in a manual required under this part.

§ 135.81 Informing personnel of operational information and appropriate changes.

Each certificate holder shall inform each person in its employment of the operations specifications that apply to that person's duties and responsibilities and shall make available to each pilot in the certificate holder's employ the following materials in current form:

(a) Airman's Information Manual (Alaska Supplement in Alaska and Pacific Chart Supplement in Pacific-Asia Regions) or a commercial publication that contains the same information.

(b) This part and Part 91 of this chapter.

(c) Aircraft Equipment Manuals, and Aircraft Flight Manual or equivalent.

(d) For foreign operations, the International Flight Information Manual or a commercial publication that contains the same information concerning the pertinent operational and entry requirements of the foreign country or countries involved.

§ 135.83 Operating information required.

(a) The operator of an aircraft must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

(1) A cockpit checklist.

(2) For multiengine aircraft or for aircraft with retractable landing gear, an emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.

(3) Pertinent aeronautical charts.

(4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) For multiengine aircraft, one-engine-inoperative climb performance data and if the aircraft is approved for use in IFR or over-the-top operations, that data must be sufficient to enable the pilot to determine compliance with § 135.181(a)(2).

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) Before starting engines; (2) Before takeoff; (3) Cruise; (4) Before landing; (5) After landing; (6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other emergency procedures necessary for safety.

§ 135.85 Carriage of persons without compliance with the passenger-carrying provisions of this part.

The following persons may be carried aboard an aircraft without complying with the passenger-carrying requirements of this part:

(a) A crewmember or other employee of the certificate holder.

(b) A person necessary for the safe handling of animals on the aircraft.

(c) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(d) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(e) A military courier or a military route supervisor carried by a military cargo contract air carrier or commercial operator in operations under a military cargo contract, if that carriage is specifically authorized by the appropriate military service.

(f) An authorized representative of the Administrator conducting an en route inspection.

(g) A person, authorized by the Administrator, who is performing a duty connected with a cargo operation of the certificate holder.

§ 135.87 Carriage of cargo including carry-on baggage.

No person may carry cargo, including carry-on baggage, in or on any aircraft unless—

(a) It is carried in an approved cargo rack, bin, or compartment installed in or on the aircraft;

(b) It is secured by an approved means; or

(c) It is carried in accordance with each of the following:

(1) For cargo, it is properly secured by a safety belt or other tie-down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions, or for carry-on baggage, it is restrained so as to prevent its movement during air turbulence.

(2) It is packaged or covered to avoid possible injury to occupants.

(3) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(4) It is not located in a position that obstructs the access to, or use of, any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment, or located in a position that obscures any passenger's view of the "seat belt" sign, "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passengers is provided.

(5) It is not carried directly above seated occupants.

(6) It is stowed in compliance with this section for takeoff and landing.

(7) For cargo only operations, paragraph (c)(4) of this section does not apply if the cargo is loaded so that at least one emergency or regular exit is available to provide all occupants of the aircraft a means of unobstructed exit from the aircraft if an emergency occurs.

(d) Each passenger seat under which baggage is stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding under crash impacts severe enough to induce the ultimate inertia forces specified in the emergency landing condition regulations under which the aircraft was type certificated.

(e) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

§ 135.89 Pilot requirements: Use of oxygen.

(a) *Unpressurized aircraft.* Each pilot of an unpressurized aircraft shall use oxygen continuously when flying—

(1) At altitudes above 10,000 feet through 12,000 feet MSL for that part of the flight at those altitudes that is of more than 30 minutes duration; and

(2) Above 12,000 feet MSL.

(b) *Pressurized aircraft.*

(1) Whenever a pressurized aircraft is operated with the cabin pressure altitude more than 10,000 feet MSL, each pilot shall comply with paragraph (a) of this section.

(2) Whenever a pressurized aircraft is operated at altitudes above 25,000 feet through 35,000 feet MSL, unless each pilot has an approved quick-donning type oxygen mask—

(i) At least one pilot at the controls shall wear, secured and sealed, an oxygen mask that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude exceeds 12,000 feet MSL; and

(ii) During that flight, each other pilot on flight deck duty shall have an oxygen mask, connected to an oxygen supply, located so as to allow immediate placing of the mask on the pilot's face sealed and secured for use.

(3) Whenever a pressurized aircraft is operated at altitudes above 35,000 feet MSL, at least one pilot at the controls shall wear, secured and sealed, an oxygen mask required by paragraph (2)(i) of this paragraph.

(4) If one pilot leaves a pilot duty station of an aircraft when operating at altitudes above 25,000 feet MSL, the remaining pilot at the controls shall put on and use an approved oxygen mask until the other pilot returns to the pilot duty station of the aircraft.

§ 135.91 Oxygen for medical use by passengers.

(a) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

(1) The equipment must be—

(i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling, and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1);

(ii) When owned by the certificate holder, maintained under the certificate holder's approved maintenance program;

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(iii) Free of flammable contaminants on all exterior surfaces; and
(iv) Appropriately secured.
(2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.
(3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—
(i) When owned by the certificate holder, it must be maintained under its approved maintenance program; and
(ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.
(4) The pilot in command must be advised when the equipment is on board, and when it is intended to be used.
(5) The equipment must be stowed, and each person using the equipment must be seated, so as not to restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.
(b) No person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section.
(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles or any other ancillary component while any passenger is aboard the aircraft.
(d) Paragraph (a)(1)(i) of this section does not apply when that equipment is furnished by a professional or medical emergency service for use on board an aircraft in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.
(e) Each certificate holder who, under the authority of paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section under a medical emergency shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder a complete report of the operation involved, including a description of the deviation and the reasons for it.

§ 135.93 Autopilot: minimum altitudes for use.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Aircraft Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher.
(b) When using an instrument approach facility other than ILS, no person may use an autopilot at an altitude above the terrain that is less than 50 feet below the approved minimum descent altitude for that procedure, or less than twice the maximum loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot under approach conditions, whichever is higher.
(c) For ILS approaches, when reported weather conditions are less than the basic weather conditions in § 91.105 of this chapter, no person may use an autopilot with an approach coupler at an altitude above the terrain that is less than 50 feet above the terrain, or the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for the malfunction of the autopilot with approach coupler, whichever is higher.
(d) Without regard to paragraphs (a), (b), or (c) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, if—
(1) The system does not contain any altitude loss (above zero) specified in the approved Aircraft Flight Manual or equivalent for malfunction of the autopilot with approach coupler; and
(2) The Administrator finds that the use of the system to touchdown will not otherwise adversely affect the safety standards of this section.
(e) This section does not apply to operations conducted in rotorcraft.

§ 135.95 Airmen: limitations on use of services.

No certificate holder may use the services of any person as an airman unless the person performing those services—
(a) Holds an appropriate and current airman certificate; and
(b) Is qualified, under this chapter, for the operation for which the person is to be used.

§ 135.97 Aircraft and facilities for recent flight experience.

Each certificate holder shall provide aircraft and facilities to enable each of its pilots to maintain and demonstrate the pilot's ability to conduct all operations for which the pilot is authorized.

§ 135.99 Composition of flight crew.

(a) No certificate holder may operate an aircraft with less than the minimum flight crew specified in the aircraft operating limitations or the Aircraft Flight Manual for that aircraft and required by this part for the kind of operation being conducted.
(b) No certificate holder may operate an aircraft without a second in command if that aircraft has a passenger seating configuration, excluding any pilot seat, of ten seats or more.

§ 135.101 Second in command required in IFR conditions.

Except as provided in §§ 135.103 and 135.105, no person may operate an aircraft carrying passengers in IFR conditions, unless there is a second in command in the aircraft.

§ 135.103 Exception to second in command requirement: IFR operations.

The pilot in command of an aircraft carrying passengers may conduct IFR operations without a second in command under the following conditions:
(a) A takeoff may be conducted under IFR conditions if the weather reports or forecasts, or any combination of them, indicate that the weather along the planned route of flight allows flight under VFR within 15 minutes flying time, at normal cruise speed, from the takeoff airport.
(b) En route IFR may be conducted if unforecast weather conditions below the VFR minimums of this chapter are encountered on a flight that was planned to be conducted under VFR.
(c) An IFR approach may be conducted if, upon arrival at the destination airport, unforecast weather conditions do not allow an approach to be completed under VFR.
(d) When IFR operations are conducted under this section:
(1) The aircraft must be properly equipped for IFR operations under this part.
(2) The pilot must be authorized to conduct IFR operations under this part.
(3) The flight must be conducted in accordance with an ATC IFR clearance.

IFR operations without a second in command may not be conducted under this section in an aircraft requiring a second in command under § 135.99.

§ 135.105 Exception to second in command requirement: approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications.
(b) The certificate holder may apply for an amendment of its operations specifications to authorize the use of an autopilot system in place of a second in command.
(c) The Administrator issues an amendment to the operations specifications authorizing the use of an autopilot system, in place of a second in command, if—
(1) The autopilot is capable of operating the aircraft controls to maintain flight and maneuver it about the three axes; and
(2) The certificate holder shows, to the satisfaction of the Administrator, that operations using the autopilot system can be conducted safely and in compliance with this part.
The amendment contains any conditions or limitations on the use of the autopilot system that the Administrator determines are needed in the interest of safety.

§ 135.107 Flight attendant crewmember requirement.

No certificate holder may operate an aircraft that has a passenger seating configuration, excluding any pilot seat, of more than 19 unless there is a flight attendant crewmember on board the aircraft.

§ 135.109 Pilot in command or second in command: designation required.

(a) Each certificate holder shall designate a—
(1) Pilot in command for each flight; and
(2) Second in command for each flight requiring two pilots.
(b) The pilot in command, as designated by the certificate holder, shall remain the pilot in command at all times during that flight.

§ 135.111 Second in command required in Category II operations.

No person may operate an aircraft in a Category II operation unless there is a second in command of the aircraft.

§ 135.113 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft type certificated after October 15, 1971, that has a passenger seating configuration, excluding any pilot seat, of more than eight seats if any person other than the pilot in command, a second in command, a company check airman, or an authorized representative of the Administrator, the National Transportation Safety Board, or the United States Postal Service occupies a pilot seat.

§ 135.115 Manipulation of controls.

No pilot in command may allow any person to manipulate the flight controls of an aircraft during flight conducted under this part, nor may any person manipulate the controls during such flight unless that person is—
(a) A pilot employed by the certificate holder and qualified in the aircraft; or
(b) An authorized safety representative of the Administrator who has the permission of the pilot in command, is qualified in the aircraft, and is checking flight operations.

§ 135.117 Briefing of passengers before flight.

(a) Before each takeoff each pilot in command of an aircraft carrying passengers shall ensure that all passengers have been orally briefed on—
(1) Smoking;
(2) Use of seat belts;
(3) The placement of seat backs in an upright position before takeoff and landing;
(4) Location and means for opening the passenger entry door and emergency exits;
(5) Location of survival equipment;
(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;
(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and
(8) Location and operation of fire extinguishers.
(b) Before each takeoff the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same aircraft.
(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It shall be supplemented by printed cards for the use of each passenger containing—
(1) A diagram of, and method of operating the emergency exits; and
(2) Other instructions necessary for the use of emergency equipment on board the aircraft.
Each card used under this paragraph must be carried in the aircraft in locations convenient for the use of each passenger and must contain information that is appropriate to the aircraft on which it is to be used.

§ 135.119 Prohibition against carriage of weapons.

No person may, while on board an aircraft being operated by a certificate holder, carry on or about that person a deadly or dangerous weapon, either concealed or unconcealed. This section does not apply to—
(a) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or
(b) Crewmembers and other persons authorized by the certificate holder to carry arms.

§ 135.121 Alcoholic beverages.

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.
(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.
(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

§ 135.123 Emergency and emergency evacuation duties.

(a) Each certificate holder shall assign to each required crewmember for each type of aircraft as appropriate, the necessary functions to be performed in an emergency or in a situation requiring emergency evacuation. The certificate holder shall ensure that those functions can be practicably accomplished, and will meet any reasonably anticipated emergency including incapacitation of individual crewmembers or their inability to reach the passenger cabin because of shifting cargo in combination cargo-passenger aircraft.
(b) The certificate holder shall describe in the manual required under § 135.21 the functions of each category of required crewmembers assigned under paragraph (a) of this section.

Subpart C—Aircraft and Equipment

§ 135.141 Applicability.

This subpart prescribes aircraft and equipment requirements for operations under this part. The requirements of this subpart are in addition to the aircraft and equipment requirements of Part 91 of this chapter. However, this part does not require the duplication of any equipment required by this chapter.

§ 135.143 General requirements.

(a) No person may operate an aircraft under this part unless that aircraft and its equipment meet the applicable regulations of this chapter.
(b) Except as provided in § 135.179, no person may operate an aircraft under this part unless the required instruments and equipment in it have been approved and are in an operable condition.
(c) ATC transponder equipment must meet the performance and environmental requirements of any Class of Technical Standard Order (TSO) C74b, or Class 1A or Class 1B of TSO-74c, as appropriate, except that the

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Administrator may approve the use of TSO–C74 or TSO–C74a equipment if the applicant submits data showing that the equipment meets the minimum performance standards of Class 1A or Class 1B of TSO–C74c, and the environmental conditions of the TSO under which it was manufactured.

§ 135.145 Aircraft proving tests.

(a) No certificate holder may operate a turbojet airplane, or an aircraft for which two pilots are required by this chapter for operations under VFR, if it has not previously proved that aircraft or an aircraft of the same make and similar design in any operation under this part unless, in addition to the aircraft certification tests, at least 25 hours of proving tests acceptable to the Administrator have been flown by that certificate holder including—

(1) Five hours of night time, if night flights are to be authorized;

(2) Five instrument approach procedures under simulated or actual instrument weather conditions, if IFR flights are to be authorized; and

(3) Entry into a representative number of en route airports as determined by the Administrator.

(b) No certificate holder may carry passengers in an aircraft during proving tests, except those needed to make the tests and those designated by the Administrator to observe the tests. However, pilot flight training may be conducted during the proving tests.

(c) For the purposes of paragraph (a) of this section, an aircraft is not considered to be of similar design if an alteration includes—

(1) The installation of powerplants other than those of a type similar to those with which it is certificated; or

(2) Alterations to the aircraft or its components that materially affect flight characteristics.

(d) The Administrator may authorize deviations from this section if the Administrator finds that special circumstances make full compliance with this section unnecessary.

§ 135.147 Dual controls required.

No person may operate an aircraft in operations requiring two pilots unless it is equipped with functioning dual controls. However, if the aircraft type certification operating limitations do not require two pilots, a throwover control wheel may be used in place of two control wheels.

§ 135.149 Equipment requirements: general.

No person may operate an aircraft unless it is equipped with—

(a) A sensitive altimeter that is adjustable for barometric pressure;

(b) Heating or deicing equipment for each carburetor or, for a pressure carburetor, an alternate air source;

(c) For turbojet airplanes, in addition to two gyroscopic bank-and-pitch indicators (artificial horizons) for use at the pilot stations, a third indicator that—

(1) Is powered from a source independent of the aircraft's electrical generating system;

(2) Continues reliable operation for at least 30 minutes after total failure of the aircraft's electrical generating system;

(3) Operates independently of any other attitude indicating system;

(4) Is operative without selection after total failure of the aircraft's electrical generating system;

(5) Is located on the instrument panel in a position that will make it plainly visible to, and useable by, any pilot at the pilot's station; and

(6) Is appropriately lighted during all phases of operation;

(d) For aircraft having a passenger seating configuration, excluding any pilot seat, of more than 19, a public address system and a crewmember interphone system, approved under § 21.205 of this chapter, which meet §§ 121.318 and 121.319, respectively, of this chapter; and

(e) For turbine powered aircraft, any other equipment as the Administrator may require.

§ 135.151 Cockpit voice recorders.

(a) No person may operate a turbojet airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, unless it is equipped with an approved cockpit voice recorder that—

(1) Is installed in compliance with Part 25 of this chapter;

(2) Is installed and operated continuously from the use of the check list before the flight to completion of the final check at the end of the flight; and

(3) Has erasure features that may be used so that any time during the operation of the recorder, information recorded more than 30 minutes earlier may be erased or otherwise obliterated.

(b) In the event of an accident, or occurrence requiring immediate notification of the National Transportation Safety Board which results in termination of the flight, the certificate holder shall keep the recorded information for at least 60 days or, if requested by the Administrator or the Board, for a longer period. Information obtained from the record may be used to assist in determining the cause of accidents or occurrences in connection with investigations. The Administrator does not use the record in any civil penalty or certificate action.

§ 135.153 Ground proximity warning system.

No person may operate a turbojet airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, unless it is equipped with—

(a) A ground proximity warning system that meets § 37.201 of this chapter; or

(b) A system that conveys warnings of excessive closure rates with the terrain and any deviations below glide slope by visual and audible means. This system must—

(1) Be approved by the Director, Flight Standards Service; and

(2) Have a means of alerting the pilot when a malfunction occurs in the system.

(c) For the system required by this section, the Airplane Flight Manual shall contain—

(1) Appropriate procedures for—

(i) The use of the equipment;

(ii) Proper flight crew action with respect to the equipment; and

(iii) Deactivation for planned abnormal and emergency conditions; and

(2) An outline of all input sources that must be operating.

(d) No person may deactivate a system required by this section except under procedures in the Airplane Flight Manual.

(e) Whenever a system required by this section is deactivated, an entry shall be made in the airplane maintenance record that includes the date and time of deactivation.

(f) For a system required by paragraph (b) of this section, procedures acceptable to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder shall be established by the certificate holder to ensure that the performance of the system can be appropriately monitored.

§ 135.155 Fire extinguishers: passenger-carrying aircraft.

No person may operate an aircraft carrying passengers unless it is equipped with hand fire extinguishers of an approved type for use in crew and passenger compartments as follows—

(a) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur;

(b) At least one hand fire extinguisher must be provided and conveniently located on the flight deck for use by the flight crew; and

(c) At least one hand fire extinguisher must be conveniently located in the passenger compartment of each aircraft having a passenger seating configuration, excluding any pilot seat, of at least 10 seats but less than 31 seats.

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§ 135.157 Oxygen equipment requirements.

(a) *Unpressurized aircraft.* No person may operate an unpressurized aircraft at altitudes prescribed in this section unless it is equipped with enough oxygen dispensers and oxygen to supply the pilots under § 135.89(a) and to supply, when flying—

(1) At altitudes above 10,000 feet through 15,000 feet MSL, oxygen to at least 10 percent of the occupants of the aircraft, other than the pilots, for that part of the flight at those altitudes that is of more than 30 minutes duration; and

(2) Above 15,000 feet MSL, oxygen to each occupant of the aircraft other than the pilots.

(b) *Pressurized aircraft.* No person may operate a pressurized aircraft—

(1) At altitudes above 25,000 feet MSL, unless at least a 10-minute supply of supplemental oxygen is available for each occupant of the aircraft, other than the pilots, for use when a descent is necessary due to loss of cabin pressurization; and

(2) Unless it is equipped with enough oxygen dispensers and oxygen to comply with paragraph (a) of this section whenever the cabin pressure altitude exceeds 10,000 feet MSL and, if the cabin pressurization fails, to comply with § 135.89 (a) or to provide a 2-hour supply for each pilot, whichever is greater, and to supply when flying—

(i) At altitudes above 10,000 feet through 15,000 feet MSL, oxygen to at least 10 percent of the occupants of the aircraft, other than the pilots, for that part of the flight at those altitudes that is of more than 30 minutes duration; and

(ii) Above 15,000 feet MSL, oxygen to each occupant of the aircraft, other than the pilots, for one hour unless, at all times during flight above that altitude, the aircraft can safely descend to 15,000 feet MSL within four minutes, in which case only a 30-minute supply is required.

(c) The equipment required by this section must have a means—

(1) To enable the pilots to readily determine, in flight, the amount of oxygen available in each source of supply and whether the oxygen is being delivered to the dispensing units; or

(2) In the case of individual dispensing units, to enable each user to make those determinations with respect to that person's oxygen supply and delivery; and

(3) To allow the pilots to use undiluted oxygen at their discretion at altitudes above 25,000 feet MSL.

§ 135.159 Equipment requirements: carrying passengers under VFR at night or under VFR over-the-top conditions.

No person may operate an aircraft carrying passengers under VFR at night or under VFR over-the-top, unless it is equipped with—

(a) A gyroscopic rate-of-turn indicator combined with a slip-skid indicator;

(b) A gyroscopic bank-and-pitch indicator;

(c) A gyroscopic direction indicator;

(d) A generator or generators able to supply all probable combinations of continuous inflight electrical loads for required equipment and for recharging the battery; and

(e) For night flights—

(1) An anticollision light system;

(2) Instrument lights to make all instruments, switches, and gauges easily readable, the direct rays of which are shielded from the pilot's eyes; and

(3) A flashlight having at least two size "D" cells or equivalent.

(f) For the purposes of paragraph (d) of this section, a continuous inflight electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments and lights, but does not include occasional intermittent loads.

§ 135.161 Radio and navigational equipment: carrying passengers under VFR at night or under VFR over-the-top.

(a) No person may operate an aircraft carrying passengers under VFR at night, or under VFR over-the-top, unless it has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

(b) No person may operate an aircraft carrying passengers under VFR over-the-top unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

(c) No person may operate an airplane carrying passengers under VFR at night unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

§ 135.163 Equipment requirements: aircraft carrying passengers under IFR.

No person may operate an aircraft under IFR, carrying passengers, unless it has—

(a) A vertical speed indicator;

(b) A free-air temperature indicator;

(c) A heated pitot tube for each airspeed indicator;

(d) A power failure warning device or vacuum indicator to show the power available for gyroscopic instruments from each power source;

(e) An alternate source of static pressure for the altimeter and the airspeed and vertical speed indicators;

(f) For a single-engine aircraft, a generator or generators able to supply all probable combinations of continuous inflight electrical loads for required equipment and for recharging the battery;

(g) For multiengine aircraft, at least two generators each of which is on a separate engine, of which any combination of one-half of the total number are rated sufficiently to supply the electrical loads of all required instruments and equipment necessary for safe emergency operation of the aircraft except that for multiengine helicopters, the two required generators may be mounted on the main rotor drive train; and

(h) Two independent sources of energy (with means of selecting either), of which at least one is an engine-driven pump or generator, each of which is able to drive all gyroscopic instruments and installed so that failure of one instrument or source does not interfere with the energy supply to the remaining instruments or the other energy source, unless, for single-engine aircraft, the rate-of-turn indicator has a source of energy separate from the bank and pitch and direction indicators. For the purpose of this paragraph, for multiengine aircraft, each engine-driven source of energy must be on a different engine.

(i) For the purpose of paragraph (f) of this section, a continuous inflight electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads.

§ 135.165 Radio and navigational equipment: extended overwater or IFR operations.

(a) No person may operate a turbojet airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, or a multiengine airplane carrying passengers as a "Commuter Air Carrier" as defined in Part 298 of this title, under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used which are capable of transmitting to, and receiving from, at any place on the route to be flown, at least one ground facility:

(1) Two transmitters, (2) two microphones, (3) two headsets or one headset and one speaker, (4) a marker beacon receiver, (5) two independent receivers for navigation, and (6) two independent receivers for communications.

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(b) No person may operate an aircraft other than that specified in paragraph (a) of this section, under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used and which are capable of transmitting to, and receiving from, at any place on the route, at least one ground facility:

(1) A transmitter, (2) two microphones, (3) two headsets or one headset and one speaker, (4) a marker beacon receiver, (5) two independent receivers for navigation, (6) two independent receivers for communications, and (7) for extended overwater operations only, an additional transmitter.

(c) For the purpose of paragraphs (a)(5), (a)(6), (b)(5), and (b)(6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

§ 135.167 Emergency equipment: extended overwater operations.

(a) No person may operate an aircraft in extended overwater operations unless it carries, installed in conspicuously marked locations easily accessible to the occupants if a ditching occurs, the following equipment:

(1) An approved life preserver equipped with an approved survivor locator light, or an approved flotation means, for each occupant of the aircraft. The life preserver or other flotation means must be easily accessible to each seated occupant. If a flotation means other than a life preserver is used, it must be readily removable from the aircraft.

(2) Enough life rafts (with proper buoyancy) to carry all occupants of the aircraft, and at least the following equipment for each raft clearly marked for easy identification—

(i) One canopy (for sail, sunshade, or rain catcher);

(ii) One radar reflector (or similar device);

(iii) One life raft repair kit;

(iv) One bailing bucket;

(v) One signaling mirror;

(vi) One police whistle;

(vii) One raft knife;

(viii) One CO_2 bottle for emergency inflation;

(ix) One inflation pump;

(x) Two oars;

(xi) One 75-foot retaining line;

(xii) One magnetic compass;

(xiii) One dye marker;

(xiv) One flashlight having at least two size "D" cells or equivalent;

(xv) At least one approved pyrotechnic signaling device;

(xvi) A two-day supply of emergency food rations supplying at least 1,000 calories a day for each person;

(xvii) One sea water desalting kit for each two persons the raft is rated to carry, or two pints of water for each person the raft is rated to carry;

(xviii) One fishing kit; and

(xix) One book on survival appropriate for the area in which the aircraft is operated.

(b) No person may operate an aircraft in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets § 37.200 of this chapter. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement or recharged battery must be legibly marked on the outside of the transmitter. The battery useful life or useful life of charge requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

§ 135.169 Additional airworthiness requirements.

(a) No person may operate a large airplane unless it meets the additional airworthiness requirements of §§ 121.213 through 121.283 and 121.307 and 121.312 of this chapter.

(b) No person may operate a reciprocating engine or turbopropeller-powered small airplane that has a passenger seating configuration, excluding any pilot seat, of 10 seats or more unless it is type certificated—

(1) In the transport category;

(2) Before July 1, 1970, in the normal category and meets special conditions issued by the Administrator for airplanes intended for use in operations under this part;

(3) Before July 19, 1970, in the normal category and meets the additional airworthiness standards in Special Federal Aviation Regulation No. 23; or

(4) In the normal category and meets the additional airworthiness standards in Appendix A.

(c) No person may operate a small airplane with a passenger seating configuration, excluding any pilot seat, of 10 seats or more, with a seating configuration greater than the maximum seating configuration used in that type airplane in operations under this part before August 19, 1977. This paragraph does not apply to—

(1) An airplane that is type certificated in the transport category; or

(2) An airplane that complies with Appendix A if its passenger seating configuration, excluding any pilot seat, is not more than 19.

§ 135.171 Shoulder harness installation at flight crewmember stations.

(a) No person may operate a turbojet aircraft or an aircraft having a passenger seating configuration, excluding any pilot seat, of 10 seats or more unless it is equipped with an approved shoulder harness installed for each flight crewmember station.

(b) Each flight crewmember occupying a station equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that the shoulder harness may be unfastened if the crewmember cannot perform the required duties with the shoulder harness fastened.

§ 135.173 Airborne thunderstorm detection equipment requirements.

(a) No person may operate a multiengine small aircraft that has a passenger seating configuration, excluding any pilot seat, of 10 seats or more in passenger-carrying operations unless approved thunderstorm detection equipment is installed in the aircraft.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms or other potentially hazardous weather conditions that can be detected with airborne thunderstorm detection equipment, required by paragraph (a) of this section, may reasonably be expected along the route to be flown, unless the airborne thunderstorm detection equipment is in satisfactory operating condition.

(c) If the airborne thunderstorm detection equipment becomes inoperative en route, the aircraft must be operated under the instructions and procedures specified for that event in the manual required by § 135.21.

(d) This section does not apply to aircraft used solely within the State of Hawaii, within the State of Alaska, within that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Without regard to any other provision of this part, an alternate electrical power supply is not required for airborne thunderstorm detection equipment.

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§ 135.175 Airborne weather radar equipment requirements.

(a) No person may operate a large, transport category aircraft in passenger-carrying operations unless approved airborne weather radar equipment is installed in the aircraft.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms, or other potentially hazardous weather conditions that can be detected with airborne weather radar equipment, may reasonably be expected along the route to be flown, unless the airborne weather radar equipment required by paragraph (a) of this section is in satisfactory operating condition.

(c) If the airborne weather radar equipment becomes inoperative en route, the aircraft must be operated under the instructions and procedures specified for that event in the manual required by § 135.21.

(d) This section does not apply to aircraft used solely within the State of Hawaii, within the State of Alaska, within that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Without regard to any other provision of this part, an alternate electrical power supply is not required for airborne weather radar equipment.

§ 135.177 Emergency equipment requirements for aircraft having a passenger seating configuration of more than 19 passengers.

(a) No person may operate an aircraft having a passenger seating configuration, excluding any pilot seat, of more than 19 seats unless it is equipped with the following emergency equipment:

(1) One approved first aid kit for treatment of injuries likely to occur in flight or in a minor accident, which meets the following specifications and requirements:

(i) Each first aid kit must be dust and moisture proof, and contain only materials that either meet Federal Specifications GGK-319a, as revised, or as approved by the Administrator.

(ii) Required first aid kits must be readily accessible to the cabin flight attendants.

(iii) At time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

Contents:	Quantity
Adhesive bandage compressors, 1 in	16
Antiseptic swabs	20
Ammonia inhalents	10
Bandage compressors, 4 in	8
Triangular bandage compressors, 40 in	5
Burn compound, ½ oz or an equivalent of other burn remedy	6
Arm splint, noninflatable	1
Leg splint, noninflatable	1
Roller bandage, 4 in	4
Adhesive tape, 1-in standard roll	2
Bandage scissors	1

(2) A crash axe carried so as to be accessible to the crew but inaccessible to passengers during normal operations.

(3) Signs that are visible to all occupants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(4) For airplanes, has the additional emergency equipment specified in § 121.310 of this chapter.

(b) Each item of equipment must be inspected regularly under inspection periods established in the operations specifications to ensure its condition for continued serviceability and immediate readiness to perform its intended emergency purposes.

§ 135.179 Inoperable instruments and equipment for multiengine aircraft.

(a) No person may take off a multiengine aircraft unless the following instruments and equipment are in an operable condition:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the aircraft is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(b) No person may take off any multiengine aircraft with inoperable instruments or equipment installed, other than those described in paragraph (a) of this section, unless the following conditions are met:

(1) An approved Minimum Equipment List exists for the aircraft type.

(2) The aircraft has within it a letter of authorization, issued by the FAA Flight Standards District Office having certification responsibility for the certificate holder, authorizing operation of the aircraft under the Minimum Equipment List. The letter of authorization may be obtained by written request of the certificate holder. The Minimum Equipment List and the letter of authorization constitute a supplemental type certificate for the aircraft.

(3) The approved Minimum Equipment List must provide for the operation of the aircraft with the instruments and equipment in an inoperable condition.

(4) The aircraft records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The aircraft is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the letter authorizing the use of the list.

(c) Without regard to the requirements of paragraph (a)(1) of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.197 and 21.199 of this chapter.

§ 135.181 Performance requirements: aircraft operated over-the-top or in IFR conditions.

(a) Except as provided in paragraphs (b) and (c) of this section, no person may—

(1) Operate a single-engine aircraft carrying passengers over-the-top or in IFR conditions; or

(2) Operate a multiengine aircraft carrying passengers over-the-top or in IFR conditions at a weight that will not allow it to climb, with the critical engine inoperative, at least 50 feet a minute when operating at the MEAs of the route to be flown or 5,000 feet MSL, whichever is higher.

(b) Without regard to paragraph (a) of this section—

(1) If the latest weather reports or forecasts, or any combination of them, indicate that the weather along the planned route (including takeoff and landing) allows flight under VFR under the ceiling (if a ceiling exists) and that the weather is forecast to remain so until at least 1 hour after the estimated time of arrival at the destination, a person may operate an aircraft over-the-top; or

(2) If the latest weather reports or forecasts, or any combination of them, indicate that the weather along the planned route allows flight under VFR under the ceiling (if a ceiling exists) beginning at a point no more than 15 minutes flying time at normal cruise speed from the departure airport, a person may—

(i) Take off from the departure airport in IFR conditions and fly in IFR conditions to a point no more than 15 minutes flying time at normal cruise speed from that airport;

(ii) Operate an aircraft in IFR conditions if unforecast weather conditions are encountered while en route on a flight planned to be conducted under VFR; and

(iii) Make an IFR approach at the destination airport if unforecast weather conditions are encountered at the airport that do not allow an approach to be completed under VFR.

(c) Without regard to paragraph (a) of this section, a person may operate

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an aircraft over-the-top under conditions allowing—

(1) For multiengine aircraft, descent or continuance of the flight under VFR if its critical engine fails; or

(2) For single-engine aircraft, descent under VFR if its engine fails.

§ 135.183 Performance requirements: land aircraft operated over water.

No person may operate a land aircraft carrying passengers over water unless—

(a) It is operated at an altitude that allows it to reach land in the case of engine failure;

(b) It is necessary for takeoff or landing;

(c) It is a multiengine aircraft operated at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute, at an altitude of 1,000 feet above the surface; or

(d) It is a helicopter equipped with helicopter flotation devices.

§ 135.185 Empty weight and center of gravity: currency requirement.

(a) No person may operate a multiengine aircraft unless the current empty weight and center of gravity are calculated from values established by actual weighing of the aircraft within the preceding 36 calendar months.

(b) Paragraph (a) of this section does not apply to—

(1) Aircraft issued an original airworthiness certificate within the preceding 36 calendar months; and

(2) Aircraft operated under a weight and balance system approved in the operations specifications of the certificate holder.

Subpart D—VFR/IFR Operating Limitations and Weather Requirements

§ 135.201 Applicability.

This subpart prescribes the operating limitations for VFR/IFR flight operations and associated weather requirements for operations under this part.

§ 135.203 VFR: minimum altitudes.

Except when necessary for takeoff and landing, no person may operate under VFR—

(a) An airplane—

(1) During the day, below 500 feet above the surface or less than 500 feet horizontally from any obstacle; or

(2) At night, at an altitude less than 1,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown or, in designated mountainous terrain, less than 2,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown; or

(b) A helicopter over a congested area at an altitude less than 300 feet above the surface.

§ 135.205 VFR: visibility requirements.

(a) No person may operate an airplane under VFR in uncontrolled airspace when the ceiling is less than 1,000 feet unless flight visibility is at least 2 miles.

(b) No person may operate a helicopter under VFR in uncontrolled airspace at an altitude of 1,200 feet or less above the surface or in control zones unless the visibility is at least—

(1) During the day—½ mile; or

(2) At night—1 mile.

§ 135.207 VFR: helicopter surface reference requirements.

No person may operate a helicopter under VFR unless that person has visual surface reference or, at night, visual surface light reference, sufficient to safely control the helicopter.

§ 135.209 VFR: fuel supply.

(a) No person may begin a flight operation in an airplane under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption—

(1) During the day, to fly after that for at least 30 minutes; or

(2) At night, to fly after that for at least 45 minutes.

(b) No person may begin a flight operation in a helicopter under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption, to fly after that for at least 20 minutes.

§ 135.211 VFR: over-the-top carrying passengers: operating limitations.

Subject to any additional limitations in § 135.181, no person may operate an aircraft under VFR over-the-top carrying passengers, unless—

(a) Weather reports or forecasts, or any combination of them, indicate that the weather at the intended point of termination of over-the-top flight—

(1) Allows descent to beneath the ceiling under VFR and is forecast to remain so until at least 1 hour after the estimated time of arrival at that point; or

(2) Allows an IFR approach and landing with flight clear of the clouds until reaching the prescribed initial approach altitude over the final approach facility, unless the approach is made with the use of radar under § 91.116(f) of this chapter; or

(b) It is operated under conditions allowing—

(1) For multiengine aircraft, descent or continuation of the flight under VFR if its critical engine fails; or

(2) For single-engine aircraft, descent under VFR if its engine fails.

§ 135.213 Weather reports and forecasts.

(a) Whenever a person operating an aircraft under this part is required to use a weather report or forecast, that person shall use that of the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator. However, for operations under VFR, the pilot in command may, if such a report is not available, use weather information based on that pilot's own observations or on those of other persons competent to supply appropriate observations.

(b) For the purposes of paragraph (a) of this section, weather observations made and furnished to pilots to conduct IFR operations at an airport must be taken at the airport where those IFR operations are conducted, unless the Administrator issues operations specifications allowing the use of weather observations taken at a location not at the airport where the IFR operations are conducted. The Administrator issues such operations specifications when, after investigation by the U.S. National Weather Service and the FAA Flight Standards District Office charged with the overall inspection of the certificate holder, it is found that the standards of safety for that operation would allow the deviation from this paragraph for a particular operation for which an ATCO operating certificate has been issued.

§ 135.215 IFR: operating limitations.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, no person may operate an aircraft under IFR outside of controlled airspace or at any airport that does not have an approved standard instrument approach procedure.

(b) The Administrator may issue operations specifications to the certificate holder to allow it to operate under IFR over routes outside controlled airspace if—

(1) The certificate holder shows the Administrator that the flight crew is able to navigate, without visual reference to the ground, over an intended track without deviating more than 5 degrees or 5 miles, whichever is less, from that track; and

(2) The Administrator determines that the proposed operations can be conducted safely.

(c) A person may operate an aircraft under IFR outside of controlled airspace if the certificate holder has been approved for the operations and that operation is necessary to—

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(1) Conduct an instrument approach to an airport for which there is in use a current approved standard or special instrument approach procedure; or

(2) Climb into controlled airspace during an approved missed approach procedure; or

(3) Make an IFR departure from an airport having an approved instrument approach procedure.

(d) The Administrator may issue operations specifications to the certificate holder to allow it to depart at an airport that does not have an approved standard instrument approach procedure when the Administrator determines that it is necessary to make an IFR departure from that airport and that the proposed operations can be conducted safely. The approval to operate at that airport does not include an approval to make an IFR approach to that airport.

§ 135.217 IFR: takeoff limitations.

No person may takeoff an aircraft under IFR from an airport where weather conditions are at or above take off minimums but are below authorized IFR landing minimums unless there is an alternate airport within 1 hour's flying time (at normal cruising speed, in still air) of the airport of departure.

§ 135.219 IFR: destination airport weather minimums.

No person may take off an aircraft under IFR or begin an IFR or over-the-top operation unless the latest weather reports or forecasts, or any combination of them, indicate that weather conditions at the estimated time of arrival at the next airport of intended landing will be at or above authorized IFR landing minimums.

§ 135.221 IFR: alternate airport weather minimums.

No person may designate an alternate airport unless the weather reports or forecasts, or any combination of them, indicate that the weather conditions will be at or above authorized alternate airport landing minimums for that airport at the estimated time of arrival.

§ 135.223 IFR: alternate airport requirements.

(a) Except as provided in paragraph (b) of this section, no person may operate an aircraft in IFR conditions unless it carries enough fuel (considering weather reports or forecasts or any combination of them) to—

(1) Complete the flight to the first airport of intended landing;

(2) Fly from that airport to the alternate airport; and

(3) Fly after that for 45 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if Part 97 of this chapter prescribes a standard instrument approach procedure for the first airport of intended landing and, for at least one hour before and after the estimated time of arrival, the appropriate weather reports or forecasts, or any combination of them, indicate that—

(1) The ceiling will be at least 1,500 feet above the lowest circling approach MDA; or

(2) If a circling instrument approach is not authorized for the airport, the ceiling will be at least 1,500 feet above the lowest published minimum or 2,000 feet above the airport elevation, whichever is higher; and

(3) Visibility for that airport is forecast to be at least three miles, or two miles more than the lowest applicable visibility minimums, whichever is the greater, for the instrument approach procedure to be used at the destination airport.

§ 135.225 IFR: takeoff, approach and landing minimums.

(a) No pilot may begin an instrument approach procedure to an airport unless—

(1) That airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, or a source approved by the Administrator; and

(2) The latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.

(b) No pilot may begin the final approach segment of an instrument approach procedure to an airport unless the latest weather reported by the facility described in paragraph (a)(1) of this section indicates that weather conditions are at or above the authorized IFR landing minimums for that procedure.

(c) If a pilot has begun the final approach segment of an instrument approach to an airport under paragraph (b) of this section and a later weather report indicating below minimum conditions is received after the aircraft is—

(1) On an ILS final approach and has passed the final approach fix; or

(2) On an ASR or PAR final approach and has been turned over to the final approach controller; or

(3) On a final approach using a VOR, NDB, or comparable approach procedure; and the aircraft—

(i) Has passed the appropriate facility or final approach fix; or

(ii) Where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure; the approach may be continued and a landing made if the pilot finds, upon reaching the authorized MDA or DH, that actual weather conditions are at least equal to the minimums prescribed for the procedure.

(d) The MDA or DH and visibility landing minimums prescribed in Part 97 of this chapter or in the operator's operations specifications are increased by 100 feet and ½ mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.

(e) Each pilot making an IFR takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at that airport—

(1) Take off under IFR when the visibility is less than 1 mile; or

(2) Make an instrument approach when the visibility is less than ½ mile.

(f) If takeoff minimums are specified in Part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in Part 97 or in the certificate holder's operations specifications.

(g) Except as provided in paragraph (h) of this section, if takeoff minimums are not prescribed in Part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than that prescribed in Part 91 of this chapter or in the certificate holder's operations specifications.

(h) At airports where straight-in instrument approach procedures are authorized, a pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, if—

(1) The wind direction and velocity at the time of takeoff are such that a straight-in instrument approach can be made to the runway served by the instrument approach;

(2) The associated ground facilities upon which the landing minimums are predicated and the related airborne equipment are in normal operation; and

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(3) The certificate holder has been approved for such operations.

§ 135.227 Icing conditions: operating limitations.

(a) No pilot may take off an aircraft that has—

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A, or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast light or moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions; unless the aircraft has functioning deicing or anti-icing equipment protecting each rotor blade, propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A, or those for transport category airplane type certification, no pilot may fly an aircraft into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

§ 135.229 Airport requirements.

(a) No certificate holder may use any airport unless it is adequate for the proposed operation, considering such items as size, surface, obstructions, and lighting.

(b) No pilot of an aircraft carrying passengers at night may take off from, or land on, an airport unless—

(1) That pilot has determined the wind direction from an illuminated wind direction indicator or local ground communications or, in the case of takeoff, that pilot's personal observations; and

(2) The limits of the area to be used for landing or takeoff are clearly shown—

(i) For airplanes, by boundary or runway marker lights;

(ii) For helicopters, by boundary or runway marker lights or reflective material.

(c) For the purpose of paragraph (b) of this section, if the area to be used for takeoff or landing is marked by flare pots or lanterns, their use must be approved by the Administrator.

Subpart E—Flight Crewmember Requirements

§ 135.241 Applicability.

This subpart prescribes the flight crewmember requirements for operations under this part.

§ 135.243 Pilot in command qualifications.

(a) No certificate holder may use a person, nor may any person serve, as pilot in command in passenger-carrying operations of a turbojet airplane, of an airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, or a multiengine airplane being operated by the "Commuter Air Carrier" (as defined in Part 298 of this title), unless that person holds an airline transport pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that airplane.

(b) Except as provided in paragraph (a) of this section, no certificate holder may use a person, nor may any person serve, as pilot in command of an aircraft under VFR unless that person—

(1) Holds at least a commercial pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft; and

(2) Has had at least 500 hours of flight time as a pilot, including at least 1000 hours of cross-country flight time, at least 25 hours of which were at night; and

(3) For an airplane, holds an instrument rating or an airline transport pilot certificate with an airplane category rating; or

(4) For helicopter operations conducted VFR over-the-top, holds a helicopter instrument rating, or an airline transport pilot certificate with a category and class rating for that aircraft, not limited to VFR.

(c) Except as provided in paragraph (a) of this section, no certificate holder may use a person, nor may any person serve, as pilot in command of an aircraft under IFR unless that person—

(1) Holds at least a commercial pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft; and

(2) Has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross country flight time, 100 hours of night flight time, and 75 hours of actual or simulated instrument time at least 50 hours of which were in actual flight; and

(3) For an airplane, holds an instrument rating or an airline transport pilot certificate with an airplane category rating; or

(4) For a helicopter, holds a helicopter instrument rating, or an airline transport pilot certificate with a category and class rating for that aircraft, not limited to VFR.

§ 135.245 Second in command qualifications.

No certificate holder may use any person, nor may any person serve, as second in command of an aircraft unless that person holds at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating. For flight under IFR that person must meet the recent instrument experience requirements of Part 61 of this chapter.

§ 135.247 Pilot qualifications: recent experience.

(a) No certificate holder may use any person, nor may any person serve, as pilot in command of an aircraft carrying passengers unless, within the preceding 90 days, that person has—

(1) Made three takeoffs and three landings as the sole manipulator of the flight controls in an aircraft of the same category and class and, if a type rating is required, of the same type in which that person is to serve; or

(2) For operation during the period beginning 1 hour after sunset and ending 1 hour before sunrise (as published in the Air Almanac), made three takeoffs and three landings during that period as the sole manipulator of the flight controls in an aircraft of the same category and class and, if a type rating is required, of the same type in which that person is to serve.

A person who complies with paragraph (a)(2) of this paragraph need not comply with paragraph (a)(1) of this paragraph.

(b) For the purpose of paragraph (a) of this section, if the aircraft is a tailwheel airplane, each takeoff must be made in a tailwheel airplane and each landing must be made to a full stop in a tailwheel airplane.

Subpart F—Flight Crewmember Flight and Duty Time Limitations

§ 135.261 Flight and duty time limitations.

(a) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if the total flight time of that flight in addition to any other commercial

flying by that flight crewmember exceeds the following during any 24 consecutive hours:

(1) Eight hours for a flight crew consisting of one pilot.

(2) Ten hours for a flight crew consisting of two pilots required by this chapter.

(b) No certificate holder may assign a flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time unless that assignment provides for at least 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.

(c) A flight crewmember is not considered to be assigned for duty during flight time in excess of flight time limitations if the flights to which the flight crewmember is assigned would normally terminate within the limitations, but due to circumstances beyond the control of the certificate holder or the flight crewmember (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the planned flight time.

(d) No certificate holder may assign a flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if, because of circumstances beyond the control of the certificate holder or flight crewmember, the flight crewmember has exceeded the flight time limitations in paragraph (a) of this section, unless the flight crewmember has had 16 hours of rest since the completion of the flight crewmember's last assigned flight.

(e) Time spent in transportation, not local in character, that the certificate holder requires of a flight crewmember and provides to transport the crewmember to the airport at which the flight crewmember is to serve on a flight as a flight crewmember, or from an airport at which the flight crewmember has completed an assigned flight to the flight crewmember's home station, is not considered part of a rest period.

(f) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if the flight crewmember has been assigned to any duty with the certificate holder in connection with operations under this part during any required rest period.

Subpart G—Crewmember Testing Requirements

§ 135.291 Applicability.

This subpart prescribes the tests and checks required for pilot and flight attendant crewmembers and for the approval of check pilots in operations under this part.

§ 135.293 Initial and recurrent pilot testing requirements.

(a) No certificate holder may use a pilot, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, that pilot has passed a written or oral test, given by the Administrator or an authorized check pilot, on that pilot's knowledge in the following areas—

(1) The appropriate provisions of Parts 61, 91, and 135 of this chapter and the operations specifications and the manual of the certificate holder;

(2) For each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved Aircraft Flight Manual or equivalent, as applicable;

(3) For each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including, when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology in general, including the principles of frontal systems, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the certificate holder, high altitude weather;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use a pilot, nor may any person serve as a pilot, in any aircraft unless, since the beginning of the 12th calendar month before that service, that pilot has passed a competency check given by the Administrator or an authorized check pilot in that class of aircraft, if single-engine airplane other than turbojet, or that type of aircraft, if helicopter, multiengine airplane, or turbojet airplane, to determine the pilot's competence in practical skills and techniques in that aircraft or class of aircraft. The extent of the competency check shall be determined by the Administrator or authorized check pilot conducting the competency check. The competency check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of aircraft involved. For the purposes of this paragraph, type, as to an airplane, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics. For the purposes of this paragraph, type, as to a helicopter, means a basic make and model.

(c) The instrument proficiency check required by § 135.297 may be substituted for the competency check required by this section for the type of aircraft used in the check.

(d) For the purpose of this part, competent performance of a procedure or maneuver by a person to be used as a pilot requires that the pilot be the obvious master of the aircraft, with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

(f) Portions of a required competency check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator.

§ 135.295 Initial and recurrent flight attendant crewmember testing requirements.

No certificate holder may use a flight attendant crewmember, nor may any person serve as a flight attendant crewmember unless, since the beginning of the 12th calendar month before that service, the certificate holder has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities—

(a) Authority of the pilot in command;

(b) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in an emergency;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers and other items of emergency equipment;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment;

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(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and

(i) Seating of persons who may need assistance of another person to move rapidly to an exit in an emergency as prescribed by the certificate holder's operations manual.

§ 135.297 Pilot in command: instrument proficiency check requirements.

(a) No certificate holder may use a pilot, nor may any person serve, as a pilot in command of an aircraft under IFR unless, since the beginning of the sixth calendar month before that service, that pilot has passed an instrument proficiency check and the Administrator or an authorized check pilot has so certified in a letter of competency.

(b) No pilot may use any type of instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated at least one instrument approach procedure using an ILS, a VOR and an NDB facility, and has been issued a letter of competency under paragraph (h) of this section. These instrument approach procedures must include at least one straight-in approach, one circling approach in conjunction with a VOR or an NDB, and one missed approach. Each approach procedure demonstrated must be conducted to the published minimum for that procedure.

(c) The instrument proficiency check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems, as appropriate. The flight check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities which that pilot is to be authorized to use. Each pilot taking the instrument proficiency check must show that standard of competence required by § 135.293(d).

(1) The instrument proficiency check must—

(i) For a pilot in command of an airplane under § 135.243(a), include the procedures and maneuvers for an airline transport pilot certificate in the particular type of airplane, if appropriate; and

(ii) For a pilot in command of an airplane or helicopter under § 135.243(c), include the procedures and maneuvers for a commercial pilot certificate with an instrument rating and, if required, for the appropriate type rating.

(2) The instrument proficiency check must be given by an authorized check airman or by the Administrator.

(d) If the pilot in command is assigned to pilot only one type of aircraft, that pilot must take the instrument proficiency check required by paragraph (a) of this section in that type of aircraft.

(e) If the pilot in command is assigned to pilot more than one type of aircraft, that pilot must take the instrument proficiency check required by paragraph (a) of this section in each type of aircraft to which that pilot is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.

(f) If the pilot in command is assigned to pilot both single-engine and multiengine aircraft, that pilot must initially take the instrument proficiency check required by paragraph (a) of this section in a multiengine aircraft, and each succeeding check alternately in single-engine and multiengine aircraft, but not more than one flight check during each period described in paragraph (a) of this section. Portions of a required flight check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator.

(g) If the pilot in command is authorized to use an autopilot system in place of a second in command, that pilot must show, during the required instrument proficiency check, that the pilot is able (without a second in command) both with and without using the autopilot to—

(1) Conduct instrument operations competently; and

(2) Properly conduct air-ground communications and comply with complex air traffic control instructions.

(3) Each pilot taking the autopilot check must show that, while using the autopilot, the airplane can be operated as proficiently as it would be if a second in command were present to handle air-ground communications and air traffic control instructions. The autopilot check need only be demonstrated once every 12 calendar months during the instrument proficiency check required under paragraph (a) of this section.

(h) The Administrator or authorized check pilot issues a letter of competency to each pilot who passes the instrument proficiency check. The letter of competency authorizes the use of instrument approach procedures and facilities under Part 97 of this chapter and, if the pilot passes the autopilot check, authorizes the use of an autopilot system in place of a second in command.

§ 135.299 Pilot in command: line checks: routes and airports.

(a) No certificate holder may use a pilot, nor may any person serve, as a pilot in command of a flight unless, since the beginning of the 12th calendar month before that service, that pilot has passed a flight check in one of the types of aircraft which that pilot is to fly. The flight check shall—

(1) Be given by an approved check pilot or by the Administrator;

(2) Consist of at least one flight over one route segment; and

(3) Include takeoffs and landings at one or more representative airports. In addition to the requirements of this paragraph, for a pilot authorized to conduct IFR operations, at least one flight shall be flown over a civil airway, an approved off-airway route, or a portion of either of them.

(b) The pilot who conducts the check shall determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command in operations under this part, and shall so certify in the pilot training record.

(c) Each certificate holder shall establish in the manual required by § 135.21 a procedure which will ensure that each pilot who has not flown over a route and into an airport within the preceding 90 days will, before beginning the flight, become familiar with all available information required for the safe operation of that flight.

§ 135.301 Crewmember: tests and checks, grace provisions, training to accepted standards.

(a) If a crewmember who is required to take a test or a flight check under this part, completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

(b) If a pilot being checked under this subpart fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers that are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this part until the pilot has satisfactorily completed the check.

§ 135.303 Check pilot authorization: application and issue.

Each certificate holder desiring FAA approval of a check pilot shall submit a request in writing to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder. The Administrator may issue a letter of authority to each check pilot if that pilot passes the appropriate oral and flight test. The letter of authority lists the tests and checks in this part that the check pilot is qualified to give, and the category, class and type aircraft, where appropriate, for which the check pilot is qualified.

Subpart H—Training

§ 135.321 Applicability and terms used.

(a) This subpart prescribes requirements for establishing and maintaining an approved training program for crewmembers, check airmen and instructors, and other operations personnel, and for the approval and use of aircraft simulators and other training devices in the conduct of that program.

(b) For the purposes of this subpart, the following terms and definitions apply:

(1) Initial training. The training required for crewmembers who have not qualified and served in the same capacity on an aircraft.

(2) Transition training. The training required for crewmembers who have qualified and served in the same capacity on another aircraft.

(3) Upgrade training. The training required for crewmembers who have qualified and served as second in command on a particular aircraft type, before they serve as pilot in command on that aircraft.

(4) Differences training. The training required for crewmembers who have qualified and served on a particular type aircraft, when the Administrator finds differences training is necessary before a crewmember serves in the same capacity on a particular variation of that aircraft.

(5) Recurrent training. The training required for crewmembers to remain adequately trained and currently proficient for each aircraft, crewmember position, and type of operation in which the crewmember serves.

(6) In flight. The maneuvers, procedures, or functions that must be conducted in the aircraft.

§ 135.323 Training program: general.

(a) Each certificate holder required to have a training program under § 135.341 shall:

(1) Establish, obtain the appropriate initial and final approval of, and provide a training program that meets this subpart and that ensures that each crewmember, flight instructor, check airman, and each person assigned duties for the carriage and handling of hazardous materials (as defined in 49 CFR 171.8) is adequately trained to perform their assigned duties.

(2) Provide adequate ground and flight training facilities and properly qualified ground instructors for the training required by this subpart.

(3) Provide and keep current for each aircraft type used and, if applicable, the particular variations within the aircraft type, appropriate training material, examinations, forms, instructions, and procedures for use in conducting the training and checks required by this subpart.

(4) Provide enough flight instructors, check airmen, and simulator instructors to conduct required flight training and flight checks, and simulator training courses allowed under this subpart.

(b) Whenever a crewmember who is required to take recurrent training under this subpart completes the training in the calendar month before, or the calendar month after, the month in which that training is required, the crewmember is considered to have completed it in the calendar month in which it was required.

(c) Each instructor, supervisor, or check airman who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, flight instructor, or check airman concerned upon completion of that training or check. That certification shall be made a part of the crewmember's record. When the certification required by this paragraph is made by an entry in a computerized recordkeeping system, the certifying instructor, supervisor, or check airman, must be identified with that entry. However, the signature of the certifying instructor, supervisor, or check airman, is not required for computerized entries.

(d) Training subjects that apply to more than one aircraft or crewmember position and that have been satisfactorily completed during previous training while employed by the certificate holder for another aircraft or another crewmember position, need not be repeated during subsequent training other than recurrent training.

(e) Aircraft simulators and other training devices may be used in the certificate holder's training program if approved by the Administrator.

§ 135.325 Training program and revision: initial and final approval.

(a) To obtain initial and final approval of a training program, or a revision to an approved training program, each certificate holder must submit to the Administrator—

(1) An outline of the proposed or revised curriculum, that provides enough information for a preliminary evaluation of the proposed training program or revision; and

(2) Additional relevant information that may be requested by the Administrator.

(b) If the proposed training program or revision complies with this subpart, the Administrator grants initial approval in writing after which the certificate holder may conduct the training under that program. The Administrator then evaluates the effectiveness of the training program and advises the certificate holder of deficiencies, if any, that must be corrected.

(c) The Administrator grants final approval of the proposed training program or revision if the certificate holder shows that the training conducted under the initial approval in paragraph (b) of this section ensures that each person who successfully completes the training is adequately trained to perform that person's assigned duties.

(d) Whenever the Administrator finds that revisions are necessary for the continued adequacy of a training program that has been granted final approval, the certificate holder shall, after notification by the Administrator, make any changes in the program that are found necessary by the Administrator. Within 30 days after the certificate holder receives the notice, it may file a petition to reconsider the notice with the Administrator. The filing of a petition to reconsider stays the notice pending a decision by the Administrator. However, if the Administrator finds that there is an emergency that requires immediate action in the interest of safety, the Administrator may, upon a statement of the reasons, require a change effective without stay.

§ 135.327 Training program: curriculum.

(a) Each certificate holder must prepare and keep current a written training program curriculum for each type of aircraft for each crewmember required for that type aircraft. The curriculum must include ground and flight training required by this subpart.

(b) Each training program curriculum must include the following:

(1) A list of principal ground training subjects, including emergency training subjects, that are provided.

(2) A list of all the training devices, mockups, systems trainers, procedures trainers, or other training aids that the certificate holder will use.

(3) Detailed descriptions or pictorial displays of the approved normal, ab-

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normal, and emergency maneuvers, procedures and functions that will be performed during each flight training phase or flight check, indicating those maneuvers, procedures and functions that are to be performed during the inflight portions of flight training and flight checks.

§ 135.329 Crewmember training requirements.

(a) Each certificate holder must include in its training program the following initial and transition ground training as appropriate to the particular assignment of the crewmember:

(1) Basic indoctrination ground training for newly hired crewmembers including instruction in at least the—

(i) Duties and responsibilities of crewmembers as applicable;

(ii) Appropriate provisions of this chapter;

(iii) Contents of the certificate holder's operating certificate and operations specifications (not required for flight attendants); and

(iv) Appropriate portions of the certificate holder's operating manual.

(2) The initial and transition ground training in §§ 135.345 and 135.349, as applicable.

(3) Emergency training in § 135.331.

(b) Each training program must provide the initial and transition flight training in § 135.347, as applicable.

(c) Each training program must provide recurrent ground and flight training in § 135.351.

(d) Upgrade training in §§ 135.345 and 135.347 for a particular type aircraft may be included in the training program for crewmembers who have qualified and served as second in command on that aircraft.

(e) In addition to initial, transition, upgrade and recurrent training, each training program must provide ground and flight training, instruction, and practice necessary to ensure that each crewmember—

(1) Remains adequately trained and currently proficient for each aircraft, crewmember position, and type of operation in which the crewmember serves; and

(2) Qualifies in new equipment, facilities, procedures, and techniques, including modifications to aircraft.

§ 135.331 Crewmember emergency training.

(a) Each training program must provide emergency training under this section for each aircraft type, model, and configuration, each crewmember, and each kind of operation conducted, as appropriate for each crewmember and the certificate holder.

(b) Emergency training must provide the following:

(1) Instruction in emergency assignments and procedures, including coordination among crewmembers.

(2) Individual instruction in the location, function, and operation of emergency equipment including—

(i) Equipment used in ditching and evacuation;

(ii) First aid equipment and its proper use; and

(iii) Portable fire extinguishers, with emphasis on the type of extinguisher to be used on different classes of fires.

(3) Instruction in the handling of emergency situations including—

(i) Rapid decompression;

(ii) Fire in flight or on the surface and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas;

(iii) Ditching and evacuation;

(iv) Illness, injury, or other abnormal situations involving passengers or crewmembers; and

(v) Hijacking and other unusual situations.

(4) Review of the certificate holder's previous aircraft accidents and incidents involving actual emergency situations.

(c) Each crewmember must perform at least the following emergency drills, using the proper emergency equipment and procedures, unless the Administrator finds that, for a particular drill, the crewmember can be adequately trained by demonstration:

(1) Ditching, if applicable.

(2) Emergency evacuation.

(3) Fire extinguishing and smoke control.

(4) Operation and use of emergency exits, including deployment and use of evacuation chutes, if applicable.

(5) Use of crew and passenger oxygen.

(6) Removal of life rafts from the aircraft, inflation of the life rafts, use of life lines, and boarding of passengers and crew, if applicable.

(7) Donning and inflation of life vests and the use of other individual flotation devices, if applicable.

(d) Crewmembers who serve in operations above 25,000 feet must receive instruction in the following:

(1) Respiration.

(2) Hypoxia.

(3) Duration of consciousness without supplemental oxygen at altitude.

(4) Gas expansion.

(5) Gas bubble formation.

(6) Physical phenomena and incidents of decompression.

§ 135.333 Training requirements: handling and carriage of hazardous materials.

(a) Except as provided in paragraph (d) of this section, no certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of hazardous materials (as defined in 49 CFR 171.8), unless within the preceding 12 calendar months that person has satisfactorily completed initial or recurrent training in an appropriate training program established by the certificate holder, which includes instruction regarding—

(1) The proper shipper certification, packaging, marking, labeling, and documentation for hazardous materials; and

(2) The compatibility, loading, storage, and handling characteristics of hazardous materials.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of hazardous materials.

(c) Each certificate holder that elects not to accept hazardous materials shall ensure that each crewmember is adequately trained to recognize those items classified as hazardous materials.

(d) If a certificate holder operates into or out of airports at which trained employees or contract personnel are not available, it may use persons not meeting the requirements of paragraphs (a) and (b) of this section to load, offload, or otherwise handle hazardous materials if these persons are supervised by a crewmember who is qualified under paragraphs (a) and (b) of this section.

§ 135.335 Approval of aircraft simulators and other training devices.

(a) Training courses using aircraft simulators and other training devices may be included in the certificate holder's training program if approved by the Administrator.

(b) Each aircraft simulator and other training device that is used in a training course or in checks required under this subpart must meet the following requirements:

(1) It must be specifically approved for—

(i) The certificate holder;

(ii) The type aircraft and, if applicable, the particular variation within type for which the training or check is being conducted; and

(iii) The particular maneuver, procedure, or crewmember function involved.

(2) It must maintain the performance, functional, and other characteristics that are required for approval.

(3) It must be modified to conform with any modification to the aircraft being simulated that changes the performance, functional, or other characteristics required for approval.

(c) In granting initial and final approval of training programs or revisions to them, the Administrator considers the training devices, methods and procedures listed in the certificate holder's curriculum under § 135.327.

§ 135.337 Training program: check airmen and instructor qualifications.

(a) No certificate holder may use a person, nor may any person serve, as a flight instructor or check airman in a training program established under this subpart unless, for the particular aircraft type involved, that person—

(1) Holds the airman certificate and ratings that must be held to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339;

(5) Holds a Class I or Class II medical certificate required to serve as a pilot in command in operations under this part;

(6) In the case of a check airman, has been approved by the Administrator for the airman duties involved; and

(7) In the case of a check airman used in an aircraft simulator only, holds a Class III medical certificate.

(b) No certificate holder may use a person, nor may any person serve, as a simulator instructor for a course of training given in an aircraft simulator under this subpart unless that person—

(1) Holds at least a commercial pilot certificate; and

(2) Has satisfactorily completed the following as evidenced by the approval of a check airman—

(i) Appropriate initial pilot and flight instructor ground training under this subpart; and

(ii) A simulator flight training course in the type simulator in which that person instructs under this subpart.

§ 135.339 Check airmen and flight instructors: initial and transition training.

(a) The initial and transition ground training for pilot check airmen must include the following:

(1) Pilot check airman duties, functions, and responsibilities.

(2) The applicable provisions of this chapter and certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of pilot performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics that could adversely affect safety.

(5) The appropriate corrective action for unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(b) The initial and transition ground training for pilot flight instructors, except for the holder of a valid flight instructor certificate, must include the following:

(1) The fundamental principles of the teaching-learning process.

(2) Teaching methods and procedures.

(3) The instructor-student relationship.

(c) The initial and transition flight training for pilot check airmen and pilot flight instructors must include the following:

(1) Enough inflight training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure that person's competence to conduct the pilot flight checks and flight training under this subpart.

(2) The appropriate safety measures to be taken from either pilot seat for emergency situations that are likely to develop in training.

(3) The potential results of improper or untimely safety measures during training.

The requirements of paragraphs (2) and (3) of this paragraph may be accomplished in flight or in an approved simulator.

§ 135.341 Pilot and flight attendant crewmember training programs.

(a) Each certificate holder, other than one who is the only pilot used in the certificate holder's operation, shall establish and maintain an approved pilot training program, and each certificate holder who uses a flight attendant crewmember shall establish and maintain an approved flight attendant training program, that is appropriate to the operations to which each pilot and flight attendant is to be assigned, and will ensure that they are adequately trained to meet the applicable knowledge and practical testing requirements of §§ 135.293 through 135.301. However, the Administrator may authorize a deviation from this section if the Administrator finds that, because of the limited size and scope of the operation, safety will allow a deviation from these requirements.

(b) Each certificate holder required to have a training program by paragraph (a) of this section shall include in that program ground and flight training curriculums for—(1) Initial training; (2) Transition training; (3) Upgrade training; (4) Differences training; and (5) Recurrent training.

(c) Each certificate holder required to have a training program by paragraph (a) of this section shall provide current and appropriate study materials for use by each required pilot and flight attendant.

(d) The certificate holder shall furnish copies of the pilot and flight attendant crewmember training program, and all changes and additions, to the assigned representative of the Administrator. If the certificate holder uses training facilities of other persons, a copy of those training programs or appropriate portions used for those facilities shall also be furnished. Curricula that follow FAA published curricula may be cited by reference in the copy of the training program furnished to the representative of the Administrator and need not be furnished with the program.

§ 135.343 Crewmember initial and recurrent training requirements.

No certificate holder may use a person, nor may any person serve, as a crewmember in operations under this part unless that crewmember has completed the appropriate initial or recurrent training phase of the training program appropriate to the type of operation in which the crewmember is to serve since the beginning of the 12th calendar month before that service. This section does not apply to a certificate holder who is the only pilot used in the certificate holder's operation.

§ 135.345 Pilots: initial, transition, and upgrade ground training.

Initial, transition, and upgrade ground training for pilots must include instruction in at least the following, as applicable to their duties:

(a) General subjects—

(1) The certificate holder's flight locating procedures;

(2) Principles and methods for determining weight and balance, and runway limitations for takeoff and landing;

(3) Enough meteorology to ensure a practical knowledge of weather phenomena, including the principles of frontal systems, icing, fog, thunderstorms, windshear and, if appropriate, high altitude weather situations;

(4) Air traffic control systems, procedures, and phraseology;

(5) Navigation and the use of navigational aids, including instrument approach procedures;

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(6) Normal and emergency communication procedures;
(7) Visual cues before and during descent below DH or MDA; and
(8) Other instructions necessary to ensure the pilot's competence.
(b) For each aircraft type—
(1) A general description;
(2) Performance characteristics;
(3) Engines and propellers;
(4) Major components;
(5) Major aircraft systems (i.e., flight controls, electrical, and hydraulic), other systems, as appropriate, principles of normal, abnormal, and emergency operations, appropriate procedures and limitations;
(6) Procedures for avoiding severe weather situations and for operating in or near thunderstorms (including best penetrating altitudes), turbulent air (including clear air turbulence and low altitude windshear), icing, hail, and other potentially hazardous meteorological conditions;
(7) Operating limitations;
(8) Fuel consumption and cruise control;
(9) Flight planning;
(10) Each normal and emergency procedure; and
(11) The approved Aircraft Flight Manual, or equivalent.

§ 135.347 Pilots: initial, transition, upgrade, and differences flight training.

(a) Initial, transition, upgrade, and differences training for pilots must include flight and practice in each of the maneuvers and procedures in the approved training program curriculum.
(b) The maneuvers and procedures required by paragraph (a) of this section must be performed in flight, except to the extent that certain maneuvers and procedures may be performed in an aircraft simulator, or an appropriate training device, as allowed by this subpart.
(c) If the certificate holder's approved training program includes a course of training using an aircraft simulator or other training device, each pilot must successfully complete—
(1) Training and practice in the simulator or training device in at least the maneuvers and procedures in this subpart that are capable of being performed in the aircraft simulator or training device; and
(2) A flight check in the aircraft or a check in the simulator or training device to the level of proficiency of a pilot in command or second in command, as applicable, in at least the maneuvers and procedures that are capable of being performed in an aircraft simulator or training device.

§ 135.349 Flight attendants: initial and transition ground training.

Initial and transition ground training for flight attendants must include instruction in at least the following—
(a) General subjects—
(1) The authority of the pilot in command; and
(2) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety.
(b) For each aircraft type—
(1) A general description of the aircraft emphasizing physical characteristics that may have a bearing on ditching, evacuation, and inflight emergency procedures and on other related duties;
(2) The use of both the public address system and the means of communicating with other flight crewmembers, including emergency means in the case of attempted hijacking or other unusual situations; and
(3) Proper use of electrical galley equipment and the controls for cabin heat and ventilation.

§ 135.351 Recurrent training.

(a) Each certificate holder must ensure that each crewmember receives recurrent training and is adequately trained and currently proficient for the type aircraft and crewmember position involved.
(b) Recurrent ground training for crewmembers must include at least the following:
(1) A quiz or other review to determine the crewmember's knowledge of the aircraft and crewmember position involved.
(2) Instruction as necessary in the subjects required for initial ground training by this subpart, as appropriate, including emergency training.
(c) Recurrent flight training for pilots must include, at least, flight training in the maneuvers or procedures in this subpart, except that satisfactory completion of the check required by § 135.293 within the preceding 12 calendar months may be substituted for recurrent flight training.

Subpart I—Airplane Performance Operating Limitations

§ 135.361 Applicability.

(a) This subpart prescribes airplane performance operating limitations applicable to the operation of the categories of airplanes listed in § 135.363 when operated under this part.
(b) For the purpose of this subpart, "effective length of the runway," for landing means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end of the runway.
(c) For the purpose of this subpart, "obstruction clearance plane" means a plane sloping upward from the runway at a slope of 1:20 to the horizontal, and tangent to or clearing all obstructions within a specified area surrounding the runway as shown in a profile view of that area. In the plan view, the centerline of the specified area coincides with the centerline of the runway, beginning at the point where the obstruction clearance plane intersects the centerline of the runway and proceeding to a point at least 1,500 feet from the beginning point. After that the centerline coincides with the takeoff path over the ground for the runway (in the case of takeoffs) or with the instrument approach counterpart (for landings), or, where the applicable one of these paths has not been established, it proceeds consistent with turns of at least 4,000-foot radius until a point is reached beyond which the obstruction clearance plane clears all obstructions. This area extends laterally 200 feet on each side of the centerline at the point where the obstruction clearance plane intersects the runway and continues at this width to the end of the runway; then it increases uniformly to 500 feet on each side of the centerline at a point 1,500 feet from the intersection of the obstruction clearance plane with the runway; after that it extends laterally 500 feet on each side of the centerline.

§ 135.363 General.

(a) Each certificate holder operating a reciprocating engine powered large transport category airplane shall comply with §§ 135.365 through 135.377.
(b) Each certificate holder operating a turbine engine powered large transport category airplane shall comply with §§ 135.379 through 135.387, except that when it operates a turbopropeller-powered large transport category airplane certificated after August 29, 1959, but previously type certificated with the same number of reciprocating engines, it may comply with §§ 135.365 through 135.377.
(c) Each certificate holder operating a large nontransport category airplane shall comply with §§ 135.389 through 135.395 and any determination of compliance must be based only on approved performance data. For the purpose of this subpart, a large nontransport category airplane is an airplane that was type certificated before July 1, 1942.
(d) Each certificate holder operating a small transport category airplane shall comply with § 135.397.
(e) Each certificate holder operating a small nontransport category airplane shall comply with § 135.399.

(f) The performance data in the Airplane Flight Manual applies in determining compliance with §§ 135.365 through 135.387. Where conditions are different from those on which the performance data is based, compliance is determined by interpolation or by computing the effects of change in the specific variables, if the results of the interpolation or computations are substantially as accurate as the results of direct tests.
(g) No person may take off a reciprocating engine powered large transport category airplane at a weight that is more than the allowable weight for the runway being used (determined under the runway takeoff limitations of the transport category operating rules of this subpart) after taking into account the temperature operating correction factors in § 4a.749a-T or § 4b.117 of the Civil Air Regulations in effect on January 31, 1965, and in the applicable Airplane Flight Manual.
(h) The Administrator may authorize in the operations specifications deviations from this subpart if special circumstances make a literal observance of a requirement unnecessary for safety.
(i) The 10-mile width specified in §§ 135.369 through 135.373 may be reduced to 5 miles, for not more than 20 miles, when operating under VFR or where navigation facilities furnish reliable and accurate identification of high ground and obstructions located outside of 5 miles, but within 10 miles, on each side of the intended track.

§ 135.365 Large transport category airplanes: reciprocating engine powered: weight limitations.

(a) No person may take off a reciprocating engine powered large transport category airplane from an airport located at an elevation outside of the range for which maximum takeoff weights have been determined for that airplane.
(b) No person may take off a reciprocating engine powered large transport category airplane for an airport of intended destination that is located at an elevation outside of the range for which maximum landing weights have been determined for that airplane.
(c) No person may specify, or have specified, an alternate airport that is located at an elevation outside of the range for which maximum landing weights have been determined for the reciprocating engine powered large transport category airplane concerned.
(d) No person may take off a reciprocating engine powered large transport category airplane at a weight more than the maximum authorized takeoff weight for the elevation of the airport.
(e) No person may take off a reciprocating engine powered large transport category airplane if its weight on arrival at the airport of destination will be more than the maximum authorized landing weight for the elevation of that airport, allowing for normal consumption of fuel and oil en route.

§ 135.367 Large transport category airplanes: reciprocating engine powered: takeoff limitations.

(a) No person operating a reciprocating engine powered large transport category airplane may take off that airplane unless it is possible—
(1) To stop the airplane safely on the runway, as shown by the accelerate-stop distance data, at any time during takeoff until reaching critical-engine failure speed;
(2) If the critical engine fails at any time after the airplane reaches critical-engine failure speed V_1, to continue the takeoff and reach a height of 50 feet, as indicated by the takeoff path data, before passing over the end of the runway; and
(3) To clear all obstacles either by at least 50 feet vertically (as shown by the takeoff path data) or 200 feet horizontally within the airport boundaries and 300 feet horizontally beyond the boundaries, without banking before reaching a height of 50 feet (as shown by the takeoff path data) and after that without banking more than 15 degrees.
(b) In applying this section, corrections must be made for any runway gradient. To allow for wind effect, takeoff data based on still air may be corrected by taking into account not more than 50 percent of any reported headwind component and not less than 150 percent of any reported tailwind component.

§ 135.369 Large transport category airplanes: reciprocating engine powered: en route limitations: all engines operating.

(a) No person operating a reciprocating engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that does not allow a rate of climb (in feet per minute), with all engines operating, of at least 6.90 Vs_0 (that is, the number of feet per minute obtained by multiplying the number of knots by 6.90) at an altitude of a least 1,000 feet above the highest ground or obstruction within ten miles of each side of the intended track.
(b) This section does not apply to large transport category airplanes certificated under Part 4a of the Civil Air Regulations.

§ 135.371 Large transport category airplanes: reciprocating engine powered: en route limitations: one engine inoperative.

(a) Except as provided in paragraph (b) of this section, no person operating a reciprocating engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that does not allow a rate of climb (in feet per minute), with one engine inoperative, of at least $(0.079-0.106/N)\ Vs_0^2$ (where N is the number of engines installed and Vs_0 is expressed in knots) at an altitude of least 1,000 feet above the highest ground or obstruction within 10 miles of each side of the intended track. However, for the purposes of this paragraph the rate of climb for transport category airplanes certificated under Part 4a of the Civil Air Regulations is $0.026\ Vs_0^2$.
(b) In place of the requirements of paragraph (a) of this section, a person may, under an approved procedure, operate a reciprocating engine powered large transport category airplane at an all-engines-operating altitude that allows the airplane to continue, after an engine failure, to an alternate airport where a landing can be made under § 135.377, allowing for normal consumption of fuel and oil. After the assumed failure, the flight path must clear the ground and any obstruction within five miles on each side of the intended track by at least 2,000 feet.
(c) If an approved procedure under paragraph (b) of this section is used, the certificate holder shall comply with the following:
(1) The rate of climb (as prescribed in the Airplane Flight Manual for the appropriate weight and altitude) used in calculating the airplane's flight path shall be diminished by an amount in feet per minute, equal to $(0.079-0.106/N)\ Vs_0^2$ (when N is the number of engines installed and Vs_0 is expressed in knots) for airplanes certificated under Part 25 of this chapter and by $0.026\ Vs_0^2$ for airplanes certificated under Part 4a of the Civil Air Regulations.
(2) The all-engines-operating altitude shall be sufficient so that in the event the critical engine becomes inoperative at any point along the route, the flight will be able to proceed to a predetermined alternate airport by use of this procedure. In determining the takeoff weight, the airplane is assumed to pass over the critical obstruction following engine failure at a point no closer to the critical obstruction than the nearest approved radio navigational fix, unless the Administrator approves a procedure established on a different basis upon finding that adequate operational safeguards exist.

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(3) The airplane must meet the provisions of paragraph (a) of this section at 1,000 feet above the airport used as an alternate in this procedure.

(4) The procedure must include an approved method of accounting for winds and temperatures that would otherwise adversely affect the flight path.

(5) In complying with this procedure, fuel jettisoning is allowed if the certificate holder shows that it has an adequate training program, that proper instructions are given to the flight crew, and all other precautions are taken to ensure a safe procedure.

(6) The certificate holder and the pilot in command shall jointly elect an alternate airport for which the appropriate weather reports or forecasts, or any combination of them, indicate that weather conditions will be at or above the alternate weather minimum specified in the certificate holder's operations specifications for that airport when the flight arrives.

§ 135.373 Part 25 transport category airplanes with four or more engines: reciprocating engine powered: en route limitations: two engines inoperative.

(a) No person may operate an airplane certificated under Part 25 and having four or more engines unless—

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets § 135.377; or

(2) It is operated at a weight allowing the airplane, with the two critical engines inoperative, to climb at 0.013 Vs_0^2 feet per minute (that is, the number of feet per minute obtained by multiplying the number of knots squared by 0.013) at an altitude of 1,000 feet above the highest ground or obstruction within 10 miles on each side of the intended track, or at an altitude of 5,000 feet, whichever is higher.

(b) For the purposes of paragraph (a)(2) of this section, it is assumed that—

(1) The two engines fail at the point that is most critical with respect to the takeoff weight;

(2) Consumption of fuel and oil is normal with all engines operating up to the point where the two engines fail with two engines operating beyond that point;

(3) Where the engines are assumed to fail at an altitude above the prescribed minimum altitude, compliance with the prescribed rate of climb at the prescribed minimum altitude need not be shown during the descent from the cruising altitude to the prescribed minimum altitude, if those requirements can be met once the prescribed minimum altitude is reached, and assuming descent to be along a net flight path and the rate of descent to be 0.013 Vs_0^2 greater than the rate in the approved performance data; and

(4) If fuel jettisoning is provided, the airplane's weight at the point where the two engines fail is considered to be not less than that which would include enough fuel to proceed to an airport meeting § 135.377 and to arrive at an altitude of at least 1,000 feet directly over that airport.

§ 135.375 Large transport category airplanes: reciprocating engine powered: landing limitations: destination airports.

(a) Except as provided in paragraph (b) of this section, no person operating a reciprocating engine powered large transport category airplane may take off that airplane, unless its weight on arrival, allowing for normal consumption of fuel and oil in flight, would allow a full stop landing at the intended destination within 60 percent of the effective length of each runway described below from a point 50 feet directly above the intersection of the obstruction clearance plane and the runway. For the purposes of determining the allowable landing weight at the destination airport the following is assumed:

(1) The airplane is landed on the most favorable runway and in the most favorable direction in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction (forecast for the expected time of arrival), the ground handling characteristics of the type of airplane, and other conditions such as landing aids and terrain, and allowing for the effect of the landing path and roll of not more than 50 percent of the headwind component or not less than 150 percent of the tailwind component.

(b) An airplane that would be prohibited from being taken off because it could not meet paragraph (a)(2) of this section may be taken off if an alternate airport is selected that meets all of this section except that the airplane can accomplish a full stop landing within 70 percent of the effective length of the runway.

§ 135.377 Large transport category airplanes: reciprocating engine powered: landing limitations: alternate airports.

No person may list an airport as an alternate airport in a flight plan unless the airplane (at the weight anticipated at the time of arrival at the airport), based on the assumptions in § 135.375(a) (1) and (2), can be brought to a full stop landing within 70 percent of the effective length of the runway.

§ 135.379 Large transport category airplanes: turbine engine powered: takeoff limitations.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight greater than that listed in the Airplane Flight Manual for the elevation of the airport and for the ambient temperature existing at takeoff.

(b) No person operating a turbine engine powered large transport category airplane certificated after August 26, 1957, but before August 30, 1959 (SR422, 422A), may take off that airplane at a weight greater than that listed in the Airplane Flight Manual for the minumum distance required for takeoff. In the case of an airplane certificated after September 30, 1958 (SR422A, 422B), the takeoff distance may include a clearway distance, but the clearway distance included may not be greater than one-half of the takeoff run.

(c) No person operating a turbine engine powered large transport category airplane certificated after August 29, 1959 (SR422B), may take off that airplane at a weight greater than that listed in the Airplane Flight Manual at which compliance with the following may be shown:

(1) The accelerate-stop distance, as defined in § 25.109 of this chapter, must not exceed the length of the runway plus the length of any stopway.

(2) The takeoff distance must not exceed the length of the runway plus the length of any clearway except that the length of any clearway included must not be greater than one-half the length of the runway.

(3) The takeoff run must not be greater than the length of the runway.

(d) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight greater than that listed in the Airplane Flight Manual—

(1) For an airplane certificated after August 26, 1957, but before October 1, 1958 (SR422), that allows a takeoff path that clears all obstacles either by at least (35+0.01 D) feet vertically (D is the distance along the intended flight path from the end of the runway in feet), or by at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing the boundaries; or

(2) For an airplane certificated after September 30, 1958 (SR422A, 422B), that allows a net takeoff flight path that clears all obstacles either by a height of at least 35 feet vertically, or by at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing the boundaries.

(e) In determining maximum weights, minimum distances and flight paths under paragraphs (a) through (d) of this section, correction must be made for the runway to be used, the elevation of the airport, the effective runway gradient, and the ambient temperature and wind component at the time of takeoff.

(f) For the purposes of this section, it is assumed that the airplane is not banked before reaching a height of 50 feet, as shown by the takeoff path or net takeoff flight path data (as appropriate) in the Airplane Flight Manual, and after that the maximum bank is not more than 15 degrees.

(g) For the purposes of this section, the terms, "takeoff distance," "takeoff run," "net takeoff flight path," have the same meanings as set forth in the rules under which the airplane was certificated.

§ 135.381 Large transport category airplanes: turbine engine powered: en route limitations: one engine inoperative.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that is greater than that which (under the approved, one engine inoperative, en route net flight path data in the Airplane Flight Manual for that airplane) will allow compliance with subparagraph (1) or (2) of this paragraph, based on the ambient temperatures expected en route.

(1) There is a positive slope at an altitude of at least 1,000 feet above all terrain and obstructions within five statute miles on each side of the intended track, and, in addition, if that airplane was certificated after August 29, 1958 (SR422B), there is a positive slope at 1,500 feet above the airport where the airplane is assumed to land after an engine fails.

(2) The net flight path allows the airplane to continue flight from the cruising altitude to an airport where a landing can be made under § 135.387 clearing all terrain and obstructions within five statute miles of the intended track by at least 2,000 feet vertically and with a positive slope at 1,000 feet above the airport where the airplane lands after an engine fails, or, if that airplane was certificated after September 30, 1958 (SR422A, 422B), with a positive slope at 1,500 feet above the airport where the airplane lands after an engine fails.

(b) For the purpose of paragraph (a)(2) of this section, it is assumed that—

(1) The engine fails at the most critical point en route;

(2) The airplane passes over the critical obstruction, after engine failure at a point that is no closer to the obstruction than the approved radio navigation fix, unless the Administrator authorizes a different procedure based on adequate operational safeguards;

(3) An approved method is used to allow for adverse winds;

(4) Fuel jettisoning will be allowed if the certificate holder shows that the crew is properly instructed, that the training program is adequate, and that all other precautions are taken to ensure a safe procedure;

(5) The alternate airport is selected and meets the prescribed weather minimums; and

(6) The consumption of fuel and oil after engine failure is the same as the consumption that is allowed for in the approved net flight path data in the Airplane Flight Manual.

§ 135.383 Large transport category airplanes: turbine engine powered: en route limitations: two engines inoperative.

(a) Airplanes certificated after August 26, 1957, but before October 1, 1958 (SR422). No person may operate a turbine engine powered large transport category airplane along an intended route unless that person complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets § 135.387.

(2) Its weight, according to the two-engine-inoperative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two engines are assumed to fail simultaneously to an airport that meets § 135.387, with a net flight path (considering the ambient temperature anticipated along the track) having a positive slope at an altitude of at least 1,000 feet above all terrain and obstructions within five statute miles on each side of the intended track, or at an altitude of 5,000 feet, whichever is higher.

For the purposes of paragraph (2) of this paragraph, it is assumed that the two engines fail at the most critical point en route, that if fuel jettisoning is provided, the airplane's weight at the point where the engines fail includes enough fuel to continue to the airport and to arrive at an altitude of at least 1,000 feet directly over the airport, and that the fuel and oil consumption after engine failure is the same as the consumption allowed for in the net flight path data in the Airplane Flight Manual.

(b) Airplanes certificated after September 30, 1958, but before August 30, 1959 (SR422A). No person may operate a turbine engine powered large transport category airplane along an intended route unless that person complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets § 135.387.

(2) Its weight, according to the two-engine-inoperative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two engines are assumed to fail simultaneously to an airport that meets § 135.387, with the net flight path (considering the ambient temperatures anticipated along the track) clearing vertically by at least 2,000 feet all terrain and obstructions within five statute miles on each side of the intended track. For the purposes of this paragraph, it is assumed that—

(i) The two engines fail at the most critical point en route;

(ii) The net flight path has a positive slope at 1,500 feet above the airport where the landing is assumed to be made after the engines fail;

(iii) Fuel jettisoning will be approved if the certificate holder shows that the crew is properly instructed, that the training program is adequate, and that

(c) Aircraft certificated after August 29, 1959 (SR422B). No person may operate a turbine engine powered large transport category airplane along an intended route unless that person complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets § 135.387.

(2) Its weight, according to the two-engine-inoperative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two engines are assumed to fail simultaneously to an airport that meets § 135.387, with the net flight path (considering the ambient temperatures anticipated along the track) clearing vertically by at least 2,000 feet all terrain and obstructions within five statute miles on each side of the intended track, or at an altitude of 2,000 feet, whichever is higher.

For the purpose of paragraph (2) of this paragraph, it is assumed that the two engines fail at the most critical point en route, that the airplane's weight at the point where the engines fail includes enough fuel to continue to the airport, to arrive at an altitude of at least 1,500 feet directly over the airport, and after that to fly for 15 minutes at cruise power or thrust, or both, and that the consumption of fuel and oil after engine failure is the same as the consumption allowed for in the net flight path data in the Airplane Flight Manual.

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all other precautions are taken to ensure a safe procedure;

(iv) The airplane's weight at the point where the two engines are assumed to fail provides enough fuel to continue to the airport, to arrive at an altitude of at least 1,500 feet directly over the airport, and after that to fly for 15 minutes at cruise power or thrust, or both; and

(v) The consumption of fuel and oil after the engines fail is the same as the consumption that is allowed for in the net flight path data in the Airplane Flight Manual.

§ 135.385 Large transport category airplanes: turbine engine powered: landing limitations: destination airports.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight that (allowing for normal consumption of fuel and oil in flight to the destination or alternate airport) the weight of the airplane on arrival would exceed the landing weight in the Airplane Flight Manual for the elevation of the destination or alternate airport and the ambient temperature anticipated at the time of landing.

(b) Except as provided in paragraph (c), (d), or (e) of this section, no person operating a turbine engine powered large transport category airplane may take off that airplane unless its weight on arrival, allowing for normal consumption of fuel and oil in flight (in accordance with the landing distance in the Airplane Flight Manual for the elevation of the destination airport and the wind conditions anticipated there at the time of landing), would allow a full stop landing at the intended destination airport within 60 percent of the effective length of each runway described below from a point 50 feet above the intersection of the obstruction clearance plane and the runway. For the purpose of determining the allowable landing weight at the destination airport the following is assumed:

(1) The airplane is landed on the most favorable runway and in the most favorable direction, in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction and the ground handling characteristics of the airplane, and considering other conditions such as landing aids and terrain.

(c) A turbopropeller powered airplane that would be prohibited from being taken off because it could not meet paragraph (b)(2) of this section, may be taken off if an alternate airport is selected that meets all of this section except that the airplane can accomplish a full stop landing within 70 percent of the effective length of the runway.

(d) Unless, based on a showing of actual operating landing techniques on wet runways, a shorter landing distance (but never less than that required by paragraph (b) of this section) has been approved for a specific type and model airplane and included in the Airplane Flight Manual, no person may take off a turbojet airplane when the appropriate weather reports or forecasts, or any combination of them, indicate that the runways at the destination airport may be wet or slippery at the estimated time of arrival unless the effective runway length at the destination airport is at least 115 percent of the runway length required under paragraph (b) of this section.

(e) A turbojet airplane that would be prohibited from being taken off because it could not meet paragraph (b)(2) of this section may be taken off if an alternate airport is selected that meets all of paragraph (b) of this section.

§ 135.387 Large transport category airplanes: turbine engine powered: landing limitations: alternate airports.

No person may select an airport as an alternate airport for a turbine engine powered large transport category airplane unless (based on the assumptions in § 135.385(b)) that airplane, at the weight anticipated at the time of arrival, can be brought to a full stop landing within 70 percent of the effective length of the runway for turbopropeller-powered airplanes and 60 percent of the effective length of the runway for turbojet airplanes, from a point 50 feet above the intersection of the obstruction clearance plane and the runway.

§ 135.389 Large nontransport category airplanes: takeoff limitations.

(a) No person operating a large nontransport category airplane may take off that airplane at a weight greater than the weight that would allow the airplane to be brought to a safe stop within the effective length of the runway, from any point during the takeoff before reaching 105 percent of minimum control speed (the minimum speed at which an airplane can be safely controlled in flight after an engine becomes inoperative) or 115 percent of the power off stalling speed in the takeoff configuration, whichever is greater.

(b) For the purposes of this section—

(1) It may be assumed that takeoff power is used on all engines during the acceleration;

(2) Not more than 50 percent of the reported headwind component, or not less than 150 percent of the reported tailwind component, may be taken into account;

(3) The average runway gradient (the difference between the elevations of the endpoints of the runway divided by the total length) must be considered if it is more than one-half of one percent;

(4) It is assumed that the airplane is operating in standard atmosphere; and

(5) For takeoff, "effective length of the runway" means the distance from the end of the runway at which the takeoff is started to a point at which the obstruction clearance plane associated with the other end of the runway intersects the runway centerline.

§ 135.391 Large nontransport category airplanes: en route limitations: one engine inoperative.

(a) Except as provided in paragraph (b) of this section, no person operating a large nontransport category airplane may take off that airplane at a weight that does not allow a rate of climb of at least 50 feet a minute, with the critical engine inoperative, at an altitude of at least 1,000 feet above the highest obstruction within five miles on each side of the intended track, or 5,000 feet, whichever is higher.

(b) Without regard to paragraph (a) of this section, if the Administrator finds that safe operations are not impaired, a person may operate the airplane at an altitude that allows the airplane, in case of engine failure, to clear all obstructions within five miles on each side of the intended track by 1,000 feet. If this procedure is used, the rate of descent for the appropriate weight and altitude is assumed to be 50 feet a minute greater than the rate in the approved performance data. Before approving such a procedure, the Administrator considers the following for the route, route segement, or area concerned:

(1) The reliability of wind and weather forecasting.

(2) The location and kinds of navigation aids.

(3) The prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered.

(4) Terrain features.

(5) Air traffic problems.

(6) Any other operational factors that affect the operations.

(c) For the purposes of this section, it is assumed that—

(1) The critical engine is inoperative;

(2) The propeller of the inoperative engine is in the minimum drag position;

(3) The wing flaps and landing gear are in the most favorable position;

(4) The operating engines are operating at the maximum continuous power available;

(5) The airplane is operating in standard atmosphere; and

(6) The weight of the airplane is progressively reduced by the anticipated consumption of fuel and oil.

§ 135.393 Large nontransport category airplanes: landing limitations: destination airports.

(a) No person operating a large nontransport category airplane may take off that airplane at a weight that—

(1) Allowing for anticipated consumption of fuel and oil, is greater than the weight that would allow a full stop landing within 60 percent of the effective length of the most suitable runway at the destination airport; and

(2) Is greater than the weight allowable if the landing is to be made on the runway—

(i) With the greatest effective length in still air; and

(ii) Required by the probable wind, taking into account not more than 50 percent of the headwind component or not less than 150 percent of the tailwind component.

(b) For the purpose of this section, it is assumed that—

(1) The airplane passes directly over the intersection of the obstruction clearance plane and the runway at a height of 50 feet in a steady gliding approach at a true indicated airspeed of at least 1.3 V_{so};

(2) The landing does not require exceptional pilot skill; and

(3) The airplane is operating in standard atmosphere.

§ 135.395 Large nontransport category airplanes: landing limitations: alternate airports.

No person may select an airport as an alternate airport for a large nontransport category airplane unless that airplane (at the weight anticipated at the time of arrival), based on the assumptions in § 135.393(b), can be brought to a full stop landing within 70 percent of the effective length of the runway.

§ 135.397 Small transport category airplane performance operating limitations.

(a) No person may operate a reciprocating engine powered small transport category airplane unless that person complies with the weight limitations in § 135.365, the takeoff limitations in § 135.367 (except paragraph (a)(3)), and the landing limitations in §§ 135.375 and 135.377.

(b) No person may operate a turbine engine powered small transport category airplane unless that person complies with the takeoff limitations in § 135.379 (except paragraphs (d) and (f)) and the landing limitations in §§ 135.385 and 135.387.

§ 135.399 Small nontransport category airplane performance operating limitations.

No person may operate a reciprocating engine or turbopropeller-powered small airplane that is certificated under § 135.169(b) (2), (3), or (4), unless that person complies with the takeoff weight limitations in the approved Airplane Flight Manual or equivalent for operations under this part, and, if the airplane is certificated under § 135.169(b)(4), with the landing weight limitations in the approved Airplane Flight Manual or equivalent for operations under this part.

Subpart J—Maintenance, Preventive Maintenance, and Alterations

§ 135.411 Applicability.

(a) This subpart prescribes rules in addition to those in other parts of this chapter for the maintenance, preventive maintenance, and alterations for each certificate holder as follows:

(1) Aircraft that are type certificated for a passenger seating configuration, excluding any pilot seat, of nine seats or less, shall be maintained under Parts 91 and 43 of this chapter and §§ 135.415, 135.417, and 135.421. An approved aircraft inspection program may be used under § 135.419.

(2) Aircraft that are type certificated for a passenger seating configuration, excluding any pilot seat, of ten seats or more, shall be maintained under a maintenance program in §§ 135.415, 135.417, and 135.423 through 135.443.

(b) A certificate holder who is not otherwise required, may elect to maintain its aircraft under paragraph (a)(2) of this section.

§ 135.413 Responsibility for airworthiness.

(a) Each certificate holder is primarily responsible for the airworthiness of its aircraft, including airframes, aircraft engines, propellers, rotors, appliances, and parts, and shall have its aircraft maintained under this chapter, and shall have defects repaired between required maintenance under Part 43 of this chapter.

(b) Each certificate holder who maintains its aircraft under § 135.411(a)(2) shall—

(1) Perform the maintenance, preventive maintenance, and alteration of its aircraft, including airframe, aircraft engines, propellers, rotors, appliances, emergency equipment and parts, under its manual and this chapter; or

(2) Make arrangments with another person for the performance of maintenance, preventive maintenance, or alteration. However, the certificate holder shall ensure that any maintenance, preventive maintenance, or alteration that is performed by another person is performed under the certificate holder's manual and this chapter.

§ 135.415 Mechanical reliability reports.

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect in an aircraft concerning—

(1) Fires during flight and whether the related fire-warning system functioned properly;

(2) Fires during flight not protected by related fire-warning system;

(3) False fire-warning during flight;

(4) An exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components;

(5) An aircraft component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the crew compartment or passenger cabin during flight;

(6) Engine shutdown during flight because of flameout;

(7) Engine shutdown during flight when external damage to the engine or aircraft structure occurs;

(8) Engine shutdown during flight due to foreign object ingestion or icing;

(9) Shutdown of more than one engine during flight;

(10) A propeller feathering system or ability of the system to control overspeed during flight;

(11) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight;

(12) An unwanted landing gear extension or retraction or opening or closing of landing gear doors during flight;

(13) Brake system components that result in loss of brake actuating force when the aircraft is in motion on the ground;

(14) Aircraft structure that requires major repair;

(15) Cracks, permanent deformation, or corrosion of aircraft structures, if more than the maximum acceptable to the manufacturer or the FAA; and

(16) Aircraft components or systems that result in taking emergency actions during flight (except action to shut-down an engine).

(b) For the purpose of this section, "during flight" means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft that occurs or is detected at any time if, in its opinion, the failure, malfunction, or defect has endangered or may endanger the safe operation of the aircraft.

(d) Each certificate holder shall send each report required by this section, in

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writing, covering each 24-hour period beginning at 0900 hours local time of each day and ending at 0900 hours local time on the next day to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder. Each report of occurrences during a 24-hour period must be mailed or delivered to that office within the next 72 hours. However, a report that is due on Saturday or Sunday may be mailed or delivered on the following Monday and one that is due on a holiday may be mailed or delivered on the next work day. For aircraft operated in areas where mail is not collected, reports may be mailed or delivered within 72 hours after the aircraft returns to a point where the mail is collected.

(e) The certificate holder shall transmit the reports required by this section on a form and in a manner prescribed by the Administrator, and shall include as much of the following as is available:

(1) The type and identification number of the aircraft.

(2) The name of the operator.

(3) The date.

(4) The nature of the failure, malfunction, or defect.

(5) Identification of the part and system involved, including available information pertaining to type designation of the major component and time since last overhaul, if known.

(6) Apparent cause of the failure, malfunction or defect (e.g., wear, crack, design deficiency, or personnel error).

(7) Other pertinent information necessary for more complete identification, determination of seriousness, or corrective action.

(f) A certificate holder that is also the holder of a type certificate (including a supplemental type certificate), a Parts Manufacturer Approval, or a Technical Standard Order Authorization, or that is the licensee of a type certificate need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by it under § 21.3 or § 37.17 of this chapter or under the accident reporting provisions of Part 830 of the regulations of the National Transportation Safety Board.

(g) No person may withhold a report required by this section even though all information required by this section is not available.

(h) When the certificate holder gets additional information, including information from the manufacturer or other agency, concerning a report required by this section, it shall expeditiously submit it as a supplement to the first report and reference the date and place of submission of the first report.

§ 135.417 Mechanical interruption summary report.

Each certificate holder shall mail or deliver, before the end of the 10th day of the following month, a summary report of the following occurrences in multiengine aircraft for the preceding month to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder:

(a) Each interruption to a flight, unscheduled change of aircraft en route, or unscheduled stop or diversion from a route, caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 135.415.

(b) The number of propeller featherings in flight, listed by type of propeller and engine and aircraft on which it was installed. Propeller featherings for training, demonstration, or flight check purposes need not be reported.

§ 135.419 Approved aircraft inspection program.

(a) Whenever the Administrator finds that the aircraft inspections required or allowed under Part 91 of this chapter are not adequate to meet this part, or upon application by a certificate holder, the Administrator may amend the certificate holder's operations specifications under § 135.17, to require or allow an approved aircraft inspection program for any make and model aircraft of which the certificate holder has the exclusive use of at least one aircraft (as defined in § 135.25(b)).

(b) A certificate holder who applies for an amendment of its operations specifications to allow an approved aircraft inspection program must submit that program with its application for approval by the Administrator.

(c) Each certificate holder who is required by its operations specifications to have an approved aircraft inspection program shall submit a program for approval by the Administrator within 30 days of the amendment of its operations specifications or within any other period that the Administrator may prescribe in the operations specifications.

(d) The aircraft inspection program submitted for approval by the Administrator must contain the following:

(1) Instructions and procedures for the conduct of aircraft inspections (which must include necessary tests and checks), setting forth in detail the parts and areas of the airframe, engines, propellers, rotors, and appliances, including emergency equipment, that must be inspected.

(2) A schedule for the performance of the aircraft inspections under paragraph (1) of this paragraph expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(3) Instructions and procedures for recording discrepancies found during inspections and correction or deferral of discrepancies including form and disposition of records.

(e) After approval, the certificate holder shall include the approved aircraft inspection program in the manual required by § 135.21.

(f) Whenever the Administrator finds that revisions to an approved aircraft inspection program are necessary for the continued adequacy of the program, the certificate holder shall, after notification by the Administrator, make any changes in the program found by the Administrator to be necessary. The certificate holder may petition the Administrator to reconsider the notice to make any changes in a program. The petition must be filed with the representatives of the Administrator assigned to it within 30 days after the certificate holder receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(g) Each certificate holder who has an approved aircraft inspection program shall have each aircraft that is subject to the program inspected in accordance with the program.

(h) The registration number of each aircraft that is subject to an approved aircraft inspection program must be included in the operations specifications of the certificate holder.

§ 135.421 Additional maintenance requirements.

(a) Each certificate holder who operates an aircraft type certificated for a passenger seating configuration, excluding any pilot seat, of nine seats or less, must comply with the manufacturer's recommended maintenance programs, or a program approved by the Administrator, for each aircraft engine, propeller, rotor, and each item of emergency equipment required by this chapter.

(b) For the purpose of this section, a manufacturer's maintenance program is one which is contained in the maintenance manual or maintenance instructions set forth by the manufacturer as required by this chapter for the aircraft, aircraft engine, propeller, rotor or item of emergency equipment.

§ 135.423 Maintenance, preventive maintenance, and alteration organization.

(a) Each certificate holder that performs any of its maintenance (other than required inspections), preventive maintenance, or alterations, and each person with whom it arranges for the performance of that work, must have an organization adequate to perform the work.

(b) Each certificate holder that performs any inspections required by its manual under § 135.427(b) (2) or (3), (in this subpart referred to as "required inspections"), and each person with whom it arranges for the performance of that work, must have an organization adequate to perform that work.

(c) Each person performing required inspections in addition to other maintenance, preventive maintenance, or alterations, shall organize the performance of those functions so as to separate the required inspection functions from the other maintenance, preventive maintenance, and alteration functions. The separation shall be below the level of administrative control at which overall responsibility for the required inspection functions and other maintenance, preventive maintenance, and alteration functions is exercised.

§ 135.425 Maintenance, preventive maintenance, and alteration programs.

Each certificate holder shall have an inspection program and a program covering other maintenance, preventive maintenance, and alterations, that ensures that—

(a) Maintenance, preventive maintenance, and alterations performed by it, or by other persons, are performed under the certificate holder's manual;

(b) Competent personnel and adequate facilities and equipment are provided for the proper performance of maintenance, preventive maintenance, and alterations; and

(c) Each aircraft released to service is airworthy and has been properly maintained for operation under this part.

§ 135.427 Manual requirements.

(a) Each certificate holder shall put in its manual the chart or description of the certificate holder's organization required by § 135.423 and a list of persons with whom it has arranged for the performance of any of its required inspections, other maintenance, preventive maintenance, or alterations, including a general description of that work.

(b) Each certificate holder shall put in its manual the programs required by § 135.425 that must be followed in performing maintenance, preventive maintenance, and alterations of that certificate holder's aircraft, including airframes, aircraft engines, propellers, rotors, appliances, emergency equipment, and parts, and must include at least the following:

(1) The method of performing routine and nonroutine maintenance (other than required inspections), preventive maintenance, and alterations.

(2) A designation of the items of maintenance and alteration that must be inspected (required inspections) including at least those that could result in a failure, malfunction, or defect endangering the safe operation of the aircraft, if not performed properly or if improper parts or materials are used.

(3) The method of performing required inspections and a designation by occupational title of personnel authorized to perform each required inspection.

(4) Procedures for the reinspection of work performed under previous required inspection findings ("buy-back procedures").

(5) Procedures, standards, and limits necessary for required inspections and acceptance or rejection of the items required to be inspected and for periodic inspection and calibration of precision tools, measuring devices, and test equipment.

(6) Procedures to ensure that all required inspections are performed.

(7) Instructions to prevent any person who performs any item of work from performing any required inspection of that work.

(8) Instructions and procedures to prevent any decision of an inspector regarding any required inspection from being countermanded by persons other than supervisory personnel of the inspection unit, or a person at the level of administrative control that has overall responsibility for the management of both the required inspection functions and the other maintenance, preventive maintenance, and alterations functions.

(9) Procedures to ensure that required inspections, other maintenance, preventive maintenance, and alterations that are not completed as a result of work interruptions are properly completed before the aircraft is released to service.

(c) Each certificate holder shall put in its manual a suitable system (which may include a coded system) that provides for the retention of the following information—

(1) A description (or reference to data acceptable to the Administrator) of the work performed;

(2) The name of the person performing the work if the work is performed by a person outside the organization of the certificate holder; and

(3) The name or other positive identification of the individual approving the work.

§ 135.429 Required inspection personnel.

(a) No person may use any person to perform required inspections unless the person performing the inspection is appropriately certificated, properly trained, qualified, and authorized to do so.

(b) No person may allow any person to perform a required inspection unless, at the time, the person performing that inspection is under the supervision and control of an inspection unit.

(c) No person may perform a required inspection if that person performed the item of work required to be inspected.

(d) Each certificate holder shall maintain, or shall determine that each person with whom it arranges to perform its required inspections maintains, a current listing of persons who have been trained, qualified, and authorized to conduct required inspections. The persons must be identified by name, occupational title and the inspections that they are authorized to perform. The certificate holder (or person with whom it arranges to perform its required inspections) shall give written information to each person so authorized, describing the extent of that person's responsibilities, authorities, and inspectional limitations. The list shall be made available for inspection by the Administrator upon request.

§ 135.431 Continuing analysis and surveillance.

(a) Each certificate holder shall establish and maintain a system for the continuing analysis and surveillance of the performance and effectiveness of its inspection program and the program covering other maintenance, preventive maintenance, and alterations and for the correction of any deficiency in those programs, regardless of whether those programs are carried out by the certificate holder or by another person.

(b) Whenever the Administrator finds that either or both of the programs described in paragraph (a) of this section does not contain adequate procedures and standards to meet this part, the certificate holder shall, after notification by the Administrator, make changes in those programs requested by the Administrator.

(c) A certificate holder may petition the Administrator to reconsider the notice to make a change in a program. The petition must be filed with the FAA Flight Standards District Office charged with the overall inspection of the certificate holder within 30 days after the certificate holder receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

§ 135.433 Maintenance and preventive maintenance training program.

Each certificate holder or a person performing maintenance or preventive maintenance functions for it shall have a training program to ensure that each person (including inspection

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personnel) who determines the adequacy of work done is fully informed about procedures and techniques and new equipment in use and is competent to perform that person's duties.

§ 135.435 Certificate requirements.

(a) Except for maintenance, preventive maintenance, alterations, and required inspections performed by repair stations certificated under the provisions of Subpart C of Part 145 of this chapter, each person who is directly in charge of maintenance, preventive maintenance, or alterations, and each person performing required inspections must hold an appropriate airman certificate.

(b) For the purpose of this section, a person "directly in charge" is each person assigned to a position in which that person is responsible for the work of a shop or station that performs maintenance, preventive maintenance, alterations, or other functions affecting airworthiness. A person who is "directly in charge" need not physically observe and direct each worker constantly but must be available for consultation and decision on matters requiring instruction or decision from higher authority than that of the person performing the work.

§ 135.437 Authority to perform and approve maintenance, preventive maintenance, and alterations.

(a) A certificate holder may perform, or make arrangements with other persons to perform, maintenance, preventive maintenance, and alterations as provided in its maintenance manual. In addition, a certificate holder may perform these functions for another certificate holder as provided in the maintenance manual of the other certificate holder.

(b) A certificate holder may approve any airframe, aircraft engine, propeller, rotor, or appliance for return to service after maintenance, preventive maintenance, or alterations that are performed under paragraph (a) of this section. However, in the case of a major repair or alteration, the work must have been done in accordance with technical data approved by the Administrator.

§ 135.439 Maintenance recording requirements.

(a) Each certificate holder shall keep (using the system specified in the manual required in § 135.427(1) the following records for the periods specified in paragraph (b) of this section:

(1) All the records necessary to show that all requirements for the issuance of an airworthiness release under § 135.443 have been met.

(2) Records containing the following information:

(i) The total time in service of the airframe, engine, propeller, and rotor.

(ii) The current status of life-limited parts of each airframe, engine, propeller, rotor, and appliance.

(iii) The time since last overhaul of each item installed on the aircraft which are required to be overhauled on a specified time basis.

(iv) The identification of the current inspection status of the aircraft, including the time since the last inspections required by the inspection program under which the aircraft and its appliances are maintained.

(v) The current status of applicable airworthiness directives, including the date and methods of compliance, and, if the airworthiness directive involves recurring action, the time and date when the next action is required.

(vi) A list of current major alterations and repairs to each airframe, engine, propeller, rotor, and appliance.

(b) Each certificate holder shall retain the records required to be kept by this section for the following periods:

(1) Except for the records of the last complete overhaul of each airframe, engine, propeller, rotor, and appliance the records specified in paragraph (a)(1) of this section shall be retained until the work is repeated or superseded by other work or for one year after the work is performed.

(2) The records of the last complete overhaul of each airframe, engine, propeller, rotor, and appliance shall be retained until the work is superseded by work of equivalent scope and detail.

(3) The records specified in paragraph (a)(2) of this section shall be retained and transferred with the aircraft at the time the aircraft is sold.

(c) The certificate holder shall make all maintenance records required to be kept by this section available for inspection by the Administrator or any representative of the National Transportation Safety Board.

§ 135.441 Transfer of maintenance records.

Each certificate holder who sells a United States registered aircraft shall transfer to the purchaser, at the time of the sale, the following records of that aircraft, in plain language form or in coded form which provides for the preservation and retrieval of information in a manner acceptable to the Administrator:

(a) The records specified in § 135.439(a)(2).

(b) The records specified in § 135.439(a)(1) which are not included in the records covered by paragraph (a) of this section, except that the purchaser may allow the seller to keep physical custody of such records. However, custody of records by the seller does not relieve the purchaser of its responsibility under § 135.439(c) to make the records available for inspection by the Administrator or any representative of the National Transportation Safety Board.

§ 135.443 Airworthiness release or aircraft maintenance log entry.

(a) No certificate holder may operate an aircraft after maintenance, preventive maintenance, or alterations are performed on the aircraft unless the certificate holder prepares, or causes the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, to prepare—

(1) An airworthiness release; or

(2) An appropriate entry in the aircraft maintenance log.

(b) The airworthiness release or log entry required by paragraph (a) of this section must—

(1) Be prepared in accordance with the procedure in the certificate holder's manual;

(2) Include a certification that—

(i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the aircraft unairworthy;

(iv) So far as the work performed is concerned, the aircraft is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman, except that a certificated repairman may sign the release or entry only for the work for which that person is employed and for which that person is certificated.

(c) Instead of restating each of the conditions of the certification required by paragraph (b) of this section, the certificate holder may state in its manual that the signature of an authorized certificated mechanic or repairman constitutes that certification.

APPENDIX A

ADDITIONAL AIRWORTHINESS STANDARDS FOR 10 OR MORE PASSENGER AIRPLANES

Applicability

1. *Applicability.* This appendix prescribes the additional airworthiness standards required by § 135.169.

2. *References.* Unless otherwise provided, references in this appendix to specific sections of Part 23 of the Federal Aviation Regulations (FAR Part 23) are to those sections of Part 23 in effect on March 30, 1967.

Flight Requirements

3. *General.* Compliance must be shown with the applicable requirements of Subpart B of FAR Part 23, as supplemented or modified in §§ 4 through 10.

Performance

4. *General.* (a) Unless otherwise prescribed in this appendix, compliance with each applicable performance requirement in §§ 4 through 7 must be shown for ambient atmospheric conditions and still air.

(b) The performance must correspond to the propulsive thrust available under the particular ambient atmospheric conditions and the particular flight condition. The available propulsive thrust must correspond to engine power or thrust, not exceeding the approved power or thrust less—

(1) Installation losses; and

(2) The power or equivalent thrust absorbed by the accessories and services appropriate to the particular ambient atmospheric conditions and the particular flight condition.

(c) Unless otherwise prescribed in this appendix, the applicant must select the takeoff, en route, and landing configurations for the airplane.

(3) The airplane configuration may vary with weight, altitude, and temperature, to the extent they are compatible with the operating procedures required by paragraph (e) of this section.

(e) Unless otherwise prescribed in this appendix, in determining the critical engine inoperative takeoff performance, the accelerate-stop distance, takeoff distance, changes in the airplane's configuration, speed, power, and thrust must be made under procedures established by the applicant for operation in service.

(f) Procedures for the execution of balked landings must be established by the applicant and included in the Airplane Flight Manual.

(g) The procedures established under paragraphs (e) and (f) of this section must—

(1) Be able to be consistently executed in service by a crew of average skill;

(2) Use methods or devices that are safe and reliable; and

(3) Include allowance for any time delays, in the execution of the procedures, that may reasonably be expected in service.

5. *Takeoff*—(a) *General.* Takeoff speeds, the accelerate-stop distance, the takeoff distance, and the one-engine-inoperative takeoff flight path data (described in paragraphs (b), (c), (d), and (f) of this section), must be determined for—

(1) Each weight, altitude, and ambient temperature within the operational limits selected by the applicant;

(2) The selected configuration for takeoff;

(3) The center of gravity in the most unfavorable position;

(4) The operating engine within approved operating limitations; and

(5) Takeoff data based on smooth, dry, hard-surface runway.

(b) *Takeoff speeds.* (1) The decision speed V_1 is the calibrated airspeed on the ground at which, as a result of engine failure or other reasons, the pilot is assumed to have made a decision to continue or discontinue the takeoff. The speed V_1 must be selected by the applicant but may not be less than—

(i) $1.10\,V_{s1}$;

(ii) $1.10\,V_{mc}$;

(iii) A speed that allows acceleration to V_1 and stop under paragraph (c) of this section; or

(iv) A speed at which the airplane can be rotated for takeoff and shown to be adequate to safely continue the takeoff, using normal piloting skill, when the critical engine is suddenly made inoperative.

(2) The initial climb out speed V_2, in terms of calibrated airspeed, must be selected by the applicant so as to allow the gradient of climb required in § 6(b)(2), but it must not be less than V_1 or less than $1.2\,V_{s1}$.

(3) Other essential take off speeds necessary for safe operation of the airplane.

(c) *Accelerate-stop distance.* (1) The accelerate-stop distance is the sum of the distances necessary to—

(i) Accelerate the airplane from a standing start to V_1; and

(ii) Come to a full stop from the point at which V_1 is reached assuming that in the case of engine failure, failure of the critical engine is recognized by the pilot at the speed V_1.

(2) Means other than wheel brakes may be used to determine the accelerate-stop distance if that means is available with the critical engine inoperative and—

(i) Is safe and reliable;

(ii) Is used so that consistent results can be expected under normal operating conditions; and

(iii) Is such that exceptional skill is not required to control the airplane.

(d) *All engines operating takeoff distance.* The all engine operating takeoff distance is the horizontal distance required to takeoff and climb to a height of 50 feet above the takeoff surface under the procedures in FAR 23.51(a).

(e) *One-engine-inoperative takeoff.* Determine the weight for each altitude and temperature within the operational limits established for the airplane, at which the airplane has the capability, after failure of the critical engine at V_1 determined under paragraph (b) of this section, to take off and climb at not less than V_2, to a height 1,000 feet above the takeoff surface and attain the speed and configuration at which compliance is shown with the en route one-engine-inoperative gradient of climb specified in § 6(c).

(f) *One-engine-inoperative takeoff flight path data.* The one-engine-inoperative takeoff flight path data consist of takeoff flight paths extending from a standing start to a point in the takeoff at which the airplane reaches a height 1,000 feet above the takeoff surface under paragraph (e) of this section.

6. *Climb*—(a) *Landing climb: All-engines-operating.* The maximum weight must be determined with the airplane in the landing configuration, for each altitude, and ambient temperature within the operational limits established for the airplane, with the most unfavorable center of gravity, and out-of-ground effect in free air, at which the steady gradient of climb will not be less than 3.3 percent, with:

(1) The engines at the power that is available 8 seconds after initiation of movement of the power or thrust controls from the minimum flight idle to the takeoff position.

(2) A climb speed not greater than the approach speed established under § 7 and not less than the greater of $1.05\,V_{mc}$ or $1.10\,V_{s1}$.

(b) *Takeoff climb: one-engine-inoperative.* The maximum weight at which the airplane meets the minimum climb performance specified in subparagraphs (1) and (2) of this paragraph must be determined for each altitude and ambient temperature within the operational limits established for the airplane, out of ground effect in free air, with the airplane in the takeoff configuration, with the most unfavorable center of gravity, the critical engine inoperative, the remaining engines at the maximum takeoff power or thrust, and the propeller of the inoperative engine windmilling with the propeller controls in the normal position except that, if an approved automatic feathering system is installed, the propellers may be in the feathered position:

(1) *Takeoff: landing gear extended.* The minimum steady gradient of climb must be measurably positive at the speed V_2.

(2) *Takeoff: landing gear retracted.* The minimum steady gradient of climb may not be less than 2 percent at speed V_2. For airplanes with fixed landing gear this requirement must be met with the landing gear extended.

(c) *En route climb: one-engine-inoperative.* The maximum weight must be determined for each altitude and ambient temperature within the operational limits established for the airplane, at which the steady gradient of climb is not less 1.2 percent at an altitude 1,000 feet above the takeoff surface, with the airplane in the en route configuration, the critical engine inoperative, the remaining engine at the maximum continuous power or thrust; and the most unfavorable center of gravity.

7. *Landing.* (a) The landing field length described in paragraph (b) of this section must be determined for standard atmosphere at each weight and altitude within the operational limits established by the applicant.

(b) The landing field length is equal to the landing distance determined under FAR 23.75(a) divided by a factor of 0.6 for the destination airport and 0.7 for the alternate airport. Instead of the gliding approach specified in FAR 23.75(a)(1), the landing may be preceded by a steady approach down to the 50-foot height at a gradient of descent not greater than 5.2 percent (3°) at a calibrated airspeed not less than $1.3\,V_{s1}$.

Trim

8. *Trim*—(a) *Lateral and directional trim.* The airplane must maintain lateral and directional trim in level flight at a speed of V_H or V_{MO}/M_{MO}, whichever is lower, with landing gear and wing flaps retracted.

(b) *Longitudinal trim.* The airplane must maintain longitudinal trim during the following conditions, except that it need not maintain trim at a speed greater than V_{MO}/M_{MO}:

(1) In the approach conditons specified in FAR 23.161(c) (3) through (5), except that instead of the speeds specified in those paragraphs, trim must be maintained with a stick force of not more than 10 pounds down to a speed used in showing compliance with § 7 or $1.4\,V_{s1}$ whichever is lower.

(2) In level flight at any speed from V_H or V_{MO}/M_{MO}, whichever is lower, to either V_F or $1.4\,V_{s1}$, with the landing gear and wing flaps retracted.

Stability

9. *Static longitudinal stability.* (a) In showing compliance with FAR 23.175(b) and with paragraph (b) of this section, the airspeed must return to within ±7½ percent of the trim speed.

(b) *Cruise stability.* The stick force curve must have a stable slope for a speed range of ±50 knots from the trim speed except that the speeds need not exceed V_{FC}/M_{FC} or be less than $1.4\,V_{s1}$. This speed range will be considered to begin at the outer extremes of the friction band and the stick force may not exceed 50 pounds with—

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(1) Landing gear retracted;
(2) Wing flaps retracted;
(3) The maximum cruising power as selected by the applicant as an operating limitation for turbine engines or 75 percent of maximum continuous power for reciprocating engines except that the power need not exceed that required at V_{NO}/M_{NO};
(4) Maximum takeoff weight; and
(5) The airplane trimmed for level flight with the power specified in subparagraph (3) of this paragraph.

V_{RC}/M_{RC} may not be less than a speed midway between V_{NO}/M_{NO} and V_{DF}/M_{DF}, except that, for altitudes where Mach number is the limiting factor, M_{RC} need not exceed the Mach number at which effective speed warning occurs.

(c) *Climb stability (turbopropeller powered airplanes only).* In showing compliance with FAR 23.175(a), an applicant must, instead of the power specified in FAR 23.175(a)(4), use the maximum power or thrust selected by the applicant as an operating limitation for use during climb at the best rate of climb speed, except that the speed need not be less than $1.4V_{S1}$.

Stalls

10. *Stall warning.* If artificial stall warning is required to comply with FAR 23.207, the warning device must give clearly distinguishable indications under expected conditions of flight. The use of a visual warning device that requires the attention of the crew within the cockpit is not acceptable by itself.

Control systems

11. *Electric trim tabs.* The airplane must meet FAR 23.677 and in addition it must be shown that the airplane is safely controllable and that a pilot can perform all the maneuvers and operations necessary to effect a safe landing following any probable electric trim tab runaway which might be reasonably expected in service allowing for appropriate time delay after pilot recognition of the runaway. This demonstration must be conducted at the critical airplane weights and center of gravity positions.

Instruments: Installation

12. *Arrangement and visibility.* Each instrument must meet FAR 23.1321 and in addition:
(a) Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to the pilot from the pilot's station with the minimum practicable deviation from the pilot's normal position and line of vision when the pilot is looking forward along the flight path.
(b) The flight instruments required by FAR 23.1303 and by the applicable operating rules must be grouped on the instrument panel and centered as nearly as practicable about the vertical plane of each pilot's forward vision. In addition—
(1) The instrument that most effectively indicates the attitude must be in the panel in the top center position;
(2) The instrument that most effectively indicates the airspeed must be on the panel directly to the left of the instrument in the top center position;
(3) The instrument that most effectively indicates altitude must be adjacent to and directly to the right of the instrument in the top center position; and
(4) The instrument that most effectively indicates direction of flight must be adjacent to and directly below the instrument in the top center position.

13. *Airspeed indicating system.* Each airspeed indicating system must meet FAR 23.1323 and in addition:
(a) Airspeed indicating instruments must be of an approved type and must be calibrated to indicate true airspeed at sea level in the standard atmosphere with a minimum practicable instrument calibration error when the corresponding pitot and static pressures are supplied to the instruments.
(b) The airspeed indicating system must be calibrated to determine the system error, i.e., the relation between IAS and CAS, in flight and during the accelerate-takeoff ground run. The ground run calibration must be obtained between 0.8 of the minimum value of V_1 and 1.2 times the maximum value of V_1, considering the approved ranges of altitude and weight. The ground run calibration is determined assuming an engine failure at the minimum value of V_1.
(c) The airspeed error of the installation excluding the instrument calibration error, must not exceed 3 percent or 5 knots whichever is greater, throughout the speed range from V_{NO} to $1.3V_{S1}$ with flaps retracted and from $1.3V_{SO}$ to V_{FE} with flaps in the landing position.
(d) Information showing the relationship between IAS and CAS must be shown in the Airplane Flight manual.

14. *Static air vent system.* The static air vent system must meet FAR 23.1325. The altimeter system calibration must be determined and shown in the Airplane Flight Manual.

Operating Limitations and Information

15. *Maximum operating limit speed V_{MO}/M_{MO}.* Instead of establishing operating limitations based on V_{NE} and V_{NO}, the applicant must establish a maximum operating limit speed V_{MO}/M_{MO} as follows:
(a) The maximum operating limit speed must not exceed the design cruising speed V_C and must be sufficiently below V_D/M_D or V_{DF}/M_{DF} to make it highly improbable that the latter speeds will be inadvertently exceeded in flight.
(b) The speed V_{MO} must not exceed $0.8V_D/M_D$ or $0.8V_{DF}/M_{DF}$ unless flight demonstrations involving upsets as specified by the Administrator indicates a lower speed margin will not result in speeds exceeding V_D/M_D or V_{DF}. Atmospheric variations, horizontal gusts, system and equipment errors, and airframe production variations are taken into account.

16. *Minimum flight crew.* In addition to meeting FAR 23.1523, the applicant must establish the minimum number and type of qualified flight crew personnel sufficient for safe operation of the airplane considering—
(a) Each kind of operation for which the applicant desires approval;
(b) The workload on each crewmember considering the following:
(1) Flight path control.
(2) Collision avoidance.
(3) Navigation.
(4) Communications.
(5) Operation and monitoring of all essential aircraft systems.
(6) Command decisions; and
(c) The accessibility and ease of operation of necessary controls by the appropriate crewmember during all normal and emergency operations when at the crewmember flight station.

17. *Airspeed indicator.* The airspeed indicator must meet FAR 23.1545 except that, the airspeed notations and markings in terms of V_{NO} and V_{NE} must be replaced by the V_{MO}/M_{MO} notations. The airspeed indicator markings must be easily read and understood by the pilot. A placard adjacent to the airspeed indicator is an acceptable means of showing compliance with FAR 23.1545(c).

Airplane Flight Manual

18. *General.* The Airplane Flight Manual must be prepared under FARs 23.1583 and 23.1587, and in addition the operating limitations and performance information in §§ 19 and 20 must be included.

19. *Operating limitations.* The Airplane Flight Manual must include the following limitations—
(a) *Airspeed limitations.* (1) The maximum operating limit speed V_{MO}/M_{MO} and a statement that this speed limit may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training;
(2) If an airspeed limitation is based upon compressibility effects, a statement to this effect and informaton as to any symptoms, the probable behavior of the airplane, and the recommended recovery procedures; and
(3) The airspeed limits, shown in terms of V_{MO}/M_{MO} instead of V_{NO} and V_{NE}.
(b) *Takeoff weight limitations.* The maximum takeoff weight for each airport elevation, ambient temperature, and available takeoff runway length within the range selected by the applicant may not exceed the weight at which—
(1) The all-engine-operating takeoff distance determined under § 5(b) or the accelerate-stop distance determined under § 5(c), whichever is greater, is equal to the available runway length;
(2) The airplane complies with the one-engine-inoperative takeoff requirements specified in § 5(e); and
(3) The airplane complies with the one-engine-inoperative takeoff and en route climb requirements specified in §§ 6 (b) and (c).
(c) *Landing weight limitations.* The maximum landing weight for each airport elevation (standard temperature) and available landing runway length, within the range selected by the applicant. This weight may not exceed the weight at which the landing field length determined under § 7(b) is equal to the available runway length. In showing compliance with this operating limitation, it is acceptable to assume that the landing weight at the destination will be equal to the takeoff weight reduced by the normal consumption of fuel and oil en route.

20. *Performance information.* The Airplane Flight Manual must contain the performance information determined under the performance requirements of this appendix. The information must include the following:
(a) Sufficient information so that the takeoff weight limits specified in § 19(b) can be determined for all temperatures and altitudes within the operation limitations selected by the applicant.
(b) The conditions under which the performance information was obtained, including the airspeed at the 50-foot height used to determine landing distances.
(c) The performance information (determined by extrapolation and computed for the range of weights between the maximum landing and takeoff weights) for—

(1) Climb in the landing configuration; and
(2) Landing distance.
(d) Procedure established under § 4 related to the limitations and information required by this section in the form of guidance material including any relevant limitations or information.
(e) An explanation of significant or unusual flight or ground handling characteristics of the airplane.
(f) Airspeeds, as indicated airspeeds, corresponding to those determined for takeoff under § 5(b).

21. *Maximum operating altitudes.* The maximum operating altitude to which operation is allowed, as limited by flight, structural, powerplant, functional, or equipment characteristics, must be specified in the Airplane Flight Manual.

22. *Stowage provision for airplane flight manual.* Provision must be made for stowing the Airplane Flight Manual in a suitable fixed container which is readily accessible to the pilot.

23. *Operating procedures.* Procedures for restarting turbine engines in flight (including the effects of altitude) must be set forth in the Airplane Flight Manual.

Airframe Requirements

Flight Loads

24. *Engine Torque.* (a) Each turbopropeller engine mount and its supporting structure must be designed for the torque effects of:
(1) The conditions in FAR 23.361(a).
(2) The limit engine torque corresponding to takeoff power and propeller speed multiplied by a factor accounting for propeller control system malfunction, including quick feathering action, simultaneously with 1*g* level flight loads. In the absence of a rational analysis, a factor of 1.6 must be used.
(b) The limit torque is obtained by multiplying the mean torque by a factor of 1.25.

25. *Turbine engine gyroscopic loads.* Each turbopropeller engine mount and its supporting structure must be designed for the gyroscopic loads that result, with the engines at maximum continuous r.p.m., under either—
(a) The conditions in FARs 23.351 and 23.423; or
(b) All possible combinations of the following:
(1) A yaw velocity of 2.5 radians per second.
(2) A pitch velocity of 1.0 radians per second.
(3) A normal load factor of 2.5.
(4) Maximum continuous thrust.

26. *Unsymmetrical loads due to engine failure.* (a) Turbopropeller powered airplanes must be designed for the unsymmetrical loads resulting from the failure of the critical engine including the following conditions in combination with a single malfunction of the propeller drag limiting system, considering the probable pilot corrective action on the flight controls:
(1) At speeds between V_{mc} and V_D, the loads resulting from power failure because of fuel flow interruption are considered to be limit loads.
(2) At speeds between V_{mc} and V_C, the loads resulting from the disconnection of the engine compressor from the turbine or from loss of the turbine blades are considered to be ultimate loads.
(3) The time history of the thrust decay and drag buildup occurring as a result of the prescribed engine failures must be substantiated by test or other data applicable to the particular engine-propeller combination.
(4) The timing and magnitude of the probable pilot corrective action must be conservatively estimated, considering the characteristics of the particular engine-propeller-airplane combination.
(b) Pilot corrective action may be assumed to be initiated at the time maximum yawing velocity is reached, but not earlier than 2 seconds after the engine failure. The magnitude of the corrective action may be based on the control forces in FAR 23.397 except that lower forces may be assumed where it is shown by analysis or test, that these forces can control the yaw and roll resulting from the prescribed engine failure conditions.

Ground Loads

27. *Dual wheel landing gear units.* Each dual wheel landing gear unit and its supporting structure must be shown to comply with the following:
(a) *Pivoting.* The airplane must be assumed to pivot about one side of the main gear with the brakes on that side locked. The limit vertical load factor must be 1.0 and the coefficient of friction 0.8. This condition need apply only to the main gear and its supporting structure.
(b) *Unequal tire inflation.* A 60–40 percent distribution of the loads established under FAR 23.471 through FAR 23.483 must be applied to the dual wheels.
(c) *Flat tire.* (1) Sixty percent of the loads in FAR 23.471 through FAR 23.483 must be applied to either wheel in a unit.
(2) Sixty percent of the limit drag and side loads and 100 percent of the limit vertical load established under FARs 23.493 and 23.485 must be applied to either wheel in a unit except that the vertical load need not exceed the maximum vertical load in paragraph (c)(1) of this section.

Fatigue Evaluation

28. *Fatigue evaluation of wing and associated structure.* Unless it is shown that the structure, operating stress levels, materials and expected use are comparable from a fatigue standpoint to a similar design which has had substantial satisfactory service experience, the strength, detail design, and the fabrication of those parts of the wing, wing carrythrough, and attaching structure whose failure would be catastrophic must be evaluated under either—
(a) A fatigue strength investigation in which the structure is shown by analysis, tests, or both to be able to withstand the repeated loads of variable magnitude expected in service; or
(b) A fail-safe strength investigation in which it is shown by analysis, tests, or both that catastrophic failure of the structure is not probable after fatigue, or obvious partial failure, of a principal structural element, and that the remaining structure is able to withstand a static ultimate load factor of 75 percent of the critical limit load factor at V_C. These loads must be multiplied by a factor of 1.15 unless the dynamic effects of failure under static load are otherwise considered.

Design and Construction

29. *Flutter.* For multiengine turbopropeller powered airplanes, a dynamic evaluation must be made and must include—
(a) The significant elastic, inertia, and aerodynamic forces associated with the rotations and displacements of the plane of the propeller; and
(b) Engine-propeller-nacelle stiffness and damping variations appropriate to the particular configuration.

Landing Gear

30. *Flap operated landing gear warning device.* Airplanes having retractable landing gear and wing flaps must be equipped with a warning device that functions continuously when the wing flaps are extended to a flap position that activates the warning device to give adequate warning before landing, using normal landing procedures, if the landing gear is not fully extended and locked. There may not be a manual shut off for this warning device. The flap position sensing unit may be installed at any suitable location. The system for this device may use any part of the system (including the aural warning device) provided for other landing gear warning devices.

Personnel and Cargo Accommodations

31. *Cargo and baggage compartments.* Cargo and baggage compartments must be designed to meet FAR 23.787 (a) and (b), and in addition means must be provided to protect passengers from injury by the contents of any cargo or baggage compartment when the ultimate forward inertia force is 9*g*.

32. *Doors and exits.* The airplane must meet FAR 23.783 and FAR 23.807 (a)(3), (b), and (c), and in addition:
(a) There must be a means to lock and safeguard each external door and exit against opening in flight either inadvertently by persons, or as a result of mechanical failure. Each external door must be operable from both the inside and the outside.
(b) There must be means for direct visual inspection of the locking mechanism by crewmembers to determine whether external doors and exits, for which the initial opening movement is outward, are fully locked. In addition, there must be a visual means to signal to crewmembers when normally used external doors are closed and fully locked.
(c) The passenger entrance door must qualify as a floor level emergency exit. Each additional required emergency exit except floor level exits must be located over the wing or must be provided with acceptable means to assist the occupants in descending to the ground. In addition to the passenger entrance door:
(1) For a total seating capacity of 15 or less, an emergency exit as defined in FAR 23.807(b) is required on each side of the cabin.
(2) For a total seating capacity of 16 through 23, three emergency exits as defined in FAR 23.807(b) are required with one on the same side as the door and two on the side opposite the door.
(d) An evacuation demonstration must be conducted utilizing the maximum number of occupants for which certification is desired. It must be conducted under simulated night conditions utilizing only the emergency exits on the most critical side of the aircraft. The participants must be representative of average airline passengers with no

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previous practice or rehearsal for the demonstration. Evacuation must be completed within 90 seconds.

(e) Each emergency exit must be marked with the word "Exit" by a sign which has white letters 1 inch high on a red background 2 inches high, be self-illuminated or independently internally electrically illuminated, and have a minimum luminescence (brightness) of at least 160 microlamberts. The colors may be reversed if the passenger compartment illumination is essentially the same.

(f) Access to window type emergency exits must not be obstructed by seats or seat backs.

(g) The width of the main passenger aisle at any point between seats must equal or exceed the values in the following table:

Total seating capacity	Minimum main passenger aisle width	
	Less than 25 inches from floor	25 inches and more from floor
10 through 23	9 inches	15 inches.

Miscellaneous

33. *Lightning strike protection.* Parts that are electrically insulated from the basic airframe must be connected to it through lightning arrestors unless a lightning strike on the insulated part—

(a) Is improbable because of shielding by other parts; or

(b) Is not hazardous.

34. *Ice protection.* If certification with ice protection provisions is desired, compliance with the following must be shown:

(a) The recommended procedures for the use of the ice protection equipment must be set forth in the Airplane Flight Manual.

(b) An analysis must be performed to establish, on the basis of the airplane's operational needs, the adequacy of the ice protection system for the various components of the airplane. In addition, tests of the ice protection system must be conducted to demonstrate that the airplane is capable of operating safely in continuous maximum and intermittent maximum icing conditions as described in Appendix C of Part 25 of this chapter.

(c) Compliance with all or portions of this section may be accomplished by reference, where applicable because of similarity of the designs, to analysis and tests performed by the applicant for a type certificated model.

35. *Maintenance information.* The applicant must make available to the owner at the time of delivery of the airplane the information the applicant considers essential for the proper maintenance of the airplane. That information must include the following:

(a) Description of systems, including electrical, hydraulic, and fuel controls.

(b) Lubrication instructions setting forth the frequency and the lubricants and fluids which are to be used in the various systems.

(c) Pressures and electrical loads applicable to the various systems.

(d) Tolerances and adjustments necessary for proper functioning.

(e) Methods of leveling, raising, and towing.

(f) Methods of balancing control surfaces.

(g) Identification of primary and secondary structures.

(h) Frequency and extent of inspections necessary to the proper operation of the airplane.

(i) Special repair methods applicable to the airplane.

(j) Special inspection techniques, such as X-ray, ultrasonic, and magnetic particle inspection.

(k) List of special tools.

Propulsion

General

36. *Vibration characteristics.* For turbopropeller powered airplanes, the engine installation must not result in vibration characteristics of the engine exceeding those established during the type certification of the engine.

37. *In flight restarting of engine.* If the engine on turbopropeller powered airplanes cannot be restarted at the maximum cruise altitude, a determination must be made of the altitude below which restarts can be consistently accomplished. Restart information must be provided in the Airplane Flight Manual.

38. *Engines.* (a) *For turbopropeller powered airplanes.* The engine installation must comply with the following:

(1) *Engine isolation.* The powerplants must be arranged and isolated from each other to allow operation, in at least one configuration, so that the failure or malfunction of any engine, or of any system that can affect the engine, will not—

(i) Prevent the continued safe operation of the remaining engines; or

(ii) Require immediate action by any crewmember for continued safe operation.

(2) *Control of engine rotation.* There must be a means to individually stop and restart the rotation of any engine in flight except that engine rotation need not be stopped if continued rotation could not jeopardize the safety of the airplane. Each component of the stopping and restarting system on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant. If hydraulic propeller feathering systems are used for this purpose, the feathering lines must be at least fire resistant under the operating conditions that may be expected to exist during feathering.

(3) *Engine speed and gas temperature control devices.* The powerplant systems associated with engine control devices, systems, and instrumentation must provide reasonable assurance that those engine operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

(b) *For reciprocating engine powered airplanes.* To provide engine isolation, the powerplants must be arranged and isolated from each other to allow operation, in at least one configuration, so that the failure or malfunction of any engine, or of any system that can affect that engine, will not—

(1) Prevent the continued safe operation of the remaining engines; or

(2) Require immediate action by any crewmember for continued safe operation.

39. *Turbopropeller reversing systems.* (a) Turbopropeller reversing systems intended for ground operation must be designed so that no single failure or malfunction of the system will result in unwanted reverse thrust under any expected operating condition. Failure of structural elements need not be considered if the probability of this kind of failure is extremely remote.

(b) Turbopropeller reversing systems intended for in flight use must be designed so that no unsafe condition will result during normal operation of the system, or from any failure (or reasonably likely combination of failures) of the reversing system, under any anticipated condition of operation of the airplane. Failure of structural elements need not be considered if the probability of this kind of failure is extremely remote.

(c) Compliance with this section may be shown by failure analysis, testing, or both for propeller systems that allow propeller blades to move from the flight low-pitch position to a position that is substantially less than that at the normal flight low-pitch stop position. The analysis may include or be supported by the analysis made to show compliance with the type certification of the propeller and associated installation components. Credit will be given for pertinent analysis and testing completed by the engine and propeller manufacturers.

40. *Turbopropeller drag-limiting systems.* Turbopropeller drag-limiting systems must be designed so that no single failure or malfunction of any of the systems during normal or emergency operation results in propeller drag in excess of that for which the airplane was designed. Failure of structural elements of the drag-limiting systems need not be considered if the probability of this kind of failure is extremely remote.

41. *Turbine engine powerplant operating characteristics.* For turbopropeller powered airplanes, the turbine engine powerplant operating characteristics must be investigated in flight to determine that no adverse characteristics (such as stall, surge, or flameout) are present to a hazardous degree, during normal and emergency operation within the range of operating limitations of the airplane and of the engine.

42. *Fuel flow.* (a) For turbopropeller powered airplanes—

(1) The fuel system must provide for continuous supply of fuel to the engines for normal operation without interruption due to depletion of fuel in any tank other than the main tank; and

(2) The fuel flow rate for turbopropeller engine fuel pump systems must not be less than 125 percent of the fuel flow required to develop the standard sea level atmospheric conditions takeoff power selected and included as an operating limitation in the Airplane Flight Manual.

(b) For reciprocating engine powered airplanes, it is acceptable for the fuel flow rate for each pump system (main and reserve supply) to be 125 percent of the takeoff fuel consumption of the engine.

Fuel System Components

43. *Fuel pumps.* For turbopropeller powered airplanes, a reliable and independent power source must be provided for each pump used with turbine engines which do not have provisions for mechanically driving the main pumps. It must be demonstrated that the pump installations provide a reliability and durability equivalent to that in FAR 23.991(a).

44. *Fuel strainer or filter.* For turbopropeller powered airplanes, the following apply:

(a) There must be a fuel strainer or filter between the tank outlet and the fuel metering device of the engine. In addition, the fuel strainer or filter must be—

(1) Between the tank outlet and the engine-driven positive displacement pump inlet, if there is an engine-driven positive displacement pump;

(2) Accessible for drainage and cleaning and, for the strainer screen, easily removable; and

(3) Mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself.

(b) Unless there are means in the fuel system to prevent the accumulation of ice on the filter, there must be means to automatically maintain the fuel-flow if ice-clogging of the filter occurs; and

(c) The fuel strainer or filter must be of adequate capacity (for operating limitations established to ensure proper service) and of appropriate mesh to insure proper engine operation, with the fuel contaminated to a degree (for particle size and density) that can be reasonably expected in service. The degree of fuel filtering may not be less than that established for the engine type certification.

45. *Lightning strike protection.* Protection must be provided against the ignition of flammable vapors in the fuel vent system due to lightning strikes.

Cooling

46. *Cooling test procedures for turbopropeller powered airplanes.* (a) Turbopropeller powered airplanes must be shown to comply with FAR 23.1041 during takeoff, climb, en route, and landing stages of flight that correspond to the applicable performance requirements. The cooling tests must be conducted with the airplane in the configuration, and operating under the conditions that are critical relative to cooling during each stage of flight. For the cooling tests a temperature is "stabilized" when its rate of change is less than 2° F. per minute.

(b) Temperatures must be stabilized under the conditions from which entry is made into each stage of flight being investigated unless the entry condition is not one during which component and engine fluid temperatures would stabilize, in which case, operation through the full entry condition must be conducted before entry into the stage of flight being investigated to allow temperatures to reach their natural levels at the time of entry. The takeoff cooling test must be preceded by a period during which the powerplant component and engine fluid temperatures are stabilized with the engines at ground idle.

(c) Cooling tests for each stage of flight must be continued until—

(1) The component and engine fluid temperatures stabilize;

(2) The stage of flight is completed; or

(3) An operating limitation is reached.

Induction System

47. *Air induction.* For turbopropeller powered airplanes—

(a) There must be means to prevent hazardous quantities of fuel leakage or overflow from drains, vents, or other components of flammable fluid systems from entering the engine intake systems; and

(b) The air inlet ducts must be located or protected so as to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

48. *Induction system icing protection.* For turbopropeller powered airplanes, each turbine engine must be able to operate throughout its flight power range without adverse effect on engine operation or serious loss of power or thrust, under the icing conditions specified in Appendix C of Part 25 of this chapter. In addition, there must be means to indicate to appropriate flight crewmembers the functioning of the powerplant ice protection system.

49. *Turbine engine bleed air systems.* Turbine engine bleed air systems of turbopropeller powered airplanes must be investigated to determine—

(a) That no hazard to the airplane will result if a duct rupture occurs. This condition must consider that a failure of the duct can occur anywhere between the engine port and the airplane bleed service; and

(b) That, if the bleed air system is used for direct cabin pressurization, it is not possible for hazardous contamination of the cabin air system to occur in event of lubrication system failure.

Exhaust System

50. *Exhaust system drains.* Turbopropeller engine exhaust systems having low spots or pockets must incorporate drains at those locations. These drains must discharge clear of the airplane in normal and ground attitudes to prevent the accumulation of fuel after the failure of an attempted engine start.

Powerplant Controls and Accessories

51. *Engine controls.* If throttles or power levers for turbopropeller powered airplanes are such that any position of these controls will reduce the fuel flow to the engine(s) below that necessary for satisfactory and safe idle operation of the engine while the airplane is in flight, a means must be provided to prevent inadvertent movement of the control into this position. The means provided must incorporate a positive lock or stop at this idle position and must require a separate and distinct operation by the crew to displace the control from the normal engine operating range.

52. *Reverse thrust controls.* For turbopropeller powered airplanes, the propeller reverse thrust controls must have a means to prevent their inadvertent operation. The means must have a positive lock or stop at the idle position and must require a separate and distinct operation by the crew to displace the control from the flight regime.

53. *Engine ignition systems.* Each turbopropeller airplane ignition system must be considered an essential electrical load.

54. *Powerplant accessories.* The powerplant accessories must meet FAR 23.1163, and if the continued rotation of any accessory remotely driven by the engine is hazardous when malfunctioning occurs, there must be means to prevent rotation without interfering with the continued operation of the engine.

Powerplant Fire Protection

55. *Fire detector system.* For turbopropeller powered airplanes, the following apply:

(a) There must be a means that ensures prompt detection of fire in the engine compartment. An overtemperature switch in each engine cooling air exit is an acceptable method of meeting this requirement.

(b) Each fire detector must be constructed and installed to withstand the vibration, inertia, and other loads to which it may be subjected in operation.

(c) No fire detector may be affected by any oil, water, other fluids, or fumes that might be present.

(d) There must be means to allow the flight crew to check, in flight, the functioning of each fire detector electric circuit.

(e) Wiring and other components of each fire detector system in a fire zone must be at least fire resistant.

56. *Fire protection, cowling and nacelle skin.* For reciprocating engine powered airplanes, the engine cowling must be designed and constructed so that no fire originating in the engine compartment can enter either through openings or by burn through, any other region where it would create additional hazards.

57. *Flammable fluid fire protection.* If flammable fluids or vapors might be liberated by the leakage of fluid systems in areas other than engine compartments, there must be means to—

(a) Prevent the ignition of those fluids or vapors by any other equipment; or

(b) Control any fire resulting from that ignition.

Equipment

58. *Powerplant instruments.* (a) The following are required for turbopropeller airplanes:

(1) The instruments required by FAR 23.1305(a) (1) through (4), (b) (2) and (4).

(2) A gas temperature indicator for each engine.

(3) Free air temperature indicator.

(4) A fuel flowmeter indicator for each engine.

(5) Oil pressure warning means for each engine.

(6) A torque indicator or adequate means for indicating power output for each engine.

(7) Fire warning indicator for each engine.

(8) A means to indicate when the propeller blade angle is below the low-pitch position corresponding to idle operation in flight.

(9) A means to indicate the functioning of the ice protection system for each engine.

(b) For turbopropeller powered airplanes, the turbopropeller blade position indicator must begin indicating when the blade has moved below the flight low-pitch position.

(c) The following instruments are required for reciprocating engine powered airplanes:

(1) The instruments required by FAR 23.1305.

(2) A cylinder head temperature indicator for each engine.

(3) A manifold pressure indicator for each engine.

Systems and Equipments

General

59. *Function and installation.* The systems and equipment of the airplane must meet FAR 23.1301, and the following:

(a) Each item of additional installed equipment must—

(1) Be of a kind and design appropriate to its intended function;

(2) Be labeled as to its identification, function, or operating limitations, or any applicable combination of these factors, unless misuse or inadvertent actuation cannot create a hazard;

(3) Be installed according to limitations specified for that equipment; and

(4) Function properly when installed.

(b) Systems and installations must be designed to safeguard against hazards to the aircraft in the event of their malfunction or failure.

(c) Where an installation, the functioning of which is necessary in showing compliance with the applicable requirements, requires a power supply, that installation must be considered an essential load on the power supply, and the power sources and the distribution system must be capable of supplying the following power loads in probable operation combinations and for probable durations:

(1) All essential loads after failure of any prime mover, power converter, or energy storage device.

(2) All essential loads after failure of any one engine on two-engine airplanes.

(3) In determining the probable operating combinations and durations of essential loads for the power failure conditions described in subparagraphs (1) and (2) of this paragraph, it is permissible to assume that the power loads are reduced in accordance with a monitoring procedure which is consistent with safety in the types of operations authorized.

60. *Ventilation.* The ventilation system of the airplane must meet FAR 23.831, and in addition, for pressurized aircraft, the ventilating air in flight crew and passenger compartments must be free of harmful or haz-

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ardous concentrations of gases and vapors in normal operation and in the event of reasonably probable failures or malfunctioning of the ventilating, heating, pressurization, or other systems, and equipment. If accumulation of hazardous quantities of smoke in the cockpit area is reasonably probable, smoke evacuation must be readily accomplished.

Electrical Systems and Equipment

61. *General.* The electrical systems and equipment of the airplane must meet FAR 23.1351, and the following:

(a) *Electrical system capacity.* The required generating capacity, and number and kinds of power sources must—

(1) Be determined by an electrical load analysis; and

(2) Meet FAR 23.1301.

(b) *Generating system.* The generating system includes electrical power sources, main power busses, transmission cables, and associated control, regulation and protective devices. It must be designed so that—

(1) The system voltage and frequency (as applicable) at the terminals of all essential load equipment can be maintained within the limits for which the equipment is designed, during any probable operating conditions;

(2) System transients due to switching, fault clearing, or other causes do not make essential loads inoperative, and do not cause a smoke or fire hazard;

(3) There are means, accessible in flight to appropriate crewmembers, for the individual and collective disconnection of the electrical power sources from the system; and

(4) There are means to indicate to appropriate crewmembers the generating system quantities essential for the safe operation of the system, including the voltage and current supplied by each generator.

62. *Electrical equipment and installation.* Electrical equipment, controls, and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation.

63. *Distribution system.* (a) For the purpose of complying with this section, the distribution system includes the distribution busses, their associated feeders, and each control and protective device.

(b) Each system must be designed so that essential load circuits can be supplied in the event of reasonably probable faults or open circuits, including faults in heavy current carrying cables.

(c) If two independent sources of electrical power for particular equipment or systems are required under this appendix, their electrical energy supply must be ensured by means such as duplicate electrical equipment, throwover switching, or multichannel or loop circuits separately routed.

64. *Circuit protective devices.* The circuit protective devices for the electrical circuits of the airplane must meet FAR 23.1357, and in addition circuits for loads which are essential to safe operation must have individual and exclusive circuit protection.

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HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

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1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 23, 1978, at 2:00 p.m.

WHERE: University of South Florida Tampa Campus, 4202 Fowler Avenue, College of Education Building, Room 302.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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S.J. Res. 154 ..... Pub. L. 95-411
Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979. (Oct. 5, 1978; 92 Stat. 906) Price: $.60.

H.R. 12443 ..... Pub. L. 95-412
To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy. (Oct. 5, 1978; 92 Stat. 907) Price: $.60.

S. 3342 ..... Pub. L. 95-413
To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake". (Oct. 5, 1978; 92 Stat. 910) Price: $.60.

S. 2507 ..... Pub. L. 95-414
To authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes. (Oct. 5, 1978; 92 Stat. 911) Price: $.60.

H.J. Res. 1088 ..... Pub. L. 95-415
Providing financial assistance for the city of New York. (Oct. 5, 1978; 92 Stat. 914) Price: $.60.

S. 1265 ..... Pub. L. 95-416
To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services. (Oct. 5, 1978; 92 Stat. 915) Price: $.60.

H.R. 12508 ..... Pub. L. 95-417
To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children. (Oct. 5, 1978; 92 Stat. 917) Price: $.60.

H.R. 8812 ..... Pub. L. 95-418
To name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building". (Oct. 5, 1978; 92 Stat. 919) Price: $.60.

H.J. Res. 1007 ..... Pub. L. 95-419
Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week". (Oct. 5, 1978; 92 Stat. 920) Price: $.60.

H.R. 13745 ..... Pub. L. 95-420
"Sikes Act Amendments of 1978". (Oct. 5, 1978; 92 Stat. 921) Price: $.60.

S. 3040 ..... Pub. L. 95-421
"Amtrak Improvement Act of 1978". (Oct. 5, 1978; 92 Stat. 923) Price: $.80.

H.R. 11291 ..... Pub. L. 95-422
To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration. (Oct. 5, 1978; 92 Stat. 932) Price: $.60.

H.R. 1920 ..... Pub. L. 95-423
To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale. (Oct. 6, 1978; 92 Stat. 935) Price: $.60.

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:

DOE—Comprehensive Energy Extension Service Program; establishment; effective 11-1-78 ..... 45536; 10-2-78

HEW/OE—Desegregation of public education; awards of assistance funds; corrections (2 documents) 46020, 46021; 10-5-78
[Originally published at 43 FR 32372, 7-26-78]

State and Commissioner's discretionary programs of vocational education; correction 46020; 10-5-78
[Originally published at 42 FR 53822, 10-3-77]

HUD—Low income housing; interest subsidy grants; extension of deadline for State issuance of obligation; effective 10-1-78. 45557; 10-3-78

Applications Deadlines:

NSF—Physically Handicapped in Science Program; availability of funds; apply by 12-15-78 ..... 45660; 10-3-78

Meetings:

HEW/Assistant Secretary for Health—Health Services Research Study Section; review of research grant applications; Hyattsville, Md. (closed), 10-12- and 10-13-78. 45479; 10-2-79

HEW/NIH—Animal Resources Review Committee; grant applications; discussion and evaluation; Beaverton, Ore. (closed), 10-25-78 ..... 45478; 10-2-78

National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 11-28 and 11-29-78 ..... 45478; 10-2-78

HUD/HRA—National Advisory Council on Health Professions Education, Hyattsville, Md. (open), 11-6 and 11-7-78 ..... 45645; 10-3-78

Justice/LEAA—National Institute of Law Enforcement and Criminal Justice Advisory Committee, Chantilly, Va. (open), 10-23 and 10-24-78 ..... 46086; 10-5-78

NFAH—Architecture, Planning and Design Advisory Panel; meeting date changed from 10-2 and 10-3-78 to 11-2 and 11-3-78; Washington, D.C. (open) 46390; 10-6-78
[Originally published at 43 FR 39868, 9-7-78]

NSF—Atmospheric Sciences Advisory Committee, Washington, D.C. (open), 10-19 through 10-21-78 ..... 45658; 10-3-78

Behavioral and Neural Sciences Advisory Committee; Anthropology Subcommittee, Washington, D.C. (closed), 10-19 and 10-20-78 ..... 45659; 10-3-78

Behavioral and Neural Sciences Advisory Committee, Memory and Cognitive Processes Subcommittee, Washington, D.C. (closed), 10-19 and 10-20-78 ..... 45659; 10-3-78

Behavioral and Neural Sciences Advisory Committee, Neurobiology Subcommittee, Washington, D.C. (closed), 10-19 through 10-21-78 ..... 45660; 10-3-78

Physiology, Cellular, and Molecular Biology, Genetic Biology Subcommittee, Washington, D.C. (closed), 10-19 and 10-21-78 ..... 45659; 10-3-78

Social Sciences Advisory Committee, Political Science Subcommittee, Washington, D.C. (partially open), 10-19 and 10-20-78 ..... 45659; 10-3-78

Other Items of Interest:

ACTION—Competitive national VISTA grants; proposed procedures; comments by 12-4-78 ..... 46153; 10-5-78

HEW/NIH—National Cancer Institute; renewal of grant related advisory committees (4 documents) 45479; 10-2-78

LABOR/Sec'y: Migrant and other seasonally employed farmworker programs under CETA, announcement of jurisdictions open for competition and grantees to be funded without competition; effective 9-22-78 ..... 45924; 10-4-78

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presidential documents

[3195-01]

Title 3—The President

Memorandum of September 26, 1978

Determination and Certification Under the International Security Assistance Act of 1978 Regarding Resumption of Full Military Cooperation With Turkey

[Presidential Determination No. 78-1818]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, September 26, 1978.

Pursuant to the authority vested in me by Section 13(a) of the International Security Assistance Act of 1978, I hereby determine and certify:

(1) that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization; and

(2) that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

You are requested on my behalf to report this determination and certification to the Congress.

This determination and certification shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-28812 Filed 10-6-78; 4:00 pm]

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[3195-01]

Executive Order 12087 • October 7, 1978

Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

1-1. *Adjusted Rates of Pay and Allowances.*

1-101. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of Chapter 53 of Title 5 of the United States Code, the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) the schedules for the Foreign Service (22 U.S.C. 867 and 870(a)) at Schedule 2; and

(c) the schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

1-102. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of Section 1009 of Title 37 of the United States Code, the rates of monthly basic pay (37 U.S.C. 203(a) and (c)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the uniformed services.

1-103. *Executive Salaries.* The Executive Salary Cost of Living Adjustment Act (Public Law 94-82, 89 Stat. 419) provides for adjustments in the rates of pay and salaries as set forth at the schedules attached hereto and made a part hereof, for the following:

(a) The Vice President (3 U.S.C. 104) and the Executive Schedule (5 U.S.C. 5312-5316) at Schedule 5;

(b) Congressional Salaries (2 U.S.C. 31) at Schedule 6; and

(c) Judicial Salaries (28 U.S.C. 5, 44(d), 135, 173, 213, 252, 792(b) and 11 U.S.C. 68(a)), at Schedule 7.

1-2. *General Provisions*

1-201. *Effective Date.* The adjustments in rates of monthly basic pay and allowances for subsistence and quarters for members of the uniformed services shall be effective on October 1, 1978. All other adjustments of salary or pay shall be effective on the first day of the first applicable pay period beginning on or after October 1, 1978.

1-202. *Superseded Orders.* Executive Order No. 12010 of September 28, 1977 is superseded.

Jimmy Carter

THE WHITE HOUSE,
October 7, 1978.

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Schedule 1 - THE GENERAL SCHEDULE

	1	2	3	4	5	6	7	8	9	10
GS-1	$6,561	$6,780	$6,999	$7,218	$7,437	$7,656	$7,875	$8,094	$8,313	$8,532
2	7,422	7,669	7,916	8,163	8,410	8,657	8,904	9,151	9,398	9,645
3	8,366	8,645	8,924	9,203	9,482	9,761	10,040	10,319	10,598	10,877
4	9,391	9,704	10,017	10,330	10,643	10,956	11,269	11,582	11,895	12,208
5	10,507	10,857	11,207	11,557	11,907	12,257	12,607	12,957	13,307	13,657
6	11,712	12,102	12,492	12,882	13,272	13,662	14,052	14,442	14,832	15,222
7	13,014	13,448	13,882	14,316	14,750	15,184	15,618	16,052	16,486	16,920
8	14,414	14,894	15,374	15,854	16,334	16,814	17,294	17,774	18,254	18,734
9	15,920	16,451	16,982	17,513	18,044	18,575	19,106	19,637	20,168	20,699
10	17,532	18,116	18,700	19,284	19,868	20,452	21,036	21,620	22,204	22,788
11	19,263	19,905	20,547	21,189	21,831	22,473	23,115	23,757	24,399	25,041
12	23,087	23,857	24,627	25,397	26,167	26,937	27,707	28,477	29,247	30,017
13	27,453	28,368	29,283	30,198	31,113	32,028	32,943	33,858	34,773	35,688
14	32,442	33,523	34,604	35,685	36,766	37,847	38,928	40,009	41,090	42,171
15	38,160	39,432	40,704	41,976	43,248	44,520	45,792	47,064	48,336*	49,608*
16	44,756	46,248	47,740*	49,232*	50,724*	52,216*	53,708*	55,200*	56,692*	
17	52,429*	54,177*	55,925*	57,673*	59,421*					
18	61,449*									

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

Schedule 2 - FOREIGN SERVICE SCHEDULES

Part I - The Per Annum Salaries of Foreign Service Officers

	1	2	3	4	5	6	7
FSO-01	$57,853*	$59,781*	$61,449*				
02	44,430	45,911	47,392	$48,873*	$50,354*	$51,835*	$53,316*
03	34,642	35,797	36,952	38,107	39,262	40,417	41,572
04	27,453	28,368	29,283	30,198	31,113	32,028	32,943
05	22,137	22,875	23,613	24,351	25,089	25,827	26,565
06	18,179	18,785	19,391	19,997	20,603	21,209	21,815
07	15,222	15,729	16,236	16,743	17,250	17,757	18,264
08	13,014	13,448	13,882	14,316	14,750	15,184	15,618

Part II - The Per Annum Salaries of Foreign Staff Officers and Employees

	1	2	3	4	5	6	7	8	9	10
FSS-01	$34,642	$35,797	$36,952	$38,107	$39,262	$40,417	$41,572	$42,727	$43,882	$45,037
02	27,453	28,368	29,283	30,198	31,113	32,028	32,943	33,858	34,773	35,688
03	22,137	22,875	23,613	24,351	25,089	25,827	26,565	27,303	28,041	28,779
04	18,179	18,785	19,391	19,997	20,603	21,209	21,815	22,421	23,027	23,633
05	16,265	16,807	17,349	17,891	18,433	18,975	19,517	20,059	20,601	21,143
06	14,561	15,046	15,531	16,016	16,501	16,986	17,471	17,956	18,441	18,926
07	13,041	13,476	13,911	14,346	14,781	15,216	15,651	16,086	16,521	16,956
08	11,685	12,075	12,465	12,855	13,245	13,635	14,025	14,415	14,805	15,195
09	10,473	10,822	11,171	11,520	11,869	12,218	12,567	12,916	13,265	13,614
10	9,391	9,704	10,017	10,330	10,643	10,956	11,269	11,582	11,895	12,208

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION

	Minimum	Maximum
Section 4103 Schedule		
Chief Medical Director	single rate	$68,909***
Deputy Chief Medical Director	single rate	66,104**
Associate Deputy Chief Medical Director	single rate	63,315*
Assistant Chief Medical Director	single rate	61,449*
Medical Director	$52,429*	59,421*
Director of Nursing Service	52,429*	59,421*
Director of Podiatric Service	44,756	56,692*
Director of Chaplain Service	44,756	56,692*
Director of Pharmacy Service	44,756	56,692*
Director of Dietetic Service	44,756	56,692*
Director of Optometric Service	44,756	56,692*
Physician and Dentist Schedule	$44,756	$56,692*
Director grade	41,327	53,729*
Executive grade	38,160	49,608*
Chief grade	32,442	42,171
Senior grade	27,453	35,688
Intermediate grade	23,087	30,017
Full grade	19,263	25,041
Associate grade		
Nurse Schedule	$38,160	$49,608*
Director grade	32,442	42,171
Assistant Director grade	27,453	35,688
Chief grade	23,087	30,017
Senior grade	19,263	25,041
Intermediate grade	15,920	20,699
Full grade	13,700	17,813
Associate grade	11,712	15,222
Junior grade		
Clinical Podiatrist and Optometrist Schedule	$38,160	$49,608*
Chief grade	32,442	42,171
Senior grade	27,453	35,688
Intermediate grade	23,087	30,017
Full grade	19,263	25,041
Associate grade		

*Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position or grade at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

**Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position at a rate which exceeds the rate for level IV of the Executive Schedule in effect on September 30, 1978, which is $50,000.

***Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position at a rate which exceeds the rate for level III of the Executive Schedule in effect on September 30, 1978, which is $52,500.

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Schedule 4 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
Part I - Monthly Basic Pay
(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
O-10[1]	$3298.20	$3414.30	$3414.30	$3414.30	$3414.30	$3545.10	$3545.10	$3816.90
O-9	2923.20	3000.00	3063.60	3063.60	3063.60	3141.90	3141.90	3272.10
O-8	2647.50	2727.00	2791.80	2791.80	2791.80	3000.00	3000.00	3141.90
O-7	2199.90	2349.60	2349.60	2349.60	2454.90	2454.90	2597.40	2597.40
O-6	1630.50	1791.90	1908.60	1908.60	1908.60	1908.60	1908.60	1908.60
O-5	1304.40	1531.80	1637.40	1637.40	1637.40	1637.40	1687.20	1777.50
O-4	1099.50	1338.30	1428.00	1428.00	1454.10	1518.90	1622.10	1713.60
O-3[2]	1021.80	1142.10	1220.70	1350.90	1415.40	1466.70	1545.30	1622.10
O-2[2]	890.70	972.90	1168.80	1208.10	1233.00	1233.00	1233.00	1233.00
O-1[2]	773.10	804.90	972.90	972.90	972.90	972.90	972.90	972.90

Pay Grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-10[1]	$3816.90	$4089.90*	$4089.90*	$4363.50*	$4363.50*	$4635.60*	$4635.60*
O-9	3272.10	3545.10	3545.10	3816.90	3816.90	4089.90*	4089.90*
O-8	3141.90	3272.10	3414.30	3545.10	3687.30	3687.30	3687.30
O-7	2727.00	3000.00	3206.10	3206.10	3206.10	3206.10	3206.10
O-6	1973.40	2286.00	2403.00	2454.90	2597.40	2817.00	2817.00
O-5	1896.30	2038.50	2155.80	2220.60	2298.30	2298.30	2298.30
O-4	1791.90	1869.90	1922.10	1922.10	1922.10	1922.10	1922.10
O-3[2]	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00
O-2[2]	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00
O-1[2]	972.90	972.90	972.90	972.90	972.90	972.90	972.90

1. While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $5114.70* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

2. Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $3958.20 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14
O-3	$1350.90	$1415.40	$1466.70	$1545.30	$1622.10	$1687.20
O-2	1208.10	1233.00	1272.30	1338.30	1389.90	1428.00
O-1	972.90	1039.20	1077.60	1116.60	1155.60	1208.10

Pay Grade	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-3	$1687.20	$1687.20	$1687.20	$1687.20	$1687.20	$1687.20
O-2	1428.00	1428.00	1428.00	1428.00	1428.00	1428.00
O-1	1208.10	1208.10	1208.10	1208.10	1208.10	1208.10

Warrant Officers

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
W-4	$1040.70	$1116.60	$1116.60	$1142.10	$1194.30	$1246.80	$1299.00	$1389.90
W-3	946.20	1026.30	1026.30	1039.20	1051.50	1128.30	1194.30	1233.00
W-2	828.60	896.10	896.10	922.20	972.90	1026.30	1065.00	1104.00
W-1	690.30	791.70	791.70	857.40	896.10	934.80	972.90	1013.10

Pay Grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$1454.10	$1505.70	$1545.30	$1596.00	$1649.40	$1777.50	$1777.50
W-3	1272.30	1310.40	1350.90	1403.10	1454.10	1505.70	1505.70
W-2	1142.10	1182.00	1220.70	1259.40	1310.40	1310.40	1310.40
W-1	1051.50	1090.20	1128.30	1168.80	1168.80	1168.80	1168.80

Enlisted Members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
E-9[1]	$0	$0	$0	$0	$0	$0	$1182.30	$1209.30
E-8	0	0	0	0	0	992.10	1019.70	1047.00
E-7	692.70	747.60	775.50	802.20	830.10	856.20	883.50	911.10
E-6	598.20	652.20	679.50	708.00	734.40	761.40	789.30	830.10
E-5	525.30	571.50	599.40	625.50	666.30	693.60	721.20	747.60
E-4	504.90	533.10	564.30	608.40	632.40	632.40	632.40	632.40
E-3	485.40	512.10	532.80	553.80	553.80	553.80	553.80	553.80
E-2	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40
E-1	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40

Pay Grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
E-9[1]	$1236.90	$1265.40	$1293.30	$1318.50	$1388.10	$1522.80	$1522.80
E-8	1074.60	1102.50	1128.00	1155.90	1223.70	1360.20	1360.20
E-7	952.20	979.20	1006.80	1019.70	1088.40	1223.70	1223.70
E-6	856.20	883.50	897.00	897.00	897.00	897.00	897.00
E-5	761.40	761.40	761.40	761.40	761.40	761.40	761.40
E-4	632.40	632.40	632.40	632.40	632.40	632.40	632.40
E-3	553.80	553.80	553.80	553.80	553.80	553.80	553.80
E-2	467.40	467.40	467.40	467.40	467.40	467.40	467.40
E-1	419.40	419.40	419.40	419.40	419.40	419.40	419.40

1. While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1851.00 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

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Part II - Basic Allowance for Subsistence Rates

Officers:	$62.80 per month
Enlisted Members:	
When on leave or authorized to mess separately:	$3.00 per day
When rations in-kind are not available:	$3.38 per day
When assigned to duty under emergency conditions where no messing facilities of the United States are available:	$4.48 per day

Part III - Monthly Basic Allowance for Quarters Rates

Pay Grade	Without Dependents		With Dependents
	Full Rate 1	Partial Rate 2	
Commissioned Officers			
0-10	$357.90	$50.70	$447.60
0-9	357.90	50.70	447.60
0-8	357.90	50.70	447.60
0-7	357.90	50.70	447.60
0-6	321.30	39.60	391.80
0-5	296.10	33.00	356.70
0-4	263.70	26.70	318.30
0-3	231.90	22.20	286.20
0-2	201.30	17.70	254.70
0-1	156.90	13.20	204.60
Warrant Officers			
W-4	$254.10	$25.20	$306.60
W-3	226.50	20.70	279.30
W-2	197.10	15.90	250.50
W-1	177.90	13.80	230.40
Enlisted Members			
E-9	$191.70	$18.60	$269.70
E-8	176.70	15.30	249.30
E-7	150.30	12.00	231.90
E-6	136.50	9.90	213.30
E-5	131.10	8.70	195.90
E-4	115.80	8.10	172.50
E-3	103.50	7.80	150.30
E-2	91.50	7.20	150.30
E-1	86.40	6.90	150.30

1. Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

2. Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

Part IV - Monthly Rate of Cadet or Midshipman Pay

The rate of monthly cadet or midshipman pay authorized by Section 203(c) of Title 37 of the United States Code is adjusted from $332.70 to $351.00.

Schedule 5 - VICE PRESIDENT AND THE EXECUTIVE SCHEDULE

Vice President	$79,100*	Level III	$55,400****
Level I	$69,600**	Level IV	$52,800*****
Level II	$60,700***	Level V	$50,100******

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$75,000
**$66,000
***$57,500
****$52,500
*****$50,000
******$47,500

Schedule 6 - CONGRESSIONAL SALARIES

Senator	$60,700*
Member of the House of Representatives	60,700*
Delegate to the House of Representatives	60,700*
Resident Commissioner from Puerto Rico	60,700*
President pro tempore of the Senate	68,600**
Majority leader and minority leader of Senate	68,600**
Majority leader and minority leader of House of Representatives	68,600**
Speaker of the House of Representatives	79,100***

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$57,500
**$65,000
***$75,000

Schedule 7 - JUDICIAL SALARIES

Chief Justice of the United States	$79,100*
Associate Justices of the Supreme Court	$76,000**
Circuit Judges	$60,700***
District Judges	$57,500****
Judges of the Court of Claims	$60,700***
Judges of the Court of Customs and Patent Appeals	$60,700***
Judges of the Customs Court	$57,500****
Commissioners of the Court of Claims	$51,200*****
Referees in Bankruptcy (full-time)	$51,200*****

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$75,000
**$72,000
***$57,500
****$54,500
*****$48,500

[FR Doc. 78-28847 Filed 10-10-78; 10:05 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978–79 fiscal period, to be collected from handlers to support activities of the Cranberry Marketing Committee which locally administers the Federal marketing order covering cranberries.

DATES: Effective September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 929, as amended (7 CFR Part 929; 43 FR 29764), regulating the handling of cranberries grown in certain specified States, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

§ 929.219 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the period September 1, 1978, through August 31, 1979, will amount to $77,775.

(b) The rate of assessment for said period payable by each handler in accordance with § 929.41 is fixed at $0.03 per barrel or equivalent quantity of cranberries.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable cranberries handled from the beginning of such year which began September 1, 1978. To enable the Committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: October 5, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28594 Filed 10-10-78; 8:45 am]

[3410-02-M]

PART 966—TOMATOES GROWN IN FLORIDA

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container, and marking requirements. This will promote orderly marketing of such tomatoes by keeping less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: October 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 125 and order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

During the period October 15 through November 15, 1978, this regulation, designed to provide orderly marketing of Florida tomatoes, imposes a minimum grade of U.S. No. 3, a minimum size of 2⅛₂ inches in diameter and requires inspection of fresh shipments. The establishment of such requirements under marketing order No. 966 is necessary to keep undesirable tomatoes from being shipped to consumers.

Findings. (1) Pursuant to order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Florida Tomato Committee established pursuant to the order, and upon other available information, it is hereby found that the handling regulation, hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) The regulation imposes minimum grade, size, pack, container, and marking requirements on the handling of tomatoes. The regulation is based upon an appraisal of the crop and prospective market conditions as required in § 966.50 of the order. This regulation is necessary to prevent the handling of any tomatoes of lower grades or smaller sizes than those specified in the regulation, and to provide the trade and consumers with tomatoes of

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acceptable quality pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because shipments of tomatoes from the production area are expected to begin on or about the effective date hereof. The recommendation and supporting information for regulation were submitted to the Department after an open meeting of the Florida Tomato Committee; said meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting; and handlers registered under the order as required in § 966.113 have been informed of the proposal. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the regulation of the handling of such tomatoes, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date of the regulation.

The regulation is as follows:

§ 966.317 Handling regulation.

During the period October 15, through November 15, 1978, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraph (b) or (d).

(a) *Grade, size, container, and inspection requirements.* (1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter and be sized in accordance with § 2851.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$\frac{17}{32}$ inches in diameter and each container shall be marked to indicate the designated sizes.

(iii) Only the generic terms as defined in § 2851.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30, or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity, or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity, or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment may be caused for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear-shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform-type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of these regulations each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of these regulations but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes resorted, regraded, and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a)(1) and the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter and the container weight requirements of paragraph (a)(3) if such tomatoes comply with the inspection requirements of paragraph (a)(4).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) Size.

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer-size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section (title 7, chapter I, part 51 was redesignated title 7, chapter 28, part 2851 on June 27, 1977). Other terms in this section shall have the same meaning as when used in marketing agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under section 8e of the act and section 980.212 Import regulations (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$\frac{6}{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated October 5, 1978, to become effective October 15, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28620 Filed 10-10-78; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

PRICE SUPPORT REGULATIONS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the tobacco price support regulations to provide price support for a limited quantity of 1978 crop baled burley tobacco during five specified sale dates. This change in the price support regulations will accommodate a marketing research project being conducted by a trade group to determine the feasibility of marketing burley tobacco in bales to reduce the labor required for market preparation.

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-6695, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On July 6, 1978, notice was published in the FEDERAL REGISTER (43 FR 29130) inviting written comments, not later than August 7, 1978, on a proposal to change the price support regulations for burley tobacco. Under the proposed change, price support would be available for baled 1978-crop burley tobacco in quantities not to exceed 110 percent of the quantities approved by local ASC Committees following applications by producers. The quantity approved for any farm would be limited to the greater of 1,500 pounds or 5 percent of the effective farm quota, except that larger amounts would be approved if the total requested for all farms in a county is less than 5 percent of the effective quotas of all farms in the county. The change in price support regulations was requested by a trade group which is conducting a marketing experiment to determine whether it is feasible to market burley tobacco in bales and thus substantially reduce the costs of preparing the tobacco for market. The notice also invited comments on the grade loan rates to be applied for baled tobacco if the proposal is adopted.

Under present regulations, price support is available on burley tobacco only if it is tied in hands of about 20 leaves which is the traditional form in which burley tobacco is marketed. Under this amendment, price support will continue to be available on burley tobacco tied in hands and in addition will be available at the same grade loan rates on a limited quantity of 1978 crop baled burley tobacco under conditions substantially the same as set forth in the proposal.

DISCUSSION OF COMMENTS

Comments were received from 460 persons and organizations by the close of the comment period, August 7, 1978. The proposal was favored by 360 producers, 8 farm organizations, 1 State Department of Agriculture, 1 warehouse and 4 others. The proposal was opposed by 68 producers, 1 farm organization, 3 warehouses, 2 trade associations, 1 tobacco company and 5 others.

The responses received from 205 producers, 7 farm organizations, and 1 State Department of Agriculture recommended that the grade loan rates for baled tobacco be the same as for tobacco tied in hands. Responses received from 10 producers, 4 tobacco companies, 3 warehouses and 1 other, recommend that the grade loan rates be less for baled tobacco than for tobacco tied in hands.

Those favoring the proposal generally expressed the belief that baled marketing would enable producers to reduce costs as the labor required to prepare tobacco for market is considerably less for baled tobacco than for tobacco tied in hands. Others expressed the belief that baled marketing would enable all segments of the industry to take advantage of the cost reductions of more efficient marketing. Other reasons expressed for favoring the proposal were that: Tobacco can be packed in bales when too dry to be tied in hands and thus more time will be available for market preparation and the tobacco will be marketed with more desirable moisture content, and that labor available for preparing tobacco for market is scarce. Recommendations that the grade loan rates for baled tobacco be the same as for tobacco tied in hands generally reflected the belief that there would be no quality or value deterioration resulting from the marketing of baled tobacco.

The major thrust of the responses in opposition to the proposal was that (1) Baled marketing would be detrimental to quality, exports, prices, price support, orderly marketing and small farmers; (2) most producers are satisfied with and are not unduly burdened by marketing tobacco tied in hands as the average producer has less than 5,000 pounds and (3) a system working well (tied marketing) should not be replaced by an untried system (baled marketing). Recommendations that the grade loan rates for baled tobacco be lower than for tobacco tied in hands generally reflected the belief that the quality deterioration, additional handling costs and the inability of buyers to ascertain and select the precise qualities desired would reduce the value of baled tobacco making lower grade loan rates appropriate. The widely differing beliefs expressed by those opposing and those favoring the proposal point to a need for more definite information regarding the impact which a change to a less costly marketing package would have on the overall marketing situation. The proposed change, which would provide for the marketing with price support of a limited quantity of baled tobacco, would provide such information. Accordingly, after considering all comments received, it has been decided to adopt the proposed rules with certain editorial changes which relate to identification of the tobacco approved for baled marketing with price support. It has also been decided that the grade loan rates for the baled tobacco shall be the same as the grade loan rates to be established for burley tobacco tied in hands.

FINAL RULE

Accordingly, 7 CFR Part 1464 is amended by adding paragraph (e)(5) to § 1464.2 and by amending paragraph (a) of § 1464.7 to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(e) * * *

(5) For 1978 crop burley tobacco, eligible producers may obtain price support on tied tobacco and untied burley tobacco packed in bales and offered for auction sale, subject to the follow-

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ing conditions: (i) Applications for price support on baled tobacco: From September 1 through September 29, 1978, a producer who desires to market part of his/her burley tobacco in bales may request price support on such tobacco by filing an application with the local County ASC Committee. At the time of filing the application for price support on baled tobacco, the producer shall certify that all bales delivered for price support will meet the following specifications and conditions:

(A) The quality and condition of the tobacco contained in each bale offered for sale as a single lot will be representative of the quality and condition of the tobacco contained in all other bales of the same lot.

(B) The tobacco in each bale will be stalk-cured.

(C) The bales will not contain foreign matter or material.

(D) The bales will not be nested, and

(E) Any and all procedures and certifications which are normally required by law or regulation pertaining to burley production and marketing will be met and the applicable eligibility requirements for price support will also be met.

(ii) Limitation on quantity of tobacco which may be marketed in bales with price support: The maximum quantity of burley tobacco produced on a farm which a producer may market in bales with price support shall be 110 percent of the quantity approved for the farm by the County ASC Committee. A producer may make application for price support on any quantity of tobacco not in excess of the effective farm poundage quota. Approval of the quantity for price support shall be determined as follows:

(A) If the effective farm poundage quota is 1,500 pounds or less, the entire amount of tobacco specified in the application shall be approved.

(B) If the effective farm poundage quota is more than 1,500 pounds, the amount approved shall be the larger of 1,500 pounds or 5 percent of the effective farm poundage quota but not to exceed the quantity requested.

(C) Notwithstanding paragraph (e)(5)(ii)(B) of this section, if the total quantity approved in paragraphs (e)(5)(ii) A and B of this section for all farms in a county is less than 5 percent of the total effective farm poundage quota for all farms in the county, the amount approved for each farm in paragraph (e)(5)(ii)(B) of this section shall be increased by the lesser of the difference between the amount requested and the amount approved or an amount determined by subtracting the sum of the amounts approved in paragraph (e)(5)(ii) (A) and (B) from the total quantity requested on all applications, dividing the results into the amount determined by subtracting the amounts approved in paragraphs (e)(5)(ii) A and B of this section from 5 percent of the total effective farm poundage quota for all farms in the county to obtain a four place factor and multiplying the factor by the difference between the quantity requested and the amount approved for the farm in paragraph (e)(5)(ii)(B) of this section.

(iii) Limitation on the times during which price support will be available on baled tobacco: Price support shall be available on baled tobacco only on five sale dates at each warehouse. The sale dates may be specified by the Burley Sales Committee: Provided, That three of the sale dates shall be during 3 separate weeks preceding the normal Christmas holiday recess and two of the sale dates shall be during 2 separate weeks after the normal Christmas holiday recess.

(iv) Identification cards for tobacco approved for marketing in bales with price support: A Baled Burley Tobacco Identification card showing 110 percent of the pounds of baled tobacco approved for marketing with price support shall be issued for each farm for which approval is given. The identification card together with the 1978 burley tobacco marketing card shall be used to identify any baled tobacco for which price support is desired. The warehouse shall mark "No Price Support" on the basket ticket and on a sale bill for any baled tobacco not identified by an identification card. A separate basket ticket and sale bill marked "No Price Support" shall be prepared for that quantity of baled tobacco weighed in that is in excess of the balance of the pounds shown on the identification card.

(v) Specification of bales: (A) Bales accepted for price support must be approximately 1x2x3 feet in size.

(B) The leaves in bales accepted for price support must be untied and oriented.

(vi) Grade loans rates for tobacco delivered for price support: The grade loan rates for baled burley tobacco will be the same as the grade loan rates to be established for 1978-crop burley tobacco tied in hands in the traditional manner.

* * * * *

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kinds of tobacco for which marketing quotas have been terminated are eligible producers during the period for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if:

(1) An acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (parts 724, 725, and 726 of this title) for the applicable marketing year.

(2) All the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment or, if flue-cured tobacco, does not exceed:

(i) The acreage allotment established for his farm, or

(ii) 120 percent of the acreage allotment established for his farm in instances where the producer has left unharvested the 4 lower leaves, exclusive of plant bed leaves, on each stalk of tobacco produced on his farm and has previously entered into an agreement to do so with the local ASC county committee in accordance with procedures to be established by the Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to the local ASC county committee in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (part 718 of this title) for the applicable year, and has complied with any agreement which he may have entered into with the local ASC county committee with respect to not harvesting certain lower stalk leaves of flue-cured tobacco; and

(4) Pesticides containing DDT, TDE, toxaphene and endrin have not been used on the tobacco in the field or after being harvested, and the absence of such use of the pesticides has been reported to the local ASC county committee in accordance with applicable regulations issued under parts 724, 725, and 726 of this title; and

(5) The producer has complied with any certification he/she has signed regarding any baled 1978 crop burley tobacco delivered for price support.

An approved final Impact Analysis is available from Thomas A. VonGarlem, Acting Director, Price Support and Loan Division, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on October 3, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-28595 Filed 10-10-78; 8:45 am]

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 78-519]

REDUCTION AND SIMPLIFICATION OF REGULATIONS

Dated: October 3, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: These amendments shorten and simplify the regulations for the Federal Home Loan Bank System. Except as described below, the amendments are not intended to change the meaning or effect of the revised sections, but only to clarify them and remove unnecessary words.

EFFECTIVE DATE: November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-162, dated March 31, 1978, proposed to revise 12 CFR Parts 521-527, 531, and 532 to reduce and clarify the language of those regulations. The proposed revision included 23 substantive changes which would delete certain provisions, update others to express current Bank Board policy and make certain delegations of authority. The proposed revision was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14505-14517) with public comments to be received by June 1, 1978. Based on its consideration of comments received and other information available to it, the Bank Board has decided to adopt the proposed amendments with changes as discussed below.

The language of the following sections has been clarified or further simplified, without substantive change: §§ 521.8, 522.1, 522.5, 522.10, 522.11, 522.12, 522.13, 522.25, 522.26, 522.27, 522.61, 522.72, 522.75, 522.76, 523.5, 523.8, 523.10, 523.12, 524.4, 524.12, 525.2, 525.10, 525.13, 525.30, 526.1, 526.3, 526.6, 526.7, 531.1, and 531.10.

The following sections of the proposed regulations are revised or deleted for the reasons stated:

§ 521.5—The definition of "deposits in banks or trust companies" is expanded to include deposits in certain commercial banks in which Banks were authorized, under proposed § 524.11, to maintain deposits. Section 524.11 is thereby made superfluous, and it is deleted. The term "checking account" is replaced by "demand account" because that term more accurately describes the account maintained by the Banks with the Federal Reserve Bank of New York.

§ 522.21—The section is deleted, because the term of an appointed director is prescribed in section 7 of the Act.

§ 522.26—The requirement that a copy of the regulations regarding elections be sent to each nominee for Bank director is deleted, because nominees generally have access to those regulations, and printing and mailing additional copies is an unnecessary expense. The provision permitting ballots to be inspected only by Board members is deleted, because it is unnecessarily restrictive.

§ 523.1—Application forms shall be submitted in triplicate rather than duplicate. This conforms to existing Bank Board policy.

§ 523.6—The authority to adjust the amount of a member's stock in a Bank is given to the Bank rather than the board of directors, because adjustment is made in accordance with the requirements of the Act without need for director discretion.

§ 523.9—The section is deleted, because the Bank Board finds that transfer of Bank stock by members is sufficiently limited by the Act.

§ 523.11—The provision for commercial paper and Federal funds to be used as a supplement to liquid assets by mutual savings banks electing to maintain liquid assets in accordance with § 523.11(e) would be revised to delete the reference to Federal funds. Because of subsequent qalification of Federal funds as liquid assets under § 523.10, the reference to Federal funds in § 523.11 is no longer necessary.

§ 523.15—A member is required to submit its annual report to the Bank Board within 20 days of the date of the report rather than within 30 days. This change conforms to present Bank Board policy.

§ 526.10—The limitation on the total of a member's certificate accounts maturing in any consecutive three months is amended to specify that the member's total savings accounts on the day a certificate is issued or renewed shall be the basis for determining whether the issuance or renewal is prohibited.

The term "Director, Office of Federal Home Loan Banks," as used throughout the regulations has been changed to "Director, Office of District Banks," to reflect the present designation of that Office.

MAJOR PUBLIC COMMENTS

Of the 14 public comments received, 8 approved adoption of the proposed amendment without change. Suggestions for further simplification of language have been incorporated in the revised sections listed above. Comments which recommended substantive changes, other than the changes discussed above, included:

(1) The definition of "home" should be expanded to include duplexes.

The Bank Board believes the recommended change would not simplify the regulations and is therefore outside the scope of these amendments.

(2) Two commenters objected to the present prohibition of payment of bonuses to bank employees.

Permitting payment of bonuses would require a substantive change which is beyond the scope of these amendments.

(3) Two commenters objected to the proposed reduction in frequency of dividends paid by Banks.

The regulatory amendment is consistent with existing Board policy which limits Banks to annual payment of dividends.

(4) The penalty for early withdrawal should be made specific rather than remain a required minimum.

The recommended change would be substantive in nature and is therefore outside the scope of these amendments.

(5) The Bank Board should continue to set directors' fees, and outside legal fees should continue to be subject to Bank Board approval.

The Bank Board believes that added flexibility regarding such fees can be permitted without increasing risk to Banks or their members.

(6) The requirement that advertising of savings accounts include a rate that will apply to a savings account withdrawn before expiration of the time requirement applicable to it is inconsistent with the required minimum penalty for early withdrawal of certificate accounts.

The advertising requirement is applicable to savings accounts generally and is therefore broader than the penalty provision for certificate accounts.

Accordingly, the Bank Board hereby amends parts 521—527, 531, and 532, as follows:

1. Revise Part 521 to read as follows:

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PART 521—DEFINITIONS

Sec.
521.1 Act.
521.2 Bank.
521.3 Board.
521.4 Creditor liabilities.
521.5 Deposits in banks or trust companies.
521.6 Home mortgage.
521.6-1 Home.
521.6-2 Other dwelling unit.
521.7 Member.
521.8 Net assets.
521.9 Obligations of the United States.
521.10 Paid-in value of stock in a bank.
521.11 State.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 3 CFR, 1943-1948 Comp., unless otherwise noted.

§ 521.1 Act.

The Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 et seq.).

§ 521.2 Bank.

A Federal Home Loan Bank.

§ 521.3 Board.

The Federal Home Loan Bank Board or any official duly authorized to act in its behalf.

§ 521.4 Creditor liabilities.

Obligations, secured or unsecured, of a member.

§ 521.5 Deposits in banks or trust companies.

Includes a deposit in another Bank, a demand account of a Bank with a Federal Reserve Bank, or a deposit in such other depository as the Bank's board of directors may designate which, unless otherwise authorized, is a member of the Federal Reserve System or the Federal Deposit Insurance Corporation.

§ 521.6 Home mortgage

A mortgage on real estate in fee simple, or on a leasehold of (a) not less than 99 years which is renewable or (b) not less than 50 years from the date the mortgage was executed, which comprises one or more homes or other dwelling units, including first mortgages, real estate sales contracts, and other classes of first liens commonly given to secure advances on real estate by institutions in the State where the real estate is located which are authorized under the Act to become members, together with any credit instrument secured thereby.

§ 521.6-1 Home.

A structure designed for residential use by one family.

§ 521.6-2 Other dwelling unit.

A combination of rooms, suitable for a family, in a structure other than a home, designed primarily for residential use.

§ 521.7 Member.

An institution admitted to membership in a Bank.

§ 521.8 Net assets.

Gross assets less:
(a) The book value of accounts pledged to secure loans;
(b) If carried as a liability—
(1) Mortgages in process; and
(2) Mortgages on real estate owned;
(c) Reserves for depreciation on office building(s), fixtures, and furniture, unless these assets are carried at net figures with reserves shown as a deduction from their original cost;
(d) Special reserves established under § 545.18 of subchapter C of this chapter and similar reserves established by State-chartered institutions under State authority;
(e) Current expenses;
(f) Any similar item.

§ 521.9 Obligations of the United States.

All evidences of indebtedness issued, or fully guaranteed as to principal and interest, by the United States.

§ 521.10 Paid-in value of stock in a Bank.

Aggregate payments on the par value of stock.

§ 521.11 State.

Except as defined in § 522.29 of this subchapter, a State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

PART 522—ORGANIZATION OF THE BANKS

INCORPORATION

2. Revise §§ 522.1-522.25, add new § 522.26. Revise §§ 522.27-522.76 to read as follows:

§ 522.1 Charter.

A Bank's organization certificate.

CAPITAL

§ 522.5 Par value and price of stock.

The capital stock of each Bank shall be sold at par, unless the Board has fixed a higher price.

§ 522.6 Dividends.

A Bank's board of directors may, with approval of the Board, declare to stockholders of record at close of business on December 31 a dividend from net earnings or undivided profits on the paid-in value of capital stock outstanding on that date. On stock purchased during the dividend period, dividends shall be computed (after deducting amounts of any stock repurchased) only for the period such stock was outstanding.

§ 522.10 Issuance of stock certificates.

A Bank shall issue to each new member, as of the effective date of membership, a certificate of stock in the member's name for the amount of its stock subscription; but the Bank shall hold stock certificates so issued until it has received full payment therefor. If a member changes its name, a new certificate shall be issued.

§ 522.11 Stock in consolidations.

Upon consolidation of two or more member institutions into one institution operating under the charter of one of the consolidating institutions, the stock subscriptions of the institutions, other than the survivor, may be refunded to the consolidated institution after adjustment to the minimum number of shares it must hold under the act.

§ 522.12 Stock in reorganizations.

If a member institution reorganizes by transferring all or part of its assets to another institution, the Bank shall, subject to Board approval, and unless the member's stock is held to secure advances, refund to the member, or at its discretion to the institution acquiring the assets, the value thereof (not to exceed the amount paid in); or if the institution acquiring the assets has been approved for membership, the Bank may apply such value to the new member's stock subscription.

§ 522.13 Lost or destroyed certificates.

To replace lost or destroyed certificates, Banks may issue certificates marked "duplicate" on their face.

APPOINTMENT AND ELECTION OF DIRECTORS

§ 522.20 General.

Directors shall be appointed and elected as prescribed in section 7 of the Act.

§ 522.21 Director representing Puerto Rico.

Under section 7(e) of the Act, the Federal Home Loan Bank of New York shall have an additional elective director to represent members in Puerto Rico.

§ 522.22 Definition of member.

For purposes of §§ 522.23-522.26 the word "member" means a member of a Bank at the end of the calendar year preceding the election.

§ 522.23 Location of member.

Under section 7(c) of the Act, a member shall be considered located in the State in which it has its principal place of business. If a member's principal place of business is not in a State, the Board will designate a State in which such member shall be considered located, and may in its discretion change such designation from time to time.

§ 522.24 Report of stock investment.

Each Bank shall, by May 31 of each year, report to the Board, on prescribed forms, the number of shares of Bank stock each of its members was required to hold at the end of the preceding calendar year. Such number shall be conclusive for purposes of election of directors.

§ 522.25 Designation and nomination of elective directorship.

(a) By August 1 of each year, the Board will (1) notify each member of the number of elective directorships designated for the State in which the member is located; and (2) notify each member in each State for which an elective directorship is to be filled of its right to nominate an eligible person(s) therefor, and provide each such member the following:
(i) A list of members located in its State;
(ii) A current list of directors of the Bank of which it is a member, containing the name of each director, the name and address of the member institution with which he is affiliated, and the expiration date of his term; and
(iii) The nominating certificate.
(b) Each member in each State entitled under these regulations to participate in the election of directors may by resolution of its governing body nominate, or authorize one of its directors or officers to nominate, a qualified person for each directorship to be filled in its State. The nominating certificate must be received in the Washington, D.C. Office of the Secretary to the Board by September 4.
(c) A letter will be sent to each nominee by September 18 informing him of his nomination. However, no such letter will be sent to any nominee (1) then serving as an elective director whose term does not expire until after close of the calendar year during which the election is being held; (2) holding an appointive directorship, unless the Secretary has received from him, before September 4, notice of his intention to be a candidate for a directorship; or (3) determined by the Board to be ineligible under section 7(d) of the Act. With such letter will be sent a list of nominees and a questionnaire. The completed questionnaire must be received in the Office of the Secretary by October 3 for the nominee to have his name placed on the election ballot. A nominee shall be eligible for election only if his name is so placed on the ballot.
(d) Notwithstanding other provisions of this section, if at any time when nominations are required the members of a Bank hold less than $1 million of the capital stock of the Bank, the Board will, in accordance with section 7(h) of the Act, appoint a director(s) to fill the place(s) for which nominations are required.

§ 522.26 Election of directors.

(a) By November 1, the Board will mail to each member in each State for which an elective directorship is to be filled a ballot, a voting certification envelope, a ballot envelope, and a self-addressed envelope. The ballot will contain in alphabetical order the name of each candidate to represent the members located in such State who has complied with the provisions of § 522.25, the name and address of the member institution with which each candidate is affiliated, the candidate's title in the member institution, and the number of votes the member may cast, determined under the provisions of paragraph (b) of this section.
(b) The number of votes each member may cast shall equal the number of shares of stock in the Bank required by the Act to be held by such member at the end of the calendar year preceding the election, but not in excess of the average number of such shares required by the Act to be held at the end of such calendar year by members in such State.
(c) Each member entitled to receive a ballot may, by resolution of its governing body, cast its votes or authorize one of its directors or officers to cast its votes for each of as many candidates as there are directorships to be filled. The completed ballot shall be placed in the ballot envelope, which shall be sealed and placed in the certification envelope. The certification thereon shall be executed and the envelope sealed and mailed in the self-addressed envelope to the Secretary to the Board and must be received by December 3.
(d) By December 15 the Board will declare elected the candidate receiving the highest number of votes cast, and, where two or more directorships are to be filled from the ballot, the Board will declare elected each candidate receiving the next succeeding highest number of votes until the number of candidates declared elected equals the number of directorships to be filled. If required by a tied vote, the Board will declare elected one of the candidates whose votes are tied.
(e) The Board will record the results of the election in its minutes and notify the directors elected. The Board will furnish each member such results, including the name of each candidate, the name and address of the institution with which he is affiliated and his title therein, the number of votes he received, the number of members eligible to cast votes for the directorship(s), and the total eligible votes all such members were entitled to cast.
(f) Election ballots will not be opened until after 5 p.m., e.s.t., December 3. Only ballots executed on forms supplies by the Board will be considered. No ballot may be changed after it is delivered to the Secretary, who will preserve all ballots until the end of the next calendar year. If any date specified in §§ 522.24-522.26 falls on a Saturday, Sunday, or holiday, the next business day shall be included in the time allowed. No nominating certificate, questionnaire, or ballot shall be considered unless received in the Office of the Secretary to the Board by the date specified.

§ 522.27 Prohibition of actions influencing votes.

No officer, attorney, employee, or agent of the Board or a Bank may individually or collectively take any action tending to influence votes for a directorship in a Bank, and no person shall include in any letter, literature, or other paraphernalia, language or any presentation indicating, directly or indirectly, that the Board, or any officer, attorney, employee, or agent of the Board or a Bank supports the candidacy of any person for an elective directorship. The Board, after hearing, may consider any such action grounds for dismissal from a directorship or may declare vacant the directorship involved, or both.

§ 522.28 Definition of "State".

As used in §§ 522.23, 522.25, and 522.26, a State, the District of Columbia, or Puerto Rico.

COMPENSATION AND DUTIES OF DIRECTORS

§ 522.60 Compensation.

Directors' fees shall be established by each Bank within limits set by the Board.

§ 522.61 Duties.

Bank directors, individually and collectively, have the specific duty of seeing that the Bank complies with applicable provisions of the Act and these regulations. Directors shall hold meetings and perform duties as prescribed in the Bank's bylaws.

SELECTION AND COMPENSATION OF OFFICERS AND EMPLOYEES

§ 522.70 Selection.

Officers, legal counsel, and employees of a Bank shall be elected or appointed in accordance with the Bank's bylaws. A full-time officer or employee of a Bank shall not act in any capacity for a member (other than the Federal Home Loan Mortgage Corporation) or institution insured by the Federal Sav-

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ings and Loan Insurance Corporation under any understanding providing for continuous or repeated services, or act in any capacity for any such institution in any matter requiring action by the Bank or any of its directors, except when employed by, or with the consent of, the Insurance Corporation in cases involving payment of insurance, loans, purchases of assets or contributions by the Insurance Corporation under section 405 or 406 of the National Housing Act, as amended. These employment prohibitions shall apply to counsel and attorneys of any Bank, whether employed on a salary, fee, retainer, or other basis, except where such employment is with prior consent of the Board, and to the extent of such consent.

§ 522.71 Compensation.

(a) The board of directors of each Bank shall annually adopt and submit to the board for its approval an appropriate resolution showing the contemplated compensation of its President.

(b) The board of directors of each Bank may fix the compensation for each officer other than President within ranges established by the Board and the total limits for such compensation in the Bank's approved budget. Each Bank may establish the amount and form of compensation of all other employees (including legal counsel) within the limits set forth in its approved budget. A bank shall not pay any director, officer, employee, or other person a bonus.

§ 522.72 Indemnification.

(a) *Definitions and rules of construction.* (1) Definitions for purposes of this section.

(i) *Action.* Any judicial or administrative proceeding, or threatened proceeding, whether civil, criminal, or otherwise, including any appeal or other proceeding for review;

(ii) *Court.* Includes, without limitation, any court to which or in which any appeal or any proceeding for review is brought.

(iii) *Final judgment.* A judgment, decree, or order which is not appealable or as to which the period for appeal has expired with no appeal taken.

(iv) *Settlement.* Includes entry of a judgment by consent or confession or a plea of guilty or nolo contendere.

(2) References in this section to any individual or other person, including any Bank, shall include legal representatives, successors, and assigns thereof.

(b) *General.* Subject to paragraph (c) of this section, a Bank shall indemnify any person against whom an action is brought or threatened because that person is or was a director, officer, or employee of the Bank, for:

(1) Any amount for which that person becomes liable under a judgment in such action; and

(2) Reasonable costs and expenses, including reasonable attorney's fees, actually paid or incurred by that person in defending or settling such action, or in enforcing his rights under this section if he attains a favorable judgment in such enforcement action.

(c) *Requirements.* Indemnification shall be made to such person under paragraph (b) of this section only if:

(1) Final judgment on the merits is in his favor; or

(2) In case of (i) settlement, (ii) final judgment against him, or (iii) final judgment in his favor, other than on the merits, if a majority of the directors of the Bank determine that he was acting in good faith within the scope of his employment or authority as he could reasonably have perceived it under the circumstances and for a purpose he could reasonably have believed under the circumstances was in the best interests of the Bank or its members. However, no indemnification shall be made unless the Bank gives the Board at least 60 days' notice of its intention to make such indemnification. Such notice shall state the facts on which the action arose, the terms of any settlement, and any disposition of the action by a court. Such notice, a copy thereof, and a certified copy of the resolution containing the required determination by the board of directors shall be sent to the Secretary to the Board, who shall promptly acknowledge receipt thereof. The notice period shall run from the date of such receipt. No such indemnification shall be made if the Board advises the Bank in writing, within such notice period, of its objection thereto.

(d) *Insurance.* A Bank may obtain insurance to protect it and its directors, officers, and employees from potential losses arising from claims against any of them for alleged wrongful acts, or wrongful acts, committed in their capacity as directors, officers, or employees. However, no Bank may obtain insurance which provides for payment of losses of any person incurred as a consequence of his willful or criminal misconduct.

(e) *Payment of expenses.* If a majority of the directors of a Bank concludes that, in connection with an action, any person ultimately may become entitled to indemnification under this section, the directors may authorize payment of reasonable costs and expenses, including reasonable attorneys' fees, arising from the defense or settlement of such action. Before making such payment the Bank shall obtain an agreement that it will be repaid if such person is later determined not to be entitled to such indemnification.

(f) *Exclusiveness of provisions.* No Bank shall indemnify any person referred to in paragraph (b) of this section or obtain insurance referred to in paragraph (d) of this section other than in accordance with this section.

DUTIES OF OFFICERS

§ 522.75 General.

The President and other officers shall have the powers and duties prescribed in the Bank's bylaws and these regulations.

§ 522.76 President.

The President of each Bank shall be its chief administrative officer and shall supervise each member's compliance with the act and these regulations. He shall request a member not so complying to do so, and if the member does not thereafter comply, shall report the matter, or cause it to be reported, to the Board.

3. Revise paragraph (a) of § 522.80 to read as follows:

OFFICE OF FINANCE

§ 522.80 General.

(a) An Office of Finance is hereby established, which shall be located in Washington, D.C., and shall perform the functions set forth in § 522.81.

* * * * *

4. Amend the first two sentences of paragraph (b) of § 522.81 to read as follows:

§ 522.81 Functions of Office of Finance.

(a) * * *

(b) The Office of Finance shall maintain in a checking account in a commercial bank approved by the Board an "imprest fund" in a maximum amount approved by the board. Such account shall be subject to withdrawal by check or draft signed by either the Director, or by another person(s) designated by the Board. * * *

5. Amend the first sentence of § 522.82 to read as follows:

§ 522.82 Budget and expenses.

The Office of Finance shall annually submit to the Board by December 1 a budget of its proposed expenditures for the following calendar year. * * *

6. Amend the first sentence of paragraph (a) of § 522.87 to read as follows:

§ 522.87 Budget and expenses.

(a) The Office of Neighborhood Reinvestment shall annually submit to the Board by December 1 a budget of its proposed expenditures for the following calendar year. * * *

* * * * *

7. Revise §§ 523.1-523.8, delete § 523.9, Revise §§ 523.10-523.25, Revise §§ 523.30 and 523.31, delete § 523.32 to read as follows:

PART 523—MEMBERS OF BANKS

APPLICATION FOR MEMBERSHIP

§ 523.1 Application form.

An applicant for membership shall submit Board-approved forms in triplicate to its district Bank.

§ 523.2 Examination and review of application.

Bank officers designated by its board of directors shall consider the application and obtain any additional information they consider appropriate. They shall make recommendations to the board of directors or the executive committee, which may also obtain additional information, and which shall send the application with its recommendations to the Board. Between meetings of the board of directors or executive committee, such officers may, if authorized to do so by the Bank's board of directors, send applications and their recommendations to the Board, and report their action to the next meeting of the board of directors or executive committee, whichever occurs first.

§ 523.3 Board action on applications.

On receipt of notice of Board action, the Bank will inform the applicant of such action and, if the application is approved, transmit to the applicant the membership certificate received from the Board.

§ 523.3-1 Automatic Board approval in certain cases.

A member removed from membership solely because its status as an insured institution under the National Housing Act is terminated by its conversion to an institution insured by the Federal Deposit Insurance Corp. shall, on the effective date of such conversion, be automatically approved by the Board as a member, if its Bank has approved a request by the member's board of directors or board of trustees for such membership. In such case, all relationships existing between the member and the Bank at the time of such conversion may continue.

STOCK SUBSCRIPTION

§ 523.4 Subscription.

An applicant shall subscribe for stock when it applies for membership.

§ 523.5 Additional subscription.

At the end of each calendar year, a Bank shall notify any member if additional stock subscription is required.

§ 523.6 Adjustments in holdings.

A Bank may from time to time increase or decrease the amount of stock of any member to conform to section 6(c) of the act. If such amount is decreased upon proper application of the member, the Bank shall pay for each share, on its surrender, the value thereof determined under section 6(i) of the act, or, at its election, credit any part of such payment against the member's debt to the Bank. A Bank may require a member to give 30 days' written notice of intention to apply for such a decrease, and a member's holdings shall not be reduced to an amount less than required by section 10(c) of the act.

§ 523.7 Excess subscription.

With Bank approval, a member may subscribe for stock over the minimum amount, if the law under which the member operates so permits.

§ 523.8 Payment on subscription.

An applicant may, under section 6(d) of the act, pay in installments for subscribed stock. If an applicant's admission to membership is substantially delayed following application, and it has furnished all information required and complied with applicable laws and Board regulations, it may make its second payment on admission, and succeeding payments as prescribed in section 6(d). All other subscriptions shall be paid in full before stock certificates are issued.

LIQUIDITY

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

(a) *Cash.* Cash on hand and unpledged demand deposits in a Bank, an insured bank, or the Bank for Savings and Loan Associations, Chicago, Ill., but not gold in any form.

(b) *Insured bank.* A commercial bank whose deposits are insured by the Federal Deposit Insurance Corp., not under control of any supervisory authority.

(c) *Liquidity base.* A member's net withdrawable accounts, or the policy reserve of a member insurance company required by State law, plus the member's short-term borrowings.

(d) *Net withdrawable accounts.* All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts or note accounts.

(e) *Short-term borrowings.* All borrowings payable on demand or in 1 year or less, but not including tax and loan accounts or note accounts.

(f) *Obligations of the United States.* Evidences of indebtedness issued by the United States, or issued by an agency or instrumentality thereof and fully guaranteed as to principal and interest by the United States.

(g) *Liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under this subsection or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

(1) Time deposits in a Bank or the Bank for Savings and Loan Associations, Chicago, Ill.;

(2) Except as the Board may otherwise direct in a specific case, obligations of the United States maturing in 5 years or less;

(3) Obligations with 5 years or less remaining until maturity, issued, or fully guaranteed as to principal and interest, by:

(i) A Bank(s);

(ii) The Federal National Mortgage Association;

(iii) The Government National Mortgage Association;

(iv) A Bank(s) for Cooperatives, including the Central Bank for Cooperatives;

(v) A Federal Land Bank(s);

(vi) A Federal Intermediate Credit Bank(s);

(vii) The Tennessee Valley Authority;

(viii) The Export-Import Bank of the United States;

(ix) The Commodity Credit Corporation; or

(x) The Federal Financing Bank;

(4) Time and savings deposits in an insured bank and loans of unsecured day(s) funds (Federal funds or similar unsecured loans to insured banks) to an insured bank, if:

(i) The total of all savings and time deposits, including loans of unsecured day(s) funds, of the member in one bank does not exceed the greater of (*a*) one-fourth of 1 percent of the total deposits of such bank (as shown by its last published statement preceding the date of deposits or acquisition by the member), or (*b*) $40,000;

(ii) Except for loans of unsecured day(s) funds such time deposits are (a) negotiable and will mature in 1 year or less, (b) not negotiable and will mature in 90 days or less, or (c) not withdrawable without notice and the notice periods do not exceed 90 days;

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(iii) Loans of unsecured day(s) funds will mature in 6 months or less; and

(iv) The priority of claims of a lender of unsecured day(s) funds is not subordinate to claims of depositors in the borrower thereof;

(5) Bankers' acceptances of an insured bank if:

(i) The total of all such acceptances of the same bank held by the same member does not exceed one-fourth of 1 percent of total deposits of such bank (as shown by its last published statement of condition preceding the date of acceptance);

(ii) Such acceptances will mature in 9 months or less; and

(6) General obligations (other than gold-related obligations) of any State, territory, or possession of the United States, or political subdivision thereof, if:

(i) Such obligations continue to be either (*a*) rated in one of the four highest grades by the most recently published rating of such obligations by nationally recognized investment rating service or (*b*) issued by a public housing agency and have the full faith and credit of the United States pledged under § 1421a(c) or § 1437i(a) of Title 42 of the United States Code, as amended; and

(ii) Such obligations will mature in 2 years or less.

(h) *Short-term liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under subsection (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement):

(1) Time deposits specified in paragraph (g)(1) of this section;

(2) Obligations specified in paragraphs (g) (2) and (g) (3) of this section, which will mature in 12 months or less;

(3) Time and savings deposits, including loans of unsecured day(s) funds, which qualify as liquid assets under paragraph (g) (4) of this section and, in the case of such time deposits which are negotiable, will mature in 6 months or less;

(4) Bankers' acceptances specified in paragraph (g) (5) of this section which will mature in 6 months or less; and

(5) General obligations specified in subdivision (g) (6) (i) (*b*) of this section which will mature in 6 months or less.

§ 523.11 Liquidity requirements.

(a) *General.* Except as otherwise provided in paragraphs (b) and (d) of this section, for each calendar month, each member, other than a mutual savings bank with an election under paragraph (e) of this section in effect, shall maintain an average daily balance of liquid assets not less than 6.5 percent of the average daily balance of its liquidity base during the preceding calendar month, and each member, other than a mutual savings bank or an insurance company, shall maintain an average daily balance of short-term liquid assets of not less than 2.5 percent of the average daily balance of its liquidity base during the preceding calendar month.

(b) *Exception.* Instead of computing its liquidity requirement under paragraph (a) of this section, a member with less than $25,000,000 in total assets at the beginning of its current fiscal year may, by resolution of its board of directors, compute such requirement as a percentage of its liquidity base as of the end of the preceding calendar month. Such election shall remain in effect so long as the member continues to meet the asset requirement, unless sooner revoked by resolution of its board of directors.

(c) *Calculation of average daily balance.* For purposes of this section, § 523.10, and 523.12, the "average daily balance of liquid assets," "average daily balance of the member's liquidity base" shall be calculated by adding, respectively, the member's liquid assets, short-term liquid assets, or liquidity base, as of the close of each business day in a calendar month, and for any non-business day, as of the close of the nearest preceding business day, and dividing the respective total by the number of days in such month.

(d) *Reduction and suspension of liquidity requirements.* The Board may, to the extent and under conditions it may prescribe, permit a member to reduce its liquid assets below the minimum amount required by paragraph (a) of this section to meet withdrawals or pay obligations. The Board may suspend part or all of the liquidity requirements of said paragraph (a) whenever it determines that conditions of national emergency or unusual economic stress exist. Any such suspension, unless sooner terminated by its terms or by the Board, shall terminate after 90 days, but the Board may again suspend part or all of such requirement at any time.

(e) *Election for mutual savings banks.* Any member mutual savings bank may maintain liquid assets in accordance with this paragraph instead of the first sentence of paragraph (a) of this section. Any such member so electing shall maintain, for each calendar month, an average daily balance of liquid assets not less than 5 percent of its average daily liquidity base balance during the preceding calendar month, except as otherwise provided in paragraph (b) and (d) of this section, and such member shall maintain commercial paper aggregating not less than the difference between (1) the amount of liquid assets which, but for such election, would have been required under the first sentence of subsection (a) of this section and (2) the actual amount of its liquid assets.

§ 523.12 Deficiencies and penalties.

(a) *Calculation of deficiency.* (1) Except as provided in paragraph (a)(2) of this section, a member's liquid assets or short-term liquid assets for any calendar month are deficient in the amount that the average daily balance of such assets for such calendar month is less than the respective minimum amount required under § 523.11.

(2) A member, other than an insurance company, may reduce any deficiency under paragraph (a)(1) of this section as follows:

(i) For the first month of a current distribution period, by the amount of its aggregate net withdrawals (excess of withdrawals over cash savings received) from withdrawable accounts during the last 3 business days of the immediately preceding month and the first 10 calendar days of the current month; and

(ii) For the second month of the same distribution period, by one-half of such amount of aggregate net withdrawals; but

(iii) No such reduction shall reduce the member's liquidity requirement below 4 percent of its liquidity base at the end of the immediately preceding distribution period.

(b) *Calculation of penalty.* A member shall calculate the penalty for any deficiency under paragraph (a) of this section by multiplying the amount of deficiency by ½ the sum of 2 percent and the annual interest rate for advances of 1 year or less charged by the member's Bank on the last day of the month in which the deficiency occurred. The penalty for deficiencies in 1 month in both liquid assets and short-term liquid assets shall be calculated only on the larger deficiency. No penalty shall be calculated on any deficiency of $5,000 or less unless the Board so directs in a specific case.

(c) *Assessment of penalty; compromise, remission, or mitigation.* The Board hereby assesses a penalty against each member in the amount calculated under paragraph (b) of this section. The Board may, on application submitted by a member through its Bank, compromise, remit, or mitigate, any such penalty before collection thereof. The President of such Bank, or any officer thereof designated by him, may, subject to conditions he may impose, so compromise, remit, or mitigate such penalty, if he determines:

(1) The penalty would seriously harm the member; or

(2) The deficiency resulted from either:

(i) Temporary disruption of normal operation caused by negotiation or implementation of a merger or similar transaction; or

(ii) Any situation beyond the control of the member's management, including:

(*a*) Unforeseen delay in communication;

(*b*) Unexpectedly heavy savings withdrawal along with large disbursements on commitments;

(*c*) A natural disaster; or

(*d*) Abnormally heavy withdrawals caused by rumors.

However, no such penalty may be compromised, remitted, or mitigated if the member has failed to observe any condition of a prior compromise, remission, or mitigation.

§ 523.13 Reports; records.

(a) *Reports.* By the 10th day of the month following assessment of a penalty under § 523.12(c) a member shall submit to its Bank a report regarding such penalty on forms obtained from the Board or the Bank.

(b) *Records.* Each member shall maintain records verifying its compliance with liquidity requirements prescribed by the Board, and make them available to the Board, or its representative, during supervisory examinations and at other times the Board may direct.

§ 523.14 Payment of penalty.

When a member submits a report required by § 523.13(a) it shall enclose a check, payable to its Bank, in the amount of the penalty for the month covered by the report, unless the member makes application under § 523.12(c).

REPORTS AND EXAMINATIONS

§ 523.15 Reports.

Each member shall make a report of its affairs at the end of each half of its fiscal year on forms prescribed by the Board. The member shall send the original report to the Board and one copy to its Bank, within 20 days of the date of the report. A savings bank may submit, in place of such report, copies of reports which it regularly submits to the Federal Deposit Insurance Corporation or to the State supervisory authority and any additional information required to determine its minimum stock subscription.

§ 523.20 Examinations of members.

Examinations of members, if required because of inadequacy of State examination for purposes of the Banks, shall be made at least annually, as prescribed by the Board, and their costs, as determined by the Board, shall be paid by the member.

§ 523.25 Official membership insignia.

Members may display the approved insignia of membership on their documents, advertising, and quarters, and likewise use the words "Member Federal Home Loan Bank System."

WITHDRAWAL AND REMOVAL FROM MEMBERSHIP

§ 523.30 Procedure for withdrawal.

A Bank shall submit to the Board any notice of withdrawal filed with it by a member. A member may cancel its notice of withdrawal by notifying the Board any time before the effective date of withdrawal.

§ 523.31 Procedure for removal

(a) The following are grounds for removing a member from membership:

(1) Failure to comply with any provision of the Act or any regulation of the Board adopted under it.

(2) Insolvency. Any member building and loan association, savings and loan association, cooperative bank, or homestead association is insolvent if its assets are less than its obligations.

(3) Management or home-financing policies inconsistent with sound and economical home-financing or the purposes of the Act.

(b) If the Board believes any such ground exists, it will give the member at least 30 days' written notice of its intention to terminate the member's membership. Such notice shall be served as provided in Part 509 of this chapter and state the grounds for such action and the time and place of a hearing at which the member may be heard. Such hearing shall be conducted in accordance with Part 509.

7a. Part 524 is revised in its entirety as follows:

PART 524—OPERATIONS OF THE BANKS

Sec.

524.1 Investments.
524.2 Loans guaranteed under the Foreign Assistance Act of 1961.
524.3 Transfer of funds between banks.
524.4 Deposits from members.
524.5 Trustee powers.
524.6 Budgets.
524.7 Surety bonds.
524.8 Insurance.
524.9 Safe-keeping accounts.
524.10 Securities held in trust or as collateral.
524.11 Donations.
524.12 Accounting.
524.13 Gold and gold-related transactions.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., unless otherwise noted.

§ 524.1 Investments.

(a) Banks may acquire or dispose of securities with prior approval of the Board or its designated representative or in conformity with (1) authorizations of the Board or such representative or (2) stated Board policy. A Bank's board of directors may authorize Bank officer(s) to acquire or dispose of securities qualifying as liquidity for deposits under the investment policy of the Board as in the judgment of the officer(s) is necessary in the operation of the Bank. Any other acquisition or disposition must be authorized in advance by a majority of the board of directors, executive committee, or investment committee consisting of three or more persons a majority of whom are directors of the Bank. Single acquisitions or dispositions may be so authorized, or acquisitions and/or dispositions of securities of a stated amount maturing within specified dates as in the judgment of the officer(s) designated in the authorization are necessary in the operation of the Bank, may be so authorized, for periods of 90 days or less.

(b) Compliance with sections 11 and 16 of the act shall be determined based on the principal amount of obligations of the United States.

(c) Advances to members maturing within 18 months secured by home mortgages or obligations of the United States are investments in compliance with section 11(g) of the Act.

(d) Cash reserves may be held temporarily, awaiting investment opportunity, without violating section 16 of the Act.

§ 524.2 Loans guaranteed under the Foreign Assistance Act of 1961.

With prior approval of the Board, a Bank's board of directors may authorize it to acquire, hold, or dispose of any of the following loans, or interests therein, primarily to facilitate acquisition of participation interests in such loans by members authorized to make such investment:

(a) Housing project loans with any guaranty under section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1969;

(b) Loans with any guaranty under section 224 of such Act, as in effect before December 30, 1969; or

(c) Loans with any guaranty under sections 221 or 222 of such Act, as in effect after December 29, 1969.

Prior approval of the Board is not required to repurchase a participation interest previously sold to a member.

§ 524.3 Transfer of funds between Banks.

Interbank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks. If agreement on terms cannot be reached, the Director, Office of District Banks, may establish terms.

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§ 524.4 Deposits from members.

(a) Banks may accept demand deposits from members, but shall pay no interest thereon.

(b) Banks may accept time deposits from members, reserving the right to require notice of intention to withdraw any part of such deposits. Rates of interest paid on such deposits shall be set by the Bank's board of directors, or between regular meetings thereof, by a committee of directors selected by the board, or the Bank President if he is so authorized by the board. Unless otherwise specified by the board, a Bank President may delegate to any officer or employee of the Bank any authority he possesses under this subsection.

§ 524.5 Trustee powers.

A Bank may act, and make reasonable charges for doing so, as trustee of any trust affecting the business of any member or any institution or group applying for membership or for insurance of accounts, or any group applying for a charter for a Federal Savings and Loan Association, if:

(a) Such trust is created or arises for the benefit of the institution or its savers, investors, or borrowers, or for promotion of sound and economical home financing; and

(b) In the case of applicants, the Bank ceases to act as trustee if the application is withdrawn or rejected.

§ 524.6 Budgets.

As prescribed by the Board or its designee, each Bank shall prepare and submit to the Board for its approval a budget and certification of compliance of this subchapter signed by the Bank President. Each Bank will operate within such budget as approved or as it may be amended by the Bank's board of directors within limits set by the Board. Any amendment beyond such limits must be submitted to the Board for approval. The Director or Deputy Director, Office of District Banks, may approve amendments within limits set by the Board.

§ 524.7 Surety bonds.

Each Bank shall maintain adequate surety bonds covering all officers, employees, attorneys, or agents having control over, or access to, moneys or securities owned by the Bank or in its possession. The form, amount, and issuer of such bonds shall be approved by the Director or Deputy Director, Office of District Banks. Each bond shall require the insurer to notify the Board of cancellation of the bond or reduction of its coverage. A copy of the bond and evidence of its continuation shall be submitted to the Board.

§ 524.8 Insurance.

Each Bank shall maintain insurance required by law, and may maintain any additional insurance its board of directors considers necessary for its protection.

§ 524.9 Safe-keeping accounts.

Securities owned by each Bank shall be held in the Federal Reserve Bank of New York or the Federal Reserve Bank of Chicago, subject to order of the Secretary of the Treasury, who will promptly transmit to the Federal Reserve Bank concerned all orders affecting such holding which the Board delivers to him. However, a Bank may arrange with a Federal Reserve Bank or one of its depositary commercial banks to hold United States Treasury Bills or Certificates of Indebtedness owned by it subject only to its order. Any special series United States Treasury Notes held by or for the account of any Bank may be held with the Treasurer of the United States or any depositary Designated by the Board.

§ 524.10 Securities held in trust or as collateral.

Bonds and negotiable securities held by a Bank as collateral or in trust shall be placed in custody of a Federal Reserve Bank or branch thereof, a financial institution which is a member of the Federal Reserve System or the Federal Deposit Insurance Corporation, or under other arrangement approved by the Board. However this section shall not apply to bonds and negotiable securities held in custody under the plan for holding security transactions of member institutions approved August 13, 1943.

§ 524.11 Donations.

A Bank may contribute to charitable organizations provided that in any calendar year donations do not exceed $1,000 to any one organization or $5,000 in total. Each donation shall be approved by the Bank's board of directors. Exceptions shall be made only with prior approval of the Director or Deputy Director, Office of District Banks.

§ 524.12 Accounting.

Each Bank's accounting system is subject to approval by the Board, and its accounting forms are subject to approval by the Director, Office of District Banks.

§ 524.13 Gold and gold-related transactions.

No Bank may engage in any capacity or manner in any transaction or activity involving gold (including gold coin) or gold-related instruments or securities.

7b. Part 525 is revised in its entirety to read as follows:

PART 525—ADVANCES

GENERAL PROVISIONS RESPECTING ADVANCE

Sec.
525.1 Limitations on advances.
525.2 Extension of credit.
525.3 Interest rates.
525.4 Bank stock collateral.
525.7 Gold and gold-related securities ineligible as collateral.

ADVANCES SECURED BY HOME MORTGAGES OR OBLIGATIONS OF THE UNITED STATES

525.10 Terms of advances.
525.11 Determination of value of mortgage collateral.
525.12 Joint home and business property, joint dwelling units and business property.
525.13 Home mortgages exceeding $60,000.
525.14 Past due mortgages.
525.15 Curing delinquencies on past due mortgages.
525.16 Mortgage moratoria.
525.17 Mortgage collateral becoming past due.
525.18 Mortgages subject to prior tax liens.
525.19 Reports on mortgage collateral.
525.20 Split mortgages.
525.21 Additional collateral.
525.25 Advances secured by other securities.
525.26 Advances secured by members' deposits.
525.30 Acceleration of maturity.
525.31 Advances to pay debts.
525.32 Short term advances.

ADVANCES TO NON-MEMBER MORTGAGEES

525.33 Lines of credit.
525.34 Eligible institutions.
525.35 Rates of interest.
525.36 Application for advances.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., unless otherwise noted.

GENERAL PROVISIONS RESPECTING ADVANCES

§ 525.1 Limitations on advances.

A Bank shall not, unless the Board otherwise directs, make advances to any member exceeding in the aggregate the lesser of (a) the amount for which such member can legally obligate itself, or (b) 50 percent of its net assets, or (c) 50 percent of its liability for shares and deposits.

§ 525.2 Extension of credit.

Each Bank's board of directors shall adopt, and review at least semiannually, a policy on extension of credit to members consistent with this subchapter and stated Board policy. A Bank's officers designated by its board of directors may extend or deny credit and take other action consistent with such credit policy. Exception shall be made only with prior approval of the board of directors, or a committee it has designated to approve exceptions, and in accordance with this subchapter and Board policy. The board of directors shall require such officers to report promptly to it or the executive committee all actions taken under this section and shall review such actions for compliance therewith.

§ 525.3 Interest rates.

Rates of interest on advances to members shall, within the range established by the Board, be set by the board of directors of each Bank, or between regular meetings of the board, by a committee of directors selected by the board, or the Bank President if he is so authorized by the board. Unless the board otherwise specifies, a Bank President may delegate any authority he possesses under this section to any officer or employee of the Bank.

§ 525.4 Bank stock collateral.

Under section 10(c) of the act, a Bank need not actually possess fully paid stock certificates before making an advance to a member, but such stock should be assigned in the note or other form of obligation used.

§ 525.7 Gold and gold-related securities ineligible as collateral.

No Bank may make an advance secured by, or accept as security for any obligation, gold or gold-related instruments or securities.

ADVANCES SECURED BY HOME MORTGAGES OR OBLIGATIONS OF THE UNITED STATES

§ 525.10 Terms of advances.

Banks may, under section 10 of the act, make advances to members for periods up to 10 years secured by home mortgages or obligations of the United States.

§ 525.11 Determination of value of mortgage collateral.

Subject to limitations in the act, each Bank shall determine the collateral value of each mortgage.

§ 525.12 Joint home and business property; joint dwelling units and business property.

An otherwise eligible home mortgage is no ineligible because the real estate also comprises improvements other than a home or other dwelling unit(s).

§ 525.13 Home mortgages exceeding $60,000.

Banks may make advances to members secured by home mortgages up to $60,000, or $90,000 on dwellings in Alaska, Guam, or Hawaii. A home mortgage originally written for more than those amounts for each home or other dwelling unit covered by the mortgage, but reduced to not more than that sum, may secure advances, if otherwise eligible.

§ 525.14 Past due mortgages.

A home mortgage is "past due more than 6 months when presented", if presented (a) 6 months after its final maturity date, (b) 6 months after the holder has declared a default, or (c) when 6 months' payments thereon have accrued and remain unpaid after the holder of the mortgage could have declared the whole debt due.

§ 525.15 Curing delinquencies on past due mortgages.

Modification of a delinquent mortgage to make it eligible as collateral must be in writing.

§ 525.16 Mortgage moratoria.

Banks may give full faith and credit to acts of State legislatures extending home mortgage indebtedness.

§ 525.17 Mortgage collateral becoming past due.

A home mortgage which becomes more than 6 months past due while held by a Bank as collateral may be retained if the Bank obtains additional collateral it considers adequate to secure the loan.

§ 525.18 Mortgages subject to prior tax liens.

A home mortgage on property subject to a prior tax lien is eligible as collateral unless there is substantial danger such property will be sold for taxes. Full consideration shall be given to unpaid taxes when fixing the collateral value of such mortgages.

§ 525.19 Reports on mortgage collateral.

At least annually, each borrowing member shall report to its Bank the current status of each home mortgage pledged to the bank as collateral. The form of such report is subject to approval by the Director, Office of District Banks.

§ 525.20 Split mortgages.

If two or more mortgages on identical property secure a home mortgage loan(s) only part of which is amortized and othewise qualified, the amortized part may secure advances under sections 10(a)(2) and (3) of the act, but the unamortized part may secure advances only under section 10(a)(3) thereof. No such "split mortgage" may secure advances unless the entire mortgage debt is pledged.

§ 525.21 Additional collateral.

If eligible collateral for outstanding advances becomes deficient and the bank cannot correspondingly reduce the amount of advances, it may obtain any collateral to strengthen its position.

ADVANCES ON OTHER SECURITY AND UNSECURED ADVANCES

§ 525.25 Advances secured by other securities.

Banks may, under section 11(g)(3) of the act, make advances to members secured by securities othe than obligations of the United States, if (a) the member may legally invest in such securities and (b) the securities have a readily ascertainable market value and are not in default as to principal or interest. Such advances shall not exceed the lesse of 80 percent of the market value or principal amount of such securities, except that advances secured by Federal Home Loan Bank obligations may equal the face value thereof.

§ 525.26 Advances secured by members' deposits.

Under section 11(g)(3) of the act, advances secured by a member's time deposits may be made up to the total thereof for periods not exceeding 5 years or the maturity of such deposits, whichever is shorter.

§ 525.30 Acceleration of maturity.

Unless the Board authorizes othewise, each obligation representing an advance under section 11(g)(4) of the act shall permit the Bank to declare the obligation immediately due if the borrower's creditor liabilities, excluding liabilities to the Bank, exceed 5 percent of its net assets.

§ 525.31 Advances to pay debts.

Under section 11(g)(4) of the act, a Bank may make advances to a member whose creditor liabilities other than advances from the Bank exceed 5 percent of its net assets, if such other liabilities will be thereby reduced below that percentage.

§ 525.32 Short term advances.

In addition to advances permitted under section 11(g)(4) of the act, unsecured advances, or advances on any kind of readily available security, may be made to members under section 11(g)(3) of the act. Such advances must be approved by the Bank's executive committee, a majority of its directors, or two of its officers. Except with prior approval of the Board, the aggregate unpaid principal of advances made under this section and any other advances having an unexpired maturity of more than 30 days, excluding advances under § 525.10, 525.25, or 525.26, shall not exceed 5 percent of the member's withdrawable accounts.

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ADVANCES TO NON-MEMBER MORTGAGEES

§ 525.33 Lines of credit.

A Bank's board of directors or executive committee may establish a line of credit for each prospective nonmember mortgagee under section 10b of the act.

§ 525.34 Eligible institutions.

The term "chartered institution having succession and subject to the inspection and supervision of some governmental agency" in section 10b of the act means institutions subject by law to continual examination and supervision by some competent governmental agency. An institution may not qualify merely by contracting with the Federal National Mortgage Association, the Federal Housing Administration, or a similar agency to audit or examine it.

§ 525.35 Rates of interest.

Because non-member mortgagees have no capital investment in Bank stock, rates of interest on advances to them shall be at least one-half of 1 percent, but not more than 1 percent, higher than rates charged to members, unless the Board authorizes otherwise.

§ 525.36 Application for advances.

Applications non-member mortgagees shall be in writing on forms approved by the Director, Office of District Banks. A Bank may deny such an application or grant it on terms no more liberal than apply to advances to members.

PART 526—LIMITATION ON RATE OF RETURN

8. Revise §§ 526.1, 526.2, 526.2-1, and 526.3 to read as follows:

§ 526.1 Definitions used in this Part.

(a) *Member.* A member as defined in § 521.7 of this subchapter, other than a savings bank whose accounts are insured by the Federal Deposit Insurance Corporation or an institution whose home office is located on Guam.

(b) *Certificate account.* A savings account evidenced by a certificate which, if held for a fixed or minimum term, will receive a rate of return greater than on regular accounts.

(c) *Notice account.* A savings account requiring the holder to give 90 days' written notice before each withdrawal from the account, except as applicable law or regulation permits.

(d) *Regular account.* A savings account that is not a certificate account or a notice account.

(e) *Savings account.* Any withdrawable account, except a tax and loan account or note account.

(f) *Return.* Any economic benefit received by any person on, or with respect to, a savings account, except as otherwise provided in § 526.2.

(g) *Distribution period.* The period of time a member uses as a basis for distributing a return.

(h) *Announced rate.* The rate of return an institution has declared or advertised it will pay or anticipates paying for a distribution period or, if none, the rate of return paid for the immediately preceding distribution period.

(i) *Give-away.* Any premium given by a member to induce new savings accounts or additions to existing ones.

(j) *Supervisory Agent.* The president of the member's Bank or any other officer or employee of the Bank designated by the Board as agent under §§ 501.10 or 501.11 of this chapter.

(k) *Instrument.* Includes any paper writing by which payment or credit is made.

(l) *Transaction account.* A regular account of a member from which the owner may make withdrawals by negotiable or transferable instruments to make transfers to third parties and which consists of funds deposited to the credit of, or the entire beneficial interest is held by, one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit.

(m) *Public unit account.* Any savings account held by—

(1) An officer, employee, or agent of the United States having official custody of public funds and lawfully investing them in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

(2) An officer, employee, or agent of any State of the United States, Puerto Rico, or the Virgin Islands, or any county, municipality, or political subdivision thereof, as defined in § 561.5a of this chapter, having official custody of public funds and lawfully investing them in such an insured institution in such State, Puerto Rico, or the Virgin Islands, respectively.

(3) An officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing them in such an insured institution in the District of Columbia.

(n) *Tax and loan account.* An account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations; such accounts are not savings accounts or savings deposits.

(o) *Note account.* A note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable U.S. Treasury Department regulations. Note accounts are not savings accounts or savings deposits.

§ 526.2 Maximum rate of return.

(a) *Prohibition on paying more than the maximum prescribed rate.* Except as this Part provides, no member shall pay a return, directly or indirectly, by any means whatsoever. No member may pay a return at a rate exceeding the applicable maximum rate prescribed by the Board.

(b) *Exceptions.* Notwithstanding any reduction in such maximum prescribed rates, a member may pay a return on any savings account outstanding on the date of such reduction, as follows:

(1) *Regular account.* At the announced rate, for any part of a distribution period occuring before such effective date.

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period (except that certificate accounts under § 536.5(a)(8) may not be renewed at rates in excess of one-quarter of 1 percent above the Treasury bill rate in effect at the time of renewal), as the account remains outstanding.

(c) *Grace periods in computing return.* Members may treat funds received by the 10th of the month as if received on the 1st, and funds withdrawn during the last 3 business days of a calendar month ending a distribution period as if withdrawn at the end of such month, even if thereby the effective rate of return exceeds the maximum prescribed rate. This subsection (c) is not applicable to certificate accounts issued under § 526.3(a)(8).

(d) *Compounding.* In calculating rate of return, the effect of compounding may be disregarded.

(e) *Loans secured by savings accounts.* In calculating rate of return, the effect of monthly loans secured by a certificate or regular account equaling the proprotionate amount of the announced rate for the distribution period may be disregarded. A member shall make no loan secured by a savings account at a rate of interest less than 1 percent per year more than the rate of return on the account.

(f) *Give-aways.* In calculating rate of return, the value of give-aways shall not be included, if:

(1) The give-away is part of a nonrecurring promotional campaign to increase savings accounts; and

(2) The cost of the give-away to the member (excluding any shipping and packaging costs) does not exceed—

(i) $5 for investment of less than $5,000.

(ii) $10 for investment of $5,000 or more.

(g) *Calculation of earnings.* The time factor used to calculate earnings on a savings account shall be a fraction having as numerator the actual number of days funds in the account earn a return and as denominator 365 or, in leap year, 366. If an account matures in multiples of 1 month, the numerator may be the corresponding multiple of 30 days. A time factor of 360/360 may also be used, but a time factor of 365/360 may be used only if the Supervisory Agent determines the member would otherwise be at a disadvantage competing with other types of financial institutions in its savings service area.

§ 526.2-1 Rate of return payable on note accounts.

Members shall pay a return on note accounts at rates required by the U.S. Treasury Department.

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

(1) 5.25 percent—regular accounts.

(2) 5.75 percent—notice accounts, except public unit accounts, which may receive a rate of return as prescribed in § 526.3(c), and certificate accounts with a term or qualifying period of 90 days or more.

(3) 6.50 percent—certificate accounts of $1,000 or more with a term or qualifying period of 1 year or more.

(4) 6.75 percent—certificate accounts of $1,000 or more with a term or qualifying period of 30 months or more.

(5) 7.50 percent—certificate accounts of $1,000 or more with a term or qualifying period of 4 years or more.

(6) 7.75 percent—certificate accounts of $1,000 or more with a term or qualifying period of 6 years or more.

(7) 8 percent—certificate accounts of $1,000 or more with a term or qualifying period of 8 years or more.

(8) One-quarter of 1 percent above the rate established (auction average on a discount basis) for 6-month U.S. Treasury bills issued on or immediately prior to the date of deposit—certificate accounts of $10,000 or more having a term or qualifying period of 6 months (26 weeks). The rate may be rounded off only by rounding down.

(b) *Exceptions as to minimum amount.* (1) If a Bank determines that in the Standard Metropolitan Statistical Area, or county not in such Area, in which a member has its home office, a mutual savings bank with an office therein is paying a return on deposits with a minimum amount lower than the corresponding minimum prescribed in paragraph (a) of this section for certificates with the same maturity, the member may issue certificate accounts of the same maturity in such lower minimum amount.

(2) If a Bank determines that in the State in which a member has its home office (i) the total amount of savings capital in mutual savings banks exceeds 30 percent of total savings capital in mutual savings banks, savings and loan associations, building and loan associations, homestead associations, and cooperative banks and (ii) a mutual savings bank with an office in the State is paying a return on deposits with a minimum amount lower than the corresponding minimum prescribed in paragraph (a) of this section for certificate accounts of the same maturity, the member may issue certificate accounts of the same maturity in such lower minimum amount.

(3) Without regard to the minimum amount requirements, a member may pay a return as permitted by paragraph (a) of this section on certificate accounts issued under a plan providing for payment of a bonus if the saver makes at least 12 regular monthly payments.

(4) Without regard to the minimum amount requirements, a member may pay a return as permitted by subsection (a) of this section on certificate accounts which qualify as retirement accounts under section 401(d) or section 408(a) of the Internal Revenue Code of 1954.

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding the highest rate permitted under paragraph (a) of this section on (i) a public unit account of $1,000 or more which is a certificate account with a maturity of 30 days or more or a notice account (except that certificate accounts under paragraph (a) (8) must meet the minimum amount and maturity requirements prescribed therein), or (ii) a certificate account which qualities as a retirement account under section 401 (d) or section 408(a) of the Internal Revenue Code of 1954 and has a term of 3 years or more.

§§ 526.4 and 526.5 [Deleted]

9. Delete §§ 526.4 and 526.5.

§ 526.5-1 [Redesignated]

10. Renumber § 526.5-1 as § 526.3-1.

11. Revise §§ 526.6, 526.6-1, 526.7, 526.8, 526.9, and revise paragraph (a) of 526.10 to read as follows:

§ 526.6 Advertising interest or dividends on savings accounts.

The following rules apply to advertisements, announcements, or solicitations relating to interest or dividends paid on a member's savings accounts:

(a) *Annual rate of simple interest.* Interest or dividend rates shall be stated in terms of annual rates of simple interest or dividends.

(b) *Percentage yield based on 1 year.* If a percentage yield achieved by compounding interest or dividends during one year is stated, the annual rate of simple interest shall be stated with equal prominence, with reference to the basis of compounding. A percentage yield based on the effect of grace periods shall not be stated.

(c) *Percentage yield based on more than 1 year.* A total percentage yield, compounded or simple, based on more than 1 year, or an average annual percentage yield achieved by compounding during more than 1 year, shall not be indicated.

(d) *Time or amount requirements.* If a stated rate is payable only on savings accounts that meet time or amount requirements, such requirements shall be clearly and conspicuously stated. If the time requirement for a stated rate exceeds 1 year, the requred number of years shall be stated with equal prominence, with an indication of any lower rate(s) applicable if the savings account is withdrawn earlier.

(e) *Penalty for early withdrawals.* A clear and conspicuous notice shall be included stating that Federal regulations require a substantial interest penalty for withdrawal from a certificate account before maturity. Such notice may state, "A substantial interest penalty is required for early withdrawal."

(f) *Profit.* Interest or dividends paid on savings account shall not be called "profit."

(g) *Accuracy of advertising.* No representation may be inaccurate or misleading.

(h) *Solicitation of savings accounts for members.* This section applies to any person or organization soliciting savings accounts for a member.

(i) *Gold.* Any statement that any portion of interest or dividends is payable in gold (including gold coin), gold related instruments or securities, or an amount of money determined in any manner related to gold is prohibited.

§ 526.6-1 Disclosure on acceptance.

A member accepting a certificate account deposit shall give the depositor a written description of the applicable premature withdrawal penalty. Such statement need not be given on renewal of an existing certificate account.

§ 526.7 Penalty for early withdrawal.

(a) For any certificate account issued after October 31, 1973 (except as paragraph (b) of this section provides), a member shall impose the following conditions on any withdrawal before the end of the term or qualify-

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ing period: (1) The account holder shall receive interest or dividends from the date of issuance of the account on the amount withdrawn at a rate not exceeding the rate being paid on regular accounts; and (2) the account holder shall pay a penalty of at least (i) the interest or dividends at such rate for 90 days (3 months) on the amount withdrawn or (ii) all interest or dividends at such rate (since issuance or renewal of the certificate account) on the amount withdrawn.

(b) Such penalty need not be applied if (i) such withdrawal is made after death of the owner of the account; the "owner" is an individual who at death had full legal and beneficial title to all or part of the account and full power of disposition or alienation with respect thereto, including but not limited to power of revocation with respect to any trust, regardless of whether such owner was a trustee, of which such account comprises all or part of the trust assets; or (ii) the account qualifies as a retirement account under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to distribute the funds in the account following the participant's death or disability or after he becomes 59½ years of age.

§ 526.8 Transaction accounts.

A member having its home office in New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont may pay a return on transaction accounts, as follows:

(a) The rate of return shall not exceed 5 percent per year.

(b) A service charge may be imposed for handling instruments relating to such accounts.

(c) To the extent practicable, every advertisement, announcement, or solicitation relating to such accounts shall be limited to media directed toward residents of New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont with a substantial circulation or audience within those States. Section 526.6 shall apply to such advertisements, announcements, and solicitations.

§ 526.9 Payment of interest or dividends in gold or its equivalent.

No member shall pay any interest or dividend in (a) gold (including gold coin), (b) gold-related instruments or securities, or (c) an amount of money determined in any manner related to gold.

§ 526.10 Distribution of maturities of certificate accounts.

(a) *General.* No member shall issue or renew a certificate account if the issuance or renewal would cause the total of its certificate accounts maturing in any consecutive 3 months to exceed 30 percent of its total savings accounts on the date of the issuance or renewal.

* * * * *

12. Part 527 is revised in its entirety.

PART 527—HOUSING OPPORTUNITY ALLOWANCE PROGRAM

Sec.
527.1 General.
527.2 Definitions.
527.3 Middle-income families.
527.4 Low-income families.
527.5 Credit to member institutions.
527.6 Disbursement of funds to banks.
527.7 Retention of documents.
527.8 Recertification of income.

AUTHORITY: Sec. 101, 84 Stat. 450; 12 U.S.C. 1430nt.; sec. 16, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 3 CFR 1943-48 Comp.

§ 527.1 General.

Title I of the Emergency Home Finance Act of 1970, Pub. L. 91-351, authorizes the Board to disburse appropriated funds to Banks to adjust the effective interest rate on advances to member institutions and prescribe terms to assure that such funds are used to assist in providing housing for low- and middle-income families. This Part applies to loans for purchase of single-family dwellings.

§ 527.2 Definitions.

(a) *Adjusted annual income.* The total of—

(1) Adjusted gross income as defined in section 62 of the Internal Revenue Code; and

(2) "Tax-free" interest on governmental obligations.

(b) *Allowance.* A Housing Opportunity Allowance to be credited against interest due on loans and Bank advances.

(c) *Member institution.* A member, as defined in § 521.7 of this subchapter, whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or which agrees to permit and pay the cost of any examination the Board may require to insure compliance with this Part.

§ 527.3 Middle-income families.

Middle-income families receiving an allowance of $20 from a member institution under an outstanding commitment shall continue to receive that allowance until the commitment expires.

§ 527.4 Low-income families.

Low-income families receiving an allowance from a member institution under an outstanding commitment shall continue to receive that allowance. Subject to recertification of income category under § 527.8, the amount of such allowance and the number of monthly payments against which such allowance is credited are based on the adjusted annual income of the borrower when the application for an allowance was approved, expressed as a percentage of the applicable HOAP limits in the following table:

Adjusted annual income as percentage of maximum HOAP limits	Allowance for each of 1st 60 payments	Allowance for each of 3d 60 payments	Total allowances
65 to 66.7	$25	0	$1,500
63 to 64.9	30	0	1,800
61 to 62.9	35	0	2,100
59 to 60.9	40	20	3,600
57 to 58.9	45	25	4,200
54 to 56.9	50	30	4,800
52 to 53.9	55	35	5,400
50 to 51.9	60	40	6,000
40 to 49.9	65	45	6,600
39.9 and under	70	50	7,200

[1]The amount of the allowance may not exceed 75 percent of the principal and interest portion of a monthly installment payment.

§ 527.5 Credits to member institutions.

(a) *General.* Each member institution shall receive from its Bank a credit against interest due on advances equalling the total amount of allowances the member institution has properly credited.

(b) *Procedure.* Each member institution crediting allowances during a month shall, by the 20th day of the next month, submit to its Bank a report under subsection (c) of this section. Such member shall deduct from any subsequent bill for interest due on outstanding advances from the Bank an amount equalling the allowances so reported, and remit only the net amount.

(c) *Form of report.* The report required by subsection (b) shall be on a form prescribed by the Board and obtained from the Banks, and shall be signed by an officer of the member institution.

§ 527.6 Disbursement of funds to Banks.

Each Bank shall periodically submit vouchers certifying the amount of credits made under § 527.5 by the Bank against interest due on advances, and the Board shall promptly disburse to each Bank an amount equalling the total amount of such credits properly made by the Bank during the relevant period.

§ 527.7 Retention of documents.

A member institution shall retain its copy of each application for an allowance and the original of all other closing documents required at the closing of the loan on which the allowance is credited.

§ 527.8 Recertification of income.

If at the time of application for an allowance under § 527.4 the borrower's income did not exceed 60.9 percent of the applicable maximum HOAP limits, such income shall be recertified after the first 60 monthly installment payments are accepted by the member institution. The borrower shall provide information for the member institution to determine the borrower's continued eligibility and current income category. If, at the time of such recertification, the borrower's adjusted annual income still does not exceed the 60.9 percent limit, the borrower may receive allowance credits on 60 additional monthly installment payments. The amount of such credits shall correspond to the borrower's income category in the table in § 527.4, as of the time of approval of the original application for allowance or the time of recertification, whichever is lower. A copy of the recertification, signed by an officer of the member institution shall be promptly submitted to the member institution's Bank.

PART 531—STATEMENTS OF POLICY

13. Part 531 is amended by revising §§ 531.1, 531.4, 531.9, and 531.10 and by deleting §§ 531.3, 531.5, and 531.6. As amended Part 531 reads as follows:

§ 531.1 Policy on advances.

(a) Banks may make advances to members, subject to regulations and restrictions the Board may prescribe. Access by members to advances is a privilege which may be limited under the Act. Advances may be made to meet withdrawals, cover seasonal requirements, and expand residential mortgage portfolios. Advances shall not be made to permit redemption of accounts or payment of withdrawals requested or suggested by the member, but in a rare circumstance and for compelling reasons, a Bank may request the Board to approve making such an advance. In making advances to expand residential mortgage portfolios, Banks shall give due consideration to soundness of credit, need to stabilize home financing, discouragement of building booms, and prevention of distressed conditions in housing and mortgage markets.

(b) In granting advances, the soundness of the borrowing member shall be considered. Members with unsatisfactory credit practices, lower than desirable reserve levels or additions to reserves, high expense ratios, or other relevant unsatisfactory characteristics should be limited in or denied the use of advances for expansion.

(c) Advances should be used to meet clear needs for funds rather than to take advantage of rate differential. They should be made only for purposes consistent with the Act. Members should not seek credit in anticipation of withdrawals, and credit should not be granted to increase cash positions or purchase securities, except to permit the member to re-establish its normal liquidity.

(d) Members, loan commitments should not exceed reasonable levels, giving due consideration to (1) the member's condition and anticipated cash flows, (2) residential mortgage market requirements, and (3) the amount of credit the member's Bank has indicated it will make available.

(e) Regardless of previous credit determinations, loan officers of Banks should carefully examine advance applications to determine it they should be accepted, rejected, or modified. Particular attention should be given to precise purposes of the proposed advance and the type of properties and transactions for which funds are sought.

§ 531.4 Verification of collateral held by members under trust receipt.

A member may retain documents evidencing home mortgages it has assigned to its Bank to secure advances, if it provides a trust receipt or otherwise agrees to hold such documents for the benefit and subject to the direction and control of the Bank. In such cases, the Bank shall periodically verify that such mortgages exist and that the member has not intermingled such documents with other documents. This verification should be done by the member's auditor when the member is audited or, if the member is not audited regularly, by representatives of the appropriate supervisory authority when the member is examined. Such verification may also be made at any time by a representative of the Bank, and shall be so made if the Bank was not satisfied with the verification during the preceding 16 month period. Verification shall be done in accordance with generally accepted auditing standards and shall include tests of the member's books, records, and documents necessary to provided a reasonable basis for a conclusion and certification thereof. The Bank shall prescribe the type and form of certification.

§ 531.9 Interest rates on advances.

Except as the Board may otherwise provide, the following requirements shall apply to advances by Banks to their members:

(a) Obligations evidencing such advances shall, except under paragraph (b) of this section, be written at rates of interest within the range approved by the Board, calculated on the unpaid principal balance from time to time outstanding, and Banks shall not, except under paragraph (c) of this section, collect interest on such advances at a rate outside such approved range of rates, so calculated;

(b) Obligations evidencing such advances may provide that the holder of the obligation may (1) decrease the interest rate thereon and (2) by giving the member or principal obligor notice specified in the obligation, not exceeding 30 days, increase such rate to a rate not in excess of the maximum rate then permitted by the Board.

(c) Obligations evidencing such advances shall provide for an increase of not less than 1 percent and not more than 5 percent per year in the then current rate on past due principal and interest.

(d) All forms of obligations used to evidence such advances, and the opinion of Bank counsel as to their validity in the jurisdiction(s) where they will be used, shall be submitted for approval to the Director or Deputy Director, Office of District Banks.

§ 531.10 Liquidating dividends in mergers.

(a) The Board will consider payment to holders of savings accounts in a disappearing institution as part of a merger with a member as defined in § 526.1 of this chapter, a violation of § 526.2(a) of this chapter if the payment, together with any other return to such holders, exceeds the maximum rate of return prescribed in § 526.3 of this chapter. The term "merger" includes consolidations and bulk purchases of assets in exchange for assumption of savings accounts and other liabilities. However, payment as part of a transaction involving bulk transfer of assets without assumption of savings accounts and other liabilities will not be considered part of a merger, and such payment would not violate § 526.3. In a merger of the bulk-purchase-of-assets type, with assumption of savings accounts and other liabilities, a disappearing mutual institution is not actually liquidated so as to entitle holders of its savings accounts to a distribution of its net worth. For these purposes, a savings account is considered assumed unless full payment therefor has been made to the holder.

(b) The Board will not consider a payment by a disappearing nonmember institution to holders of its savings accounts, in contemplation of a merger with a member, but before execution of a merger commitment, a violation of § 526.2(a). However, in acting on any application under § 546.2 or § 563.22 of this chapter, the board will consider relevant to the insurance risk of the Federal Savings and Loan Insurance Corporation the effect of any such payment on the financial condition of the member.

(c) This Statement of Policy does not apply to payment under merger

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agreements, executed by both institutions prior to March 11, 1975.

PART 532—BOARD RULINGS

Part 532 is revised.

§ 532.1 Payment in gold or its equivalent.

Section 463(a) of 31 U.S.C. provides, in part, that "[e]very provision contained in or made with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount of money of the United States measured thereby, is declared to be against public policy; and no such provision shall be contained in or made with respect to any obligation [incurred after June 5, 1933]." The board believes that section remains in effect even though Pub. L. 93-373 invalidated laws prohibiting persons from purchasing, holding, selling, or otherwise dealing with gold, effective December 31, 1974. The board interprets 31 U.S.C. § 463 as prohibiting members from agreeing to pay any part of the principal of their savings accounts in gold (including gold coin), gold related instruments or securities, or an amount of money determined with reference to gold.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-44 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-28615 Filed 10-10-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4581]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the national flood insurance program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The national flood insurance program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the national flood insurance program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a flood hazard boundary map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
California	Riverside	Hemet, city of	060253-A	Nov. 2, 1974, emergency. Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974	Oct. 17, 1978.
Do	San Bernardino	Unincorporated areas	060270-A	Jan. 29, 1971, emergency. Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	Sept. 29, 1978	Do.
Do	Ventura	Thousand Oaks, city of	060422-A	Nov. 13, 1970, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	June 7, 1974	Do.
Connecticut	Fairfield	Weston, town of	090018-A	Sept. 8, 1972, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 8, 1974	Do.
Illinois	St. Clair	Cahokia, village of	170620-B	Oct. 4, 1973, emergency. Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 29, 1974	Do.
Do	DuPage	Lombard, village of	170212-B	Dec. 29, 1972, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	July 19, 1974 Aug. 29, 1975	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Do	Winnebago	Loves Park, city of	170722-B	Feb. 23, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Apr. 2, 1976	Do.
Do	Cook	Rolling Meadows, city of	170155-B	May 25, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Feb. 1, 1974 May 28, 1976	Do.
Massachusetts	Middlesex	Wakefield, town of	250221-A	Mar. 26, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 2, 1974	Do.
North Carolina	Cumberland	Fayetteville, city of	370077-B	July 26, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 2, 1973 Oct. 24, 1975	Do.
New Mexico	San Juan	Parmington, city of	350067	Aug. 30, 1974, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974 Dec. 19, 1975	Do.
New York	Westchester	Irvington, village of	360914-B	Jan. 10, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Jan. 16, 1976	Do.
Do	do	Mount Vernon, city of	360920-B	Apr. 22, 1975, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Nov. 28, 1975	Do.
Do	Wayne	Williamson, town of	360900-C	Mar. 23, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Feb. 27, 1976	Do.
Do	Monroe	Perinton, town of	360428-B	Aug. 13, 1973, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	Apr. 5, 1974 Sept. 24, 1976	Do.
Ohio	Sandusky and Huron	Bellevue, city of	390487-B	Oct. 21, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978 suspended.	Mar. 15, 1974 Apr. 30, 1976	Do.
Do	Ottawa	Unincorporated arcas	390432-A	Apr. 25, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Oct. 17, 1978	Do.
Pennsylvania	Northampton	Easton, city of	425383	June 18, 1971, emergency, Feb. 9, 1973, regular, Oct. 17, 1978, suspended.	Feb. 9, 1973	Do.
Do	Westmoreland	Greensburg, city of	420877-B	May 24, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Dec. 28, 1973 June 18, 1976	Do.
Do	Mercer	Sharon, city of	420678-B	Nov. 19, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 2, 1974 July 30, 1976	Do.
South Dakota	Brookings	Brookings, city of	460004-B	Apr. 16, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 22, 1974 Oct. 8, 1976	Do.
Tennessee	Coffee	Manchester, city of	470035-A	Aug. 3, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974	Do.
Virginia	Campbell	Unincorporated areas	510028-A	Dec. 27, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 22, 1974	Do.
Do	Montgomery	do	510099-A	Feb. 19, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Apr. 18, 1975	Do.
Do	Roanoke	do	510190-A	Oct. 11, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Sept. 13, 1974	Do.
Do	Wythe	do	510180-A	Mar. 15, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 15, 1975	Do.
Wyoming	Converse	Douglas, town of	560013-B	Oct. 2, 1975, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 1, 1974 Aug. 27, 1976	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28483 Filed 10-10-78; 8:45 am]

[4310-70-M]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Rocky Mountain National Park, Colo., Lights for Wildlife Viewing Prohibited; Parking and Crossing Areas for Hunters Established

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The purposes of this amendment are to prohibit the use of artificial lights, including hand-held or vehicle-mounted spotlights and vehicle headlights, for wildlife viewing purposes, and to permit hunters to park vehicles in designated areas on parklands during the hunting seasons prescribed by the State of Colorado. The first amendment is needed to reduce the disturbance of wildlife by visitors using lights. The second change will give hunters access to adjoining national forest lands which are open to

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hunting and which are nearly inaccessible except by crossing parklands.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David J. Essex, Chief Park Ranger, Rocky Mountain National Park, Estes Park, Colo. 80517, 303-586-2371, extension 218.

SUPPLEMENTARY INFORMATION: On July 14, 1978, there was published in the FEDERAL REGISTER (43 FR 136) a notice of proposed rulemaking to amend 36 CFR 7.7 by the addition of new paragraphs (g) and (h), to prohibit the use of artificial lights for wildlife viewing and to establish parking and crossing areas for hunters. No comments, suggestions, or objections were received in response to this notice; therefore the proposed regulations are adopted without change and are set forth below:

§ 7.7 Rocky Mountain National Park.

* * * * *

(g) *Lights for wildlife viewing.* Without the previous consent of the Superintendent, no artificial lights shall be used as an aid in viewing wildlife. Such lights include, but are not limited to, hand-held or vehicle-mounted spotlights, flashlights powered by batteries whose total voltage exceeds 4.5 volts, and vehicle headlights.

(h) *Parking and crossing areas for hunters.* During hunting seasons prescribed by the State of Colorado, special parking areas and corridors for hunters may be designated within the park. The locations of parking areas will be announced in local newspapers prior to each hunting season; parking areas and corridors will be designated by signs. Hunters may use these designated areas and corridors only as follows:

(1) The possession of unloaded firearms is permitted, if the breech or chamber of the weapon is open. Muzzle-loading weapons must not contain a powder charge or percussion cap.

(2) Archers must have bows unstrung and arrows cased or otherwise secured.

(3) Game killed on lands adjacent to the park, in accordance with Colorado hunting laws and regulations, may be possessed and transported.

(4) The loading or unloading of hunters or game within the park is permitted only at the designated parking areas.

Dated: September 18, 1978.

GLEN T. BEAN,
Regional Director,
Rocky Mountain Region.

[FR Doc. 78-28575 Filed 10-10-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5648]

[I-4837]

IDAHO

Amendment of Public Land Order No. 5462

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will amend PLO 5462 by correcting an error in the legal description of certain land withdrawn for the Middle Fork Bar Recreation Area. The error was created by the subsequent issuance of protraction diagrams delineating the section lines within the township. The land described in PLO 5462 by metes and bounds in section 28 is hereby amended to read section 33. The land deleted in section 28 will be restored to such disposition as may be made of national forest lands.

EFFECTIVE DATE: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5462 of December 27, 1974, withdrawing national forest lands for administrative and recreation sites, so far as it described lands by metes and bounds in section 28, T. 23 N., R. 16 E., for the Middle Fork Bar Recreation Area, is hereby amended as follows:

SALMON NATIONAL FOREST

BOISE MERIDIAN

A tract of land located in unsurveyed section 33, T. 23 N., R. 16 E., more particularly described by metes and bounds as follows:

Beginning at corner No. 1 of M.S. No. 3355, which is located S. 76°50' W., and 28.9 feet from U.S.M.M. No. 3355; thence S. 6°10' W., 400 feet to corner No. 2 of M.S. No. 3355; thence N. 75°35' W., 411.3 feet to corner No. 3 of M.S. No. 3355; thence N. 88°25' W., 540 feet to corner No. 4 of M.S. No. 3355; thence N. 52°10' E., 780.7 feet to corner No. 5 of M.S. No. 3355; thence S. 61°25' E., 415.0 feet to corner No. 1 of M.S. No. 3355, the place of beginning, including the area between this claim and the mean high waterline of the Middle Fork and main Salmon River.

Containing approximately 7.182 acres.

2. At 10 a.m. on November 8, 1978, the lands previously included in the description for the Middle Fork Bar Recreation Area in section 28 shall be open to such forms of disposition as may by law be made of national forest lands.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 3, 1978.

[FR Doc. 78-28570 Filed 10-10-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1342]

PART 1033—CAR SERVICE

Illinois Terminal Railroad Co. Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, service order No. 1342.

SUMMARY: The Illinois Terminal Railroad Co. (ITC) operates between Peoria, Ill., and East St. Louis, Ill., over lines of the Illinois Central Gulf (ICG) between Lincoln, Ill., and Springfield, Ill., via Mount Pulaski, Ill., and over the ICG between Springfield and Mont, Ill. Certain of these lines, or of the ITC lines connecting with them are unserviceable because of track conditions. Service order No. 1342 authorizes the ITC to operate over the ICG between Kenney and Mount Pulaski, Ill., and over the ICG between Springfield and Wood River, Ill., via Carlinville, Ill. This restructuring of the ITC will provide it with a through route between Peoria and St. Louis via ITC tracks between Peoria and Kenney—ICG tracks between Kenney and Springfield—ITC tracks at Springfield—ICG tracks between Springfield and Wood River via Carlinville, thence ITC tracks between Wood River and East St. Louis in place of its present route via ICG tracks between Lincoln and Springfield and between Springfield and Mont. Ill., via Litchfield, Ill.

DATES: Effective 12:01 a.m., October 6, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: October 5, 1978.

The line of the Illinois Central Gulf Railroad Co. (ICG) between Springfield, Ill., and Mont, Ill., presently used by the Illinois Terminal Railroad Co. (ITC) as a part of its main line between Springfield and East St. Louis, Ill., via Litchfield, Ill., has deteriorated and is inoperable. In docket AB-43 (Sub-30) the ICG, on August, 9, 1978, was authorized to abandon this line subject to the completion of arrangements for the routing of ITC trains between Springfield and East St. Louis over parallel trackage. The ICG and the ITC have now agreed to route ITC trains between Springfield and East St. Louis over other tracks of the ITC via the ICG line between Springfield and Wood River, Ill., via Carlinville, Ill., a distance of approximately 77.0 miles.

The ITC presently is authorized to operate over the ICG between Springfield and Lincoln, Ill., via Mount Pulaski, Ill., thence over its own tracks between Lincoln and Peoria, Ill. That portion of this route between Lincoln and Peoria is inoperable because of the destruction of a bridge north of Mackinaw, Ill. The ITC has acquired from the trustees of the former Penn Central a line extending from Maroa, Ill., through Kenney, Ill., to Peoria. Rehabilitation of this line to permit through freight train operations unhampered by excessively low speed restrictions will be completed during October 1978. The ICG has agreed to permit use of its tracks between Mount Pulaski and Kenney to enable the ITC to connect its East St. Louis-Springfield line with its newly acquired line between Maroa and Peoria.

It is the opinion of the Commission that an emergency exists requiring operation of ITC trains over these tracks of the ICG in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered:

§ 1033.1342 Service Order No. 1342.

(a) *Illinois Terminal Railroad Company authorized to operate over tracks of Illinois Central Gulf Railroad Co.* The Illinois Terminal Railroad Co. (ITC) is authorized to operate over tracks of the Illinois Central Gulf Railroad Co. (ICG) between Springfield, Ill., and Wood River, Ill., a distance of approximately 77.0 miles, and between Mount Pulaski, Ill., and Kenney, Ill., a distance of approximately 12.4 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the ITC over tracks of the ICG is deemed to be due to carrier's disability, the rates applicable to traffic moved by the ITC over the tracks of the ICG shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the decisions of the Commission in the applications of the ITC seeking permanent authority to operate over these tracks of the ICG.

(e) *Effective date.* This order shall ecome effective at 12:01 a.m., October 6, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49) U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H.G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28621 Filed 10-10-78; 8:45 am]

[7035-01-M]

SUBCHAPTER C—ACCOUNTS, REPORTS, AND RECORDS

[No. 34364 (Sub-No. 3)]

PART 1252—PIGGYBACK TRAFFIC STATISTICS

Piggyback Traffic Statistics—Rail, Motor, Water, and Freight Forwarder Forms Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this decision revise the Commission's reporting requirements for piggyback traffic statistics. The new rules require reporting on an annual rather than a semiannual basis and make class II rail carriers and class II intercity motor carriers of property subject to the reporting requirements. Revised forms for reporting the data are being issued with these rules.

DATES: Effective November 24, 1978.

ADDRESS: Send comments to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423

FOR FURTHER INFORMATION CONTACT:

Alice Farley, telephone 202-275-7375.

SUPPLEMENTARY INFORMATION: Beginning with the first quarter of 1964, class I railroads, class I intercity motor carriers of property, class A water carriers, and class A freight forwarders were required to file quarterly reports of piggyback traffic statistics on forms PTR-R, PTR-M, PTR-W, and PTR-FF, respectively. Effective January 1, 1978, the filing frequency of piggyback data was changed from a quarterly to a semiannual basis (order No. 34364 (Sub-2), served October 21, 1977). Now, we find that having these data reported on an annual basis will be sufficient. Also, requiring annual rather than semiannual reporting will futher the Federal paperwork reduction program.

In addition, revisions are being made in the forms for reporting piggyback data. These revisions will decrease the data reporting requirements for each mode. However, due to numerous changes in piggyback operations, a minor amount of new data will be required by the forms for rail carriers and freight forwarders. For rail carriers, the new data will consist of information on minibridge, landbridge, and microbridge movements and will include the number of containers moved. Freight forwarders will now be required to submit data on plan II 1/2 piggyback movements.

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In light of the changes in classifications of rail and motor carriers over the years, the Commission is extending the filing requirements to class II rail carriers and to class II intercity motor carriers of freight. This should provide a more complete picture of piggyback traffic.

The Commission does not believe that these revisions require a rulemaking proceeding pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. § 553). The rules involved are procedural in nature; the reports required are for informational purposes only and are not considered to be permanent books and records of the reporting carriers; and the revisions actually lessen the reporting requirements for all except class II rail and motor carriers. Furthermore, the Commission would like to implement the changes at the earliest possible date. Therefore, the rules set forth below will become effective November 24, 1978.

However, in keeping with our belief that any rule can benefit from public scrutiny, we are requesting that the public study the rules and report, at the earliest possible time, any changes which need to be made. In addition, persons who desire to study the revised reporting forms may obtain copies from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423 or by calling 800-424-5403.

If the Commission concludes, after reviewing the comments, that it is necessary to make changes in the revised rules and reporting forms, a further notice will be published in the FEDERAL REGISTER on the effective date of the rules, identifying the changes made. Otherwise the revisions proposed in this notice will take effect on that date.

During the course of the next year, the Commission intends to examine whether there is a need to continue to keep piggyback statistical reports confidential. The Commission would like to receive comments from the Public on this question.

This decision does not significantly affect the quality of the human environment.

Accordingly, §§ 1252.1 through 1252.4, part 1252 of title 49 of the Code of Federal Regulations are amended to read as follows:

§ 1252.1 General.

Beginning with reports for the year ending December 31, 1979, carriers shall file the piggyback traffic reports required by this section on an annual basis. Two copies of the reports should be submitted to the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days of the close of the reporting period. Carriers that do not perform piggyback service during the period should file a statement to that effect instead of filing a report. The individual reports filed pursuant to this section are not open to public inspection.

§ 1252.2 Rail carriers.

All class I and class II railroads, except switching and terminal companies, shall file form PTR-R, revenue piggyback and container traffic.

§ 1252.3 Motor carriers.

All class I and class II intercity motor carriers of property shall file form PTR-M, piggyback traffic of class I and class II motor carriers of property.

§ 1252.4 Water carriers.

All class A water carriers and all maritime carriers shall file form PTR-W, piggyback traffic terminated by class A water carriers and maritime carriers.

§ 1252.5 Freight forwarders.

All class A freight forwarders shall file form PTR-FF, piggyback traffic originated by class A freight forwarders.

The Commission will serve this decision on all class I and class II railroads, class I and class II motor carriers of property, class A water carriers and maritime carriers, and class A freight forwarders; the Governor of every State; and all State agencies having jurisdiction over transportation.

(49 U.S.C. 12, 20, 304, 320, 904, 913, 1003, and 1012.)

Decided: October 2, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28609 Filed 10-10-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1002]

[Docket No. AO-71-A71]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a change in the procedure for classifying unaccounted for disappearances (shrinkage) of milk in a handler's operations, based on industry proposals considered at a hearing held in February 1976. The proposed change would classify shrinkage on essentially the same basis as now provided under all other Federal milk orders.

DATE: Comments are due on or before October 31, 1978.

ADDRESS: Comments (6 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing, Issued January 9, 1976; published January 14, 1976 (41 FR 2092).

Extension of time for Filing Briefs, Issued April 15, 1976; published April 21, 1976 (41 FR 16660).

Recommended Decision (Partial), Issued April 5, 1977; published April 11, 1977 (42 FR 18950).

Extension of Time for Filing Exceptions to the Recommended Decision (Partial), Issued May 6, 1977; published May 11, 1977 (42 FR 23841).

Final Decision (Partial), Issued August 12, 1977; published August 17, 1977 (42 FR 41582).

Order Amending Order, Issued September 27, 1977; published September 30, 1977 (42 FR 52379).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New York-New Jersey marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Deaprtment of Agriculture, Washington, D.C. 20250, by October 31, 1978. Six copies are required for this proceeding. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at New York, New York, on February 17-20, 1976, and at Syracuse, New York on February 23-26, 1976, pursuant to notice thereof.

The material issues on the record of the hearing relate to:

1. Whether changes should be made in the following provisions for purposes of permitting a more equitable competitive situation, on both an intramarket and intermarket basis, for order 2 handlers:

a. Class I price differential.

b. Transportation differentials.

c. Pool transportation credit to handlers for bulk tank milk.

d. Tank truck service charge.

e. Direct delivery differential.

2. Whether the classification provisions should be changed with respect to the following:

a. Milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.

b. Bulk milk received at an Order 2 pool plant from a plant regulated under another Federal order.

c. Milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.

3. Whether the procedure for classifying shrinkage should be changed.

4. Whether the order should provide for charges on overdue accounts.

This decision deals only with issue No. 3. The other issues were the subject of earlier actions that resulted in the issuance of an amended order effective November 1, 1977.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on this material issue are based on evidence presented at the hearing and the record thereof:

3. *Shrinking.* The treatment of shrinkage under the New York-New Jersey order should be modified to generally conform with the shrinkage provisions of the Middle Atlantic order.

Currently, Order 2 provides that shrinkage shall be classified by assigning the skrinkage pro rata to the actual utilization of milk in each class. However, such assignment to Class II may not exceed two percent of the skim milk and butterfat actually accounted for as Class II milk. Under the Middle Atlantic order, on the other hand, shrinkage is basically assigned to Class II. The order provides, however, that not more than two percent of a handler's receipts of producer milk may be classified as Class II shrinkage. Additional shrinkage of producer milk is included in Class I.

A handler organization proposed that Class II include skim milk and butterfat in shrinkage, but not to exceed two percent of producer milk or bulk tank unit milk received at a plant, plus 1.5 percent of milk received from other plants, plus free milk to employees that does not exceed two quarts per day per employee. Shrinkage of such receipts in excess of these limits would be Class I. Shrinkage of receipts other than milk from producers, units, and plants would be prorated to Class I and Class II with the amount assigned to Class II not to exceed two percent of the quantity actually accounted for in that class.

The proponent's spokeman contended that under Order 2 a higher pro-

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portion of shrinkage experienced in fluid milk processing operations is assigned to Class I than under the shrinkage provisions in most other orders. The spokesman estimated that in 1975 the current provisions added an average of 4.3 cents per hundredweight to handlers' costs for Class I milk. He contended that a comparable element of cost is not incurred by handlers in adjacent markets with different order provisions for classifying shrinkage, and that Order 2 handlers are therefore disadvantaged in competing for Class I sales with handlers under the other orders. Because of this, the proponent organization urged that the shrinkage provisions be changed to conform with those found in most other orders.

Individual handlers also urged that the proposed shrinkage provisions be adopted. They indicated that no basis exists for having shrinkage provisions in Order 2 that differ substantially from the generally uniform shrinkage provisions of other orders. To this end, it was proposed that Class II shrinkage be divided between receipts of pool milk and certain receipts of other source milk, and that there be limits on the Class II allowance for receiving and processing operations. Handlers expressed the view that, subject to reasonable limitations, shrinkage should be assigned to Class II because handlers receive no return on milk losses experienced in the receiving and processing operations.

A number of cooperatives in the market opposed any change from the present shrinkage provisions. Their spokesman indicated that the current procedure for classifying shrinkage is superior to the procedure generally used under other orders and should be continued. He stressed that the present order provisions penalize inefficient processing operations. In contrast, he claimed, the proposed provisions would reward inefficiency and would provide an incentive to "hide" Class I sales in order to take advantage of the maximum allowable Class II skrinkage. Moreover, he contended, adoption of the shrinkage proposals would reduce returns to producers and provide windfall gains for handlers.

Handlers normally experience some shrinkage in milk processing operations. Some milk is unavoidably lost because it adheres to surfaces of pipes, tanks, and other plant equipment, and subsequently is rinsed away in cleaning operations. Additional losses can be expected due to such things as accidental spillage, a breakdown of equipment or leaky packages. Also, shrinkage is normally experienced in the receipt of farm bulk tank milk at receiving stations and processing plants.

Since a handler's total receipts must be classified in order to carry out the pricing and pooling provisions of the order, it is necessary to provide for the classification and pricing of shrinkage. A handler's costs are affected by the proportions of shrinkage priced as Class I milk and Class II milk.

The shrinkage provisions proposed by the handler organization would establish Class II shrinkage allowances for milk received from producers, bulk tank units, and other plants. Shrinkage associated with other receipts would be assigned pro rata to Class I and Class II, except that the quantity assigned to Class II could not exceed two percent of the milk actually used in that class. In effect, the proposal represents a combination of some of the present order provisions and certain other provisions common to most other Federal orders. The record clearly indicates, however, that the intent of the proponent and other supporting witnesses is to have the shrinkage provisions of Order 2 closely coordinated with the shrinkage provisions in most other orders, and particularly the Middle Atlantic order.

The central issue in this proceeding is the need for establishing an equitable interorder relationship of raw milk costs imposed on handlers regulated under the New York-New Jersey order and on handlers regulated under the Middle Atlantic order. The shrinkage classification under Order 2 is a factor in this regard. In the interest of minimizing interorder competitive problems attributable to differences in regulatory provisions, it is desirable that shrinkage be classified under Order 2 in essentially the same manner as provided under the Middle Atlantic order.

The shrinkage provisions adopted herein set forth maximum Class II shrinkage allowances for various sources of receipts. Pool milk received at a plant, both in cans and in bulk from pool units, would have a two percent allowance in Class II. A maximum Class II Shrinkage allowance of 1.5 percent would apply to receipts of bulk milk from other pool plants, and to receipts of bulk fluid milk products from other order plants, except such receipts for which Class II use is requested. Receipts of milk from units other than pool units, other than for requested Class II use, would be allowed up to 2.0 percent Class II shrinkage. When milk is moved in bulk tank lots from a plant to other plants, the shipping handler's Class II shrinkage allowance would be reduced by 1.5 percent of the quantity moved. Shrinkage on other source bulk fluid milk, other than that for which a specific allowance is otherwise provided, would be assigned to Class II, with no limitation. A handler's total shrinkage would be prorated between those receipts to which specific shrinkage allowances apply and remaining receipts of other source milk. Shrinkage in excess of the total Class II allowance would be assigned to Class I.

The adopted shrinkage provisions have been found suitable for other markets and similarly should be compatible with the handling practices existing in the Order 2 market. Shrinkage normally varies with the type of handling involved. More loss is usually experienced in the processing operations of a plant than in merely receiving the milk. There is no reason to believe that the operations of Order 2 handlers are significantly different from those of handlers in other markets. Thus, the commonly-used Class II shrinkage allowances of 0.5 percent and 1.5 percent for receiving and processing operations, respectively, should be reasonable for the Order 2 market.

Most of the milk on the Order 2 market is received from farms equipped with bulk tanks. Under the "Classification and Accounting Rules and Regulations" established by the market administrator for administering the order (which were adopted after meetings with the industry), plants receive milk from bulk tank units on the basis of weights and butterfat tests determined from measurements and samples taken at the farm. Thus, a maximum Class II shrinkage allowance of 2.0 percent should be applicable at the receiving plant to all receipts of milk from units. No shrinkage allowance would accrue to the operator of the bulk tank unit. While this procedure differs from that used under other orders, it is consistent with the accounting rules already established for the market.

The shrinkage provisions provided herein would preclude any accumulation of Class II shrinkage on milk movements between plants. When a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced by 1.5 percent of the quantity transferred. The maximum Class II shrinkage on milk that may be moved from the farm to a receiving station and then on to a distributing plant for processing thus would be limited to two percent.

Also adopted is the commonly-used method of prorating total plant shrinkage to (1) those receipts of bulk fluid milk products that are generally intended for Class I use, and on which Class II shrinkage limitations apply, and (2) other receipts of bulk fluid milk products generally intended for manufacturing use, such as nonpool milk for which a Class II classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The shrinkage provisions adopted herein are generally the same as those provided in most other orders, including the MIddle Atlantic order. Any minor differences between the latter order and the other orders have been decided in favor of the uniform provisions established for a large number of orders throughout the country. These uniform provisions were proposed at the hearing by a handler in the Order 2 market.

Milk that a handler gives to employees should continue to be accounted for as a Class I disposition. The proposed inclusion of such disposition as Class II shrinkage was prompted by the terms of a labor contract that requires a handler to provide free milk to his employees. Proponent's witness expressed the view that since the handler receives no return on this milk he should not have to account for it at the Class I price.

Whether a handler receives payment for milk or milk products is not an appropriate basis for establishing the classification of milk under the order. The Act requires that classification be "in accordance with the form in which or the purpose for which it is used * * *" These are the criteria that must be followed in establishing the classification of milk under the Federal order program. Milk given free of charge to a handler's employees cannot be distinguished from other fluid milk products disposed of by the handler for fluid consumption. A Class I classification of milk so provided to employees for fluid use should be continued under the order.

Testimony offered by cooperatives in opposition to the shrinkage proposal centered on the contention that the present classification of shrinkage more nearly reflects the nature of the operations involved. It was argued, for example, that producer returns should reflect a Class I value for shrinkage experienced in a bottling plant since the milk lost would have been disposed of as Class I milk had it not disappeared. Such classification, it was maintained, provides an incentive for operating a plant efficiently and does not penalize producers if a handler conducts an inefficient operation.

Whether or not a plant is operated efficiently, producers are paid for all their pool milk delivered to such plant. As a minimum, the Class II price must be paid on any milk lost through shrinkage, and there are no returns to the handler from the lost milk. This certainly provides an incentive to operate a plant as efficiently as possible.

Moreover, under the proposed provisions, a handler processing milk for distribution to consumers will continue to need the same quantity of milk for his route sales irrespective of how much of his receipts at the plant may be lost through shrinkage. Any milk lost will have to be replaced with additional receipts if the handler expects to meet his fluid sales commitments. Presumably, such additional receipts are drawn from the market's reserve supplies that otherwise would be processed into Class II products. Thus, in terms of returns to producers, it makes little difference whether milk is classified in Class II as shrinkage or as milk that is surplus to the fluid needs of a plant.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the New York-New Jersey marketing area is recommended as the detailed and approporaite means by which the foregoing conclusions may be carried out:

1. Section 1002.41 is revised to read as follows:

§ 1002.41 Classes of utilization.

Subject to the conditions set forth in §§ 1002.42 through 1002.46, the classes of utilization shall be as follows:

(a) Class I-A milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product:

(i) Inside the marketing area;

(ii) As route disposition in another order marketing area;

(iii) To another order plant and assigned under such other order to Class I;

(iv) In packaged form to another order plant if such product is not defined as a fluid milk product under such other order; and

(v) To a partially regulated plant under another order and there applied as an offset to Class I sales in any other order market.

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month except as provided in paragraph (c)(3) of this section;

(3) In shrinkage assigned to Class I-A pursuant to paragraph (d) of this section; and

(4) Not specifically accounted for as Class I-B or Class II milk.

(b) Class I-B milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product outside the marketing area, except as provided in paragraphs (a)(1) (ii) through (v) and (c) (3), (4) and (5) of this section; and

(2) In shrinkage assigned to Class I-B pursuant to paragraph (d) of this section.

(c) Class II milk shall be all skim milk and butterfat:

(1) Disposed of in any product other than a fluid milk product;

(2) Disposed of as a fluid milk product in bulk to any establishment (other than a plant defined in § 1002.8) at which food products are processed and packed and at which establishment there is no disposition of fluid milk products other than those received in consumer packages for consumption on the premises;

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(3) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month, and also with respect to any plant not defined in § 1002.8 (b) or (d) in inventory of fluid milk products in packaged form;

(4) Disposed of as a packaged fluid milk product to an other order plant and assigned under such other order as a fluid milk product to Class II;

(5) Disposed of in bulk as a fluid milk product to an other order plant and assigned to Class II under such other order;

(6) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15;

(7) Contained in fluid milk products that are disposed of for animal feed;

(8) Contained in fluid milk products that are dumped, if the market administrator is notified in advance and is given the opportunity to verify such disposition;

(9) Contained in fluid milk products that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(10) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(1), but not to exceed the following:

(i) Two percent of the skim milk and butterfat, respectively, in milk received from producers;

(ii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from pool units;

(iii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from units other than pool units, exclusive of the quantity for which Class II utilization was requested by the handler;

(iv) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from other pool plants;

(v) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(vi) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from plants other than those defined in § 1002.8 (b) or (d), exclusive of the quantity for which Class II utilization was requested by the handler; and

(vii) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (c)(10) (i) through (vi) of this section.

(11) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(2).

(d) Shrinkage in excess of the amounts assigned to Class II pursuant to paragraph (c) (10) and (11) of this section shall be assigned pro rata to Class I-A and Class I-B in accordance with the respective volumes of skim milk and butterfat actually accounted for in each such class.

2. Section 1002.42 is revised to reas as follows:

§ 1002.42 Shrinkage.

Shrinkage shall be allocated to a handler's receipts at each plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant.

(b) Shrinkage of skim milk and butterfat, respectively, shall be prorated between the respective quantities of skim milk and butterfat:

(1) In receipts described in § 1002.41(c)(10); and

(2) In other source milk not specified in § 1002.41(c)(10) which was received in bulk fluid form.

3. In § 1002.45(a), new subparagraphs (1-a) and (7-a) are added to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1-a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1002.41(c)(10);

* * * * *

(7-a) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a) (1-a) of this section;

* * * * *

Signed at Washington, D.C., on October 5, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administration, Marketing Program Operations.

[FR Doc. 78-28593 Filed 10-10-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0024]

AMERICAN SOCIETY OF ANESTHESIOLOGISTS, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Park Ridge, Ill., medical society, composed mainly of physicians who have limited their professional activities to the practice of anesthesiology, to cease including statements relating to compensation arrangements in membership documents; conditioning membership privileges on such arrangements; or engaging in any act or practice which would serve to influence the prices members charge for their services. The society would be further required to delete from its files any record of disciplinary sanctions imposed upon members for failure to adhere to past pricing policies, and advise affected parties of such deletion. Additionally, the society would be required to revoke the charter of any component society which fails to comply with the terms of the order.

DATE: Comments must be received on or before December 8, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C., 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 781 0024]

AMERICAN SOCIETY OF ANESTHESIOLOGISTS, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of the American Society of Anesthesiologists, Inc. (hereinafter referred to as "ASA"), a corporation, and it now appearing that ASA is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between ASA, by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. ASA is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 515 Busse Highway, Park Ridge, Ill.

2. Only for the purpose of this proceeding, and for compliance and enforcement proceedings under the order contemplated hereby, ASA admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. ASA waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify ASA, in which event it will take such action as it may consider appropriate, or issue and serve its complaint and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by ASA that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to ASA, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to ASA's address as stated in this agreement shall constitute service. ASA waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. ASA has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. ASA further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. Nothing in this agreement shall affect any complaint or order which the commission may issue with the respect to ASA if this agreement is not accepted by the Commission.

ORDER

I

For purposes of this order, the following definitions shall apply:

A. The term "ASA" means the American Society of Anesthesiologists, Inc., its successors or assigns, its committees or organizational subdivisions, and, in their capacities as such or while representing the society, its officers, agents, representatives, employees, or authorized delegates;

B. The term "Membership Document" means any document the acceptance of which or adherence to the terms of which is a condition of membership privileges;

C. The term "Official Position" means an oral or written statement which is made by ASA or any of its component societies;

D. The term "Component Society" means any organization duly chartered as such by ASA, any successor or assign to any Component Society, any committee or organizational subdivision of any Component Society, and, in their capacities as such or while representing a Component Society, any officers, agents, representatives, employees, or authorized delegates; and

E. The term "Effective Date of This Order" means the date of service of this order.

II

It is ordered, That ASA directly or through any corporation, subsidiary, division, or other device, or through employment of any method, act, practice, or procedure, shall cease and desist from:

A. Importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology other than on a fee-for-service arrangement;

B. Including within any Membership Document any statement which relates to the fee-for-service, salary, or any other compensation arrangement of anesthesiologists individually or as a class of practitioners; and

C. Conditioning any privilege of membership upon the fee-for-service, salary or any other compensation arrangement of anesthesiologists individually or as a class of practitioners.

III

It is further ordered, That ASA within forty-five (45) days after the Effective Date of This Order, permanently delete from its files any record of censure or other sanction against any present or former member, the grounds for which was failure of such member to accept or to adhere to the terms of any Membership Document or Official Position which prohibited anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology on other than a fee-for-service arrangement; and formally advise any such members (if living) of such deletion.

IV

It is further ordered, That ASA shall for a period of ten (10) years following the Effective Date of This Order cease and desist from making any statement which contains an Official Position which relates to the fee-for-service, salary, or other compensation arrangement of anesthesiologists individually or as a class of practitioners, unless such statement contains and is not inconsistent with the following langauge:

It is the official policy of the American Society of Anesthesiologists, Inc. that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The society does not consider the compensation arrangement so chosen to be a matter of professional ethics.

This part does not modify the requirements of part II of this order.

V

It is further ordered, That ASA shall:

A. At the first annual meeting of ASA's house of delegates subsequent to 180 days after the Effective Date of This Order, revoke the charter of any Component Society which, prior to the meeting of ASA's board of directors immediately preceding such annual meting, has not informed ASA by a sworn statement of an authorized officer that the Component Society has (1) agreed to comply with the requirements of part II of this order, and brought its own Membership Documents and Official Positions into conformity with the requirements of that part, (2) conformed its files to the requirements of part III of this order, and (3) agreed to abide by the requirements of part IV of this order, so that every statement of the component Society which contains an Official Position which relates to the fee-for-service, salary, or other compensation arrangement of anesthesiologists individually or as a class of practitioners, contains and is not inconsistent with the following language:

It is the official policy of (name of Component Society) that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional sevices. The (name of Component Society) does not consider the arrangement so chosen to be a matter of professional ethics.

B. Within 60 days after the Effective Date of This Order, distribute by first-class mail a copy of the commission's complaint and order in this matter to each of the aforesaid Component Societies and to each of ASA's

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then current members, together with a letter on ASA's regular letterhead in the form shown in the appendix attached hereto.

VI

It is further ordered, That nothing in this order shall prohibit or limit the organizations and persons subject to this order from petitioning the government for a redress of grievances by:

A. Preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency or furnishing drafts thereof to any organization which is preparing or furnishing testimony, information or advice to, or negotiating with, any government body or agency with respect to the same subject matter;

B. Advising its members and others of legislation, programs, policies, regulations, procedures, or interpretations of any government body or agency and soliciting their views thereon;

C. Informing members and others of any testimony, information or advice supplied to, or negotiations with, any government body or agency; and

D. Suggesting or recommending that members or others undertake the activities enumerated in subparagraphs (A), (B), and (C) above;

but only as long as the activities enumerated in this part VI are not undertaken with the purpose or intent of achieving a result prohibited by part II of this order through means other than the action of a government body or agency.

VII

It is further ordered, That ASA shall, within sixty (60) days following the effective date of this order, and thereafter on the first anniversary date of the effective date of this order, and at such other times as the Commission may by written notice to the respondent require, file, or cause to be filed with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order. All compliance reports shall include such other information and documentation as may be required to show compliance with this order.

VIII

It is further ordered, That ASA shall notify the Commission at least thirty (30) days prior to any proposed change in its structure resulting in the emergence of a successor corporation, or any other change in its structure, which may affect obligations arising out of this order.

APPENDIX

[ASA REGULAR LETTERHEAD]

To the Members and Component Societies of the American Society of Anesthesiologists, Inc.:

As some of you have been aware, the Federal Trade Commission ("FTC") in September 1977 initiated an investigation of the extent to which members and component societies of ASA were required to accept or adhere to certain principles, contained in documents approved by the ASA House of Delegates, which related to the fee-for-service, salary or other compensation arrangements of anesthesiologists.

The Board of Directors and House of Delegates have determined that they do not desire to impose any such condition nor to impose any sanction against an ASA member for failure to accept or adhere to such principles. Accordingly, ASA has with approval of its House of Delegates reached agreement with the FCT, resulting in the issuance by the FTC of a complaint on ————, and the entry of a consent order. The complaint and the order are attached to this letter. The order, rather than this letter, is the document which legally binds ASA and others. You should carefully review it.

The complaint alleges that the promulgation and enforcement of those provisions of the statement of policy and guidelines to the ethical practice of anesthesiology which relate to compensation arrangements have had the effect of:

(a) Fixing, establishing, maintaining or otherwise influencing the prices which anesthesiologists charge for their services;

(b) Limiting the ability of hospitals to freely negotiate and conclude contracts with ASA members and others;

(c) Otherwise restraining, limiting and foreclosing competition among anesthesiologists; and

(d) Depriving consumers of the benefits of competition.

The agreement containing the consent order states that it is for settlement purposes only and does not constitute an admission by ASA of the charges in the complaint or that the law has been violated. The consent order itself requires, in summary, that ASA:

(a) Refrain from importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology other than on a fee-for-service arrangement;

(b) Not include within any membership document any statement which relates to the fee-for-service, salary or any other compensation arrangement of anesthesiologists;

(c) Not condition any privilege of membership upon the fee-for-service, salary, or any other compensation arrangement of anesthesiologists;

(d) Delete from its files any record of censure or other sanction imposed upon any ASA member for failure to accept or adhere to any provision which prohibited anesthesiologists from practicing on other than a fee-for-service arrangement, and notify any such member of the deletion;

(e) For a period of 10 years, refrain from making any statement which contains an ASA official position which relates to the fee-for-service, salary or other compensation arrangement of anesthesiologists unless the statement contains and is not inconsistent with the following language:

It is the official policy of The American Society of Anesthesiologists, Inc., that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The society does not consider the compensation arrangement so chosen to be a matter of professional ethics; and

(f) Revoke the charter of any component society which does not: (1) Agree to abide by the provisions of the order; and (2) bring its own membership documents, guidelines, policies, records, and statements into conformity with these provisions.

The order also provides that nothing in it shall prohibit or limit the organizations and persons subject to the order from petitioning the government for a redress of grievances by:

(a) Preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency or furnishing drafts thereof to any organization which is preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency with respect to the same subject matter;

(b) Advising its members and others of legislation, programs, policies, regulations, procedures, or interpretations of any government body or agency and soliciting their views thereon;

(c) Informing members and others of any testimony, information, or advice supplied to, or negotiations with, any government body or agency; and

(d) Suggesting or recommending that members or others undertake the activities enumerated in subparagraphs (a), (b), and (c) above;

but only as long as the activities enumerated above are not undertaken with the purpose or intent of achieving a result which is prohibited by the order through means other than the action of a government body or agency.

Henceforth, it will be the official policy of ASA that an anesthesiologist is free to choose whatever method he prefers for compensation of his professional services, and that the compensation arrangement so chosen will not be a matter of professional ethics. The financial arrangements between an anesthesiologist and a hospital or other instutional provider of health care will not be the basis for the denial to an anesthesiologist of ASA membership or any privilege of ASA membership.

Sincerely,

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from The American Society of Anesthesiologists, Inc. ("ASA").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The American Society of Anesthesiologists, Inc., is a corporation with about 15,000 members. Its members are comprised mainly of physicians who have completed postgraduate training in, and who have limited their professional activities to, the practice of anesthesiology or are otherwise especially interested in anesthesiology.

According to a complaint proposed by the Commission's staff, ASA allegedly has promulgated, published, approved and enforced documents entitled Guidelines to the Ethical Practice of Anesthesiology and Statement of Policy. These documents include provisions which provide that anesthesiologists should be compensated only on a fee-for-service basis and that ASA members should not practice as salaried employees of organizations such as hospitals. The proposed complaint further alleges that these activities have had the effect of:

(a) Fixing, establishing, maintaining or otherwise influencing the prices which anesthesiologists charge for their services;

(b) Limiting the ability of hospitals to freely negotiate and conclue contracts with ASA members and others;

(c) Otherwise restraining, limiting and foreclosing competition among anesthesiologists; and

(d) Depriving consumers of the benefits of competition.

The proposed order would prevent ASA* from imposing upon anyone any policy relating to compensation arrangements of anesthesiologists. The proposed order specifically would prohibit ASA from:

(a) Importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists from practicing anesthesiology other than on a fee-for-service arrangement;

(b) Including within any document which lists terms ASA members must adhere to any statement which relates to compensation arrangements of anesthesiologists; and

(c) Conditioning any privilege of membership in ASA upon the compensation arrangement of an anesthesiologist.

The proposed order would further require that if in the next ten (10) years ASA makes any statement which relates to compensation arrangements of anesthesiologists, that statement must contain and not be inconsistent with the following language:

It is the official policy of The American Society of Anesthesiologists, Inc. that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The Society does not consider the compensation arrangement so chosen to be a matter of professional ethics.

The proposed order would permit ASA to furnish testimony, information or advice to, or negotiate with any government body or agency; to advise its members of legislation and other government activities; to inform its members of its testimony, information, advice or negotiations; and to recommend that its members undertake these activities. This provision of the order is limited by the restriction that the activities listed would be permitted only as long as they are not undertaken with the purpose or intent of achieving a result prohibited by the order through means other than the action of a government body.

The proposed order would require that ASA delete from its files any record of past censure or other disciplinary sanction which was imposed upon an ASA member for failure to adhere to past ASA policies regarding compensation arrangements, and that ASA notify the affected member of the deletion. The proposed order would also require that ASA revoke the charter of any component society of ASA which does not (1) Agree to abide by the provisions of the order, and (2) bring its own membership documents, guidelines, policies, records and statements into conformity with the provisions. ASA would also be required to send a copy of the complaint, order and a cover letter which is appended to the order to each of its component societies and members.

The remaining provisions of the order deal with compliance. ASA would be required to submit periodic compliance reports to the Commission and to notify the Commission of any significant changes in ASA's organization.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28588 Filed 10-10-78; 8:45 am]

* In the proposed order "ASA" is defined to include the American Society of Anesthesiologists, Inc.; any committees or subdivisions of ASA; and ASA officers, representatives, employees or authorized delegates when acting in their capacities as such or while representing ASA.

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-2-78]

REQUIREMENTS RELATING TO CERTAIN EXCHANGES INVOLVING A FOREIGN CORPORATION

Income Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to requirements relating to certain exchanges involving a foreign corporation. The extended deadline for submission of comments and requests for a public hearing is December 1, 1978.

DATE: Written comments and requests for a public hearing must be delivered or mailed by December 1, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the FEDERAL REGISTER for Friday, December 30, 1977 (42 FR 65152 and 65204), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224, by February 28, 1978. By a notice published in the FEDERAL REGISTER for Tuesday, February 21, 1978 (43 FR 7245), this date was extended to May 1, 1978. By another notice published in the FEDERAL REGISTER for Monday, May 1, 1978 (43 FR 18570), this date was extended to August 1, 1978, and was additionally extended to October 2, 1978, by a notice published in the FEDERAL REGISTER for Friday, July 28, 1978 (43 FR 32824). The date by which such comments and requests must be delivered or mailed is hereby extended to December 1, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

DAVID E. DICKINSON,
Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-28576 Filed 10-10-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

U.S. PAROLE COMMISSION

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Proposed Rulemaking

AGENCY: U. S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would make a number of changes in the offense severity examples and policy instructions contained in the Commission's paroling policy guidelines. These examples and policy instructions constitute the standards and rules by which the Commission evaluates the relative seriousness of each prisoner's offense behavior in determining when to set a release date. The greater part of these amendments merely clarify present policy, while others are expected to result in some actual changes in time customarily served.

DATE: Comments must be received by January 1, 1979.

ADDRESS: Send comments to U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537; Attn: General Counsel.

FOR FURTHER INFORMATION CONTACT:

Micheal A. Stover, attorney, U.S. Parole Commission, telephone 202-724-3092.

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SUPPLEMENTARY INFORMATION:

I. *Introduction.*

THE RULEMAKING PROCESS

The Commission's paroling policy guidelines are the means by which it makes explicit the national paroling policy that Congress has required it to establish (18 U.S.C. § 4203 (1976)). One component of these guidelines is a table indicating the relative seriousness of common types of criminal behavior. Because the changes proposed herein involve some complex issues in evaluating the relative seriousness of the various types of offenses listed, the Commission has deemed it appropriate to provide and extended period for study and for the submission of public comment.

The amendments proposed herein cover a wide variety of criminal offenses, ranging from nearly all types of drug offenses to income tax evasion, kidnaping, burglary, and murder. Moreover, since the Commission is dealing with a comparative scale of seriousness, each proposal will have some bearing upon numerous collateral issues. Therefore, it is to be stressed that the Commission invites public comment not only on the actual changes proposed, but on any aspect of the offense severity table or the guideline ranges themselves that may be of concern to interested members of the public. In conjunction with the extended period for public comment (initially until January 1, 1979), the Commission will also be making active efforts to obtain advice and comment from a wide variety of individuals and groups, and is presently planning the holding of public hearings, notice of which will be given in the FEDERAL REGISTER.

BACKGROUND

The factors which the Commission must consider in evaluating the application of a Federal prisoner for release on parole have been established by Congress at 18 U.S.C. § 4206(a)(1976):

> If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:
>
> (1) That release would not depreciate the seriousness of his offense or promote disrespect for the law; and
>
> (2) That release would not jeopardize the public welfare; subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.[1]

[1]Subsec. (b) provides that written reasons be furnished each prisoner and subsec. (c) permits a decision outside the guidelines if the Commission finds "good cause" and explains such decision in its reasons.

The paroling policy guidelines that have been established pursuant to this statutory mandate (at 28 CFR § 2.20) contain two components. The first is a table of offense behavior examples ranked in order of seriousness) that provides a means by which the Commission may rate the seriousness of each prisoner's offense. (The offense behavior examples are listed in seven categories: Low, low moderate, moderate, high, very high, and greatest I and II.) The second is an actuarial table (salient factor score) which aids the Commission in assessing the degree to which the applicant's background indicates likely success or failure on parole (i.e. whether release would jeopardize the public welfare).

For each combination of offense severity rating and degree of parole risk, the guidelines provide a suggested range of months to be served (assuming the prisoner's good institutional conduct). Once it has calculated the appropriate guideline range in the case under consideration, the Commission exercises its discretion to determine whether individual circumstances justify a decision above or below the indicated range. If a decision to require service of a term within the guidelines is reached, then the Commission also exercises discretion to determine at what point within the guidelines release is most appropriate. The most recent publication of these guidelines may be found at 42 FR 39813 (Friday, August 5, 1977) and 42 FR 52398 (Friday, September 30, 1977).

In this manner, the Parole Commission discharges its complex duty of converting three separate judgments (as to prison conduct, the severity of the offense, and the risk that release would entail) into a term of imprisonment that reflects an appropriate balancing of each consideration.

NATURE OF THE PROPOSED CHANGES

The proposed changes would after the placement and definitional language of a number of the offense behavior example within the offense severity table as well as some of the policy instructions (footnotes) accompanying the guidelines.

Two important points should be kept in mind in evaluating these proposed changes. First, the examples within the severity categories are not intended to be used as a form of criminal code. They are merely guideposts for the exercise of discretion, and individual circumstances in actual cases may justify a decision or a severity rating different from that listed. Second, the examples are not comprehensive either as to all possible variations in circumstances or as to all types of behavior that are deemed criminal under Federal law. Only the most commonly recurring types have been selected, and are defined in general terms so as to focus attention on what the Commission considers to be the most relevant factors (e.g., for drug offenses, the amount and purity of the illicit substance involved).

IMPACT OF THE PROPOSED CHANGES

Most of the proposed changes have for their purpose a clarification of present practice. Some new offense behavior examples are added because the increasing frequency of such cases in the Federal prison system requires the Commission to be concerned about avoiding inconsistent severity ratings. (If an offense behavior is not presently listed in the guidelines, the proper category is obtained by comparing the severity of that offense behavior with that of similar behaviors listed.) The rating of such offense behaviors is intended to reflect present practice of the Commission.

In other cases, amendments would be made to the offense behavior examples that would result in changing the duration of confinement such prisoners would serve. For example, certain income tax evaders, and persons possessing or transporting explosives, would be expected to serve longer periods of confinement under the proposed guidelines. On the other hand, levels of incarceration for other tax offenders and certain illicit drug offenders would be decreased to some extent. In general, the Commission's conclusion is that the proposed changes would not be the cause of any appreciable difference in prison population.

IMPLEMENTATION

The Commission has adopted a general policy that guideline changes requiring more confinement will not be applied retroactively to any prisoner who has received his or her initial hearing prior to the effective date of the final rule. However, the Commission will apply changes in the direction of leniency retroactively to prisoners already considered for parole, whose cases would be directly affected by such a change. This reconsideration would be accomplished either at the prisoner's next scheduled review hearing, or on a specially ordered review. Given the extended time for public comment, the Commission contemplates that the final rule would become effective some time in the spring of 1979.

II. *The specific amendments proposed:*

ATTENTION

The text of the following proposed amendment uses ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions.

1. *Property offenses.* It is proposed that the property offense categories be modified as follows:

LOW

Property offenses [theft, ►income tax evasion◄, or simple possession of stolen property] less than $1,000.

LOW MODERATE

Property offenses [forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell] less than $1,000.

[Income tax evasion (less than $10,000.)]

MODERATE

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] $1,000 to $19,999.

[Income tax evasion ($10,000 to $50,000.)[

[Theft of motor vehicle (not multiple theft or for resale.)]

HIGH

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] $20,000 to $100,000.

[Theft of motor vehicle for resale.]

VERY HIGH

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] over $100,000 but not exceeding $500,000.

►NOTE.—Theft of motor vehicles shall be treated as property offense (theft).◄

Comment

The above changes would (1) treat income tax evaders on the same level of seriousness with ordinary property offenders (i.e. theft), that is, according to the amount by which the Government was defrauded; and (2) also treat auto thefts as equivalent to ordinary property offenses.

In the case of income tax evaders, the practical result would be a lower severity rating for offenses involving less than $1,000, and an increased severity rating for offenses between $1,000 and $9,999 and for offenses between $20,000 and $50,000. There would be no change for offenses involving $10,000 to $20,000. (Offenses involving more than $50,000 are now presently rated by extrapolation.)

In the case of motor vehicle thefts, the practical results would be to reduce the severity level for theft of a motor vehicle with intent to resell unless the value of the vehicles stolen was between $20,000 and $100,000, in which case the offense would still be rated as high severity. In addition, theft of a vehicle worth less than $1,000 would be rated as low severity (a reduction from high severity if the theft was for resale, and a reduction from moderate severity if not for resale).

2. *Counterfeiting offenses.* It is proposed that counterfeiting and related offenses be modified as follows:

LOW MODERATE

Counterfeit currency [(passing/possession) less than $1,000].

MODERATE

Counterfeit currency [(passing/possession) $1,000 to $19,999].

HIGH

Counterfeit currency [(passing/possession) $20,000 to $100,000◄].

Counterfeit [(manufacturing/►possession of plates) not exceeding $100,000◄].

VERY HIGH

►Counterfeiting [(passing/possession/manufacturing/possession of plates) over $100,000 but not exceeding $500,000].◄

• • • • • •

Comment

The above changes would clarify present practice by equating the possession of plates with actual manufacturing of counterfeit currency. Because of the obvious potential gain to be derived from having the means to manufacture currency, both offenses are rated at a minimum in the high category. Also, it would be made clear by this change that any counterfeiting offense actually involving more than $100,000 but not exceeding $500,000 would fall into the very high category.

3. *Breaking and entering.* It is proposed that offenses involving breaking and entering be modified as follows:

HIGH

►1Breaking and entering/burglary—residence (not occupied).◄

VERY HIGH

Breaking and entering [bank or post office—entry or attempted entry to vault; ◄1 or armory with intent to steal weapons◄]

►Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim.◄

►NOTE.—Breaking and entering not specifically listed above shall normally be treated as a low moderate severity offense; however, if the monetary loss amounts to $1,000 or more, the applicable property offense category is to be used.◄

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Comment

This change primarily reflects the increasing frequency of burglary cases (reflecting the use of the guidelines in revocation cases) and the need for establishment of an explicit policy governing these cases. See 28 CFR § 2.21. Breaking and entering into an armory is also reflected for the first time, and equated with breaking and entry into a bank or post office with entry or attempted entry to the vault.

4. *Gambling law violations.* It is proposed that offenses involving gambling law violations be modified as follows:

MODERATE

►Gambling law violations—small scale (e.g., estimated daily gross of under $5,000).◄

HIGH

►Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000).◄

VERY HIGH

►Gambling law violations—large scale (e.g., estimated daily gross over $15,000).◄

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Comment

This proposed change would introduce specific examples for the rating of gambling law violations to increase consistency in present practice in the rating of such offenses.

5. *Violent crimes.* It is proposed that the rating of the offenses of arson, murder, and kidnapping be modified as follows:

HIGH

►Involuntary manslaughter (e.g., negligent homicide).◄

GREATEST I

Aggravated felony (e.g., robbery: Weapon fired [no serious injury] or injury of a type normally requiring medical attention◄.

►Arson or◄ explosive detonation [involving potential risk of physical injury to person(s) ►(e.g., premises occupied or likely to be occupied)◄—no serious injury occurred].

►Kidnapping [other than listed below; limited duration; no harm to victim (e.g., kidnapping the driver of a

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truck during a hijacking, driving him to a secluded location, and releasing him unharmed)].◄

►Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).◄

GREATEST II

Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) ►or extreme cruelty/brutality toward victim.◄

Kidnaping ►(for ransom or terrorism; as hostage; or harm to victim).◄

[Homicide (intentional or committed during other crime).]

►Murder.◄

►Treason.◄

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Comment

This proposal (1) equates arson with detonation of explosives and clarifies the requirement for potential risk of injury to justify a greatest I severity rating; (2) distinguishes the various forms of homicide as involuntary manslaughter, voluntary manslaughter, and murder; and (3) distinguishes between different types of kidnaping to avoid equating an incidental kidnaping of brief duration with a kidnaping for ransom, terrorism, or the like motive. The proposal would also avoid the possibility that a minimal form of battery (during a brief scuffle, for example, in the course of an arrest) might result in a greatest I rating, by specifying that if an offense is to be rated as greatest I, an injury must have been inflicted that would normally require medical attention.

6. *Extortions, threatening communications, and robberies by threat.* It is proposed to modify these examples as follows:

MODERATE

[Mailing] Threatening communications ►(e.g., mail/phone)—not for purposes of extortion and no other overt act.◄

VERY HIGH

Extortion►[threat (explicit or implied) of physical harm (to person or property)]◄.

Robbery [weapon or threat ►(explicit or implied)◄].

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COMMENT

This proposal clarifies that all forms of threatening communications (provided they are not for the purpose of extortion and are not actually extended to an overt act) are to be rated in the moderate category. The proposal also clarifies that an extortion or robbery can be accomplished by an implicit as well as an explicit threat.

7. *Bribery.* It is proposed that the offense example of "bribery of a public official (offering or accepting)" be deleted from the moderate category and that the following note be added to the guidelines to cover this subject:

►NOTE.—Bribery of a public official (offering or accepting) or extortion (by use of official position—no threat of physical harm) shall be guided by the applicable property offense category (according to the value of the bribe/demand or favor received in return, whichever is greater), but in any event shall not be less than moderate severity for instance limited in scope (e.g., single instance, not multiple victims); and shall be rated as no less than high severity in any other case.◄

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COMMENT

This change would require a distinction between small and large bribery offenses. It also distinguishes between extortion involving a physical threat and "extortion" by use of official position.

8. *Drug law violations.* It is proposed that the drug categories be modified as follows:

LOW

[Marihuana or soft] ►Illicit◄ drugs, simple possession (small quantity for own use).

LOW MODERATE

►Marihuana, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs)—.◄

►Hashish or hash oil, possession with intent to distribute/sale [very small scale (e.g., less than 1 lb. of hashish or less than one centiliter of hash oil)].◄

MODERATE

Marihuana, possession with intent to distribute/sale [small scale (e.g., [less than 50 lbs.] ►10 to 49.9 lbs.)◄].

Hashish or hash oil; possession with intent to distribute/sale [small scale (e.g., 1 to 4.9 lbs. of hashish or 1 to 4.9 centiliters of hash oil)].

Soft drugs, possession with intent to distribute/sale [(less than $500)] ►(small scale (e.g., less than 1,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [small scale (e.g., less than 1.5 grams of 100 percent purity, or equivalent amounts)].◄

HIGH

Marihuana, possession with intent to distribute/sale [medium scale (e.g., 50 to 1,999 lbs.)].

►Hashish or hash oil, possession with intent to distribute/sale [medium scale (e.g., 5 to 199 lbs. of hashish or 5 to 199 centiliters of hash oil)].◄

Soft drugs, possession with intent to distribute/sale [($500 to $5,000)] ►[medium scale (e.g., 1,000 to 9,999 doses)].◄

►Cocaine, possession with intent to distribute/sale [medium scale (e.g., 1.5 to 15 grams of 100 percent purity, or equivalent amount)].◄

►Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of heroin of 100 percent purity, or equivalent amount)].◄

VERY HIGH

Marihuana, possession with intent to distribute/sale [large scale (e.g., 2,000 lbs. or more)].

►Hashish or hash oil, possession with intent to distribute/sale [large scale (e.g., 200 lbs. or more of hashish or 200 centiliters or more of hash oil)].◄

Soft drugs, possession with intent to distribute/sale [(over $5,000)] ►[large scale (e.g., 10,000 to 100,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [large-scale (e.g., 15 to 150 grams of 100 percent purity, or equivalent amounts)].◄[11[Hard drugs], ►Opiates,◄ possession with intent to distribute/sale [(not exceeding $100,000)] ►[medium scale (e.g., 5 to 50 grams of heroin of 100 percent purity, or equivalent amount)].◄

GREATEST I

►Soft drugs, possession with intent to distribute/sale [very large scale (e.g., over 100,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [very large scale (e.g., over 150 grams of 100 percent purity, or equivalent amount)].◄

[Hard drugs] ►Opiates,◄ possession with intent to distribute/sale [large scale [(e.g., over $100,000)] ►(e.g., over 50 grams of heroin of 100 percent purity, or equivalent amount)].◄

Change footntoe 6:

["Hard drugs"] ►Opiates◄ include heroin, [cocaine], morphine, or opiate derivatives, and synthetic opiate substitutes.

"Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD, [and hashish].

►"Equivalent amounts" for opiates or cocaine may be computed, for example, as follows: Five (5) grams of 100 percent purity is equivalent to 10 grams of 50 percent purity or 20 grams of 25 percent purity.◄

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Comment

The changes may be summarized as follows:

(1) Simple possession of a small quantity of any illicit drug for the possessor's own use would be rated as low severity. This type of offense is encountered almost entirely in the context of revocation cases, rather than new Federal prison sentences. Thus, enlarging this category to include all illicit drugs (rather than just simple possession of marihuana or "soft" drugs) does not amount to an actual change, since "drug abuse" (including hard drugs) under the reparole guidelines is presently treated as the equivalent of low severity offense. (The 2-month difference between the 12- to 18-month low severity guideline range and the 12- to 16-month negative supervision range in the reparole guidelines is a matter that the Commission needs to resolve after review of the public comment.)

(2) A new offense behavior example for small sales of marihuana and hashish (and possession with intent to distribute) is created in the low-moderate category. The proposal also includes a 1 to 10 proportionate relation of hash oil to hashish to marihuana in term of potency. (These substances are merely the grosser and purer refinements of the same plant product.)

(3) The rating of hashish and hash oil is also given specific guidance.

(4) "Soft drugs" would be rated according to amount (doses) rather than estimated monetary value. While the exact amount involved in a "dose" (pill, cube, etc.) may vary somewhat, the Commission feels that this system would be ultimately more equitable than continued dependence on estimated street value. The ratings are designed not to effect any significant change in the treatment of soft drugs (barbituates, amphetamines, "PCP," etc.).

(5) Cocaine under this proposal would not be equated with heroin (as it is at present) because it is not a narcotic drug. Thus, it has been rated separately, according to the weight and purity involved. This change would result in cocaine offenders generally serving less time.

(6) Ratings for heroin and other opiates would be based upon both weight and purity. The commission feels that the policy of rating all heroin sales of up to $100,000 in the very high category is not appropriate and is attempting to distinguish between small- and medium-scale dealers. This will reduce the severity rating for relatively small-scale offenses (i.e., those involving 5 grams or less of 100 percent purity or equivalent).

9. *Alcohol law violations.* It is proposed to decrease the severity rating for alcohol law violators from low moderate to low.

10. *Possession and transportation of explosives.* It is proposed to raise the rating of explosives (possession/transportation) from hight to very high.

11. *Obstruction of justice.* An obstruction of justice classification is to be created by deleting "misprision of felony" from the moderate severity category and substituting the following footnote:

►Obstructing justice [e.g., misprision/concealing of felony] shall normally be rated as one category lower than the underlying offense concerned [e.g., obstruction of justice involving a robbery (very high severity offense) shall be rated as one category lower (i.e., high severity)]. If the underlying offense is low severity, obstruction of justice shall also be rated as low severity. Perjury for the purpose of frustrating a criminal proceeding shall be rated as one category lower than the underlying offense concerned; but in no case as less than low moderate severity.◄

Comment

The Commission has found that obstruction of justice offenses might be more appropriately rated in specific relation to the underlying offense involved, rather than by a simple equation with "misprision of felony" in the moderate category.

12. *Selective Service violators.* It is proposed that Selective Service violations be deleted altogether.

13. *Continuances.* It is proposed that footnote 5 to the guidelines (dealing with continuances) be deleted in view of the Commission's present policy of setting presumptive release dates at the outset of confinement. See 42 FR 39808 (Friday, August 5, 1977).

THE PROPOSED GUIDELINE TABLE

The changes proposed above would result in the following revised guideline table, which is set forth below for the reader's convenience:

Adult

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
LOW				
Alcohol law violations Escape (open institution or program (e.g., CTC, work release) absent less than 7 days). Illicit drugs, simple possession (small quantity for own use). Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $1,000.	6 to 10 mo..	8 to 12 mo..	10 to 14 mo	12 to 18 mo.
LOW MODERATE				
Counterfeit currency ((passing/possession) less than $1,000). Drugs: Marihuana, possession with intent to distribute/sale (very small scale (e.g., less than 10 lb.)). Hashish or hash oil, possession with intent to distribute /sale (very small scale (e.g., less than 1 lb of hashish or less than 1 centiliter of hash oil)). Immigration law violations Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000.	8 to 12 mo..	12 to 16 mo	16 to 20 mo	20 to 28 mo.
MODERATE				
Counterfeit currency ((passing/possession) $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute/sale (small scale (e.g., 10 to 49.9 lb)). Hashish or hash oil, possession with intent to distribute/sale (small scale (e.g., 1 to 4.9 lb of hashish or 1 to 4.9 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale small scale, (e.g., less than 1,000 doses)). Cocaine, possession with intent to distribute/sale (small scale (e.g., less than 1.5 grams of 100 pct purity, or equivalent amount)). Escape (secure program or institution, or absent 7 days or more, no fear or threat used). Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Gambling law violations to small scale (e.g. estimated daily gross of under $5,000). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s) Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.	12 to 16 mo	16 to 20 mo	20 to 24 mo	24 to 32 mo.

Adult—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
HIGH				
Breaking and entering/burglary—residence (not occupied). Counterfeit currency ((passing/possession) $20,000 to $100,000). Counterfeiting ((manufacturing/possession of plates)—not exceeding $100,000).. Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lbs.)). Hashish or hash oil, possession with intent to distribute/sale (medium scale (e.g., 5 to 199 lbs. of hashish or 5 to 199 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale (medium scale (e.g., 1,000 to 9,999 doses)). Cocaine, possession with intent to distribute/sale (medium scale (e.g., 1.5 to 15 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (small scale (e.g., less than 5 grams of heroin of 100 pct purity, or equivalent amount)). Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000). Involuntary manslaughter (e.g., negligent homicide)..... Mann Act (no force—commercial purposes)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000 to $100,000.	16 to 20 mo	20 to 26 mo	26 to 34 mo	34 to 44 mo.
VERY HIGH				
Robbery (weapon or threat (explicit or implied))..... Breaking and entering (bank or post office—entry or attempted entry to vault; or armory with intent to steal weapons). Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim. Counterfeiting ((passing/possession/manufacturing/possession of plates) more than $100,000 but less than $500,000)). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). Hashish or hash oil, possession with intent to distribute/sale (large scale (e.g., 200 lb or more of hashish or 200 centiliters or more of hash oil)). Soft drugs, possession with intent to distribute/sale (large scale (e.g., 10,000 to 100,000 doses)). Cocaine, possession with intent to distribute/sale (large scale (e.g., 15 to 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (medium scale (e.g., 5 to 50 grams of heroin of 100 pct purity, or equivalent amount)). Extortion (threat (explicit or implied) of physical harm (to person or property)). Explosives, possession/transportation..... Gambling law violations—large scale (e.g., estimated daily gross over $15,000). Mann Act (force)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) over $100,000 but not exceeding $500,000.	26 to 36 mo	36 to 48 mo	48 to 60 mo	60 to 72 mo.
GREATEST I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention). Arson or explosive detonation (involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied)—no serious injury occurred). Drugs: Soft drugs, possession with intent to distribute/sale (very large scale (e.g., over 100,000 doses)). Cocaine, possession with intent to distribute/sale (very large scale (e.g., over 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (large scale (e.g., over 50 grams of heroin of 100 pct purity, or equivalent amount)). Kidnaping (other than listed below; limited duration; no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing him unharmed)).	40 to 55 mo	55 to 70 mo	70 to 85 mo	85 to 110 mo.

Adult—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Robbery (multiple instances (2-3))..... Sexual act: force (e.g., forcible rape)..... Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).				
GREATEST II				
Murder..... Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality towards victim. Aircraft hijacking..... Espionage..... Kidnaping (for ransom or terrorism; as hostage; or harm to victim). Treason.....	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			

Youth and NARA

LOW				
Alcohol law violations..... Escape (open institution or program (e.g., CTC, work release) absent less than 7 days). Illicit drugs, simple possession (small quantity for own use). Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $1,000.	6 to 10 mo..	8 to 12 mo..	10 to 14 mo	12 to 18 mo
LOW MODERATE				
Counterfeit currency ((passing/possession) less than $1,000).. Drugs: Marihuana, possession with intent to distribute/sale (very small scale (e.g., less than 10 lb.)). Hashish or hash oil, possession with intent to distribute/sale (very small scale (e.g., less than 1 lb of hashish or less than 1 centiliter of hash oil)). Immigration law violations..... Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000.	8 to 12 mo..	12 to 16 mo	16 to 20 mo	20 to 26 mo.
MODERATE				
Counterfeit currency ((passing/possession) $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute/sale (small scale (e.g., 10 to 49.9 lb)). Hashish or hash oil, possession with intent to distribute/sale (small scale (e.g., 1 to 4.9 lb of hashish or 1 to 4.9 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale (small scale e.g., less than 1,000 doses). Cocaine, possession with intent to distribute/sale (small scale 1.5 grams of 100 pct purity, or equivalent amount)). Escape (secure program or institution, or absent 7 days or more, no fear or threat used). Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Gambling law violations to small scale (e.g. estimated daily gross of under $5,000). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s)..... Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.	9 to 13 mo..	13 to 17 mo	17 to 21 mo	21 to 28 mo.
HIGH				
Breaking and entering/burglary—residence (not occupied). Counterfeit currency ((passing/possession) $20,000 to $100,000). Counterfeiting ((manufacturing/possession of plates)—not exceeding $100,000)..				

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Youth and NARA—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lb.)). Hashish or hash oil, possession with intent to distribute/sale (medium scale (e.g., 5 to 199 lb. of hashish or 5 to 199 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale (medium scale (e.g., 1,000 to 9,999 doses).. Cocaine, possession with intent to distribute/sale (medium scale (e.g., 1.5 to 15 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (small scale (e.g., less than 5 grams of heroin of 100 pct purity, or equivalent amount)). Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000). Involuntary manslaughter (e.g., negligent homicide)..... Mann Act (no force—commercial purposes)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000 to $100,000.	12 to 16 mo	16 to 20 mo	20 to 26 mo	26 to 32 mo.
VERY HIGH				
Robbery (weapon or threat (explicit or implied))..... Breaking and entering (bank or post office—entry or attempted entry to vault; or armory with intent to steal weapons). Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim. Counterfeiting ((passing/possession/manufacturing/possession of plates) more than $100,000 but less than $500,000). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). Hashish or hash oil, possession with intent to distribute/sale (large scale (e.g., 200 lb or more of hashish or 200 centiliters or more of hash oil)). Soft drugs, possession with intent to distribute/sale (large scale (e.g., 10,000 to 100,000 doses)). Cocaine, possession with intent to distribute/sale (large scale (e.g., 15 to 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (medium scale (e.g., 5 to 50 grams of heroin of 100 pct purity, or equivalent amount)). Extortion (threat (explicit or implied) of physical harm (to person or property)). Explosives, possession/transportation..... Gambling law violations—large scale (e.g., estimated daily gross over $15,000). Mann Act (force) ..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) over $100,000 but not exceeding $500,000.	20 to 27 mo	27 to 34 mo	34 to 41 mo	41 to 48 mo.
GREATEST I				
Aggravated felony (e.g., robbery; weapon fired or injury of a type normally requiring medical attention). Arson or explosive detonation (involving potential risk of physical injury to person(s) e.g., premises occupied or likely to be occupied)—no serious injury occurred). Drugs: Soft drugs, possession with intent to distribute/sale (very large scale (e.g., over 100,000 doses)). Cocaine, possession with intent to distribute/sale (very large scale (e.g., over 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (large scale (e.g., over 50 grams of heroin of 100 pct purity, or equivalent amount)). Kidnaping (other than listed below; limited duration; no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing him unharmed)). Robbery (multiple instances (2-3)) ..... Sexual act: force (e.g., forcible rape) ..... Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).	30 to 40 mo	40 to 50 mo	50 to 60 mo	60 to 78 mo.

Youth and NARA—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
GREATEST II				
Murder..... Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality towards victim. Aircraft hijacking..... Espionage..... Kidnaping (for ransom or terrorism; as hostage; or harm to victim). Treason.....	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			

NOTES

1. These guidelines are predicated upon good institutional conduct and program performance.

2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.

3. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

4. If an offense behavior involved multiple separate offenses, the severity level may be increased.

5. "Opiates" include heroin, morphine, or opiate derivatives, and synthetic opiate substitutes. "Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD.

6. "Equivalent amounts" for opiates or cocaine may be computed, for example, as follows: five (5) grams of 100 pct purity is equivalent to 10 grams of 50 percent purity or 20 grams of 25 pct purity.

7. Manufacturing of synthetic drugs for commercial purposes shall be rated as not less than "very high" severity.

8. Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsumated, the conspiracy will be rated one step below the consummated offense.

9. Theft of motor vehicles shall be treated as a property offense (theft).

10. Breaking and entering not specifically listed above shall normally be treated as a "low moderate" severity offense; however, if the monetary loss amounts to $1,000 or more, the applicable property offense category is to be used.

11. Bribery of a public official (offering or accepting) or extortion (by use of official position—no threat of physical harm shall be guided by the applicable property offense category (according to the value of the bribe/demand of favor received in return, whichever is greater), but in any event shall not be less than moderate severity for instances limited in scope (e.g., single instance, not multiple victims); and shall be rated as no less than high severity in any other case.

12. Obstructing justice [e.g., misprison/concealing of a felony] shall normally be rated as one category lower than the underlying offense concerned [e.g., obstruction of justice involving a robbery (very high severity offense) shall be rated as one category lower (i.e., high severity)]. If the underlying offense is low severity, obstruction of justice shall also be rated as low severity. Perjury for the purpose of frustrating a criminal proceeding shall be rated as one category lower than the underlying offense concerned; but in no case as less than low moderate severity.

Dated October 2, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-28239 Filed 10-10-78; 8:45 am]

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[7708-01-M]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2610]

VALUATION OF PLAN BENEFITS

Interim Regulation; Proposed Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed amendment to the interim regulation.

SUMMARY: This proposed rule prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after June 1, 1978, but before September 1, 1978. It is necessary because the PBGC has not yet published valuation rates and factors for plans that terminated during the period covered by the proposed amendment. The proposed amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

DATES: Comments should be submitted on or before November 13, 1978.

ADDRESSES: Comments should be sent to: Office of the General Counsel, Pension Benefit Guaranty Corporation, Room 7200, 2020 K Street NW., Washington, D.C. 20006. Copies of written comments will be available for examination in: Office of Communications, Pension Benefit Guaranty Corporation, Suite 7100, 2020 K Street NW., Washington, D.C., between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006; 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before March 1, 1978 (42 FR 2678 et seq., 42 FR 32777 et seq., 42 FR 41858 et seq., 42 FR 59753 et seq., 43 FR 10560 et seq., 43 FR 25337 et seq.). On July 19, 1978, the PBGC published for comment in the FEDERAL REGISTER Additional rates and factors for valuing benefits in plans that terminate on or after March 1, 1978, but before June 1, 1978 (43 FR 31043 et seq.). The PBGC has now developed and factors for valuing benefits in plans that terminate on or after June 1, 1978 but before September 1, 1978, and proposes to amend the interim regulation to add these factors.

The PBGC has determined that this proposed amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (Mar. 24, 1978), and the PBGC's proposed Statement of Policy implementing the Order, 43 FR 22608 (May 25, 1978). The reasons for this determination are that this proposal is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Each person submitting comments on this proposal should include his/her name and address, identify this notice and give reasons for any recommendation. The proposal may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, by adding a new table XII to Appendix B to read as follows:

XII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after June 1, 1978, but before September 1, 1978.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 7¼ percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0675$
(2) $k_2 = 1.0475$
(3) $k_3 = 1.035$
(4) $n_1 = 7$
(5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 4th day of October 1978.

MATTHEW M. LIND,
Executive Director, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Executive Director to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 78-28764 Filed 10-10-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 985-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Arkansas Air Quality Surveillance Network Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This rule proposes approval of revisions to Arkansas' Air Quality Surveillance Network. The revisions involve movement of 12 monitoring sites from the original locations and the elimination of a hi-vol sampler. The moves range in distance from 73 meters to approximately 73 kilometers. The new site locations will provide better operator access and better site facilities. As a result, both the quantity and accuracy of air quality data are expected to increase. The elimination of the hi-vol sampler was evaluated and the remaining network is an adequate SIP network.

DATE: Comments on the proposed approval should be submitted before November 13, 1978, in order to be considered by EPA in arriving at a final approval/disapproval decision.

ADDRESSES: Please forward your comments to the Environmental Protection Agency, Attention: Jerry Stubberfield (6AAHAP), 1201 Elm Street, Dallas, Tex. 75270. Copies of the State's submittals are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270; Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Anita B. Turpin, Air Program Branch, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: The proposed revisions were submitted by the Arkansas Department of Pollution Control and Ecology on February 15, 1977, January 10, 1978, and March 27, 1978. A detailed discussion of each revision is provided below. The table below lists all of the sites to be changed by the three proposed revisions.

12 MONITORING SITES

ID No.	City	Sampler
1. 041260001F01[1]	Jacksonville	Hi vol.
2. 042280002F01[1]	Russellville	Do.
3. 041140002F01[1]	Hot Springs	Do.
4. 0425600D2F01[1]	Texarkana	Hi vol, SO_2 and NO_2 bubbler.
5. 041120002F01[1]	Hope	Hi vol.
6. 040620002F01[1]	Crossett	Do.
7. 040780002F01[1]	El Dorado	Hi vol, SO_2 and NO_2 bubbler.
8. 040900001F01[1]	Forest City	Hi vol.
9. 040860003F01[1]	Fayetteville	Do.
10. 042480002F01[1]	Springdale	Do.
11. 040920008F01[1]	Fort Smith	Hi vol, SO_2 and NO_2 bubbler.
12. 040200001F01[1,2]	Blytheville	Do.

[1] Feb. 15, 1977—1 of 11 monitoring sites to be moved.
[2] Jan. 10, 1978—SO_2 and NO_2 bubbler to be moved to Jonesboro.
[3] Mar. 27, 1978—Hi vol to be deleted from network.

FEBRUARY 15, 1977

Arkansas proposes to move 11 monitoring sites. Through an audit of the Arkansas surveillance network, the State developed information for designating an official SIP network. The original network was designed to be operated by part-time help. However, much data was found to be unreliable and the State determined a network designed around part-time help would not yield information needed. After numerous problems, a network was developed and completed by January 1973. An evaluation of data showed the proposed moves would generate more reliable data and establish a network which will be more easily operated than originally designated.

JANUARY 10, 1978

Arkansas has attempted to operate a sulfur dioxide (SO_2) and nitrogen dioxide (NO_2) gas sampler at Blytheville, Ark. However, due to poor transportation facilities for handling samples, the State requested permission to move the samplers from the Blytheville site to the Jonesboro site. Evaluation of the proposed network change has determined the proposed relocation will not adversely affect the adequacy of the Arkansas Air Quality Surveillance Network for determining compliance with the National Ambient Air Quality Standards for SO_2 and NO_2.

MARCH 27, 1978

Arkansas has been operating a hi-vol sampler at Blytheville, Ark. The Agency was requested to remove the sampler from the building by the building owner. The State is presently operating six other hi-vol samplers in the surrounding area and has verified that the remaining hi-vols in the area should measure concentration of particulate matter similar to concentrations would be measured at Blytheville. The remaining network is considered an adequate SIP network.

(This notice of proposed rulemaking is issued under the authority of sec. 110(a) of

V 43 N 197 OCT 11 1978

the Clean Air Act, as amended, 42 U.S.C. 7410-(a).)

Dated: September 15, 1978.

EARL N. KARL,
Acting Regional Administrator.

It is proposed to amend part 52 of chapter 1, title 40 of the Code of Federal Regulations as follows:

Subpart E—Arkansas

1. In § 52.170, paragraph (c) is amended by adding a new subparagraph (6) as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(6) Administrative changes to the Arkansas Air Quality Surveillance Network were submitted by the Arkansas Department of Pollution Control and Ecology on February 15, 1977, January 10, 1978, and March 27, 1978. (Nonregulatory.)

[FR Doc. 78-28546 Filed 10-10-78; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 985-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Bay Area Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Bay Area Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted by November 13, 1978.

ADDRESSES: Comments may be sent to Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA region IX office at the above address and at the following locations:

Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, Calif. 94109.

California Air Resources Board, 1102 Q Street, P.O. 2815, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules under regulation 3 on the indicated dates:

JANUARY 10, 1975

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Sections 1200 and 1218.
Division 2—Definitions.
Sections 2009 [deletion], 2010, 2011, 2032, 2032.1, and 2040.1.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Sections 3101.4, 3102.2, 3103.4, and 3103.6.

NOVEMBER 10, 1976

Division 1—Scope.
Chapter 1—Application of this regulation.
Section 1101.1.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Section 3103.5.
Chapter 2—General requirements.
Section 3202, Registration.

OCTOBER 13, 1977

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Section 1219.

NOVEMBER 4, 1977

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Sections 1208, 1212, 1214, and 1215.
Division 2—Definitions.
Section 2045.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Sections 3101.1, 3101.2, 3101.3.
Chapter 3—Expected source operations to conform to modern maintenance and operating practices.
Section 3317.
Sections 1200, 1218, 2009 [deletion], 2010, 2011, 2032, 2032.1, 2040,1, 3101.4, 3102.2, 3103.4, and 3103.6 were previously proposed for disapproval on January 28, 1977 (42 FR 5385). That proposal action is superseded by this notice, which proposes to take action to approve or disapprove the rules listed above.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The regional administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the region IX office. Comments received on or before November 13, 1978, will be considered. Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: September 26, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-28548 Filed 10-10-78; 8:45 am]

[6560-01—M]

[40 CFR Part 52]

[FRL 985-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Louisiana Air Quality Surveillance Network

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes approval of an administrative revision to the Louisiana State implementation plan (SIP) showing the change in location of an ozone and sulfur dioxide sampling site in New Orleans and the deletion of the list of equipment needed to complete the SIP network. This revision was submitted by the Louisiana Air Control Commission after public hearings were conducted in accordance with EPA requirements. The sampling site was moved because the original location was no longer available. Since the location of the new sampling site is in close proximity to the location of the original site, no significant differences in monitoring results will occur. The list of equipment, as compiled, is obsolete.

DATE: Comments on the proposed approval should be submitted before November 13, 1978, in order to be considered by EPA in arriving at a final approval/disapproval decision.

ADDRESSES: Please forward your comments to the Environmental Protection Agency, Attn: Jerry Stubberfield (6AAHAP), 1201 Elm Street, Dallas, Tex. 75270. Copies of the State's submittals are available for inspection during normal business hours at the following location: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270, and Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jack S. Divita, Air Program Branch, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: On April 3, 1978, after adequate notice and public hearing, the Louisiana Air Control Commission (LACC) submitted a SIP revision to the Environmental Protection Agency which was approved and adopted by the Commission on March 28, 1978. The revision proposes that (1) sampling site No. 2 of table II in the Louisiana SIP be changed from "Campsite," corner of Orleans 29°58', 90°4' to State Office Building, 325 Loyola Avenue, New Orleans, 29°57', 90°4', (2) site "S-2" be deleted from the remarks column of the sulfur dioxide continuous sampling section of table I and added to the remarks column of the sulfur dioxide 24-hour sampling section of table I, and (3) the list of equipment needed to complete the SIP network be deleted as it is obsolete and no longer of any value in the plan. That page which carried the equipment list will read "Intentionally Left Blank."

BACKGROUND: The Louisiana SIP, as amended, specifies a monitoring site for ozone and sulfur dioxide to be operated in New Orleans at the intersection of Orleans Avenue and Lafitte Street. This site was located on city-owned property. In late 1974 the city of New Orleans removed the building, requiring the LACC to move the monitoring equipment. It was moved approximately three-fourths mile southwest of the original site, to the State Office Building at 325 Loyola Avenue, which maintains surroundings similar to the original site. Both sites are in a commercial district with well-traveled streets and approximately one-fourth mile from a limited access highway. Analysis of the ozone data from the original and the new site show no significant differences. The lack of personnel coupled with mechanical and maintenance difficulties precluded the operation of a continuous SO_2 monitor at the new site. Instead, the Commission is using the noncontinuous EPA reference method to monitor the SO_2 concentration.

(This notice of proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).)

Dated: September 6, 1978.

EARL N. KARL,
Acting Regional Administrator.

It is proposed to amend part 52 of chapter 1, title 40 of the Code of Federal Regulations as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding subparagraph (10) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(10) An administrative revision of Air quality Surveillance was submitted by the Louisiana Air Control Commission on April 3, 1978. (Nonregulatory.)

[FR Doc. 78-28547 Filed 10-10-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 50]

Office of Education

[45 CFR Part 100b]

Office of Human Development Services

[45 CFR Chapter XIII]

CONSOLIDATED GRANTS TO THE PACIFIC ISLAND TERRITORIES AND THE VIRGIN ISLANDS

AGENCIES: Office of Education (OE), Office of Human Development Services (OHDS), and Public Health Services (PHS), HEW.

ACTION: Notice of decision to issue regulations.

SUMMARY: Title V, of Pub. L. 95-134 of the Omnibus Territories Act, authorizes the Department to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. The purpose of title V is to minimize the burden of existing application and reporting procedures imposed on the island territories and provide flexibility in applying Federal resources to meet their needs. The Secretary has decided that formula grant programs will be eligible for consolidation and that OE, PHS, and OHDS will each make a consolidated grant. Under this new law, the Department must issue regulations spelling out the method by which island territories may apply for the PHS, OE, and OHDS consolidated grants. each agency will develop its own regulations. This regulation initiative has been classified by the Department as "policy significant."

FOR FURTHER INFORMATION CONTACT:

Jonathan D. Breul, 513-D, Hubert Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, telephone 202-245-8901.

Dated: September 25, 1978.

LEONARD SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-28590 Filed 10-10-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699; BC Docket No. 78-320, RM-3141]

Authorizing the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Amendment of the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and reply comments must be received on or before November 27, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-63207197.

SUPPLEMENTARY INFORMATION:

Adopted: September 28, 1978.

Released: October 4, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Springfield, Missouri).

1. The Commission has before it for consideration a petition for rule making,[1] filed by Christian Center of

[1] Public Notice of the petition was given on July 10, 1978, Report No. 1132.

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the Ozarks, Inc.,[2] seeking amendment of § 73.606(b) of the Commission's Rules. It proposes that UHF television Channel 33 be assigned to Springfield, Missouri, on a non-reserved basis. Channel 33 can be assigned to Springfield in compliance with the minimum distance separation requirements and other technical criteria. No responses to the proposal have been received.

2. Springfield (pop. 120,096), seat of Greene County (pop. 152,929),[3] is located in southwest Missouri, approximately 305 kilometers (190 miles) southwest of St. Louis, Missouri. Springfield has three commercial television stations (KYTV, Channel 3; KOLR-TV, Channel 10; and KMTC, Channel 27). It also has assigned to it Channel *21, which is used by Station KOZK, an educational station. Thus, all of the channels assigned to Springfield are occupied by operating stations.

3. Petitioner states that the population of Springfield has increased by more than 25 percent between 1960 and 1970 and predicts that the city will have a population of 133,278 by 1980. We are told that a labor survey encompassing Greene and Christian Counties shows a work force of 92,900, 82 percent of which are employed in non-agricultural employment, including 20 percent in manufacturing. Petitioner has submitted information with respect to education, churches, transportation, and recreation in order to demonstrate the need for an additional television assignment in Springfield. Petitioner asserts that the absence of a non-network television station deprives the people of Springfield and the surrounding area of the many and varied programs carried in numerous other cities by independent television stations. It states that if the proposed channel is assigned, it will apply for a construction permit to construct and operate the facility.

4. In view of the foregoing, and the fact that the proposed assignment could provide the Springfield area with a first non-network commercial television service, the Commission finds that it would serve the public interest to seek comments in a rulemaking proceeding.

5. Therefore, notice is hereby given that the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with respect to Springfield, Missouri, as follows:

[2] Petitioner advises that its name is presently Shiloh, Inc., but the Board of Directors has authorized change of name to Christian Center of the Ozarks, Inc., and the requisite papers are being filed with the Office of the Secretary of the State of Missouri.

[3] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Springfield, Mo	3+, 10, *21–, 27–	3+, 10,

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, by build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will ge given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-28721 Filed 10-10-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-317; RM-3104]

FM BROADCAST STATION IN THOMSON, GA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second class A FM channel to Thomson, Ga., in response to a petition filed by Hickory Hill Broadcasting Co. The proposed assignment could provide for a second FM broadcast service to the community.

DATES: Comments must be received on or before November 21, 1978. Reply comments must be received on or before December 12, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), table of Assignments, FM Broadcast Stations (Thomson, Ga.).

Adopted: September 22, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal and comments:* (a) Notice of proposed rulemaking is given concerning amendment of the FM Table of Assignments (section 73.202(b) of the Commission's rules) as it relates to Thomson, Ga.

(b) Petition for rulemaking[1] was filed by Hickory Hill Broadcasting Co. ("petitioner"), license of full-time AM Station WTWA, Thomson, Ga., seeking the assignment of channel 232A to Thomson, Ga., as its second FM assignment. No response to the proposal have been received.

(c) Channel 232A can be assigned to Thomson in conformity with the minimum distance separation requirements, provided the transmitter is located approximately 5.6 kilometers (3.5 miles) south of the community. Petitioner states that if the proposed assignment is made, it will apply for authority to construct and operate the FM broadcast station.

2. *Community data:* (a) *Location:* Thomson, seat of McDuffie County, in northeastern Ga. is located approximately 170 kilometers (108 miles) southeast of Atlanta and 200 kilometers (125 miles) northwest of Savannah.

(b) *Population: Thomson—6,603; McDuffie County—15,276.*[2]

(c) *Local broadcast service:* Thomson is served by full-time AM Station WTHO, Station WTHO-FM (channel 269A), and full-time AM Station WTWA, licensed to petitioner.

3. *Ecomonic data:* Petitioner asserts that the population of McDuffie County has increased 14.6 percent between 1970 and 1976. It states that Thomson has long served McDuffie County as a governmental and commercial center. We are told that the county's local employment base is dominated by manufacturing. Petitioner details economic information to demonstrate the need for a second FM assignment to Thomson.

4. *Preclusion study:* No communites would sustain preclusion as a result of the propsed assignment of channel 232A to Thomson.

5. Petitioner claims that in addition to providing nighttime aural service to all regular daytime AM listeners, the proposed FM station would more fully cover the Thomson trade area in general and the eastern section of Columbia County in particular. Since under our population criteria, one or two channels could be assigned to Thomson, we believe consideration of the above proposal in a rulemaking proceeding is warranted.

6. In view of the foregoing, we propose the following revision in the FM Table of Assignments (section 73.202(b) of the rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Thomson, Ga.		269A 232A, 296A

7. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures used, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 21, 1978, and reply comments on or before December 12, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterporposals advanced in this proceeding itself will be considered, if advance in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleading. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-28675 Filed 10-10-78; 8:45 am]

[1] Public Notice of the petition was given on May 8, 1978, Report No. 1118.

[2] Population figures are taken from the 1970 U.S. Census.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-329; RM-3105]

FM BROADCAST STATION IN HAYWARD, WIS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second Class A FM channel to Hayward, Wis. The

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proposed assignment could provide for a station which would render a second full-time aural broadcast service to the community.

DATES: Comments must be received on or before November 27, 1978, and reply comments must be received on or before December 18, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hayward, Wis.).

Adopted: September 29, 1978.

Released: October 5, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal, comments:* (a) A petition for rule making[1], was filed April 7, 1978, by Inland Communications Corp. ("petitioner"), proposing the assignment of FM Channel 269A to Hayward, Wis., as a second FM assignment to that community. No responses to the proposals were received.

(b) The channel can be assigned to Hayward, Wis., in conformity with the minimum distance separation requirements.

(c) Petitioner states it will file an application for authority to construct a station if the channel is assigned.

2. *Community data:* (a) Location: Hayward, seat of Sawyer County, is located 128 kilometers (80 miles) north of Eau Claire, Wis. and 96 kilometers (60 miles) south, southeast of Duluth, Minn.-Superior, Wis.

(b) *Population:* Hayward—1,457; Sawyer County—9,670.[2]

(c) *Local aural broadcast service:* Hayward is presently served by daytime-only AM Station WHSM, licensed to petitioner, and Station WRLS-FM (channel 221A).

3. *Economic data:* Petitioner claims that current estimates project a substantial increase in Hayward's population. It states that the principal manufacturing employer in the community is Hayward Dimension, Inc., with several smaller companies engaged in manufacturing wood products. Petitioner asserts that the retail sales in Sawyer County are on the rise, and according to sales management, the county had total retail sales in 1976 of $46,283,000 or $10,789 per household. Petitioner notes that the area is experiencing sustained population and business growth as a result principally of the boom in the recreation-tourist business. It informs us that with this growth projected to continue at a substantial rate, the area's permanent population and its transient vacationers need a second full-time broadcast station. Petitioner recites information with respect to medical and recreational facilities, education, churches, transportation and civic organizations in an effort to demonstrate the need for an additional FM assignment in Hayward.

4. *Preclusion study:* Preclusion would occur on channels 268 and 269A as a result of the proposed assignment to Hayward. Seven communities with populations over 1,000 which do not have local aural service or unused FM assignments would be precluded.[3] Petitioner is requested to indicate in comments whether alternate channels are available for assignment to these communities.

5. Since Hayward is located within 402 kilometers (250 miles) of the United States-Canada border, Canadian concurrence to the proposal must be obtained.

6. Comments are invited on the proposal to amend the FM Table of Assignments (73.202(b) of the Commission's rules) with regard to the Community of Hayward, Wis., as follows:

City	Channel No.	
	Present	Proposed
Hayward, Wis	221A	221A, 269A

7. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before Novemer 27, 1978, and reply coments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the commission.

[1] Public notice of the petition was given on May 8, 1978, Report No. 1118.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Channel 268: Minnesota: Hoyt Lakes (pop. 3,634), Silver Bay (3,504) Two Harbors (4,437). Channel 269: Minnesota: Proctor (3,123); Wisconsin: Mellen (1,168); Spooner (2,444) and Washburn (1,957). A counterproposal is pending in docket 78-92 which seeks the assignment of a class C (290) FM channel to Washburn, Wis.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-28678 Filed 10-10-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-325; RM-3100]

TELEVISION CHANNEL ASSIGNMENT TO TOMAH, WIS.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein purposes the assignment of television Channel 43 to Tomah, Wis. A station operating on this channel could bring a first local television service to the community.

DATES: Comments must be filed on or before November 27, 1978. Reply comments must be filed on or before December 18, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Tomah, Wis.)

Adopted: September 28, 1978.

Released: October 5, 1978.

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by Tomah-Mauston Broadcasting Co., Inc. ("petitioner"), licensee of Stations WTMB(AM) and WTMB-FM (channel 255), Tomah, Wis., requesting the deletion of television channel 25 from LaCrosse, Wis., to permit its assignment to Tomah, Wis. Letters in support of the proposal were filed by citizens in the area.

2. Tomah (pop. 5,647), in Monroe County (pop. 31,610),[2] is located in west central Wisconsin, approximately 60 kilometers (37 miles) east of LaCrosse, Wis. Tomah presently has no local television broadcast service. Channel 25 can be assigned to Tomah in conformity with the distance separation requirements and other technical criteria of the Commission's rules.

3. LaCrosse (pop. 51,153), seat of LaCrosse County (pop. 80,468), is located in west central Wisconsin, at the Minnesota border. Four channels are presently assigned to LaCrosse and stations are operating on three of these: Channel 8 (WKBT), channel 19 (WXOW-TV) and educational channel °31 (WHLA-TV). Channel 25 is unoccupied and unapplied for.

4. Petitioner stated that since there is no local television broadcast facility in Tomah or Monroe County, a local television station would greatly assist area residents to become aware of local needs and problems and would provide a means for local visual self-expression. It notes that the proposed station would also provide the only daily visual communications for a large number of rural residents, and a portion of this area would receive its second and in some cases its first city-grade television signal. Petitioner has submitted information with respect to form of government, school system, transportation, medical and recreational facilities, and civic organizations in order to demonstrate its need for the assignment of a television channel in Tomah.

4. Petitioner asserts that because channel 25 in LaCrosse has remained unoccupied and unapplied for since its assignment in 1966, it should be assigned to Tomah where a need exists and an interest has been shown for its use. It states that it will immediately apply for the proposed channel, if assigned.

5. Petitioner is the licensee of existing AM and FM stations in Tomah. Under section 73.636(a)(1) of the Commission's rules, no new VHF television-FM or VHS television-AM combination may be created. However, UHF television-FM or UHF television-AM common ownership combinations, as would result in this instance, are treated on a case-by-case basis. See note 8 of section 73.636. Consequently, in connection with any application for a new station at Tomah, Wis., petitioner may be required to provide a showing that its being the licensee of both an AM-FM combination and a television broadcast station in the same community would not be contrary to the public interest.

6. Although channel 25 was initially assigned in 1966, it has remained unoccupied since then. Nevertheless, we are not persuaded it should be reassigned to Tomah. Rather, the Commission's technical analysis indicates that future channel assignment flexibility in this area can be maintained if channel 43 is assigned to Tomah. This would not occur if channel 25 were deleted from LaCrosse and assigned to Tomah. Channel 43 meets all applicable technical requirements for assignment to Tomah and we are proposing to amend section 73.606(b) of the Commission's rules, the Television Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Tomah, Wis.		43+

7. The Commission's authority to institute rulemaking proceedings, showing required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION.
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will not be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be

[1] Public notice of the petition was given on May 1, 1978, Report No. 1116.

[2] Population figures are taken from the 1970 U.S. Census.

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considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-28677 Filed 10-10-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-322; RM-3087]

FM BROADCAST STATION IN STERLING, COLO.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes to substitute FM Channel 284 for Channel 244A at Sterling, Colo., modify the license of the station currently operating on channel 244A to specify channel 284, and delete unused channel 288A st Sterling to avoid intermixture. A first and second FM and second nighttime aural service would be provided.

DATES: Comments must be filed on or before November 27, 1978, and reply comments must be filed on or before December 18, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sterling, Colo.).

Adopted: September 28, 1978.

Released: October 4, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal and comments:* (a) A petition for rulemaking[1] was filed by KSTC, Inc. ("petitioner"), licensee of AM Station KSTC and KSTC-FM (channel 244A), Sterling, Colo., proposing the assignment of class C FM channel 284 to Sterling, Colo., the deletion of channel 244A from Sterling, and modification of its license to specify channel 284.

(b) The channel may be assigned to Sterling without affecting any existing FM assignments in the Table and in conformity with the minimum mileage separation requirements. There were no oppositions to the proposal.

2. *Demographic data:* (a) *Location:* Sterling, seat of Logan County, is located in northeastern Colorado, approximately 175 kilometers (110 miles) northeast of Denver.

(b) *Population:* Sterling—10,636; Logan County—18,852.[2]

(c) *Present local aural service:* Sterling is presently served by full-time AM Station KSTC and Station KSTC-FM (channel 244A), both licensed to petitioner. FM channel 288A is assigned to Sterling but is unoccupied and unapplied for.

3. *Economic data:* Petitioner states that Sterling is the economic center of the county as well as the economic and social center of northeastern Colorado. We are told that while farming is the primary economic activity in Logan County, the economy also includes work on developed oil wells, large cattle feeding, ranching and processing operations, and tourism. Petitioner asserts that the diverse economy accounts for Logan County's annual retail sales in excess of $100 million.

4. *Preclusion study:* Additional preclusion would occur on channels 283, 284, and 285A, affecting nine communities with populations greater than 1,500.[3] Of the nine communities, only Cozad (pop. 4,219), has an AM station. All nine communities are without FM assignments. Petitioner should indicate in comments whether alternate FM channels are available for assignment to these communities.

5. Petitioner's *Roanoke Rapids/Anamosa* showings indicate that the facilities proposed for channel 284 would provide first FM service to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area, a second FM service to 855 persons in a 880 square kilometer (339 square miles) area, and a second nighttime aural service to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area.

6. Petitioner claims there is a need for service to rural and sparsely populated areas in Logan County which warrants the assignment of a class C station to Sterling. It states that if channel 284 is assigned to Sterling it wishes to have its license modified to specify operation on it. Petitioner's station, KSTC-FM, operates on one of the two class A channels (channel 244A) assigned to Sterling while the other (channel 288A) is unoccupied and unapplied for. Petitioner asserts that a second class C channel (245) could be assigned to Sterling in place of unused channel 288A to avoid intermixture of classes of channels.

7. In view of the showings of a large first and second FM and second nighttime aural service, we shall propose the assignment of channel 284 to Sterling in lieu of channel 244A. As petitioner notes, an intermixture of classes of channels at Sterling would result if channel 288A is retained. Since there has been no demand for this channel we shall propose its deletion.[4]

8. In the event an additional interest were expressed in the class C channel here proposed and the assignment of a second class C channel could not be justified, petitioner's license could not be modified to specify operation on channel 284. According to Commission policy, as expressed in Cheyenne, Wyo., 62 FCC 2d 63 (1976), other parties should be afforded an opportunity to state their interest in applying for a newly assigned class C channel. Only in the absence of such interest could petitioner's license be modified. Since no person has yet expressed an interest in the proposed assignment of channel 284 to Sterling, we are proposing to modify the license of Station KSTC-FM.

9. An order to show cause to the petitioner is not necessary since consent to a modification of its license is indicated by its request for a class C channel.

10. In light of the above, the Commission proposes to amend the FM Table of Assignments (section 73.202(b) of the Commission's rules), as to the named community, as follows:

City	Channel No.	
	Present	Proposed
Sterling, Colo.	244A, 288A	284

11. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

12. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-28676 Filed 10-10-78; 8:45 am]

[1] Public notice of the petition was given on April 4, 1978 (report No. 1112).

[2] Population figures are taken from the 1970 U.S. Census.

[3] Nebraska: Imperial (pop. 1,589), Cozad (4,219), Gatlenburg (3,154); Colorado: Holyoke 1,640), Wray (1,953), Julesburg (1,653); Kansas: Attwood (1,653), Leoti (1,918), and St. Francis (1,726).

[4] Should an interest be expressed in operating the class A channel, we would consider retaining it. On the other hand, if an interest is expressed in operating a second class C channel at Sterling by another party, channel 245 could be assigned for that purpose. If such an interest is shown in channel 245, the proponent should demonstrate the public interest and need for the second class C channel assignment. Such a showing should include a preclusion study demonstrating the availability of alternate channels to affected communities. Proponent should also indicate the proposed facilities to be used for channel 245, the proposed transmitter site, and the area and population to be served.

[9035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 355]

COST STANDARDS FOR RAILROAD RATES

Interpretation of Statutory Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This is the initial notice in a proceeding to adopt formulas for determining the variable costs and the incremental costs of providing rail service. A number of terms, which will be used in the formulas, are discussed, and working definitions of the terms are proposed. The public is requested to comment on the proposed definitions and to answer specific questions posed in the discussion.

DATES: Comments should be filed by December 26, 1978.

ADDRESSES: An original and 15 copies of any comments should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz.

SUPPLEMENTAL INFORMATION: Section 202(b) of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 35, added a new section 1(5)(b) to the Interstate Commerce Act (49 U.S.C. § 1(5)(b)) which requires the Commission to develop formulas for determining the variable costs and the incremental costs of providing rail service. The new section employs the concepts of "contribution to going concern value," "variable costs", and "incremental costs" for the first time as statutory standards for determining the reasonableness of railroad rates. Before publishing proposed formulas, the Commission would like to develop working definitions of these and other related terms.

The definitions proposed in the following discussion are based on the Commission's previous considerations of these terms [the Commission gave special attention to the subject of cost-finding procedures and cost concepts in No. 34013, *rules to govern assembling and presenting cost evidence*, 337 ICC 298 (1970)] and on the reports of two contractors who are assisting the Commission in a related matter. The contractors, the accounting firms of Deloitte, Haskins, & Sells and Peat, Marwick, Mitchell, and Co., are assist-

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ing the Commission's Section of Cost and Valuation in devising an improved railroad cost-finding methodology which will be based on the recently issued uniform system of acccounts [see No. 36367, revision to the uniform system of accounts for railroads, —— ICC —— (served June 24, 1977)]. The contractors' report, which was submitted December 5, 1977, deals with both the proposed costing methodology and the meaning of cost concepts.

Contribution To Going Concern Value

Section 1(5)(b) begins by stating the basic requirement that a rate must be just and reasonable. It then provides that the Commission may not find a rate to be unreasonably low if the rate contributes to the carrier's "going concern value." This expression is one that the Commission has not previously used.

The report of the contractors defines going concern value as "the owners' expected dividends and equity appreciation discounted by the current cost of equity." What these elements establish is the value of the shareholders' equity. They establish that value essentially on the basis of prospective earnings, which are the source of both dividends and equity appreciation. Therefore, rephrasing somewhat, we propose to interpret "going concern value" as "the value of the carrier's equity capital based on its earnings prospects." If follows that a rate for a railroad service contributes to the carrier's going concern value if it enhances the carrier's earnings prospects.

The contractors indicate that a rate contributes to going concern value if it covers all costs (including capital costs) incurred to provide the service. By "all costs," they refer to costs that result from provision of the service in question; not included in this category is any allocation of costs that exist independently of the service. We propose to adopt this interpretation of contribution to going concern value, because we agree that a service will enhance a carrier's earnings if, and only if, the rate for the service covers all costs incurred to provide the service.

As noted, the costs incurred may include capital costs. The proper measure of capital costs requires special consideration, and will be discussed in a later section of this notice.

Variable Costs

Section 1(5)(b) creates a presumption that a rate at least equal to "variable costs" contributes to a carrier's going concern value. In other words, the costs incurred in providing the service are shown or at least approximated, by what is known as "variable costs." The variable costs concept has long been used by the Commission in just this way.

Because of the complex nature of railroad expense, it is seldom possible to estimate directly the costs incurred in providing a service. Therefore, a technique has evolved for analyzing the service in terms of the outputs required (car miles, gross ton miles, etc.) and ascribing to the service an average cost of its outputs. In this process, it is recognized that some railroad expenses do not vary with the level of output (within a given range of output), and such expenses are disregarded. Only the remaining, or "variable," expenses are considered in the cost computations. For that reason, the result is called "variable costs."

The first stage of the process is the identification of variable expenses, which we propose to define as "expenses that vary with the level of output." Some expenses may be entirely variable with output. Only a portion of other expenses may vary with output, in which case only that portion would be a variable expense. Some expenses may have portions varying with different outputs; each such portion would be a variable expense.

Next, each variable expense is divided by the number of units of the output that causes it to vary. Then, all of these unit variable expenses associated with each type of output are added together. The result may be called the "variable costs per unit of output," which we propose to define as "variable expenses divided by units of output."

Finally, the costs of a particular service are estimated by ascribing to it the computed costs of its units of output. We propose to call this the "variable costs of a service," and to define it as "the product of the number of units of output in the service and the variable costs per unit of output." When we use the general term "variable costs" without qualification, we will be referring to the variable costs of a service unless the context indicates reference to an earlier stage of the variable costing process.

In using the term variable costs in No. 34013, supra, to describe "all the unit expense properly associated with particular changes in output," the Commission was referring to the variable costs of a service. On the other hand, the contractors' definition, "costs which change as the volume of service increases or decreases," refers to variable expenses in general. We believe that clarity can best be achieved by using the proposed three separate concepts corresponding to the three stages of the variable costing process. Public comment on this approach is requested.

Variable costs formulas. The formulas which the Commission will adopt in this proceeding will be devised so as to permit observance of the statutory requirements that: (1) At the request of the carrier, and where specific data and cost information is available, the Commission shall determine only those costs of the carrier proposing the rate and only those costs of the specific service in question and (2) the Commission shall not include expenses which do not vary directly with the level of service provided under the rate in question.

Upon adoption of the formulas, a rate which covers the cost level as determined by them will be presumed to contribute to the carrier's going concern value. As provided by section 1(5)(b), however, this will be a rebuttable presumption. We believe that this fact is a recognition that variable costs are only a practical approximation, based on averages, of the costs incurred to provide the service. As the Commission stated in No. 34013, specific cost data for a particular service is preferable to average costs, including the average costs of a single carrier. In some instances, it may be possible to estimate directly how a few of the items of railroad expenses would change because of the provision of the service.

In addition, as discussed below, there are special circumstances in which shortrun or longrun incremental costs may be a better measure of the costs incurred than would variable costs. In such cases, the variable costs presumption could be rebutted by a showing of shortrun or longrun incremental costs.

Costs of capital in variable costs. One of the costs of railroad operations is the return that must be earned on investment and facilities. Since a portion of the investment varies with the level of output, the return needed on that portion is a variable expense.

The Commission has previously recognized this costs-of-capital component in variable costs. In No. 34013, it stated that the rate of return to be allowed for this purpose should be equal to the level of interest rates on the carrier's existing debt obligations. It stated that any return in excess of embedded interest rates would be "profit" rather than cost.

In view of the "contribution to going concern value" standard, however, the contractors recommend a change in this approach. They urge that the rate of return for costing purposes be based on the current costs of capital—a composite of current interest rates on debt and the current costs of equity capital. In essence, their view is that the capital invested in a service must earn no less than the returns available elsewhere in order to enhance the carrier's earnings.

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We recognize that this question is of great concern to both carriers and shippers. Rather than proposing to adopt one approach or the other for future use, we are requesting comments on this issue. The approach that we adopt will be based upon careful consideration of the comments we receive. In particular, participants are requested to comment upon the following questions: Are capital costs to be considered a cost element for computing variable costs? If so, should capital costs be determined in accordance with embedded interest rates, current costs of capital, or on some other basis? Is there a contribution to the going concern value of a carrier when a rate equals or exceeds the variable costs level described in No. 34013 (where capital costs are computed on the basis of embedded interest rates)?

In the event that the current-costs-of-capital approach is adopted, there will also need to be conclusions as to the means of implementing it. The contractors recommend that the cost of debt capital be based on current interest rates. They would determine the cost of equity capital upon consideration of both market value and comparable earnings studies, and would adjust it to a pre-tax figure using the statutory tax rate. We note that we shall be making costs of capital findings in yearly revenue adequacy proceedings, pursuant to the regulation adopted in Ex parte No. 338, Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels, —— ICC —— (served February 3, 1978), modified in —— ICC —— (served June 7, 1978). These findings will include the current costs of debt as well as equity capital based upon consideration of both market value and comparable earnings studies. If we decide to determine variable costs using current capital costs, we propose to draw upon the capital costs findings in our revenue adequacy proceeding. We would refer to the findings concerning current interest rates, cost of equity capital, and debt/equity structure for a representative group of healthy carriers.

For costing purposes, however, we do not propose to use the statutory tax rate in making the conversion to a pretax figure. The use of a fictional rate above the actual tax liability would overstate the tax costs incurred and, therefore, would appear not to be a proper measure of contribution to going concern value. Rather we would use a tax rate based on the taxes actually paid plus the provision for deferred taxes. We would employ an average of the figures shown for the most recent three calendar years in the carriers' annual reports to the Commission.

As discussed in Ex parte No. 338, Congress provided that the investment tax credit should not be excluded from the costs of service and intended the retention of tax benefits to be a stimulus to investment. Accordingly, we found in Ex parte No. 338 that the tax allowance would include the investment tax credit for the purpose of calculating the carriers' overall expenses. What we contemplate here is not to exclude the investment tax credit from the carriers' overall costs of service but only from those costs attributable to particular movements. We believe that this approach would be consistent with the spirit, as well as the letter, of the tax provisions. The costing of an individual service provides only a rate floor and not a rate ceiling. Indeed, carriers are expected to set their rates at a higher level, where possible, in order to obtain a contribution to coverage of overall expenses.

Incremental Costs

The remaining provisions of section 1(5)(b) deal with the determination of whether a rate is unreasonably high. The Commission's authority to make such a determination is limited to situations where a carrier has a position of market dominance. (The "market dominance" provision of section 1(5)(b) was interpreted in special proc. for findings of market dominance, 353 ICC 875, modified in 355 ICC 12 (1976).) With respect to maximum reasonableness, it is stated in section 1(5)(b) that:

> Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable.

We may label a rate that contributes to going concern value as a compensatory rate. The quoted sentence, then, merely affirms that a rate may be raised from a noncompensatory level to a level that is compensatory but still reasonable.

Finally, section 1(5)(b) provides that a rate increase to a level not above incremental costs shall be presumed reasonable. The contractors define incremental costs as "all costs which are incurred for the purpose of either maintaining an existing service or providing a new service." We propose to adopt this definition for the general meaning of the term.

In No. 34013, the term shortrun incremental costs was used as the label for a cost determination in certain special circumstances. As a practical matter, it was a modification of the variable cost level to exclude inapplicable capital costs, where the service would be provided only for a short time or with surplus capacity. The contractors also use the term in this sense. Consistent with this usage, we propose to describe shortrun incremental costs as "the costs incurred to provide a service under special circumstances, where it is appropriate to attribute a relatively low level of capital costs to the service."

In addition, the contractors employ the term "longrun incremental costs" for situations where a service has responsibility for greater-than-usual capital costs, or causes an identifiable change in fixed costs. For these situations, the contractors would modify the usual variable costs determination to include the additional capital costs and the change in fixed costs. We basically propose to follow this longrun incremental costs approach, although we would describe it somewhat differently. What the contractors refer to as "additional capital costs and changes in fixed costs" are capital costs and other costs (e.g., maintenance) attributable to those changes in plant capacity that are necessitated by the service. We propose to describe longrun incremental costs as "all costs incurred to provide a new or continuing service that, over the planning horizon, requires additions to plant and equipment or inhibits reductions in plant and equipment." These costs would include capital and other costs associated with the adjustment in plant capacity.

The incremental costs presumption of section 1(5)(b) relies on incremental costs "formulas" to be prescribed by the Commission. The Commission has not previously had anything designated as "incremental costs formulas." Nevertheless, consistent with the proposed use of the longrun incremental costs concept, we propose that the formulas for incremental costs would be simply the formulas for variable costs with an adjustment for any additional capital or other costs shown to result from the service.

It may be, however, that refinement of the incremental costs formulas should be considered. For example, in lieu of depreciation, there could be use of amortization obtained by discounted cash flow procedures applied to all capital expenditures over the planning horizon, employing an appropriate cost of capital rate. In shortrun situations, all depreciation and amortization might be excluded. Comments on the feasibility and desirability of such refinements are requested.

As seen, the incremental costs formulas, would permit estimates of all costs incurred to provide the service. Certainly, a rate no higher than this cost level should be presumed not to be unreasonably high. Thus, the proposed incremental costs formulas would give a reasonable effect to the incremental costs presumption of the statute.

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For clarification, we note that a formula determination of incremental costs would not be given preference over more precise evidence of the costs incurred, such as properly documented engineering cost evidence portraying actual operating conditions. We also note that the incremental costs presumption does not establish a rate ceiling. A rate may exceed the incremental costs level and still be shown reasonable, even if it is not presumed reasonable. Indeed, where possible, rates must be set somewhat above the incremental costs level so that the carrier's revenue will cover those costs which are not traceable to individual services.

The public is requested to comment on the definitions proposed in the preceding discussion and to respond to the specific questions raised. It would be helpful if comments which are critical of a particular definition would include suggestions as to how that definition could be improved.

All common carriers by railroad subject to part I of the Interstate Commerce Act shall be respondents in this proceeding. Copies of this notice will be available to the public at the Office of the Secretary of the Commission, and the notice will be published in the FEDERAL REGISTER. No oral hearing is planned at this time.

This proposal will not significantly affect the quality of the human environment.

Issued at Washington, D.C. on October 3, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28608 Filed 10-10-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 652]

ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Proposed Extension of Surf Clam Vessel Moratorium

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations (50 CFR 652.9(b)) implementing the Atlantic surf clam and ocean quahog fishery management plan (FMP) by extending the present moratorium on the entry of additional vessels into the surf clam fishery for a period of 1 year, from November 16, 1978, to November 16, 1979. This proposal is based upon a determination of the Assistant Administrator for Fisheries, after consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, that the current surf clam fleet has the capacity to overharvest the surf clam stocks and that extension of the moratorium is consistent with the FMP.

DATE: Comments must be received on or before October 31, 1978.

ADDRESS: Comments should be addressed to Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.9 of the regulations governing the surf clam and ocean quahog fisheries in the fisheries conservation zone (FCZ) which was published on February 17, 1978 (43 FR 6952), provides that a moratorium beginning on November 17, 1977, prohibiting the entry of additional vessels into the surf clam fishery, remains effective until November 16, 1978.

The FMP, published on November 25, 1977 (42 FR 60439), provides that at the end of 1 year the moratorium could be extended, lifted, or replaced with another plan of limiting entry, as warranted.

Based upon the catch and effort data collected during the moratorium, the Mid-Atlantic Fishery Management Council recommended to the Secretary that the moratorium be extended for another year. The data supporting the council's recommendation indicate that the surf clam fleet still has the capacity to overharvest the stocks. Fishing capacity has even increased as a result of the installation of new gear (e.g. larger clam dredges). The entrance of new vessels into the fishery could have a serious impact on both the surf clam stocks and the present participants. In response to this recommendation of the council, public hearings were held by the National Marine Fisheries Service on the proposed moratorium at Cape May, N.J., and Westport, Mass., on September 14 and 18, 1978, respectively, to solicit comments on whether or not the surf clam moratorium should be extended in accordance with the FMP.

Signed in Washington, D.C., this 4th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

Amend 50 CFR § 652.9(b) as follows:

§ 652.9 Vessel moratorium.

(a) • • •

(b) The moratorium shall remain in effect until November 16, 1979, unless the Secretary determines, after public hearings and consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, to terminate the moratorium at an earlier date.

[FR Doc. 78-28596 Filed 10-10-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN (WIC)

Program and Administrative Funding Formulas

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Food and Nutrition Service is publishing for public comment the formula for distributing funds to State agencies participating in the special supplemental food program for women, infants, and children.

DATED: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

NOTICE: The Secretary of Agriculture has authority to allocate program funds to each State agency on the basis of a formula determined by the Secretary. Notice is hereby given detailing the proposed funding formula selected by the Department. The discussion which follows addresses the background and considerations which led to the selection of the new formula.

LEGISLATIVE BACKGROUND

In June 1977, public hearings were held by the Food and Nutrition Service to consider comments regarding possible legislative changes in the WIC program. Among the concerns raised by those presenting testimony were: The funding formulas employed to distribute available moneys to State agencies; the method by which administrative funds are provided; and the funding available for nutrition education. The level of interest demonstrated at the hearings reinforced the Agency's commitment to explore alternate methods of addressing these areas through the legislative process and administrative actions. As a result, pending legislation carries the provision that the Secretary must design separate funding formulas for the allocation of both program and administrative moneys. When that legislation is passed an administrative funding formula will be proposed.

FUNDING HISTORY

Since the authorization of the WIC program in 1972, the enabling legislation has not provided a mechanism or formula for orderly distribution of the available funds among the States implementing the program. Therefore, the distribution of WIC program funds has had a varied and often controversial history. The Department's initial reluctance to accept the WIC program and release funds to States resulted in a court suit to mandate WIC spending. The Federal district court order of August 1973 (*Dotson v. Butz*), required expenditure of the $40 million authorized by Congress for fiscal years 1973 and 1974 at $20 million each year and resulted in a rapid period of expenditure. To accomplish this expansion, grants were made directly through State agencies to local agencies approved by FNS on a first-come, first-served basis. (It was later that funds for the program were channeled directly to State agencies for subsequent distribution to local agencies as the State deemed appropriate.) The time constraints felt by the Department as a result of the Dotson Order were such that elaborate approval procedures were not developed to ensure funding of the most needy areas. In this connection, it was not until the affirmative action stipulation of January 1976 regulations (pursuant to Pub. L. 94-105) that a concerted effort was made to fund areas of greatest need.

Congress moved in November 1973 to expand the WIC program for fiscal year 1975 by authorizing $40 million. In June 1974 the authorization for fiscal year 1975 was increased to $100 million. In the absence of specific appropriating legislation, the enabling act called for the Secretary of Agriculture to use funds made available through section 32 of the Act of August 24, 1935. Section 32 funding was authorized through fiscal year 1977, but a direct appropriation of $250 million for the program was made for fiscal year 1977.

On June 22, 1976, the U.S. District Court of the District of Columbia issued an order in the case of *Durham, et al.*, v. *Butz, et al.*, which ordered the expenditure of the estimated $562.5 million available for the WIC program for the transition quarter and fiscal years 1977 and 1978, plus all funds unspent from fiscal years 1974, 1975, and 1976, during a 27-month period beginning July 1, 1976, through September 30, 1978.

On August 4, 1976, the estimated 27-month funding was initially allocated to each State agency by fiscal period (transition quarter, fiscal year 1977, and fiscal year 1978). To accomplish this the Department used the title V formula, which was currently in use by DHEW's maternal and child health program, as well as the plans for expansion submitted by each State. However, in order to insure compliance with the court order, a plan was also initiated to recover unobligated funds from each State agency and to reallocate the recovered amounts to those State agencies which demonstrated expenditure rates at or near their maximum obligation level.

The reallocation plan identified the maximum obligation level for each State agency and the procedures for reallocating unused funds to State agencies demonstrating the need for additional funds through actual performance. Recoveries of unused funds and reallocation occurred on a quarterly basis.

The criterion for State agency participation in each reallocation was based on their achievement of a prescribed spending performance level, the first being of a level of 65 percent of their monthly obligation level. Subsequent participation in quarterly reallocations required an incremental increase of 5 percent, each quarter, up to an 80 percent spending performance level. Having reached this level, three additional reallocations were done in January, April, and July 1978 with spending performance levels of 90, 95, and 95 percent respectively, as a prerequisite to participation.

This reallocation system resulted in a marked expansion of the WIC program, from 600,000 participants in July 1976 to 1.3 million in July 1978. However, the process and the use of the title V formula have been the subject of considerable criticism. As a result, the administration undertook a review of possible funding formula alternatives for use in future year.

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PUBLIC PARTICIPATION PROCESS

In view of the historical funding problems of the WIC program, the Department and Congress clearly recognized in the development of new legislation that a fresh look at the funding formula was necessary.

In order to allow for varied input into the decision process, it was decided that a panel discussion on these funding issues would be held prior to officially proposing a funding formula to the Secretary. A panel on WIC's program and Administrative Funding Structure convened on September 6-8, 1978, to provide the Department with its recommendations concerning the best allocation method. The following people attended the panel meeting:

Mr. Philip Abadie, WIC Coordinator, Arizona.
Mr. Rims Barber, Children Defense Fund, Mississippi.
Ms. Janet Berkenfield, WIC Coordinator, Massachusetts.
Mr. C. Richard Blount, WIC Director, Missouri.
Mr. Sam Byrd, Idaho Migrant Council.
Mr. Richard Charles, local agency, New York.
Ms. Betsy Clarke, WIC Coordinator, Oregon.
Ms. Mary Egan, DHEW.
Mr. Ed. Epstein, local agency, Illinois.
Ms. Carol Fahey, FNS RO, New Jersey.
Mr. Ron Feazle, WIC Accountant, Choctaws, Oklahoma.
Ms. Stefan Harvey, Childrens' Foundation, Washington, D.C.
Ms. Elizabeth Hensler, WIC Director, Oklahoma.
Ms. Linda Katz, Advocate, Rhode Island.
Mr. Art Kotowski, FNS RO, Illinois.
Mr. Marlyn Lundgren, Finance Officer, Michigan.
Mr. Mike Montgomery, FNS RO, Texas.
Ms. Cynthia Perkins, WIC Director, Georgia.
Ms. Barbara Zang, National Child Nutrition Project, New Jersey.

A paper discussing the considerations, alternatives, and recommendations reached by the panel was then forwarded to the Secretary for the administration's official review. The selection of program and administrative funding formulas resulted from an extensive examination of the issues presented, as well as, consideration for the implication of any given formula on future WIC program operations.

FACTORS BEARING ON THE SELECTION OF A FUNDING FORMULA

In determining what formula to use and how to apply the formula, many considerations had to be taken into account. The law states that funds shall be allocated to "areas most in need of supplemental foods" and the Secretary is instructed to develop a formula to accomplish this. The formula should be designed to reflect the probability of need based on population, poverty, and health conditions by State agency. Since there is no direct means of identifying the potential eligible population universe, factors had to be selected for their realistic use as predictors without discriminating against the peculiar differences in the populations of the State agencies.

In selecting factors to use as a base for the formula for distribution of program funds, consideration was given to the adequacy and availability of the data base, and the degree of relevancy to the legislative mandate.

Athough several other health and income indices exist, the selection of indices was restricted by the fact that not all statistics are available for Indian populations. Special attention therefore was given to insure that the factors selected were also available on Indian State agencies, since in all other respects they are treated on an equal basis with all other State agencies. The review of available Indian data revealed a very limited universe of health and income indices.

Currently, statistics on Indians are gathered by Indian Health Services (IHS) based on counties and service areas. Since WIC program data needs did not alway coincide with the data available from IHS, some assumptions were made in regard to Indian populations, especially as to how they pertain to the WIC program service area as IHS service areas and WIC Indian State agencies service areas do not always agree.

This meant that some data on the Indian populations had to be calculated in order to make this data consistent with data collected for other State agencies. In order to utilize the available data, the assumption was made that all IHS service area Indians fall below 200 percent of the poverty level. Although all Indian populations do not fall in this category, this assumption does apply to the majority of Indian populations. Also, Indian populations tend to be small, thus they have a minimal effect in proportion to the rest of the U.S. population on the formula results.

After considerable review of all available health and income statistics, it was decided that possible statistics which could be used included: infant and neonatal mortality figures, infant mortality rates, live births and rural births and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

The factors were selected not only because they were available for Indian populations, but also because of the value of each factor in assessing the economic and health need of the WIC target population in each State agency.

The panel discussed the use of these factors at length and in the final analysis recommended two factors as the most appropriate for use in a WIC Program funding formula. The factors selected were infant mortality rate and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

Infant mortality includes all infant deaths up to one year of age from all causes including health related reasons as well as accidents. It has been determined that 74 percent of all infant mortalities are accounted for by deaths during the first four weeks of life. Infant mortality rate is an expression of the number of infant mortalities per 1,000 live births in the State agency. These factors are considered health related and tend to indicate the "remedial" need in a given area.

It is important to emphasize the use of infant mortality rates rather than the use of raw infant mortality figures. If the total number of infant deaths were used as a determining factor for the distribution of funds, those States with larger populations would receive more funding. A State agency administering a small population may report a low number of total infant deaths, while in actuality the infant mortality rate may be a high figure, possibly reflecting serious nutritional and health care deficiencies.

Evidence has been presented which clearly reflects an inverse relationship between socioeconomic status and infant mortality rate. In a study by MacMahon et al., mortality rates were higher for white infants in lower socioeconomic groups than in higher socioeconomic groups throughout the first year of life. The differences for deaths between lower and higher socioeconomic groups was considerably greater after the first week of life than in very early life. One of the factors accounting for this difference is that women of higher socioeconomic status are often better educated about proper nutrition, and are better able to utilize and afford prenatal and infant health care services. Since the WIC Program uses income level as well as nutritional need to determine eligibility, the relationship between low socioeconomic status and high infant mortality rates strengthens the argument for using these rates as funding distribution criteria.

The data is readily available on a regular basis and is considered to be a good index of the health status of a community. In addition, infant mortality rates are thought to be affected by (also related to) the age of the mother e.g., girls under 17 years of age, prematurity, access to prenatal care and other such factors which relate to the WIC target population.

Neonatal Mortality was also discussed, but data is more difficult to

obtain and is often limited as it only covers a small segment of the total infant population. Therefore, it was determined that infant mortality rate, as it includes neonatal mortalities, was a better health indicator for the purposes of the formula.

The Department also recognized the need for including a population indicator in the WIC distribution formula, since it is the purpose of the Program to provide supplemental foods to persons at nutritional risk because of both inadequate income and inadequate nutrition.

Factors directly relating to population include live births, rural births, population of children from 0-5 years, and birth by age of mother, however, these factors do not specifically target on low income. The factor "children under five years at or below poverty or 200 percent of poverty" has the advantage of being both a poverty factor as well as a population factor.

Additionally, children under five years of age who are members of families with incomes at or below 200 percent of poverty are potentially eligible for WIC. They may be at high nutritional risk and may be critically in need of WIC Program benefits. Further, pending legislation will probably establish an income eligibility requirement of 195 percent of the poverty level, so the use of children under 5 years at or below 200 percent of the poverty level would be consistent with the legislative intent of serving persons at or below 195 percent of poverty.

During early stages of development, children need iron, protein, vitamins and other nutrients. However, according to the "Ten State Nutrition Survey" conducted by the Department of Health, Education and Welfare (DHEW) many low-income families often cannot afford to buy sufficient food meet their children's nutritional needs. Often they must resort to giving their children inexpensive foods which are filling and satisfy the children's hunger but lacking in essential nutrients. Thus, the diets of low-income children often do not provide the nutrients necessary for adequate growth and normal blood levels. Consequently, as it is recognized that children in low-income families are generally at a greater potential risk and can benefit from the preventive health and nutrition aspects of the Program, the Department concluded that allocating funds on the basis of number of children under five years at or below 200 percent of the poverty level would focus funds on the target population which would be eligible under the 195 percent of poverty income eligibility requirement. Poverty should be a key indicator in the distribution of funds.

During the discussion on the factors to use, the Title V formula and the factors used in that formula were addressed. The Title V formula uses per capita income and live births statistics as a basis for distributing funds.

In the past, some States with a predominantly urban population did not believe Title V was an equitable formula because some of the statistical components were broken into urban and rural subsets with the rural subset being given double weight. While enabling legislation for Title V Programs recognized the special needs of rural areas for Maternal and Child Health (MCH) services, WIC Program legislation makes no specific distinction in the funding provision. However, the special needs of rural populations are addressed in other sections of the WIC legislation. Rurality also is reflected in infant mortality rate to some extent.

Besides the concern of urban areas, a number of other technical arguments have been voiced over the Title V formula. The health index does not distinguish between total live births and live births in the low-income population. As the WIC target population is composed of pregnant and breastfeeding women, infants and children under five years who are low-income, it is argued that poverty statistics considered in a formula should focus on these groups. Further, as per capita income is incorporated in the income index, urban areas might be at a disadvantage as the cost of living is generally higher in urban areas. Further, the total live birth index is not congruent to the preventive aspect of the Program in that more funds should go to States where infant mortality is higher relative to the rate of conception.

For these reasons, the per capita income factor was not favored for application into the formula. Although data is readily available, this factor had the limitation of relating to population as a whole, rather than reflecting the low income population which is the target population of the WIC Program. Consequently, the Panel believed that the factors used in Title V and the manner in which the formula applies the factors, were not the best alternative for funds distribution in the WIC Program.

SELECTION AND APPLICATION OF THE FOOD FUNDING FORMULA

Once the Panel had reached a decision on the best factors to use in the formula, the results of several formulas and various modifications were discussed. The Panel concluded that the best option was to utilize a formula which incorported two different funds of money. One fund, amounting to 70 percent of the food fund was to be distributed to State agencies based on each State agency's percent of children under 5 years at or below 200 percent of poverty or percent of children under 5 years at or below poverty and 200 percent of poverty compared to the national total. The other fund, 30 percent of the food funds, was to be distributed based on each State agency's percent of the infant mortality rate compared to the nationwide sum of infant mortality rates.

The Panel believed that this formula brought together the factors which reflected need based on poverty, population, and health factors. Poverty and population are each considered in the factor "children under 5 under poverty or under 200 percent of poverty". Because both poverty and population are to be covered by this one factor, it was given double weight by allocating 70 percent of the funds to be distributed based on this factor. The remaining 30 percent of funds was to be distributed based on infant mortality rate which considers the health need of the population rather than the size of the population.

The Department analyzed the results of this formula to determine the impact on WIC State agencies, and found after the panel meeting had concluded that the formula tended to allocate disproportionately large sums of money into State agencies with small populations. As the Panel concluded that a population/poverty factor should get a double weight (as indicated in giving 70 percent of the food fund based on children under 5 years at or below 200 percent of poverty), the Department believed the result of this formula was at variance with the Panel's intent.

Consequently, an adjustment was made to the formula to assure that the end result was more consistent with the philosophy expressed by the Panel members. The primary problem with the formula emanated from the 30 percent fund which was distributed on the infant mortality rate. This procedure allowed sparsely populated States to get as much money as heavily populated States if their infant mortality rate was the same. If a small State has a significantly higher infant mortality rate than a large State, the small State received a significantly larger portion of the money from this fund.

In order to resolve this inequity, and still remain true to the Panel's intended use of poverty, population and health indices, the Department developed the following formula: Children under 5 years at or below 200 percent of poverty multiplied times the result of the infant mortality rate divided by the national infant mortality rate.

This formula considers the poverty/population factor, but tempers that that factor based on the infant mor-

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tality rate of the State. If a State has an infant mortality rate higher that the national average, they receive a funding advantage over a State agency with an infant mortality rate below the national average.

In order to apply the formula, the Panel made several recommendations concerning procedures which would ensure that the most equitable allocation would be accomplished. Following is a discussion of those procedures.

Maximum grant. It was decided that no State agency should receive more funds than needed to serve their universe of potentially eligible WIC participants. Therefore, a maximum grant was computed to ensure that no State agency receives in excess of that Maximum grant amount.

The formula used to determine maximum grant was the number of children under 5 years at or below 200 percent of poverty plus the number of live births, with the sum of those two figures multiplied by the national average food package cost and multiplied by 12 months. (For Indian State agencies, rather than using the national average food package cost, the average food package for each State agency or the average food package cost among all Indian State agencies, which ever is highest, was used). The determination was made that no State agency received more than what their maximum grant allowed.

Hold harmless. It is essential that all State WIC agencies be guaranteed (or held harmless to) their fiscal year 1978 fourth quarter annualized level when the funding formula is applied. The held harmless provision is applied in recognition of the performance level States have attained during the past 27 months. Failure to hold harmless would negate past efforts and discourage future growth efforts and would impact additionally on adjunctive health services as well as local WIC Program.

The Program has experienced some recent growth in nearly all States. It would make little philosophic or programatic sense to cut back funding in some States while increasing funding in others, as funding cutbacks in States would remove current participants from the Program. If all States are held harmless, the current caseload will be assured through fiscal year 1979 in States which would not benefit significantly from the application of the formula at the fiscal year 1979 funding level. The held harmless factor would continue to be used during the life of the formula as long as any State agency loses funds through application of the formula.

An inflation and growth rate factor based on USDA's estimate of projected food package cost increases in fiscal year 1979 was also included in the formula. Fiscal year 1979 funds will be available on a basis which again will allow only a gradual growth rate; therefore, according to Department calculations, each State agency requires an additional 10 percent of its fiscal year 1978 fourth quarter annualized allocation in order to maintain its fourth quarter caseload during fiscal year 1979 and to provide for limited growth in all State agencies in order to establish and maintain a stable system of program administration.

To accomplish this, the funding formula is run for all State agencies and the outcome is compared to their fourth quarter fiscal year 1978 annualized level. All State agencies with fourth quarter annualized amounts over the formula amount are held harmless and given increases of 10 percent.

Other State agencies receive funds via the formula application.

Migrant farmworkers. The needs of the migrant farmworkers and the unique difficulties they present in a funding methodology were also taken into consideration.

According to the National Association of Farmworker Organizations, recent statistics have shown that the infant mortality rate among migrant farmworkers is 25 percent higher than the national average. Also, nine times more births among migrants occur outside of hospitals than among nonmigrants. These figures show that the migrant population is in itself a high risk group and should have special provisions to ensure WIC benefits reach those women, infants and children within the migrant population. However, because migrants travel from State to State in the process of doing their work, and because each State has limited funds, migrants often enter the Program and go through another waiting period in a new State which does not have any additional funds. In effect, migrants are penalized for their life style.

Since no realistic count of migrant women, infants and children is available nationwide, migrants could not be included in any funding formula. However, the Panel recommended and the Department concurred that migrant needs could be addressed best through regulatory requirements which mandate the following;

1. State agencies must include in their State Plans of Operation how the State agency will identify the migrant population and their specific needs and what specifically will be done to address migrant needs.
2. State agencies must coordinate with community based farmworker organizations, or other similar groups in order to develop programs to meet migrant needs.
3. FNS must develop specific performance standards and sanctions to ensure State agency compliance with approved plans.

The Department will also consider the need to serve additional migrant farmworkers in the reallocation criteria.

New State Agencies

Outlying territories such as Guam and the Trust Territories as well as Wyoming and the District of Columbia are not included in the apportionment of WIC funds because there are no programs presently operating in those jurisdictions, nor has the Department received a formal application for participation in the Program from these potential State agencies. Legislative intent dictates that all appropriated funds should be made available to all State agencies currently participating or having made application to participate in the Program. Therefore, any territory or State making application to participate in the Program will receive funds from future reallocations of unspent funds in accordance with procedures established herein.

There was some discussion throughout the course of the Panel meeting as to whether a maximum cap should be set to limit State agencies to no more than a set percentage over their fiscal year 1978 fourth quarter annualized level. Although the Panel made no formal recommendation in this regard, the Department believes that given the modest increase provided for fiscal year 1979 over the current annualized level, it is wise to set a cap to prevent some State agencies from receiving a funding allocation which is far greater than what they could realistically spend in the upcoming fiscal year.

To this end, it was decided to set a cap whereby State agencies whose fourth quarter annualized level was over $5 million would receive no more than a 50 percent increase above that annualized level. This will ensure that these State agencies are provided ample funds, but not an amount which would cause expansion poorly integrated with health service. It also ensures that large sums obligated funds do not remain unspent in a State agency's Letter of Credit because of difficulties in expending a large amount of money in a short time.

In summary, the formula selected for distribution of food monies is applied as follow:

1. The formula is applied to the $550 million appropriated as shown below:

Number of each State's children under 5 under 200 percent poverty

divided by

Sum of all State agencies children under 5, under 200 percent poverty

times

State's infant mortality rate

divided by

National infant mortality rate

2. The results of the formula are then compared to each State agency's fourth quarter annualized level. If the fourth quarter annualized level is more than the amount allocated under the formula, that State agency is held harmless (or guaranteed at least that level of funding).

3. The maxium grant is computed for each State agency and is also compared to the State agency's fourth quarter annualized level. If the fourth quarter annualized level is higher than the maximum grant, the State agency receives the maximum grant (an exception is made for the first quarter of fiscal year 1979; any State agency whose fourth quarter annualized level is higher than the maximum grant will receive their fourth quarter annualized level). As the only State agencies which have reached maximum grant are Indian State agencies, the Department believes it is prudent to do further research on statistics available on Indian populations before applying the maximum grant limitation.

4. All State agences then receive a 10 percent increase over their fourth quarter annualized level (except those State agencies which are at maximum grant and are receiving only their fourth quarter annualized level) and a total is computed.

The total from number 4 is subtracted from the funds available and the formula is run again on the difference for only those State agencies which were not held harmless or at maximum grant.

6. The amount allocated by the 10 percent increase and the amount received through the second run of the formula is added together to arrive at the grant for the State agencies that participated in the second formula run.

At this point an analysis is made to determine if any state agency which has a fourth quarter annualized level of over $5 million has an increase of over 50 percent. For these State agencies, the amount in excess is recaptured, totaled and distributed through a third run of the formula to the other State agencies that participated in the second formula run.

Through the application of the formula, a State agency will receive a grant derived by one of the following:

1. Maximum grant.
2. Fourth quarter annualized level plus a 10 percent increase (hold harmless State agencies).
3. Fourth quarter annualized level plus a 10 percent increase plus a share of the funds from the second and third runs of the formula (State agencies not held harmless).

Shown below is a chart which indicates the first quarter funding level for each State agency. Administrative costs are included and were computed by providing each State agency with 20 percent of their program grant in compliance with P.L. 94-105. Since there is no new authorizing legislation we are currently held to this 20 percent level as specified in P.L. 94-105. the Department feels sure that new legislation will be passed in the near future. As a result of this passage, administrative funds would be determined by a formula rather than the straight 20 percent for the remainder of this fiscal year. Therefore, grant levels will change accordingly with some State agencies increasing while others decrease. The figures listed below represent the first quarter funding only, not one-fourth of the annual funding level.

A number of State agencies have two funding amounts listed. The first amount is their first quarter level; the amount in parenthesis is the first quarter maximum grant level. These State agencies are the ones being held harmless for the first quarter to allow for more accurate computation of maximum grant levels as discussed above.

New England Region		
Connecticut	$2,877,375	
Maine	846,029	
Massachusetts	2,263,972	
New Hampshire	382,181	
Rhode Island	574,761	
Vermont	1,515,842	
Mid-Atlantic Region		
Delaware	$292,773	
Maryland	2,655,619	
New Jersey	2,839,8344	
New York	8,876,555	
Pennsylvania	5,567,266	
Puerto Rico	4,073,687	
Seneca Nation, New York	42,669	($39,780)
Virginia	3,294,298	
Virgin Islands	319,697	
West Virginia	1,500,004	
Southeast Region		
Alabama	$2,783,621	
Florida	14,623,516	
Georgia	4,465,363	
Kentucky	3,547,000	
Mississippi	2,893,033	
North Carolina	5,648,598	
South Carolina	3,857,615	
Tennessee	3,423,172	
Seminoles, Florida	24,417	($18,161)
Choctaws, Mississippi	81,453	(64,449)
E. Cherokee, North Carolina	74,400	(65,434)
Southwest Region		
Arkansas	$1,778,064	
Louisiana	3,665,951	
New Mexico	947,459	
Oklahoma	1,369,850	
Texas	9,030,000	
Pueblo of Acoma, New Mexico	46,635	(-$33,922)
Eight Northern Pueblos, New Mexico	38,483	
Isleta Pueblo, New Mexico	29,165	
Santa Domingo, New Mexico	28,059	(21,968)
Six Dandoval, New Mexico	89,112	(63,342)
WCD Enterprises, Oklahoma	194,370	
Choctaws, Oklahoma	117,942	
Cherokee, Oklahoma	320,702	
Chickasaw, Oklahoma	101,618	
Tonkaws, Oklahoma	16,500	
Midwest Region		
Illinois	$5,731,211	
Indiana	2,415,868	
Michigan	4,139,238	
Minnesota	1,626,897	
Ohio	6,625,613	
Wisconsin	1,805,206	
Mountain Plains Region		
Colorado	$1,186,290	
Iowa	1,367,410	
Kansas	849,734	
Missouri	3,163,177	
Montana	969,079	
Nebraska	623,218	
North Dakota	520,794	
South Dakota	399,186	
Utah	1,323,993	
Shoshone and Araphoe, Wyoming	58,558	($50,787)
Ute Mountain Tribe, Colorado	9,677	
Nebraska IITDC	33,000	(15,447)
Cheyenne River Sioux, South Dakota	72, 260	
Rosebud Sioux, South Dakota	81,909	
Standing Rock, North Dakota	110,000	(26,470)
Western Region		
Alaska	$136,864	
Arizona	3,481,456	
California	6,076,890	
Hawaii	396,887	
Idaho	767,599	
Nevada	596,691	
Oregon	1,732,879	
Washington	2,252,827	
ITCN, Nevada	56,850	

As the Department believes that the public should have an opportunity to comment on the contents of this notice, public comments will be accepted until November 10, 1978. The Department was unable to issue this notice and solicit comments prior to October 1, therefore, the Department feels the public interest is best served by putting this funding formula into effect immediately, based on public input received at the Panel meeting on Funding Structure, to enable State agencies to receive funds to operate the WIC Program for the first quarter of fiscal year 1979. The Department is accepting comments for only 30 days so that sufficient time is allowed for a complete analysis of comments before December 15, as Letters of Credit must be completed by that time. All comments received will be carefully considered before a final decision is reached on a formula to distribute WIC Program grants.

Comments may be sent to:

Jennifer R. Nelson, Director, Supplemental Food Programs Divison, Food and Nutrition Service, USDA, Washington, D.C. 20250.

Copies of all written submissions received will be made available for public inspection in Room 4301, 201 14th Street SW., Washington D.C., during regular business hours (8:30 a.m. to 5 p.m.).

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Signed at Washington, D.C., on October 6, 1978.

LEWIS B. STRAUS,
Administrator.

[FR Doc. 78-28742 Filed 10-10-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

DANNY DARE, INC. ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) Danny Dare, Inc., 2800 Warwick Trafficway, Kansas City, Mo. 64108, a producer of shirts, pants, coats, shorts, and other apparel for children (accepted October 2, 1978); (2) Offspring Industries, Inc., 27 Bruckner Boulevard, Bronx, N.Y. 10454, a producer of sweaters and tops for women (accepted October 2, 1978); and (3) Char-Len Handbags, Inc., 732 Howard Avenue, New Haven Conn. 06519, a producer of handbags (accepted October 4, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the adjustment assistance regulations for firms and communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales of production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1978.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-28569 Filed 10-10-78; 8:45 am]

[3510-25-M]

Foreign-Trade Zones Board

[Order No. 135]

CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY

Resolution and Order Approving Application, for a Foreign-Trade Zone in Cleveland, Ohio

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Cleveland-Cuyahoga County Port Authority, an Ohio public agency, filed with the Foreign-Trade Zones Board (the Board) on March 9, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Cleveland, Ohio, within the Cleveland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the possible construction of buildings by parties other than the grantee might be involved, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN CLEVELAND, OHIO

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Cleveland-Cuyahoga County Port Authority (the Grantee) has made application (filed March 9, 1978) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Cleveland, Ohio, within the Cleveland Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 40, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28581 Filed 10-10-78; 8:45 am]

[3510-25-M]

[Order No. 136]

GREATER MILWAUKEE, INC.

Resolution and Order Approving Application, for a Foreign-Trade Zone in Milwaukee, Wis.

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

Pursuant to the authority granted in the Foreign-Trade Zones Board Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Foreign Trade Zone of Greater Milwaukee, Inc., a Milwaukee corporation, filed with the Foreign-Trade Zones Board (the Board) on March 21, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Milwaukee, Wis., within the Milwaukee Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the Grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN MILWAUKEE, WIS.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Foreign Trade Zone of Greater Milwaukee, Inc., (the Grantee) has made application (filed March 21, 1978) in due and proper form to the Board requesting the establishment, operations, and maintenance of a foreign-trade zone in Milwaukee, Wis., within the Milwaukee Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 41, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28582 Filed 10-10-78; 8:45 am]

[3510-25-M]

[Order No. 137]

GREATER ORLANDO AVIATION AUTHORITY

Resolution and Order Approving Application, for a Foreign-Trade Zone in Orlando, Fla.

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Greater Orlando Aviation Authority, filed with the Foreign-Trade Zones Board (the Board) on May 1, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Orlando, Fla., within the Orlando Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the grantee might desire to permit the construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and

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Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN ORLANDO, FLA.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Greater Orlando Aviation Authority (the Grantee) has made application (filed May 1, 1978) in due and proper form to the Board requesting the establishment, operations, and maintenance of a foreign-trade zone in Orlando, Florida, within the Orlando Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 42, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28583 Filed 10-10-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

SEAFOOD SPECIES

Announcement of Nomenclature Project

Notice is hereby given that the National Marine Fisheries Service is making available for comments a model retail identification plan for fishery products. The model provides a system for identifying seafood species that will result in more informative and effective labeling for fishery products. The system is based on the eating characteristics of seafood species instead of their common names.

In 1974, the National Marine Fisheries Service (NMFS), announced the initiation of a project to develop and implement a comprehensive national seafood product retail identification program. This announcement was made in conjunction with a statement of findings published in the June 6, 1974 issue of the FEDERAL REGISTER (Vol 39, pp. 20711-12), which summarized the results of 525 comments received relative to problems incurred in identifying and labeling fishery products. The major problems were as follows:

1. There is an increasing interest in using underutilized fishery resources not heretofore generally marketed, for which no common names exist that are familiar to U.S. consumers.

2. Marine food fish species carry taxonomically accurate scientific names, but many species are known by different common names in different locations. This causes consumer confusion and frequently thwarts the orderly marketing and market development of these species.

3. The marketability of many nutritious species is severely limited because of aesthetically objectionable common or local names.

4. New food processing techniques present opportunities for developing new seafood forms for which names, or precedents for naming, do not exist.

A summarization of the comments is as follows:

1. Nearly 70 percent of the responses agreed that a need exists for the clarification and refinement of policies and procedures that govern the nomenclature of fish and fishery products for purposes for the marketing and labeling of these products.

2. Most commenters indicated that NMFS is the appropriate Federal agency to undertake an initiative to improve the nomenclature of fishery products for these purposes.

3. Three facets of the current problem of fish nomenclature were identified:

(i) Many nutritious species have unaesthetic traditional names that limit utilization.

(ii) A continuing supply of fishery products dictates using these species.

(iii) Changing food habits and product forms will accomodate use of these species if they are appropriately named.

4. Consumer needs were recognized as important in the following areas:

(i) Aesthetic labeling

(ii) Truthful labeling

(iii) Appropriate product representation

The comments did not provide sufficient new information or specific ideas concerning how to develop suitable procedure for assuring the effective and appropriate identification of fish and fishery products, based upon the legitimate interests of consumers and the industry.

Since 1974, MNFS, through contract research with The Brand Group, Inc., conducted a study to determine the feasibility of developing a new naming system for seafoods. The conclusions of the study indicated that a new seafood product identification system could be designed and developed which would utilize the edibility characteristics of seafood species as a basis for identifying products. Further, such a system would allow consumers to make preference selections in purchasing seafoods, allow industry to better utilize non-traditional resources, and ease the regulatory burden of food control agencies.

Subsequent to the feasibility study, NMFS commissioned a follow-up contract with The Brand Group, Inc. to develop the model retail identification plan for seafoods, based upon principles recommended in the feasibility study. In March 1978, the Brand Group, Inc., provided NMFS with a report entitled "A Model Retail Identification Plan for Seafood Species—A Description of the Project and Recommended Principles of Identification."

The report gives the framework for identifying various edible aquatic species, based upon their eating qualities. Other recommendations are given as follows:

1. A comprensive and constant data bank of edibility profiles and related information for all commerical aquatic species should be developed.

2. Guidelines and procedures for making interim decisions on seafood product labeling and nomenclature are required.

3. An interim program for marketing seafood products on the basis of product edibility information should be established.

The National Marine Fisheries Service invites the views and comments of interested persons relative to the "model retail plan for seafood species." Among the questions that should be addressed are:

A. Is the model retail identification plan a logical approach for the construction of a complete identification system for finfish and products therefrom?

B. Are the edibility factors (8) identified in the model plan:

(i) The most significant and useful in determining product edibility?

(ii) Too numerous or too few?

(iii) Listed in the appropriate order of priority?

C. Should objective methods be used to measure the edibility factors quantitatively?

D. Should NMFS proceed to fully develop and implement a new seafood identification system, based upon a compresensive data bank of edibility a characteristics for a seafood species?

E. Should NMFS develop guidelines and procedures for interim changes in existing nomenclature?

F. Should NMFS develop interim marketing directions?

Any specific suggestions on how NMFS should proceed would be welcomed. Copies of the detailed report containing the model retail identification plan for seafoods have been distributed to consumer, Federal, State, and industry groups as well as to foreign countries most directly affected, in order to provide an opportunity for their comments. Other persons interested in obtaining copies of the report should write to the National Marine Fisheries Service, Seafood Quality and Inspection Division, Washington, D.C. 20235.

Written comments should be sent on or before November 30, 1978, to Mr. Thomas J. Billy, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

For further information contact James R. Brooker, Seafood Quality and Inspection Division, Washington, D.C. 20235, 202-634-7458.

WINFRED H. MEIBOHM,
Acting Executive Director.
National Marine Fisheries Service.

[FR Doc. 78-28597 Filed 10-10-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE AND SALMON ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting with partially closed session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee and Salmon Advisory Subpanel will conduct a series of meetings, November 7-9, 1978.

DATES: The Council meetings will convene at 10 a.m., Wednesday, November 8, 1978, and at 8 a.m., Thursday, November 9, 1978, adjourning at 5 p.m. on both days. The Scientific and Statistical Committee meetings will convene at 9 a.m., Tuesday, November 7, 1978, and 10 a.m., Wednesday, November 8, 1978, adjourning at 5 p.m on both days. The Salmon Advisory Subpanel meeting will convene at 9 a.m., Tuesday, November 7, 1978, and adjourn at 5 p.m.

ADDRESS: The meetings will take place at the Renton Inn, 800 Rainier South, Renton, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill street, Second Floor, Portland, Oreg. 97201, Telephone: 503-221-6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committe and Salmon Advisory Subpanel to assist in carrying out its responsibilities. The Salmon Advisory Subpanel agenda is as follows:

NOVEMBER 7, 1978

(1) Consideration of Habitat Task Force Report.

(2) Review of "Socio-economics of the Idaho, Washington, Oregon and California Coho and Chinook Salmon Fisheries."

(3) Development of Salmon Management Plans.

The Scientific and Statistical Committee agenda is as follows:

NOVEMBER 7-8, 1978

(1) Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel, and Pink Shrimp.

(2) Operational and procedural matters of the Council, including advisory panel and management plan development team activities.

(3) Public comment period beginning at 3:30 p.m. on November 7.

(4) Other committee business.

The Council agenda is as follows:

NOVEMBER 8, 1978

(1) Closed 2-hour session (8 a.m. to 10 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada.

(2) Consideration of the Comprehensive Salmon Mangement Plan and other fishery management plans under development.

(3) Consideration of reports from ad hoc committees.

(4) Review of communications from other agencies and organizations.

(5) Public comment period beginning at 4:00 p.m.

NOVEMBER 9, 1978

(1) Consideration of the Comprehensive Salmon Management Plan and other fishery management plans under development.

(2) Operational and procedural matters of the Council, including its staff, advisory panels, and committee activities.

(3) Consideration of reports from ad hoc committees.

(4) Review of communications from other agencies and organizations.

The Council, Scientific and Statistical Committee and Salmon Advisory Subpanel expect to address each of the items of the agenda above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda. The Scientific and Statistical Committee and Salmon Advisory Subpanel meetings will be open to the public. The Council meeting will also be open to the public except for the first agenda item on the second day. The closed session of the Council meeting is planned for the early morning of November 8, 1978, from 8 a.m through 10 a.m. to hear and discuss Department of State secu-

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rity classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Only those Council members, SSC members, and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined, on August 14, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt for the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: October 5, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-28568 Filed 10-10-78; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent 3,948,733: Simplified Protein Hydrolysis Apparatus; filed December 12, 1973, patented April 6, 1976.

Patent 3,949,515: In-Field Boll Weevil Trap; filed July 23, 1975, patented April 13, 1976.

Patent 3,954,866: Process for the Preparation of Quaternary Arylaminoalkyl Phosphonium Salts; filed December 5, 1974, patented May 4, 1976.

Patent 3,960,763: Agricultural Foams as Carriers for Activated Charcoal; filed July 17, 1974, patented June 1, 1976.

Patent 3,976,320: Chicken Coop Lifting Device; filed August 14, 1975, patented August 24, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,744,739: Multiple In-Line Docking Capability for Rotating Space Stations; patented July 10, 1973.

Patent 3,982,910: Hydrogen-Rich Gas Generator; patented September 28, 1976.

Patent 3,983,714: Cryostat System for Temperatures on the Order of 2 Deg K or Less; patented October 5, 1976.

Patent 3,983,749: Annular Arc Accelerator Shock Tube; patented October 5, 1976.

Patent 3,983,753: Thermistor Hokder for Skin Temperature Measurements; patented October 5, 1976.

Patent 3,983,933: Heat Exchanger; patented October 5, 1976.

Patent 3,984,070: Wingtip Vortex Dissipator for Aircraft; patented October 5, 1976.

Patent 3,984,256: Photovoltaic Cell Array; patented October 5, 1976.

Patent 3,984,634: Anti-Multipath Digital Signal Detector; patented October 5, 1976.

Patent 3,984,671: Optical Process for Producing Classification Maps from Multispectral Data; patented October 5, 1976.

Patent 3,984,681: Ion and Electron Detector for Use in an ICR Spectrometer; patented October 5, 1976.

Patent 3,984,685: Wind Measurement System; patented October 5, 1976.

Patent 3,984,686: Focused Laser Doppler Velocimeter; patented October 5, 1976.

Patent 3,984,799: the DC-to-DC Converters Employing Staggered-Phase Power Switches With Two-Loop Control; patented October 5, 1976.

Patent 3,985,454: Window Defect Planar Mapping Technique; patented October 12, 1976.

[FR Doc. 78-28612 Filed 10-10-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator
National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent 3,958,452: Uniform Planar Strain Tester; filed January 23, 1975, patented May 25, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,898,048: Light-Weight Rocket Deployable Gas Generator; filed March 21, 1974, patented August 5, 1975.

Patent 3,903,496: Opto-Acoustic Hydrophone; filed June 14, 1974, patented September 2, 1975.

Patent 3,903,497: Opto-Acoustic Hydrophone; filed June 14, 1974, patented September 2, 1975.

Patent 3,940,732: Buoyant Electrode and System for High Speed Towing; filed March 30, 1970, patented February 24, 1976.

Patent 3,943,482: Marine Mine Detector; filed October 3, 1976, patented March 9, 1967.

Patent 3,949,676 Load Actuated Electro-Ignition Circuit Switch; filed June 10, 1974, patented April 13, 1976.

Patent 3,953,828: High Power-Wide Frequency Band Electro-acoustic Transducer; filed November 8, 1968, patented April 27, 1976.

Patent 3,958,490 Self-Cocking Rocket Launcher Detent; filed December 19, 1974, patented May 25, 1976.

Patent 3,960,171: Helmet Exhaust Valve; filed January 27, 1975, patented June 1, 1976.

Patent 3,691,476: Metal Interlayer Adhesive Technique; filed September 11, 1975, patented June 8, 1976.

Patent 3,961,555: Safety Mechanism for Intervalometers and Distributors; filed January 13, 1975, patented June 8, 1976.

Patent 3,962,628: Adjustable Magnetic Gradiometer; filed April 14, 1975, patented June 8, 1976.

Patent 3,968,445: Digital Pulse Width Doubler; filed April 29, 1974, patented July 6, 1976.

Patent 3,968,723: Method for Reclaiming and Recycling Plastic Bonded Energetic Material; filed March 3, 1975, patented July 13, 1976.

Patent 3,968,751: Arming Device; filed September 5, 1975, patented July 13, 1976.

Patent 3,969,263: Method of Producing Light Using Catalyst Chemiluminescent System; filed March 3, 1975, patented July 13, 1976.

Patent 3,969,676: Electron Beam Ionization Signal Sampler; filed April 17, 1975, patented July 13, 1976.

Patent 3,975,985: Wide Angle Seeker; filed May 18, 1972, patented August 17, 1976.

Patent 3,974,990: Dual Ejector Stores Attitude Control System; filed July 21, 1975, patented August 17, 1976.

Patented 3,977,003: Conformed Helmet Antenna; filed October 15, 1974, patented August 24, 1976.

Patent 3,977,004: Aircraft VLF/LF/MF Window Antenna Receiving System; filed June 16, 1975, patented August 24, 1976.

Patent 3,978,430: Segmented Flow Laser Cavity; filed October 2, 1975, patented August 31, 1976.

Patent 3,978,894: Energy Absorbing Tear-Webbing; filed February 5, 1973, patented September 7, 1976.

Patent 3,982,144: Directional Low-Frequency Ring Hydrophone; filed August 23, 1974, patented September 21, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,983,695: Ion Beam Thruster Shield; patented October 5, 1976.

Patent 3,983,780: Casting Propellant in Rocket Engine; patented October 5, 1976.

Patent 3,984,072: Attitude Control System; patented October 5, 1976.

Patent 3,984,730: Method and Apparatus for Neutralizing Potentials Induced on Spacecraft Surfaces. Patented October 5, 1976.

[FR Doc. 78-28613 Filed 10-10-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2-C455, Pentagon, Washington, D.C. 20310

Patent 3,016,369: Organotin Acrylic Polymers. Filed July 16, 1958, patented January 9, 1962.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent 3,985,321: Automatic Line Release System. Filed November 25, 1975, patented October 12, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,904,293: Optical Method for Surface Texture Measurement. Filed December 6, 1973, patented September 9, 1975.

Patent 3,950,617: Helium Speech Unscrambler with Pitch Synchronization. Filed September 9, 1974, patented April 13, 1976.

Patent 3,959,739: Electro-Optic Tuning of Organic Dye Laser. Filed February 3, 1975, patented May 25, 1976.

Patent 3,962,639: System for Reducing Radio Communication Frequency Bandwidth and Increasing Number of Channels Available. Filed June 11, 1973, patented June 8, 1976.

Patent 3,972,755: Dielectric Circuit Board Bonding. Filed October 29, 1974, patented August 3, 1976.

Patent 3,975,865: Fiber Optic Grinding and Polishing Tool. Filed May 27, 1975, patented August 24, 1976.

Patent 3,976,873: Tunable Electroabsorptive Detector. Filed May 8, 1975, patented August 24, 1976.

Patent 3,976,882: Invisible Radiation Imaging Device. Filed June 23, 1975, patented August 24, 1976.

Patent 3,976,976: Method and Means to Access an Extended Memory Unit. Filed April 4, 1975, patented August 24, 1976.

Patent 3,977,788: Interferometer Stabilizer. Filed September 4, 1975, patented August 31, 1976.

Patent 3,978,444: Seafloor Mapping System. Filed May 30, 1975, patented August 31, 1976.

Patent 3,980,395: Liquid Crystal Switch for Optical Waveguide. Filed December 2, 1974, patented September 14, 1976.

Patent 3,981,810: Grease Composition. Filed November 11, 1975, patented September 21, 1976.

Patent 3,988,670: Automatic Testing of Digital Logic Systems. Filed April 15, 1975, patented October 26, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,988,561: Weld-Bonded Titanium Structures, patented October 26, 1976.

[FR Doc. 78-28614 Filed 10-10-78; 8:45 am]

[3710-92-M]

DEPARTMENT OF DEFENSE

Department of the Army

CHIEF OF ENGINEERS; ENVIRONMENTAL ADVISORY BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held on 30 October 1978, at the Office of the Chief of Engineers, Forrestal Building, Room 4A-242, 10th and Independence Avenue SW., Washington, D.C. 20314. All sessions of the meeting are open to the public. Time and subjects of each session follow.

A.M. SESSION

0900—Open remarks.
0930—Orientation briefings for new members. Command briefing (1 hour). Civil works update (1 hour). Orientation on Army environmental program (2 hours).

P.M. SESSION

1300—Orientation briefings continued. Presentation by selected corps districts and OCE staff.
1545—Discussion.
1600—Adjourn.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following the meeting, but oral participation by the public is limited because of the time schedule. Persons planning to attend or desiring further information should contact Lt. Col. George Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202-693-7093.

Dated: September 29, 1978.

THORWALD R. PETERSON,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 78-28554 Filed 10-10-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Conservation and Solar Applications

AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

Contractor Coordination Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold a contractor coordination meeting on automotive propulsion research and development, and members of the public are hereby invited to attend as observers. Contractors and staff of the Department of Energy and the National Aeronautics and Space Administration will present papers on the current state of resarch and development on advanced automobile propulsion systems and on alternative fuels.

DATES: October 17-20, 1978, 9 a.m., to 5 p.m.

ADDRESS: Hyatt Regency Dearborn; Dearborn, Mich.

FOR FURTHER INFORMATION CONTACT:

Carl Weigel, National Aeronautics and Space Administration, Lewis Research Center, Mail Stop: 3-15, 21000 Brookpark Road, Cleveland, Ohio 44135, 216-433-4000, ext. 6706.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the recent notice of proposed regulations (43 FR 31929, 31932 (July 24, 1978)) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15

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U.S.C. 2703(f) (1970), in which the Department of Energy (DOE) announced its intention to open contractor coordination meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The proposed regulations provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented. Although the DOE has not yet finalized the proposed regulations, the DOE deems it appropriate to begin inviting public attendance at this time, as stated above.

Below is a preliminary agenda:

Date	Topic	Session
October 17	Program overview	Morning
	Vehicle systems	Afternoon
October 18	Gas turbine systems	Morning
	Stirling technology	Afternoon
October 19	Gas turbine technology	Morning
	Stirling technology	Afternoon
October 20	Alternative fuels, Pt. 1	Morning
	Alternative fuels, Pt. 2	Afternoon

Registrants at the meeting pay a $25 registration fee for which they receive refreshments, copies of papers presented at the meeting, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials. However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

Issued in Washington, D.C., October 5, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28674 Filed 10-10-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing September 1-30, 1978; Release No. 4

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period September 1-30, 1978, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of September 1978.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through August 31, 1978. The releases will continue to be issued on a monthly basis.

Dated: October 2, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administrator.

INDEX

Table and Title

1—Fee-exempt allocations based on petrochemical plant capacity—10 CFR 213.10.

2—Sales of fee-exempt licenses—10 CFR 213.22.

3—Fee-exempt allocations based on new, expanded, and reactivated refining capacity—10 CFR 23.29.

4—Fee-paid licenses issued—10 CFR 213.35.

[7590-01-C]

U. S. DEPARTMENT OF ENERGY
OFFICE OF OIL IMPORTS
ALLOCATION SEPTEMBER 1-30, 1978

TABLE 1

CRUDE AND UNFINISHED OILS - PETROCHEMICAL EXPORTS (SEC. 10)
DISTRICTS I-IV

COMPANY	ALLOCATION (BBLS) CRUDE	UNFINISHED
American Cyanamid	39,020	
ARCO	1,233,150	
Cabot	48,286	8,521
Chemplex	4,478	
Chevron	471,835	83,265
Cities Service	120,820	
Coastal States	175,275	30,931
Dart	62,909	11,102
Dow	3,643,040	642,890
Dupont	1,192,980	
Exxon	1,368,040	
Goodrich	296,025	52,240
Gulf	192,959	34,051
Mobil	241,106	
Monsanto	1,204,245	
Northern Natural Gas	135,541	23,919
Oxirane	93,340	
Phillips	490,417	
PPG	38,471	6,789
Rohm & Haas	213,747	
Shell	447,790	
Solvay & Cie	125,016	
Texaco	140,008	24,707
Texas - U.S. Chemical		27,750
Union Carbide		1,222,631
Union Oil of Calif.	42,840	
Ashland	75,050	
Standard - Indiana	1,191,195	
Sun	324,278	
Conoco	482,685	
Borg-Warner	73,180	
Ethyl	282,225	
Celanese	1,055,575	
DISTRICT V		
Chevron	559,825	
Dow	22,516	3,974
Goodrich	18,470	3,260
Shell	11,640	
Union Carbide	19,787	

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TABLE 2

OIL IMPORT LICENSES SOLD PURSUANT TO SECTION 213.22(d)

DISTRICT I-IV

SELLER	BUYER	DATE	COMMODITY	BARRELS SOLD
Exxon	Amoco	9-5-78	Crude	26,416
Pioneer Ref. LTD.	Sun Oil	"	"	600,000
South Hampton	"	"	"	1,000,000
ARCO	Energy COOP.	9-8-78	"	583,125
"	"	"	"	2,744,435
"	"	"	"	851,685
Navajo Ref.	Sohio Natural Res.	"	"	672,000
"	"	"	"	294,520
"	"	"	"	2,608,290
Oxirane	Gulf Oil	"	"	77,015
"	"	"	"	3,396,840
"	"	"	"	77,015
Union Carbide Corp.	Getty Ref.	"	"	1,097,380
Southern Union	Texaco	9-12-78	"	1,557,645
Continental Oil Co.	Getty Ref.	"	"	600,000
"	Crown Central	"	"	1,000,000
"	Cities Service	"	"	1,000,000
Calcasieu Co.	"	"	"	24,090
"	"	"	"	24,090
Plateau Inc.	Gulf Oil	"	"	90,475
"	"	"	"	1,199,025
Louisiana land & Expl.	Ashland	"	"	3,000,000
Vickers Petro.	Texaco	9-13-78	"	30,000
"	"	"	"	970,000
Crystal Oil	Getty Ref.	"	"	480,000
"	"	"	"	224,110
"	"	"	"	872,715
"	"	"	"	494,940
"	"	"	"	209,850
Celanese Corp.	Texaco	9-14-78	"	912,335
"	"	9-15-78	"	1,011,225
"	"	"	"	148,920
Texas Eastman	Ashland	9-21-78	"	265,720
"	"	"	"	218,905
"	"	"	"	265,720
Olin Corp.	Amoco	9-22-78	"	15,878
"	"	"	"	15,877
Somerset Oil Co.	Ashland	"	"	185,000
"	"	"	"	81,815
OKC Corp.	"	"	"	600,000
Winston Ref. Co.	Gulf Oil	"	"	1,049,375

TABLE 2 (continued)

OIL IMPORT LICENSES SOLD PURSUANT TO SECTION 213.22(d)

DISTRICT V

SELLER	BUYER	DATE	COMMODITY	BARRELS SOLD
Champlin Petro.	Union of CA	9-8-78	"	1,700,000
Champlin Petro.	Union of CA	"	"	644,030
Pauley Petro.	Gulf Oil	9-21-78	"	1,136,245

TABLE 3

CRUDE AND UNFINISHED OILS - REFINERY SECTION 213.29

COMPANY	PLANT LOCATION	ON-STREAM DATE	1977 INPUTS B/CD	ALLOCATION TOTAL BBLS
Lunday-Thagard	South Gate, CA	May 1978	-----	2,643,695

TABLE 4

FEE-PAID LICENSES ISSUED PURSUANT TO SECTION 213.35

CRUDE OIL-PREPAID

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Gladieux Ref.	9-1-78	650,000

CRUDE OIL-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Koch Ind. Inc.	8-31-78	40,000
Powerine Oil Co.	9-5-78	476,000
Murphy Oil Corp.	"	2,000,000
Exxon Corp.	"	25,000,000
Tosco Corp.	9-6-78	632,509
Amoco Oil Co.	9-7-78	5,000,000
Amoco Oil Co.	"	5,000,000
Atlantic Richfield	9-8-78	2,000,000

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TABLE 4 (continued)

CRUDE OIL-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Atlantic Richfield	9-8-78	2,000,000
Atlantic Richfield	"	1,000,000
Atlantic Richfield	"	1,000,000
Shell Oil Co.	9-11-78	10,000,000
Crown Central Petro.	9-12-78	3,000,000
Placid Ref. Co.	"	3,000,000
Champlin Petro. Co.	"	2,922,000
Koch Ind. Inc.	"	815,000
Texaco Inc.	9-13-78	16,000,000
Atlantic Richfield	9-14-78	2,000,000
Atlantic Richfield	"	2,000,000
Atlantic Richfield	"	1,000,000
Champlin Petro. Co.	9-19-78	1,605,600
Koch Industries, Inc.	"	200,000
American Petrofina, Inc.	9-22-78	6,000,000
Mobil Oil Corp.	"	10,000,000
Caribbean Gulf Ref.	9-26-78	7,000,000

FINISHED PRODUCTS-PREPAID

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Sunchem (Div. of Sunoco)	8-31-78	25,000
American Hoechst Corp.	9-5-78	2,500
Asiatic Petro. Corp.	"	27
James E. Asleson	9-6-78	33
Asiatic Petro. Corp.	9-8-78	800,000
Industrial Solvents Corp.	9-13-78	50,000
Finachem Canada	"	30,000
Americhem Corp.	9-15-78	20,000
Monsanto Co.	"	4,500
National Ref. Corp.	9-19-78	700
Witco Chemical	"	14,210
Keyser Int'l. Inc.	9-25-78	1,100
Airco Welding Products	9-27-78	13,500

FINISHED PRODUCTS-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Bjornson Oil Co.	8-31-78	15,870
Sterling Oil & Chem. Co.	9-5-78	50,000

TABLE 4 (continued)

FINISHED PRODUCTS-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Exxon Corp.	9-5-78	2,000,000
Amoco Oil Co.	9-7-78	5,000,000
Amoco Oil Co.	"	5,000,000
Chevron U.S.A. Inc.	"	1,000,000
Phillips Petro. Co.	9-11-78	100,000
Texaco, Inc.	9-13-78	3,000,000
Phillips Bros.	"	8,500
Texas City Ref. Co.	9-20-78	220,000
Great Western Chemical Co.	9-21-78	1,500
Sun Oil Co. of PA	9-22-78	1,000,000
Lilyblad Petro. Inc.	9-25-78	15,200
Central Solvents & Chem.	9-27-78	2,381

[FR Doc. 78-28366 Filed 10-10-78; 8:45 am]

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[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RI78-10]

CARL E. SMITH, INC.

Order Granting Petition for Special Relief and Permitting Intervention

SEPTEMBER 27, 1978.

On November 8, 1977, Carl E. Smith, Inc. (CES), a small producer, field a petition for special relief in the above-referenced docket pursuant to § 2.76 of the Commission's general policy and interpretations. CES produces natural gas from three wells [1] on the Turner "A" lease, Morris Creek, Kanawha County, W.Va. A total rate of $1.79 per Mcf was requested for the sale of 100 percent of this gas to Consolidated Gas Supply Corp. (Consolidated). CES amended its petition on January 30, 1978 to request a rate of $1.74 per Mcf.

PROCEDURAL HISTORY

Notice of CES' original petition for special relief was issued December 8, 1977, and notice of amended petition was issued February 17, 1978. A petition to intervene in support of the original petition was filed on time by Consolidated. No petition to intervene was timely filed with respect to the amended petition for special relief.

PROPOSAL

Currently, CES is collecting $0.29 per Mcf for its gas sales from the Turner "A" lease [2] as authorized under docket No. CI74-758. Consolidated has stated that it will amend its contract with CES to provide for payment of a rate increase approved by the Commission.

CES proposed to install a new gathering line to serve the three wells at a cost of $34,133. It is estimated that this installation will result in the production of an additional 128,560 Mcf of reserves over the remaining productive life of 5.16 years.

COST ANALYSIS

Staff has determined that CES' remaining book investment equals $88,286. Production expense over the remaining life of 5.16 years has been estimated at $49,313. Staff calculated the operating expenses based on the following factors: ad valorem taxes, annual well operating expense, and annual gathering system expense. The latter two factors were increased by 5 percent per year to allow for inflation. Staff has concluded that the proposed investment is reasonable based on its analysis of this data.

Using the above costs and total estimated reserves of 128,560 Mcf, staff prepared a cost study employing traditional Commission methodology to determine what rate will provide both recovery of costs and a 15 percent rate of return. The results indicate that the requested rate of $1.74 per Mcf is cost supported.[3]

Following its review of staff's analysis, the Commission has concluded that the requested rate is cost-supported and that it is in the public interest to grant CES' petition for special relief.

The Commission orders: (A) The petition for special relief, as amended, of Carl E. Smith, Inc., in docket No. RI78-10, is hereby granted.

(B) Carl E. Smith, Inc. is authorized to collect a total rate of $1.74 per Mcf for sales of gas from well Nos. 84-1, 84-4, and 84-7 on the Turner "A" lease, Morris Creek, Kanawah County, W. Va., to Consolidated Gas Supply Corp., effective on the date of this order or the date of completion of the proposed work, whichever is later, subject to the conditions set forth in paragraphs (C) and (D), below.

(C) Within 30 days of the date of completion of the proposed work, Carl E. Smith, Inc. shall file a statement signed by Consolidated Gas Supply Corp. that the proposed gathering line has been installed to its satisfaction.

(D) Within 30 days of the date of this order, Carl E. Smith, Inc., shall file a notice of independent producer rate change reflecting the above authorized rate.

(E) Consolidated Gas Supply Corp. (Consolidated), is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene: *And provided, further,* That the admission of Consolidated in the manner provided shall not be construed as recognition by the Commission that Consolidated might be aggrieved because of any order or orders entered in this proceeding, and that Consolidated agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

Carl E. Smith, Inc., Docket No. RI78-10, Turner "A" Lease, Morris Creek, Kanawah County, W. Va.

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Working interest of volumes:	
2. Gas—Mcf at 14.73 psia [1]	128,560
3. Liquids—bbl	0
4. Cost of production:	
5. Return on rate base at 15 pct [2]	$38,548
6. D.D. & A. [3]	118,236
7. Production expense [4]	49,313
8. Ad valorem tax [5]	2,674
9. Regulatory expense [6]	129
10. Total cost of production	208,902
11. Unit cost of gas (cents per mcf):	
12. Cost of production [7]	1.62494
13. Business and occupation tax [8]	.11584
14. Total unit cost	1.74078

[1] There is no royalty interest.
[2] Line 13 of sheet 3 times 0.15 times 5.16 years production life.
[3] From sheet 2, line 10.
[4] Includes annual estimated operating expense of $3,529 per well (3 wells) plus $125 for the gathering system. The above costs were escalated 5 pct for inflation for the first 5 years. Total estimated production expense for the project is $49,313.
[5] Effective rate 0.02080 × 128,560 = $2,674.
[6] Line 2 times 0.1 cent per Mcf (per opinion No. 749).
[7] Line 10 divided by line 2.
[8] See sheet 4.

[Investment]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	$88,286
3. Pipe line installation	34,133
4. Total investment	122,419
5. Less salvage value	4,181
6. Depreciable investment	118,238
7. Depreciation per unit of production [1]	.919711
Total gas	128,560

[1] Line 6 divided by line 8

[1] Well Nos. 84-1, 84-4, and 84-7.
[2] CES acquired ownership of the lease from Cities Service Oil Co. by assignment and conveyance on Jan. 1, 1973.

[3] See app. A, attached hereto.

Carl E. Smith, Inc., Docket No. RI78-10, Turner "A" Lease, Morris Creek, Kanawah County, W.Va.

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment (f)
1. Average investment:					
2. 1	35,066	$118,238	$32,250	$85,988	$102,113
3. 2	30,980	85,988	28,493	57,495	71,742
4. 3	27,500	57,495	25,292	32,203	44,849
5. 4	19,775	32,203	18,187	14,016	23,110
6. 5	13,063	14,016	12,014	2,002	8,009
7. 6	2,176	2,002	2,002		1,001
8. Total					250,824
9. Average annual investment [2]					48,609
10. Annual rate base:					
11. Average annual investment					48,609
12. Average annual working capital allowance [3]					1,194
13. Total annual rate base					49,803

[1] Column (b) times line 8 of sheet 2.
[2] Column (c) plus column (e) divided by 2.
[3] Column (f) of line 8 divided 5.16 years.
[4] 0.125 times line 7 of sheet 1 divided by 5.16.

CARL E. SMITH, INC., DOCKET NO. RI78-10, TURNER "A" LEASE, MORRIS CREEK, KANAWAH COUNTY, W.V.

COMPUTATION OF BUSINESS AND OCCUPATION

1. Tax - 8.63 percent times taxable revenue:	
2. Gross revenue [1]	$208,902.00
3. Less 15 percent	31,335.00
4. Less $5,000 deduction	5,000.00
5. Taxable revenue	$172,567.00
6. Tax at 8.63 percent	$14,892.53
7. Average unit tax (¢/Mcf):	
8. Total production—Mcf [2]	128,560.00
9. Tax [3]	$14,892.53
10. Average unit tax [4]	0.11584

[1] 128,560 Mcf × $1.62494.
[2] From Sheet 1, line 2.
[3] From line 6.
[4] Line 9 divided by line 8.

[FR Doc. 78-28536 Filed 10-10-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 985-1; OPP-42007C]

MISSISSIPPI

Submission of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On January 6, 1976, the Regional Administrator, EPA Region IV, approved the Mississippi Plan on a contingency basis. Notice of the approval was published in the FEDERAL REGISTER on February 11, 1976 (41 FR 6122).

The Mississippi Pesticide Application Act and the Mississippi Pesticide Law were passed by the Mississippi Legislature on March 4, 1975. Proposed regulations for the enforcement of the acts have been drafted, public hearings have been held, and final regulations have been published. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IV, gives notice that the Mississippi State Plan is now a fully approved State Plan.

Dated: September 22, 1978.

JOHN C. WHITE,
Regional Administrator, Region IV.

[FR Doc. 78-28549 Filed 10-10-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-393]

CURRENT APPLICATION FORMS FOR LICENSES IN THE SAFETY AND SPECIAL RADIO SERVICES TO REMAIN IN USE NOTWITHSTANDING RECENT RULE CHANGE RELATIVE TO COPPORATE APPLICANTS

JULY 27, 1978.

On June 7, 1978, the Federal Communications Commission amended certain rule sections to permit applications filed by corporations for licenses in virtually all of the safety and special radio services to be signed by either a corporate officer or a duly authorized employee. Prior rules required such applications to be signed by a corporate officer.

Application forms currently in use contain instructions which require that they be signed by an officer in the case of corporate applicants. Until the supply of the current forms is exhausted, current application forms will be accepted by the Commission. In the case of corporate applicants, such applications will be accepted if signed by an officer or a duly authorized employee in accordance with the revised rules, notwithstanding any instructions on the current forms to the contrary. New forms reflecting the above-mentioned rule changes will be phased in as current stocks are exhausted.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28681 Filed 10-10-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 3, 1978.

Released: October 4, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: Number 15, 1978.

Notice is hereby given that the FM broadcast applications listed below will be considered as ready and available for processing pursuant to § 1.573(d) of the Commission's rules on November 16, 1978. Since the listed applications are timely filed and mutually exclusive with the earlier-filed and cutoff application of Muncie Broadcasting Corp. (File No. BPH-10,382), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under section 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to section 1.584.

BPH-10,655 (new, Muncie, Ind., Ben-Del Broadcasting Corp. Req: 104.9 MHz, 285; 3 kW; 300 feet.
BPH-10,661 (new), Muncie, Ind., Hoosier Favorite Station, Inc. Req: 104.9 MHz, 285; 3 kW; 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28679 Filed 10-10-78; 8:45 am]

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[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

In the matter of FM broadcast application ready and available for processing pursuant to § 1.573(d) of the Commission's rules.

Adopted: October 2, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 27, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 28, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Wyomedia (Filed No BPH-10,754), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-11,006 (new), Cody, Wyo., Shoshone Communications Corp. Req: 97.9 MHz; 250; 100 kW; 1830 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28680 Filed 10-10-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE

In the matter of FM broadcast application ready and available for processing pursuant to § 1.573(d) of the Commission's Rules.

Adopted: October 2, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 27, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 28, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Energy Capitol Broadcasting Inc. (File No. BPH-10,521), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-10,753 (new), Casper Wyo., Wyomedia. Req: 95.5 MHz, 238; 100 kW; 1,913 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28682 Filed 10-10-78; 8:45 am]

[6712-01-M]

[FCC 78-696 CC Docket No. 78-314, File No 20657-CD-P-(11)-76, CC Docket No. 78-315, File No. T) 3-78]

ILLINOIS BELL TELEPHONE CORP, ET AL.

Memorandum Opinion and Order

In the matter of application of Illinois Bell Telephone Co. (CC Docket No. 78-314, File No. 20657-CD-P-(11)-76) for a construction permit for 11 additional transmitter sites for Station KTS203 in the Domestic Pulbic Land Mobile Radio Service on Frequency 158.10 MHz in the Chicago, Ill. Greater Metropolitan Calling Area and in the matter of Rogers Radio Communication Service, Inc., Complainant vs. Illionis Bell Telephone Co. and American Telephne & Telegraph Co. Defendants (CC Cocket No. 78-315, File no TS 3-78) and in the matter of Illinois Bell Telephone Co. Request for issuance of order to show cause why Station License KTS203 in the Domestic Public Land Mobile Radio Service at Chicago, Ill. should not be revoked.

Adopted: September 28, 1978.

Released: October 5, 1978.

By the Commission:

1. Presently before the Commission are an "Application for Review" filed by Radio Relay Corp.-Illinois (Radio Relay) on January 16, 1978, and an "Application for Review" filed by Rogers Radio Communication Services, Inc. (Rogers) on January 16, 1978. Radio Rely and Rogers seek review of the action of the Chief, Common Carrier Bureau, released on December 16, 1977, denying Radio Relay's and Rogers' Petitions for reconsideration of the granting of a construction permit to Illinois Bell Telephone Co. (Illinois Bell) to establish 11 additional trasnmitter sites for one-way signalling Station KTS203 in the Domestic Pulbic Land Mobile Radio Service (DPLMRS) on frequency 158.10 MHz in the Chicago, Ill. Greater Metropolitan Calling Area. Responsive pleadings were filed by the parties.[1]

2. Also before the Commission is a "Formal Complaint" filed by Rogers Radio Communication Services, Inc. against Illinois Bell Telephone Co. and American Telephone & Telegraph Co. (A.T. & T.) on October 28, 1977. Responsive pleadings were filed by the parties. In addition, on January 9, 1978, A.T. & T. filed a "Motion to Dismiss" A.T. & T. as a party to the Complaint proceeding, and responsive pleadings followed.

3. Additionally, before the Commission is a "Request for Issuance of Order to Cause Why Station License KTS203 Should Not be Revoked" filed by Rogers Radio Communication Services, Inc. on November 3, 1977.

4. The following issues concerning the applications for review are raised for our consideration:

(a) Whether the Bureau erred in not finding that Illinois Bell has been in violation of the *Guardband*,[2] *Carterfone*,[3] or *Telerent*[4] decisions in its method of preventing of providing interconnect facilities to Rogers;

(b) Whether the Bureau erred in not finding practices on the part of Illinois Bell that were anticompetitive and in violation of the *Guardband* decision;

(c) Whether the Bureau erred in finding that Illinois Bell demonstrated public need for its proposed new facilities;

(d) Whether the Bureau erred in not finding that a grant of the application would result in a wasteful duplication of service and in an adverse economic impact that is detrimental to the public interest;

(e) Whether the Bureau erred in finding that petitioners failed to establish a prima facie case of anticompetitive rates; and

(f) Whether the Bureau erred in not finding that a grant of the application would create an anticompetitive problem due to anticompetitive practices of the Bell Telephone System.

5. The following issues concerning the Complaint are raised for our consideration:

(a) Whether A.T. & T. is a defendant in addition to Illinois Bell;

(b) Whether Illinois Bell and A.T. & T. have been in violation of the *Guardband* decision;

(c) Whether Illinois Bell and A.T. & T. have been in violation of the *Carterfone* or *Telerent* decisions;

[1] In an order released on April 10, 1978, the Chief, Common Carrier Bureau, stayed the grant of the construction permit pending Commission action on the Application for Review.

[2] Docket No. 16778, 12 FCC 2d 841, recon. denied, 14 FCC 2d 869 (1968), aff'd sub nom. *Radio Relay Corp. v. FCC*, 409 F. 2d 322 (2d Cir. 1969).

[3] Use of the Carterfone Device in Message Toll Telephone Service, 13 FCC 2d 420, recon. denied, 14 FCC 2d 571 (1968).

[4] Telerant Leasing Corp., 45 FCC 2d 204 (1974), aff'd sub nom. *North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 788 (4th Cir. 1976), cert. denied, 429 U.S. 1027 (1976).

(d) whether Illinois Bell has been in violation of sections 1 and 2 of the Sherman Act; [5]

(e) whether Illinois Bell has engaged in any unfair or illegal competitive practices in its method of providing interconnect facilities to Rogers; and

(f) whether Rogers Radio is entitled to compensatory and punitive or exemplary damages.

6. The request for an order to show cause concerns whether the Commission should issue an order to show cause why Station License KTS203 should not be revoked.

THE APPLICATIONS FOR REVIEW

7. *Anticompetitive Practices in Providing Interconnect Facilities.* Rogers contends that the Illinois Bell application should have been dismissed or denied because Illinois Bell has been operating in violation of the *Guardband* decision, Docket No. 16778, 12 FCC 2d 841, *recon. denied* 14 FCC 2d 269 (1968), *aff'd sub nom. Radio Relay Corp. v. FCC*, 409 F.2d 322 (2d Cir. 1969), by not making available to Rogers the same interconnect facilities used by Illinois Bell in providing its paging services.[6] Rogers states that Illinois Bell's proposed facilities will provide automatic machine answered interconnect facilities, and that through the use of foreign exchange lines all customers within the proposed service area will be able to dial the paging terminal directly at a rate of one message unit. Rogers states that it has subscribed to INWATS telephone service for this purpose, but that until recently Illinois Bell has refused to allow automatic machine answering of the INWATS line. Instead, calls from within its service area, but not within the one message unit calling area, were answered by an operator before a customer could be paged. This presented some users of the system with a choice of either dialing the INWATS number and suffering the delays of operator answering or dialing a number that was answered automatically but cost more than one message unit, resulting in a competitive advantage for the paging services of Illinois Bell. In response, Illinois Bell contends that *Guardband* requires that it offer to Rogers the same dial access interconnection facilities as those utilized by the wireline common carriers in the community, and that it has fully complied with this requirement by offering foreign exchange lines with automatic answering machines to Rogers. Illinois Bell adds that Rogers chose to utilize intrastate INWATS service, rather than foreign exchange lines, and that neither Illinois Bell nor any other radio common carrier utilizes INWATS service as part of its paging system. The Bureau found that the offer of foreign exchange lines constituted compliance with *Guardband*. Rogers does not refute Illinois Bell's representation that Illinois Bell has offered foreign exchange lines with automatic answering machines to Rogers nor does Rogers argue that Illinois Bell uses facilities other than foreign exchange lines. Thus, we conclude that the Bureau's finding was correct with respect to the specific *Guardband* requirement discussed above.

8. Illinois Bell claims that Rogers is in violation of section 21.513 of the rules [7] by not providing public foreign exchange telephone circuits to its paging terminal. Rogers responds to the Illinois Bell charges by stating that it has complied with the section by providing INWATS service to its paging terminal. After carefully considering the Illinois Bell charges, we find them to be without merit. By providing INWATS service to its paging terminal, Rogers is providing a telephone number that can be called at the local calling rate from the major portion of each of the base station service areas and thus has complied with the intent of section 21.513.

9. Rogers further argues that foreign exchange lines are too expensive and that Illinois Bell offered to charge Rogers tariff rates rather than the cost of the foreign exchange lines that it assesses against itself in calculating costs of its own paging service. Rogers argues that Illinois Bell's alleged offer to charge Rogers more than it is assessing against itself for the same interconnect facilities constitutes a violation of *Guardband*. After investigating an informal complaint filed by Rogers on November 1, 1976,[8] the Bureau Staff concluded in a letter dated April 28, 1977 [9] that "[i]t appears that Bell uses the identical basis for providing the foreign exchange lines to its competitors as it uses itself, i.e., tariff rates." In its order concerning the Petitions for Reconsideration, the Bureau concluded that Rogers failed to show any change in the Illinois Bell allocation of charges since that time and that Illinois Bell was not in violation of *Guardband*. The Rogers Application for Review contains no support for a contrary conclusion. Therefore, we conclude that the Bureau's finding was correct in this regard.

10. In its Petition for Reconsideration, Rogers alleged that Illinois Bell "has made a new offer to Rogers for an INWATS equivalent service under intercarrier contract at more than double the tariff rates, which offering would include the privilege of machine answering." Petition for Reconsideration by Rogers at 8. Rogers claims that it must therefore either continue with its present INWATS service without the privilege of machine answering or pay a premium for the privilege of machine answering of its INWATS line. Rogers argues that this practice is anticompetitive. The Bureau did not find this practice to be anticompetitive. It was the Bureau's understanding that the privilege of machine answering included an outpulsing machine [10] which would be used to accomplish the automatic answering.[11] How-

[5] 15 U.S.C. §§ 1-2 (1970).

[6] One-way paging operations by nonwireline carriers (also known as radio common carriers or RCC's) often interconnect with the wireline carrier in order that those persons desiring to page an individual may do so. This can be accomplished by means of an automatic terminal or an operator working a switchboard. (As an alternative to interconnection, an operator can receive a call and then dispatch the page.) Our rules require that within the major portion of the service area for each base station transmitter, a caller who wishes to page someone can call the paging terminal or dispatch point at the local calling rate. *See* section 21.513 quoted at note 7, *infra*. In order to comply with this rule, RCC's may utilize a number that can be called toll free (INWATS service) or a local exchange number which then interconnects via private lines to the RCC's terminal or dispatch point (foreign exchange or fx service). In the present case, Rogers alleges that until recently Illinois Bell did not permit Rogers to utilize automatic answering machines with an INWATS number. The anticompetitive allegations focus on this practice.

[7] Section 21.513 states: Within the service area encompassed by the field strength contour of each base station as defined in 21.504, there shall be at least one message center so located that the major portion of subscribers' local exchange landline telephone calls, which originate or terminate in such area in conjunction with messages transmitted or received by said station, cost no more per call than the local message single unit rate. In cases where the control point of a base station is not so located, a public foreign exchange telephone circuit shall be provided to afford service so that a radio service subscriber may communicate between such points at a cost per call not in excess of the local message single unit rate. *See* note 6, *supra*, for an explanation of this rule.

[8] The informal complaint concerned alleged anticompetitive practices on the part of Illinois Bell in providing interconnect facilities to Rogers.

[9] This letter was signed by Daniel R. Ohlbaum, Acting Deputy Chief, Common Carrier Bureau.

[10] An outpulsing machine will forward a call from the telephone central office to the paging terminal.

[11] The Bureau had relied upon Interconnection Between Wireline Telephone Carriers and Radio Common Carriers, 63 FCC 2d 87 (1977), where the "Memorandum of Understanding" between the wireline telephone companies and the National Association of Radiotelephone Systems states: "Supplementary contractual arrangements for outpulsing over interconnection facilities will be entered into where INWATS is utilized." App. A, 63 FCC 2d at 94. *See* Slip Opinion released Dec. 16, 1977, Order at 5, note 5. The pleadings concerning the Application for Review show that the Bureau should not have assumed that Illinois Bell

Footnotes continued on next page

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ever, after reviewing the pleadings concerning the Applications for Review we find that the Bureau was incorrect. Both Rogers and Illinois Bell stated that the outpulsing machine was not an issue in the proceeding. Further, Illinois Bell stated in its Supplement to Opposition to Applications for Review at 4: "Illinois Bell is unable to admit or deny Rogers' contention that it would be billed 'more than double [current] tariff rates for an INWATS-equivalent service.'" In view of the above, there exists a material question of fact that has not been resolved by the pleading process. In *United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970), we stated that "our concern is that there may be unfair or illegal competitive practices existing between wireline and nonwireline carriers in the use of radio facilities which are federally licensed." *Id.* at 419. We must therefore hold a hearing to determine whether Illinois Bell is offering to Rogers INWATS service with the privilege of machine answering "at more than double the tariff rates," whether Illinois Bell can justify this offer on the basis of cost or other reasons, and whether this offer would be considered an unfair or illegal competitive practice.

11. In this regard, we also will examine whether Illinois Bell has engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer its INWATS line prior to Illinois Bell's recent offer of the privilege of machine answering. Rogers alleges that it wished to use its own machine and offered to pay Illinois Bell for the necessary device that would protect the Illinois Bell circuits. Illinois Bell has not offered any explanation for its refusal. We must therefore determine in a hearing whether Illinois Bell can justify its past refusal of the privilege of machine answering its INWATS lines and whether such refusal was an unfair or illegal competitive practice.

12. Rogers further alleges that Illinois Bell has violated *Use of the Carterfone Device in Message Toll Telephone Service*, 13 FCC 2d 420, *recon. denied*, 14 FCC 2d 571 (1968), and *Telerent Leasing Corp.*, 45 FCC 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission* v. *FCC*, 537 F.2d 788 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976). We do not, however, need to reach a finding concerning whether *Carterfone* and *Telerent* are applicable. In paragraph 11, *supra*, we decided to designate the application for a hearing to determine whether Illinois Bell has engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer its INWATS lines. Any consideration of whether *Carterfone* and *Telerent* apply would be subsumed by the broader anticompetitive practices issue discussed in paragraph 11.

13. In its Petition for Reconsideration, Rogers argued that Illinois Bell violated *Guardband* for yet another reason. To avoid misstatement of the Rogers argument, we set it out as follows:

> [I]f Bell *chooses* to give every telephone in the Greater Chicago Area the ability to call the Bell paging terminal as if it were a local call, it must provide "* * * the identical service * * * *to customers of* any competing nonwireline carrier at the same reduced rate or free of charge" (emphasis added) [*Guardband*,] 12 FCC 2d 852, charging the costs of such local call service against the expense of providing its own paging service.

Petition for Reconsideration by Rogers at 11. As the Bureau found, we find that this position, as best we understand it, seems to claim that Illinois Bell must, in addition to charging the cost of its own foreign exchange lines against the cost of its paging service, provide free foreign exchange lines to Rogers and charge their cost to the Illinois Bell paging system. Obviously, absorption by Illinois Bell of these costs for other carriers would put Rogers and other competitors in an advantageous competitive situation for no apparent reason, public interest or otherwise. We find it impossible to accept this construction; it is without basis in precedent or logic. Illinois Bell is not providing free to every telephone in the Greater Chicago Area the ability to call the Illinois Bell paging terminal as if it were a local call. Rather, it is charging the paging customers for foreign exchange lines. When Illinois Bell charges Rogers for foreign exchange lines or INWATS service, Rogers also provides to every telephone in the Greater Chicago Area the ability to call the Rogers terminal as if it were a local call. We therefore find that Illinois Bell has not violated the *Guardband* decision.

14. *Anticompetitive Practices of Illinois Bell.* Radio Relay argues that Illinois Bell "has a statewide hold upon its guardband frequency, 158.10 MHz, and has the ability and intent to create a statewide or regional integrated network against which [radio common carriers] cannot successfully compete." Application for Review by Radio Relay at 3. In this regard Radio Relay contends that the agreement between Illinois Bell and Burlington, Brighton & Wheatland Telephone Co., located in southeastern Wisconsin, to time-share frequency 158.10 MHz is unfair because it allows neighboring wireline companies to encompass large service areas on the same frequency. We find that Radio Relay has failed to allege sufficient information on this point to present a prima facie case of anticompetitive conduct. We point out that there exists nothing in the rules to prevent radio common carriers from entering into intercarrier agreements to provide regionally integrated service to the public, and the Commission has promoted frequency sharing as an efficient use of a limited radio spectrum.[12] In addition, we have also granted wide area paging authority to radio common carriers.[13]

15. Radio Relay alleges that Illinois Bell engages in unfair and anticompetitive activity when it bills its customers for paging service along with wireline service and does not itemize the charges for paging. It claims that this practice hides the paging charge in the monthly telephone charge, giving Illinois Bell an unfair competitive advantage. We find that Radio Relay has failed to sufficiently explain why this practice is anticompetitive.

16. In addition, Radio Relay argues that Illinois Bell representatives promote paging service when a business customer applies for wireline service, and Illinois Bell includes information about paging in its information packets that describe business telephone services. Radio Relay claims that these practices give Illinois Bell an unfair competitive advantage. Illinois Bell claims that these practices are not anticompetitive, arguing that this same argument was raised and rejected in the *Guardband* proceeding.[14] We do not agree with Illinois Bell. In *Guardband*, we considered general allegations of A.T. & T. advertising practices. In the present proceeding, Radio Relay has alleged specific instances of competitive radiopaging services being advertised along with monopoly wireline telephone services. Illinois Bell has not addressed whether there exists any cross-subsidization between the two services. Accordingly, we will determine in the hearing whether Illinois Bell, in connection with its advertising of radiopaging services, has engaged in any unfair or illegal competitive practices.

17. *Need.* Petitioners contend that the Bureau erred in finding that Illinois Bell had demonstrated public need for the proposed new facilities. They argue that cross references by Illinois Bell to surveys conducted 5 or 6 years ago bear no relevance to the needs to be served in the suburban communities surrounding the Chicago inner metropolitan area. They also argue that the customer satisfaction survey conducted by Illinois Bell in 1974 demonstrates only a minimal expression of interest because 80 percent of the 206 interviewees were satisfied with their present service area. In ruling on the Petitions for Reconsideration the Bureau found as follows:

> We do not agree with the petitioners. Illinois Bell conducted a market survey wherein it informed the prospective customers of the cost, type, and area coverage of the service. Based on this survey, Illinois Bell found that there was a market potential for approximately 12,700 tone-only paging units at a monthly cost of $20 within Chicago and the Inner Metropolitan Area (the area presently being served) and a market potential for approximately 24,000 units in the entire Chicago, Inner Metropolitan and Outer Metropolitan Areas. This means that by adding the additional facilities, Illinois Bell will be doubling its potential market for paging service. Although the survey was conducted several years ago, we see no reason for doubting its present validity. Our experience shows us that there has been a substantial nationwide increase in the paging industry, and in particular there has been a substantial growth in the Chicago area. From 1973 through 1976, the combined growth of Radio Relay and Rogers has been over 100 percent, from 7,809 to 15,985 paging units. Additionally, we note that media reports in recent months have given considerable publicity to paging. We also point out that Illinois Bell has submitted data compiled by the United States Department of Commerce demonstrating the substantial and diversified commerce and growth of commerce in the Chicago metropolitan area. We therefore find that the market survey conducted by Illinois Bell is still valid as an estimate of minimum market potential. Finally, we find that the 1974 customer satisfaction survey, a survey which demonstrated that 17 percent of the Illinois Bell customers surveyed in the Chicago Metropolitan Area are interested in an expanded service area, represents a significant demand for service as evidenced by the large number of paging customers presently being served in the Chicago Area. In conclusion, we find that the survey method used and the results reported are sufficiently within the survey criteria described in *New York Telephone Company*, 47 FCC 2d 488, *recon. denied*, 49 FCC 2d 264 (1974), *aff'd sub nom. Pocketphone Broadcast Service, Inc.* v. *FCC*, 538 F. 2d 447 (D.C. Cir. 1976), to sustain a finding of public need for the proposed additional facilities.
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> Slip Opinion released December 16, 1977, at paragraph 12. Because we have the applications for review before us, we consider it appropriate to take a fresh look at the Bureau's determination on the need issue. In so doing we find that the original survey of the inner and outer metropolitan areas was conducted more than 4 years prior to the filing of the present application. Even though Illinois Bell updated its survey with data from the Department of Commerce and with data from its 1974 customer satisfaction survey, we recognize that the customer satisfaction survey itself was more than a year-and-a-Half old at the time the application was filed. We find that if a survey is used to demonstrate public need for a proposed service, then the application should be accompanied by a timely survey. We further find that the survey of the inner and outer metropolitan areas was not timely. Accordingly, we reverse the Bureau on its finding that Illinois Bell had demonstrated need for the proposed additional facilities and designate the application for a hearing on the issue of need.

18. *Duplication of Service and Adverse Economic Impact.* In its application for review, Radio Relay argued that the proposed new facilities would duplicate the services already provided by radio common carriers operating in the area and would cause an adverse economic impact on these radio common carriers. In its ruling on the petitions for reconsideration, the Bureau found that petitioners failed to present sufficient data to meet the *Commonwealth Telephone Co.*, 61 FCC 2d 246, (1976), test of adverse economic impact or wasteful duplication of services. We find that no new facts were presented in the applications for review and that the Bureau's determination was correct. In any event, these claims have been rendered moot because Radio Relay withdrew them on June 20, 1978.

19. *Anticompetitive Rates.* Petitioners state that Illinois Bell is increasing the number of transmitter sites from 20 to 32 at a cost in excess of $200,000, excluding additional operating costs. Petitioners argue that if Illinois Bell does not concurrently increase rates, the rates for the new facilities will be noncompensatory, and hence anticompetitive. The Bureau found the claim of petitioners to be based upon conjecture and speculation because the proposed new facilities were not yet in operation, and it was possible that the additional costs of the proposed new facilities would be offset by additional revenues resulting from new customers who would be attracted to use the proposed new facilities. We do not see any reason for reversing the Bureau in this regard. If, in the hearing, we find that Illinois Bell has failed to establish public need for the proposed additional facilities, it will be unnecessary to reach the question of rates. On the other hand, if it is determined that Illinois Bell has established public need, then the Bureau's decision will stand because the petitioners have failed to allege sufficient data, as required by *United Telephone of Ohio*, 26 FCC 2d 417 (1970), to present a prima facie case of anticompetitive rates, and it is longstanding Commission practice to leave the question of rates for intrastate service to State jurisdiction, absent specific and supported allegations of unfair competition or unreasonable discrimination. *Morrison Radio Relay Corp.*, 31 FCC 2d 612, 616 (1971). This case is different from *Bonduel Telephone Co.*, File No. 21476-CD-MP-76 released April 25, 1978, in that in *Bonduel* the petitioner presented a breakdown analysis of the expected costs and compared them to the proposed rates, and the applicant did not respond to the questions raised by the petitioner.

20. *Anticompetitive Practices of the Bell Telephone System.* Petitioners argue that Illinois Bell is an affiliate of the Bell Telephone System and that a grant of its application will create an anticompetitive potential because of the enormous resources, finances, and facilities available to Illinois Bell. In an attempt to demonstrate anticompetitive practives of Illinois Bell, the protestants bring to our attention the civil antitrust complaint filed by the Department of Justice against American Telephone & Telegraph Co. (A.T. & T.), the parent company of Illinois Bell. However, petitioners have not presented any evidence of A.T. & T. directing Illinois Bell to engage in anticompetitive activities, and the mere pendency of a civil lawsuit fails to provide sufficient basis to designate this issue for hearing. We do retain ample jurisdiction, however, to take whatever steps, if any, that might be suggested by the outcome of the civil antitrust litigation.

21. Additionally, Rogers brings to our attention three cases where it claims the rates of Bell System affiliates were found to be noncompensatory.[15] It claims that these cases demonstrate a course of conduct of anticompetitive activity on the part of A.T. & T. and its subsidiaries. We find that two instances of noncompensatory rates on the part of two A.T. & T. operating companies[16] do not warrant an issue of anticompetitive conduct on the part of Illinois Bell. The State agencies did not make any findings of anticompetitive practices, and two instances of noncompensatory rates do not, in our view, warrant the inferrence that there might exist a pattern of anticompetitive conduct. Furthermore, Rogers' characterization of

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Footnotes continued from last page

would be providing the outpulsing. In fact, the pleadings show that Rogers had intended to use its own outpulsing machine.

[12] *See, e.g.*, Mobile Radio Systems of Ventura, Inc., 30 FCC 2d 660 (1971).

[13] *Cf.* Sherman M. Wolf d.b.a. Zipcall and Colgan Communications, Inc., 42 FCC 2d 1125 (1973), where the Commission allowed the two carriers to agree to serve customers of the other in order to be able to provide wide area service. *See also* Industrial Communications Systems, Inc., and Radio Relay Corp.-California, FCC Mimeo No. 85785, released June 24, 1977. The two carriers, which operate on the same frequency but do not have the same transmitter locations, will each provide one-Way signalling service to the customers of the other.

[14] *See* Radio Relay Corp. v. FCC, 409 F.2d 332, 327 (2d Cir. 1969).

[15] Docket No. 18128, 61 FCC 2d 587 (1976), *recon. denied*, 64 FCC 2d 994 (1977), *further recon.*, FCC 78-104, released February 24, 1978; Cal. PUC Decision No. 85356, January 20, 1976; Mass. DPU No. 18090, May 13, 1977.

[16] New England Telephone & Telegraph Co. and Pacific Telephone & Telegraph Co.

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Docket No. 18128, 61 FCC 2d 587 (1976), *recon. denied*, 64 FCC 2d 994 (1977), *further recon.*, FCC 78-104, released February 24, 1978, as a case where the Commission found A.T. & T. to be charging anticompetitive rates is inaccurate. In Docket No. 18128, the Commission prescribed a cost methodology for evaluating A.T. & T.'s interstate services. This action was based primarily on the need for carrier accountability in ratemaking and the prevention of subsidization of competitive services by noncompetitive services rather than on any general or specific findings of anticompetitive conduct by A.T. & T. Accordingly, we see no reason for including in the hearing a general issue of anticompetitive practices of the Bell Telephone System. However, we have included issues concerning the alleged anticompetitive interconnection and billing practices of Illinois Bell and A.T. & T.

THE COMPLAINT

22. *Whether A.T. & T. is a Defendant.* A.T. & T. filed a motion to dismiss A.T. & T. as a party to the complaint proceeding on the grounds that A.T. & T.'s participation can serve no useful purpose because the complaint does not concern A.T. & T. Although A.T. & T. owns Illinois Bell, A.T. & T. claims that the complaint does not allege that A.T. & T. ordered Illinois Bell to do any of the acts which are the bases of the complaint, nor does it allege that the case involves any issues of industry-wide policy which A.T. & T. formulated. On the other hand, Rogers argues that the Commission should pierce the corporate veil to satisfy the public interest, that A.T. & T. should be named as a defendant because A.T. & T. is responsible for the alleged violations if it failed to instruct Illinois Bell to avoid the alleged improper actions, and that Illinois Bell cannot conduct the hearing without the advice and consent of its owners, A.T. & T.

23. We find that A.T. & T. should remain a defendant to the complaint proceeding. In *Offshore Telephone Co.*, 66 FCC 2d 184, 186 (1977), South Central Bell Telephone Co. (South Central) and A.T. & T. sought to have A.T. & T. dismissed as a party to the proceeding on the grounds that Offshore did not allege any violation by A.T. & T. The Commission denied the motion to dismiss on the grounds that A.T. & T., as the parent corporation of South Central, had a direct interest in the case and would be in a position to contribute to a more complete hearing record. In the present case, A.T. & T., as the parent corporation of Illinois Bell, has a direct interest in the case and should be in a position to contribute to a more complete hearing record on the complaint.[17]

[17] *See also* Western States Telephone Co., 66 FCC 2d 370 (1977), where General Telephone and Electronics Corp. (G.T. & E.) petitioned to be dismissed as a defendant because it is solely a holding company and not a common carrier subject to the Communications Act of 1934, as amended. In denying G.T. & E.'s petition, the Commission stated:

It appears that Western alleges in its complaint that G.T. & E. dictates and controls the policies of its telephone subsidiaries, some of which are defendants herein. While G.T. & E. denies this, an issue as to the relationship between it and its subsidiary companies is presented by the complaint, and such relationship may, in view of the complaint's subject matter, have a bearing on the question of damages. If G.T. & E. were deleted as a party defendant at this stage, efforts to explore the parent company's role (if any) in the enforcement of the tariffs might well be hampered and might cause additional delays.

Id. at 371.

24. *Guardband Violations.* As in its Application for Review, Rogers alleges that Illinois Bell and A.T. & T. have failed to comply with the following three requirements of the *Guardband* decision:

1 The [wireline company] licensee shall offer to make available to the nonwireline common carriers for one-way signalling purpose the same dial access interconnection facilities as those utilized by the wireline common carriers in the community;

2 Further, that the charges for such interconnection, and all other facilities of the wireline company used by the nonwireline carriers in the one-way signalling service on frequencies 152.24 and 158.70 Mc/s, shall be identical with those costs used by a wireline company on frequencies 152.84 and 158.10 Mc/s in computing its own charges over the same distances when it offers a competitive service, or, where distances are different, the same per mile basis;

3 And, finally, if a wireline carrier offers or purports to offer any free or reduced rate service, it shall provide the identical service so offered or purported to be offered to customers of any competing nonwireline carrier at the same reduced rates or free of charge.

12 FCC 2d at 852. These three requirements also appear as conditions on Illinois Bell's license for Station KTS203. We again conclude, as we did in our discussion of the Application for Review, that Illinois Bell did not violate the above three *Guardband* requirements.

25. *Carterfone and Telerent Violations.* In our discussion of the Application for Review filed by Rogers, we determined that it was unnecessary to decide whether *Carterfone* and *Telerent* were violated. We conclude, as we did earlier, that any consideration concerning the applicability of *Carterfone* and *Telerent* would be subsumed by the broader anticompetitive practices issue.

26. *Sherman Act Violations.* In its Complaint, Rogers claims that Illinois Bell and A.T. & T. are in violation of sections 1 and 2 of the Sherman Act. 15 U.S.C. §§ 1, 2 (1970). However, the Supreme Court has held that "while the Commission does not have power to enforce the antitrust laws as such, it is permitted to take antitrust policies into account in making licensing decisions pursuant to the public interest standard." *FCC* v. *National Citizens Committee for Broadcasting*, 98 S. Ct. 2096, 2112 (1978). *See also United States* v. *Radio Corp. of America*, 358 U.S. 334, 346-51 (1959); *National Broadcasting Co.* v. *United States*, 319 U.S. 190, 223-24 (1943). Accordingly, although we will consider whether Illinois Bell and A.T. & T. have engaged in unfair or illegal competitive practices in connection with the interconnection facilities provided to Rogers by Illinois Bell, we will not attempt to enforce the Sherman Act.

27. *Unfair or Illegal Competitive Practices.* In our discussion of the Application for Review filed by Rogers, we found that sufficient factual issues were raised to question whether Illinois Bell and A.T. & T. engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer Illinois Bell's INWATS lines in the past and to question whether the rates presently offered by Illinois Bell to Rogers to give Rogers the privilege of machine answering constitute any unfair or illegal competitive practices. *Cf. United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970). Because the factual arguments are the same in both proceedings, these same issues will apply to a hearing concerning the complaint.

28. *Damages.* In its complaint Rogers alleges actual damages in excess of $101,325.99 through September 1977 and damages in excess of $100 per day subsequent to September 1977. Rogers has offered to file affidavits containing full details of the damages claimed once the Commission has made its findings with respect to the basic liability issues involved in the Complaint. We agree with Rogers in this regard. The amount of damages, if any, should be determined in the hearing after the basic liability issues involved in the Complaint are resolved.

29. However, in determining the amount of damages, we question whether Rogers has chosen the course of action which would tend to mitigate damages. Of the alleged damages through September 1977, Rogers claims $82,972.00 for the expenses incurred in manually answering the INWATS lines provided by Illinois Bell. However, since August 9, 1977, Illinois Bell has offered to Rogers INWATS lines with the privilege of machine answering. Rogers claims that it has been unable to accept the offer on the grounds that the proposed rates are unfair. Nevertheless, if Illinois Bell and A.T. & T. are found to be liable to Rogers, in the hearing, we will inquire into whether payment of the charges for the privilege of machine answering would have been less costly than manually answering the INWATS lines and whether Rogers took or could have taken appropriate steps to mitigate damages in this regard.

30. In its Complaint, Rogers requested compensatory and punitive or exemplary damages to the end that the total award will be equal to three times the actual damages, plus cost of suit, including a reasonable attorney's fee, to harmonize the Commission's actions with the policy of encouraging civil enforcement of the anititrust laws. Because we do not have authority to adjudicate violations of the Sherman Act, we obviously do not have authority under the Sherman Act to award punitive or exemplary damages. Whether or not the Communications Act authorizes us to award punitive or exemplary damage in certain situations, such as where the principles of the Sherman Act may have been violated, is a question we need not decide now. The extent and nature of any damage award is a matter for consideration in the hearing ordered below.[18]

REQUEST FOR ORDER TO SHOW CAUSE

31. In its request for issuance of order to show cause, Rogers alleges that when the Commission considers its Formal Complaint, it will conclude that station license KTS203 should be revoked for the willful and repeated violations alleged therein.[19] We find that the request by Rogers has been rendered moot because the renewal application for station KTS203 is presently pending. The Bureau is directed to take into consideration this proceeding when processing the renewal application.

[18] The Commission has, on other occasions, decided to defer consideration of whether it has the authority to award punitive or exemplary damages until the conclusion of the hearing. *See* Richard Johnson, 18 FCC 2d 679 (1969), where we declared our intent to "defer ruling on this question until after the completion of the evidentiary record in this case and submission of briefs thereon by the parties." 18 FCC 2d at 681. This case was settled without hearing. *See also* Stroud v. Western Union Telegraph Co., 66 FCC 2d 117 (1977); Sidney Gelb, 30 FCC 2d 678 (Rev. Bd. 1971); Warrensburg Cable, 27 FCC 2d 727 (1971). Neither the Commission nor the Review Board has curred in the issue of authority to award exemplary or punitive damages in any of these cases.

[19] Section 312 of the Communications Act of 1934, as amended, sets forth circumstances under which the Commission may revoke a station license or construction permit.

EVIDENTIARY BURDENS

32. As in *United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970), we find it appropriate to set out guidelines on the evidentiary burdens to be met in the hearing designated herein. *Cf.* Section 309(e) of the Communications Act of 1934, as amended. In *United* we stated:

In *D & E Broadcasting Co.*, 5 RR 2d 475 (1965), we outlined our policy with respect to evidentiary burdens where issues involving charges of misconduct were to be tried, and held that in such cases the burden of going forward with the introduction of evidence and the burden of proof should be on the petitioning party. But we also observed that exceptions to that general policy might occasionally be appropriate. One such exception which exists in instances where the operative facts are peculiarly within the knowledge of the applicant, *Midwest Radio Television, Inc.*, 16 RR 2d 987 (1967), applies here where the essential facts are all within United's sole power to produce. Therefore, both the burden of going forward with the introduction of evidence and the burden of proof will be on United with respect to the issues specified; United of course bears the burden of proof on the ultimate public interest issue since it is an applicant. See Sec. 309(a) of the act, 47 U.S.C., Sec. 309(a).

26 FCC 2d at 421. As in *United*, the burden of going forward with the introduction of evidence and the burden of proof will be on Illinois Bell and A.T. & T. with respect to the interconnection and billing issues as the justifications for Illinois Bell's rates and practices are within the sole possession of Illinois Bell and A.T. & T. With respect to the issue of public need, Illinois Bell will bear the burden of going forward with the evidence and the burden of proof. Illinois Bell bears the burden of proof on the ultimate public interest issue since it is the applicant. However, with respect to the issue of damages to Rogers, the burden of proceeding with the introduction of evidence and burden of proof are upon Rogers.

33. Except as raised in the issues specified below, we find Illinois Bell to be legally, technically, financially and otherwise qualified to construct and operate the proposed additional facilities.

34. In view of the foregoing, *It is ordered*, That the Applications for Review filed by Radio Relay Corp.-Illinois and Rogers Radio Communication Services, Inc., are denied in part and are granted in part as set forth above.

35. *It is further ordered*, That the Order of the Chief, Common Carrier Bureau, released on August 23, 1977, granting the above-referenced application, and affirmed by Order of the Chief, Common Carrier Bureau, released on December 10, 1977, is vacated; and, pursuant to sections 201, 202, 206, 207, 208, 209, and 309 of the Communications Act of 1934, as amended, the above-captioned application of Illinois Bell Telephone Co., File No. 20657-CD-P-(11)-76, and the above-captioned Complaint of Rogers Radio Communication Services, Inc., File No. TS 3-78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine whether Illinois Bell Telephone Co. has demonstrated public need for the proposed additional facilities;

(b) To determine whether Illinois Bell Telephone Co. and American Telephone and Telegraph Co., in connection with the rates and practices for interconnection of the radio common carrier facilities of Rogers Radio Communication Services, Inc. with the landline facilities of Illinois Bell Telephone Co., have engaged in any practices which are:

(1) Anticompetitive,

(2) In violation of any provision of the Communications Act or contrary to the public interest standards thereof, or

(3) In violation of any rule, decision, or policy of the Federal Communications Commission;

(c) To determine whether Illinois Bell Telephone Co. and American Telephone & Telegraph Co., in connection with the advertising practices of Illinois Bell Telephone Co.'s radio-paging services, have engaged in any practices which are

(1) Anticompetitive,

(2) In violation of any provision of the Communications Act or contrary to the public interest standards thereof, or

(3) In violation of any rule, decision, or policy of the Federal Communications Commission;

(d) To determine, in light of the evidence adduced pursuant to issues (a), (b) and (c), whether a grant of the above-captioned application would serve the public interest, convenience, and necessity; and

(e) To determine what damages, if any, should be awarded to Rogers Radio Communication Services, Inc., for any violation found under issue (b).

36. *It is further ordered*, That the "Request for Issuance of Order to Show Cause Why Station License KTS203 Should Not Be Revoked" filed by Rogers Radio Communications Service, Inc. on November 3, 1977 is dismissed as moot.

37. *It is further ordered*, That, with respect to issue (a), the burden of introduction of evidence and burden of proof are placed upon Illinois Bell Telephone Co.

38. *It is further ordered*, That, with respect to issues (b) and (c), the burden of introduction of evidence and

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burden of proof are placed upon Illinois Bell Telephone Co. and American Telephone and Telegraph Co.

39. *It is further ordered,* That, with respect to issue (d), the burden of proof is placed upon Illinois Bell Telephone Co.

40. *It is further ordered,* That, with respect to issue (e), the burden of introduction of evidence and the burden of proof are placed upon Rogers Radio Communication Services, Inc.

41. *It is further ordered,* That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

42. *It is further ordered,* That Radio Relay Corp.-Illinois is made a party to the proceeding.

43. *It is further ordered,* That the request by Rogers Radio Communication Services, Inc., that American Telephone & Telegraph Co. be named as a defendant to the complaint proceeding is granted.

44. *It is further ordered,* That the Chief, Common Carrier Bureau, is made a party to the proceeding.

45. *It is further ordered,* That parties may avail themselves of the opportunity to be heard by filing with the Commission pursuant to section 1.221 of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28685 Filed 10-10-78; 8:45 am]

[6712-01-M]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: September 29, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Bureau.

Notice is hereby given, pursuant to § 1.572(c) of the Commission's Rules, that the television broadcast applications listed below will be considered to be ready and available for processing on October 10, 1978. Since the listed applications are mutually exclusive and have been cut off, no other application which involves a conflict with these applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPCT-4974 (new), Mt. Vernon, Ill., Evans Broadcasting Corp., Channel 13.

BPCT-4994 (new), Mount Vernon, Ill., Pyramid Broadcasting Corp., Channel 13.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28683 Filed 10-10-78; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-327, 78-328; File Nos. BP-20, 272, BP-21,021]

VOICE OF THE ORANGE EMPIRE, INC., LTD. (KWIZ) AND TRANS-AMERICA BROADCASTING CORP.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: September 27, 1978.

Released: October 4, 1978.

In re Applications of The Voice of the Orange Empire, Inc., LTD (KWIZ) Santa Ana, Calif., BC Docket No. 78-327, File No. BP-20,272, Req: 1480 kHz, 1 kW, 5 kW-LS, DA-2, Unlimited, Trans-America Broadcasting Corporation (KTYM) Inglewood, Calif., BC Docket No. 78-328, File No. BP-21,021, Req: 1460 kHz, 5 kW, DA-D, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the application of The Voice of the Orange Empire, Inc., LTD, licensee of station KWIZ, Santa Ana, California, for authority to increase nighttime power and the application of Trans-America Broadcasting Corporation, licensee of station KTYM, Inglewood, Calif., for authority to add nighttime operation. Inasmuch as the proposals would result in prohibited overlap, the two are mutually exclusive.

2. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of radio service.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *It is ordered,* That pursuant to section 309(e) of the Communications act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas and populations which would receive primary nighttime service from the respective proposals together with the availability of other primary nighttime (1.0 mV/m or greater in the case of FM) service in such areas.

(2) To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant's herein, pursuant to § 1.221(c) of the Commission's rules, in person, or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS Commission.
Wallace E. Johnson,
Chief, Broadcast Bureau.

[FR Doc. 78-28684 Filed 10-10-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices lacated at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20753, on or before October 31, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate this has been done.

Agreement No.: 10027-7.

Filing party: Frank R. A. Levier, Executive Administrator, Inter-American Freight Conference, Av. Rio Branco, 156-27°, Andar Grupos 2707/2711, Rio de Janeiro, Brazil.

Summary: Agreement No. 10027-7 amends the basic Brazil/U.S. Atlantic Coast Ports Pool by adding Sea-Land Service, Inc., as a party to the agreement. Sea-Land's admission is subject to the following terms: Sea-Land will assign all its rights (including voting), responsibilities, and obligations under the agreement to Moore-McCormack Lines, Inc. and Sea-Land shall not commence its service nor sailings nor shall it be considered a participating carrier in the agreement until such time as it executes with Moore-McCormack Lines an agreement defining respective shares, rights, responsibilities, and obligations within the U.S. national flag share in the pool and such agreement is approved by the respective governmental authorities. Notwithstanding the foregoing, Sea-Land is entitled at all times, as a member of the agreement, to participate in any and all discussions or meetings that the member lines may hold collectively.

Agreement No.: 10261-4.

Filing party: David C. Jordan, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street N.W., Washington, D.C. 20008

Summary: Agreement No. 10261-4 would amend Article 6 of the U.S. South Atlantic/Spanish, Portugese, Moroccan and Mediterranean Rate Agreement by adding a new paragraph thereto to provide that each party shall furnish security in the amount of $25,000 with the Secretary of the Agreement as a guarantee of the payments that such party is required to make pursuant to Article 6, entitled "Expenses of maintaining and administering rate agreement."

Agreement No.: T-2969-1.

Filing party: Richard L. Landes, Deputy, The City Attorney of Long Beach, Harbor Administation Building, P.O. Box 570, Long Beach, Calif. 90801

Summary: Agreement No. T-2969-1, between the City of Long Beach (City) and Exxon Corp. (Exxon) modifies the basic agreement between the parties which provides for the 36-year exclusive lease to Exxon of certain land and water areas; an exclusive license for construction and operation of certain pipelines; and a tertiary berth assignment for the use of wharf and wharf premises located at Long Beach, Calif. (premises). The premises will continue to be used for the receipt, handling, loading, unloading, transporting, and storage of Exxon's petroleum products in connection with its fuel bunkering services. This modification represents an adjustment of the preferentially assigned berth spaces and reimbusement to Exxon for relocation of certain pipes, valve boxes and appurtenant facilities due to expansion of the bulk grain terminal located on the adjacent parcel. As compensation under this modification, the City is to receive rental for the leased areas and the preferentially assigned areas in an amount aggregating $144,070.08 per annum. This rental shall be in lieu of tariff charges as published by the Port of Long Beach up to an amount of $144,000.00 per 12-month period. In the event wharfage and dockage charges accruing during any said 12-month period exceeds $144,000.00, Exxon shall pay to City 50 percent of all such tariff charges in excess of $144,000.00. As rental for use of the licensed area, Exxon will pay City a sum computed from the pipeline rental fees prescribed in Section 7560:9 of the Municipal Code of the city of Long Beach. In addition, City shall receive tariff charges occurring in connection with Exxon's operations upon the licensed area.

Agreement No.: T-3718.

Filing party: Joseph D. Patello, Port Attorney, Port of San Diego, P.O. Box 488, San Diego, Calif. 92112.

Summary: Agreement No. T-3718, between San Diego Unified Port District (Port) and Crescent Wharf and Warehouse Co. (Crescent), is a terminal operator agreement whereby Crescent will provide for the handling, storing and delivering of merchandise and cargo, and perform additional accessorial services. Crescent will set forth in a tariff, rates, rules and regulations relating to its services. In consideration for the collection of wharf storage and wharf demurrage in accordance with the Port's tariff, Crescent is allowed to retain a percentage of revenues as set forth in the agreement.

By order of the Federal Maritime Commission.

Dated October 4, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28586 Filed 10-10-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1927]

AMERICAN DISC LTD., PAUL CAVALOS D.B.A.

Order of Revocation

On September 27, 1978, American Disc. Ltd., Paul Cavalos d.b.a., 9019 Neenah, Morton Grove, Ill. 60053, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1927 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1927 issued to American Disc Ltd., Paul Cavalos d.b.a., be and is hereby revoked effective September 27, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon American Disc Ltd., Paul Cavalos d.b.a.

ROBERT D. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-28585 Filed 10-10-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

TOWNSEND FINANCIAL CORP.

Formation of Bank Holding Company

Townsend Financial Corp., Parsons, Tenn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent of the voting shares of Farmers Bank, Parsons, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 3, 1978.

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Board of Governors of the Federal Reserve System, October 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28591 Filed 10-10-78; 8:45]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Creusot-Loire Steel Corp. is granted early termination of 30-day waiting period provided by law and the premerger notification rules with respect to the proposed merger of Horace T. Potts, Inc., into a subsidiary of Creusot-Loire. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Creusot-Loire. Neither agency intends to take any action with respect to this action during the waiting period.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28686 Filed 10-10-78; 8:45 am]

[6820-22-M]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D-155]

PUBLIC BUILDINGS AND SPACE

Redesignation of Federal Building

OCTOBER 2, 1978.

1. *Purpose.* This bulletin announces the redesignation of a Federal building.

2. *Expiration date.* This bulletin expires September 30, 1978. However, the building redesignation announced by this bulletin will remain in effect until canceled or superseded.

3. *Redesignation.* The name of the building being redesignated is as follows:

Former name and new name
Federal Building—Federico Degetau Federal Building.
U.S. Courthouse—U.S. Courthouse.
Carlos E. Chardon Avenue—Carlos E. Chardon Avenue.
Hato Rey, Puerto Rico 00918—Hato Rey, Puerto Rico 00918.

OCTOBER 2, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 78-28552 Filed 10-10-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

PRESIDENT'S COMMISSION ON FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Meeting

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the President's Commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to amend.

DATES: October 26-27, 1978.

ADDRESS: Headquarters of the Organization of American States in the Old Council Room, 17th and Constitution Avenue NW., Washington, D.C. 20001. The Old Council Room, October 26 and 27.

FOR FURTHER INFORMATION CONTACT:

Nan Bell, Staff Director, 1832 M Street NW., Suite 837, Washington, D.C. 20036 202-653-5817.

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and section 9(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries, and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to: (1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend that foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

Information on meetings which may be planned for any or all of these groups may be obtained by calling the Commission office as indicated. On October 26, 1978 the President's Commission on Foreign Language and International Studies will meet in regular session from 10:00 a.m. to 5:00 p.m., and on October 27, from 9:00 a.m. to 12:00 p.m., at the Headquarters of the Organization of American States in the Old Council Room, 17th and Constitution Avenue, NW. The following agenda will be included in the meetings:

(1) Introduction of Commission members;
(2) Statement on background and purposes of the Commission;
(3) Outline and plan of work; and
(4) Presentations on topics pertinent to the mandate of the Commission.

Records shall be kept of all Commission proceedings and shall be available 14 days after the meeting for public inspection at the Office of the President's Commission on Foreign Language and International Studies, located at 1832 M Street NW., Suite 837,

Washington, D.C. 20036. Signed at Washington, D.C. on October 4, 1978.

NAN P. BELL,
Staff Director.

[FR Doc. 78-28589 Filed 10-10-78; 8:45 am]

[4110-12-M]

Office of the Secretary

PRIVACY ACT OF 1974

Guaranteed Student Loan Program—Project Cross-Check, Phase III

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Phase III Implementation of Project Cross-Check in the Guaranteed Student Loan Program.

SUMMARY: The Department of Health, Education, and Welfare (DHEW) plans to implement Phase III of a major project called Project Cross-Check, to reduce losses currently being sustained by the guaranteed student loan program as administered by DHEW. This project Cross-Check seeks to identify Federal employees—civilian and active duty military—who appear to be in default on their guaranteed student loan (GSL), and to take action, where appropriate to accelerate recoveries on these defaulted loans. Project Cross-Check is being implemented in three phases: Phase I was a pilot project conducted in Fall 1977 using HEW's own payroll; Phase II initiated in February 1978, included the entire Federal active civilian workforce; and Phase III is to be directed at the Federal active duty military employee data base. In each phase of the project, a file of Federal employees was (or will be) compared by computer with the guaranteed student loan default file to identify possible loan defaulters on the public payroll.

DATE: Phase III implementation of Project Cross-Check will begin on October 14, 1978 and will continue until June 1979.

ADDRESS: Any written comments should be addressed to the Director, Division of Program Operations, Bureau of Student Financial Assistance, Room 4636, GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. David Kerr, Director, Division of Program Operations, Room 4636, GSA Regional Office Building, 202-245-3390.

SUPPLEMENTARY INFORMATION: DHEW is already beginning to show some measures of success in Phase I and Phase II of Project Cross-Check. In Phase I, DHEW compared its own payroll with that of the default file and found 317 initial matches, of which 103 individuals no longer work for the Department. Of the remaining 214 individuals (still DHEW employees), 162 accounts have been resolved or otherwise settled; 4 accounts are under negotiation; and 48 accounts have been referred for litigation.

In Phase II of Project Cross-Check, the U.S. Civil Service Commission gave its permission on December 23, 1977 for a computer comparison of the Federal civilian work force (all active Federal civilian and postal employees) against the guaranteed student loan (Federally insured) default files of the Office of Education. The Office of Inspector General (OIG) Audit Agency conducted the computer comparison on February 7, 1978 and identified 6,783 individuals whose names appeared on both lists. This listing was immediately given to the Deputy Commissioner, Bureau of Student Financial Assistance (BSFA), Office of Education for his follow up action. Copies of these records were not retained by the Audit Agency but were returned to the source or destroyed. DHEW is now in the process of sending letters directly to the individual at their work address requesting that the individual immediately contact BSFA about their defaulted loan account. DHEW believes that many individuals may not have previously received a notice from its collection staff—although a series of letter already have been mailed to the best known address in BSFA's files. In October, for those accounts which still remain unresolved, BSFA will request that the Federal employer (Personnel Office) counsel the defaulters about their indebtedness, and advise BSFA of the outcome of the counseling session. Accounts which remain unresolved after a counseling effort, will be reviewed by BSFA and referred where appropriate for litigation.

Prior to the implementation of Phase II of Project Cross-Check, a new Routine Use permitting the release of certain information from the applicable guaranteed student loan systems of records was published in the FEDERAL REGISTER, Vol. 43, No. 12, on Wednesday, January 18, 1978, and became effective 30 days later. This new routine use permitted the Bureau of Student Financial Assistance to disclose information to Federal employers of defaulters for the purpose of counseling these borrowers in their repayment efforts, to various agencies, organizations and private parties to locate delinquent or defaulted borrowers, and to agency contractors to assist in collections activities. The routine use has facilitated the new initiative Project Cross-Check directed at Federal employee defaulters, as well as the non-Federal initiative to identify those loan defaulters and to take action where appropriate to accelerate recoveries on those loan accounts. In Phase II of Project Cross-Check, DHEW plans to identify Federal active duty military employees who appear to be in default on their guaranteed student loan, and to take action to accelerate recoveries on these loans. The implementation procedures for Phase III will be virtually identical to that used in Phase I and Phase II on the civilian side of Project Cross-Check. The Department of Defense will release to the Office of Education, DHEW, a listing of all active duty military employees, which will then be compared by computer with the list of all guaranteed student loan defaulters. As soon as the data has been collected for Phase III of Project Cross-Check all original source computer tapes will be promptly returned to the source or destroyed. The matching of the Defense Manpower Data Center Data Base and the guaranteed student loan default file will be handled with strict regard for considerations of privacy, under the direction of senior members of the OIG Audit Agency (Washington Area Audit Office) under the following security procedures:

All computer files and printed listings are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual. The records collected for this process will be immediately transferred to the Deputy Commissioner, BSFA, within the Office of Education, for his follow-up action. Copies of these records will not be retained by the Audit Agency.

For Phase III of Project Cross-Check, the Department of Defense, in order to permit the release of identifying information about active duty military employees to DHEW, Office of Education, has published a new Routine Use, as part of a Notice of Amendments to a System of Records; Defense Manpower Data Center Data Base, S322.10DLA-LZ. The new routine use was published in the FEDERAL REGISTER, vol. 43, No. 178; on September 13, 1978, p. 40904, and this routine use is reproduced below to further assist the general public in its understanding of Phase III of Operation Cross-Check. The publication of this routine use by Department of Defense (DOD) is in accordance with the OMB Supplemental Guidance for Matching Programs, published in the FEDERAL REGISTER, vol. 43, No. 151 on August 4, 1978.

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As with Phase II of Operation Cross-Check, the following procedures will be followed for Phase III once the records have been transmitted to BSFA: For those individuals who have not received routine notification by BSFA collection staff about their indebtedness, these individuals will immediately be sent a series of collection letters to the best known address in BSFA's file—without the involvement or knowledge of any defaulter's supervisors or associates. The letter will request that the defaulter contact the appropriate DHEW regional office to resolve the account. Only in cases where it has not been possible to locate a defaulter, or the defaulter has been located and refused to arrange repayment, will assistance be requested from the employment agency. The first contact with DOD in this regard will be to request a work location for those defaulters noted above. As with Phase II (the Federal civilian side of Project Cross-Check), letters will be sent to the defaulter at his work address and marked: Personal—Private—To Be Opened by Addressee Only. DOD will provide work location for those defaulters so identified by BSFA. For those accounts which remain unresolved after a period of time has elapsed, DHEW will request that DOD counsel those remaining individuals about their indebtedness. Those which are nonresponsive to counseling will be reviewed and referred as appropriate by BSFA for litigation.

In accordance with the OMB Supplemental Guidance on Matching Programs, the computer comparison of the DOD Defense Manpower Data Center Date Base with the guaranteed student loan default file will not occur on or before 30 days after the publication of the DOD Routine Use for the System of Records: S322.10 DLA-LZ.

(DOD Routine Use Published September 13, 1978, p. 40904 of the FEDERAL REGISTER.)

Information on the name, rank, social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health, Education, and Welfare (DHEW) for the following purposes:

To the Office of Education, DHEW, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DHEW to take action, where appropriate, to accelerate recoveries of defaulted loans.

Dated: October 4, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Administration and Budget.

[FR Doc. 78-28638 Filed 10-5-78; 4:39 pm]

[4110-02-M]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice is intended to notify the general public of the cancellation of the Community Education Advisory Council meeting as published in the FEDERAL REGISTER, vol. 43, No. 188 on Wednesday, September 27, 1978. Due to a lack of a quorum of members, the meeting has been canceled and will be rescheduled at a later date.

DATE: Meeting, October 12-13, 1978.

ADDRESS: U.S. Office of Education, FOB-6, Room 4003, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB-3, Seventh and D Streets SW., Washington, D.C. 20202, telephone 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

Signed at Washington, D.C., on October 10, 1978.

JULIE ENGLUND,
Director, Community Education Program.

FR Doc. 28857 Filed 10-10-78; 10:53 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 64971]

WYOMING

Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the Colorado Interstate Gas Co., Colorado Springs, Colo. filed an application for a 4½ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING.

T. 16 N., R. 94 W.,
sec. 4, lots 1, 2, 6, 7 and NE¼SE¼;
sec. 10, SE¼NE¼, N½NW¼, SE¼NW¼, W½SE¼ and SE¼SE¼;
sec. 14, SW¼NW¼, W½SW¼ and SE¼SW¼;
sec. 15, E½NE¼;
sec. 23, SW¼NE¼, E½NW¼ and NW¼SE¼.

The proposed pipeline will transport natural gas from an existing well at a location in section 23, T. 16 N., R. 94 W., Sweetwater County, Wyo. into existing natural gas pipeline facilities at a location in the NE¼ of section 4, T. 16 N., R. 94 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Stret, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28553 Filed 10-10-78; 8:45 am]

[4310-31-M]

Geological Survey

[Int DES 78-43]

CABALLO MINE, CAMPBELL COUNTY, WYO.

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement on the proposed Caballo surface coal mining operation by the Carter Mining Co. in Campbell County, Wyo. The draft statement assesses the environmental impacts of the lessee's plan for the surface mining of federally-owned coal and his concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal leases W-49644 and W-3397, located about 10 miles (15 km) southeast of Gillette, Wyo., in Campbell County.

The draft environmental impact statement is available for public review in the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, Col. 80202; the U.S. Geological Survey Library, Stop 914, Box 25046, Denver Federal Center, Denver, Col. 80225; the U.S. Geological Survey Library, room 4A100, National Center, Reston, Va. 22092; the Converse County Library, 300 Walnut Street, Douglas, Wyo. 82633; the George Amos Memorial Library, 412 South Gillette Avenue, Gillette, Wyo. 82716; the Library of Natrona County, 307 East Second, Casper, Wyo. 82601; and the State Library, State of Wyoming, Supreme Court Building, Cheyenne, Wyo. 82002.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, Col. 80225; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, Col. 80202.

The Department will accept written comments on the draft statement for a period of 45 days subsequent to the date of this notice, and will consider any comments received in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, U.S. Geological Survey, National Center, Mail Stop 108, Reston, Va. 22092.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin in Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74-55 statement were held as follows: June 24-25, 1974, at Cheyenne, Wyo.; June 26, 1974, at Casper, Wyo.; and June 27-28, 1974, at Gillette, Wyo.

Dated: October 5, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-28587 Filed 10-10-78; 8:45 am]

[4310-70-M]

National Park Service

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that public meetings of the Western Regional Advisory Committee will be held in San Francisco, Calif. The meetings will be held on November 17 and 18, 1978, each will begin at 9 a.m. p.s.t. in Golden Gate National Recreational Area Headquarters, Building 201, Fort Mason.

Friday afternoon, November 17, the committee will make a surface tour of Golden Gate National Recreation Area: Members of the public may participate in the tour, but they must arrange for their own transportation.

This will be the last gathering of the Western Regional Advisory Committee, since the Committee's charter will expire, without renewal, on December 31, 1978.

The purpose of the Western Regional Advisory Committee during its existance was to provide for a free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or counsel from members of the public on programs and problems affecting the Western Region of the National Park Service.

Members who have served on the Advisory Committee are:

Ben Avery, Phoenix, Ariz.
David W. Ballic, Jr., Waipahu, Hawaii.
Lewis S. Eaton, Fresno, Calif. (Chairman).
Ed Fike, Las Vegas, Nev.
Bernard Fontana, Tucson, Ariz.
Jean Ford, Las Vegas, Nev.
Sonya Thompson, Agoura, Calif.
Jack Walston, San Marino, Calif.
Todd Watkins, Bishop, Calif.

Presentations to be made to the Committee will include the status of management and development issues they reviewed, provided advice and counsel on during their terms of appointment. They are:

Grand Canyon National Park's Colorado River Management and Feral Burro Management Plans.
Mining in Death Valley National Monument.
Redwood National Park Enlargement Act.
Yosemite National Park's draft General Mangement Plan.
Golden Gate National Recreation Area draft General Management Plan.
Cultural and National Resource Mangement Plans for various areas in the Western Region.

Since this is an informal meeting of present and former Committee members, they will not consider matters discussed in the formal sense nor will they provide formal advise relating thereto. However, the meeting will be open to the public, and anyone may file, with the Committee, a written statment concerning the matters to be discussed.

A summary of the meeting will be available for public inspection four weeks after the meeting at the Western Regional Office, National Park Service, Federal Office Building, Room 14001, 450 Golden Gate Avenue, San Francisco, Calif.

Dated: September 28, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region.

[FR Doc. 78-28574 Filed 10-10-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358-OL]

CINCINNATI GAS & ELECTRIC CO. ET AL. (WM. H. ZIMMER NUCLEAR STATION)

Reconsitution of Board

Samuel W. Jensch, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Jensch is retiring and is unable to continue his service on this Board.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomtic Safety and Licensing Board Panel, U.S. Nulcear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rule of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28557 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-409-SP]

DAIRYLAND POWER COOPERATIVE (LaCROSSE BOILING WATER REACTOR)

Amendment to Provisional Operating License (Spent-Fuel Pool); Reconstitution of Board

Ivan W. Smith, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Smith is unable to continue his service on this Board because of a schedule conflict.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomtic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28558 Filed 10-10-78; 8:45 am]

V 43 / 197 OCT 11 78

[7590-01-M]

[Docket No. 50-409-OL]

DAIRYLAND POWER COOPERATIVE (LA CROSSE BOILING WATER REACTOR)

Application for Full-Term Operating License; Reconstitution of Board

Ivan W. Smith, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Smith is unable to continue his service on this Board because of a schedule conflict.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28559 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment to Facility Operating License.

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 60 to facility operating license No. DPR-57 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia, and city of Dalton, Ga., which revised the license for operation of the Edwin I. Hatch nuclear plant, unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

This amendment adds a license condition related to the completion of facility modifications for fire protection.

The Commission had made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need to be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated October 27, 1976, and September 6, December 13, 1977, and February 15, March 28, April 11, April 18, and May 19, 1978, (2) amendment No. 60 to license No. DPR-57, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28560 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 52 to facility operating license No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised the technical specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.

The amendment involves changes to the technical specifications to increase the storage capacity of the spent fuel pool from 740 to 2,366 fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of proposed issuance of amendment to facility operating license in connection with this action was published in the FEDERAL REGISTER on August 22, 1977 (42 FR 42265). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's final environmental statement for the facility dated February 1973.

For further details with respect to this action, see (1) the application for amendment dated July 22, 1977, as supplemented by letters dated November 30, December 16, 1977, June 12, 28, July 5 and 14, 1978, (2) amendment No. 52 to license No. DPR-46, (3) the Commission's related environmental impact appraisal, and (4) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28562 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Project No. P-657]

NEW YORK STATE ELECTRIC AND GAS CORP. AND LONG ISLAND LIGHTING CO.

Establishment of Local Public Document Room for the Proposed New Haven Nuclear Power Station

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has established the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. 13126, as the NRC's official Local Public Document Room for documents relating to New York State Electric and Gas Corp.'s and Long Island Lighting Co.'s proposed New Haven Nuclear Power Station, Units 1 and 2.

Members of the public are invited to view the New Haven documents at the above location during their hours of operation: Monday through Friday, 9 a.m. to 5 p.m. Reproduction equipment is available for the copying of documents.

Any questions concerning the Local Public Document Room should be directed to the Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated in Bethesda, Md., this 2d day of October 1978.

For the Nuclear Regulatory Commission.

JOSEPH M. FELTON,
Director, Division of Rules and Records, Office of Administration.

[Doc. 78-28564 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-496 and 50-497]

NORTHEAST NUCLEAR ENERGY CO. (MONTAGUE NUCLEAR POWER STATION, UNITS 1 AND 2)

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Coufal has transferred to the Federal Communicaitions Commission, where he is serving as an Administrative Law Judge.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28563 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-275 O.L. & 50-323 O.L.]

PACIFIC GAS AND ELECTRIC CO. (DIABLO CANYON NUCLEAR POWER PLANT, UNITS NO. 1 & 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Richard S. Salzman, Chairman
Alan S. Rosenthal
Dr. W. Reed Johnson

Dated: October 3, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-28565 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO., ET AL. (PEACH BOTTOM UNITS NOS. 2 AND 3)

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 46 and 46 to Facility Operating License No. DPR-44 and DPR-56, issued to Philadelphia Electric Co., Public Service Electric and Gas Co., Delmarva Power and Light Co. and Atlantic City Electric Co., which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pa. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to (1) revise the surveillance requirements associated with suppression pool temperature logging, (2) revise the Tables listing Primary Containment Isolation Valves (PCIV) to reflect the addition of a controlled bypass heatup line on the High Pressure Coolant Injection (HPCI) steam supply, and (3) revise the identification of certain valves to reflect plant unique designations between Units 2 and 3.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) applications for amendments dated May 6, 1977 and March 14, 1978, as supplemented July 11, 1978, (2) Amendments Nos. 46 and 46 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28561 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Provisional Operating License No. DPR-13, issued to Southern California Edison Co. and San Diego Gas & Electric Co. (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, Calif. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications by adding requirements for a minimum water level above spent fuel in the reactor pressure vessel and spent fuel pool and the maximum weight that could be carried over spent fuel assemblies. The amendment also revises the provisions of Technical Specification 3.8 to require the reactor to be subcritical for at least 148 hours before commencing movement of irradiated fuel in the reactor pressure vessel.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

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The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1978 (Proposed Change No. 70), (2) Amendment No. 36 to License No. DPR-13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, Calif. 92676. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-28568 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-33, issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Ala. The amendment is effective as of the date of issuance.

On September 19, 1978, we issued Amendment No. 41 to the above license to permit operation at a maximum of 50 percent of licensed power level with one recirculation loop isolated. This amendment changes the Technical Specifications to raise the restriction on allowable power level to 82 percent while the facility is operating with one recirculation loop isolated.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1978, (2) Amendment No. 43 to License No. DPR-33, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28567 Filed 10-10-78; 8:45 am]

[7555-02-M]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NUCLEAR WASTE MANAGEMENT TECHNICAL ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-462, the Office of Science and Technology Policy announces the following meeting:

Name: Nuclear Waste Management Technical Advisory Group.
Date: October 27, 1978.
Time: 9:00-4:00.
Place: Room 3104, New Executive Office Building, Washington, D.C.
Type of meeting: Open.
Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.
Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.
Purpose of review panel: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends with respect to long-term management of nuclear wastes, will identify and delineate viable alternative technology strategies or planning approaches to the problem of disposal and isolation of all nuclear waste other than that categorized as low level.
Agenda: 9:00-4:00—A discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc. 78-28551 Filed 10-10-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 15, Amdt. 24]

PROGRAM ACTIVITIES IN FIELD OFFICES

Delegation of Authority

Delegation of authority No. 30, revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8340), as amended (41 FR 16234), 17829, 28049, 36702, 50883; 42 FR 56990, 59153, 61347; 43 FR 55, 1577, 6667, 10998, 13651, 22261, 36152 and 45662) is hereby further amended to centralize the 8(a) contracting authority in the region VI regional office.

Accordingly, delegation of authority No. 30, revision 15, part VI, is amended as follows.

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

. . . . . .

SEC. B.—Section 8(a) Contracting Authority (SB Act)

1. . . .

. . . . . .

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

. . . . . .

1. [Delete]

2. To arrange for the performance of such contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to small business concerns or others. Contracts shall not exceed the following amounts:

. . . . . .

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

. . . . . .

1. [Delete]

. . . . . .

3. . . .

. . . . . .

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

. . . . . .

m. [Delete]

Effective date: October 1, 1978.

Dated: September 28, 1978.

HAROLD A. THEISTE,
Acting Associate Administrator for Operations.

[FR Doc. 78-28555 Filed 10-10-78; 8:45 am]

[4810-35-M]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 6]

INSURANCE CO. OF THE PACIFIC COAST

Surety Company, Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitations of $253,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Insurance Company of the Pacific Coast, P.O. Box 2175, Newport Beach, Calif. 92663—California

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of June 1, in Department Circular 570 with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department fo the Treasury, Washington, D.C.20226.

Dated: October 4, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-28611 Filed 10-10-78; 8:45 am]

[4830-01-M]

Internal Revenue Service

[Delegation Order No. 60 (Rev. 4), Chief Counsel's Order No. 1031.1B]

APPEALS OFFICIALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational titles are changed. Appellate consideration of employee plans and exempt organizations will be by the Appeals Offices. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: 26 CFR 601.106: Appeals Functions. Settlement of cases docketed in the U.S. Tax Court.

Issued: October 1, 1978.

With respect to cases docketed in the U.S. Tax Court, the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9, and Treasury Department Order No. 150-37 is hereby delegated and pursuant to the authority vested in Chief Counsel for the Internal Revenue Service by General Counsel Legal Division Order No. 4 it is hereby delegated.

1. Chief Counsel's delegate (hereinafter Counsel) will have exclusive jurisdiction over any case docketed in the Tax Court if the notice of deficiency, liability, or other determination was issued by Appeals officials; if the notice of deficiency, liability, or other determination was issued after appeals consideration of all petitioned issues by the Employees Plans/Exempt Organizations function; if the notice of deficiency, liability, or final adverse determination letter was issued by a District Director and is based upon a national office ruling or national office technical advice in that case involving a qualification of an employee plan or tax exemption and/or foundation status of an organization (but only to the extent the case involves such issue); or, except as provided in paragraph 3, if the case was docketed under Code sections 6110 or 7477. Jurisdiction will vest with Counsel at the time such cases are docketed with the court.

2. Regional Commissioners will have exclusive jurisdiction to settle in whole or in part, for a period of 4 months (but no later than the receipt of the trial calendar in regular cases and no later than 15 days before the calendar call in S cases), cases docketed in the Tax Court, except cases described in above paragraph 1. The 4-month period will commence at the time the Appeals officials (or the Examination officials under prior authority) receive the case from Counsel, which will be after the case is at issue. Counsel may extend the 4-month period for an additional 60-day period. Any further extension (or retention during the trial calendar period) will be granted only by the Regional Counsel personally. At the conclusion of the 4-month period or the period as extended, or at such earlier time as the Regional Commissioner concludes that the case is not susceptible of settlement, Counsel will have jurisdiction over the case.

3. Assistant Commissioner (Technical) and Deputy Chief Counsel (Litigation) will have joint settlement jurisdiction over any case docketed in the Tax Court under Code section 6110 or 7477 until the first day of the calendar on which the case is called for trial or, if earlier, the day on which the court serves on Counsel an order setting brief due dates; thereafter, Counsel will have settlement jurisdiction.

4. Effective date:

A. This order is applicable to all cases docketed with the Tax Court after June 30, 1978.

B. This order is applicable to cases pending in the Tax Court on June 30, 1978, in which the notice of deficiency or liability was issued by the office of the District Director, Director of International Operations, Director of a Service Center, and in which a settlement conference has not been held after such issuance by the Regional Appellate Division or by the Employee Plans/Exempt Organizations function of the region prior to July 1, 1978.

C. For other cases pending in the Tax Court on June 30, 1978, the procedures of Rev. Proc. 60-18 continue to be applicable, except that sole authority to dispose of the case vests in Counsel at the earlier of the following:

1. The date of receipt of a trial calendar on which the case appears;

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2. The date when the Appeals officials and Counsel conclude settlement negotiations without disposition of the case and the Appeals officials transfer the case to Counsel; or

July 1, 1979.

5. The authority delegated herein to Regional Commissioners may be redelegated only by specific Commissioner's delegation orders. The authority of Chief Counsel's delegate to redelegate is contained in Chief Counsel's order No. 1030.1B, issued July 2, 1978.

6. This order supersedes Commissioner's delegation orde No. 60 (Rev. 3), Chief Counsel's order No. 1031.1A issued July 2, 1978.

STUART E. SEIGEL,
Chief Counsel.
JEROME KURTZ,
Commissioner.

[FR Doc. 78-28577 Filed 10-10-78; 8:45 am]

[4830-01-M]

[Delegation Order No. 60 (Rev. 8), Chief Counsel's Order No. 1031.2B]

REGIONAL COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational titles are changed. Employee Plans and Exempt Organizations' appeals program is transferred to the Regional Director of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in protested and Tax Court cases.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9, and Treasury Department Order No. 150-37, is hereby delegated as follows:

1. (a) In each region the Regional Commissioner, Regional Director of Appeals, and Chief and Associate Chief, Appeals Office, are authorized to represent the Commissioner in determining liability, qualification, exempt status, or foundation classification for the following types of cases not docketed in the U.S. Tax Court when the taxpayer does not agree with the determination made by the District Director or by the Director of International Operations and requests consideration by the Regional Director of Appeals:

(1) Except as excluded under paragraph 5 of this order, liability for excise, employment, income, profits, estate (including extensions for paying estate tax under Internal Revenue Code Section 6161(a)(2)), and gift taxes including additions to tax, additional amounts and assessable penalties under chapter 68 of subtitle F of the Internal Revenue Code of 1954 or corresponding provisions of the Internal Revenue Code of 1939;

(2) Initial or continuing qualification under subchapter D of chapter 1 of the Internal Revenue Code of 1954 and initial or continuing exempt status and foundation classification, except when a national office ruling on the case with respect to exempt status or foundation classification, or national office technical advice, with respect to qualification, exempt status, or foundation classification, has been issued. In certain instances, such as cases arising from the Examination Division or cases in which a national office technical advice covers only a portion of the qualification issue of an employee plan, Appeals officials will have jurisdiction over the proposed action where a national office ruling on the case with respect to exempt status or foundation classification or a national office technical advice, with respect to qualification, exempt status, or foundation classification has been issued. If the Appeals proposed disposition is contrary to the national office ruling on the case with respect to exempt status, or foundation classification, or the national office technical advice with respect to qualification, exempt status, or foundation classification, the Assistant Commissioner (Employee Plans and Exempt Organizations) or the Assistant Commissioner (Technical), in Internal Revenue Code Section 521 cases, will make the final decision.

(b) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this order and they may not be redelegated, except, the authority with respect to appeals of assessed penalties may be redelegated by the Regional Director of Appeals to Appeals officers.

2. (a) In conformity with the provisions of delegation order No. 60 (as revised), in each income, excise, profits, estate, and gift tax case docketed in the U.S. Tax Court, the Regional Director of Appeals is authorized and each Chief and Associate Chief, Appeals Office, is authorized to perform those functions delegated to the Regional Commissioner in that joint order.

(b) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this order and may not be redelegated.

3. The authorities delegated to the Regional Commissioner do not include authority to:

(a) Eliminate the ad valorem fraud penalty in any case in which the penalty has been determined by the district office or service center office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of Counsel; or

(b) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of Counsel.

4. In any case not docketed in the Tax Court in which a statutory notice was issued by the office of a District Director or by the Director of International Operations, the Regional Director of Appeals may relinquish the requested jurisdiction by waiver to the office of that Director. No such waiver shall be made in any case in which criminal prosecution has been recommended and not finally disposed of; nor in any case in which the determination in the statutory notice includes the ad valorem fraud penalty. Notwithstanding any such waiver, upon filing of a petition with the Tax Court, jurisdiction shall revest in the Regional Director of Appeals.

5. The excise and employment taxes subject to the provisions of this order include any Federal excise or employment tax under the Internal Revenue Code of 1954, except any tax imposed by the following provisions or corresponding provisions of the Internal Revenue Code of 1939:

(a) Subtitle E; or

(b) Subchapter D, chapter 78 of subtitle F, insofar as it relates to taxes imposed under subtitle E.

6. The authority to make and subscribe to a return under provisions of Code section 6020 is delegated to Appeals officers.

7. The authorities contained in this order are intended to supplement the authorities contained in delegation order No. 60 (as revised).

8. This order supersedes Commissioner's delegation order No. 66 (Rev. 7) and Chief Counsel's order No. 1031.2A, dated July 2, 1978.

STUART E. SEIGEL,
Chief Counsel.
JEROME KURTZ,
Commissioner.

[FR Doc. 78-28578 Filed 10-10-78; 8:45 am]

[4830-01-M]

[Delegation Order No. 171]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This order delegates to the Regional Directors of Appeals the authority of 26 CFR 301.6511(c)-1(d), extension of time by agreement to file claim for credit or refund, and 26 CFR 301.6532-1, period of limitation on suits by taxpayers.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Martha Seeman, 1111 Constitution Avenue NW., Room 3528, Washington, D.C. 20224, 202-566-4273 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

JACK G. PETRIE,
Director, Internal Management Documents Division.

DELEGATION ORDER

Subject: Authority of Regional Directors of Appeals under 26 CFR 301.6511 and 26 CFR 301.6532.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue, District Directors, and Assistant Regional Commissioners by 26 CFR 301.6511(c)-1(d), extension of time by agreement to file claim for credit or refund, 26 CFR 301.6532-1(b), period of limitation on suits by taxpayers, and 26 CFR 301.7701-9, is delegated to the Regional Directors of Appeals.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-28579 Filed 10-10-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

UNITED STATES TAX COURT NOMINATING COMMISSION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the United States Tax Court Nominating Commission will meet in the General Counsel's office in the Treasury Department on October 17, 1978, at 10:30 a.m. The Commission was established by Executive Order 12064 of June 5, 1978 (43 FR 24661).

The members of the Commission will examine the qualifications of persons to be recommended to the President for the appointment to the United States Tax Court. This process will necessarily involve consideration of information of a personal nature relating to candidates for appointment. Discussion of sensitive and confidential matters relating to such persons in a meeting open to the public would constitute a clearly unwarranted invasion of personal privacy of the individuals being considered for appointment to the Tax Court.

Meetings of the Commission must be conducted in a manner conducive to a frank exchange of views and searching evaluation of the qualifications of candidates for appointment to the Tax Court. Open meetings would have a chilling effect on candid comments by Commission members about the qualifications of such candidates and would inhibit the ability of the Commission to obtain comments of third parties. Open meetings would thus significantly frustrate the Commission's efforts to implement its primary function under the executive order.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting will concern matters within section 552b(c)(6) and 9(B) of title 5, United States Code, and that the public interest requires that this meeting be closed to public participation.

It is imperative that this first meeting of the Commission be held at the earliest possible time. The President requested the assistance of the Commission and selected its members on October 5, 1978. Under section 1.203 of the Executive order, the Commission must submit a report to the President and to the Secretary of the Treasury within 60 days of that date. Accordingly, it is not possible to give the normal notice of at least 15 days before a meeting of an advisory committee.

Dated: October 6, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-28811 Filed 10-10-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 727]

ASSIGNMENT OF HEARINGS

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 115841 (Sub-611), Colonial Refrigerated Transportation, Inc., is assigned for hearing October 11, 1978 at Columbus, OH and will be held in room 235 Federal Building, 85 Marconi Boulevard.

MC 102616 (Sub-946F), Costal Tank Lines, Inc., is assigned for hearing October 12, 1978 at Columbus, OH in room 235 Federal Building, 85 Marconi Boulevard.

MC 65920 (Sub-5F), Bishop Motor Express, Inc., now assigned for hearing December 4, 1978 (5 Days) at Lansing, MI in a hearing room to be later designated.

MC 115730 (Sub-48F), The Mickow Corp., now assigned December 6, 1978 at Des Moines, IA (3 days), in a hearing room to be later designated.

MC 104656 (Sub-14F), Mandrell Motor Coach, Inc., now assigned for hearing on November 6, 1978, at Easton, MD is postponed indefinitely.

MC 134402 (Sub-5F), Williams Truck Line, Inc., now assigned for hearing on October 18, 1978, at Des Moines, IA is postponed indefinitely.

MC 140829 (Sub-87F), Cargo Contract Carrier Corp., now assigned for hearing on October 11, 1978, at Chicago, IL, is postponed indefinitely.

MC 114569 (Sub-221), Shaffer Trucking, Inc., now assigned for hearing on October 18, 1978, at Denver, CO is postponed indefinitely.

MC 142706 (Sub-2F), Early Bird Transfer, Inc., now assigned for hearing on October 16, 1978, at Chicago, IL is postponed indefinitely.

MC 100666 (Sub-384F), Melton Truck Lines, Inc., now assigned for hearing on November 13, 1978, (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC 119789 (Sub-441F), Caravan Regrigerated Cargo, Inc., now assigned for hearing on November 14, 1978, (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

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MC 41406 (Sub-72F), Artim Transportation System, Inc., now assigned for hearing on November 15, 1978 (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC F-13575, Sewell Motor Express, Inc.—Purchase (Portion)—Automotive Merchandisers of Texas, and MC 57992 (Sub-5F), Sewell Motor Express, Inc., now assigned for hearing on November 16, 1978 (2 days), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC C 10041, Orschein Bros. Truck Lines, Inc., v. Beaufort Transfer Co. now assigned December 4, 1978 at Jefferson city, MO, (2 days), in a hearing room to be later designated.

MC C 10040, Joan of Arc Co., Inc. v. Schneider Transport, Inc., et al. is assigned for hearing October 11, 1978 at room 1614 Court of Claims Dirksen Building, 219 S. Dearborn Street.

MC 139495 (Sub-273), National Carriers, Inc., is assigned for hearing October 18, 1978, at Chicago, IL, and will be held at room 2568 Dirksen Building, 219 S. Dearborn Street.

MC 140665 (Sub-11), Prime, Inc., now assigned for hearing October 31, 1978 (1 day) at Chicago, IL in room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140820 (Sub-3F), A & R Transport, Inc., now assigned November 1, 1978 at Chicago, IL, (1 day) in room 1319 Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 111231 (Sub-247), Jones Truck Lines, Inc., is assigned for hearing October 31, 1978 (4 days) at Little Rock, AR in the hearing room of Arkansas Transportation Commission Justice Building.

MC 95350 (Sub-8F), R. W. Jones Trucking Co., MC 105006 (Sub-7F), L. L. Smith Trucking, MC 110817 (Sub-25F), E. L. Farmer & Co., MC 113822 (Sub-6F), Dalgarno Transportation, Inc., MC 114761 (Sub-13), Getter Trucking Inc., MC 143446 (Sub-1F), Gary L. McCallister & Monte A. McCallister, d.b.a. McCallister Brothers, and MC 143993 (Sub-4F), Black Hills Trucking, Inc., now assigned October 16, 1978, at Denver, CO, is cancelled and reassigned to November 28, 1978, (3 weeks), at Denver, CO, in a hearing room to be later designated.

MC F-13144 (Sub-1), Yellow Freight System, Inc., Compensation of Six Braswell Employees, now assigned January 8, 1979, at Dallas, TX, is cancelled.

MC 95540 (Sub-1009F), Watkins Motor Lines, Inc., now assigned October 31, 1978, at Chicago, IL is cancelled, transferred to Modified Procedure.

MC 144409 (Sub-1F), F. C. Auto Sales, Inc., now assigned October 16, 1978, at Denver, CO, is cancelled and reassigned to November 13, 1978, at Chicago, IL, (2 days), in a hearing room to be later designated.

MC 37020, Increased Minimum Weights with Increased and Reduced Rates on Eastbound Transcontinental Lumber and Related Articles now assigned November 14, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 134755 (Sub-139F), Charter Express, Inc., now being assigned for hearing on December 11, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

MC 107064 (Sub-122F), Steere Tank Lines, Inc., now being assigned for hearing on December 12, 1978 (1 day), at Dallas, TX in a hearing room to be later designated.

MC 115841 (Sub-615F), Colonial Refrigerated Transportation, now being assigned for hearing on December 13, 1978 (1 day), at Dallas, TX in a hearing room to be later designated.

MC 140762 (Sub-1F), TRinity Industries Transportation, Inc., now being assigned for hearing on December 14, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

MC 106074 (Sub-57), B and P Motor Lines, Inc., now being assigned for hearing on December 18, 1978, (3 days), at Dallas, TX, in a hearing room to be later designated.

MC 97699 (Sub-48F), Barber Transportation Co., now being assigned for hearing on January 23, 1979, (9 days), at Kansas City, MO, in a hearing room to be later designated.

MC 116004 (Sub-45), Texas Oklahoma Express, Inc., now assigned for hearing on October 16, 1978, at Tulsa, OK, will be held at the Trade Winds Motel, 1120 E. Skelly Drive, instead of room 3469, Page Belcher Building, 333 West 4th Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28600 Filed 10-10-78; 8:45 am]

[1505-01-M]

[Decisions Volume No. 33]

DECISION-NOTICE

Correction

FR Doc. 78-27191, appearing at page 44586 in the issue of Thursday, September 28, 1978, on page 44588, the second column, the third full paragraph, the first line "MC 95876 (Sub-24F)" is corrected to read "MC 95876 (Sub-248F)".

[7035-01-M]

[Docket No. AB-43 (Sub-No. 25)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Elizabethtown and Hodgenville, KY; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on March 6, 1978, a finding, which is administratively final, was made by the Administratrive Law Judge, stating that, subject to the conditions for the protection of railway employes prescribed by the Commission in Oregon Short Line R. Co.-Abandonment Goshen, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of that portion of its line of railroad extending from railroad milepost 8.18 near Elizabethtown, KY, to milepost 17.09 at Hodgenville, KY, a distance of 8.91 miles, all in Hardin and LaRue Counties, KY. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

It the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such a period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28605 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Order No. 37012]

KANSAS INTRASTATE FREIGHT RATES AND CHARGES—1978

By joint petition filed August 29, 1978, petitioners, 10 common carriers by railroad[1] subject to Part I of the Interstate Commerce Act (Act) and also operating in intrastate commerce in Kansas, request that this Commission institute an investigation of their Kansas intrastate freight rates and charges, under section 13 of the Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Porte No. 349 effective June 17, 1978. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under section 13 of the Act, is instituted to determine whether the Kansas state rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Kansas subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, DC 20423, on or before October 26, 1978. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Kansas shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Kansas. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, DC, this 28th day of September, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28607 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Docket No. AB-83 (Sub-1)]

MAINE CENTRAL RAILROAD CO.

Abandonment Between Ayers Junction and Eastport in Washington County, Maine; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on August 15, 1978, a finding, which is administratively final, was made by the administrative law judge stating that the present and future public convenience and necessity permit the abandonment by the Maine Central Railroad Co. over that portion of its line of railroad which extends from railroad milepost 254.22 near Ayers Junction, Maine, in an easterly direction to railroad mile post 270.80 near Eastport, Maine, a distance of 16.58 miles, all in Washington County, Maine. A certificate of abandonment will be issued to the Maine Central Railroad Co. based on the above-described finding of abandonment, by November 13, 1978, unless by November 13, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such a period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 Fr 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28606 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28665]

MINNEAPOLIS, NORTHFIELD & SOUTHERN RAILWAY, INC.—ACQUISITION AND OPERATION—OVER MINNEAPOLIS, NORTHFIELD & SOUTHERN RAILWAY, A SOUTH DAKOTA CORPORATION, IN HENNEPIN, SCOTT, DAKOTA, AND RICE COUNTIES, MINN.

Minneapolis, Northfield & Southern Railway, Inc., Pence Building, 911 Hennepin Avenue, Minneapolis, Minn. 55403, represented by D. J. Boyer, president, Minneapolis, Northfield & Southern Railway, Inc., Pence Building, 911 Hennepin Avenue, Minneapolis, Minn. 55403, hereby give notice that on the 27th day of September 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing acquisition and operation of a line of railroad presently owned and operatied by the Minneapolis, Northfield & Southern Railway, a South Dakota corporation. The railroad is located entirely in the State of Minnesota, in

[1] The Atchison, Topeka and Santa Fe Railway Company; Chicago, Rock Island and Pacific Railroad Company; Union Pacific Railroad; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Company; Missouri-Kansas-Texas Railroad Company; Burlington Northern, Inc.; The Garden City Western Railway Company; and The Kansas City Southern Railway Company.

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the counties of Hennepin, Scott, Dakota, and Rice.

The acquisition of the present line of railroad by the applicant is necessary and desirable in order that the railroad properties and operations do not become subject to claims of creditors which may arise out of indebtedness incurred in the development of the present corporation's nonoperating properties.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28602 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 113]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below.

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 20, 1978. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

MC-FC-77260. By supplemental decision entered October 3, 1978, the Motor Carrier Board granted applicants' petition seeking reopening of the proceeding, and modified the decision entered March 28, 1978, approving the transfer of certain operating authority, by including the transfer of the operating rights set forth in certificate No. MC 66236 and certificate of registration No. MC 66236 (Sub-3) obtained by transferor pursuant to MC-F-12549, consummated December 1, 1975, as follows: Agricultural commodities, from points within 30 miles of Stockton, CA, to Stockton, and farm machinery and equipment, from Stockton, CA, to points within 30 miles of Stockton, and general commodities to, from, and between specified points in CA. Insofar as the transfer of the authority in certificate No. MC 66236 and certificate of registration No. MC 66236 (Sub-3) is concerned, any interested party may file a petition for reconsideration within 20 days from the service date of the supplemental decision. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28603 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 114]

MOTOR CARRIER TRANSFER PROCEEDINGS

October 11, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

MC-FC-77857. By application filed September 28, 1978, THE KENNEDY CO., INC., d.b.a. KENNEDY STORAGE CO., Route 296 and Hartford Road, Mount Laurel, NJ 08054, seeks temporary authority to transfer the operating rights of J. C. Services, Inc., 1621 Loretta Avenue, Feasterville, PA 19047, under section 210a(b). The transfer to the Kennedy Co., Inc., d.b.a. Kennedy Storage Co., of the operating rights of J. C. Services, Inc., is presently pending.

By the Commission.

H. G Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28604 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 26]

SPECIAL PROPERTY BROKERS

October 5, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR Part 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, DC 20423. Opposing parties shall serve (1) copy of the statement in oppostion concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-102, filed August 23, 1978. Applicant: SUDDATH VAN LINES, INC., 525 Stevens Street, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

By the Commission.

H. G. Homme, Jr.
Acting Secretary.

[FR Doc. 78-28601 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-64 General Temporary Order No. 15]

TEMPORARY AUTHORITY APPLICATIONS

Flexible Processing Methods; Order Vacated

Decided October 3, 1978.

Upon consideration of the record and resumption of the Nation's rail service:

It is ordered:

General Temporary Order No. 15 decided on September 27, 1978, is vacated and set aside. (Published at 43 FR October 3, 1978, page 45686.)

This decision shall become effective October 4, 1978.

Notice of this decision shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28610 Filed 10-10-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6714-01-M]

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., October 12, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Request by the Comptroler of the Currency for a report on the competitive factors involved in the proposed merger of Midlantic National Bank/Raritan Valley, Edison Township (P.O. Edison), New Jersey, with First Merchants National Bank, Neptune Township (P.O. Neptune), New Jersey.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morgan, Lewis & Bockius, Philadelphia, Pa., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank, State of Delaware, Dover, Del. (Memorandum dated September 15, 1978.)

Chapman and Cutler, Chicago, Ill., in connection with the liquidation of State Bank of Clearing, Chicago, Ill. (Memorandum dated September 8, 1978.)

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation's rules and regulations to delegate the Board's authority to approve certain requests, pursuant to section 19 of the Federal Deposit Insurance Act, for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks.

Memorandum and resolutions proposing that the liquidators of Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), P.R., be authorized to convey real property.

Memorandum proposing the payment of a sixth dividend of 4 percent in connection with the receivership of the Cedar Vale National Bank, Cedar Vale, Kans.

Memorandum proposing the payment of a ninth dividend of 4 percent in connection with the receivership of Crown Savings Bank, Newport News, Va.
Resolution adopting for Corporation employees the adjusted General Schedule basic pay rates and maximum salary limitations established by the President, effective October 8, 1978, for Civil Service positions classified as General Schedule.
Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Controller on the termination of the liquidation of Farmers State Bank of Carlock, Carlock, Ill.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2049-78 Filed 10-6-78; 10:57 am]

[6714-01-M]

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., October 12, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Bank of Indio, a proposed new bank to be located at 81-703 Highway 111, Indio, Calif., for Federal deposit insurance.

Golden Oak Bank, a proposed new bank to be located on County Road 426, approximately one-quarter mile southeast of its intersection with State Highway 41, Oakhurst (Unincorporated), Calif., for Federal deposit insurance.

American Bank of Roff, a proposed new bank to be located on the southeast corner of Main and Ninth Streets, Roff, Okla., for Federal deposit insurance.

Application for consent to change a main office location:

The Estes Park Bank, Estes Park, Colo., for consent to relocate its main office from 101 West Elkhorn Avenue to 363 East Elkhorn Avenue, both locations within Estes Park, Colo. Application for consent to merge and to establish branches:

The Equitable Trust Co., Baltimore, Md., an insured State nonmember bank, for consent to merge under its charter and title with Truckers and Savings Bank, Salisbury, Md., also an insured State nonmember bank, and for consent to establish the four existing and one approved but unopened offices of the other bank as branches of the resultant bank. Application for consent to merge, establish branches, and redesignate the main office location:

Colonial Bank of New Haven, New Haven, Conn., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Colonial Bank," with Colonial Bank of Waterbury, Waterbury, Conn.; Colonial Bank of Hartford, Hartford, Conn.; and Colonial Bank of Plainville, Plainville, Conn.; for consent to establish the 46 offices of the acquired banks as branches of the resultant bank; and for consent to redesignate the present main office of Colonial Bank of Waterbury as the main office of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,676-L (Amended)—Bank of Woodmoor, Woodmoor (P.O. Monument), Colo.

Case No. 43,670-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,672-L—The Bank of Bloomfield, Bloomfield, N.J.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the Government in the "Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2048-78 Filed 10-6-78; 10:31 am]

[6210-01-M]

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, October 13, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation for the purchase of high speed currency equipment for the Federal Reserve System.
2. Proposed budget for furniture, equipment, and interior design fees for the Miami Branch of the Federal Reserve Bank of Atlanta.
3. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2051-78 Filed 10-6-78; 2:44 pm]

[7020-02-M]

4

[USITC SE-78-51]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 19, 1978.

PLACE: Room 117, 701 E street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
6. Any items left over from previous agenda.

Portions closed to the public:

5. Status report on Investigation 332-101 (MTN), if necessary (in closed session).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2050-78 Filed 10-6-78; 2:38 pm]

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WEDNESDAY, OCTOBER 11, 1978
PART II



DEPARTMENT OF ENERGY

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Intent To Prepare Environmental Impact Statement

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[3128-01-M]

DEPARTMENT OF ENERGY

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA) for its forthcoming Second National Energy Plan (NEP-2).

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. Upon completion of the draft EIS, its availability will be announced in the FEDERAL REGISTER, at which time comments will be solicited.

DOE desires to have the benefit of the public's views as to the scope of the EIS and the significant environmental impacts which it should address. Such comments may be expressed in writing or at a meeting which will be held for this purpose on November 6, 1978, in room 3000A, at the New Post Office Building at 12th and Pennsylvania Avenue NW., Washington, D.C. The meeting is scheduled to begin at 9 a.m., and may continue until 4 p.m. If public interest warrants, the meeting will be continued on November 7, 1978, at the same place and the same time. In order for DOE to better gage public interest in this EIS, those planning to attend the meeting should contact Mr. Kevin Mullen, Division of Environmental Liaison (EV/OPEC), Department of Energy, Room 6128, 20 Massachusetts Avenue NW., Washington, D.C. 20545, telephone 202-376-4189.

FOR GENERAL INFORMATION ON THE EIS PROCESS CONTACT:

Robert J. Stern, Acting Director, Division of NEPA Affairs, Department of Energy, 12th and Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9769

SUPPLEMENTARY INFORMATION: *NEP-2.* The plan, which is required to be submitted to Congress by April 1, 1979, under the provisions of section 801 of the DOE Organization Act (Pub. L. No. 95-91), will address the broad range of the Nation's energy problems and may recommend legislative, budgetary, regulatory, or administrative initiatives designed to ameliorate those problems.

The plan is to:

- Consider and establish energy production, utilization, and conservation objectives, necessary to satisfy projected energy needs of the United States, paying particular attention to such needs as full employment, price stability, energy security, economic growth, environmental protection, nuclear nonproliferation, special regional needs, and the efficient utilization of public and private resources;
- Identify the strategies that should be followed and the resources that should be committed to achieve such objectives; and
- Recommend any appropriate Federal legislative and administrative actions.

Environmental impact statement. Environmental analyses will be an integral part of the NEP-2 planning process. An EIS will be prepared concurrently with the NEP-2. It will be a factual document which will set out and analyze reasonable proposed and alternative actions (including a "base case" which assumes no new Federal initiatives directed at affecting energy supply or consumption).

To the extent possible in an EIS that is not site-specific, the affected environment will be briefly discussed, and the probable impacts of proposed and alternative actions on the natural, physical, and socioeconomic environment will be analyzed. Particular attention will be paid to cumulative and irreversible effects, and to mitigation measures. DOE will attempt to specify gaps in information and areas of scientific uncertainty with respect to probable environmental impacts, and attempt to estimate the time and resources required to fill the gaps and understand the impacts more precisely.

Direct and identifiable secondary, or indirect, environmental consequences will be assessed. The extent to which any proposals will conform to or conflict with regulations or policies related to environmental quality and natural resources will be discussed. Detailed technical material and bibliographies will be contained in appendices.

Scoping meeting. DOE desires to know what the public considers to be the major environmental issues associated with efforts to meet the Nation's energy needs. The meeting on November 6, 1978, will be held to discuss the structure of the EIS, anticipated energy/environmental problems, and reasonable actions that might be taken to address them.

If possible, those planning to take part in the meeting should notify Mr. Mullen. Participants are encouraged to submit to Mr. Mullen, in advance, their intent to participate, suggestions concerning the subjects to be addressed at the meeting, and draft outlines for the EIS. This will enable DOE to better provide considered responses at the meeting and ask clarifying questions. However, public participation is encourage without the advance submission of written material. All comments or suggestions made at the meeting will be carefully considered, as will written material submitted until December 1, 1978. Attendees at the meeting will be asked to register.

Questions regarding the meeting should be addressed to Mr. Mullen.

Issued in Washington, D.C., October 4, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28498 Filed 10-10-78; 8:45 am]

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WEDNESDAY, OCTOBER 11, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

RESCISSIONS AND DEFERRALS

Cumulative Report

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[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

To THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report 30 deferrals of fiscal year 1979 funds totalling $1,178.2 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, *October 2, 1978.*

(FR Doc. 78-28700 Filed 10-10-78; 9:58 am)

[3110-01-C] CONTENTS OF SPECIAL MESSAGE (in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of the Interior:	
	Land Heritage and Conservation Service	
	Land and water conservation fund	30,000
D79-13	Geological Survey	36
D79-14	Power marketing proceeds, sale of water	
	Bureau of Mines	
D79-15	Miscellaneous appropriations	1,700
D79-16	Drainage of anthracite mines	12,000
	Office of Territorial Affairs	
	Trust territory of the Pacific Islands	
	Department of Justice:	
D79-17	Federal Prison System	25,300
	Buildings and facilities	
	Department of State	
D79-18	United States emergency refugee and migration assistance fund	2,750
	Department of Transportation:	
	Federal Aviation Administration	
	Civil supersonic aircraft development termination	.3
D79-19	Facilities and equipment (Airport and airway trust fund)	290,176
D79-20	Federal Highway Administration	
D79-21	Trust fund share of other highway programs	40,000
D79-22	Overseas highway	13,100
	Department of the Treasury:	
	Office of the Secretary	
D79-23	Antirecession financial assistance fund	2,205
D79-24	State and local government fiscal assistance fund	78,489
D79-25	State and local government fiscal assistance fund	2,404 1/
	Bureau of the Mint	
D79-26	Construction of mint facilities	5,738
	General Services Administration:	
D79-27	Rare silver dollar program	2,123
D79-28	Federal Preparedness Agency	
	State and local preparedness	80

1/ Outlays only.

Deferral #	Item	Budget Authority
	Department of Agriculture:	
	Foreign Agricultural Service	
D79-1	Salaries and expenses (special foreign currency program)	415
	Agricultural Stabilization and Conservation Service	
D79-2	Commodity Credit Corporation	3,530
	Forest Service	
D79-3	Permanent appropriations, Expenses, brush disposal	32,225
D79-4	Restoration of forest lands and improvements	48
	Department of Commerce:	
	National Oceanic and Atmospheric Administration	
D79-5	Construction	9,830
D79-6	Promote and develop fishery products and research pertaining to American Fisheries	12,060
D79-7	Fisheries loan fund	5,429
D79-8	Department of Defense-Military: Military construction, all services	548,451
	Department of Defense-Civil:	
D79-9	Miscellaneous accounts Wildlife conservation, etc., military reservations	458
D79-10	Corps of Engineers Alaska Hydroelectric Power Development Fund	5,450
	Department of Health, Education, and Welfare:	
D79-11	Alcohol, Drug Abuse, and Mental Health Administration Construction and renovation, St. Elizabeth's Hospital	27,577
D79-12	Social Security Administration Limitation on administrative expenses	1,725

Deferral #	Item	Budget Authority
	Other Independent Agencies:	
	Foreign Claims Settlement Commission	
	Payment of Vietnam prisoner of war	
D79-29	claims	10,945
	Interstate Commerce Commission	
D79-30	Payments for directed rail service	13,990
	Total, deferrals	1,178,229

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979

(amounts in thousands of dollars)

	Rescissions	Deferrals
First special message	---	1,178,229 (in 30 deferrals)

NOTE: All amounts listed represent budget authority except for $2,404,000 in one general revenue sharing deferral of outlays only.

Deferral No: D79-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Department of Agriculture	New budget authority (P.L. ____): $ ____
Bureau: Foreign Agricultural Service	Other budgetary resources: 1,040,178
Appropriation title & symbol: Salaries and Expenses (Special Foreign Currency Program) 1/ 12X2901	Total budgetary resources: 1,040,178
	Amount to be deferred: Part of year: $ 415,178
	Entire year: ____
OMB identification code: 12-2901-0-1-352	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: Title 1, Sec. 104 of P.L. 480, the Agricultural Trade Development and Assistance Act of 1954 authorizes the use of foreign currencies (acquired from the sale of U.S. farm products under Title I) to carry out programs for developing new markets for U.S. agricultural commodities. The funds appropriated are used to purchase excess foreign currencies necessary to carry out the program. The funds are available until expended, and the unused balance is carried over into the next year. The amount of funds used each year is dependent upon the availability of the U.S.-owned currencies and the availability of worthwhile market development projects in the foreign countries. Current indications are that no more than $625 thousand of the reserved balances brought forward can be utilized effectively in FY 1979. This deferral action is taken under provisions of the Antideficiency Act (31 USC 665) that authorize the establishment of reserves for contingencies.

Estimated Effect: No programmatic or budgetary impact results from this deferral action. Since the funds are used to purchase currencies already owned by the U.S., any outlays shown under this account would be offset by the receipt of a like amount in another account.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. ____): $ ____
Bureau: Agricultural Stabilization and Conservation Service	Other budgetary resources: 50,100,000
Appropriation title & symbol: Commodity Credit Corporation Administrative Expenses, 1978 1/ 1284336	Total budgetary resources: 50,100,000
	Amount to be deferred: Part of year: $ 3,530,000
	Entire year: ____
OMB identification code: 12-4336-0-3-351	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☒ Other P.L. 95-97
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

JUSTIFICATION:

The Agriculture and Related Agencies Appropriation Act, 1978 (P.L. 95-97), provides that not less than 7 percent of the total authorization for administrative expenses of the Commodity Credit Corporation shall be placed in reserve and used only in such amounts and at such times as may be necessary to carry out program operations.

ESTIMATED EFFECTS:

This deferral will have no programmatic impact and its economic and budgetary impact will be negligible.

OUTLAY EFFECTS:

There is no outlay effect resulting from this deferral.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-3

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 16 USC 490): $ 36,902,000
Bureau: Forest Service	Other budgetary resources: 39,834,790
Appropriation title & symbol: Expenses, Brush Disposal 1/ 12X5206	Total budgetary resources: 76,736,790
	Amount to be deferred: Part of year: $ ____ Entire year: 32,224,790
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification: Purchasers of National Forest timber deposit the estimated cost to the Forest Service of the disposing of brush and other debris resulting from their cutting operations pursuant to 16 USC 490. The deposits becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. An apportionment of $44.5 million has been requested by the Forest Service for this program in the current fiscal year compared with $37.8 million in 1978 and $39.5 million in 1977. The current fiscal year reserve of $32.2 million was established pursuant to the Antideficiency Act (31 USC 665) as a reserve for contingencies compared with reserves of $34.5 million in 1978 and $22.3 million in 1977.

Disposal operations related to deposits made during certain periods of the year cannot be initiated until weather conditions permit. Thus, seasonal factors frequently require deferring the use of deposits until the following fiscal year.

Estimated Effect: There are no programmatic or budgetary effects that result from this deferral action. Rather, the reserve merely reflects the seasonal nature of program funding requirements.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-4

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. ____): $ 50,000
Bureau: Forest Service	Other budgetary resources: 75,038
Appropriation title & symbol: Restoration of Forest Lands and Improvements, Forest Service 12X5215	Total budgetary resources: 125,038
	Amount to be deferred: Part of year: $ ____ Entire year: 48,038
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification:
Monies are collected for this program pursuant to the Act of June 30, 1958, (16 USC 579c) from timber purchasers or permittees who fail to complete the work required under the timber sale contract or by terms of the permit. These funds are used by the Forest Service for any improvement, protection, or rehabilitation of the land made necessary by the action which led to the cash settlement of the contract or permit.

This deferral is necessary until plans are prepared for completing the work for which the funds were collected or for transferring the collections to the general fund of the U.S. Treasury in those cases where the work has been completed.

This deferral action is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effect:
This deferral action has no programmatic or budgetary effects. Rather, the reserve merely reflects the unpredictable nature of program funding requirements.

Outlay Effect:
There is no outlay effect of this deferral because the funds would not be used if made.

Deferral No: D79-5

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____): $ ____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 12,900,000
Appropriation title & symbol: Construction 13X1452	Total budgetary resources: 12,900,000
	Amount to be deferred: Part of year: $ 9,830,000 Entire year: ____
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☒ Other: Civil Action C-77-914M
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification: The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, provided funds for continuing the construction of the National Oceanic and Atmospheric Administration's (NOAA) Western Regional Center in Seattle, Washington. A temporary injunction was issued by the U.S. District Court for the Western District of Washington halting preliminary construction activities on the project, because of deficiencies in the accompanying Environmental Impact Statement (EIS). NOAA has since issued a supplemental EIS in response to the court judgement, and expects to ask for a lifting of the injunction in January, 1979. Funds totalling $9.8 million are deferred pending resolution of these environmental and legal problems.

Estimated Effect: The Court action, and the resulting deferral of funds, will temporarily delay the start of construction on this project.

Outlay Effect: This temporary delay in construction will have the effect of shifting $800 thousand in outlays from FY 1979 to FY 1980.

Deferral No: D79-6

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 7 U.S.C. 612c): $17,400,000
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 6,000,000
Appropriation title & symbol: Promote and Develop Fishery Products and Research Pertaining to American Fisheries 1/ 13X5139	Total budgetary resources: 23,400,000
	Amount to be deferred: Part of year: $12,060,000 Entire year: ____
OMB identification code: 13-5139-0-2-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other 7 U.S.C. 612c
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification:

An amount equal to 30% of the gross receipts from custom duties on fishery products is appropriated for fishery products resources research and assessment, and American fisheries resource management and development. These funds supplement funds appropriated to National Oceanic and Atmospheric Administration for the same purposes under the Operations, research, and facilities appropriation.

The amount being deferred, $12,060,000, reorganize the excess amount of receipts over the cost of currently planned program activities in FY 1979. Because no overall plan/strategy has been developed for use of these funds, they are requested for deferral at this time. The deferred funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665). Final decisions on how these funds would be used have not been reached and, thus, the funds could not be used effectively if made available for obligation.

Estimated Effects:

This deferral has no effect on the program as currently planned for FY 1979.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-7

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. _____): $ _____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 6,028,795
Appropriation title & symbol: Fisheries Loan Fund 1/ 137/04317	Total budgetary resources: 6,028,795
	Amount to be deferred: Part of year: $ _____
	Entire year: 5,428,795
OMB identification code: 13-4317-0-3-376	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [ ] Appropriation
[X] Multiple-year September 30, 1980 (expiration date)	[ ] Contract authority
[ ] No-year	[X] Other 16 U.S.C. 742c.

Justification:

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require the National Oceanic and Atmospheric Administration (NOAA) to pay interest to the Treasury on the difference between the available funds and the cash balance at the end of the year. The current program covers the 1979 interest liability of $580,000 and provides $20,000 for the care and preservation of collateral throughout the year. Of the total budgetary resources in the fund, only these amounts are presently planned for expenditure in 1979 to support the estimated program requirements.

On February 20, 1973, the Administrator of NOAA declared a moratorium on accepting further loan applications effective March 1, 1973, due to a level of loans outstanding and loan applications pending which exceeded the Fund's capital. Additionally, the General Accounting Office concluded in a report issued February 22, 1973, that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels rather than improving vessels and equipment for more efficient and profitable fishing, and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO

1/ This account was the subject of a similar deferral in FY 1978.

recommended that the Secretary of Commerce develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

The Department has determined that legislative clarification of the Act is needed to establish criteria for directing the Fund. Draft legislation is being prepared. This reserve is in accordance with the Antideficiency Act (31 U.S.C. 665). The funds could not be used effectively until there is clarification of legislative intent.

Estimated Effects:

Under the existing laws and regulations the proposed deferral has no effect on the Fisheries Loan Fund activities as planned for FY 1979.

Outlay Effect:

No outlay effect results from this deferral action.

Deferral No: D79-8

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Military	New budget authority (P.L. 95-374): $ 2,318,698,000
Bureau	Other budgetary resources: 1,549,507,099
Appropriation title & symbol: See Coverage section below	Total budgetary resources: 3,868,205,099
	Amount to be deferred: Part of year: $ 548,450,999
	Entire year: _____
OMB identification code: See Coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[X] Multiple-year September 30, 1983 (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other _____

Coverage 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	219/32050	21-2050-0-1-051	$119,460,000
Military construction, Navy	179/31205	17-1205-0-1-051	79,077,000
Military construction, Air Force	579/33300	57-3300-0-1-051	149,940,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	59,001,000
Military construction, Army National Guard	219/32085	21-2085-0-1-051	47,300,000
Military construction, Air National Guard	579/33830	57-3830-0-1-051	41,840,000
Military construction, Army Reserve	219/32086	21-2086-0-1-051	27,400,000
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	12,633,000
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	11,799,999
			$548,450,999

1/ These accounts were the subject of a similar deferral during fiscal year 1978.

Justification

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Due to the long period of time required to construct facilities, the Congress makes appropriations for this purpose available for five-years beginning with fiscal year 1979. Previously, these appropriations were available for obligation until expended. Most of the above funds are deferred due to administrative delays, such as projects designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

The 1979 appropriations for military construction contain funds for certain projects at activities which are potentially affected by base realignment studies now underway. Congress has specified that they be notified in writing that the project remains valid in light of final realignment decisions prior to obligation of funds. In accordance with the express desires of Congress, these funds are being deferred until final decisions and certification to Congress have been made.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated at this time, even if they were made available.

Outlay Effect

There is no outlay effect resulting from this deferral since the funds could not be used if made available.

Deferral No: D79-9

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Civil	New budget authority: $ 898,000
Bureau	(16 U.S.C. 670f (a)) Other budgetary resources: 457,975
Appropriation title & symbol	Total budgetary resources: 1,355,975
See coverage section below	Amount to be deferred: Part of year: $; Entire year: 457,975
OMB identification code: 97-9922-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage 1/

Wildlife Conservation, etc., Military Reservations, Army	21x5095	$340,000
Wildlife Conservation, etc., Military Reservations, Navy	17x5095	95,000
Wildlife Conservation, etc., Military Reservations, Air Force	57x5095	22,975
		$457,975

Justification

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law--to carry out a program of natural resource conservation.

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be

1/ These accounts were the subject of a similar deferral during FY 1978.

available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if made available.

Outlay Effect

There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-10

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Civil	New budget authority (P.L.): $
Bureau: Corps of Engineers	Other budgetary resources: 5,450,000
Appropriation title & symbol: Alaska Hydroelectric Power Development Fund 1/ 96X4203	Total budgetary resources: 5,450,000
	Amount to be deferred: Part of year: $; Entire year: 5,450,000
OMB identification code: 96-4203-0-3-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: These funds were appropriated to remain available until expended in the Supplemental Appropriations Act, 1978, (P.L. 95-240) for use by the Alaska Hydroelectric Power Development fund. This fund was established by the Alaska Hydroelectric Power Development Act (Section 203 of P.L. 95-587) to further the expeditious development of hydroelectric power generating facilities in Alaska.

The Act permits the use of funds for the Phase I stage of engineering and design of projects that meet the environmental, production, and financial requirements set forth in Section 203(a)(2) and (e) of the Act. The Corps of Engineers is currently studying a project for the Susitna River, Alaska, to determine if it meets these requirements. The funds are deferred pending completion of this study.

This deferral action is being taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral will have no programmatic or budgetary effect since the funds could not be used if made available.

Outlay Effect: There is no outlay effect resulting from this deferral action since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-11

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education, & Welfare	New budget authority (P.L.): $ -0-
Bureau: Alcohol, Drug Abuse, and Mental Health Admin.	Other budgetary resources: 61,362,790
Appropriation title & symbol: Construction and Renovation at St. Elizabeths Hospital 75X1312	Total budgetary resources: 61,362,790
	Amount to be deferred: Part of year: $; Entire year: 27,576,790
OMB identification code: 75-1312-0-1-551	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: Saint Elizabeths Hospital was denied accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) in 1976. Present plans are to transfer the hospital to the District of Columbia, but as a condition of that transfer, the Federal Government is committed to upgrading the physical plant to meet the accreditation requirements addressed by the JCAH.

The Second Supplemental Appropriations Act, 1978, (P.L. 95-355) provided $52.2 million for the specific purpose of upgrading the facility to meet accreditation standards. However, this supplemental was enacted much later in the fiscal year (September 8, 1978) than had been originally anticipated, thereby delaying the proposed starting date for this activity. This deferral of $27.6 million represents the amounts not required for obligation in 1979, based on the current renovation schedule for the hospital.

Estimated Effect: This deferral will have no programmatic effect. Current plans indicate that the amount deferred will not be required this fiscal year for the construction and renovation program.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-12

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education, and Welfare	New budget authority (P.L. ____) $ ____
Bureau: Social Security Administration	Other budgetary resources 15,819,470
Appropriation title & symbol: Limitation on Administrative Expenses 1/ 75X8704	Total budgetary resources 15,819,470
	Amount to be deferred: Part of year $ ____ Entire year 1,725,362
OMB identification code: 20-8004-0-7-551	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Funds provided under the Limitation on Administative Expenses of the Social Security Administration (SSA) remain available until expended in recognition of the long lead time between the provision of funds and their use in carrying out authorized construction projects. Of the balance of funds appropriated in prior years, $1,725,362 is deferred for the entire year. SSA has now developed with the General Services Administration and Office of the Secretary, Department of Health, Education and Welfare a new program for construction of district offices which will shorten the time required to construct by using pre-designed buildings. SSA is in the process of selecting sites for ten of these offices to be started in 1979. The deferred funds will be needed to begin construction of one or possibly two additional offices in FY 1980.

Estimated Effect: The funds intended to be apportioned for obligation in FY 1979 will permit SSA to carry out its authorized construction program in an orderly manner. No currently planned construction would be delayed by this deferral.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-13

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 95-74) 16 USC 460L) $ 30,000,000
Bureau: Heritage Conservation and Recreation Service	Other budgetary resources 160,362,000
Appropriation title & symbol: Land and Water Conservation Fund 1/ 14X5005	Total budgetary resources 190,362,000
	Amount to be deferred: Part of year $ ____ Entire year 30,000,000
OMB identification code: 14-5005-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [X] Contract authority [ ] Other ____

Justification: Under the law (16 USC 460L (10a)), $30 million of contract authority becomes available each fiscal year to the Land and Water Conservation Fund in addition to the regular appropriation. The authority is made available by the Congress for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land (P.L. 90-401, Senate Report 90-1071, to accompany S. 1401). This authority was last used in 1969 and 1970. Thus, the contract authority has lapsed in fiscal years 1971-1978. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

In accordance with provisions of the Antideficiency Act (31 USC 665), the $30 million has been deferred. This contract authority lapses at the end of each fiscal year in which it is not used. An equal amount becomes available at the beginning of the next fiscal year.

The other funds in this account are the estimated prior-year balances of direct appropriations that have been made available for obligation.

Estimated Effect: This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforeseeable circumstances.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-14

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. ____) $ ____
Bureau: Geological Survey	Other budgetary resources 36,000
Appropriation title & symbol: Payments from Proceeds, Sale of Water, 1/ Mineral Leasing Act of 1920, Sec. 40(d) 14X5662	Total budgetary resources 36,000
	Amount to be deferred: Part of year $ ____ Entire year 36,000
OMB identification code: 14-5662-0-2-301	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [ ] Appropriation [ ] Contract authority [X] Other Permanent, indefinite, special

Justification: Section 40(d) of the Mineral Leasing Act of 1920 [30 U.S.C.229(a)] provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $2,000 per year. At the start of fiscal year 1965, the account had an unobligated balance of $16,000. It is estimated that by the start of fiscal year 1979 the unobligated balance will be $36,000. None of these receipts has been obligated over the past ten years and none is planned for obligation in fiscal year 1979 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during the current period even if available for obligation. This reserve action is taken pursuant to the Antideficiency Act [31 U.S.C. 665(c)].

Estimated Effect: There will be no programmatic or outlay impact in fiscal year 1979 since the receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for effective purposes.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-15

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Interior	New budget authority (P.L. ____) $ ____
Bureau: Bureau of Mines	Other budgetary resources 1,899,967
Appropriation title & symbol: Drainage of Anthracite Mines 14X0956 1/	Total budgetary resources 1,899,967
	Amount to be deferred: Part of year $ ____ Entire year 1,699,967
OMB identification code: 14-0956-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other matching grant provision of P.L. 84-219 (69 Stat 460)
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification - Funds totaling $200,000 have been apportioned for this account to match funds anticipated to be made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public health and safety projects. The remaining unobligated balance has been deferred because the Commonwealth of Pennsylvania is not expected to provide further matched funding during the year.

Estimated Effects - No FY 1979 program impact will result from deferral. A change in the matching provision of the original legislation would be required if the Congress desired to make available the funds currently being deferred. These funds are anticipated to be deferred through September 30, 1979.

Outlay Effect - There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-16

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. _____): $ —
Bureau: Office of Territorial Affairs	Other budgetary resources: 20,000,000
Appropriation title & symbol: Trust Territory of the Pacific Islands 1/ 14X0414	Total budgetary resources: 20,000,000
	Amount to be deferred: Part of year: $ 12,000,000
	Entire year:
OMB identification code: 14-0414-0-1-806	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Department of the Interior and Related Agencies Appropriation Act, 1978 provided $12,000,000 in construction funds for an airport in the Kosrae District of the Trust Territory of the Pacific Islands. Since no transportation needs survey had been done for the Kosrae District, the Administration is not convinced that the airport that this appropriation would initiate is necessary or cost effective in meeting the needs of the District (with a population of 4,960). The Office of Management and Budget requested that the Department of the Interior evaluate the District's transportation needs and propose alternative transportation methods to meet those needs at reduced costs, if such reductions were feasible and cost effective. Until a comprehensive evaluation is completed, the $12,000,000 for this 6,000-foot airfield (completely designed) is deferred.

Estimated Effect: This deferral will delay the advertising of the airport construction contract for an additional period of three to six months.

Outlay Effect: An estimate of $3,000,000 in outlays would be shifted from FY 1979 to FY 1980 as a result of this deferral.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-17

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. _____): $ —
Bureau: Federal Prison System	Other budgetary resources: 51,908,354
Appropriation title & symbol: Buildings and Facilities 1/ 15X1003	Total budgetary resources: 51,908,354
	Amount to be deferred: Part of year: $ —
	Entire year: 25,300,000
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1978 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with these projects during FY 1979. This deferral is consistent with the congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: The amount deferred could not be economically used, if made available, in fiscal year 1979, because of the planned and phased procurement, construction and installation cycle.

Outlay Effect: In FY 1979 there is no outlay effect of this deferral.

1/ This account was the subject of a deferral during FY 1978.

Deferral No: D79-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. _____): $ —
Bureau	Other budgetary resources: 2,750,000
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources:
	Amount to be deferred: Part of year: $ 2,750,000
	Entire year:
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $25 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Consonant with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)), the $2,750,000 of unobligated balances in the Fund as of October 1, 1978 have been deferred. It is anticipated that reapportionments may be made case-by-case as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect

No effect on outlays results from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-19

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. _____): $ -0-
Bureau: Federal Aviation Administration	Other budgetary resources: 3,123
Appropriation title & symbol: Civil Supersonic Aircraft Development 1/ Termination, 69X0106	Total budgetary resources: 3,123
Civil Supersonic Aircraft Development 1/ 69X1358	Amount to be deferred: Part of year: $ -0-
	Entire year: 3,123
OMB identification code: 69-0106-0-1-402	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Coverage	Total Budgetary Resources	Amount Deferred
Civil Supersonic Aircraft Development Termination	$1,764	$1,764
Civil Supersonic Aircraft Development	$1,359	$1,359
TOTAL	$3,123	$3,123

Justification: This account finances the termination of the supersonic transport development program. The total cost of settlement of contractor claims and closeouts, airline refunds, completion of specifically designated technology programs, and necessary governmental administrative costs incidental to these activities is included. These funds were appropriated by the Department of Transportation and Related Agencies Appropriation Acts, 1971 and 1972. Because of the difficulty in ending such a complex and massive undertaking, termination has taken a number of years. Settlement is being accomplished as quickly as possible consistent with the legitimate claims of the contractors and the protection of government interests.

Estimated Effect: This deferral action has no programmatic or budgetary effect.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-20

D79-20

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 95-335) $ 282,297,000
Bureau: Federal Aviation Administration	Other budgetary resources 314,497,386
Appropriation title & symbol: Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 697/98107 698/08107 699/18107	Total budgetary resources 596,794,386
	Amount to be deferred: Part of year $ ---; Entire year 290,176,786
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year 697/98107 Sept. 30, 1979 2/, 698/08107 Sept. 30, 1980, 699/18107 Sept. 30, 1981 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1979 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

1/ This account was the subject of a similar deferral in FY 1978.
2/ None of these funds is deferred.

Estimated Effects:

This deferral action is consistent with normal operation for this program. The amount deferred could not be economically used if made available in FY 1979 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect:

There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-21

D79-21

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L.) $ ---
Bureau: Federal Highway Administration	Other budgetary resources 90,000,000
Appropriation title & symbol: Trust Fund Share of Other Highway Programs (Great River Road) 69X8009 2/	Total budgetary resources 90,000,000 1/
	Amount to be deferred: Part of year $ ---; Entire year 40,000,000
OMB identification code: 69-8009-0-7-401	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act; [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual Sept. 30, 1979 26,250,000 3/; [X] Multiple-year Sept. 30, 1980 31,250,000; [ ] No-year Sept. 30, 1981 32,500,000	Type of budget authority: [ ] Appropriation; [X] Contract authority; [ ] Other

Justification

The National Scenic and Recreation Highway (Great River Road) was authorized by the Federal-Aid Highway Act of 1973. It provides for constructing a two-lane scenic highway in the ten States bordering the Mississippi River. The Great River Road spans more than 2,000 miles.

The contract authority provided for this program is liquidated through both the Highway Trust Fund and the General Fund. A total of $146,250,000 in contract authority has been made available through fiscal year 1978 for the program. Of this total, $90,000,000 was made available in the Federal-Aid Highway Act of 1973, and $56,250,000 was made available in the Federal-Aid Highway Act of 1976. The Highway Trust Share of the $146,250,000 total is $116,250,000 ($40,000,000 of this amount to be deferred), with the balance of $30,000,000 constituting the General Fund Share. The table below displays the origin of the $146,250,000 in contract authority provided through 1978.

1/ This amount is the portion of "Trust Fund Share of Other Highway Programs" available for the Great River Road. Total funds available to the "Trust Fund Share of Other Highway Programs" is $130,952,667.
2/ This account was the subject of a similar deferral during FY 1978.
3/ None of these funds are deferred.

(in thousands of dollars)

Origin of contract authority	1974	1975	1976	TQ	1977	1978	Total
1973 Highway Act:							
Trust Fund.....	10,000	25,000	25,000				60,000
General Fund.....	10,000	10,000	10,000				30,000
1976 Highway Act							
Trust Fund.....	---	---	---	6,250	25,000	25,000	56,250
Total:	20,000	35,000	35,000	6,250	25,000	25,000	146,250
Trust Fund.....	(10,000)	(25,000)	(25,000)	(6,250)	(25,000)	(25,000)	(116,250)
General Fund.....	(10,000)	(10,000)	(10,000)	---	---	---	(30,000)

In fiscal year 1976, $90,000,000, the full amount of contract authority available at that time, was apportioned for use and allocated to the States (with exception of a $10 million DOT discretionary reserve). 4/ However, as of September 30, 1978, it is estimated that the States will have obligated only $56,250,000.

A deferral of $40,000,000 of contract authority is proposed for two reasons:

- State plans for fiscal year 1979 indicate that no more than $50,000,000 will be obligated, falling short of availability by $40,000,000. This $40,000,000 is not needed at this time and should be deferred.

- The $50,000,000 obligation level is considered adequate for this program.

Estimated Effects:

This deferral will have no programmatic effect. Current plans indicate that the amount deferred would not be obligated by the States this fiscal year.

Outlay Effects:

There is no outlay effect of this deferral because the funds would not be expected to be used if made available.

4/ Some States may be unable to obligate, in a timely fashion, all funds allocated to them. Therefore, if DOT allocated the entire $90 million among the States, some of the funds might lapse. Contract authority is available for four years under this program for the States. The DOT discretionary reserve was established to provide the balance of funds to those States which have made the most progress in obligating their allocated funds (and, thereby reduce the risk of a funding lapse.)

Deferral No: D79-22

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 95-335): $87,100,000
Bureau: Federal Highway Administration	Other budgetary resources:
Appropriation title & symbol: Overseas Highway 69X8021	Total budgetary resources: 87,100,000
	Amount to be deferred: Part of year: $ — Entire year: 13,100,000
CIG identification code: 69-8021-0-7-401	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Overseas Highway was authorized by Section 118 of the Federal-Aid Highway Amendments of 1974. This program, financed from the Highway Trust Fund, authorized the undertaking of projects for the reconstruction or replacement of bridge structures of a two-lane nature on the Overseas Highway, to Key West, Florida.

State plans for fiscal year 1979 indicate that no more than $74,000,000 will be obligated, falling short of availability by $13,100,000. This $13,100,000 is not needed at this time and is therefore deferred.

The Administration has no desire to hold back this program. This proposed deferral is submitted based solely on the State's inability to obligate more than $74,000,000 during FY 1979. This deferral action is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effect: No programmatic or budgetary impact results from this deferral action.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-23

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L.): $ —
Bureau: Office of the Secretary	Other budgetary resources: 2,205,000
Appropriation title & symbol: Antirecession Financial Assistance Fund 208/90108 1/	Total budgetary resources: 2,205,000
	Amount to be deferred: Part of year: $ 2,205,000 Entire year: —
CIG identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other P.L. 94-369 & P.L. 95-30
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1979 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:

This deferral represents the projected remaining portion of the FY 1978 appropriation which the Secretary of the Treasury must hold in reserve to meet valid claims from State and local governments that prior antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 22,930 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amount appropriated for the first quarter.

This cumulative unobligated reserve, totaling $2.2 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. This reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for this program.

The authorization for this program terminates on September 30, 1978, but the funds remain available through FY 1979. The President has proposed and the Congress is considering an alternative program, the Supplementary Fiscal Assistance Fund.

1/ This account was the subject of a similar deferral during FY 1978.

D79-23

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program. The entire amount of this reserve is expected to be paid out before the end of fiscal 1979.

Outlay Effect:

There is no outlay effect of this deferral since the funds will be paid out in fiscal year 1979.

Deferral No: D79-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L.): $ —
Bureau: Office of the Secretary	Other budgetary resources: 78,489,095
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources: 78,489,095
	Amount to be deferred: Part of year: $ 2,500,000 Entire year: 75,989,095
CIG identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other P.L. 92-512, P.L. 94-488 (sec.6)
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Secretary of the Treasury must hold in reserve an amount to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the amounts appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (P.L. 95-29), and the HUD-Independent Agencies Appropriation Act, 1978 (P.L. 95-119) was also withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount of $78.5 million retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for the program.

Estimated Effect: This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account is the subject of another deferral, D79-25.
2/ This account was the subject of a similar deferral during FY 1978.

D79-24

Outlay Effect: (estimated in millions of dollars):

Comparision with President's FY 1979 Budget:

1.	Budget outlay estimate for FY 1979.....	$6,852.3
2.	Outlay savings, if any, included in the budget outlay estimate.....	-0-

Current outlay estimates for FY 1979:

3.	Without deferral.....	6,923.3
4.	With deferral.....	6,847.3
5.	Current outlay savings (line 3 - line 4).....	76.0

Outlay savings for FY 1980..... -38.0

Outlay savings for FY 1981..... -38.0

Deferral No: D79-25

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority $ ____ (P.L. ____)
Bureau: Office of the Secretary	Other budgetary resources 78,489,095
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources 78,489,095
	Amount to be deferred: Part of year 3/ $ 2,404,000
	Entire year ____
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☒ Other P.L. 92-512, Sections 121 & 123 P.L. 94-488
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect: The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect: There is no outlay effect of this deferral because the funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D79-24.
2/ This account was the subject of a similar deferral during FY 1978.
3/ Outlays only. The outlays being deferred were obligated in fiscal year 1978 and, therefore, are not reflected in the total budgetary resources available for obligation in fiscal year 1979.

Deferral No: D79-26

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority $ ____ (P.L. ____)
Bureau: Bureau of the Mint	Other budgetary resources 5,729,583
Appropriation title & symbol: Construction of Mint Facilities 1/ 20X1617	Total budgetary resources 5,729,583
	Amount to be deferred: Part of year $ ____
	Entire year 5,729,583
OMB identification code: 20-1617-0-1-803	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:

The Department is no longer seeking fund authority to construct a new Mint in Denver. In lieu of a new Mint, the Department is considering the acquisition of surplus Federal Buildings with the intention of rehabilitating them for metal processing and coinage operations, and also the repair and improvement of existing Mint Facilities. A cost-analysis study is being conducted by the Bureau of the Mint to determine the most feasible approach. The Bureau of the Mint has instructed the General Services Administration to defer any construction expenditures until the results of this study are complete.

Estimated Effects:

This action will delay the construction program pending the decisions made as a result of the cost analysis study.

Outlay Effects: (estimated in millions of dollars)

Comparison with President's 1979 Budget:

1.	Budget outlay estimate for 1979.....	0.5
2.	Outlay savings, if any, included in the budget outlay estimate...	0

Current outlay estimate for 1979:

3.	Without deferral.....	0.5
4.	With deferral.....	0
5.	Current outlay savings (line 3 - line 4).....	0.5 2/

Outlay savings for 1980..... 0

1/ This account was the subject of a similar deferral in FY 1978.

2/ These outlays will be made once the issues delaying construction are resolved. Therefore, there are no permanent outlay savings related to this deferral.

Deferral No: D79-27

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: General Services Administration	New budget authority $ ____ (P.L. ____)
Bureau:	Other budgetary resources 2,323,000
Appropriation title & symbol: Rare Silver Dollar Program 1/ 47X0701	Total budgetary resources 2,323,000
	Amount to be deferred: Part of year $ 2,123,000
	Entire year ____
OMB identification code: 47-0701-0-1-999	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies. Funds were appropriated in 1972 and 1973, without fiscal year limitation, for operating costs for disposal of rare silver dollars. To date, roughly $60.4 million (gross receipts) of silver dollars have been sold, with approximately $26.5 million still available for sale. However, current sales procedures severly restrict the amount of remaining coins which may be sold under the existing appropriation.

The contingency of $2,123,000 reflects revised disposal plans suspending all coin sales until legislation is passed revising current sales methods. Sales using past procedures are no longer deemed economically feasible, and consideration is being given to the effects of alternative terms and conditions on future Government sales of the coins as well as on the coin market in general.

Estimated Effect: The deferral of funds for operating expenses will have no adverse effect on the silver dollar sales program since current sales procedures have limited the amount of marketable coins. New legislation has been proposed to provide revised sales methods.

1/ This account was the subject of a similar deferral during FY 1978.

D79-27

2

Outlay Effect: (estimated in millions of dollars)
Comparison with President's 1979 Budget:

1. Budget outlay estimate for 1979	0.2
2. Outlay savings, if any, included in budget outlay estimate	-
Current outlay estimates for 1979:	
3. Without deferral	2.3
4. With deferral	0.2
5. Current outlay savings (line 3 minus 4)	2.1
Outlay savings for 1980	-2.1

Deferral No: D79-28

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: General Services Administration	New budget authority ($) (P.L.)
Bureau: Federal Preparedness Agency	Other budgetary resources: 79,684
Appropriation title & symbol: State and Local Preparedness 1/ 47x0618	Total budgetary resources: 79,684
	Amount to be deferred: Part of year: $ 79,684
	Entire year:
OMB identification code: 47-0618-0-1-054	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification
This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Funds were appropriated in 1964 and 1965, without fiscal year limitation, to assist state governments in developing programs for the management of their resources in time of emergency. The requirements for these funds will be reviewed upon establishment of the Federal Emergency Management Agency.

Estimated Effects
This deferral has no significant programmatic or budgetary effect since there is no requirement for these funds at this time.

Outlay Effects
There is no outlay effect resulting from this deferral action since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-29

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Foreign Claims Settlement Commission	New budget authority ($) (P.L.)
Bureau:	Other budgetary resources: 11,057,000
Appropriation title & symbol: Payment of Vietnam Prisoner of War Claims 1/ 79X0104	Total budgetary resources: 11,057,000
	Amount to be deferred: Part of year: $ 10,945,000
	Entire year:
OMB identification code: 79-0104-0-1-153	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification - Public Law 91-289, approved June 24, 1970, authorizes the Foreign Claims Settlement Commission to adjudicate and certify for payment the claims of American military and civilian prisoners of war held during the Vietnam conflict, or their survivors. Before claims can be certified for payment by the Commission, the appropriate military services must determine the individual's POW status and, in the case of claims by the survivors of missing persons where evidence of captivity exists, it must also determine the date of death. Such determinations have been delayed pending the results of intense efforts to account for missing United States servicemen.

Appropriations were enacted in 1971, 1972 and 1973 for the Vietnam POW claims program to remain available until expended. Of the estimated $11,057,000 remaining available, $112,000 has been apportioned for 1979 to pay prisoner of war claims resulting from new determinations anticipated in 1979; $10,945,000 has been reserved. This deferral of 1979 budget authority is necessary to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)) and to provide for contingencies after 1978 (31 U.S.C. 665(c)(2)).

Estimated Effects No savings result from the deferral, since claims cannot be adjudicated or certified for payment by the Commission until final status determinations are made by the military services.

Outlay Effect No effect on outlays result from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-30

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Interstate Commerce Commission	New budget authority ($) (P.L.)
Bureau:	Other budgetary resources: 14,590,000
Appropriation title & symbol: Payments for Directed Rail Service 1/ 30X0103	Total budgetary resources: 14,590,000
	Amount to be deferred: Part of year: $ 13,990,000
	Entire year:
OMB identification code: 30-0103-0-1-401	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The directed rail service program provides subsidy funds to maintain rail service for up to eight months for the lines of any carrier not able to provide service due to bankruptcy or other reasons. The funds to be deferred would be used for continuation of the Delaware and Hudson and Milwaukee Railroads (or other railroads). Subsidy funds are payable 90 days following completion of the service; therefore, the funds are not expected to be needed since the above railroads remain operational at this time. (Section 1(16)(h) of the Interstate Commerce Act.)

Estimated Effect: There will be no programmatic, fiscal, budgetary or economic impact since the budget authority may only be utilized at the direction of the Commission when rail carriers discontinue service. No such discontinuations are anticipated at this time, but should the need arise, there would be a lead time of 11 months prior to required outlay of these funds. This budget authority was sought on a contingency basis to allow the Commission to enter into subsidy obligations when and if necessary.

Outlay Effect: There is no outlay effect of this deferral because the funds are not expected to be needed.

1/ This account was the subject of a similar deferral during FY 1978.

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